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United States
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PROCEEDINGS AND DEBATES OF THE *104th* CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Friday, December 15, 1995*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. LONGLEY].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
December 15, 1995.

I hereby designate the Honorable JAMES B. LONGLEY, Jr., to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray using the words of Psalm 138:

I give Thee thanks, O Lord, with my whole heart; before the gods I sing Thy praise; I bow down toward Thy holy temple and give thanks to Thy name for Thy steadfast love and Thy faithfulness; for Thou hast exalted above everything Thy name and Thy word. On the day I called, Thou didst answer me, my strength of soul Thou didst increase. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. TIAHRT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. TIAHRT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 5, rule I, further proceedings on this vote will be postponed, and the vote will be taken later today.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MOTION TO AUTHORIZE SPEAKER TO DECLARE RECESSES SUBJECT TO THE CALL OF THE CHAIR THROUGH MONDAY, DECEMBER 18, 1995

Mr. ARMEY. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. ARMEY moves that the Speaker may be authorized to declare recesses subject to the call of the chair through Monday, December 18, 1995.

PARLIAMENTARY INQUIRY

Mr. FAZIO of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. FAZIO of California. Mr. Speaker, as many Members may know, this procedure has never been used before, and it is my understanding that this procedure is being used to avoid a problem we may anticipate down the road in terms of our ability to later adjourn the House. I wonder if perhaps the Chair or the majority leader could enlighten us. The last time the House failed to adjourn during the last Government shutdown, Members on this side of the aisle were not notified ahead of time as to the Speaker's intentions regarding the length of the recesses called as a result. Regarding the length of recesses called, we would hope some Democratic Members who at that time ended up remaining in their offices throughout the weekend because they had not been assured in advance of notice as to when the House could come back into session would be informed, given perhaps as much as 2 days' notice as to when we may be called back into session. I wonder if the Chair or the majority leader could assure Members on both sides of the aisle that sufficient notice will be given so that we can avoid that kind of problem in the future.

The SPEAKER pro tempore. The Chair believes this is a privileged motion, the Chair believes that adequate notice will be given, and the Chair will defer to the majority leader in response to the parliamentary inquiry.

Mr. ARMEY. Mr. Speaker, if I might respond to the gentleman from California, let me assure the gentleman from California that Members would be given ample notice before we would reconvene the body. We obviously take this measure in order for Members to be with their families later today, and tomorrow, and Sunday, insofar as it is possible to do that. Should work present itself that would be compelling enough for us to interrupt that time with their families, we will first notify the Members in ample time for them to return, and then second, of course, convene to take up that work.

Mr. FAZIO of California. Further parliamentary inquiry, Mr. Speaker:

I assume we are using this device as a way of moving forward if no CR is enacted, and obviously I would hope, as I assume we all would, that some sort of continuing resolution could be put in place so that we would actually not be in a position to shut the Government down, but this device does remain available if we are not able to accomplish that. Could the gentleman give us some outstanding date or time on a given day when he would anticipate the recess coming to a close?

Mr. ARMEY. Mr. Speaker, the gentleman, of course, is free to assume whatever he likes.

Mr. Speaker, I would anticipate that what work might get done on the budget would not be done in sufficient time for us to act on it before Monday next. There is other work we can do, but it is not of such compelling urgency that we would need to schedule it for the weekend given that we can do it during the course of next week's proceedings.

So, I would anticipate that except in the extraordinary circumstance of a budget agreement that Members might prepare to go to their districts to be with their families and their constituents until Monday afternoon. We would probably try to arrange the schedule so that there would be no votes until after 5 on Monday.

Mr. FAZIO of California. Mr. Speaker, I appreciate that assurance. I think it gives Members some confidence that even though this is a rather extraordinary, in fact perhaps unprecedented, delegation of authority, at least the Members on our side are being given, in effect by the gentleman's comments, adequate notice.

Mr. ARMEY. Mr. Speaker, if I might respond, I will have a statement, of course, later in the day so that we can have perhaps more firm revelations for Members, but in any event should the Speaker exercise his authority, Members will have certainly at least 24 hours' notice before they are called back to the Chamber.

Mr. FAZIO of California. I appreciate the gentleman's assurance.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ARMEY].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FAZIO of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 215, nays 152, not voting 65, as follows:

[Roll No. 863]

YEAS—215

Allard
Archer
Armey
Bachus
Baesler
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dreier
Duncan
Dunn
Ehlers
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (KY)
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McHugh
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Zeliff
Zimmer

NAYS—152

Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Bevill
Bishop
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Clay
Clement
Clyburn
Coleman
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeLauro
Dicks
Dingell
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Hall (TX)
Hamilton
Hefner
Hilliard
Holden
Jackson (IL)
Jackson-Lee (TX)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Sisisky
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Traficant
Vento
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn

NOT VOTING—65

Abercrombie
Ackerman
Baker (CA)
Beilenson
Bonior
Bryant (TX)
Cardin
Chapman
Clayton
Collins (IL)
Collins (MI)
Cox
Crane
DeFazio
Dellums
Deutsch
Dixon
Doolittle
Dornan
Ehrlich
Emerson
Fields (TX)
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hayes
Hinchey
Hoyer
Jefferson
Kaptur
LaFalce
Lantos
Lewis (CA)
Lightfoot
Linder
Maloney
Manton
Martinez
McDade
McInnis
McNulty
Meehan
Mfume
Nadler
Pryce
Quillen
Quinn
Rose
Schumer
Skaggs
Stokes
Tejeda
Torres
Torricelli
Towns
Velazquez
Visclosky
Waldholtz
Walker
Wilson
Yates
Young (AK)
Young (FL)

☐ 1028

Mr. MORAN and Mr. MURTHA changed their vote from "yea" to "nay."

Mr. ENSIGN changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Miss COLLINS of Michigan. Mr. Speaker, I was unavoidably detained during rollcall vote 863. Had I been present, I would have voted "no".

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1747. An act to amend the Public Health Service Act to permanently extend and clarify malpractice coverage for health centers, and for other purposes; and

H.R. 2336. An act to amend the Doug Barnard, Jr.—1996 Atlanta Centennial Olympic Games Commemorative Coin Act, and for other purposes.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 927. An act to seek international sanctions against the Castro government in

Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 927) "An Act to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes", disagreed to by the House and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HELMS, Mr. COVERDELL, Mr. THOMPSON, Ms. SNOWE, Mr. PELL, Mr. DODD, and Mr. ROBB to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1977) "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes.".

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2099) "An Act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes".

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 63 to the above entitled bill.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1332. An act to clarify the application of certain Federal criminal laws to territories, possessions, and commonwealths, and for other purposes.

☐ 1030

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
Washington, DC, December 15, 1995.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the certificate of election received from the Honorable Bill Jones, Secretary of State, State of California, certifying that, according to the semiofficial canvass of the Special Election held on the December 12, the Honorable Tom Campbell was elected to the Office of Representative in Congress from the Fifteenth Congressional District of California.

With warm regards,

ROBIN H. CARLE.

SWEARING IN OF THE HONORABLE TOM CAMPBELL, OF CALIFORNIA, AS A MEMBER OF THE HOUSE

The SPEAKER. Will the Members of the California delegation please escort the Member-elect to the rostrum?

Mr. Campbell appeared at the bar of the House and took the oath of office, as follows:

> Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God?

The SPEAKER. Congratulations, you are now a Member of the Congress of the United States.

CAMPBELL STANDS FOR GOOD GOVERNMENT

(Mr. MOORHEAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORHEAD. Mr. Speaker, this is a great day for the State of California and for the U.S. Congress. A man of great principle, a man who is dedicated to good government and dedicated to balancing our budget and running our fiscal affairs the way they should be run in our households and in our Government and in our corporations.

It is an especially find day for me because TOM CAMPBELL has been a good friend since the first day he came to the House several sessions ago. TOM is a man that stands up for the things that he believes in, and in running his campaign, ran a clean, positive campaign. I believe his election is a notice to the American people that we are going to run positive campaigns, telling the people of the things that we believe in, and not tearing down the other side. TOM has run that kind of a campaign from the very beginning.

I am proud of you, TOM CAMPBELL. I know that you are going to be a great addition to this Congress. You performed a great duty before, and you have given our Republican delegation from California a majority for the first time in over a half a century. I hope that this is only the start, but we know that there is a job to be done; we are dedicated to doing it and, politics aside, we want to make America a better place for our children, a better place for our families, a better place for all Americans of every race, creed, and color.

I know that you are dedicated to that proposition; I know that we will be glad to support you in that dedication in every way that we can. Welcome to the U.S. Congress.

GRATITUDE FOR A SECOND CHANCE

(Mr. CAMPBELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMPBELL. Mr. Speaker and my friends, this is a tremendous honor. Seldom in life do you have a second chance.

I want to begin by paying my respects to the Speaker of the House, whose leadership has created the majority that I join today.

To my family in the majority, we are a family, we will stay in the majority as long as we accommodate differences as families do, instead of striving for orthodoxy; I believe it is the strength of our party that is manifest in our ability to bring a broad spectrum to this Chamber.

To my friends in the minority party, I remember those who helped me when I was here before, when I could not get my bills through and you joined with me. To those of you who resisted the invitation to apply a label to me that was not accurate, I extend my thanks. And to those who perhaps did not resist such temptation, I have two points to raise.

First of all, it is simply wrong. It is wrong to tell an untruth to the American people. Second, it takes us away from the most important things that we should be doing and prevents us from delivering to the American people upon the propositions that we made.

I said at the start that it is seldom that you have a second chance in life. God and the voters of the 15th district have given me that chance in life once more. To those of this body who have never left office, who have been consistently, through the years, in this body, I have a little bit of wisdom to share, that when you lose this opportunity, you understand what a precious and unique privilege it is, what an honor it is to serve in the people's House.

I now have that particular wisdom that 1992 brought, me, and I hope to share it with you for many years to come. Let us use that wisdom so that we can give to our children and their children a country with a cleaner environment, with better educated children, with more individual liberty; but most importantly of all at this time in our Nation's history, a country that is not burdened by a Federal budget deficit, an end to the crime of stealing from our children so that we can spend, and the day, may it soon come, when we balance our Federal budget deficit.

Mr. Speaker, that is worth every devotion of energy that we have.

I conclude with a passage that is a favorite of mine and a favorite of my father, who died just before I was elected to Congress the first time, and you will forgive me if I think Isaiah had something to say to me today as he does to all generations:

Though young men faint and grow weary, though youth stagger and fall, they have hope in the Lord, who shall renew their strength, and they shall rise as with the wings of eagles. They shall run and not grow weary, walk and not grow faint.

CAMPBELL WILL HELP LEAD THE WAY IN 1996

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, I say to the gentleman from California [Mr. CAMPBELL], I liked the gentleman better under the labels they gave him in that last campaign, and I am going to speak for those conservatives who rallied around the gentleman to make sure that our victory was complete, that as the Republican Party, we are the party that allows debate and allows dissension.

The gentleman from California [Mr. CAMPBELL] and I are friends, and became friends, and we are going to stay friends as he meets his new conservative colleagues.

Mr. Speaker, Thomas Wolfe said, "You can't come home again," but they were wrong. TOM CAMPBELL, you are home again. They tried all of the campaign themes of 1996, they tried the school lunch, they tried the Mediscare, and they tried to paint you what you are not, but you spell one thing to the Republican Party, TOM CAMPBELL, and that is momentum. We are winning, and just as Ron Lewis and Frank Lucas said in 1994, we are the special elections that lead the way.

TOM CAMPBELL, you are a leader in 1996. Congratulations on a tremendous victory.

APPRECIATION OF CAMPBELL'S HIGH STANDARDS

(Mr. THOMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS. Mr. Speaker, I rise for this 1-minute to thank the gentleman from California [TOM CAMPBELL], actually not as a Republican, but I want to thank him as someone who knew him before he was in office, while he was in office and after he left to serve the people of the State of California. I want to thank him for putting his name on a ballot. I want to thank TOM CAMPBELL for his willingness to put his name on a ballot, once again.

As we argue over the issue differences that we clearly will have, based upon our different philosophies and, frankly, the different people that we represent, I think all of us can be proud, not just today, but frankly yesterday, that the House of Representatives is accepting as Members people of the caliber of TOM CAMPBELL, and that hopefully, seeing right prevail will encourage more people of the caliber of TOM CAMPBELL, to put their names on the ballot. We are all better for him being a Member of this body once again.

REPUBLICAN MAJORITY IN CALIFORNIA

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, it is a great privilege and honor for me to once again welcome clearly one of the most brilliant, capable, and principled individuals who has ever served in the U.S. Congress. I believe that as we look at the outcome of this very historic election, which saw TOM CAMPBELL win by a 23-point margin, it demonstrated the fact that we have the people on our side when it comes to our goal of balancing the Federal budget and ensuring that we are not going to pass on to future generations the responsibility of paying for Washington's profligate spending pattern which has gone on for over four decades.

It seems to me, Mr. Speaker, that as we welcome TOM CAMPBELL, we should underscore the fact that his commitment to a balanced budget was key to his victory; and it is a great privilege for me, as the dean of our delegation Mr. MOORHEAD did, to underscore the fact that we now for the first time in many, many, many decades, have a Republican majority from the State of California.

☐ 1045

DEALING WITH THE DEBT

(Mr. FOX of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOX of Pennsylvania. Mr. Speaker, this morning our national debt stands at $4,988,313,115,981.79.

Last month the President agreed to enact a 7-year balanced budget using CBO numbers. But he has yet to introduce a budget that balances. We need a balanced budget for our senior citizens, working families, and our children. The Congressional Budget Office has scored his latest budget and it is not balanced. In fact in 2002 the budget deficit is projected to be $115 billion. A balanced budget will help us reduce mortgage costs, car payments, and college costs.

Mr. Speaker, it is time for the excuses to end. It is time to balance the budget, to make government live within its means and to give our children a shot at the American dream instead of the American debt.

SHUTDOWN LOOMS FOR DISTRICT

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, this is the last day of my countdown to shutdown. This is it. This is the day. I hope that this headline is as false as the one that said that Dewey had won the election: "Midnight Likely to Bring New Shutdown."

We are close enough so that a shutdown ought to be off the table, Mr. Speaker. The GOP asked for a 7-year plan. The President put a 7-year plan on the table. Americans now want us to work on the details—grunt work, not shut down of their services.

It is unthinkable, of course, that there would be no Christmas CR for Federal employees and for those who depend upon their services. But a CR would leave the District of Columbia running on empty. The way to kill an ailing city is to dole out its own money on a 2-day or a weekly or a quarterly basis. We do not want to finish off DC. We want to revive the Nation's Capital.

Bring our bill to the floor: Bipartisan; unanimously passed in the subcommittee and the full committee that would allow the Nation's Capital to spend its own money.

Fair is fair. Help the Nation's Capital. Do not kick it while it is down.

WE MUST BALANCE THE BUDGET

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, the preamble to the Constitution reads, "We the people of the United States, in order to form a more perfect Union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity."

As a Republican, as a veteran, as a citizen, and as father—these are the things that I have fought for and want to pass on to my children, their children, and my country. I think many people have forgotten what this budget fight is about. It is not about the CBO or the OMB. It is about the future of this country.

If we do not balance the Federal budget and reduce spending—the country our forefathers envisioned will collapse under the weight of a massive debt and growing deficits. We must reduce spending and balance the budget. The freedom of our people and our country depend on it.

LABOR DEPARTMENT ANNOUNCES NEW PROFESSIONS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, whether it is a 4-year deal, 5-year deal, 7-year deal or 10-year deal, probably a 20-year deal, my question is: How can America balance the budget on minimum wage jobs?

It is getting so bad the Department of Labor listed some new professions for Americans.

How about his: Gizzard skin remover. How about a corn cob pipe assembler? How about a brassiere cup molder cutter? That is right. If you want to hear the big one, everybody is going to school for this: How about a pantyhose crotch closer? That is right. That is a listed job.

Just think, if these jobs do not go overseas, they may even be able to move up the ladder and become a pantyhose crotch closer supervisor.

Beam me up, Mr. Speaker. Congress has got to look at the trade deficit. You just cannot look at budget deficits and Congress don't know what they're doing in my opinion at this point.

Beam me up, Mr. Speaker.

THE PRESIDENT SHOULD KEEP HIS WORD

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, there is some bad information around that Congress is going to shut down the Government. That is not true. It is not even true that the Republicans are going to shut down the Government.

It is the President. The President signed a binding agreement with Congress last month to pass a 7-year CBO-scored balanced budget in the first session of the 104th Congress. After vetoing the budget last week, the President has failed to meet his commitment. His budget does not balance.

Mr. Speaker, the President has it within his ability to keep the Government open. All he has to do is keep his promises. President Clinton should keep his word, do as he agreed and sign an honest balanced budget.

The Government is not shutting down because of the Republicans or Congress. The Government is shutting down because President Clinton will not honor his commitment to give the American people a balanced budget.

ETHICS REFORM ACT OF 1995

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, today I am introducing legislation to establish an independent Commission on Congressional Ethics. It is obvious to me as I am sure it is to you and the American people that it is time to change the way ethics complaints are handled in this House. It is time to put an end to personal friendships such as has been displayed by the current chairman, and to put an end to associations with an organization that needs to be investigated as is the case with most majority members of the Ethics Committee. The committee has acted in the case of the Speaker, but quite frankly in my opinion is too little and way too late. The independent counsel's hands should not have been tied. We cannot remove this cloud that hangs over the Capitol until a complete, independent, unfettered investigation is completed. My bill will ensure that in the future friendships between the committee and the accused will not be a part of the process. My bill calls for a commission of five former or senior Federal judges. Two would be picked by the Speaker, two by the minority leader and the fifth by the four selected. This commission would take over all duties of the current Ethics Committee. I ask my colleagues to join with me and return fairness to the ethics process. Cosponsor the Ethics Reform Act of 1995.

ALLEGED MISUSE OF ETHICS CHARGES

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, I just walked into the Chamber and heard the preceding speaker and he prompted me to recall that week after week, month after month, the Democrats have been trooping here on the floor and up to the press gallery to make personal charges against the Speaker of the House.

Mr. Speaker, I for one am sick and tired of these attacks because they are frivilous solely for political advantage. These Members apparently have got nothing better to do than personally attack the Speaker of the House.

I think that every Member here ought to take note of the possibility that the ethics rules of this House of Representatives are being misused for political gain. They may be warned that ethics charges may be filed in the next year against any Member who misuses the ethics rules of this House and brings disrepute on the House of Representatives for political purposes.

PARLIMENTARY INQUIRY

Mr. DOGGETT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. LONGLEY). The gentleman will state it.

Mr. DOGGETT. Mr. Speaker, under the new gift ban and under the rules on limitation on outside income, is it permissible for me to collect the $1 million I am entitled to by demonstrating that the Republicans are cutting Medicare?

The SPEAKER pro tempore. The gentleman is not stating a parliamentary inquiry.

ETHICS SHOULD APPLY TO ALL MEMBERS

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Mr. Speaker, there is an ad in Roll Call offering the million dollars for anyone who can demonstrate the Republicans are cutting Medicare, and I suggest there are almost 200 Democrats here who are entitled to share in that million dollars.

But I would like to respond to the last speaker on this whole issue of ethics, because of course that $1 million pales by comparison to the $4.5 million that was at stake with reference to the Speaker's book deal.

All this talk of partisanship, look at the nonpartisan conclusion of the House Ethics Committee, that the book deal was so bad we need a new rule with regard to books and royalties.

What is the response of the Republican leadership? Speaker GINGRICH says we need to delay it.

The chairman of the House Committee on Rules says the Ethics Committee, Republican and Democrats, and I quote, "ought to be horse whipped" if they think he is obligated to accept a new proposal to limit book royalties.

I would suggest there is bipartisan support for ethics but opine that it apply to the Speaker, also.

PARLIAMENTARY INQUIRY

Mr. LEWIS of Georgia. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LEWIS of Georgia. Mr. Speaker, I want to know whether it is proper for another Member to come and stand in the well while a Member is speaking.

The SPEAKER pro tempore. Members should not interrupt Members in the course of their presentations.

Mr. LEWIS of Georgia. I thank the Speaker.

TIME TO BALANCE THE BUDGET

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, it was very interesting to hear my good friend from Texas get up and rant and rail against this fact. This is not a parliamentary inquiry, but this is a point of fact:

If anyone in the minority, if anyone in America can show us how going from $4,800 this year per beneficiary for Medicare to $7,100 in the year 2002 is a cut, come collect the check. Because the fact is the figures do not lie. Simple math tells the truth. And simple justice compels us to say to my good friend from Texas, and indeed to the American people that we should join hands and balance this budget because our children and the American people deserve no less.

Sure you can try to change the subject, but it does not change the agenda for America's future. It is time to make a difference, put this partisanship aside and build a constructive future as we confront the next century.

A MILLION-DOLLAR CLAIM

(Mr. TAYLOR of Mississippi asked and was given permission to address the House for 1 minute.)

Mr. TAYLOR of Mississippi. Mr. Speaker, I hope my good friend from Arizona and others will be here this afternoon when the House gives 5-minute speeches when I will display and walk the people of America step by step through and disprove Mr. Barbour's claim.

The first sentence is what I am going to disprove: "In November 1995 the U.S. House and Senate passed a balanced budget bill."

They did not. The law of this Nation says we can only allocate funds for 1 year. And the funds that are allocated for next year are projecting a $270 billion annual operating deficit, of which $100 billion will be stolen from the trust funds.

I again want to encourage people to pay attention to this. I am not going to ask for the money for myself. But, J.D., you can fill in the University of Southern Mississippi development fund in that space there because I will prove beyond a shadow of a doubt that this statement is false and I expect my fellow Mississippian, Mr. Barbour, to be a man of his word.

A SERIES OF FIRSTS

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, I think there has been far too much caffeine consumed here this morning.

Mr. Speaker, in 1927 Charles Lindbergh was the first man to fly across the Atlantic. In the late 1940's Chuck Yeager was the first to break the speed of sound. In 1961 Yuri Gagarin became the first to orbit the Earth, and in 1969 Neil Armstrong became the first man to set foot on the Moon.

In 1995 Bill Clinton became the first man to veto a balanced budget since Neil Armstrong walked on the Moon. In vetoing last week's balanced budget bill, Bill Clinton said "no" to serious Medicare reform, he said "no" to serious tax relief for working families, and a brighter future for our children. Most important, he said "no" to doing the right thing, being responsible and balancing the budget, something that has not been done in a generation.

Mr. Speaker, it is time for the President to end the charades, end the Washington style excuses, do the right thing for our grandparents, our parents, our families and our children. Balance the budget of the United States of America.

GETTING GOVERNMENT BACK IN BUSINESS

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, I can understand why 215 Members of this body just voted to go on a 3-day recess. We all want to be back with our children and our wives and do some Christmas shopping and get back to a little sense of normalcy.

But things are not normal. If we do not do our job today, 300,000 Federal employees will be locked out of their jobs, the Government will be shut down, and we just voted yesterday to put our Federal Government into default in its financial obligations.

Things are not normal. We ought not go home for recess. In fact, that is why 152 Democrats voted not to. We have been told by the gentleman from Missouri [Mr. GEPHARDT], the gentleman from California [Mr. FAZIO], and the gentleman from Michigan [Mr. BONIOR], that we should be prepared to stay on the job until we have done our job, until the Government is back in business.

We might rectify this situation with a continuing resolution today, legislation the gentleman from Indiana [Mr. BURTON] has introduced that would at least ensure that Federal employees work for their pay. But we have got to get the Government back in business and do our job before we recess or adjourn.

CHANGE FOR THE BETTER

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

(Mr. CUNNINGHAM. Mr. Speaker, we understand that according to Senator DOLE that this event is so important that Hazel O'Leary is flying in for it. We would also like to point out that the American people asked us to make a change here and, that is, to balance the budget.

☐ 1100

The Democrats have gone after the Speaker of the House with 65 charges for political reasons. Why? To take the heat off the President so that the President can go on and cook his books.

We cannot spend $300 billion more than we take in, Mr. Speaker, and I think it is a rare find where you find a Speaker, a man or any woman that will stand up and take this abuse, take negative charges like TOM CAMPBELL did, and win. Well, the Abe Lincoln theory that you can fool some of the people some of the time stands. TOM CAMPBELL was elected, the Speaker of the House will balance the budget, do not cook the books, Mr. President. We are going to balance the budget, and my colleagues are right. We are not leaving this place. I brought my Christmas tree for here and for home. We are not leaving until we balance the budget using CBO numbers.

REPUBLICANS TAKING GOVERNMENT HOSTAGE

Mr. FRANK of Massachusetts. Mr. Speaker, we are here for a hostage-taking. The Republican Party wants to make very substantial reductions in what the law now provides for people who get sick, who are in economic distress. They brag on the one hand about how much they are going to reduce the rate of spending in Medicare that would otherwise occur and then bitterly denounce anyone who says they are cutting. My colleagues cannot take credit for substantially reducing Government expenditures and plausibly deny that they are cutting. They want to wipe out the legal guarantee that says, "If you are sick and elderly and in a nursing home you, will be taken care of medically." Why do they want to do this? To balance the budget? No. To increase military spending by a substantial amount.

We are going to have a defense bill on the floor today which votes billions of dollars more than even the Pentagon thinks necessary. They want to do it so they can make substantial reductions in taxes especially for wealthy people. People who make $200,000 and $300,000 a year will get a tax cut, and, on the other hand, people of 70 and 80 years old will see their Medicare premiums go up. Now they cannot win this on their own, so they will take the Government hostage to try to force us to go along, and it will not work.

STOP GROWING THE FEDERAL BUDGET

(Mr. GRAHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAHAM. Mr. Speaker, what the Republicans have done is to do what

Mrs. Clinton asked us to do. She testified 2 years ago that if we slow the growth of Medicare down to 6, to 7, percent, we can take care of Medicare and balance the budget. We spend 7.2 percent on Medicare. It goes up 62 percent over the next 7 years.

Tax cuts. Our budget has $245 billion in tax cuts for the American family and American business. The Democratic party criticizes us for having a tax cut for the American family. I ask, "If we gave you the money, what would you do with it? Would you put it on the deficit? No, you would spend it on the Federal budget, you would shrink the family budget."

That is not talk, that is fact, because in President Clinton's budget he reduced our tax package from 245 to 78, he took the money, and he put it on the Federal Government. He shrunk the family budget.

Stop shrinking the family budget, stop growing the Federal budget. The American public would love to have it on the deficit. They are not going to put it on the deficit. They are going to spend it up here. Spending needs to stop.

WE NEED TO HELP ORDINARY PEOPLE

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. The GOP balanced budget plan, as the last speaker says, give $245 billion in tax breaks. Those tax breaks go to the wealthiest 1 percent of this country, and they repeal the alternative minimum corporate tax. Corporations do not have to pay taxes under their plan.

I would like my colleagues to listen to what my constituents say. I got a letter from a constituent from Charlevoix, MI, that says:

> My wife is a bookkeeper at Charlevoix Hospital. I run a very small business in town. My wife will get a small pension from the hospital plus Social Security when she retires. I will only get Social Security. I have had 2 heart attacks, and I am a noninsulin diabetic. My wife, although working, does so while in much pain with a back ailment. With all we have to worry about in this present day, why do we have to be faced with a large group in the Congress that apparently is bent on making us suffer even more in our old age? People need help, not corporations. The wealthiest do not need tax breaks. We need to help ordinary people the, middle class. Balance the budget, yes, but not on the backs of the middle class.

CLINTON SHOULD PAY PRICE FOR TRADE GIVEAWAY

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, 10 years ago the United States of America had 100 percent of the commercial space-launch market, today we have 30 percent, and yesterday the President's trade negotiators gave away that remaining 30 percent. They signed a trade agreement with the Ukraine to allow them to launch United States satellites. Today we have the French, the Chinese, the Russians, and now the Ukrainians, putting United States satellites in orbit.

President Clinton ran as the domestic policy President committed to creating high-quality jobs for Americans. Yesterday he turned his back on thousands of working people on Florida's space coast, in California, in St. Louis, MO, in New Mexico, and Alaska, and he should pay a price for it in the election of 1996.

"FIGURES DON'T LIE, BUT LIARS FIGURE"

(Mr. HEFNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFNER. Mr. Speaker, I was hoping that my good friend, the gentleman from Ohio [Mr. KASICH], the chairman of the Committee on the Budget, would be here and all the people that have spoken that there is not a cut in Medicare and Medicaid.

I am a senior citizen. There are cuts in Medicare and Medicaid.

If there are not cuts in Medicare and Medicaid, why can we not have the tax cut unless they get the Medicare-Medicaid cuts? Unless we score the $270 million cuts in Medicare and Medicaid, we cannot have a $245 billion tax cut. It does not take a space scientist to figure that out.

There is an old saying in North Carolina, "figures don't lie, but liars figure."

WE WILL BE PAYING FOR BOSNIA

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, yesterday on the CBS radio news, a man from Tuzla was asked what it meant to him that the Americans were coming.

He shouted back in a happy, accented voice that I won't try to imitate: "Money—Only Money."

A few days earlier, I had seen the deputy major of Tuzla say on one of our national networks that he expected the Americans to rebuild their infrastructure.

At about that same time, the Bosnian leadership said they would need $25 billion in loans from the World Bank to rebuild their country.

The biggest contributor to the World Bank: the United States of course.

This is all in addition to the $600 million we promised in aid, up front at Dayton, and the billions we will spend on our own troops.

As long as we are there, we can keep the peace, and I think and hope with very few casualties.

But we will be borrowing billions to do it, and the American people, especially our children and grandchildren, will be paying for this for a very long time to come.

A THOUSAND-DOLLAR OFFER

(Mr. EDWARDS asked and was given permission to address the House for 1 minute.)

Mr. EDWARDS. Mr. Speaker, we have all heard an awful lot about Mr. Haley Barbour, the head of the Republican National Committee, and his offer of $1 million regarding Medicare cuts. Now I would like to make an offer today to Mr. Barbour and Members of this House.

As a Democrat I am not as wealthy as some of my Republican friends, and certainly not as wealthy as the Republican National Committee, so I cannot offer $1 million. But I will take $1,000 out of my own savings account and offer it to any Republican Member of this House who can prove that their Medicare and Medicaid budget plan will not cut real services to senior citizens, real services to senior citizens.

My friends, that is what counts, cutting care in nursing homes, cutting care in rural health care hospitals for senior citizens. That is what the Republican plan does, that is what is important, not silly little gimmicks in ads such as this.

But I will maintain my offer of $1,000 to any Republican in this House who can suggest and prove that their plan will not cut services for our Nation's seniors.

REPUBLICAN PLAN BALANCES THE BUDGET

(Mr. GANSKE asked and was given permission to address the House for 1 minute.)

Mr. GANSKE. Mr. Speaker, prior to November I was a physician taking care of Medicare patients. It is indisputable that unless we can slow the rate of growth in 6 years, there are insufficient funds to pay the bills. That will cause significant problems for those Medicare beneficiaries. As has been said already before this morning, only 2 years ago Mrs. Clinton said slowing the rate of growth to twice the rate of inflation is not a cut. That stands today as it stood then.

Mr. Speaker, the Republicans have presented a budget plan that balances the budget. We use honest numbers. While Republicans are busy trying to save the country from bankruptcy, there are those who are busy with political campaigns based on fearmongering and scare tactics, and it is time to get serious about our children's future, it is time to get serious about whether our senior citizens will have a Medicare plan.

Let us balance the budget now.

BUDGET SHOULD REFLECT AMERICA'S PRIORITIES

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, to the prior speaker I say, "Take the tax break off the table, and we will have a Medicare program for seniors and we will balance the budget."

Last month Speaker GINGRICH shut down the Government because he did not like his seat on Air Force One. Now he is at it again. This time the Speaker wants his way on the budget. While President Clinton, Democrats, and Republicans in the other body all try to reach a budget agreement, the Gingrich Republicans want to shut down the Government in order to force their budget priorities on this country.

But the American people have rejected the Gingrich budget, a budget which slashes Medicare, education, environmental protection, to finance that crown jewel of the contract, tax breaks for the wealthiest Americans.

Mr. Speaker, it is time for House Republicans to join the President, Democrats, and Republicans in the other body at the negotiating table. Let us give the American people an early Christmas present, a budget that reflects America's priorities, not Speaker GINGRICH's priorities.

FACTS AND FICTION ABOUT THE BUDGET

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, in their zeal to defend the status quo, President Clinton and his Democrat allies in the Congress have inundated Americans with a barrage of misinformation about the Republican plan to balance the budget. So let me make the distinction between Clinton fiction and the plain facts.

Fiction: The Republican plan to balance the budget cuts education. Fact: Funds for student loans rise from $24 billion to $36 billion, and the maximum Pell grant goes up to its highest level ever.

Fiction: Our plan cuts Medicare. Fact: Medicare spending will increase by 7.2 percent, more than double the rate of inflation, each year. That is an increase from $4,800 to $7,100 per beneficiary. Only in Washington would a 50-percent increase be called a cut.

Mr. Speaker, when the facts are laid out, the American people support our plan to balance the budget. Let us give them the best Christmas present ever. I say to the President, support our balanced budget.

REPUBLICANS MUST COMPROMISE

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, I cannot believe that this House just passed a Republican-sponsored motion that allows us to go into recess for 3 days with the pending shutdown of the Government once again. I fully expected this morning, maybe naively, that I would be here to vote for a continuing resolution that would let the Government continue to operate while we worked out our differences over the budget, but that is not happening.

The President said that he was willing to go ahead with what we call a clean continuing resolution. On the Senate side they said that they would agree to it. But here in the House, the gentleman from Georgia [Mr. GINGRICH] and the Republicans say that they will not, and I do not think it is fair. There is tremendous cost involved to this Government if we shut down again this coming Monday or any days following that, and the President has put forward a compromise budget that allows for a balanced budget over 7 years. It maintains the priorities, protects Medicare, protects Medicaid, protects the environment and education.

The Republicans have not done that. They made an agreement on the previous CR that they would try to come up with a compromise that protected Medicare and Medicaid and the other goals, and so far they have not. I think it is incumbent on them to do so.

CONFIDENCE, HOPE, AND GROWTH

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, America has been blessed with many good things. We are the richest, most productive Nation ever in the recorded history of mankind.

Today, the Congress and the President are locked in a conflict over the budget. And to paraphrase the Gipper, Ronald Reagan, it is conflict not really between two parties, but between two differing visions of the future.

One is a vision of fear and limits. The Republicans vision is one of confidence, hope, and growth.

Republicans want the best for the American family. We believe our middle-class tax cuts are profamily, progrowth, and prowork.

Liberal Democrats, on the other hand, want the best for the American Government. They love higher taxes, more rules, more regulation, and bigger bureaucracies.

Mr. Speaker, this battle over the budget is not a choice between left or right, it is a choice between up or down. I, for one, want the American people to progress and for the Government to live within its means.

□ 1115

SHUT DOWN THE GOVERNMENT, SHUT DOWN CONGRESSIONAL PAYCHECKS

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, last month the Gingrich Republicans shut down the Federal Government for the longest period of time in the history of the United States. While 800,000 Federal workers were sent home with uncertainty as to whether they would be paid, the American taxpayers picked up the bill. In fact, we paid $700 million when the Gingrich Republicans, because of their failure to pass spending bills, shut down the Federal Government. Now they are about to set another record. They are going to shut down the Federal Government for the second time in 1 year. This time they want to do it a few days before Christmas.

Just a few minutes ago, the gentleman from Georgia [Mr. GINGRICH] and his Republican friends passed a motion here so we could recess and leave for 3 days. Members of Congress can go home and shop for Christmas gifts while 350,000 Federal employees are uncertain as to whether or not they are going to be on the payroll on Monday. If Members of Congress on the Republican side believe this is a matter of principle, join me and support the bill: No budget, no pay. Shut down the Government, you shut down congressional paychecks. That will end this foolishness in a hurry.

THE NATIONAL DEBT

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, this is the national debt. I think we need to bring a little sobriety to this debate here today. $4,988,313,115,981.39. As Members can see, Mr. Speaker, this debt is too big for the camera. This debt is too big for a convenient pocket-size chart. This debt, most importantly, is too big to pass on to our children. What it means to them is that in their lifetime they will have less income, they will pay higher interest rates, they will have a lower quality of life and less opportunities; but if we in the next week do the right thing and balance the budget, then in 7 years we can start paying down this horrendous number so our children can enjoy the great America that you and I believe in and work for. We did not get into this mess because of Democrats or Republicans. We have to get out of it because of both parties working together.

MEDICARE, MEDICAID, AND THE FEDERAL DEBT

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, I rise today to talk about the subject of Medicaid and Medicare and to respond to the gentleman on the issue of the Federal debt. I supported a 7-year balanced budget program but, in doing so, I did not support a $245 billion tax break that the Republican side insists on keeping in that bill while we have this huge deficit.

Mr. Speaker, I do not doubt the sincerity of the commitment of the Speaker and the Republican caucus in taking care of the budget deficit, but I am reminded of the cartoon, the Christmas classic, "The Grinch Who Stole Christmas." It runs every year of TV and I urge Members to take a look at it again. What they say about the grinch I think is true.

In spite of my acceptance of the sincerity on the Republican side, maybe, like the grinch, their hearts are just two sizes too small, because the decision that they are making on this budget is to reduce taxes on the wealthiest while increasing, increasing taxes on the poorest.

SUPPORT OUR TROOPS

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, during the Bosnia debate a day or so ago, a number of Members came to the House floor to support provisions that they believe manifested the House's support for the troops: Do we support our troops, a number of whom are going to Bosnia? The President urged us to support the troops, support the provision that was brought by the minority party, by the Democrats, to the House floor, basically validating the President's position on Bosnia.

We rejected that, but we are offering every Member of the House today, in just a few minutes, an opportunity to really support the troops. Members can support the troops by supporting the conference report on the defense authorization bill, which gives a 2.4-percent pay increase to the troops. It is a real pay increase that they can make house payments with and car payments with, and have a little better quality of life for their families. It provides more ammunition. It provides good equipment, so at least if the President puts our troops in harm's way, they will be well prepared. Please vote for this measure today.

CORRECTING TECHNICAL ERRORS IN THE ENROLLMENT OF S. 1060, LOBBYING DISCLOSURE ACT OF 1995

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 36) directing the Secretary of the Senate to make corrections in the enrollment of S. 1060, to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore (Mr. LONGLEY). Is there objection to the request of the gentleman from Florida?

Mr. SKAGGS. Reserving the right to object, Mr. Speaker, and I do not intend to object, but I want to engage my colleague, the gentleman from Florida, in a brief discussion of how we have gotten to this point, which is probably not susceptible to a brief discussion.

As I understand it, however, we are taking up Senate Concurrent Resolution 36, which is a purely technical, typographical error correction bill to the lobbying bill, is that correct?

Mr. CANADY of Florida. Mr. Speaker, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Speaker, this concurrent resolution directs the enrolling clerk to correct solely technical errors in the lobbying bill, especially with respect to some erroneous cross-references. It makes no substantive changes in the bill. The concurrent resolution is necessary so that the bill we send to the President, hopefully later today, will be technically correct.

Mr. SKAGGS. Mr. Speaker, if I may reclaim my time on the reservation, as has been widely reported now, there is a more substantive issue that now pertains to this bill having to do with the contract language in section 18 and its effects on, in particular, certain health insurance organizations, corporations organized under 501(c)4. This bill does not deal with that issue, is that correct?

Mr. CANADY of Florida. Mr. Speaker, if the gentleman will continue to yield, this concurrent resolution does not deal with any substantive issues. The Senate passed a separate resolution; actually, they amended the concurrent resolution the House had previously passed, with a change that would affect section 18 of the bill. That is not the resolution that is before the House now.

Mr. SKAGGS. Continuing to reserve the right to object, Mr. Speaker, I would like to ask the gentleman if he would be willing to consent to an amendment to Senate Concurrent Resolution 36 that would address what I believe to be a sincere problem with the implementation of section 18 and delay its effective date.

Mr. CANADY of Florida. Mr. Speaker, if the gentleman will yield further, I cannot consent to that for two reasons. One, there are Members who have substantive objections to that particular change; and second, an amendment to the concurrent resolution at this point would only further delay this bill which has already been delayed far, far too long.

We can discuss why it has been delayed, but the point before us now is that we can end the delay. If we pass the resolution that is before us now without amendment, it will go to the enrolling clerk. The enrolling clerk will complete the enrolling clerk's duties and the bill will be available for transmission to the President. I believe that could be accomplished today. If we accepted the gentleman's amendment, I do not know how much longer this would go on.

Mr. SKAGGS. Continuing to reserve my reservation of objection, Mr. Speaker, that is certainly good news on the underlying issue. I was just looking to address the concern some groups have about compliance by January 1.

Mr. CANADY of Florida. If the gentleman will continue to yield, I am certainly willing to work with Members who have an interest in section 18 on a separate bill to correct problems that may exist with it. Of course, as Members know, there is a difference of opinion of what the problem may be and the scope of the problem with section 18, but I am certainly willing to work with Members who have an interest in this, and I want to make certain that all the concerns of Members are adequately addressed in the proper forum.

Mr. SKAGGS. Mr. Speaker, under my reservation of objection, I yield to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I hope I may not cause too much difficulty with the chairman of the subcommittee for expressing my admiration on how he has dealt with this bump in the road.

Second, Mr. Speaker, I would like to say, sometimes people say things they do not really mean. People often like to talk about how they hate to say "I told you so," but I have found it to be one of the few pleasures in life that gets better with age.

A few weeks ago several of us cautioned against amending this bill, let it have to go back to the U.S. Senate, and some said we were exaggerating what would happen if that were to take place. We have seen now, even when we made no substantive amendment, that the U.S. Senate was capable of entangling this bill. So I think this shows that when we urge people not to vote for amendments, we knew whereof we spoke, because there be dragons, as they said in the 15th century, and I hope now this bill is free.

Mr. Speaker, I would just ask, finally, of my friend, the gentleman from Florida, who has done such good work on this bill, can we now expect the U.S. Senate will allow both the base bill, the lobbying bill, and this correction, to go to the President for signature?

Mr. CANADY of Florida. Mr. Speaker, if the gentleman will continue to yield, of course, this would not go to the President for signature. This just goes to give instructions to the enrolling clerk, but I am hopeful that the enrolling clerk's work can be completed today and that the bill will go to the President today. However, as the gentleman knows, I do not control the process in the Senate, but I am going to contact the Senate as soon as this action is taken today and encourage that the bill be transmitted to the President today.

Mr. FRANK of Massachusetts. If the gentleman will yield again, we all know that the gentleman does not control the processes of the Senate, because it is patently clear that no one controls what goes on in the U.S. Senate.

Mr. SKAGGS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 36

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill S. 1060, to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In section 6(8), strike "6" and insert "7".

(2) In section 9(7), insert "and" after the semicolon, in section 9(8), strike "; and" insert a period, and strike paragraph (9) of section 9.

(3) In section 12(c), strike "7" and insert "6".

(4) In section 15(a)(2), strike "8" and insert "7".

(5) In section 15(b)(1), strike ", 5(a)(2)," and in section 15(b)(2), strike "8" and insert "7".

(6) In section 24(b), strike "13, 14, 15, and 16" and insert "9, 10, 11, and 12".

(7) In section 12(b)(1), strike "7" and insert "6".

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

SCHEDULING OF MEETING OF THE COMMITTEE ON RULES FOR MONDAY, DECEMBER 18, AND FILING OF AMENDMENTS ON ANTITERRORISM ACT

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, earlier this week I had announced that the Committee on Rules would be holding a meeting of the Committee on Rules on H.R. 1710, the Antiterrorism Act. The hearing on that has been delayed until Monday at 5 p.m. There will be a meeting of the Committee on Rules this coming Monday at 5 p.m., and Members are again reminded that amendments to that legislation must be filed with the Committee on Rules no later than 4 o'clock this afternoon. That time still stands, and I would hope that Members on that side of the aisle in particular might notify their Members of the timing of those amendments being filed with our Committee on Rules.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 307 and ask for its immediate consideration.

Te Clerk read the resolution, as follows:

H. RES. 307

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1530) to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1996, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Texas [Mr. FROST], a member of the Committee on Rules, pending which I yield myself such time as I may consume. During consideration of the rule, all time yielded is for purposes of debate only.

Mr. Speaker, this resolution is a rule providing for consideration of the conference report to accompany H.R. 1530, the fiscal 1996 Defense authorization bill. The rule waives all points of order against the conference report, as usual in this circumstance, and against its consideration, and was reported out of the Committee on Rules by a voice vote. I urge adoption of the rule so we can get on with the debate and passage of this long-awaited most essential piece of legislation.

I would like to commend the chairman, the gentleman from South Carolina [Mr. SPENCE], and his outstanding staff for the tireless work they have put in this year, and especially during this very long conference, which has gone on for months now. We all know that that was not easy.

Mr. Speaker, we must pass this legislation today, and the President must sign it into law, especially this President who is putting our troops over into Bosnia as we stand here right now.

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Mr. Speaker, this authorization bill is the first step in restoring our defenses to the level that they should be as the world's superpower.

We all know that the defense budget has endured 10 years of cuts in a row, 10 years. Real defense spending has declined over 40 percent since 1985, and it is beginning to show in the recruitment of good young men and women throughout this country. During that time, procurement has declined an astounding 71 percent, and this must stop; and this bill does stop it.

Indeed, 2 years ago President Clinton said that we must not cut our defenses any further. That was 2 years ago. He was right then, and we are right today. Here is the bill that makes good on that pledge.

This bill is $7 billion above the President's request, and nearly $1 billion over last year, so we are now turning it around. As the deployment to Bosnia takes place, as we speak, this budget should be over the President's request, because, Mr. Speaker, that mission is going to cost billions of dollars, billions of dollars which will be drained out of our appropriation for maintaining a military that can meet the demands of our strategic interests across the world.

This bill adds $5 billion to the President's procurement request, including monies to keep open the industrial baselines for the all-important B-2 bomber and the new generation of submarines.

Mr. Speaker, our military personnel who are about to put their lives on the line in Bosnia are well taken care of in this bill. This bill provides a 2.4-percent pay raise, a 5.2-percent increase in the basic housing allowances, improved health care provisions, and many other items specifically for individual members of our Armed Forces.

Mr. Speaker, this bill finally reverses the outrageous, outrageous attempt in 1993 when military COLA's were unfairly delayed beyond civilian COLA's. What a terrible thing that was to do to our military. I know many Members on both sides of the aisle have worked hard for this day, and I am glad to report that it is finally here. We are turning that around.

In this bill, readiness and training accounts, so critical for operational successes, are also increased substantially. But importantly, Mr. Speaker, this bill, despite its increases, stays within the limits of the 7-year balanced budget. That is what is so terribly important. It does this substantially by reducing the nondefense items that have been weighing down this bill over the last few years, items such as foreign aid that never should have been in this bill, peacekeeping and environmental restoration that never should have been in this bill. They belong in other accounts, not in this bill.

Mr. Speaker, there is no more important bill in our annual process than the defense authorization bill. That is why we formed these republic States forming this great country of ours, to provide first and foremost, above all else, for a common defense of this Nation. This is the one bill that is constitutionally mandated and benefits all of the people of this great country.

This year's bill is critical if America is to maintain its leadership role in the world, as I think it should; and as our young men and women go into Bosnia, we must give them all of the support we can, make no mistake about it. We went through a lot of votes on bills yesterday and the other day to support our troops. This is a bill that supports our troops. This gives them the wherewithal to go in with the best equipment, the best training that they possibly can, and that is what will save the lives of individual men and women serving in our military today.

So this is one Christmas present that we can give them. Come over here and vote for this rule and then vote for this bill. My colleagues will be glad they did.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I rise in support of this rule which provides for the consideration of the conference report to accompany the fiscal year 1996 Department of Defense authorization.

While there are matters contained in this conference agreement which I oppose, I will, however, support the agreement because it does address many matters of vital national security interest. I strongly support the funding made available for the B-2 Stealth bomber, and I especially support the initiatives taken by the conferees to accelerate high-priority quality of life projects for the men and women of our Armed Forces and their families. These projects are critical if we are to maintain a viable all-volunteer force, and especially so in light of the missions we have and will call upon our military personnel to perform. Finally, I am gratified that this conference report addresses the issue of core readiness and fully funds operations and maintenance accounts. Our military forces are by far the best equipped and trained in the world, but this conference report goes a long way toward assuring that they will remain so as we pass into the new century.

I would like to note, however, that the ranking members of the House National Security Committee and the Senate Armed Services Committee both oppose this conference agreement. Mr. Speaker, I find it troubling that a conference lasting 98 days could ultimately report an agreement which would be opposed by both of these able legislators. And, in addition to the substantive disagreement he has with this conference report, our colleague, the gentleman from California [Mr. DELLUMS], has also raised some legitimate questions about the manner in which this conference was conducted in the course of those 98 days.

Mr. Speaker, in spite of the legitimate opposition to this conference agreement by both Senator NUNN and Representative DELLUMS, I urge my colleagues to support the agreement. It is late in the year and long past time that we should have sent this legislation to the President.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HUNTER]. If there is one man in this body that has stood up for American troops over this last decade, it is this gentleman from San Diego, CA.

Mr. HUNTER. Mr. Speaker, I thank the chairman of the Committee on Rules for yielding me this time.

Mr. Speaker, let me thank the ranking member of the Committee on National Security and the gentleman from South Carolina, FLOYD SPENCE, for putting this package together, as late as it has been for many, many reasons, and putting some reasoned emphasis where it should go in this defense package.

First, the Bosnia debate illuminated for all of us one basic fact: We still live in a very uncertain world, and you still achieve peace through strength. Interestingly, when the whole world was looking for a way to achieve peace in Bosnia, their final resolve in Ohio was, it would take American troops with weapons to do that.

Well, if you want to support the troops, we have a bill that does it. It gives them a 2.4-percent pay increase; it increases their housing allowance by about 5.2 percent; it gives them a better quality of life; it gives them ammunition. We put about 1 billion dollars' worth of ammunition and precision-guided munitions and other munitions into this package. That means they are going to have some bullets in their guns.

It gives them a big boost in readiness. We are going to have more aircraft flying, more ships steaming. It curtails for the first time what really has been a 10-year decline in defense spending.

In the procurement accounts, and that is modernization of our platforms at sea, our ships, our sealift, our aircraft, we have been going down steadily for 10 years. We, for the first time, start moving those accounts back up so that we can respond to two MRC's, that is two regional conflicts, at the same time, and have a better chance for our people coming home alive.

Mr. Speaker, if you want to support the troops in Bosnia, if you want to keep this country strong and maintain the United States as an international player and as still the leader of the free world, please vote for this conference report.

Mr. FROST. Mr. Speaker, I yield 7 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Texas for yielding me this time.

Mr. Speaker, I would like to use this time to talk about what happened on November 6 and to try and find out what is going on now. We know that on November 6, the bipartisan 50-50 Committee on Standards of Official Conduct voted 10 to 0, unanimously, to curb royalty income that any Member gets from books, and it was to start on January 1.

Now, they voted to do this because they felt that it should be limited to the outside income, because basically what people were doing when they wrote books here was the equivalent of selling their office to some extent; and so that there should be that same $20,040 cap that is put on it.

Mr. Speaker, I think many of us here are really concerned that we are not seeing that rule of the Committee on Standards of Official Conduct come to the floor, especially when it was a 50-50 unanimous agreement; 50-50, everyone agreed.

We know how partisan and how charged this place has been this year. We know the intensity of the rhetoric, but when you get that kind of an agreement and something that we thought was going to be here so that when we came back in January, all of that would be behind us, I am very troubled that it appears, and maybe this is wrong, but it appears from the Associated Press reports that the Committee on Rules does not want to move on this, that they want to have more hearings, they want to deal with it even further. They are not going to allow that unanimous Committee on Standards of Official Conduct rule to stand, and instead, the earliest we could see anything done on this would be at least March of next year and maybe later.

Mr. Speaker, I know how hard reform is, and I know how long that committee worked. I am one of the people pushing the Committee on Standards of Official Conduct all year long, saying hurry, hurry, hurry, we need to get this dealt with. Now, they have dealt with it. They have done something, and they did it unanimously. I guess my real concern is why we are not seeing it on this House floor.

I see the gentleman from New York [Mr. SOLOMON], the esteemed chairman of the Committee on Rules and my friend here, and I just wanted to ask the gentleman, is it really true that we are not going to see this come to the floor this year, as the Committee on Standards of Official Conduct asked that it be brought to the floor?

Mr. SOLOMON. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, let me digress just a second to remind the gentlewoman of when she came to the Committee on Rules, and I remember her telling me that because I was not a lawyer, I was not fit to make a decision on a particular bill coming out of the Committee on the Judiciary. I will never forget that, my dear friend.

Mr. Speaker, this matter happens to be in the jurisdiction of the Committee on Rules, and I will assure the gentlewoman and everyone else that I am going to hold hearings on this the minute we come back. Right now, every ounce of strength I have and my committee has will be devoted towards getting this legislation through, getting the balanced budget in place; and in February, I will notify you to come up and testify, and we would have ample hearing time on it.

Mrs. SCHROEDER. Mr. Speaker, reclaiming my time, my concern is, though, that I think all of us divert this to the Committee on Standards of Official Conduct who have dealt with this issue almost all year long; and really my understanding was, the reason there was the unanimous, bipartisan vote was that they felt that this would be a wonderful closure, that it would come out, we could vote on this, and then January 1 this would be behind us.

If we are going to have the Committee on Rules now try and second-guess the Committee on Standards of Official Conduct, I mean, is the gentleman from New York saying he does not agree with what the Committee on Standards of Official Conduct did in that unanimous, bipartisan way?

Mr. SOLOMON. Mr. Speaker, if the gentlewoman will continue to yield, I would say to the gentlewoman that in the first place, the Committee on Standards of Official Conduct did not report anything to bring to this floor. The Committee on Standards of Official Conduct has made a recommendation to my committee that we take up the matter, and I most certainly will.

Let me tell the gentlewoman something else. As the Committee on Standards of Official Conduct has an obligation to be fair to all of the Members of this House, we have that same obligation in the Committee on Rules, and we are going to make sure that any change of the rule is going to be fair to every single Member, all 435 of them.

There are questions about outside earned income and what kind of exemptions are presently allowed across the board and for individuals. The same thing holds true with earned income exemptions. As I have been looking at this and talking to members of the Committee on Standards of Official Conduct, I find that there are numbers of exemptions that have been given to specific Members of Congress.

Now, we are going to limit the right of a Member who has developed knowledge and expertise over all of these years and who might want to write a book, and yet we are going to give specific exemptions to other people beyond all of the other limitations we have to live in. Those things, honestly and sincerely, as the gentlewoman knows, we are going to look into, and I guarantee the gentlewoman that we will be fair.

Mr. MILLER of California. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I think the gentlewoman makes an important point, in the concern with what now the delaying of the recommendations of the Committee on Standards of Official Conduct is.

POINT OF ORDER

Mr. LINDER. Mr. Speaker, regular order.

The SPEAKER pro tempore. The gentleman will state his point.

Mr. LINDER. Mr. Speaker, I would like to suggest that people are not proceeding in regular order. This is about the rule and not about the Committee on Standards of Official Conduct.

The SPEAKER pro tempore. Debate must be confined to the resolution under consideration before the House

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. LINDER. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, the matter under consideration is reform presented by the Armed Services Committee. As they were explaining earlier, we are talking about the reform that is being delayed by the Committee on Rules, and the Committee on Rules happens to be on the floor.

We cannot get a hearing on this elsewhere. The gentleman is intending to stall the proceedings.

PARLIAMENTARY INQUIRY

Mrs. SCHROEDER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman will state it.

Mrs. SCHROEDER. Mr. Speaker, I would like to know what the proper parliamentary way would be to bring to the floor this recommendation that was unanimously agreed to by the Committee on Standards of Official Conduct.

The SPEAKER pro tempore. The Chair will not respond to that as a parliamentary inquiry. Debate is confined to the matters contained in the pending resolution.

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Mrs. SCHROEDER. Mr. Speaker, parliamentary inquiry. We are not allowed to discuss it on the floor and we cannot find out from the Chair how to bring it to the floor.

The SPEAKER pro tempore (Mr. LONGLEY). The gentlewoman is not stating a parliamentary inquiry to which the Chair will respond. The gentlewoman will confine her remarks to the pending resolution.

Mrs. SCHROEDER. Mr. Speaker, then, in the rest of my time I guess I will be talking about the armed services bill which will be coming up. It has some very troubling components to me.

But I must say I know how to do that. I was just very frustrated that I do not know how to discuss this other. I feel like I am constantly being gagged and we are not getting any direction. I feel that it is very important.

When it comes to the defense authorization, as you know, I have sat on that committee for 23 years. The saddest thing that is done in this bill that is coming to the floor is, we are turning our back on veterans. We are turning our back because we are not allowing those who are being dumped from the military medical system to be able to avoid having to pay the penalty of Medicare part B.

In other words, if any retiree lives in an area where their military medical system has been shut down through a hospital or whatever, so they now need Medicare part B, they are going to be fined a penalty. This House had said that that should not happen because this House and the situation had changed the rules.

We are going to hear a lot of talk today about how everybody loves the military and what they are going to do, but I must say if we keep breaking these promises and coming out here pushing these hardware-first bills, and pushing the commitments that we made to our retirees on health care and their retirement to the back of the bus and not talking about that, I am very troubled.

I am sorry if the Chair is upset with me, but I really would like to know how we discuss these reform issues, where we discuss these reform issues, and when we get to take the gags off.

Mr. SOLOMON. Mr. Speaker, I yield 10 seconds to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, let me give the gentlewoman an idea that we brought up when we were in the minority, the discharge petition on legislation we wanted brought up that you could not bring up, that the party held down, and she is well aware of that discharge petition that we fought for. I would recommend that.

Mr. SOLOMON. Mr. Speaker, when I came here 17 years ago, I had the privilege of being placed on the Committee on Veterans' Affairs and I served for many years, including as ranking Republican underneath this distinguished gentleman.

He is one of the most respected Members in this body, he is a Democrat, from that side of the aisle, his name is SONNY MONTGOMERY, he is one of the greatest Members that has ever service in this body.

Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. I thank the gentleman for his very kind remarks, especially the chairman, for what he has said. Mr. Speaker, I rise in support of the rule and in support of this conference report.

I have great respect for the gentleman from California [Mr. DELLUMS], my ranking member, but I strongly support this bill and I believe he will oppose it.

One area that I have worked very hard in over the years, Mr. Speaker, is working to have a strong National Guard and Reserve. We now have the total force, we are using the Reserves for the first time, and it is paying off. As we move into Bosnia, the Guard and Reserve will be totally used.

In this bill, we have a lot of things that will help the National Guard and Reserve, and the different States around the country will benefit by this bill. I certainly hope that this conference report will be adopted in the area that I have worked over the years, serving 27 years on the Armed Services and Committee on National Security, will be the Guard and Reserve have the best package they have had in 10 years.

I thank the gentleman for yielding me the time.

Mr. SOLOMON. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Mount Holly, NJ [Mr. SAXTON], a member of the committee.

Mr. SAXTON. Mr. Speaker, I thank the gentleman for yielding me the time.

I would just like to say at the outset, Mr. Speaker, how much I have enjoyed working with the gentleman from Mississippi, and how much I have learned due to his friendship and the experiences that we have shared together relative to armed services matters as well as veterans matters, and how much we will all miss the gentleman, inasmuch as he has announced his retirement.

Mr. Speaker, some years ago, then-Secretary of Defense Cheney came before the Committee on Armed Services and indicated that the threat that we faced was going to change, and he was very right. But he did not say the threat that we would face would go away nor that it would be significantly diminished. If anyone has any question about that, they ought to talk to the young men and women who are today headed for Bosnia.

As a matter of fact, Mr. Speaker, in the years that have gone by since Secretary Cheney made that analysis, or made that statement about his analysis, each year our capacity in terms of spending with our national security and our national defense has diminished. In fiscal year 1996, for the first time in those years, we have put a stop to that slide.

This bill, even though it is a modest military pay increase, provides for one, 2.4 percent. It provides for a modest increase in the base housing allowance of 5.2 percent. It provides for increases in readiness, and it provides for provisions to protect training and readiness accounts from raids from other unbudgeted and unintended issues.

But for the most part, I think the important parts of this have to do with quality of life, inasmuch as this bill corrects the long and festering inequality affecting military COLA's, as an example. For 2 years, military retirees have had their COLA's unfairly delayed, and this bill fixes that.

Also, I would just like to point out that this report takes a giant step toward improving the quality of life for service men and service women. The conference report contains an additional $458 million, for example, for the military construction account which is so important for military housing.

I hope all of our colleagues on both sides of the aisle will support this support.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. HANSEN], another very valuable member of the Committee on National Security.

Mr. HANSEN. Mr. Speaker, I rise in strong support of this rule and this conference report. This bill keeps the promises made by the House earlier this year to begin revitalizing our national security.

This bill keeps our promises with those who serve in our Armed Forces, and ultimately with the American public. In particular, this bill contains several essential provisions for our troops; including a full pay raise and improved housing allowances. It also includes a long-overdue COLA equity provision for military retirees.

We have also taken important steps to ensure our forces receive the best training and most advanced equipment in the world.

In addition, we have taken concrete action to begin to defend our country, and our people, from the growing threat of ballistic missiles and weapons of mass destruction.

All of this is done without increasing defense spending, and within a 7-year balanced budget plan, by cutting wasteful spending and reforming the Pentagon bureaucracy.

This conference report should also send a clear message to the administration that wholesale privatization of the depot maintenance system, in direct contradiction of the BRAC process and current law, will not be tolerated.

Congress has reaffirmed its commitment to a strong public depot system as imperative to our national security. Maybe this will convince the administration that no one is above the law.

I intend to work with the Air Force to develop a plan that meets the requirements outlined in this bill, that complies with the BRAC recommendations to close two Air Logistics Centers, and that ensures the remaining three depots—Ogden, Tinker and Warner-Robbins--are properly work loaded to ensure cost efficiency today and long-term stability tomorrow.

This conference report is important of our Nation and, more importantly, for our troops in the field.

I am proud of our committee's work and the leadership of Chairman SPENCE. This is the best Defense authorization bill I have worked on and I urge all Members to support it fully, and in so doing, to support our troops in this difficult time.

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to the gentleman from Santa Clarita, CA [Mr. MCKEON], another member of the Committee on National Security.

Mr. MCKEON. I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of this rule and the conference report to H.R. 1530, the Department of Defense Authorization Act.

I want to thank also my subcommittee chairman, Mr. HUNTER and the full committee chairman of the Committee on National Security, Mr. SPENCE, for their strong leadership in bringing this bill to the floor. This legislation makes great strides in all areas of defense policy and I urge its adoption by the House.

Mr. Speaker, during the last few years, we have unfortunately witnessed a steady decline in defense procurement and research, which are the most critical accounts for our country's future. As several of my colleagues know, one of my foremost concerns is maintaining the production base for the B-2 Stealth bomber. Most defense experts agree that capping B-2 production at 20 aircraft is an unwise decision that will eventually cost billions when replacement are needed for B-52's and other bombers. The conference report adopts legislative language from the House bill and allows the program to continue. Since each B-2 can perform the work of several B-52's. Sustaining low-rate production will result in a leaner and more cost-efficient bomber force in the future.

Vote "yes" on the rule and the conference report to H.R. 1530.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Moultrie, GA [Mr. CHAMBLISS], another outstanding new Member of this body and a member of the Committee on National Security.

Mr. CHAMBLISS. Mr. Speaker, I rise today to express my strong support for the fiscal year 1996 authorization bill. I have been excited to see over the last several weeks the level of interest and education the Bosnian deployment has generated among Members as it relates to our military.

Bosnia has reminded Members on all committees of the importance of a military robust enough to assure that our military men and women can go about the business of protecting this Nation in the safest way possible. The bill before you does just that.

The bill also contains the critical quality of life provisions for our troops, and that will impact those who have traveled to Bosnia this Christmas. We have assured our troops the very necessary new housing, new child care facilities, and a pay raise, all quality-of-life issues that give back to those troops we expect so much from.

The authorizing bill before you is a good piece of legislation that would not have been possible without the tireless efforts of the chairman of our Committee on National Security, the gentleman from South Carolina [Mr. SPENCE], and also my good friend, the ranking member, the gentleman from California [Mr. DELLUMS].

Support our troops, support this rule, support the authorization bill.

Mr. FROST. Mr. Speaker, I yield 6 minutes to the gentleman from California [Mr. DELLUMS], the ranking member on the Committee on Armed Services.

Mr. DELLUMS. Mr. Speaker, I had not intended to speak on the rule. The rule certainly is noncontroversial. It is a rule that provides for 1 hour evenly divided by the Members of the majority and the minority side, so there is no controversy there.

A number of my colleagues have taken the opportunity to speak substantively to the bill, and at the appropriate point on this floor I will address a number of issues that relate to this conference report. For both procedural and substantive reasons, I will rise in opposition to this conference report, and I will also indicate that it is the intention of this administration to veto this bill and the reasons why they are desirous of vetoing and hopefully sustaining that veto.

But let me for a moment try to place a number of my colleagues' comments in some broader, hopefully thoughtful, framework.

We find ourselves, Mr. Speaker, in the context of a post-cold-war environment. As I have stated on more than one occasion and will attempt to continue to repeat, I believe that this post-cold-war environment, characterized by change and transition and challenge and opportunity, is an enormous gift to us, this generation.

The post-cold-war, we can debate how it got here. Let historians do that. The practical reality is that this is where we are. I believe this moment has given us a tremendous gift, and that is the opportunity to move the world toward peace, to substantially challenge the use of force and the role of warmaking as a foreign policy instrument, the first time in our lifetimes we have a tangible opportunity to do that.

□ 1200

I believe that all of us are experiencing at this moment change and transition that is moving us from war to peace, from warmaking to peacekeeping, from risking war to risking peace. In that context let us look at this conference report.

In a period of time when we are now in a post-cold-war environment where, in my humble opinion, the threat is war itself and the challenge is peace, we are spending as much in our military budget as the entire world combined. That in and of itself should be a shocking and illuminating notion, that the United States military budget equals the military budgets of everyone else in the world; and, second, Mr. Speaker, when we add in our allies, that is our friends, and add their military budget with our military budget, we are spending in excess of 80 percent of the world's military budget, which means that slightly over 19 percent of the world's military budget is being spent by so-called potential adversaries. So we are outspending the rest of the world, The United States and our friends, 4 to 1, so this notion that in some way we are this powerless community is bizarre and absurd.

The United States became a superpower, Mr. Speaker, in the context of the cold war based upon what we had. We had mighty weapons, a nuclear triad. We had the capacity to destroy the world, so we became a mighty superpower. I would suggest, Mr. Speaker, that if the United States is to remain a superpower in the post-cold-war era, it will rely not on what we have, but rather what we do and what we stand for in the world, and in the post-cold-war environment I believe that what we do ought to be attempting to move the world to peace, and what we ought to stand for is a peaceful world moving from the bloody battlefield to the negotiating table where the issues ultimately get resolved politically, economically, and diplomatically.

So in this context this conference report adds $7 billion over and above what the President requested, and this has happened in the midst of all the rhetoric about balancing the budget and the future of our children.

If I had to give our children and our children's children a gift, balancing the budget would not be the first priority. I would want to give my children and my children's children and their children a world at peace.

This military budget, this conference report, contains weapons of the cold war that serve no useful purpose in the context of the post cold war, and my colleagues point out that the former Secretary of Defense said yes, the nature of the threat has changed. Well, if the nature of the threat has changed, then it seems to me that our military budget needs to change in a fashion that is consistent with that changing world.

Are some of us prepared to sit here and allow our military to grow and grow so that we contemplate fighting the ultimate third world war, or, as I stated before, some who would like to paint a big sign on the Pentagon that says, Hey we only do the big ones here, or do we step back and look at the world as it really is, and the world as it really is, the Haitis, the Rwandas, the Bosnias, and the Somalias of the world, that is the future. It is not waging world war III with these big weapon systems, with more nuclear weapons that are contemplated in this budget, with antisatellite capability that is contemplated in this budget that militarizes space.

These are yesterday's ideas, we need to move forward, and I will be more specific about what is in this conference report.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. TIAHRT], another outstanding new Member of this body and a member of the Committee on National Security.

Mr. TIAHRT. Mr. Speaker, I want to thank the chairman for yielding this time to me, and I want to take this opportunity to respectfully disagree with minority leader of the national security system.

When the former Soviet Union has six submarines that are going to be launched this year, when their tank lines are continuing to be in production, when they are continuing to produce MiG-29 aircraft, when they are increasing production on their SS–25 mobile launched cruise ICBM line thanks to some negotiations from the administration, there cannot be a fact that the United States is spending more than the rest of the world. There may be some differences in monetary exchange rate, but production continues for the weapons of destruction in the former U.S.S.R.

So I think that, as my colleagues know, I am a little bit disturbed that our current administration thinks this is too much money. After returning from Bosnia and stopping by and talking to the 1st Armored Division, I had hoped that all their needs were met, but what I found out is that there is a need at the company level for satellite communication systems. This is very rugged terrain, and the only way they can keep in contact with their commanders and with their protection, with the helicopter that should give them the cover they need should the need arise, they need a satellite communication system.

So this is not too much money, Mr. President and Mr. Speaker. This is a good attempt to try to provide the needs of our military, because we are asking them, in fact, to go above and beyond the call of duty. So, if we are going to do that and we are going to have troops in Bosnia, and we are, they must have everything they need, everything.

I support this rule, and I support the fiscal year 1996 authorization bill for our Defense Department.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, our ranking member, minority member, Democratic member on the committee, the gentleman from California [Mr. DELLUMS], has very eloquently pointed out to this Congress why this report should be opposed. Every day those of us in the California delegation, and I am sure many other Members of this House of Representatives, are very proud of the service that the gentleman from California [Mr. DELLUMS], has very eloquently pointed out to this Congress why this report should be opposed. Every day those of us in the California delegation, and I am sure many other Members of this House of Representatives, are very proud of the service that the gentleman from California [Mr. DELLUMS] gives to the Congress and to the committee, and, as I said, he has eloquently pointed out why the bill should be opposed, and I wish to associate myself with his remarks and do so with great pride.

I rise to urge my colleagues to oppose the bill for those reasons and for one additional one. One of the worst provisions, I believe, contained in this bill is one that will lead to the immediate discharge of 1,150 service members who have HIV, the virus that causes AIDS. The provision is discriminatory, because it treats people with HIV differently from the way people with other chronic diseases are treated. The current law concerning active service of service members who are nonworldwide deployable, such as those with HIV, are sufficient. Service members become nonworldwide-deployable due to a number of medical reasons, such as diabetes, asthma, heart disease, and cancer. They still perform very significant duties, but are restricted in overseas travel to remain close to adequate medical services. The Secretary of the respective service determines when it is necessary to release a soldier from the military and when they cannot perform their duties. This policy is similar for all service members regardless of their health status.

It is inappropriate to single out HIV-positive individuals for premature separation from the armed services and in doing so treat those individuals differently than the military treats other healthy productive members with chronic illnesses. Current military policy has been in place since the Reagan administration and received the support of many senior military officials. The Department of Defense opposes this provision. I hope that our colleagues will join them and do so as well.

I rise to urge my colleagues to oppose the fiscal year 1996 Department of Defense authorization bill conference report. There are many reasons to defeat this conference report. One of the worst provisions contained in this bill, supported by Mr. DORNAN, will lead to the immediate discharge of the 1,150 service members who have HIV, the virus that causes AIDS.

The Department of Defense opposes the Dornan provision (section 561) of the House fiscal year 1996 Defense authorization bill and does not believe that service members with HIV present a deployability problem. The DOD believes that members with HIV should be treated as any other service member with a chronic, possibly fatal, medical condition and remain on active duty until such time as they cannot perform their duties.

This provision is discriminatory because it treats people with HIV differently from the way people with other chronic diseases are treated. The current laws concerning the active service of service members who are nonworldwide deployable, such as those with HIV, are sufficient. Service members become nonworldwide deployable due to a number of medical reasons, such as diabetes, asthma, heart disease, cancer, and pregnancy. They still perform very significant duties but are restricted in overseas travel to remain close to adequate medical services. The Secretary of the respective service determines when it is necessary to release a soldier from the military as they cannot perform their duties. This policy is similar for all service members, regardless of their health status. It is inappropriate to single out HIV-positive individuals for premature separation from the armed services and in so doing, treat these individuals differently than the military treats other healthy productive members with chronic illnesses.

The current DOD policy was initiated and supported by both Reagan and Bush DOD officials. Current military policy has been in place since the Reagan administration and received the support of senior military officials. The policy is the product of serious analysis and deliberation by the Pentagon of the impact of HIV-positive individuals on military readiness. The Clinton administration has only moved to continue these policies, demonstrating bipartisan support for this approach.

The presence of HIV infected service members in the military does not adversely affect its combat readiness or efficiency. These troops are still physical healthy are valuable to the armed services. The training and experience of these service members positively adds to the military and should not be taken away as long as they can still perform their duties. These duties must be performed and service members with experience of both overseas and domestic operations would be more qualified to handle a wider variety of duties.

The number of service members who are infected with HIV are a small segment of the military. Service members who are HIV-positive are less than one-tenth of one percent of the entire Armed Forces. This small group of people obviously is not affecting the combat readiness of the whole military.

I urge my colleagues to oppose the conference report.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DORNAN], another great American.

Mr. DORNAN. Mr. Speaker, of course I rise in support of yet another superb Jerry Solomon Republican rule, crafted beautifully, but I also rise in support of the authorization bill that Captain FLOYD SPENCE and his five saddle-weary marshals, his subcommittee chairmen, have hammered out over the last year. It is precisely the authorization bill that the American people want.

If we had one of these futuristic national referendums with a hologram where every taxpayer put his hand on a TV screen and voted on this authorization bill, I think it would win by over 75 to 80 percent.

I will submit for the RECORD my floor statement coming up during the authorization bill and about 30 excellent points, and there are probably 200 or 300, of why this should be enacted into law and signed by Mr. Clinton.

I am going to spend a few precious hours at the Feast of the Nativity with our fighting men in Bosnia. Believe me, they are going to ask me what happened to the authorization bill with everything in it for them.

Mr. Speaker, today we are considering a Defense authorization bill that lives up to the commitment for a strong national defense presented in the Republican Contract With America. The military personnel provisions within the bill are at the heart of what makes the bill a national security legislative milestone highlighting the differences between the President and the Congress on defense issues.

In response to troubling revelations suggesting that the readiness of our units and the quality of life for our service members and their families were approaching dangerous levels, the Subcommittee on Military Personnel responded to address the needs of service members and make readiness a top priority.

Before we get into quality of life and readiness issues, let me assure the over 300 cosponsor of H.R. 2664, the bill from Mr. YOUNG of Florida, that this conference report includes a provision that restores equity to the payment of cost-of-living adjustments [COLA's] to military retirees.

QUALITY OF LIFE

The bill attacks quality of life problems directly by supporting the President's request for a 2.4 percent pay raise and a series of other enhancements to compensation, including a housing allowance increase that was 35 percent larger than the President's. The bill also protects members from increased out-of-pocket costs by guaranteeing housing allowance payments so long as the member remains committed to a mortgage or rent payment at a location.

READINESS

Readiness of our forces was the motivation for language to terminate the dramatic drawdown that eliminated over 630,000 people from the Armed Forces. The provision establishes permanent end strength levels that preserve at least some elements capability necessary to carry out the Nation's two major regional contingency defense strategy.

In terms of our reserve forces, the bill provides increased numbers of full-time military technicians to support deployable units and establishes income protection and dental insurance programs to increase the readiness of individual reservists.

The bill also corrects the insult of military prisoners continuing to receive their pay while serving extended jail sentences. In addition, the bill requires the Secretary of Defense to centralize the oversight and policy responsibility at the Department of Defense level and establish a rigorous process to account for persons missing in action. This is an issue of immense personal interest to me that is long overdue.

Mr. Speaker, this bill is a powerful statement in support of our men and women in uniform, to include those currently deployed and those soon to be deployed to the former Yugoslavia. For this and the many other aspects of this bill that will make our Armed Forces better, I strongly urge my colleagues to adopt this conference report.

THE FISCAL YEAR 1996 DEFENSE AUTHORIZATION CONFERENCE REPORT

Republicans restore defense spending after Clinton cuts combat readiness:

President Bill Clinton has more than doubled the defense cuts promised by candidate Clinton—$120 billion.

Clinton's defense plan—the "Bottom Up Review"—should be called the "Bottom Out Plan." It is underfunded by as much as $150 billion.

Republicans, under the leadership of FLOYD SPENCE, have restored just $7 billion in defense, including programs I personally helped initiate such as: Additional funding for Army scout helicopters and both the OH–58D Kiowa Warrior RAH–66 Comanche; additional funding to build more than 20 B–2 bombers and equip the B–1B with precision guided munitions; and additional funding for a near-term ballistic missile defense capability using existing Navy Aegis cruisers and destroyers.

My Subcommittee on Personnel, thanks to the efforts of my ranking Democrat, OWEN PICKETT, and the hard work of all my subcommittee members, improved military quality of life by: Increasing military housing allowance by 35 percent; setting permanent personnel levels to stop the drawdown; and increasing the number of national guard technicians.

I also included several initiatives that reverse the trend of liberal social programs within the department designed to conduct combat operations. This bill stops abortions at U.S. military hospitals; stops pay for convicted military prisoners; establishes strict new guidelines for the accountability of American prisoners of war and missing in action; discharges all nondeployable HIV military personnel; and awards the AFEM to United States veterans of El Salvador.

In closing, I would remind those who oppose this bill of the wise words of one of our Founding Fathers, Benjamin Franklin, who warned: "The expenses required to prevent a war are much lighter than those that will, if not prevented, be absolutely necessary to maintain it."

Support our troops, support modernization, support this conference report.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. PICKETT].

Mr. PICKETT. Mr. Speaker, the military personnel provisions in this conference report respond to many of the challenges that confronted the Committee on National Security, and specifically the Subcommittee on Military Personnel, at the beginning of the year. As always, the primary objective of the subcommittee was to provide for the welfare of the superb men and women who serve our country in uniform and to enhance the quality of life for them and their families. I believe this conference report achieves that objective.

It achieves the objective for military retirees by restoring equity in the payment of cost-of-living adjustments—a welcome solution for retirees that is long overdue.

The bill confirms the President's request for a much needed 2.4-percent pay increase, and provides a 5.2-percent increase in housing allowances—a full 1.8-percent more than that requested by the President.

Mr. Speaker, beyond the two very major issues, I just mentioned, there are numerous other provisions of similar import to meet the needs of all the services, both active and reserve, across the full spectrum of personnel issues. For example, the bill provides continuing authorities for numerous programs that are critical to the effective operation of the Armed Forces. One such program is the Navy's temporary promotion program so important to nuclear safety at sea.

The bill provides a number of new authorities requested by the Secretary of Defense such as an income replacement insurance program for reservists who are called to active duty and housing benefits for senior NCO's assigned to sea duty.

The bill provides guidance and policy changes needed by the Department of Defense to ensure success on programs such as the joint officer management program designed to develop and educate military leaders for the future.

The bill corrects prior mistakes such as repealing the requirement to restructure the athletic programs at our service academies.

Although many of these provisions are relatively limited in their impact and low cost, you can be sure they are very important to the people they affect. Even the smallest issue is an important piece of the carefully woven tapestry that comprises our Nation's military personnel policy. I urge my colleagues to adopt this conference report.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida [Mrs. FOWLER], one of the outstanding women of this Congress.

Mrs. FOWLER. Mr. Speaker, I rise to strongly support the rule and the fiscal year 1996 DOD authorization conference report.

This bill provides $264.7 billion for Defense—an urgently needed increase of some $7 billion. It enhances the quality of life of our troops by providing $458 million more for family housing, child care, and medical facilities, and it raises military pay by 2.4 percent. It adds funds for readiness and the recapitalization of our forces, addressing the significant shortfall between the force structure prescribed by the President and his budget plans. And it implements important reforms in acquisition policy, reducing procurement costs.

This bill also contains important, sensible directives for the Secretary of Defense on depot policy, which has been a matter of great concern to many in this body. I urge the Secretary to consider these provisions carefully.

Finally, I want to thank Chairman SPENCE and all the rest of the committee and staff who labored so intensively on this excellent bill. I urge adoption of the rule and the bill.

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Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Speaker, this bill is nothing more than gold-plated Santa Claus present for some of the most egregious examples of wasteful military spending that we can find in our Nation's military budget. Meanwhile, it provides basically coal for our troops, it provides coal for anyone that is seriously concerned about a violation of the ABM treaty.

If we are serious about negotiating with the Russians to be able to get rid of the military threat of missiles aimed at the United States that can destroy this society, why would we possibly go about a direct threat to the Russian security by violating the ABM treaty, which is exactly what this program does?

By building 100 or more interceptors that violate the ABM, we force the Russians into a situation where they themselves are back into an arms race. This makes no sense politically. With the stroke of a pen, we can begin to eliminate the very missiles that you care supposed to be concerned about, but instead we intend ourselves to go and find a way to reenter and reopen the arms race.

Mr. Speaker, we are spending $7 billion more than the military requested. We are out building B-2 airplanes, F-22 airplanes, *Seawolf* submarines. The list goes on and on and on. Why do we have to spend more than the military requires? Why did Members jam President Clinton into accepting these additional subsidies for our military defense in order that he could take his position on trying to provide peace to Bosnia?

This is blackmail, it is shortsighted, and it will hurt the overall security of the United States of America. Security means not only do we defend ourselves against foreign threats, it means whether or not we invest in the future of this country. This military budget expends dollars that should be better spent on the education of our children, on fighting crime, on fighting the war on drugs. Those are the priorities of this country, and those are not the priorities of this Republican-led Congress.

Mr. Speaker, the Defense Authorization Agreement is a terrible piece of legislation. It can be faulted on many counts; more, in fact, than I can concentrate on in a 2 minute speech. So let me mention three.

I oppose funding for the B-2 bomber. The Pentagon doesn't want it. We shouldn't fund it. It is a cold war relic that the United States no longer needs. We already have 20 bombers coming, and an additional commitment to $31.5 billion is not in anyone's future budget plans.

I oppose funding for the F-22. The F-22 was designed to operate against high tech Soviet fighters that have not been built and are going to be built. With the cost of $74 billion, this budget buster is a high tech luxury we cannot afford.

We could restore 63 percent of the Medicaid cuts by eliminating these two weapons alone.

Mr. Speaker, perhaps the most alarming provision in this bill is the requirement for a national missile defense system which violates the terms of the ABM treaty.

The agreement would unnecessarily require deployment by 2003 of a costly national missile defense system capable of defending the United States from a long range missile threat that the administration and the intelligence community do not believe will materialize.

The agreement implicitly requires a national missile defense system architecture with multiple sites and in excess of 100 missile interceptors that cannot be accommodated within the terms of the ABM treaty as now written.

The Russian Government signaled to the Bush administration that if the United States does not adhere to the terms of the existing ABM treaty, it would threaten continued Russian implementation of the Start I Treaty and would put at risk Russian ratification of the Start II Treaty.

Mr. Speaker, beginning this week Russia is supposed to start ratifying Start II. If they sense an act of the U.S. Congress that would result in abrogating U.S. responsibilities of the ABM Treaty, they will not ratify Start II.

Russia's cooperation on ABM is linked to United States compliance of the ABM Treaty. If the United States does not adhere to the ABM agreement, and subsequently the Russians do not ratify Start II, we could conceivable trigger a new, far more costly arms race which no country can afford.

Mr. SOLOMON. Mr. Speaker, I thought this was one of the best bills ever to come before this body.

Mr. Speaker, I yield 1 minute to the gentleman from Clarendon, TX [Mr. THORNBERRY], an outstanding member of the Committee on National Security.

Mr. THORNBERRY. Mr. Speaker, what some people have yet and may never understand is that you cannot provide security with pieces of paper, you can only provide security with strength, and this bill does make us stronger. With young American service men and women moving to Bosnia today, every Member has a responsibility to support them. But we have to support them with more than just speeches and fancy resolutions. I think we have to support them by voting for this bill, which does support them with a pay increase and a 5.2-percent increase in the housing allowance.

This bill supports them by beginning to address our critical modernization needs, where we are sending kids out to fight with equipment that is older than they are. It supports them and those who have served before by fixing the COLA and equity problem, and it also pushes the development of new weapons which will not only be more effective against the enemy, but safer for our soldiers to use, and thereby further protect their lives.

To truly support our troops with more than just words, Members should vote for this bill, and the President should sign it.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, as a former member of this committee, I want to speak a little bit about priorities. I think that this bill that will be before us shows that, unfortunately, our priorities have slipped. Right now we are taking pregnant women and children out of the safety net for Medicaid, and yet we are increasing cold war weaponry, giving the military $7 billion more than they asked for, while the children and the mothers of this Nation will go colder, less health care, hungrier.

I want to quote from a prayer written by the great child advocate, Marian Wright Edelman. In it she says:

"Oh, God, forgive our rich Nation, which thinks security rests in missiles rather than in mothers, and in bombs rather than in babies."

I would say, Mr. Speaker, the American people believe more in mothers and babies than in missiles and bombs. This Congress is wrong with this bill.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. LEWIS], a great Member of this body.

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today in support of H.R. 1530, the 1996 National Defense Authorization Act.

This bill will make the military a better place for our service men and women—and their families.

It includes a 2.4-percent pay raise, and better housing for our troops and their loved ones at places like Fort Knox, in Kentucky's 2d district.

It creates a new program to make military housing dollars go even further by increasing cooperation with the private sector.

And it fixes COLA dates so that military retirees have the same benefits as Federal civilian retirees. I think our retired service men and women deserve at least that, Mr. Speaker.

Most important, it sends a solid message of this Congress' support for our troops—some of whom will soon be in Bosnia. I wish that weren't so, Mr. Speaker. But I am happy we can do this for them.

I congratulate Chairman SPENCE for his leadership.

Mr. SOLOMON. Mr. Speaker, when I first came here 17 or 18 years ago, there was a gentleman on that side of the aisle, he was a Democrat, his name was Walter Jones. He was a fine southern gentleman, a good Congressman. He is no longer with us, but there is another WALTER JONES with us, his son, from Farmville, NC.

Mr. Speaker, I am proud to yield 1 minute to the gentleman from North Carolina [Mr. JONES].

Mr. JONES. Mr. Speaker, I thank the gentleman for his comments about my father.

Mr. Speaker, today I rise in support of the national defense authorization conference report. This bill acts upon the promise this House made to our military and the American people with our Contract With America. It begins addressing the growing shortfalls in our national defense, it improves the quality of life for our military personnel while sustaining core military readiness. It contains enough of the central provisions and benefits, such as a full pay raise, improving housing allowances, and essential medical benefits. It highlights the importance of the military reserves and provides for their increased participation.

For our military, there are just as many threats and needs in the world today as ever before. With this bill, we are meeting the needs of our military while balancing the budget. We need to support the rule.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Danvers, MA [Mr. TORKILDSEN], another member of the Committee on National Security.

Mr. TORKILDSEN. Mr. Speaker, the chairman of the conference committee, FLOYD SPENCE deserves great credit for his hard work and skill in bringing to this House a successful report. His guidance and leadership were instrumental in this arduous, often contentious process.

Just days ago, this body debated the President's constitutional role as Commander in Chief in deploying United States troops to Bosnia. Today, we are here to exercise Congress' constitutional authority to raise and support the Armed Forces of the United States.

It is startling that, while this conference report provides a 2.4-percent pay raise, increases family housing, improves health care for military dependents, and funds overdue COLA equity for military retirees, the President has threatened a veto.

Whatever objections the President or my colleagues may have to provisions contained in this conference report, I would ask that they consider them in context of a soldier and his or her family, once again being separated during the holiday season. Members of our Armed Forces who are deployed into war-torn Bosnia should be free from concern about the well-being of their families back home.

This conference report cuts $2.6 billion from the House-passed bill, but still funds programs critical to readiness, modernization and quality of life for our troops. This measure puts forth a strong vision for our national security apparatus in the post-cold-war world, while balancing the budget.

I ask that my colleagues support the rule, support the Defense conference report, and support our men and women in uniform.

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to the gentleman from Wisconsin [Mr. GUNDERSON], another Member that is going to be leaving this body next year and will not seek reelection. He is a very fine Member of the body, even though we have some differences over a thing called dairy.

Mr. GUNDERSON. Mr. Speaker, if this authorization bill would mandate that every member of the military drank three gallons of milk a day, we would not have a problem.

Mr. Speaker, I want to recognize that there are many good things in this bill, but I want to plead with my colleagues to beware of something that was not debated on the House side because we thought it was going to be solved in the Senate, and if the President vetoes this bill, I think it becomes essential that we deal with it a second time around.

This bill, unfortunately, includes a provision that any member of the military who is determined through testing to be HIV-positive is automatically dismissed. That is a serious public policy and public health problem that should not become law in this country.

I want everyone to understand that I have been working very closely with the gentleman from Oklahoma [Mr. COBURN] on our side, and others, to mandate testing of infants as part of Ryan White, because we have treatment that is available, and if testing leads to treatment and to cure, we ought to be for it. I want to encourage testing for every element of American society, because testing is the most important element we have for prevention. But when mandatory testing leads to mandatory job discrimination, we are sending a signal in America society to everyone not to get tested.

Today it is the military, tomorrow it will be military contractors, and the next day it will be all of the independent private sector. We have to change that provision before this bill becomes law.

Mr. FROST. Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say once again that under the Constitution of the United States of America, the most important thing we can do is to provide for the common defense of this Nation. That is what this bill does. But also something a little bit more than than.

Mr. Speaker, today we have problems in our society, but one of the most honorable careers that anyone could ever have is a career with the United States military. Today, when we depend on an all voluntary military, we take people from all walks of life. We offer them the career. When they come, if they come out of the ghettoes or if they come out of the rural areas like I represent, when they go in the military they learn things that are so terribly, terribly important. First of all, they are offered $30,000 toward a college education. Many of them would never have that opportunity if they did not join the military.

They learn other things. They learn things like pride; they even get a little religion in the military. They learn things like how not to use drugs. It is so important to our youth today. But if we are going to ask these young men and women to come out of the areas where they are and to serve their countrymen, then we have to provide the very best for them.

I will never forget, when we went into Desert Storm and we faced one of the largest armies in the entire world, and yet we came out of there with so few casualties. Why? Because those young men and women were the best trained, the best equipped young men and women that have ever served in this military. They had state-of-the-art equipment. For instance, they had equipment that allowed them to see the enemy when the enemy could not see them. That saved lives.

That is what this is all about today. When we look at this bill before us, it provides for procurement, it provides for state-of-the-art weaponry and machinery and equipment that these young men and women need. That is why this bill is so terribly important. Come over here, vote for this rule, and then vote for the bill. It is the best thing Members can do today.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 378, nays 29, not voting 26, as follows:

[Roll No. 864]

YEAS—378

Abercrombie
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Cooley
Costello
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
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Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
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Kennedy (MA)
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Kleczka
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Orton
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Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
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Portman
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Radanovich
Rahall
Ramstad
Reed
Regula
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Sawyer
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
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Shays
Shuster
Sisisky
Skaggs
Skeen
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Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
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Stump
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Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
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Tiahrt
Torkildsen
Torres
Traficant
Upton
Vento
Volkmer
Vucanovich
Waldholtz
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Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Zeliff
Zimmer

NAYS—29

Barrett (WI)
Becerra
Brown (OH)
Conyers
DeFazio
Durbin
Frank (MA)
Gunderson
Lofgren
Luther
Maloney
Markey
McDermott
Mfume
Miller (CA)
Neal
Olver
Owens
Payne (NJ)
Pelosi
Rangel
Roybal-Allard
Rush
Schroeder
Serrano
Stark
Watt (NC)
Wyden
Yates

NOT VOTING—26

Ackerman
Bonior
Clayton
Collins (IL)
Cox
Deutsch
Graham
Gutierrez
Hayes
Lewis (CA)
Lightfoot
McInnis
Moran
Nadler
Pryce
Quillen
Quinn
Schumer
Stokes
Torricelli
Towns
Velazquez
Visclosky
Waters
Waxman
Young (FL)

□ 1249

Messrs. RUSH, OLVER, and LUTHER changed their vote from "yea" to "nay."

Mr. STUPAK, Mr. BALDACCI, Ms. ESHOO, Mr. DOGGETT, and Mr. CHAPMAN changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. NADLER. Mr. Speaker, earlier today I was unavoidably detained and missed two rollcall votes. Had I been present, I would have voted "no" on rollcall 863 and "no" on rollcall 864.

PERSONAL EXPLANATION

Ms. VELÁZQUEZ. Mr. Speaker, earlier today I was unavoidably detained and missed rollcall votes 863 and 864. Had I been present, I would have voted "no" on both rollcall votes.

Mr. SPENCE. Mr. Speaker, pursuant to House Resolution 307, I call up the conference report on the bill (H.R. 1530), to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1996, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. KINGSTON). Pursuant to House Resolution 307, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 13, 1995, at page H14378.)

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. SPENCE] and the gentleman from California [Mr. DELLUMS] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from South Carolina [Mr. SPENCE].

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I bring this conference report on the fiscal year 1996 defense authorization bill before the House with a great sense of satisfaction. At the beginning of this year, the Committee on National Security set out to craft a defense bill that would achieve four fundamental goals. Through the course of committee, House and conference action, we never lost sight of these objectives.

First, we promised to improve the quality of life for our military personnel and their families. A number of critically important provisions in this bill, such as a 2.4-percent pay raise, enhanced housing allowances and medical benefits, COLA equity for military retirees and increased funding for family housing and barracks, are a testament to our trying to keep our eye on the ball and looking out for the people who serve in our Armed Forces.

Lately we have heard much discussion about the importance of supporting our troops. I can think of no better way to put our money where our mouths are, when it comes to a tangible expression of support, than passing this bill. Nor can I think of a better Christmas present than beginning to reduce the growth in out-of-pocket expenses being incurred by military personnel and their families by passing this bill.

Second, we promised to sustain short- and long-term readiness. This bill increases funding for critical readiness accounts more than $1.6 billion over the President's request, while putting a halt to the debilitating practice of diverting needed training and operating funds to pay for unbudgeted humanitarian and peacekeeping operations.

Third, we set out to begin addressing the growing modernization shortfalls that have resulted from a decade-long 70 percent real decline in procurement spending. This bill puts an end to the procurement holiday and helps to shore up a dramatically downsized industrial base by adding funds to a number of underfunded and unfunded programs.

Our military leaders have just recently requested that we not wait for modernization as suggested by the administration.

Fourth, we set out to initiate a number of important and long overdue structural and process reforms in the Pentagon. This bill contains the most forward-leaning package of acquisition reforms in decades, as well as reductions in an oversized Pentagon staff and acquisition work force. The bill also begins the process of privatizing a number of the Pentagon's support functions in pursuit of a greater cost effectiveness and efficiency.

Mr. Speaker, the bottom line is that promises were made and promises are being kept.

Mr. Speaker, this bill is the product of the tireless effort on the part of all committee members. In particular, however, it is the product of the committees, subcommittee and panel chairmen, along with their distinguished ranking members who support this conference report.

It is these Members in particular who deserve the lion's share of the credit for all that is positive in this bill. However, I do personally want to recognize Chairman HUNTER, Chairman WELDON, Chairman BATEMAN, Chairman HEFLEY, Chairman DORNAN, and Chairman MCHUGH for their dedication, commitment, and perseverance. Their expertise and competence have made my job, all of our jobs, much easier.

And also the ranking members of those subcommittees. In the end, this was a bipartisan bill. Out of committee, with only three dissenting votes.

Off the House floor, out of the conference, and I hope will be on final passage this afternoon.

I would also be remiss if I failed to thank my friend and colleague, Mr. CLINGER, the distinguished chairman of the Committee on Government Reform and Oversight, for his herculean efforts all year long on the issue of acquisition reform. More than any other single Member on either side of the aisle, BILL CLINGER is responsible for the comprehensive reforms to our Government's obsolete and inefficient procurement system contained in this bill.

I also want to stop right here and thank the ranking member of the full committee, the gentleman from California [Mr. DELLUMS] for his efforts.

Finally, I want to express my thanks to the entire staff of the Committee on National Security. Despite a 20-percent cutback in the committee staff following last year's election, we are nearing the end of one of the busiest years I can remember, having served here for 25 years. The Committee on National Security staff is hardworking, dedicated, and professional. Their commitment to public service, which is all too often underappreciated and overlooked, is exemplary.

Mr. Speaker, I reserve the balance of my time.

Mr. DELLUMS. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, I rise in opposition to the conference report on H.R. 1530, the National Defense Authorization Act for Fiscal Year 1996. I do so for reasons that are both procedural as well as substantive. I will not take up the time of the body on the procedural issues, though I think they are awesome. This will be the product of a discussion between the minority and majority Members confined to the dynamics of the committee, and I will not raise these issues on the floor. Rather, I would now turn to the substantive reasons of disagreement with the content of the conference report.

First, Mr. Speaker, I believe this conference report represents a return to the cold-war-era defense budget. In particular, weapons programs that are inappropriate in this post-cold-war era are funded. In so doing, the authorization measure fails to make the additional legitimate savings afforded by the significant geopolitical changes we have experienced to date.

□ 1300

Moreover, it fails to fund sufficiently operations and maintenance accounts that must in turn fund the real requirements of the new era, peacekeeping and humanitarian operations, while also maintaining the training programs required to keep our military ready for its traditional missions.

Let me now respond to specific concerns.

Mr. Speaker, with respect to the ballistic missile defense program, the bill would require the deployment of a national missile defense system by the year 2003. It envisions a multisite system of more than 100 interceptors provisioned for early upgrade to a space-based weapons component. Such a system would constitute unilateral abrogation of the Antiballistic Missile Treaty, referred to as the ABM treaty. This unnecessary abrogation of the ABM treaty would give the Russian Government reason to withdraw their support for START II, as they have said they would, if we go forward with unilateral abrogation. This would likely ruin our best chances for retaining strategic stability at reduced, manageable, and less-expensive levels.

Antisatellite program, the ASAT, the bill includes $30 million to resurrect the previously terminated ASAT program. This puts the United States in the position of explicitly militarizing space. Now we had terminated this program. Why, for any rhyme or reason, would we want to resurrect this monstrosity of the cold war is a mystery to this gentleman.

With respect to the B–2 bomber, the bill provides for $493 million over the President's request for this program. Worse, the bill repeals, Mr. Speaker, the cost and quantity caps in current law for the existing program. This would clear the way for 20 additional B–2 bombers which the Air Force neither wants nor needs.

With respect to the Cooperative Threat Reduction [CTR] Program, the bill restrains CTR in ways that may impede the most effective program of dismantling the Russian nuclear weapons complex and infrastructure.

With respect to submarines, the bill envisions—listen to this, Mr. Speaker—a noncompetitive construction of four one-of-a-kind prototype submarines before determining what the successor to the current *Seawolf* should be. It would also buy a third *Seawolf* to tide over the industrial base in the interim, and in this gentleman's opinion this is a costly and ineffective way to determine future submarine requirements.

With respect to budget policy, overall the bill adds some $5.2 billion above the administration request for procurement and resorted to what we call split or incremental funding to finance a third *Seawolf* and the DDG–51 destroyer program. Many of the additional spending requirements will bring with them funding tails that would require increased budgets or cuts of other programs to sustain in the future. Adds in the ballistic missile defense, the B–2, and the shipbuilding programs are among the most significant future budget drivers.

Mr. Speaker, if there was any program, and I do not like to use the term pork, and I rarely, if we go back in the RECORD, rarely have used that term, but if there is a piece of legislation that took care of people as opposed to addressing the reality-oriented national security needs of this country, this bill does it. We bring forward several ships all the way into the year 2000 back to 1996 to be funded now. This is not a way to handle the fiduciary responsibilities of the American taxpayer.

With respect to HIV, Mr. Speaker, the bill would require the discharge of members of the Armed Forces who have the HIV–1 virus. This is unnecessary and discriminatory. The military has stated that this is not a problem as they are able to discharge personnel when necessary under current law. It would preclude the military from utilizing military personnel who are completely functional in their jobs and in whom the military has invested significant training resources.

With respect to abortion, the bill would amend permanent law to include the restrictions on the use of Department of Defense facilities for abortions except in the cases of rape, incest, or when the life of the mother is in danger. This conservative agenda issue was incorporated in the bill without one single hearing.

On the subject with respect to the environment, in a departure from advances made over the past 2 years environmental programs are underfunded.

With respect to command and control, this provision governing the operation of U.S. troops during peacekeeping operations impinges upon the role of the President as Commander in Chief in a manner that may very well be unconstitutional.

With respect to contingency operations, while the bill provides for funding of unbudgeted contingency operations, it contains a provision that would require the President to submit a supplemental appropriation which may be an unconstitutional direction to the President. We have often done this in report language. This now is in bill form, a very different approach.

With respect to nuclear weapons, the bill would authorize the needless expenditure of resources to maintain and expand the Department of Energy nuclear weapons infrastructure in advance of the programmatic environmental impact statement that is being produced on infrastructure requirements.

On nuclear testing, the bill needlessly prepares for future nuclear weapon testing.

The technology reinvestment program, the bill terminates this successful program, only provides $195 million to complete pending projects.

Finally, Mr. Speaker, for the above reasons it should come as no surprise that the President has indicated, and I have a copy of the letter for my colleagues' perusal, statement of administration policy from OMB, that the President has indicated that he will veto this bill in its present form.

I, therefore, urge my colleagues to oppose this conference report and allow members of the conference to readdress these issues, bringing forth a bill that can be supported by both Congress and the administration.

Mr. SPENCE. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. MONTGOMERY], who is going to be retiring this year. I know of no one in this body, and I have been here 25 years, who has been more supportive of the military than SONNY MONTGOMERY. He is known throughout the world as the supporter of the military, and it gives me a great deal of pleasure to let him have 2 minutes at this time.

Mr. MONTGOMERY. Mr. Speaker, I certainly thank the chairman for those very, very kind remarks.

Mr. Speaker, I rise in support of this conference report.

The bill is a very good bill, and especially to the National Guard and Reserve. In fact, General Baca, who is head of the National Guard, says his advisers tell him that this is the best bill in 10 years for the Air National Guard and for the Army National Guard.

We have included in this bill an add-on of $770 million for new equipment for the reserves of the different services.

Now, Mr. Speaker, a point I would like to make here very strongly: When we give money to the National Guard and Reserve, we have every State in the Union and a lot of small communities will get these funds. It will not go to the big bases, but it will go to all of the communities around the country.

The technicians for the Guard and Reserve were raised by 1,400 persons. We also were able to extend—this is very important also—we were able to extend the current 15 days of military leave for technicians by an additional 44 days to reflect the increased reliance upon these personnel. In the Bosnia operation, Air Guardsmen and Air Reservists lose part of their pay unless this law is changed.

The Youth Challenge Program to help our young men and women around the country is extended for another 18 months.

The National Guard can still do community service if it is tied to the training of our different units in the country.

Let me say instead of cutting each fighter squadron to 12 in the Air National Guard and Air Reserve the bill provides for 15 aircraft in each squadron instead of 12 to 15.

The bill includes the program we offered to buy down interest rates for service personnel at military bases. This is a good test program to let the young soldiers buy homes under the veterans' programs, and I certainly rise in support of this legislation.

Mr. DELLUMS. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Speaker, I voted for this bill when it passed the House. I thought then that the parts of it I found problematic might be scrubbed out in conference, but it still comes from conference with some problems and, I think, still can be resolved. So, in the hope that it might be put through the scrubber one more time I will vote against the conference report today.

Mr. problem, by and large, with the bill is the same problem I have with the appropriation bill. Though I voted for it, I think it is the worst problem in the bill because I do not think that either bill is realistic about the future. I think we have a mismatch between defense plans and defense budget, and I think this conference report adds to the problem.

My colleagues see between fiscal year 1996 and fiscal year 2002 the Republican budget calls for a national defense spending budget authority to increase from $2 5 billion in 1996 to $280 billion, going up about $15 billion or in increments of about $2 billion to $3 billion a year. That is going to be a hard line to toe in a budget that takes discretionary spending from $548 billion down to $513 billion in 2002.

During this same 7-year period, the Clinton budget allocates $20 billion less to defense. This too will be a tough path to follow; it will call for a lot of tradeoffs; but in the last 2 years, the Clinton budget is more realistic than the Republican budget about funding for national defense. In 2001 and 2002, the Clinton budget actually allocates $15 billion more to defense than the Republican budget.

What happens in this Republican budget is a truncation in those outyears to squeeze it into their plan to balance the budget by the year 2002. The Clinton budget, on the other hand, realistically recognizes that in those outyears systems like the F–22 are going to be coming to fruition, and it rises to accommodate the cost of these systems. Despite their austerity, this truncation in the outyears, this Republican budget in the short term, this bill, is loaded down with more systems, four prototype submarines, two DDG destroyers, up to 20 B–2 bombers, new systems like space-based lasers, ASAT. The Navy's Upper-Tier system has risen from being just a testing prototype system to being a full up core TMD system. Mandated IOC's, a practice we have rarely done, but here we have mandated an initial operational capability date for missile defense system, for theater missile defense system, for Lower-Tier, Upper-Tier, for PAC–3, and we speeded up the milestones for Brilliant eyes.

This is not a budget that looks toward an austerity period coming ahead of us. It only raises the risk of a train wreck down the path, and I do not think it can be accomplished in the long run on the spending track that is laid down in the overall Republican budget.

Let me just speak a minute to BMD, ballistic missile defense, because I happen to know something about that.

□ 1315

This budget contains a $450 million plus-up for national missile defense. The mandated IODC or deployment date is 2003. I am basically supportive of that. If we deployed just at Grand Forks this is realistic, but it will still add $3 billion to the budget that we are working on because of the deployment date. However, if we deployed at several sites, which this report anticipates, then the cost goes up and it goes up astronomically, about $5 billion a site. Though it is in this budget, it is nowhere provided for in the overall budget.

Mr. Speaker, buried in this conference report also is a $50 million plus-up for space-based chemical lasers. That is not terribly objectionable by itself, but tagged onto it is a mandate for an on-orbit test of a demonstration system by the end of 1999. That is not far away. This seemingly innocuous direction, added to the report without any discussion in conference to my knowledge, carriers with it a price tag that would easily run to $1 billion. That is low-balling the estimate. That is why I say this conference report needs another scrub in order to make it realistic within the budget we pretend to be operating upon.

Mr. SPENCE. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana [Mr. LIVINGSTON] who is the chairman of our Committee on Appropriations and one of the strongest supporters we have of rebuilding our military.

Mr. LIVINGSTON. Mr. Speaker, I rise in support of H.R. 1530, the 1996 Defense authorization bill. I believe without it, frankly, the 2.4 percent pay increase for the folks in Bosnia and all the military is in great jeopardy. Without this bill, there would be no COLA and other adjustments to offset the inequities between civilians and military.

There are going to be those that might come here today and propose "Well, we could always do a continuing resolution that would take care of those issues." I, in my capacity as chairman of the Committee on Appropriations, could not support that, because I think to do that in that manner contradicts the authorization process. We always hear that the appropriators are intruding into the authorizers or the authorizers are intruding into the appropriations process. The fact is we have no different types of process. The way to handle major policy issues generally is by virtue of the authorization process. This bill should pass, because we need to establish the policy of defense in this Nation.

Mr. Speaker, a continuing resolution would neglect the critical procurement and Pentagon reforms that are needed, that must be updated, and would thus be neglected in a continuing resolution. A continuing resolution would omit authorization for new starts in military construction and military housing. Some $458 million in increases might not be properly appropriated for construction of 68 barracks. Quality of life projects serving some 9,200 military families in one fashion or another will not occur without this authorization. Without this bill, we might retard the deployment of an effective missile defense system.

Others have said that is a good deal, that we do not need a missile defense system. We know how fast technology has changed in this world over the last 10 years. All you have to do is sit in front of your little personal computer and do things that rooms full of computers could not do just 10 or 15 years ago. There are a lot of people, with the best of intentions in the world, that can sit in front of those computers and send missiles 2,200 or 3,200 miles across the globe and they can put attachments on those missiles which can deliver nuclear, chemical, and biological warheads.

This country today does not have the ability to defend against one of those missile, and certainly not an intercontinental ballistic missile, so I believe it is imperative that this bill pass so we can address, properly and intelligently, the need to deploy a system that can protect our people, the people of this Nation, of this continent, and all around the world, people in our Armed Forces in every corner of the globe, against incoming missiles.

I believe it is important to pass this bill so no longer will we be seeing attempts by the administration to tie our hands and keep our Armed Forces from doing what they should be doing, and that is deploying defenses against such incoming missiles.

Without the bill we would omit vital revisions in command and control rules for our military forces involved in U.N. peacekeeping operations.

We would not be addressing the need identified by every commander in the field to increase readiness and training funding.

And, without this bill, we would not have the modernization program increases in shipbuilding, tanks, and aircraft modernization programs that have been cut 70 percent since 1985.

Proponents of a selective CR would fail to address the real need for defense policy changes.

That may be what they want, * * * but that is not good for our arms forces or our country—at a time when our troops need our closest attention!!

Mr. Speaker, I urge the adoption of this defense authorization conference report.

Mr. DELLUMS. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from Illinois [Mr. EVANS].

Mr. EVANS. Mr. Speaker, as others have pointed out, this bill is stacked with weapons that the Pentagon does not need or want, and the cost of these unwanted weapons will threaten more pressing priorities, such as decent pay, sufficient O&M funding, and a capable civilian work force.

This bill will also undermine our leadership on anti-personnel land mines. The Senate overwhelmingly approved an amendment to enact a 1-year moratorium on the United States of AP land mines, but in this conference the House would sabotage that with an amendment that would require DOD certification before the amendment went into effect. This would hurt our leadership in the next session of the review conference of the 1980 land mines protocol. Our previous leadership was based on a congressionally approved export moratorium which was helpful in bringing nations to the table. The language in this conference will take that progress back.

In addition, without a hearing at all, the Republican leadership stripped language that would have given more flexibility to DOD in administering the demining grants and providing demining equipment to other countries. This only means more innocent women, men, and children will be killed or injured by land mines.

Former U.S. Marine Corps Commandant Al Gray has stated, "We kill more Americans with our mines than we do anyone else. We have never killed many enemies with mines." This is clearly an irresponsible bill for many reasons, and I urge my colleagues to vote against it, and thank the gentleman for yielding to me.

Mr. SPENCE. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. CLINGER], the chairman of the Committee on Government Reform.

Mr. CLINGER. Mr. Speaker, I rise in strong support of H.R. 1530, the Department of Defense authorization conference report. I commend Chairman SPENCE and all the conferees for their dedication to revitalizing U.S. national security.

Included in this conference report are provisions to significantly reform the procurement system of the Department of Defense and the civilian agencies of the Federal Government. These provisions are consistent with H.R. 1670, the Federal Acquisition Reform Act of 1995, which was a joint initiative of the Committee on Government Reform and Oversight and the Committee on National Security. H.R. 1670 passed the House by a vote of 423 to 0 in September of this year.

The language in this conference agreement represents the efforts of many of our colleagues on both sides of the aisle and in both chambers who have joined with us in rejecting the status quo, and who are prepared to lead the way toward reforming a system which, for years, has become increasingly more arcane, more convoluted, and therefore, more costly—both to Government buyers and to businesses wanting to participate in the Federal marketplace.

This conference agreement promotes affordable and common sense approaches to meet our budgetary goals by, among other things: providing for the increased use of commercial items; increasing the competitiveness of U.S. defense products in international markets; eliminating numerous government-unique procedures; and creating a new system for the purchase and management of Federal information technology.

We are in a unique situation today. This could be our only opportunity to see these significant reforms enacted into law. Therefore, it is vital that my colleagues join me in voting for H.R. 1530, the Department of Defense authorization conference report.

Mr. Speaker, I would ask the chairman of the Committee if he might enter into a colloquy with me with regard to section 4203 of the bill.

Section 4203 of the bill will greatly simplify and streamline commercial acquisitions under $5 million. In my view, this is a long-overdue and much needed change. The purchase of commercial items logically lends itself to simplified procedures because there exists a yardstick in the commercial marketplace against which to measure price and quality and to serve as a surrogate for government-unique procedures.

I simply would like to clarify that it is not the intent of this section to encourage agencies to structure their procurements as a series of multiple, low-dollar value purchases so that each component falls under the $5 million threshold. Am I correct that this is not the intent of the section?

Mr. SPENCE. Mr. Speaker, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from South Carolina.

Mr. SPENCE. Mr. Speaker, the gentleman is correct. The original proposal offered by the House did not include a threshold for the application of simplified procedures when buying commercial items. While I do not wish to reopen this issue with respect to this bill, no threshold here would have permitted the use of simplified procedures where it was appropriate. Now, we have an arbitrary dividing line between the application of different procedures for the same commercial items.

The problem you raise is a problem generally with the arbitrary application of thresholds. Nonetheless, this language is not intended to allow vendors or Federal buyers to manipulate Federal requirements in order to gain short-term returns that may result from the use of simplified procedures.

Mr. CLINGER. Mr. Speaker, I thank the gentleman very much.

Mr. DELLUMS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. PETERSON].

Mr. PETERSON of Florida. Mr. Speaker, I have mixed emotions about this conference report. On the one hand, I commend our chairman and ranking member for taking us in to repair the quality of life, the modernization, the pay raises, the COLAs, those kinds of things. But I have a real problem with even the procedure of how we got here with this conference report. I am a conferee. Frankly, I did not even know they were meeting.

I also have problems with outyear obligations. During the hearing process, and I know my friends over there will remember, there was an outrage over the shortfall of the President's budget, $30 to $100 billion, if I recall. We coughed up $7 billion more. That is OK. I think there are some things we could have used that money for that would have accelerated programs and corrected some of the problems that we had out there. However, what we did with this money is essentially create a problem in outyears to the point where we are going to have a train wreck. We are going to find, in fact, where we did little down payments on these programs, and then we issued coupon books that said, "Hey, we are going to pay you some money in the future," I think we are going to have a huge shortfall in outyears.

For instance, $30 million for ASAT, antisatellite programs, with an additional $150 million in outyears. That program was not terminated. In fact, I think it brings us into a dangerously serious problem with militarization of space.

The B-2 was given $493 million, but it is really $2.5 billion; and $700 million to Sea Wolf, really it is $7 billion. Worst of all, ballistic missile defense. Everybody can say we cannot defend against one missile, but one missile is not our threat. Our threat is a cruise missile off the back of a freighter headed down the coast. We have no kind of protection against anything like this.

It also causes us to unilaterally abrogate the START II Treaty. This we could have done better on. There are minds in this institution that have a little bit of military experience. They were never asked to participate in the conference.

Mr. SPENCE. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. HEFLEY], the chairman of our Subcommittee on Military Construction.

Mr. HEFLEY. Mr. Speaker, I rise in strong support of H.R. 1530. On a bipartisan basis, the Subcommittee on Military Installations and Facilities, has worked hard to produce a military construction program which makes significant improvements in our military infrastructure and enhances the quality of life for service personnel and their families. At a time when Americans are being deployed to Bosnia, we must do all we can to support the troops and their families. This bill does that.

Over 9,200 military families will benefit from new construction as well as improvements to existing family housing units. For junior unaccompanied personnel and the Guard and Reserve components, this bill provides for 68 new barracks projects. We have also provided needed child development centers and medical facilities for our personnel. In addition, we also provided important facilities improvements to enhance the readiness of our forces. Without an authorization bill, none of these projects will go forward.

The conference report also provides for an important reform that, over the long-term, will go a long way toward resolving the military housing crisis. Working closely with the Secretary of Defense, we have developed a program to encourage the private sector to develop troop housing and military family housing at installations where there is a certified shortage of quality housing—and we know that there are tens of thousands of such units in our present inventory. The housing crisis is deplorable and we must act to change it.

This legislation will begin to reverse years of benign neglect of our military infrastructure. It is a good bill and deserves the support of the House and the signature of the President.

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Mr. PORTER. Mr. Speaker, will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from Illinois.

Mr. PORTER. Mr. Speaker, it is my understanding that section 2836 could be applied to the Naval Air Station in Glenview, IL, with respect to a portion of the property occupied by the Coast Guard.

Mr. HEFLEY. That is correct. The Department of Defense would have the discretion to apply the provision in that manner.

Mr. PORTER. Further, Mr. Speaker, I would like to clarify the phrase, "for a use similar to a use under the lease," which appears in section 2837(a). Given that the provision is intended to reduce economic burdens on local communities, with regard to Glenview Naval Air Station, would similar use be confined to use as an air facility?

Mr. HEFLEY. Mr. Speaker, the answer is yes. In that case, "similar use" could only mean continued use as an air facility.

Mr. PORTER. I thank the gentleman very much.

Mr. DELLUMS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. EDWARDS], my distinguished colleague.

Mr. EDWARDS. Mr. Speaker, as one of many Democrats who support a strong national defense, I will vote in favor of this measure. While I do not agree with all of the priorities in this bill, I believe it does maintain America's preeminence as the world's one remaining superpower.

On a personal note, I want to commend the gentleman from South Carolina [Mr. SPENCE] for the personal courtesy and graciousness which he always extends to every member of the committee.

Mr. Speaker, I would also be remiss, though, if I did not express my serious concern about the process by which this conference report was constructed. To me, far more important than any single measure or issue or program in this bill is the tradition of this House that national defense bills have been developed on a bipartisan basis. I do not believe that was the case in this conference report.

In general, Democratic conferees were excluded from decisions on a number of key national issues. In general, Democratic conferees were not kept adequately informed on the process of this report. Whether intentional or not, this conference report was not put together on a bipartisan basis, and if not corrected, I believe that would be a terribly dangerous precedent for the future of our Nation's defense.

Mr. Speaker, I do not make these comments with any malice toward the majority party leaders of our Committee on National Security. They are good people, they are caring people, and decent people. In fairness, the majority party and its committee leaders have the right to set the tone and the priorities for this defense bill. I have no qualm with that. However, if next year's conference committee process is not more bipartisan than this one was, then I fear greatly that we will have started down a slippery slope toward partisan national defense conference reports.

Mr. Speaker, I believe that would be bad for our country, harmful to our national security, and unfair to the men and women serving in the armed forces.

Finally, I want to pay special tribute to the gentleman from Virginia [Mr. BATEMAN]. The gentleman exercised both personal courage and severe tenacity in fighting for the children of military families. Because of the gentleman from Virginia [Mr. BATEMAN] and his efforts, we have an impact aid program in this bill that will ensure that the children of military families will receive a quality education.

Mr. SPENCE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DORNAN], the chairman of our Subcommittee on Military Personnel.

Mr. DORNAN. Mr. Speaker, I think that our defense strategists and planners and all of our NCO and officer corps and right down to the men in the field say different things to different Members of this Chamber and the other body. I think it depends on our track record, if it is public, statements off the floor, our whole track record of voting over the years.

They take into consideration the whole person when they tell us things, because I am being told off committee that the Air Force does want the B-2. I am being told that they do not want people who are infected with the AIDS virus and cannot give blood to us, that they are taken out of airplanes, off ships, that they cannot do anything that they were hired to do. They will never see or touch a gun again, they will never be in a tank or a helicopter. So, Mr. Speaker, we cannot listen to these arguments that nothing changes and they are valuable.

They have said to me, including the commission by former Chief of Staff of the Army Wickham, General Wickham, please release them, and other people who are not strong and healthy and deployable.

On abortions, every single military doctor in Europe and in the Pacific does not want to crush a baby's skull in the mother's womb and abort them. These doctors, like two military doctors on our side of the aisle who serve in the House, say, we are here to defend American life, not to kill American life.

As far as all of the systems we put in here, I just bumped into an Air Force officer at that kiosk by the gate and he said, Congressman DORNAN, you buy them, we fly them. Please, sir, give us the best, and that is what we are doing.

Mr. Speaker, we heard some hypocrisy about supporting the troops from people that have never said that before in their lives in the debate on Bosnia the other night in the midst of a blizzard and 16 out of—15 out of 16 flights being diverted that I wish people would go out more in the field and talk to the men and women who serve us and ask them what they want.

I have a list here of all of the good things we put in this bill, particularly my Subcommittee on Military Personnel, starting with a pay raise. This is a great bill that Mr. SPENCE has crafted. I implore you to vote for it and truly support our men and women in harm's way.

Mr. Speaker, let me quickly outline key milestones in this carefully crafted Defense authorization. I would title it "Republicans Restore Defense Spending after Clinton Cuts Combat Readiness in spite of Task Force Eagle going into Bosnia."

No. 1, President Bill Clinton has more than doubled the defense cuts promised by Candidate Clinton—$120 billion! We stop that erosion.

No. 2, Clinton's defense plan—the Bottom Up Review—should be called the Bottom Out Plan—it's underfunded by as much as $150 billion. We address that outrage.

No. 3, Republicans, under the leadership of Captain FLOYD SPENCE, have restored $7 billion to defense, including programs I personally helped initiate such as: additional funding for Army "scout" helicopters—both the OH–58D "Kiowa Warrior" and the sleek RAH–66 "Comanche"; additional funding to build more than a mere 20 B–2 Spirit stealth bombers and equip the B–1B Lancer with precision guided munitions; and additional funding for a near term ballistic missile defense, upper tier capability, using existing Navy Aegis cruisers and destroyers.

No. 4, my Subcommittee on Military Personnel, thanks to the efforts of my ranking Democrat OWEN PICKETT and the hard work of all my subcommittee members improved military quality of life significantly by: the payraise; increasing military housing allowance by 35 percent; setting permanent personnel levels to stop the drawdown; and increasing the number of National Guard technicians.

No. 5, I also included several initiatives that reverse the trend of liberal social experimentation programs within the Department designed to conduct combat operations.

This bill: stops abortions at U.S. military hospitals; stops pay for convicted military felons in the brig or civilian prisons; establishes strict new guidelines for the accountability of our heroic American prisoners of war and missing in action; discharges all non-combat usable, non-deployable AIDS/HIV infected personnel; and awards the AFEM [Armed Forces Expeditionary Medal] to United States veterans of El Salvador.

I would remind those who oppose this bill of the wise words of one of our Founding Fathers, Benjamin Franklin, who warned:

> The expenses required to prevent a war are much lighter than those that will, if not prevented, be absolutely necessary to maintain it.

That says it all as to why we should support our troops, support modernization, and support this superb conference report.

So, in closing Mr. Speaker, I submit my remarks specifically related to the Defense authorization bill that lives up to the Republican commitment for a strong national defense presented in the Contract With America. The military personnel provisions within the bill are at the heart of what makes the bill a national security legislative milestone highlighting the differences between Bill Clinton and the Congress on defense issues.

In response to troubling revelations suggesting that the readiness of our units and the quality of life for our service members and their families were approaching dangerous levels, my Subcommittee on Military Personnel responded to address the needs of service members and make readiness a top priority.

Before we get into quality of life and readiness issues, let me assure the over 300 cosponsors of H.R. 2664, the appropriations bill from Mr. YOUNG's shop, that this conference report includes a provision that restores equity to the payment of cost-of-living adjustments [COLA's] to military retirees.

The bill attacks quality of life problems directly with a 2.4-percent pay raise and a series of other enhancements to compensation, including a housing allowance increase that was 35 percent larger than the administration's. The bill also protects members from increased out-of-pocket costs by guaranteeing housing allowance payments so long as the member remains committed to a mortgage or rent payment at a location.

Readiness of our forces was the motivation for language to terminate the dramatic manpower drawdown that eliminated over 630,000 patriotic people from the Armed Forces. The provision establishes permanent end strength levels that preserve at least key elements of the capability necessary to carry out our Nation's defense strategy of supporting two major regional conflicts.

In terms of our reserve forces, the bill provides increased numbers of full-time military technicians to support deployable units and establishes income protection and dental insurance programs to increase the readiness of individual reservists.

The bill also corrects the societal insult of convicted military felons continuing to receive military pay while serving extended jail sentences.

In addition, finally a critically important section of the bill requires the Secretary of Defense to centralize the oversight and policy responsibility at the Department of Defense level and establish a rigorous process to account for our heroic missing-in-action. This is an issue of intense personal interest to me. It is long overdue.

Mr. Speaker, this bill is a powerful statement in support of our men and women in uniform, to include the 200 deployed to Bosnia and the tens of thousands soon to be deployed to the Balkans and the Adriatic. I strongly implore my colleagues to adopt this conference report and truly support our forces in harms way.

Mr. DELLUMS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would like to respond to my distinguished colleague who just left the well by saying that the gentleman's articulation is precisely why we ought to have hearings and come to policy based on rational and intelligent discourse as opposed to having a meeting with a particular person off the floor.

That is one of the reasons why we oppose this bill is because there are a number of issues that have been dealt with in the bill, not within the framework and the dignity of the legislative process, but who said what off the floor and in what building. That is not the way to run a government that is considered the greatest democracy in the world.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from California.

Mr. DORNAN. Mr. Speaker, the gentleman has asked my Subcommittee on Military Personnel to have hearings on racism in the military, and I agree with the gentleman. It is utterly offensive and awful.

There are some things that we have had so many committee meetings in other committees on, like abortion, that that is why I did not have hearings on that. However, the gentleman from California [Mr. DELLUMS] will be one of my star witnesses; we will get together on that.

Mr. DELLUMS. Mr. Speaker, for the RECORD, the gentleman from California [Mr. DORNAN] said that.

Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman for yielding time to me.

The Speaker, I rise in strong opposition to the Defense Authorization Act, conference report, H.R. 1530.

My friends, I know that the defense appropriations bill has already been signed into law. I opposed this bill when it was considered on the floor of the House, and I strongly urged the President to veto it. It was a bad bill, and it is a bad law.

Now, we are considering the defense authorization bill. Again, I say to my colleagues, this is a bad bill. It wastes too much money on hardware we don't need, and it prevents investing in our children which we do need.

This agreement calls for $1.4 billion for the B–2 stealth bomber and $3.8 billion for a cold-war-style missile defense system. All told, this conference agreement calls for $7.1 billion more than the Pentagon asked for.

While at the same time, I want to remind you that the new majority's budget cuts title I education funds by $1.1 billion. Meaning that over 1 million children in our Nation's poorest communities will lose their chance for a decent education.

And, don't forget, that the new majority is cutting $182 billion in Medicaid funding. Meaning that over 4.4 million children had better not get sick, because, they won't have health care.

And this new majority is shredding the safety net and ending the Federal guarantee of assistance for poor children. The Gingrich welfare reform bill will push at least 1.2 million more children into poverty.

This tells children, if you're poor, don't get sick, don't get hungry, don't get cold, because we don't think you're important.

But here in the Gingrich Congress, if you're a defense contractor, you are really important.

This is an outrage. Where are our priorities?

Vote "no" on the defense authorization conference report.

Mr. SPENCE. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. COMBEST], chairman of the Permanent Select Committee on Intelligence, for the purpose of a colloquy.

Mr. COMBEST. Mr. Speaker, I appreciate the recognition of the gentleman from South Carolina.

To the gentleman, let me say that we have a number of areas of common interest and I appreciate very much the cooperation of the gentleman and his working with us, and that of his staff as well.

Mr. Speaker, I understand that the conference report currently before the House does not authorize any operations and maintenance funds for the SR–71 reconnaissance program; is that correct?

Mr. SPENCE. Mr. Speaker, if the gentleman will yield, the gentleman is correct. Neither the House nor the Senate defense authorization bill contained any specific O&M in the authorization for the SR–71. Therefore, the conference report, similarly, does not authorize any funds for this purpose.

Mr. COMBEST. Mr. Speaker, I thank the gentleman for that response.

Mr. Speaker, it remains my view that this system is no longer a cost-effective platform for conducting strategic reconnaissance and should be retired to storage in the coming year. I would also note that section 504 of the National Security Act specifically denies the ability to obligate appropriated funds for this purpose without a specific corresponding authorization.

Mr. SPENCE. Mr. Speaker, I concur with the gentleman's assessment and agree that the denial of O&M authorization for the SR–71 should lead to the termination of this program during the fiscal year 1996.

Mr. COMBEST. Mr. Speaker, I thank the gentleman from South Carolina.

Mr. SPENCE. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. BATEMAN], chairman of our Subcommittee on Readiness.

Mr. BATEMAN. Mr. Speaker, I thank the distinguished chairman of the Committee on National Security for yielding this time to me and commend him for his efforts and his leadership of the committee during this session of Congress.

Mr. Speaker, I am pleased to have presided over the Subcommittee on Readiness and its responsibility for the operation and maintenance accounts which total $92.3 billion that are involved in this bill.

Reference was made earlier to the fact that there has been a change in the geopolitical environment in which we live today since the termination of the cold war, and I totally concur with that statement. However, one of the ironies of that fact is that, with it, we have had a higher operational tempo for our military personnel than we did during the height of the cold war.

As we hear complaints about this bill authorizing more than the President requested, we should bear in mind that the Joint Chiefs of Staff have publicly indicated that the defense program of the President over the next 4 or 5 years is $40 billion to $60 billion deficient in the modernization accounts which are absolutely essential to what we are going to do.

There are so many good things in this bill that I do not have an opportunity in this 2 minutes to outline all of the things that are there. Let me close this 2 minutes simply by saying that on Wednesday or Thursday evening, not one voice was heard in this Chamber, except to say, we want to support our troops who are shortly to be deployed to Bosnia. That major deployment is going onward, as the peace treaty in Paris has been signed.

The last thing in the world that we should contemplate doing would be not to pass this bill to provide them with the things that they need, and not to shatter their morale by indicating, by the defeat of this bill, that we are not interested in their quality of life, that we are not interested in their pay raise, that we are not interested in providing them the equipment which they need.

Mr. Speaker, as the chairman of the Military Readiness Subcommittee, I rise in strong support of this conference report and urge its adoption.

Yesterday, the Bosnia peace agreement was signed in Paris.

Today, the deployment of 20,000 United States forces to Bosnia will commence in earnest. U.S. troops are embarking on a mission of uncertain outcome and of significant risk. They will do their duty proudly and with honor, and with the belief that their Government will provide them the necessary resources and support to accomplish their difficult task.

It is the responsibility of this Congress and the President to keep faith with our military personnel and demonstrate our commitment to their welfare and the welfare of their families.

I firmly believe the conference report on H.R. 1530, the Fiscal Year 1996 National Defense Authorization Act does this. It ensure force readiness and it improves the quality of life for our soldiers, sailors, airmen, and marines.

Press reports that President Clinton intends to veto this authorization bill are troubling. A veto of this measure would be inconsistent with supporting the U.S. forces he is sending into harm's way.

This bill takes concrete action in support of our forces. Vote "yes" on adoption of the conference report on H.R. 1530.

Mr. DELLUMS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. SISISKY].

Mr. SISISKY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, as ranking member of the Subcommittee on Readiness, I commend the gentleman from Virginia [Mr. BATEMAN] for the effort he made to finalize the conference report. The gentleman did yeoman duty under difficult circumstances, and I am honored to count him not only as my colleague, but as my friend.

Mr. Speaker, we enter the year on a less than light note with a barrage of allegations questioning the readiness of our Armed Forces.

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During a series of hearings early in the year, the committee and our subcommittee learned that many of these allegations simply were not true.

Nevertheless, we can always do better. Anyone who reads the House version of the bill, as well as the conference report, will find that we have enhanced readiness. Operations, maintenance and training accounts are fully funded. Real property maintenance, depot maintenance and base operations support have been strengthened. We established a short-term financing mechanism to cover initial costs of continuing operations and prevent shortfalls like those we experienced at the end of last year.

Some will remember this is something I tired to do 2 years ago as chairman of the Investigations Subcommittee.

We also took a variety of steps to improve quality of life for military personnel and their families, and we included a number of initiatives that will save money by ensuring more efficient use of DOD resources.

All of us are concerned with DOD's privatization initiatives, which we will see more of, by the way, in the coming years. However, one of the most important issues before our subcommittee this year involved a 60–40 split as it pertains to government depots. Our committee position proved to be a good starting point for what was finally accepted by the conference.

The conference report requires DOD to study the issue and to develop a plan which must be approved by Congress before it can be implemented. That represents a victory for the bipartisan depot caucus represented by Mr. BROWDER, Mr. ORTIZ, Mr. WATTS, Mrs. FOWLER, and others. It puts DOD on notice that Congress will take a more balanced, responsible approach to this issue.

Although I do not like everything in this bill, I ask for your support. That is one thing that we can get together on, supporting the armed services of this country.

Mr. SPENCE. Mr. Speaker, we have just heard from some people on the other side of the aisle in a bipartisan way who are supporting this bill.

I yield 1 minute to the gentleman from Missouri [Mr. SKELTON], the ranking member of the Subcommittee on Military Procurement and another strong defender of defense in this country.

Mr. SKELTON. Mr. Speaker, I thank the gentleman for yielding me the time, and I compliment him, the chairman of this committee. I compliment the ranking member, the gentleman from California [Mr. DELLUMS].

I thank and congratulate the gentleman who is the chairman of the subcommittee on which I have the privilege of being the ranking member, the gentleman from California [Mr. HUNTER], for the excellent work that we have done; to the gentleman from California [Mr. DORNAN], on whose subcommittee I serve, for his persistence on the MIA issue.

This is a good bill. It is not just because it includes good language for the B–2 that it takes a step forward. But we have spent a great part of this week talking about supporting the troops.

This bill supports the troops. It gives them a pay raise. It helps with their family allowance. It supports the families better. It adds to the figure that was going down regarding maintenance and training.

Mr. Speaker, we have the finest military ever known in this country. This bill will help keep us a very, very strong and fine military for those arduous duties that are expected of these fine young men and women.

Mr. DELLUMS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Speaker, I rise in support of the conference report on the National Defense Authorization Act for fiscal year 1996.

Mr. Speaker, as the ranking minority member of the House Subcommittee on Military Installations and Facilities, I am proud of key elements of this bill which after the military construction program and focus on improving the quality of life for military personnel and their families.

This bill would provide both short and long term solutions to a critical problem that impacts the retention and readiness of our Armed Forces.

By focusing on improvements to troop and military families, and setting strict priorities within the military construction program, we ensure that the housing backlog is addressed and quality of life is improved.

Furthermore, the bill includes a series of new authorities which would encourage the private sector to develop housing for unaccompanied personnel and military families at installations where there is a certified shortage of quality housing.

This initiative has strong bipartisan support, including the support of the Secretary of Defense.

This bill is not perfect, but it is a good bill that places priority on improving readiness and the quality of life programs that impact our personnel and their families.

I urge my colleagues to join me in support of the bill.

Mr. SPENCE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WELDON], a very strong proponent of the military and especially R&D.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise in strong support of the conference report. We have heard three major issues raised here.

First of all, we raised the issue of spending money on the military as opposed to jobs. I would ask my colleagues to express that feeling to the 600,000 union workers who have lost their jobs in the last 8 years, primarily in the UAW and the Machinists, because of defense cuts.

We have heard about budgetary increases. I would ask my colleagues not to ask the political appointees at the Pentagon but to ask the service chiefs, each one of whom came to us personally and asked for the additional funding that we plused up.

But my real concern is the outrage expressed by several of our colleagues over this bill violating treaties. This bill in no way violates any treaty of this country. Period. Not the ABM treaty, not the START Treaty.

In fact, we have now boxed the administration into an impossible position for them. Because now, in agreement with Senator NUNN and the administration over the language, we have removed all but one key difference, and that is a date certain for deploying a system, not a system that will violate the ABM treaty but a system in line with what the Russians already have.

The Russians have the world's only operational ABM system, and what we have done now is, we have allowed for the deployment of a similar system that the Army and the Air Force have both said on the record they could do from a single site, not in violation of the ABM treaty; in the Air Force case at a cost of $2.25 billion over 4 years, in the Army's case using FAD at a cost of $5 billion over 4 years.

The reason the administration is threatening a veto, Mr. Speaker, is very simple and very clear: They are now between a rock and a hard place. We have removed all the rhetoric. There is no more contention that this violates any treaty, because Bob Bell and the administration knows full well it does not. What this bill simply says is, we want to have the same potential to defend the American people that the Russians have within the confines of the ABM treaty.

Mr. Speaker, it is time for the President to put up or shut up, and protect the people or veto this bill.

Mr. DELLUMS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Speaker, I rise in opposition to the defense authorization bill.

Mr. Speaker, I have sat on this floor and listened to the Gingrich Republicans talk about a balanced budget day after day after day. Where are they today?

The Gingrich Republicans want to cut Medicare and increase military spending. They want to cut student loans and increase military spending. They want to cut Medicaid and increase military spending. They want to cut education and increase military spending. Billions of dollars for new and expanded weapons systems, the B-2, the C-17, *Seawolf*, Trident, and on and on and on and on.

Think about it. You simply cannot increase military spending, give tax breaks to the wealthiest Americans and balance the budget. Speaker GINGRICH's math simply does not add up. I ask for a "no" vote.

Mr. SPENCE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MCKEON] for the purpose of engaging in a colloquy.

Mr. MCKEON. Mr. Speaker, I thank the gentleman for yielding me the time.

Could the chairman please describe the outcome reached by the conferees on the B-2 bomber program?

Mr. SPENCE. Mr. Speaker, if the gentleman would yield, the conference outcome on the B-2 successfully establishes the conditions necessary to permit the production of additional B-2 bombers beyond the currently authorized 20 aircraft. To achieve this end, the conference report has authorized an additional $493 million in procurement funds, repealed existing statutory restrictions on the procurement of long-lead items and repealed the statutory caps on the number of B-2's that can be acquired and on the total program cost.

There are several key issues, however, that require clarification for the legislative record. First, as both the bill and report language clearly indicates, the fence on the obligation of B-2 funds until March 31, 1996, applies only to the $493 million in additional fiscal year 1996 procurement funds. In no way does this fence impact obligation of prior-year B-2 funding.

Therefore, the balance of the $125 million authorized and appropriated in fiscal year 1995 to sustain the B-2 industrial base is available immediately for such purposes. The use of the phrase "merge with the $493 million" in no way captures any prior-year funding and refers only to the use of those funds for the same purpose as the $493 million.

Second, I would expect the Department of Defense to act expeditiously in the months ahead to sustain B-2 industrial base in such a way as to protect the option to utilize the $493 million to procure long-lead items for additional B-2 aircraft.

Mr. MCKEON. I thank the chairman. Is it therefore the chairman's perspective that the purpose for which the additional $493 million is being authorized is the facilitization and acquisition of long-lead items necessary to procure additional B-2 aircraft if such a decision is made in the future?

Mr. SPENCE. If the gentleman would yield. Consistent with the purposes specified in House Report 104-131 and House Report 104-208, the increased authorization of $493 million for the program is expressly for the purpose of beginning the process of reestablishing critical elements of the B-2 production line and procuring long-lead items consistent with the acquisition of additional B-2 aircraft.

Mr. MCKEON. I thank the chairman. In the interest of time, I ask that the remainder of our colloquy be placed in the RECORD.

The SPEAKER pro tempore. The Chair would advise the gentleman that colloquies cannot be inserted in the RECORD.

Mr. MCKEON. I ask that the remainder of the statement be inserted in the RECORD.

The SPEAKER pro tempore. Without objection, each Member may submit his own statement in the RECORD.

Mr. SPENCE. Mr. Speaker, I would finish with the statement that the purpose for which the additional $493 million is being authorized is the facilitization and acquisition of long-lead items necessary to procure additional B-2 aircraft if such a decision is made in the future. This is consistent with the purposes specified in House Report 104-131 and House Report 104-208, which indicate that the increased authorization of $493 million for the program is expressly for the purpose of beginning the process of reestablishing critical elements of the B-2 production line and procuring long-lead items consistent with the acquisition of additional B-2 aircraft.

Mr. DELLUMS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I take these 2 minutes to respond to my distinguished colleague from Pennsylvania with respect to his comments regarding ballistic missile defense.

The bill, Mr. Speaker, says that it directs the national missile defense to be operationally effective in defending all 50 States including Hawaii and Alaska. Now, any rational human being would understand that in order to protect 50 States, including Alaska and Hawaii, would require the deployment of a system that goes beyond one site. Once you move to multiple sites, you are abrogating the ABM treaty, No. 1.

The second point, the gentleman asserted that the Russians have the capacity to defend their Nation. When you go back, Mr. Speaker, to the history of the ABM treaty, the Russians have the capacity to defend one site, Moscow, not their nation.

The third point I would like to make. We engage in artfully drawn language so that the term, explicit and implicit, what we know is how this legislation is drafted to protect all 50 States, you are going to have to go to multiple sites. No matter how you split that, that is abrogating the ABM treaty.

Mr. Speaker, one other point that I would make on the ABM. Once you move to multiple sites, I would suggest and challenge any economic analyst in this country to look at what my colleagues have placed in this bill regarding ballistic missile defense. There is no money planned for the out years. This is a budget buster of their own budget because they simply get the nose under the tent this year with a policy statement and in the out years you are talking about tens of billions of dollars that have not been planned for.

Mr. WELDON of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Pennsylvania.

Mr. WELDON of Pennsylvania. The Army and the Air Force have both testified they can deploy a single site to protect all 50 States.

Mr. SPENCE. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. WATTS].

☐ 1400

Mr. WATTS of Oklahoma. Mr. Speaker, what better time to debate the merits of a bill that supports our military personnel through its provision of pay, housing, and other benefits.

The National Defense Authorization Act for fiscal year 1996, remembers her defenders—the men and women of our Nation's Armed Forces.

This bill increases basic pay and basic allowance for subsistence by 2.4 percent, increases basic allowance for quarters by 5.2 percent, and gives thousands of military members housing choices that were previously unavailable.

It extends the authority for several special pay and bonus programs, corrects the military cost-of-living-adjustment disparity between military and Federal civilian retirees, increases certain aspects of the Montgomery G.I. bill educational assistance, and expands the authority for improvements to military housing.

In his speech accepting the Republican Vice Presidential nomination, Calvin Coolidge said, "the Nation which forgets its defenders will be itself forgotten."

Please support the National Defense Authorization Act for fiscal year 1996.

Mr. DELLUMS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN. Mr. Speaker, I rise concerning the passage of this legislation.

Mr. DELLUMS. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I rise in support of this measure.

Mr. SPENCE. Mr. Speaker, I yield 30 seconds to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Speaker, in 30 seconds I cannot say much. Let me say this, let me assure my colleagues this is a good bill.

In tribute, respect and honor of the 21st TAACOM, my reserve unit that went to the gulf war, 2 hours ago I learned they are now headed to Europe to, Bosnia. So let me say I wish them Godspeed. I will be with you on Sunday. I will always be with you in spirit. We have shared a bond and union together that none of us will ever forget.

So when we stand on this floor and talk about support of the troops, it really comes down to moments like this. Do we believe in the modernization of equipment, giving you what you need and the resources you need to protect the force, for you to do your job, to do it well and to do it proudly? We will be there with you.

Please, support this bill.

Mr. SPENCE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM], our top gun.

Mr. CUNNINGHAM. Mr. Speaker, you know, there has been a longtime debate, a legitimate debate, on whether we need a strong national defense or a socialistic model for this country. But when it comes to the point where defense has been cut so deeply, $177 billion, we are $200 billion below the Bottom-Up Review, then we need to add the dollars to protect our kids.

Look at what it costs to go to Haiti, look what it cost, the billions of dollars in Somalia. Bosnia is going to cost billions of dollars.

Where do you think that money comes from? Many of us did not support any of those activities, but yet some of those that would fight for more dollars for the social programs supported those issues, and that is a legitimate debate. But we also need to protect our kids, and that is what I talked about the other night in the Bosnia issue when it comes time to protect our soldiers so they do not come back in body bags, and we give them the wherewithal to come back, then we do it.

This bill does that, and I ask for support.

Among the many vital programs that the fiscal year 1996 Defense Authorization Conference Report moves forward is the B–2 stealth bomber program. The conference report provides $493 million in additional B–2 procurement authorization in order to permit the continuation of the B–2 production beyond 20 aircraft.

The conferees also repealed the previous restrictions on the procurement of long-lead items for the B–2 program and the standing cap on the numbers of bombers that would be produced. We clearly feel that the B–2 program, which provides our Air Force with the technological edge and the security to accomplish its missions without the massive air and ground support that other bombers require, should move forward beyond 20 aircraft.

The B–2 production facilities are currently operating under the balance of the $125 million in fiscal 1995 funds that were provided for the program last year. In further authorizing the B–2 program for fiscal 1996, the conferees fenced the availability of the $493 million authorization, and will not preclude the Department of Defense [DOD] from acting to sustain the industrial base and the production and procurement activity necessary to smoothly maintain the B–2 production program.

In fact, the conferees expect that, based upon our realization of the need for a continuing B–2 program, the DOD will act to sustain the B–2 industrial base activity until the new funds are made available. This will allow the ongoing program operations to continue and will prevent the additional costs that the DOD would incur if it had to restart any portion of the industrial base's activities.

The B–2 stealth bomber is an important part of this Congress' renewed effort to maintain a sound and solid American defense. Our commitment to a reinvigorated, modern stock of defense assets coupled with our dedication to solid core readiness, an improved quality of life for our service people, and a Pentagon that runs like a business, will help ensure our national security for decades to come.

Mr. SPENCE. Mr. Speaker, I yield 30 seconds to the gentleman from Maine [Mr. LONGLEY].

Mr. LONGLEY. Mr. Speaker, I am going to get right to the point. I think we have seen over the last 10 years a 35-percent real cut in defense spending, but that only masks part of the problem because we have seen about a 70 percent decline in spending on procurement from the standpoint of our Navy and shipbuilding that has brought us to an absolute low point in terms half domestic capability, our industrial base to build naval ships.

I think that one of the important things about this authorization is that it finally says enough is enough, and it starts to rebuild the important defense component represented by naval shipbuilding.

Mr. DELLUMS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we come to the end of the debate on this conference report to the bill, H.R. 1530, and I would end the way I began. I rise in opposition to this conference report on procedural grounds and on substantive grounds.

I indicated that I would not go into the procedural issues. I think, on a collegial basis, my colleagues and I need to sit down, close the door, and hammer these procedural issues out so we move beyond them and we do not make the same mistakes as we did this year. I realize that it is a learning curve.

With respect to the substantive issues, I would point out to my colleagues that the administration does, indeed, plan to veto this bill. Two very specific reasons for the veto, Mr. Speaker: I would reiterate, the administration has expressed serious concerns about the impact of the proposed conference report language on Russian consideration of the START-II treaty which is designed to produce a major reduction in Russian nuclear weapons.

Why we would want to send the wrong message in that regard when we owe it to ourselves, our children, and our children's children to engage in major reductions of nuclear weapons from this planet is a mystery to this gentleman.

Second, the administration is also concerned, as I have stated earlier, that this language could, indeed, lead the Russians to abandon other arms control agreements if they conclude that it is, indeed, United States policy to take unilateral action to abandon or otherwise walk away from the ABM Treaty.

These are awesome and important issues and for those reasons, alone, my colleagues ought to vote against this conference report.

As I stated earlier, we find ourselves, Mr. Speaker, in the context of the post-cold war world. An enormous gift has been given us. We now have an enormous opportunity to think boldly and to take the world into the future contemplating peace, not contemplating war. If you look at this budget, you will see a number of cold war relics being pushed forward in this budget at a time when our country is standing still, holding its breath about the budget negotiations that are taking place between the administration and the legislative branch of Government.

This bill purports to increase the military budget by $7 billion at a time when we spend as much as all the rest of the world combined and when you add in our allies we spend in excess of 80 percent of the world's military budget. We outspend any potential adversary 4 to 1.

Yes, there are some good things in this bill. There are some good quality-of-life things in this bill. But a $7 billion increase is not one of them. Potential abrogation of the ABM Treaty is not one of them. Sending the wrong message so the Russians back off of START-II is, indeed, not one of them. Engaging in placing weapons systems forward in this bill that go far beyond any balanced budget implications that my colleagues have talked about in other areas is certainly, indeed, not one of them. To engage in a cold war approach to the world when we are in a post-cold-war environment, trying to find new ways to relate to each other, to move beyond war to peace and beyond warmaking to peacemaking and beyond risking a war to risking peace are all of the reasons why I would suggest that my colleagues oppose this conference report, for procedural issues, there are substantive, and very much of concern to this gentleman, and on the substantive grounds that I have had.

With those remarks, again I would urge my colleagues to oppose this conference report. The gentleman from Pennsylvania, who is a leader on the appropriations defense issue, opposes the bill. The gentleman from the intelligence committee opposes this bill. My distinguished colleague, who is a counterpart on this committee as ranking minority member in the other body, also opposes this conference report. This ought to give rise to serious concern that we have gone down the wrong path in this conference.

I urge my colleagues to follow us and vote against the conference report.

Mr. SPENCE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

I am pleased to rise in support of the conference report on H.R. 1530, fiscal year 1996, and I want to commend the gentleman from South Carolina [Mr. SPENCE], the distinguished chairman of the committee, and the ranking minority member, the gentleman from California [Mr. DELLUMS], and the conferees for a great job. And I would like to note that the gentleman from South Carolina [Mr. SPENCE] is the first Republican chairman of this committee since Dewey Short back in 1953, and he has been doing an outstanding job.

I urge my colleagues to support the measure.

The conference report before us today retains the emphasis on a strong national defense, procurement reform, and quality of life for our troops and their families that merited the strong support H.R. 1530 received in the House earlier this year.

This conference report will improve the quality of life for our troops and their families by providing a 2.4-percent military pay raise, enhancing military housing and medical benefits, providing equity in COLA payments for our military retirees, and increased funding for family housing. As the holiday season approaches and our Nation deploys troops in Bosnia, I can think of no better time to show our troops and their families that we support them by the passage of this conference report.

Moreover, Mr. Speaker, this conference report will insure a strong national defense, and provide a number of important process and structural Pentagon reforms necessary to increase the Pentagon's efficiency and effectiveness.

Finally, I would like to point out to my colleagues that included in this conference report are important DOD reforms with regard to POW–MIA procedures. As my colleagues may recall I introduced H.R. 945, the Missing Service Personnel Act, earlier this year, based upon my belief that improvements were needed in the process by which DOD accounts for our American service members who are prisoners of war or missing in action.

Since the Vietnam war, Congress has struggled to find ways for obtaining the full accounting of American servicemen reportedly still missing. By adopting the provisions contained in H.R. 945 the conference report will ensure that a full accounting is done, not only for those who are missing from Vietnam, but from all wars since World War II.

This provision is strongly supported by the American Legion, the Vietnam Veterans of America, the National League of Families, as well as many other POW/MIA organizations.

For all of the aforesaid reasons, for the families and troops who are currently being deployed to Bosnia, and for the families of those still missing from past military deployments, I urge my colleagues to support this conference report.

Mr. SPENCE. Mr. Speaker, I yield the balance of our time to the gentleman from California [Mr. HUNTER], who is the chairman of our Subcommittee on Military Procurement.

Mr. HUNTER. Mr. Speaker, well, here we are. It is about 10 years since the buildup under President Ronald Reagan, and for the Members who have talked about the expenditures and how we are busting the budget and spending too much money, this defense bill is about $100 billion less in real dollars than the 1986 defense budget.

I think if we came in today, we have heard almost exactly the same speeches that we heard 10 years ago when the budget was $100 billion more. I think if we cut it by $100 billion on the floor in the next 3 minutes, we would still have the same feelings and the same speeches on each side.

Mr. DELLUMS. If the gentleman will yield, I promise you I would back off if you do that.

Mr. HUNTER. I thank the gentleman.

Let me commend the gentleman from California [Mr. DELLUMS] for his work during the year and our great chairman, the gentleman from South Carolina [Mr. SPENCE], who, with his modesty and his good sense of humor and his great integrity, has held this committee together and worked through the conference process; my old friend, the gentleman from Missouri [Mr. SKELTON], who has had more meetings in his office than we have in mine on issues that affect this committee; and the young men and women in uniform, folks, this is a good bill. It provides equipment. It provides the best in terms of expanding America's airpower, our seapower, our airlift, our ammunition, our basic spares, all the things that are needed by people in uniform to project American power and carry out American foreign policy.

In this brave new world that we have all talked about, where are we? We are engaged in a policy in Bosnia that resolves down to a man and a weapon with a bayonet on the end of it. That is projection of American power through American uniformed service people.

Now, this is the bill that supports the troops. This has the 2.4-percent pay raise. It has the housing allowance.

Let me just tell you, none of our troops read concurrent resolutions. They do read pay raises.

Please, support the troops. Support American strength. Vote for this conference report.

Ms. MOLINARI. Mr. Speaker, I am pleased to note that section 2838 of H.R. 1530, the National Defense Authorization Act for fiscal year 1996, reflects a provision I had offered in the House version of the bill designed to speed up the redevelopment process once a military base is closed.

Anyone who has lived through a base closure process, as I have, knows that one of the most difficult challenges in trying to cope with the various layers of Federal bureaucracy once the actual decision has been made to close the base. At the heart of the problem lies the Stewart M. McKinney Homeless Act, which virtually has guaranteed that homeless providers have a chance to express interest in property on closing bases regardless of what the local community has in mind in the way of redevelopment plans. As part of this whole process, the Department of Housing and Urban Development [HUD] has been able to hold up any transfer of property for reuse purposes until it was satisfied that all possible uses for the homeless—no matter how remote—were included in a base redevelopment.

I introduced legislation, which passed the House of Representatives overwhelmingly, designed to lessen the role of HUD and to give more authority to local redevelopment authorities planning for the reuse of closed military bases. Although the Clinton administration believed my amendment was too strong, the Department of Defense worked on the Senate side to develop alternative language that had a similar purpose, that is, to make the base reuse process more friendly to local communities and less under the control of HUD and its homeless constituencies around the country.

The final version as approved by the conferees is consistent with my purpose. HUD no longer will have the final say in the distribution of real property on closing military bases. Instead, DOD will have the final authority for such disposal, but only after close consultation with the local community and after deferring to the redevelopment goals as set forth in the local redevelopment authority's reuse plan.

Although the base reuse process is far from perfect, I believe the section 2838 will strengthen the role of the local community and in doing so will help expedite the reuse process. Economically productive activities will begin much more quickly at closing military installations. In my view, the fundamental purpose of base reuse should be the restoration of lost economic activity in the local community. I believe section 2838 helps focus the reuse process on this objective, and I am proud to have played a role in its adoption.

Mr. RUSH. Mr. Speaker, I rise today to oppose this measure. Without a doubt, our military preparedness is of great importance. This bill will most certainly ensure such. However, this bill goes beyond ensuring our military might—this bill is nothing more than billions of dollars' worth of silver spoons for defense contractors. I wish the Republican majority felt that providing for our elderly, poor, and children was at least as important as providing for the profit margins of defense contractors.

With telling irony, this legislation guarantees our military strength while also establishing our leadership in insensitivity and lack of regard for individual rights. The limitations on abortions for military officers who serve overseas is an egregious assault on the personal liberties of those who risk their personal well-being to serve all of us.

The callous proposal to discharge military personnel who have tested positive for HIV is unfair, if not amoral. What became of judging a person based upon his character and ability? It was not that long ago that this country experienced periods of civil unrest and strife in order that all people would be treated equally. Mr. Speaker, this provision is a step backward for a civilized society. As an American, I am appalled and I assure you, Mr. Speaker, the American people will not be fooled.

I urge my colleagues to recommit this measure with the hope that we can consider an agreement that guarantees our military effectiveness, while also reflecting our national priorities, and protecting our ideals of personal liberty and fairness of treatment.

Mr. COLEMAN. Mr. Speaker, I rise in support of this conference report. However, my support of this legislation is tempered somewhat because it does have serious problems that have to be addressed.

I am very happy with the improvements to quality of life for our troops and their families in this legislation. The conference report provides a 2.4 percent military pay raise, enhances military housing and medical benefits, provides equity in COLA payments for our military retirees and increases funding for family housing, barracks and other critical military family activities. I have long been a supporter of these type of initiatives for our military as my record on the House Armed Services Committee and the House Appropriations Subcommittee on Military Construction demonstrates.

I also am in support of the procurement reform provisions in this legislation. The conference report would: increase the Government's use of commercial items by simplifying procedures and eliminating unnecessary audit requirements, increase the competitiveness of U.S. defense products in international markets, eliminate costly, burdensome paperwork requirements, and create a new system for the purchase and management of Federal information technology. This is something that the Department of Defense sorely needs.

This legislation also includes a provision important to my home-district. It directs the Department of the Army to cede a 22-acre parcel of land to the Department of Veterans Affairs for the purposes of expanding the Fort Bliss National Cemetery. This would extend the longevity of the cemetery to the year 2020. I am very grateful to the chairman and the ranking member of the National Defense Committee for including this provision in the legislation. I, and the veterans of my community, are extremely grateful for this provision.

However, this conference report does have its problems.

The administration has identified several areas of concern which also trouble me. For one, the command and control provisions governing the operation of U.S. troops during peacekeeping operations. This provision impinges upon the role of the President as Commander in Chief in a manner that could be unconstitutional.

Also, the ballistic missile defense provisions are troubling to the administration. The bill would require the deployment of a national missile defense system by the year 2003. Such a system would constitute unilateral abrogation of the Anti-Ballistic Missile [ABM] Treaty. This could give the Russians reasons to withdraw their support for START II, a dangerous consequence.

The Republican majority, however, did not address these objections in conference. This, even after the repeated insistence of the administration. As a result, the President has threatened a veto of this legislation. If it comes to that, I will have to side with my President.

Other provisions which trouble me include:

Department of Defense environmental programs which are underfunded in this bill. There are multi-year environmental cleanups underway at Fort Bliss, TX, located in my congressional district, which could be jeopardized if these provisions are enacted into law;

The termination of the Technology Reinvestment Program [TRP]. This program has been enormously successful in my congressional district with leading manufacturers and the University of Texas at El Paso participating in the program. In the current fiscal year, only $195 million is provided to complete pending projects;

The requirement of the discharging of members of the Armed Forces who have the HIV-1 virus. This is unnecessary and discriminatory. I have long maintained that this is contrary to the Constitution's guarantee of equality to all Americans. This would preclude the military from utilizing military personnel who are completely functional in their jobs and in whom the military have invested training resources; and

Abortion provisions which would amend permanent law to include the restrictions on the use of Department of Defense facilities for abortions except in the cases of rape, incest, or when the life of the mother is in danger. this issue was incorporated in the bill without a single hearing on the subject.

Mr. Speaker, I support this legislation for now, but await the President's position statement regarding this legislation.

Mrs. COLLINS of Illinois. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, this conference report includes provisions on Government-wide procurement reform, on which I was a conferee. The procurement provisions in the defense authorization conference agreement are an improvement over the most recent procurement bill to pass this House, H.R. 1670.

The conference agreement retains the current statutory definition of full and open competition. The agreement requires Federal agencies to purchase commercial items using full and open competition. It improves Government procurement practices by including my language to require Federal agencies to use cost effective value engineering procedures.

The agreement also incorporates my language retaining the knowing standard for criminal violations of our procurement integrity laws. It includes a provision drafted by Representative MALONEY that improves the performance capability of the frontline contracting personnel. In addition, the agreement includes Representative SPRATT's pilot program on military pay.

Mr. Speaker, since I became the ranking Democratic member on the Government Reform and Oversight Committee, I have supported procurement reform. However, I have fought vigorously in committee, on the House floor, and in conference to preserve the current statutory definition of full and open competition.

After a long and hard struggle, I am pleased to report that the conferees have agreed not to make any changes to the Competition and Contracting Act's definition of full and open competition. The report does contain a provision requiring that the Federal acquisition regulation ensure that full and open competition is implemented in a manner that is consistent with the need to efficiently fulfill the Government's requirements. This language should not be interpreted as any limitation to full and open competition, as the statement of managers makes clear.

Let me read from the statement of managers, quote:

> The provision would direct that the Federal Acquisition Regulation ensure that the requirement to obtain full and open competition is implemented in a manner that is consistent with the need to efficiently fulfill the governments' requirements.
>
> This provision makes no change to the requirement for full and open competition or the definition of full and open competition.

I am pleased that the conferees agreed with me that changing the definition and requirements for full and open competition was wrong and would have turned back the clock on procurement reform.

Mr. Speaker, I do have concerns about two provisions in this agreement. The conference report permits the Administrator of the Office of Federal Procurement Policy to waive laws relating to commercial off-the-shelf items that impose government unique policies on persons who have been awarded contracts. This language would permit the Administrator to waive critical laws like the Prompt Pay Act, Buy American Act, the Trade Agreements Act, and subcontracting plan requirements for small businesses.

I believe it is bad public policy to allow any administration to determine what laws it will enforce and what laws it will not. That is the constitutional responsibility of Congress, not the executive branch.

My other major concern involves the elimination of the protest jurisdiction of the General Services Administration Board of Contract Appeals. The GSA board was established in 1984 because of a bipartisan consensus that GAO was ineffective in deciding protests involving computers and telecommunications. GAO lacks the power to compel both the production of testimony as well as documents from third parties. As an arm of the Congress, GAO is constitutionally prohibited from ordering executive agencies to do anything. I am concerned that with a weakened bid protest system agency bureaucrats will be tempted to cut corners and will begin favoring certain companies over others.

Mr. Speaker, while I intend to oppose this conference report, I am pleased that the procurement language in the conference agreement retains full and open competition, the cornerstone of our procurement system.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to the provision in the defense authorization conference report which prohibits personnel or dependents from obtaining abortions at U.S. facilities abroad—even if the woman pays all the costs—except to save the life of the woman or in cases of rape or incest.

This ban discriminates against women who have volunteered to serve their country by prohibiting them from exercising their legally protected right to choose. The issue at hand is not about who should pay for the abortion—Department of Defense appropriations bills have prohibited the use of funds to perform abortions at military hospitals in almost all cases since 1979—or whether it is a constitutionally protected right, but whether women who serve overseas will have access to the save medical care they deserve.

This provision overturns the January 1993 Executive order by President Clinton permitting abortions at U.S. military installations overseas, if the procedure was paid for privately by the woman and returns to the policy followed by the Reagan administration in the 1980's.

Prohibiting women from using their own funds to obtain abortion services at overseas military facilities endangers their health. Women stationed overseas depend on their base hospitals for medical care, and are often situated in areas where local facilities are inadequate or unavailable. This policy may result in a woman facing a crisis pregnancy endangering her life, to seek out an illegal or unsafe procedure. It is of no advantage to our military forces to expose female service members to medical conditions that pose a substantial risk of infection, illness, or even death.

This bill sends a clear message to American military women: You can fight for your country, you can die for your country but you cannot get access to a full range of medical services when stationed overseas. Is this really the message we want to send to the brave women serving this Nation? I urge my colleagues to vote against this bill.

Mrs. MALONEY. Mr. Speaker, I rise in opposition to the conference report on H.R. 1530, the National Defense Authorization Act for 1996.

I cannot support a bill which calls for spending $7 billion more of defense than even the Pentagon has requested. I believe that is the height of absurdity in the current fiscal climate. The $495 million in long-lead funding for future B–2 bombers is particularly egregious. This bill also actively encourages the Pentagon to violate the ABM treaty. This may cause a serious setback for international nonproliferation efforts, as Russia has declared it will not ratify the START II accord if we abrogate the ABM treaty. In yet another blow to reproductive freedom, this conference report denies the constitutional right of choice to women serving our country by prohibiting women from obtaining abortions at U.S. military facilities.

This report contains major reforms to Government-wide procurement laws, on which I was proud to be named a conferee. These reforms are not perfect, and would undoubtedly be significantly different if Democrats had been doing the drafting. However, they represent an improvement over H.R. 1670 in a number of ways and I would like to commend Ranking Member COLLINS and Chairman CLINGER for their hard work on these issues.

The House bill dramatically altered the full and open competition standard which was created in the landmark Competition in Contracting Act of 1984. This standard has ensured the Federal Government the best return on its dollar for over a decade while at the same time allowed the full participation of small businesses in Federal acquisition. I opposed this change, along with Members from both sides of the aisle. I am glad that, while recognizing the Government's interest in efficient procurement practices, this conference report leaves the full and open competition standard essentially unchanged.

I remain concerned about the use of the streamlined procedures for the purchase of commercial items authorized by this bill. I would have preferred to have had a much lower threshold than the $5 million contained in this report. But at least we have some threshold, the House passed version contained none at all. The 3-year sunset of this provision, contained in this bill, is also a good idea.

This conference report modifies the repeal of recoupment of research and development costs on U.S. weapons systems contained in the House bill. It requires off-sets through the year 2005 and grants only a limited waiver. I offered an amendment to the House bill which would have had a very similar effect and am glad that this provision is included in the report.

I am less pleased with other procurement provisions in this bill. This bill gives the Administrator of the Office of Federal Procurement Policy the authority to waive numerous laws relating to procurement of commercial items. This could significantly alter the system without enactment of legislation, raising troubling constitutional questions.

This conference report also eliminates the jurisdiction of the General Services Board of Contract Appeals over bid protests, consolidating bid protest hearings in the GAO. I much preferred the approach of the original House bill on this issue—consolidating bid protests and contract appeals into two boards, one for defense and one civilian.

Mr. Chairman, on a different vehicle and with some minor modifications I might well support many of the procurement reforms included in this conference report. I must however oppose this defense authorization conference report.

One final note. I am pleased that this conference report includes the House-passed language establishing the Civilian Marksmanship Program as a nonprofit corporation. As a long-time critic of this program, I plan to monitor the transition of the National Rifle Board very closely. I have worked hard to get this boondoggle out of the Army and to eliminate its annual $2.5 million appropriation. While not perfect, this provision is a big step in the right direction.

Mr. SAXTON. Mr. Speaker, I rise today to thank and commend the distinguished chairman of the House National Security Committee, Mr. Spence, the ranking minority member, Mr. DELLUMS and my colleagues on the House National Security Committee for bringing this important conference report to the House floor.

In particular, I want to thank Chairman SPENCE for his leadership in helping to ensure that the necessary funding has been provided to continue a very important program within the Department of the Army aimed at evaluating and embracing new weapons and munitions technology. Working with our colleagues on the Senate Armed Services Committee, Chairman SPENCE included in this year's national security conference report an additional $3 million for program element 602624A, the Weapons and Munition Technology Program within the Department of the Army.

I am proud to report that much of the Army's Weapons and Munitions Technology Program is undertaken at the U.S. Army Armament Research, Development, and Engineering Center [ARDEC] located at Picatinny Arsenal, NJ.

This program element within the Department of the Army undertakes several important initiatives designed to strengthen the Army's technology base by developing key technologies that will increase the lethality and survivability of future artillery weapons, munitions, and armaments for ground combat vehicles and aircraft.

It is my hope that with the additional funds authorized by Chairman SPENCE and his colleagues, Picatinny Arsenal will undertake a new era of investigation involving life-cycle assessment, a promising mechanism for managing future defense-related environmental challenges. To achieve advancements in life-cycle weapons management, the Dean Gallo Center for Life-Cycle Environmental Technologies will be developed through a formal partnership between ARDEC and the New Jersey Institute of Technology [NJIT] in Newark, NJ. The purpose of the Gallo Center will be to conduct research, facilitate technology development, and to encourage industrial application of new methods and processes, new materials, and new technologies for meeting the clean manufacturing needs of both the military and the private sector.

I look forward to working with Chairman SPENCE and Mr. DELLUMS and members of the National Security Committee to ensure that this model program can play a valuable role in assisting DOD to manage current environmental challenges and develop new capabilities to meet future challenges.

Mr. THOMAS. Mr. Speaker, I support the provisions to sell Naval Petroleum Reserve No.1, better known as Elk Hills, that appear in H.R. 1530. I am particularly pleased that Congress is not only taking steps to ensure taxpayers get the maximum value for this asset but is finally dealing with California's longstanding interest in Elk Hills.

Elk Hills is in my congressional district and I know it intimately. I am pleased that the 104th Congress is finally dealing with the issue of ensuring that taxpayers get fair value for Elk Hills, something I have sought and in the past introduced legislation to seek. I am particularly pleased to see that the conferees set aside 9 percent of net proceeds, representing the proportion of oil produced by the school lands within the Federal Government's share of the Elk Hills reserve for possible compensation to California for its claims to lands within Elk Hills. California members of both parties have sought this kind of compensation during the last decade because the Federal Government never delivered on its promises to the State.

The history of Elk Hills makes it quite clear that California has a legitimate claim to compensation. California was granted sections of land throughout the State by Act of Congress in 1853 to support education, long before the creation of the reserve. The grant was identical to other grants made by the Federal Government to other States as they entered the union.

The Federal Government never delivered on the promise. Lands in Elk Hills were withdrawn in 1909 and 1912 for creation of the naval petroleum reserve. California never got appropriate compensation for its rights. Even after the Federal Government opened Elk Hills to production in 1976, ending any semblance of its use as a naval petroleum reserve, California's claim remained outstanding.

The importance of paying these claims has been recognized by Presidents and Members of this body during the past decade and I hope Congress will also choose to honor it. President Bush, after I met with officials in his administration, agreed to provide California with part of the bonuses and royalties from leasing Elk Hills. His 1992 budget explicitly said California would receive these payments and the essence of what he agreed to do was contained in a bill I introduced to facilitate leasing the reserve. President Clinton's own proposal to sell Elk Hills, submitted to the Speaker this spring, provides compensation for California.

Further, this issue goes beyond equity to the very heart of what our National Security colleagues seek to accomplish by selling Elk Hills. Failing to recognize the equity of having the Federal Government live up to its obligations here could severely damage prospects for getting the maximum value out of Elk Hills for taxpayers. The State still regards its claim to the two sections as good. Once the Federal Government sells Elk Hills, there is no possible pretense that Elk Hills is a naval petroleum reserve.

California's claim clouds the title to Elk Hills and will discourage a bidder from offering full value for the reserve. Our State attorney general's office is confident the State has a claim that can be successfully pursued; the Federal court case that the State lost related to the State's claim that the naval petroleum reserve's status had been effectively extinguished by commercial production. That earlier suit did not deal with actual termination of the reserve's status through sale to private industry and the merits of the State's interest in these lands were never reached. Any potential buyer will take these matters into account and that in turn will hurt the taxpayers' interest. No bidder will want to be exposed to the risk of paying twice for the same asset.

The only way to avoid these problems is to do the right thing and provide a mechanism for fairly resolving the State's claims. The conference report does precisely that through a mechanism employing an escrow of net proceeds from a sale of Elk Hills.

The conference deals with the State's claims in a straight forward manner. Nine percent of the net sale proceeds are set aside in a special account for payment to California for its teachers retirement fund, which, by California law, is where the proceeds will go. The only way California could get any of the money would be to settle its claims with the United States or win a court case on this issue. An explicit settlement process, included in the bill prevents delays in bargaining by requiring the Federal Government to offer to settle California's claims within 30 days after the sale for what the Federal Government believes to be their fair market value. Taxpayers are fully protected here. Actual payments are subject to appropriations. Any funds not used to compensate California revert to the general fund. In fact, if no payment is made within 10 years, the whole fund reverts back to the Treasury. Most important, this process ends the cloud on Elk Hills' title resulting for the State claims because California can only be paid if it releases its claims to Elk Hills lands.

Mrs. SCHROEDER. Mr. Speaker, I rise in opposition to this conference agreement. My colleagues on the other side of the aisle will tell you how much this report does for military personnel to improve their lives. Well, I rise to tell you what it does to military personnel.

This conference report violates the rights of women on military bases around the world by forbidding them to exercise their right to have an abortion they pay for themselves.

This conference report discriminates against people who are HIV positive, by forcing the military to discharge HIV positive personnel within 6 months of confirmation of their status. They would be discharged regardless of their competence, or current health.

The Department of Defense objects to this policy, as a loss of valuable man-hours. DOD has its own criteria for medical discharge, and will release these people when they cannot perform their duty any further.

Not only does the bill burden military personnel, it also makes it harder to balance the budget in future years. The $7.1 billion increase above the President's request is a token down payment on hundreds of billions of dollars down the road.

Here are a few examples:

National missile defense was authorized $853 million above the President's request for fiscal year 1996. CBO estimates that deployment of one system at one site could cost $29 billion to complete. Adding an additional five sites would increase the cost by $19 billion, not including operational and support costs for the program. Deploying this system at a single site is equivalent to 80 percent of the entire Defense research and development authorization for this fiscal year.

The B–2 bomber program received an increase of $493 million just to keep the production line open, even though the plane has yet to meet many of its mission requirements in flight testing. To actually purchase the planes would cost us $15 billion if we bought 20 more B–2's at a rate of 3 per year.

We cannot commit to this kind of spending and balance the budget. Vote "no" on the conference report.

Mr. OXLEY. Mr. Speaker, there were a number of environmental matters in this year's DOD authorization bill that fell within the jurisdiction of the Committee on Commerce, and for which Chairman BLILEY and I served as conferees. The first issue related to reforms of so-called restoration advisory boards, which are community involvement organizations developed by the Department of Defense to ensure citizen participation in decisionmaking on environmental cleanups of DOD facilities. The Commerce Committee is very concerned that the bill's provisions may ultimately have the effect of putting an inappropriate burden on the Superfund trust fund, and I understand that an exchange of letters between Chairmen BLILEY and SPENCE will be included in the record of this debate. I simply rise to emphasize the point, and to assure may colleagues that, as the Commerce Committee considers its Superfund reform legislation in 1996, we will be keeping a close eye on this issue.

The second matter of importance to the Committee was a direct amendment to Superfund relating to DOD's ability to lease parcels of its property. We worked closely with the Senator from New Hampshire in the other body to make commonsense reforms in this area. Nevertheless, the Commerce Committee clearly retains jurisdiction over these provisions, and In intend to review them as our Superfund reform bill progresses.

Mr. CHAMBLISS. Mr. Speaker, today's authorization bill represents a recommitment of this Congress to the men and women who bravely serve and defend this Nation. This bill contains the funding necessary to assure that when we ask our troops to defend our national interest abroad, they go with the very best we can give them.

Here and now, C–17's and C–130's will safely and efficiently airlift our troops to Bosnia. For the future, the F–22 air superiority aircraft continues through the development stages.

The bill expresses the Congress' continued commitment to the B–2 program, notwithstanding the delay on funding until the end of March. In light of this situation, it is incumbent on Secretary Perry to bridge this time period and ensure that industrial activity can continue by freeing up $25 million yet to be obligated from the 1995 budget.

The Congress spoke clearly in this authorization bill and in its appropriation measure:

The B-2 is a vital part of our bomber modernization program. And until a final disposition is made on the future procurement of additional bombers, we must preserve the industrial base with short-term funding action, action most appropriately taken by the Secretary of Defense.

It is important to note that all of the procurement priorities authorized in this legislation fit within the balanced budget the new majority has sent to the President. If this President will continue to expect so much from our military men and women, he must be prepared to give them the very best we can afford and sign this authorization when presented. As leaders, we owe them that.

Mr. GUNDERSON. Mr. Speaker, at the outset, I want to make clear that I see many good facets to this bill. However, I call attention to a portion of it, on the consequences of an HIV-positive test result, that was not debated in the House, primarily because many of us believed that it would be removed by the Senate. The President has suggested that he will veto this bill. If he does and this chamber has another opportunity to consider it, it is essential that we directly address and debate the issue of HIV testing and test results in the military.

We should be aware that section 561 of this bill—section 567 of the Conference Report—provides that any member of the military who is determined through testing to be HIV-positive be automatically dismissed. Specifically, this section requires the Secretary of Defense to separate or retire service members who test HIV-positive within 6 months of their positive test. This requirement represents a serious public policy and public health problem that should not become law in this country.

The issue is not simply testing for HIV because I believe there are appropriate public health reasons and goals for such testing. For example, I have worked very closely with other Members, both Republicans and Democrats, including the gentleman from Oklahoma [Mr. COBURN], and others, on the issue of mandatory testing of infants as part of the reauthorization of the Ryan White CARE Act. Many advances in the treatment of HIV disease have been developed and are becoming increasingly available; this is a positive situation that did not exist previously. HIV testing, if done appropriately and sensitively, should lead individuals who test positive to seek treatment and care. Effective treatments ultimately may lead to a cure for HIV disease. If testing leads to treatment and to a cure, then all of us ought to support it. Under these circumstances, we should encourage testing for every element of American society. Testing is currently one of the most important means of HIV prevention that exists.

But, when mandatory testing leads to mandatory job discrimination, we send a signal to everyone in American society not to get tested. That is, we send precisely the opposite message than we really want to send. The mandatory discharge specified in this bill occurs regardless of the HIV-positive individual's health and fitness and despite the fact that people continue to work productively for several years after being infected with HIV. We should not presume that a positive HIV test automatically means an inability to effectively carry out duties or to engage in productive work. Yet, this presumption seems to underlie the mandatory discharge provision in this bill.

The mandatory discharge specified in this bill also singles out HIV disease from other medical conditions. It treats military personnel who test HIV-positive differently than personnel with other diseases or conditions. In this sense, then, section 561 is blatantly discriminatory. The issue becomes one of HIV status rather than health status and the ability to carry out duties.

If we allow this provision to remain, furthermore, we likely set ourselves on a slippery slope to continuing and increasing discrimination. Today it is the military, tomorrow it will be military contractors, and the next day it will be all of the independent private sector. We have to change this provision before this bill becomes law. We should not encourage, and certainly not legislate, discrimination against any American citizen.

The provision for mandatory discharge of members of the armed forces who test HIV-positive should not be in this bill. Instead, we should encourage HIV testing in a context in which individuals can and will seek out effective treatments. These treatments may extend their lives, allow them to continue to work productively, and one day, produce a cure for HIV disease. Individuals who seek or are tested for HIV should not be punished for their test results. The positive elements of this bill aside, therefore, I urge my colleagues to oppose this Department of Defense authorization bill conference report.

The SPEAKER pro tempore (Mr. KINGSTON). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SPENCE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 267, nays 149, not voting 17, as follows:

[Roll No. 865]

YEAS—267

Abercrombie
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Campbell
Canady
Castle
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Graham
Greenwood
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kennelly
Kim
King
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (KY)
Linder
Lipinski
Livingston
Longley
Lucas
Manton
Manzullo
Matsui
McCollum
McCrery
McDade
McHugh
McIntosh
McKeon
McNulty
Meek
Metcalf
Meyers
Mica
Miller (FL)
Mink
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Radanovich
Regula
Richardson
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Tiahrt
Torkildsen
Torres
Traficant
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Zeliff

NAYS—149

Andrews
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Blute
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Camp
Cardin
Chabot
Chapman
Clay
Clayton
Collins (IL)
Collins (MI)
Condit
Conyers
Coyne
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Franks (NJ)
Furse
Ganske
Gejdenson
Gephardt
Gibbons
Gordon
Green
Gutknecht
Hefner
Hilliard
Hinchey
Holden
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kildee
Kleczka
Klink

Klug
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
LoBiondo
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Martini
Mascara
McCarthy
McDermott
McHale
McKinney
Meehan
Menendez
Miller (CA)
Minge
Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Neumann
Oberstar
Obey
Olver
Owens
Pallone
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Rahall
Ramstad
Rangel
Reed
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Sensenbrenner
Serrano
Shays
Skaggs
Slaughter
Spratt
Stark
Studds
Stupak
Thurman
Torricelli
Upton
Velazquez
Vento
Volkmer
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—17

Ackerman
Bonior
DeFazio
Gunderson
Gutierrez
Hancock
Lewis (CA)
Lightfoot
McInnis
Mfume
Pryce
Quillen
Quinn
Stokes
Towns
Visclosky
Young (FL)

□ 1434

The Clerk announced the following pairs:

On this vote:

Mr. Quillen for, with Mr. DeFazio against.

Mr. Lightfoot for, with Mr. Stokes against.

Mr. Lewis of California for, with Mr. Towns against.

Messrs. FARR, SERRANO, and MOLLOHAN, Ms. KAPTUR, Mr. HEFNER, and Mr. BECERRA changed their vote from "yea" to "nay."

Mr. GONZALEZ and Mr. DURBIN changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LIGHTFOOT. Mr. Speaker, due to a family emergency I was unable to be present and voting on December 15, 1995.

Had I been present I would have voted in favor of the rule and final passage for H.R. 1530, the Department of Defense authorization conference report.

GENERAL LEAVE

Mr. SPENCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore (Mr. KINGSTON). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, I see my friend, the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I was going to seek recognition and yield to the majority leader, but he preempted me.

Mr. ARMEY. Mr. Speaker, I would like to preface my remarks by apologizing to the gentleman from Maryland [Mr. HOYER]. I am sure he knows that it gave me no joy to do so.

Mr. HOYER. It does not give me much salve, Mr. Speaker, but I appreciate the observation.

Mr. ARMEY. Mr. Speaker, this is the last scheduled vote for the day. I am sorry to tell the Members that I cannot at this time make any definitive announcement with respect to the rest of the day. We have many things under consideration. It is possible that we will have another vote which would be, indeed, an important vote, before the day is over.

It is still our hope that we can find a basis by which we could expeditiously get to that point, to have that vote, and under conditions that the Members might feel comfortable with and be free to depart for their own districts for the weekend. We are working toward that objective, and as soon as we have the alternatives fully examined and brought out, we will come back either to present them or to make another announcement. So if the Members can please allow me to beg their indulgence we will, in just a few minutes, after some cleanup work, take a recess subject to the call of the Chair and try to get this done as quickly as we can.

Mr. HOYER. Mr. Speaker, the initial observation I would like to make, Mr. Speaker, we on this side are very concerned that we stay in whatever negotiations are necessary to try to overcome this impasse and to accomplish the work that is before us. We are also very concerned, of course, that we give notice to the country and to its workers that they in fact will be working on Monday and that government will be operating on Monday.

Can the gentleman tell me whether or not at some point in time today his side intends to offer a CR which will ensure that happening?

Mr. ARMEY. Mr. Speaker, reclaiming my time, we are working on different alternatives. Mr. Speaker, as you might guess, we were bitterly disappointed in the offer the President's team made today. We find the President's budget proposal to give us scant little with which to work. We do understand the stress of the circumstance that has been brought about by that meager offering. We do have a fairly good measure of the will of the body on both sides of the issue of the possible continuing resolution. We are trying to sort all that out and see what, if anything, we can present to the body before the day's end.

Mr. Speaker, we simply do not wish to make any definitive action until we are fully satisfied we have fully examined all of the options.

Mr. HOYER. Mr. Speaker, if the gentleman will continue to yield, the gentleman from Missouri [Mr. GEPHARDT] and the gentleman from Wisconsin [Mr. OBEY] have what we call a clean continuing resolution. Obviously, that would require unanimous consent. Obviously, neither would be recognized for the purposes of offering that unless there was agreement on both sides, but we on this side would hope that the leadership would seriously consider realizing that there were negotiations that went on some weekends ago when this impasse last occurred on November 13. Whether or not we can get that resolution up——

Mr. ARMEY. Reclaiming my time, Mr. Speaker, I do appreciate the sentiment of the gentleman. I must say in all candor that the President's offering was so meager that I do not believe a clean continuing resolution is an option under consideration.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, the gentleman, as I understood it, his earlier announcement was that in a short period of time we would go into recess.

Is the gentleman planning to, along with that notification of recess, give us, give Members the notification time frame for which we will be back; in other words, 15 minutes, 2 hours, 1 hour? Or are we just dangling out here?

Mr. ARMEY. Obviously there will be a recess, subject to the call of the Chair, and we will work as quickly as we can, and certainly every Member will have the 15-minute notice.

Mr. VOLKMER. You are going to leave it at 15 minutes?

Mr. ARMEY. Fifteen.

Mr. MORAN. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Virginia.

Mr. MORAN. Mr. Speaker, I would ask the majority leader, the gentleman from Indiana [Mr. BURTON], the gentleman from Pennsylvania [Mr. GEKAS], the gentleman from Florida [Mr. MICA], and myself and several others have proposed legislation that we understand was acceptable to the leadership that would avoid a situation that occurred last time we had a Government shutdown with Federal employees, where Federal employees were paid for not working. This legislation would ensure that at least they work and then be subsequently reimbursed. We understood that that might be put on an expeditious track.

Could the gentleman clarify that situation and give us some idea whether we would be able to expect that?

Mr. ARMEY. Mr. Speaker, if I may clarify the situation, the gentleman's optimism, I am sure, is understandable. I think the gentleman, though, is excessively optimistic to report that the option that he referred to is acceptable to the leadership at this time, but I can report that it is one of the matters that is being considered. As soon as we can resolve it, we will be back with an announcement.

Mr. HOYER. If the gentleman will yield again, there are a number of Members perhaps on both sides, I have not seen the list, who are interested in doing special orders, either 5-minute or hour special orders. I am wondering whether or not you intend, as we have done in the past, to go into special orders and then if we run out of special orders, to recess at that points in time? In other words, will there be a provision at the end of our business to allow for special orders?

Mr. ARMEY. Mr. Speaker, let me just say to the gentleman that that is a very difficult question to address, since we do not know exactly under what parliamentary basis we may end our business for the day. So let me just say I full respect the Members' interests in special orders, and we certainly would not engage in a parliamentary option that would have as an objective to prevent special orders. It is not inconceivable that special orders could be, or the loss of special orders could be the consequence of a necessary parliamentary method that we may use later, so again, I would just ask the gentleman if he could just be patient and trust me. We will try to get it worked out.

Mr. HOYER. Mr. Speaker, I would say to the gentleman, I respect the gentleman and like him. I want him to know that I continue that.

Mr. ARMEY. Mr. Speaker, before I suffer any more abuse, I yield back the balance of my time.

Mr. HOYER. Seriously, Mr. Speaker, before the gentleman yields back his time, my point was that historically, in many instances, what we do is we go to special orders while we wait for the negotiations or other items to go on. If special orders concludes and there is still a reason that the majority would want to stay here pending negotiations, or perhaps come back to the floor to do additional legislative business, to have that time filled up by Members on both sides of the aisle going back and forth who want to do special orders.

□ 1445

My question was a legitimate question, since as we do have Members who had signed up to do special orders, whether or not they might accomplish that objective within the time frame that we are waiting for the negotiations or other decisions to be made by the leadership.

Mr. ARMEY. Mr. Speaker, I will get back to the gentleman on that.

Mr. Speaker, for the time being, at least, let me yield back the balance of my time.

EXTENSION OF AU PAIR PROGRAMS

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the bill (H.R. 2767) to extend au pair programs, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. KINGSTON). Is there objection to the request of the gentleman from New York?

Mr. HAMILTON. Mr. Speaker, reserving the right to object, and I do not intend to object, I am pleased that the gentleman from New York [Mr. GILMAN] and I were able to work on this bill to extend the authority of USIA to run the au pair program for another 2 years, and I yield to the gentleman to explain the bill.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding, and I appreciate the opportunity to bring to the floor H.R. 2767, a 2-year extension of the au pair program. I know this is a program of interest to a number of our Members, many of whom have heard from their constituents that have been affected by the expiration of the program. Through a bipartisan effort, we have cleared the way to quickly pass this bill.

Mr. Speaker, I want to acknowledge the key role that the gentleman from Indiana [Mr. HAMILTON], the distinguished ranking member of the House Committee on International Relations, played in drafting the bill and moving it through the committee. I urge the support of H.R. 2767.

Mr. MORAN. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. Further reserving the right to object, I yield to the gentleman from Virginia.

Mr. MORAN. Mr. Speaker, with regard to this bill, I want to rise in support of the extension of the au pair program for 2 more years under the auspices of the United States Information Agency. I know that this is a minor issue in the context of a much more important issue with regard to the Government shutdown, but many Members have asked us to bring forward this bill.

The program, a very successful cultural program, not only benefits young people wishing to learn more about the United States, but it benefits also a great many families throughout the country in providing important child care and the opportunity to learn from the au pair about the traditions and cultural differences in their home country.

Now, I understand that Mr. JOHNSTON and others have some concern over whether this is a family-friendly measure, with some very attractive au pairs coming from Scandinavian countries, particularly. I do not think that is a particular reason to oppose the legislation.

Mr. Speaker, it is important that we pass this legislation today because it would expire otherwise. We have many families across the country that have been left hanging, waiting for their au pair to arrive, so they are trying to find temporary child care, hoping that it will not have a negative impact on their children. Many families, particularly with two parents working, are struggling to make ends meet and are dependent upon these au pairs. The visas cannot be issued to these young people until Congress passes this legislation.

It is really not fair to them in other European allied countries that have tried to participate in this program months ago to have their visas held because of congressional inaction. They leave their jobs, they move from their apartments when they are accepted into the program. So I would urge my colleagues to support this bill to extend the au pair program and stop the uncertainty facing many American families.

I understand there is greater uncertainty facing a greater number of families that I would hope we could deal with as well, but there is no reason to object to this legislation, and I would urge its consideration and passage.

Mr. HAMILTON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. KINGSTON). Is there objection to the request of the gentleman from New York?

Mr. DOGGETT. Mr. Speaker, reserving the right to object, let me inquire, do I understand this is a unanimous-consent request where you are asking everyone in good faith, in goodwill, to permit you to take up this measure to continue a statute that is about to expire; is that right?

Mr. GILMAN. Mr. Speaker, if the gentleman will yield, the gentleman is correct. It is a unanimous-consent request because it does expire on the 30th of this month.

Mr. DOGGETT. The gentleman from Maryland, just before you arose, was asking for the same type of good faith and goodwill with regard to the standard procedure in this body when we recess, giving other Members an opportunity to get up on special orders and have their say with reference to what is occurring here.

I am wondering if we could have any more guidance as to whether, when we complete this measure, we will have that opportunity, if we showed good faith and goodwill with reference to this unanimous consent request, if there will be an opportunity for Members on both sides of the aisle to have their say this afternoon about some of the things that are occurring here, or whether we are to be muzzled.

Mr. GILMAN. If the gentleman would yield, I regret that I cannot speak for the leadership with regard to the special orders.

Mr. DOGGETT. You are going to inquire about that?

Mr. GILMAN. I think the inquiry was made, and if the gentleman would further yield, I believe the inquiry was made and the majority leader said he would get back to us with the answer.

Mr. DOGGETT. That is what I am concerned about, through he is an amicable fellow and a fellow Texan, I do not know what he means by that. He may mean never.

Ms. DELAURO. Mr. Speaker, will the gentleman yield?

Mr. DOGGETT. I yield to the gentlewoman from Connecticut.

Ms. DELAURO. Mr. Speaker, I would like to join my colleague from Texas in making a similar kind of inquiry. The normal procedure has been that when we do go into recess, that we all, in a bipartisan way, on both sides of the aisle, have the opportunity to go into special orders; and sometimes we have a dialog amongst all of us, and sometimes we just share the time. But it would seem to me that that is the procedure that we ought to follow here so that in fact we are not sitting around here doing nothing while we are waiting for the opportunity to come back and find out what the rest of the schedule is going to be, and that people in the peoples House have that opportunity to make known their concerns, their interests, and take this time, which I think we all agree is used usefully on behalf of both parties.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. DOGGETT. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California.

Mr. DORNAN. Mr. Speaker, I thank the gentleman for yielding, because I want it crystal-clear on the record that I want special orders tonight. I have an hour on Bosnia; some of your Members are going to join me, and if you would like to form some kind of unofficial ad hoc committee of three, I will join you in the name of freedom of speech. I was in the minority for 16 years.

Mr. DOGGETT. Mr. Speaker, I commend the gentleman who has often utilized that freedom of speech to provide some of the more interesting special orders here, and perhaps as we carry on this reservation with some discussion about the implications of doing this, you can get some indication from your leadership whether both sides will have that opportunity.

Mr. DORNAN. Form an ad hoc committee. I have the key to the Speaker's door, and we will go down and see him.

Mr. DOGGETT. He has never given me that key, but I invite your doing that, because I think there are going to be some other people that want to be heard on my reservation, and I cannot yield the floor on this point, but I think we will be here long enough to give you time to get some answer.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. DOGGETT. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I have been listening with great interest to the gentleman's reservation, and I think he is making an excellent point, and I am pleased to see this Doggett-Dornan alliance.

Mr. DOGGETT. It is the second time this week, although Mr. DORNAN may not know it.

Mrs. SCHROEDER. Mr. Speaker, since you have to stay here, I would hope that maybe Mr. DORNAN would take his key and go find his leadership. I do not think anyone over here has a key, but if he could go find his leadership, that would be very, very helpful. Maybe he can come back and a lot of us can keep talking about how bad it is that we are constantly gagged over here, and one more time, we are going to be gagged if the gentleman from California cannot find them.

Mr. LINDER. Mr. Speaker, regular order.

The SPEAKER pro tempore. Regular order is demanded.

Is there objection to the request of the gentleman from New York?

Mr. DOGGETT. Reserving the right to object, Mr. Speaker.

The SPEAKER pro tempore. Members can no longer reserve the right to object on the request for regular order. Members must object or not object.

PARLIAMENTARY INQUIRY

Mr. DOGGETT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DOGGETT. In that regard then, if I am no longer able to do my reservation and I make objection at this time, will the gentleman be able to make his unanimous consent request again later in the day?

The SPEAKER pro tempore. The Chair can entertain that request later if the gentleman is withdrawing his reservation.

Mr. DOGGETT. No; I am not withdrawing. I am going to make an objection, if that is the case.

I object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard.

☐ 1500

PARLIAMENTARY INQUIRY

Mr. BENTSEN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. KINGSTON). The gentleman will state it.

Mr. BENTSEN. Under the rules of the House, is only one Member allowed to reserve the right to object to a unanimous-consent request?

The SPEAKER pro tempore. Any Member may demand regular order. At that point, the Chair must put the unanimous-consent request to the office immediately.

Mr. BENTSEN. So a demand for regular order is superior to a reservation of a right to object?

The SPEAKER pro tempore. The gentleman is correct.

The gentleman from Texas has objected.

Mr. DOGGETT. Mr. Speaker, I have a unanimous-consent request.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of today, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 3 o'clock and 1 minute p.m.), the House stood in recess subject to the call of the Chair.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1845. A letter from the Chairman, Board of Directors, Corporation for Public Broadcasting, transmitting the semiannual report on activities of the inspector general for the period April 1, 1995, through September 30, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1846. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting memorandum of justification regarding certification that Russia and the Commonwealth of Independent States continue to make substantial progress toward withdrawal of their armed forces from Latvia and Estonia, pursuant to Public Law 103-87, section 577(b) (107 Stat. 973); jointly, to the Committees on International Relations and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2402. A bill to authorize an exchange of lands in the State of Utah at

Snowbasin Ski Area; with an amendment (Rept. 104–409). Referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 1816. Referral to the Committee on Commerce extended for a period ending not later than January 3, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SKAGGS (for himself, Mr. Frank of Massachusetts, Mr. Bryant of Texas, Mr. Barrett of Wisconsin, and Mr. McHale):

H.R. 2785. A bill to repeal section 18 of the Lobbying Disclosure Act of 1995; to the Committee on the Judiciary.

By Mr. CREMEANS:

H.R. 2786. A bill to provide for the modification of the reversionary interest retained by the United States as part of the conveyance of certain real property to Lawrence County, OH; to the Committee on Resources.

By Mr. FRANK of Massachusetts:

H.R. 2787. A bill to repeal the price support programs and related acreage allotment and marketing quota programs for agricultural commodities, to repeal marketing orders issued to regulate the handling of certain agricultural commodities, and to establish a special fund to assist farmers whose annual net income from all sources is less than $30,000; to the Committee on Agriculture.

H.R. 2788. A bill to provide that if a member nation of the North Atlantic Treaty Organization or Japan does not agree, by the end of fiscal year 1997, to assume the full nonpersonnel costs of United States military forces permanently stationed ashore in that country, all such United States Forces assigned in that country shall be withdrawn not later than the end of fiscal year 1999; to the Committee on International Relations.

By Mrs. JOHNSON of Connecticut:

H.R. 2789. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of a intercity passenger rail trust fund, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LINCOLN:

H.R. 2790. A bill to amend titles XVIII and XIX of the Social Security Act to authorize States to impose fees for the initial certification and survey of health care facilities in order to provide for timely certification of these facilities under the Medicare and Medicaid Programs; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MANTON:

H.R. 2791. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to limit funds to States that do not enact laws that require a test to detect the presence of the etiologic agent for acquired immune deficiency syndrome in certain cases of assault; to the Committee on the Judiciary.

By Ms. ROS-LEHTINEN (for herself, Mr. Deutsch, Mr. Shaw, Mrs. Meek of Florida, Mr. Diaz-Balart, and Mr. Hastings of Florida):

H.R. 2792. A bill to direct the head of each Federal agency to designate space in each Federal building owned or leased for use by the agency for the display of posters of missing children, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on the Judiciary, House Oversight, Government Reform and Oversight, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROSE:

H.R. 2793. A bill to provide for the establishment and funding of a conservation incentives program to assist farmers and ranchers in developing and implementing conservation practices to protect soil, water, and related resources; to the Committee on Agriculture.

By Mr. ROSE (for himself, Mr. Stenholm, and Mr. Torricelli):

H.R. 2794. A bill to extend and improve the price support and production adjustment program for peanuts, to establish standards for the inspection, handling, storage, and labeling of all peanuts and peanut products sold in the United States, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAW (for himself, Mr. Canady, Mr. McCollum, and Mrs. Thurman):

H.R. 2795. A bill to amend the Trade Act of 1974 and the Tariff Act of 1930 to clarify the definitions of domestic industry and like articles in certain investigations involving perishable agricultural products, and for other purposes; to the Committee on Ways and Means.

By Mr. TRAFICANT (for himself, Mr. Hastings of Florida, Mr. Thompson, Mr. Dellums, Mr. Lipinski, Mr. Rahall, Ms. DeLauro, Mr. Rangel, Ms. Molinari, and Ms. Roybal-Allard):

H.R. 2796. A bill to require the surgical removal of silicone gel and saline filled breast implants, to provide for research on silicone and other chemicals used in the manufacture of breast implants, and for other purposes; to the Committee on Commerce.

By Mr. VOLKMER:

H.R. 2797. A bill to abolish the Committee on Standards of Official Conduct in the House of Representatives, establish an Independent Commission on Congressional Ethics, and provide for the transfer of the duties and functions of the Committee to the Independent Commission; to the Committee on Rules, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELDON of Florida:

H.R. 2798. A bill to amend title 38, United States Code, to revise certain authorities relating to management and contracting in the provision of health care services; to the Committee on Veterans' Affairs.

By Mr. WILLIAMS:

H.R. 2799. A bill to designate certain National Forest lands in the State of Montana as wilderness, to release other National Forest lands in the State of Montana for multiple use management, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILMAN (for himself, Mr. Goodling, Mr. Solomon, and Mr. Hoke):

H. Con. Res. 120. Concurrent resolution supporting the independence and sovereignty of Ukraine and the progress of its political and economic reforms; to the Committee on International Relations.

By Mrs. MALONEY:

H. Con. Res. 121. Concurrent resolution urging the President of the United States to seek negotiations with the Republic of Ireland, the United Kingdom, the European Union, and international financial institutions for the purpose of establishing an Ireland Development Bank; to the Committee on Banking and Financial Services.

By Mr. ZIMMER (for himself, Mr. Hoke, and Mr. Tiahrt):

H. Res. 308. Resolution expressing the sense of the Congress that President Clinton should ask for the resignation of Hazel O'Leary as Secretary of Energy and the General Accounting Office should investigate her travel practices as Secretary of Energy; to the Committee on Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 109: Mr. Cooley.

H.R. 766: Mr. Thornberry.

H.R. 785: Mr. Torricelli and Mr. Zimmer.

H.R. 862: Mr. Cooley.

H.R. 885: Mr. Flake and Mr. Boehlert.

H.R. 1124: Mr. Traficant.

H.R. 1129: Mr. Bachus.

H.R. 1256: Mr. Schumer, Mrs. Kelly, and Mr. Quinn.

H.R. 1279: Mr. Burr, Mr. Dornan, Mrs. Cubin, Mr. Spence, Mr. Heineman, Mr. Shaw, and Mr. Stearns.

H.R. 1733: Mr. Skeen and Mr. Flanagan.

H.R. 1950: Mr. Jefferson, Mrs. Collins of Illinois, Mr. Hilliard, and Ms. DeLauro.

H.R. 2090: Mr. Goodling and Mr. Baker of Louisiana.

H.R. 2245: Mr. McKinney and Ms. Pelosi.

H.R. 2310: Mr. Schumer and Mr. Gutierrez.

H.R. 2333: Mr. Boehner and Mr. Hilleary.

H.R. 2335: Mr. Taylor of North Carolina, Mr. Taylor of Mississippi, Mr. Jacobs, Mr. Funderburk, Mr. Bartlett of Maryland, Mr. Wicker, Mr. Payne of Virginia, Mr. Emerson, Mr. Bereuter, Mr. Jones, Mr. Hastings of Washington, Mr. Traficant, and Mr. Goodlatte.

H.R. 2407: Mr. Gutierrez, Mr. Evans, and Mrs. Lowey.

H.R. 2429: Mr. Baldacci, Mr. Serrano, Mr. Hastings of Florida, Mr. Hall of Ohio, Mr. Torres, Mr. Wise, Mr. Schumer, Mr. Gordon, Ms. Eshoo, Mr. Emerson, Mr. Pete Geren of Texas, Mr. Taylor of Mississippi, Mr. Parker, Mr. Moran, Ms. Kaptur, Mr. Moakley, Mr. Dellums, Mr. Hefner, Mr. Miller of California, Mr. Payne of Virginia, and Mr. McDermott.

H.R. 2531: Mr. Largent, Mrs. Myrick, and Mr. Coburn.

H.R. 2548: Ms. Rivers.

H.R. 2579: Mr. Fox, Mr. Thornton, Mr. Lewis of Georgia, and Ms. Dunn of Washington.

H.R. 2654: Ms. Furse, Mrs. Lowey, and Mr. Olver.

H.R. 2657: Mr. Smith of Texas, Mr. Dicks, Mr. Deutsch, Mr. Cremeans, Mr. McCrery, Mr. Brown of California, and Mr. Ackerman.

H.R. 2676: Mr. Frost and Mr. Ehlers.

H.R. 2701: Mr. Hutchinson, Mr. Dickey, Mr. Gilman, and Mr. Watt of North Carolina.

H.R. 2729: Mr. Gutierrez.

H.R. 2740: Mr. Dornan, Mrs. Chenoweth, Mr. Gibbons, and Mr. Miller of Florida.

H.R. 2772: Mr. Ballenger.

H.R. 2778: Mr. DeLay, Mr. Boehner, Ms. Molinari, Mr. Crane, Mrs. Johnson of Connecticut, Mr. Houghton, Mr. Herger, Mr. McCrery, Mr. Hancock, Mr. Camp, Mr. Sam Johnson, Ms. Dunn of Washington, Mr. Collins of Georgia, Mr. Portman, Mr. Laughlin, Mr. English of Pennsylvania, Mr. Ensign, Mr. Dornan, Mr. Spence, Mr. Gilman, Mr. Stump, Mr. Goodling, Mr. Ballenger, Mr. Cunningham, Mr. Burton of Indiana, Mr. Buyer, Mr. Schiff, Mr. Baker of California, Mr. Stearns, Mr. Bilirakis, Mr. Rohrabacher, Mr. Lewis of Kentucky, Mr. Whitfield, Mr. Hefley, Mr. Upton, Mr. Hostettler, Mr. King, Mr. Metcalf, Mr. Duncan, Mr. Boucher, Mr. Wolf, Mr. Traficant, and Mrs. Meek of Florida.

H.R. 2779: Mr. Talent and Mr. Calvert.

H.R. 2780: Mr. Davis.

H. Con. Res. 47: Mr. LoBiondo and Mr. Walsh.

H. Res. 220: Mr. Hamilton, Mr. Hinchey, Mr. Miller of California, Mr. Skaggs, Mr. Studds, Mr. Richardson, Ms. McCarthy, Mr. Waxman, Mr. Vento, and Mr. Markey.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1710

Offered By: Mr. Manzullo

[Page and line numbers correspond to those of H.R. 2703, as introduced]

Amendment No. 3: Page 4, strike line 1 and all that follows through line 16 on page 54.

Page 63, strike line 8 and all that follows through line 25 on page 176.

Redesignate the remaining provisions accordingly.

Amend the table of contents accordingly.

H.R. 1710

Offered By: Mr. Quinn

[Page and line numbers correspond to those of H.R. 2703, as introduced]

Amendment No. 4: At the end, add the following new title:

TITLE X—EXPLOSIVES CONTROLS

SEC. 1001. SHORT TITLE.

This title may be cited as the "Restricted Explosive Control Act of 1995".

SEC. 1002. PROHIBITION AGAINST THE DISTRIBUTION OR RECEIPT OF RESTRICTED EXPLOSIVES WITHOUT A FEDERAL PERMIT.

(a) In General.—Section 842 of title 18, United States Code, is amended—

(1) in subsection (a)(3)—

(A) in subparagraph (A)—

(i) by inserting "that are not restricted explosives" after "explosive materials" the 2nd place such term appears; and

(ii) by striking "or" after the semicolon;

(B) by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following:

"(B) to distribute restricted explosives to any person other than a licensee or permitee; or"; and

(C) in subparagraph (C) (as so redesignated), by inserting "that are not restricted explosives" after "explosive materials"; and

(2) in subsection (b)(3), by inserting "if the explosive materials are not restricted explosives," before "a resident".

(b) Restricted Explosives Defined.—Section 841 of such title, is amended by section 501 of this Act, is amended by adding at the end the following:

"(r) 'Restricted explosives' means high explosives, blasting agents, detonators, and more than 50 pounds of black powder.".

SEC. 1003. REQUIREMENT THAT APPLICATION FOR FEDERAL EXPLOSIVES LICENSE OR PERMIT INCLUDE A PHOTOGRAPH AND SET OF FINGERPRINTS OF THE APPLICANT.

(a) In General.—Section 843(a) of title 18, United States Code, is amended in the first sentence by inserting "shall include the applicant's photograph and set of fingerprints, which shall be taken and transmitted to the Secretary by the chief law enforcement officer of the applicant's place of residence, and" before "shall be".

(b) Chief Law Enforcement Officer Defined.—Section 841 of such title, as amended by sections 501 and 1002(b) of this Act, is amended by adding at the end the following:

"(s) 'Chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.".

SEC. 1004. EFFECTIVE DATE.

The amendments made by this title shall apply to conduct engaged in after the 180-day period that begins with the date of the enactment of this Act.

SENATE—*Friday, December 15, 1995*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, nothing is impossible for You. You have all power. Nothing happens without Your knowledge and Your permission. You will what is best for us as individuals and as a nation. You desire to bless us with the wisdom and discernment we need to solve our problems. And yet, we have learned that if we wait for You and ask for Your help, You provide. By Your providence You have placed the Senators in positions of great authority not because of their human adequacy but because they are willing to be available to You, attentive to You, and accountable to You. Together, with one mind and heart, we intercede for the negotiations on the budget. We know that if we trust You, You will be on time and in time to help us in the crucial hours of this day before the midnight hour of crisis. Give all those involved in the negotiation today humility to put the need of the Nation first above political advantages. You have promised that if we pray with complete trust in You, You will intervene to answer our prayers. In the name of our Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Colorado is recognized.

SCHEDULE

Mr. CAMPBELL. Mr. President, today there will be a period for morning business until the hour of 11 a.m. with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator NUNN for 25 minutes, Senator COATS for 45 minutes, and Senator GRAHAM for 20 minutes.

Following morning business, the majority leader stated that it would be his intention for the Senate to consider any of the following items that are available: The House message to accompany H.R. 1868, the foreign operations appropriations bill, the District of Columbia appropriations conference report, and the continuing resolution.

Senators should therefore be aware that rollcall votes are possible throughout today's session of the Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CAMPBELL). Without objection, it is so ordered.

TRIBUTE TO CONGRESSMAN TOM BEVILL

Mr. HEFLIN. Mr. President, the House of Representatives will be losing one of its true giants when Alabama Congressman TOM BEVILL retires at the end of this Congress. His tremendous leadership, particularly in the areas of waterway development, energy policy, and medical research will be virtually impossible to replace. I was highly disappointed at his decision, for he is a tried and true leader for our Nation. His retirement will be a huge loss for the country and for Alabama.

TOM and I attended law school together at the University of Alabama and remained close friends over the years. He is the dean of the Alabama congressional delegation, having served now for over 30 years. TOM BEVILL has served longer in the U.S. House of Representatives than any other Member of Congress from Alabama. Today, TOM is the House's 11th most senior Member and one of its most effective legislators.

He has worked closely on several issues of particular importance to our State. He certainly has played an important role in the growth and the development of the University of Alabama at Birmingham. Because of his leadership and efforts, UAB, as it is known, is today home to one of the very best medical schools in the Nation and has some of its premier health care facilities and is on the vanguard of medical research.

TOM BEVILL was chairman of the Subcommittee on Energy and Water Development of the House Appropriations Committee from 1977 until this year when the Republicans took control of that Chamber.

His leadership extended beyond the confines of his own district. For example, Mobile, a port city located some distance from his district in north Alabama, has been greatly enhanced by several waterways projects resulting from his stewardship.

Every area in the State of Alabama has benefited from his seniority and position in Congress. Some have even called him Alabama's third Senator, and, I will say, that the Nation, as a whole, certainly has benefited. No one has been in the forefront more pertaining to waterway development. And waterway development is extremely important. He has had some battles with Presidents relative to waterway development. I might say that he came out victorious in these battles.

He is a native of a small Walker County mining community in Alabama by the name of Townley. TOM BEVILL has spent part of his childhood building small dams. He is a lifelong Democrat, and a fundamental reason for his party affiliation is the suffering and the poverty he saw during the Great Depression.

He has said that his philosophy of Government was formed during the Depression when he saw his father, a former miner and a storekeeper in rural Townley, give food to people who were literally starving. He openly admired Franklin Delano Roosevelt and what the New Deal did for Alabama and the Tennessee Valley.

Beginning in 1958, he served two terms in the Alabama State Senate. In 1966, he won his seat to the U.S. House and has been there ever since.

From the start, he earned the admiration and the respect of his colleagues by not ever allowing policy or political disagreements to become personal. He is known for his fairness in all of his dealings. He is a gentleman with a courtly manner that often eases tensions and invites compromise. He is principled and consistent, a man true to his word, his conscience, his constituents and his colleagues.

TOM BEVILL will be sorely missed when the 105th Congress convenes in January 1997, but I can certainly understand his decision, having made the same one earlier this year.

I wish him and his wonderful, gracious wife, Lou, all the best as they enter a new phase of their lives.

TRIBUTE TO THE UNIVERSITY OF NORTH ALABAMA FOOTBALL TEAM

Mr. HEFLIN. Mr. President, in the bustling North Alabama town of Florence, an athletic dynasty reigns, cloaked in the royal purple and gold school colors, producing a championship heir each year since 1993. I come to the Senate floor today to tell you of an amazing group of young people at an outstanding university in my beloved State of Alabama.

Just days ago, on December 9, the University of North Alabama Lions claimed their third consecutive national championship in Division II

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

football. This is an achievement unmatched in college football history by any team from that division or higher. Their victory came at the expense of a worthy opponent, Pittsburg State, with a final score of 27 to 7.

I can go on and on- and, mind you, I will in a moment- about the unbelievable records that have been set and broken by these champions over the past 3 years, but I would first like to call attention to a statement made by the UNA Lions Coach Bobby Wallace. In an interview with the Florence TimesDaily, Coach Wallace stressed that this once-in-a-lifetime opportunity of three championships in a row is not what made his team unique:

> Don't get me wrong, I wanted very badly to win this game. But winning really wasn't that important. A win today wasn't going to make this team special. They were special long before today. All they did today was go out and prove they may be the best ever in Division II.

Mr. President, it is this type of attitude that sets the Lions apart as true champions. These young men and their outstanding coaches realize that winning isn't the true mark of a good team. Character, determination, dedication and hard work all factor into the champion spirit. However, I would be remiss if I failed to point out the obvious: In addition the champion spirit, UNA most definitely has the talent to capture the victory. And it is this astounding talent that I would like to note for the record.

Over 15,000 people attended the sold-out game at Braly Stadium and countless more watched on ESPN. Ken Berger of the Associated Press summarized the championship game: "It wasn't even close. North Alabama (14–0) shredded Kansas-based Pittsburg State (12–1–1), amassing 380 yards to the Gorillas' 176 and holding a 2-to-1 advantage in possession time."

Ronald McKinnon, senior linebacker, received the 1995 Harlon Hill Trophy as the NCAA Division II National Player of the Year. He is the first defensive player in the 10-year history of the award to finish in the top three, much less win the award. He proved worthy once again in the championship game with 14 tackles, one for a 5-yard loss and a recovered fumble that led to UNA's second touchdown.

Starting quarterback Cody Gross, suffering from a torn hip muscle, still managed to complete eight of 13 passes for 102 yards and a touchdown in addition to carrying the ball three times for four yards. He split the time with senior back-up quarterback Cale Manley who guided the team in a stunning 76-yard, 12-play drive on UNA's opening possession. Jermaine Roberts led UNA's championship game effort with 107 yards on 20 carries, scoring twice.

Mike Goens, regional editor at the Florence TimesDaily, described the atmosphere in the final 3 minutes of the game: "At that moment, an overcast afternoon turned to dusk. Metaphorically, the lights began going out for Pittsburg State. And the evening sky, fittingly, began turning shades of purple and gold."

The UNA Lions have dominated their field of play as no other college football team has, ever. They have a 3-year record of 41 wins and 1 loss. That loss was to the No. 1 ranked Division I–AA Youngstown State. The Lions are the only college football team at any level to win 40 games in 3 years. UNA's current 23-game winning streak is second best in the Nation, behind Division I's Nebraska with 24.

This team is indeed made up of outstanding young men. Nineteen of the fifty-two players who dressed out for the championship game are seniors. This senior class closed their collective careers as the winningest in school and Gulf South Conference history at 48–5–1.

Coach Wallace, not known as one to rest on his laurels, told the media after the game that he plans to guide the UNA Lions to a fourth straight championship next season. That is the spirit of a true champion. For now, however, I join my voice with a legion of others in proudly hailing UNA's conquering heroes with the resounding cheer: "Go Lions."

A PROCLAMATION TO THE WORLD

Mr. HATCH. Mr. President, I rise today to draw my colleagues' attention to a recent proclamation made by President Gordon B. Hinckley on behalf of the First Presidency and Council of the Twelve Apostles of the Church of Jesus Christ of Latter-day Saints.

I believe this proclamation to be especially timely during this holiday season. The holidays often afford us the opportunity to reestablish family bonds. I believe President Hinckley's words have relevance for all Americans and will help each of us reaffirm our commitment to the primacy of the family as the basis for strong communities and to the sanctity of marriage as the foundation for healthy families.

I hope that the core principles expressed within this proclamation will continue to guide and strengthen us during this holiday season and into the coming year.

Mr. President, I ask unanimous consent that the proclamation be printed in the RECORD.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

A PROCLAMATION TO THE WORLD

(From the First Presidency and Council of the Twelve Apostles of the Church of Jesus Christ of Latter-day Saints)

This proclamation was read by President Gordon B. Hinckley as part of his message at the General Relief Society Meeting held September 23, 1995, in Salt Lake City, Utah.

We, the First Presidency and the Council of the Twelve Apostles of The Church of Jesus Christ of Latter-day Saints, solemnly proclaim that marriage between a man and a woman is ordained of God and that the family is central to the Creator's plan for the eternal destiny of His children.

All human beings—male and female—are created in the image of God. Each is a beloved spirit son or daughter of heavenly parents, and, as such, each has a divine nature and destiny. Gender is an essential characteristic of individual premortal, mortal, and eternal identity and purpose.

In the premortal realm, spirit sons and daughters knew and worshiped God as their Eternal Father and accepted His plan by which His children could obtain a physical body and gain earthly experience to progress toward perfection and ultimately realize his or her divine destiny as an heir of eternal life. The divine plan of happiness enables family relationships to be perpetuated beyond the grave. Sacred ordinances and covenants available in holy temples make it possible for individuals to return to the presence of God and for families to be united eternally.

The first commandment that God gave to Adam and Eve pertained to their potential for parenthood as husband and wife. We declare that God's commandment for His children to multiply and replenish the earth remains in force. We further declare that God has commanded that the sacred powers of procreation are to be employed only between man and woman, lawfully wedded as husband and wife.

We declare the means by which mortal life is created to be divinely appointed. We affirm the sanctity of life and of its importance in God's eternal plan.

Husband and wife have a solemn responsibility to love and care for each other and for their children. "Children are an heritage of the Lord" (Psalms 127:3). Parents have a sacred duty to rear their children in love and righteousness, to provide for their physical and spiritual needs, to teach them to love and serve one another to observe the commandments of God and to be law-abiding citizens wherever they live. Husbands and wives—mothers and fathers—will beheld accountable before God for the discharge of these obligations.

The family is ordained of God. Marriage between man and woman is essential to His eternal plan. Children are entitled to birth within the bonds of matrimony, and to be reared by a father and a mother who honor marital vows with complete fidelity. Happiness in family life is most likely to be achieved when founded upon the teachings of the Lord Jesus Christ. Successful marriages and families are established and maintained on principles of faith, prayer, repentance, forgiveness, respect, love, compassion, work, and wholesome recreational activities. By divine design, fathers are to preside over their families in love and righteousness and are responsible to provide the necessities of life and protection for their families. Mothers are primarily responsible for the nurture of their children. In these sacred responsibilities, fathers and mothers are obligated to help one another as equal partners. Disability, death, or other circumstances may necessitate individual adaptation. Extended families should lend support when needed.

> We warn that individuals who violate covenants of chastity, who abuse spouse or offspring, or who fail to fulfill family responsibilities will one day stand accountable before God. Further, we warn that the disintegration of the family will bring upon individuals, communities, and nations the calamities foretold by ancient and modern prophets.
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> We call upon responsible citizens and officers of government everywhere to promote those measures designed to maintain and strengthen the family as the fundamental unit of society.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STUDENT LOANS

Mr. DEWINE. Mr. President, I rise today to discuss what the Republican balanced budget bill, the bill that President Clinton vetoed with such fanfare last week, would accomplish in a very important area; that is, the area of student loans.

Mr. President, a great deal of attention has been paid to this issue. I do not think most people have heard the whole story, the real story. The real story is this: The Republican balanced budget plan will decrease—let me repeat, decrease—the cost of higher education for American families.

The compromise worked out between the House and Senate reduced mandatory spending in the student loan program by $4.9 billion—a savings of $4.9 billion. We achieve this goal without—without—increasing the cost of student loans for students, for their parents, or for the colleges. We made these reductions by cutting the administrative overhead of the Federal bureaucracy and by reducing the Federal spending—to banks, secondary markets, guaranty agencies, and other private lenders who administer the guaranteed student loan program.

Mr. President, none—let me repeat, none—of these cuts can be passed on to the students, parents, or to their colleges.

In addition, the Republican balanced budget plan did not achieve this $4.9 billion in savings by cutting the amount of money made available to students and their parents for college education.

Mr. President, I think these are two very important points. The Republican balanced budget plan does not ask students or their parents or colleges to pay more for student loans. The Republican balanced budget plan does not cut the amount of money made available to students and their parents for a college education. The fact is, Mr. President, and the rest of the story really is, balancing the budget as our overall budget plan would do, would ultimately decrease the cost of students loans. It only makes sense.

If we balance the Federal budget, which will reduce interest rates, the cost of borrowing by students and their families will fall. For example, a student that borrowed $11,000 at an interest rate of 8 percent will repay $18,578 over the life of the loan. By balancing the budget in 7 years and by reducing interest rates by 2 percent that same student repayment amount will be lowered—lowered—by $2,167, resulting in a lower yearly payment of $216. That is real money.

Mr. President, it is clear these policy changes will not make it more difficult for families to pay for their children's education. Just the contrary. What our changes will do will be to make it easier for families.

In addition, our Republican balanced budget plan will provide students with a tax deduction on a portion of the interest they pay on student loans. If you average it out, Mr. President, the average borrower will save $8 a month—$8 a month.

The number of student loans is scheduled to increase as well. Let me repeat that: The number of student loans under our plan is going to increase. In 1996, it will be higher than ever before with over 7.1 million student loans. The Congressional Budget Office projects that student loans will continue to rise through the end of the century. This year the volume of student loans stands at about $24.5 billion; by the year 2000 it will rise above $33 billion. That is an increase of nearly 50 percent.

Mr. President, the average student loan amount will rise from today's $3,646 to $4,300 in the year 2000. So the balanced budget plan, our balanced budget plan, will help make education more affordable.

The bill will also make substantive changes in the law that are both wise and necessary, changes that will make the lending system fair and more efficient. The Republican balanced budget plan will extend to those students who are in the guaranteed loan program the same benefits enjoyed by those who participate in the direct lending program.

Mr. President, today if you are a student receiving loans under the direct lending program, you have a wide variety of options for repayment. You can have an extended repayment or income-contingent repayment. These and other repayment options make it easier for young people to make the transition from college life to the working world. A young person getting out of college may decide to take a job that pays little but will give him or her a lot of experience. There is no reason that student should not be allowed to pay the loan back further in the future when he or she is making more money. That is flexibility.

Mr. President, you can do that with the direct lending program. I believe it is only fair that we extend those same options to students in the regular guaranteed loan program. That is what the Republican balanced budget plan will do.

We have just received a few details on what the President's proposal would do. It is clear that the President's plan would take away from the benefits that students would receive under the Republican balanced budget plan. The President's proposal, the Clinton proposal, would eliminate the expansion of repayment options to students in the guaranteed loan program. Under that plan, only students in the Federal direct lending program—only in the direct lending program—would have flexible repayment options. That is an endorsement, I believe, of the status quo, which really is unfair.

Mr. President, that is some of what the President proposes. We are waiting, as I speak this morning, for more details. The more we learn, the clearer it becomes that the Republican budget plan in regard to student loans is better for students, is better for their parents, is better for the colleges. The Republican balanced budget plan provides a tax deduction for interest on student loans, the first time since 1986. It provides flexible repayment options for all students. Most importantly, it cuts the deficit without making a college education less affordable for students, parents, and colleges.

In summary, Mr. President, the Republican balanced budget plan constitutes a major step forward for the young people in this country. I believe strongly that these student loan provisions ought to be incorporated in whatever final budget compromise is reached between the President and the Congress. Students, parents, or colleges should not be made to pay more for a college education. The Republican balanced budget plan did not make students, parents, or colleges pay more. The President's plan should not either.

I see also on the floor my colleague from Indiana who has played such a major role and has really taken the lead in shaping this very responsible plan that we have put forward. It is a plan I know he is proud of and I am proud of, as well. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Indiana, Mr. COATS, is recognized for up to 45 minutes.

STUDENT LOANS

Mr. COATS. Mr. President, I will not take nearly that much time. I thank my colleague and friend from Ohio, Senator DEWINE, for his support throughout this effort. I will take a portion of that allotted time to explain what we are about and why we feel it is so important, at this particular time, to define the future for those students and parents who are anxiously wondering about what their opportunities will be to secure guaranteed loans for college expenses and university expenses in the future.

As many who have followed this issue know, after weeks of negotiations, the Senate and House reconciled the differences between their two pieces of legislation regarding student loans, and came up with a savings figure of $4.9 billion. We had to do so because, in an effort to balance the budget, which is a noble effort which will hopefully come to a conclusion here in this next week, each committee was directed to achieve a certain amount of savings.

The Labor and Human Resources Committee has a very limited impact in terms of the savings that it can contribute to this balanced budget effort and, in fact, had very little other choice other than to look at student loans. We were faced with somewhat of a dilemma. We know college costs are rising and tuition costs are rising. We know cutting back on the amount of loans available, or the repayment obligations of those loans, puts a serious crimp on families and students alike. So, what we were able to do is come up with our recommended savings, $4.9 billion, without decreasing, without limiting, without imposing any new costs on students, on their families or on the schools. Not one student or one parent will pay 1 cent more for a student loan under the Republican reconciliation package, the balanced budget package, than they pay today.

This debate has gone on for more than a year, but particularly this year. And, unfortunately, there is a tremendous amount of disinformation being spread by the administration that somehow students and parents are going to be adversely affected by these drastic cuts in education; that students will not be able to secure loans to pay for their future education.

Demonstrations have been held during hearings. The hearing room is packed with students coming down. As we point out the facts to these students, they are almost in disbelief, because they have been told that the Republican balanced budget plan is going to drastically reduce their ability to secure student loans and drastically increase the repayment obligations on those loans.

The fact of the matter is, not 1 cent of additional cost is being imposed on students. Mr. President, 70 percent of the $4.9 billion are costs that are imposed on the banks and guaranty agencies and secondary markets who participate in administering these loans: Taking the applications, determining who is eligible, providing the money, doing the repayment collection and so forth. Those are the agencies that will take a second, additional, substantial increase in the amount of expenditures that they will have to absorb without passing any of that on to the students or the parents who take out the loans.

The 1993 Budget Act imposed a very substantial cost, several billion dollars of additional costs on these banks and agencies, and now we are adding an additional $4.9 billion. All of the rhetoric coming out of the Department of Education and coming out of the administration speaks to the opposite of what is happening. Because the balanced budget package actually affords students not only the ability to retain their existing benefits in the same form that they currently exist, but creates new benefits by ensuring that the two student loan programs, the guaranteed loan program and the direct lending program, will offer the same benefits to students. For example, until now, students receiving loans through the direct lending program were given the option of an income-contingent repayment. That is, their repayments were based on their ability to repay—income-contingent. Under the package that is now presented to us, this same option will be extended to students in the guaranteed loan program as well as the direct lending program.

Furthermore, students, their families, and colleges were protected from a precipitous move to an unproven program by capping the direct lending program at 10 percent of total loan volume. The administration has opposed this cap because the President and Department of Education have been committed for some time to a very dramatic extension, an expansion of this program, the direct lending program, and were not willing to take some time and set aside a demonstration to see whether or not it would be in the better interests of the students and colleges and actually provide the savings they claim.

Initially, the savings claimed started out somewhere close to $12-plus billion. That was revised to $6 billion. Then we finally got an estimate back from the Congressional Budget Office saying that, no, it not only would not save money for the Government, it would actually cost money because of a number of factors including administrative costs at the Department of Education.

A point we are trying to deal with here is that if we were to adopt and accept the President's proposals to continually raise the cap and eventually get, I think, to a program that only administered student loans through the direct lending program, we are likely to see the termination of the competing program, the guaranteed loan program, because these agencies cannot continue to absorb increased administrative costs while their market for distributing loans continues to shrink, as more shift over into the direct loan program. So the conferees thought that what we ought to do is double the current size of the direct lending program from 5 to 10 percent, put a cap on that 10 percent, test it as a demonstration program to see how we could administer it efficiently and effectively to see whether or not it lived up to the claims that were made for it, and then make a final decision on what the best way to offer student loans to students would be.

The Clinton plan began by removing any participation target for direct lending, effectively allowing, as I said, direct lending to go to 100 percent, as the administration has been pushing as recently as 5 months ago in legislation that it sent to the Congress. At the same time, the administration was imposing virtually all of the subsidy reductions on the guaranteed loan program, the other program, added to, as I said, increases in costs that were imposed in 1993. Taken together, these subsidy reductions along with the open-ended level of the direct loan program, in my opinion and in the opinions of many, would have effectively ended the guaranteed loan program and effectively denied and taken away the choice for the vast majority of the Nation's schools and students.

Again, let me state the facts. Even though we are putting together a plan to balance the budget in 7 years, the decision was made that we will not achieve savings by imposing on students or their parents or the schools or universities any additional costs. That ought to be good news for every college, every university, and every student and young person in this country. Despite that, we continue to hear and read the rhetoric coming out of the administration that we are denying opportunities to students and imposing higher costs on them. That is simply not true.

Make no mistake, there is a real higher education debate going on. But the debate is not whether we will provide loan assistance to students going to school. The debate is how we will provide that assistance. It is not a debate about student cuts or school fees, it is a debate about where the funds for loans will originate and who will handle that, administer the loans once they are made. The difference really comes down to whether or not you believe that a Government-run program will be more cost efficient and more effective than a private sector-run program. That point was made very well in the Washington Post op-ed article 2 weeks ago.

Two economists at the CRS, Dennis Zimmerman and Barbara Miles, wrote an article explaining that the debate between the direct lending and the guaranteed loan program is fundamentally a debate over political philosophy and not a debate over economics. I have a quote from what they wrote on this chart:

> There are no inherent cost advantages in direct lending as opposed to guaranteed lending. Regardless of how the loans are made, rules of the program dictate that the same number of loans will be made to the same students for the same purposes, and with the same interest rates and repayment terms. The idea that direct lending would somehow produce multibillion-dollar savings was attributable to . . . [and I think they generously said] misunderstanding.
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> The choice between the two boils down to political philosophy, not economics.

It is important to keep in mind that these economists at the Congressional Research Service are not individuals who work for the Republican Party, nor are they individuals who have some hidden agenda, who have some connection to the banks or the guaranty agencies. They are simply economists who work for the Congressional Research Service and provide us with objective, nonpartisan analyses of the programs that Congress develops.

As many know, I have been a vocal opponent of the direct lending program since its inception. To put it simply, I simply do not believe that the Federal Government is able to better manage a program than the private sector at a time when we are looking to privatize many Government services because we are discovering—whether it is in small town America, whether it is in our States, or whether it is at the Federal level—that the private sector does the job more efficiently and cost effectively than Government. At a time when we are attempting to privatize and find the savings in Government, along comes the administration saying, "Let us create a brand new program to be administered by a Government agency, Government bureaucracy, and let us take away a function that is being performed by the private sector and transfer it to Government."

I think anybody who has studied, or looked at, or even instinctively understands that Government programs do not operate as efficiently or effectively as the private sector, has to seriously question the decision of the administration to begin to administer an entirely new program at the Department of Education.

In my opinion, and on the basis of my analysis of Government programs and the thousands of requests, complaints, and inquiries that come into my Senate office here in Washington, or my Senate or regional offices in Indiana, complaints about the ineptness, the mismanagement, the bureaucracy, and the delays of administering Federal programs, I simply cannot endorse a program that would add yet another function to the Federal Government.

I believe that quality of service would seriously decline. I believe that the default rate would skyrocket. I think that making a Federal agency the responsible agent to ensure that the loans are repaid is not going to begin to give us the accountability that we achieve through the private sector.

One of my greatest concerns is program management. The direct lending program will centralize control at the Department of Education. The new Federal bureaucracy needed to oversee direct lending is already growing and having predictable results. We started with a 5-percent test, and already we are considerably more than that. Some of the results are in.

The Department has had to hire 400 new people to administer the program and has plans to hire some 700 more by the time the program is fully operational.

Yet, a recent issue of Forbes magazine reported that the Department is already having problems managing the $700 million that it disbursed in 1994 through direct loans. In the first year of that program, when the Department was only responsible for 5 percent of total loan volume, they somehow lost track of almost 15 percent of the loans disbursed.

The program mismanagement becomes an even greater concern with the possibility that direct lending could become the only student loan program.

As I mentioned earlier, despite their newfound love for program choice, the President and the Department of Education have made it very clear that they want ultimately to end up with 100 percent direct lending. And, in this environment, the Department of Education would then become the third largest bank in the country requiring a vast new Government bureaucracy to handle details like customer assistance and loan checks.

This is the same Department that, after 16 years of operation and $342 billion of taxpayer money, has failed to improve the quality of education in this country. Do we want this institution to have a monopoly on student loans?

Concern over this program management and whether this is a proper expansion of Federal Government is shared by four former Secretaries of Education. Former Secretaries Bennett, Cavazos, Alexander, and Hufstedler, President Carter's first Secretary of Education, wrote a letter to Senator DOLE opposing direct loans on the grounds that the Department of Education simply cannot manage this program.

I have put on this chart—it may be difficult to see—a copy of this letter to Senator DOLE from the three former Secretaries of Education, Lamar Alexander, Lauro Cavazos and William Bennett, and I will read only a portion of it.

> The effort to rapidly federalize the administration of the massive student loan program is ill-conceived and presents substantial risk to the financial lifeline for millions of this Nation's college students and families.

They further wrote that at a time when the Clinton administration has advocated public-private partnerships and deregulation to improve American competitiveness, the nationalization of the student loan program directly conflicts with those objectives.

Such strong bipartisan opposition to direct lending clearly sends a signal that we need to at the most test this program before allowing it unrestricted and unfettered growth, as the President proposed in his balanced budget plan.

The report that the conference between the House and the Senate gave back to us said they believed it was appropriate to cap this program at a 10-percent rate—10 percent of the total loan volume—and test it to see whether or not our concerns were real concerns.

I believe that a 10-percent cap would allow for a reasonable demonstration to occur. We can then take the results and make further decisions as to what we ought to do.

We ought to heed the words of those former Secretaries of Education from both parties who caution that rapid federalization of student loans as currently being undertaken by the administration presents substantial risk to the financial lifeline for millions of this Nation's college students and families.

I urge my colleagues to save student loans and to support the balanced budget provision which was supported by the Senate.

We are entering now into a period of time over the next several days when some very fundamental decisions will have to be made in terms of getting to a balanced budget in a 7-year period of time with honest numbers, without fudging the numbers or cooking the books or making false assumptions.

We owe it to the future of this country, we owe it to our children and grandchildren, and we owe it to those young people who ought to have the kind of opportunities that we have enjoyed.

This is just one piece of the puzzle. It is an important piece. It is a $4.9 billion piece. But it could result in a program which, if left unfettered, left uncapped and not tested first, could begin to push us down that road which we have been traveling for the last several decades of open-ended programs with entitlements to individuals and no ability of Congress to check it.

We have a program now that works. We have substantially improved that program in the private sector. We have imposed costs and fees on the banks, guarantors, and lenders that have helped us in our budget savings without imposing additional restrictions on students.

Frankly, it is a pretty good deal for America, to be able, when you send your children to school, to borrow funds at no interest, use those funds to pay college costs, and then have an extended repayment period after graduation where you are not even paying interest on the use of the funds for the entire time that you are in school, plus in a 6-month period of time after graduation from school.

Now, I do not know if there are many better deals in America. If there are, I would like to know about them.

And so I think we ought to deal with the facts and not the political rhetoric. We ought to recognize that we have in place an extraordinarily generous program to help parents who need the help and students who need the help in providing funds to pay for their college costs.

A program which allows you to borrow at zero interest for your entire time in school and then gives you a generous 10-year or more repayment program where the interest does not even begin to run on the amount that you have borrowed until 6 months after you have graduated, give you time to go out and look for employment so that you can begin to pay back these loans, is a pretty generous program. At a time when we are facing a substantial budget crisis, are attempting to bring fiscal responsibility to the Federal Government, at this historic moment when we hope to finally once and for all balance the budget, this is more than a reasonable proposition.

So I hope that the conferees in deciding what the final composition of the Balanced Budget Act will look like and in negotiating with the President understand what the House and Senate have come up with in terms of the student loan program is more than reasonable, does not impose additional costs on students, does not reduce the amount of loans available to those students, and simply is the way we ought to proceed.

Mr. President, I thank you for the time. Whatever time I have remaining I yield back.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for up to 5 minutes.

Mr. EXON. An inquiry of the Chair. I assume we are in morning business. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. EXON. I thank the Chair.

REV. RICHARD HALVERSON

Mr. EXON. Mr. President, passage of a wonderful. gifted and true Christian gentleman, former Senate Chaplain Richard Halverson, has left another void in our society and great sadness to this friend of his. My wonderful wife, Pat and I always felt Dick Halverson was one of God's greatest gifts to us and our spiritual well-being. He never let us down, and he always built us up.

The Christian glow of Chaplain Halverson, like a strobe light in the dark or a beacon in the storm and fog, shone brightly always and will everlastingly. Few have attained or maintained the mission of what obviously was God's wisdom and compassion in creating and sending forth among us poor sinners this giant workman for faith and good.

I knew him well years before he was called upon to be the spiritual leader of the Senate. Way back in the early 1970's, when I first met this man, I correctly sensed, when he came to Nebraska to lead us in a Governors' Christian retreat, his devotion and his unique ability to spread our Maker's message of peace and love and understanding.

While he is gone from us in this life, and we will miss him, the light and glow of Richard Halverson does not even flicker. It is brighter than ever. For this wonderful man, who has been taken from us and from his family, we issue condolences to that great family of Richard Halverson, but we commit to continue his gentle but most effective teachings that he has left all of us for the betterment of mankind. God bless my brother, Richard Halverson.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia [Mr. NUNN], is recognized for up to 25 minutes. The Senator is recognized.

Mr. NUNN. Mr. President, I ask unanimous consent that morning business be extended sufficient time to accommodate my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

A MAN DEARLY LOVED, REV. RICHARD HALVERSON

Mr. NUNN. Mr. President, I first wish to express my gratitude to the Senator from Nebraska for his fine comments on Reverend Halverson, a man we all dearly loved. There was a beautiful and wonderful memorial service to him in the Senate caucus room this week where not only Senators but, more importantly, Senate family—policemen, people working in the dining room, doorkeepers—expressed their profound appreciation for the life and example of this wonderful, wonderful disciple of God. I will be making more complete remarks, and I will also, at a later point, insert in the RECORD some of the remarks made at his memorial service so that all Senators can read them.

I certainly join at this juncture with my friend from Nebraska and thank him for his poignant and very appropriate observation about this dear brother who meant so much to this body and the entire Senate family.

DEFENSE AUTHORIZATION CONFERENCE REPORT

Mr. NUNN. Mr. President, before I speak on my frustrations with the War Powers Act and relate some of the most recent debate on Bosnia and most recent deployment of American military forces, I would like to say there was an article in the Washington Times this morning in effect saying I had declared all-out war in an effort to lobby Senators to defeat the Defense authorization conference report.

Mr. President, just for clarification, I will vote against the conference report. I worked very hard with Senator THURMOND and with other members of the committee to get a bill that would not only be something that I could support but also, more importantly, that the President would sign. I am afraid we do not have that kind of product coming in the conference report. But I have informed the Democratic Cloakroom and the Democratic leadership that I wish to cooperate fully with Senator THURMOND in getting this conference report before the Senate. I certainly will do everything I can to get a time agreement for a reasonable period for debate where people can express their views both ways, for and against this bill. I will do everything I can to persuade other Senators not to have extended debate. I have no intent of trying to keep this bill from going to the President for his final decision, whether he signs it or whether he does not sign it.

This article also said I was busy laying some kind of strategy to defeat the bill and lobbying Republican Senators and that I was trying to get out in front of Chairman THURMOND and defeat this bill.

Mr. President, I have not asked a single Senator to vote against this bill. I do not intend to lobby against the bill. I intend to state my views as to why I cannot support the bill. The conference report speaks for itself. There are some people who will be for it, some opposed to it. This article is right out of the whole cloth. I do not know how reporters are able to make these kinds of reports to the public without any check whatsoever with the people they are purporting to report on, in this case me.

It is true that I said I would vote against the bill. It is true that I laid out some of the reasons in a press release. It is not true that I am trying to impede the bill and its progress. It is not true that I am launching any kind of all-out effort to defeat the bill. It is my view that the bill will pass.

It will have, I think, majority support. It will have support from people, I am sure, from both sides of the aisle. So, I wanted to clarify my view on this. I will vote against the bill. But if I wanted to defeat this conference report, if I felt that was the appropriate route—and I do not—I would certainly be engaged in extensive debate, thereby requiring 60 votes to pass it rather than 50. I do not intend to do that. If there is any kind of effort for extensive debate, it will not only be without my cooperation but it would be against my own advice and something being done by individual Senators.

So, I hope that whoever is spreading that message or making that report or seeing that article also will take into account the remarks I have made here on the floor, which happen to be factual and true.

WAR POWERS ACT

Mr. NUNN. Mr. President, I would like to discuss the overall concept of war powers and the congressional role in making decisions to deploy United States forces abroad. There was not sufficient time in the debate on Bosnia during which I alluded to my frustration in this regard, but did not go into detail. Today I hope to lay out my views in a more complete fashion.

Mr. President, during Wednesday's debate on the Bosnia resolutions, I noted that when President Clinton publicly committed the United States to participate in implementing a peace agreement by putting U.S. forces on the ground in Bosnia, he did so without consulting with Congress prior to making that commitment, as far as I know. I was not consulted, and I do not know of others who were. I certainly do not know of any kind of formal consultation or any kind of leadership meeting before that commitment to deploy U.S. ground forces was made to the world and to our allies.

It was a very important commitment. At that time, we were not on the verge of a peace agreement, so it was not taken as being important by the news media or by those people in Congress in leadership positions; but it was important. And I think all of us need to understand that when Presidents make these kinds of commitments internationally, and when they do so without consulting Congress, then the cards are already dealt.

Those of us in the Congress who have certain constitutional responsibilities, if we do not do a better job ourselves, then this kind of pattern—it has not only been President Clinton, but it has been the same with other recent Presidents—will continue.

President Reagan made commitments and certainly took action in Panama and Grenada and Congress played almost no role.

President Bush, though he did, to his great credit, come to Congress before actually going to war, deployed hundreds of thousands of troops to Saudi Arabia without any congressional action. Congress did not take any action. I do not blame President Bush for that. Congress did not act. And President Bush then virtually doubled the number of forces in Saudi Arabia, which prevented a troop rotation, which meant that the clock was ticking. There was no way to rotate those forces. Therefore, they either had to be used in some kind of conflict or it had to be resolved. So, the clock was ticking there. Then President Bush also made it clear that whatever Congress did, even though he sought congressional authority, he was going to go forward.

So, all of this leads me to think that it is time, way past time, probably 10 or 15 years past time, for Congress to rethink its own role. I think this is fundamentally a congressional responsibility. I do not think it is going to be solved by a President, whether it is a Republican President or Democratic President. It is not their job. I would hope that any President would cooperate if Congress takes its own initiative to exercise its own responsibility and authority. But, at this stage, I do not expect the President to solve our own problem.

Mr. WARNER. Mr. President, would the distinguished Senator from Georgia yield for just a moment?

Mr. NUNN. I would be pleased to.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Virginia.

Mr. WARNER. I wish to corroborate the fact that in February 1993, when President Clinton made this specific commitment, I did not have any knowledge nor did other members, senior members, of the Armed Services Committee, to my knowledge.

Likewise, I remember the commitment of that large number of troops by President Bush. I recall the Senator from Georgia was quite concerned when he learned about it through other sources than through the consultation process which, in some effect, was taking place during that period in the fall. But I remember the Senator specifically raised a point that at no time in that consultation process—and I was the ranking member then—was there any to the then-chairman of the committee, the Senator from Georgia. And the Senator called the President to task for failing to do that.

Last, Mr. President, I urge the Senator to look at a very erudite article on this subject written by Lloyd Cutler appearing in the Washington Post, I think about 2 weeks ago. I will put it in the RECORD, the exact date of that article. It lays out with detail the legal chronology of the War Powers Act.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 26, 1995]

OUR PIECE OF THE PEACE—SENDING TROOPS TO BOSNIA: OUR DUTY, CLINTON'S CALL

(By Lloyd N. Cutler)

After months of sustained effort, the Clinton administration has succeeded in negotiating a peace agreement among the three warring ethnic factions in Bosnia. The agreements initialed in Dayton would require us and our NATO allies to place peacekeeping units of our armed forces in Bosnia for a year or more. This raises once again the biggest unresolved issue under the U.S. system of separate executive and legislative departments: Is the constitutional authority to place our armed forces in harm's way vested in the president or in Congress, or does it require the joint approval of both?

President Clinton has said he would follow the precedent set by George Bush before the 1991 Desert Storm invasion and seek a congressional expression of support before committing American units to the enforcement of the Bosnian peace agreement. But he has also asserted the constitutional power to act on his own authority, just as Bush did. This time, it is Republican congressional leaders who are challenging a Democratic president's view that the president can lawfully act on his own, but, more typically it has been Democratic Congresses challenging presidents of either party.

During the coming debate. Congress would be wise to bear in mind, as it did five years ago, that the world will be watching how the one and only democratic superpower reaches its decisions, or whether it is so divided that it is incapable of deciding at all. Congress needs to recognize that we cannot have 535 commanders-in-chief in addition to the president and that some deference to presidential judgments on force deployments is in order. That is especially true when, as in Korea, Iraq and Bosnia, the president's proposed deployments are based on United Nations Security Council resolutions that we have sponsored and on joint decisions with our allies pursuant to treaties Congress has previously approved.

In the case of Bosnia, the argument for committing U.S. forces to carry out a peace agreement is a strong one. All of us are revolted by the ethnic cleansing and other human rights abuses that the various factions have committed. These abuses are likely to continue if the peace agreement is not formally signed in mid-December as now scheduled, or if it is signed but not carried out. If the war goes on or soon resumes, it may well spread to other parts of the former Yugoslavia and to the rest of the Balkans, still the most unstable region of Western and Central Europe. Any widening of the Balkan wars could well spread to Eastern Europe and the Middle East and pose a substantial potential threat to U.S. national security.

Some foreign forces are needed to separate the contending armies and to control the standing down of heavy weapons. Under our leadership, and only under our leadership, NATO is ready to supply the necessary forces. The stronger the forces, the better the chance that they will not be attacked and that they will accomplish their mission. All these reasons argue for a significant U.S. military commitment, now that a promising peace agreement has been reached.

In 1991, the Democratic Congress narrowly approved President Bush's decision to reverse the Iraqi invasion of Kuwait, thus mooting the issue of whether the president could have acted alone. Today, the Republican congressional leadership, while sounding somewhat more conciliatory than in recent weeks, is challenging President Clinton to make his case for the proposed deployment. This war powers question has come up repeatedly since the 1950 outbreak of the Korean War, when President Truman committed our forces without first seeking congressional approval, but has never been resolved.

In foreign and national security policy, as in domestic policy, neither Congress nor the president can accomplish very much for very long without the cooperation of the other. This is so for both constitutional and practical reasons. The Constitution gives Congress the power to "declare war," but both Congress and the president share the power to raise armies and navies and to raise and appropriate funds for their maintenance and deployment. Only Congress can enact such measures, but it needs the president's approval or a two-thirds majority of both houses to override his veto. Only the president can negotiate treaties, but he needs a two-thirds vote of the Senate to ratify them. The president's separate powers are limited to receiving ambassadors, serving as commander-in-chief of the armed forces and faithfully executing the laws. If as commander-in-chief he orders our armed forces into a combat situation, he still needs congressional approval to finance such a commitment over an extended period of time.

Before the United States became a superpower, disputes over the authority to commit our forces rarely arose. We had few occasions to deploy our military units abroad, much less commit them to conflict. Armies, navies and news of battle traveled very slowly. Air forces and long-range missiles did not exist. There was plenty of time after learning of a threatening event for the president to deliberate with Congress about the proper response. Occasionally, presidents committed us unilaterally, as in our attacks on the Barbary pirates in Tripoli in Jefferson's time, but it was rare for Congress to claim that its own prerogatives were being usurped by the president.

Since World War II, all this has changed. As commander-in-chief of the democratic superpower, presidents now deploy our armed forces all over the world. We can attack, or be attacked, within moments. On numerous occasions, presidents have committed our forces to armed conflict, sometimes of a sustained nature as in Korea and Vietnam, without asking Congress to declare war. In Vietnam, as it had in Korea, Congress initially supported the president's initiatives by appropriations and other measures. But as the duration and scope of our military actions in Indochina escalated, an increasingly restive Congress enacted the War Powers Resolution over President Nixon's veto. The resolution laid down a series of rules that require a president "in every possible instance" to "consult with Congress" before he commits our armed forces to combat or to places in which hostilities are "imminent." It also requires the withdrawal of those forces if Congress fails to adopt an approving resolution within 60 days.

President Nixon and all subsequent presidents have challenged the constitutionality of these prescriptions, but the Supreme Court has never accepted a case that would resolve this dispute and is unlikely to do so in the near future. When presidents "consult" with Congress before committing forces, they are careful to avoid saying they do so "pursuant to" the War Powers Resolution; they say they do so "consistent with" the resolution.

There are obviously situations where modern technology makes advance consultation with Congress impractical—most notably the case where our sensor equipment indicates that a missile attack has been launched on the United States or our NATO allies, or where speed and secrecy are key factors, as in the rescue of American hostages or reprisals against a terrorist act abroad.

But presidents have continued to commit our forces to armed conflict or situations where conflict was clearly "imminent," whether or not split-second timing was imperative. President Ford, for example responded forcefully to an attack on a U.S. vessel (the Mayaguez) off the Cambodia coast; President Carter launched a military mission to rescue our hostages in Iran; President Reagan put our forces into Lebanon, the Sinai, Chad and Grenada and ordered bombing attacks on Libya; President Bush sent troops into Panama, Liberia, Somalia, Saudi Arabia, Kuwait and Iraq.

As for President Clinton, he has already ordered our forces into Somalia, Rwanda, Haiti and Macedonia and has authorized our air units to enforce the U.N. no-fly zone over Bosnia itself.

Moreover, in the 22 years since the War Powers Resolution became law, Congress has never undermined these presidential uses of force by action (or inaction) in a way that would have blocked the mission or required withdrawal within 60 days.

All this does not mean that Congress must cede the power to make national security decisions to the president. Congress successfully forced Johnson and Nixon to limit and finally to terminate the undeclared Vietnam War. Congress successfully stopped Reagan's covert sales of weapons to Iran and his covert and overt military aid to the contras. As these examples show, presidents cannot effectively exercise their separate constitutional powers over national security and foreign policy over an extended period without the cooperation of Congress. That is why Clinton, like Bush in 1990, has invited Congress to express its views before our forces are committed to support the peace agreement in Bosnia.

A week ago Friday, while the Dayton negotiations were still going on, House Republicans passed a bill that would bar the expenditure of any funds to sustain U.S. forces in Bosnia. Fortunately, the Senate is unlikely to follow, and even if it did, a presidential veto would be difficult to override. But the House Republicans who launched this preemptive strike would do better to emulate former Republican congressman Dick Cheney.

In 1990, when we had a Republican president and Democratic majorities in both houses of Congress, Cheney was the secretary of defense. As he said before we entered the Gulf War, "When the stakes have to do with the leadership of the Free World, we cannot afford to be paralyzed by an intramural stalemate." The decision to act, he noted, "finally belongs to the president. He is the one who bears the responsibility for sending young men and women to risk death. If the operation fails, it will be his fault. I have never heard one of my former [congressional] colleagues stand up after a failed operation to say, 'I share the blame for that one; I advised him to go forward.'"

This does not mean that Congress must approve the president's proposed commitments without change. For example, following the Lebanon precedent, Congress could require its further approval if the forces were not withdrawn within, say, 18 months, a period that expires after the next elections. The president and Congress have the shared responsibility of finding a solution that shows we can function as a decisive superpower and as a responsible democracy at the same time. The public expects no less.

It may be too late to help in the Bosnia debate, but there is one change in our process for making national security decisions that ought to be adopted. The National Security Council (NSC), the statutory body created to advise the president on national security affairs, consists entirely of officials in the executive branch. When the NSC takes up issues related to the potential commitment of our forces, the president could invite the attendance of the speaker, the majority and minority leaders of the House and Senate and the chairman and ranking members of the national security and foreign policy committees of each house. Since the NSC role is purely advisory, no separation-of-powers issues would arise. In this way Congress, in its own favorite phrase, would be effectively consulted before the takeoff, rather than at the time of the landing. The cooperation on national security issues that the nation wants and expects might still elude us, but the president would have done his part to carry out George Shultz's admonition that trust between the branches must be Washington's "coin of the realm."

Mr. NUNN. Mr. President, I think that is a very good article to place in the RECORD. I thank the Senator from Virginia, my friend from Virginia, for his recollection, which is entirely consistent with my own.

Mr. President, during the cold war—in a long period of nuclear confrontation—all of us and most Americans instinctively understood that the Commander in Chief had to make a quick and decisive decision with potentially fatal consequences if certain events took place.

In effect, every President of the United States from 1945 on has had the acknowledged authority and responsibility to respond to aggression by using nuclear weapons, which could result in the destruction of a large portion of mankind, including most of the United States.

With this awesome authority being accepted for so long, recognizing that, if the former Soviet Union attacked the United States, and certainly if they used nuclear weapons, there would not be time for 30 days of congressional debate or probably even 3 days. With that kind of reality having taken place for so long and that kind of assumed authority being vested in the Commander in Chief, how then, in 1995, in a totally different set of circumstances, does Congress exercise its constitutional responsibility to "declare war?" And even more relevant in my view, how do we exercise our responsibility in funding these operations?

That is the ultimate power of Congress. Senator BYRD reminds us of that frequently. The ultimate power of Congress is we pay the bills on behalf of the American people. We appropriate the money.

Mr. President, in Grenada, in Panama, Congress played almost no role in those military operations. In Lebanon, we heard President Reagan declare that our military commitment in Lebanon was vital—he used the word "vital" several times—to our national security interests. Congress approved the deployment of U.S. military forces with a time certain to perform an ill-defined and uncertain mission which I opposed.

It was almost the ultimate backward way of doing things. We put a time certain on completion of the mission but did not define the mission. So we ended up with a time certain to perform something that no one knew really what it was. That was, I think, a backward way of doing things.

To the credit of the Dole-McCain amendment—and I participated in helping draft the final version of that amendment—I do think that the current approach is a much better approach than we have had in the past in the sense that, at least, we make it clear what the mission is and there is an effort to define an exit strategy.

We did neither of those things in the Lebanon situation. I voted against it. But, nevertheless, in Lebanon we witnessed the tragic death of hundreds of our marines, uncertain as to why they were there or what they were supposed to do. We saw President Reagan pull the troops out of this "vital" area overnight. Since then, we paid very little heed to events in this so-called vital country.

In the Persian Gulf, Congress, without speaking formally, acquiesced in the commitment of several hundred thousand ground troops to protect Saudi Arabia. We watched without taking any action as President Bush deployed such a large force in November of that year, that its rotation was infeasible, and made international commitments at the same time, or very shortly thereafter, to go to war against Iraq on a date certain. Those international commitments to go to war on a date certain were without congressional approval.

By a close vote on the eve of the war, Congress gave President Bush the authority to do what he had committed to do with or without congressional approval.

Mr. President, I do not blame the Presidents for acting and exercising leadership. They can make mistakes like anyone else. That is why we have three branches of Government. That is why the Founding Fathers very carefully separated the right to declare war from the Commander in Chief and placed it in the legislative branch of Government. That is also why all funds have to come from the Congress.

So, the President, whether President Bush or President Reagan or President Clinton, is, when making these decisions, exercising Executive leadership. And they are doing it too many times with a vacuum, a void, coming from the Congress in terms of a response.

So, it is our job to say what the congressional role is. We put up the money, and it is our job to say what we demand in terms of a role. And, so far, I do not think we have done it.

I believe this is the time for the Congress to acknowledge formally what is plain for all to see, and that is the War Powers Resolution does not work. Furthermore, it is not going to work. The longer this outmoded and unworkable legislation remains on the books in its present form, the longer we will continue the illusion—and it is an illusion—that Congress has a meaningful role in the commitment of U.S. military forces to these types of missions.

Certainly, we can come along and we can take an action after the mission is already well underway to cut off funds. That is always a very difficult, very painful way to do business. We have done that only on one or two occasions. We did it in Somalia, in effect, and we do not think we should have to rely on that as the way we do business. We may have to do it again, but it is certainly not the desired way for this Government to function, certainly not in international affairs.

No President will allow U.S. forces to be withdrawn from a military mission because of congressional inaction, as set forth in the War Powers Resolution, nor, in my opinion, should they. The War Powers Resolution provides that if the President commits forces in a hostile area, then Congress, by its inaction, can require those forces be brought home by doing nothing.

That has never worked. I voted for the War Powers Resolution. I wish now I had not because it will never work. It is not sensible. It defies reason. Congress sitting on its hands requiring a President who has committed our military forces to a foreign area where they are in harm's way—maybe even in a war or conflict—and we do not do anything. And the War Powers Act presumes the President will then bring them home. That has never worked. It never will work. The longer we continue to keep this legislation on the books, the more impotent the Congress of the United States will be in exercising its real authority under the Constitution.

Mr. President, we should either amend the War Powers Act to make it workable or we should repeal it and replace it with legislation that is realistic and workable. That is long overdue.

In the post-cold-war world in which the United States is called on to intervene in ethnic, religious and other conflicts in areas that may be important but less than vital, we must find a way to create regular, frequent and comprehensive consultation between the President and the Congress before the President makes concrete commitments and before U.S. troops are committed to harm's way.

Such consultation can, in theory and in reality, take many forms. My preference is the formation of a Congressional Consultation Group, as was proposed almost 7 years ago, by myself, Senator BYRD, Senator MITCHELL, Senator COHEN, Senator WARNER, Senator BOREN and Senator DANFORTH in a bill to amend the War Powers Resolution. I believe Senator BIDEN from Delaware had a similar resolution which he sponsored.

Under that bill, the congressional leadership, including the chairmen and ranking members of the Appropriations, Armed Services, Foreign Relations and Intelligence Committees would meet on a regular and frequent basis with the President to discuss real-world situations that could lead to the involvement of the United States forces. Some have suggested having that group meet on a regular basis with the National Security Council, chaired by the President. It seems to me that thought is worthy of pursuit. I certainly believe that would be one form that this could take.

But whatever the form of consultation, I believe there also needs to be an attempt to forge an executive-congressional consensus on a set of principles that will guide the use of United States forces in the future. This approach starts with the proposition that the United States is the world's only superpower and that we have certain responsibilities that no other nation on earth can fill.

Too many times, when we get into a Third World situation or a situation like Bosnia, or a humanitarian mission like Somalia, or a mission like Haiti, or a mission in other areas of the world, we forget—as our allies urge us to come in and play our role—we forget that we are the only country in the world that can do certain things. Too many times our allies forget that, too. They, of course, want us on the scene every time there is a problem.

But, Mr. President, we need to keep in mind that we are the only nation in the world that can deter the use of weapons of mass destruction. We are the only nation in the world that can lead and coordinate the worldwide effort to avoid the spread of weapons of mass destruction to the Third World and to terrorist groups. We are the only nation in the world that can help preserve the stability in Europe by the presence of American forces that, although dramatically reduced in number, are still very significant in terms of their psychological and their political impact.

We are the only nation in the world that, with our allies in South Korea, can deter and defeat the aggression of North Korea or come to the rescue of nations in the Middle East that are the world's primary source of oil.

We are the only nation that can perform those key and vital functions.

By our military presence, we are the only nation in the world that can give the Japanese the confidence to resist any urge they might have in the future to develop nuclear weapons and go on a real rearmament program that would have a profoundly destabilizing effect in northeast Asia and beyond.

And we are the only nation in the world that can keep open the sea lanes of communication on which not only our trade but also the trade of the world and the economy of the world depend.

Mr. President, these are all key functions. That does not mean we cannot perform other functions like Bosnia, but it does mean that, when we undertake this kind of mission, we and our allies should understand the United States should not be expected to continue a large ground force in an area like Bosnia for a prolonged period of time, because if something goes wrong in Korea, if something goes wrong in the Middle East, if something goes wrong elsewhere in the world, who is going to play the role of superpower? There is no one else on the block.

I believe we can divide America's interests into three broad categories: one is humanitarian; two is important; and three I would call vital. There is other terminology that people might want to use, but I would like to stimulate at least some discussion and thought about the areas where the United States may be involved.

A humanitarian interest is an interest in which we want to see an alleviation of suffering, but where we do not have a significant strategic interest. This includes cases like Somalia, Rwanda, Burundi, Bangladesh, Sudan—places where people are going through tragic turmoil and, in many places, actually starving.

We see them on television. It brings tears to our eyes. We want to do something about it, but, in my view, this does not mean we should automatically think about sending military forces. In those cases where we want to alleviate suffering, I think our responsibility—again keeping in mind the other responsibilities we have as a superpower that no one else can perform—our responsibility, generally speaking and in most cases, is to say to our allies: we will help you with logistics, we will help you with airlift, we will help you with sealift, we will help you with intelligence, and we will help you with communications, but we want you to do your job by putting in ground forces where necessary for peacekeeping or peace enforcement purposes. Not only to our allies in the traditional sense, but also to nations in the region where the tragedy is occurring.

In other words, on most such occasions, we should do the things only we can do and let others do things they can do.

Mr. President, this probably does not meet the definition of a national security strategy, but I believe we need to start thinking along those lines.

America cannot deploy military forces in all of these humanitarian areas, and when we do, we can get into serious and severe difficulty. Somalia is the best example of that.

To me, a vital interest is one that we are willing to fight for and, if necessary, willing to send our young people off to die for. This is an awesome responsibility. There are not many of those interests in the world, by the very definition of that word, and we have to be very careful in designating an area as a place where we have a vital interest. That word ought to be used very carefully.

Korea is a place where we have vital interests. Without any doubt, we would fight in Korea, if necessary. We have already demonstrated that. We continue to demonstrate it with the presence of thousands of American military forces. We have already demonstrated we have a vital interest in the Middle East in the Persian Gulf war and by the deployment we had—a couple of deployments—just in the last 2 years when the Iraqis again started threatening Kuwait.

Mr. President, we also have had a vital interest in Europe since World War II, and we continue to have a vital interest in Europe. We are a party to the North Atlantic Treaty, which provides for a collective defense in the case of an armed attack against one or more of the parties.

The United States also has entered into bilateral defense treaties with Japan, the Philippines, and the Republic of Korea. We have entered into a multilateral defense treaty with Australia and New Zealand—although in the latter case, our obligations under that treaty have been suspended with respect to New Zealand since September of 1986 because of differences on the question of port visits of nuclear-powered warships. Mr. President, under that treaty, we have committed to meet the common dangers of an armed attack on our treaty partners in accordance with our constitutional processes. That is the case in most of these treaties.

And, of course, the area Senator LUGAR and I have emphasized more than any other in the last 2 or 3 years, and where we have the most profound and difficult national security challenge in the next 10, 20 years, or even longer, is that we have a vital interest in preventing the proliferation of weapons of mass destruction—not simply nuclear weapons, but chemical as well as biological weapons, which can literally kill tens of thousands of people in an instant. That is also a vital interest because it could be a direct threat to our Nation and to our friends in the world.

Now, the most difficult of all of these areas is the third category, the one that fits between vital and humanitarian, and the term that I use is "important interest." An important interest is an interest that is more than a mere humanitarian interest, but does not rise to the level of a vital interest. There are overlaps between these categories. They no longer come in a neat package. The most difficult can be exemplified by Bosnia, where I have long believed we have had an important interest but not a vital interest. I do believe that we have a strategic and even a vital interest in preventing that conflict from spreading. If it spreads to other areas, then it could indeed become vital. When an important but not vital interest becomes a test of NATO solidarity—as has happened in the case of Bosnia—when an important interest becomes a test of United States leadership in NATO and of United States credibility and commitment in the world, it moves into a category beyond important. Such is the case in Bosnia.

We must also bear in mind when considering the deployment of our forces for other than a vital interest that the cumulative impact of such deployments may interfere with our responsibilities as the world's lone superpower in areas which are truly vital to U.S. security and the American people.

Returning, briefly, to the subject of Executive-Congressional consultation, I note that the majority leader, Senator DOLE, introduced S. 5, the Peace Powers Act of 1995 earlier this year, which, in part, would have repealed the War Powers Resolution but re-enacted the consultation and reporting provisions of the War Powers Resolution.

Mr. President, I also note that the May 1994 White Paper entitled "The Clinton Administration's Policy on Reforming Multilateral Peace Operations," stated that the administration would support legislation along the lines of that introduced by myself, Senators Mitchell, BYRD, WARNER, and COHEN, to amend the War Powers Resolution to introduce a consultative mechanism and to eliminate the 60-day withdrawal provisions.

Based upon these developments, Mr. President, I believe it is very important in the next year that we have a chance to forge a bipartisan approach that would meet the needs both of the Congress and of the administration and that would foster a more cooperative approach between the two branches on important national security decisions. When our military forces go into harm's way, they have every right to expect that both the executive branch and the legislative branch have been involved in the decisionmaking and are behind the mission. That is something we owe the military men and women who serve in our forces abroad.

Mr. President, I intend to introduce legislation early next year to address this very important issue. It has been delayed too long in terms of dealing with it. I repeat, the longer we pretend that we have on the books legislation that covers congressional responsibility in this important, crucial area, the longer we deal with an illusion which has no basis in reality. Mr. President, I solicit input from all Members of the

Senate on both sides of the aisle on this issue. I hope we can address it before the next crisis arises.

I thank the Chair, and I yield back whatever time I have remaining.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. DOLE. Mr. President, we have had a number of inquiries about what the schedule will be for the remainder of the day. Frankly, I do not know. It depends on the meeting, which will take place here in a few moments with White House representatives and Members of the House and Senate, on the budget. It is my understanding that if a serious budget is proposed and presented by each side, then the House will be prepared to send us a short-term continuing resolution that would take us through at least next Tuesday. If that develops—and it may be later on today—I would have to check and see if there would be a request for a rollcall vote on either side. If not, we might be able to advise our colleagues within the next hour as to what the program will be.

It is also my hope that on the defense authorization bill, even though the House does not take up the conference report until 4 o'clock, we might reach some time agreement on that bill to permit us to start debate earlier than 5 p.m.—in fact, early afternoon—and we can debate it on Monday and have that vote sometime around 11 o'clock on Tuesday morning.

So what I am suggesting is that if everybody wants to cooperate, we may be able to work it out so there might not be any votes for the balance of the day or on Monday, and a vote will occur on Tuesday at around 11. But I cannot make that statement definitely at this time.

So that is what we are working on. If my colleagues have ideas or objections or suggestions, I hope they will be in touch with me or staff between now and, say, 12:15.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I shall speak longer than 5 minutes, but I do not think I will be longer than 10 minutes. I ask unanimous consent that I may speak as long as I require.

The PRESIDING OFFICER. Without objection, it is so ordered.

DR. RICHARD C. HALVERSON

Mr. BYRD. Mr. President, the founder of Methodism, John Wesley, declared, "The world is my parish." In a like fashion, Dr. Richard Halverson might have declared that the Senate side of the U.S. Capitol, the city of Washington, DC, and the United States of America were his parish.

No one who ever passed Dr. Halverson in the hallways or in the streets of this Federal community had any reason to doubt that Dr. Richard Halverson was a man in whom the Light of God's Love shone brightly. From the men and women who clean our offices at night to the men and women who prepare the meals in our dining rooms and cafeterias, to the men and women who deliver the mail throughout the office complexes, to the men and women who police the streets of Capitol Hill, to the men and women who serve in the offices of Senators and on the elevators and in committee staffs to the men and women who sit on the Floor of the U.S. Senate as elected officials of the fifty sovereign States, no one was beyond Dr. Halverson's love, his ministry, and his care. If one followed Dr. Halverson throughout his daily routine, one would not find a man more possessed by, as well as animated by, the Capitol Spirit of the Living God. I have met few men in any ordained order of the clergy or any denomination, who fit the phrase "Men of God" so well as did Dr. Halverson.

Dr. Richard Halverson was a man of plain speech and honest demeanor. His eloquence was often in his simplicity. No problem brought to him by one of us or by anyone on Capitol Hill was too small for his attention or too menial to call forth from him a prayer or a blessing. Having come from a major Washington parish—The Fourth Presbyterian Church on River Road—a church numbering among its members thousands—Dr. Halverson, on assuming the chaplaincy of the U.S. Senate, shouldered his duties without missing a beat. During his years of service among us, he was in much demand nationwide to share his spiritual maturity and the depth of his insights with thousands upon thousands of people in conferences across our country. In spite of the demand upon his time, however, Dr. Richard Halverson never neglected his primary duty here in the U.S. Senate. Working as one man among ordinary men and women—the men and women elected to the high position of U.S. Senator, Dr. Halverson seemed to grasp instinctively our needs as human beings first and our needs as Senators second. In all of the years of his service here, Dr. Halverson sowed seeds of faith, and kindness, and love that will continue to bear fruit in all of our lives, and in the life of this institution long after all of us have departed its halls.

I am particularly grateful to Dr. Halverson for the pastoral care that he lent to me personally during the ordeal of the loss of my beloved grandson in a truck accident. And I remember with thankfulness his ministry to my wife during her seasons of illness and debility. And I shall never forget the witness that Dr. Halverson shared with me of his own faith as he and I opened our hearts to one another and searched the deeper things of life in sometimes casual conversations or in moments of profound insight. If ever there were a model of the "Priesthood of all Believers," Dr. Halverson was a priest of that order of "Melchisedec" spoken of in the Holy Scriptures. Dr. Halverson had the enviable ability to share his faith in God as one might recommend to another his Best Friend. For Richard Halverson, God was no abstraction, but the first reality of waking in the morning, traveling forth into the world by day and returning home at night to his slumber.

I saw the sun sink in the golden west;
No angry cloud obscured its latest ray.
Around the couch on which it sank to rest
Shone all the splendor of a summer day.
And long, though lost to view, that radiant light,
Reflected from the sky, delayed the night.
Thus, when a good man's life comes to a close,
No doubts arise to cloud his soul with gloom,
But faith triumphant on each feature glows,
And benedictions fill the sacred room.
And long do men his virtues wide proclaim,
While generations rise to bless his name.

I have no doubt that Dr. Halverson has indeed now gone to his reward in that Eternity for which each of us yearns in his heart of hearts. Death can be no victor over the life of a man like Richard Halverson—a man whose daily walk and whose wisdom were rooted in the Eternal Word of God. Indeed, as Jesus said, when he saw Nathanael coming to him, we might also say of Dr. Richard Halverson, "Behold an Israelite in whom there is no guile."

My wife and I extend our deep deepest sympathies to Mrs. Halverson and to the family of Dr. Halverson. He was not slick; he was not even particularly polished, perhaps, but neither was the Jesus Christ whom he served. This was not just a vocation, it was an avocation, and what you saw was what you got.

As I said to his son after Dr. Halverson's passing, I have no doubt—and I had no doubt that Dr. Halverson knew—of his son's grief. I felt that way when my own foster father passed from this earthly life. I felt that way when my grandson was taken at the age of 17. I felt that his spirit still lived, and that he knew of my grief.

Dr. Halverson knows today of his family's grief. They can take solace in the promise that he still lives, and that they can one day be reunited with him.

ROSE STILL GROWS BEYOND THE WALL

Near a shady wall a rose once grew,
 Budded and blossomed in God's free light,
Watered and fed by morning dew,
 Shedding its sweetness day and night.

As it grew and blossomed fair and tall,
 Slowly rising to loftier height,
It came to a crevice in the wall,
 Through which there shone a beam of light.

Onward it crept with added strength,
 With never a thought of fear or pride.
It followed the light through the crevice's length
 And unfolded itself on the other side.

The light, the dew, the broadening view,
 Were found the same as they were before;
And it lost itself in beauties new,
 Spreading its fragrance more and more.

Shall claim of death cause us to grieve,
 and Make our courage faint or fall?
Nay! Let us faith and hope receive:
 The rose still grows beyond the wall.

Scattering fragrance far and wide,
 Just as it did in days of yore,
Just as it did on the other side,
 Just as it will forevermore.

Mr. President, I yield the floor.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

SENATOR BYRD'S STATEMENT

Mr. THOMAS. Mr. President, I think we all are grateful and thankful for the eloquent remembrance by the Senator from West Virginia.

I am sorry that I did not have the opportunity to know Dr. Halverson and was not a participant in the prayer breakfasts. I attended his service this week. The Senator from West Virginia certainly does him great honor, and we appreciate it.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

THE REFUGEE PROGRAM

Mr. LAUTENBERG. Mr. President, yesterday my good friend and colleague from Wyoming, Senator SIMPSON, made some comments, and particularly made reference to the so-called Lautenberg refugee program. Though Senator SIMPSON and I agree on some things and disagree sharply on some things, there is, on balance, mutual respect and I might even say affection. So where we disagree on this issue, it is because of a perspective on the issue.

However, during his presentation on the floor, he used references such as the so-called Lautenberg refugee bill. He used adjectives like derelict or deficient, that this bill was no longer of any value, and I just would like to clear the record.

Current law, under our immigration code, facilitates the granting of refugee status for certain historically persecuted groups. The existing law formally recognizes the historic experiences of certain persecuted religious minorities in the Soviet Union and Indochina, and the pattern of our denial of refugee status to members of those minorities entitles them to a relaxed standard of proof in determinations about whether they are refugees. The law lowers the evidentiary standard required to qualify for refugee status for Evangelical Christians, for Jews from the Soviet Union, certain Ukrainians, and some categories of Indochinese.

Once a refugee applicant proves that he or she is a member of one of these groups, he or she has to prove a credible basis for concern about the possibility of persecution. Refugee applicants normally must establish a well-founded fear of persecution. The law has had a real and positive impact on refugee adjudication for persecuted individuals.

In his comments to the Senate yesterday, Senator SIMPSON said that there is evidence that members of the Russian mafia are using the program to enter the United States. I want to be perfectly clear that the refugee program was not intended to enable criminals to enter our country. It was not designed to facilitate entry into the United States by those not qualified under the description of refugee status.

Further, Mr. President, in my former life I was in the computer business and still have a lot of contact there. I have seen many of these people who have come, under the refugee exclusion, into the design and programming phases of the computer industry, many of them entrepreneurs. I have met those who, in a very short period of time, have learned enough of the English language to practice law and become physicians. So we dare not accept one generalization that those who are using the program are principally members of the Russian mafia, that the gangsters are using this, because if they are, then it is not the fault of those who are coming.

It is my understanding that under United States law an applicant should be denied refugee status if our Government knows that he is a criminal, or for some reason or other is excluded from entry into the United States. So where does the responsibility lie? It lies with the INS or the State Department. They have to do a better job in weeding those people out based on current law.

The refugee program was intended to help historically persecuted religious minorities, certainly not criminals.

My friend, the Senator from Wyoming, also said the program is no longer necessary because we have good relations with Russia and that the program has been abused. As a matter of fact, I was stunned when I heard the Senator from Wyoming describe Russia as our best friend. I would say that is hyperbolic at least. Russia, our best friend? We want them to be a good friend, we want them to be an ally, but certainly one cannot say that they are now our best friend and that they are behaving like a democracy as we know it. And although he describes the program as being discredited, the fact is that it has served as a useful opportunity for those who are very concerned about what is going to happen and what has taken place in terms of their relationship with Russia and the former Soviet Union countries.

There is still a tremendous amount of instability in that area, and although antiSemitism is no longer officially State sponsored, its roots run deep throughout the culture and its effects are felt in incidents across Russia and many of the other former Soviet Union countries. And now we are all made abruptly aware that on this coming Sunday, when elections are going to be held in Russia, there is a strong belief that those who are most likely to win seats are members of the Communist Party, avowed reformists. But the fact is we know that if people are looking fondly back to electing Communists to Government, with it goes a standard that has been set by those people for decades in that area. And so those who have been harassed in the past, who are likely to run into problems are very worried about what the future holds.

So if there are some who seek to abuse the program, as Senator SIMPSON claims, it is the responsibility of our Government to weed out that abuse. We do not stop collecting taxes in this country if someone abuses the Tax Code. What we do is we go after them vigorously. And the same thing is true here. Our Government should eliminate the abuse if there is any in the program. It is not a reason to say that a program that has helped legitimate refugees is discredited.

Mr. President, the House version of the State authorization bill includes a 1-year extension of this program, a program that has provided a useful escape valve for historically persecuted people who come to this country and make a contribution to our society. In light of existing instability in the former Soviet Union, I believe that this program ought to be extended for another year. What it takes is our conferees in discussion to agree with the House.

I hope that will take place to give this program another year to work until we see what the conditions are going to be like in Russia in particular and some of the other countries of the former Soviet Union.

I yield the floor.

REFUGEES FROM FORMER SOVIET UNION

Mr. KENNEDY. Mr. President, yesterday, the distinguished chairman of the Senate Immigration Subcommittee, spoke against the Lautenberg amendment which assists refugees from the former Soviet Union and which is reauthorized under the House version of the State Department reauthorization bill.

I support the amendment because it works. It has facilitated the rescue of more than 250,000 persecuted Jews and other minorities from the former Soviet Union since Congress adopted it in 1989. For decades, the United States led the world in seeking the release of the refuseniks and urging freedom of emigration under the Jackson-Vanik amendment. Having come this far, we should not abandon this historic commitment by bringing this humanitarian program to a premature end.

Clearly, major political changes have occurred in the region. The Soviet Union is now the former Soviet Union. And most people there enjoy greater freedom today than they did a decade ago.

But we only need to read the headlines to know that the region continues to face great upheaval. Jews and other minorities in the former Soviet Union are still the victims of persecution and deep-seated hatred and antisemitism.

When Senator SIMPSON and I met with the U.N. High Commissioner for Refugees earlier this year, she said she considered the former Soviet Union to be the most explosive part of the world for refugees. And visitors to the region over the past year have discovered alarming levels of anitsemitic persecution.

An American delegation to the Ukraine in March found that Jews were victims of an organized harassment campaign. Many Ukrainian Jews received anonymous notices that read, "We give you the last opportunity to leave our Ukraine. Get out if you don't want to die." The fact that Jewish families in the former Soviet Union can be threatened repeatedly, denied employment, have their children mocked and beaten in school, and receive death notices like this one—all because they are Jews and all with the authorities standing idle—is ample evidence that these families need America's continuing support to provide a lifeline. That is what the Lautenberg amendment does.

If there are abuses in the program, as SIMPSON states, we are prepared to work with him to address them, and I know that Senator LAUTENBERG joins in that commitment.

Those who come to the United States under this program are checked against lookout lists and criminal databases, as are others who seek to enter the United States. As in all immigration programs, we deny entry to known criminals and any others excludable under the law. The numbers requiring help and rescue under the Lautenberg amendment are declining. But we must not bring this historic help to a hasty and premature end.

Mr. President, I ask unanimous consent that two articles which describe some of the problems facing Jews in the former Soviet Union be printed in the RECORD.

There being no objection, the articles are ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Jan. 27, 1995]

LIBERATORS OF AUSCHWITZ YET TO LEARN ITS LESSON

(By Wendy Sloane)

In the last few years, Alexander Kleiman has witnessed a series of attacks on the Moscow Choral Synagogue, one of only two synagogues left in the capital after a third burned down in unexplained circumstances.

Two years ago, vandals smashed several windows of the dilapidated building in central Moscow. This winter, "Save Russia, Kill the *Zhids* [a derogatory word for Jews]" was scrawled in bright paint across the building. A week later, the front façade was shot up with bullets.

"Russians learn to call a Jew a zhid from the moment they're born. Anti-Semitism is in their blood," says Mr. Kleiman, the synagogue's chief administrator.

"If the American president and Congress allowed all [Russian] Jews to immigrate," he says, "I can guarantee that 90 percent would leave."

As the world commemorates the 50th anniversary of the Soviet Army's liberation of the Nazis' Auschwitz death camp in Poland today, anti-Semitic sentiments are increasingly common in Russia, and the government is doing little to stem the tide.

SCANT ATTENTION

While Russians have complained that the world community has made little mention of the fact that it was largely Russians who liberated the camp, they have done little to commemorate the event themselves.

Alla Gerber, a Jewish deputy to the State Duma (lower house of parliament), said no ceremony would have been held in Russia had she not organized an event. Neither President Boris Yeltsin nor his closest aides will attend the ceremonies in Poland.

"The current period of economic crisis, combined with an absence of real power and a spiritual vacuum, is giving rise to fascism and anti-Semitism here," says Ms. Gerber, who represents the liberal Russia's Choice parliamentary faction and is one of the few deputies—who are both Jewish and non-Jewish—to speak out against anti-Semitism.

"What will happen depends on how the government decides to use the idea of Russian nationalism, either as a patriotic idea or as a totalitarian fascist one," she says.

President Yeltsin marked the anniversary Wednesday by rehabilitating millions of gulag prisoners who were imprisoned by Josef Stalin after World War II for suspected collaboration with Nazis. But he did not mention that most of the estimated 1.5 million people who died in the Auschwitz-Birkenau death factory were Jews.

In a speech to the United Nations last September, Yeltsin officially condemned anti-Semitism. But he has yet to do so on Russian soil.

"Both the authorities as well as leaders of democratic parties presume that if they make an official statement it will reduce their authority in the eyes of their electorate," says Mikhail Chlenov, chairman of the Vaad, an umbrella organization that brings roughly 275 Jewish groups together.

"I would say that anti-Semitism has become an integral part of Russian politics," he adds.

Politicians ranging from local deputies to ultranationalist Vladimir Zhirinovsky have risen to prominence on anti-Semitic platforms, and some senior bishops in the Russian Orthodox Church routinely accuse Jews of exerting undue influence.

Some Jewish leaders have received death threats, and members of anti-Semitic groups are often seen at public rallies, holding placards accusing Zionists of ruining the country as part of a "Jewish-Masonic conspiracy."

A STEP BACKWARD

Russia has "returned to a period of anti-Semitism, ultrareactionary [attitudes], and chauvinism, patronized by law-enforcement bodies," said Sergei Gryzunov, chairman of Russia's State Press Committee, at an international antifascist forum last week.

He referred in particular to the "huge number" of legally issued nationalist and chauvinist publications that have sprung up since the Soviet collapse.

But Viktor Korchagin, director of the Russian Patriot's Library publishing house, says he has a simple solution to what he terms the "Jewish question." To rid Russia of anti-Semitism, he says, Russia must simply rid itself of its estimated 750,000 Jews.

"We're not advocating the return of pogroms," he says, referring to the organized persecution and massacre of Jews in czarist Russia. "We just want President Yeltsin to decree that all Jews be deported."

Mr. Korchagin insists that he is targeting the "Jewish mafia"—which in his view includes all government ministers, all of Yelstin's aides, and all the top editors of Russia's major newspapers—not the Jewish people.

"The most powerful mafia in Russia is the Jewish mafia. They steal from the people, but the editors don't write about it because they themselves are all Jews," he says. "If we don't want anti-Semitism to exist in Russia, then all Jews should leave."

According to a poll conducted by the respected National Center For Opinion Research, 45 percent of Russians believe that other nationalities should be expelled, while another 31 percent spoke out against equal rights for other races.

[From the Jewish Advocate, May 12–18, 1995]

SYNAGOGUE BOMBING ROCKS RIGA COMMUNITY

(By Debra Nussbaum Cohen)

NEW YORK (JTA).—One day before Riga's Jewish community celebrated the 50th anniversary of the end of World War II and the Holocaust, a bomber planted explosives at the Latvian city's sole remaining synagogue.

The bomb exploded at 4 a.m. local time in the early hours of the Sabbath day, shattering the Peitavas Synagogue's glass windows and light fixtures and ruining its basement sanctuary, according to Mordechai Glazman, one of two Lubavitch rabbis at the synagogue. There were no injuries.

Most of the community's Jewish residents, who number between 14,500 and 20,000, think that the bombing is related to what is known in Latvia as the Day of Freedom, which marks the end of the war, Glazman said in a telephone interview from Riga.

It is considered an especially significant holiday in the Jewish community, he said.

In the wake of the attack, Latvia's president and prime minister made unscheduled visits to the synagogue and Riga's Jewish cemetery to mark the holiday Monday.

The officials had originally planned to honor the Latvian, Russian and German soldiers who died in the war at their respective cemeteries, Glazman said.

They joined the Jewish community's leaders, Holocaust survivors and Jewish army veterans in a ceremony to honor the dead.

Latvia's president, Guntis Ulmanis, put flowers on a mass grave of Jewish soldiers, in the cemeteries and told the hundreds of people gathered that the government would do everything it can to apprehend and punish the perpetrators, Glazman said.

"The prime minister said that it's probably people with an interest in making a bad name for Latvia in the world who did this," he said.

There has been a disturbing rise in anti-Semitism in Riga, the rabbi said.

Last week, the police confiscated 1,000 copies of Mein Kampf and arrested the printer, who had produced Adolf Hitler's autobiography in Latvian. Four thousand copies had already been sold, said Glazman, and 5,000 more were scheduled to be printed.

Hundreds of the city's Jewish residents visited the synagogue Sunday to witness the damage for themselves.

The blast left the first-floor sanctuary, used for worship twice a day, unusable, said the rabbi's wife, Rivki Glazman.

[From the Jewish World, Mar. 3–9, 1995]

FREEDOM TO HATE JEWS IN TODAY'S RUSSIA

(By Walter Ruby)

A top leader of ex-Soviet Jews in the United States believes that Jews in Russia face greater peril from an explosion of anti-Semitic violence today than at any time in memory.

Leonid Stonov, a longtime refusenik who emigrated to the U.S. in 1990 and today serves as president of the American Association of Russian Jews, told members of the Long Island Committee for Soviet Jewry (LICSJ) that he returned from a recent visit to Moscow fearful that a fascist takeover of Russia may be only weeks or months away.

Stonov, a leading representative of the Union of Councils for Soviet Jews, spoke recently by telephone from his home in Chicago with LICSJ members gathered at the North Woodmere home of Murray and Rhoda Dorfman.

"Russia is moving rapidly toward fascism in the same way that Germany did in the 1930s," said Stonov, "and, as in Germany, anti-Semitism is an integral part of the fascist movement."

According to Stonov, when the Russian State Duma—the lower house of Parliament—held hearings on fascism, "[ultranationalist leader Vladimir] Zhirinovsky said that the real danger to Russia came from 'democratic fascism,' while others spoke of the perils of 'Masonic fascism.' Never before in Russia—even during Czarist time—had there been such open, animal expressions of anti-Semitism during parliamentary discussions."

Stonov was speaking to LICSJ members who had gathered to view a screening of *Freedom To Hate* on WLIW–TV (Channel 21), together with the film's director, Ray Errol Fox. The hour-long documentary, narrated by Dan Rather and introduced by Jack Lemmon, explores the upsurge of anti-Semitism in the former Soviet Union.

Freedom To Hate includes extensive interviews with leaders of the neo-Nazi Pamyat movement, discussions of fascism and anti-Semitism with such prominent Russians as poet Yevgeny Yevtushenko and commentator Vladimir Posner, and interviews with Russian Jews victimized by anti-Semitic violence.

Though filmed mainly in 1990 and 1991, the documentary closes with a recent scene of Zhirinovsky delivering a menacing speech, showing that the conditions portrayed in the film still exist.

Although Stonov noted that the fear of imminent pogroms in 1990–1991 has largely abated, he said that "the situation is far more dangerous for Jews today than it was when this film was being made. In those days, it was only Pamyat . . . a relatively small organization . . . that was openly espousing anti-Semitism. Today in Russia, there are 137 open anti-Semitic newspapers being sold on the streets . . . and the influence of the anti-Semitic organization is growing rapidly."

He added, "The danger is not only from Zhirinovsky. There is Alexander Barkashov, who heads his own growing anti-Semitic organization with its own private army. Another prominent anti-Semite is Nikolai Lysenko, who argues that Russians should be particularly afraid of Jews who forego involvement in Jewish affairs, but instead are active in Russian politics, business and cultural life."

Lysenko is a former Pamyat member now in the Duma. Zhirinovsky's Liberal-Democratic party won about 25 percent of the vote in the parliamentary elections of 1992.

Stonov said he is concerned that with the collapsing popularity of President Boris Yeltsin in the wake of the brutal war in Chechnya, the heir apparent may be former vice president Alexander Rutskoi. Rutskoi was jailed by Yeltsin in October 1993 for inciting to rebellion, but the nationalist-dominated Parliament ordered him set free in early 1994.

Stonov noted that Rutskoi, formerly considered sympathetic to Israel and Russian Jewry, has in the past several years forged close political ties with the coalition of former Communists and Russian nationalists who believe Jews are responsible for many of Russia's ills.

Asked about Rutskoi's declaration during a 1992 visit to Israel that his mother was Jewish, Stonoff wryly noted that during a visit to Warsaw, the former vice president had also declared his mother to have been Polish, In any event, said Stonov, Rutskoi's comments in Israel were barely mentioned in the Russian media.

Queried as to why Russian emigration to Israel has dropped to one third the level of 1990–1991 if the peril to Jews has increased, Stonov responded. "One might also ask why, after the Los Angeles earthquake, people began rebuilding their houses.

"Many of the Jews who have remained in Russia have deep psychological roots there. Others have gone into business in Russia. They don't want to believe the situation there will end like it did in Germany. Still, with the rapid worsening of the situation, I am expecting a major new wave of emigration."

In the wake of Yeltsin's Chechnya misadventure and increasing movement toward the right, Stonov contended that "the political situation in Russia is dramatically changing for the worse and the West seems to be unaware of what is happening. America doesn't seem to understand that the democratic order in Russia is again under threat.

"I think the Clinton administration should be pressing the Russian government to move faster toward a market economy," continued Stonov. "Credits should be given to Russia only if real privatization is carried out there. When the West gives credits without privatization, all the money just ends up in Swiss bank accounts."

While attending an anti-fascist forum during his Moscow visit, Stonov found that all the democratic leaders feel extremely threatened by what is happening. "[Human Rights Commissioner] Sergei Kovalyov had very sad words. He said, 'We Russians are ruled by scum and we are scum for allowing that to happen.' "

Noting that Yeltsin has never directly denounced anti-Semitism in Russia, Stonov said, "Anti-Semitism is flourishing as never before, in part because there are no official constraints." He added, "If there were free elections tomorrow, the fascists would probably not win in Moscow, but they would do very well in provincial areas like the Urals, parts of Siberia, and Krasnodar in southern Russia. The political position of the fascists is very strong, and they are now in a position to stimulate a pogrom from the podium in the State Duma."

Stonov praised Freedom to Hate as "a very important work that will hopefully help to get across the message of how perilous the situation of Jews in the former Soviet Union really is."

But, he said to the LICSJ group, he has had a hard time getting the film screened. "Many people, including prominent Jews, have accused me of exaggerating the situation.

"Despite everything that has happened recently, there is still a kind of euphoria in this country among American Jews about the situation in Russia.

"The way that I present the situation is intense," said Fox, "but everything I show is true. I don't know how else to show the situation in order to get the message across."

Lynn Singer, longtime executive director of LICSJ, remarked, "All people of good will need to redouble our efforts to get out the word about the deadly peril facing Jews in the former Soviet Union."

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

CHILD ABUSE

Mr. DORGAN. Mr. President, yesterday I spoke here about the Interior conference legislation. I talked some about the issue of child abuse, particularly with respect to native Americans, and about some of the difficulties that I have witnessed and held some hearings about.

I described Tamara DeMaris, who was placed in a foster home at age 3 and severely beaten. Her nose was broken, her arm was broken, her hair pulled out by the roots. Why? Because one person was handling 150 cases and did not have time to check where they were putting this 3-year-old kid, so this poor 3-year-old was put in an unsafe foster home where drunken brawls ensued and this child was beaten severely.

We need to do better than this. That was the point I was making yesterday. Children cannot deal for themselves. They are not responsible for themselves. We are responsible to help children in this country who are helpless, to give hope to children who are hopeless. It is our responsibility.

I read a few days ago a piece in Time magazine that I wish to read to the Senate, not in its entirety, but I would ask all of you to read the article in its entirety, because it, too, relates to the question of what are we doing to protect children in this country. I am not talking about the children that go to bed safe and secure at night in a good home, that is warm, having just had a good meal. I am talking about children who come from circumstances of poverty and neglect and abuse, and who cannot help themselves.

On the cover of Time magazine was a picture of a young girl named Elisa Izquierdo. Let me read part of the magazine article to you because it describes something we all must understand—behind all of these discussions about policies and numbers are people, some of whom are desperately reaching out for help.

"Little Elisa Izquierdo liked to dance, which is almost too perfect," the article says, this article written by David Van Biema in the December 11 Time magazine. It says:

> Fairy tales, especially those featuring princesses, often include dancing, although perhaps not Elisa's favorite merengue. Fairy-tale princesses are born humble. Elisa fit that bill: she was conceived in a homeless shelter in the Fort Greene section of Brooklyn and born addicted to crack. That Elisa nevertheless had a special, enchanted aura is something that the whole city of New York now knows. "Radiant," said one of her preschool teachers, remembering a brilliant smile and flashing black eyes. "People loved her," adds another. "Everybody loved her." And, unlikely as it may seem, there was even a prince in Elisa's life: a real scion of Greece's old royalty named Prince Michael, who was a patron of the little girl's preschool. He made a promise to finance her full private school education up to college, which is about as happily ever after as this age permits.
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> Fairy tale princesses, however, are not bludgeoned to death by their mothers. They are not violated with a tooth brush and a hair brush, and the neighbors do not hear them moaning and pleading at night. Last week, two months before her seventh birthday, Elisa Izquierdo lay in her casket, wearing a crown of flowers. The casket was open, which was an anguished protest on someone's part; no exertion of the undertaker's art could conceal all Elisa's wounds. Before she smashed her daughter's head against a cement wall, Awilda Lopez told police, she had made her eat her own feces and used her head to mop the floor. All this over a period of weeks, or maybe months. The fairy tale was ended.

This is a story of desperation and a story of one murder. Twenty-three thousand people are murdered in this country every year. This little 6-year-old girl is one, murdered by her mother. But let me read some of the description of what the girl went through. The reason I am describing this is that we failed, the system failed, the child welfare agency failed, and the programs failed to help this girl.

> "Drugs, drugs, drugs—that's all she was interested in," says neighbor Doris Sepulveda, who watched the Lopezes trying to sell a child's tricycle outside their building. Another neighbor, Eric Latorre, recalls seeing the whole family out at 2 a.m. as Awilda [the mother] sought crack. . . . [Her mother] reportedly had come to believe that little Elisa, whom she called a mongoloid and a filthy little whore, had been put under a spell by her father—a spell that had to be beaten out of the child. Neighbors, some of whom say they called the authorities, later told the press of muffled moaning and Elisa's voice pleading, "Mommy, mommy, please stop! No more! No more! I'm sorry!" Law-enforcement authorities have provided a reason for those cries: they say Elisa was repeatedly sexually assaulted with a toothbrush and a hairbrush. When her screams became too loud, [her mother] simply turned up the radio.
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> Elisa stopped attending school, and neighbors say they saw less and less of her. On November 15, Carlos Lopez was jailed again for violating his parole agreement. On November 22, the day before Thanksgiving, all that was twisted in Awilda apparently snapped. One of her sisters, quoted in the New York Times, reported a chilling phone conversation with her that night: "She told me that Elisa was like retarded on the bed, not eating or drinking or going to the bathroom. I said, 'Take her to the hospital, and I'll take care of your other kids.' She said she would think about it after she finished the dishes."
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> The next morning Awilda called Francisco Santana, a downstairs neighbor. "She was crying, 'I can't believe it, tell me it's not true,'" he says. When he arrived at her apartment, she showed him Elisa's motionless body. He put his hand to the child's cold forehead, pronounced her dead and spent the next two hours pleading with Awilda to call the police. When he finally called himself, he says, she ran to the apartment roof and had to be restrained from jumping. When the police arrived, she confessed to killing Elisa by throwing her against the concrete wall. She confessed that she had made Elisa eat her own feces and that she had mopped the floor with her head. The police told reporters that there was no part of the six-year-old's body that was not cut or bruised. Thirty circular marks that at first appeared to be cigarette burns turned out to be impressions left by the stone in someone's ring. "In my 22 years," says Lieutenant Luis Gonzalez, [the police lieutenant], "this is the worst case of child abuse I have ever seen."
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> . . . an aspect of the tragedy's aftermath [according to this magazine article] . . . has also dumbfounded the [people of New York who shared in this tragedy]. The people of New York could do nothing about Awilda's drug-induced delusions or her timid neighbors. But they wanted an accounting from the CWA [Child Welfare Agency].

This story describes report after report after report that was made to the Child Welfare Agency.

> Instead, Executive Deputy Commissioner [of the Child Welfare Agency] Kathryn Croft has steadfastly maintained that the state confidentiality laws designed to protect complainants prevent her from revealing any details of the case. Thus the public may never know how many cries for help the agency actually recorded or what it did about them. It may never know whether the CWA really made an extended effort to observe Awilda before [returning that child to this mother].

Mr. President, I have not read all of this article, but it is sufficient to describe what happens to some children in this country. I described several of them yesterday. This is another, a little 6-year-old girl from New York who was failed by our system.

I am investigating at the moment to find out why a child welfare agency would not be willing to disclose what exists in these files. Who contacted them? When did they contact them? Who failed this child? Who did not follow up? Why did they not take this child away from a mother who was torturing her? Why is this child dead?

Confidentiality laws apply to protect people from disclosure of sensitive information about a family that is dealt with by the child welfare agency. It is not a confidentiality statute designed to protect the agency from an investigation. I am trying to find out what kind of Federal circumstances exist that can pry open the child welfare agency's records to find out, how did this happen?

At the end of this story, it describes again a common problem. It describes city, State, and Federal Government budgets that have cut one-sixth from the child welfare agency's budget. The head of the child welfare agency estimates that her caseworkers' caseload is going up. They simply cannot do enough investigations.

It is what I described yesterday. The caseload on the reservation in North Dakota was so high that the social worker who was in charge of those cases put Tamara DeMaris, a young and innocent 3-year-old girl, in a home where she was beaten severely, in a foster home that was not safe. Here, we have a caseload apparently that does not permit a welfare agency to deal with issues of life or death for 6-year-old girls in New York City.

There is something fundamentally wrong. The reason I bring this to the floor is because we are talking about all of these spending areas, all of these areas of Federal spending, and we get phone calls and my colleagues get phone calls saying we have got to cut Federal spending. I do not disagree with that. We have to balance the budget. I do not disagree with that.

Does anybody in this Chamber under any circumstances, or any anybody in any State legislature or in any city council, believe that a 6-year-old does not deserve the protection that society must give her when she is being sexually abused and beaten, and, yes, threatened with murder? Does anybody believe that is not our responsibility?

This country fails these children when we do not decide to debate these kinds of issues in the context of what we must do to protect these kids? It is not a question of anybody that thinks it does not matter or whether you have enough social workers to protect these children. In my judgment, we are not doing any service to public service in this country. We must, it seems to me, ask the question: How do we do this job? Not whether, but how do we do this job? What does it take to make sure we protect these children?

I hope everyone reads this article. There are dozens and dozens and dozens of cases like this all over the country. My only point is, we can do much better and must do much better. When systems fail, we must find out why. When children, innocent victims, find themselves in circumstances like this, someone ought to be willing to stand up and assume responsibility, to say we are going to help.

I told the Senate yesterday about a stack of folders on a floor, where I saw reports of sexual and physical abuse against children on an Indian reservation that had not even been investigated because they did not have the investigators to go out and investigate. I was appalled, just appalled to understand that in that stack is a young child living in a circumstance where they have been sexually molested. There is an allegation of sexual misconduct or allegation of physical misconduct by a guardian, and it has not even been investigated. We must do better than that.

I hope that as we discuss and think our way through this notion of how do we balance the budget, we ask, what are our priorities? Is it B–2 bombers, is it the school lunch program, is it a dozen or 100 different things? I hope none of us will ever decide that it is discretionary on our part whether we protect children like Elisa.

Elisa did not have to die. We failed. We all failed Elisa, and I hope as we develop our priorities for the years ahead, we will decide, at the very least, that those who cannot help themselves, those children in harm's way, those children whose lives are threatened deserve and require our help. I hope there is no disagreement on any side of the political aisle on that question.

I recognize the Senator from Minnesota has been waiting. I appreciate very much his indulgence.

Mr. President, I ask unanimous consent to have printed in the RECORD the article to which I referred in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Time, Dec. 11, 1995]

ABANDONED TO HER FATE

(By David Van Biema)

Elisa Izquierdo liked to dance, which is almost too perfect. Fairy tales, especially those featuring princesses, often include dancing, although perhaps not Elisa's favorite merengue. Fairy-tale princesses are born humble. Elisa fit that bill: she was conceived in a homeless shelter in the Fort Greene section of Brooklyn and born addicted to crack. That Elisa nevertheless had a special, enchanted aura is something the whole city of New York now knows. "Radiant," says one of her preschool teachers, remembering a brilliant smile and flashing black eyes. "People loved her," adds another. "Everybody loved her." And, unlikely as it may seem, there was even a prince in Elisa's life: a real scion of Greece's old royalty named Prince Michael, who was a patron of the little girl's preschool. He made a promise to finance her full private-school education up to college, which is about as happily ever after as this age permits.

Fairy-tale princesses, however, are not bludgeoned to death by their mothers. They are not violated with a toothbrush and a hairbrush, and the neighbors do not hear them moaning and pleading at night. Last week, two months before her seventh birthday, Elisa Izquierdo lay in her casket, wearing a crown of flowers. The casket was open, which was an anguished protest on someone's part; no exertion of the undertaker's art could conceal all Elisa's wounds. Before she smashed her daughter's head against a cement wall, Awilda Lopez told police, she had made her eat her own feces and used her head to mop the floor. All this over a period of weeks, or maybe months. The fairy tale was ended.

America dotes on fairy tales and likes to think it takes action on nightmares. When the story of Elisa's death hit the news last week, New Yorkers and people across the country remembered the Kitty Genovese murder in 1964, and took to task all the neighbors who had known too much and said nothing. But, it turned out, many others had not been silent: Elisa's slow, tortured demise had been reported repeatedly. Over the six years of her life, city authorities had been notified at least eight times. And so outrage focused on the child-welfare system. How did it happen, the public wondered angrily, that Elisa's case was known to the system, and yet the system so shamefully failed her?

The Child Welfare Administration, which handles cases of abuse in New York City, first heard of Elisa on Feb. 11, 1989, the day of her birth. Her mother was a crack addict whose addiction was indirectly responsible for her pregnancy: she had lost her apartment, and in Brooklyn's Auburn Place homeless shelter she began a romance with Gustavo Izquierdo, who worked at the shelter as a cook. As her pregnancy progressed, Awilda was so lost in the pipe that relatives managed to wrest custody of her first two children, Rubencito and Kasey, from her. The social workers at Woodhull Hospital took one look at Elisa's tiny, crack-addicted body and immediately assigned custody to the father. Following standard procedure, they also alerted the CWA.

Perhaps to his own surprise, Izquierdo—who had emigrated from Cuba hoping to teach dance—turned out to be a wonderful father. At first there were panicky calls to female acquaintances about diapers and formula, but eventually he mastered the basics. Every morning he would iron a dress for Elisa and put her beautiful hair into braids or pigtails. When she was four, he rented a Queens banquet hall for a party marking her baptism. Says a friend, Mary Crespo: "She was his life. He would always say Elisa was his princess."

It was through her father's efforts that the princess found her prince. Izquierdo took parenting classes at the local YWCA, and he enrolled one-year-old Elisa in the Y's Montessori preschool. She was a favorite pupil. Says the school's then director, Phyllis Bryce: "She was beautiful, radiant. She had an inner strength and a lot of potential for growth." So fond of both father and daughter were the Montessori staff members that when Izquierdo fell behind on tuition, they recommended his daughter to Prince Michael of Greece.

Michael will probably never ascend his country's throne, since the monarchy was abolished in 1974. But he still dispenses royal charity. After an aide established a connection with the Montessori school, the faculty introduced Michael to Elisa. On the day he arrived in Brooklyn, he would later remember, "[Elisa] jumped into my arms. She was a lively, charming, beautiful girl. She was so full of love." The prince visited several times, bringing stuffed animals or clothes; the little princess responded with thank-you notes and pictures. Michael's most handsome offer arrived in late 1993: he would pay Elisa's full tuition, through 12th grade, at the Brooklyn Friends School.

In 1991 Awilda petitioned for, and was granted, unsupervised visitation rights with her daughter. The mother had already regained custody of her two older children; she seemed to have effected a miraculous recovery. In December 1990 social workers signed an affidavit stating that she had given up drugs, married a man named Carlos Lopez and settled at a permanent address. "Both [Lopezes] are willing to go for random drug tests," the affidavit read. "They never miss appointments with the agency, and they are always on time. Mr. Lopez is supportive . . . He appears to be gentle and understanding."

That last was a grave misjudgment. Carlos Lopez, who did maintenance work, was solicitous only in public. At night neighbors heard dishes, pots and pans crashing against walls. In January 1992, a month after Awilda gave birth to his second child, Carlos stabbed her 17 times with a pocketknife, putting her in the hospital for three days. According to a neighbor, the attack occurred in front of Elisa, during a weekend visit. Carlos served two months in jail and then, neighbors say, resumed beating his wife—and his visiting stepdaughter.

Elisa's life became an excruciating alternation of happiness and horror. The four-year-old took the Friends School's screening examination and passed. But according to Montessori teacher Barbara Simmons, she also began telling people that her mother had locked her in a closet. On one occasion she volunteered, "Awilda hits me. I don't want to go to Awilda." Montessori principal Bryce says she reported suspected abuse to both the Brooklyn Bureau of Community Services and a child-abuse hot line—the CWA's second warning about Elisa. In response, Bryce has said, child-welfare workers made several visits to the Lopez home, "and then stopped, as they usually do."

Izquierdo apparently knew about the mistreatment. A neighbor told the New York Times that Elisa would wake up screaming in the night, that although toilet trained, she had begun to urinate and defecate uncontrollably and that there were cuts and bruises on her vagina. In 1992 Izquierdo petitioned the family court to deny Awilda custodial rights, but fate intervened before the court could act on his request. By late 1993, already ill with cancer, he was planning to take Elisa to Cuba, and perhaps hoping to leave here there permanently. Tickets were bought, but he became too ill to travel and on May 26 Izquierdo died.

Awilda immediately filed for permanent custody. A cousin of Izquierdo's, Elsa Canizares, challenged the petition, alleging that Lopez was insane and abused the child. Bryce wrote in a letter to family court judge Phoebe Greenbaum that "Elisa was emotionally and physically abused during the weekend visitations with her mom. Teachers' observation notes are available." Bryce also enlisted the help of Prince Michael, who added his own letter.

Canizares arrived for the June 1994 custody hearing alone. Awilda, by contrast, brought a small army. Her lawyer that day was from the Legal Aid Society, which maintained that its caseworkers had visited the Lopezes and found that "Elisa expressed a strong desire to live with her mother" and her siblings. Also backing Awilda was the CWA, which Judge Greenbaum has indicated had been monitoring the family for more than a year—the agency's third contact with Elisa. Finally there was Project Chance, a federally funded parenting program for the poor run by a man named Bart O'Connor.

When O'Connor met her in 1992, Awilda had seemed "an easily excitable woman," but one who was "very lively, very vibrant and loved her children beyond belief." She dutifully attended parenting classes and sought extra advice. There were setbacks, during which she returned to drugs and abandoned the children. But she recovered—"The kids seemed happy, and the house was immaculate." When Awilda asked O'Connor to help her get Elis back, he had his doubts: "She was just learning to handle five kids. I thought another kid might be too much." But, after all, he had just given her a progress award, so he vouched for her to the court. In September Judge Greenbaum awarded full custody to Awilda, directing the CWA to observe the family for a year. Last week, hounded by the press, Greenbaum released a statement that read in part, "It is any judge's worst nightmare to be involved in a case in which a child dies."

Especially, it can be assumed, when a child dies slowly, by torture. In September, Awilda removed Elisa from the Montessori school and enrolled her in Manhattan's Public School 26. The *Daily News* reports that on arrival, she seemed a fairly happy girl, one who shared make-believe bus trips with other children during lunch hour. But she soon folded up into herself. The school's principal and social worker, noting that she was often bruised and had trouble walking, reported the matter directly to a deputy director of CWA's Manhattan field division, in what would be CWA's fourth notification. School district spokesman Andrew Lachman says the official allegedly replied that the case was "not reportable" owing to insufficient evidence. School staff then visited the Lopez apartment. To their surprise, Awilda "was very happy to see them," says Lachman, and there were no signs of abuse.

O'Connor, however, was regretting his recommendation to the judge. He received a series of hysterical phone calls from Awilda complaining that Elisa was soiling herself and drinking from the toilet and had cut off her hair. Finally she asked O'Connor to take Elisa away. Convinced the girl's symptoms had existed prior to her contact with Awilda but were now driving her mother over the edge, he rushed to the apartment. "You could smell urine and see she had defecated everywhere," he says. "Her toys were thrown around. There were feces smeared on the refrigerator."

O'Connor claims he called Elisa's CWA caseworker, who told him he was "too busy" to come by. Moreover, O'Connor says the caseworker never responded to this fifth appeal to CWA, despite repeated subsequent calls. O'Connor took the Lopezs to a city hospital for psychiatric counseling, and Awilda seemed to calm down somewhat. To O'Connor's dismay however, she repeatedly avoided signing a release that would allow him to send his observations to the city agency. By last July she had dropped out of touch entirely.

There was a reason for that. "Drugs, drugs, drugs—that's all she was interested in," says neighbor Doris Sepulveda, who watched the Lopezes trying to sell a child's tricycle outside their building. Another neighbor, Eric Latorre, recalls seeing the whole family out at 2 a.m. as Awilda sought crack. Awilda had reportedly come to believe that Elisa, whom she called a mongoloid and filthy little whore, had been put under a spell by her father—a spell that had to be beaten out of the child. Neighbors, some of whom say they called the authorities, later told the press of muffled moaning and Elisa's voice pleading, "Mommy, Mommy, please stop! No more! No more! I'm sorry!" Law-enforcement authorities have provided a reason for those cries: they say Elisa was repeatedly sexually assaulted with a toothbrush and a hairbrush. When her screams became too loud, Awilda turned up the radio.

Elisa stopped attending school, and neighbors say they saw less and less of her. On Nov. 15, Carlos Lopez was jailed again for violating his parole agreement. And on Nov. 22, the day before Thanksgiving, all that was twisted in Awilda apparently snapped. One of her sisters, quoted in the New York Times, reported a chilling phone conversation with her that night: "She told me that Elisa was like retarded on the bed, not eating or drinking or going to the bathroom. I said, 'Take her to the hospital, and I'll take care of your other kids.' She said she would think about it after she finished the dishes."

The next morning Awilda called Francisco Santana, a downstairs neighbor. "She was crying, 'I can't believe it, tell me it's not true,"' ' he says. When he arrived at her apartment, she showed him Elisa's motionless body. He put his hand to the child's cold forehead, pronounced her dead and spent the next two hours pleading with Awilda to call the police. When he finally called himself, he says, she ran to the apartment roof and had to be restrained from jumping. When the police arrived, she confessed to killing Elisa by throwing her against a concrete wall. She confessed that she had made Elisa eat her own feces and that she had mopped the floor with her head. The police told reporters that there was no part of the six-year-old's body that was not cut or bruised. Thirty circular marks that at first appeared to be cigarette burns turned out to be impressions left by the stone in someone's ring. "In my 22 years," said Lieut. Luis Gonzalez, "this is the worst case of child abuse I have ever seen."

O'Connor sits in his Brooklyn office and fields calls from the media. "We made a mistake," he says grimly. "We will try to make sure this never happens again." Looking back, he says, "I should have thrown bombs in the CWA's doorway." The initials themselves infuriate him. At least, he says, "we will say our mea culpa. We're not going to run behind confidentiality laws and not admit we've made a mistake."

He is referring to an aspect of the tragedy's aftermath that has dumbfounded the city. The people of New York could do nothing about Awilda's drug-induced delusions or her timid neighbors. But they wanted an accounting from the CWA. Instead, Executive Deputy Commissioner Kathryn Croft has steadfastly maintained that state confidentiality laws designed to protect complainants prevent her from revealing any details of a case. Thus the public may never know how many cries for help the agency actually recorded or what it did about them. It may never know whether the CWA really made an extended effort to observe Awilda before making a recommendation to Judge Greenbaum—or whether a caseworker was really "too busy" to return a call.

What the public could surmise, however, was that something was amiss. Last week someone leaked an Oct. 10 letter from CWA Commissioner Croft to Mayor Rudolph Guiliani, complaining that city staff cuts make it impossible for her to train child-abuse caseworkers or even measure their competence. And that is the least of it. The city, state and Federal Government have cut one-sixth from CWA's $1.2 billion budget. While Croft estimates her average staff member's case load at 16.9, some workers at the agency's Queens branch put theirs at 25, a number that almost precludes meaningful long-term investigations. "There are no bodies available to do the work," says Bonnie Buford, a supervisor in a Queens child-protective-services unit. Claims Gail Nayowith, executive director of the Citizens' Committee for Children: "Case loads are rising. Investigations take longer, and some very important programs don't exist . . . This child and her family should have got services. With appropriate interventions, services and follow-up, [Elisa] would be alive."

But she is not alive. At her funeral, the Rev. Gianni Agostinelli told mourners that "Elisa was not killed only by the hand of a sick individual, but by the impotence of silence of many, by the neglect of child-welfare institutions and the moral mediocrity that has intoxicated our neighborhoods." Later, Elisa was laid to rest in the Cypress Hills Cemetery in Queens. There had been discussion about her body: the Izquierdo side of her family wanted to determine its fate, but so did the Lopez side. And it seems that mortuaries, like city bureaucracies, have rules for such situations. Regardless of the circumstances, the custody of the body goes to the mother.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

THE CBO IS NOT SANTA CLAUS

Mr. GRAMS. Mr. President, I want to talk a little bit this afternoon about budget numbers and budget dollars.

To hear the talk on Capitol Hill, you would think that Christmas came early this week and that the Congressional Budget Office was playing the part of Santa Claus, because on Monday, the CBO released its revised revenue predictions for the next 7 years, producing an unexpected $135 billion windfall over the life of our 7-year plan to balance the Federal budget.

And would you not know it, like kids let loose under a package-packed Christmas tree, President Clinton and Congress are scrambling to snatch up the dollars for their own holiday spending spree.

Mr. President, I did not come to the floor to be the Grinch Who Stole Christmas, but let's take a step back and ask ourselves just what we're doing here. We've got a deficit today of $164 billion and a national debt of nearly $5 trillion.

We are dangerously overextended on the Government's credit card. Yet when the revenue forecast says we will have $135 billion more than we thought we would have by the year 2002, what are we thinking when the first thing we want to do is rush out and squander it on a taxpayer financed holiday spending spree?

If that is how this Congress is going to conduct itself, we are no better than the 40 years of past Congresses that got us into this fiscal mess to begin with.

Where is the commitment to changing Washington's free-spending ways we like to brag about to our constituents back home? What kind of message does this send to the taxpayers, who entrusted their dollars—their hard-earned tax dollars—to us in the first place?

Anybody can spend a dollar, Mr. President, or in the case of Congress, a great, great many of them. But it takes discipline to save those same dollars, and what I am seeing today is a disturbing lack of the kind of discipline it will take to finally balance the budget.

What should we do with the $135 billion found by the CBO? Exactly what legislation introduced last week by myself and my good friend, Senator McCAIN, instructs us to do: lock it away on behalf of the taxpayers for deficit reduction or additional tax relief.

The Taxpayer Protection Lockbox Act of 1995 precisely spells out the process Congress must undertake when actual Federal revenues exceed predictions. Our legislation ends the abuse of taxpayer dollars and returns honesty to the budget process by creating a new revenue lockbox.

As we all know, Congress acknowledges the CBO as Government's voice of authority when it comes to accurate, conservative, nonpartisan economic projections.

Congress relies on those CBO projections when we estimate the amount of tax revenues that will come into the Treasury over the life of our 7-year balanced budget plan, and then we use those revenue estimates to determine the extent to which Federal spending can grow without resulting in a budget deficit in the year 2002.

While these estimates by the Congressional Budget Office are generally on the mark, they are only estimates, of course, and the revised forecast issued by the CBO this week illustrates the inherent problem with forecasts: Changing conditions mean forecasts need to be updated.

And as we move closer to a balanced budget, they will need further updating to take into account the additional dollars our balanced budget plan will generate for the Treasury. After all, we are including tax relief designed to stimulate economic growth, create new jobs, and turn tax users into productive taxpayers.

Any additional dollars, however, should not be used to feed Congress' appetite for spending. Instead, any additional revenue that results from our balanced budget plan ought to be returned to the taxpayers in the form of tax relief or deficit reduction.

These dollars were born of the hard work and productivity of the American people—it makes sense to give those dollars back to the taxpayers and encourage even greater productivity.

And that is just what our revenue lockbox does. It requires that any revenues above and beyond current estimates be used for tax cuts and/or deficit reduction.

It ensures taxpayers that their hard-earned dollars will no longer be automatically spent by Congress, ending the misguided notion here in the beltway that tax dollars belong to the Government, rather than the taxpayers.

Imagine the dramatic deficit reduction we could achieve if, instead of plowing the CBO's $135 billion into more social spending, against the wishes of the taxpayers, we dedicated it toward eliminating the deficit.

How much sooner would we balance the budget and start down the road toward a debt-free future for our children and grandchildren if we invested that $135 billion in their future, and not on another quick fix for the big spenders in Washington?

After all, if the politicians have their way, how much of that $135 billion will truly be spent meeting needs, and not simply offering dessert?

Or imagine what we could do for the taxpayers of this Nation—who have been forced every year to finance the political agenda of a Congress that simply never learned to say "no"—if we handed them back that $135 billion in the form of tax relief?

Have we forgotten that it is their money to begin with, not the Government's? Mr. President, it is as if you and a friend were walking down the street and happened across a wallet plump with cash. For most of us, there is no moral dilemma—it is not our money.

We would return it to its rightful owner, no questions asked. Well, there is apparently no moral dilemma for Congress, either—it would spend the money, even $135 billion dollars, long before the wallet's owner even realized it was missing.

By dedicating it toward tax cuts, Congress could do a lot of good with the CBO's $135 billion in unexpected revenue. What about expanding the tax relief provisions already called for in our Balanced Budget Act?

We could make the $500 per child tax credit be retroactive back to January 1, 1995, and help offset the devastating effects of President Clinton's retroactive tax increase in 1993.

We could make the $500 per-child tax credit refundable against payroll tax liability, enabling lower-income, working Americans the opportunity to keep more of the dollars they so desperately need to keep their families fed and clothed, with a secure roof over their heads.

We could eliminate the marriage penalty this year—not 7 years from now.

We could empower senior citizens to once again become productive members of the workforce by repealing the Social Security earnings limit—another tax increase imposed by President Clinton in his 1993 budget.

We could index the capital gains tax back to an earlier date as well.

Mr. President, by intelligently utilizing the CBO's new forecasts, there are a great many things we could do to expand on our promise to the American people to cut their taxes while we are balancing the budget.

But blocking our way is a White House intent on financing more and more Federal spending at the taxpayers' expense, and you won't find a more vivid illustration of just why we need the deficit lockbox and the protections it would provide.

If there are any extra dollars in the Federal budget, they should be returned to the millions of American taxpayers who finance this Government every day with sweat and blood, not to Congress or the White House for bigger Government.

I do not know what it will take to convince me that President Clinton and the big spenders on Capitol Hill are truly serious about getting Government spending under control, but I do know they will never do it by trying to compete with Santa Claus.

If they want to don red suits and beards and finance more Government agencies, more bureaucrats, and more Federal programs, they will have to cut spending somewhere else to pay for them. The holiday season may be a time for giving, but the taxpayers have already given until it hurts.

You can call me old fashioned, but a gift that reflects the true spirit of Christmas is not about giving in the hope of getting something back in return. It is about giving something from the heart.

A balanced budget is that kind of gift, Mr. President. You cannot wrap up a balanced budget, or engrave it, or put it under a Christmas tree. It is not the kind of gift that will score you points with relatives looking for a holiday handout or get you in good with the boss or impress a neighbor.

You cannot really hand it to anyone and get a thank you in return. You can, however, look into the faces of those who will someday appreciate this gift most of all—our children and grandchildren, because once the Federal budget is balanced, they will finally be free. That, Mr. President, will be the greatest Christmas gift Congress could deliver this holiday season—that is, to work out a balanced budget before we leave on December 22.

Thank you, Mr. President.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STUDENT DIRECT LENDING

Mr. SIMON. Mr. President, I understand that two of my colleagues spoke in opposition to direct lending this morning on the floor of the Senate. I will respond to what I had been told by my staff was said on the floor.

First, just by way of background, let me just say there are 1,350 colleges and universities that now have direct lending. I do not have the list in front of me, and I cannot tell you, Mr. President, what schools in Wyoming are using direct lending. I know that in every State outside of Alaska there are schools using direct lending. It is interesting that not a single college or university that has direct lending wants to go back to the old system. We just received a report from the Colorado State auditor saying that the University of Colorado is saving $192,000 a year under direct lending in bookkeeping and other personnel costs.

Let me respond to the specific charges or statements. It said under the plan that the President vetoed, all students could get flexible repayment. Under direct lending if you want to, you can have income-contingent repayment, that a percentage of your income can be set aside for repaying a loan. That was not the case under the old program. The actual language of the bill is, Mr. President, that a lender "may," at the discretion of the lender, offer the borrower the option of repaying the loan in accordance with an income-contingent repayment schedule. That is very different from saying they "shall." In other words, banks "may" do it. But, of course, banks could do it before. The reality is very few banks are going to do it except if they are under competition from direct lending and they think they have to.

Also, added in conference on the income contingent, on income contingent, you repay for 25 years. At the end of 25 years if you become a nun or if you enter some work where you do not receive income, at the end of 25 years it is forgiven. In conference, it kept that forgiveness, but said the interest would be paid to the banks no matter what. The claim was that the plan the President has vetoed would double the direct loan program from 5 percent to 10 percent. The reality is 10 percent of the schools had it the first year. We are in the second year now and almost 40 percent of the schools in the Nation now have direct lending. It is just universally popular. We have, in Illinois, 67 schools using direct lending now. I have yet to hear anyone say that it does not work.

One of our colleagues cited an op-ed piece in the Washington Post saying there is no cost difference to the Federal Government between direct lending and the old system. Now, if there is no cost difference, then give colleges and universities the choice. The reality is the op-ed piece in the Washington Post did miss several points that Secretary Riley mentioned in the letter to the editor. One of the very fundamental points is that under direct lending, when the Federal Government issues bonds, we collect income tax on those bonds, on the interest on those bonds. When guaranty agencies issue bonds, those are nontaxable bonds. The difference, over a period of 7 years, is about $1.3 billion. The Congressional Budget Office says if you apply the present law—not the cooked books of the budget that was passed—to both programs, direct lending saves $4.6 billion.

The claim is that the direct lending transfers the loan program from the private sector to the Government. Now, it is true that some of the banks clearly are private sector, though as our former colleague, Senator David Durenberger—and the Presiding Officer did not have the chance to serve with him here in the Senate, but he was a very thoughtful Member of this body,—Senator Durenberger, in comments to a group of bankers when they said, "Let's use the free enterprise system," said, "This is not free enterprise; this is a free lunch."

When you build into the law what the profit is and you say we will give you 98 percent to 100 percent of the profit, that is a pretty good deal. The average bank makes more money percentagewise on a student loan than on a house mortgage or a car loan—more than any other transaction other than a credit card transaction.

Then the guaranty agencies operate with our money. The Inspector General of the Department of Education says there is $11 billion worth of Federal money at risk with the guaranty agencies. There is one in Indiana, for example, where the chief executive officer of that guaranty agency set up with Federal funds—and I fault myself for not being more careful, along with others, in setting this up—his pay is $627,000 a year. Not bad when we pay the President of the United States $200,000 a year. That guaranty agency spent $750,000 to lobby against direct lending. This is, indirectly, Federal money.

The claim was made that the Education Department has to hire 400 new people to run the direct loan program. The reality is that a fraction of the number of people are required because you are not dealing with 7,000 different credit agencies—banks and guaranty agencies. It is a much more efficient system.

I mentioned the University of Colorado. They testified before us, and they said they have been able to use two less personnel to advise students, and they have canceled four computers that they had leased, and they saved substantial amounts of money.

The statement, "We should balance the budget without cooking the books"—I could not agree more. And the budget, unfortunately, as the Chicago Tribune mentioned, does "cook the books."

The simple reality is sometimes Government does something that is right. Sometimes Government does something that is wrong. The old GI bill, that the Presiding Officer may be too young to remember, the old GI bill was a Government-run program that was a great program. Direct lending is a Government-run program. It simplifies things. It cuts out the middleman. If we want to have an "assistance to banking act," let us call it that. Do not label it assistance to students and then have an assistance to banking act.

It was noted in the newspapers the day before yesterday that the banks of America had their best quarter ever this last quarter. I am pleased with that. Maybe like the Presiding Officer, I have a mortgage on my home. I want those banks to stay in good health. I want these pages, in the years to come, to be able to get mortgages. I want banks to be healthy. But I do not want to subsidize banks and call it student assistance. I want to give colleges and universities the choice.

If there is no cost to the Federal Government, as the Congressional Research Service says, by having the choice, or if, as the Congressional Budget Office says, we save money, by all means we ought to give colleges and universities the choice. I think it will mean the difference between hundreds of thousands of people going to college or not going to college.

One of the other great advantages of direct lending that I did not mention earlier is it is open to everyone. Under the old open loan program, you have to fall below a certain income level and you have to meet other criteria. This is open to all American citizens and all people who are legally in our country. It is much more simple, reduces paperwork—it is a great program.

Sometimes Government does things that, frankly, embarrass us who serve in Government. Here is an instance when Government does something we can be proud of. I hope, when the dust settles on all this, we will keep the option of direct lending for the colleges and universities of the country.

Mr. President, I note no one came rushing to the floor to hear my remarks. I do not see anyone here requesting the floor, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

GRAZING REGULATIONS ON PUBLIC LANDS

Mr. THOMAS. Mr. President, let me bring up a subject that is very close to my heart, to my State of Wyoming, and to the West. This is an issue that I hope we will be dealing with in the next week or so, and it has to do with regulations on grazing on public land. That is not a topic that is of great interest to everyone, but it is one that is of great interest to that region of the country. You have to sort of get a little feel for what that means to public land States before you go into the details.

The State of Wyoming is 100,000 square miles, half of which is owned and controlled by the Federal Government. In that, of course, are parks, forests, wilderness, and a substantial amount of Bureau of Land Management [BLM] lands which are the lands that were residual lands that were never taken up in homesteading but remained in Federal ownership—never withdrawn for any particular purpose, as was the case with the forests or the parks or the wilderness areas—but, all in all, more than half of Wyoming. And it is much higher in other places. Nevada, as I recall, is 87 percent federally owned.

So the management and the economic decisions that are made with respect to these lands are very important to these multiple-use lands. Some of the land, such as Yellowstone Park, Teton Park, and Devil's Tower, of course, are set aside for a very specific and peculiar purpose because they are unique lands. We are talking about those that are for multiple purposes managed by the BLM or managed by the Forest Service.

One of those purposes is grazing. There are many others, of course, such as hunting, fishing, recreation, mining, oil and gas, and coal. Much of the coal in Wyoming, which is the largest producer of coal in this country, is on public lands. Of course, those activities produce royalty fees that are paid both to the Federal and State Governments.

The reason for our bill is something of a response to the problems that have been created, I believe, by the efforts of the Secretary of the Interior over the last 3 years to reform rangeland regulations, which is basically, we believe, to bring more and more of the decisions to Washington, while our purpose is to bring more of the decisions closer to the people who are governed.

For the first 2 years that this administration was in place, particularly this Secretary of the Interior, there was a great deal of controversy going on. The "war on the West," which most of us believe is a genuine war on the West, has been staged. There were many visits there by the Secretary and people related to the Interior Department in an effort to talk and to come to some conclusion. And, quite frankly, none was ever agreed to. The longer the talks went on, the more controversy there was.

So in the Congress we have sought to put together a grazing bill, and have passed one. The purpose of it is to react to these regulations put forth by the Secretary which were generally unsatisfactory to the West.

Let me talk just a moment about some of the things that are involved.

One is public participation. This is public land. We understand it is public land. The decisions that are made there should provide opportunities for people to participate, not only those who will be involved in the activity, whether it be grazing, or whether it be oil, or whether it be fishing, but anyone who has an affected interest. This bill provides for that.

This bill was passed last summer, and there was a good deal of discussion about it in the country. We went back again several weeks ago and did it again in the committee and, hopefully, will have it on the floor. Public participation was broadened and ensured.

There was a notion, when the bill came forth, that it made grazing the dominant use over other uses in multiple use. Not true, nor was it intended to. However, as we came back we specifically put language into the bill that says there is no dominant use. Grazing is not a dominant use. It is a multiple use, and these uses should have a full opportunity.

Environmental protection. The environmental protection under this will continue to be there as it has been before. Laws like endangered species, NEPA, and others will apply, of course, as the decisions are made by the Department.

Standards and guidelines—which does not mean a lot to most of us—has been the core of much of the problem. Standards and guidelines means the rules that will be laid down in Washington for the conduct of this whole issue. We believe, those of us in the West, that the main thrust of the Babbitt operation was to bring these standards and guidelines more to Washington and that we would have a one-size-fits-all kind of a thing that was sent out from Washington to all of the Western States. Our bill provides that local universities, local State agriculture departments, would be involved in the establishment of standards and guidelines. We think that is important.

Fees. The secretary does not deal with fees. We have set up a fee for the grazing program that is based on the value of cattle in the marketplace at a particular time and raise the fees over what have been paid by about 30 percent.

So, Mr. President, we hope that this bill will come before Congress. We think it is a reasonable bill that, again, provides for multiple use and provides for the economic future of the West.

It has always been curious to me that States who came into the Union on an equal basis, according to the Constitution that there should be equity among the States, but that a Cabinet Member in Washington can have more impact on the economic future of Wyoming than anybody in Wyoming, to make rules for 50 percent of the State, a State that is very oriented to minerals, very oriented to agriculture, and agriculture is based on cattle and sheep.

So we think this is a reasonable, bipartisan effort which will be brought before the Senate, hopefully before the end of the year, and will give some stability to a way of life.

It is also important—and I hope later when I come back, and I know you are anxious to hear more—that we will have a map. It is important to see the way ownership patterns exist in the West. For example, one of the things that happened in the development of the railroads is that 20 miles on either side of the Union Pacific Railroad, which was encouraged to develop the West, every other section was given to the railroad to do this, and the other sections remain public. They are still that way. It is called the checkerboard.

These are lands—this is not Yellowstone Park—that are arid, high plains, not particularly productive. So there are no fences, of course. Indeed, you really cannot afford to fence it because it takes anywhere from 50 to 60 acres for an animal unit, and it is shared with antelope, deer, and with elk in some places.

So what I am saying is that these lands are not independently able to function. The same is pretty much true with the whole State in terms of ranches. When the lands were settled under the various settlement acts, the homesteaders, of course, took up the riverbeds, streams, water, the trees, and took up the best of the land, obviously. That which was left is now in Federal ownership. It is very difficult to separate those two things both from the standpoint of livestock and from the standpoint of wildlife. Livestock needs to have the winter feed, the water, and the cover, but in the summertime needs the grass to be able to graze on public lands.

The other side of that, of course, is that the wildlife, which basically lives on the public lands, needs in the winter to have the water and the water developed by the ranchers in their private land.

Mr. President, we look forward to finding a way in which these public lands can be managed to the benefit of the public, to the benefit of this country, and to the benefit of those users in Wyoming.

I thank you very much. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I ask unanimous consent that I may speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFORMING MEDICAID

Mr. ROTH. Mr. President, according to a familiar advertisement in the Nation's Capital, "If you don't get it, you don't get it." Anyone who read the December 12 editorial in the Washington Post entitled "Budget Sticking Point." now gets it and understands there is, indeed, a historic struggle being waged over Medicaid.

Over the past several months, the local liberal spin on the Republican proposals on welfare, Medicaid, and Medicare, has been that we were not really interested in reforming these programs.

According to the critics, the Republicans were only hunting for budget savings without regard to sound public policy. And to its credit, the Post realizes this is empty campaign rhetoric and there is, indeed, much more at stake.

But while the Post concludes the Federal mandates in Medicaid must be preserved, Republicans believe they must end precisely for the same reason. Who should decide how much more than $1.5 trillion should be spent on health care over the next 7 years, the bureaucrats in Washington or the Governors and State legislatures?

Spending $1.5 trillion represents tremendous power. The Republican proposal to invest this responsibility in the States represents a sea-change in how Government works. This realization shakes Washington to its very core. If we are successful, Washington will no longer be the center of this power and that is precisely why so much effort is being made to scare people about the Republican proposals.

This debate over Medicaid is just one chapter in the larger struggle over our system of federalism. The debate goes to the heart of our beliefs about 50 sovereign States united together as a nation. The partnership between the Federal Government and the States in running the current welfare system has been a pretense in the recent past. Over the past few years, the partnership has, in fact, been an adversarial relationship, based on mutual distrust, suspicion, and threats. President Clinton understand this when, as a Governor a few years ago, he joined 47 other Governors to petition Congress for a moratorium on new Medicaid expansions.

Despite the pleas of the Governors, there was no moratorium. Medicaid costs tripled between 1985 and 1993. In 1980, Medicaid spending accounted for about 9 percent of all State spending. In 1990, it accounted for about 14 percent of State spending. Medicaid now consumes 20 percent of State spending.

This trend is a threat to our system of federalism. As Medicaid places greater fiscal demands on States, they have been forced to reduce their percentages of spending on education, transportation, and other vital governmental services. For example, the General Accounting Office reports that Medicaid nearly equals the State expenditures for elementary and secondary education combined. This is a very important yardstick as education has generally been the largest segment of State budgets. Without reform, there will be no choice about how States will determine priorities among important services, the funds will simply go to Medicaid. Washington has seized the power of decisionmaking from those elected officials closest to the people.

The significance of reversing this quiet coup has been distorted by those who share in the power gained by it. The argument that the poor and the institutions which serve them will be stranded by the States is simply wrong. As the power is drained from Washington, all Americans, including those who depend on others for their access to health care, should eagerly anticipate the reciprocal actions to take place in the States.

Freed from the current adversarial system, the States will be able to design their own unique methods to help families overcome adversity. States will find more innovative ways to use this money to help families than Washington ever imagined. Under the Republican proposal, State governments will be empowered to use Medicaid dollars to act in the same manner as the private sector to lower costs while at the same time improve quality.

Medicaid reform will trigger a series of benefits throughout the States. Last year, President Clinton was right when he stated that "the health care issue is an important part of welfare reform." Although his solution was fatally flawed, he correctly identified the real issue before us now. The President said,

> The biggest problem we've got with welfare for a lot of people is that—remember if you're poor, on Medicaid and no welfare, your children get health care. If you take a minimum wage job in a business that doesn't have health insurance, you have to give up your kid's health care to go to work.

Mr. President, this is precisely why Medicaid reform is so vital. The present system traps families into welfare dependency. The current scheme is laden with perverse disincentives. Many families will return to work and no longer need cash assistance, if the power of Medicaid dollars is used in the marketplace to secure health care for low-income families. For example, the General Accounting Office recently reported that Tennessee has extended coverage to several hundred thousand newly eligible individuals while increasing expenditures by less than 1 percent. State officials in four States with demonstration waivers estimate as many as 2 million previously uninsured individuals can be provided with coverage while yielding savings of about $6 billion over 5 years.

Over the past several years, large private employers have used their muscle in the marketplace. Private sector employers and, I might add, the Federal Government for its own employees, have been using competition in ways to simultaneously lower costs and increase quality.

In Medicaid, however, we have witnessed the opposite effect. The Boren amendment, for example, has been used to actually bid the price of nursing home care up higher. Between 1980 and 1985, Medicaid payments for nursing home care increased by an average of 7.8 percent annually. In 1989, payments had increased by 8.8 percent from the previous year. But after a key Supreme Court decision on the Boren amendment in 1990, Medicaid payments for nursing home care increased by 17 percent in 1991.

Utah's Medicaid Program provides 30 percent more benefits than these provided to the average worker in the private sector. Yet the Federal Government has prohibited Utah from leveling the Medicaid benefits to 118 percent to the average private sector plan. The Governor would have used the savings to extend coverage to people who are currently uninsured, but the Federal bureaucracy refused to approve this initiative.

Through a decision by the Secretary of Health and Human Services, the working families of Utah are required to support a system which provides better benefits than they purchase for themselves. This is the system the administration insists it must safeguard. This has nothing to do with protecting the vulnerable.

Medicaid reform is needed to eliminate wasteful and unnecessary duplication. Under current law, States, are required to screen individuals entering nursing homes to prevent inappropriate placement. California has performed 80,000 such screenings each year since 1989 at a total cost of $28.5 million. Only five individuals have been identified by this mandated program as having been inappropriately placed. That is a cost of $5.6 million per individual identified as needing a more appropriate placement. What interest does this serve? Certainly not the interest of the taxpayer nor the recipient. Finding the right nursing home setting just takes plain common sense, not the Federal bureaucracy.

Those who insist on maintaining the status quo are scaring the elderly and disabled. In truth, these needy citizens have nothing to fear from the Republican proposal. The Post editorial is rooted in the past. For a glimpse at the future, I recommend an article by Massachusetts Gov. William Weld entitled, "Release Us From Federal Nonsense," which appeared in the Wall Street Journal this past week. Governor Weld states that:

> Before we privatized mental health services, patients were warehoused in state institutions; now we save $60 million a year, and the patients live in less intrusive settings that almost everyone agrees are much more humane. In case after case, not only did we not hurt the poor, the elderly, and the vulnerable, we managed to do a lot better by them than previous administrations.

It has been the States which have protected the dignity of so many by helping disabled individuals to live with their families. The States understand disabled individuals need a continuum of care and a variety of services including medical care, income support, nutrition assistance, education and training, transportation, and social services. Devolution of authority will improve the coordination and quality of services. Advocacy is strongest at the closest point of service. While Washington works to protect programs, the States are in a superior position to protect the interests of people. It is the arrogance of Washington, as Governor Weld describes, that prevents the States from serving our citizens even better.

Mr. President, the Washington Post was correct to point out that the Medicaid debate is not just about money, although we must not overlook the importance of our securing our economic future through achieving a balanced budget. The Post prefers to promote the current Medicaid system above the interest in restoring the balance of power between the States and the Federal Government. In doing so, it has failed to recognize that Medicaid is drawing resources away from education and other vital services. Moreover, the future ability of the States to preserve their constitutional role in our system of federalism should not be so lightly dismissed. In a landmark case about federalism, Supreme Court Justice Sandra Day O'Connor warned, "all that stands between the remaining essentials of State sovereignty and Congress is the latter's underdeveloped capacity for self-restraint." Our system of federalism is truly reaching in crossroads and Medicaid is one of the landmarks which will guide our choice.

At its core, the Republican proposal to reform Medicaid is about rediscovering our fundamental principles about Government by consent. Franklin Roosevelt once stated that:

> It must be obvious that almost every new or old problem of government must be solved, if it is to be solved to the satisfaction of the people of the whole country, by each state in its own way.

Mr. President, this simple statement captures so clearly and so precisely what the Republicans are proposing to the American people. There is no greater threat to our democratic institutions today than the consolidation of power in Washington. It is time to free the States and our citizens from the chokehold of the Federal Government. The Post has this much right—the fight is not just about the Federal budget. There is indeed so much more at stake.

Mr. President, I ask unanimous consent a copy of the Washington Post editorial and a column by Governor Weld be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 12, 1995]

BUDGET STICKING POINT

If the current budget talks break down, the hang-up likely won't be money. The parties will split instead on the ancient question: To what extent should the federal government guarantee a minimum standard of living, or minimum level of benefits, to the poor? The crucial battle-ground in this will be Medicaid, by far the largest federal "welfare" program through which the federal and state governments together help pay the health care bills of lower-income children and the needy elderly and disabled—all told, about a seventh of the population.

The money issues won't be easy. But Congress deals with money issues all the time, and the differences between the parties are already starting to melt. The Congressional Budget Office has freshened the economic and programmatic assumptions on which its estimates of future deficits are based, and more than $100 billion of the problem has disappeared. An agreement to adjust Social Security benefits and such features of the tax code as the personal exemption and standard deduction by less than the full inflation rate for a number of years could raise many billions more. If the Republicans will then backoff their tax cuts a little while the Democrats ease their opposition to a Medicare cuts, you're close to home. Except for the basic question: What should be the future federal role, particularly with regard to assisting the poor.

The Republicans basically think the federal government should do less, and the president has already done a fair amount of retreating on the issue. The current welfare program embodies a federal guarantee of aid to needy single parents and their children; he has indicated he would sign a welfare bill dropping that. He has indicated a willingness to limit future housing aid by capping the appropriations on which it depends as well.

That leaves three other major federal programs for the poor—Medicaid, food stamps and the earned-income tax credit, which stretches the wages of lower-income workers with children. On these the president has said to Democrats and advocacy groups unhappy with his welfare and housing concessions that we will not give major ground but will hold the line. The Republicans, though they've proposed deep cuts and assorted structural changes in all three of these programs, have indicated that on food stamps and the tax credit they don't care that much; they themselves are divided.

On the structure of Medicaid, though, they have said there will be no give, and there you are. They want to go to a system of block grants, cut projected federal spending sharply, cut what the states must put up to get their federal funds, and largely let the states decide how and on whom the money will be spent. This would pretty well eliminate the federal guarantee that the needy young and elderly could count on a certain level of care. The President rightly wants to preserve the guarantee. He would meanwhile cut projected costs by capping the annual increase per beneficiary—the right way to do it.

Much more is at stake in this than just a balanced federal budget and the balance of power between the federal government and the states. Medicaid is not just a major federal cost and major source of aid to state and local governments; it is the insuror of last resort in the health care system. Especially if even costlier Medicare is to be to shaken up and cut, Medicaid needs to be preserved to protect the vulnerable. The alternative is even more people uninsured; the poor, the states and the hospitals and other institutions that serve the poor would all be stranded. This fight is not just about the federal budget and the federal role. It's about that.

[From the Wall Street Journal, Dec. 11, 1995]

RELEASE US FROM FEDERAL NONSENSE

(By William F. Weld)

Right now, America is well on the road to block-granting welfare, Medicaid, and job training, and allowing the states to shape these programs to fit their own ends. And most of the nations' governors say a mighty hurrah.

Washington Democrats, however, talk about this shift of power from the federal government to the states as if it represents a return to a more primitive time—to an America without indoor plumbing or electric lights or a conscience.

We governors find this highly ironic. Because from our perspective in the state houses, it's Washington that has been living in the Walker Evans photographs from the thirties. We embraced the future some time ago.

Most of us already have cleaned up our budgets to eliminate deficits; we've cut taxes; and within the handcuffs the federal government has put on us, we've improved our social services while cutting the bloat.

For example, it's been clear for years that the federal welfare system is an abomination that lays families to waste; Senator Daniel Patrick Moynihan's been saying this almost since he was in short pants. But year after year welfare bills have been passed without Congress doing anything about the most glaring problems in the system, until finally the states gave up on Washington, applied for waivers, and took things into their own hands as far as the federal government would permit.

So when Washington Democrats characterize our enthusiasm for block grants as naiveté—or worse, a perverse desire to begin some race to the basement—they've missed the point entirely. If the federal government would just release us from its bureaucracy and nonsense, we'd make these programs better for those they serve, and we'd do it for less money.

I think our experience in Massachusetts is instructive.

By the time I was elected governor, Massachusetts had achieved a high state of refinement. Our Department of Corrections was under the wing of the Human Services Office—as if it were the taxpayers' obligation to help them have more children they couldn't support. We had a new sales tax on business services—as if that were the best way to celebrate a thriving service economy.

And our economy was falling to pieces; we were regularly releasing violent criminals back to the streets to continue their mayhem; and we managed to achieve the highest rate of out-of-wedlock teen births in the country.

We began getting Massachusetts' fiscal house in order by taking on the "budget-busters," and many of them were the same ugly mugs the federal government is facing right now.

In the four years before I was first elected governor (1990), Medicaid costs in Massachusetts rose by 20% a year. With Managed Care Medicaid, we brought that down to 3% a year.

We took on welfare, too—a state entitlement program known as General Relief, and it was mighty general indeed. The conditions that got you on the rolls were so loose that if you were over 45 years old, overweight and without a stable work history, you qualified. In other words, I qualified.

We replaced General Relief with an emergency aid program for the elderly, the disabled and children, and managed to save $100 million out of a $14 billion budget, just by targeting the help to those who really needed it.

Advoctes predicted a "bloodbath." They said we'd have people starving in the streets. But nothing of the sort ever happened, and the doomsday scenarios faded away. In fact, a quarter of our General Relief customers didn't even bother to reapply.

All along the way, we stepped on special interests who used the same scare tactics we're seeing today in Washington. But these tactics are far less effective when they are used in one's own district, because voters can more easily see how their money is being spent and, often, misused—another argument for letting states take care of their own.

When we cut taxes, we heard that we were reverse Robin Hoods. What the protectors neglected to mention was that our frugality not only allowed us to phase out the long-term capital gains tax, it also allowed us to lift the tax burden on low-income working people.

When we made changes to Medicaid, we heard that we were abusing the poor. But before we put Managed Care Medicaid in place, most poor children had no primary care physician, and many weren't getting their shots. Now a little girl with an earache doesn't have to report to an emergency room to get medical attention; she has her own doctor who knows her by name. And we've got advocates praising our Medicaid program in public.

Before we privatized mental health services, patients were warehoused in state institutions; now we save $60 million a year, and the patients live in less intrusive community settings that almost everyone agrees are much more humane. In case after case, not only did we not hurt the poor, the elderly and the vulnerable, we managed to do a lot better by them than previous administrations.

Our experience is not unique. All across the country, creative governors are aggressively dealing with problems Washington is just beginning to wake up to. So if the question is whether state governments are responsible enough to dispense welfare and Medicaid funds in our own way—we're more than ready.

Not only can we handle that responsibility, it's rightfully ours. The 10th Amendment of the Constitution says quite plainly that the powers not expressly given to the federal government are reserved to the states and to the people. And common sense dictates the same thing.

Government ought to be as local as possible, as close to the people as it can be, because generalities rarely get the story straight. So in my operation, we're doing some devolving ourselves, putting all the regulatory functions of government under a single office and sunsetting the entire 25,000 pages of the Code of Massachusetts Regulations, so our cities no longer have to apply to a half-dozen state agencies every time they want to put up a stop sign or a curb cut.

When it comes to social programs, the states shouldn't have to beg Washington for the right to put up a stop sign. The welfare reform law my state passed this year is full of badly needed stop signs. It includes a family cap that will allow us to cease subsidizing illegitimacy. It requires those with school-aged children to go to work within 60 days. It requires teenage mothers to live at home and finish high school, so they'll have a shot at something better than welfare. It puts a two-year limit on benefits, so welfare will be what it should be—a temporary leg up, not a permanent lifestyle. And it allows our Commissioner of Transitional Assistance to make exceptions for hardship cases.

For every change we wanted to make, we had to ask Washington's permission for a waiver of federal law and then put up with half a year of paper pushing and haggling. Ultimately, the Clinton Administration refused to grant us one of the cornerstones of our plan, the two-year limit.

The irony here is that our law passed with the overwhelming support of a Democratic Legislature. It's sheer arrogance for Washington to think it knows better than Massachusetts what Massachusetts needs, but the current waiver system encourages that arrogance. If President Clinton really wants to end welfare as we know it, he should sign the bill ending welfare as we endure it.

Washington has long tried to direct our life here at sea level from the summit of Mount Everest. In the process, it has turned entire communities into public sector hells. It has made fatherlessness the norm for two generations of inner-city kids and given birth to a frightening culture of drugs and violence.

We know these communities. Washington doesn't.

It's time for President Clinton to allow the states to give it our best shot. We couldn't do worse than Washington. I know we'll do much, much better.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 94-304, as amended by Public Law 99-7, appoints the Senator from Wisconsin [Mr. FEINGOLD] to the Commission on Security and Cooperation in Europe.

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COCHRAN). Without objection, it is so ordered.

LOW-INCOME ENERGY ASSISTANCE

Mr. WELLSTONE. Mr. President, yesterday I came out on the floor to speak about the energy assistance program. I need not repeat most of what I said, yesterday. But I thought I would try to be brief and summarize.

Mr. President, I am a Senator from a cold-weather State, Minnesota. By cold-degree days, we have the third coldest days in the country behind Alaska and North Dakota. Last year in my State about 330,000 people received some energy assistance so that they would not go cold. Many of them were elderly households, many of them were households with children, and many of them were households with minimum wage workers with an average rent of around $350. Let us think about this as a kind of cold weather lifeline program, almost more of a survival supplement than an income supplement, designed to ensure that people will not go cold.

Mr. President, right now as I speak on the floor of the U.S. Senate, in my State of Minnesota, without exaggeration I can say that there are some people with no heat with the temperatures around zero. Last weekend when Sheila and I were home the temperature was about 50 below wind chill. There are people in the United States of America, in my State, and in other cold-weather States as well, I am sure, Mr. President, who are now living in one room. That is all they are able to heat—one room. There are some people with no oil or propane in their tank. Mr. President, there are some Minnesotans who are trying to heat their home by just turning on their oven. There are also people in my State—I am joined by my colleague from Iowa—who right now are not able to purchase the food they need or the prescription drugs they need because of the money they are now spending for energy maintenance to make sure they do not go cold, because they have such limited means.

In the United States of America right now, in Minnesota, Iowa, and other cold-weather States, there are people who are cold, and I am positive, I am positive as I speak here today, that somebody will freeze to death and then we will take action. It will be too late.

Mr. President, this is the problem. Last year, by the end of December, about $1 billion had been allocated out to our States for assistance. This is not a 1-year program. It does not do any good to tell people they will be able to receive some assistance so they do not get cold in June or July. Time is not neutral. The total cost of the energy assistance program nationally was less than one B-2 bomber. It was $1.3 billion last year, $900 million right now. This is the problem. It was eliminated on the House side. But Senator DASCHLE—and, I might add, other Senators as well, Republicans included, Senator SPECTER being one really good example, and I know Senator HATFIELD cares fiercely about this, and I could list others as well; Senator SMITH from New Hampshire—many people, many from the cold-weather States. We know now what has happened. It has become a moral issue.

Last year by the end of December, about $1 billion had gone out, and I think this year about $230 million has gone out nationwide. In my State of Minnesota, by this time last year, about $25 million—right now, $9 million. We have long waiting lists of people who have no assistance or people who have received only $100 when last year they received $350. What is going to happen to them next month or the month afterwards?

So, Mr. President, I will yield in just a moment for a question from my colleague. I just want to make it clear where we are right now. It is extremely important that if there is a continuing resolution—and there should be because there should not be any Government shutdown—it is extremely important that we have the language to accelerate the allocation of this money.

If you did just 75 percent of last year, I say to my colleague, that would be over $900 million. We must get this out to our States now so people do not freeze to death. There cannot be one Senator or Representative, regardless of party, that could really disagree with this proposition. If this does not happen, Mr. President, with the wording of the continuing resolution at the end of this week, it has to happen at the beginning of next week. And if there is no continuing resolution, I would say to the administration you have the authority because we already have the money. This is forward funded. We already have the money. You have the authority to release that money.

However we get the job done, for God's sake, let us get the job done. That is really what I am saying.

I feel very strongly about any issue, not because I believe this is the only issue that our country is confronted with, not because I do not fully appreciate the overall budget debate and the difficult choices that all of us have to make, not because I do not care fiercely about what will happen in Bosnia and for the safety of our soldiers and that they will be able to make a difference there. Sometimes, in all these statistics and all this alphabet soup, OMB, CBO, baseline budget—you are familiar with what I am talking about—it is just disconnected from the reality of people's lives.

This is such a time. I am a Senator from a cold-weather State, Minnesota, and I will do whatever I need to do as a Senator to get the funding out to my State, and for that matter other cold-weather States, so that people, be they seniors, be they children, be they individuals with disabilities, or be they low-wage families, are able to get some assistance so they can heat their homes now.

Right now, too many of our citizens are cold. Too many of our citizens are without heat. This is wrong. This is a moral issue. We must do something about this, and it is within our power to do something about this today. We have to take action.

I know the Senator from Iowa had a question.

Mr. HARKIN. I just wondered if the Senator will yield.

First of all, Mr. President, I thank the Senator from Minnesota for being a leader on this issue. Both the other day when he took the floor and he spoke about it and again today—I did not catch all of the Senator's remarks; I was on my way over to the floor, but I wanted to just ask the Senator if he was aware of all of the ramifications in the States that are taking place right now. I know the Senator spoke very eloquently about what is happening in Minnesota and the fact that this money is not getting out. But there are some really kind of disingenuous things going on out there. If the Senator will bear with me, I will explain it and then I will follow it with a question.

I am told that in some States in the Midwest, because of the fact that they do not have the necessary funds for the heating program, the Low-Income Heating Energy Assistance Program, they put the word out that they have just enough money to meet emergency situations, that it is being interpreted in some States as saying an emergency is if an elderly person has been notified by the utility that they are cutting off the utilities. That is the emergency. If you get your utility cut off, then you get it.

I ask the Senator, take a typical elderly person in Minnesota or Iowa, from the Midwest, it is colder than the dickens. They are living in a small town of 900 people, 1,000 people like the small towns where I come from. They are living in a small house—usually it is women—living by themselves, on Social Security; their total income is 400 or 500 bucks a month.

I wish to point out that 80 percent, 80 percent of this money in the Low-Income Heating Energy Assistance Program, 80 percent of the money goes to people with less than $8,000 a year income. I ask the Senator to take an elderly person—as I said, many times an elderly woman—living by themselves in a small house in a small town. The heating bill comes in. They know they have to pay it. Would they just say, well, I am not going to pay it because then it will be a crisis and then I will get the money? What would that elderly person do?

Mr. WELLSTONE. Mr. President, I say to my colleague—and by the way, I would like to thank the Chair. Quite often we are speaking on the floor, and the Presiding Officer is writing letters and not paying attention. He comes from a more warm-weather State. I thank him for his courtesy.

I would say to my colleague from Iowa, we are getting all of these calls from elderly people, and I will tell you exactly what they do, and then I would like to compare notes with the Senator and get his reaction.

What will happen, under that definition, it will not happen that elderly person will not pay his or her bill, but they will not purchase the prescription drugs they will need that the doctor prescribed or they will simply have less money for food. It is that simple. And by the way, during the winter is not a time when you want to have less income to be able to have a decent diet.

That is exactly what is going on, I say to my colleague.

Mr. HARKIN. I think the Senator is correct. I think that is what is going to happen out there. So you may say, well, gee, you know, they are not in crisis circumstances; they are getting their fuel, they are paying their bills, but what is happening on the other side of the ledger? This is a crisis situation in my State, and I know it is in Minnesota.

Mr. WELLSTONE. It is.

Mr. HARKIN. I share the Senator's concern about this. We do have the opportunity, as the Senator pointed out. Now, again, for my benefit and for others, would the Senator explain it. We forward funded this, $1.3 billion.

Obviously that money has already been appropriated.

Mr. WELLSTONE. That is correct.

Mr. HARKIN. I was on the Appropriations Committee. That money has been appropriated. So why is it not going out? If we already appropriated the money, why is it not going out?

Mr. WELLSTONE. Well, Mr. President, I would say to my colleague that what has happened is by the terms of these continuing resolutions, the money cannot be appropriated right now by the administration. And that is what I was trying to explain earlier.

Right now we have a couple of different scenarios that are possible.

First, I want to say to my colleague—he may or may not realize this—in the first draft of the continuing resolution from the House of Representatives, zero came out for LIHEAP for this year. There was actually language that said that no LIHEAP money could be spent, no energy assistance money could be spent, until the Labor-Health and Human Services appropriations bill of this year was passed. This would have effectively guaranteed that there would be no money going out.

We saw that and we said that if that came to the floor, we would amend it. And it was ultimately amended. With the support of the White House and others, that was dropped. But my understanding, I say to my colleague, is right now by the terms of the continuing resolution that we are under, that money cannot be spent. The only money that could be spent has been spent—about $230 million.

One of two things has to happen. If we get a continuing resolution, we have to have language which essentially says that we have to accelerate the allocation of this money which exists. Even if it was 75 percent of last year's level, that would be over $900 million, which we need to get out. But if there is no continuing resolution, I say to my colleague, the administration then has the legal authority—and we were in touch with legal counsel at OMB to confirm this—they could release the money.

Mr. HARKIN. Let me get this clear from the Senator. If a continuing resolution—that expires today. I do not know what time it expires.

Mr. WELLSTONE. Midnight.

Mr. HARKIN. Midnight tonight. If there is no continuing resolution, then tomorrow the administration could release the remainder of the money that was appropriated last year for this program?

Mr. WELLSTONE. That is absolutely correct. And we have urged the administration to do that, absolutely.

Mr. HARKIN. I want to join the Senator in making that request. I do not know if there will be a continuing resolution today or not. Who knows. I know they are negotiating right now.

Let me further ask the Senator, if a continuing resolution comes to the floor today, let us say for a short period of time, a 3-day—I heard some talk about a 3-day, 4-day continuing resolution.

Mr. WELLSTONE. Right.

Mr. HARKIN. Is that amendable? Could an amendment be offered on that?

Mr. WELLSTONE. Mr. President, I would say to my colleague and good friend from Iowa, absolutely. Here is what we do not know. My hope is that since this continuing resolution would originate from the House, that on the House side they would have put into the resolution the language, the authority, for us to go forward with accelerated funding right now.

There are many Representatives, Democrats and Republicans, who are very uncomfortable with where we are at in this Nation. Thank God they are. There are people who feel—they are saying, "Look. We don't just want to be here while people go cold." All right.

So my hope would be that you would have a resolution that would come over here with a formula that would allocate the funds that we need to get out to the States so people do not go cold. People are cold now.

If that does not happen, then certainly we can amend that. That is one possibility, we can amend that, and we would insert wording that would make sure that we would get the allocation of funding out. We could do that. I say to my colleague that that is a possibility.

Now, if it was for 2 days, over the weekend, then another possibility—though we have to see—would be, depending upon commitments that are made, that it would be done in the beginning of next week.

But we have to get it done. Right now I feel very strongly we have to get it done today. We have to do everything we can to make sure that we get this funding out to families in our States so people do not go cold through a continuing resolution today or through a continuing resolution Monday or through the administration, if there is no continuing resolution, releasing the funds. It has to happen.

It makes very little difference to the people out in our States who are cold, who are really frightened, many of whom are desperate, what way the funding gets to them and what way they get the energy assistance. We can do it a number of different ways. But I have gone on record all week saying—I believe we have some amendments that we drafted to this continuing resolution. I certainly know my colleague from Iowa will be with me. If that is what we need to do, that is what we will do. If we can do it another way, we will do it another way.

Mr. HARKIN. I thank the Senator for bringing this out and answering those questions. And I look forward to working with him. The Senator is absolutely right, Mr. President, we have a crisis situation out there. We hear all the talk about shutting down the Government and the impact this would have on people who work and, with the Christmas season coming up, what it might mean for their families. And we ought to be cognizant of that. I hope there is not a shutdown of the Government. I hope that does not happen.

But for many of these elderly people—and we are talking about elderly people on Social Security, making $400 a month, $500, a lot of times living by themselves—when you do not get that Low-Income Heating Energy Assistance Program, that is more than the equivalent of a Government person losing their job for a few days. It could, indeed, be a very bleak Christmas for a lot of these people out there, too.

So I am sorry this has gone on this long. I guess we hoped against hope there would be warm weather. But we have had some really bad weather, really cold.

Mr. WELLSTONE. I say to my colleague, Mr. President, that the other problem that my chief legislative analyst, Colin McGinnis, reminded me of is it takes about 10 days or so for OMB and HHS to run the computer formulas, cut the checks, and get the money out to the States. We have a long waiting list in Minnesota already who would be served by that funding.

So we really are again—time is not neutral. For God's sake, I would say to every single one of my colleagues, Democrat, Republican, let us do this before Hanukkah. Hanukkah is Sunday night. I am Jewish. Hanukkah is Sunday night. Then we have Christmas. Let us do this before Hanukkah. Let us do this before Christmas. Let us please make a commitment as Senators to make sure that people at least do not go cold in America. This is wrong. We can do much better.

There is no reason in the world for us not to be able to reach out. I mean, if you want to talk about family values, I think the most important family value there is is to reach out with a helping hand. I think everybody agrees with that. So we have to get this job done.

I thank my colleague. I thank my colleague from Iowa.

Mr. President, I am just going to finish up. This is just one example. I have many examples from Minnesota, but this is an example of what can happen when people are without heat, from right here in the District of Columbia. Three years ago around this time, a fire burned down a small apartment building in the Mount Pleasant region of the District of Columbia, burning to death two little girls, Amber and Asia Spencer, ages 6 and 5. The girls were killed by a fire when one of the candles that was used to heat the apartment fell over. The electricity had been turned off 2 months earlier when the girl's grandmother, their guardian, could not afford to pay the heating bill.

It is my understanding that every winter, children across the country are killed or injured by fires caused by desperate attempts to keep warm—to keep warm.

I have said to my leader, Senator DASCHLE, I have said to the Republicans—again, I know Senator SMITH from New Hampshire, another cold weather State, said he really wants to be on the floor, wants to fight hard for this; Senator ABRAHAM has been very committed to this; Senator SPECTER has been very committed to this; Senator JEFFORDS and any number of Republicans on the other side of the aisle.

I do not view this as a partisan issue. I think it was a huge mistake for the House to eliminate this. I have been fighting for this for 6 months because I know it is so important to people.

But I think right now the issue is not to have a fight. That is not the point. The point is to bring people together and to at least make the small change. We already have the money. It is already there. All we have to do is make sure that in a continuing resolution, if the Government is not shut down—and I hope it will not be shut down; I do not think it should be—to make sure in the continuing resolution that we are able to allocate the funds out to the States.

If we just do it on the basis of 75 percent of last year, Mr. President, so that now as the winter weather is upon us in our States, then we could get adequate short-term funds out fast. It can be allocated out to the communities and we can protect people. We should do that.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. WELLSTONE. Mr. President, will the Senator yield for a moment?

Mr. LEAHY. Yes.

Mr. WELLSTONE. Mr. President, I want to make it clear, I mentioned the other day the work of the Senator from Vermont. He has spoken on this several times. I want to thank the Senator and Senator JEFFORDS as well. I believe that those of us from cold-weather States know what this means in human terms. We know from the phone calls and the people with whom we visit.

I thank the Chair and the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

LIHEAP

Mr. LEAHY. Mr. President, I spoke, as did the Senator from Minnesota, on the issue of LIHEAP yesterday. I commend him for what he has said. This is an issue that is joined certainly in the northern tier States with Republicans and Democrats alike in the Senate.

We should restore these LIHEAP funds. Frankly, I strongly urge our colleagues and leadership in the other body, if need be, to simply pass a LIHEAP appropriations so we can take it up, pass it here and send it down. We would not have this issue were all the appropriations bills now passed. We can pass that one, if need be.

This is a matter of urgency. It is not an answer to say we will have the money in June of next year. It was 8 or 9 degrees below zero at my home in Vermont 2 days ago. It was way below zero last night. We had about a foot of snow in the last few days. The good news, of course, is nothing slows down with only a foot of snow in Vermont. The bad news is that the people who are without money are now faced with the question of whether they will eat or heat. Many of them are elderly. The majority of them are disabled.

There is no question we should try to get this through. It will be colder next month. It always is in January. Last year, we had about a week and a half that did not go above zero. During that time, it hit 25 to 35 degrees below zero, depending where in the State it was.

If you are living in a residence that needs the help of LIHEAP or weatherization for heating, that cold goes through pretty quickly. This is not a case of being uncomfortable. This is a case where people die. People die in their own homes. They die in their own homes from the cold. They die in their own homes sometimes when efforts are made to heat. They die in their own homes when they have actually been pulling boards out of the floor or furniture to burn to keep warm, because they know exposure to that weather for just a matter of, sometimes, minutes could bring about hypothermia and death.

Mr. President, I do not see other Members seeking the floor, so I will talk about another issue.

DEFENSE AUTHORIZATION BILL—ANTIPERSONNEL LANDMINES

Mr. LEAHY. Mr. President, I understand this afternoon at some point, we will have a vote on whether to proceed to the conference report on Department of Defense authorization. I am strongly opposed to several provisions in that bill. I will not ask the clerks to read the bill in full when it comes up, as I could. It is my way of saying "Merry Christmas" to them, I suppose, and to the rest of the staff. But I will express very strong concerns about it and, of course, will ask for a recorded vote on the issue of proceeding.

I do not want to hold up the issue, though, of course and as soon as it comes over here—I see the distinguished chairman, my good friend from South Carolina on the floor—I would not want to hold him up.

Mr. LEAHY. There is one issue that I intend to talk about at considerable length. This body voted by better than a 2 to 1 margin, nearly 3 to 1 margin, to put some limitation on antipersonnel landmines.

For some reason a provision that was not even considered by either the House or the Senate on antipersonnel landmines ended up in the Defense authorization bill, which would have the effect of undermining my amendment. It is an absolute disregard and repudiation of the intent of the Senate.

At a time when every member of the military is talking about the danger to our men and women in Bosnia from landmines, at a time when the President of the United States talks about the potential casualties from landmines, at a time when every press report talks about the potential of landmine casualties in Bosnia, at a time when virtually every Member of this body and the other body are concerned about the potential American casualties from landmines, we let somebody from the Pentagon write in a provision in the DOD bill, a provision that was never voted on by the House, never voted on by the Senate, never considered by either body suddenly showed up in the conference report. A provision that would ensure that the plague of landmines continues unabated.

I call on the Pentagon, out of a sense of morality, at least, to stop the hypocrisy of saying they worry about our people being injured by landmines, and then do nothing to stop their use around the world. And it is not only our troops who are threatened, it is hundreds of millions of people who are killed and maimed by these indiscriminate weapons every day. Over 26,000 people every year, and most are innocent civilians.

This, Mr. President, is a landmine. It is an antipersonnel landmine. It has been disarmed. If it were active, with just the slightest pressure it would take my arm and most of my face off.

There are millions of landmines in Bosnia, many of which are made of plastic and virtually impossible to detect, and others are designed to spring up and explode at waist level, sending out horrendous shrapnel that would disembowel or cut in half somebody within 50 or 100 feet.

When we vote on the Department of Defense authorization bill, we ought to send a very clear message to the Pentagon that it is not enough to say you want to protect our men and women when they go in harm's way on peacekeeping of rescue missions or anything else. It is time to say we will take steps here, to show leadership, to set an example, to stop this senseless use of landmines worldwide.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to speak out of order for not to exceed 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANOTHER GOVERNMENT SHUTDOWN

Mr. BYRD. Mr. President, this year the American people have been treated to what can only be referred to as political theater of the absurd. The Republicans took control of Congress in January touting their so-called Contract With America as the vehicle for change and as the vehicle for the end of business as usual. Well, they weren't kidding. This year has truly defied all legislative logic. In some respects 206 years of process have been literally thrown out of the window.

There have been lots of talk and press events and, of course, photo-ops galore. Creative gimmicks have been used to highlight the grandiose plans of this new crowd. We have seen ostriches and bloodhounds and even golf clubs used to represent various points of view. Through all these shenanigans, the Nation has waited with bated breath for some real results.

To put it bluntly, the grinch seems to have stolen Congress' sensibilities. Here it is December 15, and the Nation is still waiting. The Nation has already lived through one record-breaking Government shutdown, and now we are facing the very real possibility that Federal workers will be furloughed for Christmas and Government services will once again be curtailed.

Today's deadline for keeping the Government running is looming and still there are no assurances that an agreement can be reached. While we in Congress jockey from one position to another seeming to be concerned only with protecting our collective political hides, the American people are wondering if we ever stop to worry about them or about the fate of the Nation.

Under the Constitution, the only real responsibility we elected Members of Congress have to worry ourselves with is that of ensuring the passage of the 13 appropriations bills that fund the Federal Government. That is all we really have to do. This year while Members of Congress have spent months and months raising the public's expectations for an end to legislative gridlock and a new blueprint for governing, we seem to be more preoccupied with one petty political nuance after another. Instead of ensuring that the people's needs are met, we are arguing over the size of the negotiating table, how many people can attend, and which door of the airplane we can use.

All of this is an unnecessary and unwarranted diversion. This year, as always, there are differences in priorities between the Democrats and the Republicans and between the Congress and the White House.

What is disturbing about our current situation is that we seem to have forgotten the concept of legislative compromise. No legislative product ever embodies the wishes and desires of all involved. Unfortunately, the political give and take that make our system of government work are sorely lacking. There is no give and take. Instead, members seem more concerned with sowing the landscape with political seeds that can be cultivated and harvested during next year's election campaigns. As I have often said, there really are matters that are simply more important than political party—more important than either political party. Responding to our elected responsibility to the people is one of them. We cannot let the American people down again or we all surely risk the wrath of the voters. And I say this to those who are focused more on November 1996: You will surely reap what you have sown!

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURNS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE AUTHORIZATION BILL

Mr. WARNER. Mr. President, at the appropriate time, on behalf of the majority leader, I will move that the Chair lay before the Senate a conference report to accompany H.R. 1530, the Department of Defense authorization bill.

It is anticipated that there will be an objection. Since this is not a debatable motion, then at such time as the majority leader indicates—I believe it will be shortly after the motion to oppose moving forward—there will be a rollcall vote.

Mr. LEAHY. Mr. President, the distinguished senior Senator from Virginia and the distinguished senior Senator from South Carolina, both of whom are dear and respected friends of mine, and I have had some discussion on this. I anticipate asking for—and there may be others for that matter—a vote on the motion to proceed.

I tell the Senate and my distinguished colleagues that if I had intended to hold up the motion to proceed, of course, I would use the parliamentary tactic, instead, of asking for a vote on the motion to proceed requiring the reading of the bill which—it is about this big for anybody who cares. That is about 1½ feet high, and it would take a very considerable time to read. I am not going to request that, of course. I have never engaged, in my 21 years here in the Senate, in such tactics. I will, however, ask for the vote on the motion to proceed, and I assume the majority of Senators will vote to proceed.

I do this because of my concern about one provision, as I said earlier, on landmines. This is a provision that was neither in the House bill nor in the Senate bill. We passed by a two-thirds rollcall vote in the Senate a provision on landmines. The House had nothing.

When it became contentious, I said to the distinguished chairman of the committee, to the distinguished Senator from Virginia, and to the distinguished Senator from Georgia, Mr. NUNN, "Why don't we just remove the Senate provision?" In other words, recede to the House, which is no provision.

It is my understanding that was going to be done. It was my understanding in the conversations with the Senators involved that would be done.

I was then told by Senate staff—not by Senators, but by some Senate staff—that they could not allow their Senators to go along with such a commitment. I find that frustrating, of course, because Senators are the ones elected. And I have found that the Senators I have dealt with—especially those whom I have just talked with—have always been extremely truthful with me, as I have always tried to be with them. But my concern was—and apparently sometimes we are considered merely constitutional impediments by our staff. In this case, the staff did not want us any longer to be impediments. In any event, this is a matter that could be solved, and could be solved easily before the conference report comes to a final passage.

I made suggestions to the distinguished Senator from Virginia, following a suggestion made by the distinguished Senator from South Carolina, of a way that we could solve this problem. That would require cooperation from the other body, and I hope that cooperation might be forthcoming.

I just thought this explanation, for Senators wondering what is going on, would be required.

LIHEAP

Mr. KENNEDY. Mr. President, one of the most serious effects of the current stopgap funding bill for the Federal Government is its treatment of the Low-Income Home Energy Assistance Program that helps needy families pay their winter fuel bills.

Under this program, the States receive the full amount of their LIHEAP benefits in October and November—the benefit levels that are set to deal with the emergencies.

It is bad enough that the current stopgap funding cuts these funds 25 percent below last year's levels. Even worse, it pays out those funds on bases that are prorated for a full year. So the States are receiving less than the usual share in October and November to plan for the winter.

This chart illustrates it. Last year, on December 15, 1994, some $800 million out of approximately a little over $1 billion had been distributed in LIHEAP. This year it is down to $231 million.

The total amount in the LIHEAP has been reduced by 25 percent. But, nonetheless, this is what is currently distributed under the continuing resolution because of the way that continuing resolution is drafted.

All we have to do is see what have been the temperatures of the last few days. In Boston it was 18; Duluth, MN, it was 22 below; Milwaukee, 1 below; even down in New Orleans, 26; Des Moines, IA, 7; Burlington, VT, 13—an enormously cold snap.

I know my good friend and colleague, Senator WELLSTONE, has talked about that issue as has the Senator from Iowa.

LIHEAP PROVISIONS IN THE CONTINUING RESOLUTION

Mr. KENNEDY. Mr. President, one of the most serious defects of the current stop-gap funding bill for the Federal Government is its treatment of LIHEAP, the Low-Income Home Energy Assistance Program that helps needy families pay their winter fuel bills.

Under that program, States receive most of their full-year LIHEAP allocation in the 2 months of October and November so that they can prepare for the winter, set benefit levels, and deal with emergencies.

It's bad enough that the current stop-gap bill cuts these needed funds by 25 percent from last year's level. Even worse, it pays out those funds on a basis that is prorated on a full year, so that States are receiving far less than the usual share in October and November to plan for the winter.

By this time last year, Massachusetts had received $32 million of its annual $54 million allocation. This year, however, Massachusetts has only been allowed to draw down $9.5 million.

In fact, all States had received $800 million of last year's $1.3 billion LIHEAP appropriation by December 15 of last year. Under the stop-gap bill, however, that level has dropped to only $230 million—a 71 percent cut—even though the bill is supposed to impose only a 25 percent cut at most.

States have found it extremely difficult to serve their needy citizens without access to these up-front funds. In fact, many States have had to establish triage policies to meet only the most dire emergencies.

Massachusetts energy agencies have said that they will respond only to cases where a utility terminates services, or where homes have less than one eight of a tank of fuel oil. The State has cut annual LIHEAP benefits from $430 to $150 per household to ensure that they have enough funds for emergencies throughout the winter.

In Gloucester, the agencies have been faced with a choice of spending non-authorized LIHEAP funds or letting some families freeze to death.

In Salem, the local government has dipped into its own scarce funds to provide needed assistance.

In Springfield, Patricia Nelligan, the fuel assistance director for the New England Farm Workers' Council, said that unless more LIHEAP funds are made available soon, their program will have to shut down by the end of next week.

It may not officially be winter yet, but winter has already arrived with a vengeance in many parts of the country. For the 6 million recipients of LIHEAP assistance across the Nation, it will be a desperate Christmas unless more aid is available.

Ninty five percent of the households receiving LIHEAP assistance have annual incomes below $18,000. They spend an extremely burdensome 18 percent of their income on energy, compared to the average middle-class family, which spends only 4 percent.

Researchers at Boston City Hospital have documented the heat or eat effect, where higher utility bills during the coldest months force low-income families to spend less money on food. The result is increased malnutrition among children.

We had a very interesting hearing the other day about the impact of a series of cuts on children. The most moving part of the testimony was some of the schoolteachers who talked about the fact of the loss of weight that is taking place with small children 7, 8, 9, 10-years-old during the wintertime and particularly during the coldest months. It is really unthinkable that that would happen here in America, but yet it does. We have an opportunity to do something about that hopefully this afternoon.

The study also found almost twice as many low-weight and undernourished children were admitted to Boston City Hospital's emergency room immediately following the coldest month of the winter. No family should have to choose between heating and eating.

But it is the poor elderly that will be at the greatest risk if more LIHEAP funds are not made available, because they are the most vulnerable to hypothermia. In fact, older Americans accounted for more than half of all hypothermia deaths in 1991.

In addition, the elderly are much more likely to live in homes built before 1940 which are less energy efficient and put them at greater risk.

Low-income elderly who have trouble paying their fuel bills are often driven to rely on room heaters, fireplaces, ovens, and wood-burning stoves to save money. Between 1986 and 1990, such heating sources were the second leading cause of fire deaths among the elderly. In fact, elderly citizens were up to 12 times more likely to die in heating-related fires than adults under 65.

Over 50 Senators have signed a letter urging the budget negotiators to allow States to draw down LIHEAP funds at the up-front rate if a further stopgap funding bill is enacted. I urge the Senate to support this provision, so that families can receive the urgent assistance they need.

Christmas is approaching, and in many parts of the country, temperatures have dropped to levels close to those at the North Pole. But Santa Claus does not release LIHEAP funds to the States—Congress does, and we must act quickly to avoid tragedy.

Let me summarize, Mr. President. This is not a question of increasing the fiscal year 1996 appropriation for the LIHEAP Program, although I hope that the program will be fully funded in the next budget resolution.

What's at stake is the State's access to the LIHEAP funds that are already available so that the elderly, disabled, working poor, and their children can be served before the temperature drops even further.

That is not a heavy lift for Congress. Over half of the U.S. Senate signed a letter urging that States be allowed to draw down LIHEAP funds at the normal rate.

In October, 180 House Members signed a letter circulated by Representative JOE MOAKLEY which requested that LIHEAP be funded at the level proposed in the Senate version of the Labor-HHS appropriations bill—$900 million.

In Massachusetts last winter, 42,000 out of the State's 137,000 LIHEAP households were elderly; 30,000 of the households also received supplementary security income; 32,000 of the households were working-poor; 69,000 of the households received food stamps; 50,000 of the households received Social Security; and 45,000 of the households received Aid to Families with Dependent Children.

Cold weather does not play partisan politics. When the temperature drops, it affects all people—Democrats and Republicans, Northerners and Southerners alike. It does not discriminate—it is an equal opportunity discomfort.

Mr. President, if we have an opportunity for the continuing resolution this afternoon, I know that Senator WELLSTONE will offer an amendment to permit the expenditure of vitally needed funds to be available to those 6 million Americans who today are in very difficult, dire circumstances because of the cold snap. If it is not, I join with those who urge the President to use his Executive powers to be able to move ahead with front end funding of those funds in an orderly way. Clearly, the overwhelming sense of the Members of this body and of the House of Representatives is that of supporting getting these scarce resources out to the public. It will make absolutely no sense because of a technicality to restrict the flow of these funds over a 12-month period when the greatest need is now during the wintertime and where it has been the wintertime since the establishment of this program, but because of a technical glitch we find ourselves under these circumstances. This circumstance cries out for action.

So, Mr. President, I know I speak for all the families in Massachusetts that are dependent upon LIHEAP. They are facing a critical situation. We cannot let this situation continue to go without action here in the House of Representatives and the Senate. We have serious business obviously in terms of the budget and the budget positions in terms of preserving Medicare and Medicaid and education and environmental issues, but this is an emergency situation that cries out for action. Whatever we are going to do on the budget will not be affected if we move ahead with advance funding to take care of the emergency needs of our elderly. It will not be affected. So we have to take this action, and we welcome the bipartisan support that we have received here. It has been bipartisan in the Senate. It has been bipartisan in the House. And I am pleased that the President has indicated his strong support for getting this problem resolved.

STUDENT LOAN PROGRAMS

Mr. KENNEDY. Mr. President, just briefly on another subject but a very important one, I address the Senate on the issue of the Republican budget and the student loan programs which are so important to the sons and daughters of working families in this country. There is a wide divergence in priorities between the two parties on the direct loan program as well as on other education issues.

The Republican budget bill has always been bad news for students, and bad news for the deficit. Now, according to estimates just released by the Congressional Budget Office, the deficit news is $1.1 billion worse.

Under the revised estimates, the negative budget impact of the Republican student loan provisions has more than doubled—from $900 million to $2 billion in additions to the deficit if the Republicans persist in their misguided scheme to dismantle the highly successful "direct loan" program for college students.

The bill vetoed by the President last week would have limited the direct loan program to 10 percent of all loans, and earmarked 90 percent of student loans for banks and other middlemen.

Mr. President, what we had done in recent years was to develop a direct loan program and permitted the guaranteed student loan program to go into effect. The total volume of direct loans is about 40 percent of all the student loans; 1,350 colleges and universities are participating in direct lending, accounting for 40 percent of loan volume. Under the Republican compromise, it will be reduced to 10 percent.

We made efforts on the floor of the Senate to let the schools in Montana and throughout this country make their own judgments whether they wanted to go to the direct loan program or go to the guaranteed loan program. Not one college or university in this country selected to go from direct loan programs to guaranteed loan programs. Not one. It is a success with the students and with the administrators.

The Republican provision is among the most notorious and objectionable special interest giveaways in the entire Republican budget plan. Its obvious motive is to divert billions of dollars in new business and higher profits to the banks and guaranty agencies in the guaranteed student loan program.

According to CBO, if direct lending is limited to 10 percent of loans, the banks and guaranty agencies would gain $103 billion in additional business over the next 7 years, and an estimated $6 billion in higher profits.

This arbitrary Republican ceiling on the direct loan program would force 2 million students and 1250 colleges out of direct lending and back into the bureaucratic maze of the guaranteed student loan program. Republicans are asking Congress to swallow this blatant special interest giveaway in the name of deficit reduction. But as the CBO's latest estimate makes plainer than ever, there is no deficit reduction, and the addition to the deficit is greater than ever.

This problem began when the Republican budget adopted last May contained a biased requirement for estimating the cost of direct student loans. The requirement was designed to make loans to students by banks under the guaranteed loan program appear cheaper than loans issued directly to students by the Federal Government. According to CBO's new estimate, the use of this biased procedure will add $6.5 billion to the deficit over the next 7 years. Other student loan provisions in the Republican budget save $4.5 billion over the same period, according to CBO's most recent calculations. Thus the net effect of the Republican student loan provisions is to add $2 billion to the deficit.

Under the previous CBO estimate, the biased budget rule added $5.8 billion to the deficit, and was offset by $4.9 billion in savings, for a net addition to the deficit of $900 million. Clearly, Republican deficit concerns go out the window when corporate welfare like this is at stake.

Republicans would like us to believe that their attack on direct lending is designed to eliminate Government bureaucracy and stimulate the private sector. But the guaranteed student loan program is hardly a monument to corporate efficiency and free enterprise. It is a bloated bureaucracy consisting of 7,000 lenders, 41 guaranty agencies, and 25 secondary markets who employ more than 5,000 people. That is 25 percent more than the entire U.S. Department of Education and 10 times more than the number of employees who actually administer the direct lending program.

In the private sector, companies take risks in the hope of making profits. But there's no risk in the guaranteed student loan program. It's all gravy. It's all corporate welfare. The banks and guaranty agencies reap all the profits and take none of the risks, because Uncle Sam is guaranteeing payment of the loans. It's not free enterprise at all. It's a Government-sheltered industry that's grown up like Topsy under the umbrella of Uncle Sam.

William Niskanen, who is now president of the Cato Institute, and was formerly a member of the Council of Economic Advisers under President Reagan, put it this way:

> These guaranteed loans are a sweet deal for the banks; unless they choose to collect on the loans, the banks provide no services other than to make a loan guaranteed by the federal government at a substantial premium above the rate if they made the same loan to the government. Moreover, because lenders have little incentive to be diligent collectors of guaranteed loans, the government has set up a complex and costly system of nonprofit guaranty agencies to manage these loans.

Larry Lindsay, a member of the Federal Reserve Board appointed by President Bush, put it even more bluntly: "As long as it is necessary to provide a profit to induce lenders to guarantee student loans, direct lending will be cheaper."

The cost-effectiveness of direct lending was confirmed just this week in a study by the audit committee of the Colorado Legislature. At the University of Colorado at Boulder and Colorado State University, the implementation of direct lending saved the universities $192,000 and $133,000, respectively, in a single academic year.

Direct lending also works better for students and colleges than the guaranteed loan system. According to colleges participating in direct lending, it provides excellent service. The application is simpler and the disbursing process is more prompt. Students spend less time filling out paperwork and waiting in lines. Loan funds get to students more quickly.

In 1993, when the University of Colorado at Boulder was using the old guaranteed loan program, only 3,000 checks were available to students by the first day of class. This year, under direct lending, 6,600 checks were ready for students to buy needed books and supplies. One student called it "the best thing since microwave brownies."

Colleges and universities across the country share this view. In a survey by the Education Daily, more than 90 percent of participating colleges and universities called direct lending "excellent."

Direct lending has also created more flexible repayment terms. It gives students the option of paying their loan back as a percentage of their income. When graduates are starting a family, working in their first job, starting a business, or going into public service work, they can make smaller payments.

Our Republican colleagues claim that their budget bill would extend flexible repayment terms to students in the guaranteed loan program. But under the Republican plan, the availability of flexible repayment options, such as income-contingent repayment, would depend on whether a particular guaranteed loan holder chooses to offer it.

Ask colleges and universities what they think. They're outraged at being forced out of one of the most successful reforms in the history of Federal aid to education. Some colleges and universities across the country have written urging Congress to reject this arbitrary limit on their ability to choose the loan program that best serves their students.

Over a hundred of the colleges that signed the letter are not in direct lending. But they too recognize its benefit for their students. As they put it:

> Those of us who represent institutions that are satisfied with the guaranteed student loan program also support the continued availability of the direct loan program to institutions. The competition created by direct lending has induced banks and guarantors to improve the efficiency of their delivery process, and has, for the first time, provided the student loan industry with market-based incentives to provide better service. The guaranteed student loan system has improved more since the phase-in of direct lending two years ago than it did over the more than two decades of existence prior to 1993.

The message doesn't get much clearer. Colleges and universities across the country are unanimous. The student loan system needs more competition, not less. With direct lending, both of loan programs have been working more efficiently because of the competition. What we saying is let competition rule. Let colleges and universities make the judgment themselves, not have that dictated from Washington.

What are our Republican friends afraid of? Why not let the two systems compete fair and square? Let the marketplace pick the winner, not Congress.

It is hard to find a more vivid or disgraceful example of the prostitution of Republican principles. When a special interest's Government-guaranteed profits are at stake, Republicans are more than willing to sell out free-market competition, and continue the heavy hand of a Government-guaranteed monopoly.

It's obvious what's happening here. Direct lending is taking colleges and universities by storm. It's one of the best new ideas in higher education in years. It's good for colleges and good for students, and it saves Federal dollars.

Direct lending has already established its solid appeal to the country. It's already captured 40 percent of the market in 2 short years.

So the guaranteed loan industry has mounted a desperate last-ditch lobbying campaign to persuade Congress to roll back direct lending.

Republicans should scrap their cynical attack on direct lending. They should let competition work. They should allow colleges and universities to choose the kind of loan program they want. And if they do, they'll find $2 billion more to put into deficit reduction at this stage of our balanced budget negotiation.

CBO has finally come out on this issue and found that this will be more costly to the Federal taxpayers, something that we have known for some period of time, and they have come out with that report at the present time. That, I think, gives the administration strong arguments to stand by their position to give choice to the States and the colleges and universities on which way they want to go, direct loans or guaranteed loan program.

We hear so much rhetoric, do not let Washington dictate what is good back home in Montana or Massachusetts.

If there is ever an example of that, Mr. President, it is permitting the colleges and universities in our 50 States to make their own judgments which direction to go in, what we do now. When they go to the direct loan, it saves the overall taxpayers billions of dollars. That has been reaffirmed once again this afternoon with the Congressional Budget Office review of these figures and statistics which are the best evidence.

I thank my friend and colleague from Virginia for permitting me the opportunity to address the Senate.

Mr. DOLE. Mr. President, what is the pending business?

THE CONTINUING RESOLUTION

The PRESIDING OFFICER. The Senate is in morning business.

Mr. DOLE. Mr. President, let me indicate that we have had very little success in the first, what we thought would be a serious negotiation on the budget. Apparently they were not serious. The offer by the President was filled with smoke and mirrors. I said earlier we might not be around here this weekend. Now I think there is a great likelihood we will be in session tomorrow and maybe unavoidably on Sunday.

The House will probably send us a continuing resolution with some attachment. I am not certain quite what that would be. Maybe welfare reform. And that might take some debate, unless we get consent that everything passes by voice vote. So I need to alert my colleagues not to get too far away. And I will keep my colleagues informed as soon as I have further information.

But it appears that there is not much prospect, not much reason to continue trying to negotiate with the White House when they do not want to really get serious about balancing the budget over the 7 years without falling back on the old smoke and mirrors and things that we thought maybe had changed.

I think our next step would be to try to negotiate with some of our Democratic colleagues who are concerned about the budget and welfare reform and saving Medicare and tax cuts for families with children. And that will be pursued later this afternoon.

So I can only say that we will be here some time yet today, and depending on when the House acts on the CR, probably tomorrow. But I will try to give my colleagues the specific times. And maybe some may not come in until afternoon depending again on how the House acts. I cannot give anybody more specificity, but as soon as I have information I will come to the floor and make an announcement.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996—CONFERENCE REPORT

MOTION TO PROCEED

Mr. DOLE. I now move that the Chair lay before the Senate the conference report to accompany H.R. 1530, the Department of Defense authorization bill.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Tennessee [Mr. FRIST], the Senator from Texas [Mr. GRAMM], the Senator from Arizona [Mr. MCCAIN], and the Senator from Kentucky [Mr. MCCONNELL] are necessarily absent.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Connecticut [Mr. DODD], the Senator from Massachusetts [Mr. KERRY], the Senator from Maryland [Ms. MIKULSKI], and the Senator from West Virginia [Mr. ROCKEFELLER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 23, as follows:

[Rollcall Vote No. 607 Leg.]

YEAS—66

Abraham
Akaka
Ashcroft
Bennett
Bingaman
Bond
Breaux
Burns
Byrd
Campbell
Chafee
Coats

Cochran
Cohen
Coverdell
Craig
D'Amato
Daschle
DeWine
Dole
Domenici
Exon
Feinstein
Gorton
Graham
Grams
Grassley
Gregg
Harkin
Hatch
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kerrey
Kyl
Lieberman
Lott
Lugar
Mack
Murkowski
Murray
Nickles
Nunn
Pressler
Reid
Robb
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NAYS—23

Baucus
Boxer
Bradley
Brown
Bryan
Bumpers
Conrad
Dorgan
Feingold
Ford
Glenn
Hatfield
Kennedy
Kohl
Lautenberg
Leahy
Levin
Moseley-Braun
Moynihan
Pell
Pryor
Sarbanes
Simon

NOT VOTING—10

Biden
Dodd
Faircloth
Frist
Gramm
Kerry
McCain
McConnell
Mikulski
Rockefeller

So, the motion was agreed to.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996—CONFERENCE REPORT

Mr. THURMOND. Mr. President, I submit a report of the committee of conference on H.R. 1530 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CRAIG). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1530) to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1996, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 13, 1995.)

Mr. THURMOND. Mr. President, I am pleased to present the conference agreement on the National Defense Authorization Act for fiscal year 1996 for approval by the Senate.

This conference agreement contains a broad range of authorities that are essential for the men and women who now serve in our Armed Forces, and for the effective operation of the Department of Defense. It is my hope that the Senate will pass this conference report, and the President will have the wisdom to sign it into law, because the important authorities it contains will significantly benefit our Armed Forces and the failure to enact these authorities will significantly disadvantage our troops. I am pleased that the House passed it today, 267 to 149.

I want to make sure my colleagues and the administration clearly understand that this is a period of high risk and exceptional danger for our military men and women. This is not the time to make defense a political issue. I want to caution my colleagues and the administration in the strongest terms not to politicize this bill at a time when the effects of such an action will be amplified to a high degree for every individual soldier, marine, sailor, and airman who is now deploying as part of the implementation force in Bosnia.

The authorization bill contains abundant important elements of authority for programs, systems, acquisitions, administration, and operations, and its passage will ensure that the Department will have the best possible chance to conduct its work as efficiently as possible. Likewise, failure to pass the authorization bill will encumber and disadvantage the Department unnecessarily.

The President has committed more than 30,000 uniformed men and women to a hazardous and lengthy operation in the former Yugoslavia. I believe no one doubts that he is sending our troops in harm's way. Some of these people may lose their lives in hostile actions and accidents. The President and the Congress must make every effort to ensure that nothing—absolutely nothing—is done to jeopardize or impede them in any way.

The Senate just passed a resolution to support these men and women unequivocally. The Senate has committed itself to providing our troops with all the necessary resources and support to carry out their mission and ensure their security. Although the dollar resources for defense are addressed in part in the appropriations bill, which has been enacted, the detailed guidance and authority to conduct the business of the Department of Defense, and to implement badly needed improvements, and to award new contracts and take care of families, are all contained in the authorization bill.

I would agree with the recent observation of my colleague from Vermont, Senator LEAHY, who commented during the debate on veterans appropriations that he found "a number of ironies, as I speak, American troops are being deployed in Bosnia. Every Senator who came to this floor, debating the deployment of our troops pledged support for them." Mr. President, I find it ironic that any Senator would consider blocking or voting against the defense authorization at this time or attempt to use this bill for political purposes. Politics must stop at the water's edge when our forces are deployed to a hostile fire area.

Mr. President, it had been my impression that the Committee on Armed Services spent the last 3 months working in what had been its traditional bipartisan manner to reach a mutually acceptable conference agreement. I am now disappointed to learn at this late date that the minority have felt excluded from the conference negotiations. I want to assure my colleagues that was not my intent. I am disappointed that the bipartisan atmosphere of the committee may be about to be compromised and jeopardize the defense authorization bill.

Mr. President, I would now like to turn to the substance of this bill. This agreement is in line with the priorities we established last January. I would summarize these priorities by saying there is a serious need to revitalize our Armed Forces in order to ensure our Nation remains clearly able to deter and, if necessary, to counter any future threat to stability and security. This legislation provides the direction and authority for that revitalization.

The conference agreement authorizes a 2.4 percent pay raise for the uniformed services, including the 20,000 men and women who will be deployed in Bosnia and the thousands who will support them. If this agreement does not become law—and I want to repeat this, if this agreement does not become law—they will not receive this increase, and military pay will lag even more than it does already. I find it unfortunate that the administration would choose to block this pay raise for the men and women it is now sending to Bosnia.

This agreement authorizes badly needed quality of life projects that are essential to family life and the retention of high quality people. It authorizes important improvements to military family housing, barracks, dining facilities, and work areas. Some critics of this bill would have us believe these authorities are unnecessary or extravagant. Mr. President, as we stand here today in the comfort of this Chamber, there are military men and women who are standing in the mud, exposed to rain and snow while they maintain their vehicles, because they do not have concrete hardstand in their motor pools. There are military men and women who are living in barracks that are substandard. Improvements will not be available unless this agreement is enacted. I want to repeat that: Improvements will not be available unless this agreement is enacted.

This bill also contains the authority to reform the acquisition and procurement processes in accordance with the general effort to streamline government. These reforms will enable the services to obtain new equipment, supplies, and commercial products quickly and efficiently, instead of having to wait for the bureaucracy. It also reforms the process for managing the procurement of the information technology which provides our front-line troops with the latest and best information about their situation.

I would like to point out that all the acquisition reform provisions contained in sections D and E of the bill will be lost if the conference agreement is not enacted. Federal agencies will not be able to acquire technology from the commercial sector rapidly. The administration will take the blame for failing to enable reform, despite their extensive rhetoric about how such reforms are needed.

I am pleased that the conferees agreed that the military services have been underfunded and, in many cases, overextended, and that these problems had to be corrected. It is difficult to make the case, as some have tried, that the budget proposed by the administration is adequate in light of testimony by the Comptroller of the Department of Defense that defense is underfunded by approximately $50 billion. The General Accounting Office has concluded that the shortfall is actually closer to $150 billion. This legislation takes a step toward correcting this shortfall by authorizing $7 billion above the budget request. This is only a small amount of the deficiency.

The additional budget authority is also necessary because the demands placed upon our military in the past 2 years have been greater than their budgeted requirements. These demands came at a time when the force was being reduced in the most dramatic drawdown since the end of the Second World War, and often exceeded the operating tempo of the cold war years. As a result, current readiness declined late last year and funds were moved or budgeted by the administration from future readiness accounts to current readiness accounts in order to prevent further movement toward a new hollow force.

The Committee on Armed Services took note of the decline and added funds in this agreement to some current readiness accounts. However, I would like to stress again to my colleagues that the greater problem in readiness is not in the current readiness accounts but in modernization and procurement. These accounts remain significantly underfunded, and I am concerned that our Armed Forces may not have the modern, up-to-date equipment they will need to overmatch any potential adversary.

Procurement funding has declined by 44 percent since 1992 and procurement is at the lowest level as a percentage of the budget since the years prior to the Second World War. This means that many basic essentials are not being bought in sufficient quantities to meet requirements and we are not investing today to achieve savings in the future. This also means the services must spend more of their budgets to keep older systems in operating order. The Chairman of the Joint Chiefs of Staff has stated there is a serious deficiency in procurement, and this agreement takes a step toward resolving that deficiency.

Our Armed Forces were able to prevail in the Gulf war because they had superior equipment that had been developed, built, and fielded long before the threat of an Iraqi invasion emerged. Our military men and women were superbly trained because we recognized the inherent value of keeping our military trained and ready, not because we planned to fight a war with Iraq. This experience serves to reinforce the lesson that you cannot sacrifice future readiness in order to save current readiness. Both must be funded adequately, or both will be lost.

That is the situation we confronted as we approached our work this year, and we took our time in order to get it right. By proceeding carefully and deliberately, the conferees ultimately achieved a responsible, thoughtful, and effective authorization bill. Although this legislation will serve as a roadmap to guide our national security into the 21st century, it is not all that I had hoped for, and our task is not yet finished. However, this legislation addresses future readiness requirements by adding substantial funds to procurement so that our forces will have superior, modern systems ready for any future conflict.

The budget request raised grave concerns about the Navy's future force structure, but the conferees addressed the most serious shortages in the area of seapower. The funds requested for shipbuilding were at the lowest level since before 1950 and the number of ships, three, was the lowest number since the Great Depression. Next year's shipbuilding budget is even lower, and the Navy's 6-year shipbuilding plan will not sustain a fleet of 200 ships, let alone the 335 needed to meet the administration's own bottom-up review force structure goals. Shipbuilding budgets in the period beyond the 6-year plan will have to reach historical highs of $13 to $15 billion just to catch up.

By utilizing the additional resources made available for defense by this year's budget resolution, the conferees were able to add $1.5 billion in order to double the number of ships that will be bought this year. There is now authority to procure six *Arleigh Burke* class destroyers, two amphibious ships, and a *Seawolf* submarine. Ships that were added are in the Navy's shipbuilding plan; those ships had been squeezed into the outyears by the severe constraints of near-term budgets.

Buying these ships now will: save money through more efficient production quantities; resolve severe deficiencies in amphibious lift; sustain the industrial base; provide combatants needed for fleet and ballistic missile defense and long range land attack; and relieve extraordinary pressures on future shipbuilding budgets. This is a responsible use of taxpayer dollars.

The committee also sought to sustain Marine Corps modernization. There is authority to procure essential components such as: LHD–7 and LPD–17; the Advanced Amphibious Assault Vehicle; additional AV–8B aircraft; and the V–22 aircraft. Mine clearance and surface fire support are also strongly supported in this conference report, as is a wide spectrum of basic Marine Corps needs.

Since the end of the cold war, the committee has emphasized programs that would counter the threat posed by the proliferation of weapons of mass destruction. The conference report would authorize funds for the counterproliferation support program. The nerve gas attacks in Japan and the bombing in Oklahoma this year highlight the need to protect not only our military personnel, but also our citizens within the United States, against the use of weapons of mass destruction by terrorist organizations or transnational groups.

Now more than ever, our U.S. military relies on space to sustain a broad mix of space- and ground-based capabilities to meet multiservice and joint warfighting requirements. These funds would accelerate the development and deployment of essential military technologies and capabilities to combat nuclear, chemical, biological and radiological weapons.

The conference report would require the Department of Defense, the Department of Energy and other appropriate Government agencies to report to Congress on their military and civil defense preparedness to respond to these emergencies. The conference report would also authorize the Department of Defense to provide assistance in the form of training facilities, sensors, protective clothing, antidotes, and other materials and expertise to Federal, State, or local law enforcement agencies.

In the area of arms control, the conference report authorizes funds that would enable the United States to meet its treaty obligations to destroy or dismantle chemical and strategic nuclear weapons and material, as well as provide $300 million for the Cooperative Threat Reduction Program, to aid the destruction of nuclear and chemical weapons in the former Soviet Union.

On the question of theater missile defense demarcation, the conference outcome is virtually identical to the Senate-passed provision. This should alleviate concerns about constraining the President's prerogatives in negotiations while fulfilling the constitutional responsibility of Congress to review the results of those negotiations. I believe we have addressed all the concerns of the administration and the minority conferees.

On national missile defense, the conference agreement strikes a balance between opposing views. The administration and others have argued that requiring deployment of a multiple-site national missile defense system by a date certain would constitute an anticipatory breach of the ABM Treaty. Although I do not agree with this argument, the conferees attempted to satisfy this concern. The conference agreement requires the Secretary of Defense to develop an NMD system that will achieve an initial operational capability by the end of 2003. However, we do not require that this be a multiple-site system, although it is clear that our ultimate goal is a multiple-site system.

I am very disturbed to hear some talk about vetoing this agreement over the ballistic missile defense provisions, because I believe the conference outcome is balanced and fair. If this veto comes to pass, it will become clear that the administration's arguments over the ABM Treaty were merely attempts to block the deployment of any type of national missile defense system, to include one that complies with the ABM Treaty. At a time when we are about to deploy 20,000 Americans to Bosnia, I find it hard to believe that the President would veto this important bill simply because he does not want the American people to have a modest defense against ballistic missiles.

In matters relating to readiness, the conferees agreed to an approach to reform the process of allocating and performing depot-level maintenance and repair. If this bill is not enacted, the administration will be throwing away its best chance to reform the process by which depot maintenance work is allocated and performed. The conferees also authorized funds above the budget request for base operations, real property maintenance, and recruiting.

The section on Department of Energy national security programs contains numerous important provisions to strengthen the U.S. nuclear weapons program. These include $118 million above the request for stockpile management. It also directs DOE to modernize its remaining manufacturing plants in Missouri, Tennessee, Texas, and South Carolina. Modernization is necessary to meet the near-term infrastructure requirements of the nuclear posture review and signals that the United States will maintain the capability to repair and refabricate our nuclear weapons stockpile.

The bill provides $50 million for the first year of an initiative to provide a new source of tritium gas. Because tritium decays, and since we ceased production in 1988, we must complete a new production facility early in the next decade.

The bill authorizes several stockpile stewardship initiatives at the three nuclear weapons laboratories in California and New Mexico, enabling us to determine whether DOE can maintain long-term confidence in our nuclear weapons without conducting underground nuclear testing.

The bill also focuses resources on cleaning up the highest priority nuclear waste problems at the former nuclear materials production sites, and accelerating certain clean up schedules. It also funds the isolation and reduction of spent nuclear fuel rods, some of which are beginning to corrode.

This legislation sends the message to DOE that the maintenance of a safe and reliable nuclear weapons stockpile, sized to defense requirements, continues to be the DOE's core mission and the primary reason for its existence. It also tells DOE to get on with real clean up at the highest priority nuclear waste problem sites.

To continue on the topic of environmental stewardship, the agreement establishes uniform national discharge standards for vessels of the Armed Forces. This important environmental initiative will be lost if the bill is not enacted.

Quality of life for military personnel and their families was an important priority for the committee. In the areas of personnel, compensation, and health care, the conferees authorized a 2.4-percent pay raise for members of the uniformed services effective January 1, 1996. We also authorized a 5.2-percent increase in the basic allowance for quarters to close the gap between the current allowance and actual housing expenses.

The conferees changed the 1996 military retired pay cost-of-living adjustment to be effective March 1, 1996 and paid on April 1, 1996. In 1997, the COLA will be effective December 1, 1996 and paid on January 1, 1997. In 1998, military COLA will conform to the civilian COLA date. I am delighted that we were able to restore the alignment of the military retiree and Federal civilian retiree COLA dates. This has been a priority of the committee since 1993.I want to acknowledge the contributions of my friend Senator DOMENICI, chairman of the Budget Committee, for his help in making the COLA adjustment possible.

However, neither the full pay raise nor the retiree COLA equity provision will take effect unless this agreement is enacted.

We directed the Secretary of Defense to establish a dental insurance plan for members of the selected reserve, similar to the active duty dependent dental plan, with voluntary enrollment and premium sharing. We also authorized an income protection insurance plan for members of the ready reserve.

With the cooperation of the Veterans' Affairs Committee, we were able to adjust the automatic level at which service members enroll in the Servicemen's Group Life Insurance Program to $200,000, effective April 1, 1996. The last time we adjusted SGLI was during the Persian Gulf war. Ironically, we need to make another adjustment to SGLI as we again deploy U.S. forces in harm's way. I sincerely hope that no family finds itself in a position to receive this increased benefit, but I am pleased that we were able to authorize the increase. However, it will not take effect unless this bill is enacted.

The conferees also recommend $480 million above the budget request for military construction, particularly for military housing, mission-related facilities, and revitalizing infrastructure. The conference agreement establishes new authorities for the construction and improvement of military housing that will permit shared public-private funding in order to maximize opportunities at the lowest cost possible.

This agreement also takes a major step toward a more streamlined government acquisition process. Provisions of the bill will enable greater access to commercial technologies for Federal agencies. These include relieving burdens on contractors who supply commercial items as well as giving agencies the ability to acquire new commercial products from the marketplace. This will result in savings to the taxpayer and create new opportunities for businesses. We have taken this major step in acquisition reform while maintaining the requirement that contracts be awarded using full and open competition.

Mr. President, I would like to express my appreciation to my colleagues on the Committee on Armed Services for their cooperation and wisdom in developing and approving this agreement. I extend my appreciation to the distinguished ranking minority member of the committee, Senator NUNN, for his bipartisan work during the conference. I want to thank my staff director, Gen. Dick Reynard, and the majority staff for their fine work. I would also thank General Arnold Punaro and the minority staff for their contributions. I ask unanimous consent that a list of the staff be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

MAJORITY STAFF

Charlie Abell, Tricia Banks, Les Brownlee, Dick Caswell, Monica Chavez, Chris Cimko, Greg D'Alessio, Don Deline, Marie Dickinson, Shawn Edwards, Jon Etherton, Pamela Farrell, Melinda Koutsoumpas, Larry Lanzillotta, George Lauffer, Shelley Lauffer, Steve Madey, John Miller, Ann Mittermeyer, Bert Mizusawa, Joe Pallone, Cindy Pearson, Connie Rader, Sharen Reaves, Dick Reynard, George Robertson (GPO staff), Steve Saulnier, Cord Sterling, Eric Thoemmes, Trey Turner, Roslyne Turner, Deasy Wagner, and Jennifer Wallace.

MINORITY STAFF

Dick Combs, Chris Cowart, Rick DeBobes, John Douglass, Andy Effron, Jan Gordon, Creighton Greene, P.T. Henry, Bill Hoehn, Jennifer Lambert, Mike McCord, Frank Norton, Arnold Punaro, Julie Rief, and Jay Thompson.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, Senator THURMOND has shown great patience and endurance through a long and difficult negotiation with the House. I have great respect for Senator THURMOND and for his leadership. I commend him for his diligent efforts. Without his strong efforts we would have never been able to get this report out of conference.

It has been a very difficult year. I signed the conference report out of my great respect for Senator THURMOND, and I have also voted in favor of the motion to proceed. This will give the Senate the opportunity to consider this conference report. As I said this morning on the floor of the Senate, contrary to one newspaper article, I am not lobbying Senators to vote against this bill. To the contrary, I am making sure that everyone understands my position. I do have serious reservations. I will vote against the bill. But everyone will have the conference report before them and they can make up their own minds.

I think this bill deserves to be voted on. I have urged everyone on our side not to cause any kind of undue delay. There are a number of Members who want to speak and there are a number of Members who will speak, I am sure. But it is certainly my hope that we will be able to come to a conclusion on this bill. I will do everything I can to cooperate in bringing this bill to a vote and in making sure the conference report is sent to the President for whatever he may decide to do.

As I said on the floor of the Senate this morning, and as I said when I signed the conference report earlier this week, I have serious reservations about the conference report and I will vote against the it when we vote. I also made it clear this morning that, in my judgment, the report speaks for itself. Each Senator can readily make his or her own judgment as to whether the conference report merits their support.

On Monday I will give a detailed speech outlining my concerns—assuming we are on the conference report on Monday, or whenever we are on it. For now, I will just highlight my major objections.

The ballistic missile defense legislation contains national defense language which goes well beyond the mandates both of the House-passed and of the Senate-passed bill. As Senators will recall on this subject, during the debate on the Senate bill, Senator THURMOND asked that Senator LEVIN and I join Senator WARNER and Senator COHEN to work on the missile defense language because there were obviously a great number of Senators who were very concerned about that language. A number of us had voted against that language in the committee. I was concerned about it. It was apparent that the bill on the Senate floor was going to have a hard time being brought to a conclusion without some consensus on ballistic missile defense.

We spent about 4 or 5 days working very carefully with every word of that language. We made very substantial changes from what had come out of the Senate committee. We worked closely with the White House to make sure that whatever product we presented as a compromise would be something that the President would be able to sign. We achieved that through a great deal of effort. In the conference to work this out, I again worked with Senator THURMOND and others, including Congressman CURT WELDON on the House side, and Members on our side, to try to achieve a compromise between the Senate and the House versions in a way that would not lose the approval of the administration. The administration had been reluctant to move as far as we did on the Senate bill but did agree with it before we passed that bill.

Mr. President, the bottom line of all this is that the missile defense language in this act goes well beyond the mandates both of the House-passed bill and the Senate-passed bill. I will go into more detail on Monday on this, or whenever I speak again. But this is not an issue to be taken lightly. This is not an issue that is a question of one word or two words or one sentence. This is enormously important.

We have achieved, under Republican Presidents primarily, an arms control agreement called START II. That arms control agreement, I believe, has come out of the Foreign Relations Committee now. Although I am not certain, I believe the vote was unanimous.

There is no doubt in my mind that all the defense experts that I know have concluded that this agreement is in the best national security interests of the United States and Russia. This START II Treaty has not been approved by the Duma in Russia and it is much more controversial there than it is here. The one thing we know is that if we convey the impression in this bill or in this conference report that the United States Senate is going to breach in any way or disregard or have an anticipatory breach of the ABM Treaty, that action will make it extremely unlikely that the Russian Duma will ratify the START II Treaty.

In the name of protecting our own country against missiles that may be aimed against this country in the future, it would be the supreme folly if we passed a piece of legislation that is going to unwind the efforts made by several Presidents to get to the point where we have dramatically reduced the number of Russian missiles that are aimed at the United States. Those reductions are going to occur in START II, if that treaty is ratified. If we do something in this legislation, whether we intend it or not, that inadvertently causes that treaty not to be ratified in the Russian Duma, then we would have taken probably the most gigantic step backward in arms control that we have taken in many years.

I emphasize, this START II Treaty basically requires dismantling literally thousands of missiles that for years have been aimed at the United States, including missiles that we called MIRV'd, multiple warhead missiles. We have feared for years that these missiles could cause tremendous problems in terms of the nuclear balance and could lead to an incentive for one side to strike first.

This is not trifling. This is not picking at words. Every word in this Missile Defense Act is of great importance and the White House, the Department of Defense, and the National Security Council and the State Department have every reason to examine every word. And, regarding things to which we do not completely attach the same significance, we must remember that they are the ones negotiating with the Russians. They are the ones in touch with the Russians on a day-by-day basis, and it is the executive branch that really has to work on this matter. So we have to have, I think, some deference to their judgment.

This conference struggled and tried. We tried to get it worked out. I think it was a good-faith effort by Senator LOTT, the Senator from Mississippi, Congressman WELDON, myself and others. But we did not achieve that goal, primarily because the House insisted we continue to work from the House language. Every time we worked out one problem with two or three words here, two or three words there, instead of working off the Senate language so we would have known what the underlying fundamental provisions were, it came back in some sort of a new conglomeration of House language. All of this is in multiple pages, anywhere from 10 to 20 pages. Therefore, we had to go over every word again.

This went on and on and on. Finally, I had suggested many times that we should work off the Senate language, which would have narrowed the scope of what we had to examine. But, finally the time came when I know Senator THURMOND had to make a decision, as did his counterpart, Congressman SPENCE, to complete this conference report. I understand their position. But this is enormously important. The Department of Defense and the White House disagree with this language. There are legitimate and sincere fears that this kind of language could end up being extremely counterproductive to our Nation's security. I share those apprehensions and I will urge all Senators to take a close look at this language.

My second problem with this bill is that it includes a specific legislative provision that would abolish the statutory requirement which came from the Congress of the United States—Senator COHEN and I led the way on this—for the Assistant Secretary of Defense for Special Operations in Low Intensity Conflict.

I believe that abolishing that statutory authority could undermine civilian oversight of special operations. Special operations forces are absolutely necessary. These are the specialists. These are the people—the SEALS and the special forces—who go into very dangerous situations in almost every area. They are the best trained military individuals we have. They take the most risk. They are in many types of activities, including activities of a highly classified nature.

The Special Operation Force was begun by a legislative act which Senator COHEN and I co-authored. We decided at that time—and I think that the wisdom of that decision has been demonstrated very clearly—that, if we are going to have those kinds of special forces, we need civilian control not just in the general sense but in the sense of having an Assistant Secretary of Defense who is responsible for the Special Operation Forces. The issue is civilian control. We do not want to lose the civilian control of those forces.

But this legislation, in my view, mistakenly abolishes the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict. That does not mean, in theory, that there will not continue to be civilian control with the Secretary of Defense in charge. It means that the focus of civilian control over special operations on a daily and weekly basis is likely to be eliminated with the abolishment of the statutory requirement for that position. I think this is a mistake. It is a fundamental mistake.

There is legislation in the conference report in which I know many people will be interested on the floor of the Senate because, again, it addresses another position that was created by the Congress. I know the Senator from Arkansas and the Senator from Iowa were very involved in an effort that language in this conference report that would abolish: the statutory requirement for an independent Director of Operational Test and Evaluation. Many fear—and I share this fear—that abolishing the statutory requirement for this position could undermine objective, unbiased testing of major weapons systems. In other words, it would abolish the statutory requirement to get testing and evaluation away from the program managers who have been somewhat generous in seeing that it worked which many times resulted in a lack of objectivity either in reality or in perception.

Another problem I have with this conference report is that the Naval Petroleum Reserve sale provision establishes a 1-year timeframe for the sale even though the budget reconciliation bill no longer mandates sale within 1 year. Originally, this was mandated in the reconciliation bill in order to raise revenue. The Naval Petroleum Reserve is a complex operation, and compressing the timeframe for sale to within 1 year, I believe, is insufficient time. I fear that the taxpayers will not get the maximum value through knowledgeable competitive bidding. It could give one or two companies a real inside position on an enormous amount of value in terms of competitive bidding. So, that is also a provision about which I am concerned, Mr. President.

I also have problems with the directive for procurement of specific ships at specific shipyards that are not tied to any clear industrial base requirement. Sometimes it is justified, but when there is no industrial base requirement, it undermines the cost-saving potential of competition. This is micromanagement in a sense that costs the taxpayers money in almost every case.

Mr. President, I think this bill has a vast number of certifications and reports, and it gets into micromanagement. We have had some of that in past bills. I do not say that it is unique in this one. But it is of concern.

I am also concerned about Buy American provisions for ships and naval equipment which will result in significant cost increases for naval vessels and which could produce an unfavorable reaction against U.S. military sales abroad.

Mr. President, military equipment is one of the areas where we have a trade surplus. If we start putting numerous provisions in here saying you can only buy this product from America, the people who are going to end up paying the price are the workers for aerospace companies and for other companies that now have very strong export business. Believe me, when you put a Buy American provision in here, you pay a price for it. Other countries retaliate, and there we go in terms of restricting trade and increasing prices.

Mr. President, I also am concerned about something which I know the appropriators have felt keenly about in the past. I am not sure how they feel about it at this point in time. But Senator BYRD and I have talked about this on numerous occasions in relation to this bill. There are mandated spending floors in the shipbuilding language; that is, requirements that say you have to spend this much money—not an authorization saying you can spend this much money, but a floor saying you have to spend this much money.

Mr. President, this directly contravenes a longstanding agreement between the Armed Services Committee and the Appropriations Committees where I, at least as chairman, pledged not to place floors in the authorization bill. We put the ceiling on. We say you cannot spend any more in this area or that area. But, in this conference report, we become the floor. If we say you cannot spend any less, that in effect cuts out the appropriations process in that particular area.

The reason I object to this is because I think the appropriators must respect that we are the ceiling. If they do not pay attention to our ceiling, if they go over those ceilings, there is no point of an authorization process. In other words, if we say that we are not only the ceiling but we are also the floor, you cannot spend more but you also cannot spend less than this for a certain item, then it undermines the appropriations process.

The only way authorization and appropriations can work together is if we are the ceiling on weapons systems and on major considerations and if the appropriators have the ability to come and cut under our amount as they see in their discretion.

Finally, there is an earmark for noncompetitive ship maintenance contracts for a specific shipyard. I do not know that the amount of money involved is vast. I am not sure how much the amount of money is. I will find out by the time of my next speech on this subject. But I think the principle of having an earmark for a noncompetitive maintenance contract for a specific shipyard is a very bad practice that will cost the taxpayers money. It certainly does away with competition. And that can, as we have seen in the past, cause a containment problem. If one shipyard has it, another shipyard wants it. And if another shipyard has it, the other shipyard wants it. Pretty soon you have eliminated competition and you have gone to a very serious erosion of stewardship in terms of the taxpayers' money.

Finally, Mr. President, there is the creation of a special congressional panel on submarines. This probably will not concern other Senators. It concerns me because that is our job on the Armed Services Committee. But, this bill creates a congressional panel, and I think that needlessly duplicates the oversight role of the Armed Services Committee.

Mr. President, I ask unanimous consent that a statement I released when this conference report came out be printed in the RECORD, and I will make further remarks at a later point in time during this debate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 13, 1995.

SENATOR SAM NUNN (D–GA), RANKING MEMBER OF THE SENATE ARMED SERVICES COMMITTEE, TODAY RELEASED THE FOLLOWING STATEMENT

I congratulate Senator Thurmond upon the completion of the House-Senate conference on the National Defense Authorization Act for Fiscal Year 1996. Senator Thurmond has shown great patience and endurance through a long difficult negotiation with the House.

Out of respect for Senator Thurmond, particularly in his first year as chairman, I have signed the conference report. This will give the Senate the opportunity to consider the report. I want to make it clear, however, that I have serious reservations about the conference report, and I plan to vote against the report when it is considered by the Senate.

During the conference, the Administration raised a number of important objections to the bill:

The Administration identified constitutional problems with the restrictions on the President's foreign policy and Commander-in-Chief powers imposed by the provisions on contingency funding and UN Command and Control.

The Administration also raised serious objections to the ballistic missile defense legislation, which contains National Missile Defense language that goes well beyond the mandates of both the House-passed and Senate-passed bills.

The Administration has expressed serious concerns about the impact of the proposed conference report language on Russian consideration of the START II Treaty, which is designed to produce a major reduction in Russian nuclear weapons.

The Administration is also concerned that the language could lead the Russians to abandon other arms control agreements if they conclude that it is U.S. policy to make unilateral action to abandon the ABM Treaty.

I have serious reservations about these provisions and numerous other provisions of the conference report, including:

Legislation that would abolish the statutory requirement for an Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, which could undermine civilian oversight of special operations.

Legislation that would abolish the statutory requirement for an independent Director of Operational Test and Evaluation, which could undermine unbiased testing of major weapons systems.

The Naval Petroleum Reserve Sale provision, which unwisely establishes a one-year time frame for the sale, even though the budget reconciliation bill no longer mandates sale within a year. The one year period is insufficient to ensure that the taxpayers get the maximum value through knowledgeable competitive bidding.

Directed procurement of specific ships at specific shipyards without a clear industrial base requirement, which undermines the cost-saving potential of competition.

Buy American provisions for ships and naval equipment which will result in enormous cost increases for naval vessels and which could produce an unfavorable reaction against U.S. military sales abroad—one of the strongest elements of our export economy.

Mandated spending "floors" in the shipbuilding language—requirements to spend specified amounts for particular programs—which directly contravene the longstanding agreement between the Armed Services and Appropriations Committees to not place "floors" in the Authorization bill.

An earmarked non-competitive ship maintenance contract for a specific shipyard.

Creation of a special congressional panel on submarines, which needlessly duplicates the oversight role of the Armed Services Committee.

Failure to include Senate-passed provisions which should have been non-controversial, such as U.S.-Israeli Strategic Cooperation, the Defense Business Management University, and a North Dakota land conveyance that meets all of the Senate's objective criteria.

Weakening the Senate-passed formula for equity in cost-of-living adjustments for military retirees.

Designating every single line of National Guard and Reserve procurement funds, rather than providing generic categories that can be used by the Department of Defense to meet priority Guard and Reserve requirements.

Earmarking Department of Energy defense funds for numerous unrequested projects and programs at designated sites.

Restrictions on access of servicewomen and dependents overseas to privately-funded abortions, and the imposition of special discharge procedures for HIV-positive servicemembers—a small fraction of our military population—which needlessly inject domestic political issues into military manpower policies.

I recognize that the Senate could not prevail on all issues. There are many other compromises within the conference report which I do not particularly support but which I understand in the context of the give and take of conference. The issues I have raised in this statement, however, represent fundamental flaws in the conference agreement.

If the conference report is not approved by the Senate, or if the legislation is vetoed by the President, we will have an opportunity to correct these flaws. The conference report contains important legislative authorities, such as:

A variety of military pay and allowance provisions.

Approval of Secretary Perry's family and troop housing initiative.

Detailed acquisition reform legislation that complements last year's Federal Acquisition Streamlining Act.

Senator Thurmond and the Committee worked long and hard to develop these important provisions, and I pledge to work towards their enactment in a subsequent bill if the legislation in this conference report is not enacted into law.

Mr. NUNN. Mr. President, I repeat for all Senators that I think we ought to have a good debate on this bill. I think there are things that are serious here that ought to be discussed. Voting against this bill is certainly not something that I relish.

There is military pay in here for our troops. I hope we can find some other way because I do not want to go through the process of replacing a number of provisions in this bill. But, on the matter of military pay, I will do everything I can, if this bill does not become law, to see that we find another vehicle. I think it is enormously important that we be able to resolve that problem before we go home.

Mr. President, I thank the Chair.

Mr. BUMPERS. Mr. President, I wonder if the Senator will yield for a couple of questions. I do not want to take the time of the Senator from South Carolina, but the committee report on the B–2 bomber is mildly confusing.

I just wonder if the distinguished ranking member could enlighten us as to what discretion the Pentagon has on how it spends the additional $493 million that is authorized for B–2's?

Mr. NUNN. I say to my friend from Arkansas that is a good question. I think that ought to be directed to the majority. I was not in on that negotiation. I have read that language and I would be hesitant to try to interpret it. I think Senator COHEN has been involved in it, and also Senator LOTT. I am sure Senator THURMOND is familiar with it. So, I think you would be better served to direct the questions to them.

Mr. BUMPERS. For the benefit of the majority, who apparently crafted this report, I would like to say there is something here that is "passing strange," as we say in Arkansas. The report says, "Therefore, the Senate conferees believe that the increased authorization of $493 million provided for the B–2 bomber program may be expended only for procurement of B–2 components, upgrades, and modifications that are of value for the existing fleet of B–2 bombers."

At another place, it says, "The conferees agree to authorize the budget request for research and development and to increase the authorization for procurement."

So, I do not know whether the Pentagon has the authority to start buying 20 additional bombers or not. The thing that is strange to me about this is it says, "Therefore, the Senate conferees believe." It does not say the House conferees believe. I was curious as to how this could be written with the Senate conferees believing one thing and the House conferees believing something else. Both sides usually have to concur, do they not?

On another matter. Let me say to the distinguished ranking member also, he touched on the plan to sell the Naval Petroleum Reserve at Elk Hills, which really hit a nerve with me. I think it is the height of folly financially and economically to be selling off such assets and take credit for it under the Budget Reconciliation Act. Until this year it was specifically prohibited to count the sale of assets in budget deficit reduction. In other words, CBO was not to score asset sales.

I thought that was a good rule. I have tried to reinstate it a couple of times and came within a couple of votes of getting it done. I think it was Mr. Bowsher who used to be at CBO who said that selling assets to reduce the deficit reminded him of the lawyer that came home from work one day and told his wife he had a great day, and she said, "What happened?" He said, "I sold my desk." That is what we do when we sell off assets.

One other question, because the Senator from Georgia was very active in crafting the so-called ABM language when that bill was in this Chamber. My staff has indicated to me that this bill would torpedo the ABM Treaty. Could the Senator from Georgia comment on that?

Mr. NUNN. I say to my friend from Arkansas, I would not go quite that far. I would say that is the apprehension that the interpretation of this language could lead some, perhaps all in the Russian Duma that will be considering this, to believe that this is in the nature of what I would call, for lack of a better term going back to law schools days, an anticipatory breach.

I do not think anyone could say that this is a direct breach because nothing has happened. Passing a law does not make it happen. But there is an old story from law school I recall well in a course on contracts in which the professor was trying to explain what anticipatory breach meant, and he said:

> Let's assume that a man goes from Atlanta, Georgia, to New York and negotiates for 2 weeks to sell the Hurt Building. This was a big building in downtown Atlanta. Now it is not one of the big ones, but it was well known back when I was in law school.
>
> He finally concludes the contract. They sign the deal, and the buyer agrees to buy it for a certain amount and the seller agrees to sell it. And so the buyer says, "Let's go out to dinner and celebrate. We have been negotiating long and hard." But the seller says, "No, I can't do it. I've got to rush back to Atlanta." The buyer then said, "Why? You have been here 2 weeks. Why don't you relax and celebrate. You have just sold a big building. I don't see why you have to go back to Atlanta." To which the seller replied "Because I have to go back down there and buy that building."

Well, he just sold something he did not own. Now, the contract did not call for performance for another 30 days. So it was not direct breach, but it is in the legal terms an anticipatory breach. And that is what the fear is here, that this could be taken as anticipatory breach.

Mr. BUMPERS. I think the Senator describes the situation perfectly.

I might say, Mr. President, this is not particularly apropos of the story he just told, but it is one that might introduce a little levity here on a Friday afternoon.

Chet Lock, who used to be Lum, in Luck and Abner, became a very good friend of mine when I ran for Governor the first time, and he told me a great story about a fellow who owned a horse and another fellow who came by one afternoon. The visitor said, "What would you all take for that horse?" He owner said, "I'd take a hundred dollars." And the visitor said, "I think I'll buy him." So he paid a hundred dollars and took his horse home. And the original owner could not sleep that night. He got to thinking: If that horse is worth a hundred dollars to him, certainly it would be worth more than that to me.

So he called the guy the next morning and said, "Listen, that horse is pretty dear to me. I raised him from a foal and I really hate to part with him. I will give you $200 to buy him back." The other said, "Well, come and get him." So he went over and gave the guy $200. And the other fellow got to thinking that night: He knows something I don't know or he wouldn't have given me a hundred dollars' profit on that horse. The next day he called him back and said, "I will give you $400 for to buy that horse back." This kept going on until they got the horse up to about $3,000, and one morning one of them called the other and said, "I've called to make you an offer on the horse. Can I come and get him? I will pay you $200 more than you paid me." The other man said, "I can't do that. I sold the horse." He said, "You sold the horse?" The other said, "Yes, sold him to somebody else." And the first man said, "Why would you do that? We were both making a good living off of him."

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, before the distinguished Senator from Arkansas leaves the floor, I hope to make some reply about this Elk Hills situation. Is the Senator aware that the sale of this was proposed by the President and one of his Cabinet officers?

Mr. BUMPERS. I am sorry; will the Senator repeat the question?

Mr. WARNER. Is the Senator from Arkansas aware that the proposed sale of Elk Hills was initiated by President Clinton and one of his Cabinet officers, Secretary O'Leary.

Mr. BUMPERS. I was aware of that, and I said earlier in the Chamber the President has a right to be wrong just like everybody else.

Mr. WARNER. Then I think that concludes my rebuttal to the Senator.

Mr. NUNN. Will the Senator yield?

Mr. WARNER. I ask unanimous consent that I can place into the RECORD a letter from the Secretary of Energy dated May 4, 1995.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, May 4, 1995.

Hon. ALBERT GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill to authorize privatization of the Naval Petroleum and Oil Shale Reserves. This legislation, which is proposed in the President's FY 1996 Budget, is part of the Administration's ongoing effort to reinvent the Federal Government.

The Naval Petroleum and Oil Shale Reserves, consisting of Naval Petroleum Reserves Numbered 1, 2, and 3 and Oil Shale Reserves Numbered 1, 2, and 3, were designated by Executive Order near the start of this century to provide an emergency source of fuel for the Navy's fleet as it converted from coal to oil. In response to the Arab oil embargo of 1973–74, Congress passed the Naval Petroleum Reserves Production Act of 1976, which significantly altered the mission of the Naval Petroleum Reserves, requiring that these Reserves be produced at their "maximum efficient rate" in order to ensure a reliable fuel supply for national security.

Since 1976, oil and gas from the Naval Petroleum and Oil Shale Reserves have been sold on the commercial market, to the Strategic Petroleum Reserve, or to the Department of Defense. The program has been highly successful, returning approximately $16 billion to the U.S. Treasury, against total costs of just over $3.1 billion. The program continues to be a revenue generator, still returning in excess of $200 million in net revenues to the U.S. Treasury annually.

The enclosed proposal has several elements. First, the proposal would authorize the Department to privatize the Government's interest in the Reserves (excluding Oil Shale Reserve Numbered 2) by the end of FY 1997. The Administration believes sale of the Reserves will generate proceeds of $2.6 billion, which is the current estimate of the discounted value of the revenues to the Federal Government from the properties. A percentage of proceeds from privatization would be paid to the State of California to benefit the Teachers' Retirement Fund. This payment would resolve a long-standing land dispute with the State of California. Second, the proposal would modernize the statute governing the operation of the Naval Petroleum Reserves to ensure that the benefits to taxpayers are maximized pending privatization.

Finally, if privatization of the Reserves is disapproved by the President or Congress, the proposal would transfer the management of the Reserves to a for-profit, wholly owned Government corporation, authorized to maximize net revenues through commercial management and operating decisions. In keeping with the Administration's emphasis on protecting the environment, we also recommend that appropriate portions of Oil Shale Reserve Numbered 2 be studied for possible inclusion in the national wild and scenic rivers system.

The National Defense Authorization Act for Fiscal Year 1994 directed the Secretary to "study management alternatives for the Reserves, including the concept of corporatization." The proposed legislation would respond to that directive and allow the Administration to maximize the value of the Naval Petroleum and Oil Shale Reserves.

The Balanced Budget and Emergency Deficit Control Act of 1985 (the "Balanced Budget Act") requires that all revenue and direct spending legislation meet a pay-as-you-go requirement through FY 1998. That is, such a bill should not result in an increase in the deficit, and if it does, it would trigger a sequester if not fully offset. The Naval Petroleum Reserves Privatization Act will result in proceeds of approximately $2.6 billion in FY 1997. A provision of the Balanced Budget Act generally prohibits counting the proceeds of asset sales as offsets to spending. However, the enclosed legislation includes a provision (§202) to allow the proceeds to be counted as offsets to spending. This provision is patterned after the waivers of emergency spending provided by the Balanced Budget Act and is being proposed for several asset sales being recommended by the Administration for FY 1996.

The Office of Management and Budget has advised that enactment of this proposal would be in accord with the President's program.

Sincerely,
HAZEL R. O'LEARY.

Enclosure.

Mr. NUNN. If I could make a brief observation.

Mr. WARNER. Whatever time is necessary.

Mr. NUNN. I would say two things on that point. One is in the original reconciliation bill there was a mandate for sale, so when we brought this through the committee we debated it, we put safeguards in it, and there were many of us who were concerned that the timeframe was too compressed. When the President originally proposed this, he proposed it over a 2-year period.

The difficulty, I say to my friend from Virginia, is not so much the sale itself. But if there is going to be a sale of this very large asset, the feeling has been that it ought to be over a period of time sufficient so that other companies that may bid, so they can go in and study it, and so forth.

The provision in this bill is 1 year. So it is a move from the administration request of 2 years to 1 year, and that greatly compresses the schedule and puts on a whole lot more pressure. That was not put in by the Senate, but the House. I understand the House conferees insisted on it, and I think it is a mistake.

There is a safeguard here that the Secretary of Energy can negate the sale, but there will be great pressure for her not to do so because, if she negates the sale saying she cannot do it in 12 months, then there would be no authority to make the sale. So the pressure is going to be there for an early, quick sale of this asset, particularly if this bill becomes law, and particularly with the pressure on the budget. That is what the problem is.

Mr. WARNER. Mr. President, if I might reply to my distinguished colleague, I am advised that senior DOE officials have stated that the 1 year period as required by the Senate bill was reasonable in their judgment. And I would like at this point to put a second letter into the RECORD from the Deputy Secretary of Energy, dated November 13, 1995. I read one paragraph:

> In general, with the exception of Senate provisions related in the treatment of the State of California "school lands" claim, the Administration prefers the NPOSRs privatization provisions included in the Senate bill. In addition to congressional sale notifications and procedural safeguards included in both the House and Senate bills, the Senate bill provides enhanced safeguards guards against "fire sales" of the reserves, by authorizing the Secretary of Energy to notify Congress if it is not proceeding in the best interests of the United States and by authorizing the Secretary of Energy to notify Congress of any slippage of the sales schedule.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE DEPUTY SECRETARY OF ENERGY,
Washington, DC, November 13, 1995.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: As the Conferees on the FY 1996 Defense Authorization bill meet to resolve differences. I would like to emphasize the Administration's support for privatization of the Naval Petroleum and Oil Shale Reserves (NPOSRs) including Naval Petroleum Reserve Numbered 1 (Elk Hills). The Elk Hills Reserve is by far the largest and most valuable of the NPOSRs. This commercial oil and gas operation is most appropriately and efficiently owned and operated by the private sector.

In general, with the exception of Senate provisions related in the treatment of the State of California "school lands" claim, the Administration prefers the NPOSRs privatization provisions included in the Senate bill. In addition to congressional sale notifications and procedural safeguards included in both the House and Senate bills, the Senate bill provides enhanced safeguards against "fire sales" of the reserves, by authorizing the Secretary of Energy to notify Congress if any proposed sale is not in the best interest of the United States, by requiring congressional approval of any sale for which there is only one offer, and by authorizing the Secretary of Energy to notify Congress of any slippage of the sale schedule.

Regarding the treatment of the State of California "school lands" claim, while the Administration recognizes that California has not been successful in its legal claim, the Administration believes that it is appropriate to provide a portion of the proceeds from the sale of Naval Petroleum Reserve Numbered 1 (Elk Hills) to the State of California for payment into the California Teachers' Retirement Fund. This position, as was the position reflected in the Administration's bill, is based on equitable considerations.

I reiterate the Administration's support for inclusion of privatization of the Naval Petroleum and Oil Shale Reserves in the Conference report.

Sincerely,

CHARLES B. CURTIS.

Mr. NUNN. Mr. President, I say to my friend from Virginia, as he recalls in the committee, there were a number of us who voiced objections, and the administration at that stage was in favor of the 1-year provision. I think the Senator is right. They, too, were seeking money. I did not agree with the administration on that.

I am not here speaking for the administration on this. I am saying I think it is shortsighted, whether it is the administration or whether it is Congress, to compress the timeframe for the sale of this to a 1-year period because I think it puts enormous pressure on it and it gives undue leverage to the oil companies that are most familiar with it.

It takes quite a while for an oil company to go out and find out enough about Elk Hills to make a reasonable bid. I thought it was a mistake to put it in the form of a mandate. If it is going to be sold, it should not be on the pretension it helps balance the budget. It does not matter whether it is sold in 1996 or 1997, it will supply the same amount of money.

It will be the height of folly if we try to sell it in 1996 and get a lot less money for the taxpayers, and not give 2 or 3 years to the oil companies to make the kind of assessment needed for a confident and vigorous competitive process.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. If I may reply, the provision of the bill in the conference report provides a number of safeguards to ensure the taxpayers' interests will be preserved. First, the provision establishes a minimum price based on an average of five independent experts' assessments of the value of the field; and, second, the provision provides the Secretary of Energy the authority to suspend the sale if she and the Director of the Office of Management and Budget determine that the sale is proceeding in a manner that is inconsistent with the achievement of the sale price that reflects the full value of the reserve or a course of action other than immediate sale of reserve is in the best interest of the United States.

And, Mr. President, I really feel those safeguards adequately protect the taxpayers' interests.

Mr. NUNN. If I could just respond. I say to my friend from Virginia, let me tell him a little bit more about why this is a problem. The Congressional Budget Office issued a report—I am not trying to quote their exact words here, but this is a memo based on that report that the estimated net proceeds from that sale anticipated were $1.5 billion and the estimated revenue foregone by the Government over 7 years was $2.5 billion. Overall, this means that this sale that was supposed to reduce the deficit was scored by CBO as increasing the deficit over 7 years by $1 billion.

That is the kind of thing you get into in an asset sale. And that is why those of us involved in this need to be very conscious of protecting the taxpayers. Sure, you can say it drives down the deficit by $1.5 billion over the next 2 years if you sold it, but if it loses another $2.5 billion in revenue, it does not drive down the deficit; it increases it. So that is the problem. And that is why you need to give more time here, notwithstanding what the administration's position was at an earlier date. I think the Senator is correct on that.

Mr. WARNER. Mr. President, I would like to point out that the CBO numbers did not include approximately $1 billion of savings in operating costs that will result from the privatization of Elk Hills. In addition, these numbers did not include the increased tax revenues that will result from the sale. I think that my good friend from Georgia will find that these two figures, taken together with the estimated sale price of $1.5 to $2.5 billion, will result in much more significant revenues for the Federal Treasury than would continued Government ownership of Elk Hills.

Mr. THURMOND. Mr. President, Senator NUNN has mentioned about the entire conference report being placed in the CONGRESSIONAL RECORD. That is correct. It was placed in the CONGRESSIONAL RECORD on Wednesday, December 13, 1995.

I just wonder if we could not debate this bill tomorrow and Monday and have a final vote on Tuesday. Is there any objection to that? I just wanted to know.

Mr. NUNN. Mr. President, I say to my friend from South Carolina, this Senator would agree with that. I think that is a very reasonable proposal, and I would support it. I urge our colleagues to support it.

Mr. THURMOND. Limit it to 6 hours.

Mr. NUNN. That would be very reasonable to my point of view. We have the Senator from Vermont with strenuous objection to provisions here. He has to be heard. I am not in a position to agree to that on behalf of the Democratic side now, but from a personal point of view, I will say I would certainly work with the Senator in trying to get that kind of an agreement. I think it is a very reasonable proposal, and I would support it.

Mr. THURMOND. If we can limit debate to 6 hours equally divided, I think that will give ample time to debate it tomorrow and Monday, and then have a final vote on Tuesday.

Mr. NUNN. Actually we could perhaps have a longer period of debate. If we are going to have tomorrow and Monday, we might want to make it 8 hours. That would give people a lot of time. But with all day Monday for debate, I am sure that we could accommodate whatever Senators want to talk.

Mr. THURMOND. Would 8 hours suit the Senator all right?

Mr. NUNN. I think that is completely adequate. We may not need to limit the time, though, if we just have a time certain Tuesday for the vote. That would be just up to——

Mr. THURMOND. What time would the distinguished Senator suggest?

Mr. NUNN. I would have to check with the Democratic leader, but I would be glad to do that and get back to the Senator from South Carolina.

Mr. THURMOND. I just wonder if we could not get some agreement as to when the final vote will come.

Mr. NUNN. I will be glad to work toward that end. It is a good suggestion.

Mr. THURMOND. If the distinguished Senator will get back in touch with us.

Mr. NUNN. Yes.

The PRESIDING OFFICER. Is there further debate on the conference report?

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, during the course of this debate on the conference report, I will address a number of sections. I will see that a reply is made to the distinguished ranking member, the Senator from Georgia, with respect to the concerns that he has expressed here today regarding the section of the bill that relates to missiles; that is, both the long range and short range. I am prepared to do it, but after the expressions of Senators LOTT and COHEN and Senator SMITH who worked on that in some detail.

Likewise, the questions relating to the B-2 program, we will see that the Senator from Georgia has an opportunity to give the expressions on this side. I likewise am prepared to do that, but I want to make sure those Senators who—for example, the subcommittee chairman—who dealt with that be given the first opportunity. However, Mr. President, I would like to address the section of the bill relating to submarine construction and, in particular, new construction.

The United States today—let there be no mistake about this, Mr. President—is in competition with Russia as it regards underseas strategic systems. The reports that the Russian Navy are tied up at the docks, rusting away, both in the Black Sea and in the North Sea and other areas relate to the surface fleet.

Indeed, the Russians have decided not to put the short assets that they have, supposedly, into surface naval operations of any considerable extent. But, Mr. President, they are pursuing, relentlessly, a program of research, development, and construction of subsurface systems, primarily submarines. It was reported in the media here of recent days that several of these submarines matched in many respects the quietness of the U.S. fleet. I cannot go into further detail, but a number of Senators have sought and received the briefings from the Intelligence Committee on these important points.

But it is a well-known fact, publicly, that for some reason which is not entirely clear, Russia is putting a disproportionate amount of their funds for their overall national defense in subsurface strategic systems. And this places on the United States a very strong affirmative burden to go forward with our submarine programs and, in particular, new construction programs.

I mentioned quietness. Submarines operate in various waters of the world which have various temperatures, have various ambient noises. And the noise level that emanates from a submarine is the Achilles heel because in waters of certain temperatures, ambient noises are different than in others. And, of course, it varies with depth and water temperature and currents and all sorts of conditions.

But we have got to make progress in making our submarines quiet. And the new generations of submarines now on the drawing boards are key to our Nation's having an adequate deterrence subsurface, not only against Russia, but there are other nations of the world—and I will amplify in my statement other nations which are building diesel submarines.

A diesel submarine can operate very quietly. It may not have, as we say, the sea legs to operate for long periods of time because of fuel requirements and battery requirements and other limitations, but it can operate very quietly.

A diesel submarine poses a threat to both nuclear submarines and surface ships as well as through its ability to lay mines. Take the Strait of Hormuz, a quiet diesel submarine could slip into those straits, place mines and, once again, the world would be faced with a cutoff of one of the largest sources of petroleum which, in turn, is converted into energy.

Therefore, submarine construction, research and development is absolutely essential to the security interests of our Nation.

Some years ago, the decision was made to embark on a new class of submarines. The *Seawolf* was the interim class. The Congress this year will be completing, by and large, the authorization and funding requirements for the third and final submarine in the *Seawolf* class.

It is now time to move on to another class. The plans have been made, and the initial work has begun. I do not wish to be political, but it is a statement of fact that the President of the United States—about 2 years ago—indicated that he desired that all new submarine construction of this new class of submarine be performed at the Groton Shipyard operated by a very fine company, General Dynamics.

That message was received in Virginia and across the Nation with great concern. Newport News Shipbuilding and Dry Dock in Virginia has been building submarines for the U.S. Navy for many, many years. To have a decision suddenly announced which would terminate construction of new submarines at Newport News, in my judgment, was not predicated on sound national security interests, nor sound financial interests. This decision was contrary to the best interests of this country.

Needless to say, this decision was potentially devastating in terms of the economy of my State, Virginia, and, indeed, a range of contractors in many, many other States which worked in partnership with Newport News to build new construction submarines.

This Senator, along with other Members of the Virginia congressional delegation, and indeed other Senators, embarked on a long mission to reverse that decision. I am pleased that, with this conference report, that decision has now been reversed. The President has agreed that it is in the best interest of the Nation to have competition once again between the two leading yards in America on new nuclear attack submarine construction.

It enables the designers and engineers that are affiliated with both yards in research and development, as well as construction, to produce nothing but the best nuclear attack submarines for the United States of America. It helps the American taxpayer in terms of competition. Competition drives down cost, and the cost of the program envisioned for this follow-on attack submarine is in the billions of dollars, spread over many years, extending well beyond the year 2000.

I am pleased that the President has reversed his decision, backed up by the Secretary of Defense and now implemented by the Congress in this report in very specific language, which I will address momentarily.

I want to thank many who have worked in seeing that this decision was reversed. The Virginia congressional delegation, in particular, my colleague, Congressman BATEMAN. I wish to thank my junior colleague from Virginia, Senator ROBB, who also worked on this effort. It was a concerted effort, and we are very pleased with what has been worked out in this conference report. It is in the interest, the security interests, of our country. It is in the fiscal interests of our country that this very substantial investment by the American taxpayers be the product of competition.

Let me provide the Senate with a summary of this very important program.

Submarine legislation in the current fiscal year 1996 defense authorization bill includes in law the essential elements of the Senate-passed bill with *Seawolf* funded at the appropriated level of $700 million; one submarine in fiscal year 1998, which will go to the Electric Boat Co. in Groton, CT; one submarine in fiscal year 1999 to Newport News Shipbuilding and Dry Dock, and if the decision is made to begin to produce a new class attack submarine with the third boat, then the third and all future boats of this class will be competed based solely on price.

I want to underline that, competed based on price. That formulation allows these two real national assets, these two new construction yards, to be on an equal footing.

If the decision is made to build additional R&D submarines—and the first two are characterized as R&D submarines—then price competition will begin with the fifth boat. That is a decision that will have to be made subsequently by the Secretary of Defense and joined in by the Congress.

The key differences are that a new class of submarine previously designated as a new attack submarine will not begin until the third boat, the fifth boat, or later, if the Secretary of the Navy decides that additional R&D submarines should be built before beginning serial production of a new class.

The bill also requires the Secretary of Defense to submit a plan leading to production of a more capable, less expensive submarine than the submarine previously designated as the new attack submarine.

Legislation on attack submarines includes the following provisions:

(1) Authorizes $700 million for the construction of the third *Seawolf* attack submarine. This, essentially, incrementally funds the ship with $700 million of the $1.5 million that is yet to be required.

(2) Authorizes $704.5 million for long-lead and advance construction and procurement for the fiscal year 1998 submarine to be built at Electric Boat.

(3) Authorizes $100 million for long-lead and advance construction and procurement for fiscal year 1999 submarine to be built at Newport News. Also authorizes $10 million for participation by Newport News in design of the submarine previously designated as the new attack submarine.

Those sums and those provisions were carefully worked out with the Secretary of Defense, together with the Secretary of the Navy and the Chief of Naval Operations. May I commend particularly Admiral Boorda for the help and assistance that he gave this Senator and other Members of the Senate in working out this formula.

I also wish to thank the Secretary of Defense, Secretary Perry. I remember so well when the pivotal decision was made by him when he came to my office in June and said that the President agreed that we would go back to the time-tested method of building new submarines and let two yards compete. That was the turning point and, thereafter, the Secretary of the Navy and the Chief of Naval Operations, working with members of the Armed Services Committee, devised this plan. I also would like to say how much I appreciate the cooperation of the Senator from Connecticut, whose interest, of course, rests with the Electric Boat, his constituent. Senator LIEBERMAN has worked out with me as we worked out the provisions in the Senate bill.

Those provisions are essentially the blueprint that remained intact as this went on to the House and was worked on in conference.

Last, this bill restricts spending to no more than $200 million on these programs until the Secretary of the Navy certifies that procurement of nuclear attack submarines to be constructed after the first two boats will be competed on price, unless the decision is made to construct additional submarines, in which case all submarines after the fourth boat will be competed based on price whether they are R&D submarines or submarines of a new class.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, earlier in the debate, a question came up about the Naval petroleum reserves, and I would like to make a statement on that.

The conference agreement on the sale of the naval petroleum reserves contains a number of safeguards to ensure that the Federal Government receives full value. Among these safeguards are the following two clauses which clearly spell out the conferees intent that the reserves can be sold only if this will result in the highest return to the American taxpayer.

The first is the mandated minimum acceptable price. This price will be established by five independent experts who shall consider: all equipment and facilities to be included in the sale; the estimated quantity of petroleum and natural gas in the reserve; and the net present value of the anticipated revenue stream that the Treasury would receive from the reserve if the reserve were not sold. The Secretary may not set the minimum acceptable price below the higher of the average of the five assessments; and the average of three assessments after excluding the high and low assessments.

This requirement ensures that the minimum acceptable price has to be at least as high as what the Government would receive for these reserves if any other course of action is taken including the establishment of a Government corporation, the leasing of the reserves, or the continuation of the current operation of the field.

The second key clause is the authority to suspend the sale. This clause gives the Secretary the authority to suspend the sale of Naval Petroleum Reserve No. 1 if the Secretary and the Director of OMB jointly determine that the sale is proceeding in a manner inconsistent with achievement of a sale price that reflects the full value of the reserve; or a course of action other than the immediate sale of the reserve is in the best interests of the United States.

Mr. President, these two clauses essentially mean that Naval Petroleum Reserve No. 1 cannot be sold unless the Government gets a price for the field that exceeds the value that would be achieved by any other option, and that the entire sale proceed in a manner that is in the best interests of the United States.

The sale will provide an estimated $1.5 to $2.5 billion to the Federal Treasury. This does not include the several hundred million dollars that the Government will receive in increased tax revenues. What's more, the Government will save about $1 billion in operating costs over the next 7 years.

Mr. President, the sale of these reserves was initiated by this administration, and, in fact, the administration has come out in support of this provision. We have worked in a very bipartisan manner to draft this provision so as to incorporate the maximum safeguards possible. I hope that we can continue this bipartisanship and vote to approve the conference agreement which includes this provision.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SANTORUM). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

UNANIMOUS-CONSENT REQUEST

Mr. SPECTER. Mr. President, what I had sought recognition for relates to the appropriations bill on Labor, Health, Human Services, and Education. The purpose of my seeking the floor is to see if we might move that bill along.

In light of the fact we are not going to have a continuing resolution, at least as it appears at the moment, I thought it important to put on the record that there are a very substantial number of jobs which are involved here, and layoffs, if we do not have a continuing resolution; that the Social Security Administration has some 60,000 jobs, the Department of Health and Human Services has some 100,000 jobs, the Department of Labor has 18,000 jobs, the Department of Education has 5,000 jobs. We have been trying to work out a unanimous consent agreement to bring this bill to the floor.

I understand that the Members of the other side of the aisle have been unwilling to give consent because of the provisions on the bill about striker replacement. There have been a number of other items. But, for the record I wanted to see if we might possibly move the bill ahead.

I full well understand the likelihood of objection. But, on behalf of Senator DOLE, I do ask unanimous consent that the Senate turn to consideration of Calendar No. 189, H.R. 2127, the Labor-HHS-Education appropriations bill.

Mr. PRYOR. Mr. President, at this moment I would have to object to that unanimous-consent request. I did not know the Senator was seeking recognition for that reason.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. I fully appreciate the objection. And I thank my colleague. I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. PRYOR. Mr. President, I see my colleague from Florida is seeking recognition. The Senator from Arkansas has just about a 3-minute statement, if he will permit me to go forward. I will just take a few moments of the Senate's time this evening.

I rise tonight to voice my very, very strong opposition to the Department of Defense authorization conference report that is now before the U.S. Senate.

This conference report takes the unthinkable step of actually repealing a bipartisan piece of legislation which was written in 1983, by Senators ROTH, KASSEBAUM, GRASSLEY, myself and many others in this body. We set up a process for an office to test new weapons, in an independent, unbiased, untainted, and a very, very, realistic environment.

If enacted, this conference report that we are now discussing would be a gigantic step backwards in the war against $600 hammers, thousand-dollar toilet seats, guns that do not shoot, bombs that do not explode, and planes that do not fly.

I truly believe, Mr. President, that if this conference report is enacted in its present form, the lives of our men and women who serve this country in the Armed Forces will be put needlessly at risk.

I hope my colleagues in the Senate are aware that this conference report contains a provision that would virtually eliminate the Pentagon's Office of the Director of Operational Testing and Evaluation by absolutely revoking its charter. Mr. President, no one has yet explained any reason whatsoever to take away the office and the department in that area of our Department of Defense that tests weapons before we go into mass production. It simply does not make sense.

Over the past 12 years, this testing office has been an unparalleled success. It has saved time, money, and, most importantly, it has saved the lives of our fighting forces by making weapons better and by keeping flawed systems out of the hands of our soldiers.

Support for the testing office has always been bipartisan, Mr. President. Former Defense Secretary Dick Cheney said that an independent weapons testing office "saved more lives" during Operation Desert Storm than perhaps any other single initiative. The current Secretary of Defense, William Perry, recently described this office as "the conscience of the acquisition process."

Mr. President, I was shocked to learn that this conference report revokes the charter for independent testing of our weapons. I could not believe it.

Because of this provision, I cannot and I will not vote for this conference report. I urge my colleagues to defeat this legislation.

Mr. President, I want to make it very clear that I do not fault my very good friend from South Carolina, the distinguished chairman of the Senate Armed Services Committee, Senator THURMOND, for this language that undermines independent testing. From all reports that I have, he tried to keep the office of independent testing alive. I have always known that this flawed initiative originated not in the Senate but in the House of Representatives. In fact, the Senator from South Carolina, the distinguished chairman of the Armed Services Committee, supported the sense-of-the-Senate resolution approved by this Chamber as recently as August that voiced the Senate's strong opposition to revoking the charter for independent weapons testing.

Unfortunately, Mr. President, the Senate's position did not prevail in the conference committee. The wishes of the U.S. Senate to uphold and to support and to continue this office of independent testing were not granted.

I want to thank the chairman at this time for doing what he could in conference to stop, or at least to delay, the elimination of the office of independent testing. I only wish that he had been more successful in keeping the conference committee from endorsing an absolutely terrible idea.

As we begin sending American troops into Bosnia, it is wrong, it is dangerously shortsighted, for this Congress to propose eliminating that very office that has been so helpful, so successful in making sure that our weapons work properly in combat.

Mr. President, I will be voting against this conference report.

I urge my colleagues to do the same.

Mr. President, I yield the floor.

Mr. THURMOND. Mr. President, I would like to point out an inadvertent omission in the conference agreement statement of managers with respect to Air Force Program Element 602601F, Advanced Weapons. The conference agreement increased the authorization of the requested amount of $124.4 million by $11.0 million. Of that increase, $5.0 million was intended by the conferees to authorize the continuation of the High Frequency Active Auroral Research Program. As pointed out in the statement of managers accompanying the conference report, the conferees intend the remaining $6 million of the increase to authorize the rocket propulsion technology program described in the House Report 104-131.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

BUDGET NEGOTIATIONS

Mr. DOLE. Mr. President, if I could just take a minute here, let me indicate that I still do not know for certain what the program will be today, tomorrow, and Sunday. I had hoped we would have some serious budget negotiations.

I have just listened to the President of the United States. I must say I do not know who gives him advice, but I do not think he is telling the American people the truth. If he thinks he is engaged in serious budget discussions, then he ought to take a look at the budget.

I must say that this administration is for a one-way street. It is all right to cooperate with them, but they are not going to cooperate with anyone else. And I have made an effort to do that as recently as 48 hours ago on this floor.

I am a little frustrated that we have been 26 days now waiting for the administration to give us a legitimate offer to balance the budget in 7 years, using Congressional Budget Office estimates. It was my understanding, in talking with the President yesterday, that there would be a serious offer given to Republicans today. Anyone with any knowledge of the budget process could look at the offer made and tell you very quickly that it was not a serious offer. But here the President of the United States is getting on television saying that Republicans are recommending devastating cuts in Medicare, Medicaid, the environment and student loans after we put money back into those programs in our legitimate offer earlier today.

So I am almost convinced that there is no real desire on the part of this administration to do anything except to play politics with the budget—and play politics with senior citizens and play politics with every other interest group in America. We have made an effort time after time to meet the President halfway.

I believe the American people want a balanced budget in 7 years. They have indicated that. The President agreed to it, but we cannot do it with the same old smoke and mirrors.

In fact, $54 billion of the savings today was "baseline adjustments," which is one example, and there are other examples in the President's bill. Tax cuts—he has tax cuts in his bill, too, I think—in what, the 5th year. If everything was not in balance, you would trigger over those tax cuts. That is another way of how they save $23 billion. That is something that even Darman had not thought of when he was here. So they thought of a lot of good things down there.

But I would hope the President of the United States would contact this Senator and the Speaker of the House of Representatives—the three of us sit down and get serious. This is serious business. If we do not have some agreement, if we do not pass the continuing resolution by Sunday evening, the Government will shut down again.

One way to avoid that is to let us bring up the Labor-HHS bill, which the Democrats twice have objected to. We are going to ask consent—I guess we have already asked consent. That has been objected to. There are about 180,000 Federal workers. But, again, the Democrats will not agree to bring it up unless we agree to everything they want—take out striker replacement, do not vote on the abortion amendments. In other words, what we will do as the minority, and then we will accept or let you bring it up on the floor.

So we would like to bring it up tonight and be on it all day tomorrow and all day Sunday. By Monday morning, maybe we could have it passed and go to conference and bring it back. That would be 180,000 Americans who could go to work.

We are going to send down to the President now State, Justice, Commerce. VA-HUD will be sent down to the President; Interior appropriations tomorrow. All he has to do is sign those bills, and that will take care of nearly all of the Federal employees. That will leave remaining the District of Columbia bill and Foreign Ops. If we can get an agreement to bring up Labor-HHS, let us pass that tomorrow or Sunday in the Senate.

So if the President is not willing to negotiate the balanced budget except on his terms, and he is not willing to sign the appropriations bills we send him except on his terms and is not willing to let us bring up one of the largest bills with the most Federal employees—Labor-HHS, we have been prepared for the past 2 or 3 months, but it has been objected to by the Democrats.

So I hope the American people understand, if people who are covered by that bill are not working on Monday, why they are not working on Monday.

So, again, I would say to the President of the United States, tell the American people the truth. Do not come on television, Mr. President, and say that we are devastating this and devastating that, because, in fact, you know that in our budget we added back billions of dollars in Medicare and Medicaid and made other real adjustments.

Maybe it is impossible. Maybe we are not going to get anything done.

If that is what the President wants, he ought to just tell us that so we can make alternative plans, pass a very stringent continuing resolution and assume that is all we are going to get done. But in the meantime, we are still working on our side. We are still trying to resolve the differences on the DC appropriations bill and on the foreign operations bill. And I hope that they would be ready for passage, if not today or tomorrow, on Monday.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

MOTION TO PROCEED

CLOTURE MOTION

Mr. DOLE. In an effort to make some headway on the Labor, HHS bill—we have already had two votes which we have lost on a party-line vote—I move to proceed to H.R. 2127, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to the consideration of H.R. 2127, the Labor, HHS appropriations bill.

Senators Robert Dole,
Arlen Specter, James
Inhofe, Rick Santorum,
Thad Cochran, Trent
Lott, Strom Thurmond,
Don Nickles, Craig
Thomas, Mitch
O'Connell, Slade Gorton,
Dirk Kempthorne,
Robert F. Bennett, Hank
Brown, Connie Mack,
and Mark Hatfield.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. I would only seek the floor if the majority leader is completed.

Mr. DOLE. I yield the floor.

BUDGET NEGOTIATIONS AND THE CONTINUING RESOLUTION

Mr. DASCHLE. Mr. President, I did not have the opportunity to hear all of the comments of the majority leader. Obviously, there are legitimate points of view that are very different as we consider the circumstances we are in right now.

The majority leader said we ought to have the truth about what is happening right now. His version of the truth and mine could not be more different. My version of the truth is—and I think it is shared by virtually every Member on this side of the aisle—it was the Republicans this afternoon who got up and walked out of the room. They were the ones to say, "It's over. We don't want to deal with you any more. You're not acting in good faith."

My version of the truth is that there is absolutely no reason why we should connect the continuing resolution with our effort in the reconciliation bill, none at all. There is absolutely no connection. And the reason why we are going through this charade right now with the appropriations bills is because they know that we are way overdue in completing these appropriations bills. We should have done them a long time ago.

And I will tell you one of the reasons we are overdue. Because they are putting stuff that does not belong in appropriations business on that bill. What does striker replacement have to do with health and human services? Absolutely nothing. We know that. They know that.

And on so many of these pieces of legislation there is absolutely irrelevant, completely unassociated matters legislatively that have nothing to do with appropriations, and that is the hangup, and they know it. If you want to pass that appropriations bill, we can do it by 6 o'clock, and it is now 5 to 6. We could do it by 6 o'clock if we would sit down in a serious way and take the extraneous things out and begin dealing with it.

That bill is going to be vetoed. We do not have to talk about it a long time. But we are not willing to do that because of those extraneous issues and everybody knows it.

So let us be clear. We do not have to shut the Government down because there is a pick with the President about whether he has been working in good faith or not. There is no reason to tell people one more time that they are out of work for whatever length of time. That is not necessary. We want a clean continuing resolution. We ought to have it tonight. We ought to pass it, and we ought to get serious about negotiations.

Now, we know as well that one of the biggest differences between Republicans and Democrats all through this reconciliation process has been the tax cut. And for whatever reason, the Republicans continue to say that is a nonnegotiable item; that we want to hold on to that tax cut virtually at all cost.

But that is not where we started. Where we started was the Republican insistence that we go to a 7-year balanced budget. The majority leader said it has to be on the President's terms. Well, the President said he had a 10-year balanced budget. And many of us supported the idea of balancing the budget in 10, 7, it does not matter, but the President had 10 years. The President said, "As an indication of my good faith, I will go from 10 to 7."

That is what he said. Now, the President also said we have a very big difference in our projection on what the economy is going to do when we balance the budget than what CBO does. There is a profound difference. CBO is saying that once we go through all the pain, there is really no gain. Once we cut all these programs as deeply as the Republican budget proposes and we balance the budget, interest rates are actually going to go up, unemployment is going to go up, corporate profits are going to go down, overall economic growth is going to do down, but we still think it is a great idea to get out there and balance the budget.

Mr. President, we do not buy that. You cannot tell me after NAFTA and after GATT and after balancing the budget and after doing all the things that we said we were going to do we cannot look forward to a better economic picture than that.

Now, why is it that the Republicans continue to insist on holding to that scenario before we even sit down and talk about our disagreements on policy? I do not know. OMB said it is not that bleak; we ought to be able to look at the next 7 years with a little more optimism than that.

So that is a fundamental disagreement that we ought to be able to work through. We should not just take our papers and walk out of the room saying, "It's over; forget it." That is not how we do things around here. That is a legitimate difference of opinion that ought to be discussed.

And when it comes to the policy questions themselves, we are not prepared to go beyond where we said we were on Medicare and on Medicaid and on education and on taxing working people. We are not prepared to do that as long as the Republican position is tax cuts are sacrosanct, we cannot touch them.

So that is where we are. We thought that after the second proposal any objective person would say we are working in good faith.

That has not happened. I am disappointed. The Republicans have taken their papers and walked out of the room and now have threatened to shut down the Government because they did not get their way.

It does not have to be this way. We can go back in that room. We can discuss and negotiate and get the job done. There is still time. We are willing to do it tonight, tomorrow, Sunday, Monday. It does not matter how long. We are there. We will be there. Call the meeting. Let us get this job done.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, let me indicate that I have talked to both Senator DOMENICI and Congressman Kasich. There was never any mention of the word "walkout." They suggested if we got serious, we would all come back together. And that is precisely where it is. We are prepared to come back. When the President of the United States gets serious, then we are prepared to come back and start negotiations.

I think most of us made plans to be here all weekend just for that purpose. We thought they were going to start this afternoon. We did start the meeting at 11:30, another meeting at 3 o'clock.

And it seems to me that as I watched events unfold, I think maybe there is a split not on our side. I do not know of any. But I think the Democrats are split. Some want to resolve the problem and some want to go into next year so there can be an election issue on a balanced budget. Maybe that is a legitimate concern.

We sent a balanced budget to the President. He vetoed it. We spent 10 months, 10 long, hard months putting that together. For the first time in my memory, we sent a balanced budget to put us on a path for a balanced budget by the year 2002 to the President of the United States, and he vetoed it. So he has already vetoed a balanced budget.

And now he says that even though he has vetoed one and wants one—we do not want one, or do we want one? And I would hope that—there is still plenty of time. It is only 6 p.m. Friday. I would hope that the President of the United States would contact those of us who have the responsibility, the leadership, and say, "Let us sit down and try to work this out." If we cannot work it out, let us stop kidding the American people.

You cannot have it both ways, Mr. President. You cannot go out and attack us for trying to save Medicare, which you call a cut, and go back and take a look at Mrs. Clinton testifying on health care: "You are going to need to lower the rate of growth of health care down to 6 or 7 percent," she testified, went before a committee. That is precisely what we are doing. That is what we are doing.

We finally had an accurate reflection of what we are doing on "Nightline" last week. Everybody ought to watch it. They took all the rhetoric and all the politics and wrung it out. And now they told the American people, separate the politics, we are trying to save, preserve Medicare.

And I will say to my friends on the other side, part B Medicare is voluntary. It does not come out of the trust fund. It comes out of general revenues. So the people working in the Senate, anywhere in the Senate, in the kitchen, anywhere, take their tax money and pay premiums for millionaires, multimillionaires. And the President says you cannot charge those millionaires—the Government is paying 68.5 percent—you cannot charge them 31.5 percent. It has got to drop down to 25 percent.

That is the President of the United States who ought to say we are after all these people. He is protecting the people who could pay more. I do not understand it. He wants to keep it at 25 percent so everybody else in America can help pick up the premiums, part B, which is voluntary, for people who can afford to pay a lot more than the people paying the taxes in the first place.

Yet he is out rapping us every day, as he just concluded, saying we are trying to devastate Medicare.

It is not true, Mr. President. You know it is not true. So it seems to me that—I just look in the calendar. We have had this appropriations bill on the calendar since September 15, 3 months today, and we have tried twice to take it up. We failed on a party-line vote. I think I counted—somebody counted—about 160,000, 170,000 people would be able to go to work Monday morning had we passed that bill. But the Democrats—every Democrat opposed us on cloture so we could not get the bill up. So I filed cloture again. It will not get the vote until Monday. So it will be at least 1 day off or 2 days off.

But I want the workers to know, the Federal workers to know, Republicans did not prevent this bill from coming up. This is the big one. This is the big one, as far as Federal employees are concerned.

And maybe we can work out some consent agreement and pass it tonight by consent, go to conference, get it back here tomorrow or Sunday, in time so that the people—if you cannot get a CR—then they can go back to work.

So, Mr. President, let me also state, as I said to my colleagues earlier, a list of the possible remaining items for Senate consideration prior to Christmas. It includes nominations and Executive Calendar items, subpoena for Whitewater, if that is going to be debated or necessary, whatever, the budget negotiation, whatever, continuing resolution, remaining appropriations bills, DOD authorization conference report, other available conference reports, rangeland reform.

This is all assuming that we take up and pass the defense authorization bill on Tuesday, that we can do all these next week and the following week. I have the feeling that there may be a few absentees around here between Christmas and New Years. But it does seem very likely we will be in session, unless we can reach a framework of an agreement by the 22d of December, which appears to me to be fairly remote after what I thought was an indication from the President, 2 days running, that he was serious about it, he was prepared to come back here Friday and was prepared to get involved himself.

I am certainly prepared to get involved myself. I know the Speaker is prepared to get involved. I know the Democratic leader indicated his readiness. And I assume the same is true for Congressman GEPHARDT. We ought to be doing it now—now.

We ought to be doing this away from the press. I like the press. They are great people. But we are not going to negotiate if every 30 minutes each side has a press conference, as we did this afternoon, everybody out putting their spin on it. And now look where we are now. We are nowhere. We are right where we started.

So, hopefully, if we ever do sit down, we will sit down somewhere where we cannot be found, where we can discuss the issues and not what spin we put on it after it fails.

So I am still prepared to meet the President. I am still prepared to work with the President.

The Democratic leader mentioned GATT. He mentioned NAFTA. They would not have passed without Republican support. The President knows that. Oh, it was fine to cooperate on those things because that is something he wanted. Well, the American people want a balanced budget by a big, big percentage. And we believe that we ought to have some real effort made by the President of the United States.

So one thing I did not add to this would be welfare reform will be up next week, the conference report we will send to the President.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. DOLE. I will be happy to.

Mr. DOMENICI. I was not present on the floor the last 15 or 20 minutes, but I was in transit, and I seem to have heard something which the Senator kind of corroborates that I heard, that the distinguished minority leader said on the floor of the U.S. Senate—he is here, Senator DASCHLE—that the Republicans broke off negotiations on the balanced budget today. Did I hear that correctly? He said that?

Mr. DOLE. The Senator from South Dakota is here. But I think that is the general feeling I had. And I do not think it is accurate, but that is what the statement was.

Mr. DOMENICI. Mr. President, if you would permit me, and the Senator might respond, because I have been reporting to the Senator regularly, the truth of the matter is that the President of the United States and the Democrats sent nothing to the conference. They put nothing on the table. And if they would like me to go through details, I will go through details.

They found $54 billion worth of savings, I say to my friend from the State of Florida, without turning a stitch. They did not change a single program. They said, "We disagree on economics."

I am not talking about $54 billion over 7 years, I am talking about it in the last year. They want to balance a budget so they say, "Look, we do not agree that the CBO is right on this and this and this." So they find 54 billion dollars' worth of savings. And they want us to sit there and say, "Hooray. You have really made some changes." No change. Not one thing changed. Not one program altered. And then they say, "Well, look, we think the CBO is wrong on some estimates, so why don't we get the estimates right?"

And $21 billion. They have not changed a program. They have not had to bite a bullet and have not had to do a thing. That is $21 billion. I think if you add them up, that is $75 billion of movement toward a balanced budget in the last year without having to do anything. Is that not a marvelous, marvelous way to fix the budget of the United States? It is as if spending does not really matter.

Mr. DORGAN. Madam President, is the Senator from New Mexico asking a question at this point?

Mr. DOMENICI. Yes. I am still asking the question. I will get to the question very shortly.

Mr. DORGAN. I wonder if the Senator will get to the question.

Mr. DOMENICI. I would appreciate it if the Chair would advise the Senator I am entitled to finish my question. They have had plenty of time.

The PRESIDING OFFICER. The leader has the floor.

Mr. DOMENICI. And he is not objecting at this point. The President had the airwaves across all of America. He talked about what we had in mind. I want the Americans to know and the Senators to know what he had in mind. He had in mind that he could come to a conference and do nothing, offer nothing, change nothing, and then blame us. So that is what they did.

They said, "We found 121 billion dollars' worth of savings." I have just given you $75 billion of it. "And we have not changed anything. We haven't cut a pea. We haven't reduced spending."

Then we go up and—let me tell you a neat one the President recommended today. If you want to understand the pickle we are in in trying to get a balanced budget for America, they take 23 billion dollars' worth of savings in the last year by saying, "We don't want any tax cuts." Got it? You save $23 billion. But they say that really is not the case. "We do want the tax cuts. We just want to say, if we are wrong on the economics, we will cancel the tax cut."

Mr. DASCHLE. Madam President, I will not ask for the regular order, but——

Mr. DOMENICI. I will ask my good friend, Senator DOLE, who I have gone through this with regularly: Do you really believe, Senator, when the President of the United States signed a bill, and it says we will have a balanced budget using the Congressional Budget Office economics, and you and I have been asking the President to send us a proposal, do you think that it is a credible proposal to have absolutely no savings, no changes, and say to us, "If you don't sit down and negotiate, somehow you're to blame for this?" Could you give us your view on that?

Mr. DOLE. Well, let me say to the chairman of the Budget Committee, as I have indicated earlier, I am very disappointed because I understood the

President—we have had a lot of talks the last few days on a number of issues—he indicated to me he was serious about this, because I asked him on the telephone, "If you're not serious and we're not serious, why are we doing this? Why don't we do something else and go home?"

He indicated he was serious.

I know that was not the final offer. Neither was ours the final offer. But we actually did things in our offer, real things in our offer that made a difference: Put money back into Medicare and Medicaid, more money for discretionary spending, whether it is education, environment, whatever. We thought we were in good faith.

So I say to the Senator from New Mexico, I am disappointed. It seems to me we had an opportunity. This is now the 15th of December. This year is going to be over before long, and we are probably going to be right here to be able to see it leave.

The question is whether or not we are serious about getting down to business. We ought to be meeting right now. The meeting ought to be going on right now. We ought to be talking about the 82 areas where we have a difference—82 areas, according to White House sources, major areas—plus probably dozens and dozens of others.

So it would take all the energy we could muster between now and the 22d of December to even put together a framework of agreement, which I assume we would have to come back a couple days in January to pass under some expedited procedure.

So I know it is not easy. It is not easy making tough decisions. It is easy doing, as I said, things Darman had not even thought of when he was around. Smoke and mirrors, they used to say in those days. Just save $54 billion there, but baseline——

Mr. DOMENICI. Fifty-four right there just changing the economics. I say to the leader, did you not tell me to go back to the conference with the Democrats and say we will continue to negotiate, we will be there any hour, any time, provided you make some headway in moving the budget in the direction of making some changes that bring us closer together and bringing us a balanced budget according to the Congressional Budget Office? That is what you told me to do.

Mr. DOLE. In fact, I can say very honestly, we had a discussion after the first session, and the question was whether or not we ought to call the President of the United States by telephone and say, "Mr. President, we can't negotiate with what was sent up here under your name, and if you're not serious, we don't see any reason to go back a second time."

We said, "No, let's go back again." We instructed Congressman KASICH and the Senator from New Mexico, "Go back again. Nobody is blaming us for this not succeeding. Go back again and see if you get some serious statement or effort from Chief of Staff, Mr. Panetta, or somebody else." And that never happened. We did not walk out.

Mr. DOMENICI. No, sir.

Mr. DOLE. As far as I know, I guess everybody left; they had to walk out, but nobody left saying, "This is it; it's over."

Now the President is on all the stations saying, "Oh, well, they broke off talks, broke off talks, cutting education," cutting this, cutting that, same old propaganda that has been used in the past 60 to 90 days.

So we are prepared to do whatever is necessary, and we are prepared to be here tomorrow and Sunday and Monday and all next week trying to pass the Labor-HHS bill, which would put some 100,000 people back to work, 180,000.

The Senator from Pennsylvania, Senator SPECTER, made a unanimous-consent request just 25 minutes ago to bring it up right now, and it was objected to. Not on this side. We have tried since September 15 to bring it up. It has been objected to. We cannot invoke cloture. We have every vote on this side, but not on that side. We do not have 60 Members. So I do not know how—we can bring it up if we agree to everything the Democrats want to do, then, "Oh, we'll bring it up if you take out striker replacement, and you can't have any votes on your amendments or one vote."

To me, that is not the way it ought to be. We are prepared to bring it up right now. They can move to strike striker replacement. We can move to strike some other committee amendments, and then finish the bill. It might take a day or two or three, but it will be completed.

So I want the Federal employees to understand, whatever they may read in the paper or hear on the television from the President of the United States or somebody else putting the White House spin on it, this bill, H.R. 2127, has been on the calendar since September 15. We have attempted to bring it up time after time after time. You would all be working Monday had we completed action on this bill, but it was objected to not once, twice, three times and we could not invoke cloture. We had no problem on the Republican side. All the problems were on the other side.

So if somebody is out there disappointed and in any of the agencies covered by this particular bill, they should understand precisely why it has not passed, why it has not gone to the President. We will take the rap on a couple of the others, as the minority leader indicated. On foreign ops, yes, it is held up on an abortion issue. DC is held up on a scholarship issue. We are trying to resolve that yet tonight. And the others have gone to the President or will go to the President.

So my view is, this is a big one, talking about Federal employees. This is a big one. We have been trying to get it up for 90 days. So I hope the President mentions that the next time he speaks and asks the Democrats to cooperate. Of course, he is for striker replacement and issued an Executive order which we think went beyond his authority. We repealed that in the bill. That is why he objects, that is why Democrats object to our bringing it up.

We are still around. We will be here this evening. We are prepared to reconvene if our colleagues are serious about it. If not, we will do the best we can to try to find some resolution between now and Monday morning.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Ms. SNOWE). The Senate minority leader.

Mr. DASCHLE. Madam President, there are many people who want to speak, and I do not want to take more time. Let me respond to a couple of points that were raised.

The distinguished Senator from New Mexico made a great speech. It was just all wrong. All wrong. We will not resolve it on the floor, and we will leave it to others to decide who is right and who is wrong.

This President has now provided not one, not two, but three bona fide offers to sit down and reach a balanced budget. He did it first with his 10-year budget last spring. He did it, second, about 2 weeks ago with yet another effort to bring us to the table in good faith, cutting over $150 billion in real cuts. And today, whether you accept all of the numbers or not, $121 billion in more changes than what he offered just last week.

Listen to the language. We were again told tonight that we will convene if we think the Democrats are serious. Madam President, if that does not make my point, I do not know what does. We, frankly, do not think they are serious. We do not think they are willing, really, to bring down this tax cut so we do not have to cut so deeply in Medicare and Medicaid.

And let me just say, I do not know how you describe what happened at the meeting, except to say that before Leon Panetta even had the words out of his mouth, the Republicans had stood up and were working their way out of the room.

Mr. DOMENICI. Were you there? I ask, were you there, Senator? Were you in the room, Senator?

Mr. DASCHLE. What do you do with a case like that——

Mr. DOMENICI. Were you there, Senator?

Mr. LEAHY. Regular order.

Mr. DORGAN. Regular order.

Mr. DASCHLE. I will yield the floor and allow others to speak.

Mr. MACK addressed the Chair.

Mr. DASCHLE. Let me say this. We all know that the most immediate thing we have to do is the continuing resolution. It expires tonight at midnight. We know that.

We know that we are not going to resolve our differences on all these appropriations bills and pass them by midnight. The distinguished majority leader made a point, and he is right: The majority of people support a balanced budget. I think a majority of the people—the vast majority—also want us not to shut the Government down, in spite of our differences.

UNANIMOUS-CONSENT REQUEST—S. 1410

Mr. DASCHLE. So I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 240, S. 1410, a clean continuing appropriations bill, that the bill be read the third time and passed, as amended, with a date change until December 22, with the language that will permit the expenditure of funds for low-income energy assistance.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Madam President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DASCHLE. I yield the floor.

Mr. DOLE. Madam President, I have objected, and I hope the time will come in the next couple of days where we can do something like this. But we cannot do it now. Obviously, we have made no headway.

I have been in a lot of negotiations around here, and I can tell when they are serious, I can tell when they are not. I can tell when they are posturing, and I can tell when they ought to end. I was not in the room, so I cannot make a judgment on this particular negotiation. But I do know that we made significant changes. I went over every one of the changes for hours and hours yesterday. We talked about the changes in my office with the Speaker and a number of Senators, and they were real and they were genuine and they were serious changes. We sought to address some of the concerns raised by the President and the Democrats in the House and the Senate.

So I just say that I think we made a good-faith effort. It is all about good-faith efforts. We do not believe the President did. Maybe they thought, "We will shoot them a blank the first time, and maybe the second or third time we will put a little something in it." But I think we have already gone beyond that point.

It has been 26 days since we passed the last continuing resolution, and we are supposed to work all this out during that time. Well, nothing has happened, and we are here again. If there is no CR passed by midnight—and I am certain there will not be one passed—certain people will be affected over the weekend. If we do not pass one Sunday evening, a lot more people will be affected Monday morning. It will not be as many as last time because a number of the bills have been signed. The President can reduce the number because State, Justice, Commerce is at the White House, and he can sign that. That will take care of a number of employees if he signs that. HUD–VA is on the way; that will go to the President tomorrow. We will try to finish the DC appropriations sometime over the weekend, and we will try to figure out a way to get Labor-HHS. That would leave Foreign Ops, which we think we may have an agreement on, based on language from the Senator from Colorado, Senator BROWN. That would be it.

There would not be any more debate about a CR, but we would still have—Interior is going down tomorrow, too. That is another one. The President has all kinds of opportunities here to put people to work on Monday, without relying on a CR. He does not need one. That is the point I make.

I might ask, Madam President, since I interrupted the distinguished Senator from Florida, if he could be recognized at this time.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MACK. Madam President, about 26 days ago, when we were in similar circumstances, there were negotiations between the White House and the House and the Senate about what to do to solve the impasse. An agreement was reached with a continuing resolution, signed into law by the President of the United States, with language included which said that he committed himself to a balanced budget in the first session of the 104th Congress—a balanced budget scored by CBO.

As the majority leader indicated a moment ago, it has been 26 days, and there has not been one single proposal made by the President of the United States that complies with that commitment. I must tell you that those of us who thought that 26 days ago, that there may have been an opportunity to move forward with a balanced budget proposal, we were hopeful that there would be an opportunity in these last 3½ weeks. In fact, we anticipated that this Friday, today, we would see, for the first time, a true proposal from the President of the United States to balance the budget. The minority leader referred to the number of plans that were sent here by the President of the United States.

I remind my colleagues on the other side of the aisle, you had an opportunity to vote on one of those plans, and every single one of you, as far as I can recall, turned your backs on the President because you knew it was a phony budget. And every proposal he has sent to us since then has been phony. It has been an absolute positive phony.

We come here this evening with a sense of utter disappointment because we are serious in this effort to balance the budget. We feel like you are playing games with us, you are playing games with the American people, and you are playing games with the future of this country and our children and our grandchildren. And, yes, we are a little bit angry and upset. We feel betrayed.

Let me be real plain about how I feel about this President. The President of the United States has, once again, proven that his commitment to principle is nonexistent. He gave his word; he broke his word. It is a habit he does not seem able to break. It is unfortunate to have to say that, but that is an accurate statement about this President. To imply that the offer made today was a serious offer is an insult to us. To come down here with a proposal that virtually does nothing with respect to making additional reductions in spending is an insult to the Congress of the United States and an insult to the people of this country.

If you look over this proposal, in the year 2002, they put on the table a suggestion that they were going to eliminate the deficit in the seventh year to the tune of $121 billion. And the reason they came up with that number is because the Congressional Budget Office scored the last proposal that the President sent down here. It was a proposal that he said would balance the budget. After all, all we are doing is using the Congressional Budget Office, which, if you will recall, in January of 1993, the President of the United States reminded all of us that it was important to use the Congressional Budget Office to evaluate budget plans, because he did not want to be accused of estimating his way out of the problem.

Well, I say again, very plainly, it is pretty obvious to me and pretty obvious, I think, to the American people, that the only thing this President wants to do is estimate his way out of the problem. When you look at the proposal they sent down to us today, out of that $121 billion, $54 billion is in economic baseline differences—estimating your way out of the problem. And $21 billion more, a proposed resolution of scoring differences—estimating your way out of the problem. And then another $23 billion, which I will say is a tax increase. What it says, in essence, is if you get to the 7th year and you are not in the balanced budget range, then you eliminate the tax cuts he has in his budget, which amounts to $23 billion. He has, in this proposal, about $98 billion out of $121 billion, which is estimating his way out, and the other is raising taxes.

That is an absolute phony proposal. I must say, I admire Senator DOMENICI for his willingness to go back into the meeting for the second time today after this phony piece of paper was put on the table.

Madam President, I agree with the minority leader that we do have legitimate differences. But you do not have the guts to put those legitimate differences on the table. The reason for the last 26 days that you have avoided coming down here and putting a proposal on the table is because you will not tell the American people what you are willing to do. You will not make the tough decisions. You just refuse to put a legitimate offer on the table. And then you have the gall to come to us and tell us that we ought to put another proposal on the table.

So, Madam President, this President of the United States vetoed a balanced budget proposal. It was a proposal that would have balanced the budget, and it was the first time in decades that I know of where a President of the United States received a plan that would balance the budget—and this President vetoed it.

This is the same President who is opposed to the balanced budget amendment. This is the same President who has been opposed to every plan that has been put forward to balance the budget. When he vetoed it, he took on the responsibility of providing a legitimate alternative. He has, in fact, refused to do that. I think it is very, very clear to the American people that, in fact, he has broken his word once again.

I yield the floor.

Mr. EXON. Madam President, I was listening with great interest to the goings on the Senate floor. I have been involved in all of the meetings that have been held, both the joint meetings with the conferees to try and come up with a role, and I have been involved in many meetings on the Democratic side. In 5 minutes I am going back to another meeting.

We, the Democrats in the House and the Senate, will try once again to come up with something that would get the Government back working again. I bear my share of the responsibility for what I think is the totally ridiculous position we find ourselves in. Grown men and women, here at 6:30 or so on a Friday evening, with the Government ready to shut down in another 5 hours, and we are quibbling. We cannot even get through a continuing resolution just offered by the minority leader to keep the Government going for a few days. They turned that down.

You heard the objection by the majority leader to the Democratic leader's reasonable offer. How could any reasonable person object to keeping the Government going for another 3 or 4 days? I do not think this is the proudest moment in the history of the U.S. Senate. We all have to bear our share of the responsibility for that failure.

When I have been hearing all of these remarks about the President of the United States not being sincere, not making a legitimate offer, Madam President, I will not dignify that kind of talk with a lengthy statement except to say that I do not agree at all with that kind of rhetoric.

I say, Madam President, in conclusion, that if those on the other side of the aisle are suggesting that we get real, then I suggest that they get real by coming up front with what we all know has to be the major "give" to reach a balanced budget in 7 years, and that is the ridiculous, outlandish tax cut that basically affects the wealthiest among us in America. $245 billion worth that is the centerpiece, I suggest, of the Republican balanced budget amendment.

The main reason that the President of the United States properly vetoed the reconciliation bill which would have allowed that—how anybody on the Republican side of the aisle can in good conscience stand up and criticize us for not being real when they are insisting on the centerpiece of their whole budget, unfortunately which is the $245 billion tax cut basically weighted to the wealthiest people in the United States of America. Until they come off of that in a realistic fashion, we are not going to bend.

Fortunately, we have the President of the United States on our side with a veto pen. Maybe I should stand corrected, Madam President. I just said they have a $245 billion tax cut that basically goes to protect the wealthiest among us. I stand corrected. It is $242 billion, because in all good conscience the Republican conferees came to that meeting today and they agreed to cut $5 billion—a total of $5 billion out of a $245 billion tax break for the wealthiest among us, and they claim that we are not being reasonable.

I simply say, Madam President, while I am not particularly proud of what is going on in the U.S. Senate tonight, and for the life of me I cannot understand how reasonable people with legitimate differences of opinion on how we reach the balanced budget cannot agree to a continuing resolution to keep the Government running while we continue the frustrating process of trying to come up with a balanced budget.

Madam President, there is no way that the Democrats can, should, or will give up our insistence of at least a measure of protection for the Medicare recipients and the Medicaid recipients. The latter, I point out, is not welfare, it is health care. Most or all of the billions of dollars that we spend in the Medicaid Program, over half of it goes to the senior citizens, the oldest and frailest among us who are lying in beds, many of them never getting out of beds, in our nursing homes.

The Republicans are making draconian cuts in that program. Like it or not, we will not have it. We will not put up with it. We are willing to compromise, but we will not move until they get realistic on eliminating that gross $242 billion tax cut for the wealthiest among us and the American people know and the American people by a vast majority stand with us, even though we stand in the minority.

I remind all in closing, Madam President, this Senator has been for a balanced budget for a long, long time, worked hard for it. I voted for the Republican constitutional amendment to balance a budget in 7 years. My credentials are pretty hard to argue with. I simply say that I, once again, emphasize that I am not particularly proud of what we are doing on either side of the aisle this Friday night on December 15. I simply say that if you are looking for someone to blame, we Democrats are willing to take our share of the blame when and if the people on the other side of the aisle would get off their kick which is the centerpiece of their budget proposal to throw away $242 billion in a tax break on the rich while savaging Medicare and Medicaid and other social programs that we think are very important. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, I have had an opportunity to listen to this whole discourse between the leaders and the chairman and now ranking member of the Budget Committee, and the excellent statement that came before.

Sometimes I wonder what country I am in, how much revisionist history that we are going to be subjected to on the floor of the U.S. Senate. I have come to expect it out of the White House. I turn on the White House now and I expect to hear the latest version of nonreality. It just comes up every day. As the Senator from Florida said, this President just does not know how to tell the truth anymore. He just makes a promise and breaks it every day. Changes it every day. What is the story today? What does the poll read today? How can I flip-flop again today?

One time he is out criticizing the Republicans for gutting Medicare, and his wife and himself just 2 years prior to this were advocating the exact same reductions in Medicare. I will show you the videotape. The Senator from Kansas, the majority leader, is absolutely right. All of you who can get a chance to watch "Nightline"—this is not exactly a Republican, GOP "Rising Tide" program, this is "Nightline," ABC "Nightline" on December 12—watch it. Get a copy of it. Get the transcript. Find out the truth. Find out the truth.

Mrs. Clinton, in front of a committee I happen to serve on, the Ways and Means Committee, testified she wanted Medicare to grow between 6 and 7 percent. Our program under this bill grows Medicare at over 7 percent each year. And that is a slash? That is destroying? "That is horrible. You hate seniors."

As his press secretary said, "Oh, Republicans want these seniors to die." That is the kind of rhetoric we get out of the White House—the White House, the President of the United States, not some two-bit peddler on the corner trying to hawk his wares, who can make any kind of outrageous statement he wants to, to try to sell the goods. No, the President of the United States, to the American public—bald-faced untruths. Every day. Just like his press conference a little while ago. Not true. Not true.

Is his offer legitimate? Oh, how do you walk into a budget negotiation that you say you are going to live up to what the continuing resolution, the last spending bill, said—and what did he sign into law? He signed into law a balanced budget, that we would balance the budget in 7 years using the Congressional Budget Office numbers—into law. Not another one of his promises on the campaign trail, which he broke, like cutting taxes for the middle class, but signed something into law with a pen—not Lyndon Johnson's pen, maybe it wasn't Lyndon Johnson's pen—but into law.

So, where does he come, the day of the shutdown? He comes into a room with a budget that does not even come close to balancing.

We have had the President's budgets before. In fact, we voted on them on the floor of the Senate. The last one that was supposedly balanced in 10 years—96 to nothing. Not a single Democrat voted for his balanced budget. Another phony, another untruth that even the people on the Democratic side of the aisle could not stomach—this untruth. We are tired of stomaching untruths over here. We are downright getting angry over here. We are not angry because we feel betrayed. I disagree with the Senator from Florida. I do not feel betrayed. I expect it. I predict it. This guy is not going to tell the truth. Just believe that. Go into negotiations believing that.

What I am upset about is I think we are missing an opportunity here to do something good for America. We can balance the budget of the United States. We can improve the economy of this country, create more jobs, lower interest rates, give some of that money back to the American families across this country.

Oh, I know these people who do not need the money, according to many. Oh, you know, these working families making $30,000 a year who do not need the money, who would waste it if they did not give it to us. We can use it better than they can.

Oh, this is the tax break for the wealthy that we have been hearing about. Let us talk about this tax break for the wealthy. Over 80 percent of the tax break for the wealthy goes to people who earn under $100,000 a year. That is the tax break for the wealthy—targeted. This is wonderful rhetoric, targeted at the wealthy, primarily the wealthy.

Let me tell you about targeting. Do you know who pays 50 percent, roughly 50 percent of the taxes in this country? The top 5 percent of income earners in this country pay 50 percent of the taxes. So, if you were going to give an across-the-board tax cut based on how much you pay, obviously 50 percent of the benefit will go to the top 5 percent, because they pay 50 percent of the taxes. Yet, in this case, 80 percent of the benefits go to people who pay well under 50 percent of the taxes.

How, is that targeted toward the wealthy? In reality, how can you make the argument, based on those facts—nobody argues those facts, where this money is being allocated, who the tax cuts benefit. How can you stand up on the floor of the Senate and make a factual statement, as the President has done—not on the floor of the Senate but in other places—and many Senators, make the statement that we have tax cuts targeted for the wealthy, when they know that is a lie?

I am using strong terms like "lie," but I do not think anybody understands these other sort of terms: obtuse, indirect, you know, not-coming-forward. We have gone beyond that. We are just dealing with some systematic disinformation campaigns that I have not seen in my lifetime.

I can tell you, we have not done a very good job—I will be self-critical of myself and other Members on this side of the aisle and others who are supporting a balanced budget—we have not done a very good job of getting the facts out. In fact, if we do get the facts out, we know we can succeed.

I will refer you to last Thursday's Wall Street Journal. There was a poll of Americans. The question was asked, "Given the fact that under the Republican budget, Medicare spending increases by 45 percent over the next 7 years, do you think that is, A, too much; B, too little; or C, just about right as far as the increase is concerned?

Madam President, 60 percent of the people said a 45 percent increase in Medicare spending was too much; 38 percent said it was just right; 2 percent thought it was too little. Two percent of the American public as surveyed thought that it was too little of an increase.

Now, with the recent changes that we have just made in our Medicare proposal, Medicare spending goes up at a higher rate than 45 percent. Maybe that would drop to 1 percent of people who think it is too little.

See, we believe that when we get the facts out—not rhetoric, not, "Oh, you are going to hurt this person or that person," or showing the pictures, those graphic photos about how people are going to sleep on grates, or your grandmother who is not going to be in the nursing home.

We have a responsibility here to deal with the facts. The facts. We have a responsibility here to base our decisions on what is good public policy for today, tomorrow, and the future. We are standing up as Republicans, doing what I believe is a very courageous thing. We are taking on the sacred cows of Washington, DC. We are taking on Medicare and Medicaid and welfare. We are not doing it in a time of severe financial crisis or foreign crisis. We are doing it because we believe it is in the best interests of our children and their children, and people living today to do just that.

I will never forget, as a Member of Congress, reading column after column, expert after expert, people here on this floor and in the House, saying, "When are we going to get statesmen again in this country? When are we going to get people who ignore the polls—who ignore the polls—who ignore the moment, who forget about the next election and think about the next generation? When are we going to get these statesmen here in Washington again?"

They are here. And they are willing to sit down and negotiate. They are willing to get serious about solving problems.

Maybe the White House should take a few days off from polling and quit worrying about what the public is saying tomorrow or the next day and think about what future generations are crying to us to do.

Senator COVERDELL, from Georgia, comes to the floor on a frequent basis and puts up a chart showing how, within 15 years, five programs will consume every dollar of Federal spending. Five programs: Welfare, Medicaid, Federal retirement, Medicare, and Social Security. Those five entitlement programs will consume every Federal dollar, with the exception of payments for interest.

You can trot around here all you want about: You should not touch Medicare. You should not do this. If we do not control the rapid growth of all of these programs, you will not have to worry about Head Start funding. We will not have to worry about Labor-HHS. There will be no Labor-HHS bill. We will not have to worry about continuing resolutions. We will not have any money to appropriate. We will have all entitlement spending. We can go home. We do not have to pass any bills around here. Everything will be on automatic pilot. We will just spend away.

To suggest by our efforts to reform Medicare and Medicaid that we, somehow, do not care about your grandmother or grandfather in a nursing home or do not care about people who are indigent getting care is the lowest form of demagoguery.

Do you not care about people today and tomorrow? Do you not care about the future? Do you not really care that unless we make changes, these programs are doomed? You can whistle through the graveyard at night all you want, but eventually, folks, we face the music. We must face the music. And when the President of the United States walks in with his negotiators in a budget negotiation today to present an honest budget, he does not even nick either of those programs, Medicare or Medicaid, does not even talk about reforms of either of those programs, when he knows that we have to make fundamental changes.

They did not walk out, but I would not have blamed Senator DOMENICI and Congressman KASICH to walk out. There comes a time in every negotiation when one side just has to call the bluff, and right now the President is bluffing. He has been bluffing for months. He is hiding those cards. He has not shown them to anybody. All he is doing is looking at those cards and telling the American public: Oh, my cards are great. They protect our values. I sometimes quiver at what his values are. But they protect them.

Our cards are all laid out on the table. They are all face up. You can see every one of them. You can see our good cards and you can see our bad cards. You know what we have said? We are willing to negotiate all of those cards. I do not know where the Senator from Nebraska or the Senator from South Dakota are coming from in saying that we are not willing to negotiate the tax cuts. I have not heard one remark from any of the negotiators or any of the leaders or anyone on this floor who said we are not willing to negotiate the tax cuts. We are certainly willing to negotiate the tax cuts.

We have already, as the Senator from Nebraska said—and it may not have been as much as he would like to have seen—we have already changed the tax cut a little bit. We knocked off $5 billion. But remember, this is money that you work for. You would think around here that a tax cut is money that we have in Washington that we may want to give to you.

Let me remind you that you have to pay it here first. You have to work hard to earn it and then pay it here. We do not have a right to it. This is not a Government where you say, well, 100 percent of what you own is ours and whatever we are willing to give you back you can keep. That is not the way it works. Over the next 7 years, taxes will increase above the level today by over $3 trillion. Americans will pay $3 trillion more in taxes over the next 7 years. What are we suggesting? Well, instead of increasing it $3 trillion, it will increase a little less than that, about $240 billion less than that. Boy, what a giveaway. Boy, what a steal here. We are just throwing money out of Washington, are we not? You are going to give us $3 trillion more and we will give you a couple hundred billion and we will target it specifically.

Mrs. BOXER. Will the Senator yield?

Mr. SANTORUM. That is, $141 billion of the $245 billion targeted specifically at middle-income working families.

Mrs. BOXER. Will the Senator yield as far as time?

Mr. SANTORUM. I yield for a question.

Mrs. BOXER. It has nothing to do with substance, but could I ask the Senator how long he expects to continue?

Mr. SANTORUM. Just a few more minutes. I will be done in 5 more minutes, I would suggest.

Mrs. BOXER. I thank the Senator very much.

Mr. SANTORUM. So we have a tax cut proposal targeted at middle-income working families. I had done a few fundraisers last year when some of our local candidates were running, and there were people out there who expressed to me the same sentiment that I hear from many Members on this side at these fundraising events saying, "We really don't need these tax cuts." That is what these people at fundraisers were saying: "Well, we really don't need these tax cuts." And my response to them was very simple. "That's right, you don't need these tax cuts. But there are millions of working families who do, who can't afford to be at these fundraisers because they have to feed children on two incomes."

We want to give them a little break so maybe they do not have to work two jobs. Maybe they can just work one extra job to make ends meet. And we want to reform Medicare so Medicare will be here not just for this generation of seniors but for future generations. It absolutely amazes me how anyone could stand up here and say we are for seniors but we are not for touching Medicare in the face of a report that says it goes bankrupt in 7 years. How can you say that? How can you say you are for seniors?

Mr. FORD. Will the Senator yield for a question?

Mr. SANTORUM. I will be happy to yield for a question.

Mr. FORD. What budget has the Senator seen that has not reduced Medicare?

What budget has the Senator seen that does not reduce Medicare?

Mr. SANTORUM. The President's budget—

Mr. FORD. I just asked the Senator a question.

Mr. SANTORUM. —weakly addresses the issue of Medicare.

Mr. FORD. The budget that was presented reduced it $89 billion, the first one out of the box.

Mr. SANTORUM. I take my time back.

Mr. FORD. Take it back, but be careful and be accurate.

Mr. SANTORUM. I will be happy to be accurate. The President's budget, I will concede, reduces slightly the growth of Medicare.

Mr. FORD. What about the second offer?

Mr. SANTORUM. But nowhere near the amount needed.

Mr. BENNETT. Will the Senator yield for another question?

Mr. SANTORUM. Be happy to.

Mr. BENNETT. Will the Senator explain to me how increasing Medicare at the rate of 7 percent is described as a reduction in any budget? I have not seen a single budget anywhere that reduces the level of spending in Medicare. I have only seen a budget that reduces it from proposals. So I would ask the Senator why he uses the term "reduction" when in fact the amount of money being spent goes up each and every year?

Mr. SANTORUM. The Senator caught me in my own inaccuracy, and I apologize for that, and I apologize to my Democrat colleague. I should not use the term "reduction." The Senator is absolutely right. I should fill that in—reduction in the rate of growth of Medicare, because that is all we are doing. We are reducing the rate of growth.

As I said earlier, Medicare increases by over 45 percent over the next 7 years. And so while the President wants to reduce the rate of growth a minimal amount, less, I might add, than his original proposal when he was advocating universal health reform, all of a sudden from one year to the next he has decided that Medicare does not need to be reformed as much as he first thought it would.

Now, I do not know what has led him to that conclusion other than the fact that now we want to do it and he does not.

What he wanted to do before was reduce Medicare so we could get another big Federal program started—universal health care, Government-run health care. He was willing to sacrifice seniors, using his term, sacrifice seniors to fund a big new entitlement program, more health care, Government run, but when it comes to balancing the budget, no, it is not worth that sacrifice then to balance the budget—if that is what it is, a sacrifice.

I guess it is a matter of your priorities. If your priority is to grow the Government, create new entitlements, create new programs, oh, it is worth taking a little bit out of one Government program to fund a brand new one. But if it is about balancing the budget, if it is about helping working Americans, if it is about creating a better economy, if it is about giving up some power here in Washington, oh, no. No, that is not a high priority in this administration. What is a high priority is scare tactics. Scare tactics. Oh, no, we are not scaring 25-year-old folks who are getting out of school and ready to take on the world. Oh, we would not scare them because, you know what, you probably cannot scare them. Oh, let us scare our grandmothers. Let us scare the golden. Let us scare the people in nursing homes. Let us scare the people who rely on Federal Government checks. Let us scare those people.

They are the most vulnerable. We can get them. Oh, they rely on us. We can get their votes. We can swing their votes. It is pathetic. It is pathetic.

If the Senator from Kentucky is right that the President wants meaningful Medicare reform, well, let us talk about it, do not run around the country, do not run around the country scaring seniors. Let us sit at the table and discuss it, and let us come forward with some real reforms, let us come forward with some movement. We have not seen any movement.

The President's budget remains as it has at the same Medicare figure. Have we seen any changes in Medicare? No. Has he moved? No. Has he moved on Medicaid? No. Has he proposed a balanced budget? No. Why? Why? Maybe that is the fundamental question we sort of have to end with here. Why is it that the President of the United States, who promised—I know that is not necessarily a big thing around here—who promised to balance the budget using honest numbers in 7 years, why has not he put on the table a balanced budget? Why?

Why do you think that is? Do you think it is because that is not possible? No. It is not because it is not possible. We know it is possible. We actually did it in the U.S. Senate. We passed a balanced budget. I give credit, 19 Democrats had a balanced budget, using Congressional Budget Office scoring, so I give them credit. They put forward a balanced budget. I did not agree with its priorities. It might be a good place to start working from.

But why has not the President put forward a balanced budget? I think the answer is pretty simple. Because if he was going to put forward a balanced budget, keeping true to what he said he wanted to do, balance the budget, provide middle-income tax cuts for families, which he said he wanted to—promised during his election. I know that does not mean anything anymore. We do not believe candidates anymore, some more than others, but he said he wanted to do that. He wanted to save Medicare, end welfare as we know it. That was part of his election campaign—end welfare as we know it.

Why could he not come up with that balanced budget? The answer is very simple. If you want to do what the President says he wants to do, he has to make changes to his Medicaid and Medicare proposal. And if he does that, then he cannot run around the country scaring seniors anymore. I mean, let us cut to the chase here, folks. That is the bottom line.

We all know where the savings have to come from. It is no secret here. If you take Social Security off the table, if you take Federal retirement off the table, and you are going to reform entitlements, where do you get your savings from? Where are you going to get your reforms from? We all know the answer. The President knows the answer.

And why it is he is so reticent to come forward and put it on the table? Because he loses his political cards if he does it.

Mr. DORGAN. Would the Senator yield? I wonder how much time the Senator is going——

Mr. SANTORUM. I was interrupted, and it threw off my train of thought. I will do my best. If I am not continued to be interrupted, I will do my best to close up pretty soon.

Mr. FORD. We would love for you to.

Mr. SANTORUM. I know the Senator from Kentucky would love to have the opportunity to have the floor and say some things. And I do not think we are going to close down shop here any time soon, so I am sure you will have plenty of chances to talk for quite some time.

But the reason that the President has not come forward with a balanced budget is simple—because he does not want to make the hard choices, he does not want to make the politically difficult choices of balancing the budget, he does not want to lead. It is much easier to sit up in the gallery and throw stones at the players.

Oh, it is easy to be a fan. It is easy to be a critic. It is easy to be condescending. It is very hard to get on the field, put the pads on, and hit the line, make the tough choices. The President would rather stay off the field.

Well, unfortunately, when you become President, you have to make some of the tough choices. That is why you get paid the big bucks because you have to make tough choices. And the reason that the Republicans are saying, "Call me when you are ready," is because the President is not ready yet. He has not made the tough choices. And this is not the Senator from Pennsylvania talking, this is just about every major publication in this country who are beginning, slowly beginning, to understand that the President is not playing from the top and dealing from the top of the deck.

It is about promises. And I will conclude with this. No applause necessary. We promised—we promised, those of us elected in 1994 and here in the Senate, and many others who were elected in their elections even prior to 1994, we promised that we would balance this budget. We promised. And I know promises are not thought a lot of down here. In fact, they are just sort of made to get elected. I know that is the common thing. You say things to get elected. Say you are for a balanced budget and vote against it on the floor; say you are for tax cuts and vote against on it the floor or do not propose it in your bills. But you know what? We promised.

I will tell you a story of a man who was the head of a Bible college in South Carolina, something he always wanted to do. His father started the college, and he always thought of his life's vocation as taking over the college from his father and leading that school. And he did. He did for several years and was terrific at it. Loved his work.

Unfortunately, his wife came down with Alzheimer's. And, as you know, Alzheimer's is a very debilitating disease. Over time she got worse and worse and worse to the point where she needed around-the-clock care. She was completely incapacitated, did not know who anybody was, did not know who he was. And he made the decision to quit his job at the Bible college and give up his vocation.

The members of the board of the Bible college came to him and said, "What are you doing? You are giving up something you have always wanted to do, and you are doing it so well. Look at the number of people you are going out to educate, to spread the Lord's word all throughout the country. And you are giving that up to go home and take care of your wife? She does not even know who you are."

And he said two things. First he said, "She may not know who I am, but I know who she is. And, second, when I married her, I promised till death do us part. And there is something more than a calling from God; it is a promise."

We promised. And we are going to stay here every day, all day if necessary. And yes, we will storm out of rooms and maybe they do not storm out but they should have for the demagoguery that is going on. But we will be here every day ready, willing and able to negotiate because we promised. And I have told the leader I will be here Christmas Day. If we are going to vote on the floor of the Senate to send American men and women to be in tents and around kerosene heaters in Tuzla, then I can be away from my family on the floor of the Senate to save the next generation of Americans.

We will be here. And we will win. The President will eventually understand that our resolve to balance this budget is greater than his to get away with not doing it.

Madam President, I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you very much, Madam President.

Before the Senator leaves the floor, I disagree with him on many of the things he said; and on a couple I agree. When he said we need more statesmen in the U.S. Senate and in Government, he is right. We need more statesmen and we need more stateswomen in politics.

But I want to say to my friend that statesmen do not show disrespect to the Office of the Presidency and statesmen do not use the word "lie" on the floor of the Senate. And I think it is very important for the sanctity of this institution that we respect each other and that we respect the Office of the Presidency.

And I have to say that I hope the Senator from Pennsylvania will read his remarks in the RECORD and will have an opportunity to go over those remarks.

Perhaps when he reads those remarks, he will understand the difference between making a point in a way that is disrespectful and making a point in a way that is respectful.

I will say to him further that he talks a lot on this floor about children. Children watch us debate. Children need to learn respect, and I hope that he will think about what I have said, and perhaps the next time he comes on to this floor of the U.S. Senate to disagree with the President of the United States, because he happens to believe the President is wrong to stand up against $270 billion cuts in Medicare and change the nature of Medicaid, he thinks the President is wrong to stand up against tax cuts which, in fact—in fact—benefit the wealthiest among us—as a matter of fact, if you earn over $350,000 in this Republican budget that they are so proud of, if you earn over $350,000, you will get back thousands of dollars each and every year. As a matter of fact, over a 10-year period, you will probably get back more than $80,000 in taxes, and that is why the President is making the Senator from Pennsylvania so angry. That is why the President of the United States is making the majority leader so angry. And that is why the President of the United States caused the Senator from Florida, Senator MACK, to say, "I'm angry."

You know what? That is just fine with me. That is just fine with me. If you are angry because the President is standing up for the people of this country, not the special powerful few, but the people of this country, then go ahead and be angry.

To talk about, as the Senator from Florida, Senator MACK, did that the Democrats have no guts, let us talk about that for a minute. When we started here on the floor of this U.S. Senate talking about the budget of NEWT GINGRICH that was the centerpiece of the Contract With America, we were not popular. We were not popular at all. As a matter of fact, the polls said the Republicans were flying high. But we stood on the floor of the U.S. Senate and we said we will not allow the power of Government to stand behind the wealthiest few and abandon the middle class and the people in nursing homes and the people on Medicare; we will not allow that.

And suddenly, the people in this country woke up, and they heard us and they heard this President. Yes, they want a balanced budget, and so do we, and we voted for several of them. They agree with us. Yes, they want a balanced budget, but they want a balanced budget that does not hurt the elderly, that does not hurt the middle class, that does not hurt the children, that does not hurt the environment.

Mr. REID. Will the Senator yield for a question?

Mrs. BOXER. I will be happy to do so.

Mr. REID. It is true, is it not, the Republican budget, every one they put forth, raises taxes on anyone making less than $10,000 a year, which includes the majority of people in America?

Mrs. BOXER. My friend is accurate, a majority of people who earn less than $10,000 a year are hit with a tax increase in the Republican budget.

Mr. REID. If my friend will just let me again ask another question?

Mrs. BOXER. Yes.

Mr. REID. Anyone in the United States, which includes a majority of the people in America, under the budget proposals we have gotten from Republicans, every one of them, everyone making less than $10,000 a year, will have a tax increase, is that not right?

Mrs. BOXER. It is true, a majority of those earning under $10,000 a year will be hit with a tax increase and the tax cuts go to the wealthiest. That is a fact. And as I serve on the Budget Committee, I say to my friend, I tried. We offered amendments that said if there will be any tax breaks or cuts it should be aimed at the middle class, not at the wealthy.

I know that my friend from North Dakota has been wanting to speak, so I am going to sum it up in about 3 more minutes, and I want to make a point. There is no reason to shut this Government down, no reason in the world to shut this Government down. It is childish, it is stamping your feet, it is saying, "I'm taking my books and I'm going home." But more than that, it is selfish, and it is cruel to do it.

I want to talk to you in my remaining moments about a couple of people in California. Ken Takada, a veterans claims examiner in Los Angeles. His job is to make sure veterans receive the health and pension benefits to which they are entitled. If the Government shuts down, Ken will not be there to see that our veterans get what they deserve. Even after the shutdown ends, its effects will be felt for a long time, because while the VA is closed, new files are piled on his desk, lengthening the case backlog that is already too long.

So the veterans will get hurt and the shutdown will hurt Ken. He is not independently wealthy. He lives like most Americans, from paycheck to paycheck. If his pay does not come in, he could default on his student loans.

But when Senator DASCHLE stood here and offered a continuing resolution that was clean that said keep the Government going, let these people go to work, let them do the work they are paid to do, let them have some sense of security, the Majority Leader DOLE objected.

So let me tell you, my friends, it is an ugly situation here. Senators who will not lose a day's pay—there is no corner on anger in this Chamber, and I know the Presiding Officer and I tried hard to make sure that we sacrificed something when we cannot get our act together and the Government shuts down.

We have a bill that simply says we should be treated like the most adversely affected Federal employee. But, no, the majority leader objects when the Democratic leader says, "Let's keep the Government going just for a few days." And what is the price that Senators and Congressmen and NEWT GINGRICH get to pay? Zero, because NEWT GINGRICH himself has blocked that bill from coming before the House.

It has passed here three separate times. I think it is an utter disgrace, it is despicable. I hope every single person in this country will let Speaker GINGRICH know and call him on the phone 225-0600—it is a 202 area code—and tell him that he does not deserve to get his pay as long as Federal employees are not getting theirs.

Let me just say this. They can put any spin they want on the other side of the aisle. They can do it. But it comes down to the bottom line: This President is not going to allow Medicare, Medicaid, education, or the environment to suffer in order to give a huge tax break to the wealthiest people. That is the issue and they do not like it. They will spin it their way and tell you they are going to save Medicare.

I will ask you to look at NEWT GINGRICH's speech made 2 months ago when he said, "We cannot kill Medicare outright. We are going to let it wither on the vine." Those are his words, not mine.

The majority leader, Senator DOLE, who says they are going to save Medicare—and he bragged about it in a recent speech that when it was brought up in the U.S. Senate and U.S. Congress, he was here to fight against it. So if the American people believe the Republican Party is going to save Medicare, either, first, they do not know their recent history and past history, or, second, they must think that Jack the Ripper is Mother Teresa, because there is no way that this Republican Party, given its history and given this budget, can stand with a straight face and say they are the party that is trying to save Medicare, and, oh, they are the party that is going to make sure the middle class and the poor are brought along. It just is not true.

So there is a lot of anger around here. There is a lot of disappointment around here, and it permeates through this Chamber, but, frankly, it is for different reasons.

I stand with President Clinton in standing up against a budget that would be put in balance at the expense of the American people.

I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Madam President, I appreciate the recognition. I say to my friend, I know he has been on his feet. I have been in the Chamber for some time, also. I will not go on as long as my colleague from Pennsylvania, and I assure him he will get an opportunity to respond as quickly as I can make a few points.

I will not use words like "lie." I will not use "despicable" and "disgraceful." I came over here a little bit angry, but I will not use the word "anger." I will do my best to try to analyze what I think is really going on here and hope it might make a modest contribution to the dialog.

I do not believe that anybody is proposing savaging Medicare. That was a phrase that was used earlier on this floor. I am willing to stipulate, for this Senator, right this moment, that I will accept the President's number for Medicare. It happens to mean, in terms of increased premiums—one of the things the President has been most upset about—that I am now sacrificing Federal revenue of 39 cents per day per recipient by going to the President's number.

I know enough about forecasting to know that I am perfectly safe in saying I will take the President's number as to what the premiums will be 7 years from now, because anyone who really thinks we can make a forecast within pennies that is good for 7 years is kidding himself or herself. So I am willing to stipulate that the Medicare debate over numbers is off the table because I am willing to accept the President's numbers as the target numbers rather than the Republican numbers because they are literally pennies apart. There is no point in fighting over it. If that means that I am now redeemed from savaging Medicare, I appreciate the redemption. But what it really means, Madam President, is that the phrase savaging Medicare is a misplaced phrase because the President, himself, has proposed a number that is, as you go over the life of the program, simply pennies away from the number we have been attacked for in these many months.

I would like to talk about the tax cut for the wealthiest among us. One of the most serious problems we face in this country—which we sometimes lose sight of, but occasionally turn to—is the fact that real wages among people who work for salaries and work for wages, who do not have investment income and interest income, have been stagnant for many years. The stagnancy goes back into past administrations. It has not changed under this administration. It is one of the economic problems we face—real wages for what we call ordinary people have been stagnant.

I will confess that I approached the tax cut for children with some concern because I looked at it solely in economic terms, and I said to myself that this particular tax cut is not going to increase the rate of growth in the economy, which is the root problem. There are now economic studies that challenge that conclusion that demonstrate that this tax cut will, in fact, stimulate economic growth. But I will leave that debate for another time.

I will simply raise this point. If, in fact, one of our more serious difficulties is stagnant real wages for ordinary people, and it is a fact that—being the father of six children, I know this one—the biggest impact comes upon those who have kids. They have to worry about clothing them and educating them and taking care of them. What could be a better way of attacking that particular economic problem than saying to those ordinary people, who have children, that we will allow you to keep an extra $500 per year for each one of your children, while we work on this long-term problem of solving our growth difficulties?

The Senator from California was talking about people who are earning $350,000 a year who are going to get $100,000 in tax benefits. My reaction is that they are sure going to have an awful lot of kids if they are going to get $100,000 a year, because the tax break comes at $500 per child. That is going to require more children than I know of anybody having had to get to the full $100,000. We are talking about $500 per child for the man, or the woman, or the couple, who has a child, who is working for wages at $20,000 or $30,000 or $40,000 a year and is having financial problems, because his or her real income has been stagnant for years.

So I have revised my position on the tax cut, as I have looked at it in those terms, and said that this makes sense. It certainly makes a lot more sense than taking that $500 and bringing it to Washington and spending it on some kind of job retraining program in the hope that you can do something about the stagnant real wages of that wage earner. This is not a tax cut for the rich. The statistics demonstrate it. The demagoguery goes the other way. We need to keep our focus elsewhere.

What is this really all about, Madam President? Why are we facing this kind of a crisis here tonight? Some would summarize it by saying the Republicans are willing to risk shutting down the Government in order to get a balanced budget.

The President is willing to risk shutting down the Government in order to prevent a balanced budget.

I prepared to say that and I decided, no, I better go farther than that; that is too glib a summary. This is what I think this is all about. Let us go back to the 1992 campaign. My friend, Senator DORGAN, who is probably going to be recognized next, and I both ran for the Senate in 1992. So did Bill Clinton run for President in 1992. I do not know what the Senator's campaign slogan was, but I know what mine was. It was change.

I had a little trouble with that because somebody said, "That is Governor Clinton's slogan. He is running on change." The woman elected to the second congressional district in Utah, Karen Shepherd, a Democrat, ran on change. We all got elected. President Clinton got elected on change, I got elected on change, and Karen Shepherd got elected on change, Republicans and Democrats, on the wave was change. Then the President put forth his first serious financial proposal. It was a $19 billion stimulus package saying we had to stimulate a sluggish economy by spending $19 billion in an emergency appropriation.

Why do I point that out, Madam President? For this reason: Emergency appropriations do not go through the budget process. Emergency appropriations go directly to the deficit. We have an emergency, we have to bypass the budget process. We stood here on this floor recognizing that the procedure of taking emergency appropriations to bypass the budget and taking care of your political constituency in an emergency appropriations bill was not changed, it was the ultimate example of business as usual in this town.

We Republicans like to say we brilliantly executed a strategy blocking that. As a matter of fact, we stumbled into it. There was not any brilliant strategy. It just kind of happened. Then we discovered something. The American people liked the fact that we blocked the stimulus package which was really business as usual.

So the 1994 election, in my view, turned on this issue and this issue primarily: Which party is really the party of change? The American people had no change—what they wanted. They voted for change in 1992. They felt they did not get it, so they voted for it in 1994.

What are we talking about tonight, Madam President? We are talking about change. We are talking about which party is most dedicated to changing the way the Government works. We are cloaking that debate in conversation about the rate of growth in Medicare, or slashing Medicare if you prefer that rhetoric. We are cloaking that debate in talks about tax cuts for the rich, and then others respond saying it is not for the rich. We can have that debate. What we are really talking about is whether or not the Government is going to fundamentally change the way it does business and the way it keeps its books—the balanced budget amendment, the balanced budget bill, a balanced budget in 7 years.

Let me conclude by telling you Government as usual—and why I think we need change. I have been around this town or observed this town for over 30 years, even though I have been a Senator for only 3 years. I have seen politicians of both parties and of all political stripes—liberals, conservatives, moderates—all stand up and claim their undying allegiance to a balanced budget. When?

It reminds me of the old Wall Street advice by a wise old broker who says, "When somebody asks you about a stock price, give them a number or give them a date but never give them both." Stocks going to double—do not tell them when. Give them a number, give them a date, but never give them both.

That has been Government as usual with balanced budget—Republicans have done it, Ronald Reagan has done it, Democrats have done it, Jimmy Carter did it—give them a number, give them a date, but never give them both. We have to give a date here.

When is the date that the budget will be balanced? It is always in the outyears. That is a phrase that the American people do not understand. The budgeteers tell you outyears means the years out there somewhere in the future. I discovered that outyears means never. The budget is going to be balanced in the outyears. That means never.

What this fight is all about is whether or not we are going to take Government as usual and procedure as usual that promises a balanced budget in the outyears, or whether we will take the first steps this year and in this budget.

President Clinton sent us a budget. It was put on the floor. It was defeated 99 to 0. I hope the people that are guiding the President in these budget negotiations remember that under law he has to send us a budget for fiscal year 1997. His budget for fiscal year 1996 was defeated 99 to 0. He has to send us a budget for fiscal year 1997. If, indeed, what we are proposing is too draconian for fiscal year 1996, and he really does want to get the budget balanced by 1997, he has to be far more draconian in 1997 than the Republicans will be, because we have a head start on him by virtue of what we are willing to undertake in fiscal year 1996. Of course he would prefer 10 years—10 years gives 3 more outyears in which to make his projections.

I think with all the rhetoric that is going on, the real core problem here that is dividing the two parties and that has created the anger and the excitement and the specter of certain portions of the Government being shut down tomorrow is more fundamental than the rhetoric around. It is over the question of where is the Government going, and are we finally going to undertake the hard choices of doing it now rather than giving us the rhetoric of doing it in the outyears.

In conclusion, Madam President, I offer this summary which may be a little irreverent but that I think helps us understand what we are talking about. The Presidency of John F. Kennedy has been summarized in shorthand now by virtue of a comment his wife made after his death when she said his favorite musical was Camelot. She described how she and he would listen to records in the evening as they were falling asleep. They would put a record on it and listen to it, and his favorite musical was Camelot. She said—referring to the Kennedy Presidency from the language of that musical—"Let the word go forth and let it never be forgot that once there was a place that was known as Camelot." And that name has stuck.

If I may, with I hope appropriate respect, suggest that for this administration, the musical should not be Camelot but Annie because the hit song in Annie is "Tomorrow." "Tomorrow, tomorrow, I love you tomorrow, you're always a day away." I suggest that this debate is about whether or not we attack the difficulty of balancing the budget today or whether we leave it for the outyears—"Tomorrow, tomorrow, always a day away."

I side with those that say tomorrow is never going to come. If we are going to deal with the problems of the balanced budget we must deal with it now. We must deal with it here no matter how difficult and problematic it becomes and how angry it makes us. We must step out to that hard choice and deal with it today instead of waiting for the time that is always a day away.

I yield the floor.

Mr. DORGAN addressed the Chair.

(Mr. BENNETT assumed the Chair.)

Mr. DORGAN. Mr. President, I have stayed on the floor for some while because I felt a number of things need to be said in this debate, and the longer I stay the more I regretted having stayed, listening to some of the debate.

I must say the Senator from Utah is, I think, one of the most thoughtful Members of this Senate, and I admire him and respect his views. He has, as he usually does, expressed his views with great respect tonight on the floor of the Senate.

I say to him, however, that his use of the song from Annie is probably an appropriate starting point because the implication of the song that is sung in Annie, "Tomorrow, tomorrow," is the postponement. He says that there is not today, there is always the postponement. Actually, the lyrics of that song are "The sun will come up tomorrow," and so on, and it seems to me that that does represent a kind of a difference here.

If your notion is there is only today, we are only dealing with today, I guess you sometimes forget about the tomorrow—the 5-year-old that will be in first grade next year; the kid who is 3 that might get a chance to go to Head Start next year. Really, the difference in priorities among many of us is to look to tomorrow, look to the future, look to what this country is going to be, in 2 years, 5 years 7 years, 10 years, look about what we will do for our children, what we will do when people reach retirement age, what we will do about those who want an education. Yes, it is really about tomorrow. Let us do what we should do today. Let us meet our responsibilities today and also decide to care about tomorrow, to care about our children, to care about our elderly, and to do the right thing.

You will not hear me in discussing our differences use the terms "liar," "dishonest," "untruthful." And I must say, having sat and listened, now, this evening, that this, because of the circumstances of this budget debate and the breakdown of the negotiations and the potential of another shutdown of the Government, is not a proud day in the 104th Congress. I am not proud of the debate I have heard here in the Senate over the last couple of hours, with pejorative terms about motives of others.

It seems to me that we can disagree without being disagreeable with each other. We can talk about fundamental policy differences—Medicare, education, agriculture, veterans, Medicaid and so many others—without deciding that because you are on one side or the other of the debate, you are unworthy or you are not able to think or you are not honest. That is not, in my judgment, debate that advances the interests of the Senate or the interests of this country.

I put my hand on a Bible when I was sworn into the U.S. Senate, and it was one of the proudest days of my life. I did not come here to want to create problems. I came here because I wanted to solve problems. I want this country to be better. I have children who are in school. I want life to be better for those children. I want the world to be safer. I want our schools to be better. I want their job opportunities to be broader. That is what I want to participate in.

We might reach those goals in different ways because we have different philosophies, but I expect most of us want the same thing. The question is, why can we not decide to sit down and reason together without the threats and without the language and without the punitive kind of approach that some here would take; to say: In order for me to win I must make you lose?

I want to talk just a little about the pieces to this puzzle, this issue of a Federal budget. We talk a lot about numbers, and it is true it is a puzzle with pieces that deal with numbers. The question is, How do you make them all fit together? The numbers all represent investments or expenditures for one reason or another. We do not often enough talk about what it is this country has tried to do.

I was on a radio program some while ago. Someone asked me of my heritage, and I explained about my great grandmother Caroline who, with six children, after her husband died, left Saint Paul, MN, and took her children to the prairies of Hettinger County, ND, and pitched a tent. This woman, born in Norway, whose husband died, went to Hettinger County, ND, to pitch a tent, build a house, and build a farm, and raise her kids.

Someone called the radio show and said, "I wonder what she would have done had there been a welfare program back at the turn of the century? Would she not have been enticed, probably, just to go on welfare?"

I said, Who do you think gave her the 160 acres of land? What do you think the Homestead Act was? Do you think that was the largesse of Chase Manhattan Bank? Do you think it was the Rockefeller Trust that said, "Here, if you will do this, we will provide you 160 acres of land"? No. It was the Federal Government. It was the Homestead Program that said, "Here is an incentive for you to do the right thing."

And this sturdy Norwegian woman—Lord only knows the courage it must have taken to take her children and go to the prairies of North Dakota and pitch a tent and start a farm by herself. This sturdy woman said, "I am going to do that." But it was the Homestead Act that helped her do that as well.

I am proud of a lot of those things. I am enormously proud that we decided to have an REA program that lights up the farms in America. I am proud of the fact that we have a Medicare Program. Over half the senior citizens of this country 35 years ago had no health care at all. Mr. President, 99 percent of them are covered for health care these days. I am proud of that. If someone stands up here and says, "Why don't you decide to start defending these things?" To put us—I am not defensive about it. I am proud of what we have done. We have made this a better country because of it.

Do we have to balance the books in this country? Do we have to balance the budget? Of course we do. That is not at odds. Of course we must. The question is how do we do that? How do we do it in the right way that serves this country's interests?

I come to this floor and I hear people stand up all the time and they point a finger at somebody and say, "You, you are the one. You are the big spender. You are the obstacle. You never want to cut spending."

The Presiding Officer knows what the business of the Senate is tonight. The business of the Senate is the Defense authorization bill, that is what is on the floor right now. Let us talk just for a second about some of the facts.

You know, you spend money not in some aggregate, hypothetical scheme called a budget debate; you spend money by authorizing it in a Defense authorization bill and an appropriations bill. I just want to show, for those who are interested, what is on the floor tonight: A Defense authorization bill. Mr. President, $7 billion was added to this bill beyond what the Air Force, the Army, the Marines and the Navy said they wanted or needed to defend this country. They said, here is what we need. Here is what we ask you for. Here are the trucks, the ships, the planes, the submarines we need to defend our country.

And then this Congress, this body says, General, Admiral, Mr. Secretary—you are wrong about that. You need $7 billion more. You need 17 more T–39 jet trainers. And we insist you buy them. You need six EA strike aircraft. You need an LHD–7 amphibious ship that costs $1.3 billion, and you need another ship. You did not ask for them, but you also need a second amphibious ship for $900 million. You need six more F–15's that you did not ask for. You need six more F–16 jet fighters that you did not want and we insist you buy them. We want, we insist you order three C–130 cargo aircraft. B–2 bombers? We think you are wrong when you say you do not want B–2 bombers. We want you to buy 20 of them, at $35 billion.

Star wars? We insist you buy it. We increase 100 percent of the funding for star wars, and we demand you begin to build it in 1999. By the way, we want multiple sites and we want it to be space-based.

I could go on at some length. This is a long list of what people who say they want to balance the budget have decided they want to add to this bill. After all, this is a specific bill. This is where you really begin to balance the budget, in day-to-day individual decisions.

In fact, when this bill came to the floor of the Senate, do you know there was a little provision tucked away in it calling to spend $60 million for blimps? Yes, blimps. I went on a short scavenger hunt, asking who would want to buy blimps in the defense budget? Could someone tell me who the blimp is for? Will there be a name on the blimp? Will that identify the author? There were no hearings—$60 million for blimps.

My point is this: The next time someone stands up and points at someone else and says, "You are the big spender," I ask them how did you feel about this? Do you want to balance the budget? Let us start with the first step right now, 10 minutes to 8, let us decide we do not need B–2 bombers the Air Force says it does not want. Let us decide we should not build a star wars program the Secretary of Defense says is unwise to build at this point. This is where budget cutting starts. This is where balancing the budget starts. And the fact is, the folks who are here busting their buttons, bellowing, often the loudest—not everybody bellows, but there are some bellowers—bellowing the loudest about they are the ones who would solve America's problems and balance the budget, are the very ones who come to the floor with this set of priorities.

The Treasury Department did a story about the numbers that I think makes it pretty clear. It says, picture it this way: Spending and taxing priorities in the budget that has been offered and that the President vetoed, take a roomful of people—my hometown was 400 people—a roomful of 400 people. Get them all in the room, and you have a community meeting. You say to them: Here is the way we divide this up in this approach to balancing the budget. We want the 20 percent of you in this room who have the lowest incomes to move all your chairs to this side of the room. And so you get the 20 percent with the lowest income moved over to this side of the room. And we say: We have news for you. We have to cut the budget. We just have to tighten our belts. We have to cut back. You 20 percent with the lowest incomes, you get 80 percent of the burden of the spending cuts in the budget.

Now, we know that is bad news, so we do not want the entire room to be filled with bad news. We do have some good news. We would like the 20 percent with the highest incomes in this room to move their chairs over to this side of the room, and they do. So the 20 percent with the highest incomes are all sitting on this side of the room. We say: Now, we have some good news for you. You 20 percent with the highest incomes get 80 percent of the tax benefits in this bill.

And that is the problem with the priorities.

I am not here to point fingers but neither am I willing to allow people to stand in the Chamber of the Senate and say it is the Democrats that have misrepresented what the majority party has done.

I wish to hold up a chart that I held up before. It is Kevin Phillips, whom all of you know, a noted author. He is a Republican political analyst. He has been a Republican all of his life. And here is what he says about it. Not me, a Republican, Kevin Phillips, has written:

> Spending on Government programs—

He is speaking about the reconciliation bill to balance the budget that the President said was unfair and he vetoed it.

> from Medicare and education to home heating oil assistance is to be reduced in ways that principally burden the poor and the

middle class, while simultaneously taxes are to be cut in ways that predominantly benefit the top one or two percent of Americans.

That is not me saying that. This is the writing of a Republican political analyst. And frankly, he is right and that is the problem with the priorities. We can do better than that. We can do better than that. The common interest of Republicans and Democrats in the Congress to come together and compromise can produce a result that is more fair to the American people.

We, I think, should solve this problem. There is no reason for there to be a shutdown of Government services tonight. That is a failure by any standard, a failure shared, in my judgment, by both political parties. I do not deny that. But there is not any reason that we ought not have negotiations that reach a result which is good for the future of this country.

Tomorrow, tomorrow, the sun will come up tomorrow. There is a tomorrow. There are people who will experience the joys of being an American tomorrow, hopefully benefit from the fruits of what being an American is—going to good schools, having a nutritious lunch for a low-income child in the middle of the day at a school lunch program or for a 4-year old to be able to show up with hope in their heart because we have a Head Start Program that says you come from a troubled family and you come from circumstances that you were not selecting when you were born; you did not select to be born into poverty, but we are going to give you a head start. We are going to give a head start in life.

I saw 60 of them out here in the Capitol this morning; a group of 60 Head Start kids came in with parents and teachers, and I stopped and talked to them because I love the Head Start Program. It works. We know it works. It works well. It invests in young kids. It invests in the future. And we are saying with the priorities in this Congress that we want to increase star wars by 100 percent; we want to increase the funding for star wars by 100 percent, but we want to say to 55,000 kids, each one of whom has a name and hope in their heart for a better day tomorrow, we do not have room for you in the Head Start Program; we cannot afford you. You have to be told you are going to have to leave the Head Start Program. I am just saying to you that is not the right set of priorities.

Let me in just a final moment come to a specific piece that was raised by others because I think, to be fair to the President, we need to have the agreement that was entered into some 2½ weeks ago put in the RECORD, and I am going to read it because no one who has referenced this agreement has read it out loud. This is a CR commitment to a 7-year balanced budget.

The President and Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002 as estimated by the Congressional Budget Office. The President and the Congress agree that the balanced budget must protect future generations, ensure Medicare solvency, reform welfare, provide adequate funding for Medicaid, education, agriculture, national defense, veterans and the environment.

Further, the balanced budget shall adopt tax policies to help working families and to stimulate future economic growth.

B. The balanced budget agreement shall be estimated by the Congressional Budget Office based on its most recent current economic and technical assumptions following a thorough consultation and review with the Office of Management and Budget and other Government and private experts.

The balanced budget agreement shall be estimated by the Congressional Budget Office. The President has agreed to that. I agree to that. I believe it should be so. But there is nowhere in this document that suggests that the discussions at this point in the process can or will be scored by CBO because the fact is CBO still has not scored the options that are laying on the table. So you work from a series of options to get to an end point where you reach agreement and that will be scored by the Congressional Budget Office. The President agreed that that is what it will be. But it also is an acknowledgement that it be scored by the Congressional Budget Office after consulting with OMB and other Government and private experts on economic growth, and so on, and also that it will relate to the priorities—Medicare, Medicaid, and others. And those are very important elements. I think to the extent that I have heard this discussed tonight in the Chamber of the Senate it has not been related the way it was just read by me.

And so there is a lot to talk here with respect to what we are doing and where we are. We need to reach an end point, not with games but with honest budgets that deal with priorities that are right for this country's future. Will Rogers once told a story that I thought was interesting. He talked about what his daddy said to him about how to succeed in life. Will said his dad told him to buy stock and then hold it till it goes up and then sell it. And he says, "If it doesn't go up, don't buy it."

I thought about it. That is pretty interesting advice, right? There is a lot of that kind of mechanical description of dealings here in the Congress, the so-called guarantees. We see from the majority side interests that they have, legitimate interests. I understand them with respect to balancing the budget. They say to us we want a $250 billion tax cut.

Personally, I think there ought not be a tax cut until the budget is balanced. I think we ought to put it aside and say, let us do the heavy lifting first. Let us honestly balance the budget. When we are done with that, then let us turn to the Tax Code and hopefully cut taxes for middle American families. But the majority party says, no, that is a priority. It is a legitimate thing. I understand that that is their priority. They came to the negotiating table today and said, OK, we have changed our position on tax cuts. We said roughly $245 billion. We are going to come down from that $5 billion.

It seems to me that is not very much movement in terms of negotiating a compromise. The tax cut includes, some will say—and I expect Senators who will speak afterwards will say—a $500 cut for children, knowing, of course, that nearly half of the children in this country will not get any benefit or full benefit of the $500 because they come from poor families and this is not refundable. So a lot of kids are left out of this, of course. But there are a couple other things that are in there that I will not expect anybody to stand up and support tonight because I think they do not want people to understand what is sort of slipped under there just below the surface of the water that nobody really should see. Let me give you an example.

A cut in the alternative minimum tax for the largest corporations in the country that will mean each of 2,000 corporations will receive a $7 million tax reduction. It seems to me when you are short of money for Head Start but you say "I have money to give 2,000 corporations $7 million each in tax reductions" is not a right priority.

Another little one, a tiny little issue that I bet no one knows who stuck in—in fact, about 3 days ago, I asked if anyone in the Senate knew who stuck this provision in. Would they please identify themselves so we could debate the wisdom of it. It is a little provision. I think it is called 956A. I am not sure I have the right number on it, but it is a little provision that makes it more attractive to close your manufacturing plant in the United States and move it overseas.

It deals with investment in passive assets on overseas income that would otherwise be repatriated to the United States. In short, it says, let us make it more attractive to move American jobs overseas. And $244 million is lost by increasing the tax break to corporations who would move their jobs overseas.

I want to know who in this Chamber thinks it is a good idea for us in this bill to decide, or that we ought to encourage even more the movement of American jobs overseas? Anyone? Three days have passed since I asked who wrote it, and no one has been willing to claim credit. It is only $244 million. That is only a quarter of a billion. And some people think that is probably not relevant. But when you come from a town of 400 people, we are talking pretty big money when you talk about $244 million.

I would like to find out who did that, and why, and how do they stand up and claim that one side does not bargain in good faith, but we have a plan that says let us help move jobs overseas, let us help move American jobs out of America. And we are upset that the President vetoed that?

See, I mean, the Senator from Utah, who I have indicated is a thoughtful legislator, I think, said it right. This is not a case where one side is all right and the other side is all wrong. I would like to get to the point where we could recognize there are good ideas on both sides of the political aisle. Let us try to collect the best of both rather than get the worst of each.

Again, I think all of these things we will debate in the coming days again. But my hope is that reasonable people can decide that we ought not shut down the Government tonight. Why should we make the American people pay the price? And that is who will pay the price of the shutdown—furloughed workers will get paid though they will not work—the American people will pay the price of failure here in Congress.

So there is no reason that there ought to be a shutdown of the Government tonight. Those who think they want to let this Government shut down do no service to the American people, in my judgment. And I would say to the majority leader and the minority leader and everyone involved in this—and I have been one of the negotiators for 2½ weeks—we have not, frankly, negotiated very much because people did not want to sit down and go through this.

We should. It is time, I say to all of them, it is time right now. Start on page one and go through it. Let us reach agreement and compromise, balance the budget, do it the right way, protect the right priorities and solve this country's problems.

President Clinton has a veto, and he used it because he said some things are important. We are going to stand and fight for some things. Elderly people who live with very little income and rely on Medicare do not deserve to pay more and get less health care. We want to protect that program. It does not mean there cannot be some cuts. There will be some cuts, but we do not believe you ought to have a quarter of a trillion dollar tax cut in order to make room for the cut in Medicare by a quarter of a trillion dollars. That is not fair. It is not balanced. And it is not the right thing to do.

There is a better way to do it, and I think that reasonable people could sit down and in a very reasonably—I should not say very reasonably—in a short period of time come to a reasonable compromise that protects some of these things that are important for the future of this country.

Mr. President, the Senator from Wisconsin has been extraordinarily patient. I apologize for the length, but I appreciate having the opportunity to address some of these issues on the floor of the Senate. I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, first of all, I would like to thank the Senator from North Dakota for his remarks. I think they very correctly set the tone, the tone that should have been established out here this evening, not the tone that we were treated to earlier in the evening.

These remarks are not directed at the Chair. In fact, the Chair, the Senator from Utah, I thought very politely and effectively made an analogy to a musical, "Annie," and brought the debate back to an exchange of respect in an attempt to point out the differences we have. What I heard earlier on the floor was just rank partisanship. It was very extreme. It was very harsh. It was very personal toward the President of the United States.

When it comes to voting, I think people should do whatever they can to vote their principles, as a rule. Of course, there is such a thing as party loyalty, but you should vote your principles as much as possible. I think the thing that frustrates the American people more than any issue is their belief that this institution is just loaded with partisanship.

You know what I tell them, Mr. President? I tell them that actually the U.S. Senate is not as partisan as it looks on television, that the interpersonal exchanges when the TV cameras are not on are really very civil, most of the time, and that they would be proud of it.

But I think we went over that line tonight, and it troubles me because recently on a couple of occasions I have parted company with my President and my party and voted with the majority party here. This week I was the only Democrat Member of the Senate to vote against my President on the Bosnia action. I voted with mostly Republicans, because I do not think you should just use partisan consideration when you are doing something as significant as sending American men and women to a very dangerous situation in Bosnia.

And more than that, on the issue before us tonight, the budget issue, I was one of only seven Democrats to say, when the Republicans proposed that the budget be balanced within 7 years, I voted, yes, that sounds reasonable. I disagree with the way the Republicans want to do it, but I thought it was reasonable to continue the Government with the agreement that we should balance it within 7 years according to Congressional Budget Office numbers.

So I have been giving the Democrat President some heartache lately. I am sure I am not No. 1 on his Hit Parade, as some people say back home. And I regret it when I have to disagree with him.

But I am very troubled by the personal attacks I heard on the floor tonight toward the President. I remember when I was a young teenager, the Vietnam war was on. My father and I had a strong disagreement about whether the Democratic President, President Johnson, was doing the right thing in Vietnam, and I said some things that were intemperate about the President. My dad said to me, "Remember, at any one time you only have one President." And I have always remembered that as a basic statement about the responsibility of every American, and especially the Members of this body, about the personal way in which you refer to the President of the United States.

The comments that he cannot keep a promise, and the other references seem to me undignified for this great body. In fact, I find it particularly odd that he would be criticized for not keeping a promise when in fact the very issues now that he is being asked to compromise on require him to move away from positions he has taken.

The Senator from Pennsylvania said that the President promised a tax cut, middle-class tax cut, but he broke his promise. In fact, what the majority party is asking for is not simply a middle-class tax cut, but a tax cut that is heavily skewed toward not the middle class, but toward upper income people. So, in effect, he is being criticized for not keeping his promises and at the same time being told to break that promise and spend the money even more so on folks who make more.

The fact is that this President is a doer. You may not like everything he is trying to do; he may change his mind sometimes and try one thing and then try another, but he is not a do nothing. He is a doer. And the people in my State are pretty positive toward him because they think more than anything else he is trying to solve the problems of this country. So let me put a word in of respect and admiration for that President who I have been forced, out of principle, to disagree with in the last 2 weeks.

I do think some of the points that the Members of the other party made tonight about whether we should use Office of Management and Budget or CBO numbers are important issues. But those can be resolved. I think the American people should know tonight what the real roadblock is here on this budget. There is a real roadblock. And if we are going to have a Government shutdown in less than 4 hours, there is a reason why the Government will shut down. It is the same reason why we had the first shutdown. It is the reason we are going to have this shutdown. It is because there is one priority of the majority party here over everything else, one thing that is more important to them than anything else. It is what the Speaker of the other House has called the crown jewel of the Republican contract.

Now, you may think, given all the rhetoric of the last few weeks, that crown jewel of the Republican contract would have been balancing the budget. But it is not. That is not the crown jewel of the Republican contract. Guess again. You may think it was passing the balanced budget amendment to the Constitution. That is not what has been referred to as the crown jewel of the Republican contract.

Maybe you would have thought it was the flag burning amendment. Given the rhetoric this week on the floor of the Senate about that, you would have thought that would be what had been identified as the crown jewel of the Republican contract. But it was not.

How about the line-item veto? If I had to pick something that was really popular out there in the 1994 elections, and I think was, in fact, one of the issues that drove the Republican victory, it was the desire to give the President the line-item veto.

That cannot be the crown jewel, and I will tell you why. Because the House passed the line-item veto in February and we passed it in March in the Senate and guess what, the Republican leadership of this institution has not seen fit to resolve the differences and send it down to the President. They are just sitting on it. This President could have that line-item veto today and be vetoing stuff that he does not believe in. But that, obviously, is not the crown jewel of the Republican contract.

The crown jewel is a tax cut. The crown jewel is a $245 billion—I guess it is now down to $242 billion—tax cut, 50 percent of which would go to people who make over $100,000 a year. That is the most important priority. Of course, it is completely and directly inconsistent with the priority of trying to balance the budget, which many of the Senators who spoke on the floor tonight would suggest is the real issue here.

The Senator from Pennsylvania said this party, the Democratic Party, does not care about future generations. Does anyone believe that this tax cut is going to future generations? They talk about the $500 per family per kid tax cut. Obviously, as the Senator from North Dakota pointed out, it does not even go to all the families.

This is not going into some kid's bank account. This is not going into a trust fund for their education. I hope the kids back home know that some people are trying to suggest that they are going to get that $500 and they get to spend it or their children get to spend it. It is not for that. The parents can take it and spend it on important family needs, but, if they want, they could go spend it at the casino. This debate isn't about money going to the kids and the grandchildren. It is about a tax cut. Of course, we all would like to be able to vote for a tax cut. Everyone would like to have a tax cut. If the money was not needed here to balance the budget, it would be a great idea, but it is not.

What it really is is an obsession. The majority party here has an obsession with wanting a tax cut at a time when it obviously makes absolutely no sense.

Just before Christmas, it reminds me a little bit of the way they used to do things in the State to the south of us in Chicago. It used to be tradition to hand out a turkey to everybody in the wards, to make sure everybody got a little something around Christmastime to remember who was running the show.

How in the world can handing out a tax cut at this difficult time when we are talking about Medicare cuts and Medicaid cuts and student loan cuts and veterans cuts and agriculture cuts, how can it be a priority to hand out tax cuts, 50 percent of which go to people who make over $100,000 a year?

How do we get to this point? It has taken about a year. The election was held a year ago November 8. The Contract With America called for this tax cut. But I believe that the top priority had to be, given the mood of the electorate and the rhetoric on the floor during the balanced budget debate, that we have to balance the budget first before we have a tax cut. But that is just the opposite of what is being proposed here. This tax cut would go into effect right away, right as the 7-year plan would begin.

I have tried, I was the first Member of the entire U.S. Congress, almost a year ago today, to come out and say we just cannot afford this tax cut. And there are many other Members on the other side of the aisle who have told me personally they do not believe we can afford the tax cut. In fact, at one point, one of them was cosponsoring an amendment with me to eliminate the tax cut. He came over to me and said, "I'm sorry, I can't stick with you on this anymore. We need our party discipline."

The party discipline of the majority party here requires that this tax cut be delivered now, even though it flies directly in the face of the presumably principal goal of both parties, which is balancing the budget.

So, Mr. President, the fact is, we can have a balanced budget by the year 2002 without a great deal of difficulty. We can have it today, Mr. President, not tomorrow, as the song from "Annie" suggests.

We can have a balanced budget by the year 2002 without going to the extent of a $270 billion Medicare cut.

We can have a balanced budget by the year 2002 without $170 billion in Medicaid cuts.

We can have a balanced budget by the year 2002 without $10 billion taken out of student loans.

We can have a balanced budget by the year 2002 without $8 billion taken out of veterans programs, including health programs.

Mr. President, we can have a balanced budget on or before the year 2002 without shutting down the Government in a few hours. We can have a balanced budget without this acrimony. We can have a balanced budget without this partisanship, but it requires the elimination of this obsession with delivering a tax cut at the same time that you are trying to move right in the opposite direction and when those dollars are needed to balance the budget.

I have the good fortune of having a few more words from the song I quoted. The words, I am told, are:

> When I'm stuck with a day that's gray and lonely, I just stick out my chin and grin and say, The Sun will come out tomorrow, bet your bottom dollar.

That is the question. What will we do with our bottom dollar? Will the bottom dollar be used to balance the budget, or will that same dollar be used to give a tax cut to upper-income people? That is the choice before us, and until the people on both sides drop the tax cut, we cannot use that bottom dollar to achieve what I believe is the shared goal here: Balancing the budget by the year 2002.

Let me conclude, Mr. President, by saying that we can also have a balanced budget without such rancor and without such disrespect for the Chief Executive of this country.

I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I know we can be sitting here and listening and what we are going to hear, I am afraid, starting tonight, which we already heard and probably will for the next couple of days, is a lot of excuses, excuses of why this Government is going to shut down, as I know Senators before me have pointed out, at midnight tonight. Why is this going to happen?

The basic reason, and what we keep hearing is people just want to change the focus, change the direction, put the blame somewhere else, excuse after excuse of why we cannot reach a balanced budget.

The fact of the matter is, the President has not come to the table with a balanced budget. And in fact, the Democratic Party has not come to the table with a balanced budget scored by CBO to balance in 7 years.

The President's budgets have been on the floor of this Senate debated twice—Clinton I, Clinton II. It is too bad we have to start putting numbers to this. Clinton I, Clinton II have been offered on the floor. Not one Democrat voted for it. In fact, it was zero in favor, 99 against.

The budget that was delivered again today that was supposed to be the latest good-faith effort by this administration, called Clinton III, is about the same as what we saw in Clinton I and II, and yet I still cannot, for the life of me, figure out how we can have Senators stand on the floor tonight and defend the budget that they have failed two times previously to even take a vote for.

Now, they talked about $245 billion in tax cuts. Somehow Americans do not deserve to keep some of their own money—money that they get up early in the morning to earn. If you are in my home State of Minnesota, you get up when it is 21 below zero, get out in the cold car and drive to your job, 7 days a week, 5 days a week, 6 days a week, and you make $300, $400, and the Government wants more of it. And somehow, Senators sitting in a warm Chamber here in Washington, DC, somehow do not believe they should be able to keep it.

It was not very hard for these same Senators, in 1993, to vote to increase your taxes by $265 billion—the largest tax increase in history. That was easy for them because they are compassionate with your money—not theirs, your money, the money you get up every day and work hard for and want to provide for your children, your family. But, somehow, they have first dibs, first claim on the money, somehow, that you are out working for. What they want to do is bring it to Washington so they can be compassionate and somehow give it back to you—$245 billion. Then they say, well, if we do not give you this tax cut, we can balance this budget in 7 years without the pain.

I would like to ask taxpayers to look at it in this light: If we do not provide the $245 billion in tax reduction over the next 7 years, where is that money going to go? I have not heard one person on the floor say that if we do not provide this tax cut, we will balance the budget faster. It will still be 7 years. In that respect, what are they saying? They are saying Congress can spend that $245 billion wiser than you can.

In other words, the $12.4 trillion that Congress is going to get its hands on in the next 7 years is not enough. They want that other 1.5 percent from you. They want that other $245 billion so they can spend it. They do not want to save it. They want to spend it. CBO revised their numbers, updating their forecast. They say, "We believe there will be another $135 billion." What is the first fiscal responsibility that we hear? Spend it. Spend it.

The last 3 years of our balanced budget plan calls for deficits totaling $131 billion. If they are really serious, why don't we take that whole $135 billion in new spending and put it directly against the deficit? We can balance this budget in 5 years, not 7, but 5 years, if we want to do that. But I have not heard anybody say that.

They are saying: Let us spend it. On top of the $245 billion, now the President wants to, again, and the Democratic leadership wants to, again, take away from American taxpayers the $135 billion on top of that and spend that as well.

That sends a very clear message: Tax and spend. Tax and spend. That has been the Democratic philosophy for the last 40 years, which has equated into a $5 trillion deficit. They talk about being worried about children. We want to provide for our children. They have names and they have faces. We need to provide. But how do we provide? By robbing the piggy banks of those same children with those names and faces, so we can spend that money today on programs that we think are important?

If our children had the right to vote on this floor—if my four grandchildren could stand on this floor and vote on something that says we are going to encumber your life to the tune of $5.5 trillion, how many votes do you think they would give us? None. None.

I am glad to hear some of the Democrats tonight say they are willing to share the blame for the shutdown of the Government tonight at midnight. They are willing to share the blame. They better have bigger shoulders than that, and they better be able to point to the very person that that blame should be on, and that is the President himself. We hear talk about being partisan, about personal attacks against the President, and that we should have more kindness on the floor.

Well, Mr. President, I am not here to be polite. I am here tonight trying to fight for the taxpayers of Minnesota and this country that sent me here. They say, "We want to be polite and compassionate, as we have for 40 years, so let us raise taxes." That has always been the easy answer.

Let us just look at it. In 1950, 2 percent of your income went to the Federal Government for taxes. So for every $50 you made, $1 went to Washington. It seemed to meet the needs. We were taking care of this country. We paid the debts. In fact, we paid for World War I and World War II. For Social Security, they used to take one-half of 1 percent of your incomes. That is what it used to be. Today, the Federal Government takes 26 percent. So, now, for every $4 you make, you send $1 to Washington. And Social Security has risen to over 15 percent of your income—not a half percent, but 15 percent. For your children, it is going to be 20, 25, and 30 percent, if we do not stop this growth.

So when they are saying, "This is not fair, these are not American values," I would like to know whose values they are talking about. They are not talking about my values or my fairness because I am looking at those names and those faces of the hard-working taxpayers of Minnesota, their children and their grandchildren, and I am saying I am not going to spend their inheritance into the ground so people here in Washington can pound their chest and say: "Well, I am compassionate, I have taken care of the problem. I have taken your money. Pat me on the back. Let us send out some franked mail to our constituents and say, look what we did for you, look at how good we are for you. By the way, when you look at your check stubs and fill out your taxes next April, blame it on the Republicans.

Well, everybody wants to focus on the tax cut—that $245 billion. Let us focus on the tax cut. Boy, I will tell you, if there were two lines back in my State and one says, "Line up here to pay $2,000 in Federal taxes, or here to pay $1,000 in Federal taxes," I do not think there is going to be a very big decision made. I do not think anybody would be at the $2,000 window.

We all want good Government and good services, but it does not come at any cost. There has to be some fiscal responsibility for the dollars that this Congress takes in and the dollars that this Congress spends. That is where the focus should be, not on the puny, little tax cut of $245 billion over 7 years, when we are spending over $12.5 trillion. They say that we better take that extra 1 percent because you are too dumb to spend it. Oh, I heard we are going to spend it at casinos if we give it to the parents. There is no such thing as a savings account, education, food, clothing, maybe a movie or a pizza; no, that is not in the realm of a smart parent. Oh, your children are not going to get that money; it is going to go to the parents and it will go to the casinos. Well, that is rhetoric, rhetoric, rhetoric.

Let us focus on the spending. How are we spending these dollars? Where are they going? There are two big things. Tax cuts is one thing they focus on, and the other is Medicare. As the Senator from Pennsylvania was saying, they want to pick on the most vulnerable and scare them and scare them. The fact of the matter is that we are very close to what the President has even proposed. When you look back at what Mrs. Clinton said in testimony before one of the committees in Congress, she said that we should hold Medicare spending to between 6 and 7 percent in order to get a handle on the growth. That does not mean we are not going to provide the services that we need. It is not going to mean Grandma is going to be out of her wheelchair and out in the street. But she said between 6 and 7 percent. Our plan calls for a 7.2-percent growth—from $4,800 this year to nearly $7,200 in 7 years. They know it. They have been written up in the newspapers for demagoging Medicare. They have no shame. They continue to come and talk about it. Then they say we have to be polite and we cannot be partisan.

Personal attacks. I am not attacking individuals, I am attacking policy. This is not the right policy. Fairness, American values. How do you take more from our hard-working people and say you have to send more to Washington because we need this, we have to have more money here?

The fact again is that the President does not have a plan. The Democrats do not have a plan. We have had a balanced budget on the table for months. The President signed a pledge that said before the end of this year he would put a balanced budget on the table for 7 years scored by CBO numbers. We hate to get into calling people liars, but when we do not see the information here, I will let people draw their own conclusions of whether that pledge has been lived up to.

The Republican budget proposal that was put on the table today was different. It was a movement in the other direction. It was trying to find some common ground here. How do you find common ground when you are shadow boxing, when somebody will not come to the table and honestly put on a budget?

Then they talk about no personal attacks. I do not know if people in the gallery or people at home had a chance to watch the news tonight, but the President did not take off his gloves when he came after the Republicans and spewed more of this rhetoric. I cannot understand for the life of me how people can stand on the floor here and defend this type of action.

Talk about defense—defense is declining in actual dollars 20 percent over the next 7 years. It is not going up. Medicare is going up 53 percent; defense is going down 20 percent. Yet, they hang on to this as using this as some kind of example.

Then we have some Senator saying 80 percent of the tax cuts are going to the wealthiest in the country. Then they have others that say 50 percent is going to the wealthiest. When you pull numbers out of the air and make up stories—maybe they should go back and get the stories straight. The fact is, 80 percent of the tax reduction in this package goes to families that make less than $100,000—not $100,000 tax credit for someone making $350,000. It sounds good. It is rhetoric. It might get headlines, but it is not fact. Rhetoric, half-truths, distortions.

I have been the author of the $500-per-child tax credit and I have worked for it for 3 years because I thought it was important that families were able to keep more of the money they made. Families out there expect this. Republicans better remember it and the Democrats should remember it because I think this is going to be one of the telling tales in the election of 1996.

I will wrap up quickly. I see the leader on the floor. Americans know why they voted for Republicans in 1994. Why are there 11 freshman Republicans in the Senate and not 1 Democrat? I think it is pretty clear. There was a clear message. Not one Republican freshman lost his seat in the House. It was pretty clear what Americans wanted. If they listened to the Republican plan, the Contract With America—you might not agree with everything in the contract—I think the majority of people in this country agree with the majority of the contract, and at least it is moving this country away from a bigger, faster growing, bloated, inefficient, money-wasting Government, to try to streamline it to make it more effective, more cost friendly for taxpayers, and to provide the better services, to provide the Medicare, to provide the welfare, to provide Medicaid, Head Start, and other programs to the kids that need it, but to also ensure that those programs are going to be here tomorrow and the next day, and the next year and the next year.

If we are going to spend their money today, if you think we are facing tough budget battles today, if we do not face this problem today, by the year 2000 this is going to be an animal that we will not want to grab the tail of because it is getting away from us now and we do not have much time to get it fixed. If we spend more money and increase the size of this Government, it will make that problem harder and harder to control. I yield the floor.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I thank the Senator from Minnesota for his statement. Let me indicate that we will be in session tomorrow by 11 o'clock. I do not believe there will be any votes tomorrow, but I am not certain. I cannot promise anyone. We will have meetings tomorrow morning on welfare reform on the conference report. There will be a meeting tomorrow morning on the D.C. appropriations bill. There will be debate tomorrow on the Labor-HHS appropriations bill, and we will again hopefully maybe get consent tomorrow to move to take that bill up. If that is the case, we could be considering amendments that might bring about some votes.

We will probably have to be in session late Sunday afternoon in the event there should be a CR come over from the House. That may or may not happen. It depends on whether we get back into serious discussions on the balanced budget. If that happens, I assume the House would send us a 1- or 2-day continuing resolution. That would take us through Monday or Tuesday.

I just say to my colleagues, I do not anticipate votes, but if votes should occur we will try to work out a way to give ample notice. It is pretty hard if you are on the west coast or somewhere in the western part of the United States to get back very quickly. We will try to figure out some way not to disadvantage anyone.

Let me say before I conclude, I will ask Senator BOXER have whatever time she may need when I finish.

Are we in morning business?

The PRESIDING OFFICER. The Senate is considering the motion to proceed to the appropriations.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask there now be a period for the transaction of routine morning business with Senators not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO ANDREW CHASE

Mr. DOLE. Mr. President, I know all Senators join with me in paying tribute to Andrew Chase, who will soon be retiring from the Senate.

Andrew began his Senate career July 28, 1975, as an employee of the Sergeant at Arms' custodial service operation. In 1981, Andrew was promoted to assistant supervisor of Custodial Services and served in that position until 1988, when he accepted the position of night shift foreman for the environmental service operation.

Now, after more than 20 years of service to the Senate, Andrew is retiring to spend time with his wife, Brenda, and his remarkable family—14 children, 25 grandchildren, and 3 great grandchildren.

Andrew is also very involved in his community of Brandywine, MD, serving as president of the usher board at the Asbury United Methodist Church, and as a volunteer with the Kidney Foundation, where he visits and educates dialysis patients on kidney transplants.

On behalf of the Senate, I extend our thanks to Andrew Chase, and our best wishes for a long and happy retirement.

TRIBUTE TO DARNELL CLARENCE JACOBS, SR.

Mr. DOLE. Mr. President, I rise today to pay tribute to Darnell Clarence Jacobs, Sr., who will soon retire from the Senate after nearly 30 years of outstanding service.

"Jake," as he is known to his family and friends, began his Senate career in March 1966, as an employee of the Sergeant at Arms' custodial service operation.

In 1981, Jake was promoted to supervisor of custodial services, and served in that position until 1988, when he accepted a position working in the Senate Chambers.

Jake has been a dedicated and valuable member of the Senate family, and we wish him well as he retires to spend more time with his family—his wife Jacqueline, and his three sons, Jeman, Derrick, and Darnell, Jr.

I know all Members of the Senate join me in thanking Jake for his service, and in wishing him many more years of health and happiness.

NEW STUDY SUPPORTS LEGAL IMMIGRATION

Mr. KENNEDY. Mr. President, earlier this week, a new study was released which highlights the many benefits that immigrants bring to the United States, It is vitally important that we be aware of the contributions of immigrants to the American economy, to American families, and to American communities as we debate the very difficult issue of immigration reform.

The study was published by the National Immigration Forum and the Cato Institute with support from a wide array of business, civil rights, Hispanic, and religious organizations. It was conducted by Prof. Julian Simon of the University of Maryland, who has published a number of works or immigration over the years.

This study joins the impressive group of other important studies which demonstrate that legal immigration is not a source of major problems for our country. In fact, it brings significant benefits to the Nation.

I ask unanimous consent that the executive summary of the study and its opening chapter be printed in the RECORD, along with an article about the study which appeared in the Los Angeles Times.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IMMIGRATION: THE DEMOGRAPHIC AND ECONOMIC FACTS

(By Julian L. Simon)

EXECUTIVE SUMMARY

The following facts emerge from the data and material examined in this volume:

The rate of U.S. immigration in the 1990s is about one-third the rate of immigration at the beginning of the century. The total number of immigrants—including illegals—is about the same as or less than the number then, though the country's population has more than doubled.

The foreign-born population of the United States is 8.5 percent of the total population, which is significantly lower than the proportion—13 percent of higher—during the period from 1860 to 1930.

Immigrants do not increase the rate of unemployment among native Americans, even among minority, female, and low-skill workers. The effect of immigration on wages is negative for some of these special groups and positive for others, but the overall effects are small.

Total per capita government expenditures on immigrants are much lower than those for natives, no matter how immigrants are classified. Narrowly defined welfare expenditures for immigrants are slightly more than for natives, but this has been true in the past, too. These welfare expenditures are only small fractions of total government expenditures on immigrants and natives. Schooling costs and payments to the elderly are the bulk of government expenditures; natives use more of these programs, especially Social Security and Medicare.

The educational levels of immigrants have been increasing from decade to decade. No major shifts in educational levels of immigrants relative to natives are apparent.

Natural resources and the environment are not at risk from immigration. As population size and average income have increased in the United States, the supplies of natural resources and the cleanliness of the environment have improved rather that deteriorated. Immigration increases the base of technical knowledge. That speeds the current positive trends in both greater availability of natural resources and cleaner air and water.

1. SUMMARY OF IMPORTANT FACTS ABOUT IMMIGRATION

These are the most important demographic and economic facts pertaining to policy decisions about the numbers of immigrants that will be admitted by law into the United States:

The Quantities of Immigration

The total number of immigrants per year (including illegal immigrants and refugees) now adays is somewhat less than it was in the peak years at the beginning of the 20th century when U.S. population was less than half as large as it now is.

The rate of immigration relative to population size now is low rather than high. Immigration as a proportion of population is about a third of what it was in the peak years.

The foreign-born population of the United States is 8.5 percent of the total population (as of 1990). The proportions in the United States during the period from before 1850 to 1940 were higher—always above 13 percent during the entire period from 1860 to 1930—and the proportions since the 1940s were lower. The present proportion—8.5 percent—also may be compared to the 1990s' proportions of 22.7 percent in Australia; 16 percent in Canada; 6.3 percent in France; 7.3 percent in Germany; 3.9 percent in Great Britain; and 5.7 percent in Sweden.

Though the volume of illegal immigration is inherently difficult to estimate, a solid body of research, using a variety of ingenious methods, has now arrived at a consensus: the number of illegals in the United States is perhaps 3.2 million, pushed downward by the amnesty of 1987–1988, not very different from a decade before. Many of these persons are transitory. The million-plus persons who registered for the amnesty verify that the total was and is nowhere near the estimates that often have been given in public discussion.

The rate of illegal immigration is agreed by all experts to be about 250,000 to 300,000 per year.

More than half of illegal aliens enter legally and overstay their visas and permits. "Less than half of illegal immigrants cross the nation's borders clandestinely. The majority enter legally and overstay their visas" (Fix and Passel 1994, 4).

The Economic Characteristics of Immigrants

New immigrants are more concentrated than are natives in the youthful labor-force ages when people contribute more to the public coffer than they draw from it; natives are more concentrated in the childhood and elderly periods of economic dependence when the net flows are from the public to the individual. Of all the facts about immigration relevant to its economic effects, this is the most important, and the one which is most consistent in all countries, in all decades and centuries.

Taken altogether, immigrants on average have perhaps a year less education than natives—much the same relationship as has been observed back to the 19th century.

The average education of new immigrants has been increasing with each successive cohort. The proportion of adult immigrants with 8 or fewer years of education has been trending downward, and the proportion of adult immigrants with 16 or more years of education has been trending upward.

The proportion of adult new immigrants with eight or fewer years of education is much higher than the proportion of adult natives.

The proportion of immigrants with bachelor's or postgraduate degrees is higher than the proportion of the native labor force.

Immigrants have increased markedly as a proportion of members of the scientific and engineering labor force (especially at the highest level of education). Immigrants also have increased rapidly as proportions of the pools of U.S. scientists and engineers. Scientific professionals are especially valuable for promoting the increased productivity and growth of the economy.

Immigrants, even those from countries that are much poorer and have lower average life expectancies than the United States, are healthier than U.S. natives of the same age and sex. New immigrants have better records with respect to infant mortality and health than do U.S. natives and immigrants who have been in the United States longer.

New immigrants are unusually mobile geographically and occupationally, in large part because of their youth. Such mobility increases the flexibility of the economy and mitigates tight labor markets.

First-and second-generation immigrant children do unusually well in school. They win an astonishingly high proportion of scholastic prizes.

The Effects of Immigrants in the Labor Market

Immigrants do not cause native unemployment, even among low-paid or minority groups. A spate of respected recent studies, using a variety of methods, agrees that "there is no empirical evidence documenting that the displacement effect [of natives from jobs] is numerically important" (Borjas 1990, 92). The explanation is that new entrants not only take jobs, they make jobs. The jobs they create with their purchasing power, and with the new businesses which they start, are at least as numerous as the jobs which immigrants fill.

Re wage effects, one recent summary concludes, "Immigration has no discernible effect on wages overall. . . . Wage growth and decline appear to be unrelated to immigration—a finding that holds for both unskilled and skilled workers" (Fix and Passel 1994, 48). My interpretation of the literature is slightly different: a minor negative effect.

Welfare Use and Taxes Paid

Immigrants who enter legally through regular quotas are not permitted to receive public assistance for three years, and they may be deported if they obtain such assistance (though few are). Refugees, however, are entitled to such assistance immediately upon entry, which (together with their needy circumstances) accounts for their high rate of welfare use soon after arrival.

Re the use by immigrants of welfare services including food stamps, Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), and Medicaid: these expenditures are the tail that wags the dog in policy discussions. Expenditures called "welfare" now comprise about $404 per person annually for immigrants and about $260 for natives. Total government social outlays are roughly $3,800 for natives.

Because of the public interest in the set of welfare services that includes food stamps, AFDC, SSI, and Medicaid, the data on this cluster of welfare programs are presented here, but only for completeness. By themselves they do not provide the basis for any conclusions about overall transfer-payment receipt by various cohorts of immigrants and natives, because these calculations do not include most payments to the native elderly.

Foreign-born persons taken altogether have perhaps a 10 to 20 percent higher probability of obtaining these welfare services than do natives. They average perhaps 30 percent higher average receipts per capita than do natives.

There may have been a small increase in the use of these programs from pre-1970 to post 1970 entrants and from immigrants arriving between 1970 and 1986 to those entering between 1987 and 1990, but the evidence is mixed.

If refugees are excluded from the assessment, and only nonrefugees are considered, the rate of welfare use for new immigrants who entered between 1980 and 1990 is considerably below the rate for natives ages 15 and above.

Among foreign-born persons 65 years of age or more, a greater (and growing) proportion receive welfare (mainly SSI) than among natives. This is due to the arrival of many immigrants too late to accumulate enough work time to earn Social Security benefits; the welfare is a substitute for Social Security.

Social Security and Medicare are by far the most expensive transfer payments made by the government. These payments go almost completely to natives. This is because immigrants typically arrive when they are young and healthy, and also because older recent immigrants do not qualify for Social Security for many years after their arrival.

Social Security and Medicare are by far the most expensive transfer payments by the government. The cost of supporting elderly natives is vastly greater than for immigrants. This is because immigrants typically arrive when they are young and healthy, and the appropriate life-time analysis shows that this provides a large windfall to the national treasury. (Current data alone also show a similar effect because of the contemporary age distribution of the immigrant population). Also, older recent immigrants do not qualify for Social Security for many years after arrival.

As of the 1970s, immigrant families in all cohorts within several decades clearly paid more taxes on average than native families. However, the mean earnings of all new immigrant men were smaller relative to adult natives 25 to 64 in the 1980s than in the previous decade. The mean earnings of immigrant men who entered in the 1970s were smaller relative to adult natives 25 to 64 in the 1980s than the similar comparison for the previous decade. This continues a trend from men who entered in the 1960s. This implies that the size of tax contributions by recent cohorts of immigrants relative to those of natives has diminished in recent decades.

When immigrants are subclassified by legal category of entrance, the picture is quite different from that for immigrants taken altogether. In an analysis of the 1990 census, where the average household income (different from the earnings concept referred to in the paragraph above) for natives was $37,300, 1980–1990 immigrants from countries from which most of the immigration is legal received $34,800 (that is, 91 percent of natives' household income), the average for those from countries sending mostly refugees to the United States was $27,700, and for those from countries sending illegals $23,900. (No information is now available on whether the picture was the same or different in earlier decades.) These data on recent legal immigrants are the relevant data for policymaking in legal immigration.

As of the 1970s, immigrants contributed more to the public coffers in taxes than they drew out in welfare services. The most recent available data (for 1975) show that each year, an average immigrant family put about $2,500 (1995 dollars) into the pockets of natives from this excess of taxes over public costs.

The possible changes over time in earnings in the various immigrant cohorts cast some doubt on the present-value calculation for earlier years concluding that immigrants make net contributions to the public coffers; a different sort of calculation may be needed for which data are not available.

Illegal aliens contribute about as much to the public coffers in taxes as they receive in benefits. New data suggest that the undocumented pay about 46 percent as much in taxes as do natives, but use about 45 percent as much in services.

Immigrants, the Environment, and Natural Resources

Natural resources and the environment are not at risk from immigration; rather, in the long run, resources increase and the environment improves due to immigration. The long-term trends show that U.S. air and water are getting cleaner rather than dirtier, and world supplies of natural resources are becoming more available rather than exhausted. Immigration increases the technical knowledge that speeds these benign trends.

Public Opinion about Immigrants and Immigration

The most recent polls of U.S. residents' opinions show that most persons want less immigration. This is consistent with the consensus of all polls since the first such surveys in the 1940s. There does not seem to be a long-run trend in public opinion opposing immigration.

A poll of the most respected economists found a consensus that both legal and illegal immigrants are beneficial economically.

No data are presented in this pamphlet concerning racial or ethnic composition or the country of origin of immigrants because these characteristics are not relevant for any policy decisions that are related to the economic consequences of immigration.

[From the Los Angeles Times, Dec. 11, 1995]

STUDY PAINTS A POSITIVE PICTURE OF IMMIGRATION

COSTS: BOTH LEGAL AND ILLEGAL IMMIGRANTS USE FEWER GOVERNMENT RESOURCES THAN NATIVE-BORN CITIZENS, REPORT SAYS.

(By James Bornemeier)

WASHINGTON.—A new study on the effects of immigration finds that total per capita government expenditures are much lower for immigrants—legal and illegal—than for native-born citizens.

The report also paints an upbeat picture of immigrants' educational achievements and asserts that the nation's natural resources and environment are unaffected by the influx of immigrants.

"As of the 1970s, immigrants contributed more to the public coffers in taxes than they drew out in welfare services," the report says. "The most recent data * * * show that each year an average immigrant family puts about $2,500 into the pockets of natives from this excess of taxes over public costs."

The study, to be issued this morning in Washington by the National Immigration Forum, an immigration-advocacy group, and the Cato Institute, a conservative think tank, comes at a time when Congress is wrestling with major immigration bills and public opinion is increasingly negative on immigration issues.

Legislation is progressing in both houses of Congress to clamp down on illegal immigration and—to the dismay of many immigration advocates—restrict entry of legal immigrants as well.

The issue has split Republicans, some of whom see the free flow of legal immigrants as an economic boon to the country. Immigrant-rights groups say the political activism to stem illegal immigration has unfairly led to the limitations on legal immigrants.

But groups pushing for stronger restrictions on immigration branded the report, authored by University of Maryland professor Julian L. Simon, as biased.

"Julian Simon is not a liar," said Dan Stein, executive director of the Federation for American Immigration Reform, "but he gets as close as anyone can be to one. He is intentionally deceptive, manipulative and grossly in error." Signifying the sensitivity of the issue, more than 20 interest groups and think thanks have signed on to the report, and they span the political spectrum—from the immigrant-rights group, the National Council of La Raza, to the Progress and Freedom Foundation, an organization closely associated with House Speaker Newt Gingrich.

House Majority Leader Dick Armey, a strong supporter of legal immigration, is scheduled to address the Capitol press conference where the report is to be released today.

Among the report's most controversial findings is Simon's conclusion that government expenditures are lower for immigrants than for native-born Americans.

According to the report, the average immigrant family receive $1,404 in welfare services in its first five years in the country. Nativeborn families averaged $2,279, Simon writes. The report makes these other points:

- The number of illegal immigrants in the United States—estimated at 3.2 million—is not very different from a decade before.
- More than half of illegal immigrants enter legally and overstay their visas; less than half enter clandestinely.
- New immigrants are more concentrated than native-born citizens in the youthful labor force ages when people contribute more to the public coffers than they draw out.
- Immigrants on average have a year less education than natives—about the same relationship as has been observed back to the 19th century.

Such optimistic findings collide with the views of other researchers.

"His numbers are conventional and unremarkable," said Mark Krikorian of the Center for Immigration Studies in Washington. "The question is what sort of spin Julian puts on them. He has his bias, and the bias has a very significant influence on the interpretation he has put on the facts."

As an example, Simon says the number of immigrant high school dropouts has been declining. For example, Krikorian said, Simon reports that the number of immigrant high school dropouts has been declining.

"But what he doesn't mention," said Krikorian, "is the gap between the percentage of American high school dropouts and the percentage of immigrant high school dropouts is widening. It's pretty obvious that the education gap in increasing. By not addressing [that] he makes his document an advocacy document."

STUDENT LOANS

Mr. COATS. Mr. President, I would like to clarify the remarks I made on the floor earlier today with respect to the size of the direct loan program. The Federal Direct Student Loan Program was originally authorized to administer 5 percent of total loan volume as a demonstration program. In 1993–94, the first year of the Direct Lending Program, the Department of Education was authorized to administer 5 percent of total loan volume. The Balanced Budget Act of 1995 imposes a 10-percent cap on direct loans, and ensures that all schools who participated in the first year of the program will continue to serve as the demonstration group, thereby allowing a proper test to take place.

I would also like to be very clear about the impact of the proposed 10-percent cap: a 10-percent cap on direct loans will in no way affect any student's ability to receive a student loan. The law requires that the eligibility requirements for both loan programs be identical, and therefore a 10-percent cap on direct loans will not limit any student's ability to receive the loans they need to attend college. The administration continues to try to frighten students and their families by implying that a cap on direct lending will limit student loans, but this is simply not the case: a cap on direct lending only affects how the loans are delivered—it does not affect loan access or availability.

THE SENIOR CITIZENS' FREEDOM TO WORK ACT OF 1995

Mr. ROTH. Mr. President, yesterday the Finance Committee reported out S. 1470 with technical changes. The committee will not file a written report. For the benefit of my colleagues, the following is a synopsis of the bill's provisions.

The Social Security retirement earnings limit for senior citizens age 65 to 69 is gradually increased from the 1995 level of $11,280 to $30,000 by the year 2002. The cost of the retirement earnings limit proposal is offset by the following reforms: Drug addicts and alcoholics will no longer qualify for SSI and SSDI disability benefits solely by reason of their addiction; and stepchildren will no longer qualify for Social Security dependents' benefits unless their stepparent provides at least 50 percent of the stepchild's support; such benefits will terminate the month following the divorce.

A new revolving fund is created within the SSDI Trust Fund to provide a stable source of funds for the Social Security Administration to conduct continuing disability reviews of SSDI recipients.

The legislation clarifies that the Secretary of the Treasury and other Federal officials are not authorized to underinvest and/or disinvest Social Security and Medicare funds in Federal securities or obligations in order to avoid the limitations on the public debt.

Mr. President, I ask unanimous consent that the synopsis of S. 1470 be printed in the RECORD, together with a letter from John D. Hawke, Under Secretary of the Treasury.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DESCRIPTION OF PROPOSALS

1. Increase to Social Security retirement earnings limitation

Present Law

Senior citizens age 70 and older receive full Social Security benefits regardless of the amount of earnings they have from wages or self employment.

Senior citizens age 65 to 69 receive full Social Security benefits only if their wages or self-employment income are lower than a retirement earnings limit. The earnings limit is increased annually based on the rate of average wage growth. The estimated limitation amounts under present law for 1995 and the following seven years are:

Year	*Present Law*
1995	$11,280
1996	11,520
1997	11,880
1998	12,240
1999	12,270
2000	13,200
2001	13,800
2002	24,400

Senior citizens age 65 to 69 who earn more than the limit for a year lose $1 in Social Security benefits for every $3 in wages or self-employment income they earn over the limitation amount.

Reason for Change

According to the Social Security Administration, 925,000 beneficiaries between age 65 and 69 lose some or all of their benefits as a result of the earnings limit. Given the combined effects of Federal, State and local income taxes, Social Security payroll taxes, income taxes on benefits, and the earnings limit, senior citizens who earn even moderate amounts over the limit may realize very little financial gain from their labor. These rates are a disincentive to work and penalize retirees who often need to work out of economic need.

Proposed Change

The retirement earnings limit for workers age 65 to 69 is gradually raised to $30,000 by the year 2002 as follows:

Year	*Proposed*
1996	$14,000
1997	15,000
1998	16,000
1999	17,000
2000	18,000
2001	25,000
2002	30,000

After 2002, the limitation amount will increase annually based on the rate of average wage growth.

Senior citizens age 65 to 69 who have wages or self-employment income in excess of the earnings limit continue to lose $1 in Social Security benefits for every $3 earned over the limit.

The substantial gainful activity (SGA) amount used in determining whether an individual under age 65 is eligible for disability benefits on the basis of blindness is not changed. Therefore, it will no longer equal the Social Security retirement earnings limit for senior citizens age 65 to 69. The SGA amount for blind individuals under age 65 will continue at the present law amount ($11,280 for 1995) and will continue to be wage-indexed in future years.

Effective Date

The proposal, phased in gradually over 7 years, would be effective beginning in 1996.

2. Denial of disability benefits to drug addicts and alcoholics

Present Law

Individuals whose drug addiction or alcoholism is a contributing factor material to their disability may receive cash disability benefits under the Social Security Disability Insurance (SSDI) program or the Supplemental Security Income (SSI) program through a representative payee for up to three years. These recipients must participate in an approved treatment program when available, and must allow their participation in a treatment program to be monitored. Cash benefits (SSDI or SSI)) end after 36 months, although medical benefits (Medicare or Medicaid) continue if an individual remains disabled by drug addiction or alcoholism.

Reason for Change

The Committee is concerned that the current policy of paying cash Social Security and SSI disability benefits to individuals whose sole severe disabling condition is drug addiction or alcoholism is false compassion and only helps those individuals sustain his/her addiction. Treatment is needed instead. The legislation diverts part of the savings to additional Federal funding to States for drug and alcohol treatment, providing an incentive for States to provide treatment to former recipients.

Proposed Change

The proposal would end entitlement to SSDI and SSI disability benefits if drug addiction or alcoholism is the contributing factor material to the individual's disability. Individuals with drug addiction and/or alcoholism who have another severe disabling condition can qualify for benefits based on that disabling condition.

If a person qualifying for disability benefits based on another disability is also determined to be an alcoholic or drug addict and unable to manage their benefits, a representative payee would be appointed to receive and handle the individual's checks. In the case of any individual whose benefits are paid through a representative payee, the Commissioner of Social Security shall refer that individual to the appropriate State agency for substance abuse treatment services approved under the Public Health Service Act Substance Abuse Prevention and Treatment Block Grant.

For each of fiscal years 1997 and 1998, $50 million will be available to fund additional treatment programs and services through Substance Abuse Prevention and Treatment Block Grant.

Effective Date

Generally, changes apply to benefits for months beginning on or after the date of enactment. However, an individual entitled to benefits before the month of enactment would continue to be eligible for benefits until January 1, 1997. The Commissioner of Social Security must notify such individuals within three months of the date of enactment. The Committee's intent in providing this partial grandfather is to allow current beneficiaries to complete treatment and to allow the Social Security Administration to determine in an orderly fashion if such individuals are disabled by another condition.

Those who wish to reapply for benefits must do so within four months after the date of enactment in order to qualify for priority redetermination of eligibility. The Commissioner must make these determinations within one year after the date of enactment for individuals who reapply.

In addition, in the case of an individual with an alcoholism or drug addiction condition who is entitled to Social Security or SSI disability benefits on the date of enactment, the representative payee and referral to treatment requirement will apply on or after the first continuing disability review occurring after enactment.

3. Entitlement of stepchildren to Social Security dependent benefits

Present Law

Generally a child, including a stepchild, under age 18 (or under age 19 in the case of an individual attending elementary or secondary school full-time) may be entitled to receive Social Security benefits as the dependent child of a worker when the worker retires, becomes disabled, or dies.

A stepchild is deemed dependent on a stepparent if he/she lives with the stepparent or receives one-half of his/her support from the stepparent. Social Security dependent benefits continue to be paid to a stepchild after the child's natural parent and the stepparent divorce. Continuation of those benefits after divorce may reduce the amount available for payment to other children entitled to receive Social Security Dependent benefits based on the worker's record.

Reason for Change

Under current law children who are entitled on a worker's record may be unnecessarily penalized by the entitlement of a stepchild who has other means of support. This change would result in the payment of benefits only to stepchildren who are truly dependent on the stepparent for their support, and only as long as the natural parent and stepparent are married.

Proposed Change

Social Security dependents' benefits are payable to a stepchild only when the stepparent provides at least 50 percent of the stepchild's support upon application for benefits. A stepchild is eligible for survivors' benefits upon the death of a stepparent if the stepparent provided at least 50 percent of the stepchild's support immediately preceding death.

In addition, a stepchild's Social Security benefits based on the work record of his/her stepparent are terminated the month following the divorce of the child's natural parent and stepparent. The stepparent must also notify the Social Security Administration of the divorce and the Social Security Administration is required to notify annually those potentially affected by this provision.

Effective Date

The proposal is generally effective three months after date of enactment for new entitlement of stepchildren to benefits and for divorces finalized after that period.

4. SSDI revolving fund for continuing disability reviews

Present Law

The administrative costs of conducting continuing disability reviews (CDRs) of individuals receiving Social Security disability benefits are provided through an appropriation of trust fund monies, and are considered discretionary spending subject to the domestic discretionary spending cap of the Budget Enforcement Act.

Reason for Change

Limited administrative resources have prevented the Social Security Administration from keeping up with CDRs, which estimates that for every $1 spent conducting CDRs, $6 are saved in benefits that would otherwise be paid to individuals who are no longer disabled. The Social Security Administration estimates that the failure to perform timely CDRs between 1990 and 1995 will cost the SSDI Trust Fund $2.3 billion by 1999. The proposed revolving fund would be a source of non-appropriated administrative resources to finance CDRs, enabling SSA to perform this essential program-integrity work.

Proposed Change

A revolving fund is established in the Social Security Disability Insurance (SSDI) Trust Fund as a source of non-appropriated administrative funds to finance Social Security CDRs. At the start of each fiscal year, the revolving fund will be credited with an amount equal to the estimated present value of savings to the SSDI and Medicare trust funds achieved as a result of CDRs of beneficiaries conducted in the prior fiscal year—except for the first year, during which $300 million will be credited. These amounts will be calculated by the Social Security Administration's Chief Actuary, with appropriate adjustments made annually in subsequent years. Amounts credited to the revolving fund are available for all expenditures related to conducting CDRs by the Social Security Administration and appropriate State agencies.

In addition, the position of Chief Actuary in the Social Security Administration is established in law.

Effective Date

The revolving fund is effective for fiscal years beginning after September 30, 1995, and sunsets September 30, 2005.

5. Protection of Social Security and Medicare trust funds

Present Law

The various authorizing statutes of the major Federal trust funds require that any program income not needed to meet current expenditures be invested in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The vast majority of these securities are "special issue" non-marketable obligations of the United States. Virtually the entire amount of securities held by the Federal trust funds is considered Federal debt subject to the statutory debt limit.

Reason for Change

Since late October, the total amount of the public debt obligations has been very close to the public debt limit. This has given rise to concerns that the Social Security and Medicare Trust Funds might be under invested or disinvested for debt management purposes. While the Administration has stated that it would not take such action, the Committee concluded that it was desirable to make clear in law that these funds could not be used for debt management purposes. In clarifying this, the Committee does not intend that the legislation authorize conduct in contravention of any other applicable provision of law, such as the public debt limit.

The Committee seeks to assure that, to the maximum extent possible under the statutory debt limit, the Secretary of the Treasury and other Federal officials shall invest and disinvest Social Security and Medicare trust funds solely for the purposes of accounting for the income and disbursements of these programs. The Committee further intends that the investments of the trust funds are made timely, in accordance with the normal investment practices of the Treasury, and are not drawn down prematurely for the purposes of avoiding limitations on the public debt or to make room under the statutory debt limit for the Secretary of the Treasury to issue new debt obligations in order to cover other expenditures of the Government.

Proposed Change

The legislation codifies Congress' understanding of present law that the Secretary of the Treasury and other Federal officials are not authorized to use Social Security and Medicare funds for debt management purposes. Specifically, the Secretary of the Treasury and other Federal officials are required not to delay or otherwise underinvest incoming receipts to the Social Security and Medicare trust funds. They are also required not to sell, redeem or otherwise disinvest securities, obligations or other assets of these trust funds except when necessary to provide for the payment of benefits and administrative expenses of the cash benefit programs. The Committee intends that these requirements be carried out to the maximum extent possible under the statutory debt limit. The legislation applies to the following trust funds:

1. Federal Old-Age and Survivors Insurance (OASI) Trust Fund;
2. Federal Disability Insurance (DI) Trust Fund;
3. Federal Hospital Insurance (HI) Trust Fund; and
4. Federal Supplementary Medical Insurance (SMI) Trust Fund.

Effective Date

The proposal is effective upon date of enactment.

BUDGET EFFECTS OF THE BILL

According to preliminary estimates of the Congressional Budget office, the legislation will reduce mandatory spending by $200 million over seven years (FY 1996–2002) and by $2.7 billion over ten years (FY 1996–2005).

MISCELLANEOUS

Attached is a letter from John D. Hawke, Jr., Under Secretary of the Treasury for Domestic Finance, providing comments on the proposal to protect the Social Security and Medicare trust funds as originally introduced. The legislation reported by the Committee includes a modification of this proposal to address these concerns.

DEPARTMENT OF THE TREASURY,
Washington, DC, December 15, 1995.

Hon. WILLIAM V. ROTH, JR.
Chairman, Senate Finance Committee
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Our comments have been requested with respect to the provisions of Section 6 of S. 1470, the "Senior Citizens' Freedom to Work Act of 1995." This section of the bill is intended to provide protections to the Social Security and Medicare trust funds at times when the public debt limit might otherwise cause certain adverse consequences with respect to those funds.

The Administration shares the objective of protecting the beneficiaries of these funds. As you know, both the President and the Secretary of the Treasury have stated that the Secretary has no authority to redeem securities from the Social Security fund for any purpose other than to assure the payment of benefits. The same principle would apply as well to the other 178 trust funds that are not subject to the Secretary's express debt management powers.

Section 6 would do the following:

It would require that all revenues received or held by these funds be invested in public debt obligations, "notwithstanding any other provision of law." Thus, it would effectively create an exception to the debt limit to permit the investment of incoming receipts of these funds.

It would forbid the "disinvestment"—that is, the redemption prior to maturity—of securities held by the funds if a purpose thereof were "to reduce the amount of outstanding public debt obligations."

It would allow Treasury to disinvest the funds and to issue corresponding new public debt, "notwithstanding the public debt limit," to the extent necessary to raise cash to pay benefits to fund beneficiaries.

The provision of Section 6 would, however, have serious adverse consequences, and would present certain practical problems that could frustrate or impede the realization of its objectives:

First, the continued investment of new fund receipts, notwithstanding the debt limit, would cause outstanding Treasury debt to exceed the debt limit in an ever increasing amount. This would prohibit Treasury from issuing any other new Treasury debt. Even the rollover of maturing debt would be precluded so long as outstanding debt remained over the debt limit. As a consequence we would face imminent default on all other outstanding obligations.

Because no other new debt could be issued, the bill would also remove Treasury's ability to raise cash to pay benefits from other trust funds, even after a disinvestment of securities held by such funds.

Second, while the bill intends to protect the ability to make payments to fund beneficiaries at times when the debt limit would otherwise preclude such payments, as a practical matter it cannot be assured that the protected payments could actually be made, given the current methods of paying government obligations.

The Federal Reserve's current procedure, when government checks are presented for payment, is to give immediate credit to the presenting bank. Incoming checks are not actually sorted for several days after presentment. There is not presently in place any operational capability that would permit a distinction to be made between protected benefit checks and all other checks being presented for payment.

While the bill would require the Secretary to institute procedures to assure that the protected benefits are paid when due, we estimate that it would take a minimum of three months, and perhaps longer, to institute the changes in the payments system necessary to provide this assurance.

Finally, the protected payment procedures prescribed by this legislation would only be triggered when we were in, or on the brink of, default.

Since the country has never in its history experienced a default, it is impossible to determine whether or to what extent it would be possible for Treasury to sell new debt to the public to make the protected payments.

In such a situation, all other payment obligations of the United States would either be in default or would be "queued up" for payment as cash became available.

We would be pleased to work with the Committee to try to develop legislative language that would carry out the objectives that we share, while avoiding the adverse consequences we see flowing from the language in the current bill.

We continue to believe, however, that the most effective and certain means for assuring that the interests of beneficiaries of Social Security and Medicare—as well as all other trust funds—are fully protected, is promptly to enact a clean permanent increase in the debt limit.

Sincerely,

JOHN D. HAWKE, Jr.,
Under Secretary of the Treasury for Domestic Finance.

THE BAD DEBT BOX SCORE

Mr. HELMS. Mr. President, as of the close of business yesterday, December 14, the Federal debt stood at $4,989,708,383,241.14, a little more than $10 billion shy of the $5 trillion mark, which the Federal debt will exceed in a few weeks.

On a per capita basis, every man, woman, and child in America owes $18,941.02 as his or her share of that debt.

THE LAUTENBERG AMENDMENT

Mr. SIMPSON. Mr. President, earlier today, Senator LAUTENBERG responded to a statement I made yesterday regarding the so-called Lautenberg amendment.

In defending this abused program, which has made a farce of the Refugee Act, my friend and colleague claimed that the beneficiaries "have to prove a credible fear" of persecution before they qualify.

Yet, in fact, these people do not have to prove a credible fear of persecution; rather all they have to do is assert a fear of discrimination. Discrimination, Mr. President, is not persecution; and asserting a fear is not proving it. All other refugees in the world who are coming to this country are required to prove a "well-founded fear of persecution."

Senator LAUTENBERG responded to the reports of criminals using this program to enter the United States by saying it wasn't designed to "allow criminals to enter." He said it is the responsibility of the INS and the State Department to prevent criminals from using the program.

I would remind my good friend that when the INS tried its level best to effectively screen these people, representatives of "the groups" went directly to Moscow to insist upon lower standards. Do not blame the Justice and the State Departments alone for this fiasco. "The groups" and their skilled lobbyists created this one from whole cloth.

Senator LAUTENBERG said he was surprised to hear me refer to Russia as our "best friend." Perhaps best friend was a bit of an overstatement, but they are certainly among our friends, and certainly this administration and this President as well as the previous administration have gone out of their way to cultivate friendly relations with that country. Whether it is a best friend or a good friend, there is certainly no justification whatever—at this present day—for some blanket "presumption" of "refugeeness" for any of their citizens who happen to belong to one of several religious groups, some of whose members have been subject to discrimination or even persecution in the past.

However, the most astounding thing the Senator from New Jersey said was that the program ought to be extended for another year. Even if we cut this off today, there are 100,000 of these beneficiaries of the Lautenberg amendment already "in the pipeline." That means that even without an extension we will have 35,000 entering every year for the next 3 years.

I can only reply to my friend that he should read again the article I placed into the CONGRESSIONAL RECORD yesterday, and I respectfully recommend that he should talk to the Immigration Service about the current traffic from Moscow regarding this program.

How can any of us support a program where only one-half of 1 percent of those applying now could qualify as a "refugee" under the American and the international law definition of "refugee"? We make a mockery of the law if we do so.

Why should the American taxpayer provide our severely limited refugee aid for these persons, who are actually regular "immigrants," not "refugees."

These "asserters" are not even required to prove a well-founded fear of persecution, so we have absolutely no assurance that they are, in fact, refugees. And more importantly please recall that when they do receive permission to enter the United States, they take months, even sometimes more than a year, to decide whether or not they really want to come here.

About 40,000 of them who are authorized to come here are lingering in the former Soviet Union, weighing their options. They are clearly in no hurry. That is what an immigrant ordinarily does—to calmly, and without urging, weigh all the pluses and minuses of staying or going to the United States. A true refugee does not have any possible luxury of such a lengthy, deliberative process. After all they are required to be "fleeing" or have a "well founded fear" of persecution.

Again, I urge the conferees on the State Department reauthorization bill to insist upon the Senate provisions and not continue this misused program any longer.

RETIREMENT OF LEE M. NACKMAN

Mr. SIMPSON. Mr. President, I appreciate the opportunity to take a few brief moments of the Senate's time to acknowledge the impending retirement of Mr. Lee M. Nackman from Federal service.

For nearly 10 years, Mr. Nackman has served as the Director of the Los Angeles VA Outpatient Clinic. During his tenure, he has taken his clinic from substandard basement quarters to a $40 million, state-of-the-art, ambulatory care center in the heart of downtown Los Angeles.

The constituency served by the clinic brings to it a myriad of medical and psychosocial problems. Many of the veterans care for are homeless, living on the streets literally within sight of Los Angeles' City Hall. In large measure because of his leadership, each of the veterans cared by the clinic is treated with the dignity and respect they have earned through service to their country. This is a difficult patient population, yet Lee Nackman has assured that it is one that is well served by the Department of Veterans Affairs health care system.

Mr. President, on January 3, 1996, Mr. Nackman is ending a distinguished 35-year career of service to America's veterans. He began as a pharmacy intern at the Manhattan VA Medical Center upon completion of his B.S. degree from Columbia University. While working as a pharmacy resident at what is now the West Los Angeles VA Medical Center, he completed his M.Sc. degree at the University of Southern California School of Pharmacy.

Throughout his career with the Veterans Administration, now the Department of Veterans Affairs, he has held a series of positions of ever increasing responsibility in pharmacy and in health care management, to include 2 years as Assistant Director of the VA hospital in Sheridan, WY.

While in Los Angeles, Mr. Nackman has chaired the Southern California and Southern Nevada network of the Veterans Health Administration. His leadership was instrumental in creating a more integrated, more patient focused approach to caring for the more than 1.7 million veterans residing in that area. This network approach to providing health care has served as a model for the national reorganization of VA health care delivery into Veterans Integrated Service Networks.

Mr. Nackman currently chairs the Greater Los Angeles Federal Executive Board, in which capacity he has shown leadership in encouraging a range of Federal partnerships which assure the provision of services administered by all Federal agencies in a more efficient and effective manner. This country's taxpayers deserve no less.

Mr. President, Lee Nackman has brought honor and dignity to the status of Federal employee. He has contributed to all that is good about those in Government who provide goods and services to our citizens, and most significantly, to the veterans he has so directly cared for over the 35 years of his distinguished career. Those of us who care deeply about this Nation's veterans can but thank those men and women, like Lee Nackman, who have dedicated themselves to the service of veterans. It is fitting that we recognize that service today. It is also appropriate that we express our thanks to Lee Nackman—and indeed, to so many dedicated public servants, the best of whom he represents—at this, the moment of his retirement.

Mr. President, I know all in this body join with me in this valedictory. We wish Lee Nackman many years of a satisfying retirement. During that time he can truly look back upon a job well done.

NORDY HOFFMANN—A GREAT AMERICAN

Mr. BYRD. Mr. President, the December 13, 1995, edition of the Hill included an article written by Ron Martinson paying special tribute to F. Nordhoff Hoffmann. It is a fine piece that captures perfectly the man we all know as Nordy. Mr. Martinson takes us through the various and varied stages of Nordy's life revealing a remarkable example of one person's contribution to his family, his college, his colleagues and his country.

I have known Nordy for many years. His service to this institution, most notably as Sergeant at Arms, is well-known and remains a standard to which all who fill that position are compared. While Nordy's tenure in the Senate was as a Democrat, his ability to transcend party and politics was extraordinary and one pattern I often wish was emulated more regularly. Nordy's empathy for everyone from Senators to staff was truly uncommon. To put it simply Nordy, throughout his life, has always been a caring individual and an excellent role model. It has been sometime since I have seen Nordy, and I am deeply saddened by news of his ill health, but I wanted to take this opportunity to call attention to this article and to let Nordy know I am thinking of him and I wish him well.

Mr. President, I ask unanimous consent that the Hill article be printed in the RECORD.

There being no objection, the ordered to be printed in the RECORD, as follows:

[From The Hill, Dec. 13, 1995]

NORDY HOFFMANN—AILING FORMER SENATE SERGEANT AT ARMS WAS A GIANT FIGURE WITH A HEART TO MATCH

(By Ron Martinson)

P. Nordhoff Hoffmann, known to generations of Notre Dame alumni and members of Congress as "Nordy,' was convening his first department head meeting as Senate sergeant at arms in January 1976.

With the directors of a dozen service organizations under his jurisdiction dutifully assembled, Nordy opened the meeting with characteristic directness; "Some of you guys probably think that because Nordy Hoffmann is 67 years old, he won't be around in this job for very long. Well, let me tell you something—my grandfather lived to be 92, so get that out of your damn heads right now."

Hoffmann, who will turn 86 next Tuesday, is seriously ill with cancer. But to anyone who knew him during a lifetime of successes earned by determination and a sense of destiny, he was one of the most remarkable and unforgettable personalities who ever walked the corridors of Capitol Hill.

A huge hulk of a man whose massive frame carried more than 300 pounds before his illness, Nordy's thundering voice could intimidate the most intrepid soul. But underneath was a gentle spirit and big heart that earned Nordy legions of devoted friends.

A native of Seattle, Nordy first achieved distinction as an All-American right guard on Knute Rockne's 1929 and 1930 Notre Dame championship football teams. He had never played the game before Rockne spotted him on campus one day and ordered him to report to practice. He graduated from Notre Dame Law School in 1933 and after several years as assistant coach at his alma mater and a semi-pro football player, he saw service as a World War II Navy officer in the Pacific.

After the war, Nordy was tapped by Philip Murray, president of the United Steelworkers Union, to become the union's legislative director in Washington, a position that quickly immersed him in national Democratic politics. For the next 20 years, he was in the thick of every major labor battle on Capitol Hill, from Taft-Hartley to minimum wage to Medicare.

Nordy received a rare tribute in 1963 when then-Vice President Lyndon Johnson singled him out during a speech at a Democratic dinner and roared, "Nordy Hoffmann knows what I'm talking about because he and Phil Murray and I were fighting for these things way back when. We didn't win but we didn't stop trying because Nordy Hoffmann's not a quitter, and neither am I!"

In 1967, Sen. Edmund Muskie (D–Maine) prevailed upon Nordy to become executive director of the Democratic Senatorial Campaign Committee, and 10 years later, in January 1976, the Democratic majority picked him to succeed William H. Wannall as Senate sergeant at arms.

It took Nordy about two minutes after being sworn in to put his "Let's get it done and help the people" management style into full gear. He engaged everyone in the process, seeking advice from people from senators to janitors about how to make his office more open, productive and helpful.

As Nordy's administrative assistant and the token Republican in his office, I always found him exceptionally open to ideas, including that of putting a "welcome" sign on the door. He was also color blind, as he brought his longtime assistant Barbara Towles with him and made her his executive secretary. She was the first black person to hold this position in the Sergeant at Arms Office.

Nordy was genuinely focused on being a good steward of the resources entrusted to him, and he looked for and found many ways to save money, improve services and steamline operations. But all of those things were only tools to help him achieve his most important goal, which was to provide service for others.

In a town where people often dispense favors and return phone calls based upon the recipient's ability to reciprocate, Nordy would give his shirt to the first person who asked without expecting anything in return. Once, a friend of mine who was working for a junior Republican congressman asked if I knew of any job opportunities for Republicans on the Senate side as his niece was looking for work.

When I suggested he talk to Nordy, he couldn't believe that Nordy would even see him. Not only did Nordy talk to him, but he found the aide's niece a job. That former aide is now a Republican congressman from New York.

Nothing underscores the universal affection for Nordy better than the time he was recommended for induction into the national collegiate football Hall of Fame. An ad hoc committee headed by Don Womack, former superintendent of the Senate Press Gallery, was formed to collect testimonial letters on Nordy's behalf to the judges considering Nordy's nomination.

When I looked at the folder containing copies of the letters that were presented to Nordy as a keepsake, I discovered personally signed letters from Presidents Carter and Ford and Vice Presidents Mondale and Rockefeller, along with those from every one of the 100 senators. Needless to say, Nordy was elected to the Hall of Fame.

But Nordy wasn't just a hero to sports enthusiasts or powerful politicians. Once, when a maid asked me if I could do something about the dirty, dilapidated maids' lounge in the basement of the Capitol, I walked into Nordy's office and stood in front of his desk.

"Nordy, you consider yourself to be a humane employer, don't you?" I declared. He looked at me with a quizzical expression, and as I described what I'd seen, he spun around on his chair and began punching buttons on his phone with his sausage-like fingers.

He gave Tom Ward, the chief engineer in charge of maintenance at the Capitol, an earful about the disgraceful working conditions of his maids, and within two days, Ward had dispatched a team of painters and plasterers to convert the maids' lounge into a clean, pleasant place, making Nordy a hero forever to the maids.

Nordy's legendary kindness didn't stop at the doors of the Capitol. He and his wife Joanne opened their Potomac, Md., home and swimming pool to retarded children. Nordy also raised staggering amounts of money for cancer research as a member of the board of the Vince Lombardi Cancer Center at Georgetown University Hospital.

Following the Republican takeover of the Senate in 1981 Nordy left the Senate to open his own consulting firm, but he continued as an informal advisor and friend to people both on and off the Hill. When I stopped by his office several years ago, he had just finished "putting the tap" on a lobbyist friend for a donation for his annual Thanksgiving project.

Nordy used the money to buy turkeys, which he then had a Senate chef cook for him. On Thanksgiving Day, he picked up the birds and delivered them to homeless shelters in the area. He did this for years without telling any of his friends and associates.

On my last visit with Nordy several months ago, before he entered the hospital for treatment of his illness, I saw the sign that sat prominently on his desk. It read, "Never complain about getting old. It is a privilege denied to many."

Nordy Hoffmann has always acted on this advice and has lived every moment to the fullest with the purpose of serving others. That service continued until very recently when his declining health forced him to end it. But his legion of friends and admirers know that he was always a real friend in a town where real friends are truly rare.

DR. NED A. OSTENSO, PH.D., A LEADER IN SCIENTIFIC RESEARCH ON LAND AND SEA

Mr. PELL. Mr. President, I rise to share with my colleagues the news that Dr. Ned A. Ostenso, Ph.D., Assistant Administrator of the National Oceanic and Atmospheric Administration's Office of Oceanic and Atmospheric Research, plans to retire in 3 weeks, on January 3, 1996.

During his distinguished career, Dr. Ostenso has made invaluable contributions as a research scientist, administrator, and leader in shaping America's understanding of the oceans and in directing our Nation's marine and atmospheric research.

As a researcher, he played a major role in defining the structure of the Arctic Ocean Basin, providing quantitative studies of mid-ocean ridges—including the first paper on the relationship of sea-floor age to crustal thickness—and defining the nature of Greenland and Antarctic ice caps.

His research activities have resulted in more than 50 published scientific papers.

Among Dr. Ostenso's numerous honors in earth and marine sciences, a seamount in the Arctic Ocean was named after him. In addition, while serving with the team that made the first transit of Antarctica during the International Geophysical Year, Dr. Ostenso discovered an Antarctic mountain peak that today bears his name.

Long after we are gone, Dr. Ostenso's name will be remembered both on land and at sea.

In the 1970's, Dr. Ostenso represented the U.S. Navy on mutual defense environmental data agreements with Australia, Germany, and New Zealand. In 1972, he represented the U.S. Navy in negotiating, and later administering, the U.S./U.S.S.R Bilateral Agreement in World Ocean Studies.

Later, he served in the White House Office of Science and Technology Policy as Assistant Presidential Science Adviser. He was Deputy Director and Senior Oceanographer of the Ocean Science and Technology Division, Office of Naval Research.

In January 1977, Dr. Ostenso moved from the Navy to the National Oceanic and Atmospheric Administration [NOAA] to assume 12 years of leadership of the Sea Grant College Program.

I am best acquainted with Dr. Ostenso's extraordinary skill through my own role as the Senate author of the National Sea Grant College and Program Act. Under his leadership, Sea Grant improved and expanded during a dozen exciting and challenging years, including five reauthorizations.

As Sea Grant Director, Dr. Ostenso improved Sea Grant's science through rigorous peer review and broadened Sea Grant's reach by bringing new colleges and universities under its umbrella. Under his leadership, Sea Grant expanded to a total of 29 programs in 31 coastal and Great Lakes States.

Sea Grant is highly regarded for its support of excellent research and effective educational and technology transfer programs. An economic study of the National Sea Grant Program showed that, in the year studied, 1987, Sea Grant's impact on the national economy was $840 million.

In today's dollars, this impact would likely exceed $1 billion per year. For example, Sea Grant research over the last two decades has given the country a profitable marine aquaculture industry with an estimated 1995 value of $300 million.

For 6 years, Dr. Ostenso served as Assistant Administrator for Oceanic and Atmospheric Research, which included responsibility for Sea Grant, the National Undersea Research Program, and the Environmental Research Laboratories.

During his tenure, the 12 institutions comprising the Environmental Research Laboratories made a number of significant contributions leading to: Modernization of the National Weather Service; an understanding of the physics and chemistry of the polar ozone holes that has led to sensible national policies; a national climate program that is just now beginning to predict weather on season and yearly time scales; and a vast improvement to our understanding of severe weather events that has had a direct impact on more accurate and timely warnings.

As Assistant Administrator, Dr. Ostenso oversaw a major shift in the focus of the National Undersea Research Program [NURP].

Under his guidance, NURP changed from a primary focus on the procurement of undersea vessels and associated hardware to an increased emphasis on more scientifically oriented national, subsurface research.

NURP now supports merit-based research grants to provide the scientific basis for addressing critical natural resource issues—such as the preservation of natural marine sanctuaries. The program also continues to provide access to an extensive array of manned and unmanned undersea vehicles.

Dr. Ostenso also served as NOAA's acting chief scientist for 1 year. He was instrumental in obtaining OMB and congressional support for a 15-year

NOAA fleet replacement and modernization program.

Over the years, Dr. Ostenso has served on a number of national and international committees and panels. The most recent was his appointment by Vice President GORE and the Director of the Central Intelligence Agency to serve on an Environmental Task Force to assess the dual use of defense and intelligence data and systems for civilian environmental studies.

Dr. Ostenso has played a pivotal role for years in guiding the American Geophysical Union [AGU]. Most recently he supervised the construction of their handsome new facilities on Florida Avenue here in Washington, DC.

He also is former vice president of the American Oceanic Organization, president of the American Polar Society, and a member of many organizations, including the Antarctica Society, Arctic Institute of North America, Cosmos Club, Explorers Club, and Geological Society.

I am confident that I speak for many of my colleagues when I express admiration and thanks to Dr. Ned A. Ostenso, Ph.D., for his invaluable contributions to the United States of America and to the world scientific community. He has our best wishes.

MESSAGES FROM THE HOUSE

At 11:59 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 36. Concurrent resolution directing the Secretary of the Senate to make technical corrections in the enrollment of S. 1060.

At 1:58 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it request the concurrence of the Senate:

H.R. 2621. An act to enforce the public debt limit and to protect the social security trust funds and other federal trust funds and accounts invested in public debt obligations.

At 2:49 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1530) to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1712. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–1713. A communication from the Chairman of the Corporation For Public Broadcasting, transmitting, pursuant to law, the semiannual report of the Office of the Inspector General for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–1714. A communication from the Chief Executive Officer of the Corporation For National Service, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–1715. A communication from the Chairman of the Equal Employment Opportunity Commission, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–1717. A communication from the Chairperson of the U.S. National Commission on Libraries and Information Science, transmitting, pursuant to law, the report on the system of internal accounting and financial controls in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1718. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1719. A communication from the Chairman of the United States Merit Systems Protection Board, transmitting, pursuant to law, the report entitled, "The Rule of Three in Federal Hiring: Boon or Bane"; to the Committee on Governmental Affairs.

EC–1720. A communication from the Chairman of the United States Merit Systems Protection Board, transmitting, pursuant to law, the statistical report on decisions issued; to the Committee on Governmental Affairs.

EC–1721. A communication from the Chairman of the National Endowment For the Humanities, transmitting, pursuant to law, the report under the Inspector General Act for the period April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC–1722. A communication from the Director of the Norfolk Naval Shipyard Co-operative Association, transmitting, pursuant to law, the annual report of the Federal Pension Plan for calendar year 1993; to the Committee on Governmental Affairs.

EC–1723. A communication from the Director of Selective Services, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1724. A communication from the Chairman of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, a report relative to the Board's audit and investigative coverage during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1725. A communication from the Deputy Independent Counsel, transmitting, pursuant to law, the annual report under the Inspector General Act on audit and investigative activities during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1726. A communication from the Deputy Independent Counsel (In re Secretary of Agriculture Espy), transmitting, pursuant to law, the annual report under the Inspector General Act on audit and investigative activities during fiscal year 1995; to the Committee on Governmental Affairs.

EC–1727. A communication from the District of Columbia Auditor, transmitting, pursuantto law, the report entitled "Review of Negotiated Services Contracts Between the District of Columbia and the Test Development Committee"; to the Committee on Governmental Affairs.

EC–1728. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-155 adopted by the Council on November 7, 1995; to the Committee on Governmental Affairs.

EC–1729. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-156 adopted by the Council on November 7, 1995; to the Committee on Governmental Affairs.

EC–1730. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-157 adopted by the Council on November 7, 1995; to the Committee on Governmental Affairs.

EC–1731. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-158 adopted by the Council on November 7, 1995; to the Committee on Governmental Affairs.

EC–1732. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-160 adopted by the Council on November 7, 1995; to the Committee on Governmental Affairs.

EC–1733. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-163 adopted by the Council on November 7, 1995; to the Committee on Governmental Affairs.

EC–1734. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-164 adopted by the Council on November 7, 1995; to the Committee on Governmental Affairs.

EC–1735. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-165 adopted by the Council on November 7, 1995; to the Committee on Governmental Affairs.

EC–1736. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-166 adopted by the Council on November 7, 1995; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources, with amendments:

S. 1044. A bill to amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers, and for other purposes (Rept. No. 104–186).

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1228. A bill to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran (Rept. No. 104–187).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 342. A bill to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado, and for other purposes (Rept. No. 104–188).

By Mr. ROTH, from the Committee on Finance, with an amendment in the nature of a substitute:

S. 1470. A bill to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the social security earnings limit for individuals who have attained retirement age, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive report of committee was submitted:

By Mr. HELMS, from the Committee on Foreign Relations:

Treaty Doc. 103–1 Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (the START II Treaty) (Executive Report 104–10):

TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That (a) the Senate advise and consent to the ratification of the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms, signed at Moscow on January 3, 1993, including the following protocols and memorandum of understanding, all such documents being integral parts of and collectively referred to as the "START II Treaty" (contained in Treaty Document 103–1), subject to the conditions of subsection (b) and the declarations of subsection (c):

(1) The Protocol on Procedures Governing Elimination of Heavy ICBMs and on Procedures Governing Conversion of Silo Launchers of Heavy ICBMs Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Elimination and Conversion Protocol").

(2) The Protocol on Exhibitions and Inspections of Heavy Bombers Relating to the Treaty Between the United States and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Exhibitions and Inspections Protocol").

(3) The Memorandum of Understanding on Warhead Attribution and Heavy Bomber Data Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Memorandum on Attribution").

(b) CONDITIONS.—The advice and consent of the Senate to the ratification of the START II Treaty is subject to the following conditions, which shall be binding upon the President:

(1) NONCOMPLIANCE.—If the President determines that a party to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, signed at Moscow on July 3, 1991 (in this resolution referred to as the "START Treaty") or to the START II Treaty is acting in a manner that is inconsistent with the object and purpose of the respective Treaty or is in violation of either the START or START II Treaty so as to threaten the national security interests of the United States, then the President shall—

(A) consult with and promptly submit a report to the Senate detailing the effect of such actions on the START Treaties;

(B) seek on an urgent basis a meeting at the highest diplomatic level with the noncompliant party with the objective of bringing the noncompliant party into compliance;

(C) in the event that a party other than the Russian Federation is determined not to be in compliance—

(i) request consultations with the Russian Federation to assess the viability of both START Treaties and to determine if a change in obligations is required in either treaty to accommodate the changed circumstances, and

(ii) submit for the Senate's advice and consent to ratification any agreement changing the obligations of the United States; and

(D) in the event that noncompliance persists, seek a Senate resolution of support of continued adherence to one or both of the START Treaties, notwithstanding the changed circumstances affecting the object and purpose of one or both of the START Treaties.

(2) TREATY OBLIGATIONS.—Ratification by the United States of the START II Treaty obligates the United States to meet the conditions contained in this resolution of ratification and shall not be interpreted as an obligation by the United States to accept any modification, change in scope, or extension of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed at Moscow on May 26, 1972 (commonly referred to as the "ABM Treaty").

(3) FINANCING IMPLEMENTATION.—The United States understands that in order to be assured of the Russian commitment to a reduction in arms levels, Russia must maintain a substantial stake in financing the implementation of the START II Treaty. The costs of implementing the START II Treaty should be borne by both parties to the Treaty. The exchange of instruments of ratification of the START II Treaty shall not be contingent upon the United States providing financial guarantees to pay for implementation of commitments by Russia under the START II Treaty.

(4) EXCHANGE OF LETTERS.—The exchange of letters—

(A) between Secretary of State Lawrence Eagleburger and Minister of Foreign Affairs Andrey Kozyrev, dated December 29, 1992, regarding SS–18 missiles and launchers now on the territory of Kazakstan,

(B) between Secretary of State Eagleburger and Minister of Foreign Affairs Kozyrev, dated December 29, 1992, and December 31, 1992, regarding heavy bombers, and

(C) between Minister of Defense Pavel Grachev and Secretary of Defense Richard Cheney, dated December 29, 1992, and January 3, 1993, making assurances on Russian intent regarding the conversion and retention of 90 silo launchers of RS–20 heavy intercontinental ballistic missiles (ICBMs) (all having been submitted to the Senate as associated with the START II Treaty),

are of the same force and effect as the provisions of the START II Treaty. The United States shall regard actions inconsistent with obligations under those exchanges of letters as equivalent under international law to actions inconsistent with the START II Treaty.

(5) SPACE-LAUNCH VEHICLES.—Space-launch vehicles composed of items that are limited by the START Treaty or the START II Treaty shall be subject to the obligations undertaken in the respective treaty.

(6) NTM AND CUBA.—The obligation of the United States under the START Treaty not to interfere with the national technical means (NTM) of verification of the other party to the Treaty does not preclude the United States from pursuing the question of the removal of the electronic intercept facility operated by the Government of the Russian Federation at Lourdes, Cuba.

(c) DECLARATIONS.—The advice and consent of the Senate to ratification of the START II Treaty is subject to the following declarations, which express the intent of the Senate:

(1) COOPERATIVE THREAT REDUCTIONS.—Pursuant to the Joint Statement on the Transparency and Irreversibility of the Process of Reducing Nuclear Weapons, agreed to in Moscow, May 10, 1995, between the President of the United States and the President of the Russian Federation, it is the sense of the Senate that both parties to the START II Treaty should attach high priority to—

(A) the exchange of detailed information on aggregate stockpiles of nuclear warheads, on stocks of fissile materials, and on their safety and security;

(B) the maintenance at distinct and secure storage facilities, on a reciprocal basis, of fissile materials removed from nuclear warheads and declared to be excess to national security requirements for the purpose of confirming the irreversibility of the process of nuclear weapons reduction; and

(C) the adoption of other cooperative measures to enhance confidence in the reciprocal declarations on fissile material stockpiles.

(2) ASYMMETRY IN REDUCTIONS.—It is the sense of the Senate that, in conducting the reductions mandated by the START or START II Treaty, the President should, within the parameters of the elimination schedules provided for in the START Treaties, regulate reductions in the United States strategic nuclear forces so that the number of accountable warheads under the START and START II Treaties possessed by the Russian Federation in no case exceeds the comparable number of accountable warheads possessed by the United States to an extent that a strategic imbalance endangering the national security interests of the United States results.

(3) EXPANDING STRATEGIC ARSENALS IN COUNTRIES OTHER THAN RUSSIA.—It is the sense of the Senate that, if during the time the START II Treaty remains in force or in advance of any further strategic offensive arms reductions the President determines there has been an expansion of the strategic arsenal of any country not party to the START II Treaty so as to jeopardize the supreme interests of the United States, then the President should consult on an urgent basis with the Senate to determine whether

adherence to the START II Treaty remains in the national interest of the United States.

(4) SUBSTANTIAL FURTHER REDUCTIONS.—Cognizant of the obligation of the United States under Article VI of the Treaty on the Non-Proliferation on Nuclear Weapons of July 1, 1968 "to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at any early date and to nuclear disarmament and on a treaty on general and complete disarmament under strict and effective international control", it is the sense of the Senate that in anticipation of the ratification and entry into force of the START II Treaty, the Senate calls upon the parties to the START II Treaty to seek further strategic offensive arms reductions consistent with their national security interests and calls upon the other nuclear weapon states to give careful and early consideration to corresponding reductions of their own nuclear arsenals.

(5) MISSILE TECHNOLOGY CONTROL REGIME.—The Senate urges the President to insist that the Republic of Belarus, the Republic of Kazakstan, Ukraine, and the Russian Federation abide by the guidelines of the Missile Technology Control Regime (MTCR). For purposes of this paragraph, the term "Missile Technology Control Regime" means the policy statement between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto.

(6) FURTHER ARMS REDUCTION OBLIGATIONS.—The Senate declares its intention to consider for approval international agreements that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the treaty power as set forth in Article II, Section 2, Clause 2 of the Constitution.

(7) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification with respect to the INF Treaty. For purposes of this declaration, the term "INF Treaty" refers to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter Range Missiles, together with the related memorandum of understanding and protocols, approved by the Senate on May 27, 1988.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself, Mr. HARKIN, Mr. CRAIG, and Mr. BENNETT):

S. 1481. A bill to amend the Internal Revenue Code of 1986 to provide for the nonrecognition of gain for sale of stock to certain farmers' cooperatives, and for other purposes; to the Committee on Finance.

By Mr. GRAMS:

S. 1482. A bill to amend chapter 13 of title 31, United States Code, to deem all Federal employees to be essential employees, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KYL (for himself, Mrs. FEINSTEIN, and Mr. DEWINE):

S. 1483. A bill to control crime, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. HARKIN, Mr. CRAIG, and Mr. BENNETT):

S. 1481. A bill to amend the Internal Revenue Code of 1986 to provide for the nonrecognition of gain for sale of stock to certain farmers' cooperatives, and for other purposes; to the Committee on Finance.

FARMERS' COOPERATIVE LEGISLATION

Mr. HATCH. Mr. President, I am joined by Senators HARKIN, CRAIG, and BENNETT in introducing legislation that will assist farmers' cooperatives in purchasing the refining and processing facilities that receive their goods and lower the cost of bringing agricultural products to market. The bill extends certain nonrecognition of gain benefits contained in the Internal Revenue code to owners of agricultural product refining and processing facilities if they sell to a farmers cooperative.

Currently, the Tax Code provides various incentives for the promotion of economic activity and growth. For example, section 1042 grants employees participating in an Employee Stock Ownership Plan [ESOP] and worker-owned cooperatives the opportunity to acquire an ownership interest in certain corporate stock. This has enabled employees and members of worker-owned cooperatives to participate as owners of the business. This Congress, as have previous Congresses recognizes that economic conditions are changing as advancing technology has transformed our business climate into one that is more dependent on capital investment for growth and profits. Participatory ownership at all levels is important in spreading the benefits of capital ownership from the few to the many.

The bill would provide farmers who form farmers cooperatives the opportunity for an ownership interest in the processing and marketing of their products. Owners of a refining or processing facility would be able to receive nonrecognition treatment on any capital gain if the facility is sold to a farmers cooperative that did at least 50 percent of its business with the refining or processing facility, so long as the owners reinvest the sales proceeds into similar property.

Mr. President, farmers generally own their own businesses. Some have a few acres of land and some have developed large operations. Over the years, farmers cooperatives have been formed to take advantage of economies of scale. These farmers cooperatives bring farmers together to sell their agricultural products to someone else who refines or processes them and sells them to the public. The chain in agricultural marketing includes both the farmer and the refiner or processor. Each additional link in the chain can add increasing costs to the final sale of these agricultural products. If the farmers, through the combined power of a farmers cooperative, could acquire ownership in the refiner or processor that finishes and markets their products, the driving need for profits at both levels of the chain would be lessened. By combining their business interest, an additional level of overhead and profitability could be greatly reduced. The net result would be lower costs to the consuming public and a healthier farm economy.

America's farmers have seen many changes to their industry over the past few years. It is tough to be a farmer. Price changes, demands for new machinery, changes in agricultural demand, the unpredictable weather, and economic hardship have shaken the farming industry. This bill will give farmers a chance for more stability and control in the future marketing of their products. Of course, not all farmers will take advantage of these benefits. However, those that do will hopefully reap greater benefits from a more integrated agricultural business.

Representatives PAT ROBERTS, chairman of the House Committee on Agriculture, CHARLES STENHOLM, and others introduced similar legislation in the House as H.R. 2676. This bill has bipartisan support. It is timely assistance for our Nations farmers' cooperatives. I urge my colleagues in the Senate on both sides of the isle to support this initiative for our Nation's farming industry. This bill has been endorsed by the National Council of Farmers' Cooperatives.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NONRECOGNITION OF GAIN ON SALE OF STOCK TO CERTAIN FARMERS' COOPERATIVES.

(a) *Application of Section* 1042 SECTION 1042 TO CERTAIN FARMERS' COOPERATIVES.—Section 1042 of the Internal Revenue Code of 1986 (relating to sales of stock to employee stock ownership plans or certain cooperatives) is amended by adding at the end of the following new subsection:

"(g) APPLICATION OF SECTION TO SALES OF STOCK IN AGRICULTURAL REFINERS AND PROCESSORS TO ELIGIBLE FARM COOPERATIVES.—

"(1) IN GENERAL.—This section shall apply to the sale of stock of a qualified refiner or processor to an eligible farmers' cooperative.

"(2) QUALIFIED REFINER OR PROCESSOR.—For purposes of this subsection, the term 'qualified refiner or processor' means a domestic corporation—

"(A) substantially all of the activities of which consist of the active conduct of the trade or business of refining or processing agricultural or horticultural products, and

"(B) which purchases more than one-half of such products to be refined or processed from farmers who make up the eligible farmers' cooperative which is purchasing stock in the corporation in a transaction to which this subsection is to apply.

"(3) ELIGIBLE FARMERS' COOPERATIVE.—For purposes of this section, the term 'eligible farmers' cooperative' means an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products.

"(4) SPECIAL RULES.—In applying this section to a sale to which paragraph (1) applies—

"(A) the eligible farmers' cooperative shall be treated in the same manner as a cooperative described in subsection (b)(1)(B),

"(B) subsection (b)(2) shall be applied by substituting '100 percent' for '30 percent',

"(C) the determination as to whether any stock in the domestic corporation is a qualified security shall be made—

"(i) without regard to whether the stock is an employer security, and

"(ii) by treating the requirements of subsection (c)(1)(A) as being met if more than 50 percent of the outstanding stock of the corporation is not readily tradable on an established securities market, and

"(D) subsection (c)(7) shall not apply."

"(b) COORDINATION WITH SECTION 338(h)(10).—Section 338(h)(10) of the Internal Revenue Code of 1986 is amended by adding at the end of the following new subparagraph:

"(D) CORPORATION WITH SECTION 1042.—An election may be made under this paragraph with respect to a sale described in section 1042(g) for which an election was made under section 1042(a), except that no gain shall be recognized by reason of subparagraph (A)(ii) to the extent it is not recognized under section 1042(a)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of the enactment of this Act.

• Mr. CRAIG. Mr. President, I join with Senators HATCH, HARKIN, and BENNETT in introducing legislation which would be helpful to farmer cooperatives seeking to purchase businesses that refine or processes their agricultural crops, and ultimately would lower the costs of bringing their products to market.

The proposed legislation would amend section 1042 of the Internal Revenue Code, which currently allows a similar treatment for sales to Employee Stock Ownership Plan [ESOP] and worker-owned cooperatives. Through this section of the Internal Revenue Code, employees and members of worker-owned cooperatives are able to acquire an ownership interest in certain corporate stock and participate in ownership of the business.

Currently, farmers cannot compete with other business entities and with ESOP's in buying such businesses because of the advantages inherent in the tax deferrals available in transactions with these other purchasers.

Mr. President, this bill would allow farmers' cooperatives the opportunity to be directly involved with the processing and marketing of their products. With this combination, overhead could be greatly reduced, and the result would be lower costs to the consuming public and a healthier farm economy.

Making it easier, on a more level playing field, for farmers to participate in the refining and processing of their products will provide them with a better way to deal with market fluctuations of commodity prices and also provide for more stability and control in their future marketing of products.

This bill has bipartisan support. Similar legislation has been introduced in the House as H.R. 2676, by PAT ROBERTS, CHARLIE STENHOLM, and others. I urge my colleagues here in the Senate on both sides of the aisle to support this initiative for our Nation's farming industry, which has been endorsed by the National Council of Farmers Cooperatives.•

By Mr. GRAMS:

S. 1482. A bill to amend chapter 13 of title 31, United States Code, to deem all Federal employees to be essential employees, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL GOVERNMENT SHUTDOWN LEGISLATION

• Mr. GRAMS. Mr. President, once again we stand at the edge of another partial shutdown of the Federal Government.

Looking back on last month's shutdown, I have a hard time explaining to Minnesotans why we gave 800,000 Federal Government employees 4½ days of what amounts to paid "vacation" on top of the already generous employee leave benefits. I have a hard time explaining what the taxpayers got when they footed the bill for $400 million dollars of work that was never performed.

Mr. President, losing your job is tough but if you get laid off or you go on strike, you don't get paid. Yet, if the Federal Government furloughs many of its employees it becomes a vacation and is paid in full. I'm reminded of that popular song from a few years back: "Somthin' for nothin'." That's exactly what Federal employees got when the Government shut down—"Somethin' for nothin'." And I suggest, Mr. President, that the American taxpayer is sick and tired of getting nothing.

I realize that most Federal employees want to work and not become pawns in the debate over Federal spending. I want to change the law to ensure that Federal employees will work during shutdowns.

As we all know, the determination of whether you came to work during the shutdown depended on if you were deemed "essential" or "nonessential."

It was very interesting when we saw the numbers of "nonessential" employees in some of the agencies we continue to support with billions of tax dollars.

Fifty-seven percent of the employees at Health and Human Services; 66 percent of Commerce; 72 percent at Interior; 75 percent at Labor; 82 percent at EPA; 89 percent at Education; and a full 99 percent of HUD.

Overall 800,000 employees—all of them deemed "nonessential" all of them on a paid "vacation" they didn't ask for and didn't want.

I can't tell you how many times I've tried to explain to angry Minnesotans why we're employing all of these nonessential employees and even worse, why we paid them to stay away from the office.

Mr. President, we cannot let this happen again. We cannot have employees who come to work not knowing whether they'll be paid and others forced to sit at home, hoping they will be paid. This is unfair to Federal employees and this is especially unfair to American taxpayers, who pay far too much of their hard earned dollars to the Government.

For this reason, I am introducing legislation which will end this classification process and restore some common sense that will keep people working when Congress and the President fail to enact appropriations.

Simply put, my bill, the "Federal Employment Taxpayer Accountability Act," eliminates the distinction between essential and nonessential employees deeming all Federal Government employees essential.

This will put an end to classification of Federal employees. It removes the guesswork on who's "essential" and most importantly, it eliminates Federal employees being used as "pawns" of the process—as bargaining chips for negotiators.

Mr. President, the prospect of another Government shutdown is disappointing. The people of this country are demanding a balanced budget. Yet here we are, ready to throw another 300,000 employees out of work at Christmas time. Will they get paid when they come back? My bet is yes. If they're paid again for not working will the taxpayers understand? My bet is no.

Let's not let this happen again. Let's ensure that taxpayers are protected. Let's ensure that when we ask them to send part of their paycheck to Washington, they're getting the most efficient cost effective Government possible—without the paid vacations.

I urge my colleagues to support Federal workers—and the American taxpayers—by supporting the Federal Employment Taxpayer Accountability Act.

By Mr. KYL (for himself, Mrs. FEINSTEIN, and Mr. DEWINE):

S. 1483. A bill to control crime, and for other purposes; to the Committee on the Judiciary.

THE VICTIM RIGHTS AND DOMESTIC VIOLENCE PREVENTION ACT OF 1995

• Mr. KYL. Mr. President, I introduce the Victim Rights and Domestic Violence Prevention Act of 1995. The O.J.

Simpson trial reminded all of us of the terrible problem of domestic violence in America. Now is the time to do all we can to bring abusers to justice.

Women are the victims of more than 4.5 million violent crimes a year, including half a million rapes or other sexual assaults, according to the Department of Justice. The National Victims Center calculates that a woman is battered every 15 seconds. Additionally, the FBI has reported that one violent crime occurs every 16 seconds, an aggravated assault every 28 seconds, a robbery every 48 seconds, and a murder every 21 minutes.

Nicole Brown Simpson's story is an all-too-familiar one. Last year's crime bill, which is now law, did much to help victims of domestic violence—making it easier for evidence of intrafamilial sexual abuse to be introduced, for example. It will now be much easier for prosecutors in Federal cases to introduce evidence that the accused committed a similar crime in the past. The crime act also provides Federal funding for battered women's shelters and training for law-enforcement officers and prosecutors.

The Victim Rights and Domestic Violence Prevention Act will strengthen the rights of domestic violence victims in Federal court and, hopefully, set a standard for the individual States to emulate.

A message must be sent to abusers that their behavior is not a family matter. Society should treat domestic violence as seriously as it does violence between strangers. My bill authorizes the death penalty for cases in which a woman is murdered by her husband or boyfriend.

Courts will not, under this bill, be able to exclude evidence of a defendant's violent disposition toward the victim as impermissible character evidence. My bill also provides that if a defendant presents negative character evidence concerning the victim, the government's rebuttal can include negative character evidence concerning the defendant. It makes clear that testimony regarding battered women's syndrome is admissible to explain the behavior of victims of violence.

We must establish a higher standard of professional conduct for lawyers. My legislation prohibits harassing or dilatory tactics, knowingly presenting false evidence or discrediting truthful evidence, willful ignorance of matters that could be learned from the client, and concealment of information necessary to prevent sexual abuse or other violent crimes.

Violence in our society leaves law-abiding citizens feeling defenseless. It is time to level the playing field. Federal law currently gives the defense more chances than the prosecution to reject a potential juror. My bill protects the right of victims to an impartial jury by giving both sides the same number of peremptory challenges.

Last year's Crime Act included a provision requiring notice to State and local authorities concerning the release of Federal violent offenders. Under the act, notice can only be used for law-enforcement purposes. The Justice Department opposes this limitation because it disallows other legitimate uses of the information, such as warning potential victims of the offender's return to the community. My bill would delete this restriction.

Under the bill, if a victim requests an HIV test in a sexual abuse case, the court must order HIV testing of the defendant, unless the court determines that the defendant's conduct created no risk of transmission of the virus to the victim. The order must direct that the initial test be performed within 24 hours of the issuance of the testing order, or as soon thereafter as feasible. The defendant cannot be released from custody until the test is performed. Test results would be disclosed to the victim, and followup testing would take place after 6 and 12 months. Additionally, the bill deletes a requirement that a victim must undergo counseling before she can seek a testing order. Second, it deletes a provision that the court cannot order testing of the defendant unless the victim demonstrates that such a test would provide information that is necessary for her health. Third, it makes clear that prosecutors may assist victims in obtaining testing orders under these provisions.

It is our responsibility to continue to work to combat violent crime, wherever it occurs. The Victim Rights and Domestic Violence Prevention Act of 1995 is an important step toward protecting the rights of crime victims, curbing domestic violence, and removing violent offenders from our streets and communities.

Finally, I would like to thank two of my colleagues on the Judiciary Committee. Throughout her career, Senator FEINSTEIN has been a staunch defender of women against violence. She has worked hard on this bill. I greatly appreciate her work and her support. And I would also like to thank Senator DEWINE for his help. Senator DEWINE has worked hard to fight crime. His work on this bill is part of his ongoing effort to put an end to violence and bring criminals to justice.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1463

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Victim Rights and Domestic Violence Prevention Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EQUAL PROTECTION FOR VICTIMS

Sec. 101. Right of the victim to an impartial jury.
Sec. 102. Rebuttal of attacks on the victim's character.
Sec. 103. Victim's right of allocution in sentencing.
Sec. 104. Right of the victim to fair treatment in legal proceedings.
Sec. 105. Use of notice concerning release of offender.
Sec. 106. Balance in the composition of rules committees.

TITLE II—DOMESTIC VIOLENCE

Sec. 201. Death penalty for fatal domestic violence offenses.
Sec. 202. Evidence of defendant's disposition toward victim in domestic violence cases and other cases.
Sec. 203. Battered women's syndrome evidence.
Sec. 204. HIV testing of defendants in sexual assault cases.

TITLE I—EQUAL PROTECTION FOR VICTIMS

SEC. 101. RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended by striking "the government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges" and inserting "each side is entitled to 6 peremptory challenges".

SEC. 102. REBUTTAL OF ATTACKS ON THE VICTIM'S CHARACTER.

Rule 404(a)(1) of the Federal Rules of Evidence is amended by inserting before the semicolon the following: ", or, if an accused offers evidence of a pertinent trait of character of the victim of the crime, evidence of a pertinent trait of character of the accused offered by the prosecution".

SEC. 103. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) in subdivision (c)(3)(E), by striking "if sentence is to be imposed for a crime of violence or sexual abuse,"; and

(2) by amending subdivision (f) to read as follows:

"(f) DEFINITION.—For purposes of this rule, 'victim' means any individual against whom an offense has been committed for which a sentence is to be imposed, but the right of allocution under subdivision (c)(3)(E) may be exercised instead by—

"(1) a parent or legal guardian if the victim is below the age of 18 years or is incompetent; or

"(2) one or more family members or relatives designated by the court if the victim is deceased or incapacitated,

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present.".

SEC. 104. RIGHT OF THE VICTIM TO FAIR TREATMENT IN LEGAL PROCEEDINGS.

The following rules, to be known as the Rules of Professional Conduct for Lawyers in Federal Practice, are enacted as an appendix to title 28, United States Code:

"RULES OF PROFESSIONAL CONDUCT FOR LAWYERS IN FEDERAL PRACTICE

"Rule 1. Scope.
"Rule 2. Abuse of Victims and Others Prohibited.
"Rule 3. Duty of Enquiry in Relation to Client.
"Rule 4. Duty To Expedite Litigation.

"Rule 5. Duty To Prevent Commission of Crime.

"Rule 1. Scope

"(a) These rules apply to the conduct of lawyers in their representation of clients in relation to proceedings and potential proceedings before Federal tribunals.

"(b) For purposes of these rules, 'Federal tribunal' and 'tribunal' mean a court of the United States or an agency of the Federal Government that carries out adjudicatory or quasi-adjudicatory functions.

"Rule 2. Abuse of Victims and Others Prohibited

"(a) A lawyer shall not engage in any action or course of conduct for the purpose of increasing the expense of litigation for any person, other than a liability under an order or judgment of a tribunal.

"(b) A lawyer shall not engage in any action or course of conduct that has no substantial purpose other than to distress, harass, embarrass, burden, or inconvenience another person.

"(c) A lawyer shall not offer evidence that the lawyer knows to be false or attempt to discredit evidence that the lawyer knows to be true.

"Rule 3. Duty of Enquiry in Relation to Client

"A lawyer shall attempt to elicit from the client a truthful account of the material facts concerning the matters in issue. In representing a client charged with a crime or civil wrong, the duty of enquiry under this rule includes—

"(1) attempting to elicit from the client a materially complete account of the alleged criminal activity or civil wrong if the client acknowledges involvement in the alleged criminal activity or civil wrong; and

"(2) attempting to elicit from the client the material facts relevant to a defense of alibi if the client denies such involvement.

"Rule 4. Duty To Expedite Litigation

"(a) A lawyer shall seek to bring about the expeditious conduct and conclusion of litigation.

"(b) A lawyer shall not seek a continuance or otherwise attempt to delay or prolong proceedings in the hope or expectation that—

"(1) evidence will become unavailable;

"(2) evidence will become more subject to impeachment or otherwise less useful to another party because of the passage of time; or

"(3) an advantage will be obtained in relation to another party because of the expense, frustration, distress, or other hardship resulting from prolonged or delayed proceedings.

"Rule 5. Duty To Prevent Commission of Crime

"(a) A lawyer may disclose information relating to the representation of a client, including information obtained from the client, to the extent necessary to prevent the commission of a crime or other unlawful act.

"(b) A lawyer shall disclose information relating to the representation of a client, including information obtained from the client, when disclosure is required by law.

"(c) A lawyer shall disclose information relating to the representation of a client, including information obtained from the client, to the extent necessary to prevent—

"(1) the commission of a crime involving the use or threatened use of force against a person, or a substantial risk of death or serious bodily injury to a person; or

"(2) the commission of a crime of sexual assault or child molestation.

"(d) For purposes of this rule, 'crime' means a crime under the law of the United States or the law of a State, and 'unlawful act' means an act in violation of the law of the United States or the law of a State.".

SEC. 105. USE OF NOTICE CONCERNING RELEASE OF OFFENDER.

Section 4042(b) of title 18, United States Code, is amended by striking paragraph (4).

SEC. 106. BALANCE IN THE COMPOSITION OF RULES COMMITTEES.

Section 2073 of title 28, United States Code, is amended—

(1) in subsection (a)(2), by adding at the end the following: "On each such committee that makes recommendations concerning rules that affect criminal cases, including the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, the Federal Rules of Appellate Procedure, the Rules Governing Section 2254 Cases, and the Rules Governing Section 2255 Cases, the number of members who represent or supervise the representation of defendants in the trial, direct review, or collateral review of criminal cases shall not exceed the number of members who represent or supervise the representation of the Government or a State in the trial, direct review, or collateral review of criminal cases."; and

(2) in subsection (b), by adding at the end the following: "The number of members of the standing committee who represent or supervise the representation of defendants in the trial, direct review, or collateral review of criminal cases shall not exceed the number of members who represent or supervise the representation of the Government or a State in the trial, direct review, or collateral review of criminal cases.".

TITLE II—DOMESTIC VIOLENCE

SEC. 201. DEATH PENALTY FOR FATAL DOMESTIC VIOLENCE OFFENSES.

Sections 2261(b)(1) and 2262(b)(1) of title 18, United States Code, are each amended by inserting "or may be sentenced to death" after "years,".

SEC. 202. EVIDENCE OF DEFENDANT'S DISPOSITION TOWARD VICTIM IN DOMESTIC VIOLENCE CASES AND OTHER CASES.

Rule 404(b) of the Federal Rules of Evidence is amended by striking "or absence of mistake or accident" and inserting "absence of mistake or accident, or a disposition toward a particular individual".

SEC. 203. BATTERED WOMEN'S SYNDROME EVIDENCE.

Rule 702 of the Federal Rules of Evidence is amended by adding at the end the following: "Testimony that may be admitted pursuant to this rule includes testimony concerning the behavior, and mental or emotional conditions of victims to explain a victim's failure to report or delay in reporting an offense, recantation of an accusation, or failure to cooperate in the investigation or prosecution.".

SEC. 204. HIV TESTING OF DEFENDANTS IN SEXUAL ASSAULT CASES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2249. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty

"(a) TESTING AT TIME OF PRETRIAL RELEASE DETERMINATION.—In a case in which a person is charged with an offense under this chapter, upon request of the victim, a judicial officer issuing an order pursuant to section 3142(a) shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that followup tests for the virus be performed 6 months and 12 months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order. The order shall direct that the initial test be performed within 24 hours, or as soon thereafter as feasible. The person shall not be released from custody until the test is performed.

"(b) TESTING AT LATER TIME.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that followup tests be performed 6 months and 12 months following the date of the initial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim. A testing requirement under this subsection may be imposed at any time while the charge is pending, or following conviction at any time prior to the person's completion of service of the sentence.

"(c) TERMINATION OF TESTING REQUIREMENT.—A requirement of followup testing imposed under this section shall be canceled if any test is positive for the virus or the person obtains an acquittal on, or dismissal of, all charges under this chapter.

"(d) DISCLOSURE OF TEST RESULTS.—The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court. The judicial officer or court shall ensure that the results are disclosed to the victim (or to the victim's parent or legal guardian, as appropriate), the attorney for the Government, and the person tested. Test results disclosed pursuant to this subsection shall be subject to section 40503(b) (5) through (7) of the Violent Crime Control Act of 1994 (42 U.S.C. 14011(b)). Any test result of the defendant given to the victim or the defendant must be accompanied by appropriate counseling, unless the recipient does not wish to receive such counseling.

"(e) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that the offender was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 109A of title 18, United States Code, is amended by inserting at the end the following new item:

"2249. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty.".

(c) AMENDMENTS TO TESTING PROVISIONS.—Section 40503(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14011(b)) is amended—

(1) by amending the heading to read as follows: "(b) TESTING OF DEFENDANTS.—";

(2) in paragraph (1)—

(A) by inserting ", or the Government in such a case," after "subsection (a)";

(B) by inserting "(or to the victim's parent or legal guardian, as appropriate)" after "communicated to the victim"; and

(C) by inserting ", unless the recipient does not wish to receive such counseling" after "counseling"; and

(3) in paragraph (2)—

(A) by striking "To obtain an order under paragraph (1), the victim must demonstrate that" and inserting "The victim or the Government may obtain an order under paragraph (1) by showing that";

(B) in subparagraph (A)—

(i) by striking "the offense" and inserting "a sexual assault involving alleged conduct that poses a risk of transmission of the etiologic agent for acquired immune deficiency syndrome"; and

(ii) by inserting "and" after the semicolon;

(C) in subparagraph (B), by striking "after appropriate counseling; and" and inserting a period; and

(D) by striking subparagraph (C).●

● Mrs. FEINSTEIN. Mr. President, I offer my strong support for the Victim Rights and Domestic Violence Prevention Act, which I am pleased to cosponsor with Senators KYL and DEWINE. I also want to commend my colleague from Arizona for the cooperative spirit he has shown in working with me on this and other efforts to help crime victims, and for addressing this important issue which is now so prominently, and tragically, in the news.

Nearly every American knows the plight of Nicole Brown Simpson. Who among us hasn't read of, or heard of, or discussed the tragic circumstances of her case?

But, Mr. President, what about the thousands of women who suffer the terrible physical and emotional effects of domestic violence in silent anonymity every day all across the Nation? And, what about the women who do stand up to domestic abusers and seek refuge from them from a justice system that seemingly doesn't care?

It is for those women that I rise today to offer my strong support for this much-needed bill.

Last year, Congress acknowledged that action must be taken to stop domestic violence when it passed the Violence Against Women Act as part of the President's crime bill.

The Violence Against Women Act is designed to, among other things, provide funding for: Local programs for victims' services; battered women's shelters; rape education and community prevention programs; a national family violence hotline; and increased security in public places.

I strongly believe that this landmark legislation will go a long way toward reducing domestic abuse and helping its victims recover from their ordeals.

Today, we continue the work begun by the Violence Against Women Act.

Much more needs to be done to protect the rights of the victims of domestic and sexual violence and to stop these heinous crimes.

Let us not underestimate the magnitude of this problem: According to the National Coalition of Physicians Against Family Violence, domestic violence strikes one in four families in the United States; the FBI has reported that a woman is beaten every 18 seconds in the United States; and the Senate Judiciary Committee reported in 1992 that three to four million women are battered each year.

In my own State, the attorney general has reported that there were 251,233 domestic violence-related calls for assistance from law enforcement last year. Of those cases, 155,944 calls involved a perpetrator attacking his victim with a personal weapon—such as his hands or feet.

According to the FBI, a women is raped every 5 minutes in this country; in 1994 alone, there were 102,296 rape or attempted rape cases reported to law enforcement; and in California, there were 10,960 cases of forcible rape that year.

Domestic violence touches too many women. It must be stopped by making the court system more user-friendly to the victims of this crime, and those who inflict it must be more severely punished. This bill accomplishes those two important goals.

EQUAL PROTECTION FOR VICTIMS

This bill will make the court system more user-friendly in several ways:

First, it protects the right of victims to an impartial jury by equalizing the number of peremptory challenges afforded to the defense and the prosecution in jury selection.

Second, this bill provides that if a defendant in a criminal case presents negative evidence about the victim's character, the victim's defense lawyer can present character evidence concerning the defendant. Mr. President, too many women who take their abusers to court must suffer the double indignity of having their own characters attacked. It's time to level the playing field.

Third, it extends the right of victims to address the court concerning the sentence to all criminal cases.

Fourth, the bill establishes higher standards of professional conduct for lawyers in Federal cases to protect victims and other witnesses from abuse, and to promote the effective search for the truth. It does this by requiring that lawyers in Federal cases: not engage in conduct for the purpose of increasing litigation expenses; not engage in conduct designed just to harass another person; not offer false evidence, or discredit true evidence; elicit a full account of the events from the lawyer's client; not necessarily delay litigation; must disclose information that the client intends to commit a crime of violence; and may disclose information that the client intends to commit other crimes.

Fifth, it removes the restriction that limits use of notices that violent Federal offenders will be released to law enforcement purposes. This will allow victims to be informed when their assailant is back in the community.

Finally, the bill requires that prosecutors have the same level of representation on committees that make court rules as defense attorneys do. This will ensure that fair, balanced rules are enacted, which do not favor criminals over prosecutors.

DOMESTIC VIOLENCE

I also strongly believe that swift, sure action must be taken to stop domestic violence, and that penalties must be increased for those who commit this heinous crime.

This bill includes a provision to authorize capital punishment, under Federal interstate domestic violence offenses, for cases in which the offender murders the victim.

That's tough punishment for perpetrators who think domestic violence is something that goes on behind closed doors, where it's OK for them to beat their wives, or girlfriends, or mothers or sisters because it's their prerogative. Well, Mr. President, domestic violence is no one's prerogative and this bill provides tough punishment for criminals who deserve it.

This bill also makes two changes in the rules of evidence, to help victims of domestic violence. First, it allows evidence of the defendant's past crimes or wrongful acts against the victim to be introduced, to establish a pattern of abuse.

Second, it allows evidence of battered women's syndrome to be introduced, to show why some women are driven to retaliate against their abusers.

Finally, the bill fights those who transmit HIV in sexual assaults, by requiring that: sentences be toughened if the offender knew he was infected; upon request of the victim, the offender must be tested for HIV before he is released; and follow-up testing be done on sexual assailants.

CONCLUSION

Mr. President, right now too many women fear for their safety and too many women suffer physically and emotionally from domestic violence. We can do something about it. I urge my colleagues to support the Victim Rights and Domestic Violence Prevention Act of 1995.●

ADDITIONAL COSPONSORS

S. 684

At the request of Mr. HATFIELD, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 949

At the request of Mr. GRAHAM, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 1212

At the request of Mr. COATS, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 1212, a bill to provide for the establishment of demonstration projects designed to determine the social, civic, psychological, and economic effects of providing to individuals and families with limited means an opportunity to accumulate assets, and to determine the extent to which an asset-based welfare policy may be used to enable individuals and families with low income to achieve economic self-sufficiency.

S. 1317

At the request of Mr. D'AMATO, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1317, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1995, and for other purposes.

S. 1360

At the request of Mr. BENNETT, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1360, a bill to ensure personal privacy with respect to medical records and health care-related information, and for other purposes.

S. 1392

At the request of Mr. BAUCUS, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1392, a bill to impose temporarily a 25-percent duty on imports of certain Canadian wood and lumber products, to require the administering authority to initiate an investigation under title VII of the Tariff Act of 1930 with respect to such products, and for other purposes.

S. 1453

At the request of Mr. BURNS, the names of the Senator from North Dakota [Mr. DORGAN] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 1453, a bill to prohibit the regulation by the Secretary of Health and Human Services and the Commissioner of Food and Drugs of any activities of sponsors or sponsorship programs connected with, or any advertising used or purchased by, the Professional Rodeo Cowboy Association, its agents or affiliates, or any other professional rodeo association, and for other purposes.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place Wednesday, December 20, 1995 at 9:30 a.m. in room SD–366 of the Dirksen Senate office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 594 and H.R. 1296, bills to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer and to review a map associated with the San Francisco Presidio. Specifically, the purposes are to determine which properties within the Presidio of San Francisco should be transferred to the administrative jurisdiction of the Presidio Trust and to outline what authorities are required to ensure that the Trust can meet the objective of generating revenues sufficient to operate the Presidio without a Federal appropriation.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the committee staff

AUTHORITY FOR COMMITTEES TO MEET.

COMMITTEE ON FOREIGN RELATIONS

Mr. THOMAS. Mr President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, December 15, 1995, at 2:00 p.m.

The PRESIDING OFFICER. Without ojective, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. THOMAS. Mr President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for hearing on the Fair Labor Standards Act and the Minimum Wage, during the session of the Senate on Friday, December 15, 1995, at 9:30 a.m.

The PRESIDING OFFICER. Without ojective, it is so ordered.

SPECIAL COMMITTEE TO INVESTIGATE WHITEWATER DEVELOPMENT AND RELATED MATTERS

Mr. THOMAS. Mr President, I ask unanimous consent that the Special Committee to Investigate Whitewater Development and Related Matters be authorized to meet during the session of the Senate on Friday, December 15, 1995 to conduct a hearing pursuant to Senate Resolution 120.

The PRESIDING OFFICER. Without ojective, it is so ordered.

ADDITIONAL STATEMENTS

SUPPORT FOR THE AMERICAN UNIVERSITY OF BEIRUT AND LEBANESE AMERICAN UNIVERSITY

• Mr. ABRAHAM. Mr. President, I rise today to comment on an issue which has important policy implications for the United States as a world leader in promoting education. With the end of the cold war, we, as a nation, must reexamine how the United States can most appropriately provide world leadership in the future. The need for the United States to continue to provide such leadership is not a serious contention. However, as we debate a foreign policy direction that will advance American interests in a more interdependent world, we should bear two important considerations in mind: We must act with budgetary responsibility and we must not assume that government itself is always the best agent to implement our international goals.

I believe that private entities, such as educational institutions, have an important role to play in advancing our foreign policy goals. American education is recognized throughout the world as one of our greatest national assets, and it can be invaluable in shaping America's image abroad, promoting political and social pluralism, instilling the American ideals of tolerance and freedom of expression, expanding markets for U.S. commodities and products, and encouraging private initiative and economic growth.

An American education is prestigious and in high demand in virtually every country. Those receiving such an education frequently rise to their country's most senior leadership positions in government and in the private sector. As effective instruments to spread American influence, privately sponsored American educational institutions undoubtedly surpass direct U.S. Government programs. Quite modest levels of government assistance can be leveraged by these private institutions to achieve fundamentally important American goals, and do so without costly government bureaucracy.

In no part of the world can the contribution of American education to United States foreign policy be of greater significance than in the Middle East. Fortunately, we are in a strong position to use education as a cornerstone of our policy there because of the presence of two American educational institutions with which I happen to be personally acquainted: The American University of Beirut [AUB] and the Lebanese American University [LAU]. The excellent work of these two institutions deserve special attention. Both schools have long proved themselves as beacons of tolerance and rationality in that part of the world. Furthermore, in the future, these schools will have an increased importance as the Middle East looks for the institutional structures which will help the region move from the currently emerging formal peace to a more lasting warm peace.

Mr. President, as we know, the future of Lebanon, in no small measure, rests with the talent, intellect, and ingenuity of its people, especially the youth. Educating young Lebanese is essential, therefore, to rebuilding the country. LAU and AUB are instrumental in this rebuilding. These universities, moreover, promote the use of American-made goods, enhancing international reliance on American goods and services. Students who are educated by using American computers, for example, will rely on American computers when they pursue their careers. Furthermore, these institutions nurture democracy by educating successive generations of leaders who are committed to American democratic values and who understand the tangible economic, political, and social benefits that a commitment to democracy producers.

These New York State chartered institutions continue to have strong American ties and a long tradition of teaching students the value of an American education. As a result, their students learn to appreciate such fundamental American values as tolerance, freedom of thought and expression, and private initiative. Maintaining these attributes is extremely important to the people of Lebanon as well as to those in the region of the Middle East.

The American University of Beirut and the Lebanese American University have nurtured the best American tradition of voluntarism. Having been established by individual citizens motivated by a strong conviction, these institutions have had a responsibility to better society. Such a tradition continues today. I believe it is good policy for us to encourage this spirit of voluntarism and, in the process, achieve important United States goals such as helping to rebuild Lebanon's democracy and promoting regional sustainable development.

These educational institutions also help promote American culture and values amongst the influential decision makers in the Middle East. These universities train students who are then able to communicate, share values, and work with Americans in business, government the sciences, and other mutually beneficial endeavors. This has a direct impact on promoting free-market reforms in the countries of the Middle East. Graduates of AUB and LAU appreciate American entrepreneurship and market-based economies, and from their positions as leaders in both private firms and public agencies, they guide their countries in this direction. Their familiarity with American culture and products also opens opportunities for the United States to develop export markets and investments in the region.

AUB and LAU also are addressing other problems of concern to Americans such as health and environmental issues. They engage in innovative programs of study and research on issues of water quality, migration patterns, desertification and pollution abatement. Both institutions are leaders in high quality health care in the Middle East, which advances America's concern with global public health.

But perhaps the single most important contribution these institutions are making to American interests in the region comes in connection with the Middle East Peace process. They have given vital assistance to that process by creating an intellectual climate that encourages rational dialogue, and by educating men and women with the vision and skills to achieve conciliation and cooperation. And once a formal peace is finally achieved, AUB and LAU will be in the forefront to encourage a warm peace of meaningful interaction among all parties in the region.

The Administration, Mr. President, will soon deal with the difficult funding choices as the budget necessarily begins to decrease. And I understand that budget realities may dictate assistance to a smaller number of universities abroad than in the past. However, as decisions are being made to allocate funding levels, I strongly urge the Administration to maintain as a high priority continued funding for the American University of Beirut and the Lebanese American University. I am not alone in this conclusion, as clearly reflected by the language contained in both the House and Senate Appropriations Committee reports. The Senate report states:

> The Committee continues to strongly support the important work carried out by institutions funded under the American Schools and Hospitals Abroad (ASHA) Program. The Committee support is based in part on the effective use of public resources to leverage private sector funds. The Committee believes that several institutions which have received funding under ASHA have distinguished records and deserve further support including: The American University of Beirut which has trained Middle Eastern leaders for 130 years in a strong liberal arts tradition encouraging freedom of expression, private initiative, and tolerance. Its academic quality, longstanding relationship with regional governments, network of prominent alumni and distinction as a hub of high level global expertise make the university a primary resource for regional development. The Lebanese American University (formerly Beirut College) is the most rapidly growing institution of higher learning in Lebanon and is an increasingly important resource for talent in this expanding region.

The House report contains similar language.

> The Committee notes that over the years a number of quality educational institutions have received both development and Economic Support Fund assistance, including the American University of Beirut, . . . and the Lebanese American University. The Committee recommends that best efforts be made to continue assistance for institutions of this nature, with the highest priority assigned to those lacking alternative sources of funding.

Mr. President, I believe that continued support of these two institutions is in the national interest of the United States. As I have stated, continued funding of these institution is a congressional priority and I hope that the administration will agree. ●

THE BENEFITS OF LEGAL IMMIGRATION

Mr. SIMON. Mr. President, as immigration reform legislation moves closer to the House and Senate floors, a new study has appeared that confirms what many of us on both sides of the aisle have been saying all along: That legal immigrants confer net economic benefits on American society.

The study, entitled "Immigration: The Demographic and Economic Facts," is authored by University of Maryland professor Julian SIMON (no relation) and published by the Cato Institute and the National Immigration Forum in association with a diverse coalition of over 20 organizations. I would like to include for the RECORD a Los Angeles Times article from December 11, 1995 previewing the report's findings, which include the following:

The current rate of immigration is only about one-third the rate of immigration at the beginning of the century.

Total per capita government expenditures are lower for immigrants than for native-born Americans.

The effect of immigration on Americans' wages is limited.

Because new immigrants are more concentrated than native-born Americans in the youthful labor force ages, they tend to contribute more to the public coffers than they draw out.

Educational levels among immigrants have increased from decade to decade.

These conclusions again confirm that current levels of legal immigration are not a problem for America. In fact, the legal immigrants of today demonstrate the same work ethic and imagination that characterized their predecessors of decades ago, and continue to be a vital component of our Nation's well-being.

The same cannot be said of illegal immigrants. These individuals should be the subject of our attention as immigration reform legislation winds its way through Congress. This administration has demonstrated an unprecedented commitment to preventing illegal immigration through increased enforcement at the border and in the workplace. We in Congress should continue this effort and work hand in hand with the administration in this endeavor. In so doing, however, we should not disturb our system of legal immigration, which works now and has worked in America for centuries.

The difference between legal and illegal immigration is the subject of much public confusion. It is up to Congress, with the help of such reports as the Simon report, to keep the two issues distinct, and to focus its attention on the real immigration problem: illegal immigration.

The article follows:

[From the Los Angeles Times, Dec. 11, 1995]

STUDY PAINTS A POSITIVE PICTURE OF IMMIGRATION

COSTS: BOTH LEGAL AND ILLEGAL IMMIGRANTS USE FEWER GOVERNMENT RESOURCES THAN NATIVE-BORN CITIZENS, REPORT SAYS

(By James Bornemeier)

WASHINGTON.—A new study on the effects of immigration finds that total per capita government expenditures are much lower for immigrants—legal and illegal—than for native-born citizens.

The report also paints an upbeat picture of immigrants' educational achievements and asserts that the nation's natural resources and environment are unaffected by the influx of immigrants.

"As of the 1970s, immigrants contributed more to the public coffers in taxes than they drew out in welfare services," the report says. "The most recent data * * * show that each year an average immigrant family put about $2,500 into the pockets of natives from this excess of taxes over public costs."

The study, to be issued this morning in Washington by the National Immigration Forum, an immigration-advocacy group, and the Cato Institute, a conservative think tank, comes at a time when Congress is wrestling with major immigration bills and public opinion is increasingly negative on immigration issues.

Legislation is progressing in both houses of Congress to clamp down on illegal immigration and—to the dismay of many immigration advocates—restrict entry of legal immigrants as well.

The issue has split Republicans, some of whom see the free flow of legal immigrants as an economic boon to the country. Immigrant-rights groups say the political activism to stem illegal immigration has unfairly led to the limitations on legal immigrants.

But groups pushing for stronger restrictions on immigration branded the report, authored by University of Maryland professor Julian L. Simon, as biased.

"Julian Simon is not a liar," said Dan Stein, executive director of the Federation for American Immigration Reform, "but he gets as close as anyone can be to one. He is intentionally deceptive, manipulative and grossly in error." Signifying the sensitivity of the issue, more than 20 interest groups and think tanks have signed on to the report, and they span the political spectrum—from the immigrant-rights group, the National Council of La Raza, to the Progress and Freedom Foundation, an organization closely associated with House Speaker Newt Gingrich.

House Majority Leader Dick Armey, a strong supporter of legal immigration, is scheduled to address the Capitol press conference where the report is to be released today.

Among the report's most controversial findings is Simon's conclusion that government expenditures are lower for immigrants than for native-born Americans.

According to the report, the average immigrant family received $1,404 in welfare services in its first five years in the country. Native-born families averaged $2,279, Simon writes. The report makes these other points:

The number of illegal immigrants in the United States—estimated at 3.2 million—is not very different from a decade before.

More than half of illegal immigrants enter legally and over-stay their visas; less than half enter clandestinely.

New immigrants are more concentrated than native-born citizens in the youthful labor force ages when people contribute more to the public coffers than they draw out.

Immigrants on average have a year less education than natives—about the same relationship as has been observed back to the 19th century.

Such optimistic findings collide with the views of other researchers.

"His numbers are conventional and unremarkable," said Mark Krikorian of the Center for Immigration Studies in Washington, "The question is what sort of spin Julian puts on them. He has his bias, and the bias has a very significant influence on the interpretation he has put on the facts."

As an example, Simon says the number of immigrant high school dropouts has been declining. For example, Krikorian said, Simon reports that the number of immigrant high school dropouts has been declining.

"But what he doesn't mention," said Krikorian, "is the gap between the percentage of American high school dropouts and the percentage of immigrant high school dropouts is widening. It's pretty obvious that the education gap is increasing. By not addressing [that] he makes his document an advocacy document."●

TRIBUTE TO PATTY CALLAGHAN

● Mr. BAUCUS. Mr. President, I wish today to give tribute to one of Eastern Montanan's treasures, Patty Callaghan. Patty recently retired after 20 years with Action for Eastern Montana.

Patty retired as executive director to attend Luther Seminary in St. Paul MN. She hopes to return to eastern Montana as a lay leader with rural churches.

Montana needs more leaders like Patty Callaghan. Rural Montana needs the love for and knowledge of our state that people like Patty have.

Patty's work with action actually led to here decision to choose the seminary. When funding cutbacks in the programs that she administers forced her to look to other resources, Patty found the churches responding generously. She found the needs of rural communities to be much the same as the congregations—energy, leadership for change, accountability, respect and compassion.

Patty has dealt with many family issues that will serve her will in her new life. She found the work at Action for Eastern Montana rewarding and the Glendive community generous when a need was identified.

In a recent tribute to Patty, family members, coworkers, friends and many others including Montana's Governor Marc Racicot expressed their respect and appreciation for her life's work.

I would also like to express my profound respect and admiration for Patty Callaghan and what she has done for eastern Montana. Public service can bring out the best and worst in people. With Patty, her compassion and caring has only deepened. Eastern Montana desperately needs this commitment to its communities.

Thank you, Patty. We wish you the best and look forward to seeing you again soon.●

HATE SPEECH ON NET

● Mr. SIMON. Mr. President, I would like to draw my colleagues' attention to an editorial in the November 17, 1995, issue of USA Today, called Hate Speech on the Net.

As many of my colleagues are aware, college campuses have been at the center of the debate over hate speech. Several universities have established restrictive rules on speech and have punished students with probation or even dismissal. These rules, while certainly established with the best intentions, do raise serious issues of free speech.

As Americans, we are allowed to say what we want, as long as it does not threaten public safety, no matter how much it may offend others. Voltaire is credited with saying, "I disagree with what you say but I am ready to fight to the death to preserve your right to say it." I would like to add: and then I will speak out against what you have said. As this editorial points out, a recent episode at Cornell University illustrates that a better response to hate speech is often an eloquent reply.

I ask that the full text of the editorial be printed in the RECORD.

The editorial follows:

[From USA Today, Nov. 17, 1995]

HATE SPEECH ON THE NET

A tasteless but not harmless college prank got the national attention it deserved this week when four Cornell freshmen made the mistake of sharing their raunchy degradation of women via the Internet.

The four sent an e-mail message listing "75 reasons why women (bitches) should not have freedom of speech." After the message was spread—and attacked—they expressed "deep remorse." In an apology published in the campus newspaper, they insisted they didn't mean any of the things they wrote.

Please.

If they didn't mean to trash women, why was their list so demeaning, degrading and threatening? If they meant to share this list with just a few of their buddies, why did they send it on the Internet, where so many other students pulled up the list that at least one school's computer system crashed?

Their juvenile attempts at humor included such sexist slaps as: "Big breasts speak for themselves." "Female drunks are annoying unless they put out." "If she can't speak, she can't cry rape." Other suggestions were simply too vulgar to repeat.

Freshmen with the brains to get into a prestigious Ivy League college should have known this list was not harmless fun.

Cornell acknowledged this episode "offended, angered and distressed." But its judicial administrator concluded Thursday that the students did not violate the college's code of conduct.

That judgment will further infuriate those outraged by this sexist attack. But this sorry tale takes a turn for the better.

As the students' bad taste became public, the e-mail response was so loud and large that it brought a prompt response from the university

The students now have "offered" to attend gender-sensitivity training, perform community service and apologize in person to senior Cornell administrators.

Had the students been denied the right to make their sexist views public, those views might have gone unchallenged and unchanged. All of which shows again that the best remedy for offensive speech is not a restrictive rule but an eloquent reply.●

TRIBUTE TO MS. ELEANOR L. CARTER

Mr. SIMON. Mr. President, I would like to commend one of my constituents, Ms. Eleanor L. Carter, on the occasion of her retirement from the Federal Government.

Ms. Carter, a native of Chicago, IL, will retire as a claims representative with the Social Security Administration after 35 years of service. She started work on August 11, 1960 as a "balancing clerk" for the U.S. Department of Treasury. After a year of service, Ms. Clark transferred to the Social Security Administration, and after several promotions, she continues to be an asset in her capacity as a claims representative.

Mr. President, I join Ms. Carter's family and many friends in congratulating her on an exemplary career, and wishing her all the best for the future. Illinois has benefitted greatly from her superb service.

COMPUTER BETTORS CAN BE SURE OF LOSING

Mr. SIMON. Mr. President, Richard Roeper, who is a regular columnist with the Chicago Sun-Times, recently had a column headed, "Computer Bettors Can Be Virtually Sure of Losing," which I ask to be printed in the RECORD in full after my remarks.

It is not simply an editorial column with that conclusion. Mr. Roeper goes into the specifics of what happened to him when he placed bets.

Some people wonder why we should have a commission to look at the whole phenomenon of legalized gambling in the United States.

It is spreading rapidly, and I don't know what we do about the phenomenon of computers and gambling, just as one example.

The column follows:

[From the Chicago Sun-Times, Dec. 10, 1995]

COMPUTER BETTORS CAN BE VIRTUALLY SURE OF LOSING

(By Richard Roeper)

"The technology will allow people to bet on anything they choose to, and if it's legal, someone is sure to set up a service."—Bill Gates, discussing the potential for gambling on the Internet in The Road Ahead.

Sooner rather than later, you're probably going to be able to sit at a computer in your home office and lose everything you own, including the computer you're sitting at in your home office.

Such are the perils of gambling and the wonders of technology.

Lately there's been a lot of talk about setting up "virtual casinos" on the information highway—onscreen gambling emporiums that will be constructed on computer networks so that you won't have to fly to Las Vegas or even drive out to Aurora to play craps or roulette or poker. All you'll have to do is log on, enter an access code, provide a credit card number and bingo!

Bingo. They'll probably have that, too.

If you win, you'll receive electronic credits. If you lose, you'll be charged on your next Visa or American Express statement.

This is a frightening concept. As it is, real casinos are designed to provide a cushion between you and reality. The absence of clocks, the lack of windows, the waitresses providing you with complementary drinks, the conversion of hundred-dollar bills into toyish black chips that you flick around like bottle caps—all are tools to make it easier to separate you from your money.

And it works. Those huge, tacky, gleaming, zillion-dollar palaces in Las Vegas are owned by the folks who are taking the bets, not the folks who are making the bets. They build the 5,000-room hotels and the cages for the white tigers and the pirate ships and the fake pyramids with your money.

Still, at least when you bet with chips, you're vaguely aware that they represent real money. Watching a stack of those chips shrink can be a painful experience; you can see and feel some proof of the fact that you're losing.

Others around you, including the employees of the casino and your fellow gamblers, also provide some stimuli. But if you're alone at a keyboard, there's no human element, nobody to cluck in sympathy when you lose, or slide some chips your way when you win. There's no sense that you're truly risking your money. So it will be ridiculously, tragically easy for the gambler to log on and lose a huge chunk of money in a single session online.

I put this theory to the test by playing a three-day round of blackjack on my personal computer and keeping a record of my "wins" and "losses."

The game on my Windows '95 program is called "Dr. Blackjack." Little boxes at the top of the screen keep track of wins and losses for each session, as well as a running tally for a player.

Monday, 8:43 a.m. I set the computer for $50 wagers and tell the electronic dealer to deal—and our respective cards appear on the screen almost instantly. With a click of the mouse, I can then decide to stay, hit, split, double down, even buy insurance against a dealer blackjack. As soon as I make my decision, the computer plays out the dealer's hand in literally the blink of an eye, much faster than the slickest human dealer.

By 9 a.m. I'm up $450, each winning hand accompanied by an electronic deedle-deedle-dee! of joy, each losing hand stomped on by a sharp buzzer.

After two hours I'm at the $500 mark in winnings. A nice round number, so I sign off. Don't have a stack of chips to pocket, don't have a dealer to tip.

Monday, 4:47 p.m. My plus-$500 total is waiting for me when I sign on. I'm playing with the casino's money, so I up my wager amount to $100 per hand.

Monday, 5:03 p.m. Down $2,300. That is not a misprint. During one stretch I lost nine hands in a row. A note appears on my screen, telling me I've lost too much in one sitting and should take a break.

Somehow I think the virtual casinos of the future won't have that feature.

Monday, 11 p.m. I know I should stay away from the table, but what the heck, I'm here to gamble, right? I'm down $2,300, so it seems unwise to play for only $100 a hand; I'll never get my money back. So I increase my wager to $200.

Boom Boom Boom Boom, four winning hands in a row, including a blackjack, and I'm down only $1,400 now, We're rolling.

Tuesday, 12:35 a.m. It's been a long, hard struggle, but I'm exactly even for the day. Of course, so is everyone else who hasn't played a single hand of blackjack, and they didn't spend four hours sitting at a computer terminal.

Tuesday, 12:39 a.m. Down $800. Should have quit while I was even.

Tuesday, 6:30 a.m. Now betting $300 per hand. Occasionally, when I make the incorrect decision, an electronic "cheat sheet" appears on the screen and I'm asked if I'm sure this is the move I want to make. What they're really saying is, "Split those 8's, bonehead."

Again I doubt this feature will exist when you're playing for real money. And though I know it's for my benefit, it gets annoying, and sometimes I stubbornly refuse to follow the suggested strategy. I always lose those hands.

Tuesday, 8 a.m. Had a good run. I'm up $1,600. Time for a break.

Tuesday, 6:05 p.m. What the heck, I won money this afternoon and I'm winning money now and I'm "going home" after tomorrow's session, so why not increase the bets to my limit, $500?

Tuesday 6:30 p.m. Doubled down with an 11 and drew a 10. The dealer had a 17. That's a $1,000 win on a single hand. I'm now up $4,850.

Tuesday, 8:15 p.m. The computer is saying I've won too much and a graphic appears that accuses me of counting cards! I'm forced to sign off for the night. Up six grand and change.

Wednesday, 7 a.m. In just a few minutes I've raised my winnings to $11,350. If I could press a button that would turn those numbers into real money, would I do it? Doubtful. Why stop when you're hot?

Wednesday, 8:50 p.m. Hovering at the $11,000 mark. Had a great daytime session and I'm ready for more.

Wednesday, 10:30 p.m. I'm looking at the figures on the screen but I don't believe it. How can I be down $11,000? If I hear that loser-buzzer one more time I'm going to smash this keyboard. I want to increase my limit, but I can't. Five hundred is the maximum.

Wednesday, 11 p.m. All right, a comeback. I'm down only $7,750. One hour left before my self-imposed midnight deadline.

Midnight. That's it, time is up. For the three days, I "lost" $1,750—and I'm happy with that. I consider that a real triumph.

Which is pretty sick when you think about it.

Sure, this was only a simulation. I'm sure I'd have better self-control with real money, even at a virtual casino. But it was scary enough watching those numbers change so quickly, even though I knew they didn't mean anything.

If virtual casinos ever became a reality, it'll be the people on the other side of the computers who will be smiling.●

FOREIGN RELATIONS REVITALIZATION ACT

The text of the bill H.R. 1561, as passed by the Senate on December 14, 1995, is as follows:

Resolved, That the bill from the House of Representatives (H.R. 1561) entitled "An Act to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibily reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Relations Revitalization Act of 1995".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into two divisions as follows:

(1) Division A—Foreign Relations Authorization Act, Fiscal Years 1996–1999.

(2) Division B—Foreign Affairs Reinvention Act of 1995.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.

DIVISION A—FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996–1999

Sec. 101. Short title.

TITLE I—DEPARTMENT OF STATE AND RELATED AGENCIES

CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS

Sec. 111. Administration of foreign affairs.
Sec. 112. Migration and refugee assistance.

CHAPTER 2—AUTHORITIES AND ACTIVITIES

Sec. 121. Lease-purchase of overseas property.
Sec. 122. United States Embassy building in Berlin, Germany.
Sec. 123. Fees for commercial services.
Sec. 124. Reduction of reporting requirements.
Sec. 125. Buying power maintenance account.
Sec. 126. Capital investment fund.
Sec. 127. Administrative expenses.
Sec. 128. Fee for use of diplomatic reception rooms.
Sec. 129. Contracts at posts abroad.
Sec. 130. Expenses relating to certain international claims and proceedings.
Sec. 131. Diplomatic Telecommunications Service.
Sec. 132. Diplomatic Telecommunications Service Program Office.
Sec. 133. International Center reserve funds.
Sec. 134. Joint funds under agreements for cooperation in environmental, scientific, cultural and related areas.
Sec. 135. United States diplomatic facilities in Kosova.
Sec. 136. Antibribery study.
Sec. 137. Budget Act compliance.

CHAPTER 3—PERSONNEL

Sec. 141. Authorized strength of the Foreign Service.
Sec. 142. Restriction on lobbying activities of former United States chiefs of mission.
Sec. 143. Foreign Service grounding in United States business.
Sec. 144. Foreign affairs administrative support.
Sec. 145. Foreign Service reform.
Sec. 146. Limitations on management assignments.
Sec. 147. Report on promotion and retention of personnel.
Sec. 148. Recovery of costs of health care services.
Sec. 149. Nonovertime differential pay.
Sec. 150. Access to records.
Sec. 151. Training.
Sec. 152. Redesignation of National Foreign Affairs Training Center.

CHAPTER 4—CONSULAR AND RELATED ACTIVITIES

Sec. 161. Fee for diversity immigrant lottery.
Sec. 162. Fee for execution of passport applications.
Sec. 163. Fees for machine readable visas.
Sec. 164. Children adopted abroad.
Sec. 165. Consular officers.
Sec. 166. Exclusion from the United States for membership in a terrorist organization.
Sec. 167. Incitement as a basis for exclusion from the United States.
Sec. 168. Visit of the president of the Republic of China on Taiwan.
Sec. 169. Terrorist Lookout Committees.
Sec. 170. Sense of Congress on border crossing fees.

TITLE II—UNITED NATIONS

CHAPTER 1—FUNDING; BUDGETARY AND MANAGEMENT REFORM

Sec. 201. Assessed contributions to the United Nations and affiliated agencies.
Sec. 202. Assessed contributions for international peacekeeping activities.
Sec. 203. Calculation of assessed contributions.
Sec. 204. Reform in budget decisionmaking procedures of the United Nations and its specialized agencies.
Sec. 205. United Nations budgetary and management reform.
Sec. 206. Whistleblower provision.

CHAPTER 2—UNITED NATIONS PEACEKEEPING

Sec. 211. Annual report on United States contributions to United Nations peacekeeping activities.
Sec. 212. Prior congressional notification of Security Council votes on United Nations peacekeeping activities.
Sec. 213. Codification of required notice to Congress of proposed United Nations peacekeeping activities.
Sec. 214. Limitation on assessment percentage for peacekeeping activities.
Sec. 215. Buy America requirement.
Sec. 216. Restrictions on intelligence sharing with the United Nations.
Sec. 217. UNPROFOR funding restrictions.
Sec. 218. Escalating costs for international peacekeeping activities.
Sec. 219. Definition.

TITLE III—OTHER INTERNATIONAL ORGANIZATIONS

CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS

Sec. 301. International conferences and contingencies.
Sec. 302. International commissions.
Sec. 303. International Boundary and Water Commission.
Sec. 304. Inter-American organizations.

CHAPTER 2—GENERAL PROVISIONS

Sec. 311. International criminal court participation.
Sec. 312. Prohibition on assistance to international organizations espousing world government.
Sec. 313. Termination of United States participation in certain international organizations.
Sec. 314. International covenant on civil and political rights.
Sec. 315. United States participation in single commodity international organizations.
Sec. 316. Prohibition on contributions to the International Natural Rubber Organization.
Sec. 317. Prohibition on contributions to the International Tropical Timber Organization.
Sec. 318. General Accounting Office study of the cost-effectiveness and efficiency of international organizations to which the United States makes contributions.
Sec. 319. Sense of Congress on United Nations Fourth World Conference on Women in Beijing, China.

TITLE IV—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS

CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS

Sec. 401. Authorization of appropriations.
Sec. 402. National Endowment for Democracy.

CHAPTER 2—USIA AND RELATED AGENCIES AUTHORITIES AND ACTIVITIES

Sec. 411. Participation in international fairs and expositions.
Sec. 412. Extension of au pair programs.
Sec. 413. Pilot program on advertising on USIA television and radio broadcasts.
Sec. 414. Availability of Voice of America and Radio Marti multilingual computer readable text and voice recordings.
Sec. 415. Plan for Radio Free Asia.
Sec. 416. Expansion of Muskie fellowship program.
Sec. 417. Changes in administrative authorities.
Sec. 418. General Accounting Office study of duplication among certain international affairs grantees.
Sec. 419. General Accounting Office study of activities of the North/South Center in support of the North American Free Trade Agreement.
Sec. 420. Mansfield Fellowship Program requirements.
Sec. 421. Distribution within the United States of the United States Information Agency film entitled "The Fragile Ring of Life".

TITLE V—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY AND THE AGENCY FOR INTERNATIONAL DEVELOPMENT

Sec. 501. Authorization of appropriations.
Sec. 502. Statutory construction.
Sec. 503. Operating expenses.
Sec. 504. Operating expenses of the Office of the Inspector General.

TITLE VI—FOREIGN POLICY

Sec. 601. Repeal of provisions relating to interparliamentary groups.
Sec. 602. Repeal of executive branch membership on the Commission on Security and Cooperation in Europe.
Sec. 603. Authorized payments.
Sec. 604. Reports regarding Hong Kong.
Sec. 605. Applicability of Taiwan Relations Act.
Sec. 606. Taipei representative office.
Sec. 607. Report on occupied Tibet.
Sec. 608. Special envoy for Tibet Act of 1995.
Sec. 609. Prohibition on use of funds to facilitate Iraqi refugee admissions into the United States.
Sec. 610. Special envoy for Nagorno-Karabakh.
Sec. 611. Report to Congress concerning Cuban emigration policies.
Sec. 612. Efforts against emerging infectious diseases.
Sec. 613. Report on firms engaged in export of dual-use items.

Sec. 614. Prohibition on the transfer of arms to Indonesia.
Sec. 615. Middle East Peace Facilitation Act of 1995.

DIVISION B—CONSOLIDATION AND REINVENTION OF FOREIGN AFFAIRS AGENCIES

Sec. 1001. Short title.
Sec. 1002. Purposes.

TITLE XI—ORGANIZATION OF THE DEPARTMENT OF STATE AND FOREIGN SERVICE

Sec. 1101. Office of the Secretary of State.
Sec. 1102. Assumption of duties by incumbent appointees.
Sec. 1103. Consolidation of United States diplomatic missions and consular posts.
Sec. 1104. Procedures for coordination of Government personnel at overseas posts.

TITLE XII—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

Sec. 1201. Abolition of ACDA; references in part.
Sec. 1202. Repeal of positions and offices.
Sec. 1203. Authorities of the Secretary of State.
Sec. 1204. Authorization of appropriations.
Sec. 1205. Conforming amendments.
Sec. 1206. References in law.
Sec. 1207. Effective date.

TITLE XIII—UNITED STATES INFORMATION AGENCY

Sec. 1301. Abolition.
Sec. 1302. References in law.
Sec. 1303. Amendments to title 5.
Sec. 1304. Amendments to United States Information and Educational Exchange Act of 1948.
Sec. 1305. Amendments to the Mutual Educational and Cultural Exchange Act of 1961 (Fulbright-Hays Act).
Sec. 1306. International broadcasting activities.
Sec. 1307. Television broadcasting to Cuba.
Sec. 1308. Radio broadcasting to Cuba.
Sec. 1309. National Endowment for Democracy.
Sec. 1310. United States Scholarship Program for developing countries.
Sec. 1311. National Security Education Board.
Sec. 1312. Center for Cultural and Technical Interchange Between North and South.
Sec. 1313. Center for Cultural and Technical Interchange Between East and West.
Sec. 1314. Mission of the Department of State.
Sec. 1315. Consolidation of administrative services.
Sec. 1316. Grants.
Sec. 1317. Ban on domestic activities.
Sec. 1318. Conforming repeal to the Arms Control and Disarmament Act.
Sec. 1319. Repeal relating to procurement of legal services.
Sec. 1320. Repeal relating to payment of subsistence expenses.
Sec. 1321. Conforming amendment for the SEED Act.
Sec. 1322. International Cultural and Trade Center Commission.
Sec. 1323. Other laws referenced in Reorganization Plan No. 2 of 1977.
Sec. 1324. Exchange program with countries in transition from totalitarianism to democracy.
Sec. 1325. Edmund S. Muskie Fellowship Program.
Sec. 1326. Implementation of Convention on Cultural Property.
Sec. 1327. Mike Mansfield Fellowships.
Sec. 1328. United States Advisory Committee for Public Diplomacy.
Sec. 1329. Effective date.

TITLE XIV—AGENCY FOR INTERNATIONAL DEVELOPMENT AND THE INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Sec. 1401. Abolitions; references in part.
Sec. 1402. References in the Foreign Assistance Act of 1961.
Sec. 1403. Exercise of functions by the Secretary of State.
Sec. 1404. Repeal of positions; employment and contracting authorities.
Sec. 1405. Development Loan Committee.
Sec. 1406. Development Coordination Committee.
Sec. 1407. Public Law 83-480 Program.
Sec. 1408. Conforming amendments to title 5, United States Code.
Sec. 1409. Trade Promotion Coordinating Committee.
Sec. 1410. Chief Financial Officer.
Sec. 1411. References in law.
Sec. 1412. Effective date.

TITLE XV—PLANS FOR CONSOLIDATION AND REINVENTION OF FOREIGN AFAIRS AGENCIES

Sec. 1501. Reorganization of the Department of State and the independent foreign affairs agencies.

TITLE XVI—TRANSITION PROVISIONS

Sec. 1601. Transfer of functions.
Sec. 1602. Determination of transferred functions and employees.
Sec. 1603. Reorganization plan for the United States Arms Control and Disarmament Agency.
Sec. 1604. Reorganization plan for the United States Information Agency.
Sec. 1605. Reorganization plan for the Agency for International Development.
Sec. 1606. Additional requirements and limitations on reorganization plans.
Sec. 1607. Amendments or modifications to reorganization plans.
Sec. 1608. Procedures for congressional consideration of reorganization plans.
Sec. 1609. Transition fund.
Sec. 1610. Voluntary separation incentives.
Sec. 1611. Rights of employees of abolished agencies.
Sec. 1612. Transfer and allocations of appropriations and personnel.
Sec. 1613. Personnel authorities for transferred functions.
Sec. 1614. Property and facilities.
Sec. 1615. Delegation and assignment.
Sec. 1616. Rules.
Sec. 1617. Incidental transfers.
Sec. 1618. Effect on contracts and grants.
Sec. 1619. Savings provisions.
Sec. 1620. Separability.
Sec. 1621. Other transition authorities.
Sec. 1622. Additional conforming amendments.
Sec. 1623. Final report.
Sec. 1624. Definitions.

DIVISION A—FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996–1999

SEC. 101. SHORT TITLE.

This division may be cited as the "Foreign Relations Authorization Act, Fiscal Years 1996–1999".

TITLE I—DEPARTMENT OF STATE AND RELATED AGENCIES

CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS

SEC. 111. ADMINISTRATION OF FOREIGN AFFAIRS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated for the Department of State under the heading "Administration of Foreign Affairs" to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law, including the diplomatic security program:

(1) DIPLOMATIC AND CONSULAR PROGRAMS.—For "Diplomatic and Consular Programs", of the Department of State $1,688,500,000 for the fiscal year 1996, $1,612,000,000 for the fiscal year 1997, $1,867,500,000 for the fiscal year 1998, and $1,856,000,000 for the fiscal year 1999.

(2) SALARIES AND EXPENSES.—For "Salaries and Expenses", of the Department of State $368,000,000 for the fiscal year 1996, $373,000,000 for the fiscal year 1997, $725,000,000 for the fiscal year 1998, and $681,500,000 for the fiscal year 1999.

(3) ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD.—For "Acquisition and Maintenance of Buildings Abroad", $401,760,000 for the fiscal year 1996, $401,760,000 for the fiscal year 1997, $401,760,000 for the fiscal year 1998, and $401,760,000 for the fiscal year 1999.

(4) REPRESENTATION ALLOWANCES.—For "Representation Allowances", $4,500,000 for the fiscal year 1996, $4,500,000 for the fiscal year 1997, $4,500,000 for the fiscal year 1998, and $4,500,000 for the fiscal year 1999.

(5) EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.—For "Emergencies in the Diplomatic and Consular Service", $6,000,000 for the fiscal year 1996, $6,000,000 for the fiscal year 1997, $6,000,000 for the fiscal year 1998, and $6,000,000 for the fiscal year 1999.

(6) OFFICE OF THE INSPECTOR GENERAL.—For "Office of the Inspector General", $23,350,000 for the fiscal year 1996, $23,000,000 for the fiscal year 1997, $48,500,000 for the fiscal year 1998, and $48,500,000 for the fiscal year 1999.

(7) FOREIGN SERVICE RETIREMENT AND DISABILITY FUND.—For the "Foreign Service Retirement and Disability Fund", $125,402,000 for the fiscal year 1996, $125,402,000 for the fiscal year 1997, $132,000,000 for the fiscal year 1998, and $135,000,000 for the fiscal year 1999.

(8) PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For "Payment to the American Institute in Taiwan", $15,400,000 for the fiscal year 1996, $15,400,000 for the fiscal year 1997, $15,400,000 for the fiscal year 1998, and $15,400,000 for the fiscal year 1999.

(9) PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—For "Protection of Foreign Missions and Officials", $8,579,000 for the fiscal year 1996, $8,579,000 for the fiscal year 1997, $8,579,000 for the fiscal year 1998, and $8,579,000 for the fiscal year 1999.

(10) CAPITAL INVESTMENT FUND.—For the "Capital Investment Fund", $32,800,000 for each of the fiscal years 1996 and 1997 and $25,000,000 for each of the fiscal years 1998 and 1999.

(11) ASIA FOUNDATION.—For "The Asia Foundation", not more than $5,000,000 for the fiscal year 1996, and $3,000,000 for each of the fiscal years 1997, 1998, and 1999.

(12) REPATRIATION LOANS.—For "Repatriation Loans", $776,000 for the fiscal year 1996 and $700,000 for each of the fiscal years 1997, 1998, and 1999.

(b) FOREIGN CURRENCY EXCHANGE RATES.—In addition to amounts otherwise authorized to be appropriated by subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999 to offset adverse fluctuations in foreign currency exchange rates. Amounts appropriated under this subsection shall be available for obligation and expenditure only to the extent that the Director of the Office of Management and Budget determines and certifies to Congress that such amounts are necessary due to such fluctuations.

SEC. 112. MIGRATION AND REFUGEE ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) MIGRATION AND REFUGEE ASSISTANCE.—There are authorized to be appropriated for "Migration and Refugee Assistance" for authorized activities, $721,000,000 for the fiscal year

1996, and $721,000,000 for each of the fiscal years 1997, 1998, and 1999.

(2) Allocation of Funds.—Of the funds authorized to be appropriated by paragraph (1)—

(A) not less than $80,000,000 shall be made available in the fiscal year 1996 for assistance for refugees resettling in Israel from other countries; and

(B) not less than $50,000,000 for each of the fiscal years 1996 and 1997 shall be made available for the Emergency Refugee and Migration Assistance Fund under section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)).

(b) Availability of Funds.—Funds appropriated pursuant to subsection (a) are authorized to remain until expended.

CHAPTER 2—AUTHORITIES AND ACTIVITIES

SEC. 121. LEASE-PURCHASE OF OVERSEAS PROPERTY.

(a) Authority for Lease-Purchase.—Subject to subsections (b) and (c), the Secretary is authorized to acquire by lease-purchase such properties as are described in subsection (b), if—

(1) the Secretary of State, and

(2) the Director of the Office of Management and Budget,

certify and notify the appropriate committees of Congress that the lease-purchase arrangement will result in a net cost savings to the Federal Government when compared to a lease, a direct purchase, or direct construction of comparable property.

(b) Locations and Limitations.—The authority granted in subsection (a) may be exercised only—

(1) to acquire appropriate housing for Department of State personnel stationed abroad and for the acquisition of other facilities, in locations in which the United States has a diplomatic mission; and

(2) during fiscal years 1996 through 1999.

(c) Authorization of Funding.—Funds for lease-purchase arrangements made pursuant to subsection (a) shall be available from amounts appropriated under the authority of section 111(a)(3) (relating to the Acquisition and Maintenance of Buildings Abroad" account).

SEC. 122. UNITED STATES EMBASSY BUILDING IN BERLIN, GERMANY.

It is the sense of the Congress that the Secretary of State should—

(1) utilize, as the United States Embassy to Germany, property held by the United States Government under the Foreign Service Building Act, 1926, in the vicinity of the Brandenburg Gate in Berlin, Germany; and

(2) be authorized to make any improvements necessary.

SEC. 123. FEES FOR COMMERCIAL SERVICES.

Section 52 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2724) is amended in subsection (b) by adding the following new sentence at the end: "Such fees shall remain available for obligation until expended.".

SEC. 124. REDUCTION OF REPORTING REQUIREMENTS.

(a) Period for Reporting.—Section 488(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291g) is amended by striking "quarter of the".

(b) Repeal.—Section 503(b) of the Foreign Relations Authorization Act, Fiscal Year 1979 (Public Law 95–426) is repealed.

SEC. 125. BUYING POWER MAINTENANCE ACCOUNT.

Section 24 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696) is amended in subsection (b)(7) by striking subparagraph (D).

SEC. 126. CAPITAL INVESTMENT FUND.

Section 135 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2684a) is amended—

(1) in subsection (a), by inserting "and upgrade" after "procurement";

(2) in subsection (c), by striking "are authorized to" and inserting "shall";

(3) in subsection (d), by striking all that follows "available" and inserting "for the purposes of subsection (a)."; and

(4) in subsection (e), by striking all that follows "(22 U.S.C. 2710)" and before the period at the end.

SEC. 127. ADMINISTRATIVE EXPENSES.

Section 5 of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2605) is amended—

(1) in subsection (a)(1), by inserting before ", and without regard" the following: "and other personnel assigned to the bureau charged with carrying out this Act"; and

(2) by striking subsection (c).

SEC. 128. FEE FOR USE OF DIPLOMATIC RECEPTION ROOMS.

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.) is amended by adding at the end the following new section:

"SEC. 53. FEE FOR USE OF DIPLOMATIC RECEPTION ROOMS.

"The Secretary of State is authorized to charge a fee for use of the Department of State diplomatic reception rooms. Fees collected under the authority of this section shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of such use and shall remain available for obligation until expended.".

SEC. 129. CONTRACTS AT POSTS ABROAD.

(a) Avoidance of Duplicative Procurements.—A contracting officer of an agency of the Federal Government that performs functions at diplomatic and consular posts abroad shall, to the maximum extent practicable, avoid entering into a contract for procurement of property or services that can be procured for that agency under an existing contract, or by a modification (in accordance with subsection (b)) of an existing contract, of another agency of the Federal Government that performs functions at diplomatic and consular posts abroad.

(b) Modification of Contracts.—Notwithstanding any provision of law that requires the use of competitive procedures in Federal Government procurements, a contract of an agency of the Federal Government performing functions at diplomatic or consular posts abroad that has been awarded using competitive procedures may be modified to increase the quantity of the property or services to be procured under the contract in order to provide for procurement of the property or services for another agency performing functions at diplomatic or consular posts abroad if the cost to the United States of each unit of the property or services procured under the contract is not increased by the modification.

(c) Definition.—For the purposes of this section, the term "competitive procedures" has the meaning given that term in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5)).

SEC. 130. EXPENSES RELATING TO CERTAIN INTERNATIONAL CLAIMS AND PROCEEDINGS.

(a) Recovery of Certain Expenses.—The Department of State Appropriation Act of 1937 (49 Stat. 1321; 22 U.S.C. 2661), as amended by section 142(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204)) is amended in the fifth undesignated paragraph under the heading entitled "International Fisheries Commission" by striking "extraordinary".

(b) Procurement of Services.—Section 38 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2710) is amended in subsection (c) by inserting "personal and" before "other support services".

SEC. 131. DIPLOMATIC TELECOMMUNICATIONS SERVICE.

Section 507 of the Department of State and Related Agencies Appropriations Act, 1995 (Public Law 103–317) is amended in subsections (a) and (b) by striking "and each succeeding fiscal year" each place it appears.

SEC. 132. DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

(a) Findings.—The Congress makes the following findings:

(1) The Diplomatic Telecommunications Service Program Office (hereafter in this section referred to as "DTS–PO") has made significant enhancements to upgrade the worldwide DTS network with high speed, high capacity circuitry as well as improvements at United States embassies and consulates to enhance utilization of the network.

(2) Notwithstanding the improvements that the DTS–PO has made to the DTS network, the current management structure needs to be strengthened to provide a clearly delineated, accountable management authority for the DTS–PO and the DTS network.

(b) Report Required.—No later than three months after the date of enactment of this Act, the two agencies providing the greatest funding to DTS–PO shall submit to the appropriate committees of Congress—

(1) a DTS–PO management plan—

(A) setting forth the organization, mission and functions of each major element of the DTS–PO; and

(B) designating an entity at each overseas post, or providing a mechanism for the designation of such an entity, which will be responsible for the day-to-day administration of the DTS–PO operations; and

(2) a DTS–PO strategic plan containing—

(A) future customer requirements, validated by the DTS customer organizations;

(B) a system configuration for the DTS network which will meet the future telecommunications needs of the DTS customer agencies;

(C) a funding profile to achieve the system configuration for the DTS network;

(D) a transition strategy to move to the system configuration for the DTS network;

(E) a reimbursement plan to cover the direct and indirect costs of operating the DTS network; and

(F) an allocation of funds to cover the costs projected to be incurred by each of the agencies or other entities utilizing DTS to maintain DTS, to upgrade DTS, and to provide for future demands for DTS.

(c) Definition.—As used in this section, the term "appropriate committees of Congress" means the Select Committee on Intelligence, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate and the Permanent Select Committee on Intelligence, the Committee on International Relations, and the Committee on Appropriations of the House of Representatives.

SEC. 133. INTERNATIONAL CENTER RESERVE FUNDS.

Funds retained by the Secretary of State in the reserve for maintenance and security established pursuant to section 5 of the International Center Act (Public Law 90–533) may be deposited in interest bearing accounts, and the Secretary may retain for the purposes set forth in that section any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

SEC. 134. JOINT FUNDS UNDER AGREEMENTS FOR COOPERATION IN ENVIRONMENTAL, SCIENTIFIC, CULTURAL AND RELATED AREAS.

In order to promote the maximum benefits from continued participation in international *agreements in effect as of the date of enactment of this Act for cooperation in environmental, scientific, cultural and related areas, appropriated funds that have been made available in fiscal years 1995 and prior fiscal years under the Department of State's program of international environmental, scientific, and cultural cooperation to joint funds or accounts under such agreements may, to the extent specified within the agreement, be deposited in interest bearing accounts prior to disbursement of such funds for the purposes of the program. Interest earned may be retained for use under such agreements for program or administrative purposes, without returning such interest to the Treasury of the United States and without further appropriation by Congress.*

SEC. 135. UNITED STATES DIPLOMATIC FACILITIES IN KOSOVA.

The Secretary of State is authorized to lease or otherwise acquire an office and residence in Pristina, Kosova, for use by United States diplomatic or consular personnel.

SEC. 136. ANTIBRIBERY STUDY.

(a) Findings.—The Congress finds that—

(1) United States nationals and companies, and their foreign subsidiaries, are prohibited from bribing foreign officials under the Foreign Corrupt Practices Act of 1977 (Public Law 95–213);

(2) United States trade competitors and nationals of other industrialized countries are not prohibited by law from utilizing bribes in retaining or obtaining foreign procurement contracts;

(3) some countries permit a deduction for income tax purposes for bribes paid to secure foreign business;

(4) effective anticorruption statutes include criminal, commercial, civil, and administrative laws prohibiting bribery of foreign public officials, tax laws which make bribery unprofitable, transparent business accounting requirements that ensure proper recording of relevant payments and appropriate inspection of such records, prohibitions on licenses, government procurement contracts, and public subsidies, and substantial monetary fines for bribery;

(5) the Organization for Economic Cooperation and Development passed a resolution on May 27, 1994, recommending that OECD Member states "deter, prevent, and combat the bribery of foreign public officials in connection with international business transactions"; and

(6) these initiatives will help strengthen vibrant international trade and export markets and ensure fair competitive conditions for United States exporters.

(b) Sense of Congress.—It is the sense of the Congress that the United States should strongly urge universal adoption of the principles set forth in the Foreign Corrupt Practices Act of 1977 (Public Law 95–213) in order that adopting countries implement effective means, in accordance with the legal and jurisdictional principles of such countries, of combating bribery of foreign public officials, including the imposition of administrative, civil, and criminal sanctions for such bribery.

(c) Study.—The Secretary of State shall conduct a study to develop, in consultation with the Secretary of Commerce, the Director of the Central Intelligence Agency, the Agency for International Development, the Overseas Private Investment Corporation, the Trade and Development Agency, and the Export-Import Bank of the United States, proposals to end the discrimination against United States exports that result from bribery and corruption in international business transactions.

(d) Report.—The Secretary of State shall submit a report containing the proposals developed under subsection (c) to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives not later than 90 days after the date of enactment of this Act. The report and proposals provided to such committees shall—

(1) take into account, discuss, and analyze the laws of our ten primary trade competitors which govern bribery and corruption in overseas business transactions, and include recommendations for the implementation of the resolution on bribery passed by the Organization for Economic Cooperation and Development on May 27, 1994;

(2) include specific recommendations for the universal adoption of the principles set forth in the Foreign Corrupt Practices Act of 1977 (Public Law 95–213);

(3) analyze the feasibility of United States embassies assisting United States businesses when competing for overseas contracts by disclosing information about bribery or corruption of other foreign nationals competing for the contract; and

(4) make recommendations for any legislation which may be necessary or appropriate to carry out such proposals.

(e) Definition.—For the purposes of this section, the term "bribery", in the case of a corporation, means the direct or indirect offer or provision by the corporation of any undue pecuniary or other advantage to or for an individual in order to procure business and business contract for the corporation or its subsidiaries.

SEC. 137. BUDGET ACT COMPLIANCE.

The authorities contained in the amendments made in sections 121, 123, 125, 128, 130, 133, 134, 148, 161, and 163 of this Act may be exercised only to the extent or in the amounts provided in appropriations Acts.

CHAPTER 3—PERSONNEL

SEC. 141. AUTHORIZED STRENGTH OF THE FOREIGN SERVICE.

(a) End Fiscal Year 1996 Levels.—The number of members of the Foreign Service authorized to be employed as of September 30, 1996—

(1) for the Department of State, shall not exceed 8,700, of whom not more than 740 shall be members of the Senior Foreign Service;

(2) for the United States Information Agency, shall not exceed 900, of whom not more than 155 shall be members of the Senior Foreign Service; and

(3) for the Agency for International Development, shall not exceed 900, of whom not more than 125 shall be members of the Senior Foreign Service.

(b) End Fiscal Year 1997 Levels.—The number of members of the Foreign Service authorized to be employed as of September 30, 1997—

(1) for the Department of State, shall not exceed 8,500, of whom not more than 700 shall be members of the Senior Foreign Service;

(2) for the United States Information Agency, shall not exceed 800, of whom not more than 140 shall be members of the Senior Foreign Service; and

(3) for the Agency for International Development, shall not exceed 650, of whom not more than 75 shall be members of the Senior Foreign Service.

(c) Definition.—For the purposes of this section, the term "members of the Foreign Service" is used within the meaning of such term under section 103 of the Foreign Service Act of 1980 (22 U.S.C 3903), except that such term does not include—

(1) members of the Service under paragraphs (6) and (7) of such section;

(2) members of the Service serving under temporary resident appointments abroad;

(3) members of the Service employed on less than a full-time basis;

(4) members of the Service subject to involuntary separation in cases in which such separation has been suspended pursuant to section 1106(8) of the Foreign Service Act of 1980; and

(5) members of the Service serving under noncareer limited appointments.

(d) Exceptions.—(1)(A) Except as provided in subparagraph (B), the numerical limitations contained in subsections (a) and (b) shall not apply to Foreign Service personnel serving under noncareer limited appointments.

(B) The number of Foreign Service personnel serving under noncareer limited appointments may not exceed—

(i) for fiscal year 1996, 5 percent of the aggregate numerical limitation on members of the Foreign Service contained in subsection (a); and

(ii) for each of the fiscal years 1997, 1998, and 1999, 7 percent of the aggregate numerical limitation on members of the Foreign Service contained in subsection (a).

(2) The Secretary of State is encouraged to utilize Foreign Service personnel serving under noncareer limited appointments to perform duties relating to—

(A) export promotion and trade;

(B) information management systems; and

(C) the provision of medical services.

(3) Notwithstanding any other provision of law, the Secretary of State may terminate the appointment of any member of the Foreign Service serving under a noncareer limited appointment before the expiration of the period of the appointment.

SEC. 142. RESTRICTION ON LOBBYING ACTIVITIES OF FORMER UNITED STATES CHIEFS OF MISSION.

Section 207(d)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) in subparagraph (C), by inserting "or" after "title 3,"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) serves in the position of chief of mission (as defined in section 102(3) of the Foreign Service Act of 1980),".

SEC. 143. FOREIGN SERVICE GROUNDING IN UNITED STATES BUSINESS.

It is the sense of the Congress that the Secretary of State, in consultation with the Secretary of Commerce, should require the National Center for Humanities, Education, Languages, and Management Studies, as redesignated by section 152 of this Act, to significantly increase the emphasis on commercial activity, export promotion, and trade in carrying out its core programs and should offer additional classes in such subjects.

SEC. 144. FOREIGN AFFAIRS ADMINISTRATIVE SUPPORT.

(a) Authorization.—The Secretary of State, after consulting with the heads of the other United States Government agencies maintaining personnel overseas, is authorized to establish a financial system by which the Department of State is reimbursed by other agencies of the United States Government that maintain an overseas presence for the incremental expenses incurred by the Department in providing administrative support to such agencies at United States posts abroad.

(b) Establishment of a Committee.—The President shall establish an interagency committee consisting of representatives from United States Government agencies maintaining a significant number of personnel overseas and headed by the Secretary of State, for the purpose of implementing subsection (a). The committee shall develop rules and regulations governing—

(1) a dispute settlement mechanism to resolve interagency disputes over the provision of administrative services at posts abroad and over reimbursement levels; and

(2) formulas for cost-assessment formulation, either on a per capita basis or on a fee-for-service basis with the following principle: all direct

and indirect costs should be fully recovered by the Department, including services such as the Community Liaison Officer, building operating expenses and local guards, and such other expenses as the committee determines necessary to be covered.

(c) WORKING CAPITAL FUND.—There is hereby established on the books at the Treasury an account into which the Secretary of State may deposit payments received from any United States agency participating in the financial system established under subsection (a). Amounts in the account shall be available without fiscal year limitation.

SEC. 145. FOREIGN SERVICE REFORM.

(a) APPOINTMENTS BY THE PRESIDENT.—Section 302(b) of the Foreign Service Act of 1980 (22 U.S.C. 3942(b)) is amended in the second sentence—

(1) by striking "may elect to" and inserting "shall"; and

(2) by striking "Service," and all that follows and inserting "Service.".

(b) PERFORMANCE PAY.—Section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965) is amended—

(1) in subsection (a), by striking "Members" and inserting "Subject to subsection (e), members"; and

(2) by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of law, the Secretary of State may provide for recognition of the meritorious or distinguished service of a member of the Foreign Service described in subsection (a) (including members of the Senior Foreign Service) by means other than an award of performance pay in lieu of making such an award under this section.".

(c) EXPEDITED SEPARATION OUT.—The Secretary of State shall develop and implement not later than 90 days after the date of enactment of this Act procedures to identify, and recommend for separation, members of the Foreign Service ranked by promotion boards in the bottom five percent of their class for any two of the five preceding years.

(d) UNIFORM ADMINISTRATION OF THE FOREIGN SERVICE.—(1) Section 101(b)(9) of the Foreign Service Act of 1980 (22 U.S.C. 3901(b)(9)) is amended to read as follows:

"(9) establishing a consolidated and uniform administration of a single Foreign Service of the United States by the Director General of the Foreign Service, under the direction of the President and the Secretary of State; and".

(2) Section 203(a) of the Foreign Service Act of 1980 (22 U.S.C. 3923(a)) is amended by amending the first sentence to read as follows: "There is one Foreign Service, and any agency that seeks to utilize the authorities of the Foreign Service Act of 1980 shall do so in strict conformance with the common standards and procedures set out by the Director General of the Foreign Service under the authority of the Secretary of State.".

SEC. 146. LIMITATIONS ON MANAGEMENT ASSIGNMENTS.

Section 1017(e)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4117(e)(2)) is amended to read as follows:

"(2) For the purposes of paragraph (1)(A)(ii) and paragraph (1)(B), the term 'management official' does not include chiefs of mission, principal officers or their deputies, administrative and personnel officers abroad, or individuals described in section 1002(12) (B), (C), and (D) who are not involved in the administration of this chapter or in the formulation of the personnel policies and programs of the Department.".

SEC. 147. REPORT ON PROMOTION AND RETENTION OF PERSONNEL.

Section 601(c)(4) of the Foreign Service Act of 1980 (22 U.S.C. 4001(c)(4)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) include on a biannual basis the comments of the Inspector General for Foreign Affairs with respect to the adequacy of the report on the matters described in this paragraph.".

SEC. 148. RECOVERY OF COSTS OF HEALTH CARE SERVICES.

(a) AUTHORITIES.—Section 904 of the Foreign Service Act of 1980 (22 U.S.C. 4084) is amended—

(1) in subsection (a), by striking "and" before "members of the families of such members and employees" and inserting before the period ", and (for care provided abroad) such other persons as are designated by the Secretary of State, except that such persons shall be considered persons other than covered beneficiaries for purposes of subsections (g) and (h)";

(2) in subsection (d), by inserting ", subject to the provisions of subsections (g) and (h)" before the period; and

(3) by adding at the end the following new subsections:

"(g)(1) In the case of a person who is a covered beneficiary, the Secretary of State is authorized to collect from a third party payer the reasonable costs incurred by the Department of State on behalf of such person for health care services to the same extent that the covered beneficiary would be eligible to receive reimbursement or indemnification from the third party payer for such costs.

"(2) If the insurance policy, plan, contract, or similar agreement of that third party payer includes a requirement for a deductible or copayment by the beneficiary of the plan, then the Secretary of State may collect from the third party payer only the reasonable cost of the care provided less the deductible or copayment amount.

"(3) A covered beneficiary shall not be required to pay any deductible or copayment for health care services under this subsection.

"(4) No provision of any insurance, medical service, or health plan contract or agreement having the effect of excluding from coverage or limiting payment of charges for care in the following circumstances shall operate to prevent collection by the Secretary of State under paragraph (1):

"(A) Care provided directly or indirectly by a governmental entity.

"(B) Care provided to an individual who has not paid a required deductible or copayment.

"(C) Care provided by a provider with which the third party payer has no participation agreement.

"(5) No law of any State, or of any political subdivision of a State, and no provision of any contract or agreement, shall operate to prevent or hinder recovery or collection by the United States under this section.

"(6) As to the authority provided in paragraph (1) of this subsection—

"(A) the United States shall be subrogated to any right or claim that the covered beneficiary may have against a third party payer;

"(B) the United States may institute and prosecute legal proceedings against a third party payer to enforce a right of the United States under this subsection; and

"(C) the Secretary may compromise, settle, or waive a claim of the United States under this subsection.

"(7) The Secretary shall prescribe regulations for the administration of this subsection and subsection (h). Such regulations shall provide for computation of the reasonable cost of health care services.

"(8) Regulations prescribed under this subsection shall provide that medical records of a covered beneficiary receiving health care under this subsection shall be made available for inspection and review by representatives of the payer from which collection by the United States is sought for the sole purposes of permitting the third party to verify—

"(A) that the care or services for which recovery or collection is sought were furnished to the covered beneficiary; and

"(B) that the provision of such care or services to the covered beneficiary meets criteria generally applicable under the health plan contract involved, except that this subsection shall be subject to the provisions of paragraphs (2) and (4).

"(9) Amounts collected under this subsection or under subsection (h) from a third party payer or from any other payer shall be deposited as an offsetting collection to any Department of State appropriation and shall remain available until expended.

"(10) In this section:

"(A) The term 'covered beneficiary' means an individual eligible to receive health care under this section whose health care costs are to be paid by a third party payer under a contractual agreement with such payer.

"(B) The term 'services' as used in 'health care services' includes products.

"(C) The term 'third party payer' means an entity that provides a fee-for-service insurance policy, contract or similar agreement through the Federal Employees Health Benefit program, under which the expenses of health care services for individuals are paid.

"(h) In the case of a person, other than a covered beneficiary, who receives health care services pursuant to this section, the Secretary of State is authorized to collect from such person the reasonable costs of health care services incurred by the Department of State on behalf of such person. The United States shall have the same rights against persons subject to the provisions of this subsection as against third party payers covered by subsection (g).".

(b) EFFECTIVE DATE.—The authorities of this section shall be effective beginning October 1, 1996.

SEC. 149. NONOVERTIME DIFFERENTIAL PAY.

Title 5 of the United States Code is amended—

(1) in section 5544(a), by inserting after the fourth sentence the following new sentence: "For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which additional pay is authorized by the preceding sentence."; and

(2) at the end of section 5546(a), by adding the following new sentence: "For employees serving outside the United States in areas where Sunday is a routine workday and another day of the week is officially recognized as the day of rest and worship, the Secretary of State may designate the officially recognized day of rest and worship as the day with respect to which additional pay is authorized by the preceding sentence.".

SEC. 150. ACCESS TO RECORDS.

Section 1108 of the Foreign Service Act of 1980 (22 U.S.C. 4138) is amended by adding at the end the following new subsection:

"(f) As used in this section, the term "agency records" does not include records created or maintained by the Office of the Inspector General of the employing agency. That Office may, in its discretion, provide the Board records or information relevant to a grievance.".

SEC. 151. TRAINING.

Section 701 of the Foreign Service Act of 1980 (22 U.S.C. 4021) is amended—

(1) by redesignating subsection (d)(4) as subsection (g); and

(2) by inserting after subsection (d)(3) the following new subsections:

"(e)(1) The Secretary is authorized to provide appropriate training through the institution to employees of United States companies that are engaged in business abroad, and to the families of such employees, when such training is in the national interest of the United States.

"(2) In the case of companies that are under contract to provide services to the Department of State, the Secretary is authorized to provide job-related training to the companies' employees who are performing such services.

"(3) Training under this subsection shall be on a reimbursable or advance-of-funds basis. Such reimbursements or advances shall be credited to the currently available applicable appropriation account.

"(4) Training under this subsection is authorized only to the extent that it will not interfere with the institution's primary mission of training employees of the Department and of other agencies in the field of foreign relations.

"(f)(1) The Secretary is authorized to provide on a reimbursable basis foreign language training programs to Members of Congress.

"(2) Nonexecutive branch staff members may participate on reimbursable, space-available basis in foreign language programs offered by the institution.

"(3) Reimbursements collected under this subsection shall be credited to the currently available applicable appropriation account.".

SEC. 152. REDESIGNATION OF NATIONAL FOREIGN AFFAIRS TRAINING CENTER.

The National Foreign Affairs Training Center is hereby redesignated as the "National Center for Humanities, Education, Languages, and Management Studies".

CHAPTER 4—CONSULAR AND RELATED ACTIVITIES

SEC. 161. FEE FOR DIVERSITY IMMIGRANT LOTTERY.

The Secretary of State may establish a fee to be paid by each immigrant issued a visa under subsection (c) of section 203 of the Immigration and Nationality Act (8 U.S.C. 1153(c)). Such fee may be set at a level so as to cover the full cost to the Department of State of administering that subsection, including the cost of processing all applications thereunder. All such fees collected shall be deposited as an offsetting collection to any Department of State appropriation and shall remain available for obligation until expended. The provisions of the Act of August 18, 1856 (Rev. Stat. 1726–28; 22 U.S.C. 4212–14), concerning accounting for consular fees, shall not apply to fees collected pursuant to this section.

SEC. 162. FEE FOR EXECUTION OF PASSPORT APPLICATIONS.

Section 1 of the Act of June 4, 1920 (41 Stat. 750; 22 U.S.C. 214) is amended by—

(1) inserting before the period at the end of the first sentence the following: "; except that the Secretary of State may by regulation authorize State officials or the United States Postal Service to collect and retain the execution fee for each application for a passport accepted by such officials or by that Service"; and

(2) striking the second sentence.

SEC. 163. FEES FOR MACHINE READABLE VISAS.

The Secretary of State is authorized to collect amounts under paragraph (1) of section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 8 U.S.C. 1351), not to exceed $150,000,000 for each of the fiscal years 1996, 1997, 1998, and 1999.

SEC. 164. CHILDREN ADOPTED ABROAD.

Section 101(b) of the Immigration and Nationality Act (8 U.S.C. 1101(b)) is amended—

(1) in paragraph (1)(A), by striking "legitimate child" and inserting "child born in wedlock"; and

(2) in paragraphs (1)(D) and (2), by striking "an illegitimate child" each time it appears and inserting "a child born out of wedlock".

SEC. 165. CONSULAR OFFICERS.

(a) PERSONS AUTHORIZED TO ISSUE REPORTS OF BIRTHS ABROAD.—Section 33 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2705) is amended in paragraph (2) by adding at the end the following: "For purposes of this paragraph, a consular officer shall include any United States citizen employee of the Department of State designated by the Secretary of State to adjudicate nationality abroad pursuant to such regulations as the Secretary may prescribe.".

(b) PROVISIONS APPLICABLE TO CONSULAR OFFICERS.—Section 31 of the Act of August 18, 1856 (Rev. Stat. 1689; 22 U.S.C. 4191), is amended by inserting after "such officers" the following: "and to such other United States citizen employees of the Department of State as may be designated by the Secretary of State pursuant to such regulations as the Secretary may prescribe".

(c) PERSONS AUTHORIZED TO AUTHENTICATE FOREIGN DOCUMENTS.—Section 3492(c) of title 18 of the United States Code is amended by adding at the end the following: "For purposes of this section and sections 3493 through 3496 of this title, a consular officer shall include any United States citizen employee of the Department of State designated to perform notarial functions pursuant to section 24 of the Act of August 18, 1856 (Rev. Stat. 1750; 22 U.S.C. 4221).".

(d) PERSONS AUTHORIZED TO ADMINISTER OATHS.—Section 115 of title 35 of the United States Code is amended by adding at the end the following: "For purposes of this section, a consular officer shall include any United States citizen employee of the Department of State designated to perform notarial functions pursuant to section 24 of the Act of August 18, 1856 (Rev. Stat. 1750; 22 U.S.C. 4221).".

(e) DEFINITION OF CONSULAR OFFICER.—Section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)) is amended by adding at the end the following new sentence: "As used in title III, the term "consular officer" includes any United States citizen employee of the Department of State designated by the Secretary of State to adjudicate nationality abroad pursuant to such regulations as the Secretary may prescribe.".

SEC. 166. EXCLUSION FROM THE UNITED STATES FOR MEMBERSHIP IN A TERRORIST ORGANIZATION.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) by striking "or" at the end of clause (i)(I);

(2) by inserting "or" at the end of clause (i)(II);

(3) by inserting after clause (i)(II) the following new subclause:

"(III) is a member of a terrorist organization or who actively supports or advocates terrorist activity,"; and

(4) by adding at the end the following new clause:

"(iv) TERRORIST ORGANIZATION DEFINED.—As used in this subparagraph, the term 'terrorist organization' means an organization that engages in, or has engaged in, terrorist activity as determined by the Attorney General, in consultation with the Secretary of State.".

SEC. 167. INCITEMENT AS A BASIS FOR EXCLUSION FROM THE UNITED STATES.

(a) IN GENERAL.—Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), as amended by this Act, is further amended—

(1) by striking "or" at the end of clause (i)(II);

(2) in clause (i)(III) by inserting "or" at the end; and

(3) by inserting after clause (i)(III) the following new subclause:

"(IV) has advocated terrorism or has incited targeted racial vilification or has advocated the death or destruction of United States citizens, United States Government officials, or the overthrow of the United States Government,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to aliens seeking to enter the United States on or after the date of enactment of this Act.

SEC. 168. VISIT OF THE PRESIDENT OF THE REPUBLIC OF CHINA ON TAIWAN.

Notwithstanding any other provision of law, the President of the Republic of China on Taiwan shall be admitted to the United States for a visit in 1995 with all appropriate courtesies.

SEC. 169. TERRORIST LOOKOUT COMMITTEES.

(a) ESTABLISHMENT.—(1) Not later than 30 days after the date of enactment of this Act, the Secretary of State shall establish within each United States Embassy a Terrorist Lookout Committee, which shall include the head of the political section and senior representatives of all United States law enforcement agencies and all elements of the intelligence community under the authority of the chief of mission.

(2) Each Committee shall be chaired by the respective deputy chief of mission, with the head of the consular section as vice chair.

(b) MEETINGS.—Each Terrorist Lookout Committee established under subsection (a) shall meet at least monthly and shall maintain records of its meetings. Upon the completion of each meeting, each Committee shall report to the Department of State all names submitted for inclusion in the visa lookout system.

(c) CERTIFICATION.—If no names are submitted upon completion of a meeting under subsection (b), the deputy chief of mission shall certify to the Secretary of State, subject to potential application the Accountability Review Board provisions of title III of the Omnibus Diplomatic Security and Antiterrorism Act of 1986, that none of the relevant sections of the United States Embassy had knowledge of the identity of any individual eligible for inclusion in the visa lookout system for possible terrorist activity.

(d) REPORT.—The Secretary of State shall submit a report on a quarterly basis to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on the status of the Terrorist Lookout Committees.

SEC. 170. SENSE OF CONGRESS ON BORDER CROSSING FEES.

(a) FINDINGS.—The Congress finds that—

(1) in the budget of the United States for fiscal year 1996 that was submitted to Congress, the President proposed to impose and collect a border crossing fee for individuals and vehicles entering the United States;

(2) both the Canadian and Mexican governments have expressed opposition to the imposition and collection of such a fee and have raised the possibility of imposing retaliatory border crossing fees of their own;

(3) the imposition and collection of such a fee would have adverse affects on tourism and commerce that depend on travel across the borders of the United States;

(4) the imposition and collection of such a fee would have such effects without addressing illegal immigration in a meaningful way;

(5) on February 22, 1995, the President modified his proposal making the imposition of the new fees voluntary on United States border States (but tied the availability of Federal funds to improve border crossing infrastructure on their willingness to impose such fees); and

(6) on May 4, 1995, the President further modified the border crossing fee proposal in immigration control legislation he submitted to Congress setting a $1.50 per car and $.75 per pedestrian fee structure.

(b) Sense of the Congress.—It is the sense of the Congress that the United States Government should not impose or collect a border crossing fee along its borders with Canada and Mexico.

TITLE II—UNITED NATIONS

CHAPTER 1—FUNDING; BUDGETARY AND MANAGEMENT REFORM

SEC. 201. ASSESSED CONTRIBUTIONS TO THE UNITED NATIONS AND AFFILIATED AGENCIES.

There are authorized to be appropriated under the heading "Assessed Contributions to the United Nations and other International Organizations" (previously known as "Contributions to International Organizations") $777,000,000 for each of the fiscal years 1996, 1997, 1998, and 1999 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to the United Nations, its affiliated agencies, and other international organizations and to carry out other authorities in law consistent with such purposes.

SEC. 202. ASSESSED CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.

There are authorized to be appropriated for "Contributions for International Peacekeeping Activities", $445,000,000 for the fiscal year 1996, $375,000,000 for the fiscal year 1997, $300,000,000 for the fiscal year 1998, and $210,000,000 for the fiscal year 1999 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and to carry out other authorities in law consistent with such purposes.

SEC. 203. CALCULATION OF ASSESSED CONTRIBUTIONS.

It is the sense of the Congress that the United Nations General Assembly should reformulate the percentage shares of total assessed contributions to the United Nations payable by the member nations to reflect each nation's share of the total world gross national product.

SEC. 204. REFORM IN BUDGET DECISIONMAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.

(a) Assessed Contributions.—The President may withhold 20 percent of the funds appropriated pursuant to section 111 for the United States assessed contribution to the United Nations, or to any of its specialized agencies, for any calendar year, if the Secretary of State determines that the United Nations or any such agency has failed to implement or to continue to implement consensus-based decisionmaking procedures on budgetary matters which assure that sufficient attention is paid to the views of the United States and other member states who are major financial contributors to such assessed budgets.

(b) Notice to Congress.—The President shall notify the Congress when a decision is made to withhold any share of the United States assessed contribution to the United Nations or its specialized agencies pursuant to subsection (a) and shall notify the Congress when the decision is made to pay any previously withheld assessed contribution. A notification under this subsection shall include appropriate consultation between the President (or the President's representative) and the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(c) Report to Congress.—Not later than February 1 of each year, the President shall submit to the Congress a report concerning the amount of United States assessed contributions paid to the United Nations and each of its specialized agencies during the preceding calendar year.

SEC. 205. UNITED NATIONS BUDGETARY AND MANAGEMENT REFORM.

(a) In General.—The United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.) is amended by adding at the end the following new section:

"SEC. 10. UNITED NATIONS BUDGETARY AND MANAGEMENT REFORM.

"(a) Withholding of Contributions.—

"(1) Assessed contributions for regular United Nations budget.—At the beginning of each fiscal year, 20 percent of the amount of funds made available for that fiscal year for United States assessed contributions for the regular United Nations budget shall be withheld from obligation and expenditure unless a certification for that fiscal year has been made under subsection (b).

"(2) Assessed contributions for United Nations peacekeeping.—At the beginning of each fiscal year, 50 percent of the amount of funds made available for that fiscal year for United States assessed contributions for United Nations peacekeeping activities shall be withheld from obligation and expenditure unless a certification for that fiscal year has been made under subsection (b).

"(3) Voluntary contributions for United Nations peacekeeping.—The United States may not during any fiscal year pay any voluntary contribution to the United Nations for international peacekeeping activities unless a certification for that fiscal year has been made under subsection (b).

"(b) Certification.—The certification referred to in subsection (a) for any fiscal year is a certification by the President to the Congress, submitted on or after the beginning of that fiscal year, of each of the following:

"(1) The United Nations has an independent office of Inspector General to conduct and supervise objective audits, inspections, and investigations relating to programs and operations of the United Nations.

"(2) The United Nations has an Inspector General who was appointed by the Secretary General with the approval of the General Assembly and whose appointment was made principally on the basis of the appointee's integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigation.

"(3) The Inspector General is authorized to—

"(A) make investigations and reports relating to the administration of the programs and operations of the United Nations;

"(B) have access to all relevant records, documents, and other available materials relating to those programs and operations; and

"(C) have direct and prompt access to any official of the United Nations.

"(4) The United Nations has fully implemented, and made available to all member states, procedures designed to protect the identity of, and prevent reprisals against, any staff member of the United Nations making a complaint or disclosing information to, or cooperating in any investigation or inspection by, the United Nations Inspector General.

"(5) The United Nations has fully implemented procedures designed to ensure compliance with recommendations of the United Nations Inspector General.

"(6) The United Nations has required the United Nations Inspector General to issue an annual report and has ensured that the annual report and all other relevant reports of the Inspector General are made available to the General Assembly without modification.

"(7) The United Nations is committed to providing, sufficient budgetary resources to ensure the effective operation of the United Nations Inspector General.".

(b) Effective Date.—Section 11 of the United Nations Participation Act of 1945, as added by subsection (a), shall apply only with respect to fiscal years after fiscal year 1995.

SEC. 206. WHISTLEBLOWER PROVISION.

The President shall withhold 10 percent of the funds made available under this Act for each of the fiscal years 1996, 1997, 1998, and 1999 for United States assessed contributions for the regular United Nations budget until the Secretary of State certifies to Congress that—

(1) the United Nations has developed and implemented policies and regulations to protect employees who allege or report instances of fraud or mismanagement, and

(2) the Office of Internal Oversight Services (OIOS) within the United Nations Secretariat has reviewed those policies and regulations and found, in writing, that they offer adequate safeguards against retaliation for such employees.

CHAPTER 2—UNITED NATIONS PEACEKEEPING

SEC. 211. ANNUAL REPORT ON UNITED STATES CONTRIBUTIONS TO UNITED NATIONS PEACEKEEPING ACTIVITIES.

Section 4(d)(1) of the United Nations Participation Act of 1945 (22 U.S.C. 287b(d)(1)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) A description of the anticipated budget for the next fiscal year for United States participation in United Nations peacekeeping activities, including a statement of—

"(i) the aggregate amount of funds available to the United Nations for that fiscal year, including assessed and voluntary contributions, which may be made available for United Nations peacekeeping activities; and

"(ii) the aggregate amount of funds (from all accounts) and the aggregate costs of in-kind contributions that the United States proposes to make available to the United Nations for that fiscal year for United Nations peacekeeping activities.".

SEC. 212. PRIOR CONGRESSIONAL NOTIFICATION OF SECURITY COUNCIL VOTES ON UNITED NATIONS PEACEKEEPING ACTIVITIES.

Section 4 of the United Nations Participation Act of 1945 (22 U.S.C. 287b) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) Notice to Congress of Proposed United Nations Peacekeeping Activities.—(1) Except as provided in paragraph (2), at least 5 days before any vote in the Security Council to initiate, expand, or modify any United Nations peacekeeping activity or any other action under the Charter of the United Nations which would involve the use of United States Armed Forces or the expenditure of United States funds, the President shall submit to the designated congressional committees a notification with respect to the proposed action. The notification shall include the following:

"(A) A cost assessment of such action (including the total estimated cost and the United States share of such cost).

"(B) Identification of the source of funding for the United States share of the costs of the action (whether in an annual budget request, reprogramming notification, a rescission of funds, a budget amendment, or a supplemental budget request).

"(2)(A) If the President determines that an emergency exists which prevents submission of the 5-day advance notification specified in paragraph (1) and that the proposed action is in the national security interests of the United

States, the notification described in paragraph (1) shall be provided in a timely manner but no later than 48 hours after the vote by the Security Council.

"(B) Determinations made under subparagraph (A) may not be delegated.".

SEC. 213. CODIFICATION OF REQUIRED NOTICE TO CONGRESS OF PROPOSED UNITED NATIONS PEACEKEEPING ACTIVITIES.

(a) REQUIRED NOTICE.—Section 4 of the United Nations Participation Act of 1945 (22 U.S.C. 287b) is amended—

(1) by striking the second sentence of subsection (a);

(2) by redesignating subsections (e) and (f) (as redesignated by the preceding section) as subsections (f) and (g), respectively; and

(3) by inserting after subsection (d) a new subsection (e) consisting of the text of subsection (a) of section 407 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), revised—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by inserting "in written form not later than the 10th day of" after "shall be provided";

(ii) in subparagraph (A)(iv), by inserting "(including facilities, training, transportation, communication, and logistical support, but not including intelligence activities reportable under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.))" after "covered by the resolution"; and

(iii) in subparagraph (B), by adding at the end the following new clause:

"(iv) A description of any other United States assistance to or support for the operation (including facilities, training, transportation, communication, and logistical support, but not including intelligence activities reportable under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.)), and an estimate of the cost to the United States of such assistance or support.";

(B) by striking paragraph (3);

(C) by redesignating paragraph (4) as paragraph (3) and in the last sentence of subparagraph (A) of that paragraph by striking "and (ii)" and inserting "through (iv)";

(D) by inserting after paragraph (3) (as so redesignated) the following new paragraph:

"(4) NEW UNITED NATIONS PEACEKEEPING OPERATION DEFINED.—As used in paragraphs (2)(B) and (3), the term 'new United Nations peacekeeping operation' includes any existing or otherwise ongoing United Nations peacekeeping operation—

"(A) that is to be expanded by more than 25 percent during the period covered by the Security Council resolution, as measured by either the number of personnel participating (or authorized to participate) in the operation or the budget of the operation; or

"(B) that is to be authorized to operate in a country in which it was not previously authorized to operate."; and

(E) in paragraph (5)—

(i) by striking "(5) NOTIFICATION" and all that follows through "(B) The President" and inserting "(5) QUARTERLY REPORTS.—The President"; and

(ii) by striking "section 4(d)" and all that follows through "of this section)" and inserting "subsection (d)".

(b) CONFORMING REPEAL.—Subsection (a) of section 407 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), is repealed.

(c) DESIGNATED CONGRESSIONAL COMMITTEES.—Subsection (g) of section 4 of the United Nations Participation Act of 1945 (22 U.S.C. 287b(g)), as redesignated by subsection (a), is amended to read as follows:

"(g) DESIGNATED CONGRESSIONAL COMMITTEES.—As used in this section, the term 'designated congressional committees' has the meaning given such term in section 11(d).".

SEC. 214. LIMITATION ON ASSESSMENT PERCENTAGE FOR PEACEKEEPING ACTIVITIES.

(a) AMENDMENT TO THE UNPA.—The United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 11. CONTRIBUTIONS FOR PEACEKEEPING ACTIVITIES.

"(a) REASSESSMENT OF CONTRIBUTION PERCENTAGES.—The Permanent Representative of the United States to the United Nations should make every effort to ensure that the United Nations completes an overall review and reassessment of each nation's assessed contributions for United Nations peacekeeping operations. As part of the overall review and assessment, the Permanent Representative should make every effort to advance the concept that, when appropriate, host governments and other governments in the region where a United Nations peacekeeping operation is carried out should bear a greater burden of its financial cost.

"(b) LIMITATION ON ASSESSED CONTRIBUTION WITH RESPECT TO A PEACEKEEPING OPERATION.—(1) Funds authorized to be appropriated for 'Contributions for International Peacekeeping Activities' for any fiscal year shall not be available for the payment of the United States assessed contribution for a United Nations peacekeeping operation in an amount which is greater than 25 percent of the total amount of all assessed contributions for that operation, and any arrearages that accumulate as a result of assessments in excess of 25 percent of the total amount of all assessed contributions for any United Nations peacekeeping operation shall not be recognized or paid by the United States.

"(2) Any penalties, interest, or other charges imposed on the United States in connection with such contributions shall be credited as a part of the percentage limitation contained in the preceding sentence.".

(b) EFFECTIVE DATE.—The limitation contained in section 11(b) of the United Nations Participation Act of 1945, as added by subsection (a), shall apply only with respect to funds authorized to be appropriated for "Contributions for International Peacekeeping Activities" for fiscal years after fiscal year 1995.

(c) CONFORMING REPEAL.—Section 404 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, is repealed.

SEC. 215. BUY AMERICA REQUIREMENT.

Section 11 of the United Nations Participation Act of 1945 is amended by adding after subsection (b), as added by this Act, the following new subsections:

"(c) BUY AMERICA REQUIREMENT.—No funds may be obligated or expended to pay any United States assessed or voluntary contribution for United Nations peacekeeping activities unless the Secretary of State determines and certifies to the designated congressional committees that United States manufacturers and suppliers are being given opportunities to provide equipment, services, and material for such activities equal to those being given to foreign manufacturers and suppliers.

"(d) DESIGNATED CONGRESSIONAL COMMITTEES DEFINED.—As used in this section, the term 'designated congressional committees' means—

"(1) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

"(2) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.".

SEC. 216. RESTRICTIONS ON INTELLIGENCE SHARING WITH THE UNITED NATIONS.

The United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.) is amended by adding at the end the following new section:

"SEC. 12. RESTRICTIONS ON INTELLIGENCE SHARING WITH THE UNITED NATIONS.

"(a) PROVISION OF INTELLIGENCE INFORMATION TO THE UNITED NATIONS.—(1) No United States intelligence information may be provided to the United Nations or any organization affiliated with the United Nations, or to any officials or employees thereof, unless the President certifies to the appropriate committees of Congress that the Director of Central Intelligence (in this section referred to as the 'DCI'), in consultation with the Secretary of State and the Secretary of Defense, has established and implemented procedures, and has worked with the United Nations to ensure implementation of procedures, for protecting from unauthorized disclosure United States intelligence sources and methods connected to such information.

"(2) Paragraph (1) may be waived upon written certification by the President to the appropriate committees of Congress that providing such information to the United Nations or an organization affiliated with the United Nations, or to any officials or employees thereof, is in the national security interests of the United States.

"(b) PERIODIC AND SPECIAL REPORTS.—(1) The President shall report semiannually to the Select Committee on Intelligence and the Committee on Foreign Relations of the Senate and the Permanent Select Committee on Intelligence and the Committee on International Relations of the House of Representatives on the types and volume of intelligence provided to the United Nations and the purposes for which it was provided during the period covered by the report. The President shall also report to the Select Committee on Intelligence and the Committee on Foreign Relations of the Senate and the Permanent Select Committee on Intelligence and the Committee on International Relations of the House of Representatives within 15 days after it has become known to the United States Government that there has been an unauthorized disclosure of intelligence provided by the United States to the United Nations.

"(2) The requirement for periodic reports under the first sentence of paragraph (1) shall not apply to the provision of intelligence that is provided only to, and for the use of, appropriately cleared United States Government personnel serving with the United Nations.

"(c) DELEGATION OF DUTIES.—The President may not delegate or assign the duties of the President under this section.

"(d) RELATIONSHIP TO EXISTING LAW.—Nothing in this section shall be construed to—

"(1) impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(5)); or

"(2) supersede or otherwise affect the provisions of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

"(e) DEFINITION.—As used in this section, the term 'appropriate committees of Congress' means the Select Committee on Intelligence and the Committee on Foreign Relations of the Senate and the Permanent Select Committee on Intelligence and the Committee on International Relations of the House of Representatives.".

SEC. 217. UNPROFOR FUNDING RESTRICTIONS.

None of the funds authorized to be appropriated by this Act may be made available for contributions to the United Nations Protection

Force (UNPROFOR) unless the President certifies and reports to the Congress during the calendar years in which the funds are to be provided that—

(1) the Government of the Republic of Bosnia and Herzegovina supports the continued presence of UNPROFOR within its territory;

(2) UNPROFOR is effectively implementing its mandate under United Nations Security Council resolutions 761, 776, 786, 836, and 958, and is effectively encouraging compliance with United Nations Security Council resolutions 752, 757, 770, 771, 787, 820, 824, and 942;

(3) UNPROFOR is providing full cooperation and support to the efforts of the United Nations War Crimes Tribunal for the former Yugoslavia to investigate war crimes and to apprehend and prosecute suspected war criminals;

(4) UNPROFOR is providing full cooperation and support to United States diplomatic, military, and relief personnel in Bosnia, to include transportation and accurate information; and

(5) UNPROFOR has investigated and taken appropriate action against any UNPROFOR civilian or military personnel suspected of participating in illegal or improper activities, such as black marketeering, embezzlement, expropriation of property, and assaults on civilians.

SEC. 218. ESCALATING COSTS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.

(a) FINDINGS.—The Congress finds that—

(1) in fiscal year 1989 the United States provided $29,000,000 to the United Nations for assessed United States contributions for international peacekeeping activities, compared to $485,000,000 paid for combined assessed contributions for all other international organizations, including the United Nations, all United Nations specialized agencies and the Organization for American States and all other pan American international organizations;

(2) in fiscal year 1994 United States assessed contributions to the United Nations for international peacekeeping activities had grown to $1,072,000,000, compared to $860,000,000 for combined assessed contributions for all other international organizations;

(3) for fiscal year 1995 the President requested a $672,000,000 United Nations peacekeeping supplemental appropriation which, if approved, would have been a direct increase in the Federal budget deficit and would have brought fiscal year 1995 total appropriations for assessed contributions for United Nations peacekeeping activities to $1,025,000,000;

(4) for fiscal year 1995 the President also requested supplemental appropriations of $1,900,000,000 to cover the Department of Defense's unbudgeted costs for humanitarian and peacekeeping missions in Haiti, Kuwait and Bosnia, which are in addition to regular United States assessed contributions to the United Nations for peacekeeping activities; and

(5) for fiscal year 1996 the President requested $445,000,000 for assessed contributions to the United Nations for international peacekeeping activities, a funding level most observers believe to be a significant understatement of actual peacekeeping obligations the Administration has committed the United States to support and which, if accurate, would lead to the third year in a row in which the Administration requests supplemental appropriations for assessed contributions to international peacekeeping in excess of $600,000,000 outside of the regular budget process.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Executive Branch should cease obligating the United States to pay for international peacekeeping operations in excess of funds specifically authorized and appropriated for this purpose.

SEC. 219. DEFINITION.

The United Nations Participation Act of 1945, as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 13. DEFINITION.

"For purposes of this Act, the term 'United Nations peacekeeping activities' means any peacekeeping, peacemaking, peace-enforcing, or similar activity that is authorized by the United Nations Security Council under chapter VI or VII of the Charter of the United Nations, the costs of which will be assessed by the United Nations to its member countries.".

TITLE III—OTHER INTERNATIONAL ORGANIZATIONS

CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. INTERNATIONAL CONFERENCES AND CONTINGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for "International Conferences and Contingencies", $7,000,000 for the fiscal year 1996, $5,000,000 for the fiscal year 1997, $4,000,000 for the fiscal year 1998, and $4,000,000 for the fiscal year 1999 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies and to carry out other authorities in law consistent with such purposes.

(b) CONDITIONAL AUTHORITY.—

(1) Subject to subparagraph (B), in addition to such amounts as are authorized to be appropriated under subsection (a), there is authorized to be appropriated for "International Conferences and Contingencies", $1,000,000 for the fiscal year 1996 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies and to carry out other authorities in law consistent with such purposes.

(2) The authorization of appropriations under paragraph (1) shall take effect only after the Secretary of State certifies to the appropriate congressional committees, with respect to any United Nations Fourth World Conference on Women that is held in Beijing, that—

(A) no funds of the Department of State were expended for travel by any United States official or delegate to the Fourth World Conference on Women, to be held in Beijing, August and September 1995, or

(B)(i) that the United States vigorously urged the United Nations to grant accreditation to a wide range of nongovernmental organizations, including United States-based groups representing Taiwanese and Tibetan women, in accordance with relevant international standards and precedents;

(ii) that the United States pressed the Government of China to issue visas equitably to representatives of accredited nongovernmental organizations;

(iii) that the United States encouraged the Government of China and the United Nations to provide the accredited nongovernmental organizations with access to the main conference site that is substantially equivalent in manner and degree to access afforded at previous major United Nations conferences;

(iv) that the United States delegation to the Fourth World Conference on Women vigorously and publicly supported access by representatives of accredited nongovernmental organizations to the conference, especially with respect to United States nongovernmental organizations;

(v) that the United States delegation to the Fourth World Conference on Women vigorously promoted universal respect for internationally recognized human rights, including the rights of women; and

(vi) that, if the goals of clauses (i), (ii), and (iii) were not fully accomplished, the United States issued a formal, public protest to the United Nations for such a departure from accepted international standards.

SEC. 302. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under "International Commissions" for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For "International Boundary and Water Commission, United States and Mexico"—

(A) for "Salaries and Expenses", $12,500,000 for the fiscal year 1996, $12,300,000 for the fiscal year 1997, $12,100,000 for the fiscal year 1998, and $12,000,000 for the fiscal year 1999; and

(B) for "Construction", $10,000,000 for the fiscal year 1996, $10,000,000 for the fiscal year 1997, $6,000,000 for the fiscal year 1998, and $6,000,000 for the fiscal year 1999.

(2) INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For "International Boundary Commission, United States and Canada", $740,000 for the fiscal year 1996, $720,000 for the fiscal year 1997, $700,000 for the fiscal year 1998, and $700,000 for the fiscal year 1999.

(3) INTERNATIONAL JOINT COMMISSION.—For "International Joint Commission", $3,500,000 for the fiscal year 1996, $3,500,000 for the fiscal year 1997, $3,500,000 for the fiscal year 1998, and $3,500,000 for the fiscal year 1999.

(4) INTERNATIONAL FISHERIES COMMISSIONS.—For "International Fisheries Commissions", $14,669,000 for the fiscal year 1996, $14,400,000 for the fiscal year 1997, $14,200,000 for the fiscal year 1998, and $14,000,000 for the fiscal year 1999.

SEC. 303. INTERNATIONAL BOUNDARY AND WATER COMMISSION.

The Act of May 13, 1924 (49 Stat. 660; 22 U.S.C. 277–277f), is amended in section 3 (22 U.S.C. 277b) by adding the following new subsection at the end:

"(d) Pursuant to the authority of subsection (a) and in order to facilitate further compliance with the terms of the Convention for Equitable Distribution of the Waters of the Rio Grande, May 21, 1906, United States-Mexico, the Secretary of State, acting through the United States Commissioner of the International Boundary and Water Commission, may make improvements to the Rio Grande Canalization Project, originally authorized by the Act of August 29, 1935 (49 Stat. 961). Such improvements may include all such works as may be needed to stabilize the Rio Grande in the reach between the Percha Diversion Dam in New Mexico and the American Diversion Dam in El Paso.".

SEC. 304. INTER-AMERICAN ORGANIZATIONS.

Taking into consideration the long-term commitment by the United States to the affairs of this Hemisphere and the need to build further upon the linkages between the United States and its neighbors, it is the sense of the Congress that the Secretary of State, in allocating the level of resources for international organizations, should pay particular attention to funding levels of the Inter-American organizations.

CHAPTER 2—GENERAL PROVISIONS

SEC. 311. INTERNATIONAL CRIMINAL COURT PARTICIPATION.

The United States may not participate in an international criminal court with jurisdiction over crimes of an international character except—

(1) pursuant to a treaty made in accordance with Article II, section 2, clause 2 of the Constitution; or

(2) as specifically authorized by enactment of legislation passed by Congress.

SEC. 312. PROHIBITION ON ASSISTANCE TO INTERNATIONAL ORGANIZATIONS ESPOUSING WORLD GOVERNMENT.

None of the funds made available by this Act shall be used—

(1) to pay the United States contribution to any international organization which engages in the direct or indirect promotion of the principle or doctrine of one world government or one world citizenship; or

(2) for the promotion, direct or indirect, of the principle or doctrine of one world government or one world citizenship.

SEC. 313. TERMINATION OF UNITED STATES PARTICIPATION IN CERTAIN INTERNATIONAL ORGANIZATIONS.

Notwithstanding any other provision of law, none of the funds authorized to be appropriated by this or any other Act may be used for payment of United States membership in any of the following organizations:

(1) The United Nations Industrial Development Organization (UNIDO).

(2) The Inter-American Indian Institute.

(3) The Pan American Railway Congress Association.

(4) The Interparliamentary Union.

SEC. 314. INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS.

(a) FINDINGS.—The Congress makes the following findings:

(1) On April 2, 1992, the Senate approved a resolution advising and consenting to ratification of the International Covenant on Civil and Political Rights, subject to reservations, understandings, declarations, and a proviso intended, inter alia, to protect the First Amendment rights of American citizens and other United States constitutional rights and practices.

(2) In accordance with the action of the Senate, the President deposited the United States instrument of ratification of the International Covenant on Civil and Political Rights on June 8, 1992, and the Covenant entered into force for the United States on September 8, 1992.

(3) On November 2, 1994, the Human Rights Committee, established under the Covenant to interpret the Covenant and to receive complaints of noncompliance, adopted General Comment No. 24 regarding reservations to the Covenant.

(4) In General Comment No. 24, the Human Rights Committee claimed for itself the power to judge the validity under international law of reservations to the Covenant, and in the purported exercise of this power asserted that reservations of the type included in the Senate resolution of ratification are invalid, and further asserted that invalid reservations will be read out of instruments of ratification, "in the sense that the Covenant will be operative for the reserving party without benefit of the reservation".

(5) The purpose and effect of General Comment No. 24 is to seek to nullify as a matter of international law the reservations, understandings, declarations, and proviso contained in the Senate resolution of ratification, thereby purporting to impose legal obligations on the United States never accepted by the United States.

(6) General Comment No. 24 threatens not only the Supremacy Clause of the United States Constitution and the constitutional authority of the Senate with respect to the approval of treaties, but also the First Amendment rights of American citizens and the other United States constitutional rights and practices protected by the reservations, understandings, declarations, and proviso contained in the Senate resolution of ratification.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Human Rights Committee established under the International Covenant on Civil and Political Rights should revoke its General Comment No. 24 adopted on November 2, 1994.

SEC. 315. UNITED STATES PARTICIPATION IN SINGLE COMMODITY INTERNATIONAL ORGANIZATIONS.

(a) REPORT ON PARTICIPATION IN SINGLE-COMMODITY ORGANIZATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall transmit to the committees referred to in subsection (b) a report that—

(1) identifies the national interests, if any, that are served by continuing United States participation in single-commodity international organizations;

(2) assesses the feasibility and desirability of the privatization of United States representation in such organizations; and

(3) sets forth options for achieving the privatization of the organizations if the Secretary determines that the privatization is feasible and desirable.

(b) DEFINITION.—The committees referred to in subsection (a) are the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

SEC. 316. PROHIBITION ON CONTRIBUTIONS TO THE INTERNATIONAL NATURAL RUBBER ORGANIZATION.

None of the funds authorized to be appropriated by this or any other Act may be used to fund any United States contribution to the International Natural Rubber Organization.

SEC. 317. PROHIBITION ON CONTRIBUTIONS TO THE INTERNATIONAL TROPICAL TIMBER ORGANIZATION.

None of the funds authorized to be appropriated by this or any other Act may be used to fund any United States contribution to the International Tropical Timber Organization.

SEC. 318. GENERAL ACCOUNTING OFFICE STUDY ON THE COST-EFFECTIVENESS AND EFFICIENCY OF INTERNATIONAL ORGANIZATIONS TO WHICH THE UNITED STATES MAKES CONTRIBUTIONS.

(a) COST-EFFECTIVENESS STUDY OF INTERNATIONAL ORGANIZATIONS TO WHICH THE UNITED STATES MAKES CONTRIBUTIONS.—The Comptroller General of the United States shall conduct a study on the cost-effectiveness and efficiency of the 51 organizations to which the United States makes contributions through the Department of State. Such study shall include, but not be limited to—

(1) an evaluation of whether such organizations undertake unique activities that are central to the conduct of American foreign policy and which are incapable of being performed directly by an agency of the United States Government; and

(2) an evaluation of each organization's operational effectiveness, and the potential consequences of terminated United States funding.

(b) REPORT TO CONGRESS.—Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit a report of the findings of such study to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

SEC. 319. SENSE OF CONGRESS ON UNITED NATIONS FOURTH WORLD CONFERENCE ON WOMEN IN BEIJING, CHINA.

It is the sense of the Congress that—

(1) the United Nations Fourth World Conference on Women in Beijing, China, should promote a representative American perspective on issues of equality, peace, and development; and

(2) in the event the United States sends a delegation to the Conference, the United States delegation should use the voice and vote of the United States—

(A) to ensure that the biological and social activity of motherhood is recognized as a valuable and worthwhile endeavor that should in no way, in its form or actions, be demeaned by society or by the state;

(B) to ensure that the traditional family is upheld as the fundamental unit of society upon which healthy cultures are built and, therefore, receives esteem and protection by society and the state; and

(C) to define or agree with any definitions that define gender as the biological classification of male and female, which are the two sexes of the human being.

TITLE IV—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS

CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

The following amounts are authorized to be appropriated to carry out international information activities, and educational and cultural exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the Radio Broadcasting to Cuba Act, the Television Broadcasting to Cuba Act, the Board for International Broadcasting Act, the Inspector General Act of 1978, the National Endowment for Democracy Act, and to carry out other authorities in law consistent with such purposes:

(1) SALARIES AND EXPENSES.—For "Salaries and Expenses", $429,000,000 for the fiscal year 1996, $387,000,000 for the fiscal year 1997. No funds are authorized to be appropriated for fiscal years 1998 and 1999.

(2) EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(A) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—For the "Fulbright Academic Exchange Programs", $109,500,000 for the fiscal year 1996, $101,000,000 for the fiscal year 1997, $93,000,000 for the fiscal year 1998, and $93,000,000 for the fiscal year 1999.

(B) OTHER PROGRAMS.—For other educational and cultural exchange programs authorized by law, $118,322,000 for the fiscal year 1996, $107,300,000 for the fiscal year 1997, $101,280,000 for the fiscal year 1998, and $101,280,000 for the fiscal year 1999.

(3) INTERNATIONAL BROADCASTING ACTIVITIES.—For "International Broadcasting Activities" under title III, $310,000,000 for the fiscal year 1996, $300,000,000 for the fiscal year 1997, $290,000,000 for the fiscal year 1998, and $290,000,000 for the fiscal year 1999.

(4) RADIO FREE EUROPE/RADIO LIBERTY.—For the activities of RFE/RL, Incorporated, there are authorized to be appropriated $75,000,000 for each of the fiscal years 1996, 1997, 1998, and 1999.

(5) RADIO CONSTRUCTION.—For "Radio Construction", $83,000,000 for the fiscal year 1996, $79,500,000 for the fiscal year 1997, $69,000,000 for the fiscal year 1998, and $65,000,000 for the fiscal year 1999.

(6) TECHNOLOGY INVESTMENT FUND.—For the "Technology Investment Fund", $10,100,000 for the fiscal year 1996, $9,500,000 for the fiscal year 1997.

(7) OFFICE OF THE INSPECTOR GENERAL.—For "Office of the Inspector General", $4,100,000 for the fiscal year 1996, $3,900,000 for the fiscal year 1997.

(8) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For "Center for Cultural and Technical Interchange

between East and West'', $20,000,000 for the fiscal year 1996, $8,000,000 for the fiscal year 1997, $5,000,000 for the fiscal year 1998, and $5,000,000 for the fiscal year 1999.

SEC. 402. NATIONAL ENDOWMENT FOR DEMOCRACY.

There are authorized to be appropriated to the Director of the United States Information Agency $32,000,000 for the fiscal year 1996 and $29,000,000 for the fiscal year 1997, $25,000,000 for the fiscal year 1998, and $21,000,000 for the fiscal year 1999 to carry out the National Endowment for Democracy Act (title V of Public Law 98–164), of which amount in each fiscal year not more than 55 percent shall be available only for the following organizations, in equal allotments:

(1) The International Republican Institute (IRI).

(2) The National Democratic Institute (NDI).

(3) The Free Trade Union Institute (FTUI).

(4) The Center for International Private Enterprise (CIPE).

CHAPTER 2—USIA AND RELATED AGENCIES AUTHORITIES AND ACTIVITIES

SEC. 411. PARTICIPATION IN INTERNATIONAL FAIRS AND EXPOSITIONS.

None of the funds made available by this Act may be used by any department, agency, or other entity of the United States to participate in an international fair, pavilion, or other major exhibit at any international exposition or world's fair in excess of amounts expressly authorized to be appropriated for such purpose.

SEC. 412. EXTENSION OF AU PAIR PROGRAMS.

(a) REPEAL.—Section 8 of the Eisenhower Exchange Fellowship Act of 1990 (Public Law 101–454) is repealed.

(b) AUTHORITY FOR AU PAIR PROGRAMS.—The Director of the United States Information Agency is authorized to continue to administer an au pair program, operating on a world-wide basis, through fiscal year 1999.

(c) REPORT.—Not later than October 1, 1998, the Director of the United States Information Agency shall submit a report regarding the continued extension of au pair programs to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives. This report shall specifically detail the compliance of all au pair organizations with regulations governing au pair programs as published on February 15, 1995.

SEC. 413. PILOT PROGRAM ON ADVERTISING ON USIA TELEVISION AND RADIO BROADCASTS.

(a) IN GENERAL.—(1) The Director of the United States Information Agency shall carry out a pilot program to determine the feasibility and advisability of permitting advertisements on the television broadcasts and radio broadcasts of the agency, including broadcasts of the Voice of America, Radio Marti/TV Marti, Worldnet, Radio Free Europe/Radio Liberty, and Radio Free Asia.

(2) The Director shall commence carrying out the pilot program not later than 90 days after the date of the transmittal to Congress of the plan required under subsection (b).

(3) The Director shall carry out the pilot program for 6 months.

(b) PROGRAM PLAN.—(1) Not later than 120 days after the date of the enactment of this Act, the Director shall prepare and transmit to Congress a plan for carrying out the pilot program required under subsection (a).

(2) In preparing the plan, the Director shall solicit and take into account the comments of other broadcasting entities funded by the United States Government on the experiences of and advantages and disadvantages to public television and radio broadcast stations of permitting advertisements on the broadcasts of such stations.

(c) TREATMENT OF REVENUES.—Notwithstanding any other provision of law, the Director may use any revenues received by the agency under the pilot program to pay for the cost of the radio and television broadcasting activities of the agency. Such funds shall be available for that purpose without fiscal year limitation.

(d) PROGRAM REPORT.—Not later than 60 days after the date of the completion of the pilot program, the Director shall transmit to Congress a report on the pilot program. The report shall include the following:

(1) A description of the pilot program, including the number and type of advertisements aired under the pilot program and the revenues received as a result of the advertisements.

(2) An estimate of the number and type of advertisements that would be carried on the television broadcasts and radio broadcasts of the agency on an annual basis after the completion of the pilot program if the agency were authorized to continue to carry such advertisements, and the revenues that the agency would receive as a result of carrying such advertisements.

(3) An assessment of the feasibility and advisability of permitting advertisements on the television broadcasts and radio broadcasts of the agency, including a discussion of the advisability of permitting such advertisements by—

(A) United States entities;

(B) foreign governments;

(C) foreign individuals or entities; and

(D) a combination of such entities, governments, and individuals.

(e) REGULATIONS.—The Director may prescribe regulations to carry out the pilot program.

SEC. 414. AVAILABILITY OF VOICE OF AMERICA AND RADIO MARTI MULTILINGUAL COMPUTER READABLE TEXT AND VOICE RECORDINGS.

(a) AUTHORITY.—Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1a) and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the United States Information Agency is authorized to make available, upon request, to the Linguistic Data Consortium of the University of Pennsylvania computer readable multilingual text and recorded speech in various languages.

(b) REIMBURSEMENT.—The Linguistic Data Consortium shall, directly or indirectly as appropriate, reimburse the United States Information Agency for any expenses involved in making such materials available.

(c) TERMINATION DATE.—The authority of this section shall terminate 5 years after the date of enactment of this Act.

SEC. 415. PLAN FOR RADIO FREE ASIA.

(a) PLAN REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Director of the United States Information Agency shall submit to the Congress a detailed plan for the establishment and operation of Radio Free Asia.

(b) CONTENTS OF PLAN.—The plan required by subsection (a) shall meet the requirements of subparagraphs (A) through (C) of section 309(c)(1) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6208(c)(1)), except that the plan shall describe the manner in which Radio Free Asia would meet the funding limitations provided in this Act.

(c) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to make inapplicable any of the requirements contained in section 309 of such Act.

SEC. 416. EXPANSION OF MUSKIE FELLOWSHIP PROGRAM.

Section 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note) is amended—

(1) in subsection (a), by striking ''Soviet Union, Lithuania, Latvia, and Estonia'' and inserting ''former Soviet Union, Lithuania, Latvia, Estonia, Albania, Bulgaria, Croatia, Czech Republic, Hungary, Poland, Romania, Slovenia, and the Former Yugoslav Republic of Macedonia'';

(2) in subsection (c)(5), by striking out after ''potential'' all that follows and inserting in lieu thereof the following: ''in the fields of business administration, economics, journalism, law, library and information science, public administration, and public policy.'';

(3) in subsection (b) of the section, by striking out ''Soviet Union, Lithuania, Latvia, and Estonia'' and inserting in lieu thereof ''countries specified in subsection (a)'';

(4) in subsection (c)(11), by striking ''Soviet republics, Lithuania, Latvia, and Estonia'' and inserting ''countries specified in subsection (a)''; and

(5) in the section heading, by striking ''**THE SOVIET UNION, LITHUANIA, LATVIA, AND ESTONIA**'' and inserting ''**CERTAIN EURASIAN COUNTRIES**''.

SEC. 417. CHANGES IN ADMINISTRATIVE AUTHORITIES.

(a) CONTRACT AUTHORITY FOR VOICE OF AMERICA RADIO FACILITY.—Section 235 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246) is amended by inserting ''Tinian,'' after ''Sao Tome,''.

(b) AVAILABILITY OF APPROPRIATIONS.—Section 701(f)(4) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1476(f)) is amended by striking ''September 30, 1995'' and inserting ''March 1, 1997''.

(c) TECHNICAL CORRECTION.—Section 314(2)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6213(2)(B)) is amended by striking ''section 307(e)'' and inserting ''section 308(d)''.

(d) RADIO BROADCASTING TO CUBA.—Section 4 of the Radio Broadcasting to Cuba Act (22 U.S.C. 1465b) is amended by striking ''Director of the Voice of America'' and inserting ''Director of the International Broadcasting Bureau''.

(e) TELEVISION BROADCASTING TO CUBA.—Section 244(a) of the Television Broadcasting to Cuba Act (22 U.S.C. 1465cc(a)) is amended by striking in the third sentence thereof ''Voice of America'' and inserting ''International Broadcasting Bureau''.

(f) INTERNATIONAL BROADCASTING BUREAU.—Section 307 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended by adding at the end the following new subsection:

''(g) CONSOLIDATION OF ENGINEERING FUNCTION.—For the purpose of achieving economies and eliminating duplication, the Director of the United States Information Agency is authorized to appoint, during 1995, up to 15 otherwise qualified United States citizens employed in the Office of the Vice President for Engineering and Technical Operations of RFE/RL, Incorporated, to the competitive service or the career Foreign Service of the United States Information Agency in accordance with the provisions of title 5 of the United States Code, and without regard to sections 301(b) and 306 of the Foreign Service Act of 1980, governing appointments in the Foreign Service. Prior service with RFE/RL, Incorporated, by an individual appointed under this subsection shall be credited in determining the length of service of the individual for reduction in force purposes and toward establishing the career tenure of the individual.''.

(h) USE OF FEES FROM EDUCATIONAL ADVISING.—Section 810 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475e) is amended by inserting ''educational advising,'' after ''library services,''

SEC. 418. GENERAL ACCOUNTING OFFICE STUDY OF DUPLICATION AMONG CERTAIN INTERNATIONAL AFFAIRS GRANTEES.

(a) STUDY OF CERTAIN GRANTEES FOR DUPLICATION OF FUNCTIONS.—The Comptroller General of the United States shall conduct a study on the purposes and activities of the North/South Center, East-West Center, Asia Foundation, and the National Endowment for Democracy and on the extent to which the activities of these organizations duplicate activities that are conducted elsewhere in the United States Government. Such study shall include, but not be limited to, an evaluation of whether such organizations undertake unique activities that are central to the conduct of American foreign policy and that are incapable of being performed directly by an agency of the United States Government.

(b) REPORT TO CONGRESS.—Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit a report of the findings of such study to the Committee on Foreign Relations of the Senate and Committee on International Relations of the House of Representatives.

SEC. 419. GENERAL ACCOUNTING OFFICE STUDY OF ACTIVITIES OF THE NORTH/SOUTH CENTER IN SUPPORT OF THE NORTH AMERICAN FREE TRADE AGREEMENT.

(a) STUDY OF CERTAIN ACTIVITIES OF THE NORTH/SOUTH CENTER DURING CONSIDERATION OF THE NORTH AFRICAN FREE TRADE AGREEMENT.—The Comptroller General of the United States shall conduct a study on the activities of the North/South Center located in Miami, Florida that had the affect of encouraging Congress to approve implementing legislation for the North American Free Trade Agreement. This study shall include, but shall not be limited to, consideration of whether any United States Government funds were used for books (including Assessments of the North American Free Trade Agreement published in 1993), publications, or other activities which had the affect of advocating congressional approval of the North American Free Trade Agreement, and whether such materials or activities violated any laws, regulations, or guidelines on the use of Federal funds for lobbying activities.

(b) REPORT TO CONGRESS.—Not later than six months after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit a report of the findings of such study to the Committee on Foreign Relations of the Senate and Committee on International Relations of the House of Representatives.

SEC. 420. MANSFIELD FELLOWSHIP PROGRAM REQUIREMENTS.

Section 253(4)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6102(4)(B)) is amended by striking "certain" and inserting the following: ", under criteria established by the Mansfield Center for Pacific Affairs, certain allowances and benefits not to exceed the amount of equivalent".

SEC. 421. DISTRIBUTION WITHIN THE UNITED STATES OF THE UNITED STATES INFORMATION AGENCY FILM ENTITLED "THE FRAGILE RING OF LIFE".

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1(a)) and the second sentence of section 501 of the United States Information and Education Act of 1948 (22 U.S.C. 1461), the Director of the United States Information Agency may make available for distribution within the United States the documentary entitled "The Fragile Ring of Life", a film about coral reefs around the world.

TITLE V—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY AND THE AGENCY FOR INTERNATIONAL DEVELOPMENT

SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1996.—There are authorized to be appropriated to carry out the Arms Control and Disarmament Act (22 U.S.C. 2551 et seq.) $22,700,000 for the fiscal year 1996.

(b) FUTURE FISCAL YEARS.—No funds may be obligated or expended by the United States Arms Control and Disarmament Agency after March 1, 1997.

SEC. 502. STATUTORY CONSTRUCTION.

Section 33 of the Arms Control and Disarmament Act (22 U.S.C. 2573) is amended by adding at the end the following new subsection:

"(c) STATUTORY CONSTRUCTION.—Nothing contained in this chapter shall be construed to authorize any policy or action by any Government agency which would interfere with, restrict, or prohibit the acquisition, possession, or use of firearms by an individual for the lawful purpose of personal defense, sport, recreation, education, or training.".

SEC. 503. OPERATING EXPENSES.

Section 667(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2427(a)(1)) is amended to read as follows:

"(1) $432,000,000 for fiscal year 1996 and $389,000,000 for 1997 for necessary operating expenses of the agency primarily responsible for administering part I of this Act (other than the office of the inspector general of such agency); and".

SEC. 504. OPERATING EXPENSES OF THE OFFICE OF THE INSPECTOR GENERAL.

Section 667(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2427(a)), as amended by section 503, is further amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by striking "and" at the end of paragraph (1) (as amended by section 503); and

(3) by inserting after paragraph (1) the following:

"(2) $35,000,000 for fiscal year 1996 and $31,500,000 for fiscal 1997 for necessary operating expenses of the office of the inspector general of such agency; and".

TITLE VI—FOREIGN POLICY

SEC. 601. REPEAL OF PROVISIONS RELATING TO INTERPARLIAMENTARY GROUPS.

The following provisions of law are hereby repealed:

(1) Section 109(b) of the Department of State Authorization Act, fiscal years 1984 and 1985 (Public Law 98–164) (relating to the British-American Parliamentary Group).

(2) Section 109(c) of the Department of State Authorization Act, fiscal years 1984 and 1985 (Public Law 98–164) (relating to the United States-European Community Interparliamentary Group).

(3) Section 105 of the Legislative Branch Appropriation Act of 1961 (22 U.S.C. 276c–1; relating to reporting requirements for Interparliamentary Groups).

(4) The Act entitled "An Act to authorize participation by the United States in the Interparliamentary Union", approved June 28, 1935 (22 U.S.C. 276–276a–4).

(5) The proviso under "Missions to International Organizations" in the Departments of State and Justice, the Judiciary, and Related Agencies Appropriations Act of 1959, approved June 30, 1958 (Public Law 85–474, as amended).

(6) Section 7(a) of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415).

(7) Section 168 (relating to the British-American Interparliamentary Group) and section 169 (relating to the Parliamentary Assembly of the Organization on Security and Cooperation in Europe) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 276l, 276m).

SEC. 602. REPEAL OF EXECUTIVE BRANCH MEMBERSHIP ON THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE.

Section 3 of the Act entitled "An Act to establish a Commission on Security and Cooperation in Europe", approved June 3, 1976 (22 U.S.C. 3003 et seq.) is amended—

(1) by striking "twenty-one members" and inserting "18 members"; and

(2) by striking paragraphs (3), (4), and (5).

SEC. 603. AUTHORIZED PAYMENTS.

(a) PAYMENT OF LETTERS OF CREDIT.—(1) In addition to licenses required to be issued under section 575.510 of title 31, Code of Federal Regulations, the Secretary of the Treasury shall direct that licenses be issued to permit payments, as certified under subsection (b), from blocked Iraqi accounts involving an irrevocable letter of credit issued or confirmed by a foreign bank for the benefit of a United States person of amounts owed to such person with respect to goods or services lawfully exported to Iraq before August 2, 1990, whether or not such letter was confirmed by a United States bank.

(2) Licenses shall be issued under paragraph (1) not later than 120 days after the date on which the Foreign Claims Settlement Commission certifies an award pursuant to subsection (b).

(3) Payments made in compliance with this subsection or any regulation, order, instruction, or issued under this section, shall, to the extent of such payment, fully acquit and discharge for all purposes the obligation of the person making the payment. No person may be held liable for or with respect to anything done or omitted in good faith pursuant to and in reliance on this section or any such regulation, order, instruction, or direction.

(b) DETERMINATION OF CLAIMS.—(1) The Foreign Claims Settlement Commission of the United States is authorized to receive and determine the validity of any claims of United States persons against the Government of Iraq (including its agencies, instrumentalities, and controlled entities).

(2) The Foreign Claims Settlement Commission shall certify awards under this subsection to the Secretary of the Treasury not later than 270 days after the date of enactment of this Act.

(c) VESTING AUTHORITY.—The President is authorized to vest and liquidate as much of the assets of the Government of Iraq in the United States that have been blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et. seq.) as may be necessary to satisfy claims under subsections (a) and (b).

(d) DEFINITIONS.—For purposes of this section:

(1) BLOCKED IRAQI ACCOUNTS.—The term "blocked Iraqi accounts" means funds on deposit in United States financial institutions in which the Government of Iraq has an interest and which were blocked under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) on or after August 2, 1990.

(2) UNITED STATES PERSON.—The term "United States person" means a person subject to the jurisdiction of the United States, including—

(A) any person, wherever located, who is a citizen or resident of the United States,

(B) any person actually within the United States,

(C) any corporation organized under the laws of the United States or of any State, territory, possession, or district of the United States, and

(D) any partnership, association, corporation, or other organization wherever organized or doing business which is owned or controlled by persons described in subparagraph (A), (B), or (C), *and does not include the United States Government or any officer or employee thereof acting in an official capacity.*

SEC. 604. REPORTS REGARDING HONG KONG.

(a) Extension of Reporting Requirement.—Section 301 of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5731) is amended in the text above paragraph (1)—

(1) by inserting "March 31, 1996," after "March 31, 1995,"; and

(2) by striking "and March 31, 2000," and inserting "March 31, 2000, and every year thereafter,".

(b) Additional Requirements.—In light of deficiencies in reports submitted to the Congress pursuant to section 301 of the United States-Hong Kong Policy Act (22 U.S.C. 5731), the Congress directs that reports required to be submitted under that section on or after the date of enactment of this Act include detailed information on the status of, and other developments affecting, implementation of the Sino-British Joint Declaration on the Question of Hong Kong, including—

(1) the Basic Law and its consistency with the Joint Declaration;

(2) the openness and fairness of elections to the legislature;

(3) the openness and fairness of the election of the chief executive and the executive's accountability to the legislature;

(4) the treatment of political parties;

(5) the independence of the judiciary and its ability to exercise the power of final judgment over Hong Kong law; and

(6) the Bill of Rights.

SEC. 605. APPLICABILITY OF TAIWAN RELATIONS ACT.

Section 3 of the Taiwan Relations Act (22 U.S.C. 3302) is amended by adding at the end the following new subsection:

"(d) The provisions of subsections (a) and (b) supersede any provision of the Joint Communique of the United States and China of August 17, 1982.".

SEC. 606. TAIPEI REPRESENTATIVE OFFICE.

For purposes of carrying out its activities in the United States, the instrumentality known as the Taipei Economic and Cultural Representative Office as of the date of enactment of this Act shall, on and after such date, be known as the "Taipei Representative Office".

SEC. 607. REPORT ON OCCUPIED TIBET.

(a) Findings and Declarations of Congress.—The Congress makes the following findings and declarations:

(1) Historically, Tibet has demonstrated those attributes which under international law constitute statehood. It has had a defined territory and a permanent population, been under the control of its own government, and has engaged in, or had the capacity to engage in, formal relations with other states.

(2) Between 1951 and 1959, Tibet was forcibly and coercively incorporated into the People's Republic of China as an "autonomous region".

(3) Because Tibet's incorporation into the People's Republic of China was involuntary, under international law it is an occupied sovereign country and its true representatives continue to be the Dalai Lama and the Tibetan Government in exile.

(4) Because the Tibetan people are historically, territorially, and culturally distinct from the Han Chinese population in the People's Republic of China, and because of the involuntary loss of their sovereignty, they are entitled to the right of self-determination.

(5) Credible evidence exists which demonstrates that the Government of the People's Republic of China has consistently denied the Tibetan people that right, and instead have subjected them to a serious pattern of human rights abuses. For example, in 1960 the International Commission of Jurists found that the Chinese authorities in Tibet had violated sixteen articles of the United Nations Human Rights Declaration.

(6) The United States should seek to establish a dialogue with those recognized by Congress as the true representatives of the Tibetan people, the Dalai Lama, his representatives, and the Tibetan Government in exile, concerning the situation in Tibet and the future of the Tibetan people and to expand and strengthen United States-Tibet cultural and educational relations, including promoting bilateral exchanges arranged directly with the Tibetan Government in exile.

(b) Report on United States-Tibet Relations.— Not later than 6 months after the date of enactment of this Act, and every 12 months thereafter, the Secretary of State shall transmit to the Chairman of the Committee on Foreign Relations and the Speaker of the House of Representatives a report on the state of relations between the United States and those recognized by Congress as the true representatives of the Tibetan people, the Dalai Lama, his representatives, and the Tibetan Government in exile, and on conditions in Tibet.

(c) Separate Tibet Reports.—

(1) It is the sense of the Congress that whenever an executive branch report is transmitted to the Congress on a country-by-country basis there should be included in such report, where applicable, a separate report on Tibet listed alphabetically with its own state heading.

(2) The reports referred to in paragraph (1) include, but are not limited to, reports transmitted under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (relating to human rights).

SEC. 608. SPECIAL ENVOY FOR TIBET ACT OF 1995.

(a) Short Title.—This section may be cited as the "Special Envoy for Tibet Act of 1995".

(b) Findings.—The Congress finds that—

(1) the Government of the People's Republic of China withholds meaningful participation in the governance of Tibet from Tibetans and has failed to abide by its own constitutional guarantee of autonomy for Tibetans;

(2) the Government of the People's Republic of China is responsible for the destruction of much of Tibet's cultural and religious heritage since 1959 and continues to threaten the survival of Tibetan culture and religion;

(3) the Government of the People's Republic of China, through direct and indirect incentives—

(A) has established discriminatory development and other programs which have resulted in an overwhelming flow of Chinese immigrants into Tibet, including those areas incorporated into the Chinese provinces of Sichuan, Yunnan, Gansu, and Qinghai; and

(B) has excluded Tibetans from participation in important policy decisions, further threatening traditional Tibetan life;

(4) the Government of the People's Republic of China denies Tibetans their fundamental human rights, as reported in the Department of State's Country Reports on Human Rights Practices for 1993;

(5) the President and the Congress have determined that the promotion of human rights in Tibet and the protection of Tibet's religion and culture are important elements in United States-China relations and have urged senior members of the Government of the People's Republic of China to enter into substantive negotiations on these matters with the Dalai Lama or his representative; and

(6) the Government of the People's Republic of China has failed to respond in a good faith manner by reciprocating a willingness to begin negotiations without preconditions, and no substantive negotiations have begun.

(c) Position of United States Special Envoy for Tibet.—

(1) Establishment of position.—There shall be within the Department of State a United States Special Envoy for Tibet, who shall be appointed by the President, by and with the advice and consent of the Senate. The United States Special Envoy for Tibet shall hold office at the pleasure of the President.

(2) Rank of ambassador.—The United States Special Envoy for Tibet shall have the personal rank of ambassador.

(d) Responsibilities.—

(1) Authorities.—The United States Special Envoy for Tibet is authorized and encouraged—

(A) to promote substantive negotiations between the Dalai Lama or his representatives and senior members of the Government of the People's Republic of China;

(B) to promote good relations between the Dalai Lama and his representatives and the United States Government, including meeting with members or representatives of the Tibetan Government in exile; and

(C) to travel regularly throughout Tibet and Tibetan refugee settlements.

(2) Duties.—The United States Special Envoy for Tibet shall—

(A) consult with the Congress on policies relevant to Tibet and the future and welfare of all Tibetan people;

(B) coordinate United States Government policies, programs, and projects concerning Tibet; and

(C) report to the Secretary of State regarding the matters described in section 536(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236).

SEC. 609. PROHIBITION ON USE OF FUNDS TO FACILITATE IRAQI REFUGEE ADMISSIONS INTO THE UNITED STATES.

None of the funds authorized to be appropriated by this or any other Act may be used for resettlement in the United States, or to provide education, medical examinations, training, screening, or otherwise facilitate the admission into the United States of Iraqi nationals seeking refugee status in the United States who are in Saudi Arabia or Turkey as of the date of enactment of this Act.

SEC. 610. SPECIAL ENVOY FOR NAGORNO-KARABAKH.

It is the sense of Congress that the President should immediately appoint a special envoy having the rank of Ambassador to offer assistance in facilitating a negotiated settlement to the conflict in Nagorno-Karabakh and to press for the development of an oil pipeline through Azerbaijan, Armenia, and Turkey.

SEC. 611. REPORT TO CONGRESS CONCERNING CUBAN EMIGRATION POLICIES.

Beginning 3 months after the date of the enactment of this Act, and every 6 months thereafter, the President shall transmit a report to the appropriate congressional committees concerning the methods employed by the Government of Cuba to enforce the United States-Cuba agreement of September 1994 to restrict the emigration of the Cuban people from Cuba to the United States, and the treatment by the Government of Cuba of persons who have been returned to Cuba pursuant to the United States-Cuba agreement of May 1995. Each report transmitted pursuant to this section shall include a detailed account of United States efforts to monitor such enforcement and treatment.

SEC. 612. EFFORTS AGAINST EMERGING INFECTIOUS DISEASES.

(a) Prioritization.—The President shall give urgent priority to the strengthening of efforts against emerging infectious diseases through the development of appropriate United States Government strategies and response mechanisms.

(b) Strategic Plan.—Not later than February 1, 1996, the President shall submit to the Speaker of the House of Representatives and the

Committee on Foreign Relations of the Senate a report outlining a United States strategic plan, in cooperation with the international public health infrastructure, to identify and respond to the threat of emerging infectious diseases to the health of the people of the United States.

SEC. 613. REPORT ON FIRMS ENGAGED IN EXPORT OF DUAL-USE ITEMS.

The Under Secretary of State for International Security shall submit a report to Congress no later than 180 days after the date of enactment of this Act, and every 180 days thereafter until 1998, detailing an organizational plan to include those firms on the Department of State licensing watch-lists that engage in the exportation of potentially sensitive or dual-use technologies and have been identified or tracked by similar systems maintained by the Department of Defense, Department of Commerce, or the United States Customs Service. The report shall also detail further measures to be taken to strengthen United States export-control mechanisms.

SEC. 614. PROHIBITION ON THE TRANSFER OF ARMS TO INDONESIA.

Consistent with section 582 of Public Law 103–306, the United States is prohibited from selling or licensing for export to the Government of Indonesia light arms, small weapons, and crowd control ordnances, including helicopter-mounted equipment, until the Secretary of State determines and reports to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives that there has been significant progress made on human rights in East Timor and elsewhere in Indonesia, including—

(1) compliance with the recommendations in the United Nations Special Rapporteur's January 1992 report and the March 1993 recommendations of the United Nations Human Rights Commission;

(2) significant reduction in Indonesia's troop presence in East Timor;

(3) thorough and impartial investigation of gangs and violent civilian groups operating in East Timor;

(4) improved access to East Timor for Indonesian and international human rights and humanitarian organizations and journalists, including the deployment of United Nations human rights monitors if so requested;

(5) constructive participation in the United Nations Secretary General's efforts to resolve the status of East Timor; and

(6) greater local control over political, economic, and cultural affairs, with an aim toward resolving the future status of East Timor.

SEC. 615. MIDDLE EAST PEACE FACILITATION ACT OF 1995.

(a) SHORT TITLE.—This section may be cited as the "Middle East Peace Facilitation Act of 1995".

(b) FINDINGS.—The Congress finds that—

(1) the Palestine Liberation Organization (in this section referred to as the "PLO") has recognized the State of Israel's right to exist in peace and security; accepted United Nations Security Council Resolutions 242 and 338; committed itself to the peace process and peaceful coexistence with Israel, free from violence and all other acts which endanger peace and stability; and assumed responsibility over all PLO elements and personnel in order to assure their compliance, prevent violations, and discipline violators;

(2) Israel has recognized the PLO as the representative of the Palestinian people;

(3) Israel and the PLO signed a Declaration of Principles on Interim Self-Government Arrangements (in this section referred to as the "Declaration of Principles") on September 13, 1993, at the White House;

(4) Israel and the PLO signed an Agreement on the Gaza Strip and the Jericho Area (in this section referred to as the "Gaza-Jericho Agreement") on May 4, 1994, which established a Palestinian Authority for the Gaza and Jericho areas;

(5) Israel and the PLO signed an Agreement on Preparatory Transfer of Powers and Responsibilities (in this section referred to as the "Early Empowerment Agreement") on August 29, 1994, which provided for the transfer to the Palestinian Authority of certain powers and responsibilities in the West Bank outside of the Jericho Area;

(6) under the terms of the Declaration of Principles, the Gaza-Jericho Agreement and the Early Empowerment Agreement, the powers and responsibilities of the Palestinian Authority are to be assumed by an elected Palestinian Council with jurisdiction in the West Bank and Gaza Strip in accordance with the Interim Agreement to be concluded between Israel and the PLO;

(7) permanent status negotiations relating to the West Bank and Gaza Strip are scheduled to begin by May 1996;

(8) the Congress has, since the conclusion of the Declaration of Principles and the PLO's renunciation of terrorism, provided authorities to the President to suspend certain statutory restrictions relating to the PLO, subject to Presidential certifications that the PLO has continued to abide by commitments made in and in connection with or resulting from the good faith implementation of, the Declaration of Principles;

(9) the PLO commitments relevant to Presidential certifications have included commitments to renounce and condemn terrorism, to submit to the Palestinian National Council for formal approval the necessary changes to those articles of the Palestinian Covenant which call for Israel's destruction, and to prevent acts of terrorism and hostilities against Israel; and

(10) the President, in exercising the authorities described in paragraph (8), has certified to the Congress on four occasions that the PLO was abiding by its relevant commitments.

(c) SENSE OF CONGRESS.—It is the sense of the Congress that although the PLO has recently shown improvement in its efforts to fulfill its commitments, the PLO must do far more to demonstrate an irrevocable denunciation of terrorism and ensure a peaceful settlement of the Middle East dispute, and in particular the PLO must—

(1) submit to the Palestine National Council for formal approval the necessary changes to those articles of the Palestinian National Covenant which call for Israel's destruction;

(2) make greater efforts to preempt acts of terror, to discipline violators, and to contribute to stemming the violence that has resulted in the deaths of 123 Israeli citizens since the signing of the Declaration of Principles;

(3) prohibit participation in its activities and in the Palestinian Authority and its successors by any groups or individuals which continue to promote and commit acts of terrorism;

(4) cease all anti-Israel rhetoric, which potentially undermines the peace process;

(5) confiscate all unlicensed weapons and restrict the issuance of licenses to those with legitimate need;

(6) transfer any person, and cooperate in transfer proceedings relating to any person, accused by Israel of acts of terrorism; and

(7) respect civil liberties, human rights and democratic norms.

(d) AUTHORITY TO SUSPEND CERTAIN PROVISIONS.—

(1) IN GENERAL.—Subject to paragraph (2), beginning on the date of enactment of this Act and for 18 months thereafter the President may suspend for a period of not more than 6 months at a time any provision of law specified in paragraph (4). Any such suspension shall cease to be effective after 6 months, or at such earlier date as the President may specify.

(2) CONDITIONS.—

(A) CONSULTATIONS.—Prior to each exercise of the authority provided in paragraph (1) or certification pursuant to paragraph (3), the President shall consult with the relevant congressional committees. The President may not exercise that authority to make such certification until 30 days after a written policy justification is submitted to the relevant congressional committees.

(B) PRESIDENTIAL CERTIFICATION.—The President may exercise the authority provided in paragraph (1) only if the President certifies to the relevant congressional committees each time he exercises such authority that—

(i) it is in the national interest of the United States to exercise such authority;

(ii) the PLO continues to comply with all the commitments described in subparagraph (D); and

(iii) funds provided pursuant to the exercise of this authority and the authorities under section 583(a) of Public Law 103–236 and section 3(a) of Public Law 103–125 have been used for the purposes for which they were intended.

(C) REQUIREMENT FOR CONTINUING PLO COMPLIANCE.—

(i) The President shall ensure that PLO performance is continuously monitored, and if the President at any time determines that the PLO has not continued to comply with all the commitments described in subparagraph (D), he shall so notify the appropriate congressional committees. Any suspension under paragraph (1) of a provision of law specified in paragraph (4) shall cease to be effective.

(ii) Beginning six months after the date of enactment of this Act, if the President on the basis of the continuous monitoring of the PLO's performance determines that the PLO is not complying with the requirements described in paragraph (3), he shall so notify the appropriate congressional committees and no assistance shall be provided pursuant to the exercise by the President of the authority provided by paragraph (1) until such time as the President makes the certification provided for in paragraph (3).

(D) PLO COMMITMENTS DESCRIBED.—The commitments referred to in subparagraphs (B) and (C)(i) are the commitments made by the PLO—

(i) in its letter of September 9, 1993, to the Prime Minister of Israel and in its letter of September 9, 1993, to the Foreign Minister of Norway to—

(I) recognize the right of the State of Israel to exist in peace and security;

(II) accept United Nations Security Council Resolutions 242 and 338;

(III) renounce the use of terrorism and other acts of violence;

(IV) assume responsibility over all PLO elements and personnel in order to assure their compliance, prevent violations, and discipline violators;

(V) call upon the Palestinian people in the West Bank and Gaza Strip to take part in the steps leading to the normalization of life, rejecting violence and terrorism, and contributing to peace and stability; and

(VI) submit to the Palestine National Council for formal approval the necessary changes to the Palestinian National Covenant eliminating calls for Israel's destruction; and

(ii) in, and resulting from, the good faith implementation of the Declaration of Principles, including good faith implementation of subsequent agreements with Israel, with particular attention to the objective of preventing terrorism, as reflected in the provisions of the Gaza-Jericho Agreement concerning—

(I) prevention of acts of terrorism and legal measures against terrorists;

(II) abstention from and prevention of incitement, including hostile propaganda;

(III) operation of armed forces other than the Palestinian Police;

(IV) possession, manufacture, sale, acquisition, or importation of weapons;

(V) employment of police who have been convicted of serious crimes or have been found to be actively involved in terrorist activities subsequent to their employment;

(VI) transfers to Israel of individuals suspected of, charged with, or convicted of an offense that falls within Israeli criminal jurisdiction;

(VII) cooperation with the Government of Israel in criminal matters, including cooperation in the conduct of investigations; and

(VIII) exercise of powers and responsibilities under the agreement with due regard to internationally accepted norms and principles of human rights and the rule of law.

(E) POLICY JUSTIFICATION.—As part of the President's written policy justification to be submitted to the relevant congressional committees pursuant to subparagraph (A), the President shall report on—

(i) the manner in which the PLO has complied with the commitments specified in subparagraph (D), including responses to individual acts of terrorism and violence, actions to discipline perpetrators of terror and violence, and actions to preempt acts of terror and violence;

(ii) the extent to which the PLO has fulfilled the requirements specified in paragraph (3);

(iii) actions that the PLO has taken with regard to the Arab League boycott of Israel;

(iv) the status and activities of the PLO office in the United States; and

(v) the status of United States and international assistance efforts in the areas subject to jurisdiction of the Palestinian Authority or its successors.

(3) REQUIREMENT FOR CONTINUED PROVISION OF ASSISTANCE.—Six months after the date of enactment of this Act, no assistance shall be provided pursuant to the exercise by the President of the authority provided by paragraph (1), unless and until the President determines and so certifies to the Congress that—

(A) if the Palestinian Council has been elected and assumed its responsibilities, the Council has, within a reasonable time, effectively disavowed the articles of the Palestine National Covenant which call for Israel's destruction, unless the necessary changes to the Covenant have already been submitted to the Palestine National Council for formal approval;

(B) the PLO has exercised its authority resolutely to establish the necessary enforcement institution, including laws, police, and a judicial system, for apprehending, prosecuting, convicting, and imprisoning terrorists;

(C) the PLO has limited participation in the Palestinian Authority and its successors to individuals and groups in accordance with the terms that may be agreed with Israel;

(D) the PLO has not provided any financial or material assistance or training to any group, whether or not affiliated with the PLO to carry out actions inconsistent with the Declaration of Principles, particularly acts of terrorism against Israel;

(E) the PLO has cooperated in good faith with Israeli authorities in the preemption of acts of terrorism and in the apprehension and trial of perpetrators of terrorist acts in Israel, territories controlled by Israel, and all areas subject to jurisdiction of the Palestinian Authority and its successors; and

(F) the PLO has exercised its authority resolutely to enact and implement laws requiring the disarming of civilians not specifically licensed to possess or carry weapons.

(4) PROVISIONS THAT MAY BE SUSPENDED.—The provisions that may be suspended under the authority of paragraph (1) are the following:

(A) Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) as it applies with respect to the PLO or entities associated with it.

(B) Section 114 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 287e note) as it applies with respect to the PLO or entities associated with it.

(C) Section 1003 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 5202).

(D) Section 37 of the Bretton Woods Agreement Act (22 U.S.C. 286W) as it applies to the granting to the PLO of observer status or other official status at any meeting sponsored by or associated with International Monetary Fund. As used in this subparagraph, the term "other official status" does not include membership in the International Monetary Fund.

(5) RELEVANT CONGRESSIONAL COMMITTEES DEFINED.—As used in this subsection, the term "relevant congressional committees" means—

(A) the Committee on International Relations, the Committee on Banking, Finance and Urban Affairs, and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

DIVISION B—CONSOLIDATION AND REINVENTION OF FOREIGN AFFAIRS AGENCIES

SEC. 1001. SHORT TITLE.

This division may be cited as the "Foreign Affairs Reinvention Act of 1995".

SEC. 1002. PURPOSES.

The purposes of this division are—

(1) to reorganize and reinvent the foreign affairs agencies of the United States in order to enhance the formulation, coordination, and implementation of United States foreign policy;

(2) to streamline and consolidate the functions and personnel of the Department of State, the Agency for International Development, the United States Information Agency, and the United States Arms Control and Disarmament Agency in order to eliminate redundancies in the functions and personnel of such agencies;

(3) to assist congressional efforts to balance the Federal budget and reduce the Federal debt;

(4) to ensure that the United States maintain adequate representation abroad within budgetary restraints;

(5) to ensure that programs critical to the promotion of United States national interests be maintained;

(6) to strengthen the authority of United States ambassadors over all United States Government personnel and resources located in United States diplomatic missions in order to enhance the ability of the ambassadors to deploy such personnel and resources to the best effect to attain the President's foreign policy objectives;

(7) to encourage United States foreign affairs agencies to maintain a high percentage of the best qualified, most competent United States citizens serving in the United States Government while downsizing significantly the total number of people employed by such agencies; and

(8) to ensure that all functions of United States diplomacy be subject to recruitment, training, assignment, promotion, and egress based on common standards and procedures while preserving maximum interchange among such functions.

TITLE XI—ORGANIZATION OF THE DEPARTMENT OF STATE AND FOREIGN SERVICE

SEC. 1101. OFFICE OF THE SECRETARY OF STATE.

Section 1 of the State Department Basic Authorities of 1956 (22 U.S.C. 2651a) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) The Secretary shall serve as the principal foreign policy adviser to the President and shall, under the direction of the President, be responsible for the overall direction, coordination, and supervision of United States foreign relations and for the interdepartmental activities of the United States Government abroad.".

SEC. 1102. ASSUMPTION OF DUTIES BY INCUMBENT APPOINTEES.

An individual holding an office immediately prior to the date of enactment of this Act—

(1) who was appointed to the office by the President, by and with the advice and consent of the Senate; and

(2) who performs duties substantially similar to the duties of an office proposed to be created under a reorganization plan submitted under section 1501,

may, in the discretion of the Secretary of State, assume the duties of such new office, and shall not be required to be reappointed by reason of the implementation of the reorganization plan.

SEC. 1103. CONSOLIDATION OF UNITED STATES DIPLOMATIC MISSIONS AND CONSULAR POSTS.

(a) CONSOLIDATION PLAN.—The Secretary of State shall develop a worldwide plan for the consolidation, wherever practicable, on a regional or areawide basis, of United States missions and consular posts abroad in order to carry out this section.

(b) CONTENTS OF PLAN.—The plan shall—

(1) identify the specific United States diplomatic missions and consular posts for consolidation;

(2) identify those missions and posts at which the resident ambassador would also be accredited to other specified states in which the United States either maintained no resident official presence or maintained such a presence only at staff level; and

(3) provide an estimate of—

(A) the amount by which expenditures would be reduced through the reduction in the number of United States Government personnel assigned abroad;

(B) the amount by which expenditures would be reduced through a reduction in the costs of maintaining United States properties abroad; and

(C) the amount of revenues generated to the United States through the sale or other disposition of United States properties associated with the posts to be consolidated abroad.

(c) TRANSMITTAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall transmit a copy of the plan to the appropriate congressional committees.

(d) IMPLEMENTATION.—Not later than 60 days after transmittal of the plan under subsection (c), the Secretary of State shall take steps to implement the plan unless the Congress before such date enacts legislation disapproving the plan.

(e) CONGRESSIONAL PRIORITY PROCEDURES.—(1) A joint resolution described in paragraph (2) which is introduced in a House of Congress after the date on which a plan developed under subsection (a) is received by Congress, shall be considered in accordance with the procedures set forth in paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98–473 (98 Stat. 1936)), except that—

(A) references to the "report described in paragraph (1)" shall be deemed to be references to the joint resolution; and

(B) references to the Committee on Appropriations of the House of Representatives and to the Committee on Appropriations of the Senate shall be deemed to be references to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) A joint resolution under this paragraph is a joint resolution the matter after the resolving clause of which is as follows: "That the Congress disapproves the plan submitted by the President on __________ pursuant to section 1109 of the Foreign Affairs Reinvention Act of 1995.".

(f) RESUBMISSION OF PLAN.—If, within 60 days of transmittal of a plan under subsection (c), Congress enacts legislation disapproving the plan, the President shall transmit to the appropriate congressional committees a revised plan developed under subsection (a).

(g) STATUTORY CONSTRUCTION.—Nothing in this section requires the termination of United States diplomatic or consular relations with any foreign country.

(h) DEFINITIONS.—As used in this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) PLAN.—The term "plan" means the plan developed under subsection (a).

SEC. 1104. PROCEDURES FOR COORDINATION OF GOVERNMENT PERSONNEL AT OVERSEAS POSTS.

(a) AMENDMENT OF THE FOREIGN SERVICE ACT OF 1980.—Section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by inserting after subsection (b) the following:

"(c)(1) In carrying out subsection (b), the head of each department, agency, or other entity of the executive branch of Government shall ensure that, in coordination with the Department of State, the approval of the chief of mission to a foreign country is sought on any proposed change in the size, composition, or mandate of employees of the respective department, agency, or entity (other than employees under the command of a United States area military commander) if the employees are performing duties in that country.

"(2) In seeking the approval of the chief of mission under paragraph (1), the head of a department, agency, or other entity of the executive branch of Government shall comply with the procedures set forth in National Security Decision Directive Number 38, as in effect on June 2, 1982, and the implementing guidelines issued thereunder.

"(d) The Secretary of State, in the sole discretion of the Secretary, may accord diplomatic titles, privileges, and immunities to employees of the executive branch of Government who are performing duties in a foreign country.".

(b) REVIEW OF PROCEDURES FOR COORDINATION.—(1) The President shall conduct a review of the procedures contained in National Security Decision Directive Number 38, as in effect on June 2, 1982, and the practices in implementation of those procedures, to determine whether the procedures and practices have been effective to enhance significantly the coordination among the several departments, agencies, and entities of the executive branch of Government represented in foreign countries.

(2) Not later than 180 days after the date of enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report containing the findings of the review conducted under paragraph (1), together with any recommendations for legislation as the President may determine to be necessary.

TITLE XII—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

SEC. 1201. ABOLITION OF THE ACDA; REFERENCES IN PART.

(a) ABOLITION.—The United States Arms Control and Disarmament Agency is abolished on the effective date of this title.

(b) CONFORMING REPEAL.—Section 21 of the Arms Control and Disarmament Act (22 U.S.C. 2561) is repealed.

(c) REFERENCES IN TITLE.—Except as specifically provided in this title, whenever in this title an amendment or repeal is expressed as an amendment to or repeal of a provision, the reference shall be deemed to be made to the Arms Control and Disarmament Act.

SEC. 1202. REPEAL OF POSITIONS AND OFFICES.

The following sections are repealed:

(1) Section 22 (22 U.S.C. 2562; relating to the Director).

(2) Section 23 (22 U.S.C. 2563; relating to the Deputy Director).

(3) Section 24 (22 U.S.C. 2564; relating to Assistant Directors).

(4) Section 25 (22 U.S.C. 2565; relating to bureaus, offices, and divisions).

SEC. 1203. AUTHORITIES OF THE SECRETARY OF STATE.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), the Arms Control and Disarmament Act (22 U.S.C. 2551 et seq.) is amended by striking "Agency" and "Director" each place it appears and inserting "Department" and "Secretary", respectively.

(2) No amendment shall be made under paragraph (1) to references to the On-Site Inspection Agency or to the Director of Central Intelligence.

(b) PURPOSE.—Section 2 (22 U.S.C. 2551) is amended—

(1) by striking the second, fourth, fifth, and sixth sentences; and

(2) in the seventh sentence, by striking "It" and all that follows through "State," and inserting "The Department of State shall have the authority".

(c) DEFINITIONS.—Section 3 (22 U.S.C. 2552) is amended by striking paragraph (c) and inserting the following:

"(c) The term 'Department' means the Department of State.

"(d) The term 'Secretary' means the Secretary of State.".

(d) SCIENTIFIC AND POLICY ADVISORY COMMITTEE.—Section 26(b) (22 U.S.C. 2566(b)) is amended by striking ", the Secretary of State, and the Director" and inserting "and the Secretary of State".

(e) PRESIDENTIAL SPECIAL REPRESENTATIVES.—Section 27 (22 U.S.C. 2567) is amended by striking ", acting through the Director".

(f) PROGRAM FOR VISITING SCHOLARS.—Section 28 (22 U.S.C. 2568) is amended—

(1) in the second sentence, by striking "Agency's activities" and inserting "Department's arms control, nonproliferation, and disarmament activities"; and

(2) in the fourth sentence, by striking ", and all former Directors of the Agency".

(g) POLICY FORMULATION.—Section 33(a) (22 U.S.C. 2573(a)) is amended by striking "shall prepare for the President, the Secretary of State," and inserting "shall prepare for the President".

(h) NEGOTIATION MANAGEMENT.—Section 34 (22 U.S.C. 2574) is amended—

(1) in subsection (a), by striking "the President and the Secretary of State" and inserting "the President"; and

(2) by striking subsection (b).

(i) VERIFICATION OF COMPLIANCE.—Section 37(d) (22 U.S.C. 2577(d)) is amended by striking "Director's designee" and inserting "Secretary's designee".

(j) GENERAL AUTHORITY.—Section 41 (22 U.S.C. 2581) is repealed.

(k) USE OF FUNDS.—Section 48 (22 U.S.C. 2588) is repealed.

(l) ANNUAL REPORT.—Section 51(a) (22 U.S.C. 2593a(a)) is amended by striking "the Secretary of State,".

(m) REQUIREMENT FOR AUTHORIZATION OF APPROPRIATIONS.—Section 53 (22 U.S.C. 2593c) is repealed.

(n) ON-SITE INSPECTION AGENCY.—Section 61 (22 U.S.C. 2595) is amended—

(1) in paragraph (1), by striking "United States Arms Control and Disarmament Agency is" and inserting "Department of State and the Department of Defense are respectively"; and

(2) in paragraph (7), by striking "the United States Arms Control and Disarmament Agency and".

SEC. 1204. AUTHORIZATION OF APPROPRIATIONS.

Section 106 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended—

(1) by amending the section heading to read as follows:

"SEC. 106. DEPARTMENT OF STATE ARMS CONTROL AND DISARMAMENT ACTIVITIES.";

and

(2) in subsection (a), by inserting "to the Secretary of State" after "appropriated".

SEC. 1205. CONFORMING AMENDMENTS.

(a) The Arms Export Control Act is amended—

(1) in section 36(b)(1)(D) (22 U.S.C. 2776(b)(1)(D)), by striking "Director of the Arms Control and Disarmament Agency in consultation with the Secretary of State and" and inserting "Secretary of State in consultation with";

(2) in section 38(a)(2) (22 U.S.C. 2778(a)(2))—

(A) in the first sentence, by striking "Director of the United States Arms Control and Disarmament Agency, taking into account the Director's" and inserting "Secretary of State, taking into account the Secretary's"; and

(B) in the second sentence, by striking "The Director of the Arms Control and Disarmament Agency is authorized, whenever the Director" and inserting "The Secretary of State is authorized, whenever the Secretary";

(3) in section 42(a) (22 U.S.C. 2791(a))—

(A) in paragraph (1)(C), by striking "Director of the United States Arms Control and Disarmament Agency" and inserting "Secretary of State"; and

(B) in paragraph (2)—

(i) in the first sentence, by striking "Director of the United States Arms Control and Disarmament Agency" and inserting "Secretary of State"; and

(ii) in the second sentence, by striking "Director of the Arms Control and Disarmament Agency is authorized, whenever the Director" and inserting "Secretary of State is authorized, whenever the Secretary";

(4) in section 71(a) of such Act (22 U.S.C. 2797(a)), by striking ", the Director of the Arms Control and Disarmament Agency," and inserting "Secretary of State";

(5) in section 71(b)(1) of such Act (22 U.S.C. 2797(b)(1)), by striking "Director of the United States Arms Control and Disarmament Agency" and inserting "Secretary of State;

(6) in section 71(b)(2) of such Act (22 U.S.C. 2797(b)(2))—

(A) by striking "Director of the United States Arms Control and Disarmament Agency" and inserting "Secretary of State"; and

(B) by striking "or the Director";

(7) in section 71(c) of such Act (22 U.S.C. 2797(c)), by striking "Director of the United States Arms Control and Disarmament Agency," and inserting "Secretary of State"; and

(8) in section 73(d) of such Act (22 U.S.C. 2797b(d)), by striking ", the Secretary of Commerce, and the Director of the United States

Arms Control and Disarmament Agency" and inserting "and the Secretary of Commerce".

(b) Section 1706(b) of the United States Institute of Peace Act (22 U.S.C. 4605(b)) is amended—

(1) by striking out paragraph (3);

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(3) in paragraph (4) (as redesignated by paragraph (2)), by striking "Eleven" and inserting "Twelve".

(c) The Atomic Energy Act of 1954 is amended—

(1) in section 57 b. (42 U.S.C. 2077(b))—

(A) in the first sentence, by striking "the Arms Control and Disarmament Agency,", and

(B) in the second sentence, by striking "the Director of the Arms Control and Disarmament Agency,", and

(2) in section 123 (42 U.S.C. 2153)—

(A) in subsection a. (in the text below paragraph (9)—

(i) by striking "and in consultation with the Director of the Arms Control and Disarmament Agency ('the Director')", and

(ii) by striking "and the Director" and inserting "and the Secretary of Defense",

(B) in subsection d., in the first proviso, by striking "Director of the Arms Control and Disarmament Agency" and inserting "Secretary of Defense", and

(C) in the first undesignated paragraph following subsection d., by striking "the Arms Control and Disarmament Agency,".

(d) The Nuclear Non-Proliferation Act of 1978 is amended—

(1) in section 4, by striking paragraph (2);

(2) in section 102, by striking "the Secretary of State, and the Director of the Arms Control and Disarmament Agency" and inserting "and the Secretary of State"; and

(3) in section 602(c), by striking "the Arms Control and Disarmament Agency,".

(e) Title 5, United States Code, is amended—

(1) in section 5313, by striking "Director of the United States Arms Control and Disarmament Agency.",

(2) in section 5314, by striking "Deputy Director of the United States Arms Control and Disarmament Agency.",

(3) in section 5315—

(A) by striking "Assistant Directors, United States Arms Control and Disarmament Agency (4).", and

(B) by striking "Special Representatives of the President for arms control, nonproliferation, and disarmament matters, United States Arms Control and Disarmament Agency", and inserting "Special Representatives of the President for arms control, nonproliferation, and disarmament matters, Department of State", and

(4) in section 5316, by striking "General Counsel of the United States Arms Control and Disarmament Agency.".

SEC. 1206. REFERENCES IN LAW.

Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the United States Arms Control and Disarmament Agency or the Director or other official of the United States Arms Control and Disarmament Agency shall be deemed to refer respectively to the Department of State or the Secretary of State or other official of the Department of State.

SEC. 1207. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect only in the event of the abolition of the independent foreign affairs agencies specified in section 1501(e).

TITLE XIII—UNITED STATES INFORMATION AGENCY

SEC. 1301. ABOLITION.

The United States Information Agency is abolished upon the effective date of this title.

SEC. 1302. REFERENCES IN LAW.

Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—

(1) the Director of the United States Information Agency or the Director of the International Communication Agency shall be deemed to refer to the Secretary of State; and

(2) the United States Information Agency, USIA, or the International Communication Agency shall be deemed to refer to the Department of State.

SEC. 1303. AMENDMENTS TO TITLE 5.

Title 5, United States Code, is amended—

(1) in section 5313, by striking "Director of the United States Information Agency.";

(2) in section 5315, by striking "Deputy Director of the United States Information Agency."; and

(3) in section 5316, by striking "Deputy Director, Policy and Plans, United States Information Agency." and striking "Associate Director (Policy and Plans), United States Information Agency.".

SEC. 1304. AMENDMENTS TO UNITED STATES INFORMATION AND EDUCATIONAL EXCHANGE ACT OF 1948.

(a) References in Section.—Except as specifically provided in this section, whenever in this section an amendment or repeal is expressed as an amendment or repeal of a provision, the reference shall be deemed to be made to the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.).

(b) In General.—Except as otherwise provided in this section, the Act (other than section 604 and subsections (a) and (c) of section 701) is amended—

(1) by striking "United States Information Agency" each place it appears and inserting "Department of State";

(2) by striking "Director of the United States Information Agency" each place it appears and inserting "Secretary of State";

(3) by striking "Director" each place it appears and inserting "Secretary of State";

(4) by striking "USIA" each place it appears and inserting "Department of State"; and

(5) by striking "Agency" each place it appears and inserting "Department of State.

(c) Satellite and Television Broadcasts.—Section 505 (22 U.S.C. 1464a) is amended—

(1) by striking "Director of the United States Information Agency" each of the three places it appears and inserting "Secretary of State";

(2) in subsection (b), by striking "To be effective, the United States Information Agency" and inserting "To be effective in carrying out this subsection, the Department of State";

(3) by striking "USIA–TV" each place it appears and inserting "DEPARTMENT OF STATE–TV"; and

(4) by striking subsection (e).

(d) Nondiscretionary Personnel Costs and Currency Fluctuations.—Section 704 (22 U.S.C. 1477b) is amended—

(1) in subsection (b), by inserting after "authorized by law" the following: "in connection with carrying out the informational and educational exchange functions of the Department"; and

(2) in subsection (c), by striking "United States Information Agency" each place it appears and inserting "Department of State in carrying out the informational and educational exchange functions of the Department".

(e) Reprogramming Notifications.—Section 705 (22 U.S.C. 1477c) is amended by striking "United States Information Agency" each place it appears and inserting "Department of State in carrying out its informational and educational exchange functions".

(f) Authorities of the Secretary.—Section 801(3) (22 U.S.C. 1471(3)) is amended by striking all "if the sufficiency" and all that follows and inserting "if the Secretary determines that title to such real property or interests is sufficient;".

(g) Repeal of the USIA Seal.—Section 807 (22 U.S.C. 1475b) is repealed.

(h) Acting Associate Directors.—Section 808 (22 U.S.C. 1475c) is repealed.

(i) Debt Collection.—Section 811 (22 U.S.C. 1475f) is amended by inserting "informational and educational exchange" before "activities" each place it appears.

(j) Overseas Posts.—Section 812 (22 U.S.C. 1475g) is amended by striking "United States Information Agency post" each place it appears and inserting "informational and educational exchange post of the Department of State".

(k) Definition.—Section 4 (22 U.S.C. 1433) is amended by adding at the end the following:

"(4) 'informational and educational exchange functions', with respect to the Department of State, refers to functions exercised by the United States Information Agency before the effective date of title XIII of the Foreign Affairs Reinvention Act of 1995.".

SEC. 1305. AMENDMENTS TO THE MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE ACT OF 1961 (FULBRIGHT-HAYS ACT).

(a) References in Section.—Except as specifically provided in this section, whenever in this section an amendment or repeal is expressed as an amendment or repeal of a provision, the reference shall be deemed to be made to the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.).

(b) In General.—The Act (22 U.S.C. 2451 et seq.) is amended by striking "Director of the International Communication Agency" each place it appears and inserting "Secretary of State".

(c) Program Authorities.—(1) Section 102(a) (22 U.S.C. 2452(a)) is amended by striking "President" each place it appears and inserting "Secretary of State".

(2) Section 102(b) (22 U.S.C. 2452(b)) is amended by striking "President" and inserting "Secretary of State (except, in the case of paragraphs (6) and (10), the President)".

(d) International Agreements.—Section 103 (22 U.S.C. 2453) is amended by striking "President" each place it appears and inserting "Secretary of State".

(e) Personnel Benefits.—Section 104(d) (22 U.S.C. 2454(d)) is amended by striking "President" each place it appears and inserting "Secretary of State".

(f) Foreign Student Counseling.—Section 104(e)(3) (22 U.S.C. 2454(e)(3)) is amended by striking "President" and inserting "Secretary of State".

(g) Publicity and Promotion Overseas.—Section 104(e)(4) (22 U.S.C. 2454(e)(4)) is amended by striking "President" and inserting "Secretary of State".

(h) Use of Funds.—Section 105(e) (22 U.S.C. 2455(e)) is amended by striking "President" each place it appears and inserting "Secretary of State".

(i) Repeal of Authority for Abolished Advisory Committee.—Section 106(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2456(c)) is repealed.

(j) Bureau of Educational and Cultural Affairs.—

(1) In general.—Section 112(a) (22 U.S.C. 2460(a)) is amended by striking the first sentence and inserting the following: "In order to carry out the purposes of this Act, there is established in the Department of State a Bureau for International Exchange Activities (in this section referred to as the "Bureau").

(2) Implementation of programs.—Section 112(c) (22 U.S.C. 2460(c)) is amended by striking "President" each place it appears and inserting "Secretary of State".

SEC. 1306. INTERNATIONAL BROADCASTING ACTIVITIES.

(a) IN GENERAL.—(1) Except as otherwise provided in paragraph (2), title III of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended—

(A) by striking "Director of the United States Information Agency" or "Director" each place it appears and inserting "Under Secretary of State for Public Diplomacy";

(B) by striking all references to "United States Information Agency" that were not stricken in subparagraph (A) and inserting "Department of State";

(C) in section 305(a)(1), by inserting "(including activities of the Voice of America previously carried out by the United States Information Agency)" after "this title";

(D) in section 305(b), by striking "Agency's" each place it appears and inserting "Department's"; and

(E) by striking "Bureau" each place it appears and inserting "Office".

(2) Title III of such Act is amended—

(A) in section 304(c)—

(i) by striking "Director's" and inserting "Under Secretary's"; and

(ii) in the fifth sentence, by striking "Director of the United States Information Agency, the acting Director of the agency" and inserting "Under Secretary of State for Public Diplomacy, the acting Under Secretary";

(B) in sections 305(b) and 307(b)(1), by striking "Director of the Bureau" each place it appears and inserting "Director of the Office";

(C) in subsections (i) and (j) of section 308, by striking "Inspector General of the United States Information Agency" each place it appears and inserting "Inspector General for Foreign Affairs"; and

(D) in section 310(d), by striking "Director on the date of enactment of this Act, to the extent that the Director" and inserting "Under Secretary on the effective date of title XIII of the Foreign Affairs Reinvention Act of 1995, to the extent that the Under Secretary".

(b) CONFORMING AMENDMENT TO TITLE 5.—Section 5315 of title 5, United States Code, is amended by striking "Director of the International Broadcasting Bureau, the United States Information Agency" and inserting "Director of the International Broadcasting Office, the Department of State".

SEC. 1307. TELEVISION BROADCASTING TO CUBA.

(a) AUTHORITY.—Section 243(a) of the Television Broadcasting to Cuba Act (as contained in part D of title II of Public Law 101–246) (22 U.S.C. 1465bb(a)) is amended by striking "United States Information Agency (hereafter in this part referred to as the 'Agency')" and inserting "Department of State (hereafter in this title referred to as the 'Department')".

(b) TELEVISION MARTI SERVICE.—Section 244 of such Act (22 U.S.C. 1465cc) is amended—

(1) in subsection (a)—

(A) by amending the first sentence to read as follows: "The Secretary of State shall administer within the Voice of America the Television Marti Service.", and

(B) in the third sentence, by striking "Director of the United States Information Agency" and inserting "Secretary of State";

(2) in subsection (b)—

(A) in the subsection heading, by striking "USIA" and inserting "Department of State",

(B) by striking "Agency facilities" and inserting "Department facilities", and

(C) by striking "United States Information Agency Television Service" and inserting "Department of State Television Service"; and

(3) in subsection (c)—

(A) by striking "USIA AUTHORITY.—The Agency" and inserting "SECRETARY OF STATE AUTHORITY.—The Secretary of State"; and

(B) by striking "Agency" the second place it appears and inserting "Secretary of State".

(c) ASSISTANCE FROM OTHER GOVERNMENT AGENCIES.—Section 246 of such Act (22 U.S.C. 1465dd) is amended—

(1) by striking "United States Information Agency" and inserting "Department of State"; and

(2) by striking "the Agency" and inserting "the Department".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 247(a) of such Act (22 U.S.C. 1465ee(a)) is repealed.

SEC. 1308. RADIO BROADCASTING TO CUBA.

(a) FUNCTIONS OF THE DEPARTMENT OF STATE.—Section 3 of the Radio Broadcasting to Cuba Act (22 U.S.C. 1465a) is amended—

(1) in the section heading, by striking "United States Information Agency" and inserting "Department of State";

(2) in subsection (a), by striking "United States Information Agency (hereafter in this Act referred to as the 'Agency')" and inserting "Department of State (hereafter in this Act referred to as the 'Department')";

(3) by striking subsection (d); and

(4) in subsection (f), by striking "Director of the United States Information Agency" and inserting "Secretary of State".

(b) CUBA SERVICE.—Section 4 of such Act (22 U.S.C. 1465b) is amended—

(1) by amending the first sentence to read as follows: "The Secretary of State shall administer within the Voice of America the Cuba Service (hereafter in this section referred to as the 'Service')."; and

(2) in the third sentence, by striking "Director of the United States Information Agency" and inserting "Secretary of State".

(c) ASSISTANCE FROM OTHER GOVERNMENT AGENCIES.—Section 6 of such Act (22 U.S.C. 1465d) is amended—

(1) in subsection (a)—

(A) by striking "United States Information Agency" and inserting "Department of State"; and

(B) by striking "the Agency" and inserting "the Department"; and

(2) in subsection (b)—

(A) by striking "The Agency" and inserting "The Department"; and

(B) by striking "the Agency" and inserting "the Secretary of State".

(d) FACILITY COMPENSATION.—Section 7 of such Act (22 U.S.C. 1465e) is amended—

(1) in subsection (b), by striking "the Agency" and inserting "the Department"; and

(2) in subsection (d), by striking "Agency" and inserting "Department".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 8 of such Act (22 U.S.C. 1465f) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) The amount obligated by the Department of State each fiscal year to carry out this Act shall be sufficient to maintain broadcasts to Cuba under this Act at rates no less than the fiscal year 1985 level of obligations by the former United States Information Agency for such broadcasts."; and

(2) by redesignating subsection (c) as subsection (b).

SEC. 1309. NATIONAL ENDOWMENT FOR DEMOCRACY.

(a) GRANTS.—Section 503 of Public Law 98–164, as amended (22 U.S.C. 4412) is amended—

(1) in subsection (a)—

(A) by striking "Director of the United States Information Agency" and inserting "Secretary of State";

(B) by striking "the Agency" and inserting "the Department of State"; and

(C) by striking "the Director" and inserting "the Secretary of State"; and

(2) in subsection (b), by striking "United States Information Agency" and inserting "Department of State".

(b) AUDITS.—Section 504(g) of such Act (22 U.S.C. 4413(g)) is amended by striking "United States Information Agency" and inserting "Department of State".

(c) FREEDOM OF INFORMATION.—Section 506 of such Act (22 U.S.C. 4415) is amended—

(1) in subsection (b)—

(A) by striking "Director" each of the three places it appears and inserting "Secretary"; and

(B) by striking "of the United States Information Agency" and inserting "of State"; and

(2) in subsection (c)—

(A) in the subsection heading by striking "USIA" and inserting "DEPARTMENT OF STATE";

(B) by striking "Director" each of the three places it appears and inserting "Secretary";

(C) by striking "of the United States Information Agency" and inserting "of State"; and

(D) by striking "United States Information Agency" and inserting "Department of State".

SEC. 1310. UNITED STATES SCHOLARSHIP PROGRAM FOR DEVELOPING COUNTRIES.

(a) PROGRAM AUTHORITY.—Section 603 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 4703) is amended by striking "United States Information Agency" and inserting "Department of State".

(b) GUIDELINES.—Section 604(11) of such Act (22 U.S.C. 4704(11)) is amended by striking "United States Information Agency" and inserting "Department of State".

(c) POLICY REGARDING OTHER INTERNATIONAL EDUCATIONAL PROGRAMS.—Section 606(b) of such Act (22 U.S.C. 4706(b)) is amended—

(1) in the subsection heading, by striking "USIA" and inserting "STATE DEPARTMENT"; and

(2) by striking "Director of the United States Information Agency" and inserting "Secretary of State".

(d) GENERAL AUTHORITIES.—Section 609(e) of such Act (22 U.S.C. 4709(e)) is amended by striking "United States Information Agency" and inserting "Department of State".

SEC. 1311. NATIONAL SECURITY EDUCATION BOARD.

Section 803 of the Intelligence Authorization Act, Fiscal Year 1992 (50 U.S.C. 1903(b)) is amended—

(1) in subsection (b)—

(A) by striking paragraph (6); and

(B) by redesignating paragraph (7) as paragraph (6); and

(2) in subsection (c), by striking "subsection (b)(7)" and inserting "subsection (b)(6)".

SEC. 1312. CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN NORTH AND SOUTH.

Section 208 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2075) is amended by striking "Director of the United States Information Agency" each place it appears and inserting "Secretary of State".

SEC. 1313. CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.

(a) DUTIES.—Section 703 of the Mutual Security Act of 1960 (22 U.S.C. 2055) is amended—

(1) in the text above paragraph (1), by striking "Director of the United States Information Agency" (hereinafter referred to as the 'Director') and inserting "Secretary of State (hereinafter referred to as the 'Secretary')"; and

(2) in paragraph (1), by striking "establishment and".

(b) ADMINISTRATION.—Section 704 of such Act (22 U.S.C. 2056) is amended—

(1) by striking "Director of the United States Information Agency" and inserting "Secretary of State"; and

(2) by striking "Director" each place it appears and inserting "Secretary".

SEC. 1314. MISSION OF THE DEPARTMENT OF STATE.

Section 202 of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 1461–1) is amended—

(1) in the first sentence, by striking "mission of the United States Information Agency" and inserting "mission of the Department of State in carrying out its information, educational, and cultural functions";

(2) in the second sentence, in the text above paragraph (1), by striking "United States Information Agency" and inserting "Department of State";

(3) in paragraph (1)(B), by striking "Agency" and inserting "Department"; and

(4) in paragraph (5), by striking "mission of the Agency" and inserting "mission described in this section".

SEC. 1315. CONSOLIDATION OF ADMINISTRATIVE SERVICES.

Section 23 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2695(a)) is amended—

(1) by striking "(including" and all that follows through "Agency)"; and

(2) by striking "other such agencies" and inserting "other Federal agencies".

SEC. 1316. GRANTS.

Section 212 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 1475h) is amended—

(1) in subsection (a), by striking "United States Information Agency" and inserting "Department of State, in carrying out its international information, educational, and cultural functions,";

(2) in subsection (b), by striking "United States Information Agency" and inserting "Department of State";

(3) in subsection (c)—

(A) in paragraph (1), by striking "United States Information Agency shall substantially comply with United States Information Agency" and inserting "Department of State, in carrying out its international information, educational, and cultural functions, shall substantially comply with Department of State"; and

(B) in paragraph (2), by striking "United States Information Agency" and inserting "Department of State"; and

(C) in paragraphs (2) and (3), by striking "Agency" each of the two places it appears and inserting "Department"; and

(4) by striking subsection (d).

SEC. 1317. BAN ON DOMESTIC ACTIVITIES.

Section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1a) is amended—

(1) by striking out "United States Information Agency" each of the two places it appears and inserting "Department of State"; and

(2) by inserting "in carrying out international information, educational, and cultural activities comparable to those previously administered by the United States Information Agency" before "shall be distributed".

SEC. 1318. CONFORMING REPEAL TO THE ARMS CONTROL AND DISARMAMENT ACT.

Section 34(b) of the Arms Control and Disarmament Act (22 U.S.C. 2574(b)) is repealed.

SEC. 1319. REPEAL RELATING TO PROCUREMENT OF LEGAL SERVICES.

Section 26(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2698(b)) is repealed.

SEC. 1320. REPEAL RELATING TO PAYMENT OF SUBSISTENCE EXPENSES.

Section 32 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2704) is amended by striking the second sentence.

SEC. 1321. CONFORMING AMENDMENT TO THE SEED ACT.

Section 2(c) of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401(c)) is amended in paragraph (17) by striking "United States Information Agency" and inserting "Department of State".

SEC. 1322. INTERNATIONAL CULTURAL AND TRADE CENTER COMMISSION.

Section 7(c)(1) of the Federal Triangle Development Act (40 U.S.C. 1106(c)(1)) is amended—

(1) in the text above subparagraph (A), by striking "15 members" and inserting "14 members";

(2) by striking subparagraph (F); and

(3) by redesignating subparagraphs (G) through (J) as subparagraphs (F) through (I), respectively.

SEC. 1323. OTHER LAWS REFERENCED IN REORGANIZATION PLAN NO. 2 OF 1977.

(a) IMMIGRATION AND NATIONALITY ACT.—(1) Section 101(a)(15)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J)) is amended by striking "Director of the United States Information Agency" and inserting "Secretary of State".

(2) Section 212(e) of such Act (8 U.S.C. 1182(e)) is amended—

(A) by striking "Director of the United States Information Agency" and inserting "Secretary of State"; and

(B) by striking "Director" each place it appears and inserting "Secretary".

(b) ARTS AND ARTIFACTS INDEMNITY ACT.—Section 3(a) of the Arts and Artifacts Indemnity Act (20 U.S.C. 972(a)) is amended by striking out "Director of the United States Information Agency" and inserting in lieu thereof "Secretary of State".

(c) NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT OF 1965.—Section 9(b) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 958(b)) is amended by striking out "a member designated by the Director of the United States Information Agency," and inserting in lieu thereof "a member designated by the Secretary of State,".

(d) WOODROW WILSON MEMORIAL ACT OF 1968.—Section 3(b) of the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80f(b)) is amended—

(1) in the matter preceding paragraph (1), by striking out "19 members" and inserting in lieu thereof "18 members";

(2) by striking out paragraph (7); and

(3) by redesignating paragraphs (8), (9), and (10) as paragraphs (7), (8), and (9), respectively.

(e) PUBLIC LAW 95–86.—Title V of the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriations Act, 1978 (Public Law 95–86) is amended in the third proviso of the paragraph "SALARIES AND EXPENSES" under the heading "UNITED STATES INFORMATION AGENCY" (22 U.S.C. 1461b) by striking out "the United States Information Agency is authorized," and inserting in lieu thereof "the Secretary of State may,".

(f) ACT OF JULY 9, 1949.—The Act of July 9, 1949 (63 Stat. 408; chapter 301; 22 U.S.C. 2681 et seq.) is repealed.

SEC. 1324. EXCHANGE PROGRAM WITH COUNTRIES IN TRANSITION FROM TOTALITARIANISM TO DEMOCRACY.

Section 602 of the National and Community Service Act of 1990 (22 U.S.C. 2452a) is amended—

(1) in the second sentence of subsection (a), by striking "United States Information Agency" and inserting "Department of State"; and

(2) in subsection (b)—

(A) by striking "appropriations account of the United States Information Agency" and inserting "appropriate appropriations account of the Department of State"; and

(B) by striking "and the United States Information Agency".

SEC. 1325. EDMUND S. MUSKIE FELLOWSHIP PROGRAM.

Section 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note) is amended—

(1) in subsection (b), by striking "United States Information Agency" and inserting "Department of State"; and

(2) by striking subsection (d).

SEC. 1326. IMPLEMENTATION OF CONVENTION ON CULTURAL PROPERTY.

Title III of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 et seq.) is amended by striking "Director of the United States Information Agency" each place it appears and inserting "Secretary of State".

SEC. 1327. MIKE MANSFIELD FELLOWSHIPS.

Part C of title II of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6101 et seq.) is amended—

(1) by striking "Director of the United States Information Agency" each place it appears and inserting "Secretary of State"; and

(2) by striking "United States Information Agency" each place it appears and inserting "Department of State".

SEC. 1328. UNITED STATES ADVISORY COMMITTEE FOR PUBLIC DIPLOMACY.

Section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469) is amended—

(1) in subsection (c)(1)—

(A) by striking "the Director of the United States Information Agency,"; and

(B) by striking "Director or the Agency, and shall appraise the effectiveness of policies and programs of the Agency" and inserting "Secretary of State or the Department of State, and shall appraise the effectiveness of the information, educational, and cultural policies and programs of the Department";

(2) in subsection (c)(2), in the first sentence—

(A) by striking "the Secretary of State, and the Director of the United States Information Agency" and inserting ", and the Secretary of State";

(B) by striking "Agency" the first place it appears and inserting "Department of State"; and

(C) by striking "Director for effectuating the purposes of the Agency" and inserting "Secretary for effectuating the information, educational, and cultural functions of the Department";

(3) in subsection (c)(3), by striking "programs conducted by the Agency" and inserting "information, educational, and cultural programs conducted by the Department of State"; and

(4) in subsection (c)(4), by striking "Director of the United States Information Agency" and inserting "Secretary of State".

SEC. 1329. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect only in the event of the abolition of the independent foreign affairs agencies specified in section 1501(e).

TITLE XIV—AGENCY FOR INTERNATIONAL DEVELOPMENT AND THE INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

SEC. 1401. ABOLITIONS; REFERENCES IN PART.

(a) ABOLITIONS.—The Agency for International Development and the International Development Cooperation Agency (exclusive of components expressly established by statute or reorganization plan) are abolished upon the effective date of this title.

(b) REFERENCES IN PART.—Except as specifically provided in this title, whenever in this title an amendment or repeal is expressed as an amendment to or repeal of a provision, the reference shall be deemed to be made to the Foreign Assistance Act of 1961.

SEC. 1402. REFERENCES IN THE FOREIGN ASSISTANCE ACT OF 1961.

References in the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) to—

(1) the "administrator of the agency primarily responsible for administering part I of this Act", "administrator of the agency primarily responsible for administering this part", and the "Administrator" shall be deemed to be references to the Secretary of State; and

(2) the "agency primarily responsible for administering part I of this Act", the "agency primarily responsible for administering this part", and "agency" (except as used in sections 231 and 661 of such Act) shall be deemed to be the Department of State.

SEC. 1403. EXERCISE OF FUNCTIONS BY THE SECRETARY OF STATE.

Section 621(a) (22 U.S.C. 2381(a)) is amended—

(1) in the first sentence, by inserting before the period the following: ", except that functions conferred upon the President in part I of this Act may be exercised by the Secretary of State"; and

(2) in the second and third sentences, by striking "head of any such agency" each place it appears and inserting "Secretary of State and any other head of any such agency".

SEC. 1404. REPEAL OF POSITIONS; EMPLOYMENT AND CONTRACTING AUTHORITIES.

The following sections are repealed:

(1) Section 624 (a), (b), (c), and (e) (22 U.S.C. 2384 (a), (b), (c), and (e); relating to statutory officers).

(2) Section 626 (a) and (b) (22 U.S.C. 2386 (a) and (b); relating to experts and consultants).

SEC. 1405. DEVELOPMENT LOAN COMMITTEE.

Section 122(e) (22 U.S.C. 2151t(e)) is amended by inserting after the first sentence the following new sentence: "The Secretary of State shall serve as Chairman of the Committee.".

SEC. 1406. DEVELOPMENT COORDINATION COMMITTEE.

(a) ANNUAL REPORT.—Section 634(a) (22 U.S.C. 2394(a)) is amended in the text above paragraph (1)(A) by striking "Chairman of the Development Coordination Committee" and inserting "Secretary of State".

(b) COORDINATION.—Section 640B(a) (22 U.S.C. 2399(a)) is amended by striking "head of the agency primarily responsible for administering part I, Chairman, and representatives of the Departments of State," and inserting "Secretary of State,".

SEC. 1407. PUBLIC LAW 83–480 PROGRAM.

The Agricultural Trade Development and Assistance Act of 1954 (Public Law 83–480; 7 U.S.C. 1691 et seq.) is amended—

(1) by striking "Administrator" each place it appears and inserting "Secretary of State"; and

(2) in section 402 (7 U.S.C. 1732)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (8) as paragraphs (1) through (7), respectively.

SEC. 1408. CONFORMING AMENDMENTS TO TITLE 5, UNITED STATES CODE.

(a) ADMINISTRATOR.—Section 5313 of title 5, United States Code, is amended by striking "Administrator, Agency for International Development.".

(b) DEPUTY ADMINISTRATOR.—Section 5314 of title 5, United States Code, is amended by striking "Deputy Administrator, Agency for International Development.".

(c) ASSISTANT ADMINISTRATORS.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Administrators, Agency for International Development (6).".

(d) REGIONAL ASSISTANT ADMINISTRATORS.—Section 5315 of title 5, United States Code, is amended by striking "Regional Assistant Administrators, Agency for International Development (4).".

(e) GENERAL COUNSEL.—Section 5316 of title 5, United States Code, is amended by striking "General Counsel of the Agency for International Development.".

SEC. 1409. TRADE PROMOTION COORDINATING COMMITTEE.

Section 2312 of the Export Enhancement Act of 1988 (15 U.S.C. 4727) is amended—

(1) in subsection (d)(1)—

(A) by striking subparagraph (I); and

(B) by redesignating subparagraphs (J) through (M) as subparagraphs (I) through (L), respectively; and

(2) in subsection (f)—

(A) by inserting "the Committee on Foreign Relations and" after "submit to"; and

(B) by striking "Foreign Affairs" and inserting "International Relations".

SEC. 1410. CHIEF FINANCIAL OFFICER.

Section 901(b)(2) of title 31, United States Code, is amended—

(1) by striking subparagraph (A) (relating to the Agency for International Development); and

(2) by redesignating subparagraphs (B) through (H) as subparagraphs (A) through (G), respectively.

SEC. 1411. REFERENCES IN LAW.

Any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to the Agency for International Development or the International Development Cooperation Agency (insofar as it exercises AID functions) or the Administrator or other official of the Agency for International Development (or the Director or other official of IDCA exercising AID functions) shall be deemed to refer respectively to the Department of State or the Secretary of State or other official of the Department of State.

SEC. 1412. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect only in the event of the abolition of the independent foreign affairs agencies specified in section 1501(e).

TITLE XV—PLANS FOR CONSOLIDATION AND REINVENTION OF FOREIGN AFFAIRS AGENCIES

SEC. 1501. REORGANIZATION OF THE DEPARTMENT OF STATE AND THE INDEPENDENT FOREIGN AFFAIRS AGENCIES.

(a) SUBMISSION OF REORGANIZATION PLANS.—

(1) IN GENERAL.—The President is authorized to transmit to the appropriate congressional committees a reorganization plan or plans providing for the streamlining, consolidation, and merger of the functions of the foreign affairs agencies of the United States in order to carry out the purposes of section 1002.

(2) SPECIFIC OBJECTIVES.—Pursuant to paragraph (1), the President is authorized to transmit a reorganization plan meeting the following objectives:

(A) The elimination in the duplication of functions and personnel between the Department of State and the independent foreign affairs agencies, which may include the abolition of any such agency.

(B) The reduction in the aggregate number of positions in the Department of State and the independent foreign affairs agencies which are classified at each of levels II, III, and IV of the Executive Schedule.

(C) The reorganization and streamlining of the Department of State.

(D) The achievement of $1,700,000,000 in savings over 5 years through the streamlining, consolidation, and merger of the functions of the foreign affairs agencies.

(E) The enhancement of the formulation, coordination, and implementation of policy.

(F) The maintenance, to the maximum extent possible, of a United States diplomatic and consular presence abroad.

(G) The maintenance of programs vital to the national interests of the United States.

(b) PLAN ELEMENTS.—A reorganization plan transmitted under subsection (a)(2), consistent with the provisions of this Act, shall—

(1) identify the functions of the independent foreign affairs agency or agencies that will be transferred to the Department of State or any other agency under the plan, as well as those that may be abolished under the plan;

(2) identify the personnel and positions of the agency or agencies (including civil service personnel, Foreign Service personnel, and detailees) that will be transferred to the Department or any other agency, separated from service with the agency or agencies, or be terminated under the plan, and set forth a schedule for such transfers, separations, and terminations;

(3) identify the personnel and positions of the Department (including civil service personnel, Foreign Service personnel, and detailees) that will be transferred within the Department or any other agency, separated from service with the Department, or terminated under the plan and set forth a schedule for such transfers, separations, and terminations;

(4) specify the consolidations, mergers, and reorganization of functions of the Department that will be required under the plan in order to permit the Department to carry out the functions transferred to the Department under the plan;

(5) specify the funds available to the independent foreign affairs agency or agencies that will be transferred to the Department or any other agency under this Act as a result of the implementation of the plan;

(6) specify the proposed allocations within the Department of the funds specified for transfer under paragraph (5);

(7) specify the proposed disposition of the property, facilities, contracts, records, and other assets and liabilities of the independent foreign affairs agency or agencies resulting from the abolition of any such agency and the transfer of the functions of the independent foreign affairs agencies to the Department or to any other agency;

(8) specify a proposed consolidation of administrative functions to serve the Department of State and all independent foreign affairs agencies; and

(9) contain a certification by the Director of the Office of Management and Budget that the Director estimates that the plan will save $1,700,000,000 in budget authority during fiscal years 1996 through 2000 from the initial level appropriated for fiscal year 1995 for the following agencies (including appropriations made to accounts administered by such agencies): the Department of State, the United States Information Agency, the United States Agency for International Development, and the United States Arms Control and Disarmament Agency.

(c) LIMITATIONS.—

(1) LIMITATION ON REDUCTIONS IN PROGRAM LEVELS.—Not more than 30 percent of the savings required under subsection (b)(9) may be realized from reductions in program levels.

(2) LIMITATION ON SAVINGS FROM ADMINISTRATIVE EXPENSES OF THE DEPARTMENT OF STATE.—Not more than 15 percent of the savings required under subsection (b)(9) may come from the administrative expenses of the Department of State.

(3) LIMITATIONS ON CONTENTS OF PLAN.—Sections 1606 and 1607 of this Act shall apply to a plan transmitted under subsection (a).

(d) EFFECTIVE DATE OF PLAN.—(1) A plan transmitted under subsection (a) shall become effective on a date which is 90 calendar days of continuous session of Congress after the date on which the plan is transmitted to Congress, unless the Congress enacts a joint resolution, in

accordance with section 1608, disapproving the plan.

(2) Any provision of a plan submitted under subsection (a) may take effect later than the date on which the plan becomes effective.

(e) ABOLITION OF SPECIFIED INDEPENDENT FOREIGN AFFAIRS AGENCIES.—If the President does not transmit to Congress within six months after the date of enactment of this Act a reorganization plan meeting the objectives of subsection (a)(2), then the United States Arms Control and Disarmament Agency, the United States Information Agency, the Agency for International Development, and the International Development Cooperation Agency (exclusive of components expressly established by statute or reorganization plan) shall be abolished six months after the expiration of the period for submission of the plan, and the functions of such agencies shall be transferred in accordance with section 1601.

(f) DEFINITIONS.—As used in this section—

(1) the term "foreign affairs agencies" means the Department of State and the independent foreign affairs agencies; and

(2) the term "independent foreign affairs agencies" means such Federal agencies (other than the Department of State) that solely perform functions that are funded under major budget category 150 and includes the United States Arms Control and Disarmament Agency, the United States Information Agency, the Agency for International Development, and the International Development Cooperation Agency.

TITLE XVI—TRANSITION PROVISIONS

SEC. 1601. TRANSFER OF FUNCTIONS.

(a) DEPARTMENT OF STATE.—Except as otherwise provided in this Act, there are transferred to, and vested in, the Secretary of State on the effective dates specified under this section all functions vested by law (including by reorganization plan approved before the date of the enactment of this Act pursuant to chapter 9 of title 5, United States Code) in, or exercised by, the head of each of the following agencies, the agencies themselves, or officers, employees, or components thereof, immediately prior to such date:

(1) The United States Arms Control and Disarmament Agency, on the effective date of title XII.

(2) The United States Information Agency, on the effective date of title XIII.

(3) The Agency for International Development and the International Development Cooperation Agency (exclusive of components expressly established by statute or reorganization plan), on the effective date of title XIV.

(b) BROADCASTING BOARD OF GOVERNORS.—There are transferred to, and vested in, the Broadcasting Board of Governors of the Department of State under title III of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (as amended by section 1306 of this Act) on the effective date of title XIII all functions vested by law in, or exercised by, the Broadcasting Board of Governors of the United States Information Agency as of the day before that date.

(c) OFFICE OF CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF STATE.—There are transferred to the Chief Financial Officer of the Department of State on the effective date of title XIV all functions that were vested by law in, or exercised by, the Chief Financial Officer of the Agency for International Development immediately prior to such date.

(d) OFFICE OF INSPECTOR GENERAL FOR FOREIGN AFFAIRS OF THE DEPARTMENT OF STATE.—There are transferred to the Inspector General for Foreign Affairs of the Department of State, as established in section 209 of the Foreign Service Act of 1980 (as amended by this Act) on the effective dates specified under this subsection the following functions:

(1) On the effective date of title XIII: All functions that were vested by law in, or exercised by, the Inspector General of the United States Information Agency immediately prior to such date.

(2) On the effective date of title XIV: All functions that were vested by law in, or exercised by, the Inspector General of the Agency for International Development immediately prior to such date.

(e) STATUTORY CONSTRUCTION.—Nothing in this section precludes a transfer of functions on a date prior to an effective date specified under this section if the transfer is made in accordance with the schedule of transfers set forth in a reorganization plan approved under this title.

SEC. 1602. DETERMINATION OF TRANSFERRED FUNCTIONS AND EMPLOYEES.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary of State shall, with the cooperation of the head of the transferor agency, identify the functions or employees, or both, of the agency that are to be transferred to the Department of State pursuant to section 1601. Any disagreements between the head of such an agency and the Secretary with respect to such an identification shall be resolved by the Director of the Office of Management and Budget.

(b) AGENCY FOR INTERNATIONAL DEVELOPMENT.—The Secretary of State shall determine the functions of the Agency for International Development, and the number of employees of such Agency necessary to perform or support such functions, which are to be transferred from the Agency for International Development to the Department of State pursuant to section 1601.

SEC. 1603. REORGANIZATION PLAN FOR THE UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY.

(a) SUBMISSION OF PLAN.—In the event of the abolition of the independent foreign affairs agencies specified in section 1501(e), not later than 90 days before their abolition, the President, in consultation with the Secretary of State, shall transmit to the appropriate congressional committees a reorganization plan providing for—

(1) the abolition of the United States Arms Control and Disarmament Agency in accordance with this title;

(2) the transfer to the Department of State of the functions and personnel of the Arms Control and Disarmament Agency as the President determines necessary to carry out the primary functions of the Agency, consistent with this title and title XII; and

(3) the consolidation, reorganization, and streamlining of the Department upon the transfer of functions under this title in order to carry out such functions.

(b) PLAN ELEMENTS.—The plan under subsection (a) shall—

(1) identify the functions of the Arms Control and Disarmament Agency that will be transferred to the Department under the plan, as well as those that will be abolished under the plan;

(2) identify the personnel and positions of the Agency (including civil service personnel, Foreign Service personnel, and detailees) that will be transferred to the Department, separated from service with the Agency, or be terminated under the plan, and set forth a schedule for such transfers, separations, and terminations;

(3) identify the personnel and positions of the Department (including civil service personnel, Foreign Service personnel, and detailees) that will be transferred within the Department, separated from service with the Department, or terminated under the plan and set forth a schedule for such transfers, separations, and terminations;

(4) specify the consolidations and reorganization of functions of the Department that will be required under the plan in order to permit the Department to carry out the functions transferred to the Department under the plan;

(5) specify the funds available to the Arms Control and Disarmament Agency that will be transferred to the Department under this title as a result of the abolition of the Agency;

(6) specify the proposed allocations within the Department of unexpended funds of the Agency that will be transferred to the Department under the plan; and

(7) specify the proposed disposition of the property, facilities, contracts, records, and other assets and liabilities of the Agency that will result from the abolition of the Agency and the transfer of the functions of the Agency to the Department under the plan.

(c) EFFECTIVE DATE OF PLAN.—The plan transmitted under subsection (a) shall become effective on the date which is 90 calendar days of continuous session of Congress after the date on which the plan is transmitted to Congress, unless the Congress enacts a joint resolution, in accordance with section 1608, disapproving the plan.

(d) REDUCTION OF EMPLOYEES.—(1) In implementation of any plan submitted under subsection (a), the Director of the United States Arms Control and Disarmament Agency shall take such actions as necessary, including actions under section 611 of the Foreign Service Act of 1980 (22 U.S.C. 4010a), in the case of members of the Foreign Service, or under regulations prescribed under section 3502 of title 5, United States Code, and procedures established under section 3595, of title 5, United States Code, in the case of Federal employees who are not members of the Foreign Service, to reduce by eight percent the number of employees employed by the Agency on the date of the enactment of this Act. The Director shall achieve the reduction not later than the effective date of the plan submitted under subsection (a).

(2) For purposes of this subsection, the transfer of any employee of the Agency to the Department of State, or to any other department or agency of the United States, shall be excluded from the computation of the percentage reduction in personnel under this subsection.

(e) REDUCTION IN FUNDS FOR SALARIES AND EXPENSES FOR FAILURE TO IMPLEMENT PLAN.—If the Secretary of State and the Director of the United States Arms Control and Disarmament Agency do not complete the implementation of the reorganization plan of the Agency under this section in accordance with the schedule in the plan as approved under section 1608, the amount of funds that the Secretary and the Director may obligate for salaries and expenses of the Department of State and the Agency, respectively, in the fiscal year in which the implementation of the plan is otherwise scheduled to be completed under the plan shall be reduced by an amount equal to 20 percent of the amount otherwise appropriated to the Department and the Agency, respectively, in that fiscal year for salaries and expenses.

SEC. 1604. REORGANIZATION PLAN FOR THE UNITED STATES INFORMATION AGENCY.

(a) SUBMISSION OF PLAN.—In the event of the abolition of the independent foreign affairs agencies specified in section 1501(e), not later than 90 days before their abolition, the President, in consultation with the Secretary of State, shall transmit to the appropriate congressional committees a reorganization plan providing for—

(1) the abolition of the United States Information Agency in accordance with this title;

(2) the transfer to the Department of State of the functions and personnel of the United States Information Agency as the President determines necessary to carry out the primary functions of

the Agency, consistent with this title and title XIII and subject to paragraph (3);

(3) the transfer to the corresponding components of the Department of State of such functions and personnel of the components of the Agency described in sections 1601(b) and 1601(d)(1) as the President determines necessary to carry out the primary functions of those components; and

(4) the consolidation, reorganization, and streamlining of the Department upon the transfer of functions under this title in order to carry out such functions.

(b) PLAN ELEMENTS.—The plan under subsection (a) shall—

(1) identify the functions of the United States Information Agency that will be transferred to the Department under the plan, as well as those that will be abolished under the plan;

(2) identify the personnel and positions of the Agency (including civil service personnel, Foreign Service personnel, and detailees) that will be transferred to the Department, separated from service with the Agency, or be terminated under the plan, and set forth a schedule for such transfers, separations, and terminations;

(3) identify the personnel and positions of the Department (including civil service personnel, Foreign Service personnel, and detailees) that will be transferred within the Department, separated from service with the Department, or terminated under the plan, and set forth a schedule for such transfers, separations, and terminations;

(4) specify the consolidations and reorganization of functions of the Department that will be required under the plan in order to permit the Department to carry out the functions transferred to the Department under the plan;

(5) specify the funds available to the United States Information Agency that will be transferred to the Department under this title as a result of the abolition of the Agency;

(6) specify the proposed allocations within the Department of unexpended funds of the Agency that will be transferred to the Department under the plan; and

(7) specify the proposed disposition of the property, facilities, contracts, records, and other assets and liabilities of the Agency that will result from the abolition of the Agency and the transfer of the functions of the Agency to the Department under the plan.

(c) EFFECTIVE DATE OF PLAN.—The plan transmitted under subsection (a) shall become effective on the date which is 90 calendar days of continuous session of Congress after the date on which the plan is transmitted to Congress, unless the Congress enacts a joint resolution, in accordance with section 1608, disapproving the plan.

(d) REDUCTION OF EMPLOYEES.—(1) Subject to paragraph (2), in implementation of any plan submitted under subsection (a), the Director of the United States Information Agency shall take such actions as necessary, including actions under section 611 of the Foreign Service Act of 1980 (22 U.S.C. 4010a), in the case of members of the Foreign Service, or under regulations prescribed under section 3502 of title 5, United States Code, and procedures established under section 3595, of title 5, United States Code, in the case of Federal employees who are not members of the Foreign Service, to reduce by 25 percent the number of employees employed by the Agency on the date of the enactment of this Act. The Director shall achieve the reduction not later than the effective date of the plan submitted under subsection (a).

(2) For purposes of this subsection, the transfer of any employee of the Agency to the Department of State, or to any other department or agency of the United States, shall be excluded from the computation of the percentage reduction in personnel under this subsection.

(3) In reducing the number of employees employed by the Agency under this subsection, the Director shall ensure that the number of members of the Foreign Service employed by the Agency does not exceed the number of such members authorized to be employed by the Agency under section 141.

(e) REDUCTION IN FUNDS FOR SALARIES AND EXPENSES FOR FAILURE TO IMPLEMENT PLAN.—If the Secretary of State and the Director of the United States Information Agency do not complete the implementation of the reorganization plan of the Agency under this section in accordance with the schedule in the plan as approved under section 1608, the amount of funds that the Secretary and the Director may obligate for salaries and expenses of the Department of State and the Agency, respectively, in the fiscal year in which the implementation of the plan is otherwise scheduled to be completed under the plan shall be reduced by an amount equal to 20 percent of the amount otherwise appropriated to the Department and the Agency, respectively, in that fiscal year for salaries and expenses.

SEC. 1605. REORGANIZATION PLAN FOR THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) SUBMISSION OF PLAN.—In the event of the abolition of the independent foreign affairs agencies specified in section 1501(e), not later than 90 days before their abolition, the President, in consultation with the Secretary of State, shall transmit to the appropriate congressional committees a reorganization plan providing for—

(1) the abolition of the Agency for International Development in accordance with this title;

(2) the transfer to the Department of State of the functions and personnel of the Agency for International Development as the President determines necessary to carry out the primary functions of the Agency, consistent with this title and title XIV;

(3) the transfer to the corresponding components of the Department of State of such functions and personnel of the components of the Agency described in sections 1601(c) and 1601(d)(2) as the President determines necessary to carry out the primary functions of those components; and

(4) the consolidation, reorganization, and streamlining of the Department upon the transfer of functions under this title in order to carry out such functions.

(b) PLAN ELEMENTS.—The plan under subsection (a) shall—

(1) identify the functions of the Agency for International Development that will be transferred to the Department under the plan, as well as those that will be abolished under the plan;

(2) identify the personnel and positions of the Agency (including civil service personnel, Foreign Service personnel, and detailees) that will be transferred to the Department, separated from service with the Agency, or be terminated under the plan, and set forth a schedule for such transfers, separations, and terminations;

(3) identify the personnel and positions of the Department (including civil service personnel, Foreign Service personnel, and detailees) that will be transferred within the Department, separated from service with the Department, or terminated under the plan and set forth a schedule for such transfers, separations, and terminations;

(4) specify the consolidations and reorganization of functions of the Department that will be required under the plan in order to permit the Department to carry out the functions transferred to the Department under the plan;

(5) specify the funds available to the Agency for International Development that will be transferred to the Department under this title as a result of the abolition of the Agency;

(6) specify the proposed allocations within the Department of unexpended funds of the Agency that will be transferred to the Department under the plan; and

(7) specify the proposed disposition of the property, facilities, contracts, records, and other assets and liabilities of the Agency that will result from the abolition of the Agency and the transfer of the functions of the Agency to the Department under the plan.

(c) EFFECTIVE DATE OF PLAN.—The plan transmitted under subsection (a) shall become effective on the date which is 90 calendar days of continuous session of Congress after the date on which the plan is transmitted to Congress, unless the Congress enacts a joint resolution, in accordance with section 1608, disapproving the plan.

(d) REDUCTION OF EMPLOYEES.—(1) Subject to paragraph (2), in implementation of any plan submitted under subsection (a), the Administrator of the Agency for International Development shall take such actions as necessary, including actions under section 611 of the Foreign Service Act of 1980 (22 U.S.C. 4010a), in the case of members of the Foreign Service, or under regulations prescribed under section 3502 of title 5, United States Code, and procedures established under section 3595, of title 5, United States Code, in the case of Federal employees who are not members of the Foreign Service, to reduce by 50 percent the number of employees employed by the Agency on the date of the enactment of this Act. The Administrator shall achieve the reduction not later than the effective date of the plan submitted under subsection (a).

(2) For purposes of this subsection, the transfer of any employee of the Agency to the Department of State, or any other department or agency of the United States, shall be excluded from the computation of the percentage reduction in personnel under this subsection.

(3) In reducing the number of employees employed by the Agency under this subsection, the Administrator shall ensure that the number of members of the Foreign Service employed by the Agency does not exceed the number of such members authorized to be employed by the Agency under section 141.

(e) REDUCTION IN FUNDS FOR SALARIES AND EXPENSES FOR FAILURE TO IMPLEMENT PLAN.—If the Secretary of State and the Administrator of the Agency for International Development do not complete the implementation of the reorganization plan of the Agency under this section in accordance with the schedule in the plan as approved under section 1608, the amount of funds that the Secretary and the Administrator may obligate for salaries and expenses of the Department of State and the Agency, respectively, in the fiscal year in which the implementation of the plan is otherwise scheduled to be completed under the plan shall be reduced by an amount equal to 20 percent of the amount otherwise appropriated to the Department and the Agency, respectively, in that fiscal year for salaries and expenses.

SEC. 1606. ADDITIONAL REQUIREMENTS AND LIMITATIONS ON REORGANIZATION PLANS.

(a) LIMITATION ON POWERS.—A reorganization plan under section 1501, 1603, 1604, or 1605 may not have the effect of—

(1) creating a new executive department;

(2) continuing a function beyond the period authorized by law for its exercise or beyond the time when it would have terminated if the reorganization had not been made;

(3) authorizing an agency to exercise a function which is not authorized by law at the time the plan is transmitted to Congress;

(4) creating a new agency which is not a component or part of an existing executive department or independent agency;

(5) increasing the term of an office beyond that provided by law for the office; or

(6) terminating any function authorized by law.

(b) EFFECT ON OTHER LAWS, PENDING LEGAL PROCEEDINGS, AND UNEXPENDED APPROPRIATIONS.—(1) A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of or by the agency or function affected by a reorganization under this title, before the effective date of the reorganization, has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation, or other action has vested the functions in a transferor agency, the function, insofar as it is to be exercised after the plan becomes effective, shall be deemed as vested in the transferee agency concerned.

(2) For the purpose of paragraph (1), the term "regulation or other action" means a regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

(c) NOTICE OF IMPLEMENTATION OF PLANS.—The President shall cause to be published in the Federal Register for each reorganization plan submitted under section 1501, 1603, 1604, or 1605 a notice of the date by which all functions of the transferor agency are to be transferred or terminated under the plan.

(d) TRANSMITTAL OF REORGANIZATION PLANS.—Section 903(b) of title 5, United States Code, shall apply to each reorganization plan submitted under section 1501, 1603, 1604, or 1605.

SEC. 1607. AMENDMENTS OR MODIFICATIONS TO REORGANIZATION PLANS.

Any time during the period of 30 calendar days after the date on which a reorganization plan is transmitted to Congress under section 1501, 1603, 1604, or 1605, or after the date on which the President transmits to Congress any other plan having the effect of revising such a plan, but before any resolution described in section 1608 has been ordered reported in (or deemed to be discharged from) either House of Congress, the President may make amendments or modifications to the plan, consistent with section 1501, 1603, 1604, or 1605, as the case may be, which modifications or revisions shall thereafter be treated as a part of the reorganization plan originally transmitted and shall not affect in any way the time limits otherwise provided for in section 1608. The President may withdraw the plan at any time prior to the conclusion of 45 calendar days beginning on the date on which the plan is submitted to Congress, except that the President may only withdraw a plan if a revised plan is immediately substituted for that plan.

SEC. 1608. PROCEDURES FOR CONGRESSIONAL CONSIDERATION OF REORGANIZATION PLANS.

(a) PROCEDURES.—(1) A joint resolution described in subsection (b) which is introduced in a House of Congress in accordance with subsection (c) shall be considered in Congress in accordance with the procedures set forth in this section.

(2) For purposes of this title and title XV—

(A) continuity of session of Congress is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(b) TERMS OF RESOLUTION.—For the purpose of subsection (a), the term "resolution" means only a joint resolution of the Congress, the matter after the resolving clause of which is as follows: "That the Congress disapproves the reorganization plan numbered ____ transmitted to the Congress by the President on __________, 19____, pursuant to section ____ of the Foreign Affairs Reinvention Act of 1995.", and includes such modifications and revisions as are submitted by the President under section 1607. The blank spaces therein are to be filled appropriately. The term does not include a resolution which specifies more than one reorganization plan.

(c) INTRODUCTION AND REFERENCE OF RESOLUTION.—(1) A joint resolution described in subsection (b) is only entitled to expedited procedures set forth in this section if the resolution is introduced in a House of Congress by a Member of that House within 10 calendar days of continuous session of Congress of the transmittal of a reorganization plan under section 1501, 1603, 1604, or 1605.

(2) Any resolution with respect to a reorganization plan shall be referred to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the House of Representatives or the Senate, as the case may be, within 30 calendar days following the date of such resolution's introduction.

(d) MOTION TO DISCHARGE COMMITTEE CONSIDERING RESOLUTION.—(1) If the committee to which is referred a resolution introduced pursuant to paragraph (1) of subsection (c) has not reported such resolution at the end of 30 calendar days of continuous session of Congress after its introduction, it shall be in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution introduced with respect to the same plan which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a resolution with respect to the same plan.

(2) A motion to discharge under paragraph (1) may be made only by a Senator favoring the resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(e) PROCEDURE AFTER REPORT OR DISCHARGE OF COMMITTEE; DEBATE; VOTE ON FINAL PASSAGE.—(1) When the committee has reported, or has been discharged (under subsection (d)) from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(2) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is passed or rejected shall not be in order.

(3) Immediately following the conclusion of the debate on the resolution with respect to a reorganization plan, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.

(5) If, prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to the same reorganization plan from the other House, then—

(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(B) the vote on final passage shall be on the resolution of the other House.

(f) RULES OF SENATE AND HOUSE OF REPRESENTATIVES ON REORGANIZATION PLANS.—Subsections (b), (c), (d), and (e) of this section are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions with respect to any reorganization plans transmitted to Congress in accordance with section 1501, 1603, 1604, or 1605, or any other plan transmitted by the President to Congress having the effect of revising such a plan, and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

SEC. 1609. TRANSITION FUND.

(a) ESTABLISHMENT.—There is hereby established on the books of the Treasury an account to be known as the "Foreign Affairs Reorganization Transition Fund".

(b) PURPOSE.—The purpose of the account is to provide funds for the orderly transfer of functions and personnel to the Department of State as a result of the implementation of this title and for payment of other costs associated with the consolidation of foreign affairs agencies under this title.

(c) DEPOSITS.—(1) Subject to paragraphs (2) and (3), there shall be deposited into the account the following:

(A) Funds appropriated to the account pursuant to the authorization of appropriations in subsection (j).

(B) Funds transferred to the account by the Secretary of State from funds that are transferred to the Secretary by the head of an agency under subsection (d).

(C) Funds transferred to the account by the Secretary from funds that are transferred to the Department of State together with the transfer of functions to the Department under this title and that are not required by the Secretary in order to carry out the functions.

(D) Funds transferred to the account by the Secretary from any unobligated funds that are appropriated or otherwise made available to the Department.

(2) The Secretary may transfer funds to the account under subparagraph (C) of paragraph (1) only if the Secretary determines that the amount of funds deposited in the account pursuant to subparagraphs (A) and (B) of that paragraph is inadequate to pay the costs of carrying out this title.

(3) The Secretary may transfer funds to the account under subparagraph (D) of paragraph (1) only if the Secretary determines that the amount of funds deposited in the account pursuant to subparagraphs (A), (B), and (C) of that paragraph is inadequate to pay the costs of carrying out this title.

(d) Transfer of Funds to Secretary of State.—The head of a transferor agency shall transfer to the Secretary the amount, if any, of the unobligated funds appropriated or otherwise made available to the agency for functions of the agency that are abolished under this title which funds are not required to carry out the functions of the agency as a result of the abolishment of the functions under this title.

(e) Use of Funds.—(1)(A) Notwithstanding any other provision of law and subject to paragraph (2), the Secretary shall use sums in the account for payment of the costs of carrying out this title, including costs relating to the consolidation of functions of the Department of State and the termination of employees of the Department.

(B) The Secretary may transfer sums in the account to the head of an agency to be abolished under this division for payment by the head of the agency of the cost of carrying out a voluntary separation incentive program at the agency under section 1610.

(2)(A) Except as provided in subparagraph (B), the Secretary may not use sums in the account for payment of the costs described in paragraph (1) unless the appropriate congressional committees are notified 15 days in advance of such use in accordance with procedures applicable to reprogramming notifications under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706).

(B) Subparagraph (A) does not apply to the following uses of sums in the account:

(i) For payment of the cost of carrying out a voluntary separation incentive program at the Department under section 1610, but only if the total cost of the program with respect to the Department is less than $10,000,000.

(ii) For transfer to the head of an agency to be abolished under this division for payment of the cost of carrying out a voluntary separation incentive program at the agency under section 1610, but only if the total amount transferred with respect to the agency is less than $30,000,000.

(iii) For payment of the cost of any severance payments required to be paid by the Secretary to employees of the Department, but only if the cost of such payments is less than $10,000,000.

(iv) For transfer to the head of an agency to be abolished under this division for payment of the cost of any severance payments required to be paid to employees of the agency, but only if the total amount transferred with respect to the agency is less than $40,000,000.

(v) For payment of the cost of any improvements of the information management systems of the Department that are carried out as a result of the abolishment of agencies under this division, but only if the cost of such improvements is less than $15,000,000.

(vi) For payment of the cost of the physical relocation of fixtures, materials, and other resources from an agency to be abolished under this division to the Department or of such relocation within the Department, but only if the cost of such relocation is less than $10,000,000.

(3) Funds in the account shall be available for the payment of costs under paragraph (1) without fiscal year limitation.

(4) Funds in the account may be used only for purposes of paying the costs of carrying out this title.

(f) Treatment of Unobligated Balances.—(1) Subject to paragraph (2), unobligated funds, if any, which remain in the account after the payment of the costs described in subsection (e)(1) shall be transferred to the Department of State and shall be available to the Secretary of State for purposes of carrying out the functions of the Department.

(2) The Secretary may not transfer funds in the account to the Department under paragraph (1) unless the appropriate congressional committees are notified in advance of such transfer in accordance with the procedures applicable to reprogramming notifications under section 34 of the State Department Basic Authorities Act of 1956.

(g) Report on Account.—Not later than October 1, 1998, the Secretary of State shall transmit to the appropriate congressional committees a report containing an accounting of—

(1) the expenditures from the account established under this section; and

(2) in the event of any transfer of funds to the Department of State under subsection (f), the functions for which the funds so transferred were expended.

(h) Termination of Authority To Use Account.—The Secretary may not obligate funds in the account after September 30, 1999.

(i) Authorization of Appropriations.—There are authorized to be appropriated for the fiscal year 1996 $125,000,000 and for the fiscal year 1997 $100,000,000, for deposit under subsection (c)(1)(A) into the account established under subsection (a).

SEC. 1610. VOLUNTARY SEPARATION INCENTIVES.

(a) Authority To Pay Incentives.—The head of an agency referred to in subsection (b) may pay voluntary incentive payments to employees of the agency in order to avoid or minimize the need for involuntary separations from the agency as a result of the abolition of the agency and the consolidation of functions of the Department of State under this title.

(b) Covered Agencies.—Subsection (a) applies to the following agencies:

(1) The Department of State.

(2) The United States Arms Control and Disarmament Agency.

(3) The United States Information Agency.

(4) The Agency for International Development.

(c) Payment Requirements.—(1) The head of an agency shall pay voluntary separation incentive payments in accordance with the provisions of section 3 of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 108 Stat. 111), except that an employee of the agency shall be deemed to be eligible for payment of a voluntary separation incentive payment under that section if the employee separates from service with the agency during the period beginning on the date of enactment of this Act and ending on September 30, 1996.

(2) The provisions of subsection (d) of such section 3 shall apply to any employee who is paid a voluntary separation incentive payment under this section.

(d) Funding.—The payment of voluntary separation incentive payments under this section shall be made from funds in the Foreign Affairs Reorganization Transition Fund established under section 1609. The Secretary of State may transfer sums in that fund to the head of an agency under subsection (e)(1)(B) of that section for payment of such payments by the agency head.

(e) Termination of Authority.—The authority of the head of an agency to authorize payment of voluntary separation incentive payments under this section shall expire on September 30, 1996.

(f) Budget Act Compliance.—Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this section shall be effective for any fiscal year only to the extent or in such amounts as are provided in advance in appropriations Acts.

(g) Additional Requirements for Budget Purposes.—(1) In addition to any other payments which an agency referred to in subsection (b) is required to make under section 4(a)(1) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 108 Stat. 114; 5 U.S.C. 8331 note), each such agency shall remit to the Office of Personnel Management for deposit in the Treasury to the credit of the Civil Service Retirement and Disability Fund an amount equal to 9 percent of final basic pay of each employee of the agency—

(A) who, on or after the date of the enactment of this Act, retires under section 8336(d)(2) of title 5, United States Code; and

(B) to whom a voluntary separation incentive payment is paid under this section by such agency based on that retirement.

(2) In addition to any other payments which an agency referred to in subsection (b) is required to make under section 4(b)(1) of such Act in fiscal years 1996, 1997, and 1998, each such agency shall remit to the Office of Personnel Management for deposit in the Treasury to the credit of the Civil Service Retirement and Disability Fund an amount equal to 0.5 percent of the basic pay of each employee of the agency who, as of March 31 of such fiscal year, is subject to subchapter III of chapter 83 or chapter 84 of title 5, United States Code.

(3) Notwithstanding any other provision of this section, the head of an agency referred to in subsection (b) may not pay voluntary separation incentive payments under this section unless sufficient funds are available in the Foreign Affairs Reorganization Transition Fund to cover the cost of such payments and the amount of the remittances required of the agency under paragraphs (1) and (2).

SEC. 1611. RIGHTS OF EMPLOYEES OF ABOLISHED AGENCIES.

(a) In General.—Except as otherwise provided by this title, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer of such employee under this title.

(b) Executive Schedule Positions.—Except as otherwise provided in this title, any person who, on the day preceding the date of the abolition of a transferor agency under this title, held a position in such an agency that was compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in a transferee agency to a position having duties comparable to the duties performed immediately preceding such appointment, shall continue to be compensated in such new position at not less than the rate provided for such previous position for the duration of the service of such person in such new position.

(c) Termination of Certain Positions.—Positions whose incumbents are appointed by the President, by and with the advice and consent of the Senate, the functions of which are transferred or abolished under this title, shall terminate on the date of the transferal or abolition, as the case may be, of the functions under this title.

(d) Excepted Service.—(1) Subject to paragraph (2), in the case of employees occupying positions in the excepted service or the Senior

Executive Service, any appointment authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred.

(2) The Department of State may decline a transfer of authority under paragraph (1) (and the employees appointed pursuant thereto) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character, and noncareer positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(e) SENIOR EXECUTIVE SERVICE.—A transferring employee in the Senior Executive Service shall be placed in a comparable position at the Department of State.

(f) EMPLOYEE BENEFIT PROGRAMS.—(1) Any employee accepting employment with the Department of State as a result of a transfer under this title may retain membership for 1 year after the date such transfer occurs in any employee benefit program of the transferor agency, including insurance, to which such employee belongs on the date of the enactment of this Act if—

(A) the employee does not elect to give up the benefit or membership in the program; and

(B) the benefit or program is continued by the Secretary of State.

(2) The difference in the costs between the benefits which would have been provided by such agency or entity and those provided under this subsection shall be paid by the Secretary of State.

(3) If an employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Secretary of State, the employee shall be permitted to select an alternate Federal health insurance program within 30 days of such election or notice, without regard to any other regularly scheduled open season.

(g) ASSIGNMENTS.—(1) Transferring employees shall receive notice of their position assignments not later than the date on which the reorganization plan setting forth the transferal of such employees is transmitted to the appropriate congressional committees under this title.

(2) Foreign Service personnel transferred to the Department of State pursuant to this title shall be eligible for any assignment open to Foreign Service personnel within the Department.

SEC. 1612. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.

(a) IN GENERAL.—Except as otherwise provided in this title, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred under this title, subject to section 1531 of title 31, United States Code, shall be transferred to the transferee agency concerned.

(b) TREATMENT OF PERSONNEL EMPLOYED IN TERMINATED FUNCTIONS.—The following shall apply with respect to officers and employees of a transferor agency that are not transferred under this title:

(1) Under such regulations as the Office of Personnel Management may prescribe, the head of any agency in the executive branch may appoint in the competitive service any person who is certified by the head of the transferor agency as having served satisfactorily in the transferor agency and who passes such examination as the Office of Personnel Management may prescribe. Any person so appointed shall, upon completion of the prescribed probationary period, acquire a competitive status.

(2) The head of any agency in the executive branch having an established merit system in the excepted service may appoint in such service any person who is certified by the head of the transferor agency as having served satisfactorily in the transferor agency and who passes such examination as the head of such agency in the executive branch may prescribe.

(3) Any appointment under this subsection shall be made within a period of one year after completion of the appointee's service in the transferor agency.

(4) Any law, Executive order, or regulation which would disqualify an applicant for appointment in the competitive service or in the excepted service concerned shall also disqualify an applicant for appointment under this subsection.

(c) AUTHORIZED STRENGTH OF THE FOREIGN SERVICE.—When an agency is abolished under this division, the limitations for fiscal years 1996 and 1997 under section 141 of this Act on the members of the Foreign Service authorized to be employed by such agency shall be added to the limitations under such section which apply to the Department of State.

SEC. 1613. PERSONNEL AUTHORITIES FOR TRANSFERRED FUNCTIONS.

(a) APPOINTMENTS.—(1) Subject to paragraph (2), the head of a transferee agency may appoint and fix the compensation of such officers and employees, including investigators, attorneys, and administrative law judges, as may be necessary to carry out the respective functions transferred to the agency under this title. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(2) A person employed under paragraph (1) may not continue in such employment after the end of the period (as determined by the Secretary of State) required for the transferal of functions under this title.

(b) EXPERTS AND CONSULTANTS.—The head of a transferee agency may obtain the services of experts and consultants in connection with functions transferred to the agency under this title in accordance with section 3109 of title 5, United States Code, and compensate such experts and consultants for each day (including traveltime) at rates not in excess of the rate of pay for level IV of the Executive Schedule under section 5315 of such title. The head of the transferee agency may pay experts and consultants who are serving away from their homes or regular place of business travel expenses and per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

SEC. 1614. PROPERTY AND FACILITIES.

(a) IN GENERAL.—The Secretary of State shall review the property and facilities of each transferor agency for purposes of determining if the property is required by the Department of State in order to carry out the functions of the Department after the transfer of functions to the Department under this title.

(b) DEADLINE FOR TRANSFER.—Not later than March 1, 1997, all property and facilities within the custody of the transferor agency shall be transferred to the custody of the Secretary of State.

SEC. 1615. DELEGATION AND ASSIGNMENT.

Except where otherwise expressly prohibited by law or otherwise provided by this Act, the head of a transferee agency may delegate any of the functions transferred to the head of the transferee agency under section 1601 and any function transferred or granted to such head of the transferee agency after the appropriate effective date specified in section 1601 to such officers and employees of the transferee agency as the head of the transferee agency may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the head of the transferee agency under this section or under any other provision of this title shall relieve such head of the transferee agency of responsibility for the administration of such functions.

SEC. 1616. RULES.

The head of a transferee agency may prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the head of the transferee agency determines necessary or appropriate to administer and manage the functions of the transferee agency after the transfer of functions to the agency under this title.

SEC. 1617. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget may, at such time or times as the Director shall provide, make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with functions abolished or transferred under this title, as may be necessary to carry out the provisions of this title. The Director shall provide for the termination of the affairs of all entities terminated by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

SEC. 1618. EFFECT ON CONTRACTS AND GRANTS.

(a) PROHIBITION ON NEW OR EXTENDED CONTRACTS OR GRANTS.—Except as provided in subsection (b), the United States Arms Control and Disarmament Agency, the United States Information Agency, and the Agency for International Development may not—

(1) enter into a contract or agreement which will continue in force after the date of abolition of such agency under this division;

(2) extend the term of an existing contract or agreement of such agency to a date after such date; or

(3) make a grant which will continue in force after such date.

(b) EXCEPTION.—Subsection (a) does not apply to the following:

(1) Contracts and agreements for carrying out essential administrative functions.

(2) Contracts and agreements for functions and activities that the Secretary of State determines will be carried out by the Department of State after the termination of the agency concerned under this title.

(3) Grants relating to the functions and activities referred to in paragraph (2).

(c) EVALUATION AND TERMINATION OF EXISTING CONTRACTS.—The Secretary of State and the head of each agency referred to in subsection (a) shall—

(1) review the contracts of such agency that will continue in force after the date of the abolition of the agency under this division in order to determine if the cost of abrogating such contracts before that date would exceed the cost of carrying out the contract according to its terms; and

(2) in the case of each contract so determined, provide for the termination of the contract in the most cost-effective manner practicable.

SEC. 1619. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a

court of competent jurisdiction, in the performance of functions which are transferred under this title, and

(2) which are in effect at the time of the appropriate effective date specified in section 1601, or were final before such effective date and are to become effective on or after such effective date,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the head of the transferee agency concerned or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before a transferor agency at the time this title takes effect for the agency, with respect to functions transferred under this title but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this title shall not affect suits commenced before the appropriate effective date specified in section 1601, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against a transferor agency, or by or against any individual in the official capacity of such individual as an officer of the transferor agency, shall abate by reason of the enactment of this title.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by a transferor agency relating to a function transferred under this title may be continued by the transferee agency with the same effect as if this title had not been enacted.

SEC. 1620. SEPARABILITY.

If a provision of this title or its application to any person or circumstance is held invalid, neither the remainder of this title nor the application of the provision to other persons or circumstances shall be affected.

SEC. 1621. OTHER TRANSITION AUTHORITIES.

The head of a transferee agency may utilize—

(1) the services of such officers, employees, and other personnel of the transferor agency with respect to functions transferred to the transferee agency under this title; and

(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this title.

SEC. 1622. ADDITIONAL CONFORMING AMENDMENTS.

The President may submit a report to the appropriate congressional committees containing such recommendations for such additional technical and conforming amendments to the laws of the United States as may be appropriate to reflect the changes made by this division.

SEC. 1623. FINAL REPORT.

Not later than October 1, 1998, the President shall provide by written report to the Congress a final accounting of the finances and operations of the United States Arms Control and Disarmament Agency, the United States Information Agency, and the Agency for International Development, and a projection of the personnel end-strengths of the Foreign Service and the Senior Foreign Service as of September 30, 1999.

SEC. 1624. DEFINITIONS.

For purposes of this title, unless otherwise provided or indicated by the context—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives;

(2) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code;

(3) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(4) the term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof;

(5) the term "transferee agency" means—

(A) the Department of State, with respect to functions transferred under section 1601(a);

(B) the Broadcasting Board of Governors of the Department of State, with respect to functions transferred under section 1601(b);

(C) the Chief Financial Officer of the Department of State, with respect to functions transferred under section 1601(c); and

(D) the Inspector General for Foreign Affairs of the Department of State, with respect to functions transferred under section 1601(d); and

(6) the term "transferor agency" refers to each of the following agencies:

(A) The United States Arms Control and Disarmament Agency, with respect to the functions transferred under section 1601(a)(1).

(B) The United States Information Agency (exclusive of the Broadcasting Board of Governors), with respect to the functions transferred under section 1601(a)(2).

(C) The Agency for International Development, a component of the International Development Cooperation Agency, with respect to the functions transferred under section 1601(a)(3).

(D) The International Development Cooperation Agency (exclusive of components expressly established by statute or reorganization plan), with respect to the functions transferred under section 1601(a)(3).

(E) The Broadcasting Board of Governors, with respect to the functions transferred under section 1601(b).

(F) The Officer of the Chief Financial Officer, Agency for International Development, with respect to the functions transferred under section 1601(c).

(G) The Office of Inspector General, United States Information Agency, with respect to the functions transferred under section 1601(d)(1).

(H) The Office of Inspector General, Agency for International Development, with respect to the functions transferred under section 1601(d)(2).

ORDERS FOR SATURDAY, DECEMBER 16, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 11 a.m. on Saturday, December 16, that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, there then be a period for morning business until the hour of 12 noon, with Senators to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Let me indicate for the information of all Senators, as I said before, we will probably discuss the Labor-HHS bill, the motion to proceed. Maybe we will work that out. We will also maybe resume consideration of the DOD authorization conference report or any other available conference reports, and as I have stated, I do not believe there will be any rollcall votes. If there are, we will try to give everybody ample notice or arrange to have a vote at a later date or work out a voice vote of some kind.

ORDER FOR ADJOURNMENT

Mr. DOLE. So, if there is no further business to come before the Senate, I ask that, after the Senator from California, Senator BOXER, speaks, that the Senate stand in adjournment under the previous order—unless there is any other Senator wishing to speak? OK.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

GOVERNMENT SHUTDOWN

Mrs. BOXER. I thank the majority leader. It has been a very difficult day. It is very late. I will not go on at length.

I just feel we are fortunate here, as Members of the U.S. Senate, even though we are working very long and hard, and it is very stressful, at least we know we are going to get our paycheck. But, unfortunately there are those very hard-working families tonight who really do not know if they will get their paychecks. About 350,000 families are adversely impacted because tonight the Congress was not able to pass a continuing resolution to send a signal to the entire country that we can keep this Government operating.

I do not want it to be lost, as we end here this evening. I do not want the people out there to think that they are forgotten. I also do not want people to think that those who are veterans who will not get their services, perhaps, as readily as they should come Monday, or people who need passports, or people who want to go to our parks. We certainly know tomorrow they will be inconvenienced for no good reason.

It may well be that Democrats and Republicans cannot come together on a long-term, 7-year balanced budget. It may be that we will never be able to do that. I, for one, hope that we can and think that we can. I, for one, believe there are a few key areas where we could come together and get that balanced budget.

But surely we could come together to keep this Government operational for another week? I do not know what is happening here, but it seems to me, with all the anger I have seen on the Senate floor, we ought to put that aside for 10 minutes and pass a clean continuing resolution as our Democratic leader recommended. Yes, we have those outstanding debates. Yes, we will have to discuss them and resolve them. But we can keep this Government going instead of acting like little children who do not get their way and marching outside of the room and objecting when there is a very simple, straightforward suggestion that we can keep things going until—even Monday or Tuesday.

But, no, we are not going to do that. So, constituents of mine and others across this country who work for the Federal Government, like Ken Takada, a veterans claim examiner in Los Angeles are very concerned. He is not independently wealthy. He lives from paycheck to paycheck like most of us in America do. He could default on his student loans if he misses a paycheck. The day the Government shuts down, Ken has told us, he is going to have to go to the unemployment office and apply for benefits to keep his life going. He does not want to be on unemployment. He wants to work. And the veterans of southern California, who depend on him to handle their cases, want him to be at his post at the Federal building in Los Angeles.

Then there is Larry Drake and his wife, Joan. Larry works for the Bureau of Labor Statistics and Joan works at the Public Health Services. If the Government shuts down, both will be furloughed. Their family will loose 100 percent of its income. We do not know if they will get their back pay; perhaps they might, perhaps they might not. But what kind of way is that for us to act? We have a responsibility to the workers and to those that they serve. All we had to do is say "aye" to the Democratic leader when he said, "Put aside our problems. Let us keep the Government going at least until next week." Simple, straightforward, easy thing to do.

But, no, we cannot get it done.

I heard the majority leader over in the House, Mr. Armey, Representative ARMEY from Texas, who is the Republican majority leader over there, say, "Well, we didn't get a good enough budget from the President. We got a meager budget. Therefore we are not going to send over a clean debt extension." That is a little bit like a guard in a prison camp. "You haven't behaved. We are not going to give you your bread and water."

The fact is, these appropriations bills have not been done and there is a very easy way to handle it. Wrap them in a continuing resolution. But, oh, no. The Republican leaders over in the House—and presumably we went along with it on this side, I am sad to say—they did not like what they got so they are not sending over a clean extension.

I would assume if the House did it, the Senate would have gone along.

Well, if we furlough Larry Drake and his wife Joan, what are they going to do? A two-income family and they are going to lose their income, either temporarily or for a longer time.

Then there is Ray Montgomery who works for the Census Bureau in Los Angeles. He is classified, even though he works for 40 hours a week, as an intermittent employee, so he will not get his back pay at all.

Ray told my office he is so worried about a second shutdown that he has not yet bought any Christmas presents for his family, and if the Government shuts down there will not be any presents at all. And Ray wrote to me, "For Heavens sakes, I am one paycheck away from being homeless. I work hard to be a credit to my country. I try to be a good representative of Government employees to the American people."

I just think it is a shameless situation. It is not necessary that we shut this Government down. We have a legitimate disagreement over how to balance the budget in 7 years. That is legitimate. It is a big problem. I am on the Budget Committee. I voted for two balanced budgets, one by BILL BRADLEY, one by KENT CONRAD. I am proud to have done it because it got to a balanced budget without hurting Medicare, Medicaid, without giving these outrageous tax breaks to the wealthiest who do not need them right now. For God sakes, put off the tax breaks until we have really balanced the budget. This is a phantom celebration. Give a tax break to the wealthy. People who earn $350,000 a year are going to get back almost $8,500 a year.

I mean really, while we cut Medicare and Medicaid and education and the environment and veterans, cops on the beat? Where are our values?

I say to my friend from Minnesota, Senator GRAMS is a very effective speaker. He says, when we say, on our side of the aisle, "Where are our values?" that the only value that is important—and I am paraphrasing him—is to balance the budget.

It is certainly important to balance the budget. Do you know the last time we had a surplus in this country was under Lyndon Johnson? Do you know the first President to get the deficit down 3 years in a row? Guess. Bill Clinton—the first one. George Bush and Ronald Reagan added more to the debt than all the Presidents from George Washington to Jimmy Carter. So Democratic Presidents take a back seat to no one in fiscal responsibility—no one. We are the ones who have a better record.

I have to say, there is a lot of anger on this floor. There is anger toward the President. I have not seen such anger. I serve on that special committee that is looking into the Whitewater. The Presiding Officer and I sit there. God, there is anger toward that President. And the President does say he wants a balanced budget that is consistent with our values.

What are those values? I will not take too long to go into them because I know the hour is late. Respect for our elderly—pretty important value. I learned that as a child. So why would you sock it to Medicare and Medicaid and people in nursing homes, if you believe that we should respect our elderly? And give a tax break to the very wealthy who do not need it?

How about respect for our children? But, no, we are going to have thousands of fewer kids in Head Start, thousands of fewer kids getting special reading attention, cuts in education. Do you want to hear more? Respect for our environmental heritage. Respect for our environmental heritage. Respect for our environment—not only passing laws that say we will have clean air and clean water but actually enforcing those laws.

The Republican budget does not have respect for the elderly or the children or the environment and many other areas because they are so respectful of the rich and powerful that they will give them a huge tax break and therefore have to cut into these other programs.

Do the people want a balanced budget? You bet. You bet. But they want it to be fair. That is a value, too. Fairness is a value. In their budget they raise taxes on people earning less than $10,000 a year. Where is the value there for fairness? And they are mad at the President because he will not go along with it, and he has the guts to stand up and say it. And they do not like it. And they keep saying, "Gee, the President doesn't stand for anything." But now that he does they do not like what he stands for. They want it all ways.

And then they say, "Well, the President signed a commitment, a commitment to balance the budget in 7 years with CBO estimates." They left out a few things, however. In the agreement that CBO would check with the other experts, the blue chip indicators, the OMB indicators, and consider those. It is an important point. He did not just say, yes, whatever CBO says. The CBO has to check with these others. He also signed on to the fact that we will all protect certain priorities. They are listed in that document: Medicaid, Medicare, education, the environment.

So, yes, we all want a balanced budget. And we know that we can get there in a fair way. But we are not going to be blackmailed into it. And I honestly think that some of the Republican leaders over in the House think that because they are threatening a government shutdown we are going to say, OK, we give up. Cut Medicare, Medicaid. We do not really mean what we say. We do not care about tax breaks to the wealthy. All of this was just talk. Just keep the Government. We will give up.

It is not going to happen. So we come down to this very unhappy moment in the Senate, angry words, angry feelings, dispirited people all over the place. It is about a very important issue: What are our values? What do we value as a people?

So, Mr. President, thank you for this time that I have had to express myself this evening. My heart goes out to those Federal employees who do not know if they will have a happy Christmas. But I will do everything I can to separate that fight, that short-term battle from the long-term question, and I hope we can all do that and keep this Government going.

I yield the floor.

ORDER OF PROCEDURE TOMORROW

Mrs. BOXER. Mr. President, on behalf of the majority leader, I ask unanimous consent that notwithstanding the adjournment of the Senate tonight, the Senate resume consideration of the motion to proceed to the Labor, HHS appropriations bill tomorrow at 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate now stands adjourned.

Thereupon, at 8:53 p.m., the Senate adjourned until Saturday, December 16, 1995, at 11 a.m.

SENATE—*Saturday, December 16, 1995*

The Senate met at 11 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Sovereign God, ultimate judge of our leadership of this Nation, shake us fully awake to the realization that we are accountable to You for what is happening in Government during our watch. We confess that the Senate has become a combat zone for a wretched war of words as we deal with the issues of a balanced budget. Negotiations with the administration have deadlocked in an internecine, no-win battle. We are talking at each other; we are not carefully listening to each other. We have lost sight of the time-honored purpose of debate: to lead to creative compromise and synergized solutions.

Once again, time has run out and progress is debilitated. Help us to give up gamesmanship and rise to greatness. Overcome the brinksmanship that has led us to the brink of another impasse. We confess our deep need for Your grace to capture our attitudes and for Your guidance to untangle the negotiations. Again, we ask You to help us put our trust in You and recapture our trust in each other. Give us courage to replace the party spirit for the spirit of patriotism. In our blessed Lord's name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Georgia is recognized.

Mr. COVERDELL. Thank you, Mr. President.

SCHEDULE

Mr. COVERDELL. Mr. President, today there will be a period for morning business until the hour of 12 noon with Senators permitted to speak for up to 5 minutes each. Following morning business, the majority leader may resume consideration of the motion to proceed to H.R. 2127, the Labor-HHS appropriations bill.

The Senate may also continue debate on the Department of Defense authorization conference report. And it is hoped that at some point today, the Senate will be able to set a time certain for a vote on the adoption of that conference report. Senators should therefore be aware that rollcall votes are still possible throughout today's session of the Senate.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COVERDELL). Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 12 noon, with Senators permitted to speak for up to 5 minutes each.

The Chair recognizes the Senator from Wyoming.

BALANCED BUDGET

Mr. THOMAS. Mr. President, I had hoped to be in Wyoming, as a matter of fact, this weekend, but I had hoped—sincerely hoped—that we would be working at solving the problems we have, and we do have some problems.

But I do want to comment a little. On the way in, I heard the President speak this morning. Frankly, I was surprised that his tone was that he had been offended, as a matter of fact. He indicated that the Republicans had shut down the Government. I have to tell you, I do not believe that is the case at all.

Although it does not matter who it is, the fact is he promised 25 days ago to bring a budget to be balanced in 7 years based on CBO numbers and has not done that, and that is the problem.

Mr. President, it is much more difficult to look into the future and seek to give the leadership that is necessary to mold the Government into a form that will be useful for generations to come. It is much easier to defend the status quo. It seems to me that is the real issue.

The real issue is the growing Government, the growing debt, the growing interest, and the first opportunity that we have had in 25 years to change that. Frankly, the President has been the obstacle of causing that to happen, and I am sorry for that.

Mr. President, there is a great deal more to a balanced budget than arithmetic, even though that is what is talked about, of course. But it seems to me it is the most important issue that we have had before this country in a very long time. Not only because of the arithmetic, not only because we have a $5 trillion debt, not only because we pay $260 billion a year in interests, and growing, and because it is the largest line item in the budget, that is not the only reason.

One of the reasons is responsibility. We are coming into a new century soon, and I think all of us have some responsibility to give some thought to how we want to make the transfer of this Government and this country to new generations with debt that will cost a newborn $187,000 during their lifetime on interest alone. Is that the kind of a country we want to bring forward, the kind of country where we have enjoyed the benefits of high spending but have not been willing to pay for it, just put it on the credit card of somebody else? The credit card is maxed out.

It also has to do with the concept and the size of the Federal Government, how intrusive and how large and how much spending is involved. I happen to be one of those who believe the Federal Government should be smaller, that we should, indeed, consider those things that could be done better by the States, some that do not need to be done at all by Government, that should be done in the private sector.

I think we ought to spend a little more time with oversight, taking a look at those programs, many of which have been in place for 30 years, the Great Society programs, welfare particularly, and evaluate how effective it has been in terms of its purpose. We have more poverty today than we did when it began. Everyone wants to help people who need help and help them back into the workplace, and that has not been what has happened.

So we ought to take a look at making some change, and there is great resistance to change, and the President is leading that resistance, I think because he has to support the liberal wing of his party, but he is absolutely refusing to take a look at evaluating programs and see if, indeed, there are some ways we can do this job better.

So here we are. The administration has produced four budgets, none of which has balanced, and has produced a great deal of demagoguery. Even the press, the national TV, the most notable one was "Nightline" that was on Tuesday night, showed clips of where we were, one including the First Lady 2 years ago saying what we need to do is reduce the growth in Medicare to somewhere between 6 and 7 percent annually. We have to do that. The Republican plan is more than 7 percent, and

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

yet the White House says we are going to gut the program, do away with it.

The fact is, the trustees said if we do not do something, it will be broke. We know that. Someone the other day, some 40-year-old said, "I'm very concerned about Medicare for my mother and Social Security." He better be worried about himself. His mother is OK in that program, but you cannot continue the program as it is.

So we have a great deal of demagoguery going on. I happened to serve in the House with Leon Panetta. He was chairman of the Budget Committee, and he came in 4 years ago saying you have to do these things, you have to slow down this entitlement growth. He was the one who was saying that. Now he says the Republicans are uncaring, have no compassion for wanting to do the same thing. Give me a break.

If we are going to have a country where we can come together with public policy, where we can make some decisions based on facts—there have to be some facts—I certainly understand and encourage differences in philosophy and I have a considerable amount of difference in philosophy with some of my friends on the other side.

BERNIE SANDERS and I are good friends. BERNIE SANDERS is from Vermont. He is an Independent, but he is a Socialist. That is his political philosophy. We did not agree on anything, and I understand that, because his idea is the more government you have, the better it is; the more money you can take out of the private sector and spend publicly the better. I do not agree with that. And the majority in this Congress does not agree with that, but it is a philosophy, and that is OK. But you ought to balance that philosophy when we make decisions with facts—facts.

The President said that we are shutting down because the Republicans would not negotiate. The fact is that the Republicans now have had about three different programs that do balance the budget. Their proposal yesterday would have added to Medicare, to Medicaid, to the earned income tax credit for the working poor, 75 billion dollars' worth, and $25 billion more in Medicare. That was the proposal at this time. Republicans came to that so there would be legitimate bargaining.

This comes from the Washington Post—it is not Republican propaganda, I do not think. They featured a number of novel ways to balance the budget. They are talking about the administration yesterday, who came to negotiate. I quote from the paper:

> The White House proposal featured a number of novel ways to balance spending and some traditional ones, such as selling Government assets. This major new savings of $54 billion, however, comes from the use of the more optimistic economic assumptions of OMB.

The President signed the law 25 days ago to say these negotiations, this balanced budget, will be on CBO numbers, Congressional Budget Office numbers. I can imagine how tired people are of hearing CBO, OMB, and all that. The fact is, though, that as the President said in his State of the Union Message 2 years ago, we all need to use the same numbers. He chose CBO. He now refuses to use them because they can cook the books with the numbers they use at the White House. It is pretty simple to balance the budget if you have your own projections of what growth is going to be, that there will be no turndown in the economy. Of course. Then, furthermore, they said if that does not work, we will get more revenue by reducing the tax reduction.

There are lots of ways to balance the budget, and that, of course, is what some of my friends on the other side say. But they say, "We want to do it the right way." And they think the right way is to raise taxes so you can continue to spend, and that is the way you do it.

So, Mr. President, we are engaged in a difficult thing here, a difficult negotiation. I do not think anyone is happy about the Government coming to the brink of another furlough. No one wants to do that. But I can tell you that people are pretty dedicated on this side of the aisle to the fundamental proposition of balancing the budget and making some changes for the first time in 25 years—changes that will affect all of us for a very long time.

So there are some issues—and debt is one—that we continue to go on. It was $5 trillion and it is higher now. Even under this balanced budget in 7 years, that debt will go up $2 trillion more in 7 years. You all are going to pay for that. All of us. The younger you are, the more you are going to pay. That is too bad.

Responsibility? We are responsible to do better than that, all of us. Whether you are here or in Cody, WY, whether you are a cowboy, a railroader, we are responsible citizens, and a democracy goes with the freedom of responsibility. One of those responsibilities is that, if we want things collectively, you have to pay for them. This idea that somehow we sure enjoy the programs, but we do not want to pay for them does not work.

Change. We are responsible to bring about change. It is easier to stick with the status quo and to use Lyndon Johnson's pen and veto the bill and say, by golly, we are going to stay with the old Great Society. It does not work, but we are going to stay right there.

The other is all talk and no action. The White House has the bully pulpit and cannot do it. The real issue, of course, is an honest balancing of the budget, so we reduce spending from the level it is—and it will still continue to go up at more than 3 percent—but to be able to pay for what we say, and do it by real numbers. Some of the folks say, "You guys are in a adolescent food fight back there." I am sure it looks more petty than pretty, but the fact is that it is a real debate, a real culmination of a year's work, now to decide whether we are successful in balancing the budget or whether we go on as we have in the past, and that we do it in 7 years. Everyone in this place, since I have been here this year, the first thing they do is stand up and say, "I am for balancing the budget," and they go on to find 100 reasons why they cannot do it. But they want to do it in the right way and that is to raise revenues so we can keep spending at this level.

So, Mr. President, there are lots of problems here, but I think we need to really come to the snubbing post and say to ourselves we are willing to make changes and bring the changes forward that are based on real numbers and then vote. If you do not want to balance the budget, fine, say so. But let us get some figures out here that legitimately say this will balance. Let us not have smoke and mirrors and say we have balanced it, but gosh, we have just done it with projections. They do not have to do that. We have a set of numbers. They may not be right. No one knows whether they will be right. But they are the same numbers and we are dealing from the same deck. That is what we need to do.

So, Mr. President, I feel very strongly, as I know many, many do. I am offended, frankly, by the opponents of balancing the budget saying we just do not have any compassion. We are going to throw kids out in the street or not have schools or not have Medicare. That is poppycock. That is not true. I am offended at the idea that somehow they have more compassion than I do. I do not believe the Federal Government has any more compassion than my State of Wyoming. We are as concerned about our kids as anyone. In fact, we are more concerned about our kids than they are about our kids, of course. So that is not the issue.

If we want to really talk about compassion, we ought to talk about what is going to happen in 15 years when you do not have any money except for a handful of entitlements—and that is where we are. Everybody knows that. We do not have the leadership or the gumption to come up to it to make the decision.

Mr. President, I hope that happens, and I hope that we will give our country a strong future by saying we are willing to make the tough decisions and balance the budget and to look out for the future, and we are willing to pass on a country that will be better than the one we have been involved in.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Georgia is recognized.

THE BUDGET

Mr. COVERDELL. Mr. President, I appreciate your giving me an opportunity to step aside from presiding to make a comment or two about the dilemma that we find ourselves in today.

The first point I want to make is that, from my perspective, we are dealing with a lineage of broken promises here.

I have been somewhat dismayed by the confusion in the public about what is going on, but I guess it is understandable, given the size of the megaphone the President of the United States has. I will just run through several events that occurred over the last 2½ years.

First, when the President was a candidate for the Presidency in 1992, he said in his campaign that he would balance the budget in 5 years. He would balance the budget in 5 years. We are now 3 years later and about to enter the next Presidential election cycle, and he has yet to submit a balanced budget of any kind or of any form. "I will balance the budget in 5 years," and he is arguing with us about trying to balance it in 7 years. A very meaningful promise to the American people is in the trash can.

Two years later, he came before the American people and the Congress. First he said, "I will not submit a budget." Then he said, "No, I am going to submit a balanced budget." So we waited and we received his budget. It was unbalanced at a level of $200 billion per year as far as anybody could see. "I am going to balance it in 5 years." He forgot that. Then, "I will submit a balanced budget," and he did and it was not balanced. It was not even close. It was so off the mark that the Senate, on two separate occasions, rejected it in a humiliating way—99 to 0, every Republican, every Democrat. On the second attempt, I think the vote was 96 to 3, something like that. Total rejection.

Then we passed for the first time, this Senate and the House, for the first time in almost 30 years, a balanced budget act and sent it to the President. We said we were going to do that, and we did it. It went to the President, and he vetoed it, killed it, which led to the current moment of negotiations between the Congress and the President.

Just before Thanksgiving he and his negotiators, the President and his negotiators, agreed late one evening with the leaders of the Congress and ultimately voted on by the Congress that he and we would produce a balanced budget in 7 years and we would use the same set of numbers. That is real important. We say CBO, and that means Congressional Budget Office. That is the entity that the President said is the best authority in his State of the Union Address. A month later, the President had offered nothing.

Then, finally, at the beginning of this week he gave us the outline of a budget that was immediately declared out of balance by upward of $400 billion. It was ridiculed in the press and by everybody who saw it, so he said, "Well, I'm going to really give you a balanced budget Friday at 10 o'clock." I have to tell you, Mr. President, I never believed they were going to do it, which is the second point I am going to make in a minute. Sure enough, midday Friday, his negotiators came to the Budget Committee with two sheets of paper. This was their good-faith attempt, two sheets of paper, and no budget, just a handful of numbers on it—it could have been done in 20 minutes—and we are dealing with the budget of the United States of America. They could have done this in 20 minutes, and it was $75 billion out of balance. He had no intention of submitting the balanced budget.

They had already purchased television ads Thursday to say that the Republicans shut the Government down. This is scripted. This is raw politics. The problem is, you are dealing with real lives and a real democracy. There are 20,000 troops headed to Europe in the Balkans. They never intended to submit a balanced budget. This is why they waited until the very end. They knew exactly what we would say. We would say this is not what we promised America. We both promised a balanced budget using CBO, Congressional Budget Office, numbers and you come in at the last minute, you spend the whole month producing nothing, and you come in at the last hour with nothing so that you could stand up and say, "Those radical Republicans, hardhearted, shutting the Government down," meanwhile they were buying television ads even before the last meeting to run across the country saying, "Republicans shut the Government down." Pretty offensive politics.

This is a classic struggle between a people and their representatives, trying to bring the financial affairs of our country under control. Eighty to ninety percent of the American people want a balanced budget, and they want it right now. They are tired of things as they have been. There is only one person standing between America and a balanced budget—his name is William Jefferson Clinton. He happens to be President of the United States. He singlehandedly defeated the balanced budget amendment by getting his leadership to change their votes. He has yet to offer the Congress or the American people a balanced budget.

We all understand that his view of how to get a balanced budget may be different than ours. We welcome him to put his plan on the table, and then we can get down and work together, according him some of his wishes and according us some of ours, all of us fulfilling the demand of the American people, who said, "Balance your budgets. We have to. Our businesses have to. You have ignored it, and you have made the country hurt because of it."

This is not the typical political exercise, Mr. President. I want to remind our colleagues that a commission, chaired by Members of the Senate, Senator KERREY of Nebraska, Senator Danforth, former Senator from Missouri, an entitlement commission, has produced its work early in the year, and it says in that report that within the decade the United States will exhaust all of its resources. Every dime of this huge country will be consumed by just five things: Social Security, Medicare, Medicaid, Federal retirement, and the interest on our debt, and there is nothing left.

What would we do if there is a Balkans war then? How would we build our roads? Defend ourselves? Nothing left, after these five expenditures. This balanced budget, that America knows in its heart we have to have, corrects that problem. It does not allow the Nation to run into that wall.

Some people, I think, who have listened to the debate, think that balancing our budget is a very painful exercise. Not only does balancing our budgets immediately begin to set the right path for our children and grandchildren and for the new century, but every living American begins to benefit immediately. The rainbow that comes from balancing these budgets happens right now. Interest rates fall, so the average family saves $1,000 a year paying their home mortgage. They save on their car loan. They save on their student loans. They save if they build an addition to the house.

The tax reductions benefit all families raising children. The average American family, if this balanced budget that we propose becomes law, finds 2,000 to 3,000 new dollars in their checking account to help that family raise, educate, feed, house, and provide for the health of their family. That is what happens. And it does not happen way off in the future. It happens tomorrow. We are already benefiting. Just the discussion of balancing the budget for the first time in 30 years has affected our economy positively. But there is more to come.

It is beyond me how anybody, the President or any of his colleagues, would deny all America the benefits of managing our financial affairs. I do not understand it. It is a punishing blow to American families because it will push their interest rates up. It will slow the economy. When you do not balance your budget it is tougher to find a job. It is harder to start a business. They cannot get the capital that is being consumed by a voracious Federal Government that will not pay attention to its own financial affairs.

So, just to repeat, and I will yield: A promise to the American people by the President that we can balance the budget in 5 years—he totally ignored it. A promise to the American people that he would submit a balanced budget earlier this year—he ignored it and submitted one with deficits as far as the eye can see. And then a binding, intense promise made between the President and the Congress, to the American people, just before Thanksgiving, that we would both produce balanced budgets and we would both use honest numbers to do it—and he walked in the last hour, having done nothing since that promise was made and gave us two sheets of paper.

There was more time being spent producing the political ads than producing the balanced budget and that is a sad state of affairs.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COVERDELL). Without objection, it is so ordered.

TAX CUTS

Mr. BENNETT. Mr. President, I was in the Chamber last night when some rather harsh words were spoken on both sides of the center aisle and I said a few words myself in an attempt to, first, calm the atmosphere and, second, lift the cloud of obfuscation that seems to have fallen over the debate, after which it fell to my lot to assume the chair.

Some people think sitting in the chair is a great honor, and, of course, it is. But it is also a very good way of silencing one's voice, because when you are in the chair you are forbidden to speak or react or do anything other than to declare whether a quorum is or is not present, or inform errant Senators that they should please take their conversations to the Cloakroom—not the most edifying kinds of things to be able to say.

So I take the opportunity that today's circumstance gives me to offer a few more words in the ongoing debate about the balanced budget, in response to some of the things that were said last night.

I want to focus a little bit on the issue of the tax cuts. We were told last night that the most disgraceful part of the Republican attempt to balance the budget was that in our Balanced Budget Act we called for tax cuts. Disgraceful, we were told, when the public needs the money that you are going to cut in taxes.

Behind that statement lies one of the great misconceptions of this body, and frankly this Government and the various groups that advise this Government. It gives me an opportunity to get on one of my soap boxes that I have been on before. But I warn the Senate there is no such thing as repetition. You can give the same speech again and again and again and it is always treated as if it were new and, indeed, maybe the repetition is necessary. So I will launch, once again, into an attempt to set the record clear about tax cuts and the way they are viewed in Government.

We make the mistake in this Chamber and elsewhere of assuming that the Government's business is like a family income, where mother and dad sit around the kitchen table adding up the bills at the end of the month, scratch their heads, with very nervous looks on their faces, and say, "We cannot make it. We must do one of two things. We must either increase our income by dad's getting a raise or mother working more hours at her part-time job, or somehow getting an inheritance from a rich uncle, or we must cut down our expenditures."

It is a two-dimensional problem. We must either increase revenues, or we must decrease expenses. That is all there is to it. And we are told around here that the Government has only two choices to balance the budget. We must either raise taxes or cut expenditures. And the analogy sounds wonderful, and it is easy to understand. Every one who sat around the kitchen table worrying about the bills identified the limit. There is only one problem though. It is not reality. It does not conform to the way the world really works.

If I may switch the analogy, Mr. President, the Government is not like a family. The Government is like a business. And I have run some businesses. I have run some of them successfully, and I have run some of them unsuccessfully. Indeed, the lessons I learned from the business which failed under my hand were probably responsible for my ability to make some businesses succeed under my hand.

The business is not a two-dimensional circumstance. It is three. There are three things you can do if your business is not making enough money to cover its monthly bills.

First, yes. You can cut spending. You can cut your overhead. That corresponds with the family sitting around the table. You can say we do not need as many people as we have here. We do not need as fancy surroundings as we have rented. We can move into smaller quarters. You can do all kinds of things to cut your overhead and cut your expenses.

Second, raise revenues. In business that is called raising prices. In Government it is called raising taxes. In business it is called raising prices, except every good businessman and businesswoman knows that raising prices is a very dicey way to try to increase your income because there are customers out there that may not like it. There are customers out there that may say, "Oh. If you are going to raise the price on your widgets, I am going to buy widgets from somebody else."

I have increased the bottom line in businesses that I have run by raising prices. It is a wonderful way to do it. It is painless. If the customer will, indeed, pay the increased price. In business we have a phrase we call price sensitive. That is a fancy way for saying we do not dare raise the price on this product because, if we do, nobody will buy it. But, if you have a hot product, if you have something everybody wants, it is not particularly price sensitive and you can increase your income 10 percent by raising your prices 10 percent. And that is clearly the easiest way to do it.

Sometimes, however, Mr. President, businessmen know that they can increase their profits the third way, which is increase sales, cause the business to grow bigger than it is. And increasing sales sometimes comes from—wonder of wonders—increasing overhead. Oh, how can you do that? Well, you can buy an ad for one. You can put something on television telling people about your product. That is increasing your overhead but, if it increases your sales by significantly more than the overhead, it is the wise thing to do.

You can increase your overhead by hiring additional salesmen who will go out and hawk your wares, and thereby cause the business to grow. Or, for many businessmen, the answer is cutting prices. Cutting prices—not increasing prices—many times is the road to success and profit.

Look for just a moment, if you will, Mr. President, at the fastest growing portion of the economy which is the computer driven portion. What has happened to prices of computers? I will give you a rather graphic example.

When I was once president—or actually chairman of the board, a fancy title; the company did not have any money; so they gave me a big title rather than a big salary—of a company that produced computers. We had two that we offered for sale. One, it was a dual-floppy disk computer. We sold it for $3,300. The other was a 10-megabyte hard disk computer which we sold for $30,000. We sold every one we could produce literally in a garage. Yes. This was one of those stories of a computer company that started in somebody's garage. We produced them in a garage, and every one we could produce we could sell immediately, there was enough demand for it.

People would say, "Gee. You are in the computer business. IBM dominates the computer business." With great foresight I said, "IBM does not understand small computers. They only make mainframes. This is a business that will be reserved to us alone."

Today for under $2,000 you can buy a computer that has 40 megabytes of hard disk connected with it. A color monitor connected to it in a laptop makes the thing we produce—it was about the size of a good washer-dryer set with these 10 megabytes of hard disk, and it sold for $30,000, under everybody else. Now you can buy something that is so much better than that, and there is no comparison at all, for a fraction of the cost we used to charge.

If the people in the computer industry had been Government-oriented in their pricing, they would have said, "Gee. Mr. BENNETT, you are not making any money with that $30,000 computer. The solution is to raise your prices" when the folks at Apple down the street understood that the solution was to cut the prices.

Well, what does this have to do with the debate we are having here? Simply this: That all of the figures we are throwing back and forth around this Chamber about cutting taxes $240 billion, raising taxes $28 billion, and so on, are ignoring the fact that there are customers out there who will react to the new prices on Government service by changing their behavior just the way they are customers for products.

An interesting article appeared in the Wall Street Journal about a month ago. I am going to dig it out and put it in the RECORD. Marty Feldstein, a respected economist, went back and did something we never do in Government. He analyzed the Clinton tax increase 3 years after it was put in place to see what happened. He came up with the most astounding fact, Mr. President. The Clinton tax increase yielded in revenue one-third of the amount of revenue that was projected at the time it was passed.

We debated back and forth on this floor. And we were told again and again that we must have this tax increase to cut the deficit, and it will cut into the deficit x billion dollars. Now, 3 years later, the good economist Dr. Feldstein, has looked at it, and said, "Do you know what? You raised the taxes x amount, and you got one-third x in revenue."

We never look at that around here. We never pay any attention to that. We are like the businessman who says, "I will raise my prices, and my revenue will come in without any question," and then discovers that the customers do not buy it.

Mr. President, I ask unanimous consent that the the article in the Wall Street Journal by Martin Feldstein be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Wall Street Journal, Oct. 26, 1995]

BOARD OF CONTRIBUTORS: WHAT THE '93 TAX INCREASES REALLY DID

(By Martin Feldstein)

President Clinton was right when he recently told business groups in Virginia and Texas that he had raised taxes too much in 1993, perhaps more so than he realizes. We now have the first hard evidence on the effect of the Clinton tax rate increases. The new data, published by the Internal Revenue Service, show that the sharp jump in tax rates raised only one-third as much revenue as the Clinton administration had predicted.

Because taxpayers responded to the sharply higher marginal tax rates by reducing their taxable incomes, the Treasury lost two-thirds of the extra revenue that would have been collected if taxpayers had not changed their behavior. Moreover, while the Treasury gained less than $6 billion in additional personal income tax revenue, the distortions to taxpayers' behavior depressed their real incomes by nearly $25 billion.

To understand how taxpayer behavior could produce such a large revenue shortfall, recall that the Clinton plan raised the marginal personal income tax rate to 36% from 31% on incomes between $140,000 ($115,000 for single taxpayers) and $250,000 and to 39.6% on all incomes over $250,000. Relatively small reductions in taxable income in response to these sharply higher rates can eliminate most or all of the additional tax revenue that would result with no behavioral response.

If a couple with $200,000 of taxable income reduces its income by just 5% in response to the higher tax rate, the Treasury loses more from the $10,000 decline in income ($3,100 less revenue at 31%) than it gains from the higher tax rate on the remaining $50,000 of income above the $140,000 floor ($2,500 more revenue at 5%); the net effect is that the Treasury collects $600 less than it would have if there had been no tax rate increase.

Similarly, a couple with $400,000 of taxable income would pay $18,400 in extra taxes if its taxable income remained unchanged. But if that couple responds to the nearly 30% marginal tax rate increase by cutting its taxable income by as little a 8%, the Treasury's revenue gain would fall 67% to less than $6,000.

How can taxpayers reduce their taxable incomes in this way? Self-employed taxpayers, two-earner couples and senior executives can reduce their taxable earnings by a combination of working fewer hours, taking more vacations, and shifting compensation from taxable cash to untaxed fringe benefits. Investors can shift from taxable bonds and high yield stocks to tax exempt bonds and to stocks with lower dividends. Individuals can increase tax deductible mortgage borrowing and raise charitable contributions. (I ignore reduced realization of capital gains because the 1993 tax rate changes did not raise the top capital gains rate above its previous 28% level.)

To evaluate the magnitude of the taxpayers' actual responses, Daniel Feenberg at the National Bureau of Economic Research (NBER) and I studied the published IRS estimates of the 1992 and 1993 taxable incomes of high income taxpayers (i.e., taxpayers with adjusted gross incomes over $200,000, corresponding to about $140,000 of taxable income). We compared the growth of such incomes with the corresponding rise in taxable incomes for taxpayers with adjusted gross incomes between $50,000 and $200,000. Since the latter group did not experience a 1993 tax rate change, the increase of their taxable incomes provides a basis for predicting how taxable incomes would have increased in the high income group if its members had not changed their behavior in response to the higher post-1992 tax rates. We calculated this with the help of the NBER's TAXSIM model, a computer analysis of more than 100,000 random anonymous tax returns provided by the IRS.

We concluded that the high income taxpayers reported 8.5% less taxable income in 1993 than they would have if their tax rates had not increased. This in turn reduced the additional tax liabilities of the high income group to less than one-third of what they would have been if they had not changed their behavior in response to the higher tax rates.

This sensitivity of taxable income to marginal tax rates is quantitatively similar to the magnitude of the response that I found when I studied taxpayers' responses to the tax rate cuts of 1986. It is noteworthy also that such a strong response to the 1993 tax increases occurred within the first year. It would not be surprising if the taxpayer responses get larger as taxpayers have more time to adjust to the higher tax rates by retiring earlier, by choosing less demanding and less remunerative occupations, by buying larger homes and second homes with new mortgage deductions, etc.

The 1993 tax law also eliminated the $135,000 ceiling on the wage and salary income subject to the 2.9% payroll tax for Medicare. When this took effect in January 1994, it raised the tax rate on earnings to 38.9% for taxpayers with incomes between $140,000 and $250,000 and to 42.5% on incomes above $250,000. Although we will have to wait until data are available for 1994 to see the effect of that extra tax rate rise, the evidence for 1993 suggests that taxpayers' responses to the higher marginal tax rates would cut personal income tax revenue by so much that the net additional revenue from eliminating the ceiling on the payroll tax base would be less than $1 billion.

All of this stands in sharp contrast to the official revenue estimates produced by the staffs of the Treasury and of the Congressional Joint Committee on Taxation before the 1993 tax legislation was passed. The estimates were based on the self-imposed "convention" of ignoring the effects of tax rate changes on the amount that people work and invest. The combination of that obviously false assumption and a gross underestimate of the other ways in which taxpayer behavior reduces taxable income caused the revenue estimators at the Treasury to conclude that taxpayer behavior would reduce the additional tax revenue raised by the higher rates by only 7%. In contrast, the actual experience shows a revenue reduction that is nearly 10 times as large as the Treasury staff assumed.

This experience is directly relevant to the debate about whether Congress should use "dynamic" revenue estimates that take into account the effect of taxpayer behavior on tax revenue. The 1993 experience shows that unless such behavior is taken into account, the revenue estimates presented to Congress can grossly overstate the revenue gains from higher tax rates (and the revenue costs of lower tax rates). Although the official revenue estimating staffs claim that their estimates are dynamic because they take into account some taxpayer behavior, the 1993 experience shows that as a practical matter the official estimates are close to being "static" no-behavioral-response estimates because they explicitly ignore the effect of taxes on work effort and grossly underestimate the magnitude of other taxpayer responses.

If Congress had known in 1993 that raising top marginal tax rates from 31% to more than 42% would raise less than $7 billion a year, including the payroll tax revenue as well as the personal income tax revenue, it might not have been possible for President Clinton to get the votes to pass his tax increase.

Which brings us back to President Clinton's own statement (half-recanted the next day) that he raised taxes too much in 1993. Congress and the President will soon be negotiating about the final shape of the 1995 tax package. The current congressional tax proposals do nothing to repeal the very harmful rate increases of 1993. Rolling back both the personal tax rates and the Medicare payroll tax base to where they were before 1993 would cost less than $7 billion a year in revenue and would raise real national income by more than $25 billion. Now that the evidence is in, Congress and the President should agree to undo a bad mistake.

Mr. BENNETT. I suggest to you, Mr. President, that we need to pay close attention to what happens when tax rates are cut. It is the same thing that happens to a well-run business when prices are selectively and intelligently cut on certain products. If we cut the tax rate on capital gains, which is where most of the heat is coming from on the other side of the aisle, I am willing to bet a fairly substantial amount of money that we will see Government revenue from capital gains go up and not down.

Is not that what we are after? We want to balance the budget. We want more revenue, do we not? We ought to do that which will bring in more revenue. And the way to bring in more revenue is to cut prices on the products that are slow moving.

I tell you, Mr. President. Ever since we raised prices on capital gains by increasing the capital gains rate, the Government revenue from capital gains has been going steadily down. And any decent business person will tell you we made a mistake with that price increase.

We ought to cut the price back to where it was before, and people will start buying our widgets again. We ought to cut the capital gains tax rate back down to where it was before. I will tell you the figure that I will settle for, Mr. President. I will settle for the figure on capital gains proposed by John F. Kennedy, President of the United States. He wanted a capital gains rate lower than the one we are paying today and nobody accused him of trying to throw widows and orphans out into the street, or little children being driven away from their school lunches when John Kennedy proposed a cut in the capital gains tax rate. His cut was passed. And what happened when they cut prices on that particular governmental service? The revenue from capital gains went up.

What is the objection? As nearly as I can tell, the only objection to the Government getting more money from people who have capital gains is that the people who have capital gains are supposedly the wealthy. I will not argue with whether they are the wealthy or not. We can do that at another time. And there are plenty of charts to indicate that that is not the case.

The point I am making is this. If I am a businessman and I wish to increase my bottom line, I really do not ask whether or not the customers who are benefited from my cutting prices are rich or poor. I really do not care. All I want is enough money to keep my doors open. I do not think the Government ought to really care whether the people who benefit from a capital gains tax cut—in the rate—are rich or poor as long as the Government gets more money.

I was not sent here by the voters of Utah to punish or reward. I was sent here to balance the budget, and one of the ways I balance the budget is to get more revenue to the Government. And one of the ways I get more revenue to the Government is to cut the prices on capital gains transactions so that more people will do more of them and the economy will grow and the Government will get more money.

So I say to those who are hung up about tax cuts and tax increases and who we are hurting and who we are helping, will you change your focus just a minute and ask who you are here to represent and what your assignment is. Your assignment is to get the Government's fiscal affairs in order, and if that is done everybody benefits. And if in the process of getting more revenue into the coffers you happen to help somebody who probably does not need help in terms of his own personal financial circumstances, do not let that bother you. Go ahead, take his money anyway. Go ahead, balance the budget anyway, even if somebody who is rich now happens to benefit by the fact that you are balancing the budget and making life more secure for everybody else. Look the other way and take his money anyway. If we did that around here, I think we move toward solving the problem.

I thank the Chair for his patience. I realize this is not the most stimulating conversation in the world because we are here, frankly, waiting on a group of negotiators to try to solve their problems. And the only comment I would give to them would be this one. You have made your point. You have shown how tough you are. You have shut the Government down. Everybody knows you are powerful. Will you please start to negotiate, having made your point, and let us get on with it.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

BUDGET NEGOTIATIONS

Mr. WARNER. Mr. President, I have personally been heartened by the signs of progress we have witnessed since the budget crisis and the Government shutdown the week before Thanksgiving. The Congress and the White House have been at the bargaining table. Additional appropriations bills have been signed into law, and new estimates from the Congressional Budget Office have offered the promise of greater flexibility. I thought these new estimates would have provided the flexibility in setting our budget priorities, and yet we are again faced, unfortunately, with the prospect of a gridlock. Indeed, it is taking place as I am privileged to address the Senate this afternoon.

The congressional leadership has been deeply disappointed with the lack of a substantive balanced budget from the White House, that is, the Republican congressional leadership. Promises in good faith have been made for 25 days under the last continuing resolution only to have unworkable solutions presented in the 11th hour by the President and his representatives. The Republican leadership, if it is to remain true to its pledge to the American people to balance the budget, has been left with little choice. The Congress and the White House agreed that a 7-year balanced budget plan based on CBO numbers would at least be agreed upon, and I was privileged to have been a part of those negotiations some several weeks ago. It was absolutely clear that it would be a 7-year balanced budget. That was the condition for the last short-term spending bill, and that condition, despite our efforts, has clearly not been met.

The remaining Federal offices regrettably now to be subject to a possible shutdown during the course of this weekend include the U.S. Department of Commerce, Education, Interior, Health and Human Services, Labor, State, Housing and Urban Development, Veterans, and Justice, as well as certain sections of EPA, NASA, and federally funded functions in the District of Columbia.

Mr. President, again, it is my privilege to represent many of these people who live in the Commonwealth of Virginia, and I am deeply concerned and express my compassion to them. But if an agreement is not reached, workers in all these categories again are to be held, as some would say, hostage by the continuing budget crisis. Personnel performing vital emergency functions will come to work and not be paid, and all staff involved in nonemergency functions will be asked to stay at home. These individuals, both in Virginia and across the Nation, have my pledge that I will work once again, as I did during the last budget crisis, to ensure that they will be made whole financially for any lost compensation. I also offer my pledge that their sacrifices will not have been made in vain.

The Federal Government is in a state of budget crisis, as I said, and it is becoming increasingly difficult to patch together these short-term resolutions.

It is my hope, however, that this weekend that can be achieved, and that all Federal workers, indeed all Americans will recognize the unprecedented confrontation taking place between the White House and the Congress and demand that good faith bargaining be resumed.

The Republican leadership of the U.S. Senate has had its sleeves rolled up for weeks—Senator DOLE, Senator DOMENICI, and I particularly want to pay my respects to Congressman KASICH of the House. They were making enormous efforts to address the differences expressed by the White House in a desire for the 7-year balanced budget plan. That 7 years is absolutely the bedrock; it is not movable. It is not changeable.

Federal employees should know that this is serious business of the first order and not just some new form of politics. Our ultimate objective is a balanced budget agreement. This is important, not only to the Republicans in Congress, but also to Americans everywhere, particularly children and future generations.

I recently received a position paper from the Chamber of Commerce of Staunton-Augusta County in my State of Virginia. This states far more eloquently than I could the need to stay the course, stick with the balanced budget and stay the course, 7 years.

Mr. President, I ask unanimous consent that that position paper be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. When we finally achieve the balanced budget agreement, the Nation's house will, hopefully, be put back in order. We want that stability to be one that will last, not just weeks, but to protect our future generations.

Mr. President, I yield the floor.

EXHIBIT 1

STAUNTON-AUGUSTA COUNTY
CHAMBER OF COMMERCE,
Staunton, VA, Nov. 7, 1995.

POSITION PAPER

Subject: Balanced Budget.

Position of: Government Relations Committee.

Background:

The economic case for reducing the Federal budget deficit is compelling. Despite this fact, since 1985 neither normal processes of government nor extraordinary statutory restrictions imposed on the budget process have succeeded in reversing the deficit's long-term upward trend. In fiscal year 1994, the total federal deficit was $203.4 billion and the gross federal debt was $4.6 trillion, according to the Department of the Treasury. Because of the deficit and the mounting interest which must be paid, money is diverted from investment in the private sector, economic growth is inhibited, productivity is reduced, and export becomes more difficult. This situation threatens the standard of living for future generations.

In June 1995, both houses of Congress passed the FY 1996 Budget Resolution which calls for a balanced budget in 7 years (2002) while providing a $245 billion tax cut. The resolution provides that tax cuts will be available only after congressional committees produce enough spending cuts to balance the budget by fiscal year 2002. Proponents believe the 7-year approach provides the right balance between easing economic adjustments while maintaining the credibility of the government's deficit reduction plan. Opponents believe that this plan is too aggressive and should be phased in over a longer period.

Committee Position:

Moving spending from government to the private sector will enhance saving and investment, boost productivity, and increase the economy's trend rate of growth. Reducing government waste means greater long-term benefits which in turn will create more businesses and greater purchasing power for American households.

Recommendation:

A balanced budget and deficit elimination are vital for our nation's future. The Board of Directors of the Staunton-Augusta Chamber of Commerce reiterates its support for the passage of a balanced budget.

Mr. WARNER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996—MOTION TO PROCEED

The PRESIDING OFFICER. The Senate will resume consideration of the motion to proceed to H.R. 2127, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2127) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1996, and for other purposes.

The Senate resumed consideration of the motion.

Mr. HARKIN. Mr. President, I am sorry that we find ourselves in this present situation. I had thought that we could have worked out an agreement on Labor-HHS appropriations, whereby we would not be faced, again, with another cloture vote on it, but that we could have agreed to have brought up the bill and perhaps even passed it by voice vote.

There have been, I know, a lot of discussions. I know my colleague, the Senator from Pennsylvania, Senator SPECTER, who is the chair of the Appropriations Subcommittee on Labor and Health and Human Services, has been working very diligently to try to get an arrangement whereby we might bring this bill up and expeditiously move it so we can get together with the House and try to work out our differences.

This is an important bill. It is the second largest appropriations bill, second only to defense. It covers not only all of the Department of Labor, job training programs, but it also covers education, all the education programs—everything from title I to college student aid. It covers Health and Human Services, everything from Head Start to funds for the operation of the Social Security system and Medicaid, plus a lot of related agencies, including the National Institutes of Health and biomedical research. Yet, this bill languishes because of the determination of a few to attach riders to it, riders that have no business being on Labor-HHS, riders which should be brought up in the context of an authorization and not an appropriations bill.

Now I note for the RECORD, Mr. President, that other riders that have been put on other appropriations bills have been taken off, clearing them for approval to be acted on and sent down to the President. I will just mention three. The Treasury-Postal appropriations conference agreement, they dropped their effort to attach the so-called Istook antilobbying rider. Once this was taken off, it cleared the bill for approval and was sent down to the President. Also, there was agreement on a compromise on the abortion rider on the Defense appropriations conference report, which cleared for approval for both Houses and was sent to the President. I might point out they dropped all 17 House-approved EPA riders on the HUD-VA conference agreement. It passed and was sent on to the President.

I know people attach these riders for well-intentioned purposes. They have a philosophy or a view or something they want to attain, but quite frankly all of these riders that were dropped appropriately belong not on appropriations bills, and cooler heads prevailed, they were dropped, and the bills went through. There is a rider on the Labor-HHS appropriations bill that cannot pass the Senate. Three times this year it was brought up, and it could not get enough votes for cloture and there are not enough votes for cloture. That is the so-called striker replacement provision.

This side, I might say, earlier on was unable to pass last year, when the Democrats were in the majority, the striker replacement bill that would have prohibited companies, employers, from permanently replacing strikers if it was a legitimate, legal strike. We were unable to get that through.

This year, the President of the United States decided, using his constitutional authority—and I do not think anyone has challenged that he does not have the legal authority to do it—implemented a policy at the Executive level that said that the U.S. Government, the Federal Government, would not engage in contracts or renew contracts with those entities doing business with the Federal Government if they did engage in permanent replacement strikers. That was challenged in the court. The court upheld the President.

Now there is an attempt by some to overturn that, to say that, no, the President cannot do that, and that is what the rider is on the Labor-HHS appropriations bill. We had three votes on it this year. We had one vote on the first rescission bill, and we have had two on this bill, on the Labor HHS bill. Both times it did not have sufficient votes to provide for a cloture.

You do not have to take my word for it; you can take the word of the distinguished majority leader. I will quote from the CONGRESSIONAL RECORD of September 29, 1995, when we tried to get the bill through before the end of the fiscal year. Senator DOLE said:

> I talked with the leader about this bill, and we do waste time periodically in the Senate, but this is a total waste of time to continue on these two bills because they are not going anywhere. I know some want to make a point. I agree with the Senator from Pennsylvania and the Senator from Iowa that we ought to pass that bill on a voice vote. We cannot get cloture. There were two votes, 54-46, party-line votes. My view is we ought to do it, pass it, and find out what happens in the veto in the next round.

I agree with Senator DOLE that that is what we should have done, that we agree to take off that rider that they have on it, as others have done on other appropriations bills. I know there are some that want to have a debate and a vote on one or two abortion amendments. I think we can work that out with a time agreement, have a vote on the Senate floor, and move it out. So what we are engaged in now with this motion to proceed is just another waste of time. There will be a vote on Monday or Tuesday, whenever the vote is called by the majority leader, and they will not get cloture. It is a forgone conclusion. They will not get cloture, and we are right back where we started from.

It is a shame we have to waste more time of the Senate and go through this exercise again. If cooler heads would just prevail and take that rider off, we could bring the bill out under a time agreement and probably get the bill passed within an hour and then sit down with the House and try to iron out our differences in conference.

Mr. President, I was prepared to come to the floor to ask unanimous consent to proceed to H.R. 2127, the Labor-HHS appropriations bill, and to have it go through on a voice vote pursuant to what Senator DOLE said on September 29. However, I am aware there is no one on the other side to object to my unanimous-consent proposal, so I will not offer that unanimous-consent in keeping with the comity of the Senate. Perhaps when we come back Monday and there are people, I may propound it again at that time, only again to show there is no objection on this side to bringing up the Labor-HHS bill and passing it by a voice vote as long as that rider is taken off. If that rider is taken off, there is not one objection on this side to bringing up the bill and quickly disposing of it.

I wanted to take the floor to make that point in the hope that those who have that rider on the bill will listen to the majority leader and listen to Senator SPECTER if they do not want to listen to me and take that rider off, and we can get this very important bill passed before we, hopefully, go home for Christmas.

Lastly, Mr. President, not in keeping with this bill—I guess it is somewhat in keeping with this bill—we are right now in a shutdown of the Government. There are those that work for the Federal Government that are now not going to work today and tomorrow, and I hope by Monday we will at least get a continuing resolution to put us through maybe February. It is a shame we have to do this. I hope that this weekend the President of the United States would exercise his authority under the law to provide funding for the Low-Income Heating Energy Assistance Program.

Mr. President, last year this Congress, Republicans and Democrats, appropriated $1.3 billion to provide some assistance for low-income people to heat their homes during the winter. It passed with Republican and Democrat support. It was not a partisan issue at all. Also, earlier this year, Republicans and Democrats, working together, provided for a rescission. We rescinded $300 million of that $1.3 billion. But it still left $1 billion in there to help low-income people heat their homes in the winter.

Because we have been under a continuing resolution, that money has been held up. We have not been able to get the money out for the Low-Income Home Energy Assistance Program.

Mr. President, I want you to know that people in Iowa, people all across the northern part of this country, have endured a very severe winter thus far. There are people in our northern States who are now really deciding whether they are going to buy some fuel or whether they are going to buy food or pay for their prescription drugs.

As Senator WELLSTONE has so eloquently stated many times here, including yesterday—and I know he cannot be here today, he is on his way to Minnesota—as he pointed out, there are people right now in his State, and I know in my State and I know in a lot of northern States, living in one room of their homes. They have the oven on, because they are trying to cut down on their fuel bills because they do not have the money to pay them.

I know in some States, the State authorities that put out the money for low-income heating assistance are saying they only have enough money to put it out in a crisis situation, and that is if an elderly person or low-income person has been notified that they are going to get cut off.

Mr. President, 80 percent of the money we put into LIHEAP, the Low-Income Home Energy Assistance Program, 80 percent of it goes to people with incomes of less than $8,000 a year; less than $8,000 a year. In my own State of Iowa there are elderly people living alone in small houses, in small towns—mostly women, elderly women—whose total income is $4,500, $5,000, $6,000 a year on Social Security. That is all they have. Now they are being forced to decide how they are going to pay their heating bills with a very cold winter upon us.

We have a window of opportunity. The President of the United States has a window of opportunity. Since there is not a continuing resolution, we now fall back under the old law. The old law provided $1.3 billion. As I said, we rescinded $300 million. There is roughly close to a billion dollars out there that needs to be put out for low-income heating. I am calling on the President, and I hope the President will as soon as possible get that money out. It has been appropriated. We appropriated the money last year. There is no reason to hold it up any longer.

I am informed that as of this time, as of January of last year, about 90 percent of the money appropriated for last year was put out. We are not anywhere even near that now. We are not even anywhere near 30 percent of the money being put out. Yet this is the time when people need that money.

So I hope the President will exercise his authority and get that money out as soon as possible, this weekend. It is an opportunity, I think, for us to show, however bad this budget may seem to a lot of people, there are still a number of people here who care about ensuring that low-income and elderly people, especially, have enough money to heat their homes in the winter.

I do not put this in a partisan context. Mr. President, 53 Senators signed a letter to the President on this very issue of getting the money out, and there were Republicans and Democrats on that letter. So I do not see it as a partisan issue, I see it as just a humane issue, an issue of decency and compassion. We ought to get this money out as soon as possible. So I hope the President of the United States will take this opportunity. It is sad to think we have to do something like this during a period of time when the Government is shut down, but we must take this period of time right now and get that money out so people can heat their homes.

Lastly, I came across an interesting document earlier today, this piece of paper. I was on a radio show this morning with a small radio station in Iowa, Webster City, IA. There were a number of questions, people calling in asking, "Why is the Government shutting down again? Why are we going through this again?"

I have to tell you, maybe I am a little chauvinistic about this, but I happen to think my constituents, Iowans, are pretty reasonable people. They are pretty smart and they have a lot of common sense. One of the callers said, "You had this last shutdown but the people got paid anyway?"

I said "Yes."

He said, "What is the purpose of it, then?"

I said, "You tell me. I cannot tell you."

He said, "Will the same thing happen now? If the Government is shut down, will these people get paid again?"

I said, "I suppose so. They are going to get paid. We are going to shut down but they will get paid anyway."

What is the purpose of it? It makes no sense to Iowans and makes no sense to me. Perhaps with this piece of paper I came across today, maybe it starts to make sense. This is a piece of paper dated November 29, 1 p.m. It is called—it has a title on it, "Building An Effective Government We Can Afford. Government Shutdown Project." That is how it is titled.

I am told this piece of paper came from the Republican Caucus—conference on the House side. It came from the leadership, from Congressman GINGRICH's office: November 29. It says, "Government Shutdown Project." This is November 29. Listen to this. The goal: "Hold effective hearings, press conferences and communication opportunities between December 4–13 to demonstrate mismanagement, politicization of government shutdown or to expose waste in government functions that was evidenced by government shutdown. (see themes below)"

Here are the themes they say. Here are the "themes."

Clinton politicized the shutdown—harming people unnecessarily.

Clinton is fighting to protect big government and the status quo.

Shutdown exposed Government functions that are wasteful and unnecessary.

And then they have the hearings here: "Committee, chairman, date, topic." Here is activity one: "Hearing, Government Reform Subcommittee on Civil Service. Chairman: Mica. Date: 12/6. Topic: Mismanagement of shutdown."

Here is the next, "Hearing, Government Reform Subcommittee on National Economic Growth. Chairman: McIntosh. Date: 12/7 or 8. Topic: Rubin"—meaning Secretary of the Treasury, Mr. Rubin—"scare tactics and raiding trust funds."

On and on. I could read the whole thing.

Mr. President, I ask unanimous consent that this document be printed in its entirety at this point in the RECORD so people can read it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUILDING AN EFFECTIVE GOVERNMENT WE CAN AFFORD

GOVERNMENT SHUTDOWN PROJECT

Goal

Hold effective hearings, press conferences and communication opportunities between December 4–13 to demonstrate mismanagement, politicization of government shutdown or to expose waste in government functions that was evidenced by government shutdown. (see themes below)

Themes

Clinton politicized the shutdown—harming people unnecessarily.

Clinton is fighting to protect big government and the status quo.

Shutdown exposed Government functions that are wasteful and unnecessary.

Activity	Committee	Chairman	Date	Topic
Hearings scheduled to date:				
Hearing	Government Reform Subcommittee on Civil Service.	Mica	Dec. 6	Mismanagement of shutdown.
Hearing	Government Reform Subcommittee on National Economic Growth	McIntosh	Dec. 7 or 8	Rubin—scare tactics and raiding trust funds.
Hearing	Resources	Young	To be announced	Closing of parks versus Symington proposal.
Hearing (under consideration)	Banking Subcommittee on Oversight	Bachus	Dec. 13	Raiding trust funds—Reich versus Rubin.
Other activities:				
Letter to HUD	Banking Subcommittee on Housing	Lazio	Sent on Nov. 27	Mismanagement of shutdown at HUD.
Letter to Labor	Opportunities	Goodling, Ballenger, Hoekstra	Nov. 28 (expected)	Unknown.
Letter to Labor	Government Reform	Clinger	Sent on Nov. 28	Document request: Notices sent to affiliated constituencies of Labor (i.e. lobbying) re: shutdown.
GAO investigation	Ways and Means	Archer	Unknown	Monitor legality of Rubin actions.
Letter to Rubin	JEC	Saxton [and Armey]	Sent on Nov. 17	Document request re: raiding trust funds.
Talking points	Republican Conference	Boehner	Dec. 4	Politicization of shutdown.

Mr. HARKIN. So, I think this paper makes it clear why we are in a Government shutdown. This was by design, by the Speaker of the House. This is dated November 29. "Hold effective hearings, press conferences and communication opportunities between December 4–13." They did not want to reach an agreement. This is all a plan and a scheme to make this a political issue. That is sad.

I wish I had this this morning when I was on the radio. I did not have it then. If I had, I would have read it on the radio this morning to my constituents in Iowa, saying, "Here is a piece of paper from the Speaker's office dated November 29, saying that their plan is to shut down the Government on December 15, and here is how you get ready for it. You have all these hearings and you have all these meetings and here is how you discuss it. It is all laid out there."

I suppose maybe he did not figure anybody would get a hold of this piece of paper. Once again, it shows you, in Washington, if you put something on a piece of paper someone is going to get a hold of it that you did not want to get a hold of it.

So, Mr. President, there is only one reason why we are in a Government shutdown and that is because the Speaker of the House and his people over there, his allies over there, have decided that they want to do this to create a crisis, to create chaos, to create a disturbance, because Mr. GINGRICH says he is leading a revolution, leading a revolution.

I did not get a chance to read much of the paper this morning but I did read a little part of the paper in which Mr. GINGRICH is saying something—in the Post this morning he said something like: Well, this is like 1933. It is a revolution like 1933, he said.

Well, first of all, I think the Speaker has an overinflated view of himself as a historic person, first.

Second, how can he possibly compare himself to Franklin Roosevelt, or compare what they are doing to government to what we did in 1933? The Speaker said, "This is a historic moment, a moment fully as important as 1933."

Mr. President, this is a moment when we decide what we are about as a nation and where we want to go. It is a moment where we choose whether we want America to move forward, or to turn it back before 1933.

So, Mr. GINGRICH is right in one respect. In 1933, President Franklin Roosevelt looked at the United States of America, and he said, "I see a country one-third ill housed, one-third ill clothed, and one-third ill fed."

Now, if that was Mr. GINGRICH in 1933, he would have said, "I see an America where two-thirds of the people are well fed, two-thirds are well clothed, and two-thirds are well housed," ignoring the third that were being left out of our system. There is a difference between Mr. GINGRICH's philosophy and Franklin Roosevelt's.

Franklin Roosevelt and that Congress decided never again—that we were going to change Government to provide that ladder of opportunity for people at the bottom as well as the people at the top. How can Mr. GINGRICH, how can the Speaker of the House, in any way compare his philosophy or what he is trying to do to what Franklin Roosevelt did in 1933? I am incredulous. Rather, what the Speaker is trying to do is to undo everything that he did to make this country a little bit more fair, a little bit more just, and a little bit more compassionate.

So, yes, we do have kind of a historic moment right now. Are we going to say that everything we have done to build a ladder of opportunity for people at the bottom we are going to take away; that what we did to provide for decency for the elderly in Medicare and Social Security, we are going to take that away, and turn it back to what it was before 1933?

We have to decide whether it is right to take $270 billion out of Medicare for our elderly without mounting a real attack on the waste, fraud, and abuse that is rampant in the system—that every senior knows about but we cannot seem to attack.

It is a moment when we decide whether to raise taxes on working families and tell them, "We are not going to only raise your taxes, but we are going to cut your Medicaid, and now you are going to have to pay for your parents' or grandparents' nursing home, too."

It is a moment when we decide whether it is responsible to make it harder for students to go to college and easier for companies to take their jobs overseas.

It is a moment when we decide whether we are going to scrap the direct loan program for students, or whether we are going to let the banks have a nice, cushy deal and make billions of dollars in interest.

It is a moment when we decide whether we are going to cut our investment in education and training and give billions more to the Pentagon, more than they have ever asked for.

It is a moment when we decide whether we are going to pull the rug out from under family farmers in rural communities and stick them with a farm bill that I call a Welcome to Welfare Act.

So, yes, it is a historic moment. It is a historic moment. It is nothing like 1933, though, because what we are doing here is we are turning—if we adopt this budget that the Speaker of the House has come up with, if we adopt that budget, we are turning our backs on progress in America.

I swear—some people ask me a lot of times, "What does Mr. GINGRICH really want? What kind of America is he looking at?" I swear that he will not be satisfied until we have an America that looks like a Third World country where a few rich are at the top and everybody else is at the bottom where there is no way for the people at the bottom to get to the top.

I have always believed, Mr. President, because of my background, that in America you ought to be a success. There is nothing wrong with that. There is nothing wrong with making money in this country. There is nothing wrong with being rich. I do not begrudge Bill Gates with billions of dollars. Look what he has done. There is nothing wrong with that. That is the American dream.

But I have always believed, Mr. President, that when you make it to the top, when Bill Gates makes it to the top, or if I make it to the top, that one of the primary responsibilities of government is to make sure that we leave the ladder down there for others and that we do not pull it up behind us.

This budget proposal that has come to us from the House of Representatives allows those who get to the top to pull that ladder up behind them. It not only allows them to do it, but it encourages them to do it with the aid and the assistance of the Federal Government.

Mind you, Mr. President, I said, a "ladder of opportunity." I have always believed in that. I did not say escalator. I did not say something that someone can get on and get a free ride up. I said a ladder, because with a ladder you still have to exert some work to get to the top. But the structure is there.

When you take away that structure of prenatal care, the Head Start Program, college student loans, and you take away Medicaid that is going to help the elderly pay for the nursing home bills, and when you cut Medicare and make the elderly pay for their monthly premiums when they do not have it, when you cut out the Low-Income Energy Assistance Program for people that make less than $8,000 a year, and when you turn right around and give more tax benefits to corporations and you do not go after corporate welfare in this country, more tax benefits to those who already have a lot, when 30 percent of the tax relief in the Mr. GINGRICH's budget goes to people making over $100,000 a year, when in that budget families making less than $30,000 a year pay more in taxes—when you do that, you are pulling away the ladder. You are destroying the structure that allows people who start at the bottom to get to the top.

So, yes, I believe in that American dream. I believe that people ought to be a success. But I am not going to stand here or be a part of the Senate without raising my voice and casting my vote against any budget that would take that American dream away for future generations on the bottom rung of the ladder. And that is as I see this budget.

So, I close my remarks, Mr. President, by saying that I think the Speaker of the House really ought to examine what happened in 1933 and take a look at what kind of a historic figure Franklin Roosevelt really is and what he did for this country to move it ahead out of the dark ages of the past and to provide that ladder of opportunity for families like mine.

If Mr. GINGRICH looks at that and is indeed honest with himself, then he will see that what he is about is undoing all of that and turning us back to where we were before. But maybe that is what he wants. Maybe that is what Mr. GINGRICH wants to do. Well, if so, that is his political philosophy.

I do not want to turn this country back, and I do not want to take away that ladder of opportunity. I hope that more reasonable Members on the other side of the aisle, both in this body and in the House, will come to a reasonable bipartisan conclusion—that, yes, we need to balance the budget but not just do it on the backs of those on the bottom rung of the ladder.

I believe if we work together in a spirit of compromise, We can get it done and we can get out of here for Christmas. But if Mr. GINGRICH proceeds with this plan of his in shutting down the Government, well, then it looks like we might be here over Christmas and New Year's, too. If that is what it takes, I am prepared to stay here. If that is what it takes to stop this folly that the Speaker of the House is trying to inflict upon the American people, well, then I guess we will have to stay here.

Mr. President, I yield the floor. I note the absence of a quorum.

The PRESIDING OFFICER (Mr. BURNS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on December 15, 1995, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 1747. An act to amend the Public Health Service Act to permanently extend and clarify malpractice coverage for health centers, and for other purposes.

H.R. 1977. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

H.R. 2099. An act making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for fiscal year ending September 30, 1996, and for other purposes.

H.R. 2236. An act to amend the Doug Barnard, Jr.—1996 Atlanta Centennial Olympic Games Commemorative Coin Act, and for other purposes.

S. 1060. An act to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

The enrolled bills were signed subsequently on December 16, during the session of the Senate by the President pro tempore (Mr. THURMOND).

ORDERS FOR SUNDAY, DECEMBER 17, 1995

Mr. DOLE. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 5 p.m. on Sunday, December 17; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business until the hour of 5:30 p.m. with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Let me indicate that we will have a session on tomorrow. I am not certain whether or not there will be a continuing resolution come over from the House, but we should know by 5 o'clock. And if it does come from the House, it is my hope that we can pass it on a voice vote. There will not be any votes tomorrow. If somebody demands a rollcall, then we would wait and act on that late on Monday. So there will be no votes during tomorrow's session.

We are still hoping to be able to reach an agreement for a time certain to vote on adoption of the DOD authorization conference report. That vote will come on Tuesday morning. We are also hoping that we will be able to proceed to the consideration of the Labor, HHS appropriations bill. A cloture motion was filed on the motion to proceed to Labor, HHS appropriations yesterday.

ORDER FOR VOTE ON CLOTURE MOTION—H.R. 2127

Mr. DOLE. Mr. President, I now ask unanimous consent that notwithstanding the provisions of rule XXII, the vote on invoking cloture occur on Tuesday, December 19, at a time to be determined by the two leaders, with the mandatory quorum being waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED ACTION ON LEGISLATION

Mr. DOLE. I might say for the information of my colleagues we did have a meeting this morning with reference to welfare reform. We think we are very close to an agreement. We hope to have that before the Senate next week. The House will act first. We hope to take it up on Tuesday or Wednesday.

We also believe that we have resolved the problem with the D.C. appropriations bill, and it is possible that might be acted on tomorrow. It is unlikely. But it would be acted on by Monday. We could take it up on Monday. I know there have been conversations with the Mayor today to indicate that we hope to have the D.C. appropriations bill wrapped up on Monday and on the way to the President, and on that basis I understand that there will not be any shutdown of anything in the District of Columbia. At least that is what I was advised.

We also met with reference to the foreign operations appropriations bill. We have not yet resolved the one issue remaining with reference to abortion. But it is our hope that we could come to some resolution of that on Monday. If that were the case, then we will have completed action on all the appropriations except Labor, HHS, which we are unable to take up because of objections on the other side of the aisle. If cloture is invoked, then we can complete action on that.

I would just say with reference to the budget negotiations, we have heard nothing from the President or any of the President's representatives today. It may be that there will be some information later today or tomorrow. We are available. We are prepared. We believe we should have serious discussions. If we are not going to have serious discussions, then we ought to sit down and say, OK, it is not going to happen this year and make some arrangements so that many Members and others and those who may be affected by a Government shutdown can be protected.

I hope that we could get serious about this, sit down and start talking with the President of the United States, with the Speaker, with the majority leader of the Senate present so that we could make some movement. I think one way it might help is if we start canceling all the press conferences that everybody is having downtown and up here. That might speed up the process because it seems to be that every time you have a meeting you have to have a press conference. I am not sure that has been productive the last couple, 3 days.

In any event, if the President wants us to be responsible, we are certainly prepared to do that. We are waiting for him to get with all of us. We would be glad to come to the White House or anywhere else to meet with the President to talk about the balanced budget in 7 years and how we can reach an agreement between now and next Friday, December 22. If not then, sometime in the following week before New Year's.

ADJOURNMENT UNTIL 5 P.M. TOMORROW

Mr. DOLE. Mr. President, if there be no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 2:27 p.m., adjourned until Sunday, December 17, 1995, at 5 p.m.

SENATE—*Sunday, December 17, 1995*

The Senate met at 5 p.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, when there is no place else to turn, it is time to return to You. The present crisis over the budget has confronted us with our human inadequacy to handle things on our own.

So here we are on a Sunday afternoon. We all believe in You, love our Nation, and are called to patriotism. We pray very specifically for our principal leaders. For the welfare of the Nation, the good of the Government, and the continued respect of our people, we ask You to motivate President Clinton to call together BOB DOLE, TOM DASCHLE, NEWT GINGRICH, and all those involved in assisting in this negotiation. We join with millions of Americans in praying that You will give these leaders the courage to keep working until the issues are resolved, the determination to find answers, and the desire to give as well as take in the disputation. You are ready to help those who confess their dependence on You for wisdom to find workable solutions and creative compromises. When we humbly ask for Your guidance together, You open the channels of communication and give us the will to negotiate. The place for greatness is here; the time for greatness is now. We thank You in advance for the answer to this prayer. In the name of our Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator DOLE, is recognized.

Mr. DOLE. Mr. President, first I thank the Chaplain. I hope everyone was listening. Maybe we need all the guidance we receive and probably more.

SCHEDULE

Mr. DOLE. Mr. President, I think it is fairly certain we will not be getting any continuing resolutions from the House today, so we will not be in session but for a few moments. It seems to me that there is not much reason to stay here if we are not going to have a continuing resolution come over from the House side.

But I think in an effort to make that final determination, I would now move the Senate stand in recess subject to the call of the Chair. As soon as I have that information, we will come back.

Mr. KENNEDY. Could I ask the majority leader, the Senate had an announcement about the LIHEAP, the President taking action to release LIHEAP funds, which is enormously important for many areas in the country. This is something very, very significant to many of the people, I know, in my own State, New England, out in the Far West. I just wanted to address the Senate for 3 or 4 minutes on that subject. And there may be a lot of other people that want to talk.

I do not want to interrupt the normal flow, but I just wonder if——

Mr. DOLE. The Speaker is in my office, so I can find out rather quickly. It will not be a long recess. But I do not want to get into a Sunday afternoon brawl here on the floor about the budget. If it is not about the budget—I mean the President knows how to reach us up here. And we do not need to debate the budget this afternoon. We need to sit down, the principals, and try to work it out.

Mr. DORGAN. I wonder if the majority leader would yield for a question?

Mr. DOLE. Yes.

Mr. DORGAN. Mr. President, the minority leader, Senator DASCHLE, has been here all day, and temporarily had to leave the Capitol, but will be returning. I am prepared on his behalf to offer a unanimous-consent request. I am wondering if the majority leader intends to allow us to be recognized to do that.

Mr. DOLE. Oh, yes. In fact, we may want to accept that request if we can add to it the Labor-HHS bill which the Democrats will not let us bring up on the floor. If the Senator can add that to the CR, we might do some business here this afternoon. That would put 150,000 people back to work, and we think that is very important. So the Senator might see if he can amend that. We might be able to agree to it.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS). Is there objection?

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE addressed the Chair.

UNANIMOUS-CONSENT REQUEST—H.R. 2127

Mr. DOLE. Mr. President, let me indicate that I have met with the Speaker, and I think it is unlikely that there will be any continuing resolution. In fact, there will not be a continuing resolution coming from the House tonight, and I do not see any reason for the Senate to be in session. If there was any hope that there might be a continuing resolution coming over from the House side, we would have stayed here as long as we could.

Then I understood that earlier the Senator from North Dakota, on behalf of the minority leader, Senator DASCHLE, was going to propound a unanimous-consent request which would in effect be a 5-day extension until December 22. It is an S.-numbered bill, which the House can refuse.

But, in any event, it occurred to me that maybe a better way to approach that would be to add the continuing resolution to the Labor-HHS bill which has been pending here since September 15. We have had two cloture votes so far. We have had a number of unanimous-consent requests rejected. We will have another cloture vote sometime on Tuesday. That is one appropriations bill that has not left the Senate, and it is because of objections on the other side of the aisle. It has been along party lines, and I would hope that we could resolve it. It involves I think about 150,000 Federal workers, and if we could do that tonight, I understand again from the Speaker that he will use every effort to take the bill that we send to him and pass it in the House and send it to the President for his signature tomorrow.

So on that basis, I will propound a unanimous-consent request. I ask unanimous consent that the Senate turn to consideration of Calendar No. 189, H.R. 2127, the Labor-HHS appropriations bill, that the committee amendments be considered and agreed to, en bloc, the bill be further amended with language to change section 106(c) of Public Law 10-456 to strike "December 15th, 1995" and insert "December 22nd, 1995," that the bill be then immediately read a third time and passed.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The assistant minority leader is recognized.

Mr. DORGAN. Mr. President, the majority leader has just offered a unanimous-consent request that included a number of things, including consideration of an appropriations bill that he knows contains an extraneous item that is very controversial that has held up that legislation for some long while. It also includes a continuing resolution.

We believe there ought to be a continuing resolution adopted by the Senate. There is no need for a shutdown of the Government. We would hope that the majority leader would accept the unanimous-consent request that I will propound in a moment that will provide a clean continuing resolution for 5 days, and in 30 minutes from now the Government shutdown will end.

There is no reason for a Government shutdown. It does not make any sense. It, in effect, penalizes the American people for our failure to reach agreement on a budget issue here in the Congress, and it certainly makes no sense at all to penalize both the American taxpayer and also Federal workers.

I was constrained to object to the unanimous-consent request by the majority leader because the request that he made included not only a continuing resolution but also an appropriations bill, one of the largest—the largest—appropriations bill that would come to the floor and that would be deemed to have been passed, which includes an issue—striker replacement—which he knows is very, very controversial. It is an extraneous item to the appropriations bill that should not be there. If it was not there, we would have passed this appropriations bill. It would have gone to the White House, and presumably it would have been negotiated before and signed into law, and we would not have these issues in front of us with respect to both Labor and HHS.

But we do have these issues dealing with the shutdown, and it does affect Labor-HHS and other appropriations. The way to solve that—not only for Labor and HHS, but for all other areas that are so affected—would be for us to at this moment agree to a 5-day continuing resolution, clean, without any riders, without any extraneous provisions.

So I will propound the unanimous-consent request on behalf of the minority leader, the Democratic leader, Senator DASCHLE.

UNANIMOUS-CONSENT REQUEST—S. 1410

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 240, S. 1410, a clean continuing appropriations bill, that the bill be read a third time and passed, as amended, with the date changed until December 22, and with language that will permit the expenditures of funds for low-income energy assistance.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I object.

Let me indicate, of course, that the appropriations bill originates in the House. This does not have any standing in any event, but it would have standing if done in the way I prescribed because it would be attached to the bill. It would go to the House.

I want to make the record very clear because I think sometimes people fail to understand why certain things happen. The Labor-HHS appropriations was reported, and it has been on the Senate calendar since September 15. Senator HATFIELD, chairman of the Appropriations Committee, has been prepared every day since that time—along with Senator SPECTER, chairman of the subcommittee—prepared to bring that bill to the floor, and so has, I might add, the Senator from Iowa, Senator HARKIN, the ranking Democrat on the subcommittee. The leadership on the Democratic side, because of striker replacement—in other words, if we repeal the President's Executive order—will not let us bring the bill up. They are not willing to take their chances in a debate and are not willing to try to strike that provision on the Senate floor. So we have been stymied.

So I would say to all of the people at the Labor Department, Mr. Reich, Secretary of Labor, and the Secretary of HHS, and others who are nonessential—they are not nonessential—but the nonessential workers who will not be going to work tomorrow, to just take a look at the record—do not listen to the press—and take a look at the facts. The facts are that since September 15 that bill has been on the calendar. We have tried to get it up three or four times by unanimous consent. That has been objected to by my colleagues on the other side.

We have had two cloture votes. We failed on cloture votes because of striker replacement. We failed along party-line votes. We only have 53 Republicans. We need 60 to shut off debate, and we will have another cloture vote on Tuesday.

So what I suggest—and we want to keep the Government open until the 22—is to bring that bill up, pass it by unanimous consent, and add a 5-day additional continuing resolution to it so the Government will be open until December 22, which will be next Friday at midnight.

It seemed to me that was a good way to dispose of two items that are still here that should have been disposed of weeks and weeks and weeks ago. And I regret that because of one provision, because of the President's allegiance to the organized labor leaders—not the working people—because of his allegiance to the labor leaders and all the money they pump into the Democratic Party, that because of this one little provision that deals only with an Executive order made by the President, we are going to keep 150,000 workers from their jobs tomorrow and maybe the rest of the week and a lot of other things, funding for NIH, a lot of other programs, including the Low-Energy Assistance Program in the Labor, HHS appropriations bill.

So the public ought to know that when the labor leaders speak, my colleagues listen. They will not let this bill come up because the labor leaders are opposed to one provision—one provision. I know it is difficult for the media to print the facts and report the facts, but these are the facts. Do not take my word for it. It is all in the CONGRESSIONAL RECORD.

Where is the calendar that will show how long it has been on it, to make certain I have it right? I think it is September 15.

Reported by the committee September 15. So it has been around September to October, October to November, November to December. It has been around 3 months, 90-some days, and we cannot pass it because my colleagues on the other side will not let us pass it because of one provision—one provision and we could have opened up the Government. The Speaker said if we would get consent to do this, he would try to pass it tomorrow. So we have made an effort again, I hope in good faith. We tried before to bring this bill up.

Let me also include in the RECORD, because I know I read today in the Washington Post how the tourists were frustrated and there may be some in the—the zoo is closed but the Senate is open. That ought to tell you something. I know what it tells you. But we are here. The bears are resting. In any event, maybe it ought to be the other way around. Close this up and open the zoo. If you cannot get into the zoo, this may be the next best choice.

We wrote the President yesterday. We suggested to the President that he ought to sign the three bills that have been on his desk—Commerce, Justice, State, the Judiciary, which employs 194,000 Federal workers; the Interior bill, which employs 103,800 workers; and the VA-HUD bill, which employs 293,000 workers.

Now, that is a total of 620,900 workers. All these bills have been on the President's desk. With all the stories today about the parks being closed and people came all the way here, it is an unfortunate thing that they came back here to see certain sights and participate in some of the holiday period festivities and all the buildings are closed.

The President can take care of that with a stroke of the pen. He can do it right now. It is a little late for the weekend. But they would be open tomorrow morning.

The bill is there, Mr. President. All you have to do is sign it, sign the other bills, and a lot of people will go back to work.

So, again, I would like to include in the RECORD the list of the bills. If he would sign these bills, it covers the following agencies: Justice, Commerce, the Judiciary, State, Small Business, USIA, the Interior, Indian Health, Forestry, Energy, NASA, National Science Foundation, Veterans, Housing and Urban Development, EPA. In all these different agencies, people would be back to work, and we think that is important. So I would like to include that information along with a copy of the letter that the Speaker and I sent to the President yesterday indicating that we hoped that he would sign those bills.

We also advised the President we could pass the DC appropriations bill tomorrow evening. We hope we can get consent to deem that passed in the Senate after it passes the House. And we also suggested to the President, I might add, the Labor, HHS bill and pointed out to the President that we have made repeated efforts to bring up the Labor, Health and Human Services, and Education appropriations bill but the Senate Democrats have prevented the bill from moving forward. We asked for the President's help. We asked him yesterday to help us get the bill passed so that we can send it to him for his consideration and another 150,000 workers could continue working. So I ask unanimous consent that those be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
Washington, DC, December 16, 1995.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The best way to avoid sending federal workers home from work on Monday morning, December 18, is for you to sign the appropriations bills that Congress has already sent to you. You have on your desk right now three bills that would allow 620,000 workers to remain on the job. We urge you to sign those bills before Monday. You can keep them on the job with a stroke of your pen.

The Interior Appropriations bill would let 133,800 workers remain on the job. The Veterans Affairs, HUD, and Independent Agencies bill would keep 293,000 employees on the job. And the Commerce, Justice, State, Judiciary bill would let 194,000 workers stay on the job. You should approve those three bills for the sake of those federal workers and to fund the federal programs included in those bills for the rest of the fiscal year.

We also hope on Monday to deliver to you the appropriations bill for the District of Columbia so that the D.C. Government can continue to operate.

Since September 15, we have made repeated efforts to bring up the Labor, Health and Human Services, and Education Appropriations bill for consideration on the Senate Floor, but Senate Democrats have prevented that bill from moving forward. We ask for your help with members of your party so that we can move that bill to you for your consideration. Upon your approval, another 150,000 workers could continue working.

Your prompt approval of the remaining appropriations bills is in the best interest of the Nation and will ensure continued operation of the government.

Sincerely,
BOB DOLE,
Senate Majority Leader.
NEWT GINGRICH,
Speaker of the House.

BILLS AWAITING CLINTON'S SIGNATURE

What's Shut Down If He Vetoes

DEPARTMENTS (MAJOR RELATED FUNCTIONS)

Commerce:
(National Oceanic & Atmospheric Admin.)
(Maritime Administration)
(Federal Communications Commission)
(Small Business Administration)
(National Weather Service)
Justice:
(Federal Bureau of Investigation)
(Drug Enforcement Administration)
(Immigration & Naturalization)
(Federal Prisons)
State
Veterans
Interior:
(Forest Service)
(Indian Health Service)
(Smithsonian)
Housing & Urban Development

INDEPENDENT AGENCIES

Consumer Product Safety Commission
Environmental Protection
Federal Emergency Management
National Aeronautics & Space
National Science Foundation

THE BALL'S IN THE PRESIDENT'S COURT

The following bills have been sent or are on their way to the President's desk. If the President signs these bills, the following employees can head back to work.

Commerce, Justice, State, Judiciary:	
Justice	102,000
Commerce	25,000
Judiciary	28,000
State	25,000
SBA	5,800
USIA	8,000
Total	194,000
Interior:	
Interior	76,000
Indian Health	15,500
Forest	38,000
Energy	2,300
Misc.	2,000
Total	133,800
VA-HUD:	
NASA	20,000
Nat'l Science Found	2,000
Veterans	240,000
HUD	11,000
EPA/misc.	20,000
Total	293,000
Overall total	620,900

Mr. DOLE. Tomorrow, if we can renew our request, maybe by that time, if we have some word, if we could do this tomorrow morning, we could still get it over to the House; they could still act tomorrow. And again it would extend the Government to December 22, the partial shutdown would be lifted until December 22. Perhaps at that time there could be some agreement on the budget.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I understand why the majority leader characterized the circumstances of the shutdown in the appropriations bills, but I would say to him that it is not the lack of passing the Labor, HHS bill that will cause a shutdown tomorrow morning. It is the lack of passing a clean CR for 5 days. We could pass a clean CR and in 30 minutes the Government shutdown will end, and that is what we ought to be doing.

For those who listen to this process and watch this process, they ought to understand what is at work with respect to an appropriations bill that the majority leader described in some detail. There is a discussion about the process in the system here in Congress where somebody sticks something on a piece of legislation that has nothing at all to do with the legislation. It has no relationship at all. And then it just moves along.

Well, some people objected to that on the Labor, HHS bill, a provision that has nothing at all to do with that bill. If it were taken off, it would pass very quickly. But because it was not taken off, that piece of legislation is not advanced. But it seems to me, at 6 o'clock on Sunday evening, the question of whether the Government will be shut down tomorrow is a question that can be answered affirmatively in terms of our intent to keep it open by passing a 5-day continuing resolution.

Whether it originates here or in the House is irrelevant to me. What is relevant is that it does originate. I hope that one body or the other would originate a continuing resolution to say let us not hold anybody hostage, let us not make anybody pay a price at this point for our failure. Let us continue to negotiate around the clock and let us not have the Government shut down while these negotiations continue.

I know that the Democrats were meeting today in the Capitol. I was a part of those meetings most of the day. I am sure that Republicans were meeting in the Capitol. I hope that people of good will on both sides want to find a way to solve this problem. The American people expect this problem to be solved. But the failure to provide a CR for a very short time and to have a Government shutdown remain in effect tomorrow morning is, in my judgment, an approach that simply penalizes both the American taxpayers and also Federal workers. I guess I hope that the way we would decide the issue at 6 o'clock on Sunday night is to pass a continuing resolution without clauses and without conditions—just do it, get the Government up, operating and open for the American people, and then let us in the next day or two or three or four solve this problem of the balanced budget with the right priorities and do it for our country. That is what I hope the majority leader will consent to. And if he does not consent now, I hope that one way or the other very soon we will find a way to consent to a clean 5-day CR to avoid the continuation of the Government shutdown.

Mr. DOLE. Mr. President, I am not a shutdown advocate. I think the Senator knows that I am not one of those who advocates it. I think the Federal workers become pawns in this exercise, which is not fair to them. And I have held that view. They are sort of caught in the middle. It is a very, very difficult issue that we are trying to bring together. The American people want us to balance the budget. They have wanted us to do that for a long time. They want a balanced budget amendment. We failed by one vote in the Senate.

They want a 7-year—I think they would rather have a quicker one, but a 7-year balanced budget makes a lot of sense to many Americans because they see their interest rates lowering when they go out to buy a car or home loan or student loan. It will be much less expensive. It is like a tax cut for particularly middle-class Americans.

So the American people are on the side of a balanced budget. They want welfare reform. They want us to preserve and strengthen Medicare. I think most Americans with children want tax cuts for families with children.

So there are a number of very important matters that we need to resolve. We are not going to do it here this evening, obviously. But I say again, it seems to me that if people look at the record—and understand that this Labor-HHS bill, striker replacement, affects labor. It is on an appropriations bill, but it certainly is not the first time. I bet there are a dozen other measures on that bill that probably should be in an authorization bill.

But in any event, there has been an objection. I regret there has been an objection. We could have sent it to the House where they could have taken it up tomorrow and maybe removed the partial shutdown.

I have just been notified that Mr. Panetta, the chief of staff of the White House, indicates that the President will call Republican leaders tomorrow and apparently discuss a temporary spending authority bill. I hope that in addition to that, the President would discuss, how do we resolve the dilemma, how do we get together a balanced budget for 7 years?

Again, I think it is time for adult leadership. It is time for the principals to be principals. We are prepared to do that. This is not an exercise that we want to take up through the rest of this week and all next week. But if necessary, I think the American people, once it is done and once they see the benefits, will thank us for staying here and getting our work done. That is what we get paid for.

LIHEAP

Mr. KENNEDY. Mr. President, I was pleased to learn earlier this afternoon that President Clinton plans to act tomorrow, Monday, to release $578 million in Federal funds for the Low-Income Home Energy Assistance Program, known as LIHEAP. The President's action will make $22.89 million available to Massachusetts immediately.

As we all know, the availability of LIHEAP funds had been drastically restricted under the two stopgap funding bills passed by Congress since the end of September. With the expiration of the latest stopgap bill at midnight last Friday. President Clinton is free to release the funds and will do so tomorrow.

So this means Christmas will be arriving a week early for the 137,000 low-income families in communities across Massachusetts who rely on Federal energy assistance to keep their homes warm in winter weather. President Clinton deserves great credit for taking advantage of this window of opportunity to release these urgently needed funds.

In recent weeks, with cold weather already hitting Massachusetts and many States hard, we have been urging Congress and the administration to find a way to end the unfortunate and irresponsible impasse over LIHEAP funding and enable the assistance to start flowing to low-income families facing large heating bills.

By this time last year, Massachusetts had received about $32 million in LIHEAP funds. So far this year, only $9.6 million has been received because of the restrictions in the stopgap funding bills. Under President Clinton's action, this year's LIHEAP funding will be on a par with last year's, and families will be getting the relief they need and deserve.

ORDERS FOR MONDAY, DECEMBER 18, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 11 a.m., Monday, December 18, that following the prayer, the Journal of proceedings be approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business until the hour of 11:30 a.m., with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, following morning business on Monday, the Senate will resume consideration of the DOD authorization bill. I understand we are trying to get an agreement when we might vote on that bill Tuesday morning. The House will be taking up, in late afternoon because of the holiday tomorrow—after 4 or 5—the D.C. appropriations bill, which if passed by the House and passed by the Senate would then at least permit D.C. workers to be back on the job.

It is my hope that we can get an agreement on the Senate side that would deem the conference report passed when received in the Senate; otherwise we might have to stay here until late tomorrow evening. I do not believe there will be any rollcall votes. If a rollcall vote is required on that bill, we would have to wait until Tuesday morning. But I believe under the urgency of passing this bill we can reach some agreement with colleagues on both sides of the aisle.

There will also be a vote on the motion to invoke cloture to proceed to the Labor-HHS appropriations bill sometime Tuesday morning after consultation with the two leaders.

ADJOURNMENT UNTIL 11 A.M., TOMORROW

Mr. DOLE. Mr. President, if there be no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

Thereupon, at 6:13 p.m., the Senate adjourned until Monday, December 18, 1995, at 11 a.m.

SENATE—*Monday, December 18, 1995*

The Senate met at 11 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord of history, we thank You for inspiring memories of heroism in the past that give us courage for living our faith boldly in the present. Today, we join in the celebration of Hanukkah, the Feast of Dedication. We join with our Jewish Senators, the Jewish people throughout our land, and the State of Israel. We remember 165 B.C. and the victory of the Maccabees over tyrant Antiochus Epiphanes and his troops who had occupied Jerusalem, desecrated the temple, and sought to destroy forever the Hebrew religion. We celebrate the Maccabean victory that enabled the Jews to rededicate the temple and once again to worship You freely. It is with gratitude we remember that there was one remaining flask of pure olive oil left in the temple that miraculously kept the eternal light on the altar burning for 8 days and 8 nights until the supply could be replenished.

We claim the meaning of the word Hanukkah, dedication, as we rededicate ourselves to our duty to uphold religious freedom for all people today. We also reaffirm our commitment to battle against the forces of evil in our society. Lord, we seek to be temples of Your holy spirit. Help us to shine in the spiritual darkness of our time. Keep us aflame with Your spirit of truth. May the verse from Zechariah 4:6, so often repeated during the 8 days of Hanukkah, be our source of strength today: "Not by might, nor by power, but by my Spirit, says the Lord." Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator DOLE, is recognized.

Mr. DOLE. I thank the Chair.

SCHEDULE

Mr. DOLE. Mr. President, I have been asked by a number of my colleagues if I could give some idea when we might be leaving here for the holidays, and I cannot. But I will lay out some of the items we would like to take up before Christmas or New Year's Eve, whichever.

They are the nominations on the Executive Calendar and other calendar items; the Whitewater subpoena controversy, which may or may not be on the Senate floor. If so, we would like to do that on Wednesday. If there is a budget negotiated agreement, we would like to complete that, of course. There are three appropriations bills remaining; DOD authorization conference report, which we hope to have a vote on tomorrow. There will be a cloture vote on the Labor-HHS bill after consultation with the Democratic leader probably tomorrow.

There are other available conference reports. The ICC sunset, I think that is a conference report, and then welfare reform conference report, which should come to the Senate Wednesday or Thursday.

I will also say, and I think I have indicated this publicly, that there will be no votes today. We hope to receive the D.C. appropriations bill from the House late afternoon or early evening. I think we are trying to work out some agreement, because of the urgency of the matter, that we can deem that to have passed when it reaches the Senate. As soon as we have the language on the bill, we will give that to all the interested parties. What they have done is take out, as I understand, all the education provisions and, on that basis, I think the House is prepared to act.

If anything develops between now—well, any time anything develops—if there is any development and the President should call and say he would like to discuss the budget, I will certainly convey that to my colleagues.

So there will be a period of morning business until 11:30, with no votes today. I hope to be able to have the D.C. appropriations conference report deemed agreed to when it arrives. There will be a cloture vote, as I have said, tomorrow.

Also, last evening, there was an effort by Senator DORGAN by unanimous consent to pass a Senate continuing resolution. Normally appropriations originate in the House. I suggested that we might be able to accommodate them to do that until the 22d of December if they let us take the Labor-HHS bill, which has been tied up on the calendar since September 15 because of objections on the other side to one little provision in that whole bill.

Today, if they are prepared to do that, I think we can work that out. The Speaker told me he would be very anxious to receive the Labor-HHS bill with the CR attached. So we will be working with the Democrats. If that can happen, that will at least keep everything open until the 22d. It is up to my colleagues on the other side. We are prepared to move on that at any time during the day.

I know that my distinguished colleague, Senator LOTT from Mississippi, will discuss in some detail some of the relief that could happen very quickly. I am very pleased to yield the floor.

Mr. LEAHY. Mr. President, before the Senator does that, will the distinguished majority leader yield for a comment from me?

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Vermont.

Mr. LEAHY. Mr. President, the distinguished majority leader had mentioned the Defense authorization bill, and the distinguished chairman of the Armed Services Committee, the senior Senator from South Carolina, is also here on the floor.

Mr. President, I realize this would have to probably be hotlined from both Cloakrooms, but I certainly am willing to agree to a vote at a time certain. But I mention two provisos: First, at some point prior to the vote, and if the vote is going to be tomorrow, at that time tomorrow, that I be recognized for 20 minutes to speak—of course, with equal time on the other side, naturally—to speak on the subject of landmines.

I will do that with the understanding of the distinguished chairman that on the subsequent Defense authorization bill, there not be language on landmines, certainly not the language that I have stated my objection to and have given on the floor to him and to the distinguished Republican leader. I mention that for the sake of our distinguished majority leader, because I know he has to try to put together a schedule. I just want him to know, with the distinguished Senator from South Carolina here on the floor.

Mr. DOLE. I thank the Senator from Vermont, and I thank also the chairman of the committee. That is satisfactory.

Mr. THURMOND. Mr. President, I think that is satisfactory to have a definite time to vote, and the distinguished Senator from Vermont will have 20 minutes before the vote and I will have 20 minutes before the vote to speak on the bill and have a definite time to vote. If we can agree on that time, I suggest maybe 12 o'clock tomorrow, if that suits the distinguished Senator from Vermont.

Mr. LEAHY. I would leave it to the leaders to set the time. But I certainly would agree to whatever time the two leaders were able to set. I understand there are both Republican and Democratic Senators who wish to speak on

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

it, on the bill. I do not want to preclude that. Certainly, within the normal course of things, my understanding was that the leadership wanted to have a vote sometime tomorrow. I would hope to accommodate whatever that is.

Mr. LOTT. Will the chairman yield?

Mr. THURMOND. Yes.

Mr. LOTT. That seems like a very reasonable proposal. I hope we can get that locked in as soon as possible. Why don't we check with both sides, our leaders, and see if we cannot get that cleared momentarily. We will work on it, and we hope the Senator from Vermont will do the same on his side. Thank you.

Mr. LEAHY. I assure the Senator from Mississippi and the Senator from South Carolina that, with the understanding that I have with the distinguished chairman regarding the issue of landmines, I will be willing to accommodate whatever time the joint leadership wants to have this vote. I ask only that the leadership, in setting that vote, provide 20 minutes each for the distinguished Senator from South Carolina and myself prior to the vote.

Mr. President, I know the Senator from Mississippi has some other scheduling and housekeeping to do. Once he is finished, at some appropriate point, I am going to retain the floor in my own right for a few minutes of morning business.

Mr. THURMOND. Mr. President, that would give today for those who wish to speak on the bill, for or against it, to make their speeches, and then tomorrow we can have the vote. The leaders can agree on a time tomorrow. Senator LOTT is now representing the leadership on the Republican side, and he can get in touch with the Democratic leadership and agree on a time for the vote. But as I understand it, it will definitely be tomorrow. I ask unanimous consent that it will be tomorrow.

Mr. LOTT. Reserving the right to object, I think we need to have representation from both sides of the aisle before we enter an agreement on unanimous consent. Can I ask the chairman to withhold momentarily and we will check with the leaders?

The PRESIDING OFFICER. Will the Senator from South Carolina withdraw that unanimous-consent request?

Mr. THURMOND. If that is the desire of the Senator from Mississippi, I will do that.

Mr. LOTT. Mr. President, I reemphasize to the chairman of the Armed Services Committee that we will be working on both sides of the aisle to see if we cannot get an agreed-to time to have a vote tomorrow on the Defense authorization bill. I think we can get that worked out. I thought the comments of the Senator from Vermont were very helpful. We will work on that in the next few minutes.

Mr. President, if I can clarify the parliamentary circumstances, we have a period of morning business now that will go for how long? Is it for a time certain or for a period of time?

MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of morning business not to extend beyond the hour of 11:30, with Senators permitted to speak therein for up to 5 minutes each.

Mr. LOTT. I ask unanimous consent that I have 10 minutes of that morning business period.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPRECIATION OF THE SENATE CHAPLAIN

Mr. LOTT. Mr. President, I want to say, once again, how much this Senator—and I am sure all Senators—appreciates the prayers of our most distinguished Chaplain, who is having a tremendous impact on this institution. I think maybe the problems we are wrestling with can only be resolved by divine guidance. We thank Dr. Ogilvie for his help, counsel, and prayers in this institution.

MR. PRESIDENT, SIGN THE BILLS

Mr. LOTT. Mr. President, I want to switch to the matter of the appropriations bills and conference reports. Mr. President, the ball is in the President's court. It is in his hands. It seems to be missed in the news media that the Congress has been completing its work and sending bills to the President. He has bills on his desk that would, in fact, guarantee that approximately 621,000 Federal employees could be at work today or tomorrow. We do not need a continuing resolution for the Departments of Commerce, Justice, State, Judiciary offices, the Interior Department, and VA-HUD Departments to be opened and operating.

So I say to the President of the United States, Mr. President, sign the bills. That is all you need to do. Sign the conference reports that you have before you and cut this problem down to almost nothing.

There are two remaining appropriations conference reports that are now ready to move and should also be in the President's hands in the next 2 days or so. That would be the D.C. appropriations conference report. I believe we were able to reach an agreement on Saturday that the House will act on sometime, hopefully today, and the Senate will follow suit. It was not a perfect agreement or solution, but it was one that we should be able to live with. So we should have the D.C. appropriations bill done sometime tomorrow for sure.

We also have broken loose again the foreign operations appropriations bill. We will try to move it through once again, and, hopefully, we will get both of those conference reports on to the President's desk. That will then be five of the remaining appropriations bills that will be with the President, leaving only the Department of Labor, Health, and Human Services appropriations conference report to be acted on.

That resides in this body's hands. We have tried repeatedly, frankly, sometimes on both sides of the aisle, to get this bill up for consideration. But it is being objected to because of some issues that are very small in terms of the big impact of Labor, Health and Human Services. The way it has been held up—listen to this—it is being held up by filibuster on the motion to proceed. The Democratic leader has said that we cannot even proceed to take this bill up. I say to the Senate, let us just go with the regular order, bring up the Labor-HHS appropriations bill, regular order, amendments are in order, the Democrats can offer amendments, Republicans can offer amendments, we will vote and somebody will win and somebody will lose. It will not always be partisan; it will be bipartisan, the way the votes are recorded. And we will act on it.

But, no, repeatedly the Democratic leadership has said, "You cannot bring this bill up unless you take out in advance provisions we object to." Let me tell you what one of those provisions is—in fact, the key one. The conference has language that reverses the President's, in my opinion unconstitutional, act to reverse the Court's decisions on striker replacement. I believe most of the American people agree with the Republicans on this issue. But I say, let us bring it up, offer the amendment and let us vote. But we are being told, no, you cannot even vote on it. So that one strictly resides in the hands of the Senate because they will not allow the bill to be brought up and voted on.

Let me talk about the bills that the President can sign. They include Commerce, and within the Department of Commerce, you have the National Oceanic and Atmospheric Administration, Maritime Administration, Federal Communications Commission, the Small Business Administration, and the National Weather Service.

Sign the bill, Mr. President, and all those agencies will be back at work in the morning.

The Justice Department. This includes the Federal Bureau of Investigation, Drug Enforcement Administration, Immigration and Naturalization, and Federal prisons. Sign the bill, Mr. President, and put those agencies back to work.

The State Department. We all know what that does.

Veterans Department. If the President will sign the bill on his desk, the veterans' activities will go forward full steam.

Interior Department, including the Forest Service, Indian Health Services, and the Smithsonian. All the President has to do is sign the bill on his desk.

In all of these agencies that I have just been listing, the President has no problem with what is in these bills. He probably wants more spending in each category because that is the construction of the problem. He wants more money spent. Never before in the years I have been in the Senate, or in the Congress, for that matter, have I seen a situation where the President wants to veto appropriations bills because they do not spend enough money.

In the past, Presidents have vetoed appropriations bills because the Congress' insatiable appetite to spend more of the taxpayers' money could not be controlled. Now we have one where the President says, "Send me bills with more spending." It is a unique experience we are having.

Independent agencies: Consumer Product Safety Commission, Environmental Protection Agency, the Federal Emergency Management Administration, National Aeronautics and Space, and the National Science Foundation. All of these independent agencies have funding. We have agreed to language. It is on the President's desk.

Sign the bills, Mr. President, and all of these agencies will be put right to work. What are we talking about in terms of the number of employees?

I have here a chart that shows the number of employees we are talking about. Commerce, Justice, State, and Judiciary involves this number of employees: 194,000 Federal employees; almost 200,000 people. Mr. President, 102,000 at Justice, 25,000 at Commerce, 28,000 that run Judiciary, 25,000 at State Department, 5,800 at SBA, and 8,000 at USIA, for a total of 194,000 Federal employees just affected by Commerce, Justice, State, and Judiciary.

VA-HUD. NASA has 20,000; National Science Foundation, 2,000; Veterans, 240,000; HUD, 11,000. By the way, I understand about 98 percent of the employees at HUD are considered nonessential—nonessential, 98 percent. There are not a whole lot of the employees that are actually affected by this bill. It would get those back to work, anyway. The Environmental Protection Agency and others, 20,000, for a total of 293,000 affected by the VA-HUD appropriations bill now on President's desk.

The Interior Department, 76,000 employees—seems like an awful lot to me; Indian Health Care, 15,500; Forest Administration, 38,000; Energy Department, 2,300, and 2,000 others, for a total of 133,800. You see part of the problem with the Federal Government: Look how many people you are talking about working for the Federal Government—almost 621,000 just affected by these departments.

Interestingly, too, is, why is the President objecting to the Interior appropriations bill? One, I am sure he wants more money. He wants more money for everything, of course. The thing they point to that they object to—get this—the big fight has been over how much timber footage would be allowed to be cut in Alaska in the Tongass area. There has been a long battle over what the agreement should be, but both sides have worked very diligently and reasonable people came up with an agreement between the Senators from Alaska and those in the House that might have some concerns about the number of board feet that is being cut.

Then there is some problem with the Columbia River basin. I do not know exactly what it is, but I emphasize it involves how much timber can be cut in Alaska. Does the President want to shut down the Washington Monument and Carlsbad Caverns because he wants a few hundred thousand less board feet of timber cut in Alaska? Give me a break. The news media are running around and saying, "Oh, the parks are closed down."

Ladies and gentlemen, my colleagues in the Senate, talking about a monument being shut down so terribly trivializes what is at stake here. What we are talking about is trying to control the size of spending of the Federal Government. We are talking about trying to balance the Federal budget. We all know it needs to happen. This is important. You are talking about the Federal Government—what it does, how much to spend, taxes on the people—for the next 7 years. So it is important that we get control of the Federal budget and do it in such a way that more jobs will be created, inflation will stay under control, so that interest rates will fall. We are talking about future generations. We are talking about the future of my son and daughter and the sons and daughters of all of us. Yes, we are talking about my mother, but we are also talking about what will be the situation 7 years from now.

This is big. This is really important. The news media runs around saying, "Oh, the monument is closed." We are talking about billions of dollars. We have those saying, "I cannot get in to the monument." I think that we should be focusing on what we are really trying to accomplish here. This is serious. It is important. It is big. Do not miss the point. The President, with three strokes of the pen today with bills on his desk, can put almost 621,000 Federal employees to work. Should they be working if they are going to get paid? Absolutely, they should.

Mr. President, I emphasize again that the people need to look at what is really happening here. I see the latest wire service story says the President plans to veto today three bills covering Natural Resources, Veterans Affairs, Housing, the Departments of Commerce, Justice, and State. He says the spending cuts are too large. Yet, if you look at these bills over the next several years or 7 years, they will all go up. They will all go up. Only in Washington when you control the rate of increase is it called a cut.

The President can solve this problem, ladies and gentlemen. It is not the fault of the Congress. Just sign the bills, Mr. President. I yield the floor.

Mr. LEAHY. What is the parliamentary situation?

The PRESIDING OFFICER. The Senate is conducting morning business until 11:30.

Mr. LEAHY. Mr. President, I ask unanimous consent I be allowed to continue as in morning business for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETO PROTECTS OVERTURNING LEGISLATION

Mr. LEAHY. Mr. President, I have listened to the statement of my friend from Mississippi, and I appreciate his rhetoric and his ability to state his position. I think of the expression oft used in summations before the jury, taken in a light most favorable in favor of the opponent. One has to take his statement in the light most favorable to the opponent. The fact of the matter is that the President is right to veto a number of the pieces of legislation before him, not because of a question of spending, but because of a question of legislation being overturned, legislation that was put together by bipartisan majorities over the years.

I use one example. In EPA, one of the bills, basically what the so-called Republican Contract With America has done is cut out the enforcement arm of EPA. They know that they cannot stand up here and pass legislation to repeal our clean water laws. They cannot pass legislation to repeal our clean air laws. Those were laws put together by a majority of Republicans and Democrats working together over the years.

So what do they do? Instead of repealing them, which they cannot do, they simply say we will not enforce them. What they are saying is, "Go ahead and pollute; we don't give a hoot." They have changed the whole idea around. What they are saying, it is the same thing as if they said we will not do away with the law against burglary, but we will not allow you to put any locks on your doors; we will not let you put any guards at your warehouses; we will have no police officers patrol the streets; and we will not answer a call when somebody sees a moving van in the back of your warehouse at 3 o'clock in the morning unloading the warehouse. We will say we have not done away with the laws of burglary, we will just not enforce them.

Back just a few years ago, the Cuyahoga River was on fire because of pollution. That does not occur today. What they are saying, however, is we will not enforce those laws because some of our largest contributors do not like them. We will not enforce the laws that keep the Cuyahoga River or the Winooski River in Vermont, to keep them clean.

We talk about our children. Our children deserve clean water. Our children deserve clean air. It is certainly going to keep down our health costs. We should not, in the guise of budgetary things, do away with this.

It makes me think, for example, of some of the same—in this new breed, especially in the House, new breed of Republicans, when they spoke of patriotism and honor and flag and everything else, but they passed quickly and quietly in the dark of the night a tax bill which said that if you are one of these billionaires who is willing to stand up and renounce your country, renounce the United States of America, renounce the greatest democracy on Earth, we will give you one hell of a tax break.

Now, Mr. President, it is those things. Somebody once said the Devil is in the details. The Devil is at work in the details of some of these bills. These bills should be talking about our spending priorities. Everybody on this side of the aisle, and I suspect everybody on that side of the aisle, Republicans and Democrats, agree that we want to balance the budget in as short a time as possible. But, in doing it, let us not repeal laws that the vast majority of Americans, Republicans or Democrats, agree on. Let us not repeal our commitment to good education for our children. Let us not repeal our commitment to clean air and clean water under the guise of this. And let us not give away these special tax breaks which say if you stand up and renounce your country we are going to give you a special tax break. That is ridiculous.

We see an example, one person took advantage of this to move down to Belize, because he always liked Belize. However, he said, he gave them some money so they would establish a consulate in his home town in Florida, with the idea he could then still live in Florida and not have to go to Belize, but he would get this multibillion-dollar tax break. Fortunately, the State Department stopped that.

What I suggest is it is time to go back to basics on this. I see people talking across each other. I have said over and over again—I said this this summer—we are not going to pass a Gingrich budget, we are not going to pass a Dole budget, a Daschle budget, a Leahy budget or a Clinton budget. But working together we might pass one. It is going to require the Speaker of the House to stand up to his new freshman class and tell them that we certainly value the experience they have gained in 11 months in office but that there are a lot of others in Government, too, in both parties, who also have experience. Some have even more than 11 months.

It is time to get together. I suggest to them, they may want to look at the dictionary. This is a dictionary and I will read what it says about negotiating. It says to negotiate means:

> To arrange for or bring about through conference, discussion and compromise.

If they do not understand the word "compromise," I have that here, too. Compromise means:

> A settlement of differences by arbitration or by consent reached by mutual concessions.

Compromise and negotiation does not mean that one side simply says we will walk away from the table unless you agree to everything before we even start our negotiation. Unfortunately that happened last week.

The President of the United States is not going to be ordered by a group of freshman House Republicans—is not going to be ordered to just come in here and give up everything that he believes in and everything he was elected for. The President of the United States, as well as the Democratic leadership in the House and the Senate, have said they will sit down and they are willing to negotiate on every single item. But they are not willing to give away all their points before the negotiation even starts.

When I was in private practice of law I negotiated many, many a case. You come in, each with all your positions intact. Then when you sit down you start dealing out and saying I can give up on this but you can give up on that. There is an art of compromise involved.

I have served here, twice in the majority, twice in the minority. I have been chairman or ranking member of significant committees and subcommittees. I have gone through a number of committees of conference. Of course you start out with differences. But you sit down. You do not walk away from the table. You sit down to work them out. Most recently in the foreign operations bill we started out with 193 differences with the other body. We negotiated agreements on 192. We have been held up on one, which has become more a difference of polemics and not of substance; of symbols and not substance; of rhetoric and not reality.

What have we come to? This is not the way to run the Government. This is not what people want to see. They want to see our Government run, they want to see our tax dollars well spent, they want to see the budget deficit come down. They would like to see us stop acting like children. They would like to see us get together as men and women elected to run this great country. It is the greatest democracy on Earth. It is the largest economy on Earth, the most powerful nation on Earth, one with worldwide responsibilities as well as responsibilities to our people. Let us come back and make it work.

The President has helped in the way he can, over the weekend, on LIHEAP, emergency heating aid to those in the northern parts of our country like my own State of Vermont, where it is extremely cold. But these are little things. What we need to do is bring together the big things that make it possible so the President does not have to. Why emergency help on something we had all agreed should be done under the regular routine? Let us come together, let us come together on the big issues of Medicare and Medicaid, on nutrition, on education, on defense. We can do it. But we are going to do it only when we learn, when we go back to the dictionary and say compromise is a "settlement of differences * * * by consent reached by mutual concessions." Concessions by Republicans, concessions by Democrats; concessions by the Congress, concessions by the President. It can be done. It is not going to be done if we want to make rhetorical debating points. It can be done if we really believe in upholding our oath of office and helping this country.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO DR. RICHARD HALVERSON

Mr. ASHCROFT. Mr. President, I rise to pay tribute to the life of Dr. Richard Halverson. To many in this body, he was a spiritual leader. To others, he was a counselor. To me, he was both of those and he was also a friend.

I got to know Dick Halverson when he responded to my pleas for help with the Missouri Prayer Breakfast. Despite his hectic schedule, he helped and encouraged me in developing the Missouri Governor's Student Leadership Conference on Faith and Values in Leadership. His display of kindness and love was remarkable. Even more remarkable, however, was that this was not remarkable—it was just the way Dick was.

Dick's legacy will be a lasting one. Words written during his life endure and will serve as inspirational challenges not only to us, but to those yet to be born. A family nurtured by this father, husband, and grandfather will bear a continuing witness to his love.

And the countless lives that he touched and influenced and saved help make this world a better place and heaven a more crowded place.

What is the measure of man's life? Richard Halverson knew the answer. A man's life is measured by how much he loves God and how deeply he cares for those that God has put around him. Dick's life was a full one—measured great by any standard of earthly success—counted great by the one opinion that counts. For Dick lived life and lived it abundantly, knowing what was important and what was not. I will miss Dick, but I will also rejoice at all God did through him.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, before discussing today's bad news about the Federal debt, how about "another go," as the British put it, with our pop quiz. Remember—one question, one answer.

The question: How many millions of dollars in a trillion? While you are thinking about it, bear in mind that it was the U.S. Congress that ran up the enormous Federal debt that is now about $11 billion shy of $5 trillion.

To be exact, as of the close of business Friday, December 15, the total Federal debt—down to the penny—stood at $4,989,584,833,636.17. Another depressing figure means that on a per capita basis, every man, woman, and child in America owes $18,940.55.

Mr. President, back to our quiz (how many million in a trillion?): There are a million million in a trillion, which means that the Federal Government will shortly owe five million million dollars.

Now who's not in favor of balancing the Federal budget?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A conference report to accompany H.R. 1530, an act to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1996, and for other purposes.

The Senate resumed consideration of the conference report.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, as we continue to debate the conference report on the Department of Defense authorization bill, I want to make just a few opening comments.

As I indicated earlier, it has been long and arduous process, but we have a sound bill that supports our national security and the objectives we set early in the year.

As in every conference there had to be some give and take. I have no doubt that there are provisions in this bill that may be objectionable to some. There are provisions that I would rather not have in a defense bill. However, we must judge this bill as a whole, not by individual provisions. If you make an objective evaluation of the bill, I am confident you will come to the conclusion that all our efforts paid off. We provided for the readiness of the force both for the near term and in the out years. We provided for the welfare of our soldiers and their families. We provided the Department of Defense with the tools to effectively manage and streamline the acquisition of weapons systems and equipment.

Despite our efforts to reach accommodation on all issues with the administration, they have indicated they will oppose the bill. Throughout the day we will address many of the objections and I believe we have a strong case to refute these objections.

I urge my colleagues to come to the floor and participate in this debate. The Senate and the Nation have a great stake in this bill, especially now that our forces are deploying to Bosnia. Mr. President, the House passed this conference report by an overwhelming vote of 269 to 149. I urge the Senate to do no less.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, although we have reached agreement with Senator LEAHY on the landmine provision, I would like to respond to remarks made by the Senator from Vermont regarding a provision that would impose a moratorium on landmines that was included in the Senate Defense authorization bill.

When the Senator from Vermont introduced his provision in the Chamber, I, along with Senators NUNN and WARNER, raised objections to his provision. The provision would express the sense of the Congress with regard to a treaty review conference on conventional weapons, sanction foreign governments that export antipersonnel landmines, and it would impose a moratorium on the defensive use of antipersonnel landmines by U.S. Armed Forces.

Mr. President, the portion of the provision that caused us such grave concern was that portion that would place a moratorium on U.S. Armed Forces use of antipersonnel landmines for defensive purposes.

Mr. President, the Department of Defense, the Joint Chiefs of Staff, and the Department of Justice raised objections to this provision and specifically the portion of the provision that would place a moratorium on the use of antipersonnel landmines by the U.S. Armed Forces for defensive purposes.

Specifically, DOD and the Joint Chiefs of Staff strongly opposed the provision because it would have a detrimental impact on the ability of the military forces to protect themselves and require the removal of mine fields emplaced in demilitarized zones. The Department of Justice opposed the inclusion of this provision because it is their view that it is a serious infringement on the President's authority as Commander in Chief, stating, "* * * the Congress may decide upon the weapons available to the President, it may not dictate how those weapons are to be used in military operations."

Throughout the conference the House objected to this provision. The Senate defended the provision of the Senator from Vermont. At the same time, there were discussions with the House of the need to obtain a report from the Joint Chiefs of Staff on the impact of a moratorium on the defensive use of antipersonnel and antitank mines. Additionally, the House asked that prior to the implementation of a moratorium, that the Secretary of Defense certify that the moratorium would not adversely affect U.S. military capabilities, and that there were adequate substitutes.

Mr. President, I would point out that the Senator's provision is in the fiscal year 1996 foreign operations appropriations conference report. After the foreign operations appropriations conference report was agreed to, with this provision in it, the Senator from Vermont came to me and asked that the committee drop his provision from the Defense bill. Based on his request, the Senate conferees dropped the landmine moratorium provision from the bill. However, the committee retained the report requirement. I do not understand why the Senator from Vermont would not want to have a report submitted to the Congress about the impact of his provision, or, for that matter, why he would not want assurances from the Secretary of Defense, that his provision would not detrimentally impact on the ability of the U.S. Armed Forces to defend themselves.

Mr. President, in his remarks on the Senate floor on the deployment of United States Armed Forces to Bosnia, the Senator from Vermont raised concerns about the great number of landmines that are in and around Bosnia. I might point out that this conference report contains $20 million for humanitarian demining activities, and $20 million that would provide for advanced detection systems to find mines, so they do not pose such a great threat to our Armed Forces, and the forces of our allies, as well as innocent women and children. These provisions would be lost if the conference report is not adopted.

Mr. President, I hope common sense will prevail in this matter and that the Senate will approve this conference report.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the conference report to the Defense authorization bill.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I know the chairman is on the floor and prepared to enter into debate or discussion, whatever. There may be Members opposed to the conference report. If they would like to speak, we would like to have them come to the floor and do that. As I understand, we are not able to get a consent agreement on when the vote will come. We hope it will be tomorrow morning.

I know today is a holiday, so there will be no votes today, and I know that tends to increase the absentee rolls.

In any event, I am going to recess subject to the call of the Chair, and we will stay in touch with the chairman of the committee. If there are those who desire to speak on this matter, they can certainly be able to come back into session very quickly.

Before I do that, I will say the President has now vetoed this morning the Interior appropriations bill and the VA-HUD appropriations bill. What he said to the 133,000 Federal workers who are covered by the Interior appropriations bill is, "You can't come to work."

What he said to the 293,000 Federal employees that are covered by the VA-HUD bill is that "You can't come to work." And later today, I understand he will say to 194,000 Federal workers who are covered by Justice, State, Commerce, that, "You can't come to work."

With the stroke of a pen, all of these Federal employees could have been back to work today. They could have been back to work yesterday or the day before and we would not have had a shutdown for that many, because he has had the bills on his desk.

I always said until the Congress sent him the bills, we had to share the blame. But he has had these bills and he has vetoed them with some of the usual rhetoric coming from the White House these days, surrounded by little children saying we were about to endanger the lives of millions of children with the toxic waste dumps and all the exaggerated rhetoric they can think of in the White House. The result is that people, Federal employees, right before the holidays, are not going to be able to go back to their work because of President Clinton's veto. That is all it is. He had the bills. He could have signed the bills and the people would have been working and assured nothing would happen until the end of the fiscal year next October.

So I am disappointed that President Clinton is again playing politics instead of looking at the policy. It seems to me that he is making matters more and more difficult. He refuses to talk seriously about a 7-year balanced budget which most Americans would like to accomplish, and now he is vetoing appropriations bills which would put Federal workers back on the job because he said the cuts are too deep.

Again, it is the same old deception: Scare the American people, scare the children, scare the senior citizens, scare the veterans, tell everybody the sky is falling in, do not talk about the balanced budget, do not talk about the fact we would lower interest rates 2 percent. It means you would pay less for a student loan, a car loan, farm loan, machinery loan, whatever.

These are the advantages of a balanced budget over 7 years. That is why Republicans are insisting, because we believe most Americans, regardless of party, want us to balance the budget. In fact, most do not understand why it is going to take 7 years. They would rather do it in 3, 4, 1, or 2 or 5 or 6. But we have agreed on 7 years. The President has agreed on 7 years.

But ever since he agreed on that some 27 days ago, he has been backing away from it, confusing the American people with different numbers and different scenarios. I really believe unless we can accomplish something serious by Friday, it is probably not going to happen this year.

I am not in a position to announce the schedule for the balance of the year, but the balance of the year is about here.

New Year's Eve is not far off. I assume we will be here because we have a number of items we would like to take up. We do want to get to the budget agreement yet this year. I do not believe it will ever happen unless the President—who is the President—exerts the leadership and calls the majority leader of the Senate and the Speaker of the House of Representatives and asks us to come to the White House and sit down, without staff, without press, and say, OK, let us work this out, let us agree to some parameters, the three of us, and let us have other people come in and put the details together. If he would do that, I think we can probably make some progress.

We have waited now for several days. The President certainly could find a telephone when he had a problem with Bosnia. He knew how to reach a lot of us. I wish he could use the same determination when it comes to balancing the budget.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 12:20 p.m., recessed subject to the call of the Chair.

The Senate reassembled at 3:08 p.m., when called to order by the Presiding Officer [Mr. KEMPTHORNE].

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996—CONFERENCE REPORT

The Senate continued with consideration of the conference report.

"NO" VOTE ON DEFENSE AUTHORIZATION

Mr. LEVIN. Mr. President, I will reluctantly be voting against the Defense authorization bill—reluctant, because I know of the hard work which many Members, particularly the majority side, put in on this bill, the fact that this is the first Defense bill under the leadership and the guidance of our chairman, Senator STROM THURMOND.

I will vote against the bill for reasons which I will set forth this afternoon. A few months ago when I voted against the Senate version of the bill, I said that the bill was out of step with our real security requirements. The conference report is even worse in that regard, and it is worse in a number of ways which I will illuminate in the next few minutes.

It is not a good-government bill. It is not a responsible bill. It is not arrived at in the bipartisan fashion that has long characterized legislation in this area. The Senate should reject it, and if it goes to the President he should veto it. As a matter of fact, I have been informed that he will veto it.

The conference report is out of step with the priorities of the Joint Chiefs of Staff, the Secretary of Defense, the President, and I believe the Nation. It is as fiscally irresponsible as the Senate bill was, and the conference made it worse, authorizing more weapons not requested by the Pentagon and adding provisions that I believe are bad-government provisions.

The Senate version of this bill, at least, did not contain funding for more B-2 bombers; it did not contain funding for F-16's and F-15 fighters because the

Pentagon did not request them, does not need them, and cannot afford them, but the conference report funds these three items alone for a total of more than $1 billion. There is no plan to pay for the bow wave that these programs would create in future years, and there is no money to pay for them. That does not even count the over $2 billion added for just two ships not requested by the Defense Department, nor does it include numerous other examples of excessive and unrequested spending.

One area I will highlight a little later is ballistic missile defense. This was the most contentious effort in the conference and one which I believe has the most profound security consequences for our Nation. I am sorry that this conference report contains an outcome that is unwarranted, unwise, and unacceptable. It would require, if adopted and if it became law, the United States to deploy a national defense system—I emphasize the word "deploy"—by the year 2003, without consideration of the threat, without consideration of what the military effectiveness of such a system would be after it is developed, without consideration of what it might cost after its development, without consideration of what its impact might be on United States-Russian relations at the time of a deployment decision.

This conference report requires us, now, to commit ourselves to deploy an ABM system. Now, that decision is going to jeopardize our relationship with Russia. It is going to jeopardize the nuclear weapons reductions which are required in the START II Treaty.

First, however, let me spend a few minutes on the B–2 bomber. The original Senate position, which was based on a strong bipartisan vote, was to provide no additional funds for more B–2 bombers. There were no additional funds for the B–2's, and the appropriations bills in the Senate had no additional authorization for the B–2's.

Does that mean there was overwhelming House support for adding B–2 bombers? Not really. The House barely had a majority in separate votes for more money for the B–2's, but there it is in the conference report—more money for B–2 bombers.

The $500 million in the conference report for additional B–2 money is just the downpayment on a program which will eventually cost more than $30 billion. That money will have to come out of other programs that are of a higher priority to our Defense Department. Both Secretary Perry and General Shalikashvili have been very clear on that point.

The ill-advised conference item on the B–2's is in spite of the fact that the Pentagon issued two separate and comprehensive reports, both of which demonstrated that we do not need more than 20 B–2's, and our limited funds would be more wisely spent on precision-guided munitions for our planned fleet of bombers and our tactical aircraft.

The industrial base study made it clear that even if we stop producing B–2's now, we would be able to produce them again in the future if it were deemed necessary at some future time, but that is deemed unlikely. There is no need to keep a production line warm. We can reinstate production in the future, we were told by the study, should the need arise. We put a downpayment of $500 million on a $30 billion program that the Pentagon has not asked for, does not need, and cannot afford.

In the area of ships and submarines, the conference report actions in those areas are also objectionable. For reasons that are unknown to any Democrats, as far as I know, on the Armed Services Committee, the majority decided to create a special congressional panel just to consider submarine issues. That strikes me as being unwise and almost bizarre.

The Armed Services Committee already considers all areas of the defense budget, weapon systems, including submarines, in its normal oversight process. There is no need to establish a new congressional panel to look at submarines. If we can work on a bipartisan and cooperative manner, we will get the job done in the Armed Services Committee. We have done it in the past, and there is no reason we cannot do it on submarines. We do not need a new panel to take a look just at submarines the way the conference report provides.

The conference report earmarks the shipbuilding and ship maintenance work in a totally unacceptable way. We are throwing out standards of competition, cost effectiveness, and good government when we do this kind of earmarking. We will be wasting taxpayers' money because we dispense with standard safeguards for fiscal responsibility and procurement. There is no excuse for us to do that other than it is politically easier to do that, to divide it up here, but in terms of the competition which gets us the better price, what we have done is bypassed the usual procurement rules and earmarked money in this area.

The conference report also represents a setback when it earmarked the National Guard and Reserve equipment procurement money. This year, in marked contrast to previous years, the conference report specified exactly what equipment the Guard and the Reserve shall buy. This was the opposite of what the committee originally voted to do, but it reversed itself during the committee deliberations.

Our committee led a good-government initiative over the last several years to move away from the earmarking of Guard and Reserve equipment by using generic categories of equipment that would ensure that the Pentagon and the Guard could buy the items that best fit their priorities and requirements rather than having to accept the equipment shown, often on the basis of home State interest of the Members of Congress.

Last year, our Armed Services Committee was totally generic when it came to buying equipment for the Reserve and the Guard. This year, we marked the equipment. Now, in the past this was an area of tension between the authorization committee, which was trying to stay generic, and the Appropriations Committee, which was specifying its preferences. This year the roles were reversed. The Appropriations Committee did the right thing this year, used generic categories, while the authorizer, our committee, reverted to earmarking equipment.

I hope the Armed Services Committee will reconsider this approach and be persuaded to return to the good-government approach, which is the generic approach, which will avoid the temptation which we all face of earmarking these purchases in ways that benefit our own home state Guard and Reserve or our home State industrial base.

Now, it was a curious issue in our committee deliberations because a bipartisan majority of the committee Members originally favored going the generic route, and we voted to do so. But on a party-line vote, the majority decided to choose specific equipment items, and that was done despite the fact that the National Guard bureau made it clear that it prefers the generic approach so it can meet its most pressing needs.

I met with General Baca, chief of the National Guard Bureau, to make sure that I was clear on this point, and he reinforced the point that their preference is to have these authorizations and appropriations made on a generic basis.

I offered an amendment on the floor that we stay with the generic approach of the last few years, and I think that before the vote came up, we were very close to a bipartisan agreement that we do this on a generic basis. But, at the last minute, that approach was not adopted. I hope the Armed Services Committee does return to the generic approach, despite the temptations of doing earmarking which, again, I think all of us—or most of us—can understand.

Now, on ballistic missile defense, I want to focus on these provisions just a little longer because they are so significant to our security and because the provisions in the conference report are such a departure from what the Senate has already adopted by a wide margin. The ballistic missile defense provisions alone warrant a veto, and the President has said that he will veto this bill, in part because of the ballistic missile defense provisions. The conference report before us contains the following provisions that are unacceptable. These are some of the unacceptable provisions.

First, "It is the policy of the United States * * * to deploy a National Missile Defense System."

Second, the conference report mandates that the national missile defense system "shall achieve an initial operational capability by the end of 2003."

Those are the words in the conference report. So it would commit us to deploy a system and to do so by the year 2003, and both of those commitments are significantly different from what we decided to do in the Senate and what we did in the Senate on a very strong, bipartisan vote. In the Senate bill, which was the result of literally weeks of effort, discussions and negotiations, what we said we would do would be to develop, so that later on we could determine whether or not to deploy, a national missile defense system. We did not set the date for the initial operating capability, the IOC. What we said is that Congress would, prior to any decision to deploy, participate in the decision as to whether or not we would deploy that system.

In making the decision, we could take many things into consideration which we now do not know. What would be the cost of such a system? How militarily effective would it be? What would the threat be at that time? What would the impact be on United States-Russian relations, including the impact on the ABM Treaty? And what would the prospects be at the deployment decision point after this were developed for that purpose—what would the impact be on the antiballistic missile agreement?

All those things, critical security issues involving relationships with the other country that has a larger number of nuclear weapons, including the military effectiveness, including what the cost would be, including what the threat would be, all of those critical items of information not now available would be available at the time a decision were made later whether or not to deploy the missile defense system.

In order to put ourselves in a position where we could make that decision on an intelligent basis, we would develop a national missile defense system. What this conference report does is it makes it the policy of the United States to deploy and to deploy by a particular year, regardless of what the threat might be at the time when we are in a position to deploy, regardless of how much it costs us at that point, regardless what the impact is on United States-Russian relations, regardless of whether or not it destroys the START II agreement under which thousands of nuclear warheads are being dismantled.

This conference report, in that regard, it seems to me, not only jeopardizes our security but violates some basic common sense.

The Foreign Relations Committee just reported out by a unanimous vote a strong resolution on ratification of the START II agreement. That START II agreement, which we are going to be voting on in the Senate in the next few days, can achieve the reduction of thousands of nuclear warheads that otherwise do provide a horrific threat to the United States. It is clearly in our security interests to secure those reductions in nuclear weapons which for decades threatened our security. It is clearly in our interest to eliminate some of the most dangerous nuclear systems from the cold war era.

About 4,000 Russian nuclear warheads would be eliminated so they will never become a threat to us again. Then, we will not have to rely on a ballistic missile defense system to shoot down that number of Russian warheads in flight, but, rather, those warheads would be eliminated, removed from their weapons systems, dismantled, and the nuclear material disposed of. They will never be part of an arsenal which can threaten us. That is a security guarantee that no ballistic missile defense system could ever achieve at any cost.

So, eliminating nuclear weapons, thousands of nuclear warheads under arms control treaties like START II is cost effective, it is certain, it guarantees an enhancement to our security, unlike the effort to build a defensive shield against those missiles, particularly if the commitment to build such a defense would violate a treaty that is essential for the passage of the START II Treaty in Russia.

We have been told directly by Russian parliamentarians, we have been told by the Russian Government, that if we jeopardize the ABM Treaty, if we threaten to deploy a system in violation of an agreement which has provided security to both sides and which they feel is significant to them, that it is unlikely they will ratify the START II agreement in their legislative body, their Duma.

We have been told that. We read about it, but we also have been told personally by Russian parliamentarians that if we jeopardize the ABM Treaty, we cannot expect them to ratify the START II agreement which will reduce the number of nuclear weapons if they are going to have to face defenses, if they ever were in a position where they were attacked and felt they had to use these weapons. That is what the ABM Treaty is all about. Whether you like the ABM Treaty or you do not like the ABM Treaty, or whether we should modify it through negotiations or not modify it through negotiations in order to permit the deployment of a defensive system, what seems very likely—and I will say factual, or almost certainly factual—is that that Russian Duma is not going to reduce the number of their weapons and not ratify START II if we commit ourselves to deploy a defensive system.

We have been trying to get the START II Treaty voted on in this body prior to the time the Senate adjourns for the year. Many of us have actively sought to get the START II Treaty on the floor of this Senate for a vote this week. I think we are going to succeed. The majority leader has made a commitment that we will vote on the ratification of START II. I believe that commitment is that he will bring that agreement, that treaty to the floor this week, prior to adjournment, if my memory serves me correctly.

This was after a long delay where the treaty languished in the Foreign Relations Committee for a number of unrelated reasons. This is a Christmas gift to this Nation, if we can ratify START II.

We could reduce by thousands the weapons in the inventory of each side if we could just get START II ratified here and if we can get it ratified there. I am confident that the Senate is going to give its advice and consent to ratify the START II Treaty because it is so clearly in our national interest to do so. But if we ratify here and the Russians do not ratify it because at the same time we are ratifying START II, we are threatening the ABM Treaty's existence through this conference report language which says we will deploy—and it is the policy of the United States to deploy—a system which violates the treaty which they believe is essential in order for them to reduce the number of weapons in their inventory, we are doing two inconsistent things in the same week: We would be ratifying START II here but jeopardizing the ratification of START II over in Russia.

As Senator NUNN has pointed out, the provisions on the National Missile Defense that are in this conference report were beyond the scope of any legislation that was passed by the House or the Senate. Both the House and the Senate in their defense authorization bill passed language which contains ballistic missile defense provisions, but they are not the provisions in the conference report.

The Senate bill had provisions that were carefully crafted after a great deal of hard work by a bipartisan group of negotiators. Again, the Senate bill said that we would develop a system—we would develop a system with emphasis on the word "develop"—for deployment and that Congress would have a chance to review the program prior to a decision to deploy it—emphasis on the words "prior to" and "decision to deploy."

In that review by Congress, we would look at cost, operational effectiveness, the threat on the implications of the ABM Treaty and on United States-Russian relations. Our Senate bill also said that the program should be conducted in conformance with the ABM Treaty.

That package was accepted by the Senate by a vote of 85 to 13. Only one Republican voted against it. The majority leader voted for it. The chairman of the Armed Services Committee voted for it. Every Republican but one, the senior Senator from New Hampshire, voted for that conference report. We got a product that was supported by a large majority of this body and by the President.

I was one of the four negotiators. We reviewed every word in that negotiated product very, very carefully. It took, as I mentioned, weeks—offers, counter offers, debate, and exchanges of documents. We finally came up with a compromise. Eighty-five Senators voted for it.

What happened in conference is that, first, the majority leader wrote a letter saying that he supported language which would require us to deploy. That certainly was, I think, almost unprecedented—that the majority leader who picked the negotiators, or, at least, if he did not pick each negotiator, was the one that urged we go down that road to negotiations, and then voted for the negotiated product, but then after the negotiated product was adopted by the Senate wrote a letter to the conferees saying, do not support the product of the U.S. Senate and instead require the deployment of a missile system.

I was very disappointed, and not just about the authority view on the conferees in deciding that they were going to commit themselves to deploy, but I was frankly disappointed in our majority leader in writing that letter to the chairman of the Armed Services Committee stating that the conference must result in a commitment to deploy the ballistic missile defense system and to mandate a deployment of a multisite BMD system by the year 2003.

Many times during these negotiations and discussions in conference, Senator NUNN urged that the best basis for reaching an agreement with the House would be to start with a Senate-passed bipartisan compromise, but those suggestions were not accepted.

That is how we ended up where we are with this bill. It contains some provisions that are totally unacceptable to, I think, almost all of the Democrats and I believe also to some Republicans about the ballistic missile defense requiring deployment of a system of unknown cost, unknown impact on United States-Russian relations, unknown military effectiveness, and requiring deployment of that kind of a system by the year 2003 against the threat which our intelligence community does not even believe will materialize at least in this decade.

Mr. President, I ask at this time that the full statement of administration policy dated December 15 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
> *Washington, DC.*
>
> Statement of Administration Policy.
>
> (This statement has been coordinated by OMB with the concerned agencies.) December 15, 1995 (Senate)
>
> H.R. 1530—National Defense Authorization Act for Fiscal Year 1996 Conference Report.
>
> Senators Thurmond (R) SC and Nunn (D) GA.
>
> If the Conference Report on H.R. 1530 were presented to the President in its current form, the President would veto the bill.
>
> The Conference Report on H.R. 1530, filed on December 15, 1995, would restrict the Administration's ability to carry out our national security objectives and implement key Administration programs. Certain provisions also raise serious constitutional issues by restricting the President's powers as Commander-in-Chief and foreign policy powers.
>
> The bill would require deployment by 2003 of a costly missile defense system to defend the U.S. from a long-range missile threat which the Intelligence Community does not believe will ever materialize in the coming decade. By forcing an unwarranted and unnecessary National Missile Defense (NMD) deployment decision now, the bill would needlessly incur tens of billions of dollars in missile defense costs and force the Department of Defense (DOD) prematurely to lock into a specific technological option. In addition, by directing that the NMD be "operationally effective" in defending all 50 states (including Hawaii and Alaska), the bill would likely require a multiple-site NMD architecture that cannot be accommodated within the terms of the ABM Treaty as now written. By setting U.S. policy on a collision course with the ABM Treaty, the bill puts at risk continued Russian implementation of the START I Treaty and Russian ratification of START II, two treaties which together will reduce the number of U.S. and Russian strategic nuclear warheads by two-thirds from Cold War levels, significantly lowering the threat to U.S. national security.
>
> The bill also imposes restrictions on the President's ability to conduct contingency operations that are essential to the national interest. The restrictions on funding to commence a contingency operations and the requirement to submit a supplemental request within a certain time period to continue an operation are unwarranted restrictions on the authority of the President. Moreover, by requiring a Presidential certification to assign U.S. Armed Forces under United Nations (UN) operational or tactical control, the bill infringes on the President's constitutional authority.
>
> In addition, the Administration has serious concerns about the following: onerous certification requirements for the use of Nunn-Lugar Cooperative Threat Reduction funds, as well as subcaps on specified activities and elimination of funding for the Defense Enterprise Fund; restrictions on the Technology Reinvestment Program; restrictions on retirement of U.S. strategic delivery systems; restrictions on DOD's ability to executive disaster relief, demining, and military-to-military contract programs; directed procurement of specific ships at specific shipyards without a valid industrial base rationale; provisions requiring the discharge of military personnel who are HIV-positive; restrictions on the ability of the Secretary of Defense to manage DOD effectively, including the abolition of the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict and the Director of Operational Test and Evaluation; and finally the Administration continues to object to the restrictions on the ability of female service members or dependents from obtaining privately funded abortions in U.S. military hospitals abroad.
>
> While the bill is unacceptable to the Administration, there are elements of the authorization bill which are beneficial to the Department, including important changes in acquisition law, new authorities to improve military housing, and essential pay raises for military personnel. The Administration calls on the Congress to correct the unacceptable flaws in H.R. 1530 so that these beneficial provisions may be enacted. The President especially calls on the Congress to provide for pay raises and cost of living adjustments for military personnel prior to departure for the Christmas recess.

Mr. LEVIN. Mr. President, a portion of that statement of administration policy says the following in opposition to the conference report:

> The bill would require deployment by 2003 of a costly missile defense system to defend the U.S. from a long-range missile threat which the Intelligence Community does not believe will ever materialize in the coming decade. By forcing an unwarranted and unnecessary National Missile Defense deployment decision now, the bill would needlessly incur tens of billions of dollars in missile defense costs and force the Department of Defense prematurely to lock into a specific technological option. In addition, by directing that the National Missile Defense be "operationally effective" in defending all 50 States, the bill would likely require a multisite National Missile Defense architecture that cannot be accommodated within the terms of the ABM Treaty as now written. By setting U.S. policy on a collision course with the ABM Treaty, the bill puts at risk continued Russian implementation of the START I Treaty and Russian ratification of START II, two treaties which together will reduce the number of U.S. and Russian strategic nuclear warheads by two-thirds from Cold War levels, significantly lowering the threat to U.S. national security.

CONCLUSION

Mr. President, on no set of issues is bipartisan cooperation more important than in the area of national security. We need not all agree on every issue, but we must strive to work together in a bipartisan spirit. We have a broad spectrum of views on the House and Senate Armed Services Committees, but we have a long history of working together, across party lines to try to put together the best bill we can. Regrettably, the conference this year fell short of that objective both in process and in spirit. Too many of these contentious issues were left to only majority staff of the two committees to hash out, and months passed without resolution. By that time, the defense, military construction, and energy and water appropriations bills had been passed and enacted. I urge the leadership of both the House and Senate committees to reexamine what transpired and accelerate the learning process so that next year, and I stand ready to work with them to try to restore the tradition of cooperation on the Defense authorization bill.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to speak for 15 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET PROCESS

Mr. BUMPERS. Mr. President, I am not on the Finance Committee. I am not on the Budget Committee. Through Democratic caucuses and studying the budget documents, I have been trying to follow this budget process. I have been an avid student of what is going on.

I have been in the U.S. Senate 21 years. I am absolutely incredulous. I cannot believe what Congress is doing with charge, countercharge. Members of Congress are worrying about who is winning in the polls and who is losing in the polls. But I must say I am amazed that the Republicans absolutely refuse to provide a continuing resolution while we try to work this out. I cannot understand this steady objection to keeping the Government going while we fight about how we are going to balance the budget. How do you explain to the people back home that you are trying to balance the budget when you send 250,000 employees home and say, "Not to worry, you are going to be paid anyway"? Can you believe that we told 250,000 Federal employees this morning not to show up for work and "you will be paid anyway"?

The only reason the people on my staff are going to be paid now, which they were not in the first Government shutdown, is because we passed and the President signed the legislative branch appropriations bill.

Mr. President, we are also seeing what is almost tantamount to a constitutional amendment without voting on it. The Constitution says, essentially, that a bill passed by the Congress shall be presented to the President and if the President approves it, he shall sign it. And if he disapproves, he will not sign it or he will veto it. For 205 years in this country, the President has signed or vetoed bills that were sent to him by the Congress, and the Congress either overrode the veto or they did not. If they did not have the votes to override the veto, then Congress went back to the drawing board trying to meet the President's objections in order to get a bill to him that he would sign.

That has been the procedure under the Constitution for over 200 years, and now we have a totally new procedure. And that procedure is that if the President vetoes a bill and there is a majority of one party in the Congress that takes exception to that veto, but not a big enough majority to override the President's veto, Congress shuts the Government down. Teach that President a lesson. How dare he veto a bill when the opposing party is in control of the Congress. President Clinton has correctly characterized this as a gun to his head.

Republicans are not trying to override the veto. Nobody has brought the reconciliation bill back here for revision after the President vetoed it. We shut the Government down—twice. Twice within 2 months we bring the Government to a halt in such a needless, irresponsible way. The budget does not have to be approved tonight. It does not have to be approved between now and January 15, although it almost certainly would be approved by January 15.

There are a lot of people across the land who are saying "a pox on both your houses." Lord knows, I understand that. As I read this morning's account of this woman in Vermont who has a part-time job making $85 a month and trying to stay off welfare because she deplores it, but who, in the past, has received a little Federal help under what we call LIHEAP, low-income energy assistance program. This woman said she wore four sweaters to try to stay warm so she could keep the heat as low as possible, but I think she said she is going to run out of fuel next week and she does not have one farthing to buy new fuel. The fuel supplier—and I certainly understand his position—says, "We cannot afford to extend credit to these people. We are not rich. We are just out there selling fuel trying to make a living."

Would you believe that 10,000 people in the city of Chicago alone have been refused and shut off from any additional gas because they cannot pay their bills? That is 10,000 homes in the city of Chicago alone. Last year there was $1.3 billion in this program, Mr. President. The people of the Northern States are running out of money and fuel.

Why? So we can preserve a $245 billion tax cut for the wealthiest people in America. It makes Marie Antoinette look positively compassionate.

There is the great novel James Baldwin wrote entitled "Go Tell It On The Mountain," a young black man growing up in the South during the Depression, and he talks about a big dinner on the ground. He said these preachers would get up after their stomachs were full and talk about how many people they had saved, and the central character in this book was saying they talked about saved souls in the way you would talk about ears of corn being lopped off the stalk. And he took a vow, because he wanted to be a minister, that he would never take the gift of God so lightly.

Do you know what happened in the book? As time went on, the central character became a preacher, very good at his trade, and the first thing you know he, too, was talking about saving souls like so many ears of corn being lopped off the stalk.

There are two morals in that. One is that we all have a tendency to take ourselves too seriously and get to believing that somehow or other we have all the solutions. But the other moral is that people who are cold are like lost souls. They are real human beings.

In this case, they are real human beings who are suffering. Why are they suffering? Because of us. All so we can have a $245 billion tax cut. That includes a capital gains tax cut, which would be good for me and just about every other Senator in this body, each of whom makes in excess of $133,000 a year. We will get a tax cut. People making less than $30,000 a year will see their taxes go up.

The interesting thing is we are always standing on the floor of the Senate pontificating about what the American people want, especially when we think the American people want what we want. I heard people time and time again saying that people want a tax cut. The truth of the matter is, they do not. Look at this chart. This shows 10 polls asking whether Americans prefer tax cuts or deficit reduction: USA Today/CNN/Gallup in December 1994; New York Times/CBS in January 1995; Wall Street Journal/NBC in January 1995; Washington Post/ABC in February 1995; Times/Mirror, February 1995; Wall Street Journal/NBC, March 1995; Los Angeles Times, March 1995; USA Today/CNN/Gallup, April 1995; the New York Times/CBS, April 1995; New York Times/CBS, October 1995.

In every single one of them, a majority of people said, "Do not cut taxes until you balance the budget." Congress is supposed to at least be mildly responsive to what the American people believe.

Mr. President, let me add something interesting about this last New York Times/CBS poll taken in October 1995. I hope all my Republican friends are listening. The national polls showed that overall, 60 percent of those surveyed did not want a tax cut until after the budget was balanced, 35 percent did. But among Republicans surveyed, the figure was 68 to 30. Well over 2 to 1 of Republicans said do not cut taxes until you balance the budget.

So how did this huge tax cut proposal come to be? Well, the Budget Committee asked CBO to make a study and say, if we get a balanced budget by the year 2002, how much will we save in interest costs and other dividends from a balanced budget?

CBO said, "$170 billion." So how did we decide to use that fiscal dividend? Use it to soften Medicare cuts? No. Medicaid, our health care system for the poorest of the poor, one-half of which are children? No. Education? No. Environment? No. Earned income tax credit? No. The Budget and Finance Committees said, "Oh, $170 billion dividend for balancing the budget. Let's give that and another $75 billion to the richest people in America in the form of tax cuts."

If you have not seen Kevin Phillips' recent article, I recommend it to everybody. He is no bleeding heart liberal. He points out what happened in 1981. If we followed the Reagan prescription of cutting taxes, we were told, we would generate so much economic activity we would balance the budget by 1984. So 1984 came around and the deficit was up to almost $200 billion. It was $58 billion his first year as President, and after we passed everything he asked for, the deficit in 1984 was not balanced, it was $200 billion out of balance.

Then we went to Gramm-Rudman. Gramm-Rudman was going to balance the budget in 3 or 4 years. And the rest of the story is painfully known to everybody in America. The budget deficit soared once again.

Then we had that fiasco at Andrews Air Force Base. We were going to balance the budget by 1993. What happened? The budget was headed for almost $300 billion in deficit.

Forgo the tax cut, Mr. President, and take two-tenths of a percent off the Consumer Price Index, and we will be 90 percent of the way home toward a balanced budget. We will not have to tell the nursing home patients of this country that their children are going to have to start picking up the tab for their care in the nursing home. You do not have to tell the elderly when they go to bed at night they might be destitute the next morning because of a catastrophic illness.

Mr. President, I came here to vent my frustration and, hopefully, make a little sense about what is going on and what is not going on. What is not going on is the people's business. I yield the floor.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Mr. President, might I inquire of the Chair if we are in morning business or if we are on the Defense authorization bill at this point?

The PRESIDING OFFICER. We are on the Defense authorization bill.

Mr. ROBB. Mr. President, although it could be properly conducted on the authorization bill, under the Pastore rule I ask unanimous consent that I be recognized as if in morning business for not to exceed 10 minutes. And it will probably be considerably less.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Virginia may proceed.

Mr. ROBB. Thank you, Mr. President.

IMPASSE OVER BUDGET NEGOTIATIONS

Mr. ROBB. Mr. President, I just want to address the question that is bothering just about everyone who serves in Congress today and most of the people who live in this area and many of the rest of the people around the country. And that question has to do with the current impasse over the budget negotiations and the shutdown of our Federal Government.

Mr. President, I understand the deep feelings and convictions held on both sides of this argument. It goes to some very fundamental choices that are important to this Government today and in the future.

I think it is very unlikely, given the deep-seated convictions that are involved on both sides of the question, that the budget impasse will be resolved in the near term. Indeed, if both sides were to agree today on how we could solve the budget problem—and I'm not simply talking about a continuing resolution, but the budget problem—we could not craft, draft, pass, and send to the President a responsible compromise budget in the time remaining before Christmas and the holiday period. I say this with the understanding that we are already in the first day of the Jewish holiday of Hanukkah as I speak.

Mr. President, while I have never been an advocate for tax cuts before we balance our budget, I have consistently supported a balanced budget. I have consistently supported a 7-year balanced budget. I have consistently supported using Congressional Budget Office figures. And, indeed, both sides have come to an essential agreement on these parameters for any compromise.

But, in light of the difficulty in forging an overall budget agreement, I suggest and appeal to the leaders on both sides of the Capitol to do what they can today to extend the continuing resolution that will allow the processes of Government to continue. This partial shutdown is simply irresponsible and, frankly, one that none of us can adequately explain to anyone who is affected by it.

Admittedly, I represent a State that has a disproportionate number of those most directly affected, but the pervasive effect of the partial shutdown goes far beyond the people who are actually the professionals of Government and who make Government run. It goes to the local economies in which these individuals live. It goes to the confidence of the international and national financial markets.

Indeed, with respect to the first shutdown, the original projections were very significant in terms of the dollars that were directly lost. We had some 800,000 Federal employees sent home and then ultimately paid for the time they were sent home. And we had a complete loss of confidence in our Federal Government for failing to do what we have been sent here to do.

As I have said, the differences between the two sides are clearly very difficult to reconcile. And, indeed, it is entirely possible that the question of whether or not we have block grants or entitlements may not be resolved until after the next general election when we will elect a President of the United States and all of the Members of the House of Representatives and a third of the Members of this body—because that question is fundamental to our system of values.

But nothing for either side will be accomplished by continuing the partial shutdown of the Federal Government. While it is only within the power of this body to end it, there has been resistance to passing a continuing resolution that does not affect, in part, the arguments that are embraced as part of the larger budget debate that is taking place.

But, Mr. President, both sides have made their points on the larger issues of balancing our budget. Now is the time to approve a continuing resolution that would allow our Government to function and not drain taxpayer resources and public confidence. Then the larger questions, where the views are so deeply held and the rhetoric to date has been so irreconcilable, can be addressed in due course.

So, Mr. President, to the leaders of Congress and the President, I say publicly, as I have done privately, continue to work on the great issues that are the subject of the debate that we are engaged in today, but also give the Government an opportunity to move forward at this time by allowing Congress to pass and the President to sign an extension of the continuing resolution. We can then continue to see whether or not we can resolve the larger questions.

I will close by thanking the Chair and thanking other Members who have been very patient while I have made this particular plea. The plight of many of those directly affected and many others indirectly affected at this time of year is serious, one that should not and, as far as I am concerned, cannot be ignored.

With that, I thank the Chair and yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed as in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. NICKLES pertaining to the introduction of S. 1484 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE BUDGET

Mr. NICKLES. Mr. President, I see my friend and colleague from Arkansas is on the Senate floor and I heard part of his comments in regard to the budget impasse. I say as a person who has been in on many of these negotiations, I have been very frustrated that the administration has not kept its commitment to come up with a balanced budget in 7 years using honest economics. We have had 4 weeks since passage of the continuing resolution. That was 4 weeks of time almost totally wasted, and we have not had a fruitful or real productive effort by the administration. Their last budget submission did not use Congressional Budget Office economics which, because they have been revised, include $135 billion of savings, enabling it to be easier to balance the budget.

They did come up with a back door Gramm-Rudman to raise taxes if you do not meet the deficit targets. That is not what we have done in the past. In the past if you did not meet the deficit targets we had an automatic sequester, or across the board cut, of spending. This administration did the opposite. They say if you do not meet the deficit targets—and they did not give us the specific language—but they said if you do not meet deficit reduction targets we will have tax increases or postpone tax reductions. In other words, taxpayers, you come out short if we are incorrect. If our spending exceeds our limits or if the deficit continues higher, instead of cutting off the money coming out of Washington, DC, we will take more money from taxpayers. Taxpayers beware—that is a bad deal.

I hope the administration will step back and say, "Wait a minute, we committed to do this. We will do what we say." I tell my friend from Arkansas that I think it is in President Clinton's interest to do it. Some say we have to have Republican winners or Democrat winners. We should not be doing that. Mr. President, we should be doing what is right for this country: Balance the budget. Can we balance the budget? Yes. Can we balance the budget and give modest tax relief? Yes. Have we said it is negotiable? Yes, but we need to negotiate. You cannot negotiate apples and oranges. This administration has yet to put down a real budget so we can compare figures.

They have engaged in a lot of demagoguery. It was very frustrating to me to hear the President of the United States on his radio program a week ago Saturday say, "I cannot support that budget because it devastates Medicare, devastates Medicare. Unacceptable cuts in Medicare." The facts are we are spending $178 billion in Medicare today. The facts are in the year 2002 we will spend $293 billion in Medicare. That is not a cut. That is an increase of over 50 percent.

Mrs. Clinton when testifying before Congress in the summer of 1993 said, "We want to not cut Medicare. We want to reduce the rate of growth in Medicare to 6 percent or 7 percent." That is not a cut. It is reducing the rate of growth to twice the rate of inflation. Mr. President, under our proposal Medicare grows by over 7 percent per year—more than what Mrs. Clinton called for 2½ years ago. Yet this President and many in Congress have tried to say play political Mediscare and see how many senior citizens they can scare into believing we have a bad budget and score political points instead of doing what needs to be done.

I was on the conference to help write the Medicare provisions and I think those provisions make sense. They offer senior citizens options and choices and medical savings accounts. They keep the premium at 31.5 percent for part B beneficiaries. To me that makes sense. Originally it was at 50 percent.

Some people believe it is better to score political points. Maybe they have been successful in scoring points, but certainly they have not been successful in doing what is right. What is right is balancing the budget and being fair and being honest. This administration has not been honest. That probably bothers me more than anything.

It bothers me when you have an administration that says "Yes, we signed a continuing resolution"—it became law—"that says we will balance the budget in 7 years using updated Congressional Budget Office numbers," and they have not done so. Not in their first budget, their second budget, their third budget after the continuing resolution was signed, and last Friday on the fourth budget. They did not do it then, either. To me, that bothers me as much as anything else.

I would like to say we have an honest administration. I would like to say they are dealing in good faith, but that has not been the case. That has not been the case. It should be. We should have the President of the United States, when he signs something, does it. If he says he will submit a balanced budget in 7 years, he should do it. We did not use hocus-pocus numbers. We used revised Congressional Budget Office numbers, and they have yet to do it. To me that is very, very unfortunate.

Mr. President, I regret that the President of the United States vetoed the Interior bill. I regret that he vetoed the Department of Veterans and HUD and other agencies bills and the Commerce, State, Justice bill. That means there are hundreds of thousands of people that are furloughed. I will not say they are out of work. They may not be working today but most everyone assumes they will be paid. The President should have, in my opinion, signed those bills, and should be contacting the majority leader of the Senate, Senator DOLE, and the Speaker of the House, Mr. GINGRICH, and saying, "Let's work out a deal and balance the budget."

The numbers are not that far apart. I tell my colleagues under our proposal we were saying, according to Congressional Budget Office figures, our proposal would spend about $12 trillion in the next 7 years. The President's proposal in his June budget said they would spend about $12.8 trillion over the next 7 years. Since then, we have come up and said we are willing to spend a little more, and went to $12.1 trillion.

The President has never given us their outlay figures for the next 7 years. I asked for that weeks ago. They said they had a budget but they never told us, "Here is how much money we want to spend in Medicare the next 7 years." They never said, "Here is what we want to spend in Medicaid for the next 7 years." They never said, "Here is what we want to spend for defense and other categories." They worked in broad categories and never gave us specifics on a year-by-year basis. So we have to say, where are their figures? They did not give them to us. How are we supposed to negotiate with them? We have figures. We can tell you what dollar amount we are going to spend in every single category in the Government for the next 7 years. How can we negotiate with an administration that will not give us the same thing?

That, maybe, voices a little of the frustration that I have working with this administration. I hope they will change. I hope they will get on the phone. I hope President Clinton will contact the congressional leaders and say: Let us work it out. Let us balance the budget. Let us do it and let us do it now, because it is the right thing to do. It should be done. It is irresponsible not to do it.

We have a chance to make history. We have a chance to do what is right. We have a chance to balance the budget. We have a chance to stop this process of $200 billion deficits forever, and that is what President Clinton's budget is. His June budget had $200 billion deficits forever, according to the Congressional Budget Office. That is not acceptable. That is totally not acceptable.

So, I think it is awfully important for us not to continue this kind of irresponsibility, in my opinion, by the administration. It cannot continue. We need to change it. I hope the President will contact the leaders and say: Let us sit down, let us talk, let us use real numbers, let us use the same numbers, let us work out our differences and come up with a package that will benefit all Americans—not really be a benefit for the Republicans or Democrats but be a real benefit for the American people.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, in a moment I want to make a few remarks about the defense bill. Before the Senator from Oklahoma, my good friend, Senator NICKLES, leaves the floor, I would like to pose these questions.

First, why is it that we have to shut the Government down in order to continue negotiating? Second, who do you think benefits from that?

Mr. NICKLES. If the Senator will yield, I will say, the President had the opportunity today to sign three bills—there are six bills that are still outstanding. In my opinion five of those six bills could be signed by tomorrow. The only bill that is left outstanding is the Labor-HHS bill, which is not being held up by Republicans; it is being held up by Senate Democrats. I think that is very unfortunate.

Mr. BUMPERS. But, Mr. President, would the Senator not agree that, under the Constitution, if the President does not like a bill he not only has the right, but the solemn duty, to veto it? And Congress has the right and the solemn duty to try to override it.

Yet, while we have operated that way for 206 years, all of a sudden we have a new deal, that if you do not have the votes to override a veto, you shut the Government down, and, in addition to that, send 250,000 people home this morning, saying do not come to work but we will pay you for it anyway. Who benefits from that?

Mr. MACK. Will the Senator yield?

Mr. NICKLES. I will be happy to yield to my colleague from Florida in a moment. The President of the United States is the one who sent most of these individuals home because of his vetoes today and tomorrow. Those bills affected hundreds of thousands of people. The President had the right; he could veto the bill. But the President is the one who sent those individuals home. If he were to sign those bills, my colleague, I am sure, would concur, there would be no furloughs. Those employees would work. He had that option. He chose to veto bills. So he is directly responsible for sending those hundreds of thousands of people home today.

Mr. BUMPERS. Mr. President, if I may say so, I have only been here 21 years; not as long as the Senator from North Carolina who I see here on the floor, but pretty near. I have never—I have never—witnessed anything like this and hope to goodness I never witness it again, where, instead of passing a continuing resolution to allow people to operate at even a severely constrained level, even much less than they got last year, we shut down the Government instead. Actually, if I were the President I would be a little ambivalent about this, because, if we continue operating on a continuing resolution, we might get a balanced budget faster because a lot of these people are operating on a severely constrained budget.

But my point is this. We have never—we have never—taken the option of shutting down the Government simply because we disagree with the President. It seems to me we might wind up having to have a constitutional amendment one of these days to say that is absolutely prohibited. Congress would be solemnly bound to pass a continuing resolution or something.

I must tell you, I am at an absolute, abject, total loss as to how anybody can possibly believe that the country's business is being well served by shutting the Government down. I do not care how much you disagree with the President.

Mr. NICKLES. If the Senator will yield, I hope you will contact the President and tell him to sign those bills, and those individuals would go to work.

Mr. BUMPERS. Even if I did, he would not because he disagrees with them. And that is his prerogative as President.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I think the Senator from Oklahoma and I, if we sat down and talked about this for a couple of weeks, we might work something out even though we have very serious disagreements. I know the Senator was euphoric, and I was depressed, in November 1994 when the American people took away the long, long, 40-year Democratic majority in the House and, I guess, about a 10-year majority in the Senate. They were voting for a whole host of reasons. Some of them were mad about gays in the military. Some of them were mad because we had not passed a constitutional amendment on prayer in school. Maybe some of them wanted a flag desecration amendment to the Constitution, or term limits. Maybe some of them missed a Social Security check that month. I do not know. I do not think there was one single thing, one single thread that ran through the election of 1994 that caused people to vote the way they did.

But I will tell you one thing. They did not vote for chaos, and that is all they have had.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. BUMPERS. On the defense authorization bill, I was very pleased to listen last week to a man whom I believe is probably the most respected man in the United States on defense issues. He and I have had very serious disagreements, particularly about the size of defense spending. But I have never really questioned his motives, his intellect, or his understanding of the defense issues. Yet he stood on the floor last Friday and said he fully intended to vote against this defense authorization bill. That was SAM NUNN, the distinguished Senator from Georgia.

He gave a lot of reasons, not the least of which was this so-called national missile defense system.

Somehow or other, the people in this body simply cannot give up on the Soviet Union. Our defense policies and our State Department policies for as long as the memory of man runneth not, has been keyed to that terrible evil empire of the Soviet Union. We have spent tens and hundreds of billions—trillions, really, because we were so frightened of the military might of the Soviet Union.

Interestingly, 2 weeks ago we learned that a lot of our defense spending and a lot of our policies were based on misinformation given to us by spies for the Soviet Union who were feeding us disinformation about how powerful the Soviet Union was, and it played right into the hands of the defense industries and the hawks of this country, and we spent trillions of dollars. That is one of the reasons we are in the pickle we are in with a $5 trillion debt we are trying to do something about.

Now we come back, because we still cannot give up on that anti-Soviet mentality, and we say we want a national ballistic missile defense system in place by the year 2003 that will protect all 50 States. There is not any doubt, and neither the chairman nor the ranking member of the Armed Services Committee would refute, that that is going to require multiple antiballistic missile sites.

And when you start talking about multiple sites, you are talking about a direct abrogation of the Antiballistic Missile Treaty, one of the very few treaties we still have in existence with the Soviet Union, now Russia. It says that neither country will deploy a strategic antiballistic missile system at more than one site in its own territory.

I engaged Senator NUNN in a colloquy on this subject Friday afternoon, and asked him if this is not a legislative abrogation of the Antiballistic Missile Treaty. Senator NUNN very wisely answered in language that all lawyers understand. He said it constitutes an anticipatory breach. What that means is, once we deploy more than one site, we have in fact abrogated the treaty.

Colleagues, let me ask you a question. How would we react if the Russians were to announce today, as we sit here debating this bill, that they are going to deploy a national missile defense system that will have many sites? I promise you that all 100 Senators would be on the floor squealing like a pig under a gate. And you would hear, "There they go again. You cannot trust them." Yet, here we cavalierly get ready to spend billions on a national missile defense system which will abrogate a treaty that is in the interest of the Russians, the United States, and all the people of the world.

I ask you this: To add to the question, what if the Russians were doing this, what would our response be? It would be to start deploying one as quickly as we could. And you tell me when the ABM Treaty is gone and the Russians and the United States both have national missile defense systems, who do you think is better off? I can tell you nobody is better off, and the world becomes again a very dangerous place living with a hair trigger.

The Russians are right now in the process of complying with START I. And they are complying with it by dismantling nuclear weapons. They, like the United States, are prepared to consider the ratification of START II which will cut nuclear weapons still further. Do you think if we go ahead with this national missile defense system the Russians are going to ratify START II? Of course, they are not. If we are going to deploy a system that will shoot down their missiles, they are not going to keep dismantling missiles. They are not stupid. They know exactly what is going on.

So I am going to vote against this bill because it costs too much money, because the national missile defense plan envisioned in it is dangerous in the extreme, and because we are putting $493 million more into the B–2 program. And I defy anybody in the U.S. Senate to read the committee report and tell me what we are going to do with the money for the B–2. Is it for advanced procurement for more bombers? Or is it to take care of the flaws in the present bombers?

The committee report had one line that was the most curious line I have ever seen in a conference committee report. It said the Senate conferees believe so and so. Who cares what the Senate conferees believe? It is what the conference of the House and the Senate both believe that we are supposed to be voting on.

It reminds me of a story about a little boy. The teacher said, "What do you believe?" The boy said, "I believe what the Methodists believe." She says, "And what do the Methodists believe?" He says, "They believe what I believe." "And what do both you and the Methodists believe?" "We both believe in the same thing."

Mr. President, I invite all of my colleagues to read the committee report and tell me where the $493 million is going.

Finally, I can remember all the years I have been here and posing the question about things in our defense budget: Why are we doing this and why are we doing that? And the answer has been, well, the President wants it, the chiefs want it, and the Secretary of Defense wants it. So we went merrily on our way spending tens of billions of dollars because they wanted it.

Now you ask the powers that be in the U.S. Senate. Why are we doing it when the Secretary does not want it, the President does not want it, and the chiefs do not want it? The answer is, what do they know?

Mr. President, at a time when everybody is groaning and straining to deal with the balanced budget and trying to accomplish a balanced budget, we have a defense appropriations bill which the President has already signed. I disagreed with the President on that because, as I have said before, my good friend, the President, has a right to be wrong just like I have. There is $7 billion more in that bill than anybody asked for—ships being built that they did not ask for, and in places where there was no bidding.

So, Mr. President, I do not know how much longer this bill will be debated, but I can truthfully say that I think it is a terrible mistake. I think the world will be less safe once we pass this conference report.

I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I ask unanimous consent to speak as if in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. Thank you, Mr. President.

Mr. GRAMS. Mr. President, during this second shutdown of the Federal Government, I am reminded of the old saying that two wrongs do not make a right.

I believe it is wrong to tell 300,000 Federal workers that because the Government considers them nonessential, they cannot come into work today.

But Mr. President, it is even more wrong to then turn to the American taxpayer and tell them to pay these workers for not working.

That's right. For the second time this year, Washington is requiring taxpayers to pay with their hard-earned dollars for services that will never be given.

While we may have honest differences about the amount of government people should pay for, I think we can all agree that taxpayers should not be forced to give something for nothing. But that is exactly what they are getting for their tax dollars: nothing.

What is worse is that this whole situation has arisen because President Clinton has refused to carry through on his promise to deliver a 7-year balanced budget using real numbers.

One month ago, when the first Government shutdown occurred, the debate was over whether or not to balance the budget in 7 years. It took a week, 800,000 furloughed employees, and a lot of complaints from the American taxpayers, but the President finally got the message.

We came to an agreement by both Congress and the White House that the American people would finally get what they have been calling for—a real 7-year balanced budget. Gridlock was over. Or so we thought.

Instead of following through on his promise, President Clinton has deliberated, deferred and delayed his balanced budget proposal. The only thing he has not done is delivered—and it does not look like he ever will.

Make no mistake about it—the shutdown of the Federal Government and the problems it has caused the American people lie squarely on the shoulders of one man—William Jefferson Clinton.

Nothing symbolizes that fact more than President Clinton's generous offer this weekend to pay out of his own pocket the cost of keeping the White House Christmas tree lit.

What the President did not say is that the bill which would pay for this expense—the funding bill for the Department of the Interior—was sitting right on his desk over the weekend, unsigned.

Now that the President has vetoed the Interior appropriations bill, is he prepared to pay for all the programs at the Department of Interior that he is holding up?

Will he personally pay for the expenses at the Departments of Veterans' Administration, Housing and Urban Development, Commerce, Justice, State and any other agency whose funding he has vetoed?

Are the Democrats who are holding up the Labor-HHS bill in the Senate willing to use their salaries to pay for the programs at the Departments of Labor, Health and Human Services, and Education?

Are they willing to pay with their own money for the Low-Income Heating Energy Assistance Program, the funding for which they have stalled and refused to consider, even today in mid-December?

Obviously, the answer is no. But if they did, if they were the ones forced to pay the bills, instead of the taxpayers, maybe things would be different. Maybe we would not be so willing to lay off Federal workers and then pay them for not working. Maybe we would not have so much Government to pay for in the first place.

Unfortunately, justice and fairness for the taxpayers is not a concept well received in Washington, and as a result, the American taxpayers are stuck with the bill but without services rendered.

On Friday, I introduced legislation that I believe will reverse this trend and restore some fairness to the taxpayers. The Federal Employment Taxpayer Accountability Act would eliminate the current distinction in law between nonessential and essential Federal workers, thereby considering them all essential.

After all, if a worker is considered nonessential on 1 day of the year, what makes them so essential on the other 364? And why should we force the taxpayers to pay for a service that is considered nonessential?

My legislation would ensure that all Federal workers are at their desks every day, that they no longer be used as pawns in a Washington chess match over the budget.

It will help lift the morale of Federal workers by letting them know that their efforts are recognized and appreciated, while guaranteeing the taxpayers that only an honest day's work earns an honest day's pay.

Mr. President, two wrongs do not make a right, nor do three or four or the many wrongs Washington has done the American taxpayer.

Let us do something right for a change. Let us protect the taxpayers from having to pay for unsolicited vacation days in Washington because it is the right thing to do. Let us pass and get signed into law the remaining appropriations bills because it is the right thing to do. And let us deliver the American people a real, honest 7-year balanced budget before Christmas because it is the right thing to do.

As 1995 comes to an end, I ask Congress and the President to make an early New Year's resolution on behalf of the taxpayers and our children and grandchildren that we will keep them in forefront of our minds as we conduct the people's business by doing the right thing.

Thank you very much, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to continue up to 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

A DEFICIT DILEMMA

Mr. BENNETT. Mr. President, in this morning's Washington Post, there was a very interesting op-ed piece that I cannot refrain from commenting on. It is written by Terry Deibel, and it is entitled, "A Liberal Deficit Hawk's Dilemma."

Mr. Deibel describes himself as a liberal who believes in Government, believes that the Federal Government can and does do wonderful things, but that the Government should not "spend more money to do these things than it collects."

He then offers us this fascinating solution to our present dilemma from his position as a self-styled liberal deficit hawk. And I am quoting, Mr. President.

> To be sure, a good deal of budget balancing could be done in a policy-neutral fashion. A simple freeze on outlays at current levels or a small across-the-board cut in everything—all spending, all entitlements, including Social Security—prolonged over several years of economic and revenue growth eventually would do the trick without any allocation decisions.

I was stunned when I read this. Here is a man who is a liberal, describes himself as a liberal deficit hawk who is proposing a program far more draconian than anything the Republicans have ever contemplated, a freeze, Mr. President, in all spending across the board, or even a small across-the-board cut in everything—entitlements, including Social Security.

No Republican has dared offer anything that drastic or that draconian. What this says to me, Mr. President, is that Mr. Deibel has fallen victim to the rhetoric of this Chamber and, if you will, of the White House. He has come to believe, as do many of my constituents, that the Republicans are calling for drastic cuts in everything, and he says let us solve the problem with a simple freeze.

Let me give you a few numbers, Mr. President. Total Medicare spending in 1995 was $178 billion. If this proposal were put in place, that means years from now Medicare spending would be frozen at $178 billion in contrast to the draconian Republican call for spending of $301 billion in the year 2002. He is calling for a commonsense, neutral position that would freeze the budget at $178 billion but, no, those stingy Republicans want to increase it from 178 to 301—a 69 percent increase.

I say to you, Mr. President, he, like too many people, has fallen victim to the rhetoric of this debate without looking at the facts.

On Medicaid—another area where we are being told the Republicans are calling for heartless slashes—this man, a liberal, says, no, let us take care of Medicaid by simply freezing it at its present level. Its present level is $83 billion. Under the Republican proposal, by the year 2002, it will reach $143 billion, a 58-percent increase. But we are being pilloried for being heartless when common sense tells this man we can solve the problem if we just freeze it.

Again, he is a victim of the rhetoric. He does not realize, as, unfortunately, too many people do not realize, the Republicans are not saying let us slash these programs. The Republicans are saying the programs are legitimate, the programs need to grow, as the needs of our people need to grow, but let us let them grow at some kind of intelligent rate. But with the rhetoric, even a man of his knowledge and understanding—and he is identified in the Washington Post as chairman of the Department of National Security Policy at the National War College—even a man of his position and understanding has fallen victim to this rhetoric. I hope he will understand now that the freeze he is calling for as the logical solution is so much more draconian than what the Republicans have suggested that if we were to in fact embrace his proposal, we would be crucified —I think justly—by both the press and, of course, the members of the opposite party.

Now, I cannot conclude without referring to one specific that he talks about which is a further demonstration of the way the rhetoric has distorted the reality. He says:

> It is quite possible, after all, to cut corporate welfare or end the great-western-lands-grazing-and-mining free-lunch program, for example, rather than cut poor people's welfare and the school lunch program.

Once again, if you listen to the rhetoric on this floor, you would think that the reason the budget is out of balance is because of the tremendous spending in the West on grazing and the reason we are heartless is because of our cuts in school lunches.

I participated in the filibuster that was mounted on this floor to prevent the Secretary of the Interior from implementing his increase in grazing fees, which we were told would be the way to make everything fair.

The total amount of money that would have come to the Federal Government if the Secretary of Interior had been successful in his effort to increase those grazing fees is $19 million per year. That is million, "m" as in "minuscule," Mr. President, $19 million. That is less than we spent to put the new subway between the Capitol and the Senate office buildings.

By comparison, his implication is you could pay for school lunches if only you did away with the grazing program in the Midwest. In 1995 we will spend $7.9 billion on child nutrition, "b" as in "big." And in 7 years, under the draconian Republican budget, spending on child nutrition will increase to $9.2 billion a year, a 16.4-percent increase.

I challenge anybody to try to pay for the present program, let alone the increased program, by doing something about a grazing plan in the United States that is currently, by the Secretary of the Interior's own analysis, costing the taxpayers $19 million.

Before I leave that, however, because $19 million is, after all, $19 million, I would refer you to the study that demonstrated that had the Secretary's proposal gone through, instead of receiving $19 million in additional revenue, in fact it would have driven enough marginal operators off the range that the actual income to the Federal Government would probably not only have been less than $19 million, but in fact might have endangered the money that they were receiving from the present grazing fees. The revenues could have gone down rather than up.

I will not pursue this any further, Mr. President. I think this is an example of what is wrong with our political dialog. The Republicans are proposing increases, in many cases very substantial increases, in some of our most fundamental programs, and yet the rhetoric around it has been so extreme that even a man of Mr. Deibel's position and understanding thinks he can improve on the Republican's proposals by freezing everything at the present level.

If there was ever a demonstration of the excess and inaccuracy of the rhetoric of this debate, it is Mr. Deibel's op-ed piece in this morning's Washington Post.

I yield the floor.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER (Mr. HELMS). The Senator from Florida.

Mr. MACK. Thank you, Mr. President.

THE BUDGET AND OUR COUNTRY'S FINANCIAL MARKETS

Mr. MACK. Mr. President, this past Friday I made some pretty strong comments with respect to President Clinton's—maybe it was Mr. Panetta's—proposal which we saw. There was great anticipation, if the President will recall, that last Friday there was going to be a new, serious proposal to balance the budget that President Clinton was going to bring to the table.

I felt, and I think expressed in pretty strong language, that it was a phony attempt. In fact, I thought it was an insult to the Congress, frankly, that the President would come forward with that proposal.

But something significant has happened since Friday. We may in fact have a new player in this budget debate. We may in fact have a new player to the debate which over the last 30 days or so has been between the White House, the President, on one hand and the Congress on the other. The third party who I think has now come to the debate is the financial markets of our country.

For those who have not been observing what has occurred today in the stock markets and the bond markets, you may be surprised to learn that the stock market fell just over 100 points today. And interest rates begin to climb, the long-term bond went from just over 6 percent to about 6.2 percent. This is the first shot across the bow that the financial markets have fired, which I think are really directed at the President. The markets have had the opportunity over the weekend to analyze the President's proposal. And they have concluded that there really is no truth to the President's statement that he wants to balance the budget.

It has been 1 month or it will be 1 month tomorrow since the President signed the statute saying that "I will commit myself to balancing the budget over 7 years using real numbers." I concluded last Friday that he absolutely failed to do that; that, in fact, his proposal was an insult. There was absolutely no value to what he did last week except political.

Mr. President, I would claim that the markets have in fact reacted the same way. They analyzed the President's proposal over the weekend and they also concluded that it is a phony proposal. It will not get us to a balanced budget. In fact, it really pretty much leaves us where the Congressional Budget Office said we were prior to this last proposal put forward by the President; and that is, in the seventh year there would be a deficit of $116 billion. I believe this is the fourth plan that the President has put forward, maybe the third. There have been so many different ideas the President has come up with to avoid offering a balanced budget proposal that I have forgotten which one this is. The President has just completely attempted to stay away from balancing the budget. He says he wants to do it, but when you look at the actions of the President of the United States he has failed.

So, Mr. President, again I think one thing that my colleagues in the Senate on the other side of the aisle ought to understand is that there is a new player now. And that is the financial markets of this country. And that should be no surprise.

On November 8, 1994, the day of the last election for the U.S. House of Representatives, the day the Republicans took control of both the House and the Senate, was the specific day that interest rates in this Nation peaked, at a little bit over 8 percent. Since November 8, 1994, those interest rates have been steadily coming down, down to the point of just barely above 6 percent.

We had some analysts from the Wall Street area come down to Washington several weeks ago when we got into a debate about just how strongly the Congress should position itself with respect to the debt ceiling and other means of leverage to try and get the President to move to a balanced budget. And during that discussion I remember one of the analysts commenting that if there is a failure to balance the budget, if no agreement is reached, the markets will crash.

I also recognize that my friend, the Speaker of the House, made reference to that point, and was chastised, I believe, for using harsh rhetoric. Some said the Speaker of the House should not use that kind of language.

I must say to you that when I heard the analyst make this comment with respect a crash, I think most of us have this tendency to think of what occurred in 1929 as being the definition of a market crash. So I asked them what did they mean, to them what would be a crash in the market? Their response was that interest rates would go back up, about 2 points, and we would probably see the stock market fall somewhere between 200 and 300 points, if I recall.

The interesting thing, again, is that in 1 day we have seen a decline of 100 points in the stock market. And I believe that that has occurred because of the President's failure to come forward with a balanced budget alternative and the markets are beginning to get nervous about whether we will make it or not.

Moreover, I also think the President's failure to submit a serious budget may affect the Federal Reserve Board. The Federal Reserve Board will be making the decision tomorrow about what to do about interest rates. I suspect that they were extremely disappointed in the President's proposal as well, and the markets are concluding that since the President is not serious about balancing the budget that it would be a mistake for them tomorrow to lower interest rates any further. That is a decision they will have to make, but I think that is a fair scenario to place on the table.

So, again, the reaction that we have seen in the last day with respect to the President's proposal has already had an effect on the stock market and the bond market, and I am suggesting another impact very well could be on the decision by the Federal Reserve tomorrow.

I talked to those financial experts about the benefits of balancing the budget. I talked to them about the importance of bringing down interest rates, and during those same meetings, they told us the interest rate probably could come down even further; that if we were to come to an agreement over balancing the budget, we could see long-term interest rates in this country decline to the 5¼ range.

I must say to you, Mr. President, having been a former banker, I can remember making those first loans on a single piece of paper—but that is another story of what has happened to our country as a result of the bureaucracy and the redtape which has been created. It was on a single piece of paper, and the interest rate was at 6 percent. I must say to you that over the years I had lost hope that we would see long-term interest rates return to a level of below 6 percent. But, frankly, I believe that this is within our grasp today.

If the President were serious about coming forward and giving us at least his alternative—we are not telling him he has to agree with ours, but at least put his alternative on the table telling us how he would balance the budget in 7 years with CBO numbers—then we could sit down and negotiate. If he would do that and we could reach an agreement, and I believe that we would see long-term interest rates come down to the 5½ and 5¼ range.

What does that mean? To the families of America, to those young families who are trying to get a start, let me tell you something, there is a big, big difference in obtaining a mortgage at 5¼ percent versus 8¼ percent. It not only will affect the mortgage payments that they will make, it will affect the cost of the automobile loan, it will affect and reduce the cost of a student loan. There are lots of things that the average American is going to feel as a result of what happens with interest rates.

The shot today which the markets have fired is basically one that said, if you don't come to an agreement, the reduction of interest rates you have seen in this last year are going to disappear and the rates are going to go back up and America's future will not be as bright.

The other day on the floor of the Senate, I said, and I am going to repeat it again today, that the President ought to come forward with his alternative. He made the commitment to do that almost 30 days ago. It was in legislation that he signed. It was negotiated by representatives from his White House. I am going to say it once again, but I am going to read it to make sure I am very clear: This President has proven once again that his commitment to principle is nonexistent. He gave his word. He broke his word. It is a habit he does not seem able to break.

Mr. President, I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

THE PRESIDENT SIGNED AN AGREEMENT WITH CONGRESS

Mr. GRASSLEY. Mr. President, first of all, I thank the Senator from Florida for a very clear-cut statement about why we are where we are and how we can get out of it. Basically, it is the President of the United States doing what he said he would do.

We are where we are today, Mr. President, because on November 20, the President signed an agreement with Congress. This is the wording of that agreement:

> The President and the Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002 as estimated by the Congressional Budget Office * * *

We have said several times that the President himself on November 20 signed legislation that said he agreed to three things: One, that he would send a budget to the Hill that was balanced. That budget he was going to send to the Hill would be the third one, because remember, he sent one in February, he sent one again in June and this would be the third one. It would be balanced by the year 2002, the same as when Congress said that we would balance the budget.

What is magic about 2002? It could be 2001, it could be 2003, but really what is magic about 2002 is that in February of this year, we had 66 Senators—that is Republicans and Democrats, because there are not 66 Republican Senators—a bipartisan vote that the budget should be balanced by the year 2002. The House of Representatives had a vote about a week or two earlier with 301 votes. That is Republicans and Democrats. That is a bipartisan vote that said we should do it by 2002.

There is nothing revolutionary about 2002. That is an evolution to a balanced budget. That is a Republican evolution to a balanced budget.

For a lot of people, it is too, too slow. We probably got more people in this country mad at us because we are taking until the year 2002 to balance the budget than by 2002. The President says that is extreme. Well, it cannot be extreme if he signed the agreement that he was going to be in favor of balancing the budget by 2002, because if that is extreme, the President is extreme. I do not think anybody in this town is extreme.

The most difficult process in this town is just making the tough decisions. For our constituents, taking 7 years to balance the budget is not a tough decision. That is too evolutionary of a process for balancing a budget. They would like us to be more extreme than that. They would like us to do it sooner.

Do you know why they think we should do it sooner? Because each month they have to balance their checkbook, live within their income or, if they are a small business or small farmer, they have to live within their income. They cannot be like Government, borrowing money all the time.

But the President signed that he would submit by December 15 a balanced budget and that it would be scored by the Congressional Budget Office. Those three things are pretty key to the President keeping his word when he signed this.

The first budget that they sent up here about 2 weeks ago was not in balance, $400 billion out of balance, as scored by the Congressional Budget Office; $115 billion deficit even the last year.

We are here today because we are still waiting for the President to deliver on what he signed into law on November 20. Where I come from, that means you sit down to make a deal, you put some numbers on the table, and those numbers should be within the guidelines of the debate. The debate is to have it balanced and scored by CBO, the Congressional Budget Office. By the way, the nonpartisan Congressional Budget Office, not scored by the Office of Management and Budget which is part of the White House which is headed by a Presidential appointee. The Congressional Budget Office, nonpartisan, people who do things based upon their study of forecasting the future and what programs are going to cost in the outyears, not what some Republican or Democrat says it is. Their reputation of being a true judge of what things are going to cost when they score it is at stake.

Last Friday, they made another attempt to come up here. I suppose that would be the fourth budget this year. It was still off. But what did they do about the Congressional Budget Office scoring? They said, "Well, we don't agree with it." This does not say anything about agreeing with it. You just simply present your numbers and let the nonpartisan budget office score it. Let the chips fall where they may.

"Mr. President, if you come up short someplace, we understand. Just go back to the table and submit a new number, but get something that the Congressional Budget Office can say is in balance."

The only thing we Republicans—maybe I should not speak so definitively—the only thing we Republicans care about is that the budget is balanced by 2002, because I suppose each one of us has an opinion on that. But I have heard enough of the people who do the negotiating for the Republicans—and for a few days I was one of the eight doing the negotiating—that when the President puts a budget that is balanced, as scored by the CBO, on the table, then within the parameters, anything is on the table, including what to do about Washington spending, which we call discretionary spending, where we let the Washington bureaucrats spend it, those programs. Entitlements like Medicare and Medicaid, and even defense and taxes, are all on the table.

All we want the President to do is to play in the same boundary. If you want to keep the cows within the pasture, that means you build a fence around the pasture. Then you operate within that. And what you do within that fence is all in the ball game. Everybody negotiating with the White House and the Congress can reach an agreement. But what is so important about the fence, what is so important that is scored by the nonpartisan Congressional Budget Office, is simply that it is an end to business as usual here in Washington, that the big black hole of Government borrowing can go on and you can spend any amount of money. For the first time in 27 years, we are saying, once again, there is some limit on what you can spend—just some limit.

Now, I came to the floor to speak about another point because we always talk about the budget deficit. But there are two deficits that we can defeat in the process of balancing the budget deficit. The Senator from Florida spoke very well about what good is going to come to the economy. There was an economist quoted in a USA Today article, "What Life Would Be in the Year 2002 With a Balanced Budget." Some of the things they spoke to have been referred to by my colleagues on the floor. A larger economy by $150 billion—this is by the year 2002—a $150 billion bigger economy, more in goods and services, and lower interest rates. We would see 30-year fixed-rate mortgages below 5 percent. The last time I remember mortgages for under 5 percent was when I purchased a house in 1960. I think it was 4¾ percent. Half a percent was for FHA insurance for the 4¼ percent. You have to go back a long way to see the good that can come to the pocketbooks of the American people, such as $2,300 per person—that is a figure for my State of Iowa—$2,300 less per mortgage that families will be paying. If they have student loans, they will be paying $608 less in interest on that student loan. Our economy will grow dramatically. So we are going to have lower inflation besides lower interest, we are going to have higher incomes, and we are going to have a stronger dollar.

Then the second deficit that will be eliminated besides the budget deficit is the trade deficit. Now, since, I think, 1982, 1983, or 1984 at the latest, we have been worried and scared to death about the trade deficit—that we import more than we sell and that we need to do something about it. This article quotes an economist at Meyers & Associates, who said that when we do away with the budget deficit by the year 2002, we will also be doing away with the trade deficit, as well.

So here we have a chance to accomplish this and kill two birds with one stone—get rid of the budget deficit, if we make the tough decisions that must be made on the budget deficit, and get lower interest rates, a stronger dollar, and reduce the trade deficit as well. As chairman of the International Trade Subcommittee of the U.S. Senate, there is nothing I would rather have happen than to get rid of the trade deficit at the same time we get rid of the budget deficit.

Another reason we are here is that we have been hearing for a long time, Mr. President, about how the President wants to protect Medicare. Well, my friend who is still here, the Senator from Utah, Senator BENNETT, spoke a half hour ago about how we are very dramatically increasing Medicare spending. But do not forget why we are dealing with the Medicare issue at all. It is because the President's trustees—three members of the President's Cabinet, the Commissioner of Social Security and two private citizens, appointed by the President of the United States last year—studied the problems with Medicare funding and the fact that there was a potential bankruptcy of Medicare. A potential bankruptcy of Medicare means that at some time Medicare is going to run out of money. With the insolvency of Medicare, it will run out of money. There is no authority in the law to borrow money for Medicare, so no bills would be paid after a date stated by the trustees.

These trustees are Robert Rubin, Secretary of the Treasury; Robert Reich, Secretary of Labor; Donna Shalala, Secretary of HHS; Shirley Chater, Commissioner of Social Security, and two trustees are private citizens who are expert in this area of economic forecasting, Sanford G. Ross and David M. Walker. They unanimously, on April 2, asked the Congress of the United States to take very drastic action to end the pending insolvency of Medicare by the year 2002.

As shown on this chart, you can go back to 1985, and this is what you see—money coming in, money being paid out. Next year is the first year that there is more money being paid out of Medicare than is being paid in in taxes to the Medicare trust fund. And then it spends down very dramatically to the year 2002 when it goes into deficit. You do not pay anything on the deficit because there is no authority there to borrow.

So we responded to the appointees of the President of the United States, the trustees of the Medicare system, in their report to us. We made the commitment earlier this year to respond to that need, to save Medicare, but not only to save Medicare, but to strengthen Medicare, and not only strengthen it, but go beyond strengthening it to give people, for the first time in 30 years, some choice in the type of medicine that they want applied to them by giving them the opportunity of keeping what they have had for 30 years if they want to do so, or taking the $4,900 this year that we paid for each beneficiary per year and let that be used by that individual, by their own free choice, to buy a managed care plan if they want to do that; let them roll their own dollars by giving them the $4,900 to put in a medical savings account; or, lastly, that they could keep a plan that they had where they last worked, like a union or association plan. That would be a choice that the individual Medicare enrollee could choose to do. You could choose to do that once a year. You could choose to leave the traditional Medicare plan and go into a managed care plan for a year. If you did not like that, come back to Medicare, or go over to a medical savings account, or go over to an association plan that you might want to have.

We responded to that. It was in the Balanced Budget Act of 1995 that we sent to the President a month ago, the same one that the President vetoed.

Mr. President, the Senate majority leader would like to have me yield. I yield as long as I do not lose my right to the floor.

A STEP IN THE RIGHT DIRECTION

Mr. DOLE. Let me indicate that the President did call both myself and Speaker GINGRICH this afternoon about 3 o'clock. Without getting into the details of what the conversation was, I am pleased that the President indicates a willingness now to accept our invitation to get serious about the budget and balance the budget in 7 years.

I will be meeting with Speaker GINGRICH a little later this evening. I think the President's call does demonstrate that he has at least heard our pleas over the weekend and indicates a willingness to talk about a balanced budget in 7 years, using CBO figures. Of course, he has certain concerns that he feels are a priority, and we have concerns we feel are a priority. I will not get into what we discussed about those but to say I think it is a step in the right direction.

I want to thank the President for agreeing to sit down with the principals because I think it is time the principals become involved. It is time for adult leadership. It is time for us to start making decisions.

The American people want a balanced budget. They know the benefits of a balanced budget, what it means in interest rates, what it means when you buy a car, borrow money for a student loan, buy farm machinery, a home, whatever. That is the purpose for this struggle for a balanced budget and why we feel so determined it should be done.

Hopefully, there will be discussions yet today, but if not tonight, at least tomorrow.

Mr. GRASSLEY. Mr. President, I believe I will yield the floor. Based upon what the Senate majority leader has said, if the President is going to start to sit down and negotiate the way he signed into law November 20 from the point of view of submitting a balanced budget, scored by the nonpartisan Congressional Budget Office—at least that is the first good news we have had of reaching an agreement—there is no point of my taking any more time to point out the shortcomings of the White House in not living up to the November 20 agreement that they said, albeit today, the 18th of December, November 20 until now, would be 28 days. This was all supposed to be done by September 15. I am happy to know the President would take that initiative and that we will avoid the rhetoric and get down to real negotiating within that boundary of a balanced budget, scored by the nonpartisan Congressional Budget Office.

I do want to complete one point. I started the point on Medicare because I wanted to point out where the President had been condemning us, as cutting Medicare. This chart, again, is just illustrative of what the Senator from Utah has already said about 45 minutes ago. We are right now spending $178 billion on Medicare; we are going to gradually increase that expenditure up to $290 billion or thereabouts, maybe a little over $300 billion by the end of this period that it takes to balance a budget.

There is no way that in the Midwest where I come from any taxpayers that I am ever going to talk to are ever going to consider that to be a cut. Just in case, for people who are cynical about those of us in Congress—and there is plenty of reason to be cynical, I know—I want to quote what President Clinton had to say about cuts versus increases like this. He was referring to increases like this, but he was evidently having somebody say you are cutting Medicare. This is what the President said on October 5, 1993, when he was commenting about the opposition of his saying he was cutting Medicare.

> Medicare is going up at three times the rate of inflation. We propose to let it go up two times the rate of inflation. This is not a Medicare cut. So when you hear all this business about cuts, lets me caution you this is not what is going on. We are going to have increases in Medicare and Medicaid, and a reduction in the rate of growth will be more than overtaken by new investments that we are going to make.

That is the President as reported on "MacNeil-Lehrer News Hour," October 5, 1993.

Nobody who is intellectually honest, if you are increasing things twice the rate of inflation—Republicans are doing that, the President proposed to do that—if it was not a cut in 1993, it is not a cut in 1995. If we are going to be sitting across the table from each other negotiating, we ought to be able to do it in an intellectually honest way.

This is what the facts are, Mr. President. The facts are that we are very dramatically increasing Medicare. It is not being cut. It is often being increased at the rate of inflation. If anyone wants to know how billions of dollars affect them, they are getting $4,000 a year now, per beneficiary, per year, of Medicare recipients. This year, it will be $7,100.

I hesitate to say that because there are a lot of constituents out there like the one that the Senator from Utah read to us about who are going to be mad because we are not even freezing this. There are very dramatic increases.

I thank the President for coming forth. I hope this time we see real negotiations.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I ask unanimous consent I may proceed as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET PROJECTIONS

Mr. BENNETT. Mr. President, at one point in my business career I was called upon to act as a consultant to a firm that was having difficulties. In Washington language, it had a deficit. In the language of the business world, it was losing money.

I sat down with the CEO of this company and we looked at the coming year and he had, as is always the case in an accounting circumstance, the figure of what it was going to cost to keep the company doors open throughout the year. The cost was going to be x number of dollars every month to meet the payroll, pay the overhead, the gas bill, the light bill, the rent, et cetera.

I knew what the margins were. For those who are not acquainted with accounting, "margin" means that portion of the sale price of your goods that is not covered by the cost of goods. If you are selling a widget for a dollar and you buy the widget for 60 cents from the widget manufacturer, your margin is 40 cents, or 40 percent. This was a manufacturer, so he had a pretty good handle on what his costs were for his particular widget. He knew what the sales price was.

I looked at the size of his margin, as I recall it was around 30 percent, and then multiplied the number of widgets he was going to sell over the year by 30 percent and said to him, "The total margin that you have for the year is not enough to cover the monthly expenses that you have in overhead to keep this place open. That is your problem." It did not take an MBA from Harvard to figure that one out, but that is the problem.

He came back a little while later and he had new projections. I looked at his numbers and I noticed that he had done nothing to cut the monthly expenses but he had raised the estimate of his sales. Now, 30 percent of that sales number was a number big enough to cover the monthly expenses.

I said to him, "How did you get there? This is wonderful. You now have a projection that shows you are going to make a little money this year."

He said, "Well, I went back to all the salespeople and I told them that they were being too pessimistic and that they needed to take another look at what they might be able to sell. And every one of them responded wonderfully to my pep talk and everyone said, 'We are going to sell this much more, we are going to sell this much more, we are going to sell this much more.' And now, you see, my company is projected to make a profit."

I said, "That's terrific."

And he said, "Oh, I did something else. I raised the prices on some of my products. So a product that costs me 70 cents to make and I sell for $1 and I have 30 cents of margin, now I am going to sell for $1.10, so I have 40 cents of margin. So, the combination of increased prices and increased projections brings my proposal for the coming year into balance and we are going to make a profit this year."

The first month passed. I looked at the reactions for the first month. His costs were right where they said they would be. But his sales were a little low.

"Well," he said, "we had bad weather in January. You cannot expect January to be the real test. Wait, we are going to do just fine."

February came in. His costs were right where they said they were going to be, but his sales were a little low.

"Well," he said, "we had a little trouble in February. We had difficulty with suppliers and so on."

I went out to talk to some of the people who were actually selling the product and I said, "What is happening?"

They said, "For one thing, we cannot get the increased prices. The customer won't pay $1.10 for these widgets. The customer is used to paying $1, and furthermore, the widget seller down the street only gets $1 for these widgets, so in order to get any sales at all we have to give back this price increase. It is there in the projections but it's not there in reality. Furthermore, the increased optimism in sales did not come to pass either. We are selling at the same rate we sold last year."

I sat down with the CEO and I said, "You now have 3 months in for the year. If you take the sales pattern for those 3 months and extrapolate it over the whole year you are going to lose $1 million this year, if you do not take $1 million out of your monthly costs."

Well, taking $1 million out of his monthly costs meant firing some people. He said to me, "Some of these people have worked at this company for 20 years." He said to me, "Some of these people are my best friends. I have worked at this company for 20 years along with them. We socialize together. Our wives know each other. I cannot do that. They will lose their jobs."

Mr. President, the year went on. At the end of the year the company lost $1 million. And I said, "What are you going to do next year?"

"Oh," he said, "we are going to tighten down. Oh, boy, we are going to solve this problem." And the next year the company lost $3 million. Because they tried the same solution. Change projections and raise the prices but do not deal with your structural problem.

Does this sound familiar, Mr. President? I believe it is the description of what we are seeing with our Government right now. They look at the structural costs and they say: We cannot do anything about these structural costs. Let us change the forecasts to be more optimistic, like the forecasts of the sales force, and let us raise our prices, only in Government the way you raise prices is to raise tax rates.

The reason I harp on that is because—I gave a speech on this earlier but I think it is worth repeating—Marty Feldstein, the economist, did a study and an analysis of the President's tax increase passed in 1993. I put the analysis in the CONGRESSIONAL RECORD. People can find it. He analyzed the revenue derived from that tax increase and found that it was one-third the amount projected. Just as in the case of my business friend, the people would not pay the extra price that he put on his product, so the people in the economy, when faced with increased tax rates, changed their behavior, changed their investment pattern, and did not pay the taxes that it was projected that they would. And, according to Dr. Feldstein, the revenue coming in to the Government was one-third the revenue projected at the time all of this was made.

Why is all of this important? Because right now one of the things we are arguing about is who gets to make the projections? We are saying it ought to be the Congressional Budget Office. The President is saying no, he wants to be like my businessman friend and have his own sales force make the projections because it will make it look better.

People say to me, how can you be sure that the Congressional Budget Office numbers will be right? I can be absolutely sure that the Congressional Budget Office numbers will be wrong, because nobody on this planet has the capacity to look 7 years ahead and tell us what is going to happen to the economy with any degree of absolute certainty. The best we can do is guess. And the Congressional Budget Office numbers are better guesses than the Office of Management and Budget numbers, but they are guesses nonetheless. So, we must recognize that going in. But guesses are made and then people go ahead and do the best they can.

In the case of the business I have talked about, investors took one look at the accuracy of the guesses that were being made and they made an investment decision. They sold the stock. And the price of the stock went down.

That is the key to this whole debate, Mr. President, because up until now the market—that is, the people that do the trading on the bond market, the people that do the trading on the stock market referred to collectively as the market—has looked at the numbers and the projections, and the suggestions that have all come out of this Congress. They have bet that it is all going to work, that the Republican proposal is going to pass, that we are going to get a balanced budget, that we are going to get the benefits that the Senator from Iowa was talking about, and the stock market is up 40 percent year over year, and the bond market has seen interest rates drop 2 full points since the Republicans were elected in November of 1994.

Over the weekend when the President did not come forward with a proposal, and when the congressional leadership responded by saying there is no point in talking anymore, for the first time the signal was sent to the market that the fix might not occur. And today the stock market dropped 100 points—just as the investors could not tell with any exactness how much money the company I was talking about was going to lose but they could sure tell the trend, and sold the stock on the trend.

The market today cannot tell us with exactness what is going to happen in 7 years. But they are worried about the trend. And the trend is signs of business as usual around here, signs of solving the budget balance issue by changing the forecasts around here, signs of talking about the thing being taken care of in the outyears, and no action being taken right now around here. And they do not like it, and they are selling the stock. They are selling their investment in America because they believe for the first time that we may not be successful in our effort to get a balanced budget.

I learned in private business that the market can be ruthless. The market can be unfair. But long term the market is the best barometer of all of what is finally going to happen.

We had a serious signal today, Mr. President. The market is telling us to get our act together, and make this happen—not with phony estimates, and not with price increases that do not ever come to pass in terms of actual revenue but with firm resolve to deal with the structural costs built into our balance.

I conclude, Mr. President, with this analogy that illustrates what it is we must do. I was watching television about a week ago. There was a tribute on television to the memory of the late Jack Benny. I remember laughing at Jack Benny when I was a preteenager. Some people may not remember Jack Benny. But I remember him very, very fondly. In this tribute to Jack Benny they told a classic Jack Benny joke. Jack Benny, as you will recall, Mr. President, built his persona around his stinginess and his unwillingness to spend money.

So here is the joke. Jack Benny went in to see his doctor. And the doctor looked at the x rays and said, "Mr. Benny, you need an operation, and it is going to cost you $400." And Jack Benny responded by saying, "Doctor, for $25 can't you just touch up the x ray?"

Mr. President, that is what we are being told now. "Can't we just touch up the estimates? Can't we just touch up the forecasts, and avoid the pain of actually having to deal with the balanced budget? After all, we have been doing that for 35 years."

You can find Presidents, Republican and Democrat, all the way back to Harry Truman who have promised balanced budgets sometime, promised balanced budgets in the outyears, promised balanced budgets down the road, far enough away that, if you just touch up the estimates a little, we can convince ourselves that we do not have to do anything now.

Well, Mr. President, we do. And it is wonderful to say touch up the x ray for 25 bucks. But the underlying problem that the x ray tells us about is still there, and the operation dealing with it is still required. And if ever there was a signal coming to us as strong as anything that the retribution for our failure to act will be severe, it was in today's 100-point drop in value in the Dow as the market says for the first time we are beginning to get nervous about your willingness to do what you have said you will do.

If it is necessary for us to be here on New Year's Eve, this Senator will be here on New Year's Eve. My wife is not going to be happy to hear me say that because she is in Utah, and I am not too happy about her being there alone because she has the credit cards, and she is doing all of the shopping. But if that is what it takes, that is what we will do because the stakes are too high, and the eventual responsibility is too great for us today.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BALANCED BUDGET

Mr. KENNEDY. Mr. President, I have listened with a great deal of interest to my good friend, the distinguished Senator from Utah, and my friend from Iowa as well, talk about the challenges that we are facing on the balanced budget.

I am always mindful of the fact that under the recommendations of President Clinton in 1993 we saw an $800 billion reduction in our deficit. So we have someone who has been serious about trying to do something and has a record of achievement.

Still out there—in terms of the proposals that are advanced by our good friends and colleagues—I was listening carefully to see if they would talk about their tax cut of $245 billion and the additional kinds of costs that are going to be out there for our elderly people of $275 billion. That is still out there, and still on the table. It is a central part of the differences which are out there. The fact that there are those on the other side of the aisle that want to use those Medicare savings for tax breaks for the wealthiest individuals has been talked about. It is an issue. We do not hear a great deal of discussion about it on the Senate floor today, or this afternoon, or even by the negotiators, and the benefits that will go to the wealthiest individuals.

Also, there is a significant tax increase. We do not hear very much about that. Who is the tax increase on? It is on those workers who are making $28,000 a year or less. We hear often expressed here on the floor of the Senate by our good Republican friends saying let us get more money and put it in the pockets of the people at home who know better how to spend it than the Federal Government. I do not understand why that argument does not go for working families in this country, those that want to work and provide for their families. They have some EITC, the earned income tax credit, basically trying to help working families who are moving out of the challenges of the economic stagnation which is taking place today to help offset some of the increases in Social Security and Medicare figures—some $32 billion to $34 billion tax increase on those working families. We do not hear very much about that.

That really gets to the heart of the difference. That is, can we have a program—and I believe that we can—that will balance the budget in 7 years, and also meet the fundamental test of fairness.

As the President has pointed out, and any one of us can point out, anyone can reach a balanced budget just by slashing and cutting—cutting Medicare, cutting Social Security. Oh, yes. That is what we are doing in cutting Social Security when we talk about collapsing the COLA for our senior citizens. That is what we are talking about. We are talking about real cuts in Social Security—cutting back on the protection for children, cutting back on the nutrition program, cutting back in immunization programs, cutting back on day care programs for working families that are trying to make ends meet. This is about priorities. I think that the President has stated not just his priorities but the American people's priorities in terms of placing high on that list of priorities the interest of our seniors who receive Medicare.

Let us not forget about the average person that receives Medicare is 73 years old, more likely than not a widow, is receiving about $10,000 a year of which their health care costs are about 20 percent of that out of pocket, living alone with diabetes or arthritis and probably very cold alone over these past few weeks, when we were trying to find some release and opportunity if they are living in the colder parts of this country because of the drop in temperature and the failure of funding the fuel assistance program. Eighty percent of that fuel assistance goes to families with $10,000 a year or less in income.

That is who we are talking about. Those are real families. Those are real people. I am worried about the stock market, but, quite frankly, I am worried about the senior citizens. I am worried about the children. I am worried about the young people who want to try to go on and receive an education. I am concerned about that worker, to make sure that work is going to be respected and recognized and rewarded here in the United States. We have done that under Republicans and Democrats in the past.

Yet, we are seeing all of those interests challenged under the proposal basically, what I consider a scorched-Earth policy in terms of the Republican balanced budget amendment. I think all of us welcome the new opportunities and the new advances that the President is making. I was listening to the importance of maybe staying here New Year's Eve. Many of us were meeting all afternoon on Sunday and Saturday as well in trying to find some common ground. That is certainly what the President is interested in. We joined with him in trying to find that ground, and I think important progress has been made.

But it will be useful to find out, quite frankly, in the various actions that are taken by the majority in this Congress about how they are holding the 250,000 workers, Federal workers hostage to these negotiations. They are innocent bystanders trying to do a good day's work in servicing people in this country and yet they are the ones who are left out and left behind through no fault of their own, many of them with long and distinguished careers and a commitment to public service. They effectively are being told, no, we are going to hold them hostage until they are going to finally yield to our position.

That I think is one that the country does not find to be satisfactory. What they want is action; that is what is needed at this time, but action that is going to preserve the best of our values and priorities. And those priorities are expressed in respecting the elderly people who have made this country the great country it is.

And the principal reason for that is very simple. It is a recognition that when people get on into their golden years, their incomes are going to go down and their health needs are going to go up. It is true today. It was true in 1965 and 1964 when Democratic administrations battled for it. It is true today.

To put those seniors at risk is not in the interest of this Nation, and the budget can be balanced without doing that. We do not have to sacrifice the interests of working families by escalating their tax obligations through increased taxes in the EITC. We do not have to put at risk further the children of this Nation with the cutbacks in support programs for Head Start, the programs that reach out to the schools, that help with math and science. We do not have to cut back for the sons and daughters of working families that want to go on to their universities and schools across this country. We should not kill their hopes and dreams. We know that every dollar that is cut in education will be repaid three or four times with additional kinds of social service. We know that the best investment that this country made was in the cold war GI bill. For every dollar invested in the education of those veterans that came from all parts of the country, men and women alike, was $8 returned to the Treasury—a pretty sound investment. Nonetheless, the budget of the other side cuts those programs.

All we are saying is, sure, we can reach the common ground, but we also have to reach it in preserving the kind of priorities that the American family holds dear.

We have in the Chamber this evening, I see my friend and colleague, Senator WELLSTONE, who was really the leader in the Senate in making sure that scarce resources were advanced out to the senior citizens and needy families all over this country. I can say to him and to President Clinton that New Englanders, whether they are in Maine, New Hampshire, Vermont, Massachusetts, throughout New England, so many families tonight know they are going to have a better, warmer Christmas because of the release by the President, letting forth the low-income fuel assistance, which is of such desperate importance.

How tragic it was to be reminded just the other day, once again, in our forums that we have held on some of these cutbacks of the children. The schoolteachers testified a noticeable body-weight reduction in children happens every single year as the temperature decreases. You can almost measure the impact on children in many of the schools in the neediest parts of the country, in rural and urban areas. The weight goes down. The children are not being fed. The choice is being made at home between food on the table and heat for those children.

In the testimony by some of those wonderful teachers in a number of different schools they talked about how at this time of the year, when the cold comes, they are followed up and down the corridors, small children grabbing their hands and asking whether they have something to eat and if that individual teacher has more. They say, can you give us something more because I have a brother or sister home.

That is happening. That is happening. And we went to briefings today in terms of where the nutrition program is going. It is going down, not up. It is going to make the problem more intense, not less.

So for those who have slick, easy, quick answers for these issues, I hope they will think hard and long about these judgments and these decisions.

Finally, Mr. President, as one, like 99 others, who cares deeply about this arrangement, I am troubled by the fact that we are not having really the fair allocation of belt tightening across this country as we will see over the period of the 7 years—$400 million which is in there today, in the budget in terms of tax expenditures. Others call that corporate welfare. That will go up $4.4 trillion over the next 7 years—$4.4 trillion—and the various proposals that are going to be advanced before us are going to index that so that every single tax loophole can be preserved over that period of time.

Sure, we are going to try to find $30 or $40 billion, and that is certainly a worthwhile effort, but we are talking about $4.4 trillion. We are quite prepared to index all those tax revenues, including the billionaire's tax loophole. Those are the billionaires that renounce their citizenship so they can avoid paying taxes.

We voted on that on two different occasions with over 90 Democrats and Republicans. Pull that out of the balance. Pull that out of the budget. The door is hardly closed in that conference when they put it right back in. You wonder how we are going to do the public's business on some of this. There is no indication that they are prepared to drop that provision, no suggestion that they are prepared to try to do something about Medicare; that they are trying to do something about children; that they are trying to do something about these priorities.

So we understand the complexities and the difficulties that the President has, and he is working through those and doing it with the interests and the needs of the American people in mind. But it is one that bears careful watching and defies an easy and simple solution.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996—CONFERENCE REPORT

The Senate continued with the consideration of the bill.

Mr. KENNEDY. Mr. President, it is with great disappointment that I oppose the conference report on the Defense Authorization Act for fiscal year 1996. There are many good provisions in this bill that deserve the support of the Senate. But they are outweighed by other provisions which, if enacted, would damage American security, waste taxpayers dollars, and treat our servicemen and women unfairly.

I voted against this bill when it passed the Senate in September. We then began a conference with the House that I hoped would produce a better bill. The conference lasted over 3 months, and now it has produced an even worse bill.

One of the most serious defects in the bill is its provisions on ballistic missile defense, which would call upon the United States to violate the ABM Treaty.

A compromise on this issue was painstakingly worked out by Senators WARNER, COHEN, NUNN, and LEVIN, with broad Senate support and the approval of the administration. This was a carefully crafted compromise, and as we began the conference, Secretary Perry made clear that any substantial deviation which violates U.S. commitments under the ABM Treaty would be unacceptable. Yet the conference provision abandons that compromise.

It threatens United States security because it undermines the ABM Treaty, and because it is also likely to prevent Russian implementation of the START I Treaty, and ratification of the START II Treaty.

These treaties would reduce the number of Russian strategic nuclear weapons threatening the United States from 10,000 to 3,500. This reduction would increase U.S. security from nuclear attack to a much greater degree than the illusory security offered by the multi-billion-dollar missile defense system mandated by this legislation.

I am also concerned about several additional issues related to the shipbuilding provisions in the bill. We have examined these provisions in detail in our Seapower Subcommittee, and I believe they will cause uncertainty, inefficiency, and unnecessary expenditures in the Department's shipbuilding program.

The provisions on the development and procurement of submarines reject a sensible submarine program formulated by the Senate for the next generation new attack submarine. Instead, the bill requires the Navy to submit a new plan for submarine development and construction to build four submarines. Each one, according to the bill, is to be "more capable and more affordable" than its predecessor without further definition.

Our experience on the Seapower Subcommittee makes clear that it is a difficult feat to build a new system that is both more capable and more affordable than the preceding system. This bill calls for a plan to do that four times in 4 years with attack submarines, a very mature technology.

The bill language does not call for the Navy's report to consider the costs and risks associated with such a plan. We gain nothing if we end up with a plan for cheaper and more capable submarines, if they involve risky technologies that fail to work or, even worse, endanger the lives of our submarine personnel by reducing safety standards.

This provision also establishes a new, independent congressional panel on submarine development. On the Senate Armed Services Committee, the Seapower Subcommittee, chaired by Senator COHEN, oversees submarine development. There is no need for another panel, for more bureaucracy, for further review of an issue that is already handled very well by the Armed Services Committee.

In addition, this bill contains language that earmarks contracts for the construction of Aegis destroyers and sealift ships at specified shipyards. These provisions force the Navy to award contracts without the benefit of competition, without the ability to decide the merits of each case at the time of the award.

If there are good reasons, such as industrial base concerns for designating particular ship contracts for particular shipyards, the Navy will come to Congress and tell us what they are. But Congress should not take this action on its own without clear and compelling justification.

Mr. President, also included in this bill is the authorization of $20 million for Cyclone patrol boats. These craft were not authorized in either the House or the Senate bill. The Special Operations Forces, which use these ships, did not request them either. There is no need for them, and this authorization should not have been included.

Further, the bill prohibits the Defense Department from buying foreign produced roll-on/roll-off ships for the Ready Reserve Force. Meeting the force's requirement of five ships using upgraded foreign-built hulls will cost a total of $150 million. The cost of using domestically produced hulls will be between $1 and $1.5 billion, well beyond the amount budgeted for this purpose.

Given this massive cost differential, the choice is not merely between buying used, foreign-built ships and new, U.S.-built ships. It is also likely to be a choice between meeting our well-established lift requirements and accepting a continuing strategic sealift shortfall.

I am also concerned about the provision in this bill that relates to the health and well being of our men and women in uniform. One objectionable provision in this bill calls for the mandatory separation of service members found to be HIV-positive. This provision is an especially flagrant example of discrimination against a group of loyal service members.

The Defense Department has made clear its opposition to this requirement. It has repeatedly expressed support for its current policy, which allows service members with any disease or disability to continue to serve as long as they can fulfill their duties and pose no danger to themselves or their fellow service work members. The military has full authority to separate or retire individuals who are unfit for duty.

Individuals with other debilitating diseases, such as hepatitis, cancer, diabetes, asthma, or acute heart disease, are not automatically discharged from the service. This bill singles out only those who are HIV-positive, and there is no justification for that discrimination.

We raised this issue with the Senate conferees and asked for a vote on whether to insist on the Senate position opposing this provision but we were denied that opportunity to do so on this and many other issues.

This bill is supposed to address the defense needs of the United States. Discharging qualified service men and women from our Armed Forces simply because they are HIV-positive serves no national defense need. The Defense Department has certified this point. This blatantly discriminatory provision has no place in this bill.

The conference report also includes a provision that prohibits service women based overseas from obtaining abortions with their own private funds in U.S. military medical facilities. We have always provided this access to our service women to ensure that they have the same quality health care available to those on duty in the United States.

This prohibition discriminates against women serving their country by preventing them from exercising their constitutionally protected right to choose when they are stationed overseas. This added restriction endangers their health, since alternative local facilities in other nations are often inadequate or unavailable.

Under the bill's provision, a woman stationed overseas facing an unintended pregnancy may be forced to delay the procedure for several weeks, until she can travel to a location where adequate care is available. For each month an abortion is delayed, the risk to health increases.

As we continue to struggle over balancing the budget and meeting important national priorities, this bill provides $7 billion more for defense spending than requested by the administration for the current fiscal year.

At a time when families are going without heat in the winter because of cuts in the LIHEAP program, when aid to education is being cut, when Medicaid and Medicare are being cut in order to provide a tax break for wealthy Americans, it makes no sense to force billions of dollars more on the Pentagon than it wants or needs.

It is a bad bill. I urge the Senate to defeat it, send it back to conference, and ask the conferees to remedy these numerous and serious defects.

Mr. President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I be allowed to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Thank you, Mr. President. I shall only speak for 10 minutes.

THE BUDGET AND ENERGY ASSISTANCE FOR THE POOR AND ELDERLY

Mr. WELLSTONE. I wanted to respond to some of my colleagues that had spoken earlier, and I will try to do this in a very substantive way. When colleagues speak and then they have to leave because they have other engagements, I think what you need to do is respond but in a very civil way, because you do not really have an opportunity for the debate when we are not all on the floor at the same time.

Let me first of all thank Senator KENNEDY from Massachusetts for his kind remarks about the Low-Income Home Energy Assistance Program. I would like to thank the administration as well for releasing these funds on Sunday.

Many people called from Minnesota today. Mr. President, this is a good example of a program that really affects people's lives. It is not a lot of money nationwide for the whole country. It is about $1 billion. And for Minnesota—it is a cold weather State, I say to my colleague who is presiding from North Carolina, a little colder than North Carolina right now, though I think the Presiding Officer has some pretty chilly weather.

The problem is that for all too many people in my State, elderly, families with children, there were people who just could not afford the heat. And they have relied upon this small grant, which really was more of a survival supplement than an income supplement. It is called a cold weather lifeline program. We had situations that were being reported by the newspapers and by television, and I met with some of the families where people were trying to heat their homes by turning on their oven or people were just living in one room. It is very cold. It is about 8 degrees above zero, actually warmer today, but had been around 8 degrees above zero last weekend. Two weekends ago it was a 50-below wind chill.

So it is extremely important to get some assistance out to people. We do not want people to go cold in America. None of us does. I thank the President for releasing that money. It makes a huge difference.

Mr. President, my disagreement—and I think it is a profound disagreement—with some of my colleagues about where we are at this moment in Washington is two or threefold. First of all, the Government shutdown, I do not think it is necessary. I think it is quite independent of what decisions we make about what kind of a budget we have over the next 7 years and how we balance that budget. I mean these are big decisions. They are choices we make.

We have some real sharp differences among us. I think we should continue to negotiate. I hope we can reach agreement. But I do not think the Government should be shut down. I think that is just sort of exerting leverage at its worst, and I think a lot of innocent people are being asked to pay the price. It is inappropriate, and I hope that no later than tomorrow we will go forward with a continuing resolution and we will continue to go forward with the negotiations on how it is you balance the budget.

My second point is priorities. Talking about the energy assistance program, on the House side for the future it has been eliminated. This is the other debate. The total cost of this program to make sure people do not go cold in America is less than one B-2 bomber. The Pentagon is telling us they do not need all the B-2 bombers that have been funded over the next number of years in the Pentagon budget.

So, Mr. President, I really believe that the debate is about balancing the budget, not so much whether we should or not. I think that all of us—and there is plenty of blame to pass around if you look at how this massive debt was built up. We are not even paying the debt off, we are trying to pay the interest off on the debt. That is what we are really talking about when we talk about balancing the budget. But the real question is how do we do it and whether or not it is based upon what I would call a Minnesota standard of fairness.

Mr. President, I have to tell you, I would agree with the commentator Kevin Phillips, who two mornings ago essentially said, as I remember, that he thought that this balanced budget proposal on the part of my colleagues on the other side of the aisle actually was not a serious effort to balance the budget. It was more about tax cuts or tax giveaways for wealthy people in the main and, in addition, eviscerating, ending safety net programs in this country for the most vulnerable citizens and very good for the bondholders.

I think he is right. The reason I think Kevin Phillips is right—and I paraphrased his analysis, it is not a direct quote—is because there are all sorts of ways in which we can balance the budget, but it is interesting how much has been taken off the table. I say to people in the country who might be listening to this debate right now that when my colleagues talk about balancing the budget, one piece they leave out is the whole Pentagon budget.

Here we are in a post-cold-war period, there is no longer a Soviet Union, and we are talking about $245 billion plus for the Pentagon budget—star wars, Stealth bomber, Trident submarine, lots of money spent on military forces to protect many countries in Western Europe and in Asia.

I think that can be changed and scaled down with no threat to our national security, and it should be. As a matter of fact, the real national security of our country is not more Stealth bombers, more star wars; the real national security is jobs and adequate housing and affordable child care and decent transportation for people who live in our communities. The national security of the United States of America is the security of our local communities where people do not have to worry so much about the violence and the crime, where they have some confidence their children are going to good schools, where they can believe their children will do well economically, where they have decent jobs at decent wages, where they can look forward to a pension and, yes, where they do not have to worry about health care costs as they become elderly. That is the real national security.

There is all this money on bombers and missiles and all of the rest, no reductions in the Pentagon budget, at the same time you have these deep reductions in nutrition programs for children, for God's sake. I think the Democrats are doing too much in that area, but it is a huge difference from what I see the Republicans are doing in cuts in education and cuts in health care, whether they be Medicare or whether they be medical assistance or whether they be environmental protection.

People in our country, I think, want to see us fiscally responsible. They want to see us get serious about getting our economic act together. But there is a sense of fairness that people have in the country, and that is what is so wrong with this budget proposal that we have had before us, and that is why the President of the United States is doing exactly what he should do and which the vast majority of people want him to do. I think he commands a tremendous amount of respect for this, because what he is saying is, "There are ways to balance the budget and there are ways to balance the budget, and I am interested in doing that, and I make a commitment to doing that, but I'm not going to do it if it means hurting children; I am not going to do it if it means taking away the quality of health care for elderly people; I'm not going to do it if it means we are moving away from a commitment we made as a national community to make sure there is care for the elderly or disabled or those people in nursing homes; I am not moving away from protection of the environment; and I am not moving away from the earned income tax credit which has been so important in encouraging families with incomes under $28,000 a year to work and provides people with incentives to work."

He is on the mark.

I just say to the Chair, and I say to my colleagues, if you want to balance the budget, you have to do it based on some standard of fairness. You cannot target so many of the cuts at working families, middle-income people, low-income people and, at the same time, have so many of these multinational corporations and the most wealthy citizens and the military contractors all essentially not asked to tighten their belts. It makes no sense by any standard of fairness, which I think the vast majority of people in this country are committed to. That is what this debate is all about.

Mr. President, I could go on and on. I will not. I just simply wanted to, as long as we are having some discussion tonight on the floor of the Senate, inject a somewhat different perspective than the ones I heard from some of my friends on the other side of the aisle. I guess if I had a Hanukkah wish, being an American Jew and Hanukkah started last night, if I had a Hanukkah wish, much less Christmas wish, it would be that we tomorrow reach an agreement that there will be a continuing resolution, the Government will not be shut down. We should not have people who are really worried about being able to make a living not being able to work.

We, of course, are involved in negotiations in good faith. We are not going to resolve these major questions in the next 3 days, but we will resolve these questions, hopefully, over the next month. I think we have to be involved in serious negotiations, substantive negotiations and good-faith negotiations, and if the differences are irreconcilable, then I suppose those differences and what people think about the position we take, as opposed to my colleagues on the other side of the aisle, the differences between President Clinton and Speaker NEWT GINGRICH will be resolved in the election.

But I do not think we should continue to hold a lot of people hostage. I do not think we should continue to make a lot of innocent people pay the price.

So my hope is that tomorrow there is no more Government shutdown; that tomorrow we look forward to substantive negotiations in good faith, honest debate, not hate, with civility, trying to reach an agreement. These are big decisions we are going to make that are going to affect our country going into the next century. We ought to do it thoughtfully, carefully, and if we can reach an agreement in January, great, and if we cannot reach an agreement, then maybe, in fact, the differences are irreconcilable. Then the people of the country can make the decision. That is the way it is supposed to be in a democracy.

Happy Hanukkah, Merry Christmas. I hope we soon get home to be with our loved ones. I yield the floor.

Mr. REID. Mr. President, I see on the floor the esteemed senior Senator from Rhode Island. I will be happy to yield to my senior colleague if he wishes to speak. I am going to take 15 or 20 minutes.

Mr. PELL. I thank my friend very much.

The PRESIDING OFFICER. The Senator from Rhode Island.

THE BUDGET IMPASSE

Mr. PELL. Mr. President, I do not believe there is justification for the partial shutdown of the Federal Government. It is really occurring only because of a widely perceived and grossly exaggerated assumption that the long-term Federal budget must be concluded in the same timeframe as the annual appropriations bills.

There is no real basis for a linkage between the two beyond the budget for the current fiscal year. The fact that there is an assumption of linkage beyond that point is, at best, an artful strategy or, at worst, a hoax on the public and on our democratic Government. Appropriations and reconciliation are two completely different processes.

On the one hand, it is notable that significant agreement already has been reached on a great many major reductions in Government expenditures in the 13 major appropriations bills that have been or are being processed. But they are all badly behind schedule, through no fault of our President, and six of them are heavily burdened by extraneous provisions dealing with matters like striker replacement and the abortion issue—matters that should be addressed in separate legislation on their own merits. And now the passage of interim spending authority has been arbitrarily made a condition of budget reconciliation.

But the reconciliation process is an entirely separate matter. Unlike the appropriations process, the failure of which leads to a cutoff of current funding, the reconciliation process is not driven by immediate need. Absent passage of a reconciliation bill, current law stands. The Government continues to operate at existing levels until reasonable agreement can be reached about changed priorities and a new level of commitment.

That the two processes were declared to be compressed into the same timeframe is simply a transparent device to force acceptance of policy choices that are not in accord with the priorities of the American people or the President.

The second continuing resolution passed in November tightened the time frame by specifying that a 7-year balanced budget plan should be enacted in the first session of this Congress, which presumably ends January 2. But the remaining period of 2 weeks includes the traditional holiday season and it seems to me that any comprehensive solution forced this week would inevitably be flawed by haste.

Mr. President, the time for budgetary hostage-taking is over. The country will not stand for it and both parties put themselves at risk of public rejection because of what appears to be petty and small-minded squabbling.

As I see it, the solution must come in two separate steps:

First, the appropriations process must be concluded without any further delay. All remaining bills should be sent to the President forthwith in whatever form a majority can approve. Vetoed bills should be returned promptly so that revised versions can be enacted. A realistic continuing resolution should be passed providing funding authority at least until January 12 to allow for the process of revising and repassing vetoed legislation.

Second, separately, the terms of the second continuing resolution must be modified to provide for an expanded time frame for reconciliation extending into the second session. The President is entitled to adequate opportunity to secure the best budget he can obtain that will reflect his highest priorities, while still honoring those of the congressional majority. As a practical matter, it will be necessary to reach closure on at least the first stages of a long range budget by the statutory date for presentation of the fiscal year 1997 budget by the first Monday in February.

Mr. President, I offer these views from a vantage point of some detachment. I have not endorsed the idea of a balanced budget and I do not subscribe to the mantra that it should be achieved in the arbitrary timeframe of 7 years.

I do believe we should curb deficit spending, and that includes borrowing to pay for a tax cut. And I do not believe the agenda of the United States should be set by a willful subgroup of the House majority.

Clearly, we all are going to have to give ground. We in the minority, for example, must acknowledge more candidly the need for constraints on the Federal medical programs. The majority must relent their drive to curtail great advances we have made in social legislation, particularly education. And both sides, I believe, must acknowledge the patent futility of cutting taxes at the very time we seek to curtail deficits.

Tax cuts must be deferred for the present, even if it means a delay in more favorable treatment for capital gains, and I support more favorable treatment for capital gains.

I think the image that the country has of us is that of children squabbling. I hope the sooner we can get down to business and reach a compromise, the better off we are. Plus the Government only moves when there is compromise. And in this case we are denying it the opportunity to work.

Mr. President, I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Nevada.

THE BUDGET IMPASSE

Mr. REID. Mr. President, I was asked by our floor leader, Senator DORGAN, to come to the floor and offer my views on what is going on with the impasse now facing us.

First, I think it is important to recognize how well the country is doing. We tend to hear so much negativism about our country. The fact of the matter is that our country is doing remarkably well economically. Why do I say that? We have had the lowest inflation and unemployment in some 40 years. Mr. President, we have had corporate profits that have never been higher. They have sometimes been as high, but never higher. We have economic growth that is as good as it has been since the days of John Kennedy. The stock market has been going up significantly. There have been some people crying out that it went down today. Well, there have been adjustments coming. Any stock forecaster would tell you that there would be adjustments. It happens toward the end of the year every year. With this remarkable climb we have had in the stock market, it is not unexpected.

I also say, Mr. President, that we have heard a lot in years gone by about Government being too big. I think those of us in this Chamber would acknowledge that Government has gotten too big. But what has happened in the last 2½ years? We have 175,000 fewer Federal employees today than we had 2½ years ago, excluding the military. I think that is pretty good. I think it speaks well of what has happened in this Government and in this country in the last several years. Now, we have not done enough, but let us talk about the good things that are happening in the country.

This economy is on fire. It is doing great. What about the so-called CR, the continuing resolution? It is something the American public hears all the time. Why are we talking about a CR, a continuing resolution? We are talking about a continuing resolution because, each year, by the first of October, we have 13 appropriations bills we are supposed to pass. It takes 13 appropriations bills to allow our Government to function during the year. We have a yearly appropriation for those 13 different subcommittees. Well, this year, we did not do our work. I say, respectfully, that it is the Republican leadership in the House and the Senate that has not allowed the bills to pass.

The last time we had a Government shutdown, 26 days ago, 850,000 people were out of work. We were able to pass, since then, a number of bills, especially the Defense appropriations bill. As a result of that, we have approximately 500,000 fewer employees that are subject to being furloughed now than we did then. I wish the 250,000 did not have to be, and they should not be. But it is the result of the appropriations bills not passing. It has nothing to do with a balanced budget. It has nothing to do with increased taxes or lower taxes. It has to do with the fact that this body and the other body—the House and the Senate—have not done their work. We are at this budget impasse now as a result of the appropriations bills not having been passed.

Much of the rhetoric, Mr. President, has focused on who gets what and why do they get it? I think we need to look at what Kevin Phillips said, who is a Republican political analyst. He said a number of things, but about 6 weeks ago, he said this, and it was at the time this budget fiasco was very heated:

> Spending on Government programs, from Medicare and education to home heating oil assistance, is to be reduced in ways that principally burden the poor and the middle class, while simultaneously taxes are to be cut in ways that predominantly benefit the top one or two percent of Americans.

This is not something that some wild-eyed liberal Democrat said. This is not something any Democrat said. This is a Republican, who is noted in Washington for being hard on Democrats when necessary, and hard on Republicans when he feels it is appropriate. With this budget battle that is going on, he feels it is appropriate to lay the cards out where they exist. Who benefits from the budget proposal the Republicans have given us? The top 1 or 2 percent of Americans. Who is burdened? The middle class and the poor.

Much of the rhetoric, as I have indicated in the debate over the budget, has focused on numbers: OMB versus CBO. What I would like to talk tonight about is not Medicaid, even though there is certainly room to talk about that. I am not going to talk about education and how my senior colleague, who just left the room, has done as much as any person who ever served in the Legislature on a national basis to direct attention to education, or how the programs the Republican leadership have given us affects education negatively. I am not going to talk about that at any length tonight. I am going to talk, Mr. President, about Medicare and how important Medicare is.

The budget we have been given from the Republican leadership says they want to cut $270 billion. That is the bill the President vetoed—$270 billion in Medicare cuts. I think it is interesting to note—and I do not think it is coincidental—that we have $270 billion in Medicare cuts and $245 billion approximately in tax cuts. Who do those tax cuts benefit? The top 1 or 2 percent of Americans. We need to eliminate the deficit. There is no question about that. We need to eliminate the deficits and, I think, do something about the debt, the $5 trillion that has accumulated. I do not think we can rest on our laurels, that there has been general agreement to balance the budget in 7 years because, by then, we will have another $1.5 trillion in debt that we are going to have to pass on to my grandchildren and their children. I hope, Mr. President, that we will be concerned about not the deficit—as we should be—but how about being concerned about the debt, the $5 trillion that we owe?

It is easy to debate these numbers, the deficit, which we continually talk about, and ignore the debt. I would rather, instead of having $245 billion in tax cuts, which help the top 1 or 2 percent of Americans, we take that money and apply it toward the debt, the accumulated $5 trillion. That would make a significant dent in the debt—$245 billion.

What is often missing from the debate when we talk about all these numbers, Mr. President, is the policy argument. What are the policy ramifications of what each side is attempting to do? Will the decisions we reach today affect all Americans tomorrow? If so, in what way will these decisions be felt by the American public? It is this often unspoken question we fail to communicate in our efforts to assemble a balanced budget plan.

Both sides are in agreement about achieving a balanced budget. You cannot debate that now. There are very few who say we should not have a balanced budget. The vast majority of Democrats and Republicans agree on a balanced budget. They have agreed on a time certain—a date. Great strides have been made in that regard.

The budget debate really centers on the priorities that matter in getting the budget to a balance. Again, Mr. President, I was unable to put this on a chart, but Kevin Phillips, on public radio, on the 14th said:

> The Republicans in Congress are back with a foolproof guaranteed deficit elimination scheme in which the deficit will shrink from roughly $200 billion in 1996 to nothing, zero, in 2002. The other zero in this equation, I am sorry to say, is the IQ of anybody who believes it. Since the Republicans started producing deficit elimination charts in the early 1980's, their three real goals have been very different. The first has been to cut taxes for the constituencies and avoid new taxes; the second has been to shrink the role of government and the safety net; and the third has been to help the stock and bond markets.
>
> These parts, at least, have worked. The tax rates have come down. The rich have gotten richer and the Dow Jones Industrial Average jumped from under 1,000 to over 5,000. Deficit reduction isn't the real goal. Most of the time it has been a slogan for one of the biggest economic con games of the late 20th century United States.

I repeat, "Deficit reduction isn't the real goal. Most of the time it has been a slogan for one of the biggest economic con games of the late 20th century United States."

So we will talk a little bit about policy here tonight. We will talk about how we need to be concerned about Medicare. I can defend Medicare. The first elected job I had was to represent the then largest hospital board in Nevada, Clark County, where Las Vegas is located.

During the time I served on the hospital board, Medicare came into being. The first period of time I served on the hospital board, when somebody came to that county institution and they were brought by their son or their daughter or their husband or their wife or a neighbor, they had to sign that they would be responsible for that hospital and doctor bill. When you brought your mother or your father or your husband or your wife to that hospital and you did not pay, we had a collection department that went out after you and sued you. You brought your sick mother or father or husband or wife to that hospital, you paid.

Prior to 1960, less than 40 percent of the American public, of senior citizens, had any kind of health insurance. Now, 99 percent of senior citizens have health insurance. We made great strides during that period of time.

I feel the program called Medicare should be defended. I know it has some warts on it that we need to have a cosmetologist take care of. I am willing to do that. I know thousands and thousands of Nevadans who rely almost exclusively on this program as a means of living.

Mr. President, 30 years ago when I served on the hospital board and I had just left back here—I worked as a Capitol policeman, went to law school back here—when I left here, almost as soon as I left, Congress passed Medicare. The Democrats passed it. The Republicans, Mr. President, opposed it. They opposed its creation 30 years ago.

The idea was simple: Create a program for senior citizens to have quality medical care while ensuring that seniors have financial stability through their retiring years. Very simple idea, not very complex. We needed a program that would allow seniors to have good medical care. It sought to avoid the situation where if you brought in somebody and they could not pay then, you sued them. That is not appropriate.

Yet the fervor with which this simple idea was opposed by certain people was significant, some say unprecedented. It is because of the majority party's historic opposition to Medicare that many in this country today are skeptical of their efforts now to say, "We want to reform the program." If I have heard it once I heard it a hundred times, my friends on the other side of the aisle saying, "We are not cutting Medicare; we are only cutting the rate of growth of Medicare."

What they fail to acknowledge is that we have an aging population. Significant numbers of new people come on Medicare every day, and in addition to having an aging population we have rapidly increased health care costs.

Now, we have a health care crisis in this country today. No question about it. We had it last year. We tried to do something about it last year. We were stopped from doing it principally by the health insurance industry, but we were stopped from doing it.

Now we have people saying we have a health care crisis. I acknowledge that. Remember last year when we talked about managed care and people walked in here from the other side of the aisle saying managed care takes away choice. Well, I think some of the suggestions from my friends on the other side of the aisle about doing managed care with Medicare is a good idea. It was a good idea last year and is a good idea this year. I think we cannot have the sole burden of reducing health care costs on the backs of senior citizens.

I ask rhetorically to my friends on the other side, if you were so opposed to Medicare then, why should the American public believe you are interested in saving it now? If you look at some of the rhetoric, it makes a person wonder. Just last October—that is just a few weeks ago—the Speaker of the House of Representatives, NEWT GINGRICH, was quoted as saying:

> Now let me talk about Medicare. We don't get rid of it in round one because we don't think that would be politically smart and we don't think that's the right way to go through a transition, but we believe it's going to wither on the vine because we think people will leave it voluntarily.

The 24th day of October, 1995, is when he said that.

Now, I ask my peers, who is not bargaining in good faith? People who think that Medicare is going to wither on the vine?

I think Medicare is worth defending. I think it should be worth defending for lots of people, because it works. Look at the differences between 1964 and 1965 and now and you will reach the same conclusion. In 1995, it is taken as a given that elderly are more financially secure. They live longer and enjoy greater access to health care in their golden years. This is not because of tax breaks they earned during their lifetimes or because of market forces. Rather, it is attributable to the successful programs such as Medicare that we have passed in this and the other body. Since its inception about 30 years ago, Medicare has extended the life expectancy of senior citizens and improved their quality of life.

Remember, all we want to do with Medicare is allow senior citizens to have health care available to them, but quality health care and at a cost that would not devastate them. Since its inception Medicare has both extended the life expectancies of seniors and improved their quality of life. I will debate that with anyone, any time.

What about the specifics? Because of Medicare, and Medicare principally, we have made significant advances on cataract removal. We can all remember years ago when someone had cataract surgery, they were hospitalized. It was serious surgery. Now they do it in outpatient. Why? Because of Medicare. They have done so many cataract surgeries now they have it down to a very specific science, and they do it quickly. They do it with implants and all kinds of things that would not have been thought of 10 or 20 years ago. Joint replacement, cardiac bypass, heart surgery, these are some of the advances made principally because of Medicare. Because of the funding of Medicare, seniors do not have to break the bank to pay for these procedures.

In 1965, 28.5 percent of senior citizens lived below the poverty line. In 1995, just less than half that, 12.9 percent live below the poverty line.

We must in this country be doing something right. Why do we have all the doomsayers, all the people talking about how bad we are? The economy is doing well. Seniors are not as much in poverty as they used to be. Does this mean that Medicare is untouchable? Of course not. We need to address the problems in a responsible manner. But let us address them keeping in mind this truth. This Federal initiative—Medicare was a Federal initiative—is accomplishing the simple goal it was designed to achieve, improving the lives of old people in America, of senior citizens in America.

It is true that Medicare costs more today than it did in 1965. But it is true of all health insurance. Mr. President, maybe we in this world of political correctness develop terms of art that do not focus on the problem. My grandmother lived alone. Her husband died, my grandfather who I never knew. But I knew my grandmother. She was so proud of the fact that she got an old age pension check every month—that is what she called it, "old age pension check"—because it gave her dignity and independence.

That is why seniors are better off than they used to be—because they have the ability to be independent and have dignity through Medicare, through the Social Security check that my grandmother referred to as an "old age pension check." Those kinds of things have made it better for people who are in their golden years in America today.

Medicare costs more today than it did in 1965. I repeat that is true of all health insurance. Increasing knowledge of diseases and causes, and the technological advances have transformed the care that all insurers provide. Health care today is much more effective and, of course, more expensive. I acknowledge that. Health care today is a very technical procedure that affects all Americans. I remind everyone that privatization is something we need to look to. But Medicare costs have not increased as much as health care costs in the private sector.

So those that push privatization—which we all do—should understand that Medicare costs are behind the costs of medicine in the private sector.

I do not see how you can say that taking an arbitrary figure like $270 billion is going to protect Medicare from bankruptcy.

I have also heard so many times that trustees say if we do not put some more money into Medicare it is going to go broke. Twenty-five out of twenty-seven years Medicare has been in existence they have said the same thing. Medicare is a program that has been a pay-as-you-go program. Of course, the trustees have acknowledged the fact that we have to figure out better ways to fund and figure out ways to cut expenses in Medicare. But to have the statement made on and on and continually and over and over that the trustees say it is going to go broke as if it is some new revelation—they have been saying this from the very beginning, and what do we do? We fix it every time as we will this time.

We also hear a lot, Mr. President, that $270 billion is going to protect it. It is not. That is an arbitrary figure, in my opinion, made only to take care of the tax breaks for the 1 or 2 percent of Americans who will get most of the benefit. About two-thirds of the projected savings would come from reduced payments to hospitals, nursing homes, and physicians without any basic change in the system responsible for rising costs.

That does not sound to me that we are reforming Medicare and strengthening Medicare. This does not sound like reform. It sounds like, if anything, that it would improve the delivery of health care for the elderly; that is, cut payments to hospitals, nursing homes, and physicians without any basic change in the system. Indeed, the policy ramifications of this proposal might well undermine the quality of services, threaten the economic stability of providers, and reduce the availability of services.

Another 20 to 25 percent of the proposed savings to the Government from the program which the President vetoed would come from increased payments by beneficiaries. Having beneficiaries pay more can hardly be called a strengthening of Medicare. This is particularly true since average out-of-pocket costs for beneficiaries have been steadily rising, and would grow even more with this plan. It is important to read beyond the rhetoric, over the numbers, and beyond the smoke and mirrors. The proposal that was vetoed by the President had real life consequences for lots of people.

So, Mr. President, when we hear a lot of rhetoric about returning to the good old days, I am not sure senior citizens want a return to the good old days. I think they are happier with Medicare, and with a Social Security check coming in on a monthly basis. Remember: The Social Security checks they get are not welfare. That is money that is paid into a fund by employers and employees.

So I suggest that we have experienced a lot of good since the creation of some of these programs, and since they were initially debated. By most measures, the United States in 1995 is a dramatically better place to live than it was in 1965 if you are a senior citizen.

Of course, we have to do something about the crime that ravages senior citizens—violent crime, crimes involving telemarketing, and other things like that. We have to do a better job there. But as far as economic safety, security, 1995 for senior citizens is much better than 1965. The economy is more than twice as large in terms of real dollars. Poverty has declined in the senior population despite a larger population.

There are other good things that have happened. Twenty-five years ago the Cuyahoga River caught fire. A river in Ohio started burning. It was then determined that maybe we should do something about cleaning up our rivers and streams. The Clean Water Act was passed 25 years ago. What do we have now? We have greatly improved water. At the time the Cuyahoga River caught fire about 80 percent of the rivers and streams in this country were polluted. Now those figures have almost reversed. We do not have 80 percent of our rivers and streams polluted now. We have a little over 20 percent. We have made dramatic strides in clean water.

Clean air—even though we have millions of more cars on the road today than we had 25 years ago, because of the Clean Air Act our air is cleaner than it was 25 years ago. Scientific advances have allowed us to do that. Most people are healthier, living longer, and most jobs are less dangerous. Most discrimination has ended, especially formal discrimination. Education levels are at an all-time high even though our education system needs a lot more work done on it. I acknowledge that. But, Mr. President, out of the 141 top universities in the world, the United States has 129 out of 141. Our higher education is not touched by any other country. We need a lot of work with our elementary and secondary schools. Of course, we do. That is why we need to be putting more money in instead of less.

Personal freedom has been improved in modern-day America more than it was in the past. In fact, personal freedom has never been greater than it is today. Once reserved for the very rich, air travel have become commonplace.

I believe we are overlooking the reasons why the final decision of balancing the budget has to be thought out and thought out well. There are programs and laws that improve lives, and they are worthy of defending as a matter of principle. It is not just about policy and numbers. It is about people. That is what this debate is about. The decisions we reach in the next few days, the next few weeks, and the next few months will have lasting consequence on all of us.

I close by referring to a Republican who said, "Spending on Government programs, from Medicare and education, to home heating oil assistance, is to be reduced in ways that is principally a burden to the poor and the middle class"—"talking about the bill the President vetoed"—while simultaneously taxes are to be cut in ways that predominantly benefit the top one or two percent of Americans."

So I say to those within the sound of my voice, the debate, Mr. President, is a debate on the difference between right and wrong. We feel we are on the right side of the issue and that we have to stand up for principle.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MACK. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HUTCHISON). Without objection, it is so ordered.

MORNING BUSINESS

Mr. MACK. Madam President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO RETIRING SENATOR NANCY LANDON KASSEBAUM

Mr. DODD. Madam President, expectations and reality are rarely one and the same. So when our colleague from the State of Kansas, Senator KASSEBAUM, says she never expected to be here in the U.S. Senate, it is not surprising that this is where she ended up. But very true to all expectations, Madam President, Senator KASSEBAUM has distinguished herself as one of this institution's best and brightest. So it is with reluctance that I rise to bid farewell to my dear friend and respected colleague.

Senator KASSEBAUM has graced the Halls of the U.S. Senate every single day of the almost 18 years she has spent here. Never partisan and always fair, her leadership of the Committee on Labor and Human Resources is exemplary, and it is a joy to serve with her on that body as well as on the Committee on Foreign Relations. Indeed, she has helped to keep the Senate's spirit of civility alive.

A leader, independent thinker, and mediator, Senator KASSEBAUM's record of accomplishment is lengthy and impressive. Aside from being the first female chair of a major committee in 40 years, she has managed to write a health insurance reform bill that has drawn Labor and Human Resources Committee consensus around this difficult and often controversial issue. She has been indispensable in reauthorizing the Ryan White Care Act, a program of great importance to the State of Connecticut, and has been a valuable supporter of the Head Start Program.

But Senator KASSEBAUM's accomplishments have improved the lives of those well beyond United States shores. As a member of the Committee on Foreign Relations, she was invaluable in facilitating Central American peace initiatives and in finding political solutions to the conflict in El Salvador. And as chairwoman of the Subcommittee on African Affairs, she fought to bring an end to South African apartheid by supporting sanctions against that nation; she then facilitated their repeal upon the election of President Nelson Mandela.

And at home in Kansas, Madam President, Senator KASSEBAUM's constituents love her just as much as her Senate colleagues. Her overwhelming support at the polls—76 percent in 1984, and 74 percent in 1990—reflects Kansans' deep appreciation of her commitment to them. She has never wavered from the value her father instilled in her: that her roots were always in Kansas.

Madam President, both Senator KASSEBAUM and I are the children of public servants whose interest in politics and government service was nourished throughout our childhoods. To walk alongside Senator KASSEBAUM as both of us follow in our fathers' footsteps has fostered a special bond between us. We have served together on two committees, and have worked as trusted partners on many important issues. And I realize how fulfilling it must be for her, as she leaves this body, to know that she has made her father proud.

Senator KASSEBAUM is a noble servant of Kansans and all Americans, a cherished friend, and a beloved colleague whom I greatly admire. I will be sorry to see her leave the Senate, but I am confident that her spirit will endure. I wish her the very best as she approaches her retirement, and look forward to serving this last year with her.

TRIBUTE TO A MAN OF GREAT CONSCIENCE, RETIRING SENATOR MARK HATFIELD

Mr. DODD. Madam President, Senator HATFIELD's recent announcement that he would be leaving the U.S. Senate left me disappointed, for his departure from this body will mean the loss of yet another of the Senate's most honorable Members. For five terms, Senator HATFIELD has elevated the caliber of this Chamber's debate, frequently taking lonely stands in the process.

Voting one's conscience often requires courage. Senator HATFIELD has never wavered in his devotion to what he believes is just, and he has always done right by the good people of Oregon.

Madam President, no one in this body has been a greater crusader for peace than MARK HATFIELD. A devout pacifist since the beginning of his political career, Senator HATFIELD opposed President Johnson's Vietnam policy, and more than 20 years later was one of only two Republicans to vote against United States military involvement in the Persian Gulf. He opposes nuclear testing and an extensive military buildup, and authored the 1992 nuclear test ban law that is now regarded as an important standard for U.S. conduct on nuclear issues.

More recently, Senator HATFIELD was the sole Republican to vote against the balanced budget amendment, and he would have paid dearly for that stand had the concept of respect for one's conscience not prevailed.

Senator HATFIELD's constituents respect his principles just as much as his colleagues, which is perhaps why Governor Kitzhaber said Senator HATFIELD has achieved "what may be the single greatest public career in Oregon's history." Senator HATFIELD has never lost an election. Oregonians have continually returned their Senator to office not only because of his righteousness, but also because of his commitment to them and their values. As chairman of the Appropriations Committee, Senator HATFIELD has seen to it that Oregon's pristine parks and clean coastlines have the means to stay that way, while other public projects such as hospitals, research centers, and roads help to ensure health of the State's citizens and the vibrancy of the State's economy. And as one of this body's true moderates, Senator HATFIELD has also supported gun control and motor-voter initiatives, while opposing President Reagan's unwise tax cuts.

Madam President, Senator HATFIELD is an outstanding Member of this body whose sincerity and strength of character should be emulated by all Americans. Widely respected for his independence and well-liked for his loyal friendship, Senator HATFIELD will be sorely missed. I wish him all the best in his retirement.

HONORING AN ESTEEMED COLLEAGUE

Mr. DODD. Madam President, amidst a very busy, occasionally frantic session, as we struggle for sometimes small, perhaps fleeting victories, it is important that we not ignore those losses that are permanent and personal. A close friend and a fine legislator announced last month that he will be leaving us at the end of this Congress, and I would like to take this opportunity to pay him part of the tribute that he deserves.

Madam President, I know something about following in the footsteps of one's own father in this Chamber. The U.S. Congress held not only a set of expectations for Senator SIMPSON, but also a legacy. It was a legacy that came not just from former Senator Milward Simpson, but from a long lineage of Simpsons dating back to the 19th century. Senator SIMPSON's ancestors were among the pioneers of the State of Wyoming, and were part of the effort that turned a beautiful stretch of American frontier into a great American State. This spirit—one of perseverance, integrity, and hard work—was the legacy that was left to Senator SIMPSON. It was a legacy that he embraced and nurtured, while simultaneously carving for himself an identity and a presence in the Senate all his own.

It is easy to stand up here and honor a colleague by listing a litany of legislative achievements. It is much harder to try to pay tribute by attempting to evoke the humor and the wit that were the hallmark of Senator SIMPSON's career. I am afraid I am not up to the task, Madam President. But those who know the Senator remember the humor that he brought to a too often humorless place. Indeed, many of us were the victims of his good-natured joshing on numerous occasions. He was disarming with his charm, and his quick wit won him many small battles, while averting many larger ones. Suffice it to say, on the subject of Senator SIMPSON's humor, that many of us, before we came to Washington and encountered the acerbic tongue of the 6′7″ Senator from Wyoming, had no idea what or where a gazoo was.

It must have been that pioneering spirit that made Senator SIMPSON gravitate toward some of the toughest legislative assignments in this body. He quickly took on one of our Nation's thorniest policy areas, immigration reform, and, through dogged perseverance, determination, and a keen sense of when and how to compromise, he pushed through the legislation that has become the foundation of our Nation's immigration policy ever since.

The bill that eventually passed was a tribute to our policymaking process here in Congress. It marked a strengthening of U.S. immigration policy, but also showed sensitivity to the serious concerns of some very thoughtful people. It tempered a toughening of border patrols with amnesty for illegal aliens who arrived in this country through the early 1980's. It balanced sanctions against employers who hired illegal aliens with provisions to protect legal aliens and citizens from unfair discrimination. It took him 6 years to do it, and I know that it was at times a frustrating march. It was an effort that other legislators might have given up, and left to another leader, or another time. But he persisted, and the bill that was passed in 1986, after 6 years of hard work and compromise, stands as a heartening example of how a political system too often accused of gridlock and obstruction can succeed when the right leader tempers determination with cooperation.

He hardly slowed down from there, however, continuing to take on some of the most sensitive issues, impressing even his opponents with his honesty and courage. He spoke to a group of Vietnam veterans, and frankly told them of his reservations about compensation for veterans who claimed to have been injured due to their exposure to chemicals during the war. He simply had not seen adequate proof that their injuries were caused by their wartime experiences, he explained. The audience disagreed with him, but they respected his honesty and forthrightness in explaining his views. At the conclusion of his speech, he received a standing ovation.

In announcing his retirement, Senator SIMPSON said that, when he began his work in the Senate, he promised the voters two things, and two things only. First, that he would work very hard, and second, that he would try to make them very proud. Madam President, it takes honesty and courage to be so frank in what one promises, and it takes hard work and perseverance to make good on those promises. Senator SIMPSON exhibited all of those qualities, and he will be long remembered for them.

Senator SIMPSON also told us that he is leaving this Chamber because he no longer feels the same "fire in the belly." I am disappointed to hear that, but I have very little doubt that whatever he chooses to do upon leaving us, the fire in his belly will soon be rekindled, and the flames will fuel his passion, and we will all be touched by his energy. I thank him, and I wish him the best of luck.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

MESSAGES FROM THE HOUSE

At 3:45 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 33. An act to transfer the Fish Farming Experimental Laboratory in Stuttgart, Arkansas, to the Department of Agriculture, and for other purposes.

H.R. 394. An act to amend title 4 of the United States Code to limit State taxation of certain pension income.

H.R. 1718. An act to designate the United States courthouse located at 197 South Main Street in Wilkes-Barre, Pennsylvania, as the "Max Rosenn United States Courthouse."

H.R. 1878. An act to extend for 4 years the period of applicability of enrollment mix requirement to certain health maintenance organizations providing services under Dayton Area Health Plan.

H.R. 2061. An act to designate the Federal building located at 1550 Dewey Avenue, Baker City, Oregon, as the "David J. Wheeler Federal Building."

H.R. 2111. An act to designate the Federal building at 1221 Nevin Avenue in Richmond, California, as the "Frank Hagel Federal Building."

H.R. 2415. An act to designate the United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Ysleta in El Paso, Texas, as the "Timothy C. McCaghren Customs Administrative Building."

H.R. 2481. An act to designate the Federal Triangle Project under construction at 14th Street and Pennsylvania Avenue, Northwest, in the District of Columbia, as the "Ronald Reagan Building and International Trade Center."

H.R. 2504. An act to designate the Federal Building located at the corner of Patton Avenue and Otis Street, and the United States Courthouse located on Otis Street, in Asheville, North Carolina, as the "Veach-Baley Federal Complex."

H.R. 2547. An act to designate the United States courthouse located at 800 Market Street in Knoxville, Tennessee, as the "Howard H. Baker, Jr. United States Courthouse."

H.R. 2556. An act to redesignate the Federal building located at 345 Middlefield Road in Menlo Park, California, and known as the Earth Sciences and Library Building, as the "Vincent E. McKelvey Federal Building."

H.R. 2689. A act to designate the United States Courthouse located at 301 West Main

Street in Benton, Illinois, as the "James L. Foreman United States Courthouse."

The message also announced that the House has also passed the following bills, without amendment:

S. 369. An act to designate the Federal Courthouse in Decatur, Alabama, as the "Seybourn H. Lynne Federal Courthouse", and for other purposes.

S. 965. An act to designate the United States Courthouse for the Eastern District of Virginia in Alexandria, Virginia, as the "Albert V. Bryan United States Courthouse."

S. 1465. An act to extend au pair programs.

The message further announced that the House agree to the amendment of the Senate to the bill (H.R. 660) to amend the Fair Housing Act to modify the exemption from certain familial status discrimination prohibitions granted to housing for older person.

At 6:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 132. Joint Resolution affirming that budget negotiations shall be based on the most recent technical and economic assumptions of the Congressional Budget Office and shall achieve a balanced budget by fiscal year 2002 based on those assumptions.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 33. An act to transfer the Fish Farming Experimental Laboratory in Stuttgart, Arkansas, to the Department of Agriculture, and for other purposes; to the Committee on Environment and Public Works.

H.R. 394. An act to amend title 4 of the United States Code to limit State taxation of certain pension income; to the Committee on Finance.

H.R. 1718. An act to designate the United States courthouse located at 197 South Main Street in Wilkes-Barre, Pennsylvania, as the "Max Rosenn United States Courthouse"; to the Committee on Environment and Public Works.

H.R. 1878. An act to extend for 4 years the period of applicability of enrollment mix requirement to certain health maintenance organizations providing services under Dayton Area Health Plan; to the Committee on Finance.

H.R. 2061. An act to designate the Federal building located at 1550 Dewey Avenue, Baker City, Oregon, as the "David J. Wheeler Federal Building"; to the Committee on Environment and Public Works.

H.R. 2111. An act to designate the Federal building at 1221 Nevin Avenue in Richmond, California, as the "Frank Hagel Federal Building"; to the Committee on Environment and Public Works.

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H.R. 2689. A bill to designate the United States Courthouse located at 301 West Main Street in Benton, Illinois, as the "James L. Foreman United States Courthouse"; to the Committee on Environment and Public Works.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Tommy Edward Jewell, III, of New Mexico, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1995.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NICKLES:

S. 1484. A bill to enforce the public debt limit and to protect the social security trust funds and other Federal trust funds and accounts invested in public debt obligations; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NICKLES:

S. 1484. A bill to enforce the public debt limit and to protect the social security trust funds and other Federal trust funds and accounts invested in public debt obligations; to the Committee on Finance.

THE FEDERAL TRUST FUND BENEFICIARY PROTECTION ACT

Mr. NICKLES. Mr. President, 4 weeks ago tomorrow, the President signed a bill into law, the continuing resolution, that stated he would agree to a balanced budget in 7 years using Congressional Budget Office figures, which protected his priorities. That bill passed both Houses of Congress and was signed by the President of the United States.

Unfortunately, that happened 4 weeks ago, but the President has not complied with the law. He has not done what he said he was going to do. I find that to be particularly upsetting, and frustrating because the President has not done what he said he was going to do.

I have been one of the budget negotiators. I sat in on very long meetings, very unfruitful meetings where we asked time and time again for the President's representatives to submit a budget that would comply with the law.

Last Friday, President Clinton's negotiators submitted their fourth budget of the year, the second since signing the continuing resolution 4 weeks ago. The fourth budget did not come close to balancing using Congressional Budget Office numbers. As a matter of fact, it has a deficit in the $100 billion range, as far as the eye can see. Now, that is not a balanced budget. That is not what the President said he was going to do.

That bothers me. The President of the United States said in a statement to a joint session of Congress in January 1993, that he would use the Congressional Budget Office figures so that we would not be arguing about baselines and different sets of numbers, so we would be comparing apples to apples.

The President said we would do that. Unfortunately, he has not done what he said he would do. That was in his State of the Union Address almost 3 years ago, and he has not done what he said he would do a month ago in signing the continuing resolution. He said he would submit a balanced budget. He has not done that yet.

Then earlier today, the President vetoed three appropriations bills. I think he made a mistake. I am looking for the reasons that he gave in vetoing those bills. I have been on the Appropriations Committee. I am familiar with all three bills, and I do not think he had any justification for vetoing those bills. All the employees that work in the Departments of Commerce, State and Justice, or the Interior Department, or the Veterans Department, or the Department of Housing—and we are talking about hundreds of thousands of employees—could have gone back to work tomorrow if President Clinton had signed those bills. But, unfortunately, he did not. I will look at his veto message and review that with my colleagues as soon as we get it, but my guess is he vetoed those bills because we are not spending enough money. My guess is he wants to spend more money in all of those bills.

I note, also, Mr. President, that today the stock market is falling rather significantly—almost a 100-point drop in the Dow Jones market today. Maybe it is because the markets are starting to question whether or not Congress will come to a balanced budget. I think the markets are interpreting it correctly. It is going to be difficult for us to get a deal together if the President of the United States will not comply with his commitment to submit a balanced budget in 7 years, using honest economics. So the market is probably interpreting that correctly.

What else has happened in the last 4 weeks? Well, the President and the Secretary of Treasury stated repeatedly that they needed an increase in the debt limit. They said that Congress has to pass the debt limit increase or else the United States of America is going to be defaulting on its obligations for the first time in history. We heard that time and time again from the President and the Secretary of Treasury. However, on the deadline of November 15, we did not default. What happened on November 15 is that the Secretary of Treasury—I am assuming with the guidance of the President of the United States—began raiding trust funds, pension funds.

Mr. President, I used to be in the private sector. I used to be fiduciary and trustee of a private pension plan. Being a fiduciary and trustee of a private pension plan means you have certain responsibilities to the employees. You cannot dip into employee pension funds for other purposes. You cannot raid those pension funds to help meet other obligations—maybe even unforeseen obligations. You have to find other sources of income, or you have to cut expenditures, or you just have to make do. But those pension funds are off limits.

Unfortunately, they have not been off limits to Secretary Rubin and President Clinton, because they used those trust funds to get around the debt limit. The debt limit, I might mention to my colleagues, is statutory; that is a law. It is passed by Congress. Congress has the power to borrow. That power is not vested in the executive branch. The President is taking that power upon himself by borrowing from the pension funds. They have come up with, maybe, very shaky legal guidance that says they can do it. Granted, a previous administration did it for a couple of days. But this administration looks like they want to do it for a year or more, and not just a few billion dollars to get through a weekend; it looks like maybe it is for months and months. We have a lot of trust funds, and it appears that this administration is prepared to raid all of them.

Mr. President, today I am introducing legislation to protect our Nation's elderly, disabled, poor, and unemployed from recent unprecedented activities by President Clinton's administration. This legislation became necessary, Mr. President, when the Secretary of Treasury, Robert Rubin, undertook an aggressive campaign last month to deliberately avoid the public debt limit.

The Secretary's actions have endangered some of the Government's most important programs which provide retirement benefits, health benefits, separation payments, life and disability insurance benefits, and dependents and survivors' benefits. Specifically, on November 15, 1995, Secretary of the Treasury Robert Rubin circumvented the $4.9 trillion limit on public debt by authorizing the conversion to cash of the entire $21.5 billion of Federal Employees Thrift Saving Plan, G Fund, and the disinvestment of $39.8 billion of the $375 billion Civil Service Retirement and Disability Fund, commonly called CSRDF.

Just last week, Secretary Rubin announced he would further side-step the limit by withholding a deposit of $14.5 billion in interest payments to the CSRDF. These unprecedented actions were ordered to deliberately avoid the legal limit on public debt enacted by Congress. Through processes known as disinvesting, converting to cash and underinvesting, this administration is raiding the Federal pension assets of almost 3 million Federal employees to keep on borrowing, despite the debt limit. If this type of creative accounting happened in private business, it could land the employer in jail for up to a year. That is because, in the real world, raiding your employees' pension funds is a serious crime.

Where will the trust fund raids stop? Well, as of September 30, 1995, $1.32 trillion in Federal securities were held by Federal trust funds or other special accounts, compromising more than one quarter of all outstanding Federal debt. Almost half of this amount is held by Social Security and Medicare trust funds—$483 billion by Social Security and $143 billion by Medicare. The remainder is held by the Federal civil service and military retirement funds—$375 by the Federal Civil Service Retirement Fund and $113 by the Military Retirement Fund. Theoretically, all these funds are in danger of being disinvested by this administration to fuel more Government spending.

Mr. President, this administration has long tried to have it both ways when it comes to controlling this deficit spending. A case in point is the contradictory rhetoric and actions regarding the disinvestment of Federal employee pension funds and its policy of the same practice in the private sector. At the same time Secretary Rubin was disinvesting Federal employee pension funds, Robert Reich, Secretary of Labor, was warning about the danger of private pension funds being raided by unscrupulous employers. Here is what Secretary Reich had to say about private sector pensions:

> Labor Department investigators, in recent months, have discovered a growing number of companies that have been raiding their employees' 401(k) pension plans. We have reason to believe that some companies are simply taking contributions from employees and using the money for their own purposes. They have regarded this 401(k) pool of money coming from employees almost like an interest-free loan. Some of them have every intention of paying the money back, but are using this for their own purposes to pay bills and pay other costs of doing business. All of these employers are acting illegally. I want to send a very clear and unambiguous message to employers, and my message is: Hands off, this is not your money. This money belongs to employees.

That warning was given by Labor Secretary Robert Reich in a news conference on November 27, 1995. These words ought to strike a chord over at Treasury because the Federal retirement trust funds that Secretary Rubin has been manipulating are the Federal equivalence of the private pension plans that Secretary Reich is describing. The bottom line for private business is that these funds cannot be used for any other purpose than the benefits for which they are intended. The civil and criminal penalties for doing so are clear. The tax penalties include a fine of 5 percent of the amount involved, and up to 100 percent if the plan is not promptly made whole. The labor penalties include a 20-percent penalty of the amount involved, and a minimum fine of $5,000, and up to 1 year in jail for a willful violator.

If this is not the height of "do what I say, not what I do," then I do not know what is.

Mr. President, it is because of the administration's unscrupulous actions that I am introducing the Federal Trust Fund Beneficiary Protection Act. My legislation, which is a companion measure to H.R. 2621, introduced by the Ways and Means Chairman BILL ARCHER, which recently passed the House of Representatives, precludes the Secretary of Treasury and other officials from refraining to properly credit trust funds and special accounts with securities for the purpose of avoiding public debt limit. Further, during any period which the Secretary is unable to issue new debt limit obligations due to a limitation on public debt, they may not sell or redeem securities obligations or other assets of these trust funds and special accounts, except when necessary to provide for the payment of benefits and administrative expenses of the various cash benefit programs.

Trust funds whose benefit payments are specifically protected include, first, the Federal old age and survivors insurance trust fund, Social Security; second, the Federal Disability Insurance Trust Fund; third, Federal Hospital Insurance Trust Fund; fourth, the

Federal Supplementary Medical Insurance Trust Fund, all of which are Social Security and Medicare. Fifth, the civil service retirement and disability fund; sixth, the Government securities and investment fund; seventh, the Department of Defense military retirement fund; eighth, the unemployment trust fund; ninth, each of the railroad retirement funds and accounts; tenth, the Department of Defense education benefits fund and; eleventh, the black lung disability trust fund.

Finally, my legislation includes conforming amendments which repeal the authority Secretary Rubin relied upon last month to disinvest Civil Service retirement and disability funds. Mr. President, I believe it is critical Congress enact this legislation as soon as possible before Secretary Rubin further confiscates trust fund assets intended for our elderly, disabled, poor, and unemployed. I hope that my colleagues will join me in this initiative.

Mr. President, I cannot imagine the outcry that would happen if we had a Republican administration raiding Federal employees' trust funds. In the private sector if you do this you can be fined significantly and you can be put in jail. Yet the Secretary of the Treasury, under the guidance and I assume the direction of President Clinton, is raiding these funds at will and quite possibly plans on doing so for the rest of the year.

If they can raid the civil service trust fund, evidently they can raid the Social Security trust fund or the Medicare trust fund. We need to protect these funds. They were created and paid for by employees. We need to protect them. I wish that was not necessary. Evidently it seems to be the case.

Again, Congress has the authority to set the debt limit. This administration, with the Secretary's actions, is saying they can avoid the debt limit by raiding these funds. This legislation would stop that. It would prohibit that. I hope my colleagues would concur. Similar legislation has already passed the House. It is my hope we will pass this legislation before we leave. I think it is important to pass before we leave for Christmas.

Mr. President, as I said, this legislation became necessary when the Secretary of the Treasury, Robert Rubin, undertook an aggressive campaign last month to deliberately avoid the public debt limit. The Secretary's actions have endangered some of the Government's most important programs which provide retirement benefits, health benefits, separation payments, life and disability insurance benefits, and dependent's and survivor's benefits.

Specifically, on November 15, 1995, Secretary of Treasury Robert Rubin circumvented the $4.9 trillion limit on the public debt by authorizing the conversion to cash of the entire $21.5 billion Federal employees' thrift savings plan "G" fund and the "disinvestment" of $39.8 billion of the $375 billion Civil Service Retirement and Disability Fund [CSRDF]. And just last week, Secretary Rubin announced that he would further sidestep the borrowing limit by withholding the deposit of a $14.5 billion interest payment to the CSRDF. These unprecedented actions were ordered to deliberately avoid the legal limit on the public debt enacted by Congress.

Through processes known as disinvesting, converting to cash, and underinvesting, this administration is raiding the Federal employee assets of almost 3 million Federal employees to keep on borrowing despite the debt limit. If this type of creative accounting happened in a business, it could land the employer in jail for up to 1 year. That is, in the real world, raiding your employees' pension funds is a serious crime.

Where will the trust fund raid stop? Well, as of September 30, 1995, $1.32 trillion in Federal securities were held by Federal trust funds or other special accounts, comprising more than one quarter of all outstanding Federal debt. Almost half of this amount is held by the Social Security and Medicare trust funds—$483 billion by Social Security and $143 billion by Medicare. The remainder is held by the Federal Civil Service and Military Retirement Funds—$374 billion by the Federal Civil Service Retirement Fund and $113 billion by the Military Retirement Fund. Theoretically, all of these funds are in danger being disinvested by this administration to fuel more Government spending.

Mr. President, this administration has long tried to have it both ways when it comes to controlling its deficit spending. Case in point is their contradictory rhetoric and action with regard to its disinvestment of Federal employee pension funds and its policy on the same practice in the private sector. At the same time Secretary Rubin was disinvesting Federal employee pension funds, the Secretary of Labor, Robert Reich, was warning about the danger to private pension funds from raids by unscrupulous employers. Here's what Secretary Reich had to say about private-sector pensions:

> Labor Department investigators in recent months have discovered a growing number of companies that have been raiding their employees' 401k pension plans. We have reason to believe that some companies are simply taking contributions from employees and using the money for their own purposes. . .[They] have regarded this 401k pool of money coming from employees almost like an interest-free loan . . . Some of them have every intention of paying the money back, but they are using this for their own purposes to pay bills, to pay other costs of doing business . . . All of these employers are acting illegally. . . And I want to send a very clear and unambiguous message to employers . . . And my message is: hands off. This is not your money. This money belongs to employees.—Labor Secretary Robert Reich, transcript from news conference, November 27, 1995.

These words ought to strike a chord over at Treasury, because the Federal retiree trust funds Secretary Rubin has been manipulating are the Federal equivalents of the private sector pension plans Secretary Reich is describing.

The bottom line for private business is that these funds cannot be used for any other purpose than the benefits for which they are intended. The civil and criminal penalties for doing so are clear. The tax penalties include a fine of 5 percent of the amount involved and up to 100 percent if the plan is not promptly made whole. The labor penalties include a 20-percent penalty of the amount recovered, a minimum fine of $5,000, and up to 1 year in jail for a willful violator.

If this is not the height of "do what I say and not what I do" then I don't know what is.

Mr. President, it is because of the administration's unscrupulous actions that I am introducing the Federal Trust Fund Beneficiary Protection Act. My legislation, which is a companion measure to H.R. 2621 introduced by Ways and Means Chairman BILL ARCHER, precludes the Secretary of the Treasury and other officials from refraining to properly credit trust funds and special accounts with securities for the purpose of avoiding the public debt limit.

Further, during any period in which the Secretary is unable to issue new debt obligations due to a limitation on the public debt, they may not sell or redeem securities, obligations, or other assets of these trust funds and special accounts, except when necessary to provide for the payment of benefits and administrative expenses of the various cash benefit programs. Trust funds whose benefit payments are specifically protected include: The Federal Old-Age and Survivors Insurance Trust Fund; the Federal Disability Insurance Trust Fund; the Federal Hospital Insurance Trust Fund; the Federal Supplementary Medical Insurance Trust Fund; the Civil Service Retirement and Disability Fund; the Government Securities Investment Fund; the Department of Defense Military Retirement Fund; the Unemployment Trust Fund; each of the railroad retirement funds and accounts; the Department of Defense Education Benefits Fund and the Post-Vietnam Era Veterans Education Fund; and the Black Lung Disability Trust Fund.

Finally, my legislation includes conforming amendments which repeal the authorities Secretary Rubin relied upon last month to disinvest the Civil Service Retirement and Disability Fund.

Mr. President, I believe it is critical that Congress enact this legislation as soon as possible, before Secretary Rubin further confiscates trust fund assets intended to benefit our Nation's elderly, disabled, poor, and unemployed. I hope my colleagues will join me in this initiative.

ADDITIONAL COSPONSORS

S. 413

At the request of Mr. DASCHLE, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 413, a bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under such Act, and for other purposes.

S. 881

At the request of Mr. PRYOR, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 1138

At the request of Mr. GRASSLEY, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 1138, a bill to amend title XVIII of the Social Security Act to provide that certain health insurance policies are not duplicative, and for other purposes.

S. 1317

At the request of Mr. D'AMATO, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1317, a bill to repeal the Public Utility Holding Company Act of 1995, to enact the Public Utility Holding Company Act of 1995, and for other purposes.

ADDITIONAL STATEMENTS

SMITHSONIAN INSTITUTION BOARD OF REGENTS CANDIDATES

• Mr. WARNER. Mr. President, yesterday the Senate Committee on Rules and Administration unanimously reported out four resolutions regarding appointments to the Board of Regents of the Smithsonian Institution.

House Joint Resolution 69 provided for the reappointment of Homer Alfred Neal as a citizen Regent of the Board of Regents of the Smithsonian Institution. House Joint Resolution 110, House Joint Resolution 111, and House Joint Resolution 112 provide for the appointment of Howard H. Baker, Jr., Anne d'Harnoncourt, and Louis Gerstner, respectively, as citizen Regents of the Board of Regents of the Smithsonian.

Mr. Neal has made many contributions throughout the course of his first 6-year term on the Board of Regents and I know that Messrs. Baker and Gerstner and Ms. d'Harnoncourt will make similar contributions. For the benefit of all Senators, at the conclusion of my remarks I will insert in the RECORD the curriculum vitae of each Regent candidate. I will also include a letter from the Secretary of the Smithsonian, I. Michael Heyman.

We are very fortunate to have such distinguished individuals who are willing to commit their time and energy to serving on the Board of Regents and I strongly recommend that the Senate act favorably on the resolutions.

The material follows:

HOMER A. NEAL

Homer A. Neal is Vice President for Research and Professor of Physics at the University of Michigan. From 1987 to 1993 he was Chair of the University of Michigan Physics Department. He has served as Vice President for Academic Affairs and Provost at the State University of New York at Stony Brook and Dean for Research and Graduate Development at Indiana University. His research area is experimental high energy physics and he has conducted particle interaction studies in hadron-hadron and electron-positron collision at laboratories in the U.S. and abroad. His research group is a part of the DZERO collaboration that recently announced the discovery of the top quark.

He is a recipient of the Sloan Foundation Fellowship, the John Simon Guggenheim Fellowship, the Stony Brook Medal and the Indiana Distinguished Alumni Service Award.

Neal is a Regent and Executive Committee member of the Smithsonian Institution, and is a member of the Oak Ridge National Laboratory Advisory Board. He is also a member of the MIT Visiting Committee on Sponsored Research, a Fellow of the American Physical Society and a member of the Board of Trustees of the Center for Strategic and International Studies. He has served on the Board of Trustees of the Argonne National Laboratory and the Fermi National Accelerator Laboratory. He has been a member of the Board of Overseers of the Superconducting Supercollider and the National Science Board, the oversight body for the National Science Foundation. He has also served as Chairman of the Physics Advisory Committee of the National Science Foundation. He has delivered testimony on numerous occasions to Congress on matters ranging from the funding of National Laboratories to the state of undergraduate science education.

He has technical expertise in the design of particle detectors, high speed electronics, image pattern recognition algorithms, event reconstruction and data analysis, and large scale database management.

His current administrative position as vice president for research involves oversight of the research programs, policies and infrastructure at the University of Michigan, which is presently ranked, in terms of total competitively awarded research funds, as the nation's top research university.

He has had extended scientist-in-residence appointments at the Niels Bohr Institute in Copenhagen and at the European Organization for Nuclear Research in Geneva. He has been a visiting scientist at Stanford University, Argonne National Laboratory, and Brookhaven National Laboratory. His professional travels have also taken him to the Institute for High Energy Physics at the Chinese Academy of Sciences in Beijing and to laboratories in the former Soviet Union, Israel, Japan and several other countries.

He is a member of the Board of Directors of the Ogden Corporation and the Environmental Research Institute of Michigan (ERIM).

HOWARD H. BAKER, JR.

Howard H. Baker, Jr., has returned to private life and the practice of law after serving in the United States Senate from 1967 until January of 1985, and as President Reagan's Chief of Staff from February 1987 until July of 1988. He resides in Huntsville, Tennessee, the place of his birth November 15, 1925.

Following undergraduate studies at the University of the South and Tulane University, Senator Baker received his law degree from the University of Tennessee. He served three years in the U.S. Navy during World War II.

In 1949 Senator Baker joined his father, the late Congressman Howard H. Baker, in the law practice founded first by his grandfather in 1888. Senator Baker returned to that practice, then known as Baker, Worthington, Crossley & Stansberry, after leaving the Senate in 1985 and then again after leaving the White House in 1988.

He served as United States Senator from Tennessee from 1967 to 1985. In addition to his regular Senate committee assignments, he served as Vice Chairman of the Senate Watergate Investigation Committee in 1973. He served as the Senate Minority Leader from 1977 to 1981 and as the Senate Majority Leader from 1981 to 1985.

At the Republican National Convention in 1976, he was the keynote speaker. He was a candidate for the Republican presidential nomination in 1980. Senator Baker was the Chief of Staff to President Reagan in 1987 and 1988.

Senator Baker is the senior partner in the law firm of Baker, Donelson, Bearman & Caldwell. The firm has offices in Tennessee and Washington, D.C.

Senator Baker was a delegate to the United Nations in 1976, and served on the President's Foreign Intelligence Board from 1985 to 1987 and from 1988 to 1990. He is a member of the Council on Foreign Relations and the Washington Institute of Foreign Affairs and is an International Councillor for The Center for Strategic and International Studies. He is a member of the boards of directors of the Forum of International Policy and the American-Russian Cultural Cooperation Foundation.

In the business community, Senator Baker currently serves on the boards of Federal Express, WMX Technologies, United Technologies and Pennzoil. He is Chairman of the Board of Newstar, Inc. and of Cherokee Aviation. Senator Baker is a member of the Board of Trustees of the Mayo Clinic.

Senator Baker has published three books, "No Margin for Error" in 1980, "Howard Baker's Washington" in 1982, and "Big South Fork Country" in 1993. He received The American Society of Photographer's International Award in 1993 and was elected to The Photo Marketing Association's Hall of Fame in 1994.

Senator Baker is the recipient of the Nation's highest civilian award, the Presidential Medal of Freedom. He also received the Jefferson Award for Greatest Public Service Performed by an Elected or Appointed Official.

Senator Baker was married to the late Joy Dirksen and has two children, Darek Dirksen

Baker and Cynthia Baker. He has four grandchildren.

ANNE D'HARNONCOURT (MRS. JOSEPH RISHEL)

Born September 7, 1943, Washington, D.C.

Present Position: The George D. Widener Director, Philadelphia Museum of Art.

Education: The Brearley School, New York City, 1949-1961.

Radcliffe College, Cambridge, MA, 1961–1965.

Majored in History and Literature of Europe and England since 1740, with additional course work in the history of architecture. B.A. thesis on comparative aspects of the poetry of Shelley and Holderlin.

Graduated B.A. magna cum laude, June 1965.

Courtauld Institute of Art, London University, 1965–1967.

First year course: seminar in European art since 1830. Second year: specialized research on the period 1900–1915 in Italy, France, and Germany. M.A. thesis on moral subject matter in mid-19th century British painting, with emphasis on the Pre-Raphaelites.

Graduated M.A. with distinction, June 1967.

Honors: Elected to Phi Beta Kappa in 1964.

Museum Experience:

1966–1967—Tate Gallery, London. Six months of work as part of Courtauld M.A. thesis, preparing full catalogue entries on 30 Pre-Raphaelite paintings and drawings in the Tate collection.

1967–1969—Philadelphia Museum of Art Curatorial Assistant, Department of Painting and Sculpture.

1969–1971—The Art Institute of Chicago Assistant Curator of Twentieth-Century Art.

1971–1972—Philadelphia Museum of Art Associate Curator of Twentieth-Century Painting.

1972–1982—Philadelphia Museum of Art Curator of Twentieth-Century Art.

Exhibitions Organized:

Marcel Duchamp. The Philadelphia Museum of Art, The Museum of Modern Art, The Art Institute of Chicago, 1973–74. (Collaboration with Kynaston McShine, The Museum of Modern Art)

Philadelphia: Three Centuries of American Art. Philadelphia Museum of Art, 1976. (One of several collaborators under the direction of Derrel Sewell, Curator of American Art, Philadelphia Museum of Art)

Eight Artists. Philadelphia Museum of Art, 1978.

Violet Oakley. Philadelphia Museum of Art, 1979. (Collaboration with Ann Percy, Philadelphia Museum of Art)

Futurism and the International Avant-Garde. Philadelphia Museum of Art, 1980.

John Cage: Scores and Prints. Whitney Museum of American Art, Albright Knox Museum, Philadelphia Museum of Art, 1982. (Collaboration with Patterson Sims, Whitney Museum)

LOUIS V. GERSTNER, JR.

Louis V. Gerstner, Jr., was named Chairman and Chief Executive Officer of International Business Machines Corp. on April 1, 1993.

Prior to joining IBM, Mr. Gerstner served for four years as Chairman and Chief Executive Officer of RJR Nabisco, Inc. This was preceded by an 11-year career at American Express Company, where he was President of the parent company and Chairman and CEO of its largest subsidiary, American Express Travel Related Services Company. Prior to that Mr. Gerstner was a director of the management consulting firm of McKinsey & Co., Inc., which he joined in 1965.

Born in Mineola, New York, on March 1, 1942, Mr. Gerstner received a B.A. in engineering from Dartmouth College in 1963 and an M.B.A. from Harvard Business School in 1965. In 1994 he was awarded an honorary doctorate of business administration from Boston College.

Mr. Gerstner is a director of The New York Times Co., Bristol-Meyers Squibb Co., the Japan Society and Lincoln Center for the Performing Arts. He is a Vice Chairman of the New American Schools Development Corp. and a member of the Board of Directors of the Council on Foreign Relations.

A life-time advocate of the importance of quality education, Mr. Gerstner is a co-author of "Reinventing Education: Entrepreneurship in America's Public Schools" (Dutton, 1994), which documents public school reforms now underway designed to enable our children to handle the demands of today's complex global economy. At IBM, Mr. Gerstner has redirected a majority of the company's substantial philanthropic resources in the U.S. to the support of public school reform.

SMITHSONIAN INSTITUTION,
Washington, DC, December 13, 1995.

Hon. JOHN W. WARNER,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I would like to take this opportunity to comment on the joint resolution providing for the reappointment of Dr. Homer Alfred Neal of Michigan to the Board of Regents, as well as on the resolutions providing for the appointment of Howard H. Baker, Jr., Louis Gerstner and Anne d'Harnoncourt as citizen Regents, filling current vacancies on the Board.

Regents and the manner of appointment and terms of office of those other than Members of Congress are set forth in 20 U.S.C. 42 and 43. At its meeting in January, the Board of Regents voted unanimously to request the Congressional members of the Board to introduce legislation to provide for the reappointment of Dr. Neal. Likewise, in May, following a unanimous vote, the Congressional Regents were asked to sponsor legislation providing for the appointment of Messers. Baker and Gerstner and Ms. d'Harnoncourt. Each resolution provides for a statutory term of six years, becoming effective upon enactment.

As their respective biographies attest, the candidates have distinguished themselves in careers of science and education, public service, corporate management, and museum administration and scholarship. The appointment of each of these accomplished individuals presents the opportunity for the Institution to enrich the experience and perspective of its governing board.

Enactment of the joint resolution would have no regulatory impact and entails no cost to the Government. I shall, of course, be happy to furnish any additional information you may require for your consideration.

Sincerely,

I. MICHAEL HEYMAN,
Secretary.●

A SHUTDOWN'S OTHER COSTS

● Mr. SARBANES. Mr. President, as we are all well aware, the country is experiencing the second partial shutdown of the Federal Government this year. Last November, 800,000 very dedicated men and women were prohibited from coming to work, were called nonessential and had to endure 6 long days full of stress and uncertainty. Now, with Christmas just a week away, I regret we find ourselves in the same situation.

While the current shutdown affects fewer Federal employees, some 280,000, their concerns and fears are no less real than they were 4 weeks ago. It is outrageous that Federal employees, many of whom are Marylanders, continue to be the unwilling victims of the ongoing budget battle between the congressional leadership and the administration. How are people who live from paycheck to paycheck going to meet their mortgage payments or tuition payments for their kids who are in school?

Yesterday, Mr. President, the Washington Post published an editorial which, in my view, clearly articulates the harmful effects of a shutdown on our work force. We have a national interest in having a first-rate Federal service. You do not want a second-rate Federal service. But, if you continue in effect to assault people, keep them in this state of agitation and anxiety and fear and apprehension, you are well on your way to bringing about a second-rate service. People have other opportunities. Good people have other opportunities and will leave to take them. Good people will not come in because they do not want to live in this environment and for that we will all suffer.

At some point I hope people will reach the conclusion that Federal employees have a reasonable role and place in the workings of our system and they ought to be treated with a measure of dignity. It is important that we consider seriously the implications of a shutdown, not only on the daily operations of the Federal Government, but on the long-term performance and perception of civil servants and the public service they provide. I ask that the text of the article be printed in the RECORD.

The article follows:

[From the Washington Post, Dec. 17, 1995]

A SHUTDOWN'S OTHER COSTS

There is more to the stalemate of the government than the failure of the President and the GOP to agree on a seven-year balanced-budget plan. The furloughing of federal employees exacts a terrible cost from a valuable work force. Nothing can be more demoralizing to the men and women who look out for the nation's veterans, hunt cures to deadly diseases, keep our air and water clean, send out the Social Security checks and otherwise serve the nation in ways most of us don't think about, then to be told that despite their fidelity and contribution, they are really "nonessential." That insult, being added to all the other guff federal workers catch in the halls of Congress, on talk shows and from television comics, comes as an undeserved kick in the teeth from their own government.

Federal employees have every right to feel as if they are the real pawns in this sorry mess. One day they are proud and productive members of the federal government, protecting the health and safety of the nation; the next day they are handed a slip of paper and sent home with no idea when they will be paid. That is no way to motivate a work force, let alone demonstrate respect for it.

The daily payroll cost for the furlough of employees is no small matter—even if employees are paid retroactively for their days out of work. But there are consequences of the cavalier treatment of the federal work force that will be felt long after the government is back in business.

A government that is in gridlock—worse yet, shuttered—does little to bolster a political system already losing the public's confidence. It downright debilitates its own work force. As a furloughed federal economist said during the last interruption, "Can you imagine a Fortune 500 company operating like this? If they had a dispute between their board of directors and their president, and they sent everybody home?" And in addition to the effect on morale, can such interruption be supposed to be a help to the work they do?

In an open letter to federal employees, President Clinton and Vice President Gore signaled their recognition of the shabby treatment afforded the federal work force: "you remain good people caught in what Churchill called the 'worst system of government devised by the wit of man, except for all the others,'" they wrote. Good people—and they are—should not be made to pay for the failures of their leaders. Getting federal employees out of the middle and back on the job is the way to respect them.●

TRIBUTE TO MAYOR STEVE HETTINGER

● Mr. HEFLIN. Mr. President, Huntsville, AL, Mayor Steve Hettinger, announced in October that he would not seek reelection in 1996. He has been in Huntsville's top administrative post since 1988. Prior to becoming mayor, he was in the State legislature for 6 years, served for 4 years as an aide to former Congressman Ronnie Flippo, and worked as an engineer.

Huntsville has witnessed dramatic growth and progress under the dynamic leadership of Mayor Hettinger. It has continued its long-range capital improvements program. He and other city leaders took an active role in persuading the Base Realignment and Closure Commission to move 2,600 Army jobs to Huntsville. Early in his tenure, he was instrumental in the passage of slope-development controls. Many urged him to mount a race for the Senate next year, but he declined.

Other accomplishments include the city's community plan "Vision 2000," road construction, the establishment of community facilities and long-term investments, and improvements in public safety, public works, and government efficiency. In 1989, the city council passed a half-cent sales tax increase, the revenue from which was used to improve city schools. No other general tax increase has been enacted. Mayor Hettinger has represented the city of Huntsville well. He is on good terms with corporate executives and is close to key State legislators.

In a highly unusual development, Mayor Hettinger and the city council were able to balance the 1995 city budget and carry over nearly $8 million to the 1996 budget year. He made a promise to do everything in his power to hold down spending while at the same time retain the quality and level of service to which residents had come accustomed. The fiscal austerity that resulted from this wise promise was difficult, as is always the case when government programs are affected. The efforts of the mayor and city council paid off in a big way, however, as the books were balanced and a surplus resulted. In these times, this is truly an incredible feat. The citizens of Huntsville are now mulling over what to do with the extra money. We can only dream of such success at the Federal level. Mayor Hettinger should be commended for this budgetary success—success from which we could learn a thing or two.

Steve Hettinger moved to Huntsville in 1967 after graduating from Mississippi State University with a degree in engineering. He attended the University of Alabama in Huntsville and worked in the space program. He earned a master's degree in industrial and systems engineering from UAH in 1974. He is currently the president of the Alabama League of Municipalities.

I know that Mayor Hettinger still has a great deal he wants to accomplish before he leaves office, and I am sure that he will accomplish much over the next year. He is really the first mayor of modern Huntsville, coming as he does from the ranks of the technocrats, and I mean that in the best sense of the term. He has improved efficiency dramatically, and Huntsville is a much better city because of his leadership and contributions. I wish him all the best for the future.●

UTAH WILDERNESS BILL

Mr. BENNETT. Mr. President, as you know, I have joined with other members of the Utah delegation and Governor Leavitt in introducing S. 884, the Utah Public Lands Management Act, also known as the Utah wilderness bill. Since we introduced this bill earlier this summer, we have been criticized up and down by opponents of S. 884 that the extensive process we engaged in to study and eventually recommend over 1.8 million acres in 49 wilderness areas was not extensive enough. Since January, over 22,000 public comments have been submitted, over 45 public hearings were held and 600 personal testimonies were accepted. However, our critics choose to overlook this fact as well as the fact that it is time to bring to closure this 20-year-old debate.

Mr. President, I ask that the following document be printed in the RECORD at the proper place as proof that the public comment process has indeed been extensive. This is an excerpt from a publication by the Coalition for Utah's Future/Project 2000. It details the extensive process which the coalition, joined by members of Utah's environmental community and county commissioners and citizens of Emery County, undertook to discuss and resolve the issue of wilderness. Unfortunately, cost and space limitations will prohibit the inclusion of the entire text. I would encourage those who are interested in the full report to contact the coalition at the address following the excerpt. I commend these folks for their tremendous efforts to reach consensus on one of the most difficult and contentious public lands issues in our State. I believe this report illustrates just how extensive the process has been. I wish to express my thanks to the Coalition for Utah's Future/Project 2000 for the time and effort they have spent in conceiving and implementing this pilot project.

The material follows:

A Project of The Coalition For Utah's Future/Project 2000

INTRODUCTION

In twelve short months, a traditional rural community in Utah moved from what appeared to be a deeply seated, anti-environmental sentiment to a protection oriented public lands agenda. Involved Emery County leaders and citizens alike, are now publicly espousing the desire to work with disparate parties and land managers to solve problems and seek mutually beneficial land protection mechanisms. How did this rather dramatic transformation in the county's approach to public lands issues occur? The answer involves the willingness of several visionary county and environmental leaders to be the "guinea pig" in a cooperatively designed Community and Wild Lands Futures Pilot Project sponsored by the Coalition for Utah's Future/Project 2000 (CUF), a non-profit, multi-issue organization comprised of diverse community leaders interested in a quality future for all Utah citizens. It also involves the surfacing of values, long held within the county but unacknowledged, due to the acrimonious nature of environmental disputes throughout Utah and the West over the past fifteen years.

The pilot was conceived in the summer of 1993 when CUF's conflict resolution consultant, Susan Carpenter, put a hypothetical question before a group of some 25 disparate stakeholders interested in resolving the conflict over Utah's BLM wilderness designation issue. She asked participants to assume the year is 1999, and that a Utah BLM wilderness bill, which everyone could support, had just been signed into law. "What", she asked, "are the steps beginning in 1999 and then working backwards to 1993, that led to the passage of this bill?" The group's response to this question became the basis for the conceptualization of the Community and Wild Lands Futures Pilot Project (CWFP). CWFP, they hoped, could become a model for other rural Utah communities and interested parties in the West.

The word future is key here. Conservationists in the design group reasoned that helping communities articulate their values, visions, and goals for an "ideal" future, would enable citizens to move beyond current problems and contentious issues toward a more pro-active plan based on commonly shared community values and "sense of place". This, they also theorized would lay a more productive foundation for subsequent discussions regarding environmentally sensitive, adjacent public lands. Rural leaders in the design group supported this community-based, grassroots approach. They expressed the need for local empowerment and a seat at the table when making decisions regarding public lands issues affecting their future.

The group boiled these ideas down to three community questions, which were to be followed by broad-based wild lands futures deliberations in a focused geographic area. The community questions were: What do we have?, What do we want?, and What can we do?. In short, the hypotheses proved correct. Asking citizens what they valued, how they wanted the future to look, and exploring options to achieve this vision on the front side of a county-wide general planning initiative, led to outcomes such as: 1. the formation of a public lands council, 2. county agreement to enter wild lands futures deliberations with a broad range of interests and affected parties from within and without the county, 3. a county proposal for the protection of over 500,000 acres of BLM land (including 184,000 acres of wilderness), and 4. the conceptualization of a public lands institute involving cooperative partnerships with the BLM and other agencies for the preservation and management of the San Rafael Swell.

COMMUNITY AND WILD LANDS FUTURES PILOT PROJECT (CWFP)

In the summer of 1993, the broad-based group of stakeholder volunteers known as the Process Advisory Group, including decision-makers and resource representatives, gave birth to the Community and Wild Lands Futures Pilot Project. As described in the opening of this paper, when challenged to consider how a wilderness bill passed Congress by working backwards from 1999, the Process Advisory Group agreed that the first step should be community-based. Out of the discussions came the following project goals:

1. Address community and wild lands futures in a rational and scientific manner.
2. Create a grass roots process for comprehensive local community planning and sustainability.
3. Identify resources to enrich the process and generate useful information to share.
4. Connect the local visioning/planning process with the issue of public wild land futures and with state and national processes and players.
5. Develop a broad based recommendation for the classification of public wild lands in the pilot region.
6. Educate the broader general public about rural planning and community self-determination, and ecosystem management of natural systems and wild lands issues.
7. Create a replicable model.

A concept paper was circulated among approximately 300 interested parties at national, regional, state and local levels requesting constructive feedback. The reviews were favorable, which meant the next task was to select from one of several receptive pilot communities. In October of 1993, Emery County became the chosen community for the pilot project, and the newly formed Canyon County Partnership (CCP) received CUF funding to initiate staff support.

Today, the seed is germinating and concepts are maturing. County initiated deliberations include ideas to 1. develop a resource area partnership among Emery County, the BLM, the Forest Service, and other public land users, 2. become a nationally supported pilot program, and 3. conceptualize a non-profit San Rafael Swell Institute. Today, Emery County is proposing and exploring a planning/management partnership arrangement with the BLM. The purpose would be to:

Incorporate direct local involvement in land management agency planning processes.

Incorporate direct local involvement in land management agency decision-making processes.

Reconcile differences between the Emery County Master Plan and the planning goals and objective of the land management agencies.

Develop consistency between the ordinances and regulations of the federal and county entities.

Cooperate in law enforcement activities.

Cooperate in the provision of emergency services.

Cooperate in the permitting, design, placement, construction, and costs of public facilities (roads, buildings, etc.).

Cooperate in the facilitation of allowable uses.

Cooperate in the mitigation of impacts from various uses.

Cooperatively work to resolve local conflicts between uses, users, and stakeholders.

Leverage the limited resources of the local and Federal entities through coordinated efforts.

Share in a joint stewardship over the public lands within Emery County.

CUF believes it is a major accomplishment that Emery County is now adopting cooperative, problem-solving principles in newly conceived public lands initiatives within the County.

APPLICATION OF THE MODEL

In conclusion, the Community and Wild Lands Futures Pilot Project did advance environmental decision-making through inclusive community and interest group participation. Outcomes are evolving and project participant evaluations were overwhelmingly favorable. OPB's Brad Barber writes, "It [the project] taught us that this type of thing may work in the future. Once a wilderness bill is done in Utah—we should talk about moving into cooperative management." CUF board member and Moab Times Editor, Sam Taylor says, "In the event the [Utah delegation] bill does not become law, CUF has laid the ground work that will still lead to piece-meal resolution for the BLM wilderness issue. We have given them a roadmap," he concludes.

Many participants believe that the pilot has application value for comprehensive planning efforts in rural areas, and some can see it being applied to growth management, transportation, education and topical problems in urban areas. It clearly is recognized as being superior to the conventional approach of deriving local input from a couple of perfunctory public hearings. Jane Brass suggests that the need for disseminating information regarding the pilot model "is pervasive as states struggle with public lands issues." She cautions that communities should not have consultants dictate a quick way out. Rather, she recommends working through a process to "find answers that will be more acceptable to your community". Another participant echoed the concern that it could be dangerous to create a "cook book approach". The emphasis from a model should be on need and a few questions to ask in the beginning, he cautioned. Chairman Petersen advises other rural county leaders, who might be considering a similar planning model, "1. Put together a good steering group, 2. Listen to their input, and 3. Listen to people from other areas and take advantage of their successes and failures."

COMMUNITY VISIONS: A CATALYST FOR CREATING POSITIVE FUTURES

CWFP demonstrated that engaging local citizens in discussions about their values and visions of the future enabled them to develop solid plans for economic development and empowered them to approach the highly polarized issue of wilderness as an issue which could be resolved with their traditional adversaries, not as a battle to be won.

The constructive progress made by the county in the relatively short time will continue to bear fruit for the county on public lands issues and other matters of county interest. In reference to "Discovering Common Ground" by Marvin Weisbord, project consultant, Susan Carpenter, summarizes her perspective. She writes, "Weisbord makes the point that creating the tension between what we have and what we really want is a much more effective way to get what we want than the more traditional methods of problem-solving and conflict management (identify the problem and then develop options to solve it). My experience bears this out. I see the Coalition's Emery County Community/Wild Lands Futures Project as a powerful, effective model which can be applied to a wide range of issues at the county and state level across the West." Currently, CUF is moving forward with an initiative focused on quality growth in Utah. History will reveal whether we, as a whole and increasingly diverse community in Utah and the West, are able to build on the lessons learned from the Emery County experience.●

TRIBUTE TO AN INDISPENSABLE AMERICAN

● Mr. DODD. Mr. President, last month I was proud to learn that a member of my staff received an extraordinary accolade that is as fitting as it is complimentary. U.S. News & World Report named Stanley Israelite, my friend, counsel, and senior adviser in my State office in Connecticut, as 1 of 12 "indispensable Americans." It was an honor and a tribute, but not a surprise. Stanley's friends, his colleagues—and most certainly the people of Connecticut—have known that for years.

The best decision I ever made was hiring Stanley Israelite. He has been a dedicated public servant in every sense of the term, and I have trusted his counsel and treasured his companionship throughout my 21 years as a Member of Congress. Mr. President, it is with pride, admiration, and deference that I ask that this article from the November 27, 1995 issue of U.S. News & World Report be printed in the RECORD.

The article follows:

HOUNDING THE BUREAUCRATS

(By James Popkin)

Lots of people's problems with their government aren't ideological, they're logistical. That's why many rely on the congressional aides like Stanley Israelite to help them fight their battles with government agencies.

At age 70, Stanley Israelite is fighting a crusade to prove the cynics wrong. Since 1975, when the gravelly voiced former Brooklynite first went to work for then Rep.

Christopher Dodd (now a senator), Israelite has helped thousands of Connecticut citizens replace lost passports, track down late tax refunds, ship dearly departeds to grieving families overseas and even bail the occasional misbehaving Connecticut teenager out of Mexican jails.

All successful members of Congress have staffers like Israelite who can goose reluctant bureaucrats into action. Although Dodd happens to be a Democrat, effective constituent service is a congressional specialty that cuts across political lines. It's first and foremost a matter of good politics: Good service results in happy voters. But what distinguishes Israelite is his gusto for the job. And his not-so-artful technique: "When I call an agency because somebody is waiting for her Social Security check or a guy is waiting for an FHA loan and the agency gives me some song and dance, I try to let them know I'm not gonna take any of their crap," he says. "At times, I tell them I've discussed this problem with the senator. Sometimes, it isn't true."

A former jewelry store owner and Chamber of Commerce honcho from Norwich, Conn., Israelite is Dodd's pipeline to many of the state's small-business owners. Harry Jackson, a lifelong Republican who is the City Council president in Norwich, recalls how difficult it was to get a meeting with officials from the Environmental Protection Agency when the city wanted to build a new firehouse on federal land. "Stan got us in there after just one phone call," says Jackson, who ultimately built the firehouse.

THINGS HAPPENED.

Don Daren says Israelite was a lifesaver in 1981, when a state-based paper distributor was trying to secure a $900,000 umbrella loan from the Connecticut Development Authority. Daren, who owns the Arrow Paper Supply and Food Co., says it was going to take forever for the CDA to process his loan papers so he could buy a new warehouse. "Stanley told them [CDA officials] my problem, and things happened right away," says Daren, whose business has grown from 36 workers then to nearly 200 today. "He has his own constituency. People like Stanley."

Ideally, says veteran Hartford Courant political columnist Don Noel, senators like Dodd would use their clout on Capitol Hill to fix bureaucracies and make them more consumer friendly—eliminating the need for taxpayer-financed ombudsmen like Israelite. But since that goal seems unattainable, Noel figures that Israelite plays a vital role. "If you have something you need the senator to do for you, if anyone can do it, Stanley can," he says.

Israelite admits that he is motivated by a desire to help re-elect Dodd. But he adds: "Part of what drives me is knowing that there's someplace where somebody can go when they are not getting anyplace."

GENERIC ZANTAC

● Mr. FAIRCLOTH. Mr. President, during the debate on an amendment offered by my colleague from Arkansas, Senator PRYOR, with regard to GATT patent extensions, there were representations made about the availability of a generic form of Zantac. The Senate has expressed its support for Judiciary Committee hearings on this important issue. The chairman of that committee has committed to hold a hearing on February 27, 1996.

Some supporters of the generic drug companies claim that the hearings will delay marketing of generic Zantac. This is not true. In fact, due to other outstanding patent issues with regard to Zantac, it is unclear when a generic form of Zantac will be available, but it will be at least several months and likely to be after September 1996. Therefore, hearings held in early 1996 will permit more than sufficient time to resolve this question well before September 1996.

Mr. President, I ask to have printed in the Record a detailed background paper on the patent issues relating to Zantac.

The material follows:

Background on the Impact of GATT Patent Extensions on Potential Availability of Generic Zantac® (ranitidine hydrochloride)

Even if the U.S. had not implemented the General Agreement on Tariffs and Trade (GATT), based on the generic applications submitted to date, no generic form of Zantac could have been legally marketed on December 5, when the basic patent was scheduled to expire prior to the implementation of GATT. Because of other outstanding patent issues with regard to Zantac, it is unclear when a generic form of Zantac will be available, but it will be at least several months and is likely to be after September 1996.

Glaxo Wellcome has two product patents with respect to ranitidine hydrochloride, which exists in two forms:, referred to as form 1 and Form 2. All of the Zantac sold by Glaxo Wellcome worldwide has been Form 2. The Form 2 product patent expires on June 4, 2002. It bars the marketing of generic versions of Form 2 or any product that contains Form 2. In September 1993, the validity of the Form 2 patent was upheld in federal district court against a challenge by a generic company. That decision was affirmed on appeal.

The basic patent was scheduled to expire on December 5, 1995, but was changed by the GATT implementing law to July 25, 1997. The basic patent bars the marketing of generic versions of both Form 1 and Form 2. For various reasons it may be more difficult to manufacture Form 1 ranitidine in a pure form in commercial quantities over time. Even when the basic patent expires, before a company can market a generic form 1 ranitidine, they must demonstrate that their Form 1 product is bioequivalent to Zantac and does not violate the remaining Form 2 patent.

The Drug Price Competition and Patent Term Restoration Act of 1984 (Hatch/Waxman Act) provides expedited procedures for generic drugs to enter the market and for the resolution of outstanding patent issues. Under these procedures, a company seeking approval for a generic drug may file an Abbreviated New Drug Application (ANDA) with the FDA. The ANDA must contain one of the following certifications with respect to each relevant patent on the pioneer drug: (I) patent information has not been filed with the FDA, (II) the patent has expired, (III) the patent will expire on a date specified, or (IV) the patent is invalid or won't be infringed.

If the ANDA contains a paragraph III certification listing the patent expiration date, the FDA is precluded from making the ANDA effective prior to that date. If the generic company seeks to market a drug before the expiration of any relevant patents, the ANDA must contain a paragraph IV certification that the patents are invalid or won't be infringed, and the generic company must notify the patent owner. Unless the patent owner sues for infringement within 45 days of being notified, the FDA can approve the ANDA.

If the patent owner does sue within 45 days, FDA cannot make the ANDA effective immediately. To protect generics from undue delay during litigation, the Act provides that the FDA can make the ANDA effective after 30 months from the date the patent holder is notified of the ANDA filing or when there is a final court ruling that the patent is invalid or not infringed, whichever is earlier.

All ANDA applicants seeking to market generic ranitidine hydrochloride prior to 2002 have lawsuits pending against them asserting violations of one or more patents. Because of the 30 month provision, the pending litigation affects the earliest date that generic ranitidine hydrochloride could be marketed by any of these companies.

Even if the FDA were not precluded by the Hatch/Waxman Act from making ANDAs effective prior to the expiration of the full patent term for brand name drugs, September 1996 is the earliest date under the Hatch/Waxman Act procedures that Form 1 generic ranitidine hydrochloride could be marketed by any of these companies unless there is a final court ruling earlier that the basic patent is invalid or that the generic product does not infringe any Glaxo Wellcome patents.

Because a trial court decision is not considered final if an appeal is taken, it is unlikely that a final court ruling will occur prior to September 1996. In a prior patent infringement case against Novopharm with respect to the validity of the Form 2 patent, the trial court ruled in Glaxo Wellcome's favor in September 1993. Novopharm appealed the same month, but the appeal was not decided for 19 months, in April 1995. The appeals court upheld the earlier decision in favor of Glaxo Wellcome.●

WELFARE 2015

● Mr. MOYNIHAN. Mr. President, since the publication of Michael Young's "The Rise of Meritocracy" in 1957, a book written from the perspective of Great Britian in the year 2034, there has not been so brilliant an exercise in this format than Jason DeParle's "Welfare, End of" in yesterday's New York Times Magazine, looking back from the year 2015. It foresees a social disaster that will follow the repeal of title IV–A of the Social Security Act, Aid to Families with Dependent Children, in this the 104th Congress. Mr. DeParle speculates that President Clinton will look back upon this as one of the greatest regrets of his Presidency.

Mr. President, I ask that the article be printed in the Record.

The article follows:

[From the New York Times Magazine, Dec. 17, 1995]

Welfare, End of—The Events That Led to its Demise in 1995, and the Striking Consequences in the Years Since.

(By Jason DeParle)

The following interactive encyclopedia entry looks back from the year 2015. References to events before December 1995 are real; subsequent developments may become so all too quickly.

SUMMARY

For 60 years, until 1995, the United States Government ran a social program technically called Aid to Families with Dependent Children, and commonly known as welfare. The program, which provided cash grants to indigent families, was abolished as part of a bipartisan deal that reduced Federal spending and transferred power to state governments. At the time of its demise, welfare was a thoroughly discredited program—often accused of causing long-term poverty rather than helping people survive it.

A handful of critics accurately predicted that ending welfare would bring rising numbers of "street families," just as the closing of mental hospitals had produced "street people" in the 1970's and 80's. But most welfare abolitionists argued that the poor would be better off without the program. They would have been astonished to learn that today, in 2015, the program they reviled as "welfare" is often described nostalgically as the last thread of the "Federal safety net." This entry summarizes the consequences of abolishing welfare, and the odd political dynamics that led to its end.

THE STATES

Though it grew into a potent symbol of social decay, the A.F.D.C. program was established amid little controversy, as a sidelight of the Social Security Act. It was intended to provide small pensions to indigent widows, instead of placing their children in orphanages. But the program changed during a period of explosive growth in the late 1960's, as millions of never-married women joined the rolls. If the program's public face was once that of a West Virginia miner's widow, it then became that of a young black woman in an urban ghetto. There were about 14 million women and children receiving benefits when the program ended, with the average family of three getting about $370 a month.

Initially, those who warned of social catastrophe seemed alarmist. In abolishing welfare, Congress gave the states annual lump-sum payments, called block grants, to assist the poor virtually any way they saw fit. The states were barred from aiding families for more than five years, but most set much shorter limits. By later standards, the sizes of the first block grants were generous, and difficult as it is now to imagine, the late 1990's seemed a golden age of state experimentation.

In 1997, Mississippi contracted with church groups to run its relief programs; within a few years the teen-age pregnancy rate dropped 10 percent. Vermont placed a two-year limit on benefits but offered subsidized jobs to those who were still unemployed. Tennessee took a tougher tack, imposing a strict 18-month cutoff with no further aid. But in the late 1990's, Tennessee had a 3 percent unemployment rate, and most mothers found at least part-time work. While millions of poor families still led hand-to-mouth existences, they always had; local control, whatever its problems, was not unambiguously worse.

Then came the 1999 recession. Faced with declining revenues and rising aid requests, states slashed their payments; the mother of two who had received $370 in 1995 was now getting $180 a month. With families crossing borders in search of aid, the "race to the bottom" ensued, with each state trying to be as tough as its neighbors. Just months after Texas barred payments to legal immigrants, for instance, the other border states followed. As an entitlement, the old A.F.D.C. system promised, a check to any qualifying family within 45 days; waiting lists now grew as long as two years. As many as a million families who have received aid under the Federal system now received nothing.

Though the economy recovered in subsequent years, state spending did not. As the number of neglected children skyrocketed, the child welfare system snapped. In 1995, there were approximately 460,000 children in foster-care programs; a decade later, the number approached one million. As the numbers grew, the Federal Government began a 10-city experiment to test the performance of orphanages—an idea first broached by former House Speaker Newt Gingrich.

The experiment earned high marks, but Congress balked at its cost. A year at the latter-day Boys' Towns cost more than a year at Harvard, and lawmakers refused to keep financing them.

THE PEOPLE

The end of welfare was accompanied by major cuts in food, housing and medical programs. And it came when the wages of low-skilled workers were already in a free fall because of global competition. So it is not surprising that poor people have seen their standard of living decline, while their numbers are rapidly increasing. Until 1995, for instance, all poor children in America had health insurance under a program called Medicaid. The successor state programs have largely devoted their resources to the elderly, leaving about half the nation's poor children uninsured.

Not all former recipients have fared poorly. As many as a quarter of the five million A.F.D.C. families found and retained full-time work. For them, the end of welfare worked much as it was intended—as a prompt to greater self-reliance. They received considerable publicity in the late 1990's as welfare abolitionists tried to rebut charges that the cuts had been cruel. A coalition of conservative groups sponsored the "Million Mothers March," a day of speeches and prayer by former recipients to celebrate their new lives. While their earnings remained quite modest—often little more than they had received on welfare—many mothers praised the psychic rewards of serving as "positive role models."

Far more numerous are those in a second category: "cyclers," who have alternated between short-term employment and charitable aid. The cycling phenomenon was first identified in the mid-1980's by researchers at Harvard University who hoped to see expanded Government aid. Part of the cyclers' continuing problem has been economic: whether they work as telemarketers, cosmetologists, cashiers or clerks, they are typically the last hired and first fired.

But even in good times, the chaos of many low-income homes spills onto the job. Brokendown cars, sick relatives and a lack of child care are perennial problems—indeed, a 2007 study by the Children's Defense Fund found that dozens of mothers were arrested each year for locking their children in cars as they worked. Sociologists estimate that since welfare ended, about half the former population has fallen into this pattern of sporadic work with little hope for advancement.

At the same time, about 25 percent of the A.F.D.C. families—that is, more than a million of them—have fallen into utter destitution. The public now sees them lining up at shelters, stealing into abandoned buildings and begging on street corners. At the time of abolition, half the welfare mothers lacked a high-school diploma, and in inner cities as many as one in three had histories of some drug or alcohol abuse; a subsequent study by the Rockefeller Foundation emphasized how many remained deeply disturbed. It found that by 2005, three-fourths of the families entering shelters were those of welfare mothers who had exhausted their lifetime eligibility.

The Rockefeller study, "Repeating Mistakes," compared the 1995 law ending welfare with the 1960's move that deinstitutionalized the mentally ill. Schizophrenics were supposed to find community-based programs; welfare recipients were entrusted to state agencies. In neither case did the local safety net appear. Like the 1980's street people, the homeless families of the early 21st century enjoyed a brief period of Hollywood vogue. Meryl Streep won an Oscar in 2006 for her portrayal of a destitute woman.

But one again, charity chic faded.

The end of welfare also brought unintended consequences in the area of morality. The abolitionists had hoped to spur a return to work, marriage and responsibility. But for some of the poorest women, the loss of aid had the opposite effect. Some became more reliant on abusive boyfriends, and reports of domestic violence rose. Abortion rates hit record levels and so did arrests for prostitution, leading several cities to decriminalize the practice in specified red-light zones.

POLITICS

Antipathy for the dole is as old as the country itself, but it gained a sudden new potency in the mid-1990's, just before the program's demise. Oddly enough, it was President William Jefferson Clinton, a Democrat, who set the new forces into motion. In his 1992 campaign, he famously promised to "end welfare as we know it" by imposing time limits and work requirements. When he later failed to promote his plan, the Republicans pushed his rhetoric to a conclusion he had not envisioned.

Clinton's initial plan for ending welfare had included new training, universal health care and job guarantees. But the actual end meant only that. And a President who had pledged to expand the income and medical security of all Americans wound up presiding over an unprecedented contraction of the safety net.

In his recent memoirs, the ex-President describes his handling of the issue as "one of my greatest regrets." He acknowledges that his party's defeat in the 1994 elections left him reluctant to spend political capital on the welfare poor. His own plan had included the toughest work requirements any President had ever proposed. But by the fall of 1995 Clinton had joined those dismissing it as weak, apologizing in an interview: "I wasn't pleased with it either."

At the same time, Clinton argues in his memoirs that he was genuinely surprised that the subsequent state-based system collapsed so quickly. Throughout 1995 he had looked skeptically at his own aides' predictions that poverty would rise sharply. But the memoirs do recount one moment of doubt. On the day before Thanksgiving 1995, Clinton served dinner at a homeless shelter in Washington, where, as he explained at the time, he was distributed to see that "the fastest growing group of homeless people in our country are young women and their young children."

Looking back 20 years later, Clinton confessed something he did not disclose that day at the shelter. Standing in the serving line, a month before welfare's end, he feared that he had just got a glimpse of America's future.●

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ON H.R. 1530

Mr. MACK. Madam President, I ask unanimous consent that when the Senate resumes consideration of the Defense authorization conference report at 9:30 a.m. on Tuesday, December 19, that there be 3 hours for debate equally divided in the usual form, with the Democratic time in the morning divided as follows:

Senator NUNN, 45 minutes; Senator BYRD, 15 minutes; Senator GLENN, 30 minutes; Senator BRYAN, 15 minutes.

I further ask unanimous consent that at 2:15 p.m., on Tuesday, there be time for the following Senators:

Senator DORGAN, 10 minutes; Senator EXON, 15 minutes; Senator KENNEDY, 5 minutes; Senator LEVIN, 10 minutes; Senator DASCHLE, 10 minutes; Senator THURMOND or his designee, 1 hour.

I further ask that following the disposition of, or yielding back of time, the following Senators have 20 minutes under their control:

Senator LEAHY, Senator THURMOND, Senator NUNN, Senator WARNER.

Further, that upon the use or yielding back of time, the Senate vote, without any intervening action, on adoption of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAN OIL SANCTIONS ACT OF 1995

Mr. MACK. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 280, S. 1228.

The PRESIDING OFFICER. The clerk will state the bill by title.

The bill clerk read as follows:

A bill (S. 1228) to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Iran Oil Sanctions Act of 1995".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The efforts of the Government of Iran to acquire weapons of mass destruction and the means to deliver them and its support of international terrorism endanger the national security and foreign policy interests of the United States and those countries with which it shares common strategic and foreign policy objectives.

(2) The objective of preventing the proliferation of weapons of mass destruction and international terrorism through existing multilateral and bilateral initiatives requires additional efforts to deny Iran the financial means to sustain its nuclear, chemical, biological, and missile weapons programs.

SEC. 3. DECLARATION OF POLICY.

The Congress declares that it is the policy of the United States to deny Iran the ability to support international terrorism and to fund the development and acquisition of weapons of mass destruction and the means to deliver them by limiting the development of petroleum resources in Iran.

SEC. 4. IMPOSITION OF SANCTIONS.

(a) IN GENERAL.—Except as provided in subsection (d), the President shall impose one or more of the sanctions described in section 5 on a person subject to this section (in this Act referred to as a "sanctioned person"), if the President determines that the person has, with actual knowledge, on or after the date of enactment of this Act, made an investment of more than $40,000,000 (or any combination of investments of at least $10,000,000 each, which in the aggregate exceeds $40,000,000 in any 12-month period), that significantly and materially contributed to the development of petroleum resources in Iran.

(b) PERSONS AGAINST WHICH THE SANCTIONS ARE TO BE IMPOSED.—The sanctions described in subsection (a) shall be imposed on any person the President determines—

(1) has carried out the activities described in subsection (a);

(2) is a successor entity to that person;

(3) is a person that is a parent or subsidiary of that person if that parent or subsidiary with actual knowledge engaged in the activities which were the basis of that determination; and

(4) is a person that is an affiliate of that person if that affiliate with actual knowledge engaged in the activities which were the basis of that determination and if that affiliate is controlled in fact by that person.

(c) PUBLICATION IN FEDERAL REGISTER.—The President shall cause to be published in the Federal Register a current list of persons that are subject to sanctions under subsection (a). The President shall remove or add the names of persons to the list published under this subsection as may be necessary.

(d) EXCEPTIONS.—The President shall not be required to apply or maintain the sanctions under subsection (a)—

(1) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanction; or

(2) to medicines, medical supplies, or other humanitarian items.

SEC. 5. DESCRIPTION OF SANCTIONS.

The sanctions to be imposed on a person under section 4(a) are as follows:

(1) EXPORT-IMPORT BANK ASSISTANCE FOR EXPORTS TO SANCTIONED PERSONS.—The President may direct the Export-Import Bank of the United States not to guarantee, insure, extend credit, or participate in the extension of credit in connection with the export of any goods or services to any sanctioned person.

(2) EXPORT SANCTION.—The President may order the United States Government not to issue any specific license and not to grant any other specific permission or authority to export any goods or technology to a sanctioned person under—

(A) the Export Administration Act of 1979;

(B) the Arms Export Control Act;

(C) the Atomic Energy Act of 1954; or

(D) any other statute that requires the prior review and approval of the United States Government as a condition for the exportation of goods and services, or their re-export, to any person designated by the President under section 4(a).

(3) LOANS FROM UNITED STATES FINANCIAL INSTITUTIONS.—The United States Government may prohibit any United States financial institution from making any loan or providing any credit to any sanctioned person in an amount exceeding $10,000,000 in any 12-month period (or two or more loans of more than $5,000,000 each in such period) unless such person is engaged in activities to relieve human suffering within the meaning of section 203(b)(2) of the International Emergency Economic Powers Act.

(4) PROHIBITIONS ON FINANCIAL INSTITUTIONS.—The following prohibitions may be imposed against financial institutions sanctioned under section 4(a):

(A) DESIGNATION AS PRIMARY DEALER.—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, such financial institution as a primary dealer in United States Government debt instruments.

(B) GOVERNMENT FUNDS.—Such financial institution shall not serve as agent of the United States Government or serve as repository for United States Government funds.

SEC. 6. ADVISORY OPINIONS.

The Secretary of State may, upon the request of any person, issue an advisory opinion, to that person as to whether a proposed activity by that person would subject that person to sanctions under this Act. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

SEC. 7. DURATION OF SANCTIONS; PRESIDENTIAL WAIVER.

(a) DELAY OF SANCTIONS.—

(1) CONSULTATIONS.—If the President makes a determination described in section 4(a) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this Act.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this Act for up to 90 days. Following such consultations, the President shall immediately impose a sanction or sanctions unless the President determines and certifies to the Congress that the government has taken specific and effective actions, including, as appropriate, the imposition of appropriate penalties, to terminate the involvement of the foreign person in the activities that resulted in the determination by the President pursuant to section 4(a) concerning such person.

(3) ADDITIONAL DELAY IN IMPOSITION OF SANCTIONS.—The President may delay the imposition of sanctions for up to an additional 90 days if the President determines and certifies to the Congress that the government with primary jurisdiction over the foreign person is in the process of taking the actions described in paragraph (2).

(4) REPORT TO CONGRESS.—Not later than 90 days after making a determination under section 4(a), the President shall submit to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives a report which shall include information on the status of consultations with the appropriate foreign government under this subsection, and the basis for any determination under paragraph (3).

(b) DURATION OF SANCTIONS.—The requirement to impose sanctions pursuant to section 4(a) shall remain in effect until the President determines that the sanctioned person is no longer engaging in the activity that led to the imposition of sanctions.

(c) PRESIDENTIAL WAIVER.—(1) The President may waive the requirement in section 4(a) to impose a sanction or sanctions on a person in section 4(b), and may waive the continued imposition of a sanction or sanctions under subsection

(b) of this section, 15 days after the President determines and so reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives that it is important to the national interest of the United States to exercise such waiver authority.

(2) Any such report shall provide a specific and detailed rationale for such determination, including—

(A) a description of the conduct that resulted in the determination;

(B) in the case of a foreign person, an explanation of the efforts to secure the cooperation of the government with primary jurisdiction of the sanctioned person to terminate or, as appropriate, penalize the activities that resulted in the determination;

(C) an estimate as to the significance of the investment to Iran's ability to develop its petroleum resources; and

(D) a statement as to the response of the United States in the event that such person engages in other activities that would be subject to section 4(a).

SEC. 8. TERMINATION OF SANCTIONS.

The sanctions requirement of section 4 shall no longer have force or effect if the President determines and certifies to the appropriate congressional committees that Iran—

(1) has ceased its efforts to design, develop, manufacture, or acquire—

(A) a nuclear explosive device or related materials and technology;

(B) chemical and biological weapons; or

(C) ballistic missiles and ballistic missile launch technology; and

(2) has been removed from the list of state sponsors of international terrorism under section 6(j) of the Export Administration Act of 1979.

SEC. 9. REPORT REQUIRED.

The President shall ensure the continued transmittal to Congress of reports describing—

(1) the nuclear and other military capabilities of Iran, as required by section 601(a) of the Nuclear Non-Proliferation Act of 1978 and section 1607 of the National Defense Authorization Act, Fiscal Year 1993; and

(2) the support provided by Iran for acts of international terrorism, as part of the Department of State's annual report on international terrorism.

SEC. 10. DEFINITIONS.

As used in this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committees on Banking, Housing and Urban Affairs and Foreign Relations of the Senate and the Committees on Banking and Financial Services and International Relations of the House of Representatives.

(2) FINANCIAL INSTITUTION.—The term "financial institution" includes—

(A) a depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act), including a branch or agency of a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978);

(B) a credit union;

(C) a securities firm, including a broker or dealer;

(D) an insurance company, including an agency or underwriter;

(E) any other company that provides financial services; or

(F) any subsidiary of such financial institution.

(3) INVESTMENT.—The term "investment" means—

(A) the entry into a contract that includes responsibility for the development of petroleum resources located in Iran, or the entry into a contract providing for the general supervision and guarantee of another person's performance of such a contract;

(B) the purchase of a share of ownership in that development; or

(C) the entry into a contract providing for participation in royalties, earnings, or profits in that development, without regard to the form of the participation.

(4) PERSON.—The term "person" means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity.

(5) PETROLEUM RESOURCES.—The term "petroleum resources" includes petroleum and natural gas resources.

Mr. D'AMATO. Madam President, I rise today to comment on the passage of S. 1228, the Iran Oil Sanctions Act of 1995.

Now, we have a bill with teeth, that will say to those companies that provide investment in Iran's oil and natural gas sectors, "you can trade with us, or trade with them." And more importantly the bill is extraterritorial. This precedent is important because now for the first time, we will be establishing the concept that the economic development of the Iranian regime is a threat to our national security. As I have said many times, this point is vital to understanding the fact that Iran uses its hard currency to fund its aggression. This, in fact, is the primary goal, namely to deprive Iran of the hard currency needed to obtain weapons of mass destruction and to fund its vast terrorist network.

The administration has indicated that it will support this version of the bill and that the President will sign it.

For far too long the United States had been subsidizing Iranian terrorism through our trade with Iran. Following our lead, President Clinton issued an Executive order on May 6, 1995, banning all trade with Iran. Now, the United States no longer is doing business with Iran. Unfortunately, the other nations of the world have failed to join us in this embargo. While Iran is racing to obtain weapons of mass destruction, many other countries of the world are subsidizing them through their development of the Iranian oil fields. This kind of business gives Iran hard currency to fund terrorism and its quest for nuclear weapons.

Undersecretary of State Peter Tarnoff said it best, when at a hearing before this committee he stated:

> A straight line links Iran's oil income and its ability to sponsor terrorism, build weapons of mass destruction, and acquire sophisticated armaments. Any government or private company that helps Iran to expand its oil [production] must accept that it is . . . contributing to this menace.

This cannot continue and this is why I and my colleagues introduced S. 1228, which now has 43 cosponsors. I thank them for their support for this important bill.

We can wait no longer. We must put real teeth in our policy of economically isolating and undermining a regime which has embarked on policies of terrorism and aggression that impose a clear and present danger to the vital security interests of our own Nation.

Without such a policy there is no doubt that Iran will continue to get the benefit of doing business with companies that put their own desire for profits ahead of the interests of the international community in preventing Iran from joining the nuclear weapons club and continuing its vast support for terrorist groups. With such a policy, there would be a real chance of convincing Iran that its attempt to acquire weapons of mass destruction and its promotion of international terrorism is entirely counterproductive.

If foreign companies are to understand that they are subsidizing Iranian terrorism they should heed the words of Secretary of State Warren Christopher's statement before the U.N. General Assembly on October 25, 1995, when he stated:

> Every dollar that goes into the coffers of a state sponsor of terrorism makes its secret quest for weapons of mass destruction even more alarming. We must stand together to prevent Iran from acquiring such threatening capabilities.

No one could have said it better. I hope that our friends overseas understand this as well, but if they fail to do so, this bill will serve as a reminder.

Mr. SARBANES. Madam President, I rise in support of S. 1228, the Iran Oil Sanctions Act of 1995. This bill would put sanctions on foreign companies that invest in Iran and thereby help that country develop its oil and gas resources. The increased revenue from such enhanced oil production augments Iran's ability to fund its development of nuclear weapons and its support for international terrorism.

Since the Iranian Revolution in 1979, American administrations with bipartisan congressional support have used economic sanctions to hinder Iran's support for international terrorism and to make it harder for that country to get materials and revenues to strengthen its nuclear and conventional weapons programs.

Earlier this year, just prior to the Banking Committee's March 16 hearing on our country's economic relations with Iran, the committee learned that then existing restrictions on such relations did not prohibit the Conoco Co. from signing a contract with Iran to develop a huge offshore oil field in the Persian Gulf. The Clinton administration immediately announced that while Conoco's actions were not illegal, they were "inconsistent with our policy of brining pressure on Iran, both politically and economically to change its unacceptable behavior." The President then on March 15 issued an Executive order prohibiting United States persons from entering into contracts for the financing or the overall supervision and management of the petroleum resources of Iran.

On May 8, President Clinton issued another Executive order that imposed significant new economic sanctions on Iran, including a prohibition on trading in goods or services of Iranian origin, a ban on exports to Iran, and a ban on new investment or bank loans to Iran. The new prohibitions applied to U.S. persons, wherever they may be, including the foreign branches of U.S. entities.

The Clinton administration also urged other countries to support United States efforts to pressure Iran economically and persuaded our G7 allies to avoid any collaboration with Iran that might help that country develop a nuclear weapons capability. A number of foreign corporations, however, are supporting Iran's efforts to increase its oil and gas production. S. 1228 seeks to persuade such companies from assisting Iran as the latter uses its oil and gas revenues to fund behavior harmful to the international community.

At the Banking Committee's October 11 hearing on S. 1228, Under Secretary of State Tarnoff told the committee that "a straight line links Iran's oil income and its ability to sponsor terrorism, build weapons of mass destruction, and acquire sophisticated armaments." He also told us that the administration was making great efforts to persuade other nations to cooperate with our embargo of Iran. He expressed concerns, however, that we not enact legislation that would make it more difficult to get that cooperation. Chairman D'AMATO assured Under Secretary Tarnoff that he wanted to work with the administration in crafting legislation that would persuade foreign companies to cooperate with our embargo of Iran.

Prior to the December 12 committee markup of S. 1228, Chairman D'AMATO, Senator BOXER, myself, and other members of the committee worked with the administration to develop a bill the administration could endorse. Agreement was reached and on December 12, the committee adopted a substitute version of S. 1228 that President Clinton supports.

It does not target trade but rather new investment contracts that enhance Iran's ability to produce oil and gas. The bill also provides the President the necessary flexibility to determine the best mix of sanctions in a particular case, and to waive the imposition—or continued imposition—of sanctions when he determines it is important to the national interest to do so. In using these authorities, the President is directed to consider factors such as the significance of an investment, the prospects for cooperation with other governments, U.S. international commitments, and the effect of sanctions on U.S. economic interests and regional policies. Finally, S. 1228 authorizes the Secretary of State to provide advisory opinions on whether a proposed activity would be covered to avoid unnecessary uncertainty on the part of companies and friction with allies.

This bill was reported out of committee by a vote of 15–0. It is a bill I support because it will make it more difficult for Iran to fund its efforts to develop weapons of mass destruction and its support for international terrorism. I urge its enactment.

Mr. MACK. Madam President, I ask unanimous consent that the committee amendment be agreed to, the bill be deemed read the third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the committee amendment was agreed to.

So the bill (S. 1228), as amended, was deemed read the third time, and passed.

The title was amended so as to read: "A bill to deter investment in the development of Iran's petroleum resources."

BRUCE R. THOMPSON U.S. COURTHOUSE AND FEDERAL BUILDING DESIGNATION

Mr. MACK. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 256, H.R. 395, a bill to designate a U.S. Courthouse and Federal building in Reno, NV; that the bill be deemed read the third time, passed, and the motion to reconsider be laid upon the table; and further, that any statements relating thereto be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 395) was deemed read the third time, and passed.

STAR PRINT—S. 1468

Mr. MACK. Madam President, I ask unanimous consent that S. 1468, the Peanut Program Improvement Act, introduced by Senator HEFLIN, be star printed to reflect the changes I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

VERMONT-NEW HAMPSHIRE INTERSTATE PUBLIC WATER SUPPLY COMPACT

Mr. MACK. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 228, Senate Joint Resolution 38.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the joint resolution by title.

The bill clerk read as follows:

A joint resolution (S. J. Res. 38) granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact.

Mr. MACK. I ask unanimous consent that the joint resolution be deemed read the third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the joint resolution be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (S. J. Res. 38) was deemed read the the third time, and passed, as follows:

S.J. RES. 38

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

The Congress consents to the Vermont-New Hampshire Interstate Public Water Supply Compact entered into between the States of Vermont and New Hampshire. The compact reads substantially as follows:

"Vermont-New Hampshire Interstate Public Water Supply Compact

"ARTICLE I

"GENERAL PROVISIONS

"(a) STATEMENT OF POLICY.—It is recognized that in certain cases municipalities in Vermont and New Hampshire may, in order to avoid duplication of cost and effort, and in order to take advantage of economies of scale, find it necessary or advisable to enter into agreements whereby joint public water supply facilities are erected and maintained. The States of Vermont and New Hampshire recognize the value of and need for such agreements, and adopt this compact in order to authorize their establishment.

"(b) REQUIREMENT OF CONGRESSIONAL APPROVAL.—This compact shall not become effective until approved by the United States Congress.

"(c) DEFINITIONS.—

"(1) The term 'public water supply facilities' shall mean publicly owned water supply sources, storage, treatment, transmission and distribution facilities, and ancillary facilities regardless of whether or not the same qualify for Federal or State construction grants-in-aid.

"(2) The term 'municipalities' shall mean cities, towns, village districts, or other incorporated units of local government possessing authority to construct, maintain, and operate public water supply facilities and to raise revenue therefore by bonding and taxation, which may legally impose and collect user charges and impose and enforce regulatory control upon users of public water supply facilities.

"(3) The term 'water supply agency' shall mean the agencies within Vermont and New Hampshire possessing regulating authority over the construction, maintenance, and operation of public water supply facilities and the administration of grants-in-aid from their respective State for the construction of such facilities.

"(4) the term 'governing body' shall mean the legislative body of the municipality, including, in the case of a town, the selectmen or town meeting, and, in the case of a city, the city counsel, or the board of mayor and aldermen or any similar body in any community not inconsistent with the intent of this definition.

"ARTICLE II

"PROCEDURES AND CONDITIONS GOVERNING INTERGOVERNMENTAL AGREEMENTS

"(a) Cooperative Agreements Authorized.—Any two or more municipalities, one or more located in New Hampshire and one or more located in Vermont, may enter into cooperative agreements for the construction, maintenance, and operation of public water supply facilities serving all the municipalities who are parties thereto.

"(b) Approval of Agreements.—Any agreement entered into under this compact shall, prior to becoming effective, be approved by the water supply agency of each State, and shall be in a form established jointly by said agencies of both States.

"(c) Method of Adopting Agreements.—Agreements shall be adopted by the governing body of each municipality in accordance with statutory procedures for the adoption of interlocal agreements between municipalities within each State; provided, that before a Vermont municipality may enter into such agreement, the proposed agreement shall be approved by the voters.

"(d) Review and Approval of Plans.—The water supply agency of the State in which any part of a public water supply facility which is proposed under an agreement pursuant to this compact is proposed to be or is located, is hereby authorized and required, to the extent such authority exists under its State law, to review and approve or disapprove all reports, designs, plans, and other engineering documents required to apply for Federal grants-in-aid or grants-in-aid from said agency's State, and to supervise and regulate the planning, design, construction, maintenance, and operation of said part of the facility.

"(e) Federal Grants and Financing.—(1) Application for Federal grants-in-aid for the planning, design, and construction of public water supply facilities other than distribution facilities shall be made jointly by the agreeing municipalities, with the amount of the grant attributable to each State's allotment to be based upon the relative total capacity reserves allocated to the municipalities in the respective States determined jointly by the respective State water supply agencies. Each municipality shall be responsible for applying for Federal and State grants for distribution facilities to be located within the municipal boundaries.

"(2) Municipalities are hereby authorized to raise and appropriate revenue for the purpose of contributing pro rata to the planning, design, and construction cost of public water supply facilities constructed and operated as joint facilities pursuant to this compact.

"(f) Contents of Agreements.—Agreements entered into pursuant to this compact shall contain at least the following:

"(1) A system of charges for users of the joint public water supply facilities.

"(2) A uniform set of standards for users of the joint public water supply facilities.

"(3) A provision for the pro rata sharing of operating and maintenance costs based upon the ratio of actual usage as measured by devices installed to gauge such usage with reasonable accuracy.

"(4) A provision establishing a procedure for the arbitration and resolution of disputes.

"(5) A provision establishing a procedure for the carriage of liability insurance, if such insurance is necessary under the laws of either State.

"(6) A provision establishing a procedure for the modification of the agreement.

"(7) A provision establishing a procedure for the adoption of regulations for the use, operation, and maintenance of the public water supply facilities.

"(8) A provision setting forth the means by which the municipality that does not own the joint public water supply facility will pay the other municipality its share of the maintenance and operating costs of said facility.

"(g) Applicability of State Laws.—Cooperative agreements entered into by municipalities under this compact shall be consistent with, and shall not supersede, the laws of the State in which each municipality is located. Notwithstanding any provision of this compact, actions taken by a municipality pursuant to this compact, or pursuant to an agreement entered into under this compact, including the incurring of obligations or the raising and appropriating of revenue, shall be valid only if taken in accordance with the laws of the State in which such municipality is located.

"CONSTRUCTION

"Nothing in this compact shall be construed to authorize the establishment of interstate districts, authorities, or any other new governmental or quasi-governmental entity.

"ARTICLE III

"EFFECTIVE DATE

"This compact shall become effective when ratified by the States of Vermont and New Hampshire and approved by the United States Congress.".

SEC. 2. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this joint resolution is hereby expressly reserved. The consent granted by this joint resolution shall not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of the compact.

SEC. 3. CONSTRUCTION AND SEVERABILITY.

It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. If any part or application of this compact, or legislation enabling the compact, is held invalid, the remainder of the compact or its application to other situations or persons shall not be affected.

SEC. 4. INCONSISTENCY OF LANGUAGE.

The validity of this compact shall not be affected by any insubstantial difference in its form or language as adopted by the two States.

ORDERS FOR TUESDAY, DECEMBER 19, 1995

Mr. MACK. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Tuesday, December 19; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the DOD authorization conference report as under the previous order.

I further ask unanimous consent that the Senate stand in recess between the hours of 12:30 p.m. and 2:15 p.m. for the weekly policy conferences to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MACK. Madam President, for the information of all Senators, under the unanimous-consent agreement if all debate is used, a rollcall vote will occur on the adoption of the DOD authorization conference report at approximately 5:25 tomorrow. We are also hoping that we will be able to proceed to the consideration of the Labor-HHS appropriations bill; if not, a cloture vote is still scheduled at a time to be determined by the two leaders on tomorrow. It may be the intention of the majority leader to further postpone that cloture vote.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MACK. Madam President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:40 p.m., adjourned until Tuesday, December 19, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate December 18, 1995:

NATIONAL TRANSPORTATION SAFETY BOARD

GEORGE W. BLACK, JR., OF GEORGIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 31, 1996, VICE CARL W. VOGT, RESIGNED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

PATRICK DAVIDSON, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2000, VICE MEL HARRIS, TERM EXPIRED.

TOWNSEND D. WOLFE III, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2000, VICE EARL ROGER MANDLE, TERM EXPIRED.

DEPARTMENT OF LABOR

PASCAL D. FORGIONE, JR., OF DELAWARE, TO BE COMMISSIONER OF EDUCATION STATISTICS FOR A TERM EXPIRING JUNE 21, 1999, VICE EMERSON J. ELLIOTT.

NATIONAL LABOR RELATIONS BOARD

SARAH MCCRACKEN FOX, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF 5 YEARS EXPIRING AUGUST 27, 2000, VICE JAMES M. STEPHENS, TERM EXPIRED.

THE JUDICIARY

ROBERT E. MORIN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF 15 YEARS, VICE CURTIS E. VON KANN, RETIRED.

DEPARTMENT OF DEFENSE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND REAPPOINTMENT TO THE GRADE OF GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 154:

VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF

To be general

GEN. JOSEPH W. RALSTON, 270-40-9172, U.S. AIR FORCE.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. EUGENE E. HABIGER, 556-50-5234, U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

LT. GEN. HENRY H. SHELTON, 240-68-4698, U.S. ARMY

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST OF THE U.S. NAVY IN THE GRADE INDICATED UNDER SECTION 1370 OF TITLE 10, UNITED STATES CODE:

To be admiral

ADM. WILLIAM A. OWENS, 502-28-1521.

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 12203(A), 3366, AND 1552:

ARMY PROMOTION LIST

To be lieutenant colonel

WILLIAM HAYES-REGAN, 581-96-8490
RICHARD A. MEITZLER, 247-76-8133
STEPHEN S. SIBERT, 262-92-2582
JON O. VESTRE, 517-56-3427
RICHARD C. WELLS, 324-38-6710
DORIS J. WILLIAMS, 453-82-7057
STEPHANIE WOODARD, 464-84-8922

ARMY NURSE CORPS

To be lieutenant colonel

MARY A. SPENCER, 539-46-5392

DENTAL CORPS

To be lieutenant colonel

THORNTON T. PERRY, 213-56-2219

MEDICAL CORPS

To be lieutenant colonel

HAROLD L. MARTIN, 267-82-0922

MEDICAL SERVICE CORPS

To be lieutenant colonel

JAMES M. BAKER, 159-40-8867

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 12203 AND 3385:

ARMY PROMOTION LIST

To be colonel

MICHAEL C. APPE, 439-80-4073
JAMES M. HOWER, JR., 496-50-0130
PAUL G. JARRETT, 462-66-7951
LEVI H. PERRY, 429-82-0828
JAMES E. PYNE, 541-50-1710
WILLIAM L. ZIEBER, 284-50-9134

ARMY PROMOTION LIST

To be lieutenant colonel

HERBERT J. ANDRADE, 036-30-7925
JAMES W. BLAKE, JR., 233-84-6739
ROBERT D. BLOOMQUIST, 510-66-1954
DAVID C. BOOKMAN, 010-52-7059
TERRY L. BORTZ, 396-52-9314
JAMES J. CAPORIZO III, 048-50-2200
JOHN E. DAVOREN, 514-60-3064
THOMAS D. DEAN, 556-94-5252
KENT J. DURING, 585-16-2945
SAMUEL L. FERGUSON, 245-70-6074
STEVEN D. FORREY, 469-54-8437
JOHN A. GOODALE, 516-74-4297
WAYNE M. HAYES, 470-70-3388
STEPHEN J. HINES, 148-46-1897
MORRIS E. MCCOSKEY, 304-68-9885
ROY T. MUCCURCHEON III, 229-94-8920
ROBERT K. MILLER, JR., 200-40-6190
STANFORD T. MULLEN, JR., 407-74-0656
MARION Y. PETERSEN, 580-09-3050
GERALD M. ROTTINGHAUS, 510-52-4053
THOMAS W. SHEA, 585-48-3150
WILLIAM F. SIMON, 526-78-4339
PATRICK T. SMITH, 212-62-0681
STANLEY P. SYMAN, 043-46-6445
ROBERT W. TROWER, 431-04-1403
STEPHEN C. TRUESDELL, 250-80-6095
ROBERT F. WARD, 077-48-4726
MARTIN E. WEAVER, 140-40-1275
BARRY G. WRIGHT, 402-04-7248

CHAPLAIN CORPS

To be lieutenant colonel

JAMES E. NORTON, 393-50-1054

MEDICAL CORPS

To be lieutenant colonel

DONNIE J. HOLDEN, 432-11-2679

MEDICAL SERVICE CORPS

To be lieutenant colonel

JANET M. HARRINGTON, 507-76-3620

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PROMOTION TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE, UNDER THE PROVISIONS OF SECTION 307, TITLE 32, UNITED STATES CODE, AND SECTIONS 8363 AND 593, TITLE 10, UNITED STATES CODE.

LINE OF THE AIR FORCE

To be colonel

DWAYNE A. ALONS, 485-54-6536
CLAYTON B. ANDERSON, 503-56-3340
DANIEL P. ANDERSON, 555-78-9179
RALPH P. ANDERSON, 272-42-8034
LARRY T. BERGERSON, 506-54-7908
WILLIAM E. BONNELL, 294-36-6991
GEORGE W. BOWEN, 121-36-8390
JOHN T. BRAGG, JR., 408-76-1960
RONALD W. BROWN, 277-44-7026
JOHN H. BUBAR, 007-44-0916
GEORGE J. CANNELOS, 535-48-9758
WAYNE R. CARLSON, 476-46-4559
JOSEPH C. CARR, 277-40-2711
MARK S. CHMAR, 225-78-5174
WILLIAM A. CHRISTIAN, 246-70-3013
BERNARD E. COX, JR., 422-68-7365
JOHN G. COZAD, 561-66-0418
WILLARD G. DELLICKER, 187-34-9787
ROLAND S. DODSON, 258-84-4989
DONALD L. EBY, 268-38-9312
KENNETH M. EXLINE, 361-32-6760
EDWARD C. FAGER, 548-66-1731
EDWARD L. FLEMING, 095-42-5896
RONALD R. FRAZEE, 225-66-3660
LEONARD R. FREDERICK, 425-98-8816
CLAUDE R. FRICK, 247-64-3095
ROBERT H. HARKINS III, 322-42-3718
LAWRENCE G. HARRINGTON, 483-46-9154
CHARLES L. HARRISON, 233-58-2324
JACK S. HILL, 255-68-8487
THOMAS C. HRUBY, 501-48-4185
JAMES D. JACOBSON, 536-42-0900
MARY E. JEFFRIES, 162-46-2792
THOMAS J. KELLEY, 014-34-8865
WARREN D. KRISE, 314-44-1140
KARL J. KROENER, 447-48-5594
PHIL P. LEVENTIS, 249-68-5798
GEORGE T. LYNN, 405-64-5342
THOMAS J. MADIGAN, 040-42-3286
JAMES D. MARLOWE, 248-08-0691
DARRELL W. MCCARDLE, 436-74-3330
JAMES D. MCENTIRE, 378-42-9806
BRIAN J. MCGARRY, 559-78-0861
JAMES A. MCMURRY, 391-50-4110
MARVIN G. MEIGGS, JR., 229-54-4959
MARK P. MEYER, 571-80-7853
ROBERT A. MEYER, 295-38-8615
THOMAS L. MILLER, 483-58-6088
ROBERT J. MURPHY, 368-60-1124
CHARLES V. NEALY, JR., 574-18-4680
LEONARD OLSON, JR., 254-80-5277
LARRY G. OREAR, 408-72-0289
ALAN J. OSE, 479-52-3894
THOMAS G. PALKIE, 470-52-8320
WENDELL W. PARMER, 416-60-4713
SETH E. PERELMAN, 055-38-4256
WILLIAM G. PETTIT, JR., 404-68-3257
DAVID G. PHILLIPS, JR., 230-72-3353
MARION G. PRITCHARD, JR., 219-48-9871
GENE L. RAMSAY, 357-38-4603
ROBERT P. RAUSCHER, 481-52-2572
JOHN D. RICE, 430-78-5652
THOMAS O. SHERMAN, 249-94-0465
MICHAEL J. SHIRA, 262-02-1194
RONALD E. SHOOPMAN, 526-78-9650
DANNY R. SMITH, 248-90-5360
GERALD K. STAUDTE, 541-46-2556
DAVID V. SWEIGART, 370-40-9358
JOSEPH M. SWOPE, 231-64-2540
PHILIP A. TENNANT, 126-34-5053
JOSEPH C. THOMAS, 412-76-1991
GERALD G. THOMPSON, 541-56-9199
RICHARD G. TUCKER, 525-92-8055
ARBIE TURNER, JR., 250-74-4111
FRANK D. TUTOR, 408-72-8226
CHARLES D. UNDERWOOD, JR., 062-38-0137
DANIEL L. WATKINS, 241-78-9335
ROBERT H. WILLIAMS III, 402-68-0892

DENTAL CORPS

To be colonel

MICHAEL W. BERTZ, 278-32-5811
FRANK W. BRUMFIELD, 290-32-0211

JUDGE ADVOCATE

To be colonel

BRUCE S. ASAY, 520-62-4017
JERALD L. ENGELMAN, 501-52-2506
GARY L. JEWEL, 264-98-2094
DONALD A. LABAR, 516-52-1812
GEORGE M. MITCHELL, JR., 425-86-1899
THOMAS R. ROBINSON, 418-60-8333

MEDICAL CORPS

To be colonel

RAYMOND BRUNO, 144-46-6914
JAIME H. CERCONE, 019-34-8583
RANDALL M. FALK, 410-76-5286
ARTHUR N. FOKAKIS, 425-98-6283
RONNIE J. KIRSCHLING, 397-50-3154
JOHN P. MCGOFF, 315-68-0953
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THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE U.S. AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE

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JAMES J. ROMANO, 008–38–8933
JAMES D. RUMMER, 064–44–1904
SAMUEL K. RYALS, 538–56–3548
MARSHALL K. SABOL, 451–08–5866
MICHAEL J. SACRIDER, 508–70–0607
GARY N. SADLER, 408–86–5991
WILLIAM E. SAIER, 571–64–1659
TIMOTHY V. SALTSMAN, 088–42–9284
GARY R. SANDIFORD, 424–64–2210
RICHARD L. SANDWICK, 529–78–4135
JACK O. SAWDY, 404–74–3871
PAUL G. SCHAFER, 383–54–7952
DANIEL B. SCHELLINGER, 395–50–8181
JAMES B. SCHEPLEY, 285–52–6841
ROBERT W. SCHLOSS, 245–76–4020
MICHAEL H. SCHMIDT, 524–78–3038
JAMES A. SCHOECK, 494–54–7755
ROBERT J. SCHRAEDER, JR., 107–38–2154
CHARLES F. SCHRECK, 500–56–0353
KRISTIN E. SCHRICKER, 131–36–5229
WILLIAM A. SCROGGS, JR., 241–88–5984
JOHN P. SELSTROM, JR., 516–62–1254
ROBERT J. SETTLE II, 317–60–5961
MICHAEL L. SEVIER, 555–84–2807
WILLIAM E. SEWELL, 435–84–5823
RONALD A. SEYLE, 249–86–6995
ALAN R. SHAFFER, 008–42–6506
JANICE D. SHANNON, 412–76–7374
ROBERT L. SHAPPELL, 196–38–9665
CEASAR D. SHARPER, 363–54–2179
PEGGY A. SHAW, 566–90–7658
FRANCIS W. SHEALY, JR., 248–94–7533
JOSEPH R. SHEARER, 116–38–2735
JOHN R. SHEEKLEY, 294–50–2611
RAY B. SHEPHERD, 437–84–0943
DENNIS M. SHERADEN, 207–36–4415
DAVID K. SHILLER, 298–42–7231
THOMAS W. SHUBERT, 128–44–7080
JAMES A. SILLS, 262–96–7718
FRANK R. SIZEMORE, 585–68–2280
CLIFFORD L. SJOLUND, JR., 471–62–1443
JAMES P. SKALKO, 471–64–1209
JAMES F. SLATON, 535–46–6357
AVERY P. SLEDGE, JR., 255–88–3614
CLARENCE D. SMITH, JR., 074–42–3122
DONALD L. SMITH, 105–42–9591
EMMITT G. SMITH, 587–72–1803
HOMER C. SMITH, JR., 418–76–0120
WILLIAM F. SMITH, 140–38–5662
DAVID M. SNYDER, 125–40–6011
ANNABELLE D. SOLIS, 263–17–5703
CHARLES C. SOUTH, 460–86–0876
PAUL M. SOWADA, 466–96–8998
LARRY O. SPENCER, 579–74–6720
RICHARD E. SPENCER, 406–68–7765
JAMES D. SPILLER, 587–46–8851
REGAN D. SPRINGS, 461–78–1005
JUDSON E. STAILEY, 291–46–2318
JAMES L. STANLEY, JR., 242–90–6573
RICKY T. STEARMAN, 406–76–1337
JOHN E. STEINKE, 392–60–1751
CLAY A. STEWART, 528–76–8785
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THOMAS E. STICKFORD, 432–11–4263
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DAVID R. STINSON, 332–46–9920
BRUCE E. STOFFERAHN, 504–54–1243
DONALD G. STONE, 407–72–5157
MARC B. STORMONT, 527–76–4351
RICHARD H. STOTTS, 314–58–6579
EDWARD R. STRACK, 523–76–9440
MICHAEL L. STRAIGHT, 470–68–4741
LAWRENCE L. STRANG, 520–56–2483
RANDALL W. STRAUSS, 478–72–0859
WILLIAM K. STUART, 321–44–8229
LAWRENCE A. STUTZRIEM, 529–88–7077
TERRENCE J. TALLENT, 492–60–0942
KENNETH G. TEEPELL, 439–70–0442
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JAMES A. THOMAS III, 555–76–1680
JOSEPH F. THUMSER, 121–46–5793
JAMES G. TIETJEN, 089–46–5919
H.W. TILESTON III, 021–42–2807
RANDY G. TILLERY, 549–96–6006
PHILLIP L. TOLER, 572–76–2348
MARK V. TOLLEFSON, 333–40–2713
ROBERT C. TOM, 395–60–1471
ROBERT W. TOMLINSON, 079–40–6409
DANIEL T. TOMPKINS, 433–86–1290
TOMMY J. TOMPKINS, 466–82–4624
AGUSTIN J. TORRES, 262–92–6649
MICHAEL L. TOWNES, 430–98–3350
MICHAEL A. TOWNSEND, 258–84–4214
JOCK A. TRAFTON, 490–60–4867
BERNARD V. TRAYNOR III, 419–78–0536
DUANE C. TRIPP, 537–46–3275
RANDALL L. TURNER, 527–92–4507
JOHN H. TWEEDY, 225–76–7905
JAMES R. UKEN, 503–68–1453
VIRGIL F. UNGER, 508–70–5494
LARRY N. VANBUREN, 491–52–4610
PAUL D. VANGORDEN, 512–52–1253
GARRY C. VARNEY, 229–74–7254
LESLIE A. VEDITZ, 364–60–5130
GERARD F. VESHOSKY, 266–08–1064
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EDWARD L. WADDY, JR., 230–78–4135
DARRELL P. WAGNER, 480–70–3816
SAMUEL A. WALL, 237–54–8078
DAVID G. WALLACE, 143–48–0622
ROBERT S. WARD, 075–40–8576
JAMES F. WARNER, 011–38–6761
BOBBY H. WASHINGTON, 245–84–3396
THOMAS G. WASSON, 245–76–0482
EDDIE D. WEEKS, 563–84–7438
JOHNNY C. WEST, 429–98–8737
CHARLES M. WESTENHOFF, 562–74–2285
JOHN E. WHITEFORD, JR., 217–62–7643
KATHY S. WHITTEN, 465–90–4635
BOBBY J. WILKES, 587–86–4523
KEVIN J. WILLEY, 566–70–0188
CHARLES R. WILLIAMSON, 505–66–3595
WARD T. WILLIS, 529–74–4451
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WILLIAM M. WISE, 262–94–7459
MICHAEL L. WOLFERT, 297–48–5911
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JOHN S. WOODWARD, 128–42–8720
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MICHAEL A. WRIGHT, 358–36–7020
JACK A. WYLIE, JR., 456–78–8469
MARLON W. YANKEE, 411–86–9700
THOMAS S. YARBROUGH, 415–76–1932
BEN F. YOUNG, JR., 253–96–5360
JOSEPH R. ZAHROBSKY, 118–38–3338
JOHN W. ZAHRT, 290–42–4828

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To be colonel

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MARY M. BOONE, 528–66–2213
BRUCE T. BROWN, 579–74–2596
WILLIAM M. BURD, 566–80–8150
DWIGHT D. CREASY, 411–94–0424
DAVID A. FAHEY, 527–80–8020
THEODORE J. FINK, 281–40–1646
BRADLEY P. GRANT, 516–62–5876
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SHERRI W. JOHNSON, 532–42–5611
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CHERYL L. NILSSON, 372–62–0307
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RICHARD B. SORENSON, 501–62–1071
JOYCE I. SPISAK, 563–68–7967
DEBORAH A. SUCHENSKI, 220–66–8237

NURSE CORPS

To be colonel

DIAN L. ATKINS, 236–80–4096
ESTON L. BANNISTER, JR., 252–84–6023
LINDA L. BOYLE, 166–38–4637
KATHRYN M. FAGAN, 120–38–4294
GARY C. GRAY, 453–82–2397
TERESA A. LEDZINSKI, 172–38–5733
GAUDIOSA MALDONADO, 144–38–5837
JOYCE K. PARK, 491–50–2596
JIMMIE M. SMITH, 264–96–0056
DOLORES M. H. TURNER, 475–58–6283

MEDICAL SERVICE CORPS

To be colonel

DEBRA A. CERHA, 205–40–1700
MICHAEL J. FITZWATER, 270–44–2965
JAMES F. GEIGER, 563–86–9166
STEPHAN A. GIESECKE, 537–52–2061
BRUCE P. HESELTINE, 528–68–4774
ANDREW F. LOVE, 332–48–3338
STEPHEN L. MEIGS, 254–92–0132
MICKEY J. MELTON, 543–46–2025
PAUL W. NICE, 120–42–8000
RICHARD D. PLEASANTS, 245–68–5355
JONATHAN S. STAPLEY, 527–11–4485

BIOMEDICAL SCIENCES CORPS

To be colonel

PAULA A. BLOCK, 230–78–3960
WILLIAM G. CARGILL, 554–70–7081
THERESA M. CASEY, 445–62–8360
ROBERT J. MCKENNA, 559–62–3044
JESSE D. S. MORGAN, JR., 224–58–2163
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MELVIN R. ONEAL, 561–68–9660
DEBORAH S. PAGE, 578–62–4165
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PAUL T. RAY, 266–96–8863
BENIGNO SIERRAIRIZARRY, 584–24–8374
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ROBERT L. WILLIAMS, 488–52–5809

HOUSE OF REPRESENTATIVES—*Monday, December 18, 1995*

(Legislative day of Friday, December 15, 1995)

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. HAYWORTH] at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

You have promised, O God, that You are with us wherever we are and whatever we are doing—to heal and to help, to give strength and to make us whole. We pray that we will be receptive to Your promises and receive them with confidence and conviction, that, armed by Your spirit, we will go forth to do those good works that promote justice and equity and truth. We admit that we miss the mark and yet we pray that we will be faithful messengers of Your Word and steadfast stewards of all Your gifts. In Your name, we pray. Amen.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from Utah [Mr. HANSEN] will lead the membership in the Pledge of Allegiance.

Mr. HANSEN led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment a bill of the House of the following title:

> H.R. 1561. An act to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1561) "An Act to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HELMS, Ms. SNOWE, Mr. BROWN, Mr. COVERDELL, Mr. ASHCROFT, Mr. PELL, Mr. KERRY, Mr. SARBANES, and Mr. DODD, to be the conferees on the part of the Senate.

The message also announced that pursuant to Public Law 94–304, as amended by Public Law 99–7, the Chair, on behalf of the Vice President, appoints Mr. FEINGOLD to the Commission on Security and Cooperation in Europe.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Friday, December 15, 1995: S. 1060, to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes; and the Speaker signed the following bills on Saturday, December 16, 1995: H.R. 1747, to amend the Public Health Service Act to permanently extend and clarify malpractice coverage for health centers, and for other purposes; H.R. 1977; making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes; H.R. 2099, making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes; and H.R. 2336; to amend the Doug Barnard, Jr., 1996 Atlanta Centennial Olympic Games Commemorative Coin Act, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV. Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules but not before 5 p.m. today.

STUTTGART NATIONAL AQUACULTURE RESEARCH CENTER ACT OF 1995

Mr. SAXTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 33) to transfer the fish farming experimental laboratory in Stuttgart, AR, to the Department of Agriculture, and for other purposes.

The Clerk read as follows:

H.R. 33

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stuttgart National Aquaculture Research Center Act of 1995".

SEC. 2. TRANSFER OF FUNCTIONS TO THE SECRETARY OF AGRICULTURE.

(a) TITLE OF PUBLIC LAW 85–342.—The title of Public Law 85–342 (16 U.S.C. 778 et seq.) is amended by striking "Secretary of the Interior" and inserting "Secretary of Agriculture.".

(b) AUTHORIZATION.—The first section of Public Law 85–342 (16 U.S.C. 778) is amended—

(1) by striking "Secretary of the Interior" and all that follows through "directed" and inserting "Secretary of Agriculture is authorized and directed";

(2) by striking "station and stations" and inserting "1 or more centers"; and

(3) in paragraph (5), by striking "Department of Agriculture" and inserting "Secretary of the Interior".

(c) AUTHORITY.—Section 2 of Public Law 85–342 (16 U.S.C. 778a) is amended by striking ", the Secretary" and all that follows through "authorized" and inserting ", the Secretary of Agriculture is authorized".

(d) ASSISTANCE.—Section 3 of Public Law 85–342 (16 U.S.C. 778b) is amended—

(1) by striking "Secretary of the Interior" and inserting "Secretary of Agriculture"; and

(2) by striking "Department of Agriculture" and inserting "Secretary of the Interior".

SEC. 3. TRANSFER OF FISH FARMING EXPERIMENTAL LABORATORY TO DEPARTMENT OF AGRICULTURE.

(a) DESIGNATION OF STUTTGART NATIONAL AQUACULTURE RESEARCH CENTER.—

(1) IN GENERAL.—The Fish Farming Experimental Laboratory in Stuttgart, Arkansas, shall be known and designated as the "Stuttgart National Aquaculture Research Center".

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the laboratory referred to in paragraph 1 shall be deemed to be a reference to the "Stuttgart National Aquaculture Research Center".

(b) TRANSFER OF LABORATORY TO THE DEPARTMENT OF AGRICULTURE.—Subject to section 1531 of title 31, United States Code, not later than 90 days after the date of enactment of this Act, there are transferred to the Department of Agriculture—

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

(1) the personnel employed in connection with the laboratory referred to in subsection (a);

(2) the assets, liabilities, contracts, and real and personal property of the laboratory;

(3) the records of the laboratory; and

(4) the unexpended balance of appropriations, authorizations, allocations and other funds employed, held, arising from, available to, or to be made available in connection with the laboratory.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. SAXTON] will be recognized for 20 minutes, and the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the adoption of H.R. 33, introduced by our colleague from Arkansas, BLANCHE LAMBERT LINCOLN.

The purpose of this legislation is to transfer the fish farming experimental laboratory in Stuttgart, AR, from the Department of the Interior to the U.S. Department of Agriculture [USDA] and to rename that facility to more accurately reflect the true nature of the work performed there.

The bill was the subject of a hearing before my Subcommittee of Fisheries, Wildlife and Oceans on September 21, and there was overwhelming support for this measure.

This laboratory, which was first established in 1960, has conducted important research and development on various techniques for the commercial production of catfish, baitfish, and other finfishes, which have been worth in excess of $600 million.

In addition, the laboratory houses the U.S. Fish and Wildlife Service's triploid grass carp certification inspection program, which has provided services to fish producers in over 30 States.

Finally, both the administration and the Appropriations Committee have recommended that this laboratory be transferred to the Department of Agriculture. The vast majority of those who use the laboratory are farmers and it seems to me that USDA should be assigned responsibility over its functions.

I am not aware of any controversy over this legislation and I urge an "aye" vote on H.R. 33.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, as has just been said, is utterly without controversy, although I must say it is a little bit embarrassing to be standing here debating this when approximately 4 minutes ago the agency in question was shut down because of our inability to act like grownups.

But the bill is without controversy, as the gentleman has so correctly pointed out.

I urge Members to support it.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of H.R. 33, which will transfer the Stuttgart Fish Farming Experimental Laboratory in Arkansas from the Department of the Interior to the Department of Agriculture.

This Laboratory has been instrumental in the development of various techniques for the commercial production of catfish, baitfish, and other finfishes worth in excess of $600 million.

Furthermore, this facility conducts extensive research on warmwater aquaculture and, since the vast majority of those who utilize Stuttgart are farmers, the Department of Agriculture is a logical home for this laboratory.

Based on the testimony received, it is clear that this transfer is not controversial and is strongly supported by all of the affected parties. I, therefore, urge an "aye" vote on this legislation and I compliment our distinguished colleague from Arkansas, BLANCHE LAMBERT LINCOLN, for her leadership in this matter.

Mr. STUDDS. Mr. Speaker, I yield back the balance of my time.

Mr. SAXTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. SAXTON] that the House suspend the rules and pass the bill, H.R. 33.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAXTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 33, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

HOUSING FOR OLDER PERSONS ACT OF 1995

Mr. CANADY of Florida. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 660) to amend the Fair Housing Act to modify the exemption from certain familial status discrimination prohibitions granted to housing for older persons.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Housing for Older Persons Act of 1995".

SEC. 2. DEFINITION OF HOUSING FOR OLDER PERSONS.

Section 807(b)(2)(C) of the Fair Housing Act (42 U.S.C. 3607(b)(2)(C)) is amended to read as follows:

"(C) intended and operated for occupancy by persons 55 years of age or older, and—

"(i) at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;

"(ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and

"(iii) the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall—

"(I) provide for verification by reliable surveys and affidavits; and

"(II) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.".

SEC. 3. GOOD FAITH ATTEMPT AT COMPLIANCE; DEFENSE AGAINST CIVIL MONEY DAMAGES.

Section 807(b) of the Fair Housing Act (42 U.S.C. 3607(b)) is amended by adding at the end the following new paragraph:

"(5)(A) A person shall not be held personally liable for monetary damages for a violation of this title if such person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons.

"(B) For the purposes of this paragraph, a person may only show good faith reliance on the application of the exemption by showing that—

"(i) such person has no actual knowledge that the facility or community is not, or will not be, eligible for such exemption; and

"(ii) the facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. CANADY] will be recognized for 20 minutes, and the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 660, the Housing for Older Persons Act amends the Fair Housing Act to remove the "significant facilities and services requirement" for seniors-only housing.

In 1988, when Congress amended the Fair Housing Act to protect families with children from discrimination, it provided an exemption for "housing for older persons." "Housing for older persons" is defined as housing that is occupied by persons 62 years of age or older or housing intended for occupancy by persons 55 years of age or older where there are "significant facilities and services specifically designed to meet the physical or social needs of older persons."

The term "significant facilities and services" has been a source of confusion and litigation since the passage of the act. While the Department of Housing and Urban Development recently issued guidelines which may help to remove some of the confusion, the best and most certain way to solve this problem and give peace of mind to senior citizens is to pass H.R. 660.

The Senate passed H.R. 660, as amended, on December 6, 1995 by a vote of 94 to 3.

The Senate amendment makes some minor modifications to the House bill. Essentially, the heart of the legislation remains the same. In order to qualify as seniors-only housing, a facility must show that 80 percent of its units have one or more occupants aged 55 or older and meet certain other requirements.

The Senate amendment sets forth a good faith exception so that individuals who rely on the application of the seniors-only exemption will not have to pay money damages if the exemption is later found not to apply. In order to qualify for the good faith exception, the person must have no actual knowledge that the facility is ineligible for the exemption and the facility must have stated, in writing, that it complies with the requirements for the seniors-only exemption.

H.R. 660 will establish a workable and fair exemption to protect senior citizens who wish to live in retirement communities. It fairly balances the rights of families with children and the rights of seniors to choose to live among other older adults in age-restricted communities.

I want to thank my colleague from Florida, Mr. SHAW, who has worked diligently for passage of this legislation and Mr. FRANK of Massachusetts, the ranking member of the subcommittee who is also a supporter of this legislation.

In addition, to my colleagues in the Congress, I want to thank Bill Williams, president of the Federation of Mobile Home Owners of Florida and the Federation's General Counsel Lucy Warren. Thanks also go to Lori Van Arsdale, mayor of the city of Hemet, California who has tirelessly pursued this initiative.

Mr. Speaker, I urge all of my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

I support this legislation. I am pleased it has come back from the Senate in a form that is very close to what we sent them and we can accept it.

This came to my attention, this issue, as a result of people in the town of Raynham, MA, and elsewhere. They were people who lived in manufactured housing and believed they were living in a community that was for older people only but were told that, because of the way the fair housing law had been originally drafted, they could not have that assurance.

One of the problems was the fair housing law, in its understandable zeal to protect children against discrimination, and I think all of us want to reaffirm we are opposed to discrimination in housing against families with children, it would certainly ill behoove us to talk about families and children on one hand and then sanction discrimination against families with children. But what we are saying is that where you are dealing predominantly with older people, where there is a common interest in an atmosphere that may be acquired or wanted, et cetera, then it is reasonable to say no younger people, not just children; that is what we are talking about.

The law originally, in fact, required or came close to requiring that to qualify for that exemption from the antidiscrimination laws to be for elderly only, you had to have special facilities for the elderly. There was in it an unintended but unfortunate implication if you had housing only for the elderly you would have to have therapeutic facilities; a notice older people might be able to live by themselves without special health care, respirators, et cetera, did not seem a reasonable one.

What this legislation says is that if you are legitimately a community that has set itself aside for older people only, you can be certified for that purpose and not worry about discrimination, because you are trying to live up to that. On the other hand, it does not weaken, and should not weaken, the law which prevents discrimination against children. If you are housing open to anybody, if you are housing open for people in their 20's, 30's, 40's, you may not discriminate against children.

You can, under this law, it was an exemption already in the law, it makes an exemption the law already intended more workable, less subject to obfuscation or confusion. It gives people more peace of mind so that communities that are aimed at older people only, and let us also be very clear, there are people in their 70's and 80's who want to lives with younger children, with younger people, there are people who are in their 70's and 80's who prefer to live mostly with other people of their own age. People's preferences for noise, for different levels of activity will differ.

What we ought to be doing is offering people the right to choose. This legislation protects that right to choose for those older people who do prefer to live in communities of people primarily their own age. This law protects that right. It is, as I said, an example of improvement.

I should add one other thing, and this is under former Assistant Secretary Achtenberg, the Federal Department of Housing and Urban Development did the most they could within the statute to protect that right.

□ 1215

It was called to their attention, they had hearings, and under Assistant Secretary Achtenberg and Secretary Cisneros, HUD did the best they could do. We did agree, however, looking at the statute, that they way to do this job of protecting the right of older people to live live among themselves, if they so chose, perfectly, it was not enough to deal with the regulatory improvements that had been made.

HUD did the best they could, but there were changes that needed to be made in the statute. This statute does them. I hope, therefore, we pass it.

Mr. Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I rise in support of the bill, but that is not what I wanted to talk about. I did want to make a comment.

Mr. Speaker, as the budget debate continues to rage, I want to take this time to state what we ought to be doing to bring to an end this harsh and unrelenting conflict.

First of all, I believe most, if not all of us, are trying to create a better America. We just see these terribly important issues from a different perspective. Our destination is the same but we are choosing different roads to get there.

I hope we do not lose sight of what is at stake here. And that is the fiscal solvency and the continued well being of all Americans. If we do not come up with a plan to balance the budget now, how will we ever? If we do not reach agreement now, where will we find the resolve to do it next year when it will be even harder? Or the year after that?

Along the way though, we need to be fair. Shutting down part of the Government is not only unfair, it does not help either side. What is more, it is unnecessary and it hurts American taxpayers who rely on Government services and Federal employees who want to be on the job delivering those services.

This is doubly unfortunate because it is not central to debate. It adds nothing, only detracts from the key issue of agreeing to do that which we have already agreed upon in principle: To reach a balanced budget by the year 2002.

To that end, I ask the President and the Congress today, without another hour of delay, to pass whatever stopgap measure is necessary to keep the Government running. And then today, without another hour of delay, I ask the President to become personally involved in the negotiations with the Speaker and majority leader in the Senate. The two sides are closer than one might imagine from listening to harsh rhetoric, from both sides, I might add.

It is time for both sides to make commitments rather than goals. Both sides have said they want a 7-year balanced budget. Today it is time to just do it.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say that I agree with the gentleman from Virginia. I believe we have an obligation to keep the Government running. What we ought to do is to pass a continuing resolution abstracting from all the other controversies. We will have legitimate differences of opinion over Medicare and Medicaid. But to shut down the Government, as Congress is now doing, because of those differences, is a very grave error. All we need to do is to pass a clean, that is, unencumbered, continuing resolution.

The Government should not be held hostage while one side or the other's view of Medicare or Medicaid is put forward. But that is what Congress is doing. We could do it right away, simply get, I would hope by unanimous consent, a continuing resolution at the appropriations levels that the majority has set. They have the right to do that. But shutting down the Government, as the majority is doing, until the President agrees to the abolition of a Federal program, Medicaid, and to severe cuts in Medicare, that seems to me inappropriate.

So, Mr. Speaker, I would join in the gentleman from Virginia's plea that we move, but we should be clear. What is stopping us from moving now is the argument that the President should give in on Medicaid and Medicare or else the Government will be shut down. The Constitution gives the President a right to a veto. Congress has the right to pass legislation. If two-thirds agreed, they pass it over the veto. But to say because Congress cannot muster two-thirds to make drastic changes in Medicare and Medicaid the President should therefore cave in or else we shut down the Government is wholly in appropriate.

PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. HAYWORTH). The gentleman will state it.

Mr. FRANK of Massachusetts. Mr. Speaker, ordinarily we would have 1-minute speeches on a day like today. I am wondering, since we are here today, it is I assume Monday for the purposes of suspending the rules, otherwise we could not take these up, what is the intention of the Speaker with regard to 1-minute speeches today?

The SPEAKER pro tempore. It is within the Chair's discretion to decide if 1-minute speeches are to be recognized. At this juncture in the proceedings they are not.

Mr. FRANK of Massachusetts. Mr. Speaker, let me say I regret the fact that the majority leadership apparently decided not to have 1-minute speeches today.

There is a fundamental issue before us now: Should we go forward and pass an unencumbered continuing resolution reflecting the appropriations levels that the majority chooses, but not seeking to use the very operation of the Government as a weapon to try and compel the President to agree with the abolition of the Medicaid Program or reductions that he thinks are too deep in Medicare. I am sorry we are not going to get a chance to discuss that. I think we ought to do that.

Apparently, we will finish the suspensions, we will go into the infinite recess that the majority allowed themselves to call so it will not be embarrassed by trying to vote to adjourn the House. I think the time would be better spent discussing implications of the decisions to shut down the House and Senate and, more importantly, the whole Government, until the President agrees to the doing away with Medicaid.

Mr. Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume. I must respond to the gentleman's comment about the Government shutdown.

Mr. Speaker, I associate myself with the remarks made by the gentleman from Virginia. I believe we should get the Government up and running. I think it is important for us to understand that the issue here is not having the President relent in his desire to protect the Medicare and Medicaid Programs. The issue here is whether the President is going to fulfill his commitment to move forward with a plan to balance the budget within 7 years, using numbers approved by the Congressional Budget Office. The President has failed to do that.

Now, I think that is an important failure, it is a failure that we cannot simply ignore while the President points the finger at the Congress.

Now, I believe that mistakes have been made on both sides and that an effort should be made today to get the Government up and running. But the President must accept his share of the responsibility for failing to meet a commitment that he made as part of a law that he signed barely a month ago.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first I would say to the gentleman from Florida, and others, the President committed to a balanced budget which also protected the Medicaid and Medicare programs. So I do not think he is at all in default of his commitment.

But even if you are mad at the President, and this is the nub of it, the gentleman from Florida said, the majority leader said last week, "We do not think the President lived up to his commitment, so therefore we will shut down the Government." But you are punishing the wrong party.

Even if you believe that the President is wrong, and I do not, because I think the President has said yes, I want to balance the budget in 7 years, while I protect Medicaid, while I protect people in nursing homes and while I protect Medicare, but why, if you are mad at the President, do you shut down the Government? They have not shut off the lights in the White House. He is not being evicted. Everything is still functioning over there.

That is your error. You are mad at the President, so you shut down the whole Government. He is not trying to go to the Grand Canyon tomorrow. He is not the one who is going to have to apply for a passport or worry about a Social Security check. There is a disconnection here. You are angry at the President because you think that he is being too stubborn with regard to Medicare and Medicaid. I think he is right.

But let us fight that out. Let us fight about Medicare and Medicaid and the environment and educational levels of spending without refusing to let the Governments function. Let us pass a resolution which says those departments, and there are many departments which are not functioning now because this congressional majority has passed zero bills for them. It is not a case of vetoed bill. No bill has ever gone to him from the Department of Health and Human Services or the Department of Education or the Department of Labor. Pass legislation that allows them to function, does not try to gain advantage one way or another, and then let us argue about the other things.

So even if the gentleman was correct in his unhappiness with the President, and I do not think the gentleman is, why does the gentleman think we are punishing the President by shutting down the whole Government? That seems to me to be a very grave error.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a couple of points in response. The President has three bills sitting on his desk which he could sign, which would solve a large part of the shutdown. With respect to the bill covering health and education, that bill has been held up in the Senate by the Democrats in the Senate, who have been unhappy with certain aspects of it and kept that from moving forward. So there is responsibility here that must be accepted by the President and the Democrats in the Senate.

But furthermore, I go back to the President's commitment. The President made the commitment to move forward with a plan to balance the budget in 7 years using CBO numbers. Is the President now claiming that the

President cannot do that, that that is an impossible task? Why would he have accepted that commitment and made that commitment if he believed it was impossible to accomplish?

There is no answer to this question. We simply have an attempt here to play politics with the budgetary process.

I do not understand it. I will tell you, I fully believed that the President would come forward with a plan to balance the budget. I believed that there would be substantial differences between what we had submitted and what the President came up with, but he has totally failed to carry out that commitment. I think that that is something that needs to be understood. The President needs to come forward, he needs to acknowledge that that was a commitment that was made, and he needs to put a plan on the table.

If we are going to get this job done, which he said he wanted to do, he needs to tell us how he thinks it can be done. If he had a different idea about how to deal with Medicare, a different idea about how to deal with Medicaid, that should come in and be put on the table. But the plan should balance. If he thinks that savings can be made in other areas, he should make the savings in other areas. But this effort to stop the Government, to thwart the effort to balance the budget, I think is not responsible, and the President is going to be held accountable for it.

Let me say this: I agree that we should be talking with the President. We are willing to talk to the President. But the President has to show a willingness to work with us to accomplish what needs to be accomplished. But, in the meantime, I also believe that we should get the Government up and running today.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the President has been clear. My friend says well, if he has a different view about Medicaid and Medicare, tell us. Gee, I thought the problem the Republicans had was that he was telling people. I heard the Senate majority leader complain that the President was talking about Medicare and Medicaid.

The President does not think we should wipe out the law that was passed 30 years ago, over Republican objections by and large, that says if you are sick and old and in a nursing home, we are going to have a Federal guarantee that you will not be cut off. I think that is worth keeping.

If people do not, they are entitled to. But holding the Government hostage, shutting the Government down until the President agrees with a particular position on Medicare and Medicaid, is an unconstitutional way to do it. If one thinks there should be changes in Medicare and Medicaid, the Constitution says pass it through both Houses. If the President vetoes it, you override the veto. There is nothing in the Constitution that says kidnap the Government and shut it down.

You keep saying you are angry or disappointed in the President or unhappy with the President's position, and then you shut down the whole Government and punish a lot of other people.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, one of the problems here is we do not know who we are negotiating with. We have Republicans in the Senate basically saying that they take their governing responsibilities seriously. I think they have demonstrated that. But as soon as things come to the House with our colleagues here in this body, things fall apart. It seems that House leaders are adamant about shutting the Government down, and when push came to shove, Senate Republicans kept up their habit of basically going along with the Republican leadership here.

For the second time in a month, the Republicans irresponsibly have shut the Government down. We cannot govern by blackmail. This time the Republicans were angry because President Clinton was actually trying to negotiate a balanced budget instead of agreeing to their every demand. Rather than negotiate a fair budget, the Republicans again tried to blackmail the President into accepting the unfair budget that the American people and Democrats have already rejected.

Specifically, Republicans are demanding deeper cuts in Medicare. We are trying to negotiate. Democrats are trying to negotiate. The President has tried several times to jump-start the budget negotiations with new proposals. Meanwhile, the other side wasted time issuing demands about accounting rules. For the Republicans, their technical assumptions, not their impact, on people were the only thing worth talking about.

What is it that the Republicans really want? Regardless of their rhetoric, what the Republicans really want is to force deeper cuts in Medicare and other programs to finance tax breaks for those that do not need it, cuts that merely balance the budget and are not deep enough to satisfy the other side.

☐ 1230

This shutdown is manufactured, it is pointless, and it is wrong. The Republicans are using their own failure to pass appropriations bills to create a false crisis in hopes of forcing passage of an extreme misguided budget. Leaders in the House, Republican leaders in the House, have been saying all day that they would do this. Instead of playing this game designed to pass tax breaks and other favors for special interests, Senate Republicans should talk their House counterparts into moderation to get down to real negotiating with Democrats and the President to produce a fair and balanced budget.

Mr. Speaker, Republicans are shutting down the Government to force deep cuts in Medicare, Medicaid, education, and the environment. There is no reason to shut the Government down. It is wasteful, it is unnecessary, and Democrats and the American people will not be blackmailed into abandoning our priorities. Negotiating a budget deal and continuing Government operations are in no way linked.

Mr. FRANK of Massachusetts. Mr. Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have heard about cuts in a variety of programs. Let me give you one example about the cuts that are being discussed here. Reference was made to cuts in Medicare. The truth of the matter is under the Republican budget plan, spending on Medicare will increase every single year during the 7-year plan. It will go up by about 6 percent a year.

Per capita spending on Medicare, per beneficiary spending on Medicare will go up from $4,800 this year to $7,100 in the year 2002. That is not a cut.

The President calls that a cut, others have called that a cut, anybody who can understand simple arithmetic will see that is not a cut. So the American people understand that an increase from $4,800 a year to $7,100 a year per beneficiary is an increase. The President may not think it is enough of an increase; that is a subject that can be debated, but it should be debated in terms that are sensitive to the reality of this real increase.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I thank my friend for yielding me time.

There are some inescapable facts that no matter how we jockey around are confronting us. One is that we face a $4.9 trillion national debt, and the debt service on that every year is $325 billion and rising. That has to be dealt with. The people voted for change last time, not the status quo. We look to the President to help us be a partner in this quest for a balanced budget.

The President challenged us in his first State of the Union message to be specific. We have had a budget. It is specific. It balances the budget by the year 2002, and we have asked the White House for their budget, their figures. Now, the President agreed to follow the numbers, the data given by the Congressional Budget Office, but he evidently had his fingers crossed because he has yet to do that. He produces a budget status quo. It will not balance in 5 years, and it uses the Office of Management and Budget figures, not the Congressional Budget Office.

Mr. Speaker, the Washington Post, no friend of the Republican party, said that President Clinton wants to balance the budget wearing a Santa Claus suit.

Now, let us talk about the present shutdown, which we all deplore. I think it is very bad and we should try to move out of it and get the Government functioning, while, as the gentleman from Massachusetts [Mr. FRANK] has said, we argue about these issues. But the Labor, Health and Human Services bill is languishing in the Senate because the President's political party does not like its terms and conditions.

According to the Congressional Monitor this morning, the measure has been blocked by Democratic objections to conservative policy riders, but its enactment would keep two-thirds of the furloughed workers on the job. So who is to blame if we are going to assign blame? It seems to me a failure on the part of the Democratic Party to understand that the Republicans have the majority and they ought to send this bill to the President, and two-thirds of the furloughed workers could be on the job.

Other bills, about $93 billion in fiscal 1996 spending on natural resources, environmental, veterans housing, and space programs, would protect workers in those agencies from being sent home during a shutdown. The President is going to veto those.

So, Mr. Speaker, I think it is rather unfair, if not disingenuous, to lay the blame at the feet of the Republicans. We promised the people a balanced budget. We are trying to get there. The President has yet, in my judgment, to negotiate in good faith and that is lamentable, but that is the reality, and all of us ought to agree to try to get the Government back in gear and try to function while these intractable policy issues get as resolved as we can resolve them in the coming weeks. But this impasse cannot be laid at our feet. The President should live up to his commitment and submit a budget that is balanced and using Congressional Budget Office figures.

Now, we hear that, yes, but he also agreed to protect Medicare and Medicaid and the environment and school loans and that sort of thing. That is fine. Let us protect those. We need to protect them. But Medicare is going broke. The trustees, on April 5, issued a report, three of whom are in the Cabinet of the President, that it will be bankrupt in the year 2002. So it certainly behooves us to protect Medicare, which is the flag behind which the Democrats are marching, by doing something about it.

We have a plan, Mr. Speaker. We have a proposal. Restrain the rate of increase from 10 percent to 7 percent. That is our plan. What is the President's? What is the President's plan to save Medicare? If he wants to protect it, he cannot protect it using words. Come up with a proposal. But the President has not done that. The Democrats have not done that yet because they do not really want to change. They want to redistribute the wealth. They want to continue business as usual, and that is the big impasse.

Mr. CANADY of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I know the gentleman from Illinois is busy being chairman of the Committee on the Judiciary, so it may have overlooked his attention that the President has submitted a plan about Medicare. Yes, there are competing views about how much we have to cut from what existing law would allow under Medicare; and we believe that the Republican Party, led by Senator DOLE, who boasts, let us remember, of having voted against Medicare when it was first begun. Senator DOLE said, I knew it was a mistake and he is proud he voted against it to try to kill it, as did most of the Republicans then in the Congress. Well, it is not surprising these are people not sympathetic. The point is we can fight about who is right or wrong about Medicare without holding the Government hostage.

Mr. Speaker, I am interested to hear every Republican who gets up today say we agree the Government should function. Well, why do they not then listen to themselves? Pass a continuing resolution, unencumbered by greater debates, which will keep the Government going. We can then debate among ourselves about Medicare, about restrictions on the Environmental Protection Administration, about abortion and other issues.

The majority has the power and is using it to keep from the floor such a resolution. I believe if they would agree and relent in their powers of recognition, we would pass in the House a clean continuing resolution. What we have are Republican after Republican saying, yes, I think the Government should stay open, but we will not vote to allow that because we cannot win. We do not have enough votes to override objections to these very drastic policy changes we want to make, and until our colleagues agree to these drastic policy changes that cut back in Medicaid and cut back in Medicare, while we are building the B–2 bomber, while we are subsidizing NATO, while we are spending tens of billions unnecessarily in that area, we will make some cuts in these other areas.

What we are seeing here is Republicans saying how much they want to have the Government function but refusing to do it because they have said they will not do it until the President gives in to their proposals, which they do not have the votes for otherwise.

Mr. Speaker, there is a phenomenon known as the Reverse Houdini. Harry Houdini became famous because he would have people tie him in knots, and his trick was to get himself out of the knots. The Republican Party is now perfecting the Reverse Houdini. They tell us how much they want to open the Government, but they will not do it. Why? Because they have tied themselves in knots.

Houdini had other people chain him up. The Republican Party says we will tie ourselves up in knots. We will not make the Government function until the President gives in to Medicaid. Then they will come to the floor and talk about how much they wish they could get out of the knots into which they have tied themselves. That is the reverse Houdini. Tying ourselves up and then talking about how much we would love to help people if we were not tied up.

If the Republicans want to have the Government function, pass a continuing resolution that does not hold other people hostage. Again, this notion that we are somehow punishing the President by shutting down the Federal Government in other areas does not make any sense. So let us come forward with a unencumbered continuing resolution. Let us pass that and then continue the Democratic debate over Medicare, Medicaid, the environment, and education.

Mr. Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding me time. I originally came over to say I was in favor of H.R. 660, and I want to state that for the record and hope we pass that.

However, since the debate appears to have moved, I want to join in where the debate has gone. I want to say, Mr. Speaker, that in terms of reaching a balanced budget over the last several months, I have seen both sides put up some obstacles that I think should not have been done. But the impasse we have reached today is, without question in my mind, with the administration and with President of the United States, for this reason:

The President is attempting to back out of the agreement he entered into with Congress several weeks ago that we would reach a 7-year balanced budget using the same economic forecasts that deal with government revenue and the inflationary effect on government programs from the Congressional Budget Office. It should be obvious to everyone that there is nothing upon which to negotiate unless we are using the same figures, whatever those are. And both sides 3 weeks ago agreed to use those figures.

Now, the Congress passed a budget that was balanced under those figures and the President vetoed that budget. The President said that there was not enough funding in the congressional proposal for several important programs. Now, I think that is the President's prerogative, both as a matter of the constitutional law, since he is President of the United States, and under our agreement. However, the Congress then made a very reasonable request. Mr. President, if you feel that our budget does not adequately fund programs, even though we increase Medicare funding substantially, in fact along the same lines that you proposed a year ago, if you feel that Medicare or any other program should have more funding, show us from where we will get that funding. Show us your proposal for a balanced budget in 7 years using Congressional Budget Office figures. Then we can see how it is possible to reach your priorities and still arrive at a balanced budget as we all agreed 3 weeks ago that we were going to do.

That is what the President of the United States refuses to do. There is no congressional request to the President that the President agree to any particular program spending limit, much less cuts in programs. The President's proposed budget could have tax cuts or not have tax cuts, or have any spending limit he likes as long as he uses the figures from the Congressional Budget Office that we agreed to use 3 weeks ago.

In sum, Mr. Speaker, the President is relying upon the ultimate cynicism that the public will not understand what a Congressional Budget Office is so it does not make any difference. But is does, and the public will understand that.

□ 1245

Mr. CANADY of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, how much time is remaining on both sides?

The SPEAKER pro tempore. (Mr. HAYWORTH). The Chair would inform both sides that they each have 4 minutes, respectively.

Mr. FRANK of Massachusetts. Mr. Speaker, does the gentleman from Florida [Mr. CANADY] intend to use the 4 minutes for the closing?

Mr. CANADY of Florida. Mr. Speaker, yes. I do not have any additional speakers.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Speaker, I listen with great interest as the other side talks about why the Government shut down. Well, the fact of the matter is that it is shut down and it ought not be. It is absolutely unnecessary, and I concur with my colleague who coined a new phrase, the "Reverse Houdini."

Mr. Speaker, what we have here is a linkage of two unrelated issues. On the one hand is a legitimate budget debate. A balanced budget in 7 years. Actually, I would support that. On the other hand we have the operation of Government. That ought to continue.

Why then have the Republicans decided that they want to link the two and say if we cannot have our balanced budget our way, we will shut down the Government? Who is being punished?

First of all, the American taxpayer is being punished because the American taxpayer is paying for this, whether Federal Employees come to work or not. Second, Federal employees are being punished because their lives are being disrupted as they may get a delayed check, but the bills are now due.

Mr. Speaker, it is Christmas time. It should be a season of charity and a season of giving. Instead, it is a season in which Federal employees have been imposed upon yet a second time, unnecessarily so. We could actually compromise and reach a deal, but there is a group on the other side, a crowd that says, basically, "Our way or no way." They want to have $245 billion in tax breaks or it is no deal.

Mr. Speaker, we could have a balanced budget in 7 years with CBO numbers if they would be willing to compromise on the size of the tax breaks, but they are unwilling to do it. Because of that unwillingness, they are saying, "We are not going to give anyone the votes to pass a continuing resolution that would keep the government open, because you guys will not accept our big tax break."

That is bad for our country. That is bad for our Federal workers. This is not just: We will shut the Government down; this is to say to Federal workers, "We do not respect what you do. We do not appreciate what you do. We take it lightly, but when we put you back to work we want you to work with all the vigor and enthusiasm and commitment you can muster on behalf of the country."

Mr. Speaker, it does not work that way. I hope we can reach a compromise in fairness to our employees, the Federal employees.

Mr. FRANK of Massachusetts. Mr. Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Speaker, I respond to my colleagues on the other side of the aisle that 4 weeks ago today the President signed a law, a law that said he would work with the Congress of the United States to enact a balanced budget over the next 7 years using the CBO. For 4 weeks the President of the United States and his minions at the White House, have done nothing, nothing to meet the commitment that they made to the American people and the commitment they made to this Congress.

Mr. Speaker, how long are we going to wait? for 30 years when things got tough in this town, we did the same thing. We blinked and we sold out the American people, and our children and our grandchildren are going to get the opportunity to pay for the fact that this Congress, over the last 30 years, refused to meet its fiscal responsibility, its fiduciary responsibility to the American people by balancing the budget.

What we are saying in this Congress this year is that we are not going to do it again. We are going to keep our word to the American people who elected us last November on a commitment that we, for the first time in 30 years, would do our job and balance the budget.

Mr. Speaker, we have laid our plan on the table. All the specifics are there. All the numbers are there. All the policy is there to balance the budget over the next 7 years. When is the President going to tell us what he would like to do? When is the President going to tell us what he does not like about our bill?

The fact is the President wants to spend more money, but he will not tell us how much more he wants to spend over the next 7 years. The President, unfortunately, has gone back to his roots, back to his roots of being a liberal. He wants Government as it is. He is considering the next election and, frankly, we are sitting up here thinking about the next generation.

Mr. Speaker, this is a crisis, I will admit, and no one wants to put Federal employees through what they are going through. It is unfair to them. But quite frankly, what has gone on here for 30 years is unfair to our children and our grandchildren and it has to stop.

Mr. CANADY of Florida. Mr. Speaker, I reserve the balance of time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Ohio just said this is unfair to the Federal workers, and he and his colleagues are determined to continue to inflict the unfairness to the American workers.

Mr. Speaker, I am surprised to hear the gentleman say that the President has not told the Republicans what he does not like about their plan. I thought he had told that to the point where they were unhappy. He thinks they are endangering the ability of Medicare to continue to fully fund what older people need. He believes that abolishing the Federal law that says Medicaid will be there and if Americans are sick and old and poor or badly disabled, their medical care will be protected, that that is a mistake.

He thinks that the extent to which they are undercutting environmental enforcement is a mistake. He thinks cutting out funds that now go to help middle-income and working-class students go to college is a mistake.

Mr. Speaker, my Republican colleagues have a right to disagree. But they why do they insist on shutting down the Federal Government? In fact, we have the Republican Party, with a majority in both Houses, complaining that the majority apparently is insufficient for them to accomplish what the Constitution says to do when we want to change policy. They have, therefore, decided that they will shut down much of the Government. They will refuse.

Mr. Speaker, let us be very clear. Within hours we could pass a continuing resolution that simply said the Government will function at whatever level of appropriation my colleagues on the other side decide, until we agree on other things. Mr. Speaker, they are the majority.

In his last State of the Union, Ronald Reagan denounced the practice of withholding basic funding for the Government as a means of exerting leverage over other policy issues. For the first time in a long time, I wish the Republican Party were true to the legacy of Ronald Reagan. Go back to his last State of the Union. He said we do not have Government by extortion, and that is what we have.

Mr. Speaker, my colleagues' quarrel, they say, is with the President. They think he wants to be too profligate. He is going to spend too much money on those sick, old people. Fine. We can fight about that. They do not think he is going to cut enough taxes for wealthy people. But do not shut the Government down to punish him.

Mr. CANADY of Florida. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have heard a lot of things in this discussion today, but we have not heard an explanation for why the President has not come forward with a plan to balance the budget in 7 years using the CBO numbers as he committed to do. There is no explanation for that.

It has simply not been forthcoming. The President has failed to keep his commitment. The President's position on this is inexplicable to me. We hear that the President is opposed to draconian cuts in medicare. Well, the draconian cut is an increase of around 7 percent a year over the next 7 years, and the President himself, or the President's wife up on Capitol Hill in the last Congress said that we should slow down the growth of spending in Medicare to a rate of 7 percent. That is what they proposed. Now they say that is a draconian cut and something that is unacceptable and it is keeping them from presenting a balanced budget plan.

Mr. Speaker, I do not understand it. The President says he is against our tax cuts for families. He says that a $500 tax credit for families with children is too much. But when he was serving on the National Commission on Children, he endorsed a $1,000 tax credit per child.

What has happened? What is the difference? I do not understand it. I think the President should go back and take a look at the commitment that he made less than a month ago, and he should follow through on what he said he would do.

I am hopeful today that all the parties will get together and we will have the Government up and running tomorrow, but I also hope that the President will get serious about his commitment to the American people, because this is something that affects the future of this country. It is time we got the job done.

Mr. Speaker, I will now say a little bit about this bill. I am very pleased that we have had the bipartisan support for the bill that we have seen. I will note that.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CANADY] that the House suspend the rules and concur in the Senate amendment to H.R. 660.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate amendment to H.R. 660 that was just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was not objection.

AMENDING UNITED STATES CODE TO LIMIT STATE TAXATION OF CERTAIN PENSION INCOME

Mr. GEKAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 394) to amend title 4 of the United States Code to limit State taxation of certain pension income, as amended.

The Clerk read as follows:

H.R. 394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON STATE INCOME TAXATION OF CERTAIN PENSION INCOME.

(a) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

“§ 114. Limitation on State income taxation of certain pension income

“(a) No State may impose an income tax on any retirement of an individual who is not a resident or domiciliary of such State (as determined under the laws of such State).

“(b) For purposes of this section—

“(1) The term 'retirement income'' means any income from—

“(A) a qualified trust under section 401(a) of the Internal Revenue Code of 1986 that is exempt under section 501(a) from taxation;

“(B) a simplified employee pension as defined in section 408(k) of such Code;

“(C) an annuity plan described in section 403(a) of such Code;

“(D) an annuity contract described in section 403(b) of such Code;

“(E) an individual retirement plan described in section 7701(a)(37) of such Code;

“(F) an eligible deferred compensation plan (as defined in section 457 of such Code);

“(G) a governmental plan (as defined in section 414(d) of such Code);

“(H) a trust described in section 501(c)(18) of such Code; or

“(I) any plan, program, or arrangement described in section 3121(v)(2)(C) of such Code, if such income—

“(i) is part of a series of substantially equal periodic payments (not less frequently than annually) made for—

“(I) the life or life expectancy of the recipient (or the joint lives or joint life expectancies of the recipient and the designated beneficiary of the recipient), or

“(II) a period of not less than 10 years, or

“(ii) is a payment received after termination of employment and under a plan, program, or arrangement (to which such employment relates) maintained solely for the purpose of providing retirement benefits for employees in excess of the limitations imposed by 1 or more of sections 401(a)(17), 401(k), 401(m), 402(g), 403(b), 408(k), or 415 of such Code or any other limitation on contributions or benefits in such Code on plans to which any of such sections apply.

Such term includes any retired or retainer pay of a member or former member of a uniform service computed under chapter 71 of title 10, United States Code.

“(2) The term 'income tax' has the meaning given such term by section 110(c).

“(3) The term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States.

“(e) Nothing in this section shall be construed as having any effect on the application of section 514 of the Employee Retirement Income Security Act of 1974.''.

“(b) CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

“114. Limitation on State income taxation of certain pension income''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1995.

The SPEAKER pro tempore. The gentleman from Pennsylvania, [Mr. GEKAS] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. SCOTT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I think it would be valuable if we gave a small hypothetical to set the stage for the description of the legislation which we are about to consider. Assume that in State A, in your State, shall we say, Mr. Speaker, an individual works hard all of his working life and then at retirement age qualifies for a certain pension and then moves to another State.

It has come about over the last several years, in fact decades, that after that individual establishes domicile in a residence in another State, your State, maybe we should not use yours, maybe your State would not do this, but it is just for the sake of a hypothetical, your State reaches out across the State lines into the State into which the former resident of your State now resides, and imposes a tax on the pension income of that individual.

For several years we have had a movement within the Congress, both in the Senate and the House, and now we have come to grips with it in a reasonable way. This bill is the answer.

What it says is that when a qualified pensioner, one who has dutifully earned a pension under a qualified system set forth by previous statute and custom moves to another State, it will be beyond the powers of the original State to reach over the State borders and to attach its taxing authority onto that pension. That is the simple explanation of what we tried to do.

Mr. Speaker, there is an additional factor to it when we have a situation in which perhaps it is not a qualified pension, so-called; that is, when an arrangement has been reached between employer and employee where, although it looks like a pension, it is a kind of a one lump-sum settlement for past services rendered, et cetera, and that portion, many believe, should not be outside the purview of the taxing state, even though that individual goes outside the State for the remainder of his life.

So we have certain conditions attached here that unless that unqualified pension looks like a qualified pension with installment payments over a series of years so it really is like a pension, then in those circumstances we will be happy in this bill to accord that same protection to that pensioner as we did for the ones who qualified in a regular way.

So there is no controversy left in this legislation. We have very much appreciated the gentleman from Virginia [Mr. SCOTT] and his colleagues on our committee, who have assented to the general thrust of the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Pennsylvania has outlined the need for the bill. Taxes ought to be as fair and equitable as possible, and the fact is that it is virtually impossible in many circumstances to calculate these taxes because people will move from State to State, they will change jobs, and if you move even within the same corporation from one State to another State, and then retire, if the States in which you worked tried to figure out which portion of that pension check was attributable to which State you worked in which you worked there, it would be virtually impossible.

In fact, the only people that are caught up with this tax right now are basically State employees where the State government is writing the check and sending it to another State and they have the money and they are withholding the money. It is very haphazard in its application and it is therefore unfair. I therefore agree with the general purposes of the bill, but I do have one or two reservations.

□ 1300

There are two significant differences between the bill that passed the House last Congress and the bill that is before us today. Last Congress' bill exempted only the first $30,000 of pension income since it was designated to help the modest-income individuals while allowing States to continue to tax their higher-income retirees. That is one point.

The other is that the bill was also limited to what are called qualified pension plans while the bill before us today is not. That is primarily where the problem lies, and some of us have reservations about the bill although we will not oppose it today.

Nonqualified plans, Mr. Speaker, are not recognized as pensions under Federal law and are not subject to any rules, regulations, guidelines or limitation in this use. They are typically used by a small number of highly compensated executives to defer taxes on large sums of compensation.

At the subcommittee hearing, for example, the director of benefits and planning at a large corporation stated that all 76,000 of their employees were in qualified plans while only 400, about one-half of 1 percent, were in nonqualified plans. A professor at the University of Georgia law school pointed out virtually all Americans are eligible for or, in fact, participated in some kind of qualified plan. The potential for tax avoidance by highly compensated individuals who funnel amounts into nonqualified plans in the last years before retirement are simply too great of a risk. These individuals would be sufficiently sheltered by Federal legislation that exempts a normally qualified plan, whatever that happens to be.

Mr. Speaker, the amendment offered in the subcommittee by the gentleman from Rhode Island [Mr. REED] attempted to draw a distinction between the taxation and qualified or nonqualified plans. That amendment passed. The manager's substitute refines that amendment so that those who are in most nonqualified plans can be properly considered.

Mr. Speaker, I believe that we have to monitor this provision of the bill closely to insure that it is not abused. However, I will not oppose the legislation and hope that it may be revised in the Senate.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, I speak in support of H.R. 394, a bill to amend title 4 of the United States Code to limit State taxation of certain pension income.

In recent years, several States have discussed imposing an income tax on the pension income of retired individuals who worked in those States for part or all of their careers, but who no longer reside there. Some States, such as California and New York, currently do impose these "State source" taxes.

There is no question but that the States have constitutional authority to impose such a tax. However, State attempts to tax pension income received by nonresidents raise extraordinarily difficult questions of allocation and apportionment. They also pose substantial risks of multiple State taxation of the same income. And more basically, they subject taxes on persons who no longer vote in the taxing jurisdiction, thereby raising charges of unfairness to a population which cannot defend itself in the political arena. Taxation without representation is the cliched phrase.

Mr. Speaker, the substitute amendment before us today is the product of negotiation and compromise between private employer groups and the Federation of Tax Administrators. It represents a middle ground which each can support: in addition to covering qualified pension plans, it includes all mirror image plans because those plans are tied to the underlying qualified plans. This is a significant narrowing of the bill as introduced, which would have granted protection to all pension plans, regardless of whether they bore any relationship to a qualified plan.

Mr. Speaker, I want to commend my colleague, the gentlewoman from Nevada [Mrs. VUCANOVICH], for her leadership and perseverance in moving this legislation forward. I also want to commend the gentleman from Virginia [Mr. SCOTT], the ranking member of the subcommittee, as well as the distinguished and learned chairman, the gentleman from Pennsylvania [Mr. GEKAS], for their leadership on this issue. But it was largely due to the efforts of the gentlewoman from Nevada [Mrs. VUCANOVICH] that this delicate compromise has been reached and the product of negotiation is expected to be expeditiously passed and signed by the President.

Mr. SCOTT. Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida [Mrs. THURMAN].

Mrs. THURMAN. Mr. Speaker, I want to thank the gentleman from Virginia for yielding me this time and his commitment to this bill, as well as the gentleman from Pennsylvania [Mr. GEKAS].

I cannot begin to tell you how important an issue this has become from a Florida perspective. While I was in the Florida Senate, I actually had constituents come to me to find out if there was something I could do about it in the Florida Senate. Needless to say, it was a Federal issue, and we could not do much, but the State of Florida actually was able to say that they could not hit any of their property to try to defend away this, because it became a hardship to where, in fact, some States were actually going retroactively back into some of these pensions to grab these dollars so that they could use them, really causing a major issue for these folks.

So I just want to say that I hope that the Senate takes this bill up. It is my understanding that they, too, will be looking at this and that possibly we, after we passed it last year out of the House, that now the Senate is going to look at this and that we give back to those seniors that have retired in other areas the freedom.

They are not taking anything from the State in which they are being taxed from. Their services are being delivered by an entirely different State. I believe this is a fair way to make this program work.

I just want to thank my colleagues for the work that they have done, and we will certainly let our folks know in Florida that this work has been taken care of.

Mr. Speaker, I rise today in very strong support of H.R. 394, a bill to prohibit State taxation of pensions of nonresidents.

Those of us who have worked on this issue—and I am one who has lived with it from the time I served in the Florida Senate—well, we sometimes wondered if this day would ever come.

I know the seniors in my district affected by this very unfair situation were beginning to doubt this would ever be corrected.

I want to thank Chairman HYDE and Chairman GEKAS, Mr. CONYERS and Mr. SCOTT, and everyone who has worked so hard and so long for bringing us to this moment.

Most Americans probably do not even realize that under present law, certain States with a source tax are able to tax the retirement incomes of retirees who no longer reside in that State.

Amazing! In other words, thousands of seniors across the country receive tax bills from States even though they have not lived in those States for years.

As a Representative of a State which many seniors choose for their retirement years, I can tell you without hesitation that this money grab by source tax States causes unnecessary aggravation and hardship to many people.

Taxing pension benefits of those who live in another State is anti-senior and frankly, anti-American. Your freedom to travel and retire to any part of this great country should not be limited by the tax policies of your former State of residence.

Mr. Speaker, the idea behind this bill makes good common sense. I am only sorry so many people had their incomes reduced in the time it took us to get to this point.

Mr. SCOTT. Mr. Speaker, I yield such time as she may consume to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, while we discussed the suspension of H.R. 394, it is certainly one on suspension where we have reached compromise. I want to join on record to say this seems to be a very good compromise.

I want to use it as an exemplary kind of compromise we need to work on the budget and want to use it as an opportunity to begin to talk about, as we come to suspension, is it not ideal how people, both sides, can agree on things that are essential that we do not have debate and do not have rancor.

Indeed, in the paper today where we talk about the budget standoff, the issue of Medicaid, whether we have that as a right for poor people, for senior citizens, is also something that we ought to have unanimous consent on.

I want to urge my colleagues, as we begin this discussion about the budget standoff, 250,000 employees are going to be furloughed. That is involuntary. That is a wasteful spending of money when we can take that money and those services and make sure the American people are served well.

Medicaid is an issue that we need to struggle with, both sides, and apparently on the Senate side there is some reasonable thought process that we ought to move forward with the Government and, indeed, this would be an opportunity to do that.

Mr. Speaker, again, suspension, and the American people are watching us as we talk about these bills. Are these bills important? Yes, they are. Are other bills important? Yes. Why can we not continue to some compromise on those big issues?

So, therefore, Mr. Speaker, I want to urge my colleagues that they ought to use this exemplary nature where we come on both sides of our issues around issues that are going to affect millions of Americans.

Finally, Mr. Speaker, I want to tell you this is the Christmas spirit. It is the giving. It is the giving within our means. And certainly it is not a spirit of taking. We should not be taking health care from millions of Americans in the spirit of Christmas.

Mr. SCOTT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

First, I am inserting at this point in the RECORD the technical explanation of the legislation that we are contemplating here, as follows:

TECHNICAL EXPLANATION OF H.R. 394

PRESENT LAW

Certain State laws provide that some or all retirement income is included for State income tax purposes if the income was earned within the State, even though the individual resides outside the State when the retirement income is actually received. Some States achieve this result through general rules that tax income earned within the State, whereas others have explicit provisions regarding retirement income.

EXPLANATION OF H.R. 394

H.R. 394 amends title 4 of the United States Code (entitled "Flag and Seal, Seat of Government, and the States"), to prohibit any State, including any political subdivision of a State, the District of Columbia, and the possessions of the United States, from imposing income tax on any retirement income of any individual who is not a resident or domiciliary of the State. For this purpose, retirement income includes any income from a qualified retirement or annuity plan, a simplified employee pension, a tax-sheltered annuity plan, an eligible deferred compensation plan of a tax-exempt or State and local government, an individual retirement arrangement, a governmental plan, a trust created before June 25, 1959, and that is part of a plan funded only by employee contributions, and certain retired or retainer pay of a member or former member of the uniformed services. The term retirement income also includes income from a nonqualified deferred compensation plan, provided such income is (1) part of a series of substantially equal periodic payments made over (a) the life or life expectancy of the recipient (or the joint lives or life expectancies of the recipient and the recipient's beneficiary), or (b) a period not less than 10 years, or (2) a payment received after termination of employment under a plan, program, or arrangement (called a "mirror plan") maintained solely for the purpose of providing benefits in excess of limitations on contributions or benefits in the Internal Revenue Code on qualified retirement plans. The provision has no effect on the application of the provision in the Employee Retirement Income Security Act of 1974 ("ERISA") that generally preempts State laws.

Effective date.—H.R. 394 is effective with respect to amounts received after December 31, 1995.

EXPLANATION OF MIRROR PLANS

A mirror plan is a nonqualified retirement plan maintained by an employer solely for the purpose of providing benefits in excess of certain limits on contributions and benefits contained in the Internal Revenue Code ("Code") which apply to qualified retirement plans. The benefits provided under a mirror plan are those benefits that would have been provided under the terms of a qualified retirement plan, but for the application of the following limits on contributions and benefits:

(1) Code section 401(a)(17): limits the amount of annual compensation that may be taken into account under a qualified retirement plan for purposes of computing benefits and contributions to $150,000.

(2) Code section 401(k): limits the amount of elective deferrals (contributions at the

election of the employee) that may be made by a highly compensated employee to a qualified cash or deferred arrangement (commonly called a "401(k) plan") according to a nondiscrimination test based on the amount of elective deferrals made by nonhighly compensated employees.

(3) Code section 401(m): limits the amounts of employer matching contributions and after-tax employee contributions that may be made to a 401(k) plan on behalf of highly compensated employees according to a nondiscrimination test based on the amount of such contributions made on behalf of nonhighly compensated employees.

(4) Code section 402(g): limits the annual amount of elective deferrals that may be made to a 401(k) plan (or a similar arrangement) generally to $9,240 for 1995 (adjusted for inflation in $500 increments).

(5) Code section 403(b): limits the amount of annual contributions that may be made to a tax-sheltered annuity (maintained by certain tax-exempt entities and public educational organizations) generally to the excess of the product of 20 percent of compensation times the participant's years of service over the amount contributed in prior years. In addition, contributions to a tax-sheltered annuity are subject to annual limit of $9,500.

(6) Code section 408(k): limits the amount of elective deferrals that may be made by a highly compensated employee to a simplified employee pension (maintained by smaller employers) based on the amount of elective deferrals made by nonhighly compensated employees.

(7) Code section 415: limits the amount of annual benefits that may be paid from a defined benefit plan generally to the lesser of $120,000 or 100 percent of the participant's average compensation for the highest three years of compensation, and limits the amount of annual contributions that can be made to a defined contribution plan to the lesser of $30,000 or 25 percent of compensation.

Second, I want to briefly add my little voice to the debate on health care. The President, as I recall, in previous times has proposed that the Medicare spending be slowed, and that is what the Republicans have said.

The President has said we should have a tax cut for the middle class, echoed by the gentleman from Missouri [Mr. GEPHARDT], and the Republicans have said the same thing.

So, if someone is cutting someplace, it must be everybody is cutting, if that is the right word to use. But in the meantime, we believe that we are on the right track to balance the budget.

Mrs. SMITH of Washington. Mr. Speaker, I rise in strong support of legislation to eliminate the so-called source tax. This is the single-biggest issue for many of my constituents who suffer from this nefarious tax. Many of my constituents have waited many years for the source tax to be eliminated. I believe the 104th Congress will finally end this tax once and for all.

Having fought this unfair tax at the State level when I served in the Washington State Legislature, I am quite familiar with the long, hard journey that retirees have traveled to see this tax repealed.

The source tax is truly taxation without representation. By levying a source tax, States are able to target the retirement income of nonresidents even though the nonresidents receive no benefits or services in return for the assessed taxes. Thousands of residents throughout my home State of Washington have been burdened by this unfair tax.

Many of these retirees once worked in the neighboring States of Oregon or California and found Washington to be a popular place to retire since Washington did not impose a State income tax. Unfortunately, these retirees have seen a good portion of their retirement income go to another State's coffers. These retirees are paying for another State's taxes and do not even get the benefit of the services that their taxes finance.

While I want to thank everyone who has written or called in support of this legislation, I especially want to thank Jim Dawes of Sequim, WA, for his diligent efforts to repeal the source tax. He has been a tireless advocate on behalf of the countless people in Washington State who are subjected to this tax.

Ms. DUNN of Washington. Mr. Speaker, as a cosponsor of H.R. 394, I am pleased to lend my support to this bill under suspension of the rules. H.R. 394 will eliminate the so-called source tax, a misguided provision of Federal law which allows States to tax retirement income of nonresidents.

The source tax is nothing less than taxation without representation and contradicts a fundamental American principle. Not only is it wrong to allow States to tax the pensions and retirement income of Americans who have moved out of the State, but it is an unfair burden on retirees whose current State also lays claim to the income. I have heard from countless constituents who have relayed their stories of how States across the country extend their arms into the hard-earned pensions of retirees who have moved to Washington State. This is simply unacceptable.

Retirees are currently forced to somehow calculate the portion of taxes to be allocated to each State. Simply put, Mr. Chairman, retirees should not be forced to pay taxes to a State in which they no longer reside and no longer vote. I urge my colleagues to end this practice and suspend the rules and pass H.R. 394 to return fairness to taxpayers in Washington State and across the country.

Mr. HEINEMAN. Mr. Speaker, I rise today to express my strong support for H.R. 394. This legislation will provide some much needed tax relief to our Nation's retirees. Current law allows a State to tax a retiree's pension income even when they no longer live in that State. I believe that is wrong. H.R. 394 will correct this problem.

H.R. 394 prohibits States from taxing the pension income of nonresident retirees. It is unfair for some States to take money away from seniors and retirees who do not even live in that State and may have not lived there for years. This represents taxation without representation and needs to stop.

Time and again I have heard my colleagues say that we should not unfairly burden our Nation's senior citizens and retirees. I agree. As a senior, I believe this Congress needs to stand up for what is right and support this important legislation. If this Congress does not act, some States will continue to tax retirees living in other States. Do not let this injustice continue, support H.R. 394.

Mr. GEKAS. Mr. Speaker, I have no further requests for time at this time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYWORTH). The question is on the motion offered by the gentleman from Pennsylvania [Mr. GEKAS] that the House suspend the rules and pass the bill, H.R. 394, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 394, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

EXTENSION OF AU PAIR PROGRAMS

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1465) to extend au pair programs.

The Clerk read as follows:

S. 1465

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AU PAIR PROGRAMS.

(A) REPEAL.—Section 8 of the Eisenhower Exchange Fellowship Act of 1990 (Public Law 101–454) is repealed.

(b) AUTHORITY FOR AU PAIR PROGRAMS.—The Director of the United States Information Agency is authorized to continue to administer an au pair program, operating on a world-wide basis, through fiscal year 1997.

(c) REPORT.—Not later than October 1, 1996, the Director of the United States Information Agency shall submit a report regarding the continued extension of au pair programs to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives. This report shall specifically detail the compliance of all au pair organizations with regulations governing au pair programs as published on February 15, 1995.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. SMITH] will be recognized for 20 minutes, and the gentleman from Maryland [Mr. WYNN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

The au pair program, which is reauthorized by S. 1465, is administered by the United States Information Agency, USIA, and it has been an effective means of giving young people from overseas an educational year in the United States and also providing hard-working American families with many hours per week of high-quality child care.

The au pair program is a win-win situation, and I believe it deserves to be reauthorized.

Several of our colleagues, Mr. Speaker, deserve very special credit for their persistent efforts to get this bill before us. I speak especially of the gentleman from California [Mr. BAKER], who earlier this year appeared before our Subcommittee on International Operations and Human Rights and gave compelling testimony as to the value of this important program. I would also like to single out other strong proponents, including the gentleman from Virginia [Mr. WOLF], the gentleman from Virginia [Mr. DAVIS], and the gentleman from Virginia [Mr. MORAN], and, of course, the gentleman from New York [Mr. GILMAN], the chairman, and the ranking Democratic member, the gentleman from Indiana [Mr. HAMILTON], who are also strong proponents of this as well.

Mr. Speaker, this Congress has voted three times so far this year to reauthorize the au pair program, in the American Overseas Interests Act, which passed the House in June, the Foreign Operations Appropriations Act, and the Commerce, Justice and State Appropriations Act. Unfortunately, all three of these bills have been held up in the Senate or by the White House because of other issues, critically important issues, to be sure, but issues having nothing whatsoever to do with the au pair program.

The solution clearly is to pass a free-standing au pair reauthorization bill.

Mr. Speaker, the bill we are about to vote on has already been passed by the other body, and we are presenting this bill instead of an identical House bill so that we can get it to the President's desk immediately. The House bill was marked up Thursday in the Subcommittee on International Operations, and then the full Committee on International Relations took it up with a favorable recommendation later on the same day.

The bill has bipartisan support, and I hope it will have unanimous support of this Chamber.

Mr. Speaker, as I indicated, the Senate has already passed an identical bill. Hundreds of American families have been inconvenienced during the period since September 30 when the authorization for the au pair program inadvertently expired. This is a program we can fix today, and, as I said, the Senate has passed it, and I hope the President will sign it as soon as it crosses his desk.

Mr. Speaker, I reserve the balance of my time.

Mr. WYNN. Mr. Speaker, I yield myself such time as I may consume.

□ 1315

Mr. Speaker, I am pleased that the gentleman from New York, Chairman GILMAN, and our ranking member, the gentleman from Indiana, Mr. HAMILTON, were able to work together on this bill to extend the authority of USIA to run the au pair program for another 2 years.

The bill before us would change the existing program in two respects. First, it would open the program to applicants from countries around the world; and, second, it would allow the program to be run by any qualifying organization.

I understand the au pair program brings many positive experiences both to au pairs and to their host families. The bill before us takes a prudent and practical approach to the extension of the program at this time, and on that basis I urge the adoption of the bill.

Mr. LANTOS. Mr. Speaker, I want to acknowledge the leadership which our colleague from New Jersey, CHRIS SMITH, the chairman of the Subcommittee on International Operations and Human Rights. He has played a key role in the effort to resolve the future of the au pair program. I also want to recognize the chairman of the full Committee on International Relations, Congressman BEN GILMAN of New York, and our ranking Democratic member of the committee, Congressman LEE HAMILTON of Indiana. They have also played a critical role in dealing with this issue.

The au pair program has been in a state of uncertainty for a number of years, and it has been extended temporarily several times. The authorization for the operation of this program expired on September 30 of this year, and the legislation which we approved in this House to extend the program has not yet passed both houses of the Congress. For this reason, it is important that we act to resolve, at least temporarily again, this uncertainty for a specified period of time.

Our legislation today simply extends the program for another 2 years—until September 30, 1997—without resolving the question of its ultimate fate or ultimate future structure and existence. The legislation, however, does require a report from USIA, which should provide a basis for us to take more permanent action in 2 years.

This legislation does make improvements, and I welcome those changes. In the past the au pair program has been limited to young people from European countries. This legislation broadens the program to include other countries in Asia, Africa, and Latin America. This expansion will create additional problems for those who administer the program, but the extension of the program to all countries is a positive step.

Mr. Speaker, I strongly support international educational exchange programs, including this one for au pairs. As the founder of the California State Universities' study abroad program, I have long supported and promoted efforts to encourage young women and men to travel and learn about other countries, other languages, and other cultures. The au pair program provides an important opportunity for young people from other countries to experience American culture firsthand. These are young people who generally come from families which do not have the resources to permit them to travel independently or to study at an American university. It is important that they have this personal experience of our country.

It is extremely important, however, that the USIA and those who administer this program understand that this is an educational program—its purpose is to give young people experience with our country and its culture. Families who provide a home and food for foreign young people while they are here reasonably expect some assistance with household tasks. But this is not a program to circumvent our Nation's labor and immigration laws relating to employment in the United States by foreign citizens. This is not a program to provide free child care for upper-middle class Americans.

It is not a program to get around our Nation's labor laws. Those laws have been written for specific policy objectives, and the au pair program must be consistent with our labor laws. It is extremely important that the international educational exchange component of this program be recognized and acknowledged as being central to this legislation.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. GILMAN. Mr. Speaker, I rise in support of the motion to suspend the rules and pass H.R. 2767, a bill to extend the authorization for the au pair program for 2 years, through the end of fiscal year 1997.

I was pleased to introduce this measure because the authority for the program expired on September 30. Many families have been highly inconvenienced and child care plans have been turned upside down by the delay in extending this program. Therefore, it is incumbent upon us to pass this extension and enable the program to continue to operate.

This is a bipartisan bill, and I want to acknowledge the key role the distinguished ranking member on our committee, my good friend from Indiana, Mr. HAMILTON, has played in drafting the bill and moving it through the committee.

A key element of this measure is to greatly broaden the regions of participation by repealing a section of the Eisenhower Exchange Fellowship Act that froze the au pair program as it existed in 1990.

In 1990 there were eight agencies administering an au pair program and it was limited to participants from Western Europe. Repealing this provision allows more agencies to run au pair programs, and opens it up to worldwide participation.

We also require the U.S. Information Agency to submit a report to Congress regarding a further extension of the program. The report must specifically address the compliance of the au pair organizations with new regulations governing the program.

I urge my colleagues to support this important extension.

Mr. WYNN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYWORTH). The question is on the motion offered by the gentleman from New Jersey [Mr. SMITH] that the House suspend the rules and pass the Senate bill, S. 1465.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 1465.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MAX ROSENN UNITED STATES COURTHOUSE

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1718) to designate the U.S. courthouse located at 197 South Main Street in Wilkes-Barre, PA, as the "Max Rosenn United States Courthouse."

The Clerk read as follows:

H.R. 1718

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at 197 South Main Street in Wilkes-Barre, Pennsylvania, shall be known and designated as the "Max Rosenn United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Courthouse referred to in section 1 shall be deemed to be a reference to the "Max Rosenn United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Judge Rosenn is a life long resident of the Wilkes-Barre, PA area. He was a gifted student who graduated from college at age 19 and received his law degree at the age of 22. He commenced his law practice in Wilkes-Barre. He was appointed to the U.S. Court of Appeals for the Third Circuit in 1972. Judge Rosenn has had a long and distinguished career in public service. He was chairman of the Pennsylvania Human Relations Commission, chairman of the Governors Council for Human Services, and former member of the Pennsylvania State Council on Civil Defense. Judge Rosenn is a veteran of World War II where he served in the South Pacific. He is active in civil, religious, fraternal, and business affairs. It is a fitting tribute that we pass this bill in his honor and I urge my colleagues to support this legislation.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1718, introduced by Congressman PAUL KANJORSKI, will honor the judge Max Rosenn, whose contributions to the judicial system and to this community span decades and include literally dozens of charitable and religious organizations. In addition to being a Federal Judge, Max Rosenn is a World War II veteran, and has served at the county and State levels of government. He is particularly to be recognized for his efforts as the chairman of the Wyoming Flood Recovery Task Force which aided his community during the Hurricane Agnes floods. I join my colleague Mr. KANJORSKI in honoring Judge Max Rosenn and urge your support for H.R. 1718.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KANJORSKI], the sponsor of H.R. 1718.

Mr. KANJORSKI. Mr. Speaker, I thank my good friend from Ohio for yielding me time.

Mr. Speaker. It is my pleasure to rise in support of H.R. 1718, a bill to rename a Federal courthouse in Wilkes-Barre after the Honorable Max Rosenn, a man who has been a tremendous asset to the people of northeastern Pennsylvania and to the United States of America.

I wish to thank Chairman GILCHREST and ranking member TRAFICANT for their assistance in bringing the bill to the floor today. In a show of tremendous bipartisan support and a mark of the high regard Judge Rosenn commands, the entire Pennsylvania delegation has co-sponsored the bill.

The Rosenn and Kanjorski families have been personal friends and professional colleagues for more than 60 years. I have the highest respect for Judge Rosenn as a judge, a lawyer, a community leader, and a friend.

Judge Rosenn was born in Luzerne County, PA. A gifted student, Judge Rosenn graduated from Cornell at the age of 19 and received his law degree from the University of Pennsylvania 3 years later. The judge returned home to Luzerne County and entered private practice.

Judge Rosenn's long and distinguished career in public service began in 1941 when he became assistant district attorney for Luzerne County. Max served in the South Pacific during World War II as a member of the Judge Advocate General Corps. After the war, he again returned home to Luzerne County where he continued his active civic life.

Given the time constraints of my testimony today, I am unable to list all of the organizations for which Judge Rosenn played a leadership role. They include Wyoming Valley Hospital, Wyoming National Bank, Franklin Federal Savings and Loan Association, the Shriners and Masons. Judge Rosenn is a trustee emeritus of Wilkes University and a former trustee of B'nai Brith. Northeastern Pennsylvania owes a tremendous debt of gratitude to Judge Rosenn for his tremendous work as chairman of the Wyoming Flood Recovery Task Force which performed so well in assisting our community after the devastating Agnes flood.

In addition to his local service, Judge Rosenn has an outstanding record of service to the State of Pennsylvania. He served as a member of the State Welfare Board from 1964 to 1966 and was appointed by Governor Scranton to become Secretary of Public Welfare. He performed so well as administrator of this agency of 33,000 employees charged with responsibilities for health, aging, youth, and public assistance that he was reappointed by Governor Shafer. During the Shafer administration he also served as a member of the Governor's commission to revise the public employee laws, chairman of the executive-legislative task force to restructure human delivery services, and the Committee on Children and Youth for the 1970 White House conference.

On October 7, 1970 Judge Rosenn was appointed to the U.S. Court of Appeals for the Third Circuit where he has excelled. Judge Rosenn is renowned for his fairness and wisdom and is widely respected by his colleagues and the bar. Naming this courthouse for Judge Rosenn is a fitting tribute to a man who has given so much to his community.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to concur with the statement made here by my good friend from Pennsylvania [Mr. KANJORSKI], and I wanted to recognize him for his efforts in distinguishing the career of Judge Rosenn and the fine job he has done in the Congress.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILCHREST. I want to reiterate what the gentleman from Ohio has said. We worked together on this. it is an opportunity that should not be passed up.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rule sand pass the bill, H.R. 1718.

The question was taken; and (two-thirds having voted in favor thereof) the rules suspended and the bill was passed.

A motion to reconsider was laid on the table.

DAVID J. WHEELER FEDERAL BUILDING

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2061) to designate the Federal building located at 1550 Dewey Avenue, Baker City, OR, as the "David J. Wheeler Federal Building."

The Clerk read as follows:

H.R. 2061

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 1550 Dewey Avenue, Baker City, Oregon, shall be known and designated as the "David J. Wheeler Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "David J. Wheeler Federal Building".

• The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, David J. Wheeler was a forest service employee murdered in the line of duty while inspecting a bridge at a guard station about 20 miles north of Wiser, ID. This tragedy occurred at the hands of inmates who had escaped. Mr. Wheeler was a model citizen of Baker City and was active in civil and religious affairs. He leaves behind a wife and two children. At the time of his death he was 50 years old. The town of Baker City is a small community and is tight knit in its community relations. It is fitting to name this Federal building in Mr. Wheeler's honor. I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, David J. Wheeler was an active civic leader, respected civic servant, devoted husband, and in 1994 was selected as father of the year in Baker County, OR. He was very tragically killed in April of this year while working for the U.S. Forest Service in Idaho. His contributions to this community, family, and to the public will be recognized by designating the Federal building in Baker City, OR, as the David J. Wheeler Federal Building. I join Congressman COOLEY and Chairman GILCHREST in supporting H.R. 2061 and urge my colleagues also to support this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 2061.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FRANCIS J. HAGEL BUILDING

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2111) to designate the Social Security Administration's Western Program Service Center located at 1221 Nevin Avenue, Richmond, CA, as the "Francis J. Hagel Building," as amended.

The Clerk read as follows:

H.R. 2111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 1221 Nevin Avenue in Richmond, California, shall be known and designated as the "Frank Hagel Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Frank Hagel Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Frank Hagel was a well-respected former official of the Social Security Administration, region 9, headquartered in Richmond, CA. He began his Federal career as a file clerk in 1965 and through a series of promotions became Assistant Regional Commissioner for the Social Security Administration, in the area of management and budget, for region 9. He is deceased. He was a highly respected civil servant and the employees of this center support the naming of this building in his honor. I urge my colleagues to support this bill and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join Congressman MILLER of California in his effort to recognize the career and contributions which Frank Hagel has made to his country and to his community. The major of Richmond, CA, as well as the city council are in unanimous support of this bill. Frank Hagel's Federal career has spanned over 25 years, beginning as a file clerk with the Social Security Administration in Kansas back in the early 1970's. In addition, Frank Hagel was an integral part of his community, providing many hours of volunteer service to his neighbors and fellow residents. I support and urge adoption of H.R. 2111.

Mr. MILLER of California. Mr. Speaker, I rise today in support of H.R. 2111, my legislation to rename the Federal building in Richmond, CA after the late Frank J. Hagel.

Mr. Hagel started as a file clerk for the Social Security Administration in Kansas 25 years ago. During those years, his hard work and talent resulted in numerous promotions through the technical and managerial ranks. He came to the Western Program Service Center in Richmond in 1986, and was promoted to the assistant regional commissioner for processing center operations. In 1991, he once again showed exceptional leadership during the Legionnaire's Disease outbreak among the center's staff and received his second Social Security Commissioner's Citation. Finally, in 1994, Mr. Hagel was appointed the assistant regional commissioner for management and budget, Region IX.

When Mr. Hagel passed away in January of this year, in appreciation of his leadership and in recognition of his dedicated and tireless service to the nation and his community, the employees of the Western Program Service Center and the city of Richmond expressed their wish to name the building after him with a resolution calling for the name change.

This resolution already has passed the Senate as well, under the leadership of Senator BARBARA BOXER and the minor differences between our two bills should be resolved with great ease.

Finally, Mr. Speaker, I would like to thank my colleagues for their support for this bill, in particular Representative WAYNE GILCHREST, the chairman of the Transportation Subcommittee on Public Buildings and Economic Development, and Representative JAMES TRAFICANT, the ranking minority member of that subcommittee. I appreciate their willingness to move this legislation forward.

I am honored to have been able to aid the city and the employees of the Western Regional Office and the constituents to whom Frank Hagel dedicated his life.

Mr. TRAFICANT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 2111, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the Federal building located at 1221 Nevin Avenue in Richmond, California, as the 'Frank Hagel Federal Building' ".

A motion to reconsider was laid on the table.

TIMOTHY C. McCAGHREN CUSTOMS ADMINISTRATIVE BUILDING

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2415) to designate the U.S. Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Ysleta in El Paso, TX, as the "Timothy C. McCaghren Customs Administrative Building," as amended.

The Clerk read as follows:

H.R. 2415

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, shall known and designated as the "Timothy C. McCaghren Customs Administrative Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Timothy C. McCaghren Customs Administrative Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would name the U.S. Customs Administrative Building at the Zaragosa Port of Entry in El Paso, TX as the "Timothy C. McCaghren Customs Administrative Building." Tim McCaghren was a Customs inspector assigned to the border crossing at this port of entry in El Paso, TX. In February of 1990, Tim McCaghren attempted to stop and search a van at the port of entry and the driver accelerated, rammed the border crossing, and struck this dedicated public servant. He died the following day from head injuries sustained in the incident. Inspector McCaghren was a devoted father and was one of the top narcotics intradiction offers in El Paso. This bill is supported by the U.S. Customs Service and the National Treasury Employees Union. I urge my colleagues to support the legislation. I urge its adoption.

☐ 1330

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume, before yielding to the gentleman from Texas here [Mr. COLEMAN], who is retiring, in order to say on behalf of the authorizing committee, and I am sure everybody will when they have the appropriate time, that we would like to thank him as a Member of the Committee on Appropriations for working with us and for always being fair. He has been a great Member. We will sorely miss him, especially those on this authorizing committee. A lot of times people do not see the good things done for the country in these public policy areas.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. COLEMAN], who introduced this legislation.

Mr. COLEMAN. Mr. Speaker, I thank the gentleman from Ohio and the gentleman from Maryland as well for hearing this legislation. I think it is important that we do take the time, from time to time, to honor those in law enforcement who are, after all, working for us.

All of us here, as citizens, understand, and as taxpayers understand that we need people to do some of these jobs that are not always the most pleasant. Indeed, I am a strong believer that those who serve us in the Customs Service of the United States of America are oftentimes on the very front lines in dealing with crime, in dealing with drugs, in dealing with violence, and it was such an incident that occurred in 1990 that took the life of Inspector McCaghren.

Timothy C. McCaghren was a good officer, a man who had said a number of times that if he was able to stop a specific load of drugs coming into the United States, that was at least one bunch of drugs that would not get to his children. He is survived by those two children, Chastity and Brandt, and his wife, Dedra.

By naming the administrative building at this port of entry after Timothy C. McCaghren, I would say that all of us, as citizens, are doing just a small part in remembering those who are willing to sacrifice everything so that all of us can live our lives in a way that we believe we should be able to live them in these United States.

As the chairman knows as well, I have fought to obtain law enforcement status for Customs inspectors. We do not have that yet in the United States. I believe that they are that first line of defense against the smuggling I talked about of illegal drugs; but, indeed, today, they are also on the front line of defense in dealing with the issue we know as terrorism. Many inspectors carry firearms and face the constant threat of severe bodily injury; and, in this case, as we know, even death.

A recent study showed that more Customs officers died due to service-related injuries than any other group, with the exception of the Drug Enforcement Administration and the Bureau of Prison officers in our Federal Government. Earlier this session, I introduced legislation that would grant Customs inspectors a 20-year law enforcement retirement package, that which we would give to others in similar circumstances. I am hopeful that we will eventually be able to pass that legislation, and I am proud to tell my colleagues that I have had members of this particular committee, the authorizing committee, offer to cosponsor that legislation with me.

Mr. Speaker, in closing I would only say that Inspector McCaghren exemplified the hallmarks of a good Customs inspector. His attributes of public service, his humility, and his devotion to country will best be remembered by the action we take here today. And, with that, Mr. Speaker, I thank the committee and I thank the Members of this House and urge adoption of this legislation. I thank the gentleman from Ohio for his time.

Mr. TRAFICANT. Mr. Speaker, as so eloquently stated by the gentleman, Timothy McCaghren was a U.S. Customs Inspector and was killed in the line of duty. Ladies and gentlemen, killed in the line of duty in El Paso in 1990. Mr. McCaghren displayed the ultimate commitment to public service.

I would like to comment on, just briefly, and commend the gentleman from Texas [Mr. COLEMAN] on his introduction of H.R. 2415, legislation that would obtain law enforcement status for Customs inspectors, and that would deal with some of those issues that were so eloquently stated.

The life, career and contributions of Inspector McCaghren can now be honored and must be honored by designating the Customs Administrative Building in El Paso in his name and in his honor. With that, I join forces with the gentleman from Maryland [Mr. GILCHREST] in supporting this legislation and thank the gentleman from Texas [Mr. COLEMAN] for his excellent job here.

Mr. Speaker, I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume to say that I, too, want to join in the heartfelt words that the gentleman from Texas [Mr. COLEMAN] has spoken about Mr. McCaghren, his family and his friends, and the gentleman from Ohio [Mr. TRAFICANT] as well. Public servants such as Mr. McCaghren, Federal employees, set the highest example for us as elected officials to follow.

Mr. Speaker, I urge the adoption of this legislation, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYWORTH). The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 2415, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, as the "Timothy C. McCaghren Customs Administrative Building'.".

A motion to reconsider was laid on the table.

RONALD REAGAN BUILDING AND INTERNATIONAL TRADE CENTER

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 2481, to designate the Federal Triangle Project under construction at 14th Street and Pennsylvania Avenue, NW., in the District of Columbia, as the "Ronald Reagan Building and International Trade Center."

The Clerk read as follows:

H.R. 2481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Triangle Project under construction at 14th Street and Pennsylvania Avenue, Northwest, in the District of Columbia, shall be known and designated as the "Ronald Reagan Building and International Trade Center."

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Ronald Reagan Building and International Trade Center".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Ohio [Mr. TRAFICANT] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Speaker, I thank the gentleman from Maryland for yielding.

Mr. Speaker, I rise in strong support of H.R. 2481, a bill to designate the Federal Triangle building as "the Ronald Reagan Building and International Trade Center." First, I would like to thank Chairman GILCHREST and Ranking Minority Member TRAFICANT for bringing this designation bill to the floor of the House for consideration.

It is a proud moment for me to be able to honor one of our country's most famous citizens and clearly my most famous constituent in this manner.

Ronald Reagan is a true optimist. He brought to our country a new way to see events, our Nation and ourselves. He lives a life of example that we can show our children and our children's children—an example that through commitment and perseverance we can accomplish anything—and we now have the opportunity to honor him in a very small way.

Ronald Reagan spoke of Main Street America as the "millions who work so hard to support their families and keep our country together." He often talked of the rising tide of optimism in Main Street American and that is why it is fitting that we name this Federal building located on America's Main Street—Pennsylvania Avenue—the Ronald Reagan Building and International Trade Center.

This newest constructed Federal building located on the last undeveloped stretch of Pennsylvania Avenue between the Capitol and the White House is the largest Federal building since the Pentagon was built. The structure is designed by James Ingo Freed of Pei Cobb Freed & Partners; I.M. Pei designed the East Wing of the National Gallery of Art and Freed designed the Holocaust Museum on 14th Street and will be the centerpiece of downtown Washington. The building will dedicate 500,000 square feet for an international trade center and will attract additional business and tourism to our Nation's Capital. It seems fitting that this building that will feature free trade should bear Ronald Reagan's name.

The bill to name this building the Ronald Reagan Building and International Trade Center was introduced by myself, Chairman GILCHREST and Congressman CHRISTOPHER COX from California in October of this year. The bill has a bipartisan array of 42 cosponsors and its companion in the Senate was introduced by Senator BOB DOLE on the same day with a bipartisan array of 12 cosponsors, including Senator MOYNIHAN from New York who authored the original act authorizing the building's construction. The designation bill has been received with an appreciative response from the Reagan family and to paraphrase from a note I received from former First Lady Nancy Reagan she and the former President are truly grateful for all that is being done on this designation bill to honor the Reagan name.

The Federal Triangle building is being constructed to meet Federal specifications and will have a lifespan of 150 to 200 years; it will be one of the most stately Federal buildings on our nation's mainstreet; the building will be another architectural landmark for our Nation's Capital. What could be more fitting than to name a building that will house an International Trade Center after a President who stood so strongly for free and fair trade. A building with such a dignified architectural presence, centered in such a prominent location within our Nation's Capital should be named after such a dignified and prominent former President Ronald Wilson Reagan.

Again, I thank the House for considering this designation bill which preserves the optimism contained within the Reagan legacy on our Nation's mainstreet—Pennsylvania Avenue—for centuries to come.

Mr. GILCHREST. Mr. Speaker, I thank the gentlewoman from California.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

This is one time that we just do not want to say no. The former First Lady's just say no. Not this time. I think if there is one change I would like to make in the bill, I did not really look at it that much, but it is the Ronald Reagan bill and International Trade Center, and I would like to have seen it named the Ronald Reagan International Trade Center.

One little thing maybe also off-cuff. One thing the former President stated that I always, always thought made a lot of sense, and it has been so prophetic and been such a great service to this Nation, he said we should always negotiate from a position of strength, and how true it is and I want to commend the former President on that. I think that has helped our Nation greatly, and his son, Michael, by the way, who had done much to make free trade fairer trade, and I think that is important here.

So I want to join forces with the gentlewoman from California [Mrs. SEASTRAND] in honoring our former President by designating this landmark building in our Nation's Capital in his honor. Negotiate from a position of strength. And ladies and gentlemen, I think the Gipper's comments should be analyzed now in our trade dilemma, and maybe we should be listening to young Michael Reagan, who has analyzed this quite strongly.

So, Mr. Speaker, I join forces on the bill. I know there are some technical reasons for the naming of it, but I hate to see the name diluted, but, nevertheless, I know there are strategic reasons for that. I wholeheartedly support this bill and join the gentlewoman from California [Mrs. SEASTRAND] and the gentleman from Maryland [Mr. GILCHREST] in passing this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume to thank the gentleman from Ohio [Mr. TRAFICANT] for his words. I thank the gentlewoman from California [Mrs. SEASTRAND] for her initiative, and I think all of us joining hands to thank Mr. Ronald Reagan for being a visionary, an optimistic President of the United States that preserved our idealistic fundamental freedoms.

Mr. Speaker, I urge adoption of this bill and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 2481.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

VEACH-BALEY FEDERAL COMPLEX

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2504) to designate the Federal building located at the corner of Patton Avenue and Otis Street, and the U.S. courthouse located on Otis Street, in Asheville, NC, as the Veach-Baley Federal Complex.

The Clerk read as follows:

H.R. 2504

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at the corner of Patton Avenue and Otis Street, the United States Courthouse located in Otis Street, in Asheville, North Carolina, shall be known and designated as the "Veach-Baley Federal Complex".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the buildings referred to in section 1 shall be deemed to be a reference to the "Veach-Baley Federal Complex".

□ 1345

The SPEAKER pro tempore (Mr. HAYWORTH). Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, this split designation of the Federal complex in Asheville, NC, would honor two outstanding residents of Asheville. Jack Veach was nationally known for his work as a forester and led efforts to the creation of the Cradle of Forestry Discovery Center which is used to teach forestry and environmental stewardship. He was active in civic affairs in Asheville and served a chairman of the United Way.

Judge James Baley was a lawyer, State representative, naval officer, a deacon in his church, a U.S. attorney, and a judge. He was active in civic affairs as well as lending his time to such diverse activities as the Daniel Boone Council of the Boy Scouts of America. I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I join Congressman TAYLOR of North Carolina in supporting H.R. 2504, a bill to designate the Federal building and courthouse in Asheville NC as the Veach-Baley Federal Complex. John Veach and James Baley are two North Carolinians whose record of public service are commendable and deserving of this honor. In the serving in the judicial system Judge Baley has worked at the appeals court level as well as the special judge for the superior court. "Jack" Veach was a leader and acknowledged expert in forest conservation activities. The careers of these two men are worthy and deserving of this designation. I urge support for H.R. 2504.

Mr. Speaker, I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I have no further speakers. I urge the adoption of this legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 2504.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

HOWARD H. BAKER, JR. UNITED STATES COURTHOUSE

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2547) to designate the United States courthouse located at 800 Market Street in Knoxville, TN, as the "Howard H. Baker, Jr. United States Courthouse".

The Clerk read as follows:

H.R. 2547

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at 800 Market Street in Knoxville, Tennessee, shall be known and designated as the "Howard H. Baker, Jr. United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Howard H. Baker, Jr. United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, this bill would designate the newly acquired building in Knoxville, TN as the "Howard H. Baker, Jr. United States Courthouse". In the 103d Congress legislation was enacted to name the United States courthouse to be built in Knoxville after this distinguished former Senator and national leader. However, in an effort to save money, a suitable building was purchased at a different location in Knoxville. The bill will designate that building in honor of Senator Baker. Senator Baker was a pioneer in Republican politics in the State of Tennessee. He was elected to the U.S. Senate in 1966 and served until his retirement in 1984. At the time of his retirement he was at the pinnacle of his congressional career as majority leader of the U.S. Senate. In 1987, Senator Baker served as White House Chief of Staff to President Reagan, to bring a steady hand to the White House following the Iran/Contra incident. Senator Baker has been honored by being awarded the Medal of Freedom, among other prestigious awards. He is still active at his law firm and is a most respected former member. It is fitting that we name this building in honor of this public servant. I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I want to join with the gentleman from Tennessee [Mr. DUNCAN] in support of naming this Federal courthouse in Knoxville after Howard H. Baker, Jr. I would like to say as now the chair of the Subcommittee on Aviation, the gentleman from Tennessee has worked tirelessly on this effort. He has also worked very hard in the Subcommittee on Aviation, and he has done a great job.

Mr. Speaker, I would also like to inform the gentleman from Maryland [Mr. GILCHREST] that in the 82d Congress, Howard Baker was a member of the Public Works Committee. He was very aware of many of the problems of infrastructure and the needs of our country, as evidenced later by his distinguished service.

Mr. Speaker, H.R. 2547, introduced by Mr. DUNCAN of Tennessee, will name the Federal courthouse in Knoxville, TN after Howard H. Baker, Jr., a man whose public record almost makes his name a household word in the annals of public service. Howard Baker served his country in the U.S. Navy during WW II, the U.S. Senate, the White House, the United Nations, and numerous boards and commissions. It is with great admiration for Howard Baker's devotion and dedication to public service that I join with Mr. DUNCAN in supporting H.R. 2547.

Mr. Speaker, I reserve the balance of my time.

Mr. GILCHREST. Mr. Speaker, I thank the gentleman from Ohio [Mr. TRAFICANT] for that interesting bit of history about a former member of the Public Works Committee.

Mr. Speaker, I have no further speakers and I urge the adoption of the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. MONTGOMERY], "The General," whose name is associated with so many things associated with veterans. The gentleman is leaving this Congress, and we love him dearly. This Congress will not be the same. I am sure he has an awful lot of memories of fine Americans, such as himself and like Howard Baker.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from Ohio for his very kind remarks. I know the gentleman was a very outstanding sheriff and law enforcement officer before he came to the Congress, and I appreciate what he said.

Mr. Speaker, but I am here to say that I think it is very appropriate designating this United States courthouse to be named the Howard H. Baker Courthouse. I have known Senator Baker for a number of years. I had the privilege, I was before him, but we went to the same school in Tennessee.

This is well deserved and I congratulate the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Ohio [Mr. TRAFICANT] for bringing this bill to the floor. I fully support it.

Mr. TRAFICANT. Mr. Speaker, I urge an "aye" vote. I commend the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, I rise in support of H.R. 2547, a bill to designate the courthouse at 800 Market Street in Knoxville, TN, the Howard H. Baker, Jr. United States Courthouse. I am proud to be the sponsor of this bill, along with the other Members of the Tennessee delegation, and commend and thank Chairman GILCHREST. This legislation is a fitting tribute to Senator Baker's extraordinary career and public service.

As you know, similar legislation to construct a new courthouse became public law in the 103d Congress. However, rather than build a new courthouse, GSA has decided, at my urging, to save the taxpayers money and move into an existing building. Therefore, it is necessary to rename the building, and I urge my colleagues to support this bill.

Senator Baker was first elected to the U.S. Senate in 1966. He was the first Republican ever popularly elected to the U.S. Senate from Tennessee, and he won reelection in 1972 and 1978. Senator Baker served as minority leader of the Senate from 1977 to 1981 and majority leader from 1981 to 1985 when he chose to retire.

In 1987, then President Reagan asked Senator Baker to serve as Chief of Staff to the President, at a time when the administration needed steady and seasoned leadership during the Iran-Contra controversy.

In 1982, Senator Baker received the Jefferson Award for Greatest Public Service Performed by an Elected or Appointed Official. In 1984, Senator Baker received the Presidential Medal of Freedom.

Since leaving Public Service, Senator Baker has been elected to numerous boards of directors of U.S. corporations. He is the recipient of honorary degrees from Yale, Dartmouth, Georgetown, Bradley, Pepperdine, and Centre College. He is currently a partner in the law firm of Baker, Donelson, Bearman and Caldwell.

I am sorry to say Senator Baker's wife, Joy, passed away recently after a long and courageous battle with cancer.

Mr. Chairman, I simply would say that Senator Howard H. Baker, Jr. is one of the greatest statesmen in the history of the State of Tennessee. He has been recognized a great deal here in Washington, having the former rooms of the Library of Congress named after him. But he has not received that same recognition in Tennessee. Naming this Federal building after him will be a very fitting tribute to a very great American.

I urge my colleagues to support this bill in honor of my good friend and fellow Tennessean, Howard H. Baker, Jr.

Mr. TRAFICANT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 2547.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

VINCENT E. MCKELVEY FEDERAL BUILDING

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2556) to redesignate the Federal building located at 345 Middlefield Road in Menlo Park, CA, and known as the Earth Sciences and Library Building, as the "Vincent E. McKelvey Federal Building".

The Clerk read as follows:

H.R. 2556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 345 Middlefield Road, in Menlo Park, California, and known as the Earth Sciences and Library Building, shall be known and designated as the "Vincent E. McKelvey Federal Building".

SEC. 2 REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Vincent E. McKelvey Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. TRAFICIANT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I thank the gentlewoman from California [Ms. ESHOO] for introducing this legislation.

Mr. Speaker, Vincent McKelvey was a dedicated public servant who worked for the U.S. Geological Survey from 1941 until his death in 1987. Mr. McKelvey was a native of Pennsylvania and received degrees from Syracuse University and from the University of Wisconsin. He was internationally recognized for his scientific work and received numerous awards and honors for his contributions to the geological sciences. Dr. McKelvey was the author of about 125 scientific articles dealing with the geology of many minerals and for his work received many honors and awards. During his tenure at the USGS, he was Director from 1971 to 1978. I urge my colleagues to support this legislation to honor this dedicated civil servant.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume. Dr. Vincent E. McKelvey has enjoyed a long, highly productive Federal career as a renowned geologist for the U.S. Geological Survey. He has conducted pioneering work in energy conservation and his outstanding work as a geologist, was recognized in 1978, when a 7,000 foot high mountain peak in Antarctica was named in his honor. I join with Congresswoman ESHOO in supporting H.R. 2556, a bill to designate the Geological Survey building in Menlo Park, CA, as the Vincent E. McKelvey Federal Building.

Mr. Speaker, I concur with the statement of the gentleman from Maryland [Mr. GILCHREST], and I urge an "aye" vote.

Mr. Speaker, I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I would like to echo the words of the gentleman from Ohio [Mr. TRAFICANT] and maybe some day the gentleman and I can visit the 7,000 foot peak in the Antarctic. It would be a trip to remember.

Mr. Speaker, I urge adoption of the legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 2556.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

JAMES L. FOREMAN UNITED STATES COURTHOUSE

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2689) to designate the United States Courthouse located at 301 West Main Street in Benton, IL, as the James L. Foreman United States Courthouse.

The Clerk read as follows:

H.R. 2689

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Courthouse located at 301 West Main Street in Benton, Illinois, shall be known and designated as the "James L. Foreman United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "James L. Foreman United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for Illinois [Mr. POSHARD] for introducing this legislation. Mr. Speaker, Judge Foreman is a lifelong resident of Massac County, IL and has had a distinguished career in the legal profession. In 1972 Judge Foreman was appointed by President Nixon as a United States District Judge. Twenty years later Judge Foreman took senior status where he maintains an active case load today. During his tenure, he was chief judge for 14 years. He is known for his fairness and his administrative, as well as judicial, skills and was instrumental in creating a court management system to relieve the court of administrative burden in the judicial proceedings. I urge my colleagues to support the bill.

My Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume. H.R. 2689 would recognize the career contributions of Judge James L. Foreman of Illinois. He became instrumental in instituting formal case management practices long before it was mandatory. He has served the Federal judicial system with distinction and diligence since 1972 after serving as an assistant attorney general for the State of Illinois.

Mr. Speaker, I join the gentleman from Illinois [Mr. POSHARD], my friend who is on his way over here, from what I understand, in supporting this bill. I also support comments made by the gentleman from Maryland [Mr. GILCHREST] and urge passage of this legislation.

Mr. Speaker, I reserve the balance of my time, in the event the gentleman from Illinois should pop in here at the last second.

Mr. GILCHREST. Mr. Speaker, I thank the gentleman from Ohio for his words, and I thank the gentleman from Illinois [Mr. POSHARD] for introducing this legislation. I urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. POSHARD], a man who is never to be denied; a man without peer who has worked hard on this legislation. He is a very, very valuable member of our Committee on Transportation and Infrastructure. Now that the gentleman has caught his breath, I yield to him.

Mr. POSHARD. Mr. Speaker, I rise today in support of H.R. 2689, a bill to name the U.S. Courthouse in Benton, IL the "James L. Foreman Courthouse." I introduced identical legislation during the 103d Congress, and am pleased to note that it passed the House by voice vote. Unfortunately, the Senate did not act on the bill before it adjourned.

Judge Foreman has had an outstanding career on the Federal bench. He was appointed to the Federal bench in 1972, after serving as an assistant attorney general for Illinois and Massac County State's attorney from 1960–1964. He became chief judge in 1978 and continued in this position until 1992, when he became a senior district judge.

Originally, the district was known as the eastern district of Illinois because it covered a large area ranging from the outskirts of Chicago south to Champaign-Urbana, and covered the entire southern section of Illinois. At Judge Foreman's suggestion, the boundaries of the Federal judicial districts in Illinois were reviewed and the present judicial district was renamed the southern district, which is composed of the 38 southernmost continuous counties of the State.

Judge Foreman was instrumental in instituting a formal case management system long before the concept was mandated for all Federal courts. The southern district also established court facilities at the maximum security U.S. Penitentiary at Marion, IL, in order to accommodate the special security concerns involved with these prisoners.

Judge Foreman has also served on the Judicial Resource Committee of the Judicial Conference of the United States. On several occasions he has been appointed to sit by designation in cases before the U.S. Court of Appeals for the Seventh Circuit and in the U.S. District Court for the Western District of Kentucky.

Judge Foreman has served with honor and distinction during his tenure on the Federal bench. I believe it would be most appropriate to recognize Judge Foreman's many contributions by naming the courthouse in Benton, IL, for him.

I want to thank Public Buildings and Economic Development Subcommittee Chairman GILCHREST, its ranking member Mr. TRAFICANT, Transportation and Infrastructure Chairman SHUSTER, and ranking member Mr. OBERSTAR for their support of this important legislation.

□ 1400

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentleman from Illinois [Mr. POSHARD] and his work and his effort, and I urge passage of this legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYWORTH). The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the bill, H.R. 2689.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SEYBOURN H. LYNNE FEDERAL COURTHOUSE

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 369) to designate the Federal courthouse in Decatur, AL, as the "Seybourn H. Lynne Federal Courthouse," and for other purposes.

The Clerk read as follows:

S. 369

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Courthouse in Decatur, Alabama, is designated as the "Seybourn H. Lynne Federal Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the Seybourn H. Lynne Federal Courthouse.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would honor Judge Lynne who, at age 87 is the longest serving Federal judge in the country. He was appointed by President Truman in 1946 as a United States district judge. Seven years later he became chief judge for the northern district of Alabama and took senior status in 1973. It is my understanding that Judge Lynne is seriously ill. There is a ceremony scheduled this month to name this U.S. courthouse in his honor so that he may receive this recognition while still serving on the bench. I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Congressman CRAMER of Alabama has introduced a bill to honor Judge Seybourn Lynne, the country's longest serving Federal Judge. I join him in his efforts to acknowledge the contributions of Judge Lynne's 49 years of judicial service. Judge Lynne is well known for his wisdom, negotiating skills, and perseverance. Even in senior status, which he took in 1973, Judge Lynne continues to carry a full case load and works in a timely and efficient manner. I urge adoption of S. 369 to honor Judge Seybourn H. Lynne.

Mr. Speaker, I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Ohio [Mr. TRAFICANT] for his stirring words on someone who has decided to make wise use of their time. We commend the judge, and he also sets a fine example for us.

I strongly urge adoption of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the Senate bill, S. 369.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just passed, H.R. 1718, H.R. 2061, H.R. 2111, H.R. 2415, H.R. 2481, H.R. 2504, H.R. 2547, H.R. 2556, H.R. 2689, and the Senate bill, S. 369.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

EXTENSION OF PERIOD OF APPLICABILITY OF ENROLLMENT MIX REQUIREMENT UNDER DAYTON AREA HEALTH PLAN

Mr. BURR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1878) to extend for 4 years the period of applicability of enrollment mix requirement to certain health maintenance organizations providing services under Dayton area health plan, as amended.

The Clerk read as follows:

H.R. 1878

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENDING PERIOD OF APPLICABILITY OF ENROLLMENT MIX REQUIREMENT TO CERTAIN HEALTH MAINTENANCE ORGANIZATIONS PROVIDING SERVICES UNDER DAYTON AREA HEALTH PLAN

Section 2 of Public Law 102-276, as amended by section 13644 of the Omnibus Budget Reconciliation Act of 1993, is amended by striking "December 31, 1995" and inserting "December 31, 1999".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina [Mr. BURR] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. HALL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. BURR].

Mr. BURR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1878.

The Dayton area health plan is a Medicaid managed care demonstration project in Dayton, OH. On December 31 of this year, the Medicaid waiver under which the plan currently operates will expire.

H.R. 1878 extends for 4 years the waiver of the 75/25 percent enrollment mix which requires HMO's serving public recipients to attract 25 percent of their customers from the commercial market.

Since this program has been successful as a HCFA-approved Medicaid reform initiative, Congress has waived the enrollment mix twice in the past. Moreover, the Congressional Budget Office has also estimated that the Dayton program saves taxpayers approximately $1 million per year.

For these reasons, I ask my colleagues to join me in support of this program.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1878, a bill to extend the waiver of the 75/25 percent enrollment mix requirement for the Dayton Area Health Plan. The Dayton Area Health Plan is a Medicaid managed care initiative. For more than six years, it has been providing quality health care to over 24,000 enrollees in Aid to Dependent Children, Healthy Start, and General Assistance programs in Montgomery County, Ohio.

The Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) instituted a requirement that a Health Maintenance Organization (HMO) be able to attract at least 25 percent commercial enrollees in order to be eligible for reimbursement under Medicaid. The theory was that the ability to attract paying customers would ensure quality care for Medicaid beneficiaries. However, the Dayton Area Health Plan ensures quality by encouraging competition between the HMO's that participate.

Congress has twice recognized the value of the Dayton Area Health Plan. With bipartisan support, we have been able to get at least 2 waivers on this over the last few years.

Mr. Speaker, the current waiver for the Dayton Area Health Plan expires at the end of this year. H.R. 1878 will provide relief until a State-wide plan called OhioCare goes into effect.

I would like to thank the bill's sponsor, Mr. HOBSON; the chairman and ranking member of the Commerce Committee, Messrs BLILEY and DINGELL; and the chairman and ranking member of the Health and Environmental Subcommittee, Messrs. BILIRAKIS and WAXMAN, for their support of this effort.

Mr. Speaker, I reserve the balance of my time.

Mr. BURR. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I want to thank the Republican leadership for scheduling this bipartisan bill so we can keep the Dayton Area Health Plan running into the new year. Also, I want to thank TONY HALL—together we've extended this waiver twice already.

I was the Ohio Senate health chairman in charge of overseeing the establishment of a Medicaid managed care demonstration project in Dayton, OH. The Dayton Area Health Plan has operated successfully under a waiver from certain Federal Medicaid requirements for nearly a decade.

The current waiver expires December 31, 1995, and, unless the waiver is extended, the Dayton Area Health Plan will be forced to close its doors to 25,000+ low-income beneficiaries.

H.R. 1878 provides the temporary regulatory relief that's necessary to allow the Dayton Area Health Plan to continue to serve its customers into the new year.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just say that I appreciate the support of the gentleman from Ohio [Mr. HOBSON] and his long-term support and direction that he has given to this important piece of legislation. We have worked together very carefully and in a very good way over the past few years to really help with this plan. It has been a good plan, we think, a pioneer plan, that has saved a lot of money for the taxpayers, not only in Dayton, OH, but for the country.

Mr. Speaker, I yield back the balance of my time.

Mr. BURR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also agree that this has been a successful plan. It is one we need to continue to waive in this particular case.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. BURR] that the House suspend the rules and pass the bill, H.R. 1878, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to extend for 4 years the period of applicability of enrollment mix requirement to certain health maintenance organizations providing services under Dayton Area Health Plan.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BURR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1878, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no obligation.

ALBERT V. BRYAN UNITED STATES COURTHOUSE

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 965) to designate the United States courthouse for the eastern district of Virginia in Alexandria, VA, as the Albert V. Bryan United States Courthouse.

The Clerk read as follows:

S. 965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF ALBERT V. BRYAN UNITED STATES COURTHOUSE.

(a) NEW COURTHOUSE.—

(1) IN GENERAL.—The Federal building located at Courthouse Square South and Jamieson Avenue in Alexandria, Virginia, shall be known and designated as the "Albert V. Bryan United States Courthouse".

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in paragraph (1) shall be deemed to be a reference to the "Albert V. Bryan United States Courthouse".

(b) OLD COURTHOUSE.—

(1) IN GENERAL.—The Federal building located at 200 South Washington Street in Alexandria, Virginia,shall not be known and designated as the "Albert V. Bryan United States Courthouse".

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building known and designated prior to the effective date of this section as the "Albert V. Bryan United States Courthouse" shall be deemed to be a reference to the Federal building referred to in paragraph (1).

(c) EFFECTIVE DATE.—This section shall become effective on the date of the completion of the construction of the Federal building referred to in subsection (a)(1).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Judge Bryan is a legend in the judicial community. He was first appointed to the U.S. district court in 1947 by President Truman and in 1961 he joined the court of appeals. He is best known for his 1958 order that four African-American students be enrolled in a northern Virginia all-white junior high school. This resulted in the first desegregated school in Virginia history. This bill has broad bipartisan support having passed the other body earlier this year. A companion bill was introduced and considered by the Subcommittee on Public Buildings and Economic Development earlier this year wherein we heard testimony from the Honorable JIM MORAN, who is a distinguished Member from the other side.

It is fitting that Congress name this new courthouse in Alexandria VA, in Judge Bryan's honor. I urge support for this legislation.

Mr. Speaker, I reserve the balance of my time.

□ 1415

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Judge Albert V. Bryan's judicial career covered 37 years. It was characterized by fairness, firmness, and thoroughness. He was admired by his colleagues for his modesty and gentleness, and nobody could forget the dry wit. Everyone greatly respected his intelligence and integrity. His landmark work, as stated by the gentleman from Maryland [Mr. GILCHREST], to support integration of public schools in Virginia, was ultimately incorporated into the historic Supreme Court decision Brown versus Board of Education.

The gentleman from Virginia [Mr. MORAN], a highly respected member of our caucus, has done yeoman's work in bringing this legislation to the floor. Without his help we may not have been having it here today.

I want to commend the gentleman from Virginia [Mr. MORAN] for his leadership in a lot of areas in this Congress. He is to be commended for his support of this bill, and I join the gentleman in supporting this bill, to honor the life and career of Judge Bryan by designating the new courthouse to be dedicated in Alexandria, VA, as the Albert V. Bryan United States Courthouse.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I thank the very distinguished ranking minority member of this subcommittee from Ohio, who I may also say is a good friend, and I thank him for his thoroughness and fairness as well. The gentleman is someone Judge Bryan would greatly enjoy and respect.

I want to thank my good friend as well, the very distinguished chairman of this subcommittee, the gentleman from Maryland [Mr. GILCHREST]. The gentleman does a wonderful job representing his constituency, but also the interests not only under his subcommittee, but of the country, and has done the kind of terrific work, particularly in the environmental area, which is just what Judge Bryan would care about.

In his 37 years on the Federal bench, Judge Bryan built a record as a legal conservative and a strict constructionist. That is why he was able to bring about the very dramatic changes in terms of school desegregation in Virginia, because of the respect that he had earned throughout his career. He was renowned for his fairness, his firmness, and his thoroughness. As has been said, of the 322 opinions written as a circuit judge and the 18 opinions written as a U.S. district judge, he was reversed in only four cases. That is a record that very, very few can equal.

His colleagues knew him as a courtly, conservative Virginia gentleman, whose personal style was low-key, modest, and polite, often with a dry wit. According to his son, U.S. District Judge Albert V. Bryan, Jr., Judge Bryan, Sr., thought of the court as a jewel of the Constitution.

Following through on the jewel metaphor, the Washington Post editorial that marked the death of Judge Bryan stated:

> . . .that those who knew the senior Judge Bryan might well add that this appraisal came from an expert who valued that gem and protected it with integrity and eloquence.

With great reverence and pride, I am very pleased to be part of something that would have mattered a great deal to him, to have his name on a Federal courthouse. I know it matters a great deal to his family and to the community that he served.

That courthouse will open next month. I hope the distinguished gentleman from Maryland and the distinguished gentleman from Ohio can join us, if they can, and even the very distinguished staff. If they can make it, we would love to have them join us. I very much appreciate this legislation going forward today.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I concur with the comments made by the gentleman from Virginia [Mr. MORAN] and our distinguished chairman. I want to echo those comments as far as conservation work done by the distinguished chairman. I wanted to thank the gentleman for helping with this legislation today.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when I say thank you, I do not want people to take it lightly, because it is a depth that is pretty deep, when I add my thanks to the gentleman from Ohio [Mr. TRAFICANT] for his help and work on this subcommittee and this legislation. I thank the gentleman from Virginia [Mr. MORAN] for bringing this to our attention, because the gentleman from Virginia knows all too well that this Nation is better as a result of Judge Bryan. I strongly urge the support of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYWORTH). The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and pass the Senate bill, S. 965

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 965.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 20 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1626

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HAYWORTH) at 4 o'clock and 26 minutes p.m.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

BASING BUDGET NEGOTIATIONS ON MOST RECENT TECHNICAL AND ECONOMIC ASSUMPTIONS OF CONGRESSIONAL BUDGET OFFICE

Mr. KASICH. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 132) affirming that budget negotiations shall be based on the most recent technical and economic assumptions of the Congressional Budget Office and shall achieve a balanced budget by fiscal year 2002 based on those assumptions.

The Clerk read as follows:

H.J. RES. 132

Whereas on November 20 the President signed legislation (Public Law 104–56) committing Congress and the President to "enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002 as estimated by the Congressional Budget Office";

Whereas Congress has approved legislation that achieves a balanced budget in fiscal year 2002 as estimated by the Congressional Budget Office;

Whereas congressional Democrats have offered alternative budgets in the House and Senate which also achieve balance in fiscal year 2002 as estimated by the Congressional Budget Office;

Whereas the commitment to enact legislation in the first session of Congress requires action now in negotiations;

Whereas the negotiations have no preconditions on levels of spending or taxation, except that the resulting budget must achieve balance by fiscal year 2002 as estimated by the Congressional Budget Office;

Whereas the Congressional Budget Office has updated its technical and economic assumptions following a thorough consultation with government and private experts; and

Whereas the Congressional Budget Office has begun consultation and review with the Office of Management and Budget: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the current negotiations between Congress and the President shall be based on the most recent technical and economic assumptions of the Congressional Budget Office, and that the Congress is committed to reaching an agreement this year with the President on legislation that will achieve a balanced budget by fiscal year 2002 as estimated by the Congressional Budget Office.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. KASICH] will be recognized for 20 minutes, and the gentleman from Minnesota [Mr. SABO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, given the situation that we find ourselves in in the country and in the negotiations relative to the budget, this is an important resolution. It is an important resolution because I think it affirms what the intent of this House is and what the intent of the Congress is with regard to our budget. It makes it clear that this Congress is determined to have a balanced budget within 7 years, and it is going to do so based upon the honest numbers generated by the Congressional Budget Office, based upon the most recent technical and economic assumptions. That is the right course of action to take. It is the way in which this country has to move.

Why a resolution? Why do we have to do it through resolution? Well, because throughout this year we have had a situation where the administration has refused, yes, refused, to be serious about balancing the budget. Back in January of this year, the administration publicly opposed an amendment to balance the budget. In February, we found out why. In February, they submitted their budget, and we found out that it maintained deficits of $200 billion a year as far as the eye could see. In April, the administration did nothing. In May, they did nothing, despite the fact that through that period of time Congress was beginning work toward moving toward a real balanced budget.

In June, just before we brought the balanced budget conference report to the floor, the administration submitted their 10-year outline of a balanced budget. The problem was that it was not a real budget. It was a press release. But nevertheless, from that time on they have been trumpeting the fact that they have a balance budget on the table.

The other problem with that balanced budget was the numbers did not add up. They were not good numbers. They were not honest numbers. It was simply a press release.

□ 1630

Then in July and August, the administration once again did nothing. In September, they did nothing. In October, they did nothing. In November, there was no activity until we got to a crisis point with regard to a continuing resolution, whether or not the Government would continue to operate.

Then all of a sudden, the President decided that he would inject himself into the game. What he did was he signed a continuing resolution; in other words, a resolution to keep the Government running, that said that his administration was going to participate in balancing the budget by the year 2002, using honest numbers. However, when we got to the negotiations we found out that the administration really did not mean that. They started talking about 7 years meant 8 or 9 years, that the Congressional Budget Office was sometime later on, it did not really affect the negotiations up front.

Since the time that that continuing resolution committing the President to a balanced budget has been signed into law, the administration has done nothing. Now, we come down to a date when, again, the Government is shut down, the administration is concerned about getting another continuing resolution, and what they are suggesting to us is we ought to just continue this pattern of negotiations.

Mr. Speaker, this resolution says how that negotiation will take place, with real numbers.

Mr. SABO. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this is not an important resolution. It is one of not great relevance, but I will still vote for it, but it gives us an opportunity to visit a little bit about some objectives and numbers being used.

Let me first say that this discussion of honest and dishonest numbers, or by implication dishonest numbers, is simply not the case. When CBO reestimated outlays for two of the major programs, Medicare and Medicaid, they moved closer to the assumptions of OMB, not further away.

On the other hand, there are legitimate differences on projected revenues over 7 years, and the reality is in the first few years, they are relatively minor and they escalate in importance, because for the first time we are looking at 7 years rather than 5.

The reality is, within the first 3 years of revenue estimates, the estimates between CBO and OMB are virtually identical. So what we have are some disagreements of people of good intent, making relatively minor differences in judgment, but which escalate into significant numbers over a 7-year period of time. And the reality is when we get to the table, as we should have been for the last several weeks, and talk about the substance of the budget, how we structure Medicare, how we structure Medicaid, how we deal with welfare reform, do we give the store away in taxes to the affluent and wealthy in the country, as the Republicans want to do, that we could work these things out.

I personally think in the end when we have a 7-year plan adopted, it should be based on relatively conservative economic judgments. But I also think we need to look at the flow of how dollars flow. I hear my good Republican friends get so excited about these slight variations in economic estimates, which we need to talk about, but I also observe what they do with the budget to make it come in balance. They have a tax cut that explodes in costs after the first 7 years.

The features of the tax plan that favor the wealthy in this country, the actual cost starts out modestly, and then it explodes. But one of the interesting things is, the cost of this tax cut keeps growing through 2001. Then, miraculously, it dips in 2002. And then it escalates very rapidly in 2003.

Is that sound planning for a balanced budget? No, just a gimmick to hide their tax cuts for the most affluent in this country. I have seen lots of estimates of how benefits will flow under programs like Medicaid to our States, and a very interesting pattern happens when I ask my State officials what will happen.

The first 2 or 3 years, relatively little impact. Then it falls off the table. No consistent flow for reforms of Medicaid in the 50 States in this country, but rather an accommodation maybe to the Governors, who are so enthusiastic about the Republican plan, who will all be reelected or have quit their current term of office before the harshness of their cuts take place; again, not a sensible flow of dollars, but rather designed to accommodate some of their friends in the early years and then the harshness comes later.

So, Mr. Speaker, we have lots of work to do. The only way we are going to solve it is to sit down at the negotiating table as people of good will, trying to find a rational answer, being cautious on our assumptions for the future, because to project 7 years into the future is not easy.

But we also have to make sensible judgments that flow in the long term, that do not all of a sudden call for the drastic cuts in the last year or two, or tax cuts that escalate in cost beyond the 7 years of this budget resolution, or gimmicks in the last year that hide the true cost of the tax cut for the rich in this country.

Mr. Speaker, I will vote "yes," but let us get serious. That is what counts.

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the gentleman from Texas, [Mr. DELAY], and say what counts is the vote.

Mr. DELAY. Mr. Speaker, I appreciate the chairman yielding me this time. I would just say to the distinguished ranking member that all of that can happen if the President would just honor his commitment, and that is the reason for this resolution, is to restate what the President put into law and has yet to honor. So I rise in support of this resolution and urge my colleagues on both sides of the aisle to support it.

The American people are watching us today, and they are not amused. They want the President to stop his political posturing and get down to the business of balancing the budget now. The stock market has already expressed its desire to see us negotiate a balanced budget, and what happens on Wall Street has a very direct impact on what happens on Main Street.

Today, Wall Street expressed its doubts about the administration's sincerity on a balanced budget. The markets have seen the President veto the first balanced budget in 26 years. They saw him veto two sending bills just today and keep the Government closed.

The lesson is very clear: The price of failure is too high. This vote today is simply one more way to reassure the American people that we will not back down. We are resolute on our promise to balance the budget.

Mr. Speaker, the President has waited long enough to start shopping about his ideas. He has flown across the world making peace in different countries. Now it is time for him to make peace with the Congress. Support his resolution and send a message to the President that we are serious about balancing the budget. Support this resolution and show the American people that the Congress can work together in a bipartisan fashion to balance the budget now.

Let us deliver the children of this Nation a Christmas present they can really use, a balanced budget, using honest numbers.

Mr. SABO. Mr. Speaker, I yield 15 seconds to my friend, the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for yielding. CBO numbers, OMB numbers. Listen, as far as the American people are concerned, if Bill Clinton can keep the deficit coming down the way he did each year of his administration thus far, he could use Sesame Street numbers.

Mr. SABO. Mr. Speaker, I yield 5¾ minutes to my friend, the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, I thank my colleague for yielding me time.

Mr. Speaker, the American people want us to balance the Federal budget. If possible, they prefer that we do it in 7 years, but that is not the question here today. What the American people do not want us to do is slash Medicare. They have made that abundantly clear. They do not want us to abolish Medicaid, and they do not want us to cut nursing home care.

What they do not want is for us to cut education and to eliminate funds for our environment, but that is exactly what the Republican budget does, and that is why about 75 percent of the American people oppose it.

The American people know that these cuts are not being made to balance the budget or to reduce the deficit; they are being made for one reason and one reason only, to pay for tax breaks, 50 percent of which go the wealthiest people, the wealthiest individuals and corporations in America today.

Now, the Treasury Department did a study. Nearly 50 percent of their tax breaks go to people making over $100,000 a year or more. Under the Republican plan, if you are family earning $350,000 a year, you get a tax cut of about $8,500. If you are family earning $30,000 a year, you get a tax increase of about $381. In fact, under this plan, some big corporations may not have to pay any taxes at all.

Now, to pay for it, their budget makes deep cuts in Medicare, in Medicaid, in education, and in the environment. That is what this debate is all about. We Democrats believe that you can balance the budget in 7 years without making these deep cuts, and we have offered a plan to do just that, because we know that the cuts being proposed in this Republican budget will have a devastating, a devastating, effect on working families.

Do not take my word for it, Mr. Speaker. Listen to what Consumer Union says. These are the people that put out Consumer Reports. You read about them when you want to buy a washing machine. You want to buy an automobile, you get Consumer Reports, buy a TV. These people put out a report. Consumer Union is a highly respected company. Listen to what they have to say in their latest study.

"What Congress isn't telling you is families of nursing home residents may face financial ruin under the Federal Medicaid bill." This report says if the Republican budget passes, "36 million Americans will lose Medicaid protection they have now, and an estimated 395,000 long-term care patients are likely to lose Medicaid payments for their nursing home care next year."

Mr. Speaker, it costs an average of about $38,000 a year for nursing home care. Where are middle-class families going to get that kind of money to pay for the care for their parents? Most families do not earn that much in a year.

Again, listen to what this report says: "Under the Republican bill, adult children may be held financially liable for nursing home bills of their parents. Family assets, including homes, may be sold or seized to pay for nursing home bills. No one is guaranteed Medicaid nursing home eligibility as they are now. Families may be forced to spend their life savings on long-term care of a loved one, their whole life savings." That is what the Consumers Report says about the Republican budget, what it will do to working families.

The Washington Post today on the front page of the paper had the same article basically. They said, "Medicaid costs may hit home. GOP plan could make families pay."

Mr. Speaker, again, that is not Democrats talking, that is the Washington Post. That is Consumer Reports.

Mr. Speaker, we all want to get to a balanced budget, but if we get to a balanced budget by the year 2002 we have to make sure that the budget stays balanced. My friend from Minnesota has eloquently made this point time and time again: Their budget does not do that. Did you ever wonder why they keep talking about 7 years? Let me tell you why, because they do not want you to ask what happens in years 8, 9 and 10. This chart here indicates what happens in years 8, 9 and 10.

Their tax breaks explode, they go through the ceiling. They erupt in years 2003, 2004 and 2005. The red lines indicate here on this graph how they explode. What good is it to be in balance for 1 year? We work this hard to get to balance in the year 2002, and then we give it all away in the next 3 years with these exploding tax cuts.

How are they going to pay for this if they are going to give these tax cuts? If they are going to give the tax cuts, how are they going to pay to get their budget in balance? Are they going to cut more Medicare, are they going to cut more Medicaid, are they going to cut education?

Mr. Speaker, the American people have rejected this Republican budget, and the American people see through this resolution. We can all vote for this resolution today, but it is really not worth the paper it is written on. It will not get the Government open, and it will not put people back to work. It will not get us back to the negotiating table, and it will not get us a balanced budget. We should be at the table right now talking about how we are going to save Medicare, Medicaid, and education, instead of passing meaningless resolutions that get us nowhere.

The American people want the Government to get back to work. They wanted negotiators to get back to work. They sent us here to take care of their priorities, Mr. Speaker, and that is why we should be doing that exact thing, taking care of their priorities, and their priorities are in education for the children, environment for the future, and saving Medicare and Medicaid.

□ 1645

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from the State of North Carolina [Mrs. MYRICK].

Mrs. MYRICK. Mr. Speaker, this resolution simply reaffirms the commitment that was made in November by Congress and the administration that we would achieve a balanced budget not later than the year 2002, as estimated by the Congressional Budget Office. Those estimates are simply more conservative.

This resolution does not commit anyone to any one set of proposals or policy. Very simply, we have always stressed that everything is on the table, and that is still the same today. The only thing that is not is that we will achieve balance in 7 years, by 2002, using real numbers.

President Clinton, in February 1993, in his State of the Union Address said, and I quote, "I will point out that the CBO was normally more conservative in what was going to happen and closer to right than previous Presidents have been. Let us at least argue about the same set of numbers so the American people will think we are shooting straight with them."

We have a moral reason to balance this budget by the year 2002. It is going to lower interest rates by at least a couple of percentage points, and that makes a big difference to young couples like my son and his wife who are just buying a new home. That is going to save them thousands and thousands of dollars on their mortgage.

Also, our new granddaughter, who was just born last week, is not going to have to pay $187,000 in interest just on the interest of the debt over her lifetime. It will make a big difference for all the young people in our country. So I urge everyone today to please support this resolution.

Mr. SABO. Mr. Speaker, I yield 30 seconds to the gentleman from Utah [Mr. ORTON] my good friend.

MODIFICATION TO HOUSE CONCURRENT RESOLUTION 135 OFFERED BY MR. ORTON

Mr. ORTON. Mr. Speaker, the resolution before us could be improved if we added one paragraph at the end that stated: Further resolved that negotiations should resume immediately and continue until agreement is reached, and that during negotiations the operation of the Federal Government shall continue under continuing resolution.

I ask unanimous consent that that language be added to the resolution before us.

Mr. WALKER. Mr. Speaker, reserving the right to object. First of all, is it appropriate under the——

The SPEAKER pro tempore (Mr. HAYWORTH). The gentleman will suspend. First, the Chair must inquire, does the gentleman from Ohio yield for the purpose of the gentleman from Pennsylvania's objection?

Mr. WALKER. Mr. Speaker, I am reserving the right to object to his unanimous-consent request.

The SPEAKER pro tempore. The Chair cannot entertain the request unless the gentleman from Ohio yields for the purpose.

Mr. WALKER Mr. Speaker, I object.

Mr. ORTON. Mr. Speaker, I believe we should try to keep the Government open as we do this, and I think this would do it.

So I would urge my colleague, my friend, the chairman of the committee, to consider such language so that we can constructively get the negotiations back on track and, in fact, continue until we all reach the resolution that we want.

Mr. SABO. Mr. Speaker, I yield 3½ minutes to the gentleman from Michigan [Mr. DINGELL], my good friend.

Mr. DINGELL. Mr. Speaker, the objection just raised to the unanimous-consent request from the gentleman from Utah says everything. This document is nothing more or less than a political document. It says something that everybody can vote for, but it accomplishes absolutely nothing about what it is we are here to do.

Basically, it simply says we think we ought to balance the budget in 7 years. But it says absolutely nothing, nothing whatsoever about getting the Government back to work. We have nine Cabinet departments and the EPA which are now shut because the Republican Members walked out of the discussions with the President and the Democrats. That is why the Government is shut down. This will cost about $160 to $600 million a day. We do not know exactly what the precise numbers are but that is what it is.

The hard fact is the Republicans have said this, speaking through their principal spokesman, the gentleman from Georgia [Mr. GINGRICH]. We will cooperate with the President to reach an agreement but we will not compromise.

How does one cooperate without compromising? The answer is it cannot be done. And the answer is this resolution does not do anything to resolve the problem of a country which is incapable of having its Government function on its behalf because of the behavior of the Republican Members of this body who have, first of all, walked out of the compromise; second of all, objected to a meaningful improvement in what it is that this House would do with regard to the resolution before us; and, last of all, they are going to keep the Government shut down.

I do not know how long it is that they are going to do it but, again, Mr. GINGRICH has some interesting things to say. He says, I do not care what the price is. I do not care if we have no executive offices and no bonds for 30 days. Not this time.

Well, the Republicans want to shut this place down. They want to shut the Government down. They want to eliminate Government services and they want to pass a tawdry resolution like this which accomplishes nothing.

I would urge that the Members consider perhaps the changes made by the gentleman or that we consider the fact that this legislation is significantly lacking in that it does not say we are going to try to see to it that Medicare is protected, that Medicaid is protected, that education is protected, that the poor and the unfortunate are not going to be cast into deep and dark hardship just before Christmas.

I would observe to my colleagues that just before the holidays is a time my Republican colleagues usually choose to shut down the Government. Why they are so stricken with the holiday spirit and why they seek to do so at such time is beyond my ken, but I would again observe to my colleagues that the burden for governing this country and the burden for seeing to it that the Government runs is on the Republican Members who have shut the Government down, who are denying the people the access to their Government agencies and denying them the working of programs which we all recognize are needed for the good of the country.

Mr. Speaker, I would urge my colleagues to recognize the fault is over there. The fault is on those who are shutting this Government down and presenting us, instead, with this nonsensical piece of whimsy which accomplishes nothing in the public interest and does nothing to get the country going again.

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut [Mr. SHAYS], a very distinguished member of the Committee on the Budget.

Mr. SHAYS. Mr. Speaker, we all want to balance the budget in 7 years or less? That is not true. We all want to balance the budget? That is not true. If we all wanted to balance the budget, it would have been balanced years ago. We have been having deficits for 30 years because everybody says they want to balance the budget, they just do not vote to balance the budget.

For the last year we have put forward a plan. We have put forward a plan the other side may not agree with, but we have put forward a plan. And now we are waiting for theirs. Until we get their plan, it is hard to negotiate. Because we have one plan on the table, which they do not like, so they need to show us their plan.

The plan they do not like increases earned income tax-credit spending from $19 to $25 billion over 7 years. That is an increase any way we look at it, but they call it a cut. Here in Washington maybe it is a cut, but out where I live, when we go from $19 billion to $25 billion, it is an increase.

The school lunch program goes from $5 to $6.8 billion—over 7 years. Not a cut, but in this place people call it that. The student loan goes from $24 to $36 billion. It is a 50-percent increase, but the way they seem to call cuts, I guess it is a cut when it goes up 50 percent. Medicaid goes from $89 to $127; Medicare from $178 to $289 billion.

No; I am not married to balancing the budget in 7 years. I would like to do it in less. If the Democrats did not want a tax increase, that is fine. But then why did they all vote for a tax cut? If they did not want a tax cut, why did they vote for the tax cut? Why did they vote for the penalty tax elimination for seniors, if they did not want to cut taxes? They vote one way and then say something else. It gets a little tiring.

The bottom line is we have put forward a plan. We intend to move forward, however long it takes. We will do it with the President's help or we will do it without the President's help, but we have done our job. Now it is up to the Democrats to do their job.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from the State of Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, I have never been as disappointed in the President, my President, as I was this past Friday when it became clear he had reneged on his pledge to a 7-year balanced budget.

Mr. Speaker, a deal is a deal, a commitment is a commitment, and a law is a law. The last 30 days have been spent reinterpreting the language of the agreement that the President made to Congress and to the American people.

This resolution's sole intent is to confirm once again Congress' commitment to balancing the budget by the year 2002 using real numbers, numbers that both the Congress and the administration have agreed to use.

I join my colleague, the gentleman from Connecticut [Mr. SHAYS], in asking where is the President's plan? This is not a game of dare. In fact, it is not a game at all. It is a fundamental debate over whether this Congress will ever again have the discipline to balance its books. And what is at stake is enormously important, and that is the economic future of America. It is the future for our children and our grandchildren. Support this resolution.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the very distinguished gentleman from the State of Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I thank the Chairman for yielding me time.

I rise in strong support for this resolution. It reaffirms what we said before that we wanted, and that is to have a balanced budget in 7 years, by the year 2002.

My colleagues might say, why do we need to do that? We voted on that a long time ago. We voted on that more than a month ago. But ever since we voted for that, the administration and the people down at the White House have been trying to move the goal post. They have been saying, well, we can come close to it or we want to use a little different figures.

This President signed a law. He signed a law saying he would negotiate. He would negotiate to balance the budget in 7 years. And that is all we are saying that we want to do here tonight. Everything else is on the table. We have said that continuously. All the other issues are on the table. The only thing not on the table is that we are going to balance the budget by the year 2002, 7 years, and we are going to do it using real numbers. No gimmicks, no games. We are going to do it using real numbers scored by the Congressional Budget Office.

Let us get on with it so that we can get people back to work, we can get the American people a balanced budget, which is what they want, by the end of this year.

Mr. KASICH. Mr. Speaker, where do we stand on time here?

The SPEAKER pro tempore. The gentleman from Ohio [Mr. KASICH] has 9¼ minutes remaining and the gentleman from Minnesota [Mr. SABO] has 5½ minutes remaining.

Mr. ABERCROMBIE. Mr. Speaker, I ask unanimous consent to extend debate 5 minutes on both sides.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Hawaii?

Mr. KASICH. Reserving the right to object, Mr. Speaker, may I ask the gentleman why he would like to do that?

Mr. ABERCROMBIE. Mr. Speaker, I know that there are a number of speakers, due to the nature of the business on the floor, who would like to have perhaps a minute to contribute to the debate.

Mr. KASICH. Is the gentleman going to be very charitable to us?

Mr. ABERCROMBIE. I am the essence, the heart, the soul of charitable endeavors.

Mr. KASICH. Then, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Speaker, nearly 1 month ago, the President and leaders of Congress signed a pledge to a 7-year balanced budget using honest numbers. Today, one week until Christmas, President Clinton has shut down the Government and broken his word to America's families, workers, and children.

We pledged a 7-year balanced budget for our children. We committed to preserve Medicare for our parents. And we vowed to reduce taxes for our families.

We kept our promise to present a balanced budget. We provided a 7-year balanced budget because it will benefit all Americans. Our balanced budget will reduce interest rates. More Americans will be able to afford new homes, cars, and college education. And as interest rates fall, job creation will rise. A balanced budget will mean an estimated 6.1 million new jobs over 10 years.

We kept our word to preserve Medicare and prevented it from going bankrupt. The Balanced Budget Act protects Medicare's solvency for a generation. And we kept our commitment to make Government spend less so that families can keep more of what they earn.

The same President who presented no plan to balance the budget during the 2 years when his party controlled both the White House and Congress vetoed the first balanced budget in 26 years. The same President who signed a pledge to offer a real balanced budget of his own has presented no balanced budget plan.

We must keep our word to balance the budget. Not just because we keep our promises. Balance the budget for our children, for our parents, for our country.

☐ 1700

Mr. SABO. Mr. Speaker, how much time is remaining on each side?

The SPEAKER pro tempore (Mr. HAYWORTH). The gentleman from Minnesota [Mr. SABO] has 10½ minutes remaining, and the gentleman from Ohio [Mr. KASICH] has 13¼ minutes remaining.

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, I see one reason why this resolution is so important is because so many people say that they would like a balanced budget, but do not mean it. Mr. Speaker, I would say to the gentleman from Hawaii [Mr. ABERCROMBIE], is it not interesting that when we talk about a balanced budget, we are talking about all revenues coming into the Federal Government covering all of the expenses that are going out. But still, this is such a modest proposal, and we cannot even get a modest proposal through.

Mr. Speaker, if we fail to do this little bit toward getting this balanced budget now, it could be a generation before anybody is brave enough to try again.

Mr. Speaker, in this proposal of a balanced budget, even after 7 years in the year 2002, we are still borrowing $100 billion from Social Security and the other trust funds. How deep in debt should this country go? We are spending the money that our kids and our grandkids have not even earned yet.

Let us be brave. My colleagues cannot say they want a balanced budget and then pretend to have rosy scenario scoring from somebody else, just so that they do not have to cut spending.

If we are going to achieve this goal of having fiscal responsibility and stability, and if we are going to bring interest rates down, then we have got to do it. I know it is hard. Politicians are used to doing more and more things for people, even if they have to borrow money, because when we talk about the budget, people's eyes sort of glaze over and they do not understand it.

Mr. Speaker, the fact is that if interest rates will go down, because we balance the budget, we are going to see this economy take off like it has never taken off before. Let us just do it. The American people want it. Everybody says they want it now. That is good news. Vote for this resolution that says use CBO scoring. Have a balanced budget.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Speaker, I rise in support of the resolution as a cosponsor of the resolution. I think that we have to recognize that numbers do matter in this debate, and it is important for us to be on the same page when we start evaluating the budget and start talking about numbers.

Mr. Speaker, I frankly think we ought to put this issue behind us and agree to the CBO numbers, agree to the 7 years, so that we can get to the debate of Medicare, Medicaid, student loans, and the other important programs in the budget.

I think it would be the best thing we could do today for us to put this number debate to rest in the House and in the Senate, so that we could get to the important parts of this budget, and that is the public policy part of it.

So, Mr. Speaker, I encourage all of the Members, let us get this over with. Vote in favor of the resolution so that we can get to the serious part of this debate.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oklahoma [Mr. LARGENT].

Mr. LARGENT. Mr. Speaker, I also rise in favor of the concurrent resolution that says that we will balance the budget in 7 years, that we will use honest numbers, as the President asked of us earlier this year, the Congressional Budget Office numbers.

Mr. Speaker, I want to say in particular to my colleagues that like an NBA basketball game, we are entering the final 2 minutes where all the action takes place. There are many here who work on the Hill that are interested in being with their families, none more than myself. But I want to remind all of us that from Valley Forge to Vietnam, great men and women have made serious sacrifices for our country to ensure the freedom and the future of this country for our children and for the very country itself.

Mr. Speaker, now is the time for us to make what is a relatively small sacrifice; to be willing to stay here and get the job done, to balance the budget in 7 years as we have been dedicated to doing since we stepped foot on the Hill on January 4, 1995.

Mr. Speaker, I would urge all of my colleagues to vote in favor of the concurrent resolution.

Mr. SABO. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I will support this resolution as well. I believe that numbers do matter, but I also believe that priorities matter.

Mr. Speaker, we passed a continuing resolution 25 days ago. We said in that continuing resolution we would use 7 years and CBO numbers, and that we would protect future generations, ensure Medicare solvency, reform welfare, provide adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment. Mr. Speaker, we should have that language in this resolution.

Also, the Speaker and the gentleman from Texas [Mr. DELAY] just quoted some efforts in a press conference by the gentleman from Michigan [Mr. UPTON] and myself, circulating a bipartisan letter that could be helpful in this. I say in my letter, Mr. Speaker, and reminding the Speaker of the House, that our letter reflected what is also not in this resolution: That the Government should remain open under a CR and that everything should be on the table, including tax cuts.

Mr. SABO. Mr. Speaker, if the gentleman from Ohio [Mr. KASICH] is recruiting speakers, I will yield 1 minute to the gentleman from Hawaii [Mr. ABERCROMBIE], that kind and gentle soul. He may generate some speakers for the other side.

Mr. KASICH. Mr. Speaker, I take the gentleman at his word, but I happen to know he does not have Christmas in his heart.

Mr. SABO. Mr. Speaker, the gentleman from Hawaii always has Christmas in his heart.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the gentleman from Hawaii [Mr. ABERCROMBIE] as a Christmas present to my dear friend.

PARLIAMENTARY INQUIRY

Mr. ABERCROMBIE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ABERCROMBIE. Mr. Speaker, am I to take it from the just-concluded remarks that I am now to deliver a short lecture on the Christmas spirit?

The SPEAKER pro tempore. The gentleman has 1 minute to make his remarks, and that of course was not a parliamentary inquiry.

Mr. ABERCROMBIE. Mr. Speaker, I certainly hope that I will be able to maintain the spirit of the discussion here on the floor. After all, Christmas is a magical time. Christmas is a time of fantasy, and inasmuch as this resolution is a fantasy and it will take magic to actually balance the budget, as opposed to the hard work that is necessary, I suppose one could be for it.

Mr. Speaker, I regret that I have to be against it, because my reading of the Congressional Budget Office numbers are that using the honest numbers that are attributed to it is that the budget cannot be balanced by the year 2002 under the present methodology.

We might be able to accomplish it over the long term by some other method, but simply to pass this resolution to perpetuate the mythology of a balanced budget, I think, is not in our interest.

I have a letter, for example, dated December 14 from the Congressional Budget Office that the deficit in the general fund for this year will be $270 billion. So, I wish you 270 billion dollars' worth of a Merry Christmas at this time, Mr. Speaker.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I have to say that I have a hard time laughing at what is going on, because there are two things lacking in this resolution. Two weeks ago, we passed a concurrent resolution that essentially kept the Government going and indicated that we would have a 7-year balanced budget based on CBO estimates, and also said that we would protect and preserve Medicare, Medicaid, the environment, and education.

Mr. Speaker, we only have the 7-year balanced budget in this resolution. We do not have the continuing resolution because the Government is shut down and we do not have the prioritization to protect Medicare, Medicaid, education, and the environment.

I will support this resolution because I do support the 7-year balanced budget, but I do think it is wrong not to include the continuing resolution to keep the Government open. It is certainly wrong for the Republicans to not come forward with a plan that protects Medicare and Medicaid, puts money back into those programs, and eliminates the tax breaks for the wealthy in order to finance adequate funding for Medicaid and Medicare.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. FRANKS].

Mr. FRANKS of New Jersey. Mr. Speaker, a moment ago my good friend, the gentleman from Hawaii underscored the experience and the warmth of the Christmas holiday season. Regardless of our religious affiliation, every single American, every single family looks forward to this time of the year to renew their relationships with friends and family to celebrate together.

But I believe, Mr. Speaker, what we have seen is that some traditions are very, very difficult to break, and that is what we are confronting tonight. As exalted and as precious as the Christmas tradition is for our country, we notice there are some traditions which yield only very painfully to change. The 26-year tradition of this institution calling on our children and grandchildren to pay the debts of this Government is a tradition that simply must end.

Mr. Speaker, nothing would be truly more in the Christmas spirit than allowing the next generation to escape from the liabilities of people who cannot keep their bank book.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, the American public is tired of all of us precisely because of what is going on, on the floor right now. This resolution is meaningless.

Basically, the 7 years have been agreed upon and the CBO numbers are agreed upon in general. Both sides of the aisle have some smoke and mirrors in some places as we talk about CBO numbers. That needs to be cleared up. Instead of this meaningless resolution, where basically people have agreed, we need to be talking about a continuing resolution.

The Republicans will not agree to a continuing resolution to keep the Government going, to keep it operating, because essentially they are trying to do their negotiation through the resolution. They need to stop this crap and get on with the business of negotiating.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the ranking member of the Committee on the Budget. Mr. Speaker, we have now spent almost an hour debating what is essentially a joint resolution, a statement of politics. We have essentially agreed on the policy. We all know that.

Yes, there are some differences; yes, there are allegations on both sides. But the fact of the matter is that seven appropriation bills have not been passed and signed by the President, and a third of the Government, or more, is shut down.

We could have spent this hour putting the Government back to work; not saying that we would not address the balanced budget, because my colleagues on the other side have the votes not to adjourn until we do so.

But why we have to, time after time, use as a bludgeon on this institution and the country the shutting off of services to the American public is frankly beyond me.

☐ 1715

We can do it even tonight if the leadership on my colleague's side decides to do so. Pass a continuing resolution based upon the last one, which was your choice of numbers, and send it to the President, and he will sign it, and we will open the Government tomorrow and serve the American public.

Mr. SABO. Mr. Speaker, I yield the balance of my time to the gentleman from Missouri [Mr. GEPHARDT], distinguished minority leader and my friend.

Mr. GEPHARDT. Mr. Speaker, in my view this resolution is a colossal waste of time. I believe that a few weeks ago we voted on language that was essentially the same. This is repetitive. We voted on language that said the President and the Congress shall enact legislation the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002, as estimated by the Congressional Budget Office, and the President and the Congress agree that the balanced budget must protect future generations, ensure Medicare solvency, reform welfare, provide adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment. Further, the balanced budget shall adopt tax policies to help working families and to stimulate future economic growth.

Now after this was enacted, our friends on the majority side say the condition for even sitting down to talk, which is what we have to do to try to reach a budget agreement, is that the President has to put down a budget that meets CBO revised in 7 years. Why is there not an equal precondition on our part to sit down, that we have a recognition of the priorities that are important to the Democratic Party, Medicare, Medicaid, environment, education, and so on?

At this rate we are never going to do other than waste time on the floor with resolutions like this. We are not going to ever sit down at a table as rational adults and begin to talk about our differences, which are fundamental. The gentleman from Ohio has said we are not making these things up. These are fundamental differences. But the only way we are going to get through it is if we can finally sit down at a table and have that conversation. We are not even going to be able to sit down unless we get rid of preconditions, your preconditions or our preconditions.

Finally, let me say that all of this worry about CBO and OMB and all the talk on this side, and I admire the work that has been done to try and balance the budget; it is hard to do. But I will just remind Members that in 1990 we had a budget summit and with the best of intentions and the best of faith on both sides, we believed, and I looked at the documents the other day, that the deficit in 1995 would be $29 billion, as measured by CBO.

We had another budget in 1993 that I know we all remember that the President brought and that all Democrats voted for that supposedly cut the deficit in half and did. So after two budgets, the first of which said that the deficit would be $29 billion in 1995, by CBO, we did not make it.

Why did we not make it? It was not because of bad faith. It was not because we did not negotiate. It was not because anybody meant for there to be a deficit of over $300 billion this year or $165 billion after the 1993 budget deal. But because there is no way to prognosticate what the deficit is going to be 7 years from now, even 5 years from now. It is humanly impossible.

So let us gather some humility about what we are doing. Let us gather some good faith about what each of us is trying to do. Let us sit down and go back to the resolution we passed 2 weeks ago, and let us look at both sides of the equation. We are not here just talking about how to balance the budget by CBO in 7 years. We got to talk about Medicare and Medicaid and education and the environment and whether or not we should be trying to do this with a tax break for the wealthiest Americans paid for by cuts on the poorest Americans and middle-class Americans. That is what we have to talk about.

It is going to be hard to get it done. So let us stop wasting time with resolutions like this. Let us get to the table, and let us get the job done for the American people.

Mr. KASICH. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me just suggest where we are. We are voting on a resolution that reconfirms the agreement we made 27 days ago that we would have a little contract, a little contract. The gentleman from Pennsylvania understands little contract out there in Pennsylvania, he knows we make a contract. It is like going to buy a Christmas tree. You say, I will give you $12 for that tree and you deliver it to my house. The guy says, "yes". So you give him the $12, and then he delivers the tree.

Now, if you give him the $12 and the tree does not show up, then he is crossing the gentleman from Pennsylvania [Mr. MURTHA]; that would be a bad thing to do. Second, the gentleman from Pennsylvania [Mr. MURTHA] would never go do that, would never go and buy a tree there again because you understand the contract. We have got a point we live by; they got a point they live by.

Now, we made a contract 27 days ago. The contract was simple. We said, we will lay down a plan to balance the budget using real numbers, not cooking the books, real numbers, like a family. Whether they sit down and add up the checkbook at the end of the day after they add up the checkbook, it comes out right, using real math, not cooking the books.

We said we are going to do that, and we are going to try to recognize some priorities. I want to tell my colleagues about one of them. I want to tell my colleagues about Medicaid because this is the best part of Republican compassion.

Let me say what this is all about. The Governors of our country, the majority of them, 31 of them, they represent 70 percent plus of the American people. They say, we can figure out a way to serve the disabled, the poor, the children, the elderly. And we can do it better if you just let us have a chance to design the program the way we wanted to design it so that we can show true compassion in our States that the old one-size-fits-all philosophy is rejected. I mean, I have a shoe, it is size 6, and every foot has to fit in it. That is the way Medicaid works now.

What our Governors are saying, and, frankly, increasing numbers of Democratic Governors as well, are saying, "Hey, Congress, stay out of this. Let us design a system that will take care and provide quality services to the poor and the disabled and the senior citizens. Do it more effectively, more compassionately."

We met that provision in this contract. But the bottom line on the contract is a 7-year balanced budget using real numbers. The President agreed to do that 27 days ago. And we do not have it.

The Republicans have not left the table. We told the White House, you come with a real offer to get inside the box so we can have some negotiations and then we will be back. And it is not up to the Republicans. We had an amendment here that we should reopen the Government. It is the President that does not want to open the Government. It is on the President's shoulders about whether the Government opens or not because all the President has to do is live up to the contract. That is all he has to do. Put a plan down, meeting his priorities.

He can spend all the money on welfare. He can zero out the Department of Defense. He can give Hazel O'Leary three or four jets. We do not care. Just make sure the numbers add up.

Now, if we were not living up to our side of the contract, I would be embarrassed because I could not go out and I could not tell people that we were trying to keep our end of it.

The gentleman from Texas, Mr. PETE GEREN, has his daughter here. Young lady, when your daddy makes a contract with you and he says, if you do this, if you make good grades in school, I am going to give you an allowance. If your daddy made that deal with you and you made good grades and he did not give you an allowance, you would be upset with him, would you not? You would be. You are right, you would be.

Let me just suggest, let me just suggest one thing, now that his daughter is here. The gentleman from Texas is a great Congressman. He is leaving. We ought to show him how much we appreciate his service in this body, with his daughter sitting right here.

Let me just suggest one or two other things. Our plan to balance the budget does not have exploding tax cuts or anything else. My colleagues in this body, our spending goes from a combined $9.5 trillion in spending over the last 7 years to a $12 trillion increase. Medicare, Medicaid, they all go up, and they all go up significantly. We show true compassion in balancing the budget and letting people have some of their own money back.

Let me tell my colleagues what this is all about. This is a message to the President. This was scripted to keep the rhetoric out. This was consulted on by Democrats in this body. Why did I insist upon It? I insisted upon it because this is not a jab in the eye of the President of the United States, but it is a message. It is a message to the President of the United States that the decent, hard-working, bipartisan membership of this body thinks that we ought to put this little girl's future first. We should balance the budget in 7 years. We should use real numbers. We can fight about our priorities.

Mr. President, this is not jabbing you in the eye. It is just saying to you, Mr. President, keep your side of the contract; and, if you will do that, we will move forward.

So what I would suggest is, for everybody, including the Democrats who totally disagree with our priorities, please come to the floor and send the message to the President to keep his side of the contract. Let us sit down and negotiate with the same set of numbers, the same set of books, with only one thing in mind: the future and the economic survival of the United States of America.

Let us pass the resolution.

The SPEAKER pro tempore (Mr. HAYWORTH). The question is on the motion offered by the gentleman from Ohio [Mr. KASICH], that the House suspend the rules and pass the joint resolution, House Joint Resolution 132.

The question was taken.

Mr. SHAYS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic devise, and there were—yeas 351, nays 40, not voting 43, as follows:

[Roll No. 866]

YEAS—351

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Bevill
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonior
Bono
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Ehlers
Ehrlich
Emerson
English
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Flake
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Moakley
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Quinn
Radanovich
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Rose
Roth
Roukema
Royce
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Zeliff
Zimmer

NAYS—40

Abercrombie
Becerra
Borski
Clay
Clyburn
Collins (IL)
Collins (MI)
Conyers
Coyne
Dellums
Engel
Filner
Foglietta
Frank (MA)
Gutierrez
Hastings (FL)
Hinchey
Jackson (IL)
Jacobs
Kanjorski
Kennedy (RI)
Martinez
McDermott
Meek
Mink
Mollohan
Nadler
Pastor
Payne (NJ)
Rahall
Roybal-Allard
Rush
Serrano
Thompson
Torres
Velazquez
Waters
Watt (NC)
Waxman
Williams

NOT VOTING—43

Baker (LA)
Berman
Bilbray
Bonilla
Brewster
Browder
Callahan
Chapman
Coburn
Cramer
de la Garza
Dickey
Edwards
Ensign
Ford
Fowler
Frost
Gibbons
Goodlatte
Harman
Hilliard
Hunter
Lantos
Laughlin
Maloney
McDade
McKinney
Meehan
Mfume
Molinari
Owens
Pryce
Quillen
Rangel
Ros-Lehtinen
Schroeder
Stockman
Tejeda
Towns
Vento
Yates
Young (AK)
Young (FL)

☐ 1751

The Clerk announced the following pair:

On this vote:

Mrs. Fowler and Mr. Edwards for, with Mr. Yates against.

Mr. GUTIERREZ and Mr. PASTOR changed their vote from "yea" to "nay."

Messrs. FATTAH, WISE, WARD, and REED changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOBSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERSONAL EXPLANATION

Mr. GOODLATTE. Mr. Speaker, on rollcall No. 866, I was unavoidably detained. Had I been present, I would have voted "yea".

PERSONAL EXPLANATION

Mr. COBURN. Mr. Speaker, unfortunately, due to weather delays in my return from Oklahoma, I was unable to cast my vote on House Joint Resolution 132, the resolution supporting a balanced budget in 7 years. I have made clear since January that balancing the budget is our highest priority if we are to secure a bright future for our children and grandchildren. Therefore, had I been here, I would have voted "aye" on House Joint Resolution 132.

PERSONAL EXPLANATION

Ms. ROS-LEHTINEN. Mr. Speaker, due to the death of my mother-in-law, Mrs. Norah Lehtinen, I was unable to vote "yes" on House Joint Resolution 132 expressing the sense of Congress in favor of a 7-year balanced budget.

CONFERENCE REPORT ON H.R. 2539, ICC TERMINATION ACT OF 1995

Mr. SHUSTER submitted the following conference report and statement on the bill (H.R. 2539) to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes:

CONFERENCE REPORT (H. REPT. 104–422)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2539) to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "ICC Termination Act of 1995".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Effective date.

TITLE I—ABOLITION OF INTERSTATE COMMERCE COMMISSION

Sec. 101. Abolition.
Sec. 102. Rail provisions.
Sec. 103. Motor carrier, water carrier, and freight forwarder provisions.
Sec. 104. Miscellaneous motor carrier provisions.
Sec. 105. Creditability of annual leave for purposes of meeting minimum eligibility requirements for an immediate annuity.
Sec. 106. Pipeline carrier provisions.

TITLE II—SURFACE TRANSPORTATION BOARD

Sec. 201. Title 49 amendment.
Sec. 202. Reorganization.
Sec. 203. Transfer of assets and personnel.
Sec. 204. Saving provisions.
Sec. 205. References.

TITLE III—CONFORMING AMENDMENTS

Subtitle A—Amendments to United States Code

Sec. 301. Title 5 amendments.
Sec. 302. Title 11 amendments.
Sec. 303. Title 18 amendments.
Sec. 304. Internal Revenue Code of 1986 amendments.
Sec. 305. Title 28 amendments.
Sec. 306. Title 31 amendments.
Sec. 307. Title 39 amendments.
Sec. 308. Title 49 amendments.

Subtitle B—Other Amendments

Sec. 311. Agricultural Adjustment Act of 1938 amendments.
Sec. 312. Animal Welfare Act amendment.
Sec. 313. Federal Election Campaign Act of 1971 amendments.
Sec. 314. Fair Credit Reporting Act amendment.
Sec. 315. Equal Credit Opportunity Act amendment.
Sec. 316. Fair Debt Collection Practices Act amendment.
Sec. 317. National Trails System Act amendments.
Sec. 318. Clayton Act amendments.
Sec. 319. Inspector General Act of 1978 amendment.
Sec. 320. Energy Policy Act of 1992 amendments.
Sec. 321. Merchant Marine Act, 1920, amendments.
Sec. 322. Railway Labor Act amendments.
Sec. 323. Railroad Retirement Act of 1974 amendments.
Sec. 324. Railroad Unemployment Insurance Act amendments.
Sec. 325. Emergency Rail Services Act of 1970 amendments.
Sec. 326. Alaska Railroad Transfer Act of 1982 amendments.
Sec. 327. Regional Rail Reorganization Act of 1973 amendments.
Sec. 328. Milwaukee Railroad Restructuring Act amendment.
Sec. 329. Rock Island Railroad Transition and Employee Assistance Act amendments.
Sec. 330. Railroad Revitalization and Regulatory Reform Act of 1976 amendments.
Sec. 331. Northeast Rail Service Act of 1981 amendments.
Sec. 332. Conrail Privatization Act amendment.
Sec. 333. Migrant and Seasonal Agricultural Worker Protection Act amendments.
Sec. 334. Federal Aviation Administration Authorization Act of 1994.
Sec. 335. Termination of certain maritime authority.
Sec. 336. Armored Car Industry Reciprocity Act of 1993 amendments.
Sec. 337. Labor Management Relations Act, 1947 amendment.
Sec. 338. Inlands Waterway Revenue Act of 1978 amendment.
Sec. 339. Noise Control Act of 1972 amendment.
Sec. 340. Fair Labor Standards Act of 1938 amendment.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Certain commercial space launch activities.
Sec. 402. Destruction of motor vehicles or motor vehicle facilities; wrecking trains.
Sec. 403. Violation of grade-crossing laws and regulations.
Sec. 404. Miscellaneous title 23 amendments.
Sec. 405. Technical amendments.
Sec. 406. Fiber drum packaging.
Sec. 407. Noncontiguous domestic trade study.
Sec. 408. Federal Highway Administration rulemaking.

SEC. 2. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect on January 1, 1996.

TITLE I—ABOLITION OF INTERSTATE COMMERCE COMMISSION

SEC. 101. ABOLITION.

The Interstate Commerce Commission is abolished.

SEC. 102. RAIL PROVISIONS.

(a) AMENDMENT.—Subtitle IV of title 49, United States Code, is amended to read as follows:

"SUBTITLE IV—INTERSTATE TRANSPORTATION

"PART A—RAIL

"CHAPTER	*Sec.*
"101. GENERAL PROVISIONS	*10101*
"105. JURISDICTION	*10501*
"107. RATES	*10701*
"109. LICENSING	*10901*
"111. OPERATIONS	*11101*
"113. FINANCE	*11301*
"115. FEDERAL-STATE RELATIONS ..	*11501*
"117. ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES ...	*11701*
"119. CIVIL AND CRIMINAL PENALTIES	*11901*

"PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

"CHAPTER	*Sec.*
"131. GENERAL PROVISIONS	*13101*
"133. ADMINISTRATIVE PROVISIONS	*13301*
"135. JURISDICTION	*13501*
"137. RATES AND THROUGH ROUTES	*13701*
"139. REGISTRATION	*13901*
"141. OPERATIONS OF CARRIERS	*14101*
"143. FINANCE	*14301*
"145. FEDERAL-STATE RELATIONS ..	*14501*
"147. ENFORCEMENT; INVESTIGATIONS; RIGHTS; REMEDIES	*14701*
"149. CIVIL AND CRIMINAL PENALTIES	*14901*

"PART C—PIPELINE CARRIERS

"CHAPTER	*Sec.*
"151. GENERAL PROVISIONS	*15101*
"153. JURISDICTION	*15301*
"155. RATES AND TARIFFS	*15501*
"157. OPERATIONS OF CARRIERS	*15701*
"159. ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES ...	*15901*
"161. CIVIL AND CRIMINAL PENALTIES	*16101*

"PART A—RAIL

"CHAPTER 101—GENERAL PROVISIONS

"Sec.
"10101. Rail transportation policy.
"10102. Definitions.

"§10101. Rail transportation policy

"In regulating the railroad industry, it is the policy of the United States Government—

"(1) to allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail;

"(2) to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required;

"(3) to promote a safe and efficient rail transportation system by allowing rail carriers to earn adequate revenues, as determined by the Board;

"(4) to ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers and with other modes, to meet the needs of the public and the national defense;

"(5) to foster sound economic conditions in transportation and to ensure effective competition and coordination between rail carriers and other modes;

"(6) to maintain reasonable rates where there is an absence of effective competition and where rail rates provide revenues which exceed the amount necessary to maintain the rail system and to attract capital;

"(7) to reduce regulatory barriers to entry into and exit from the industry;

"(8) to operate transportation facilities and equipment without detriment to the public health and safety;

''(9) to encourage honest and efficient management of railroads;

''(10) to require rail carriers, to the maximum extent practicable, to rely on individual rate increases, and to limit the use of increases of general applicability;

''(11) to encourage fair wages and safe and suitable working conditions in the railroad industry;

''(12) to prohibit predatory pricing and practices, to avoid undue concentrations of market power, and to prohibit unlawful discrimination;

''(13) to ensure the availability of accurate cost information in regulatory proceedings, while minimizing the burden on rail carriers of developing and maintaining the capability of providing such information;

''(14) to encourage and promote energy conservation; and

''(15) to provide for the expeditious handling and resolution of all proceedings required or permitted to be brought under this part.

"§10102. Definitions

''In this part—

''(1) 'Board' means the Surface Transportation Board;

''(2) 'car service' includes (A) the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, other vehicles, and special types of equipment used in the transportation of property by a rail carrier, and (B) the supply of trains by a rail carrier;

''(3) 'control', when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by (A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or (B) any other means;

''(4) 'person', in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person;

''(5) 'rail carrier' means a person providing common carrier railroad transportation for compensation, but does not include street, suburban, or interurban electric railways not operated as part of the general system of rail transportation;

''(6) 'railroad' includes—

''(A) a bridge, car float, lighter, ferry, and intermodal equipment used by or in connection with a railroad;

''(B) the road used by a rail carrier and owned by it or operated under an agreement; and

''(C) a switch, spur, track, terminal, terminal facility, and a freight depot, yard, and ground, used or necessary for transportation;

''(7) 'rate' means a rate or charge for transportation;

''(8) 'State' means a State of the United States and the District of Columbia;

''(9) 'transportation' includes—

''(A) a locomotive, car, vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, by rail, regardless of ownership or an agreement concerning use; and

''(B) services related to that movement, including receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, and interchange of passengers and property; and

''(10) 'United States' means the States of the United States and the District of Columbia.

"CHAPTER 105—JURISDICTION

''Sec.
''10501. General jurisdiction.
''10502. Authority to exempt rail carrier transportation.

"§10501. General jurisdiction

''(a)(1) Subject to this chapter, the Board has jurisdiction over transportation by rail carrier that is—

''(A) only by railroad; or

''(B) by railroad and water, when the transportation is under common control, management, or arrangement for a continuous carriage or shipment.

''(2) Jurisdiction under paragraph (1) applies only to transportation in the United States between a place in—

''(A) a State and a place in the same or another State as part of the interstate rail network;

''(B) a State and a place in a territory or possession of the United States;

''(C) a territory or possession of the United States and a place in another such territory or possession;

''(D) a territory or possession of the United States and another place in the same territory or possession;

''(E) the United States and another place in the United States through a foreign country; or

''(F) the United States and a place in a foreign country.

''(b) The jurisdiction of the Board over—

''(1) transportation by rail carriers, and the remedies provided in this part with respect to rates, classifications, rules (including car service, interchange, and other operating rules), practices, routes, services, and facilities of such carriers; and

''(2) the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities, even if the tracks are located, or intended to be located, entirely in one State,

is exclusive. Except as otherwise provided in this part, the remedies provided under this part with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal or State law.

''(c)(1) In this subsection—

''(A) the term 'local governmental authority'—

''(i) has the same meaning given that term by section 5302(a) of this title; and

''(ii) includes a person or entity that contracts with the local governmental authority to provide transportation services; and

''(B) the term 'mass transportation' means transportation services described in section 5302(a) of this title that are provided by rail.

''(2) Except as provided in paragraph (3), the Board does not have jurisdiction under this part over mass transportation provided by a local governmental authority.

''(3)(A) Notwithstanding paragraph (2) of this subsection, a local governmental authority, described in paragraph (2), is subject to applicable laws of the United States related to—

''(i) safety;

''(ii) the representation of employees for collective bargaining; and

''(iii) employment retirement, annuity, and unemployment systems or other provisions related to dealings between employees and employers.

''(B) The Board has jurisdiction under sections 11102 and 11103 of this title over transportation provided by a local governmental authority only if the Board finds that such governmental authority meets all of the standards and requirements for being a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission that were in effect immediately before the effective date of the ICC Termination Act of 1995. The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of employees and employers by the Railway Labor Act, the Railroad Retirement Act of 1974, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act.

"§10502. Authority to exempt rail carrier transportation

''(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Board under this part, the Board, to the maximum extent consistent with this part, shall exempt a person, class of persons, or a transaction or service whenever the Board finds that the application in whole or in part of a provision of this part—

''(1) is not necessary to carry out the transportation policy of section 10101 of this title; and

''(2) either—

''(A) the transaction or service is of limited scope; or

''(B) the application in whole or in part of the provision is not needed to protect shippers from the abuse of market power.

''(b) The Board may, where appropriate, begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party. The Board shall, within 90 days after receipt of any such application, determine whether to begin an appropriate proceeding. If the Board decides not to begin a class exemption proceeding, the reasons for the decision shall be published in the Federal Register. Any proceeding begun as a result of an application under this subsection shall be completed within 9 months after it is begun.

''(c) The Board may specify the period of time during which an exemption granted under this section is effective.

''(d) The Board may revoke an exemption, to the extent it specifies, when it finds that application in whole or in part of a provision of this part to the person, class, or transportation is necessary to carry out the transportation policy of section 10101 of this title. The Board shall, within 90 days after receipt of a request for revocation under this subsection, determine whether to begin an appropriate proceeding. If the Board decides not to begin a proceeding to revoke a class exemption, the reasons for the decision shall be published in the Federal Register. Any proceeding begun as a result of a request under this subsection shall be completed within 9 months after it is begun.

''(e) No exemption order issued pursuant to this section shall operate to relieve any rail carrier from an obligation to provide contractual terms for liability and claims which are consistent with the provisions of section 11706 of this title. Nothing in this subsection or section 11706 of this title shall prevent rail carriers from offering alternative terms nor give the Board the authority to require any specific level of rates or services based upon the provisions of section 11706 of this title.

''(f) The Board may exercise its authority under this section to exempt transportation that is provided by a rail carrier as part of a continuous intermodal movement.

''(g) The Board may not exercise its authority under this section to relieve a rail carrier of its obligation to protect the interests of employees as required by this part.

"CHAPTER 107—RATES

''SUBCHAPTER I—GENERAL AUTHORITY

''Sec.
''10701. Standards for rates, classifications, through routes, rules, and practices.
''10702. Authority for rail carriers to establish rates, classifications, rules, and practices.
''10703. Authority for rail carriers to establish through routes.
''10704. Authority and criteria: rates, classifications, rules, and practices prescribed by Board.
''10705. Authority: through routes, joint classifications, rates, and divisions prescribed by Board.
''10706. Rate agreements: exemption from antitrust laws.

"10707. Determination of market dominance in rail rate proceedings.
"10708. Rail cost adjustment factor.
"10709. Contracts.

"SUBCHAPTER II—SPECIAL CIRCUMSTANCES

"10721. Government traffic.
"10722. Car utilization.

"SUBCHAPTER III—LIMITATIONS

"10741. Prohibitions against discrimination by rail carriers.
"10742. Facilities for interchange of traffic.
"10743. Liability for payment of rates.
"10744. Continuous carriage of freight.
"10745. Transportation services or facilities furnished by shipper.
"10746. Demurrage charges.
"10747. Designation of certain routes by shippers.

"SUBCHAPTER I—GENERAL AUTHORITY

"§10701. Standards for rates, classifications, through routes, rules, and practices

"(a) A through route established by a rail carrier must be reasonable. Divisions of joint rates by rail carriers must be made without unreasonable discrimination against a participating carrier and must be reasonable.

"(b) A rail carrier providing transportation subject to the jurisdiction of the Board under this part may not discriminate in its rates against a connecting line of another rail carrier providing transportation subject to the jurisdiction of the Board under this part or unreasonably discriminate against that line in the distribution of traffic that is not routed specifically by the shipper.

"(c) Except as provided in subsection (d) of this section and unless a rate is prohibited by a provision of this part, a rail carrier providing transportation subject to the jurisdiction of the Board under this part may establish any rate for transportation or other service provided by the rail carrier.

"(d)(1) If the Board determines, under section 10707 of this title, that a rail carrier has market dominance over the transportation to which a particular rate applies, the rate established by such carrier for such transportation must be reasonable.

"(2) In determining whether a rate established by a rail carrier is reasonable for purposes of this section, the Board shall give due consideration to—

"(A) the amount of traffic which is transported at revenues which do not contribute to going concern value and the efforts made to minimize such traffic;

"(B) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

"(C) the carrier's mix of rail traffic to determine whether one commodity is paying an unreasonable share of the carrier's overall revenues,

recognizing the policy of this part that rail carriers shall earn adequate revenues, as established by the Board under section 10704(a)(2) of this title.

"(3) The Board shall, within one year after the effective date of this paragraph, complete the pending Interstate Commerce Commission non-coal rate guidelines proceeding to establish a simplified and expedited method for determining the reasonableness of challenged rail rates in those cases in which a full stand-alone cost presentation is too costly, given the value of the case.

"§10702. Authority for rail carriers to establish rates, classifications, rules, and practices

"A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part shall establish reasonable—

"(1) rates, to the extent required by section 10707, divisions of joint rates, and classifications for transportation and service it may provide under this part; and

"(2) rules and practices on matters related to that transportation or service.

"§10703. Authority for rail carriers to establish through routes

"Rail carriers providing transportation subject to the jurisdiction of the Board under this part shall establish through routes (including physical connections) with each other and with water carriers providing transportation subject to chapter 137, shall establish rates and classifications applicable to those routes, and shall establish rules for their operation and provide—

"(1) reasonable facilities for operating the through route; and

"(2) reasonable compensation to persons entitled to compensation for services related to the through route.

"§10704. Authority and criteria: rates, classifications, rules, and practices prescribed by Board

"(a)(1) When the Board, after a full hearing, decides that a rate charged or collected by a rail carrier for transportation subject to the jurisdiction of the Board under this part, or that a classification, rule, or practice of that carrier, does or will violate this part, the Board may prescribe the maximum rate, classification, rule, or practice to be followed. The Board may order the carrier to stop the violation. When a rate, classification, rule, or practice is prescribed under this subsection, the affected carrier may not publish, charge, or collect a different rate and shall adopt the classification and observe the rule or practice prescribed by the Board.

"(2) The Board shall maintain and revise as necessary standards and procedures for establishing revenue levels for rail carriers providing transportation subject to its jurisdiction under this part that are adequate, under honest, economical, and efficient management, to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business. The Board shall make an adequate and continuing effort to assist those carriers in attaining revenue levels prescribed under this paragraph. Revenue levels established under this paragraph should—

"(A) provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation; and

"(B) attract and retain capital in amounts adequate to provide a sound transportation system in the United States.

"(3) On the basis of the standards and procedures described in paragraph (2), the Board shall annually determine which rail carriers are earning adequate revenues.

"(b) The Board may begin a proceeding under this section only on complaint. A complaint under subsection (a) of this section must be made under section 11701 of this title, but the proceeding may also be in extension of a complaint pending before the Board.

"(c) In a proceeding to challenge the reasonableness of a rate, the Board shall make its determination as to the reasonableness of the challenged rate—

"(1) within 9 months after the close of the administrative record if the determination is based upon a stand-alone cost presentation; or

"(2) within 6 months after the close of the administrative record if the determination is based upon the methodology adopted by the Board pursuant to section 10701(d)(3).

"(d) Within 9 months after the effective date of the ICC Termination Act of 1995, the Board shall establish procedures to ensure expeditious handling of challenges to the reasonableness of railroad rates. The procedures shall include appropriate measures for avoiding delay in the discovery and evidentiary phases of such proceedings and exemption or revocation proceedings, including appropriate sanctions for such delay, and for ensuring prompt disposition of motions and interlocutory administrative appeals.

"§10705. Authority: through routes, joint classifications, rates, and divisions prescribed by Board

"(a)(1) The Board may, and shall when it considers it desirable in the public interest, prescribe through routes, joint classifications, joint rates, the division of joint rates, and the conditions under which those routes must be operated, for a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

"(2) The Board may require a rail carrier to include in a through route substantially less than the entire length of its railroad and any intermediate railroad operated with it under common management or control if that intermediate railroad lies between the terminals of the through route only when—

"(A) required under section 10741, 10742, or 11102 of this title;

"(B) inclusion of those lines would make the through route unreasonably long when compared with a practicable alternative through route that could be established; or

"(C) the Board decides that the proposed through route is needed to provide adequate, and more efficient or economic, transportation.

The Board shall give reasonable preference, subject to this subsection, to the rail carrier originating the traffic when prescribing through routes.

"(b) The Board shall prescribe the division of joint rates to be received by a rail carrier providing transportation subject to its jurisdiction under this part when it decides that a division of joint rates established by the participating carriers under section 10703 of this title, or under a decision of the Board under subsection (a) of this section, does or will violate section 10701 of this title.

"(c) If a division of a joint rate prescribed under a decision of the Board is later found to violate section 10701 of this title, the Board may decide what division would have been reasonable and order adjustment to be made retroactive to the date the complaint was filed, the date the order for an investigation was made, or a later date that the Board decides is justified. The Board may make a decision under this subsection effective as part of its original decision.

"§10706. Rate agreements: exemption from antitrust laws

"(a)(1) In this subsection—

"(A) the term 'affiliate' means a person controlling, controlled by, or under common control or ownership with another person and 'ownership' refers to equity holdings in a business entity of at least 5 percent;

"(B) the term 'single-line rate' refers to a rate or allowance proposed by a single rail carrier that is applicable only over its line and for which the transportation (exclusive of terminal services by switching, drayage or other terminal carriers or agencies) can be provided by that carrier; and

"(C) the term 'practicably participates in the movement' shall have such meaning as the Board shall by regulation prescribe.

‘‘(2)(A) A rail carrier providing transportation subject to the jurisdiction of the Board under this part that is a party to an agreement of at least 2 rail carriers that relates to rates (including charges between rail carriers and compensation paid or received for the use of facilities and equipment), classifications, divisions, or rules related to them, or procedures for joint consideration, initiation, publication, or establishment of them, shall apply to the Board for approval of that agreement under this subsection. The Board shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy of section 10101 of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of its approval. If the Board approves the agreement, it may be made and carried out under its terms and under the conditions required by the Board, and the Sherman Act (15 U.S.C. 1, et seq.), the Clayton Act (15 U.S,C. 12, et seq.), the Federal Trade Commission Act (15 U.S.C. 41, et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a) do not apply to parties and other persons with respect to making or carrying out the agreement. However, the Board may not approve or continue approval of an agreement when the conditions required by it are not met or if it does not receive a verified statement under subparagraph (B) of this paragraph.

‘‘(B) The Board may approve an agreement under subparagraph (A) of this paragraph only when the rail carriers applying for approval file a verified statement with the Board. Each statement must specify for each rail carrier that is a party to the agreement—

‘‘(i) the name of the carrier;

‘‘(ii) the mailing address and telephone number of its headquarter's office; and

‘‘(iii) the names of each of its affiliates and the names, addresses, and affiliates of each of its officers and directors and of each person, together with an affiliate, owning or controlling any debt, equity, or security interest in it having a value of at least $1,000,000.

‘‘(3)(A) An organization established or continued under an agreement approved under this subsection shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed. Such an organization may not—

‘‘(i) permit a rail carrier to discuss, to participate in agreements related to, or to vote on single-line rates proposed by another rail carrier, except that for purposes of general rate increases and broad changes in rates, classifications, rules, and practices only, if the Board finds at any time that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part;

‘‘(ii) permit a rail carrier to discuss, to participate in agreements related to, or to vote on rates related to a particular interline movement unless that rail carrier practicably participates in the movement; or

‘‘(iii) if there are interline movements over two or more routes between the same end points, permit a carrier to discuss, to participate in agreements related to, or to vote on rates except with a carrier which forms part of a particular single route. If the Board finds at any time that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part.

‘‘(B)(i) In any proceeding in which a party alleges that a rail carrier voted or agreed on a rate or allowance in violation of this subsection, that party has the burden of showing that the vote or agreement occurred. A showing of parallel behavior does not satisfy that burden by itself.

‘‘(ii) In any proceeding in which it is alleged that a carrier was a party to an agreement, conspiracy, or combination in violation of a Federal law cited in subsection (a)(2)(A) of this section or of any similar State law, proof of an agreement, conspiracy, or combination may not be inferred from evidence that two or more rail carriers acted together with respect to an interline rate or related matter and that a party to such action took similar action with respect to a rate or related matter on another route or traffic. In any proceeding in which such a violation is alleged, evidence of a discussion or agreement between or among such rail carrier and one or more other rail carriers, or of any rate or other action resulting from such discussion or agreement, shall not be admissible if the discussion or agreement—

‘‘(I) was in accordance with an agreement approved under paragraph (2) of this subsection; or

‘‘(II) concerned an interline movement of the rail carrier, and the discussion or agreement would not, considered by itself, violate the laws referred to in the first sentence of this clause.

In any proceeding before a jury, the court shall determine whether the requirements of subclause (I) or (II) are satisfied before allowing the introduction of any such evidence.

‘‘(C) An organization described in subparagraph (A) of this paragraph shall provide that transcripts or sound recordings be made of all meetings, that records of votes be made, and that such transcripts or recordings and voting records be submitted to the Board and made available to other Federal agencies in connection with their statutory responsibilities over rate bureaus, except that such material shall be kept confidential and shall not be subject to disclosure under section 552 of title 5, United States Code.

‘‘(4) Notwithstanding any other provision of this subsection, one or more rail carriers may enter into an agreement, without obtaining prior Board approval, that provides solely for compilation, publication, and other distribution of rates in effect or to become effective. The Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a) shall not apply to parties and other persons with respect to making or carrying out such agreement. However, the Board may, upon application or on its own initiative, investigate whether the parties to such an agreement have exceeded its scope, and upon a finding that they have, the Board may issue such orders as are necessary, including an order dissolving the agreement, to ensure that actions taken pursuant to the agreement are limited as provided in this paragraph.

‘‘(5)(A) Whenever two or more shippers enter into an agreement to discuss among themselves that relates to the amount of compensation such shippers propose to be paid by rail carriers providing transportation subject to the jurisdiction of the Board under this part, for use by such rail carriers of rolling stock owned or leased by such shippers, the shippers shall apply to the Board for approval of that agreement under this paragraph. The Board shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy set forth in section 10101 of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of approval. If the Board approves the agreement, it may be made and carried out under its terms and under the terms required by the Board, and the antitrust laws set forth in paragraph (2) of this subsection do not apply to parties and other persons with respect to making or carrying out the agreement. The Board shall approve or disapprove an agreement under this paragraph within one year after the date application for approval of such agreement is made.

‘‘(B) If the Board approves an agreement described in subparagraph (A) of this paragraph and the shippers entering into such agreement and the rail carriers proposing to use rolling stock owned or leased by such shippers, under payment by such carriers or under a published allowance, are unable to agree upon the amount of compensation to be paid for the use of such rolling stock, any party directly involved in the negotiations may require that the matter be settled by submitting the issues in dispute to the Board. The Board shall render a binding decision, based upon a standard of reasonableness and after taking into consideration any past precedents on the subject matter of the negotiations, no later than 90 days after the date of the submission of the dispute to the Board.

‘‘(C) Nothing in this paragraph shall be construed to change the law in effect prior to the effective date of the Staggers Rail Act of 1980 with respect to the obligation of rail carriers to utilize rolling stock owned or leased by shippers.

‘‘(b) The Board may require an organization established or continued under an agreement approved under this section to maintain records and submit reports. The Board may inspect a record maintained under this section.

‘‘(c) The Board may review an agreement approved under subsection (a) of this section and shall change the conditions of approval or terminate it when necessary to comply with the public interest and subsection (a). The Board shall postpone the effective date of a change of an agreement under this subsection for whatever period it determines to be reasonably necessary to avoid unreasonable hardship.

‘‘(d) The Board may begin a proceeding under this section on its own initiative or on application. Action of the Board under this section—

‘‘(1) approving an agreement;

‘‘(2) denying, ending, or changing approval;

‘‘(3) prescribing the conditions on which approval is granted; or

‘‘(4) changing those conditions,

has effect only as related to application of the antitrust laws referred to in subsection (a) of this section.

‘‘(e)(1) The Federal Trade Commission, in consultation with the Antitrust Division of the Department of Justice, shall prepare periodically an assessment of, and shall report to the Board on—

‘‘(A) possible anticompetitive features of—

‘‘(i) agreements approved or submitted for approval under subsection (a) of this section; and

‘‘(ii) an organization operating under those agreements; and

‘‘(B) possible ways to alleviate or end an anticompetitive feature, effect, or aspect in a manner that will further the goals of this part and of the transportation policy of section 10101 of this title.

‘‘(2) Reports received by the Board under this subsection shall be published and made available to the public under section 552(a) of title 5.

“§10707. Determination of market dominance in rail rate proceedings

‘‘(a) In this section, ‘market dominance’ means an absence of effective competition from other rail carriers or modes of transportation for the transportation to which a rate applies.

‘‘(b) When a rate for transportation by a rail carrier providing transportation subject to the jurisdiction of the Board under this part is challenged as being unreasonably high, the Board shall determine whether the rail carrier proposing the rate has market dominance over the transportation to which the rate applies. The Board may make that determination on its own

initiative or on complaint. A finding by the Board that the rail carrier does not have market dominance is determinative in a proceeding under this part related to that rate or transportation unless changed or set aside by the Board or set aside by a court of competent jurisdiction.

“(c) When the Board finds in any proceeding that a rail carrier proposing or defending a rate for transportation has market dominance over the transportation to which the rate applies, it may then determine that rate to be unreasonable if it exceeds a reasonable maximum for that transportation. However, a finding of market dominance does not establish a presumption that the proposed rate exceeds a reasonable maximum.

“(d)(1)(A) In making a determination under this section, the Board shall find that the rail carrier establishing the challenged rate does not have market dominance over the transportation to which the rate applies if such rail carrier proves that the rate charged results in a revenue-variable cost percentage for such transportation that is less than 180 percent.

“(B) For purposes of this section, variable costs for a rail carrier shall be determined only by using such carrier's unadjusted costs, calculated using the Uniform Rail Costing System cost finding methodology (or an alternative methodology adopted by the Board in lieu thereof) and indexed quarterly to account for current wage and price levels in the region in which the carrier operates, with adjustments specified by the Board. A rail carrier may meet its burden of proof under this subsection by establishing its variable costs in accordance with this paragraph, but a shipper may rebut that showing by evidence of such type, and in accordance with such burden of proof, as the Board shall prescribe.

“(2) A finding by the Board that a rate charged by a rail carrier results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than 180 percent does not establish a presumption that—

“(A) such rail carrier has or does not have market dominance over such transportation; or

“(B) the proposed rate exceeds or does not exceed a reasonable maximum.

“§10708. Rail cost adjustment factor

“(a) The Board shall, as often as practicable, but in no event less often than quarterly, publish a rail cost adjustment factor which shall be a fraction, the numerator of which is the latest published Index of Railroad Costs (which index shall be compiled or verified by the Board, with appropriate adjustments to reflect the change in composition of railroad costs, including the quality and mix of material and labor) and the denominator of which is the same index for the fourth quarter of every fifth year, beginning with the fourth quarter of 1992.

“(b) The rail cost adjustment factor published by the Board under subsection (a) of this section shall take into account changes in railroad productivity. The Board shall also publish a similar index that does not take into account changes in railroad productivity.

“§10709. Contracts

“(a) One or more rail carriers providing transportation subject to the jurisdiction of the Board under this part may enter into a contract with one or more purchasers of rail services to provide specified services under specified rates and conditions.

“(b) A party to a contract entered into under this section shall have no duty in connection with services provided under such contract other than those duties specified by the terms of the contract.

“(c)(1) A contract that is authorized by this section, and transportation under such contract, shall not be subject to this part, and may not be subsequently challenged before the Board or in any court on the grounds that such contract violates a provision of this part.

“(2) The exclusive remedy for any alleged breach of a contract entered into under this section shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree. This section does not confer original jurisdiction on the district courts of the United States based on section 1331 or 1337 of title 28, United States Code.

“(d)(1) A summary of each contract for the transportation of agricultural products (including grain, as defined in section 3 of the United States Grain Standards Act (7 U.S.C. 75) and products thereof) entered into under this section shall be filed with the Board, containing such nonconfidential information as the Board prescribes. The Board shall publish special rules for such contracts in order to ensure that the essential terms of the contract are available to the general public.

“(2) Documents, papers, and records (and any copies thereof) relating to a contract described in subsection (a) shall not be subject to the mandatory disclosure requirements of section 552 of title 5.

“(e) Any lawful contract between a rail carrier and one or more purchasers of rail service that was in effect on the effective date of the Staggers Rail Act of 1980 shall be considered a contract authorized by this section.

“(f) A rail carrier that enters into a contract as authorized by this section remains subject to the common carrier obligation set forth in section 11101, with respect to rail transportation not provided under such a contract.

“(g)(1) No later than 30 days after the date of filing of a summary of a contract under this section, the Board may, on complaint, begin a proceeding to review such contract on the grounds described in this subsection.

“(2)(A) A complaint may be filed under this subsection—

“(i) by a shipper on the grounds that such shipper individually will be harmed because the proposed contract unduly impairs the ability of the contracting rail carrier or carriers to meet their common carrier obligations to the complainant under section 11101 of this title; or

“(ii) by a port only on the grounds that such port individually will be harmed because the proposed contract will result in unreasonable discrimination against such port.

“(B) In addition to the grounds for a complaint described in subparagraph (A) of this paragraph, a complaint may be filed by a shipper of agricultural commodities on the grounds that such shipper individually will be harmed because—

“(i) the rail carrier has unreasonably discriminated by refusing to enter into a contract with such shipper for rates and services for the transportation of the same type of commodity under similar conditions to the contract at issue, and that shipper was ready, willing, and able to enter into such a contract at a time essentially contemporaneous with the period during which the contract at issue was offered; or

“(ii) the proposed contract constitutes a destructive competitive practice under this part.

In making a determination under clause (ii) of this subparagraph, the Board shall consider the difference between contract rates and published single car rates.

“(C) For purposes of this paragraph, the term ‘unreasonable discrimination’ has the same meaning as such term has under section 10741 of this title.

“(3)(A) Within 30 days after the date a proceeding is commenced under paragraph (1) of this subsection, or within such shorter time period after such date as the Board may establish, the Board shall determine whether the contract that is the subject of such proceeding is in violation of this section.

“(B) If the Board determines, on the basis of a complaint filed under paragraph (2)(B)(i) of this subsection, that the grounds for a complaint described in such paragraph have been established with respect to a rail carrier, the Board shall, subject to the provisions of this section, order such rail carrier to provide rates and service substantially similar to the contract at issue with such differentials in terms and conditions as are justified by the evidence.

“(h)(1) Any rail carrier may, in accordance with the terms of this section, enter into contracts for the transportation of agricultural commodities (including forest products, but not including wood pulp, wood chips, pulpwood or paper) involving the utilization of carrier owned or leased equipment not in excess of 40 percent of the capacity of such carrier's owned or leased equipment by major car type (plain boxcars, covered hopper cars, gondolas and open top hoppers, coal cars, bulkhead flatcars, pulpwood rackcars, and flatbed equipment, including TOFC/COFC).

“(2) The Board may, on request of a rail carrier or other party or on its own initiative, grant such relief from the limitations of paragraph (1) of this subsection as the Board considers appropriate, if it appears that additional equipment may be made available without impairing the rail carrier's ability to meet its common carrier obligations under section 11101 of this title.

“(3)(A) This subsection shall cease to be effective after September 30, 1998.

“(B) Before October 1, 1997, the National Grain Car Council and the Railroad-Shipper Transportation Advisory Council shall make recommendations to Congress on whether to extend the effectiveness of or otherwise modify this subsection.

“SUBCHAPTER II—SPECIAL CIRCUMSTANCES

“§10721. Government traffic

“A rail carrier providing transportation or service for the United States Government may transport property or individuals for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply when transportation for the United States Government can be obtained from a rail carrier lawfully operating in the area where the transportation would be provided.

“§10722. Car utilization

“In order to encourage more efficient use of freight cars, notwithstanding any other provision of this part, rail carriers shall be permitted to establish premium charges for special services or special levels of services not otherwise applicable to the movement. The Board shall facilitate development of such charges so as to increase the utilization of equipment.

“SUBCHAPTER III—LIMITATIONS

“§10741. Prohibitions against discrimination by rail carriers

“(a)(1) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part may not subject a person, place, port, or type of traffic to unreasonable discrimination.

“(2) For purposes of this section, a rail carrier engages in unreasonable discrimination when it charges or receives from a person a different compensation for a service rendered, or to be rendered, in transportation the rail carrier may perform under this part than it charges or receives from another person for performing a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances.

"(b) This section shall not apply to—

"(1) contracts described in section 10709 of this title;

"(2) rail rates applicable to different routes; or

"(3) discrimination against the traffic of another carrier providing transportation by any mode.

"(c) Differences between rates, classifications, rules, and practices of rail carriers do not constitute a violation of this section if such differences result from different services provided by rail carriers.

"§10742. Facilities for interchange of traffic

"A rail carrier providing transportation subject to the jurisdiction of the Board under this part shall provide reasonable, proper, and equal facilities that are within its power to provide for the interchange of traffic between, and for the receiving, forwarding, and delivering of passengers and property to and from, its respective line and a connecting line of another rail carrier or of a water carrier providing transportation subject to chapter 137.

"§10743. Liability for payment of rates

"(a)(1) Liability for payment of rates for transportation for a shipment of property by a shipper or consignor to a consignee other than the shipper or consignor, is determined under this subsection when the transportation is provided by a rail carrier under this part. When the shipper or consignor instructs the rail carrier transporting the property to deliver it to a consignee that is an agent only, not having beneficial title to the property, the consignee is liable for rates billed at the time of delivery for which the consignee is otherwise liable, but not for additional rates that may be found to be due after delivery if the consignee gives written notice to the delivering carrier before delivery of the property—

"(A) of the agency and absence of beneficial title; and

"(B) of the name and address of the beneficial owner of the property if it is reconsigned or diverted to a place other than the place specified in the original bill of lading.

"(2) When the consignee is liable only for rates billed at the time of delivery under paragraph (1) of this subsection, the shipper or consignor, or, if the property is reconsigned or diverted, the beneficial owner, is liable for those additional rates regardless of the bill of lading or contract under which the property was transported. The beneficial owner is liable for all rates when the property is reconsigned or diverted by an agent but is refused or abandoned at its ultimate destination if the agent gave the rail carrier in the reconsignment or diversion order a notice of agency and the name and address of the beneficial owner. A consignee giving the rail carrier, and a reconsignor or diverter giving a rail carrier, erroneous information about the identity of the beneficial owner of the property is liable for the additional rates.

"(b) Liability for payment of rates for transportation for a shipment of property by a shipper or consignor, named in the bill of lading as consignee, is determined under this subsection when the transportation is provided by a rail carrier under this part. When the shipper or consignor gives written notice, before delivery of the property, to the line-haul rail carrier that is to make ultimate delivery—

"(1) to deliver the property to another party identified by the shipper or consignor as the beneficial owner of the property; and

"(2) that delivery is to be made to that party on payment of all applicable transportation rates;

that party is liable for the rates billed at the time of delivery and for additional rates that may be found to be due after delivery if that party does not pay the rates required to be paid under paragraph (2) of this subsection on delivery. However, if the party gives written notice to the delivering rail carrier before delivery that the party is not the beneficial owner of the property and gives the rail carrier the name and address of the beneficial owner, then the party is not liable for those additional rates. A shipper, consignor, or party to whom delivery is made that gives the delivering rail carrier erroneous information about the identity of the beneficial owner, is liable for the additional rates regardless of the bill of lading or contract under which the property was transported. This subsection does not apply to a prepaid shipment of property.

"(c)(1) A rail carrier may bring an action to enforce liability under subsection (a) of this section. That rail carrier must bring the action during the period provided in section 11705(a) of this title or by the end of the 6th month after final judgment against it in an action against the consignee, or the beneficial owner named by the consignee or agent, under that section.

"(2) A rail carrier may bring an action to enforce liability under subsection (b) of this section. That carrier must bring the action during the period provided in section 11705(a) of this title or by the end of the 6th month after final judgment against it in an action against the shipper, consignor, or other party under that section.

"§10744. Continuous carriage of freight

"A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part may not enter a combination or arrangement to prevent the carriage of freight from being continuous from the place of shipment to the place of destination whether by change of time schedule, carriage in different cars, or by other means. The carriage of freight by those rail carriers is considered to be a continuous carriage from the place of shipment to the place of destination when a break of bulk, stoppage, or interruption is not made in good faith for a necessary purpose, and with the intent of avoiding or unnecessarily interrupting the continuous carriage or of evading this part.

"§10745. Transportation services or facilities furnished by shipper

"A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part may establish a charge or allowance for transportation or service for property when the owner of the property, directly or indirectly, furnishes a service related to or an instrumentality used in the transportation or service. The Board may prescribe the maximum reasonable charge or allowance a rail carrier subject to its jurisdiction may pay for a service or instrumentality furnished under this section. The Board may begin a proceeding under this section on its own initiative or on application.

"§10746. Demurrage charges

"A rail carrier providing transportation subject to the jurisdiction of the Board under this part shall compute demurrage charges, and establish rules related to those charges, in a way that fulfills the national needs related to—

"(1) freight car use and distribution; and

"(2) maintenance of an adequate supply of freight cars to be available for transportation of property.

"§10747. Designation of certain routes by shippers

"(a)(1) When a person delivers property to a rail carrier for transportation subject to the jurisdiction of the Board under this part, the person may direct the rail carrier to transport the property over an established through route. When competing rail lines constitute a part of the route, the person shipping the property may designate the lines over which the property will be transported. The designation must be in writing. A rail carrier may be directed to transport property over a particular through route when—

"(A) there are at least 2 through routes over which the property could be transported;

"(B) a through rate has been established for transportation over each of those through routes; and

"(C) the rail carrier is a party to those routes and rates.

"(2) A rail carrier directed to route property transported under paragraph (1) of this subsection must issue a through bill of lading containing the routing instructions and transport the property according to the instructions. When the property is delivered to a connecting rail carrier, that rail carrier must also receive and transport it according to the routing instructions and deliver it to the next succeeding rail carrier or consignee according to the instructions.

"(b) The Board may prescribe exceptions to the authority of a person to direct the movement of traffic under subsection (a) of this section.

"CHAPTER 109—LICENSING

"Sec.
"10901. Authorizing construction and operation of railroad lines.
"10902. Short line purchases by Class II and Class III rail carriers.
"10903. Filing and procedure for application to abandon or discontinue.
"10904. Offers of financial assistance to avoid abandonment and discontinuance.
"10905. Offering abandoned rail properties for sale for public purposes.
"10906. Exception.
"10907. Railroad development.

"§10901. Authorizing construction and operation of railroad lines

"(a) A person may—

"(1) construct an extension to any of its railroad lines;

"(2) construct an additional railroad line;

"(3) provide transportation over, or by means of, an extended or additional railroad line; or

"(4) in the case of a person other than a rail carrier, acquire a railroad line or acquire or operate an extended or additional railroad line,

only if the Board issues a certificate authorizing such activity under subsection (c).

"(b) A proceeding to grant authority under subsection (a) of this section begins when an application is filed. On receiving the application, the Board shall give reasonable public notice, including notice to the Governor of any affected State, of the beginning of such proceeding.

"(c) The Board shall issue a certificate authorizing activities for which such authority is requested in an application filed under subsection (b) unless the Board finds that such activities are inconsistent with the public convenience and necessity. Such certificate may approve the application as filed, or with modifications, and may require compliance with conditions (other than labor protection conditions) the Board finds necessary in the public interest.

"(d)(1) When a certificate has been issued by the Board under this section authorizing the construction or extension of a railroad line, no other rail carrier may block any construction or extension authorized by such certificate by refusing to permit the carrier to cross its property if—

"(A) the construction does not unreasonably interfere with the operation of the crossed line;

"(B) the operation does not materially interfere with the operation of the crossed line; and

"(C) the owner of the crossing line compensates the owner of the crossed line.

"(2) If the parties are unable to agree on the terms of operation or the amount of payment for

purposes of paragraph (1) of this subsection, either party may submit the matters in dispute to the Board for determination. The Board shall make a determination under this paragraph within 120 days after the dispute is submitted for determination.

"§10902. Short line purchases by Class II and Class III rail carriers

"(a) A Class II or Class III rail carrier providing transportation subject to the jurisdiction of the Board under this part may acquire or operate an extended or additional rail line under this section only if the Board issues a certificate authorizing such activity under subsection (c).

"(b) A proceeding to grant authority under subsection (a) of this section begins when an application is filed. On receiving the application, the Board shall give reasonable public notice of the beginning of such proceeding.

"(c) The Board shall issue a certificate authorizing activities for which such authority is requested in an application filed under subsection (b) unless the Board finds that such activities are inconsistent with the public convenience and necessity. Such certificate may approve the application as filed, or with modifications, and may require compliance with conditions (other than labor protection conditions) the Board finds necessary in the public interest.

"(d) The Board shall require any Class II rail carrier which receives a certificate under subsection (c) of this section to provide a fair and equitable arrangement for the protection of the interests of employees who may be affected thereby. The arrangement shall consist exclusively of one year of severance pay, which shall not exceed the amount of earnings from railroad employment of the employee during the 12-month period immediately preceding the date on which the application for such certificate is filed with the Board. The amount of such severance pay shall be reduced by the amount of earnings from railroad employment of the employee with the acquiring carrier during the 12-month period immediately following the effective date of the transaction to which the certificate applies. The parties may agree to terms other than as provided in this subsection. The Board shall not require such an arrangement from a Class III rail carrier which receives a certificate under subsection (c) of this section.

"§10903. Filing and procedure for application to abandon or discontinue

"(a)(1) A rail carrier providing transportation subject to the jurisdiction of the Board under this part who intends to—

"(A) abandon any part of its railroad lines; or

"(B) discontinue the operation of all rail transportation over any part of its railroad lines,

must file an application relating thereto with the Board. An abandonment or discontinuance may be carried out only as authorized under this chapter.

"(2) When a rail carrier providing transportation subject to the jurisdiction of the Board under this part files an application, the application shall include—

"(A) an accurate and understandable summary of the rail carrier's reasons for the proposed abandonment or discontinuance;

"(B) a statement indicating that each interested person is entitled to make recommendations to the Board on the future of the rail line; and

"(C)(i) a statement that the line is available for subsidy or sale in accordance with section 10904 of this title, (ii) a statement that the rail carrier will promptly provide to each interested party an estimate of the annual subsidy and minimum purchase price, calculated in accordance with section 10904 of this title, and (iii) the name and business address of the person who is authorized to discuss the subsidy or sale terms for the rail carrier.

"(3) The rail carrier shall—

"(A) send by certified mail notice of the application to the chief executive officer of each State that would be directly affected by the proposed abandonment or discontinuance;

"(B) post a copy of the notice in each terminal and station on each portion of a railroad line proposed to be abandoned or over which all transportation is to be discontinued;

"(C) publish a copy of the notice for 3 consecutive weeks in a newspaper of general circulation in each county in which each such portion is located;

"(D) mail a copy of the notice, to the extent practicable, to all shippers that have made significant use (as designated by the Board) of the railroad line during the 12 months preceding the filing of the application; and

"(E) attach to the application filed with the Board an affidavit certifying the manner in which subparagraphs (A) through (D) of this paragraph have been satisfied, and certifying that subparagraphs (A) through (D) have been satisfied within the most recent 30 days prior to the date the application is filed.

"(b)(1) Except as provided in subsection (d), abandonment and discontinuance may occur as provided in section 10904.

"(2) The Board shall require as a condition of any abandonment or discontinuance under this section provisions to protect the interests of employees. The provisions shall be at least as beneficial to those interests as the provisions established under sections 11326(a) and 24706(c) of this title.

"(c)(1) In this subsection, the term 'potentially subject to abandonment' has the meaning given the term in regulations of the Board. The regulations may include standards that vary by region of the United States and by railroad or group of railroads.

"(2) Each rail carrier shall maintain a complete diagram of the transportation system operated, directly or indirectly, by the rail carrier. The rail carrier shall submit to the Board and publish amendments to its diagram that are necessary to maintain the accuracy of the diagram. The diagram shall—

"(A) include a detailed description of each of its railroad lines potentially subject to abandonment; and

"(B) identify each railroad line for which the rail carrier plans to file an application to abandon or discontinue under subsection (a) of this section.

"(d) A rail carrier providing transportation subject to the jurisdiction of the Board under this part may—

"(1) abandon any part of its railroad lines; or

"(2) discontinue the operation of all rail transportation over any part of its railroad lines;

only if the Board finds that the present or future public convenience and necessity require or permit the abandonment or discontinuance. In making the finding, the Board shall consider whether the abandonment or discontinuance will have a serious, adverse impact on rural and community development.

"(e) Subject to this section and sections 10904 and 10905 of this title, if the Board—

"(1) finds public convenience and necessity, it shall—

"(A) approve the application as filed; or

"(B) approve the application with modifications and require compliance with conditions that the Board finds are required by public convenience and necessity; or

"(2) fails to find public convenience and necessity, it shall deny the application.

"§10904. Offers of financial assistance to avoid abandonment and discontinuance

"(a) In this section—

"(1) the term 'avoidable cost' means all expenses that would be incurred by a rail carrier in providing transportation that would not be incurred if the railroad line over which the transportation was provided were abandoned or if the transportation were discontinued. Expenses include cash inflows foregone and cash outflows incurred by the rail carrier as a result of not abandoning or discontinuing the transportation. Cash inflows foregone and cash outflows incurred include—

"(A) working capital and required capital expenditure;

"(B) expenditures to eliminate deferred maintenance;

"(C) the current cost of freight cars, locomotives, and other equipment; and

"(D) the foregone tax benefits from not retiring properties from rail service and other effects of applicable Federal and State income taxes; and

"(2) the term 'reasonable return' means—

"(A) if a rail carrier is not in reorganization, the cost of capital to the rail carrier, as determined by the Board; and

"(B) if a rail carrier is in reorganization, the mean cost of capital of rail carriers not in reorganization, as determined by the Board.

"(b) Any rail carrier which has filed an application for abandonment or discontinuance shall provide promptly to a party considering an offer of financial assistance and shall provide concurrently to the Board—

"(1) an estimate of the annual subsidy and minimum purchase price required to keep the line or a portion of the line in operation;

"(2) its most recent reports on the physical condition of that part of the railroad line involved in the proposed abandonment or discontinuance;

"(3) traffic, revenue, and other data necessary to determine the amount of annual financial assistance which would be required to continue rail transportation over that part of the railroad line; and

"(4) any other information that the Board considers necessary to allow a potential offeror to calculate an adequate subsidy or purchase offer.

"(c) Within 4 months after an application is filed under section 10903, any person may offer to subsidize or purchase the railroad line that is the subject of such application. Such offer shall be filed concurrently with the Board. If the offer to subsidize or purchase is less than the carrier's estimate stated pursuant to subsection (b)(1), the offer shall explain the basis of the disparity, and the manner in which the offer is calculated.

"(d)(1) Unless the Board, within 15 days after the expiration of the 4-month period described in subsection (c), finds that one or more financially responsible persons (including a governmental authority) have offered financial assistance regarding that part of the railroad line to be abandoned or over which all rail transportation is to be discontinued, abandonment or discontinuance may be carried out in accordance with section 10903.

"(2) If the Board finds that such an offer or offers of financial assistance has been made within such period, abandonment or discontinuance shall be postponed until—

"(A) the carrier and a financially responsible person have reached agreement on a transaction for subsidy or sale of the line; or

"(B) the conditions and amount of compensation are established under subsection (f).

"(e) Except as provided in subsection (f)(3), if the rail carrier and a financially responsible person (including a governmental authority) fail to agree on the amount or terms of the subsidy or purchase, either party may, within 30 days after the offer is made, request that the Board

establish the conditions and amount of compensation.

"(f)(1) Whenever the Board is requested to establish the conditions and amount of compensation under this section—

"(A) the Board shall render its decision within 30 days;

"(B) for proposed sales, the Board shall determine the price and other terms of sale, except that in no case shall the Board set a price which is below the fair market value of the line (including, unless otherwise mutually agreed, all facilities on the line or portion necessary to provide effective transportation services); and

"(C) for proposed subsidies, the Board shall establish the compensation as the difference between the revenues attributable to that part of the railroad line and the avoidable cost of providing rail freight transportation on the line, plus a reasonable return on the value of the line.

"(2) The decision of the Board shall be binding on both parties, except that the person who has offered to subsidize or purchase the line may withdraw his offer within 10 days of the Board's decision. In such a case, the abandonment or discontinuance may be carried out immediately, unless other offers are being considered pursuant to paragraph (3) of this subsection.

"(3) If a rail carrier receives more than one offer to subsidize or purchase, it shall select the offeror with whom it wishes to transact business, and complete the subsidy or sale agreement, or request that the Board establish the conditions and amount of compensation before the 40th day after the expiration of the 4-month period described in subsection (c). If no agreement on subsidy or sale is reached within such 40-day period and the Board has not been requested to establish the conditions and amount of compensation, any other offeror whose offer was made within the 4-month period described in subsection (c) may request that the Board establish the conditions and amount of compensation. If the Board has established the conditions and amount of compensation, and the original offer has been withdrawn, any other offeror whose offer was made within the 4-month period described in subsection (c) may accept the Board's decision within 20 days after such decision, and the Board shall require the carrier to enter into a subsidy or sale agreement with such offeror, if such subsidy or sale agreement incorporates the Board's decision.

"(4)(A) No purchaser of a line or portion of line sold under this section may transfer or discontinue service on such line prior to the end of the second year after consummation of the sale, nor may such purchaser transfer such line, except to the rail carrier from whom it was purchased, prior to the end of the fifth year after consummation of the sale.

"(B) No subsidy arrangement approved under this section shall remain in effect for more than one year, unless otherwise mutually agreed by the parties.

"(g) Upon abandonment of a railroad line under this chapter, the obligation of the rail carrier abandoning the line tc provide transportation on that line, as required by section 11101(a), is extinguished.

"§10905. Offering abandoned rail properties for sale for public purposes

"When the Board approves an application to abandon or discontinue under section 10903, the Board shall find whether the rail properties that are involved in the proposed abandonment or discontinuance are appropriate for use for public purposes, including highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the Board finds that the rail properties proposed to be abandoned are appropriate for public purposes and not required for continued rail operations, the properties may be sold, leased, exchanged, or otherwise disposed of only under conditions provided in the order of the Board. The conditions may include a prohibition on any such disposal for a period of not more than 180 days after the effective date of the order, unless the properties have first been offered, on reasonable terms, for sale for public purposes.

"§10906. Exception

"Notwithstanding section 10901 and subchapter II of chapter 113 of this title, and without the approval of the Board, a rail carrier providing transportation subject to the jurisdiction of the Board under this part may enter into arrangements for the joint ownership or joint use of spur, industrial, team, switching, or side tracks.The Board does not have authority under this chapter over construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks.

"§10907. Railroad development

"(a) In this section, the term 'financially responsible person' means a person who—

"(1) is capable of paying the constitutional minimum value of the railroad line proposed to be acquired; and

"(2) is able to assure that adequate transportation will be provided over such line for a period of not less than 3 years.

Such term includes a governmental authority but does not include a Class I or Class II rail carrier.

"(b)(1) When the Board finds that—

"(A)(i) the public convenience and necessity require or permit the sale of a particular railroad line under this section; or

"(ii) a railroad line is on a system diagram map as required under section 10903 of this title, but the rail carrier owning such line has not filed an application to abandon such line under section 10903 of this title before an application to purchase such line, or any required preliminary filing with respect to such application, is filed under this section; and

"(B) an application to purchase such line has been filed by a financially responsible person,

the Board shall require the rail carrier owning the railroad line to sell such line to such financially responsible person at a price not less than the constitutional minimum value.

"(2) For purposes of this subsection, the constitutional minimum value of a particular railroad line shall be presumed to be not less than the net liquidation value of such line or the going concern value of such line, whichever is greater.

"(c)(1) For purposes of this section, the Board may determine that the public convenience and necessity require or permit the sale of a railroad line if the Board determines, after a hearing on the record, that—

"(A) the rail carrier operating such line refuses within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over such line;

"(B) the transportation over such line is inadequate for the majority of shippers who transport traffic over such line;

"(C) the sale of such line will not have a significantly adverse financial effect on the rail carrier operating such line;

"(D) the sale of such line will not have an adverse effect on the overall operational performance of the rail carrier operating such line; and

"(E) the sale of such line will be likely to result in improved railroad transportation for shippers that transport traffic over such line.

"(2) In a proceeding under this subsection, the burden of proving that the public convenience and necessity require or permit the sale of a particular railroad line is on the person filing the application to acquire such line. If the Board finds under this subsection that the public convenience and necessity require or permit the sale of a particular railroad line, the Board shall concurrently notify the parties of such finding and publish such finding in the Federal Register.

"(d) In the case of any railroad line subject to sale under subsection (a) of this section, the Board shall, upon the request of the acquiring carrier, require the selling carrier to provide to the acquiring carrier trackage rights to allow a reasonable interchange with the selling carrier or to move power equipment or empty rolling stock between noncontiguous feeder lines operated by the acquiring carrier. The Board shall require the acquiring carrier to provide the selling carrier reasonable compensation for any such trackage rights.

"(e) The Board shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with a railroad line subject to a sale under this section.

"(f) In the case of a railroad line which carried less than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year, whenever a purchasing carrier under this section petitions the Board for joint rates applicable to traffic moving over through routes in which the purchasing carrier may practicably participate, the Board shall, within 30 days after the date such petition is filed and pursuant to section 10705(a) of this title, require the establishment of reasonable joint rates and divisions over such route.

"(g)(1) Any person operating a railroad line acquired under this section may elect to be exempt from any of the provisions of this part, except that such a person may not be exempt from the provisions of chapter 107 of this title with respect to transportation under a joint rate.

"(2) The provisions of paragraph (1) of this subsection shall apply to any line of railroad which was abandoned during the 18-month period immediately prior to October 1, 1980, and was subsequently purchased by a financially responsible person.

"(h) If a purchasing carrier under this section proposes to sell or abandon all or any portion of a purchased railroad line, such purchasing carrier shall offer the right of first refusal with respect to such line or portion thereof to the carrier which sold such line under this section. Such offer shall be made at a price equal to the sum of the price paid by such purchasing carrier to such selling carrier for such line or portion thereof and the fair market value (less deterioration) of any improvements made, as adjusted to reflect inflation.

"(i) Any person operating a railroad line acquired under this section may determine preconditions, such as payment of a subsidy, which must be met by shippers in order to obtain service over such lines, but such operator must notify the shippers on the line of its intention to impose such preconditions.

"CHAPTER 111—OPERATIONS

"SUBCHAPTER I—GENERAL REQUIREMENTS

"Sec.
"11101. Common carrier transportation, service, and rates.
"11102. Use of terminal facilities.
"11103. Switch connections and tracks.

"SUBCHAPTER II—CAR SERVICE

"11121. Criteria.
"11122. Compensation and practice.
"11123. Situations requiring immediate action to serve the public.
"11124. War emergencies; embargoes imposed by carriers.

"SUBCHAPTER III—REPORTS AND RECORDS

"11141. Definitions.

"11142. Uniform accounting system.
"11143. Depreciation charges.
"11144. Records: form; inspection; preservation.
"11145. Reports by rail carriers, lessors, and associations.

"SUBCHAPTER IV—RAILROAD COST ACCOUNTING

"11161. Implementation of cost accounting principles.
"11162. Rail carrier cost accounting system.
"11163. Cost availability.
"11164. Accounting and cost reporting.

"SUBCHAPTER I—GENERAL REQUIREMENTS

"§11101. Common carrier transportation, service, and rates

"(a) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part shall provide the transportation or service on reasonable request. A rail carrier shall not be found to have violated this section because it fulfills its reasonable commitments under contracts authorized under section 10709 of this title before responding to reasonable requests for service. Commitments which deprive a carrier of its ability to respond to reasonable requests for common carrier service are not reasonable.

"(b) A rail carrier shall also provide to any person, on request, the carrier's rates and other service terms. The response by a rail carrier to a request for the carrier's rates and other service terms shall be—

"(1) in writing and forwarded to the requesting person promptly after receipt of the request; or

"(2) promptly made available in electronic form.

"(c) A rail carrier may not increase any common carrier rates or change any common carrier service terms unless 20 days have expired after written or electronic notice is provided to any person who, within the previous 12 months—

"(1) has requested such rates or terms under subsection (b); or

"(2) has made arrangements with the carrier for a shipment that would be subject to such increased rates or changed terms.

"(d) With respect to transportation of agricultural products, in addition to the requirements of subsections (a), (b), and (c), a rail carrier shall publish, make available, and retain for public inspection its common carrier rates, schedules of rates, and other service terms, and any proposed and actual changes to such rates and service terms. For purposes of this subsection, agricultural products shall include grain as defined in section 3 of the United States Grain Standards Act (7 U.S.C. 75) and all products thereof, and fertilizer.

"(e) A rail carrier shall provide transportation or service in accordance with the rates and service terms, and any changes thereto, as published or otherwise made available under subsection (b), (c), or (d).

"(f) The Board shall, by regulation, establish rules to implement this section. The regulations shall provide for immediate disclosure and dissemination of rates and service terms, including classifications, rules, and practices, and their effective dates. Final regulations shall be adopted by the Board not later than 180 days after the effective date of the ICC Termination Act of 1995.

"§11102. Use of terminal facilities

"(a) The Board may require terminal facilities, including main-line tracks for a reasonable distance outside of a terminal, owned by a rail carrier providing transportation subject to the jurisdiction of the Board under this part, to be used by another rail carrier if the Board finds that use to be practicable and in the public interest without substantially impairing the ability of the rail carrier owning the facilities or entitled to use the facilities to handle its own business. The rail carriers are responsible for establishing the conditions and compensation for use of the facilities. However, if the rail carriers cannot agree, the Board may establish conditions and compensation for use of the facilities under the principle controlling compensation in condemnation proceedings. The compensation shall be paid or adequately secured before a rail carrier may begin to use the facilities of another rail carrier under this section.

"(b) A rail carrier whose terminal facilities are required to be used by another rail carrier under this section is entitled to recover damages from the other rail carrier for injuries sustained as the result of compliance with the requirement or for compensation for the use, or both as appropriate, in a civil action, if it is not satisfied with the conditions for use of the facilities or if the amount of the compensation is not paid promptly.

"(c)(1) The Board may require rail carriers to enter into reciprocal switching agreements, where it finds such agreements to be practicable and in the public interest, or where such agreements are necessary to provide competitive rail service. The rail carriers entering into such an agreement shall establish the conditions and compensation applicable to such agreement, but, if the rail carriers cannot agree upon such conditions and compensation within a reasonable period of time, the Board may establish such conditions and compensation.

"(2) The Board may require reciprocal switching agreements entered into by rail carriers pursuant to this subsection to contain provisions for the protection of the interests of employees affected thereby.

"(d) The Board shall complete any proceeding under subsection (a) or (b) within 180 days after the filing of the request for relief.

"§11103. Switch connections and tracks

"(a) On application of the owner of a lateral branch line of railroad, or of a shipper tendering interstate traffic for transportation, a rail carrier providing transportation subject to the jurisdiction of the Board under this part shall construct, maintain, and operate, on reasonable conditions, a switch connection to connect that branch line or private side track with its railroad and shall furnish cars to move that traffic to the best of its ability without discrimination in favor of or against the shipper when the connection—

"(1) is reasonably practicable;

"(2) can be made safely; and

"(3) will furnish sufficient business to justify its construction and maintenance.

"(b) If a rail carrier fails to install and operate a switch connection after application is made under subsection (a) of this section, the owner of the lateral branch line of railroad or the shipper may file a complaint with the Board under section 11701 of this title. The Board shall investigate the complaint and decide the safety, practicability, justification, and compensation to be paid for the connection. The Board may direct the rail carrier to comply with subsection (a) of this section only after a full hearing.

"SUBCHAPTER II—CAR SERVICE

"§11121. Criteria

"(a)(1) A rail carrier providing transportation subject to the jurisdiction of the Board under this part shall furnish safe and adequate car service and establish, observe, and enforce reasonable rules and practices on car service. The Board may require a rail carrier to provide facilities and equipment that are reasonably necessary to furnish safe and adequate car service if the Board decides that the rail carrier has materially failed to furnish that service. The Board may begin a proceeding under this paragraph when an interested person files an application with it. The Board may act only after a hearing on the record and an affirmative finding, based on the evidence presented, that—

"(A) providing the facilities or equipment will not materially and adversely affect the ability of the rail carrier to provide safe and adequate transportation;

"(B) the amount spent for the facilities or equipment, including a return equal to the rail carrier's current cost of capital, will be recovered; and

"(C) providing the facilities or equipment will not impair the ability of the rail carrier to attract adequate capital.

"(2) The Board may require a rail carrier to file its car service rules with the Board.

"(b) The Board may designate and appoint agents and agencies to make and carry out its directions related to car service and matters under sections 11123 and 11124(a)(1) of this title.

"(c) The Board shall consult, as it considers necessary, with the National Grain Car Council on matters within the charter of that body.

"§11122. Compensation and practice

"(a) The regulations of the Board on car service shall encourage the purchase, acquisition, and efficient use of freight cars. The regulations may include—

"(1) the compensation to be paid for the use of a locomotive, freight car, or other vehicle;

"(2) the other terms of any arrangement for the use by a rail carrier of a locomotive, freight car, or other vehicle not owned by the rail carrier using the locomotive, freight car, or other vehicle, whether or not owned by another carrier, shipper, or third person; and

"(3) sanctions for nonobservance.

"(b) The rate of compensation to be paid for each type of freight car shall be determined by the expense of owning and maintaining that type of freight car, including a fair return on its cost giving consideration to current costs of capital, repairs, materials, parts, and labor. In determining the rate of compensation, the Board shall consider the transportation use of each type of freight car, the national level of ownership of each type of freight car, and other factors that affect the adequacy of the national freight car supply.

"§11123. Situations requiring immediate action to serve the public

"(a) When the Board determines that shortage of equipment, congestion of traffic, unauthorized cessation of operations, or other failure of traffic movement exists which creates an emergency situation of such magnitude as to have substantial adverse effects on shippers, or on rail service in a region of the United States, or that a rail carrier providing transportation subject to the jurisdiction of the Board under this part cannot transport the traffic offered to it in a manner that properly serves the public, the Board may, to promote commerce and service to the public, for a period not to exceed 30 days—

"(1) direct the handling, routing, and movement of the traffic of a rail carrier and its distribution over its own or other railroad lines;

"(2) require joint or common use of railroad facilities;

"(3) prescribe temporary through routes; or

"(4) give directions for—

"(A) preference or priority in transportation;

"(B) embargoes; or

"(C) movement of traffic under permits.

"(b)(1) Except with respect to proceedings under paragraph (2) of this subsection, the Board may act under this section on its own initiative or on application without regard to subchapter II of chapter 5 of title 5.

"(2) Rail carriers may establish between themselves the terms of compensation for operations, and use of facilities and equipment, required

under this section. When rail carriers do not agree on the terms of compensation under this section, the Board may establish the terms for them. The Board may act under subsection (a) before conducting a proceeding under this paragraph.

''(3) When a rail carrier is directed under this section to operate the lines of another rail carrier due to that carrier's cessation of operations, compensation for the directed operations shall derive only from revenues generated by the directed operations.

''(c)(1) The Board may extend any action taken under subsection (a) of this section beyond 30 days if the Board finds that a transportation emergency described in subsection (a) continues to exist. Action by the Board under subsection (a) of this section may not remain in effect for more than 240 days beyond the initial 30-day period.

''(2) The Board may not take action under this section that would—

''(A) cause a rail carrier to operate in violation of this part; or

''(B) impair substantially the ability of a rail carrier to serve its own customers adequately, or to fulfill its common carrier obligations.

''(3) A rail carrier directed by the Board to take action under this section is not responsible, as a result of that action, for debts of any other rail carrier.

''(d) In carrying out this section, the Board shall require, to the maximum extent practicable, the use of employees who would normally have performed work in connection with the traffic subject to the action of the Board.

“§11124. War emergencies; embargoes imposed by carriers

''(a)(1) When the President, during time of war or threatened war, notifies the Board that it is essential to the defense and security of the United States to give preference or priority to the movement of certain traffic, the Board shall direct that preference or priority be given to that traffic.

''(2) When the President, during time of war or threatened war, demands that preference and precedence be given to the transportation of troops and material of war over all other traffic, all rail carriers providing transportation subject to the jurisdiction of the Board under this part shall adopt every means within their control to facilitate and expedite the military traffic.

''(b) An embargo imposed by any such rail carrier does not apply to shipments consigned to agents of the United States Government for its use. The rail carrier shall deliver those shipments as promptly as possible.

''SUBCHAPTER III—REPORTS AND RECORDS

“§11141. Definitions

''In this subchapter—

''(1) the terms 'rail carrier' and 'lessor' include a receiver or trustee of a rail carrier and lessor, respectively;

''(2) the term 'lessor' means a person owning a railroad that is leased to and operated by a carrier providing transportation subject to the jurisdiction of the Board under this part; and

''(3) the term 'association' means an organization maintained by or in the interest of a group of rail carriers providing transportation or service subject to the jurisdiction of the Board under this part that performs a service, or engages in activities, related to transportation under this part.

“§11142. Uniform accounting system

''The Board may prescribe a uniform accounting system for classes of rail carriers providing transportation subject to the jurisdiction of the Board under this part. To the maximum extent practicable, the Board shall conform such system to generally accepted accounting principles, and shall administer this subchapter in accordance with such principles.

“§11143. Depreciation charges

''The Board shall, for a class of rail carriers providing transportation subject to its jurisdiction under this part, prescribe, and change when necessary, those classes of property for which depreciation charges may be included under operating expenses and a rate of depreciation that may be charged to a class of property. The Board may classify those rail carriers for purposes of this section. A rail carrier for whom depreciation charges and rates of depreciation are in effect under this section for any class of property may not—

''(1) charge to operating expenses a depreciation charge on a class of property other than that prescribed by the Board;

''(2) charge another rate of depreciation; or

''(3) include other depreciation charges in operating expenses.

“§11144. Records: form; inspection; preservation

''(a) The Board may prescribe the form of records required to be prepared or compiled under this subchapter—

''(1) by rail carriers and lessors, including records related to movement of traffic and receipts and expenditures of money; and

''(2) by persons furnishing cars to or for a rail carrier providing transportation subject to the jurisdiction of the Board under this part to the extent related to those cars or that service.

''(b) The Board, or an employee designated by the Board, may on demand and display of proper credentials—

''(1) inspect and examine the lands, buildings, and equipment of a rail carrier or lessor; and

''(2) inspect and copy any record of—

''(A) a rail carrier, lessor, or association;

''(B) a person controlling, controlled by, or under common control with a rail carrier if the Board considers inspection relevant to that person's relation to, or transaction with, that rail carrier; and

''(C) a person furnishing cars to or for a rail carrier if the Board prescribed the form of that record.

''(c) The Board may prescribe the time period during which operating, accounting, and financial records must be preserved by rail carriers, lessors, and persons furnishing cars.

“§11145. Reports by rail carriers, lessors, and associations

''(a) The Board may require—

''(1) rail carriers, lessors, and associations, or classes of them as the Board may prescribe, to file annual, periodic, and special reports with the Board containing answers to questions asked by it; and

''(2) a person furnishing cars to a rail carrier to file reports with the Board containing answers to questions about those cars.

''(b)(1) An annual report shall contain an account, in as much detail as the Board may require, of the affairs of the rail carrier, lessor, or association for the 12-month period ending on December 31 of each year.

''(2) An annual report shall be filed with the Board by the end of the third month after the end of the year for which the report is made unless the Board extends the filing date or changes the period covered by the report. The annual report and, if the Board requires, any other report made under this section, shall be made under oath.

''SUBCHAPTER IV—RAILROAD COST ACCOUNTING

“§11161. Implementation of cost accounting principles

''The Board shall periodically review its cost accounting rules and shall make such changes in those rules as are required to achieve the regulatory purposes of this part. The Board shall insure that the rules promulgated under this section are the most efficient and least burdensome means by which the required information may be developed for regulatory purposes. To the maximum extent practicable, the Board shall conform such rules to generally accepted accounting principles.

“§11162. Rail carrier cost accounting system

''(a) Each rail carrier shall have and maintain a cost accounting system that is in compliance with the rules promulgated by the Board under section 11161 of this title. A rail carrier may, after notifying the Board, make modifications in such system unless, within 60 days after the date of notification, the Board finds such modifications to be inconsistent with the rules promulgated by the Board under section 11161 of this title.

''(b) For purposes of determining whether the cost accounting system of a rail carrier is in compliance with the rules promulgated by the Board, the Board shall have the right to examine and make copies of any documents, papers, or records of such rail carrier relating to compliance with such rules. Such documents, papers, and records (and any copies thereof) shall not be subject to the mandatory disclosure requirements of section 552 of title 5.

“§11163. Cost availability

''As required by the rules of the Board governing discovery in Board proceedings, rail carriers shall make relevant cost data available to shippers, States, ports, communities, and other interested parties that are a party to a Board proceeding in which such data are required.

“§11164. Accounting and cost reporting

''To obtain expense and revenue information for regulatory purposes, the Board may promulgate reasonable rules for rail carriers providing transportation subject to the jurisdiction of the Board under this part, prescribing expense and revenue accounting and reporting requirements consistent with generally accepted accounting principles uniformly applied to such carriers. Such requirements shall be cost effective and compatible with and not duplicative of the managerial and responsibility accounting requirements of those carriers.

“CHAPTER 113—FINANCE

''SUBCHAPTER I—EQUIPMENT TRUSTS AND SECURITY INTERESTS

''Sec.
''11301. Equipment trusts: recordation; evidence of indebtedness.

''SUBCHAPTER II—COMBINATIONS

''11321. Scope of authority.
''11322. Limitation on pooling and division of transportation or earnings.
''11323. Consolidation, merger, and acquisition of control.
''11324. Consolidation, merger, and acquisition of control: conditions of approval.
''11325. Consolidation, merger, and acquisition of control: procedure.
''11326. Employee protective arrangements in transactions involving rail carriers.
''11327. Supplemental orders.
''11328. Restrictions on officers and directors.

''SUBCHAPTER I—EQUIPMENT TRUSTS AND SECURITY INTERESTS

“§11301. Equipment trusts: recordation; evidence of indebtedness

''(a) A mortgage (other than a mortgage under chapter 313 of title 46), lease, equipment trust agreement, conditional sales agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of or security interest in vessels, railroad cars, locomotives, or other *rolling stock, or accessories used on such railroad cars, locomotives, or other rolling stock (including superstructures and racks), intended for a use related to interstate commerce shall be filed with the Board in order to perfect the security interest that is the subject of such instrument. An assignment of a right or interest under one of those instruments and an amendment to that instrument or assignment including a release, discharge, or satisfaction of any part of it shall also be filed with the Board. The instrument, assignment, or amendment must be in writing, executed by the parties to it, and acknowledged or verified under Board regulations. When filed under this section, that document is notice to, and enforceable against, all persons. A document filed under this section does not have to be filed, deposited, registered, or recorded under another law of the United States, a State (or its political subdivisions), or territory or possession of the United States, related to filing, deposit, registration, or recordation of those documents. This section does not change chapter 313 of title 46.*

"(b) The Board shall maintain a system for recording each document filed under subsection (a) of this section and mark each of them with a consecutive number and the date and hour of their recordation. The Board shall maintain and keep open for public inspection an index of documents filed under that subsection. That index shall include the name and address of the principal debtors, trustees, guarantors, and other parties to those documents and may include other facts that will assist in determining the rights of the parties to those transactions.

"(c) The Board may to the greatest extent practicable perform its functions under this section through contracts with private sector entities.

"(d) A mortgage, lease, equipment trust agreement, conditional sales agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of or security interest in vessels, railroad cars, locomotives, or other rolling stock, or accessories used on such railroad cars, locomotives, or other rolling stock (including superstructures and racks), or any assignment thereof, which—

"(1) is duly constituted under the laws of a country other than the United States; and

"(2) relates to property that bears the reporting marks and identification numbers of any person domiciled in or corporation organized under the laws of such country,

shall be recognized with the same effect as having been filed under this section.

"(e) Interests with respect to which documents are filed or recognized under this section are deemed perfected in all jurisdictions, and shall be governed by applicable State or foreign law in all matters not specifically governed by this section.

"(f) The Board shall collect, maintain, and keep open for public inspection a railway equipment register consistent with the manner and format maintained by the Interstate Commerce Commission as of the effective date of the ICC Termination Act of 1995.

"SUBCHAPTER II—COMBINATIONS

"§11321. Scope of authority

"(a) The authority of the Board under this subchapter is exclusive. A rail carrier or corporation participating in or resulting from a transaction approved by or exempted by the Board under this subchapter may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A rail carrier, corporation, or person participating in that approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that rail carrier, corporation, or person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction. However, if a purchase and sale, a lease, or a corporate consolidation or merger is involved in the transaction, the carrier or corporation may carry out the transaction only with the assent of a majority, or the number required under applicable State law, of the votes of the holders of the capital stock of that corporation entitled to vote. The vote must occur at a regular meeting, or special meeting called for that purpose, of those stockholders and the notice of the meeting must indicate its purpose.

"(b) A power granted under this subchapter to a carrier or corporation is in addition to and changes its powers under its corporate charter and under State law. Action under this subchapter does not establish or provide for establishing a corporation under the laws of the United States.

"§11322. Limitation on pooling and division of transportation or earnings

"(a) A rail carrier providing transportation subject to the jurisdiction of the Board under this part may not agree or combine with another of those rail carriers to pool or divide traffic or services or any part of their earnings without the approval of the Board under this section or section 11123 of this title. The Board may approve and authorize the agreement or combination if the rail carriers involved assent to the pooling or division and the Board finds that a pooling or division of traffic, services, or earnings—

"(1) will be in the interest of better service to the public or of economy of operation; and

"(2) will not unreasonably restrain competition.

"(b) The Board may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the rail carriers.

"(c) The Board may begin a proceeding under this section on its own initiative or on application.

"§11323. Consolidation, merger, and acquisition of control

"(a) The following transactions involving rail carriers providing transportation subject to the jurisdiction of the Board under this part may be carried out only with the approval and authorization of the Board:

"(1) Consolidation or merger of the properties or franchises of at least 2 rail carriers into one corporation for the ownership, management, and operation of the previously separately owned properties.

"(2) A purchase, lease, or contract to operate property of another rail carrier by any number of rail carriers.

"(3) Acquisition of control of a rail carrier by any number of rail carriers.

"(4) Acquisition of control of at least 2 rail carriers by a person that is not a rail carrier.

"(5) Acquisition of control of a rail carrier by a person that is not a rail carrier but that controls any number of rail carriers.

"(6) Acquisition by a rail carrier of trackage rights over, or joint ownership in or joint use of, a railroad line (and terminals incidental to it) owned or operated by another rail carrier.

"(b) A person may carry out a transaction referred to in subsection (a) of this section or participate in achieving the control or management, including the power to exercise control or management, in a common interest of more than one of those rail carriers, regardless of how that result is reached, only with the approval and authorization of the Board under this subchapter. In addition to other transactions, each of the following transactions are considered achievements of control or management:

"(1) A transaction by a rail carrier that has the effect of putting that rail carrier and person affiliated with it, taken together, in control of another rail carrier.

"(2) A transaction by a person affiliated with a rail carrier that has the effect of putting that rail carrier and persons affiliated with it, taken together, in control of another rail carrier.

"(3) A transaction by at least 2 persons acting together (one of whom is a rail carrier or is affiliated with a rail carrier) that has the effect of putting those persons and rail carriers and persons affiliated with any of them, or with any of those affiliated rail carriers, taken together, in control of another rail carrier.

"(c) A person is affiliated with a rail carrier under this subchapter if, because of the relationship between that person and a rail carrier, it is reasonable to believe that the affairs of another rail carrier, control of which may be acquired by that person, will be managed in the interest of the other rail carrier.

"§11324. Consolidation, merger, and acquisition of control: conditions of approval

"(a) The Board may begin a proceeding to approve and authorize a transaction referred to in section 11323 of this title on application of the person seeking that authority. When an application is filed with the Board, the Board shall notify the chief executive officer of each State in which property of the rail carriers involved in the proposed transaction is located and shall notify those rail carriers. The Board shall hold a public hearing unless the Board determines that a public hearing is not necessary in the public interest.

"(b) In a proceeding under this section which involves the merger or control of at least two Class I railroads, as defined by the Board, the Board shall consider at least—

"(1) the effect of the proposed transaction on the adequacy of transportation to the public;

"(2) the effect on the public interest of including, or failing to include, other rail carriers in the area involved in the proposed transaction;

"(3) the total fixed charges that result from the proposed transaction;

"(4) the interest of rail carrier employees affected by the proposed transaction; and

"(5) whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region or in the national rail system.

"(c) The Board shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Board may impose conditions governing the transaction, including the divestiture of parallel tracks or requiring the granting of trackage rights and access to other facilities. Any trackage rights and related conditions imposed to alleviate anticompetitive effects of the transaction shall provide for operating terms and compensation levels to ensure that such effects are alleviated. When the transaction contemplates a guaranty or assumption of payment of dividends or of fixed charges or will result in an increase of total fixed charges, the Board may approve and authorize the transaction only if it finds that the guaranty, assumption, or increase is consistent with the public interest. The Board may require inclusion of other rail carriers located in the area involved in the transaction if they apply for inclusion and the Board finds their inclusion to be consistent with the public interest.

"(d) In a proceeding under this section which does not involve the merger or control of at least two Class I railroads, as defined by the Board, the Board shall approve such an application unless it finds that—

"(1) as a result of the transaction, there is likely to be substantial lessening of competition, creation of a monopoly, or restraint of trade in

freight surface transportation in any region of the United States; and

‘‘(2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

In making such findings, the Board shall, with respect to any application that is part of a plan or proposal developed under section 333(a)–(d) of this title, accord substantial weight to any recommendations of the Attorney General.

‘‘(e) No transaction described in section 11326(b) may have the effect of avoiding a collective bargaining agreement or shifting work from a rail carrier with a collective bargaining agreement to a rail carrier without a collective bargaining agreement.

‘‘(f)(1) To the extent provided in this subsection, a proceeding under this subchapter relating to a transaction involving at least one Class I rail carrier shall not be considered an adjudication required by statute to be determined on the record after opportunity for an agency hearing, for the purposes of subchapter II of chapter 5 of title 5, United States Code.

‘‘(2) Ex parte communications, as defined in section 551(14) of title 5, United States Code, shall be permitted in proceedings described in paragraph (1) of this subsection, subject to the requirements of paragraph (3) of this subsection.

‘‘(3)(A) Any member or employee of the Board who makes or receives a written ex parte communication concerning the merits of a proceeding described in paragraph (1) shall promptly place the communication in the public docket of the proceeding.

‘‘(B) Any member or employee of the Board who makes or receives an oral ex parte communication concerning the merits of a proceeding described in paragraph (1) shall promptly place a written summary of the oral communication in the public docket of the proceeding.

‘‘(4) Nothing in this subsection shall be construed to require the Board or any of its members or employees to engage in any ex parte communication with any person. Nothing in this subsection or any other law shall be construed to limit the authority of the members or employees of the Board, in their discretion, to note in the docket or otherwise publicly the occurrence and substance of an ex parte communication.

‘‘§11325. Consolidation, merger, and acquisition of control: procedure

‘‘(a) The Board shall publish notice of the application under section 11324 in the Federal Register by the end of the 30th day after the application is filed with the Board. However, if the application is incomplete, the Board shall reject it by the end of that period. The order of rejection is a final action of the Board. The published notice shall indicate whether the application involves—

‘‘(1) the merger or control of at least two Class I railroads, as defined by the Board, to be decided within the time limits specified in subsection (b) of this section;

‘‘(2) transactions of regional or national transportation significance, to be decided within the time limits specified in subsection (c) of this section; or

‘‘(3) any other transaction covered by this section, to be decided within the time limits specified in subsection (d) of this section.

‘‘(b) If the application involves the merger or control of two or more Class I railroads, as defined by the Board, the following conditions apply:

‘‘(1) Written comments about an application may be filed with the Board within 45 days after notice of the application is published under subsection (a) of this section. Copies of such comments shall be served on the Attorney General and the Secretary of Transportation, who may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Board by the end of the 15th day after the date of receipt of the written comments.

‘‘(2) The Board shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it by the 90th day after publication of notice under that subsection.

‘‘(3) The Board must conclude evidentiary proceedings by the end of 1 year after the date of publication of notice under subsection (a) of this section. The Board must issue a final decision by the 90th day after the date on which it concludes the evidentiary proceedings.

‘‘(c) If the application involves a transaction other than the merger or control of at least two Class I railroads, as defined by the Board, which the Board has determined to be of regional or national transportation significance, the following conditions apply:

‘‘(1) Written comments about an application, including comments of the Attorney General and the Secretary of Transportation, may be filed with the Board within 30 days after notice of the application is published under subsection (a) of this section.

‘‘(2) The Board shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it by the 60th day after publication of notice under that subsection.

‘‘(3) The Board must conclude any evidentiary proceedings by the 180th day after the date of publication of notice under subsection (a) of this section. The Board must issue a final decision by the 90th day after the date on which it concludes the evidentiary proceedings.

‘‘(d) For all applications under this section other than those specified in subsections (b) and (c) of this section, the following conditions apply:

‘‘(1) Written comments about an application, including comments of the Attorney General and the Secretary of Transportation, may be filed with the Board within 30 days after notice of the application is published under subsection (a) of this section.

‘‘(2) The Board must conclude any evidentiary proceedings by the 105th day after the date of publication of notice under subsection (a) of this section. The Board must issue a final decision by the 45th day after the date on which it concludes the evidentiary proceedings.

‘‘§11326. Employee protective arrangements in transactions involving rail carriers

‘‘(a) Except as otherwise provided in this section, when approval is sought for a transaction under sections 11324 and 11325 of this title, the Board shall require the rail carrier to provide a fair arrangement at least as protective of the interests of employees who are affected by the transaction as the terms imposed under section 5(2)(f) of the Interstate Commerce Act before February 5, 1976, and the terms established under section 24706(c) of this title. Notwithstanding this part, the arrangement may be made by the rail carrier and the authorized representative of its employees. The arrangement and the order approving the transaction must require that the employees of the affected rail carrier will not be in a worse position related to their employment as a result of the transaction during the 4 years following the effective date of the final action of the Board (or if an employee was employed for a lesser period of time by the rail carrier before the action became effective, for that lesser period).

‘‘(b) When approval is sought under sections 11324 and 11325 for a transaction involving one Class II and one or more Class III rail carriers, there shall be an arrangement as required under subsection (a) of this section, unless the applicant elects to provide the alternative arrangement specified in this subsection. Such alternative arrangement shall be limited to one year of severance pay, which shall not exceed the amount of earnings from the railroad employment of that employee during the 12-month period immediately preceding the date on which the application for approval of such transaction is filed with the Board. The amount of such severance pay shall be reduced by the amount of earnings from railroad employment of that employee with the acquiring carrier during the 12-month period immediately following the effective date of the transaction. The parties may agree to terms other than as provided in this subsection.

‘‘(c) When approval is sought under sections 11324 and 11325 for a transaction involving only Class III rail carriers, this section shall not apply.

‘‘§11327. Supplemental orders

‘‘When cause exists, the Board may make appropriate orders supplemental to an order made in a proceeding under sections 11322 through 11326 of this title.

‘‘§11328. Restrictions on officers and directors

‘‘(a) A person may hold the position of officer or director of more than one rail carrier only when authorized by the Board. The Board may authorize a person to hold the position of officer or director of more than one of those carriers when public or private interests will not be adversely affected.

‘‘(b) This section shall not apply to an individual holding the position of officer or director only of Class III rail carriers.

‘‘CHAPTER 115—FEDERAL-STATE RELATIONS

‘‘Sec.

‘‘11501. Tax discrimination against rail transportation property.

‘‘11502. Withholding State and local income tax by rail carriers.

‘‘§11501. Tax discrimination against rail transportation property

‘‘(a) In this section—

‘‘(1) the term ‘assessment’ means valuation for a property tax levied by a taxing district;

‘‘(2) the term ‘assessment jurisdiction’ means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

‘‘(3) the term ‘rail transportation property’ means property, as defined by the Board, owned or used by a rail carrier providing transportation subject to the jurisdiction of the Board under this part; and

‘‘(4) the term ‘commercial and industrial property’ means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy.

‘‘(b) The following acts unreasonably burden and discriminate against interstate commerce, and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

‘‘(1) Assess rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

‘‘(2) Levy or collect a tax on an assessment that may not be made under paragraph (1) of this subsection.

"(3) Levy or collect an ad valorem property tax on rail transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

"(4) Impose another tax that discriminates against a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

"(c) Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of rail transportation property exceeds by at least 5 percent the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. The burden of proof in determining assessed value and true market value is governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

"(1) an assessment of the rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the assessed value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all other commercial and industrial property; and

"(2) the collection of an ad valorem property tax on the rail transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

"§11502. Withholding State and local income tax by rail carriers

"(a) No part of the compensation paid by a rail carrier providing transportation subject to the jurisdiction of the Board under this part to an employee who performs regularly assigned duties as such an employee on a railroad in more than one State shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

"(b) A rail carrier withholding pay from an employee under subsection (a) of this section shall file income tax information returns and other reports only with the State and subdivision of residence of the employee.

"CHAPTER 117—ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES

"Sec.
"11701. General authority.
"11702. Enforcement by the Board.
"11703. Enforcement by the Attorney General.
"11704. Rights and remedies of persons injured by rail carriers.
"11705. Limitation on actions by and against rail carriers.
"11706. Liability of rail carriers under receipts and bills of lading.
"11707. Liability when property is delivered in violation of routing instructions.

"§11701. General authority

"(a) Except as otherwise provided in this part, the Board may begin an investigation under this part only on complaint. If the Board finds that a rail carrier is violating this part, the Board shall take appropriate action to compel compliance with this part.

"(b) A person, including a governmental authority, may file with the Board a complaint about a violation of this part by a rail carrier providing transportation or service subject to the jurisdiction of the Board under this part. The complaint must state the facts that are the subject of the violation. The Board may dismiss a complaint it determines does not state reasonable grounds for investigation and action. However, the Board may not dismiss a complaint made against a rail carrier providing transportation subject to the jurisdiction of the Board under this part because of the absence of direct damage to the complainant.

"(c) A formal investigative proceeding begun by the Board under subsection (a) of this section is dismissed automatically unless it is concluded by the Board with administrative finality by the end of the third year after the date on which it was begun.

"§11702. Enforcement by the Board

"The Board may bring a civil action—

"(1) to enjoin a rail carrier from violating sections 10901 through 10906 of this title, or a regulation prescribed or order or certificate issued under any of those sections;

"(2) to enforce subchapter II of chapter 113 of this title and to compel compliance with an order of the Board under that subchapter; and

"(3) to enforce an order of the Board, except a civil action to enforce an order for the payment of money, when it is violated by a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

"§11703. Enforcement by the Attorney General

"(a) The Attorney General may, and on request of the Board shall, bring court proceedings to enforce this part, or a regulation or order of the Board or certificate issued under this part, and to prosecute a person violating this part or a regulation or order of the Board or certificate issued under this part.

"(b) The United States Government may bring a civil action on behalf of a person to compel a rail carrier providing transportation subject to the jurisdiction of the Board under this part to provide that transportation to that person in compliance with this part at the same rate charged, or on conditions as favorable as those given by the rail carrier, for like traffic under similar conditions to another person.

"§11704. Rights and remedies of persons injured by rail carriers

"(a) A person injured because a rail carrier providing transportation or service subject to the jurisdiction of the Board under this part does not obey an order of the Board, except an order for the payment of money, may bring a civil action in a United States District Court to enforce that order under this subsection.

"(b) A rail carrier providing transportation subject to the jurisdiction of the Board under this part is liable for damages sustained by a person as a result of an act or omission of that carrier in violation of this part. A rail carrier providing transportation subject to the jurisdiction of the Board under this part is liable to a person for amounts charged that exceed the applicable rate for the transportation.

"(c)(1) A person may file a complaint with the Board under section 11701(b) of this title or bring a civil action under subsection (b) of this section to enforce liability against a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

"(2) When the Board makes an award under subsection (b) of this section, the Board shall order the rail carrier to pay the amount awarded by a specific date. The Board may order a rail carrier providing transportation subject to the jurisdiction of the Board under this part to pay damages only when the proceeding is on complaint. The person for whose benefit an order of the Board requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the rail carrier does not pay the amount awarded by the date payment was ordered to be made.

"(d)(1) When a person begins a civil action under subsection (b) of this section to enforce an order of the Board requiring the payment of damages by a rail carrier providing transportation subject to the jurisdiction of the Board under this part, the text of the order of the Board must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Board are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district—

"(A) in which the plaintiff resides;

"(B) in which the principal operating office of the rail carrier is located; or

"(C) through which the railroad line of that carrier runs.

In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

"(2) All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the rail carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

"(3) The district court shall award a reasonable attorney's fee as a part of the damages for which a rail carrier is found liable under this subsection. The district court shall tax and collect that fee as a part of the costs of the action.

"§11705. Limitation on actions by and against rail carriers

"(a) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part must begin a civil action to recover charges for transportation or service provided by the carrier within 3 years after the claim accrues.

"(b) A person must begin a civil action to recover overcharges under section 11704(b) of this title within 3 years after the claim accrues, whether or not a complaint is filed under section 11704(c)(1).

"(c) A person must file a complaint with the Board to recover damages under section 11704(b) of this title within 2 years after the claim accrues.

"(d) The limitation period under subsection (b) of this section is extended for 6 months from the time written notice is given to the claimant by the rail carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the rail carrier within that limitation period. The limitation periods under subsections (b) and (c) of this section are extended for 90 days from the time the rail carrier begins a civil action under subsection (a) of this section to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

"(e) A person must begin a civil action to enforce an order of the Board against a rail carrier for the payment of money within one year

after the date the order required the money to be paid.

"(f) This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the date of—

"(1) payment of the rate for the transportation or service involved;

"(2) subsequent refund for overpayment of that rate; or

"(3) deduction made under section 3726 of title 31, whichever is later.

"(g) A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the rail carrier.

"§11706. Liability of rail carriers under receipts and bills of lading

"(a) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part shall issue a receipt or bill of lading for property it receives for transportation under this part. That rail carrier and any other carrier that delivers the property and is providing transportation or service subject to the jurisdiction of the Board under this part are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this subsection is for the actual loss or injury to the property caused by—

"(1) the receiving rail carrier;

"(2) the delivering rail carrier; or

"(3) another rail carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading.

Failure to issue a receipt or bill of lading does not affect the liability of a rail carrier. A delivering rail carrier is deemed to be the rail carrier performing the line-haul transportation nearest the destination but does not include a rail carrier providing only a switching service at the destination.

"(b) The rail carrier issuing the receipt or bill of lading under subsection (a) of this section or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the rail carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

"(c)(1) A rail carrier may not limit or be exempt from liability imposed under subsection (a) of this section except as provided in this subsection. A limitation of liability or of the amount of recovery or representation or agreement in a receipt, bill of lading, contract, or rule in violation of this section is void.

"(2) A rail carrier of passengers may limit its liability under its passenger rate for loss or injury of baggage carried on trains carrying passengers.

"(3) A rail carrier providing transportation or service subject to the jurisdiction of the Board under this part may establish rates for transportation of property under which—

"(A) the liability of the rail carrier for such property is limited to a value established by written declaration of the shipper or by a written agreement between the shipper and the carrier; or

"(B) specified amounts are deducted, pursuant to a written agreement between the shipper and the carrier, from any claim against the carrier with respect to the transportation of such property.

"(d)(1) A civil action under this section may be brought in a district court of the United States or in a State court.

"(2)(A) A civil action under this section may only be brought—

"(i) against the originating rail carrier, in the judicial district in which the point of origin is located;

"(ii) against the delivering rail carrier, in the judicial district in which the principal place of business of the person bringing the action is located if the delivering carrier operates a railroad or a route through such judicial district, or in the judicial district in which the point of destination is located; and

"(iii) against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

"(B) In this section, 'judicial district' means (i) in the case of a United States district court, a judicial district of the United States, and (ii) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.

"(e) A rail carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice. For the purposes of this subsection—

"(1) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

"(2) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reasons for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

"§11707. Liability when property is delivered in violation of routing instructions

"(a)(1) When a rail carrier providing transportation subject to the jurisdiction of the Board under this part diverts or delivers property to another rail carrier in violation of routing instructions in the bill of lading, both of those rail carriers are jointly and severally liable to the rail carrier that was deprived of its right to participate in hauling that property for the total amount of the rate it would have received if it participated in hauling the property.

"(2) A rail carrier is not liable under paragraph (1) of this subsection when it diverts or delivers property in compliance with an order or regulation of the Board.

"(3) A rail carrier to whom property is transported is not liable under this subsection if it shows that it had no notice of the routing instructions before transporting the property. The burden of proving lack of notice is on that rail carrier.

"(b) The court shall award a reasonable attorney's fee to the plaintiff in a judgment against the defendant rail carrier under subsection (a) of this section. The court shall tax and collect that fee as a part of the costs of the action.

"CHAPTER 119—CIVIL AND CRIMINAL PENALTIES

"Sec.
"11901. General civil penalties.
"11902. Interference with railroad car supply.
"11903. Record keeping and reporting violations.
"11904. Unlawful disclosure of information.
"11905. Disobedience to subpoenas.
"11906. General criminal penalty when specific penalty not provided.
"11907. Punishment of corporation for violations committed by certain individuals.
"11908. Relation to other Federal criminal penalties.

"§11901. General civil penalties

"(a) Except as otherwise provided in this section, a rail carrier providing transportation subject to the jurisdiction of the Board under this part, an officer or agent of that rail carrier, or a receiver, trustee, lessee, or agent of one of them, knowingly violating this part or an order of the Board under this part is liable to the United States Government for a civil penalty of not more than $5,000 for each violation. Liability under this subsection is incurred for each distinct violation. A separate violation occurs for each day the violation continues.

"(b) A rail carrier providing transportation subject to the jurisdiction of the Board under this part, or a receiver or trustee of that rail carrier, violating a regulation or order of the Board under section 11124(a)(2) or (b) of this title is liable to the United States Government for a civil penalty of $500 for each violation and for $25 for each day the violation continues.

"(c) A person knowingly authorizing, consenting to, or permitting a violation of sections 10901 through 10906 of this title or of a requirement or a regulation under any of those sections, is liable to the United States Government for a civil penalty of not more than $5,000.

"(d) A rail carrier, receiver, or operating trustee violating an order or direction of the Board under section 11123 or 11124(a)(1) of this title is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation and for $50 for each day the violation continues.

"(e)(1) A person required under subchapter III of chapter 111 of this title to make, prepare, preserve, or submit to the Board a record concerning transportation subject to the jurisdiction of the Board under this part that does not make, prepare, preserve, or submit that record as required under that subchapter, is liable to the United States Government for a civil penalty of $500 for each violation.

"(2) A rail carrier providing transportation subject to the jurisdiction of the Board under this part, and a lessor, receiver, or trustee of that rail carrier, violating section 11144(b)(1) of this title, is liable to the United States Government for a civil penalty of $100 for each violation.

"(3) A rail carrier providing transportation subject to the jurisdiction of the Board under this part, a lessor, receiver, or trustee of that rail carrier, a person furnishing cars, and an officer, agent, or employee of one of them, required to make a report to the Board or answer a question that does not make the report or does not specifically, completely, and truthfully answer the question, is liable to the United States Government for a civil penalty of $100 for each violation.

"(4) A separate violation occurs for each day a violation under this subsection continues.

"(f) Trial in a civil action under subsections (a) through (e) of this section is in the judicial district in which the rail carrier has its principal operating office or in a district through which the railroad of the rail carrier runs.

"§11902. Interference with railroad car supply

"(a) A person that offers or gives anything of value to another person acting for or employed by a rail carrier providing transportation subject to the jurisdiction of the Board under this part intending to influence an action of that other person related to supply, distribution, or movement of cars, vehicles, or vessels used in the transportation of property, or because of the action of that other person, shall be fined not more than $1,000, imprisoned for not more than 2 years, or both.

"(b) A person acting for or employed by a rail carrier providing transportation subject to the jurisdiction of the Board under this part that solicits, accepts, or receives anything of value—

"(1) intending to be influenced by it in an action of that person related to supply, distribution, or movement of cars, vehicles, or vessels used in the transportation of property; or

"(2) because of the action of that person,

shall be fined not more than $1,000, imprisoned for not more than 2 years, or both.

"§11903. Record keeping and reporting violations

"A person required to make a report to the Board, or make, prepare, or preserve a record, under subchapter III of chapter 111 of this title about transportation subject to the jurisdiction of the Board under this part that knowingly and willfully—

"(1) makes a false entry in the report or record;

"(2) destroys, mutilates, changes, or by another means falsifies the record;

"(3) does not enter business related facts and transactions in the record;

"(4) makes, prepares, or preserves the record in violation of a regulation or order of the Board; or

"(5) files a false report or record with the Board,

shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

"§11904. Unlawful disclosure of information

"(a) A—

"(1) rail carrier providing transportation subject to the jurisdiction of the Board under this part, or an officer, agent, or employee of that rail carrier, or another person authorized to receive information from that rail carrier, that knowingly discloses to another person, except the shipper or consignee; or

"(2) a person who solicits or knowingly receives,

information described in subsection (b) without the consent of the shipper or consignee shall be fined not more than $1,000.

"(b) The information referred to in subsection (a) is information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that rail carrier for transportation provided under this part, or information about the contents of a contract authorized under section 10709 of this title, that may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor, the business transactions of the shipper or consignee.

"(c) This part does not prevent a rail carrier providing transportation subject to the jurisdiction of the Board under this part from giving information—

"(1) in response to legal process issued under authority of a court of the United States or a State;

"(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

"(3) to another rail carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

"(d) An employee of the Board delegated to make an inspection or examination under section 11144 of this title who knowingly discloses information acquired during that inspection or examination, except as directed by the Board, a court, or a judge of that court, shall be fined not more than $500, imprisoned for not more than 6 months, or both.

"(e) A person that knowingly discloses confidential data made available to such person under section 11163 of this title by a rail carrier providing transportation subject to the jurisdiction of the Board under this part shall be fined not more than $50,000.

"§11905. Disobedience to subpoenas

"A person not obeying a subpoena or requirement of the Board to appear and testify or produce records shall be fined at least $100 but not more than $5,000, imprisoned for not more than one year, or both.

"§11906. General criminal penalty when specific penalty not provided

"When another criminal penalty is not provided under this chapter, a rail carrier providing transportation subject to the jurisdiction of the Board under this part, and when that rail carrier is a corporation, a director or officer of the corporation, or a receiver, trustee, lessee, or person acting for or employed by the corporation that, alone or with another person, willfully violates this part or an order prescribed under this part, shall be fined not more than $5,000. The person may be imprisoned for not more than 2 years in addition to being fined under this section. A separate violation occurs each day a violation of this title continues.

"§11907. Punishment of corporation for violations committed by certain individuals

"An act or omission that would be a violation of this part if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a rail carrier providing transportation or service subject to the jurisdiction of the Board under this part that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that rail carrier are considered to be the actions and omissions of that rail carrier as well as that individual.

"§11908. Relation to other Federal criminal penalties

"Notwithstanding section 3571 of title 18, United States Code, the criminal penalties provided for in this chapter are the exclusive criminal penalties for violations of this part.".

(b) CONFORMING AMENDMENT.—The item relating to subtitle IV in the table of subtitles of title 49, United States Code, is amended by striking "**Commerce**" and inserting in lieu thereof "**Transportation**".

SEC. 103. MOTOR CARRIER, WATER CARRIER, AND FREIGHT FORWARDER PROVISIONS.

Subtitle IV of title 49, United States Code, is further amended by adding at the end the following:

"PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

"CHAPTER 131—GENERAL PROVISIONS

"Sec.
"13101. Transportation policy.
"13102. Definitions.
"13103. Remedies as cumulative.

"§13101. Transportation policy

"(a) IN GENERAL.—To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, including the United States Postal Service and national defense, it is the policy of the United States Government to oversee the modes of transportation and—

"(1) in overseeing those modes—

"(A) to recognize and preserve the inherent advantage of each mode of transportation;

"(B) to promote safe, adequate, economical, and efficient transportation;

"(C) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

"(D) to encourage the establishment and maintenance of reasonable rates for transportation, without unreasonable discrimination or unfair or destructive competitive practices;

"(E) to cooperate with each State and the officials of each State on transportation matters; and

"(F) to encourage fair wages and working conditions in the transportation industry;

"(2) in overseeing transportation by motor carrier, to promote competitive and efficient transportation services in order to—

"(A) encourage fair competition, and reasonable rates for transportation by motor carriers of property;

"(B) promote efficiency in the motor carrier transportation system and to require fair and expeditious decisions when required;

"(C) meet the needs of shippers, receivers, passengers, and consumers;

"(D) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public;

"(E) allow the most productive use of equipment and energy resources;

"(F) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions;

"(G) provide and maintain service to small communities and small shippers and intrastate bus services;

"(H) provide and maintain commuter bus operations;

"(I) improve and maintain a sound, safe, and competitive privately owned motor carrier system;

"(J) promote greater participation by minorities in the motor carrier system;

"(K) promote intermodal transportation;

"(3) in overseeing transportation by motor carrier of passengers—

"(A) to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this part;

"(B) to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this part; and

"(C) to ensure that Federal reform initiatives enacted by section 31138 and the Bus Regulatory Reform Act of 1982 are not nullified by State regulatory actions; and

"(4) in overseeing transportation by water carrier, to encourage and promote service and price competition in the noncontiguous domestic trade.

"(b) ADMINISTRATION TO CARRY OUT POLICY.—This part shall be administered and enforced to carry out the policy of this section and to promote the public interest.

"§13102. Definitions

"In this part, the following definitions shall apply:

"(1) BOARD.—The term 'Board' means the Surface Transportation Board.

"(2) BROKER.—The term 'broker' means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation.

"(3) CARRIER.—The term 'carrier' means a motor carrier, a water carrier, and a freight forwarder.

"(4) CONTRACT CARRIAGE.—The term 'contract carriage' means—

"(A) for transportation provided before the effective date of this section, service provided pursuant to a permit issued under section 10923, as in effect on the day before the effective date of this section; and

"(B) for transportation provided on or after such date, service provided under an agreement entered into under section 14101(b).

"(5) CONTROL.—The term 'control', when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by—

"(A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or

"(B) any other means.

"(6) FOREIGN MOTOR CARRIER.—The term 'foreign motor carrier' means a person (including a motor carrier of property but excluding a motor private carrier)—

"(A)(i) that is domiciled in a contiguous foreign country; or

"(ii) that is owned or controlled by persons of a contiguous foreign country; and

"(B) in the case of a person that is not a motor carrier of property, that provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a motor carrier of property (other than a motor private carrier or a motor carrier of property described in subparagraph (A)).

"(7) FOREIGN MOTOR PRIVATE CARRIER.—The term 'foreign motor private carrier' means a person (including a motor private carrier but excluding a motor carrier of property)—

"(A)(i) that is domiciled in a contiguous foreign country; or

"(ii) that is owned or controlled by persons of a contiguous foreign country; and

"(B) in the case of a person that is not a motor private carrier, that provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a person (other than a motor carrier of property or a motor private carrier described in subparagraph (A)).

"(8) FREIGHT FORWARDER.—The term 'freight forwarder' means a person holding itself out to the general public (other than as a pipeline, rail, motor, or water carrier) to provide transportation of property for compensation and in the ordinary course of its business—

"(A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;

"(B) assumes responsibility for the transportation from the place of receipt to the place of destination; and

"(C) uses for any part of the transportation a carrier subject to jurisdiction under this subtitle.

The term does not include a person using transportation of an air carrier subject to part A of subtitle VII.

"(9) HIGHWAY.—The term 'highway' means a road, highway, street, and way in a State.

"(10) HOUSEHOLD GOODS.—The term 'household goods', as used in connection with transportation, means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property if the transportation of such effects or property is—

"(A) arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his or her dwelling, or

"(B) arranged and paid for by another party.

"(11) HOUSEHOLD GOODS FREIGHT FORWARDER.—The term 'household goods freight forwarder' means a freight forwarder of one or more of the following items: household goods, unaccompanied baggage, or used automobiles.

"(12) MOTOR CARRIER.—The term 'motor carrier' means a person providing motor vehicle transportation for compensation.

"(13) MOTOR PRIVATE CARRIER.—The term 'motor private carrier' means a person, other than a motor carrier, transporting property by motor vehicle when—

"(A) the transportation is as provided in section 13501 of this title;

"(B) the person is the owner, lessee, or bailee of the property being transported; and

"(C) the property is being transported for sale, lease, rent, or bailment or to further a commercial enterprise.

"(14) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in transportation, or a combination determined by the Secretary, but does not include a vehicle, locomotive, or car operated only on a rail, or a trolley bus operated by electric power from a fixed overhead wire, and providing local passenger transportation similar to street-railway service.

"(15) NONCONTIGUOUS DOMESTIC TRADE.—The term 'noncontiguous domestic trade' means transportation subject to jurisdiction under chapter 135 involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States.

"(16) PERSON.—The term 'person', in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person.

"(17) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(18) STATE.—The term 'State' means the 50 States of the United States and the District of Columbia.

"(19) TRANSPORTATION.—The term 'transportation' includes—

"(A) a motor vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, regardless of ownership or an agreement concerning use; and

"(B) services related to that movement, including arranging for, receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, packing, unpacking, and interchange of passengers and property.

"(20) UNITED STATES.—The term 'United States' means the States of the United States and the District of Columbia.

"(21) VESSEL.—The term 'vessel' means a watercraft or other artificial contrivance that is used, is capable of being used, or is intended to be used, as a means of transportation by water.

"(22) WATER CARRIER.—The term 'water carrier' means a person providing water transportation for compensation.

"§13103. Remedies as cumulative

"Except as otherwise provided in this part, the remedies provided under this part are in addition to remedies existing under another law or common law.

"CHAPTER 133—ADMINISTRATIVE PROVISIONS

"Sec.

"13301. Powers.

"13302. Intervention.

"13303. Service of notice in proceedings.

"13304. Service of process in court proceedings.

"§13301. Powers

"(a) GENERAL POWERS OF SECRETARY.—Except as otherwise specified, the Secretary shall carry out this part. Enumeration of a power of the Secretary in this part does not exclude another power the Secretary may have in carrying out this part. The Secretary may prescribe regulations in carrying out this part.

"(b) OBTAINING INFORMATION.—The Secretary may obtain from carriers providing, and brokers for, transportation and service subject to this part, and from persons controlling, controlled by, or under common control with those carriers or brokers to the extent that the business of that person is related to the management of the business of that carrier or broker, information the Secretary decides is necessary to carry out this part.

"(c) SUBPOENA POWER.—

"(1) BY SECRETARY.—The Secretary may subpoena witnesses and records related to a proceeding under this part from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpoena, the Secretary, or a party to a proceeding under this part, may petition a court of the United States to enforce that subpoena.

"(2) ENFORCEMENT.—The district courts of the United States have jurisdiction to enforce a subpoena issued under this section. Trial is in the district in which the proceeding is conducted. The court may punish a refusal to obey a subpoena as a contempt of court.

"(d) TESTIMONY OF WITNESSES.—

"(1) PROCEDURE FOR TAKING TESTIMONY.—In a proceeding under this part, the Secretary may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending under this part may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and answer.

"(2) SUBPOENA.—If a witness fails to be deposed or to produce records under paragraph (1) of this subsection, the Secretary may subpoena the witness to take a deposition, produce the records, or both.

"(3) DEPOSITIONS.—A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

"(4) NOTICE OF DEPOSITION.—Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

"(5) TRANSCRIPT.—The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

"(6) FOREIGN COUNTRY.—The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Secretary or agreed on by the parties by written stipulation filed with the Secretary. A deposition shall be filed with the Secretary promptly.

"(e) WITNESS FEES.—Each witness summoned before the Secretary or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

"(f) POWERS OF BOARD.—For those provisions of this part that are specified to be carried out by the Board, the Board shall have the same powers as the Secretary has under this section.

"§13302. Intervention

"Under regulations of the Secretary, reasonable notice of, and an opportunity to intervene and participate in, a proceeding under this part related to transportation subject to jurisdiction under subchapter I of chapter 135 shall be given to interested persons.

"§13303. Service of notice in proceedings

"(a) AGENTS FOR SERVICE OF PROCESS.—A carrier, a broker, or a freight forwarder providing transportation or service subject to jurisdiction under chapter 135 shall designate, in writing, an agent by name and post office address

on whom service of notices in a proceeding before, and of actions of, the Secretary may be made.

"(b) FILING WITH STATE.—A motor carrier providing transportation under this part shall also file the designation with the appropriate authority of each State in which it operates. The designation may be changed at any time in the same manner as originally made.

"(c) NOTICE.—A notice to a motor carrier, freight forwarder, or broker shall be served personally or by mail on the motor carrier, freight forwarder, or broker or on its designated agent. Service by mail on the designated agent shall be made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when the notice is served. If a motor carrier, freight forwarder, or broker does not have a designated agent, service may be made by posting a copy of the notice at the headquarters of the Department of Transportation.

"§13304. Service of process in court proceedings

"(a) DESIGNATION OF AGENT.—A motor carrier or broker providing transportation subject to jurisdiction under chapter 135, including a motor carrier or broker operating within the United States while providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, shall designate an agent in each State in which it operates by name and post office address on whom process issued by a court with subject matter jurisdiction may be served in an action brought against that carrier or broker. The designation shall be in writing and filed with the Department of Transportation and each State in which the carrier operates may require that an additional designation be filed with it. If a designation under this subsection is not made, service may be made on any agent of the carrier or broker within that State.

"(b) CHANGE.—A designation under this section may be changed at any time in the same manner as originally made.

"CHAPTER 135—JURISDICTION

"SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

"Sec.
"13501. General jurisdiction.
"13502. Exempt transportation between Alaska and other States.
"13503. Exempt motor vehicle transportation in terminal areas.
"13504. Exempt motor carrier transportation entirely in one State.
"13505. Transportation furthering a primary business.
"13506. Miscellaneous motor carrier transportation exemptions.
"13507. Mixed loads of regulated and unregulated property.
"13508. Limited authority over cooperative associations.

"SUBCHAPTER II—WATER CARRIER TRANSPORTATION

"13521. General jurisdiction.

"SUBCHAPTER III—FREIGHT FORWARDER SERVICE

"13531. General jurisdiction.

"SUBCHAPTER IV—AUTHORITY TO EXEMPT

"13541. Authority to exempt transportation or services.

"SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

"§13501. General jurisdiction

"The Secretary and the Board have jurisdiction, as specified in this part, over transportation by motor carrier and the procurement of that transportation, to the extent that passengers, property, or both, are transported by motor carrier—

"(1) between a place in—

"(A) a State and a place in another State;

"(B) a State and another place in the same State through another State;

"(C) the United States and a place in a territory or possession of the United States to the extent the transportation is in the United States;

"(D) the United States and another place in the United States through a foreign country to the extent the transportation is in the United States; or

"(E) the United States and a place in a foreign country to the extent the transportation is in the United States; and

"(2) in a reservation under the exclusive jurisdiction of the United States or on a public highway.

"§13502. Exempt transportation between Alaska and other States

"To the extent that transportation by a motor carrier between a place in Alaska and a place in another State under section 13501 is provided in a foreign country—

"(1) neither the Secretary nor the Board has jurisdiction to impose a requirement over conduct of the motor carrier in the foreign country conflicting with a requirement of that country; but

"(2) the motor carrier, as a condition of providing transportation in the United States, shall comply, with respect to all transportation provided between Alaska and the other State, with the requirements of this part related to rates and practices applicable to the transportation.

"§13503. Exempt motor vehicle transportation in terminal areas

"(a) TRANSPORTATION BY CARRIERS.—

"(1) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

"(A) is a transfer, collection, or delivery;

"(B) is provided by—

"(i) a rail carrier subject to jurisdiction under chapter 105;

"(ii) a water carrier subject to jurisdiction under subchapter II of this chapter; or

"(iii) a freight forwarder subject to jurisdiction under subchapter III of this chapter; and

"(C) is incidental to transportation or service provided by the carrier or freight forwarder that is subject to jurisdiction under chapter 105 of this title or under subchapter II or III of this chapter.

"(2) APPLICABILITY OF OTHER PROVISIONS.—Transportation exempt from jurisdiction under paragraph (1) of this subsection is subject to jurisdiction under chapter 105 when provided by such a rail carrier, under subchapter II of this chapter when provided by such a water carrier, and under subchapter III of this chapter when provided by such a freight forwarder.

"(b) TRANSPORTATION BY AGENT.—

"(1) IN GENERAL.—Except to the extent provided by paragraph (2) of this subsection, neither the Secretary nor the Board has jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

"(A) is a transfer, collection, or delivery; and

"(B) is provided by a person as an agent or under other arrangement for—

"(i) a rail carrier subject to jurisdiction under chapter 105 of this title;

"(ii) a motor carrier subject to jurisdiction under this subchapter;

"(iii) a water carrier subject to jurisdiction under subchapter II of this chapter; or

"(iv) a freight forwarder subject to jurisdiction under subchapter III of this chapter.

"(2) TREATMENT OF TRANSPORTATION BY PRINCIPAL.—Transportation exempt from jurisdiction under paragraph (1) of this subsection is considered transportation provided by the carrier or service provided by the freight forwarder for whom the transportation was provided and is subject to jurisdiction under chapter 105 of this title when provided for such a rail carrier, under this subchapter when provided for such a motor carrier, under subchapter II of this chapter when provided for such a water carrier, and under subchapter III of this chapter when provided for such a freight forwarder.

"§13504. Exempt motor carrier transportation entirely in one State

"Neither the Secretary nor the Board has jurisdiction under this subchapter over transportation, except transportation of household goods, by a motor carrier operating solely within the State of Hawaii. The State of Hawaii may regulate transportation exempt from jurisdiction under this section and, to the extent provided by a motor carrier operating solely within the State of Hawaii, transportation exempt under section 13503 of this title.

"§13505. Transportation furthering a primary business

"(a) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this part over the transportation of property by motor vehicle when—

"(1) the property is transported by a person engaged in a business other than transportation; and

"(2) the transportation is within the scope of, and furthers a primary business (other than transportation) of the person.

"(b) CORPORATE FAMILIES.—

"(1) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this part over transportation of property by motor vehicle for compensation provided by a person who is a member of a corporate family for other members of such corporate family.

"(2) DEFINITION.—In this section, 'corporate family' means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100 percent interest.

"§13506. Miscellaneous motor carrier transportation exemptions

"(a) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this part over—

"(1) a motor vehicle transporting only school children and teachers to or from school;

"(2) a motor vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;

"(3) a motor vehicle owned or operated by or for a hotel and only transporting hotel patrons between the hotel and the local station of a carrier;

"(4) a motor vehicle controlled and operated by a farmer and transporting—

"(A) the farmer's agricultural or horticultural commodities and products; or

"(B) supplies to the farm of the farmer;

"(5) a motor vehicle controlled and operated by a cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) or by a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association, except that if the cooperative association or federation provides transportation for compensation between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State—

"(A) for a nonmember that is not a farmer, cooperative association, federation, or the United

States Government, the transportation (except for transportation otherwise exempt under this subchapter)—

“(i) shall be limited to transportation incidental to the primary transportation operation of the cooperative association or federation and necessary for its effective performance; and

“(ii) may not exceed in each fiscal year 25 percent of the total transportation of the cooperative association or federation between those places, measured by tonnage; and

“(B) the transportation for all nonmembers may not exceed in each fiscal year, measured by tonnage, the total transportation between those places for the cooperative association or federation and its members during that fiscal year;

“(6) transportation by motor vehicle of—

“(A) ordinary livestock;

“(B) agricultural or horticultural commodities (other than manufactured products thereof);

“(C) commodities listed as exempt in the Commodity List incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, other than frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, or wool imported from a foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted);

“(D) cooked or uncooked fish, whether breaded or not, or frozen or fresh shellfish, or byproducts thereof not intended for human consumption, other than fish or shellfish that have been treated for preserving, such as canned, smoked, pickled, spiced, corned, or kippered products; and

“(E) livestock and poultry feed and agricultural seeds and plants, if such products (excluding products otherwise exempt under this paragraph) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production;

“(7) a motor vehicle used only to distribute newspapers;

“(8)(A) transportation of passengers by motor vehicle incidental to transportation by aircraft;

“(B) transportation of property (including baggage) by motor vehicle as part of a continuous movement which, prior or subsequent to such part of the continuous movement, has been or will be transported by an air carrier or (to the extent so agreed by the United States and approved by the Secretary) by a foreign air carrier; or

“(C) transportation of property by motor vehicle in lieu of transportation by aircraft because of adverse weather conditions or mechanical failure of the aircraft or other causes due to circumstances beyond the control of the carrier or shipper;

“(9) the operation of a motor vehicle in a national park or national monument;

“(10) a motor vehicle carrying not more than 15 individuals in a single, daily roundtrip to commute to and from work;

“(11) transportation of used pallets and used empty shipping containers (including intermodal cargo containers), and other used shipping devices (other than containers or devices used in the transportation of motor vehicles or parts of motor vehicles);

“(12) transportation of natural, crushed, vesicular rock to be used for decorative purposes;

“(13) transportation of wood chips;

“(14) brokers for motor carriers of passengers, except as provided in section 13904(d)); or

“(15) transportation of broken, crushed, or powdered glass.

“(b) EXEMPT UNLESS OTHERWISE NECESSARY.—Except to the extent the Secretary or Board, as applicable, finds it necessary to exercise jurisdiction to carry out the transportation policy of section 13101, neither the Secretary nor the Board has jurisdiction under this part over—

“(1) transportation provided entirely in a municipality, in contiguous municipalities, or in a zone that is adjacent to, and commercially a part of, the municipality or municipalities, except—

“(A) when the transportation is under common control, management, or arrangement for a continuous carriage or shipment to or from a place outside the municipality, municipalities, or zone; or

“(B) that in transporting passengers over a route between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State, the transportation is exempt from jurisdiction under this part only if the motor carrier operating the motor vehicle also is lawfully providing intrastate transportation of passengers over the entire route under the laws of each State through which the route runs;

“(2) transportation by motor vehicle provided casually, occasionally, or reciprocally but not as a regular occupation or business, except when a broker or other person sells or offers for sale passenger transportation provided by a person authorized to transport passengers by motor vehicle under an application pending, or registration issued, under this part; or

“(3) the emergency towing of an accidentally wrecked or disabled motor vehicle.

“§13507. Mixed loads of regulated and unregulated property

“A motor carrier of property providing transportation exempt from jurisdiction under paragraph (6), (8), (11), (12), or (13) of section 13506(a) may transport property under such paragraph in the same vehicle and at the same time as property which the carrier is authorized to transport under a registration issued under section 13902(a). Such transportation shall not affect the unregulated status of such exempt property or the regulated status of the property which the carrier is authorized to transport under such registration.

“§13508. Limited authority over cooperative associations

“(a) IN GENERAL.—Notwithstanding section 13506(a)(5), any cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))) or a federation of cooperative associations shall prepare and maintain such records relating to transportation provided by such association or federation, in such form as the Secretary or the Board may require by regulation to carry out the provisions of such section 13506(a)(5). The Secretary or the Board, or an employee designated by the Secretary or the Board, may on demand and display of proper credentials—

“(1) inspect and examine the lands, buildings, and equipment of such association or federation; and

“(2) inspect and copy any record of such association or federation.

“(b) REPORTS.—Notwithstanding section 13506(a)(5), the Secretary or the Board may require a cooperative association or federation of cooperative associations described in subsection (a) of this section to file reports with the Secretary or the Board containing answers to questions about transportation provided by such association or federation.

“(c) ENFORCEMENT.—The Secretary or the Board may bring a civil action to enforce subsections (a) and (b) of this section or a regulation or order of the Secretary or the Board issued under this section, when violated by a cooperative association or federation of cooperative associations described in subsection (a).

“(d) REPORTING PENALTIES.—

“(1) IN GENERAL.—A person required to make a report to the Secretary or the Board, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that—

“(A) does not make the report;

“(B) does not specifically, completely, and truthfully answer the question; or

“(C) does not maintain the record in the form and manner prescribed under this section;

is liable to the United States for a civil penalty of not more than $500 for each violation and for not more than $250 for each additional day the violation continues.

“(2) VENUE.—Trial in a civil action under paragraph (1) shall be in the judicial district in which—

“(A) the cooperative association or federation of cooperative associations has its principal office;

“(B) the violation occurred; or

“(C) the offender is found.

Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

“(e) EVASION PENALTIES.—A person, or an officer, employee, or agent of that person, that by any means knowingly and willfully tries to evade compliance with the provisions of this section shall be fined at least $200 but not more than $500 for the first violation and at least $250 but not more than $2,000 for a subsequent violation.

“(f) RECORDKEEPING PENALTIES.—A person required to make a report, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that—

“(1) willfully does not make that report;

“(2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date that the question is required to be answered;

“(3) willfully does not maintain that record in the form and manner prescribed;

“(4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record;

“(5) knowingly and willfully files a false report or record under this section;

“(6) knowingly and willfully makes a false or incomplete entry in that record about a business-related fact or transaction; or

“(7) knowingly and willfully maintains a record in violation of a regulation or order issued under this section;

shall be fined not more than $5,000.

“SUBCHAPTER II—WATER CARRIER TRANSPORTATION

“§13521. General jurisdiction

“(a) GENERAL RULES.—The Secretary and the Board have jurisdiction over transportation insofar as water carriers are concerned—

“(1) by water carrier between a place in a State and a place in another State, even if part of the transportation is outside the United States;

“(2) by water carrier and motor carrier from a place in a State to a place in another State; except that if part of the transportation is outside the United States, the Secretary only has jurisdiction over that part of the transportation provided—

“(A) by motor carrier that is in the United States; and

“(B) by water carrier that is from a place in the United States to another place in the United States; and

“(3) by water carrier or by water carrier and motor carrier between a place in the United States and a place outside the United States, to the extent that—

“(A) when the transportation is by motor carrier, the transportation is provided in the United States;

“(B) when the transportation is by water carrier to a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States before transshipment from a place in the United States to a place outside the United States; and

"(C) when the transportation is by water carrier from a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States after transshipment to a place in the United States from a place outside the United States.

"(b) DEFINITIONS.—In this section, the terms 'State' and 'United States' include the territories and possessions of the United States.

"SUBCHAPTER III—FREIGHT FORWARDER SERVICE

"§13531. General jurisdiction

"(a) IN GENERAL.—The Secretary and the Board have jurisdiction, as specified in this part, over service that a freight forwarder undertakes to provide, or is authorized or required under this part to provide, to the extent transportation is provided in the United States and is between—

"(1) a place in a State and a place in another State, even if part of the transportation is outside the United States;

"(2) a place in a State and another place in the same State through a place outside the State; or

"(3) a place in the United States and a place outside the United States.

"(b) EXEMPTION OF CERTAIN AIR CARRIER SERVICE.—Neither the Secretary nor the Board has jurisdiction under subsection (a) of this section over service undertaken by a freight forwarder using transportation of an air carrier subject to part A of subtitle VII of this title.

"SUBCHAPTER IV—AUTHORITY TO EXEMPT

"§13541. Authority to exempt transportation or services

"(a) IN GENERAL.—In any matter subject to jurisdiction under this part, the Secretary or the Board, as applicable, shall exempt a person, class of persons, or a transaction or service from the application, in whole or in part, of a provision of this part, or use this exemption authority to modify the application of a provision of this part as it applies to such person, class, transaction, or service, when the Secretary or Board finds that the application of that provision—

"(1) is not necessary to carry out the transportation policy of section 13101;

"(2) is not needed to protect shippers from the abuse of market power or that the transaction or service is of limited scope; and

"(3) is in the public interest.

"(b) INITIATION OF PROCEEDING.—The Secretary or Board, as applicable, may, where appropriate, begin a proceeding under this section on the Secretary's or Board's own initiative or on application by an interested party.

"(c) PERIOD OF EXEMPTION.—The Secretary or Board, as applicable, may specify the period of time during which an exemption granted under this section is effective.

"(d) REVOCATION.—The Secretary or Board, as applicable, may revoke an exemption, to the extent specified, on finding that application of a provision of this part to the person, class, or transportation is necessary to carry out the transportation policy of section 13101.

"(e) LIMITATIONS.—

"(1) IN GENERAL.—The exemption authority under this section may not be used to relieve a person from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage, insurance, safety fitness, or activities approved under section 13703 or 14302 or not terminated under section 13907(d)(2).

"(2) WATER CARRIERS.—The Secretary or Board, as applicable, may not exempt a water carrier from the application of, or compliance with, section 13701 or 13702 for transportation in the non-contiguous domestic trade.

"(f) CONTINUATION OF CERTAIN EXISTING EXEMPTIONS FOR WATER CARRIERS.—The Secretary or Board, as applicable, shall not regulate or exercise jurisdiction under this part over the transportation by water carrier in the non-contiguous domestic trade of any cargo or type of cargo or service which was not subject to regulation by, or under the jurisdiction of, either the Federal Maritime Commission or Interstate Commerce Commission under Federal law in effect on November 1, 1995.

"CHAPTER 137—RATES AND THROUGH ROUTES

"Sec.

"13701. Requirements for reasonable rates, classifications, through routes, rules, and practices for certain transportation.
"13702. Tariff requirement for certain transportation.
"13703. Certain collective activities; exemption from antitrust laws.
"13704. Household goods rates—estimates; guarantees of service.
"13705. Requirements for through routes among motor carriers of passengers.
"13706. Liability for payment of rates.
"13707. Payment of rates.
"13708. Billing and collecting practices.
"13709. Procedures for resolving claims involving unfiled, negotiated transportation rates.
"13710. Additional billing and collecting practices.
"13711. Alternative procedure for resolving undercharge disputes.
"13712. Government traffic.
"13713. Food and grocery transportation.

"§13701. Requirements for reasonable rates, classifications, through routes, rules, and practices for certain transportation

"(a) REASONABLENESS.—

"(1) CERTAIN HOUSEHOLD GOODS TRANSPORTATION; JOINT RATES INVOLVING WATER TRANSPORTATION.—A rate, classification, rule, or practice related to transportation or service provided by a carrier subject to jurisdiction under chapter 135 for transportation or service involving—

"(A) a movement of household goods,

"(B) a rate for a movement by or with a water carrier in noncontiguous domestic trade, or

"(C) rates, rules, and classifications made collectively by motor carriers under agreements approved pursuant to section 13703,

must be reasonable.

"(2) THROUGH ROUTES AND DIVISIONS OF JOINT RATES.—Through routes and divisions of joint rates for such transportation or service must be reasonable.

"(b) PRESCRIPTION BY BOARD FOR VIOLATIONS.—When the Board finds it necessary to stop or prevent a violation of subsection (a), the Board shall prescribe the rate, classification, rule, practice, through route, or division of joint rates to be applied for such transportation or service.

"(c) FILING OF COMPLAINT.—A complaint that a rate, classification, rule, or practice in noncontiguous domestic trade violates subsection (a) may be filed with the Board.

"(d) ZONE OF REASONABLENESS.—

"(1) IN GENERAL.—For purposes of this section, a rate or division of a motor carrier for service in noncontiguous domestic trade or water carrier for port-to-port service in that trade is reasonable if the aggregate of increases and decreases in any such rate or division is not more than 7.5 percent above, or more than 10 percent below, the rate or division in effect 1 year before the effective date of the proposed rate or division.

"(2) ADJUSTMENTS TO THE ZONE.—The percentage specified in paragraph (1) shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the most recent 1-year period before the date the rate or division in question first took effect.

"(3) DETERMINATIONS AFTER COMPLAINT.—The Board shall determine whether any rate or division of a carrier or service in noncontiguous domestic trade which is not within the range described in paragraph (1) is reasonable if a complaint is filed under subsection (c) or section 13702(b)(6).

"(4) REPARATIONS.—Upon a finding of violation of subsection (a), the Board shall award reparations to the complaining shipper or shippers in an amount equal to all sums assessed and collected that exceed the determined reasonable rate, division, rate structure, or tariff. Upon complaint from any governmental agency or authority and upon a finding or violation of subsection (a), the Board shall make such orders as are just and shall require the carrier to return, to the extent practicable, to shippers all amounts plus interest, which the Board finds to have been assessed and collected in violation of subsection (a).

"§13702. Tariff requirement for certain transportation

"(a) IN GENERAL.—Except when providing transportation for charitable purposes without charge, a carrier subject to jurisdiction under chapter 135 may provide transportation or service that is—

"(1) in noncontiguous domestic trade, except with regard to bulk cargo, forest products, recycled metal scrap, waste paper, and paper waste; or

"(2) for movement of household goods;

only if the rate for such transportation or service is contained in a tariff that is in effect under this section. The carrier may not charge or receive a different compensation for the transportation or service than the rate specified in the tariff, whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation or service, or another device. A rate contained in a tariff shall be stated in money of the United States.

"(b) TARIFF REQUIREMENTS FOR NONCONTIGUOUS DOMESTIC TRADE.—

"(1) FILING.—A carrier providing transportation or service described in subsection (a)(1) shall publish and file with the Board tariffs containing the rates established for such transportation or service. The carriers shall keep such tariffs available for public inspection. The Board shall prescribe the form and manner of publishing, filing, and keeping tariffs available for public inspection under this subsection.

"(2) CONTENTS.—The Board may prescribe any specific information and charges to be identified in a tariff, but at a minimum tariffs must identify plainly—

"(A) the carriers that are parties to it;

"(B) the places between which property will be transported;

"(C) terminal charges if a carrier provides transportation or service subject to jurisdiction under subchapter III of chapter 135;

"(D) privileges given and facilities allowed; and

"(E) any rules that change, affect, or determine any part of the published rate.

"(3) INLAND DIVISIONS.—A carrier providing transportation or service described in subsection (a)(1) under a joint rate for a through movement *shall not be required to state separately or otherwise reveal in tariff filings the inland divisions of that through rate.*

"(4) TIME-VOLUME RATES.—Rates in tariffs filed under this subsection may vary with the volume of cargo offered over a specified period of time.

"(5) CHANGES.—The Board may permit carriers to change rates, classifications, rules, and practices without filing complete tariffs under this subsection that cover matter that is not being changed when the Board finds that action to be consistent with the public interest. Those carriers may either—

"(A) publish new tariffs that incorporate changes, or

"(B) plainly indicate the proposed changes in the tariffs then in effect and make the tariffs as changed available for public inspection.

"(6) COMPLAINTS.—A complaint that a rate or related rule or practice maintained in a tariff under this subsection violates section 13701(a) may be submitted to the Board for resolution.

"(c) TARIFF REQUIREMENTS FOR HOUSEHOLD GOODS CARRIERS.—

"(1) IN GENERAL.—A carrier providing transportation described in subsection (a)(2) shall maintain rates and related rules and practices in a published tariff. The tariff must be available for inspection by the Board and be made available for inspection by shippers upon reasonable request.

"(2) NOTICE OF AVAILABILITY.—A carrier that maintains a tariff under this subsection may not enforce the provisions of the tariff unless the carrier has given notice that the tariff is available for inspection in its bill of lading or by other actual notice to individuals whose shipments are subject to the tariff.

"(3) REQUIREMENTS.—A carrier that maintains a tariff under this subsection is bound by the tariff except as otherwise provided in this part. A tariff that does not comply with this subsection may not be enforced against any individual shipper.

"(4) INCORPORATION BY REFERENCE.—A carrier may incorporate by reference the rates, terms, and other conditions of a tariff in agreements covering the transportation of household goods.

"(5) COMPLAINTS.—A complaint that a rate or related rule or practice maintained in a tariff under this subsection violates section 13701(a) may be submitted to the Board for resolution.

"(d) INVALIDATION.—The Board may invalidate a tariff prepared by a carrier or carriers under this section if that tariff violates this section or a regulation of the Board carrying out this section.

"§13703. Certain collective activities; exemption from antitrust laws

"(a) AGREEMENTS.—

"(1) AUTHORITY TO ENTER.—A motor carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into an agreement with one or more such carriers to establish—

"(A) through routes and joint rates;

"(B) rates for the transportation of household goods;

"(C) classifications;

"(D) mileage guides;

"(E) rules;

"(F) divisions;

"(G) rate adjustments of general application based on industry average carrier costs (so long as there is no discussion of individual markets or particular single-line rates); or

"(H) procedures for joint consideration, initiation, or establishment of matters described in subparagraphs (A) through (G).

"(2) SUBMISSION OF AGREEMENT TO BOARD; APPROVAL.—An agreement entered into under subsection (a) may be submitted by any carrier or carriers that are parties to such agreement to the Board for approval and may be approved by the Board only if it finds that such agreement is in the public interest.

"(3) CONDITIONS.—The Board may require compliance with reasonable conditions consistent with this part to assure that the agreement furthers the transportation policy set forth in section 13101.

"(4) INDEPENDENTLY ESTABLISHED RATES.—Any carrier which is a party to an agreement under paragraph (1) is not, and may not be, precluded from independently establishing its own rates, classification, and mileages or from adopting and using a noncollectively made classification or mileage guide.

"(5) INVESTIGATIONS.—

"(A) REASONABLENESS.—The Board may suspend and investigate the reasonableness of any rate, rule, classification, or rate adjustment of general application made pursuant to an agreement under this section.

"(B) ACTIONS NOT IN THE PUBLIC INTEREST.—The Board may investigate any action taken pursuant to an agreement approved under this section. If the Board finds that the action is not in the public interest, the Board may take such measures as may be necessary to protect the public interest with regard to the action, including issuing an order directing the parties to cease and desist or modify the action.

"(6) EFFECT OF APPROVAL.—If the Board approves the agreement or renews approval of the agreement, it may be made and carried out under its terms and under the conditions required by the Board, and the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to parties and other persons with respect to making or carrying out the agreement.

"(b) RECORDS.—The Board may require an organization established or continued under an agreement approved under this section to maintain records and submit reports. The Board, or its delegate, may inspect a record maintained under this section, or monitor any organization's compliance with this section.

"(c) REVIEW.—The Board may review an agreement approved under this section, on its own initiative or on request, and shall change the conditions of approval or terminate it when necessary to protect the public interest. Action of the Board under this section—

"(1) approving an agreement,

"(2) denying, ending, or changing approval,

"(3) prescribing the conditions on which approval is granted, or

"(4) changing those conditions,

has effect only as related to application of the antitrust laws referred to in subsection (a).

"(d) EXPIRATION OF APPROVALS; RENEWALS.—Subject to subsection (c), approval of an agreement under subsection (a) shall expire 3 years after the date of approval unless renewed under this subsection. The approval may be renewed upon request of the parties to the agreement if such parties resubmit the agreement to the Board, the agreement is unchanged, and the Board approves such renewal. The Board shall approve the renewal unless it finds that the renewal is not in the public interest. Parties to the agreement may continue to undertake activities pursuant to the previously approved agreement while the renewal request is pending.

"(e) EXISTING AGREEMENTS.—Agreements approved under former section 10706(b) and in effect on the day before the effective date of this section shall be treated for purposes of this section as approved by the Board under this section beginning on such effective date.

"(f) LIMITATIONS ON STATUTORY CONSTRUCTION.—

"(1) UNDERCHARGE CLAIMS.—Nothing in this section shall serve as a basis for any undercharge claim.

"(2) OBLIGATION OF SHIPPER.—Nothing in this title, the ICC Termination Act of 1995, or any amendments or repeals made by such Act shall be construed as creating any obligation for a shipper based solely on a classification that was on file with the Interstate Commerce Commission or elsewhere on the day before the effective date of this section.

"(g) INDUSTRY STANDARD GUIDES.—

"(1) IN GENERAL.—

"(A) PUBLIC AVAILABILITY.—Routes, rates, classifications, mileage guides, and rules established under agreements approved under this section shall be published and made available for public inspection upon request.

"(B) PARTICIPATION OF CARRIERS.—

"(i) IN GENERAL.—A motor carrier of property whose routes, rates, classifications, mileage guides, rules, or packaging are determined or governed by publications established under agreements approved under this section must participate in the determining or governing publication for such provisions to apply.

"(ii) POWER OF ATTORNEY.—The motor carrier of property shall issue a power of attorney to the publishing agent and, upon its acceptance, the agent shall issue a written certification to the motor carrier affirming its participation in the governing publication, and the certification shall be made available for public inspection.

"(2) MILEAGE LIMITATION.—No carrier subject to jurisdiction under subchapter I or III of chapter 135 may enforce collection of its mileage rates unless such carrier—

"(A) is a participant in a publication of mileages formulated under an agreement approved under this section; or

"(B) uses a publication of mileage (other than a publication described in subparagraph (A)) that can be examined by any interested person upon reasonable request.

"(h) SINGLE LINE RATE DEFINED.—In this section, the term 'single line rate' means a rate, charge, or allowance proposed by a single motor carrier that is applicable only over its line and for which the transportation can be provided by that carrier.

"§13704. Household goods rates—estimates; guarantees of service

"(a) IN GENERAL.—

"(1) AUTHORITY.—Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 may establish a rate for the transportation of household goods which is based on the carrier's written, binding estimate of charges for providing such transportation.

"(2) NONPREFERENTIAL; NONPREDATORY.—Any rate established under this subsection must be available on a nonpreferential basis to shippers and must not result in charges to shippers which are predatory.

"(b) RATES FOR GUARANTEED SERVICE.—

"(1) AUTHORITY.—Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 may establish rates for the transportation of household goods which guarantee that the carrier will pick up and deliver such household goods at the times specified in the contract for such services and provide a penalty or per diem payment in the event the carrier fails to pick up or deliver such household goods at the specified time. The charges, if any, for such guarantee and penalty provision may vary to reflect one or more options available to meet a particular shipper's needs.

"(2) AUTHORITY OF SECRETARY TO REQUIRE NONGUARANTEED SERVICE RATES.—Before a carrier may establish a rate for any service under paragraph (1) of this subsection, the Secretary may require such carrier to have in effect and

keep in effect, during any period such rate is in effect under paragraph (1), a rate for such service which does not guarantee the pick up and delivery of household goods at the times specified in the contract for such services and which does not provide a penalty or per diem payment in the event the carrier fails to pick up or deliver household goods at the specified time.

"§13705. Requirements for through routes among motor carriers of passengers

"(a) ESTABLISHMENT; REASONABLENESS.—A motor carrier providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135 shall establish through routes with other carriers of the same type and shall establish individual and joint rates applicable to them. Such through route must be reasonable.

"(b) PRESCRIBED BY BOARD.—When the Board finds it necessary to enforce the requirements of this section, the Board may prescribe through routes and the conditions under which those routes must be operated for motor carriers providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

"§13706. Liability for payment of rates

"(a) LIABILITY OF CONSIGNEE.—Liability for payment of rates for transportation for a shipment of property by a shipper or consignor to a consignee other than the shipper or consignor, is determined under this section when the transportation is provided by motor carrier under this part. When the shipper or consignor instructs the carrier transporting the property to deliver it to a consignee that is an agent only, not having beneficial title to the property, the consignee is liable for rates billed at the time of delivery for which the consignee is otherwise liable, but not for additional rates that may be found to be due after delivery if the consignee gives written notice to the delivering carrier before delivery of the property—

"(1) of the agency and absence of beneficial title; and

"(2) of the name and address of the beneficial owner of the property if it is reconsigned or diverted to a place other than the place specified in the original bill of lading.

"(b) LIABILITY OF BENEFICIAL OWNER.—When the consignee is liable only for rates billed at the time of delivery under subsection (a), the shipper or consignor, or, if the property is reconsigned or diverted, the beneficial owner is liable for those additional rates regardless of the bill of the lading or contract under which the property was transported. The beneficial owner is liable for all rates when the property is reconsigned or diverted by an agent but is refused or abandoned at its ultimate destination if the agent gave the carrier in the reconsignment or diversion order a notice of agency and the name and address of the beneficial owner. A consignee giving the carrier erroneous information about the identity of the beneficial owner of the property is liable for the additional rates.

"§13707. Payment of rates

"(a) TRANSFER OF POSSESSION UPON PAYMENT.—Except as provided in subsection (b), a carrier providing transportation or service subject to jurisdiction under this part shall give up possession at the destination of the property transported by it only when payment for the transportation or service is made.

"(b) EXCEPTIONS.—

"(1) REGULATIONS.—Under regulations of the Secretary governing the payment for transportation and service and preventing discrimination, those carriers may give up possession at destination of property transported by them before payment for the transportation or service. The regulations of the Secretary may provide for weekly or monthly payment for transportation provided by motor carriers and for periodic payment for transportation provided by water carriers.

"(2) EXTENSIONS OF CREDIT TO GOVERNMENTAL ENTITIES.—Such a carrier (including a motor carrier being used by a household goods freight forwarder) may extend credit for transporting property for the United States Government, a State, a territory or possession of the United States, or a political subdivision of any of them.

"§13708. Billing and collecting practices

"(a) DISCLOSURE.—A motor carrier subject to jurisdiction under subchapter I of chapter 135 shall disclose, when a document is presented or electronically transmitted for payment to the person responsible directly to the motor carrier for payment or agent of such responsible person, the actual rates, charges, or allowances for any transportation service and shall also disclose, at such time, whether and to whom any allowance or reduction in charges is made.

"(b) FALSE OR MISLEADING INFORMATION.—No person may cause a motor carrier to present false or misleading information on a document about the actual rate, charge, or allowance to any party to the transaction.

"(c) ALLOWANCES FOR SERVICES.—When the actual rate, charge, or allowance is dependent upon the performance of a service by a party to the transportation arrangement, such as tendering a volume of freight over a stated period of time, the motor carrier shall indicate in any document presented for payment to the person responsible directly to the motor carrier that a reduction, allowance, or other adjustment may apply.

"§13709. Procedures for resolving claims involving unfiled, negotiated transportation rates

"(a) TRANSPORTATION PROVIDED AT RATES OTHER THAN LEGAL TARIFF RATES.—

"(1) IN GENERAL.—When a claim is made by a motor carrier of property (other than a household goods carrier) providing transportation subject to jurisdiction under subchapter II of chapter 105 (as in effect on the day before the effective date of this section) or subchapter I of chapter 135, by a freight forwarder (other than a household goods freight forwarder), or by a party representing such a carrier or freight forwarder regarding the collection of rates or charges for such transportation in addition to those originally billed and collected by the carrier or freight forwarder for such transportation, the person against whom the claim is made may elect to satisfy the claim under the provisions of subsection (b), (c), or (d), upon showing that—

"(A) the carrier or freight forwarder is no longer transporting property or is transporting property for the purpose of avoiding the application of this section; and

"(B) with respect to the claim—

"(i) the person was offered a transportation rate by the carrier or freight forwarder other than that legally on file at the time with the Board or with the Interstate Commerce Commission, as required, for the transportation service;

"(ii) the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

"(iii) the carrier or freight forwarder did not properly or timely file with the Board or with the Interstate Commerce Commission, as required, a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

"(iv) such transportation rate was billed and collected by the carrier or freight forwarder; and

"(v) the carrier or freight forwarder demands additional payment of a higher rate filed in a tariff.

"(2) FORUM.—If there is a dispute as to the showing under paragraph (1)(A), such dispute shall be resolved by the court in which the claim is brought. If there is a dispute as to the showing under paragraph (1)(B), such dispute shall be resolved by the Board. Pending the resolution of any such dispute, the person shall not have to pay any additional compensation to the carrier or freight forwarder.

"(3) EFFECT OF SATISFACTION OF CLAIMS.—Satisfaction of the claim under subsection (b), (c), or (d) shall be binding on the parties, and the parties shall not be subject to chapter 119 of this title, as such chapter was in effect on the day before the effective date of this section, or chapter 149.

"(b) CLAIMS INVOLVING SHIPMENTS WEIGHING 10,000 POUNDS OR LESS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed 10,000 pounds or less, by payment of 20 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Board .

"(c) CLAIMS INVOLVING SHIPMENTS WEIGHING MORE THAN 10,000 POUNDS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim if the shipments each weighed more than 10,000 pounds, by payment of 15 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Board.

"(d) CLAIMS INVOLVING PUBLIC WAREHOUSEMEN.—Notwithstanding subsections (b) and (c), a person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim by payment of 5 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid if such person is a public warehouseman. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Board.

"(e) EFFECTS OF ELECTION.—When a person from whom additional legally applicable freight rates or charges are sought does not elect to use the provisions of subsection (b), (c) or (d), the person may pursue all rights and remedies existing under this part or, for transportation provided before the effective date of this section, all rights and remedies that existed under this title on the day before such effective date.

"(f) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the legally applicable freight rate or charges being claimed by a carrier or freight forwarder in addition to those already billed and collected, the person shall not have to pay any additional compensation to the carrier or freight forwarder until the Board has made a determination as to the reasonableness of the challenged rate as applied to the freight of the person against whom the claim is made.

"(g) NOTIFICATION OF ELECTION.—

"(1) GENERAL RULE.—A person must notify the carrier or freight forwarder as to its election to proceed under subsection (b), (c), or (d). Except as provided in paragraphs (2), (3), and (4), such election may be made at any time.

"(2) DEMANDS FOR PAYMENT INITIALLY MADE AFTER DECEMBER 3, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder initially demands the payment of additional freight charges after December 3, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f) at the time of the making of such initial demand,

the election must be made not later than the later of—

"(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

"(B) March 5, 1994.

"(3) PENDING SUITS FOR COLLECTION MADE BEFORE DECEMBER 4, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has filed, before December 4, 1993, a suit for the collection of additional freight charges and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the 90th day following the date on which such notification is received.

"(4) DEMANDS FOR PAYMENT MADE BEFORE DECEMBER 4, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has demanded the payment of additional freight charges, and has not filed a suit for the collection of such additional freight charges, before December 4, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the later of—

"(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

"(B) March 5, 1994.

"(h) CLAIMS INVOLVING SMALL-BUSINESS CONCERNS, CHARITABLE ORGANIZATIONS, AND RECYCLABLE MATERIALS.—

"(1) IN GENERAL.—Notwithstanding subsections (b), (c), and (d), a person from whom the additional legally applicable and effective tariff rate or charges are sought shall not be liable for the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid—

"(A) if such person qualifies as a small-business concern under the Small Business Act (15 U.S.C. 631 et seq.),

"(B) if such person is an organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, or

"(C) if the cargo involved in the claim is recyclable materials.

"(2) RECYCLABLE MATERIALS DEFINED.—In this subsection, the term 'recyclable materials' means waste products for recycling or reuse in the furtherance of recognized pollution control programs.

"§13710. Additional billing and collecting practices

"(a) MISCELLANEOUS PROVISIONS.—

"(1) INFORMATION RELATING TO BASIS OF RATE.—A motor carrier of property (other than a motor carrier providing transportation in noncontiguous domestic trade) shall provide to the shipper, on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices, upon which any rate applicable to its shipment or agreed to between the shipper and carrier is based.

"(2) REASONABLENESS OF RATES; COLLECTING ADDITIONAL CHARGES.—When the applicability or reasonableness of the rates and related provisions billed by a motor carrier is challenged by the person paying the freight charges, the Board shall determine whether such rates and provisions are reasonable under section 13701 or applicable based on the record before it.

"(3) BILLING DISPUTES.—

"(A) INITIATED BY MOTOR CARRIERS.—In those cases where a motor carrier (other than a motor carrier providing transportation of household goods or in noncontiguous domestic trade) seeks to collect charges in addition to those billed and collected which are contested by the payor, the carrier may request that the Board determine whether any additional charges over those billed and collected must be paid. A carrier must issue any bill for charges in addition to those originally billed within 180 days of the receipt of the original bill in order to have the right to collect such charges.

"(B) INITIATED BY SHIPPERS.—If a shipper seeks to contest the charges originally billed or additional charges subsequently billed, the shipper may request that the Board determine whether the charges billed must be paid. A shipper must contest the original bill or subsequent bill within 180 days of receipt of the bill in order to have the right to contest such charges.

"(4) VOIDING OF CERTAIN TARIFFS.—Any tariff on file with the Interstate Commerce Commission on August 26, 1994, and not required to be filed after that date is null and void beginning on that date. Any tariff on file with the Interstate Commerce Commission on the effective date of this section and not required to be filed after that date is null and void beginning on that date.

"(b) RESOLUTION OF DISPUTES OVER STATUS OF COMMON CARRIER OR CONTRACT CARRIER.—If a motor carrier (other than a motor carrier providing transportation of household goods) that was subject to jurisdiction under subchapter II of chapter 105, as in effect on the day before the effective date of this section, and that had authority to provide transportation as both a motor common carrier and a motor contract carrier and a dispute arises as to whether certain transportation that was provided prior to the effective date of this section was provided in its common carrier or contract carrier capacity and the parties are not able to resolve the dispute consensually, the Board shall resolve the dispute.

"§13711. Alternative procedure for resolving undercharge disputes

"(a) GENERAL RULE.—It shall be an unreasonable practice for a motor carrier of property (other than a household goods carrier) providing transportation subject to jurisdiction under subchapter I of chapter 135 or, before the effective date of this section, to have provided transportation that was subject to jurisdiction under subchapter II of chapter 105, as in effect on the day before the effective date of this section, a freight forwarder (other than a household goods freight forwarder), or a party representing such a carrier or freight forwarder to attempt to charge or to charge for a transportation service the difference between (1) the applicable rate that was lawfully in effect pursuant to a tariff that was filed in accordance with this chapter or, with respect to transportation provided before the effective date of this section, in accordance with chapter 107, as in effect on the date the transportation was provided, by the carrier or freight forwarder applicable to such transportation service, and (2) the negotiated rate for such transportation service if the carrier or freight forwarder is no longer transporting property between places described in section 13501(1) or is transporting property between places described in section 13501(1) for the purpose of avoiding application of this section.

"(b) JURISDICTION OF BOARD.—

"(1) DETERMINATION.—The Board shall have jurisdiction to make a determination of whether or not attempting to charge or the charging of a rate by a motor carrier or freight forwarder or party representing a motor carrier or freight forwarder is an unreasonable practice under subsection (a). If the Board determines that attempting to charge or the charging of the rate is an unreasonable practice under subsection (a), the carrier, freight forwarder, or party may not collect the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service.

"(2) FACTORS TO CONSIDER.—In making a determination under paragraph (1), the Board shall consider—

"(A) whether the person was offered a transportation rate by the carrier or freight forwarder or party other than that legally on file with the Interstate Commerce Commission or the Board, as required, at the time of the movement for the transportation service;

"(B) whether the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

"(C) whether the carrier or freight forwarder did not properly or timely file with the Interstate Commerce Commission or the Board, as required, a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

"(D) whether the transportation rate was billed and collected by the carrier or freight forwarder; and

"(E) whether the carrier or freight forwarder or party demands additional payment of a higher rate filed in a tariff.

"(c) ,STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the practice of a motor carrier, freight forwarder, or party described in subsection (a) to attempt to charge or to charge the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service in addition to those charges already billed and collected for the transportation service, the person shall not have to pay any additional compensation to the carrier, freight forwarder, or party until the Board has made a determination as to the reasonableness of the practice as applied to the freight of the person against whom the claim is made.

"(d) TREATMENT.—Subsection (a) is an exception to the requirements of section 13702 and, for transportation provided before the effective date of this section, to the requirements of sections 10761(a) and 10762, as in effect on the day before such effective date, as such sections relate to a filed tariff rate and other general tariff requirements.

"(e) NONAPPLICABILITY OF NEGOTIATED RATE DISPUTE RESOLUTION PROCEDURE.—If a person elects to seek enforcement of subsection (a) with respect to a rate for a transportation or service, section 13709 shall not apply to such rate.

"(f) DEFINITIONS.—In this section, the term 'negotiated rate' means a rate, charge, classification, or rule agreed upon by a motor carrier or freight forwarder and a shipper through negotiations pursuant to which no tariff was lawfully and timely filed and for which there is written evidence of such agreement.

"(g) APPLICABILITY TO PENDING CASES.—This section shall apply to all cases and proceedings pending on the effective date of this section.

"§13712. Government traffic

"A carrier providing transportation or service for the United States Government may transport property or individuals for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply when transportation for the United States Government can be obtained from a carrier lawfully operating in the area where the transportation would be provided.

"§13713. Food and grocery transportation

"(a) CERTAIN COMPENSATION PROHIBITED.—Notwithstanding any other provision of law, it shall not be unlawful for a seller of food and grocery products using a uniform zone delivered pricing system to compensate a customer who picks up purchased food and grocery products at the shipping point of the seller if such compensation is available to all customers of the

seller on a nondiscriminatory basis and does not exceed the actual cost to the seller of delivery to such customer.

"(b) SENSE OF CONGRESS.—It is the sense of the Congress that any savings accruing to a customer by reason of compensation permitted by subsection (a) of this section should be passed on to the ultimate consumer.

"CHAPTER 139—REGISTRATION

"Sec.
"13901. Requirement for registration.
"13902. Registration of motor carriers.
"13903. Registration of freight forwarders.
"13904. Registration of brokers.
"13905. Effective periods of registration.
"13906. Security of motor carriers, brokers, and freight forwarders.
"13907. Household goods agents.
"13908. Registration and other reforms.

"§13901. Requirement for registration

"A person may provide transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or be a broker for transportation subject to jurisdiction under subchapter I of that chapter, only if the person is registered under this chapter to provide the transportation or service.

"§13902. Registration of motor carriers

"(a) MOTOR CARRIER GENERALLY.—

"(1) IN GENERAL.—Except as provided in this section, the Secretary shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 of this title as a motor carrier if the Secretary finds that the person is willing and able to comply with—

"(A) this part and the applicable regulations of the Secretary and the Board;

"(B) any safety regulations imposed by the Secretary and the safety fitness requirements established by the Secretary under section 31144; and

"(C) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31138.

"(2) CONSIDERATION OF EVIDENCE; FINDINGS.—The Secretary shall consider and, to the extent applicable, make findings on, any evidence demonstrating that the registrant is unable to comply with the requirements of subparagraph (A), (B), or (C) of paragraph (1).

"(3) WITHHOLDING.—If the Secretary determines that any registrant under this section does not meet the requirements of paragraph (1), the Secretary shall withhold registration.

"(4) LIMITATION ON COMPLAINTS.—The Secretary may hear a complaint from any person concerning a registration under this subsection only on the ground that the registrant fails or will fail to comply with this part, the applicable regulations of the Secretary and the Board, the safety regulations of the Secretary, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection.

"(b) MOTOR CARRIERS OF PASSENGERS.—

"(1) REGISTRATION OF PRIVATE RECIPIENTS OF GOVERNMENTAL ASSISTANCE.—The Secretary shall register under subsection (a)(1) a private recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

"(2) REGISTRATION OF PUBLIC RECIPIENTS OF GOVERNMENTAL ASSISTANCE.—

"(A) CHARTER TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that—

"(i) the recipient meets the requirements of subsection (a)(1); and

"(ii)(I) no motor carrier of passengers (other than a motor carrier of passengers which is a public recipient of governmental assistance) is providing, or is willing to provide, the transportation; or

"(II) the transportation is to be provided entirely in the area in which the public recipient provides regularly scheduled mass transportation services.

"(B) REGULAR-ROUTE TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide regular-route transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

"(C) TREATMENT OF CERTAIN PUBLIC RECIPIENTS.—Any public recipient of governmental assistance which is providing or seeking to provide transportation of passengers subject to jurisdiction under subchapter I of chapter 135 shall, for purposes of this part, be treated as a person which is providing or seeking to provide transportation of passengers subject to such jurisdiction.

"(3) INTRASTATE TRANSPORTATION BY INTERSTATE CARRIERS.—A motor carrier of passengers that is registered by the Secretary under subsection (a) is authorized to provide regular-route transportation entirely in one State as a motor carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier provides interstate transportation of passengers.

"(4) PREEMPTION OF STATE REGULATION REGARDING CERTAIN SERVICE.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to the provision of pickup and delivery of express packages, newspapers, or mail in a commercial zone if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce and, if a city within the commercial zone, is served by a motor carrier of passengers providing regular-route transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

"(5) JURISDICTION OVER CERTAIN INTRASTATE TRANSPORTATION.—Any intrastate transportation authorized by this subsection shall be treated as transportation subject to jurisdiction under subchapter I of chapter 135 until such time as the carrier takes such action as is necessary to establish under the laws of such State rates, rules, and practices applicable to such transportation, but in no case later than the 30th day following the date on which the motor carrier of passengers first begins providing transportation entirely in one State under this paragraph.

"(6) SPECIAL OPERATIONS.—This subsection shall not apply to any regular-route transportation of passengers provided entirely in one State which is in the nature of a special operation.

"(7) SUSPENSION OR REVOCATION.—Intrastate transportation authorized under this subsection may be suspended or revoked by the Secretary under section 13905 of this title at any time.

"(8) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) PUBLIC RECIPIENT OF GOVERNMENTAL ASSISTANCE.—The term 'public recipient of governmental assistance' means—

"(i) any State,

"(ii) any municipality or other political subdivision of a State,

"(iii) any public agency or instrumentality of one or more States and municipalities and political subdivisions of a State,

"(iv) any Indian tribe,

"(v) any corporation, board, or other person owned or controlled by any entity described in clause (i), (ii), (iii), or (iv), and

which before, on, or after the effective date of this subsection received governmental assistance for the purchase or operation of any bus.

"(B) PRIVATE RECIPIENT OF GOVERNMENT ASSISTANCE.—The term 'private recipient of government assistance' means any person (other than a person described in subparagraph (A)) who before, on, or after the effective date of this paragraph received governmental financial assistance in the form of a subsidy for the purchase, lease, or operation of any bus.

"(c) RESTRICTIONS ON MOTOR CARRIERS DOMICILED IN OR OWNED OR CONTROLLED BY NATIONALS OF A CONTIGUOUS FOREIGN COUNTRY.—

"(1) PREVENTION OF DISCRIMINATORY PRACTICES.—If the President, or the delegate thereof, determines that an act, policy, or practice of a foreign country contiguous to the United States, or any political subdivision or any instrumentality of any such country is unreasonable or discriminatory and burdens or restricts United States transportation companies providing, or seeking to provide, motor carrier transportation to, from, or within such foreign country, the President or such delegate may—

"(A) seek elimination of such practices through consultations; or

"(B) notwithstanding any other provision of law, suspend, modify, amend, condition, or restrict operations, including geographical restriction of operations, in the United States by motor carriers of property or passengers domiciled in such foreign country or owned or controlled by persons of such foreign country.

"(2) EQUALIZATION OF TREATMENT.—Any action taken under paragraph (1)(A) to eliminate an act, policy, or practice shall be so devised so as to equal to the extent possible the burdens or restrictions imposed by such foreign country on United States transportation companies.

"(3) REMOVAL OR MODIFICATION.—The President, or the delegate thereof, may remove or modify in whole or in part any action taken under paragraph (1)(A) if the President or such delegate determines that such removal or modification is consistent with the obligations of the United States under a trade agreement or with United States transportation policy.

"(4) PROTECTION OF EXISTING OPERATIONS.—Unless and until the President, or the delegate thereof, makes a determination under paragraph (1) or (3), nothing in this subsection shall affect—

"(A) operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country permitted in the commercial zones along the United States-Mexico border as such zones were defined on the day before the effective date of this section; or

"(B) any existing restrictions on operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country or any modifications thereof pursuant to section 6 of the Bus Regulatory Reform Act of 1982.

"(5) PUBLICATION; COMMENT.—Unless the President, or the delegate thereof, determines that expeditious action is required, the President shall publish in the Federal Register any determination under paragraph (1) or (3), together with a description of the facts on which such a determination is based and any proposed *action to be taken pursuant to paragraph (1)(B) or (3), and provide an opportunity for public comment.*

“(6) DELEGATION TO SECRETARY.—The President may delegate any or all authority under this subsection to the Secretary, who shall consult with other agencies as appropriate. In accordance with the directions of the President, the Secretary may issue regulations to enforce this subsection.

“(7) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

“(8) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection shall not be construed as affecting the requirement for all foreign motor carriers and foreign motor private carriers operating in the United States to comply with all applicable laws and regulations pertaining to fitness, safety of operations, financial responsibility, and taxes imposed by section 4481 of the Internal Revenue Code of 1986.

“(d) TRANSITION RULE.—

“(1) IN GENERAL.—Pending the implementation of the rulemaking required by section 13908, the Secretary may register a person under this section—

“(A) as a motor common carrier if such person would have been issued a certificate to provide transportation as a motor common carrier under this subtitle on the day before the effective date of this section; and

“(B) as a motor contract carrier if such person would have been issued a permit to provide transportation as a motor contract carrier under this subtitle on such day.

“(2) DEFINITIONS.—In this subsection, the terms ‘motor common carrier’ and ‘motor contract carrier’ have the meaning such terms had under section 10102 as such section was in effect on the day before the effective date of this section.

“(e) MOTOR CARRIER DEFINED.—In this section and sections 13905 and 13906, the term ‘motor carrier’ includes foreign motor private carriers.

“§13903. Registration of freight forwarders

“(a) IN GENERAL.—The Secretary shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder if the Secretary finds that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and the Board.

“(b) REGISTRATION AS CARRIER REQUIRED.—The freight forwarder may provide transportation as the carrier itself only if the freight forwarder also has registered to provide transportation as a carrier under this chapter.

“§13904. Registration of brokers

“(a) IN GENERAL.—The Secretary shall register, subject to section 13906(b), a person to be a broker for transportation of property subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that the person is fit, willing, and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary.

“(b) REGISTRATION AS CARRIER REQUIRED.—

“(1) IN GENERAL.—The broker may provide the transportation itself only if the broker also has been registered to provide the transportation as a motor carrier under this chapter.

“(2) LIMITATION.—This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier, with other registered motor carriers, or with rail or water carriers.

“(c) REGULATIONS TO PROTECT SHIPPERS.—Regulations of the Secretary applicable to brokers registered under this section shall provide for the protection of shippers by motor vehicle.

“(d) BOND AND INSURANCE.—The Secretary may impose on brokers for motor carriers of passengers such requirements for bonds or insurance or both as the Secretary determines are needed to protect passengers and carriers dealing with such brokers.

“§13905. Effective periods of registration

“(a) PERSON HOLDING ICC AUTHORITY.—Any person having authority to provide transportation or service as a motor carrier, freight forwarder, or broker under this title, as in effect on the day before the effective date of this section, shall be deemed, for purposes of this part, to be registered to provide such transportation or service under this part.

“(b) IN GENERAL.—Except as otherwise provided in this part, each registration issued under section 13902, 13903, or 13904 shall be effective from the date specified by the Secretary and shall remain in effect for such period as the Secretary determines appropriate by regulation.

“(c) SUSPENSION, AMENDMENTS, AND REVOCATIONS.—On application of the registrant, the Secretary may amend or revoke a registration. On complaint or on the Secretary’s own initiative and after notice and an opportunity for a proceeding, the Secretary may suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with this part, an applicable regulation or order of the Secretary or of the Board, or a condition of its registration.

“(d) PROCEDURE.—Except on application of the registrant, the Secretary may revoke a registration of a motor carrier, freight forwarder, or broker, only after—

“(1) the Secretary has issued an order to the registrant under section 14701 requiring compliance with this part, a regulation of the Secretary, or a condition of the registration; and

“(2) the registrant willfully does not comply with the order for a period of 30 days.

“(e) EXPEDITED PROCEDURE.—

“(1) PROTECTION OF SAFETY.—Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with safety requirements of the Secretary or the safety fitness requirements pursuant to section 13904(c), 13906, or 31144, of this title, or an order or regulation of the Secretary prescribed under those sections.

“(2) IMMINENT HAZARD TO PUBLIC HEALTH.—Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend a registration of a motor carrier of passengers if the Secretary finds that such carrier has been conducting unsafe operations which are an imminent hazard to public health or property.

“(3) NOTICE; PERIOD OF SUSPENSION.—The Secretary may suspend under this subsection the registration only after giving notice of the suspension to the registrant. The suspension remains in effect until the registrant complies with those applicable sections or, in the case of a suspension under paragraph (2), until the Secretary revokes such suspension.

“§13906. Security of motor carriers, brokers, and freight forwarders

“(a) MOTOR CARRIER REQUIREMENTS.—

“(1) LIABILITY INSURANCE REQUIREMENT.—The Secretary may register a motor carrier under section 13902 only if the registrant files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than such amount as the Secretary prescribes pursuant to, or as is required by, sections 31138 and 31139, and the laws of the State or States in which the registrant is operating, to the extent applicable. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the registrant for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property (except property referred to in paragraph (3) of this subsection), or both. A registration remains in effect only as long as the registrant continues to satisfy the security requirements of this paragraph.

“(2) AGENCY REQUIREMENT.—A motor carrier shall comply with the requirements of sections 13303 and 13304. To protect the public, the Secretary may require any such motor carrier to file the type of security that a motor carrier is required to file under paragraph (1) of this subsection. This paragraph only applies to a foreign motor private carrier and foreign motor carrier operating in the United States to the extent that such carrier is providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country.

“(3) TRANSPORTATION INSURANCE.—The Secretary may require a registered motor carrier to file with the Secretary a type of security sufficient to pay a shipper or consignee for damage to property of the shipper or consignee placed in the possession of the motor carrier as the result of transportation provided under this part. A carrier required by law to pay a shipper or consignee for loss, damage, or default for which a connecting motor carrier is responsible is subrogated, to the extent of the amount paid, to the rights of the shipper or consignee under any such security.

“(b) BROKER REQUIREMENTS.—The Secretary may register a person as a broker under section 13904 only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary to ensure that the transportation for which a broker arranges is provided. The registration remains in effect only as long as the broker continues to satisfy the security requirements of this subsection.

“(c) FREIGHT FORWARDER REQUIREMENTS.—

“(1) LIABILITY INSURANCE.—The Secretary may register a person as a freight forwarder under section 13903 of this title only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in paragraph (2) of this subsection), resulting from the negligent operation, maintenance, or use of motor vehicles by or under the direction and control of the freight forwarder when providing transfer, collection, or delivery service under this part.

“(2) FREIGHT FORWARDER INSURANCE.—The Secretary may require a registered freight forwarder to file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary sufficient to pay, not more than the amount of the security, for loss of, or damage to, property for which the freight forwarder provides service.

“(3) EFFECTIVE PERIOD.—The freight forwarder’s registration remains in effect only as long as the freight forwarder continues to satisfy the security requirements of this subsection.

“(d) TYPE OF INSURANCE.—The Secretary may determine the type and amount of security filed under this section. A motor carrier may submit proof of qualifications as a self-insurer to satisfy the security requirements of this section. The Secretary shall adopt regulations governing

the standards for approval as a self-insurer. Motor carriers which have been granted authority to self-insure as of the effective date of this section shall retain that authority unless, for good cause shown and after notice and an opportunity for a hearing, the Secretary finds that the authority must be revoked.

"(e) NOTICE OF CANCELLATION OF INSURANCE.—The Secretary shall issue regulations requiring the submission to the Secretary of notices of insurance cancellation sufficiently in advance of actual cancellation so as to enable the Secretary to promptly revoke the registration of any carrier or broker after the effective date of the cancellation.

"(f) FORM OF ENDORSEMENT.—The Secretary shall also prescribe the appropriate form of endorsement to be appended to policies of insurance and surety bonds which will subject the insurance policy or surety bond to the full security limits of the coverage required under this section.

"§13907. Household goods agents

"(a) CARRIERS RESPONSIBLE FOR AGENTS.—Each motor carrier providing transportation of household goods shall be responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) and which are within the actual or apparent authority of the agent from the carrier or which are ratified by the carrier.

"(b) STANDARD FOR SELECTING AGENTS.—Each motor carrier providing transportation of household goods shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by this part and by such carrier.

"(c) ENFORCEMENT.—

"(1) COMPLAINT.—Whenever the Secretary has reason to believe from a complaint or investigation that an agent providing household goods transportation services (including accessorial and terminal services) under the authority of a motor carrier providing transportation of household goods has violated section 14901(e) or 14912 or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue to such agent a complaint stating the charges and containing notice of the time and place of a hearing which shall be held no later than 60 days after service of the complaint to such agent.

"(2) RIGHT TO DEFEND.—The agent shall have the right to appear at such hearing and rebut the charges contained in the complaint.

"(3) ORDER.—If the agent does not appear at the hearing or if the Secretary finds that the agent has violated section 14901(e) or 14912 or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue an order to compel compliance with the requirement that the agent be fit, willing, and able. Thereafter, the Secretary may issue an order to limit, condition, or prohibit such agent from any involvement in the transportation or provision of services incidental to the transportation of household goods if, after notice and an opportunity for a hearing, the Secretary finds that such agent, within a reasonable time after the date of issuance of a compliance order under this section, but in no event less than 30 days after such date of issuance, has willfully failed to comply with such order.

"(4) HEARING.—Upon filing of a petition with the Secretary by an agent who is the subject of an order issued pursuant to the second sentence of paragraph (3) of this subsection and after notice, a hearing shall be held with an opportunity to be heard. At such hearing, a determination shall be made whether the order issued pursuant to paragraph (3) of this subsection should be rescinded.

"(5) COURT REVIEW.—Any agent adversely affected or aggrieved by an order of the Secretary issued under this subsection may seek relief in the appropriate United States court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.

"(d) LIMITATION ON APPLICABILITY OF ANTITRUST LAWS.—

"(1) IN GENERAL.—The antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to discussions or agreements between a motor carrier providing transportation of household goods and its agents (whether or not an agent is also a carrier) related solely to—

"(A) rates for the transportation of household goods under the authority of the principal carrier;

"(B) accessorial, terminal, storage, or other charges for services incidental to the transportation of household goods transported under the authority of the principal carrier;

"(C) allowances relating to transportation of household goods under the authority of the principal carrier; and

"(D) ownership of a motor carrier providing transportation of household goods by an agent or membership on the board of directors of any such motor carrier by an agent.

"(2) BOARD REVIEW.—The Board, upon its own initiative or request, shall review any activities undertaken under paragraph (1) and shall modify or terminate the activity if necessary to protect the public interest.

"(e) DEFINITIONS.—In this section, the following definitions apply:

"(1) HOUSEHOLD GOODS.—The term 'household goods' has the meaning such term had under section 10102(11) of this title, as in effect on the day before the effective date of this section.

"(2) TRANSPORTATION.—The term 'transportation' means transportation that would be subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title, as in effect on the day before such effective date, if such subchapter were still in effect.

"§13908. Registration and other reforms

"(a) REGULATIONS REPLACING CERTAIN PROGRAMS.—The Secretary, in cooperation with the States, and after notice and opportunity for public comment, shall issue regulations to replace the current Department of Transportation identification number system, the single State registration system under section 14504, the registration system contained in this chapter, and the financial responsibility information system under section 13906 with a single, on-line, Federal system. The new system shall serve as a clearinghouse and depository of information on and identification of all foreign and domestic motor carriers, brokers, and freight forwarders, and others required to register with the Department as well as information on safety fitness and compliance with required levels of financial responsibility. In issuing the regulations, the Secretary shall consider whether or not to integrate the requirements of section 13304 into the new system and may integrate such requirements into the new system.

"(b) FACTORS TO BE CONSIDERED.—In conducting the rulemaking under subsection (a), the Secretary shall, at a minimum, consider the following factors:

"(1) Funding for State enforcement of motor carrier safety regulations.

"(2) Whether the existing single State registration system is duplicative and burdensome.

"(3) The justification and need for collecting the statutory fee for such system under section 14504(c)(2)(B)(iv).

"(4) The public safety.

"(5) The efficient delivery of transportation services.

"(6) How, and under what conditions, to extend the registration system to motor private carriers and to carriers exempt under sections 13502, 13503, and 13506.

"(c) FEE SYSTEM.—The Secretary may establish, under section 9701 of title 31, a fee system for registration and filing evidence of financial responsibility under the new system under subsection (a). Fees collected under the fee system shall cover the costs of operating and upgrading the registration system, including all personnel costs associated with the system. Fees collected under this subsection may be credited to the Department of Transportation appropriations account for purposes for which such fees are collected, and shall be available for expenditure until expended.

"(d) STATE REGISTRATION PROGRAMS.—If the Secretary determines that no State should require insurance filings or collect fees for such filings (including filings and fees authorized under section 14504), the Secretary may prevent any State or political subdivision thereof, or any political authority of 2 or more States, from imposing any insurance filing requirements or fees that are for the same purposes as filings or fees the Secretary requires under the new system under subsection (a). The Secretary may not take any action pursuant to this subsection unless—

"(1) fees that will be collected by the Secretary under subsection (c) and distributed in each fiscal year to the States will provide each State with at least as much revenue as that State received in fiscal year 1995 under section 11506, as in effect on the day before the effective date of this section; and

"(2) all States will receive from the distribution of such fees a minimum apportionment.

"(e) DEADLINE FOR CONCLUSION; MODIFICATIONS.—Not later than 24 months after the effective date of this section, the Secretary—

"(1) shall conclude the rulemaking under this section;

"(2) may implement such changes under this section as the Secretary considers appropriate and in the public interest; and

"(3) shall transmit to Congress a report on any findings of the rulemaking and the changes being implemented under this section, together with such recommendations for legislative language necessary to conform this part to such changes.

"CHAPTER 141—OPERATIONS OF CARRIERS

"SUBCHAPTER I—GENERAL REQUIREMENTS

"Sec.
"14101. Providing transportation and service.
"14102. Leased motor vehicles.
"14103. Loading and unloading motor vehicles.
"14104. Household goods carrier operations.

"SUBCHAPTER II—REPORTS AND RECORDS

"14121. Definitions.
"14122. Records: form; inspection; preservation.
"14123. Financial reporting.

"SUBCHAPTER I—GENERAL REQUIREMENTS

"§14101. Providing transportation and service

"(a) ON REASONABLE REQUEST.—A carrier providing transportation or service subject to jurisdiction under chapter 135 shall provide the transportation or service on reasonable request. In addition, a motor carrier shall provide safe and adequate service, equipment, and facilities.

"(b) CONTRACTS WITH SHIPPERS.—

"(1) IN GENERAL.—A carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into a contract with a shipper, other than for the movement of household goods described in section 13102(10)(A), to provide specified services under specified rates and conditions. If the shipper and carrier, in writing, expressly waive any or all rights and remedies under this part for the transportation covered by the contract, the transportation provided under the contract shall not be subject to the waived rights and remedies and may not be subsequently challenged on the ground that it violates the waived rights and remedies. The parties may not waive the provisions governing registration, insurance, or safety fitness.

"(2) REMEDY FOR BREACH OF CONTRACT.—The exclusive remedy for any alleged breach of a contract entered into under this subsection shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

"§14102. Leased motor vehicles

"(a) GENERAL AUTHORITY OF SECRETARY.—The Secretary may require a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

"(1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;

"(2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;

"(3) inspect the motor vehicles and obtain liability and cargo insurance on them; and

"(4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.

"(b) RESPONSIBLE PARTY FOR LOADING AND UNLOADING.—The Secretary shall require, by regulation, that any arrangement, between a motor carrier of property providing transportation subject to jurisdiction under subchapter I of chapter 135 and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle.

"§14103. Loading and unloading motor vehicles

"(a) SHIPPER RESPONSIBLE FOR ASSISTING.—Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

"(b) COERCION PROHIBITED.—It shall be unlawful to coerce or attempt to coerce any person providing transportation of property by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135) to load or unload any part of such property onto or from such vehicle or to employ or pay one or more persons to load or unload any part of such property onto or from such vehicle; except that this subsection shall not be construed as making unlawful any activity which is not unlawful under the National Labor Relations Act or the Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), commonly known as the Norris-LaGuardia Act.

"§14104. Household goods carrier operations

"(a) GENERAL REGULATORY AUTHORITY.—

"(1) PAPERWORK MINIMIZATION.—The Secretary may issue regulations, including regulations protecting individual shippers, in order to carry out this part with respect to the transportation of household goods by motor carriers subject to jurisdiction under subchapter I of chapter 135. The regulations and paperwork required of motor carriers providing transportation of household goods shall be minimized to the maximum extent feasible consistent with the protection of individual shippers.

"(2) PERFORMANCE STANDARDS.—

"(A) IN GENERAL.—Regulations of the Secretary protecting individual shippers shall include, where appropriate, reasonable performance standards for the transportation of household goods subject to jurisdiction under subchapter I of chapter 135.

"(B) FACTORS TO CONSIDER.—In establishing performance standards under this paragraph, the Secretary shall take into account at least the following—

"(i) the level of performance that can be achieved by a well-managed motor carrier transporting household goods;

"(ii) the degree of harm to individual shippers which could result from a violation of the regulation;

"(iii) the need to set the level of performance at a level sufficient to deter abuses which result in harm to consumers and violations of regulations;

"(iv) service requirements of the carriers;

"(v) the cost of compliance in relation to the consumer benefits to be achieved from such compliance; and

"(vi) the need to set the level of performance at a level designed to encourage carriers to offer service responsive to shipper needs.

"(3) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to limit the Secretary's authority to require reports from motor carriers providing transportation of household goods or to require such carriers to provide specified information to consumers concerning their past performance.

"(b) ESTIMATES.—

"(1) AUTHORITY TO PROVIDE WITHOUT COMPENSATION.—Every motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135, upon request of a prospective shipper, may provide the shipper with an estimate of charges for transportation of household goods and for the proposed services. The Secretary shall not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and proposed services.

"(2) APPLICABILITY OF ANTITRUST LAWS.—Any charge for an estimate of charges provided by a motor carrier to a shipper for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12).

"(c) FLEXIBILITY IN WEIGHING SHIPMENTS.—The Secretary shall issue regulations that provide motor carriers providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 with the maximum possible flexibility in weighing shipments, consistent with assurance to the shipper of accurate weighing practices. The Secretary shall not prohibit such carriers from backweighing shipments or from basing their charges on the reweigh weights if the shipper observes both the tare and gross weighings (or, prior to such weighings, waives in writing the opportunity to observe such weighings) and such weighings are performed on the same scale.

"SUBCHAPTER II—REPORTS AND RECORDS

"§14121. Definitions

"In this subchapter, the following definitions apply:

"(1) CARRIER AND BROKER.—The terms 'carrier' and 'broker' include a receiver or trustee of a carrier and broker, respectively.

"(2) ASSOCIATION.—The term 'association' means an organization maintained by or in the interest of a group of carriers or brokers providing transportation or service subject to jurisdiction under chapter 135 that performs a service, or engages in activities, related to transportation under this part.

"§14122. Records: form; inspection; preservation

"(a) FORM OF RECORDS.—The Secretary or the Board, as applicable, may prescribe the form of records required to be prepared or compiled under this subchapter by carriers and brokers, including records related to movement of traffic and receipts and expenditures of money.

"(b) RIGHT OF INSPECTION.—The Secretary or Board, or an employee designated by the Secretary or Board, may on demand and display of proper credentials—

"(1) inspect and examine the lands, buildings, and equipment of a carrier or broker; and

"(2) inspect and copy any record of—

"(A) a carrier, broker, or association; and

"(B) a person controlling, controlled by, or under common control with a carrier if the Secretary or Board, as applicable, considers inspection relevant to that person's relation to, or transaction with, that carrier.

"(c) PERIOD FOR PRESERVATION OF RECORDS.—The Secretary or Board, as applicable, may prescribe the time period during which operating, accounting, and financial records must be preserved by carriers and brokers.

"§14123. Financial reporting

"(a) REPORTS.—

"(1) ANNUAL REPORTS.—The Secretary shall require Class I and Class II motor carriers to file with the Secretary annual financial and safety reports, the form and substance of which shall be prescribed by the Secretary; except that, at a minimum, such reports shall include balance sheets and income statements.

"(2) OTHER REPORTS.—The Secretary may require motor carriers, freight forwarders, brokers, lessors, and associations, or classes of them as the Secretary may prescribe, to file quarterly, periodic, or special reports with the Secretary and to respond to surveys concerning their operations.

"(b) MATTERS TO BE COVERED.—In determining the matters to be covered by any reports to be filed under subsection (a), the Secretary shall consider—

"(1) safety needs;

"(2) the need to preserve confidential business information and trade secrets and prevent competitive harm;

"(3) private sector, academic, and public use of information in the reports; and

"(4) the public interest.

"(c) EXEMPTIONS.—

"(1) FROM FILING.—The Secretary may exempt upon good cause shown any party from the financial reporting requirements of subsection (a). Any request for such exemption must demonstrate, at a minimum, that an exemption is required to avoid competitive harm and preserve confidential business information that is not otherwise publicly available.

"(2) FROM PUBLIC RELEASE.—

"(A) IN GENERAL.—The Secretary shall allow, upon request, a filer of a report under subsection (a) that is not a publicly held corporation or that is not subject to financial reporting

requirements of the Securities and Exchange Commission, an exemption from the public release of such report.

"(B) PROCEDURE.—After a request under subparagraph (A) and notice and opportunity for comment but no event later than 90 days after the date of such request, the Secretary shall approve such request if the Secretary finds that the exemption requested is necessary to avoid competitive harm and to avoid the disclosure of information that qualifies as a trade secret or privileged or confidential information under section 552(b)(4) of title 5.

"(C) USE OF DATA FOR INTERNAL DOT PURPOSES.—If an exemption is granted under this paragraph, nothing shall prevent the Secretary from using data from reports filed under this subsection for internal purposes of the Department of Transportation or including such data in aggregate industry statistics released for publication if such inclusion would not render the filer's data readily identifiable.

"(D) PENDING REQUESTS.—The Secretary shall not release publicly the report of a carrier making a request under subparagraph (A) while such request is pending.

"(3) PERIOD OF EXEMPTIONS.—Exemptions granted under this subsection shall be for 3-year periods.

"(d) STREAMLINING AND SIMPLIFICATION.—The Secretary shall streamline and simplify, to the maximum extent practicable, any reporting requirements the Secretary imposes under this section.

"CHAPTER 143—FINANCE

"Sec.

"14301. Security interests in certain motor vehicles.

"14302. Pooling and division of transportation or earnings.

"14303. Consolidation, merger, and acquisition of control of motor carriers of passengers.

"§14301. Security interests in certain motor vehicles

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) MOTOR VEHICLE.—The term 'motor vehicle' means a truck of rated capacity (gross vehicle weight) of at least 10,000 pounds, a highway tractor of rated capacity (gross combination weight) of at least 10,000 pounds, a property-carrying trailer or semitrailer with at least one load-carrying axle of at least 10,000 pounds, or a motor bus with a seating capacity of at least 10 individuals.

"(2) LIEN CREDITOR.—The term 'lien creditor' means a creditor having a lien on a motor vehicle and includes an assignee for benefit of creditors from the date of assignment, a trustee in a case under title 11 from the date of filing of the petition in that case, and a receiver in equity from the date of appointment of the receiver.

"(3) SECURITY INTEREST.—The term 'security interest' means an interest (including an interest established by a conditional sales contract, mortgage, equipment trust, or other lien or title retention contract, or lease) in a motor vehicle when the interest secures payment or performance of an obligation.

"(4) PERFECTION.—The term 'perfection', as related to a security interest, means taking action (including public filing, recording, notation on a certificate of title, and possession of collateral by the secured party), or the existence of facts, required under law to make a security interest enforceable against general creditors and subsequent lien creditors of a debtor, but does not include compliance with requirements related only to the establishment of a valid security interest between the debtor and the secured party.

"(b) REQUIREMENTS FOR PERFECTION OF SECURITY INTEREST.—A security interest in a motor vehicle owned by, or in the possession and use of, a carrier registered under section 13902 of this title and owing payment or performance of an obligation secured by that security interest is perfected in all jurisdictions against all general, and subsequent lien, creditors of, and all persons taking a motor vehicle by sale (or taking or retaining a security interest in a motor vehicle) from, that carrier when—

"(1) a certificate of title is issued for a motor vehicle under a law of a jurisdiction that requires or permits indication, on a certificate or title, of a security interest in the motor vehicle if the security interest is indicated on the certificate;

"(2) a certificate of title has not been issued and the law of the State where the principal place of business of that carrier is located requires or permits public filing or recording of, or in relation to, that security interest if there has been such a public filing or recording; and

"(3) a certificate of title has not been issued and the security interest cannot be perfected under paragraph (2) of this subsection, if the security interest has been perfected under the law (including the conflict of laws rules) of the State where the principal place of business of that carrier is located.

"§14302. Pooling and division of transportation or earnings

"(a) APPROVAL REQUIRED.—A carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 may not agree or combine with another such carrier to pool or divide traffic or services or any part of their earnings without the approval of the Board under this section.

"(b) STANDARDS FOR APPROVAL.—The Board may approve and authorize an agreement or combination between or among motor carriers of passengers, or between a motor carrier of passengers and a rail carrier of passengers if the carriers involved assent to the pooling or division and the Board finds that a pooling or division of traffic, services, or earnings—

"(1) will be in the interest of better service to the public or of economy of operation; and

"(2) will not unreasonably restrain competition.

"(c) PROCEDURE.—

"(1) APPLICATION.—Any motor carrier of property may apply to the Board for approval of an agreement or combination with another such carrier to pool or divide traffic or any services or any part of their earnings by filing such agreement or combination with the Board not less than 50 days before its effective date.

"(2) DETERMINATION OF IMPORTANCE AND RESTRAINT ON COMPETITION.—Prior to the effective date of the agreement or combination, the Board shall determine whether the agreement or combination is of major transportation importance and whether there is substantial likelihood that the agreement or combination will unduly restrain competition. If the Board determines that neither of these 2 factors exists, it shall, prior to such effective date and without a hearing, approve and authorize the agreement or combination, under such rules and regulations as the Board may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Board to be just and reasonable.

"(3) HEARING.—If the Board determines either that the agreement or combination is of major transportation importance or that there is substantial likelihood that the agreement or combination will unduly restrain competition, the Board shall hold a hearing concerning whether the agreement or combination will be in the interest of better service to the public or of economy in operation and whether it will unduly restrain competition and shall suspend operation of such agreement or combination pending such hearing and final decision thereon. After such hearing, the Board shall indicate to what extent it finds that the agreement or combination will be in the interest of better service to the public or of economy in operation and will not unduly restrain competition and if assented to by all the carriers involved, shall to that extent, approve and authorize the agreement or combination, under such rules and regulations as the Board may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Board to be just and reasonable.

"(4) SPECIAL RULES FOR HOUSEHOLD GOODS CARRIERS.—In the case of an application for Board approval of an agreement or combination between a motor carrier providing transportation of household goods and its agents to pool or divide traffic or services or any part of their earnings, such agreement or combination shall be presumed to be in the interest of better service to the public and of economy in operation and not to restrain competition unduly if the practices proposed to be carried out under such agreement or combination are the same as or similar to practices carried out under agreements and combinations between motor carriers providing transportation of household goods to pool or divide traffic or service of any part of their earnings approved by the Interstate Commerce Commission before the effective date of this section.

"(5) STREAMLINING AND SIMPLIFYING.—The Board shall streamline, simplify, and expedite, to the maximum extent practicable, the process (including any paperwork) for submission and approval of applications under this section for agreements and combinations between motor carriers providing transportation of household goods and their agents.

"(d) CONDITIONS.—The Board may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the carriers.

"(e) INITIATION OF PROCEEDING.—The Board may begin a proceeding under this section on its own initiative or on application.

"(f) EFFECT OF APPROVAL.—A carrier may participate in an arrangement approved by or exempted by the Board under this section without the approval of any other Federal, State, or municipal body. A carrier participating in an approved or exempted arrangement is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the arrangement.

"(g) CONTINUATION OF EXISTING AGREEMENTS.—Any agreements in operation under the provisions of this title on the effective date of this section that are succeeded by this section shall remain in effect until further order of the Board.

"(h) DEFINITIONS.—In this section, the following definitions apply:

"(1) HOUSEHOLD GOODS.—The term 'household goods' has the meaning such term had under section 10102(11) of this title, as in effect on the day before the effective date of this section.

"(2) TRANSPORTATION.—The term 'transportation' means transportation that would be subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title, as in effect on the day before such effective date, if such subchapter were still in effect.

"§14303. Consolidation, merger, and acquisition of control of motor carriers of passengers

"(a) APPROVAL REQUIRED.—The following transactions involving motor carriers of passengers subject to jurisdiction under subchapter I of chapter 135 may be carried out only with the approval of the Board:

"(1) Consolidation or merger of the properties or franchises of at least 2 carriers into one operation for the ownership, management, and operation of the previously separately owned properties.

"(2) A purchase, lease, or contract to operate property of another carrier by any number of carriers.

"(3) Acquisition of control of a carrier by any number of carriers.

"(4) Acquisition of control of at least 2 carriers by a person that is not a carrier.

"(5) Acquisition of control of a carrier by a person that is not a carrier but that controls any number of carriers.

"(b) STANDARD FOR APPROVAL.—The Board shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Board shall consider at least the following:

"(1) The effect of the proposed transaction on the adequacy of transportation to the public.

"(2) The total fixed charges that result from the proposed transaction.

"(3) The interest of carrier employees affected by the proposed transaction.

The Board may impose conditions governing the transaction.

"(c) DETERMINATION OF COMPLETENESS OF APPLICATION.—Within 30 days after the date on which an application is filed under this section, the Board shall either publish a notice of the application in the Federal Register or reject the application if it is incomplete.

"(d) COMMENTS.—Written comments about an application may be filed with the Board within 45 days after the date on which notice of the application is published under subsection (c).

"(e) DEADLINES.—The Board shall conclude evidentiary proceedings by the 240th day after the date on which notice of the application is published under subsection (c). The Board shall issue a final decision by the 180th day after the conclusion of the evidentiary proceedings. The Board may extend a time period under this subsection; except that the total of all such extensions with respect to any application shall not exceed 90 days.

"(f) EFFECT OF APPROVAL.—A carrier or corporation participating in or resulting from a transaction approved by the Board under this section, or exempted by the Board from the application of this section pursuant to section 13541, may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A carrier, corporation, or person participating in the approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction.

"(g) LIMITATION ON APPLICABILITY.—This section shall not apply to transactions involving carriers whose aggregate gross operating revenues were not more than $2,000,000 during a period of 12 consecutive months ending not more than 6 months before the date of the agreement of the parties.

"(h) APPLICABILITY OF CERTAIN PROVISIONS.—When the Board approves and authorizes a transaction under this section in which a person not a carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 acquires control of at least 1 carrier subject to such jurisdiction, the person is subject, as a carrier, to the following provisions of this title that apply to the carrier being acquired by that person, to the extent specified by the Board: sections 504(f), 14121–14123, 14901(a), and 14907.

"(i) INTERIM APPROVAL.—Pending determination of an application filed under this section, the Board may approve, for a period of not more than 180 days, the operation of the properties sought to be acquired by the person proposing in the application to acquire those properties, when it appears that failure to do so may result in destruction of or injury to those properties or substantially interfere with their future usefulness in providing adequate and continuous service to the public. Transportation provided by a motor carrier under a grant of approval under this subsection is subject to this part.

"(j) SUPPLEMENTAL ORDERS.—When cause exists, the Board may issue appropriate orders supplemental to an order made in a proceeding under this section.

"CHAPTER 145—FEDERAL-STATE RELATIONS

"Sec.
"14501. Federal authority over intrastate transportation.
"14502. Tax discrimination against motor carrier transportation property.
"14503. Withholding State and local income tax by certain carriers.
"14504. Registration of motor carriers by a State.
"14505. State tax.

"§14501. Federal authority over intrastate transportation

"(a) MOTOR CARRIERS OF PASSENGERS.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to scheduling of interstate or intrastate transportation (including discontinuance or reduction in the level of service) provided by motor carrier of passengers subject to jurisdiction under subchapter I of chapter 135 of this title on an interstate route or relating to the implementation of any change in the rates for such transportation or for any charter transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required. This subsection shall not apply to intrastate commuter bus operations.

"(b) FREIGHT FORWARDERS AND BROKERS.—

"(1) GENERAL RULE.—Subject to paragraph (2) of this subsection, no State or political subdivision thereof and no intrastate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to intrastate rates, intrastate routes, or intrastate services of any freight forwarder or broker.

"(2) CONTINUATION OF HAWAII'S AUTHORITY.—Nothing in this subsection and the amendments made by the Surface Freight Forwarder Deregulation Act of 1986 shall be construed to affect the authority of the State of Hawaii to continue to regulate a motor carrier operating within the State of Hawaii.

"(c) MOTOR CARRIERS OF PROPERTY.—

"(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier (other than a carrier affiliated with a direct air carrier covered by section 41713(b)(4)) or any motor private carrier, broker, or freight forwarder with respect to the transportation of property.

"(2) MATTERS NOT COVERED.—Paragraph (1)—

"(A) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization;

"(B) does not apply to the transportation of household goods; and

"(C) does not apply to the authority of a State or a political subdivision of a State to enact or enforce a law, regulation, or other provision relating to the price of for-hire motor vehicle transportation by a tow truck, if such transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle.

"(3) STATE STANDARD TRANSPORTATION PRACTICES.—

"(A) CONTINUATION.—Paragraph (1) shall not affect any authority of a State, political subdivision of a State, or political authority of 2 or more States to enact or enforce a law, regulation, or other provision, with respect to the intrastate transportation of property by motor carriers, related to—

"(i) uniform cargo liability rules,

"(ii) uniform bills of lading or receipts for property being transported,

"(iii) uniform cargo credit rules,

"(iv) antitrust immunity for joint line rates or routes, classifications, mileage guides, and pooling, or

"(v) antitrust immunity for agent-van line operations (as set forth in section 13907),

if such law, regulation, or provision meets the requirements of subparagraph (B).

"(B) REQUIREMENTS.—A law, regulation, or provision of a State, political subdivision, or political authority meets the requirements of this subparagraph if—

"(i) the law, regulation, or provision covers the same subject matter as, and compliance with such law, regulation, or provision is no more burdensome than compliance with, a provision of this part or a regulation issued by the Secretary or the Board under this part; and

"(ii) the law, regulation, or provision only applies to a carrier upon request of such carrier.

"(C) ELECTION.—Notwithstanding any other provision of law, a carrier affiliated with a direct air carrier through common controlling ownership may elect to be subject to a law, regulation, or provision of a State, political subdivision, or political authority under this paragraph.

"(4) NONAPPLICABILITY TO HAWAII.—This subsection shall not apply with respect to the State of Hawaii.

"§14502. Tax discrimination against motor carrier transportation property

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) ASSESSMENT.—The term 'assessment' means valuation for a property tax levied by a taxing district.

"(2) ASSESSMENT JURISDICTION.—The term 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation.

"(3) MOTOR CARRIER TRANSPORTATION PROPERTY.—The term 'motor carrier transportation property' means property, as defined by the Secretary, owned or used by a motor carrier providing transportation in interstate commerce whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135.

"(4) COMMERCIAL AND INDUSTRIAL PROPERTY.—The term 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use, and subject to a property tax levy.

"(b) ACTS BURDENING INTERSTATE COMMERCE.—The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

"(1) EXCESSIVE VALUATION OF PROPERTY.—Assess motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

"(2) TAX ON ASSESSMENT.—Levy or collect a tax on an assessment that may not be made under paragraph (1).

"(3) AD VALOREM TAX.—Levy or collect an ad valorem property tax on motor carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

"(c) JURISDICTION.—

"(1) IN GENERAL.—Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section.

"(2) LIMITATION IN RELIEF.—Relief may be granted under this subsection only if the ratio of assessed value to true market value of motor carrier transportation property exceeds, by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction.

"(3) BURDEN OF PROOF.—The burden of proof in determining assessed value and true market value is governed by State law.

"(4) VIOLATION.—If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

"(A) an assessment of the motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the assessment value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all such other property; and

"(B) the collection of ad valorem property tax on the motor carrier transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

"§14503. Withholding State and local income tax by certain carriers

"(a) SINGLE STATE TAX WITHHOLDING.—

"(1) IN GENERAL.—No part of the compensation paid by a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 or by a motor private carrier to an employee who performs regularly assigned duties in 2 or more States as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

"(2) EMPLOYEE DEFINED.—In this subsection, the term 'employee' has the meaning given such term in section 31132.

"(b) SPECIAL RULES.—

"(1) CALCULATION OF EARNINGS.—In this subsection, an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of that State in which the time worked by the employee in the State or subdivision is more than 50 percent of the total time worked by the employee while employed during the calendar year.

"(2) WATER CARRIERS.—A water carrier providing transportation subject to jurisdiction under subchapter II of chapter 135 shall file income tax information returns and other reports only with—

"(A) the State and subdivision of residence of the employee (as shown on the employment records of the carrier); and

"(B) the State and subdivision in which the employee earned more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

"(3) APPLICABILITY TO SAILORS.—This subsection applies to pay of a master, officer, or sailor who is a member of the crew on a vessel engaged in foreign, coastwise, intercoastal, or noncontiguous trade or in the fisheries of the United States.

"(c) FILING OF INFORMATION.—A motor and motor private carrier withholding pay from an employee under subsection (a) of this section shall file income tax information returns and other reports only with the State and subdivision of residence of the employee.

"§14504. Registration of motor carriers by a State

"(a) DEFINITIONS.—In this section, the terms 'standards' and 'amendments to standards' mean the specification of forms and procedures required by regulations of the Secretary to prove the lawfulness of transportation by motor carrier referred to in section 13501.

"(b) GENERAL RULE.—The requirement of a State that a motor carrier, providing transportation subject to jurisdiction under subchapter I of chapter 135 and providing transportation in that State, must register with the State is not an unreasonable burden on transportation referred to in section 13501 when the State registration is completed under standards of the Secretary under subsection (c). When a State registration requirement imposes obligations in excess of the standards of the Secretary, the part in excess is an unreasonable burden.

"(c) SINGLE STATE REGISTRATION SYSTEM.—

"(1) IN GENERAL.—The Secretary shall maintain standards for implementing a system under which—

"(A) a motor carrier is required to register annually with only one State by providing evidence of its Federal registration under chapter 139;

"(B) the State of registration shall fully comply with standards prescribed under this section; and

"(C) such single State registration shall be deemed to satisfy the registration requirements of all other States.

"(2) SPECIFIC REQUIREMENTS.—

"(A) EVIDENCE OF FEDERAL REGISTRATION; PROOF OF INSURANCE; PAYMENT OF FEES.—Under the standards of the Secretary implementing the single State registration system described in paragraph (1) of this subsection, only a State acting in its capacity as registration State under such single State system may require a motor carrier registered by the Secretary under this part—

"(i) to file and maintain evidence of such Federal registration;

"(ii) to file satisfactory proof of required insurance or qualification as a self-insurer;

"(iii) to pay directly to such State fee amounts in accordance with the fee system established under subparagraph (B)(iv) of this paragraph, subject to allocation of fee revenues among all States in which the carrier operates and which participate in the single State registration system; and

"(iv) to file the name of a local agent for service of process.

"(B) RECEIPTS; FEE SYSTEM.—The standards of the Secretary—

"(i) shall require that the registration State issue a receipt, in a form prescribed under the standards, reflecting that the carrier has filed proof of insurance as provided under subparagraph (A)(ii) of this paragraph and has paid fee amounts in accordance with the fee system established under clause (iv) of this subparagraph;

"(ii) shall require that copies of the receipt issued under clause (i) of this subparagraph be kept in each of the carrier's commercial motor vehicles;

"(iii) shall not require decals, stamps, cab cards, or any other means of registering or identifying specific vehicles operated by the carrier;

"(iv) shall establish a fee system for the filing of proof of insurance as provided under subparagraph (A)(ii) of this paragraph that—

"(I) is based on the number of commercial motor vehicles the carrier operates in a State and on the number of States in which the carrier operates;

"(II) minimizes the costs of complying with the registration system; and

"(III) results in a fee for each participating State that is equal to the fee, not to exceed $10 per vehicle, that such State collected or charged as of November 15, 1991; and

"(v) shall not authorize the charging or collection of any fee for filing and maintaining evidence of Federal registration under subparagraph (A)(i) of this paragraph.

"(C) PROHIBITED FEES.—The charging or collection of any fee under this section that is not in accordance with the fee system established under subparagraph (B)(iv) of this paragraph shall be deemed to be a burden on interstate commerce.

"(D) LIMITATION ON PARTICIPATION BY STATES.—Only a State which, as of January 1, 1991, charged or collected a fee for a vehicle identification stamp or number under part 1023 of title 49, Code of Federal Regulations, shall be eligible to participate as a registration State under this subsection or to receive any fee revenue under this subsection.

"§14505. State tax

"A State or political subdivision thereof may not collect or levy a tax, fee, head charge, or other charge on—

"(1) a passenger traveling in interstate commerce by motor carrier;

"(2) the transportation of a passenger traveling in interstate commerce by motor carrier;

"(3) the sale of passenger transportation in interstate commerce by motor carrier; or

"(4) the gross receipts derived from such transportation.

"CHAPTER 147—ENFORCEMENT; INVESTIGATIONS; RIGHTS; REMEDIES

"Sec.
"14701. General authority.
"14702. Enforcement by the regulatory authority.
"14703. Enforcement by the Attorney General.
"14704. Rights and remedies of persons injured by carriers or brokers.
"14705. Limitation on actions by and against carriers.
"14706. Liability of carriers under receipts and bills of lading.
"14707. Private enforcement of registration requirement.
"14708. Dispute settlement program for household goods carriers.
"14709. Tariff reconciliation rules for motor carriers of property.

"§14701. General authority

"(a) INVESTIGATIONS.—The Secretary or the Board, as applicable, may begin an investigation under this part on the Secretary's or the

Board's own initiative or on complaint. If the Secretary or Board, as applicable, finds that a carrier or broker is violating this part, the Secretary or Board, as applicable, shall take appropriate action to compel compliance with this part. If the Secretary finds that a foreign motor carrier or foreign motor private carrier is violating chapter 139, the Secretary shall take appropriate action to compel compliance with that chapter. The Secretary or Board, as applicable, may take action under this subsection only after giving the carrier or broker notice of the investigation and an opportunity for a proceeding.

"(b) COMPLAINTS.—A person, including a governmental authority, may file with the Secretary or Board, as applicable, a complaint about a violation of this part by a carrier providing, or broker for, transportation or service subject to jurisdiction under this part or a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title. The complaint must state the facts that are the subject of the violation. The Secretary or Board, as applicable, may dismiss a complaint that it determines does not state reasonable grounds for investigation and action.

"(c) DEADLINE.—A formal investigative proceeding begun by the Secretary or Board under subsection (a) of this section is dismissed automatically unless it is concluded with administrative finality by the end of the 3d year after the date on which it was begun.

"§14702. Enforcement by the regulatory authority

"(a) IN GENERAL.—The Secretary or the Board, as applicable, may bring a civil action—

"(1) to enforce section 14103 of this title; or

"(2) to enforce this part, or a regulation or order of the Secretary or Board, as applicable, when violated by a carrier or broker providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title or by a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title.

"(b) VENUE.—In a civil action under subsection (a)(2) of this section—

"(1) trial is in the judicial district in which the carrier, foreign motor carrier, foreign motor private carrier, or broker operates;

"(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

"(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.

"(c) STANDING.—The Board, through its own attorneys, may bring or participate in any civil action involving motor carrier undercharges.

"§14703. Enforcement by the Attorney General

"The Attorney General may, and on request of either the Secretary or the Board shall, bring court proceedings—

"(1) to enforce this part or a regulation or order of the Secretary or Board or terms of registration under this part; and

"(2) to prosecute a person violating this part or a regulation or order of the Secretary or Board or term of registration under this part.

"§14704. Rights and remedies of persons injured by carriers or brokers

"(a) IN GENERAL.—

"(1) ENFORCEMENT OF ORDER.—A person injured because a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 does not obey an order of the Secretary or the Board, as applicable, under this part, except an order for the payment of money, may bring a civil action to enforce that order under this subsection. A person may bring a civil action for injunctive relief for violations of sections 14102 and 14103.

"(2) DAMAGES FOR VIOLATIONS.—A carrier or broker providing transportation or service subject to jurisdiction under chapter 135 is liable for damages sustained by a person as a result of an act or omission of that carrier or broker in violation of this part.

"(b) LIABILITY AND DAMAGES FOR EXCEEDING TARIFF RATE.—A carrier providing transportation or service subject to jurisdiction under chapter 135 is liable to a person for amounts charged that exceed the applicable rate for transportation or service contained in a tariff in effect under section 13702.

"(c) ELECTION.—

"(1) COMPLAINT TO DOT OR BOARD; CIVIL ACTION.—A person may file a complaint with the Board or the Secretary, as applicable, under section 14701(b) or bring a civil action under subsection (b) to enforce liability against a carrier or broker providing transportation or service subject to jurisdiction under chapter 135.

"(2) ORDER OF DOT OR BOARD.—

"(A) IN GENERAL.—When the Board or Secretary, as applicable, makes an award under subsection (b) of this section, the Board or Secretary, as applicable, shall order the carrier to pay the amount awarded by a specific date. The Board or Secretary, as applicable, may order a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 to pay damages only when the proceeding is on complaint.

"(B) ENFORCEMENT BY CIVIL ACTION.—The person for whose benefit an order of the Board or Secretary requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the carrier or broker does not pay the amount awarded by the date payment was ordered to be made.

"(d) PROCEDURE.—

"(1) IN GENERAL.—When a person begins a civil action under subsection (b) of this section to enforce an order of the Board or Secretary requiring the payment of damages by a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title, the text of the order of the Board or Secretary must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Board or Secretary are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district in which the plaintiff resides or in which the principal operating office of the carrier or broker is located. In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

"(2) PARTIES.—All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

"(e) ATTORNEY'S FEES.—The district court shall award a reasonable attorney's fee under this section. The district court shall tax and collect that fee as part of the costs of the action.

"§14705. Limitation on actions by and against carriers

"(a) IN GENERAL.—A carrier providing transportation or service subject to jurisdiction under chapter 135 must begin a civil action to recover charges for transportation or service provided by the carrier within 18 months after the claim accrues.

"(b) OVERCHARGES.—A person must begin a civil action to recover overcharges within 18 months after the claim accrues. If the claim is against a carrier providing transportation subject to jurisdiction under chapter 135 and an election to file a complaint with the Board or Secretary, as applicable, is made under section 14704(c)(1), the complaint must be filed within 3 years after the claim accrues.

"(c) DAMAGES.—A person must file a complaint with the Board or Secretary, as applicable, to recover damages under section 14704(b) within 2 years after the claim accrues.

"(d) EXTENSIONS.—The limitation periods under subsection (b) of this section are extended for 6 months from the time written notice is given to the claimant by the carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the carrier within those limitation periods. The limitation periods under subsections (b) and (c) of this section are extended for 90 days from the time the carrier begins a civil action under subsection (a) to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

"(e) PAYMENT.—A person must begin a civil action to enforce an order of the Board or Secretary against a carrier within 1 year after the date of the order.

"(f) GOVERNMENT TRANSPORTATION.—This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the later of the date of—

"(1) payment of the rate for the transportation or service involved;

"(2) subsequent refund for overpayment of that rate; or

"(3) deduction made under section 3726 of title 31.

"(g) ACCRUAL DATE.—A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the carrier.

"§14706. Liability of carriers under receipts and bills of lading

"(a) GENERAL LIABILITY.—

"(1) MOTOR CARRIERS AND FREIGHT FORWARDERS.—A carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 shall issue a receipt or bill of lading for property it receives for transportation under this part. That carrier and any other carrier that delivers the property and is providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or chapter 105 are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this paragraph is for the actual loss or injury to the property caused by (A) the receiving carrier, (B) the delivering carrier, or (C) another carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading and, except in the case of a freight forwarder, applies to property reconsigned or diverted under a tariff under section 13702. Failure to issue a receipt or bill of lading does not affect the liability of a carrier. A delivering carrier is deemed to be the carrier performing the line-haul transportation nearest the destination but does not include a carrier providing only a switching service at the destination.

"(2) FREIGHT FORWARDER.—A freight forwarder is both the receiving and delivering carrier. When a freight forwarder provides service and uses a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 to receive property from a consignor, the motor carrier may execute the bill of lading or shipping receipt for the freight forwarder with its consent. With the consent of the freight forwarder, a motor carrier may deliver property for a freight forwarder on the freight forwarder's bill of lading, freight bill, or shipping receipt to the consignee named in it, and receipt for the property may be made on the freight forwarder's delivery receipt.

"(b) APPORTIONMENT.—The carrier issuing the receipt or bill of lading under subsection (a) of this section or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

"(c) SPECIAL RULES.—

"(1) MOTOR CARRIERS.—

"(A) SHIPPER WAIVER.—Subject to the provisions of subparagraph (B), a carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 may, subject to the provisions of this chapter (including with respect to a motor carrier, the requirements of section 13710(a)), establish rates for the transportation of property (other than household goods described in section 13102(10)(A)) under which the liability of the carrier for such property is limited to a value established by written or electronic declaration of the shipper or by written agreement between the carrier and shipper if that value would be reasonable under the circumstances surrounding the transportation.

"(B) CARRIER NOTIFICATION.—If the motor carrier is not required to file its tariff with the Board, it shall provide under section 13710(a)(1) to the shipper, on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices upon which any rate applicable to a shipment, or agreed to between the shipper and the carrier, is based. The copy provided by the carrier shall clearly state the dates of applicability of the rate, classification, rules, or practices.

"(C) PROHIBITION AGAINST COLLECTIVE ESTABLISHMENT.—No discussion, consideration, or approval as to rules to limit liability under this subsection may be undertaken by carriers acting under an agreement approved pursuant to section 13703.

"(2) WATER CARRIERS.—If loss or injury to property occurs while it is in the custody of a water carrier, the liability of that carrier is determined by its bill of lading and the law applicable to water transportation. The liability of the initial or delivering carrier is the same as the liability of the water carrier.

"(d) CIVIL ACTIONS.—

"(1) AGAINST DELIVERING CARRIER.—A civil action under this section may be brought against a delivering carrier in a district court of the United States or in a State court. Trial, if the action is brought in a district court of the United States is in a judicial district, and if in a State court, is in a State through which the defendant carrier operates.

"(2) AGAINST CARRIER RESPONSIBLE FOR LOSS.—A civil action under this section may be brought against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

"(3) JURISDICTION OF COURTS.—A civil action under this section may be brought in a United States district court or in a State court.

"(4) JUDICIAL DISTRICT DEFINED.—In this section, 'judicial district' means—

"(A) in the case of a United States district court, a judicial district of the United States; and

"(B) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.

"(e) MINIMUM PERIOD FOR FILING CLAIMS.—

"(1) IN GENERAL.—A carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice.

"(2) SPECIAL RULES.—For the purposes of this subsection—

"(A) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

"(B) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reason for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

"(f) LIMITING LIABILITY OF HOUSEHOLD GOODS CARRIERS TO DECLARED VALUE.—A carrier or group of carriers subject to jurisdiction under subchapter I or III of chapter 135 may petition the Board to modify, eliminate, or establish rates for the transportation of household goods under which the liability of the carrier for that property is limited to a value established by written declaration of the shipper or by a written agreement.

"(g) MODIFICATIONS AND REFORMS.—

"(1) STUDY.—The Secretary shall conduct a study to determine whether any modifications or reforms should be made to the loss and damage provisions of this section, including those related to limitation of liability by carriers.

"(2) FACTORS TO CONSIDER.—In conducting the study, the Secretary, at a minimum, shall consider—

"(A) the efficient delivery of transportation services;

"(B) international and intermodal harmony;

"(C) the public interest; and

"(D) the interest of carriers and shippers.

"(3) REPORT.—Not later than 12 months after the effective date of this section, the Secretary shall submit to Congress a report on the results of the study, together with any recommendations of the Secretary (including legislative recommendations) for implementing modifications or reforms identified by the Secretary as being appropriate.

"§14707. Private enforcement of registration requirement

"(a) IN GENERAL.—If a person provides transportation by motor vehicle or service in clear violation of section 13901–13904 or 13906, a person injured by the transportation or service may bring a civil action to enforce any such section. In a civil action under this subsection, trial is in the judicial district in which the person who violated that section operates.

"(b) PROCEDURE.—A copy of the complaint in a civil action under subsection (a) shall be served on the Secretary and a certificate of service must appear in the complaint filed with the court. The Secretary may intervene in a civil action under subsection (a). The Secretary may notify the district court in which the action is pending that the Secretary intends to consider the matter that is the subject of the complaint in a proceeding before the Secretary. When that notice is filed, the court shall stay further action pending disposition of the proceeding before the Secretary.

"(c) ATTORNEY'S FEES.—In a civil action under subsection (a), the court may determine the amount of and award a reasonable attorney's fee to the prevailing party. That fee is in addition to costs allowable under the Federal Rules of Civil Procedure.

"§14708. Dispute settlement program for household goods carriers

"(a) OFFERING SHIPPERS ARBITRATION.—As a condition of registration under section 13902 or 13903, a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 must agree to offer in accordance with this section to shippers of household goods arbitration as a means of settling disputes between such carriers and shippers of household goods concerning damage or loss to the household goods transported.

"(b) ARBITRATION REQUIREMENTS.—

"(1) PREVENTION OF SPECIAL ADVANTAGE.—The arbitration that is offered must be designed to prevent a carrier from having any special advantage in any case in which the claimant resides or does business at a place distant from the carrier's principal or other place of business.

"(2) NOTICE OF ARBITRATION PROCEDURE.—The carrier must provide the shipper an adequate notice of the availability of neutral arbitration, including a concise easy-to-read, accurate summary of the arbitration procedure, any applicable costs, and disclosure of the legal effects of election to utilize arbitration. Such notice must be given to persons for whom household goods are to be transported by the carrier before such goods are tendered to the carrier for transportation.

"(3) PROVISION OF FORMS.—Upon request of a shipper, the carrier must promptly provide such forms and other information as are necessary for initiating an action to resolve a dispute under arbitration.

"(4) INDEPENDENCE OF ARBITRATOR.—Each person authorized to arbitrate or otherwise settle disputes must be independent of the parties to the dispute and must be capable, as determined under such regulations as the Secretary may issue, to resolve such disputes fairly and expeditiously. The carrier must ensure that each person chosen to settle the disputes is authorized and able to obtain from the shipper or carrier any material and relevant information to the extent necessary to carry out a fair and expeditious decisionmaking process.

"(5) APPORTIONMENT OF COSTS.—No shipper may be charged more than half of the cost for instituting an arbitration proceeding that is brought under this section. In the decision, the arbitrator may determine which party shall pay the cost or a portion of the cost of the arbitration proceeding, including the cost of instituting the proceeding.

"(6) REQUESTS.—The carrier must not require the shipper to agree to utilize arbitration prior to the time that a dispute arises. If the dispute involves a claim for $1,000 or less and the shipper requests arbitration, such arbitration shall be binding on the parties. If the dispute involves a claim for more than $1,000 and the shipper requests arbitration, such arbitration shall be binding on the parties only if the carrier agrees to arbitration.

"(7) ORAL PRESENTATION OF EVIDENCE.—The arbitrator may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute (or a party's representative), but such oral presentation may be made only if all parties to the dispute expressly agree to such presentation and the date, time, and location of such presentation.

"(8) DEADLINE FOR DECISION.—The arbitrator must, as expeditiously as possible but at least within 60 days of receipt of written notification of the dispute, render a decision based on the information gathered; except that, in any case in which a party to the dispute fails to provide in a timely manner any information concerning such dispute which the person settling the dispute may reasonably require to resolve the dispute, the arbitrator may extend such 60-day period for a reasonable period of time. A decision resolving a dispute may include any remedies appropriate under the circumstances, including repair, replacement, refund, reimbursement for expenses, and compensation for damages.

"(c) LIMITATION ON USE OF MATERIALS.—Materials and information obtained in the course of a decision making process to settle a dispute by arbitration under this section may not be used to bring an action under section 14905.

"(d) ATTORNEY'S FEES TO SHIPPERS.—In any court action to resolve a dispute between a shipper of household goods and a carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 concerning the transportation of household goods by such carrier, the shipper shall be awarded reasonable attorney's fees if—

"(1) the shipper submits a claim to the carrier within 120 days after the date the shipment is delivered or the date the delivery is scheduled, whichever is later;

"(2) the shipper prevails in such court action; and

"(3)(A) a decision resolving the dispute was not rendered through arbitration under this section within the period provided under subsection (b)(8) of this section or an extension of such period under such subsection; or

"(B) the court proceeding is to enforce a decision rendered through arbitration under this section and is instituted after the period for performance under such decision has elapsed.

"(e) ATTORNEY'S FEES TO CARRIERS.—In any court action to resolve a dispute between a shipper of household goods and a carrier providing transportation, or service subject to jurisdiction under subchapter I or III of chapter 135 concerning the transportation of household goods by such carrier, such carrier may be awarded reasonable attorney's fees by the court only if the shipper brought such action in bad faith—

"(1) after resolution of such dispute through arbitration under this section; or

"(2) after institution of an arbitration proceeding by the shipper to resolve such dispute under this section but before—

"(A) the period provided under subsection (b)(8) for resolution of such dispute (including, if applicable, an extension of such period under such subsection) ends; and

"(B) a decision resolving such dispute is rendered.

"(f) LIMITATION OF APPLICABILITY TO COLLECT-ON-DELIVERY TRANSPORTATION.—The provisions of this section shall apply only in the case of collect-on-delivery transportation of household goods.

"(g) REVIEW BY SECRETARY.—Not later than 18 months after the effective date of this section, the Secretary shall complete a review of the dispute settlement program established under this section. If, after notice and opportunity for comment, the Secretary determines that changes are necessary to such program to ensure the fair and equitable resolution of disputes under this section, the Secretary shall implement such changes and transmit a report to Congress on such changes.

"§14709. Tariff reconciliation rules for motor carriers of property

"Subject to review and approval by the Board, motor carriers subject to jurisdiction under subchapter I of chapter 135 (other than motor carriers providing transportation of household goods) and shippers may resolve, by mutual consent, overcharge and under-charge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications in compliance with section 13702 or, with respect to transportation provided before the effective date of this section, sections 10761 and 10762, as in effect on the day before the effective date of this section. Resolution of such claims among the parties shall not subject any party to the penalties for departing from a tariff.

"CHAPTER 149—CIVIL AND CRIMINAL PENALTIES

Sec.
"14901. General civil penalties.
"14902. Civil penalty for accepting rebates from carrier.
"14903. Tariff violations.
"14904. Additional rate violations.
"14905. Penalties for violations of rules relating to loading and unloading motor vehicles.
"14906. Evasion of regulation of carriers and brokers.
"14907. Recordkeeping and reporting violations.
"14908. Unlawful disclosure of information.
"14909. Disobedience to subpoenas.
"14910. General civil penalty when specific penalty not provided.
"14911. Punishment of corporation for violations committed by certain individuals.
"14912. Weight-bumping in household goods transportation.
"14913. Conclusiveness of rates in certain prosecutions.
"14914. Civil penalty procedures.

"§14901. General civil penalties

"(a) REPORTING AND RECORDKEEPING.—A person required to make a report to the Secretary or the Board, answer a question, or make, prepare, or preserve a record under this part concerning transportation subject to jurisdiction under subchapter I or III of chapter 135 or transportation by a foreign carrier registered under section 13902, or an officer, agent, or employee of that person that—

"(1) does not make the report;

"(2) does not specifically, completely, and truthfully answer the question;

"(3) does not make, prepare, or preserve the record in the form and manner prescribed;

"(4) does not comply with section 13901; or

"(5) does not comply with section 13902(c);

is liable to the United States for a civil penalty of not less than $500 for each violation and for each additional day the violation continues; except that, in the case of a person who is not registered under this part to provide transportation of passengers, or an officer, agent, or employee of such person, that does not comply with section 13901 with respect to providing transportation of passengers, the amount of the civil penalty shall not be less than $2,000 for each violation and for each additional day the violation continues.

"(b) TRANSPORTATION OF HAZARDOUS WASTES.—A person subject to jurisdiction under subchapter I of chapter 135, or an officer, agent, or employee of that person, and who is required to comply with section 13901 of this title but does not so comply with respect to the transportation of hazardous wastes as defined by the Environmental Protection Agency pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Congress) shall be liable to the United States for a civil penalty not to exceed $20,000 for each violation.

"(c) FACTORS TO CONSIDER IN DETERMINING AMOUNT.—In determining and negotiating the amount of a civil penalty under subsection (a) or (d) concerning transportation of household goods, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the proceeding, and such other matters as fairness may require shall be taken into account.

"(d) PROTECTION OF HOUSEHOLD GOODS SHIPPERS.—If a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 or a receiver or trustee of such carrier fails or refuses to comply with any regulation issued by the Secretary or the Board relating to protection of individual shippers, such carrier, receiver, or trustee is liable to the United States for a civil penalty of not less than $1,000 for each violation and for each additional day during which the violation continues.

"(e) VIOLATION RELATING TO TRANSPORTATION OF HOUSEHOLD GOODS.—Any person that knowingly engages in or knowingly authorizes an agent or other person—

"(1) to falsify documents used in the transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 which evidence the weight of a shipment; or

"(2) to charge for accessorial services which are not performed or for which the carrier is not entitled to be compensated in any case in which such services are not reasonably necessary in the safe and adequate movement of the shipment;

is liable to the United States for a civil penalty of not less than $2,000 for each violation and of not less than $5,000 for each subsequent violation. Any State may bring a civil action in the United States district courts to compel a person to pay a civil penalty assessed under this subsection.

"(f) VENUE.—Trial in a civil action under subsections (a) through (e) of this section is in the judicial district in which—

"(1) the carrier or broker has its principal office;

"(2) the carrier or broker was authorized to provide transportation or service under this part when the violation occurred;

"(3) the violation occurred; or

"(4) the offender is found.

Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

"(g) BUSINESS ENTERTAINMENT EXPENSES.—

"(1) IN GENERAL.—Any business entertainment expense incurred by a water carrier providing transportation subject to this part shall not constitute a violation of this part if that expense would not be unlawful if incurred by a person not subject to this part.

"(2) COST OF SERVICE.—Any business entertainment expense subject to paragraph (1) that is paid or incurred by a water carrier providing transportation subject to this part shall not be taken into account in determining the cost of service or the rate base for purposes of section 13702.

"§14902. Civil penalty for accepting rebates from carrier

"A person—

"(1) delivering property to a carrier providing transportation or service subject to jurisdiction under chapter 135 for transportation under this part or for whom that carrier will transport the property as consignor or consignee for that person from a State or territory or possession of the United States to another State or possession, territory, or to a foreign country; and

"(2) knowingly accepting or receiving by any means a rebate or offset against the rate for transportation for, or service of, that property *contained in a tariff required under section 13702;*

is liable to the United States for a civil penalty in an amount equal to 3 times the amount of money that person accepted or received as a rebate or offset and 3 times the value of other consideration accepted or received as a rebate or offset. In a civil action under this section, all money or other consideration received by the person during a period of 6 years before an action is brought under this section may be included in determining the amount of the penalty, and if that total amount is included, the penalty shall be 3 times that total amount.

“§14903. Tariff violations

“(a) CIVIL PENALTY FOR UNDERCHARGING AND OVERCHARGING.—A person that offers, grants, gives, solicits, accepts, or receives by any means transportation or service provided for property by a carrier subject to jurisdiction under chapter 135 at a rate different than the rate in effect under section 13702 is liable to the United States for civil penalty of not more than $100,000 for each violation.

“(b) GENERAL CRIMINAL PENALTY.—A carrier providing transportation or service subject to jurisdiction under chapter 135 or an officer, director, receiver, trustee, lessee, agent, or employee of a corporation that is subject to jurisdiction under that chapter, that willfully does not observe its tariffs as required under section 13702, shall be fined under title 18 or imprisoned not more than 2 years, or both.

“(c) ACTIONS OF AGENTS AND EMPLOYEES.—When acting in the scope of their employment, the actions and omissions of persons acting for or employed by a carrier or shipper that is subject to this section are considered to be the actions and omissions of that carrier or shipper as well as that person.

“(d) VENUE.—Trial in a criminal action under this section is in the judicial district in which any part of the violation is committed or through which the transportation is conducted.

“§14904. Additional rate violations

“(a) REBATES BY AGENTS.—A person, or an officer, employee, or agent of that person, that—

“(1) offers, grants, gives, solicits, accepts, or receives a rebate for concession, in violation of a provision of this part related to motor carrier transportation subject to jurisdiction under subchapter I of chapter 135; or

(2) by any means assists or permits another person to get transportation that is subject to jurisdiction under that subchapter at less than the rate in effect for that transportation under section 13702,

is liable to the United States for a civil penalty of $200 for the first violation and $250 for a subsequent violation.

“(b) UNDERCHARGING.—

“(1) FREIGHT FORWARDER.—A freight forwarder providing service subject to jurisdiction under subchapter III of chapter 135, or an officer, agent, or employee of that freight forwarder, that assists a person in getting, or willingly permits a person to get, service provided under that subchapter at less than the rate in effect for that service under section 13702, is liable to the United States for a civil penalty of not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

“(2) OTHERS.—A person that by any means gets, or attempts to get, service provided under subchapter III of chapter 135 at less than the rate in effect for that service under section 13702, is liable to the United States for a civil penalty of not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

“§14905. Penalties for violations of rules relating to loading and unloading motor vehicles

“(a) CIVIL PENALTIES.—Whoever knowingly authorizes, consents to, or permits a violation of subsection (a) or (b) of section 14103 or who knowingly violates subsection (a) of such section is liable to the United States for a civil penalty of not more than $10,000 for each violation.

“(b) CRIMINAL PENALTIES.—Whoever knowingly violates section 14103(b) of this title shall be fined under title 18 or imprisoned not more than 2 years, or both.

“§14906. Evasion of regulation of carriers and brokers

“A person, or an officer, employee, or agent of that person, that by any means tries to evade regulation provided under this part for carriers or brokers is liable to the United States for a civil penalty of $200 for the first violation and at least $250 for a subsequent violation.

“§14907. Recordkeeping and reporting violations

“A person required to make a report to the Secretary or the Board, as applicable, answer a question, or make, prepare, or preserve a record under this part about transportation subject to jurisdiction under subchapter I or III of chapter 135, or an officer, agent, or employee of that person, that—

“(1) does not make that report;

“(2) does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary or Board, as applicable, requires the question to be answered;

“(3) does not make, prepare, or preserve that record in the form and manner prescribed;

“(4) falsifies, destroys, mutilates, or changes that report or record;

“(5) files a false report or record;

“(6) makes a false or incomplete entry in that record about a business related fact or transaction; or

“(7) makes, prepares, or preserves a record in violation of an applicable regulation or order of the Secretary or Board;

is liable to the United States for a civil penalty of not more than $5,000.

“§14908. Unlawful disclosure of information

“(a) DISCLOSURE OF SHIPMENT AND ROUTING INFORMATION.—

“(1) VIOLATIONS.—A carrier or broker providing transportation subject to jurisdiction under subchapter I, II, or III of chapter 135 or an officer, receiver, trustee, lessee, or employee of that carrier or broker, or another person authorized by that carrier or broker to receive information from that carrier or broker may not disclose to another person, except the shipper or consignee, and a person may not solicit, or receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier or broker for transportation provided under this part without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

“(2) PENALTY.—A person violating paragraph (1) of this subsection is liable to the United States for a civil penalty of not more than $2,000.

“(b) LIMITATION ON STATUTORY CONSTRUCTION.—This part does not prevent a carrier or broker providing transportation subject to jurisdiction under chapter 135 from giving information—

“(1) in response to legal process issued under authority of a court of the United States or a State;

“(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

“(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

“§14909. Disobedience to subpoenas

“Whoever does not obey a subpoena or requirement of the Secretary or the Board to appear and testify or produce records shall be fined under title 18 or imprisoned not more than 1 year, or both.

“§14910. General civil penalty when specific penalty not provided

“When another civil penalty is not provided under this chapter, a person that violates a provision of this part or a regulation or order prescribed under this part, or a condition of a registration under this part related to transportation that is subject to jurisdiction under subchapter I or III of chapter 135 or a condition of a registration of a foreign motor carrier or foreign motor private carrier under section 13902, is liable to the United States for a civil penalty of $500 for each violation. A separate violation occurs each day the violation continues.

“§14911. Punishment of corporation for violations committed by certain individuals

“An act or omission that would be a violation of this part if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a carrier providing transportation or service subject to jurisdiction under chapter 135 that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that carrier are considered to be the actions and omissions of that carrier as well as that individual.

“§14912. Weight-bumping in household goods transportation

“(a) WEIGHT-BUMPING DEFINED.—For the purposes of this section, ‘weight-bumping’ means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods which is subject to jurisdiction under subchapter I or III of chapter 135.

“(b) PENALTY.—Whoever has been found to have committed weight-bumping shall be fined under title 18 or imprisoned not more than 2 years, or both.

“§14913. Conclusiveness of rates in certain prosecutions

“When a carrier publishes or files a particular rate under section 13702 or participates in such a rate, the published or filed rate is conclusive proof against that carrier, its officers, and agents that it is the legal rate for that transportation or service in a proceeding begun under section 14902 or 14903. A departure, or offer to depart, from that published or filed rate is a violation of those sections.

“§14914. Civil penalty procedures

“(a) IN GENERAL.—After notice and an opportunity for a hearing, a person found by the Surface Transportation Board to have violated a provision of law that the Board carries out or a regulation prescribed under that law by the Board that is related to transportation which occurs under subchapter II of chapter 135 for which a civil penalty is provided, is liable to the United States for the civil penalty provided. The amount of the civil penalty shall be assessed by the Board by written notice. In determining the amount of the penalty, the Board shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

“(b) COMPROMISE.—The Board may compromise, modify, or remit, with or without consideration, a civil penalty until the assessment is referred to the Attorney General.

"(c) COLLECTION.—If a person fails to pay an assessment of a civil penalty after it has become final, the Board may refer the matter to the Attorney General for collection in an appropriate district court of the United States.

"(d) REFUNDS.—The Board may refund or remit a civil penalty collected under this section if—

"(1) application has been made for refund or remission of the penalty within 1 year from the date of payment; and

"(2) the Board finds that the penalty was unlawfully, improperly, or excessively imposed.".

SEC. 104. MISCELLANEOUS MOTOR CARRIER PROVISIONS.

(a) GRANTS TO STATES.—Section 31102(b)(1) of title 49, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (O);

(2) by striking the period at the end of subparagraph (P) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(Q) ensures that the State will cooperate in the enforcement of registration and financial responsibility requirements under sections 31140 and 31146, or regulations issued thereunder."

(b) TRANSPORT VEHICLES FOR OFF-ROAD, COMPETITION VEHICLES.—Section 31111(b)(1) of such title is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon and "or"; and

(3) by adding at the end thereof the following:

"(E) imposes a limitation of less than 46 feet on the distance from the kingpin to the center of the rear axle on trailers used exclusively or primarily in connection with motorsports competition events.".

(c) MULTIPLE INSURERS.—Section 31138(c) of such title is amended by adding at the end the following new paragraph:

"(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.".

(d) MINIMUM FINANCIAL RESPONSIBILITY REQUIREMENTS WITH RESPECT TO CERTAIN TRANSPORTATION SERVICE.—Section 31138(e) is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following:

"(4) providing transportation service within a transit service area under an agreement with a Federal, State, or local government funded, in whole or in part, with a grant under section 5307, 5310, or 5311, including transportation designed and carried out to meet the special needs of elderly individuals and individuals with disabilities; except that, in any case in which the transit service area is located in more than 1 State, the minimum level of financial responsibility for such motor vehicle will be at least the highest level required for any of such States.".

(e) TRANSPORTERS OF PROPERTY.—Section 31139(e) of such title is amended by adding at the end the following:

"(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.".

(f) COMMERCIAL MOTOR VEHICLE DEFINED.—Section 31132(1) of such title is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by striking subparagraph (B) and inserting in lieu thereof the following:

"(B) is designed or used to transport passengers for compensation, but excluding vehicles providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;

"(C) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or".

(g) SAFETY FITNESS OF OWNERS AND OPERATORS.—Section 31144 of such title is amended—

(1) the first sentence of subsection (a) by striking "In cooperation with the Interstate Commerce Commission, the" and inserting in lieu thereof "The";

(2) in such sentence by striking "sections 10922 and 10923" and inserting in lieu thereof "section 13902";

(3) in subsection (a)(1)(C) by striking "and the Commission"; and

(4) by striking subsection (b) and inserting in lieu thereof the following:

"(b) FINDINGS AND ACTION ON REGISTRATIONS.—The Secretary shall find that a person seeking to register as a motor carrier is unfit if such person does not meet the safety fitness requirements established under subsection (a) and shall not register such person.".

(h) SELF-INSURANCE RULES.—The Secretary of Transportation shall continue to enforce the rules and regulations of the Interstate Commerce Commission, as in effect on July 1, 1995, governing the qualifications for approval of a motor carrier as a self-insurer, until such time as the Secretary finds it in the public interest to revise such rules. The revised rules must provide for—

(1) continued ability of motor carriers to qualify as self-insurers; and

(2) the continued qualification of all carriers then so qualified under the terms and conditions set by the Interstate Commerce Commission or Secretary at the time of qualification.

SEC. 105. CREDITABILITY OF ANNUAL LEAVE FOR PURPOSES OF MEETING MINIMUM ELIGIBILITY REQUIREMENTS FOR AN IMMEDIATE ANNUITY.

(a) IN GENERAL.—An employee of the Interstate Commerce Commission who is separated from Government service pursuant to the abolition of that agency under section 101 shall, upon appropriate written application, be given credit, for purposes of determining eligibility for and computing the amount of any annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, for accrued annual leave standing to such employee's credit at the time of separation.

(b) LIMITATION AND OTHER CONDITIONS.—Any regulations necessary to carry out this section shall be prescribed by the Office of Personnel Management. Such regulations shall include provisions—

(1) defining the types of leave for which credit may be given under this section (such definition to be similar to the corresponding provisions of the regulations under section 351.608(c)(2) of title 5 of the Code of Federal Regulations, as in effect on the date of the enactment of this Act);

(2) limiting the amount of accrued annual leave which may be used for the purposes specified in subsection (a) to the minimum period of time necessary in order to permit such employee to attain first eligibility for an immediate annuity under section 8336, 8412, or 8414 of title 5, United States Code (in a manner similar to the corresponding provisions of the regulations referred to in paragraph (1));

(3) under which contributions (or arrangements for the making of contributions) shall be made so that—

(A) employee contributions for any period of leave for which retirement credit may be obtained under this section shall be made by the employee; and

(B) Government contributions with respect to such period shall similarly be made by the Interstate Commerce Commission or other appropriate officer or entity (out of appropriations otherwise available for such contributions); and

(4) under which subsection (a) shall not apply with respect to an employee who declines a reasonable offer of employment in another position in the Department of Transportation made under this Act or any amendment made by this Act.

(c) EXTINGUISHMENT OF ELIGIBILITY FOR LUMP-SUM PAYMENT.—A lump-sum payment under section 5551 of title 5, United States Code, shall not be payable with respect to any leave for which retirement credit is obtained under this section.

SEC. 106. PIPELINE CARRIER PROVISIONS.

(a) AMENDMENT TO TITLE 49.—Subtitle IV of title 49, United States Code, is further amended by adding at the end the following:

"PART C—PIPELINE CARRIERS

"CHAPTER 151—GENERAL PROVISIONS

"CHAPTER 151—GENERAL PROVISIONS

"Sec.
"15101. Transportation policy.
"15102. Definitions.
"15103. Remedies as cumulative.

"§15101. Transportation policy

"(a) IN GENERAL.—To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, including the national defense, it is the policy of the United States Government to oversee of the modes of transportation and in overseeing those modes—

"(1) to recognize and preserve the inherent advantage of each mode of transportation;

"(2) to promote safe, adequate, economical, and efficient transportation;

"(3) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

"(4) to encourage the establishment and maintenance of reasonable rates for transportation without unreasonable discrimination or unfair or destructive competitive practices;

"(5) to cooperate with each State and the officials of each State on transportation matters; and

"(6) to encourage fair wages and working conditions in the transportation industry.

"(b) ADMINISTRATION TO CARRY OUT POLICY.—This part shall be administered and enforced to carry out the policy of this section.

"§15102. Definitions

"In this part—

"(1) BOARD.—The term 'Board' means the Surface Transportation Board.

"(2) PIPELINE CARRIER.—The term 'pipeline carrier' means a person providing pipeline transportation for compensation.

"(3) RATE.—The term 'rate' means a rate or charge for transportation.

"(4) STATE.—The term 'State' means a State of the United States and the District of Columbia.

"(5) TRANSPORTATION.—The term 'transportation' includes—

"(A) property, facilities, instrumentalities, or equipment of any kind related to the movement of property, regardless of ownership or an agreement concerning use; and

"(B) services related to that movement, including receipt, delivery, transfer in transit, storage, handling, and interchange of property.

"(6) UNITED STATES.—The term 'United States' means the States of the United States and the District of Columbia.

"§15103. Remedies as cumulative

"Except as otherwise provided in this part, the remedies provided under this part are in addition to remedies existing under another law or common law.

"CHAPTER 153—JURISDICTION

"CHAPTER 153—JURISDICTION

"Sec.
"15301. General pipeline jurisdiction.
"15302. Authority to exempt pipeline carrier transportation.

"§15301. General pipeline jurisdiction

"(a) IN GENERAL.—The Board has jurisdiction over transportation by pipeline, or by pipeline and railroad or water, when transporting a commodity other than water, gas, or oil. Jurisdiction under this subsection applies only to transportation in the United States between a place in—

"(1) a State and a place in another State;

"(2) the District of Columbia and another place in the District of Columbia;

"(3) a State and a place in a territory or possession of the United States;

"(4) a territory or possession of the United States and a place in another such territory or possession;

"(5) a territory or possession of the United States and another place in the same territory or possession;

"(6) the United States and another place in the United States through a foreign country; or

"(7) the United States and a place in a foreign country.

"(b) NO JURISDICTION OVER INTRASTATE TRANSPORTATION.—The Board does not have jurisdiction under subsection (a) over the transportation of property, or the receipt, delivery, storage, or handling of property, entirely in a State (other than the District of Columbia) and not transported between a place in the United States and a place in a foreign country except as otherwise provided in this part.

"(c) PROTECTION OF STATES POWERS.—This part does not affect the power of a State, in exercising its police power, to require reasonable intrastate transportation by carriers providing transportation subject to the jurisdiction of the Board under this chapter unless the State requirement is inconsistent with an order of the Board issued under this part or is prohibited under this part.

"§15302. Authority to exempt pipeline carrier transportation

"(a) IN GENERAL—In a matter related to a pipeline carrier providing transportation subject to jurisdiction under this chapter, the Board shall exempt a person, class of persons, or a transaction or service when the Board finds that the application, in whole or in part, of a provision of this part—

"(1) is not necessary to carry out the transportation policy of section 15101; and

"(2) either (A) the transaction or service is of limited scope, or (B) the application, in whole or in part, of the provision is not needed to protect shippers from the abuse of market power.

"(b) INITIATION OF PROCEEDING.—The Board may, where appropriate, begin a proceeding under this section on its own initiative or an interested party.

"(c) PERIOD OF EXEMPTION.—The Board may specify the period of time during which an exemption granted under this section is effective.

"(d) REVOCATION.—The Board may revoke an exemption, to the extent it specifies, when it finds that application, in whole or in part, of a provision of this part to the person, class, or transportation is necessary to carry out the transportation policy of section 15101.

"CHAPTER 155—RATES

"Sec.
"15501. Standards for pipeline rates, classifications, through routes, rules, and practices.
"15502. Authority for pipeline carriers to establish rates, classifications, rules, and practices.
"15503. Authority and criteria: rates, classifications, rules, and practices prescribed by Board.
"15504. Government traffic.
"15505. Prohibition against discrimination by pipeline carriers.
"15506. Facilities for interchange of traffic.

"§15501. Standards for pipeline rates, classifications, through routes, rules, and practices

"(a) REASONABLENESS.—A rate, classification, rule, or practice related to transportation or service provided by a pipeline carrier subject to this part must be reasonable. A through route established by such a carrier must be reasonable.

"(b) NONDISCRIMINATION.—A pipeline carrier providing transportation subject to this part may not discriminate in its rates against a connecting line of any other pipeline, rail, or water carrier providing transportation subject to this subtitle or unreasonably discriminate against that line in the distribution of traffic that is not routed specifically by the shipper.

"§15502. Authority for pipeline carriers to establish rates, classifications, rules, and practices

"A pipeline carrier providing transportation or service subject to this part shall establish—

"(1) rates and classifications for transportation and service it may provide under this part; and

"(2) rules and practices on matters related to that transportation or service.

"§15503. Authority and criteria: rates, classifications, rules, and practices prescribed by Board

"(a) IN GENERAL.—When the Board, after a full hearing, decides that a rate charged or collected by a pipeline carrier for transportation subject to this part, or that a classification, rule, or practice of that carrier, does or will violate this part, the Board may prescribe the rate, classification, rule, or practice to be followed. In prescribing the rate, classification, rule, or practice, the Board may utilize rate reasonableness procedures that provide an effective simulation of a market-based price for a stand alone pipeline. The Board may order the carrier to stop the violation. When a rate, classification, rule, or practice is prescribed under this subsection, the affected carrier may not publish, charge, or collect a different rate and shall adopt the classification and observe the rule or practice prescribed by the Board.

"(b) FACTORS TO CONSIDER.—When prescribing a rate, classification, rule, or practice for transportation or service by a pipeline carrier, the Board shall consider, among other factors—

"(1) the effect of the prescribed rate, classification, rule, or practice on the movement of traffic by that carrier;

"(2) the need for revenues that are sufficient, under honest, economical, and efficient management, to let the carrier provide that transportation or service; and

"(3) the availability of other economic transportation alternatives.

"(c) PROCEEDING.—The Board may begin a proceeding under this section on complaint. A complaint under of this section must contain a full statement of the facts and the reasons for the complaint and must be made under oath.

"§15504. Government traffic

"A pipeline carrier providing transportation or service for the United States Government may transport property for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply when transportation for the United States Government can be obtained from a carrier lawfully operating in the area where the transportation would be provided.

"§15505. Prohibition against discrimination by pipeline carriers

A pipeline carrier providing transportation or service subject to this part may not subject a person, place, port, or type of traffic to unreasonable discrimination.

"§15506. Facilities for interchange of traffic

"A pipeline carrier providing transportation subject to this part shall provide reasonable, proper, and equal facilities that are within its power to provide for the interchange of traffic between, and for the receiving, forwarding, and delivering of property to and from, its respective line and a connecting line of a pipeline, rail, or water carrier under this subtitle.

"CHAPTER 157—OPERATIONS OF CARRIERS

"CHAPTER 157—OPERATIONS OF CARRIERS

"SUBCHAPTER A—GENERAL REQUIREMENTS

"15701. Providing transportation and service.

"SUBCHAPTER B—OPERATIONS OF CARRIERS

"15721. Definitions.
"15722. Records: form; inspection; preservation.
"15723. Reports by carriers, lessors, and associations.

"SUBCHAPTER A—GENERAL REQUIREMENTS

"§15701. Providing transportation and service

"(a) SERVICE ON REASONABLE REQUEST.—A pipeline carrier providing transportation or service under this part shall provide the transportation or service on reasonable request.

"(b) RATES AND OTHER TERMS.—A pipeline carrier shall also provide to any person, on request, the carrier's rates and other service terms. The response by a pipeline carrier to a request for the carrier's rates and other service terms shall be—

"(1) in writing and forwarded to the requesting person promptly after receipt of the request; or

"(2) promptly made available in electronic form.

"(c) LIMITATION ON RATE INCREASES AND CHANGES TO SERVICE TERMS.—A pipeline carrier may not increase any common carrier rates or change any common carrier service terms unless 20 days have expired after written or electronic notice is provided to any person who, within the previous 12 months—

"(1) has requested such rates or terms under subsection (b); or

"(2) has made arrangements with the carrier for a shipment that would be subject to such increased rates or changed terms.

"(d) PROVISION OF SERVICE.—A pipeline carrier shall provide transportation or service in accordance with the rates and service terms, and any changes thereto, as published or otherwise made available under subsection (b) or (c).

"(e) REGULATIONS.—The Board shall, by regulation, establish rules to implement this section. The regulations shall provide for immediate disclosure and dissemination of rates and service terms, including classifications, rules, and practices, and their effective dates. The regulations may modify the 20-day period specified in subsection (c). Final regulations shall be adopted by the Board not later than 180 days after the effective date of this section.

"SUBCHAPTER B—OPERATIONS OF CARRIERS

"§15721. Definitions

"In this subchapter, the following definitions apply:

"(1) CARRIER, LESSOR.—The terms 'carrier' and "lessor" include a receiver or trustee of a pipeline carrier and lessor, respectively.

"(2) LESSOR.—The term 'lessor' means a person owning a pipeline that is leased to and operated by a carrier providing transportation under this part.

"(3) ASSOCIATION.—The term 'association' means an organization maintained by or in the interest of a group of pipeline carriers that performs a service, or engages in activities, related to transportation under this part.

"§15722. Records: form; inspection; preservation

"(a) FORM OF RECORDS.—The Board may prescribe the form of records required to be prepared or compiled under this subchapter by pipeline carriers and lessors, including records related to movement of traffic and receipts and expenditures of money.

"(b) INSPECTION.—The Board, or an employee designated by the Board, may on demand and display of proper credentials—

"(1) inspect and examine the lands, buildings, and equipment of a pipeline carrier or lessor; and

"(2) inspect and copy any record of—

"(A) a pipeline carrier, lessor, or association; and

"(B) a person controlling, controlled by, or under common control with a pipeline carrier if the Board considers inspection relevant to that person's relation to, or transaction with, that carrier.

"(c) PRESERVATION PERIOD.—The Board may prescribe the time period during which operating, accounting, and financial records must be preserved by pipeline carriers and lessors.

"§15723. Reports by carriers, lessors, and associations

"(a) FILING OF REPORTS.—The Board may require pipeline carriers, lessors, and associations, or classes of them as the Board may prescribe, to file annual, periodic, and special reports with the Board containing answers to questions asked by it.

"(b) UNDER OATH.—Any report under this section shall be made under oath.

"CHAPTER 159—ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES

"CHAPTER 159—ENFORCEMENT:
INVESTIGATIONS, RIGHTS, AND REMEDIES

"Sec.
"15901. General authority.
"15902. Enforcement by the Board.
"15903. Enforcement by the Attorney General.
"15904. Rights and remedies of persons injured by certain carriers.
"15905. Limitation on actions by and against pipeline carriers.
"15906. Liability of pipeline carriers under receipts and bills of lading.
"15907. Liability when property is delivered in violation of routing instructions.

"§15901. General authority

"(a) INVESTIGATION; COMPLIANCE ORDER.—Except as otherwise provided in this part, the Board may begin an investigation under this part only on complaint. If the Board finds that a pipeline carrier is violating this part, the Board shall take appropriate action to compel compliance with this part. The Board shall provide the carrier notice of the investigation and an opportunity for a proceeding.

"(b) COMPLAINT.—A person, including a governmental authority, may file with the Board, a complaint about a violation of this part by a pipeline carrier providing transportation or service subject to this part. The complaint must state the facts that are the subject of the violation. The Board may dismiss a complaint it determines does not state reasonable grounds for investigation and action. However, the Board may not dismiss a complaint made against a pipeline carrier providing transportation subject to this part because of the absence of direct damage to the complainant.

"(c) AUTOMATIC DISMISSAL.—A formal investigative proceeding begun by the Board under subsection (a) is dismissed automatically unless it is concluded by the Board with administrative finality by the end of the 3d year after the date on which it was begun.

"§15902. Enforcement by the Board

"The Board may bring a civil action to enforce an order of the Board, except a civil action to enforce an order for the payment of money, when it is violated by a pipeline carrier providing transportation subject to this part.

"§15903. Enforcement by the Attorney General

"(a) ON BEHALF OF BOARD.—The Attorney General may, and on request of the Board shall, bring court proceedings to enforce this part or a regulation or order of the Board and to prosecute a person violating this part or a regulation or order of the Board issued under this part.

"(b) ON BEHALF OF OTHERS.—The United States Government may bring a civil action on behalf of a person to compel a pipeline carrier providing transportation or service subject to this part to provide that transportation or service to that person in compliance with this part at the same rate charged, or on conditions as favorable as those given by the carrier, for like traffic under similar conditions to another person.

"§15904. Rights and remedies of persons injured by pipeline carriers

"(a) ENFORCEMENT OF ORDERS.—A person injured because a pipeline carrier providing transportation or service subject to this part does not obey an order of the Board, except an order for the payment of money, may bring a civil action to enforce that order under this subsection.

"(b) LIABILITY OF CARRIER.—

"(1) EXCESSIVE CHARGES.—A pipeline carrier providing transportation subject to this part is liable to a person for amounts charged that exceed the applicable rate for the transportation.

"(2) DAMAGES.—A pipeline carrier providing transportation subject to this part is liable for damages sustained by a person as a result of an act or omission of that carrier in violation of this part.

"(c) COMPLAINTS.—

"(1) FILING.—A person may file a complaint with the Board under section 11501(b) or bring a civil action under subsection (b) to enforce liability against a pipeline carrier providing transportation subject to this part.

"(2) PAYMENT DEADLINE.—When the Board makes an award under subsection (b), the Board shall order the carrier to pay the amount awarded by a specific date. The Board may order a carrier providing transportation subject to this part to pay damages only when the proceeding is on complaint. The person for whose benefit an order of the Board requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the carrier does not pay the amount awarded by the date payment was ordered to be made.

"(d) CIVIL ACTIONS.—

"(1) COMPLAINT.—When a person begins a civil action under subsection (b) to enforce an order of the Board requiring the payment of damages by a pipeline carrier providing transportation subject to this part, the text of the order of the Board must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Board are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district in which the plaintiff resides or in which the principal operating office of the carrier is located. In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

"(2) ATTORNEY'S FEES.—The district court shall award a reasonable attorney's fee as a part of the damages for which a carrier is found liable under this subsection. The district court shall tax and collect that fee as a part of the costs of the action.

"§15905. Limitation on actions by and against pipeline carriers

"(a) IN GENERAL.—A pipeline carrier providing transportation or service subject to this part must begin a civil action to recover charges for transportation or service provided by the carrier within 3 years after the claim accrues.

"(b) OVERCHARGES.—A person must begin a civil action to recover overcharges under section 15904(b)(1) within 3 years after the claim accrues. If an election to file a complaint with the Board is made under section 15904(c)(1), the complaint must be filed within 3 years after the claim accrues.

"(c) DAMAGES.—A person must file a complaint with the Board to recover damages under section 15904(b)(2) within 2 years after the claim accrues.

"(d) EXTENSIONS.—The limitation periods under subsection (b) are extended for 6 months from the time written notice is given to the claimant by the carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the carrier within those limitation periods. The limitation periods under subsection (b) and the 2-year period under subsection (c) are extended for 90 days from the time the carrier begins a civil action under subsection (a) to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

"(e) PAYMENT.—A person must begin a civil action to enforce an order of the Board against a carrier for the payment of money within one year after the date the order required the money to be paid.

"(f) GOVERNMENT TRANSPORTATION.—This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the date of—

"(1) payment of the rate for the transportation or service involved,

"(2) subsequent refund for overpayment of that rate, or

"(3) deduction made under section 3726 of title 31,

whichever is later.

"(g) ACCRUAL DATE.—A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the carrier.

"§15906. Liability of pipeline carriers under receipts and bills of lading

"(a) GENERAL LIABILITY.—A pipeline carrier providing transportation or service subject to this part shall issue a receipt or bill of lading for property it receives for transportation under this part. That carrier and any other carrier that delivers the property and is providing transportation or service subject to jurisdiction under this part are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this subsection is for the actual loss or injury to the property caused by the carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading. Failure to issue a receipt or bill of lading does not affect the liability of a carrier.

‘‘(b) APPORTIONMENT.—The carrier issuing the receipt or bill of lading under subsection (a) or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

‘‘(c) CIVIL ACTIONS.—A civil action under this section may be brought against a delivering carrier in a district court of the United States or in a State court. Trial, if the action is brought in a district court of the United States is in a judicial district, and if in a State court, is in a State, through which the defendant carrier operates a line or route.

‘‘(d) MINIMUM PERIOD FOR FILING CLAIMS.—A pipeline carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice. For the purposes of this subsection—

‘‘(1) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

‘‘(2) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reasons for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

“CHAPTER 161—CIVIL AND CRIMINAL PENALTIES

‘‘CHAPTER 161—CIVIL AND CRIMINAL PENALTIES

‘‘Sec.
‘‘16101. General civil penalties.
‘‘16102. Recordkeeping and reporting violations.
‘‘16103. Unlawful disclosure of information.
‘‘16104. Disobedience to subpenas.
‘‘16105. General criminal penalty when specific penalty not provided.
‘‘16106. Punishment of corporation for violations committed by certain individuals.

“§16101. General civil penalties

‘‘(a) GENERAL.—Except as otherwise provided in this section, a pipeline carrier providing transportation subject to this part, an officer or agent of that carrier, or a receiver, trustee, lessee, or agent of one of them, knowingly violating this part or an order of the Board under this part is liable to the United States for a civil penalty of not more than $5,000 for each violation. Liability under this subsection is incurred for each distinct violation. A separate violation occurs for each day the violation continues.

‘‘(b) RECORDKEEPING AND REPORTING.—

‘‘(1) RECORDS.—A person required under chapter 157 to make, prepare, preserve, or submit to the Board a record concerning transportation subject to this part that does not make, prepare, preserve, or submit that record as required under that chapter, is liable to the United States for a civil penalty of $500 for each violation.

‘‘(2) INSPECTION.—A carrier providing transportation subject to this part, and a lessor, receiver, or trustee of that carrier, violating section 15722, is liable to the United States for a civil penalty of $100 for each violation.

‘‘(3) REPORTS.—A carrier providing transportation subject to the jurisdiction of the Board under this part, a lessor, receiver, or trustee of that carrier, and an officer, agent, or employee of one of them, required to make a report to the Board or answer a question that does not make the report or does not specifically, completely, and truthfully answer the question, is liable to the United States for a civil penalty of $100 for each violation.

‘‘(4) CONTINUED VIOLATION.—A separate violation occurs for each day violation under this subsection continues.

‘‘(d) VENUE.—Trial in a civil action under this section is in the judicial district in which the carrier has its principal operating office.

“§16102. Recordkeeping and reporting violations

‘‘A person required to make a report to the Board, or make, prepare, or preserve a record, under chapter 157 about transportation subject to this part that knowingly and willfully—

‘‘(1) makes a false entry in the report or record,

‘‘(2) destroys, mutilates, changes, or by another means falsifies the record,

‘‘(3) does not enter business related facts and transactions in the record,

‘‘(4) makes, prepares, or preserves the record in violation of a regulation or order of the Board, or

‘‘(5) files a false report or record with the Board,

shall be fined under title 18 or imprisoned not more than 2 years, or both.

“§16103. Unlawful disclosure of information

‘‘(a) GENERAL PROHIBITION.—A pipeline carrier providing transportation subject to this part, or an officer, agent, or employee of that carrier, or another person authorized to receive information from that carrier, that knowingly discloses to another person, except the shipper or consignee, or a person who solicits or knowingly receives information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier for transportation provided under this part without the consent of the shipper or consignee, if that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor the business transactions of the shipper or consignee, is liable to the United States for a civil penalty of not more than $1,000.

‘‘(b) LIMITATION ON STATUTORY CONSTRUCTION.—This part does not prevent a pipeline carrier providing transportation under this part from giving information—

‘‘(1) in response to legal process issued under authority of a court of the United States or a State;

‘‘(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

‘‘(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

‘‘(c) BOARD EMPLOYEE.—An employee of the Board delegated to make an inspection or examination under section 15722 who knowingly discloses information acquired during that inspection or examination, except as directed by the Board, a court, or a judge of that court, shall be fined under title 18 or imprisoned for not more than 6 months, or both.

“§16104. Disobedience to subpenas

‘‘Whoever does not obey a subpena or requirement of the Board to appear and testify or produce records shall be fined under title 18 or imprisoned not more than 1 year, or both.

“§16105. General criminal penalty when specific penalty not provided

‘‘When another criminal penalty is not provided under this chapter, a pipeline carrier providing transportation subject to this part, and when that carrier is a corporation, a director or officer of the corporation, or a receiver, trustee, lessee, or person acting for or employed by the corporation that, alone or with another person, willfully violates this part or an order prescribed under this part, shall be fined under title 18 or imprisoned not more than 2 years, or both. A separate violation occurs each day a violation of this part continues.

“§16106. Punishment of corporation for violations committed by certain individuals

‘‘An act or omission that would be a violation of this subtitle if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a pipeline carrier providing transportation or service subject to this part that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that carrier are considered to be the actions and omissions of that carrier as well as that individual.''.

(b) GAO REPORT.—Within 3 years after the effective date of this Act, the Comptroller General shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report regarding the impact of regulations under part C of title 49, United States Code, on the competitiveness of pipelines and recommend whether to continue, revise, or sunset such regulations. Congress shall take into account the findings of this report when considering the Board's reauthorization.

TITLE II—SURFACE TRANSPORTATION BOARD

SEC. 201. TITLE 49 AMENDMENT.

(a) AMENDMENT.—Subtitle I of title 49, United States Code, is amended by adding at the end the following new chapter:

“CHAPTER 7—SURFACE TRANSPORTATION BOARD

‘‘SUBCHAPTER I—ESTABLISHMENT

‘‘Sec.
‘‘701. Establishment of Board.
‘‘702. Functions.
‘‘703. Administrative provisions.
‘‘704. Annual report.
‘‘705. Authorization of appropriations.
‘‘706. Reporting official action.
‘‘SUBCHAPTER II—ADMINISTRATIVE
‘‘721. Powers.
‘‘722. Board action.
‘‘723. Service of notice in Board proceedings.
‘‘724. Service of process in court proceedings.
‘‘725. Administrative support.
‘‘726. Railroad-Shipper Transportation Advisory Council.
‘‘727. Definitions.

‘‘SUBCHAPTER I—ESTABLISHMENT

“§701. Establishment of Board

‘‘(a) ESTABLISHMENT.—There is hereby established within the Department of Transportation the Surface Transportation Board.

‘‘(b) MEMBERSHIP.—(1) The Board shall consist of 3 members, to be appointed by the President, by and with the advice and consent of the Senate. Not more than 2 members may be appointed from the same political party.

‘‘(2) At any given time, at least 2 members of the Board shall be individuals with professional standing and demonstrated knowledge in the fields of transportation or transportation regulation, and at least one member shall be an individual with professional or business experience (including agriculture) in the private sector.

‘‘(3) The term of each member of the Board shall be 5 years and shall begin when the term *of the predecessor of that member ends. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, shall be appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified, but for a period not to exceed one year. The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.*

''(4) On the effective date of this section, the members of the Interstate Commerce Commission serving unexpired terms on the date of the enactment of the ICC Termination Act of 1995 shall become members of the Board, to serve for a period of time equal to the remainder of the term for which they were originally appointed to the Interstate Commerce Commission. Any member of the Interstate Commerce Commission whose term expires on December 31, 1995, shall become a member of the Board, subject to paragraph (3).

''(5) No individual may serve as a member of the Board for more than 2 terms. In the case of an individual who becomes a member of the Board pursuant to paragraph (4), or an individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, such individual may not be appointed for more than one additional term.

''(6) A member of the Board may not have a pecuniary interest in, hold an official relation to, or own stock in or bonds of, a carrier providing transportation by any mode and may not engage in another business, vocation, or employment.

''(7) A vacancy in the membership of the Board does not impair the right of the remaining members to exercise all of the powers of the Board. The Board may designate a member to act as Chairman during any period in which there is no Chairman designated by the President.

''(c) Chairman.—(1) There shall be at the head of the Board a Chairman, who shall be designated by the President from among the members of the Board. The Chairman shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5.

''(2) Subject to the general policies, decisions, findings, and determinations of the Board the Chairman shall be responsible for administering the Board. The Chairman may delegate the powers granted under this paragraph to an officer, employee, or office of the Board. The Chairman shall—

''(A) appoint and supervise, other than regular and full time employees in the immediate offices of another member, the officers and employees of the Board, including attorneys to provide legal aid and service to the Board and its members, and to represent the Board in any case in court;

''(B) appoint the heads of offices with the approval of the Board;

''(C) distribute Board business among officers and employees and offices of the Board;

''(D) prepare requests for appropriations for the Board and submit those requests to the President and Congress with the prior approval of the Board; and

''(E) supervise the expenditure of funds allocated by the Board for major programs and purposes.

"§702. Functions

''Except as otherwise provided in the ICC Termination Act of 1995, or the amendments made thereby, the Board shall perform all functions that, immediately before the effective date of such Act, were functions of the Interstate Commerce Commission or were performed by any officer or employee of the Interstate Commerce Commission in the capacity as such officer or employee.

"§703. Administrative provisions

''(a) Executive Reorganization.—Chapter 9 of title 5, United States Code, shall apply to the Board in the same manner as it does to an independent regulatory agency, and the Board shall be an establishment of the United States Government.

''(b) Open Meetings.—For purposes of section 552b of title 5, United States Code, the Board shall be deemed to be an agency.

''(c) Independence.—In the performance of their functions, the members, employees, and other personnel of the Board shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department of Transportation.

''(d) Representation by Attorneys.—Attorneys designated by the Chairman of the Board may appear for, and represent the Board in, any civil action brought in connection with any function carried out by the Board pursuant to this chapter or subtitle IV or as otherwise authorized by law.

''(e) Admission To Practice.—Subject to section 500 of title 5, the Board may regulate the admission of individuals to practice before it and may impose a reasonable admission fee.

''(f) Budget Requests.—In each annual request for appropriations by the President, the Secretary of Transportation shall identify the portion thereof intended for the support of the Board and include a statement by the Board—

''(1) showing the amount requested by the Board in its budgetary presentation to the Secretary and the Office of Management and Budget; and

''(2) an assessment of the budgetary needs of the Board.

''(g) Direct Transmittal to Congress.—The Board shall transmit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the Secretary of Transportation. An officer of an agency may not impose conditions on or impair communications by the Board with Congress, or a committee or member of Congress, about the information.

"§704. Annual report

''The Board shall annually transmit to the Congress a report on its activities.

"§705. Authorization of appropriations

''There are authorized to be appropriated for the activities of the Board—

''(1) $8,421,000 for fiscal year 1996;

''(2) $12,000,000 for fiscal year 1997; and

''(3) $12,000,000 for fiscal year 1998.

"§706. Reporting official action

''(a) Reports on Proceedings.—The Board shall make a written report of each proceeding conducted on complaint or on its own initiative and furnish a copy to each party to that proceeding. The report shall include the findings, conclusions, and the order of the Board and, if damages are awarded, the findings of fact supporting the award. The Board may have its reports published for public use. A published report of the Board is competent evidence of its contents.

''(b) Special Rules for Matters Related to Rail Carriers.—(1) When action of the Board in a matter related to a rail carrier is taken by the Board, an individual member of the Board, or another individual or group of individuals designated to take official action for the Board, the written statement of that action (including a report, order, decision and order, vote, notice, letter, policy statements, or regulation) shall indicate—

''(A) the official designation of the individual or group taking the action;

''(B) the name of each individual taking, or participating in taking, the action; and

''(C) the vote or position of each participating individual.

''(2) If an individual member of a group taking an official action referred to in paragraph (1) does not participate in it, the written statement of the action shall indicate that the member did not participate. An individual participating in taking an official action is entitled to express the views of that individual as part of the written statement of the action. In addition to any publication of the written statement, it shall be made available to the public under section 552(a) of title 5.

''SUBCHAPTER II—ADMINISTRATIVE

"§721. Powers

''(a) In General.—The Board shall carry out this chapter and subtitle IV. Enumeration of a power of the Board in this chapter or subtitle IV does not exclude another power the Board may have in carrying out this chapter or subtitle IV. The Board may prescribe regulations in carrying out this chapter and subtitle IV.

''(b) Inquiries, Reports, and Orders.—The Board may—

''(1) inquire into and report on the management of the business of carriers providing transportation and services subject to subtitle IV;

''(2) inquire into and report on the management of the business of a person controlling, controlled by, or under common control with those carriers to the extent that the business of that person is related to the management of the business of that carrier;

''(3) obtain from those carriers and persons information the Board decides is necessary to carry out subtitle IV; and

''(4) when necessary to prevent irreparable harm, issue an appropriate order without regard to subchapter II of chapter 5 of title 5.

''(c) Subpoena Witnesses.—(1) The Board may subpoena witnesses and records related to a proceeding of the Board from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpoena, the Board, or a party to a proceeding before the Board, may petition a court of the United States to enforce that subpoena.

''(2) The district courts of the United States have jurisdiction to enforce a subpoena issued under this section. Trial is in the district in which the proceeding is conducted. The court may punish a refusal to obey a subpoena as a contempt of court.

''(d) Depositions.—(1) In a proceeding, the Board may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending before the Board may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and answer.

''(2) If a witness fails to be deposed or to produce records under paragraph (1), the Board may subpoena the witness to take a deposition, produce the records, or both.

''(3) A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

''(4) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney

of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

“(5) The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

“(6) The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Board or agreed on by the parties by written stipulation filed with the Board. A deposition shall be filed with the Board promptly.

“(e) WITNESS FEES.—Each witness summoned before the Board or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

“§722. Board action

“(a) EFFECTIVE DATE OF ACTIONS.—Unless otherwise provided in subtitle IV, the Board may determine, within a reasonable time, when its actions, other than an action ordering the payment of money, take effect.

“(b) TERMINATING AND CHANGING ACTIONS.—An action of the Board remains in effect under its own terms or until superseded. The Board may change, suspend, or set aside any such action on notice. Notice may be given in a manner determined by the Board. A court of competent jurisdiction may suspend or set aside any such action.

“(c) RECONSIDERING ACTIONS.—The Board may, at any time on its own initiative because of material error, new evidence, or substantially changed circumstances—

“(1) reopen a proceeding;

“(2) grant rehearing, reargument, or reconsideration of an action of the Board; or

“(3) change an action of the Board.

An interested party may petition to reopen and reconsider an action of the Board under this subsection under regulations of the Board.

“(d) FINALITY OF ACTIONS.—Notwithstanding subtitle IV, an action of the Board under this section is final on the date on which it is served, and a civil action to enforce, enjoin, suspend, or set aside the action may be filed after that date.

“§723. Service of notice in Board proceedings

“(a) DESIGNATION OF AGENT.—A carrier providing transportation subject to the jurisdiction of the Board under subtitle IV shall designate an agent in the District of Columbia, on whom service of notices in a proceeding before, and of actions of, the Board may be made.

“(b) FILING AND CHANGING DESIGNATIONS.—A designation under subsection (a) shall be in writing and filed with the Board. The designation may be changed at any time in the same manner as originally made.

“(c) SERVICE OF NOTICE.—Except as otherwise provided, notices of the Board shall be served on its designated agent at the office or usual place of residence in the District of Columbia of that agent. A notice of action of the Board shall be served immediately on the agent or in another manner provided by law. If that carrier does not have a designated agent, service may be made by posting the notice in the office of the Board.

“(d) SPECIAL RULE FOR RAIL CARRIERS.—In a proceeding involving the lawfulness of classifications, rates, or practices of a rail carrier that has not designated an agent under this section, service of notice of the Board on an attorney in fact for the carrier constitutes service of notice on the carrier.

“§724. Service of process in court proceedings

“(a) DESIGNATION OF AGENT.—A carrier providing transportation subject to the jurisdiction of the Board under subtitle IV shall designate an agent in the District of Columbia on whom service of process in an action before a district court may be made. Except as otherwise provided, process in an action before a district court shall be served on the designated agent of that carrier at the office or usual place of residence in the District of Columbia of that agent. If the carrier does not have a designated agent, service may be made by posting the notice in the office of the Board.

“(b) CHANGING DESIGNATION.—A designation under this section may be changed at any time in the same manner as originally made.

“§725. Administrative support

“The Secretary of Transportation shall provide administrative support for the Board.

“§726. Railroad-Shipper Transportation Advisory Council

“(a) ESTABLISHMENT; MEMBERSHIP.—There is established the Railroad-Shipper Transportation Advisory Council (in this section referred to as the ‘Council’) to be composed of 19 members, of which 15 members shall be appointed by the Chairman of the Board, after recommendation from rail carriers and shippers, within 60 days after the date of enactment of the ICC Termination Act of 1995. The members of the Council shall be appointed as follows:

“(1) The members of the Council shall be appointed from among citizens of the United States who are not regular full-time employees of the United States and shall be selected for appointment so as to provide as nearly as practicable a broad representation of the various segments of the railroad and rail shipper industries.

“(2) Nine of the members shall be appointed from senior executive officers of organizations engaged in the railroad and rail shipping industries, which 9 members shall be the voting members of the Council. Council action and Council positions shall be determined by a majority vote of the members present. A majority of such voting members shall constitute a quorum. Of such 9 voting members—

“(A) at least 4 shall be representative of small shippers (as determined by the Chairman); and

“(B) at least 4 shall be representative of Class II or III railroads.

“(3) The remaining 6 members of the Council shall serve in a nonvoting advisory capacity only, but shall be entitled to participate in Council deliberations. Of the remaining members—

“(A) 3 shall be representative of Class I railroads; and

“(B) 3 shall be representative of large shipper organizations (as determined by the Chairman).

“(4) The Secretary of Transportation and the members of the Board shall serve as ex officio, nonvoting members of the Council. The Council shall not be subject to the Federal Advisory Committee Act. A list of the members appointed to the Council shall be forwarded to the Chairmen and ranking members of the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

“(5) Each ex officio member of the Council may designate an alternate, who shall serve as a member of the Council whenever the ex officio member is unable to attend a meeting of the Council. Any such designated alternate shall be selected from individuals who exercise significant decision-making authority in the Federal agency involved.

“(b) TERM OF OFFICE.—The members of the Council shall be appointed for a term of office of 3 years, except that of the members first appointed—

“(1) 5 members shall be appointed for terms of 1 year; and

“(2) 5 members shall be appointed for terms of 2 years, as designated by the Chairman at the time of appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office. Vacancies on the Council shall be filled in the same manner in which the original appointments were made. No member of the Council shall be eligible to serve in excess of two consecutive terms.

“(c) ELECTION AND DUTIES OF OFFICERS.—The Council Chairman and Vice Chairman and other appropriate officers of the Council shall be elected by and from the voting members of the Council. The Council Chairman shall serve as the Council's executive officer and shall direct the administration of the Council, assign officer and committee duties, and shall be responsible for issuing and communicating the reports, policy positions and statements of the Council. In the event that the Council Chairman is unable to serve, the Vice Chairman shall act as Council Chairman.

“(d) EXPENSES.—(1) The members of the Council shall receive no compensation for their services as such, but upon request by the Council Chairman, based on a showing of significant economic burden, the Secretary of Transportation or the Chairman of the Board, to the extent provided in advance in appropriation Acts, may provide reasonable and necessary travel expenses for such individual Council members from Department or Board funding sources in order to foster balanced representation on the Council.

“(2) Upon request by the Council Chairman, the Secretary or Chairman of the Board, to the extent provided in advance in appropriations Acts, may pay the reasonable and necessary expenses incurred by the Council in connection with the coordination of Council activities, announcement and reporting of meetings, and preparation of such Council documents as are required or permitted by this section.

“(3) The Council may solicit and use private funding for its activities, subject to this subsection.

“(4) Prior to making any Federal funding requests, the Council Chairman shall undertake best efforts to fund such activities privately unless the Council Chairman determines that such private funding would create a conflict of interest, or the appearance thereof, or is otherwise impractical. The Council Chairman shall not request funding from any Federal agency without providing written justification as to why private funding would create any such conflict or appearance, or is otherwise impractical.

“(5) To enable the Council to carry out its functions—

“(A) the Council Chairman may request directly from any Federal agency such personnel, information, services, or facilities, on a compensated or uncompensated basis, as the Council Chairman determines necessary to carry out the functions of the Council;

“(B) each Federal agency may, in its discretion, furnish the Council with such information, services, and facilities as the Council Chairman may request to the extent permitted by law and within the limits of available funds; and

“(C) each Federal agency may, in its discretion, detail to temporary duty with the Council, such personnel as the Council Chairman may request for carrying out the functions of the Council, each such detail to be without loss of seniority, pay, or other employee status.

“(e) MEETINGS.—The Council shall meet at least semi-annually and shall hold other meetings at the call of the Council Chairman. Appropriate Federal facilities, where available, may

be used for such meetings. Whenever the Council, or a committee of the Council, considers matters that affect the jurisdictional interests of Federal agencies that are not represented on the Council, the Council Chairman may invite the heads of such agencies, or their designees, to participate in the deliberations of the Council.

"(f) Functions and Duties; Annual Report.—(1) The Council shall advise the Secretary, the Chairman, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives with respect to rail transportation policy issues it considers significant, with particular attention to issues of importance to small shippers and small railroads, including car supply, rates, competition, and effective procedures for addressing legitimate shipper and other claims.

"(2) To the extent the Council addresses specific grain car issues, it shall coordinate such activities with the National Grain Car Council. The Secretary and Chairman shall cooperate with the Council to provide research, technical and other reasonable support in developing any reports and policy statements required or authorized by this subsection.

"(3) The Council shall endeavor to develop within the private sector mechanisms to prevent, or identify and effectively address, obstacles to the most effective and efficient transportation system practicable.

"(4) The Council shall prepare an annual report concerning its activities and the results of Council efforts to resolve industry issues, and propose whatever regulatory or legislative relief it considers appropriate. The Council shall include in the annual report such recommendations as it considers appropriate with respect to the performance of the Secretary and Chairman under this chapter, and with respect to the operation and effectiveness of meetings and industry developments relating to the Council's efforts, and such other information as it considers appropriate. Such annual reports shall be reviewed by the Secretary and Chairman, and shall include the Secretary's and Chairman's views or comments relating to—

"(A) the accuracy of information therein;

"(B) Council efforts and reasonableness of Council positions and actions; and

"(C) any other aspects of the Council's work as they may consider appropriate.

The Council may prepare other reports or develop policy statements as the Council considers appropriate. An annual report shall be submitted for each fiscal year and shall be submitted to the Secretary and Chairman within 90 days after the end of the fiscal year. Other such reports and statements may be submitted as the Council considers appropriate.

"§727. Definitions

"All terms used in this chapter that are defined in subtitle IV shall have the meaning given those terms in that subtitle.".

(b) Table of Chapters Amendment.—The table of chapters of subtitle I of title 49, United States Code, is amended by adding at the end the following new item:

"7. SURFACE TRANSPORTATION BOARD.... .... 3701".

SEC. 202. REORGANIZATION.

The Chairman of the Surface Transportation Board (in this Act referred to as the "Board") may allocate or reallocate any function of the Board, consistent with this title and subchapter I of chapter 7, as amended by section 201 of this title, among the members or employees of the Board, and may establish, consolidate, alter, or discontinue in the Board any organizational entities that were entities of the Interstate Commerce Commission, as the Chairman considers necessary or appropriate.

SEC. 203. TRANSFER OF ASSETS AND PERSONNEL.

(a) To Board.—Except as otherwise provided in this Act and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Board by this Act shall be transferred to the Board for use in connection with the functions transferred, and unexpended balances of appropriations, allocations, and other funds of the Interstate Commerce Commission shall also be transferred to the Board. Such unexpended balances, allocations, and other funds, together with any unobligated balances from user fees collected by the Commission during fiscal year 1996, may be used to pay for the closedown of the Commission and severance costs for Commission personnel, regardless of whether those costs are incurred at the Commission or at the Board.

(b) To Secretary.—Except as otherwise provided in this Act and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Secretary by this Act shall be transferred to the Secretary for use in connection with the functions transferred.

(c) Separated Employees.—Notwithstanding all other laws and regulations, the Department of Transportation shall place all Interstate Commerce Commission employees separated from the Commission as a result of this Act on the DOT reemployment priority list (competitive service) or the priority employment list (excepted service).

SEC. 204. SAVING PROVISIONS.

(a) Legal Documents.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the Interstate Commerce Commission, any officer or employee of the Interstate Commerce Commission, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act or the amendments made by this Act; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date),

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Board, any other authorized official, a court of competent jurisdiction, or operation of law. The Board shall promptly rescind all regulations established by the Interstate Commerce Commission that are based on provisions of law repealed and not substantively reenacted by this Act.

(b) Proceedings.—(1) The provisions of this Act shall not affect any proceedings or any application for any license pending before the Interstate Commerce Commission at the time this Act takes effect, insofar as those functions are retained and transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Board and the Secretary are authorized to provide for the orderly transfer of pending proceedings from the Interstate Commerce Commission.

(3)(A) Except as provided in subparagraphs (B) and (C), in the case of a proceeding under a provision of law repeal, and not reenacted, by this Act such proceeding shall be terminated.

(B) Any proceeding involving a pipeline carrier under subtitle IV of title 49, United States Code, shall be continued to be heard by the Board under such subtitle, as in effect on the day before the effective date of this section, until completion of such proceeding.

(C) Any proceeding involving the merger of a motor carrier property under subtitle IV of title 49, United States Code, shall continue to be heard by the Board under such subtitle, as in effect on the day before the effective date of this section, until completion of such proceeding.

(4) Any proceeding with respect to any tariff, rate charge, classification, rule, regulation, or service that was pending under the Intercoastal Shipping Act, 1933 or the Shipping Act, 1916 before the Federal Maritime Commission on November 1, 1995, shall continue to be heard until completion or issuance of a final order thereon under all applicable laws in effect as of November 1, 1995.

(c) Suits.—(1) This Act shall not affect suits commenced before the date of the enactment of this Act, except as provided in paragraphs (2) and (3). In all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(2) Any suit by or against the Interstate Commerce Commission begun before the effective date of this Act shall be continued, insofar as it involves a function retained and transferred under this Act, with the Board (to the extent the suit involves functions transferred to the Board under this Act) or the Secretary (to the extent the suit involves functions transferred to the Secretary under this Act) substituted for the Commission.

(3) If the court in a suit described in paragraph (1) remands a case to the Board or the Secretary, subsequent proceedings related to such case shall proceed in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

(d) Continuance of Actions Against Officers.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Interstate Commerce Commission shall abate by reason of the enactment of this Act. No cause of action by or against the Interstate Commerce Commission, or by or against any officer thereof in his official capacity, shall abate by reason of enactment of this Act.

(e) Exercise of Authorities.—Except as otherwise provided by law, an officer or employee of the Board may, for purposes of performing a function transferred by this Act or the amendments made by this Act, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this Act or the amendments made by this Act.

SEC. 205. REFERENCES.

Any reference to the Interstate Commerce Commission in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Interstate Commerce Commission or an officer or employee of the Interstate Commerce Commission, is deemed to refer to the Board, a member or employee of the Board, or the Secretary, as appropriate.

TITLE III—CONFORMING AMENDMENTS

Subtitle A—Amendments to United States Code

SEC. 301. TITLE 5 AMENDMENTS.

(a) Compensation for Positions at Level III.—Section 5314 of title 5, United States Code, is amended by striking "Chairman, Interstate Commerce Commission." and inserting in lieu thereof "Chairman, Surface Transportation Board.".

(b) Compensation for Positions at Level IV.—Section 5315 of title 5, United States Code, is amended by striking "Members, Interstate Commerce Commission." and inserting in lieu thereof "Members, Surface Transportation Board.".

SEC. 302. TITLE 11 AMENDMENTS.

Subchapter IV of chapter 11 of title 11, United States Code, is amended—

(1) by striking section 1162 and inserting in lieu thereof the following:

"§1162. Definition

"In this subchapter, 'Board' means the 'Surface Transportation Board'."; and

(2) by striking "Commission" each place it appears and inserting in lieu thereof "Board".

SEC. 303. TITLE 18 AMENDMENTS.

Title 18, United States Code, is amended—

(1) in section 921(a)(27) by striking "10102" and inserting in lieu thereof "13102"; and

(2) in section 6001(1) by striking "Interstate Commerce Commission" and inserting in lieu thereof "Surface Transportation Board".

SEC. 304. INTERNAL REVENUE CODE OF 1986 AMENDMENTS.

(a) Section 168.—Section 168(g)(4)(B)(i) of the Internal Revenue Code of 1986 is amended by striking "domestic railroad corporation providing transportation subject to subchapter I of chapter 105" and inserting in lieu thereof "rail carrier subject to part A of subtitle IV".

(b) Section 281.—Subparagraphs (A) and (B) of section 281(d)(1) of such Code are each amended by striking "domestic railroad corporations providing transportation subject to subchapter I of chapter 105" and inserting in lieu thereof "rail carriers subject to part A of subtitle IV".

(c) Section 354.—Section 354(c) of such Code is amended by striking "or approved by the Interstate Commerce Commission under subchapter IV of chapter 113 of title 49,".

(d) Section 3231.—Section 3231 of such Code is amended—

(1) in subsection (a) by striking "Interstate Commerce Commission" and inserting in lieu thereof "Surface Transportation Board"; and

(2) in subsection (g) by striking "an express carrier, sleeping car carrier, or rail carrier providing transportation subject to subchapter I of chapter 105" and inserting in lieu thereof "a rail carrier subject to part A of subtitle IV".

(e) Section 7701.—Section 7701(a) of such Code is amended—

(1) in paragraph (33)(B) by striking "Federal Power Commission" and inserting in lieu thereof "Federal Energy Regulatory Commission";

(2) in paragraph (33)(C)(i) by striking "Interstate Commerce Commission" and inserting in lieu thereof "Surface Transportation Board";

(3) in paragraph (33)(C)(ii) by striking "Interstate Commerce Commission" and inserting in lieu thereof "Federal Energy Regulatory Commission";

(4) in paragraph (33)(F) by striking "common carrier" and all that follows through "1933" and inserting in lieu thereof "a water carrier subject to jurisdiction under subchapter II of chapter 135 of title 49";

(5) in paragraph (33)(G) by striking "railroad corporation subject to subchapter I of chapter 105" and inserting in lieu thereof "rail carrier subject to part A of subtitle IV"; and

(6) in paragraph (33)(H) by striking "subchapter I of chapter 105" and inserting in lieu thereof "part A of subtitle IV".

SEC. 305. TITLE 28 AMENDMENTS.

(a) Chapter 85.—Chapter 85 of title 28, United States Code, is amended—

(1) in the section heading to section 1336 by striking "**Interstate Commerce Commission's**" and inserting in lieu thereof "**Surface Transportation Board's**";

(2) in section 1336 by striking "Interstate Commerce Commission" each place it appears and inserting in lieu thereof "Surface Transportation Board";

(3) in section 1337 by striking "11707" each place it appears and inserting in lieu thereof "11706 or 14706"; and

(4) in the item relating to section 1336 of the table of sections by striking "Interstate Commerce Commission's" and inserting in lieu thereof "Surface Transportation Board's".

(b) Section 1445.—Section 1445(b) of such title is amended—

(1) by striking "common"; and

(2) by striking "11707" and inserting in lieu thereof "11706 or 14706".

(c) Chapter 157 Amendments.—

(1) In General.—Chapter 157 of such title is amended—

(A) by striking "**INTERSTATE COMMERCE COMMISSION**" in the chapter heading and inserting in lieu thereof "**SURFACE TRANSPORTATION BOARD**";

(B) by striking "**Commission's**" in the section heading to section 2321 and inserting in lieu thereof "**Board's**";

(C) by striking "Interstate Commerce Commission" each place it appears and inserting in lieu thereof "Surface Transportation Board";

(D) in section 2323 by striking "Commission" the second and third places it appears and inserting in lieu thereof "Board"; and

(E) in the item relating to section 2321 of the table of sections by striking "Commission's" and inserting in lieu thereof "Board's".

(2) Table of Chapters.—The item relating to chapter 157 in the table of chapters of such title is amended by striking "Interstate Commerce Commission" and inserting in lieu thereof "Surface Transportation Board".

(d) Chapter 158 Amendments.—Chapter 158 of such title is amended—

(1) in section 2341(3)(A) by striking "the Interstate Commerce Commission,";

(2) by striking "and" at the end of section 2341(3)(C);

(3) by striking the period at the end of section 2341(3)(D) and inserting in lieu thereof "; and";

(4) by inserting at the end of section 2341(3) the following new subparagraph:

"(E) the Board, when the order was entered by the Surface Transportation Board.";

(5) in section 2342(3)(A) by striking "41, or 43" and inserting in lieu thereof "or 41";

(6) by inserting "or pursuant to part B or (C) of subtitle IV of title 49" before the semicolon at the end of section 2342(3)(A);

(7) in section 2342(3)(B)—

(A) by striking clauses (i) and (iii); and

(B) by redesignating clauses (ii), (iv), and (v) as clauses (i), (ii), and (iii), respectively; and

(8) by striking paragraph (5) of section 2342 and inserting in lieu thereof the following:

"(5) all rules, regulations, or final orders of the Surface Transportation Board made reviewable by section 2321 of this title;".

SEC. 306. TITLE 31 AMENDMENTS.

Section 3726(b) of title 31, United States Code, is amended—

(1) in paragraph (1) by striking "on file with the Interstate Commerce Commission," and inserting in lieu thereof "under title 49 or on file with";

(2) in paragraph (1) by striking "or" at the end;

(3) by redesignating paragraph (2) as paragraph (3);

(4) by inserting after paragraph (1) the following new paragraph:

"(2) a lawfully quoted rate subject to the jurisdiction of the Surface Transportation Board; or"; and

(5) in paragraph (3), as redesignated by paragraph (4) of this section, by striking "sections 10721–10724" and inserting in lieu thereof "sections 10721, 13712, and 15504".

SEC. 307. TITLE 39 AMENDMENTS.

Title 39, United States Code, is amended—

(1) in section 5005(a)(4) by striking "5201(7)" and inserting in lieu thereof "5201(6)";

(2) in section 5005(b)(3) by striking "Interstate Commerce Commission" and inserting in lieu thereof "Surface Transportation Board"; and

(3) by striking paragraph (1) of section 5201 and inserting in lieu thereof the following:

"(1) 'Board' means the Surface Transportation Board;";

(4) in section 5201(2) by striking "a motor common carrier, or express carrier" and inserting in lieu thereof "or a motor carrier";

(5) in section 5201(4)—

(A) by striking "common"; and

(B) by striking "permit" and inserting in lieu thereof "registration";

(6) in section 5201(5)—

(A) by striking "common" each place it appears;

(B) by striking "10102(14)" and inserting in lieu thereof "13102(12)"; and

(C) by striking "certificate of public convenience and necessity" and inserting in lieu thereof "registration";

(7) by striking paragraph (6) of section 5201;

(8) in section 5201 by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively;

(9) in section 5201(6), as so redesignated, by striking "certificate of public convenience and necessity" and inserting in lieu thereof "certificate or registration";

(10) in section 5203(f) by striking "motor common carrier" each place it appears and inserting in lieu thereof "motor carrier";

(11) in the section heading to section 5207 by striking "**Interstate Commerce Commission**" and inserting in lieu thereof "**Surface Transportation Board**";

(12) in sections 5208(a) and 5215(a) by striking "Commission's" and inserting in lieu thereof "Board's";

(13) in section 5215(a) by striking "motor common carrier" and inserting in lieu thereof "motor carrier";

(14) in chapter 52 by striking "Commission" each place it appears and inserting in lieu thereof "Board"; and

(15) in the item relating to section 5207 of the table of sections of chapter 52, by striking "Interstate Commerce Commission" and inserting in lieu thereof "Surface Transportation Board".

SEC. 308. TITLE 49 AMENDMENTS.

(a) Section 302.—Section 302(a) of title 49, United States Code, is amended by striking "10101a" and inserting in lieu thereof "13101".

(b) Section 333.—Section 333 of such title is amended—

(1) in subsection (c)(2) by striking "11910(a)(1)" and inserting in lieu thereof "11904"; and

(2) in subsection (e)—

(A) by striking "11343(a)" and inserting in lieu thereof "11323(a)"; and

(B) by striking "11344(b)" and inserting in lieu thereof "11324(b)".

(c) Chapter 5.—Subchapter I of chapter 5 of such title is amended—

(1) by striking "DUTIES" the first place it appears in the subchapter heading; and

(2) in section 501(a)(1) by striking "section 10102" and inserting in lieu thereof "sections 10102 and 13102".

(d) SECTION 5102.—Section 5102(7) of such title is amended.—

(1) by striking "common";

(2) by striking "motor contract carrier,"; and

(3) by striking "10102" and inserting in lieu thereof "13102".

(e) SECTION 5333.—Section 5333(b)(3) of such title is amended by striking "11347" and inserting in lieu thereof "11326".

(f) CHAPTER 221.—Chapter 221 of such title is amended—

(1) in section 22101(a) by striking "subchapter I of chapter 105" and inserting in lieu thereof "part A of subtitle IV";

(2) in section 22101(a)(1) by striking "Interstate Commerce Commission" and inserting in lieu thereof "Surface Transportation Board";

(3) in section 22103(b)(1) by striking "Interstate Commerce Commission" and inserting in lieu thereof "Surface Transportation Board";

(4) in section 22107(c)—

(A) by striking "Interstate Commerce Commission" and inserting in lieu thereof "Surface Transportation Board"; and

(B) by striking "Commission" the second place it appears and inserting in lieu thereof "Board"; and

(5) in section 22107(d) by striking "subchapter I of chapter 105" and inserting in lieu thereof "part A of subtitle IV".

(g) SECTION 24301.—Section 24301 of such title is amended—

(1) in subsection (c)—

(A) by striking "Subtitle IV" in paragraph (1) and inserting in lieu thereof "Part A of subtitle IV";

(B) by striking "sections 10721–10724 of this title apply" in paragraph (2)(A) and inserting in lieu thereof "section 10721 of this title applies"; and

(C) by striking "Interstate Commerce Commission under any provision of subtitle IV of this title applicable to a carrier subject to subchapter I of chapter 105" in paragraph (2)(B) and inserting in lieu thereof "Surface Transportation Board under part A of subtitle IV"; and

(2) in subsection (d) by striking "common carrier subject to subchapter I of chapter 105" and inserting in lieu thereof "rail carrier subject to part A of subtitle IV".

(h) SECTION 24501.—Section 24501(b) of such title is amended by striking "subchapter I of chapter 105" and inserting in lieu thereof "part A of subtitle IV".

(i) SECTION 24705.—Section 24705 of such title is amended by striking subsection (d).

(j) SECTIONS 30103 AND 30166.—Sections 30103(a) and 30106(d) of such title are each amended by striking "subchapter II of chapter 105" each place it appears and inserting in lieu thereof "subchapter I of chapter 135".

(k) CHAPTER 315.—Chapter 315 of such title is amended—

(1) in section 31501(2) by striking "10102" and inserting in lieu thereof "13102";

(2) in section 31501(3)(A) by striking "10521(a)" and inserting in lieu thereof "13501";

(3) in section 31502(a)(1) by striking "10521 and 10522" by inserting in lieu thereof "13501 and 13502"; and

(4) in section 31503(a) by striking "subchapter II of chapter 105" and inserting in lieu thereof "subchapter I of chapter 135".

(l) SECTIONS 41309 AND 41502.—Sections 41309(b)(2)(A) and 41502 of such title are each amended by striking "common" each place it appears.

(m) SECTION 60115.—Section 60115(b)(4)(A) of such title is amended by striking "(referred to in section 10344(f) of this title)".

Subtitle B—Other Amendments

SEC. 311. AGRICULTURAL ADJUSTMENT ACT OF 1938 AMENDMENTS.

Section 201 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1291) is amended—

(1) by striking "Interstate Commerce Commission" each place it appears and inserting in lieu thereof "Surface Transportation Board";

(2) by striking "Commission" each place it appears (other than a place to which paragraph (1) applies) and inserting in lieu thereof "Board"; and

(3) by striking "Commission's" in subsection (b) and inserting in lieu thereof "Board's".

SEC. 312. ANIMAL WELFARE ACT AMENDMENT.

Section 15(a) of the Animal Welfare Act (7 U.S.C. 2145(a)) is amended by striking "Interstate Commerce Commission" and inserting in lieu thereof "Surface Transportation Board".

SEC. 313. FEDERAL ELECTION CAMPAIGN ACT OF 1971 AMENDMENTS.

Section 401 of the Federal Election Campaign Act of 1971 is amended—

(1) by striking "Interstate Commerce Commission shall each promulgate, within ninety days after the date of enactment of this Act" and inserting in lieu thereof "Surface Transportation Board shall each maintain"; and

(2) by inserting "or Board" after "or such Commission".

SEC. 314. FAIR CREDIT REPORTING ACT AMENDMENT.

Section 621(b)(4) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)(4)) is amended by striking "Interstate Commerce Commission with respect to any common carrier subject to those Acts" and inserting in lieu thereof "Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board".

SEC. 315. EQUAL CREDIT OPPORTUNITY ACT AMENDMENT.

Section 704(a)(4) of the Equal Credit Opportunity Act (15 U.S.C. 1691c(a)(4)) is amended by striking "Interstate Commerce Commission with respect to any common carrier subject to those Acts" and inserting in lieu thereof "Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board".

SEC. 316. FAIR DEBT COLLECTION PRACTICES ACT AMENDMENT.

Section 814(b)(4) of the Fair Debt Collection Practices Act (15 U.S.C. 1692l(b)(4)) is amended by striking "Interstate Commerce Commission with respect to any common carrier subject to those Acts" and inserting in lieu thereof "Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board".

SEC. 317. NATIONAL TRAILS SYSTEM ACT AMENDMENTS.

The National Trails System Act is amended—

(1) in section 8(d)—

(A) by striking "Chairman of the Interstate Commerce Commission" and inserting in lieu thereof "Chairman of the Surface Transportation Board"; and

(B) by striking "Commission" the second place it appears and inserting in lieu thereof "Board"; and

(2) in section 9(b) by striking "Interstate Commerce Commission" and inserting in lieu thereof "Surface Transportation Board".

SEC. 318. CLAYTON ACT AMENDMENTS.

The Clayton Act is amended—

(1) in section 7 (15 U.S.C. 18)—

(A) by striking "Interstate Commerce Commission" and inserting in lieu thereof "Surface Transportation Board"; and

(B) by inserting ", Board," after "vesting such power in such Commission";

(2) in section 11(a) (15 U.S.C. 21(a)) by striking "Interstate Commerce Commission where applicable to common carriers subject to the Interstate Commerce Act, as amended" and inserting in lieu thereof "Surface Transportation Board where applicable to common carriers subject to jurisdiction under subtitle IV of title 49, United States Code"; and

(3) in section 16 (15 U.S.C. 22) by striking "in equity for injunctive relief" and all that follows through "Interstate Commerce Commission" and inserting in lieu thereof "for injunctive relief against any common carrier subject to the jurisdiction of the Surface Transportation Board under subtitle IV of title 49, United States Code".

SEC. 319. INSPECTOR GENERAL ACT OF 1978 AMENDMENT.

Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "the Interstate Commerce Commission,".

SEC. 320. ENERGY POLICY ACT OF 1992 AMENDMENTS.

Subsections (a) and (d) of section 1340 of the Energy Policy Act of 1992 (42 U.S.C. 13369(a) and (d)) are each amended by striking "Interstate Commerce Commission" and inserting in lieu thereof "Surface Transportation Board".

SEC. 321. MERCHANT MARINE ACT, 1920, AMENDMENTS.

The Merchant Marine Act, 1920, is amended—

(1) in section 8 (46 U.S.C. App. 867)—

(A) by striking "Interstate Commerce Commission" both places it appears and inserting in lieu thereof "Surface Transportation Board"; and

(B) by striking "commission" and inserting in lieu thereof "Board";

(2) in section 27A (46 U.S.C. App. 883–1) by striking "common or contract" and all that follows through ", which otherwise" and inserting in lieu thereof "carrier subject to jurisdiction under subchapter II of chapter 135 of title 49, United States Code, which otherwise"; and

(3) in section 28 (46 U.S.C. App. 884)—

(A) by striking "common";

(B) by striking "Interstate Commerce Commission" and inserting in lieu thereof "Surface Transportation Board"; and

(C) by striking "commission" each place it appears and inserting in lieu thereof "Board".

SEC. 322. RAILWAY LABOR ACT AMENDMENTS.

Section 1 of the Railway Labor Act (45 U.S.C. 151) is amended—

(1) in the first paragraph by striking "express company, sleeping-car company, carrier by railroad, subject to the Interstate Commerce Act" and inserting in lieu thereof "railroad subject to the jurisdiction of the Surface Transportation Board";

(2) in the first and fifth paragraphs by striking "Interstate Commerce Commission" each place it appears and inserting in lieu thereof "Surface Transportation Board"; and

(3) in the fifth paragraph by striking "Commission" the second and fourth places it appears and inserting in lieu thereof "Board".

SEC. 323. RAILROAD RETIREMENT ACT OF 1974 AMENDMENTS.

Section 1 of the Railroad Retirement Act of 1974 (45 U.S.C. 231) is amended—

(1) by striking subsection (a)(1)(i) and inserting in lieu thereof the following:

"(i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under part A of subtitle IV of title 49, United States Code;";

(2) in subsection (a)(2)(ii) by striking "Interstate Commerce Commission is hereby authorized and directed upon request of the Board" and inserting in lieu thereof "Surface Transportation Board is hereby authorized and directed upon request of the Railroad Retirement Board"; and

(3) in subsection (o) by inserting "the Surface Transportation Board," after "the Interstate Commerce Commission,".

SEC. 324. RAILROAD UNEMPLOYMENT INSURANCE ACT AMENDMENTS.

The Railroad Unemployment Insurance Act is amended—

(1) in section 1(a) (45 U.S.C. 351(a)) by striking "Interstate Commerce Commission is hereby authorized and directed upon request of the Board" and inserting in lieu thereof "Surface Transportation Board is hereby authorized and directed upon request of the Railroad Retirement Board";

(2) by striking paragraph (b) of such section 1 and inserting in lieu thereof the following:

"(b) The term 'carrier' means a railroad subject to the jurisdiction of the Surface Transportation Board under part A of subtitle IV of title 49, United States Code."; and

(3) by striking "Interstate Commerce Commission, adjusted, as determined by the Board" in section 2(h)(3) (45 U.S.C. 352(h)(3)) and inserting in lieu thereof "Surface Transportation Board, adjusted, as determined by the Railroad Retirement Board".

SEC. 325. EMERGENCY RAIL SERVICES ACT OF 1970 AMENDMENTS.

The Emergency Rail Services Act of 1970 is amended—

(1) in section 2 (45 U.S.C. 661)—

(A) by striking paragraph (2) and inserting in lieu thereof the following:

"(2) 'Board' means the Surface Transportation Board."; and

(B) in paragraph (3) by striking "common carrier by railroad subject to part I of the Interstate Commerce Act (49 U.S.C. 1–27)" and inserting in lieu thereof "rail carrier subject to part A of subtitle IV of title 49, United States Code";

(2) in section 3—

(A) by striking "the provisions of section 5 of the Interstate Commerce Act" in subsection (b)(4) and inserting in lieu thereof "subchapter II of chapter 113 of title 49, United States Code"; and

(B) by striking "Commission" each place it appears and inserting in lieu thereof "Board"; and

(3) in section 6(a) (45 U.S.C. 665(a)) by striking "Interstate Commerce Commission" and inserting in lieu thereof "Board".

SEC. 326. ALASKA RAILROAD TRANSFER ACT OF 1982 AMENDMENTS.

Section 608 of the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1207) is amended—

(1) by striking "the jurisdiction of the Interstate Commerce Commission under chapter 105" in subsection (a)(1) and inserting in lieu thereof "part A"; and

(2) by striking "the jurisdiction of the Interstate Commerce Commission under chapter 105" in subsection (c) and inserting in lieu thereof "part A".

SEC. 327. REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS.

The Regional Rail Reorganization Act of 1973 is amended—

(1) in section 102(15) (45 U.S.C. 702(15)) by striking "common carrier by railroad as defined in section 1(3) of part I of the Interstate Commerce Act (49 U.S.C. 1(3))" and inserting in lieu thereof "rail carrier subject to part A of subtitle IV of title 49, United States Code";

(2) in section 301(b) (45 U.S.C. 741(b)) by striking "common carrier by railroad under section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3))" and inserting in lieu thereof "rail carrier subject to part A of subtitle IV of title 49, United States Code";

(3) in section 304 (45 U.S.C. 744)—

(A) by striking "205(d)(6) of this Act" in subsection (a)(2)(B) and inserting in lieu thereof "10362(b)(6) of title 49, United States Code";

(B) by striking "Interstate Commerce Act" and inserting in lieu thereof "part A of subtitle IV of title 49, United States Code";

(C) in subsection (d)(3)—

(i) by striking "this title," and all that follows through "(A) shall take" and inserting in lieu thereof "this title, the Commission shall take"; and

(ii) by striking "this subsection; and" and all that follows through "205(d)(6) of this Act" and inserting in lieu thereof "this subsection";

(D) in subsection (e)(4)—

(i) by striking "and under regulations issued by the Office pursuant to section 205(d)(5) of this Act" in subparagraph (A); and

(ii) by striking "and regulations issued by the Office pursuant to section 205(d)(5) of this Act" in subparagraph (C);

(E) in subsection (e)(5)—

(i) by striking "and under regulations issued by the Office pursuant to section 205(d)(5) of this Act" in subparagraph (A); and

(ii) by striking "and under regulations issued by the Office pursuant to section 205(d)(5) of this Act" in subparagraph (B);

(F) in subsection (e)(7)(A) by striking "and under regulations issued by the Office pursuant to section 205(d)(5) of this Act"; and

(G) in subsection (g) by striking "the Interstate Commerce Act" and inserting in lieu thereof "part A of subtitle IV of title 49, United States Code";

(4) in section 308 (45 U.S.C. 748)—

(A) by striking "10905(d)-(f)" in subsection (d)(1) and inserting in lieu thereof "10904"; and

(B) by striking "10903(b)(2)" in subsection (f) and inserting in lieu thereof "10903(b)(3)"; and

(5) by inserting after section 712 the following new section:

"CLASS II RAILROADS RECEIVING FEDERAL ASSISTANCE

"SEC. 713. The Surface Transportation Board shall impose no labor protection conditions in approving an application under section 10902 of title 49, United States Code, when the application involves a Class II rail carrier which—

"(1) is headquartered in a State, and operates in at least one State, with a population of less than 1,000,000 persons, as determined by the 1990 census; and

"(2) has, as of January 1, 1996, been a recipient of repayable Federal Railroad Administration assistance in excess of $5,000,000.".

SEC. 328. MILWAUKEE RAILROAD RESTRUCTURING ACT AMENDMENT.

Section 18 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 916) is repealed.

SEC. 329. ROCK ISLAND RAILROAD TRANSITION AND EMPLOYEE ASSISTANCE ACT AMENDMENTS.

The Rock Island Railroad Transition and Employee Assistance Act is amended—

(1) in section 104(a) (45 U.S.C. 1003(a)) by striking "section 11125 of title 49, United States Code, or"; and

(2) by striking section 120 (45 U.S.C. 1015).

SEC. 330. RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976 AMENDMENTS.

The Railroad Revitalization and Regulatory Reform Act of 1976 is amended—

(1) in section 102(7) (45 U.S.C. 802(7)) by striking "common carrier by railroad or express, as defined in section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3))" and inserting in lieu thereof "rail carrier subject to part A of subtitle IV of title 49, United States Code";

(2) in section 505(a)(3) (45 U.S.C. 825(a)(3))—

(A) by striking "A financially responsible person (as defined in section 10910(a)(1) of title 49, United States Code)" and inserting in lieu thereof "(A) A financially responsible person"; and

(B) by inserting at the end the following new subparagraph:

"(B) For purposes of this paragraph, the term 'financially responsible person' means a person who (i) is capable of paying the constitutional minimum value of the railroad line proposed to be acquired, and (ii) is able to assure that adequate transportation will be provided over such line for a period of not less than 3 years. Such term includes a governmental authority but does not include a class I or class II rail carrier.";

(3) in section 509(b) (45 U.S.C. 829(b)) by striking paragraph (2); and

(4) in section 510 (45 U.S.C. 830) by striking "the provisions of section 20a of the Interstate Commerce Act (49 U.S.C. 20a), nor".

SEC. 331. NORTHEAST RAIL SERVICE ACT OF 1981 AMENDMENTS.

The Northeast Rail Service Act of 1981 is amended in section 1164 (45 U.S.C. 1112) by striking "11344 or 11345" each place it appears and inserting in lieu thereof "11324 or 11325".

SEC. 332. CONRAIL PRIVATIZATION ACT AMENDMENT.

Section 4036 of the Conrail Privatization Act (45 U.S.C. 1344) is amended by striking "(19)".

SEC. 333. MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT AMENDMENTS.

Section 401(b)(2)(C) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)(2)(C)) is amended by striking "part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), or any successor provision of" and inserting in lieu thereof "part B of".

SEC. 334. FEDERAL AVIATION ADMINISTRATION AUTHORIZATION ACT OF 1994.

Section 601(d) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305) is repealed.

SEC. 335. TERMINATION OF CERTAIN MARITIME AUTHORITY.

(a) REPEAL OF INTERCOASTAL SHIPPING ACT, 1933.—The Intercoastal Shipping Act, 1933 (46 U.S.C. App. 843 et seq.) is repealed effective September 30, 1996.

(b) REPEAL OF PROVISIONS OF SHIPPING ACT, 1916.—The following provisions of the Shipping Act, 1916 are repealed effective September 30, 1996:

(1) Section 3 (46 U.S.C. App. 804).
(2) Section 14 (46 U.S.C. App. 812).
(3) Section 15 (46 U.S.C. App. 814).
(4) Section 16 (46 U.S.C. App. 815).
(5) Section 17 (46 U.S.C. App. 816).
(6) Section 18 (46 U.S.C. App. 817).
(7) Section 19 (46 U.S.C. App. 818).
(8) Section 20 (46 U.S.C. App. 819).
(9) Section 21 (46 U.S.C. App. 820).
(10) Section 22 (46 U.S.C. App. 821).
(11) Section 23 (46 U.S.C. App. 822).
(12) Section 24 (46 U.S.C. App. 823).
(13) Section 25 (46 U.S.C. App. 824).
(14) Section 27 (46 U.S.C. App. 826).
(15) Section 29 (46 U.S.C. App. 828).
(16) Section 30 (46 U.S.C. App. 829).
(17) Section 31 (46 U.S.C. App. 830).
(18) Section 32 (46 U.S.C. App. 831).
(19) Section 33 (46 U.S.C. App. 832).
(20) Section 35 (46 U.S.C. App. 833a).
(21) Section 43 (46 U.S.C. App. 841a).
(22) Section 45 (46 U.S.C. App. 841c).

(c) CONFORMING AMENDMENTS.—

(1) MERCHANT MARINE ACT, 1936.—Section 204(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1114(a)) is amended by striking "the Intercoastal Shipping Act, 1933,".

(2) SHIPPING ACT OF 1984.—Section 5(e) of the Shipping Act of 1984 (46 U.S.C. App. 1704(e)) is amended—

(A) by striking "This Act, the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933," and inserting "This Act and the Shipping Act, 1916"; and

(B) by striking "this Act, the Shipping Act, 1916, or the Intercoastal Shipping Act, 1933," and inserting "this Act or the Shipping Act, 1916".

SEC. 336. ARMORED CAR INDUSTRY RECIPROCITY ACT OF 1993 AMENDMENTS.

Section 5(2) of the Armored Car Industry Reciprocity Act of 1993 (15 U.S.C. 5904) is amended—

(1) by striking "subchapter II of chapter 105" and inserting in lieu thereof "subchapter I of chapter 135"; and

(2) by striking "holding the appropriate certificate, permit, or license issued under subchapter II of chapter 109" and inserting in lieu thereof "is registered under chapter 139".

SEC. 337. LABOR MANAGEMENT RELATIONS ACT, 1947 AMENDMENT.

Section 302(b)(2) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(b)(2)) is amended by striking the parenthetical phrase and inserting in lieu thereof "(as defined in section 13102 of title 49, United States Code)".

SEC. 338. INLANDS WATERWAY REVENUE ACT OF 1978 AMENDMENT.

Section 205(f)(1) of the Inlands Waterway Revenue Act of 1978 (33 U.S.C. 1803(f)(1)) is amended by striking "as set forth" and all that follows through the period at the end and inserting in lieu thereof "as set forth in sections 10101 and 13101 of title 49, United States Code.".

SEC. 339. NOISE CONTROL ACT OF 1972 AMENDMENT.

Section 18(d) of the Noise Control Act of 1972 (42 U.S.C. 4917(d)) is amended to read as follows:

"(d) For purposes of this section, the term 'motor carrier' includes a motor carrier and motor private carrier as those terms are defined in section 13102 of title 49, United States Code.".

SEC. 340. FAIR LABOR STANDARDS ACT OF 1938 AMENDMENT.

Section 13(b)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(b)(2)) is amended by striking "common carrier by rail and subject to the provisions of part I of the Interstate Commerce Act" and inserting in lieu thereof "rail carrier subject to part A of subtitle IV of title 49, United States Code".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. CERTAIN COMMERCIAL SPACE LAUNCH ACTIVITIES.

The licensing of a launch vehicle or launch site operator (including any amendment, extension, or renewal of the license) under chapter 701 of title 49, United States Code, shall not be considered a major Federal action for purposes of section 102(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)) if—

(1) the Department of the Army has issued a permit for the activity; and

(2) the Army Corps of Engineers has found that the activity has no significant impact.

SEC. 402. DESTRUCTION OF MOTOR VEHICLES OR MOTOR VEHICLE FACILITIES; WRECKING TRAINS.

(a) DESTRUCTION OF MOTOR VEHICLES OR MOTOR VEHICLE FACILITIES.—Section 33 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever" the first place it appears; and

(2) by adding at the end the following:

"(b) Whoever is convicted of a violation of subsection (a) involving a motor vehicle that, at the time the violation occurred, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12))) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23))), shall be fined under this title and imprisoned for any term of years not less than 30, or for life.".

(b) WRECKING TRAINS.—Section 1992 of such title is amended—

(1) by inserting "(a)" before "Whoever" the first place it appears;

(2) by inserting "(b)" before "Whoever is convicted";

(3) striking "any such crime, which" and inserting "a violation of subsection (a) that";

(4) by inserting after the paragraph beginning "Whoever is convicted" the following:

"Whoever is convicted of any such violation involving a train that, at the time the violation occurred, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12))) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23))), shall be fined under this title and imprisoned for any term or years not less than 30, or for life."; and

(5) by inserting "(c)" before "A judgment".

SEC. 403. VIOLATION OF GRADE-CROSSING LAWS AND REGULATIONS.

(a) FEDERAL REGULATIONS.—Section 31310 of title 49, United States Code, is amended by adding at the end thereof the following:

"(h) GRADE-CROSSING VIOLATIONS.—

"(1) SANCTIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations, by persons operating commercial motor vehicles, of laws and regulations pertaining to railroad-highway grade crossings.

"(2) MINIMUM REQUIREMENTS.—The regulations issued under paragraph (1) shall, at a minimum, require that—

"(A) the penalty for a single violation is not less than a 60-day disqualification of the driver's commercial driver's license; and

"(B) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of such a law or regulation shall be subject to a civil penalty of not more than $10,000.".

(b) DEADLINE.—The initial regulations required under section 31310(h) of title 49, United States Code, shall be issued not later than 1 year after the date of the enactment of this Act.

(c) STATE REGULATIONS.—Section 31311(a) of title 49, Untied States Code, is amended by adding at the end thereof the following:

"(18) The State shall adopt and enforce regulations prescribed by the Secretary under section 31310(h) of this title.".

SEC. 404. MISCELLANEOUS TITLE 23 AMENDMENTS.

Section 127 of title 23, United States Code, is amended by adding at the end the following:

"(g) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON CERTAIN PENNSYLVANIA HIGHWAYS.—If the segment of United States Route 220 between Bedford and Bald Eagle, Pennsylvania, is designated as part of the Interstate System, the single axle weight, tandem axle weight, gross vehicle weight, and bridge formula limits set forth in subsection (a) shall not apply to that segment with respect to the operation of any vehicle which could have legally operated on that segment before the date of the enactment of this subsection.".

SEC. 405. TECHNICAL AMENDMENTS.

(a) NHS DESIGNATION ACT.—Effective November 28, 1995, the National Highway System Designation Act of 1995 (Public Law 104–59) is amended—

(1) in section 312(b) (109 Stat. 584) by striking "of such title" and inserting in lieu thereof "of title 23, United States Code";

(2) in section 319(b)(3) (109 Stat. 589) by striking "at the end" and inserting in lieu thereof "after paragraph (3)";

(3) in section 332(a)(1)(C)(iii) (109 Stat. 596) by inserting closing quotation marks after "Mexico";

(4) in section 336(1) (109 Stat. 602)—

(A) by striking "for" each place it appears; and

(B) by inserting "for" after "million" each place it appears; and

(5) by inserting closing quotation marks and a period after the period at the end of section 337(c)(1)(B) (109 Stat. 603).

(b) TITLE 23.—Section 149(b) of title 23, United States Code, is amended—

(1) by inserting "or" after the semicolon at the end of paragraph (3); and

(2) by striking "; or" at the end of paragraph (4) and inserting a period.

(c) ISTEA.—Section 1069(v) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2010) is amended by striking the period at the end of the first sentence.

SEC. 406. FIBER DRUM PACKAGING.

(a) IN GENERAL.—In the administration of chapter 51 of title 49, United States Code, the Secretary of Transportation shall issue a final rule within 60 days after the date of the enactment of this Act authorizing the continued use of fiber drum packaging with a removable head for the transportation of liquid hazardous materials with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991, if—

(1) the packaging is in compliance with regulations of the Secretary under the Hazardous Materials Transportation Act as in effect on September 30, 1991; and

(2) the packaging will not be used for the transportation of hazardous materials that include materials which are poisonous by inhalation or materials in Packing Groups I and II.

(b) EXPIRATION.—The regulation referred to in subsection (a) shall expire on the later of September 30, 1997, or the date on which funds are authorized to be appropriated to carry out chapter 51 of title 49, United States Code (relating to transportation of hazardous materials), for fiscal years beginning after September 30, 1997.

(c) STUDY.—

(1) IN GENERAL.—Within 90 days after the date of the enactment of this Act, the Secretary shall contract with the National Academy of Sciences to conduct a study—

(A) to determine whether the requirements of section 5103(b) of title 49, United States Code (relating to regulations for safe transportation), as they pertain to fiber drum packaging with a removable head can be met for the transportation of liquid hazardous materials (with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards (including fiber drum industry standards set forth in a June 8, 1992, exemption application submitted to the Department of Transportation), other than the performance-oriented packaging standards adopted under docket number HM–181 contained in part 178 of title 49, Code of Federal Regulations; and

(B) to determine whether a packaging standard (including such fiber drum industry standards), other than such performance-oriented packaging standards, will provide an equal or greater level of safety for the transportation of liquid hazardous materials than would be provided if such performance-oriented packaging standards were in effect.

(2) COMPLETION.—The study shall be completed before March 1, 1997 and shall be transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Transportation and Infrastructure Committee of the House of Representatives.

(d) SECRETARIAL ACTION.—By September 30, 1997, the Secretary shall issue final regulations to determine what standards should apply to fiber drum packaging with a removable head for transportation of liquid hazardous materials (with respect to those liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) after September 30, 1997. In issuing such regulations, the Secretary shall give full and substantial consideration to the results of the study conducted in subsection (c).

SEC. 407. NONCONTIGUOUS DOMESTIC TRADE STUDY.

Within 6 months after the effective date of this Act, the Secretary of Transportation shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a study that analyzes each of the noncontiguous domestic trades, including analyzing—

(1) carrier competition in both regulated and unregulated portions of those trades;

(2) rate structures in those trades;

(3) the impact of tariff filing on carrier pricing;

(4) the problems of parallel pricing and its impact on competition in the domestic trades;

(5) the impact on domestic cargo pricing of foreign cargo services;

(6) whether additional protections are needed to protect shippers from the abuse of market power; and

(7) the extent to which statutory or regulatory changes should be made to further the transportation policy of section 13101 of title 49, United States Code.

SEC. 408. FEDERAL HIGHWAY ADMINISTRATION RULEMAKING.

(a) ADVANCE NOTICE.—The Federal Highway Administration shall issue an advance notice of proposed rulemaking dealing with a variety of fatigue-related issues pertaining to commercial motor vehicle motor vehicle safety (including 8 hours of continuous sleep after 10 hours of driving, loading and unloading operations, automated and tamper-proof recording devices, rest and recovery cycles, fatigue and stress in longer combination vehicles, fitness for duty, and other appropriate regulatory and enforcement countermeasures for reducing fatigue-related incidents and increasing driver alertness) not later than March 1, 1996.

(b) RULEMAKING.—The Federal Highway Administration shall issue a notice of proposed rulemaking dealing with such issues within 1 year after issuance of the advance notice under subsection (a) is published and shall issue a final rule dealing with those issues within 2 years after the last day of such 1-year period.

And the Senate agree to the same.

From the Committee on Transportation and Infrastructure, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

BUD SHUSTER,
BILL CLINGER,
TOM PETRI,
HOWARD COBLE,
SUSAN MOLINARI,
NICK RAHALL,

As additional conferees from the Committee on the Judiciary, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

HENRY HYDE,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

LARRY PRESSLER,
TED STEVENS,
CONRAD BURNS,
TRENT LOTT,
KAY BAILEY HUTCHISON,
JOHN ASHCROFT,
FRITZ HOLLINGS,
DANIEL K. INOUYE,
J.J. EXON,
JAY ROCKEFELLER,
JOHN BREAUX,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2539) to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

SECTION-BY-SECTION ANALYSIS OF H.R. 2539

TITLE I—ABOLITION OF INTERSTATE COMMERCE COMMISSION

SECTION 101. ABOLITION.

House provision

This section abolishes the Interstate Commerce Commission upon enactment.

Senate amendment

This section would terminate the ICC upon the transfer of its remaining functions to the Board and the Secretary, on January 1, 1996. It would terminate the FMC one year later, on January 1, 1997 and transfer its remaining functions to the new Board.

Conference amendment

The conference terminates the ICC and transfers remaining functions to a new Surface Transportation Board and the Secretary effective January 1, 1996.

SEC. 102. RAIL PROVISIONS.

This section rewrites the rail portions of subtitle IV of Title 49, United States Code (Interstate Commerce Act) as follows:

SUBTITLE IV—INTERSTATE TRANSPORTATION

Part A—Rail

Chapter 101—General Provisions

SEC. 10101. RAIL TRANSPORTATION POLICY.

House provision

This provision integrates the relevant portion of former Section 10101 (general national transportation policy) and former Section 10101a (rail transportation policy). The changes to the content of the rail transportation policy are to conform to the abolition of minimum rate jurisdiction.

Senate amendment

Section 302 (Rail Transportation Policy) amends 49 U.S.C. 10101a, which states the rail transportation policy, to add an additional national policy goal of providing for expeditious handling and resolution of all proceedings required or permitted to be brought under the provisions of this subtitle. The provision recognizes that timely action by the Board is necessary, particularly when providing remedies to protect captive shippers against market abuse.

Conference substitute

The Conference provision integrates all policy goals into a single rail transportation policy. It retains relevant prior policy goals, while adding the additional goal of providing expeditious administrative remedies.

SEC. 10102. DEFINITIONS.

House provision

The amended definitions delete several terms rendered redundant in light of the abolition of regulatory jurisdiction over express and sleeping car companies. Unlike the former Section 10102, the definitions are confined entirely to terms relevant to railroad provisions.

Senate amendment

Section 303 (Definitions) amends 49 U.S.C. 10102, which defines terms used in rail provisions to remove terms that are not pertinent, to update and clarify the term "rail carrier", and to remove references to passenger transportation.

Conference substitute

This provision integrates changes common to both House and Senate provisions to reflect reductions in regulatory jurisdiction. To reflect the reorganization of all rail provisions into a separate part, non-rail definitions have been deleted. To clarify that only providers of rail transportation for compensation are within the scope of the statute, the definition of "rail carrier" is limited to persons providing *common carrier* rail transportation.

Chapter 105—Jurisdiction

SEC. 10501. GENERAL JURISDICTION.

House provision

This provision (Section 10301) replaces the railroad portion of former Section 10501. Conforming changes are made to reflect the direct preemption of State economic regulation of railroads.

Senate amendment

Section 304 (General Jurisdiction) amends 49 U.S.C. 10501, which establishes jurisdiction over rail and pipeline transportation and intermodal rail-water or pipeline-water transportation in several respects. The exclusive nature of the Board's regulatory authority would be clarified. The Board's rail jurisdiction would be limited to freight transportation, because rail passenger transportation today (other than service by Amtrak, which is not regulated under the Interstate Commerce Act) is now purely local or regional in nature and should be regulated (if at all) at that level. Outdated references to express and sleeping car carriers, which no longer exist, would be removed. References to the regulation of intrastate rail transportation would be updated.

Conference substitute

This provision adopted by the Conference changes the statement of agency jurisdiction to reflect curtailment of regulatory jurisdiction in areas such as passenger transportation. In light of the exclusive Federal authority over auxiliary tracks and facilities, this subject in integrated into the statement of general jurisdiction. This section also clarifies that, although regulation of passenger transportation is generally eliminated, public transportation authorities that meet the existing criteria for being rail carriers may invoke the terminal area and reciprocal switching access remedies of section 11102 and 11103.

Also integrated into the statement of general jurisdiction is the delineation of the exclusivity of Federal remedies with respect to the regulation of rail transportation. Former section 10103 dealt with remedies in all modes of transportation regulated by the ICC, but since 1980, former section 10501(d) and 11501(b), with respect to rail transportation, had already replaced the former standard of cumulative remedies with an exclusive Federal standard, in order to assure uniform administration of the regulatory standards of the Staggers Act. The Conference provision retains this general rule, while clarifying that the exclusivity is limited to remedies with respect to rail regulation—not State and Federal law generally. For example, criminal statutes governing antitrust matters not pre-empted by this Act, and laws defining such criminal offenses as bribery and extortion, remain fully applicable unless specifically displaced, because they do not generally collide with the scheme of economic regulation (and deregulation) of rail transportation.

SEC. 10502. AUTHORITY TO EXEMPT RAIL CARRIER TRANSPORTATION.

House provision

This provision replaces the railroad portions of former section 10505. The basic criteria for exemption—a crucially important delegated power to expand existing statutory deregulation through administrative action—remain as in prior law. However, the new provision sets a 90-day time limit on the agency's decision to initiate a requested exemption proceeding, and a one-year statutory limit on completion of any ensuring rail exemption proceeding. The new provision also eliminates former restrictions on use of the exemption power in matters relating to intermodal ownership. The new provision also emphasizes in subsection (a) the Staggers Act policy that the exemption power should be utilized to the maximum extent consistent with applicable law and policy.

Senate amendment

Section 306 (Authority to Exempt Rail Carrier and Motor Carrier Transportation) amends 49 U.S.C. 10505, which authorizes discretionary exemptions from the application of statutory provisions to comport with the scope of this part, by excluding entities and matters not regulated under Part A and by embracing pipeline carriage. The exemption authority is further modified to afford the Board flexibility to change the way in which a provision applies (and not simply whether it applies) through exemption.

A 180-day time limit would be imposed for decisions to grant or revoke an exemption, in response to concerns that both exemption applications and revocation applications have not been processed with sufficient expedition. The revocation provision is also clarified, by directing the Board to revoke an exemption to the extent that regulation is needed and by directing the Board to consider the availability of other economic transportation alternatives, among other factors. In considering monetary damages upon revocation of an exemption, the Board is directed to take into account any dilatory railroad practices. Outdated restrictions against intermodal ownership would be removed.

Conference substitute

The Conference provision combines the general standards and directives of the House bill with the accountability and time limit features of the House bill and Senate amendment. In responding to either a request to issue an exemption or to revoke one, the Board must determine within 90 days whether to conduct a proceeding as requested. If a denied request involves a class exemption, a public explanation of the denial must be given in the Federal Register. Any proceeding to grant or revoke an exemption must be completed within 9 months of the initiation of the proceeding.

The Conference recognizes that in the exemption context, as well as in other areas of the Board's jurisdiction, situations may arise in which irreparable harm is threatened and immediate action therefore required. The agency's previously established implied power to grant administrative injunctive relief has now been codified in section 721(b)(4). It is the Conference's intent that this power should be fully available to address situations involving imminent threats of irreparable harm in the exemption context and elsewhere.

While the Conference supports the current practice of granting exemptions from regulation when regulation is not needed to carry out the national transportation policy or protect against market abuse, the Conference is equally concerned that requests to revoke exemptions by given careful consideration by the Board. When considering a revocation request, the Board should continue to require demonstrated abuse of market power that can be remedied only by reimposition of regulation or that regulation is needed to carry out the national transportation policy. The Conference expects the Board to examine all competitive transportation factors that restrain rail carriers' actions and that affect the market for transportation of the particular commodity or type of service for which revocation has been requested. The concern reflected in the Senate amendment regarding dilatory tactics is addressed in section 10704.

Chapter 107—Rates

SEC. 10701. STANDARDS FOR RATES, CLASSIFICATIONS, THROUGH ROUTES, RULES, AND PRACTICES.

House provision

This provision replaces the rail portions of former section 10701. It retains the basic Staggers Act standards for evaluating reasonableness of rail rates, including criteria related to market dominance and the need for rail carriers to earn adequate revenues. Subsection (d)(3) requires the agency to complete within one year after enactment the pending ICC proceeding to establish non-coal rate guidelines aimed at providing simplified evidentiary standards for rate-reasonableness proceedings.

Senate amendment

Section 307 (Standards for Rates, Classifications, Etc.) amends 49 U.S.C. 10701, which requires that a carrier's classifications, rules, practices, through routes, and divisions of joint rates be reasonable, that pipeline rates also be reasonable, and that rates (of both rail and pipeline carriers) not unreasonably discriminate against connecting carriers, to remove provisions addressed to entities not regulated under Part A.

Section 308 (Standards for Rates for Rail Carriers) amends 49 U.S.C. 10701a, which requires that rail rates be reasonable if the carrier has market dominance over the transportation involved, to impose time limits on the Board's handling of rate reasonableness cases (and to make other changes of a conforming nature). It requires the Board to complete the pending Non-Coal Rate Guidelines proceeding to establish, within 1 year, a simplified method to be used where a full stand-alone cost presentation is impractical. Within 6 months, the Board is required to establish procedures for expenditiously processing rate cases. It would be required to decide individual rate complaints within 6 months after the close of the administrative record in cases in which a stand-alone cost presentation is made, and within 3 months after the close of the record in cases using the simplified methodology the bill directs the Board to adopt.

Conference substitute

The Conference provision is confined to rail transportation only, to reflect the reorganization of the statute into separate parts for each mode of transportation. It also integrates into the general statement of the rule of rate reasonableness the "Long-Cannon amendment" decisional factors enacted as part of the Staggers Act in former section 10707a.

The provision also retains the obligation stated in the House bill and Senate amendment for the agency to complete within one year the long-pending non-coal rate guidelines proceeding, which is aimed at providing simplified and more cost-effective evidentiary standards for rate-reasonableness cases. The decisional time limits and procedural requirements reflected in the Senate amendment are addressed in section 10704. To replace the prior power to suspend and investigate rates under former section 10707, the new Board is specifically empowered under section 721(b)(4) to grant administrative injunctive relief to address imminent threats of irreparable harm.

SEC. 10702. AUTHORITY FOR RAIL CARRIERS TO ESTABLISH RATES, CLASSIFICATIONS, RULES, AND PRACTICES.

House provision

This provision (section 10502) replaces and retains the rail portion of former section 10702 regarding the duty of rail carriers to establish rates (including joint rates), classifications, rules, and practices governing the rail transportation they provide.

Senate amendment

Section 309 (Authority for Carriers to Establish Rates, Classifications, Etc.) amends 49 U.S.C. 10702, which states a carrier's right to establish its own rates, classifications, rules, and practices to remove unnecessary language and provisions regarding entities not regulated under this part.

Conference substitute

The Conference provision retains the basic standards from both House and Senate provisions.

SEC. 10703. AUTHORITY FOR RAIL CARRIERS TO ESTABLISH THROUGH ROUTES.

House provision

This section (10503) replaces rail portions of former section 10703, retaining the duty of rail carriers to establish through (connecting) routes, and to provide reasonable facilities and compensation for furnished facilities.

Senate amendment

Section 310 (Authority for Carriers to Establish Through Routes) amends 49 U.S.C. 10703, which directs rail and pipeline carriers to establish through routes with other such carriers, and also directs rail carriers to establish through routes with water common carriers, to remove provisions regarding entities not regulated under Part A and to make other conforming changes.

Conference substitute

The Conference provision retains the basic obligation of rail carriers to maintain through routes with other rail carriers, and with water carriers. However, in light of reductions in regulation of water carriers, the rail carriers' obligation toward water carriers is limited to water carriers subject to chapter 137. In addition, the Conference provision replaces the detailed requirements of former section 10503 with respect to rail-water connections and rates with a general obligation to maintain physical connections between rail carriers and water carriers of the type described above.

SEC. 10704. AUTHORITY AND CRITERIA: RATES, CLASSIFICATIONS, RULES AND PRACTICES ESTABLISHED BY THE BOARD.

House provision

This section (10504) replaces the rail portions of former section 10704. It retains for the new agency the former ICC authority to review and order changes in rates, classifications, rules, and practices and to prescribe such matters.

Senate amendment

Section 311 (Authority and Criteria for Prescribed Rates, Classifications, Etc.) amends 49 U.S.C. 10704, under which rates, classifications, rules, and practices can be prescribed to correct violations of the statute in various respects. Most significantly, the Board's authority to review the reasonableness of a rate, classification, rule, or practice is limited to instances where it receives a complaint. An unnecessary restatement of requirements for a complaint is removed. A provision to protect existing rate relationships between commodities, ports, or geographic areas is also removed.

A long-past initial deadline for establishing railroad revenue adequacy standards and an unnecessary statement of the Board's authority to revisit that standard is removed. A similar initial deadline for annually determining which rail carriers are earning adequate revenues is also removed. Finally, provisions regarding entities not regulated under this part, and other unnecessary language are removed, and conforming changes are also made.

Conference substitute

This provision retains the revisions and limitations of the House and Senate provisions. In addition, it includes the procedural deadlines of section 308 of the Senate amendment for rate-reasonableness proceedings, but with certain modifications. In rate-reasonableness proceedings using the stand-alone cost evidentiary standards, the proceeding must be concluded within 9 months after the close of the record; for proceedings utilizing the simplified methodology to be developed in non-coal rate guidelines proceeding, the agency's decision would have to be rendered within 6 months after the close of the record.

This section also incorporates with modifications portions of section 308 of the Senate amendment dealing with assurance of expeditious procedures for the handling of rate-reasonableness cases. Specifically, the agency is required within 9 months of the date of enactment to establish procedures to ensure expeditious handling of cases of this type. The scope of the procedures has been enlarged to include provision for sanctions to be imposed for dilatory tactics in rate cases and revocation proceedings.

SEC. 10705. AUTHORITY: THROUGH ROUTES, JOINT CLASSIFICATIONS, RATES, AND DIVISIONS PRESCRIBED BY THE BOARD.

House provision

This section (10505) replaces rail portions of former Section 10705 and maintains the existing regulatory authority over inter-carrier dealings consisting of joint rates, the divisions (revenue splitting) of such rates, and classifications.

Senate amendment

Section 312 (Authority for Prescribed Through Routes, Joint Classifications, Etc.) amends 49 U.S.C. 10705, under which through routes (and the conditions under which they must be operated) and joint rates (and the division of the joint rate received by each participating carrier) can be prescribed in several respects. A reference to tariffs is replaced with a reference to proposed rate changes, given that tariff requirements are eliminated for most transportation.

Provisions regarding carriers not regulated under this part would be removed, as would unnecessary language. Other conforming changes reflect the removal of authority to investigate a proposed rate on the agency's own initiative and the removal of Federal regulatory authority over rail passenger transportation.

Conference substitute

This provision retains the basic powers of the agency to prescribe joint rates, divisions, and related matters, with modifications and conforming changes from the House bill and the Senate amendment.

SEC. 10706. RATE AGREEMENT: EXEMPTION FROM ANTITRUST LAWS.

House provision

In replacing the rail portions of former Section 10706, this provision (10506) maintains the existing system of approval of multi-carrier ratemaking agreements and scope of immunity, once approved by the agency, from challenge under the antitrust laws.

Senate amendment

Section 313 (Antitrust Exemption for Rate Agreements) amends 49 U.S.C. 10706, which allows discretionary approval of certain collective activity by carriers and confers antitrust immunity on such approved activity. It removes as unnecessary a requirement for periodic review of approvals granted for collective activities. This change would not affect the Board's authority to reconsider an approval at any time as the need arises. Similarly, it removes a requirement for the Federal Trade Commission, in consultation with the Antitrust Division of the Department of Justice, to periodically assess (and report to the Board on) collective activity authorized by the Board. Such assessments and reports may be made at any time.

Other changes remove expired provisions, remove provisions regarding entities not regulated under Part A, correct a typographical error, supply an actual date, and make conforming changes.

Conference substitute

The Conference provision incorporates changes from House bill and the Senate amendment. It retains the requirement for monitoring by the Department of Justice and the Federal Trade Commission.

SEC. 10707. DETERMINATION OF MARKET DOMINANCE IN RAIL RATE PROCEEDINGS.

House provision

This provision (10507), which replaces former section 10709, retains the Staggers Act criteria for evaluating the market dominance (absence of effective competition) of a rail carrier when a rail rate is challenged as unreasonably high. Language dealing with minimum rate regulation is deleted as unnecessary.

Senate amendment

Section 317 (Determination of Market Dominance) amends 49 U.S.C. 10709 which governs the determination of whether a carrier has market dominance over traffic and thus whether the rates for that traffic are subject to the maximum rate regulation in several respects. To clarify Congressional intent regarding market dominance, the Board is directed to consider the availability of other economic transportation alternatives. The cost-recovery percentage, which was meant to serve as an adjustable jurisdictional floor, is removed because as a practical matter it has not been capable of calculation due to data limitations. In addition, the phase-in of the revenue-variable cost percentage floor for market dominance is deleted the phase-in has already served its purpose of dampening the precipitousness of rate increases prompted by the Staggers Rail Act of 1980. Finally, conforming changes are made.

Conference substitute

The Conference provision retains the present jurisdictional market-dominance standard. References to the ICC's former cost-accounting system are replaced with references to the current Uniform Rail Costing System (URCS). Modernizing and conforming changes from the Senate amendment are also incorporated.

Although the conference provision does not disturb the existing statutory standard or the current agency regulations implementing the market-dominance standard, the Conference recognizes that the agency has broad discretion to consider additional factors such as the availability of other forms of transportation and other economic alternatives, and to revise and supplement its existing standards and regulations as appropriate.

SEC. 10708. RAIL COST ADJUSTMENT FACTOR.

House provision

This provision (10508) retains the former ICC authority under former section 10712 to compute and publish a quarterly inflation cost index to reflect rises in railroad costs. The Committee is aware that, since the advent of the critically important Staggers Act authority for rail carriers and shippers to conduct their commercial relationships under confidential rate contracts, the common carrier regulatory regime for railroad rates has been relegated to a role as a backstop or safety net for use when commercial negotiation cannot produce a satisfactory carrier-shipper relationship. The cost index information and the related rail cost adjustment factor (RCAF) play an important role in the contractual relationships between shippers and carriers—particularly long-term contracts—by establishing a neutral and authoritative benchmark for inflation-based escalation of rates during the life of the contract.

Senate amendment

Section 315 (Zone of Rail Carrier Rate Flexibility) amends 49 U.S.C. 10707a, which establishes a zone of rate flexibility (ZORF) that gives carriers limited freedom to increase rates with immunity from suspension or ICC-instituted investigations. The ZORF itself would be removed, because it has outlived its usefulness. However, the so-called Long-Cannon Factors to be considered when evaluating the reasonableness of rates would be retained, along with criteria for investigating a proposed rate increase. In addition, language would be clarified, a date that has already been complied with would be removed, and reference to a repealed provision would be removed.

Conference substitute

The Conference provision retains the Rail Cost Adjustment Factor with clarifying language from the House bill, and eliminates the Zone of Rate Flexibility as provided in the Senate amendment. The Long-Cannon factors bearing on rate-reasonableness determinations have been relocated to new section 10701.

SEC. 10709. CONTRACTS.

House provision

This provision (10509) replaces former section 10713. It retains the Staggers Act's very successful encouragement and legal authorization of customized and confidential rate contracts between shippers and carriers, including the immunity of contracts from challenge under common-carrier rate-reasonableness standards. This section eliminates the very limited and seldom utilized complaint procedures for certain types of rate contracts, as well as the obligation to file summaries of contracts with the regulatory agency. The elimination of the filing requirement is consistent with the bill's elimination of common carrier tariff filing as the single lawful means of quoting and disseminating rates (prices). This section also corrects an oversight in the original Staggers Act provision by clarifying that rate contract information is not only confidential, but is also protected against disclosure under the Freedom of Information Act. The provision replaces the administrative complaint remedies formerly available by statutory directive with equivalent agency regulations.

Senate amendment

Section 318 (Contracts) amends 49 U.S.C. 10713, which authorizes rail carriers to enter into contracts for transportation that are thereby removed from regulation, to retain the filing requirements for, and regulatory restrictions upon, rail transportation contracts only for agricultural products. Except as to those commodities, the contract limitations represent unneeded and unduly burdensome regulation, particularly given the elimination of tariffs for other traffic. Any egregious equipment and discrimination concerns could be brought to the Board under other remaining statutory provisions.

In the case of agricultural commodity contracts, only a contract summary, and not the contract itself, would be filed. In other respects, jurisdiction over agricultural commodity contracts remain as under the Staggers Act. The purpose for retaining this jurisdiction is primarily due to concerns brought before the Committee about enforcement of the common carrier obligation.

The amendments also clarify that, in the absence of tariffs, a rate is immune from regulation only if the shipper had expressly waived its regulatory rights and remedies. The Railroad Contract Rate Advisory Service is removed in light of the Board's budgetary constraints. Unnecessary language is eliminated and conforming language changes are made.

Conference substitute

The conference provision repeals obsolete provisions addressed by both the Senate amendment and House bill. It also retains the statutory provision for administrative complaints as provided in the Senate amendment. Filing requirements for agricultural transportation contracts are limited to summaries. The definition of agricultural commodities is clarified.

Current shipper-specific limitations on commitment of rail cars to agricultural transportation contracts are eliminated, but the fleet-wide ceiling of 40 percent of a rail carrier's fleet by car type is retained for the 3-year authorization of this bill. One year before the expiration of the provision, the Railroad-Shipper Transportation Advisory Council and the National Grain Car Council are to make recommendations to Congress on whether to retain or modify the car-commitment ceiling.

Subchapter II—Special Circumstances

SEC. 10721. GOVERNMENT TRAFFIC.

House provision

This provision (10521), which replaces the rail portions of former section 10721, retains the legal permission for rail carriers, when acting as common (as distinguished from contract) carriers, to provide reduced charge or free transportation for the United States Government. Language dealing with passenger rates is omitted as unnecessary in light of the abolition of regulatory jurisdiction over passenger rates.

Senate amendment

Section 319 (Government Traffic) amends 49 U.S.C. 10721, which provides special treatment for rates paid by the United States government, to reduce the language to what would be needed in the absence of tariff rates.

Conference substitute

The Conference provision includes the House language, as well as the former language retained by the Senate amendment covering transportation of individuals. Although passenger fare jurisdiction is eliminated by the legislation, Federal agencies have indicated that legal difficulties under other statutes might result if the authority to provide reduced rates did not also clearly extend to passenger transportation provided to the government.

SEC. 10722. CAR UTILIZATION.

House provision

This provision (10523) replaces former section 10734, while retaining the authority for rail carrier to establish premium charges for special services outsides the normal structure of rates otherwise applicable to a particular rail movement.

Senate amendment

No provision.

Conference substitute

The Conference provision incorporates the House provision.

Subchapter III—Limitations

SEC. 10741. PROHIBITIONS AGAINST DISCRIMINATION BY RAIL CARRIERS.

House provision

This section (10541) contains the relevant rail portions of former section 10741, and prohibits unreasonable discrimination by rail carriers against a shipper or other entity providing rail traffic to the carrier. References to provisions amended or repealed elsewhere in the bill are also eliminated.

Senate amendment

Section 321 (Prohibitions Against Discrimination by Common Carriers) amends 49 U.S.C. 10741, which prohibits kickbacks and unreasonable discrimination, by common carriers.

Conference substitute

This Conference provision reflects the language of the House bill.

SEC. 10742. FACILITIES FOR INTERCHANGE OF TRAFFIC.

House provision

This replacement (10542) for former section 10742 maintains the obligation of rail carriers to provide reasonable means for the interchange of traffic with other rail carriers. This provision is the cornerstone of the integrity of the national rail system, because it precludes the balkanization of the system through the possible refusal of one carrier to deal with another connecting carrier.

Senate amendment

Section 322 (Facilities for Interchange of Traffic) amends 49 U.S.C. 10742, which requires a carrier to provide reasonable facilities for interchange of traffic, only with conforming changes.

Conference substitute

The Conference provision incorporates portions of both the House bill and Senate amendment. To reflect the reduced scope of regulation for water carriers, the obligation of rail carriers to provide interchanges facilities to connecting water carriers is limited to such carriers as the subject to chapter 137.

SEC. 10743. LIABILITY FOR PAYMENT OF RATES.

House provision

No provision.

Senate amendment

The Senate amendment retained former section 10744 concerning rules of liability (including statutes of limitation) for recovering payment of rates owned to rail carriers.

Conference substitute

The Conference provision includes the relevant portions of former section 10744 for rail transportation, with conforming changes.

SEC. 10744. CONTINUOUS CARRIAGE OF FREIGHT.

House provision

In replacing former section 10745, this section 10543 retains the legal obligation of rail carrier to maintain continuous means for the efficient handling of freight that travels over more than one carrier's lines.

Senate amendment

Section 324 (Continuous Carriage of Freight) amends 49 U.S.C. 10745, which prohibits carrier combinations or arrangements that prevent the continuous movement of freight, only with conforming changes.

Conference substitute

The Conference provision retain the language of the House bill.

SEC. 10745. TRANSPORTATION SERVICES OR FACILITIES FURNISHED BY SHIPPER.

House provision

This provision (10544), which replaces the rail portions of former section 10747, maintains the agency's regulatory authority to address the treatment by railroads of shipper-furnished or other non-railroad-owned cars, equipment, and services . The Committee is aware that certain segments of the national rail car fleet are already owned largely or entirely by non-carriers, and that there is a strong possibility in the future that even more of the fleet will cease to be carrier-owned. Therefore, this provision remains highly relevant to future dealings of railroads with the owners of non-railroad-owned equipment.

Senate amendment

Section 325 (Transportation Services of Facilities Furnished by Shipper) amends 49 U.S.C 10747, under which carrier allowances for shipper-furnished services and equipment or facilities may be prescribed, to reflect the elimination of most tariffs and to limit the Board's authority to instances in which a complaint is filed.

Conference substitute

The Conference provision incorporates the House and Senate changes to reflect the elimination of tariff filing.

SEC. 10746. DEMURRAGE CHARGES.

House provision

In replacing former section 10750, this provision retains the agency's authority over demurrage charges and related rules. Demurrage is the charge paid to the owner of a rail carrier for its delayed return to the owner. The ICC's existing rules on this subject and on car supply generally represent a limited and negotiation-based regulatory framework for assuring timely and efficient use of the rail car fleet. This section makes no changes that would disturb that framework.

Senate amendment

The Senate amendment did not amend former section 10750.

Conference substitute

The Conference provision includes the language of the House bill.

Chapter 109—Licensing

SEC. 10901. AUTHORIZING CONSTRUCTION AND OPERATION OF RAILROAD LINES.

House provision

1. Construction and operation cases

Subsections (a) through (c) of section 10701 retain the current Federal jurisdictional under former Section 10901 over authority to construct, acquire or operate lines. Non-construction transactions of this type involving smaller railroads are governed by a new separate provision, section 10702, discussed below. The new Section 10701 also eliminates the former optional authority to impose labor protection (mandatory severance and salary and benefit protection) to employees affected by construction and operation cases. This power has rarely been utilized since enactment of the Staggers Act.

2. Crossing cases

Subsection (d) replaces former Section 10901(d), which empowers the agency to order one railroad whose tracks block the access of another railroad's tracks to provide crossing arrangements. The Committee is aware that in the past, some cases of this type, which can involve significant issues of rail competition, have not been adjudicated expeditiously. Therefore, subsection (d)(2) establishes a new 90-day deadline for determination of a dispute of this type, once submitted to the Panel for decision.

Senate amendment

The Senate amendment amends former section 10901 to provide that acquisitions of lines by noncarriers, Class II railroads, and Class III railroads (with certain exceptions) would be subject to a maximum of 1 year of labor protection, at the agency's discretion, plus advance notice of the transaction.

Conference substitute

The Conference provision retains the House language as new section 10901, with line acquisitions by Class II and Class III railroads addressed separately in section 10902. Although section 10901 has been amended to conform to the reclassification of certain line acquisition transactions under other new provisions, the Conference intends no change in existing law with respect to the coverage of regulatory authority over construction of rail lines. Specifically, non-railroad companies who construct rail lines to serve their own facilities, whether or not such lines would be classified as a spur or other auxiliary track exempt from agency jurisdiction, are not required to obtain agency approval to engage in such construction. The 90-day time limit in the House bill for disposition of crossing cases is changed in the provision to 120 days.

SEC. 10902. SHORT LINE TRANSACTIONS BY CLASS II AND CLASS III RAIL CARRIERS.

House provision

1. Construction and operation cases

This new provision (10702) includes the authority of the agency to approve acquisition, construction, and operation of rail lines by class II and Class III railroads and by noncarriers, previously governed by former Section 10901. Section 10702 is intended to avoid the protracted regulatory and court litigation generated by the former dichotomy between "carrier" and "noncarrier" transactions and the consequent applicability or inapplicability of mandatory "carrier" labor protection requirements. Instead, this new provision, in combination with Section 10701, establishes a clear statutory division between transactions involving large Class I railroads on one hand and smaller railroads on the other. This should promote clearer and more expeditious handling of the affected transactions, and avoid imposing additional and sometimes potentially fatal costs on start-up operations of smaller railroads who often can keep rail lines in service, even if not viable as part of a larger carrier's system.

As to line acquisitions by Class II railroads, the House provision requires 1 year of mandatory labor protection in the form of severance pay, computed under the standards of section 11126(b). No labor protection requirement is imposed on acquisitions by Class III railroads.

Senate amendment

Section 330 (Authorizing Construction and Operation of Railroad Lines) amends 49 U.S.C. 10901, under which the construction of new rail lines and the operations of new rail carriers must be authorized to reduce the level of employee protection that may be imposed by the Board on smaller carriers and noncarriers. While employee protective conditions have not often been required for such new operations, the minimum level of protection available, if protection was imposed, was inordinately high (up to 6 years of salary protection). As amended, the maximum level of protection that could be imposed on smaller carriers and noncarrier entities is reduced to a more realistic level: advance notice (the same requirement imposed on other industries) and up to one year's salary protection, unless the parties voluntarily agree otherwise. In addition, labor protection arrangements could only be imposed when consistent with the public interest.

Conference substitute

The Conference provision includes the substantive provisions of the House bill. Class II rail carriers acquiring a line under this section are subject to a mandatory 1-year severance pay requirement for severed employees, computed as provided in the House bill. No protection is imposed on Class III rail carrier line acquisitions.

By providing this clear delineation of requirements for Class II and Class III rail carriers acquiring rail lines, the Conference does not intend to limit the availability of section 10901 for non-carrier acquisitions. In addition, Class II and Class III carriers retain the existing option (as do Class I carriers) to obtain approval of inter-carrier transactions under section 11323, such as trackage rights agreements under section 11323(a)(6). The House references to definitions of Class II and Class III rail carriers are deleted as unnecessary. The Conference intends to follow the prior practice in the Staggers Act and elsewhere of employing the Class II and Class III categories formerly established by the ICC, and now to be the responsibility of the Surface Transportation Board.

SEC. 10903. FILING AND PROCEDURE FOR APPLICATION TO ABANDON OR DISCONTINUE.

House provision

This provision (10703), which replaces former Sections 10903 and 10904, converts applications for the abandonment or discontinuance of service on a rail line from a "public convenience and necessity" licensing proceeding into a notification process to maximize the opportunity for the line to be acquired for continued operation by a smaller railroad, even though the line is revenue-deficient for a large trunk carrier.

Given the change from licensing to notification, the agency's powers are limited to enforcing the notification requirements and, if appropriate, specifying that the scope of the proposed abandonment be amended to afford the best opportunity for the line to be sold and operated as a viable short-line railroad. Labor protection requirements now applicable to abandonments are unaffected.

Senate amendment

Section 333 (Filing and Procedure for Applications to Abandon or Discontinue) amends 49 U.S.C. 10904, which contains the procedural requirements for applications to abandon a rail line, to remove outdated provisions for rail restructuring plans sponsored by the Secretary and to make conforming changes.

Conference substitute

The Conference provision retains the Senate formulation of an application for abandonment or discontinuance under the public convenience and necessity standard, making other technical changes.

SEC. 10904. OFFERS TO PURCHASE TO AVOID ABANDONMENT AND DISCONTINUANCE.

House provision

This provision (10704), which replaces former Section 10905, governs so-called "forced sales" of lines proposed for abandonment. The new provision retains the procedure under which the agency screens potential offerors for fitness and, if specified conditions are met, sets the price for the sale of the line proposed for abandonment. The new provision eliminates the alternative (and rarely utilized) process for forcing continued operation of a line through use of a shipper or other non-rail party's subsidy of its operation.

Senate amendment

The Senate amendment retains the existing procedures of section 10905, including the option for agency-supervised subsidy of a rail line to keep it in service.

Conference substitute

The Conference provision includes the House provision, with the addition of the subsidy option, but specifies in subsection (f)(4)(B) that any subsidy arrangement must be limited to a maximum duration of 1 year, unless otherwise mutually agreed by the parties.

SEC. 10905. OFFERING ABANDONED RAIL PROPERTIES FOR SALE FOR PUBLIC PURPOSES.

House provision

In replacing former Section 10906, this provision retains existing agency authority to examine the possibility that a line proposed for abandonment may be suitable for alternative public uses. Abandonment may be postponed for up to 6 months to allow for the pursuit of such alternatives.

Senate amendment

The Senate amendment retained former section 10906.

Conference substitute

The Conference provision is the House provision, renumbered as section 10905.

SEC. 10906. EXCEPTION.

House provision

This section replaces former section 10907(a) as the source of rail carriers' authority to enter into joint ownership or use arrangements for spur, industrial, team, switching or side tracks without agency approval. The provision also clarifies that such auxiliary tracks are not subject to the regulatory approval processes under chapter 109. Former section 10907(b) is eliminated to conform to the general pre-emption of State economic regulation of rail carriers.

Senate amendment

Section 334 (Exceptions) amends 49 U.S.C. 10907, which exempts spur, industrial, team, switching, and side tracks from the approval requirement for constructions and abandonments, only for conforming changes.

Conference substitute

The Conference provision, renumbered as section 10906, is the House provision.

SEC. 10907. RAILROAD DEVELOPMENT.

House provision

This provision (10707) retains the feeder line development program of former section 10910, under which another party may acquire ownership of a rail line over which service is inadequate. No changes in the former section, other than the deletion of mandatory labor protection, is made.

Senate amendment

The Senate amendment retained former section 10910 with repeals of obsolete and executed provisions.

Conference substitute

The Conference provision combines the House and Senate changes to former section 10910.

Chapter 111—Operations

SEC. 11101. COMMON CARRIER TRANSPORTATION, SERVICE, AND RATES.

House provision

This section (10901) replaces former section 11101, but retains the existing legal duty of a rail carrier to provide transportation upon reasonable request—the "common carrier obligation." In lieu of the former duty to quote rates in the form of a tariff, the provision is changed to conform with the abolition of tariff filing by stating the duty of the carrier to quote rates on reasonable request in writing or electronically.

Senate amendment

Section 336 (Providing Transportation, Service, and Rates) amends 49 U.S.C. 11101, which sets forth a carrier's obligation to provide service on reasonable request to require that a rail carrier establish common carriage rates and other service terms (of the type requested for specified service between specified points) within 30 days of a reasonable request. A carrier may not refuse to provide a common carriage rate on grounds that there is a transportation contract covering the traffic. The amended section also requires a carrier to provide 20 days' advance notice of rate increases.

Conference substitute

The Conference provision modifies the House provision to clarify the obligation of the carrier to make its common carrier rates and service terms available to any person on request. It requires that 20 days' advance notification of any rate increases or changes in service terms to given to parties who either requested such quotations or have made arrangements with the carrier during the preceding year. The provision also includes specific additional obligations of the carrier with respect to transportation of agricultural products, including making rate and service terms, and any changes (actual and proposed) publicly available.

The agency is to issue implementing regulations under this section within 180 days of enactment of the legislation. It is the Conference's intent that in fashioning the regulations, the agency should accommodate wherever possible the use of electronic media in making the required information available.

SEC. 11102. USE OF TERMINAL FACILITIES.

House provision

This section (10902) replaces former section 11103, which empowers the agency to order use of terminal facilities and to require "reciprocal switching" arrangements between rail carriers. A time limit of 180 days is imposed on processing of terminal facilities cases.

Senate amendment

Section 337 (Use of Terminal Facilities) amends 49 U.S.C. 11103, under which a carrier may be compelled to provide competitive access to terminal facilities or switching arrangements, only with conforming changes.

Conference substitute

The Conference provision incorporates the House time limit and other conforming changes. As noted in connection with section 10501, local government authorities are to be excluded from economic regulation (rates, fares, entry, and exit) under the amended statute. A specific exception is made in section 10501(c) for matters arising under sections 11102 and 11103, which deal with access to or use of railroad facilities and infrastructure. Under the amended section 11102, the agency's existing power to order access to terminal facilities, including main-line tracks a reasonable distance from the terminal, would be retained. Thus local transportation authorities satisfying the jurisdictional requirements of section 10501 could invoke the remedies of this section and section 11103 with respect to both freight and passenger transportation uses of railroad facilities, based on the existing public interest standard. It is the Conference's intent that, subject to the foregoing limitations and the operational and compensation requirements stated in this section, a local transportation authority's request would virtually always satisfy the public interest standard.

SEC. 11103. SWITCH CONNECTIONS AND TRACKS.

House provision

In replacing former section 11104, this section (10904) maintains the agency's authority to require that switch connections be made to branch lines or private side tracks, as well as the authority for the line owner or shipper to seek redress through an administrative complaint to the agency.

Senate amendment

Section 338 (Switch Connections and Tracks) amends 49 U.S.C. 11104, which requires rail carriers to maintain switch connections with other carriers, only with conforming changes.

Conference substitute

The Conference provision retains existing law as stated in the House bill.

Subchapter II—Car Service

SEC. 11121. CRITERIA.

House provision

This section (10921) replaces former section 11121, retaining existing authority to oversee and require reasonable rules and practices regarding car service. References to tariff requirements are deleted.

Senate amendment

Section 339 (Criteria) amends 49 U.S.C. 11121, which provides regulatory oversight over rail car service, to reflect the elimination of most tariffs, and to provide for the Board to consult with the National Grain Car Council as necessary. The National Grain Car Council is an advisory group formed by the ICC in 1994, composed of representatives of railroads of varying size, shippers, manufacturers, and government officials. Conforming changes are also made.

Conference substitute

The Conference provision incorporates changes from both the House bill and the Senate amendment.

SEC. 11122. COMPENSATION AND PRACTICE.

House provision

This section (10922) replaces former section 11122, as the source of agency authority over arrangements for compensating the owners of rail cars for use of the cars. No substantive change is made to the statute, and no effect upon existing rules now in place is intended.

Senate amendment

The Senate amendment made no change in existing law.

Conference substitute

The Conference provision utilizes the House provision. It is the Conference's intent not to disturb any rules or regulations now in force regarding matters subject to this section.

SEC. 11123. SITUATIONS REQUIRING IMMEDIATE ACTION TO SERVE THE PUBLIC.

House provision

This section (10923), which replaces former section 11124, retains present agency authority to make arrangements, without a formal regulatory proceeding, for rail service when the carrier presently serving a particular area is unable to provide adequate service. Former section 11125 on directed rail transportation was repealed.

Senate amendment

Section 340 (Rerouting Traffic on Failure of Rail Carrier to Serve Public) amends 49 U.S.C. 11124, under which traffic can be ordered to be rerouted when a carrier cannot provide service, only with conforming changes. Former sections 11123 and 11125 are also amended with conforming changes only.

Conference substitute

The Conference provision consolidates the emergency powers contained in former sections 11123 (situations requiring immediate action), 11124 (rerouting traffic on failure of a carrier to serve the public), and 11125 (directed rail transportation). In addition to elimination of obsolete provisions, the conference provision restricts directed rail transportation to situations where no Federal funding is involved, and compensation to the carrier providing the directed service comes entirely from the revenues generated by the service. The provision retains the existing overall 270-day limit on directed rail service arrangements.

SEC. 11124. WAR EMERGENCIES; EMBARGOES IMPOSED BY CARRIER.

House provision

This section (10924) replaces former section 11128, retaining existing powers of the agency to give preference or priority to military or war-related traffic at Presidential request.

Senate amendment

Section 342 (War Emergencies; Embargoes) amends 49 U.S.C. 11128, under which preferences and priorities in traffic can be directed in wartime, only with conforming changes.

Conference substitute

The Conference provision retains the substantive content of existing law.

Subchapter III—Reports and Records

SEC. 11141. DEFINITIONS.

House provision

This section (10941) replaces the relevant rail definitions of former section 11141.

Senate amendment

Section 343 (Definitions for Subchapter III) amends 49 U.S.C. 11141, which provides definitions for subchapter III of chapter 111, title 49 (covering carrier reports and records) to limit coverage to entities regulated under this part.

Conference substitute

The Conference provision follows the House bill in confining coverage of the definitions to rail matters.

SEC. 11142. UNIFORM ACCOUNTING SYSTEM.

House provision

This section (10942) retains the agency's power to prescribe standard accounting procedures for rail carriers. To conform to the Staggers Act policy explicitly referenced in other accounting provisions, the section includes a directive that the agency utilize, to the maximum extent feasible, generally accepted accounting principles.

Senate amendment

No comparable provisions.

Conference substitute

The Conference provision utilizes the language of the House bill.

SEC. 11143. DEPRECIATION CHARGES.

House provision.

This section (10943) retains the agency's authority over rail carrier depreciation procedures under former section 11143.

Senate amendment

Section 344 (Depreciation Charges) amends 49 U.S.C. 11143, under which appropriate depreciation charges are prescribed, to remove a reference to entities not regulated under Part A and to make other conforming changes.

Conference substitute

The Conference provision utilizes the language of the House provision, to reflect the structure of the bill in confining Part A to rail matters only.

SEC. 11144. RECORDS: FORM; INSPECTION; PRESERVATION.

House provision

This section (10944) replaces former section 11144, regarding the agency's authority over carrier and broker records. References to authority over "protective services" (refrigerated car arrangements) are deleted to conform to the abolition of regulation over such matters.

Senate amendment

Section 345 (Records, Etc.) amends 49 U.S.C. 11144, which provides for prescribing and inspecting carrier records, to remove references to entities not regulated under Part A, to reflect an earlier repeal, and to make other conforming changes.

Conference substitute

The Conference provision incorporates the language of both provisions, limited to reflect the rail-only content of Part A.

SEC. 11145. REPORTS BY RAIL CARRIERS, LESSORS, AND BROKERS.

House provision

This section (10945) retains existing agency authority to require annual and other reports by regulated entities under former section 11145.

Senate amendment

Section 346 (Reports by Carriers, Lessors, and Associations) amends 49 U.S.C. 11145, which addresses carrier reports, to remove provisions regarding entities not regulated under part A and to make conforming changes.

Conference substitute

The Conference provision utilizes the House provision, with the addition of language from existing law concerning reporting authority over persons supplying cars to rail carriers.

Subchapter IV—Railroad Cost Accounting

SEC. 11161. IMPLEMENTATION OF COST ACCOUNTING PRINCIPLES.

House provision

This section (10961) retains existing agency jurisdiction over railroad accounting practices under former section 11163. Former sections 11161 and 11162 are deleted as obsolete references to actions taken by the now defunct Railroad Accounting Principles Board temporarily established by the Staggers Rail Act.

Senate amendment

No comparable provisions.

Conference substitute

The Conference provision contains the House provision, but with the deletion of a fixed 5-year maximum interval between periodic agency reviews of cost accounting principles. Instead, it relies on the general obligation to review such principles periodically.

SEC. 11162. RAIL CARRIER COST ACCOUNTING SYSTEM.

House provision

This section replaces former section 11164, but retains the obligation of rail carriers to maintain a cost accounting system consistent with agency requirements. Obsolete references to the activities of the Railroad Accounting Principles Board are deleted.

Senate amendment

No comparable provision.

Conference substitute

The Conference provision utilizes the language of the House provision.

SEC. 11163. COST AVAILABILITY.

House Provision

In replacing former section 11165, this provision retains the existing obligation of rail carriers to make relevant cost data available to other parties to agency proceedings.

Senate amendment

No amendment to existing law.

Conference substitute

The Conference provision utilizes the House provision.

SEC. 11164. ACCOUNTING AND COST REPORTING.

House provision

This section replaces former section 11165, and retains the existing agency authority to promulgate accounting rules for rail carriers. Former section 11167, regarding the report of the Railroad Accounting Principles Board, is deleted as obsolete and executed.

Senate amendment

Section 347 (Accounting and Cost Reporting) amends 49 U.S.C. 11166, under which rail carrier expense and revenue accounting and reporting requirements may be prescribed, to remove a reference to a repealed provision, make other conforming changes, and condense the language.

Conference substitute

The Conference provision follows the language of the Senate amendment, with condensed and streamlined language.

Chapter 113—Finance

Subchapter I—Equipment Trusts and Security Interests

SEC. 11301. EQUIPMENT TRUSTS: RECORDATION; EVIDENCE OF INDEBTEDNESS.

House provision

This section (11101) replaces former section 11303, governing recordation of security interests and other financial instruments affecting railroad rolling stock and locomotives. The new agency will assume the former ICC's function as a central point of recordation for such financial instruments. The filing of such instruments, already a virtually universal practice requirement, is made mandatory. Given the ministerial nature of this function and its susceptibility to computerization, new language is added directing the agency to use private sector contractors to the greatest extent practicable in carrying out these duties. The agency is also directed to collect user fees for services under this section and is authorized to use such fees to offset its costs, to the extent allowed by applicable appropriations measures. The current railway equipment register provision was retained.

Senate amendment

Section 349 (Equipment Trusts) amends 49 U.S.C. 11303, which provides for centralized recordation of liens on railroad cars, locomotives, and other rolling stock, to require continuation of the ICC's current railway equipment register and to give equal effect to foreign registration of such equipment.

Conference substitute

The Conference provision is based on the House provision, but includes from prior law recordation of instruments affecting vessels (other than mortgages under chapter 313 of title 46). The provision also deletes the House language regarding user fees.

Subchapter II—Combinations

SEC. 11321. SCOPE OF AUTHORITY.

House provision

This section (11121) retains the basic authority of the ICC to approve inter-carrier transactions among railroads, as well as combinations and acquisitions of control involving rail carriers.

Senate amendment

No change to existing law.

Conference substitute.

The Conference provision combines the House provision with certain additional language from former subsections 11341(a) and 11341(b), to clarify that—even though securities jurisdiction over rail carriers is abolished by this legislation—the Federal statute also establishes basic corporate-approval requirements for transactions subject to this subchapter. Although substantial changes are made in this legislation to the line acquisition provisions as to acquisitions by noncarriers (section 10901) and acquisitions by Class II and Class III railroads (section 10902), the option of using existing authority to approve inter-carrier transactions under this subchapter is not affected. Thus, where a Class I railroad sells a line to another Class

I carrier, this subchapter would apply. Similarly, in trackage rights or other inter-carrier transactions involving rail carriers of any size, this subchapter remains available.

SEC. 11322. LIMITATION ON POOLING AND DIVISION OF TRANSPORTATION OR EARNINGS.

House provision

This provision replaces former section 11342. It retains agency authority over pooling arrangements, most commonly used in the railroad industry to arrange for joint ownership of cars through joint ventures.

Senate amendment

Section 351 would amend 49 U.S.C. 11342—under which carrier arrangements to pool traffic, services, or earnings can be authorized and immunized from other laws—to remove provisions regarding entities not regulated under Part A and to make conforming changes.

Conference substitute

The Conference provision incorporates the language of the House bill and the Senate amendment.

SEC. 11323. CONSOLIDATION, MERGER, AND ACQUISITION OF CONTROL.

House provision

This section (11123) replaces former section 11343. The extent of agency jurisdiction over intercarrier transactions involving mergers, trackage rights, and similar transactions remains essentially the same as under the former provision, except for new procedures limited to Class II and Class III railroads.

Senate amendment

Section 352 (Consolidation, Merger, and Acquisition of Control) amends 49 U.S.C. 11343, under which advance approval is required for certain intercarrier mergers, control acquisition, or other forms of consolidations, to remove provisions regarding entities not regulated under part A.

Conference substitute

The Conference provision utilizes the language of the House provision.

SEC. 11324. CONSOLIDATION, MERGER, AND ACQUISITION OF CONTROL: CONDITIONS OF APPROVAL.

House provision

This section (11124) replaces former section 11344, and lists the specific criteria to be used in deciding whether and on what conditions to approve proposed mergers and related transactions involving Class I railroads. The sole change to the criteria is broadening subsection (b)(5) to include evaluation of adverse competitive effects to include effects on competition among rail carriers in the national rail system, not just "in the affected region."

A second change from present law elaborates on the existing power to impose conditions on the approval of a merger or other regulated transaction. The bill explicitly authorizes imposition of conditions requiring divestiture of parallel tacks or requiring the granting of trackage rights. It also requires that, if trackage rights are required, the agency must provide for compensation arrangements that ensure the alleviation of the underlying anticompetitive effects sought to be avoided by imposing the trackage rights conditions.

The principal procedure change is the express authorization for what would otherwise be impermissible *ex parte* communications between the decision makers and parties to the proceeding, as long as the communications are preserved in the record. Any such consultations are entirely at the decision maker's option. This is intended to address complaints that the former ICC process did not allow sufficient procedural flexibility to allow informal consultation to identify areas of concern at an early stage of the approval process. Subsection (a) makes applicable to Class II and Class III mergers the prohibitions on avoiding collective bargaining agreements and shifting work from union to nonunion carriers.

Senate amendment

Section 353 (General Procedure and Conditions of Approval for Consolidation) amends 49 U.S.C. 11344, which contains the administrative procedures, decisional criteria, and conditioning authority for carrier consolidation proposals, to remove unnecessary and inappropriate limitations on railroad acquisitions of motor carriers and on a railroad's ability to provide motor carrier transportation prior or subsequent to rail transportation. It would also remove outdated provisions regarding restructurings that are sponsored by the Secretary or that involve only passenger carriers. In addition, motor carrier provisions would be removed and other conforming changes would be made.

Conference substitute

The Conference provisions follows the House provision.

SEC. 11325. CONSOLIDATION, MERGER, AND ACQUISITION OF CONTROL: PROCEDURE.

House provision

The section (11125) replaces former section 11345 with respect to rail transactions. Current law allows up to 31 months for reaching an ICC decision on an application involving control of a Class I rail carrier. The new section reduces the deadline for processing of Class I merger and related cases to 270 days. This compares with the ICC's administrative compression of the schedule for the recently completed Burlington Northern-Santa Fe merger to 180 days and the ICC's recent decision to establish a 255-day processing schedule for the proposed Union Pacific-Southern Pacific merger.

Senate amendment

Section 354 (Rail Carrier Procedure for Consolidation, Etc.) amends 49 U.S.C. 11345, which further specifies administrative procedures for handling rail carrier consolidation proposals, to provide for receiving the comments of the Secretary and the Attorney General at the same time as other parties and to make conforming changes. The Senate provision made no change to the existing 31-month time limit for mergers of Class I railroads.

Conference substitute

The Conference provision incorporates the Senate changes in the timing of comments and adopts an overall 15-month maximum time limit for Class I mergers. It also includes the House language (paralleled by Senate floor amendment changes) specifying the agency's powers regarding trackage rights arrangements and related compensation issues. The provision also includes the House formulation of the scope of the competitive analysis to be conducted by the agency.

SEC. 11326. EMPLOYEE PROTECTIVE ARRANGEMENTS IN TRANSACTIONS AMONG RAIL CARRIERS.

House provision

This provision (11126), which replaces former section 11347, continues the requirements for mandatory imposition of labor protection benefits (severance and salary and benefit protection) in subsection (a) for transactions between Class I railroads and between Class II railroads. These include mergers, trackage rights transactions, and abandonments.

Subsection (b) establishes a separate labor protection standard for mergers between Class II and Class III railroads. Instead of the existing ICC standard of mandatory ("New York Dock") labor protection involving 1 year of salary and benefit protection for each year of prior service up to a maximum of 6 years (now applicable to all merger and related transactions among railroads of any size), Class II-Class III mergers would be subject to a mandatory protection requirement of 1 year of severance pay as defined in subsection (b). There would also be separate limitations on Class II-Class III mergers and acquisitions, including limitations contained in section 11124(e) on the effect of the transaction on collective bargaining agreements and on shifting of work between union and nonunion carriers.

Senate amendment

Section 355 of the Senate amendment made no changes to former section 11347 and retained existing law on labor protection in mergers and inter-transactions, with only conforming changes.

Conference substitute

The Conference provision includes the requirements from the House bill specifying a separate labor protection regime for Class II-Class III mergers. However, the Conference provision also includes the option, at the applicant's discretion, of seeking approval of a Class II-Class III merger or similar transaction using existing law, which includes the mandatory New York Dock labor protection requirements of up to 6 years of pay. Thus, as to this category of transactions, both the House and Senate positions are embodied in the Conference provision.

SEC. 11327. SUPPLEMENTAL ORDERS.

House provision

This section (11127) replaces without alteration the existing agency power under former section 11351 to exercise continuing jurisdiction over the implementation of regulated mergers or other inter-carrier transactions.

Senate amendment

The Senate bill amendment changes to former section 11351.

Conference substitute

The Conference provision utilizes the House language.

Chapter 115—Federal-State Relations

SEC. 11501. TAX DISCRIMINATION AGAINST RAIL TRANSPORTATION PROPERTY.

House provision

This provision (11301) replaces without substantive change former section 11503, which forbids discriminatory State taxation of rail property as an unreasonable burden on interstate commerce.

Senate amendment

Section 358 of the Senate amendment made only conforming changes to 49 U.S.C. 11503.

Conference substitute

The Conference provision utilizes the House language.

SEC. 11502. WITHHOLDING STATE AND LOCAL INCOME TAX BY RAIL CARRIERS.

House provision

This section (11302) preserves without substantive change the existing protections in former section 11504 against double State or local taxation of the income of railroad employees whose work locations cover more than one State.

Senate amendment

Section 359 of the Senate amendment removed non-rail portions of 49 U.S.C. 11504 and made conforming changes.

Conference substitute

The Conference provision utilizes the House language.

Chapter 117—Enforcement: Investigations, Rights, and Remedies

SEC. 11701. GENERAL AUTHORITY.

House provision

This section (11501) replaces former section 11701 with respect to rail matters. It is the source of the agency's authority to investigate rail matters under its jurisdiction, but is now limited to action on the basis of a complaint, not on the agency's own motion.

Senate amendment

Section 360 (General Authority for Enforcement, Investigations, Etc.) amends 49 U.S.C. 11701, which contains general authority to conduct administrative investigations and hear complaints, to remove language and provisions regarding entities not regulated under Part A and to make conforming changes.

Conference substitute

The Conference provision utilizes the House language, with changes to reflect the name of the Surface Transportation Board.

SEC. 11702. ENFORCEMENT BY THE BOARD.

House provision

This provision (11502) replaces former section 11702 in rail matters. It preserves without substantive change the agency's authority to enforce the statute and applicable regulations in the Federal courts.

Senate amendment

Section 361 (Enforcement) amends 49 U.S.C. 11702, which authorizes civil enforcement actions by the regulatory agency, to remove provisions regarding entities and matters not regulated under Part A and to make conforming changes.

Conference substitute

The Conference provision utilizes the House language with conforming changes regarding the title of the Board.

SEC. 11703. ENFORCEMENT BY THE ATTORNEY GENERAL.

House provision

This provision (11503), which replaces former section 11703, authorizes the Attorney General to prosecute violations of the agency's statute and administrative requirements. The Attorney General is required, as under current law, to undertake such action upon request of the agency.

Senate amendment

Section 362 (Attorney General Enforcement) amends 49 U.S.C. 11703, which authorizes civil and criminal enforcement actions by the Attorney General, to remove language unrelated to Part A.

Conference substitute

The Conference provision incorporates the House provision, as well as the relevant portions of former subsection (b), regarding the authority of the Attorney General to bring a civil action to compel a rail carrier to fulfill its common carrier obligation by providing required transportation.

SEC. 11704. RIGHTS AND REMEDIES OF PERSONS INJURED BY RAIL CARRIERS.

House bill

Section 11504 reenacts the applicable rail portions of former section 11705. These include authority for injured persons to seek judicial enforcement of agency orders and to seek damages for a violation of the statute.

Senate amendment

Section 363 (Rights and Remedies) amends 49 U.S.C. 11705, which specifies the rights and remedies of persons injured by carrier actions, to remove language regarding entities not regulated under Part A and to make conforming changes.

Conference substitute

The Conference adopts the House language, with modifications.

SEC. 11705. LIMITATIONS ON ACTIONS BY AND AGAINST RAIL CARRIERS.

House bill

Section 11505 retains the current statutes of limitation governing the timeliness of court actions involving rail carriers.

Senate amendment

Section 364 (Limitation on Actions) amends 49 U.S.C. 11706, which contains time limits for bringing actions by and against carriers, to remove provisions related to carriers not regulated under Part A.

Conference substitute

The Conference adopts the House language with modifications.

SEC. 11706. LIABILITY OF RAIL CARRIERS UNDER RECEIPTS AND BILL OF LADING.

House bill

Section 11506 replaces the rail portions of former section 11707, which includes the rule of carrier liability known as the Carmack amendment. The new section makes no substantive change in the rules of liability for loss or damage to rail shipment. Although entry, exit, and rate regulation of passenger rail transportation is terminated by other provisions of the bill, this section retains the Carmark amendment as the governing law for shipment or baggage damage, retaining the existing authority (new subsection (c)(3)) to limit liability as part of the rates charged to rail passengers. Other new additions in subsection (c) confirm the right of rail carriers and shippers to provide by mutual agreement for declared-value limits on loss and damage claims or to provide for specific deductibles applicable to such claims, to replace the relevant provisions of former section 10730.

Senate amendment

Section 365 (Liability of Common Carriers under Receipts and Bills of Lading) amends 49 U.S.C. 11707 (commonly referred to as the Carmack Amendment), governing cargo liability, to remove provisions regarding entities not regulated under Part A, to reflect the elimination of tariffs for most traffic, and to remove provisions regarding passenger transportation.

Conference substitute

The Conference adopts the House provision with modifications.

SEC. 11707. LIABILITY WHEN PROPERTY IS DELIVERED IN VIOLATION OF ROUTING INSTRUCTIONS.

House bill

No provision.

Senate amendment

Section 366 amends 49 U.S.C. 11710—which makes rail carriers liable for violating shipper routing instructions—only for conforming changes.

Conference substitute

The Conference adopts the Senate provision.

Chapter 119—Civil and Criminal Penalties

GENERAL CIVIL PENALTIES

SEC. 11901. GENERAL CIVIL PENALTIES.

House bill

Section 11701 reenacts without substantive change the existing civil penalties applicable to rail carriers under former section 11901.

Senate amendment

Section 367 (General Civil Penalties) amends 49 U.S.C. 11901, which contains general civil penalties for violating Part A, to remove penalties related to provisions that are repealed from Part A and to make conforming changes.

Conference substitute

The Conference adopts the House provision with modifications. The Conference provision deletes the specific penalties provided for in former sections 11903, 11904, and 11912 in view of the availability of the general penalty under this section, which would cover those situations. Deletion of penalties for accepting rebates under former section 11902 is not intended to sanction such conduct, which would be actionable under other laws.

SEC. 11902. INTERFERENCE WITH RAILROAD CAR SUPPLY.

House bill

Section 11702 replaces without substantive change the criminal penalties specified in former section 11907 regarding bribery-related actions or inducements to interfere with or alter the distribution of rail cars.

Senate amendment

Section 371 (Interference with Railroad Car Supply) amends 49 U.S.C. 11907, which contains penalties for interference with railroad car supply, only for conforming changes.

Conference substitute

The Conference adopts the House provision with modifications.

SEC. 11903. RECORD KEEPING AND REPORTING VIOLATIONS.

House bill

Section 11703 replaces the rail portions of former section 11909, regarding willful falsification, destruction, or omissions of required records and reports.

Senate amendment

Section 372 (Record Keeping and Reporting Violations) amends 49 U.S.C. 11909, which contains penalties for record keeping and reporting violations, to remove provisions regarding entities not regulated under Part A and to make conforming changes.

Conference substitute

The Conference adopts the House language with modifications.

SEC. 11904. UNLAWFUL DISCLOSURE OF INFORMATION.

House bill

In replacing the rail portions of former section 11910, this section (11704) preserves existing criminal penalties for unauthorized and unlawful disclosure of shipment-related and cost-accounting confidential business information.

Senate amendment

Section 373 (Unlawful Disclosure of Information) amends 49 U.S.C. 11910, which contains penalties for unlawful carrier disclosure of confidential shipper information, to remove provisions regarding entities not regulated under Part A and to make conforming changes.

Conference substitute

The Conference adopts the House language with modifications.

SEC. 11905. DISOBEDIENCE TO SUBPOENAS.

House bill

Section 11705 retains existing criminal penalties under former section 11913 regarding noncompliance with agency subpoenas.

Senate amendment

The Senate amendment retains existing law.

Conference substitute

The Conference adopts the House language with modifications.

SEC. 11906. GENERAL CRIMINAL PENALTY WHEN SPECIFIC CRIMINAL PENALTY NOT PROVIDED.

House bill

Section 11706 retains the existing general criminal penalty provisions with respect to rail matters formerly contained in section 11914.

Senate amendment

Section 375 (General Criminal Penalty) amends 49 U.S.C. 11914, which contains general criminal penalties when specific penalties are not provided, to remove provisions regarding entities not regulated under part A and to make conforming changes.

Conference substitute

The Conference adopts the House language with modifications, but removes references to specific sections of law.

SEC. 11907. PUNISHMENT OF CORPORATION FOR VIOLATION COMMITTED BY CERTAIN INDIVIDUALS.

House bill

Section 11707 retains the existing rules of corporate criminal responsibility in former section 11915 for actions by directors, officers, and other officials of the corporation. This section also makes a conforming organizational amendment to reflect the separation of economic regulation of railroads from other former ICC responsibilities.

Senate amendment

The Senate amendment retains existing law.

Conference substitute

The Conference adopts the House language with modifications.

SEC. 11908. OTHER FEDERAL CRIMINAL PENALTIES.

House bill

No provision.

Senate amendment

No provision.

Conference substitute

Section 11908 clarifies that specific criminal penalties are the exclusive criminal penalties for violations of Part A, notwithstanding 18 U.S.C. 3571.

SEC. 103. MOTOR CARRIER, WATER CARRIER, BROKER, AND FREIGHT FORWARDER PROVISIONS.

This section creates a new Motor Carrier Act by amending Subtitle IV of title 49. It inserts after chapter 117 a new Part B relating to motor carriers, water carriers, brokers, and freight forwarders. Part B is administered by the Secretary except for those provisions which specifically provide for administration by the Board.

Chapter 131—General Provisions

TRANSPORTATION POLICY

House bill

Sec. 13101. Transportation policy. This section maintains the current national transportation policy for the Motor Carrier Act.

Senate amendment

Sec. 13101 (Transportation policy) sets out the national transportation policy from existing 49 U.S.C. 10101, and adds a water policy for noncontiguous domestic trade.

Conference substitute

The Conference adopts the House provision with the Senate addition and includes a public interest consideration.

DEFINITIONS

House bill

Sec. 13102. Definitions. This section maintains existing motor and water carrier definitions that apply to part B. Revisions have been made to the definition of household goods to deregulate office and trade show moves, and the definition of foreign motor carriers is modified as requested by the Department of Transportation to conform to the NAFTA treaty.

Senate amendment

Sec. 13102. (Definitions) imports those definitions from existing 49 U.S.C. 10102 that would be applicable to Part B. The definitions of foreign motor carriers and foreign motor private carriers, which are needed for enforcement of the provisions of the North American Free Trade Agreement (NAFTA), are imported from existing 49 U.S.C. 10530. The definition of residential household goods is subdivided between those transported for the individual householder (for which contract rates are precluded) and those transported under an arrangement with a third party (which are not so restricted). The definition of "transportation" was expanded to include "arranging for", "packing", and "unpacking" passengers and property as part of services related to transportation.

Conference substitute

The Conference adopts the House provision modified by the broader Senate language, with a technical clarification, regarding the definition of "freight forwarder." The Conference adopts the Senate definition of "transportation" to clarify that services related to the movement of passengers or property include all pre- and post-move services directly related to that transportation. The Conference believes that, with respect to remedies, the transportation of passengers and property includes the entire process from arranging for the movement through the final resolution of any claims disputes. In place of the definition of the Panel, the Conference provides for a definition of the Surface Transportation Board.

REMEDIES

House bill

Sec. 13103. Remedies as cumulative. This section maintains current law that remedies under this part are in addition to remedies existing under another law or common law.

Senate amendment

The Senate amendment contains an identical provision with a different section title.

Conference substitute

The Conference adopts the House provision.

Chapter 133—Administrative Provisions

POWERS

House bill

Sec. 13301. Powers. This section transfers to the Secretary all of the existing general regulatory powers of the ICC. Subsection (f) also transfers existing ICC powers to the Panel, insofar as they relate any functions under the Motor Carrier Act transferred to the Panel.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

INTERVENTION

House bill

Sec. 13302. Intervention. This section maintains current law regarding the right of interested persons to be afforded notice and an opportunity to participate in proceedings under part B.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

SERVICE OF NOTICE

House bill

Sec. 13303. Service of notice in proceedings. This section maintains current law requiring entities regulated under part B to designate an agent on whom service of notice of administrative proceedings can be made, and includes provisions requiring a motor carrier to file with appropriate authorities in States in which the carrier operates.

Senate amendment

Sec. 13303 (Service of notice in proceedings under this part) imports from existing 49 U.S.C. 10329 the provisions requiring regulated entities to designate agents on whom notice of administrative proceedings can be served.

Conference substitute

The Conference adopts the House provision.

SERVICE OF PROCESS

House bill

Sec. 13304. Service of process in court proceedings. This section maintains current law requiring motor carriers and brokers to designate an agent on whom service of process in court proceedings can be made.

Senate amendment

Sec. 13304 (Service of process in court proceedings) would import from existing 49 U.S.C. 10330 the provisions requiring carriers and brokers to designate an agent on whom notice of court proceedings can be served, and allows States in which carriers operate to require such designation to be filed with it.

Conference substitute

The Conference adopts the Senate provision.

Chapter 135—Jurisdiction

House bill

Sec. 13501. General jurisdiction. This section transfers to the Secretary and the Panel the current ICC jurisdiction over transportation by motor carriers.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

ALASKA

House bill

Sec. 13502. Exempt transportation between Alaska and other States. This section preserves the current exclusion from jurisdiction for transportation conducted while in a foreign country en route between Alaska and another state.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

TERMINAL AREAS

House bill

Sec. 13503. Exempt motor vehicle transportation in terminal areas. This section preserves the current jurisdictional exemptions for operations conducted in a terminal area.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

TRANSPORTATION IN ONE STATE

House bill

Sec. 13504. Exempt motor carrier transportation entirely in one State. This section preserves the current exemption from jurisdiction for transportation (other than of household goods) and terminal operations within the State of Hawaii.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

PRIMARY BUSINESS

House bill

Sec. 13505. Transportation furthering a primary business. This section preserves the current exemption from jurisdiction for transportation, by a person engaged in a business other than transportation, which furthers a primary business.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference adopts the House provision.

MISCELLANEOUS EXEMPTIONS

House bill

Sec. 13506. Miscellaneous motor carrier transportation exemptions. This section preserves the current exemption from jurisdiction for several types of transportation and transportation of certain commodities.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference adopts the House provision.

MIXED LOADS

House bill

Sec. 13507. Mixed loads of regulated and unregulated property. This section preserves current law regarding the transportation of regulated and unregulated property in the same vehicle at the same time.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference adopts the House provision.

COOPERATIVE ASSOCIATIONS

House bill

Sec. 13508. Limited authority over cooperative associations. This section preserves current law regarding authority over cooperative associations.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference adopts the House provision.

Subchapter II—Water Carrier Transportation

JURISDICTION

House bill

Sec. 13521. General jurisdiction. This section transfers to the Secretary and the Panel the current jurisdiction of the ICC over water carrier transportation. The jurisdiction has been expanded to include port-to-port water carrier transportation and transportation to the U.S. territories.

Senate amendment

Sec. 13521 (General jurisdiction) imports the basic jurisdictional statement of existing 49 U.S.C. 10541(a) (except for the introductory clause that allowed regulation through other laws) to the Board.

Conference substitute

The Conference adopts the House provisions modified by moving subsection (b), relating to exemptions of water carriers from the requirements of sections 13701 or 13702, to section 13541(e)(2).

Subchapter III—Freight Forwarder Service

JURISDICTION

House bill

Sec. 13531. General jurisdiction. This section transfers to the Secretary jurisdiction over all freight forwarders and certain household goods freight forwarders.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

Subchapter IV—Authority to Exempt

EXEMPTION AUTHORITY

House bill

Sec. 13541. Authority to exempt transportation or services. This section broadens the ICC's current exemption authority and grants the Secretary and the Panel broad regulatory exemption authority over the entire Motor Carrier Act. However, it provides that this exemption authority may not be used to relieve an entity from the cargo liability, insurance, safety fitness requirements or antitrust immunity authorities under sections 13703 and 14302 or activities not terminated under 13907(d)(2).

Senate amendment

Sec. 13541 (Authority to exempt transportation or service) gives broad exemption authority, comparable to that of the Board under 49 U.S.C. 10505, to both the Secretary and the Board, for each to apply to the portions of Part B that it is charged with administering. This exemption authority could not be used to relieve an entity from the cargo liability, insurance, or safety fitness requirements of Part B, however, unless that entity would have been eligible for a statutory exemption available prior to this bill. The Secretary or Board may not exempt a water carrier from sections 13701 or 13702.

Conference substitute

The Conference adopts the House provision from section 13521(b), modified by the Senate language prohibiting the Secretary or the Board from exempting a water carrier from the requirements of sections 13701 or 13702.

Chapter 137—Rates and Through Routes

REASONABLE RATES

House bill

Sec. 13701. Requirements for rates, classifications, through routes, rules, and practices for certain transportation. This section virtually eliminates existing ICC motor carrier rate regulation by limiting the rate reasonableness requirements only to household goods movements, a movement by or with a water carrier in non-contiguous domestic trade and collective rates, rules and classification under an agreement pursuant to section 13709. The section maintains the current basic rate reasonableness requirements for these three limited areas and transfers the regulatory authority to the Panel to prescribe a rate when the carrier's rate is not reasonable. Zone of reasonableness provisions for water carriers are included.

Senate amendment

Sec. 13701 (Requirements for rates, classifications, through routes, rules, and practices for certain transportation) retains rate regulation for two categories of traffic under Part B: (1) residential households goods movements and (2) joint-rate water-motor movements in non-contiguous domestic trade. For the two categories of traffic for which rates would be regulated, subsection (a) would import the basic rate reasonableness requirement from existing 49 U.S.C. 10701, while subsection (b) would import from existing 49 U.S.C. 10704 and section 10705 the regulatory authority to prescribe a rate when the carrier's rate is unreasonable. The responsibility for administering these provisions would be placed with the Board. Subsection (d) set forth the requirements for reasonable rate determination for noncontiguous domestic trade.

Conference substitute

The Conference adopts the House provision modified by the Senate language in subsection (d) establishing a "zone of reasonableness" of 7.5 percent (adjusted by the change in the Consumer Price Index) above or 10 percent below the rate in effect one year prior to the proposed rate for motor carriers and port-to-port movements by water carriers in the noncontiguous domestic trades.

TARIFF REQUIREMENTS

House bill

Sec. 13702. Tariff requirement for certain transportation. This section narrows the requirements to maintain tariffs to two categories of traffic: noncontiguous domestic trade and movements of household goods paid for by the householder. Tariff filings with the Panel are required only for noncontiguous domestic trade and certain requirements for the composition of tariffs are streamlined and clarified. Carriers providing transportation of household goods must publish tariffs and maintain such tariffs for inspection, are bound by the terms of the tariffs, and transportation without a tariff is prohibited. This section also precludes the possibility of any future undercharges.

Senate amendment

Sec. 13702 (Tariff requirement for certain transportation) retains a tariff requirement only for the same two limited categories of traffic: (1) joint rates for motor-water movements in noncontiguous domestic trade and (2) residential movements of household goods. Subsection (a) imports from existing 49 U.S.C. 10761 the requirement for a tariff and the prohibition against charging an amount different from that contained in the tariff. Subsections (b) through (e) imports the applicable tariff filing requirements of existing 49 U.S.C. 10762 for joint-rate movements in the non-contiguous domestic trade. The tariffs for such movements would be filed with the Board. Subsection (f) requires household goods carriers to maintain tariffs applicable to those residential moves, but does not require that those tariffs be filed with the Board. Rather, those tariffs are required to be published and kept open and available for inspection. The carrier is bound by the terms of its tariffs, and is prohibited from transporting residential household goods movements for individual householders without a tariff. The Board is charged with administering and enforcing these requirements.

Conference substitute

The Conference adopts the House provision, modified in subsection (a) to exempt transportation for charitable purposes without charge. Subsection (b) of this section allows the Board to prescribe the form and manner of publishing and filing tariffs. In prescribing the methods for making tariffs available for public inspection, the Board is urged to continue the FMC's practice of allowing carriers to file their tariffs electronically.

COLLECTIVE ACTIVITIES

House bill

Sec. 13703. Certain collective activities; exemption from antitrust laws. This section streamlines and reforms the current authority to exempt carriers from the antitrust law. The section authorizes the Panel to approve agreements between motor carriers and confer antitrust immunity for establishing through routes and joint rates, rates for the movement of household goods, classifications and mileage guides and certain other activities. Agreements may be approved only if the Panel finds it is in the public interest and the approval would expire three years after the approval date. Approvals may be renewed unless renewal is not in the public interest.

Senate amendment

Sec. 13703 (Certain collective activities: exemption from antitrust laws), imported from existing 49 U.S.C. 10706, provides for Board approval of, and concomitant antitrust immunity for, certain motor carrier collective activities. Subsection (d) would make Board approval effective only for a 3-year period; an approval would expire at the end of the 3-year period if not reapproved at the request of the carriers. Subsection (e) would contain a "grandfather" provision allowing existing approved agreements to continue in effect (unless earlier withdrawn or revoked) for an initial 3 years (at the end of which the renewal requirement would apply). Subsection (f) would preclude the approval of collective activity from providing a basis for an undercharge claim and it would provide that an undercharge claim could not be based solely on a commodity classification established pursuant to that section. Subsection (g) would codify the existing ICC requirement, upheld by the courts, that a carrier must participate in a mileage guide established under an approved collective-action agreement in order to enforce mileage rates using such a guide.

Conference substitute

The conference adopts the House provision with a modification to subsection (g)(2) to clarify that carriers may use mileage guides formulated under an agreement approved under this section or any other published mileage guide that can be examined by any interested person upon reasonable request.

HOUSEHOLD GOODS RATES

House bill

Sec. 13704. Household goods rates—estimates; guarantees of service. This section incorporates current law allowing household goods carriers to use binding estimates and guaranteed pick-up and delivery times. Oversight is transferred to the Secretary.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

THROUGH ROUTES AMONG BUS CARRIERS

House bill

Sec. 13705. Requirements for through routes among motor carriers of passengers. This section preserves current law providing that intercity bus companies may establish through routes with each other and such through routes must be reasonable. It authorizes the Panel to prescribe through routes and the conditions under which they are operated when necessary to enforce the requirement for rate reasonableness. This section permits the Panel to resolve disputes between bus carriers involving their operations.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provisions.

LIABAILITY FOR PAYMENT

House bill

Sec. 13706. Liability for payment of rates. This section preserves current law regarding the liability, as between a consignor or consignee, for payment for transportation.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provisions.

PAYMENT OF RATES

House bill

Sec. 13707. Payment of Rates. This section retains current law regarding payment for transportation and services and allows the extension of credit.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference adopts the House provisions.

BILLING AND COLLECTING PRACTICES

House bill

Sec. 13708. Billing and collecting practices. This section preserves current law regarding the truth-in-billing requirement, enacted for motor carriers in the Negotiated Rates Act of 1993 and requires a carrier to disclose whether and to whom an allowance or reduction is made.

Senate amendment

Sec. 13707 (Billing and collecting practices) preserves the truth-in-billing requirement of existing 49 U.S.C. 10767(b), enacted for motor carriers in the Negotiated Rates Act of 1993. It also retains the prohibition against rate reductions to someone other than the person ultimately responsible for paying the transportation charges.

Conference substitute

The Conference adopts the provisions.

UNDERCHARGE SETTLEMENTS

House bill

Sec. 13709. Procedures for resolving claims involving unfiled, negotiated transportation rates. This section preserves, and places under the Panel's administration, the undercharge resolution provisions, as enacted in the Negotiated Rates Act of 1993, for transportation conducted prior to the effective date of this Act.

Senate amendment

Sec. 13708. (Procedures for resolving claims involving unfiled, negotiated transportation rates) contains an identical provision with only a technical change.

Conference substitute

The Conference adopts the Senate provisions.

ADDITIONAL UNDERCHARGE PROVISIONS

House bill

Sec. 13710. Additional motor carrier undercharge provisions. This section preserves, and places under the Panel's administration, further undercharge procedures enacted in the Transportation Regulatory Reform Act of 1994 (TIRRA).

Senate amendment

Section 13709 (Additional motor carrier undercharge provisions) would import and place under the Board's administration, the further billing and undercharge procedures of existing 49 U.S.C. 10762(a)93)–(5), enacted in the Transportation Regulatory Reform Act of 1994 (TIRRA).

Conference substitute

The Conference adopts the House provisions with a modification to subsection (a)(2) relating to rate applicability or reasonableness disputes.

ALTERNATIVE UNDERCHARGE PROCEDURE

House bill

Sec. 13711. Alternative procedure for resolving undercharge disputes. This section expands and codifies the undercharge relief provided in section 2(e) of the Negotiated Rates Act of 1993 (NRA). Specifically, it expands the unreasonable practice relief by removing the September 30, 1990 cut-off date. The section applies to all cases and proceedings pending on the effective date of the section.

Senate amendment

Sec. 13710 (Alternative procedure for resolving undercharge disputes) codifies the undercharge relief provided in section 2(e) of the Negotiated Rates Act of 1993 (NRA). It expands that unreasonable practice relief by removing the September 30, 1990, cut-off date.

Conference substitute

The Conference adopts the House provisions.

GOVERNMENT TRAFFIC

House bill

Sec. 1712. Government traffic. This section preserves current law that transportation may be provided for the U.S. Government at discounted rates.

Senate amendment

Sec. 13711. (Government traffic) contains an identical provision.

Conference substitute

The Conference adopts the provisions.

FOOD AND GROCERY TRANSPORTATION

House bill

Sec. 13713. Food and grocery transportation. This section preserves current law regarding compensation to a customer picking up food and grocery products at the shipping point of a seller using a uniform zone delivered pricing system.

Senate amendment

Sec. 13712 (Food and grocery transportation) contains an identical provision.

Conference substitute

The Conference adopts the provision.

Chapter 139—Registration

REGISTRATION REQUIREMENT

House bill

Sec. 13901. Requirement for registration. This section conforms current law to provide that carriers register, rather than be granted a certificate of operating authority. This section preserves the concept from current law that a person may operate as a motor carrier, broker, or freight forwarder only if registered with the Secretary under chapter 139.

Senate amendment

The Senate contains nearly identical provision with one minor technical difference.

Conference substitute

The Conference adopts the House provision.

MOTOR CARRIER REGISTRATION

House bill

Sec. 13902. Registration of motor carriers. This section transfers the responsibility and current requirements for registration of for-hire motor carriers to the Secretary. Registration is based on safety fitness and financial responsibility and shall be withheld if the carrier does not meet these requirements. This section also covers small package carriers and provides for intrastate bus service in conjunction with interstate bus operations. This section contains special registration provisions for foreign carriers, amended as requested by the Department of Transportation to reflect requirements under the NAFTA treaty.

Senate amendment

Sec. 13902 (Registration of motor carriers), distilled from existing 49 U.S.C. 10922, contains the registration provisions for motor carriers (in subsection (a)). With respect to intercity bus operations, it retains the current restrictions on subsidized operations to prevent them from competing unfairly with unsubsidized operations (in subsections (b)(1)–(2), (8)). It retains the current provisions authorizing intrastate service to be provided in conjunction with interstate bus operations (in subsections (b)(3)–(6)). It retains the existing preemption for intercity bus operations providing pickup and delivery of express packages, newspapers or mail (in subsection (b)(7)). Finally, it contains special registration provisions for foreign carriers, drawn from existing 49 U.S.C. 10530 and 10922(m), to reflect the special foreign policy implications in that area (in subsection (c)).

Conference substitute

The Conference adopts the House provision with Senate modifications to clarify that the registration requirements do not affect the requirement for foreign motor private carriers operating to the United States to comply with laws and regulations relating to fitness, safety, financial responsibility, and taxes. In addition, the Conference adopts a new subsection (d) which authorizes the Secretary, pending implementation of the new registration system under section 13908, to continue to register persons separately as motor common carriers and motor contract carriers and the Secretary is authorized to continue to collect fees for registering as both common and contract carriers.

FREIGHT FORWARDER REGISTRATION

House bill

Sec. 13903. Registration of freight forwarders. This section transfers the responsibility for registration and current requirements of freight forwarders to the Secretary. Registration is based on whether the registrant is willing and able to provide the service and comply with requirements imposed by the Secretary and Panel. When a freight forwarder acts in the capacity of a carrier for the entire move, it must be registered as a carrier as well.

Senate amendment

Sec. 13903 (Registration of freight forwarders), drawn from existing 49 U.S.C. 10923(a), contains the registration provisions for freight forwarders and provides a freight forwarder must be fit, willing and able to provide the service and comply with regulations of the Secretary and the Board. The registration requirement is extended to all freight forwarders (not just those handling household goods). Freight forwarders of commodities other than household goods are not subjected to any further regulation of their activities beyond the registration requirement. It continues the current requirement that, when a freight forwarder acts in the capacity of a carrier for the entire move, it must be registered as a carrier as well.

Conference substitute

The Conference adopts the Senate provision.

BROKER REGISTRATION

House bill

Sec. 13904. Registration of brokers. This section transfers the responsibility for registration of brokers to the Secretary. Registration is based on whether the registrant is willing and able to provide the service and comply with requirements imposed by the Secretary and Panel.

Senate amendment

Sec. 13904 (Registration of motor carrier brokers), drawn from existing 49 U.S.C. 10924, would contain the registration provisions for brokers that require a broker to be fit, willing and able to be a broker and to comply with laws and regulations. A broker may provide transportation itself only if the broker also has been registered to provide transportation under the chapter.

Conference substitute

The Conference adopts the Senate provision with a technical modification.

PERIODS OF REGISTRATION

House bill

Sec. 13905. Effective periods of registration. This section transfers to the Secretary the requirement that a registration generally remain in effect for so long as the registrant maintains its insurance coverage. However, the Secretary may amend or revoke a registration on request of the registrant or suspend or revoke a registration on complaint or on the Secretary's initiative for cause. Cause for suspension or revocation may be unsafe operations, lack of the required insurance coverage, or failure to comply with regulatory requirements. This section also provides that any person currently have authority to provide transportation is deemed to be registered to provide transportation or service under this part.

Senate amendment

Sec. 13905 (Effective periods of registration), drawn from existing 49 U.S.C. 10925, provides for a registration generally to remain in effect for five years so long as the registrant maintains its insurance coverage (subsection a). However, the Secretary could amend or revoke a registration on request of the holder (subsection (b)), or suspend or revoke a registration on complaint or on the Secretary's own initiative for cause (subsections (b)-(d)). Cause for suspension or revocation could be unsafe operations, lack of the required insurance coverage, or failure to comply with regulatory requirements. The new section eliminates any advance notice requirement for the Secretary to address imminent safety hazards, given the nature of the hazards in such situations.

Conference substitute

The Conference adopts the House provision with a modification that the effective period of registration shall be for such periods as the Secretary determines appropriate, up to 5 years.

SECURITY REQUIREMENTS

House bill

Sec. 13906. Security of motor carriers, brokers, and freight forwarders. This section transfers to the Secretary the insurance or bonding requirements for a motor carrier, broker, and freight forwarder needed to obtain and keep a registration to operate. Registration remains in effect only as long as the registrant continues to satisfy these security requirements. The provision also transfers the current authority for a motor carrier to qualify as a self-insurer under standards set by the Secretary. The section requires insurance carriers to notify the Secretary in advance of any cancellation of insurance, and directs that the insurance policy or surety bond provide for full coverage to the stated amount.

Senate amendment

Sec. 13906 (Security of motor carriers, brokers, and freight forwarders), drawn from existing 49 U.S.C. 10927, contains the minimum insurance or bonding requirements needed for a motor carrier, broker, or freight forwarder to obtain and keep a registration to operate. It would specify that a registration would remain in effect only as long as the registrant continues to satisfy these security requirements. The Secretary would determine the type and amount of security required, and under what circumstances a carrier could self-insure. It would maintain the ICC's current requirements that insurance carriers provide advance notice of any cancellation of insurance, and that full ("first-dollar") coverage be provided.

Conference substitute

The Conference adopts the House provision.

HOUSEHOLD GOODS AGENTS

House bill

Sec. 13907. Household goods agents. This section preserves the current law that permits agent-van line arrangements to receive antitrust immunity. It retains a household goods carrier's responsibility for its agents and their actions. It also retains federal regulatory oversight over the agents used by such carriers and continues the antitrust immunity for discussions and agreements between such carriers and their agents but provides that the Panel may modify or terminate activities afforded antitrust immunity if not in the public interest. For purposes of this section, the term "household goods" has the meaning such term had under section 10102(11) on the day before the date of enactment.

Senate amendment

Sec. 13907 (Household goods agents), incorporating existing 49 U.S.C. 10934, retains a household goods carrier's responsibility for its agents and their actions. It would also retain federal regulatory oversight over the agents used by such carriers, and continue the antitrust immunity for discussions and agreements between such carriers and their agents.

Conference substitute

The Conference adopts the House provision.

REFORM OF REGISTRATION

House bill

Sec. 13908. Registration and other reforms. This section directs the Secretary, in cooperation with the States and within 24 months, to issue regulations to consolidate the current Department of Transportation registration system, the Single State Registration System and the current DOT insurance registration system into one unified, computerized system to be administered by the Secretary. The Secretary may establish fees to fully support the system. If the Secretary determines that no States should require insurance filing or collect fees for such filings, the Secretary may prevent any State or political subdivision from imposing filing requirements or fees that are for the same purposes as the new registration system under this section.

Senate amendment

Sec. 13908 (Registration and other reforms) directs the Secretary to conduct a study of whether, and to what extent, the various existing overlapping motor carrier registration provisions should be modified or replaced with a single, on-line federal system. The existing system to be studied include the DOT identification number system, the single-State registration system under section 14505, the system for administering the registration requirements of sections 13901–13095, and the system for administering the insurance provisions of section 13906. Section 13908 would enumerate some of the factors to be considered by the Secretary. It would also permit the Secretary to impose user fees that cover the full cost of maintaining these systems. Finally, it directs the Secretary to conclude the study within 18 months and report to Congress on the findings and any appropriate legislation change needed

Conference substitute

The Conference adopts the House provision with a modified subsection (d) concerning the single state registration program. The modified subsection (d) provides that the Secretary can prevent States from requiring insurance filings and collecting fees only if the Secretary could ensure that fees collected by the Secretary under the new registration system and distributed to the States will provide each State with at least as much revenue as that State received in fiscal year 1995 under the single state registration system.

Chapter 141—Operations of Carriers

Subchapter I—General Requirements

PROVIDING TRANSPORTATION

House bill

Sec. 14101. Providing transportation and service. This section preserves current law regarding the common carrier obligation—a carrier's obligation to provide transportation or service on reasonable request and to provide safe and adequate service, equipment, and facilities. Carriers are allowed to enter into contracts and shippers may, in writing, waive all rights and remedies under this part for transportation covered by the contract.

Senate amendment

Sec. 14101 (Providing transportation and service), taken from existing 49 U.S.C. 11101, continues the basic common carrier obligation to provide transportation or service on reasonable request and to provide safe and adequate service, equipment, and facilities. It would expressly allow carriers to enter contracts for specific shipments (other than for residential household goods movements arranged and paid for directly by the householder) under which both parties may waive their rights and remedies (except for registration, insurance, or safety fitness requirements).

Conference substitute

The Conference adopts the Senate provision. Confidential contracts are currently allowed by water carriers in the noncontinuous domestic trade with Alaska. This subsection expands the trades in which confidential contracts may be used to include all of the noncontiguous domestic trades. This section does not prohibit the use of confidential contracts for the transportation by water of military household goods.

LEASED VEHICLES

House bill

Sec. 14102. Leased motor vehicles. This section transfers to the Secretary and preserves the current leasing provisions, regulating the relationship between registered carriers and the owner-operators that they may use for providing service.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

LOADING AND UNLOADING

House bill

Sec. 14103. Loading and unloading motor vehicles. This section preserved current law regarding "lumping" (the utilization of other persons to load or unload freight from a truck) in the trucking industry, whether or not the carriers involved are subject to jurisdiction under the act.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

HOUSEHOLD GOODS OPERATIONS

House bill

Sec. 14104. Household goods carrier operations. This section preserves the performance standards for household goods carriers.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

Subchapter II—Reports and Records

DEFINITIONS

House bill

Sec. 14121. Definitions. This section provides that requirements under this subchapter extend to receivers, trustees, and associations of carriers or brokers.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

RECORDS

House bill

Sec. 14122. Records: Form; inspection; preservation. This section preserves current law and allows the Secretary or the Panel, as applicable to prescribe the form of records to be kept by carriers and brokers, to inspect those records, and to set how long those records must be retained by carriers and brokers.

Senate amendment

Sec. 14122 (Records; Form; inspection; preservation), imported from existing 49 U.S.C. 11144, allows the Secretary and the Board, as appropriate, to prescribe the form of records to be kept by carriers and brokers, to inspect those records, and to set how long those records must be retained by the carrier.

Conference substitute

The Conference adopts the House provision.

FINANCIAL REPORTING

House bill

Sec. 14123. Financial reporting. Section 14123 provides that the Secretary shall require annual financial reporting from Class I carriers and may require financial reporting from Class II carriers. Factors that the Secretary must consider in determining what matters must be covered by the reports are set forth. The Secretary may grant a three-year exemption from publication of reports for privately held carriers which do not report to the Securities and Exchange Commission if necessary to avoid competitive harm and to avoid the disclosure of trade secrets or privileged or confidential information. The Secretary is directed to streamline and simplify reporting requirements.

Senate amendment

Sec. 14123 (Reports by carriers, brokers, and associations), drawn from existing 49 U.S.C. 11145, requires Class I and Class II carriers to file annual reports with the Secretary, but allows the Secretary to waive that requirement for one-year periods for individual carriers where necessary to avoid competitive harm and preserve confidential business information that is not otherwise publicly available.

Conference substitute

The Conference adopts a modified provision. The Secretary is directed to require annual financial reporting from Class I and Class II carriers. The Secretary may grant an exemption from the filing requirement for any party which can demonstrate an exemption is necessary to avoid competitive harm and preserve confidential business information not available elsewhere. Alternatively, the Secretary may grant an exemption from publication of reports (filing could still be required) for privately-held companies which do not file with the Securities and Exchange Commission in order to avoid competitive harm and avoid disclosure of trade secrets or privileged or confidential information. Exemptions shall be granted for three years. The Secretary may require quarterly reports from other parties and is directed to streamline and simplify reporting requirements. The Board may require carriers to file special reports.

Chapter 143—Finance

SECURITY INTERESTS

House bill

Sec. 14301. Security interests in certain motor vehicles. This section preserves current law governing the recordation of security interests in trucks, tractors, and trailers.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

POOLING

House bill

Sec. 14302. Pooling and division of transportation or earnings. This section preserves current law providing for Panel supervision and approval of pooling arrangements among motor carriers. Approval confers immunity from antitrust and other laws for approved pooling arrangements as current law provides. In this section, the term 'household goods' has the meaning of the term in section 10102(11), as in effect the day before the date of enactment.

Senate amendment

Sec. 14302 (Pooling and division of transportation or earnings), drawn from existing 49 U.S.C. 11342, provides for Board supervision of pooling arrangements among motor carriers. It retains the immunity from antitrust and other laws currently in 49 U.S.C. 11341. It also includes a grandfather provision for existing approved arrangements.

Conference substitute

The Conference adopts the House provision, modified to include the Senate grandfather clause concerning existing agreements in subsection(g).

BUS MERGERS

House bill

Sec. 14303. Consolidation, Merger and Acquisition of Control of Motor carriers of Passengers. This section retains current law providing for Panel approval of mergers or other consolidation of intercity bus carriers with aggregate gross operating revenues greater than $2 million. A transaction approved under this section in exempt from antitrust laws as necessary to carry out the transaction.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision, modified to add three subsections to preserve current law regarding the applicability of certain requirements when a person who is not a carrier acquires control of at least one carrier (subsection (h)), temporary approval (subsection (i)), and continuing jurisdiction to issue supplemental orders (subsection (j)).

Chapter 145—Federal-State Relations

PREEMPTION OF STATE REGULATION

House bill

Sec. 14501. Federal authority over intrastate transportation. This section preserves existing prohibitions against intrastate regulation of intercity bus rates, scheduling, and discontinuances or reductions in service; the rates, routes, or services of freight forwarders and transportation brokers; and trucking prices, routes, or services. The section provides a new exemption (from the preemption of State regulation of intrastate regulation) relating to the price of transportation provided by tow trucks when the transportation is performed without the prior consent or authorization of the owner or operator of the vehicle.

Senate amendment

Sec. 14501 (Federal authority over intrastate transportation) incorporates existing prohibitions against intrastate regulation. The preemption would be narrowed, however, to allow State and local governments to regulate the price and related conditions of transportation provided by tow trucks if the transportation is performed at the request of a law enforcement agency or without the prior consent or authorization of the owner or operator of the vehicle.

Conference substitute

The Conference adopts the House provision, modified to allow States to continue to provide antitrust immunity for pooling and agent-van line operations under subsection (c)(3)(A), and to remove the effective date for the preemption as to the State of Hawaii.

Non-consent tows occur when vehicle owners/operators are unable to give their voluntary consent to the tow. Non-consent tows typically occur in emergency situations and when tows are made from private property. The tow truck provision in this section is designed to allow States and local governments to regulate the price of tows in non-consent cases.

The Conference is concerned about restrictive State entry requiremetns for household goods carriers and encourages States to review their entry requiremetns to ensure that they are consistent with efficiency and consumer protection.

TAX DISCRIMINATION

House bill

Sec. 14502. Tax discrimination against motor carrier transportation property. This section preserves current restrictions on the authority to State and local authorities to tax property used to provide interstate trucking service.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

WITHHOLDING OF STATE AND LOCAL TAX

House bill

Sec. 14503. Withholding State and local income tax by certain carriers. This section preserves the restrictions on the authority of State and local authorities to tax the earnings of employees of motor carriers and water carriers.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

STATE REGISTRATION

House bill

Sec. 14504. Registration of motor carriers by a State. This section transfers the current Single State Registration System for evidencing motor carrier insurance coverage to the Secretary until DOT develops a replacement under section 13908.

Senate amendment

Sec. 14505 (Single State Registration Systems) preserves the existing single state registration system for evidencing motor carrier insurance coverage.

Conference substitute

The Conference adopts the House provision with a technical modification in section (c)(2)(B)(v).

STATE TAX

House bill

Sec. 14505. State tax. This section prohibits a State or political subdivision of a State from levying a tax on bus tickets for interstate travel. This reverses a recent Supreme Court decision permitting States to do so and conforms taxation of bus tickets to that of airline tickets.

Senate amendment

The Senate amendment contains an identical provision in section 14504.

Conference substitute

The Conference adopts the House provision.

Chapter 147—Enforcement; Investigations; Rights; Remedies

AUTHORITY

House bill

Sec. 14701. General authority. This section gives the Secretary and the Panel the general authority to conduct investigations and hear complaints, with respect to the functions assigned to each, as the ICC has under current law.

Senate amendment

Sec. 14701 (General authority) gives the Secretary and the Board the same general authority to conduct investigations and hear complaints, with respect to the functions assigned to each, as the ICC has had under 49 U.S.C. 11701.

Conference substitute

The Conference adopts the Senate provision.

ENFORCEMENT BY REGULATORY AUTHORITY

House bill

Sec. 14702. Enforcement by the regulatory authority. This section preserves for the Secretary and the Panel, as to those regulatory functions transferred to each, the ICC's authority to bring civil enforcement actions in court.

Senate amendment

Sec. 14702 (Enforcement by the regulatory authority) preserves for the Secretary and the Board, as to those functions transferred to each under Part B, the ICC's authority in 49 U.S.C. 11702 to bring civil enforcement actions in court and, through its own attorneys, to bring or participate in civil actions involving undercharge claims.

Conference substitute

The Conference adopts the Senate provision.

ENFORCEMENT BY ATTORNEY GENERAL

House bill

Sec. 14703. Enforcement by the Attorney General. This section preserves the Attorney General's authority to bring civil or criminal enforcement actions relating to this part, including orders or regulations of the Secretary or the Panel.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

RIGHTS AND REMEDIES

House bill

Sec. 14704. Rights and remedies of persons injured by carriers or brokers. This section provides for private enforcement of the provisions of the Motor Carrier Act in court. This expands the current law, which only permits complaints brought under the Act to be brought before the ICC. This section provides that an injured person may bring a civil action to enforce an order of the Secretary or the Board under this part. This section also provides that complaints brought to enforce the motor carrier leasing and lumping rules may also seek injunctive relief.

Senate amendment

Sec. 14704 (Rights and remedies of persons injured by carriers or brokers) incorporates from 49 U.S.C. 11705 the right of an injured person to bring a civil action to enforce an order of the Secretary or the Board under Part B. It would remove any requirement that an injured person bring the complaint to the agency first.

Conference substitute

The Conference adopts the House provision. The ability to seek injunctive relief for motor carrier leasing and lumping violations is in addition to and does not in any way preclude the right to bring civil actions for damages for such violations.

LIMITATIONS ON ACTIONS

House bill

Sec. 14705. Limitation on actions by and against carriers. This section preserves the current relevant statutes of limitations for bringing court suits by or against carriers and makes the time limits uniform for all types of traffic.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

LIABILITY

House bill

Sec. 14706. Liability of carriers under receipts and bills of lading. This section preserves the current liability provisions, which makes carriers and freight forwarders fully liable for loss or damage except to the extent there is a prior agreement between the carrier and shipper limiting the carrier's liability or if the carrier maintains a schedule of rules and rates which is provided to the shipper upon request. The Secretary is directed to submit to Congress within 18 months a report on whether any modifications or reforms should be made to the loss and damage provisions of this section.

Senate amendment

Sec. 14706 (Liability of carriers under receipts and bills of lading) preserves in Part B the "Carmack Amendment" contained in 49 U.S.C. 11707, which makes carriers and freight forwarders fully liable for loss or damage except to the extent the parties agreed in advance to limit the carrier's liability.

Conference substitute

The Conference adopts the House provision with modifications. The language in subsection (c)(1) has been revised to clarify that carriers may, subject to the provision of this chapter (including the requirements of section 13710(a)), establish rates under which the liability of the carrier is limited to a value established by written or electronic declaration of the shipper or by written agreement between the carrier and shipper if that value would be reasonable. If the motor carrier does not file a tariff with the Board, it shall provide under section 13710(a) to the shipper, upon request, the rate, classification, rules, and practices upon which any rate applicable to a shipment, or agreed to, is based. The new subsection also prohibits discussion, consideration or approval as to rules to limit liability on the part of carriers acting under an agreement approved pursuant to section 13703. The conference agreement includes the Senate provision that the review by the Secretary on whether modifications or reforms should be made to the cargo loss and damage provision should be completed within 12 months.

The intention of this conference agreement is to replicate, as closely as possible, the practical situation which occurred prior to the enactment of the Trucking Industry Regulatory Reform Act of 1994 (TIRRA), which repealed the requirement that tariffs be filed with the ICC for individually determined rates. Prior to the enactment of TIRRA, carriers had the ability to limit liability as a part of the terms contained in the tariff. By signing a bill of lading which incorporated by reference the tariff, the shipper was deemed to have agreed to the tariff and its conditions and terms. However, the carrier was under no obligation to specifically notify the shipper of the conditions or terms of the tariff. It was the responsibility of the shipper to take an affirmative step to determine what was contained in the tariff—usually through the retaining of a tariff watching service. An unintended and unconsidered consequence of TIRRA was that, when the tariff filing requirement was repealed, carriers lost this particular avenue as a way of limiting liability. This provision is intended to return to the pre-TIRRA situation where shippers were responsible for determining the conditions imposed on the transportation of a shipment.

The provision continues an existing provision from section 10730, but substitutes a reference to new section 13710 for the old law's reference to section 10702. In the TIRRA, the Congress eliminated most individual tariff filings (provided for under 10702) and substituted a regime (contained in section 13710) where carriers would maintain schedules of rates, classifications, rules and practices and make such schedules available to shippers upon request.

PRIVATE ENFORCEMENT OF REGISTRATION

House bill

Sec. 14707. Private enforcement of registration requirement. This section preserves the current private enforcement of licensing (now registration) requirement by persons injured by unlicensed (unregistered) transportation or service.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

HOUSEHOLD GOODS DISPUTE SETTLEMENT

House bill

Sec. 14708. Dispute settlement program for household goods carriers. This section modifies the current arbitration provisions by requiring all household goods carriers to offer shippers the option of neutral arbitration as a means of settling disputes over household goods transportation involving individual householders. If a shipper requests arbitration, and the dispute involves a claim for $1,000 or less, it shall be binding on both parties. If the dispute involves a claim for more than $1,000, the arbitration shall be binding only if the carrier agrees to arbitration. The arbitrator may determine which party shall pay the cost or portion of the arbitration proceedings. Certain other procedures and requirements are set forth in this section, as well as Secretarial review within 36 months.

Senate amendment

Sec. 14708 (Dispute settlement program for household goods carriers) modifies the existing arbitration provisions of 49 U.S.C. 11711, by requiring all household goods carriers to offer shippers the option of neutral arbitration as a means of settling disputes over household goods transportation.

Conference substitute

The Conference adopts the House provision with modifications. Subsection (b)(5) is revised to provide that no shipper may be charged more than half the cost of instituting an arbitration proceeding. In addition, the arbitrator may determine which party shall pay the cost or a portion of the total costs of the arbitration proceeding. This may include reimbursement of the shared costs initially paid by the parties in order to secure the arbitrator. The Secretary shall complete a review of the dispute settlement program within 18 months.

TARIFF RECONCILIATION RULES

House bill

Sec. 14709. Tariff reconciliation rules for motor carriers of property. This section preserves the right of the Panel to authorize departures by mutual consent of the carrier and shipper from the tariff rate for past shipments so as to avoid or resolve under- or overcharge claims.

Senate amendment

The Senate amendment contains a nearly identical provision, with one technical difference.

Conference substitute

The Conference adopts the House provision.

Chapter 149—Civil and Criminal Penalties

GENERAL CIVIL PENALTIES

House bill

Sec. 14901. General civil penalties. This section retains civil penalties for violating reporting and registration requirements or household goods consumer-protection requirements and updates some penalty amounts.

Senate amendment

Sec. 14901 (General civil penalties), imported from existing 49 U.S.C. 11901, contains civil penalties for violating reporting and registration requirements, household goods consumer-protection requirements, and the prohibitions against rate reduction to third parties.

Conference substitute

The Conference adopts the House provision, modified by the addition of a new subsection (g) to allow water carriers to engage in customary business entertainment practices and to provide that such expenses are not to be included in determining the carriers rate base under section 13702.

CIVIL PENALTIES FOR REBATES

House bill

Sec. 14902. Civil penalty for accepting rebates from carriers. This section retains civil penalties for accepting rebates from a carrier and updates some penalty amounts.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

TARIFF VIOLATIONS

House bill

Sec. 14903. Tariff violations. This section retains current penalties for tariff violations and updates some penalty amounts.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision, modified to establish a civil penalty for a person that offers, grants, gives, solicits, accepts, or receives transportation by a carrier subject to chapter 135 at a rate different than the rate in effect under section 13702. Section 14903(b) is also modified to conform the criminal penalty to the requirements of section 3571 of title 18, United States Code.

ADDITIONAL RATE VIOLATIONS

House bill

Sec. 14904. Additional rate violations. This section retains penalties for violations regarding rebates by agent and undercharging and updates the penalty amounts.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

PENALTIES FOR LOADING AND UNLOADING VIOLATIONS

House bill

Sec. 14905. Penalties for violations of rules relating to loading and unloading motor vehicles. This section retains current specific civil and criminal penalties for violating the lumping provisions of section 14103 and updates the penalty amounts.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

EVASION OF REGULATION

House bill

Sec. 14906. Evasion of regulation of motor carriers and brokers. This section retains current penalties for evading regulations under part B and updates the penalty amounts.

Senate amendment

The Senate amendment contains an identical provision.

RECORD KEEPING, REPORTING VIOLATIONS

House bill

Sec. 14907. Record keeping and reporting violations. This section retains current specific penalties for withholding or falsifying records or reports that the Secretary or Panel requires and updates the penalty amounts.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

UNLAWFUL DISCLOSURE

House bill

Sec. 14908. Unlawful disclosure of information. This section preserves current law prohibiting entities covered by part B (or anyone receiving information from entities covered by part B) from disclosing confidential shipper information and updates the penalty amounts.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

DISOBEDIENCE TO SUBPOENAS

House bill

Sec. 14909. Disobedience to subpoenas. This section preserves current penalties for disobeying a subpoena issued by the Secretary or the Panel under part B and updates the penalty amounts.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

GENERAL CRIMINAL PENALTY

House bill

Sec. 14910. General criminal penalty when specific penalty not provided. This section preserves current general criminal penalties when specific penalties are not provided for violations under part B, including a condition of a registration of a foreign motor carrier or foreign motor private carrier under section 13902, and updates the penalty amounts.

Senate amendment

Sec. 14910 (General criminal penalty when specific penalty not provided), imported from existing 49 U.S.C. 11914, contains general criminal penalties when specific penalties are not provided for violations under Part B.

Conference substitute

The Conference adopts the House provision.

PUNISHMENT OF CORPORATION

House bill

Sec. 14911. Punishment of corporation for violations committed by certain individuals. This section preserves current law which extends the penalties of this chapter to corporate officials, agents, and successors in interest and updates the penalty amounts.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

WEIGHT-BUMPING

House bill

Sec. 14912. Weight-bumping in household goods transportation. This section preserves the penalties for weight-bumping and updates the penalty amounts.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

CONCLUSIVENESS OF RATES

House bill

Sec. 14913. Conclusiveness of rates in certain prosecutions. This section preserves current law regarding the conclusive proof of published or filed rates in certain proceeding and updates the penalty amounts.

Senate amendment

The Senate amendment contains an identical provision.

Conference substitute

The Conference adopts the provision.

SEC. 104. MISCELLANEOUS MOTOR CARRIER PROVISIONS.

House bill

Sec. 104. Miscellaneous Motor Carrier Provisions. This section makes several amendments to other motor carrier provisions concerning the authority of a motor carrier to obtain insurance from more than one source, minimum financial responsibility requirements with respect to certain mass transportation service in rural areas near state borders, the definition of commercial motor vehicle relating to taxicabs and smaller passenger vehicles, and the continued enforcement of ICC self-insurance rules by the Secretary, and it requires the Secretary to issue a regulation amending the definition of automobile transporters under part 658 of title 23, Code of Federal Regulations, concerning race car transporters or specialty trailers designed for the racing industry.

Senate amendment

Section 451 amends 49 U.S.C. 31102(b)(1) to provide that States receiving Federal grants under the Commercial Motor Vehicle Safety program cooperate in the enforcement of the registration and insurance requirements of 49 U.S.C. 31140 and 31146.

Section 452 (Amendment of Section 31138), amends 49 U.S.C. 31138 to incorporate the existing ICC practice of allowing carriers to use multiple sources for satisfying the required level of insurance coverage (identical to House provision), and, in 452(b), to exclude from the Federal minimum insurance requirements certain subsidized mass transportation services, including specialized transportation for the elderly and disabled, in rural and urbanized areas.

Section 452 (Safety Fitness of Owners and Operators), amends 49 U.S.C. 31144 for conforming changes.

Section 453 (Self-Insurance Rules), directs the Secretary to continue the existing ICC practice of allowing carriers to meet the insurance requirements through self-insurance where appropriate (identical to House provision).

Section 217 (Transport vehicles for off-road, competition vehicles), amends section 31111(b)(1) of title 49 to provide that a State may not impose a limitation of less than 46 feet from the kingpin to the center of the rear axle on trailers used exclusively or primarily in connection with motor sports competition events.

Conference substitute

The Conference adopts the Senate language in Section 451 regarding the Commercial Motor Vehicle Safety program, Section 452 regarding safety fitness of owners, and the identical provisions regarding multiple sources for satisfying insurance coverage and self-insurance rules. The Conference adopts the House provision in section 104(d) regarding the definition of commercial motor vehicle. The new definition includes those vehicles that transport passengers for compensation, except for vehicles that have a capacity to transport 6 or fewer passengers and provide taxicab services not on a regular route, and includes those vehicles that are designed or used to transport more than 15 passengers and are not used to transport passengers for compensation. By changing this definition, the Conference does not intend for the Department of Transportation to amend the regulations which require States to maintain motor carrier safety regulations for intrastate transportation within a zone of tolerance of Federal regulations to require States to regulate passenger vehicles less than 15 passengers in intrastate transportation to comply with the MCSAP program. The conference intends that the States not be required to regulate any additional passenger vehicles as a result of this change.

The Conference adopts the Senate provisions in section 452(b) regarding insurance levels for certain transit providers and the Senate provision in section 217 regarding transport vehicles for off-road, competition vehicles.

SEC. 105. CREDITABILITY OF ANNUAL LEAVE.

House bill

Sec. 105. Creditability of Annual Leave for Purposes of Meeting Minimum Eligibility Requirements for an Immediate Annuity. This section provides that an ICC employee who is separated from the government with the abolishment of the ICC may be given credit, for purposes of determining eligibility for and computing the amount of any annuity under subchapter III of chapter 83 or chapter 84 of title 5, U.S. Code, for accrued annual leave credited to such employee at the time of separation.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference adopts the House provision.

SEC. 106. PIPELINE CARRIERS.

House bill

The House bill contains no comparable provisions.

Senate amendment

The Senate amendment retains current law regarding the regulation of pipelines.

Conference substitute

The Conference adopts the Senate provision with modifications to streamline pipeline regulation. The Conference is committed to the elimination of unnecessary regulation but does not wish to interfere with regulation that is based on sound principles and aids in regulatory aims, *e.g.*, consumer protection. The Conference amendment also requires the General Accounting Office (GAO) to report within three years on the impact of regulations on the competitiveness of the pipeline industry. The GAO report should include recommendations on whether to continue, revise or sunset pipeline regulations. The Conference is particularly concerned about the impact of regulations on the transportation of anhydrous ammonia, which is a primary component of nitrogen fertilizers. Therefore, the Conference expects the GAO to consult with the U.S. Department of Agriculture, shippers, consumers, farmers and ranchers, and other interested parties. The report is due within three years after the enactment date.

TITLE II—SURFACE TRANSPORTATION BOARD

Section 201 of the bill creates a new chapter 7 of Subtitle I of Title 49, specifying the organization and responsibilities of the Surface Transportation Board. The individual provisions of this new Chapter 7 are discussed below.

Subchapter I—Establishment

SEC. 701. ESTABLISHMENT OF THE BOARD.

House bill

Section 701 delineates the organizational powers of the Transportation Adjudication Panel, including legal representation and budget matters.

Senate amendment

Section 201 amends 49 U.S.C. 10301 to establish the Intermodal Surface Transportation Board. The Board is placed within the Department of Transportation for administrative support.

The Board will start out as a 3-member body, but will increase to a 5-member body in 1997, when it inherits the remaining FMC functions. The Board will be bipartisan, with members appointed by the President, confirmed by the Senate, and removable by the President only for neglect of duty or malfeasance in office. At least 2 members are required to have a background in rail or motor transportation, transportation regulation, or agriculture. At least 1 member is required to have private-sector professional or business experience. Starting in 1997, at least 2 members are required to have professional standing and demonstrated knowledge in the fields of maritime transportation or its regulation. Board members could not have an interest in, or official relation with, any carrier, and could not engage in any outside business.

Seats on the Board are for 5-year fixed terms. A member is not allowed to serve more than two terms, nor remain in office for more than one year after the term expires. Board seats will initially be filled by the current sitting ICC Commissioners. On January 1, 1997, the 2 new seats will be filled by 2 sitting FMC Commissioners of different political parties, in order of the length of term remaining.

The President could appoint one of the Board members as the Chairman, with the administrative and supervisory powers for managing the Board. Significantly, the Board retains the ICC's longstanding independent litigating authority and the Board could submit appropriations requests to Congress independently.

Conference substitute

The Conference adopts a compromise provision. A three-member Surface Transportation Board is established within the Department of Transportation. The President will appoint a Chairman of the Board. Section 701 includes the qualifications of Board members and the appointment process for new Board members, as well as the powers of the Chairman. The FMC is not included.

SEC. 702. FUNCTIONS.

House bill

Section 702 specifies that, except as provided elsewhere in this Act, all functions of the former Interstate Commerce Commission are assumed as of the date of enactment.

Senate amendment

Section 201 allows the Board to perform all the functions of the ICC, except those repealed or transferred to the Secretary by this Act, and to perform the transferred functions of the FMC as of January 1, 1997.

Conference substitute

The Conference adopts the House language with modifications. The FMC is not included.

SEC. 703. ADMINISTRATIVE PROVISIONS.

House bill

Section 703 outlines the administrative status of the new Transportation Adjudication Panel within the Department of Transportation. In general, the Panel will be decisionally independent from the Department and will be authorized to represent itself in legal matters and budget requests.

Senate amendment

Section 201 would make the Board an independent agency, free from supervision or direction by DOT. The open meeting requirements of the Sunshine Act would apply to the Board. The Board would be authorized to appear in its own right, and be represented by its own attorneys and any civil suits related to a function vested in the Board. It would regulate the admission of individuals to practice before it. Its budget request would be sent to Congress, and the Board could communicate with Congress and make legislative requests without interference.

Conference substitute

The Conference adopts a compromise provision as section 703 which includes the basic elements of the House and Senate provisions.

SEC. 704. ANNUAL REPORT.

House bill

Section 704 requires an annual report by the Transportation Adjudication Panel to Congress.

Senate amendment

Section 201 requires the Board to submit an annual report to Congress on the Board's activities.

Conference substitute

The Conference adopts a compromise provision, which includes the basic elements of the House and Senate provisions.

SEC. 705. AUTHORIZATION OF APPROPRIATIONS.

House bill

Section 705 places the Transportation Adjudication Panel on a limited, cyclical reauthorization basis. This will ensure regular Congressional oversight and evaluation of the functioning of the TAP. (The ICC had a permanent authorization.) The bill provides for a 3-year authorization as follows:

[In millions of dollars]

Fiscal year:	[1]8.421
1997	12.0
1998	12.0

[1] This equals the FY 1996 DOT appropriations for transferred ICC functions. Funds for the first quarter of FY 1996 were separately appropriated for the ICC, which will terminate on December 31, 1995.

Senate amendment

Section 601 authorizes equivalent funding for (1) the closedown of the ICC and severance costs for its personnel, (2) the Board for fiscal year 1996, and (3) the Board for fiscal year 1997 and 1998 for the functions transferred from the ICC.

Conference substitute

The Conference combines the House and Senate language with modifications. The Conference intends that the funds authorized are to fund the Board. The Conference intends that 60 persons should be transferred from the ICC to DOT to carry out the motor carrier functions assigned to the Secretary. The Conference intends that these positions are to be funded through user fees collected by the Secretary from registrations (including the collection of fees for registering as both common and contract carriers), insurance filings and tariff filings, among other fees.

SEC. 706. REPORTING OFFICIAL ACTION.

House bill

Section 706 retains existing procedures for making a record of official actions by the agency. It replaces former section 10310.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference adopts the House provision with modifications.

Subchapter II—Administrative

SEC. 721. POWERS.

House bill

Section 721 enumerates the general administrative powers of the Panel.

Senate amendment

Section 211 (Powers) would amend 49 U.S.C. 10321, enumerating the ICC's powers, in order to apply to the Board, to condense the language, and to remove references to entities and matters not related under Part A.

Conference substitute

The Conference adopts a compromise provision, which includes the basic elements of the House and Senate provisions.

SEC. 722. BOARD ACTION.

House bill

Section 722 specifies rules of finality regarding agency decisions, including the agency's power to reopen or reconsider completed proceedings or decisions, as well as the standards for finality of an agency decision for subsequent judicial review. The section replaces former section 10324.

Senate amendment

The Senate amendment contains comparable provisions.

Conference substitute

The Conference adopts the House language with modifications.

SEC. 723. SERVICE OF NOTICE IN BOARD PROCEEDINGS.

House bill

Section 723 specifies the means of giving legal notice in agency proceedings.

Senate amendment

Section 213 (Service of Notice in Commission Proceedings) amends 49 U.S.C. 10329, governing service of notice in ICC proceedings, to apply to the Board, to remove provisions regarding entities not regulated under Part A, and to make other conforming changes.

Conference substitute

The Conference adopts a compromise provision, which includes the basic elements of the House and Senate provisions.

SEC. 724. SERVICE OF PROCESS IN COURT PROCEEDINGS.

House bill

Section 724 enumerates the proper means of serving process in court proceedings governing by the agency's statute.

Senate amendment

Section 214 (Service of Process in Court Proceedings) amends 49 U.S.C. 10330, governing service of process on regulated carriers in court proceedings, to apply to the Board, to remove provisions regarding entities not regulated under Part A, and to make other conforming changes.

Conference substitute

The Conference adopts the House language with modifications.

SEC. 725. ADMINISTRATIVE SUPPORT.

House bill

Section 725 requires the Secretary of Transportation to provide all administrative support for the Transportation Adjudication Panel. The Committee intends to minimize the cost of retained regulation by eliminating the separate and duplicative general administrative functions formerly performed by the ICC. Instead, although the Panel will be decisionally independent from the Secretary of Transportation and his subordinates, the Panel's general administrative functions (e.g., personnel and payroll records and processing, equal employment opportunity matters, the administration of the Freedom of Information Act) can be readily performed by the Department without the need for a separate bureaucracy unique to the Panel.

Senate amendment

Section 202 directs the Secretary to provide administrative support to the Board. While the Board is authorized to receive a separate appropriation and the Board's Chairman has discretion as to how those resources are allocated, the Committee intends that the goal of minimizing administrative bureaucracy should be advanced. For example, once established within DOT, the Board should not be required to maintain separate payroll, facilities and supplies, or equal employment opportunity offices. The Committee expects the administrative functions assumed by the Secretary to be covered by DOT's current funding authorization.

Conference substitute

The Conference adopts the Senate provision, which is substantively equivalent to the House provision. The Conference expects DOT to fund administrative functions performed by the Secretary from its own authorizations.

SEC. 726. RAILROAD-SHIPPER TRANSPORTATION ADVISORY COUNCIL.

House bill

No comparable provision.

Senate amendment

Section 378 establishes a Rail-Shipper Transportation Advisory Council, in 49 U.S.C. 10391, to advise the government on significant rail transportation policy issues of concern to small shippers and small railroads, including car supply, rates, competition, trackage rights, and effective procedures for addressing legitimate shipper and other claims. The Council would be directed to prevent or address obstacles to effective and efficient transportation through private-sector mechanisms, where possible, and, where unsuccessful, to suggest appropriate regulatory or legislative relief.

The Council would be composed of 15 members outside of the Federal government, to be appointed by the Board's Chairman within 60 days. The 9 voting members would include at least 4 representatives of small shippers and at least 4 representatives of small (Class II or III) railroads. The 6 nonvoting members would include 3 from Class I railroads and 3 from large shipper organizations. In addition, the Secretary and the Board members would serve as ex officio members. The Council would meet at least-annually and would be required to prepare an annual report of its activities.

Conference substitute

The Conference adopts the Senate provision with technical modifications.

SEC. 726. DEFINITIONS.

House bill

Section 726 provides that terms used in the chapter describing the Panel and its operations have the same meaning as defined elsewhere in subtitle IV.

Senate amendment

No comparable provision.

Conference substitute

The Conference adopts the House provision with modifications.

SEC. 202. REORGANIZATION.

House bill

Section 202 provides that the Panel retains the legal powers and organizational prerogatives of the ICC to the extent not altered by amendments made elsewhere in the bill.

Senate amendment

Section 203 (Reorganization) authorizes the Board's Chairman to change the organizational structure of the Board from that of the ICC or the FMC.

Conference substitute

The Conference adopts the House language with modifications.

SEC. 203. TRANSFER OF ASSETS AND PERSONNEL.

House bill

Section 203 provides that, unless specified elsewhere, the Panel shall assume control of all assets, personnel, and funds of the former Interstate Commerce Commission.

Senate amendment

Section 104 transfers ICC personnel and property to the Board or Secretary, as applicable, and unexpended ICC funds to the Board. The Committee intends that the functions are assumed in accordance with Congressional intent.

Conference substitute

The Conference adopts a compromise provision, which includes the basic elements described in the House and Senate provisions. The Conference intends that the Board should receive all library assets that are of continuing usefulness, and make suitable arrangements for materials of historical interest to be placed in the custody of an institution or institutions where the materials would be available for use by the public.

SEC. 204. SAVINGS PROVISION.

House bill

1. Legal documents

Subsection (a) is intended to ensure that existing orders and regulations issued by the ICC remain in force unless superseded by administrative action or operation of law.

2. Proceedings

Subsection (b) provides that the Transportation Adjudication Panel shall assume responsibility for all pending ICC proceedings, except for matters with respect to which the applicable statute is repealed by the bill. Pending cases transferred under this section are to be decided under the statute prior to the enactment of this bill.

3. Suits

Subsection (c) specifies that enactment of the bill does not affect court proceedings begun before the date of enactment, which are to be concluded under the applicable prior law. However, if a court remands a matter to the Transportation Adjudication Panel as the successor of the ICC, any further administrative proceedings shall be conducted under the law as amended by the bill.

4. Exercise of authorities

Subsection (d) clarifies that all legal authorities and functions of the ICC, other than those repealed or amended elsewhere, are to be assumed by the Transportation Adjudication Panel.

Senate amendment

Section 102(a) would preserve all orders determinations, rules, regulations, licenses, and privileges currently in effect until changed by the Board or the Secretary, within their respective jurisdictions. Subsection (b) would preserve proceedings, pending before the ICC, insofar as they relate to functions that are retained, and would provide for their transfer to the Board or the Secretary. Subsection (c) would preserve pending suits and subsection (d) would preserve actions by or against the ICC or its officials. Subsection (e) would substitute the Board or the Secretary, as applicable, for the ICC in suits involving a transferred function.

Conference substitute

The Conference adopts a compromise provision, which includes the basic elements described in the House and Senate provisions.

SEC. 205. REFERENCES.

House bill

This provision specifies that all former statutory references to the Interstate Commerce Commission in other Federal laws or documents are deemed to refer to the Panel.

Senate amendment

Section 103 would treat references to the ICC in other Federal laws as references to the Board or Secretary, as applicable, and would treat references to the ICC as a government agency as references to the Board.

Conference substitute

The Conference adopts a compromise provision, which includes the basic elements described in the House and Senate provisions.

TITLE III—CONFORMING AMENDMENTS

Title III makes numerous conforming amendments to provisions of the United States Code containing references to the Interstate Commerce Commission.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. COMMERCIAL SPACE LAUNCHES.

House bill

This House bill contains no comparable provision.

Senate amendment

Sec. 527 (Certain Commercial Space Launch Activities) provides that the licensing of a launch vehicle or launch site operator under chapter 701 of title 49 shall not be considered a major Federal action for purposes of section 102(C) of the National Environmental Policy Act of 1969 if the Department of the Army has issued a permit and if the Corps of Engineers determines the activity has no significant impact.

Conference substitute

The Conference adopts the Senate provision in section 401 of the conference report.

SEC. 402. DESTRUCTION OF MOTOR VEHICLES, TRAINS.

House bill

This House bill contains no comparable provision.

Senate amendment

Sec. 218 (Destruction of Motor Vehicles or Motor Vehicle Facilities; Wrecking Trains) amends section 33 of title 18 to provide that persons convicted of committing crimes involving a motor vehicle or a train carrying high-level radioactive waste or spent nuclear fuel shall be imprisoned for not less than 30 years.

Conference substitute

The Conference adopts the Senate provision in section 402 of the conference report.

SEC. 403. GRADE CROSSING VIOLATIONS.

House bill

This House bill contains no comparable provision.

Senate amendment

Sec. 529 (Violation of Grade-Crossing Laws and Regulations) directs the Secretary to issue regulations establishing sanctions and fines for operators of commercial motor vehicles who violate railroad-highway crossing laws and regulations. The penalty for a single grade cross violation is not less than a 60-day disqualification of the driver's commercial driver's license. An employer that knowingly allows, authorizes or requires an employee to violate grade crossing laws shall be fined not more than $10,000.

Conference substitute

The Conference adopts the Senate provision in section 403 of the conference report.

SEC. 404. MISCELLANEOUS TITLE 23 AMENDMENT.

House bill

This House bill contains no provision.

Senate amendment

The Senate amendment contains no provision.

Conference substitute

The Conference adopts a provision in section 404 of the conference report to provide that if a certain segment of U.S. Route 220 between Bedford and Bald Eagle, Pennsylvania, is designated as part of the Interstate System, the various weight limitations in section 127 of title 23 shall not apply with respect to currently operating vehicles.

SEC. 405. TECHNICAL AMENDMENTS.

House bill

The House bill contains no provision.

Senate amendment

The Senate amendment contains no provision.

Conference substitute

The Conference adopts a provision in section 405 of the conference report to provide for a series of technical changes to the National Highway System Designation Act of 1995 (Public Law 104-59).

SEC. 406. FIBER DRUM PACKAGING.

House bill

The House bill contains no comparable provision.

Senate amendment

Sec. 525 (Fiber Drum Packaging) directs the Secretary to issue a rule within 60 days authorizing the continued use of fiber drums with removable heads for the transportation of liquid hazardous materials if the transportation is in compliance with regulations in place before October 1, 1991, will not be used for the transportation of materials that are poisonous by inhalation, and are used in domestic transportation only. Section 122 of the Hazardous Materials Transportation Authorization Act of 1994 is repealed.

Conference substitute

The Conference adopts a modification to the Senate provision in section 406 of the conference report. Section 406 directs the Secretary to issue a final rule within 60 days authorizing the continued use of fiber drum packaging with removable heads for the transportation of liquid hazardous materials with respect to those liquid materials transported by such drums pursuant to regulations in effect on September 30, 1991, if the packaging is in compliance with regulations in effect on September 30, 1991, and the packaging will not be used for the transportation of hazardous materials that include materials which are poisonous by inhalation or materials in Packaging Groups I and II. This regulation will expire on September 30, 1997, or the date upon which funds are authorized to carry out Chapter 51 of Title 49 U.S.C. for any fiscal year beginning after September 30, 1997.

Section 406 also directs DOT to contract with the National Academy of Sciences within 90 days after enactment to conduct a study to determine whether the requirements relating to safe transportation of hazardous materials for fiber drum packaging with a removable head can be met with standards other than performance-oriented packaging standards adopted under docket HM-181 and whether a packaging standard for such drums other than the standards adopted under HM-181 will provide an equal or greater level of safety for transportation of liquid hazardous materials than would be provided if HM-181 were in effect.

In determining whether there are standards that will provide an equal or greater level of safety for the transport of liquid hazardous materials than would be provided if HM-181 packaging standards were in effect, the study shall rely, in part, upon the Department of Transportation's Hazardous Materials Incident Reporting System pertaining to open-head fiber drums used for liquids and the fiber drum industry's shipping safety record for such drums from January 1, 1974, until the date the National Academy of Science's study begins.

The Conferees expect that the Department of Transportation will expend approximately $200,000 for this study. The study shall be completed before March 1, 1997.

By September 30, 1997, the Secretary is directed to issue final regulations to determine which standards should apply to fiber drum packaging with a removable head for transportation of liquid hazardous materials after September 30, 1997. In issuing the regulations, the Secretary shall give full and substantial consideration to the results of the study.

SEC. 407. STUDY OF NONCONTIGUOUS DOMESTIC TRADE.

House bill

The House bill contains no comparable provision.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference adopts a provision in section 407 of the conference report to require the Secretary of Transportation to conduct a study of the competitiveness of the noncontiguous domestic trades and to submit the report to Congress within 6 months after the date of enactment of this Act.

SEC. 408. RULEMAKING.

House bill

The House bill contains no comparable provision.

Senate amendment

Sec. 216 (Federal Highway Administration Rulemaking) directs the Federal Highway Administration to issue by not later than March 1, 1996, an advance notice of proposed rulemaking dealing with a variety of fatigue-related issues. The Administration shall issue a notice of proposed rulemaking relating to such issues within one year after the advance notice and issue a final rule 2 years later.

Conference substitute

The Conference adopts the Senate provision in section 408 of the conference report.

DISPOSITION OF INTERSTATE COMMERCE ACT PROVISIONS WITHIN TITLE 49 OF THE UNITED STATES CODE

Prior section	Part A (Rail)	Part B (Motor, Water)	Part C (Pipeline)	Subject
10101		13101	15101	National Transp. Policy.
0101a	101101			Rail Transp. Policy.
10102	10102	13102	15102	Definitions.
10103	10501(b)	13103	15103	Remedies.
10301	701	701	701	Organization.—General.
New	702	702	702	Transfer of functions.
New	703	703	703	Independence of Board.
10302				Org.—Divisions.

DISPOSITION OF INTERSTATE COMMERCE ACT PROVISIONS WITHIN TITLE 49 OF THE UNITED STATES CODE—Continued

Prior section	Part A (Rail)	Part B (Motor, Water)	Part C (Pipeline)	Subject
10303				Org.—Secretary.
10304				Org.—Employee Boards
10305				Org.—Delegation of Auth'y.
10306				Org.—Conduct of Proceedings.
10307				Org.—Office and sessions.
10308	703(e)	703(e)	703(e)	Org.—Admission to Practice.
10309				Org.—Cong. Access to records.
10310	706	706(a)	706(a)	Org.—Reporting official action.
10311	704	704	704	Org.—Annual Report.
New	705	705	705	3-yr. Authorization of appropriations.
10321	721	13301	721	Powers.
10322				Nonrail procedures.
10323				[previously repealed]
10324	722(a)–(b)	722(a)–(b)	722(a)–(b)	Agency action.
10325				[previously repealed]
10326				Limitations in Rail Rulemakings.
10327	722(c)–(d)	722(c)–(d)	722(c)–(d)	Rail Procedures.
10328		13302		Intervention.
10329	723	13303	723	Service of notice.
10330	724	13304	724	Service of process.
10341–10344				Joint Boards.
10361–10364				Rail Services Planning Office.
10381–10388				Rail Public Counsel.
New	725	725	725	Admin. support for Board.
New	726	726	726	Definitions same as subtitle IV.
10501	10501(a), (b)		15301	Rail/Pipeline General Jurisdiction.
10502				Express Carrier Transportation.
10503	10703			Rail-Water Connections.
10504	10501(c)			Exempt rail mass transp.
10505	10502	13541	15302	Exemption Auth'y.
10521		13501		Motor General Jurisdiction.
10522		13502		Exempt Transp.—Alaska.
10523		13503		Exempt Terminal Areas transp.
10524		13505		Transp. Furthering Primary Business.
10525		13504		Transp. Entirely in 1 State.
10526		13506		Misc. Motor Exemptions.
10527				Written contracts for certain exempt agricultural movements.
10528		13507		Mixed regulated & unregulated.
10529		13508		Cooperative Ass'ns.
10530		13902(c)		Foreign Carrier registrations.
10531				Mass Transp. Exemption.
10541		13521		Water General Jurisdiction.
10542				Water—Exempt bulk transp.
10543				Water—Exempt incidental transp.
10544				Water—Misc. Exemptions.
10561		13531		Frt. Forwarder—General Jurisd'n.
10701	10701(a), (b)	13701(a)	15501	Rate Reas. Reqts.
10701(f)		13709		Undercharge settlements.
10701a	10701(c), (d)			Rail Rate Reas. Reqts.
10702	10702		15502	Carrier Auth'y to set rates.
10703	10703	13705		Carrier Auth'y for Through Routes.
10704	10704	13701(b)	15503	ICC Auth'y to prescribe rates.
10705	10705	13701(b)		ICC Auth'y to set through routes.
10705a				Joint rate surcharges.
10706	10706	13703		Collective activities & antitrust exemption.
10707				Suspension of new rail rates.
10707a				Zone of rate flexibility.
10707a(a)(2)(B)	10708	-----	-----	Rail cost adjustment factor.
10708	-----	-----	-----	Suspension of new nonrail rates.
10709	10707	-----	-----	Market Dominance.
10710	-----	-----	-----	Discrim. against recyclables.
10711	-----	-----	-----	Effect of certain sections.
10712	-----	-----	-----	Inflation-based increases.
10713	10709	-----	-----	Contract transp.
10721	10721	13712	15504	Govt. Transp.
10722	-----	-----	-----	Special passenger rates.
10723	-----	-----	-----	Charitable.
10724	-----	-----	-----	Emergency rates.
10725	-----	-----	-----	Special frt. forwarder rates.
10726	-----	-----	-----	Long- and short-haul rates. transp.
10727	-----	-----	-----	[previously repealed].
10728	-----	-----	-----	Separate rates for distinct services
10729	-----	-----	-----	[previously repealed].
10730	11706(c)(3)	-----	-----	Released rates.
10731	-----	-----	-----	Recyclables rates.
10732	-----	13713	-----	Food and grocery transp.
10733	-----	-----	-----	Recyclable rates.
10734	10722	-----	-----	Car utilization.
10735	-----	13704	-----	HHG—binding estimates.
10741	10741	-----	15505	Anti-discrimination.
10742	10742		15506	Facilities for interchange.
10743		13707		Payment of rates.
10744	10743	13706		Liability for payment of rates.
10745	10744			Continuous carriage of freight.
10746				Commodities clause.
10747	10745			Facilities provided by shipper.
10748				Transp. of livestock.
10749				HHG frt. forwarders—exch. of services.
10750	10746			Demurrage.
10751				Business entertainment expenses.
10761		13702(a)		Tariff required.
10762		13702 (b)–(d)		Tariff requirements.
10762(a) (3)–(5)		13710 (a)		Undercharge applicability.
10763	10747			Shipper routing.
10764				Arrangements between carriers.
10765				Water arrangements with other carriers.
10766				Frt. Forwarder traffic agreements.
10767		13708		Billing and collecting practices.
10781–10786				Rail property valuation.
New		13711		Undercharge—Unreas. practice from NRA (now a stat. note to 10701).
10901	10901, 10902			Construction and operation.
10902				Safe and adequate facilities.
10903	10903			Abandonment approval/disapproval.
10904	10903			Abandonment procedures.
10905	10904			Financial assistance.
10906	10905			Public use of abandoned lines.
10907	10906, 10501(b)(2), 10102(5)			Spur track exemption.

DISPOSITION OF INTERSTATE COMMERCE ACT PROVISIONS WITHIN TITLE 49 OF THE UNITED STATES CODE—Continued

Prior section	Part A (Rail)	Part B (Motor, Water)	Part C (Pipeline)	Subject
10908				Passenger route discontinuance—interstate.
10909				Passenger route discontinuance—intrastate.
10910	10907			Feeder line development.
10921		13901		License requirement.
10922		13902		Motor carrier license.
10923		10903		Frt. forwarder license.
10924		13904		Broker license.
10925		13905		Duration of licenses.
10926				Transfers of licenses.
10927		13906		Security (Insurance) requirement.
10928				Temporary authority.
10929				Temporary water authority.
10930				Limitations on licenses.
10931				Intrastate licensing.
10932				Motor savings provision.
10933				Ceasing HHG frt. forwarder service.
10934		13907		HHG Agents.
10935				Bus route discontinuances.
10936				Limit on intrastate bus regulation.
New		13908		Replacement unified registration system.
11101	11101	14101	15701	Providing transp. (Common carrier oblig'n).
11101(d)		13710(b)		Undercharge—contract vs. common disputes.
11102				Classification of carriers.
11103	11102			Use of terminal facilities.
11104	11103			Switch connections.
11105				Protective services (heat and cold).
11106				Identification of vehicles.
11107		14102		Leased vehicles (owner-operators).
11108				Water—unreas. discrimination.
11109		14103		Lumping.
11110		14104		HHG operations.
11111				CB radios on buses.
11121	11121			Car service criteria.
11122	11122			Car service compensation.
11123	11123			Emergency situations.
11124	11123			Rerouting.
11125	11123			Directed service.
11126				Distribution of coal cars.
11127				HHG Frt. Forwarder services.
11128	11124			War Emergencies.
11141	11141	14121	15721	Reports and records.
11142	11142			Uniform accounting system.
11143	11143			Depreciation charges.
11144	11144	14122	15722	Records inspection and retention.
11145	11145	14123	15723	Reports by carriers.
11161				Railroad Accounting Principles Board (RAPB)
11162				Cost accounting principles.
11163	11161			Implementing accounting principles.
11164	11162			Certification of carrier's accounting.
11165	11163			Cost info. made available.
11166	11164			Cost reporting.
11167				RAPB report.
11168				RAPB funding authorized.
11301				Securities issuances.
11302				[previously repealed.]
11303	11301			Equipment trusts.
11304		14301		Security interests in motor vehicles.
11321				Ownership of water carriers.
11322	11328			Restrictions on officers & directors.
11323				Ownership of carriers by HHG frt. forwarders.
11341	11321	14302(f), 14303(f)		Scope of authority (antitrust immunity).
11342	11322	14302		Pooling.
11343	11323, 10902	14303(a), (g)		Mergers & consolidations.
11344	11324	14303(b)		Merger procedures—general.
11345	11325			Merger procedures—rail.
11345a		14303(c)–(e)		Merger procedures—motor.
11346				Expedited merger procedure.
11347	11326			Labor protection for mergers.
11348		14303(h)		Authority over noncarriers in control.
11349		14303(i)		Temporary auth'y for mergers.
11350				Mergers—DOT sponsorship.
11351	11327	14303(j)		Mergers—supplemental orders.
11361–11367				Financial Structure.
11501		14501		State preemptions.
11502				Conference & jt. hearings w/states.
11503	11501			Tax discrim.—rail.
11503a		14502		Tax discrim.—motor.
11504	11502	14503		Withholding st. and local income tax.
11505				St. actions to injoin abandonments by rail or HHG frt. forwarders.
11506		14504		Single-State registration.
11507				Prison-made property.
New		14505		Bus sales tax.
11701	11701	14701	15901	General enforcement authority.
11702	11702	14702	15902	ICC enforcement.
11703	11703	14703	15903	Atty. Gen. enforcement.
11704				Private actions to enjoin HHG frt. forwarder cessation of service.
11705	11704	14704	15904	Rights and remedies of injured persons.
11706	11705	14705	15905	Statute of limitations.
11707	11706	14706	15906	Liability of common carriers under bills of lading.
11708		14707		Private enforcement of licensing.
11709				Liability for securities issuances.
11710	11707			Liability for misrouting.
11711		14708		HHG Arbitration program.
11712		14709		Tariff reconciliation rules (undercharges).
11901	11901	14901	16101	General civil penalties.
11902		14902		Penalties for rebates.
11902a		14905		Penalties for lumping.
11903		14903		Rate, discrim. and tariff violations.
11904		14904		Additional rate and discrim. violations.
11905				Free transp.
11906		14906		Evasion of regulation.
11907	11902			Interference with car supply.
11908				HHG Frt. Forwarder abandonment of service.
11909	11903	14907	16102	Record keeping and reporting violations.
11910	11904	14908	16103	Unlawful disclosure of info.
11911				Unlawful securities issuances.
11912				Merger—violations by noncarriers.

DISPOSITION OF INTERSTATE COMMERCE ACT PROVISIONS WITHIN TITLE 49 OF THE UNITED STATES CODE—Continued

Prior section	Part A (Rail)	Part B (Motor, Water)	Part C (Pipeline)	Subject
11913	11905	14909	16104	Disobedience to subpoenas.
11913a				Accounting principles violations.
11914	11906	14910	16105	General criminal penalties.
11915	11907	14911	16106	Corporate liability.
11916		14913		Conclusiveness of rates.
11917		14912		HHG weight-bumping.

From the Committee on Transportation and Infrastructure, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

BUD SHUSTER,
BILL CLINGER,
TOM PETRI,
HOWARD COBLE,
SUSAN MOLINARI,
NICK RAHALL,

As additional conferees from the Committee on the Judiciary, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

HENRY HYDE,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

LARRY PRESSLER,
TED STEVENS,
CONRAD BURNS,
TRENT LOTT,
KAY BAILEY HUTCHISON,
JOHN ASHCROFT,
FRITZ HOLLINGS,
DANIEL K. INOUYE,
J.J. EXON,
JAY ROCKEFELLER,
JOHN BREAUX,
Managers on the Part of the Senate.

JOURNAL

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Pursuant to clause 5 of rule I, the unfinished business is the question of the Chair's approval of the Journal of December 14, 1995.

Pursuant to clause 1, rule I, the Journal stands approved.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–147)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 1977, the "Department of the Interior and Related Agencies Appropriations Act, 1996."

This bill is unacceptable because it would unduly restrict our ability to protect America's natural resources and cultural heritage, promote the technology we need for long-term energy conservation and economic growth, and provide adequate health, educational, and other services to Native Americans.

First, the bill makes wrong-headed choices with regard to the management and preservation of some of our most precious assets. In the Tongass National Forest in Alaska, it would allow harmful clear-cutting, require the sale of timber at unsustainable levels, and dictate the use of an outdated forest plan for the next 2 fiscal years.

In the Columbia River basin in the Pacific Northwest, the bill would impede implementation of our comprehensive plan for managing public lands—the Columbia River Basin Ecosystem Management Project. It would do this by prohibiting publication of a final Environmental Impact Statement or Record of Decision and requiring the exclusion of information on fisheries and watersheds. The result: A potential return to legal gridlock on timber harvesting, grazing, mining, and other economically important activities.

And in the California desert, the bill undermines our designation of the Mojave National Preserve by cutting funding for the Preserve and shifting responsibility for its management from the National Park Service to the Bureau of Land Management. The Mojave is our newest national park and part of the 1994 California Desert Protection Act—the largest addition to our park system in the lower 48 States. It deserves our support.

Moreover, the bill would impose a misguided moratorium on future listings and critical habitat designations under the Endangered Species Act. And in the case of one endangered species, the marbled murrelet, it would eliminate the normal flexibility for both the Departments of the Interior and Agriculture to use new scientific information in managing our forests.

Second, the bill slashes funding for the Department of Energy's energy conservation programs. This is shortsighted and unwise. Investment in the technology of energy conservation is important for our Nation's long-term economic strength and environmental health. We should be doing all we can to maintain and sharpen our competitive edge, not back off.

Third, this bill fails to honor our historic obligations toward Native Americans. It provides inadequate funding for the Indian Health Service and our Indian Education programs. And the cuts targeted at key programs in the Bureau of Indian Affairs' are crippling—including programs that support child welfare; adult vocational training; law enforcement and detention services; community fire protection; and general assistance to low-income Indian individuals and families. Moreover, the bill would unfairly single out certain self-governance tribes in Washington State for punitive treatment. Specifically, it would penalize these tribes financially for using legal remedies in disputes with non-tribal owners of land within reservations.

Finally, the bill represents a dramatic departure from our commitment to support for the arts and the humanities. It cuts funding of the National Endowments for the Arts and Humanities so deeply as to jeopardize their capacity to keep providing the cultural, educational, and artistic programs that enrich America's communities large and small.

For these reasons and others my Administration has conveyed to the Congress in earlier communications, I cannot accept this bill. It does not reflect my priorities or the values of the American people. I urge the Congress to send me a bill that truly serves the interests of our Nation and our citizens.

WILLIAM J. CLINTON.
THE WHITE HOUSE, *December 18, 1995.*

The SPEAKER pro tempore. The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

MOTION OFFERED BY MR. REGULA

Mr. REGULA. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. REGULA moves to refer the veto message and bill to the Committee on Appropriations.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. REGULA] is recognized for 1 hour.

Mr. REGULA. Mr. Speaker, I yield 15 minutes to the gentleman from Wisconsin [Mr. OBEY] for purposes of debate only, and yield back 30 minutes.

☐ 1800

Mr. OBEY. Mr. Speaker, I did not understand the motion of the gentleman from Ohio [Mr. REGULA]. Is the gentleman trying to yield back half of the debate time?

Mr. REGULA. Mr. Speaker, that is correct. There will be 15 minutes on our side and 15 on the side of the gentleman from Wisconsin.

Mr. OBEY. So is the gentleman asking unanimous consent to yield back half the time?

Mr. REGULA. Mr. Speaker, I do not think we have to do that. I think I control the entire hour, and therefore, I can yield back 30 minutes and yield 15 to the gentleman from Wisconsin and retain 15 on our side.

The SPEAKER pro tempore. (Mr. HASTINGS of Washington). The gentleman from Ohio is correct; the gentleman from Ohio controls the time.

Mr. OBEY. I understand that, Mr. Speaker, but he will have 15 and we will have 15?

The SPEAKER pro tempore. That is correct.

The gentleman from Ohio [Mr. REGULA] is recognized.

GENERAL LEAVE

Mr. REGULA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the veto message of the President to the bill, H.R. 1977, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker and my colleagues, I think the President's last sentence is the one that I would quote. President Clinton said: "I urge the Congress to send me a bill that truly serves the interests of our Nation and our citizens."

Well, I want to say, Mr. President, we have already done that. For reasons that I do not quite understand, the President has chosen to not accept this bill.

I think it really boils down to this: That if you listen carefully to the veto message, it clearly says we must spend more money, more for arts, more for various other programs, and I would like to go through the veto message and point out some of the facts that are not quite accurate in this message.

Perhaps the best answer on this is the truth. It says that we need to protect America's natural resources—well, the bill, 1977, does that very well—our cultural heritage, and promote the technology we need for long-term energy conservation and economic growth.

I would point out that this bill provides 80 percent more money than we did in 1988 for energy conservation. A lot of this is corporate welfare, the very thing the President is opposed to, and yet here he is vetoing a bill on the strength of what we are saying to the private sector that many of these programs should be funded.

The President mentions other services to Native Americans. I would point out that in our negotiations with the White House, we put $27 million more, more than they requested. Here he is vetoing this on the basis that there is not enough for the Native American programs. Then we see about clear-cutting in the Tongass National Forest. I have looked at the bill and I do not find the words "clear-cutting." I do not know where that idea came from. Apparently we had an imaginative veto message-writer.

Then: Require the sale of timber at an unsustainable level. Again, there is no detail. Dictate the use of an outdated forest plan for the next 2 fiscal years.

Let me point out that our bill reduces the cut as provided in that forest plan from 450 million board-feet to about 420 million board-feet, and actually, we only put in enough money for 320 million board-feet in fiscal year 1996. The Columbia River Basin was designed to move forward so that people in that area would know what was going to happen in terms of land-use planning, and I think it is only fair that they have that opportunity.

The California Desert is mentioned in here. Well, under the present program operated by the Park Service, we had 38 big horn sheep that died as a result of mismanagement. All we said to the Park Service in the bill is, give us a plan. We put the money in for the plan. We say, in the meantime, let BLM operate it. They have been doing it very well; we did not have 38 big horn sheep dying when BLM was in charge.

So Park Service, come out with a plan and we will be glad to look at it and see if we can put it in the right place.

Then we talk about the Endangered Species Act. Let me point out that the Endangered Species Act has not been authorized, and that has been true for the last couple of years. When the present minority was the majority, they did not choose to reauthorize the Endangered Species Act, and under the Rules of the House, we cannot appropriate for bills that are not authorized.

This is the reason. We put the money there subject to an authorization. So I think it is incumbent on the Members of this House to get an authorization bill, and if so, the money is there to manage the endangered species.

I mentioned the energy conservation program, 80 percent more than in 1988, a very large growth over the last several years. We finally took a look because we want to manage these programs better to see what works and what does not and what should be done in the private sector, and we found that, clearly, many of these programs should have a responsibility in the private sector.

Then we talked about historic obligations toward Native Americans with $27 million over what the negotiators requested. I would point out that Indian health services are ahead, more than last year. In every instance, we have attempted to put in responsible amounts for the various programs.

To veto this bill on the basis of we just do not spend enough money, that is the essence of the message, I think clearly that is not what the American people want as far as more spending.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, I am absolutely incredulous that after all of the effort the gentleman from Ohio has undertaken with all of the members of the subcommittee and all of the members of the Committee on Appropriations and all of the Members of this House, to undertake this bill and carefully craft it in conjunction with the Senate, put it through three times in the House of Representatives, because the Senate had trouble, and we had difficulty making sure that there was a compromise between the Western States and the environmentalists and those concerned about Native Americans, that after all of this difficulty, the President sees fit to veto the bill, from what I can understand, for totally specious reasons.

I have heard the veto message, and the President is constitutionally capable of vetoing this bill; and because of this message, we will send it back to committee. But I cannot assure the President that he is going to get a bill that is any better than the one that left this House. In fact, I dare say it could be worse, because as I understand the gentleman's comments, we have given more money than he even asked for for Native Americans, and yet he says it was not enough.

We have tackled the Tongass Forest timber cut, and answered many of his problems, as pointed out by the gentleman from New York [Mr. BOEHLERT], the last time the bill came through.

In the energy conservation effort, there is more money in it than there was in 1988, as the gentleman pointed out. That is corporate welfare. I happen to believe that that is wasted money, it is corporate pork, but it is the President's priorities. We put the money in for the President.

Now, he has vetoed this bill, for Lord knows what reason, and we are going to have to send it back; and evidently, the President is content to tell the 133,000 people who work for the Interior Department or work under the jurisdiction of this bill, have a good Christmas, but do not worry about going to work, because I don't care. I live in the White House, and I am going to a very nice Christmas with my family.

I just have to say that I am indeed incredulous. I think that this is a miserable way to govern, and I hope that the American people understand. We put a good, decent, well-organized, welcome, promised bill on the table, on the desk of the President of the United States, and he chose to veto it for specious reasons and put all of these people out of work.

I thank the gentleman for yielding to me.

Mr. REGULA. Mr. Speaker, I thank the gentleman for his contribution. He is absolutely right. As we see visitors being turned away from national parks, from the Smithsonian, from the National Gallery, what in fact the President is doing is holding the American people hostage for his own political purposes. The people who pay for these facilities, the people who enjoy these national treasures are being denied access simply because the President hopes to gain some political advantage.

It is clear that if you look at the numbers, we have responded to these programs as effectively as possible, given the budget and numbers, and this message is, loud and clear, just spend more money, do not worry about whether it is managed well. The answer to all of the problems is simply to pile on the debt for future generations, spend it today, let them pay for it tomorrow.

We vote here with a voting card; as I have said to people, it is the world's greatest credit card because we vote now and we send the bill to future generations. This is a classic example of doing that.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, I think we ought to make very clear what is happening here tonight. Last week the Congress adjourned without passing the continuing resolution that would have kept the Government open, and if you took a look at what happened around this town over the weekend, you saw that both the Republicans and the Democrats in the Senate stayed in town and talked with each other about the budget. You saw the House Democrats stay in town and in fact we were in meetings for some 11 hours over the weekend, trying to find ways that we can help resolve the problem.

However, my understanding is that our good friends on the Republican side of the aisle in the House were told they could leave town: There would be no votes until late Monday. That is fact No. 1.

Fact No. 2 is that because there is no continuing resolution now in effect, you do have significant portions of the Government shut down. Now, what is going on is that evidently the Republican message team in their caucus has decided that there ought to be 15 minutes or half an hour debate on this bill on the next bill so that people can play pin the tail on the President in terms of having another cat-and-dog fight about who is to blame for the shutdown of Government. That is what is going on. So we have an artificial debate here that we do not even need to have.

Under normal processes, this bill would simply be referred to the committee with no debate and no vote, unless the majority party decided they wanted to try to override the veto. So what is going on here is another one of those little debates that further, I think, discredits the Congress in the eyes of the American people; and I think that is regrettable, but since we are here, I have no choice but to try to expose what is going on.

Now, what is happening, and what you will hear for the next 20 minutes is, our Republican friends will be trying to tell the country, through the TV cameras focused here on this floor, that somehow the President is to blame for the shutdown of Government, even though the reason the Government is shut down is because they would not allow a continuing resolution to come to the floor to keep it open. So they are trying to shift attention from their lack of performance on the CR to this bill.

The President had every right to veto this bill. He told the Congress ahead of time if they sent it to him in this form, he would veto the bill. He gave them forewarning of that. In his veto message he points out that, among other things, his reason for doing so is because what this bill does for clear-cutting in the Tongass. That is an important policy issue.

We do not just serve as accountants in the Congress, believe it or not. We and the President also have to make an occasional decision, believe it or not, on policy; and the President chose to stand on principle and veto this bill for, among other reasons, because of what it does to clear-cutting in the Tongass.

I am not going to debate that here tonight because there is no reason for us to debate that. What we should be doing tonight, rather than having a meaningless half-hour debate on this vote, is simply passing a continuing resolution so that people who work for the Government for a living can do their jobs.

That is what we should be doing. But instead, we will get this sham debate which substitutes a motion for movement. It is not going to do anybody any good.

I would simply make one additional point. The reason we are stuck here tonight is because the policy arguments that are going to be worked out after the President's veto should have been worked out 4 months ago. However, because the majority party felt that they had to first pass their contract items, and then because they chose to load up the Interior bill and the HUD bill with a bunch of extraneous measures that had no business in an appropriation bill, we spent the last 4 months in a debate between Republicans in the House and Republicans in the Senate on a lot of these policy matters.

☐ 1815

The Interior bill was brought down a number of times because people on both sides of the aisle said that it was not the right bill to present to the President.

All I will say tonight, and I would prefer that we not be saying anything at all, because as I said, this is a meaningless debate on a bill that is going nowhere except to committee.

What ought to happen tonight is that instead of having this meaninglessss "who shot John" debate, we should simply have a motion on this floor to pass a continuing resolution to keep the Government open while these differences between the President and the Congress are resolved. That is the rational thing to do. It is the nonpolitical thing to do. But evidently we are not going to do it.

About the only other thing I can see that would make any sense in the Christmas season is at this point to take up a collection in the House so that we could buy a toy train for the folks who are running the House these days, because they certainly cannot run a real one.

Mr. REGULA. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. NETHERCUTT], a member of the subcommittee.

Mr. NETHERCUTT. Mr. Speaker, I was interested to listen to the previous speaker's comments about not wanting to have this debate or not needing to have this discussion tonight. But to the contrary, as a freshman member of this subcommittee I can certainly attest to the hard work that was engaged in to try to reach a reasonable compromise on this massive Interior bill that has to deal with the Nation's public lands. What has to be said here is that after a great deal of debate and discussion and grave consideration given to the good and the bad of this bill, we came to the President with a darn good bill.

And talk about pinning the tail on the donkey, I think precisely where the tail needs to be pinned is downtown. The President vetoed a very good bill for some specious reasons, in my judgement, not the least of which was one affecting my area of the country, the eastern side of the State of Washington in the Pacific Northwest.

The East Side Ecosystem Management Study was a reason that the President identified as part of the veto message. This astounds me, simply becuase this is a study that the taxpayers have paid $24 million on and really have not seen any reports of its results or any scientific findings that are to be presented.

What we did, in the analysis of the subcommittee and the full committee, in the House as well as the Senate, was to say to the Bureau of Land Management and the Forest Service, give us your science, let us see what we spent $24 million on in this Congress. We have even given them another $4 million to give more time for public input and more publication of the scientific findings.

So for the President to stoop as low as he did in using a study as the reason for a veto is astounding. I think it emphasizes the fact that this bill should not have been vetoed, it should not have been vetoed for this reason, and it was an improper act on the part of the President.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. I thank the gentleman for yielding me the time.

Mr. Speaker, why are we here talking about this December 18? We finally sent a conference report to the President on this bill 2½ months late. Why was it 2½ months late? Because the folks on this side of the aisle insisted in jamming all manner of ill-considered and ill-conceived policy matters into this bill.

That is one reason we need a continuing resolution, because of the delay and the delay and the delay in getting the work of this place done on time, because they could not reach agreement between the right wing and the extreme right wing within the Republican conference on many of these policy issues. That is why a bunch of the appropriations bills are not done.

We need a continuing resolution. Why do we not have a continuing resolution? Because of the illogic over here in saying to the President of the United States, even though our homework is late, we want extra credit. We are insisting on concessions on other things even though it is our fault for not having gotten our work done on time.

How in the world does that make any sense to the American people? It makes none.

The responsibility for being in the fix that we are now in, with this bill being vetoed and with no continuing resolution, relates entirely to the misguided policies of trying to jam extraneous policy matters into these appropriation bills, not getting them done on time and then saying, "Not our fault, and besides, we would like some additional concessions, Mr. President, if you please."

Let us get back to what really needs to be done here, which is getting this Government open, acknowledging responsibility, being accountable for not having run the House of Representatives responsibly as the majority party is supposed to be doing.

Mr. REGULA. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. I appreciate my colleague yielding me the time.

Mr. Speaker, I wanted to mention that in the statement by my colleague from Ohio, he mentioned the East Mojave as one of the reasons the President outlined for vetoing this bill. The work done on the East Mojave was a reflection of many of the major efforts made by my colleague from Ohio. He went out of his way to try to find compromise wherever possible to see if we could not put this bill in a form that would make sense. Obviously the President's people have not given him solid information regarding what is going on in that area. Instead of harming the environment, my chairman's compromise is attempting to solve the problems that have been created by the Park Service mismanagement of the area.

Let me make that point very clear. The House had created a scenic area, not a park. The House in turn had directed the Park Service to live with longstanding multiple use of the area. Instead, they began putting up no trespass signs. Instead, they began excluding families from the area. In the process, their mismanagement led to the death of 38 bighorn sheep. They died as a result of mismanagement and a lack of a plan.

The gentleman created the opportunity for a plan by providing money for that planning process. The gentleman responded to the President's people in developing that plan. And the President was led to believe that something else was the case.

The chairman has done a very fine job, deserves support and recognition from the President, not a slap in the face by way of a veto pen.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the ranking member for yielding me the time, and agree with him that obviously our friends on the right are trying to play pin the tail and they are hopeful that it hits the occupant of the White House.

We have heard about Corrections Day. This is nonsense day. I have not heard much, during the numerous times of debate on this legislation, about a new effort in America called AmeriCorps. I want to spend my remaining time addressing the House on AmeriCorps.

AmeriCorps, as many Members know, is patterned after the old wildly successful CCC camps. There are 1,200 AmeriCorps camps in the United States with thousands of young people. They are involved in helping the Red Cross and Boys' Club, and this bill kills it.

There are thousands of young people in the United States working on AmeriCorps, building homes for the homeless under Habitat for Humanity, and this bill kills it. There are thousands of young people working in our parks and our playgrounds and our forests and our streets and our nursing homes, and this bill kills it.

What did Speaker GINGRICH say about the participants, the young Americans who participate in AmeriCorps? He said, "They become not only useless, they become dangerous."

And he is not the only one on the far right, among our friends on the far right, who do not know what is right about AmeriCorps.

Some say the cost of AmeriCorps is $30,000 per client, per corpsman. That is not right. They are paid a minimum wage, and then they are given a $4,700 scholarship. That does not come to anywhere near $30,000.

So this bill and/or the other bill that is going to be before us tonight kill AmeriCorps, and I encourage my colleagues to vote against this and the other, for that and other reasons.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, why did this bill arrive on the President's desk 75 days late? It arrived there because it became the playground of special interest groups while it was still on Capitol Hill.

The longest-running taxpayer ripoff in the history of the United States is the Mining Act of 1872. It allows companies, in many cases foreign companies, to mine taxpayer-owned land in the United States and not to pay the taxpayers adequately for that. So we have been engaged in a battle for a long time with those special interest groups.

Unfortunately for my colleagues on the Republican side of the aisle, many of them, most of them, supported the mining interests, wanted to keep this ancient law on the books, this law that gave a windfall to so many companies. So this bill was dragged down time after time after time when these special interest groups kept running into resistance on Capitol Hill.

The next thing you know, the committee failed to meet its deadline of October 1, then they failed to meet a November 1 deadline, then they failed to meet a December 1 deadline. And finally, finally, finally in the middle of December, they submitted their bill to the President.

Part of it was right. They finally got part of this Mining Act of 1872 provision correctly, but there are other parts that were not right. Unfortunately, this bill turned out to be an environmental disaster when it was sent to President Clinton.

I am sorry to say that, too, because the gentleman from Ohio, who is a friend of mine, is a moderate person on his record on the environment. In fact, he has been very good on many of his votes, in fact occasionally very, very good in his votes.

But he is an endangered species, just like those addressed in the bill, a moderate Republican committed to the environment. He has labored long and hard to fight off the worst of the environmental provisions in this bill, but unfortunately for my colleague from Ohio, he just could not keep all of the bad provisions out, and forced a veto by President Clinton for good reason.

The American people want change in this Government but they want us to protect our natural resources. We only get one crack at it when it comes to national parks, when it comes to species and plant life in this country. It is something the American people expect us to do right. When the special interests railroad through a bill and put in these awful provisions, the President was right to veto it.

Having said that, though, this veto has nothing to do with shutting down the Government. The Republicans understand, we all understand, a simple temporary spending bill called a continuing resolution could keep this department, every department that is touched by this bill and all the other departments that have been closed in business.

But my friends on the Republican side of the aisle do not want that to happen. This Christmas gift to 200,000 Federal employees is no temporary spending bill, send them home without pay, with the promise that maybe they will get paid at some future date.

Well, tonight they are trying to blame President Clinton for that. They should not. They ought to blame the special interests for dragging this bill down and making it 75 days late. They ought to blame their own leadership for failing to pass a continuing resolution which would keep the Government in business.

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Mr. OBEY. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, I have known the gentleman from Ohio a good long time and the gentleman from California a good long time, and they are both fine legislators and they are both tough adversaries. I know that especially on the bill which will come up next that we have had some very tough issues and some very heated words exchanged on the floor and in committee between various Members in the House.

Having said that, I know full well that if these bills had been left to the judgment of the gentleman from Ohio and the gentleman from California without extraneous political pressures intervening, that both of them would probably by now have become law, and I think that both bills would have been in better shape by far than the bills which the President was forced to veto.

None of us can do anything about the circumstances in which these bills are being debated. But I do simply want to take this time to say that after we discuss all of these bills tonight, after we discuss this bill and the VA-HUD bill which is coming next, and the vetoes of both of them, there is remaining one action which we could take which would do something real to open the Government tonight. That would simply be to pass House Joint Resolution 131, which is at the desk, which is introduced by the gentleman from Missouri [Mr. GEPHARDT], myself, and the gentleman from Pennsylvania [Mr. MURTHA], which would simply keep the Government open from now until January 26, so that we could, in fact, resolve the many differences which remain between the White House and the Congress on these bills and many others. As you know, the majority leader in the Senate even indicated at one point his preference for a longer continuing resolution than that. I happen to think he was right when he said that.

What we have now is the miserable spectacle of a series of 2- and 3-day CR's, intermittent Government shutdowns, all for the purpose apparently of the leadership of the this House gaining some leverage in the other discussions going on over the budget. I think that is illegitimate.

The reason the Government is shut down has nothing whatsoever to do with the budget discussions about 7-year budget figures going on in other places in this building. The reason the Government is shut down is simply because the appropriation bills did not work their way through Congress in a timely fashion and, when they did, they were burdened with special-interest provisions which required the President to veto them, and in several cases were burdened with reductions so savage that, in fact, in the other body they would not even take them up.

So I would simply say that despite all of the hyperbole we will hear tonight, if we want to do something constructive for the people we represent after that debate is finished, we will see something similar to House Joint Resolution 131 brought out so that Government can stay open while we resolve our differences. That is the rational thing to do.

Mr. REGULA. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker and my colleagues, just to keep the record straight, we do not deal with mining reform in this bill. We put in, as requested by the administration, a moratorium on the issuance of patents, and this puts a hold on any new giveaways until such time as the authorizing committees deal with the mining.

Let me also point out that we are up over last year on parks, on the Smithsonian, the things that the public enjoys. We make sure they have access to them, that they have an opportunity to use those, the National Gallery and the forests and fish and wildlife, recreation facilities.

We really divided this bill into three categories: The must-do's, the need-to-do's, and the nice-to-do's, and some of the nice-to-do's had to fall out. Why? Because we want to reduce the deficits. It is that simple.

In this bill we are $1.4 billion less than in 1995 in budget authority. We are $600 million less in spending, in actual outlays, in fiscal 1996. It was tough, frankly, and the President is saying, "Hey you are not spending enough money." But I do not think it is fair to the young people, to future generations, to borrow money and saddle them with paying for all of the nice-to-do's. Energy conservation, where you fund programs for private companies, maybe it is nice to do. But should we be borrowing the money to pay for these? I do not think so.

I think what the President is saying is his veto message is very simple: "You are not spending enough money." But I believe that the American voters said in 1994, in November, "We want less spending. We want the budget balanced. We want the deficit reduced. We do not want to saddle future generations with our bills." It is that simple.

I have to agree with them. I do not think we should saddle future generations. We took a hard look at every program and said, "How can we manage this a little more effectively?"

The Committee on Appropriations are the managers of Government. They determine how much money should be expended on various programs, and we said these are nice to do but they are not a value that makes it a good policy to borrow money to pay for them, and certainly I think that we did a responsible job.

I regret that the President did not carefully examine the bill, for example, saying that it provides clear-cutting in the Tongass. Totally wrong. There is not a word about clear-cutting in the Tongass. We reduced the cut, as a matter of fact, from the present level, and I regret that the veto message does not more accurately portray the real facts of this bill and that the American people are denied the benefits.

I would say to my colleagues, vote "yes" on the motion to refer this to the committee.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. REGULA].

The motion was agreed to.

A motion to reconsider was laid on the table.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1996—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104-148)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 2099, the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996."

H.R. 2099 would threaten public health and the environment, end programs that are helping communities help themselves, close the door on college for thousands of young people, and leave veterans seeking medical care with fewer treatment options.

The bill includes no funds for the highly successful National Service program. If such funding were eliminated, the bill would cost nearly 50,000 young Americans the opportunity to help their community, through AmeriCorps, to address vital local needs such as health care, crime prevention, and education while earning a monetary award to help them pursue additional education or training. I will not sign any version of this appropriations bill that does not restore funds for this vital program.

This bill includes a 22 percent cut in requested funding for the Environmental Protection Agency (EPA), including a 25 percent cut in enforcement that would cripple EPA efforts to enforce law against polluters. Particularly objectionable are the bill's 25 percent cut in Superfund, which would continue to expose hundreds of thousands of citizens to dangerous chemicals and cuts, which would hamper efforts to train workers in hazardous waste cleanup.

In addition to severe funding cuts for EPA, the bill also includes legislative riders that were tacked onto the bill without any hearings or adequate public input, including one that would prevent EPA from exercising its authority under the Clean Water Act to prevent wetlands losses.

I am concerned about the bill's $762 million reduction to my request for funds that would go directly to States and needy cities for clear water and drinking water needs, such as assistance to clean up Boston Harbor. I also object to cuts the Congress has made in environmental technology, the climate change action plan, and other environmental programs.

The bill would reduce funding for the Council for Environmental Quality by more than half. Such a reduction would severely hamper the Council's ability to provide me with advice on environmental policy and carry out its responsibilities under the National Environmental Policy Act.

The bill provides no new funding for the Community Development Financial Institutions program, an important initiative for bringing credit and growth to communities long left behind.

While the bill provides spending authority for several important initiatives of the Department of Housing and Urban Development (HUD), including Community Development Block Grants, homeless assistance and the sale of HUD-owned properties, it lacks funding for others. For example, the bill provides no funds to support economic development initiatives; it has insufficient funds for incremental rental vouchers; and it cuts nearly in half my request for tearing down the most severely distressed housing projects. Also, the bill contains harmful riders that would transfer HUD's Fair Housing activities to the Justice Department and eliminate Federal preferences in the section 8, tenant-based program.

The bill provides less than I requested for the medical care of this Nation's veterans. It includes significant restrictions on funding for the Secretary of Veterans Affairs that appear designed to impede him from carrying out his duties as an advocate for veterans. Further, the bill does not provide necessary funding for VA hospital construction.

For these reasons and others my Administration has conveyed to the Congress in earlier communications, I cannot accept this bill. This bill does not reflect the values that Americans hold dear. I urge the Congress to send me an appropriations bill for these important priorities that truly serves the American people.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *December 18, 1995.*

The SPEAKER pro tempore. The objections of the President will be spread at large upon the Journal, and the veto message and the bill will be printed as a House document.

MOTION OFFERED BY MR. LEWIS OF CALIFORNIA

Mr. LEWIS of California. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LEWIS of California moves that the message, together with the accompanying bill, be referred to the Committee on Appropriations.

The SPEAKER pro tempore. The gentleman from California [Mr. LEWIS] is recognized for 1 hour.

Mr. LEWIS of California. Mr. Speaker, I yield 15 minutes to the gentleman from Ohio [Mr. STOKES] for the purposes of debate only, and yield back 30 minutes.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I regret that the committee finds itself at this point in receipt of the President's veto of this very important measure. It clearly reflects a considerable disservice to the President on the part of his staff, who obviously have misinformed him regarding the work of the conference committee that presented this bill and sent it to the President's desk.

It is very apparent that they have not been straightforward regarding the variety and mix of the efforts the committee went through. The conference met on November 16 of this year. In the midst of that conference, we met with the President's representative, Mr. Panetta of California. During that discussion, Mr. Panetta indicated to the conferees that the President was likely to veto this bill unless the bill had $2 billion to $2.5 billion more in allocation. So it was apparent that the President does not like the allocation that this committee received.

Presuming that there was no additional money available to the committee, it was clear that we would not be able to meet all of the President's targets as we allocated the money that was available to us. The President's representative indicated to the members of the conference that he really believed it was likely that $2 billion or more would be forthcoming from somewhere. The implication was that that money would come from a reallocation of what Mr. Panetta kind of assumed would be a veto of the defense measure. As we all know, the defense bill became law, and that appropriations availability did not come to our subcommittee.

So there was nowhere to move in terms of many of the areas the President is concerned about. At that point in time, over a month ago, we said to Mr. Panetta and anybody else who would listen, "Please, tell us what you would do from your perspective with these allocations to make this bill better. Please, help the President come to the desk or come to the table and talk with us about these very important programs."

First, I think it is important for us all to revisit one more time: This bill represents in excess of $80 billion of expenditure, important programs that involve areas such as VA medical care, significant programs like EPA, all of the country's housing programs.

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They also provide the funds for NASA and those programs the President is concerned about that relate to our international partnership with the Russians and others as we explore space, for example, very difficult and competitive allocations.

We urged the President's people to come to the table. He suggests that one of the problems with this bill is that there is not adequate funding, and, indeed there is no funding, for the national service programs, namely AmeriCorps. That program under the President's proposal would increase by some 300 percent over 3 years, and yet the program has had no evaluation to this point. Clearly, programs that work well deserve support. Programs that have not been evaluated at least ought to be evaluated before their funding is expanded.

It would appear that much of the President's objection to this bill involves his desire to expand the funding for the Environmental Protection Agency. If that is the case, we are willing to listen to the President's case. We simply ask him to come to the table. We have only got so much money to go around in this bill. If we are to shift money as we send it back to conference, to EPA, where does it come from? Would the President suggest it should come from veterans' medical care? If so, let the President step up to the table and say so. Money is not going to suddenly appear from nowhere.

It is also very apparent that the President has been misled relative to what this bill contains as it relates to EPA and EPA legislation. Literally we have stripped from this bill most of the serious contentions that flowed around riders as the bill left the House. There are four pieces of legislative language in the bill; three of them involve language that has been in a bill in the past that has been acceptable to the administration. It is very clear that the President is really objecting to this bill because there is not enough money here. As my colleague from Ohio said in the previous bill, the President seems to want to go forward with business as usual. He actually believes that we can tap the till, spend money we do not have, and go on blithely forward suggesting that future generations will pick up the tab when it is their turn.

Mr. President, this is the bill that begins the point where we move toward balancing the budget in a 7-year period. You have made that commitment. No other bill has more discretionary spending that can be impacted in a way that makes sense for the American public and the American taxpayer. We are asking you, Mr. President, to reevaluate this, come to the bargaining table, tell us what your priorities are, and we are more than willing to work with you. I must say the time frame is very narrow and the window for cooperation is closing quickly. Mr. President, we are looking for your leadership. We would hope that your people would move away from the rhetoric and come to the table and bargain in good faith.

Mr. Speaker, I reserve the balance of my time.

Mr. STOKES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when this bill was on the floor approximately a week or 10 days ago, we said to the House at that time that it was the intention of the President to veto this bill. At that time I enumerated the various reasons that the President has specified as to why he would veto this bill, and this morning when the President vetoed this bill, he enunciated many of the very same reasons that I had stated when I told the House that this bill was going to be vetoed.

It is true that allocation is a very real part of the reason that the President has vetoed this bill, and the fact that sufficient money has not been prioritized and put into those areas of the bill that the President is particularly concerned about in terms of his own priorities for the American people.

But all of the rationale for his vetoing this legislation cannot be attributed to the allocation alone. I think it is very important for us to take just a few moments to understand what the President has said with reference to his reasons for vetoing the bill.

In his message he said, "The Republican Congress has shut down the Federal Government because they have not passed a budget for this year and because they want to make the price of opening the Government up my acceptance of 7 long years of unacceptable cuts in health care, education, and the environment; in research and technology, cuts that are not necessary to balancing the budget, and would have an adverse effect on our way of life and on the strength of our economy."

He said further, "It is wrong for the Congress to shut the Government down just to make a political point the week before Christmas. It is unfair to the American people and unfair to the public employees." The President said, "This is a season of peace and it should be a season of cooperation, not rancor or threats. The Congress should reopen the Government." He is ready to work with them to balance the budget in a way that reflects our values, and that is consistent with the resolution to which we both agreed when the Government was reopened a few weeks ago.

He says in his veto message, "I say again when I said a few weeks ago I would work with the Congress to balance the budget in 7 years, that the Congress commit to a budget that protects the environment. These bills I veto today I do so because they do not meet that test. For 25 years leaders of both parties have recognized that our party is stronger when we control pollution and protect public health. Environmental protection is not, or at least it never has been until now, a partisan issue. It is an American issue. It is an American issue outside Washington. The Republicans in this Congress have attempted to roll back decades of bipartisan environmental protection." The President said "It is wrong, and I cannot permit it to happen."

He said, "They have sent me legislation that would give our children less clean drinking water." He doesn't say anything about money there. He says "legislation that would give our children less clean drinking water, less safe food, dirtier air. If I sign these bills, I would be condemning more than 10 million children under the age of 12 to living near toxic waste sites that might not be cleaned up for years. Therefore, in the interests of our children, I am vetoing these measures, because they would cripple these kinds of environmental protections."

The President goes on and cites many other substantive reasons why he has vetoed this legislation, so I do not think it is fair to castigate the reasons for the veto here by referring to the allocation alone as being the principal reason for the vetoes.

The President has some very substantial reasons, those of which I have enumerated here. I think that it is important for the House to understand that we could have avoided this veto by forcing the subcommittee to take the kind of action the President has requested that they take so he would not have had to veto this legislation. Now that he has had to veto it, pursuant to that, I think we have to accept the fact that it is important for us to commit this bill back to the appropriations subcommittee and alter the bill in such a way that it can go to the President for his signature.

Mr. Speaker, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Speaker, I am happy to yield such time as he may consume to the gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rose a little while ago with an air of incredulity that the President vetoed the Interior bill, and now I have to echo that incredulity. I am just astounded that the President chose to veto this bill, because, as I understand the gentleman's statement, the President did not engage the gentleman or any of the members of the subcommittee to any substantive degree about the details of this bill.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, the gentleman is absolutely correct. I was astonished to have a personal conversation with the President's representative, Mr. Panetta from California. I talked to him on the phone about the details of this bill several weeks ago. It was very apparent that he and/or the President had not addressed the details; that Mr. Panetta came to our conference meeting and it was apparent they were looking for another $2 or $3 billion for this bill to come out of nowhere.

That money was not forthcoming. The President clearly has either not had a chance to come to the table or has been misled by his advisers.

Mr. LIVINGSTON. Mr. Speaker, reclaiming my time, the President's position through apparently Mr. Panetta, his chief of staff, is that there is not enough money for this bill. I would like to carry that forward. We have been through the budget allocation process.

We have assessed what it will take for the discretionary budget to meet the targets so that we can hit that balanced budget by the year 2002.

Mr. LEWIS of California. That is correct?

Mr. LIVINGSTON. The President has signed on to the principles of a balanced budget by the year 2002 as recently as 6 weeks ago and signed that continuing resolution, which said that he approved of a balanced budget target by the year 2002, scored by the Congressional Budget Office. Just tonight, we saw an overwhelming vote from Republicans and Democrats alike, 351 Members out of 435 voted overwhelmingly to ask the President to live up to his commitment to that balanced budget by the year 2002.

This is the first step. This bill makes the most major contribution to that balanced budget. Without this bill, one cannot get there, is that right?

Mr. LEWIS of California. Mr. Speaker, if the gentleman will continue to yield, the chairman is exactly on target. The fact is that this is one of the major pools of discretionary money. The entire bill involves some $80 billion of spending, over $60 billion of it discretionary. We are never going to get to a pathway of 2002 and balancing the budget unless we restrain spending within that discretionary pool. The President's people know that. It is a shame they have not given the President the opportunity to evaluate what that means in terms of a balanced budget.

Mr. LIVINGSTON. Mr. Speaker, the President is in effect saying "I am for a balanced budget by the year 2002," and I love his use of the word "values," he uses that a lot, "but the Congress has to live up to my values," whatever those are.

But the point is that the President is saying, "I am for a balanced budget, but do not make any cuts, and if you do make any cuts, I do not like that one, and I do not like that one, and I do not like that one, but I am for a balanced budget."

Now, what in effect he is saying is he is for the status quo. He is a stalwart of the status quo. He is for trying to keep the bureaucracy in place. He is for keeping all of the spending that was assessed by the last Congress, the Democrat Congress, in place, locked in, with duplication, inefficiency, heavy spending, heavy taxes that he imposed on the American people 2 years ago. He really does not want any change. Am I wrong?

Mr. LEWIS of California. Mr. Speaker, if the gentleman will continue to yield, I would say to the chairman, I must say that I believe that if some of us could ever get in a room and sit down and talk to the President about the details of a bill like this and show him the importance of impacting this discretionary spending if we are going to balance the budget, that we could get him to respond.

I know he is very busy and has lots to do, but we are now at the point where the rubber meets the road. We are either going to balance the budget or not. This bill is critical to that, and the President has yet to come to the floor.

Mr. LIVINGSTON. Mr. Speaker, if I recall correctly, the gentleman has protected veterans benefits beyond what they were last year.

Mr. LEWIS of California. The gentleman is exactly right. The veterans medical care programs, the one account that is higher in 1995 in this bill by some $400 million, now, that raises the critical point: If the President wants us within our allocation to increase the Environmental Protection Agency, for example, where would one take the money? Perhaps he would suggest VA medical care. But please come to the table and show us your priorities. It is impossible for us to change this bill without some reasonable input.

Mr. LIVINGSTON. Of course, the President says he does not want to take it out of NASA.

Mr. LEWIS of California. He does not want to take it out of NASA. I am sure he does not want to cut VA medical care. Where do we take the money?

Mr. LIVINGSTON. That is the critical question. Unfortunately, I think where we are is that the President simply has not come to the table to tell us where he would take it from.

Mr. LEWIS of California. Mr. Speaker, if the gentleman will continue to yield, let me just say, a number of the agency heads have been extremely forthcoming. Henry Cisneros, in the housing program, has worked closely with us. Dan Goldin in NASA has been very helpful. We have heard little from EPA. For example, everybody knows that the Superfund is broken and we are spending billions of dollars over years in Superfund getting almost no results. Yet we have not heard a thing from the Secretary regarding the way she would fix the Superfund.

It is time for the President's people to be serious about governing and come to the table.

Mr. LIVINGSTON. Mr. Speaker, I know that the gentleman does not have energy conservation in this bill, but I have to say that I was interested that one of the reasons for his vetoing the Interior bill was because it did not provide enough of what he thought were key energy conservation projects, that is, corporate welfare or pork projects for big corporations to provide energy saving initiatives that have not worked for the last 20 years, and at the same time his Energy Secretary flies around the world with an entourage of as many as 150 people, wasting taxpayers dollars. It is all illustrative of a point that comes home to me in watching this process at any rate from fairly up close, that the President is not serious about negotiating. He is only serious about rhetoric.

□ 1900

Mr. LEWIS of California. Mr. Speaker, I would say to the gentleman that it is very important that we get the Government back to work. We need the President at the table. We are willing to work with him, and I certainly hope this discussion helps with that.

Mr. LIVINGSTON. Mr. Speaker, I want to congratulate the gentleman for working very hard. In fact, this was a very difficult bill. This bill was not easy to pass, as the gentleman well knows. We had differences with the Senate. We have had differences among ourselves, Republicans and Democrats, conservatives and liberals, and the gentleman worked hard to get this bill in such a form as to meet all of the concerns of Members of Congress, or at least most of the concerns, so that we got a majority in both Houses.

And then the President vetoes this bill without putting his own input into the confection of the bill. It is just astounding to me.

Mr. Speaker, I thank the gentleman for yielding to me.

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman and I reserve the balance of my time.

Mr. STOKES. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY], the distinguished ranking minority member of the full Committee on Appropriations.

Mr. OBEY. Mr. Speaker, I have said on more than one occasion that the worst mistakes one can make in this town is to believe one's own baloney. I hope that the two friends of mine who just spoke do not believe their own baloney because it is baloney.

The fact is the President made very clear that he would oppose this bill because it did not meet his standards in terms of a balance in funding, and it also did not meet his standards in terms of keeping special interest provisions off the bill.

The President made clear that he was not going to accept a 22-percent reduction in funding for environmental protection and he made very clear that what he wanted was a different allocation between the subcommittees so that we can, in fact, fulfill the commitment that all of us signed on to when we supported the last continuing resolution.

Despite all of the talk today by Members of the majority party about a balanced budget in 7 years, that talk reminds me of Ronald Reagan in the old movie "King's Row." After Reagan woke up in the hospital, his legs had been amputated, and he said, where is the rest of me? My question is where is the rest of my colleagues? They are talking about the need for a balanced budget in 7 years, but they are forgetting that the other half of the deal was that Congress would agree that that balanced budget must protect future generations, it must ensure Medicare solvency, reform welfare and provide adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment.

I do not know which dictionary my colleagues use most of the time, but I would doubt that anybody's dictionary would allow one to conclude that we have adequately protected the environment by cutting back by 22 percent the funding that we are providing in this bill for environmental protection.

Now, Members can say all they want about veterans health care, but the fact is that veterans health care is funded at a level $213 million below the amount in the original House bill, and that House bill was brought to us by the Republican majority; and yet they had $1,500,000,000 more to deal with in the conference than they had in the original House bill.

It just seems to me that on its face those numbers demonstrate that the majority party is not meeting the commitment it signed on to when it passed the continuing resolution. That is why the President is vetoing the bill and that is why he should have vetoed the bill.

Mr. LEWIS of California. Mr. Speaker, I have no additional requests for time and I reserve the right to close.

Mr. STOKES. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank our distinguished ranking member for giving me this time and for his leadership on the committee.

I rise today to talk about why we are where we are today. Many of my colleagues know by now that there are three bills in play, the balanced budget bill that we have been talking about for over a period of time, the continuing resolution, and the appropriations bill.

We also know that we would not be here today if we had come to agreement on our appropriations bill. That disagreement has necessitated a continuing resolution. Our Republican colleagues have tied the balanced budget bill to the continuing resolution, and that is why we are here. But if we had our work done, if we had come to agreement on the appropriations bill, there would be no need for a CR. We could debate the values of a balanced budget bill without the pressures of all of these other legislative tactics.

The distinguished gentleman from Louisiana, and I am sorry he is not here right now, the chairman of the Committee on Appropriations said in his colloquy with the distinguished chairman of the subcommittee, the gentleman from California [Mr. LEWIS], that the President did not agree with our budget because it does not agree with his values, whatever they are. Well, the gentleman is distinguished, and I know in the heat of the discussion sometimes an impression comes across that is less than distinguished, and I think that remark was. Because the President, and we all share the value of providing for our children's future, and the President has been very specific in terms of what his disagreement is and what his values are in this budget negotiation. That is to protect Medicare and Medicaid; that is to protect the environment; that is to protect education, the defense budget, veterans and agriculture. It has been said over and over and over again.

So, Mr. Speaker, I think the President has made very clear what his values are for our country and very clear what his values are in this negotiation. The environment is one of the important issues that the President values.

I want to reiterate what some of my colleagues have said and reference the President's veto message when he says that he vetoed the bill because the bill includes a 22-percent cut in requested funding for the Environmental Protection Agency, including a 25-percent cut in enforcement that would cripple EPA's efforts to enforce laws against polluters.

What this does is make it less safe for our children in terms of clean air and clean water. If there is one thing that parents cannot do for their children it is to control the environment around them, the physical environment around them. If there is one thing that Government can do, it is to enforce environmental laws. That is something we cannot do for ourselves. We can adopt good environmental habits and contribute to protecting the environment, but the polluters never stop polluting under the honor system. We must have a Federal role and a Federal participation to protect the environment.

So I thank the President for using the veto on this message. As we all know, veto means I forbid. I thank the President for forbidding this Congress to make the air less clean and the water less clean that our children have to breathe and drink.

Mr. STOKES. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, I rise this evening in very strong support of the President's veto of the Republicans' devastating cuts in environmental protection and housing programs.

This bill is one of the more glaring indications of the extremist, antienvironmental policies of the Republican majority.

We should not be here having this debate. We should have funded the EPA, Housing and Veterans Program 2½ months ago. But the Republican leadership insists on adding extremist provisions, and I applaud the President for having the courage to reject them.

How anyone who is truly committed to ensuring clean water and clean air can, in good conscience, stand before the American people tonight and support this bill is more than I can fathom.

This bill is an attack on our natural resources and the environmental health and safety of the American people, plain and simple.

This bill cuts the Environmental Protection Agency by more than 20 percent, but that's only the tip of the iceberg: The Devil is in the details:

A 30-percent cut in loans to States that help keep raw sewage off our beaches and out of our rivers.

A 45-percent cut in funds that provide critical assistance to local communities to keep drinking water safe, a 20 percent cut in the program that cleans up hazardous waste sites, a complete termination of the EPA's authority to stop toxic dumping in wetlands and a 27-percent cut in EPA enforcement activities—that means the environmental cop will not be on the beat. So much for getting tough on crime.

In the area I represent, Federal loans are critical in helping clean up Long Island Sound and preserve the purity of the New York City water supply. And yet this bill cuts more than $750 million from these funds to the States.

There is no denying that these environmental rollbacks will cripple the EPA's ability to protect the quality of our air and water and because of their insistence on these extremist provisions, the Government is now shut down—less than 1 week before Christmas.

Mr. STOKES. Mr. Speaker, what is the time situation here?

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Ohio [Mr. STOKES] has 2 minutes and the gentleman from California [Mr. LEWIS] has 2 minutes and the right to close.

Mr. STOKES. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have heard from the other side allegations that the President is not interested in balancing the budget. The President clearly, in his veto message today, answered that. Here is what he said in his message.

He said:

> I am vetoing the bills not only because of the impact they have on the environment we leave our children, but also because of other things that they do that violate our values. They completely eliminate the National Service Program, which has been very successful, broadly supported by people across partisan lines in communities all across America. They cut innovative programs for economic development in our cities, the areas which have been left most untouched by the economic recovery of the last 3 years. They cut health care for veterans.

None of these things, the President says in his message, are necessary to balancing the budget.

Then, last, with reference to the whole question of medical care, I think it is important for us to listen to what the President said. He said the bill provides less than I requested for the medical care of this Nation's veterans. It includes significant restrictions on funding for the Secretary of Veterans Affairs that appear designed to impede him from carrying out his duties as an advocate for veterans. Further, the bill does not provide necessary funding for V.A. hospital construction.

Now, obviously, the President has addressed these things which he deems to be values which he, as the President of the United States, has a responsibility to carry out.

Finally, the President says this:

> This bill does not reflect the values that Americans hold dear, and I urge the Congress to send me an appropriations bill that has these important priorities that truly serve the American people.

That is the responsibility the President has to the American people. He has today exercised that responsibility. It is certainly incumbent upon the Congress to follow the direction given by the President of the United States.

Mr. LEWIS of California. Mr. Speaker, I yield the balance of our time to the gentleman from Texas [Mr. DELAY], our whip.

Mr. DELAY. Mr. Speaker, I thank the chairman of the committee and I commend the ranking member. He is, indeed, an honorable man and is trying to protect his values.

Mr. Speaker, the gentleman from Wisconsin, the distinguished ranking member of this committee, said he did not know what kind of dictionary we used. I would just challenge him to go look up the word "truth." There is a lot of stuff going on around here that has a hard time meeting that definition in the dictionary.

The President is telling the American people that the Congress has shut down the Government and we have not done our work; that he wants to balance the budget, but because of his values he is having a hard time agreeing with Congress and what bills he is being sent. If the President was so concerned with the balanced budget or the Government shutting down, he should have signed the first balanced budget in 26 years. Twenty-six years. He vetoed it.

The President vetoed the Interior appropriations bill. The Interior Department hires 133,800 employees.

□ 1915

He could have opened up all the parks, all the monuments, by signing this bill.

He vetoes this bill that employs over 293,000 employees, and if we combine the two, that is 426,800 employees that could be going to work right now, being paid, and those offices would be open.

Mr. Speaker, we have done our work. We worked all year long putting these bills together and bringing them to the floor under the auspices of balancing the budget by the year 2002. But the President is like a procrastinating Christmas shopper. He has not thought about balancing the budget or these appropriations bills all year long, and here at the last minute, a week before Christmas, he decides he wants to be involved in the process.

We are at a crucial time in our history. On one hand, the President's values want to spend more money in Washington. On our side, we think we ought to empower the family, stop the credit card, and provide empowerment for the local and State government.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. LEWIS].

The motion was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the veto message of the President to the bill, H.R. 2099, and that I might include tabular and extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. OBEY. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 131), a clean CR to extend the existing CR to January 26, to authorize the 2.4 percent military pay raise to be effective January 1, and to eliminate the 6-month disparity between COLA payment dates for military and civilian retirees in fiscal 1996, and ask for its immediate consideration in the House.

The SPEAKER pro tempore. Under the guidelines consistently issued by successive speakers, as recorded on page 534 of the House Rules Manual, the Chair is constrained not to entertain the gentleman's request until it has been cleared by the bipartisan floor and committee leaderships.

Mr. OBEY. Mr. Speaker, I would urge the Chair and the majority leadership to do that.

GRANTING MEMBERS OF THE HOUSE PRIVILEGE TO EXTEND AND REVISE REMARKS IN CONGRESSIONAL RECORD FOR REMAINDER OF 104TH CONGRESS

Mr. BEREUTER. Mr. Speaker, I ask unanimous consent that for the remainder of the first session of the 104th Congress, all Members be permitted to extend their remarks and to include extraneous material in the section of the RECORD entitled "Extensions of Remarks."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 122, REVISED CONGRESSIONAL BUDGET FOR FISCAL YEARS 1996, 1997, 1998, 1999, 2000, 2001, AND 2002

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–423) on the resolution (H. Res. 309) providing for consideration of the concurrent resolution (H. Con. Res. 122) setting forth a revised congressional budget for the United States Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION EXPEDITING COMMENCEMENT OF COMMITTEE HEARINGS DURING REMAINDER OF FIRST SESSION OF 104TH CONGRESS

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–424) on the resolution (H. Res. 310) expediting the commencement of committee hearings during the remainder of the first session of the One Hundred Fouth Congress, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. RADANOVICH). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CLAIMING THE $1 MILLION OFFERED BY REPUBLICAN NATIONAL CONVENTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. TAYLOR] is recognized for 5 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, I take this opportunity to speak to the American people tonight to point out an inaccuracy, if not an outright deception, that has been printed in a number of newspapers around the country. We will give my fellow Mississippian, Haley Barbour, an opportunity to honor the pledge that he made to pay the first American who proves his statement false $1 million.

Mr. Speaker, that is this portion of the ad that was in the USA Today for a number of days. This particular ad was last Monday, December 12. It says, "The Republican National Committee will present a cashier's check for $1 million to the first American who can prove the following statement is false." And then in quotations it says, "November 1995, the U.S. House and Senate passed a balanced budget bill. It increases total spending on Medicaid by more than 50 percent from 1995 to the year 2002, pursuant to the Congressional Budget Office standards."

While I do not doubt what Mr. Barbour had to say about Medicare and Medicaid, the spending really will go up. It is not the cut that many of my colleagues call it. It is just a limitation on growth. It is something that we as businesspeople have to do.

I will, however, take issue with the first part, that in November 1995 the House and Senate did not pass a balanced budget bill.

The budget that passed for fiscal year 1996, in October, contained a deficit, according to the Congressional Budget Office, of $270 billion for next year. Now, under the rules of the House, going all the way back to the earliest days of our republic, Congress can only allocate funds for 1 year at a time. So, although it was a 7-year plan, it means absolutely nothing. One Congress cannot commit another Congress to doing something or not doing something.

Mr. Speaker, those who follow Congress know, there has already been a 40-percent turnover just in the past 3 years, and over a 50-percent turnover in the membership of Congress in the past 6 years. So it is totally inaccurate for Mr. Barbour to say that we are going to commit future Congresses to reduce spending.

All this Congress can do is commit itself. And the budget that it has committed itself to has been certified by the Congressional Budget Office, as recently as December 14, to be $270 billion in deficit.

So, the much ballyhooed Balanced Budget Act of 1995 was a fake, a farce, a fraud, an insult to the people of this great country. As a matter of fact, even after certain members of the majority party called the Congressional Budget Office and requested that the CBO take a second look at their numbers, the number went from an annual operating deficit of $296 billion to an annual operating deficit of $270 billion, which is still a $7 billion increase over the annual operating deficit of this year.

Mr. Speaker, so tomorrow morning I will be walking over to the Republican National Headquarters and I will present the following information to Mr. Barbour. I will give him the opportunity to make good on his word. For those who do not know Mr. Barbour, he is a former citizen of the great city of Yazoo City, MS.

Yazoo City has several distinctions. First, one of the Confederate ironclads was built there in secret in the war of Northern Aggression, or the Civil War as the gentlewoman from California [Ms. PELOSI] might refer to it. That ironclad, the *Arkansas*, was responsible for lifting the siege of Vicksburg. Despite incredible odds against it, it actually ran off something like 65 Union ships in the summer of 1862.

More recently, the city of Yazoo City is famous for sending America's storytellers. One of the great storytellers is William Morris, a writer of renown throughout the country. More recently, a comedian by the name of Jerry Clower comes from Yazoo City. Tomorrow, we are going to give my good friend, Mr. Barbour, the opportunity to tell America whether he is a man of his word or a storyteller.

Mr. Speaker, I have used the resources of this office, and my congressional office, to help get this information. Therefore, it would be most inappropriate if I asked Mr. Barbour for that money personally. I think it would be most appropriate if he made that check to the University of Southern Mississippi Development Fund. I will be over there tomorrow morning to collect.

THE PRESIDENT SHOULD BE HONEST ABOUT THE BUDGET, AND SECRETARY O'LEARY SHOULD RESIGN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. TIAHRT] is recognized for 5 minutes.

Mr. TIAHRT. Mr. Speaker, there seems to be some confusion tonight about what is going on here in Washington. Let me clear up some of the confusion. What we are about is fulfilling the promise to balance the Federal budget and restore hope for this great Nation, because it is the right thing to do.

Let us for a moment set aside the fact that on November 19, the President signed into law that the Government would balance the budget in 7 years in CBO numbers in the first session of the 104th Congress. So far, the President has failed to keep his word and the public law.

Instead, let us look at the President's recent speech on Friday, December 15. In that speech the President attempted to mislead the people of America, I think, 13 different times. I just want to focus on 1 of those 13 different statements and explain why the President never would or could balance the budget without the honest help of Americans across this great land.

Let me quote from the President in his December 15 speech. "You know, I do not agree with their very large tax cuts for wealthy Americans and for all the special interests that get their help in the bill."

Mr. Speaker, we are trying to get a $500-per-child tax credit for every family in America. American families are of special interest to me and others, and I think it would help their pocketbooks. But I do not think most American families consider themselves wealthy.

But the irony of this is that the President does not want to give the average working family consideration, but he will allow members of his Cabinet to live lavish lifestyles at the expense of our working families.

Secretary O'Leary, whose responsibilities as Secretary of the Department of Energy have domestic responsibilities, but yet she has been overseas 16 times. She has leased the very same luxury jetliner that Madonna uses and these trips cost a minimum of a half a million dollars each.

She takes as many as 50 members of her staff and over 60 corporate CEO's and other corporate officers, many of whom have not covered their own expenses for these trips. But do not worry, because the American taxpayers will pick up the bill.

Secretary O'Leary is also mismanaging dollars to protect and enhance her image. Her image is very important to her. She employs 529 public relations employees at a cost of $25 million a year. She has a personal media consultant at a cost of $75,000 per year. She hires photographers and video crews to go with her on these international trips at taxpayers' expense to catch her looking at her best.

She even hired a private investigative firm to rate members of the press and Congress and develop a list of unfavorables so that she could "work on them a little."

But that is not the worst. The worst is that according to Vice President GORE in his National Performance Review, even the environmental management department of her Department is 40 percent inefficient. It is going to cost taxpayers $70 billion over the next 30 years.

Mr. Speaker, it will be impossible to balance the budget if the President cannot be honest about the budget and we cannot balance the budget if we do not get shed, as they say in Missouri, get shed of the arrogant and wasteful spending by the Secretary of the Department of Energy.

Secretary O'Leary should resign and the President should be honest about the budget. I believe the negotiations should be open to the public. Let us come to the table in front of the cameras and let everyone know which side is presenting which budget. I think that would enhance the process and we would, in fact, get a balanced budget in 7 years, scored by CBO numbers as the public law reads.

VOLLEYBALL NATIONAL CHAMPIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, tonight this Member will address two very different subjects in the time available under this special order.

First, the subject of NCAA volleyball championship. Mr. Speaker, a year ago when the University of Nebraska Cornhusker women's volleyball team lost in the regional finals, the team set a goal. The title on their media guide this season read "One goal, one focus, one champion."

All season the Huskers were determined to meet that one goal, keep that one focus, and be that one champion. This past Saturday in Amherst, MA, the Nebraska Cornhusker women's volleyball team ended a 32–1 season by capturing its first national championship.

The Huskers' victory is only the second time in the 15-year history of the NCAA volleyball tournament, that a team east of California has won the national title.

Since 1982 Husker volleyball teams have never lost more than six matches in a season, nor has any Husker team since that time fallen out of the American Volleyball Coaches Association top 25 poll.

And obviously their accomplishments continued this year. In his 19th season, Terry Pettit coached two academic All-Americans, three first team All-Americans, and the National Co-Player of the year which is the award that is equivalent to the Heisman Trophy.

One goal. One focus. One champion. This Member and all Cornhusker fans are very proud of the accomplishments of these superior student-athletes. Congratulations to the Nebraska Cornhuskers—the 1995 Women's Volleyball National Champions.

VIETNAMESE BOAT PEOPLE: DON'T PROLONG THEIR SUFFERING

Mr. BEREUTER. Mr. Speaker, this Member has spoken previously about the plight of the 40,000 Vietnamese boat people languishing in refugee camps in Southeast Asia. This Member has described the damage wrought by the ill-conceived section 2104 of H.R. 1561, the American Overseas Interests Act, which was passed by the House of Representatives on May 24. This legislation has given these boat people, most of whom have been determined to be economic migrants rather than political refugees, false hope of resettlement in the United States directly from the camps. This false hope has led to rioting in refugee camps and has stopped a very successful program of voluntary repatriation under which more than 70,000 of these boat people have returned to Vietnam. The United Nations High Commissioner for Refugees and many objective observers lay the blame squarely on this legislation, the House passed provisions in the American Overseas Interests Act for outbreaks of violence in the camps and for the collapse of voluntary repatriation.

In an effort to break the current impasse the State Department is negotiating with Vietnam a program, called "Track II," under which any boat people who volunteer to return to Vietnam will be entitled to an interview by the Immigration and Naturalization Service to determine once and for all if they qualify for refugee status under U.S. law. In this Member's opinion, the Track II proposal offers some hope of restarting the voluntary repatriation program, thereby decreasing the numbers of boat people languishing in the refugee camps and diminishing somewhat the pressure for massive involuntary returns which would lead to a humanitarian nightmare next year.

In a recent State Department briefing, we learned that the negotiations with Hanoi face some serious obstacles. I would urge my colleagues to lower the congressional profile on this issue and allow the negotiations to run their course. Further action on the harmful legislative provisions contained in H.R. 1561 would only exacerbate the problems facing this program.

Mr. Speaker, finally this Member would insert into the RECORD an article from the November 29, 1995, edition of the Asian Wall Street Journal, entitled, "Why Prolong the Boat People's Suffering?" This article, written by Mr. Robert Van Leeuwen, the retired chief of the United Nations High Commissioner for Refugees [UNHCR] office in Hong Kong, makes a most convincing case that the biggest losers from the ill-conceived section 2104 of H.R. 1561 are "precisely those Vietnamese whose fate is the object of the proposed legislation." I commend this article to all my colleagues on both sides of Capitol Hill.

[From the Asian Wall Street Journal, Nov. 29, 1995]

WHY PROLONG THE BOAT PEOPLE'S SUFFERING?

(By Robert Van Leeuwen)

In June 1989, the United States and 50 other governments at the U.N.-sponsored International Conference on Indo-Chinese Refugees agreed on a Comprehensive Plan of Action (CPA) to provide humanitarian solutions for the continuing exodus from Vietnam. Six years later, CPA's achievements include tens of thousands of former "boat people" safely back in their country.

But legislation introduced in the U.S. Congress by Representatives Chris Smith and Ben Gilman pretends that history simply did not happen. Proposed last May, the legislation suggests that the last 40,000 Vietnamese in camps, all of them already determined not to be refugees, should now go through rescreening by an entirely different and far broader set of criteria to see whether they could be admitted to the United States as refugees.

In other words, the congressman would have us believe that hundreds of millions of dollars spent to implement the CPA, the continued provision of asylum in Southeast Asia, 75,000 persons determined not to be refugees safely back in Vietnam, 89,000 others resettled in third countries and a continuing flow of non-refugees back to Vietnam, was all in vain. That all this, achieved in a framework of internationally accepted humanitarian principles and standards, should be seen as null and void, and all the result of a biased and sinister design implemented by equally biased and sinister people.

This is clearly not credible.

But who pays the price of this ill-conceived initiative? Ironically, the biggest losers are precisely those Vietnamese whose fate is the object of the proposed legislation. Second in line are the U.S. taxpayers asked to subscribe to expenditures initially set at some $30 million, to settle in the U.S.A. some 20,000 Vietnamese already determined after elaborate evaluation of their stories not to be refugees. Then there are the returnees to Vietnam who would see thousands of those who chose to hold out in the camps suddenly and inexplicably rewarded by a new chance for a free ticket to the U.S.A. And after them, the still shadowy figures of those around the world who would be paying for an inevitable perception of lack of consistency and credibility in U.S. foreign policy.

Of course, no one ever doubted that implementation of the CPA would be difficult and controversial. For 14 years, following the collapse of the Republic of Vietnam in April 1975, hundreds of thousands of Vietnamese "boat people" had been given temporary asylum in Southeast Asian countries of arrival pending their permanent resettlement elsewhere. Since all were automatically considered eligible for resettlement, the momentum of the exodus was huge.

Then Hong Kong, inundated by arrivals from northern Vietnam, and in cognizance of changed realities in that country, imposed a cut-off date on June 15, 1988, after which eligibility for resettlement was no longer a given. Countries of the region followed suit. So it was that, a decade and a half after the end of the war, a young fisherman in northern Vietnam or those with older ambitions in the South could no longer hop along China's coast to Hong Kong with the assurance of finding there the gate to a permanent home in the West. Instead, they had to tell their story to government and United Nations High Commissioner for Refugees (UNHCR) officials charged with the task of determining by internationally accepted criteria and through elaborate and expensive procedures whether their inability or unwillingness to return to Vietnam was based on a well-founded fear of persecution.

Essential to the international consensus on the CPA was a clearly stated agreement on the fate of those determined not to be refugees: "Persons determined not to be refugees should return to their country of origin in accordance with international practices. . . . In the first instance, every effort will be made to encourage the voluntary return of such persons."

In 1988, the UNHCR signed crucial agreements with Vietnam and Hong Kong that guaranteed standards of treatment for new arrivals and for returnees to Vietnam, including full access by UNHCR staff to both categories of persons. And by 1992, difficulties notwithstanding, an honorable end to the long saga of the "boat people" was in sight. The stream of new arrivals had dried up. Voluntary returns to Vietnam from Hong Kong alone, temporary home to the largest number of Vietnamese in search of resettlement, averaged more than 1,000 a month in 1992 and 1993, and continued at almost 500 monthly throughout 1994.

Last May, though, immediately following press reports of the Smith-Gilman proposal, those figures for Hong Kong and the region as a whole dropped to an all-time low since 1989 of 156 returnees in September of this year. A similar precipitous drop in volunteers for repatriation was observed in the spring of 1991 just after published statements by Orange County Representative Bob Dornan and the then Vice President of the United States Dan Quayle holding out false hopes of resettlement for Vietnamese regardless of the necessary distinction between refugees from persecution and non-refugees in search of better economic prospects. People still in Vietnam took to the boats again and looked in vain for the U.S. aircraft carrier rumored to be waiting for them in the Tonkin Gulf. It never came, but arrivals in Hong Kong, down to 6,595 in 1990 from over 34,000 in 1989, soared to 20,206.

Today the search for refugees among the Vietnamese has been completed for some time. The number of new arrivals dropped to virtually zero in 1993. The future for the 40,000 non-refugees left in Southeast Asia's camps lies in return.

Over the six years of the CPA, those responsible worked under the most intense international scrutiny imaginable. No one hesitated to jump to the press with criticisms and allegations of human rights infractions, nor did the press, governments, private voluntary agencies and a colorful variety of individuals hesitate to dump these on UNHCR's doorstep. Inherently, no system of procedures for refugee status determination anywhere in the world can be perfect. Reasonable criticism and allegations based on fact helped to improve and strengthen a humanitarian framework for action designed to alleviate, not to prolong or deepen human suffering. No one, least of all UNHCR officials, stood to gain by ignoring them.

Unfortunately, reason, vision and recognition of the facts do not always have a louder voice than easily heard outcries of wrongdoing based on ideological convictions, emotion or narrow personal agendas. It is everyone's responsibility to see to it that the former, not the latter, prevail.

It is both quick and easy to make statements or propose legislation from positions of public trust. It may be far less so to live with the consequences. In the case of the Vietnamese that means with virtual certainty yet another prolongation of their dehumanizing stay in detention camps surrounded by endemic crime, the torn-up papers of vain hopes and children who have yet to see a world beyond barbed wire. That is the price they pay.

GOVERNMENT SHUTDOWN AND THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 60 minutes as the designee to the minority leader.

Ms. DELAURO. Mr. Speaker, I am delighted to be here tonight and join with several of my colleagues to talk about the budget agreement or the lack thereof and what the concerns and considerations are about a budget agreement in this body.

It will be the topic of conversation over the next several days. Not the prior speaker but the gentleman who spoke before the prior speaker made reference to the November 19 agreement that was agreed to by the President and the Congress in terms of a continuing resolution which would open the Federal Government that had been closed in those few days beforehand. The gentleman referenced this agreement, but what he did not do was to talk about the full scope of what this agreement was, a commitment to a balanced budget. I would like to read what the commitment included. It had a couple of parts to it.

My colleague intimated that the President had talked about a balanced budget in 7 years and that, in fact, that that was the scope and the sum total of this agreement and under the economic assumptions of the Congressional Budget Office and leaves the impression in the public's mind that the President has backed off of that agreement and has not been true to his word about the balanced budget and the economic assumptions.

It is not only the President who he intimates has reneged on this effort, but, in fact, the Congress and those of us in the Congress who, in fact, supported that agreement.

But the full scope of that agreement includes the following. It said that the President and the Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget no later than fiscal year 2002, that is a 7-year period, as estimated by the Congressional Budget Office and the President and the Congress agree that the balanced budget must protect future generations, ensure Medicare solvency, reform welfare, and provide adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment. Further, the balanced budget will adopt tax polices to help working families and to stimulate future economic growth.

Part B, the balanced budget agreement shall be estimated by the Congressional Budget Office based on its most recent current economic and technical assumptions, following a thorough consultation and review with the Office of Management and Budget and other government and private experts.

My colleagues on the other side of the aisle would like the American public to believe that the agreement was only to a 7-year balanced budget and solely on the economic assumptions made by the Congressional Budget Office. It is a total reneging on the part of my Republican colleagues and the Republican majority in this body to, in fact, what that agreement was all about.

First and foremost, it was about ensuring the values and the priorities of this great Nation of ours and that has to do with Medicare and Medicaid and education and tax policy that is equitable to working middle-class families in this Nation. This agreement was signed and voted on by two parties and yet the only people who have been intransigent on this budget agreement and will not move off of $270 billion in cuts in Medicare and $163 billion in cuts in Medicaid is the Republican majority in this House of Representatives. Thank God, the President is holding firm on those priorities and the values of this great Nation of ours.

I will say to you that Members on both sides of the aisle feel passionately about their positions on the debate and we should feel passionately. We are debating the future of this country and the listening public should make no mistake. Sometimes you think that there is an argument, that we are bickering back and forth. I will just tell you, as this Member, and I know my colleagues feel the same way, these are issues that are worth fighting for.

If we are not fighting here for the values of this Nation and the priorities of the people of this country, then we do not deserve to represent those people who put their faith and thrust in us and asked us to come here on their behalf.

This debate is more than just about numbers. It is about those values. It is about those priorities of the American people.

Democrats and the President are opposed to the Republican budget plan because it makes deep and devastating cuts in Medicare, Medicaid, education and environmental protection, and we truly believe that those cuts go too far, too fast, and are going to hurt too many people in this country.

Let us talk about Medicaid for the moment. Medicaid is the Federal program that provides health care to tens of millions of needy children, of the disabled and the frail elderly in this country. Speaker GINGRICH's budget plan cuts Medicaid by 28 percent, $165 billion. At the same time it rolls out $245 billion in new tax breaks and loopholes to the wealthiest individuals and corporations in this country, to the richest corporations in this country. They will see a $17 billion windfall. And at the same time Medicare beneficiaries will see their deductibles go up, their copayments go up, and they will loose the choice of their doctor and many rural hospitals in this country will close down.

If you are a hard-working American listening tonight, you might think that the cuts in Medicaid do not affect you, that they only affect people on welfare and that it is just a program for the poor. Well, that is wrong, and it is a mistake. The changes in Medicaid proposed in the GOP budget would have a devastating impact on middle-class working families in this Nation. Do not take my word for it, Everyone is familiar with something called the Consumer Reports. It is a publication that tells you if you are getting a good deal or a bum deal when you go out to buy a new car or a computer or a refrigerator or some sort of an appliance in your home.

The group which publishes that famous report has taken a look at the Republican Medicaid plan from a consumers point of view and, guess what, they say it is a bum deal for America's working families. That is right, the Consumers Union has said, do not buy the Republican plan because it is a lemon. That is what it is.

The reports looks at the impact that the GOP Medicaid cuts would have on nursing home residents and their families. According to its findings, millions of American families would be impoverished by the Republican plan. Medicaid covers the cost of care for 60 percent of nursing home residents in this country, and it includes guarantees and insurance that families are not saddled with the financial burden of that care. But all of that is about to change if the Republicans get their way on this budget.

According to Consumers Union, families of nursing home residents can expect the following changes if the Republican budget is approved. First and foremost, and understand this, if you have a parent, if you have a loved one who is in a nursing home and the cost of nursing home care is about $38,000 a year these days, that in fact if this bill gets passed, if this budget goes through, ladies and gentleman who are listening out there, adult children may be held financially liable for the nursing home bills of their parents.

Second, family assets, including homes, may be sold or seized by Medicaid liens. Let me tell you that what it says in the fine print is that if you make above the median income in your State, your assets, as an adult child or a parent who is in a nursing home, can be tapped to pay for that nursing home care.

□ 1945

It was Ronald Reagan who wanted to protect adult children from having to be destitute in terms of having their funding taken away in terms of paying for health care and nursing home coverage for their families who put those laws into effect in this Nation. In the State of Connecticut, if you make more than $41,000 a year, the State can come after you to pay for the cost of your parents' nursing home care. Heed this well: Further, no one is guaranteed nursing home eligibility, no one. States may set unreasonably low income levels so that thousands of people will be denied help in paying the high cost of nursing home care. Families may be forced to spend their life savings for long-term care of a loved one.

Speaker GINGRICH has put together a budget that reflects his priorities, not America's priorities. It is a budget that will hurt those who would need our help when helping those who are doing just fine. Over and over again the budget socks it to working families while cushioning the blow for the wealthy. Balancing the budget is an important goal, but balancing the budget has to be not about just balancing the books. It has to be about what balancing what our priorities are about.

I am going to stop at this juncture for my colleagues who are on the floor, and I want to open up the discussion to them, and we can make the continued points, and I am happy to yield to and to recognize my colleague, the gentleman from New Jersey [Mr. PALLONE], who has spent endless hours on the floor of this House, and in meetings, and in his own district to try to truly educate the public on what is in this bill which is so hurtful to people in this Nation and particularly takes away health care, that security and that safety net of health care in this country. I am happy to yield to my friend from New Jersey.

Mr. PALLONE. I want to thank the gentlewoman from Connecticut [Ms. DELAURO], and I certainly want to follow up on some of the comments that she made.

Mr. Speaker, I want to follow up on what the gentlewoman from Connecticut said, particularly when she started out in the beginning and she read from the concurrent resolution that was adopted a few weeks ago, just before Thanksgiving, that set forth the basis for the negotiations over the budget. That is the continuing resolution which, of course, expired Friday. I wanted to, again in following up on what she said, I wanted to make a couple of points:

First of all, I think everyone has to understand that there were three parts, at least three parts, to that continuing resolution that everyone agreed on. One was that while we negotiated the budget between the White House and the Congress, between the Democrats and the Republicans, that the Government was not going to shut down, that the Government was going to continue to operate, and on Friday, when the Republican leadership walked out of a meeting with the President, whereupon they were continuing to negotiate the budget, and when the Republicans leadership in this Congress refused to bring up a continuing resolution Friday, Saturday, Sunday, or even today during a normal business day so that the Government continues to operate, they broke the commitment that was made a few weeks ago that the Government would continue to operate while we worked out our differences over the budget, and I think it is particularly tragic that we went through another business day today with close to 300,000 Federal employees going home. Remember these people are going to be paid, they are not working, and the Government and the people that are serviced by the agencies that are closed down lose out. And I made the point over and over on the floor of this House that we need to put our ideological differences aside and let the Government continue to operate while we negotiate this budget.

Now, as my colleagues know, I do not even know if it was mentioned today during the short debate we had on this joint resolution that the gentlewoman mentioned, but you have to understand that Social Security offices are closed, that the national parks, the national recreation areas, the national monuments are closed not only in Washington, DC, but throughout the country. People who depend on Government agencies for certain services which their tax dollars are being used for cannot obtain those services. It makes absolutely no sense for any of that to occur while we continue to argue over and negotiate the budget.

That was No. 1.

The other part of the resolution that the gentlewoman mentioned was the fact that the priorities, the priorities whether they are Medicaid, Medicare, the environment, education, and the other things that were mentioned in that continuing resolution, this agreement that was reached a couple weeks ago, they have been completely ignored by the Republican leadership. In fact, in the joint resolution that was brought up today, which most of us voted on, including myself, that resolution made no reference to the Government shutdown or the need to continue the operation of Government, no reference to the priorities such as Medicare and Medicaid, and simply said that negotiations should continue based on the most recent technical and economic assumptions of the Congressional Budget Office. Well, we already understood that we already agreed that we were going to operate with a 7-year budget essentially based on CBO numbers. We did not need to argue or debate that today.

Mr. Speaker, the problem is that the Republican leadership has refused to come up with a resolution to let the Government continue to operate so that everybody goes home and gets paid anyway, and they refuse to talk about the Medicare and Medicaid and the other priorities, so, you know, this agreement that was reached, as the gentlewoman from Connecticut said a couple weeks ago, this agreement has—

the other part of the bargain here, to keep the Government open and to deal with the priorities such as Medicare and Medicaid are basically out the window. I think that is very unfortunate because I think that the President—it is abundantly clear that the President has used the time over the last 2 weeks to set forth a budget wherein he preserved those priorities, and basically on Friday, when the Republicans walked out of the negotiations session, he came back and said, "Look, I can't make the level of cuts in Medicare and Medicaid that the Republicans are asking me to make and still preserve the programs," and they made a commitment, the Republicans, that they would provide adequate funding for Medicaid, insure Medicare solvency, and work for sufficient funding for the environment and other priorities. They have broken that commitment, and I just wanted to talk about one aspect of this, and then I am going to yield to the gentlewoman from California [Ms. PELOSI].

Earlier today the President—earlier this evening I should say—the President vetoed the VA, HUD and Independent Agencies Appropriations Act which includes the Environmental Protection Agency, and most of the programs that protect the environment and most of the funding for the programs that protect the environment, particularly the EPA, and the President again articulated his priorities. He noted in his veto message that the bill includes a 22-percent cut in requested funding for the Environmental Protection Agency, including a 25-percent cut in enforcement that would cripple EPA efforts to enforce laws against polluters. Particularly objectionable are the bill's 25-percent cut in Superfund, which would continue to expose hundreds of thousands of citizens to dangerous chemicals and would hamper efforts to train workers in hazardous waste cleanup.

Now my Republican colleagues, the chairman of the Committee on Appropriations, the chairman of the subcommittee that brought this bill up, when they got on the floor, they responded to the President's veto by saying, well, the President has not come up with a 7-year balanced budget; where is the balanced budget? Again, neglecting the priorities.

Here is one of the major concerns that the President has. Why is it that the EPA, and the environmental protection programs in general, take the biggest cuts of any Federal agency or any Federal programs and basically their whole enforcement program is crippled? Well, the reason is very simple, and that is because the Republican priorities are neglecting the environment in the same way that they are neglecting Medicaid and they are neglecting Medicare. They have basically hoisted up the notion that we have to have a 7-year balanced budget, and it does not matter how it is balanced, it does not matter where the priorities are. Well, I should say maybe even go further and say that the priorities, as they have always have been in this whole budget negotiation, give the tax breaks to the wealthy, give the tax breaks to the corporations, and take the money away from Medicare, Medicaid, as well as the environment.

The President today, as he has for the last 2 or 3 weeks, indicated what his priorities are. He indicated his priorities on the environment today very clearly in his veto message, and I think that the main thing that we have to do over the next few weeks, as these budget negotiations continue, is hold the Republican leadership's feet to the fire and say, "Look, we're all in agreement with a balanced budget, we will even go along with your 7-year plan and your CBO numbers, but we've got to protect our priorities," and I have not seen any effort at all over the last few weeks on the part of the Republican leadership to protect those priorities that we have articulated and that were very well articulated in the agreement a couple weeks ago.

Ms. DELAURO. I just want to make one point and then yield to our colleague, the gentlewoman from California [Ms. PELOSI]. The point that you have made is that there truly is nothing balanced about rolling back environmental protection in order to, at the behest of corporate polluters, which is what has happened in this portion of the budget, is those people who—will want to continue polluting, have had the opportunity, in fact the most egregious points about this effort is that they have the opportunity to help to draft the legislation in this body, and we are rolling back those environmental protections for the aggrandizement of these special interests which is an integral part of this budget.

One of the last pieces I wanted to mention is that we have in this tax break package rolled back the alternate minimum tax. For instance, you are going to cut student loans that allow working families, middle-class families to get their kids to school. We all went to school with student loans. They are going to try to cut out these programs and at the same time do away with the alternate minimum tax. That is the tax that again was put in by Ronald Reagan to have the richest corporations in this country pay their fair share of some taxes at a 20-percent level. Nobody was asking for that repeal. This is being repealed, and they are telling us at the same time that we have got to bring our fiscal house in order, we are going to give this—you know millions of dollars of windfall to the richest Americans, and at the same time we are telling working families we are sorry we have got to cut back on the student loan, your kid cannot go to school, and you are going to have to figure out another way to do it, or a veteran in this with, you know, sorry we are going to cut $6 billion of veterans' benefits, but we are going to give all these billions of dollars to these folks who at this time do not need it. It is truly mind-boggling to think about what this says about the priorities of this Nation.

I now would like to yield to my colleague, the gentlewoman from California [Ms. PELOSI], who has really been fighting the fight on this issue in talking about how all of this affects her constituents in the State of California.

Ms. PELOSI. I thank the gentlewoman from Connecticut for yielding, and for her leadership, and her persistence and her relentlessness on presenting this issue to the American people, and to my colleague, the gentleman from New Jersey [Mr. PALLONE], for his leadership as well.

It is very clear listening to the two of you and to our other colleagues who have been making this fight to protect Medicare, and Medicaid, and student loans, and school nutritional programs for young children, et cetera, that what this fight is about here in Washington, DC, is not about politics, it is about philosophy and values and priorities.

□ 2000

When we talk about balancing the budget, you have heard it a million times, the budget should be balanced in its values as well as fiscally balanced in terms of taking in and spending the same amount of money. That is why it is so very hard if you call a balanced budget your driving issue, why you can in the same breath talk about a tax cut of a quarter of a trillion dollars for the wealthiest people in our country.

How can it be a statement of our national values, as our budget should be, for us to talk about cutting back on what our colleagues mentioned here, Medicare, Medicaid, student loans, school nutritional programs, et cetera, while we are giving a tax break at the high end?

Our colleagues on the Republican side in this session, in this budget, make the folks who talked about trickle-down look good. Trickle-down never worked, but at least it gave some recognition that somewhere, somewhere along the line, there should be something for folks at the bottom of the economic scale. Their view was if you give it all to the top, create wealth at the top, the benefits will trickle down.

Our colleagues now in this budget, in this Congress, do not even care if it trickles down. "If you are at the low end, if you are poor, if you have not had the same opportunities as others, you are not going to get them. So be it."

In our Labor-HHS we cut, or the Republican leadership cut, $1 billion out of aid to disadvantaged children, the Chapter I education appropriation, $1 billion. That is 1 million children in our country who will not get the kind of assistance they need early on in their education to help them fulfill themselves and make a valuable contribution to their society, as well as become taxpayers.

I am very interested in showing what our colleagues spelled out in terms of the cuts and the values and the unfairness of the tax cut while we are, in many cases, increasing the taxes for people who make $30,000 or less, and we remove the earned income tax credit for families, too. Some people are making the minimum wage. If two wage-earners in a family are working at the minimum wage, full time, they bring home the rip-roaring sum of $17,000, and they will get a tax increase, because they will not, unless they have children, they will not receive the earned income tax credit. These young couples are preparing to have children, they are saving up to have children, and our colleagues are increasing their taxes, while giving the preponderance of this tax cut to the high end.

I want to show once again what this means to California. Last week when we had our special order, I talked more specifically about what it meant to San Francisco. I do this because I think each of us, and I was pleased to be invited by my colleagues to do this last week and now, because we represent our districts here and are members of a delegation from a State, and we should all evaluate what it means to the people in our districts and our State, the budgets of our local communities and our State budgets, and the economies of our region.

I am proud to be part of the California delegation in the Congress. My district is San Francisco, 80 percent of the city of San Francisco. I share representation with the gentleman from California [Mr. LANTOS]. This budget plan that the Republicans are proposing has a devastating impact on the State of California.

First, let me tell you what California brings to the country. In terms of the balance of payments, in terms of trade, this dynamic, incredibly resourceful State of California has, and we can go top to bottom with many of these issues, and some of them are throughout, has contributed enormously to our exports, and therefore our balance of payments, and therefore to our national treasury in terms of high tech, biotech, agriculture, entertainment. This list goes on and on. There is tourism. Many people, of course, come from all over the world to visit California, so dollars from all over the world flow into our State. We have invested in our people. Our country, when our country invests in its people, we reap the benefit.

Our particular State has been a very dynamic one, very resourceful in terms of when we have a setback, we can bounce back because of the diversity of the economy in our State. We are taking a beating on the base closures and the cutbacks in defense spending, and that is appropriate as we wind down after the cold war, but that means that we also have to recognize that there are needs that we have in our State.

Under this Republican balanced budget, the State of California, in the 7 years of the budget, will loose over $72 billion just in the reconciliation part of the bill, not including the appropriations, so it will be closer to $100 billion in the 7 years.

Just to put it in perspective, our State budget in California is approximately $57 billion a year, so it will be nearly 2 years in the next 7 years of a State budget which will be removed from California in terms of assistance to individuals, Medicare and Medicaid, student loans, et cetera, school nutritional programs, in terms of the cutbacks for localities and to the State budget. What that does to the economy of the State also has an impact on what happens nationally, because California is one-eighth of the country.

I encourage my colleagues to look to your own States and districts to see what this really translates for you. Is it dynamic? Does it contribute to your people becoming more prosperous, and therefore paying more taxes, producing more revenues, enriching their lives, building a better future for our country, or does it have the opposite effect?

Unfortunately for California, the impact of this budget is devastating, and one that we simply cannot absorb without severe economic setback for us in our State. When we hear people talk about this balanced budget, you have to say why are we here at this point, one week before Christmas, when we would all much rather be working in our districts with our constituents or spending time with our family, or preparing for a religious holiday? Instead, we are here. Why are we here? Because we have not finished our business.

Every year the Congress must pass 13 appropriations bills. We have not done that. On top of it, the ones that we have done are so out of balance in terms of the values of the American people, the President could not possibly sign them. And three cheers for President Clinton for vetoing most recently the VA-HUD bill and the Interior appropriation bills, because if there is one thing that we all agree on in this country, it is that we want our children to breathe clean air and drink clean water and eat food that is not contaminated by pesticides.

This antipollution insistence of the President is one in which I strongly support him. We all have to, too, because if there is one thing that is beyond all of us, as much as we want the best for our children, we cannot control the atmosphere and the water that comes out of the tap in our homes; or if we go to the market and we want to buy meat, we want to know that it is inspected, and what we bring into our homes, to our families, is safe. Government plays a role in that. I thank the President for vetoing.

I remind you, veto means "I forbid." I thank the President for forbidding these huge cuts in EPA, which protects the water and air our children drink and breathe. I thank the President for vetoing the Interior bill, which does damage to our environment. Hopefully our colleagues on this side of the aisle, the Republican colleagues, will see the light and come to terms with the President on these bills.

When we have agreement on this appropriations bill, there will be no need for a continuing resolution, and we can debate the priorities of our budget in the appropriate time frame. Remember, when we talk about a balanced budget and we throw in a quarter-of-a trillion-dollar tax cut, overwhelmingly at the high end for the wealthiest individuals of our country, you are, de facto, imposing severe hardship on children and senior citizens in our country.

One other point, in closing, that I would like to make. In the Los Angeles Times—yes, we San Franciscans read the Los Angeles Times, too—there is an article today which I will submit for the RECORD, and it is called "Offspring May Pay Medicaid Tab." "GOP plan to balance budget would let States require adult children of nursing home residents to contribute to cost of parents' care."

Mr. Speaker, I have already addressed this at length, but this article does so, too. From the National Senior Citizens Law Center, Patricia Nemore says, "This is hitting families when they have their children's education and their own retirement to save for."

As my colleague, the gentlewoman from Connecticut, said, if you are above the median income level your assets will be called upon to pay for your parents' nursing home care if they are on Medicaid. This is after families have paid down so many of their resources already, and that is why they are on Medicaid and in the nursing home. This is when families in middle age, middle-income families, are raising their own children and sending them to college.

This is at a point where you use an arbitrary figure, like median income. Certainly there are people in our country who can afford to do this, but using an arbitrary figures like median income, and to say that that is a burden that the States may now put on families, I think contributes enormously to the economic as well as the health security of America's families.

Mr. Speaker, at this magnificent time of the year, when we should be heeding the words of Matthew in the Bible and feeding the hungry and giving shelter to the homeless, et cetera, as the Bible called for, and as the gatekeeper in heaven said, "When you did this for the least," and I would rather say, "the poorest of our brethren, you did it for me," when we do that, certainly we honor acts of charity, we honor the God who made us, we honor our creation. But these people should not have to be dependent on the largesse of individuals. We must have public policy that recognizes that the way we are going to have a strong country is to invest in our people, to give them education and opportunity, and to understand that they cannot be exposed from a health or economic standpoint in the ways that this so-called balanced budget proposal of our colleague proposes.

I am so pleased that President Clinton had the courage, in the face of all that has happened, the close down of government, to say "No, I forbid," to these proposals that the Republicans are making on the appropriations bills. When they come to the reality that the public will not accept those false priorities on the Republican side and the President is proposing what is good for America's future, only then will these bills be passed. There will be no need for a continuing resolution anymore, they will be passed and signed by the President, eliminating the need for the CR and taking us to a place where we can truly produce a balanced budget, balanced in money, balanced in values, balanced in priorities.

Once again, I want to thank our colleagues for calling this special order and their ongoing leadership on this issue, and call again to my colleagues' attention the impact on our State. See what it does to yours.

Ms. DELAURO. Mr. Speaker, I want to thank our colleague from California for reiterating the effect on adult children, and how their assets are at risk if they have a family member who is in a nursing home. One other point in terms of continued education, a number of our colleagues this afternoon, Republican colleagues, talked about how the President has been derelict in his duty and at this last hour is vetoing these appropriation bills.

I say to my Republican colleagues, you cannot talk out of both sides of your mouths. You cannot be in charge of this institution, hold the majority on all of the committees, and in the final votes in committee and on the floor of the House, and when you get to the appropriations bills, when you cannot get them completed in the House and in the Senate and send them to the President, that has been the single biggest issue in holding back what has been going on here in terms of getting to the budget, is they have not done their job on any of these appropriations bills. I thank the gentlewoman for bringing that point out.

Ms. PELOSI. If the gentlewoman will yield, I just want to make one further point in that regard. Yes, if this House had done its work on time, September 30, midnight, had the bills to the President, we would not be here now. Certainly in years gone by, there have been times when appropriations bills have not been passed on time and we have had a need for a CR, but to this extent it has not been seen before.

I want to make the further point that if we had not spent the first half of the year on the Contract With America, which had no prospect for Presidential signature, and only one bill, I think of which has even been signed into law, fine, if you have an agenda you want to bring to Congress; but make sure you do the work the public has sent you there to do, too, and that is to pass the appropriations bills, to debate the priorities, pass the bills so Government can function.

Ms. DELAURO. Mr. Speaker, I yield to the gentleman from Washington, JIM MCDERMOTT. In terms of the Medicare issue, the gentleman from Washington has really led the way in terms of heeding what the trustees said in terms of solvency, and $90 billion to be able to deal with that issue, because none of us view that there are not changes that could be made in the Medicare Program, but the gentleman has had the foresight to think about the future and what happens with baby boomers and setting up a structure to deal with that, and not sending the balance of that $90 billion from the $280 that the Republicans want to cut from Medicare for their tax cuts for the wealthy, but has been someone who has worked diligently on trying to deal with the Medicare issue. I am proud to yield to my colleague, the gentleman from Washington.

Mr. MCDERMOTT. Mr. Speaker, I thank the gentlewoman. I want to commend my colleague, the gentlewoman from Connecticut, for having this special order, because at a time like this, it is confusing. Many Members wonder if anybody is paying any attention whatsoever to what the real issues are. As I walked into the Chamber a moment ago, my colleague, the gentlewoman from California [Ms. PELOSI], put her finger on what the real question here is. We are arguing about philosophy.

□ 2015

Now, people can get confused. I went home to Seattle this week, and it is always good to go home and talk to people in your district, and I talked to my mother and father. My father is 90, my mother is 86, and their questions were, what is this all about? What is it all about? Why is all this fighting going on? Why do you not just resolve it and get it over with and come on home?

The question is one of philosophy. I personally, like Ms. PELOSI, take my hat off to the President for standing up for a philosophy that says that people are entitled to health care.

Now, that is at the root of it. You can have all of this argument about CBO figures and whether this is honest scorekeeping or whatever; all it does is confuse people. But if they would simply remember that the issue here is whether people are going to wind up at the end of this session with entitlements to health care in this country, they would understand what the President has put his foot down on and will not move; and I hope he does not move off of that.

Mr. Speaker, the programs Medicare and Medicaid get all mixed up in people's minds. The names sound sort of the same, so people confuse them, even when they talk about them. Medicare is basically a program of providing health care for senior citizens and disabled people in this country, and Medicaid is another program. Medicare is all funded by the Federal Government. Medicaid is half State and half Federal Government, and it deals with poor women and children, and with senior citizens; and two-thirds of the money in Medicaid goes to pay for nursing homes.

There is another program in Medicaid which people know very little about called the QMB Program; that is, Qualified Medicare Beneficiary. That means if you are a poor senior citizen, you do not have very much money—you have to remember that there are 9 million widows in this country living on less than $8,000 a year; now, that is just getting by. If they do not have the money to pay for deductibles and copays, the QMB Program of Medicaid pays for their part of the health care plan.

Mr. Speaker, it is the Republicans' intention to take away the entitlement for both Medicaid and Medicare from all Americans. That is their long-term goal. Speaker GINGRICH has said that he does not want to do it now because he knows that politically it is not acceptable, but they want it to kind of wither away and die on the vine. They are simply after that program.

To understand what is going on in Medicare, and I do this because I wound up explaining to my parents, right now Medicare is a program of guaranteed benefits; no matter who you are in this country, no matter what color you are, how much money you have, no matter where you live, no matter what, if you are 65, you are in the Medicare Program and you are entitled to a guaranteed set of benefits.

Now, the Republicans say, look, we do not want to guarantee anybody any benefits. We will guarantee a fixed contribution. We are going to give them a certain amount of money. You could call it a voucher. They are going to give $4,600 to every senior citizen next year and say, you take your little $4,600 out there and buy a benefit package like you have now, and next year we will give you $4,900, and the next year we will give you $5,200. That is why they can say we are putting more money in.

However, the fact is that the second year, that $4,900 will not buy the guaranteed benefit package you have today. So your benefit package is going to shrink, and each year it is going to shrink until you do not have, in the year 2002, what you have presently in that guaranteed benefit package. The guarantee of benefits is gone. All they are going to do is send you the voucher and send you out into the street.

Mr. Speaker, I look at my parents, and I think every American ought to look at their parents, if you are in my age range. I am 58, so from 58 down to about 35, you ought to look at your parents and say to yourself, how will it be when my mom and dad go out in the street with that voucher in their hand looking for a friendly insurance company to take care of them?

My dad is 90. Now, you just tell me which insurance company in this country wants to have my father as one of their beneficiaries? I mean, he has had a heart attack, he has had a stroke, he has had a whole bunch of things. He is doing just fine right now, but nobody is going to bet on him.

Mr. Speaker, that is what they are doing to senior citizens in this country. They are taking away the guarantee that he will be covered and say, "Mr. McDermott, take your money out there and see if you can find anybody who wants to take care of you."

Now, I would not have come over here, because I was sitting over in my office reading letters, and a lot of people think it does not do any good to write a letter to their Congressman. I am here to tell you that everybody ought to be writing to their Congressman or Congresswoman and telling them what they think about this whole idea, because I read a letter which was sent out, this was in California, and somebody through that I ought to read this, and I will read it to you because it tells you what senior citizens are sitting there facing.

"Dear non-HMO Medicare patient," that means a patient, a senior citizen who does not belong to an HMO, "As of December 31, 1995, the San Jose Medical Group will no longer provide care to non-HMO Medicare patients and, as such, I will no longer be able to provide your care. Non-HMO Medicare reimburses our doctors at rates so low that the San Jose Medical Group cannot cover costs. I am writing to you now because I wish to continue to provide care to you and would like to inform you about the senior HMO Medicare plans which are available to you. I can continue to serve you when you enroll in one of those senior HMO plans listed below. Should you wish to locate another physician who accepts non-HMO Medicare patients, you can call," and they give a number here.

Mr. Speaker, they go on. I mean, they are selling HMO's. This is a doctors' group shoving people into HMO's. "Selecting a senior HMO plan is an option you have under your Medicare health benefits. With a senior HMO, you no longer need to buy Medicare supplements. This saves some of our patients thousands of dollars a year. HMO's have no annual deductible, but you do have to pay $5 or $6 for each office visit. These plans cover everything that Medicare allows and most add in extras like eyeglass benefits, physical exams and prescription drug coverages. Some plans even cover hearing aids, mental, and dental care.

"Now, what is the downside? Well, you do need to select a primary care doctor from whom you must get a referral to see a specialist." Think about what that means to older people. Most of them have things wrong with them. I mean when you get to be 70, 80 years old, you have something wrong with you, and you are not going just to see the GP, you are going to see somebody dealing with your diabetes or with your lung problems, or you will see your cardiologist or something special.

Before you can see that specialist, you have to have this primary care doctor who must give you a referral. Why? You already know Dr. Johnson takes care of your heart, why can you not just go to him? Why do you have to go to Dr. Thomas and get Dr. Thomas to refer you to Dr. Johnson? It is crazy. It is simply adding cost over, being used to keep the senior citizen from getting the referral to the specialist.

Now, this is what is going on, and I always say, with all due respect to my California colleagues, in Washington State we always say, go down to Los Angeles an watch what is happening, because it is going to be in the whole United States in the next 3 years; whether it is Hula-Hoops or music or clothing or whatever, it all starts there.

Well, they are starting with the letters now, sending them out in California, and they are going to be sending them out to every senior citizen in this country. You have to ask yourself, why does the doctor put down the name of six HMO's? I will tell you why he does, because I am a physician. He belongs to those. I will bet you he belongs to them. What he did when he signed in, they said to him, now you have to bring your practice in here, otherwise we are not going to need you. So this doctor is writing to all of these senior citizens saying, please join these HMO's, because if you do not join, they are going to kick me out. That is how the HMO's operate; if there are no patients, they throw the doctors out. So the doctors are in the business of urging people to get into HMO's.

The President has said, I want to protect people's right to choose their own physician, not have to join an HMO if they do not want to, not be forced, either ecomonically or by an subtle pressure from the doctors, even; I want people to have the right to choose whoever they want.

Now, at the end of what the gentlewoman from California [Ms. PELOSI] talked about, she also brought up an issue which I think, I have said to senior citizens groups all over my district and I think everybody ought to be thinking about it, they asked me, what can we do about this? I said, tell your children, because most of the people under 65 in this country think, well, this has nothing to do with me, this is Medicare, that is for old people; or Medicaid, that is for poor people. I am not poor. But the fact is that Medicaid takes the burden and Medicare takes the burden of health care off people like me.

Mr. Speaker, most people my age and a little bit younger are struggling to help their kids get through college, so they are busy paying college tuitions, and they have never in my lifetime, in my adult lifetime, no one has ever had to think about paying their parents' health care bills. It simply was off the table.

That is what Medicare did in 1965 and Medicaid. When President Johnson signed those bills, he lifted the burden off individuals and said, as a country, we are going to take care of everybody. Nobody is going to be stuck with their particular problems; we are going to share the burden.

What this Congress, what the Republicans are doing is trying to put it back on people and say, well, if you are lucky and your parents died young, or if your parents are healthy or whatever, you get off. However, if your parents are sick, you are going to get stuck, because as they take away that guaranteed benefit package in Medicare and your parents are out there with that voucher that does not buy what they have today, they are not going to have it and you are going to say, well, mom, why are you not going to see the doctor?

Well, I did not have the money; I could not afford it. So people like me and younger than me are going to be stuck saying to their parents, you go see the doctor; here is the money. So while they are paying for tuition for their kids, they are also going to be paying for their parents' health care.

The real impact, though, is if your parents, and our health care system has worked so well that people live and live and live and we have lots of people 80 and 90 years old in this country who ultimately wind up for some period of time in nursing homes. Now, if you have to go and live in a nursing home, the cost is $30,000 a year at a minimum. And if you take the Medicaid Program, as the Republicans are intending to do, and throw it back to the State legislatures, there is going to be a fight in 50

State legislatures about how you pay for Medicaid and how you pay for nursing homes.

A very easy thing for Members of a State legislature to do is to say, well, why do we not get some money out of the children of the old people and that will be a way that we can reduce our costs for nursing homes in this State. So they are going to pass laws in the 50 States saying that the parents, or the children, if they are at whatever level of income, have to pay $1,000 or $2,000, or who knows what they will decide, because if the States are short, like they are in the State of Washington, there is no extra money.

We passed a tax initiative that says, they cannot raise taxes except with a two-thirds vote. The Republicans put a phony rule in here that you had to have a two-thirds vote to raise taxes, but every time it comes up out here, they waive the rule. In our State, it is law. So the State legislature cannot come up with additional money, and if the Feds do not send down the Medicaid money, the State legislature is going to start looking for somebody else to pay the bills for their senior citizens, and they are going to look to the children.

It is going to happen. People are going to wake up here in about a year or two and say, where did this come from? How did it happen? It happened right now in December 1995, and the only one preventing that from happening is the President of the United States who continues to veto this kind of legislation. The chaos that is being wreaked through the health care system is on every level, and the President is the only one at this point who is holding firm, and he is really protecting the American people and their health security net, health safety security net in this country.

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I think that what you are doing here tonight by giving people a chance, and Members of Congress to come and tell what is happening, is a way of educating people about what the real issue here is.

It is not about whether the CBO numbers are better than the OMB numbers and all that kind of gobbledygook that I hear out here. It is about whether or not people in this country are going to have the entitlement to have health care at a level that they have come to expect in this country. We have been able to do it in the past and it is certainly not out of our reach now. I commend the gentlewoman for having this special order.

Ms. DELAURO. I want to thank my colleague for helping in terms of public education and for focusing on this and what it is, and that is values and what the values are in this country as they are not reflected in the Republican budget.

I yield the balance of our time, we have about 5 minutes left, to my colleague the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. I thank my colleague, the gentlewoman from Connecticut [Ms. DELAURO], for organizing this special order, and thank the gentleman from Washington [Mr. MCDERMOTT] for coming down and talking to us about Medicare and Medicaid. I, too, was sitting in my office when I heard the gentleman from Washington [Mr. MCDERMOTT] talking.

There is a lot of confusion out there. People are wondering what this alphabet soup is all about. OMB, CBO. Frankly, we know that it is hard enough to predict what the budget is going to be next year. It is hard enough to predict what economic conditions are going to be next year.

For the Republicans to tell the President that his numbers are not right because they differ 7 years from now does not make sense at all. So what really counts is that the President is standing firm and saying, "I will balance the budget in 7 years but I have got to protect Medicare, Medicaid, the environment and education."

Really I think the public is a little bit fed up at this point and would like us to get together, come to some conclusion. I was at the Statue of Liberty this morning, frankly, and to see the Statue of Liberty closed because the Republicans are saying do not use these numbers, do not use those numbers, use these numbers. The public really wants to know why the Social Security offices are closed, why the Statue of Liberty is closed, why they cannot get their passport.

I would suggest that while we are debating these very serious issues, we get a continuing resolution and get the Government going again, because it is unfair to penalize the people for what is going on here in this House of Representatives. So we should be adults, get the Government going, and then continue to debate these very serious issues.

Frankly, I want to applaud the President again for standing firm. Medicare, Medicaid, education and the environment are issues that are worth us standing firm on.

Frankly, I was in my office looking through my mail, and rather than talk in generalities, I was looking at a letter from a constituent of mine by the name of Lorie Kraft. She is from Forest Hills, NY. She has a 79-year-old mother, Rena Payne. Like many children, Lorie is her mother's primary caretaker.

You were talking about your father. Her mother has a form of dementia. Her mother needs a lot of care. What Lorie was saying, "I already supplement my mother's income by buying her groceries, paying her utility bills, purchasing health care supplies. If Medicare benefits are cut," Lorie says, and I quote, "it would be absolutely a devastating strain added to an already very difficult burden."

We have to know that what the Republicans are proposing is the largest cut in history. We know we have to reform Medicare and Medicaid. Yes, there is fraud in the program and we have to continue to make it better, but cuts of $270 billion just do not make any sense.

I hope all the people out there understand that there is no reason to shut the Government down. We should be adults, get together and come up with proposals that make sense for the American people.

If the Republicans would stop tacking on these extremist proposals on all the appropriations bills, and the gentlewoman from California [Ms. PELOSI] and I sit on the Committee on Appropriations, we know that the Republicans did not do their work. They should have completed their work by October 1. That is why we are in this pickle that we are in, because they did not complete the work. It is because on all these bills they want to tack on extremist provisions, whether it is provisions in the environmental bills that cut back on our protection for the environment, or cutting back on education, or cutting back on health care.

We were sent here to stand up and fight for the Lorie Krafts of this world and their mothers, and I am very proud that our President is standing firm, that we are here tonight to make it clear to the American people. I hope you let Members of Congress know that we have to continue to fight to make sure that Medicare and Medicaid are preserved.

This is an important battle, and it is a battle for the soul and the values of our Nation. I thank the gentlewoman again.

I want to turn to my colleague the gentleman from Kentucky [Mr. WARD].

Mr. WARD. I just wanted to make one short comment. That is, that we have heard lately about the importance of charities helping out and we have heard about churches maybe stepping in.

I want to observe and make sure that people understand that if each of the 250,000 or so churches in America, there are about a quarter of a million churches, if each one had $1 million, $1 million that they could add, that would not even equal the tax breaks that are in this budget. It cannot be done in that way.

AMERICA NEEDS A BALANCED BUDGET

The SPEAKER pro tempore (Mr. RADANOVICH). Under a previous order of the House, the gentleman from Maine [Mr. LONGLEY] is recognized for 5 minutes.

Mr. LONGLEY. Mr. Speaker, I rise this evening again to call our attention to the national debt. As of 3 o'clock this afternoon, it now totals $4,989,584,833,636.17.

I have to confess to some amount of nervousness as to the stability of the platform on which the debt now stands, let alone the ability of this country to continue assuming a debt burden of this size.

I also again point out for the record that it is $4.989 trillion when in fact we have a national debt limit of $4.9 trillion. Again, it is important to understand that there is at least another $89 billion that is not included under the congressionally mandated debt limit, nor does this number include the $61 billion that the Treasury Secretary has borrowed from the Federal Civil Service Retirement Fund.

I would like to put some context behind the issues that we are discussing on the balanced budget and the need for this Congress to insist on finally, once and for all, balancing the Federal budget.

Our high level of Federal spending did not arise overnight. It took place, it built up over a 50-year period. In fact, you can trace its origins to the days following World War II when the U.S. economy was one of the few economies left standing in the world and it was booming. We had 8 or 10 million veterans or more returning from war, finding jobs in an economy, continuous growth and tax revenues coming into Washington on a level that no one in their wildest dreams could have ever imagined.

Very gradually successive Congresses, Republican and Democratic Congresses, became accustomed to very high levels of revenues and very willing to spend those revenues. In fact the case can be made that they became so accustomed to the high level of revenues that they began to think that they could spend more than the revenues that were coming into the Treasury. Hence, we now have at the end of these 50 years a national debt that is just under $5 trillion.

I should mention that at the same time that spending was increasing, taxes were increasing as well, from several percent of income in the late 1940's to well over 20 and 30 percent, in many cases 40 and 50 percent of income today, when you factor in local, State, and Federal taxes.

But the bottom line is that we have been spending more than we have been bringing in, particularly in Washington.

What does this have to do with the current debate? We have just listened to a very earnest discussion about some very valid concerns about the welfare of the seniors and those in this country who need help.

But the point that I would make is this: There are many valid concerns in Washington. But we have a duty to our country, to our children, to the taxpayers, to total up what is the amount of money that we are willing to spend on these different concerns.

I have to confess that this is a body that we organize along the lines of Republican and Democratic, majority and minority control. There is a reason for that. The heart of our system is a debate between two points of view.

This goes right back to the first Congress following the Revolutionary War, that having two points of view, having a two-party system, we get the best thinking of both parties. But I have to confess that today that is not taking place, because what we have on the one hand is a Republican Congress that has stepped up to the plate and come up with a 7-year plan to balance the budget, but on the other hand a Democratic Party that has refused to do so.

I note that today's papers indicated that President Clinton is now going to be offering his fourth budget. Fourth budget, that is, because not a single one of his budgets has achieved balance within the 7-year time frame. In fact, a good case can be made that none of his budgets would ever balance, that they would continue to pile on billions and billions of dollars on top of this Federal debt, a Federal debt that we and our children and grandchildren will have to pay not just for the rest of my life but probably for the rest of their working lives.

There is something moral about the fact that if you want to take a stand in favor of serious needs in this country, that you owe it to the public, you owe it to the Congress to step forward with your convictions and show the Congress how you would pay for it. That means that if you think, as our previous speaker suggested, if one thinks that the Republicans have not done a good job of setting financial priorities within a 7-year budget, that someone should step to the plate and show us how to do it differently.

Very honestly, that is not being done. I have a new appreciation for what the word "rhetoric" means, earnest language, but where is the substance.

CONTINUING THE BUDGET DEBATE

The SPEAKER pro tempore (Mr. BUNN of Oregon). Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. RIGGS] is recognized for 60 minutes as the designee of the majority leader.

Mr. RIGGS. Mr. Speaker, I am pleased to come to the floor tonight to be joined by some of my very distinguished colleagues, some of the best champions of our major concern and our foremost fight in the current session of the Congress, and that is balancing the Federal budget, to preserve the American dream for our families and for our children.

I asked the gentleman from Maine, who has become a real stalwart also in the fight, to leave out here on the floor his daily national debt clock, and I think as the gentleman from Connecticut [Mr. SHAYS], who is one of the senior members of the House Committee on the Budget, would attest, the Committee on the Budget actually has, I believe, an electronic version of the national debt clock which shows interest compounding on the national debt, second by second, minute by minute, hour by hour, day by day. I think this is a perfect backdrop for our discussion here tonight.

Before I turn to my colleagues for their comments and their contributions, I want to address the comments that were made by the President in his remarks to the American people, his brief press conference. This was a press conference without, of course, any interaction with the White House press corps, that he did not take any questions or comments from the media on Friday at just about the time that the continuing resolution which funded the operations of the Federal Government through Friday was about to expire. He made a statement in the White House briefing room that I believe should not go unchallenged and should not go unanswered, because it was in fact, when one looks carefully at his statement, a very elaborate attempt to mislead the American people.

I want to turn my attention for just a moment to his comments, and I am sure my colleagues, by the way, would join me in welcoming back to the House floor any of the speakers from the previous hour which were some of the more liberal members of the House Democratic committee, if they would really like to debate what has been happening back here in Washington as we seek to put our fiscal house in order and again balance the Federal budget in 7 years or less using honest numbers as provided by the neutral, nonpartisan Congressional Budget Office.

We should also remind the American people that the House and the Senate, with Republican majorities, have already passed a 7-year plan for balancing the Federal budget as certified by the Congressional Budget Office. That is the plan that, of course, went to the President, the plan known as the Balanced Budget Act of 1995 that he recently vetoed. That is the backdrop for carefully analyzing the comments that the President made again in his remarks to the American people and the White House press corps on Friday.

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As I go through these, I want to give my colleagues who have joined me here on the House floor for this special order an opportunity to join in as well.

First of all, the President said on Friday, "As all of you know, today the Republicans in Congress broke off our negotiations on how best to balance the budget in 7 years."

The truth is, it has been 29 days since the President signed that continuing resolution back on November 20, committing to join with the Congress in developing and ultimately adopting a 7-year balanced budget plan as certified by the nonpartisan Congressional Budget Office, 29 days since the President signed a bill, signed a law committing himself and his administration to negotiate in good faith with congressional Republicans regarding a 7-year balanced budget plan. So the truth is that on the very first day of these budget negotiations, White House Chief of Staff Leon Panetta assured JOHN KASICH, who I think many of our constituents are getting to know, chairman of the House Committee on the Budget and the champion of the balanced budget fight in the House of Representatives, White House Chief of Staff Leon Panetta, one of our former colleagues, former member of Congress from California, assured Chairman KASICH that the Democrats could produce a CBO-scored budget that achieved balance in 7 years and reflected the President's priorities.

Twenty-nine days later, the administration has refused to keep its commitment. In fact, for anyone watching the David Brinkley show, "This Week With David Brinkley," a show that aired yesterday, Sunday, on the ABC network, you would have seen Leon Panetta very carefully skirt the question as to whether or not any of the proposals that the administration has sent up here to Capitol Hill could be balanced using Congressional Budget Office numbers, when that question was posed to him repeatedly by Cokie Roberts, one of the ABC news reporters sitting in on that panel discussion.

So it has been 29 days since the President gave his word and made a personal commitment to join with us in balancing the Federal budget. We have done our work. We have kept our word in producing a 7-year balanced budget plan. And quite honestly, if the President does not like our plan, we believe that he has at a minimum a good faith requirement or good faith obligation to come to the negotiation table and present his own plan, pointing out where he would choose to differ with us. But he has failed to do that and we have told the administration, and I think I can say on behalf of my colleagues here tonight that, again, that our negotiating team, as Senator DOLE and others indicated in the Sunday news shows, our negotiating team is happy and ready to meet with the President at any time provided that he is ready to keep his word.

The President then went on to say, I want to turn to the gentleman from Connecticut to get his comments here, too, he said in this news conference, you really cannot call it that, these brief remarks on Friday, "they said," referring to the new Republican majority in Congress, "they would not even continue to talk unless we agreed right now to make deep and unconscionable cuts in Medicare and Medicaid. That is unacceptable."

The truth is, of course, that we are increasing spending on both Medicare and Medicaid, although at a slower rate than the current projections because the current growth rate of both programs is unsustainable. The truth of the matter is that we increase Medicare spending per Medicare beneficiary, this is a very sensitive subject to me, because both of my parents are on Medicare and receive their supplemental health insurance through AARP. I think that is probably fairly typical of many older Americans, but both of my folks are on Medicare. So it rankles me, to put it mildly, when the President of the United States goes before the American people and claims that we are making "unconscionable cuts in Medicare and Medicaid."

We are proposing to increase spending per Medicare beneficiary over the next 7 years from roughly $4,800 today, I want to find the exact number here, I know I have it with me, here it is, we are proposing to increase Medicare spending per senior from $4,812 today, 1995, to $7,108 per senior in the year 2002.

So let me put it a different way. Our 7-year plan for balancing the Federal budget anticipates and assumes that we will increase Medicare spending per beneficiary from $4,812 today to $7,108 per Medicare beneficiary in the year 2002.

Those are not cuts. Those certainly in no way could justify the use of some of this rhetoric and demagoguery that we hear coming out of the administration during these budget negotiations. Again, it just obscures the truth. It diverts attention from the real issue here, which is will the President keep his word as he promised to do 29 days ago on November 20 and present to us, the congressional Republican majority, his own version of a 7-year balanced budget plan as certified by the Congressional Budget Office.

We want to see, I think I speak for my colleagues when I say, we would welcome an honest, serious proposal from the President using, as he promised to do, Congressional Budget Office numbers. We think that that would move these negotiations, which are at a stalemate and have led to a partial shutdown of the Federal Government, off of dead center.

Let me turn to my colleague and good friend from Connecticut, Mr. SHAYS, because I want to get his input at this juncture regarding these unconscionable cuts that the President talked about on Friday in the Medicare and Medicaid Programs.

Mr. SHAYS. Mr. Speaker, I came to this floor after listening to my distinguished colleagues on the other side of the aisle talk about certain statistics and facts that just simply do not hold up. They are not factually correct.

Part of the reason for being here is not only to correct the President and his news conference on Friday, which was not correct and, candidly, he did not allow himself, as you point out, to be questioned by the media.

This is a disagreement, be it a very significant disagreement, with the President and our colleagues on the other side of the aisle about the importance of getting our financial house in order and balancing our Federal budget. It is about saving Medicare from insolvency starting next year and bankruptcy in 7 years, and it is about ultimately changing our social and corporate welfare state where you have 12-year-olds having babies and 14-year-olds selling drugs and 15-year-olds killing each other and 18-year-olds who cannot read their diplomas and 24-year-olds who never had a job and 30-year-old grandparents. It is about changing that kind of society into what I would call a caring opportunity society.

Behind you you kind of block out that first number, but it is $4.9 trillion, almost $5 trillion of debt. That debt, in the last 25 years, has grown from about $350 billion to now $4,989 billion, et cetera. And so what are we about? We are trying to get our financial house in order and balance our Federal budget.

What we are asking the President to do is quite simple. If you do not, if you agree that we should balance the budget in 7 years, and he said yes, that is one step that is very important, we all agree. At one time he said 5 years, another time he said 8 years. But remember, that was 2 years ago. If we did a 7-year balanced budget 3 years ago, we would only have 5 years from now. So even our 7-year budget that he has, has 3 years now. We are talking about a 10-year budget from when he took office.

What is this battle about using CBO numbers, the Congressional Budget Office? It is not a partisan office. It is not even a bipartisan office. It is a nonpartisan office. We on our side have had tremendous disagreements with those numbers, but why would we want those numbers to be used instead of the Office of Management and Budget? The Office of Management and Budget are partisan numbers done by the President's political appointee.

We know from President Reagan and President Bush before them that when you use those numbers, you end up with what is called a rosy scenario. So 3 years ago, 2½ years ago, almost 3 years ago now, when the President addressed us in the State of the Union Address, he said, no more will we use the Office of Management and Budget, which is now his office. He said, we will agree to use the Congressional Budget Office.

Mr. RIGGS. I believe he said at least we can agree on using Congressional

Budget Office numbers from this podium right behind me, and I believe that was his 1993 State of the Union Address.

Mr. SHAYS. And we can agree on that. And it forced us to do some heavy lifting this year. We did heavy lifting because the numbers required us to be real and then not estimate our way out of a challenge. And the reason we are doing that is so that, in fact, we will have a balanced budget in 7 years and not think that we might.

I could think of 100 analogies to give, but if you basically were working in a business and you knew that you had to balance your budget, you earned $50,000 a year and you said, Well, I am just going to pretend that I am going to get $60,000 a year and I am going to spend $60,000. If I pretend I am going to get $60,000 a year and I spend $60,000 a year, I have a balanced budget. Wrong. You are $10,000 over because you had a rosy scenario of your income.

In fact, you knew your income would not be that. So that is why we are willing to use the test of the Congressional Budget Office. It is not about who calls it from any personal standpoint. We just want it to be real. We want to do the kind of heavy lifting that we have.

There is a lot more we can talk about. I know we are joined by my colleague from Pennsylvania, and we have two other distinguished Members that will participate in this. I know my colleague from Pennsylvania came first.

Mr. RIGGS. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. FOX] for his comments. He has been one, another champion who has been down on this floor, along with the gentleman from Georgia [Mr. KINGSTON], night in, night out, attempting to convey our message out beyond the beltway fog penetrating, if you will, the kind of the conventional Washington wisdom that seems to dominate and many times drive policy discussions in this city back out to the American people where they live in the local communities that are represented by us here in the Congress.

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the gentleman from California as well as your colleague Mr. RADANOVICH and as well Mr. SHAYS and Mr. KINGSTON for being the truth squad, for getting the real message out to the American people. The fact is that when we asked the President to come out with a balanced budget, we were more than willing to go halfway and make sure that we achieved it. The last proposal from the President was $265 billion out of balance and certainly does not achieve the goal that Americans want.

Mr. RIGGS. Is the gentleman saying that the President has not to this date, because I think we have seen now, what, three or four different budget proposals or variations on his initial budget proposal. But the gentleman is saying that we have yet to have seen a budget from this administration in this Congress that would in fact balance the Federal budget and to the contrary what we have seen projects red ink, these deficits, in the range of $200 billion as far as the eye can see, way out into the next century.

Mr. FOX of Pennsylvania. Mr. Speaker, it is certainly correct when you say that there is no balanced budget coming from this administration. The President has not given us one yet. Yet on November 20 he promised, along with congressional leaders, that in fact he would produce with us a balanced budget in 7 years.

Alan Greenspan has come forward and said, he is not involved with just partisan issues for the President or for the Congress, he has said we have got to balance the budget because it will help us reduce mortgage costs, reduce car payments, reduce college expense, and make a middle-income people have a chance to have a part of the American dream. Ninety-five percent of Americans want a balanced budget for all these good Government reasons and good business reasons. And the fact is the President wants to support more D.C. bureaucrats and more taxes on the middle-income people.

We need to have a balanced budget. We have gone more than halfway by proposing additional $71 billion in additions to Medicare, Medicaid, child care, and education. I have to take my hat off to Congressman SHAYS from Connecticut because when it comes to the Medicare reform, we are going to save a system through his assistance, it is his legislation that said, how did we get into this mess, $30 billion of fraud, abuse, and waste and in Medicare has caused the biggest part of the problem.

Under his legislation we are going to have for the first time health care fraud in the United States that says that if you in fact commit such a crime, take money out of the pockets of senior citizens, you will not be provided any longer and in fact you will go to jail for 10 years, that money under that legislation we adopted will in fact make sure that the funds go back into a Medicare lockbox for seniors, reduce the cost of paperwork, make sure that medical education is a separate line item and in fact offer two new choices to seniors beyond the fee-for-service who also have the Medisave accounts and managed care.

By doing so, we will have quality medical care for our seniors and the system is preserved. Frankly, I am glad you have this truth squad so that Members can let people know we can balance the budget and save Medicare for our seniors and in fact as well save Medicaid.

Mr. RIGGS. I appreciate the gentleman's points. I want to reemphasize what he just said, because I think it is a very important point, central to these ongoing budget negotiations.

The gentleman points out that our plans for preserving Medicare, for saving Medicare from bankruptcy and ensuring its solvency well into the next century, making sure that Medicare is there not just for today's seniors, our grandparents, but for tomorrow's seniors, the next generation of seniors as well, that our plans, known as the Medicare Preservation Act, were incorporated into the Balanced Budget Act which the President vetoed a couple of weeks ago. Here is the wonderful irony of this, he vetoes the Balanced Budget Act a few days after signing the continuing resolution, which expired on Friday, but committed him to joining with us to balance the Federal budget in 7 years or less using honest numbers provided by the nonpartisan Congressional Budget Office.

So I appreciate the gentleman making that point. I just wanted, the gentleman, I think, stressed this, but I want to add again that the President on Friday said, I go back to his comments, I would love for one of our Democratic colleagues to hustle down here to the floor and perhaps explain and justify the President's comments for us, but he did say on Friday in his televised remarks again, I have already quoted him a couple times. I want to quote him one more time, that they, referring to congressional Republicans, would not even continue to talk unless we, referring to congressional Democrats and the President and his administration, agreed right now to make deep and unconscionable cuts in Medicare and Medicaid.

□ 2100

Well, let me just point out that under our proposal to balance the Federal budget in 7 years we reform Medicaid, we turn it into a State block grant program, but we increase spending on Medicaid by 43 percent, 43 percent, which the President of the United States calls in his careless rhetoric and demagoguery an unconscionable cut, a 43-percent spending increase, going from $89 billion this year spent on Medicaid to $127 billion in the year 2002, and the other point that the gentleman made, which is that last week we agreed to recommit our 7-year balanced budget proposal to the Congressional Budget Office so that they would have another opportunity to score it, which just means simply review it and make certain informed estimates and projections, we submitted that plan, which we are now calling the Balanced Budget Act of 1995 to—this is a sequel that is better than the original—but we submitted that to the Congressional Budget Office, and they said that based on an improving economy and more optimistic economic assumptions and projections that we would have an additional $135 billion available to the budget negotiators, and, as the gentleman from Pennsylvania [Mr. FOX] points out, we have already proposed, we have put on the table late last week before the continuing resolution expired, a proposal to spend between $70 and $75 billion of the $135 billion on Medicare, increased spending for Medicare, Medicaid, and the earned income tax credit as evidence of our good faith, yet we have not yet to date seen any evidence of good faith from this President and this administration.

I would like to turn now to the gentleman from Georgia.

Mr. KINGSTON. Well, I think that it is important that we do emphasize to the degree that people outside of Washington understand we are not even cutting the budget. You look at the overall spending; we are not even freezing it. The Republican Party is arguing about increasing the growth $3 trillion over the next 7 years, and President Clinton wants to have it increase $4 trillion over the next 7 years, so what we are arguing is 3 versus 4 trillion new dollars in spending, and, as you have pointed out, while the President will say that we are devastating, and decimating, and dissecting, and all kinds of bad things Medicare, he—we are still increasing it 42 percent, and it is interesting also that on that same subject that Haley Barbour, the President of the Republican National Committee, has said that, if any Democrat House Member, Democrat Party member, American citizen, or even Republican can show where we are cutting Medicare, well, then come pick up a million-dollar check, and what was so ironic is I listened for months, and months, and months to the folks on this side of the aisle saying, "You're cutting, you're cutting, you're cutting."

Well, here is your chance, come get a million dollars. I do not think any of them are going to make that much in the U.S. Congress, not legally anyhow, but you can imagine. We should have had a line of people coming in saying, "I want my million dollars. You all are cutting that budget." But nobody has stepped forward with it.

Now just think about it. If you were a Democrat Party member, and you have been saying all along, "Republicans are cutting, and cutting, and cutting," what a hero you would be to your side if you could pick up that million dollars. The motivation would just be incredible to do it, and yet that offer is what? Ten days old now? Have not heard, still out there, silence.

You know my little boy plays on a soccer team, and it is ironic, as I go out to the soccer fields, and I look at these kids, and I realize that we have an opportunity to do something for them: more jobs because interest rates will come down, lower home mortgages, more student loans at lower interest rates. We are increasing student loans, as you know, and we have got this great opportunity for these children, to do something for them now.

And I was thinking, you know, now what would happen if kids could vote, if kids could vote on all the spending programs that President Clinton and the administration are saying are for children, for children, for children; what if they could vote and say, "Hey, wait a minute, wait a minute, Mr. President, I don't want to be stuck with the tab that you have run up to us, that each boy and girl born today owes $187,000 in interest as his or her share of the national debt on top of local, Federal, and State taxes."

I have a nephew, Morris Watson. He is going to owe $187,000 in interest on the debt. This is real stuff.

Let me get back to the soccer field, and I want to yield back, do not want to grab the mike too long, but ironically the name of my son's soccer team is Budget, and I was thinking, you know, you do get spoken to in different ways and different omens are out there, and I was thinking while I am away from them during this Christmas week, as we all are, you know, maybe there is something that is worth fighting for out there because, if those boys and girls on that soccer team can live in a world where there is a balanced budget and a government that is honest, then maybe this is and certainly this is worth what we are trying to do.

Mr. RIGGS. Very much appreciate the gentleman's comments, and he also helped us sort of set the context for the rest of our conversation this evening when he pointed out that our plans for balancing the Federal budget over the next 7 years anticipate that we will spend $12 trillion on the programs, the agencies, the beneficiaries of the Federal taxpayers funded by Federal taxpayers as opposed to $9 billion over the last 7 years, a 3—did I say billion?—$9 trillion over the next 7 years versus—excuse me, $9 trillion—let me slow down $12 trillion over the next 7 years as opposed to $9 trillion over the last 7 years, a $3 trillion spending increase.

Mr. KINGSTON. If the gentleman would yield a second, I want to, you know, remind folks that I really and truly think that if a lot of people knew that we are not really talking about cutting the budget, they would be furious, you know, these right-wing freshmen that we keep hearing about. If they knew, hey, you are going to increase the budget $3 trillion, they and the sophomore class that I know, we would be out of a job. The people would be disgusted with that.

Mr. RIGGS. The gentleman is so right, and we are finding out, I am sure when we go home, even though our opportunities to do that have been rather limited in recent weeks because of these ongoing budget negotiations and the current crisis here in Washington, but we are finding out when we go home and have an opportunity to speak with our constituents, have an opportunity to engage in some public education about our budget proposal, that there is broad and deep support for our plans. In fact I dare say all of us are hearing on a daily basis from many constituents who say, "Hang in there, stay the course, do the right thing."

Mr. SHAYS. If the gentleman would yield and then I know my colleague has been waiting awhile, you know I am not getting that from everyone because I might get from someone that they do not like the incredible increase in spending that we are doing on Medicare, increasing the co-payment and deduction. I am saying, "Excuse me, we're not increasing the co-payment, we're not increasing the deduction." They say they do not like the fact that we are throwing them and forcing them to have private care and they have to leave their fee for service. I say, "Excuse me, we're not doing that either."

So, before yielding to my colleague, I just want to point out something on Medicare that my colleague has pointed out, that Medicare is going from $178 billion to $289 billion by the 7th year. We are going to be spending about in the last 7 years $926 billion for Medicare rather, and in the next 7 years we are going to spend $1.6 trillion on Medicare, an increase of 727 billion of new dollars.

Now we did that with no increase in co-payment, contrary to what our colleagues said earlier. I mean it is just a blatant falsehood for them to say that the deductible went up or the co-payment went up. It did not. The beneficiary premium stays at 31½ percent, 31½ percent of the cost. Now obviously as the costs go up 31½ percent is a higher number, just as it has been in the past. But the taxpayers are still going to pay 68½ percent.

Now with our Medicare Plus, Mr. Speaker, people can stay in their fee for service, or they can get private care and get better care. If they do not think it is better care, they have every month for the next 2 years, they have the opportunity to get back.

So I just want to correct one point. My colleague is right. I have a lot of people say $4.9 trillion debt is obscene and it stopped deficit spending, do it, and they say, "Do it sooner than 7 years." But some say they do not like what we are doing with Medicare until I tell them what we are doing. When they learn what we are doing, they say, "Hey, it makes some sense," and I just would conclude by saying my colleague from Washington pointed out what we were doing with Medicare and described how you could not afford to continue to pay people $4,900, and I am thinking where is he getting that number from, what is he talking about? We allow—the beneficiary rate is at $4,800 in 1995. It goes to $5,200 in 1996. It goes to $5,490 in 1997. It goes in 1998 to $5,563; in 1999, $5,776, and the year 2000 it goes from—to $6,221, and just two more. In

2001 it goes to $6,634 and the year 2002, as you point out, it goes to $7,108.

Where is the cut?

Mr. RIGGS. That is exactly the point. I believe that Haley Barbour, our friend, the chairman of the Republican National Committee, is trying to make with what is admittedly a pretty unusual, even novel proposal in American politics. Now the gentleman has pointed out, I made the point earlier, under our Medicaid reform proposal, known as Medigrant, spending goes up 43 percent. The gentleman has just pointed out that Medicare spending increases by more than 50 percent. So where are these unconscionable cuts that the President of the United States was talking about on Friday? It has caused Haley Barbour, again chairman of the Republican National Committee, under the theory that it takes a big check to expose a big lie, the big lie as far as I am concerned when you look at the whole mediscare campaign that is being waged by the congressional Democrats through their campaign arm through what I think is just a naked, but desperate, attempt to win back the control of the House of Representatives—it has caused Haley Barbour to now come out and say—he has now come out and offered, as the gentleman from Georgia pointed out, a cashier's check for $1 million to the first American, so that certainly would not exclude a Member of the House Democratic Party—the first American who can prove the following statement is false, quote, "in November 1995 the U.S. House and Senate passed a balanced budget bill." it increases total Federal spending on Medicare by more than 50 percent, as the gentleman from Connecticut has just pointed out, from 1995 to 2002 pursuant to Congressional Budget Office standards, and, as the gentleman from Georgia pointed out, the response so far has been deafening silence.

Let me turn now to my good friend, who has been waiting patiently, and colleague from California, Mr. RADANOVICH.

Mr. RADANOVICH. It is good to be here tonight with a fine bunch of gentlemen on both sides of the aisle, and, you know, I had the opportunity to be in the Chamber during the time when the—when my colleagues were discussing the current shutdown that we are in and the events that led up to it, and I found myself puzzled to really not hear much mention of the importance of the Congressional Budget Office calculating these budgets, and not so much the CBO, but one office doing this, doing these calculations, and you know the thing that really surprises me the most is that on November 20 an agreement was signed between the legislature and the executive branch, and in that commitment was a proposal that was to be developed by the White House that was to be sent to the Congress that would balance the budget in 7 years according to CBO numbers, and in those things would be priorities of Medicare, Medicaid, education, the environment. It is very, very difficult, and I think people cannot understand this budget process.

I mean I have been here 11 months, and I have watched this process, and I have had the opportunity to watch it first hand, but the average American does not get that ability, and I am sure what they see here in this process is so mind boggling, and part of it is because, if you and I are negotiating a budget on two sets of books, you may as well be speaking Chinese, and I may as well be speaking Croatian, none of it is going to be making sense, and yet this is the way we have operated in this Chamber for 40 years, so that people can say, yes, I want to protect this program and I am only going to spend this much according to these numbers, and this party over here can say I want to accomplish the same thing, but I can, you know, be this or—I can do it in such a certain way that I can be nicer about it. And unfortunately the world does not work that way, and I would, you know, I would say to every American right now that nobody in their right mind would want to discuss or negotiate a budget based on two sets of books. It just does not work.

□ 2115

It just does not work. That is why we are so insistent about using one agency, the Congressional Budget Office. So if the President, and going back to the November 20 agreement where he decided, if the President has in his priorities, and I think we all have those same priorities of protecting Medicaid, Medicare, protecting the environment, and also education, then why did he not submit a budget that balanced by the Congressional Budget Office that proved that with those resources he could protect those programs and have his own sets of priorities in them?

Instead, what he did was that he got the 7-year part right, and he got just about nothing else right, because he did not score it according to the CBO, and all his priorities in his way put us out of balance by $365 billion at the end of 7 years. This is not logical and this does not make sense.

That is why we here are saying our priorities are a 7-year balanced budget, scored by CBO, and then we are going to concentrate on deficit reduction. But how can you even think of affecting that number right there that is beside you without using a common set of books so we are all speaking the same language? Once you have that, then we have constructive dialog.

Mr. RIGGS. The gentleman is so right. Any successful negotiation is based on certain common assumptions and premises. That is what we thought we were doing when we sent this continuing resolution to the President, which he signed into law. Nobody twisted his arm back on November 20, 29 days ago, committing to use the nonpartisan, neutral Congressional Budget Office as the honest referee, if you will.

Mr. FOX of Pennsylvania. If the gentleman will continue to yield, the gentleman from California has certainly outlined well what the American people are thinking. The point is they have to balance their own home budget, State governments balance their budget, county governments do, school boards do. Why is it that the Federal Government has not?

Since 1969 we have now acquired, because Congress has not balanced its budget and has been overspending, we have now a debt of $4.9 trillion. People are paying taxes every year and not getting much for it. I hope the President will meet us halfway and hope we will meet that balanced budget in 7 years, which he has already committed to, and the American people want for the savings it will bring.

Mr. RIGGS. Exactly. I want to point out that even though the President has made that commitment of signing the continuing resolution of the four budget proposals he has sent up to Capitol Hill, he comes nowhere close to actually balancing the budget. He talks again about these unconscionable cuts, which are not real, but knows in his heart of hearts there is no way you can balance the Federal budget without taking on the entitlement programs which have been growing at an exponential, unsustainable rate. He knows that full well. We have said throughout these budget negotiations over the last 29 days, while waiting for the President to come to the table, that everything is on the table.

I think I can safely say for my colleagues tonight, everything remains on the table with the exception of no 7-year plan using Congressional Budget Office numbers from the administration. That is the one thing we have yet to see on the table. It is the one thing that is absolutely essential to good-faith negotiations that can conclude in a successful balanced budget agreement between the Congress and the President.

Mr. Speaker, I yield to the gentleman from Arizona [Mr. SHADEGG].

Mr. SHADEGG. Mr. Speaker, I would like to thank my colleagues, the gentleman from California [Mr. RIGGS] and my other colleagues here tonight. I really came down from my office after listening to the discussion here on the floor to make two points. The first has to do with the discussion of what numbers do we use in trying to balance the Nation's budget.

I was on the floor when I listened to the gentleman from California's remarks about yesterday's appearance by the President's Chief of Staff on This

Week with David Brinkley. I will tell you I was shocked by that, because it was really, in fact, a rather shocking revolution, or revelation, which is not part of this revolution.

What happened is that Cokie Roberts said, "Look, you, through the President, agreed 3 weeks ago after a 6-day shutdown, the Nation was shut down, the Federal Government did not operate for 6 days, at the end of that you came to an agreement. The agreement was that you would put forward or ultimately agree to a budget which balanced in 7 years using CBO numbers, and with consultation with OMB." She put to him point blank, "In that agreement you said you wanted to protect certain programs: Medicare, Medicaid, education, and the environment. Is it possible," she put directly to him, "Is it possible, Mr. Panetta, for you to put forward a budget which the President will agree to which is scored by CBO, reaches balance in 7 years, and protects those programs?"

And as you pointed out, he dodged the question the first time. He dodged it the second. He dodged it the third. Ultimately, in frustration, Ms. Roberts said to him, "The answer is it is not?" And essentially he conceded that point. He basically nodded his head and acknowledged that he had grave doubts. As a matter of fact he went beyond that and he said, "No, not without further revision in the current CBO numbers." That is, "No, it is not possible. It is only possible for us to do that if CBO changes the numbers."

That raises a fundamental question, because as my colleague, the gentleman from California, has pointed out, it is impossible to do a budget using two different sets of numbers. We have to first come to agreement on a set of numbers. Why, the American people should ask themselves, did the President agree 3 weeks ago, now almost 4 weeks ago, that he would propose a budget or agree ultimately to a budget which balanced in 7 years, using CBO, after consultation with OMB, that protected those priorities, his priorities on education, Medicare, Medicaid, and the environment, if in fact his Chief of Staff 3 weeks later says it is impossible, it cannot be done? I was shocked by that revelation.

I was further shocked to find that in the day we discovered another fact. That was while the President had asked for OMB to consult, OMB did not begin consulting until the day before the day the budget resolution had to be agreed upon; that is, funding ran out on our current resolution on the 15th, and the President's OMB office did not even begin consultation, something he had fought for, until the 14th, a second shocking event.

Then I was rather stunned when last evening I flipped through the dial and I caught the President himself being interviewed in front of the church he attended yesterday. He was asked the same question. I do not know how many of you caught it. He was asked the question: "Mr. President, is it possible for you to put forward a budget balanced in 7 years by CBO numbers that protects your spending priorities?" And in direct contradiction of his Chief of Staff, he said, "Absolutely."

As far as I am concerned that means he has a duty to put it forward, he should put it forward. If he says absolutely, he needs to sit down with his Chief of Staff and put it forward so we can all move forward and get it started again.

The second point I want to make is one I found phenomenally encouraging. It actually made my day today. That was as revealed in this chart. Tomorrow I am going to have a larger blowup of this chart made. I have distributed copies of several of my colleagues here. There is tremendous encouragement for the Nation here in this chart. We all know that we must reform entitlement spending if we are going to save the Nation. If we are not going to continue to pass the debt as laid out in the chart behind you on to our children and our grandchildren, it is necessary to look at our spending priorities.

This chart is phenomenally encouraging. It appeared in today's Time Magazine, the Time Magazine which has the Speaker on the cover and makes him Man of the Year. It is a poll taken by Time and CNN, by the Yankelovich Partners, Inc., taken December 6 and 7, that it is a very, very current poll.

The fascinating thing about this is that although our colleagues on the other side of the aisle have spent $22 million in advertising telling us how draconian and how extreme our cuts are, and although the President has had almost a monopoly on the press coverage and the media coverage saying how extreme and outrageous our cuts are, here is where the American people stand as of December 6 and December 7.

True, 47 percent of them have bought the argument that our cuts go too far. But look at the other side of the graph. If you add up those who say our cuts are about right, 27 percent, with those who say we have not yet gone far enough, which is 19 percent, you discover that 46 percent of Americans think that we either have gone the right distance or should be actually cutting even further. That is a dramatic testimony to the validity of what we are doing here in the Congress, to the message that we are getting out.

Mr. Speaker, it is important to understand that you can mischaracterize our program until the cows come home until it is enacted. It is what our mothers taught us as we were going to the doctor and dentist at the time: Anticipation is worse than realization. They can claim that we are gutting Medicare, because our proposal is not in law. All we can do is rhetorically defend it, and point out that Mr. Panetta voted for deeper cuts in Medicare himself.

Mr. SHAYS. When you say cuts, if I can just correct the gentleman, we are talking about significant increases. What we are talking about is slowing the growth. If the gentleman is referring to the fact that we are slowing the growth of Medicare to 7.2 percent, and he recommended slowing the growth less than that, as did Mrs. Clinton——

Mr. SHADEGG. As did the First Lady. In any event, they can mischaracterize our program as long as it does not go into effect. Look at this poll. This poll shows even with their mischaracterization of what we are doing, and by the way this says "Cuts," which in fact we all know none of these are cuts, every program is going to grow, and grow roughly at the rate of inflation or better in some instances; but even with all that and even with the media opposition we have, as a very current poll done by Time Magazine, not in-house by any stretch of the imagination, says that the American people are divided on this issue, with 46 percent saying we are either going about the right amount of cuts, or maybe not going far enough, versus 47 percent saying we have gone too far.

Mr. SHAYS. Mr. Speaker, if the gentleman from California will continue to yield, I would point out that what is incredible is that people actually think we are cutting. When they learn that we are allowing Medicare to grow so significantly, that number that you see at 19 percent says we are not going far enough expands significantly; the number of 27, saying that it is just about right, becomes much larger, and that number of 47 saying we have gone too far, a good number of those disappear, because they realize we are not cutting the program, we are increasing it.

Mr. SHADEGG. I would quickly point out, even the question puts it wrong, "have the cuts," and we are not cutting, we are not. No, they are not cuts in Federal spending; have we gone too far—they are not cuts in Federal spending, they are reductions in the increase in spending. Had the question been put properly, the numbers on this graph would be dramatically more in our favor.

Mr. KINGSTON. Mr. Speaker, if the gentleman will continue to yield, if you would take out members of the media in this 45 percent, it would fall down to 25 percent.

One thing that has been quite clear this whole time, it is that whenever you read the poll numbers, the poll numbers shows the media loves President Clinton far more than they want to give Speaker GINGRICH or Leader DOLE a fair shake, so I think that is one of the realities.

When people back home say to me, "Do not cave," their second comment is, "Doesn't the media make you sick? You cannot believe anything you hear on national networks." They have shot their own credibility in the foot. I do not know that they realize that they are not—they are listened to, but they are not believed at all.

Mr. SHADEGG. Just one quick question. The credibility risk is by our colleagues on the opposite side of the aisle, because they are making the claim that what we have done is extreme. As soon as we get it into effect and we are at the next election and you can see what the reality is, that claim will be clearly hollow, and how they will defend it then will be a grave problem for them, I would suggest.

Mr. RIGGS. I appreciate the gentleman's point. I want to go back, because I think we all feel a little pent-up frustration at this careless demagoguery and rhetoric that has been thrown all over this town, particularly when it comes from the one person who enjoys the bully pulpit.

The bully pulpit, as Teddy Roosevelt called the Presidency, suggests, I believe, that our national political leader should speak with some moral authority, and hopefully some credibility at all times. Yet I go back to the President's comments on Friday when he said, "Now the Republicans in Congress are not only refusing to talk. Once again they are threatening to shut the Government down if I do not accept their deep cuts in health care, education, the environment, and their tax increases on working families. I did not give in to such a threat last month and I will not give in today."

Here is the truth. I do not know, honestly, when I hear this kind of rhetoric, what the President of the United States is talking about. There are no deep cuts, as we pointed out here on the floor tonight. Medicare and Medicaid spending will increase by more than—are you ready for this—Medicare and Medicaid will, combined, increase by more than $1 trillion, $1 trillion. Education spending increases by $25 billion.

As I mentioned a little earlier, on Friday, just before the continuing resolution ran out and we had this second partial Government shutdown, we offered a good-faith proposal which increased discretionary spending by $25 billion, including additional spending for the environment and education.

As far as tax increases on working families go, there are none, period. In fact, maybe Haley Barbour ought to extend his offer, the $1 million cashier's check for anyone who can prove that there are tax increases on working families, because middle-class families, working families under our balanced budget proposal, are offered a $500 per child tax credit. We increase spending for the earned income tax credit by 131 percent. Our reforms will ensure that all qualified families with children receive at least the same benefits as called for in current law.

In fact, the gentleman from Arizona made mention, as I did earlier, of Leon Panetta's comments on the Brinkley show yesterday. He also said yesterday, and I quote: "They increased taxes on working families by getting rid of the earned income tax credit." He claimed that we get rid of the earned income tax credit, when in fact we will spend $93 billion, $93 billion more during the next 7 years compared to the previous 7 years, as I mentioned earlier, a 131-percent increase.

□ 2130

So the American people are under the wrong impression. Let us be honest about it. It is because they are being misled and deluded by the President of the United States.

Mr. RADANOVICH. Mr. Speaker, if the gentleman would yield just briefly on that one point. My comments were pertinent to your remarks, and I cannot stress too much the concept of dealing squarely off of one set of books. Because when we try to tackle this number here and we try to balance this budget, and we are really serious about doing it, our options become severely limited.

Once the executive and the legislative branch are committed to one set of numbers, the demagoguery stops and the heavy lifting starts. Unfortunately, we have not seen heavy lifting from the executive branch of this government in dealing with this issue. That is why we are here today, very likely to even spend Christmas Day in this legislature, waiting for the President to make good on his commitment, his promise, to submit a balanced budget scored by CBO, using common ground, which is apples-to-apples comparison, which is CBO numbers.

Mr. RIGGS. Mr. Speaker, I yield to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, unfortunately, there is a grain of truth in something the Democrats say, and then they blow it out to an unrealistic statement, and that is that we have decided that the earned income tax credit should go for families. We have said that a single individual will no longer qualify for the earned income tax credit. We do, though, provide for it.

The other area where again, unfortunately, my colleagues on the other side have decided to distort what has happened, the earned income tax credit, which was $19.9 billion this last year, grows to $25 billion in the year 2002. It is a significant growth. Had we not made changes in our balanced budget bill, that would have grown to a higher number than 25. So that is kind of where they make their point.

Where they fail to acknowledge the facts is that any family that is under the earned income tax credit with our $500 credit will get as much as they got in the past, and in our legislation we hold everyone harmless, we grandfather them so no one will get less.

So it would really be I think somewhat of a distortion on our side to overstate the fact that we have made some tough decisions. We are slowing the growth of Medicare, we are slowing the growth of Medicaid, we are slowing the growth of the earned income tax credit. We have made some very real cuts in discretionary spending; actual cuts, not just slowing of the growth. Overall spending goes up, but there are some real cuts.

Now, my whole point and why we need to weigh in significantly on the entitlements, Medicare and Medicaid, and why we want to save money in those programs is it is a concept of opportunity cost. If we do not slow the growth of Medicare the way we do in Medicaid, then we are going to have to slow the growth of another program or actually cut another program; and this is the problem that the White House is faced with. They cannot balance the budget, even though the President says so, because they are unwilling to say well, if we put more in Medicare and Medicaid, we are not going to be able to put as much in some other programs.

We have had to deal with that. We have made those tough decisions.

Mr. Speaker, I cannot tell you that I like everything in our budget. I was kind of hoping the President would come in and look at what we have done in urban areas; I would like to have seen the President weigh in in that area.

Mr. SHADEGG. The natural consequence of what you are explaining is that the choice that the American people are hearing from the White House right now is a false choice. Let me make that point. What the White House is saying is that Republicans want to cut these programs too far, and what I propose is that, instead, we could keep them all going and you will have them. So it is a choice he is presenting between we can have what we have plus maybe even a little bit more off into the future, or less, which is what the Republicans are proposing, that we have to scale these programs back down to where their growth matches inflation. He says, that is the choice.

That is a false choice, because in reality, and even the President's own cabinet in the instance of Medicare has made this point poignantly clear in their report, that is not the choice at all. If we pursue the course that the President is advancing, that is, allowing the growth to go unchecked, in a very brief time, it will be bankrupt. So it is not a question of keeping it the way it is or scale it back; it is a question of scale it back or have it go bankrupt and be gone, and not be there for anyone. That is the fundamental falsity in the debate.

We simply have to in these entitlement programs restructure them in a way that makes them sustainable over time so that the beneficiaries can get the benefits, or they will go bankrupt and be gone and not be there for anyone, and that is the fundamental truth.

Mr. RIGGS. Let me yield to the gentleman from Pennsylvania, and then I will go to my colleagues for their concluding comments.

Mr. FOX of Pennsylvania. The fact is that seniors under Medicare under this reform package will still have the benefits they have been having for fee-for-service or for the Medisave account or for managed care. What we are doing is taking out the waste from the program, the fraud and abuse, and $30 billion is a lot of money. We go to electronic billing instead of the huge paperwork costs we have had, and making sure that we have in fact, besides the savings, the medical education portion being separate, we are going to give the best medical care for our seniors that they have ever had; but we are also giving choice, when they have never had, and that is a great new plus that should be stressed.

Mr. RIGGS. I appreciate the gentleman's comments and his participation tonight. Let me yield to the gentleman from California.

Mr. RADANOVICH. Just briefly, I want to say that negotiating off the same set of books for the first time will get us into constructive debate on balancing the budget. We have not had constructive debate up until this time.

Mr. RIGGS. In other words, the gentleman is saying, it has been 29 days and we are still waiting for a good-faith proposal from the administration, using Congressional Budget Office numbers, so that we can, as I think we all hope and wish, reach an agreement, a bipartisan agreement with the administration regarding balancing the budget. We need to remind our colleagues and our constituents that the American people, to date, seem to prefer divided government; the tables are reversed from the 1980's, the legislative branch is under the control of one party, the Republican Party, the executive branch of government is obviously under the control of the Democratic Party.

So we must, by definition, work in a bipartisan fashion here because we do not have the votes in either House of Congress to override the President's veto.

So Mr. President and our Democratic colleagues, we recognize that we must, at the end of the day when the debate has ended, reach a bipartisan agreement here, but as the gentleman from California points out so well and so eloquently, we cannot do that if you will not come to the table in good faith and participate in these negotiations using Congressional Budget Office numbers.

Let me yield to the gentleman from Connecticut, or the gentleman from Arizona, for their concluding comments.

Mr. SHADEGG. Mr. Speaker, I would just conclude by saying, we have spent most of the last hour, with the leadership of the gentleman from California [Mr. RIGGS] talking about the nitty-gritty of this and the details, and the fact that using real numbers and using a common set of numbers is important. However, one of the greatest communications, I get from my constituents is a sense of frustration: Why can they not in the Congress and in the White House act like adults and resolve this issue?

I would ask the American people to step back and to recognize that this is not a petty little fight over numbers; it is a contrast between two different visions for America. One which simply says, we can go on the way have been going forever and we do not ever have to pay the piper, that in fact we can spend and we can spend, and the Federal Government is not too large and it can do all things for all people.

The other is a very different view of government, which is the Federal Government has tried for 40 years to be all things to all people and has failed, and in doing that, it has not solved the social problems it has addressed, it has made them worse. But worse than that, in doing that, it has created the debt that burdens our children and our grandchildren.

So I implore those listening tonight at home that, yes, it looks like a petty fight, but it is really a very important fight; it is a fight over different visions of America and one which we all hope to resolve as soon as possible, but one which is essential to determine the direction of this Nation for the future of our children and our grandchildren and for the solvency of the Nation as we move forward.

Mr. RIGGS. I very much appreciate the gentleman's comments, and he puts it so well and really reminds me of the comments that were made by our leader, the Speaker of the House, NEWT GINGRICH as he points out, Time magazine's Man of the Year, earlier at a caucus of our conference when the Speaker pointed out, and I really agree with him when he says that if we fail in this task, our most important challenge as Federal legislators, Members of Congress, it will be a generation or more before the American people through their representatives can muster the political will to deal with these fiscal issues and balance the Federal budget; or as JOHN KASICH puts it even more simply, this is our last best chance.

Mr. SHAYS. Mr. Speaker, I am actually going to yield, speaking of JOHN KASICH, back to the gentleman from Connecticut, Mr. SHAYS, a member of the Committee on the Budget to conclude our special order, because he has been right there alongside JOHN KASICH as a real model of integrity.

We have been a family of this Republican Party to try to get our financial house in order and try to emphasize that we have an opportunity that does not happen often, and if we fail as this majority party to present a plan to balance our budget and end this obscene debt of $4.9 trillion, if we fail now, we will not have that opportunity for decades.

I would just make the point that Mr. Rabin said before his assassination that he was elected by adults to represent children, and that is what we are all about. We are looking to stop mortgaging our country's future, and we have devised a plan that still provides for significant increases in spending, but in the seventh year balances our budget.

The earned income tax credit will go from $19 billion to $25 billion. School lunch will go from $5 billion to $6.8 billion. The student loan will go from $24 billion to $36 billion. Only in Washington when you spend this kind of money do people call it a cut.

Our Medicaid goes from $89 billion to $127 billion, Medicare from $178 billion to $289 billion. These are significant increases in spending. But by the seventh year revenue and spending will equal. We are doing it for our children and their children. That is what it is all about. We are trying to do it in a humane way, and we are eager to have the participation of the White House in coming forward with its balanced budget, and then compare where our priorities are, and then work out our differences. And our differences can be worked out.

Mr. Speaker, I would like to thank my colleague for allowing us to participate in this special order. I just want to welcome, I know we have a new member, JESSE JACKSON, Jr., joined by Mr. FIELDS, two distinguished Members, and it is nice to serve in this body with them.

Mr. RIGGS. I very much appreciate the comments of the gentleman. I very much appreciate the participation from my colleagues. I am mindful that the San Francisco 49ers are playing the Minnesota Vikings.

I just want to reemphasize in closing the point that the gentleman made so beautifully. I really believe that there is bipartisan, I hope there is emerging bipartisan consensus in Washington and across this land that the American people want a 7-year balanced budget using honest numbers to save Medicare, returning power to families and to State and local governments, reforming welfare and providing tax relief for families and job creation.

I thank my colleagues again for their participation.

BALANCED BUDGET REQUIRES BALANCED APPROACH

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Louisiana [Mr. FIELDS] is recognized for 60 minutes.

Mr. FIELDS of Texas. Mr. Speaker, I rise tonight to talk about America's budget. I think all of us tonight are in favor of a balanced budget. I am certainly in favor of a balanced budget. I think the big impasse that we have here in this Congress tonight is how we balance the budget, not whether or not we balance the budget in 7 years, 5 years, or 10 years.

The biggest issue that we are confronted with tonight is how do we balance the budget. I think there are too many people who want to balance the budget on the backs of the poor people and at the expense of the environment; who want to balance the budget at the expense of college students who are trying to matriculate in school and get a decent education; trying to balance the budget on the backs of individuals who want to go to schools that are drug free and live in communities that are drug free.

So I think that is the real issue that we are faced with tonight is, how do we, in fact, balance this budget.

In order to balance a budget, you ought to start with a balanced approach, and until we have a balanced approach, we will never have a balanced budget. This Government is shut down today because we do not have a balanced approach to balancing the budget. I want to stand tonight to talk about how we get to a point of bringing about a balanced approach to balance the budget so that we can look to create an atmosphere for our children in the future.

If you look at this present budget, it cuts $750 billion over 7 years. Quite frankly, I can stand tonight and be for a $750 billion cut. But the issue is where do we cut the $750 billion to balanced the budget by 2002. Under this balanced budget amendment, it takes $218 billion and gives it to the richest people in America. One percent of the people in this country will receive a tax break under this balanced budget.

The poorest people, 20 percent of the poorest people in America are impacted; the balanced budget affects them, 50 percent of those individuals will be affected by this balanced budget. Those cuts are on the backs of these individuals more so than it is on the backs of anybody else. Forty-seven percent of the proposed cuts goes to 12 percent of Americans who make $100,000 or more.

So the issue tonight is not whether or not we balance the budget; the issue is how do we balance the budget; $359 billion of the $750 billion in cuts are in Medicare and Medicaid. Over 7 years, $133 billion in Medicaid cuts will come about under this present balanced budget amendment.

□ 2145

Twenty-seven percent of those cuts will be in the Louisiana Medicaid Program. So I take a matter of personal privilege tonight to talk about how these cuts will affect constituents back home.

I do not come from a State that is very wealthy. I certainly do not represent a district that is very wealthy. I represent one of the poorest congressional districts in the entire country and the poorest congressional district in the State of Louisiana.

Medicaid cuts would deny benefits to about 3.8 million children. These are the individuals who can least defend themselves. They cannot come to the floor of the House. They cannot lobby in the Halls of the Congress. They cannot get on an airplane and fly to Washington, DC, and talk to Members of Congress. But they will be affected by these cuts.

Three hundred thirty thousand elderly people could be turned away from nursing homes. These are the elderly, the sick people in this country, who have put everything they had over the years into this country, who have worked hard. People say, well, it is an entitlement program.

We have had people who wake up every morning and go to work every day, and now they need the help of their Government. They have invested in Social Security. Now we have the audacity and the gall to stand here tonight and take an elderly person who has worked all of his or her life, take them out of a nursing home, and then turn around and give the richest person in this country a tax break, and the richest corporations.

The issue is not whether or not we balance the budget. The issue is how we balance it.

If I have two children, for example, and I have to cut back because I am spending too much, it is almost like telling one child, "I'm going to deny you a college education because Daddy can't afford it anymore," but at the same time I tell the other child, "I'm going to give you an increase in your allowance."

That is what we are doing under this budget. We are taking from the poorest people, our children, our elderly, and we are giving money to the richest people in this country, cutting Medicare by $200-some billion and then giving a $245 billion tax break.

From rural Louisiana, $57.4 million in cuts resulting in higher taxes for 372,000 Louisianans. Families with one child, for example. We worked hard the last Congress to bring about something called an earned income tax credit, because we realized that we have to get people off the welfare rolls in this country and put them on payrolls.

We all agree to that. We all know that in order for us to have a country that utilizes the free enterprise system and builds dignity among people, we have to get people off welfare. So what did we do the last Congress? We included in the budget something called an earned income tax credit, because we wanted to give the people who were trying to go to work and make a decent and honest living a tax break. So individuals who have children, and individuals who make $27,000, $30,000 a year, we gave them a tax break because we want to reward them for the work that they do.

What are we doing today in this budget? We take away that tax credit to millions of families, and then we talk about how we want to get people off of welfare. The best way to get a person off of welfare is pay them for the work that they do and give them an opportunity, put value in work. This budget certainly does not do that.

We also, as a result, raise taxes on 12.6 million families with incomes of $30,000 or less. That is what this budget will do; $100 billion in cuts in food stamps and welfare programs.

I know there has been a lot of talk about how we need to downsize the welfare program in this country. I stand before you today, Mr. Speaker, and say in no uncertain terms that we need to downsize and we need to revitalize the welfare program in this country.

You are looking at one Member of Congress who believes that the welfare program in this country is very regressive and it needs to be more progressive. But how do we make welfare more progressive? We make it more progressive, in my opinion, by increasing job training, because many of the people on welfare do not have job skills.

What do we do in this budget? We cut job training programs. Are we serious about revitalizing and reforming welfare in this country? I would think not.

To add insult to injury, we take the child who we want to see off of the streets during the summertime, and the child who we would like to see do something constructive during the summertime, how do we penalize the child in this program? We tell children in this budget, about 4 million of them, that this summer they will not have a summer job.

Those are the kind of problems that we are having, real problems that we are having with this budget. Until we come with a balanced approach, we will never have a balanced budget, because if the philosophy here tonight is to balance the budget by giving the rich more and giving those who can least help and defend themselves less, then we will never come to a balanced budget agreement.

Student loans, for example, cut by $10.2 billion at a time when less kids are taking advantage of college opportunities. Why? Because many of them do not have the financial resources.

So should we stand here tonight and say, OK, let us balance the budget in 7 years; if you want to cut student loans, cut it for the sake of balancing the budget. I would feel a little better if we were not giving a $245 tax break to the richest people in America.

That is why we have an impasse tonight. That is why the Members of this Congress not should but must sit down and talk about how we really can bring about a balanced budget for our children and for our country.

Last, before I yield to a distinguished colleague of mine, I want to talk about the increased interest rates on student loans.

Now when you are in college and you take out a student loan, you have a 6-month grace period. What kind of Congress are we, when we take a grace period away from a college student who just graduated from college and who just took out a student loan and who does not even have a job, for crying out loud?

We tell this college student, "We are going to balance this budget on your back," but yet we want every kid to go to college. We want them off welfare. We want them off the streets in the summertime, but we take away their summer jobs. And we have the audacity to stand on this floor and talk about it is the best thing to do, we have got to balance this budget.

There is nothing wrong with balancing a budget, but it is how we balance it. Do we penalize people who can least help themselves, young college students?

I see that I have been joined by my distinguished friend and colleague from the great State of Illinois. Let me just welcome the gentleman to this august body and welcome him to this U.S. Congress where I have been awaiting his arrival. It is good to have him here.

Mr. Speaker, I yield to my good friend the gentleman from Illinois [Mr. JACKSON] for as much time as he may consume.

Mr. JACKSON of Illinois. I thank the gentleman from Louisiana [Mr. FIELDS] for yielding me time this evening.

We really need to stop kidding the American people. I support a balanced budget. Most Democrats do. But can we project natural disasters for the next 7 years? Can we project hurricanes on the east coast for the next 7 years? Earthquakes on the west coast for the next 7 years? Or floods in the Midwest? Can we project wars present and unseen? Are we making decisions for a Congress yet to be elected severely restricting their ability to set the Nation's priorities as they see fit based on national need?

And so if you like I am tired of hearing Republicans talking about the Federal budget deficit and the debt, those who are primarily responsible for deliberately creating deficits acting like they are actually concerned about them, then maybe you are ready to listen to something real about reducing budget deficits.

How did we get in this mess? David Stockman, Ronald Reagan's Director of Office of Management and Budget, revealed first in the Atlantic Monthly and later in his book that the Republican strategy in 1981 was to deliberately create huge budget deficits and dramatically drive up the national debt as a way of forcing cutbacks in domestic social spending.

For a little bit of perspective. For over 200 years from George Washington to Jimmy Carter, the accumulated national debt was $908 billion. After just 12 years of Reagan and Bush economic policies, huge tax breaks for the rich, originally $750 billion, reduced in 1983 to $600 billion, and massive military spending, $750 billion over 5 years, the debt actually quadrupled to nearly $4 trillion. One expert has estimated that tax cuts enacted since the late 1970's for the richest 1 percent of families cost the Federal Treasury $164 billion in 1992.

For example, $84 billion in decreased revenues and $80 billion in interest on the accumulated debt. The Reagan-Bush fiscal policies which on the one hand allowed the rich to pay less for their fair share of taxes, on the other hand forced the Government to borrow from them to finance the debt, a double bonanza for the very wealthiest Americans.

The deficit must be put in perspective. Deficit fixation and attempts to cut the deficit too deeply and too quickly can paralyze efforts to bring about much needed domestic change. It can drag the economy down, increase unemployment, and actually increase the deficit itself.

Borrowing per se is not necessarily bad. Borrowing to buy a house or to fund one's education is different than borrowing to pay off a gambling debt or to buy drugs or to buy alcohol. Therefore, there is an important difference between consumption expenditures and investment expenditures.

Additionally, if one takes out a mortgage on a house and then gets a promotion and a significant salary increase on their job, the mortgage payment actually becomes less burdensome. Therefore, the size of the deficit in and of itself is not a drag on the economy. When business does not expand, it is because of lack of demand, not necessarily because of the budget deficit. Thus if the economy were to become a high-growth, high-wage, full-employment economy, the burden of the deficit would actually decline.

Another argument from the Republicans for deficit reduction is that the deficit pushes up interest rates. During the 1980's, when the deficit shot up, interest rates remained essentially the same. Why? Because there is a much stronger link between Federal Reserve policies and rising interest rates than there are between the deficit and rising interest rates.

Perspective also means seeing the deficit in relationship to the size of the economy. The sum may be large in 1995, but in 1945 due to the unprecedented size of wartime expenditures, the Federal deficit was more than 22 percent of GDP, compared to roughly 5 percent in 1993. A rise in unemployment and the resulting loss of production that often ensues is a far worse drain on the economy than the deficit.

In Germany, for example, with the Weimar government's memory of hyperinflation in the 1920's and high unemployment during the depression of the 1930's—among union members in 1932 it was 44 percent—they chose classic budget deficit reduction policies instead of government spending on public works and an expansion of the money supply. The resulting mass unemployment helped to pave the road to fascism.

Obsession with the budget deficit creates even more tragic deficits. Our deficits are also in rundown infrastructure of our roads, of our bridges, of our airports, of waste disposal facilities and lack of environmental protection. They are also in our failure to combat crime and drugs and in a significant part of a generation growing up semiliterate, in an unending cycle of poverty.

Our deficits are in an educational system increasingly falling behind other systems in the world, and in gaps in child care, health care and inadequate housing of millions of Americans.

We are a nation of enormous national wealth. We are just tragically suffering from an anemia of national will to do what we know is just.

The gentleman mentioned a few moments ago a mother and her children. If a mother has three children, and two pork chops, she does not conclude that she has one excess child. A mother takes two pork chops and she makes gravy and she expands that meal to take care of three children.

That is what a caring mother should do. It is certainly what caring government should do.

Mr. FIELDS of Louisiana. Let me just say to the gentleman, he mentioned the 12 years of Republican leadership as relates to how they dealt with the budget and how they dealt with spending. The gentleman makes a very valid point. I think they used to call it voodoo economics.

Basically what took place for 12 years, and one of the reasons, not the only reason, but one of the reasons why we find ourselves in the mess that we are in today is because for 12 years the Republican philosophy was if you give the rich a tax break, then we have something called a trickle-down effect. If you give rich people a tax break, give the corporations a tax break, it will trickle down and create jobs.

What happened was it did not trickle down. The rich just got richer and the poor got poorer and now we find ourselves with this big deficit.

Let me go back to the educational piece, because I think that is a core part of my debate and my resistance in terms of this budget, is because the way we penalize the elderly with Medicare, but also how we penalize people who are trying to better themselves.

□ 2200

You take the national service program for example, AmeriCorps, a program that you and I both are strong advocates of. We know that there are so many parents in America who are right now caught in the middle. They make a little bit too much money to qualify for government assistance but do not make enough money to send their kids to college.

So we came up with the idea of a national service program so that kids could go to college and earn their way through college, pay their student loans after they finish college by participating in the national service program. They eliminate that program. The issue is not whether or not we balance the budget tonight. The issue is how we balance the budget. Do we have a balanced approach in balancing the budget?

Drug-free schools and communities, the gentleman from Chicago, he knows the problems that we have. He knows about the problems that we have in schools. I recall many times visiting his district as a college student, and we both went from school to school speaking to kids about staying away from drugs and alcohol. This budget eliminates, a cut over half of the drug-free schools and communities money, $466 million; it cuts $266 million, not when drugs in our schools and communities are going down but going up. So those are some of the real problems that Members on our side of the aisle have with this budget agreement.

The other thing I wanted to talk about, and that was the CRA. This budget, if you are a bank, for example, with under $100 million in assets, you do not have to comply with CRA standards. So you are going to have less investment in communities across this Nation as a result of this budget.

There are real problems with this budget. If the gentleman is familiar with the Head Start Program, and I will be happy to yield to the gentleman after I talk about this Head Start Program. Head Start cuts, for example, 135 million in 1996 alone and it freezes funding that would deny 180,000 children the opportunity of Head Start.

I am a product of the Head Start Program. Here again, I take a moment of personal privilege. I do not know how many Members of Congress actually participated in the Head Start Program, but I did. I know what the Head Start Program did for me. Cutting it like we are doing in this budget is wrong.

The summer jobs program. I do not know if the gentleman from Chicago participated in the summer jobs, but I qualified for a summer job when I was going to school. The first time I was able to punch a clock was when I received my first summer job. It taught me personal responsibilities on the job, gave me job training. Every Saturday, every Monday through Friday I had to get up in the morning during the summertime and go to work, taught me job ethic. We wipe it out in this budget.

Mr. JACKSON of Illinois. Let me thank the distinguished gentleman from Louisiana for yielding once again.

During the course of my most recent campaign in the Second Congressional District, I had the privilege of speaking at Bowen High School, around 89th and Commercial on the South Side of Chicago. I was meeting with the principal, Mrs. Alverez in her office. I happened to notice on a mural that was in her office, I saw African Americans and Haitians, male and female, all going to work at a steel mill known as USX, United States Steel. In the middle of this mural was a large furnace. Out of the back of that furnace was coming rail and coming engines and coming bridges and tremendous infrastructure.

Two blocks from Bowen High School is 600 abandoned acres of United States Steel where USX used to be. If you step outside of the principal's office now, you see metal detectors. There are students at Bowen High School wearing uniforms. What are you saying? I am saying that there is a relationship between that mural, between those metal detectors, between the behavior of our children, between the absence of those jobs and the number one growth industry in our country: jails.

We have more public housing, more public housing has been in the form of jails in the last year than it has been in the form of building public housing and affordable housing for the American people, while it costs more for us to incarcerate Americans in jails than it does to put Americans through college and put them back to work.

So, we must not only measure our budget deficit in terms of numbers, which the Republicans so skillfully illustrate on this floor, we must measure our budget deficit in our failure as a nation to reinvest not only in our infrastructure but, most importantly, in our people. When we reinvest in our people, the return on our investment actually plays a role in reducing the deficit.

Mr. FIELDS of Louisiana. Mr. Speaker, I want to talk about the environment, if the gentleman would bear with me just for a moment, because that is another issue that is very important in this budget.

EPA cuts: EPA enforcement alone is cut by 25 percent. To cut EPA enforcement by 25 percent at a time that more companies are polluting and at a time that we need to be more environmentally conscious, not only in the country but in the world. Certainly you can have the best department of environmental quality or environmental protection that you want, but if you do not have the law enforcement officers out there enforcing the law, then what difference does it make? We can pass all the rules and regulations we want in this Congress, but if we do not have the enforcement mechanism to go out and make sure that companies abide by the laws and rules and regulations to make our environment safe, make our water clean, our air clean and our soil clean, then it matters not what kind of legislation we pass—not to mention the safe drinking water and clean water fund, cut by 45 percent.

I mean, almost 50 percent of those dollars are cut. I am talking about moneys that are being cut with no studies, no rhyme or reason, just sitting around the table, saying cut it for the sake of cutting it because we want to give people who make $100,000 and people who make $200,000 a year a tax break. We want to give the wealthiest people in this country a tax break. That, I suggest to you, my friend, is wrong.

I would hope that in the remaining weeks of this year, I would hope that we could sit down and talk about real solutions to a real problem. We have a real problem in this country. Neither you nor I are naive to the extent that we do not realize we a budget problem. I did not create this problem. My colleague certainly did not create it because he just got here. I got here about 3 years ago.

But I want to solve it. I want to be a part of the solution. And in order for us to solve this problem, we have to do it with a clear conscience. We have to sit around the table, and we have to cut some programs that, quite frankly speaking, need to be cut.

I am not standing at this mike, and neither are you, saying, do not cut. Yes, we need to cut. We need to reorganize the way we do business in our country. We want to balance our checkbook. We want to do that. Seven years, 5 years, 10 years, we want to balance it. But we have got to balance it with conscience and we have to balance it in the most appropriate way and not just be punitive in nature.

I mean not just pull seniors out of nursing homes, not just cut people who fought for this country, the veterans in this country, and close some of their hospitals. Not just take kids' summer jobs, for crying out loud, and taking away a little drug-free schools and communities program that benefits communities and schools. Not snatching milk from babies in the food stamp program and then give it to a big millionaire or a big corporation and then hold a press conference and say we balanced the budget. I think that is the biggest problem. Those are some of the problems that we have with balancing the budget.

If the gentleman wishes me to yield, I will be happy to yield, but I wanted to make those comments.

Mr. JACKSON of Illinois. Mr. Speaker, I just wanted to thank the gentleman once again for yielding.

I would go so far as to say that when we look and compare the Republican method of balancing the budget, they plan to balance the budget in 7 years with deep cuts in Medicare and Medicaid, four times greater than any health cuts in history, deep cuts in education, a rollback obviously in environmental protection, and a tax increase on working families.

The President's balanced budget approach is much different. He balances the budget in 7 years while protecting Medicare, Medicaid, education and the environment and targeting tax relief to the middle class without any new tax increase on working families.

Mr. Speaker, the gentleman is correct. The issue here is about direction. Are we going to balance the budget on the backs of people who are poor and who are defenseless and cannot come and participate in this august body or part of this conversation? Who is asking and who is being asked to forgo what? Students are being asked to forgo interest rates on loans. Seniors are being asked to forgo Medicare.

There are 41 million Americans who have no form of health care at all and are not part of any debate. There are 19 million people who are working part-time jobs and they are being asked to forgo full-time work. There are 8 million homeless people, roughly 8 million homeless people who are being asked to forgo housing. There are youth who are being asked to forgo education. Our cities are being asked to forgo development while we balance this budget.

In my district, if I may take a moment of personal privilege, the cities of Harvey and Phoenix and Posen and Robbins and Dixmoor are being asked to forgo debt forgiveness while we can forgive the debt of Mexico. We can forgive the debt of the Soviet Union and former Eastern Bloc countries, but we cannot forgive the debt of townships in our own districts and in our own country.

There is nothing wrong with balancing the budget. We agreed that that should happen. The only issue is what direction that balanced budget should take.

Mr. FIELDS of Louisiana. Mr. Speaker, I want to thank the gentleman from Chicago. I want to thank him for his time tonight. Again, I welcome the gentleman to this august body. I enjoyed participating in this colloquy with the gentleman and want to thank him once again.

Let me just conclude by saying, we, as Members of this Congress, and as well as the executive branch of Government, we should, we must sit down and talk about balancing this budget and get this train moving again. Let me tell my colleagues, it is almost like a driver of a bus and a mechanic, a bus just breaking down on the side of the highway. And you have got a bunch of people on the bus. And the mechanic and the driver get into a big fight about what to do to get the bus moving again. The people on the bus do not really care about the differences between the driver and the mechanic. They just want to get to their next destination.

The American people really want to get to the next destination. We as grown men and women in this Congress, we must sit down and get this Government moving and open and balance the budget. But we must come to grips with the fact that we will not and we should not do it on the backs of the most defenseless people in this country, the elderly, the poor, and the young. And those people who are in the middle, who are trying to make a living, who are trying to do better, who are benefiting from the earned income tax credit. I would hope and pray that this Congress, this institution with all of its great wisdom, with its infinite wisdom would come to the conclusion that yes, we need to open our Government up. Yes, we need to move our Government forward. Yes, we need to balance our budget, and need to do it in a fair and equitable way.

LEAVE OF ABSENCE

By unanimous consent, on December 15, leave of absence was granted to:

Mr. MCNULTY (at the request of Mr. GEPHARDT) for December 15, after 3 p.m., for personal business.

Mr. STOKES (at the request of Mr. GEPHARDT) for December 15, for official business in the district.

Mr. TOWNS (at the request of Mr. GEPHARDT) for December 15, for official business in the district.

By unanimous consent, on December 15, leave of absence was granted to:

Mr. YOUNG of Florida (at the request of Mr. ARMEY) for December 15, for official business.

Mr. LIGHTFOOT (at the request of Mr. ARMEY) for December 15, for a family emergency.

Mr. GUNDERSON (at the request of Mr. ARMEY) for December 15 after 1 p.m., for personal reasons.

By unanimous consent, on December 15, leave of absence was granted to:

Ms. HARMAN (at the request of Mr. GEPHARDT) for December 15 after 5 p.m., for official business.

Mr. EDWARDS (at the request of Mr. GEPHARDT) for today, for the birth of his son.

By unanimous consent, on December 15, leave of absence was granted to:

Ms. ROS-LEHTINEN (at the request of Mr. ARMEY) for today, on account of a death in the family.

Ms. MOLINARI (at the request of Mr. ARMEY) for today, for medical reasons.

Mrs. FOWLER (at the request of Mr. ARMEY) for today, for official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. POSHARD, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. OLVER, for 5 minutes, today.

Mr. TAYLOR of Mississippi, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous material:)

Mr. SHADEGG, for 5 minutes, today.

Mr. HORN, for 5 minutes, today.

Mr. HOKE, for 5 minutes, today.

Mr. LEWIS of Kentucky, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mr. BEREUTER, for 5 minutes, today

Mr. DORNAN, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1332. An act to clarify the application of certain Federal criminal laws to territories, possessions, and commonwealths, and for other purposes; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1747. An act to amend the Public Health Service Act to permanently extend and clarify malpractice coverage for health centers, and for other purposes;

H.R. 1977. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes;

H.R. 2099. An act making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes; and

H.R. 2336. An act to amend the Doug Barnard, Jr. 1996 Atlanta Centennial Olympic

Games Commemorative Coin Act, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1060. An act to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On December 14, 1995:

H.R. 325. An act to amend the Clean Air Act to provide for an optional provision for the reduction of work-related vehicle trips and miles travelled in ozone nonattainment areas designated as severe, and for other purposes.

H.R. 1240. An act to combat crime by enhancing the penalties for certain sexual crimes against children.

On December 16, 1995:

H.R. 1977. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

H.R. 2099. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes.

H.R. 2336. An act to amend the Doug Barnard, Jr. 1996 Atlanta Centennial Olympic Games Commemorative Coin Act, and for other purposes.

H.R. 1747. An act to amend the Public Health Service Act permanently extend and clarify malpractice coverage for health centers, and for other purposes.

ADJOURNMENT

Mr. FIELDS of Louisiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 13 minutes p.m.) under its previous order, the House adjourned until Tuesday, December 19, 1995, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1847. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROBERTS: Committee on Agriculture. H.R. 2029. A bill to amend the Farm Credit Act of 1971 to provide regulatory relief; with amendments (Rept. 104–421). Referred to the Committee of the Whole House on the State of the Union.

Mr. SHUSTER: Committee of Conference. Conference report on H.R. 2539. A bill to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes (Rept. 104–422). Ordered to be printed.

Mr. SOLOMON: Committee on Rules. House Resolution 309. Resolution providing for consideration of the concurrent resolution (H. Con. Res. 122) setting forth a revised congressional budget for the U.S. Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 (Rept. 104–423). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 310. Resolution expediting the commencement of committee hearings during the remainder of the first session of the 104th Congress (Rept. 104–424). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FIELDS of Louisiana:

H.R. 2800. A bill to amend the Internal Revenue Code of 1986 to impose a 5-percent tax on all wagering and to use the revenues from such tax to enhance funding for public elementary and secondary education, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FRELINGHUYSEN:

H.R. 2801. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide that the U.S. Army Corps of Engineers perform contract oversight of fund financed remedial actions under that act; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LONGLEY (for himself, Mr. ENGLISH of Pennsylvania, Mrs. CHENOWETH, Mr. NETHERCUTT, Mr. METCALF, and Mr. COOLEY):

H.R. 2802. A bill to impose temporarily a 25-percent duty on imports of certain Canadian wood and lumber products, to require the administering authority to initiate an investigation under title VII of the Tariff Act of 1930 with respect to such products, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McCOLLUM (for himself, Mr. SCHUMER, Mr. COBLE, Mr. HEINEMAN, Mr. SCHIFF, Mr. DURBIN, Mr. BRYANT of Tennessee, and Ms. LOFGREN):

H.R. 2803. A bill to amend the anti-car theft provisions of title 49, United States Code, to increase the utility of motor vehicle title information to State and Federal law enforcement officials, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHUMER:

H.R. 2804. A bill to amend the auto theft provisions of title 49, United States Code, to add air bag modules to the list of major auto parts protected under such provisions; to the Committee on the Judiciary.

By Mr. STARK (for himself and Mr. MATSUI):

H.R. 2805. A bill to amend title XVIII of the Social Security Act to reduce the amount of the premium charged for enrollment in part A of the Medicare Program for individuals 80 years of age or older; to the Committee on Ways and Means.

By Mr. TORKILDSEN.

H.R. 2806. A bill to amend the Small Business Investment Act of 1958 to create the Venture Capital Marketing Association, to transfer certain functions of the Small Business Administration to the Association, and for other purposes; to the Committee on Small Business, and in addition to the Committee on Commerce, and Banking and Financial Services, for a period to be subsequently determined by the Speaker in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WATTS of Oklahoma (for himself, Ms. MOLINARI, Mr. PAYNE of New Jersey, and Mr. TALENT):

H.R. 2807. A bill to consolidate Federal youth prevention and youth development programs and create a new process and structure for providing Federal assistance for these programs, and for other purposes; to the Committee on Economic and Educational Opportunities, and in addition to the Committees on the Judiciary, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KASICH (for himself, Mr. CONDIT, and Mr. HOBSON):

H.J. Res. 132. Joint resolution affirming that budget negotiations shall be based on the most recent technical and economic assumptions of the Congressional Budget Office and shall achieve a balanced budget by fiscal year 2002 based on those assumptions.

By Mr. WALSH:

H.J. Res. 133. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; to the Committee on Appropriations.

By Mr. KASICH (by request):

H. Con. Res. 122. Concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002; to the Committee on the Budget.

MEMORIALS

Under clause 4 of rule XXII.

184. The SPEAKER presented a memorial of the House of Representatives of the State of Oklahoma, relative to U.S. military forces and the United Nations; memorializing Congress to cease certain activities concerning

the United Nations; and directing distribution. Referred to the Committee on International Relations.

ADDITONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 835: Mr. SISISKY.

H.R. 911: Mr. BARCIA of Michigan.

H.R. 1023: Mr. TAYLOR of Mississippi.

H.R. 1057: Mr. DOYLE, Mr. INGLIS of South Carolina, Mr. HALL of Ohio, Mr. FOX, Mr. VENTO, Mr. SANDERS, Ms. WOOLSEY, and Mr. MFUME.

H.R. 1202: Mr. HOBSON and Mrs. JOHNSON of Connecticut.

H.R. 1406: Mr. HEFNER.

H.R. 1687: Mr. GILCHREST, Mr. BAKER of California, and Mr. COYNE.

H.R. 1883: Mr. SENSENBRENNER.

H.R. 1948: Mr. MARKEY.

H.R. 2011: Mr. WILSON, Mr. BARRETT of Wisconsin, Ms. LOFGREN, and Mr. KLECZKA.

H.R. 2101: Mrs. LOWEY.

H.R. 2244: Mr. BLILEY.

H.R. 2551: Mr. DURBIN and Mrs. CLAYTON.

H.R. 2579: Mr. CLINGER.

H.R. 2651: Mr. STEARNS, Mr. MARTINEZ, Mr. TAYLOR of North Carolina, Mr. COOLEY, and Mr. SOUDER.

H.R. 2657: Mr. FLAKE.

H.R. 2712: Mr. CUNNINGHAM.

H.R. 2713: Mr. CALVERT, Mr. BISHOP, and Mr. WATTS of Oklahoma.

H.R. 2723: Mr. LIVINGSTON and Mr. PETRI.

H.R. 2740: Mr. GILCHREST and Mr. KLUG.

H.R. 2772: Mr. LAZIO of New York.

H. Con. Res. 102: Mr. SHAYS, Mr. GONZALEZ, and Mr. DE LA GARZA.

EXTENSIONS OF REMARKS

THE AMERICAN LEGION—A RECIPE FOR LEADERSHIP

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. DUNCAN. Mr. Speaker, one of the finest organizations in this Nation is the American Legion. I am very proud to be a life member of Post 2 in Knoxville, TN.

The American Legion is primarily a patriotic organization. We all need to do more to promote patriotism.

If you love another person you want to do everything possible to help that person become the best he or she can possibly be.

In the same way, if we teach our young people to love this country, they will want to help our Nation become the best that it can be.

The American Legion does many good things for the young people of the United States.

One of the very best programs, though, is Boys State. Several members of Congress, including myself, participated in American Legion Boys State programs.

I will never forget the friendships I made and the valuable lessons I learned at the Boys State week in Lebanon, TN, during the summer of 1964.

Some of these memories came back to me as I read the article on Boys State in the current issue of the American Legion magazine.

I would like to call this article to the attention of my colleagues and other readers of the RECORD.

SOUTH CAROLINA'S RECIPE FOR LEADERSHIP

On a scorching hot summer day in Columbia, S.C., more than 700 young men crowded the steps of the State House, where they were issued a challenge by South Carolina Governor David M. Beasley.

"I'm asking you to use the experience you've gained to go home and make a difference," Beasley urged them. "You're the ones who will be expected to come up with creative ideas, and plan and take charge. It's a big responsibility, but I know you're up to it."

This was no political puffery on Beasley's part. The boys belonged to The Department of South Carolina's Palmetto Boys State, which has a solid record of producing eminent alumni. They include U.S. Secretary of Education Richard Riley; Joseph P. Riley Jr., mayor of Charleston, S.C.; Tom Hartnett, former congressman for South Carolina; and Virgil Duffy, deputy director of labor for South Carolina.

The American Legion Boys State program celebrated its 60th Anniversary in 1995. Each year, thousands of young men from high schools are selected for this one week of leadership training that culminates in the mock election of state officials.

Two students from each state, except Hawaii, are selected for a national version of the program called Boys Nation held in Washington, D.C. (Hawaii is the only state that does not participate in either Boys State or Boys Nation.)

"Through Boys State, we can influence the lives of young people, and they are the future," says the Rev. Sinclair E. Lewis of Post 6, Columbia, S.C., who has spent 39 years working with the Palmetto program. Lewis credits Palmetto's unique leadership training and the closeness of the staff and counselors.

"Boys State teaches these young men how to make a difference without just complaining," says Baptist Minister Seth Buckley, another member of the Palmetto Boys State staff. "I tell them that they are not just the leaders of the future, they can be the leaders now, in their communities."

It was in 1963 that Legionnaire Gene Morehead of Post 1 Florence, SC, heard similar advice. Morehead went on to become a state judge in South Carolina's Family Court system. He has remained active in the program ever since.

"My involvement in Boys State made me realize I wanted to be a lawyer," says Morehead. "This program is so important that I take a week of my vacation time each year to be here with these young people."

Just like Morehead three decades ago, Craig Hardee of Aynor, S.C., a participant in this year's program, found in Boys State a blueprint for what he wants to do with his life. "I learned a lot about government, and that has influenced my career decision," he says. "Politics is now in my blood."

Political lessons were certainly learned by this year's Palmetto Boys State governor, Will Emerson of Easley, S.C.: "My biggest lesson on the road to being elected was if you do what people want done, then they will support you."

Mark Peper of Charleston, S.C., was typical of the fair number of boys who approached the Boys State program with certain reservations. "At first, I was pessimistic about how much the program could do for me," says Peper. "But I learned quickly that being involved in Boys State turns you into a leader." The proof: Peper ended up being elected Palmetto Boys State's lieutenant governor.

As Secretary of Education Richard Riley told the American Legion magazine: "South Carolina Boys State taught me a lot about politics. I used those lessons to become Sheriff at Boys State and later, in my adult life, to become governor of my State."

To find out more about Boys State, contact your local high-school guidance counselor or write to: Boys State, Americanism Division, The American Legion, P.O. Box 1055, Indianapolis, IN 46206.

TRIBUTE TO EARNEST GRIFFIN

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. RUSH. Mr. Speaker, I rise today to honor Mr. Earnest Griffin, a pioneer in the mortuary business, who passed away this week at the age of 83. Mr. Griffin was 1 of only 6 licensed practicing morticians with over 60 years of experience. Since his graduating from the Worsham College of Mortuary Science in 1934, Mr. Griffin has conducted the final rites of such noted figures as the Hon. Elijah Muhammad and Olympian Jesse Owens. Mr. Griffin also gained the honor of being the first African-American invited to join the International Federation Thantologist Association, a funeral directors association.

Mr. Griffin was also an avid pursuant of the events that surrounded the Civil War. So much so to this fact, he erected a wall honoring his grandfather, a Civil War veteran, at Civil War Camp Douglas. He had written extensively on preserving the history of the Civil War.

Mr. Griffin loved his community, and in living he tried diligently to show that. He served on the board of directors for Lakeside Bank for over 20 years. Mr. Griffin was also awarded the Community Service Award from Illinois Institute of Technology and he also added to the beauty of his community by having his architecturally distinctive Griffin Funeral Home building built in his own neighborhood.

Mr. Griffin was a caring family man, as well, as can be attested to by his wife Alyce and his two daughters Ethel and Pearl.

Mr. Speaker, Mr. Earnest Griffin was a loved and respected man within his home and within his community. He spent his life serving the needs of others, It is not often that we are honored to know such a man. I have been blessed to have had the opportunity to have known him. I am proud to enter these words of remembrance into the RECORD.

THE OUTRAGEOUS PRISON SENTENCE IMPOSED AGAINST ACTIVIST WEI JINGSHENG

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. LANTOS. Mr. Speaker, the Chinese Government has once again ignored internationally recognized human rights with the imprisonment and the holding of a show trial of political activist Wei Jingsheng. Mr. Wei, who is perhaps the best known and boldest advocate of democracy and human rights in China, was convicted at a sham trial last Wednesday, December 13, of trying to overthrow the Government of China. He was sentenced to 14 years in prison for trying to overthrow the Chinese Government.

Mr. Wei has already spent 16 years in prison for his activities in support of democracy. He was arrested in 1979, when he was only 29 years of age, and then was only released from prison in September 1993 when the Chinese Government was attempting to improve

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

its image in an effort to win international support for Beijing to host the Olympic Games. Early in 1994—thanks in large part to a resolution which I introduced in the Congress and which was adopted overwhelmingly by this House and expressed opposition to holding the Olympic Games in Beijing because of China's deplorable record on human rights—China did not receive the honor of hosting the Olympic Games. Within a short period of time, Mr. Wei was again arrested by Chinese authorities. He was held in prison without being charged for some 20 months—from April 1994 until this week.

Mr. Speaker, Chinese authorities should know that this callous, illegal and reprehensible action meets with the universal condemnation of democratic peoples and those who support human rights around the world. At the same time, however, we are not limited to verbal protestations against the Chinese action against Mr. Wei and other human rights and pro-democracy leaders. There are meaningful and effective actions that we can and should take.

First, Mr. Speaker, I am bipartisan in my criticism of the actions of the administration on Chinese human rights violations. I have criticized the Bush administration and the Clinton administration. The Bush administration made the unfortunate decision to extend MFN treatment and cooperation with the Chinese Government in a number of spheres—despite the outrageous Chinese actions in Tiananmen Square in 1989. This was one of the most horrible and vile acts of a government against peaceful students who were seeking to bring democracy and respect for human rights to their country. The Bush administration continued to advocate and work for continuing to grant MFN to the Chinese Government despite its reprehensible actions.

The Clinton administration, likewise has continued this appalling policy. The administration explicitly de-linked human rights from the issue of MFN and United States economic relations with China. This was a critical error. The Chinese only understand power, and when we fail to give economic teeth to our commitment to human rights, that commitment rings hollow. We are now reaping—with the unfortunate imprisonment of Wei Jingsheng—the tragic consequences of this policy of delinking human rights from meaningful action that will let the Chinese Government know that we mean business when we express our support for human rights.

The second institution which deserves to be criticized in connection with this latest antidemocratic action by the Chinese Government are the American and the international business community. I call upon American businesses to search their conscience. Mr. Speaker, human rights and democracy are infinitely more important than profits. Our business community is timid and tepid in its support for human rights and for democracy in China. I urge the American business community to give attention to the values and principles that have made our Nation great and that permit them to conduct their business activities so successfully in the United States and in democratic and market economies around the world.

We now have a trade surplus with China that is approaching $40 billion—a substantial sum, Mr. Speaker. American business has considerable leverage in China, but American businesses are so concerned not to rock the boat, not to upset the balance in their relations with their Chinese business partners, that they will not stand up for human rights and for democratic progress in China. This is shortsighted and counterproductive, and it could ultimately undermine the business objectives that these companies are pursuing.

Third, Mr. Speaker, this Congress has not spoken clearly and decisively on this issue, and we bear a portion of the blame for the problems that we are now seeing. Earlier this year, this House voted a gentle slap upon the Chinese wrist for their appalling human rights record, but then the majority in this House voted an unconditional extension of MFN trade benefits for China. This was done, Mr. Speaker, despite the absolutely arrogant and appalling record of China on human rights. We cannot expect strong words to have the impact of real action.

I deplore the action of the majority in this House—and I add that it was a bipartisan majority including our colleagues on both sides of the aisle—in voting to continue MFN trade benefits with no consideration or link to China's actions in the area of human rights and democratization.

We in this House can—and occasionally in the past we have—taken action that will get the attention of the Chinese. Earlier this year, the House by a unanimous vote and the Senate by a near-unanimous vote approved a resolution which I introduced expressing the sense of the Congress that President Lee Teng-hui of Taiwan should be permitted to visit his alma mater, Cornell University in Ithaca, NY, to be honored as a distinguished alumnus. The Chinese took notice of that action, Mr. Speaker. They recalled their Ambassador and they took action. While the response was negative, we succeeded in getting their attention.

Mr. Speaker, that is what is needed. We must let the Chinese know that we can do more than express nice words of support for human rights democracy. We mean business. Human rights are serious. Human rights are of great importance to the American people. Our interest goes beyond making nice-sounding statements.

The Chinese Government must know that human rights are important to us. The imprisonment of Mr. Wei Jingsheng is an outrage. It should be met with tough and meaningful action. It is my intention, Mr. Speaker, to continue to press this struggle. I urge my colleagues to continue that fight as well.

Mr. Speaker, on the day that Mr. Wei was tried and sentenced to 14 years of imprisonment, his sister, Ms. Wei Shanshan, issued a moving and important statement which gives more of the background of Mr. Wei and information about his trial. I ask Ms. Wei's statement be placed in the RECORD, and I urge my colleagues to read her important statement.

STATEMENT BY WEI SHANSHAN

In 1979 my brother Wei was sentenced to fifteen years in prison for calling for democracy and human rights. He was twenty-nine years old, and by the time he was released from prison in 1993, he was forty-three. Six months later, he was again detained, and disappeared for twenty months, just because he talked with journalists and foreign diplomats. Now he has been sentenced to fourteen years in prison. He will be sixty years old by the time he serves the sentence.

Wei was charged with conspiring to subvert the government. The evidence included money he had in the bank from an international award he received for his human rights work, files in his computer, his proposal to hold an art exhibit and concert, and organizing cultural exchanges. He planned to establish a business in order to hire families of the victims of the June 4th 1989 massacre. Also, letters to his overseas friends discussing human rights and democracy. The action he was accused of was having connections with hostile forces abroad, and publishing articles and expressing views damaging to China, including expressing support for Tibetan independence.

Wei gave a one hour defense, arguing against every single point. He said he does not support economic sanctions against China, but the Most Favored Nation trading status debate is not about sanctions, it's about putting pressure on China to improve human rights and respect the rule of law, and for the benefit of China. Several times he had to stop in his speech because he felt faint. I am very worried now about his health, because he has serious heart problems and high blood pressure. Can Wei survive another fourteen years in prison, my family wonders?

We cannot stand silent before this outrageous violation of human rights and international law. Since the government formally arrested and charged him, Chinese citizens have written letters to the National People's Congress to protest this injustice. This includes professor Ding Zilin, at the People's University, and many others.

We all know that in China speaking out on behalf of dissidents is extremely dangerous. But they are willing to take great risks to speak out for my brother. But Western governments are talking quietly and cautiously, afraid to offend the Chinese leaders. What are they afraid of? Is it only because they are worried about losing trade and business deals? Is money more important than freedom of conscience? I also heard that some people have told the U.S. government that Wei is not that important in China, or not well known, and therefore it is not worthwhile to defend him. I want to say that he doesn't have a party, he has no power. He is only an honest, independent-minded, and a brave Chinese who has a sense of responsibility to help those people without a voice, and those who are suffering.

To defend him is not a future political investment, but a defense of the conscience of all human beings. If a country like the United States, founded on principles of freedom and human rights, will not even help him, then this leads many to question whether the U.S. has given up on human rights. Just three days after Wei met with an American official, he was detained in 1994. Today he has been sentenced to fourteen years in prison. What will the U.S. do now for my brother?

The United States is the most powerful democratic country in the world. The American government has a strong influence on many important events such as Bosnia and Mideast peace. If the U.S. can make a strong, effective response to China, it can also help to stop this terrible injustice. It is not only a question of saving Wei Jingsheng, it is also a question of defending thousands of dissidents in China, and fundamental rights of freedom of expression of over one billion Chinese people. It is in the long-term interests of the U.S. and world peace.

CRITICAL CARE FOR HIGH-RISK YOUTH

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. BARCIA. Mr. Speaker, many of us understand that our children are our most precious resource. The young people of today certainly are the leaders of tomorrow. We want them to grow to adulthood with a stable support system so that they in turn can understand the value of help to those in need of it, even when they will not admit it.

AuSable Valley Community Mental Health Services, under the direction of Peggy Hendrickson, has established the AuSable Valley High Risk Youth Diversion-Middle School Success Program to help children in area middle schools who are at high risk for substance abuse, delinquency, and school dropout. Efforts are targeted toward helping children at a formative age when they can recover from a momentary misdirection in their personal outlook. Those students with high incidence of school absenteeism and other high-risk indicators, such as several disciplinary referrals, school failure, peer conflict, or a history of family problems, are selected for the care that this program can provide.

The program helps build personal values and offers a support system. Certainly direct contact with the students is offered. But group enrichment activities, home visits with parents or guardians, and providing liaison between parents and school personnel are vital to the success of this program.

The Middle School Success Program started in West Branch 5 years ago, with funding from the Federal Safe and Drug-Free Schools and Communities Program, and discretionary funding from the Governor of Michigan. The program was expanded earlier this year to the Hale and Oscoda Area Schools. It has been such a success that it was recognized last month by the U.S. Center for Substance Abuse Prevention as a national Exemplary Alcohol and Other Drug Abuse Prevention Program, having been nominated by Northern Michigan Substance Abuse Services and the Michigan Center for Substance Abuse Services, Michigan Department of Public Health.

I want to offer my personal congratulations to Peggy Hendrickson, the program director, and the members of the Direct Service Staff, Joe Fika, Kathy Eno, Sandra Van Wormer, Belva Iseler, Darla McKelvey, and Lisa Hawkins-Jack. Supervisor Kerry Boyd deserves our appreciation, as does Dr. Floyd Smith, the executive director, and the members of the AuSable Valley Community Mental Health Services Board. Their record of achievement—most notably having 100 percent of participants either remaining or becoming drug free, 90 percent decreasing or eliminating classroom evictions for behavior, 80 percent reducing or eliminating school detentions, and a number of other accomplishments all deserve our praise.

Mr. Speaker, I urge you and all of our colleagues to join me in congratulating these wonderful people for a record of accomplishment, offering a future of hope.

MANDATORY TESTING FOR THOSE CONVICTED OF ASSAULT THAT MAY HAVE EXPOSED VICTIM TO AIDS VIRUS

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. MANTON. Mr. Speaker, you have probably heard about the 6-year-old girl from Queens, Collete Lopez, who was stabbed with a hypodermic needle by a mentally disturbed vagrant. Collete and her family received some good news recently when Collete's initial test for HIV virus came back negative. But Collete will have to continue to be tested for the next 6 months before she and her family know for certain that she was not infected with the AIDS virus.

Mr. Speaker, I was shocked to learn that the perpetrator of this assault has no legal obligation to take an AIDS test himself. Under current law, a percentage of Federal funds are withheld from those States that fail to enact laws requiring convicted sexual offenders be tested for AIDS. However, there is no provision that addresses cases like this, where the victim is potentially exposed to the AIDS virus through a non-sexual, yet violent, assault. Until the perpetrator in this case is tested, the Lopez family will continue to be victimized by fear and uncertainty.

I have introduced legislation that would remedy this unthinkable situation. My legislation would force States to enact laws to require, at the victim's request, that those who perpetrate crimes such as this one, undergo an AIDS test and report the results to the victim.

Mr. Speaker, for victims of violence, it is difficult enough dealing with a traumatic event, and its aftermath, without the specter of AIDS. When violent crime potentially causes a transfer of blood, the perpetrator should be required to take a blood test to determine whether they exposed their victim to the AIDS virus. My sincere hope is that this legislation will enable victims, such as Collete Lopez, and their families to get past the vicious crime, and on with their lives.

FIRE AT THE MALDEN MILLS

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. MEEHAN. Mr. Speaker, I would like to congratulate the firemen and the emergency services workers who worked so hard to extinguish a fire which burned down the Malden Mills in Methuen, MA, the region's largest textile manufacturer. I would particularly like to thank Chief Ken Bourassa of the Methuen Fire Department, who coordinated the firefighting efforts, and also Mayor Dennis A. DiZoglio, who is working with Federal and State agencies in order to rebuild the mills which are so important to his town.

On December 12, there was an explosion in one of the buildings of the mill complex. Within a short period of time, the flames spread to the surrounding buildings, reducing four of them to ashes and damaging a fifth. The flames were fanned by winds which exceeded 45 miles per hour which hindered the efforts to contain the blaze. Firefighters also experienced collapses in their water lines. Despite these and other problems, they were able to contain the fire within 12 hours.

Chief Bourassa assembled a force of over 100 firefighters from 30 departments throughout New Hampshire and Massachusetts to combat the fire. The operation that he organized on that evening was a model of cooperation. If it were not for the dedication of these professionals, the fire would have spread further, damaging a large section of Methuen and leaving hundreds homeless.

Malden Mills is the region's largest manufacturer of textiles and also the town's largest employer. Each year, the company's sales exceed $500 million, and the plant employs over 1,400 workers. Its presence in the region has brought economic prosperity to Methuen and contributed to Merrimack Valley's commercial growth.

Under Mayor DiZoglio's leadership, and with assistance from Lawrence Mayor Mary Claire Kennedy, plans are under way to rebuild the mills. He has secured funding from the Department of Labor and the Department of Housing and Urban Development to aid in the redevelopment. He has also been working to secure Federal disaster relief funds.

I applaud the efforts of these officials to rebuild Malden Mills. With the leadership of Methuen's officials and with assistance from State and Federal agencies, Malden Mills will be rebuilt quickly. Then, like the Phoenix, it will rise from its ashes and once again take its place as the leading manufacturer in this region.

BARNEY GOTTSTEIN: PHILANTHROPIST, BUSINESSMAN AND EXTRAORDINARY AMERICAN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. LANTOS. Mr. Speaker, Mr. Barney Gottstein through his life's work and achievements, has become the quintessential embodiment of the American Dream in its finest form. As Barney celebrates his 70th birthday, I rise today as a friend and an admirer to honor his extraordinary spirit and character.

Born of hardy pioneer parents who created a warm and nurturing home in the cold, forbidding, and primitive surroundings of Alaska in the early 1920's, he eagerly and gratefully absorbed their profoundly puritan values. Barney's father spent his first bitterly cold Alaska winter in a tent. His mother was an outstanding school teacher who overcame the physical hardships with her contagious and living passion for Alaska's children and the pursuit of knowledge.

Barney's life has consisted of a never-ending attempt to put the finest values on which this country was built into daily practice in all his endeavors. He served our country with great distinction in the military and he was a brilliant student at the University of Washington. His analytical excellence was widely acclaimed by his professors and fellow students. He was a magnificent father to his five children, and he contributed in a vast and unique way to the economic development of his beloved home State of Alaska.

His passion was to open doors of opportunity to others, and he found endless avenues to pursue these goals through local, statewide, and national leadership. He served as a Democratic National Committeeman, Democratic State Chairman, delegate to national conventions, strategist and leader in countless political races for local, State, and Federal office.

Barney Gottstein's philanthropic activities are far-flung, enormously generous, creative, and overwhelmingly anonymous. I have never met a person who is more interested in getting the job done and less interested in getting credit for it.

For many years, Barney has been a leader in helping Israel through a biotech venture capital investment foundation designed to make that country self-sufficient and functioning at the cutting edge of technology.

Despite his propensity for anonymous philanthropy, Barney has been widely recognized for his life's achievements. He was awarded an honorary Doctor of Laws by the University of Alaska at Fairbanks in 1991 "for his outstanding record of public service and for his leadership in building and promoting Alaska's educational system." He was named to the Alaska Business Hall of Fame in 1989 for his immense contributions to the economic well-being of the State.

I invite my colleagues to join me in congratulating Barney on his 70th birthday for his many substantial contributions to our country and in wishing him many happy years with his wonderful family and many friends.

A TRIBUTE TO COMMUNITY AND BUSINESS LEADER, LINWOOD PARKER

HON. DAVID FUNDERBURK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. FUNDERBURK. Mr. Speaker, I want to pay special tribute to an outstanding citizen who is a civic, community, business, and political leader. Mr. Linwood Parker is an American success story, a model others should follow.

Mr. Linwood Parker is a resident of Four Oaks, NC, in the heart of the 2d district. He is married to Patsy Robert Parker and has two children; Lisa and Elizabeth. He is a member of the Four Oaks Baptist Church. Linwood Parker has an extensive education in the field of business. After going through Johnston County Public School and graduating from Four Oaks High School, he studied at East Carolina University, Georgetown University, American University, and Bentley College. He is a graduate of Hardbarger Business College and a fellow of the National Tax Practice Institute.

Mr. Parker has excelled in business endeavors in Johnston County. He is president of Linwood Parker and Co., Associates; is qualified by Treasury exam to practice before the IRS; and is president of White Swan Barbecue Restaurants.

He has made an outstanding mark in community activities and has gained statewide recognition and awards. Additionally he has been a leader of the Republican Party in his county, district, and State.

Locally, Mr. Parker serves on the advisory board of the South Johnston High School Board of Education, serves as Four Oaks mayor pro-tem and town commissioner, third term; and serves as chairman of the Johnston County Tourism Authority. He has served as president of the Four Oaks Chamber of Commerce; chairman of the Tourism Authority's Finance Committee; and on the I–40 Study Commission. He was named the Four Oaks Chamber of Commerce Citizen of the Year in 1992 and given the Four Oaks Chamber of Commerce Outstanding Service Award also in 1992.

It was his activity in the Jaycees at an early age that began his interest in town and State affairs. It is especially notable that he led the Chamber of Commerce in benefits for underprivileged and needy people. Through his leadership and efforts $10,000 was raised to help cover hospital bills for an out-of-state person who had a terrible accident in the county.

Statewide, Mr. Parker serves on the Critical Needs Commission appointed by the Speaker of the House. This committee allocates money to local school districts which do not have the resources for school construction. He has served as president of the I–40 Association; and as a member of the Local Government Commission and Education Study Commission—both appointed by the Governor. He was given the North Carolina Jaycee's Outstanding Male Civic Award in 1973 and the Hardbarger Business College Outstanding Accounting and Business Administration Award in 1969.

Perhaps most important, Linwood Parker has shown what an individual with hard work, determination, entrepreneurial skill, and faith in our free enterprise system, can accomplish. His White Swan Barbecue Restaurants are known throughout east central North Carolina for their excellence and service. White Swan Restaurants can now be found in Smithfield and Princeton, NC. And Linwood hopes to franchise his restaurant in other towns in eastern North Carolina. He provides both jobs and opportunity for others as well as notable service and food.

Linwood Parker has made and continues to make a major contribution in the area. I am proud of him and happy to pay this special tribute. Congratulations Linwood.

PRINCIPAL IS STAYING PUT, THANK YOU

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. DUNCAN. Mr. Speaker, George Perry has dedicated 37 years of his life to school children in East Tennessee. His tremendous devotion to duty and service to others was recognized recently in an article I read in the Knoxville News-Sentinel.

Because we need many more educators like George Perry, I wanted to call this article to the attention of my colleagues and to other readers of the CONGRESSIONAL RECORD.

PRINCIPAL IS STAYING PUT, THANK-YOU

(By Elizabeth A. Pooley)

"School Days, School Days, good old golden rule days . . .," sang Doreen "Dody" Perry to her children every year on the opening day of school. Little Georgie Perry heeded the wake-up call and proceeded to go to school, in one form or another, for the next 55 years—and he's still going.

"From a family that was so musically inclined, my mother couldn't carry a tune in a bucket. I guess you could say that I hold some kind of record among Knox County School administrators, 27 years in the same position. If it ain't broke, don't fix it. I wouldn't care to be anywhere else," said George Perry, principal of Cedar Bluff Middle School in West Knoxville.

With compassionate eyes, a spontaneous sense of humor, and the ability to make everyone aware of their own identity and contribution, Perry oversees multiple projects and business-related concerns while speaking with the multitude who pop into the office for just a "minute" of his time. His desk phone is rarely silent and a crisis situation can present itself at any time.

Perry appears much younger than his 60 years and only recently cut back on his 60-hour work week when he retired as part-time music director at Parkway Baptist Church. A practicing Christian since childhood, Perry well remembers when reading passages from the Bible was an accepted part of the school curriculum, a form of literature.

"Today we hear, you are entitled to your religion, but just don't mention it. The courts have made rules and we have to follow them. We can teach scientific theory and psychology. I do feel that the schools are getting a bum rap from evangelists who say we are Godless and atheistic. We have to follow the mandates and keep in mind that we are living in a more cosmopolitan world. The students these days come from all over the world with different religious backgrounds," said Perry.

An educator of 37 years, Perry was born a Depression child. "If there hadn't been a depression, we had our own private one going on at home," he said.

Following graduation from Mars Hill College, Perry obtained his bachelor's degree in sociology and science from Carson-Newman. His work history began in 1958 as a cookware salesman in Morristown. An odd set of circumstances led him into teaching.

"I was passing by the music room at Morristown High School one day when I heard an announcement that there wouldn't be any class that day and all the students would be directed to study hall. I volunteered to conduct the class and was then asked to become a substitute teacher at the school for $8 a day. I quit my job selling pots and pans," said Perry.

Following 10 years as assistant principal, Perry then went to Clinton High School as principal for one year. He took over as principal of Cedar Bluff Middle School in 1969.

"I don't dread coming to work. I can remember back in the 1960s when I was making $6,000 a year, I was offered a job in the insurance industry for $20,000 a year. I thought about it and realized I didn't want to sentence myself with a job I didn't like," said Perry.

Perry believes that if a student can leave Cedar Bluff Middle School and be able to make responsible decisions and live with them, he/she is well educated.

Too often he sees parents who are unwilling to accept that "their" child may have a problem in school. "They are setting themselves up for problems down the road and crippling the child's ability to make correct decisions. I once had a student here in my office who told me his father could take care of me. We're very fortunate here; the vast majority of students don't cause any problems," said Perry.

Perry's walls are full of awards, citations, certificates and a letter of appreciation from the late Danny Thomas, founder of St. Jude's Children's Hospital. In the letter, Thomas commends Perry and the students' record-setting fund-raising efforts. He refers to Perry as giving more of himself to children than just books and school work. "You are teaching them the meaning of good deeds by personal example," Thomas writes.

Married for 40 years to his wife, Doris, a secretary at Powell Elementary, Perry takes extreme pride in three children: Chuck, Georgeann and Melody. The Perrys have one grandchild, 15-year-old Matthew.

Leaving his longtime position may be an option for Perry in another five years. Over the span of his teaching career he has accumulated 245 sick days, a year's sick leave which he has the option to apply toward an earlier retirement. In the meantime he will continue to enjoy his students, whom he says are old enough to reason with and still be cute.

His personal/family life may be summed up by an office wall hanging: "The best gift you can give your children is to love their mother." Perry's attitude regarding his career is best exemplified by the cross-stitched utterings of a frog near his desk: "I'm So Happy, I Could Croak!"

UNITED NATIONS ADDRESS BY PRESIDENT RAKHMONOV

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. ROTH. Mr. Speaker, I have the privilege of serving as one of the President's special representatives to the United Nations General Assembly during this, the United Nations' 50th anniversary.

On October 24 some 180 heads of state attended the U.N. session. It was the largest convocation of world leaders in history and I shall remember it always.

While we heard speeches from President Clinton, President Yeltsin, Prime Minister Major, and other leaders of the major world powers, we also heard from leaders of the world's newest independent nations.

One was President Emomili Rakhmonov of Tajikstan, who particularly impressed me. His speech was one of the best statements on global affairs and his wise words should be read by all Members of the House.

Having just received the official text of this speech, today I am inserting President Rakhmonov's United Nations speech into the CONGRESSIONAL RECORD.

In the post-cold-war era, the bright star of freedom, democracy, and peace is beckoning to people around the globe. They, and we, are fortunate that leaders such as President Rakhmonov are emerging to help us reach that noblest of goals: a peaceful world.

Esteemed Mr. Chairman, Esteemed Mr. Secretary General, Esteemed Delegates, Ladies and gentlemen: It is with a special feeling that we speak from this podium at a time marking 50 years since the inception of the organization, whose emblem is a symbol for peace, equality and cooperation. These highest moral values serve as a guiding light for the whole international community. Step by step, as we ascend toward them, we uncover not only new political horizons, but also new hopes. They are illuminated by the grandeur of the enormously difficult and important path, on which the United Nations has been and is seeking the unity of mankind.

We can rightfully say that the creation of the UN became a truly global and historic event.

It is profoundly symbolic that the United Nations' half-centennial anniversary coincides with a date marking 50 years since the end of World War II. The right against evil proclaimed by countries, despite differences in their political systems and ideologies, ended with a triumphant victory.

And I have every reason to be proud of the fact that Tajikstan's contribution, commensurate with its capabilities, was part of the effort by those nations that fought for this victory and formed the United Nations.

Then, 50 years ago, an unprecedented unity of nations, governments, countries and continents of the planet was being forged. The foundation of the United Nations laid by its creators turned out to be so solid, and its activities so productive that it did not only fulfill its main objective—averting the threat of another World War—but also managed to break the shackles of the Cold War.

Drawing upon the half-century experience of the United Nations, which has become a global institute for solving complex international issues, a recognized center for reconciliation of different states' interests and a vehicle for ensuring their multilateral cooperation, we have every opportunity to a meet the new challenges of our time and to find adequate answers to modern-day questions.

Today, the world-wide family of nations faces two well-known problems of a global nature. To cope with these problems, to identify the course of action necessary to solve them—this is the mission of the United Nations, whose mechanisms have proved their efficiency in the past half century. The world community has every right to count on the fact that now they will be fully utilized to minimize the destructive consequences of conflicts, which, unfortunately, are part of our present-day history.

As it is well known, the United Nations was formed specifically to help states resolve their disputes peacefully, but today's unique circumstances require a wider use of preventive diplomacy, a direction of all UN efforts toward prevention of aggravation in different regions.

Today, when new forms of collective security are being introduced, we believe the peace-making potential of the UN can be coupled with its patterns of cooperation with regional organizations, primarily toward deterring, localizing and settling armed conflicts, the fight against terrorism and radical manifestations of various kinds of fundamentalism.

In Tajikstan, we do not judge this speculatively, but based on specific peace-making activities of the United Nations, which in reality acts as an active and efficient intermediary in settling the problems around Tajikstan. Having survived the civil war, coping with its consequences, our people managed to preserve the integrity and independence of the state and its international recognition based on support and assistance of country-members of the UN and its institutes that are widely represented in Tajikstan.

We will continue to defend our national interests in cooperation with the UN, in interaction with OSCE and other international organizations.

Of course, in the first place, these interests require the earliest possible achievement of a positive result in the inter-Tajik dialogue, which is under way with the active participation of several countries and under the auspices of the UN.

Two years ago, at the 48th session of the UN General Assembly, our delegation stated that political dialogue as the only alternative for untying "the Tajik knot" and achieving internal accord in the country was one of the top priorities of the course we chose.

Constructive trends that permeate this dialogue today, and the fact that now it is on a higher level, became possible thanks to the UN envoys' painstaking work with representatives from both Tajik sides. Of course, it also gained some new thrust after our meeting in Kabul and Tehran. Today, the country's leadership and the opposition are working on a common agreement initiated by the Protocol on main principles of achieving peace and national conciliation in Tajikstan, signed by the parties in August of this year. It was also decided to extend through February 26, 1996 the Agreement on a temporary cease-fire and the cessation of other hostile actions on the Tajik-Afghan border and inside the country. This is a significant development. But the most important thing is that we support the earliest possible start of a standing negotiation round, which we project to determine unequivocally the thrust of achieving the accord, overcoming hostility and strengthening society and consolidation trends.

I am sure that our efforts to this end would be more efficient if it was not for the tensions in neighboring Afghanistan that still exist and affect our border areas. It looks like the explosive nature of the conflict in Afghanistan that has not yet been settled dropped out of the world community's sight. It is our deep conviction that brewing tendencies toward escalation of the conflict threaten not only our country's security, but the security of the whole region, while also carrying within themselves some destructive impulses of the global crisis.

We call upon the international community to promote the earliest possible return of peace to the long-suffering land. Overcoming the Afghan crisis requires not only constructive participation of the states in the region, but also some effective actions by the UN.

Mr. Chairman, the reality is that in the post-Soviet territory, where several independent states were formed, the main burden of settling regional conflicts is mostly carried by the Commonwealth of Independent States, with Russia as the remaining basis. In our opinion, the UN and OSCE are supposed to share this burden, drawing upon the Commonwealth as an important instrument of maintaining stability and strengthening global security. In this connection, it is essential that the UN specialized agencies and international banking and financial organizations develop a comprehensive plan supporting reforms in the CIS countries during the transition period. Otherwise, it would be unthinkable to integrate smoothly the Commonwealth states into the world economy.

The problem of the UN young member-states' economic development is closely linked to the issues of universal security.

We believe that the remaining discriminatory restrictions in the world economy, as well as the practices of conditional financial and economic assistance to countries with transitional economies clearly do not serve the purposes of achieving universal security.

In our opinion, this is the area of activity where the ideas of harmonious international relations and wider multilateral cooperation meet the demands of the new phase in the states' joint effort on both global and regional levels. We think that along these lines the UN could help develop the European idea as it applies to the lands of a new "greater Europe," whose borders are widely believed to extend—in a geopolitical sense—from Vladivostok to Vancouver, from Dublin to Dushanbe, from Murmansk to Malta.

We live in a world that is drastically different from the one we saw 50 years ago.

The United Nations has to adapt to today's turbulent evolution process of historic development that, regrettably, is characterized by civil wars, separatist movements, as well as ethnic, tribal or other clashes.

That is why today the UN has to deal with some new situations. That seems to push it in the direction of re-interpreting quite a few of its concepts, objectives and tasks.

Hopefully, recent year's tendencies toward measures of compulsion within the peacekeeping operations conducted under the auspices of the UN will not get any further momentum.

While promoting stronger UN positions in ensuring peace and stability, including in our region we believe the requirements of the security standards should be invariable.

At its 50th anniversary threshold, the United Nations has every opportunity to find effective answers to questions posed by qualitative changes in the world situation. One such answer is the streamlining of the United Nations itself, considering today's realities. It is evident that the time has come to develop a partnership strategy for the 21st century. We see the basis for such a strategy in common underlying interests, which will help build trust and extend the borders of peace and prosperity for years to come. Based on these strategic priorities, the UN streamlining efforts must enjoy unconditional support, while preserving everything productive and valuable in peacemaking operations and development programs.

Following this path, we will undoubtedly show realism, since revival is in itself a fruitful process. In this regard, proposals on re-organizing management structure in accordance with new tasks, creating accumulation mechanisms and efficient use of resources to implement vital programs are no exception. These are all problems of top priority.

However, while considering new objectives, we should rely on the half-century of UN experience and its heritage, respecting and appreciating the ideas of its founders.

Mr. Chairman, five decades are a short moment from the perspective of history. And it is as beautiful as the very idea of peace and cooperation that is part of the UN foundation.

Nevertheless, the festive atmosphere of this event should not hide the harsh reality of day-to-day life. We must properly pass the half-century experience, the whole UN heritage to the younger generations with a confidence that they will end up in reliable hands.

BOSNIA SHOULDN'T GET AN EASY NOD JUST BECAUSE SERVICE IS VOLUNTARY

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues an editorial which appeared in the Omaha World-Herald on November 11, 1995.

[From the Omaha World-Herald, Dec. 11, 1995]

BOSNIA SHOULDN'T GET AN EASY NOD JUST BECAUSE SERVICE IS VOLUNTARY

A detestable idea has crept into the discussion of President Clinton's Bosnia mission. Some defenders of the president's position stress the fact that the U.S. armed forces are all-volunteer. The implication is that volunteers asked for it if they wind up in an unpleasant or dangerous situation.

Any such thought should be put aside immediately. The safety of the armed forces is one of the primary concerns whenever they are sent into the field. The fact that the troops are volunteers instead of draftees should make no difference.

It apparently makes a difference to some people. The idea that Vietnam was bad because draftees were used, while Bosnia is of little concern because the armed forces are all-volunteer, has appeared in forums including broadcast talk shows and the Public Pulse. Jack Germond, a liberal syndicated columnist, mentioned the volunteer status of the troops on "The McLaughlin Group."

Indeed, President Clinton, in his televised speech asking for support for the Bosnia mission, said that "my most difficult duty is to put the men and women who volunteered to serve our nation in harm's way when our interest and values demand it."

Why was it necessary to remind his audience that these were volunteers? Does Clinton, who avoided the draft, see volunteers as something different? Certainly it doesn't come as news to the public that the armed forces consist of career and professional soldiers as opposed to draftees. That has been true for more than 20 years.

When Americans lay wreaths on Memorial Day, they don't ask whether each fallen soldier was a volunteer or a draftee. Their deaths are equally profound. Mothers, fathers, wives and siblings of volunteers grieve no less. Their children suffer an equal loss.

Clinton is sending American troops into a harsh and dangerous land. Booby traps and land mines litter the countryside. The potential for terrorism is high. Roads and airports are in ruins. Water supplies are undependable. The terrain is rugged, with deep mountain valleys and dense forests. Winter brings bone-chilling cold and almost impenetrable fog.

Many Serbs who live in Bosnia have vowed to fight until the lawful government of their country is brought down. The Muslims who control that government have brought in shadowy fighters from Iran, Afghanistan and Libya, among other places. The government has agreed to ask those fighters to leave. But will they leave?

The question is whether Americans should be sent into this impossible situation. Even those who volunteered to serve.

IN HONOR OF THE 100TH ANNIVERSARY OF THE PUERTO RICAN FLAG

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to celebrate the 100th anniversary of the design of the Puerto Rican flag, a symbol which represents the enormous contribution the citizens of the island have made to our Nation. The flag's anniversary will be honored by the Centennial Anniversary Committee of the Puerto Rican Flag at City Hall Park in Perth Amboy on December 17, 1995.

The flag was completed in New York City at Chimney Corner Hall in Manhattan on December 22, 1895. The flag of Puerto Rico has a rich history. Dr. Julio J. Henna led a group of 59 Puerto Ricans who organized the Puerto Rican section of the Cuban Revolutionary Party. As part of their activities, a flag was created to rally support for independence from Spain.

The Puerto Rican flag was designed by inverting the colors of the single starred flag of its neighbor in the Caribbean, Cuba. The first known incarnation of the symbol was made by Manuela "Mima" Besosa, the Puerto Rican Betsy Ross. The motion to adopt the flag was approved unanimously by the Puerto Rican revolutionaries.

For 100 years, the Puerto Rican flag has symbolized a proud people. It has served as a symbol of Puerto Rico's cultural tradition and heritage. Puerto Ricans are proud of their many contributions to the United States and they are proud of the unique identity their flag represents. Puerto Rico has been referred to as the "Shining Star of the Caribbean." Her citizens residing in Perth Amboy are shining stars in their community.

It is an honor to recognize the banner of a group of constituents I am proud to represent. I ask that my colleagues join me in honoring the 100th anniversary of the creation of Puerto Rican flag.

A TRIBUTE TO MR. STEPHEN H. CONGER, SR.

HON. DAVID FUNDERBURK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. FUNDERBURK, Mr. Speaker, I want to pay tribute to Mr. Stephen H. Conger, Sr., one of the Nation's leaders in the hardwood lumber industry. As such, he has been a leader in helping provide wood products jobs in North Carolina and up and down the southeast coast.

He is to be commended for his tireless work in helping build Coastal Lumber Co. into the second largest producer of hardwood lumber in the United States and one of the largest independent wood products companies.

Mr. Conger's career with Coastal Lumber Co. began in Lake City, SC, in 1949 after he earned a B.S. degree in forestry from the University of Georgia in Athens.

He is currently vice chairman of Coastal Lumber Co. a diverse wood products manufacter headquartered in Weldon, NC, and he is an active member of the board of directors and advisory board of Coastal Lumber Co.

His career includes active leadership roles in hardwood lumber and relative associations. He is president of the Hardwood Manufacturers Association; past director of the National Hardwood Lumber Association and of the Forest Resources Group of the American Forest and Paper Association. He was a past president of the Southern Cypress Manufacturer's Association, and past executive committee member of the AFPA International Trade Council, and he is a member of: the National Dimension Manufacturers Association; the American Plywood Association; the Southern Forest Products Association; the Southeastern Lumber Manufacturers Association; the North Carolina and Virginia Forestry Associations; the Society of American Foresters; and the Holland Society.

Mr. Conger has also been active in civic, community and political affairs. Born in Asheville, NC, he is married to Marian Lansdell Meiere and has four children; Susan De Camp, Stephen Halsey, Robert Cody Lansdell, and Marian Lansdell Meiere. He served for 4 years as treasurer of the North Carolina Private School Association; is a member of various clubs; and was a delegate to two Republican National Conventions. Additionally, he has been a Halifax County finance chairman of Helms for Senate and 2d District chairman for Reagan-Bush, 1984.

Mr. Conger is an American success story. His hard work and persistence made him a leader in his field. As such, we all owe him a word of thanks and a debt of gratitude.

STEPHEN AND OTTIE ADAMS: SERVICE TO THE NATION

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. STARK. Mr. Speaker, I would like to take this opportunity to congratulate Senior Chief Aviation Machinist Mate Stephen Lee Adams upon his retirement from the U.S. Naval Reserve and to honor his mother, Mrs. Ottie Adams, for her dedication and great service to this country. Both Mrs. Adams and her son Stephen are longtime residents of Fremont, CA, in California's 13th Congressional District.

Mrs. Adams is a widow and the mother of 10 children. Her eldest son, Larry, enlisted in the Marines and served in Vietnam in 1962. Her son Stephen, enlisted in the Navy, served 3 tours in Vietnam and, more recently, served in the gulf war. Her son Phillip, enlisted in the Marines and served in Vietnam in 1968 and 1969. Her son Ricky enlisted in the Navy and received a medical discharge. Her son Kim enlisted in the Army and is a first sergeant (E8) with the 1st Armored Division in Germany, who is preparing to go to Bosnia within the next 3 weeks.

Mrs. Adams has devoted her life to this country and its veterans. In early 1966, her nephew Mike Bledsoe was wounded in combat in Vietnam and was sent to Oak Knoll Naval Hospital to recuperate. When she and her husband, Charles, a World War II Marine Corps veteran, visited Mike, they saw how depressing it was in the hospital wards—the patients had a few board games, playing cards and not much else. The Adamses were determined to fix things. They began by calling on the local business community and asking them to donate items. They also began to devote all of their weekends to the wounded veterans. They visited the wards each weekend to pass out the items such as candy and games that local businesses had donated, and stayed to talk with the patients. Mr. Adams also had a connection to the entertainment industry through a friend at work. Through this, he was able to bring a variety of entertainers to the hospital. He brought in country and western groups, folk singers, rock groups, and variety acts to boost morale in the wards.

The Adams family became close to many of the veterans and opened their home to those who could leave the hospital for short periods of time in order to provide them with a family atmosphere. Although they still had eight children at home, they made room for any veteran who needed time away.

They continued their dedication to the wounded veterans from 1966 to 1970. Unfortunately in 1970, Charles was diagnosed with cancer and had to keep his hospital visits to a minimum. Mrs. Adams continued to care for veterans and to this day receives an occasional Christmas card from one of the patients she cared for.

Mr. Speaker, I would like to ask you and my colleagues to join me in saluting Mrs. Ottie Adams for her constant devotion to this country on the occasion of her son's retirement from the U.S. Naval Reserve. She deserves our admiration and our thanks.

WE NEED THE B-2 BOMBER

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. WATTS of Oklahoma. Mr. Speaker, President Reagan said, "If we are forced to fight, we must have the means and the determination to prevail or we will not have what it takes to secure the peace."

Our zest for freedom will supply the determination—and the Congress, through the language in the defense authorization bill for fiscal year 1996, will supply the means.

An integral part of the means to fight and win is the B–2. The chairman and members of the National Security Committee have clearly supported the B–2. Studies indicate the United States will require more than 20 B–2 bombers to support the U.S. national military strategy and that makes the B–2 a critical part of our war fighting arsenal.

Let's set the record straight: The aging fleet of B–52 and B–1 bombers will see their performance decline in the next 5–10 years and can never perform the stealth mission of the B–2.

There are no new bombers on the drawing board for the next 20 years, and the B–2 is an installment on Congress' promise to revitalize our national security posture.

Conferees have always intended to continue industrial base activities necessary for production of additional B–2's.

If the program is expected to continue, prior year funds must be obligated immediately. Only then, will the hundreds of thousands directly involved in this program clearly understand our support for this much-needed program, and last,

The B–2 and its stealth technology is within our economic and production capability—it must be acquired while we can.

I challenge each of my colleagues to think about world events. I challenge each of my colleagues to think about your safety and the safety of your families. The notion that we are safe—or war is less likely—should be dismissed. While their names may have changed, the tools of mass destruction are still there—ballistic missiles, chemical weapons, nuclear weapons, and other threats to our very existence. We must have the technology to counter that threat and the B–2 is part of our technological edge.

This is our only chance to harness the B–2's revolutionary capabilities. Capabilities that, because of who we are and what we stand for, will benefit not just the people of America, but the entire world. The time is now to move forward with the B–2.

TRAVEL INDUSTRY LEADERSHIP STATEMENT ON THE COMMERCE DEPARTMENT

HON. TOBY ROTH

OF WISCONSON

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. ROTH. Mr. Speaker, the leadership of America's $400 billion travel and tourism industry is very concerned about the proposals to dismantle the Department of Commerce. These executives, who have come together to form the Travel Business Roundtable, have adopted a policy statement to express their strong support for retaining the Commerce Department.

These executives have asked me, as chairman of the 304-member Congressional Travel and Tourism Caucus, to advise the House of the travel industry's position on this issue.

Accordingly, I am inserting the following letter from Mr. Jonathan Tisch, President and Chief Executive Officer of Loews Hotels, together with the policy statement by the Travel Business Roundtable and a list of the Roundtable membership.

All Members of the House should give very careful consideration to this very cogent statement on the future of the Commerce Department, especially in view of the business executives who are listed below. These corporate leaders are among America's best and brightest. Their organization, the Travel Business Roundtable, is emerging as the leading organization of travel industry executives in the Nation.

DECEMBER 7, 1995.

Hon. TOBY ROTH,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN ROTH: Enclosed please find a policy statement regarding the United States Department of Commerce, signed by Darryl Hartley-Leonard and myself on behalf of all members of the Travel Business Roundtable.

It is imperative that the Department of Commerce continue operating in order to maintain the United States' current market share in the world travel and tourism industry. Competition internationally is increasing, and without the support of the Commerce Department, the United States is sure to lose millions, if not billions of dollars, in revenue.

Congressman Roth, as the Chair of the Congressional Travel and Tourism Caucus, as well as a respected leader in Congress, please do all that is necessary to ensure the future of this very important Department. We appreciate your continued support.

Sincerely,

JONATHAN M. TISCH,
President and CEO, Loews Hotels.

POLICY STATEMENT BY THE TRAVEL BUSINESS ROUNDTABLE

The United States travel and tourism industry is in direct and intense competition with foreign countries. This competition is increasing, and the United States is losing market share, threatening jobs and the industry's positive impact on the United States balance of trade.

The United States Department of Commerce has historically played a vital role in representing U.S. business abroad. As corporate executives and leaders of the business community, we believe that many functions performed by the Commerce Department are necessary to this country's ability to compete effectively in global markets, and are irreplaceable resources. Elimination of key Commerce Department functions, such as the United States Travel and Tourism Administration (USTTA), would be an unfortunate step backwards when this country can least afford it.

Therefor, we strongly recommend that as all functions of government undergo a thorough examination, the critical functions performed by the Department of Commerce be retained and that Congress should grant USTTA the opportunity to transition into a new public-private tourism entity no later than the end of FY 1996, by funding the agency at the previous Senate-approved level of $12 million.

As business leaders, we recognize the current pressures to balance the U.S. budget and we feel strongly that our recommendations are consistent with Congress' overall efforts to streamline and strengthen government programs and services.

The Travel Business Roundtable is an organization of senior corporate leaders of America's $400 billion travel and tourism industry. Our industry accounts for six (6) percent of our nation's Gross Domestic Product. Our billions of dollars in services to international visitors to the United States supplied eleven percent (11%) of all United States exports in 1994 and represented a net trade surplus of $21.6 billion. Our industry employs 6.4 million workers in the United States.

DARRYL HARTLEY-LEONARD
Chairman, Hyatt Hotels Corporation.
JONATHAN M. TISCH,
President and CEO, Loews Hotels.

THE TRAVEL BUSINESS ROUNDTABLE MEMBER LIST

JOHN C. ALEXANDER, Chief Executive Officer, WORLDTRAVEL PARTNERS.

MICHAEL B. ARRINGTON, President, ARRINGTON TRAVEL CENTER.

NICHOLAS A. ATHANASIOU, Vice President, ARTHUR D. LITTLE INTERNATIONAL.

ROGER H. BALLOU, Vice Chairman, ALAMO RENT A CAR, INC.

PAUL BLACKNEY, President & CEO, APOLLO TRAVEL SERVICES.

JAMES CARREKER, President, WYNDHAM HOTELS & RESORTS.

U. GARY CHARLWOOD, Chairman of the Board & CEO, UNIGLOBE TRAVEL INC.

JARVIS W. COBURN, Vice President, Business Development, EDS.

ROBERT W. COGGIN, Executive Vice President, Marketing, DELTA AIR LINES, INC.

GLORIA BOHAN, President, OMEGA WORLD TRAVEL, INC.

MICHAEL M. BOLAND, President & CEO, MARITZ TRAVEL COMPANY.

J. WILLIAM BOYD, CMP, President & CEO, SUNBELT MOTIVATION & TRAVEL.

MICHAEL BUCKMAN, Chief Executive Officer, WORLDSPAN.

BETTA CARNEY, Chairman & CEO, WORLD WIDE TRAVEL SERVICE, INC.

DAVID A. COLTMAN, Senior Vice President of Marketing, UNITED AIRLINES.

GREGORY A CONLEY, General Manager, TRAVEL & TRANSPORTATION INDUSTRY.

DON R. DAILEY, President, CAREY INTERNATIONAL LIMOUSINE.

JOHN F. DAVIS, III, President, PEGASUS SYSTEMS, INC.

JAMES E. COLLINS, Executive Vice President, AVIS RENT A CAR SYSTEM, INC.

ROGER J. DOW, Vice President, General Sales Manager, MARRIOTT LODGING.

EDWARD P. FABERMAN, Vice President, Government Affairs, AMERICAN AIRLINES.

RICHARD D. FAIN, Chairman & CEO, ROYAL CARIBBEAN CRUISE LINE CORPORATION.

WALTER G. FREEDMAN, Senior Consultant, BTI AMERICAS.

DARRYL HARTLEY-LEONARD, Chairman, HYATT HOTELS CORPORATION.

RICHARD M. KELLEHER, President & CEO, DOUBLETREE HOTELS CORPORATION.

JOHN F. KENNEDY, Senior Vice President, REED HOTEL DIRECTORIES GROUP.

GEORGE D. KIRKLAND, President, L.A. CONVENTION & VISITORS BUREAU.

FRED J. KLEISNER, President & COO, WESTIN HOTELS & RESORTS.

WILLIAM S. DIFFENDERFFER, CEO and President, SYSTEM ONE COMPANY.

RICHARD M. HARTMAN, Senior Vice President, ITT SHERATON CORPORATION.

ROBERT C. HAZARD, JR., Chairman, CHOICE HOTELS INTERNATIONAL.

DIETER H. HUCKESTEIN, President & COO, HILTON HOTELS.

RICHARD KALBRENER, President, U.S. SPRINT.

JEFFREY G. KATZ, President, SABRE TRAVEL INFORMATION NETWORK.

MICHAEL A. LEVEN, President & CEO, U.S. FRANCHISE SYSTEMS, INC.

RALPH MANAKER, President, BTI AMERICAS, INC.

JOHN A. MARKS, President, SAN FRANCISCO CONVENTION & VISITORS BUREAU.

JOSEPH A. MCINERNEY, President & CEO, FORTE HOTELS, INC.

W. THOMAS LAGOW, Executive Vice President, Marketing, US AIR.

FRANK OLSON, Chairman of the Board & CEO, HERTZ CORPORATION.

GARY L. PAXTON, President & CEO, DOLLAR SYSTEMS, INC.

CAROL PERFETTI, President, WORLD TRAVEL & INCENTIVES, INC.

JOHN F. PINO, President & CEO, MCGETTIGAN CORPORATE PLANNING SERVICES.

STEVE PUTNEY, Senior Vice President, FIRST BANK CORPORATION.

KENNETH E. SICHAU, Vice President, Global Service, Market Management, AT&T.

JONATHAN M. TISCH, President & CEO, LOEWS HOTELS.

JOSEPH V. VITTORIA, Chairman & CEO, AVIS RENT A CAR SYSTEM, INC.

DAVID MEYER, Editor-In-Chief, BUSINESS TRAVEL NEWS.

JOSEPH REDLING, Senior Vice President, SIX FLAGS THEME PARKS.

ROBERT H. ROSSEAU, President & CEO, DINERS CLUB.

GARY L. SAUNDERS, Chairman & CEO, SAUNDERS HOTEL GROUP.

JOHN L. SHARPE, President & COO, FOUR SEASONS REGENT HOTELS & RESORTS.

TRAVIS L. TANNER, Co-President & CEO, CARLSON WAGONLIT TRAVEL.

MARIANNE C. TOLDALAGI, Vice President, Product Management, AMERICAN EXPRESS TRAVEL RELATED SERVICES, INC.

CHRIS WHITE, Chairman, KRISAM GROUP/PREMIER PROPERTIES.

ENOUGH IS ENOUGH

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. RIGGS. Mr. Speaker, I want to bring to Members' attention a matter of importance regarding the Endangered Species Act [ESA]. We all are aware of the injustices done to private property owners because of the overreaching authority of the ESA.

For the past 3 years, northern California timber businesses and workers have experienced a substantial hardship as the result of President Clinton's option 9 initiative. Federal agencies have used the ESA to literally shut down healthy and productive timberlands based on false assumptions and dubious science.

The administration's option 9 initiative is founded on the belief that owls can only survive in old growth forests. However, recent studies have found that this in fact is not the case. One of my constituents, Robert Barnum, a successful businessman, wrote me on this subject.

Mr. Barnum specifically addresses the issue of spotted owl survival in second growth habitat. His experiences and those of other timber companies in the Northwest continue to prove that the assumptions of option 9 are false and in need of a massive overhaul in order to avoid further damage to a very important west coast industry.

I cannot express enough my frustration with Federal officials who clearly abuse the public trust and deliberately harm hard-working Americans because of their political and social beliefs. The ESA has become the vehicle for zealous environmentalists to impose their political agenda outside of the original intent of the legislation. That is why it is imperative that H.R. 2275 should become law.

Substantial progress has been made in the past 11 months. The work of the ESA task force has been indispensable in exposing the gross abuses of the ESA and pursuing necessary reforms to ensure this law is properly enforced.

I think my colleagues will find Mr. Barnum's letter of special interest.

BARNUM TIMBER CO.,
Eureka, CA, November 2, 1995.

Hon. FRANK RIGGS,
House of Representatives,
Washington, DC.

DEAR FRANK: I have been following with interest the legislation introduced recently to rewrite the Endangered Species Act, known as H.R. 2275. I understand that you are cosponsor of the Endangered Species and Conservation and Management Act.

I am writing to let you know that I very much appreciate your support of this legislation. Being in the timber business and owning a lot of property in the northern part of your district, we have to deal with the Endangered Species Act on a daily basis. In my personal dealings with regulators, and also from reports received from our Foresters in pursuit of their work, it has become apparent to me that for many environmental extremists, the Endangered Species Act is a ploy or subterfuge to achieve ulterior objectives, namely government control over private property and prohibitions on development of property.

You may already know about the case of the spotted owl. From information I have obtained first hand and through the observation of my foresters, it is clear that the listing of the spotted owl was scientifically unsupported. You will recall that the original justification was based upon "scientific" findings that the owl would survive only in the old growth forests of the Pacific Northwest. Subsequent studies in Northern California have shown that the owl not only survived, but its population in second growth forests exceeds that found in the old growth forests of Oregon and Washington. One might ask, then, if they do better in the second growth forests than they do in the old growth forests, and if you want to preserve the owls, then should you cut your old growth forests?

We have had instances in our timbering operations where we have not been allowed to cut some timber because of the presence of a spotted owl nest within the proposed cut area. Consequently we were forced to log another area on the opposite side of the valley but contiguous. After doing so, we found out two years later that the owl that was in the forested area had now moved over to the area that was cut and had set up residences there. The reason for the owl moving over is that there is a greater food supply of wood rats and rodents in the cut over area than there is in the old growth forest. We also find that the owls do very well nesting and living in hardwood forests as distinguished from the conifer forests.

To put all of the foregoing in dollars and cents, last year we spent over $40,000 in "hooting" for owls as required by the law. This is an ongoing annual expense; and for a small company like ourselves, it is a heavy burden.

As you probably know, the California Forestry Association petitioned to make all allowances for the proliferation of the spotted owl in the second growth forests of California under the Endangered Species Act. They were unsuccessful with that petition. The point of writing this letter to you, is to give the foregoing as an example of how environmental extremists can use the Endangered Species Act in devious ways to achieve objectives not apparent in the expressed intent of the legislation.

Pat and I happened to see you on television the other night. We were quite pleased and proud to see you on the rostrum of the House of Representatives wielding the gavel. We appreciate and support the fine job you are doing representing our North Coast district.

With kindest regards,
Sincerely yours,
C. ROBERT BARNUM.

THE YOUTH DEVELOPMENT COMMUNITY BLOCK GRANT

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. WATTS of Oklahoma. Mr. Speaker, I rise today to introduce the Youth Development Community Block Grant of 1995 for Representatives SUSAN MOLINARI, DONALD PAYNE, JIM TALENT, and myself. This legislation will consolidate and coordinate a number of existing Federal programs to provide local communities with the resources and the authority to develop effective youth development programs for their young people.

The legislation achieves this goal through a two-pronged approach. First, it consolidates the resources previously authorized through 19 Federal programs that were often duplicative, overlapping, and unfamiliar to the general public. Second, instead of creating more one-size-fits-all programs at the national level, this legislation recognizes that creative individuals and groups at the local level are best suited and best informed to assess the problems of young people in their community and develop strategies and programs for them.

This initiative promotes positive youth development by supporting preventive programs that help our youth learn the values and life skills needed to succeed. Because we focus on community-based prevention programs, over 90 percent of the money authorized here will go directly to local communities.

The Youth Development Community block grant is endorsed by a broad range of public and private organizations. Local youth service groups and substance abuse prevention providers support this legislation, as do respected organizations such as the Salvation Army, Big Sisters and Big Brothers of America, and the Boys Clubs and Girls Clubs of America.

The Youth Development Community block grant, introduced on the Senate side by Chairman NANCY LANDON KASSEBAUM of the Senate Committee on Labor and Human Resources, is based on the proven principles of successful program delivery—local control, flexibility, coordination, and accountability. The legislation builds on the strength, credibility and expertise of community-based organizations, and that will be the essence of its success.

COMMEMORATING THE 50TH ANNIVERSARY OF END OF WORLD WAR II

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. SAXTON. Mr. Speaker, as we draw to a close of 1995 I thought it appropriate to once again remember the 50th anniversary of World War II. Our Nation owes deep gratitude to the men and women who proudly served our country during its time of need.

One such veteran, a constituent of the Third District of New Jersey, Harold Loeffler, served aboard the USS *Missouri* during World War II. While serving on the *Missouri,* Mr. Loeffler witnessed the signing of the Japanese surrender. In a letter by Mr. Loeffler to my office, he expressed his thoughts on the battleship and the war. I have included his letter and a history of the USS *Missouri,* as it appeared in the commemoratorive program honoring the battleship, 10–2–95, so that they may help us remember our victory 50 years ago.

WE ARE THE LAST

We are the last. After we are gone there will be no more. No one will follow in our wake. For over 100 years we were the pride of the Navy. We were battleship sailors!!!

We were with Dewey at Manilla. We died on the Maine in Havana. We manned the dreadnaughts and sailed around the world in Teddy Roosevelt's Great White Fleet. We patrolled the Atlantic during the "War To End All Wars" as the 6th Battle Squadron in the British Grand Fleet.

As the battleships grew larger we grew with them becoming more technically skilled as improvements in armament, engineering and communciations advanced. As technology progressed, we progressed to be the finest sailors in the world. . . . Battleship Sailors!

Then came Pearl Harbor. We gallantly fought off the sneak attack. We saved what we could to fight another day, but our losses were devastating. Every battleship sustained damage. The Arizona became a water mausoleum for her ghostly heroic crew.

Fittingly, when the end came, the surrender instruments were signed aboard a battleship!

Extended life was given battleships with Korea, Nam, the Mid-East and Desert Storm and now they are needed no more. The last were removed from the Naval Registry in August 1995.

We are the last. After we are gone there will be no more. No one will follow in our wake. For over 100 years we were the pride of the Navy. We were BATTLESHIP SAILORS!

HISTORY OF THE U.S.S. MISSOURI (BB–63)

The U.S.S. MISSOURI was built by the Navy Yard, New York, her keel being laid on 6 January 1941. She was Christened by Miss Margaret Truman on 29 January 1944, and placed in full commission by the Commandant Navy Yard, New York on Sunday, 11 June 1944. Captain William M. Callaghan, U.S. Navy, accepted the ship and assumed command.

The ship remained in New York Harbor until 3 August 1944, then operated in Chesapeake Bay until 21 August 1944. On that date the U.S.S. MISSOURI departed for the Gulf of Paria, Naval Operations Base, Trinidad, B.W.I., arriving on 25 August 1944. The ship conducted gunnery, flight, engineering and other shakedown exercises in the area until 17 September 1944. MISSOURI then returned to New York. The ship remained in New York Harbor until final departure with Task Group 27.7 on 11 November 1944 for Cristobal Canal Zone. Transited the Panama Canal and arrived in Balboa on 18 November on which date the ship joined the Pacific Fleet. Departure from the Panama Canal Zone was in company with Task Unit 12.7.1 on 19 November and the ship arrived in San Francisco Bay on 28 November. The U.S.S. MISSOURI escorted by the destroyers BAILEY and TERRY departed San Francisco on 18 December 1944 as Task Unit 12.7.1 and entered Pearl Harbor, T.H. on 24 December 1944. The U.S.S. MISSOURI as part of Task Unit 12.5.9 departed Pearl Harbor on 1 January 1945 headed westward. On 13 January 1945 the MISSOURI arrived at Ulithi, Western Caroline Islands and reported to Commander Third Fleet for duty and on 26 January to Commander Fifth Fleet. The ship operated from Ulithi conducting provisioning and training exercises until 10 February 1945.

10 FEBRUARY TO 5 MARCH 1945

The ship departed Ulithi Anchorage on 10 February 1945 in Task Group 58.2 and operated in Task Force 58 during the period from 10 February to 5 March in preparation for and support of the Iwo Jima operation. As part of Task Force 58 the ship participated in the first East Carrier Task Force strikes against Tokyo on 16 and 17 February 1945. The anticipated opposition to these strikes did not materialize. However, on the evening of 19 February, while steaming off Iwo Jima, several small groups of unidentified aircraft were discovered by radar to be closing the formation. The ship opened fire on one of these targets and an enemy aircraft tentatively identified as a "Helen" burst into flames and crashed for a successful conclusion to the ship's first action against the enemy.

The ship participated as part of Task Force 58 in the 19 to 23 February air strikes in support of the landing forces on Iwo Jima, the 25 February strikes against the Tokyo area and the 1 March 1945 strikes against Okinawa Shima.

5 TO 13 MARCH 1945

As part of Task Force 58, the ship remained at anchor in Ulithi Anchorage engaging in routine repairs and replenishment from 5 to 13 March. On 9 March the ship was reassigned from Task Group 58.2 to Task Group 58.4.

14 MARCH TO 14 JUNE 1945

The ship departed Ulithi Anchorage on 14 March as part of Task Force 59 and following exercises in company with Battleship Squadron Two on 14 and 15 March, the MISSOURI joined Task Group 58.4 on 16 March. As part of Task Force 58 the ship participated in the 18 and 19 March carrier aircraft attacks against Kyushu and the Island Sea area. During the afternoon and night of 17 March enemy aircraft were known to be in the vicinity of the Task Force, however, none closed to within range of the ships of the formation. At 0741 on 18 March an enemy plane succeeded in dropping a bomb on the U.S.S. Enterprise which was in formation off the MISSOURI's port bow. At 0805 this ship together with others in the formation opened fire at an enemy plane identified as "Nick" or "Helen". The plane burst into flames and unsuccessfully attempted to crash the U.S.S. Intrepid. At 0828 and 0850 the ship opened fire on enemy planes. The first was observed to be damaged when the ship ceased fire and was later splashed by the Combat Air Patrol while the second was downed by gunfire. At 1316 the MISSOURI opened fire at a plane which dropped a bomb near the U.S.S. Yorktown and at 1320 fired upon a plane which approached to 2,500 yards. Both of these planes were destroyed by gunfire. A number of enemy planes remained out of range in the vicinity of the formation until 2115 when the last plane of the day was splashed by a night fighter.

On 19 March eight enemy raids were tracked by radar before sunrise but none closed to within range. At 0708 firing was seen on the horizon and almost immediately a carrier in Task Group 58.2 was seen to burst into flame. This carrier was later identified by TBS as the U.S.S. Franklin. During the balance of the day there were a number of alerts and enemy planes were downed by the Combat Air Patrol but none approached within range of the formation. During the period 19 to 21 March there were numerous reports of enemy aircraft in the area, however, these were either accounted for by the Combat Air Patrol or did not approach within range of MISSOURI's guns.

On 24 March the ship, with others, was detached from Task Group 58.4 to form Task Force 59. As part of Task Force 59 the ship participated in the bombardment of southeastern Okinawa Shima on March 24. This was accomplished at extreme range and accurate assessment of damage was therefore, not possible. Thereafter the ship fueled and rejoined Task Group 58.4 on 26 March 1945 and as part of Task Force 58 the ship continued to operate off Okinawa Gunto and participated in strikes against Kyushu until May 6. During this period there were frequent alerts and enemy aircraft were destroyed by Combat Air Patrol in the vicinity. The ship opened fire on 29 March 1945 on a plane which unsuccessfully attempted to dive upon the U.S.S. Yorktown and on 7 April the ship was with Task Force 58 during the air strikes which sank the Japanese battle ship Yamato.

On 11 April 1945, Task Force 58 was engaged in neutralizing sweeps against southern Kyushu airfields. During the morning one enemy raid was destroyed by the Combat Air Patrol. At 1330 several groups of unidentified planes were reported approaching the formation. By 1340 reports had been received that 13 enemy planes had been splashed and that 3 others were approaching the formation at high speed and low altitude. At 1442 the ship opened fire on a low flying "Zeke" and although many hits were observed, the pilot succeeded in crashing the side of the MISSOURI immediately below the main deck at frame 169 on the starboard side. Parts of the plane were scattered along the starboard side of the ship and the pilot's mutilated body landed aboard. One wing of the plane was thrown forward and lodged near 5 inch mount number 3 where gasoline started a fire which was rapidly extinguished. The ship sustained only superficial damage and none of the ship's company was injured. Later during the day the ship unsuccessfully fired upon a twin engine plane which passed approximately 12,000 yards astern of the ship. Enemy planes were known to be in the vicinity during the night and at 2327 the ship commenced firing at a twin engine plane which crashed approximately one minute later. On the next day, ships on the other side of the formation fired upon one enemy plane and enemy snoopers were in the vicinity during the period from 12 to 14 April 1945, but the MISSOURI did not open fire.

On 16 April Task Force 58 was again conducting raids in support of the landing forces on Okinawa Shima and strikes against the Japanese airfields on southern Kyushu. At 0038 the first Japanese planes approached the formation but retired after being fired upon by ships of the screen. From this time until 1303 numerous reports of enemy planes were received but none closed to within range. At 1303 a group of planes which later developed to be Kamikazes were discovered heading for the formation. Shortly after 1326 the ship opened fire on a low flying "Zeke" which crashed close aboard the U.S.S. Intrepid. Two minutes later fire was opened on a second "Zeke" and when hit the pilot of this plane attempted to crash the MISSOURI. The wing tip of this plane struck the ship's aircraft crane on the stern and the "Zeke" crashed a short distance astern exploding violently. Debris was thrown aboard ship but only minor material damage was sustained. At 1335, nine minutes after the ship opened fire on the first plane, a third plane identified as a "Hamp" was fired upon while diving on the ship. The "Hamp" burst into flame, passed over the ship at an altitude of about 300 feet and crashed close aboard off the starboard bow. One minute later two planes dove on the U.S.S. Intrepid. One succeeded in crashing her and the other was destroyed. From 1514 to 1516 the ship fired upon two planes. One of these crashed forward of the Intrepid and the other close aboard a destroyer. Two minutes later a third plane which passed 6,000 yards astern of the ship was fired upon and disappeared over the horizon. Shortly thereafter a plane was observed to crash and burn in that general direction. During the remainder of the afternoon planes were shot down by other Task Groups but none came within range of the ship. At 2050 and 2110 the ship opened fire on planes which came within 5 inch gun range and both immediately withdrew. Enemy planes dropped window in the vicinity during the balance of the night but none closed the formation.

On 17 April a 35 plane raid was destroyed by the Combat Air Patrol approximately 60 miles from the formation. However, no enemy planes closed the formation. During the night the ship had a surface radar contact which was later developed by destroyers of the screen and resulted in a kill on an enemy submarine on the following day. There was no enemy activity from April 23 to April 28.

On 29 April enemy aircraft was reported destroyed by the Combat Air Patrol in the morning. At 1645 the ships of the formation including the MISSOURI fired upon and downed one enemy plane. Later during the early morning of 30 April, night fighters splashed enemy planes in the vicinity of the formation but no ships fired during that day.

On May first, second, and third, no enemy planes were known to be in the area and on May four and five, although Japanese planes were splashed by the Combat Air Patrol, none approached the formation. On 6 May the MISSOURI was detached from Task Group 58.4 and proceeded to Ulithi Anchorage Fleet. The ship arrived in Ulithi on 9 May and remained there until 17 May. On 14 May Captain W. M. Callaghan, USN, was detached from duty as Commanding Officer of the MISSOURI and was relieved by Captain S. S. Murray, USN, the ship departed Ulithi on 17 May and arrived Apra Harbor, Guam on 18 May where, at 1527 Admiral W. F. Halsey, USN, Commander Third Fleet, hoisted his flag aboard the U.S.S. MISSOURI.

The ship and screening destroyers McNair and Wedderburn formed Task Group 30.1 on 21 May and departed Apra Harbor for Hagushi Anchorage, Okinawa Shima, arrived 26 May. While at Hagushi Anchorage on 26 May the ship was twice alerted for air attacks but none developed in the immediate vicinity. The ship departed Hagushi Anchorage in the afternoon of 27 May and conducted a bombardment of targets on southeastern Okinawa Shima in support of the occupying forces, and then proceeded to rendezvous with Task Force 38 off eastern Okinawa Shima. At midnight of 27 May command of all forces of the Fifth Fleet passed to Commander Third Fleet. The MISSOURI rejoined Task Group 38.4 on 28 May. The Task Force remained off Okinawa Gunto with the carriers furnishing air support to the occupation forces. There was no enemy air activity in the vicinity of the Task Force from 28 May to 10 June although during this period the force again conducted strikes on 2 and 3 June against the Kyushu airfields. On 4 June reports of a typhoon 50 miles south southwest of the Task Force were received and the Task Force withdrew from position in the path of the typhoon. Heavy weather was experienced during 5 May and very minor damage was sustained by the ship due to the heavy seas. On 8 June the Force returned to strike southern Kyushu airfields and on 9 and 10 June air strikes were made against the islands of Daito Shoto. On 10 June Task Force 38 commenced retiring to San Pedro Bay, Leyte, P.I., arriving on 13 June 1945. The period 14 June to 1 July was spent in upkeep, provisioning and recreation at Leyte Anchorage.

1 JULY TO 15 AUGUST 1945

The MISSOURI departed Leyte on the morning of 1 July and the first eight days at sea were spent in exercise periods under Unit, Group and Task Force Commanders, while the Task Force was heading in a general northerly direction. On the evening of 9 July a high speed run toward the Tokyo area commenced. At 0400 on the tenth the various air strikes against airfields in the Tokyo area commenced and although enemy aircraft were reported none succeeded in getting through the air patrol. The Task Force proceeded northeast on 11 July and on 13 July was off northern Honshu and Hokkaido prepared for air strikes which it developed could not be made on account of poor weather and low visibility. On the fourteenth the air strikes against northern Honshu and Hokkaido shipping and airfields were made. On 15 July the MISSOURI joined Task Unit 34.8.2 for the bombardment of industrial targets located in Muroran Hokkaido. No opposition developed during the approach, nor was there return fire from shore while the Task Unit shelled the Nihon Steel Works and Wanished Iron Works between 0935 and 1027 (Item) with good results. The MISSOURI rejoined Task Group 38.4 in the evening and proceeded south to fuel on 16 July. The Task Force was in position on 17 July to conduct air strikes against airfields in the Tokyo area. However, the weather was again unfavorable for air operations. In the afternoon of the 17th the MISSOURI again joined Task Unit 34.8.2 and proceeded to bombard the Hitachi area, Honshu. There was again no opposition to the approach of the bombardment group and no return fire during the bombardment of industrial targets in the Hitachi area from 2315 on 17 July to 0600 on 18 July. The bombardment was conducted in exceedingly poor weather which made spotting or illumination of targets as well as determination of the bombardment results impossible.

On 18 July the MISSOURI rejoined Task Group 38.4 which conducted air strikes against targets in the Tokyo area on that day. During 20, 21 and 22 July the most extensive replenishment of fuel, ammunition and provisions were attempted at sea was completed and on 23 July the Task Force again was en route for strikes against combatant shipping in the Kure-Kobe area of the Inland Sea and although enemy planes were reported in the vicinity none succeeded in evading the Combat Air Patrol. Poor weather had prevailed during these strikes and they were therefore repeated on 28 July, again with no enemy air activity over the Task Force. On the twenty-ninth a return to the Tokyo area commenced and on 30 July aircraft of the Task Force hit the Tokyo-Nagoya area. Again there was no enemy air opposition over the Task Force. The first six days of August were spent in fueling and maneuvers to avoid the paths of two typhoons which moved north along the Japanese coast. On 7 August the Task Force commenced a run to position to strike northern Honshu and Hokkaido, however, on 8 August fog and low visibility prevented flight operations and the Task Force proceeded south in search of more favorable weather. On 8 August Japanese aircraft were encountered by the Combat Air Patrol and on 9 August the picket destroyers of the formation had been under attack and at 1610 a "Grace" was splashed astern of the MISSOURI and close aboard the U.S.S. Wasp. Due to the Missouri's position in the formation the 40 MM guns only were able to fire at this plane. The tenth to twelfth of August were spent in replenishment and many conferences of Task Force and Group Commanders were held aboard the MISSOURI as a result of the information received concerning Japanese surrender proposals.

On 13 August other Task Groups of Task Force 38 were under air attack but no enemy aircraft were over Task Group 38.4. 14 August was spent in getting into position for further strikes against the Tokyo area. These strikes were launched on 15 August but were recalled as a result of an urgent dispatch from CincPac. At 1109, by direction of Commander Third Fleet the MISSOURI's whistle and siren were sounded for a period of one minute while battle colors were broken and Admiral Halsey's personal flag was raised in official recognition of the end of active hostilities against the Japanese Empire. During this day the Combat Air Patrol splashed Japanese aircraft in the vicinity of the Task Force but none penetrated the patrol.

From 15 to 26 August the MISSOURI operated off the coast of Japan awaiting orders to proceed with the occupation of Japan. On 27 August the MISSOURI and escorting destroyers proceeded into Sagami Wan, Honshu, having taken aboard Japanese emissaries and a pilot. The 28th of August was spent at anchor and on 29 August the MISSOURI got underway and entered Tokyo Bay anchoring off Yokosuka Naval Station at 0925.

The ship remained at anchor in Tokyo Bay without incident, until 2 September on which day the formal document of the Japanese surrender was executed aboard the U.S.S. MISSOURI. On that day Fleet Admiral C. W. Nimitz boarded the MISSOURI at 0805 and his personal flag was broken. At 0843 General of the Army Douglas MacArthur came aboard. At 0856 the Japanese representatives arrived and between 0902 and 0906 the Japanese representatives signed the Instrument of Surrender and two minutes later General MacArthur signed the Instrument. The ceremony was completed at 0925 and the various dignitaries departed the ship. Thereafter the MISSOURI remained at anchor in Tokyo Bay until 6 September 1945, when she departed for Apra Harbor, Guam. Admiral William F. Halsey transferred his flag as Commander Third Fleet to the U.S.S. South Dakota on 5 September 1945. Passage from Tokoyo Bay to Guam was without incident and the MISSOURI arrived in Apra Harbor on 9 September. The ship departed Guam with homeward bound veterans on 12 September 1945 and arrived Pearl Harbor, T. H. on 20 September 1945.

POST WORLD WAR II

On 29 September 1945, MISSOURI departed Pearl Harbor and headed for the Eastern seaboard of the United States. Transiting the Panama Canal, she headed for New York where she became the flagship of Admiral Jonas Ingram, Commander in Chief, United States Atlantic Fleet, on 24 October 1945. On 27 October 1945, the MISSOURI boomed out a 21 gun salute as she was boarded by President Harry S. Truman during Navy Day celebration ceremonies.

After overhaul in the New York Yard, and a training cruise to Cuba, the MISSOURI was on her way to Gibralter in March 1946. From there she passed into the Mediterranean on a goodwill mission that served also as an impressive demonstration of American military power. Her presence symbolized U.S. support for the rights and freedom of Greece and Turkey, both in danger on being drawn into the Soviet orbit of satellite states.

In Rio de Janeiro, on 2 September 1947, the MISSOURI was again a symbol of American strength in support of its allies against the advances of Communist aggression. The MISSOURI provided the site for President Truman to sign the Rio Treaty which made the Monroe Doctrine a multilateral pact. Business and ceremonial duties concluded, President Truman, accompanied by Mrs. Truman and his daughter Margaret, returned to the United States aboard the battleship. From 23 September 1947 to 10 March 1948, the MISSOURI was in the New York Navy Yard for overhaul and then went on a training cruise to Guantanamo Bay, Cuba. She arrived in Annapolis in June to take on midshipmen for a training cruise to Portugal, France, Algeria and back to Cuba.

On 17 January 1950, heading to sea from Hampton Roads, the MISSOURI ran aground. It was 0825, close to high tide, when the battleship ran aground 1.6 miles from Thimble Shoals Lights near Old Point Comfort. She traversed shoal water a distance of three ship lengths, about 2,500 feet, from the main channel. Lifted about seven feet above the water line, she stuck hard and fast. It took many tugs, pontoons, and an incoming tide to free her finally on 1 February. The incident provided Navy personnel with valuable experience in extensive and diverse salvage work.

KOREA

Until called to support United Nations Forces in embattled Korea in 1950, the MISSOURI trained thousands of naval reserves, midshipmen, and other naval personnel on cruises from New England to the Caribbean and across the Atlantic to English and European waters.

Leaving Norfolk 19 August 1950, MISSOURI became the first American battleship to reach Korean waters just one day in advance of the Inchon landings on 15 September 1950. On arrival off Kyushu, Japan, MISSOURI became the flag ship of Rear Admiral A.E. Smith, and the next day was bombarding Samchok in a diversionary move coordinated with the Inchon landings.

In company with the cruiser U.S.C. Helena and two destroyers, she helped prepare the way for the Eighth Army offensive. In a bombardment of the Pohang area 17 September 1950, Missouri's 16-inch shells assisted the South Korean troops in the capture of that town and their advance to Yongdok.

Her bombardment of the Mitsubishi Iron Works and the airfield at Chongjin on 12 October were a significant factor in the advance of American and other United Nations forces embattled ashore. Her guns did considerable damage to marshaling yards and a strategic railroad bridge on the Tanchon area. She moved on to bombard Wonsan and then moved into Hungnam 23 December 1950. Her powerful guns hit enemy troop concentrations, command posts, and lines of communication, providing cover for the evacuation of the last of the UN troops from Hungnam on Christmas Eve, 1950. In the opening weeks of 1951, MISSOURI continued coastal bombardment aimed at destroying transportation facilities and disrupting the flow of enemy reinforcements and supplies to central Korea. She joined a heavy bombardment group off Kansong on 29 January 1951 in a simulated amphibious assault which provided a diversion some 50 miles behind the enemies front lines.

During the first week of February, she gave fire support to assist the advance of the Tenth U.S. Army Corps in the area of Kangnung. She systematically bombarded transportation facilities and enemy troop concentrations in the vicinity of Tanchon and Songjin. She made similar gun strikes between 14 and 19 March at Kojo Wan, Songjin, Chaho, and Wonsan aimed primarily at transport complexes necessary for the continued reinforcement and supply of enemy forces in central Korea.

Then, on 28 March 1951, MISSOURI was relieved of duty in the Far East and left for the United States and Norfolk, arriving there 27 April 1951. She again joined the Atlantic Fleet to train midshipmen and other prospective naval officers until 18 October 1951 when she entered Norfolk Naval Shipyard for an overhaul which lasted until January 1952. On 4 August 1952, MISSOURI was again in the Norfolk Naval Shipyard for overhaul being prepared for her second tour of the Korean Combat Zone. She stood out of Hampton Roads 11 September 1952, and by end of October, as flagship of the U.S. Seventh Fleet, she was providing seagoing artillery support to Republic of Korea troops in the Chaho area.

Throughout the remaining months of 1952, MISSOURI was on "Cobra Patrol" along the East coast of Korea. She participated in a combined air-gun strike at Chongjin on 17 November and on 8 December was bombarding in the Tanchon-Songjin area. The next day it was Chaho, and 10 December Wonsan felt the power of her guns. During the bombardment of the Hamhung and Hungnam areas MISSOURI lost three of her men when her spotter helicopter crashed into the wintry sea on 21 December 1952. On patrol in early 1953, MISSOURI made repeated gun strikes running swiftly just 25 miles offshore in direct support of troops on land. Missouri sustained a grievous casualty 26 March, when her Commanding Officer, Captain Warner R. Edsall suffered a fatal heart attack while conning her through submarine nets at Sasebo, Japan. Her last fighting mission of the Korean War was on 25 March 1953 was to resume "Cobra" patrol where she bombarded the Kojo area.

The MISSOURI was relieved as flagship on 6 April 1953 and left Yokosuka the following day to return to the Atlantic Fleet. She arrived at Norfolk 4 May 1953 and put out almost immediately for a midshipman training cruise to Brazil, Trinidad, Panama, and Cuba. She was back again for overhaul in the Norfolk Naval Shipyard from 20 November 1953 to 2 April 1954. In May, she picked up midshipmen from Annapolis and started a training cruise to Europe. Standing out of Hampton Bays, MISSOURI aligned with the other Iowa Class battleships for the one and only time. IOWA, NEW JERSEY, MISSOURI, and WISCONSIN sailed together as the future "Strength for Freedom." MISSOURI visited the ports of Lisbon, Portugal and on 6 June 1954, the Port of Cherbourg, celebrating the 10th anniversary of the Normandy landings or "D-Day." In August she left Norfolk for the west coast and inactivation. MISSOURI traversed the Panama Canal and made ports of call in Long Beach, San Francisco, and Seattle where tens of thousands of citizens visited the ship. The ship then went to the Bremerton Naval Shipyard for mothballing. There she was decommissioned 26 February 1955 and assigned to the Bremerton Group, U.S. Pacific Reserve Fleet.

MISSOURI served as headquarters ship of the Bremerton Group where she was open year round to visitors. As many as 100,000 people a year visited MISSOURI to see the place on her deck where the Japanese surrendered ending the Second World War.

NEW BIRTH

After almost 30 years at rest, MISSOURI, on 14 May 1984 left her berth in Bremerton and was towed to the Long Beach Naval Shipyard for modernization and scheduled recommissioning in June, 1986. MISSOURI was recommissioned in San Francisco and departed on an around-the-world shakedown cruise, the first battleship to circumnavigate the world since President Theodore Roosevelt's "Great White Fleet" of 1907–1909. The ship was home ported in Long Beach, California.

In 1987, MISSOURI journeyed to the troubled waters of the Persian Gulf, supporting operations near the Strait of Hormiz. During 1988, MISSOURI participated in the Rim of the Pacific (RimPac) Exercise off the coast of Hawaii. Following a routine shipyard period in early 1989, MISSOURI returned to sea and later in the year participated in Pacific Exercise (PacEx) '89 and visited Pusan Korean.

PERSIAN GULF

MISSOURI deployed to the Persian Gulf in support of Desert Shield. On the first day of Desert Storm, she fired her 16" guns at Iraqi targets inside Kuwait. The USS Nicholas (FFG–47) escorted her in and she began shelling targets first. From 4–6 February, she fired 112 16" shells, along with Tomahawk missiles. The ship was finally relieved by the USS Wisconsin.

As for the 1990's, MISSOURI is as she was during the 1940's; ready for sea and always ready to answer the call of battle. In November, 1991, MISSOURI departed Long Beach for Pearl Harbor, where she was the host ship for the 50th anniversary of the attack on Pearl Harbor. She returned to Long Beach and was decommissioned on March 31, 1992. She was towed to the Bremerton, Washington shipyard where she has rested as part of the Naval Reserve Fleet.

On 2 September 1995, the U.S.S. MISSOURI ASSOCIATION, INC. will hold ceremonies at the ship in Bremerton, WA, honoring those who have served aboard the ship and have passed on, as well as those who have served aboard at the time and are attending the 50th anniversary of the surrender signing.

Upon call, MISSOURI will still be a powerful and fearful dreadnought in the best tradition of the U.S. Navy.

Postscript: On the 5th of January 1995, the Department of the Navy Chief of Naval Operations, by reference of President Clinton and the Board of Inspection and Survey, recommended that the Iowa Class Battleship, including the U.S.S. MISSOURI, be stricken from the Naval Vessel Register. This was approved by the Secretary of the Navy John H. Dalton on 12 January 1995 and the ships await their final destiny. (*2 September 1995*)

SALUTE TO ST. LOUIS EARTH ANGELS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. CLAY. Mr. Speaker, too often we hear about young people who are involved with drugs or engaged in other criminal activities. Newspaper and television reports about troubled youths and gang violence in cities across the Nation are almost routine stories which can overshadow the achievements of the majority of responsible, hard-working young people. I would like to take this opportunity to pay tribute to a very special group of young St. Lousians, the Earth Angels. These outstanding young inner-city residents are committed to protecting the environment and advancing social justice. They are making many positive contributions to our community and deserve recognition.

Earth Angels operates under the auspices of the Guardian Angel Settlement Association of St. Louis and the Missouri Department of Conservation. Originally known as Dolphin Defenders the Earth Angels organization now comprises three environmental clubs with 100 members. The children are dedicated to preserving the natural environment and improving the quality of life for all living things. The Earth Angels have vision and imagination. They look beyond their own personal struggles in life and focus their energies on preserving and nurturing life for others. To this end the Earth Angels have undertaken a number of environmental enhancement projects throughout the St. Louis community. In scores of little ways they are making a big difference.

The Earth Angels have adopted two lakes which the children maintain in St. Louis' Forest Park and at the Busch Wildlife Reserve. They also conduct regular neighborhood cleanup projects. They have studied how ground pollution impacts water systems and the environment and they are working to help end this pollution problem.

Earth Angels children have established a grow lab where they are growing trees from acorns in hopes of establishing a young pin oak grove. They are also engaged in massive recycling efforts. The Earth Angels have: recycled over 350,000 aluminum cans in 6 years, reclaimed and recycled over 49,000 pounds of glass in 2½ years, reclaimed 1,522 abandoned tires in 2 years, recycled over 200 pounds of scrap lead and 500 pounds of cast iron and countless plastic containers. The Earth Angels are now working to establish a battery recycling program.

At the Delmar Metro Link Station the Earth Angels have established a model prairie garden of native Missouri prairie plants. They plan to add a brick walk—using reclaimed bricks—and a small wetland area at the bottom of the garden. This garden is not just an aesthetic enhancement at the light rail station but a place where children are taught more about ecosystems, foods chains, and bio-diversity.

The Earth Angels have also shown a very special awareness and compassion for young people who are the victims of violence. They have established a Forest of Life project which plants one tree, in a special area of Forest Park, for each child killed by violence in the city of St. Louis.

Earth Angels children are studying science and nature in order to promote life. In their many undertakings, these children are improving both their own life skills and the quality of life around them. The Earth Angels inspire others with their passion for learning and willingness to help solve community problems. These young people are our hope for the future. I congratulate each member of the Earth Angels and wish them every continued success in all their future endeavors.

HIS EMINENCE METROPOLITAN VIKENTIOS HONORED FOR SERVICE TO GREEK ORTHODOX COMMUNITY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mrs. MALONEY. Mr. Speaker, I rise to bring to your attention a terrific community leader from my district in Astoria, Queens.

His Eminence Metropolitan Vikentios was born in Athens, Greece where he received his basic education. After graduation from high school, he enrolled at the Theological School of Jerusalem in Israel and graduated with honors. His educational life then brought him to the United States for further studies. During the past 20 years, he has served in the Greek Orthodox Metropolis, Archdiocese, of the Greek Orthodox Church of North and South America.

His Eminence has often been recognized for his outstanding contributions to the community, his efforts on behalf of human rights, and his humanitarian services. All this good work has not gone unrewarded. On July 20, 1995, he was elected Metropolitan of Piraeus and Salamis by the Holy Synod of Bishops of the Church of the Orthodox Christians of Greece and the Diaspora.

On July 21, 1995, in the presence of the President and Prime Minister of Greece, he was enthroned in his new position. Astoria misses him very much, but we know he will continue to fight for the citizens of the world and that we truly have a friend in Piraeus. I ask my colleagues to join me in offering him our highest congratulations and best wishes for a wonderful life.

TRADE ACT

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. SHAW. Mr. Speaker, I rise today to introduce, with my good friend and colleague Mr. CANADY of Florida, timely legislation to provide trade relief to producers of perishable agricultural products who have been substantially harmed by an increase in imports after the passage of the North American Free Trade Agreement [NAFTA].

The Trade Act of 1974 authorizes the President to assist a domestic industry by imposing duties or modifying concessions if it has been determined that an increase in imports has been a substantial cause of or threatens serious injury to the domestic industry. However, domestic industry is currently defined narrowly by the trade act so as not to include the seasonal industries. Consequently, producers of perishable agricultural products who produce their product during a particular growing season are grouped together with all growers of this product during the full calendar year, and therefore these seasonal producers are unable to show the requisite injury needed for an antidumping action.

This bill corrects this inequity by expanding the definition of domestic industry to account for the seasonal nature of agricultural products. Specifically, a domestic producer would include a producer that sells all or almost all of the production during the growing season. In addition, during that growing season, demand for the article must not be supplied, to any substantial degree, by other domestic producers. This definition is tailored to provide relief to the seasonal domestic agricultural industry, such as winter tomato producers, who sustained significant injury when they were faced with a significant increase in imports in 1994.

I urge my colleagues to support this legislation.

A TRIBUTE TO PETER G. VELASCO

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. FILNER. Mr. Speaker and colleagues, I rise today with a great deal of sadness to honor the memory of Peter G. Velasco.

A true labor pioneer, Pete Velasco was among the Filipino-American farmworker leaders whose tenacity inspired Cesar Chavez in the first grape strike in Delano, CA, and provided a strong foundation for what later became the United Farm Workers, AFL–CIO.

Even before his many years of work as an officer in the farmworker movement, brother Pete Velasco was an early and enduring example of the multifaceted contributions of the Filipino-American community to our society. Working first in the Los Angeles food service industry, he went on to distinguished service in the U.S. Army in Europe during World War II before returning to the Central Valley of California as a farmworker.

Not content merely to try to eke out a living in the fields, Pete Velasco helped to organize his fellow workers, forging the first link between farmworkers and the AFL–CIO, which later proved essential to Cesar Chavez' work as president of the new, united organization.

Today we can see a resurgence in the AFL–CIO that has at its roots the contribution of many men and women—among them "Brother Pete"—over many years. May that resurgence provide a way that we can all celebrate the life of Peter G. Velasco and the movement he helped to build.

FEDERAL BAR ASSOCIATION'S LAWYER OF THE YEAR

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. OBERSTAR. Mr. Speaker, on Monday, December 4, it was my great privilege and pleasure, on behalf of the Federal Bar Association's Transportation Section, to present the "Lawyer of the Year Award" to David A. Heymsfeld, Democratic Staff Director, for the Committee on Transportation and Infrastructure. I would like to take this opportunity simply to restate my remarks at that very special occasion:

> David Heymsfeld's exquisite legislative craftsmanship has defined and given direction to an entire generation of aviation law. His 20 years of service on the Committee on Transportation and Infrastructure; his keen eye for detail; his zest for and command of the broad policy issues of aviation law; his respect for the opinions and concerns of others, and his exceptional ability to meld them into a cohesive whole have left an indelible, constructive imprint on the complete body of aviation law just prior to and since enactment of the watershed Aviation Deregulation Act of 1978.
>
> David has been plying his legislative craftsmanship for so long that Secretary of Transportation Federico Peña was probably still in law school when David joined our committee staff.
>
> David's immersion in aviation law began during his service at the Civil Aeronautics Board with the "father" of aviation deregulation, Chairman Alfred Kahn—but, I think it is fair to say that David has had a more enduring impact on aviation law than Chairman Kahn since then.
>
> His Senate staff counterparts, over the years, have gone on to other pursuits: Phil Bakes to Texas Air; Will Ris to American Airlines; and one, Steven Breyer, made it to the Supreme Court.
>
> Many of his colleagues in the field of aviation law have made important contributions over the years, but David Heymsfeld stands alone, astride the entire compendium of law and regulation in the field of aviation. Every day practitioners of the art and science of aviation law diligently analyze, report on, and make marketplace decisions based upon statutes and their accompanying reports

that David Heymsfeld has crafted—and they will do so for generations to come.

David's great gift is his openness, his willingness to work with all segments of the aviation sector, both public and private, and to work collaboratively with his colleagues in both the House and Senate on a truly open, bipartisan basis.

Mr. Heymsfeld received his BA from Columbia College in 1959 and an LLD from Harvard Law School in 1962.

It is now my great pleasure to present the award, which reads: "Transportation Lawyer of the Year Award" to David A. Heymsfeld, Minority Staff Director, House Committee on Transportation and Infrastructure, Monday, December 4, 1995.

Congratulations, David, this is an honor richly deserved and truly earned.

LEGISLATION TO HELP LOWER THE BURDEN OF MEDICARE PART A BUY-INS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. STARK. Mr. Speaker, Representative ROBERT MATSUI and I are today introducing a bill to help those who, through no fault of their own, were not able to participate in the Medicare Program during their working years and now face over $3,000 a year in Medicare part A buy-in costs.

Our bill lowers the cost of the monthly part A buy-in for about 216,000 people over age 80 who, for no fault of their own, could not participate in Medicare during their working years, because their employers were not in Social Security. The people in this group are mostly retired teachers, policemen, and firemen over age 80 who worked for State and local governments which elected not to join the Medicare payroll tax system.

These retirees have been stuck in increasingly expensive small public or private insurance policies, and many of them have had to drop insurance coverage because they could no longer afford it on their shrinking pensions. Since most of them could not afford to maintain private insurance, even if it were available, they have been buying into Medicare part A, some for as long as 15 years. The Medicare buy-in monthly premium is set to equal the full actuarial cost of part A, and today premiums are more than $250 a month and now many of these retirees cannot afford to buy into this basic level of Medicare hospital protection. Many are becoming uninsured—and uninsurable—at the most vulnerable period in their lives.

In the last Congress, Representative BILL THOMAS and I developed an amendment to help this population by lowering the part A buy-in for those who achieved 30 quarters of coverage but not the necessary 40 required for Medicare eligibility.

This has been a help to a few of these retirees, but many of the poorest of these seniors, of course, do not have even 30 quarters of coverage and desperately need help.

Therefore, the amendment Representative MATSUI and I are introducing today would lower the cost of the monthly buy-in by about $150 a month. Individuals would still have to contribute $100 per month—and the full actuarial rate for years before their 80th birthday.

Our bill does not include a way to pay for this change, but we expect to be able to offer a funding proposal at such time as the legislation is considered for markup.

I hope other Members will join us in supporting this much needed relief to a group of our older retirees who—to repeat—through no fault of their own, were unable to participate in the regular Medicare Program during their working years.

HONORING TONY M. ASTORGA

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. PASTOR. Mr. Speaker, I rise today to pay tribute to a longtime friend and supporter, Mr. Tony M. Astorga, on the occasion of his 50th birthday. It is my pleasure to recognize the achievements of Mr. Astorga, and the impact he has had on the people of Arizona.

Mr. Astorga has long been a valuable member of the Arizona community, beginning with his days as a student at Arizona State University. During his time at ASU, he received many honors, including his placement in "Who's Who in American Colleges and Universities," and "Outstanding Young Men of America." He graduated from ASU with a B.S. degree in accounting with high honors, leading to a long and distinguished career in the Arizona business community.

Currently, Mr. Astorga is the senior vice president, chief financial officer and treasurer of Blue Cross and Blue Shield of Arizona and president of AT International, Inc. He has been named the "Professional of the Year" by the Hispanic Chamber of Commerce, and received the "Public Service Award" from the Arizona Society of Certified Public Accountants. However, the demands of a highly successful professional career have not kept him from making an impact on the community. He has been a part of the United Way Agency Review Panel, the Blessed Sacrament and St. Joan of Arc Finance Committees, as well as participating in the Manpower Advisory Council and Citizens Task Force to the city of Phoenix.

I take great pleasure in recognizing the efforts and contributions that Mr. Astorga has made during his lifetime in Phoenix, and I ask my colleagues to join me in recognizing the accomplishments of Mr. Tony Astorga.

CAPITALIZING ON AMTRAK

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mrs. JOHNSON of Connecticut. Mr. Speaker, today I introduced a bill to establish a new intercity passenger rail trust fund. Serving over 500 destinations across the country, the National Railroad Passenger Corporation [Amtrak] provides 22 million passenger rail trips to Americans every year. With an estimated $4 billion needed in capital improvements over the next few years, the rail trust fund will provide Amtrak with much needed capital funds to improve rolling stock, cars and locomotives, upgrade maintenance facilities, and prevent the deterioration of track and signal equipment. First introduced by Senate Finance Committee Chairman BILL ROTH, the rail trust fund will be a secure source of capital funding during this time of tight budgetary constraints.

On October 1, the 2.5 cents of the existing 18-cents-per-gallon gas tax that had been going into the Treasury for deficit reduction was shifted back into the mass transit portion of the highway trust fund. This highway trust fund account has a huge balance—estimated at over $10 billion at the end of fiscal 1996. My bill would direct 0.5 cent of this 2.5 cents into the rail trust fund until September 30, 2000.

The establishment of this rail trust fund will not adversely affect other modes of transport, including mass transit. In fact, special language has been included in the rail trust fund legislation protecting mass transit. If, under the Rostenkoski rule, the cash balance in the mass transit account were ever insufficient to cover the transit spending for the current year and the following fiscal year, the revenues from the rail trust fund would revert into the transit account.

Amtrak is an essential part of this country's transportation network. Between 1982 and 1994, travel on Amtrak's operating rose 40 percent. This necessary capital funding will cut Amtrak's operating and maintenance costs and improve reliability and performance. In addition, these improvements will reduce air pollution, fuel consumption, highway congestion, and urban parking problems. I urge my colleagues to join me in enacting this measure into law.

COMMEMORATING 20TH ANNIVERSARY OF THE SIGNING OF HELSINKI FINAL ACT

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. WOLF. Mr. Speaker, I am honored to represent the House as a commissioner on the Commission on Security and Cooperation in Europe and want to bring to the attention of our colleagues the remarks by the Honorable Gerald R. Ford, 38th President of the United States, at Helsinki, Finland, on August 1, 1995, on the occasion of the 20th anniversary of the signing of the Helsinki Final Act of the Conference on Security and Cooperation in Europe.

Thank you for your kind invitation to take part in this historic event whereby we mark the 20th Anniversary of the Helsinki Accords.

The title for my remarks today—"Helsinki: The Unfinished Agenda."

Before the formal signing of the Helsinki Accord, I warned the world and the other heads of state gathered here that "Peace is not a piece of paper . . . peace is a process."

Twenty years later, the process we began here by signing that piece of paper has given us a super power peace—the Cold War is history.

Except for the stubborn ethnic conflict in the Balkans which was already ancient when I was born, the course of history has changed because here in Helsinki we recognized certain basic rights to which all human individuals are entitled.

In 1975 there was considerable opposition in the United States to my participation in the Helsinki meeting. For example, The Wall Street Journal advised in its July 23, 1975, editorial: "Jerry—Don't Go," while other American newspapers were equally critical. Some skeptics labeled the Accord—The Betrayal of Eastern Europe. Basket III, which included fundamental human rights language was either ignored by most of the media or criticized as long on rhetoric, but short on substance. Likewise, two of our most influential and respected Senators, one a Democrat and one a Republican, condemned Basket III of the Accord.

Furthermore, many ethnic groups in the United States, especially those of Baltic heritage, were strongly opposed to portions of the Accord because they believed it legitimized the borders drawn by the Warsaw Pact. The United States and the West German government met this criticism by insisting Basket II language include the following: "They, (the signers) consider that their frontiers can be changed, in accordance with international law, by peaceful means and by agreement." The wholesale political upheaval behind the Iron Curtain that took place fifteen years later made these differences in 1975—academic, especially Latvia, Lithuania and Estonia. The 1975 Helsinki Accord did not freeze the 1945 borders of Europe; it freed them.

The thirty-five leaders of nations on both sides of the Iron Curtain that signed the Final Act of the Helsinki Accord, according to one historian, "Set in motion a chain of events that helped change history." Each of us, including Mr. Brezhnev, who signed the Final Act agreed to a commitment of principle to recognize the existence of certain basic human rights to which all individuals are entitled.

It is ironic that these accords are often described as the "Final Act" when, in fact, they were really just the beginning of an historic process. Today, this process has a past, as well as a present and a future—an unfinished agenda.

Twenty years ago when I spoke here, my country was beginning the bicentennial observance of our Declaration of Independence. I drew on the inspiration of that great moment in our history for the remarks I made to the Conference in this Finnish Capital. I likened the Helsinki Accords to the Declaration of Independence because I realized that, as with our revolution, it is sacrifice and the indomitable human spirit that truly separate ordinary moments in history from those that are extraordinary. And today, as we reflect on the past twenty years of achievement, we see that it has been the sacrifice and the indomitable human spirit of great people throughout the world that have made the signing of the Helsinki Accords a truly extraordinary moment in modern history.

I well remember the impressive ceremony in Finlandia House where signatures were affixed to a 100 page, 30,000 word joint declaration. In the limelight, representing the thirty-five nations, were French President Valerie Giscard d'Estaing, West German Chancellor Helmut Schmidt, British Prime Minister Harold Wilson, Yugoslav President Josip Broz Tito, Rumanian President Nicolae Ceausescu, Canadian Prime Minister Pierre Trudeau, East Germany's Erich Honechor, our host, President Kekkonen and others.

On the day we signed the Accords, appropriate speeches were made by each nation's representative. On behalf of the United States I chose to emphasize the Final Act's commitment to human rights.

Let me quote from my speech: "The documents produced here affirm the most fundamental human rights—liberty of thought, conscience, and faith; the exercise of civil and political right; the rights of minorities."

"Almost 200 years ago, the United States of America was born as a free and independent nation. The descendants of Europeans who proclaimed their independence in America expressed in that declaration a decent respect for the opinions of mankind and asserted not only that all men are created equal, but they are endowed with inalienable rights to life, liberty, and the pursuit of happiness."

"The founders of my country did not merely say that all Americans should have these rights, but all men everywhere should have these rights. And these principles have guided the United States of America throughout its two centuries of nationhood. They have given hope to millions in Europe and on every continent."

"But it is important that you recognize the deep devotion of the American people and their Government to human rights and fundamental freedoms and thus to the pledges that this conference has made regarding the freer movement of people, ideas, information."

I continued in my 1975 speech—"To those nations not participating and to all the people of the world: The solemn obligation undertaken in these documents to promote fundamental rights, economic and social progress, and well-being applies ultimately to all peoples."

"And can there be stability and progress in the absence of justice and fundamental freedoms?"

My final comments were: "History will judge this Conference not by what we say here today, but by what we do tomorrow—not by the promises we make, but by the promises we keep."

In retrospect, it is fair to say that Leonid Brezhnev and other Eastern European leaders did not realize at the time that in endorsing the human rights basket of the Helsinki Accord they were planting, on their own soil, the seeds of freedom and democracy. In agreeing to the human rights provisions of the Helsinki Accord, the Soviets and the eastern bloc nations unwittingly dragged a Trojan horse for liberty behind the Iron Curtain.

Often, current events we believe will be important in history later become obscure and irrelevant. And sometimes, events we consider irrelevant in history, become a defining moment. As former Prime Minister Margaret Thatcher noted in Paris in 1990, "It was clear that we underestimated the long-term affects of the Helsinki Agreement." This great British Leader went on to say that the Helsinki Agreements "were a process which some envisioned as perpetuating the division of Europe [but which have] actually helped overcome that division." Likewise, scholars point out that at the time the Magna Carta was adopted in England, its extension of freedom was quite limited and applied only to a privileged few; however, today we recognize the Magna Carta as a dramatic first step on man's march to individual freedom.

Following the meeting in Helsinki, watch groups sprang up throughout Europe. The Fourth Basket provision for a follow-up meeting in Belgrade in 1977 and a subsequent meeting in Madrid in 1980 would give these to those who were aggrieved a global forum for their determined anti-Marxist and pro-human rights views. To those suffering behind the Iron Curtain, the Helsinki Accords was a powerful proclamation that contained seminal ideas it was issued at a most opportune time.

I applaud President Carter's dedicated and effective support of Arthur Goldberg in Belgrade in 1977 and Max Kampelman in Madrid in 1980; however, it would be obviously unfair to attribute all of the cataclysmic events of 1989 and 1990 to the Final Act, in as much as long suppressed nationalist sentiments, economic hardship, and suppressed religious conditions played equally crucial roles.

Today, as we face the harsh realities of August 1995, I am reminded of the words of President Lincoln as he confronted the awesome challenges of the American Civil War. With the Republic hanging in the balance, he observed that "the occasion is piled high with difficulties and we must rise with the occasion. As our case is new, so we must think anew and act anew."

Yet, even as today's violence and suffering enrage and pull at the heartstrings of all people—and the former Yugoslavia is just one example—I know the central issue in the world remains the preservation of liberty and human rights. When the Berlin Wall fell, those who were protesting repression were reading from documents like the American Declaration of Independence. Today, they are reading to us the words of the Helsinki Accords. These are the great ideas of freedom—the constant drumbeat of ideas that have been repeated time and time again in the Helsinki process.

The harsh realities of the present are challenges which signatories of the Helsinki Accords must address. Its member states must wrestle with these challenges and continue to achieve in the future the aims and goals of what was begun here 20 years ago. To realize these hopes and dreams requires planning, commitment, perseverance and hard work. The Helsinki process provides a vision for a future based on liberty and on the freedom to pursue a better life. As the Bible admonishes, where there is no vision, the people perish.

So, I compliment all the signers and I'm very proud to have been one of the thirty-five. In August 1975 we made serious promises to our countrymen and to people worldwide. Where human rights did not exist in the thirty-five nations twenty years ago, there is now significant progress and hope for even better times. I congratulate the people in each nation who used the tools of the Final Act to achieve the blessings of human rights.

I am confident that if we continue to be vigilant, what we began here two decades ago shall be viewed by future historians as a watershed in the cause of individual freedom and human rights. Twenty years from today, history will again judge whether or not the world is a better place to live because of what we promised here two decades ago, and because of what we promise here today and the promises we keep in the future.

The Helsinki Accords are not, then, a Final Act—rather they are an unfinished agenda for the continued growth of human freedom. On this anniversary date, let us resolve to continue anew the work of that agenda.

THE MENSCH WHO SAVED CHRISTMAS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. FRANK of Massachusetts. Mr. Speaker, last week there was a terrible tragedy in Massachusetts, when a fire did enormous damage to the Malden Mills factory in Methuen, MA. While no one can undo the terrible effects of this fire, thanks to the enormous courage, compassion, and integrity of one individual, Aaron Feuerstein, the working men and women who were the victims of this terrible event have more hope than they otherwise might have. Aaron Feuerstein is the third generation in his family to run this company, and his actions since the tragedy have been an unparalleled example of how a human being can act in a moral manner in a very tough situation. In the Boston Globe for Sunday, December 17, columnist David Nyhan accurately conveys the heroic role that Aaron Feuerstein has played at a time when most people have done far less. Despite himself being a major victim of this tragedy, Aaron Feuerstein has acted with an extraordinary degree of humanity and decisiveness to administer to the other victims, and I believe it is important at a time when more and more working people are giving reason to doubt the essential fairness of the American economic system that the shining example that Aaron Feuerstein presents be fully understood and appreciated by the nation. I therefore ask that David Nyhan's excellent presentation of what Aaron Feuerstein has done be printed here.

[From the Boston Globe, Dec. 17, 1995]

THE MENSCH WHO SAVED CHRISTMAS

Were it not for the 45-mile-an-hour winds ripping out of the Northwest, the sparks that they carried and the destruction they wrought, Aaron Feuerstein today would be just another rich guy who owned a one-time factory, in a country full of the same.

But the fire that destroyed New England's largest textile operation Monday has turned this 70-year-old businessman into a folk hero. If a slim, determined, devoutly-Jewish textile manufacturer can be Santa Claus, then Feuerstein is, to 2,400 workers whose jobs were jeopardized by the fire.

The flames, so intense and widespread that the smoke plume appeared in garish color on TV weathermen's radar maps, presented Feuerstein with a stark choice: Should he rebuild, or take the insurance money and bag it?

Aaron Feuerstein is keeping the paychecks coming, as best he can, for as long as possible, while he rushes to rebuild, and restore the jobs a whole valley-full of families depend upon.

Everybody got paid this week. Everybody got their Christmas bonus. Everybody will get paid at least another month. And Feuerstein will see what he can do after that. But the greatest news of all is that he will rebuild the factory.

The man has a biblical approach to the complexities of late-20th-century economics, capsulated by a Jewish precept:

"When all is moral chaos, this is the time for you to be a mensch."

In Yiddish, a mensch is someone who does the right thing. The Aaron Feuerstein thing. The chaos was not moral but physical in the conflagration that began with an explosion and soon engulfed the four-building Malden Mills complex in Methuen, injuring two dozen workers, a half-dozen firemen and threatening nearby houses along the Merrimack River site.

The destruction was near-absolute. It is still inexplicable how no one perished in a fast-moving firestorm that lit up the sky. This was one of New England's handful of manufacturing success stories, a plant that emerged from bankruptcy 14 years ago. The company manufactures a trademark fabric, Polartec fleece, used extensively in outdoor clothing and sportswear by outfits such as L. L. Bean and Patagonia.

The company was founded by Feuerstein's grandfather in 1907, and its history over the century has traced the rise, fall and rise again of textile manufacturing in New England mill towns.

Most of the textile makers fled south, leaving hundreds of red brick mausoleums lining the rocky riverbeds that provided the waterpower to turn lathes and looms before electricity came in. The unions that wrested higher wages from flinty Yankee employers were left behind by the companies that went to the Carolinas and elsewhere, to be closer to cotton and farther from unions.

The Feuerstein family stuck it out while many others left, taking their jobs and their profits with them. The current boss is one textile magnate who wins high praise from the union officials who deal with him.

"He's a man of his word," says Paul Coorey, president of Local 311 of the Union of Needleworkers, Industrial and Textile Employees. "He's extremely compassionate for people." The union's New England chief, Ronald Alman, said: "He believes in the process of collective bargaining and he believes that if you pay people a fair amount of money, and give them good benefits to take care of their families, they will produce for you."

If there is an award somewhere for a Compassionate Capitalist, this man should qualify hands-down. Because he is standing up for decent jobs for working people at a time when the vast bulk of America's employer class is chopping, slimming, hollowing-out the payroll.

Job loss is the story of America at the end of the century. Wall Street is going like gangbusters, but out on the prairie, and in the old mill towns, and in small-town America, the story is not of how big your broker's bonus is this Christmas but of how hard it is to keep working.

The day after the fire, Bank of Boston announced it will buy BayBanks, a mega-merger of financial titans that will result in the elimination of 2,000 jobs. Polaroid, another big New England employer, announced it would pare its payroll by up to 2,000 jobs. Across the country, millions of jobs have been eliminated in the rush to lighten the corporate sled by tossing overboard anyone who could be considered excess baggage by a Harvard MBA with a calculator for a heart.

Aaron Feuerstein, who went from Boston Latin High School and New York's Yeshiva University right into the mill his father owned, sees things differently; The help is part of the enterprise, not just a cost center to be cut.

"They've been with me for a long time. We've been good to each other, and there's a deep realization of that, that is not always expressed, except at times of sorrow."

And it is noble sentiments like those, coming at a time when they are most needed, that turns times of sorrow into occasions of triumph.

IN RECOGNITION OF SPECIAL AGENT IN CHARGE DAVID F. RAY

HON. MIKE WARD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. WARD. Mr. Speaker, I am taking this opportunity to acknowledge publicly an outstanding Kentuckian, Mr. David F. Ray. Next month, David will retire from the U.S. Secret Service after 31 years of distinguished service.

David ends his sterling career as the special agent in charge for the Louisville, Kentucky field office of the Secret Service. Previous assignments took David and his family to Charlotte, NC and the District of Columbia.

Conducting advance security arrangements for President Reagan's visit to the Peoples Republic of China and for his meeting with Soviet Union President Gorbachev was a hallmark of David's stint in Washington. During his tenure in Louisville, the Secret Service was responsible for numerous arrests involving fraud, forgery, and embezzlement. And, in 1992, David served as the principal security coordinator for visits to Kentucky by President Bush, Vice President Quayle, Presidential candidate Clinton, and Vice Presidential candidate Gore.

Mr. Speaker, Special Agent In Charge David F. Ray has devoted himself for 31 years to the service of his country as a member of the law enforcement community. It is with much pride that I extend my congratulations and best wishes to him and his family for a well-deserved retirement.

LEGISLATION TO AMEND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to introduce legislation to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [CERCLA]. My bill would remove the authority for contracting oversight from the purview of the Environmental Protection Agency and place it solely under the jurisdiction of the Army Corp of Engineers.

Mr. Speaker, this change makes sense given the expertise of each agency. The Army Corp of Engineers is far better suited to handle contracting work and oversight of construction of the design and remedy at a Superfund site than the more technical, environmental orientation of the EPA.

The reason why I am introducing this legislation today is in direct response to an incident that recently happened in my district during an already lengthy and tumultuous cleanup.

Hopefully, passage of this legislation will prevent future situations, such as the one I am about to describe, from happening again in the future.

The asbestos dump site in Millington, NJ, is comprised of two residential farms and part of the Great Swamp National Wildlife Reserve. It contains large amounts of asbestos that was dumped on the property. On one of these two residential sites, the homeowners—a family of five—were involved in a lengthy cleanup with the EPA and had been relocated several times, for months at the time. The EPA had contracted out for the construction of the design and the contractor then hired a subcontractor, with a less than perfect track history, to complete construction of the design.

The EPA subcontractors, instead of bringing in clean fill to top the asbestos on the family's property, brought in contaminated soil from another site. This horrendous mistake has added additional years to cleanup and the family's nightmare.

Mr. Speaker, again, I believe that the Army Corp of Engineers is far better equipped to handle the details of the physical cleanup of these Superfund sites, and to oversee more effectively contracting work. At many sites, such a mistake would add only years and costs to taxpayers for cleanup. In this case, it added not only time and money, but additional grief for a family wanting only to have their home and property cleaned up to a livable standard. I believe that my bill would prevent more situations like these and improve the efficiency of site cleanups.

TRIBUTE TO JIM MILLS'S 40 YEARS OF SERVICE TO THE MIDDLETOWN COMMUNITY

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. BOEHNER. Mr. Speaker, for 40 years, Jim Mills has served the Middletown area through his local reporting and editorial writing at the Middletown Journal. Jim began his career at the Journal in 1955 starting off as a reporter covering local government. In 1957, he was appointed Sunday editor and moved to city editor in 1960. From 1972 until 1981 Jim was the managing editor of the paper. Ultimately, in 1981, he headed the newsroom and retained the title managing editor.

Jim and Middletown, OH, have seen many important news stories over the last four decades. Some of the local highlights include the growth and restructuring of Armco to its present organization as AK Steel, creation of the City Centre Mall and redevelopment of the downtown area, state championships for area high schools, and the change Middletown and its business community have undergone.

Jim and the Middletown Journal staff were always conscientious to bring the local angle to national news items ranging from the John F. Kennedy, Martin Luther King, and Robert Kennedy assassinations, the Vietnam War, the Iranian hostage crisis, Desert Storm, and the explosion of the Space Shuttle Challenger.

Jim has received several awards for his dedication and continuous service. Among them are an award from the Associated Press Society of Ohio for exemplary service to newsgathering business and his assistance to the Xenia Daily Gazette publish and report the news when its offices were destroyed in a 1974 tornado. For coverage of the devastation the Gazette won a Pulitzer Prize.

During the past four decades, Jim has worked with hundreds of reporters and local officials. The join me in saluting Jim for his work and wishing him the best in his retirement.

DRUG LEGALIZATION

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. SOLOMON. Mr. Speaker, I would like to address an issue about a subject which continues to get favorable treatment from our friends in the media. That issue is drug legalization.

Those who support legalization would have us believe that we ought to decriminalize drugs because we have lost the war on drugs. We are not losing this war. The truth is that during the Reagan/Bush years drug use dropped, from 24 million in 1979 to 11 million in 1992. Unfortunately, those hard fought gains have been wasted.

Under President Clinton's watch, this trend has been reversed and drug use is again increasing. The only lasting legacy of the Clinton Presidency will be a dramatic increase in the use of illegal drugs and the consequences of escalating violence and misery associated with it.

As a country, we have never really waged an all out war on drugs. It is now time we declared such a war and I am pleased the Speaker is talking about altering the rules of engagement. We should start this campaign by passing some of the anti-drug legislation which I have introduced.

And although I have been criticized by libertarian organizations for my position, I still do not believe the organizations whose primary purpose is to promote the use of illegal drugs should operate under a tax free status.

The fathers and mothers in this country who struggle to make ends meet and to raise their children drug free, are paying extra taxes to subsidize the Drug Policy Foundation and their unshaven friends at NORML. These groups are spending millions of dollars in an effort to make dangerous drugs more available to kids. This is wrong.

Drug use is already on the rise. In fact one third of all high school kids are now smoking marijuana. Listen to what the Partnership for a Drug Free America says about teenagers' views on drugs: "Most recent trends among teens indicate a reversal in the attitudes that distinguish non-users from users—perception of risk and social disapproval—and the consequences are an increase in the use of marijuana, LSD, and cocaine."

Fortunately, even this Administration is now opposed to legalizing drugs. In a recent speech entitled "Why the U.S. Will Never Legalize Drugs", former drug czar, Lee Brown, called drug legalization the moral equivalent of genocide.

Listen carefully to his words:

> When we look at the plight of many of our youth today, especially African American males, I do not think it is an exaggeration to say that legalizing drugs would be the moral equivalent of genocide. Legalizing addictive, mind altering drugs is an invitation to disaster for communities that are already under seige. Making drugs more readily available would only propel more individuals into a life of crime and violence. Contrary to what the legalization proponents say, profit is not the only reason for the high rates of violence associated with the drug trade . . . drugs are illegal because they are harmful—to both body and mind. Those who can least afford further hardship in their lives would be much worse off if drugs were legalized.

According to Lee Brown, legalization would create three times as many drug users and addicts in this country. And what does this translate into for future generations? It means hundreds of thousands of additional newborns addicted to drugs.

According to the Partnership for a Drug Free America, one out of every ten babies in the U.S. is born addicted to drugs. I guess the advocates of legalization must not think this percentage is high enough!

I challenge anyone in this chamber to go down the street and tell the nurses at D.C. General, who care for these children, that we need to legalize drugs. You will end up with a black eye! And here is another shocking fact * * * today in America over 11 percent of pregnant women use an illegal drug during pregnancy, including heroin, PCP, marijuana, and most commonly, crack cocaine. A surefire way to worsen this problem would be to legalize drugs. According to a recent University of Michigan study of 50,000 high school students, drug use is up in all grades. Drug use is up among all students for crack, cocaine, heroin, stimulants, LSD, and marijuana.

Increased drug use also contributes to domestic violence. In fact, drug use is a factor in half of all family violence, most of it directed against women. And over 30% of all child abuse cases involve a parent using illegal drugs. Legalizing drugs will mean more violence against women and children.

Today, one third of the young people attending high school in our country smoke marijuana. It's no wonder our education system is a mess.

The high school dropout rate in the United States is over 25 percent, and 50 percent in major cities. A recent study of 11th graders showed that over half of the drug users dropped out—twice the rate of those drug-free.

Drugs rob kids of their motivation and self-esteem, leaving them unable to concentrate and indifferent to learning. Millions of these kids end up on welfare or in prison. Drug abuse in the workplace, violence against women and children, welfare dependency, high dropout rates, escalating health care costs, crack babies * * * could it get any worse?

If we legalized drugs it would get much worse! These problems are all interrelated and all have one thing in common. That common denominator is drug abuse. Legalizing drugs would be to say that all of this is acceptable * * * it is not acceptable.

Legislation I have introduced will send a strong and long overdue message to the young people in this country—Under no circumstances is the United States Congress ever * * * ever going to legalize drugs.

I have also introduced legislation aimed at reducing the demand for illegal drugs. Decreasing the desire for these substances is essential in safeguarding the most important things to all Americans: our children and families, our safety and our health and the economy.

Mr. Speaker, I would also point out that police chiefs across the United States believe that the number one way to reduce crime is to reduce drug use. The fact is that mandatory minimum drug penalties put in place in 1988 was followed by the Nation's largest decrease in drug use.

It is a myth that many non-violent first time drug offenders are overcrowding our prisons. A comprehensive study by the Department of Justice found that 93 percent of state prisoners were either violent or repeat offenders, two thirds are currently in prison for a violent crime.

It is also a myth that drug arrests are overwhelming our prison systems. The fact is that drug arrests have been decreasing since 1989 and only make up 8 percent of all arrests nationwide. Despite lengthy sentences, the average Federal convicted drug possessor serves only 8 months.

The fact is that drug sentencing is still inadequate and that the last thing this Congress should consider is the repeal of mandatory minimum sentencing. Drug use and drug addiction cause most of the violence in this country and contribute to virtually every social, health and economic problem we face. And according to the most recent reports, hospital emergency room visits caused by illegal drugs are up again.

The fact is that the trend toward increased drug use in this country corresponds directly to President Clinton's term of office. For whatever reason, this President is either unable or unwilling to address this crisis. As a result, millions of young people and their families are suffering.

This President has failed to come to grips with the fact that only one person in this country has the authority—the Office of the President—to reverse the worsening downward spiral of drug abuse.

Mr. Speaker, I am honestly willing to work with President Clinton to address this problem. And I commend Congressman Zeliff for establishing this working group. He has presented the President a golden opportunity to work effectively with Congress in a bipartisan manner. All we are missing now is a serious commitment from the President.

COLUMNIST GEORGE F. WILL, A NATIONAL TREASURE

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to bring attention to the work of Pulitzer Prize winning columnist and author, George F. Will. In him, Mr. Speaker I believe we have a national treasure. Time and again by his labors at the keypad Mr. Will has shown himself to be a man of great insight and depth. I believe him to be a among that rarest of rare breeds—an original thinker. The concision and clarity with which he transforms those thoughts to the written word evidences a deep commitment on his part to understand and illuminate the human condition. His will to toil year after year so that others might not be lead astray by intellectual fads or fallacious reasoning is a model to all who would seek to shape the course of public life. Anyone willing to give his work a fair reading will find each week some troubling societal question logically explored, element by element and ultimately reduced to its essence without rancor or sentimentality.

I became a fan of George F. Will many years ago when the writer and father in him came together in a gloriously uncompartmentalized way to render an unambiguous rebuke to anyone who might doubt the quality of a life lived at less than physical perfection. With a few deft paragraphs Mr. Will wrote of his own son's enormous capacity to love and be loved. He explained that his "Oriole fan", despite whatever limitations Downs Syndrome had placed on him, could experience the joys and tragedies of life in the same way we all do—mostly through things as common as baseball. The boy was fully alive, fully human and perfectly formed in the image of God. It is my belief, Mr. Speaker that no writer in our land of literary greatness could deliver this urgent message with more force and grace than Mr. Will. It is clear that we are truly blessed as a nation to have him.

It is also obvious that despite the passing decades Mr. Will has not lost any of the, above-described commitment to his craft. His most recent Newsweek column is another fine example of all that is good and true about his work. And so Mr. Speaker, I enter that essay into the RECORD so that Mr. Will's own words can testify to the greatness of this decent, courageous and talented American.

FANATICS FOR "CHOICE"

(By George F. Will)

Americans are beginning to recoil against the fanaticism that has helped to produce this fact: more than a quarter of all American pregnancies are ended by abortions. Abundant media attention has been given to the extremism that has tainted the right-to-life movement. Now events are exposing the extraordinary moral evasions and callousness characteristic of fanaticism, prevalent in the abortion-rights lobby.

Begin with "partial-birth abortions." Pro-abortion extremists object to that name, preferring "intact dilation and evacuation," for the same reason the pro-abortion movement prefers to be called "pro-choice." What is "intact" is a baby. During the debate that led to House passage of a ban on partial-birth abortions, the right-to-life movement was criticized for the sensationalism of its print advertisements featuring a Dayton nurse's description of such an abortion:

"The mother was six months pregnant. The baby's heartbeat was clearly visible on the ultrasound screen. The doctor went in with forceps and grabbed the baby's legs and pulled them down into the birth canal. Then he delivered the baby's body and the arms—everything but the head. The doctor kept the baby's head just inside the uterus. The baby's little fingers were clasping and unclasping and his feet were kicking. Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinch, a startle reaction, like a baby does when he thinks that he might fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out."

To object to this as sensationalism is to say that discomforting truths should be suppressed. But increasingly the language of pro-abortion people betrays a flinching from facts. In a woman's story about her chemical abortion, published last year in Mother Jones magazine, she quotes her doctor as saying, "By Sunday you won't see on the monitor what we call the heartbeat." "What we call"? In partial-birth abortions the birth is kept (just barely) partial to preserve the legal fiction that a baby (what some pro-abortion people call "fetal material") is not being killed. An abortionist has told The New York Times that some mothers find such abortions comforting because after the killing, the small body can be "dressed and held" so the (if pro-abortionists will pardon the expression) mother can "say goodbye." The New York Times reports, "Most of the doctors interviewed said they saw no moral difference between dismembering the fetus within the uterus and partially delivering it, intact, before killing it." Yes.

Opponents of a ban on partial-birth abortions say almost all such abortions are medically necessary. However, an abortionist at the Dayton clinic is quoted as saying 80 percent are elective. Opponents of a ban on such abortions assert that the baby is killed before the procedure, by the anesthesia given to the mother. (The baby "undergoes demise," in the mincing words of Kate Michelman of the National Abortion and Reproductive Rights Action League. Does Michelman says herbicides cause the crab grass in her lawn to "undergo demise"? Such Orwellian language is a sure sign of squeamishness.) However, the president of the American Society of Anesthesiologists says this "misinformation" has "absolutely no basis in scientific fact" and might endanger pregnant women's health by deterring them from receiving treatment that is safe.

Opponents of a ban say there are only about 600 such procedures a year. Let us suppose, as not everyone does, the number 600 is accurate concerning the more than 13,000 abortions performed after 21 weeks of gestation. Still, 600 is a lot. Think of two crashes of jumbo airliners. Opponents of the ban darkly warn that it would be the first step toward repeal of all abortion rights. Columnist John Leo of U.S. News & World Report says that is akin to the gun lobby's argument that a ban on assault weapons must lead to repeal of the Second Amendment.

In a prophecy born of hope, many pundits have been predicting that the right-to-life "extremists" would drastically divide the Republican Party. But 73 House Democrats voted to bar partial-birth abortions; only 15 Republicans opposed the ban. If the ban survives the Senate, President Clinton will probably veto it. The convention that nominated him refused to allow the Democratic governor of Pennsylvania, Bob Casey, who is pro-life, to speak. Pro-choice speakers addressed the 1992 Republican Convention. The two presidential candidates who hoped that a pro-choice stance would resonate among Republicans—Gov. Pete Wilson, Sen. Arlen Specter—have become the first two candidates to fold their tents.

In October in The New Republic, Naomi Wolf, a feminist and pro-choice writer, argued that by resorting to abortion rhetoric that recognizes neither life nor death, pro-choice people "risk becoming precisely what our critics charge us with being: callous, selfish and casually destructive men and women who share a cheapened view of human life." Other consequences of a "lexicon of dehumanization" about the unborn are "hardness of heart, lying and political failure." Wolf said that the "fetus means nothing" stance of the pro-choice movement is refuted by common current practices of parents-to-be who have framed sonogram photos and fetal heartbeat stethoscopes in their homes. Young upscale adults of child-bearing age are a solidly pro-choice demographic group. But they enjoy watching their unborn babies on sonograms, responding to outside stimuli, and they read "The Well Baby Book," which says: "Increasing knowledge is increasing the awe and respect we have for the unborn baby and is causing us to regard the unborn baby as a real person long before birth . . ."

Wolf argued for keeping abortion legal but treating it as a matter of moral gravity because "grief and respect are the proper tones for all discussions about choosing to endanger or destroy a manifestation of life." This temperate judgment drew from Jane Johnson, interim president of Planned Parenthood, a denunciation of the "view that there are good and bad reasons for abortion." So, who now are the fanatics?

TRIBUTE TO RAYMOND JOHNSON OF FORT WALTON BEACH

HON. JOE SCARBOROUGH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. SCARBOROUGH. Mr. Speaker, I rise today to tell this Chamber a story of remarkable heroism, a story I recently heard about a World War II veteran who resided in my district and who, in a time of crisis in our Nation's history rose to the defense of his country. I relay this story, because it lets us know that, at a time when cynicism and pessimism seem pervasive, we need to be reminded that we are a nation of heroes and that we can rise to meet the challenges before us. Mr. Raymond Johnson was just a hero, and in the best tradition of the American spirit he rose to the challenges before him for no other reason than that he loved his country.

Raymond Johnson was like any other young American boy growing up before World War II. He enjoyed the innocence of playing baseball, climbing trees, fishing, and the other simplicities of a young life. But when Japan attacked Pearl Harbor, bringing the United States into World War II, Raymond Johnson did his duty and went off to serve his country as an infantryman in the U.S. Army. In April 1942, Raymond and hundreds of other young men traveled to Inniskillan, Northern Ireland, for specialized training as an Army scout. After further training in Inverary, Scotland, Raymond and his comrades found themselves in North Africa with the 168th Regiment of the 34th Infantry Division. Their enemy—Field Marshall Rommel's vaunted Afrika Korps.

Soon enough, the 34th Infantry Division received their baptism of fire during the Allied invasion of North Africa on November 17, 1942. Raymond served gallantly in battle during two major campaigns in Algeria, Morocco, and Tunisia. After being bombarded both day and night by German artillery fire for over 1 month, the 34th Infantry found themselves divided and in disarray. One morning, just before dawn, Raymond and his comrades found themselves encircled by German tanks and infantry. Those American soldiers who were not machine gunned immediately found their positions overrun and themselves taken prisoner. That morning marked what would become 2½ years of hell for Raymond Johnson in Nazi prisoner of war camps in Tunisia, Sicily, Italy, and ultimately the heart of the German interior.

Meanwhile, Raymond's family had no word of their son's fate. Reported missing, probably killed in action, the family feared for the worst. Then, a Canadian ham radio operator monitoring Vatican City Radio recorded the names of American prisoners of war that a Vatican City envoy had visited in a Nazi-controlled camp near Mount Vesuvius. Hearing the name Raymond Johnson and his home town broadcast over the radio, the ham radio operator contacted the Johnson family, giving them the first word that their son was alive. Despite his capture, the Johnson family, steadfast in their Roman Catholic faith, thanked God that their son was alive and that a priest had visited the men, giving them the sacrament of communion. Faith in God and confidence in their country were all that the Johnson family had to sustain them for some time to come.

Department of State Cables 446, 464, 579, and 649 mentioned Raymond Johnson as being sighted in Nazi POW Camps 7A and 3B near Furstonberg along with other prisoners, but the family was told nothing more than that their Raymond was a prisoner of war and that his fate was uncertain. Forced to labor on German public works projects and later on German farms, Raymond, like his fellow POW's, became emaciated from extreme hunger and his health declined. Dysentery, infections, work injuries, and TB ravaged the men held by the Nazis in the dreaded stalags and Raymond Johnson was not immune. By the spring of 1945, near death, weighing only 98 pounds, suffering from dysentery and having lost all of his teeth because of malnutrition, Raymond and most of his comrades had survived almost 2½ years as prisoners of war, subjected to constant hardship and Gestapo interrogation. Prisoners were dying at the rate of three or four dead a day. Still, secure in his faith in both God and country, Raymond did not give up hope that he would be liberated and see his home and family again. Raymond's prayers would not go unanswered. As the Irish proverb goes, "God is just but He takes His time."

Almost as suddenly as he became a prisoner of war, events transpired that would change Raymond's life for the better. On Friday, April 13, 1945, Raymond's prayers were answered. The men of Nazi Stalag 3B heard thunder in the distance. In a state of panic, German guards began shooting some prisoners and locked the rest in their barracks as the thunder loomed nearer. That thunder soon was recognized as artillery fire. The artillery fire became the sounds of tanks in battle. The sounds of tank fire transformed into the sound of tank treads. The tank treads became so loud that the POW's huddled on the floor together fearing that the Germans would make good on their threat to kill them before they could be liberated. The commotion outside the barracks was so loud that many of the men later reported being almost deafened until the next sound that they heard was the barracks doors being thrown open and an American GI yelling, "You're safe now, boys. We've come to take you home!" A day that is feared by the superstitious of the world, Friday the 13th, thereafter became Raymond's special day for the rest of his life.

Although liberated, Raymond's life still weighed in the balance. At the fittingly named Camp Lucky, Raymond almost died from his state of malnutrition several times. After 3 harrowing weeks, medics finally approved Raymond to be placed aboard a hospital ship heading for America. Enroute, men continued to die and were buried at sea. Contemplating the hardships he had endured, Raymond feared that it would be both senseless and ironic if he should die at sea before seeing his family again. Raymond continued to pray that God would spare his life. Once again Raymond's prayers were answered.

This story would end here and would not be of note had it not been for one simple thing. A nation anxious to return to normal, eager to discharge veterans as quickly as they could be brought back home from the war in Europe and the Pacific, became a nation too busy to honor its heroes. Raymond Johnson never received the recognition that he deserved for serving his country with distinction and honor in both its saddest and finest moments.

Raymond Johnson eventually regained much of his health. However, doctors told him that he would never be the same after having suffered the fate of Nazi prison camps. Humbly, Raymond went on with his life, devout in his faith, and proud of his service to his country. Like most veterans, Raymond did not complain much. They were just thankful to be home with their families. In fact, Raymond Johnson lead a modest but happy life, barely speaking of his experiences in the Nazi stalags. Few people could have guessed what the war had been like for Raymond.

Unfortunately, Raymond left this life on October 20, 1981, after suffering from cancer. Today, Raymond Johnson is survived by his widow, Mildred Johnson of Fort Walton Beach, FL, who attends St. Mary's Catholic Church regularly and is active in the Legion of Mary. Raymond was fortunate to have seven children, four sons, Robert, a teacher in Fort Walton Beach, Dennis a postal worker, a Roman Catholic Priest, Kevin, and Thomas who works for the State of Florida, and three daughters, Sandra, Katherine, and Mary, as well as 10 grandchildren, including a namesake, Raymond. While it may be too late to honor Raymond Johnson personally, this Christmas season I am pleased to be able to present to his family the medals and awards that this hero has been owed for over 50 years—the Bronze Star Medal, the Prisoner of War Medal, the World War II Victory Medal, and the coveted Combat Infantryman's Badge. These decorations pale in comparison to the gift that Raymond gave his country but they are all that a humble nation can give to pay tribute to one of its heroes. I am pleased to know that the First Congressional District of Florida can boast of the merits of an American the likes of Raymond Johnson and his fine family. Mr. Speaker, we owe this man, and all of our Nation's veterans our most sincere thanks and gratitude.

TRIBUTE TO LINCOLN TECHNICAL INSTITUTE ON ITS 50TH ANNIVERSARY

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. FRANKS of New Jersey. Mr. Speaker, I rise today to recognize Lincoln Technical Institute, the largest training company in the Nation, on its 50th anniversary.

Lincoln Technical Institute [LTI] was founded in Newark, NJ, in 1946 to provide returning war veterans with practical job skills. Since that time, the institute has grown to develop and offer one of the Nation's most innovative and effective job training programs at 14 schools in 6 States.

The first programs offered in 1946 trained veterans in the fields of heating and air-conditioning. Training in automatic transmissions was added soon after. That began LTI's expertise in the automotive field. Over the years, courses in electronic and computer technologies and mechanical and architectural drafting have been added. In 1993, LTI acquired the Cittone Institute which added office focused programs such as court reporting and computerized accounting skills training. Today, LTI offers specialized training in 12 fields.

Students at LTI come from many different stages of life. Some are recent high school graduates that enroll in LTI to start their career. Others decide to make a career change and attend LTI to learn the skills necessary for their new profession. There are also a number of students who go to LTI through their employers in an effort to improve their skills.

Most impressive is that over 90 percent of LTI's graduates are working in the fields for which they trained. This reflects not only the quality of the students, but the faculty, curriculum and state-of-the-art equipment LTI uses in its schools and classrooms.

I commend Lincoln Technical Institute for its dedication to the education and training of its students. In the competitive job market of the 1990s, Lincoln Technical Institute is essential to help many Americans reach their career objectives. I urge my colleagues to join me in wishing this fine institution a happy anniversary and another 50 years of continued success.

BILINGUAL EDUCATION'S FATAL FLAWS

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. ROTH. Mr. Speaker, I rise today to call the attention of my colleagues to the excellent article on bilingual education that appeared in the September 25, 1995 U.S. News & World Report, "Tongue-tied in the schools." The author, Susan Headden, makes a compelling argument that bilingual education is a public policy failure that has been kept alive by bureaucratic inertia.

Ms. Headden's assessment of the program's effectiveness is unambiguous; she writes that "along with crumbling classrcoms and violence in the hallways, bilingual education has emerged as one of the dark spots on the grim tableau of American public education."

The article goes on to show that current bilingual education programs are inadequate and actually counter-productive in helping new Americans and their children integrate into American society by learning English. Surveys have shown that today's immigrants want a chance for their children to learn English because it is the key to success in America.

Transitional bilingual education has failed to meet the test Congress established for it in 1978—namely, that it improves students' performance in English. The research evidence on transitional bilingual education indicates that it may, in fact, have a negative impact on students in these programs.

The first step we must take is to eliminate the bilingual education bureaucracy which has a vested interest in continuing along the same failed path. The money the Federal Government spends on bilingual education could be better spent on English classes for immigrants and intensive English instruction for their children. An afterschool program could do these children far more good than 6 years of a bilingual education program.

In the past, America has always been a shining example of how people from all corners of the world can live and work together in cultural harmony. This was the case because our country has enjoyed a common and unifying bond, the English language. We must preserve this bond to protect our future as a nation.

Bilingual education is a threat to that unity, because it doesn't help teach children English. That's why I introduced the Declaration of Official Language Act. I addition to declaring English our official language, H.R. 739 also seeks to repeal Federal mandates—like bilingual education—which discourage the use of English. If my bill passes, the bilingual education boondoggle would cease to exist.

I hope you will heed this article's warning and join me today in the effort to refocus our country's educational efforts towards the goal of teaching children English quickly and effectively. We want all of our children to be fluent in the language of opportunity in our society, so that they too can take hold of their share of the American Dream. Cosponsor H.R. 739, the Declaration of Official Language Act. I ask that the full text of Susan Headden's article appear in the RECORD at this point.

[From the U.S. News and World Report, Sept. 25, 1995]

TONGUE-TIED IN THE SCHOOLS

(By Susan Headden)

Javier Sanchez speaks English like the proud American he is. Born in Brooklyn, N.Y., the wiry 12-year-old speaks English at home, and he speaks it on the playground. He spoke it in the classroom, too—until one day in the third grade, when he was abruptly moved to a program that taught him in Spanish all but 45 minutes a day. "It was a disaster," says his Puerto Rican-born mother, Dominga Sanchez. "He didn't understand Spanish." Sanchez begged the teacher to return her son to his regular class. Her request was met with amazement. "Why?" the teacher asked. "Don't you feel proud to be Hispanic?"

Along with crumbling classrooms and violence in the hallways, bilingual education has emerged as one of the dark spots on the grim tableau of American public education. Started 27 years ago to help impoverished Mexican-Americans, the program was born of good intentions, but today it has mushroomed into a $10 billion-a-year bureaucracy that not only cannot promise that students will learn English but may actually do some children more harm than good. Just as troubling, while children like Javier are placed in programs they don't want and may not need, thousands more children are foundering because they get no help with English at all.

Bilingual education was intended to give new immigrants a leg up. During earlier waves of immigration, children who entered American schools without speaking English were left to fend for themselves. Many thrived, but others, feeling lost and confused, did not. Their failures led to Title VII of the Elementary and Secondary Education Act, which ensured supplementary services for all non-English-speaking newcomers to America.

ARMENIAN TO URDU

Significantly, the law did not prescribe a method for delivering those services. But today, of the funds used to help children learn English, 75 percent of federal money—and the bulk of state and local money—goes toward classes taught in students' native tongues; only 25 percent supports programs rooted in English. That makes bilingual education the de facto law of the land.

Historically, Hispanics have been the largest beneficiaries of bilingual education. Today, however, they compete for funding with new immigrant groups whose urge to assimilate some educators say, may be stronger. Further, not many school districts can offer classes in such languages as Armenian and Urdu. So for practical reasons, too, children of other nationalities are placed in English-based classes more often than children of Hispanics. The problem, as many see it, is that students are staying in native-language programs far too long. In a typical complaint, the mother of one New York ninth grader says her daughter has been in "transitional" bilingual education for nine years. "We support bilingual education," says Ray Domanico of the New York Public Education Association. "But it is becoming an institutionalized ghetto."

LEARNING CHINESE

In theory, bilingual education is hard to fault. Students learn math, science and other "content" subjects in their native tongues, and they take special English classes for a small part of the day. When they are ready, ideally within three or four years, they switch to classes taught exclusively in English. The crucial advantage is that students don't fall behind in their other lessons while gaining competence in English. Further, supporters claim, bilingual education produces students fluent in two languages.

That would be great, if it were true. Too often it is not. What is sometimes mistaken for dual-language instruction is actually native-language instruction, in which students hear English for as little as 30 minutes a day. "Art, physical education and music are supposed to be taught in English," says Lucy Fortney, a third-grade teacher from Sun Valley, Calif. "But that is absolutely not happening at all."

Assignments to bilingual programs are increasingly a source of complaint. Many students, parents say, are placed in bilingual classes not because they can't understand English but because they don't read well. They need remedial, not bilingual, help. Others wind up in bilingual programs simply because there is no room in regular classes. Luz Pena says her third-grade son, born in America, spoke excellent English until he was moved to a bilingual track. Determined to avoid such problems with her daughter, she registered her for English kindergarten—only to be told the sole vacancies were in the Spanish class.

In some cases, the placements seem to defy common sense. In San Francisco, because of a desegragation order, some English-speaking African-Americans end up in classes taught partly in Chinese. Chinese-speakers, meanwhile, have been placed in classes taught partly in Spanish. Presented with evidence that blacks in bilingual programs scored well below other blacks on basic skills tests, school officials recently announced an end to the practice.

Whether a child is placed in a bilingual program can turn on criteria as arbitrary as whether his name is Miller or Martinez. In Utah, federal records show that the same test scores that identified some students as "limited English proficient" (LEP) were used to identify others as learning disabled. The distinction depended on the student's ethnic group: Hispanics were designated LEP, while Native Americans who spoke Navajo or Ute were labeled learning disabled. In New York City, where public schools teach children in 10 different languages, enrollment in bilingual education has jumped by half since 1989, when officials raised the cut-off on a reading test. Critics say that 40 percent of all children are likely to fail the test—whether they speak English or not.

Misplacement, however, is only part of the problem. At least 25 percent of LEP students, according to the U.S. Department of Education, get no special help at all. Other children are victims of a haphazard approach. In Medford, Ore., LEP students received English training anywhere from three hours a day, five days a week to 30 minutes a day, three days a week. The results? Of 12 former LEP students reviewed by education department officials, seven had two or more F's and achievement scores below the 20th percentile. Four more had D's and test scores below the 30th percentile. In Twin Falls, Idaho, three high-school teachers had no idea that their students needed any help with English, despite their obvious LEP background and consistently failing grades.

Poorly trained teachers further complicate the picture. Nationwide, the shortage of teachers trained for bilingual-education programs is estimated at 170,000. The paucity of qualified candidates has forced desperate superintendents to waive some credentialing requirements and recruit instructors from abroad. The result is teachers who themselves struggle with English. "You can hardly understand them," said San Francisco teacher Gwen Carmen, In Duchesne, Utah, two teachers' aides admitted to education department inspectors that they had no college credits, no instructional materials and no idea what was expected of them.

What all these problems add up to is impossible to say precisely, but one statistic is hard to ignore. The high-school dropout rate for Hispanic students is nearly 30 percent. It remains by far the highest of any ethnic group—four times that of whites, three times that of blacks—and it has not budged since bilingual education began.

Although poverty and other problems contribute to the disappointing numbers, studies suggest that confining Hispanic students to Spanish-only classrooms also may be a significant factor. A New York study, published earlier this year, determined that 80 percent of LEP students who enrolled in English-immersion classes graduated to mainstream English within three years, while only half the students in bilingual classes tested out that quickly. A similar study released last fall by the state of California concluded that students stayed in native-language instruction far too long. It followed an independent investigation in 1993 that called native-language instruction "divisive, wasteful and unproductive."

Not everyone agrees. More than half of American voters, according to a new U.S. News poll, approve of bilingual education. Jim Lyons, executive director of the Bilingual Education Association, says the recent studies are flawed because they fail to measure mastery of academic content: "They don't even pretend to address the issue of the full education," he says. Learning English takes time, insists Eugene Garcia of the education department. "And it's well worth the wait."

PRACTICAL APPROACH

The alternative to native-language instruction is to teach children exclusively in English, pulling them out of class periodically for lessons in English as a second language. Lucy Fortney taught exclusively white American-born children when she started her career 30 years ago; now her classroom is almost entirely Vietnamese, Cambodian, and Armenian. "I can't translate one single word for them," she says, "but they learn English."

Today, bilingual education is creeping beyond impoverished urban neighborhoods to rural and suburban communities likely to expose its failings to harsher light. Until now, no constituency has been vested or powerful enough to force the kind of reforms that may yet come with civil-rights lawsuits. "Everybody's appalled when they find out about the problems," says Linda Chavez, one-time director of the Commission on Civil Rights and a dogged opponent of bilingual education, "but the fact is, it doesn't affect their kids." That may have been true in the past. But as a rainbow-hued contingent of schoolchildren starts filling up the desks in mostly white suburbia, it is not likely to be the case for long.

TRIBUTE TO MRS. PEARL ALMA RIVERO

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. ENGEL. Mr. Speaker, I rise today to pay tribute to Mrs. Pearl Alma Rivero, an outstanding individual who has devoted her life to her family and to serving her community. Mrs. Rivero will be celebrating her 70th birthday on Sunday in the company of her loving family and friends in Miami, FL.

Mrs. Rivero is a native of New York City. She is the youngest of eight children born to Alexander and Ursula Shepard. She is the sister of Joseph Anthony Moniz, Vincent DePaul Moniz, Sylvia Patronella Moniz Nicholas, Ivy Eleanor Cristabel Moniz, Virella Santiago, Hyacinth Moniz, and Florin Moniz, Jr.

On October 18, 1942, she married Louis Bouchet and was blessed with two daughters, Margo Maria Bouchet and Sandra Cecelia Bouchet.

On August 1, 1959, Mrs. Rivero married Emil Joseph Rivero, with whom she celebrated 33 years of happiness until Emil's death on May 13, 1993. Their marriage was blessed with the birth of three children, Maria Theresa Rivero, Angela Justine Rivero, and Emil John Rivero.

Mrs. Rivero has four wonderful grandchildren, Betti-Rahkel Bouchet-Williams, Derrick Boddie, Mychal Williams, and Cassandra Bankhead-Williams.

A devoted mother, Mrs. Rivero raised her family to be religious, sharing, and caring individuals.

Mrs. Rivero has worked tirelessly to benefit her community and her church. She has served as a Eucharistic minister, lecturer, and a teacher of religious classes at Blessed Sacrament Catholic Church in the Bronx, and St. John Neumann Catholic Church in Miami, where she presently resides. Mrs. Rivero has also taught Bible classes at St. Ann's Nursing Home in Florida and currently serves as CORE member of the Divorced and Separated Ministry at St. John Neumann Catholic Church in Miami. She is a founding member of WINGS, a ministry serving the needs of widows, and has served as mediator for the Better Business Bureau in New York City.

Mrs. Rivero has received accolades, acknowledgments, and awards from her community, including awards from the Better Business Bureau of New York and the committee on the handicapped from the New York Board of Education. She was also certified as a lay minister for the Archdiocese of Miami.

Mr. Speaker, I ask my colleagues to join me and the family of Mrs. Pearl Alma Rivero in wishing her a happy 70th birthday and best wishes during this holiday season.

THE IMPORTANCE OF ECONOMIC REFORM IN UKRAINE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. HAMILTON. Mr. Speaker, I commend the American-Ukrainian Advisory Committee and its distinguished chairman, Zbigniew Brzezinski, for their constructive contributions to building a strong and effective relationship between the United States and Ukraine. The committee, formed in 1993 by the Washington-based Center for Strategic and International Studies, recently held its third meeting in New York and issued a report.

The recommendations of the report were designed to advance the process of economic reform in Ukraine, foster a climate to attract foreign investment, and integrate Ukraine into the global economy. In order to meet these goals, Ukraine's political leadership must adhere to the fundamental elements of the economic reform program proposed a year ago by President Leonid Kuchma.

The American-Ukrainian Advisory Committee calls upon the Ukrainian Government to "speed up and broaden privatization with aim of achieving the long-term objective of establishing a market economy" and to "follow through with real macroeconomic stabilization." The committee all urges the United States, the European Union, Japan, and the international financial institutions to provide adequate financial assistance to reinforce Ukraine's commitment to economic reform.

The American-Ukrainian Advisory Committee's report follows:

AMERICAN-UKRAINIAN ADVISORY COMMITTEE COMMUNIQUE

The American-Ukrainian Advisory Committee met in New York on November 17–18 and reiterated its strong conviction that a resilient Ukraine is in the interest of European stability and thus also American security. It welcomed the evident improvement in the American-Ukrainian relationship, especially the recognition by the U.S. government of Ukraine's geopolitical significance. It also endorsed strongly the reform efforts being pursued by the Ukrainian government in order to transform Ukraine into a stable democracy based on a free market economy.

The American participants included: Hon Zbigniew Brzezinski (CSIS Counselor), Hon. Richard Burt (Chairman International Equity Partners), Hon. Frank Carlucci (Chairman, Carlyle Group), Gen. John Galvin (Dean, Fletcher School of International Law and Diplomacy), Mr. Michael Jordan (Chairman & CEO, Westinghouse Electric Corporation), Hon Henry Kissinger (Chairman, Kissinger Associates), and Mr. George Soros (Chairman, Soros Foundations).

The Ukrainian participants included: Dr. Bohdan Hawrylyshyn (Chairman, Council of Advisors to Ukrainian Parliament), Ms. Svitlana Oharkova (General Director, "Tekno Ukrayina"), Mr. Serhiy Oksanych (President, KINTO Investment Association), Hon. Borys Sobolev (Deputy Minister of Finance), Hon. Dmytro Tabachnyk (Chief of Staff, Presidential Administration), Hon. Oleh Taranov (Chairman, Parliamentary Commission on Economic Policy), Hon. Boris Tarasiuk (Ambassador to Belgium), and Hon. Volodymyr Vasylenko (Ambassador-at-Large). In addition, present at the meeting was Hon. Yuri Sheberbak, Ambassador of Ukraine to the United States.

More specifically, the AUAC endorses or recommends the following:

SECURITY ISSUES

1. Encourage the U.S. to clearly articulate its vision of European security architecture, and in that context urge it to develop a consistent, long-term policy toward Ukraine which views that country as a Central European state. That policy needs to strongly and actively demonstrate American support for an independent, democratic, and economically successful Ukraine as a key factor of security and stability in Europe as a whole.

2. Recommend the establishment of a ministerial-level U.S.-Ukrainian Joint Commission. While applauding the existence of joint, bilateral working groups, we urge the creation of additional groups—by the Department of State and the Ministry of Foreign Affairs as well as the Department of Defense and the Ministry of Defense—to deal with a range of issues, including energy supplies and security; environmental issues; and combating organized crime.

3. In order to develop a special relationship between NATO and Ukraine, extend eligibility to Ukraine under the NATO Participation Act of 1994. At the same time, encourage and support Ukraine's active participation in the Partnership for Peace program.

4. Encourage strong support for the closest possible Ukrainian participation and integration in European multilateral institutions, such as the Central European Initiative and CEFTA, cooperation partner status in the WEU, and the inclusion of Ukraine with Moldova, Bulgaria, and Romania in the Clinton Administration's Regional Airspace Initiative.

5. Support collective efforts to achieve reductions in and confidence-building measures for military forces in the Black Sea basin. When appropriate, a U.S. role as mediator in Black Sea issues could prove useful.

6. Encourage the U.S. Administration to continue rendering support for Ukraine's territorial integrity and inviolability of its state borders, and to urge Ukraine's neighbors to refrain from raising territorial claims.

7. Initiate the holding of U.S.-Ukrainian seminars and roundtables on security-related matters.

8. Encourage Western investment and technical and economic assistance for the exploration and development of Ukraine's natural gas and oil deposits, as well as diversification of external energy supplies to Ukraine. Encourage also the U.S. to play a leading role in helping Ukraine work out a comprehensive plan for reforming the energy sector.

ECONOMIC ISSUES

1. Urge the Ukrainian government to speed up and broaden privatization with the aim of achieving the long-term objective of establishing a market economy. One important step is to open opportunities to sell blocks of equity to strategic investors, while urging U.S. AID to enhance the efficacy of its support of Ukrainian privatization.

2. Given the critical stage of Ukraine's economic reforms, encourage the Ukrainian government to follow through with real macroeconomic stabilization, while urging the IMF, the World Bank, the European Union, Japan, and the U.S. government to provide timely and adequate financial assistance.

3. Support the introduction of the Ukrainian national currency, which should be a stable currency inspiring confidence, and urge the IMF to provide the appropriate stabilization fund.

4. Encourage the U.S. government and the EU to identify and overcome trade barriers so as to facilitate Ukraine's integration into the global trading system.

5. Assist with Ukraine's efforts to join the World Trade Organization, and encourage the U.S. Administration to extend Ukraine's participation in the U.S. General System of Preferences.

6. Express appreciation of the public education in market economics financed by the U.S. government, and advocate financing of education in business management and public administration. Such efforts should lead to the Ukrainian government's enhanced capacity to attract and retain competent persons at all levels of administration.

7. Support Ukraine's participation in the global space program.

8. Urge the U.S. Congress to follow Ukraine's lead and ratify both agreements dealing with double taxation and investment promotion and protection.

BUSINESS INVESTMENT ISSUES

1. Encourage Ukraine to establish clear property and contract rights, in harmony with international norms, so that both foreign and domestic investors' rights can be protected and enforced.

2. Under the joint sponsorship of the Ukrainian Union of Entrepreneurs and the U.S. Chamber of Commerce, establish a Business Forum composed of CEOs and senior management to meet once a year to discuss business opportunities and obstacles in Ukraine and the United States.

3. Encourage Ukraine to establish an equitable and rational tax code which abjures retroactivity, double indemnity, discrimination, and punitive taxation levels.

4. Express clearly to the U.S. Congress and executive branch the AUAC's strong support for rule of law programs which could improve significantly Ukraine's business investment climate (e.g. development of commercial code, enforcement of decisions of Arbitration Courts), and identifies this area as a priority.

5. Encourage the Kyiv Political-Economic Working Group to provide the Western NIS Enterprise Fund (Ukraine) with specific investment/joint venture guidance and suggestions on small business projects.

6. Work through the Center for International Private Enterprise, an affiliate of the Chamber of Commerce of the United States, to conduct seminars on investment opportunities in different sectors of the Ukrainian economy.

CELEBRATING 20 YEARS OF THE CONNECTICUT LEGISLATIVE BLACK AND PUERTO RICAN CAUCUS

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mrs. KENNELLY. Mr. Speaker, I rise today to give recognition to an organization that has helped countless residents in my State for 20 years: the Connecticut Legislative Black and Puerto Rican Caucus.

The Caucus was formed in January 1976, under the leadership of its first chairman, Representative Clyde Billington, Jr., of Hartford. In subsequent years, this leadership was provided by distinguished legislators Maurice Mosley of Waterbury, Walter Brooks of New Haven, William Dyson of New Haven, Abraham Giles of Hartford, Eric Coleman of Bloomfield, Ernest Newton of Bridgeport and Wade Hyslop of New London.

The Caucus membership includes 13 African-American and Puerto Rican members—currently 10 Representatives and 3 Senators. These hard-working, dedicated members strive not only to find solutions to problems, but to promote the cultural diversity we are so fortunate to have in Connecticut.

Throughout its 20-year history, the Caucus has worked to improve the lives of African-Americans and Latino Americans. The Caucus promotes the growth of minority-owned business, and works to expand economic and educational opportunities in our communities. It seeks to advance the cooperation and effectiveness of legislatures in U.S. States, territories, possessions, and commonwealths, and to make them more accountable and accessible to all residents. It places as one of its highest priorities the fulfillment of goals of the African-American and Latino American communities.

Among other accomplishments, the Caucus was instrumental in persuading the State of Connecticut to divest from South Africa; in calling attention to the plight of Haitians; and in calling for the appointment of African-American Curtissa Coffield to the State Supreme Court.

My home State has reaped enormous benefits from the work of the Connecticut Legislative Black and Puerto Rican Caucus. Its current chairwoman, Annette Carter, heads a team of dedicated leaders who work hard to help all of us. As the Caucus continues its work and accomplishments into the next century, my State and the Nation will benefit. I thank the Caucus for its endeavors and applaud its mission.

TAX RELIEF AND THE RIGHT TO WORK FOR OLDER AMERICANS

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. FRELINGHUYSEN. Mr. Speaker, today I rise to commend the House of Representatives for passing H.R. 2684, the Senior Citizens' Right To Work Act of 1995, which ends the practice of punishing older Americans who want to work.

Earlier this year, I promised the 1 million working, older Americans financial relief from the punitive Social Security earnings limit which is wrongly imposed on them. H.R. 2684, fulfills my promise by increasing the earnings limit to $30,000 by the year 2002. Today, many people across the Nation want or need to work beyond the age of 64 because a fixed Social Security income alone cannot provide adequate financial resources.

This Nation has a tremendous amount of talent available in its older Americans. Younger people in the workplace gain a lot through the experience of these individuals who continue to work. Simply put, lifting the earnings limit is the right thing to do because it is good for all of us.

When fully phased in, the Senior Citizens' Right To Work Act will exempt about 50 percent of the people who currently have to comply with the earnings limit. These individuals have worked hard to pay into the Social Security trust fund. This legislation keeps our promise to lift the earnings limit for older people so they can continue to contribute to our Nation.

SUPPORTING THE INDEPENDENCE AND SOVEREIGNTY OF UKRAINE AND ITS POLITICAL AND ECONOMIC REFORMS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. GILMAN. Mr. Speaker, I am today introducing House Concurrent Resolution 120, expressing the support of the United States Congress for the independence and sovereignty of Ukraine and for political and economic reforms in that important country. In laying out a number of areas that both Ukraine and the United States should focus upon, House Concurrent Resolution 120 should serve as a contribution to the evolving relationship between our two countries. I am pleased that I am joined in sponsoring this resolution by my colleagues, Mr. GOODLING, Mr. SOLOMON, and Mr. HOKE.

The challenges Ukraine faces in ensuring its independence and in successfully implementing political and economic reforms should not be minimized. In the area of economic reforms, in particular, the Ukrainian people face many difficult struggles. The United States is providing vitally needed assistance intended to focus on those economic reforms that are key to Ukraine's economic transformation and, ultimately, to its continued independence. The international community has also begun to provide substantial assistance and loans to Ukraine in support of economic reforms there. As this resolution clearly points out, however, the ultimate responsibility for the success of those reforms lies with the President and Parliament of that country. It is, quite simply, a question of Ukraine's future independence. If Ukraine's leadership cannot overcome the political and economic legacy of the failed Soviet Union, that legacy will drag Ukraine's people backward. The burdens of that Soviet legacy are the greatest challenge to Ukraine's assumption of its proper place in Europe and in the trans-Atlantic community, and those burdens must be overcome.

Mr. Speaker, House Concurrent Resolution 120 has a number of very positive things to say about Ukraine. Ukraine must be commended for the success of its political reforms to date. Ukraine has yet to adopt a new constitution that, by clearly defining the separation of powers among the branches of government, would lay a strong foundation upon which to consolidate Ukrainian democracy. Despite that, Ukraine has managed to carry out—in a free and fair manner—its first Presidential and Parliamentary elections as an independent State. Ukraine was also the first of those States that arose from the collapse of the Soviet Union to carry out a peaceful, democratic transfer of executive power. It is the first of those States to place its Ministry of Defense under civilian control. Finally, in June of this year, Ukrainian President Leonid Kuchma and the Ukrainian Parliament agreed to an interim political arrangement, pending the adoption of a new constitution. That arrangement should allow the President to move forward with privatization of State-owned enterprises and other important reforms.

In closing, let me say that the future peace and prosperity of Ukraine also depends greatly on the behavior of its neighbors. The Russian Federation, in particular, should redouble its efforts to achieve a bilateral treaty with Ukraine that clearly accepts and respects Ukraine's independence. Russia should also move quickly to achieve a final and fair agreement with Ukraine on the disposition and basing of the Black Sea fleet. Ukraine has sought to work with Russia on various issues. Most important, Ukraine has agreed to become a nonnuclear State, relinquishing its Soviet-era nuclear weapons to Russia. It is appropriate for Russia to respond in a cooperative spirit by fairly dividing the fleet with Ukraine, paying appropriate compensation for the use of Ukrainian ports or facilities, and recognizing Ukrainian sovereignty. This would be no less than Russia itself would expect with regard to its sovereignty and territorial integrity.

Mr. Speaker, Ukraine is the second largest State in all of Europe, with the sixth largest population. House Concurrent Resolution 120 makes clear just how important Ukraine is to the peace, stability, and prosperity of Europe and therefore to the trans-Atlantic community of nations. America can and should play a vital role in helping Ukraine through these difficult times.

Mr. Speaker, I ask unanimous consent that the full text of the resolution be inserted in the RECORD at this point.

H. CON. RES. 120

Supporting the independence and sovereignty of Ukraine and the progress of its political and economic reforms.

Whereas August 24, 1995, marked the fourth anniversary of the independence of Ukraine;

Whereas the independent State of Ukraine is a member State of the United Nations and the United Nations has established in Ukraine an office to assist Ukraine in building relations with the international community and in coordinating international assistance for Ukraine;

Whereas the independent State of Ukraine is a member State of the Council of Europe, the Organization on Security and Cooperation in Europe, and the North Atlantic Cooperation Council of the North Atlantic Alliance, is a participant in the Partnership for Peace program of the North Atlantic Alliance, and has entered into a Partnership and Cooperation Agreement with the European Union and has been accepted for membership in the Central European Initiative in 1996;

Whereas the United States recognized Ukraine as an independent State on December 25, 1991, and established diplomatic relations with Ukraine on January 2, 1992;

Whereas Ukraine is a major European nation, having the second largest territory and sixth largest population of all the States of Europe;

Whereas Ukraine has an important geopolitical and economic role to play within Central and Eastern Europe and a strong, stable, and secure Ukraine serves the interests of peace and stability in all of Europe, which is also an important national security interest of the United States;

Whereas Ukraine conducted its first presidential and parliamentary elections as an independent State in 1994, carrying such elections out in a free and fair manner and moving further away from the former Communist model of one-party, centralized, totalitarian rule;

Whereas Ukraine's presidential elections of July 1994 resulted in the first peaceful transfer of executive power in any of the independent States of the former Soviet Union;

Whereas in June 1995, through peaceful cooperation and compromise, the President and Parliament of Ukraine reached a political accord meant to better define the balance of powers between the executive and legislative branches of government, pending the adoption of a new constitution for Ukraine;

Whereas Ukraine is the first of the independent States of the former Soviet Union to appoint a civilian to the office of Minister of Defense;

Whereas Ukraine is pursuing political and economic reforms intended to ensure its future strength, stability, and security and to ensure that it will assume its rightful place among the international community of democratic States and in European and trans-Atlantic institutions;

Whereas through the agreement by the Government of Ukraine to the establishment of a mission from the Organization on Security and Cooperation in Europe in the region of Crimea, Ukraine has shown its interest in avoiding the use of force in resolving ethnic and regional disputes within Ukraine;

Whereas Ukraine has taken very positive steps in supporting efforts to stem proliferation of nuclear weapons by ratifying the START I Treaty on nuclear disarmament and the Treaty on the Non-Proliferation of Nuclear Weapons, thereby relinquishing nuclear weapons it possessed after the dissolution of the former Union of Soviet Socialist Republics;

Whereas in December 1994, the Presidents of the United States and the Russian Federation and the Prime Minister of Great Britain signed a Memorandum on National Security Assurances for Ukraine as depository States under the Treaty on the Non-Proliferation of Nuclear Weapons;

Whereas the Secretary of Defense of the United States and the Minister of Defense of Ukraine signed a Memorandum of Understanding on cooperation in the field of defense and military relations on July 27, 1993;

Whereas Ukraine has sought to promote constructive cooperation with its neighbors through humanitarian assistance and through mediation of disputes;

Whereas Ukraine has provided Ukrainian troops as part of the international peacekeeping force meant to prevent the spread of conflict in the States of the former Yugoslavia; and

Whereas Ukraine has played a vital role in preventing the emergence of a coercive military bloc on the territory of the former Soviet Union by representing the interests of the smaller States that are members of the organization known as the Commonwealth of Independent States: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) Ukraine has made significant progress in political reform in its first 4 years of independence and that it is to be congratulated for the successful conduct of free and fair elections for the presidency and parliament;

(2) the territorial integrity of Ukraine in its existing borders is an important element of European peace and stability;

(3) the President and Parliament of Ukraine should continue their strong efforts to agree upon and submit to the Ukrainian people for their approval a new democratic constitution providing for a proper balance of power between the branches of government;

(4) the Government of Ukraine should continue its efforts to ensure the rights of all citizens of Ukraine regardless of their ethnic or religious background;

(5) the Government of Ukraine should continue and accelerate its efforts to transform its economy, abandoning the failed economic policies of the former communist regime and ensuring that programs meant to ensure the success of economic reform receive strong support at all levels of government;

(6) the Government of Ukraine should, in particular, proceed with the privatization of state-owned enterprises in a very expeditious manner;

(7) the Government of Ukraine should, in particular, place a high priority on the adoption of those laws necessary to ensure the continued growth of an economy based on market mechanisms, private enterprise, and the right to private property;

(8) the Government of Ukraine should continue its effort to arrive at an agreement with the "G–7" group of States whereby the nuclear reactors at Chernobyl, Ukraine, might be shut down in a safe and expeditious manner;

(9) the President of the United States should support continued United States assistance to Ukraine for its political and economic reforms, for the safe and secure dismantlement of its weapons of mass destruction, and for the increased safety of operation of its civilian nuclear reactors, and assistance for the establishment of rule of law, for criminal justice and law enforcement training, and for the promotion of trade and investment;

(10) the President of the United States should insist that the Government of the Russian Federation, in line with the assurances for the security of Ukraine made by the President of the Russian Federation in the January 1994 Trilateral Statement on Nuclear Disarmament in Ukraine, fully and finally recognize Ukraine's sovereignty and territorial integrity and refrain from any economic coercion of Ukraine;

(11) the Government of Ukraine should continue to act in defense of its sovereignty and that of the other independent states of the former Soviet Union by opposing the emergence of any collective military bloc on the territory of the former Soviet Union whose primary purpose would be the re-creation of that failed state or the reintegration into one political entity of those nations once held captive by it;

(12) the President of the United States should express the support of the United States for Ukraine's insistence that it be provided with appropriate rent or compensation for the use of its bases, ports or other facilities on its territory under appropriately negotiated and ratified agreements and treaties;

(13) the President of the United States should ensure that Ukraine's national security interests are fully considered in any revision of the Treaty on Conventional Forces in Europe that may be agreed to by the signatories to that agreement;

(14) the President of the United States should work to ensure that Ukraine's interests as an integral part of Central and Eastern Europe are fully considered in any review of European security arrangements and understandings;

(15) the President of the United States should support continued United States security assistance for Ukraine, including assistance for training of military officers, military exercises as part of the North Atlantic Alliance's Partnership for Peace program, and appropriate military equipment to assist Ukraine in maintaining its defensive capabilities as it reduces its military force levels;

(16) the President of the United States should ensure the United States Government's continued efforts to assist Ukraine in its accession to the World Trade Organization; and should ensure, in particular, that the potential for aerospace and space co-operation and commerce between the United States and Ukraine is fully and appropriately exploited; and

(17) as a leader of the democratic nations of the world, the United States should continue to support the people of Ukraine in their struggle to bring peace, prosperity, and democracy to Ukraine and to the other independent states of the former Soviet Union.

HAPPY BIRTHDAY TO MARIE ELIZABETH ZEMAN ENGBERG

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. STARK. Mr. Speaker, I rise today to congratulate Marie Elizabeth Zeman Engberg, who will celebrate her 100th birthday this Saturday, December 16, 1995. Ms. Engberg is a long-time resident of San Leandro in California's 13th Congressional District. I want to take this opportunity to congratulate Ms. Engberg on reaching this milestone, but also to recognize her for achieving something that may be even more distinguished. At this time, she has accumulated over 23,360 hours of volunteer work in the disabled American veteran medical system in California's bay area.

Ms. Engberg was born on December 16, 1895, in Pittsburgh, PA, to immigrant parents. She spent her early years in Kensington, Canada, and later moved to Crosby, ND, where she married a World War I soldier. She moved on to Lawrence, KS, and then to Tarkio, MO. Ms. Engberg made her living by working in the corn fields. While living in a tent, she volunteered to cook for the other field hands. She believes that this was the beginning of her volunteer spirit. She also worked the carnivals before she traveled to Alameda, CA, where she finally settled. She took a job at Bethlehem Shipyards in a machine shop and made her home in the projects, which, at that time, were at the west end of the island of Alameda. After the war ended, she worked in the insurance industry until she retired at age 65.

After her retirement, Ms. Engberg continued to volunteer at VA hospitals in Oakland and later at the Martinez facility. As late as 1990, at the age of 95, she attended a VAVS meeting in Martinez. She joined the DAV Auxiliary, chapter 7, in Oakland, in 1949, and has been an active member ever since. In 1954, she served as the chapter's commander. She has represented the chapter at national conventions all over the United States.

Ms. Engberg is also a member of Rebekah Lodge No. 19 and has two children. Her daughter is also an active volunteer and her son has served as California State Commander of the DAV and the AMVETS.

Mr. Speaker, I ask you and my colleagues to join me in saluting Ms. Engberg for her great spirit and to wish her a very happy 100th birthday.

LEGISLATION TO ALLOW HEALTH PROVIDERS TO PAY FEES FOR INITIAL CERTIFICATIONS

HON. BLANCHE LAMBERT LINCOLN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mrs. LINCOLN. Mr. Speaker, budget policies imposed by Congress have placed the American health care system in a catch-22. Hundreds of new specialized health treatment facilities stand idle today because of conflicting rules coming out of Washington.

I rise today to introduce commonsense legislation that will restore order to the havoc wreaked upon health care providers by Washington. Here is the problem:

No. 1, Republican budget policy encourages health care providers to reduce costs by establishing specialized facilities that segregate certain health treatments, such as rural health clinics and hospices, from the mainstream hospital population.

No. 2, Medicare regulations require initial certification of new health treatment facilities in order to receive Government reimbursement for eligible treatment.

No. 3, initial certifications of new health facilities are currently on hold in several States due to severe budget cuts imposed by the Republican-led Congress.

No. 4, Federal rules do not provide any other means to pay for initial certifications.

My legislation simply gives the States the authority to charge fees to health providers to cover the cost of inspections. If passed, an orderly system of initial inspections can resume and good, sensible health policy can go into effect.

I have heard from representatives of many of the 41 health facilities in Arkansas which are standing idle and empty while awaiting initial certifications. All have stated they are more than willing to pay the cost of certification if it will help expedite the opening of these much-needed facilities.

Robert Pear reported in the New York Times on November 25 that this particular problem was "a case study of what might be in store for GOP plans after spending reductions." In the past 5 years, the number of hospices has more than doubled and the number of rural health clinics has more than quadrupled. Health facilities such as these are trying to meet the growing health care needs of our citizens at less cost to the American public. If these facilities are forced to stay closed because of bogus regulations and budget cuts by Congress, then it is the people who need health care who ultimately lose out.

Mr. Speaker, let's not tie the hands of our health care providers who are trying to meet our requests. I urge my colleagues to support my commonsense solution to this problem and allow our health providers to care for America's patients.

TRIBUTE TO ROBERT P. ZERBOLIO

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. WELLER. Mr. Speaker, today, I'd like to honor the retirement of Robert P. Zerbolio, commander's representative of the Joliet Army Ammunition Plant.

Born in Coal City, IL, Mr. Zerbolio began a career in civil service on April 1, 1962, with the ammunition procurement on supply agency in Joliet, IL. As an engineering technician in the technical data division, Mr. Zerbolio was a dedicated and hard-working civil servant.

Because of his expertise and work ethic, Mr. Zerbolio became the supervisor of the foreign military sales branch and held that position until 1973 when he left civil service for the private sector.

In November 1983, Mr. Zerbolio rejoined civil service as an industrial specialist on the contracting officer representative staff at the Joliet Army Ammunition Plant. He served in that position until 1993 when he was promoted to his current job.

Mr. Zerbolio is the type of civil servant who is loyal, diligent, and has a proven record of achievement. He will be missed at the Joliet Army Ammunition Plant.

We wish him and his wife, Gloria, and their three daughters much happiness in retirement. And, we thank Mr. Zerbolio for his service to our country as a civil servant.

PEACEBUILDERS CAN SAVE OUR CHILDREN

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. BROWN of California. Mr. Speaker, I rise today to highlight an education and crime prevention program in my district, PeaceBuilders. This innovative program may help save our children and greatly reduce the number of young lives that enter the criminal justice system.

Crime and violence in our schools is a problem high on my list of concerns, for its negative effects touch us all. Having looked for solutions over the years, I feel encouraged by the model used in the PeaceBuilders Program.

In 1992, Dr. Dennis Embry, a licensed child psychologist, started the nationally known violence prevention program called PeaceBuilders. PeaceBuilders has been selected as one of three projects by the Centers for Disease Control as a promising national model for elementary school students. The program teaches children to praise people, give up put downs, seek wise adults, notice hurts, and right wrongs.

Over 150 schools in 17 States make up the network of PeaceBuilders. Schools participating in the program notice immediate changes in student behavior. The number of student suspensions, playground problems, and injuries decrease. What is the magic of this program? The formula includes partnerships between all elements of a child's environment that means active participation by parents, school personnel, and the community. The program targets children during the formative years, before habits of aggression are firmly fixed. It is based on the African concept that it takes an entire village to raise a child. Everyone must reinforce the concepts of the program and, therefore, everyone is affected by the program.

I recently visited Emmerton Elementary, a school in my district that has had a PeaceBuilders Program in operation there since March 1994. The program is making a difference. The Emmerton model is providing a means for everyone from custodian to school administrator, businessperson, parent, and student to have a role in creating a better world. I was inspired by what I saw at Emmerton.

Inland Agency, a nonprofit organization serving the inland area of southern California, is the first organization to introduce PeaceBuilders in California and has been successful in launching it since March 1994 in 87 educational sites throughout San Bernardino and Riverside counties. Inland Agency serves as the link between the schools, business, civic, and community organizations to help secure sponsorships and to provide local trainers and technical assistance. Numerous business and civic organizations including State Farm Insurance, TARGET, Rotary, and Kiwanis have undertaken volunteer projects and have provided financial sponsorship of the PeaceBuilders Program for elementary schools throughout the inland area.

In the inland empire over 31,020 students are enrolled in PeaceBuilder programs and are learning to be builders of peace. In 1996, Inland Agency projects an enrollment of 40,000 to 60,000 students. It is possible to create a better environment in our respective cities if we work together—families, schools, businesses, and law enforcement—to nurture the seeds of peace that PeaceBuilders has given us.

TRIBUTE TO COL. VLADIMIR SOBICHEVSKY

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. FARR. Mr. Speaker, I rise today to salute a great military leader, U.S. Army Col. Vladimir Sobichevsky. The colonel retires from the U.S. Army this month after serving for the last 3 years as the commandant of the Defense Language Institute located in my district.

A native of Russia, Sobichevsky fled the former Soviet Union with his mother in 1943. Settling in Germany, the two emigrated to the United States from a displaced persons camp in 1949. He enlisted in the U.S. Army just 7 years later, joining the first Special Forces group.

At the time, Sobichevsky said he was motivated to become a soldier because you could earn U.S. citizenship by serving in the Armed Forces for 5 years. He recently told a reporter:

> I was going to join the Marines. I kind of fell into the Special Forces. I was the dumbest kid you could've met, with virtually no

education, due probably to a poor start in life.

I was standing in a drugstore in Geary Street in San Francisco, reading a magazine, and I saw an article titled "The Apes of Rath," about Colonel Rath, who was putting together the first Special Forces group. I thought they had nice headgear, the green beret.

I joined the Army without any idea of what I was getting into. I began to realize it at the Airborne School at Fort Benning (Georgia).

And after nearly 40 years in uniform, there is little doubt that Sobichevsky made the right choice. Indeed, his career in the Army has been very distinguished. Completing three tours of duty in Germany, two tours in Korea, and one in Panama, Sobichevsky saw combat first in Laos as part of the White Star initiative and then in the Military Assistance Command Vietnam's Studies and Observation Group.

After earning both bachelor's and master's degrees in government from the University of San Francisco, Sobichevsky also graduated from the Army Command and General Staff College and the National War College.

After serving as operations director for the Special Operations Command, Pacific, Colonel Sobichevsky was transferred to the Defense Language Institute, which will mark its 50th anniversary next year as the premier military institution for foreign language instruction in support of national security requirements for all four military services.

During his 3-year tenure at DLI, the largest language training institution in the world, Sobichevsky is credited with incorporating the school into the network of Monterey Bay educational and language facilities. DLI now works cooperatively with other Monterey Bay institutions of higher learning dedicated to foreign language training, including the Monterey Institute of International Studies and the Naval Postgraduate School. The consortium of institutions that provide graduate-level training in foreign language in the Monterey Bay area have a strong leader in Colonel Sobichevsky and DLI.

More importantly, the commandant has improved the training at DLI. "Our goal is to have students achieve a Level II proficiency in listening comprehension, reading and speaking," Sobichevsky said. "That's not a native speaker, but that's pretty darned good."

According to Sobichevsky, while just 12 percent of DLI graduates had level II proficiency in 1985, 64 percent have it this year.

"I don't want to take credit," Sobichevsky modestly added. "We built on the building blocks of previous commandants. The credit goes to the 650 faculty, seven school deans, 80 military language instructors. They deserve the credit."

As each student who has received language training at DLI will attest, Sobichevsky is to be commended for enhancing the language preparedness of its students. Colonel Sobichevsky is a soldier's soldier and deserves the Nation's heartfelt appreciation for his military service.

COMMENDING SAMUETTA H. DREW, PRINCIPAL OF ANNA STUART DUPUY ELEMENTARY SCHOOL IN BIRMINGHAM, AL

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. HILLIARD. Mr. Speaker, I insert the following for the RECORD:

Whereas, Dupuy Elementary School under the guidance and leadership of Principal Samuetta H. Drew implemented the ABC's of Etiquette Training Program which has been recognized by CBS Good Morning America Show and CNN's Parenting Today; and

Whereas, Dupuy Elementary School has been instrumental in the development of programs such as the Builders Club, Beta Club, Safety Patrol, Student Council, Scouting and the DARE Program, such programs have help enhanced the organizational skills of our future leaders as well as strenghted their self esteem; and

Whereas, Dupuy Elementary School is involved in positive activities and desiring those things pleasing to God and that the Dupuy Elementary represents the type of educational environment deserving of praise and recognition by all in the Seventh Congressional District: Now therefore, be it

Resolved, That I hereby most highly commend Mrs. Samuetta H. Drew all the staff of Anna Stuart Dupuy Elementary School for the Implementation of the ABC's of Etiquette Program, for taking the extra initiative to develop the social and organizational skills of our youngsters and just for a job well done.

TRIBUTE TO DR. LEWIS J. MINOR

HON. DICK CHRYSLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. CHRYSLER. Mr. Speaker, I rise today to share with my colleagues the unique contributions of a 20th century icon in the American food service field—Dr. Lewis J. Minor.

As an inventor, entrepreneur, educator, and generous benefactor, Dr. Minor's career has been one of honor and pride to an industry that is fundamental to all Americans, yet this story is largely unknown.

Like Thomas Edison and Alexander Graham Bell, Lewis J. Minor was a visionary who brought his solution to a basic human need to market with startling success.

A food scientist by training, Dr. Minor worked with his wife Ruth in their family kitchen to develop a variety of food bases that condensed the savory essence of poultry, vegetables, beef, pork, and seafood for use by professional chefs. Using their own children as blind-folded tasters, the Minors discovered the secret techniques that would save chefs hours of tedious labor in their kitchens, and allow all of America to enjoy an excellent cuisine that previously had been available only to the wealth elite.

Now a staple in virtually every professional kitchen, L. J. Minor food bases were launched in 1951 when Dr. Minor left his secure job as a respected corporate technical director at age 37 and set up shop in a single room with $7,500, mostly borrowed, a loaned Hobart mixer, and his dreams. After nearly a decade of struggle—moving first into a former horse barn and later to a converted car wash—the Minor food bases caught on, largely through word-of-mouth among experienced chefs.

From the outset Dr. Minor stressed quality and customer satisfaction above all else. Upon launching the L. J. Minor Corporation he stated, "The tenets upon which I shall build my business will be honesty, integrity, accuracy, kindness, punctuality, courtesy, friendliness, and cleanliness. I will endeavor always to be fair and helpful, not only to employees, my management team and stockholders, but also to customers, Government agencies, and competitors."

Today, the L. J. Minor Corporation is housed in an expansive plant in Cleveland and its products are sold and highly respected around the world. As an Horatio Alger story about a dedicated inventor and industrialist who made good, the tale of Lewis J. Minor would be worth telling. But that's only part of this extraordinary man's saga.

In 1961, with wealth and accolades to last a lifetime, Dr. Minor made a pivotal decision—he went back to school and in a sense started over. In 1964, he received his Ph.D. from Michigan State University's food service program with the sole intent of sharing with the upcoming generation of hospitality professionals his vast knowledge of food science and his personal vision of the importance of an unwavering commitment to excellence.

Balancing his duties as president of a major food manufacturer with the growing legion of devoted students he taught at Michigan State, Dr. Minor has left an indelible imprint on his industry that would be difficult to overstate.

Although he sold off his interest in the L.J. Minor Corporation some years back, Dr. Minor remains a dominant force in American food service education, and one of its most generous benefactors. He has written or coauthored 12 books and numerous articles in the field, and has donated millions of dollars to help students in the programs at Michigan State, Cornell, the Culinary Institute of America, Purdue, Johnson and Wales, the University of Nevada-Las Vegas, and through the continuing education programs of the American Culinary Federation.

Much is made these days of importance of family values, and Dr. Minor embodies this term at its finest. Beyond his devotion to his wife Ruth over the 57 years of their marriage and to their 8 grown children and their grandchildren, Dr. Minor has extended his family through the years to embrace countless students who came to consider the Minor's house their second home. It is interesting to note that many of Dr. Minor's pupils have gone on to become distinguished food service industry and educational leaders in their own right.

A new book entitle Always in Good Taste: The L.J. Minor Story, has been written with the assistance of John Knight, captures the philosophies and accomplishments of this distinguished American for those who would like to learn about a successful man who is not above extending a helpful hand to anyone who will take it. His example should be remembered always.

HONORING DAN W. ECKSTROM

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 18, 1995

Mr. PASTOR. Mr. Speaker, I rise today to pay tribute to a leader of the Tucson community and a dear friend of many years. In this holiday season, I am especially grateful for the services that Dan W. Eckstrom provides to the Second Congressional District of Arizona as an outstanding elected official and a dedicated public servant. Dan has long been an activist for children's programs and for senior citizen programs in Pima County, AZ, but it is during this time of year that his caring for these two groups is especially evident. On December 22, 1995, Dan will host his 28th annual Christmas party for the needy children of South Tucson and the Pasqua Yaqui tribe. At this event, more than 2,000 children will receive gifts and toys; for many of them, these will be the only gifts they will receive this holiday season. In working all year for this event, Dan organizes the gifts, food, and volunteers and is solely responsible for the events' tremendous success. In addition, Dan organizes, packs, and personally distributes 400 fruit baskets to senior citizens.

Dan's work for the community began at the age of 9 when he walked various precincts for candidates who pledged to help the disadvantaged residents of south Tucson. At age 24, Dan was elected to the South Tucson city Council and 2 years later, he was elected mayor of South Tucson. He held the distinction for many years of being the youngest mayor ever elected in the State of Arizona. He served his constituents well and continued as mayor for 20 years.

In 1988, he expanded his services to all of Pima County, becoming a member of the Pima County Board of supervisors. He continues to serve in that capacity today.

In his capacity as an elected official and as a private citizen, Dan has always been the voice of those in need, and he has tirelessly worked to extend to all members of our society the opportunities to succeed. To this end, Dan has been a strong advocate of small business and the free enterprise system. He has also supported and endorsed worker protection and unions.

Dan has served on many boards and commissions with distinction. His awards and community recognitions span 41 years and are from almost every group that works or serves the south side of Tucson.

Dan W. Eckstrom is a citizen of merit for his community, his State, and his country. I applaud his energy, and I ask my colleagues to join me in recognizing one of our most devoted and admirable citizens, Mr. Dan W. Eckstrom.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, December 19, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 20

9:30 a.m.

Energy and Natural Resources

To hold hearings on S. 594, to provide for the administration of certain Presidio properties at minimal cost to the federal taxpayer.

SD-366

10:00 a.m.

Judiciary

Business meeting, to consider pending calendar business.

SD-226

DECEMBER 21

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

10:00 a.m.

Judiciary

Business meeting, to consider pending committee business.

SD-226

SENATE—*Tuesday, December 19, 1995*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Here is a promise to give us hope today: "If my people, who are called by my name, will humble themselves, and pray and seek my face * * * then I will hear from heaven, and will forgive their sin and heal their land."—II Chronicles 7:14.

Thank You, Lord, for answering our prayers for a meeting between the President, the majority leader, and the Speaker of the House to deal with the issues of balancing the budget. Now we pray reverently for these men as they meet today. Lord, we need Your healing. Fill these men with Your spirit. Grant them the humility to be open to Your guidance for a solution. Invade their minds with an acute awareness of their accountability to You to break the present deadlock, move toward creative compromises, and achieve an agreement. We claim Jesus' diagnosis and prognosis for seemingly impossible impasses like this: "With man it is impossible, but with God all things are possible."—Luke 18:27. We really believe that. We cast aside our pride, and throw our negative cautious doubt to the wind. Today is a day to expect great things from You, and the greatness You will inspire in our leaders. Thank You that it shall be so. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Indiana is recognized.

SCHEDULE

Mr. COATS. Mr. President, on behalf of the leader, let me announce that we will immediately begin consideration of the conference report to accompany the Department of Defense authorization bill, and that under the unanimous-consent agreement reached last night, if all time is used, a vote will occur on the conference report at approximately 5:25 p.m.

The Senate will recess today between the hours of 12:30 p.m. and 2:15 p.m. for weekly policy conferences, and a cloture vote is still possible today on the motion to proceed to the Labor-HHS appropriations bill, unless an agreement can be reached on that bill today.

Also, if a continuing resolution would become available from the House, we will take action on that today.

VITIATION OF ACTION—S. 1228

Mr. COATS. Mr. President, I ask unanimous consent that the action taken on Calendar No. 280, S. 1228, be vitiated and the bill be placed back on the calendar.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

Mr. COATS. Mr. President, this bill is now back on the calendar but it is still hoped this important matter can be cleared for action, soon.

Mr. President I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order the leadership time is reserved.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order the Senate will now resume consideration of the conference report accompanying H.R. 1530, on which there shall be 3 hours debate, equally divided.

The assistant legislative clerk read as follows:

> A conference report to accompany H.R. 1530, an act to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1996, and for other purposes.

The Senate resumed consideration of the conference report.

Mr. COATS. Mr. President, I know there are speakers who will be here this morning, but at the moment let me suggest the absence of a quorum; the time will be equally divided under the previous agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, what is the current order of the Senate?

The PRESIDING OFFICER. The pending business is the conference report on H.R. 1530, the Defense authorization.

Mr. NUNN. Mr. President, as we debate the conference report on the National Defense Authorization Act for fiscal year 1996, I again want to express my admiration for the hard work, determination, and commitment of Senator THURMOND, the chairman of the committee. Regardless of our individual and differing views on the specifics of this conference report, I believe everyone knows that Senator THURMOND worked with diligence and dedication to reach an agreement with the House.

I also want to express my appreciation for the hard work of the majority staff director, Dick Reynard; deputy staff director, George Lauffer, who is here on the floor; general counsel, Don Deline; and all the majority staff. They put in many late nights and 7-day weeks over the course of this conference, which has provided them with far too little time to spend with their own families.

The same applies to Arnold Punaro, Andy Effron, and many others on my staff who have worked with equal diligence and dedication.

This bill was in conference for over 3 months. The chairman, Senator THURMOND, has shown great patience and endurance through long and difficult negotiations with the House. Out of respect for Senator THURMOND, particularly in his first year as chairman—although he has been on the committee for many years—I signed the conference report, and I voted for the motion to proceed, thereby providing the Senate with the opportunity to consider this report.

I do not support the legislation, for reasons I will explain. I feel it is essential that the Senate at least make a determination and vote on this conference report.

The conference report contains important legislative authorities, which I strongly support. I want to point out the important military pay and allowances provisions, including a 2.4-percent pay raise for the troops and a 5.2-percent increase in the basic allowance for quarters. Without this bill, the pay raise under permanent law will be 2 percent, or 0.4 percent less. The basic allowance for quarters increase would be 2 percent, instead of the current 5.2 percent, if this bill passes.

If we do not have this bill enacted into law, I intend to join others in doing everything possible to see that this key legislation for pay raises and for basic allowance for quarters be inserted in another bill before we leave this session.

Second, approval of Secretary Perry's family and troop housing initiative, which would provide new authorities—including shared public and private sector funding—to finance needed

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

construction and improvements in military housing.

Third, detailed acquisition reform legislation that complements last year's landmark Federal Acquisition Streamlining Act. Key provisions would:

Use simplified procedures to streamline the process of procuring commercial products and services while preserving the requirement for full and open competition.

Reduce the barriers that inhibit acquisition of commercial products by eliminating the requirement for certified cost and pricing data for commercial products.

Streamline the bid protest process by eliminating the separate bid protest authority of the General Services Board of Contract Appeals and providing for all bid protests to be determined by the General Accounting Office.

Consolidate and clarify the standards of conduct for Federal officials in the acquisition process to ensure consistent treatment of such personnel on a governmentwide basis.

Fourth, establishment of a defense modernization account. This provision will encourage the Department of Defense and give them a strong incentive to achieve savings in procurement, research and development, and operations and maintenance by allowing the Department to place the savings in a new account, the defense modernization account. Funds in the account would be available for the services to spend on the most pressing long-term needs of our military—that is modernization of our military forces and equipment and procurement. The Department could use amounts in the account to address funding shortfalls in the modernization of vital weapons systems.

Mr. President, I would like to see these provisions enacted into law, but I cannot support the conference report in its present form. This will be the first time, in my 23 years in the Senate, that I will vote against a Defense authorization conference report. I have supported every previous Defense authorization conference report during my Senate career, including 6 years in which I served in the minority under two Republican chairmen.

In the past, when we had a Democratic Congress and a Republican President, we routinely faced a House bill that was unacceptable and a Senate bill that was acceptable to the Republican President. In those years most of the compromising had to come from the House if we were going to get a bill signed into law. We knew that when we saw the shape of the two bills coming out of the House and Senate.

We faced the same situation in reverse this year with a Republican Congress in the House and Senate and with a Democratic President. This year, we have a generally acceptable Senate bill and a generally unacceptable House bill in terms of Presidential signature. This is just the opposite of what we have had year after year with Republican Presidents and Democratic Congresses. Unfortunately, this year, the House was unwilling to make the compromises necessary to get a bill that is likely to be approved by the Clinton administration. Instead of compromising more toward the Senate bill, which could have received Clinton administration support, most important compromises strongly titled toward the House position.

The conference report before us contains fundamental flaws that I believe are contrary to the best interests of the taxpayers and sound management of our national defense activities. On balance, I have concluded that this bill's bad policy outweighs its good policies in its current form.

Mr. President, I will discuss again, as I did last week, the missile defense part of this conference report at a later point in my presentation. I would like to turn to other elements of the conference that give me great concern.

REPEAL OF THE REQUIREMENT FOR AN INDEPENDENT DIRECTOR OF OPERATIONAL TEST AND EVALUATION

When the House drafted its version of this year's bill, they developed a DOD reorganization proposal which included a provision abolishing the position of the Director of Operational Test and Evaluation. That position was created in 1983 at the initiative of Senators ROTH, GRASSLEY, and PRYOR, to ensure that testing of major weapons systems would be evaluated by an office independent of the responsibility for program and contract management.

During the Senate debate on this bill, we adopted without dissent a bipartisan amendment—sponsored by Senators ROTH and PRYOR—reaffirming congressional support for the Office of the Director of Test and Evaluation [OTE]. That was the Senate position.

In that amendment, we noted that the OTE position was "created by Congress to provide an independent validation and verification on the suitability and effectiveness of new weapons, and to ensure that the * * * military departments acquire weapons that are proven in a operational environment before they are produced and used in combat."

In summary, Mr. President, Operational Test and Evaluation has as its main purpose objective—evaluation of weapons systems before they are purchased. There has been a whole history to indicate the need for this kind of office because program managers inevitably get wedded to programs. If they are responsible not only to develop the programs, present them, sell them, and market them on Capitol Hill but also to test them, there is an inherent inability for the kind of objectivity that is needed in making sure the weapons work before we buy them.

The conference agreement is contrary to the Senate position—in fact, just the opposite of the Senate provision—and would repeal the legislation requiring that there be an independent Director of Operational Test and Evaluation.

Mr. President, it is important to differentiate the provisions affecting the Director of Operational Test and Evaluation from other aspects of the DOD reorganization provisions proposed by the House and adopted in conference which reduce the number of positions in DOD requiring Presidential appointment and Senate confirmation.

With the exception of the language affecting the Director of Operational Test and Evaluation and the language affecting the Assistant Secretary of Defense for Special Operations—which I shall address later in my remarks—I have no objection to some of the other DOD reorganization provisions proposed in the conference agreement which largely came from the House. The unobjectionable elements of the conference agreement merely repeal the statutory designation of certain positions and the requirement for Senate confirmation.

The Operational Test and Evaluation proposal goes further. It would repeal section 139 of title 10, which contains a number of key protections for the Director of OTE. Under current law:

The Director can only be removed by the President, and the President must report his reasons to Congress.

The Director is guaranteed statutory independence from the Under Secretary for Acquisition.

The Director may communicate directly with the Secretary without obtaining the concurrence or approval of any other official.

The Director has specific authority over all test and evaluation activities of DOD.

Mr. President, those are key provisions. That is the only way you can have an objective official in terms of ensuring that he is not subject to the normal bureaucratic pressures of the Pentagon.

Under the conference agreement, effective January 31, 1997, there would no longer be an independent Director of Operational Test and Evaluation. The Secretary of Defense would be free to subordinate the operational test and evaluation function under any Under or Assistant Secretary—including those with direct responsibility for the management of major weapons systems programs—or even relegate it to the military departments.

Congress specifically created this position in light of major acquisition problems of the late seventies and early eighties so that realistic and independent operational test and evaluation functions would be conducted without direct interference by acquisition officials. Congress wanted to make sure that those who were being tested were not also grading their own tests. DOD has never fully embraced this position and its independence. Under the House approach, now incorporated in this conference, the key concept of "Fly before you buy" will be significantly weakened because this office is in effect terminated.

This is an ill-considered proposal with no foundation or justification. Congress should not be put in the position of having to refight and reinstate this legislation next year. This is an example of "Ready, fire, aim" that I think is destructive to the overall furtherance of our national security. We should not support legislation that cripples this vital organization.

REPEAL OF THE STATUTORY REQUIREMENT FOR THE ASSISTANT SECRETARY FOR SPECIAL OPERATIONS AND LOW-INTENSITY CONFLICT

There is another aspect of the House's DOD reorganization language which was adopted in conference to which I have similar objections. My concerns relate to the provision that would abolish the requirement to designate one of the Assistant Secretaries of Defense to be responsible for special operations and low-intensity conflict.

Mr. President, in 1986, Congress created the statutory position of Assistant Secretary, Special Operations and low-Intensity Conflict as part of comprehensive legislation concerning the organization and management of special operations forces.

The 1986 legislation also established a unified combatant command for special operations.

The CINC was given unique authorities—possessed by no other CINC—for administration, acquisition, and budgeting—authorities that are more akin to the powers of a civilian Service Secretary than a military CINC.

We specified in law that there be an Assistant Secretary of Defense for Special Operations in order to ensure adequate civilian control over the CINC.

The statute specifically makes the Assistant Secretary responsible for "the overall supervision (including oversight of policy and resources) of special operations * * * and low-intensity conflict activities of the Department of Defense."

Senator COHEN, a Republican from Maine, a member of our committee and leader for many years, is an expert on this subject of special operations. He and I drafted this legislation which was based on the determination that the subject of special operations was receiving inadequate attention by the Office of Secretary of Defense and the military departments.

Mr. President, this is one of the least expensive parts of our overall military forces, but the one that is most likely to be used, whether it is on the cutting edge of a major operation. The special operations forces are the best trained military forces we have. They are required to operate with great secrecy and great care, and they need civilian supervision. This conference report eliminates that civilian supervision as we had envisioned.

The conference report would repeal this requirement to have an Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict, effective January 31, 1997. The Office of the Assistant Secretary has provided valuable oversight and supervision of an activity that still receives to little attention within the Pentagon. The circumstances that required creation of the position are largely unchanged. The Department, again, has not fully embraced the special operations reforms and this repeal will energize the enemies of special operations.

When Congress created this position, we were not simply trying to give visibility to an Assistant Secretary. There are significant substantive differences between the Assistant Secretary of Defense for Special Operations and each of the other Assistant Secretaries. The position of Assistant Secretary for Special Operations is tied directly to a unique combatant command that exercises management powers similar to those of a civilian Service Secretary. The conference report would repeal that statute, effective January 31, 1997, and remove that direct civilian oversight of the CINC. This, again, was done without foundation and without substantive consideration.

REQUIREMENT TO SELL THE NAVAL PETROLEUM RESERVE WITHIN 1 YEAR

Mr. President, earlier this year, the Budget Committee provided reconciliation instructions to the Armed Services Committee to achieve savings through sale of the Naval Petroleum Reserve at Elk Hills within 1 year. That was because they wanted to raise money for the deficit. Faced with that requirement, the committee developed legislation with a number of safeguards, including provisions that would enable the Secretary of Energy to suspend the sale, and to require a subsequent vote by the Congress upon a determination that the sale was not proceeding in the taxpayer's best interest.

The Congressional Budget Office, however, refused to score the provision in the DOD authorization bill as achieving any savings because CBO believed there was a significant chance that the sale would be suspended and that subsequent legislation would be required. As a result, when the Armed Services Committee submitted its reconciliation legislation to the Budget Committee, the Armed Services Committee, on an 11-to-10 vote, recommended to the Budget Committee that the reconciliation bill include a different version of the provision without a number of key safeguards. Those of us who opposed this recommendation expressed great concern about the potential for a huge loss to the taxpayers by a rushed sale without sufficient safeguards.

Subsequently, CBO estimated that the up-front proceeds from the sale would be $1.5 billion, but the net revenue foregone would be $2.5 billion over the next 7 years—leading to a $1 billion loss. As a result, the requirement to sell the naval petroleum reserve was dropped from the Senate reconciliation legislation and was not included in the reconciliation conference report.

We are no longer under a mandate from the Budget Committees on the reconciliation process to raise this $1.5 billion. They wisely dropped the provision when the Congressional Budget Office said it could cost us money. It could cost us $1 billion. What do we do? The conference report before us today continues to mandate the sale with a year with the option for the Secretary to suspend the sale. It is now out of step with reconciliation and out of step with common sense.

Mr. President, because of the budget pressure, there will be tremendous incentive for this administration or a subsequent administration at the end of next year, if we have a change of administrations, to sell Elk Hills quickly to meet the deadlines of the overall budget and fiscal picture. A 1-year timeframe, I believe, is unwise. Right now, there is one company with the potential inside track. Chevron is a part owner and manager of Elk Hills. There is concern, I think legitimate concern, that a requirement to sell Elk Hills within 1 year will give that company a tremendous advantage, an advantage that could be reduced by giving other potential bidders sufficient time and information to develop competitive bids.

Mr. President, since the leadership of the Budget Committee has already decided to drop the sale of Elk Hills from the reconciliation bill there is absolutely no need to present the Secretary of Energy with the choice of either making the sale or losing the authority to sell the NPR. Contrary to the assertions we have heard on the floor, the administration has not recommended a forced sale within 1 year. The President's budget for fiscal year 1996 clearly states, on page 148 that "The administration proposes to privatize the Elk Hills, CA, oil and gas fields in 1997 * * *." Mr. President, that date is 1997, not 1996. Likewise, the administration's balanced budget proposal, submitted on December 7, 1995, provides for disposition of Elk Hills "not later than September 30, 1997." Again, an extra year so we ensure that we taxpayers get their money's worth out of this sale.

Mr. President, because the current contractor and co-owner, Chevron, has a potential advantage in terms of the information needed to submit a realistic bid, it will not be easy to establish a competitive bidding and evaluation process that will get the best deal for the taxpayers. There are serious questions about whether the 1-year period is sufficient to ensure that the taxpayers get the maximum value through knowledgeable competitive bidding. This provision is a loser—potentially a $1 billion loser.

I find it strange that the same Congressional Budget Office, which our Republican majority is insisting we use for its numbers for the budget deal we are talking about, basically says we are possibly or even probably going to lose about $1.5 billion on this, but we have it in the conference report anyway. I think it is a mistake.

BUY AMERICAN PROVISIONS

Mr. President, one of the strongest elements of our export economy is the sale of overseas military equipment. This is an area in which the value of our sales overseas far exceeds the amount we buy from other countries. This is one of the areas where we have a favorable trade balance. The overall trade balance is unfavorable, but the trade balance in military equipment is favorable. The conference report before us would expand and impose Buy American restrictions that are not justified by industrial based or arms control considerations. This says that you have to buy these items in America, even if the sales from our allies abroad or from others are substantially cheaper.

This means that when foreign companies cannot bid on American contracts, foreign countries are likely to retaliate by imposing their own restrictions on American products, thereby damaging the export sector of the United States that currently has a very strong trade surplus and advantage.

Section 806 of the conference report contains a buy American provision for components of naval vessels which is, derived from the House passed bill. The Senate bill, under Senator THURMOND's leadership, did not have these buy American provisions. The conference report comes back, and it is absolutely loaded with them.

Mr. President, there is ample existing authority for DOD to exclude foreign companies from competing on a contract when there is a valid industrial base requirement for domestic producers. That is already the law. The Department of Defense has not requested any additional legislative authority to impose specific buy American requirements on the components listed in the conference report.

There has been no showing of a critical industrial base need that would justify singling out these vessel components, among the hundreds of thousands of items procured by the Department of Defense, as warranting protection from competition.

The existing buy-American list in title X covers only five items. This is after years and years of struggling. Every year we have had buy-American provisions in the House bill under a Democratic House. This year, nothing has changed under a Republican House as they loaded up the report with buy-American provisions. Every year we have held firm. We have said, "No, it's bad government, it's bad for the taxpayers, and it's a bad deal for the military."

We are going to spend more money, get less national security, and hurt our exporters. This is particularly true with the aerospace industry, because they are indeed the best in the world.

We have five items in title X: buses; a chemical weapons antidote; air circuit breakers for vessels; specified valves and machine tools; and ball bearings and roller bearings, which may be affected.

I am not here to debate those items. They are in there. They were put in the report at one time or another.

The conference agreement, without any justification that I can see and in contradiction to bipartisan opposition to similar positions in past conferences, would add the following items:

First, "welded shipboard anchor and mooring chain with a diameter of 4 inches or less."

Second, "vessel propellers with a diameter of 6 feet or more."

You cannot buy those anywhere except in America and, in some cases, there is only one contractor in America. Only one. What you are doing, in some cases—not all—is locking in sole-source procurement by law and eliminating competition.

Third, the following vessel components having unique marine applications: gyrocompasses; electronic navigation chart systems; steering controls; pumps; propulsion and machinery control systems; and totally enclosed life boats.

All of those are going to have no competition from abroad.

In addition, the proposal would not only extend the expiring buy-American requirements for ball bearings and roller bearings, but would expand it to cover all purchases, even those below the $100,000 simplified acquisition threshold. That directly undermines one of the key goals of last year's Federal Acquisition Streamlining Act: removal of special interest protection and paperwork for all purchases of $100,000 or less.

Mr. President, I find it a supreme irony that a Republican majority in the House and Senate, which committed at least rhetorically to free trade and market competition, would inject the most sweeping buy-American provisions we have ever placed in a defense authorization bill since I have been in the Senate. This will damage the U.S. defense industry, it will damage our trade position, and it will damage the American taxpayers.

Sure, it will benefit a few companies. They will do well because they will not have any competition. Some people in the House, I suppose, will be able to go back and say in their districts, "Look what we've done for you. You're going to get these Government contracts." Our responsibility is beyond one company in one district. It is the overall good of America and our national security. In this case, this conference report flunks that test.

I recognize the Secretary currently has authority to waive buy American requirements under a number of conditions, such as when there would be unreasonable costs or delays or there would be an adverse effect on national security. The conference agreement would slightly expand that authority by allowing the Secretary to use it to avoid retaliatory trade actions by a foreign nation. However, the waiver authority is very difficult for the Secretary of Defense to exercise.

I think it is irresponsible to place a Secretary in the position of mediating between political pressures to impose restrictions on the one hand and a combination of foreign and domestic pressures to promote free trade on the other hand. We are the board of directors. We should not put the executive in charge of the Department of Defense in that position. The waiver authority puts the Secretary in an extremely difficult position, because there is substantial pressure not to use the waiver from the very same sources that insisted on putting the provisions in law in the first place.

Moreover, the retaliatory action from a foreign nation may well come after a buy-American provision is imposed rather than beforehand, and the Secretary's waiver authority, in terms of retaliatory trade, would be useless in this case. That is the way it would normally happen. The waiver authority has to be anticipatory.

For example, we may impose a buy-American provision on a vessel component only to find later that a foreign government has imposed a domestic-source requirement that hurts our aircraft exports. In the absence of a compelling case to impose the costs and burdens of restricting competition, we should avoid adding new items to the buy-American restrictions list.

A more onerous buy-American provision is set forth in the bill's authority to use sealift funds to purchase vessels for the National Defense Reserve Fleet. Unlike the buy-American provision that applies to components which I previously discussed, the position governing National Defense Reserve Fleets has no waiver authority. As a result, DOD will be precluded, under this conference report, from purchasing foreign vessels for the five additional roll-on/roll-off ships called for in the mobility requirement study, despite the fact that there would be major savings to the U.S. taxpayers.

Mr. President, the Maritime Administration has been purchasing foreign-built ships and upgrading them in U.S. shipyards. It is not like we are not getting a good portion of the work. We are.

The cost to purchase and upgrade this type of ship is about $30 million each. This means we could obtain the five additional ships for about $150 million. Building new U.S. ships will cost $200 million to $250 million each, for a total cost of $1 billion to $1.5 billion for five ships. I think the Senate ought to recognize this is basically taking taxpayers' money and simply giving it to certain defense industries in this country. If you want to do that, that is fine, but everybody ought to acknowledge that is what is happening. That means the taxpayers could be paying an additional $1 billion or more without any increase in Navy capability. This provision is, simply put, a sweetheart deal for certain domestic shipbuilders.

Alternatively, the cost could be so high that the Navy may forego purchasing enough ships to meet the mobility requirements. Either we are going to cost the taxpayers about $1 billion here or we are going to buy less ships and not have the mobility requirements for our own military forces. That is bad for the taxpayers and bad for our national defense.

(Mr. FRIST assumed the chair.)

EARMARKING

Mr. NUNN. Mr. President, the next area I am concerned about relates to earmarking. I have been one of the leaders, and the Senator from Arizona, Senator MCCAIN, has also been a real leader, in trying to prevent earmarking. Usually it has been in the appropriations bill. Time after time after time, we have come to the floor and opposed these items in appropriations bills. One time, I even voted against the entire appropriations bill, as the Senator from West Virginia may recall, because it was full of earmarks.

We in the authorization committee have not been perfect, but we have strived not to have earmarks in these bills. That has been a long practice of our Armed Services Committee. We provide appropriate guidance under development and procurement of major weapons systems and leave to the executive branch the process of awarding contracts. We do not get into micromanagement. We try not to micro manage. This bill is crammed full of micromanage ment, and I find this supremely ironic, having seen Secretary Cheney, Secretary Carlucci, and Secretary Weinberger, those Secretaries under Republican administrations, complain over and over again about congressional micromanagement of the Defense Department.

This bill goes further in micromanagement than any bill I have seen. We have done this to ensure, in terms of our practices, that the Government achieves the best price and quality based upon bids and proposals reviewed under merit-based criteria. We have endeavored to avoid legislation and conference report language which earmarks specific contracts to specific contractors.

We have avoided earmarking because there is too great a danger that awards under such a system will be based on political and parochial considerations rather than the best interest of national defense and the taxpayers.

I am very concerned about the shipbuilding provisions of the conference report which could lead to substantial unnecessary expenditure for the procurement of naval vessels. The conference report has translated, I think, an innovative Senate concept, which makes sense under very unique circumstances. The concept would provide more ships within the same cost projections that was developed by Senators LOTT, COHEN, and others—into something that was not what they envisioned when they started; that is, a shipbuilding grab bag with something for everyone.

Section 1013 of the bill has the effect of directing the procurement of two additional large, medium-speed roll-on/roll-off ships, known as LMSR vessels, at specific shipyards. Likewise, section 135 has the effect of directing procurement of six destroyers to specific shipyards. In the absence of a clear industrial base requirement—and I have seen no such showing—these sole-source-directed procurement situations undermine the cost-saving potential of competition. Again, I regret to say, these are sweetheart deals for certain shipyards.

Mr. President, at a time when we are striving to get the taxpayers' fiscal budget under control and the national budget under control, I find it very, very paradoxical that we are setting up this competition with earmarks with sole-source-directed procurement going to certain shipyards and making certain these companies are happy at the expense of both taxpayers and national security.

Mr. President, I am also concerned that section 1016 of the bill has the effect of earmarking a ship maintenance contract for a specific shipyard. Once we start down this route, other shipyards, as well as repair and maintenance contractors for aircraft and vehicles, will certainly want their share of these directed, noncompetitive contracts. The Competition in Contracting Act is designed to save money through effective competition. From time to time, there are exceptions which can be justified on the merits, in terms of industrial base considerations. Those decisions should be made on the basis of sound analysis and thorough consideration of executive branch views, not on the basis of a conference with legislated earmarks. This earmark is not meritorious and, again, I can only describe it as a sweetheart deal for a certain shipyard.

Mr. President, I am also concerned about title 31 of the bill, which covers the Department of Energy defense programs. Section 3133, 3135, 3137, 3140, and 3142 and the associated statement of managers language provide funds—many not requested by the administration—for development of technologies and other programs at specify Department of Energy sites instead of allowing the Department to determine which site, on the merits, would be the best location for conduct of the program. Hundreds of millions of dollars are so allocated in the DOE section of this bill.

In summary, Mr. President, the numerous earmarks in this bill far exceed the tolerance level of anything justified in the "give and take" of a conference. It sets the authorizing committee on a bad policy path that we have studiously avoided and that we should not start now. We have objected when the Appropriations Committee has done this over and over. I spent literally hours out here at night, late in a session, objecting to earmarks in appropriations bills under Democratic control of the Congress. Now, I find that we do it over and over again in our own authorization bill.

Mr. President, aside from shipbuilding earmarks, I am troubled by the submarine research and development language. Section 132 of the bill requires the Secretary of Defense to design, develop, and procure four nuclear attack submarines using "new technologies that will result in each successive submarine * * * being a more capable and more affordable submarine than the submarine that preceded it." There is no recognition in the language of the costs and risks of transforming the submarine procurement program into a research and development prototype endeavor.

No one argues with the goal of having military equipment that is both more capable and more affordable. Experience demonstrates that when dealing with complicated systems and advanced technology, it is quite difficult to obtain greater capability at less cost. The Russians, for example, tried to increase the capability while cutting costs of their submarines, and several of the products of that effort, along with their crews, lay at the bottom of the ocean.

New attack submarines are among the most complex and sophisticated systems procured by the Department of Defense. It is one thing to establish a goal—there is no problem with a goal—it is something very different to require the Navy to structure its program to make new submarines both better and cheaper without any concern for the difficulty of trying to achieve greater capability at less cost and without any consideration of the risk involved. I believe it is important that the language of the submarine research provision be reviewed and revised to ensure greater consideration of the tradeoff between cost and risk.

Mr. President, I am also concerned that the conference contains a spending "floor," which mandates that $50 million of the funds in the National Defense Sealift Fund can be used only for advanced submarine technology activities of the Advanced Procurement Projects Agency. Mr. President, for a long time, this authorizing committee has strenuously avoided putting floors in bills. We always felt we were the ceiling; appropriators should not go over our ceiling. Neither should we say they cannot spend less than a certain amount, because that basically undercuts the appropriations process. It says to the appropriators that you cannot spend less than a certain amount. We would object to the appropriators going over our ceiling and have tried to avoid having floors in our bill. In this case, we have a floor of $50 million. In fairness, because of my past work with Senator BYRD, the Senator from West Virginia, and my pledge to him that we would try to avoid these items, I feel I need to point out the floors that is in this conference report.

Mr. President, on National Guard and Reserve procurement, the conference report provides $777 million for Guard and Reserve procurement, allocating all funding to specific line items. This is an unfortunate reversion to the way we added funds for the Guard and Reserve years ago. This is not a breakthrough. It has been done before, and it was a mistake. Now, we are repeating that mistake. In recent years, we have gotten away from specific earmarks, and we have authorized various portions of the Guard and Reserve procurement account in a "miscellaneous equipment" category. This served two purposes. First, it provided the Defense Department with the flexibility to allocate the funds to DOD's highest-priority requirements without going through a lengthy reprogramming process. Two, it avoided placing Congress in the position of picking literally hundreds of "winners and losers" from a long list of items that have not been subjected to any merit-based review within the Department of Defense. In other words, this is an added package for the National Guard and Reserve. These items have not gone through the procurement process or any review by the Department of Defense, but we are picking the items in this report in great detail. I think that is a mistake.

In this conference report, nothing is provided for the generic "miscellaneous" account. As a result, the conference treatment of Guard and Reserve procurement is, I believe, worse than either of the two original bills.

I note again that this earmarking of every dime in the Guard and Reserve procurement fund departs from the policy followed in recent authorizations and appropriations acts. In fact, the fiscal year 1996 Defense Appropriation Act provides $777 million for Guard and Reserve procurement, with $377 million—about half of it—provided for miscellaneous procurement. In this area, the appropriation bill has a far better "good Government" approach than does the authorization conference report before us today. I say this as one who has been on the Senate floor many times criticizing the appropriations bill. In fairness, I have to point out that we are doing now what we have accused others of doing in the past.

Although I and a number of other Senators voted for Senator LEVIN's amendment to the Senate bill that would have restored the generic nature of the funding, this amendment failed. I accept the fact that the Senate decided to use a different approach, but I note that even under the Senate-passed bill, $65 million was allocated for miscellaneous procurement. Because there is not a single dollar left in a miscellaneous category in this bill, the Department will have absolutely no flexibility to determine the priorities for purchasing additional equipment for the Guard and Reserve—even though the appropriators provided that flexibility.

Mr. President, in closing my remarks, there are several items of particular concern to the Clinton administration that I think Members would at least like to know about.

The conference report contains permanent restrictions on access of servicewomen and dependents overseas to privately-funded abortions and restrictions on service by HIV-positive service members, both of which are objectionable to the administration. The administration has written letters on these points.

The administration also objects to use of the power of the purse to limit the authority of the President, as Commander-in-Chief, to place U.S. forces under U.N. command and control. In addition, the administration objects to the portion of the contingency funding provision that would require the President to submit a supplemental appropriations request to replenish funds used for contingency operations.

Mr. President, I regret that I cannot support this conference report. I know it means a great deal to Senator THURMOND and the other members of the committee and I understand their feeling. I know firsthand the feeling. There are many provisions in the bill which should be enacted into law. But there are many, many more which should not. If this legislation is vetoed by the President as has been recommended by his senior advisers, we will have an opportunity to correct the many flaws in the bill and produce an authorization bill that can be signed into law. I believe it is important for us to do so. I pledge to continue to work toward passage of a subsequent bill if the legislation in this conference report is not enacted into law.

Mr. President, could I be informed how much time is remaining?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD. I have 15 minutes which will be more than I need and I am happy to yield some to the distinguished Senator.

Mr. NUNN. I thank the Senator from West Virginia but I will wait.

Mr. BYRD. How much time do I have, Mr. President?

The PRESIDING OFFICER. The Senator has 14½ minutes remaining.

Mr. BYRD. I thank the Chair. I yield myself such time as I shall require for the time under my control. It will not be 14½ minutes.

Mr. President, this Fiscal Year 1996 Defense Authorization Conference Report contains many needed and worthwhile provisions. A pay raise and raise in the Basic Allowance for Quarters for our active duty military personnel, and new authorities for more competitive and efficient housing renewal programs to improve the often poor quality of living for military personnel and their families, are among the highlights of this bill.

Like the able Senator from Georgia [Mr. NUNN], I believe that this bill is going to be vetoed. As a matter of fact, it is a virtual certainty. I am concerned that the pay raise and the key time-sensitive authorities for raises and other benefits contained in the bill that must be passed by January 1, 1996, be passed on another vehicle this week such as a continuing resolution. We cannot very well be endorsing the deployment of troops to Bosnia and then follow-up by denying them their pay raise.

I am also glad that the contingency force of SR–71 reconnaissance aircraft is authorized for another year, and is fully appropriated in a bill that the President has already signed. I hope that our military commanders in Bosnia will put the SR–71 to work thus providing intelligence to our forces there as soon as possible. But on balance, I believe, this bill contains more problematical and wasteful provisions than it should.

Most importantly, this bill is almost $7 billion over the President's request. In addition, this bill authorizes almost $500 million for additional spending on the B–2 bomber program. The Senate had stripped out funding for additional spending on B–2 bombers from its version of the Defense authorization bill, but like Dracula, the B–2 bomber shows an uncanny ability to rise night after night from the coffin. This $500 million was not requested by the Department of Defense. If the B-2 production line is to be reopened, as some appear determined to make happen, then many more billions will be needed in future budgets. These funds will have to be carved out of other procurement programs, programs that carry a much higher priority with the officials in the Department of Defense.

This conference report also contains incremental funding for a number of expensive ships that were not requested by the Department of Defense in this bill, and were not scheduled to be constructed until years in the future. So, we will put down payments on ships we do not yet need, and worry about how to complete the payments for the rest of the ship later. The attitude here seems to be taken directly from Scarlett O'Hara: "I'll worry about that tomorrow." Furthermore, the shipbuilding provisions in this bill direct work to specific shipyards without a clear industrial base requirement, which undermines the cost-saving potential of competition.

The ballistic missile defense provisions in the conference report also go well beyond the Senate-passed compromise on this issue. That compromise, which was still farther-reaching that I and other Senators would have preferred, would have moderated the rush to build and field untested ballistic missile defenses on an accelerated schedule that could undermine ongoing efforts to further reduce Russian nuclear weapons reduction efforts. The conference report language again raises concerns that far more cost-effective defensive measures, which reduce the threat by reducing numbers of weapons, have been undermined, thereby increasing the threat by possibly igniting a new arms race. There is no current need that warrants accelerated spending on ballistic missile programs.

This bill also provides $30 million to restart the anti-satellite [ASAT] program, a program that had been terminated even during the cold war. Mr. President, we should not be renewing efforts to restart an arms race in space. The United States, which is so dependent on satellite-transmitted communications for civilian and military operations, should be an arms control leader in the space arena.

Mr. President, because of these and other policy issues contained in the conference report, I cannot support it. I understand that the Secretary of Defense has recommended that the President consider vetoing it, and I concur in that recommendation, although I regret the delay in implementing the many good provisions contained in this bill. I look forward to working with my colleagues on the Armed Services Committee on next year's bill. I hope we can craft a bill next year that enjoys broad support, and that does not continue on a path to greater defense build-ups during a time when all other spending continues to decline.

Like Senator NUNN, I believe this bill is going to be vetoed. It is a virtual certainty. I am concerned that the pay raise and key time sensitive authorities for raises and other benefits contained in this bill, which must be passed by January 1, 1996, be passed on another vehicle this week, such as a continuing resolution. We cannot very well be endorsing the deployment of troops to Bosnia and follow up by denying them their pay raise.

Mr. President, I yield the floor.

Mr. THURMOND. Mr. President, as we consider the conference report to accompany the fiscal year 1996 national defense authorization bill, it is imperative to put aside recent partisan criticism of the bill and remember that this legislation contains a significant number of provisions that will benefit our men and women in uniform, many of whom are being sent to Bosnia by our President. In view of the dangers our forces will meet in Bosnia and the hardships their families will endure during the holiday season, it is incredible to believe that many would put politics above the interest of the Nation.

I point out just a few of the provisions beneficial to the Members of our Armed Forces and their families. This is not all of them, this is just a few I am going to mention.

The full military pay raise, if you kill this bill, they will not get the pay raise; increase in quarters allowance, that is badly needed; authority to pay a family separation allowance to geographically separated families. This is important; authority to pay enlisted airmen hazardous duty incentive pay; authority to pay dislocation allowance to those forced to move as a result of base closure; increase specialty pay for recruiters; automatic maximum coverage under the Servicemen's Group Life Insurance; cost of living COLA equity for military retirees;

Reserve components initiatives: Authorized a reserve component dental insurance program; and established an income insurance program for reservists who are involuntarily mobilized.

Mr. President, all of these are good things. These are things the servicemen want. These are things the soldiers want. You kill this bill, you will destroy all this. During the Senate-House conference that considered the fiscal year 1996 defense authorization bill, we conducted bipartisan negotiations with members of the Senate Armed Services Committee, the House of Representatives Committee on National Security, and included representatives of the Department of Defense and White House staff in an effort to craft a bill that would be acceptable to all.

We conferred with all these people. We did the very best we could to get a bill that would be acceptable to everybody concerned here.

Mr. President, I hope that we can pass this conference report in the same bipartisan manner. I urge Members to come to the floor, debate the issues, and then give this conference report the strong support it deserves.

NAVAL PETROLEUM RESERVES

Mr. President, while I am on the floor, I observe that my good friend, Senator NUNN referred to the naval petroleum reserves and indicated the Government would not be protected properly under this bill. That is incorrect.

I want to say this.

The conference agreement on the sale of Naval Petroleum Reserves contains a number of safeguards to ensure that the Federal Government receives full value. Among these safeguards are the following two clauses which clearly spell out the conferees' intent that the reserves can be sold only if this will result in the highest return to the American taxpayer.

The first is the mandated minimum acceptable price. This price will be established by five independent experts who shall consider: all equipment and facilities to be included in the sale, the estimated quantity of petroleum and natural gas in the reserve, and the net present value of the anticipated revenue stream that the Treasury would receive from the reserve if the reserve were not sold. The Secretary may not set the minimum acceptable price below the higher of the average of the five assessments; and the average of three assessments after excluding the high and low assessments.

This requirement ensures that the minimum acceptable price has to be at least as high as what the Government would receive for these reserves if any other course of action is taken including the establishment of a Government corporation, the leasing of the reserves, or the continuation of the current operation of the field.

The second key clause is the authority to suspend the sale. This clause gives the Secretary the authority to suspend the sale of NPR-1 if the Secretary and the Director of OMB jointly determine that the sale is proceeding in a manner inconsistent with achievement of a sale price that reflects the full value of the reserve; or a course of action other than the immediate sale of the reserve to be in the best interests of the United States.

Mr. President, these two clauses essentially mean that NPR-1 cannot be sold unless the Government gets a price for the field that exceeds the value that would be achieved by any other option, and that the entire sale proceed in a manner that is in the best interests of the United States.

The sale will provide an estimated $1.5 to $2.5 billion to the Federal Treasury. This does not include the several hundred million dollars that the Government will receive in increased tax revenues. What is more, the Government will save about $1 billion in operating costs over the next 7 years.

Mr. President, the sale of these reserves was initiated—and I want to remind my friends on the Democratic side of this—by the administration, and, in fact, the administration has come out in support of this provision. We have worked in a very bipartisan manner to draft this provision so as to incorporate the maximum safeguards possible. I hope that we can continue this bipartisanship and vote to approve the conference agreement which includes this provision.

So, our Government is thoroughly protected under this bill in the matter of the petroleum reserves.

Mr. President, I yield the floor and I reserve the remainder of my time.

Mr. GLENN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 30 minutes.

Mr. GLENN. Mr. President, I yield myself such time as I require.

I rise today to offer some remarks concerning the Department of Defense conference report now being considered by the Senate.

I join Senator NUNN in his comments earlier today on the Senate floor here, in complimenting our committee chairman, Senator THURMOND, the staffs, and those who have worked a long time on this bill.

I do not like to see charges of partisanship leaking into this year's debate because I have been a Member of the Senate for some 21 years, a member of the Armed Services Committee since 1985, and I have not always agreed with every line-item spending decision or every word of legislation included in past defense authorization and appropriations bills during my tenure here. Mr. President, I have supported those measures without regard to who controlled the Senate or who controlled the White House. I can say that without any qualms of conscience whatsoever. What I have worked for here is what is best for the United States of America and what is best for the security of the United States of America and our interests all around the world.

I understood in the past that I would not agree with every item, but overall these bills have included, on balance, more positive aspects, so I could go ahead and vote for them.

Much has been made of the fact that this bill does have some very, very good things in it with regard to pay, with regard to housing, with regard to aviation retention pay and some things like that. I support those items fully. I think we can still get those passed, even if this bill were not approved on the floor. I am already a cosponsor of an amendment to the continuing resolution that is being proposed to provide for those things, whether they are in this bill or not. So that will take care of some of those concerns.

But, having said that, it is with much regret—it really is with regret—I find I must oppose this year's authorization conference report. I never before in all the time I have been in the Senate have opposed authorization and appropriations bills for defense and I very much regret that I had to this year. I voted against the Senate version of this bill and gave my reasons here on the floor and had hoped the bill could be improved in conference. Unfortunately, I do not believe that is the case. I believe the bill is not as good as the Senate bill that we sent to conference. So, for the first time in over 2 decades, I will vote against a defense authorization conference report. Let me just enumerate some of the reasons why.

One of the top items in my estimation is that the carefully-crafted ABM language in the Senate bill, which we worked on very hard, and was only marginally supportable for many of us in the first place, has been made unacceptable. That is a very, very important item. This involves our balance of missiles around the world, and the conference report at the very least gives the appearance that the United States intends to unilaterally violate the ABM Treaty.

On August 2, 1995, I discussed at some length my concerns over the version of the fiscal 1996 defense bill that was voted out of the Armed Services Committee. In that statement I described several problems with the bill's language on ballistic missile defense. Because the bill before the Senate today, I very much regret to say, does nothing to alleviate my concerns on this crucial issue—and I do term this a crucial issue—I must rise to speak, once again, against this ill-advised language.

March 5 of this year marked the 25th anniversary of the entry into force of the Treaty on Nonproliferation of Nuclear Weapons, better known as the NPT. Thanks to some good diplomatic work by the Clinton administration, a task made all the easier by the good basic sense of the diplomatic objective, the United States succeeded in achieving its longstanding goal of securing unconditionally the unlimited extension of this treaty. No more of the 5-year things, where the NPT review had to meet every 5 years and decide whether we are going to go ahead with something like a nonproliferation treaty. This year the United States took the lead in pushing for, and was successful in getting unconditionally, the unlimited extension of this treaty. That was a major step.

So, the primary purpose of that treaty is to curb the global spread of nuclear weapons. Article VI of the treaty commits the United States and other parties to make good-faith efforts relating to what the treaty calls the "cessation of the nuclear arms race," something I have fought for ever since I have been in the Senate, some 21 years. It started clear back in 1978, with the Nuclear Nonproliferation Act that I was the author of.

Fortunately, here, too, the administration deserves some credit for its efforts on behalf of the START II treaty which the Senate should vote to ratify very soon. The START II treaty will substantially reduce the nuclear stockpiles of the United States and Russia, and will eliminate altogether not just the last of Russia's heavy nuclear ICBM's, the SS–18, but will also eliminate the most destabilizing weapons, land-based ICBM's with MIRV's, the multiple independently targeted nuclear warheads. These are known as MIRV's.

In achieving these goals, America will take a long step in fulfilling its key arms control obligation under the NPT. Yet, START II does not deserve to be ratified just because it is consistent with America's clear international obligations under the NPT.

The real reason all Americans should support the START II treaty is the most basic one. It serves the national security interests of our country. It serves our interests.

Amid all of this progress on the NPT and START II fronts the new majorities of the Senate Armed Services Committee and the House National Security Committee have inserted language into the current defense bill that will put America on a path, as I view it, out of the Anti-Ballistic Missile Treaty. This treaty prevents both the United States and Russia from deploying a national missile defense against strategic nuclear attack, and in doing so the treaty has helped to lay the foundation for these deep cuts in the nuclear stockpiles. Furthermore, the treaty itself is holding down the enormous costs of maintaining the U.S. nuclear deterrent. The lack of a Russian defense against strategic United States nuclear missiles means that we can accomplish much more with less. If Russia is permitted to deploy a defense against such missiles, as it would if the ABM Treaty should collapse, we will end up having to spend a whole lot more for a whole lot less security.

I have no doubt that Russia's political, military, and parliamentary leadership will view the language in this bill as an assault on the ABM Treaty. It is an action which would only create new incentives for Russia to reassess, or even abandon, its arms reduction obligations under START II. How the Congress could be seriously considering pulling America out of the ABM Treaty given the likely reaction such a step would trigger in Russia is a mystery to me. It is a recipe for rekindling a strategic nuclear arms race. Surely, the gains to U.S. security by retaining a strong U.S. commitment to the ABM Treaty override any gain from the costly and dubious missile defense scheme offered in this bill.

Specifically, the bill requires deployment of a national missile defense system by a fixed date. I repeat that. It requires the deployment of a national missile defense system by a fixed date. Let me tell you how ludicrous that is just on the surface. The system has not been invented yet. Yet, we require that these scientific breakthroughs that would let us even put up a missile defense system that would be halfway capable have not even been invented yet, and, yet, we are requiring a date certain for it to be deployed.

It requires the deployment of ABM systems that are not permissible under the current treaty. It includes a unilateral definition of ABM systems that can be developed in a treaty. The Chairman of the Joint Chiefs of Staff, General John Shalikashvili has warned that such a statutory definition could jeopardize the prospects for early ratification of the START II treaty in Russia and negatively impact our broader security relationships with Russia.

The missile defense language in this bill will lead not only to massive expenditures on missile defense systems that will never prove to be 100 percent effective but will eventually lead to even more massive expenditures—not just of public funds, but also of diplomatic capital, I might add—on offensive nuclear weapon capabilities. We will need to deal with a Russian strategic missile defense system. Whether one looks at the budgetary, or the strategic implications of this language, the results of such an examination I just think can only be termed "foolishness."

I would like to work with the new majority on the Armed Services Committee to address missile threats in a way that does not destroy the ABM Treaty. But I see little indication on this bill, or elsewhere, that the majority is interested in investing in prevention of missile proliferation. Instead, they want to pour out pounds or megatons of fallacious cures. What the majority should be proposing are new measures to prevent missile proliferation from occurring in the first place as opposed to shelling out tax dollars on sophisticated hardware and software to deal with—or, more accurately, pretend to deal with—the problem after the fact. As I see it, this is a solution out looking for a problem because we do not have all the threats from abroad that we used to have. I will go into that in just a few moments.

Congress's new majority is proposing nothing, for example, to ensure that U.S. missile proliferation sanctions are strengthened and implemented in a manner that serves as an effective deterrent to proliferation. I see nothing to indicate a new effort to strengthen export controls—for example, something I have long advocated and put in legislation and had passed—or to encourage measures to strengthen the MTCR, the Missile Technology Control Regime.

Meanwhile, in this—what I view as a meat-ax approach to budget reduction—the State Department funds are being chopped back so that even fewer resources will be available for the pursuit of diplomatic measures aimed at halting nuclear and missile proliferation. Many in this new majority continue to seek the elimination of ACDA, the Arms Control and Disarmament Agency, which has worked hard over the years to strengthen U.S. policies in just these areas.

In their zeal to inveigle our country out of the ABM Treaty, the new majority continues to tout an alleged missile threat from what they call rogue nations out there lurking somewhere in anticipation of launching ICBM's against targets in the United States. This whole rogue nation argument is simply an old-fashioned red herring. It's a distraction from actions that are really needed to strengthen our national defense. Indeed, rogue nations may pose less of a threat to us than rogue defense bills like some of the provisions in this one that we have here today.

I have noted several times the testimony before the Select Committee on Intelligence, of which I am a member, of the former director of the Defense Intelligence Agency, Lieutenant General James Clapper, on this missile threat. He stated last January that "We see no interest in or capability of any new country reaching the continental United States with a long-range missile for at least the next decade."

In correspondence dated December 1, 1995, the CIA informed Senators LEVIN and BUMPERS that the missile threat as identified in this bill was overstated. Though I fully agree with the CIA assessment, the agency could well have gone further by noting that, contrary to a popular belief, missiles are not proliferating in the world today. Indeed, in some important respects there has been a decline in certain types of missile proliferation threats. Over the years, we have seen the elimination of long-range missile programs in Brazil, Argentina, and South Africa. The Iraqi missile program has been destroyed. Egypt's efforts to build a long-range missile program has been terminated, and nobody seriously believes that Libya will have an ICBM capability any time soon. In the INF Treaty, the United States and Russia agreed to eliminate a whole class of missiles, and the START treaties have cut back substantially the numbers of nuclear ICBMs. When looking at missile programs that remain in the Middle East, South Asia, and East Asia, it is obvious that there is a global missile proliferation threat that must be addressed. Indeed, we could soon be witnessing robust missile races in at least two of these theaters, if they are not underway already.

But do these developments justify a U.S. walkout from the ABM Treaty? Of course, not. On the contrary, we should ask the following: Do these developments justify an increased U.S. effort to enhance its intelligence capabilities, both analysis and collection; to strengthen export controls, both licensing and enforcement; to implement sanctions, both to punish and to deter; to ensure that our diplomats have the resources they need to roll back these programs; and, to ensure the readiness of U.S. forces that are deployed abroad to defend themselves against tactical missile attacks? Yes to every one of the above, especially the last.

I want to see our defenses for our frontline troops, and those who may be in a combat's way, protected against the tactical missile attacks.

But, nevertheless, I remain an optimist. I am hopeful that the new majority will someday come around to the view that Star Wars is not the panacea to proliferation. Indeed, a Star Wars we have yet to invent cannot be placed in place by a certain time because we have not invented all of it yet. We know from our star wars experience before that it is a bigger problem than anybody thought it was going to be back in those days.

When they do, I will be ready to work with them to get our nonproliferation and arms control policies back on track. Judging from the content of this bill before us today, that day has clearly not arrived. So I remain firmly and unalterably opposed to this misguided missile defense legislation. I urge all my colleagues to join me in pressing this opposition for as long as it takes to restore some sanity to this program.

Mr. President, I note for my colleagues that in my view this language is reason enough alone to oppose passage of the conference report. There are other reasons as well. This bill had $7 billion added above and beyond what the administration requested—one of the main reasons why I voted against it going in, before it went to conference.

If that money had gone to operation and maintenance accounts where it is needed, if it had gone to pay all of our bills from peacekeeping operations already passed, which is somewhere around $2 billion, if it had gone for programs like that and things that we really need, depot maintenance, things like that where we are behind and did not have adequate budget provided, then I would not have objected. I would have said fine, we needed that and the administration should have requested it to begin with. But that is not where the added $7 billion additional went.

One-half a billion dollars is unrequested and unwelcome B–2 funding that can be used to start new production and was brought back from conference, and another one-half a billion dollars was added to the national missile defense account. These two funding decisions are merely downpayments on huge programs in the outyears. And they make a mockery of the desire to balance the budget and eliminate deficit spending. We have part of the Government shut down here arguing over the budget, whether we are going to be able to get a balanced budget. Then we have add-ons like this for things that were not needed at all, and they are downpayments on huge programs in the outyears.

If these programs alone go forward, the funding contained in this conference report represents a commitment to many, many more billions out there in the future. I think just the national missile defense program in the outyears requires outlays by one estimate of at least $43 billion, if we carry it out as it has been spoken of. I cannot support wasting precious taxpayer dollars on the B–2, for instance, that is well over half a billion a copy. That is taking out even all of the sunk costs of the past. And we know that every time we have made an estimate in the past on the B–2 it has gone up. One of the estimates was above half a billion per copy. It is around $650 to $700 million right now, if you figure all the costs that have to go into hangars and things like that for each airplane that is produced.

The plane is an aerodynamic wonder. It truly is. I had the pleasure of going out and flying it not long ago. It is one that has cleared the hurdles that we in the Armed Services Committee put in to make sure that this unique airplane would indeed pass all of its aerodynamic tests. It does not have a rudder up there. You never see a vertical surface on that airplane. It meets all the different aerodynamic requirements in how you control it, and it is an aerodynamic marvel, I can guarantee you that. It flies beautifully. But when you put between half a billion and $1 billion per plane, it just is too much.

Once again, I would say what we have provided here is something that is not required, not necessary, and is another solution looking for a problem. We have bombers that the Air Force has said are adequate when we combine what we have with the B–2's already produced or provided for and the B–1's. Those give us enough bomber capability to meet any threat we see right now.

Overall, the funding level in this conference report is too high and the bulk of the funds will be spent in the procurement accounts, not on items requested by the Pentagon, not on requirements of the President's request that he sent to us but on items built in members' home districts.

Now, the conference report authorizes the purchase of items not requested such as purchase of F–15's. Well, who does that benefit? The purchase of F–16's. Who does that benefit? The purchase of extra F/A–18's. Who does that benefit? The purchase of extra C–130's. The purchase of extra C–21's, Lear jets, not requested by the Pentagon. These were add-ons. At a cost of an additional $1.6 billion, the conference report also authorizes the procurement of the LPD–17, the LHD–7 and an additional DDG–51, all three not requested by the Pentagon, not requested by the administration, yet they are add-ons. Who benefits? Whose district? Whose States benefit? How did those get into this conference report when the administration did not want them, at least not in this year's budget plan of how we are going to spend our increasingly scarce defense dollars?

Mr. President, I have supported add-ons where they make sense in the past, and I would have supported some of the add-ons in the conference report, but the magnitude of the add-ons, the magnitude of all of these—just one of them is not enough to sink this bill, but you put them altogether, the add-ons and the solely parochial rationale supporting some of them, it is impossible to support this conference report.

The conference report does not stop at spending too much on programs that we either do not need now or do not need at all. This bill marks the return of widespread earmarking in the authorization process. That is where you have a requirement for a certain aircraft or a certain item being purchased but it also specifically words things in a way that it has to be spent exactly where they want it spent in a certain person's district or a certain person's State.

The unpalatable earmarking of close to $800 million that was included in the Senate for reserve component equipment has been expanded and now the bill contains additional earmarking in the shipbuilding and ship repair accounts.

Earmarking, Mr. President, is a practice that the Armed Services Committee has in the past worked tirelessly to weed out of its bills. And through the years I think we have been reasonably successful in getting some of that earmarking wiped out. In the end, those efforts even impacted the appropriations bills which a few years back stopped earmarking the reserve component equipment accounts. And ironically, the appropriators for the most part chose not to earmark their bill this year, and it is the authorizers now that have loaded up our bill with so much pork that I referred to it one day on the Senate floor as an "agriculture bill" because it has so much pork in it.

Mr. President, another remarkable provision in the conference report requires the sale of the Naval Petroleum Reserve. When this issue came up during consideration of the Senate bill, many of us disagreed with requiring the sale of this money-making asset, but we were bound to sell the reserve by reconciliation. In light of that reconciliation mandate, the committee worked to put safeguards in place in the authorization bill to make sure the American taxpayer got the best possible return on the sale of this asset. What is remarkable about the conference report with regard to the petroleum reserve also, it was dropped out of reconciliation. We would no longer be forced to sell the reserve but for the fact the authorization conference report now requires it to be sold. So it is dropped out of one report, the reconciliation bill, but kept in this authorization conference report and requiring that it be sold within 1 year. That is what made this thing really unacceptable: It required that it be sold within 1 year.

The conference report undermines its own so-called safeguard by creating a buyer's market for the reserve, not an environment conducive to obtaining the best deal for the seller, the American taxpayer.

At the same time, the conference report adds earmarked funding for programs of which there is a questionable requirement, the conference report takes a $450 million cut in the account that funds cleanup of our nuclear weapons complex, a requirement which I view as a moral as well as a legal obligation. That is one that I feel very strongly about. The cleanup is required because we started back about 1985 with a report that I got into, or asked the GAO to do on the Fernald part of the nuclear weapons complex, and at Fernald we found out there were lots of problems. I asked for studies of other places around the nuclear weapons complex and now have a stack of GAO reports probably 3½, 4 feet high through the last 10 years that have outlined this problem, going from a nuclear cleanup cost estimate back in those days of $8 to $12 billion for everything to now up to around $200 to $300 billion over a 20-year period, if we can figure out how to do it. Yet, we reduce funding for it in this year's bill.

On what we might term social issues, this conference report, I believe, should be opposed. It prohibits service members and dependents from obtaining abortions paid for with private funds and just using military medical facilities, except in the cases of rape, incest, or where the life of the mother is in danger.

If you are a female member of the armed services or a wife stationed somewhere overseas, you may not have the option of going to outside facilities as good as you would have if you were home in the United States. In the past, we have permitted cases of abortion where it was paid for with private funds but using the military medical facility. That is prohibited now with this legislation.

The conference report also discriminates against HIV-infected service members by requiring their discharge.

These are just some of the issues that have been attributed to my decision to vote against this conference report.

I would like to comment for a moment on the process that led up to the conference report.

Mr. President, this conference lasted for something close to 95 days. Conferees met at the panel level for 2 weeks—the panel level now, the subcommittee level—before being dissolved with outstanding issues still to be considered at the full conference level.

From the time the panels were dissolved, nearly 3 months ago, until the committee members were informed last week that agreement on all issues had been achieved, the conferees met one time—just one time—and that was not for the usual purpose of conferees meeting. The purpose of that one meeting was to give the outside conferees the opportunity to express their views. The other committees that were involved in some way that were permitted the courtesy of coming in and giving their testimony to the conferees, and that was the purpose of the one meeting.

So when the panels dissolved, many, many issues remained unresolved, and the Senate conferees were never convened to discuss strategy for retaining important Senate positions, like the ABM language or funding for the B–2, positions that were strongly supported by the Senate as a whole.

In the case of the ABM language, we had an overwhelming vote on the floor of the Senate, and the Senate position on B–2 funding was the result of a rollcall vote taken in committee. Dialog at the conferee level may have changed the outcome on some of the items that were given up to the House.

Before concluding my remarks, Mr. President, for the record, although I do not support and will not vote for the conference report, I certainly do support the acquisition reform provisions contained in this legislation and hope we can attach those to some other piece of legislation if this bill should fail.

Should this legislation be enacted, at least acquisition reform provisions can help make a better and more effective Government. Should the conference report fail to be enacted, I hope we can find a way to enact these procurement reforms by some other vehicle.

Mr. President, I would like to take a few minutes to speak about some of the better points of the conference report for the fiscal year 1996 DOD authorization, specifically, divisions D and E on acquisition reform and information technology management, respectively.

As you know, Mr. President, last year, the Congress passed the Federal Acquisition Streamlining Act, known as FASA, the first major piece of procurement reform legislation in a decade. Passage of FASA constituted a critical victory in the war against government inefficiency. It is a comprehensive government-wide procurement reform effort aimed at streamlining the acquisition process by reducing paperwork burdens through revision and consolidation of acquisition statutes to eliminate redundancy, provide consistency, and facilitate implementation.

Now, I do not think anyone expected a second comprehensive round of reforms to follow so closely after FASA, especially while we were awaiting the new regulations, but with the dawn of the 104th Congress, we saw a proliferation of new and revitalized procurement proposals. I even introduced a bill myself on behalf of the administration, S. 669, the Federal Acquisition Improvement Act. Although I did not support every item in that bill, I am pleased to say that some of the better concepts have been included in this year's acquisition reform package.

Before I talk about the substance of the bill, I want to say a word about the process that has been used to reach this end product. As with many bills, a vehicle is often sought for expedient passage. This year, the vehicle for government-wide acquisition reform is the DOD authorization bill. I want to be very clear when I say that I do not expect this to set a precedent for future acquisition reform discussions. Though most of these changes will also apply to the Defense Department, it was not my preference to enact government-wide changes on a DOD bill. Expediency in legislating does not always produce the best results.

However, once the decision was made to go this route, we have worked hard to make the best of a less than favorable situation. A staff-level working group in the Senate spent several months scrutinizing each and every proposal to identify the most useful and most needed provisions. Even though the Senate had only two subcommittee hearings, we have done the best we could to consider opinions from interested parties however possible—by phone call, mail or meeting. And even without the formal medium of a hearing, we tried to consider as many viewpoints as possible, and I sincerely hope that no one feels excluded from this process.

With that said, I am pleased to support, with one exception, the end product of what I consider an effort to build upon the acquisition reforms we initiated last year in FASA. The one exception is the proposed changes this bill makes to the recoupment laws which I do not consider to be part of acquisition reform. I cannot support this change.

I would like to take a moment to highlight a few of the more significant changes being made to procurement law and explain my position on recoupment.

In the area of competition, the Senate steadfastly refused to alter the current definition of full and open competition, found in the Competition in Contracting Act of 1984 [CICA], despite a House proposal to the contrary. But to ease the burden on contractors, both large and small, who expend large amounts of money to compete for contracts which may never be awarded to them, we have instead authorized the use of two phase competitive procedures for certain construction contracts and allowed contracting officers to limit the competitive range of offerors to those who are judged to be best qualified.

In the area of commercial items where a lot of work was begun last year with FASA, we have created a 3-year authorization for the use of streamlined procedures for the purchase of unmodified commercial items under $5 million. This should reduce the burden on contractors and shorten the deadlines and time it takes the government to acquire commercial items since less time is needed to prepare an offer. We also authorized the waiver of most statutory requirements for government contractors when we purchase off-the-shelf commercial items, because it is impractical and inappropriate to routinely apply government-unique requirements to ordinary commercial items that may be provided from a commercial assembly line or over the counter. We also define off-the-shelf commercial items and refine the definition of commercial services.

Procurement integrity was an issue which was left unresolved last year by FASA with an agreement to take it up this year. We have streamlined these provisions to prohibit the improper disclosure of inside information, and included a recusal provision which would provide a statutory basis and statutory enforcement for ethics regulations already in place, and a limited revolving door provision, which would prohibit certain agency officials from going to work for a contractor for 1 year after certain involvement with certain contracts.

In the area of protests and dispute resolution, repeal of the infamous Brooks ADP Act consolidates administrative protests in the General Accounting Office [GAO]. I am very pleased with this solution.

I recognize that a protest is intended to be an action brought on behalf of and in the best interest of both the government and the taxpayer, making sure that both get the best deal. However, it seems to have gotten to the point where agencies routinely build time for protests into major procurements from the start, because companies often proceed with a protest if they lose out on a contract, regardless of the government's explanation for their loss of that contract. Because every major procurement or program seems to generate its own flurry of protests, I strongly prefer the GAO as the administrative forum of choice where the process is less formal, less costly, and less judicialized.

I also recognize that GAO does not have the authority to issue binding declaratory judgements and that its decisions are merely recommendatory. There are very few instances where the agency has not followed a GAO recommendation, however, and in those instances, the agency must account to Congress for its actions, preserving the Congressional oversight role.

Among other things, we have also severed the linkages between the successful implementation of a Federal Acquisition Computer Network and the FASA-authorized simplified acquisition threshold and pilot programs; reduced the number of certifications required of contractors; delayed the implementation of FASA's cooperative purchasing program until after a GAO study has been completed and reviewed; required agencies to conduct cost-effective value engineering programs; established requirements for the civilian acquisition workforce; authorized a demonstration project for personnel management in the DOD acquisition workforce; and amended the OFPP Act to eliminate obsolete and unnecessary provisions.

Division E of the DOD bill, originally Senators COHEN and LEVIN's information technology management reform bill, will reform the way the Government both buys and manages its information technology systems. This section of the bill will not only force agencies to take a more strategic view of their information assets and enhance up-front planning, it will give the Government the tools it needs to keep up with the rapid pace of technological change in the information arena. It will also add to the information resources management reforms of the Paperwork Reduction Act of 1995, of which I am a co-author. Hopefully this will lead to a substantial reduction in the number of horror stories we hear every year about information systems that are late, over budget and do not work.

Finally, as I stated earlier, there is one provision that has been included as acquisition reform, but which I exclude from this category. This provision—which I cannot support—would essentially eliminate the requirement to recoup R&D costs paid by the U.S. on foreign arms sales. Even though the Secretary of Defense will be given authority to waive the recoupment fees only under certain circumstances, I am just not convinced that these changes are necessary, narrow as they may be, even if corresponding reporting requirements were added. The U.S. is already very competitive in world arms markets; new incentives are unnecessary. In the past, I have opposed other initiatives to use government institutions or government funds to underwrite foreign arms sales. Given our current dominance of the market, further encouragement of foreign arms sales is neither necessary nor desirable.

Mr. President, it is easy to see that even after FASA, we have continued to address more difficult and complex issues with this second round of acquisition reform. Although I do not support and will not vote in favor of the DOD conference report, I am glad that, if it passes, at least the acquisition reform provisions can help to make a better and more effective government. And if the conference report does not get enacted, I hope some way can be found to enact these procurement reforms in another context.

The PRESIDING OFFICER (Mr. COATS). The Senator's time has expired.

Mr. GLENN. Mr. President, I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for an additional 5 minutes.

Mr. GLENN. Mr. President, to summarize some of the President's budget request, there was an additional $5.2 billion added, basically, to the following accounts:

Army aircraft, $336 million added;

Missiles, $189 million added;

Wheeled and tracked combat vehicles, $357 million added;

Other procurement, $506 million added.

In the Navy:

Aircraft, $686 million added;

Weapons, they subtracted $127 million on that one;

Ships, added $1.6 billion in ships that were not requested;

Ammunition, plus $430 million;

Other procurement, $18.6 million.

In the Air Force:

Aircraft, added $1.2 billion;

Missiles, cut $709 million;

Ammunition, added $343 million;

Other procurement, minus $536 million.

National Guard had $777 million added, most of it earmarked.

Specifically an additional $212 million for six more F/A–18's;

An additional $1.4 billion for the LHD–7;

An additional $974 million for the LPD–17;

An authorization for 3 DDG–51's while only providing the money for two;

An additional $493 million for B–2 with no limitation on how those funds can be spent, including new production, which could be the decision later on. That language was fought over in the conference, I understand.

It also had an additional $311 million for F–15E's;

And an additional $159 million for F–16's.

So, Mr. President, I support some of the good things I think were in this legislation, such as the military pay raise, the additional basic allowance for quarters and aviation retention pay. I hope that we can put those on to other legislation. I am the cosponsor of legislation to do that.

For all the above reasons and more, I regret for the first time I will not be able to vote for a conference report on this. I do regret it very much. I know how hard the chairman, Senator THURMOND, has worked on this and how much he wants this. I do wish very much that I could support this, but I find that I just cannot, for all the reasons given above.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield myself as much time as may be needed.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Incidentally, the distinguished Senator from Ohio asked for 5 additional minutes. I ask unanimous consent that our side have 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, reserving the right to object, and I do not plan to object, I intended that the 5 minutes come out of our allotted time, not 5 minutes added on to the debate.

The PRESIDING OFFICER. Without objection, the additional 5 minutes allocated to the Senator from Ohio will be deducted from the time on the minority side.

Mr. THURMOND. If the additional 5 minutes he received is going to come out of that time, then I will not ask for 5 additional minutes. I just wanted to be sure each side had the same number of minutes.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise to address the central objection raised by certain Members and the administration against this conference report concerning ballistic missile defense.

The administration has argued that we do not need and cannot afford a national missile defense system. This is a debatable point and everyone is entitled to their own view. But the administration has also claimed that the NMD system called for in this conference report would require the United States to unilaterally abrogate or violate the ABM Treaty. This assertion is simply false.

Over the last several months, the majority conferees engaged the administration and the minority conferees in a detailed negotiation to ensure that all legitimate concerns having to do with the ABM Treaty, the START II Treaty, and the President's prerogatives in the area of arms control were addressed and resolved. This negotiation produced the ballistic missile defense provisions in this conference report.

Unfortunately, once these concerns were addressed, the administration moved the goal line and changed its demands. At the last moment, the White House made it clear that even if we resolved all concerns having to do with the ABM Treaty they would oppose this conference report over a simple commitment to deploy a national missile defense system, even if that system were fully compliant with the ABM Treaty.

Let us be clear about the administration's reasons for opposing this conference report. The administration opposes any National Missile System; they argue that there is no threat and that we cannot afford one anyway. Ironically, the administration is willing to spend hundreds of millions of dollars each year on a National Missile Defense Technology Program that is specifically designed never to lead to deployment. What we are saying is at that level of investment we ought to get something real in return—an actual deployed system.

On the subject of the threat, there is no doubt that there is an existing and expanding threat to the United States from ballistic missiles. With Russian ICBM technology virtually up for sale and with North Korea developing a missile capable of reaching the United States, I do not see how one can argue that there is no threat in sight. This is just another excuse for doing nothing.

To provide some context, I urge Senators to look back at the Missile Defense Act of 1991, which was a bipartisan effort. The 1991 act called on the Secretary of Defense to deploy a National Missile Defense System in 5 years, by 1996. In contrast, the conference report before the Senate today gives the Secretary of Defense 8 years to deploy a similar system.

What has changed since passage of the Missile Defense Act of 1991 is that the administration no longer wants to deal with the problem. I regret this and I urge my colleagues to reject the artificial arguments regarding the ABM Treaty. There are many in the Senate who want to see us abrogate the ABM Treaty. This conference report, however, does not do it.

Mr. President, I would like to respond to a couple of remarks made by the Senator from Ohio. The Senator from Ohio registered his support for administration success in securing the unconditional extension of the Non-Proliferation Treaty. He then went on to articulate his concerns with the ballistic missile defense language in the defense authorization conference and the potential detrimental impact on Russian ratification of START II. He also mentioned his concern about the lack of concern by the new majority with regard to export controls and other measures that would contribute to staunching the proliferation of weapons of mass destruction.

Let me highlight provisions in the Defense authorization conference report which I believe the Senator would agree supports his concerns.

With regard to START II, there are two provisions, one which expresses the Congress' support for ratification and implementation of START II, and another provision expressing the Congress' belief that the United States not take any action to unilaterally retire or dismantle systems until such time as START II is ratified and implemented by both parties. This is consistent with the testimony by the Under Secretary of Policy for the Department of Defense, Walt Slocombe, before the Senate Armed Services Committee during its START II hearing this year. Let me quote Mr. Slocombe's response to a concern that I raised about premature reductions to the U.S. strategic forces, Mr. Slocombe replied,

> . . . we will not begin the reductions necessary to reach the START II levels until the Treaty has been ratified, and we will ensure that the pace of our reductions are reasonably related to the pace of Russian reductions.

It seems ridiculous to me that the administration would oppose the Defense authorization conference report and cite provisions that articulate the administration's stated policy.

With regard to export controls, the Defense authorization conference report includes a provision that expresses the concern of the Congress that it is in our national security interests to maintain effective export controls. Additionally, the conference report expresses its deep concern that the administration has lowered restrictions on a number of dual-use items and technologies with defense capabilities. The conference report would require them to evaluate licenses for the export of militarily critical items that should be controlled for national security reasons; requires the Department to review export licenses for biological pathogens; and requires a report on actions taken by the administration to ensure that it is maintaining an active role in review export licenses in a number of areas, such as space launch vehicles, supercomputers, biological pathogens, and high resolution imagery. The conference report also makes recommendations to strengthen proliferation regimes, such as the Missile Technology Control Regimes. The conference report also contains provisions to strengthen the Iran-Iraq Arms Nonproliferation Act of 1992.

Last, the Senator from Ohio mentioned his concern that the Defense authorization conference report does not contain enough funds to pay our peacekeeping assessments to the United Nations.

Mr. President, the Defense authorization conference report is not the appropriate legislation to pay peacekeeping assessments, the appropriate legislation is the foreign aid and foreign operations appropriations bills.

The Defense conference report before the Senate contains funds to pay for contingency operations in Iraq, which Secretary of Defense Perry asked for, but was not included in the Defense budget request. It also includes $50 million for humanitarian assistance and $20 million for humanitarian demining activities. Items which quite frankly should be funded in the international affairs budget function, but which this committee has supported.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Mr. President, I would like to inquire about the amount of time that I could have on this. Is the time under the control of the distinguished chairman?

The PRESIDING OFFICER. Yes.

Mr. THURMOND. I yield to the Senator as much time as he may desire.

Mr. LOTT. I think 15 minutes should do it.

The PRESIDING OFFICER. The Senator is recognized for as much time as he desires.

Mr. LOTT. First, Mr. President, I would like to commend and congratulate the distinguished Senator from South Carolina, the chairman of the Armed Services Committee, for his excellent work on this legislation, his dedication, his perseverance. There have been many times during the process of the development of this bill—in the Senate Armed Services Committee, on the floor of the Senate, in conference—when the hurdles looked like they were unachievable, that we just were not going to be able to move forward to the next issue or move the whole bill. But in each instance along the way, the Senator from South Carolina has insisted that we work together, between the members of the Armed Services Committee, across the aisle, between the Senate and the House, and between the Congress and the administration. It has not been easy. This is a big, important bill for the future defense of our country, and we would not be here without the leadership of our great Senator from South Carolina. I commend him and thank him for the opportunity of being involved in the process to move this legislation forward. Of course, I also want to thank the distinguished ranking member on the committee, the Senator from Georgia, Senator NUNN, for his cooperation and his being willing to point out where there were potential problems and to try to find solutions we could live with.

Mr. President, when the Defense Authorization Committee began this conference in early September, Members from the House and Senate worked for swift resolutions to issues of dispute between the two bills. While most conferences include issues which are difficult to negotiate, this conference clearly was especially difficult in trying to work out an agreeable conference report. Once the conference discussions began, it was evident that huge differences existed between the House and Senate conferees and the administration. Chairman THURMOND, Chairman SPENCE, and countless other Members, worked vigorously to try and bridge the differences, and a substantial compromise was required to resolve these issues. In fact, they were achieved. We did reach a compromise, and that is why we have this conference agreement. That is the way all conferences work. You always have differences between Republicans on the Armed Services Committee—between Democrats and between Republicans and Democrats, and between the Congress and the administration. That is what happened here. After a lot of hard work, we were able to achieve this conference agreement.

There were countless issues in this process that I felt strongly about. Several of them were resolved in a way that I do not particularly like. But the greater good is involved here. I think this is a conference report I can support, should support, and I also think the Senate should agree to. I understand that there are feelings in the minority that maybe they were not consulted enough as we went along. I do know that our staffs communicated and that as negotiations were underway, our staff really worked hard to keep the staff on the other side informed. I do know that Senator THURMOND worked with Chairman SPENCE, and I know he worked with Senator NUNN. I had repeated conferences myself with Senator NUNN. He was very tolerant in talking on the car phone late at night and early in the morning. I talked to Senator EXON about a variety of issues in the conference, and I know that other Senators of both parties talked back and forth.

So while maybe it has not been a perfect process, we have learned from the process and we do have a result that I think we should be able to live with. I have listened carefully to the criticism on this final agreement. Some Members do not believe they were fully involved in the negotiations. Other Members just do not like some of the final results. I can remember, though, year in and year out when Senator NUNN and Chairman Aspin would convene the big four to resolve differences in the absence of the remaining members of the committees. There has been some complaint that there were not enough people involved in the loop. But I do have a memory of how, not very long ago, the big four finally got down to the big issues and met, and if the big four could not resolve the final problems, the chairmen met to make the final call—perhaps Chairman NUNN and Chairman DELLUMS. So there is nothing really different in the way we proceeded this time.

So we need to distinguish between unhappiness over the process and disagreements over what the right answers are on the policy questions involved. I agree that the process can always be improved. But opposition should not be raised against this bill because of objections to the way the conference was conducted.

This bill will serve as a roadmap for meeting America's national security needs in the future. This bill will guide the Department of Defense in its research and development, acquisition of weapons systems, personnel policy and force structure levels.

Friday, some Members began listing items they regarded as unacceptable in this bill to the point of deciding to oppose the conference agreement. Items identified as being questionable or unacceptable include these among others: The missile defense language; removal of statutory requirements for Assistant Secretaries for Special Operations and the Director of the Office of Operational Test and Evaluation; reduction in the time required for sale of the naval petroleum reserve by 1 year. Now there is a reason to oppose this bill. Big deal. You are going to vote against the Defense authorization bill because of a 1-year difference in when we sell the naval petroleum reserve? I do not find that very defensible, frankly. We also had the directed procurement of some ships to specific shipyards. I did not particularly like the agreement reached in some of these areas, but it was a compromise. It was one where we had strong feelings on both sides of the aisle from the Senate that was different from what the House wanted. But we kept pushing and pushing, and we finally got agreement between Senators of both parties and House Members of both parties. I would prefer not to have gone with the agreement that came up on those ships. But that is the art of compromise. You give—sometimes a lot—and you get a little and you come back another day and try again.

There are those who say there are too many certifications and reports required by this bill. Should we not be getting certifications and reports from the Pentagon to the Congress? I thought the Congress in the past has felt very strongly that we need to be kept informed. I think we did not go too far there.

There are some buy American requirements for certain components in this bill. We did not have it in the Senate bill. The House felt exceedingly strongly about it. We got them to make some changes, some modifications. I think that the requirements that are in here are livable. Would it be better if we did not have them? I guess, maybe so, although I think there are a lot of people in this country who wonder why we should not have some requirements that key components be bought in America. After all, these are U.S. tax dollars. Why should we not require some critical systems to be manufactured in America? I think it is dangerous to allow U.S. companies to go under—requiring us to buy critical components from sources outside this country. I also think it involves jobs in America. But, this is a very small requirement in this particular bill.

Also, one objection I have heard is that they do not like the language on U.N. command and control. Now, I want the Senate to think about that. Are you really, really, comfortable with an arrangement that would put our troops under U.N. command and control? Would you not rather have some clear directions on how that would happen or if it would happen? If you want to vote down the defense authorization bill because of our command and control language with regard to the United Nations, have at it. I can tell you the American people will not be with you, and I do not think it is smart from a defense standpoint.

Given so much is made of these various items, I want to review some of them so that the Members of the Senate will understand the substance of what is involved.

With regard to the missile defense language, the conference report is balanced. It is moderate—arguably by some on this side of the aisle and in the House, too moderate. But that, again, is the nature of the conference. Nobody gets everything they want. The conferees made every effort to accommodate the legitimate concerns and objections made by the administration, and even some objections that I thought were not so legitimate. But we went the extra mile. The conference report resolves all concerns having to do with the ABM Treaty, the President's prerogatives in the area of arms control negotiations and Russian ratification of START II.

Unfortunately, after all of this, the White House is still threatening a veto, and some of our colleagues are complaining as if we did not address the concerns. Let me mention a few of the more specific things that were, in fact, done to meet these objections that were raised.

First and foremost, the conference report contains a provision that is virtually the same as the Senate-passed language on TMD demarcation, which was specifically identified by the administration as acceptable. Now, we had some problems in this area because I frankly had thought we could go ahead and go with the identical Senate-passed language on demarcation, and along the way it kept being changed to say, well, it is not identical but virtually the same and that the words mean the same. There was concern on the other side about that. The language we wound up with, the administration specifically identified it as acceptable and not a problem. So, I assume, then, there is no problem with the TMD demarcation. The House-passed demarcation language, on the other hand, has been singled out as veto bait. Thus, on the single most controversial BMD issue in conference, the administration got what it asked for.

Equally important, the conference contains language on national missile defense that resolves concerns that we might have about setting up anticipatory breach of the ABM Treaty by requiring deployment of a multiple-site NMD system by a date certain. The conference report does not contain the multiple-site requirement which was even in the Senate-passed bill. After a lot of discussions with Senator NUNN and his communication with the administration, we did not want to leave any doubt. So a major concession was made there and, in fact, we have a couple of Senators on this side of the aisle who are seriously considering voting against the conference report because of that concession.

There was a narrow little slither that we could get through. We tried to find that little, small, unmarked passage that we could pass through. I think we found it if, in fact, you want any missile defense at all. Frankly, I suspect there are some on the other side who do not want any missile defenses at all. That is why even though we keep making concessions and coming to agreements, it never seems to be enough.

To ensure that there could be no misunderstanding regarding an anticipatory breach of the ABM Treaty, we remove not only the specific requirement for a multiple-site system, but two other pieces of language; first, a congressional finding that the entire United States could not be defended from a single site; and, second, a requirement that the ground-based interceptor be deployed in significant numbers and at a significant number of sites to defend the entire United States, including Alaska and Hawaii. I still think it is indefensible that we say we might have one site, but you folks who live in certain areas along the gulf coast or in Hawaii or in Alaska, gee, we may not be able to cover you. Sorry about that. But, we will get the other 48 or so.

In place of this language, we inserted the exact language from the Senate compromise that the ground-based interceptors would be capable of being deployed at multiple sites. These changes were made at the request of the senior Senator from Georgia to resolve his concerns regarding anticipatory breach of the ABM Treaty.

Let me also point out this conference report urges the President to undertake negotiations with Russia to amend the ABM Treaty to allow for a multiple-site NMD system. I think it is in our best interest to do that. It does not just involve our relationship with Russia, but what other countries may be doing in this area. This provision makes it clear that we have no intention—no intention—of unilaterally violating the ABM Treaty. The language does state, if negotiations fail, we should consider withdrawing from the treaty, but this right is already provided for in article 14 of the treaty.

These provisions and others I have not mentioned make it clear that we intend a cooperative approach with Russia in dealing with the ABM Treaty. Nowhere in the conference report is it suggested or required that we violate or unilaterally walk away from the ABM Treaty. In exchange for resolving this ABM Treaty concern, the conferees agreed to retain a requirement to deploy an NMD system by the end of 2003—but without the multiple-site requirement.

Any remaining arguments about this "anticipatory breach" of the ABM Treaty or assertions that Russia may not ratify START II due to our NMD program are not based on fact or logic. Russia may not approve START II, but I think it may be because of the Communists and the nationalists that were just elected to their parliamentary body, not because of this missile defense language. I remind the Senate that the only operational ABM system in the world is, in fact, deployed around Moscow. It would be foolish to allow the Russians to blackmail us without regard to actions permitted by the ABM Treaty, as they have attempted to do on a variety of issues, including expansion of NATO and United States policy in Bosnia.

Let us be clear about the administration's real objections with the ballistic missile defense provisions in this conference report. The administration and some of our colleagues here in the Senate do not want the United States to be defended at all against ballistic missiles. That is my fear, at any rate. The administration's NMD program is designed to perpetuate research and development while indefinitely delaying deployment of the most limited NMD system. How long can you go on with research and development? It is like some of the Corps of Engineer projects that I am familiar with. They study them, study them; they do analysis and study. If they put that money into the construction of the projects that they waste on years of studies, we would get our projects a lot quicker, we would not waste nearly as much money. If we are not actually going to do this, how long are we going to go forward with R&D?

My staff was told directly by a senior White House official that the administration would object to any requirement to deploy an NMD system by a date certain, even if that system fully complied with the ABM Treaty. There you have it. That is the crux of the matter.

In essence, they oppose any commitment to deploy a national defense missile system. By way of comparison, by the way, interestingly, in 1991, a Democratically controlled Congress dramatically restructured the Bush administration's SDI program with the Missile Defense Act of 1991, which was a bipartisan initiative, sponsored by the then chairman of the Armed Services Committee. The 1991 act called for deployment of an NMD system in 5 years, whereas the conference report before the Senate today calls for a similar deployment in 8 years. What is the big concern here?

This 1991 bipartisan agreement, that was led by Senator NUNN, Senator WARNER, Senator COHEN, and others, said it would be done in 5 years, by 1996. Now this one says we will not even get it done until the year 2003. If we get to 2002 and we do not have the capability, if we do not want to do it, we do not have to go forward. We can change it. But should we not have some goal that someday we will quit doing R&D and we actually deploy a defensive system? Should we not have a date in mind so this just does not go on forever?

The 1991 act also mirrored this conference report in urging the President to negotiate amendments to the ABM Treaty to allow for a multiple-site NMD system. Think about that again. The 1991 act—bipartisan—led by Senator NUNN of Georgia, said essentially the same thing we are saying here, that there should be an effort to negotiate amendments to the ABM Treaty to allow for these multiple sites. Many of the same Members who stood on this floor in 1991 speaking in favor of national missile defense deployment are now telling the American people not to worry, that we do not need to defend the United States against ballistic missiles.

This defies, not only logic, but our responsibility to provide for the defense of the American homeland. I cannot help but conclude that on the subject of ballistic missile defense, the administration did not negotiate with us in full faith.

For weeks during the conference we heard nothing about objections concerning the ABM Treaty. But even after addressing each one of these concerns, in most cases accepting specific proposals made by the administration or minority conferees, we still hear the same old arguments and are faced with a veto threat. So I am disappointed, although I must confess I am not too surprised right now.

The next question involves the restructured Assistant Secretaries of Defense. Some Members have objected, on both sides of the aisle, to changes in law which impact two civilian offices within the Office of the Secretary of Defense, the Assistant Secretary for Special Operations and Low Intensity Conflict, and the Director of the Office of Operational Test and Evaluation. These Members allege that these positions are being eliminated by this conference report. Now this is not completely accurate.

The conference report simply removes the statutory requirement which dictates that these positions must be maintained. Why did the conference committee make these changes? Frankly, primarily because the House felt so strongly about it. But, since the late 1980's the military services have shrunk by almost 25 percent. The military services have gone down in size by 25 percent. But, during the same period, the Office of the Secretary of Defense has increased in size by over 20 percent. This is since the late 1980's, so there have been Democrat and Republican administrations. But, while the military numbers are going down, the number of civilians in the Office of the Secretary of Defense have gone up 20 percent. How does this make sense? It does not. If you do not remove the statutory requirement that requires the continuation of this imbalance of personnel, the Secretary of Defense is restricted from realigning his office. This conference report empowers the Secretary of Defense. It does not restrict him in this regard.

Does anyone believe the Members of the House and Senate defense committees would eliminate or want to eliminate operational test and evaluation? Absolutely not. It is very important that we continue to emphasize the importance of operational tests and evaluation of new weapon systems. But maintaining our commitment to this function should not preclude our ability to allow the Office of Secretary of Defense to be restructured in order to reduce overhead and save money. After all, in the final analysis, the Office of the Secretary of Defense cannot fight a single battle. Military personnel have to do that. So we are getting fatter on the civilian side at OSD, while we are slimming down in the actual fighting people.

The same is true of the Assistant Secretary of Defense for Special Operations. We are not in favor of removing civilian oversight of special operations, absolutely not. But the Secretary of Defense should be unburdened from the countless statutory requirements, one of which is this Assistant Secretary of Defense.

A lot of criticism has been made that this conference report mandates the Navy buy numerous component items in the United States only. While it is true the bill contains the requirement for the Navy to purchase certain components with 51 percent U.S. domestic content, it does not contain an absolute buy-American provision.

The United States is out of step with other countries which get involved in the awarding of defense contracts. If a defense contractor wants to bid on a Dutch weapon system, for instance, they require U.S. firms to meet two different tests. First is the an offset requirement—that is you have to bring some amount of money into the Netherlands to offset the amount of money going to the United States defense contractor. Second, the Netherlands requires a certain percentage of the United States defense contractor's work or product to be done in the Netherlands.

Now, we like to do business with the Dutch. But they have requirements on us that we do not have for ourselves. Are we going to get in the position where all of our—or many of our key defense components are built overseas? There is danger there. Surely we see that.

But that is not all the Dutch require. The Netherlands also leverages foreign defense firms by granting larger offsetting credits to United States contractors who increase the Dutch content of the component supplied by the United States contractor. For example, the Netherlands requires a 100 percent offset on all awards to foreign defense contractors, but they have structured an offset credit valuation system which awards more offset credit to foreign contractors who meet 85 percent domestic levels or higher in their country. So, if a United States contractor wants to win a defense contract with the Dutch Government they have two choices: Either they come up with a 100 percent offset for the total value of the contract award, or they have to manufacture 85 percent of that component or system in the Netherlands.

That is not exactly what you would call an open and fair competition for U.S. defense firms. The United States in almost every area of our defense procurement welcomes all bidders without domestic content requirements or offset requirements. How is this fair? It is the same old deal. America says we want free trade but we do not even require that it be equal or fair, not only in this area but a lot of other areas.

This bill simply identifies a list of specific key components and requires that 51 percent of those components be manufactured in the United States. It does not even come close to leveling the playing field in terms of applying the same set of rules on foreign contractors supplying our Defense Department as foreign countries apply to U.S. firms competing for defense contracts in their countries.

Good old Uncle Sam gets to be Uncle Sap once again. We always seem to bend over backward to deal with the problems of our allies but we do not look after ourselves. We are not talking about only one or two countries applying for these domestic content and offset requirements. There is a long list: Australia, Norway, Canada, South Korea. The domestic content provision in this bill is needed. It makes sense. And it is fully warranted, given the practice of other countries requiring offsets by U.S. contractors.

We probably should have done more in this area, not less. But, again, this was a case where the Senate was willing to say no, we are not going to have anything on this. Our House conferees were just absolutely adamant. And we ground it down and we made them give tremendous concessions. We came up with what is really a very small, and I think a reasonable, proposal.

COLA's for military retirees are in this bill. Members need to understand, without passage of this bill military retirees will, once again, fail to receive a fair and equitable cost-of-living adjustment, equal and timely with civilian retirees.

The Armed Services Committee members feel very strongly about this. Again, it is a question of fundamental fairness. I know there is some thinking going on around here, do not worry, we will put it on some train going through here in the next few days and we will take care of it.

There may not be any trains going through here in the next few days. We may be here Christmas day. But the idea we are going to hitch it on to a continuing resolution is very dubious. In the process, our military retirees could get trapped.

We have it in this bill. That is where it belongs. We need to make sure we understand, if we do not pass this authorization bill our military retirees' COLA could be lost. How are you going to explain to the military retirees in your State that you opposed a bill that would bring their COLA back into parity and alignment with civilian retirees? This bill provides important parity there.

Some say this bill is not perfect. I have never voted on a perfect bill, I do not think. I have never voted on a perfect defense bill. I do not agree with all of the bill's provisions, but overall I think this is a good bill. Concerted efforts were made to address numerous administration concerns. As a result, substantial modifications were made in conference to address these concerns.

In the missile defense area, as I pointed out, the cooperative threat reduction program, the so-called Nunn-Lugar program, we had some reservations about it. We worked hard on that with Senator NUNN and Senator LUGAR. We made agreements. I think all the money was restored, with a certain amount of it fenced, but even that money could be spent in other countries. I think that was the final result. We support this program and we got it worked out.

We made changes but we retained the U.N. command and control restrictions. We had contingency operations funding. I personally do not like that at all. I do not like this contingency operations funding. I do not like giving the Pentagon money and saying, "by the way, use it because of commitments that had already been made in Haiti or Somalia or wherever they may be"—but giving the money in advance. I think they need to justify all of these continuing operations' funding. We will live up to providing the funds. We always have and we will. But I do not like this funding in advance.

We had acquisition reform provisions. We had improvements in military housing. There is a long list of really good things in this bill.

While the administration may not like all of them, I say again, we made tremendous efforts to work with the administration. I know Senator NUNN helped with that. I know our leader, the chairman of the committee, wanted to work with the administration. In fact, he insisted that we meet with Dr. Perry at breakfast meetings to hear his concerns. I remember Dr. Perry came over and said, "We do not like the House-passed bill, but we are pretty comfortable with the Senate-passed bill."

So we worked to try to address his concerns. We met with the Deputy Secretary of Defense, Deputy White. He came in and said—I cannot remember the number—"There are six or seven areas we are really concerned about." Look at the bill and you will find in almost every one of those areas we either met their specific requirements, or request, or made substantial movements in that direction. So they have been able to get a lot of modifications.

I think we have a good bill. I urge Members of the Senate to support this conference report. It is good for the men and women in uniform. That should be our principal goal. It improves the readiness of our forces. It begins to correct the modernization problems our military services face and provides policy guidance necessary to operate our defense efforts in a challenging and difficult time.

Did we leave some issues on the table? Yes. But we will be back at work on the next authorization bill in about 6 weeks.

Did we have some areas that we may change our mind on later? Yes. But we have an authorization bill every year. If some language needs to be revisited, we can do that. Let us pass this bill. Let us do the right thing for our country and for our military men and women.

I yield the floor, Mr. President.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to commend the able Senator from Mississippi for the excellent remarks he has made on this bill.

He is the Republican whip in the Senate and does a great job there. He is also a valuable member of the Armed Services Committee and has made a great contribution to our country by sitting on that committee. Again, I want to thank him for all he has done to promote this bill.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. I thank the Chair.

Mr. President, I rise today to oppose the Department of Defense authorization conference report, and I do so with considerable regret. I, as a member of the committee, voted to support the original authorization bill because I think it did represent a very carefully balanced approach on some of the critical issues which I am going to comment on briefly.

I acknowledge that there are parts of this bill that I think are quite good. The military pay provisions, the acquisition reforms are areas of particular interest to me. In my own State, money is provided for hydronuclear testing, some $30 million. Those and many other provisions I fully support.

But the conference report now before us contains significant changes from the originally approved bill, particularly with respect to providing additional funding for the B-2 bomber, a position which the Senate opposed both in committee and on the floor.

The report contains very dangerous language, in my opinion, with respect to the national missile defense provisions that, if enacted, would violate the U.S. agreement on the Anti-Ballistic Missile Treaty. The report contains a number of troubling "special arrangements," such as a specific ship maintenance contract for a specific shipyard, which in my view would circumvent the competitive bidding process. The report also delineates line by line how the National Guard and Reserve may spend their allocated money for procurement, a position contrary to that taken by the National Guard and Reserve components. Moreover, Mr. President, I regret to say that the conference report does not have the full bipartisan support of the Senate Armed Services Committee. The minority members, the Democrats, were not even minimally notified or consulted with respect to major issues that were changed in the conference report.

Last week, the Democratic conferees were asked to sign the conference report despite the fact that we had not been given the final language on a number of critical issues, most notably the language with respect to the B-2 bomber and the potentially explosive national missile defense language.

I might note with specificity that when my office was notified that the final conference meeting would convene, we were provided about 30 minutes advance notice. I was able to attend, but a good many of my colleagues, not having any prior notice of the conference meeting, were not able to attend. This meeting convened rather late in the afternoon at approximately 6 o'clock, with such late notice many of my colleagues were unable to rearrange their schedules to attend a very important meeting.

So for those reasons, and others, I do not intend to support this conference report today and I would not agree to sign the conference report last week.

It appears that this conference committee has never been terribly serious about conducting bipartisan negotiations. As a matter of fact, the conference committee was disbanded a few weeks after it was convened. Therefore, there could be no meaningful bipartisan discussion of the funding levels, or any of the other outstanding issues in the context of a conference discussion. In point of fact, Mr. President, the conference was disbanded before any real, substantive discussions even began among the conferees.

Due to the early disbanding of the conference, negotiations have taken place primarily between House and Senate Republicans behind closed doors for the past 95 days. Because the conference was officially disbanded, negotiators were not bound to follow the open meeting rule, nor were they required to notify all conferees of negotiation sessions or conference meetings.

I am a relatively new member to the committee, Mr. President. This will be my third authorization bill. But I must say, in my experience it is unprecedented that the committee has operated in this fashion. I am told by my colleagues who have considerably more tenure than I do on the committee that this is without precedent. I must say when I was appointed to this committee in 1993, I was enthusiastic about that appointment, and I continue to be. One aspect that I particularly enjoy—having had the opportunity to serve on, among other committees here in the Senate, the Senate Armed Services Committee—is that it has historically had the reputation, which I found to be the case, that it really was bipartisan. That is not to say that there were not legitimate differences that divided us. There were, and there continue to be. But there was a virtual absence of partisanship as we processed the various policy questions within the jurisdiction of that committee.

I regret to say, and I hope that this is a temporary aberration, if you will, that this is not an auspicious beginning for us if this is the way the Defense authorization conference is going to be conducted in future years.

There are Members on both sides of the political aisle who have served many, many years in the Senate. These individuals have gained considerable expertise in very discrete areas dealing with the funding of our national defense effort, and I think their expertise would have been extremely helpful in the negotiations with our colleagues in the other body.

I note further, Mr. President, that there are major parts of the conference report that were discussed at this meeting which I have described—the one which provided our office with about 30 minutes notice—that were only verbally described to Senators literally minutes before the report was presented to us for signature. With respect to some of these provisions, they are extremely complicated. Language is very important.

Specifically, I note the conference report language change with respect to the national missile defense provision. I must say that engaged colleagues on both sides of the aisle worked on the Senate-passed compromise version of this language. In extraordinarily difficult and, I think, very instructive discussions, the Senate provisions were agreed to overwhelmingly when it was acted upon on the floor of the Senate. Unfortunately, this was not the experience with respect to the conference negotiation.

The resulting conference language, in my view, is deeply flawed. It, indeed, may result in a violation of the ABM Treaty, and it seems to me that we send all the wrong signals to the Russians. In effect, by the deployment schedule specifically established in this bill at 2003, it seems to me, would make the Russians even more reluctant to negotiate any further nuclear arms reductions and give them considerable reason to believe that it is our intent to violate the ABM Treaty itself.

Another of the issues that divided us is the additional funding of the B-2 bomber. It was defeated in the Senate Armed Services Committee this year, in a bipartisan vote, and not included in the Defense authorization bill which was passed in this Chamber. I find it particularly troubling that the provision itself that would increase funding to the B-2 bomber was not available at the time the conference report was presented to us and we were asked to approve. Again, this is one of the most difficult issues that the committee had to deal with, and I would submit that this is not the way in which we ought to be conducting conference negotiations.

Moreover, this conference report imposes new restrictions on the President's ability to obtain contingency funding for military operations. This is in direct contravention of the President's constitutional role as our Commander in Chief. The report contains directed procurement of specific ships at specific shipyards without a clear requirement, undermining, in my opinion, the efficiency and cost-saving objectives which are of critical importance as we face very, very difficult budgets in the outyears.

The conference report contains spending floors with respect to shipbuilding provisions. These are requirements to spend specified amounts on specified projects. Again, in the real world in which we live, where the budgets are going to be tighter next year and each of the outyears thereafter, I find this provision unfathomable.

The conference report will create a special congressional panel on submarines. I must say that my colleagues on the other side of the aisle have made a number of very constructive comments over the years when they talk about streamlining Government and reducing the number of committees. Adding another committee, it seems to me, is duplicative and creates unnecessary additional staff involvement and the possibility of additional funding that is just not warranted. The existing panel, in which submarines are included in the jurisdictional portfolio, does a proper job in my judgment and a new panel just for submarines is redundant, unnecessary and unwise.

The conference report designates every single line of the National Guard and Reserve procurement funds, rather than providing generic categories of funds. This, Mr. President, is contrary to requests made by the National Guard and Reserve.

The conference report dictates to the Department of Defense what their procurement priorities ought to be. It allows them to spend the money on nothing but those items deemed appropriate by the House and Senate. I recall in a different context a lot of criticism about Congress micromanaging the Pentagon. Let me suggest that I believe this is a case in which micromanagement has become the operative order of the day.

I mentioned previously Pacer Coin, a program of particular interest in my State. The Nevada Air National Guard would receive two of those planes. The conference report contains language on the Air National Guard's Pacer Coin mission that is patently false. The report reads, and I quote, "The conferees understand that the National Guard Bureau has requested that the Air Force terminate the Pacer Coin program."

This statement is not true. As a matter of fact, I have a letter dated December 8, 1995, from Maj. Gen. Donald Shepperd, Director of the Air National Guard. His letter states in part, "The Air National Guard always has supported Pacer Coin and will continue to support the mission." General Shepperd's letter then goes on to say, "It is our understanding that the Pacer Coin mission is a priority of the Commander in Chief, U.S. Southern Command."

Mr. President, I ask unanimous consent that the full text of General Shepperd's letter of December 8, 1995, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENTS OF THE ARMY AND
THE AIR FORCE; NATIONAL GUARD
BUREAU,
Washington, DC, December 8, 1995.

Senator RICHARD BRYAN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR BRYAN: Thank you for your December 6, 1995 letter concerning the continuation of the Pacer Coin mission. I assure you that the Air National Guard always has supported Pacer Coin and will continue to support the mission as long as there is a military requirement and the necessary resources.

Regarding the military requirement, it is our understanding that the Pacer Coin mission is a priority of the Commander-in-Chief, U.S. Southern Command. In terms of necessary resources, the program transferred to the Air National Guard underfunded in fiscal years 96, 97, and 98. This shortfall spurred budgetary exercises that may have been misconstrued as a lack of support for the Pacer Coin program. My staff is searching for alternatives to fund the shortfall for FY 96.

Again, let me reiterate my support of the Pacer Coin mission and assure you that the Air National Guard will support this mission as long as there is a military requirement and proper funding.

Please don't hesitate to call if I can be of further assistance.

DONALD W. SHEPPERD,
Major General, USAF,
Director, Air National Guard.

Mr. BRYAN. I thank the Chair. I also have a letter from Gen. Barry McCaffrey, commander in chief of U.S. Southern Command dated June 2, 1995. His letter states, "U.S. Southern Command supports retention of the Pacer Coin reconnaissance program in the Air National Guard and periodic deployments of the system in this theater."

And again, Mr. President, I ask unanimous consent that the full text of General McCaffrey's letter dated June 26, 1995, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF DEFENSE, U.S.
SOUTHERN COMMAND, OFFICE OF
THE COMMANDER IN CHIEF,
Washington, DC, June 26, 1995.

Hon. RICHARD H. BRYAN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR BRYAN: Appreciate your concern over the potential termination of the U.S. Air Force Pacer Coin reconnaissance program and welcome the opportunity to share the U.S. Southern Command's views on the value of this important asset.

The U.S. Southern Command and its ground, air, and naval component forces rely heavily upon releasable, high quality imagery. This requirement for extensive imagery is to support operational planning, exercise deployments, humanitarian assistance and disaster relief operations. We also provide comprehensive imagery support to U.S. Country Teams and host nations throughout the region that are involved in counterdrug operations.

As you know, however, fiscal constraints and force structure reductions drove the transition of the Pacer Coin program from the active force structure to the Air National Guard. As a consequence, we have asked for periodic Air National Guard deployments of Pacer Coin to satisfy the continuing requirement for timely, high quality, broad area imagery that we can release to our host nation allies in the region. The U.S. Southern Command supports retention of the Pacer Coin reconnaissance program in the Air National Guard and periodic deployments of the system to this theater.

Best wishes,

BARRY R. MCCAFFREY,
General, U.S. Army,
Commander in Chief.

Mr. BRYAN. I thank the Chair.

I must say it has been difficult for me to understand, with two commanding generals who have in one instance a National Guard command authority and in the other instance an operational command of the Southern Command both expressing support for the program, how the conference report could question the viability of this program and conclude that this is a program that is not supported.

I guess by way of general conclusion, Mr. President, I regret to say that this conference has not been conducted in its historical bipartisan manner. Democrats were cut out from any meaningful participation in the conference itself. And I must say the Secretary of Defense has indicated that he will recommend a veto of this conference report to the President. The National Security Council and the Pentagon find the national defense missile language in this report to be wholly unacceptable and quite dangerous.

Finally, the President himself has sent a message to Congress saying that he will veto this bill in its present form. For these and the other reasons that I have referenced in my comments, I urge my colleagues to vote against the report.

Mr. President, I yield the floor and in the absence of any other colleague in the Chamber I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ASHCROFT). Without objection, it is so ordered.

Mr. COATS. May I inquire how much time is remaining on our side?

The PRESIDING OFFICER. There are 28 minutes 30 seconds remaining.

Mr. COATS. Mr. President, I yield myself such time as I may consume.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, first, I want to begin by commending the chairman of the Senate Armed Services Committee, Senator THURMOND, for the work that he has done this year in leading the effort in putting this defense authorization conference report together.

It has been a tough year, as we all know. It has been a long and difficult year with many, many complex and difficult questions. Senator THURMOND has provided extraordinary leadership in bringing us to this point. I want to commend him for his efforts in that regard.

At the same time, I want to express my disappointment that, apparently, this conference report is going to be virtually unanimously opposed by our colleagues from across the aisle. I regret that, because we have always, at least in my tenure, moved forward on defense bills in a bipartisan fashion. It appears now that we will not be doing that this year. I think that is disappointing.

Nevertheless, I hope that our colleagues will see fit to support this legislation in such a manner that it can pass the Senate, be sent to the President and then he will, obviously, have to make a choice as to whether or not he wants to accept the bill or veto the bill.

We heard a lot of Members state reasons why they will not vote for the bill on the basis of what is included in the bill. What we have not heard is information relative to what is now in the bill that will be lost if it is not passed.

Anybody can look at a bill this massive, covering this amount of spending, and find reasons why they do not like a particular part of the bill. I have never voted for a bill where I have agreed 100 percent from beginning to end with every provision in that bill. This is the art of political compromise that tries to balance the opinions of one House versus the other, the opinions of one party versus the other, the interests of particular Senators in putting more emphasis on one portion of the bill than the other. In the end, you put a package together. You trust the major thrust of that package is in the direction that you want to go.

So to raise specific concerns about specific items in this bill as a basis for rejecting the whole bill, I think, is something that if we practice it on every bill that came forward, nothing would pass in this body.

But as I said, Members have stated that there are items in the bill that they do not like and, therefore, they will not vote for the bill. I would like to list, as chairman of the Personnel Subcommittee, what will be lost if this bill is not passed. I think Members ought to consider some of this before they make a final determination on how they will vote.

Do Senators understand that the full pay raise, which is only 2.4 percent, but the full pay raise to our troops in uniform, including those on the way to Bosnia and those deployed in areas around the world, will not be granted if this bill is not passed? The authorization for the full pay raise is included in this legislation and that will not go forward unless this bill is passed.

Reserve mobilization insurance will not be established. Several bonus authorities for enlistment and reenlistment will not be authorized. At a time when we have a shrinking defense force and we are trying to find the top quality people, the bonuses for enlistment and reenlistment that are incentives to attract the kind of people we need will not be available.

A whole series of quality of life initiatives will be lost. We keep talking about our No. 1 priority for our troops is quality of life. We need to provide them with the best training and the best equipment and the best leadership, but we also need to provide them with a quality of life that will allow they and their families to make a career commitment to service in our military. A whole series of initiatives on quality of life will be lost.

Let me just mention some of them. There will be no increased quarters allowance to close the gap of housing cost increases. This quarters allowance equals 5.2 percent in the bill. Without it, it will be 2 percent. That means when a soldier and his or her family are stationed in particular areas of the country and sufficient base housing is not available for them, as is the case in most instances, they have to go out into the local market. When they go out into the local market, the allowance that they are given for their quarters does not begin to cover the cost of housing in that particular area. We give quarters allowance to cover that, but it has not kept pace with the increase in housing costs, and so soldiers and sailors and airmen and marines and their families will be put at a continued even greater disadvantage than they have been in the past.

There will be no authority to pay quarters allowance for NCO's on ships or NCO's who currently live in inadequate quarters. These are people who are key to the successful functioning of our military, and they will not receive quarters allowance unless this bill is passed.

There will be no authority to pay family separation allowances to certain single soldiers.

There will be no authority to pay enlisted airmen hazardous duty incentive.

There will be no authority to pay special duty pay to personnel assigned to tenders.

There will be no authority to pay increased special duty pay to recruiters.

There will be no authority to pay dislocation allowances to those forced to move as a result of the BRAC process.

There will be no more automatic increase of servicemen's life insurance. At a time when we are deploying troops to Bosnia to undertake the risks that will be involved in this, there will be no automatic life insurance increase. That was included in our bill.

There will be no COLA equity for military retirees, and I will discuss that in a moment.

There are a number of service academy issues that will not be addressed.

Two Navy P–3 squadrons will not be authorized.

There will be no floor on military technicians, a critical request made by the service chiefs and others as they came before our committee. As the equipment becomes more sophisticated, we need people who have more technological capability to repair and deal with this equipment, and this is a very important part of the authorization bill authority, and that will not be provided.

Dental/medical benefits, CHAMPUS benefits for certain members of the total force will not be included. These, just from the Personnel Subcommittee, are items that we will not have if this bill is defeated or if the President vetoes it.

Let me discuss one other. There is a whole series of initiatives to provide new authorities for the provision of new housing, repaired housing, restored housing for our military personnel.

Why is this important? Because over the last 30 years, while we have made some remarkable strides in providing our troops with training and equipment, we have ignored their living quarters, the repair, maintenance, and the construction of new quarters. Currently, on the military's own estimate on the basis of their own standards—and I suggest their standards are not the standards that are found generally in housing construction throughout this country; they are lower standards. Even by their standards, many of the housing units, most of which are over 30 years old, are in a state of disrepair. In fact, by Department of Defense standards, over 80 percent of the existing military housing is inadequate. Let me repeat that. Over 80 percent of the housing that we ask our military families and ask our single military personnel to live in is inadequate. It is substandard and it needs repair, maintenance, and some of it needs to be torn down. A lot of new units need to be built.

Under the current rate of funding for this repair, maintenance, and construction, it will take 30 years to remedy the problem. Of course, in 30 years, the problem that is remedied this year and in succeeding years will then be inadequate. So we are getting nowhere. Under the direction of the Secretary of Defense, Bill Perry, under the very able leadership of former Secretary of the Army, John Marsh, and an internal as well as external task force, a year's worth of effort has culminated in a plan to very substantially upgrade military housing on an accelerated basis. Because we are faced with a budget crunch that does not provide the immediate funds, new housing authorities are requested by the department, so that we can use methods that are used by the civilian housing authorities, which exist in virtually every one of our States, to leverage funds to begin to dramatically accelerate the rehabilitation and construction of new quarters for our personnel.

We are asking individuals to commit a career, a lifetime, to the service, and that means that we are moving from single enlisted people that formerly were brought into the service by the draft, as I entered, and now, instead of a 2, 3, or 4-year commitment, people are making a lifetime commitment. Most of those people are bringing their families with them—their spouses and children. For this country to ask individuals to put on the uniform and provide for our defense and not provide for adequate housing, I believe, is a disgrace. It is a disgrace to ask these people to live in the housing and the quarters that they currently live in.

I have personally visited the family quarters and the bachelor quarters on a number of bases throughout this country and some overseas. I would not put my family in some of these living situations, and either would anybody else in this Senate. I would not begin to ask my family to live under some of the conditions that our service personnel live in, without complaint. The least we can do for these people who make this commitment to provide for our security and our freedom is give them adequate living quarters. Roofs are caving in, ceilings are caving in, water is running down the walls, broken plumbing, exterior windows cracked, cold air rushing through. You do not need air conditioning if you live in a cold climate because it comes right through the windows and the walls.

I think one of the things that I will regret the most if this bill fails, either in the Senate vote or if it is vetoed by the President, is the loss of authority to do what Secretary Perry has asked us to provide—to accelerate the reconstruction and the maintenance and repairs of some of our housing that we provide for our military personnel. That is what we lose just from the personnel section of this bill. I do not have the time to go into other sections.

There have been a number of allegations made here about some of the additional problems that exist. I would like to address one of those points, because it seems to be a major sticking point for several Members—that is, the statutory authority that exists providing for the Director of Operational Test and Evaluation. What Members need to understand is that the conference report does not abolish this office. This is an important office, as is the Office for Special Operations and Low Intensity Conflict. But what the committee is attempting to address is a situation where the Department wants the flexibility to review the way it is organized, to make determinations as to how it wants to be structured and then report to us as a committee by March 1 of 1996. The repeal of the statutory authority, first of all, does not even take place until January 1, 1997. It is not prejudicial because we are asking the Secretary of Defense to report to us by March 1 of next year his recommendations as to how the Department can be reorganized so it can operate in the most efficient manner. They are feeling the budget squeeze. They know they need to make decisions relative to how they can better organize to achieve savings.

All we are doing is repealing the requirement for specific positions on a statutory basis. It does not mean the position will be eliminated. We then, as a committee, will have the opportunity to review the report, question the Secretary, and look at and evaluate their reorganization plan, and we can decide that we want to retain these statutory provisions.

There is no doubt that the Director of Operational Test and Evaluation is an important position. Senator NUNN, on this floor, very accurately described the nature of the position and the independence of the incumbent director. I fully expect that Secretary Perry will ask that this position be retained. The key factor is that he will make that recommendation on the merits, not because he was encumbered by a statutory protection. That is the goal of this legislation. Meritorious recommendations by the Secretary of Defense, not abolition of one position or another.

The legislation is intentionally crafted to permit any repeal to be vitiated before it is implemented, if that is the appropriate outcome. There has been a lot of misinformation about this part of the bill, and if Senators will take the time to review the actual language and understand the intent, I am confident that they will see this as a workable solution. So I urge my colleagues who may be thinking of voting against the bill, on this provision alone, to look at the conference report and understand what it is we are attempting to do.

Now, Mr. President, second, I want to take some remaining time here and just put this Defense authorization debate in the broader context of the budget debate, because it has been said on this floor on numerous occasions by numerous Members that if we were really serious about reducing the deficit, we would reduce defense spending. We would take this defense bill, which they say is sacrosanct from spending, and we would begin to take savings out of Defense. I do not know where those Members have been for the last 10 years. But as Senator NUNN said on this floor just about a year ago, "Those who claim that Defense has not been substantially reduced since the end of the cold war are flat out wrong. The Defense Department, in the past few years, has carried more than its fair share of sacrifice for lowering the deficit. Indeed, the Defense Department seems to be the only part of the Federal Government that has carried its fair share." Let me repeat that one statement again. "Those who claim that Defense has not been substantially reduced since the end of the cold war are flat out wrong." They ignore the facts.

To say defense is the area that needs to be reduced so that we could prove our commitment to deficit reduction ignores reality. The fiscal year 1996 budget request for defense is at the 1975 spending level in constant dollars. The 1997 level is at the 1955 level. Since 1985, we have reduced defense procurement 71 percent. Research, development, testing, and evaluation funds have been reduced 57 percent. By 1999, defense spending as a share of the gross national product will have declined to 2.8 percent, the lowest since before World War II.

We are now entering the 11th straight year of declining defense budgets. We have cut active duty personnel by 32 percent. That is the lowest level in 60 years. The Army will have 45 percent fewer divisions, the Navy 37 percent fewer battle force ships, and the Air Force 40 percent fewer attack and fighter aircraft.

Now, defense spending, which has decreased—just in the 10-year decade, the decade of the 1990's, defense spending will decrease 35 percent. What are we doing with the rest of the budget? Domestic discretionary spending, during that same time period, increases 12 percent; welfare and mandatory spending will increase by 38 percent. Those that say defense has not done its share are ignoring the facts.

If some of these other nondefense areas of the budget had done one-tenth of what defense has done, we would not be debating the need for a balanced budget. We would have achieved a balanced budget. Name me one program in the Federal Government, outside of defense, that has even begun to reach the decrease in spending that defense has. Name me one program that has been reduced at all.

The challenge is not to further reduce defense. The challenge is to look at the other programs that are driving our costs out of sight, that are squeezing our ability to provide for an adequate defense.

At the same time that defense spending is reducing dramatically and the number of personnel are reducing dramatically, the requirements for deployments are increasing. We have shrunk our forces in Europe from 314,000 prior to the fall of the Berlin Wall. That number is now rapidly approaching 100,000. Yet those remaining forces have been deployed in more missions in the last 5 years than in the previous 45 years combined. The average soldier now spends approximately 138 days each year away from home on extended short-notice deployments. This is combined with extensive training, away from home, in order to maintain the critical skills necessary. That is a tremendous strain on those personnel and particularly on their families.

Our Navy surface ships are away from home at tempos in excess of 130 days per year—that is away from home. That does not count the short-term deployments to prepare them for the longer term deployment.

The Marines currently have 24,000 people—pre-Bosnia—24,000 people deployed overseas carrying out a whole number of 911 fast-reaction assignments. The Air Force has had a fourfold increase in the deployment obligations over the last 7 years, while drawing down its overall end strength by a third.

So we have troops deployed all over the world on all kinds of missions and yet we have fewer number of personnel to allocate to these deployments. What does that mean? Longer deployments, longer time away from home, more strain and stress on the force.

We have a serious gap that is opening between our military mission and the level of funding we provide. The Armed Services Committee this year, under the very able leadership of our chairman, has done the very best that we can to take this limited budget and stretch it in a way that begins to meet the needs of our Armed Forces.

To those who say, "We have added $6.7 billion and the Pentagon didn't request it." If the Pentagon were calling the shots their budget requests would have been a lot higher than they were. They are not. They get a number from the President. The President's Office of Management and Budget says, "Here is your number, now make it work." These people are trained to salute and say, "Yes, sir." Ask any one of them, as we have in our hearings, do you need more, could you use more, would you like to have more? Their answers were "Yes, we would."

There are a number of things we would like to deal with but we recognize we are constrained by this budget and therefore we have done the best we could. We are on the razor's edge of readiness. We are worried about procurement in the future. We are not updating our equipment. We are sacrificing quality of life, but we have to live within this budget number. We will do the best that we can. They do a terrific job. To say they do not want the additional resources, that this extra money that Republicans have provided, $6.7 billion, is wasted money is simply not the case.

You can argue over how that ought to be allocated. It is not allocated 100 percent the way I would like to allocate. The defense budget has been declining now for 11 straight years. It is certainly not some Government program run amok without control, as so many others have.

Mr. President, balancing our books is one of the most important duties of Government, but it is not the first duty of Government. The first duty of Government is the defense of this country, without needless risk to the men and women who serve. That means more than defending our borders. It means shaping a security environment that will be favorable to America in the future. It means providing our troops with the training they need, the equipment they require, the kind of leadership that provides for success, and the quality of life that gives them a stake in the future of this country, that provides for their families while they are away on deployment.

We are asking fewer people to do more with less. As I speak, we are deploying 20,000 troops, and many more thousands of support troops, in this effort to Bosnia. They are fighting terrible weather, as we can see every day on CNN. They are fighting some of the world's worst terrain. They are engaging in a mission that many of us still are trying to figure out what the mission is. It is a mission that is fraught with risk.

We are asking and have asked and will continue to ask a great deal of the men and women who wear the uniform of this country. The very least we can do with this type of budget constraint is to provide them with the best that we can. To reject this bill now, I believe, sends an absolutely wrong signal.

We talked about sending signals on the floor last week. What kind of signal do we send, with all the authorities, the quality of life initiatives, and other items in this bill. What kind of signal do we send to the troops right now trying to fight fog, the weather, the snow, and the landings on a runway they cannot see, in a mountainous area of Bosnia? Deploying into terrible weather and terrible terrain on a mission they are not sure exactly what it is. What kind of signal do we send, that the Senate rejects the bill that takes care of their families while they are gone? The Senate rejects the bill that provides the authorities we need to have a successful military effort? That is a terrible signal to send.

If Members want to talk about sending a signal; walk down here now and vote. Just because there is a piece of the bill that you do not like or because this is now partisan politics and we did not get in enough of the discussions about what the final bill should look like. Therefor in a fit of pique you register your displeasure with it, I think that is a terrible mistake. It is a terrible time for our troops, as we approach Christmas, as our troops are leaving their families and going into a very uncertain, risky situation in the world's worst terrain and climate—to now reject this bill would be a huge mistake.

I urge my colleagues who may be having reservations, ask us what the facts are, look at what is in the bill, let us work with you to resolve differences next year, but do not tell our troops that we are not going to give them these authorities and we will not provide for their future as included in this bill.

I yield the floor.

Mr. THURMOND. Mr. President, I want to commend the able Senator from Indiana for the excellent remarks he has made on this bill. He is a valuable member of our Armed Services Committee and made a fine contribution throughout this year to the work of that committee. We appreciate it very much, Senator, all that you do for your country.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, parliamentary inquiry. Am I not correct that the Senate is due to stand in recess now until the hour of 2:15?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Mr. President, I ask unanimous consent that I might proceed for 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I wish to join the distinguished chairman of the Armed Services Committee in recognizing the valuable contributions consistently made by the Senator from Indiana and his very stirring and moving remarks of a few minutes ago. He is recognized on our committee as an expert in the area of personnel, and I am pleased to hear that, as he addressed our colleagues this morning, he made specific reference to the families of the men and women of the Armed Forces and of course his reference to those now being deployed to Bosnia.

As the Senator well knows, there are some 100 ships on the high seas, all over the world today, and men and women of the Armed Forces stationed in many other countries. So this message not only relates to those that, perhaps, are foremost in our minds on the Bosnia deployment, but, indeed, to men and women on the high seas and in various posts in farflung parts of the world. I compliment my good friend for his remarks.

Mr. President, it has been my great privilege to serve these 17 years on the Senate Armed Services Committee, and I share the concerns of so many that, as we approach the vote on this bill, there remains in the minds of some, doubts about whether or not this bill meets their individual expectations.

I have had those same doubts through these 16 previous years about other defense conference reports and, indeed, the bill itself, as it has left the Armed Services Committee. But each time, I have found a means by which to reconcile my differences and to join the other side of the aisle in support of the bill. This year, under the very able leadership of the distinguished senior Senator from South Carolina, a man who has a career associated with the armed services unparalleled in length to any Member of this Chamber, having joined the Armed Forces in the early stages of World War II, at the time when he was not even subject to the draft—he went out and volunteered. He resigned as a judge, and was proud to wear the uniform of his country, and he did so with great distinction, being the only Member of the U.S. Senate to have participated in the historic Normandy invasion in June 1944.

So, I pay great respect to my chairman. Beginning in the early stages of World War II, he started his preparations to serve in this Chamber and serve as a true representative for the men and women of the Armed Forces. Shortly we will be voting on this conference report, which will be the first bill of the Senate Armed Services Committee which proudly bears his name as chairman.

Let me address two specifics. I was concerned about references to the submarine panel. This was not an idea that originated in the Senate. Together with Senator LIEBERMAN, Senator ROBB, and Senator COHEN, I worked on the provisions relating to submarines in this bill and we recognize there was no need for this panel. But the House did. The House even wanted stronger measures.

Negotiations related to submarines were perhaps one of the most difficult part of the negotiations with the House of Representatives and the Senate. Out of it came the concept to have a panel to consist of three members from each committee, appointed by their respective chairmen on a bipartisan basis and reporting back to their respective committees. I, therefore, do not believe there is any invasion of the authority of the two committees on the armed services in the two bodies. In fact, I view some positive aspects in this concept. Because, as one looks at the former Soviet Union today, and most particularly Russia, that is where a disproportionate amount of their annual investment in national security goes—right into research and development and production of first-line submarines, submarines that challenge our finest submarines in the seven seas of the world today.

So I think every bit of intellect, every bit of wisdom that we can incorporate on behalf of our Nation into future submarine production is time and effort well spent. That, I think, will be a positive contribution. I hope I will be considered to be a part of this special panel on submarines, since in my State we are proud to have a shipyard which for many years has built some of the finest submarines, not only for our Navy, but anywhere in the world.

Then, Mr. President, turning to a second item, the Guard and Reserve, this has been a debate through the years. The Senator from Michigan tried, I think, to convince our committee—subsequently tried to convince the floor—of his desire to have a different approach to the Guard and Reserve. He is a very valued member of our committee. He understands the subject of the Guard and Reserve. And, like so many of us, we express our best judgment and seek to try to be convincing among our colleagues. He did that on two occasions and the majority of the Senate in the committee and on the floor decided on a different means to address the Guard and Reserve. So the battle was fought. The battle was decided. We go on with our business.

Of course, he has a perfect right to come and express such disappointment as may remain on this subject. But nevertheless, we have a solid provision in this bill for the Guard and Reserve and it reflects the majority views of the Armed Services Committee as well as the Senate as a whole.

These are just two examples of where there are differences between Members on the other side of the aisle and Members on this side, but I plead with my colleagues to think, in the spirit of reconciliation, as we do so frequently in this Chamber, and particularly as it relates to the men and women of the Armed Forces and sending that message. When, from the Chair, that vote is announced, we want to send a positive message all across the world and on the high seas. I urge my colleagues to support this conference report.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I commend the able Senator from Virginia for the excellent remarks he has made on this bill. The Senator from Virginia was once Secretary of the Navy. He served in the Marines. He is a valuable member of the Armed Services Committee. He has rendered long service here and with great distinction to country and I want to commend him.

Mr. WARNER. Mr. President, I thank my distinguished senior colleague. My career both in the Senate and, indeed, in the uniform of the United States, falls far short of that of the senior Senator from South Carolina.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:38 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GRAMS).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I believe 15 minutes of time has been allotted to the Senator from Nebraska under the unanimous-consent request. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. EXON. I will take that time at this moment.

Mr. President, if the average American was to read the 1996 Defense Authorization Act conference report now before the Senate, he or she might believe that there was a mistake in the printing of the bill's title. The content of the conference agreement, the rhetoric in the report, and the pork add-ons contained in the legislation are more in keeping with the cold war environment of 1986, not the post-cold-war world of 1996.

I voted against the Senate version of the authorization bill earlier this year based on my belief that the $7 billion increase in spending authority contained in the bill was extravagant and that the bill's spending priorities and legislative restrictions were harmful, yes harmful, to our national security interests. I am dismayed to report that the conference report is even more objectionable on these counts than the Senate-passed version. As a result, I will vote against the National Defense authorization conference report for the first time in my 17 years as a U.S. Senator, a decision I do not come to lightly.

With very little participation solicited from the minority, the majority in the Senate and House have finally reached an agreement on a bill that will be greeted with cheers from the multibillion-dollar defense corporations in America. At a time when much of the Federal Government has run out of money and is shut down, at a time when the Congress is cutting domestic programs to the bone and the majority party is trying to push through an unwise $245 billion tax cut, we are considering a bill that adds $7.1 billion to the defense budget that the President did not ask for and our military leaders do not want.

This bill writes checks for unneeded weapons systems that will have defense corporations popping champagne corks around the country. Christmas has indeed come early for these multibillion-dollar corporations, and their gifts are beyond their wildest hopes. I implore every American that is asked to do with less this coming year due to the Republican budget-cutting ax to keep in mind the following glittering, gilded ornaments hung with care by the majority on the defense corporate tree:

$700 million in unrequested funds for an accelerated star wars program, a mere down payment on a system which has already cost the American taxpayers $35 billion and will likely cost another $48 billion to build;

$493 million in unrequested funds to restart the B–2 bomber program beyond the 20 planes already bought, again a mere down payment on a $30 billion procurement plan;

$23 million in unrequested funds for 4 additional medium range army aircraft;

$76 million in unrequested funds for Longbow helicopter modifications;

$140 million in unrequested funds for Kiowa helicopter modifications;

$32 million in unrequested funds for ground support avionics;

$37 million in unrequested funds to buy 750 additional Hellfire missiles;

$36 million in unrequested funds to buy 450 additional Javelin missiles;

$43 million in unrequested funds to buy 1,500 additional MLRS missiles;

$50 million in unrequested funds to buy MLRS launchers;

$18 million in unrequested funds to buy 29 additional Army tactical missiles;

$14 million in unrequested funds to buy Army tracked vehicles;

$82 million in unrequested funds to buy Howitzers;

$34 million in unrequested funds for improved Army recovery vehicles

$110 million in unrequested funds for M–1 modifications;

$44 million in unrequested funds for Army regional maintenance training sites;

$29 million in unrequested funds to buy 10,000 additional machine guns;

$33 million in unrequested funds to buy 2,100 additional grenade launchers;

$14 million in unrequested funds to buy 28,000 additional M–16 rifles;

$50 million in unrequested funds for small caliber ammunition;

$47 million in unrequested funds for mortar ammunition;

$80 million in unrequested funds for tank ammunition;

$33 million in unrequested funds for artillery ammunition;

$30 million in unrequested funds for mines;

$49 million in unrequested funds for ammunition production support;

$327 million in unrequested funds to buy Army trucks;

$136 million in unrequested funds for Army communications;

$81 million in unrequested funds to buy 4 additional AV–8 Harrier planes;

$213 million in unrequested funds to buy 6 additional F–18 planes;

$65 million in unrequested funds to buy 6 additional Sea Cobra helicopters;

$45 million in unrequested funds to buy 17 additional T–39 trainer aircraft;

$165 million in unrequested funds for EA–6 modifications;

$42 million in unrequested funds for F–14 modifications;

$32 million in unrequested funds for P–3 modifications;

$30 million in unrequested funds for ECM modifications;

$40 million in unrequested funds to buy 45 additional Harpoon missiles;

$49 million in unrequested funds for Tomahawk missile modifications;

$30 million in unrequested funds for Navy support equipment;

$1.4 billion in unrequested funds to buy a LHD–1 assault ship;

$974 million in unrequested funds to buy a LPD–17 amphibious ship;

$430 million in unrequested funds for Navy ammunition;

$15 million in unrequested funds for C–3 countermeasures;

$14 million in unrequested funds for Satcom ship terminals;

$17 million in unrequested funds for sonobuoys;

$30 million in unrequested funds for intelligence support equipment;

$34 million in unrequested for Marine Corps training devices;

$361 million in unrequested funds for F–15 Advance procurement and modifications;

$159 million in unrequested funds for F–16 procurement;

$133 million in unrequested funds to buy 3 WC–130 aircraft;

$96 million in unrequested funds for C–135 modifications;

$63 million in unrequested funds for Air Force aircraft modifications;

$40 million in unrequested funds to buy 100 additional GBU–15 missiles;

$38 million in unrequested funds to buy 54 additional Have Nap missiles;

$15 million in unrequested funds to 100 additional cruise missiles;

$344 million in unrequested funds for Air Force ammunition;

$20 million in unrequested funds for *Cyclone* class ships;

$17 million in unrequested funds for 2 additional special operations craft;

$777 million in unrequested National Guard and Reserve equipment specifically ear-marked for weapons systems such as 10 new C–139 aircraft and 2 new C–26 operational aircraft.

The list I have just recited is a lengthy one indeed, but it only scratches the surface; there are dozens of other programs where the majority has increased the administration's request and provided money for programs the Pentagon has said they do not need while cutting programs it says it does need.

The decorations that the majority have hung on the corporate tree are numerous and expensive. Defense lobbyists have had a banner year to be sure. In addition to the $7 billion in unjustified spending, this conference report contains a number of provisions which will make for a profitable 1996 for some of the biggest American corporations, including:

A taxpayer-financed loan program to export weapons to the third world;

An earmarked noncompetitive ship maintenance contract for a specific shipyard;

Numerous earmarked Energy Department projects and programs;

Authorization allowing a waiver of research and development funds owed the Government by defense contractors; and

Costly buy-American requirements which will drive up the cost to taxpayers of future procurements.

As I said at the beginning of my speech, this Defense authorization is not forward looking, it is backward looking. If the Senate had to meet truth-in-advertising requirements, the clerk would be obliged to change the year "1996"on the cover of this report to "1986." However, the cold war flavor of this bill goes beyond the inflated, parochial spending I have discussed up to this point. The legislative requirements of the conference report are equally extreme. The most troublesome is the missile defense language that commits our Nation to deploying a national missile defense system within the next 8 years at a likely cost of $48 billion against a threat that does not and will not exist. The son of star wars system mandated in this bill would be ineffective against terrorist threats, abrogate the ABM Treaty and likely take with it Russian implementation of START I and START II, not to mention endangering prospects of ratifying next year the chemical weapons convention and a comprehensive nuclear test ban treaty.

With logic right out of Lewis Carroll's "Alice in Wonderland," the majority wants the American taxpayer to spend $48 billion to defend against a threat which does not exist, the very course of action which will prompt the Russians to renege on their commitment to destroy two-thirds of their nuclear weapons, thereby reviving the threat that never would have existed had we not pursued the system in the first place. As that famous cartoon Bayou Alligator might have said: "We have met the enemy and he is us."

In closing, Mr. President, I would just like to offer at this time for printing at the conclusion of my remarks an article that appeared in the Sunday Washington Post of December 17.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. I would just comment briefly on the fact that this starts out "Off to a bad Start II. In both the United States and Russia, Hopes for Strategic Arms Pact Are Fading." It goes on to describe the delays that we have caused. The concern of the Russians that we are about to break the ABM Treaty was one of the causes I suggest for the return of the Communist Party to a measure of strength in the elections over the last week, because they are feeding on the situation that we do not care and we are going to break out of the ABM Treaty.

In conclusion then, Mr. President, the Clinton administration has said that it would veto this bill if it reaches his desk. I support the President in this decision and believe that the Senate should save him the trouble by defeating this conference report.

The American taxpayer cannot afford this expensive gilded Christmas tree of unneeded weapons and corporate earmarks. Likewise, the American national security interests can ill-afford this self-defeating policy embodied in this bill, forcing us back to the chill of the cold war.

Mr. President, I yield the floor and yield back any time remaining assigned to this Senator.

EXHIBIT 1

[From the Washington Post, Dec. 17, 1995]

OFF TO A BAD START II

(By Rodney W. Jones and Yuri K. Nazarkin)

After months of delay, the Senate Foreign Relations Committee moved last week to bring the START II treaty up for a vote on the Senate floor. The pact would reduce U.S. and Russian strategic nuclear weapons to 70 percent of Cold War levels and also eliminate land-based multiple-warhead missiles, the most threatening of Russia's weapons. Unfortunately, while a favorable Senate vote on the treaty is virtually assured, ratification of the pact by Russia has become increasingly uncertain in recent months. As Russians go to the polls today, many will be voting for politicians who question whether START II is still in Russia's best interest.

The prime cause of Russian second thoughts, according to parliamentarians and defense experts in Moscow, is the Republican-led effort that began this summer to mandate the deployment of a multi-site strategic anti-ballistic missile, or ABM, system by the year 2003. This system was called for originally in the Senate version of the defense authorization bill and endorsed last week by a House-Senate conference committee. Yet it would violate the 1972 ABM Treaty, which for more than two decades has helped curtail a costly buildup of defensive nuclear weapons and countervailing offensive weapons.

It first became clear that START II was in serious trouble last month when parliamentary leaders in Moscow who had supported START II hearings in July concluded that a ratification vote in the waning months of 1995 would fail. To avoid a foreign policy crisis over a negative vote, they postponed further action on the treaty.

Regrettably, the prospect for unconditional Russian ratification of START II next year is no more promising. Following today's election, the State Duma, Russia's lower house of parliament, is expected to be even more critical of START II and of the United States than its predecessor. Russian political parties and factions opposed to the treaty will probably gain seats at the expense of the reformist and democratic parties that generally support it. President Boris Yeltsin's poor health and the growth of assertive nationalism in Russia further clouds START II's chances.

Even the Russian military leadership, which had steadfastly supported START II, shows signs of cooling toward the treaty in the wake of U.S. congressional action threatening the ABM Treaty. The Russian military fears the United States' real intent is to gain strategic superiority over Russia. The Russian military dismisses as preposterous U.S. assertions that the legislation is aimed at protecting American soil from the threat of a handful of long-range missiles from North Korea and other small countries. In effect, Russian military leaders argue, the United States would be deploying new defense missiles just as Russian was completing the reduction of its offensive missiles under START II's requirements. Russian would be more vulnerable and the United States less so.

Ivan Rybkin, the Duma speaker, expressed the growing disenchantment with START II in the newspaper Nezavissimaya Gazeta on Nov. 5: "We cannot be bothered any longer, given this situation that propels plans for NATO enlargement and reveals our U.S. congressional colleagues' intentions to begin a process that threatens the ABM Treaty—the cornerstone of the existing arms control regime."

Russian misgivings about START II haven't come overnight. Initially Yeltsin and the Russian military leadership firmly believed that START II was in Russia's interest. They recognized benefits for Russia—the fact that START II's deep reductions would enhance stability, reduce future defense costs, ensure formal strategic parity with the United States and contribute to long-term cooperation between the two powers. The Clinton administration also worked to alleviate Russian uneasiness over U.S. national missile defense activities. But the ABM developments of late have changed Russian feelings toward START II.

If Clinton vetoes the defense authorization bill as he has promised, a direct conflict over the ABM Treaty will be avoided. Congressional direction of the U.S. military might then be provided exclusively in the defense appropraitons bill. That legislation, which the president approved earlier this month, says nothing about deploying an ABM system.

This silence, however, is unlikely to assuage Russian concerns, since Russian must worry that the ABM issue will return in the next congressional session. Moreover, the appropriations bill mandates completion of the Navy's "Upper Tier" system, a defense initiative to produce shorter-range missiles that Russia also finds objectionable because of its potential for use against long-range weapons.

Russian arms control experts are also troubled by the thinking of some U.S. lawmakers who believe that the AMB Treaty is an obsolete Cold War measure. The Russians point out that if the ABM Treaty is to be revised in light of the post-Cold War situation, they see it as equally reasonable to amend and adapt the START treaties. After all, they argue, the cumbersome and intrusive START verification provisions were elaborated in a climate of mutual suspicion and mistrust and were based on worst-case scenarios about the other side's intentions.

These Russian critics suggest that Moscow's obligations under START II are largely irrelevant to current realities. The Russians are required by the treaty to alter the structure of their strategic triad by 2003. This will entail sizable expenditures both to eliminate all multiple-warhead land-based ICBMs (intercontinental ballistic missiles) and to replace them with single warhead missiles. Given the current U.S.-Russian partnership, Russian START II critics argue, such measures are not essential to the strategic security of both nations and should be open to revision.

The Russians are completely uninterested in negotiating amendments to fundamental provisions of the ABM Treaty. This apparently was well understood by those pushing the antiballistic missile initiative in Congress, for they also included the possible alternative of U.S. withdrawal from the ABM Treaty. Russia might consider changes to the ABM Treaty—but only along with parallel changes in START II.

Would this be acceptable to U.S. officials, legislators and 1996 Republican presidential candidates? Renegotiating current nuclear treaties with the purpose of adapting them to new realities—as instruments for regulating the nuclear forces of both nations—would mean embarking on a long and formidable process.

If the United States is not prepared to enter such a process, yet withdraws from the ABM Treaty or takes steps in that direction, it would mean the end of START II—the end of real, dramatic reductions in the numbers of the world's most destructive weapons.

Is it still possible to resuscitate START II in Russia? Right now, it seems unlikely. If Clinton vetoes the defense authorization, with its ABM mandate, the prospects for saving START II would improve, but only slightly.

Russian opponents of START II may now insist on delaying Russian ratification until the results of the 1996 U.S. presidential (and congressional) elections can be evaluated. Repairing the growing damage to U.S.-Russian relations and U.S. interests in nuclear threat reduction will become steadily more difficult unless Congress revives the tradition of bipartisan statesmanship on nuclear weapons issues that has prevailed since the end of the Cold War.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. LEAHY. Will the Senator from Maine yield for a question?

Mr. COHEN. Certainly.

Mr. LEAHY. Mr. President, I understand under the prior UC that the Senator from Vermont at some appropriate time—not now, the Senator from Maine has the floor—but the Senator from Vermont would be recognized for not to exceed 20 minutes on the landmines issue. I wonder if it would be appropriate—I see the distinguished chairman on the floor—that I ask unanimous consent that upon completion of the comments of the Senator from Maine that I be recognized for my time? If there is somebody else who wants it, I am perfectly willing to do a different time. I wonder if that would be satisfactory.

Mr. THURMOND. Mr. President, we have no objection.

Mr. LEAHY. I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Can I inquire as to whether my 20 minutes starts now?

The PRESIDING OFFICER. Who yields time to the Senator from Maine?

Mr. THURMOND. Mr. President, I yield 20 minutes to the distinguished Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 20 minutes.

Mr. COHEN. Mr. President, we just heard a standard display of Democratic rhetoric from our colleague from Nebraska. According to my colleague from Nebraska, whatever the Pentagon sends up here, Congress is duty bound to oblige. If they send up a bill requesting certain systems, we either have to accept them or reject them, but no discretion is left for us to exercise, I gather from the statement of my colleague from Nebraska.

Mr. President, I recall when they were in the majority. Whenever the President sent a bill up here, it was standard Democratic rhetoric: "Whatever the President proposes, forget about it, Congress disposes. It's the congressional responsibility to formulate a budget, not the President's. He submits it, but we dispose of it."

So now that they are in the minority, they are complaining that this exceeds the President's request. They did not have that particular concern when they were in the majority. So I think it is incumbent to point out, for example, that there was a certain land transfer, called the Corn Husker Army Ammunition Plant. It was not in the President's request. It was added somehow. So it has been historically the case that the Congress has the power and responsibility to decide which land transfers should be included and which should not, which systems should be built and which should not. When the Pentagon makes a request, it does not mean the Congress simply rolls over and either accepts it or eliminates it.

What my colleague failed to point out is that, as I believe Secretary Perry has noted, procurement has been cut back rather significantly, about 72 percent since the height of Ronald Reagan's defense budgets. A 72-percent cut in procurement, and Secretary Perry said if there was going to be an increase over the President's request, as we provided, it should be put into procurement.

So that whole long litany of systems cited by my friend from Nebraska really ignores the fact that the Defense Department itself said if we had more money, we would spend it on procurement, and that is precisely what we have done.

I want to talk a little bit about the national missile defense system. I was really struck by the statement that the Communists are coming back into power because we are debating whether we are going to have a national missile defense system. I never heard anything so absurd in my life.

Whether the Communists come back into power has little to do with our debate right here. It has everything to do with what is taking place in Russia right now in terms of their troubled efforts in trying to democratize their country, to move to a capitalist system, to a democratic capitalist system.

I think it ironic they come to the floor and suggest that because we want a system to protect the American people, this is going to require the Russians to return to their old Communist ways.

A great deal has been said about the national missile defense system, but not a lot has been said about the immediate threat to our troops overseas as well as our allies, which are theater missiles. This bill makes great strides toward protecting our allies and our servicemen and women who are abroad from these kinds of theater missiles that can be targeted at them.

Did we not learn anything during the Persian Gulf war? Do we want our troops to again be in the situation they faced in Saudi Arabia and that Israel faced? A situation in which we had to depend upon Patriots to take down those Scud missiles?

The TMD programs accelerated by this bill are designed to protect our service men and women abroad and also our allies. It is something the administration also supports, by the way. This bill is a strong endorsement of the TMD systems.

With regard to national missile defense, a number of statements have been made about the conference report, that somehow it endangers the ABM Treaty. And, again, I found this somewhat ironic. It makes very little sense to me. We passed language by a vote of 84 to 15 that had been negotiated by Senator WARNER, myself, Senator NUNN and Senator LEVIN. And this Senate compromise language that was endorsed by an overwhelming vote was actually watered down in conference. That is what strikes me as being so ironic about this.

The Senate compromise we negotiated, for example, called for the development of a national missile defense system with multiple sites. Since the ABM Treaty, as amended, only allows one site, the Senate compromise language that we negotiated actually envisioned either amending the treaty or indicating we would withdraw from it, as the treaty permits.

In fact, the compromise called for negotiations to amend the treaty and stated that if we could not successfully negotiate amendments, we would actually consider withdrawing from it. It seems to me the language we have before us is actually much weaker than that. The Senate compromise language that we passed 84 to 15 called for a system that would actually go beyond the bounds of the ABM Treaty, but the conference report does not. The conference report does not even mention a multiple-site system. There is no mention at all of a multiple-site system. It does not say we cannot develop one, but there is no requirement that we do develop one.

The major change on national missile defense in this language is that under the Senate-passed compromise, we would "develop for deployment" in the future, and that language has been changed to "deploy" in the future. But we have actually written it in a way that would allow us to deploy a system consistent with the ABM Treaty. That is the irony involved, because you could have one site, theoretically, providing defense for the United States. That would be consistent with the ABM Treaty.

By the way, I want to point out, the Russians already have an ABM system. They have their one site. So we could, in fact, be consistent with the ABM Treaty developing one site that could, theoretically speaking, potentially protect all of the United States.

So I find it ironic that they are now saying this particular language is going to destroy the ABM Treaty; this language is causing the Russians to rethink their role in the world with respect to the United States; this conference report is going to cause them to turn to communism once again. That is clearly the most excessive rhetoric that I have heard to date.

The fact of the matter is that the administration is opposed to the deployment of a system of any kind to defend the American people. And during the conference negotiations, White House officials made it clear they would oppose any legislation that altered in any way the administration's so-called National Missile Defense Technology Readiness Program, what they call a rolling hedge, but I think is more accurately described as simply spinning our wheels. In other words, they threaten to veto any defense authorization bill that did anything other than rubberstamp their National Missile Defense Program.

Mr. President, we are the ones who control the power of the purse. We cannot accept the administration telling us: You cannot change under any circumstances the formulation of a program. They have the right to veto it, but we should not in any manner forego our power to try to define what we believe to be in the best interest of the American people.

So what this debate over missile defense is really all about, it is not about whether the conference report somehow endangers the ABM Treaty, because it clearly does not, but whether we are going to proceed toward the deployment of a national missile defense system as permitted by the ABM Treaty even today.

Frankly, I think it is unfortunate that some of the Members on the other side come forward to declare that this conference report constitutes an "anticipatory breach" of the ABM Treaty and warn the Russian Duma might kill the ABM Treaty in response.

There is nothing in this report that would cause the Russians to react in a negative manner, but the Russian Duma might be incited to react by, I think, careless remarks being made by some Members in this Chamber.

I was disturbed last weekend to read an opinion article in the Washington Post, coauthored by a Russian arms negotiator that followed this false line of reasoning.

The quote was, "The prime cause of Russian second thoughts" about the START II treaty, according to Yuri Nazarkin, "is the Republican-led effort that began this summer to mandate the deployment of a multisite strategic antiballistic missile, or ABM, system by the year 2003. This system," Nazarkin writes, "was called for originally in the Senate version of the defense authorization bill and endorsed last week by a House-Senate conference committee. Yet, it would violate the 1972 ABM Treaty," Nazarkin concludes.

That is simply not accurate.

The conference report, as written, does not violate the treaty. The fact is that we could deploy an ABM system, if necessary, from a single site, which would be consistent with the treaty. For those Members to come on to the floor and say this is an anticipatory breach is wrong. It sends precisely the wrong signal. If other Members are worried about the Russian Duma reacting negatively, they have their own words to point to in terms of why this is taking place.

We have to ask why is a Russian arms negotiator, who carries weight in Moscow, making erroneous statements? He is repeating the erroneous statements being made right here on the Senate floor. I urge my colleagues to read, very carefully, the language in this report.

Mr. President, I want to spend a few moments in talking about the B–2 bomber. My colleague from Nebraska mentioned that this is a system which the Defense Department did not call for, and I agree. In fact, for many years I led the effort to terminate the B–2 program here on the floor with the Senator from Vermont, Senator LEAHY, and in the committee this year I led the successful effort to strike funding for the B–2. There were some Members on the other side who support the B–2, and some on our side support it. It is not that I do not support the B–2 bomber; it is a fine aircraft. The fact of the matter is that I do not think we can afford to start building 20 new B–2 bombers, which is what Members of the House would like to do.

The conference report did provide $493 million above the administration's request for the B–2. But, again, contrary to what some have said, it in no way endorsed the production of additional B–2 bombers or bringing back the B–2 bomber production base. All of these funds, I point out, have been fenced until March 31. Hopefully, the administration will send up a rescission bill to take the funds out for the B–2 bomber.

The only statement in the conference report regarding this $493 million is the Senate conferees' statement that the funds can be spent—I want to emphasize these words—"only for procurement of B–2 components, upgrades, and modifications" for the existing B–2 fleet. The House conferees have remained silent on this issue. They were insisting that they could put language in the manager's statement that would allow for the opening of a brand new production line, and we successfully resisted that. Our language is that it should be used for spare parts, upgrades and modifications of the existing fleet, and not to open a brand new line.

Second, because of our concern over the cost of the B–2, we called on the Secretary of Defense to explore what new technologies might be developed in the coming years for a new type of bomber that, hopefully, would be less expensive than the B–2.

Make this very clear, Mr. President. We are opposed to opening up a brandnew line of the production of B–2 bombers. Now, some of our Members want that. But, frankly, the conferees on the Senate side believe that that was simply not affordable, and the conference report reflects that view.

Mr. President, we asked the Secretary of Defense to make an examination of exactly what he would cut out if Congress were to direct him in the future to buy more B–2's. The Secretary of Defense has to come back and identify for us which programs he would cut because, clearly, it would exceed the President's budget and the 5-year defense plan. Because if any decision were ever made to buy more B–2's, we would have to then, at that time, start picking and choosing which systems would have to be deleted or defunded. That is something every Member ought to understand as to what we were able to achieve.

To recap, Mr. President, there is not a single word in the conference report about buying components for new B–2's or bringing back the B–2 production facilities that were closed. Everything in this conference report is focused on the high cost of the B–2 and the unacceptable trade-offs of other defense programs that would be required by any future decision to buy more B–2's. What the conference does talk about is using the authorized funds for supporting the existing B–2 fleet, not to open up a new B–2 line.

Mr. President, I will conclude by telling you what I think is going on here. The President's political advisers would like the President to veto this bill, so he could score points with certain constituencies by arguing that we are spending too much on defense. They wanted him to veto the DOD appropriations bill for the same reason, but he could not do so because he wanted to win over some of the Members of this body on the Bosnia resolution. Now they are saying that while we lost that particular battle—he signed the bill even though he did not want to and the funds have been appropriated—so let us please certain constituents by urging him to veto this measure.

But the President faces a real dilemma on this. He has deployed American troops to a war zone in Bosnia. Congress has adopted legislation supporting the troops in the field. If the President vetoes this conference report, he is going to be perceived by many soldiers and their families as withholding support for them—at the very time that he has dispatched them on a very dangerous mission.

If he vetoes this, he will be vetoing a pay raise for the troops in Bosnia and all of our troops. He will be vetoing an increase in the housing allowance that supports their families back in Germany, here in the United States, and around the world. He will be vetoing a new program to allow DOD to use the private sector to improve military housing, which is a program DOD desperately wants and our soldiers and their families desperately need.

In short, the President faces a dilemma. If he vetoes this bill, he will score some political points, but it will harm our troops and their families, including those now putting their lives on the line in Bosnia.

So the members of his party in the Senate are trying to save him from this dilemma by defeating this conference report on the Senate floor. That is what this debate is really all about. All this discussion about the ABM Treaty and the various programs and the add-ons is really a cover for this issue.

American troops are in the field. Their worried families are back in Germany and elsewhere, living in woefully substandard housing. We should be thinking about them and not the 1996 election season.

I urge my colleagues to look beyond the litany of excuses offered on the other side for opposing this bill and do the right thing and pass the conference report. If the President chooses to veto it, let that be his choice, not ours.

I yield the floor.

Mr. THURMOND. Mr. President, I want to take this opportunity to commend the able Senator from Maine on the excellent remarks he just made. He is a staunch member of the Armed Services Committee, and we are very proud of what he does for the defense of our Nation.

Mr. President, I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I am pleased that the chairman of the Armed Services Committee, Senator THURMOND, and the ranking Democratic member, Senator NUNN, and I have reached an agreement that permits this bill to be voted on today and sent to the President. I intend to vote against the bill for a number of reasons—arms control and others. But I do not want to hold up any further action on it.

I am not going to take the Senate's time to repeat the contents of the agreement. It speaks for itself. It is of critical importance, because the provision that will be deleted from the bill, or reversed in the next Defense authorization bill, would have the effect of undermining an amendment that passed the Senate by a vote of 67–27. It is an amendment that has been agreed to by the House in the fiscal year 1996 foreign operations conference report.

I think this is only the first or second time in my 21 years here when I felt compelled to delay action on a piece of legislation. I did it in this instance because it is an issue I feel very, very strongly about.

For the past 3 years, I have been trying to get the U.S. Government, and other governments, to act to stop the proliferation and use of antipersonnel landmines. There has been remarkable progress. In the past 9 months, several NATO countries took steps far exceeding those called for in the Leahy amendment. Nineteen countries have urged an immediate, total ban on these weapons. This was unheard of, even unthought of, 10 years ago.

The Leahy amendment falls short of that, but it would be a step toward that goal, a goal I support and, in fact, a goal that President Clinton declared at the United Nations 1 year ago.

I want to respond briefly to something the chairman of the Armed Services Committee said yesterday. He said my amendment would "impose a moratorium on the defensive use of antipersonnel landmines by U.S. Armed Forces," and that it would "require the removal of minefields emplaced in demilitarized zones." I know some in the Pentagon who lobbied against my amendment may have said that, but that is not correct.

My amendment would impose a 1-year moratorium on the use of antipersonnel mines except along international borders and except in demilitarized zones, where, I stress, their use is obviously defensive. I included that exception after discussions with officials in the administration, including the Pentagon, and with foreign governments. I concluded that in these limited instances—in fixed minefields along internationally recognized borders and in demilitarized zones where everyone knows where the mines are and where civilians can be effectively excluded and compliance monitored, an exception was warranted. I am talking about places like the demilitarized zone between North and South Korea, or the border between Finland and Russia. Again, my amendment does not require the removal of these landmines.

I do want to concur with the distinguished chairman of the Armed Services Committee when he said yesterday that the bill contains $20 million for humanitarian demining activities—to remove these mines. I am glad he agrees with me about the compelling need for these funds, something I have urged in the past, in the Appropriations Committee as well as the Armed Services Committee. These are funds used to train and equip foreign personnel to remove landmines, in countries that do not have the expertise or capability to do it themselves.

There are 100 million—100 million—unexploded landmines. They are in over 60 countries. If not one landmine was ever put down in the future, there would still be 100 million in 60 countries, waiting to explode. Bosnia has a small percentage of them, but that is 4 to 6 million landmines. The Defense Department has done an excellent job in getting the humanitarian demining program started. The regional CINCS have all expressed very strong support for it.

Mr. President, I was prepared to speak for as long as necessary if we had not been able to reach an agreement to delete this provision. I am very grateful to Senator THURMOND and Senator NUNN, for their willingness to do this. I also want to thank Senator WARNER, who I know cares a great deal about the landmine problem.

As we watch our troops land in Bosnia, the horror of landmines, and the serious impediment they pose to our forces, have become obvious to everyone. Look at this map. I ask my colleagues to take a moment to look at this map. Half of the former Yugoslavia is a minefield.

In many areas, our troops will have to crawl on their knees, probing every single inch of the ground, to be sure it is free of mines before they move on. Any step could be their last. It could be a landmine that was put there randomly, weeks, months or even years ago, and now lying hidden beneath mud or snow.

This is not an isolated problem. It is a plague that has infested almost every continent—Somalia, Rwanda, Bosnia, Central America—everywhere our troops are sent, either in combat or as peacekeepers, they will face landmines, millions and millions of them.

But the overwhelming majority of the victims are innocent civilians. In Bosnia, like so many countries, many of the mines are plastic. They are impossible to detect with metal detectors. They are the size of a can of shoe polish. Most are strewn randomly. What maps exist are unreliable.

In Bosnia already, 24 United Nations soldiers have been killed by mines, and 204 have been injured. Thousands of civilians have suffered similar fates. Mr. President, it is such a common occurrence that in Tuzla there is a place where you can buy one shoe—not a pair of shoes—but one shoe. Because so many people have lost a leg or a foot from the landmines.

I mention this not to add to the anxiety of the families of our troops. They will be as prepared as any can be to avoid the threat of landmines. But there is no way to totally eliminate that threat.

Last week, a United States sergeant in Bosnia was quoted as saying he wanted to be sure all the mines are gone before he led his men into an area. If my son was there I would want him under the command of a sergeant like that. The fact of the matter is that nobody can guarantee it. Even after our soldiers leave, the civilians and the refugees will go back to their land. When that time comes, the landmines will be there. Most countries that are littered with landmines, Bosnia included, cannot begin to afford the cost of clearing them. As one person told me from one of those countries, "We clear the landmines an arm and a leg at a time."

Last week, UNICEF called for a ban on these weapons because of the carnage they are causing among children, and they called for an international boycott of any company that manufactures them. The American Red Cross has called for a ban. The U.S. State Department estimates that every 22 minutes someone is killed or maimed by a landmine. In the time I am speaking here now at least one person somewhere will be killed or horribly crippled for life by a landmine.

We can debate all day about whether landmines have a military use. Of course they do. What weapon does not have some military use? But do they save lives? I challenge anyone in the Pentagon to prove that landmines save lives. One-third of our casualties—one-third—in Vietnam were from mines, including American mines. Our troops were casualties of their own minefields. That is up from 10 percent of what they were in World War II. A quarter of the Americans killed in the gulf war were from mines. Twenty-six percent of American casualties in Somalia were from mines. These are the Army's own statistics. It will be a miracle if Americans do not lose their limbs or lives from mines in Bosnia.

In October, an American nurse lost both legs and part of her face from a mine in Rwanda. In June, two Americans died from a mine while they were on their honeymoon in the Red Sea area. Another lost a leg and part of another foot on a humanitarian mission in Somalia. He considers himself lucky because he survived, unlike so many mine victims in that country.

These are the Saturday night specials of civil wars. We have a lot more to gain if we declare their use a war crime.

Since August 4 when my amendment passed the Senate, over 10,000 people have been killed or horribly maimed by these tiny explosives that are triggered by the pressure of a footstep. Think of that. In just the past 5 months.

My amendment is modeled after our 1992 law to halt U.S. exports of antipersonnel mines. Since we passed that law, 29 governments have stopped all or most of the exports, and others, including France, Belgium, Austria, and the Philippines have taken steps to ban their production or use of antipersonnel mines and even to destroy their stockpiles.

It is also totally consistent with what the President called for at the United Nations a year ago, when he declared the goal of the eventual elimination of antipersonnel landmines. Every day, 72 more people die or are mutilated by landmines. We need to stop talking about what we are going to do "eventually," and start doing it today.

My amendment is a step toward that goal. I thank the 67 Senators, Republicans and Democrats alike, who voted for it.

The Pentagon says it did not create this problem and that halting our use of these weapons would not solve it. That kind of defeatist attitude does not belong in the Pentagon or anywhere else. Lest anyone forget, the moratorium in my amendment does not cover antitank mines or command detonated claymore mines that are used to guard a perimeter. It would not take effect for 3 years.

The purpose of delaying its implementation is to give us time to go to other governments and say "we are prepared to stop this, and we want you to join us." It gives us the moral authority, and it shifts the responsibility to them. If the United States shows leadership, strong leadership, if we halt our use of these indiscriminate weapons even temporarily, it will give a tremendous boost to the global effort to ban them.

The certification in this bill, which was never debated or approved by either body, sounded innocent enough. But its effect would have been to prevent the moratorium from ever taking effect. It would have given the Pentagon a veto. Some have asked why wouldn't I want to know if the moratorium would endanger the lives of United States Armed Forces. Of course I am interested in the Pentagon's opinion. The conference report already asks for it. Even after the certification provision is deleted, per our agreement, the conference report will still contain a requirement that the Chairman of the Joint Chiefs of Staff submit a report to the congressional defense committees containing his responses to seven questions concerning a moratorium on the use of landmines. I have discussed this with Senator THURMOND, and he agrees that he will join with me in submitting some additional questions I have to the Chairman of the Joint Chiefs, for inclusion in that same report.

Mr. President, the Pentagon wants an exception for mines that automatically self-deactivate. I wish that were the solution, but it is not. Those mines are just as indiscriminate. There is no way to limit how many can be used. There is no way to get governments or rebel groups that have millions of the $2 variety, which do not self-deactivate, to destroy them so they can replace them with more expensive, modern mines. The only way is to ban all indiscriminate, antipersonnel landmines.

Mr. President, we have seen photographs of our soldiers crawling on their stomachs, with sticks in their hands, trying to find where the landmines are, never knowing when they put their hand out just to brace themselves whether their arm will be blown off. That is terrible enough. But this picture is what you see in most countries. That is not a combatant. This is the typical landmine victim, a young girl with one leg gone. Her life changed forever.

Mr. President, during the Civil War, General Sherman—no great humanitarian, called landmines "a violation of civilized warfare." If President Clinton can restrain the Pentagon and my amendment becomes law, the United States will be able to show strong, moral leadership to rally others to put an end to this hideous, global curse. It will not be in time to prevent casualties of Americans or others in Bosnia, but it will save countless lives in the future.

Mr. President, I know of no Member of the Senate, Republican or Democrat, who feels any affection for landmines. Certainly those who served in combat know how terrifying it is to know that there may be landmines under foot. Where we diverge, some of us, is how to get rid of them.

I believe that as the greatest military power, we must set an example. There were negotiations in Vienna in September on proposals to deal with the landmine problem. It ended without agreement, partly because the

United States did not exercise as strong leadership as it should have, and could have, on this issue, but also because of resistance by the armed forces of other countries. We did not push for what the President of the United States called for at the United Nations, the eventual elimination of landmines.

I have been to Vienna. It is a beautiful city with luxurious accommodations. I could not help but think, if those same diplomats were to meet in a field in Cambodia and were pointed to a table several hundred yards out in the field, and told to walk out to that table—"Work your way out. We will give you a probe to search for mines. Work your way out through that mine-infested field and negotiate an agreement on these perfidious weapons. And when you are done, work your way back.

"If you have not reached agreement on the first day, the table will be in a different field on the second day. And in a different one on the third day."

Mr. President, I think we probably would have an international ban on the use of indiscriminate antipersonnel landmines very, very quickly.

I am not so naive to think that there would not be some pariahs who would continue to use them. But, like chemical weapons and nerve gas and anthrax and dum dum bullets and so on, those who use them are so much the exception to the rule that they would be branded international pariahs and war criminals.

Maybe then a child like this can walk in a field without losing her leg. Maybe people could put their country back together after a war. Maybe American men and women who go on humanitarian or peacekeeping missions would go with one less danger.

Mr. President, I ask unanimous consent that a copy of a letter to me from Senator THURMOND, describing our agreement, be printed in the RECORD, along with a newspaper article from the Washington Post, dated December 17, 1995.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, December 18, 1995.

Senator PATRICK J. LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: Pursuant to our discussion on the floor this morning concerning consideration of the National Defense Authorization Act for Fiscal Year 1996, I would like to recap our agreement.

We have agreed that:

1. You will control 20 minutes of debate on the landmine provision and I will control the same amount of time;

2. You will not filibuster the defense authorization conference report and will not object to a unanimous consent for a time certain to vote on the defense authorization conference report and;

3. If the current version of the FY 96 Defense Authorization bill does not become law, I will do everything in my power to ensure that section 1402(b) (concerning a certification in relation to the moratorium on landmine use) is deleted from any subsequent version of the bill. If the current version of the FY 96 Defense Authorization bill is signed into law, I will do everything in my power to ensure that section 1402(b) is reversed in the next Defense Authorization bill.

Sincerely,

STROM THURMOND,
Chairman.

[From the Washington Post, Dec. 17, 1995]

THE PENTAGON'S MINE GAMES

(By Mary McGrory)

It's "PEACE on earth" time. But peace in earth is of more concern. The Pentagon is worried sick about the death buried under the mud and snow of Bosnia, where thousands of U.S. troops will be spending Christmas.

Every day, we hear about the hidden threat that is more dreaded than the weather, more feared than the snipers and the hatred that infect the area. The number of land mines is estimated at between 4 and 6 million. Sen. Patrick Leahy (D-Vt.) calls these $2 weapons "the Saturday Night special of civil wars." There are an appalling 100 million of them scattered around the world, many of them planted in countries to which our troops may be sent. The prospects make the heart sink. One-third of our Vietnam casualties were caused by land mines, although the majority of land mine victims are civilians.

The Pentagon, while wringing its hands and beefing up anti-mine training, is pressing its campaign against the anti-land mine legislation introduced by Leahy. The chief lobbyist for keeping the world safe for land mines is none other than the chairman of the Joint Chiefs of Staff, Gen. John Shalikashvili. He says we need land mines to "protect our troops," an ironic formulation in view of the clear and present danger they present in Bosnia.

"While I wholeheartedly support U.S. leadership in the long-term goal of anti-personnel land mine elimination," he wrote in a letter to one congressman, "unilateral actions which needlessly place our forces at risk now will not induce good behavior from irresponsible combatants."

The Pentagon is pushing a high-tech solution: a land mine that expires within a given period of time. The hope would be that the 60 countries that have planted the cheap mines will dig them up and replace them with the more expensive version. Translation, according to Leahy: The Pentagon will decide what weapons to get rid of—no civilian on Capitol Hill is going to tell them.

The commander-in-chief generally makes such decisions. Bill Clinton is an instinctive opponent of an indiscriminate killer like the land mine. A year ago, he told the United Nations General Assembly that the U.S. goal is the "eventual elimination of anti-personnel land mines." Since then, however, he has fallen silent. He seems to have retreated in the face of Pentagon opposition. Lately, he has been somewhat more assertive in his role of chief of the armed forces, but he still tends to defer to the chairman of the Joint Chiefs. The rest of the administration is deeply divided.

Leahy has been the leader of the opposition to land mines since 1989. He was haunted by the sight of a handsome 10-year old boy at the Nicaraguan-Honduran border who was limping around on a home-made crutch. A land mine had taken one leg and had "ruined his life." Leahy established a $5 million annual fund to help victims. Three years later he got a one-year moratorium on the U.S. export of land mines. Legislation banning land mine use passed the Senate by a two-thirds vote this fall and the House by a voice vote. It is currently stuck in conference.

Leahy knows his colleagues sigh and roll their eyes when he gets up for yet another land mine speech and shows photographs of the hideous consequences to the causalities, who, incidentally, are often children. On the coffee table of his office, he keeps a small round green object made of plastic and rubber that looks like a shoe-polish container. It is the mine of choice for most of the countries whose land is sown with them. He says that if U.N. negotiators were required to sit around a table in the middle of a field in Cambodia—now "a land of amputees," in Leahy's words—they would agree on a ban in a matter of two days at the most.

The cheap plastic mines of Bosnia are difficult to detect, Leahy notes. An aide gets down on his knees to show how soldiers must pass a hand-held detector inch by inch over a suspect area. The Leahy ban would do nothing in Bosnia. But the Army's dilemma has spotlighted the issue, which Leahy says stirs the same powerful reaction in audiences of all persuasions—the VFW, NRA and the League of Women Voters. Nineteen countries are for the ban.

But in the Senate Armed Services Committee, men like Strom Thurmond, Sam Nunn and John Warner, inveterate defenders of the Defense Department, support the Pentagon's attempts to gut Leahy's bill, even though it wouldn't take effect for three years and permits mining of border and demilitarized areas.

Only the president can lead the way out of the world's mine fields.

Mr. LEAHY. I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I do not believe that I will use the 20 minutes allotted for me to respond to Senator LEAHY, as I spoke about my concerns with his landmine provision yesterday. I will, however, reiterate a number of concerns expressed by myself, and other members of the committee, as well as the Department of Defense, the Chairman of the Joint Chiefs of Staff, and the Department of Justice, with regard to the landmine provision which is no longer in the defense authorization bill, and the reporting and certification provision.

The Senator from Vermont has been a strong proponent of legislation that would eliminate anti-personnel landmines. I applaud the Senator for his efforts to make the world safer for innocent women and children who fall victim to these weapons of war used in many civil wars in the Third World.

I cannot, however, support legislative efforts that would needlessly place U.S. Armed Forces at risk. In my view, and the view of a number of my colleagues on the committee, that would be the effect of the provision that was incorporated in Senator LEAHY's landmine moratorium—which I emphasize is not in the Defense authorization conference report, pursuant to Senator LEAHY's request, but is in fact in the

Fiscal Year 1996 Foreign Appropriations Conference Report.

Mr. President, the provision currently in the Defense authorization conference report would require the Chairman of the Joint Chiefs of Staff to submit a report to the congressional defense committees each April 30 for 3 years, that would include the following information:

The extent to which the defensive use of anti-personnel landmines by U.S. Armed Forces adheres to international law;

The effects that a landmine moratorium on the defensive use of the current U.S. inventory of remotely delivered, self-destructing antitank systems, antipersonnel landmines, and antitank mines;

The reliability of self-destructing antipersonnel and antitank mines in the U.S. inventory;

The cost of clearing the antipersonnel currently protecting our naval station in Guantanamo Bay, Cuba and other United States installations;

The cost of replacing those antipersonnel mines with substitutes and the level of protection provided by the substitutes;

The extent to which the defensive use of antipersonnel and antitank landmines are a source of civilian casualties around the world and the extent to which the United States and the Department of Defense have contributed to alleviating the illegal and indiscriminate use of these munitions;

The impact or effect of the moratorium on U.S. Armed Forces during operations other than war.

Last, the provision would require the Secretary of Defense to certify that a legislated moratorium would not adversely affect U.S. Armed Forces defensive capabilities and that they have adequate substitutes.

The Department of Defense, the Joint Chiefs of Staff, and the Department of Justice have raised objections to the Senator's provision, and particularly to the implementation of a moratorium on the use of antipersonnel landmines by the U.S. Armed Forces for defensive purposes because of its detrimental impact on the ability of the military forces to protect themselves. The Department of Justice also believes that the provision would seriously infringe on the President's constitutional authority as Commander in Chief on how weapons are to be used in military operations.

Mr. President, as I stated yesterday, I do not understand why the Senator from Vermont would not want this information.

Certainly, he would want to know that the moratorium would not seriously risk or endanger the lives the U.S. Armed Forces who are to be sent out in to situations where their very lives are at stake, with the necessary munitions and weapons to defend themselves.

Mr. President, I yield 10 minutes to the able Senator from Alaska, Senator STEVENS.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, earlier this year I joined a bipartisan majority that voted in favor of the Senate version of the 1996 National Defense Authorization Act. I had hoped to be able to provide unqualified support for this conference report. I want the Senate to know I will vote for this bill, but I do have some serious reservations that I have voiced to my good friend from South Carolina, the chairman of the committee. I really have the expectation that we may have the opportunity to reconsider some of the elements of this legislation in the future.

But I do want to say the bill sets the right course on the development of key national and theater missile defense systems. These projects were fully funded earlier this year in the Defense appropriations bill, which became the Defense Appropriations Act when signed by the President.

Under the leadership of Senator THURMOND, this bill provides many critically needed increases for the quality of life for the military. Military pay, benefits, and allowances were again fully funded in the Defense appropriations bill. These initiatives reflect not only the Appropriations Committee's priorities but also those of Senator THURMOND and the Armed Services Committee members, their longstanding efforts. We have joined together to provide for the needs of the men and women who served in the Armed Forces and their families.

I want to, once again, commend Senator THURMOND for sustaining these quality of life items in the bill he has now presented to the Senate as a conference report. These priorities enable me to support the bill generally while, as I said, I do find it flawed in instances compared to the same bill as it passed the Senate in September.

There are initiatives that are not supported by the Department of Defense, not funded in the defense appropriations bill, and in some instances they directly conflict with provisions of legislation that has already been enacted by this Congress and approved by the President after bipartisan support in the House and the Senate.

I do regret this dispute. We do have disputes from time to time between the Armed Services Committee and the Appropriations Committee. I hope we can once again try, next year, and the years to come, to work together to better reconcile these two bills. The problem is, having given the Department a bill in September that—the Senate passed a bill in September—we funded that bill primarily in the Appropriations Committee bill that was brought to the floor and approved by the President. Now this bill takes a different approach, in many instances. It is that new approach that comes out of conference, which I know we all have problems in conference—but it is my feeling that we should express—at least on behalf of the Appropriations Committee I should express these reservations, with no lack of respect for my good friend from South Carolina, or the committee that he serves with. But I do so out of the belief that Congress should give the Department of Defense consistent guidance. They have literally been spending from this 1995 decision, from the 1996 decision. I want to point out how this bill, now, changes the pattern that has already been put down in terms of our defense effort.

We should seek to minimize the interference and micromanagement of the military by the conference. This conference report is nearly 1,000 pages in length and poses significant and, in some instances, I think unfortunate restrictions on funds already made available for vital military programs.

Let me say, for instance, that sections 224 and 225 of this bill restrict all spending for the $9.7 billion defense-wide research and development account, the RDT&E account. That includes all missile defense funds until 14 days after a series of reports are provided to Congress. These two sections will result in massive disruption to hundreds of programs.

These funds have already been appropriated, and based on the December 1 approval and enactment of our appropriations bill, it makes no sense to suspend literally hundreds of contracts that are already now in existence based upon the December 1 approval until a series of reports are presented to Congress next year.

Another section, 131 of the bill, mandates spending on four different submarines, with contracts and dollar levels allocated to specific contractors, notwithstanding the views of the Navy or the performance of those contractors on the boats. The provision further requires the President to include these submarines in future year budgets, whether the Navy wants them or not.

I have to ask the question: Why should submarines now take priority over all Army, Air Force, and Marine requirements in the future? This provision I think is wrong. We should not tie the hands of future Presidents or those who make the budgets, or denigrate the needs of other services because of a commitment to one portion of one service.

Even more difficult for me than that is the next section, 132, which takes $50 million out of funds we appropriated to redress the documented shortcomings of our military sealift and spends that $50 million on even another new submarine development.

I think there is a strong consensus in the Congress and the Department on the need for improved global lift. This is the transfer that I mentioned, this $50 million. It is not an authorization. It literally shifts the money already appropriated for sealift to another nonexistent, future, previously unauthorized development program. It was a new program to me.

Additionally troubling to me are the provisions of the bill on readiness and the needs of the National Guard and Reserve. These provisions are in direct conflict with the provisions that were adopted, as I said, by Congress earlier this year when we brought forth the defense appropriations bill.

This bill, this conference report, will reduce full-time military technician support for the Army and Air Guard. It phases out the National Guard Youth Challenge Program and does not authorize $100 million in readiness and training funds appropriated for the National Guard and Reserve on December 1.

At a time now, Mr. President, when thousands of Reserve and Guard personnel are being called to active duty and actually deployed to Bosnia, this bill I think sends the wrong message. The Guard and Reserve deserve our support right now, too, and I believe they should have our support, and I am troubled by those sections that decrease the support for the Guard and Reserve.

The President's decision to commit United States troops to Bosnia, along with ongoing contingency operations in Haiti, Cuba, the Middle East, and Korea, puts enormous strain on the defense budget. To accommodate those requirements, the appropriations bill increased the DOD transfer authority to $2.4 billion. This bill reduces that limit to $2 billion. It will constrain the Department's ability to meet emergency requirements, and I think instead Congress still has to review and approve all such transfers. There is really no reason to lower the limit on reprograms at a time when we have myriad overseas operations ongoing.

Another section, section 1006, prohibits the obligation of funds for specific programs appropriated not for the next year, 1996, the year we are in now, but for the last year, fiscal year 1995. I know of no basis for this conference report to restrict the availability of funds already obligated and committed to ongoing programs from the last fiscal year.

A vital safety and lifesaving service in the United States, for instance, is the Civil Air Patrol. In my State, the Civil Air Patrol is fully integrated into the Department's search and rescue system, and the Civil Air Patrol makes a tremendous contribution across the Nation. Despite their record of achievement, this bill fails to fully authorize the appropriated levels of the Civil Air Patrol for 1996.

Mr. President, I hope this is just an oversight because I know that the Armed Services Committee has in the past supported the Civil Air Patrol. I hope it is in error and not a statement of opposition because I think we need the Civil Air Patrol. The Civil Air Patrol is one of the ongoing functions to feed new pilots into the whole military system. It should not be denigrated at this time.

Section 912 of the bill creates a new mechanism that funnels savings from operation and procurement programs into a new fund that is used for additional procurement. It, in effect, is a way to have an ongoing rolling appropriations, which bothers me. I believe modernization of the Department is underfunded, and I think the range of contingency operations we face for 1996 and 1997 will bring some changes. All savings will be channeled to meet these liabilities. The cost of Bosnia will be paid from within the current levels available for defense. Any savings must be utilized to preserve readiness and the quality of life before any additional allocation for procurement programs.

This bill goes further than past bills to limit obligations of appropriated funds, rather than authorize programs.

These ex post facto limitations create conflicts the Department of Defense must seek to resolve between two bills passed by Congress.

The failure of the Armed Services Committee to complete this legislation before enactment of the appropriations bill is no reason for this bill to impose numerous restrictions on programs adopted by Congress just last month. I hope that in future consideration of this bill or other legislation we can resolve these differences.

Mr. President, I hope that the committee will work with us on these matters. I now have to, however, go into another function as chairman of the Governmental Affairs Committee.

On October 31, I wrote to the chairman to express our comments on the proposed changes in the retirement credit for employees of nonappropriated funds activities. Regretfully, the conference report includes section 1043, which establishes a new, complex, and unfunded liability for retirement funds of Federal employees.

According to the Office of Personnel Management, this proposal creates new gaps in coverage, treats similar service differently, and creates new inequities. I do hope that the chairman of the committee will work with me, the Governmental Affairs Committee, and the Director of OPM to understand and clarify these new guidelines and protect the retirement benefits. I see no reason to give nonappropriated funds employees greater benefits than those who work fully for the taxpayers.

I also have a comment about section 567. We have initiated a control over the HIV virus. This bill requires that the military expel from the military any person who contracts HIV. With our military people deployed to high-HIV-incident areas—Southeast Asia, Africa, and part of the Caribbean—I believe that we have to have a policy to handle those deployments.

We started a program in the Department to deal with an effort to develop a vaccine to protect men and women in the military from the risk of infection from HIV. Unfortunately, that program is canceled, and the new concept of expelling from the military those who get HIV is in the bill.

Despite including section 567, the conference report fails to authorize the funds provided in the appropriations bill to assist the Department to develop a vaccine—to protect the men and women of the military from the risk of infection. If the Armed Services Committee wants to expel victims of AIDS from the military, they should support efforts to combat this terrible disease.

I want the Senator to know that I am not critical of what he is trying to do. I just do not believe this is the way to do it. I think that we ought to have some way to develop a policy that is consistent. We did have prophylactics dealing with venereal diseases. I do not know why we cannot press on and develop the vaccine that will prevent the transfer of HIV.

Mr. President, I understand and appreciate the difficult circumstances a conference can impose, and the compromises necessary to achieve a bill. I have made this statement on the floor on my own behalf in previous years. But these provisions cannot be viewed as setting any precedents for future bills.

At a time when personnel are en route to Bosnia, and deployed across the globe, we must do our job, and protect their pay and benefits. I hope all Members will support this effort.

I hope again now that Senators will join with this committee to support our people who are en route to Bosnia, who are deployed around the globe. I think we must do our job and protect the pay and benefits of all these people who put their lives in harm's way to support our Nation.

I wish to join the chairman and support this bill. I urge him and the members of the committee, however, to rethink some of these provisions. They take us off in the wrong direction as we are trying to conserve defense dollars, and I do believe that all Members of the Senate should join in to make certain that the dollars we put in for defense are spent for defense needed in the coming fiscal year and no more.

I thank my friend. I know that he may be a little bit disturbed at my criticism. It is meant in good faith and with great respect for him and his service to the Nation and to the military people by his devotion to their needs.

But I do think this bill is not the same bill that the Senator crafted in our Armed Services Committee. It is the changes that have come out of the conference that really disturb me and to which I directed my attention here on the floor. I thank him for his time.

Mr. THURMOND. Mr. President, I wish to commend the Senator for his remarks, and it will be a pleasure to work with him and the Governmental Affairs Committee in trying to correct anything here that should be corrected.

Mr. STEVENS. I thank the Senator.

Mr. THURMOND. Mr. President, I now yield 10 minutes to the able Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. I thank the Chair. And I thank the distinguished chairman of the Senate Armed Services Committee.

Mr. President, notwithstanding my opposition to several specific provisions included in the conference report on Defense authorization, and concerns about how the conference itself was conducted, I will vote to approve the report on final passage. I do so reluctantly, knowing that the President has indicated he will veto the bill if it passes, and knowing that most Democrats—including the respected former chairman of the Senate Armed Services Committee and now ranking member, Senator NUNN—and some Republicans, will vote against it.

In truth, I agree with most of the reservations expressed by the President, Secretary Perry, Senator NUNN, and many of my Democratic colleagues on the committee. But if we do not approve this conference report, I believe we run the very real risk of not getting a Defense authorization bill this year and I believe this bill even in its current form is better than no bill at all.

Were it absolutely clear that the deficiencies in this legislation could be corrected and a new report passed very quickly, I might join my Democratic colleagues in opposing it. But because I am not as sanguine as others about that result, I want to show my support for the majority of the measures as they exist in the report and to ensure that it not be viewed in strictly partisan terms.

Mr. President, we have learned repeatedly in this century that new enemies can arise on distant shores within a matter of years, and that the price of inadequate preparation—in places like Bataan or the Kasserine Pass in World War II, or Osan during the Korean War—can be very high.

We now live in an era where the complexity of military systems mandates decades of development before those systems are fielded, meaning that we have to prepare now for the unexpected conflicts of tomorrow.

Our national strategy calls for being prepared to fight two major regional conflicts simultaneously. My colleagues on the Armed Services Committee know that unless our major procurement accounts are strengthened we simply won't have enough airlift, ships, and smart munitions to fight and win decisively in two major regional conflicts.

Yet despite the steady drone of critics attacking this strategy, no one has offered a more attractive alternative. Until a broadly supported alternative is adopted, I intend to provide more than just lip service in advocating a procurement program that supports our national strategy. The conference report attempts to address some of the major shortfalls in the procurement accounts.

My Armed Services colleagues are also aware that funding for readiness cannot tolerate further reductions without serious erosion of troop morale and effectiveness. The conference report adequately funds readiness.

And of course, we all know that we must maintain decisive U.S. superiority on the battlefield of the 21st century.

This report authorizes adequate funding for the research and development that will provide our troops the communications, the intelligence, and the weaponry to defeat any enemy, anywhere, anytime.

But there are areas of significant disagreement, as well. I have carefully reviewed the issues that concern the President and others, and I share many of their criticisms. In the case of ballistic missile defenses, while the conference report is much less onerous than the House version of the bill, it would nonetheless send a message to the Russians that our commitment to the ABM Treaty is tenuous.

In committee, I offered an amendment to strike a measure from the Senate version of the bill that would restrict a servicewoman's access to privately funded abortions overseas. It was supported by a majority of committee members, including two Republicans. And I was very disappointed when the measure was restored in the conference report.

The report includes provisions discharging HIV-positive service members on the pretext that they are nonworldwide deployable, when in reality no others who are permanently nonworldwide deployable are forced out under current law.

Mr. President, the report includes roughly half a billion dollars to continue funding the B–2 bomber. This funding was removed by the Senate Armed Services Committee—with the support of four Republicans—but again restored in conference. This despite a detailed analysis by the Department of Defense which showed that the contribution of additional B–2's would be marginal in a theater campaign when compared to more cost-effective means of weapons delivery, such as precision-guided munitions. If we did not have such pressing fiscal constraints, more B–2's would make sense—indeed I've supported those to date—but not when we are shutting down the Government because we can't agree on the really tough spending choices necessary to balance the budget in 7 years.

There are far too many earmarks in the report that will prove costly to the taxpayer. There are earmarks for unrequested Department of Energy weapons programs, Buy America designations, and National Guard and Reserve equipment. And there are earmarks for ships, including submarines which are vitally important to two shipbuilders, one of which is in my own State.

Rather than designate particular submarines for particular shipbuilders, I had hoped that we would be able to authorize a winner-take-all competition to save the taxpayers billions in procurement dollars.

In the end, my senior Virginia colleague helped devise a compromise to designate the builders of the first two subs to minimize development risks, followed by competition on the third and subsequent subs. The conferees accepted this compromise, but also allowed for the option of building some additional prototype submarines, if the Navy concludes it can achieve a more affordable and more effective submarine by doing so. This is not a perfect solution, but it is better and less expensive than the alternative of eliminating any hope of eventual competition by designating a single submarine builder as was originally planned by the Navy.

My biggest problem with the conference report is that it reflects too few tough choices. Too often the conferees resolved differences in procurement priorities between the Senate and House not by compromising but by agreeing to the requests of both. That's not cost-effective, but politics is defined as the art of the possible and the most cost-efficient approach would not have enjoyed majority support.

Mr. President, some of my Democratic colleagues on the Armed Services Committee will vote against this report—at least in part—to protest their exclusion from the conference process. After a few pro forma panel meetings, the panels were dissolved with no full committee meetings called to reconcile differences. But while I share the frustrations of my colleagues about the congressional conference committee, chaired this year by the House—I believe the final report moves in the right direction in enough areas to justify my support.

By passing this legislation, we make it clear that we are committed to ending the defense budget free fall. We send a firm and unambiguous message of support to our troops in Bosnia. We preserve the many provisions agreed upon through delicate compromises that could be very difficult to rebuild if the report is returned to conference. We may have to do that, if we cannot resolve the differences, quickly, but it would be a bad precedent, and would reduce incentives for the Armed Services Committees—or any committees for that matter—to work out the tough issues within a single coherent bill.

Finally, we ensure the prompt implementation of the many fiscal year 1996 defense programs, acquisitions, and operations that have been put on hold for weeks now by our delay.

It has been suggested that particular provisions in the conference report, such as the pay raise and BAQ increase, be attached to other legislation if this report is vetoed to ensure their prompt enactment.

If the conference report is defeated here on the floor or vetoed at the White House, I will work with the conferees and the President to resolve the veto issues as quickly as possible and I will urge my fellow conferees to stay focused on the specific concerns of the President to avoid unraveling the many fragile compromises contained in this report.

With that, Mr. President, I yield the floor, and I yield back any time that I may have been allocated. And I thank the distinguished chairman of the committee.

Mr. THURMOND. Mr. President, I wish to commend the able Senator from Virginia for the outstanding remarks that he has made on this bill.

Mr. ROTH. Mr. President, the Office of Operational Test and Evaluation [OT&E] in the Office of the Secretary of Defense was established and strengthened by Congress in the early 1980's to ensure that weapons we provide our troops have been vigorously tested in an independent and realistic manner. The statutes behind this Office were one of the most important achievements of Congress' effort to reform the defense acquisition process. It is legislation that continues to save the taxpayers billions of dollars. Most importantly, these statutes continue to protect the lives of our men and women in uniform.

It is, thus, surprising that the Defense authorization conference report would repeal these public laws that Congress passed with strong bipartisan support. Provisions in H.R. 1530 will repeal section 139 of title 10 that established and provides independent authority to the Director of Operational Test and Evaluation. Two weeks ago I, along with Senator DAVID PRYOR and Senator CHARLES GRASSLEY, urged the conferees to remove these damaging provisions.

We reminded our colleagues that last August this very chamber unanimously passed a resolution stating that the authorities and office of OT&E must be preserved. I am disappointed that the conferees appear to have disregarded our advice and, more importantly, the unanimous opinion of the Senate.

What is at stake in the Defense authorization bill are the lives of our men and women in uniform. And, there is no one more concerned than I about the well-being of our troops.

The Office of Operational Test and Evaluation was created specifically to ensure the safety of our troops. Section 139, the statute that the conference bill repeals, gives our troops confidence that the weapons they bring to the battlefield have been tested vigorously in an independent manner and in an operationally realistic environment. Over more than a decade of service, OT&E has ensured that the new weapons with which we equip our soldiers can be relied upon in combat.

That is how OT&E saves lives.

OT&E also saves the taxpayer billions of dollars. Its establishment institutionalized a very simple premise: That we should not spend billions of dollars on a new weapon unless we are sure that it works and will be effective on the battlefield. OT&E is the institutional core of the Pentagon's fly before you buy approach to new weapons and equipment.

OT&E saves both lives and money because section 139 requires that the testing and evaluation of new weapons are directed by an official whose authorities are independent from the services and whose authorities are not vulnerable to pressures of the Pentagon's procurement bureaucracy.

Some of us may recall the cancellation of the Sergeant York—DIVAD—antiaircraft system. The problems of this faulty program were identified and highlighted by OT&E. The DIVAD was a billion dollar boondoggle which was terminated by OT&E's independent tests and evaluations despite protests from within the Pentagon. One can imagine what the risks would have been to our soldiers had this system been deployed.

Another example of OT&E saving lives is the performance of the Bradley infantry fighting vehicle during the war against Iraq. The Bradley had never seen combat until Operation Desert Storm.

The mission of the Bradley is to deliver troops safety to combat. Independent operational testing conducted by OT&E demonstrated that the Bradley's original design seriously jeopardized the lives of the troops it was meant to protect. Over the Army's objections, the Bradley's production schedule was extended so that design flaws were remedied.

In one of the many studies conducted after Operation Desert Storm, Army Maj. Gen. Peter McVey testified on the performance of the Bradley. He stated that "more lives of soldiers than we can count" were saved by the combat-like testing to which the Bradley was subjected prior to its full production and deployment to the gulf.

Former Secretary of Defense Dick Cheney reiterated this conclusion when he stated that the vigorous independent testing oversight put into place by Congress saved more lives than perhaps any other single initiative.

In addition to the Bradley and the Sergeant York, OT&E has contributed significantly to performance, capability and reliability of the equipment and weapons systems our Defense authorization and appropriations bill purchase for our taxpayers and, above all, of our soldiers. These include improvements to the C–17 cargo plane, the Aegis Cruiser, and there are numerous other examples.

In each case OT&E ensured that each of these systems were subjected to vigorous independent testing. Their evaluations contributed to design changes that improved their capabilities and reliability. In other cases, wasteful programs were terminated.

In this way, the legislation that established the office and authorities of the Director of OT&E simultaneously improved the safety of our soldiers and saved the taxpayer money. That alone makes section 139 of title 10 one of the most important achievements in acquisition reform of the last decade. We should be protecting, if not strengthening, such statutes.

What would be the bottom line if we repeal section 139? In the name of reducing the size of the Pentagon, we will have eliminated a tiny office whose work has proven essential to the very objectives of H.R. 1530, providing a rational, accountable, and efficient system of management in the Pentagon.

To eliminate this office as we are sending our troops to Bosnia seems to be all the more incredulous. These troops, many of whom are embarking through Dover Air Force Base in my State of Delaware, will be deploying with an array of new equipment that has never been tested in combat. Can we imagine sending our troops to battle with equipment we have not made the fullest effort to subject to operationally realistic testing?

If we are really concerned about our troops, we should be vehemently opposed to the provisions that would eliminate the independence and authorities of the Office of Operational Test and Evaluation. We cannot accept these provisions and claim that we are doing our utmost to ensure the safety and welfare of our men and women in uniform.

Mr. BINGAMAN. Mr. President, I rise to oppose the conference report on the defense authorization bill and to urge my colleagues to vote against it.

Earlier this year I voted against the authorization bill in committee and on the Senate floor. In each case I was doing so for the first time in my 13 years in the Senate during all of which I have served on the Armed Services Committee. On September 6 when the Senate passed this bill I warned my colleagues that we were going to conference with a bad Senate bill and an even worse House bill and that it was hard to imagine a conference result many of us could support. My only hope was that having seen thirty-four Senators vote against the bill on September 6, including the ranking Democrat on every Armed Services Subcommittee, the majority would reach out to try to deal with the concerns of these members. Many of those who voted against the bill on September 6 were, like me, casting the first vote in their Senate careers against a Defense authorization bill.

Unfortunately, there was no reaching out in conference. With the sole exception of the ballistic missile defense provisions there was not a Member level meeting of the conference to which Democrats were invited in two months. We were simply informed through our staffs as to how issues had been resolved, in some cases after that information had already reached the press. Indeed, I found the press a very enlightening source over the past two months about Member level meetings occurring between House and Senate Republicans.

This is not how conferences have previously worked in my 13 years on the committee under Chairmen Tower, Goldwater, and NUNN. Never were the views of the minority disregarded on so many items. Never was there no opportunity given the minority to at least have their views heard during the conference and to test the sentiment of members, not staff, by putting issues to votes.

There has always been a big four process where the full committee chairmen and ranking members would meet to try to resolve the truly difficult issues the solution to which had eluded the subcommittee chairmen and ranking members. But never before did that process start 2½ months before the end of the conference when almost no issues had been resolved at the panel level and never before were the results of that process, especially controversial results, not briefed to members for their discussion and approval at member-level meetings of Senate conferees.

Mr. President, I believe that, unless corrected, what has happened this year on this bill in terms of process alone portends a very bleak future for the Armed Services Committee and the Defense authorization process. The majority may be dooming a committee that has always strived for bipartisanship, and therefore relevance, to becoming a highly partisan debating society with all the real decisions being left to the Appropriations Committee. When the Armed Services Committee works on a bipartisan basis, as Senator SMITH and Senator COHEN did on the good acquisition reform provisions in this bill, it can make real contributions to providing this Nation an effective defense at the lowest cost to the taxpayers. But that was not the norm in this conference.

I have spoken thus far about a broken process. Let me now, Mr. President, list some of the problems I see in this bill. I will use two baselines for comparison purposes, the defense authorization bill passed by the Senate on September 6 by a 64 to 34 margin and the Defense appropriations conference report which passed the Senate on November 16 by a 59 to 39 margin.

This bill is significantly worse than both those measures. It not only authorizes a net $7 billion in additional spending for unrequested, often unneeded and unsustainable projects which were included in the appropriations conference report, it breaks new ground in making bad public policy in a whole series of areas not previously put before the Senate.

I will not go through them all in any detail for that would take too much of the Senate's time on a doomed conference report. But let me cite some of the examples: provisions on ballistic missile defense which would clearly undermine the ABM Treaty and revive the cold war, a mandate to discharge people who are HIV-positive from the military even if they can carry out their responsibilities, a mandate to terminate the independent Office of Operational Test and Evaluation, an office that previously enjoyed strong bipartisan support, a series of shipbuilding provisions that represent the sum of all parochial interests, but fail to meet the national interest, a series of protectionist special-interest buy America provisions that go beyond anything I have previously seen in a Defense authorization conference report, provisions on funding of contingency operations and on command and control of U.S. Forces that raise constitutional issues, the total undermining of the land mine moratorium provision which this body passed 67 to 27 on August 4 and which we passed again as part of the foreign operations appropriations bill, and on and on.

I am only going to go into detail on one relatively minor issue, the sale of the Federal interest in Naval Petroleum Reserve No. 1 at Elk Hills, CA, a field that is currently jointly owned with Chevron Corp. This field is one of the 10 largest oil fields in the United States with some estimates of recoverable reserves running well over a billion barrels of oil equivalent. The taxpayers own approximately 78 percent of the field and Chevron owns the rest.

This issue of the sale of Elk Hills was the subject of some considerable discussion last Friday. The point was made by the senior Senator from Virginia that the administration had proposed the sale of Elk Hills. That is true. But it is also true that the administration, as recently as 2 weeks ago, continued to ask for 2 years to complete the transaction—through September 30, 1997—and it is also true that the administration asked for the fallback option of authority to create a government-owned corporation to manage the reserves if it could not get an adequate price for its interest in Elk Hills. If the administration proposal were in this bill, particularly with regard to timing, this Senator would not be raising any concern about this provision. Unfortunately, it is not what is in the bill.

Let me review the history as I understand it. Democrats on the Armed Services Committee have been concerned about insuring against a fire sale of this valuable asset since this issue was thrust upon us by the budget resolution in June. That resolution effectively mandated the sale of all the naval petroleum reserves in 1 year. We had held no hearings on this subject this year, and in the one hearing where this issue had been brought up in 1994, there had been criticism from the Republican side of DOE's plans to sell Elk Hills.

Nevertheless, since the majority felt that it must respond to the budget resolution mandate, I and other Democrats sought as best we could without the benefit of hearings to add safeguards against a fire sale during committee deliberations in June and in a floor amendment in July. The most important safeguard was one cited by the senior Senator from Virginia on Friday; namely, that the Secretary of Energy and the Director of OMB could bring the sales process to a halt if they felt they were not going to get an adequate price or if they felt another course of action was more in the national interest. This safeguard is similar in effect to the administration safeguard that they be allowed to form a government-owned corporation as a fallback if they are not getting an adequate price. This is the course recommended by the National Academy of Public Administration.

Unfortunately, all safeguards, both those in the Senate-passed authorization bill provision and those in the administration proposal, ran afoul of Congressional Budget Office [CBO] scoring. It was the view of CBO that the safeguards were likely to be utilized and that therefore a second bill would be needed to sell the Elk Hills reserve. So for purposes of the reconciliation bill, the committee, over Democratic opposition, recommended dropping the safeguard provision.

As many Members know, thanks to the same CBO scoring, this provision became subject to the Byrd rule in the reconciliation process and was dropped from that legislation on a point of order. CBO effectively found that sale of the Elk Hills would not contribute to deficit reduction in fiscal years 1996 to 2002, and most importantly from the point of view of the Byrd rule, would make deficits worse for decades after that.

CBO projected that the sale of Elk Hills would only generate $1.5 billion for the taxpayers. In my view, and luckily in the view of senior administration officials, if that's all the taxpayers are offered, this sale should not happen. CBO got this low number through the combination of a very conservative estimate of recoverable reserves and the use of a very high discount rate for future revenues, far above Government discount rates.

Once this issue was taken out of the budget process, where it never should have been in the first place, I and other Democrats thought the best thing to do was put it off to next year so we could really understand it. That was the initial decision in the staff discussions in conference. But then the issue was reopened. To give the majority staff credit, they insisted on the key safeguard which the Senate had passed, namely, that the Secretary of Energy could stop the sale if the Government was not getting an adequate price or if another course of action better served our national interest. But when our minority staff recommended that we allow 2 years for the sale as the administration had proposed, my understanding is that the House majority staff refused. We regret that and regret that Democratic Members on our side were not given the chance to address the issue with Members from the other body.

A rushed sale does not work in the taxpayers' interest, although it may well work to the advantage of private parties. Members on both sides know from experience that it often takes the executive branch in general, and the Department of Energy in particular, longer to do things than they predict. So the 2 years which the administration has requested may well be optimistic in terms of completing a one-of-a-kind transaction which the Department has never attempted before. The indications which my staff have heard are that the Department of Energy has been withholding information on the potential value of this field from interested private sector parties. At least one private sector entity seeking information in Government files about the field has been told it must use the Freedom of Information Act to get that information. That is obviously not the way to generate interest for potential buyers of this valuable asset which has produced a net $13 billion in federal revenues over the past 20 years.

My view is that the controversy over this relatively minor provision in this huge bill is an example of where bipartisan member meetings might well have resulted in a different and better outcome. As I said earlier, there are far more important and numerous reasons to oppose this bill. But this provision is an example of the breakdown in the conference process which I referred to at the outset of my remarks and which I very much regret.

Mr. President, it is not with any pleasure that I am going to cast my first vote against a Defense authorization conference report in my thirteen years in the Senate. I am sure that is true for the many Members who will be casting such a vote for the first time in their careers, some of which are far longer than mine. But I am absolutely sure that it is the right vote. I urge my colleagues to join me in opposing the bill and sending it back to conference for more work. If it is passed, I will urge the President to carry out his threat to veto it. I hope the majority will then respond to the President's request to provide for the January 1 military pay raise on separate legislation prior to adjourning this year and that next year we can work on a bipartisan basis on a Defense authorization bill that can become law.

COMPETITION PROVISIONS

Mr. COHEN. Mr. President, Senator LEVIN and I, along with other Members, spent a great deal of time on the competition provisions of the conference report. We have prepared a joint statement on these provisions that I ask be printed in the RECORD.

There being no objection, the joint statement was ordered to be printed in the RECORD, as follows:

JOINT STATEMENT OF SENATORS COHEN AND LEVIN ON THE COMPETITION PROVISIONS IN THE FISCAL YEAR 1996 DOD AUTHORIZATION ACT

Several contractor organizations have expressed concern that the acquisition provisions in the conference report on H.R. 1530, the DOD Authorization Act, could undermine the principle of full and open competition, which assures all responsible sources the right to bid on government contracts. As the Senate authors of the Competition in Contracting Act (CICA), which establishes the requirement of full and open competition, we are confident that this is not the case. The conference report does not contain any provision that would undermine full and open competition and we would not agree to any provision that would do so.

Unlike the free-standing acquisition bill passed by the House (H.R. 1670), the conference report on H.R. 1530 would not change either the definition of full and open competition or the existing exceptions from the requirement to use full and open competition. Consequently, all responsible sources must be offered an opportunity to bid on government contracts (except where a specific exception to that requirement is already available under CICA). We intend to monitor the implementation of the bill closely to ensure that the executive branch does not misinterpret its language to undermine full and open competition or deny responsible offerors an opportunity to compete for government contracts.

A. TITLE XLI OF THE CONFERENCE REPORT

Title XLI of the conference report contains provisions which would address competition requirements as follows:

Section 4101 would require that the Federal Acquisition Regulation implement the unchanged CICA provisions in a manner that is consistent with the need to efficiently fulfill the government's requirements;

Section 4102 would raise the dollar thresholds for approval of sole-source purchases to streamline procedures for smaller procurements; and

Section 4103 would authorize contracting officers to use so-called "competitive range" determinations more effectively to narrow the initial field of offerors under consideration to those who are best qualified.

None of these provisions may be used to exclude responsible offerors from participating in a procurement.

1. Regulatory Implementation of CICA. The policy stated in Section 4101 would require the regulation writers to consider more efficient procedures for implementing the requirement for full and open competition. Such procedures could include, for example: the authority to submit proposals in electronic form; the use of electronic bulletin boards to quickly disseminate procurement information (such as solicitation amendments and offeror questions and answers); the establishment of matrices of evaluation criteria to which offerors may respond directly to ease the comparison of proposals; and the simplification of specifications.

This provision does not change either the CICA provisions requiring full and open competition or the existing definition of full and open competition. These unchanged provisions would, by their terms, require agencies to permit "all responsible sources" to participate in a procurement. Consequently, the requirement that CICA be implemented in a manner that is consistent with the need to efficiently fulfill the government's requirements could not be used to exclude responsible sources from bidding on a contract.

2. Thresholds for Justification and Approval. Section 4102 would raise the threshold for high-level sign-off on sole-source procedures from $100,000 to $500,000 to reduce paperwork on smaller procurements. This is the first adjustment to this threshold since the enactment of the Competition in Contracting Act in 1984, and would bring the competition threshold back into conformity with the threshold in the Truth in Negotiations Act (which was raised from $100,000 to $500,000 last year). The provision would not create any new exceptions to the requirement for full and open competition and would not affect the requirement that contracting officers justify in writing the decision to use non-competitive procedures in any procurement, regardless of dollar value.

3. Competitive Range Determinations. Section 4103 would expressly authorize the use of competitive range determinations to narrow the field of offerors and exclude those who do not have a realistic chance of winning the procurement. Competitive range determinations have always been permitted under CICA, but some agencies have been reluctant to use this tool out of a fear of bid protests.

Section 4103 specifies that the competitive range should include the greatest number of offerors consistent with conducting an efficient procurement. This provision does not permit agencies to deny offerors the opportunity to bid on government contracts. It does not authorize agencies to narrow the field of competitors on any basis other than the evaluation criteria specified in the solicitation and it is not intended to authorize the exclusion from the competitive range any offeror whose proposal is not significantly inferior to the proposals that will be considered.

B. OTHER COMPETITION ISSUES

In addition to the provisions described above, Division D contains provisions authorizing the use of simplified procedures for the acquisition of certain commercial items and authorizing the waiver of certain laws in procurements of commercially-available off-the-shelf items. Neither of these provisions would undermine full and open competition or deny responsible offerors an opportunity to compete for government contracts.

1. Simplified Procedures. Section 4202 would authorize the use of simplified procedures for the acquisition of commercial items in contracts with a value of $5 million or less. Special simplified procedures could include, for example: shortened notice time frames; streamlined solicitations; expanded use of electronic commerce; and the use of alternative evaluation procedures. This provision would expire after three years, unless reauthorized by the Congress.

The simplified procedures authorized by this section would be available to agencies in addition to streamlined acquisition techniques already available to agencies and widely used for the purchase of commercial items under existing law. These techniques include the use of GSA's multiple award schedules; multiple award task order contracts; "prime vendor" contracts; indefinite delivery indefinite quantity (IDIQ) contracts; and requirements contracts.

While Section 4202 authorizes the use of simplified procedures, it would not permit limitations on competition or the exclusion of responsible sources from bidding on contracts. In fact, the provision expressly requires the publication of a notice inviting all potential sources to submit offers and committing the agency to consider such offers. In other words, agencies must evaluate all offers received, in accordance with the simplified procedures, and select the best one for contract award.

Agencies would be permitted to conduct sole-source procurements only if justified in writing pursuant to the existing CICA exceptions.

2. Waiver of Laws. Section 4203 would authorize the waiver of certain laws in purchases of commercially-available off-the-shelf items. This provision would alleviate burdens on contractors, not on the government. It is intended to enable commercial companies to sell off-the-shelf items to the government on the same terms and conditions they use in the private sector sales.

The laws that are authorized to be waived under section include only government-unique policies, procedures, requirements and restrictions that are imposed "on persons who have been awarded contracts" by the Federal government. This provision does not authorize the waiver of laws—such as CICA and the Procurement Integrity statute—which apply in the period prior to the award of a contract. And it does not authorize the waiver of laws—such as CICA, the Prompt Payment Act, and the Contract Disputes Act—which impose policies, procedures, requirements and restrictions on federal agencies and federal officials, rather than on contractors. For these reasons, Section 4203 would neither authorize the waiver of CICA nor permit any limitation on competition for federal contracts.

3. "Two-Step" Procurements. Earlier this year, the Administration requested authority for a "two-step" procurement process—similar to a provision passed by the Senate as a part of last year's Federal Acquisition Streamlining Act—under which an agency may narrow the field of offerors to those who are best qualified and offer the best overall technical approach to a problem, and only then require the submission of detailed price and technical proposals.

Two-step authority is not included in the conference report, due to concerns raised by both the Administration and the business community about the proposed language. The conference report does, however, contain a pilot program for "solutions based contracting", in which contractor selection would be based on contractors' qualifications, past performance, and proposed conceptual approach to the procurement.

We remain open to the possibility of granting broader two-step authority at some time in the future, assuming that the problems can be worked out in a manner that is consistent with full and open competition and the principle that all responsible offerors must be provided a fair opportunity to compete for government contracts.

PROCUREMENT AND INFORMATION TECHNOLOGY MANAGEMENT REFORM

Mr. COHEN. Mr. President, the procurement and information technology management reforms in the DOD Authorization Conference Report will result in billions of dollars in savings to the taxpayer. Some observers have suggested that perhaps as much as $60 billion is wasted each year from inefficiencies in the Federal contracting process. The rewards to the taxpayer from the Government finding more efficient ways to purchase goods and services are indeed great—potentially equivalent to a third of the budget deficit and more than what we will spend on new weapons this year.

The reforms contained in this bill are needed if we are to seriously address the inefficiencies in the procurement process. Although last year's Federal Acquisition Streamlining Act was a good first step, many problems continue to exist which result in great inefficiencies, cumbersome and unnecessary delays, and an overly bureaucratic process. The provisions in this legislation complement our past streamlining efforts and will allow the government to pay less of a bureaucratic premium on the price of goods and services it buys.

The need to continue procurement reform is widely recognized. Both Houses of Congress and the Administration have worked together on a bipartisan basis to develop these provisions. The procurement reform package that the conferees agreed to includes two major provisions: the Federal Acquisition Reform Act and the Information Technology Management Reform Act. These two Acts will go a long way to putting an end to many of the inefficiencies of the current system.

The savings that can be achieved from procurement reform are significant. By passing the Federal Acquisition Streamlining Act last year, we will realize $12 billion in savings over the next 5 years. The Federal Acquisition Reform Act in the DOD conference report can be expected to save additional billions through eliminating unnecessary paperwork burdens, streamlining the process for buying commercial items, clarifying procurement ethics laws, and improving the process for contracting for large construction projects.

Billions more will be saved in this bill as a result of the Information Technology Management Reform Act, legislation which Senator LEVIN and I introduced earlier this year, which emphasizes the use of technology to achieve more efficient and cost-effective government. Agencies will be required to conduct a systematic re-examination of how they do business before investing in information technology. This review will identify areas for improvement and result in significant savings through the re-design or "re-engineering" of existing government business activity. According to the Administration, efforts to re-engineer government through information technology as mandated in this legislation will save at least $4.3 billion over the next 5 years.

The systematic use of information technology to re-engineer government will be a lasting contribution of this bill. Not only will we save billions of dollars through these efforts, but we will improve the delivery of services to the taxpayer by effectively applying modern information technology to government processes.

The need to reform how the Federal Government approaches and purchases information technology is well documented. My report of October 1994 entitled "Computer Chaos," outlined the problems affecting the $27 billion we spend each year on information technology.

Much of this money is wasted buying new systems that agencies have not adequately planned for or managed. In other words, government has not done a very good job deciding what it needs before spending millions, or in some cases, billions of dollars on information systems. Consequently new systems, especially high dollars systems, rarely work as intended and do little to improve agency performance.

In addition, a large portion of the $200 billion spent on information technology over the last decade has been spent maintaining old technology that no longer performs as needed. Agencies thus spend billions of dollars each year to keep old, inefficient computer systems running, and continue to buy new computer systems that are poorly planned and, once operational, do not meet their needs.

Agencies trying to replace these old "legacy" systems have also been plagued by the constraints of the current procurement system. Over the last three decades, the process for buying federal computers has become too bureaucratic and cumbersome. It has spawned thousands of pages of regulations and caused agencies to be primarily concerned with conformity to a paperwork process. What the process fails to address are the results—more efficient and less expensive government and, most importantly, fairness to the taxpayers.

In addition, an adversarial culture has developed between government and business. Many companies believe government contracting officers and bureaucrats won't give them a fair shake. Federal employees are suspicious of companies because of a fear of being second guessed and having the procurement protested.

In short, it is a culture of little trust, less communication and no incentives to use information technology to improve the way government does business and achieve the savings that we so desperately need.

The Information Technology Management Reform Act is designed to create positive management incentives, increase communication and get business and government working together to meet the technology needs of the federal government. In addition to helping agencies buy technology faster and cheaper, the bill would ensure that a responsible management approach is taken to maximize the taxpayer's return on the government's investment in information technology.

Among other provisions, this legislation will repeal the Brooks Automatic Data Processing Equipment Act, authorize commercial-like buying procedures, and emphasize achieving results rather than conformity to the process. While we cannot legislate good management we can establish a framework for effective management to take place. This is what this legislation sets out to do.

Once enacted, agencies will be required to emphasize up-front planning and establish clear performance goals designed to improve agency operations. Once the up-front planning is complete and performance goals are established, other reforms would make it simpler and faster for agencies to purchase the technology to help them achieve their goals.

The Information Technology Management Reform Act will also discourage the so-called "megasystem" buys. Following the private sector model, agencies will be encouraged to take an incremental approach to buying information technology that is more manageable and less risky. Agencies now combine or "bundle" many of their information technology requirements into large "systems" buys primarily because the existing procurement process takes so long to complete. Reducing the amount of time it takes to conduct a procurement and simplifying the process will take away the incentive to bundle requirements and will result in smaller contracts.

Encouraging the use of smaller contracts will enhance competition. Many of the most dynamic technology companies in the nation, most of which would be classified as small businesses, choose not to even bid on federal contracts because of the size and red-tape involved. Meanwhile, some of those who benefit from the complexities of the existing federal contracting process continue to promote a more complicated, legalistic system in order to discourage new entrants into the federal marketplace.

By replacing the current system with one that is less bureaucratic and process driven, agencies will be able to buy technology faster and for less money by taking advantage of the dynamic marketplace in information technology. More importantly, a system will be in place to ensure that before investing a dollar in technology, government agencies will have carefully planned and justified their expenditures in terms of benefits accrued to the taxpayer.

We stand at the culmination of years of effort in acquisition and management reform that started with the Hoover Commission and continued with the Ash Council, the Grace Commission, the Packard Commission and, most recently, the Section 800 panel. Failure to act now will cost taxpayers billions of dollars in continued inefficiency and waste. By passing this conference report, we can take a significant step toward transforming the way the government does business and eventually regain the confidence of taxpayers in their government.

In concluding I want to both commend and express my appreciation to Senator STEVENS, Chairman of the Governmental Affairs Committee, and Senator GLENN, the Ranking member as well as Senator ROTH who served as Chairman earlier this year and Senators SMITH and THURMOND. It is through these Senators leadership that we have been able to craft legislation that will save billions of taxpayer dollars. I also want to thank Representatives Clinger and Spence. Without their foresight and perseverance we would not be voting on procurement reform legislation this year.

I would also like to thank my friend and colleague Senator LEVIN who I have worked closely with for over 15 years on the Oversight Subcommittee. I very much appreciate his counsel and support on efforts to reform the procurement system and improve government through the effective use of information technology.

MANUFACTURING TECHNOLOGY PROGRAM

Mr. ABRAHAM. Mr. President, I would like to engage the distinguished chairman of the Armed Services Committee in a brief discussion regarding the impact of the Conference Report to H.R. 1530 regarding the Manufacturing Technology Program.

The bill requires a two-to-one cost share from private sources for at least 25 percent of the MANTECH Program expenditures. Specifically, I am concerned that the statement that awards be made on a case-by-case basis may result in overall inefficiencies. Would the chairman wish to comment on that concern and offer an interpretation that would not preclude the incorporation of a range of projects in a given program area that may involve a number of participants, but still gains at least a two-for-one total cost sharing from non-Federal sources?

Mr. THURMOND. I understand my colleague's concerns regarding the project distribution under the MANTECH Program, but it is the Conferees' intention this program be administered on a project-by-project basis, especially with regards to the cost-sharing provisions. However, in implementing this provision, the committee would be willing to look at alternative methods of accounting that the Department of Defense may propose, such as bundling similar projects for fulfilling the cost-sharing requirements, on a case-by-case basis.

Mr. ABRAHAM. I thank the Senator for that clarification, and wish to follow-up as to what constitutes a non-Federal funding source. Given that non-Federal expenses are often reimbursed by the Federal Government through other programs or accounts, would the chairman wish to comment on what exactly constitutes the cost-sharing funds?

Mr. THURMOND. Mr. President, please let me make it clear we did not intend for Government funds to fulfill the non-Federal cost-sharing requirements of this provision. I believe this interpretation will maximize our leverage of Federal resources. This issue is already addressed in the regulations implementing cost-sharing in dual-use technology programs.

Mr. ABRAHAM. Mr. President, if the Senator would be so kind, I would just like to wrap up with one more question. Section 276 of the bill provides a waiver authority for the Under Secretary of Defense for Acquisition and Technology to obligate any remaining funds that could not be obligated under the cost-sharing requirements by July 15 of a fiscal year. In my opinion, to waive this requirement without making every effort to find suitable projects that meet the cost-sharing requirement would be contrary to the intent of this legislation. If he would like to comment, what safeguards did the chairman envision in drafting this waiver authority against this waiver being the rule instead of the exception?

Mr. THURMOND. Mr. President, I wish to assure my colleague from Michigan that this waiver is only expected to be implemented after every good faith effort is made to find suitable and sufficient projects to obligate all these funds. This waiver authority is intended as a last alternative, and every other conceivable effort should be made to follow these requirements, including bringing new and current potential participants into the competitive process. Finally, I will assure my colleague that the Armed Services Committee will scrutinize DOD reports prior to their implementing such a waiver.

Mr. ABRAHAM. Mr. President, I wish to thank the chairman of the committee for that explanation and for the kind assistance he has provided me and my staff in resolving this issue.

Mr. President, I yield the floor.

Mr. McCAIN. Mr. President, I want to take a moment to commend Chairman THURMOND for his success, at long last, in achieving a conference agreement on the fiscal year 1996 national defense authorization bill. I have the utmost respect and admiration for Chairman THURMOND, whose tireless efforts over the past 4 months have resulted in agreement on a number of very difficult issues. I commend the long hours and hard work of the chairman and the committee staff that went into resolving the many difficult disagreements with the House.

Mr. President, as many of my colleagues know, I do not support many of the provisions in this bill. I think my past statements, letters, and votes on the bill have made my position quite clear.

Prior to our committee markup, I wrote to Chairman THURMOND and the five subcommittee chairmen to advise them of my views on a number of specific defense programs and policies and to enlist their support for reflecting those views in the authorization bill. I greatly appreciate the consideration given to my views by all of my colleagues on the committee, although many of my greatest concerns were not adequately addressed in the bill. My additional views filed with the bill reflect those concerns.

I voted with Chairman THURMOND to report the bill from the committee, to allow the Senate the opportunity to consider the legislation. But when the debate ended, I voted against its passage in the Senate. After casting my vote against the bill in the Senate, I wrote to Chairman THURMOND to advise him of the specific reasons for my opposition to the bill and to clearly state that I would have difficulty supporting a conference agreement which did not rectify some of these problems.

Unfortunately, the conference agreement has not removed the problems in the Senate-passed legislation. Instead, many objectionable provisions remain in the bill, and indeed, some of the problems in the Senate bill have even been exacerbated. In addition, a number of other objectionable provisions have been added in this conference report.

I have served as a member of the Senate Armed Services Committee since I came to the Senate in 1987. This committee has always been at the forefront of the debate on national security policy and defense programs. I believe very strongly that the authorization committee is an essential element of the Congress' role in the formulation of our national security policies and programs.

Because of my respect for the chairman, as well as my strong belief in the importance of the authorization process, I signed the conference report. However, I want to make it very clear that I do not support many of the provisions in this legislation.

Mr. President, I would be remiss if I did not note that there are many very worthy and important legislative initiatives in this bill.

The bill authorizes an additional $7 billion in defense funding, as provided in the congressional budget resolution.

The bill adds funding for high-priority readiness requirements while eliminating or reducing defense funding for nondefense programs, such as peacekeeping assessments, humanitarian assistance, international disaster relief, and homeless assistance.

Much of the added funding is authorized for modernization of our forces, including additional tactical aircraft and tank upgrades, and strategic lift programs.

The bill establishes a new missile defense policy and provides funding for programs which will ensure the deployment of effective theater and national systems in an efficient and effective manner.

The bill authorizes a military pay raise and restores equity for retired pay cost-of-living adjustments.

The bill establishes a new process of public/private cost-sharing for construction of new military housing, which will reduce the burden on the taxpayer and hasten the process of replacing aging military housing.

The bill provides funding for ongoing operations in Iraq, and establishes a mechanism to ensure that military readiness is not adversely affected by the conduct of peacekeeping and other unexpected contingency operations.

Let me take just a moment to comment on this last provision, which the ranking member on the committee has stated the administration believes is unconstitutional.

I think it is important for my colleagues to understand what this particular provision, included as section 1003 of the conference agreement, actually does. It requires the Secretary of Defense to report to Congress outlining, among other things, the objectives of the operation and the exit strategy—similar to the requirements in the Dole-McCain resolution on deployment of troops to Bosnia. The provision restricts the availability of certain training and operations funding as sources for funding these operations. It then requires the President to submit a supplemental appropriations request—either emergency or offset with rescissions—for these operations in a timely fashion.

The genesis of this provision was a desire to ensure that military readiness is not adversely impacted by the costs of conducting peacekeeping and other contingency operations. In the past few years, the military services have expressed concerns about the impact of diverted funding on their ability to conduct necessary training in the third and fourth quarters of the fiscal year. The administration has submitted emergency supplemental appropriations requests, late in the fiscal year, forcing the Congress to act hastily and with little oversight in accepting the supplemental, faced with no other option but to shut down military training. The provision in this conference agreement will allow Congress to have the facts, during the early stages of any commitment to a peacekeeping or contingency operation, about the cost and justification for these operations.

During negotiations on this provision, the minority staff did not object to the need for a provision to protect readiness and properly fund ongoing and future operations. The only concern they raised was with respect to the constitutionality of requiring the President to submit a supplemental appropriations request to Congress.

Because of these concerns, my staff checked with experts at the American Law Division of the Congressional Research Service. According to a memorandum dated October 18, 1995, the provision "appear[s] to be within Congress' constitutional authority." The memorandum cited article I, section 9, of the Constitution as the basis for this judgment. This section states that "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law. * * *"—which gives Congress broad authority to place conditions on the use of taxpayer funds.

Mr. President, I ask unanimous consent that this CRS memorandum be printed in the RECORD in its entirety.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, October 18, 1995.

To: Senate Committee on Armed Services, Attention: Cord Sterling.
From: American Law Division.
Subject: Constitutionality of §§1003 and 1201 of the House-passed version of H.R. 1530, the defense authorization bill for fiscal 1996.

This is in response to your request for a brief summary of our phone conversation regarding the constitutionality of §§1003 and 1201 of H.R. 1530, as passed by the House.

As we discussed, both sections appear to be within Congress' constitutional authority. Section 1003 provides authority to transfer funds from designated accounts to support armed forces operations for which funds have not been provided in advance and requires the President to seek a supplemental appropriation to replenish any fund or account from which funds have been so transferred. Section 1201, in turn, would bar the use of any funds appropriated to the Department of Defense for the participation of U.S. armed forces in a United Nations operation unless (1) the President certifies to Congress that the command and control arrangements meet certain requirements and reports to Congress about the nature of the venture and the U.S. role, (2) Congress specifically authorizes U.S. participation, or (3) the operation is conducted by NATO.

Both sections can find constitutional justification in Article I, §9, of the Constitution, which provides that "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law * * *" Pursuant to that provision Congress has broad authority over appropriations, including the authority to place conditions on the use of funds. In addition, §1201 can find constitutional support in the various provisions of Article I, §8, of the Constitution that authorize Congress "To * * * provide for the common Defence * * *"; "To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water"; "To raise and support Armies * * *"; "To provide and maintain a Navy"; "To Make Rules for the Government and Regulation of the land and naval Forces"; and "To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers * * *." Those powers give Congress ample authority to specify some of the conditions under which U.S. armed forces may participate in UN operations.

I hope the foregoing is responsive to your request. Enclosed, in addition, are a number of CRS reports pertinent to your request. If we may be of additional assistance, please call on us.

DAVID M. ACKERMAN,
Legislative Attorney.

Mr. MCCAIN. It seems to me that requiring the President to submit a supplemental budget request is akin to requiring the President to submit a Federal budget request each year. This provision simply requires the President to submit a budget for an operation which was not included in his annual budget request.

In addition, the provision retains the flexibility of the President to submit either an emergency supplemental appropriations request or a request that is offset by rescissions of other appropriations for defense or other agencies. It simply requires that the President get congressional approval to use funds for a purpose which has not previously been approved by Congress.

Mr. President, I believe the military services sorely need to have such a provision in place. I do not accept the administration's position that there is anything unconstitutional about requiring the President to submit for congressional approval a budget for an operation requiring the deployment of U.S. military personnel. As my colleague from Arkansas, Senator BUMPERS, stated on the floor last week, "[T]he President has a right to be wrong just like everyone else."

Mr. President, as I stated earlier, there are many laudable provisions in this bill. In the event this bill fails to pass the Senate or is vetoed by the President, I would support separate legislation which would include these provisions. However, in my view, the good in this bill does not offset the bad.

Let me take a moment to discuss just a few of the problems in this bill on the funding side.

I am very distressed that the 4 months required to complete this conference, extending well beyond the beginning of the fiscal year, made it necessary to enact the fiscal year 1996 defense appropriations bill prior to the defense authorization bill. As a result, many of my objections to this authorization bill are the same as the objections I raised to the defense appropriations bill, because the authorizers in many cases simply accepted the decisions reached earlier by the appropriators.

This conference bill contains an authorization for the third *Seawolf* submarine, as well as language which sets out a plan to earmark two future submarine contracts for each of our submarine-building shipyards. I have stated many times my opposition to wasting any more of our scarce defense resources on more *Seawolf* submarines—a program costing $12.9 billion for three submarines. And I will vehemently oppose any proposal in future years to earmark future submarine building programs for a particular shipyard without the benefits to the taxpayer of open and honest competition for the best program at the lowest price.

The bill also authorizes $493 million for the B-2 bomber program—which was not included in the Senate-passed bill. I must say that it puzzles me somewhat that the conference agreement essentially leaves unresolved exactly how these funds will be used within the B-2 program. The purported agreement allows the Senate to insist that these funds only be used for spares and support for the existing fleet of 20 bombers, but it also leaves unrefuted the House's position in its report that the funds should be used for long-lead acquisition for additional bombers. This is a classic political compromise, which leaves a very important issue unresolved and abdicates our responsibility on the issue of the future of the B-2 program.

Mr. President, I know of no identified military requirement to spend an additional half-billion dollars to support our existing fleet, and the Secretary of Defense and the Chairman of the Joint Chiefs have made it clear that here is no military requirement for additional B-2 bombers. Like the *Seawolf*, the B-2 has now become a jobs program for defense contractors and their supplies and subcontractors, which are conveniently spread all over the United States.

Both the *Seawolf* and the B-2 are relics of the cold war, and neither weapons system is needed today to meet the likely national security threats of the future. In my view, the 1.2 billion authorized for these two programs could have been better used for programs which would help ensure our forces' readiness in this post-cold war world.

The bill also contains authorizations for $700 million in low-priority military construction projects which were not requested by the military services. In my view, this funding could be better used to ensure that the readiness of our forces can be maintained in light of the deployment of troops to Bosnia, or to provide for the future modernization of our forces.

Again this year, the bill authorizes more funding for Guard and Reserve equipment which was not requested by the services. The amount—$777 million—is identical to that provided in the appropriations bill. But unlike the appropriators, the authorizers chose to earmark every dollar for specific items, including 6 more C-130H aircraft. By doing so, this bill eliminates the ability of the National Guard and Reserve components to ensure that these extra dollars are used to procures the highest priority items needed to carry out their missions.

Finally, Mr. President, I am disappointed and discouraged that the statement of managers language accompanying this conference agreement contains earmarks for a number of programs which were not included in either bill. Not surprisingly, many of these earmarks are identical to language included in the Defense appropriations bill which was enacted last month.

There is $1 million for TCM testing—in which I should note there is apparently an Arizona constituent interest; $6 million for precision guided mortar munitions; $1 million for electro rheological fluid recoil research; $15 million for curved plate technology; $5 million for Instrumented Factor for Gears; $1 million for blood storage research; $3 million for Naval Biodynamics Laboratory infrastructure transfer activities; $2 million for advanced bulk manufacturing of mercury cadmium telluride [MCT]; $1.25 million for firefighting clothing; $950,000 for Navy/Air Force flight demonstration of a weapons impact assessment system using video sensor transmitters with precision guided munitions; $1 million for SAR detection of MRBMs in boost phase; $5 million for a program called Crown Royal; $2.5 million for deep ocean relocation research; $7.5 million for seamless high off-chip connectivity research.

It amazes me, Mr. President, that the authorization conference agreement would contain this type of earmarking language. Maybe this is some sort of gratuitous bow to the appropriators' long-standing practice of earmarking funds for special interest items. Certainly, the earmarks in the appropriations bill should be sufficient to ensure that these millions of taxpayer dollars go to the institutions or individuals to which they had been promised; an authorization earmark is no even necessary. Unfortunately, the inclusion of these earmarks puts the Senate Armed Service Committee imprimatur on a practice that ensures defense dollars flow to hometown projects, rather than military priorities.

Mr. President, I don't know which members of the conference agreed to earmark these programs, or which members even discussed these earmarks or were aware that they had been added to the authorization bill. I certainly hope that this is not the beginning of a dangerous trend in the authorization process.

On the policy side, I will cite just two objectionable provisions.

First, the bill adds several new buy-America limitations. The list of new domestic source limitations is significantly whittled down from the lengthy list contained in the House bill, but these types of set-asides are, in my view, overly protectionist and potentially harmful to favorable trade relationships with our long-time allies.

Second, and most egregious, is the inclusion of unworkable, unnecessary, and counter-productive provisions related to missing service personnel.

When the Armed Services Committee completed work on this bill in mid-summer, I stated my belief that the committee had gone as far as Congress should in reforming procedures for accounting for missing servicemen. I continue to believe that the language passed by the House in this regard was unwise and unworkable. I regret to say that the Senate receded in principle on the worst of these provisions.

The language in the conference report prohibits the review boards it establishes from making a finding that a serviceman has been killed in action if there is "credible evidence that suggests that the person is alive." It defines logic that, even if so much time has passed that it is physically impossible for a particular unaccounted-for servicemen to be alive, the board still cannot declare him dead if "credible evidence" is offered that he is still alive.

In my view, this is a very broad and undefined standard. It would effectively prevent, in many cases, a determination of death, leading the families of missing persons with unfounded hopes that their loved ones are alive and unwarranted fears for their safety and health. This is something that we clearly rejected in the original Senate bill and should not have agreed to in conference.

I would point out to my colleagues that there are roughly 78,000 servicemen missing from World War II. And this is an example of a war where we walked the battlefield. It might be of interest to note as well that at the conclusion of the battle of Lexington and Concord, there were five missing minutemen. Missing servicemen are unfortunately—and very tragically—a fact of war—as much as death is a fact of war.

For an idea of the sort of problems this restriction on a finding of death will create in the future, I commend to my colleagues an article which appeared in the Washington Post on December 10, 1995, entitled, "Mystery of the Last Flight of Baron 52 Solved." In this case, the POW/MIA lobby insisted for 20 years that there was "credible evidence" that a B–52 crew survived their shootdown over Laos in 1973. Despite credible evidence to the contrary, absurdly enough, they claimed four of the crew were transported to the Soviet Union. Finally, with the discovery and identification of the remains of the crew members, the so-called evidence of their survival and imprisonment has been irrefutably disproved, and they have been declared dead and their cases have been closed.

Because of the provisions in this bill, these sorts of claims will no longer be the bizarre ratings of MIA hobbyists; they will be a part of the official government process. As long as a shred of evidence is offered—and believe me, the evidence will be abundant—the families of future Baron 52 crews will languish in uncertainty.

The bill contains several other similarly unworkable and unnecessary provisions. Among these are: a requirement that the Secretary appoint a board of review for every serviceman determined to be missing in action and subsequent review boards every 3 years for 30 years; a requirement that counsel be appointed for the missing; a requirement to subject final determinations of the Services to judicial review; the establishment of reporting requirements on commanders in the field at the very time their principal responsibility should be fighting and winning a war; and the reopening of cases from previous conflicts.

Let me be very clear that I fully support any productive efforts to fully account for each and every missing service person. The POW/MIA Select Committee exhaustively reviewed all aspects of this issue, and I believe the resources and procedures currently utilized by the Defense POW/MIA Office are fully adequate to accomplish the objective of determining the fate of all of our missing people. In my view, the provisions in this bill would require the creation of a costly and burdensome bureaucracy, with no added value to the process and perhaps a significant degradation in the ability of the POW/MIA Office to carry out its responsibilities.

The provisions in this conference bill related to missing servicemen were strongly opposed by the Department of Defense, the CINCs, and the Chairman of the Joint Chiefs of Staff. When we revisit this issue—and we will have to revisit it in order to avoid the creation of a massively burdensome bureaucracy—I hope we will pay due attention to their concerns. They are, after all, the people who will have to implement the new procedures.

In closing, Mr. President, I am troubled by the vote facing me on this bill. My respect and admiration for Chairman Thurmond, and my concern for the future of the authorization process, make it very difficult for me to vote against this legislation. I am concerned, too, about the potential effect on the moral of our troops deploying to Bosnia if the pay and other personnel provisions in this bill are not enacted in a timely fashion. If this bill does not become law, I commit to doing everything in my power to ensure that the Congress and the administration agree to separate legislation containing these important personnel provisions.

However, as I have said, I have serious concerns about several provisions in the bill. I will continue to listen to the comments of my colleagues and to evaluate the bill in its entirety, and therefore, I will withhold, for now, making a final judgment on this bill.

I ask unanimous consent that the Washington Post article to which I referred earlier and a letter from General Shalikashvili, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 10, 1995]

Mystery of the Last Flight of Baron 52 Solved

(By Thomas W. Lippman)

A terse announcement from the Pentagon late last month finally ended the unhappy story of the fatal last flight of a Air Force plane known as "Baron 52" and resolved one of the last mysteries about the fate of servicemen missing from the Vietnam War.

The remains of the seven men killed when the reconnaissance aircraft was shot down over Laos in 1973 have been identified and will be interred in a group burial on Jan. 8, the Pentagon said.

If all seven crew members died when the plane went down, then four of them could not have survived and been taken as captives to the Soviet Union. The belief that four of the men were "Moscow bound" has long been held by some prisoner of war activists and members of the MIA lobby, who cited the fate of Baron 52's crew as evidence that Vietnam and its communist allies have still not revealed the truth about Americans who vanished in the war.

The belief was based largely on testimony by former Air Force intelligence sergeant Jerry Mooney that intercepted North Vietnamese radio communications indicated four Americans captured in the region were being transported to the Soviet Union.

The Pentagon has insisted that no one could have survived the shootdown of the plane and that the intercepted conversations were not about the Baron 52 crew. But in the absence of seven sets of remains, Mooney's version of events could not be entirely refuted.

Some members of the victims' families quarreled with the Pentagon for years, arguing that military authorities told them some crew members might have been able to parachute safely from the aircraft. They said the Defense Department was reluctant to tell what it knew because of the sensitive nature of the flight.

Baron 52 was the code name for an EC–47Q plane that was flying a night spying mission over Laos when it was shot down on Feb. 4, 1973.

That was shortly after the Paris Peace Agreement supposedly ended U.S. participation in the war, at a time when North Vietnam was preparing to release the 591 American captives it acknowledged holding.

According to Mark Sauter and Jim Sanders, authors of "The Men We Left Behind," a 1993 book alleging a POW-MIA cover-up, "the men weren't dead" and the Pentagon knew it.

U.S. officials removed the names of the four presumed survivors from a list of prisoners they expected North Vietnam to hand over because the flight was illegal under the Paris agreement, Sauter and Sanders wrote.

"The names were scratched from the list because they were an inconvenience that would have complicated Henry Kissinger's life," their book said. Kissinger, then secretary of state, had negotiated the Paris Agreements and was responsible for fulfilling President Richard M. Nixon's promise that all U.S. prisoners would be coming home.

Mooney, long retired and living in Montana, repeated his story to a U.S. Senate committee that investigated the fate of the missing Americans in 1992.

But the committee also heard from Pentagon officials who had finally viewed the crash site that no one aboard could have survived. The committee concluded that "there is no firm evidence that links the Baron 52 crew to the single enemy report upon which Mooney apparently based his analysis."

A joint U.S.-Laotian field excavation team recovered the remains from the crash site in 1993.

It took two years of work at the Army's forensic laboratory in Hawaii to identify the victims, the Pentagon announcement said. All members of the Air Force, they were Sgts, Dale Brandenburg, of Capitol Heights; Peter R. Cressman, of Glen Ridge, N.J.; Joseph A. Matejov, of East Meadow, N.Y., and Todd M. Melton, of Milwaukee; 1st Lt. Severo J. Primm III, of New Orleans; Capt. George R. Spitz, of Asheville, N.C.; and Capt. Arthur Bollinger, of Greenville, Ill.

With their identification, the list of servicemen still officially missing from the war stands at 2,162. The vast majority are known to have died and real doubt remains about only a handful of cases.

The Pentagon announced last month after a year-long review that 567 of the open cases have "virtually no possibility that they will ever be resolved" through the finding of remains or other evidence because they were lost at sea or explosions destroyed their remains.

The Chairman,
Joint Chiefs of Staff,
Washington, DC, September 27, 1995.

Senator John McCain,
U.S. Senate,
Washington, DC.

Dear Senator McCain: Thank you for taking time to meet with me last week and sharing your insights on some very important Defense issues we face now and in the coming years.

One of the issues your staff has contacted us on is the POW/MIA legislative initiative contained in the House and Senate versions of the FY96 Defense Authorization Bill now in conference committee. I'm aware that you've already heard from the regional CINCs expressing their concerns about compliance with certain difficult provisions contained in the House version.

No doubt we all agree the POW/MIA issue is of paramount importance to all Service members, and especially to all commanders. Nothing impacts a unit's fighting capability more than uncertainty over whether members will be listed as missing or forgotten if taken prisoner. This country has an unbreakable commitment to our men and women in uniform that such will not be the case. However, language in the House-passed version would create a bureaucracy requiring CINCs to divert precious manpower to this issue. In the middle of a conflict, without relieving the anxiety of our men and women.

The CINCs have addressed the details, but let me add my strong support to the Senate-passed version of the legislation that clearly advanced the POW/MIA issue. Such legislation will go a long way toward addressing the concerns of the Congress, the American people, and our military without unintended impacts we believe would be detrimental to our warfighting capability.

Again, thanks for our meeting and I hope to talk to you again soon.

Sincerely,

John M. Shalikashvili,
Chairman of the Joint Chiefs of Staff.

Mr. COHEN. Mr. President, there have been objections raised to the shipbuilding agreement negotiated during conference. They assert that it directs the procurement of specific ships at specific shipyards without a clear industrial base requirement and will produce increased cost. This is simply not the case.

Let me focus first on one of the principal shipbuilding accounts, the *Arleigh Burke* class destroyers program. The Senate conferees were confronted with diverse factors concerning these ships that we attempted to resolve as cost effectively as possible.

Let me summarize these factors.

The Navy has repeatedly told Congress that the minimum annual procurement of *Arleigh Burke* class destroyers needed to maintain an adequate industrial base is three. Testimony by Department of Defense witnesses has confirmed this assessment, as did a Congressional Research Service study completed last year.

The Navy gave high priority to including three of these ships in its fiscal year 1996 budget and did so.

As a last minute measure to generate additional funds for the Army's fiscal year 1996 budget, the Department of Defense reduced the number of *Arleigh Burke* class destroyers in the President's Budget from three to two.

During the period between submission of the President's Budget and our conference, numerous Navy and DOD officials have emphasized the importance of including the original three destroyers to the budget.

The original appropriations conference funded two destroyers in fiscal year 1996, but also directed the Navy to negotiate for and execute contracts for two more on the first day of fiscal year 1997. This language was subsequently modified in the final DOD appropriations conference report to call for three destroyers in fiscal year 1996. But its original form was a marker that influenced our conference for most of its duration.

In fiscal year 1994, and again in fiscal year 1995, the Navy concluded that cutthroat bidding in the destroyer program was leading to cost growth and the need for additional funding to resolve it.

The *Arleigh Burke* class has been in procurement for some time. Its construction costs at both building yards are well understood.

A Navy industrial base study, completed earlier this year, concluded that the best acquisition strategy for the *Arleigh Burke* class would be to retain two building yards and award contracts based on an allocation method that emphasized cost reduction.

Numerous DOD and industry officials have pointed out that the best way to achieve efficiency and reduce costs in the shipbuilding industry is to provide a stable construction program, something that the President's Budget as submitted would clearly not accomplish.

The Senate defense bill's provision dealing with acquisition of *Arleigh Burke* class destroyers, while a meritorious approach, could not prevail in conference because of opposition to it by the other defense committees.

In distilling these diverse factors into a conference position, the Senate conferees concluded that it was appropriate to explicitly endorse the results of the Navy's industrial base study, which resulted in the Navy's allocation method for awarding *Arleigh Burke* class destroyers.

In short, Mr. President, the conferees endorsed the Navy's industrial base analysis and the Navy's allocation method that resulted from its industrial base study.

Assertions to the contrary are simply erroneous.

There are other conference outcomes that were important to the House, but whose justification in my opinion is less clear. I would remind my colleagues, however, that this was a long and difficult conference with compromise necessary on both sides. We successfully rejected many provisions sought by the House. But, as occurs in every conference, we eventually accepted a few things that were important to House Members. In doing so, however, we worked to ensure that the language adopted is sufficiently permissive that the Department of Defense retains adequate discretion in developing its course of action.

Mr. President, I would also like to address some assertions that have been made today on the nature of the conference agreement on nuclear attack submarines.

In his remarks this morning Senator NUNN implied that the conference agreement would commit the Navy and the Defense Department to a program of advanced technology development for submarines that is too costly and would risk the lives of Navy personnel. In my opinion Senator NUNN did not correctly characterize the actual conference agreement.

Let me summarize the conference outcome on nuclear attack submarines as I see it:

The House and Senate had divergent goals. Believing the Navy's New Attack Submarine inadequate to its mission, the House conferees sought a program for the incorporation of advanced technology into a series of four developmental submarines before beginning series production. The Senate conferees sought authorization for the final *Seawolf* submarine, SSN-23, and competition for series production of the Navy's next class, the New Attack Submarine.

The Senate conferees did not share the House's conclusions about the inadequacy of the New Attack Submarine to deal with future threats.

After a period of lengthy negotiations that included active participation by the Navy and the Department of Defense, a compromise was reached.

In its barest essentials this compromise provides that: the Senate position on authorization of SSN-23 and competition for future submarine procurement would be preserved; and the House would gain a provision that directs the Department of Defense to prepare a plan that could lead to the insertion of technology through the construction of a series of prototype submarines, each of which would be cheaper and more capable.

I emphasize that the conference agreement accepts a requirement for a DOD plan. It does not commit the Senate to a program.

Do I think this issue will remain contentious? Yes, I do. In press release and interview the House is declaring that the conference accepted the House program.

Assertions to the contrary, the House is not correct. I urge my colleagues to read the Conference Report. Any decision to pursue an advanced submarine technology program that might emerge from the plan that it mandates will be the subject of future debate and legislative action by Congress. This conference report commits no procurement funds to it. Further, the Senate has not endorsed the House's concept as the best course of action to pursue for acquisition of submarines with the necessary mission capabilities.

I agree with Senator NUNN that the twin objectives of lower cost but more capable have proven elusive in the past—often sought but seldom, if ever, achieved.

I also agree with Senator NUNN that the language of the submarine provision in the conference report could have spoken more directly to the costs and risks associated with the House's technology thrust. I have never said the provision could not be improved. What I have said is that it was the best compromise that could be achieved in this conference. Next year will be another matter.

I want to assure my colleagues that I would never, ever, endorse a speculative and unproven program that would put the lives of American sailors needlessly at risk. This conference agreement does not do that, and I will never subscribe to a conference agreement that does.

Mr. President, another question has been raised concerning a conference outcome that would create a bipartisan congressional panel on submarines. I want to address this question.

The House, in its conference position, was focused on ensuring the rapid incorporation of advanced technology into future submarines. The House's objective was ensure that sufficient technology would be inserted into submarine designs before beginning series construction of a new class to ensure the United States retains a comfortable edge of technical superiority over any conceivable threat. Aware of potential opposition from DOD, the House's negotiating posture during conference was based on the premise that extraordinary measures would need to be taken to prevent bureaucratic or passive resistance from overcoming the technical thrust that it considered essential.

The Senate conferees' objective during conference was to preserve the centerpiece of the Senate's submarine provision: competition based on price. Consequently, the goals of the House and Senate were divergent.

After a period of lengthy negotiations, an agreement was reached that was satisfactory to both House and Senate. One aspect of this agreement, an outcome strongly sought by the House conferees, was the creation of a panel that will focus on the incorporation of advanced technology into future submarines. The House believed such a panel necessary because it was not confident that could count on unbiased and objective input by the Department of Defense.

In the original form proposed by the House, this panel would have been at Presidential level. Its membership would have included a cross-section of experts appointed by the President, the House, and the Senate. Its oversight responsibilities and authority would have been quite broad.

The final form of the panel, as defined in the conference agreement, is much different. It will be composed of three members of the Senate Armed Services Committee and three members of the House National Security Committee. The members will be appointed by the chairmen of the two committees. The panel will receive reports annually from the Secretary of the Navy on the status of submarine modernization and research and development. It will in turn report annually to the House National Security Committee and the Senate Armed Services Committee on the Navy's progress in developing a less expensive, more capable submarine.

While this panel will, by its nature, focus greater attention on submarines than other ships, all decisions regarding submarine programs will of course continue to rest with two Armed Services committees.

Mr. President, some Senators also have objected to the inclusion of spending floors in the conference report.

The Senate conferees were opposed to inclusion of this language and resisted it during conference. We reluctantly accepted a version of the House-proposed language after concluding that acceptance was necessary in order to have a conference report. But we did so only after we made sure that both the Armed Services Committee's minority members and the members of the Appropriations Committee were fully informed of its nature and our assessment that this was necessary to reach a conference agreement.

The conference report is part of a larger process that eventually leads to the obligation of funds for various purposes. There will be future opportunities for either the Appropriations Committee or the Department of Defense to register objection and prevent expenditures should they desire to do so.

In summary, Mr. President, the Senate conferees won sufficient latitude in the language so that DOD or the Appropriations Committee would not be forced to spend funds or carry out actions to which they objected.

USUHS PROVISION

Mr. FEINGOLD. Mr. President, buried in the conference report on the Defense authorization bill for fiscal year

1996 is a provision relating to the Uniformed Services University of the Health Sciences, the Pentagon's medical school, that did not appear in either the version of the bill that passed the House or the version that passed the Senate.

Though it has no force of law, the provision clearly was inserted by supporters of the university at this stage of the Defense authorization legislation in order to create the impression of support for the medical school.

Mr. President, no one reading the record of this measure should be misled by the sense-of-the-Congress provision in Section 1071(c) of this bill. This language has been included at a stage of the legislative process when, barring re-referral of the entire bill, the provision effectively is untouchable.

Mr. President, some may wonder why the supporters of the university felt it necessary to engage in this action.

The answer, for those who have followed this issue, is undoubtedly to anticipate reaction to a recent report of the General Accounting Office reviewing the cost-effectiveness of the university and alternative sources of military physicians.

That GAO report reaffirmed what other studies have found, namely that the university is the single most costly source of physicians for the military.

The findings of the GAO, released after the Senate could amend the fiscal year 1996 Defense authorization bill, confirm previous analyses of the Congressional Budget Office, the Office of Management and Budget, and the Department of Defense itself, and are a powerful argument for the Pentagon to close the university, or dramatically change its mission.

Last session, in assessing the 5-year budget impact of a plan to phase down the school, the Office of Management and Budget estimated $286.5 million in savings, including offsetting increases in the military's physician scholarship program—a less costly mechanism for obtaining military physicians. After the university is fully closed, the annual savings would be in excess of $80 million.

Mr. President, as GAO has confirmed, the university is the single most expensive source of physicians for the military.

As a practical matter, though, the military does not rely primarily on the university for its doctors.

The Pentagon's medical school provides only about 1 of every 10 of the physicians for our military, while nearly three-fourths come from the scholarship program.

Nor, evidently, has relying primarily on these other sources compromised the ability of military physicians to meet the needs of the Pentagon.

According to the Office of Management and Budget, of the approximately 2,000. physicians serving in Desert Storm, only 103, about 5 percent, were USUHS trained.

More generally, testimony by the Department of Defense before the Subcommittee on Force Requirements and Personnel suggested that, based upon a 1989 study, it needed to maintain a 10 percent of retention rate of physicians beyond 12 years, and that alternative sources like the scholarship program may already be meeting the retention needs of the services.

Even if military planners decide this level of retention is insufficient, as the GAO report proposed, changes could be made to the scholarship program to address any perceived need for higher retention rates.

The GAO report specifically cited a possible enrichment component for the scholarship program which would require a longer payback obligation for selected students in return for additional benefits, training, and military career opportunities.

The GAO report also suggested that additional readiness training could be provided through a postgraduate period specifically designed to enhance the physician's preparation for the special needs of military medicine.

Mr. President, this latest GAO report joins work done by the CBO, the Vice President's National Performance Review, the Grace Commission, and the Department of Defense itself in questioning whether the cost of maintaining an entire medical school for the Pentagon is justified.

The sense-of-the-Congress provision slipped into this conference report cannot change these fundamental judgments.

The overall DOD authorization bill is defective in many ways, especially in its failure to shoulder the kind of significant share of deficit reduction necessary to balance the Federal budget in 7 years.

The sense-of-the-Congress provision relating to the Uniformed Services University of the Health Sciences is emblematic of that flaw, and I urge the President to veto this measure when it is presented to him, and push Congress to craft a more fiscally responsible measure.

Mr. WELLSTONE. Mr. President, I oppose the Department of Defense Authorization Conference Report on a number of grounds. There are some positive provisions, such as those concerning pay, family and troop housing, and other issues. But the conference report remains wholly unacceptable, indeed worse in some key ways than the Senate bill. If it passes today, I earnestly hope the President will veto the bill so that we can begin a more genuine effort to pass a bipartisan defense bill.

I am all for a strong national defense, and I too want to ensure that our troops in Bosnia have everything they need to defend themselves. But that operation in its entirety is scheduled to cost about $1.5–2 billion; this bill provides over $260 billion in Defense spending overall—over $7 billion more than the President's request. I had urged the President to veto the DOD appropriations bill, and I also hope he will veto this one.

The conference report moves in exactly the wrong direction concerning America's real priorities during extremely difficult fiscal times. At the very moment that Republicans are forcing a shut-down of parts of the Government over our disagreement about how much to cut from vital programs that benefit the country's working middle class, as well as those which serve the Americans, including the elderly and children, who are most in need of Government services, this bill substantially increases funding for weapons programs which are not needed.

Let me offer just a few examples. The bill adds $493 million for new B–2 bombers, and it adds $925 million for ballistic and cruise missile defense initiatives. A number of weapons program earmarks and other pork projects have been included which do not represent rational defense policy and spending. Many were also included in the Senate bill. The bill also establishes an arms sales loan-guaranty program, further subsidizing militarization in other countries, flying in the face of U.S. arms control efforts around the world.

It includes $50 million for unnecessary, even counterproductive, hydronuclear tests. In fact, the bill adds $7 billion overall to the Defense Department's own request for funding for the fiscal year. Over $7 billion more than the Joint Chiefs of Staff, the Secretary of Defense, and the President requested. That is astonishing, especially in this budget climate. How can we consider cutting food stamps, low-income heating assistance, Medicare and Medicaid before we even begin to tighten the military's belt in areas where the Department itself has said it can save?

The bill would undermine major arms control treaties against nuclear proliferation. Through its requirement of deployment of a national missile defense system, beginning by 2003, many are concerned that the bill signals an intention on the part of this country unilaterally to violate the Anti-Ballistic Missile [ABM] Treaty. I share that concern, as well as the concern that provisions of this bill could negatively affect Russian consideration of the START II Treaty. I have spoken on the floor regarding these topics in the past, and a number of my colleagues have done so today. Undermining these treaties would represent an historic error, and set us back many years in our arms control efforts. They have received bipartisan support in this body and were negotiated and approved by administrations of both parties. They should be strictly observed, not abrogated. And negotiations on the next phase should be pressed ahead quickly.

Mr. President, I also would like to raise an issue about which a number of colleagues and I have communicated to the chairman and the ranking member of the committee. That is the issue of procurement. As a member of the Small Business Committee, I have attempted to follow closely issues that affect small businesses in the area of procurement, and this bill, as many of my colleagues know, has become contentious due to its actions in this area of policy. Provisions were added to the bill in conference in the name of acquisition reform which have generated some alarm in the small business community and among some who have worked carefully on Governmentwide procurement reform in recent years. In the very short time that has been available to study the provisions of the report, it has been difficult to assess all of its likely effects on procurement. But an initial reading indicates to me that there are areas of legitimate concern.

On December 4, along with Senators BUMPERS, KERRY and MOSELEY-BRAUN, I wrote to Chairman THURMOND of the Armed Services Committee and to Senator NUNN, who is the committee's ranking member. We expressed concern that provisions relating to acquisition, not only by the Department of Defense, but Governmentwide, were being included in the conference report: provisions that were not contained in the bill as originally passed by either the Senate or the House. Some of the provisions were derived from H.R. 1670, a House-passed bill, and some were derived from a Senate bill, S. 946. The provisions, as it turns out, underwent some modification before being added to this bill during the conference. But substantial changes to Governmentwide procurement policy are indeed contained here. The concern which my colleagues and I expressed in our letter, that such changes might undercut important procurement reforms undertaken by Congress in recent years, especially by weakening the practice, if not the principle, of full and open competition, remain. I therefore hope that following a veto of this bill by the President, the issue can be reexamined.

I share these concerns not only with my Senate colleagues with whom I have worked on this issue in recent weeks. I also would like to point out the important work done on the House side by Small Business Committee Chair JAN MEYERS of Kansas. Mrs. MEYERS has championed small business interests during this process, and has reached similar judgments to those which I am setting out here. We both question the wisdom of undertaking significant Governmentwide procurement legislation, even in the name of "streamlining," in the very restricted process of passing a Defense authorization conference report. And we both believe that the objections raised by a number of small business organizations to the provisions themselves have some merit.

Mr. President, I ask unanimous consent that an article from the Washington Post dated November 17, 1995, be printed in the RECORD. And I point out that the Small Business Legislative Council, National Small Business United, the National Association of Women Business Owners, the National Association for the Self-Employed and others all have expressed serious reservations about the procurement provisions. I hope we will have a chance to revisit the issue.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 17, 1995]

UNCLE SAM'S BUYING POWER

(By Kathleen Day)

A quiet storm has erupted in Congress over efforts to reform how the government spends $200 billion a year to by items ranging from paper clips and computers to jet fighters and tanks.

Supporters of the proposal, led by Rep. William F. Clinger Jr. (R-Pa.) and the Clinton administration, say pending legislation would save taxpayers millions of dollars by reducing bureaucracy, giving procurement officers by reducing bureaucracy, giving procurement officers throughout government more flexibility to buy items as they see fit and allowing the government to pay the same competitive prices as private businesses.

"We think on balance it would be a good set of additional reforms," said Leroy Haugh of the Aerospace Industries Association, which represents defense giants such as General Dynamics Corp. and Lockheed Martin Corp.

But others, including Rep. Jan Meyers (R-Kan.), AT&T Corp. and the U.S. Chamber of Commerce, say the proposed changes will return the federal government to the days when the Pentagon paid $7,400 for a coffeepot and $640 for a toilet seat. They contend the proposed changes would cut competition by letting the government limit the number of companies making bids and allowing the White House to waive purchasing rules at will.

They say the result would be a system that shuts out many small companies and enables a few large players to dominate federal contracting, making it tougher for others to win government business. Worst of all, they say, the proposals are being crafted behind closed doors, without the benefit of public scrutiny.

"This would fundamentally change public procurement," said Edward J. Black, president of the Computer and Communications Industry Association, whose members include Amdahl Corp., AT&T, Bell Atlantic Corp. and Oracle Corp. "For that to be done in some secret room without everyone being able to see what's going on is a problem."

"I wouldn't characterize it as a secret, but as a proposal that's followed an unusual legislative path," said the Aerospace Industry Association's Haugh.

The changes are being considered by House and Senate conferees who are working on legislation setting the Defense Department's budget for fiscal 1996. That, critics say, is part of the problem: A proposal to change purchasing rules for all federal agencies, not just the Pentagon, should not be considered as an amendment to a military funding bill, but in separate legislation.

Lawmakers in the conference could finish their work on the DOD funding bill as early as today, congressional aides said.

The effort comes just a year after Congress approved legislation changing procurement procedures, and a decade after it passed a law requiring more competition in government contracting. About the only thing that both sides agree on is that the controversy over purchasing rules highlights the difficulty of cutting government red tape while preserving safeguards that ensure taxpayer funds are spent wisely.

Legislation being discussed would:

Give government buyers more leeway in eliminating companies early in the bidding procedure. The goal is to save the time and money the government spends in considering companies that clearly are not qualified to win a contract.

Encourage the government to purchase, whenever possible, off-the-shelf items available to the general public, instead of paying to create goods or services from scratch. (The storied $7,400 "hot brewing machine," better known as a coffee-pot, was so costly because it was built from scratch for the Air Force.)

Simplify how the government makes requests for goods and services, with the goal of curtailing waste of time and money writing needlessly detailed specifications.

Change the system that allows losing companies to challenge contract awards. The goal is to eliminate frivolous protests.

Allow agencies to spell out contracting rules through regulation, rather than laying down those rules by law. One proposal would give the White House appointee in charge of federal procurement policy power to waive rules governing a particular contract—rules specifying, for example, how many companies need to bid or what the bidding deadline is.

"What comes out of this conference could be a very positive approach," said Steven Kelman, head of the White House's Office of Federal Procurement Policy. The assertions that changes could bring back high-priced coffeepots "are scare tactics," he said.

Kelman said more companies would compete for government business if there were less red tape. The legislation also would reduce the time it takes the government to award contracts, sending a signal to companies that the government will no longer tolerate sloppy work and delays, supporters say.

Others disagree. "The decision to bid on a government contract is a business decision that should not be wrested away by faceless government bureaucrats," said Jody Olmer of the U.S. Chamber of Commerce, which represents 215,000 companies—96 percent with 100 or fewer employees.

"If the rules regarding who can do business with the government are changed in the manner under consideration," she said, "it could lead to higher prices, less competition. It could eliminate a number of smaller businesses from the process."

"The government has an obligation to play fair so that all citizens have a chance to bid for contracts involving taxpayers' dollars," Black said.

He and others say that last year's reform law, which is supported by both sides in this year's debate, didn't take effect until last month and therefore hasn't had enough time to work before being tampered with.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mrs. BOXER. Mr. President, I have divided feelings about the conference report on the fiscal year 1996 Department of Defense authorization bill. I am very pleased that the conferees have retained my amendment prohibiting members of the Armed Forces convicted of serious crimes from receiving their pay. However, I am strongly opposed to a number of policy provisions and spending requirements in the bill. However, on balance, I believe that this conference agreement would move our national defense strategy into a new and unwise direction.

Early this year, I was shocked to discover that the Pentagon continued to keep violent military criminals on the payroll even after their conviction by courts martial. Each month, about $1 million is paid to incarcerated murders, rapists, child molesters, and other convicted criminals.

When I learned of this outrageous practice, I immediately began working with Pentagon and Armed Services Committee leaders to craft a legislative solution to this outrageous abuse. Working together, we were able to craft a successful fix, which was approved by the Senate by an overwhelming vote. I wish to thank the ranking member of the committee, Senator NUNN, and the Personnel Subcommittee chairman, Senator COATS, for their thoughtful cooperation and helpful suggestions in addressing this problem.

While I am pleased that my military convicts amendment was retained in conference, I believe that on balance, this bill takes our national defense strategy in the wrong direction.

This bill spends $7 billion more than the Pentagon's military planners believe they need to meet our national security needs. Much of this $76 billion bonus is earmarked for special interest pork-barrel programs that our military planners neither need nor want. This kind of wasteful spending should not be permitted.

The bill undermines the Anti-Ballistic Missile Treaty requiring the deployment of a national missile defense system by 2003. It more than doubles the administration's funding request for the National Ballistic Missile Defense Program. This return to the Reagan-era "star wars" program is a clear waste of tax dollars.

The conference report virtually eliminates the Office of the Director of Test and Evaluation. This office is the cornerstone of our "fly before you buy" policy, which was created as a remedy for the notorious procurement abuses of the late 1970's and early 1980's. I was a member of the House Armed Services Committee when the OT&E office was created in 1983 and played an active role in crafting the legislation establishing the office. In my view, the OT&E has saved billions of taxpayer dollars and has ensured that the weapons our troops in the field receive will function properly. To abandon the OT&E in the name of procurement streamlining will waste billions of dollars and put our troops at needless risk.

This conference report contains a pair of irrational personnel provisions that are unfair to our troops and will undermine morale and degrade readiness. First, it denies the rights of military personnel and their dependents to terminate pregnancies in military hospitals. I believe it is fundamentally wrong to deny constitutionally protected rights to our troops and their families simply because they are stationed overseas.

Second, the conferees accepted an outrageous House provision requiring the discharge of military personnel who test positive for the HIV virus. There is no rational basis whatsoever for this provision. The current Pentagon policy on this issue is wholly adequate.•

Mr. THURMOND. Mr. President, I suggest the absence of a quorum and ask that it be divided equally, charged to each side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I yield 15 minutes to the able Senator from New Hampshire [Mr. SMITH].

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. Mr. President, I thank the distinguished chairman for yielding, and I rise in support of the Defense authorization conference report.

At the outset, Mr. President, I want to congratulate Senator THURMOND for his strong and determined leadership and tireless efforts on behalf of this legislation. It is a very, very difficult process to get this bill to the floor, but Senator THURMOND never gave up, and he has spent an awful lot of time talking to Members trying to work out agreements to get us here.

It was a difficult conference with the House. While we experienced some growing pains in the process, I think the product, even though we do not all agree with it, is something we can be proud of. We do not agree with everything in it, but it is something we can be proud of.

The Senator from South Carolina deserves a great deal of credit for his leadership and, more importantly, for his commitment to the men and women who wear the uniform of the United States of America.

We are always grateful to the distinguished Senator from South Carolina for that strong leadership.

The legislation before us authorizes approximately $264 billion for national defense. This funding level is about $7 billion more than the President's request, but it is consistent with the concurrent budget resolution adopted by Congress earlier this year.

Some have questioned this level, and I want to emphasize that even with the increased funds, the bill provides 2.3 percent less than last year's defense bill in real terms. The truth is that real defense spending has declined every year since 1985. Of course, you do not hear about that much in the news, but for the last 11 straight years, defense spending, in terms of a percentage of the entire U.S. budget, has gone down.

For the benefit of my colleagues, I want to briefly summarize some of the highlights of the bill before us.

There is a 2.4-percent pay raise for our troops and a 5.2-percent increase in the basic allowance for quarters. I find it somewhat ironic that the President, who sends the troops to Bosnia, now may veto this bill which provides them with a 2.4-percent pay raise. Some of these troops may even be eligible for food stamps, and we are putting them in harm's way in Bosnia. I think it would be immoral for the President to veto this legislation.

It includes an adjustment to equalize the schedule for military retiree COLA's to be sure they are provided the same schedules as Federal civilian COLA's and also includes a variety of acquisition policies urgently needed to maintain the pace of procurement reform begun last year. These are items under my subcommittee, and they are going to significantly increase the ability of Federal agencies to buy state-of-the-art technology from the commercial sector and reduce barriers for companies, both large and small, who want to sell their goods and services to the Government.

All of these provisions are fully consistent with the existing requirements for full and open competition.

In the area of relieving burdens on contractors, we provided a total exemption for the suppliers of commercial items from the requirement to provide certified cost and pricing data under the Truth in Negotiations Act. We also provided extensive relief from requirements for special certification of compliance of laws applicable to Government contractors and eased the requirements governing acquisition of commercially off-the-shelf products.

In addition to these changes, we have included a series of initiatives which are intended to streamline acquisition.

For instance, we have included a provision allowing agencies to use streamline solicitations and flexible notice deadlines in the procurement of commercial items under the amount of $5 million.

This is a 3-year test program that does not alter the requirements for notice or the requirements for full and open competition in these procurements.

Finally, under acquisition, we have included a major reform in the manner Federal agencies purchase information technology. This has been spearheaded, for the most part, by my colleague and friend from Maine, Senator COHEN. We have eliminated the jurisdiction of the General Services Administration over Federal agency information technology procurements, including the role of the General Services Board of Contract Appeals in bid protests.

So the acquisition reform provisions were developed in a bipartisan manner, with the involvement and cooperation of the Governmental Affairs Committee and the participation of representatives from the Small Business Committee staff.

These changes have been the subject of hearings, numerous hearings, over the past years. They are issues thoroughly researched and considered prior to inclusion in this bill.

Let me talk about a few other things in the bill, Mr. President. There is a $480 million increase in military construction funding which, although it takes great criticism from some here, it enhances the life of our troops and their families. They have to be able to live in a decent place. In some cases, prisoners who serve in penitentiaries in the United States of America have better quarters than our armed services.

This Senator is not going to stand out here on the floor and watch other Senators demagog the whole issue of military construction when, in fact, it is necessary. It is not all pork. There is some pork, and we tried to get that pork out. Did we get it all? Probably not, but we got a lot of it. But building good housing and having decent places for military to work and live in is not pork.

There is $300 million to continue the so-called Nunn-Lugar cooperative threat reduction program with the states of the former Soviet Union. You can see what is happening now in the Soviet Union. That is taking on more importance. There is an increase of over $1 billion in operation and maintenance accounts to enhance readiness. And most importantly, perhaps, from this Senator's point of view, is the Ballistic Missile Defense Act of 1995, which establishes policies on development and deployment of missile defenses, and this includes an increase of $604 million to accelerate promising theater missile defense programs.

Not everyone is going to like every provision in this bill. I certainly do not. But it is the nature of the legislative process that a good bill reflect the philosophies and priorities of all of us as much as possible.

For this reason, Mr. President, to be very candid, it troubles me very much that the administration has announced its intent to veto, even before we adopt it, this conference report. As the chairman of the Subcommittee on Acquisition and Technology, I worked very hard, frankly, to accommodate the interests and priorities of the administration in my areas, sometimes taking on some of my own party to do it. I am not happy about the fact that one of the veto message items in this bill deals with areas that were under my jurisdiction, specifically the Technology Reinvestment Program.

Frankly, I was specifically assured by Under Secretary Paul Kaminski for Acquisition that the administration appreciated the support and would accept our funding level, and now I find that it is one of the reasons for being vetoed. I was surprised and offended to see the TRP issue listed as a reason for the President's threat to veto the bill. I have dealt in good faith with the administration on this issue. If this is the reward for being open and accommodating, I can assure my friends in the administration, I may not be so open and accommodating the next time around. I do not appreciate it, and I want everybody to understand that. I deal in good faith with people, and I expect reciprocal treatment.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has approximately 6 minutes.

Mr. SMITH. Mr. President, I am also troubled by the statements of the distinguished ranking member, whom I respect immensely and he knows that, Senator NUNN, regarding the ballistic missile defense provisions of the bill. We have met a number of times with Senator NUNN, many of us who worked on this negotiation.

The bill before us accommodates virtually every single concern Senator NUNN raised, as far as I am aware. It retains the compromise language on demarcation that was included in the Senate bill, and it eliminates the requirement to deploy a multiple-site national missile defense, much to my consternation. In addition, it retains program guidance from the Senate-passed bill.

These were big concessions to the minority, huge concessions to the administration, and, quite honestly, we had a tough time swallowing them, but we did it to get a bill here that would move us in the right direction, even though it was not as far as we wanted to go on missile defense, and we did it in good faith, and now we find the rug is pulled out from under us.

It is clear that there was not a good-faith negotiation on the part of the administration on this issue. The administration has told us what the veto debate was, and we moved away from that, and still we have that action hanging over us. I do not want to be on that side of one—if the administration wants to be there, that is fine—that takes the position that the administration now has no intention of ever protecting the American people from ballistic missile attack. If they want to be on that side of the issue, that is fine. I do not want to be on that side of the issue. In its statement of policy, the administration specifically calls national missile defense "unwanted and unnecessary." Let me repeat that. The administration calls national missile defense unwanted and unnecessary.

With all due respect, who is it that defines protecting all Americans in all 50 States to be unwanted and unnecessary? I have not heard anybody say that. I find it difficult to believe that there are people out there who would not want to be protected from a missile. That is what has been said.

So it is President Clinton—let us be very clear about it—that is the problem. The United States currently has no defense against ballistic missile attacks. Zero. We are totally vulnerable. If a missile is fired at us, we cannot stop it. Believe that or not. The administration does not intend to correct that. We fought hard to get these provisions in there.

So the administration does not intend to ever deploy national missile defenses. And now, when Congress takes action to correct this vulnerability, as we have done in this bill, we get the veto threat.

The truth is that nothing in this bill violates the ABM Treaty. It only calls for deployment, by 2003, of a ground-based national missile defense. There is no requirement that it be a multiple-site system. I wish it was, but it is not. We went as far as we could go to get the support of the minority, and the minority pulls out the rug. I find it unbelievable that this President, and some here in the Senate, with troops in the field in Bosnia—we heard a lot of speeches about how we have to support the men and women in Bosnia. That is why we should send them there, because we have to support them. The President wants them to go there. I disagreed with all that. I believe in supporting the troops once they are there, and the best way to do that is voting for this bill. If you do not, you are not supporting the troops, you are not giving them a pay raise, better housing, better weapons. If you do not vote for this, you are not. Let us not hear about any of this conversation and discussion out here about how you are supporting the troops in the field because you are not doing it.

The Russians have taken full advantage of this single-site ground-based system and ABM deployment talk, and they have deployed a national missile defense system near Moscow. There is no breach of the ABM Treaty and no anticipatory breach of the treaty in this bill, period. Yet, that is what we are being told on the floor.

How is the President going to explain this to the American people? He is going to veto a bill—to put it another way, he sends troops to Bosnia and will veto the bill that provides a pay raise and improves quality of life for their families, provides ammunition and the spare parts and equipment they need to do their jobs. That is what is happening, and this should be exposed on the floor of the Senate. This is an authorization bill, and it gets a little dry in the discussion. But let us call it what it is. That is what it is.

How is the President going to explain this? I do not know. How is he going to explain it? We have heard a lot of talk about the importance of supporting the troops in the past few days. Well, that is not happening today. If you vote against this bill, you are not supporting the troops. You are not supporting the necessary programs for them and their families.

So we have a Commander in Chief here, who, by vetoing this bill or threatening to veto the bill, is abandoning his troops when they need him the most. He sends them all over the world—to Bosnia, Somalia, Haiti, Cuba, wherever he feels like sending them to do police work—without the support of the American people in most cases. And he cannot sign a defense bill that provides a pay raise and gives them the equipment and facilities, maintenance, and materials they need. And another reason for not signing the bill and vetoing it is because he does not want to protect the United States of America from missile attack. That is the reason the President has given for vetoing this bill.

I urge my colleagues to think very carefully about these comments when you vote. If the President is about to walk off a cliff when he vetoes this bill, do you want to be hanging onto his coattails when he goes? I hope not. If you vote against the defense bill, you are doing that.

The troops and their families are watching, I can tell you. They know what the stakes are. They know what the stakes are. These are the families on food stamps out there, whose parents are headed to Bosnia. If you vote against this bill, you will be voting to deny them that raise, deny them housing upgrades, and deny the very basic subsistence they so badly need.

Who is really abandoning our troops then? It will be very clear to the American public I assure you.

In closing, I urge my colleagues to support the bill before us. The legislative initiatives and funding authorizations contained in the conference report are essential to keep faith with our men and women in uniform and to preserve our national security. Those troops, including the 20,000 who will be deploying to Bosnia, need us now more than ever.

I urge each of you to send the strongest message possible that you support them and their families by supporting this bill.

I yield the floor.

Mr. THURMOND. Mr. President, I wish to commend the able Senator from New Hampshire for the excellent remarks he made on this bill. He is a valuable member of the Senate Armed Services Committee, and he renders this country a great service.

I will yield 10 minutes to the able Senator from Idaho, Senator KEMPTHORNE, and after that, I will yield 10 minutes to the able Senator from Oklahoma, Senator INHOFE, then 10 minutes to the Senator from Virginia, Senator WARNER, and then 10 minutes to myself.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 10 minutes.

Mr. KEMPTHORNE. Mr. President, I would like to pick up on the theme that the Senator from New Hampshire was referencing—that is, the troops. When I go out and visit the troops, wherever they may be, throughout the world, whether it was in Somalia, or Bosnia, or what have you, and I discuss their thoughts with them and ask them, "What is on your mind? What are your top concerns?" they bring up the whole question of the benefits.

Remember, we have volunteer armed services. They want to know what Congress and the President is really doing with regard to the benefits, such as their pay and their living conditions. It is a well-known fact that we can be very effective at recruiting these very, very talented young men and women into the military. But whether or not we retain them is based upon whether we really are serious and whether we deliver when we say that we are going to take care of the best fighting forces in the world.

Now, in this particular legislation that is before us, this Defense authorization bill, if in fact we support the troops, then this is the bill that we must vote for. Only by voting for this bill do we give to the military the full military pay raise. How in the world do you explain to those troops that we have sent to Bosnia for Christmas that, by golly, we support you with everything we have here, with the exception that I did vote against the Department of Defense authorization bill, and I denied you the full pay increase that you are due? I do not think that squares. I think it is pretty easy to stand in the luxury of this facility and say how much we support them, but then cast a negative vote against a pay increase; or how about the increase in the quarters allowance, so that we can retain them, because you are going to have to do things for the families of our military if you are going to retain them. The Secretary of Defense's military housing program—it is estimated that it will take us 30 years to upgrade the housing that we put the best fighting force in the world in as their living quarters. Or the cost-of-living allowance—in order to provide them equity with the civil Federal employees, you have to vote for this bill. If you do not vote for this bill, then you are denying the military of this Nation equity with the other Federal employees.

There are many provisions in this bill, as has been pointed out in the debate that has taken place on the floor of this Senate. There are many provisions that Senators have come to my office and have said: We certainly ask you and urge you to vote with us regarding, for example, The *Seawolf* program, whether or not we ought to build this third *Seawolf*. There were discussions in my office. I support the construction of the third *Seawolf*. I think it is absolutely the right thing to do. I voted for it. Those Senators that came to my office urging me to vote for it, now I am told, are going to be voting against the conference report that does authorize the funds for the *Seawolf*. They are also the ones that, by casting that negative vote, are denying the military the full military pay increase. I do not think it squares. Does that mean that I like everything in this bill? Absolutely not.

I think, for example, Mr. President, that the B–2 bomber is truly one of the most fantastic aircraft that will ever be designed. We are fortunate that we have in our arsenal B–2 bombers. I would love to see us have additional B–2 bombers.

In this particular report, as we did in the Armed Services Committee, I had to ask the question, how is it that we only provide $493 million for the B–2 bomber program? Yes, we can come up with $493 million this year, but no one has been able to adequately tell me after this year how do you come up with $20 billion to provide for the additional B–2 bombers. No one has been able to answer that question. It should be answered. This commits us to going down that road.

I do not agree with that based on the rationale I just mentioned, based upon what I argued in the Armed Services Committee, but that does not mean I will walk away from my responsibility to support this conference report and what it means to the men and women that wear the uniforms of the armed services of the United States of America.

This conference report has real cleanup at the Department of Energy sites throughout the United States. It expedites the environmental restoration at a variety of these sites—the environmental restoration. How is it that so many of our colleagues say they are out front on all the efforts toward environmental sensitivity cleanup, but on some of our own Federal sites they will walk away from that by voting against this conference report?

This conference report also includes a landmark sense-of-the-Congress resolution describing and affirming the recent settlement between the State of Idaho, the Department of Energy, and the Department of Navy regarding the shipment and storage on an interim basis of spent nuclear fuel in the State of Idaho. The settlement between the State and the Federal Government will allow the Navy and Department of Energy to meet their national security requirements to the Nation over the next 40 years. But the settlement also significantly assures the people of the State of Idaho that all spent nuclear fuel will leave the State by the year 2035. The agreement is the result of long and difficult negotiations between the Governor of Idaho, Phil Batt; the attorney general, Al Lance; the Assistant Secretary of Energy, Tom Grumbly; the DOE General Counsel, the Director of Nuclear Naval Propulsion, and the Navy General Counsel.

Mr. KEMPTHORNE. Mr. President, I would like give my colleagues some background to explain the importance of the Sense of the Congress Resolution in the fiscal year 1996 Defense authorization conference report concerning the shipment and interim storage of spent nuclear fuel at the Idaho National Engineering Laboratory.

Since the 1950's, the Navy sent its spent nuclear fuel to the Idaho National Engineering Laboratory [INEL] for reprocessing at the Idaho Chemical Processing Plant [ICPP], known as the Chem Plant, in eastern Idaho. At the Chem Plant, the uranium contained in the naval spent fuel was extracted and sent to Oak Ridge for use in the Nation's weapons complex. The resulting liquid waste was stored and later calcined into a dry substance. In 1992, the Nation stopped reprocessing spent nuclear fuel. After 1992, spent nuclear fuel from naval reactors came to INEL for interim storage at the Chem Plant.

In the wake of the decision to end reprocessing, Idaho Governor Cecil Andrus went to court to block the shipment and storage of Department of Energy and Navy spent nuclear fuel to Idaho. On June 28, 1993, Judge Hal Ryan of the District Court of Idaho issued an injunction blocking the shipment of Navy and DOE spent nuclear fuel to Idaho until an environmental impact statement assessed the impact of storing this material in Idaho.

The injunction against shipments to Idaho threatened to delay the Navy's ability to refuel and defuel nuclear powered ships because the Navy possessed limited storage space for this material at the shipyards that did this work. As the threat to the Navy's refueling and defueling schedule increased and the threat of job losses at the nuclear shipyards grew, supporters of the Navy's position sought to include a legislative exemption from the National Environmental Protection Act [NEPA] for the Navy's nuclear shipments to Idaho. In fact, the chairman's mark of the fiscal year 1994 Defense authorization bill considered by the Senate Armed Services Committee included such a waiver.

During the markup of this bill, I argued strenuously against the legislative waiver. As I said at the time, it was inappropriate for the Senate to consider a waiver before we knew the facts about the impact of the court's injunction. At my urging, the legislative waiver was dropped from the bill approved by the Armed Services Committee. In lieu of a legislative waiver, the Armed Services Committee held a hearing on July 28, 1993, to assess the facts about the situation.

At the July 28 hearing, Governor Andrus, Senator CRAIG, Congressman CRAPO, Admiral DeMars, and Tom Grumbly and others outlined the issues facing the Navy, the Department of Energy, and the State of Idaho. In my opening statement, I urged Chairman EXON to lock the doors until the parties at the witness table reached an equitable agreement that protected the interests of the people of Idaho, the Navy, and the DOE. I also urged the witnesses and the members of the committee to establish a new partnership to implement long-term solutions. The hearing reaffirmed Governor Andrus' willingness to accept additional naval spent nuclear fuel shipments if the shipments were required for national security and work on the EIS continued.

On August 9, 1993, Governor Andrus, the Navy, and the DOE announced agreement on an interim settlement which allowed a minimum number of shipments to Idaho while the Navy and the DOE completed the environmental impact statement. I strongly supported the agreement negotiated by Governor Andrus and the Federal Government because it protected Idaho's rights, it allowed the Navy to meet its national security requirements, and it avoided a legislative waiver of the NEPA law. On December 22, 1993, Judge Ryan accepted the settlement and modified the injunction to allow the shipments required for national security.

On April 28, 1995, the Department of Energy released the final EIS on spent fuel management which recommended consolidating spent nuclear fuel at INEL, the Hanford reservation, and the Savannah River site. At that time, I called the Secretary's recommendation unfair and I urged her to reconsider this recommendation. A few weeks later, Governor Batt and the State of Idaho went to court to block the recommendations of the EIS. On May 19, 1995, Judge Edward Lodge agreed to Governor Batt's request to maintain the injunction on spent nuclear fuel shipments while the court assessed the adequacy of the final EIS.

On June 1, 1995, Secretary O'Leary signed the record of decision which codified the administration's decision to send 1,940 additional shipments of spent nuclear fuel to the INEL. For the next 2 months, the Department of Justice and the Navy tried, but failed, in their appeal efforts to get Judge Lodge's injunction lifted.

As the dispute lingered, Governor Batt announced three conditions for a settlement of this issue. In exchange for a binding commitment to: First, remove all spent nuclear fuel from Idaho by a date certain; second, accelerate clean up at the INEL; and third, provide new missions for the site, Governor Batt announced he would accept some additional shipments of spent nuclear fuel to the INEL for temporary storage and preparation for ultimate disposition. Once the Governor set out the parameters of a fair agreement, I expressed my support for his three conditions and urged the DOE and the Navy to meet his concerns. Throughout the months of negotiations that led to this agreement, I spoke with a variety of DOE, DOD, and Navy officials, including Secretary O'Leary, Deputy Secretary of Defense White, Navy Secretary Dalton, Tom Grumbly, Admiral DeMars, and Steve Honigman, urging a settlement along the terms outlined by Governor Batt. For example, at a July 20 meeting in Senator WARNER's office, I told Admiral DeMars and the Navy general counsel that I would vigorously oppose any effort to seek a legislative waiver for nuclear shipments to Idaho. Instead of seeking a legislative quick fix, I urged the Navy and the DOE to intensify negotiations with Governor Batt.

As the negotiations plodded along, Navy supporters once again sought a legislative waiver to allow Navy spent nuclear fuel shipments to Idaho to continue. In fact, the House passed DOD appropriations bill included a legislative waiver for Navy shipments. When the Senate considered the defense authorization bill, I worked with Senators WARNER, EXON, SMITH, CRAIG, COHEN, THURMOND, and others to include an amendment which urged a continuation of good faith negotiations between Idaho, DOE and the Navy. The defense authorization and appropriations bills considered and passed by the Senate did not include any waiver that prejudiced Idaho's interest during these negotiations.

During the end game of the conference on the defense appropriations bill, Chairman STEVENS called me at home one Friday evening to inform me that the House conferees insisted on their language allowing naval nuclear fuel shipments to Idaho despite the court's injunction. I thanked Senator STEVENS for his heroic efforts on my behalf to delete the House provision. In light of the position of the House conferees', I informed the Senator from Alaska that I would use every option at my disposal to oppose the appropriations conference report if it included a legislative waiver. He said he understood my position.

The final Department of Defense appropriations conference report included the House language exempting Navy shipments from the NEPA law and Senator CRAIG and I prepared to filibuster the bill. When it appeared that the Senate would take up the Defense appropriation conference report, Senator CRAIG and I went to see Senator DOLE, the majority leader, expressing our strong opposition to the bill. Senator CRAIG and I asked the majority leader to delay consideration of the bill to give Governor Batt additional time to negotiate with the DOE and the Navy. Senator DOLE agreed to our request and delayed Senate consideration of the bill. In the end, the House defeated the conference report on unrelated issues.

On October 16, 1995, Governor Batt, the Navy, and the DOE reached an agreement to allow around 1,100 nuclear shipments to Idaho over the next 40 years in exchange for a court enforceable commitment to remove all spent nuclear fuel from Idaho by 2035 and expedite the clean up and waste management activities at the INEL. The agreement also included a provision to fund new missions at the INEL. I joined the rest of the Idaho congressional delegation in hailing this settlement as an historic agreement for the people of Idaho and the Nation. A day later, the court accepted this settlement and shipments of Navy nuclear fuel to Idaho safely resumed.

Today, the Senate will consider the fiscal year 1996 defense authorization conference report which includes the sense-of-the-Congress language on this agreement that I requested. The language reads: "Congress recognizes the need to implement the terms, conditions, rights and obligations contained in the settlement agreement" and "funds requested by the President to carry out the settlement agreement and such consent order should be appropriated for that purpose." This sense-of-the-Congress resolution brings the legislature into this settlement agreement. Under the U.S. Constitution, the obligation to provide the funds to implement this agreement falls on the Congress and I am pleased by my colleagues' recognition of the importance of this accord.

Today, the Senate will take a big step forward in recognizing that we must address the waste and spent nuclear fuel that has resulted, and will result, from our national security policies. Today, the Senate will state its intention to provide the funds to implement an agreement that allows the Department of Energy and the Navy to meet their national security requirements to the Nation.

In the years ahead, I will work tirelessly with my colleagues to insure the Congress meets its responsibilities to implement this historic accord. I can assure my colleagues I will do everything I can to explain the importance of this agreement to every Senator. I want to thank my colleagues for their support for this sense-of-the-Congress resolution.

Mr. President, in conclusion, let me say I have heard a lot in the last 10 days, the last week we cast some tough votes with regard to Bosnia. Everyone was making the points about supporting the troops. Here is your opportunity to support your troops by saying we will make sure that they have the full pay increase for them. It will assure that we have the acquisition streamlining so they do not have to wait for the moms, dads, husbands or wives to send equipment, as we did in Desert Storm, because it took too long to get it through the Federal program where you could buy things like a GPS system through Radio Shack. That is wrong. If you support the troops you vote for this.

I conclude by saying I want to commend the chairman of the Armed Services Committee, Senator STROM THURMOND. What a remarkable man. He has been leading us on this conference report. He has been leading that committee with the same vigor, the same determination as when he rode a glider behind enemy lines in World War II. Just as at that time he was serving the country, again as the chairman of the Senate Armed Services Committee, he is serving the country. He is doing all that he can to make sure that we provide the necessary support for the men and women in the uniform of the armed services of this Nation. I am proud to serve on a committee that STROM THURMOND is a chairman of. I urge all of my colleagues to join in voting for this conference report. That is a signal you will send to the troops. It is the right signal. I yield the floor.

Mr. DORGAN. Mr. President, I come to the floor to oppose the conference report, and I regret doing that. I have great respect for the Senators who have worked on this. I have great respect for Senator THURMOND and others.

It is interesting to me that we find ourselves during Christmas week talking about a balanced budget. We find ourselves in meetings all over the Capitol and at the White House trying to figure how do you struggle to cut spending to balance the budget, and we bring a defense authorization bill to the floor that follows an appropriations bill that said, "By the way, Pentagon, one of the largest areas of public spending, you did not ask for enough money. We insist you spend more."

That is what this bill says. This bill says to the Army, Navy, Air Force, Marines, "You do not know what you need. We demand you buy more trucks, more planes, more ships, more submarines because we do not think you ordered enough. We will plug in some more money for you."

We are debating all of these budget issues and appropriations bills, and we say we cannot quite afford the entire Head Start program so 55,000 kids, all of whom have names, will no longer be in Head Start because we cannot quite afford it; 600,000 low-income inner-city disadvantaged kids will not get summer jobs because we cannot afford that; got to cut the Star Schools Program by 40 percent; we cannot afford energy assistance in the middle of winter for low-income folks who live in Minnesota and North Dakota and elsewhere in this country.

But we say: By the way, there are some things we can afford. We can afford some things the Pentagon said it did not want. We can afford $493 million to start buying new B–2 bombers for a total bill of $31 billion; we can afford $1.3 billion for an LHD–7 amphibious ship; $974 million for a second amphibious ship; we can afford more money for 6 F–15's that were not ordered; 6 F–16's that were not requested; 14 Kiowa Warrior helicopters that were not asked for.

Of course, the hood ornament on all of this extravagance is the National Missile Defense Program. I know there is great disagreement about this, and others will stand up and forcefully defend national missile defense. I respect their views, and I will not in any way be cross about them personally, but only to say I think this is a terrible waste of the taxpayers' money. Maybe we could get some old newspapers to put on the desks to say that the Soviet Union is gone. There is not a Soviet Union any longer. The Republics are today, as I speak, destroying missiles and nuclear warheads per an arms agreement. They are destroying both delivery systems and warheads as a result of an arms agreement in which we reduce the number of weapons.

But we are saying we want to spend $450 million more in this conference report than the administration asked for, for a national missile defense, better known as star wars. "Star wars" because this says it ought to be a spaced-based component, ought to be multiple sites and we ought to deploy it immediately.

Let us decide as a country if our priority is to build star wars. Does anybody think this makes sense—a 40-percent cut in Star Schools—a tiny program to make American schools better, we cannot afford it, so we cut it 40 percent—but we decide what is really important is $493 million added on for star wars? Someone somewhere is not thinking very clearly.

It would be interesting to have had this bill brought to the floor at a different time. But it is brought to the floor in the middle of a wrenching debate about what we have money to spend on and what our priorities are, and we now say some of the most conservative Members of this body say, "By the way, we are deficit hawks. We are for a balanced budget. We are for cutting Federal spending, except today, Tuesday." This bill we are going to do our way. And our way is to say to the Secretary of Defense: You do not know what you are talking about; to the Air Force, to the Navy, to the Army and to the Marines: You do not understand what you need. You order trucks? We insist you order more. You want submarines? We insist you buy more. Jet fighters? You did not buy enough.

What on Earth is going on? I just do not understand it.

I know it will be justified in the name of national defense, it is for national defense. If it is for national defense, stuff their pockets with money, the sky is the limit, we have no end, no limit on the American credit card when it comes to national defense. I tell you, there are at least some Americans, this one included, and I think a number of my constituents, who wonder why you would want to put on their credit card $493 million for B-2's or $48 billion to build a star wars program in December of 1995. That seems, in my judgment, completely out of step with the priorities this country ought to be seeking.

They say, "It is not star wars, it is national missile defense." One of the sites may well be in my State. In fact, it is likely one of the sites will be in northeastern North Dakota. Some people up there are sore at me because I will not support a program that may provide some jobs up there. Maybe so. I know what it will provide, a $48 billion deficit to build a star wars program—$48 billion to build a star wars program, building an astrodome over America, as it were.

This makes no sense at all. Again, I will end as I started. I have great respect for Senator Strom THURMOND. I said it before, I think he is one of the legends of this Senate. He has done wonderful work for this country, and I regret not being able to support this conference agreement. There are a number of things in it that are useful and important and make good investments in our armed services.

It gives me heartbreak to see the priorities that are established in this Chamber. When it comes to helping people, helping kids, providing an entitlement for a school lunch for a poor kid in the middle of the day, or providing hope to a 4-year-old that he or she will be able to go to a Head Start program that we know works to improve their life—when it comes to that, we say, "I am sorry, we just can't afford it. We will just tighten our belts." When it comes to this, it is like shopping at Toys-R-Us with a credit card that has no limits.

You want weapons programs? The Pentagon said you do not need amphibious ships, and we have to decide between two, one costs $1.2 billion and the other is $900 billion. The Pentagon wants neither. What do we do? We buy both. Why limit ourselves? The conservative members of the Congress say, "The sky is the limit. Buy everything. Buy it all."

I hope the next time we go around on this issue of establishing priorities for this country's spending, we will decide to do two things. We will decide that we want to invest in a strong defense in this country, but we will also decide that we are not going to add megabucks to the budgets that were requested by the people who head the armed services who ought to know what we need to defend our country, megabucks in terms of $7 billion this year, some $30 billion over the next 7 years, added, layered on, despite the fact it was not requested and is not needed.

My hope is that in the coming couple of days, as we sort through these priorities about what we think really strengthens this country and what we think our spending priorities ought to be, we will be able to do far better than this.

Mr. President, 100 years from now we will all be gone. None of us will be here 100 years from now. The only thing they will know about this group of people will be what we stood for, what our values were. They can take a look at how we spent the public's money, how we used the public's resources, what we thought was important, what we invested in.

They can look at the Federal budget and see something about what our values were, and they can see this group, at least, decided its values were to try to get involved once again in another arms race by starting an ABM program. We decide we do not have any big programs started now, let us restart it. Let us figure out how we can create a $48 billion star wars program. Let us figure how we can add 20 B-2 bombers to the tune of $21 billion.

I hope maybe we can change those decisions when we go back around this next year, so those who study history and look at what we stood for, what we thought was important, will understand we promoted a kind of investment strategy in this country that recognized the importance of defense, that recognized a strong defense is important, but also recognized you do not get that by throwing money at defense. You do not get that by building every gold-plated weapons program that comes to mind. And you do not get it by shortchanging education and a whole range of other areas that make this country stronger as well.

Mr. President, I ask how much time remains?

The PRESIDING OFFICER (Mr. THOMPSON). The Senator has 10 seconds remaining.

Mr. DORGAN. Mr. President, let me yield back the 10 seconds. I appreciate the Senator from South Carolina and his work on this legislation. Even though I am not intending to vote for it, let me hope we reach a different result next year.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I regret the able Senator is not voting for the bill, but I thank him for his kind comments.

I now yield 10 minutes to the able Senator from Oklahoma, Senator INHOFE. He is a valuable member of the Armed Services Committee, and we are very pleased to have him speak at this time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the very distinguished Senator from South Carolina, the chairman of the Senate Armed Services Committee, for yielding. I am proud to be serving with such a great American hero as Senator STROM THURMOND. It is such an honor to be in a position to be able to do that.

The speaker just before me from North Dakota commented about our priorities and what has happened to our priorities in this country.

I am very happy to stand here and announce that today—at least it is scheduled for today—should be the birth of a great American by the name of James Edward Rapert, who will be my third grandchild.

When you stop and think about what we are looking for in this country, what we are planning for, and what this administration is trying to do with all of the social programs that were mentioned by the previous speaker from North Dakota, at the expense of building a strong national defense, I wonder what is in line for someone like James Edward Rapert, who is coming into this country with a defense budget that is much lower than it was last year, with a defense budget that has fallen more than 40 percent over the past 11 years.

While I am rising in support of this conference report, I still say that it is inadequate to take care of this country's strategic interests. This bill does add $7 billion to the President's request. Congress is trying to fix what the President has been doing to our defense system. But it is still 2.3 percent less than we spent on defense last year.

I think it is very significant to realize and to understand and to say on the floor of this Senate that the President of the United States does have a defense plan. It is called the Bottom-Up

Review. It started in early 1993, when President Clinton became President. He started reviewing what we need to defend this Nation. Mr. President, his defense budgets are still ranging from $50 billion to $150 billion less than his own program requires.

We have had more than 10 years, more than a decade of cuts in our Nation's security. In 1988, the Defense Department bought 438 combat aircraft. This year it will be 34—and the administration only wanted 12.

The citizens of Oklahoma sent me to Washington to try to restore America's defense and not to watch the budget continue to fall, over and over and over again. I intend to support this bill, but I am hoping next year we can do a better job.

Let me cover a couple of things that were mentioned by the previous speaker.

First of all, I am very proud that this bill has a little bit of money in there to sustain a program that was put together some time ago so that we would have a national missile defense system in place by the year 2000. The previous speaker used the term "star wars." That is kind of a fun term to use because that makes people believe that this is kind of a Buck Rogers program—some kind of a science fiction program where you build this dome over the country against some type of attack. But we know that this is not science fiction, but a reality—we are $4 billion away from establishing a credible defense for the American people against ballistic missiles. I remind my friend from North Dakota: former CIA director Jim Woolsey has said: "We know of between 20 and 25 nations that either have, or are building, weapons of mass destruction, either chemical, biological, or nuclear, and are working on the missile means of delivering these weapons."

Maybe I am a minority, but I am willing to believe that we can document a case where the threat to this country is greater today than it was during the cold war. During the cold war, we knew who the enemy was. It was the Soviet Union. So we could watch them. Now we know that while there is no longer a Soviet Union, there is a Russia, there is a China, and they have this missile technology. There is every reason to believe that they are selling missile technology to places like Iraq, Libya, Iran, and other places—North Korea is working on the Taepo Dong II missile right now. That missile—our intelligence sources tell us, it is not even classified—should be able to reach both Hawaii and Alaska by the year 2000 and the rest of the continental United States by the year 2002, and we do not have a national missile defense system in place.

The previous Speaker keeps using the figure $48 billion. I have refuted that over and over and over again on the floor of the U.S. Senate because it is not $48 billion. We have a $38 billion investment already in the Aegis system that is already deployed. It is already out there; 22 Aegis ships with missile launch defense capability. With only approximately $4 billion more, we could take that Aegis system and give that the capability of knocking down missiles coming into the United States. It is not $48 billion. We are talking about $4 billion more, and we can do that just by protecting an investment that is already there of $38 billion. That was money well spent, but this bill puts us in the position where we are going to actually do something about protecting ourselves against missile attack.

I wish there were more time to talk about that, but there is not, because this missile has too many other things that we need to talk about.

The B–2 has taken a lot of hits. The very distinguished Senator from Idaho, Senator KEMPTHORNE, characterized the B–2 as the "most fantastic aircraft built." I agree with him. I think it is an incredible aircraft—and it is the only one that can carry out a mission that this country needs to be able to accomplish. This bill adds $493 million for continued B–2 production. The restrictions on the number of aircraft, and the restrictions on purchasing long lead items, have been lifted. That means that, while we are in a position prior to this particular bill, or this conference report, of cutting off production and being terminated at 20 aircraft, we can now go beyond 20, if we determine that is in the best interest of the Nation's security. Right now we are working on the 16th B–2 bomber. When this rolls off, we still have four more that will be produced. But we have $125 million left in the previous program to take care of that. That money will, of course, be most likely used by March 31 when the moneys that we are talking about now would go into production. It will be a lot cheaper to keep a program going than to go through the very expensive restart program for the B–2.

I agree in this case with the Secretary of Defense when he said, "Because potential regional adversaries may be able to mount military threats against their neighbors with little or no warning, American forces must be postured to project power rapidly to support the U.S. interests and allies."

The B–2 provides rapid, long-range precision strikes anywhere in the world on short notice and without refueling.

I have often thought to ask those individuals who argue against the B–2—what happens if we cut it off? What happens if we just discontinue the program, as many would like to do, at 20 aircraft? The Pentagon's long-range bomber study suggested earlier this year that we can rely on the existing B–52 until the year 2030. Mr. President, the B–52 would be 70 years old by that time. I think when you talk about cost effectiveness, two B–2 and four crewmen can do the job of 67 aircraft and 132 crewmen, and we can no longer rely on the B–52 for our future bomber needs.

I am pleased that Congress has had the wisdom to continue to support the B–2 bomber program. And I look forward to providing it further support in the future.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. INHOFE. Mr. President, I would like to ask for an additional 2 minutes. I ask unanimous consent for 2 additional minutes without it being charged against our time.

Mr. THURMOND. Mr. President, I ask unanimous consent that 2 additional minutes be allowed to the Senator and that it not be charged to anybody.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Thank you very much, Mr. President.

Mr. President, we have heard a lot about supporting the troops. There are those of us who spent hours on this Senate floor trying to get resolutions passed to stop the President from sending American troops into Bosnia. We will not give those arguments again. We lost that battle. The President won by a very narrow margin and, although it was without the full support of Congress, was able to deploy the troops.

Now that the troops are there, we are going to support our troops. Those of us who argued and argued and attempted to pass a resolution of disapproval to stop the President from sending troops into Bosnia are now saying, now that the troops are there, we have to support our troops. For those Senators who really want to do it, this is the first opportunity you have to really support the troops.

If we do not pass the bill, then the troops that we have sent over there would not receive the 2.4 percent pay increase, they would not be able to have the 5.2 percent increase in housing allowance, and all the huge quality-of-life increases that are in this particular conference report. There is $1 billion more for operation and maintenance so that the troops are better trained. There is new technology that is going to allow better equipment to protect their lives while they are over there.

I suggest, Mr. President, that, if you oppose this bill, if you vote against this bill, it is a vote against our troops that are currently on the ground in Bosnia. If the President vetoes this, the President will have sent our troops into Bosnia and will have then turned around and said we are not going to send you the benefits, the technological advantages, and the equipment necessary to survive over there, or in any other conflict in the future.

I would like to make a brief comment about the defense authorization conference action concerning the B–2 bomber program. I am a proponent of the B–2. I believe its capabilities represent a true revolution in military affairs that the DOD is only on the verge of fully integrating into defense planning. I believe long-range quick strike aircraft are an essential element of the U.S. Air Force and the B–2 is the only tool we have to ensure this capability. A force of more than 20 B–2's will be required to achieve this situation. The defense authorization conference provides the funds to continue this necessary B–2 production.

The conference report language, however, states that the Senate conferees believe that the new funds provided may only be spent on items related to the first 20 B–2 aircraft. I was a Senate conferee and I want to go on record that I do not believe this, I did not agree to this language, and I expect these funds to be used for long-lead items to continue the B–2 production. I know other conferees share this view.

This is a vote to support our troops who are already in Bosnia.

Thank you, Mr. President. I yield the floor.

Mr. THURMOND. Mr. President, I wish to commend the able Senator from Oklahoma for his excellent remarks. He does a fine job as a member of the Armed Services Committee, and we are very pleased to work with him.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I believe that the UC allocates 10 minutes to the Senator from Michigan.

The PRESIDING OFFICER. That is correct.

Mr. LEVIN. Thank you, Mr. President.

Mr. President, regrettably I will vote against the defense authorization bill. As I said yesterday, I regret being in this position for many reasons, but particularly because of the strong effort that Senator THURMOND has made to get a bill passed this year. I wish that I could be able to vote for this bill for that reason alone. But there are just too many reasons that I am unable to vote for this bill.

First, two brief points on some of the issues in the bill which trouble me. There have been comments that this bill needs to be passed in order to provide for pay and allowances for our service personnel. In light of the fact that the President has said he is going to veto this bill—and we know he is going to veto this bill because that has been made public—we should now be making preparations to attach those must-pass provisions to the next legislative train, which may be, indeed, the continuing resolution.

That way we can provide the pay raise, cost of living allowance and the housing allowance that would otherwise not be available. As the White House statement of policy concludes, the President calls upon the Congress "to provide for pay raises and cost of living adjustments for military personnel prior to the departure for the Christmas recess."

So the statement of administration policy makes it very clear the President is going to veto this bill, but the President is asking us, and I think those of us who are voting against this bill concur, to provide for pay raises and cost of living adjustments for military personnel prior to departure for the Christmas recess. We do not have to vote for this bill, which has so many flaws, in order to provide for those cost of living allowances and pay raises for our military personnel. I believe it would be wrong to approve this bill for many reasons which I went into yesterday, which Senator NUNN and others have gone into, but I think it also would be irresponsible for us to not pass the needed pay raise and cost of living adjustments, and we can do both. We can both reject this bill, which we should, and provide for the cost of living allowance which our military personnel, both those in Bosnia and here at home, so rightly deserve.

Mr. President, the bill has many flaws and many of those were outlined yesterday. One of the biggest problems with this bill is that it puts us on a collision course with a treaty which we have lived under, which we negotiated, which we ratified with the then Soviet Union, which Russia as the successor to the Soviet Union has adhered to. And if we undermine that ABM Treaty, as the language in this conference report does, we will be undermining a treaty which has not only provided stability in a very dangerous world of nuclear weapons, but we will be undermining a treaty which has allowed the Soviet Union and now Russia to agree to dismantle thousands of nuclear weapons which otherwise would directly or could directly threaten us.

Now, Russian parliamentarians have told us this. They have told us this directly: the START II treaty is in jeopardy of failing ratification. It is difficult enough in the Russian Duma, but that if we adopt language which says it is our policy to deploy a system which violates the ABM Treaty, it is not going to be possible for the Duma to ratify the START II treaty which provides for reductions in nuclear weapons because those reductions were based on the assumption that the Anti-Ballistic Missile Treaty is going to be in effect. It is the absence of nationwide defenses which has allowed Russia to negotiate the reduction of offensive weapons. And they not only will not ratify START II, if they are threatened with a defensive system in violation of the ABM Treaty, they have also indicated that they would view this as such a major change of circumstance that they are no longer going to comply with START I because of change of circumstances that our breach, or our intention to breach the ABM Treaty would reflect.

That is why General Shalikashvili, the Chairman of our Joint Chiefs of Staff, has stated so clearly to us from his military security perspective: do not adopt a policy which says that we are going to violate a treaty which then in turn is going to cause the Russians to refuse to ratify another treaty, called START II, which will reduce the number of offensive nuclear weapons that could threaten the United States.

Is there a conflict? I cannot think of any clearer conflict that exists between the ABM Treaty, which says you cannot deploy a nationwide ABM system, and the language in this conference report, which says it is the policy of the United States to deploy a national missile defense system. The ABM Treaty says you cannot deploy it on a nationwide basis; the conference report says it is our policy to deploy it—not only that but to deploy it by the year 2003.

Now, that is a direct conflict in language. We avoided that conflict in the Senate bill. There was a bipartisan group of four who were selected by the majority leader and by the Democratic leader, and four of us spent day after day after day working out a bipartisan approach to this language, and we did work out that approach. The language which was worked over very carefully said that—and this is now the Senate bill—we are committed not to deploy the system but to develop such a system, leaving the deployment decision open for a later date. Now, that is a very critical difference, and I think all of us know it. Do we want to commit ourselves right now to deploy a system which violates a treaty, the treaty which has allowed Russia to agree to another treaty, START II, which is reducing by 4,000 the number of nuclear weapons in the Russian inventory? I do not think we want to do it. Far more important, our military has urged us not to adopt language which directly conflicts with the ABM Treaty.

May we want to change the ABM Treaty through negotiations? Yes. Might we want to deploy a system after it is developed? Yes; if it is cost effective and operationally effective, if the threat is real. But do we now want to unilaterally declare it is the policy of the United States to deploy this system when it runs head on against the prohibition on such deployment in the ABM Treaty? Do we want to do so when General Shalikashvili is telling us something we ought to heed, which is that it would be foolish to trash the treaty unilaterally and thus to undermine the basis which has allowed the

Russians to agree in START II to reduce 4,000 nuclear weapons in their inventory—weapons which can threaten this country so directly?

Now, the statement of administration policy on this says that if this bill were presented to the President in its current form, this conference report, the President would veto the bill. And the language relative to this point is in the third paragraph on page 1 which says that:

> The bill would require deployment by 2003 of a costly missile defense system to defend the U.S. from a long-range missile threat which the Intelligence Community does not believe will ever materialize in the coming decade. By forcing an unwarranted and unnecessary National Missile Defense (NMD) deployment decision now, the bill would needlessly incur tens of billions of dollars in missile defense costs and force the Department of Defense prematurely to lock into a specific technological option. In addition, by directing that the NMD be "operationally effective" in defending all 50 states (including Alaska and Hawaii), the bill would likely require a multiple-site National Missile Defense architecture that cannot be accommodated within the terms of the ABM Treaty as now written. By setting U.S. policy on a collision course with the ABM Treaty, the bill puts at risk continued Russian implementation of the START I Treaty and Russian ratification of START II.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. LEVIN. I thank the Chair. I ask unanimous consent that since I understand Senator KENNEDY is not going to be utilizing his 5 minutes, 2 minutes of his 5 minutes be allocated to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. To conclude, Mr. President, the statement from the administration:

> By setting U.S. policy on a collision course with the ABM Treaty, the bill puts at risk continued Russian implementation of the START I Treaty and Russian ratification of START II, two treaties which together will reduce the number of U.S. and Russian strategic nuclear warheads by two-thirds from cold war levels, thus significantly lowering the threat to U.S. national security.

Mr. President, I ask unanimous consent that the statement of administration policy, stating that the President will veto this conference report and the reasons why be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, December 15, 1995.

STATEMENT OF ADMINISTRATION POLICY

(This statement has been coordinated by OMB with the concerned agencies.)

H.R. 1530—National Defense Authorization Act for Fiscal Year 1996 Conference Report, Senators Thurmond (R) SC and Nunn (D) GA.

If the Conference Report on H.R. 1530 were presented to the President in its current form, the President would veto the bill.

The Conference Report on H.R. 1530, filed on December 15, 1995, would restrict the Administration's ability to carry out our national security objectives and implement key Administration programs. Certain provisions also raise serious constitutional issues by restricting the President's powers as Commander-in-Chief and foreign policy powers.

The bill would require deployment by 2003 of a costly missile defense system to defend the U.S. from a long-range missile threat which the Intelligence Community does not believe will ever materialize in the coming decade. By forcing an unwarranted and unnecessary National Missile Defense (NMD) deployment decision now, the bill would needlessly incur tens of billions of dollars in missile defense costs and force the Department of Defense (DOD) prematurely to lock into a specific technological option. In addition, by directing that the NMD be "operationally effective" in defending all 50 states (including Hawaii and Alaska), the bill would likely require a multiple-site NMD architecture that cannot be accommodated within the terms of the ABM Treaty as now written. By setting U.S. policy on a collision course with the ABM Treaty, the bill puts at risk continued Russian implementation of the START I Treaty and Russian ratification of START II, two treaties which together will reduce the number of U.S. and Russian strategic nuclear warheads by two-thirds from Cold War levels, significantly lowering the threat to U.S. national security.

The bill also imposes restrictions on the President's ability to conduct contingency operations that are essential to the national interest. The restrictions on funding to commence a contingency operation and the requirement to submit a supplemental request within a certain time period to continue an operation are unwarranted restrictions on the authority of the President. Moreover, by requiring a Presidential certification to assign U.S. Armed Forces under United Nations (UN) operational of tactical control, the bill infringes on the President's constitutional authority.

In addition, the Administration has serious concerns about the following: onerous certification requirements for the use of Nunn-Lugar Cooperative Threat Reduction funds, as well as subcaps on specified activities and elimination of funding for the Defense Enterprise Fund; restrictions on the Technology Reinvestment Program, restrictions on retirement of U.S. strategic delivery systems; restrictions on DOD's ability to execute disaster relief, demining, and military-to-military contact programs; directed procurement of specific ships at specific shipyards, without a valid industrial base rationale; provisions requiring the discharge of military personnel who are HIV-positive; restrictions on the ability of the Secretary of Defense to manage DOD effectively, including the abolition of the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict and the Director of Operational Test and Evaluation; and finally the Administration continues to object to the restrictions on the ability of female service members or dependents from obtaining privately funded abortions in U.S. military hospitals abroad.

While the bill is unacceptable to the Administration, there are elements of the authorization bill which are beneficial to the Department, including important changes in acquisition law, new authorities to improve military housing, and essential pay raises for military personnel. The Administration calls on the Congress to correct the unacceptable flaws in H.R. 1530 so that these beneficial provisions may be enacted. The President especially calls on the Congress to provide for pay raises and cost of living adjustments for military personnel prior to departure for the Christmas recess.

Mr. LEVIN. Mr. President, there is a finding concerning the ballistic missile threat to the United States, which is cited in the bill as justification for deploying an NMD system, and doing so quickly. Section 232, paragraph (3) of the Senate-passed bill is the following finding:

> The intelligence community of the United States has estimated that (A) the missile proliferation trend is toward longer range and more sophisticated missiles, (B) North Korea may deploy an intercontinental ballistic missile capable of reaching Alaska or beyond within five years, and (C) although a new indigenously developed ballistic missile threat to the United States is not forecast within the next 10 years there is a danger that determined countries will acquire intercontinental ballistic missiles in the near future and with little warning by means other than indigenous development.

Mr. President, this statement of threat sounded too dire to me and to Senator BUMPERS, so we wrote to the Director of Central Intelligence to ask whether it was an accurate statement of the intelligence community's assessment. It is not.

The CIA response to our letter said that "the bill language overstates what we currently believe to be the future threat." Here is what the intelligence community believes, which is rather different from the bill language I just read:

> Several countries are seeking longer range missiles to meet regional security goals; however, most of these missiles cannot reach as far as 1,000 kilometers. A North Korean missile potentially capable of reaching portions of Alaska—but not beyond—may be in development, but the likelihood of it being operational within 5 years is very low.
>
> The Intelligence Community believes it extremely unlikely any nation with ICBM's will be willing to sell them, and we are confident that our warning capability is sufficient to provide notice many years in advance of indigenous development.

I bring this to the Senate's attention because it is clear evidence that the rationale given for moving ahead so rapidly with a deployment of a national missile defense system, what we used to call ABM, is significantly overstated. There is no imminent threat from ballistic missiles to the United States, and there isn't likely to be one anytime soon. I ask unanimous consent that the full text of the letters to and from the CIA be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEVIN. Mr. President, the U.S. currently has a policy of developing ballistic missile technologies to find which ones are most likely to work, and to have a capability to deploy a national missile defense system within about 4 years if necessary—well within the window of warning that the intelligence community estimates it will have for indigenous development of missiles that could threaten the United States. That is a rational, reasonable, and prudent policy, and there is no need to replace it with a policy that would likely increase the threat to our Nation by committing up to breach the ABM Treaty and pushing the Russians to abandon START II, and possibly even cease implementing the START I reductions which are well ahead of schedule.

Mr. President, I think our colleagues should be aware that the actions the Senate has already taken in considering proposals to abandon the ABM Treaty have already taken a toll on Russian confidence in our commitment to abide by our treaty obligations, as was clearly explained in an article in yesterday's Washington Post, and I ask unanimous consent that the article by Rodney Jones and Yuri Nazarkin be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. LEVIN. Even though we have not decided to commit to deploy a treaty-busting ABM system, some Russian policy makers and parliamentarians have already concluded that we don't care much for the ABM Treaty, and that we wish to free ourselves of its constraints. This is putting in doubt the Russian ratification of the START II Treaty.

It is important that we help make clear that the Senate, which gave its advice and consent to the ABM Treaty, and which has a unique constitutional responsibility to consider treaties for ratification, is firmly committed to the proposition that the United States will meet its obligations under the ABM Treaty and all treaties into which we solemnly enter. Let us leave no doubt that we understand our security is intertwined with Russia's security. We cannot simply act unilaterally and expect to be more secure.

Mr. President, I urge my colleagues to reject this Conference Report because of its missile defense provisions, if for no other reason. But there are many other reasons, and I know my colleagues will discuss some of them in detail. I might mention a few briefly now.

CIVIL-MILITARY AND STARBASE

Mr. President, This conference report effectively would terminate the Pentagon's civil-military cooperation programs, including the drug demand reduction programs. These were deemed to be non-defense defense spending. While I acknowledge the need to carefully examine the defense budget for unneeded spending, I question the conclusion that these programs are not supportable. There are clearly many truly egregious examples of spending in the conference report, but some of these civil-military programs are a defense and national security bargain.

One program I know well is the Starbase program, a National Guard youth program that targets at risk youth and provides them with a very cost-effective program in math, science, and technology and teaches them drug demand reduction, all with hands on activities on Guard bases. The conference report seeks to terminate this program after 18 months.

Considering the high priority placed on recruiting, and considering that the military spends over $650 million each year on drug interdiction and counter-drug missions, one would think the Starbase program would be a winner at just $5 million per year. If an ounce of prevention is worth a pound of cure, we seem more than happy to pay for more than half a billion dollars of cure, while cutting off the prevention: drug demand reduction. I would also point out that the conference rejected a Senate-passed amendment by Senator NUNN to extend a pilot program on drug demand reduction. This is totally inconsistent with the emphasis and resources devoted to drug interdiction and counter-drug activities of the Department, which the conference supported.

Besides providing a pool of potential recruits who have the requisite math and science skills, plus strong admiration for the military because of Starbase, the program is a great recruiting tool. The head of National Guard recruiting in Kansas, who was chosen as the top recruiter of the year, says that Starbase is his best recruiting tool because the community learns good things about the Guard Bureau through it. He told my office that he would gladly use his recruiting budget to pay for the Starbase program if he could, because it's such an effective tool.

ONGOING OPERATIONS

This conference report does not fully authorize funds for continuing operations involving U.S. forces around the world, and it places onerous restrictions on funding future operations. Defense Secretary Perry told the committee in June that "funding these ongoing operations is a high priority" and he stressed "the importance of avoiding any negative effect on readiness of U.S. forces" by putting funds in this budget. The gap in this bill threatens the very readiness and training accounts that members of the Armed Services Committee have raised alarms about, because that is where funds will have to be borrowed to pay these costs we know we are incurring.

Those who protested the most about shortfalls in readiness and training are now, by failing to fund ongoing operations in this bill, insuring that the Pentagon will have to cannibalize those readiness and training activities to pay for missions that U.S. combat forces are actually performing.

ABORTION AND HIV

This conference report also contains two provisions affecting military personnel which I oppose. The Senate Armed Services Committee explicitly rejected a provision that would have prohibited women in the military stationed overseas from obtaining abortions in military hospitals, even with their own money. This conference report would establish such a restriction, which is contrary to the situation faced by servicewomen stationed stateside, not to mention the right of women outside the military to pay for abortions.

And the Senate bill contained no provision regarding service personnel who test positive for the HIV virus, but this conference report would require those individuals to be separated from the service. That provision could actually hinder efforts to protect service personnel from HIV by creating an incentive for secrecy, and it presumes that those who test positive could not serve effectively and safely in some capacity within the armed forces.

OPERATIONAL TEST & EVALUATION

The conference report also makes a very unwise change in the DOD's Office of the Director of Operational Test and Evaluation [OT&E] at the Pentagon, which would render this important office useless or eliminate it altogether. We created the office of OT&E 12 years ago in a bipartisan effort. It has saved lives, saved the taxpayers billions of dollars and prevented our soldiers from receiving poor or unsafe equipment. The Senate did not vote to undermine this crucial office, and the conferees should have rejected the House's proposal. Instead, the House prevailed and we will no longer have independent operational tests and evaluations of our critical combat equipment.

Mr. President, section 903(g) of the bill would repeal section 139 of title 10—the provision that establishes an independent Director of Operational Test and Evaluation [OT&E] in the Department of Defense. This repeal would not only undermine the confidence of taxpayers that they will get their money's worth for the billions of dollars that they spend on defense procurement, but could also place in question the safety of our troops in the field.

The Director of OT&E is the DOD official who is responsible for ensuring that our servicemen personnel receive weapons that are tested in an independent manner and in an operationally realistic environment. Without strong and effective operational testing, we cannot be sure that the weapons our soldiers take into the field will be ready for combat, and without independent oversight we cannot be sure that we will have strong and effective operational testing.

This is precisely why we established the independent Director of OT&E position 12 years ago. Because the Director is required "to safeguard the integrity of operational testing and evaluation," the conference report on the FY 1984 DOD bill explained:

> The conferees also intend the Director to be independent of other Department of Defense officials below the Secretary of Defense. The Director should not be circumscribed in any way by other officials in carrying out his duties.

Above all, the independent Director of OT&E position was established to remove operational testing and evaluation from the influence of the DOD officials who are responsible for the acquisition of weapons systems. These DOD acquisition officials have already given a green light to a weapons purchase long before it reaches the operational test and evaluation stage and have too strong a stake in continuing the procurement, to serve as independent evaluators.

Over the last decade, the actions of the independent Director of OT&E have caused the cancellation of some weapons programs and significant modifications to others, often over the objections of the military services. The result has been the purchase of weapons systems that have been safer and more reliable than ever before. Indeed, after the Persian Gulf war, Secretary Cheney credited the independent operational testing of the Bradley fighting vehicle with "sav[ing] more lives" in that war than perhaps any other single initiative.

For these reasons, Secretary Perry has called the independent Director of OT&E "the conscience of the acquisition process" and declared his support for a strong and independent OT&E organization. For this reason, too, the Senate-passed version of this authorization bill contained a provision which expressly reaffirmed the importance of an independent Director of OT&E "to provide an independent validation and verification of the suitability and effectiveness of new weapons, and to ensure that the United States military departments acquire weapons that are proven in an operational environment before they are produced or used in combat."

Yet the conference report would eliminate the independent Director of OT&E, allowing DOD to once again place operational testing in the hands of acquisition officials. This change would not eliminate the office or reduce its budget requirements—operational testing would still be performed and it would still cost just as much—but it would eliminate one key independent check that we have to ensure that weapons systems perform as they are supposed to.

DOD's Deputy Inspector General, Derek Vander Schaaf, has criticized this provision in the strongest possible terms. In a December 14, 1995, letter, Mr. Vander Schaaf stated:

> I strongly disagree with the proposal to eliminate the independence of the DOT&E and replace him with a designated official within the Office of the Secretary of Defense. The Office of the Director was created by Congress to provide independent validation and verification on the suitability and effectiveness of new weapon systems and to ensure that the Military Departments acquire weapons that are proven in an operational environment. I am strongly for acquisition reform in the Department of Defense and have offered many suggestions to improve the acquisition process. However, this is not reform but a step backward in the direction of deploying weapons and equipment that are later proven to be ineffective or inefficient to operate and maintain.
>
> This proposal eliminates one of the independent checks in our weapon systems acquisition process. An independent Director is the conscience for contractors and project managers and ensures they deliver usable weapon systems to the military members. I have testified in the past against proposals to weaken the authority of the Office of the Director, and steadfastly believe the Director saves the Department funds while ensuring Service members receive operationally effective weapons.

Mr. President, this provision is misguided, it is shortsighted, it could needlessly endanger our troops in the field, and it does not deserve the support of the Senate.

Mr. President, I ask unanimous consent that the letter from Mr. Vander Schaaf be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

ACQUISITION REFORM

Mr. LEVIN. Mr. President, this bill represents a significant departure from the bipartisan tradition of the Senate Armed Services Committee and from the way that we have handled DOD Authorization bills in the past.

There was only one area of which I am aware in which the conferees were permitted to work to a bipartisan consensus in the way we have tried to do in the past—and this issue was not even a defense-specific issue. The bipartisan, cooperative way in which the conference handled government-wide acquisition provisions in the bill stands in stark contrast to the way in which the bulk of the bill was handled, and clearly shows the constructive results that can still be achieved when we work together across the aisle.

This does not mean that I am completely satisfied with every element of these acquisition provisions. It is in the nature of a conference agreement—even one that is worked out on a bipartisan basis—that it represents a compromise, and a true compromise is completely satisfactory to no one.

The acquisition provisions that trouble me include the following:

Section 4301 establishes a congressional policy against the imposition of nonstatutory certification requirements on contractors. While some certifications may be burdensome and unnecessary, many have been imposed as a substitute for even more burdensome government audit and review requirements. If we now drop the certification requirements as well, we may in some cases be left with no means at all for enforcing important Federal policies.

Section 4303 would give the Department of Defense broad authority to waive statutory recoupment requirements in foreign military sales, subject to the approval of legislation offsetting the costs of the waiver. I am concerned that this provision amounts to a giveaway to international arms merchants, which cannot be paid for without making substantial cuts elsewhere in an already extraordinarily tight budget.

Section 4205 would make the cost accounting standards inapplicable to all contracts for the purchase of commercial items—even contracts in which cost reimbursement or progress payment provisions make clear accounting for contractor costs a vital priority. I am concerned that this provision could lead to a dangerous erosion in the accountability of contractors for costs incurred on cost-type contracts.

Section 822 would establish a pilot program to test the use of commercial practices including the waiver of procurement laws for particular contractor facilities to be designated by the Department of Defense—subject to the approval of Congress. I have been told that candidates for inclusion in this program could include facilities in which military aircraft are built. I know of no military aircraft that qualify as commercial items under the law as we have written it, or under any plausible definition of the term, and I continue to believe that tough quality, audit and oversight provisions are needed to protect the taxpayers' interest in the production of military-unique items.

Despite these concerns, I believe that, on balance, we got the best agreement that was possible in a conference which the Senate and the House entered with diametrically opposing positions. I am particularly pleased that on the acquisition reform provisions of the bill, unlikely many other issues, the Senate was able to retain a constructive, bipartisan working relationship between members and staff of the Armed Services Committee, the Governmental Affairs Committee, and the Small Business Committee.

That constructive, bipartisan cooperation, which led to the enactment of the Federal Acquisition Streamlining Act in the last Congress, has yielded substantial dividends in this bill as well. For example:

Division E of the bill contains the Cohen-Levin Information Technology Management Reform Act, which would substantially streamline the management and procurement of computer and communications systems by the Federal Government. These provisions would eliminate the process of delegations of procurement authority by the

General Services Administration and consolidate bid protests in a single administrative forum, eliminating unneeded paperwork from our information technology purchasing systems.

Section 5401 of the bill contains my proposal to reduce paperwork in the acquisition of off-the-shelf products by providing Government-wide, on-line computer access to GSA's multiple award schedules. The implementation of these provisions should bring effective competition to the multiple award schedules and make it possible to reduce or even eliminate the need for lengthy negotiations and burdensome paperwork requirements placed on vendors to ensure fair pricing.

Section 4304 of the bill would clarify and substantially streamline the procurement ethics laws. While I would have preferred a broader revolving door provision than the conferees ultimately agreed to, I have been working for years to simplify these overly complex, inconsistent, and overlapping statutes. I believe that this change is long overdue.

Finally, I would like to respond to the concerns that have been raised about the competition provisions in the bill. As one of the Senate authors, with Senator COHEN, of the Competition in Contracting Act, I am a strong believer in the importance of full and open competition. I was as astonished as were many others to see some of the proposals that were made on the House side to undermine this cornerstone of the Federal procurement system. I believe that these proposals would not only have been unfair to small businesses and other vendors, but could have cost the taxpayers billions of dollars in lost competition for Federal agency contracts.

I want to assure my colleagues, however, that this conference agreement does not contain any of those changes. We did not and we would not agree to change the standard of full and open competition through the front door, through the back door, or in any other way. This was a fundamental issue in the conference not only for me, but for other Senate conferees as well. Senator COHEN and I have put together a joint statement explaining the competition provisions in the bill, which I believe Senator COHEN will be placing in the RECORD.

Mr. President, I may not be pleased with every aspect of the acquisition reform package before us, but I am satisfied that on this matter, at least, we have continued to work on a bipartisan, consensus basis. I wish I could say the same for other provisions in the bill, but I cannot.

CONCLUSION

Mr. President, on no set of issues is bipartisan cooperation more important than in the area of national security. We need not all agree on every issue, but we must strive to work together in a bipartisan spirit. We have a broad spectrum of views on the House and Senate Armed Services Committees, but we have a long history of working together, across party lines to try to put together the best bill we can. Regrettably, the conference this year fell short of that objective both in process and in spirit. Too many of these contentious issues were left to only the majority staff of the two committees to hash out, and months passed without resolution. By that time, the defense, military construction and energy and water appropriations bills had been passed and enacted. I urge the leadership of both the House and Senate committees to reexamine what transpired and accelerate the learning process so that next year, and I stand ready to work with them to try to restore the tradition of cooperation on the Defense authorization bill.

Mr. President, this conference report, in this regard alone, would have us threaten a very, very significant gain that we have made four our security. That gain is the actual reduction of nuclear weapons and the commitment to reduce thousands more nuclear weapons in the Russian inventory.

We should not do this against the clear advice of our military. And there are many other reasons for rejecting this conference report.

Again, I regret that I have reached this conclusion because of my affection for Senator THURMOND, but I feel, given the flaws in this report, that we should defeat this report, and I will vote against it.

I thank the Chair, and I yield the floor.

EXHIBIT 1

U.S. SENATE,
Washington, DC, November 1, 1995.

Hon. JOHN DEUTCH,
Director of Central Intelligence,
Washington, DC.

DEAR JOHN: When the Senate considers the Conference Report on the FY 1996 Defense Authorization Bill, we will again debate the ballistic missile threat to the United States.

Sec. 232 para. (3) of the Senate version of the FY 1996 Defense Authorization Bill states "The intelligence community of the United States has estimated that (A) the missile proliferation trend is toward longer range and more sophisticated missiles, (B) North Korea may deploy an intercontinental ballistic missile capable of reaching Alaska or beyond within 5 years, and (C) although a new indigenously developed ballistic missile threat to the United States is not forecast within the next 10 years there is a danger that determined countries will acquire intercontinental ballistic missiles in the near future and with little warning by means other than indigenous production."

We would appreciate your unclassified comments on whether the above statement accurately reflects the present position of the intelligence community. We would also appreciate your assessment of the likelihood that countries will acquire "with little warning" ICBMs either through indigenous production or by other means.

We would also welcome your providing us with any other information that you feel is relevant to this issue. Thank you for your attention.

Sincerely,
DALE BUMPERS,
CARL LEVIN.

CENTRAL INTELLIGENCE AGENCY,
Washington, DC, December 7, 1995.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: The DCI has asked me to respond on his behalf to your letter of November 1, 1995, asking for the Intelligence Community's comments on the Defense Authorization Bill language that discusses the future ballistic missile threat to the United States. In the past, representatives of the Intelligence Community openly portrayed the future ballistic missile threat to the US as reflected in the statement from Sec 232, para (3) of the Defense Authorization Bill. We wish to point out, however, that the Intelligence Community continuously evaluates this issue and the Bill language overstates what we currently believe to be the future threat.

Several countries are seeking longer range missiles to meet regional security goals; however, most of these missiles cannot reach as far as 1,000 kilometers. A North Korean missile potentially capable of reaching portions of Alaska—but not beyond—may be in development, but the likelihood of it being operational within five years is very low.

The Intelligence Community believes it extremely unlikely any nation with ICBMs will be willing to sell them, and we are confident that our warning capability is sufficient to provide notice many years in advance of indigenous development.

An original of this letter is also being provided to Senator Dale Bumpers. Similar letters are being provided to Senator Strom Thurmond and Senator Sam Nunn.

Enclosed herewith is an unclassified publication on The Weapons Proliferation Threat. We hope this information is useful. Please call if I can be of further assistance.

Sincerely,
JOANNE O. ISHAM,
Director of Congressional Affairs.

EXHIBIT 2

[From the Washington Post, Dec. 17, 1995]

OFF TO A BAD START II—IN BOTH THE UNITED STATES AND RUSSIA, HOPES FOR THE STRATEGIC ARMS PACT ARE FADING

(By Rodney W. Jones and Yuri K. Nazarkin)

After months of delay, the Senate Foreign Relations Committee moved last week to bring the START II treaty up for a vote on the Senate floor. The pact would reduce U.S. and Russian strategic nuclear weapons to 70 percent of Cold War levels and also eliminate land-based multiple-warhead missiles, the most threatening of Russia's weapons. Unfortunately, while a favorable Senate vote on the treaty is virtually assured, ratification of the pact by Russia has become increasingly uncertain in recent months. As Russians go to the polls today, many will be voting for politicians who question whether START II is still in Russia's best interest.

The prime cause of Russian second thoughts, according to parliamentarians and defense experts in Moscow, is the Republican-led effort that began this summer to mandate the deployment of a multi-site strategic anti-ballistic missile, or ABM, system by the year 2003. This system was called for originally in the Senate version of the defense authorization bill and endorsed last week by a House-Senate conference committee. Yet it will violate the 1972 ABM Treaty, which for more than two decades has helped curtail a costly buildup of defensive nuclear weapons and countervailing offensive weapons.

It first became clear that START II was in serious trouble last month when parliamentary leaders in Moscow who had supported START II hearings in July concluded that a ratification vote in the waning months of 1995 would fail. To avoid a foreign policy crisis over a negative vote, they postponed further action on the treaty.

Regrettably, the prospect for unconditional Russian ratification of START II next year is no more promising. Following today's election, the State Duma, Russia's lower house of parliament, is expected to be even more critical of START II and of the United States than its predecessor. Russian political parties and factions opposed to the treaty will probably gain seats at the expense of the reformist and democratic parties that generally support it. President Boris Yeltsin's poor health and the growth of assertive nationalism in Russia further clouds START II's chances.

Even the Russian military leadership, which had steadfastly supported START II, shows signs of cooling toward the treaty in the wake of U.S. congressional action threatening the ABM Treaty. The Russian military fears the United States' real intent is to gain strategic superiority over Russia. The Russian military dismisses as preposterous U.S. assertions that the legislation is aimed at protecting American soil from the threat of a handful of long-range missiles from North Korea and other small countries. In effect, Russian military leaders argue, the United States would be deploying new defensive missiles just as Russia was completing the reduction of its offensive missiles under START II's requirements. Russia would be more vulnerable and the United States less so.

Ivan Rybkin, the Duma speaker, expressed the growing disenchantment with START II in the newspaper Nezavissimaya Gazeta on Nov. 5: "We cannot be bothered any longer, given this situation that propels plans for NATO enlargement and reveals our U.S. congressional colleagues' intentions to begin a process that threatens the ABM Treaty—the cornerstone of the existing arms control regime."

Russian misgivings about START II haven't come overnight. Initially Yeltsin and the Russian military leadership firmly believed that START II was in Russia's interest. They recognized benefits for Russia—the fact that START II's deep reductions would enhance stability, reduce future defense costs, ensure formal strategic parity with the United States and contribute to long-term cooperation between the two powers. The Clinton administration also worked to alleviate Russian uneasiness over U.S. national missile defense activities. But the ABM developments of late have changed Russian feelings toward START II.

If Clinton vetoes the defense authorization bill as he has promised, a direct conflict over the ABM Treaty will be avoided. Congressional direction of the U.S. military might then be provided exclusively in the defense appropriations bill. That legislation, which the president approved earlier this month, says nothing about deploying an ABM system.

This silence, however, is unlikely to assuage Russian concerns, since Russia must worry that the ABM issue will return in the next congressional session. Moreover, the appropriations bill mandates completion of the Navy's "Upper Tier" system, a defense initiative to produce shorter-range missiles that Russia also finds objectionable because of its potential for use against long-range weapons.

Russian arms control experts are also troubled by the thinking of some U.S. lawmakers who believe that the ABM Treaty is an obsolete Cold War measure. The Russians point out that if the ABM Treaty is to be revised in light of the post-Cold War situation, they see it as equally reasonable to amend and adapt the START treaties. After all, they argue, the cumbersome and intrusive START verification provisions were elaborated in a climate of mutual suspicion and mistrust and were based on worst-case scenarios about the other side's intentions.

These Russian critics suggest that Moscow's obligations under START II are largely irrelevant to current realities. The Russians are required by the treaty to alter the structure of their strategic triad by 2003. This will entail sizable expenditures both to eliminate all multiple-warhead land-based ICBMs (intercontinental ballistic missiles) and to replace them with single warhead missiles. Given the current U.S.-Russian partnership, Russian START II critics argue, such measures are not essential to the strategic security of both nations and should be open to revision.

The Russians are completely uninterested in negotiating amendments to fundamental provisions of the ABM Treaty. This apparently was well understood by those pushing the antiballistic missile initiative in Congress, for they also included the possible alternative of U.S. withdrawal from the ABM Treaty. Russia might consider changes to the ABM Treaty—but only along with parallel changes in START II.

Would this be acceptable to U.S. officials, legislators and 1996 Republican presidential candidates? Renegotiating current nuclear treaties with the purpose of adapting them to new realities—as instruments for regulating the nuclear forces of both nations—would mean embarking on a long and formidable process.

If the United States is not prepared to enter such a process, yet withdraws from the ABM Treaty or takes steps in that direction it would mean the end of START II—the end of real, dramatic reductions in the numbers of the world's most destructive weapons.

Is it still possible to resuscitate START II in Russia? Right now, it seems unlikely. If Clinton vetoes the defense authorization, with its ABM mandate, the prospects for saving START II would improve, but only slightly.

Russian opponents of START II may now insist on delaying Russian ratification until the results of the 1996 U.S. presidential (and congressional) elections can be evaluated. Repairing the growing damage to U.S.-Russian relations and U.S. interests in nuclear threat reduction will become steadily more difficult unless Congress revives the tradition of bipartisan statesmanship on nuclear weapons issues that has prevailed since the end of the Cold War.

EXHIBIT 3

INSPECTOR GENERAL,
DEPARTMENT OF DEFENSE,
Arlington, VA, December 14, 1995.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: This is in response to a request from your staff concerning the position of the Office of the Inspector General on Section 901(j), "Conforming Amendments Relating to Operational Test and Evaluation Authority," of H.R. 1530. This section substantially diminishes the independence, authority and responsibilities of the Director of Operational Test and Evaluation (DOT&E) and may lead to the eventual elimination of the office and its functions. This action is being taken "under the cover" of eliminating from statute all of the Assistant Secretaries of Defense. However, in the case of the DOT&E, the impact is significantly different. For example, the importance and input that the office can have in ensuring that weapons are suitably for operational deployment is effectively restricted by deleting the annual reports to Congress summarizing operational test and evaluation activities and deleting the duties of the office contained in Section 139 of title 10.

I strongly disagree with the proposal to eliminate the independence of the DOT&E and replace him with a designated official within the Office of the Secretary of Defense. The Office of the Director was created by Congress to provide independent validation and verification on the suitability and effectiveness of new weapon systems and to ensure that the Military Departments acquire weapons that are proven in an operational environment. I am strongly for acquisition reform in the Department of Defense and have offered many suggestions to improve the acquisition process. However, this is not reform but a step backward in the direction of deploying weapons and equipment that are later proven to be ineffective or inefficient to operate and maintain.

This proposal eliminates one of the independent checks in our weapon systems acquisition process. An independent Director is the conscience for contractors and project managers and ensures they deliver usable weapon systems to the military members. I have testified in the past against proposals to weaken the authority of the Office of the Director, and steadfastly believe the Director saves the Department funds while ensuring service members receive operationally effective weapons.

If we may be of further assistance, please contact me or Mr. John R. Crane, Office of Congressional Liaison, at (703) 604-8324.

Sincerely,

DEREK J. VANDER SCHAAF,
Deputy Inspector General.

Mr. THURMOND. Mr. President, I rise to correct several incorrect statements that have been made over the last several days regarding the ballistic missile defense provisions in this conference report. It has been asserted that this conference report requires the United States to deploy a multiple-site national missile defense system and even a space-based system. Both of these assertions are flat wrong.

The conference report does require the Secretary of Defense to deploy a ground-based national missile defense system by the end of 2003. But nothing in the conference report requires the system to include multiple sites. I continue to believe that the United States should ultimately deploy a multiple-site system, but nothing in this conference report requires such a system. Nor does the conference report advocate, let alone require, a violation of the ABM Treaty. The language in the conference report urges the President to undertake negotiations with Russia to amend the ABM Treaty to allow for deployment of a multiple-site national missile defense system. This and other provisions in this conference report envision a cooperative process, not unilateral abrogation.

It has been asserted that there is no way to defend the territory of the United States from a single site, and therefore this conference report indirectly requires a multiple-site system. While I believe that a multiple-site system should be our goal, I must point out that the Army has concluded that it can defend all 50 States, including Alaska and Hawaii, from a single, ABM, Treaty-compliant, site. I would also point out that the Army's report on this subject was prepared at the request of the ranking minority member of the Armed Services Committee. I ask unanimous consent that the Army report, entitled "Evolutionary Approach to National Missile Defense," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EVOLUTIONARY APPROACH TO NATIONAL MISSILE DEFENSE [NMD]

1. The Army's Program Executive Office for Missile Defense (PEO–MD) has made a proposal that would take advantage of the significant investment that BMDO has made in ground-based missile defense technology. Planning includes an evolutionary deployment for defense against long range ballistic missiles, initially focusing on unsophisticated intercontinental ballistic missiles (ICBMs). The approach is to provide a cost and operationally effective single-site system as the first step in system deployment. This initial system will provide defense of all 50 states against an unsophisticated ICBM attack.

2. The Army PEO's NMD approach is to take advantage of the infrastructure at Grand Forks, North Dakota, and deploy an initial NMD system and then grow this system in response to changes in the quantity and quality of the threat and in accordance with the modifications negotiated in the treaty over time. The initial capability can be expanded by adding additional interceptors and by adding more sites. Space-based sensors (Space and Missile Tracking System (SMTS)) could be added to provide increased battle space and dual phenomenology tracking and discrimination to enhance defense effectiveness against more advanced threats.

3. The Army PEO has shown that the initial NMD system can provide effective defense of the 48 continental United States against limited threats (a few RVs with simple penetration aids and/or jammers). Analysis indicates that, with certain enhancements, the initial system can also provide an effective defense for all states. These enhancements include the following:

a. Improved quality of Early Warning Radar (EWR) data including additional advanced radars at Shemya (in the Aleutian Islands of Alaska), in Hawaii, and on the east coast.

b. Increased interceptor booster velocity.

c. Onboard target selection capability of the kill vehicle.

4. Each of these improvements is discussed below:

a. Improved EWR data is necessary to provide tracking information of sufficient quality for the NMD battle management/command, control, and communications (BM/C3) system functions. The concept of using EWR data is not different from the CONUS defense concept; however, to extend this capability to Alaska and Hawaii requires upgrades to the EWRs, adding advanced EWRs at Shemya, in Hawaii, and on the east coast. The upgraded EWRs and additional EWRs would provide early acquisition of the ballistic missile threat and allow the interceptors sufficient time to intercept these targets. The advanced EWRs would be based on the technology the Army has developed with BMDO sponsorship.

b. Another important change is an increase in the interceptor velocity to reduce the flyout time and increase coverage. For CONUS defense, a velocity of about 6.5 km/sec is sufficient; however, defending Alaska and Hawaii from a single interceptor site at Grand Forks, North Dakota, requires a velocity greater than 7.2 km/sec. The Army NMD Program Office has identified commercial booster motors that will provide a velocity greater than 8 km/sec and plans to utilize this capability in the ground-based interceptor.

c. The third characteristic required is the onboard capability of the kill vehicle to select the lethal object from a cluster of objects. The Exoatmospheric Kill Vehicle (EKV) was specifically designed to achieve this capability. This capability allows the system to commit the interceptor against a cluster of objects, designate, and intercept the lethal object in a target complex.

5. The Army PEO has proposed an accelerated, evolutionary NMD development program which will meet requirements if funded at the appropriate level. The proposed NMD Program will develop a system for deployment that will provide an effective defense of the entire United States against a limited threat. The proposal begins with an initial deployment of an NMD system of ground-based interceptors (GBI), a ground-based radar (GBR), upgraded and advanced EWRs (U/AEWR), and associated BM/C3. The proposal would initially deploy about 20 Developmental or User Operational Evaluation System (UOES) GBIs, an X-band NMD GBR, and associated BM/C3 in the Grand Forks, North Dakota, vicinity. This system would be supported by existing space-based sensors. A/UEWRs, and upgraded command and control (C2) to support USCINCSPACE in the centralized control of the NMD mission. This initial capability would be fully utilized in the continued evolutionary development of the objective system.

6. This proposed system could provide effective protection of the entire United States in the 2000 time frame from a limited ICBM attack of a few RVs for an acquisition cost of about $5B. The initial NMD system could be augmented through negotiations to deploy additional GBIs, additional ground-based sites, a space-based sensor system (SMTS), and/or a space-based weapon system as required and permitted by treaty obligations to address a larger and/or more sophisticated threat.

7. In summary, the initial system, using additional EWRs, can provide costs and operationally effective defense of all 50 states against ballistic missile threats limited to a few RVs and simple penetration aids. The ground-based radar being developed will provide high quality track and discrimination. On threats that require early commit of the interceptor, the kill vehicle will have the capability to receive in-flight updates including target object map data. The kill vehicle will also have onboard target selection and designation capability. By combining these capabilities and allowing for multiple interceptor shots at each threatening object, a very high probability of kill can be achieved. Additional interceptor sites would provide increased defense robustness as threat quantity and quality increase. Space-based sensors would increase defense confidence against larger and more stressing threats.

8. This evolutionary deployment approach is a prudent, affordable, and effective means of providing protection for all 50 states against a limited ballistic missile attack. It must be noted, however, that current budgetary constraints preclude the Army and BMDO from substantially accelerating NMD. This evolutionary program is executable only with strong continued congressional support at the $1B per year level, which must not come at the expense of other critical Army or BMDO programs.

Mr. THURMOND. Mr. President, unfortunately, despite all our efforts in conference to resolve concerns related to the ABM Treaty, we continue to hear the artificial argument that this conference report constitutes an anticipatory breach of the ABM Treaty. Since there is no requirement to deploy a multiple-site national missile defense system in this conference report, there can be no anticipatory breach contained in it.

But even if there were a multiple-site requirement, this would still not constitute an anticipatory breach. Since there are treaty-compliant ways to get to a multiple-site system, just having a policy that points us in that direction cannot constitute an anticipatory breach. To quote the senior Senator from Alabama, who was a distinguished judge prior to coming to the Senate, "While there are legal methods to deploy multiple sites within the framework of the ABM Treaty, there can be no anticipatory breach."

It has also been argued that this conference report requires a space-based defense. The conference report does call on the Department of Defense to preserve the option of deploying a layered defense in the future. But there is no requirement to deploy any specific space-based system or to structure an acquisition program that includes space-based weapons. The conference report does increase funding for the space-based laser program. But this increase is merely to keep a technology program alive. We have asked for a report to illustrate what a deployment program would look like, but this is hardly a mandate to deploy.

We can certainly debate the merits of what this conference report requires. But let's be clear about what it actually contains. If Senators want to debate the need for deployment of a national missile defense system by 2003, that is a legitimate debate. But to argue, as several Senators have, that this conference report requires deployment of space-based weapons and mandates a violation of the ABM Treaty is simply an act of disinformation. Senators are entitled to their views, but they owe the American people an honest statement that distinguishes between fact and fiction.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to proceed on the remaining time of Senator KENNEDY, 5 minutes from the time allocated to the minority leader, Senator DASCHLE, and 2 minutes to correspond to the 2 minutes given to Senator INHOFE.

Mr. THURMOND. Mr. President, we have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. I thank the distinguished chairman of the committee.

Mr. President, it is an interesting paradox that I have noted since I have been here that the things that are really the most important and the most serious to our Nation and, indeed, to the world are the ones that seem to draw the least attention and are least understood.

The Anti-Ballistic Missile Treaty is one of those things. It was entered into in 1974 between Brezhnev and President Nixon. The really salient language of that treaty is found in article I. Here it is on this chart. As they say, the mother tongue is English, and this is as clear in English as you can get.

Article I:

> Each party shall be limited at any one time to a single area out of the two provided in Article III of the treaty for deployment of antiballistic missile systems or their components.

Single means one. The ABM Treaty limits each party to one strategic antiballistic missile site. It was ratified in 1976, and it is a binding treaty between the United States and the Soviet Union, now Russia.

There is not any question that this bill intends to proceed with the deployment of a strategic antiballistic missile systems at multiple sites. The bill also says that we will decide whether a missile defense system is tactical or strategic; that is, whether it is designed to intercept tactical missiles or strategic missiles. The United States will decide. And if the Russians do not happen to like our decision, that is just tough, and we will abrogate the treaty.

How does the bill justify these new policies? Here on this chart is what the 1995 Ballistic Missile Defense Act says. Here is the threat that is being used by those who want to deploy this National Missile Defense System. Here is what the Missile Defense Act says:

> North Korea may deploy an intercontinental ballistic missile capable of reaching Alaska or beyond within 5 years.

Within 5 years, the bill says.

Second:

> Determined countries—

I do not know what a determined country is. I guess you have determined countries and undetermined countries.

> Determined countries can acquire intercontinental ballistic missiles in the near future and with little warning by means other than indigenous production.

Senator LEVIN and I wondered where this information came from. So we took this language and wrote to John Deutch, the Director of the CIA, and said, "What does the intelligence community have to say about this threat?"

Here is what he wrote back to us a little over 2 weeks ago; this is what the CIA said:

> The bill language overstates what we currently believe to be the future threat.

The CIA goes on to say:

> A North Korean missile potentially capable of reaching portions of Alaska—but not beyond—may be in development, but the likelihood of it being operational within 5 years is very low.

Third, the CIA says:

> The intelligence community—

On whose information we are supposed to be relying around here when we spend money.

> The intelligence community believes it extremely unlikely any nations with ICBM's will be willing to sell them, and we are also confident that our warning capability is sufficient to provide notice many years in advance of indigenous development.

So what is our response to the intelligence community? It is to spend $200 million more for the Navy's upper-tier system and $400 million more for the national missile defense system. So much for the $30 billion or so per year that we spend on intelligence. What is the national missile defense system required to do in this bill? It is required to cover all 50 States, including Hawaii and Alaska. How will it do that? The only way it can be done, by deploying interceptors at multiple sites.

What do you do when you deploy multiple sites? You say to Russia, "Adios, friend. If you don't like it, we'll pull out of the treaty," which we have a right to do.

But the danger of abrogating the ABM Treaty and the Russians and the United States both having antimissile defense systems, strategic and to a lesser extent tactical, is the world becomes a much less safe place. Everyone knows that, if Russia and China think the United States has an ABM system that can shoot down their ICBM's, they will begin to deploy more ICBM's to compensate. Instead of arms cuts, we will have a new arms race.

I do not know of a single person in the world, I do not know anybody who really studies this and keeps up with it who thinks what we are doing here is in our best interest. It is not.

The bill says that the national missile defense system has to be deployed by the year 2003. That is 8 years from now. We may lock ourselves into a technology we do not even want.

Do you know what the Russians have already said? "We summarily reject this unilateral action you are taking." We summarily reject it, and if you do it, Russia will have no choice but to stop implementing the nuclear weapons cuts specified in the START Treaty.

I do not have much time, so let me go on to a couple of other items.

The bill repeals the prohibition on buying more B-2 bombers than the 20 we have already agreed to procure. We put $493 million in there for B-2 procurement. It is not clear whether that $493 million is to correct some of the flaws in the present B-2 or whether it is to buy long-lead items for more B-2's.

If it is the latter, it is terribly misguided. I defy anybody in this body, as I did yesterday, to read the report, read the conference report and tell me how the $493 million is to be spent.

Even Senator NUNN, who favors the B-2, says he cannot decipher it.

What else is in the bill? Yet a new method of financing arms exports. The United States now has between 50 and 55 percent of all the arms exports in the world, and the Defense Department said we are headed for 60 percent of all the arms exports. In other words, we ship more arms in the international arms trafficking business than the rest of the world combined. We have four methods of financing arms right now, and this bill provides yet a fifth. Yes, we are the arms merchants of the world.

What else does it do? I can remember back, I guess, in 1983, when some lobbyist downtown did not have anything better to do, so he came here and convinced the U.S. Congress to start bringing old battleships out of mothballs. I stood here and wailed like a banshee, saying this is an absolute abject, utter mistake. So what did we do? We did not bring one out; we brought four out. What did it cost? About $2 billion. What happened? After we did it, we put them back in mothballs. But some Navy contractors got a couple of billion dollars out of it.

Now the Defense Department has removed the four battleships from the Naval Register. That means the Pentagon has no more use for the ships and it can dispose of them. So what does the bill do? It orders the Navy to return at least two of the battleships to Naval Register so they can be returned to duty someday. That does not cost anything, Mr. President. I am happy to report that is one thing in the bill that does not cost a thin dime—that is, to put two battleships back on the Naval Register. I only hope and pray that at some point we do not decide to start bringing those suckers out again. Because that will cost a small fortune.

I remember the first one they brought out—I think it was the *Iowa* or the *Missouri*—I forget which—and it started firing those big 16-inch guns and found out that it totally threw all the new electronics on the ship off, and they had to go back through all the electronics and encompass them in rubber so the guns did not throw everything off. God forbid that those old battleships are ever put into service again. The good news is that the Appropriations Committee has already prohibited the Navy from spending any money for bringing out battleships. So while this bill would like to bring the battleships out again, there is no money appropriated for it.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BUMPERS. I yield the floor and suggest the absence of a quorum.

Mr. THURMOND. Mr. President, I ask that the time for the quorum call not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, how much time do I have at this point?

The PRESIDING OFFICER. The Senator has 20 minutes.

Mr. NUNN. I ask to be notified if I exceed 10 minutes.

This morning during remarks on problems that I see in the conference report, I noted that I would have a separate statement addressing the missile defense provisions in the conference report.

I had addressed this subject at the end of last week.

After I spoke, Senator LOTT made an eloquent, but occasionally inaccurate, statement in defense of the conference report. I want to briefly comment on and correct a few of the Senator's statements about missile defense, particularly regarding my role.

The Senator from Mississippi suggested that, since I supported the deployment by a fixed date—1996—of a limited NMD system in the 1991 Missile Defense Act, I was being inconsistent in opposing the deployment of an NMD system by 2003 in the conference report.

I first observe that I was not a party who injected the 1996 date in that act. I thought it was unrealistic but I did not oppose it in theory, I opposed it in terms of practicality. But it did go into the report and I did not oppose the overall act. I supported the overall act, notwithstanding my feeling at that time that 1996 was not realistic.

There are a couple of very, very significant differences between the 1991 Missile Defense Act and the language in the conference report before us today.

Let me begin by quoting exactly what the 1991 Missile Defense Act says about the NMD system:

> (2) INITIAL DEPLOYMENT.—The Secretary shall develop for deployment by the earliest date allowed by the availability of appropriate technology or by fiscal year 1996 a cost-effective, operationally-effective, and ABM Treaty-compliant anti-ballistic missile system at a single site as the initial step toward deployment of an anti-ballistic missile system designed to protect the United States against limited ballistic missile threats, including accidental or unauthorized launches or Third World attacks. The system to be developed should include—
>
> (A) 100 ground-based interceptors . . .
>
> (B) Fixed, ground-based, anti-ballistic missile battle management radars; and
>
> (C) optimum utilization of space-based sensors, including sensors capable of cueing ground-based anti-ballistic missile interceptors and providing initial targeting vectors, and other sensor systems that also are not prohibited by the ABM Treaty, such as a ground-based sub-orbital tracking system.

Mr. President, it is clear from this paragraph that the NMD system specified in the 1991 act was to be developed to be fully compliant with the ABM Treaty as it then existed. A similar paragraph was included in the Senate compromise language passed last September, which stated that it is the policy of the United States to:

> (8) carry out the policies, programs, and requirements of (this Act) through processes specified within, or consistent with, the ABM Treaty, which anticipates the need and provides the means for amendment to the Treaty.

This language, which was dropped in conference, stands in sharp contrast to the language in the conference report, which merely states in a completely different section that the programs contained in the conference report, quote, "can be accomplished" in ways consistent with the ABM Treaty—it nowhere requires that the NMD Programs shall be carried out in compliant fashion.

As a matter of fact, it implies very strongly just the opposite, which is the reason so many of us oppose it.

The conference report also abandons other safeguards found in the Senate compromise. Gone is a requirement for a congressional review prior to a decision to deploy the system to determine whether the proposed deployment would be affordable and cost effective, whether the threat has developed as anticipated, and whether ABM Treaty considerations should affect the decision to deploy.

In other words, Mr. President, all of these safeguards that we had in the Senate bill are omitted from the new conference report language. There is no requirement to determine prior to a decision to deploy whether the proposed system would be affordable, cost effective, whether the threat has developed as anticipated, and whether the ABM Treaty considerations should affect the decisions to deploy. In my view, all of those are absolutely essential preconditions to making an intelligent decision about whether to deploy a system and when to deploy a system.

So, the conference report language, contrary to the assertion made earlier, does not have the same effect as the language in the 1991 Missile Defense Act—not by a long, long shot. That act clearly calls for a ABM-compliant system—a system compliant with the ABM Treaty. In my view, the administration has rightly found the language in the conference report to be unacceptable because of these considerations.

I repeat what I have said earlier. The last thing we want is to take an effort to mandate now certain language that the administration—and they are the ones negotiating this with the Russians—that the administration believes is likely to have the result of not having a ratification of START II, and perhaps not even a continuation of START I reductions.

We have had two Republican Presidents do a very good job in negotiating both START I and START II. Those treaties, if they are complied with, will require a two-thirds reduction in the number of missiles aimed at the United States, including the missiles we have always felt were more likely to be launched early, perhaps by mistake, perhaps by the other military leaders making a mistake in terms of warning, because these are highly MIRV'd systems with a lot of warheads and the fear would be, by the other side, that they might be knocked out on a preemptive strike.

We have always worried about those MIRV'd missiles. These two treaties are able, after lots of negotiations over more than 10 or 12 years, to get rid of those systems that we have always considered to be highly destabilizing as applied in the cold war period. We finally achieved that. And to take language in this bill and to take a real risk that the results of those two treaties would be obviated is not only unwise but it is totally unnecessary.

I repeat, also, what I have said earlier. The administration and those of us negotiating offered to take on the section of national missile defense language, we offered either the House version or the Senate version, on the national missile defense language. Why in conference you cannot solve the national missile defense language with either the House version, as passed by the House, or the Senate version, as passed by the Senate, when you offer the conferees either version, is beyond me. It is a real puzzle.

Of course, what happened is that we made the compromise on the Senate floor—which Senator LEVIN, Senator WARNER, Senator COHEN, and I worked out and which every Republican voted for except one, and the people who were opposed to it were mainly on the Democratic side, because they felt it went too far. We had an unusual 4- or

5-day intensive, word-by-word examination and we got, not only the agreement in this body, with every Republican but one voting for it, but we got the administration signing off on it, albeit reluctantly with some concerns. And then we went into conference and we offered either the Senate-passed language or the House language—not the entire language of the House on everything, but on the national missile defense part—and we could not satisfy people because they wanted to go much further than either the House version or the Senate version. To me that is just very puzzling.

It is sad to see a bill jeopardized, in terms of becoming law, because of that.

Mr. President, I will now address the negotiations as I saw them, from my point of view, and the possibilities that still exist in putting this bill together if it is vetoed, and if the veto is not overridden.

BALLISTIC MISSILE DEFENSE

The administration strongly objects to the ballistic missile defense language adopted by the conferees, and I agree with the administration's assessment. Mr. President, the Congress has been dealing with difficult issues related to BMD since the star wars debates of the early 1980's. I have been part of putting together bipartisan agreements on BMD for over a decade, many years facing much more difficult challenges than this year. That is why I am puzzled that the Republican majorities—with two bipartisan paths open to approval by the President—chose a third path to certain opposition.

As Members will recall, the issue of ballistic missile defense was one of the primary subjects of debate and difficulty when the Senate considered the National Defense Authorization bill during the summer. There was strong opposition on the floor to the BMD provision reported by the committee. During the debate, the bipartisan leadership designated a group of Senators to address this subject. Senator DOLE designated Senators WARNER and COHEN to represent the Republicans. Senator DASCHLE designated Senator LEVIN and myself to represent the Democrats.

Mr. President, we dealt with that issue in the old-fashioned way, with Senators closely examining each word of the proposed amendment. Senators WARNER, COHEN, LEVIN, and I worked and reworked the amendment, line-by-line, to address the issues raised by the administration and our respective party caucuses.

It was clear to all concerned that the administration had serious reservations even bout the bipartisan amendment we developed in the Senate. After expressing their concerns and examining every word and every phrase carefully, the administration reluctantly agreed to accept this final Senate compromise language.

On August 11, 1995, Senators WARNER, COHEN, LEVIN, and I each provided detailed explanations of the bipartisan amendment in speeches to the Senate. We also placed extensive information in the CONGRESSIONAL RECORD, including the text of the bipartisan amendment, a detailed comparison to previous language, and related materials. As a result, detailed explanatory information was available to all Senators and the public for a thorough review for nearly a month before we actually voted on the amendment on September 6.

The bipartisan amendment provided extensive guidance to ensure that the United States would develop a more focussed missile defense program than we had previously authorized, particularly in the area of national missile defense.

The bipartisan amendment stated that it—

> . . . is the policy of the United States to . . . develop for deployment a multiple-site national missile defense system that: (i) is affordable and operationally effective against limited, accidental, and unauthorized ballistic missile attacks on the territory of the United States, and (ii) can be augmented over time as the threat changes to provide a layered defense against limited, accidental, or unauthorized ballistic missile threats.

The bipartisan amendment required the Secretary of Defense to "develop an affordable and operationally effective national missile defense system to counter a limited, accidental, or unauthorized ballistic missile attack, and which is capable of attaining initial operational capability [IOC] by the end of 2003."

The bipartisan amendment also set forth the understanding of the Senate as to the demarcation between theater and ballistic missile defense systems, and established a prohibition against use of funds—

> . . . to implement an agreement with any of the independent states of the former Soviet Union entered into after January 1, 1995 that would establish a demarcation between theater missile defense systems and anti-ballistic missile systems for purposes of the ABM Treaty or that would restrict the performance, operation, or deployment of United States theater missile defense systems except: (1) to the extent provided in an Act enacted subsequent to this Act; (2) to implement that portion of any such agreement that implements the criteria in subsection (b)(1); or (3) to implement any such agreement that is entered into pursuant to the treaty making power of the President under the Constitution.

The amendment was approved overwhelmingly by a vote of 85-13, with only one Republican voting against the amendment. Without this bipartisan agreement and approval, it is doubtful the Senate would have passed the authorization bill.

Although the conference on this bill was convened on September 7, there were no Member-level bipartisan House-Senate discussions on this subject by members of the conference for over 2 months. Eventually, we were able to reach agreement on the theater missile defense demarcation language, but could not reach a consensus on the national missile defense provisions. The failure to reach an agreement is puzzling to me, since the administration was prepared to accept either the House-passed or Senate-passed versions of the national missile defense language.

The Senate, as I noted earlier in my remarks, established a requirement to "develop an affordable and operationally effective national missile defense system to counter a limited, accidental, or unauthorized ballistic missile attack, and which is capable of attaining initial operational capability [IOC] by the end of 2003." The House established a requirement to "develop for deployment at the earliest practical date an affordable, operationally effective national missile defense [NMD] system designed to protect the United States against limited ballistic missile attacks."

Either version of this language—approved overwhelmingly by each House—would have been acceptable to the administration, but neither was approved in conference. The main stumbling block was the insistence of some of the conferees that Congress go beyond language approved by either the Senate or the House and mandate a specific requirement to deploy a national missile defense system by 2003. This problem was compounded by an insistence that the conferees use a new baseline draft proposal in conference, rather than work off the carefully crafted bipartisan Senate language. As a result, the conference report lacks many of the carefully drafted provisions of Senate-passed bill.

During attempts to forge a conference agreement acceptable to the administration, I emphasized that we could use national missile defense language that had received overwhelming Republican support this year. I believe that it is still possible to do so if this bill is not enacted. There are two primary options, each of which would use language approved by an overwhelming majority in the Senate or the House.

The first option would simply use the bipartisan national missile defense and theater missile defense provisions which were approved by the Senate on September 6, 1995 by a vote of 85 to 13, with only one Republican Senator voting against that amendment.

The second option would substitute the House-passed national missile defense language for the national missile defense portion of the bipartisan Senate-passed bill, using the Senate-passed bill for the remainder of the missile defense language. Either of these provisions would provide the basis for renewed focus in our National Missile Defense Program and an even stronger effort on theater missile defenses.

Mr. President, if the national missile defense language in the Senate bill was strong enough to win virtually unanimous Republican support, it should have provided an adequate basis for our conference report.

If the national missile defense language in the House bill was strong enough to win overwhelming Republican support in the House, it should have provided an adequate basis for a conference agreement.

Either of these approaches could have represented a solid step forward on the important subject of national missile defense. The alternative ultimately chosen by the conferees was to use language that was in neither bill mandated a specific requirement to deploy a national missile defense system by 2003. That language is unacceptable to the administration, and is a major element of the administration's announced intention that this bill will be vetoed.

The administration is very concerned that the national missile defense language in the conference report goes well beyond the mandates of both the House-passed and Senate-passed bills.

The administration has expressed serious concerns about the impact of the conference report language on Russian consideration of the START II Treaty, which is designed to produce a second major reduction in United States and Russian nuclear weapons. The administration is also concerned that the language could lead the Russians to abandon other arms control agreements if they conclude that it is United States policy to take unilateral action to abandon the ABM Treaty. Russian spokesmen have made plain that Russia has neither the technology nor the defense resources to allow them to match United States missile defense efforts. Therefore, they state that their only available reaction to a large-scale U.S. national missile defense program would be to retain additional strategic missiles and nuclear warheads, which would require them to forego START II and perhaps even abrogate START I limitations. This is what is at risk. These are not small stakes.

In a letter to Senator DASCHLE, dated December 15, Secretary of Defense Bill Perry stated:

> [B]y directing that the NMD [National Missile Defense] be "operationally effective" in defending all 50 states including Hawaii and Alaska, the bill would likely require a multiple-site NMD architecture that cannot be accommodated within the terms of the ABM Treaty as now written. By setting U.S. policy on a collision course with the ABM Treaty, the bill puts at risk continued implementation of the START I Treaty and Russian ratification of START II, two treaties which together will reduce the number of U.S. and Russian strategic warheads by two-thirds from cold war levels, significantly lowering the threat to U.S. national security.

In my judgment, the administration's concerns are well-placed. Moreover, this struggle over language is, in my judgment, completely unnecessary. I believe we can achieve both START II ratification and progress toward the deployment of a highly-effective national missile defense system to protect against accidental, unauthorized, or limited third-world attacks. Since the late 1980's I have advocated development of a National missile defense system in the form of an accidental launch protection system [ALPs].

Mr. President, it is important to understand the historical context for this concept. National missile defense proposals began with President Reagan's star wars proposal in 1983, designed to render ballistic missiles "impotent and obsolete." This was followed in the mid-1980s by a slightly more modest proposal, called the "Phase-I" system, with the objective of defeating a full Soviet counterforce first-strike. This, in turn, was followed in the early 1990s by G–PALS, or Global Protection Against Limited Strikes, which also turned out to be too ambitious.

This progression was what led to the Missile Defense Act of 1991, which envisioned simply getting on with the development of a treaty-compliant NMD system. And, when I say "treaty-compliant," that means with the treaty as it currently exists, not as it might someday be modified.

In my judgment, even if the ultimate answer to our requirements is a system requiring amendment to the ABM Treaty—such as a multiple-site NMD system with more than 100 interceptor missiles—there is no need to insist on a commitment to that today. Common sense tells us that even if a multi-site system is the end-objective, we will begin by deploying a small number of interceptors at a single site. At this stage, we do not know what the performance or cost of the various NMD system components under development will be, or whether such a system would be "affordable and cost-effective."

Also, Mr. President, the strategic environment is different today than it was in 1991. When the Missile Defense Act of 1991 was passed, we faced thousands of Soviet missiles and more than 10,000 warheads, all aimed on hair-trigger alert at the United States or its military forces. The consequences of even a small accidental launch would have been enormous, because of the likelihood of escalation. Today, START I has cut the inventory of weapons, and START II will cut levels further, once it enters into force. Moreover, the Soviet Union is gone, replaced by a less hostile Russia; United States and Russian missiles are now targeted on broad ocean areas, rather than on each others' territory. The policy of targeting broad ocean areas has reduced but not eliminated the consequences of an accidental launch.

Finally, there is a future threat of missile attack on the United States by some rogue Third World power. This was recognized as a possible threat in the 1991 act, and in the Senate compromise. However, no such threat has yet materialized, and the latest from the intelligence community on the likelihood of such an event reads as follows:

> Several countries are seeking longer range missiles to meet regional security goals; however, most of these missiles cannot reach as far as 1,000 kilometers. A North Korean missile potentially capable of reaching portions of Alaska—but not beyond—may be in development, but the likelihood of it being operational within five years is very low.
>
> The Intelligence Community believes it extremely unlikely that any nation with ICBMs will be willing to sell them, and we are also confident that our warning capability is sufficient to provide notice many years in advance of indigenous development.

That information was provided in a December 1, 1995 letter on behalf of CIA Director Deutch by Joanne Lsham, CIA Director of Congressional Affairs. The missile defense language in the conference report is misguided. There is no need for: First, strident language or second, ironclad commitments today to deploy by a date certain an NMD system that is clearly an anticipatory breach of the ABM Treaty. Enactment of this language is likely to prevent the START II Treaty from entering into force, which would compound the problem of developing affordable and cost-effective defenses. Without the START II reductions, missile defenses capable of dealing with potential accidental or unauthorized launches would likely have to be much more extensive. If the 5,000 or so warheads to be retired under START II remain in Russian inventories, this will greatly complicate our missile defense problem. Because of the magnitude of the threat, star wars and its successors were deemed too costly and of too limited effectiveness to be worth pursuing.

In my judgment, we should be pursing first things first. First, the development of all the components of an NMD system, and a limited deployment of a strictly treaty-compliant system, so as to learn more about the cost and effectiveness of NMD systems. Then, depending on cost and effectiveness, depending on the evolution of the threat and the course of negotiations to amend the ABM Treaty, we can make further decisions on further deployments. But, let us not jeopardize the advantages of the START II Treaty by a headlog rush to deploy something.

Mr. President, there are four fundamental aspects to an effective protection against nuclear weapons. The first is to reduce nuclear warheads by two-thirds as envisioned by START I and START II, thereby substantially decreasing the weapons that could be used against us deliberately or accidentally.

The second is to vigorously pursue the Nunn-Lugar program for dismantlement of nuclear weapons in the states of the former Soviet Union.

The third is to develop and deploy effective theater missile defenses. A strong majority in the Senate and the Congress fully support the development and deployment of highly effective theater missile defenses.

The fourth is to develop for deployment an affordable and cost-effective national missile defense program to address the potential for accidental, unauthorized, or limited strikes.

Not one of these programs, by itself, is sufficient. Each one can have a significant impact on the other. The national missile defense program, in particular, could have either a positive or negative impact on the pace and likelihood of START I and START II reductions. Moreover, even in combination, these programs are not a guarantee against threats by other means, such as conventional delivery by a terrorist through a smaller aircraft or vessel. That threat will require additional counterproliferation and counterterrorist efforts.

In summary, Mr. President, it is important to pursue the development of a national missile defense system, but we must do so in a manner that preserves and encourages the important reductions we can achieve through START I, START II, and Nunn-Lugar. Because the language in the conference agreement is likely to severely undermine these efforts in Russia, I cannot support the conference agreement in its current form.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I now yield to the able Senator from Virginia, Senator WARNER. Senator WARNER has been on the Armed Services Committee a long time. He is a very effective, able member. We are very pleased to have him here to speak for this bill.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished chairman. It has been a real pleasure to have worked with him all these many, many years that I have been in the U.S. Senate. I can remember when I appeared before his committee, at that time for confirmation as Under Secretary, and then, again, as Secretary of the Navy, that he, frankly, Mr. President, coached me through that procedure—he and that fine Senator from Virginia known as Harry Byrd. I remember those days very well and always am appreciative.

I am always appreciative too, to serve with my former chairman, the distinguished Senator from Georgia. Leadership was his hallmark on the committee through those many years, and I was pleased to serve with him as ranking member for some several years and to work with him on many pieces of legislation.

Mr. President, earlier today I made reference to the portion of our bill which deals with the equipment added for the National Guard and Reserve components. I would like to include in the record a statement from the December 15th CONGRESSIONAL RECORD in which Congressman MONTGOMERY, a senior Democratic Member of the House of Representatives, said the following: "I have great respect for the gentleman from California—speaking of Mr. DELLUMS—my ranking member, but I strongly support this bill, and I believe that he will oppose it. One area that I have worked very hard in over the years, Mr. Speaker, is working to have a strong National Guard and Reserve."

And unquestionably he has done that, and indeed our distinguished chairman likewise has been a pillar of strength for the Guard and Reserve through these many years.

Continuing, "We now have the total force. We are using the Reserves for the first time, and it is paying off."

An example of that, of course, Mr. President, being the number of flights going into Sarajevo formerly, and now Tuzla and elsewhere. It will be interesting to note how many of those flights are being flown by Reserve units from all over the United States.

Mr. MONTGOMERY continued, "As we move into Bosnia, the Guard and Reserve will be totally used. In this bill, we have a lot of things that will help the National Guard and Reserve and the different States around the country will benefit by this bill. I certainly hope that this conference report will be adopted. In the area that I have worked over the years, serving 27 years on the Armed Services Committee and Committee of National Security, the Guard and Reserve have the best package they have had in 10 years."

That is the package, Mr. President, in this report.

Mr. President, I would like to also take an opportunity here to thank the members of the Senate Budget Committee for negotiating a budget resolution under the leadership of Senator DOMENICI, and, indeed, Senator EXON also—a resolution which provided for increases to Defense budgets in fiscal year 1996, and in future years as well.

Notice that there are those who ask why, as we strive to reduce the deficit and move toward the balanced budget, we should increase the level of defense spending, especially when we are making reductions in almost every other area of the budget. Too often those who clamor for further Defense cuts fail—I think it is important, and I do this on each bill—to note that Defense has already paid more than its fair share, that in fact Defense has already been cut in my judgment, very deeply. Fiscal year 1996 represents the 11th consecutive year, Mr. President, of declining Defense budgets, the longest continuous decline since World War II. DOD spending, as a share of the Federal budget, has declined 42 percent—which it was in 1968—to 18 percent in 1994, and continues that decline.

As a percentage of gross domestic product, defense spending has declined to its lowest level since 1940, the year before America ended the war.

We should not lose sight of the fact that the end of the cold war did not usher in a new era of peace and stability in the world.

According to the Defense Intelligence Agency, there are currently 60 areas of conflict throughout the world, and as we are seeing today in Bosnia, the United States can be drawn militarily very quickly into these conflicts.

In addition, the Communist resurgence in the recent elections in Russia should give rise for great concern. Russia remains the only country with the capability to inflict considerable damage on the United States of America. Hopefully, we will not witness a return to past policies with Russia. But we must be vigilant and maintain our defense capabilities in these times of uncertainty.

In earlier remarks today, Mr. President, I singled out the very significant amount of money that Russia is investing in its submarine program and other strategic systems beneath the sea. That should bring to the attention of all Senators the need to keep the strongest research and development capability of this country addressing that area, and this conference report does just that, Mr. President.

Further, as chairman of the Subcommittee or AirLand Forces, I have oversight over the research and development, R&D and procurement programs for the Army, the Air Force, and the tactical fighter aircraft for both the Navy and the Air Force.

I thank at this moment, Col. Les Brownlee, my professional staff member who has been with me for 12 years working on various areas of the national security aspects of our committee, and I want to pay special recognition also to Mrs. Judy Ansley who is also on my staff and works in this area.

The modernization accounts, R&D and procurement, have clearly been underfunded by the Clinton administration. The procurement accounts to provide for the future readiness of our military forces have been reduced by 44 percent since fiscal year 1992, the last defense budget from the Bush administration.

In my subcommittee we address some of these deficiencies. In 1986 we bought over 400 tactical fighter aircraft for the Navy and the Air Force. I will repeat that—400. In the fiscal year 1996 defense budget the Clinton administration requested funds to buy a total of only 12—400 compared to 12 such aircraft. We more than double that number with the additional funding provided by the Budget Committee here in the Senate.

In the Army's truck program—that is always considered the last item in these programs. As our distinguished chairman, a former Army man knows, the Army may travel on its stomach but it cannot move without its trucks. In the Army truck program, the funding has ranged over the past 10 years from a high of $917 million per year to a low of $419 million, with an average of $720 million per year over the last 10-year period. The administration's budget request for the Army's truck programs for the fiscal year 1996 was only $128 million. That is compared, Mr. President, I repeat to the average of $720 million. We recommended an increase of over $300 million to help alleviate this deficiency. The committee accepted it and it is included in this conference report.

Clearly, without the additional funds provided by the Congress, the administration's shortcoming in the Defense spending would mortgage the future of our military capabilities. This administration has made readiness the keystone of the Defense program, and in fact has funded readiness at the expense of modernizing our military. Not only have the procurement and R&D accounts deteriorated but because the overall Defense budget is so severely underfunded, readiness has suffered as well, despite its high priority.

In the State of the Union Address in 1994, President Clinton implored the Congress not to cut defense further. That defense had been cut enough. That was just in 1994. Then this year, in his budget request for fiscal year 1996, the President recommended $5.7 billion less than he recommended in the previous year. In real terms, this is over $13 billion less than last year. Mr. President, that sounds like a cut to me.

Mr. President, funds which the Budget Committees of this Congress have proposed to add over the next 7 years are in fact quite modest, and may not be enough. By any measure, this is not another Reagan buildup.

I would like to dispell a notion which has appeared recently in various articles in the Washington press and is repeated frequently on the Senate floor—that the uniformed leaders of our military services do not want the weapons and equipment bought with the funds added by the Congress. Our military chiefs testified before our committee regarding the lack of funding were experiencing—specifically for modernization. Of course they want the equipment, and our military services desperately need it. It is difficult for our military to ask for resources that are not in the President's budget request, because they are bound to support the President's budget. But, there is plenty of evidence that these additional funds were very much needed by our military services and very much appreciated.

The Armed Services Committee has used these funds wisely, in my view, to increase the capabilities of our military forces now and in the future. The committee has given priority to increasing the modernization accounts in order to buy the weapons and equipment needed to fight and win decisively with minimal risk to personnel. The committee utilized the following precepts in allocating congressional increases to the defense budget: buy basics; invest to achieve savings; and invest in the future.

Because the procurement of basic weapons and items of equipment has been neglected during the decline in defense spending, the conference report includes increases in such basic items as new ships, trucks, small arms and upgrades to weapon systems and items of equipment already in the inventory.

While the conference report adds a significant amount of the congressional increase for defense to the procurement accounts, we did so without initiating significant numbers of new programs to avoid creating "bow-waves" of funding that the military services could not afford in the out years. Instead, we recommend increases for weapons and items of equipment currently in production and the use of multiyear procurement contracts, where savings might be achieved. Buying more weapons and equipment currently in production at more efficient rates lowers overall costs to the Government. It also avoids overlapping procurement sequencing and reduces competition for procurement resources in the future.

Mr. President, this conference agreement authorizes a much-needed $7.1 billion increase in the defense budget over the amount requested by President Clinton. This additional funding was used to improve the quality of life of our troops and their families, to revitalize the readiness of our Armed Forces, to fund a robust modernization program and to accelerate the development and deployment of missile defense systems.

While the ultimate fate of this conference agreement may be in doubt, I urge my colleagues to support this legislation which contains many provisions which are of vital importance to the men and women of the Armed Forces. At the very time that we are deploying troops to Bosnia, all Members of Congress should support this conference agreement which goes a long way toward improving the quality of life of our service personnel and their families. All members who spoke so eloquently during the Bosnia debate about supporting our troops now have a real opportunity to show that support by voting to support this conference agreement.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to thank the able Senator from Virginia for his able remarks he made on this bill. He is chairman of the Rules Committee but he is a prominent member of the Armed Services Committee and has rendered great service to his country. We all appreciate that very much.

Mr. WARNER. Mr. President, I thank the distinguished chairman, and I thank the distinguished ranking member.

Mr. LIEBERMAN. Mr. President, a few moments ago I cast my vote in favor of the Defense authorization conference report for fiscal year 1996. I did so with very mixed feelings. There are many provisions in the conference report which I worked hard to attain and I am delighted they are in this report. But there are other provisions that I have opposed for several years and, in fact, voted against during the markup of the bill in the Armed Services Committee—restrictions on abortion and additional B-2 funding to name just two. There is also a provision on how the military must treat HIV positive soldiers which I believe is wrong-headed and discriminatory. I regret that in order to complete this conference the majority felt it necessary to accept these sorts of provisions. My vote today for passage of this conference report does not alter my determination to see that these provisions are changed before they can have the adverse impact on our military men and women which I fear is likely. As I weighed the bad against the good in this conference report, I have concluded that the good is essential for our servicemen and women and their families as they serve our country in Bosnia or wherever they are serving around the world.

Mr. President, one of the many reasons I sought to serve on the Armed Services Committee is that it operated on a bipartisan basis for the good of our national security and our men and women in uniform. The fact that Senator NUNN, the former chairman, during his time on the committee has voted for more than 20 authorization bills regardless of who was in the majority is an indicator of this bipartisan spirit. The fact that Senator NUNN did not vote for this report is an indicator that this spirit was eroded this year. I greatly regret that. This erosion occurred, I believe, in spite of the hard work and best efforts of the distinguished current chairman, Senator THURMOND. I hope that we can take a hard look at ourselves and that we will be able to make whatever changes might help us return to where this great committee used to be.

Mr. PELL. Mr. President, I intend to vote against the defense authorization conference report today with some regret. I did not care for the bill as it left the Senate, and I voted against it then. Now the conferees have contended at length and come back with I believe a more objectionable bill.

I know that a number of the Senate minority conferees tried to return with a workable bill devoid of excesses, but, unfortunately, they did not prevail.

I am particularly concerned by the provisions setting the stage for a national missile defense. This legislation requires that the United States build an "operationally effective" defense of all 50 States by the year 2003.

Such a new system almost certainly would require deployments of ballistic missile defenses at multiple sites, since such a defense would likely be well beyond any capabilities we could put into our presently mothballed single ABM site at Grand Forks, ND. The cost could quickly mount into the tens of billions of dollars over the next 7 years.

An immediate problem with all of this is that it could send a message to the Russians that we do not intend to live up to the ABM Treaty. This could well undermine any prospects we might have that they, in turn, will ratify and abide by the terms of the START II Treaty. That treaty has just been approved by the Committee on Foreign Relations in an 18 to 0 vote and is awaiting Senate action.

Heretofore, both we and the Russians have been comfortable with mutually agreed steps to curb and reduce nuclear armaments secure in the knowledge that the ABM Treaty ensured that our deterrent worked and would work at lower levels. It would be very much against our interests if the train of reductions were to stop now. A renewed strategic arms buildup might even be in prospect.

If all of that happened, the new National Missile Defense System would be woefully outmatched, since it would be designed to deal with accidental launches and new and emerging threats and not with a major continued Russian threat. One might ask why we need new defenses against accidental launches when we did not need them before.

Mr. President, we should pause to think of these new threats. First, it is important to understand that there is no official intelligence analysis to indicate that we are likely to have any new missile threat over the next decade or so. Any nation thinking of moving in that direction would have a very hard time finding a supplier or suppliers. It is extremely difficult to develop missiles indigenously, and any nation doing so would certainly be caught at it.

We should ask ourselves how we would react if some nation were trying to get a small fleet of missiles to attack us with. We and others could apply serious political and economic pressures to make that nation cease and desist. If we and others had to act militarily to end the threat, we could. That fact alone would add strength to our diplomatic efforts.

The least reasonable response would be to spend billions of dollars deploying a last-ditch, Fortress America ballistic missile defense that would, at best, make little or no contribution to our national defenses and would, at worst, start a process under which strategic stability and the very fruitful process of arms control could be dealt a terrible blow.

SHIPMENTS OF SPENT NUCLEAR FUEL APPEAR

Mr. CRAIG. Mr. President, I would like to commend the Senate for including language in the Defense authorization bill that recognizes the need to implement the terms, conditions, rights, and obligations contained in the recently signed agreement between the Navy, Department of Energy, and the State of Idaho and the consent order of the U.S. District Court for the District of Idaho that effectuates the settlement agreement. I am also pleased that it is the Senate's sense to appropriate funds called for by the President to carry out the agreement.

It has been a pleasure to work with Governor Batt as he crafted a historic agreement between the State of Idaho, the U.S. Navy, and the Department of Energy. Shipments of spent nuclear fuel began accumulating at the Idaho National Engineering Laboratory [INEL] when I was a child growing up in Midvale, ID, in 1949 and continue to this day. However, until Governor Batt signed an agreement in 1995, there was no provision to remove this material from Idaho. I am proud to have worked with him to help to craft the agreement that assures liquid wastes will be put into dry form to protect the Snake River aquifer and approximately 10,800 shipments of spent nuclear fuel and transuranic wastes will begin to be shipped from Idaho in 1999 and be completely removed by 2035.

Mr. President, Idaho has had a long history with the nuclear Navy and nuclear reactor research. We are proud of that involvement with our Nation's defense. We are just as proud that Idaho, for the first time, has an agreement and timeline for the removal of spent fuel from our State. I am glad to have played a role in moving this agreement.

I ask unanimous consent that a time line that indicates the history of the Navy and DOE's involvement at the Idaho National Engineering Laboratory be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IDAHO'S NUCLEAR WASTE TIMELINE

W.W. II, the area that is now the Idaho National Engineering Laboratory is used by the Navy to test ship gun barrels and by the Army Corps to train bombardier crews.

1949, the "National Testing Station" is established in Idaho—the forerunner of today's Idaho National Engineering Laboratory.

1950, the Navy begins work on their first nuclear reactor in Idaho—the Submarine Thermal Reactor prototype (S1W prototype).

1951, a reactor at the National Reactor Testing Station (now INEL) called "Experimental Breeder Reactor-1" (EBR-1) becomes the first nuclear reactor in the world to produce electricity.

1952, the first shipment of spent nuclear fuel arrives from Hanford, Washington.

1954, the first shipment of transuranic wastes (items like gloves, tools and pipes contaminated with plutonium) arrives from Colorado.

1955, the first nuclear powered U.S. Naval vessel, the U.S.S. *Nautilus* submarine is launched.

1957, the first shipment of spent Navy fuel comes to Idaho.

From 1949 to 1995, there have been 627 Navy spent nuclear fuel shipments and approximately 1,032 Department of Energy shipments. In addition, there have been approximately 3,225 shipments of transuranic materials. All told, about 4,884 shipments have come to Idaho. Additional waste material is also generated at INEL.

From 1957 to 1970—Republicans Robert Smylie and Don Samuelson were Governors of Idaho. During their administrations, there were 140 Navy spent nuclear fuel shipments, 50 foreign fuel shipments and about 1,550 transuranic waste shipments. The total number of shipments that came into Idaho during the Smylie and Samuelson administrations: approximately 1,740.

From 1970 to 1994—Democrats Cecil Andrus and John Evans were Governors of Idaho. During their administrations there were 456 Navy spent nuclear fuel shipments, 532 commercial spent nuclear fuel shipments, about 500 U.S. Department of Energy/federal government shipments and 1,675 transuranic shipments from Rocky Flats, Colorado. The total number of shipments that came into Idaho during the Andrus and Evans administrations: approximately 3,163.

1970, Senator Frank Church received a letter from the head of the U.S. Atomic Energy Commission (forerunner of the current U.S. Department of Energy). The letter says that transuranic nuclear waste would begin to be removed from Idaho "within the decade."

1973, Governor Cecil Andrus has said that he received assurances that the nuclear wastes in Idaho would be removed "within 10 years."

1974, the National Reactor Testing Station is renamed the Idaho National Engineering Laboratory (INEL) to reflect its changing mission.

1975, the Energy Research and Development Administration (forerunner of the current U.S. Department of Energy) chooses a site in New Mexico for the disposal of transuranic wastes.

1979, the Waste Isolation Pilot Project (later renamed the Waste Isolation Pilot Plant—WIPP) in New Mexico is authorized by Congress.

In 1982, Congress passes the Nuclear Waste Policy Act. Spent nuclear fuel is to be shipped to two repositories—one in the eastern U.S. and the other in west—and to an interim facility for Monitored Retrievable Storage—by 1998.

1987, Congress realizes that site characterization costs have escalated from $100 million per site to $2 billion per site. The law is amended and Yucca Mountain Nevada is designated by Congress as the only spent nuclear fuel site to be considered for characterization.

1987, the office of Nuclear Waste Negotiator is established by Congress. Former Idaho Attorney General Dave Leroy (Republican) is named as the first administrator. He is charged with finding a state, county, reservation or U.S. territory that will accept a Monitored Retrievable Storage facility for spent nuclear fuel.

1988, WIPP does not open as scheduled. Governor Andrus begins legal battles to stop shipments into Idaho.

1993, Governor Andrus reaches an agreement with the federal government that allows in 19 shipments of Navy spent nuclear fuel, with as many as 45 more to come if deemed necessary for national security. The Andrus agreement requires the federal government to do an EIS, but places no limit on the number of shipments into Idaho once the document is completed. The agreement requires that some liquid radioactive wastes be dried up in a process called "calcination." Some spent nuclear fuel will be moved from one wet storage facility to another—newer—on-site wet storage facility. The agreement does not require any nuclear waste to leave the state.

January, 1995, Governor Batt takes office. As he is sworn in there are already 261 metric tons of spent fuel in Idaho, along with approximately 2 million gallons of liquid radioactive wastes and over 120,000 cubic meters of transuranic wastes in Idaho.

That same month, the U.S. Navy notifies Governor Batt that in accordance with the Andrus agreement, they need to make 8 more shipments of spent fuel. Governor Batt honors the legally binding commitment Andrus made. Batt also learns for the first time that under the Andrus agreement, Idaho is likely to receive thousands of shipments of nuclear waste with no requirement that the material ever leave the state.

Feb. 1995, after finding no location in the United States willing to accept a Monitored Retrivable Storage facility for spent nuclear fuel, the Office of Nuclear Waste Negotiator is abolished. Former Idaho Congressman Richard Stallings (Democrat) is the program's second and last administrator.

In March, Governor Batt establishes points to guide the state on the nuclear issue:

1. We will oppose the shipment of nuclear waste material to Idaho until we receive an absolute assurance that the material will ultimately be moved outside our state.
2. We will insist on a proper clean-up of existing storage problems.
3. We will seek attractive projects that will create new employment opportunities at INEL.

In May, Governor Batt starts legal action to stop the shipments.

June 1, Secretary of Energy Hazel O'Leary announces the Record of Decision on the EIS. It targets 1,940 shipments (165 metric tons) of spent nuclear fuel and 690 to 2,300 shipments (6,000–20,000 cubic meters) of transuranic waste to be shipped to Idaho with no requirement that it ever leave.

October 17, 1995. Governor Batt announces he has reached an historic agreement to get nuclear waste out of the state. U.S. District Judge Edward Lodge Incorporates the settlement into a federal court order. Idaho becomes the only state in the nation with a court order that requires the federal government to remove nearly all nuclear wastes from a specific state. Under the new legally binding agreement, all liquid radioactive wastes will now be dried up and all spent fuel removed from water storage into dry storage, enhancing the protection of the aquifer. Shipments of spent fuel into Idaho are reduced by 42 percent. Transuranic waste will only be allowed in if it is treated and removed from Idaho within six months. The Navy and DOE are limited to, on average, 20 shipments each per year into Idaho providing the state leverage to ensure cleanup takes place. Total value of the agreement is estimated at nearly $800 million over the next ten years. Approximately 10,800 shipments of spent nuclear fuel and transuranic wastes are now required by a federal court order to leave Idaho. First shipments out of Idaho will begin no later than 1999. The last shipments will leave Idaho by 2035.

Mr. BOND. Mr. President, I want to express my support for the hard work of the chairman of the Armed Services Committee. I believe that the bill makes significant strides in correcting glaring shortfalls of the administration's defense policies.

Many of my colleagues on the other side have attacked both the Defense appropriations bill, crafted by my friends and colleagues on the Defense Subcommittee on Appropriations chaired by the senior Senator from Alaska, and this bill on the grounds that they include items not requested by the Nation's military leaders in the President's request. Well, they are correct. But, why didn't they request these items? He wouldn't let them, because he artificially constrained their request by cutting their budget dramatically and some say recklessly, at the same time that he has increased their mission requirements. Left with increased responsibilities and fewer dollars to accomplish them, the military leaders were forced to make deep procurement cuts. They won't complain lest they be viewed as disloyal. They salute and do the best they can. Well, I for one do not believe that those who put their lives on the line must be forced to just make do.

We in the Senate, have done much to insure that or marines, soldiers, sailors, and airmen will be provided the best equipment and in quantities which will provide them more than merely adequate protection. I fully agree with the senior Senator from Hawaii and take the liberty of paraphrasing him when I say, "I never want our troops to be in a fair fight. They should always be overwhelmingly superior."

I have reservations about some of the provisions in this bill, and I wish it more closely reflected the Fiscal Year 1996 appropriations bill, but I will support it, for it is in the right direction.

One other concern I have with this bill is a section that was not fully considered by the Senate which makes significant changes in the way the Federal Government procures goods and services. I had the opportunity to work with my colleagues on conference committee, and this new section on Federal acquisition reform has been modified and improved in many areas. In spite of changes, I am concerned about the impact these new provisions will have on small businesses seeking to do business with Federal agencies.

I am pleased the Senate prevailed in its consideration of the House provision to amend the Competition in Contracting Act requirement for "full and open competition." This section was limited, at my urging, to a revision of the FAR to insure that competition is consistent with a need "to efficiently fulfill the Government's requirements." The change in CICA was dropped.

In addition, I supported a delay in the Cooperative Purchasing Program that was included in the Federal Acquisition Streamlining Act [FASA] which we adopted last year. The Cooperative Purchasing Program would allow State and local governments and certain nonprofit groups to purchase items carried on the Federal supply schedule. At the same time we passed FASA, we did not analyze the impact this new provision would have on small businesses. I successfully sought a moratorium of 18 months on implementation of this program to allow GAO the opportunity to review the impact of the program.

As this new law is being implemented, we cannot lose sight of the positive impact that full and open competition has had on our Federal procurement system. I am the first to agree with the premise that the current system is flawed and can be improved. As chairman of the Committee on Small Business I intend to monitor closely the impact this new law will have on the small business community, and make suggestions as to how their interests can be protected in the future.

Mr. DOLE. Mr. President, before making remarks about the pending conference report, I want to commend the chairman, Senator THURMOND, and the members of the Armed Services Committee for their efforts to hammer out this conference agreement. There were over 1,000 items in disagreement, which presented the conferees with a daunting task. Despite the obstacles, Senator THURMOND and our colleagues on the committee have crafted a strong bill.

It is important that everyone understands the issue before us. This bill is a serious effort to ensure that the men and women of our Armed Forces remain the best-trained and best-equipped force in the world. This conference agreement contains a number of provisions which enhance the quality of life of our soldiers, sailors, and airmen. It ensures force readiness. And, to protect the readiness of tomorrow's forces, it begins to restore the procurement and research and development accounts that have suffered from years of cuts.

Let me add, that with the ongoing deployment of U.S. forces to Bosnia, this bill takes on increased importance. The men and women who have been ordered to Bosnia are brave Americans who have volunteered to serve their country. They are answering their Nation's call. The least we can do for them is to support the initiatives in this bill that will directly impact them as they embark on this mission.

There are a number of significant provisions in the bill which will improve the quality of life of the members of our Armed Forces. The legislation authorizes a 2.4-percent pay raise and a 5.2-percent increase in allowance for quarters. In addition, it authorizes an Income Insurance Program for involuntarily mobilized reservists and establishes a reserve component dental insurance program. These provisions will enhance the readiness of our Reserve component forces—forces that also are mobilizing for deployment to Bosnia.

Additionally, the bill authorizes a new military housing privatization initiative. This initiative, which was requested by the administration, will allow the Department of Defense to utilize new approaches to reduce the family housing backlog. To further enhance the quality of life of our troops, the agreement increases military construction funding by $480 million.

In order to ensure the readiness of our forces, the conferees added over $1 billion to the operations and maintenance accounts. To further protect the readiness accounts, the conferees also provided $647 million for ongoing operations in northern and southern Iraq.

The conferees, understanding the importance of preserving long-term readiness, also authorized significant increases in the procurement and R&D accounts. They took steps to ensure that the United States maintains its technological edge over any potential enemy, and that our smaller force becomes a more capable force. The B–2 bomber is just one example. The conferees repealed the previous restrictions on procurement of long-lead items for the B–2 program and the standing cap on the number of bombers produced. They also added $493 million for B–2 procurement. The B–2 represents this Congress' renewed effort to preserve a strong American defense.

Finally, in an effort to assist communities affected by base closures, the conferees attempted to improve the process for disposal of property and included authorization for important projects such as the conversion of Joliet Arsenal to the Midewin National Tallgrass Prairie. Under the plan, this former Army facility will provide the Joliet community with the increased economic opportunity, while allowing for the establishment of a premier conservation and recreation area in the most populous region in the Midwest. I was pleased to assist in including this important provision and look forward to seeing its successful implementation.

With this bill the Republican-led Congress has met its responsibility to provide our forces with the most modern equipment available, ensuring their overwhelming superiority on the battlefield. We have taken steps to ensure that our forces, though smaller, maintain the ability to project power around the world—quickly and decisively. We have taken the lead in protecting both our deployed forces and our home land against ballistic missile attack.

The President and many of our colleagues on the other side of the aisle oppose this bill. But the choice is clear. A vote for this bill is a vote to restore our national defense, and a vote to support the American men and women who serve in our Armed Forces. A vote against it, is a vote to continue down the path to a hollow force.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes, 36 seconds.

Mr. NUNN. I thank the Chair.

Mr. President, the Senator from Alaska, Senator STEVENS, who is a real defense expert, having been involved in defense appropriations for quite a while, made a point this morning that I had been making about this bill that I think bears repeating, and that is he said there are far too many reports and certifications. And one example he gave was a delay of all defensewide research funds until 14 days after a report is received. That includes even the BMD program which so many people here are concerned about.

Mr. President, this report can be made, but it is a 14-day interruption. This is the kind of thing that drives defense management crazy because this interrupts ongoing defense research contracts. So this is just one example of what I call micromanagement that is all the way through this bill.

Mr. President, as we close this debate, I wish to summarize the reasons why I am voting against the defense authorization conference report for the first time since I have been in the Senate, including 6 years that I have served in the minority. While there are a number of provisions I support, and I enumerated those this morning, the conference report contains many fundamental flaws that are contrary to the best interests of sound management of our national defense activities as well as the U.S. taxpayers.

On balance, Mr. President, this bill's bad policy outweighs its good policy. I am particularly troubled by the bill's numerous provisions which are simply what I would call bad government. These include elimination of the independent oversight position of Director of Operational Test and Evaluation. This position was established in 1983 under an initiative from Senator ROTH, Senator GRASSLEY, and Senator PRYOR to ensure the testing of major weapons systems would be evaluated by an office independent of those developing and managing the weapons programs.

Senator PRYOR has spoken on this subject, and I had expected Senator GRASSLEY and Senator ROTH to speak on the subject, but I am sure this is of some concern to them.

It not only abolishes the position, but it repeals key protections for the Director of the OTE.

Second, elimination of the key civilian oversight position for special operations. This was part of a comprehensive effort in 1986 by Senators such as Senator COHEN and myself to improve our special operations forces. The military commander of those forces was given authority akin to a civilian service secretary, making the Assistant Secretary even more important to civilian control, and this position is eliminated in this bill.

Third, the unseemly and I think unnecessary rush to sell the Naval Petroleum Reserve in 1 year, which the Congressional Budget Office estimates could cost the taxpayers up to $1 billion. Because of the CBO reservations, the reconciliation bill dropped this provision altogether, yet this conference report still mandates the sale within a year, and one company has a potential inside track, according to all the information I have received. This lessens the competitive climate and could cost the taxpayers a lot of money.

Fourth, the inclusion of numerous "buy American" protectionism provisions where there is no showing of a critical domestic industrial base need. The conference agreement does not add just one "buy American" provision; it adds over eight. It also makes existing "buy American" provisions more onerous and undermines some of the key goals of last year's Acquisition Streamlining Act. And I repeat what I said this morning, Mr. President. Our advantage in defense exports is a significant part of our trade picture. We have an advantage here. It is very strange that we would be inserting "buy American" provisions in this bill in large number when that is likely, very likely, to end up hurting our own export capabilities. I find it strange that the Republican majority of the House and Senate, committed to free trade and market competition, would inject the most sweeping "buy American" provisions we have had in a defense bill in many years.

Fifth, a prohibition on purchasing foreign vessels to convert the remaining five sealift ships. All conversion is currently done in U.S. yards but this provision would mean an expenditure of $1 billion to $1.5 billion for new ships versus the $350 million for conversion of existing ships. This provision is a sweetheart deal for certain domestic shipbuilders.

Sixth, nonmerit, noncompetitive earmarkings. Through the bill are numerous legislative and report language earmarkings for specific contracts to specific contractors.

We worked very hard over the years in the authorization committee to avoid this approach because there is too great a danger that awards under such a system could be based on political and parochial considerations rather than the best interests of national defense. These earmarks are costly to the taxpayers because they freeze out competition, and they are bad for defense capabilities because they are not based on merit or quality.

Seventh, the shipbuilding provisions contain numerous provisions that can only be labeled sweetheart deals for specific shipbuilders. A very innovative Senate concept developed by Senator LOTT and Senator COHEN was broadened in conference into a shipbuilding grab bag with something for everyone. This includes directed procurement of roll-on/roll-off ships at specific shipyards, directed procurement of six destroyers at specific shipyards and directed use of a ship maintenance contract at a specific shipyard.

Mr. President, while we are trying to reduce the budget, I find it very ironic and sad that we are restricting competition; we are basically making every effort in this bill to assign certain ships to certain places without competition, which is the most expensive possible way you can build these ships and repair the ships.

Eighth the conference committee includes submarine research and development language that ignores the crucial tradeoff in very high technology, cutting-edge technology, which is what submarines really involve. The tradeoff, the critical tradeoff is between cost and risk. There simply is no accounting for risk in this provision.

Ninth, the Guard and Reserve equipment. The bill that came out of conference in this area is worse than either one that went in. This is because all of the additional funds for Guard and Reserve equipment are designated for specific programs, thus eliminating any kind of real weighing or prioritization within the Department of Defense. The appropriations bill which took a generic approach and put the money in a broad account for the determination of the Secretary of Defense and others familiar with the procurement system is a much better approach.

Mr. President, I ask unanimous consent that my detailed listing of provisions here as well as information from the Secretary of Defense and the administration with their objections be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Senator Sam Nunn (D-Ga), Ranking Member of the Senate Armed Services Committee, today released the following statement:

I congratulate Senator Thurmond upon the completion of the House-Senate conference on the National Defense Authorization Act for Fiscal Year 1996. Senator Thurmond has shown great patience and endurance through a long and difficult negotiation with the House.

Out of respect for Senator Thurmond, particularly in his first year as chairman, I have signed the conference report. This will give the Senate the opportunity to consider the report. I want to make it clear, however, that I have serious reservations about the conference report, and I plan to vote against the report when it is considered by the Senate.

During the conference, the Administration raised a number of important objections to the bill:

The Administration identified constitutional problems with the restrictions on the President's foreign policy and Commander-in-Chief powers imposed by the provisions on contingency funding and UN Command and Control.

The Administration also raised serious objections to the ballistic missile defense legislation, which contains National Missile Defense language that goes well beyond the mandates of both the House-passed and Senate-passed bills.

The Administration has expressed serious concerns about the impact of the proposed conference report language on Russian consideration of the START II Treaty, which is designed to produce a major reduction in Russian nuclear weapons.

The Administration is also concerned that the language could lead the Russians to abandon other arms control agreements if they conclude that it is U.S. policy to take unilateral action to abandon the ABM Treaty.

I have serious reservations about these provisions and numerous other provisions of the conference report, including:

Legislation that would abolish the statutory requirement for an Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, which could undermine civilian oversight of special operations.

Legislation that would abolish the statutory requirement for an independent Director of Operational Test and Evaluation, which could undermine unbiased testing of major weapons systems.

The Naval Petroleum Reserve Sale provision, which unwisely establishes a one-year time frame for the sale, even though the budget reconciliation bill no longer mandates sale within a year. The one year period is insufficient to ensure that the taxpayers get the maximum value though knowledgeable competitive bidding.

Directed procurement of specific ships at specific shipyards without a clear industrial base requirement, which undermines the cost-saving potential of competition.

Buy American provisions for ships and naval equipment which will result in enormous cost increases for naval vessels and which could produce an unfavorable reaction against U.S. military sales abroad—one of the strongest elements of our export economy.

Mandated spending "floors" in the shipbuilding language—requirements to spend specified amounts for particular programs—which directly contravene the longstanding agreement between the Armed Services and Appropriations Committees to not place "floors" in the Authorization bill.

An earmarked non-competitive ship maintenance contract for a specific shipyard.

Creation of a special congressional panel on submarines, which needlessly duplicates the oversight role of the Armed Services Committee.

Failure to include Senate-passed provisions which should have been non-controversial, such as U.S.-Israeli Strategic Cooperation, the Defense Business Management University, and a North Dakota land conveyance that meets all of the Senate's objective criteria.

Weakening the Senate-passed formula for equity in cost-of-living adjustments for military retirees.

Designating every single line of National Guard and Reserve procurement funds, rather than providing generic categories that can be used by the Department of Defense to meet priority Guard and Reserve requirements.

Earmarking Department of Energy defense funds for numerous unrequested projects and programs at designated sites.

Restrictions on access of servicewomen and dependents overseas to privately-funded abortions, and the imposition of special discharge procedures for HIV-positive servicemembers—a small fraction of our military population—which needlessly inject domestic political issues into military manpower policies.

I recognize that the Senate could not prevail on all issues. There are many other compromises within the conference report which I do not particularly support but which I understand in the context of the give and take of conference. The issues I have raised in this statement, however, represent fundamental flaws in the conference agreement.

If the conference report is not approved by the Senate, or if the legislation is vetoed by the President, we will have an opportunity to correct these flaws. The conference report contains important legislative authorities, such as:

A variety of military pay and allowance provisions.

Approval of Secretary Perry's family and troop housing initiative.

Detailed acquisition reform legislation that complements last year's Federal Acquisition Streamlining Act.

Senator Thurmond and the Committee worked long and hard to develop these important provisions, and I pledge to work towards their enactment in a subsequent bill if the legislation in this conference report is not enacted into law.

THE SECRETARY OF DEFENSE,
Washington, DC, December 15, 1995.

Hon. THOMAS A. DASCHLE,
Democratic Leader,
U.S. Senate, Washington, DC.

DEAR MR. LEADER: I would like to convey my assessment of the conference on the National Defense Authorization Act for Fiscal Year 1996 (H.R. 1530). The bill in its current form continues to contain objectionable provisions that raise serious constitutional issues and unduly restricts our ability to execute our national security and foreign policy responsibilities.

The bill would require deployment by 2003 of a costly missile defense system to defend the U.S. from a long-range missile threat which the Intelligence Community does not believe will ever materialize in the coming decade. By forcing an unwarranted and unnecessary NMD deployment decision now, the bill would needlessly incur tens of billions of dollars in missile defense costs and force the Department of Defense prematurely to lock into a specific technological option. In addition, by directing that the NMD be "operationally effective" in defending all 50 states (including Hawaii and Alaska), the bill would likely require a multiple-site NMD architecture that cannot be accommodated within the terms of the ABM Treaty as now written. By setting U.S. policy on a collision course with the ABM Treaty, the bill puts at risk continued Russian implementation of the START I Treaty and Russian ratification of START II, two treaties which together will reduce the number of U.S. and Russian strategic nuclear warheads by two-thirds from Cold War levels, significantly lowering the threat to U.S. national security.

The bill also imposes restrictions on the President's ability to conduct contingency operations that are essential to the national interest. The restrictions on funding to commence a contingency operation and the requirement to submit a supplemental request within a certain time period to continue an operation are unwarranted restrictions on the authority of the President. Moreover, by requiring a Presidential certification to assign U.S. Armed Forces under United Nations (UN) operational or tactical control, the bill infringes on the President's constitutional authority.

In addition, the Administration has serious concerns about the following: onerous certification requirements for the use of Nunn-Lugar Cooperative Threat Reduction funds, as well as subcaps on specified activities and elimination of funding for the Defense Enterprise Fund; restrictions on the Technology Reinvestment Program; restrictions on retirement of U.S. strategic delivery systems; restrictions on the Department of Defense's ability to execute disaster relief, demining, and military-to-military contact programs; directed procurement of specific ships at specific shipyards without a valid industrial base rationale; restrictions on my ability to manage the Department of Defense effectively, including the abolition of the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict and the Director of Operational Test and Evaluation.

We will weigh heavily the actions of the Congress on these matters in advising the President whether to veto the Defense authorization bill that is ultimately presented to him. This letter outlines many, but not all of the concerns with the legislation. I continue to be willing to work with the Congress to develop an acceptable bill. In its current form, however, I would have no recourse but to recommend a veto.

Sincerely,

WILLIAM J. PERRY.

STATEMENT OF ADMINISTRATION POLICY

If the Conference Report on H.R. 1530 were presented to the President in its current form, the President would veto the bill.

The Conference Report on H.R. 1530, filed on December 15, 1995, would restrict the Administration's ability to carry out our national security objectives and implement key Administration programs. Certain provisions also raise serious constitutional issues by restricting the President's powers as Commander-in-Chief and foreign policy powers.

The bill would require deployment by 2003 of a costly missile defense system to defend the U.S. from a long-range missile threat which the Intelligence Community does not believe will ever materialize in the coming decade. By forcing an unwarranted and unnecessary National Missile Defense (NMD) deployment decision now, the bill would needlessly incur tens of billions of dollars in missile defense costs and force the Department of Defense (DOD) prematurely to lock into a specific technological option. In addition, by directing that the NMD be "operationally effective" in defending all 50 states (including Hawaii and Alaska), the bill would likely require a multiple-site NMD architecture that cannot be accommodated within the terms of the ABM Treaty as now written. By setting U.S. policy on a collision course with the ABM Treaty, the bill puts at risk continued Russian implementation of the START I Treaty and Russian ratification of START II, two treaties which together will reduce the number of U.S. and Russian strategic nuclear warheads by two-thirds from Cold War levels, significantly lowering the threat to U.S. national security.

The bill also imposes restrictions on the President's ability to conduct contingency operations that are essential to the national interest. The restrictions on funding to commence a contingency operation and the requirement to submit a supplemental request within a certain time period to continue an operation are unwarranted restrictions on the authority of the President. Moreover, by requiring a Presidential certification to assign U.S. Armed Forces under United Nations (UN) operational or tactical control, the bill infringes on the President's constitutional authority.

In addition, the Administration has serious concerns about the following: onerous certification requirements for the use of Nunn-Lugar Cooperative Threat Reduction funds, as well as subcaps on specified activities and elimination of funding for the Defense Enterprise Fund; restrictions on the Technology Reinvestment Program, restrictions on retirement of U.S. strategic delivery systems; restrictions on DOD's ability to execute disaster relief, demining, and military-to-military contact programs; directed procurement of specific ships at specific shipyards without a valid industrial base rationale; provisions requiring the discharge of military personnel who are HIV-positive; restrictions on the ability of the Secretary of Defense to manage DOD effectively, including the abolition of the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict and the Director of Operational Test and Evaluation; and finally the Administration continues to object to the restrictions on the ability of female service members or dependents from obtaining privately funded abortions in U.S. military hospitals abroad.

While the bill is unacceptable to the Administration, there are elements of the authorization bill which are beneficial to the Department, including important changes in acquisition law, new authorities to improve military housing, and essential pay raises for military personnel. The Administration calls on the Congress to correct the unacceptable flaws in H.R. 1530 so that these beneficial provisions may be enacted. The President especially calls on the Congress to provide for pay raises and cost of living adjustments for military personnel prior to departure for the Christmas recess.

Mr. NUNN. Mr. President, in closing, I understand the give and take of a conference and that no bill is perfect. I have never seen a perfect bill on this floor, and I do not have that as my standard. However, this conference report goes far beyond that which can be justified in that give and take context.

I would further point out that a full defense appropriations bill including $7 billion more than the President requested has been signed into law. I supported that bill. I spoke for it. I urged that the President not veto it. I urged that he approve it. So the money is not the issue here with me.

I favored increasing the defense budget. We are not debating the funding bill. We are debating an authorization bill and the issues of matters of policy, very important matters of policy, not matters of the level of appropriations. I cannot vote for the bad policy embedded in this conference report. If the bill is vetoed, as has been recommended by the Secretary of Defense, we will have an opportunity to correct the many flaws and produce a bill that can be signed into law. There are other provisions which I enumerated this morning which I strongly support, and I will work certainly with Senator THURMOND in retaining those and in making whatever corrections are required if this bill is vetoed by the President and if a veto is not overridden.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. This defense authorization bill is a sound bill and should be enacted into law. I wish to thank the Senators and the staff members on both sides who helped to prepare and support this bill for the great service they rendered to their country.

Mr. President, I am pleased that Senators will now have the opportunity to express their support for our military men and women by voting to approve the conference agreement on the National Defense Authorization Act for fiscal year 1996.

As my colleagues prepare to vote on this agreement, I would ask them to make absolutely sure that they do so with the full knowledge that this is a period of high risk and exceptional danger for our military. The President has committed more than 30,000 uniformed men and women to a hazardous and lengthy operation in the former Yugoslavia. The Congress must make every effort to ensure that nothing—absolutely nothing—is done to jeopardize or impede them in any way.

I find it impossible to understand how any Senator could vote against a defense authorization bill when the President is ordering troops into harm's way. This bill contains many essential authorities for programs, systems, acquisitions, administration, operations, and quality of life. I do not know how I could face my constituents if I voted against taking care of the troops, who are on their way to Bosnia, for any of the reasons I have heard offered by those who want to defeat this bill.

Mr. President, the fine men and women who now serve in our military are being asked, once again, to put their lives at risk in a foreign land. They do not have the option to refuse to go if they disagree with some aspect of the operation. Many of us in the Senate continue to have serious doubts about this mission, yet, every member of the Senate has gone on record to support the troops unequivocally and to provide them with all the necessary resources and support to carry out their mission and ensure their security. The Senate resolution in support of the troops will ring hollow without the action to back them up. The authority necessary to translate those words into real, tangible support, is contained in the conference agreement now before the Senate.

I am dismayed to see so many of my colleagues picking out some provision in the report, and then stand here on the floor of the Senate to say that they cannot vote for the bill because they disagree with the provision. There are 995 pages in the conference agreement this year. It reconciles two of the most complex bills produced by the Congress. I would suggest to my colleagues that no bill meets everyone's expectations completely. Only gridlock could result from such an approach.

Mr. President, this is not the time to turn a defense bill into a political issue, as some have chosen to do. The only result of politicizing this bill will be to disadvantage the Department of Defense and our troops at a time when they are focused on a major international operation. The House recognized this and approved the conference agreement on a vote of 267 to 149. It is important that my colleagues and the administration clearly understand that every soldier, sailor, airman and Marine will feel the effects if this agreement is not adopted.

We have heard objections from the minority that this bill adds $7 billion that the President did not ask for. However, they have not mentioned that defense is now underfunded by at least $150 billion, according to the General Accounting Office. The Comptroller of the Department of Defense, John Hamre, testified before the Committee on Armed Services that defense is underfunded by at least $50 billion. Now we are engaged in a major deployment when the resources of the Department of Defense will be stretched even more. After having dramatically underfunded defense, reducing the Armed Forces, and at the same time requiring the military to perform at an operations tempo higher than during the Cold War for missions in Somalia and Haiti, the President is again deploying troops. How can there be any objection to additional funds?

One of the most important parts of this agreement is a provision that adjusts the automatic level at which service members can enroll in the Servicemen's Group Life Insurance program to $200,000. Ironically, we need to make an adjustment to SGLI again as we are deploying U.S. Forces in harm's way; the last time we did this was prior to the Persian Gulf war. I sincerely hope that no family will lose a loved one and therefore need to receive this increased benefit. However, the President has told us to expect casualties in Bosnia, and this protection will not take effect unless this bill is enacted.

The Committee on Armed Services concentrated on improving the quality of life for our military personnel and their families. We did not do this because our forces would deploy to Bosnia, but because there was a need. The list of initiatives in this area reflects a high degree of success. However, none of these improvements will occur unless this agreement is enacted.

We authorized a 2.4-percent pay raise and a 5.2-percent increase in the basic allowance for quarters effective January 1, 1996. We also attempted to repair a breach of faith with our military retirees by restoring the military retirement COLA dates to the same schedule as Federal civilian retirees. If the authorization is not approved, military retirees will continue to be treated unfairly, and military personnel will be denied the full pay raise and increase in the quarters allowance.

We included a provision that permits military families to use CHAMPUS for well-baby care, routine immunizations, and school physicals. The administration talks about doing this, but military families will continue to do without, or pay for these services out of pocket, unless this conference agreement is enacted.

I cannot understand how any Senator or the President could ask our service members to go to Bosnia, leaving their families alone in Germany and other places far from their homes, while at the same time denying them the pay raise, insurance coverage, allowances, and other quality of life improvements they deserve.

The bill contains the authority to reform the acquisition and procurement processes in accordance with the general effort to streamline Government. It also reforms the process for managing the procurement of information technology in order to provide our front-line troops with the latest and best information about their situation. All the acquisition reform provisions contained in sections D and E of the bill will be lost if the conference agreement is not enacted.

Procurement funding has declined by 44 percent since 1992 and procurement is at the lowest level as a percentage of the budget since the years prior to the Second World War. This agreement takes a step toward resolving that deficiency by authorizing items needed to fight and win decisively while minimizing the risk to our troops. It buys basics, invests to achieve savings, and focuses on the future.

The conference agreement would also authorize funds for the counter-proliferation support program. The nerve gas attacks in Japan and the bombing in Oklahoma this year show the need to protect not only our military personnel but also our citizens within the United States against the use of weapons of mass destruction. The conference report requires the Department of Defense, the Department of Energy and other appropriate Government agencies to report to Congress on their military and civil defense preparedness to respond to such emergencies. The conference report also authorizes DOD to provide assistance in the form of training facilities, sensors, protective clothing, antidotes, and other materials and expertise to Federal, State, or local law enforcement agencies.

The conference agreement authorizes funds for arms control to enable the United States to meet its treaty obligations to destroy or dismantle chemical and strategic nuclear weapons and material. It also provides $300 million for the Nunn-Lugar Cooperative Threat Reduction Program for the destruction of nuclear and chemical weapons in the former Soviet Union.

On the question of theater missile defense demarcation, the conference outcome is virtually identical to the Senate-passed provision. This should alleviate concerns about constraining the President's prerogatives in negotiations while fulfilling the constitutional responsibility of Congress to review the results of those negotiations. I believe we have addressed all the concerns of the administration and the minority conferees on this issue.

I am very disturbed to hear that some are working to defeat or veto the conference agreement over the ballistic missile defense provisions. These provisions are balanced and fair. If this veto comes to pass, it will become clear that the administration's arguments over the ABM Treaty were merely attempts to block the deployment of any type of national missile defense system, to include one that complies with the ABM Treaty. I find it hard to believe that the President would veto this important bill simply to deny the American people a defense against ballistic missiles.

Many aspects of this bill are important not only to military men and women but to all our citizens. The section on Department of Energy National Security Programs focuses resources on cleaning up the highest priority nuclear waste problems at the former nuclear materials production sites. It also funds the isolation and reduction of spent nuclear fuel rods, some of which are beginning to corrode. These problems cannot be addressed in fiscal year

1996 unless the authorization bill is enacted.

The agreement establishes uniform national discharge standards for vessels of the Armed Forces and directs the clean up of DOD environmental problem sites. These and other environmental initiatives will be lost if the bill is not enacted.

President Clinton has urged our citizens and the Congress to support his Bosnia intervention. I have listened to his arguments about world leadership and our role in the world. Our troops will bear the brunt of his decision and they deserve to be supported, but their support will be compromised without the defense authorization. I am dismayed that any Senator would consider voting against this legislation or attempt to use this bill for political purposes. Politics used to stop at the water's edge, especially when our forces were deployed to a hostile fire area. I urge my colleagues and the administration to work toward the enactment of this conference agreement and not to jeopardize, disadvantage, or impede our Armed Forces.

Mr. President, I yield the floor. How much time do I have left?

The PRESIDING OFFICER. The Senator has 7 minutes and 35 seconds left.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I suggest we take 20 minutes to wait for Senator Daschle to get here from the White House.

In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, the Senate is waiting for our leaders to return from an important meeting with the President. I wish to address the Senate on another matter. I will be glad to yield to the managers at the time they want to request the vote on the defense authorization. I appreciate their courtesy.

Mr. President, I ask to be able to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENCOURAGING A BALANCED BUDGET

Mr. KENNEDY. Mr. President, earlier today, I noticed a rather extensive advertisement that was in the Washington Post, and also other newspapers, a full page advertisement. On one side are all the signatories of major industries. It was run in several of the newspapers. It says, "Without a Balanced Budget, the Party's Over, No Matter Which Party You Are In." These corporate and business leaders urge that the Congress move ahead with the President and pass it at the earliest possible time. I want to read to the Senate a letter I just sent to those who have signed this advertisement and point out the following reaction that I had to the letter itself:

Dear Sirs: I welcome and agree with the message in your two-page advertisement in the New York Times and the Washington Post this morning that America should live within its means and achieve a balanced budget. The issue is not whether we achieve a balanced budget, but how to do it in a way that assures that the sacrifices as well as the benefits of reaching a balanced budget are fairly shared among all Americans. I hope you agree that equal sacrifice is the heart of a fair balanced budget.

The original Republican budget plan was properly vetoed by President Clinton last week, because it failed to meet this test. It inflicted deep cuts in Medicare, Medicaid, education, the environment, and other important national priorities, and it included large tax breaks for wealthy individuals and corporations. Half of all the spending cuts in the Republican plan came from the bottom 20% of families in America, while only 9% of the cuts came from the top 20% of families in America. Two-thirds of the tax breaks in the Republican plan go to this same top 20% of Americans, while the bottom 20% would face a tax increase. The middle 60% of Americans would also be hit unfairly. They would lose an average of $600 each because of the spending cuts, and get back only a third of that amount in tax reductions. These are conservative distributional estimates, and they plainly demonstrate the unequal sacrifices and unequal benefits contained in the Republican plan.

You say that every form of spending should be on the table, "including long term entitlement programs." I agree. By the year 2002 the largest of all entitlement programs will be the tax entitlements. Between now and the year 2002, the federal government will spend over $4 trillion in tax loopholes and tax preferences which go disproportionately to wealthy individuals and corporations. In 2002, these tax entitlements will represent a large share of the budget than Social Security, Medicare, Medicaid, or any of the other entitlement programs. But so far, out of the $4 trillion of tax entitlements, the Republicans are willing to cut only $16 billion.

Surely, if elderly couples depending on Medicare and having an average income of less than $17,000 a year would be required by the Republican plan to pay an additional $2,500 in Medicare premiums to balance the budget over the next seven years, corporations can be asked to contribute their fair share. If four million children would lose their health care and five million senior citizens and disabled Americans would lose their Medicaid protection to balance the budget, corporations can be asked to bear their fair share. Surely, if education funding would be cut by 30% and millions of college students would have the cost of their student loans increased to a point where they may no longer be able to afford college, corporations can be asked to bear their fair share.

If you are truly interested in balancing the budget, I hope you will agree that corporations should bear their fair share of the cuts, along with working Americans, senior citizens, children, and students.

I make the following proposal. The Republican plan would provide a reduction of 17% in the Federal budget over the next seven years, exclusive of defense spending and Social Security. Reducing the $4 trillion in tax subsidies by 17% would achieve savings of $680 billion. If we applied the 17% reduction to only one-quarter of the tax expenditures, we would save $170 billion—more than enough to provide the additional savings needed in the current impasse to balance the budget fairly in seven years. Surely it makes sense to reduce corporate subsidies by a similar percentage as programs that benefit working Americans and the poor are being cut.

Or, a number of specific corporate loopholes that are contrary to sensible national policy could be eliminated entirely to achieve the needed savings. It would make sense under this approach to focus specifically on tax subsidies that have the direct or indirect affect of encouraging American businesses to move transactions and jobs overseas. It is particularly offensive, at a time when large numbers of American workers are losing their jobs and being dislocated by changes in the economy, that the tax code is subsidizing corporations to move transactions and job overseas.

I urge you to appoint a task force of CEOs to put together a proposal by which tax entitlements would bear their fair share of needed budget reductions. I am ready to meet with this task force at any time to discuss your proposals. If you took this step, the balanced budget which we all support would be within our grasp almost immediately. Most importantly, the balanced budget would be achieved with equal sacrifice from all Americans, without destructive cuts to Medicare, Medicaid, education, and the environment.

I look forward to hearing from you that you are prepared to bear your share of the sacrifice in the name of fairness as we put America on a course of living within its means.

Sincerely yours,

Edward M. Kennedy.

Mr. President, I ask unanimous consent that the two-page advertisement be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, December 19, 1995]

A Bipartisan Appeal from Business Leaders to the President of the United States Bill Clinton, House Speaker Newt Gingrich, Senate Majority Leader Bob Dole, Senate Minority Leader Tom Daschle, House Majority Leader Dick Armey, House Minority Leader Dick Gephardt, and All Members of Congress

Without a balanced budget, the party's over. No matter which party you're in.

There are moments in history when a single choice can mean the difference between vastly differing futures—one bright, the other dark. We believe that you, the political leaders of this country, are now confronting such a choice in your deliberations over a plan to balance the federal budget.

We are convinced that the health of our economy rests on your ability to avoid political gridlock and give the American people what leaders of both parties say they favor and, indeed, have agreed to—a credible plan to balance the budget. By "credible" we mean that such a plan should:

Use realistic projections that assume the fiscal and economic scenario developed by the Congressional Budget Office and reviewed by objective third parties:

Take no longer than seven years as the maximum time period by which a balanced budget would be achieved;

Ensure that the process of deficit reduction is achieved in roughly equal steps throughout these seven years, rather than "backloading" the politically difficult decisions into the next century; and

Have everything on the table, including long-term entitlement programs as well as the size and shape of any tax cuts.

Included among us are Democrats and Republicans, Liberals and Conservatives. What unites us in this appeal is our common concern for America's future.

All of us are leaders of institutions keenly sensitive to interest rates and the short- and long-term outlook for the U.S. economy. We believe that the recent decline in long-term interest rates and much of the boom in the stock market is directly predicated on the financial markets' expectation that a successful bipartisan budget-balancing compromise will be reached quickly, and that a credible long-term plan will be put in place in short order.

Federal Reserve Board Chairman Alan Greenspan recently observed: "If there is a shattering of expectations that leads to the conclusion that there is indeed an inability to ultimately redress the corrosive forces of deficit, I think the reaction would be quite negative—that is, a sharp increase in long-term interest rates . . . I think we would find that with mortgage rates higher and other related rates moving up, interest-sensitive areas of the economy would begin to run into trouble."

As you continue your negotiations, we ask you to reflect on the full consequences of success or failure. However Americans ultimately resolve our honest and principled disagreements over the size and scope of government, America must begin to live within its means.

The time for good economics as well as good politics is NOW.

America is waiting.

Respectfully yours,

PAUL ALLAIRE,
Chairman and CEO, Xerox Corporation.
RICHARD H. JENRETTE,
Chairman and CEO, The Equitable Companies, Incorporated.
JON CORZINE,
Chairman and Senior Partner, Goldman, Sachs & Co.
PETER G. PETERSON,
Chairman, The Blackstone Group, President, The Concord Coalition.
M.R. GREENBERG,
Chairman and CEO, American International Group, Inc.
JOHN SNOW,
Chairman and CEO, CSX Corporation, Chairman, The Business Roundtable.

This message has been paid for by the above named individuals and organizations.

[From the Washington Post, December 19, 1995]

COMMITTEE IN FORMATION

Duane L. Burnham, Abbott Laboratories.
Paul H. O'Neill, Alcoa.
H. L. Fuller, Amoco Corporation.
Mitt Romney, Bain Capital, Inc.
Nolan D. Archibald, The Black & Decker Corporated.
Josh S. Weston, Automatic Data Processing, Inc.
Lawrence A. Bossidy, Allied Signal Inc.
Richard de J. Osborne, ASARCO Incorporated.
John B. McCoy, Banc One Corporation.
Stephen A. Schwarzman, The Blackstone Group.
John Whitehead, AEA Investors Inc., Former Deputy Secretary of State.
E. Linn Draper, Jr., American Electric Power.
Robert E. Donovan, ABB Inc.
Vernon R. Loucks, Jr., Baxter International Inc.
Michael R. Bloomberg, Bloomberg Financial Markets.
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John R. Walter, R. R. Donnelley & Sons Company.
Frederick W. Smith, FedEx.
Alex Trotman, Ford Motor Company.
Lawrence Perlman, Ceridian Corporation.
Joseph L. Rice, III, Clayton, Dubilier & Rice, Inc.
James R. Houghton, Corning, Incorporated.
George M. C. Fisher, Eastman Kodak Co.
Richard L. Thomas, First Chicago NBD Corporation.
Melvyn J. Estrin, FoxMeyer Health Corporation.
K. T. Derr, Chevron Corporation.
M. Thomas Moore, Cleveland-Cliffs Inc.
Philip J. Purcell, Dean Witter, Discover and Co.
William E. Butler, Eaton Corporation.
Paul M. Montrone, Fisher Scientific International Inc.
John B. Yasinsky, GenCorp.
Robert J. Eaton, Chrysler Corporation.
Richard L. Scott, Columbia/HCA Health Care.
John S. Chalsty, Donaldson, Lufkin & Jenrette, Inc.
Lee R. Raymond, Exxon Corp.
Jack B. Critchfield, Florida Progress Corporation.
John F. Smith, Jr., General Motors Corporation.
Stanley C. Gault, The Goodyear Tire & Rubber Company.
Frank A. Olson, The Hertz Corp.
Ralph S. Larsen, Johnson & Johnson.
A.J.C. Smith, Marsh & McLennan Companies, Inc.
Hugh L. McColl, Jr., NationsBank.
Charles R. Lee, GTE Corporation.
David A. Jones, Humana, Inc.
Paul S. Levy, Joseph Littlejohn & Levy.
Joseph L. Dionne, The McGraw-Hill Companies.
J. Roderick Heller, III, NHP Incorporated.
Warren Hellman, Hellman & Friedman.
Louis V. Gerstner, Jr., IBM Corporation.
Floyd Hall, Kmart.
Daniel P. Tully, Merrill Lynch & Co., Inc.
Stephen Berger, Odyssey Partners, L.P.
Thomas L. Gossage, Hercules Incorporated.
Frank E. Baxter, Jeffries & Co., Inc.
Henry R. Kravis, Kohlberg Kravis Roberts & Co.
Roger Milliken, Milliken & Company.
Willis B. Wood, Jr., Pacific Enterprises.
Donald B. Marron, Paine-Webber, Incorporated.
Hardwick Simmons, Prudential Securities, Inc.
Robert E. Denham, Salomon Inc.
Charles Lazarus, Toys 'R' Us.
Tony L. White, The Perkin-Elmer Corporation.
James P. Schadt, The Reader's Digest Association, Inc.
John H. Bryan, Sara Lee Corporation.
Joseph T. Gorman, TRW Inc.
H. William Lichtenberger, Praxair, Inc.
Donald R. Beall, Rockwell International Corporation.
Dana G. Mead, Chairman, National Assn of Manufacturers.
L. Dennis Kozlowski, Tyco International Ltd.
Arthur R. Ryan, The Prudential Insurance Company of America.
Wolfgang R. Schmitt, Rubbermaid, Inc.
A. C. DeCrane, Jr., Texaco Inc.
Dr. William H. Joyce, Union Carbide Corporation.
James A. Unruh, Unisys Corporation.
David R. Whitwam, Whirlpool Corporation.
Keith E. Bailey, The Williams Companies, Inc.
William R. Toller, Witco Corporation.
Al Moschner, Zenith Electronics Corporation.

This message has been paid for by the above named individuals and organizations.

Mr. KENNEDY. Mr. President, I noted, as I mentioned earlier, that this advertisement points out the responsibilities all of us have in reaching a balanced budget as a challenge to all of us here in the Congress, to the administration, and it is really a challenge to all Americans. It is one that we all should be mindful of, and I hope that our friends that were signatories to that proposal would also feel that in a sense of fairness and equity, they, too, would like to do their part. We invite them to be a part of the solution to this challenge that we are all facing at this time so that what is eventually proposed, which hopefully will have bipartisan support, will be able to be looked on as being fair to all Americans. It is in that spirit that these remarks are made.

I thank the chairman and the ranking member of the Armed Services Committee. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GORTON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996—CONFERENCE REPORT

The Senate continued with consideration of the conference report.

Mr. WARNER. Mr. President, I address this to the chairman and ranking member. Given the deteriorating weather and the need to have the vote tonight, the distinguished majority leader is quite amenable to leave the vote open for an extended period to accommodate a member or such Members that might be delayed.

Mr. THURMOND. Mr. President, I ask unanimous consent that we yield back time remaining on both sides and proceed to a vote, and we keep the vote open for 30 minutes after those present have voted.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, I would like to have an opportunity for the Members that are at the White House to have an opportunity to come back. As I understand, the majority leader is willing to leave the vote open until they arrive. If it will just stay open.

Mr. THURMOND. That is all right.

Mr. NUNN. If the Senator would state it in a form that does not have a time limit.

Mr. THURMOND. That would be all right. I ask unanimous consent that the vote remain open until Members now at the White House have an opportunity to return to the Senate and vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The clerk will call the roll.

Mr. JEFFORDS. Mr. President, on this vote I have a pair with the Senator from Texas [Mr. GRAMM]. If he were present and voting he would vote "aye." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

Mr. LOTT. I announce that the Senator from Missouri [Mr. BOND], the Senator from Texas [Mr. GRAMM], and the Senator from Delaware [Mr. ROTH] are necessarily absent.

Mr. FORD. I announce that the Senator from California [Mrs. BOXER] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 43, as follows:

[Rollcall Vote No. 608 Leg.]

YEAS—51

Abraham
Ashcroft
Bennett
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Grams
Grassley
Gregg
Hatch
Heflin
Helms
Hollings
Hutchison
Inhofe
Kassebaum
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McConnell
Murkowski
Nickles
Pressler
Robb
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—43

Akaka
Baucus
Biden
Bingaman
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
McCain
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Rockefeller
Sarbanes
Simon
Wellstone

PRESENT AND GIVING A LIVE PAIR

Jeffords, against

NOT VOTING—4

Bond
Boxer
Gramm
Roth

So the conference report was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, let me yield to the distinguished chairman of the Armed Services Committee, who did an outstanding job, and I congratulate him and members of our staff and our colleagues on this side for passing this most important conference report. I yield to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I would like to express my deep appreciation to all of the Members who worked hard to prepare this bill and who supported it. I also would like to express my deep appreciation to all the staff members who worked so hard to prepare this bill. This is a good bill. It serves the military well. It serves the country well. And I am sure all who support it will be proud that they did support it because it is going to help the soldiers and their families in every way possible.

Thank you very much.

Mr. WARNER. Mr. President, I wish to join other members of the Armed Services Committee in stating our profound appreciation to the distinguished chairman, Senator THURMOND, for his work on this bill. I am trying to recall a quote by the Duke of Wellington in the close of the Battle of Waterloo when he said:

> . . . a damned nice thing—the nearest-run thing you ever saw in your life.

The vote on this conference report was also very close, and I doubt if it would have been passed without the absolute determination and the total dedication of the distinguished chairman of the Senate Armed Services Committee, Mr. THURMOND of South Carolina, and we all render this fine gentleman a hand salute.

UNANIMOUS-CONSENT REQUEST—HOUSE JOINT RESOLUTION 132

Mr. DOLE. Mr. President, let me advise there will be no more votes today because the weather is lousy out there and the roads are going to be difficult if you live in the suburbs. But I would propound a unanimous-consent request. I assume there will be an objection, and there might be someone, a couple on this side who would like to speak briefly.

Yesterday, the House passed by an overwhelming vote House Joint Resolution 132, which relates to balancing the budget, and so forth, over 7 years. So I would ask unanimous consent that the Senate now proceed to the consideration of House Joint Resolution 132, a resolution affirming that budget negotiations be based on the most recent technical and economic assumptions of the Congressional Budget Office, and shall achieve a balanced budget by fiscal 2002 based on those assumptions.

Mr. DASCHLE. Mr. President, reserving the right to object, I would inquire of the majority leader whether the resolution includes all of the priorities that we listed in the continuing resolution which passed about 3 weeks ago?

Mr. President, it is my understanding that the priorities that were listed in the continuing resolution are not included in this specific draft, and because they are not we would be compelled to object at this time. I hope that perhaps we could work out some language that would include those priorities, and then there would be no objection on this side.

Mr. DOLE. I thank the Democratic leader.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. I think we can work it out because we have already passed those priorities once, talking about veterans, Medicare, agriculture. There are I think six or seven. So let us see what we can do, or if the minority would like to propose an amendment, we could modify it. I think there are some who would like to speak even though there has been objection, if that is satisfactory.

Mr. DASCHLE. Sure.

Mr. DOLE. Let me indicate to my colleagues who are in the Chamber and those who may be in their offices that we have had, as I have said earlier, a very constructive discussion with the President and Vice President and Chief of Staff with reference to achieving a balanced budget over the next 7 years. There will be a meeting going on tonight with Mr. Panetta, Senator DOMENICI, Congressman KASICH, and others, and then, depending on what happens in that agreement, there may be another agreement of the principals either tomorrow morning or early afternoon, depending on everyone's schedule.

I think it is fair to say that at least I am optimistic about getting something done here that will satisfy a great majority of Americans and probably most people on both sides of the aisle—not everyone but most of my colleagues on each side of the aisle. There are certainly areas of difference, and we will not go into those at this time, but I think there was an agreement that there are at least five or six or seven categories where the leaders are going to have to be directly involved and the President is going to be directly involved, and he has agreed to be directly involved.

We hope to give you more detailed information as soon as it is available and as soon as we have something that we can really say this is it; we are serious; we are going to go to work; we are going to stay here today, tomorrow, whatever. It is our hope—and we have not worked out the schedule because I know some have some difficulties with it, but hopefully if we have, if we put it together tomorrow morning, then there will be a CR passed that would extend at least until December 27 or December 28 and perhaps an adjournment resolution to extend from this Friday until December 27.

We have not worked out those details. But in any event, I think the important point I should make is that I really believe we are going to start the process.

Now, will we finish the process and when will we finish the process? We would like to say we could put together the framework this year, by the end of the year, and then take some days for drafting, come back a couple days in January and finish the product. Some would like to do it all before New Year's Eve. I am not certain that is possible. But in any event, I think there is reason for optimism, bipartisan optimism and I hope it continues.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. I share the views expressed by the majority leader. I think there is reason for optimism tonight. I think the meetings held at the White House have been very productive. The President has committed to become personally involved in these negotiations. With a good-faith effort on both sides, there is renewed hope that we can reach an agreement. As the majority leader said, I do not know that there is any timeframe within which we can realistically reach that agreement tonight. We certainly know that these are difficult issues.

We agreed to reach an agreement in three areas. First, on the continuing resolution; second, on the schedule; and third, on the framework within which these negotiations would take place.

Leon Panetta will be talking with our Budget Committee people on both sides to discuss all three of those and hopefully reach an agreement sometime tomorrow, which then would allow us to go to our caucuses to discuss in detail what that agreement may entail. But there is no agreement tonight. There is simply an agreement to work out in three areas what that agreement might look like. If we can reach that tomorrow morning, I hope our caucuses could be informed and we will begin to go to work. But I again share the optimism expressed by the majority leader, and hopefully it will lead to even more optimistic developments in the days ahead. With that, I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

PAYMENT OF FEDERAL EMPLOYEES

Mr. HARKIN. Mr. President, here we are now in the fourth day of another Government shutdown.

I do not know how many more days it is going to go on. I hope there is some reason for optimism. But I want to point out, once again, as I have with the Senator from California, that over 200,000 Federal employees are not at work and, as a matter of fact, no Federal employees are getting paid for these 4 days. Right before the holiday season, right before Christmas, Federal workers all over this country are unsure of just how much money they are going to be paid or when they are going to be paid.

This is grossly unfair, Mr. President, grossly unfair that Congress would act so cavalierly toward decent, hard-working people. I know it is fun to point fingers at bureaucrats and that type of thing, but just keep in mind, many of those Federal workers who are now not being paid are the same Federal workers, or the same type of Federal workers, who were killed in the Oklahoma City bomb blast—our hearts went out to them—people doing their job, working for their country, doing the best they can to make sure our Government operates fairly and justly and in the best interest of our people. And yet now, right before Christmas, they are told, "We don't know if we can pay you." Some are told to go home, not come to work. But what is so grossly unfair about this, Mr. President, is that Members of Congress who caused this whole thing are getting paid. Senators continue to get paid. Members of the House continue to get paid.

Earlier this year, one of the first bills that we passed was the Congressional Accountability Act. As a matter of fact, here is the so-called Contract With America that Members of the House of Representatives put out. The first item in that Contract With America says: "It requires all laws that apply to the rest of the country also apply equally to Congress."

That was the first bill we picked up this year, and we passed it. I happen to have supported it. I thought it was long past time when Members of Congress should be covered by the same laws that apply to the people around the country. But the country found out during last month's partial Government shutdown that when it comes to paychecks, Congress gets special treatment. Congress is not covered by the same laws as other Federal workers. They do not get their pay, but Congress continues to get its pay during periods of shutdown.

We have passed three times this year a no-budget/no-pay bill or amendments that say if Congress shuts down, Members of Congress do not get paid or that we get treated exactly like the most adversely affected Federal worker.

It has been passed three times, but what happened? It just sort of got lost when it went to conference. In fact, I am told that the no-budget/no-pay amendment which was attached to the ICC bill was dropped in conference—just dropped in conference. It is still a part of the D.C. appropriations bill that is now languishing in the House. Let us see if the House has the courage to live up to its own Contract With America to make the laws that apply to Federal workers also apply to Congress, so that in periods of shutdown, Members of Congress will be hit in the pocketbook just as well as other Federal workers.

I have heard from my constituents. I know that people around the country have now been alerted to this, and they know we are getting treated differently. What difference does it make to the Speaker of the House if the Government shuts down? He gets his paycheck. What difference does it make to anyone in this body or the House? It does not make any difference. If the Government shuts down, Congressmen and Senators still get their pay.

So for those of us in the Congress, we do not have to worry about making the house payment or the car payment or buying presents for the kids, because we know that paycheck is going to be there. But for over 200,000 Federal workers, many of whom live in Virginia and Maryland, many of whom live in my State of Iowa and across this land, they do not know.

I saw an interview on television last night with some of these Federal workers. One after the other was saying, "We just don't know what kind of Christmas it is going to be. We don't know whether to buy presents or not because we don't know when and if we are going to get paid, we don't know when and if we are going to go back to work."

What a terrible thing to do to people. It is unconscionable that we would allow this to happen. I, for one, think we should have gone on a continuing resolution until January or February, keep these people on the job and let us work out this budget arrangement. Let the people go to work, but at least have enough decency and kindness and compassion that Federal workers can at least enjoy their Christmas. That is, unless you just absolutely do not care about them. Maybe there are some who do not care. But I care about them. I care very much about them, because they are doing a good job for our country in carrying out the mandates of Congress and this Government, and it is not right that we treat them differently than we treat ourselves.

So we should have no exemptions for Congress, no special deals. We should say that we are like the most adversely affected Federal worker. If we have a Government shutdown, Members of Congress and the Senate should not get their paycheck.

So, Mr. President, I will speak about it again tomorrow and every day that the Government remains shut down, pointing out the unfairness of it. I just hope that the House of Representatives will finish their work on the District of Columbia appropriations bill. We will see if they have the guts to leave on the no-budget/no-pay amendment that was adopted in the Senate. Send it to conference and let us get it acted on once and for all. I daresay, if Members of the House and the Senate were treated like the most adversely affected Federal worker, I just wonder how many days we would shut down the Government. I bet the number would approach zero.

So, Mr. President, I think it is time Members of the House and Senate be treated just like other Federal workers. With that, I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

VETERANS' BENEFITS

Mrs. HUTCHISON. Mr. President, I thank the Senator from Virginia for putting together a letter to the President asking the President to do what we believe he has the right to do, and that is pay veterans' benefits.

Obviously, all of us are going to continue to negotiate and work with our leaders and are negotiating to stop the shutdown of Government. But, Mr. President, we do not have a whole lot of time before veterans' benefits are going to be late or will not be there at all, and that is not right. These are earned benefits.

We believe and we have gotten legal opinions that say that the President has the right to declare that veterans' benefits are essential. Who could question that veterans' benefits are an essential part of Government?

But, in fact, the Veterans Affairs bill that was passed by both bodies and sent to the President was vetoed in recent days. Now, once again, we are faced with veterans' benefits not being paid. The President and his administration said during the last Government shutdown that veterans' benefits are not on the list, not on the essential list. We believe that is an erroneous assumption; that is an erroneous look at the regulation and the laws that are in place right now. If anything is essential in this Government, it should be veterans' benefits. In fact, the President has declared that the people who process the veterans' benefits are essential, but the benefits are not. I would leave you to get the logic of that.

Mr. President, we have sent a letter to the President—Senators WARNER, SIMPSON, DOLE, and myself, along with 34 other cosigners of the letter—asking the President merely to do what we believe he has the right to do, and let veterans know just before the holiday season that their benefits will not be late.

But, in fact, if the President does not do this, we are prepared to pass a bill through the Senate that would require him to do it, or give him the authority to do it. The House is going to take that bill up tomorrow or the next day. We will take it up immediately thereafter. But the President could keep us from having to go through that routine if he is sincere in wanting to do what is right for the veterans of our country.

I want to say thank you to Senator WARNER for starting this process, for bringing it to our attention. I also want to say, because there are people on the floor here, that the authorization bill for the Department of Defense that just passed was obviously tough. It was a close vote. A lot of people are responsible for the authorization going through, making sure that the Defense Department does have the funding that it needs, especially in this time when we have young men and women going to Bosnia and who will be there and will look to us for the stability of funding to make sure that they have what they need.

I thank Senator THURMOND, the chairman of the committee, for his leadership. He did a wonderful job. Without him, this bill would not have gone through. There are two or three other people who were integral to this process, and I want to say that Senator WARNER from Virginia, Senator LOTT from Mississippi, and Senator COHEN from Maine were essential to getting this bill through, to working it and staying with it and not giving up, despite the differences on the two sides of the aisle.

So I thank the Senator from Virginia, and I commend him for getting his letter to the President. I hope the President will respond to the veterans and give them a Christmas present. They should not be put at peril and should not have to worry about it.

Mr. WARNER. Mr. President, I thank my colleague from Texas for her thoughtful remarks. Indeed, she deserves an equal amount of credit for getting this conference report passed. True, our distinguished whip, Mr. LOTT, Mr. COHEN, and others, took active negotiating roles, but she, too, was there. We thank her.

I am delighted that the Senator mentioned the soldiers, sailors, airmen, and marines going to Bosnia because this letter, Mr. President, reflects the sentiment of the Congress of the United States toward veterans. But they will be veterans some day. It is the continuity of the treatment of veterans by the Congress of the United States that enables this country to continue to get the finest and the best qualified to come in and wear the uniforms of our armed services today, tomorrow, and in the future. So each time we deal with a veterans issue, we should think about the current generation serving, for they will some day be veterans, together with their families and loved ones.

I ask unanimous consent that this letter prepared by the Senator from Texas, Senator SIMPSON, Senator DOLE, myself, and others, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, December 19, 1995.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are disappointed that you chose to veto the 1996 Veterans Affairs, Housing, and Urban Development and Independent Agencies appropriations bill. Your veto threatens hardships for our nation's veterans, unless you exercise your authority to ensure basic entitlements required by law are continued.

We consider it an unresolved issue whether the "faithful execution of the laws" clause of Article II of the Constitution permits the President, in the absence of an appropriation, to enter into any obligation to pay benefits that are expressly required by law. It is our view that veterans' benefits have the same status as other earned benefits upon which people depend to live, and should be designated as essential and payments continued.

Assistant Attorney General Walter Dellinger, in his memorandum interpreting earlier Department of Justice opinions on the consequences of a lapse of appropriations, writes that, "Efforts should be made to interpret a general statute such as the Antideficiency Act to avoid the significant constitutional questions that would arise were the Act read to critically impair the exercise of constitutional functions assigned to the executive." Rather than avoiding this question, or ceding authority to Congress, we believe you should act to carry out the laws of the United States for the benefit of veterans.

If you decide not to declare veterans benefits essential, we intend to bring up a funding resolution quickly to provide necessary appropriations. We hope you will act first, making such action unnecessary.

Sincerely,

John Warner; Alan Simpson; Kay Bailey Hutchison; Bob Dole; Lauch Faircloth; Dan Coats; Pete V. Domenici; Rod Grams; Jon Kyl; Bill Frist; Richard Shelby; Craig Thomas; Richard G. Lugar; Alfonse D'Amato; Conrad Burns; Mitch McConnell; Ted Stevens; John H. Chafee; Judd Gregg; Bob Smith; Larry Pressler; Thad Cochran; Chuck Grassley; Jim Jeffords; Connie Mack; John McCain; Nancy Landon Kassebaum; Rick Santorum; Spencer Abraham; Olympia Snowe; Frank H. Murkowski; Dirk Kempthorne; John Ashcroft; Don Nickles; Trent Lott; Strom Thurmond; Larry E. Craig; Slade Gorton.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

THE DOD AUTHORIZATION CONFERENCE REPORT

Mr. LOTT. Mr. President, I, too, want to join in saying how pleased I am that we have passed this very important piece of legislation. There was extensive debate today, and I think all the important points have been made. I am proud of the Senate, that we did get it passed and sent it to the President. The defense of our country should be our highest priority. We have lived up to that responsibility in the passage of this legislation.

I want to, again, commend the distinguished chairman of the Armed Services Committee, the Senator from South Carolina, for his dogged persistence in moving this legislation. Without his efforts, without his coming on to the floor of the Senate and in committee and grabbing us by the arm and saying, "We have to move this issue," and, "Let us get agreement on missile defense and on the B-2. We have to move this legislation," it would not have happened, in spite of the efforts of all of us. But he just stayed with it and we got it done. This should be the Thurmond bill because he really made it happen.

I have enjoyed working with all the members of the Armed Services Committee, especially the Senator from Virginia, Senator WARNER, and all of the others. I want to say, also, I think a lot of staff on both sides of the aisle need to be recognized. There are too many to name, but Senator THURMOND's staff, Senator WARNER's fine staff, and my own staff assistant, Sam Adcock, put a lot of time in this bill, and they should be congratulated.

I certainly agree with the Senator from Texas—with the letter she has developed to say that we should make sure that our veterans are paid, and there is no reason why they should not be. I assume they will be taken care of by administrative decision.

A BALANCED BUDGET

Mr. LOTT. Mr. President, I would like to also talk a little bit about the joint resolution. An effort was made to call it up tonight. This joint resolution passed the House of Representatives just yesterday by an overwhelming vote of 351-40; over 130 Democrats voted for it. This joint resolution is pretty simple and direct and to the point. It just says that as we voted a month ago on a similar resolution, which the President signed, that the Congress is reaffirming its commitment to a balanced budget in 7 years with honest numbers, as scored by the Congressional Budget Office. That is all it does.

Now, when the distinguished majority leader attempted to bring this joint resolution up in the Senate that passed the House overwhelmingly yesterday, there was objection to it by the minority leader, but he indicated if we could add the additional language that we had in our earlier resolution, perhaps we could get it worked out and get it passed. I think we should be able to do that. We worked on that language earlier. We are all committed to making sure that Medicare is protected and, in fact, strengthened. We are all committed to a strong national defense and agriculture programs, along with the whole list of issues that we included in that earlier legislation. So I think we can probably work that out and get it agreed to tomorrow. I hope so.

We have had the additional development now that it appears that maybe the principals of the Congress and the administration—the President, and the distinguished majority leader, the Speaker, and the Vice President—have met now and it appears that they have made some progress. I thought they said they had reached some agreement, among other things, to in fact have scoring by the Congressional Budget Office. I am not quite sure if that was exactly what was agreed to. But there is a supplementary meeting now occurring with the Chief of Staff of the President, along with the chairman of the Budget Committee in the House and Senate, and I am sure there will be some further development of exactly what was discussed and what was agreed to. There will be meetings that will follow on tomorrow. That is good. I wonder why it has taken so long to get this serious meeting. I think it is appropriate, when you are talking about the future of your country, that the President be directly involved and not be speaking through agents. Our leaders are willing to get together to talk about this very important matter.

So it looks like we are finally making some progress right here as we approach this holiday season. I think it is worth staying here a little longer and coming back a little earlier because we are talking about a balanced budget. We are talking about taking actions now that will lift the burdens from the backs of our children and our grandchildren. We are talking about taking an action that will lead to lower interest rates and more jobs and a stronger economy. We are talking about getting some agreements on controlling entitlements.

I have always wondered why we call these programs entitlements because, in America, you should not say that regardless of what money is available or what parameters should be placed on these various programs, people are entitled to automatically get them. They are only entitled to them because Congress said they are.

This reform is long overdue. Reform in welfare—everybody said we need it. The President says we should change it as we have known it. We are on the verge of doing that. We have a welfare conference report that would, in fact, really reform welfare. We should get that done before we leave to go home for Christmas, or certainly before this year is out. Medicare, Medicaid, all of the so-called untouchables must be reformed, not to try to weaken them, but to control the rate of growth so we can guarantee they will be there in the future, not just for this generation, but for the next generation.

I really resent some people saying, my goodness, you have various agencies or park programs that are being temporarily closed down and that is so bad. Yes, we do not want that to happen, but it trivializes what we are trying to do here. This is a major effort we are trying to accomplish with this balanced budget. We should not quit. We will not quit until we get a balanced budget that has some effort to encourage growth in the economy, that reforms these programs. It can be done. It should be done, certainly, within the next week or 10 days.

I am pleased that it looks like we may be able to get an agreement on this Joint Resolution. I am pleased finally, finally, the President of the United States is meeting with the leaders of the Congress to get an understanding about how we will draw this to a conclusion, which would lead to a balanced budget with real and honest numbers before this year is out. I hope it happens. We will all be waiting and watching and hoping to participate as this process goes forward. I yield the floor.

BALANCED BUDGET

Mr. ABRAHAM. I echo the statements made by the floor leader on our side who has very concisely outlined the importance of the issues before us. I agree with him that we should not only pass this resolution but we should stay here as long as we have to to get the bigger job of passing a balanced budget done.

Today I was struck by comments made in the Washington Post business section from various financial market experts who said that people are waking up to the stalemate here in Washington. Yesterday was the wake-up call that we might not get real entitlement reform and bring the deficit under control.

We saw the result with the stock market dropping dramatically. There is a real fear on Wall Street, as was indicated in that article, that Washington might be contemplating a plan that fails to reform our entitlement programs.

Mr. President, that is a prescription for disaster, not just in the short term but for the long term, as well. What we have tried to offer with the Balanced Budget Act adopted earlier was a solution to the entitlement problems that have confronted Congress for a long time. We have understood that while there is a need to act quickly to address the solvency of Medicare part A, this is just the first step in a long series of reforms needed to accommodate the changing population that we will confront as the baby boom generation ages.

Mr. President, I hope that the resolution which the majority leader offered earlier will be available for us to vote on very soon. I strongly support the principles that are enunciated in it. I think the American people and certainly the people in my State support it as well. They are impatient with Congress. They cannot understand why it is taking us so long to get to the finish line. By combining reductions in the growth of Government with an opportunity to allow hard-working Americans to keep more of what they earn, we can dramatically shift the whole equation of government in this country.

For too long we have watched as dollars flow from hard-working Americans to fund Washington-knows-best rules dictating how our Nation's welfare, health, and other domestic programs will be run. We need to change from that approach to one where we let people keep more of what they earn, in which we let the States and the people on the front lines address the problems of our needy citizens more effectively than the Federal bureaucracy could hope, and ultimately in which we reshift the balance in this country from Washington-knows-best to a reliance on initiatives that take place at the States, and the initiatives that come from the people themselves.

Mr. President, that is the solution I think would work best and why I support this resolution as it was pronounced by the majority leader earlier. It is why I hope we will soon enact a balanced budget plan that yields, at least for the people in my State, lower interest rates, a chance to keep more of what they earn, and most importantly for the children in my State, a chance to grow up without spending most of their working lives paying off the bills that their parents left them. Instead, they should be free to spending their incomes on their own priorities. I yield the floor.

REVIEW OF RESOLUTION

Mr. MACK. Mr. President, I thought I would take a few moments to review the resolution that was offered by the distinguished majority leader and objected to by the distinguished minority leader, because I frankly did not think it was all that controversial.

The joint resolution is stated as follows:

> Affirming that budget negotiations shall be based on the most recent technical and economic assumptions of the Congressional Budget Office and shall achieve a balanced budget by fiscal year 2002 based on those assumptions.
>
> Whereas on November 20 the President signed legislation (Public Law 104-56) committing Congress and the President to "enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002 as estimated by the Congressional Budget Office;
>
> Whereas Congress has approved legislation that achieves a balanced budget in fiscal year 2002 as estimated by the Congressional Budget Office.
>
> Whereas congressional Democrats have offered alternative budgets in the House and Senate which also achieve balance in fiscal year 2002 as estimated by the Congressional Budget Office;
>
> Whereas the commitment to enact legislation in the first session of Congress requires action now in negotiations;
>
> Whereas the negotiations have no preconditions on levels of spending or taxation, except that the resulting budget must achieve balance by fiscal year 2002 as estimated by the Congressional Budget Office;
>
> Whereas the Congressional Budget Office has updated its technical and economic assumptions following a thorough consultation with government and private experts; and
>
> Whereas the Congressional Budget Office has begun consultation and review with the Office of Management and Budget: Now, therefore, be it
>
> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the current negotiations between Congress and the President shall be based on the most recent technical and economic assumptions of the Congressional Budget Office, and that the Congress is committed to reaching an agreement this year with the President on legislation that will achieve a balanced budget by fiscal year 2002 as estimated by the Congressional Budget Office.

Now, as I understand it, the minority leader objected to this resolution being brought up because it did not include, I guess, the full text of the language that was passed a month ago, and I must say that at this point I do not think I can speak for every Member on our side of the aisle, but I think that we are perfectly willing to put the complete text in the resolution.

Again, I do not want to bore everybody, but let me read what the additional text would be:

> And the President and the Congress agree that the balanced budget must protect future generations, ensure Medicare solvency, reform welfare, and provide adequate funding for Medicaid, education, agriculture, national defense, veterans and the environment. Further, the balanced budget shall adopt tax policies to help working families and to stimulate future economic growth.

Now, that is the full text. So again, we are at a point now where we really do not know how this will play out tomorrow. The majority leader indicated that he certainly was willing to accept the full text. I suspect that one of the reasons the full language was not included was because, again, it required us to adopt tax policies to help working families and to stimulate future economic growth. These two requirements may have caused some problems for some people.

We thought that, by offering the single question about endorsing the use of Congressional Budget Office numbers, it would frankly be supported easily by both sides of the aisle. Yesterday in the House, 133 Democrats, in fact, supported this language.

So maybe tomorrow we will be able to work out this apparent disagreement, add the additional language, and be able to come to closure, again and finally. We think these negotiations, which may begin tomorrow in fact, will be done on a basis in which the Congressional Budget Office will be scoring. Everything that will be dealt with will be done so by using the Congressional Budget Office numbers.

So, I would say again, in context with what has happened today, I have a greater sense of hope that maybe we might be moving towards some agreement. Or maybe, without being too hopeful, maybe the way to say it is I am under the impression that serious negotiations will begin tomorrow.

I do not see how this would be harmful in stating, once again, the commitment that both the Congress and the President of the United States made 1 month ago to have a balanced budget, scored by CBO, in 7 years. So I think that is a fairly reasonable position for us to take.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. MACK. I will be delighted to yield to my friend.

Mr. FORD. Mr. President, the principles that we agreed to in the beginning are excluded from this resolution that was sent over to us from the House. I think the majority leader readily agreed that they should have been in it, a few moments ago. He even suggested that he would accept whatever the Democratic leader might put together as an amendment and you could then alter this resolution to accommodate that.

So, really, I do not know why we are talking about it tonight. Everybody is agreeable. Unless you are trying to make a point that you made yesterday and the day before and the day before that. And people are trying to work things out.

The principles here, that we had put in there, are the things that are very dear to all of us. The majority leader did not object to it. In fact, he was very gracious in offering the Democratic leader an opportunity to give an amendment which he would modify. So I think we will do that tomorrow. So the only agreement is on principle, I say to my friend from Florida.

Mr. MACK. I would pick up on that. It may be that we are, in fact, moving towards times where there will be more agreement as opposed to disagreement. I think all of us hope that that day will come.

The other comment you made, that we might again hammer a point we have made before, I guess, maybe for the last several days, is a fair. Frankly, yes, we do want to make the point that it has now been 1 month since the Congress passed a continuing resolution which had, in that language, a requirement for CBO to score a budget that balanced in 7 years and which contained the other items I spoke about a moment ago. For 1 month, frankly, the President of the United States has failed to produce a proposal that balances the budget in 7 years. The closest the President has come is a proposal that came out, I believe a week ago—actually this past Friday. Actually, I think it was a week prior to that, which was scored by the Congressional Budget Office, which said—let me just finish——

Mr. FORD. Two weeks with CBO, now.

Mr. MACK. It was scored by CBO as being $116 billion short of balancing the budget in the 7th year. I do not know what the total amount would be over the 7-year period, or what our differences were, but it was $116 billion over the mark. So, yes, I must admit that one of the reasons we do want to have a little discussion about this resolution is to make the point that in 30 days the President has utterly failed to come forward with a plan that balances the budget.

Mr. FORD. If the Senator will yield for another question? I just do not want to leave him out there without our trying to help our side a little bit.

Mr. MACK. I will yield.

Mr. FORD. I do not want him to yield. I just want to ask a question. Was not part of that delay, 2 weeks that it took CBO to score what was offered?

Mr. MACK. If I can respond?

Mr. FORD. Yes. Sure.

Mr. MACK. The President agreed to scoring budgets through CBO. OMB is well aware of CBO's——

Mr. FORD. Senator, that is not what I asked. I asked, did it not take 2 weeks for CBO to score what the President sent in, offered? That was part of the delay.

Mr. MACK. If the Senator will allow me to respond? I have no problem in saying it took 10 days, 12 days, 14 days. But my point is, the administration clearly had the ability to put together a budget based on the economic assumptions it knew CBO would produce. They refused to do that.

Mr. FORD. No, they did not.

Mr. MACK. They offered a plan about which they then could say to the American people, "according to the OMB it balanced the budget." It did not balance according to CBO. And that is the whole point. The last plan presented by the President of the United States is $116 billion short in year number 7.

I think it ought to be pretty obvious that that is the case. So, again, we have been debating this. We will have an opportunity, I believe, tomorrow to deal with this resolution because I am under the impression that there will be an agreement to add the additional language, which is important, I understand from my colleagues on the other side of the aisle.

The additional language in there is very important to us as well, especially the tax cut for America's families and the reduction in the capital gains tax rate to spur economic growth. That language in essence will be included if there is an amendment tomorrow.

It is interesting to note that what seems to be creating some angst here this evening is a resolution that was supported without any amendment by 133—I think 133 Democrats in the other body in yesterday's vote. So it seemed fairly obvious to me that we could push this forward without any major controversy.

What we hope to accomplish, once again, is to get from the President of the United States a budget that is balanced in 7 years, scored by CBO, which is to say using real numbers. I do not think that is unrealistic. I am hopeful, after what has occurred in the meetings at the White House earlier this evening. But I have been hopeful before. So I hope my colleagues will excuse me for some degree of skepticism on my part.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Washington.

Mr. EXON. Mr. President, you are going to move back and forth, is that right?

Mr. FORD. No.

The PRESIDING OFFICER. The Chair heard the Senator from Washington first.

Mr. GORTON. I will be happy to listen to my friend from Nebraska.

Mr. President, I will be happy to listen to my friend from Nebraska. I am not in that much of a hurry and he always has wise counsel.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I intend to be here until this discussion is over. I was going to ask a question of my colleague from Florida, if I could, before he leaves the floor? Will he yield for a question, with the understanding he is not losing the right to the floor?

The PRESIDING OFFICER. The Senator from Nebraska has the floor.

Mr. EXON. May I ask my friend from Florida, does he have any idea that, if and when we come to a resolution with regard to balancing the budget by the year 2002, as to what the chances are, given the $242 billion tax cut, and if that remains in the final product does the Senator from Florida believe that, if the tax cut remains in the package, that the budget would remain balanced in the year 2003? 2004? And 2005?

Mr. MACK. I will say to my distinguished colleague, it is my understanding that what we are dealing with here is a budget resolution that covers the 7-year period. It is my understanding, according to CBO's estimate of that, that it would be in balance in the year 2002, which is the timeframe that we have established. Yes, you can make the reductions in spending, reduce the rate of growth in entitlement programs, balance the budget, produce a bonus as a result of balancing the budget that will pay for the tax proposals.

So, I am of the opinion that, in the year 2002, that is correct.

Mr. FORD. But he is asking about 2004 and 2005.

Mr. MACK. I understand what he is talking about.

Mr. EXON. Even if it comes to that, you have not looked beyond that to see whether or not it would remain balanced in the year following, or the year following that, or the year following that? After 7 years?

Mr. MACK. Mr. President, if I may respond, it is the opinion of this Senator that, again, if we can keep a very significant component of the tax proposal intact—that is, the lowering of the capital gains tax rate—that when we hit the years numbered 8, 9, and 10, that we are going to see that the revenues that are going to be projected in fact will increase beyond that because having freed up capital that is now locked into old investments, old technologies, it will create the jobs and the opportunity in the years ahead to, in fact, create the balanced budget in year 8, year 9, and year 10.

Mr. EXON. I simply say to my friend from Florida, I hope that works out that way. But all of the figures I have seen indicate just the opposite, and we may have some more information on that in detail form in the near future.

I simply point out to all that this magnificent exercise that we are going through should be better understood by all for what it is right now. The reason that I am worried about the outyears is that the present Republican plan is so heavily loaded with regard to the cuts in spending that are necessary to balance the budget in the 6th and 7th years—and that happens to be a situation where, under the Republican plan, 60 percent of the cuts, 60 percent of the reduction in spending that will have to be made to meet that 7-year balanced budget, is done in year 6 and year 7. That is a pretty heavy load in years 6 and 7. That is called back loading.

Backloading is one of the concerns that I have about the whole proposition. But while we are backloading, where we are going, if this deal materializes, we are going to have 60 percent of the cuts made in the year 6 and in the year 7. So the first 5 years are not so bad. Katie bar the door when you come to those last 2 years. Then on top of that, Mr. President, at the same time is when the cost of the $242 billion tax cut kicks in. That is also backloaded into this program, and there the major portion of the money necessary to pay for that $242 billion tax cut comes in the 7th year and then really escalates in year 8 and year 9 and year 10.

What I am saying is that, while I hope this works out, there are lots of problems ahead as we move forward. And we have to be realistic.

I would simply say that I will be here while the rest of this discussion is going on. I was very pleased with the report from the majority leader and the Democratic leader that things now seem to be moving. But, unfortunately, I thought things were moving when we were starting detailed specific negotiations for tomorrow afternoon. It might be wise if we would all be quiet, you know, tone down our rhetoric at a time when we hope our leaders can come to some kind of an agreement and not be here on the floor making pontifical statements, that we have every right to do, but that I do not believe is going to contribute very much to the bipartisan effort that is going to have to be made to come up with a balanced budget in 7 years using the Congressional Budget Office scoring. There is going to have to be a lot of give and take. And certainly the leadership, which is undertaking those negotiations at the White House, is going to be under enough stress and strain without us on the floor of the Senate trying to take partisan shots one against the other.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

A BALANCED BUDGET

Mr. GORTON. Mr. President, earlier this year the House of Representatives passed by substantially more than a two-thirds majority a constitutional amendment which would have mandated a balanced budget in the year 2002 and in every year thereafter. Later in the Senate of the United States that constitutional amendment was defeated by a single vote. The reason, of course, that the constitutional amendment had that kind of prospective application was that to undo the disparity between spending and revenue which has built up over the years, contributed to by administrations both Republican and Democratic, would in all probability require that amount of time.

Since many of the Members in both Houses who voted against that balanced budget in the year 2002 did so on the stated ground, at least, that Congress should take responsibility into its own hands and balance the budget without what they called the crutch of the constitutional amendment, Members primarily on this side of the aisle took that counsel seriously. That was the origin of the drive toward a budget resolution and a series of changes in our laws which would bring the budget into balance by that year.

Mr. President, I do not know what Members of this body will think in the year 2003 or 2004 and 2005, and it was for exactly that reason that I voted in favor of that constitutional amendment, so that the kind of games of backloading, about which my distinguished friend from Nebraska complained, simply could not take place in the future. In fact, Mr. President, I am quite optimistic that a Congress will soon be elected wiser in that respect than this one, a Congress that does in fact submit such a constitutional amendment to the people.

In the meantime, however, Mr. President, I believe that it would be an accomplishment beyond anything dreamed of by more than a handful of Members of our predecessor Congresses actually to pass a series of laws that would create that balance in the year 2002. And it is to that end that we have been driving over the course of the last 6 months and more. It was that goal which we finally thought, believed, hoped that the President of the United States had joined when he signed a law creating a continuing resolution before Thanksgiving Day which included the statement that there would be a balanced budget using honest numbers derived by the nonpartisan Congressional Budget Office this year, a year that is almost over.

The disappointment, the bitterness, here and elsewhere, the shaking of faith, the faith that has caused interest rates to drop by a full 2 percent over the last year, the faith that has sustained our economy, the shaking of that faith in recent days has been derived, Mr. President, solely, I am convinced, from the failure of the administration to meet the obligation which it entered into jointly with those of us here in Congress.

This Congress passed a balanced budget, a set of proposals that would balance the budget by the year 2002. Every Member who voted for that budget believed not only that obligation, but every one of the other priorities set forth in our continuing resolution just before Thanksgiving with respect to the protection of Medicare, the more favorable tax treatment of working Americans, education, the environment, the entire list. It was perfectly appropriate, I suppose, for the President to disagree with that proposition. That is what makes up political debate. It is perfectly appropriate for Members of the other party to disagree with that proposition. What was inappropriate was the absolute, total, complete, abject failure to come up with an alternative that met their priorities, and met the legal requirement for balance using these honest figures.

It is for that reason, and one other that I will mention in a moment, that we have this second crisis, this second partial shutdown of the executive branch.

Now we are given hope once again that in a relatively short period of time between this evening and the end of the year in fact we will be able to work out a truly balanced budget using the honest figures, the conservative figures supplied by the Congressional Budget Office. Perhaps—perhaps—tomorrow we will see for the first time, for the first time a submission by the President of the United States that meets those requirements, and then we can join in a discussion of how significant the tax reductions for working Americans should be, how dramatically we should reform and strengthen Medicare, what we should do about education and the environment. But to this point we have only budgets which say we ought to spend money in these various areas but not pay for those services, send the bills to our children and to our grandchildren. And that is the cause of the situation in which we find ourselves today.

Even so, Mr. President, we could be discussing this issue more objectively perhaps if there were not the constant interference of the shutdowns of the Department of Veterans Affairs, the Department of Housing and Urban Development, the Department of Interior, our museums, our national parks, and the like.

Well, Mr. President, in that connection, this Congress passed and sent to the President appropriations bills for the whole next year pursuant to which none of those departments would have been shut down whatsoever and bills that were consistent with reaching a balanced budget in the year 2002. And yesterday, the President vetoed those bills. He vetoed those bills and closed down the national parks, closed down the Department of Veterans Affairs, closed down our museums and tourist attractions here in this city. Why? At least in part because we did not appropriate enough money for them, appropriations inconsistent with ever reaching a balanced budget, and often on rationales which contradicted what he has done earlier during the course of this year.

And so now we have a bit of static in public opinion. We have departments shuttered, closed down, parks shuttered and closed down because of Presidential vetoes on particular appropriations bills passed by this Congress and sent to him but interfering with the far more important long-range goal of seeing to it that we finally give up the habit of determining that today we cannot do without various services, however important they sound, whatever the interest groups are that support them, but that we are not willing to pay for them ourselves. And so we sent the bills to those who cannot vote today, those who are already born, who are children in school but who are under the age of 18 and those who are not yet born. They can pay for what we want for ourselves today.

Mr. President, that is fundamentally wrong. It is wrong from the perspective of our economy. We know that if we honestly balance the budget, we will retain and strengthen lower interest rates. We will strengthen our economy, or new job opportunities that we have. We will give people hope. It is morally wrong to demand services today that we are unwilling to pay for. And the one thing we have not heard in this debate at any time from either the President or the Members of the other party, we ought to spend what the President asked us to spend and we ought to increase taxes. By what, Mr. President, half, two-thirds, three quarters of $1 trillion over the next 7 years? So that we can have these services but pay for them ourselves. They have not suggested that. Their suggestion remains let us have these goodies now and let us send the bill to someone else, someone without a voice in this Congress.

Now, my friend from Nebraska, who has stayed in the Chamber, has made what I think is an excellent suggestion, and I know that he does share our goals with us. He has said that he is troubled by the fact that so much in the way of these spending reductions are deferred to the end of this 7-year period. And can we continue beyond the year 2002? Well, Mr. President, even if the Medicare reforms that we have proposed were passed lock, stock, and barrel, without any change, we would not have solved the problem of the burden that creates for the American people in perpetuity by any stretch of the imagination.

Oh, yes, Mr. President, I say in response to my friend from Nebraska, there would still be more to do in the year 2003 and 2004 and 2005 and probably before then. But most of the objections to what we are doing from his party have not come from the proposition that many of these spending cuts take place in the last 2 years. They come because the spending cuts are there at all. They simply do not want to do them at all. And I believe, Mr. President, that if we will look a little bit beyond ourselves, look across the Atlantic Ocean, we will see the ultimate result of a refusal to deal with the social and financial burdens imposed on a society by unrestrained entitlements. We simply have to look at what is going on in France today, a much worse situation than we have here: Strikes and disruptions in services all across the territory of a free country caused by a set of social policies which have choked its economy, which have created unemployment more than twice that in the United States and with no hope for any change whatsoever.

This task that we are taking on now would have been easier had our predecessors taken it on 5 years ago or 2 years ago. It will be more difficult if we defer it until next year or into the next century and the longer we defer it, the more we will look like France.

The time is now. If the Senator from Nebraska has a suggestion that will cause more of these spending cuts to take place earlier rather than later, and to be more permanent, I think he will find many who will support him on this side. Nor does this Senator nor most others say that any one of the numbers within this budget is sacrosanct, whether it is particular spending numbers, particular tax numbers or the like. What we do regard as the bottom line is that we really get to balance; that we provide that dividend to the American people of half a trillion dollars or more which we are told will come from a truly balanced budget using honest figures.

Perhaps we will look back and say today was a major day in the course of reaching that goal. Perhaps this is the day on which the President truly joined in the search for that balanced budget and those dividends. I sincerely hope that that is true. I am certain that if it is true, this will no longer be a partisan exercise but will be one in which the Senator from Nebraska enters into enthusiastically and successfully.

Mr. REID addressed the Chair.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I yield to my friend from Virginia.

DETERIORATING WEATHER CONDITIONS

Mr. WARNER. I thank my distinguished colleague. I rise for the purpose of advising the Senate, in my capacity as chairman of the Rules Committee, that there are many employees quite anxious to go home in view of the seriousness of the deteriorating weather. I recognize the subject being discussed is of paramount interest, but I hope we can strike a balance.

I thank the indulgence of my colleague.

Mr. REID. Mr. President, I understand that my friend from the State of Oklahoma wishes to make a statement regarding one of his children. I will be happy to yield without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I appreciate very much the Senator from Nevada yielding to me. I would like to inquire of the Chair, what is the regular order?

The PRESIDING OFFICER. The regular order is the Senator from Nevada has the floor.

BALANCING THE BUDGET

Mr. INHOFE. All right. Mr. President, I was interested in the statement that was made by the very distinguished Senator from Washington State a few minutes ago when he was talking about those who are not represented here and the moral issue of the conduct in which we have been conducting our country over the past 30 years.

I was reminded of an experience the other day of back when we had our prayer breakfast. This was the international prayer breakfast where we had people here from all over the world, and I was in charge of international visitors, when one of the visitors who was here from Moldavia, which was a former Soviet republic that had gained its freedom, came in and he asked me a question during one of our visits that we had.

He said, "Senator INHOFE, I have a question to ask you. In the United States, how much can you keep?" And I said, "I am sorry, I do not understand what you mean." He said, "How much money do you have to give the government?" Then I got a little better idea of what he was asking.

So I asked the question—in fact, I would be a little embarrassed to tell you the answer that I gave the gentleman that was here from Moldavia. He was so proud. And he said, "In Moldavia, we have a new democracy. We have new freedoms. And when we"—they have some type of a tax collection system where every 3 months or so they collect the taxes. And he said, "Every time we make a dollar, we get to keep 20 cents." In other words, they have to pay 80 cents out of every dollar to support the government there. And he was rejoicing because this was the new freedom that he had discovered.

I got to thinking and looking at the facts, that I do not think anyone will refute, and that is that if we do not do something now about changing this pattern that we established back in the Great Society days of the middle 1960's, that someone who is born today will have to pay not 80 cents out of every dollar but 82 cents out of every dollar just to support government.

I bring that up today because today is a day that a very important person is to be born, and that person has the name or will have the name—and maybe as we speak has the name—of James Edward Rapert. This will be my third grandchild. So it becomes a much more personal thing when you think of someone coming into this world—such as the Presiding Officer who recently had a young child named Daniel born in his family—all of a sudden it becomes personal. It comes out of the realm of the normal discussion as to the various social programs that the various Senators have stood on the floor of this Senate today talking about—the education programs, the social programs, the poverty programs, the nutrition programs, and all of these—and it becomes an issue of, what are we willing to do to those who cannot be heard, those for whom there is no lobby, such as James Edward Rapert?

I understand that yesterday the House, by a very decisive margin, with many, many of the Democrats, voted to reaffirm the commitment we have to a balanced budget by the year 2002 using real figures, not smoke and mirrors, but using real figures and using the CBO figures. In fact, I cannot imagine when I go back to Oklahoma, such as I was this weekend, everybody saying, well, what is there to debate? I mean, we have the Democrats who ran for office on a balanced budget. We have a President of the United States who ran for office on a balanced budget to the Constitution. And everyone is for it. Who is against it? And I tried to explain the reality up here is not always what it seems to be at home because this, in fact, is Washington.

So we are in a situation—I know there are several who want to be heard tonight. I just want to make a comment about a statement that was made by a very distinguished Member of the other body, John Kasich. The other day he said, "We're in a frustrating situation where we have a balanced budget amendment or Balanced Budget Act that we passed in both the House and Senate, and it was vetoed by the President, and yet we don't have anything from him." And he said, "It is like going Christmas shopping and going up and saying, 'I want to buy this tie. How much is it?' And they will not tell you.

So he said, 'I will give you $100.' They said, 'No, that's not enough.' 'How much more?' Well, they will not tell you."

That is the situation we find ourselves in right now. So we have probably the second most significant issue facing us that we will face for maybe the last 10 years, and that is doing something about a balanced budget. We have an opportunity that is coming up any hour now, any day, certainly I hope it is going to happen prior to Christmas. When that time comes, I hope we will all remember not ourselves, not all the nutritional programs, not all the things we talk about and how we can wisely spend the people's money that we are borrowing from future generations, but I hope we think of James Edward Rapert who will be paying for all this fun that we are having.

Thank you, Mr. President. I yield the floor.

THE BUDGET

Mr. REID. Mr. President, my friend from Washington said a number of things that I want to respond to. I have a great deal of respect for the senior Senator from Washington, and he and I serve together as chairman and ranking member of an appropriations subcommittee. I have found him to be an extremely easy person to work with, and I have developed during that process great respect for his legislative abilities. But I think it is important to mention a number of things that I think need to be responded to in regard to his statement.

He talks about the second crisis. The first crisis and the second crisis were caused not by the minority, which is the Democrats. The fact of the matter is that by October 1 of each year, it is the responsibility of the Congress to pass appropriations bills. The record is very clear. By October 1 of this year, the majority in the House and in the Senate had not passed bills that could be sent to the President.

The second crisis referred to by the Senator from Washington again was not created by virtue of something that the Democrats did that was wrong, the minority did that was wrong. The fact of the matter is that the majority did not pass appropriations bills. This crisis that we have is not something caused by the minority. The fact of the matter is, on October 1 the bills were not passed.

I also think it is important to acknowledge again on this floor, we hear constant talk about the fact that the majority is now pushing for a balanced budget. I think that is good. I think that is important. But the fact of the matter is that the 1993 budget plan that was passed in this body and the other body—it was the so-called Clinton plan—was the largest deficit-reduction plan in the history of this country. It reduced the deficit over $500 billion over a 5-year period of time, the largest deficit-reduction program in the history of this country.

Yesterday it was an unusual day in the last couple years in this country. It was unusual because the stock market went down. It was an extremely unusual day that the market went down. Today it went back up. But the stock market is over 5,000, Dow Jones. The stock market has been hot. Why? Because the economy has been doing extremely well.

We have had the lowest unemployment, lowest inflation in 40 or 50 years; highest economic growth since the days of John Kennedy; corporate profits have never been higher. There has been a time or two in the past 200 years when they have been as high, but never higher than they are today.

The Federal work force has been reduced by 175,000 people in the last 2½ years, excluding the military; civilian reduction by 175,000. No wonder the economy is doing fine.

That does not mean that we should not do some very important things regarding the annual deficits. They are too high, even though it is the largest deficit reduction plan in the history of this country. The deficits are too high and we should do better.

There has been talk by a number of Senators from the other side about why did we not just approve this resolution that came from the House that calls for a balanced budget? The reason it was not approved, as indicated in the dialog between the majority and minority leader, is that the resolution needs an amendment. Why? Because it needs to protect priorities that we on this side feel are important: Medicare, Medicaid, veterans' benefits, education, the environment.

Maybe it was an oversight. Whatever it is, if you are going to have a sense-of-the-Senate resolution, a sense-of-this-Congress resolution, as to what we want, then you have to include the fact that we are willing to go for a 7-year balanced budget, but in the process of doing that, we want Medicare protected, we want Medicaid protected, veterans' benefits, environment, and education.

So the resolution will pass tomorrow. We will stick those things in it and it will pass, as indicated by the majority leader and the minority leader.

The reason we hang out and talk about certain things being important is because they are important. My friend, the minority whip, who has left the floor, has long been a supporter of a balanced budget, as has been many people in this Chamber, including the ranking member of the Budget Committee. I would put the balanced budget credentials of the senior Senator from Nebraska up against anybody in this Congress. It is not something that my friend from Nebraska suddenly said this year, "I'm retiring from Congress in a couple years. I think I'll come out for a balanced budget amendment." From the day he stepped in here, after his service as Governor of Nebraska, he started talking about a balanced budget.

He has voted for balanced budgets. A constitutional amendment to balance the budget would have passed by probably 80 votes this year if—if—we had excluded Social Security trust funds. As a result of the majority not being willing to exclude the Social Security trust funds, the constitutional amendment failed, as well it should have failed.

We are very concerned about Medicare. Why? Because today Medicare provides coverage for over 37 million Americans. Medicare has been successful in fulfilling its mission to provide health insurance coverage to America's senior citizens.

Today, 99 percent of senior citizens have health care coverage. Why? Because of Medicare. That is not the way it was 30-odd years ago. Around 40 percent of the people who were senior citizens then had health insurance.

It has been good. It has been good not only giving people peace of mind but it has extended their lives. For those 65 and older in the United States, life expectancy is now higher than in any country in the world, with the simple exception of Japan. And why? Most people who understand what has happened in this country in the last 30 years say it is because of Medicare.

Medicare has been one of the primary reasons that poverty has been reduced among the elderly. When Medicare came into being, almost 30 percent of senior citizens were below the poverty level. Now, Mr. President, it is about 12.5 percent—a dramatic reduction. One of the main reasons is because of Medicare.

Medicare is a very efficient program. We bash Government programs. I have done a little of it myself, but do not bash Medicare, because it is a very good and it is a very efficient program. Medicare administrative costs average 2 percent of program outlays, compared with 5 percent for large group plans and as much as 25 percent for small group plans in the private sector. Medicare works and it works well, and it benefits all Americans regardless of income status.

Mr. President, 83 percent of outlays go to beneficiaries with incomes of $25,000 or less. Only 3 percent goes to elderly individuals or couples with income in excess of $50,000. The No. 1 priority, Mr. President, for the minority is that any budget plan must continue Medicare's guarantee of high-quality medical care for senior citizens and people with disabilities by ensuring trust fund solvency and protecting beneficiaries.

I have heard numerous statements on this floor of people coming and saying, "The reason we're making all these punitive changes is because the Medicare trustees have said we have to do something or Medicare is going to go broke."

For 27 years, we have had Medicare in existence. Twenty-five of the twenty-seven years the trustees have reported the program is going to go broke and, as a result of that—it is a pay-as-you-go system—we have had to change the way that we fund Medicare, and we need to do it now.

Any plan that we come up with must ensure the viability of the Medicare trust fund for at least 10 years, must protect Medicare beneficiaries from premium increases beyond current law, and promote changes that would not drive up overall costs.

We must keep Medicare a first-class program, something we are all proud of and especially something senior citizens are proud of. In doing that, we must ensure the viability of hospitals and other critical care health care providers in rural and urban areas.

I think it is important that we understand that we, the minority, have been fighting to protect Medicare. Why? Because some of the leaders, Mr. President, on the other side are talking about Medicare withering on the vine, and the GOP plan threatens to have Medicare wither on the vine by encouraging doctors to leave the current Medicare program and penalizing seniors who choose to stay. They are extreme cuts—$270 billion. They may have been dropped, with the latest CBO numbers, but they are large cuts and budget gimmicks.

One of the things that is suggested in the plan by the majority is that there be group health care plans that allow managed care. That is fine, but the fine print says that the $50 billion that the majority says will be saved with that program, if they are not saved, if those savings do not come, there will be across-the-board cuts in Medicare.

So we have to watch very closely that these plans do not use budget gimmickry. We talk about more choice. We have to make sure there are not bad choices.

Mr. President, I want to just mention a couple things, and I do this because we have people coming on the floor and saying, "Democrats don't want to balance the budget. The minority doesn't want to balance the budget." We want to balance the budget. We have voted for a 7-year balanced budget plan, but we want to protect Medicare, we want to protect Medicaid, and the program the majority has put out repeals the current Medicaid program which serves 36 million needy and vulnerable Americans and replaces it with an underfunded and inflexible block grant.

The majority proposal ends a guarantee for 18 million children and 8 million women who receive preventive and primary care, 4 million elderly Americans who get help with Medicare payments—it would end that—6 million disabled Americans, who receive coverage for physician and hospital and specialized services. The cuts there are as much as $420 billion because, remember, any money that goes to the States from the Federal Government is matched by the States. So it is a double loss for recipients.

Mr. President, I know the hour is late. I know the streets are icy, but I have been waiting to get the floor. I want the RECORD to make sure that it reflects that the minority believes in certain standards. We believe in not devastating Medicare, and we want to maintain Medicaid so that it is a system that does not—as the report says by the Consumers' Union and the National Senior Citizens Law Center, some 395,000 nursing home patients could lose their Medicaid coverage under the proposal the majority has put out. Without these payments, nursing homes could force patients to leave unless the families pay for care. This was not just dreamed up. If you read the Washington Post and other major newspapers, that came out yesterday, and that is what the story says. Families are going to have to start paying.

Mr. President, I have a lot more to say. I am only going to say that we have a lot of problems with the deficit that comes every year. We have a bigger problem with the debt that is accumulating. That was not done with the Democratic administrations. We have $5 trillion in debt. I hope that we will not only talk about balancing the budget on a yearly basis but we talk about doing something with the underlying debt. I hope that is something that is addressed in the immediate future. Not only should we be concerned about the annual deficits, but the underlying $5 trillion in debt is something we must address.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

1995 YEAR END REPORT

The mailing and filing date of the 1995 year end report required by the Federal Election Campaign Act, as amended, is Wednesday, January 31, 1996. Principal campaign committees supporting Senate candidates file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records office will be open from 8 a.m. to 7 p.m. on the filing date to accept these filings. In general, reports will be available the day after receipt. For further information, please contact the Public Records Office on (202) 224–0322.

REGISTRATION OF MASS MAILINGS

The filing date for 1995 fourth quarter mass mailings is January 25, 1996. If your office did no mass mailings during this period, please submit a form that states "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records office will be open from 8 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records Office on (202) 224–0322.

TRIBUTE TO REV. RICHARD C. HALVERSON

Mr. MACK. I rise today to extend my heartfelt condolences to the family of Rev. Richard Halverson. In his position as the U.S. Senate Chaplain for the past 14 years, Reverend Halverson acted as spiritual leader to me personally, as well as to the entire Senate. His unwavering devotion, knowledge, and guidance have been a powerful example of living by one's convictions. It is an example from which we should derive inspiration as we search for the true meaning in our lives. I will keep the family of Reverend Halverson in my thoughts and prayers during their time of grief.

THE IMMIGRATION REFORM DEBATE

Mr. ABRAHAM. Mr. President, I would like to set forth my general concerns about S. 1394, a bill passed out of the Judiciary Subcommittee on Immigration a few weeks ago. In general, this bill would combine measures aimed at reducing illegal immigration with dramatic reductions in legal immigration. In my view, illegal and legal immigration are very different issues. Illegal immigration is a significant national problem, one that we should address by discussing ways to deal with people who cross our borders unlawfully. In contrast, legal immigrants are overwhelmingly law-abiding and hardworking people who contribute to our economy and our society. We should deal with the real problem of illegal immigration without retreating from America's historic commitment to legal immigration.

Mr. President, I would like to make an obvious point: America is a land of immigrants. For most of our history we have welcomed anyone with the desire and fortitude necessary to come here in search of a better life.

Lady Liberty has held our door open to the teeming masses of the world, not out of pity, but out of respect for our Nation's immigrant roots, and in the knowledge that immigrants made this country strong and prosperous, and will continue to do so, so long as we let them.

We as a people will remain a vibrant, shining example to the world, so long as we continue to look out to that world, welcoming those who would join us in building a free and open society.

We have every right and even responsibility to expect those who come to our land to live up to our standards of decency and responsibility. We can and should expect able-bodied immigrants to work. We can and should expect them to forego the often debilitating effects of welfare.

But we should not slam the door shut to people yearning to be free, and to build a better life for themselves and their families.

My grandparents were all immigrants. They came to this country from Lebanon about a century ago in search of freedom. None of the four could speak English. And they had few material resources to speak of. But they came to America because they wanted to live in a country that was free and they wanted their children and their grandchildren to live in a nation that was free. My grandparents did not come here pursuing government benefits. They believed in their own capacity to do things, and they wanted a place where they would have a chance to enjoy the freedom to do the things they wanted.

My parents did better in America than their parents. My parents were very hard-working folks. Neither of them had a college education. My dad worked almost 20 years as a UAW member on an assembly line in an Oldsmobile factory in Lansing, MI. After that, he and my mom started a small business. They worked hard; 6 sometimes 7 days a week in order to give me and my sisters a chance to share in the American Dream—to have more freedom and opportunity than they did. Their hard work has allowed me to succeed in turn; I was the first child in our family to go to college.

Unfortunately, I believe that this bill will make it more difficult for people like my grandparents to come to America.

Specifically, S. 1394 would significantly reduce the quotas for legal immigration, restrict immigration as a means to re-unite separated families, and eliminate whole categories of legal immigration.

I believe these measures will cause real harm to our economy and to our Nation as a whole. Most damaging, they will keep us from benefiting from the hard work, experience and expertise of legal immigrants.

Immigrants are the ultimate entrepreneurs. They are people willing to risk it all in a new and different land. They are self-selected and seek to make a better life for themselves and their families.

As economist Thomas Sowell writes in his Ethnic America: A History:

> The fact that immigrants not only equal, but eventually surpass, their native-born counterparts suggests that they brought some advantage in terms of human capital, that migration is a selective process, bringing the more ambitious or venturesome or able elements of a population.

Mr. President, these are the kind of people we want to become Americans. These are the kind of people who sacrifice so their children can rise to the top of their class.

Immigrants also create a brain gain for the United States. One in three people who have graduated from college in engineering in this country is an immigrant, according to the National Research Center.

Immigrant expertise is widespread and impressive. In the 20th century between 20 and 50 percent of all Nobel Prize winners, depending on the discipline involved, have been immigrants to the United States. As of 1988 there were more Russian Nobel Prize winners living in the United States than living in Russia.

These highly educated, highly skilled immigrants are essential to the competitiveness of America's high-technology industries. Consider Intel, one of the most prolific and expanding companies in the United States, employing tens of thousands of American workers.

Intel constantly develops cutting edge technologies that will define the computer industry in the 21st century. And it is doing all of this with a great deal of help from America's newest immigrants.

At one point not long ago three members of Intel's top management, including chief executive officer Andrew S. Grove, from Hungary, were immigrants.

Intel and other high-technology firms must seek out and hire immigrants because the demand for highly skilled workers exceeds the supply. After recruiting on American campuses, these companies still do not have enough highly skilled engineers, scientists, and computer specialists they need to remain competitive. Only because their need is real do companies go through the trouble, expense and government paperwork necessary to hire foreign workers.

But productive immigrants are not just computer programmers in Silicon

Valley. Arab-Americans in Dearborn and Detroit, Vietnamese in Arlington, Cubans in Miami, and a number of other immigrant groups in a number of cities have revitalized America's urban areas.

Whether it is the Korean grocer or the Chinese restaurateur, our urban areas in particular owe a great deal to entrepreneurial, hard-working immigrants willing to take chances, to start small businesses in areas others have ignored.

Mr. President, immigration is not a zero-sum game in which every job that goes to a foreign-born worker means one less job for an American worker. Immigration is a positive-sum gain for Americans in terms of jobs, living standards, and economic growth. When a business adds a new resource—whether it is a labor or capital resource—it generates more jobs, more income, and more opportunities for Americans, not less. This is especially true when the resource is a talented, creative, and inventive worker. As George Gilder points out, the beneficial impact of immigrants on the U.S. economy "is overwhelming and undeniable: it is all around us, in a spate of inventions and technical advances, from microwaves and air bags to digital cable and satellite television, from home computers and air conditioners to cellular phones and lifesaving pharmaceutical and medical devices." Mr. Gilder estimates that without immigration over the last 50 years, U.S. real living standards would be at least 40 percent lower. Mr. President, I ask unanimous consent that an article by George Gilder on the economic benefits of immigration in yesterday's Wall Street Journal be placed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ABRAHAM. Mr. President, lowering the legal immigrant quota will lower the benefit we can gain from hard-working and highly-skilled immigrants. Tightening restrictions on family unification also will cost us a great deal. It will cost us our principles because we know well that U.S. citizens should be able to bring their elderly parents to this country after he has established himself here. And we know well that others, adult sisters and brothers and other relatives, particularly those living under the many repressive regimes in this world, should be allowed to join their relatives in the land of freedom.

And keeping families separated also will be bad for our economy. Skilled workers will be less likely to come to America if they know that they will not be allowed to reunite their families. Most people are reluctant to move out of town if they cannot see their families. In my view, America will not be able to attract the "best and the brightest" from around the world if we impose barriers that prevent people from re-uniting with their parents and siblings.

Mr. President, in my view S. 1394's provisions restricting legal immigration are misconceived; they are misconceived because they are based on misconceptions: first, that immigrants take jobs away from Americans who need them, second, that immigrants are a drain on our governments and third, that immigrants are a danger to our culture.

Contrary to popular myth, immigrants do not increase the rate of unemployment among American workers.

There is a great deal of empirical evidence to support this position.

First, the Alexis de Tocqueville Institution studied immigration patterns over the long term in America. They found that, historically, periods of heavy immigration have not been associated with subsequent higher than normal unemployment.

Second, the Manhattan Institute compared the ten states with the highest immigrant presence with the ten states with the lowest immigrant presence and found that the high-immigrant states actually had lower unemployment rates, in the aggregate, than did the low-immigrant states.

The median unemployment rate in States with large immigrant populations was 5.1 percent while that for the 10 States with low immigrant populations was 6.6 percent—a full 1.5 percent difference.

I could go on, Mr. President, but there is no need. Let me instead quote Julian Simon. This University of Maryland professor and author of the seminal work on "The Economic Consequences of Immigration" recently finished an immigration report for the Cato Institute. In that report he states unequivocally: "The studies uniformly show that immigrants do not increase the rate of native unemployment."

It's as simple as that. Immigrants do not increase unemployment. In fact, Mr. President, immigrants do not take jobs, they crate jobs. By advancing our technology, by developing better products, by starting new businesses and by themselves consuming goods, immigrants expand and create whole new areas of production employing thousands of native-born Americans.

This brings us to the second mistaken assumption underlying attempts to restrict immigration: that legal immigrants are a drain on the public coffers.

Mr. President, when total government expenditures per capita are considered, the government spends about one third less per immigrant than it does per native. This is because immigrants are more likely than natives to be of working age. They pay into the tax system without taking out, for example, Social Security payments. Further, refugees fleeing persecution automatically qualify for government benefits when they are admitted into the United States. If we factor out the use of welfare among refugees, immigrants or working age are less likely to use welfare than are the native born.

As Julian Simon of the University of Maryland reported recently in the Wall Street Journal, "the immigrant family contributes yearly about $2,500 more in taxes to public coffers than it obtains in services." And those who still fear the costs of immigration should remember a policy option which we already have substantially put in place: "immigration yes, welfare no."

Current law already forbids almost all immigrants from receiving welfare for their first three years in this country. We can legitimately toughen these standards. And our welfare reform bill does so by denying noncash benefits such as supplemental security income and food stamps to immigrants.

But we should recognize that the vast majority of immigrants are working hard, in real jobs that add to the well-being of our people and our country.

There is one final misconception underlying S. 1394's provisions restricting immigration. It has been said that America needs a reduction in immigration for the sake of our culture.

Some Americans have expressed concern about a new wave of immigrants, bringing new customs and ways of life to our shores.

Despite the scare tactics we sometimes hear, however, immigrants are not breaking down our culture. First, Mr. President, immigrants are not coming to America in unprecedented numbers. Professor Simon's cautious estimate, based on census data, is that as of 1990, immigrants made up only 8.5 percent of our population. That compares with averages over 13 percent between 1860 and 1920. As a proportion of the total population, then, immigrant numbers have dropped by more than a third.

What is more, the Manhattan Institute's "Index of Leading Immigration Indicators" shows that, compared with the native born, immigrants are more likely to have intact families, more likely to have college degrees, more likely to be working, and no more likely to commit crimes than native born Americans.

We are not being swamped by unmanageable numbers of immigrants. Further, Mr. President, immigrants are like the rest of us in all the ways that matter. They are hard-working, family-oriented people who come here to make a better life for themselves and their children. They are, in fact, the kind of people each and every one of us would and should be happy and proud to have as neighbors.

It seems clear to me, Mr. President, that legal immigration is a boon to our

Nation's economy and society. Unfortunately, S. 1394 tends to obscure the benefits of legal immigration because it contains provisions addressing illegal immigration as well. Indeed, much of the driving force behind S. 1394 is directed, not at those who legally come to this country, but at those who come here illegally. We can address the illegal immigration problem through better border policing and better and swifter methods of deportation, particularly in regard to criminal illegal aliens. And as I mentioned earlier, we have addressed the welfare magnet problem in our welfare reform bill.

That's why I think we should split S. 1394 and move on illegal immigration reform separately from legal immigration reform.

But even some of the illegal immigration components of S. 1394 go much farther than is necessary. Illegal immigrants now constitute 1.5 percent of our population. That is too high a percentage, but we need to examine more effective—and less intrusive ways—to control illegal immigration.

This legislation proposes to end illegal immigration by requiring a national Identification system for all employees. In order to get a new job, every American will have to prove his or her citizenship by showing that he or she is listed on a specific, national computer registry.

Before an employer can hire a new worker that employer will have to contact the Federal Government for verification of the would-be employee's citizenship. Thus we will construct a vast new Government bureaucracy, with vast new powers and, Mr. President, with cast new costs.

Current estimates suggest that, with a national I.D. system, each work place would have to spend nearly $800 for equipment alone. And the Immigration and Naturalization Service Telephone Verification Pilot System, often seen as a prototype for the new I.D. System, shows that operating costs could put many companies out of business. It is for this reason that the Nation Federation of Independent Businesses—America's leading small business organization—strongly opposes the I.D. system in S. 1394.

It is clear that the system itself will not work. It will be riddled with errors. Indeed, current Social Security Administration files and error rates show a probable error rate of between 25 and 28 percent for the new system, making it far from effective. Even assuming an error rate of only 3 percent, the system would put in bureaucratic limbo or even deny jobs to 2 million Americans, most of them native-born U.S. citizens.

Advocates of the proposed I.D. system in S. 1394 claim that it is only a "pilot project" that would cover workers in just five States. However, these States—Texas, Florida, Illinois, New York and California—have a population greater than that of Mexico, indeed of all but the 10 largest countries in the world. According to Stuart Anderson of the Cato Institute, employers in these States would have to check the legal status of each new hire—an estimated 22 million annually in these five States—through this government I.D. system.

In my judgment, we should reject the national I.D. Cards and other similar schemes designed to control illegal immigration because they will result in more government intrusion in the affairs of U.S. citizens and businesses.

I am also troubled by other aspects of this bill that I will comment upon in more detail in the near future. For example, I am very concerned about the proposed border tax, which would in effect discourage foreign tourists from spending their money in this country.

The debate over immigration reform will be a major issue in this chamber over the next year. I hope that we in this body will, first, reject some of the severe provisions of S. 1394 and second, move separately on bills dealing with legal and illegal immigration. This would constitute a statement of confidence in ourselves, in our nation and in the ability of immigrants, when extended the opportunities of our land to become productive members of our communities.

In closing Mr. President, I believe that our immigration policy both reflects and projects our Nation's character and level of decency. One man above all said it best. In his farewell address to the Nation, President Ronald Reagan declared:

> I've spoken of the shinning city all my political life, but I don't know if I ever quite communicated what I saw when I said it. But in my mind it was a tall, proud city built on rocks stronger than oceans, windswept, God-blessed, and teeming with people of all kinds living in harmony and peace, a city with free ports that hummed with commerce and creativity. And if there had to be city walls, the walls had doors and the doors were open to anyone with the will and heart to get here. That's how I saw it and see it still.

The question for America is this: Shall we have a shining city on a hill or will we construct a fortress America? It is my hope that we will choose the shining city.

I yield the floor.

Exhibit 1

[From the Wall Street Journal, Dec. 18, 1995]

Geniuses From Abroad

(By George Gilder)

The current immigration debate founders on ignorance of one huge fact: Without immigration, the U.S. would not exist as a world power. Without immigration, the U.S. could not have produced the computerized weapons that induced the Soviet Union to surrender in the arms race. Without immigration, the U.S. could not have built the atomic bomb during World War II, or the hydrogen bomb in the early 1950s, or intercontinental missiles in the 1960s, or MIRVs in the 1970s, or cruise missiles for the Gulf War in the 1990s.

Today, immigrants are vital not only for targeted military projects but also for the wide range of leading-edge ventures in an information age economy. No less than military superiority in previous eras, U.S. industrial dominance and high standards of living today depend on outsiders.

Every high-technology company, big or small, is like a Manhattan Project. All must mobilize the personnel best trained and most able to perform a specific function, and deliver a product within a window of opportunity as fateful and remorseless as a war deadline. This requires access to the small elite of human beings in the world capable of pioneering these new scientific and engineering frontiers. For many specialized high-technology tasks, the pool of potential talent around the world numbers around 10 people, or even fewer.

THE RIGHT PEOPLE

If you are running such a technology company, you will quickly discover that the majority of this cognitive elite are not citizens of your country. Unless you can find the right people wherever they may be, you will not be able to launch the exotic innovation that changes the world. Unless you can fill the key technology jobs, you will not create any other jobs at all, and your country will forgo the cycle of new products, skills, and businesses that sustain a world-leading standard of living.

Discussing the impact of immigration, economists and their followers are beady-eyed gnatcatchers, expert on the movements of cabbage pickers and au pair girls and the possible impact of Cubans on Miami wage levels. But like hunters in a cartoon, they ignore the tyrannosaurus rex crouching behind them. Thus sophisticated analysts, such as George Borjas of the University of California, San Diego, and artful writers, such as Peter Brimelow, conclude that the impact of immigration on the U.S. economy is slight or negligible.

In fact, the evidence is overwhelming and undeniable; it is all around us, in a spate of inventions and technical advances, from microwaves and air bags to digital cable and satellite television, from home computers and air conditioners to cellular phones and lifesaving pharmaceuticals and medical devices. Without immigration over the last 50 years, I would estimate that U.S. real living standards would be at least 40% lower.

The underplaying of immigration as an economic force stems from a basic flaw in macroeconomic analysis. Economists fail to account for the indispensable qualitative effects of genius. Almost by definition, genius is the ability to generate unique products and concepts and bring them to fruition. Geniuses are literally thousands of times more productive than the rest of us. We all depend on them for our livelihoods and opportunities.

The feats of genius are necessarily difficult to identify or predict, except in retrospect. But judging from the very rough metric of awards of mathematical doctorates and other rigorous scientific and engineering degrees, prizes, patents, and publications, about a third of the geniuses in the U.S. are foreign born, and another 20% are the offspring of immigrants. A third of all American Nobel Prize winners, for example, were born overseas.

A stellar example of these elites in action is Silicon Valley in California. Silicon Valley companies have reduce the price of computer MIPs and memory bits by a factor of some 10,000 in 2½ decades. Although mainstream economists neglect to measure the qualitative impact of these innovations, most of the new value in the world economy over the last decade has stemmed, directly or indirectly, from the semiconductor and computer industries, both hardware and software.

Consider Intel Corp. Together with its parent, Fairchild Semiconductor, Intel developed the basic processes of microchip manufacture and created dynamic and static random access memory, the microprocessor, and the electrically programmable read-only memory. In other words, Intel laid the foundations for the personal computer revolution and scores of other chip-based industries that employ the vast bulk of U.S. engineers today.

Two American-born geniuses, Robert Noyce and Gordon Moore, were key founders of Fairchild and Intel. But their achievements would have been impossible without the help of Jean Hourni, inventor of planar processing; Dov Frohmann-Benchkowski, inventor of electrically erasable programmable ROMs; Federico Faggin, inventor of silicon gate technology and builder of the first microprocessor; Mayatoshi Shima, layout designer of key 8086 family devices; and of course Andrew Grove, the company's now revered CEO who solved several intractable problems of the metal oxide silicon technology at the heart of Intel's growth. All these Intel engineers—and hundreds of other key contributors—were immigrants.

The pattern at Intel was repeated throughout Silicon Valley, from National Semiconductor and Advanced Micro Devices to Applied Materials, LSI Logic, Actel, Atmel, Integrated Device Technologies, Xicor, Cypress, Sun Microsystems and Hewlett-Packard, all of which from the outset heavily depended on immigrants in the laboratories and on engineering workbenches. LSI, IDT, Actel, Atmel, Xicor, and Sun were all founded or led by immigrants. Today, fully one-third of all the engineers in Silicon Valley are foreign born.

Now, with Silicon Valleys proliferating throughout the U.S. economy, with Silicon Deserts, Prairies, Mountains, and even Alleys being hopefully launched from Manhattan to Oregon, immigration becomes ever more vital to the future of the U.S. economy. And microchips are just the beginning. On the foundation of silicon have arisen world-leading software and medical equipment industries almost equally dependent on immigrants. As spearhead of the fastest growing U.S. industry, software, Microsoft offers some of the most coveted jobs in the U.S. economy. But for vital functions, it still must turn to immigrants for 5% of its domestic work force, despite the difficult and expensive legal procedures required to import an alien.

FREEDOM OF ENTERPRISE

In recent congressional testimony, Ira Rubenstein, a Microsoft attorney, declared that immigration bars could jeopardize the 58 percent of its revenue generated overseas, threaten American dominance of advanced "client-server" business applications, and render "stillborn" the information superhighway. In particular, Corning and other producers of fiber-optic technology have faced a severe shortage of native engineers equipped to pursue this specialty crucial to both telecommunications and medical instruments.

With U.S. high school students increasingly shunning mathematics and the hard sciences, America is the global technology and economic leader in spite of, not because of, any properties of the American gene pool or dominant culture. America prevails only because it offers the freedom of enterprise and innovation to people from around the world.

A decision to cut back legal immigration today, as Congress is contemplating, is a decision to wreck the key element of the American technological miracle. After botching the issues of telecom deregulation and tax rate reduction, and wasting a year on Hooverian myths about the magic of a balanced budget, the Republican Congress now proposes to issue a deadly body blow to the intellectual heart of U.S. growth. Congress must not cripple the new Manhattan Projects of the U.S. economy in order to pursue some xenophobic and archaic dream of ethnic purity and autarky.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the Federal Government is running on borrowed time, not to mention borrowed money—nearly $5 trillion of it. As of the close of business Monday, December 18, the Federal debt stood at $4,989,213,998,043.63. On a per capita basis, every man, woman, and child in America owes $18,939.14 as his or her share of the Federal debt.

More than two centuries ago, the Continental Congress adopted the Declaration of Independence. It's time for Congress to adopt a Declaration of Economic Responsibilities and an amendment requiring the President and Congress to come up with a balanced Federal budget—beginning right now.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:15 p.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 418. An act for the relief of Arthur J. Carron, Jr.

H.R. 419. An act for the relief of Benchmark Rail Group, Inc.

H.R. 1315. An act for the relief of Kris Murty.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 660. An act to amend the Fair Housing Act to modify the exemption from certain familial status discrimination prohibitions granted to housing for older persons.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

At 3:59 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2203. An act to reauthorize the tied aid credit program of the Export-Import Bank of the United States, and to allow the Export-Import Bank to conduct a demonstration project.

H.R. 2627. An act to require the Secrtary of the Treasury to mint coins in commemoration of the sesquicentennial of the founding of the Smithsonian Institution.

H.R. 2808. An act to extend authorities under the Middle East Facilitation Act of 1994 until March 31, 1996, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 22. Concurrent resolution expressing the sense of the Congress that the United States should participate in Expo '98 in Lisbon, Portugal.

At 8:02 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1398. An act to designate the United States Post Office building located at 1203 Lemay Ferry Road, St. Louis, Missouri, as the "Charles J. Coyle Post Office Building."

H.R. 1880. An act to designate the United States Post Office building located at 102 South McLean, Lincoln, Illinois, as the "Edward Madigan Post Office Building."

H.R. 2029. An act to amend the Farm Credit Act of 1971 to provide regulatory relief, and for other purposes.

H.R. 2262. An act to designate the United States Post Office building located at 218 North Alston Street, in Foley, Alabama, as the "Holk Post Office Building."

H.R. 2704. An act to provide that the United States Post Office building that is to be located on the 7436 South Exchange Avenue, Chicago, Illinois, shall be known and designated as the "Charles A. Hayes Post Office Building."

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 106. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony to commemorate the days of remembrance of victims of the Holocaust.

H. Con. Res. 123. Concurrent resolution to provide for the provisional approval of regulations applicable to certain covered employing offices and covered employees and to be issued by the Office of Compliance before January 23, 1996.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 418. An act for the relief of Arthur J. Carron, Jr., to the Committee on Armed Services.

H.R. 419. An act for the relief of Benchmark Rail Group, Inc; to the Committee on Environment and Public Works.

H.R. 1315. An act for the relief of Kris Murty, to the Committee on Armed Services.

H.R. 1398. An act to designate the United Post Office building located at 1203 Lemay Ferry Road, St. Louis, Missouri, as the "Charles J. Coyle Post Office Building"; to the Committee on Governmental Affairs.

H.R. 1880. An act to designate the United States Post Office building located at 102 South McLean, Lincoln, Illinois, as the "Edward Madigan Post Office Building"; to the Committee on Governmental Affairs.

H.R. 2029. An act to amend the Farm Credit Act of 1971 to provide regulatory relief, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 2262. An act to designate the United States Post Office building located at 218 North Alston Street in Foley, Alabama, as the "Holk Post Office Building"; to the Committee on Govenmental Affairs.

H.R. 2704. An act to provide that the United States Post Office building that is to be located on the 7436 South Exchange Avenue, Chicago, Illinois, shall be known and designated as the "Charles A. Hayes Post Office Buidling"; to the Committee on Governmental Affairs.

The following concurrent resolutions were read and referred as indicated:

H. Con. Res. 106. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony to commemorate the days of remembrance of victims of the Holocaust; to the Committee on Rules and Administration.

H. Con. Res. 123. Concurrent resolution to provide for the provisional approval of regulations applicable to certain covered employing offices and covered employees and to be issued by the Office of Compliance before January 23, 1996; to the Committee on Rules and Administration.

MEASURE READ THE FIRST TIME

The following joint resolution was read the first time:

H.J. Res. 132. Joint resolution affirming that budget negotiations shall be based on the most recent technical and economic assumptions of the Congressional Budget Office and shall achieve a balanced budget by fiscal year 2002 based on those assumptions.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1737. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated December 1, 1995; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, Committee on the Budget, Committee on Finance, Committee on Foreign Relations.

EC–1738. A communication from the Chief Justice of the Supreme Court, transmitting, a notice relative to funding of the Judiciary; to the Committee on Appropriations.

EC–1739. A communication from the Comptroller of the Currency, Administrator of National Banks, transmitting, pursuant to law, the annual report on compliance by insured depository institutions with the national flood insurance program; to the Committee on Banking, Housing, and Urban Affairs.

EC–1740. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the National Water Quality Inventory Report for calendar year 1994; to the Committee on Environment and Public Works.

EC–1741. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the trade and employment effects of the Andean Trade Preference Act (ATPA); to the Committee on Finance.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–483. A resolution adopted by the Legislature of the State of Alaska; to the Committee on Agriculture, Nutrition, and Forestry:

"LEGISLATIVE RESOLVE NO. 18

"Whereas the United States Department of Agriculture, Forest Service, has issued a new strategic plan known as "Reinvention of the Forest Service"; and

"Whereas this plan has far-reaching implications and was developed without consultation with key elected leaders, including state governors, members of the United States Congress, or community, tribal government, and the Alaska Native Claims Settlement Act (ANCSA) corporate leaders in contradiction of President Clinton's Executive Order No. 12875 "Enhancing Intergovernmental Partnerships"; and

"Whereas Vice-President Gore's "Report on Reinventing Government" was developed with the promised intent of empowering local governments and decentralizing decision-making power; and

"Whereas the "Reinvention of the Forest Service" strategic plan approved by Secretary of Agriculture Mike Espy, just before his resignation, eliminates the very foundation of locally based authority that had the responsibility of working with states, local communities, tribal governments, and ANCSA corporations and masks and diffuses decision-making authority and withdraws it to Washington, D.C., making the Forest Service less responsive to local concerns; and

"Whereas moving the Alaska Region Forest Service office to Portland, Oregon, is an example of the flawed science being used to define ecosystems and ecological boundaries; and

"Whereas the newly defined purpose of the Forest Service to promote the sustainability of ecosystems without specifically retaining the traditional Forest Service objective of promoting community stability has already created problems and crises for hundreds of communities dependent upon the national forests and state and private forest ecosystems; and

"Whereas the new strategic plan has seemingly turned away from commitment towards providing a continuous flow of renewable resources to meet the public need, as directed in the Organic Act, Multiple-Use Sustained Yield Act of 1960, the National Forest Management Act, and other Acts of the Congress; and

"Whereas, under the new strategic plan, the Forest Service is more inclined to present a nebulous plan for ecosystem management where resource yields are simply the by-products of management, with no predictable flows or commitments to supply levels to sustain human life: Be it

"*Resolved*, That the Alaska State Legislature calls upon the newly designated Secretary of Agriculture to suspend implementation of the reinvention project's strategic plan approved by Secretary Espy to allow for Congressional review and for consultation with local governments; and be it further

"*Resolved*, That the United States Department of Agriculture, Forest Service, conduct true partnership meetings with states, communities, tribal governments, and ANCSA corporations to develop a new strategic plan; and be it further

"*Resolved*, That the Forest Service acknowledge the United States Department of Agriculture's legal obligations to rebuild, restore, and promote the economic stability of forest dependent communities; and be it further

"*Resolved*, That, in keeping with federal law, timber commodities are a primary not a residual value of forest management; and be it further

"*Resolved*, That the United States Department of Agriculture, Forest Service, through a true partnership with local communities, identify and implement strategies for decentralizing decision making and empowering state and local governments to more effectively manage forest ecosystems to assure community stability, improve service to the public, and reduce government cost.

"Copies of this resolution shall be sent to the Honorable Bill Clinton, President of the United States; the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Dan Glickman, Secretary of Agriculture; the Honorable Bruce Babbitt, Secretary of the Interior; Jack Ward Thomas, Chief of the Forest Service, U.S. Department of Agriculture; and the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress."

POM–484. A resolution adopted by the Legislature of the State of Alaska; to the Committee on Commerce, Science, and Transportation.

"LEGISLATIVE RESOLVE NO. 22

"Whereas 46 U.S.C. Appx. 861–889 (Merchant Marine Act of 1920), commonly known as the Jones Act, requires that seaborne shipping between United States ports be done on vessels that have been constructed in the United States and that are crewed by United States crews; and

"Whereas this requirement has resulted in much higher costs for shipping bulk commodities on United States vessels between domestic ports than for shipping those commodities on foreign carriers between United States and foreign ports; and

"Whereas there are currently no bulk carriers constructed in the United States that are capable of servicing the large-scale movement of Alaska coal and coal derived fuels; and

"Whereas, because the transportation cost for a high-tonnage, low-value bulk commodity is often a significant part of the total delivered cost of that commodity, a higher shipping cost can frequently keep a bulk commodity from being competitive; and

"Whereas Alaska coal and coal derived fuels are a potential fuel source for utilities and industries on the west coast of the United States and in Hawaii; and

"Whereas the current difference between Jones Act shipping rates and foreign shipping rates has made the delivered cost of foreign coal significantly less expensive than domestic coal as evidenced by the current supply agreements between a Hawaiian independent power producer and an Indonesian coal supplier; and

"Whereas greatly increased coal usage figures prominently in the future generation plans for Hawaiian utilities and thus will create prospective markets for Alaska coal; and

"Whereas it is the policy of the State of Alaska under AS 44.19.035 to persuade the Congress to repeal the Jones Act: Be it

Resolved, That the Alaska State Legislature opposes the application of the Jones Act to bulk commodities, such as coal and coal derived fuels, because of the Acts detrimental effect on Alaska commerce; and be it further

Resolved, That the Alaska State Legislature respectfully requests the Congress to pass legislation exempting Alaska bulk commodities, such as coal and coal derived fuels, from provisions of the Jones Act.

"Copies of this resolution shall be sent to the Honorable Bill Clinton, President of the United States; the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Federico Pena, Secretary of the U.S. Department of Transportation; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; the Honorable Bob Dole, Majority Leader of the U.S. Senate; and the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress."

POM-485. A resolution adopted by the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources:

"LEGISLATIVE RESOLVE NO. 26

"Whereas the State of Alaska entered into the Union on an equal footing with all other states, and the Statehood Compact specifically granted authority over fish and wildlife to the State of Alaska; and

"Whereas the issue of fisheries management was one of the most prominent justifications for statehood; and

"Whereas the State of Alaska contends that the Statehood Compact cannot be legally modified by either party without the consent of the other party; and

"Whereas the Congress and the President of the United States are presently embarking on a campaign to return rights and authority to the states; and

"Whereas Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA; P.L. 96-487), enacted in 1980, grants a subsistence priority on federal public land in Alaska; and

"Whereas the Secretary of the Interior and the Secretary of Agriculture have threatened unilateral federal preemption of state fish and wildlife management on state and private land and water in Alaska; and

"Whereas the State of Alaska, the federal government, and other parties are attempting to sort out the complexities of the federal law related to jurisdictional issues created by ANILCA; and

"Whereas the legal process for developing a final resolution to the jurisdictional questions is extremely slow, and major social and economic disruption is imminent if the federal government continues on a course to illegally and unconstitutionally preempt state management of fish and wildlife; and

"Whereas the Congress specifically declined to grant preemption authority to the Secretary of the Interior and the Secretary of Agriculture in ANILCA; and

"Whereas the Congress specifically reemphasized that the jurisdiction and authority of the state were to be maintained; and

"Whereas the Alaska State Legislature is confident that the Alaska delegation in the Congress and the people of Alaska would never have agreed to the final compromise ANILCA package had they been advised that ANILCA contained provisions to allow federal preemption of all state fish and wildlife management in Alaska; and

"Whereas the federal agencies and some parties are arguing in recent court cases concerning state/federal jurisdiction that federal reserved water rights and the navigational servitude provide legal basis for a claim of federal title to land and resources; and

"Whereas this interpretation of federal laws related to federal reserved water rights and the navigational servitude is contrary to all existing related laws and policies adopted by the Congress and threatens to undermine existing reserved water rights and navigable waters policies that are critical to all western states: Be it

"*Resolved*, That the Alaska State Legislature respectfully and urgently requests the Congress to amend the Alaska National Interest Lands Conservation Act (ANILCA) to clarify that the original intent of the Congress was not to violate the Statehood Compact or to preempt state management of fish and wildlife in Alaska; and be it further

"*Resolved*, That the Alaska State Legislature respectfully requests that the Congress amend ANILCA to clarify that the definition of "public lands" means only federal public land and water; and be it further

"*Resolved*, That, while the federal courts are resolving the federal/state conflicts created by Title VIII of ANILCA, the Alaska State Legislature respectfully requests that the Congress amend ANILCA to expressly prohibit preemption of state jurisdiction on state and private land and water unless specifically authorized by the Congress and the State of Alaska; and be it further

"*Resolved*, That the Alaska State Legislature respectfully requests the Congress to clarify that neither ANILCA nor another federal law provides authority for the federal agencies to claim title to resources or land through federal reserved water rights or through the navigational servitude; and be it further,

"*Resolved*, That the Alaska State Legislature respectfully requests the Alaska delegation in Congress to oppose any other amendments to ANILCA until the Congress takes action to confirm state management and to limit the definition of "public lands."

"Copies of this resolution shall be sent to the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; the Honorable Strom Thurmond, President Pro Tempore of the U.S. Senate; the Honorable Bob Dole, Majority Leader of the U.S. Senate; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1196. A bill to transfer certain National Forest System lands adjacent to the townsite of Cuprum, Idaho (Rept. No. 104-189).

By Mr. WARNER, from the Committee on Rules and Administration, without amendment:

S. 426. A bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia, and for other purposes (Rept. No. 104-190).

By Mr. D'AMATO, from the Special Committee To Investigate Whitewater Development Corporation and Related Matters, without amendment and with a preamble:

S. Res. 199. An original resolution directing the Senate Legal Counsel to bring a civil action to enforce a subpoena of the Special Committee to Investigate Whitewater Development Corporation and Related Matters to William H. Kennedy III (Rept. No. 104-191).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 884. A bill to designate certain public lands in the State of Utah as wilderness, and for other purposes (Rept. No. 104-192).

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1180. A bill to amend title XIX of the Public Health Service Act to provide for health performance partnerships, and for other purposes (Rept. No. 104-193).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 965. A bill to designate the Federal building located at 600 Martin Luther King, Jr. Place in Louisville, Kentucky, as the "Romano L. Mazzoli Federal Building".

H.R. 1253. A bill to rename the San Francisco Bay National Wildlife Refuge as the Don Edwards San Francisco Bay National Wildlife Refuge.

S. 776. A bill to reauthorize the Atlantic Striped Bass Conservation Act and the Anadromous Fish Conservation Act, and for other purposes.

S. 1315. A bill to designate the Federal Triangle Project under construction at 14th Street and Pennsylvania Avenue, Northwest, in the District of Columbia, as the "Ronald Reagan Building and International Trade Center".

S. 1388. A bill to designate the United States courthouse located at 800 Market Street in Knoxville, Tennessee, as the "Howard H. Baker, Jr. United States Courthouse".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Tommy Edward Jewell III, of New Mexico, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1998. (Reappointment.)

(The above nomination was reported with the recommendation that he be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRESSLER:

S. 1485. A bill to require the Secretary of the Interior to submit a report on Indian tribal school construction funds to certain committees of Congress, and for other purposes; to the Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. D'AMATO:

S. Res. 199. An original resolution directing the Senate Legal Counsel to bring a civil action to enforce a subpoena of the Special Committee to Investigate Whitewater Development Corporation and Related Matters to William H. Kennedy III; from the Special Committee To Investigate Whitewater Development Corporation and Related Matters; placed on the calendar.

By Mr. LUGAR:

S. Res. 200. A resolution expressing the sense of the Senate that the Republic of Trinidad and Tobago should be considered for accession to the North American Free Trade Agreement; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRESSLER:

S. 1485. A bill to require the Secretary of the Interior to submit a report on Indian tribal school construction funds to certain committees of Congress, and for other purposes; to the Committee on Indian Affairs.

TRIBAL SCHOOL CONSTRUCTION FUNDS LEGISLATION

Mr. PRESSLER. Mr. President, today, I am introducing legislation that would require the Department of Interior to report to Congress within 30 days on the availability of unobligated tribal school construction funds. These are funds that were appropriated for construction in a previous fiscal year, but never spent.

Tribal schools have a deplorable backlog of needed construction and repairs. Indian children continue to attend school in dilapidated and even condemned buildings despite congressional efforts to correct the problems over the last several decades. Many in Congress are interested in finding ways to finance the cost of these needed improvements in the face of limited Federal resources. However, the first step is to determine and account for funds previously appropriated. This accounting is necessary in order to consider financing options.

I sincerely regret that it takes legislation to request an accounting of these unobligated funds. The distinguished chairman of the Indian Affairs Committee, Senator MCCAIN, and I repeatedly have asked the Bureau of Indian Affairs [BIA] for a report, but the BIA has refused to provide this information. I sincerely hope that this refusal is not due to mismanagement of this particular BIA account. Therefore, in light of the BIA's failure to accurately account for its own budget, legislation is necessary. I look forward to hearing from the BIA on this matter and will work with my colleagues on this important issue. The bottom-line goal is to provide native American children a positive, healthy, and safe environment to learn.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPORT ON FUNDING OF FACILITY IMPROVEMENT, REPAIR, AND CONSTRUCTION OF SCHOOLS OF THE BUREAU OF INDIAN AFFAIRS.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall prepare and submit to the Committee on Indian Affairs of the Senate and the Subcommittee on Native American and Insular Affairs of the Committee on Resources of the House of Representatives a report on the amounts made available to the Department of the Interior for facility improvement, repair, and new construction of schools of the Bureau of Indian Affairs under part B of title XI of the Education Amendments of 1978 (25 U.S.C. 2001 et seq.).

(b) CONTENT OF REPORT.—The report prepared under subsection (a) shall—

(1) for each of fiscal years 1992 through 1995, specify—

(A) the amounts made available to the Department of the Interior for facility improvement, repair, and new construction of schools of the Bureau of Indian Affairs under part B of title XI of the Education Amendments of 1978 (25 U.S.C. 2001 et seq.); and

(B) any amount of those amounts that were not obligated during the fiscal year for which the funds were made available; and

(2) include information concerning the availability of funds for facility improvement, repair, and new construction of schools of the Bureau of Indian Affairs prior to fiscal year 1992.

ADDITIONAL COSPONSORS

S. 582

At the request of Mr. HATFIELD, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 582, a bill to amend title 28, United States Code, to provide that certain voluntary disclosures of violations of Federal laws made pursuant to an environmental audit shall not be subject to discovery or admitted into evidence during a Federal judicial or administrative proceeding, and for other purposes.

S. 704

At the request of Mr. SIMON, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 969

At the request of Mr. BRADLEY, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 1169

At the request of Mr. KEMPTHORNE, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1169, a bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize construction of facilities for the reclamation and reuse of wastewater at McCall, Idaho, and for other purposes.

S. 1315

At the request of Mr. MOYNIHAN, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 1315, a bill to designate the Federal Triangle Project under construction at 14th Street and Pennsylvania Avenue, Northwest, in the District of Columbia, as the "Ronald Reagan Building and International Trade Center".

S. 1469

At the request of Mr. BROWN, the names of the Senator from Michigan [Mr. ABRAHAM], the Senator from Arkansas [Mr. BUMPERS], the Senator from Indiana [Mr. LUGAR], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1469, a bill to extend the United States-Israel free trade agreement to the West Bank and Gaza Strip.

S. 1473

At the request of Ms. SNOWE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1473, a bill to authorize the Administrator of General Services to permit the posting in space under the control of the Administrator of notices concerning missing children, and for other purposes.

SENATE RESOLUTION 199—ORIGINAL RESOLUTION REPORTED DIRECTING THE SENATE LEGAL COUNSEL

Mr. D'AMATO, from the Special Committee To Investigate Whitewater Development Corporation and Related Matters, reported the following original resolution:

S. RES. 199

Whereas the Special Committee To Investigate Whitewater Development Corporation and Related Matters ("the Special Committee") is currently conducting an investigation and public hearing pursuant to Senate Resolution 120, section 5(b)(1) of which authorizes the Special Committee to issue subpoenas for the production of documents;

Whereas on December 8, 1995, the Special Committee authorized the issuance of a subpoena duces tecum to William H. Kennedy, III, directing him to produce certain documents to the Special Committee by 5:00 p.m. on December 12, 1995;

Whereas on December 12, 1995, the Special Counsel to the President, on behalf of the White House, and personal counsel for the President and Mrs. Clinton, submitted to the Special Committee legal objections to the compelled production of documents under the Special Committee's subpoena;

Whereas on December 12, 1995, counsel for Mr. Kennedy notified the Special Committee that, based upon the instructions of the White House Counsel's Office and personal counsel for President and Mrs. Clinton, Mr. Kennedy would not comply with the subpoena;

Whereas, having considered the legal objections that had been submitted by the White House, personal counsel for President and Mrs. Clinton, and Mr. Kennedy, on December 14, 1995, the Special Committee overruled those objections in their entirety and ordered and directed that Mr. Kennedy comply with the Special Committee's subpoena by 9:00 a.m. on December 15, 1995;

Whereas Mr. Kennedy has refused to comply with the Special Committee's subpoena as ordered and directed by the Special Committee;

Whereas, pursuant to the authority of section 5(b) of Senate Resolution 120, including the reporting provisions of section 5(b)(10), the Special Committee is authorized to report to the Senate recommendations for civil enforcement with respect to the willful failure or refusal of any person to produce before the Special Committee any document or other material in compliance with any subpoena or order;

Whereas under sections 703(b) and 705 of the Ethics in Government Act of 1978, title 2, United States Code, sections 288b(b) and 288d, the Senate Legal Counsel shall bring a civil action under title 28, United States Code, section 1365 to enforce a subpoena or order of a Senate committee when directed to do so by a resolution of the Senate: Now, therefore, be it

Resolved, That the Senate Legal Counsel shall bring a civil action in the name of the Special Committee to Investigate Whitewater Development Corporation and Related Matters to enforce the Special Committee's subpoena and order to William H. Kennedy, III, and the Senate Legal Counsel shall conduct all related civil contempt proceedings.

SENATE RESOLUTION 200—RELATIVE TO TRINIDAD AND TOBAGO

Mr. LUGAR submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 200

Whereas the Republic of Trinidad and Tobago meets the requirements for accession to the North American Free Trade Agreement (hereafter referred to as the "NAFTA");

Whereas the Republic of Trinidad and Tobago has successfully implemented programs to liberalize the country's economy and trade regime, particularly by lowering tariffs, divesting its holdings in the production sector, and promoting private sector development;

Whereas the Republic of Trinidad and Tobago has entered into a Bilateral Investment Treaty and an Intellectual Property Rights Agreement with the United States;

Whereas the Republic of Trinidad and Tobago has expressed an active interest in entering into negotiations for accession to the NAFTA;

Whereas the Republic of Trinidad and Tobago seeks to ensure that the markets of North America and the markets of Trinidad and Tobago are open to each others; products and services on a reciprocal basis;

Whereas major United States-based multinational companies and successfully operating in the Republic of Trinidad and Tobago and access to the NAFTA would afford these companies enhanced investment security as well as a more comprehensive legal framework for their operations in Trinidad and Tobago;

Whereas the Republic of Trinidad and Tobago is a small but significant non-OPEC producer of oil and gas and has continually and significantly contributed to the energy security of the Western Hemisphere;

Whereas several United States energy companies have substantial investments in the petrochemical and hydrocarbon sectors of the economy of Trinidad and Tobago; and

Whereas many members of the Congress and the Administration have applauded the fiscal discipline which has led to the continued liberalization of the economy of the Republic of Trinidad and Tobago and have expressed interest in including the Republic of Trinidad and Tobago in the NAFTA: Now, therefore, be it.

Resolved, That it is the sense of the Senate that the Republic of Trinidad and Tobago should be deemed ready, willing, and able to undertake all of the general obligations imposed by the North American Free Trade Agreement and that the President should consider favorably the request of the Republic of Trinidad and Tobago to commence negotiations for accession to the NAFTA as soon as comparable negotiations with the Government of Chile are concluded.

Mr. LUGAR. Mr. President, I submit a sense-of-the-Senate resolution urging Trinidad and Tobago's accession to the North American Free Trade Agreement [NAFTA]. Trinidad and Tobago's admission to the NAFTA between the United States, Mexico and Canada is essential to ensuring continued growth and prosperity. Participation in the NAFTA and the contemplated Free Trade Agreement of the Americas will promote sustained economic development and increased commercial activity between Trinidad and Tobago and its hemisphere neighbors. Indeed, free trade in the western hemisphere would be in the common economic interest because it would be wealth-maximizing for all members.

Trinidad and Tobago is well prepared to undertake the obligations of NAFTA. As one of the most advanced economies in the Caribbean, the island nation has successfully implemented economic reforms that have deregulated industry, lowered tariff barriers, and promoted investment. Its achievements are in keeping with criteria for NAFTA eligibility that the Administration has laid out in negotiations with Chile.

Trinidad and Tobago has enjoyed good relations with the United States through the years. The two countries share a fundamental commitment to civil liberties and human rights. In recent years cooperation has included working to curtail illegal drug shipments and money laundering in the hemisphere and sharing information relating to customs modernization and reorganization. Trinidad and Tobago and the United States have long enjoyed cordial diplomatic relations as well as strong economic ties arising from the investment of United States companies in the energy sector of Trinidad and Tobago. Both countries have dedicated significant resources to the full restoration of democracy and free market development in nearby Haiti and Cuba.

The end of the cold war has altered the nature of the U.S. interest in the Caribbean. Apart from geographic proximity, the flow of people, commodities, culture, and a shared interest in combatting drug trafficking, protection of economic interests and fragile ecosystems have bound the hemispheric together as never before. As with United States-Mexico relations, United States-Caribbean relations dramatically demonstrate the inseparability of foreign and domestic issues.

The opportunities for growth and investment for U.S. companies are increasing. The Trinidad and Tobago oil and gas industry is growing steadily, spurring growth in an increasingly diversified economy. This presents excellent opportunities for United States companies interested in conducting operations in the Caribbean as a nexus for trade with South America and the Pacific Rim through the Panama canal.

Sustainable growth can be most readily achieved in Trinidad and Tobago by its integration into the regional trade framework. Trade between Caribbean countries accounts for a mere 4 percent of their exports, and investment between the countries of the region is negligible. Trinidad and Tobago is an economic leader within CARICOM, provides most of the current investment and is major creditor in the region. The economies are small; domestic markets and intra-Caribbean markets cannot absorb production and therefore cannot foster meaningful trade expansion. Future economic prosperity for Trinidad and Tobago lies in its rapid integration into the North American market.

Economic Reform. Over the past several years, Trinidad and Tobago has created a solid macroeconomic climate through a strong governmental commitment to private-sector-led expansion and export growth. Trinidad and

Tobago has had an aggressive program of divestment of public holdings in commercial companies. Fifteen companies have been divested over the past 3 years, including the generation division of the national electric company, the national airline and the iron and steel company. Divestment procedures are in progress for another 13 companies.

Trinidad and Tobago's aggressive economic reform policy decisions, rigorously implemented, have yielded positive results and created allies out of many skeptics in the business community. Despite the support for high labor standards and protection of workers' rights and despite actual reductions in unemployment—currently about 18 percent—the macro-economic reforms cannot by themselves reduce unemployment to acceptable levels.

Trinidad and Tobago's Government accounts are now tractable. The fiscal deficit, which averaged 7.2 percent in 1986–88, has been reduced to 1.7 percent over the last 5 years. In 1994, the government closed the year with a small fiscal surplus and expects a similar result again in 1995.

The balance of payments in Trinidad and Tobago has also begun to demonstrate a new robustness. Following 11 years of continuous deficit, for the past 2 years the external accounts were in surplus. A supportive monetary policy is in place, aimed at restraining exchange reserves. As a result, inflation is moderate and falling. The inflation rate from September 1993 to September 1994 was only 6.4 percent. The government floated the Trinidad dollar in 1993 and has now fully absorbed the devaluation occasioned by that flotation. The exchange rate has held remarkably firm. Consequently, the inflation rate is expected to fall under 5 percent this year.

The external debt service payments have been onerous—well over a half a billion U.S. dollars last year. Nevertheless, the government has reduced the debt significantly and it now represents barely 30 percent of GDP—this down from 42 percent in 1992.

Trinidad and Tobago has instituted a major structural adjustment away from import substitution and is vigorously pursuing a policy of export led growth. Almost overnight, the old tariff structure has been dismantled. In 1991, 40 percent of the items were removed from the import negative list. In 1995, the temporary surcharge imposed subsequent to the removal of items from the negative list, was reduced to zero.

In 1994, the majority of agricultural items were removed from the negative list. Nevertheless, total output in this sector increased by almost 12 percent. Consistent with the obligations within CARICOM, the existing maximum tariff of 30 percent will be phased down to 20 percent by 1998. It is important to note, however, that a more accurate reflection of the openness of the trade regime is that average tariff rates are now less than 6 percent for imports from the United States.

Favorable Investment Climate. The best proof of the success in creating a favorable investment climate is evidenced by the surge of direct investment. In 1995, the Government of Trinidad and Tobago reduced the corporate tax rate for foreign investors from 45 to 38 percent. In 1994, investment flows from the U.S. reached almost $700 million and for 1995, the country has commitments for $1.2 billion. Trinidad and Tobago will easily surpass all other countries in the hemisphere in attracting foreign investment.

Trinidad and Tobago will, as a member of the NAFTA, maintain United States environmental, health and safety workplace standards. Trinidad and Tobago's Government procurement provisions guarantee United States firms the ability to compete for government contracts. Tariffs on most U.S. exports have been eliminated in the computer, oil refining equipment, special industrial machinery, pharmaceutical, telecommunications and photographic equipment and sectors. In addition, Trinidad and Tobago has signed both a Bilateral Investment Treaty [BIT] and Agreement on Intellectual Property Rights with the United States.

Hemispheric Energy Security. Trinidad and Tobago is a major oil-producing country. Trinidad's 10.6 trillion cubic feet of natural gas reserves represents a 45-year reserves life index. The economy is based largely on its plentiful reserves of petroleum and natural gas. As a result, Trinidad and Tobago has developed good relationships with United States oil companies involved in oil and gas development and extraction. The strategic geographic location of the islands has favored the establishment of large oil refineries and other facilities designed to promote energy research and to produce natural gas and petroleum byproducts such as methanol and ammonia fertilizer.

Trinidad and Tobago is the world's second largest exporter of nitrogenous ammonia fertilizer, a natural gas byproduct. One-third of the United States 3 million tons of ammonia imports come from Trinidad and Tobago annually, valued at $240 million in 1994, according to U.S. Commerce Department figures. This is equal to about 5 percent of U.S. ammonia fertilizer usage annually.

The United States currently imports 80 MBD of crude oil and petroleum products from Trinidad and Tobago valued at over $500 million a year in 1994, or 1 percent of the Nation's oil imports.

Cooperation on Drug Trafficking. Trinidad and Tobago has modernized its customs operations. It has introduced the automated system for the collection of customs data, which is now operational in most of the country. Officials expect that this critical element in the administrative reform of the Customs department will be extended to Tobago and to the industrial estate at Point Lisas during 1995.

Trinidad and Tobago is not a major producer, consumer or trafficker of illegal drugs, precursor chemicals, or money laundering. The Government and the people of Trinidad and Tobago recognize that illegal drugs are disruptive to public health, safety, and the social fabric. Business people contend that money laundering undermines legitimate economic activities. The effects of illegal drug related activity are likely to increase, particularly if economies suffer and drug related work is seen as one of the few income producing opportunities available.

Passage of the Dangerous Drugs Amendment in November 1994 brought the laws of Trinidad and Tobago into conformity with the requirements of the 1988 United Nations Convention. The new law prohibits activities regarding the manufacture of precursor chemicals, money laundering activities, assets forfeiture, and removal of impediments to effective prosecution.

Since 1992, local Trinidad and Tobago banks have voluntarily reported large deposits to the police department's Office of Strategic Services [OSS], a special unit built to diminish the availability of banking services to traffickers. OSS collects intelligence on financial transactions and in 1994 published a money laundering information pamphlet for local financial institutions.

Conclusion. Mr. President, the Republic of Trinidad and Tobago deserves consideration as the next country to accede to NAFTA, following Chile. It has successfully undertaken economic reforms that have attracted foreign investment, reduced debt, and expanded the private sector. In order to further expand its economy, Trinidad and Tobago needs greater access to the larger markets of the hemisphere. The reality is that Caribbean economies are small. Domestic markets and intra-Caribbean markets alone, cannot absorb production and therefore cannot foster meaningful trade expansion. Future economic prosperity for Trinidad and Tobago—as well as for other eligible countries—lies in its rapid integration into the North American market. In submitting this resolution, I hope Trinidad and Tobago can soon be considered for membership in the NAFTA.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LOTT. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet to consider pending business Tuesday, December 19, 1995, at 2:30 p.m., hearing room SD–406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, December 19, 1995, at 10:30 a.m. to hold a hearing on "Trends in Youthful Drug Use."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, December 19, 1995 at 3:00 p.m to hold a conference with the House Intelligence Committee regarding the fiscal year 1996 intelligence authorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE 40TH ANNIVERSARY OF THE DEDICATION OF THE U.S. AIR FORCE ACADEMY

• Mr. CAMPBELL. Mr. President, I rise today on behalf of myself and my distinguished colleague, Senator BROWN, the senior Senator from Colorado. I know I speak for him as well, as I address the Senate today.

On April 1, 1954, President Eisenhower signed Public Law 325, the Air Academy Act. On June 24, Secretary of the Air Force Harold Talbott announced that Colorado Springs would be the permanent site of the U.S. Air Force Academy and Denver would serve as the temporary site. Senator Ed Johnson stated, "This is the greatest thing that has happened to Colorado since Pikes Peak was discovered by Zebulon Pike." The U.S. Air Force Academy was officially activated at Lowry Air Force Base, July 27, 1954, and proceeded to build in strength pending the arrival of the first class of cadets—July 11, 1955—which date marks the official dedication and opening of the U.S. Air Force Academy.

Dedication Day began with the arrival of the 307 young men who would comprise the Class of 1959. The morning was spent in processing, uniforms, hair cuts, and so forth, and by 11 a.m. they were lined up for intensive close order drill instruction. That afternoon, with the stands filled with 4,159 military and civilian dignitaries, public officials, the foreign attaché corps, cadets from West Point and Annapolis, the press and parents, with a formation of B–36 bombers flying overhead, and with the U.S. Air Force Band playing, the 307 cadets marched on the field in such perfect formation it brought tears in the eyes of the spectators.

At the end of the ceremonies, the guests were invited by the Denver Chamber of Commerce to attend a real chuck wagon buffalo barbecue at the Red Rocks Park Amphitheater, a fitting climax to a historic day.

We Coloradans are, indeed, proud that Colorado was chosen as the location of the temporary and permanent sites of the U.S. Air Force Academy. The Nation is, indeed, proud of the outstanding leaders who have graduated from the U.S. Air Force Academy—both in the Air Force and civilian life.

We would also like to pay tribute to those officers whose wisdom and foresight in the Academy's inception insured a great measure of the success that has been achieved by the Academy. Among these are Lt. Gen. Hubert R. Harmon, the first Superintendent and Father of the U.S. Air Force Academy; Col. (later Brig. Gen.) Robert M. Stillman, Commandant of Cadets; Col. (later Brig. Gen.) Robert F. McDermott, Dean; Col. William B. Taylor III, Assistant Chief of Staff (Special Projects), and Col. Robert V. Whitlow, Director of Athletics.

LT. GEN. HUBERT R. HARMON, FIRST SUPERINTENDENT AND FATHER OF THE U.S. AIR FORCE ACADEMY

President Eisenhower personally selected his close friend and West Point classmate Lt. Gen. Hubert R. Harmon to be the new Air Force Academy's first Superintendent as he knew "Doodles" Harmon would be, by far, the best man for the job. General Harmon was from a prominent military family as his father and two brothers were West Point graduates, as were the husbands of his two sisters. His wife, Rosa May Kendricks' father was U.S. Senator John B. Kendricks (Wyoming). He had a distinguished military career being equally at home at an Academy football game—even though he weighed only 146 pounds, he won his "A" in football—piloting a combat airplane—the distinguished flying cross with cluster—on the golf course with President Eisenhower; as Air Attaché at the Court of St. James; and at the United Nations where he was the Senior U.S. Military Representative.

In December 1949, he was given the additional duty of Special Assistant to the Chief of Staff for Air Force Academy Matters charged with all details of developing ideas into an operational Air Force Academy. For the next 5 years, General Harmon and his team conferred endlessly with distinguished educators from all parts of the country; sifted and weighed the curriculum of universities and Service Academies in the United States and abroad, searching out the best features of each so painstaking by examining every suggestion referred to them by Congress or the Defense Department for its merit and workability. Every effort was made to select the finest officers for each segment of the Academy, to prepare the academic and military course material and, as required, to send officers to universities for specific academic training.

During the numerous meetings held in the Pentagon, the Bureau of the Budget and in the House and Senate Armed Services Committee hearings, General Harmon was the star witness, selling the U.S. Air Force Academy concept, which led to the passage of Public Law 325, 83d Congress, the Air Academy Act signed by President Eisenhower April 1, 1954. On June 24, Secretary Talbott announced that the Academy would be located at Colorado Springs and pending the design and construction of the permanent facilities, the Academy would be located at a temporary site at Denver (Lowry). On August 14, General Order No. 1 announced the official establishment of the Academy at Lowry—effective July 27—with General Harmon as its superintendent.

He was a very meticulous person and was involved in all major aspects of the Academy, that is, rehabilitation of Lowry's buildings, the phasing in of all personnel; insuring that all items required to operate all facets of the Academy were procured and in place and, most important, that the new Academy would attract the most outstanding young men who were to be the future leaders of the Air Force.

General Harmon was an outstanding example of the ideal leader, a brilliant, thoughtful, dynamic, respectful, understanding officer whose men would gladly follow him anywhere.

With the arrival of the Academy's first class of cadets at Lowry on July 11, 1955, the U.S. Air Force Academy was born, with Lt. Gen. Hubert R. Harmon overseeing them as the Academy's "Proud Father!" As President Eisenhower later wrote "Hubert was loved and admired by many; to Mamie and me he always seemed the ideal classmate and so we had for him a boundless affection." This was shared by Gen. Thomas D. White, Air Force Chief of Staff, who wrote, "The Air Force has lost one of its most inspiring leaders and the Father of our new Air Force Academy." Senator Gordon Allott (Colorado), who served under General Harmon in World War II, wrote, "Few have had as much courage and set so fine an example as he did. His quiet, fair and, above all, his genuine qualities have been stamped on the entire Academy and I believe will be reflected in every student who graduates."

BRIG. GEN. ROBERT M. (MOOSE) STILLMAN

Brig. Gen. Robert M. (Moose) Stillman was the ideal officer to be appointed the first Commandant of Cadets. He was a leader's leader having been a star football player and line coach at West Point, 8th Air Force Bomb Group Commander, POW at Stalag Luft III, and, while serving in the Office of the Deputy Chief of Staff for Personnel, was involved in the early planning of the U.S. Air Force Academy. Moose was more mature than most of the other key Academy officers as he was West Point 1933, whereas McDermott, Whitlow and others were West Point 1943. He was a burly, genial man with a great sense of humor and was an avid sportsman. Colorado was his State as he grew up in Pueblo and attended Colorado College in Colorado Springs before entering West Point.

As there were no upper classmen to supervise the "Doolies" (plebes), outstanding young officers, many with Korean combat records, were assigned to be the Air Training Officers and Air Officer's Commanding to fill this vital role. As their careers progressed, many of these officers became key U.S. Air Force officials, that is, Chief of Staff, Superintendent of the U.S. Air Force Academy, and so forth.

"Moose" Stillman used a modified version of the West Point Commandant of Cadets system which proved to be most successful in the installation of command and leadership into the future Air Force leaders. The basic fundamentals of this system are incorporated into today's curriculum.

The training function as envisioned by General Stillman was divided into three main components: Military training, flying training, and physical training, thus the individual cadets would experience a 4-year laboratory exercise in command and leadership. At all stages of the planning for the Academy, the philosophy of a "sound mind in a sound body" was recognized as a fundamental principle. To assist him in running the Commandant of Cadets Department, he hand picked outstanding young Majors, Lieutenant Colonels and Colonels, many of whom were later promoted to General Officer and held major Air Force positions.

When General Stillman turned over the Command of the Cadet Wing on August 1, 1958, the mould had been set which other Commandants were prepared to implement. It is only fitting that the Academy Parade Ground has recently been named the Maj. Gen. Robert M. Stillman Parade Ground in honor of this outstanding officer.

COL. (BRIG. GEN.) ROBERT F. MC DERMOTT

McDermott, as his close friends call him, attended Norwich University for 2 years before entering West Point, graduating in 1943. After service as a fighter pilot in the European theater he served as a personnel staff officer in the Pentagon and then to Harvard for his MBA. From 1950 to 1954 (when he was assigned to the faculty of the new U.S. Air Force Academy) he was an instructor in the West Point Department of Social Studies under the tutelage of two distinguished military educators, Col. Herman Blukema and Col. George Lincoln. From the Academy's inception in 1954 he served as Professor and Head of the Department of Economics with additional duties as Faculty Secretary, Vice Dean, Acting Dean and later Dean (replacing Brig. Gen. Don Zimmerman).

McDermott was a visionary in that he realized that the university educational system was undergoing a drastic change and that the new U.S. Air Force Academy's curriculum must reflect this change in order to meet the educational and technological challenges of the modern world. The first major change was the Academy's Enrichment Program which was designed for the gifted cadets and those who had completed college level courses at other institutions. The Enrichment Program broadens the field of study, challenging the cadet to advance academically as far and fast as the cadet was able to accomplish. The introduction of the curriculum enrichment program was the first major departure from the traditional service academy philosophy—that all students should pursue and be limited to a prescribed course of study—and was an outstanding success.

He also introduced the whole man concept in selecting cadets for appointment, which gave weighted recognition to the physical, athletic, moral and leadership attributes of a candidate as well as his academic potential and registered scholastic achievements. This soon became the standard admission policy of all Service Academies and earned McDermott, the award of the Legion of Merit. During his long tenure as Dean, McDermott established programs and policies which two decades later still influence established programs and policies. He created a tenure associate Professor Program designed to keep the Academy's doctoral level to that in civilian universities. He established a sabbatical leave program for all tenure professors. He started a faculty research program in support of graduate level teaching and related Air Force research programs, etc.

McDermott was an extraordinary individual. His educational background, with its vigorous training and grueling workload, had given him confidence in his ability to achieve his goals. His influence came from hard work, mastery of detail, and from his remarkable ability to express his ideas and express his proposals in a forceful way—as his verbal skills were second to none.

Under his leadership the Academy experienced unprecedented academic achievements. By the time of McDermott's retirement in 1968, graduates had won 9 Rhodes Scholarships, 20 Fulbright Scholarships, and 73 other fellowships and scholarships, which no other institution of higher learning has achieved in such a short time of its inception.

The Academy and the U.S. Air Force was indeed fortunate to have in its formative years a dean with the wisdom and foresight of Robert F. McDermott.

COL. WILLIAM B. TAYLOR III

Col. William B. Taylor III played two major roles. First as the Legislative Officer, representing the Secretary of the Air Force, and, in coordination with Lt. Gen. Harmon, was tasked with the Air Force and interservice coordination; White House approval and, action through the Congress of legislation to establish a U.S. Air Force Academy. To accomplish this, Colonel Taylor absorbed and organized an abundance of information—which had accumulated for more than 6 years—running the gauntlet of wishfulness to projections of an operating Academy with a history of tradition, picking out the essential information, monitoring its organization, and presentation in a manner essential to its passage. Colonel Taylor's efforts in behalf of the Air Academy legislation were of inestimable value to the Air Force and it is difficult to conceive of anyone who could have performed this mission more effectively and in such an outstanding manner.

Second, as Assistant Chief of Staff (Special Projects) from January 1955–July 1958, Colonel Taylor had a major input in almost every major staff action. He was project officer for the dedication of the U.S. Air Force Academy, July 11, 1955, at Lowry which the arrival of the 307 initial cadets, flyovers, speeches, important military and civilian guests, cadets from West Point and Annapolis, parents, receptions, and entertainment signified the Academy's first operational day. As the Liaison Officer, Air Force Academy Foundation, he replaced the foundation's professional fundraiser and played a major role in the planning and implementation of the following projects: the Eisenhower championship golf course, the Farrish Memorial Park Cadet Recreational Center, the Professional Football Exhibition Benefit Game program, the drafting of the initial fundraising plans for the Academy stadium, the Visitors Center, and other projects adopted by the foundation. He organized and was secretary to the Board of Visitors 1956–1958. The board's secretary must show great tact and inspire confidence while representing the Academy during the critical annual inspection period. Representative J. Edgar Chenoweth (CO), Chairman of the Academy's first Board of Visitors, congratulated Colonel Taylor on his performance, stating the Board's Report was the best he had seen. Similar comments were received from Representative Errett Scrivner and Gen. Carl Spaatz, the 1957 and 1958 chairman.

Cecil B. DeMille, at the request of Secretary Talbott, agreed to design the cadet uniforms. Colonel Taylor headed the team that worked with Mr. DeMille, and associates from Paramount and Western Costume to create their successful uniform designs.

Colonel Taylor, due to personal contact with Col. Richard Gimbel and Col. Robert Elbert, played a main role in the Gimbel Collection of Aeronautical Memorabilia—the world's finest—and the Elbert paintings "The Duke of Wellington (Laurence)," "Sir Robert Peele," and "The Duke of Douglas (Romney)," which are worth many million dollars, being given to the Academy.

In order to achieve nationwide support for the Academy, Colonel Taylor instituted the Candidate Advisory Program utilizing the Air Force Reserve, Air National Guard, Air Force ROTC, Air Force Recruiting Service, Air Force Retired Personnel, and others to appear before the 26,000-plus high schools and public audiences to promote the U.S. Air Force Academy. This program has been an outstanding success.

Colonel Taylor implemented the Civic Leaders Program whereby civic leaders, educators, clergymen, the press, and others from major cities were brought to the Academy for briefings and indoctrination to insure that on their return they would use their influence to assist the Academy in securing the finest type of young men. As an example of the effectiveness of this program, Dr. Edwin D. Harrison, president of Georgia Tech, a U.S. Naval Academy graduate, wrote Superintendent M/G James E. Briggs "In closing, I feel it imperative to mention that I believe Col. William B. Taylor to be one of the finest officers and the finest gentleman it has ever been my pleasure to meet. I am sure he will leave an indelible mark on the formative period of the Academy."

On his assignment to Spain in July 1958, Colonel Taylor had been associated with the Air Academy project longer than anyone in the U.S. Air Force.

COL. ROBERT V. WHITLOW

Col. Robert V. Whitlow, the Director of Athletics, played a major role in the Academy. He was an athlete's athlete. Bob excelled in football in high school and, at UCLA for 3 years before entering West Point, where he won 3 major letters—in football, basketball, and track. After service as a pilot in World War II, he was assigned to the Collegio Militar, Mexico's West Point as an exchange English instructor and football coach. In 2 years, they won Mexico's national football championship. During his next assignment, at the Air Defense Command, Colorado Springs, he played golf with key generals and dignitaries such as Gen. Rosie O'Donnell, General Harmon, and to be Secretary Harold Talbott, thus paving the way for his selection as Director of Athletics.

Whitlow believed that football was the way to get the new Academy the widest publicity and football was the best way to raise money quickly so that an aggressive athletic program could be launched. His initial goal was to get sixty top flight athletes as cadets as soon as possible. Bob was a very determined and intense man, with supreme confidence in his ability to whip the new cadets into a formidable football team. A most astute move on his part was to hire Buck Shaw, former coach of the Philadelphia Eagles, to coach the football team. He then proceeded to schedule games with top ranked colleges to present the team with the utmost challenge, an almost impossible task—which was farther compounded when you realize the entering first class was only 307 cadets, the second 300 cadets, the third 306 cadets, and the fourth 453 for a total of only 1,366 cadets—all representing a brand new college that had just entered the collegiate athletic world.

It is almost inconceivable that at the end of the fourth football season, largely due to the spirit, drive and determination of Bob Whitlow, Coach Buck Shaw and assistants—and Col. George Simler and Coach Ben Martin who followed Whitlow and Shaw—the Air Force Academy football team battled Texas Christian to a scoreless tie in the Cotton Bowl—an unbelievable feat not to be duplicated by any team from a brand new college. This performance immediately paved the way for the successful fund raising effort to build the Falcon Stadium at the Academy.●

WHAT'S WRONG WITH THE SENATE?

● Mr. SIMON. Mr. President, there is a great deal of discussion about Senate retirements, some of it involving this Senator.

I think all of our colleagues would do well to read an editorial about the retirements that appeared in the St. Louis Post Dispatch which I ask to be printed in the RECORD.

The article follows:

WHAT'S WRONG WITH THE SENATE?

With the retirement announcements in recent days of two more veteran GOP senators—Alan Simpson of Wyoming and Mark Hatfield of Oregon—the number of senators stepping down next year has reached a record: 12. It may yet go higher. Not since 1896, when senators were still elected by state legislatures, not directly by the voters, have so many quit. Why?

Some suggest three terms is a magic number, after which fatigue sets in, and, indeed, five of the 12 retirees have served three terms. But the rest have had service ranging from one to five terms, and their ages range from 52 to 77. So there's no pat formula when it comes to fatigue.

Many of the retirees have expressed disgust with the overly partisan tone today, as well as the distracting burden of constant fund raising—though not all did say so in their retirement announcements. Still, one thing is clear: Most of the retirees were senior members of major committees and held substantial power, and nearly all were pragmatists used to working across party lines. Apparently, the prospect of continued influence wasn't enough to keep the 12 in the Senate.

The characteristic all of them have in common was stated by Mr. Simpson. He said, "The definition of politics is this: There are no right answers, only a continuing flow of compromises . . . resulting in a changing . . . ambiguous series of public decisions, where appetite and ambition compete openly with knowledge and wisdom." That is a good description of the legislative process at its best. It is also completely opposed to the philosophy of the newer GOP members who now control Congress and seek to dominate both the party and the country.

Under such circumstances, those of moderate tone, even if their politics vary across the spectrum from right to left, inevitably must feel out of place. Though one, Bob Packwood of Oregon, was forced to resign because of scandal and two more are well into their 70s, the retirement of 12 senators in one year suggests Congress is losing many of its best people for the worst reasons. When will the American people put a stop to this by rejecting the poisonous politics of absolute truth and relentless demonization of those who see things differently?●

RECOGNITION OF THE BRONZE CRAFT FOUNDRY'S 50TH ANNIVERSARY

● Mr. SMITH. Mr. President, I rise today to recognize the owners and employees of the Bronze Craft Co. of Nashua, NH, for over 50 years of service and dedication to the community.

Bronze Craft was founded in 1944 by Arthur "Artie" Atkinson. This small foundry began its business by making custom architectural hardware. Fifty years later, the company is still owned by the same family, and the traditions of good business and dedication to employees are still the hallmark of Bronze Craft.

Since its inception, the company has delivered for its employees in many ways, not the least of which has been providing long-term dependable employment. It is no surprise that by maintaining a professional run foundry and adhering to the highest health, safety, and environmental standards for its employees, that the foundry can take pride in its many multigenerational employees.

Jack Atkinson, who succeeded his father in 1980 as president and CEO, continues to champion innovative employee participatory programs such as continuous improvement through employee suggestions and strategic action teams. Mr. Atkinson is a credit to the Nashua community, and is to be commended for his innovative thinking. His recent appointment to the executive board of the Non-Ferrous Founders' Society serves as recognition of his leadership in the foundry industry.

It is businesses such as Bronze Craft, which put employees and quality first, that set such a high standard for others in the industry. Their proven success demonstrates the importance of such vision. The American Legion has been a customer since 1944, and recently Bronze Craft was recognized by Steinway & Sons as the Malcolm Baldrige Award Winner for quality and service.

Mr. President, I praise the owners and employees of Bronze Craft for their untiring efforts to provide quality products, which help make America stronger, independent and economically successful. I would also like to recognize the thousands of small foundries, like Bronze Craft, located in urban and rural areas alike in all 50 States. Their outstanding devotion and contributions to making their workplace, community, and country a better place to live ensures a hopeful future.•

IF NOT THERE, WHERE?

• Mr. SIMON. Mr. President, as we continue to discuss the Bosnian situation, and we will continue to discuss it long after the resolution has been adopted, I came across an editorial in the Christian Century by James M. Wall which I ask to be printed in full in the RECORD. It is simple and direct and as powerful a statement as any I have read.

I urge my colleagues to read this thoughtful editorial comment.

The article follows:

[From the Christian Century, Dec. 13, 1995]

IF NOT THERE, WHERE?

(By James M. Wall)

Two questions must be confronted as Americans consider President Clinton's decision to send 20,000 troops to Bosnia: If we don't commit troops there, where do we? And if not now, when? The world's largest military force is equipped and trained to perform missions of peace as well as to fight wars. The president has been patient—some would say too patient—in deciding when to act in Bosnia. He resisted earlier calls for military action, and worked instead for an agreement between combatants which makes it possible for U.S. troops to go to Bosnia not to fight but to prevent others from fighting. Richard Holbrooke's negotiating team in Dayton, Ohio, worked with representatives from Bosnia, Serbia and Croatia to end a war in which at least 250,000 people have died or are missing.

The combatants are scheduled to sign the Dayton agreement this month in Paris. President Slobodan Milosevic of Serbia was persuaded by NATO air strikes, a punishing economic embargo and military successes by Croatia and the Muslim-led Bosnia government that his goal of a greater Serbia was unattainable. Resistance to the accord has predictably surfaced among Bosnian Serbs because under terms of the agreement Sarajevo will be under Muslim control.

Why intervene in Bosnia, and why now? We must first understand that the U.S. is a nation guided by both humanitarian ideals and practical necessities. Our ideals misled us in Vietnam, where we learned the hard way that civil wars are not resolved by outside military force. From our intervention in Somalia we learned that our humanitarian zeal has to be tempered by practical wisdom. We can feed starving people, but we cannot force a political solution on them.

Since the end of the cold war the U.S. has been the only world power with the ability to secure a peace through whatever means are appropriate. We have the military might to enforce agreements. The question is: Do we have the will to get involved in conflicts far from American shores?

It was clearly the presence of oil in the Persian Gulf that led President Bush to claim that vital American interests were involved when Iraq invaded Kuwait. The former Yugoslavia contains no oil, and trade with the region is not critical to the U.S. economy. Nevertheless, instability in that region could easily spill over into surrounding countries. It was instability in this region that precipitated World War I, a fact which led Pope John Paul II, during his recent visit to the U.S., to plead with Clinton not to let the century conclude, as it started, with a war over Sarajevo.

In making his case to the American people and a skeptical Congress, Clinton argued that without U.S. participation the combatants would not have reached the Dayton accord, nor would the European nations in NATO have agreed to supply an additional 40,000 peacekeeping troops to the region. The more persuasive case for U.S. involvement, however, is the harsh reality of the situation: only the commitment of an outside force can keep the warring parties in Bosnia from continuing their mutual slaughter.

At one level, the U.S. and NATO assignment in Bosnia is to prevent a recurrence of the war that began in 1991. At another level, however, the U.S. and NATO are making themselves available as a peace broker for enemies who must slowly and painfully build a future together. We cannot arrange that future, but we can help stop those who want to determine the future through violence.

Reinhold Niebuhr pointed out that modern technology has increased our capacity for intimacy even as it provides us with the tools to fight wars that avoid intimacy. We need, as Niebuhr argued more than 50 years ago, to develop "political instruments which will make such new intimacy and interdependence sufferable." Our survival depends on finding a way to accept the "interpenetration of cultures" rather than turning to mutual destruction.

The peacekeeping force that goes to Bosnia will offer only a partial correction of past errors and blatant wrongdoing on the part of several nations and many individuals. We are sending troops to an area that has witnessed ethnic cleansing, torture, indiscriminate killing of civilians, and rape as an instrument of war. We go to the region not to solve problems but to permit Serbs, Muslims and Croats to struggle toward their own solutions. Sending U.S. forces into a region full of generations-old patterns of hatred and aggression is dangerous. But the alternative is worse. If we do not support the peace process, we invite the return of an unceasing war that breeds further hatred and aggression.

The U.S. is blessed with wealth and resources and the means to act on behalf of others. We may regard this peace mission as we might speak of any effort on behalf of a people in need. We go to Bosnia not to control or dominate others, but to help others to do what they cannot do for themselves.•

COMMENDING CATHY MYERS

• Mr. GREGG. Mr. President, I rise today to commend Cathy Myers, of my staff, who has completed 12 years of dedicated and exemplary service in the U.S. Senate. Since my election to the Senate in 1992, Cathy has worked in my office, unselfishly devoting her time, and effort in making the office run more efficiently and effectively. She is certainly someone you can count on and my staff and I appreciate everything she does for all of us. Cathy has been the consummate example of a devoted employee, and I wish her many more successful years of service.

It is with great joy that I rise today in honoring Cathy Myers on the occasion of her 12th anniversary as an employee in the U.S. Senate.•

WHAT MAKES HONG KONG TICK

• Mr. SIMON. Mr. President, one of the impressive leaders in our world is a legislator little known by most Americans. He is Martin C.M. Lee, who has led the forces for democracy in Hong Kong and has courageously stood up for freedom and democracy and human rights in Hong Kong.

He does that in the face of a Chinese takeover of Hong Kong that is slated in 1½ years from now.

Recently, he had an op-ed piece in the Washington Post that I hope the leaders of China will see.

On the possibility that more Chinese leaders will see it, I ask that it be printed in full in the RECORD. I hope that all the Members of the Senate and House and their staffs will read it also to help prepare them for what may happen come 1997.

The article follows:

WHAT MAKES HONG KONG TICK

(By Martin C.M. Lee)

HONG KONG.—On June 30, 1997, Hong Kong and its 6 million free citizens will become part of the People's Republic of China. As the countdown to 1997 advances, the people of Hong Kong should be hearing reassurances from China that we will be able to keep our freedoms and way of life. Instead, each day brings a new threat.

The latest has thrown Hong Kong into turmoil, both for the harm it will do to human rights and for the message it sends about China's plans for the future. In October China proposed scrapping key sections of Hong Kong's Bill of Rights and reinstating a number of repressive colonial laws that had been removed from the statute books because they violated the Bill of Rights.

On Nov. 15, Hong Kong's legislature fought back. The Legislative Council—elected in September with a surprise majority for democrats—passed, by a decisive 40–15 vote, a historic motion to condemn China's efforts to end human rights protection in Hong Kong.

That motion drew a line in the sand over human rights here—and even had the support of a large number of pro-Beijing legislators. Even before the motion was debated, Chinese officials had declared that Hong Kong's legislature had no right to discuss the topic of the Bill of Rights. By defying Beijing, Hong Kong's people sent the message that our rights and freedoms will not be given up without a fight.

The Bill of Rights was enacted in 1991 as a confidence-building measure to allay fears raised by the Tiananmen Square massacre of 1989. Thus it is not surprising that China's pledge to emasculate the Bill of Rights is having a devastating effect on future confidence in the rule of law.

The Bill of Rights—known in Chinese as *Yan Kyun Faat*, the Human Rights Law—puts into domestic law the International Covenant on Civil and Political Rights, under which countries agree to a minimum standard of behavior toward their citizens. Britain and more than 80 countries worldwide have signed the covenant. China, however, has not. Beijing, in fact, sees the Bill of Rights as part of a conspiracy by "international anti-Chinese forces and the agents of the British side," according to its own New China News Agency.

The core problems is that China does not understand what makes Hong Kong tick. The People's Republic of China is an authoritarian Communist state. Hong Kong has always been a sanctuary from China, where the rule of law held sway and Hong Kong Chinese people were given economic and civil freedoms to make Hong Kong's the most successful economy in Southeast Asia.

In the past decade, the world has witnessed countless examples of authoritarian regimes changing into free societies—from Eastern Europe to Asia. Regionally, South Korea, Taiwan, Thailand and the Philippines have all progressed from authoritarian to representative governments, and other Asian countries are moving steadily in that direction. But the world has no recent experience of a vibrant, cosmopolitan and extremely free society losing basic freedoms.

Hong Kong today has all the attributes of a pluralistic civil society; a robust press, clean and accountable government and a rule of law superior to any legal system in Asia. The proposal to scrap Hong Kong's Bill of Rights is the clearest indication yet that Beijing is trying to remake Hong Kong in China's image. Because China has been successful in luring international investment without improving human rights, Beijing may now believe it can sustain Hong Kong's economic success while clamping down on civil rights and freedoms.

In 1997, China is set to control all three branches of Hong Kong's government. Beijing says elected legislators will be turned out of office and replaced with a rubber-stamp appointed legislature. Hong Kong's top official, the chief executive, and his cabinet will all be appointed by Beijing. And China has ensured control of the Court of Final Appeal, Hong Kong's highest court, which will not be set up until after the transfer of sovereignty in 1997. Thus all three branches of government are slated to be under China's control.

This is why the people of Hong Kong regard saving our Bill of Rights as our last-ditch battle. Just as the Bill of Rights is an important check on abuse of power by the British government today, so will it be an essential check on arbitrary use of power by China after 1997.

At least one senior Chinese leader clearly understands the value and fragility of Hong Kong's system. Last March the chairman of the powerful Chinese People's Political Consultative Committee, Li Ruihuan, admitted errors in China's hard-line policy toward Hong Kong and appealed to his fellow leaders to handle Hong Kong with greater care in the future.

In a public speech, he used the metaphor of an old woman selling a valuable antique Yixing teapot. Tea drinkers know that the real value of the Chinese teapot lies in the residue of tea leaves that lines the interior of the old pot. Through ignorance however, the old woman scrubbed the teapot free of the stain, thereby destroying its worth entirely.

Mr. Li paraphrased the common-sense adage, "if it ain't broke, don't fix it," pointing out, "If you don't understand how a valuable item works, you will never be able to keep it intact for a long time."

If, as it now appears, Chinese leaders do not understand how freedom, human rights and the rule of law have laid the foundation of Hong Kong's success, Beijing may scrub them out—and destroy forever the value of Hong Kong, now and in the future.●

TRIAL AND CONVICTION OF CHINESE HUMAN RIGHTS ACTIVIST WEI JINGSHENG

● Mr. FEINGOLD. Mr. President, the Government of China announced last week that it had "tried" and convicted Wei Jingsheng of the crime of subversion and had sentenced him to 14 years in prison. The Chinese regime also stripped Wei Jingsheng of his political rights for 3 years.

I put quotation marks around the word "tried," Mr. President, precisely because the action taken against Wei Jingsheng is a travesty and a mockery of the concept of due process of law. The 6-hour court proceeding clearly had a pre-ordained result: to severely punish Wei Jingsheng for daring to speak out—as he has since 1978—against the Chinese Government's repression of its own people.

Wei Jinsheng is no stranger to harsh, unjust punishments; he has spent most of the past 16 years of his life in Chinese prisons. Yet, when he was released in 1993, he immediately resumed his efforts to shine a light on Chinese Government human rights abuses. Wei Jingsheng's tenacity as leader of China's small, albeit admirably tenacious democracy movement led again to his 20-month detention since April 1994. The abominable sentence handed down today is yet another attempt to muzzle a brave man and to warn any others against dissent.

The administration issued a condemnation of the Chinese Government's action and called on it to exercise clemency. While I join in denouncing the sentence and in urging Wei Jingsheng's immediate release, it is also my view—repeated often and publicly—that administration policies toward China have helped pave the way for such cavalier abuse of basic human rights.

In 1994, over the strenuous objections of those of us concerned over China's atrocious and repeated violations of international standards of human rights, the administration delinked granting of most-favored-nation trade status to China to improvements in its human rights record. The administration argued then that through "constructive engagement" on economic matters, as well as dialog on other issues, including human rights, the United States could better influence Chinese behavior.

It was my view then—and it remains so today—that the correct way to influence the Chinese regime is by hitting them in the pocketbook. They want our trade and easy access to our markets. Their economic well-being depends on that access; if we condition our economic relations on their improvement of human rights conditions and movement toward real democratic change, I am convinced they will come around.

Certainly, Mr. President, the callous disregard for human rights exhibited by today's action against Wei Jingsheng demonstrates that, after nearly 2 years, dialog and constructive engagement has made no impact on Chinese behavior. We should make it clear that human rights are of real—as opposed to rhetorical—concern to this country. Until such time as Wei Jingsheng and others committed to reform in China are allowed to speak freely their voice and work for change, American-Chinese relations should not be based on a business-as-usual basis. I hope the administration will take this latest sad episode to heart and modify current policy toward China.●

EXECUTION OF THE INNOCENT

● Mr. SIMON. Mr. President, I would like to draw my colleagues' attention to a December 4 editorial in the Washington Post, "Execution of the Innocent," which profiles the case of Rolando Cruz.

Rolando Cruz was found guilty of raping and killing 10-year-old Jeanie Nicarico of Naperville, IL, in 1983. Even though there was no physical evidence nor motive, and another man confessed to the killing shortly after Mr. Cruz's conviction, two juries voted for the death penalty based on testimony from fellow prisoners and police who claimed he had confessed to them. The prisoners' stories have now all been discredited, the policemen's supervisor recently admitted that he was in Florida at the time he claimed he had been told about Mr. Cruz's confession, and recent DNA tests exonerate Mr. Cruz and point to the man who confessed many years ago.

It took 11 years for the truth in this case to come out. The Senate has passed habeas corpus reform which will severely restrict an inmate's ability to appeal a conviction, and has recently voted to eliminate funding for the post-conviction defender organizations which provide competent counsel to death row inmates. These measures will simply exacerbate the inherent problem with the death penalty: Innocent people are put to death.

Our system is comprised of human beings, and human beings, whether by malice or oversight, have been known to be wrong. Rolando Cruz's case is a stark example of this reality. The death penalty is already reserved for people of modest means who cannot afford the best representation. It is already disproportionately applied to black people. Congress' rush to be tough on crime will simply make it even more difficult, if not impossible, to achieve the high standards of justice which are the foundation of our Nation. And to put it plainly: More innocent people will be put to death.

I ask unanimous consent that the full text of the editorial be printed in the RECORD.

The editorial follows:

[From the Washington Post, Dec. 4, 1995]

EXECUTION OF THE INNOCENT

The death penalty has broad support in this country, and those who argue against it on moral grounds aren't making much headway. But even the most fervid supporters of capital punishment must have their doubts when it is revealed that innocent people have been convicted of murder and sentenced to be executed. This happens more frequently than one might think. And the increasing availability of DNA technology to prove innocence probably means that these last-minute saves will become more common.

The most recent of these cases concerns Rolando Cruz, twice convicted by juries of the 1983 rape and murder of 10-year-old Jeanine Nicarico in Naperville, IL. Mr. Cruz was arrested with two others—charges against one have been dropped and the other is awaiting his third trial—on extremely thin evidence. He and his codefendants maintained their innocence throughout. There was no physical evidence to tie them to the crime, and no motive was alleged by the prosecution. But successive juries convicted on the basis of testimony from other prisoners that he had confessed to them. These stories were changed, revoked or attacked on grounds of credibility.

More persuasive was testimony from two police officers that Mr. Cruz had revealed to them a dream he had had, which contained details of the crime that only a killer would know. Nothing was said or written about this alleged dream for 18 months, and the story appeared only two weeks before the first trial. Last month, after years of litigation and two death sentences, the policemen's supervisor recanted testimony that they had told him of the dream, and confessed that he had been in Florida at the time and could not have had this conversation.

Even more compelling is the fact that shortly after the first conviction another man was arrested in the same area who confessed to two rape-killings and numerous assaults, and to the killing of the child for which Mr. Cruz had been convicted. The prosecutors stubbornly refused to believe him, but recent DNA tests exonerate Mr. Cruz and point to this other man.

Rolando Cruz spent the years between his 21st and his 32nd birthdays on death row. At his third trial, the judge bitterly criticized the police, the impeached witnesses at the first two trials and the quality of the prosecution's case. He directed a verdict of not guilty even before the defense had presented its case. This prosecution was so egregious that the Justice Department this week directed the FBI to look into possible violations of Mr. Cruz's civil rights. Those who argue that appeals should be curtailed and that executions should become routine should consider Rolando Cruz and the injustice that was visited on him as well as the one he narrowly escaped.•

PRESIDENT CLINTON'S EXTREMISM ON THE BUDGET

• Mr. FAIRCLOTH. Mr. President, I wish to express my opposition to the extremist scare tactics being used by President Clinton and his administration. Day after day, the American people are subjected to a steady stream of disinformation about the economic realities which confront this country.

The Clinton administration has raised the standard on Washington doublespeak to a new all time high. It is unfortunate that President Clinton refuses to offer our Nation leadership at this decisive moment in our Nation's history. Instead, the only thing he offers is more fear, more taxes, more spending and more debt.

Let's look at the facts. On the balanced budget, what has the Congress done? The Congress has passed a plan for balancing the budget in 7 years using honest and real numbers. What did President Clinton do? He cooked the books and offered four budgets none of which are balanced. Furthermore, he vetoed the only honest balanced budget plan offered this year.

Looking at the facts and not at the harsh rhetoric of the Clinton administration, it should be clear to all Americans that Congress has accepted responsibility for the budget and the President has gone AWOL—absent without leadership. Instead of offering a serious plan, he offers the American people fear and unending deficit spending. The facts speak for themselves and they speak louder than the disinformation spread at White House press conferences.

Let's look at some more facts. We are in the fourth day of a partial Government shutdown. What has the Congress done? Congress sent three spending bills to the President which would have kept open the Departments of Veterans Affairs, HUD, Commerce, Justice, State, and Interior. What did President Clinton do? He vetoed two of these bills and says he intends to veto the third. He had the power to prevent the shutdown of these agencies and to keep Federal workers on the job. Instead, with the stroke of a pen he sent thousands of Federal workers home.

That wasn't enough for this President. He also threw in some fearmongering for good measure. The administration fired-up its disinformation machine and unleashed a tirade of doomsday rhetoric against those spending bills. The facts speak for themselves. The Congress did its job and passed appropriations bills which responsibly reduced government spending and which would have kept most agencies open. But, President Clinton wasn't interested in that. He was looking for a photo opportunity. He vetoed funding bills and closed down parts of the Government. He should be held and will be held accountable for this shutdown.

Let's look at some more facts. The President's Medicare trustees informed the administration earlier this year that Medicare is on the verge of certain bankruptcy. What did Congress do? We passed a plan to rescue Medicare from bankruptcy and preserve it so that it will be there for all Americans when they retire. What did President Clinton do? At first, he turned a blind eye toward the problem—as if by ignoring Medicare the problem would go away. Then he engaged in a well orchestrated campaign to frighten America's senior citizens about congressional efforts to save Medicare.

Since President Clinton has no serious Medicare plan to offer, he instead offers fear instead. This display of self-serving political opportunism has no match in Washington. Such desperate and dishonest tactics should be and will be rejected by all Americans who are serious about integrity in government because the facts simply don't support the President's rhetoric. The Medicare reform plan passed by Congress, in reality, provides for greater spending increases than the socialized health care plan offered by Mrs. Clinton just last year.

The President is knowingly misleading the American people about Medicare. He should stop his campaign to frighten our senior citizens and he should get serious about saving Medicare.

When you look at the budget, the Government shutdown, and Medicare—the facts simply don't support the President's false rhetoric. In reality, this crisis has been engineered by the President to bolster his reelection campaign. After being viewed as irrelevant for so long, the President has now identified himself with something he believes in passionately. He is passionate about deficit spending. He is passionate about the preserving the status quo which heaps trillions of dollars of debt on our children and grandchildren.

I hope that he will abandon his extremist scare tactics and get serious about balancing the budget. So far, he has stone-walled congressional negotiators. He has refused to offer a balanced budget plan using honest numbers. He prefers to cook the books as a way to balance the budget. Such policies will not lead to a balanced budget. They never have and they never will. President Clinton has chosen the path of certain failure. Congress will not follow him down that dead-end road.

I believe that we need another vote on the balanced budget amendment. I can think of no better Christmas present for America. I believe that the

American people sent a clear message to Congress in 1994. They demanded that Washington put its financial house in order. Another vote on the balanced budget amendment will show who is serious about achieving this necessary goal for our children and grandchildren.

Sadly, President Clinton worked hard to defeat the balanced budget amendment earlier this year. The Nation is now entirely focused on this all important issue. Let's bring up the constitutional amendment for another vote before the end of the year. Then the American people will know who is committed to a balanced budget. They will also know who to blame if the budget is not balanced. They will know who to blame if our future is mortgaged beyond our ability to comprehend.

I support the balanced budget amendment and I support the legislation passed by Congress to balanced the budget in 7 years using honest numbers. Unfortunately, the President oppose both. And, no amount of extremist rhetoric from the White House can hide that fact.●

THE PRO-SERB MONTENEGRINS

● Mr. SIMON. Mr. President, occasionally as we read magazines and newspapers, we find articles on things in unlikely sources.

Recently in reading the Christian Century, I came across an article by Paul Mojzes titled, "The pro-Serb Montenegrins" which I ask to be printed in full in the RECORD.

It describes the situation in Montenegro, a small Province in what was once Yugoslavia but a Province that has produced leaders including Milovan Djilas, Slobodan Milosevic, and Karadzic.

It is not a particularly encouraging article, but it is informative and because I have seen nothing about this anywhere else, I believe it merits placing in the CONGRESSIONAL RECORD so those interested in this area can read it.

The article follows:

TRAVELS IN THE BALKANS: THE PRO-SERB MONTENEGRINS

(By Paul Mojzes)

The Montenegrins are fond of joking that if their rugged mountain terrain were ironed out, the area would be as huge as Russia. Living in the tiniest and least populous republic of the former Yugoslavia, Montenegrins have tried to compensate by identifying with Russia and by propelling themselves into the ruling elites of other Yugoslav republics as fiery communists or fierce nationalists. They have produced such leaders as Milovan Djilas, Slobodan Milosevic and Radovan Karadzic.

During World War II Montenegro spawned the most feared nationalist Chetnik units as well as fierce communist Partizans. Members of both groups slaughtered the opposition even if that meant turning against their own families. Vendettas and a fixation on revenge complicated the conflict by making people cross ideological lines out of tribal loyalty.

During the current Balkan wars no direct fighting has taken place in Montenegro, though Montenegrin "volunteers" ravaged nearby Dubrovnik and its vicinity. Consequently, travelers have been able to move about Montenegro unobstructed. The terrain of these "black mountains" is rocky, yielding neither timber nor agricultural products. Nor are there many mineral deposits. But fabulous tourist attractions abound, particularly along the Adriatic seashore, one of the most beautiful in the world.

Foreign tourists are now avoiding the area while most Serbs and Montenegrins are too impoverished to travel. For those who venture here this may be a plus. None of the services are overburdened and both food and transportation are readily available. However, travelers flying to Belgrade from one of the two Montenegrin airports have been forced to share space with wounded evacuees from the Bosnian battlegrounds. They apparently have been transported this way in order to avoid the UN-controlled border-crossings between Serbia and Bosnia. The purpose has been to give credence to Milosevic's claim of no longer supporting the Serb warriors in Bosnia. Not many in Montenegro would take such a claim at face value.

The single most important issue in Montenegro is defining its people's identity. Some claim that Montenegrins are Serbs, that indeed their country is the very heart of Serbdom, as a politician of the Narodna (People's or Folk) Party told me. Others say that Montenegro is a separate nation now endangered by Serb attempts to absorb it.

In Niksic, the ancient capital in which the ecclesiastical head of the Orthodox Church, Metropolitan Amfilohiye Radovic, resides, graffiti declare that he should leave Montenegro, though he is one of the few Serbian Orthodox hierarchs who was born there. Metropolitan Amfilohiye militantly espouses the Serbian cause, and the number of such supporters is growing as the ethnoreligious conflict continues. Both the leftist Democratic Party of Socialists (former communists), which holds a firm grip on power, and the right-wing People's Party are pro-Serb. Only the Liberals, who garner a mere 10 percent of the vote, staunchly proclaim "Montenegro is Montenegrin," though there are others who insist on claiming the sovereignty for Montenegro accorded to it by the 1974 Yugoslav constitution.

If one visits only the Adriatic resorts one gets an impression of economic well-being, despite tourist workers' complaints that these resorts are operating at less than half of their capacity. Food in the hotels and at the markets is plentiful though expensive. Other consumer goods are available, since people have found a way to skirt UN sanctions. That cows graze on the lawn of the state government building in Podgorica (formerly Titograd) may be a better overall economic indicator.

In Podgorica as elsewhere, the socioeconomic difference between people is striking. In one section of the city the apartments for the old communist elite and the new entrepreneurial class feature TV radar disks for nearly every dwelling. Here people dress with an ostentatious display of wealth. But Podgorica's slums resemble those in greatly impoverished countries. Incomes, while considerably better than in 1993, range between $50 and $150 a month. Many workers, however, are paid only every third or fourth month, and approximately 60 percent of the work force is on "forced vacation"—unemployed and with no welfare benefits. Even the casual observer will notice huge numbers of people hanging around the streets or the numerous drinking places. Even those who do eke out a meager living say that there is little hope for a better future. People survive by trading in the black market and by accepting bribes. Nearly everyone is engaged in smuggling, selling or reselling something—from the lucrative smuggling of gasoline and weapons to the pitiful reselling of single cigarettes. Police raid only the "little fry." Bigger business is protected by the mafia, which is said to reach to the very top of government. Armed robberies in the rump Yugoslavia have increased from about 70 in 1991 to over 2,000 in 1992–93. Few robbers are apprehended.

However, the "new" Yugoslav dinar is fairly stable. After 1993's great inflation the government pegged the dinar to the German mark at a 1:1 ratio. While on the black market the dinar recently slipped to about a 2.5:1 ratio, it still appears to be economically viable. The locals believe that the hyperinflation of 1993 was approved or even prompted by the government in order to extract foreign-currency reserves from the population.

Montenegrins are traditionally Orthodox Christians with a small minority of Roman Catholics (derogatorily called "Latins") and Muslims (called "Turks," though they are Montenegrin converts to Islam). The Albanian minority is predominantly Muslim, with a small number of Roman Catholics. There are virtually no Protestants or Jews.

The Orthodox Church was nearly wiped out during the communist period. During World War II it had sided with the Chetniks rather than the Partizans and the latter showed no pity toward the losers. Directives from Belgrade to eliminate church activities were taken seriously and religious life became nearly extinct. People would pass by a monastery without even looking at it lest they be called in for an unpleasant talk with the secret police.

Only during the last few years under the increasingly liberal Yugoslav regime was church life slowly reactivated. In the postocommunist period Orthodox Church activities are on the rebound. Right-wing nationalistic politicians believe that the church has not only a religious but a political role. Some clergy openly argue that the church should rule over the nation in these difficult times as it did in the distant past.

Adjacent to the former royal palace in Cetinje is a large monastic compound nestled against the mountain. Here the archbishop resides. A visit to the monastery was organized for a group of students and professors of which I was a part. Our guide, a middle-aged monk, spoke English fluently. He appeared to be well traveled but displayed an intense Serbian nationalism and an even greater angry anticommunism. He explained that the monastery had been destroyed twice, first by Muslim Turks and then by Latins. A display on the monastery walls credited both destructions to the Turks. Apparently the monk needed to believe that Serbs had been victimized by both of their current antagonists.

The Montenegrin government is now making amends for the communist period not only by restoring church properties but also by financing their repair. (The Catholics, on the other hand, complain that the return and repair of their properties is being hampered.)

Svetigora, the official publication of the diocese of Montenegro, is disturbing. Even the magazine's title has troublesome implications. Sveta Gora is the Serbian name for the Holy Mount Athos, the monastic republic in Greece. The journal's name suggests that Montenegro is not just a Black Mountain but a "Mount of Light"—a "Holy Mount." Combined with the ever-increasing claim made by the Serbian Orthodox hierarchs that the Serbs are "the New Israel," the chosen people of God, a "heavenly kingdom," a martyr nation that has suffered more than anyone else on earth except Christ, the name supports the dangerous conviction that all that the Serbs do is somehow of God.

A recent issue features a smiling Radovan Karadzic flanked by the patriarchs of Moscow and Belgrade. In a lengthy interview Karadzic, the leader of the Bosnian Serbs, claims the direct guidance of the Holy Spirit in all his political decisions and urges the political involvement of the Orthodox Church in the life of Serbians everywhere. He repeatedly emphasizes the goal of uniting all Serbs into a single state. In another interview Metropolitan Amfilohiye claims that "the living God can be experienced in the East while the West is a wasteland." Another article explains why God allowed Russia, "the elite people," to experience the apostasy of communism. The Herzegovian hard-line Bishop Atanasiye Jeftic associates NATO with Satan and links Ingmar Bergman's films to Protestantism, in which there is "neither mercy, nor space for the human being, nor salvation."

Svetigora's contents make one wonder whether the effort of some German and Dutch churchmen to expel the Serbian Orthodox Church from the World Council of Churches does not have merit. There is a parallel between the Deutsche Christen aberration during Hitler's era and this militant Serbian Orthodoxy. In Germany, however, there was resistance by a Confessing Church led by people like Karl Barth and Dietrich Bonhoeffer; the Serbian Orthodox Church has not yet produced such internal critics, just as Balkans politics has not produced its Václav Havel. The political threat in the Balkans is Nazism; the religious threat is idolatrous nationalism.●

GAMING LOBBY GIVES LAVISHLY TO POLITICIANS

● Mr. SIMON. Mr. President, with monthly profits from single casinos running to millions of dollars, gambling promoters are using their newfound wealth to increase the spread of gambling. Grassroots community groups who raise concerns about new casinos are being outspent 50 to 1 in some areas.

In Congress, high-priced lobbyists are attempting to stop a simple effort to gather information about the impact of the spread of gambling.

A recent New York Times story, "Gaming Lobby Gives Lavishly to Politicians," clearly describes issues that deserve our attention. I ask unanimous consent that it be printed in the RECORD.

The article follows:

[From the New York Times News Service, Dec. 18, 1995]

SPECIAL REPORT: GAMING LOBBY GIVES LAVISHLY TO POLITICIANS

(By Kevin Sack)

In only five years, the gambling industry has bought its way into the ranks of the most formidable interest groups in American politics, spending huge sums to gain the kind of influence long wielded by big business, big labor and organizations of doctors and lawyers.

From the Empress riverboat casino in Joliet, Ill., to the Mashantucket Pequot tribe in Ledyard, Conn., gambling interests, which now run casinos in 24 states, have used vast profits gleaned from their craps tables and slot machines to fatten the campaign coffers of political candidates and wage multimillion-dollar lobbying offensives.

While state officials have been the primary beneficiaries of the industry's largess, there has also been a surge in contributions to federal and local officeholders.

Gambling-financed political action committees gave three times as much to congressional candidates and the national parties in the 1993–94 election cycle as they gave in the previous two years, according to Common Cause and the Center for Responsive Politics, two Washington-based organizations that monitor campaign financing.

The $2 million total for the cycle put the industry in the same league as long-established interest groups like the United Automobile Workers, which gave $2.4 million, and the National Rifle Association, which gave $2.2 million.

At the state level, meanwhile, the rising tide of gambling money has in many places become a flood. In Florida last year, pro-gambling forces spent $16.5 million in an unsuccessful effort to win approval of casinos in a referendum. That sum was almost as much as the state's two gubernatorial candidates spent combined.

In other states, the industry's wealth has allowed it to outspend its opponents by as much as 50 to 1. In the process, that wealth has contributed to major corruption scandals in Louisiana, Missouri, Arizona, Kentucky, South Carolina and West Virginia, all since 1989, when legalized gambling began its cross-country expansion.

Perhaps most significant, the torrent of dollars has rapidly eroded a longstanding stigma against the intermingling of gambling and politics.

"Twenty years ago, if you got support from gambling interests it would have been the kiss of death," said Rep. Frank R. Wolf, R–Va., who opposes the continued expansion of gambling. "If you were running for office in Illinois or Iowa and got money from gambling interests, you wouldn't want to tell your brother or mother."

Noting that today's casinos are run by Indian tribes and Fortune 500 companies, not mobsters, gambling industry officials assert that it is only natural for a heavily regulated, high-growth business to play an active role in politics, just as public utilities and tobacco companies do.

"The only industry that is more regulated is the nuclear power industry," said Mark B. Edwards Jr., a gambling analyst for the State Capital Resource Center, a private group that monitors political developments for casino companies. "Therefore, it's more important for the gaming industry to flex some political muscle."

The gaming industry has focused its lobbying campaigns on state capitals, where governors, lawmakers and regulators hold the authority to determine whether to expand gambling, which companies will get gambling licenses and vending contracts, and how extensively gambling will be taxed and controlled.

Gambling opponents say the abundance of lobbying money, and the promise of bountiful tax revenue, has helped the industry move its operations into impoverished communities, with little attention paid to social consequences like the effect on compulsive gamblers or on small businesses there.

A backlash has begun to emerge in which grass-roots anti-gambling drives in some states have managed to neutralize the influence of big money. But that is no easy task.

In the last two years, campaigns to establish or expand legalized gambling in Florida, Missouri, Virginia and Connecticut have spent more money than was ever before spent in those states on any lobbying effort.

During Virginia's legislative session this year, gambling interests hired 48 lobbyists. In Texas, they hired 74, more than two for every state senator and one for every two members of the Texas House.

The lobbyists are often enlisted from the ranks of former public officials. The lobbying payroll in Illinois has included a former governor, a former state attorney general, a former state police director, two former U.S. attorneys, a former mayor of Chicago and dozens of former state legislators, including a Senate president and a House majority leader.

Two years ago a Nevada casino company, Primadonna Resorts, offered two Illinois lobbyists a compensation package of $20 million over 20 years if they could reel in a riverboat license.

For an April 1994 referendum on allowing slot machines in Missouri, committees financed by out-or-state casino companies paid out $4.2 million, outspending the proposal's opponents by 50 to 1, according to a study by Alfred Kahn, a retired professor of planning at Southern Illinois University at Edwardsville.

The measure failed by one-tenth of a percentage point. Seven months later, the gambling companies were back, this time spending $11.5 million. The proposal passed with 54 percent of the vote.

The gambling opponents, Kahn said, "were just overwhelmed by wall-to-wall television commercials."

Like lobbying expenditures, campaign contributions have been flowing as freely as complimentary cocktails on a casino floor. Only one state, New Jersey, prohibits political contributions from gambling interests.

In Louisiana, in the heart of the nation's oil patch, gambling interests in 1993 and 1994 gave state legislators more than twice as much as did the petrochemical industry, according to a study by The Times-Picayune of New Orleans.

"I've been told by legislator after legislator that the gambling industry has become the single largest political influence in their states," said Robert Goodman, a professor at Hampshire College in Amherst, Mass., who is the author of "The Luck Business" (Free Press, 1995), a book critical of legalized gambling's spread. "It's a sea change in the political landscape in the states where the gambling industry is operating."

As in many other states that now have casinos, the spending in Illinois has been spurred by competition among gambling concerns whose interests conflict.

Wealthy businessmen who want to obtain casino licenses from the state, which now allows casino gambling only on riverboats, are spending hundreds of thousands of dollars a year in campaign contributions to help persuade legislators to expand gambling to Chicago and any number of suburbs.

Fearful of new competition, the owners of the state's 10 existing casino licenses are contributing hundreds of thousands more to protect their monopolies. In doing so, they have placed themselves in an unusual alliance with those who oppose gambling on moral or social grounds.

In Washington, the rise of the gambling industry has created influential power brokers. In a single afternoon last June, Steve Wynn, chairman of Mirage Resorts, one of the country's largest Casino companies, raised nearly $500,000 for the presidential campaign of Bob Dole, the Senate majority leader.

The fund-raising luncheon, at a posh Las Vegas country club, came one day after Dole had traveled to Los Angeles to level a withering attack on what he described as the mercenary values of the entertainment industry.

Dole opposes new taxes on the gambling industry, said his spokesman, Clarkson Hine, but supports creation of a federal commission to study gambling's effects. The industry opposes such a commission, believing that it could lead to heightened regulation. But Hine said Dole "feels strongly" that regulation should be left to the states.

In any event, Mirage Resorts is hardly the only gambling-industry player in the capital. The 370-member Mashantucket Pequot tribe, virtually unknown until it opened the Foxwoods Resort Casino in Ledyard, Conn., in 1992, is one of many others, having given $465,000 to the Democratic National Committee and $100,000 to the Republican National Committee from 1991 to 1994.

Gambling money is so abundant that on occasion it reaches out even to the most vocal of gambling opponents, like Gov. Kirk Fordice of Mississippi, where casino operations have been growing for five years.

In 1993, Fordice accepted $73,500 in contributions from casino interests, almost a third of all the money he raised that year. Then, beginning last Jan. 1, he swore off accepting any more gambling money, although he declined to return the earlier bounty.

The purpose of the new policy, said Andy Taggart, his campaign manager, was to take an issue away from his opponent in the gubernatorial race this year. Fordice won.

It was political money, along with the promise of new tax revenue for recession-racked states, that provided the kindling for the wildfire spread of legalized gambling in the 1990s.

In 1988, only Nevada and New Jersey had casinos. Now, 24 states have casinos on land, water or Indian reservations, and 48 states have legalized gambling of some kind.

In the last four years, annual legal-gambling revenue has grown by 50 percent, to $39.9 billion. That is nearly a quadrupling since 1982, according to an annual survey by Christiansen/Cummings Associates, a consulting firm that specializes in the gaming industry. On average, profit margins are high, ranging from 15 to 20 percent, said Will E. Cummings, managing director of the firm.

"Without the outside influence coming in" to lobby in this state or that, "there would be no spread of gaming," said William N. Thompson, a professor at the University of Nevada at Las Vegas who is co-author of "The Last Resort: Success and Failure in Campaigns for Casinos" (University of Nevada Press, 1990). "The opponents don't get to make their case."

In the last year, though, the industry has suffered several financial and political failure, suggesting that the market for betting may finally be saturated. A casino in New Orleans and riverboats in Louisiana and Mississippi have failed, and voters and lawmakers have rejected the expansion of gambling in a number of states.

Industry analysts say some of the backlash can be attributed to growing revulsion with the amount of gambling money in politics, and to concern about corruption among holders of public office.

In the most recent scandal, the FBI said in August that it was investigating whether video poker operators in Louisiana had bribed lawmakers into killing anti-gambling legislation earlier this year. That inquiry is continuing, but many of the legislators who are targets of it either have chosen to retire or failed to win re-election this fall.

In Pennsylvania, state Attorney General Ernie Preate, Jr. pleaded guilty in June to hiding campaign contributions from operators of illegal video poker games. And from 1989 to 1992, lawmakers in Arizona, Kentucky, South Carolina and West Virginia were convicted of accepting bribes from gambling interests.

Frank J. Fahrenkopf Jr., president of the American Gaming Association, the industry's trade group, told a congressional committee last month that singling out legalized betting as a corrupting influence was unfair.

"The problem," said Fahrenkopf, a former Republican national chairman, "is that where there is money, there is the potential for corruption, and that is by no means confined to gaming interests." After listing political scandals from Teapot Dome to Abscam, he added, "To suggest that it is unique to our industry is manipulative, cynical and, frankly, dishonest."

Even when operating within the law, though, gambling supporters have sometimes lacked subtlety.

In 1994, the president of the Louisiana Senate, Sammy Nunez, handed out envelopes to colleagues on the Senate floor, each containing a $2,500 campaign check from a casino owner. Nunez lost in a bid for re-election in November.

In Illinois in 1993, Al Ronan, a legislator turned casino lobbyist, pulled lawmakers off the floor and handed them white envelopes containing campaign checks of $50 to $300.

"The gambling companies have been like a bull in a china shop," said William R. Eadington, director of the Institute for the Study of Gambling and Commercial Gaming, at the University of Nevada at Reno. "These were companies that did not have the sophistication to understand the nuances of political activity."

Some exports, noting the intense issue that gambling money has become in some states and localities, believe that the industry has turned into its own worst enemy.

Despite devoting $16.5 million to the referendum on casino legalization in Florida last year, pro-gambling forces were crushed at the polls, 62 percent to 38 percent, at least partly because of voter discomfort with that level of spending.

And given the corruption investigation in Louisiana, candidates for governor there spent much of the race this year trying to trump each other's anti-gambling stands.

Further, after St. Louis County Executive George Westfall accepted more than $150,000 in contributions from companies competing for a riverboat casino license, the County Council this year approved a ban on the industry's political donations.

In recent months, some casino companies have decided to put a stop to their own multimillion-dollar political wagers.

One such company is Mirage Resorts, which spent more than $10 million in a four-year failed campaign to place a casino in Bridgeport, Conn.

"Our company policy right now is that we are not going to go or in any jurisdiction and actively lobby to change any law, to actively try to convince people," said Richard D. Bronson, a member of Mirage's board and president of the company's development arm. "Look what happened in Connecticut."

Added Alan M. Feldman, Mirage's vice president for public affairs: "It has told us that this isn't our bag. We're just not political animals."●

MEASURE READ FOR THE FIRST TIME—HOUSE JOINT RESOLUTION 132

Mr. LOTT. Mr. President, I inquire of the Chair if House Joint Resolution 132 has arrived from the House.

The PRESIDING OFFICER. It has.

Mr. LOTT. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the joint resolution for the first time.

The assistant legislative clerk read as follows:

> A joint resolution (H.J. Res. 132) affirming that budget negotiations shall be based on the most recent technical and economic assumptions of the Congressional Budget Office and shall achieve a balanced budget by fiscal year 2002 based on those assumptions.

Mr. LOTT. Mr. President, I now ask for the second reading of the joint resolution, and I object to my own request on behalf of the Democratic leader.

The PRESIDING OFFICER. Objection is heard.

CLOTURE VOTE ON MOTION TO PROCEED TO THE LABOR-HHS APPROPRIATIONS BILL POSTPONED UNTIL WEDNESDAY

Mr. LOTT. Mr. President, I ask unanimous consent that the cloture vote on the motion to proceed to the Labor-HHS appropriations bill be postponed to occur on Wednesday at a time to be determined by the majority leader after consultation with the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I am prepared now to go to the closing statement so that the staff of the Senate can proceed home in view of the ice and the weather that we are confronting. I wondered if the Senator from Nebraska had any further comments, or could we go ahead and proceed to close the Senate?

Mr. EXON. I thank my friend from Mississippi for his offer. I will take 5 minutes allotted in morning business, and then I will be glad to join others on my trek home, if that is satisfactory with the Senator from Mississippi.

Mr. LOTT. I certainly understand that. Then I will have to reserve the right, depending on what is said, for 5 minutes of my own.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

THE BUDGET

Mr. EXON. Mr. President, I would not be on the floor tonight, and had not intended to be on the floor tonight, until I saw a bevy of Republicans coming on the floor to try and beat up on the President, in particular, and the Democratic Party in general. When I heard that, I have responsibilities as the lead Democrat on the Budget Committee, and I decided to stay here and hear what is going on.

The Senator from Washington made several statements that I would like to take issue with. One thing that the Senator from Washington requested was that if I was concerned about the back-loading on the Republican budget plan, where 60 percent of the savings in the Republican budget plan to balance the budget are put off until the sixth and seventh year, did I have any suggestions as to how we could eliminate that. Well, I sure do.

If we would eliminate the $242 billion tax cut that basically benefits the wealthiest among us, for the most part, that would be one way we could alleviate that.

I would also like to comment briefly on the several statements made on the floor by those on that side of the aisle regarding the President of the United States breaking his agreement with regard to the continuing resolution that we worked out 2 weeks ago, I guess it was. I was there. I was part of that agreement. The President has not broken his word. The President of the United States said that he would accept a 7-year plan to balance the budget. And he has had a pretty good record as President, because under President Clinton, we have had 3 straight years of reduction in the deficit of the budget of the United States of America. That is the first time that has happened since Harry Truman. So this President has had some experience in fiscal responsibility.

The President has said in that agreement that he would agree to balance in 7 years, and that we would accept Congressional Budget Office numbers, with the understanding that CBO would review those numbers with the Office of Management and Budget and outside experts to make sure that their projections were as nearly accurate as possible.

He also said the other condition of making that agreement was the fact that we wish the Republicans to enter into discussions with us to protect programs that the Democratic Party has worked long and hard to protect—Medicare, Medicaid, educational programs, veterans benefits, agriculture, and others. We did not feel that, rushing to judgment, the Republicans had lived up to their part of that agreement. So, therefore, I think that there can be legitimate differences of opinion. And because that was worded in that manner, I think almost anyone could have interpreted that particular agreement as they wanted to.

It has been mentioned by my friend from Nevada that—and we are talking about the appropriations bills—if the President would just sign the appropriations bills, that would alleviate some of the problems. The appropriations bill should have been passed by the Republican-controlled Congress by October 1, 1995, when the new year began. Here we are in December, just passing appropriations bills—it is very late, almost 90 days late—and then we say to the President of the United States that because it is so late, because we are so late getting these to you, of course, you cannot veto them. That would be unfair.

We have also heard said that the President had shut down the Government. He has not. The President of the United States, through the Democratic leader, Senator DASCHLE, made offer after offer, which the Republicans rejected, regarding a continuing resolution that would not have been necessary to have 1 day of shutdown. So I do not think it is fair to blame the President of the United States for that.

I am happy to say that I think, given the circumstances, we are now making some progress, as Senator DOLE and Senator DASCHLE earlier indicated on the floor. I am not sure that we accomplish a great deal with partisan bickering over something that we have placed, for their deliberation, consultation, and hope of resolving, in the hands of the President of the United States, the majority leader, ROBERT DOLE; the Speaker of the House, Mr. GINGRICH; the Democratic leader in the House, Congressman GEPHARDT; and our own TOM DASCHLE, the Democratic leader in the Senate. Those five individuals have heavy, heavy responsibilities, and they have very serious differences of opinion on a whole series of subjects.

I just hope that we can in good faith work with them and not bicker, at least until after we hear what their results and recommendations are. I yield the floor.

Mr. LOTT. Mr. President, I will be brief. I apologize for the little time that I will take, but there has been so much said here in the last 10 minutes that needs debunking and refuting, it is all I can do to restrain myself.

I would like to take a bipartisan tone and hope that these discussions would be successful, and I wonder why they were not completed a week ago, 2 weeks ago, a month more or even longer. There are so many inconsistencies being put out that I just cannot stand still and not respond to some of them.

With regard to the 60 percent back end question, that there has been a lot of talk how 60 percent of the savings come at the back end, as a matter of fact, that is the result of genuine real reforms in the so-called entitlement programs that we make this year. If we do not make them this year, we will never get them. Even if we make them this year, the impact builds over the years.

That is the exact reason why we need these entitlement reforms, because if we do not have these reforms, these programs will continue to explode out of control, go up at the rate of 10 percent or 11 percent or more. Medicaid, I think, was going up at one point in the high teens. We want to reform these programs to save them.

What really amazes me is my colleagues say, "Yes, we want a balanced budget. We want to reduce the debt, but we do not want to control spending." You cannot have it both ways. You cannot say we are not going to touch the entitlements, we will not touch welfare, we will not touch Medicare or Medicaid, and by the way, we want to spend endless amounts on appropriations bills. You just cannot have it both ways. To get a balanced budget, you have to agree to some controls or, Heaven forbid, some cuts.

Now, this talk about how the Congress majority this year has not sent the appropriations bills to the President. In 1987 and 1988, the Democratic Congress did not send a single—not one—appropriations bill to the President. In 1987, all 13 appropriations bills were lumped into one big wad, with the budget, with the debt ceiling, sent down to the President of the United States, President Reagan. The Congress left town and said, "Good luck, Mr. President. Goodbye."

Do not give me alligator tears how we have not passed appropriations bills. When we pass them and send them to the President and he vetoes them and he says the Congress closed down the Government, my goodness, all he had to do was to use the Lyndon Johnson pen that has so much experience spending the people's money, sign the bill, and he would have kept the Government open.

Why did he not sign them? A couple good reasons: No. 1, this President wants business as usual. Spend more money. "I want more money for Interior Department. I want more money for Housing and Urban Development. I want more money for State and Justice and Commerce. Yes, more money for everything and everybody. And the other thing is, I have these little policy questions. I do not like it because you are allowing too much timber to be cut in Alaska." Give me a break. The people in Mississippi think trees are to be harvested. We certainly do not want to see the Government shut down by the President because of the number of feet of timber we are going to cut in Alaska.

I am amazed that the President of the United States can go on TV and say, "I am vetoing the appropriations bills, and, gee, I wish Congress would not shut down these departments." Yesterday, the last 48 hours, if the President signed three appropriations bills, 621,000 Federal employees would have been at work.

But look, that is not the big issue. The big issue is what can we do to get together to legitimately get a balanced budget. It is time we do that.

Now, I believe—I know it is something that a lot of Members do not accept—I believe you let the hard-working taxpayers of the country keep a little bit of their money, as a matter of fact, save it or spend it, it helps the economy. I know we cannot get dynamic scoring, but when you let people keep their money, we wind up getting more money in the Treasury, not less.

I ask the Democrats, do they want to keep the marriage penalty in the Tax Code? I assume the answer is no. The only way to get rid of it is to do it, and it costs a little money. You call that tax cuts for the wealthy? Baloney. That is tax cuts for young people, whom we hope will get married and pay not more taxes but at least the same. Do you object to spousal IRA for the working spouse in the home? The only people in America that cannot have an IRA are working spouses in the home. The only way to get it is to give them an opportunity to save in an individual account. Capital gains tax cut, I am for. A lot of people in Mississippi like that. They have timberlands and do not want 40 percent taken by the Government.

I emphasize this on the floor of the Senate. We really criticize tax cuts. Do you know what tax cuts are? This is letting the people that pay the taxes keep a little of their money. The American people are taxed basically at 50 percent.

My time is expired. I could go on and on about all of this. I will stop at this point. Yes, I would like for us to cool down the rhetoric. It is a two-way street. Every time the President gets on TV and just lowers the boom on us, are we supposed to stand here and say, "Gee, thank you very much." No. We have got to stand up and speak up and make sure the American people hear the other side of the story and then, of course, that begets a response on the other side. It is time we bring this to a conclusion and get a balanced budget. That is all I care about. We can do it. We can do it.

Mr. EXON. Will the Senator yield?

Mr. LOTT. I am happy to yield to the Senator.

Mr. EXON. Did I understand the Senator to say—what year was it—1987?

Mr. LOTT. It was at least a couple years in there, 1987 and 1988, the Democratic Congress did not pass a single appropriations bill. Put it in a big CR.

Mr. EXON. I do not remember the reasons for that, but 1986, of course, we had a Republican-controlled Senate, and I would not want to blame them for that.

Mr. LOTT. I said 1987.

Mr. EXON. In other words, what you are saying, it was a Democratically controlled House and Senate that did that?

Mr. LOTT. I believe it was, yes, sir.

Mr. EXON. It probably was 1987 and 1988 because in that time we did control both Houses, not 1986.

I have no further comments, and if we are ready to close, I am ready to close.

ORDERS FOR WEDNESDAY, DECEMBER 20, 1995

Mr. LOTT. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. Wednesday, December 20; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed as having expired, and the time of the two leaders be reserved for their use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I ask unanimous consent that at 10 a.m. the Senate turn to the consideration of Senate Resolution 199.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. For the information of all Senators, the Senate will begin consideration of Senate Resolution 199 regarding the Whitewater subpoena at 10 a.m. We are hoping that a time agreement can be reached on that resolution to allow a vote after a reasonable amount of debate. Senators can therefore expect votes to occur throughout the day during Wednesday's session.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. LOTT. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:08 p.m., adjourned until Wednesday, December 20, 1995, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate December 19, 1995:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

SPEIGHT JENKINS, OF WASHINGTON, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2000, VICE PHILIP BRUNELLE, TERM EXPIRED.

THE JUDICIARY

MARY ANN VIAL LEMMON, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA, VICE PETER HILL BEER, RETIRED.

MICHAEL D. SCHATTMAN, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF TEXAS, VICE HAROLD BAREFOOT SANDERS, JR., RETIRED.

HOUSE OF REPRESENTATIVES—*Tuesday, December 19, 1995*

The House met at 9 a.m. and was called to order by the Speaker pro tempore [Mr. GUTKNECHT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
December 19, 1995.

I hereby designate the Honorable GIL GUTKNECHT to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 25 minutes, and each Member, other than the majority or minority leader, limited to 5 minutes. But in no event shall debate continue beyond 9:50 a.m.

The Chair recognizes the gentleman from Florida [Mr. GOSS] for 5 minutes.

ELECTIONS IN HAITI

Mr. GOSS. Mr. Speaker, while we were at work here this past weekend trying to get out of the budget stalemate we are in, there were events going on in the world that are of very, very great importance to American interests.

In Russia, as you know, there are elections there. We are now sifting through and sorting out exactly what those elections meant.

Initially, though, not very much noticed at all, were other elections nearby in the small, tiny nation of Haiti, just to our south, a friendly neighboring country. It is an election that Americans had a great stake in, primarily because we have invested on a per-capita basis probably more money in that election than any other in recent history. We have a huge American taxpayer dollar investment there in the growth of democracy, and I think it is very important that we have a full assessment of the way the moneys have been spent and how that tiny nation is doing on its path to democracy.

I think the important thing to say now is that the good news from Haiti is that there is no bad news; but the bad news is there is not much good news either.

Haiti did not have full, fair, free elections. But they did have a step in the right direction because they were able to carry out elections on a countrywide basis for a new President without any of the violence that we have seen in previous elections in that country.

The IRI [International Republic Institute] was there monitoring the progress of their elections, and they concluded in the conversations that I had in a telephone conversation with our on-the-ground team that what happened on Sunday in Haiti was important but it was not conclusive. So I think we are in a position now where we have got a pretty good assessment of the electoral process underway, the technical problems they had. What we do not have is a full assessment of what happened and where we are going now to justify the investment of taxpayer dollars and the American troops we have had there and what we should do next.

I think it is clear that we had low numbers in the Haitian election both in terms of candidates who are participating and in terms of voter turnout. The estimates in voter turnout are called light. The election was called lackluster, uninspiring. There are a lot of reasons for that.

It is true there are a lot of candidates who did not run, for a variety of reasons. Primarily the presidential campaign time was a very abbreviated time. It was about 4 weeks or so, and the campaign tactics themselves were nearly invisible. There was not a lot of campaigning, and there was not a lot of interest generated in the country as a result through the normal campaign tactics that you see for a presidential election.

The fact that much of the loyal opposition, including several of its major parties, boycotted the elections is not a good sign for democracy. People who feel compelled to go outside the system and will not participate inside the system and do not feel welcome or feel frustrated or feel it is so tilted they cannot have a fair chance clearly are making a statement when they say, "We are being forced outside the system."

It is also a fact that in Haiti, I think voter fatigue is a possibility. They have had a lot of elections, and I think that an awful lot of voters are saying the same things to reporters today they were saying to me after the parliamentary elections in June, and that is,

> Why should we keep voting for this democracy thing? I still do not have a job. I am still hungry. My family is still hungry. I voted three times. Nothing is better. I am not sure democracy works. The only thing I know is Aristide is my hero.

And unfortunately, Aristide was not on the ballot because constitutionally he cannot succeed himself, and a lot of people probably stayed home because the person they wanted to vote for they could not vote for, so they registered their objection that way.

I think many others stayed home because the election was clearly, those who were organized were the one party that was ready for it and had all of the resources and the blessing apparently of the international parties, and they just steamrolled it and apparently, when the election results come in, everybody believes widely there will be one very clear winner, not anybody really in second place. I do not know if that will be true. I think that is a feeling that probably kept people from voting.

In any event, when you have a countrywide presidential election that is supposed to be the most historic event in the peaceful turnover of democracy in the whole history of the country's 200 years and you only get somewhere between 20 and 30 percent turnout, clearly it is not working quite the way it should be.

Security was better. Law and order was better. Of course, it would be if you have Humvees with machine guns and soldiers mounted all over the place and running around from place to place insuring nothing gets out of hand. So we have somewhat of an artificial situation there about law and order.

Regrettably, as in every election, we had intimidations that kept candidates out. We had the media shut down through intimidations. We had allegations of misuse of dollars, all of those kinds of things. These things need a full accounting and full investigation.

Then the President needs to come to Congress and consult and tell Congress and the American people how we spent our money, what we have got for it, and where we are going next. I urge the President, Mr. Speaker, very much this time to consult with Congress before we get into the next chapter of what our relations are going to be with Haiti. I would hate to have to debate another invasion here, because we are seeing one more time a flood of refugees coming to the United States, and the administration's reaction is to send the military.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The economy does not work in Haiti. We know that. We need to have a full accounting. We need to know where we are going, and I urge the administration to check with the U.S. Congress. We are here to help.

NO BUDGET, NO PAY FOR MEMBERS OF CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Illinois [Mr. DURBIN] is recognized during morning business for 5 minutes.

Mr. DURBIN. Mr. Speaker, last month the Federal Government was shut down by the gentleman from Georgia, Mr. GINGRICH, and Mr. DOLE for the longest period of time in our Nation's history. It cost American taxpayers $100 million a day for this political strategy, a manufactured crisis that sent 800,000 Federal employees home.

Most people thought that the Republicans had learned their lesson. America was not ready for that kind of political strategy. They found it childish and unnecessary, and yet here we are today in the midst of another Government shutdown, inspired and orchestrated by the same Republican leaders. They just do not get it. They do not understand that sending home some 300,000 Federal employees a few days before Christmas is beyond heartless, it is stupid, crazy for us as a Nation to be incurring debts of $80 million to $100 million a day because of someone's pride.

The American people sent Democrats and Republicans to Washington to solve problems, not to create them, not to say to people who are going to Federal agencies today that their phone calls will be unanswered and no one will be at the door. What they want us to do is to sit down in a commonsense, bipartisan way, deal with our budgetary problems, to make sure we protect Medicare and Medicaid, to make sure that we do not end up obliterating college student loan programs, and to bring a balanced budget in a reasonable period of time.

It is time for some of the political hubris to be set aside.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from New York.

Mr. SCHUMER. I think the gentleman makes an excellent point. I mean, I think the American people know there are differences between us. We believe in saving the Medicare and Medicaid systems, with some moderate cuts. They believe in huge cuts and then tax cuts.

Mr. DURBIN. Let me just close by saying this: If it is a matter of principle to shut down the Government, as a matter of principle, the Speaker ought to give up his paycheck; no budget, no pay. If it applies to Federal employees, it ought to apply to the Speaker and every Member of Congress.

THE BUDGET IMPASSE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Mexico [Mr. SCHIFF] is recognized during morning business for 5 minutes.

Mr. SCHIFF. Mr. Speaker, I have a different view of why we have reached this impasse today. I acknowledge that in the past, during the discussions about reaching a balanced budget, that both sides bear some responsibility for putting some unnecessary obstacles in the way of reaching that goal. I think that the Republicans, at the very beginning, tried to put in unnecessary non-budget-related issues that have since been removed.

I think the President tried to avoid agreeing to a 7-year timeframe even though when he was campaigning for President of the United States 3 years ago, he said he would propose a balanced budget in 5 years.

But even though the past responsibility falls on both political parties, I believe the current impasse we are in today falls squarely on the Clinton administration, and that is simply because the President of the United States is attempting to back out of the agreement he entered into less than a month ago with the Congress of the United States. We resolved the last partial Government shutdown by coming to an agreement. There were several major terms in that agreement, and one of those terms was that we would use common economic projections to put together a balanced budget.

I know this sounds very technical, but economic projections are the building blocks of any budget. They are the forecasts, in this case over 7 years, of how much Government revenue will be received, how much there will be an inflationary impact on Government programs and so forth.

The agreement by the President of the United States and the Congress of the United States was that we would use the figures of the Congressional Budget Office. Now, there was an additional provision, that the Congressional Budget Office was expected to consult with outside sources, which, to the best of my knowledge, they have done. But the bottom line, without any doubt, is that a budget would be put together using only the economic projections of the Congressional Budget Office. The President of the United States now is attempting to avoid living up to an agreement with the Congress of the United States, and the President has stated, first of all, that the Congress is demanding that the President put some cuts in Medicare and Medicaid and other programs up before negotiations can continue. This is not correct.

The Congress is saying the President should put forward a budget based upon CBO, Congressional Budget Office, projections, and that is all. Within those budget projections, the President is free, the administration is free, to put together any budget they want. They can have tax cuts or not have tax cuts. They can have tax increases if they want to propose it. They can have more funding for any program, less funding for any other program. So there is absolutely nothing in putting together a budget based upon the Congressional Budget Office economic projections of revenue, inflation and so forth, that dictates in advance what a budget has to look like.

I heard one of my Democratic colleagues this morning on television say, "Well, the agreement was we will use the Congressional Budget Office as a baseline, but then we could look at other figures." That is not correct. The agreement was that we would use the Congressional Budget Office figures.

Now, the point is, Mr. Speaker, that that is exactly what the Congress of the United States has done. The Congress of the United States passed a budget. I do not agree with all of its individual terms. But the Congress of the United States passed a budget and sent to the President a budget that was balanced in 7 years, which was part of our agreement and that used Congressional Budget Office figures as the building blocks, as the revenue projections, the inflationary effect and so forth.

The President vetoed this bill. That is the President's prerogative, not only constitutionally, under the Constitution of the United States, of course, but under the agreement which also said there would be adequate funding for certain programs and if the President felt that the increases that that budget included for Medicare and Medicaid were not sufficient, then the President could go ahead and veto.

But the Congress has then made a very reasonable request: "Mr. President, if you feel that our budget does not adequately protect certain priorities, show us your budget under the exact same framework. Put forward a budget under the exact same framework. Put forward a budget that is balanced in 7 years and uses the Congressional Budget Office economic projections and is shown to be balanced in 7 years under the CBO numbers, and show us how exactly you would protect your priorities."

☐ 0915

If you want to spend more on one program, what do you propose to spend differently, or how do you propose to have a different tax structure in order to pay for it? The point is that if the President of the United States is going to veto the congressional budget, which again is his privilege, he should then put out his budget on the same framework.

Further negotiations I think are impossible unless we are dealing with budgets that are put together under the same measuring yardstick, apples to apples if you will. Unless the President puts forward a budget under the same yardstick, there is no way we can compare, well, this is how we funded a certain program and this is how the President would fund the same program.

So, Mr. Speaker, I urge the President to comply with our agreement and come forth with a budget.

PEOPLE ARE BEHIND THE BUDGET FIGURES

The SPEAKER pro tempore (Mr. GUTKNECHT). Under the Speaker's announced policy of May 12, 1995, the gentleman from Pennsylvania [Mr. KLINK] is recognized during morning business for 2 minutes.

Mr. KLINK. Mr. Speaker, there has been much name calling, there has been rhetoric, there has been invectiveness as we face the second Government shutdown of this year with really no end in sight, and as previous speakers have talked, the first one was the longest in the history of our Nation.

I think the President made a very valuable and very important point yesterday when he talked about the fact that there are people behind these figures. When you talk about cuts in Medicare and you talk about cuts in Medicaid, when you talk about adult children being held responsible for paying the nursing home bills for their parents, taking money out of the funds they would use to purchase a home, taking funds that they would use to send their children to college, we may be balancing the budget in the short run, but in the long run, our Nation will be much weaker. Those children of the adult children will be less educated.

I can remember back in the early 1980's when a Republican President named Ronald Reagan was pushing the same kind of idea, that somehow these massive tax cuts for wealthy individuals and wealthy corporations were going to trickle down and were going to help those of us that were on the lower side, those of us that were working individuals.

Let me tell you what happened in my area of southwestern Pennsylvania during that period of time. We lost in 13 counties 155,000 manufacturing jobs. No one ran away with those tax breaks. The rich corporations and the rich individuals did not reinvest that money in this country, and they are not going to do it now.

We are talking about taking money out of Medicare, taking money out of Medicaid, making adult children pay for the care that their working parents paid for with their tax dollars over the last 30 years, since 1965, when Medicare and Medicaid were passed in this House and were signed by President Johnson. They are taking that money and giving it away to the wealthy corporations of this Nation.

That is what it is about. It is about a transfer of wealth. It did not work in the 1980's, it blindsided our working people, and it is not going to work again in the 1990's, and President Clinton is very correct when he stands up and says that he will veto this.

Mr. Speaker, we have got to sit down and rebalance our priorities, not just balance our budget.

THE BUDGET IMPASSE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Pennsylvania [Mr. FATTAH] is recognized during morning business for 2 minutes.

Mr. FATTAH. Mr. Speaker, good morning to my colleagues and good morning to America. It is clear now that we have a congressional majority that lacks the maturity to govern this Nation's budgetary processes. We have arrived again at an impasse in which the Congress has failed to pass a budget and the spending bills necessary in an acceptable enough form in which the President of the United States would sign them, which is the responsibility of the Congress.

It is perhaps a good thing that the President is attempting to work with congressional leaders to help them figure through a shared approach to the budget, but it is the Congress' responsibility to pass a budget as outlined in the U.S. Constitution. We have arrived at a point today at which the seemingly clear set of circumstances lead us to believe that the House Republicans, NEWT GINGRICH and his colleagues, are the single stumbling block to us arriving at a budget agreement.

We have the President, we have Senate Republicans and Senate Democrats who want to find a way to get the country back on the right track. House Democrats are prepared to work. But we have House Republicans who seem to in a childish way want to hold fast to their own particular viewpoint of how the budget ought to work out, a viewpoint that the American public has soundly rejected in every single poll that has been done over the last few months.

They keep pushing something that no one else is buying. The American public says "We don't want to cut education, we don't want to cut Medicaid, we do not want to see these programs eradicated. What we want to see is a more responsible approach that would lead us away from tax cuts, lead us away from increasing defense spending when it is not necessary, when it is well over what the Pentagon has even recommended." The American public has said no to the Republican budget, but yet NEWT GINGRICH and the House Republicans keep wanting to sell us something that no one is buying. That is why we have arrived again at this shutdown.

Mr. Speaker, I would hope that as we face this new day here in the Congress, that some common sense would come to the majority, that they would stop acting in immature ways, because I think they really threaten their very majority in the ways they are acting now.

BALANCING THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Wisconsin [Mr. NEUMANN] is recognized during morning business for 3 minutes.

Mr. NEUMANN. Mr. Speaker, the problem we are facing today is not a discussion between spending priorities. The problem we are facing today is that the President's budget leaves the Federal checkbook $70 billion overdrawn. I have a chart with me that shows me where we were last week in terms of deficits. This bottom line is where the deficits were over the last week.

You will notice in the year 2002, all of last week we had a Presidential proposal that left us $115 billion overdrawn. On Friday of last week, the President brought us a new proposal. Here is what it did. It took the $115 billion deficit and it reduced it to a point where it was a $70 billion deficit. The problem with this is that it is still $70 billion out of whack in the 7th year.

Let me make this as clear as I can possibly make it. The proposal that we have from the President today does not, I repeat, does not, balance the budget in 7 years. That makes it unacceptable.

Let me put this another way. In the 7th year of the President's proposal, he proposes that we spend $106 billion more of the taxpayers' money and he proposes that we collect $36 billion more from the taxpayers of this country. So he proposes that we spend $106 billion more in the 7th year, and he proposes we collect $36 billion more in taxes. That leaves us $70 billion over in the 7th year.

Let me just finish, because this gets much better. The Republican plan that is currently on the table, the Republican plan on the table today, proposes that we spend $11.948 trillion of the American people's money. That is to say, $46,000 over the next 7 years for every man, woman and child in the United States of America, $46,000 per person. The President wants to spend $400 billion more than that.

I have a problem with that, because back in my district, they think $46,000 a person is enough spending.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. NEUMANN. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Speaker, I appreciate the gentleman's courtesy. I would just note that the CBO numbers show that the Republican budget, the deficit goes back up in the years 2003, 2004, and 2005. Would the gentleman be willing, if I might finish, given his passion for balancing the budget, which I respect, to say if that happens, we should reduce some of the deep tax cuts in that budget so that we can balance the budget?

Mr. NEUMANN. Mr. Speaker, reclaiming my time, it is very important to look very seriously at the budget proposal we put out of our office earlier this year. We put forth a plan that balanced the budget, we had 5 years, but, OK, let us do it in 7 years as we have all agreed to in this House. After the 7th year, we would allow spending to increase at a rate 1 percent slower than the rate of new growth.

We need to go back to the plan as proposed in our budget proposal out of my office earlier this year, because what that will do is require that we start building a surplus so we can start paying down this debt, so we can give this Nation to our children without this huge debt. When you start talking beyond 7 years, the reality is we do not have much of an opportunity to work out those numbers.

The SPEAKER pro tempore. The time of the gentleman from Wisconsin [Mr. NEUMANN] has expired.

Mr. SCHUMER. Mr. Speaker, I ask unanimous consent that the gentleman be allowed to proceed for one additional minute.

The SPEAKER pro tempore. The Chair would advise Members that the time has been allocated.

MEANS OF CALCULATING BUDGET NUMBERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Texas [Mr. DOGGETT] is recognized during morning business for 2 minutes.

Mr. DOGGETT. Mr. Speaker, I guess the question I have this morning is when will our Republican friends propose a balanced budget? Yes, that is right, when will they propose a budget that is in true balance?

You see, they think that a balanced budget can be balanced using a calculator; that is the only tool that you need to see whether the numbers add up, whether you can add, subtract, divide, and multiply them. But a budget is more than a collection of numbers. It is a statement of a country's priorities, and not everything in that budget can be measured with mathematical accuracy.

How do you measure in mathematics what it costs to deny one young child the opportunity to participate in Head Start, to get all the education that he or she needs in order to be a productive member of this society and share in the American dream?

How do you measure with a calculator what it means to a family to be ripped asunder when suddenly they have the burden of having to care for a senior who has to be placed in a nursing home, and, under this Republican plan, you reach down and dip into the resources of the middle-class family that is already struggling to make ends meet to pay for that senior who has to be provided nursing home care?

How do you measure with mathematical accuracy the burden on the senior who has to choose between health care and being able to eat?

Those are the questions that have to be raised when you look at balancing the budget. Yes, it is an important objective to be sure the mathematics balance, but it is critical that any balanced budget have true balance. And that is what this is all about, because our Republican friends think as long as you take from those who are on Medicare and give to those corporations more tax breaks, do not ask the corporations to sacrifice, do not ask the wealthy to sacrifice, just ask the young children, just ask those who want clean air and clean water, just ask our seniors to sacrifice, put all the burden on one side, that is not a balanced budget.

I say it is time for our Republican friends to come forward with the first balanced budget, because all the ones they have given us up to now may add up in the numbers, but they do not add up when it comes to the future of America.

FACTS ON THE BALANCED BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Illinois [Mr. EWING] is recognized during morning business for 3 minutes.

Mr. EWING. Mr. Speaker, I come here today to talk about the balanced budget and to talk about some things that may be educational to people who watch this.

First of all, I think the attacks on the majority fail to recognize the total picture. If you follow the rhetoric that you hear in attacking the Republican majority in their effort to balance the budget, if you follow their line of reasoning, we could never balance the budget so long as there was one individual out there who may not be served to the same extent that some think they should.

You ask the American people how they feel on these different issues, and we all know that it depends on how you ask the question. But the one thing that we are aware of and that has come through loud and clear is that when you ask the question "should we balance the budget," the American people say yes.

Yes, we will have to make choices. Yes, we will have to rearrange how we do business. Otherwise, some day the house of cards will come tumbling down.

It has been 30 years almost since the Federal budget was balanced, and the new Republican Congress has the opportunity to make this happen, with some support from the minority side. They say they want a balanced budget. Let us see some support from them to get that done. Or, if we fail, I think the American people will say "business as usual." We will not revisit any of the hard decisions between now and the next two decades if we fail this time.

Finally, Mr. Speaker, there is an article in the morning paper which I think was very interesting and might be very interesting to all of us and to the viewers at home. There are two categories of Government spending. One, where we purchase things for use by Government; and the other is transfer payments, and that is where we take from the middle-class family and transfer it, transfer it to somebody else, because they are not working or do not work or cannot work. And you have to address that problem, because it is now almost 20 percent of the Federal income that goes to transfer payments, and it is growing at an enormous rate.

So the discussion about the budget just is not crunching a few numbers and the President giving here and the Congress giving there. It is about how we do government and how we spend the money.

☐ 0930

REPUBLICANS SHUT DOWN GOVERNMENT BECAUSE THEY CANNOT GET THEIR OWN WAY

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning business for 2 minutes.

Mr. PALLONE. Mr. Speaker, I wanted to follow up on what my colleague from the other side, from Wisconsin, said before. He talked about differences over the budget and the numbers over the budget, but the problem is that while we are arguing over these budget differences, whether it is the numbers or the priorities, the Government should remain open.

It is the Republicans, it is Speaker GINGRICH who wants to shut the Government down because he cannot get his way in terms of what he thinks the budget should be all about. That is not fair. That is the reason the Government was shut down 2 weeks ago, because Speaker GINGRICH and the Republican leadership did not get their own way.

Now, everyone knows that the majority in this House and in the Senate is the only body or the only group that can bring up a continuing resolution to keep up. The Speaker, last Friday, the Speaker yesterday, and so far I have heard nothing today about bringing up a continuing resolution so that this Government can continue to operate. That is what is causing the crisis. That is what is making everyone around the country so aggravated.

That is the reason, I believe also, why we had the problem with the stock market yesterday, because while we are discussing and negotiating this budget, the Government should not be shut down. The Republicans should not make this into a crisis situation by shutting down the Government.

Now, Mr. Speaker, we have major differences over the priorities here. We have differences over the numbers, we have differences over the priorities. The Democrats have been saying all along that Medicare must be preserved, Medicaid must be preserved, that the Republicans are giving huge tax breaks primarily to wealthy Americans and to corporations and that money for those tax breaks should be put back into the budget so that Medicare and Medicaid, the environment and education programs remain solvent. That is what I think the goal should be.

The President has been articulating all weekend the fact that he cannot accept the Republican priorities because he feels very strongly, and he is right, that Medicare, Medicaid, the environment and education must be preserved. So far the Republican leadership has not come up with anything, not put anything on the table that would preserve those priorities, and, in the meantime, they tell us all we are going to shut the Government down because we do not get our own way.

FEDERAL EMPLOYEES ARE INNOCENT VICTIMS IN GOVERNMENT SHUTDOWN

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Virginia [Mr. DAVIS] is recognized during morning business for 3 minutes.

Mr. DAVIS. Mr. Speaker, I have lost my voice but I have not lost my will here.

Quite frankly, if the President had signed some of the appropriations bills on his desk last week, we could have kept the park system open and a number of other agencies. I think he was saying my way or no way. I think both sides need to get together and keep talking.

What bothers me about this is that a month ago the President signed a resolution saying a balanced budget, 7 years, CBO numbers, and a month later he has not submitted any plan that does that. Hopefully, he will put that on the table, we can get both sides to pass a continuing resolution, and we can move ahead at that point and negotiate out the differences. And there are honest and sincere differences, but we need to move ahead. The American people are relying on us to do this. Certainly the markets are at this point.

I wanted to bring up something else today, and that is the innocent victims of this whole thing, and that is the Federal employees. Federal workers today have been undergoing a lot of stress. They have been undergoing downsizing efforts by both the administration and this Congress. Benefit cuts. Many have been proposed that have not gone into effect, but some have in the agreements that have gone through as well. So they are undergoing downsizing, benefit cuts and now furloughs at Christmas time.

The tragedy for these workers, who we are asking everyday to do more with less, is they cannot even, under Federal law, go get a second job. They cannot even work as a store department Santa Claus under Federal rules. So we furlough them, we do not let them have another job, and now we have Members saying, well, we cannot pay these people because they are not working. But they want to work, they want to be out doing the job that we have asked them to do, but the Federal law does not allow them.

These people will miss their Christmas paychecks. And to suggest that they should not be paid, when it is no fault of their own and they are unintended victims of this, is outrageous.

We have to recognize that if Government wants to attract the best and the brightest, and maintain these people in our Federal work force, so they can get the job done as we cut the budgets and ask people to do more with less, we have to bring their morale around and we have to incentivize them to do that, and we are not acting in a way to do this. If we were a private company and were undergoing downsizing, with the stress that we have, we would never threat our employees as we have done in this particular case.

Of course, they should be paid, when this is all over and the resolution is done. It has happened every time before. For Members to suggest otherwise, and who say, well, it looks stupid to pay people for not working, it is not their fault they are not working. They want to be there. The only reason they are not is because we have not reached agreement with the President of the United States.

We will never get good people to come back into Government to serve the Government. As President Kennedy said, ask not what your country can do for you, ask what you can do for your country. We will never get that spirit when we start treating workers in this shabby a manner.

I would hope the President will put a balanced budget on the table, as he promised a month ago. It will not meet the priorities of the Members of my side, but we can pass a continuing resolution, work out our differences, get these people back to work, let them perform the functions of Government and give the American people a Christmas present of a balanced budget.

GOVERNMENT SHUTDOWN IS TO AID IN DISMANTLEMENT OF MEDICARE AND TO CUT AND REPEAL MEDICAID

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Michigan [Mr. BONIOR] is recognized during morning business for 5 minutes.

Mr. BONIOR. Mr. Speaker, I will not take the full time, but I wanted to come to the floor this morning to echo the message that some of my colleagues have been giving, and that is basically this: The Speaker of the House, Speaker GINGRICH, has closed down the Government again for the second time, and in order to do two things: To dismantle Medicare and to cut and repeal Medicaid.

My colleagues do not have to take my word for it. I want to refer my colleagues to two reports; one that was issued by the Consumer Union. This is a group of people that puts out a publication called the Consumer Report. America knows about the Consumer Report. It is a publication that one goes to when one wants to buy a car or one wants to buy a television set. It has enormous credibility. Listen to what they say.

"What Congress isn't telling you: Families of nursing home residents may face financial ruin under Federal Medicaid bill."

They estimate that 395,000 long-term care patients are likely to lose Medicaid payments for their nursing home care next year if this Republican repeal of Medicaid goes through. They go on to talk about some of the effects of this proposal by the Republicans.

If someone is in a nursing home in the family, it costs about $38,000 a year. That is more than most families in America make today. And they go on to point out, in this report, that adult children may be held financially liable for nursing home bills of their parents. Family assets, including homes, may be sold or seized to pay nursing home bills. No one is guaranteed Medicaid nursing home eligibility as they are now. Families may be forced to spend their life savings for long-term care of a loved one. And on and on and on.

That was a report that was issued last November. A report issued in December, just recently, by the National

Citizens' Coalition for Nursing Home Reform says this about the repeal of Medicaid. "The report analyzed nursing home laws in 10 States and found none of the current State laws meet the minimum standards found necessary in 1987 to protect nursing home residents."

"This proposal moves us back in time to the nursing home dark ages when residents were tied and drugged, lying in their own waste, ignored by untrained, overworked staff."

So what is going on here, basically, ladies and gentlemen, is that Mr. GINGRICH, the Speaker of the House, has closed down the Government for the second time in order for him to continue with his Republican colleagues to dismantle Medicare, a program that we have had, we have enjoyed now since 1964. It has protected literally tens of millions of people in this country from economic devastation, and he goes on to take after Medicaid, which protects children, a quarter of the children in America who get their health care from Medicaid.

Mr. HAYWORTH. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. Mr. Speaker, I said I would not yield, and I would ask the Speaker to enforce my right to speak on the floor without being interrupted.

The SPEAKER pro tempore (Mr. GUTKNECHT). The gentleman from Michigan controls the time.

Mr. BONIOR. The Speaker goes on to take on the disabled, our elderly in this country, and children, a quarter of which, as I indicated, get their health care from Medicaid.

These assaults on middle income people, on the elderly, on disabled, and on children in this country are what we are trying to protect. We will not be blackmailed by Speaker GINGRICH by shutting down this Government to go after these people. They deserve the support and the help of every Member of this institution, and we will not be blackmailed by the dismantling of Medicare and by the repeal of Medicaid in order for our seniors, as these two reports issued in November and December, in order for our seniors to have this type of activity with respect to their long-term care perpetrated upon them.

So we say to our friends on this side of the aisle, stop this nonsense, stop these games that we are playing. Let us get this Government back to work and let us get on with dealing with the real question at hand, and that is a balanced budget that protects Medicare, that protects Medicaid, that protects education, and that protects our environment. That is what we need to do.

We have dealt with the issue of 7 years. We have dealt with the CBO issue, but the majority has done nothing, nothing to live up to the standards that were set in the last CR with respect to the issues of Medicaid, Medicare, education, and the environment. There has been no movement at all on the Republican side on those issues.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I want to thank the gentleman for raising this point because when we look at the Medicaid Program, and we see an ad here that is signed by corporate leaders, who have laid off tens of thousands of Americans, and the children in many cases of low-paid workers, those children of those workers have lost their health insurance.

Three million children are without health insurance. And what the Speaker is saying is we have to dismantle Medicaid rather than give those children health care coverage.

BUDGET MUST BE MATHEMATICALLY BALANCED

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Indiana [Mr. SOUDER] is recognized during morning business for 3 minutes.

Mr. SOUDER. Mr. Speaker, it is tough during this time of year, when we should be home with our families and celebrating the birth of our Savior and having the time of a wonderful holiday season, to be pinned down here with this acrimony. And I know many Americans throughout the country are fed up, but we are at a real crossroads.

It is especially cruel, I believe, to be putting out the false information and scaring the most vulnerable in our society, the senior citizens, who do not have a lot of their life to look forward to in many ways, and yet when they hear this type of thing, to be scared with the false information that is out is especially disturbing and especially cruel at this time of year.

I also heard an earlier speaker say that we should not just mathematically balance the budget. My question is what will we do, emotionally balance the budget, rhetorically balance the budget, demagogically balance the budget? Of course, we have to mathematically balance the budget. Every American in this country has to mathematically balance their budgets.

I guess there is a real difference between the two sides. They believe in Santa Claus and we do not. We have to mathematically balance the budget. That is why we are sent to Congress; $12 trillion is enough over the next 7 years. We are not cutting the budget. The previous 7 years was $7 trillion. That is, in any terms, real growth. The question here is how far is the Government going to grow, how big is the Government going to be?

For example, one of the other negotiations we are having with this President is he has been told, in effect, and I think most Americans can relate to this, that this bank account has been overdrawn for years and by big amounts. An average American, if they were told their bank account was overdrawn $20,000 would work with the bank immediately to try to address that. We have compromised and said, OK, we will do this over 7 years to balance it. He refuses to come back with a proposal to actually balance it. He basically wants to go, OK, how about if we just leave it overdrawn by $10,000? OK, how about if we just leave it overdrawn by $8,000?

The fact is we cannot have negotiations unless both sides agree on the fundamental principle that the budget has to be balanced, and the President has not put a proposal on the table that balances the budget. Once he puts a proposal to balance the budget on the table, then we can get into real discussions about how we will prioritize that spending. And that is a legitimate thing for the American people to expect, that we would have such a discussion as to how to prioritize that spending. But it is also legitimate they expect to have a budget on the table.

The stock market is not collapsing because of a CR, the stock market is worried we will not balance the budget. As Allan Greenspan has already said, they have factored in that we were going to balance the budget. Now they are afraid. They see the President going back on the agreement that we made, and there is a real concern in this country that we might be so gridlocked, that one party is not committed and our President is not indeed committed in spite of the rhetoric to a balanced budget.

The reason people cannot get into our national parks is he will not sign the appropriations bills. It has been nice to hear for months that we do not have the appropriations bills done, but basically, there are three over there now to be signed. Hopefully, another one will move.

I want to conclude by saying I realize that most Americans would be a little shocked, but it is time for the President to keep his word and put a budget on the table.

☐ 0945

SPEAKER SHOULD ALLOW GOVERNMENT TO OPERATE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Connecticut [Mr. GEJDENSON] is recognized during morning business for 5 minutes.

Mr. GEJDENSON. Mr. Speaker, what is clear here, but somewhat secretive in this town, is that of the participants in this battle, all but the Speaker are ready to open the Government again. Frankly, all but the Speaker would have kept the Government open.

The President and Mr. DOLE and Mr. DOMENICI could have kept this government open, but what happened? First, the Speaker got a bad seat on an airplane, and so he shut the Government down. Now, he has gotten bad poll numbers and he figures he cannot rebuild himself, so he is going to tear the whole Government down, hoping to bring everybody down with him.

We are one country trying to resolve some issues and it seems clear to me that the way to resolve these issues is not to set out to put our citizens in harm's way, put our Federal workers in harm's way, and disgrace this country by an inability to keep this Government working.

When we were first elected in 1980, we had grave differences with Ronald Reagan. But we had Democratic Speakers who gave the President every courtesy, who then proceeded to work with President Reagan to make sure the Government kept working, even where we had grave disagreements.

But not this Speaker. This Speaker refuses, of all the leaders here, he refuses to keep this Government operating. It seems clear to me that if he was a military leader, he would start bombing his own cities as a demonstration of strength. What we need to do is get back to work.

Mr. Speaker, I will be happy to yield to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I appreciate the words of the gentleman from Connecticut, because I rise this morning to ask if we could simply tell the truth. I think if we put the truth on the table, we might get going.

The continuing resolution, and I think the gentleman from Connecticut was here that weekend of the 19th, insisting that we worked to ensure that the Government not shut down. I think it is important to remind the American people that the President is not standing on weak ground.

I would caution my colleagues on the other side of the aisle about believing in Santa Claus. There are millions of children around this world and in this country that we hope will hold a vision of hope and we hope they will believe in Santa Claus. But the President and the Congress signed onto a continuing resolution that indicated that we would provide adequate funding for Medicaid, education, Medicare solvency, agriculture, national defense, and the environment and to ensure the protection of generations of people.

This morning, I spoke to my 10-year-old and this is in tribute to Jason, because I am not there with him for his Christmas program. We all believe in moving this country forward. But the American people are seeing, first of all, their Government shut down with innocent, hard-working Federal employees out on the streets, hindering their opportunity to provide for their families. But more importantly, all of the services that they provide are no longer here for the American people.

This side is standing for the American people. I believe those who say they do not believe in Santa Claus are just about bringing Scrooge to the national forum. What we should be doing is coming together and working, telling the truth so that I can go home and tell the mother who has a young child with a brain tumor, and a mother who has another child with respiratory problems, and another child with a heart condition, and who is a single parent on welfare and needs Medicaid, that she is an American too and that we are trying to help her bridge out of this condition into independence.

Mr. Speaker, I think we need to stand on the side of the American people, tell the truth, and to make sure that we provide an opportunity for a fair, balanced budget, not on the backs of those who are most needy.

Mr. GEJDENSON. Mr. Speaker, I yield to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, the gentleman mentioned President Reagan, and think it is important to bear in mind that when we had a budget conflict in 1987 and 1988, between a Republican President and a Democratic Congress, what we did was to pass a continuing resolution that lasted all year long; a clean continuing resolution. But Federal employees were not made pawns in that process. There is no reason why Federal employees should be furloughed today.

Yesterday, in a press conference, Speaker GINGRICH indicated that those Federal employees may not even be paid at Christmas time. How unbelievable could this situation be that we would have families with children who are working for the American people, laid off, put on furlough just before Christmas, and told they may not even be paid during Christmas?

But it is believable. We just fired 11 people that served this House in the well of the House, doing necessary work. They had built up compensatory time, because they worked late at night. But because we will have the same laws that apply to the private sector apply to us January 1, we fired them just before Christmas time so we would not have to compensate them. Talk about mean spiritedness.

DEMOCRATS SHOULD PRESENT A 7-DAY BUDGET PLAN

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Maine [Mr. LONGLEY] is recognized during morning business for 5 minutes.

Mr. LONGLEY. Mr. Speaker, I had a chance to talk to my daughter, Sarah, this morning, who was very proud that tomorrow morning she is going to be in a Christmas play. She was very concerned as to whether I was going to be able to make it or not.

In very simple English, I told her that unfortunately I could not, but that the reason I was not going to be there was that I had to be here because there were some people who wanted to spend her money, money that she was going to have to pay back, and she did not think that was a good idea.

Mr. Speaker, I have got a challenge for the other side of the aisle. Our agreement of 30 days ago said, yes, we are going to ensure Medicare solvency, Medicaid, education, veterans, and the environment, all of the nice programs, all of the programs that we support. Well, I ask my Democrat colleagues to put their money where their mouth is. Tell us that they would spend. Give us a budget that reflects their priorities and stand up like men and women of integrity, not just mouthing off about the fact that they are in favor of this or in favor of that. Give us a legitimate 7-year budget. Tell us where they stand, so we can compare our plans with theirs.

RECESS

The SPEAKER pro tempore. Under the previous order of the House of January 4, 1995, morning hour debate may not continue beyond 9:50 a.m. today. Pursuant to clause 12, rule I, the House will stand in recess until 10 a.m.

Accordingly (at 9 o'clock and 50 minutes a.m.), the House stood in recess until 10 a.m.

☐ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 10 a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O God, that You have given to us the goals of justice and the designs of freedom. Remind us this day, gracious God, that it is our work to develop the strategies and the plans of achieving those goals being aware of the prodding of Your spirit. We know that You have given to each of us the abilities to do good works so we pray that we will be faithful in our tasks, responsible in our actions, and fervent in our desire to serve. We pray this together with the petitions of our own hearts. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House this approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Georgia [Mr. KINGSTON] will lead the membership in the Pledge of Allegiance.

Mr. KINGSTON led the Pledge of Allegiance as follows:

> I pledged allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

> H.R. 395. An act to designate the United States courthouse and Federal building to be constructed at the southeastern corner of Liberty and South Virginia Streets in Reno, Nevada, as the "Bruce R. Thompson United States Courthouse and Federal Building."

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

> S.J. Res. 38. Joint resolution granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day.

The Clerk will call the first individual bill on the Private Calendar.

ARTHUR J. CARRON, JR

The Clerk called the bill (H.R. 418) for the relief of Arthur J. Carron, Jr.

There being no objection, the Clerk read the bill as follows:

H.R. 418

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF TIME LIMITATIONS.

The time limitations set forth in section 3702(b) of title 31, United States Code, shall not apply with respect to a claim by Arthur J. Carron, Jr., of Bark River, Michigan, for amounts due to him by the Department of the Navy. The amounts due are represented by the following checks that were received but not negotiated by Arthur J. Carron, Jr.:

(1) Treasury check number 2,831,843, dated October 18, 1966, in the amount of $10,850.74 for salary and expenses.

(2) Treasury check number 10,445,856, dated January 29, 1971, in the amount of $1,361.00 for salary and expenses.

(3) Treasury check number 71,681,041, dated April 1, 1971, in the amount of $562.25 for retirement pay.

SEC. 2. DEADLINE.

Section 1 shall apply only if Arthur J. Carron, Jr., or his authorized representative, submits a claim pursuant to such section before the expiration of the 3-month period beginning on the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BENCHMARK RAIL GROUP, INC.

The Clerk called the bill (H.R. 419) for the relief of Benchmark Rail Group, Inc.

There being no objection, the Clerk read the bill as follows:

H.R. 419

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDING AND PURPOSE.

(a) FINDING.—The Congress finds that Benchmark Rail Group, Inc., of St. Louis, Missouri, satisfactorily performed emergency work after the Northridge earthquake, but has not been reimbursed as a result of a technicality under California State law.

(b) PURPOSE.—The purpose of this Act is to fairly compensate Benchmark Rail Group, Inc., for the work for which, except for the technicality under California State law, it would otherwise have been paid under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121).

SEC. 2. PAYMENT.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the director of the Federal Emergency Management Agency shall pay to Benchmark Rail Group, Inc., of St. Louis, Missouri, an amount equal to the total amount owed to Benchmark Rail Group, Inc., by the Federal Emergency Management Agency and the State of California to compensate Benchmark Rail Group, Inc., for the emergency work and services performed at the request of the Southern California Regional Rail Authority to the extent that such work and services are otherwise eligible for reimbursement under the Robert T. Stafford Disaster and Emergency Assistance Act (42 U.S.C. 5121). The payment shall be made from funds appropriated to implement such Act.

(b) DEOBLIGATION OF FUNDS.—The Federal Emergency Management Agency shall deobligate an equal amount to that obligated previously for payment to the State of California to cover the costs of work performed for the Southern California Regional Rail Authority by Benchmark Rail Group, Inc., after the Northridge earthquake which would have been eligible for reimbursement under such Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KRIS MURTY

The Clerk called the bill (H.R. 1315) for the relief of Kris Murty.

There being no objection, the Clerk read the bill as follows:

H.R. 1315

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELOCATION EXPENSES FOR KRIS MURTY.

For the purpose of receiving reimbursement for relocation expenses under sections 5724 and 5724a of title 5, United States Code, Kris Murty of El Paso, Texas, an employee of the Department of the Army, is deemed to have been an employee transferred by the Department of the Army from one official station to another for permanent duty when he relocated from Houston, Texas, to Fort Bliss, Texas, in February 1985.

SEC. 2. LIMITATION ON AGENTS AND ATTORNEYS FEES.

No amount exceeding 10 percent of a payment made pursuant to section 1 may be paid to or received by any agent or attorney in consideration for services rendered in connection with the payment. Any person who violates the provisions of this section shall be guilty of an infraction and shall be subject to a fine in the amount provided under title 18, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER pro tempore. This concludes the call of the Private Calendar.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 20 1-minutes on each side.

LET OUR PEOPLE GO

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mrs. MORELLA. Mr. Speaker, let our people go, let them go back to work.

Yesterday, we passed a budget resolution saying we would balance the budget in 7 years using CBO figures. Let us do it.

I would like to, during this third day of Hanukkah, with 6 days before Christmas, point out there is a face to this shutdown of Government, this partial shutdown. Yes, it affects 260,000 Federal employees and their families who are victims. Yes, it affects the private sector, those who have contracts. yes, it affects the financial market.

But I would like you to know, as I was driving in this morning I saw two cars in the driveway, two doors over, people who are usually gone at 7 o'clock in the morning, and that is because one of them works at Health and Human Services and one works at Commerce. They have four children. They have two children who are currently in college, and they are hit by the fact that we have not come up with a balanced budget.

I would also like to reflect the fact about a pharmacist at NIH, the human face is something we have got to realize and get on with our job.

BRING UP A CONTINUING RESOLUTION

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, I am a little weighted down today, as you can see, but I just wanted to point out that, and this is following up on what the gentlewoman from Maryland just said, that the reason that the Federal Government is shut down today is because the Republican majority has not brought up a continuing resolution to let the Government continue to operate.

On Friday they did not bring one up. Yesterday they did not bring one up. Today again I have heard no talk of bringing it up.

I think it is simply not fair to keep the Government shut down while we will discuss the budget. We should simply negotiate the budget. We have our differences, and they can be brought out and they can be negotiated. But in the interim, the Republican majority has an obligation to bring a continuing resolution to the floor and let the Government continue to operate, and I know that Frank also believes in that and so does Rose Marie.

BALANCING OUR FEDERAL BUDGET FOR OUR CHILDREN

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I am so happy my good friend from New Jersey brought his children to the floor of this body, because I think it demonstrates, it demonstrates so clearly why we have to work out these problems.

Because you see, as desirable in one sense as a continuing resolution might be to some, to the country, to the financial markets, that is just a continuation of the same old tax-and-spend mantra. In fact, the child that my colleague from New Jersey had in his arms, his son, if we do nothing to change the course of action that we are on, that little boy will pay over $185,000 in taxes just on the national debt.

So it is precisely for those children and the children of Federal workers and all children in America and, indeed, all generations, that we work now to put aside partisan differences and balance our Federal budget.

Our children, our country, deserve no less.

BUDGET MUST REFLECT PRIORITIES OF THE AMERICAN PUBLIC

(Ms. DeLAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DeLAURO. Mr. Speaker, if we pass the Republican budget, the children of the gentleman from New Jersey [Mr. PALLONE] will have the air that they breathe fouled, the water they drink dirty, we will deny them their opportunity for student loans to be able to get an education.

This Republican budget does exactly what it says it does, and it denies children opportunity, if you take a look at it, chapter and verse, and you look at the fine print.

Last month, Mr. Speaker, Speaker GINGRICH shut down the Government because he did not like his seat on Air Force One. Now, he is at it again. What was it this time that caused the Speaker's tantrum? Who knows? Perhaps he was invited to breakfast at the White House and President Clinton got two slices of bacon while Speaker GINGRICH only got one.

What we do know is the American people have rejected Speaker GINGRICH's budget, a budget which would devastate Medicare, Medicaid, and education, to finance a tax cut for the wealthy. Instead of listening to the American people, the Speaker chooses to shut down the Government to get his way. That is not leadership. It is childish.

The Speaker should have a budget that reflects the priorities of the American public, not his own.

SANTA DOES NOT LIVE IN WASHINGTON, DC

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, politicians in this town have dressed up as Santa Claus, popped down the chimney and robbed American families blind. Oh, sure, they have given gifts to their special-interest friends, but they have used the American people's credit card to do it, and all they have left our kids is a debt so huge that every single child born this year inherits a bill for $187,000 just to pay the interest, just the interest, on the national debt.

These fake Santas, Mr. Speaker, take more than our milk and cookies. They gorge themselves on everything they can get their hands on, and then they claim that American families do not really need their taxes cut.

But the fact of the matter is that these fake Santas are eating the average family out of house and home. We have to slow the growth of wasteful Government spending, Mr. Speaker. We have to cut taxes. We have to cut the waste.

Mr. Speaker, the American people deserve no less. It is time to remember that Santa Claus does not live in Washington, DC.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BUNN of Oregon). The Chair reminds Members when they are addressing the House not to be accompanied by others who are not Members.

LUCRATIVE NEW BUSINESS: BODY BROKERING

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the stock market fell 101 points, 2 percent of its total value. Everybody is making a lot of excuses.

The truth of the matter is America has become a paper tiger. Check this out: One of the most lucrative new businesses in America is body brokering. That is right, selling cadavers, dead bodies, for up to $1,500.

Think about it, it is getting to the point the only way to make a living in America is over someone's dead body.

But if you are not surprised about that, what is the big surprise, folks? When an American needs a Ph.D. just to figure out the first page of the tax code, you know something is screwed up. I wonder how the Labor Department is going to classify this new profession: Human resource procurement specialist? I guarantee there will be five or six jobs that will be assigned as definitions to body brokering jobs.

Beam me up, Mr. Speaker.

☐ 1015

U.S. ECONOMY AT STAKE IN BUDGET BATTLE

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, a minute is not very long. I will try. The budget economic ills clobber the market. The four chaps that came down 2 months ago, I talked to on the phone, they are saying here is what the market is thinking, that they are afraid we are not going to achieve a balanced budget. Therefore, the market is going down, largest drop in 4 years. We have seen interest rates go up. That has got to be a signal to use. We have got to pay attention.

In the Washington Post today, Jim Glassman writes, "As long as the President can pose as the saviour of Medicare, with the public blaming Congress for Government shutdowns, he is not going to negotiate seriously." Why should he?

Here is the bottom line of my message. Democrats, give me your ear: Everybody in this Chamber, or most everybody, wants a better America, better place to live and work. How are we going to come to grips with our overpromises and our overspending if we cannot keep borrowing the money simply to pay our bills? Let us get together. Let us do it. The market is at stake. The U.S. economy is at stake.

NOW WE MUST DECIDE ON SPENDING PRIORITIES

(Mr. DOYLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOYLE. Mr. Speaker, I was in my district this weekend and I spoke with many people throughout western Pennsylvania who are upset with the budget impasse here in Washington. One of my constituents, Joe Palumbo, put it to me quite simply when he said—"MIKE, why can't Republicans and Democrats, stop bickering and sit down together and work out their differences.

It's a good question. Yesterday over 350 members of this House agreed to balance the budget in 7 years using the latest CBO economic assumptions. We agree on balancing the budget, now we have to decide on spending priorities. Let me ask three things of my colleagues, both Democrat and Republican as an early Christmas present.

First, let us tone down our rhetoric and listen to each other as well as talk.

Second, let us respect each others concerns over tax cuts, Medicare, education, and other items as valid.

And finally, let us not miss this historic opportunity to reach a compromise that will balance our budget in a fair and equitable way.

Americans are counting on us.

WE NEED A BALANCED BUDGET NOW

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, we are in the middle of the most important debate in decades—do we balance the budget or do we allow the out of control spending to continue. If we do not balance the budget now, it will never happen.

We have worked for months on developing a plan that would protect future generations and the country's fiscal solvency. Our balanced budget offers the American people a dividend.

Just a month ago, President Clinton agreed to work with us to achieve a balanced budget using CBO numbers. However, once again the President has back peddled playing politics as usual. He is more concerned with power and spending taxpayer money than he is about our children's future. We have offered a reasonable, responsible balanced budget which benefits the American people.

President Clinton, it is time for, to put the political games aside and start working on behalf of the American people.

LET US AGREE ON A BALANCED BUDGET

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, this is a tragically historic time, because the Republicans for the first time in history have shut down the United States Government two times in 1 year. There are faces to this shutdown. As I listen to the cries in my district in Houston, various Federal offices that serve the American people shut down, doors closed, but yet there are also faces behind those who work in those offices, with families on the brink of Christmas and in the midst of Hanukkah.

All Americans are suffering. And then I might ask about the mother who lives in the Houston area, unemployed, without any support systems, an 8-month-old who has respiratory problems, a 5-year-old with heart problems, and an 8-year-old with a brain tumor. That mother needs Medicaid, yet on the backs of those children and that mother, this Republican Congress wants to balance the budget.

Oh, we all want to balance the budget. The Democrats have stood their ground on that. The Democrats helped craft and pass a resolution that allowed this Government to remain open, signed on November 19, that said we would balance the budget, protecting Medicaid, education, Medicare, agriculture, national defense, and the veterans.

Where are the Republican members who would come to the table to pass a clean continuing resolution. This is a season to be joyous. This is a season to stand for the American people. Let us get a budget that we can all agree with.

CEO'S CALL FOR END TO GRIDLOCK

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, yesterday when the President failed again to offer a balanced budget, he proved once more that old Democrats do not morph into new Democrats. In fact, it is clear that old Democrats do not even die, they just fake away. They fake at balancing the budget, they fake at negotiations, they fake at ending welfare as we know it, and they fake at inhaling.

Well, today the CEO's across America have had enough. They have taken out this full page ad in the Washington Post saying end the gridlock, Mr. President. These are folks from Ford, General Motors, Circuit City, Toys-R-Us. What they are asking the President to do is what the Congress has already done: Use realistic numbers and the CBO scoring to balance the budget in 7 years. And I would say if the President will come to the negotiating table and do what he promised to do 3 weeks ago, then we can resolve this.

I, for one Member of Congress, agree with the CEO's and the major employers across the Nation. I am going to sign my name to this. I invite my fellow Republicans to do the same, and I invite my fellow Democrats. If you agree with this, please put your name on this in front of the American people.

CEO'S DEMAND MORE CORPORATE WELFARE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, OK, everybody, watch who signs up. Watch who signs up, because we now know what the issue is. These are the CEO's demanding that they have more corporate welfare and they want us to kill Medicare. They want us to kill the things that mean a lot to the middle class so they can continue on with their golden parachutes, the great tax cut that they have been promised, and they want their Christmas to come.

Well, I am here not representing the CEO's, the fat cats of America. I am here representing the average American. Never have we had a Congress so stupid that it closed the Government down once, but twice. These Republicans do not learn. But how pleased I am they smoked out their supporters.

I hope you guys all sign up, back the CEO's of America. Be proud you are for corporate welfare. I am proud I am not. I am for Medicare, I am for Medicaid, I am for student loans, and I am for standing up for what built this country.

LAST CHANCE FOR A BALANCED BUDGET

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, let me just suggest to the gentlewoman from Colorado that I am for those same things. I am for protecting Medicare, for protecting education, I am for protecting Medicaid.

Mr. Speaker, this is the last best chance perhaps that we will have to balance this budget. We have a window of opportunity right how to do the right thing for the American people.

The Republican majority has a plan. I do not see one coming from the President. He says he wants to balance the budget, to produce a plan, yet he has not produced a plan. He has not even shown us his plan. Instead of working with the Republican majority to find some common ground, he continues to mislead America with imaginary spending cuts on Medicare, Medicaid, education, and so forth.

The President's philosophy seems to be to scare the children, scare the poor, scare the veterans, and scare the seniors. As 1995 comes to an end, the American people need to know that the only thing standing between them and a balanced budget, lower taxes, lower interest rates, and more jobs, is the President, President Clinton.

Mr. Speaker, the majority stands ready to work with the President. It is time for him to provide leadership and help us end the days of spend now, and worry later.

PRESENT A RESPONSIBLE BALANCED BUDGET

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. VELÁZQUEZ. Mr. Speaker, last time the Republicans shut down the Government because the Speaker was unhappy with his seat on Air Force One.

Now, the Republicans have shut down the Government because the President will not accept a budget agreement that would devastate health care for the elderly and the poor while giving a huge tax break to the rich.

The Republicans are holding the Government hostage in order to force their budget priorities on this country. When are Republicans going to realize that the majority of Americans reject their mean-spirited budget proposal?

A balanced budget should not come at the expense of the elderly. Let's balance the budget by giving less for defense and ending sweetheart deals to special interest groups.

Mr. Speaker, I urge you to honor the commitment you made last month with the President and give us a responsible balanced budget that protects children and education and stop this mean-spirited attack on seniors.

PASS BALANCED BUDGET NOW

(Mr. BASS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BASS. Mr. Speaker, yesterday by a vote of 351 to 40, with 133 Democrats joining a unanimous vote on the part of the majority, we passed a resolution reaffirming our commitment to a balanced budget in 7 years using honest numbers.

Well, today we are going to have the second part of the story here. We are going to bring up the President's budget for a vote. We are going to find out just how unanimous the support is among Republicans and Democrats to vote for the President's budget. It is time that we got the basic issues here, and that is do we really support a balanced budget in 7 years?

It has been 12,093 days since the President promised us a 5-year balanced budget. It is time for Republicans and Democrats who agree on saving this country for our children and our children's future to get together and make the President as relevant as he has been all through the 1995, which is irrelevant, and pass a balanced budget over his veto.

GOVERNMENT SHUTDOWN

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, all around Washington, we hear the sounds of the season. Not the holiday season—the budget season.

We hear the word furlough float through the air. Who gets furloughed if the Government keeps shutting down?

But the key question is not furlough—it is how low? How low will the Speaker stoop to satisfy special interest sponsors? How long will GINGRICH sink America's seniors into debt just to pay-off his own political debts?

With every shutdown, we hear the question: Who is essential? But the key question is not who is essential, but what is essential?

To Republicans, essential means the wealth of the upper-class rather than the health of the middle-class. To the GOP, essential means the priorities of powerful political patrons—rather than public programs that protect people.

You hear the GOP say they are making history. But you will not hear them discuss the history of the Reagan-Bush era—and the trillions of dollars of debt they racked up. Those Republicans busted the budget by shifting the tax burden to working families and cutting the safety-net for the most vulnerable.

Sound familiar? As we have all heard one Republican say, "there they go again."

USE HONEST NUMBERS TO BALANCE THE BUDGET

(Mr. COX of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, yesterday the stock and bond markets sent a unmistakable signal to Washington: Balance the budget. Congress, the House and the Senate, have passed a balanced budget, the first in decades. The President has vetoed it, claiming that it cuts Medicare spending. In fact, as Hillary Rodham Clinton testified on Capitol Hill very recently, the President's own proposal was to reduce the rate of growth in Medicare spending from around 12 percent to around 7 percent. The budget that was passed by this Congress increases Medicare spending more than 7 percent in every year.

The President of the United States is hiding behind this distortion, this lie, about Medicare, because he wants to avoid balancing the budget.

Yesterday this Congress sent him another message: Balance the budget using honest numbers. Do not cook the books. Do as you promised, standing right here; use the Congressional Budget office figures. The budget the President submitted is $115 billion out of balance. Let us get to work. Let us do it for America's future, for our children, and for our grandchildren.

LET FEDERAL EMPLOYEES WORK

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, yesterday at a press conference Speaker GINGRICH indicated that there were a great many House Republicans who objected to paying Federal employees for not working. Fair enough. Federal employees do not want to get paid for not working. They want to work. We ought not repeat a situation where we paid out $750 million to Federal employees for not working. They should have been at work then, and they certainly should be at work now.

There are two things the Speaker could do to rectify the situation. One, we have legislation we are trying to get to the floor that would keep Federal employees on the job and reimburse them subsequently when appropriation became available.

The second thing to do is just what we did during the Reagan administration, the Bush administration, the Nixon administration and every administration prior. When we had a conflict between the executive and the legislative branches, you pass a clean continuing resolution at the lower of the House or Senate level. You keep the Government functioning. You do not hold Federal employees hostage. And that is what we are doing, and to do it at Christmastime is wrong. It is mean-spirited.

I was in a school yesterday and the principal and teachers came up and said, "You know, these children are not happy like they should be at Christmas time. Their parents are fighting, their parents do not know what the future holds, they are not buying Christmas presents." We have ruined their Christmas, and it is wrong.

☐ 1030

REPUBLICAN PROMISE TO BALANCE THE BUDGET

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, let me remind my colleagues of the fact there was an election in November 1994 when the American people decided to make a great change in this Congress. For the first time in 40 years they decided to put Republicans in charge of both Houses of Congress.

Over this past year we have kept our word to the American people. The central promise that we made to them is that we would balance the budget in 7 years using honest numbers. And all year we have done that by increasing the amount of money for Medicare, increasing the amount of money for Medicaid, increasing the amount of money for student loans.

Mr. Speaker, during the last shutdown of the Government, the President decided that he would finally agree with us; that we would balance the budget in 7 years using honest numbers. But over the last 29 days, the President has not kept his word. He has done nothing to further the commitment that he made to the American people that he would balance the budget in 7 years.

Now, the long and short of this is that we are going to keep our word to the American people. We are going to do what we promised we would do. It is time for the President to keep his promise.

THANKS TO SPEAKER GINGRICH WE ARE AT DAY NO. 4 OF SHUTDOWN NO. 2

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, thanks to Speaker GINGRICH and the new majority, today is day No. 4 of Government shutdown No. 2. All in the last 2 months. As far as I'm concerned, that's 4 days and 2 shutdowns too many.

Yes, my friends, we're at this point again because Speaker GINGRICH and the new majority just can't seem to do their job. They haven't done their job when it comes to passing the spending bills needed to keep the Government running.

And, they haven't done their job when it comes to living up to their side of the deal to deliver a budget that protects Medicare; Medicaid; education; the environment; and poor children.

Unfortunately, for the Nation, when the new majority doesn't do its job, we all suffer—crucial services for the elderly; veterans and National Parks have, once again, been cut off, and the stock market is now dropping. This Nation can't afford another day of Speaker GINGRICH's Government shutdown. It's time to stop the partisan bickering; pass a temporary funding bill; and get to work on a balanced budget that protects Medicare; Medicaid; Education; the environment; and poor children.

BUDGET IMPASSE TO BLAME ON STOCK MARKET PLUMMETING

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, yesterday, the stock market plummeted by over 100 points. That is the biggest drop in nearly 4 years on a single day. I do not think we need to ask why. Investors, market analysts, traders, economists and, yes, common folks that buy and sell stocks are telling us why. They are worried that for the first time that this budget impasse is going to continue. They thought we were going to have a 7-year balanced budget. They thought at the end we would get that. But now they see the intransigence of this President; that we may not actually get a 7-year balanced budget, and they know what that means.

It means that we are talking about higher interest rates. It is the American family that will suffer. They will be paying more for their automobile. They will be paying more for their children's education. They will be paying more for their mortgage because we cannot get a 7-year balanced budget. We cannot do what we have to do in order to get interest rates down so that American families can thrive; and so that, yes, those CEO's somebody was talking about earlier can make jobs for Americans.

That is what this budget is all about. It is for our future. It is for our children's future and we should do it now.

SPEAKER GINGRICH NAMED MAN OF THE YEAR

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, congratulations on being named man of the year. The Speaker has had an impact on our country, but has the Speaker's impact been good? The poll that accompanies this article, "The Man of the Year" article, appears to demonstrate that the American people do not believe the impact has been good.

"Which descriptions apply to the Speaker," asked the poll. Listen to this. Only 24 percent described the man of the year as someone they could trust. Only 26 percent describe him as someone they would be proud to have as a leader in Congress. Even worse, 63 percent described the Speaker as too extreme in his views.

The Speaker has had a impact. He has had an impact on the country, but I hope and pray that cutting Medicare, cutting education funding, and cutting crime fighting funding to finance a tax break for the wealthy is not the way to become Time magazine's "Man of the Year." nor do I believe that shutting down the Government twice to win concessions from the President, concessions which include severe cuts in Medicare, Medicaid, education, and crime fighting, while simultaneously providing extreme tax breaks before we balance the budget, is the most upstanding way to become "Man of the Year."

PRESIDENT WOULD RATHER SEE SHUTDOWN CONTINUE THAN TO SUBMIT A BALANCED BUDGET

(Mr. CHAMBLISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHAMBLISS. Mr. Speaker, it has been 29 days since the President agreed to enact a 7-year balanced budget, and Congress is still waiting for President Clinton to produce a serious budget. I am led to believe that the President would rather see the shutdown of the government continue than to submit a balanced budget.

Congress, I emphasize that word, "Congress", because in a bipartisan effort, a bipartisan effort of Republicans, and Democrats kept our end of the bargain. We submitted a balanced budget in 7 years that met the CBO standards, but the President vetoed that.

Since that veto, the President has failed to present a legitimate alternative. His only attempt at a balanced budget is $365 billion out of balance. $115 billion of that comes in the last year and higher amounts in between.

Mr. Speaker, it is all very simple. If the President wants to avoid the continuing shutdown, let him submit a balanced budget that we can lay on the table, talk about, and it will pass in this Congress if it meets CBO numbers.

237 MEMBERS VOTED AGAINST SENDING TROOPS TO BOSNIA AND HERZEGOVINA

(Mr. PETERSON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETERSON of Florida. My friends, the magic number is 237—237 Members of the House of Representatives last week voted against this resolution. This resolution said that the House of Representatives unequivocally supports the men and women of the United States Armed Forces who are carrying out their mission in support of peace in Bosnia and Herzegovina with professional excellence, dedicated patriotism, and exemplary behavior.

Two hundred and thirty-seven Members of the House of Representatives cannot even agree on supporting the troops in Bosnia. Does that tell my colleagues something about the possibility of a budget deal? Ladies and gentlemen, this is a disgrace. It is a disgrace to this Nation. I have never been so disappointed in my life to see people walk up here and cast a "no" vote against support of the troops.

PRESIDENT IS FAILING TO HONOR COMMITMENT MADE ON NOVEMBER 20, 1995

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, yesterday Congress voted to overwhelmingly support the agreement that President Clinton signed into law on November 20, 1995, stating that Congress and the President shall enact a 7-year, CBO-scored balanced budget. The vote proved that the President is failing to honor his commitments and his word.

Today should also be very interesting. Later, Congress will debate and vote on the President's fourth budget. Just like the first three, it fails to balance. And just like the other budget, it fails to address issues like the solvency of Medicare or reprimands to agencies like the Department of Energy, where Secretary O'Leary is spending millions of dollars on overseas travel where she has no responsibility.

President Clinton is long on spending, short on ideas. He is unable to present a balanced budget and he is unable to be honest about the details about the budget that is before him, just as he is dishonest about the details of Bosnia.

EMERGENCY ASSISTANCE TO UNEMPLOYED NOT AVAILABLE DUE TO GOVERNMENT SHUTDOWN

(Mr. REED asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REED. Mr. Speaker, I have heard some callously suggest that if you shut down the Government no one would notice.

Well, Mr. Speaker, nothing could be further from the truth.

In my home State of Rhode Island, 27 Almacs supermarket stores have gone out of business during the holiday season.

Normally, these 2,000 workers from Almacs would be eligible for emergency assistance from the Labor Department. But, with the shutdown, there is no one to process the State's application for assistance, and as a result, there will be no help for the families of Almacs workers during the holidays. And that, Mr. Speaker, is a shame.

The Speaker could have prevented the shutdown and responded to last year's call for an end to gridlock. Because right now gridlock is back.

The Republicans have a 7-year budget plan that is just too extreme, and they know it.

I am glad the President did the right thing to protect the education, health care, and the environment.

Mr. Speaker, I urge you to end the politics and start serious negotiations.

MEDICARE PLAN NOT GOING TO KILL MEDICARE

(Mr. GANSKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GANSKE. Mr. Speaker, I was in my office a few minutes ago when I heard a statement made on the floor that I felt I had to respond to. I would be ashamed to stand on this floor and say that the balanced budget plan, the Medicare plan is going to kill Medicare. That is simply not the case.

I can speak with some credibility to this because I am a member of the Committee on Commerce, and in my opening statement on the markup I said that I thought a savings of $270 million would be tough and that it would be my preference to lower those. And the fact of the matter is that the current budget numbers are significantly lower in terms of the savings from Medicare. This is a message that I think we are obscuring.

Can these savings be done that would still give quality Medicare? As a physician, I think so. But I will tell my colleagues what will happen if we do not. If we do not reform Medicare, in 6 years there are, I understand, insufficient funds to pay the bills. Let us get past the demagoguery.

FURLOUGHED FEDERAL EMPLOYEES

(Ms. McCARTHY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. McCARTHY. Mr. Speaker, thousands of Federal employees in my district are once again furloughed and nine cabinet-level agencies plus EPA and NASA serving millions of Americans have shut their doors.

The Republican leadership for a second time has chosen to use American taxpayers as pawns in an effort to compromise the President's vow to protect Medicare, Medicaid, education, and the environment.

The Republican leadership has failed in its responsibility to the American people to enact a budget. This failure has wide-ranging effects.

It's not just the Federal employees who are prevented from working. Crucial services to the American public are not available: FHA mortgages are going unprocessed; small businesses are not receiving assistance; and veterans' benefits may be delayed.

As a former member of the Missouri State Legislature and chairman of the House Ways and Means Committee—we balanced our budget while protecting vital services and passed our spending measure every single year. We do it at the State level as do county's and cities and business and homes and we should be able to do it at the Federal level.

It is time to work together to get the job done. It is time to pass necessary spending bills and to offer a budget resolution that protects the values of the American people. The American people want teamwork and this is what we as Democrats insist upon.

PRESIDENT SHOULD KEEP HIS COMMITMENT TO AMERICAN PEOPLE

(Mr. CANADY of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CANADY of Florida. Mr. Speaker, just moments ago the President signed into law the Lobby Disclosure Act of 1995. I am very pleased that the President has taken this action, and I congratulate the President on his support for this important reform measure.

But today, as we are facing a Government shutdown, as we are facing the challenge of balancing the budget, I must remind the President of something he signed into law just a few days ago. The President signed this language into law: "The President and the Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002, as estimated by the Congressional Budget Office."

This is a solemn commitment that the President has made to the American people, and I believe that the President is obligated to come forward with a plan which will accomplish this goal. The President said he would do it, now is the time to do it.

The House, last night, voted resoundingly on a bipartisan basis to support the same goal. We can do it. The President needs to put his plan on the table.

NOT A SEASON OF JOY FOR FURLOUGHED WORKERS

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, this is the Christmas season. This is the observation of Hanukkah. Both of those religious communities now celebrate what should be a joyful season. It is the season of Advent. It is the season where we have certain words that come to mind, like sharing of family values and those things that are essential. It is the season where we learn to give within our means. I hope it is the season that is instructive to us as we are debating the balanced budget.

It certainly is not a season for joy for those workers who have been furloughed. There does not seem to be a sense of fairness when the poor must suffer while the rich are given big tax breaks. It is certainly not the season for living within your means when indeed we find the deficit will go up at the end of 7 years rather than go down.

Yes, this is the season where we should be reasonable people. I would expect that reasonable people will learn how to compromise. Shame on us in this season of joy, this season of Advent, when we bring such discord, such dis-joy and such pain on the most vulnerable. We should be sharing our wealth not taking away health care for the vulnerable people of this country.

□ 1045

STOP WEAVING FABLES AND TELL THE TRUTH

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, how could the President of the United States gather little schoolchildren for a media event backdrop to veto a bill and not tell them and the American people the truth?

Mr. Speaker, our President should remember the story of Pinocchio when he weaves these fables. The President and the American people should know what is happening with their Federal Environmental Protection Agency and hazardous waste dollars. The truth is the General Accounting Office has said raw politics, not public health or safety, is the prime consideration for picking cleanup sites.

The truth is that 85 percent of Federal Superfund money goes for attorney fees and studies. The truth is that we have doubled the size of the Environmental Protection Agency in Washington, with almost 9,000 bureaucrats in Environmental Protection Agency downtown just a few miles from here.

The truth is that even the courts say that cleaning up dirt to an edible standard is wasteful and ludicrous. We need to stop weaving these fables and tell the truth.

CONTINUING RESOLUTION FOR D.C. KEEPS CITY'S HEART BEATING, BUT BREAKS THE HEARTS OF CITY'S RESIDENTS

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, I rise to ask the support of this body for a continuing resolution for the District of Columbia, which will come before this body this afternoon.

Members will shake their heads when they see it, for if we were to ask what is the least we could do to carry out our responsibilities to the Nation's Capital, this would be it. Allow the District to spend its own money for a little more than a week and get no part of its Federal payment.

Mr. Speaker, this comes close to humiliation for the 600,000 people I represent, who are not allowed any access to their Federal payment, even though they are second per capita in Federal income taxes in this country.

But a worse humiliation would be the total catastrophe of a second shutdown of the District on its own money. There have been several agreements that would have broken this impasse, but each time some person or the other simply turned over the tables.

Our appropriation has been delayed for 3 months now. No city can survive this way. It has delayed reform, taken it off the table, and forced the District into crisis management.

Today's continuing resolution keeps the city's heart beating, but it breaks the heart of my 600,000 good residents.

PRESIDENT HAS ALREADY AGREED TO PRECONDITIONS IN BUDGET DEBATE

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, I do not know if you watched the news shows this weekend, but the drumbeat has been from the Chief of Staff, Leon Panetta, that the President would meet with leaders of Congress provided that there are no preconditions. No preconditions. No preconditions. It is a mantra he has been repeating and he has been beating.

Mr. Speaker, 29 days ago the President signed a piece of paper that, in fact, did have one single precondition. It was very simple. It said that he agreed the President and the Congress should enact legislation in the first session, that ends at the end of December, to achieve a balanced budget not later than the fiscal year 2002. As estimated by whom? By the Congressional Budget Office.

That is the only precondition, but it is a very real precondition and it is an important precondition. How can the President now be saying that he is not going to even meet, he will not even talk unless there are no preconditions. Obviously, what the President has decided, what the Chief of Staff has decided, is that they are going to take the lowest road they possibly can and demagogue this right through Christmas.

CONGRESS SHOULD DEAL WITH THE REAL PROBLEMS FACING AMERICA

(Mr. HINCHEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HINCHEY. Mr. Speaker, first of all, with regard to what the previous speaker said, there were other preconditions. The President agreed to a balanced budget so long as that balanced budget protected Social Security, protected Medicare, protected education, and protected the environment.

Mr. Speaker, the budget that these people want to pass on this side of the House does none of that. But what about that resolution that was passed yesterday? It is a nonbinding resolution that says that we should balanced the budget in 7 years. What is the validity of that number? None whatsoever. The Speaker dreamed it up. It might as well have been 5 or 9 years.

Furthermore, there will be three Congresses here between now and the year 2002. Neither of those three Congresses will be bound by what this Congress has done. They will have to deal with the economic realities of the situation. What will those economic realities be? If you believe the Congressional Budget Office numbers, which is what that resolution said, the economic realities will be this: A recession; perhaps a deep and serious one.

Let us be serious here. Let us deal with the real problems facing the people of this country. It is the economic problems. It is the creation of more jobs and a sound economic budget; not the one that was passed here by this majority.

PRESIDENT SHOULD DO WHAT ALL AMERICANS DO: BALANCE THE BUDGET

(Mr. LAHOOD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAHOOD. Mr. Speaker, yesterday the House passed in a very bipartisan fashion, with many Democrats, a sense of the Congress resolution to balance the budget. Earlier this year, we passed a balanced budget amendment with 300 votes.

Now, apparently, Democrats too want a balanced budget. If there is one thing that the American people understand, it is balancing the budget, because they balance their budget year in and year out. They cannot understand why we cannot get our act together.

Mr. Speaker, there is really only one person standing in the way of all of this. It is not the Democrats, because they are with us. It is not the Republicans, because we have got a balanced budget that we sent to the President. So, we ask the President to join with us; join with his Democrat colleagues; join with us and do what all Americans do. Balance the budget. Balance the Federal budget. End waste. Do what all Americans do. Make the ledger sheet balanced, and then we can move on to other important issues.

DO WE CUT TAXES OR DO WE HELP SENIOR CITIZENS AND CHILDREN

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, what is clear here is that the Republicans are intentionally avoiding the issue at hand. We can do that with the Senate. Senator DOLE and Senator DOMENICI are ready for an agreement that will keep the Government running while we debate a very serious issue, whether or not 60 percent of a $245 billion tax cut goes to people who make over $200,000 a year or whether we cut $270 billion from the anticipated cost of Medicare. That is the only debate here.

Before we shut the Government down because the Speaker got a bad seat. Now we are shutting the Government down because the Speaker has worse poll numbers than Richard Nixon when he left office.

Let us not take out the Speaker's bad seat or bad poll numbers on the American people. Let us do what previous Congresses did when they were responsible, even when they disagreed with each other. They kept the Government running, and they had that debate. The debate is pretty basic: Do we cut taxes by $245 billion or do we help protect seniors and children?

WE NEED A BUDGET THAT BALANCES IN GOOD TIME BUT PROTECTS THE ECONOMY

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, the Republicans have shut down the Government because they claim that we have to have a balanced budget in 7 years based on figures provided by the Congressional Budget Office—and only the Congressional Budget Office.

Republicans have been leading many Americans to believe that if we adopt their balanced budget plan, interest rates will drop, there will be more jobs, and economic conditions for families will improve significantly.

But according to that same Congressional Budget Office, after a few years under the Republican plan, unemployment will rise and economic growth will drop.

You don't have to be an economist to know that that's called a recession.

So the Republicans are telling us that they have to shut down the Government because President Clinton won't agree to their 7-year plan for economic hardship.

We must continue to fight this plan.

THE MUCH BALLYHOOED BUDGET ACT OF 1995

(Mr. TAYLOR of Mississippi asked and was given permission to address the House for 1 minute.)

Mr. TAYLOR of Mississippi. Mr. Speaker, in a number of nationwide publications the Republican National Committee ran the following ad:

> The Republican National Committee will present a cashier's check for $1 million to the first American who can prove the following statement is false: In November of 1995, the U.S. House and Senate passed a balanced budget bill.

On December 14, the Congressional Budget Office sent my office this letter, and the last line of it says it all: "CBO's baseline projection for the general fund deficit for the fiscal year 1996 is likely to be $270 billion." That includes $100 billion that will be stolen from trust funds like the Social Security trust fund.

So the much ballyhooed Balanced Budget Act, so-called, of 1995 really should have been stamped like this: "Certified $270 billion deficit by the Congressional Budget Office."

Mr. Barbour, I am on the way to your headquarters. Break out your checkbook, make the check out to the University of Southern Mississippi development fund.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV. Such rollcall votes, if postponed, will be taken later in the day.

UNITED STATES PARTICIPATION IN EXPO '98 IN LISBON, PORTUGAL

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 91) expressing the sense of the Congress that the United States should participate in Expo '98 in Lisbon, Portugal.

The Clerk read as follows:

H. Con. Res. 91

Whereas there was international concern expressed at the Rio Conference of 1992 about conservation of the seas;

Whereas 1998 has been declared the "International Year of the Ocean" by the United Nations in an effort to alert the world to the need for improving the physical and cultural assets offered by the world's oceans;

Whereas the theme of Expo '98 is "The Oceans, a Heritage for the Future";

Whereas Expo '98 has a fundamental aim of alerting political, economic, and public opinion to the growing importance of the world's oceans;

Whereas Portugal has established a vast network of relationships through ocean exploration;

Whereas Portugal's history is rich with examples of the courage and exploits of Portuguese explorers;

Whereas Portugal and the United States have a relationship based on mutual respect, and a sharing of interests ideals, particularly the deeply held commitment to democratic values;

Whereas today over 2,000,000 Americans can trace their ancestry to Portugal; and

Whereas the United States and Portugal agreed in the 1995 Agreement on Cooperation and Defense that in 1998 the 2 countries would consider and develop appropriate means of commemorating the upcoming quincentennial anniversary of the historic voyage of discovery by Vasco da Gama: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the United States should fully participate in Expo '98 in Lisbon, Portugal, and encourage the private sector to support this worthwhile undertaking.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution expresses the sense of the Congress that the United States should participate in Expo '98, to be held in Lisbon, Portugal. The theme of the exposition will be "The Oceans: A Heritage for the Future."

It will commemorate both the 500th anniversary of Vasco da Gama's historic voyage of discovery over the sea route to India and the International Year of the Ocean in 1998. I hope that all my colleagues will agree that the world's oceans represent an important physical and cultural asset for mankind.

Portugal's history has been shaped by its maritime legacy, as has our own. I should add that in calling for the United States' participation in Expo '98, this resolution makes clear that the private sector should provide the means for our participation.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I believe events such as Lisbon Expo '98 provide an important forum for cultural and economic exchange between the people of Portugal and the United States. Portugal is a close friend, ally, and trading partner. Two million Portuguese immigrants have made great contributions to this country.

Mr. Speaker, I also support the theme of Lisbon Expo '98. I believe that more attention needs to be focused on protecting the health of our oceans. I register a single concern. Given the current Federal budget, I believe strongly that funding for U.S. participation in Expo '98 should come exclusively from the private sector. Therefore, I am pleased to learn that the President is considering the appointment of a coordinator to raise private funds for U.S. participation in this exhibit.

Mr. Speaker, I commend the resolution to my colleagues and I urge its adoption.

Mr. Speaker, I yield 3 minutes to the gentleman from Rhode Island [Mr. KENNEDY] who is a chief sponsor of House Concurrent Resolution 91.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I want to thank Mr. POMBO, my fellow chair of the newly formed House Portuguese-American Caucus for his leadership on this issue.

I want to thank Chairman GILMAN for cosponsoring this resolution and for bringing this bill to the floor so that we could act on it before the end of the year.

As well, I want to thank Mr. HAMILTON for his support, and all of the other cosponsors for their support of this important resolution.

At this time I also want to thank my colleague from Rhode Island, Senator PELL, who introduced an identical resolution which has passed in the Senate.

The theme for Expo '98 will be "The Oceans, A Heritage for the Future." This exposition will celebrate the riches of the oceans and focus the world's attention on the pressing need to protect and preserve this resource.

Expo '98 presents a unique opportunity for the nations of the world to assess the current status of our knowledge of the oceans—how they can be used, what dangers they face, how they can be protected, and how we can work toward the sustainable development of this resource.

The United States has a special interest in Expo '98 because of our preeminent position as a leader in the development of environmental technologies.

Expo '98 offers the chance for the United States to demonstrate and capitalize on our leadership in the field of environmental protection and environmental technologies.

With this resolution, the House will be sending a clear message that participation in this expo is important to our national priorities—economic, environmental, and international.

With this resolution, we will be sending a clear message that Congress believes our participation should be the result of a cooperative effort between government and the private sector.

By showing our commitment, we will be able to earn commitments from United States businesses with interests in Portugal and the environment.

The United States belongs at Expo '98. We care deeply about the focus of the exposition and it is also important for us to show our commitment to one of our closest European allies—Portugal.

Expo '98 presents Portugal the opportunity to showcase its recent economic advances and the role it will play in a more united, cooperative Europe.

The ties between Portugal and the United States are deep and old. Expo '98 will be a celebration of these ties, a celebration of an old and valued friendship.

I urge my colleague to support this resolution, and thank all of those who have already supported this resolution.

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Mr. GILMAN. Mr. Speaker, I thank the gentleman from Rhode Island [Mr. KENNEDY] for his supporting remarks.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BUNN of Oregon). The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 91.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 22) expressing the sense of the Congress that the United States should participate in Expo '98 in Lisbon, Portugal, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HAMILTON. Mr. Speaker, reserving the right to object, and, of course, I do not intend to object, I yield to the gentleman from New York [Mr. GILMAN] for an explanation.

Mr. GILMAN. Mr. Speaker, by this action we will be completing action on this matter, which had already passed the Senate. Senate Concurrent Resolution 22 is identical to the House Concurrent Resolution No. 91, which the House passed a few moments ago.

Mr. HAMILTON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 22

Whereas there was international concern expressed at the Rio Conference of 1992 about conservation of the seas;

Whereas 1998 has been declared the "International Year of the Ocean" by the United Nations in an effort to alert the world to the need for improving the physical and cultural assets offered by the world's oceans;

Whereas the theme of Expo '98 is "The Oceans, a Heritage for the Future";

Whereas Expo '98 has a fundamental aim of alerting political, economic, and public opinion to the growing importance of the world's oceans;

Whereas Portugal has established a vast network of relationships through ocean exploration;

Whereas Portugal's history is rich with examples of the courage and exploits of Portuguese explorers;

Whereas Portugal and the United States have a relationship based on mutual respect, and a sharing of interests and ideals, particularly the deeply held commitment to democratic values;

Whereas today over 2,000,000 Americans can trace their ancestry to Portugal; and

Whereas the United States and Portugal agreed in the 1995 Agreement on Cooperation and Defense that in 1998 the 2 countries would consider and develop appropriate means of commemorating the upcoming quincentennial anniversary of the historic voyage of discovery by Vasco da Gama: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurrent), That the United States should fully participate in Expo '98 in Lisbon, Portugal, and encourage the private sector to support this worthwhile undertaking.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

A similar House concurrent resolution (H. Con. Res. 91) was laid on the table.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the two concurrent resolutions just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CONCERNING HUMAN RIGHTS AND DEMOCRACY IN BURMA

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 274) concerning human rights and democracy in Burma and a United Nations General Assembly resolution, as amended.

The Clerk read as follows:

H. RES. 274

Whereas the military government of Burma, as a member of the United Nations, is obligated to uphold the Universal Declaration of Human Rights and all other international human rights standards and conventions to which it is a signatory;

Whereas the ruling State Law and Order Restoration Council (hereinafter referred to as the "SLORC") in Burma has refused to recognize the results of the May 1990 elections, which the National League for Democracy, led by Aung San Suu Kyi, won by a landslide;

Whereas the United Nations Commission on Human Rights in March 1995 unanimously condemned the SLORC's refusal to "take all necessary steps towards democracy in light of those elections";

Whereas the United Nations Commission on Human Rights also expressed grave concern about violations of fundamental human rights in Burma, including torture, summary and arbitrary executions, massive use of forced labor including forced portering for the military, abuse of women, political arrests and detentions, restrictions on freedom of expression and association, and oppressive measures directed at ethnic and religious minorities;

Whereas the United Nations Commission on Human Rights noted that most of the 1990 democratically elected representatives have been excluded from the SLORC's "National Convention" and concluded that the convention does not "appear to constitute the necessary steps towards the restoration of democracy,";

Whereas Burma continues to be one of the world's leading sites of narcotics production and trafficking and, according to the United States State Department, production of opium nearly doubled in Burma since the SLORC took power in a violent coup in 1988;

Whereas, according to the State Department's International Narcotics Control Strategy Report of March 1995, the SLORC's antinarcotics efforts last year fell far short of the measures necessary to make serious progress against the drug trade, and in addition, the SLORC's lack of control over heroin-producing areas is due to the SLORC's allowing wide-ranging, local autonomy (to ethnic armies) in exchange for halting their active insurgencies against Rangoon;

Whereas the peace agreements signed by the SLORC with ethnic insurgencies since 1989 were supposed to lead to both a decrease in opium production and economic development, but according to the State Department's report, "neither development nor a reduction in opium cultivation has occurred";

Whereas in 1948 when Burma became independent, the annual production of opium was 30 tons, Burma was then a democracy, it exported rice to its neighbors and the world, and it enjoyed a free-market system;

Whereas today Burma is one of the poorest nations in the world and its opium production has increased some 8,000 percent to about 2,575 tons (1992–1993);

Whereas the drug production increase is the consequence in large degree of the inability of the successive military governments in Rangoon to come to terms with the country's ethnic minorities and the refusal of post-1962 military-dominated regimes to permit an open pluralistic society;

Whereas it is primarily through a democratically elected civilian government in Burma, supported by the Burmese people including the ethnic minorities, that Burma can make significant progress in controlling narcotics production and trafficking;

Whereas on July 10, 1995, the SLORC responded to international pressure, including 5 resolutions by the United Nations General Assembly, by releasing Aung San Suu Kyi, who had been held under house arrest for 6 years;

Whereas 16 elected Members of Parliament remain in detention in Burma, along with thousands of other political prisoners, according to Human Rights Watch/Asia, Amnesty International, and other human rights monitoring groups;

Whereas in July 1995 the International Committee of the Red Cross (hereinafter referred to as the "ICRC") closed its office in Burma due to the SLORC's refusal to agree to allow the ICRC confidential regular access to prisoners;

Whereas the United States ambassador to the United Nations visited Burma in September 1995, met with Aung San Suu Kyi, and also met with leaders of the SLORC and urged them to "choose the path" of "democracy, rather than continued repression and dictatorial control," and declared that "fundamental change in the United States policy towards Burma would depend on fundamental change in the SLORC's treatment of the Burmese people; and

Whereas the United Nations Special Rapporteur on Burma, Professor Yozo Yokota, visited the country in October 1995 and will deliver a preliminary report of his findings to the current session of the United Nations General Assembly: Now, therefore, be it

Resolved, That the House of Representatives calls on—

(1) the Burmese Government to immediately begin a political dialogue with Aung San Suu Kyi, other democratic leaders, and representatives of the ethnic minorities to release immediately and unconditionally detained Members of Parliament and other political prisoners, to repeal repressive laws which prohibit freedom of association and expression and the right of citizens to participate freely in the political life of their country, to resume negotiations with the International Committee of the Red Cross on access to prisoners, and help control the massive flow of heroin from Burma; and

(2) the President, the Secretary of State, and the United States ambassador to the United Nations to actively support and promote a resolution at the current session of the United Nations General Assembly reiterating the grave concerns of the international community and calling on the SLORC to take concrete, significant steps to fulfill its obligations to guarantee respect to basic human rights and to restore civilian, democratic rule to the people of Burma.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 2 weeks ago, Aung San Suu Kyi announced that her party, the National League for Democracy, would no longer participate in Slorc's sham constitutional convention. Suu rightly pointed out that her nation could never be expected to accept a constitution that was forced upon the convention participants by the military. It was very good to learn that our representatives at the U.N. refused this week to cosponsor a U.N. human rights resolution on Burma because it did not refer to the withdrawal, and subsequent expulsion, from the national convention of delegates from Suu Kyi's party.

Slorc demands that the constitution stipulates a leading role for the military in Burma's political process and would exclude anyone married to a foreigner from assuming the office of the president. Suu is married to an Oxford professor.

Slorc claims that her decision to boycott the convention is confrontation politics. Suu was right to point out that "what they have termed confrontational is that we have asked for dialogue, which we want in order to prevent confrontation. To silence the views of people whose opinions are different by putting them in prison is far more confrontational."

I am deeply concerned that a senior official of the Slorc in response to Suu's statement called Suu a traitor who should be annihilated. That sort of remark is not taken lightly by this committee.

Our Nation has very serious reasons to be concerned about what occurs in Burma and to Suu Kyi. High on our priority is the illicit drug production that has had a devastating impact on our cities, families and schools. In 1948 when Burma became independent, the annual production of opium was 30 tons. Burma was then a democracy, it exported rice to its neighbors and the world, and it enjoyed a free-market system. It was known as the "rice bowl" of Asia. Today, Burma is one of the poorest nations in the world and its opium production has increased some 8,000 percent to about 2,575 tons in 1992–1993.

What is the reason for this massive increase? Bertil Litner, the Burma reporter for the Far East Economic Review, states in his book "Burma in Revolt," that Burmese drug production is the consequence of:

> The inability of successive governments in Rangoon to come to terms with the country's ethnic minorities and the refusal of post-1962 military-dominated regimes to permit an open, pluralistic society.

Unfortunately, some U.S. officials have taken the position that the human rights problem should be kept separate from the drug problem. What these officials have failed to recognize is that the human rights problem is directly linked to the drug production. As Bertil Litner points out, the majority of the opium grown in Burma is grown so that ethnic minorities can protect themselves.

While their leaders are not angels, it is very difficult to grow anything else in those regions and they need the money for arms. Until they feel confident that a representative form of government is established in Rangoon, they will continue to grow opium just like they have for the past 40 years.

A democratic Burma led by Suu Kyi and the other members of parliament elected and thrown into prison in 1990, will help us to resolve the Burmese drug production problem that is spiraling out of control. Threatening Suu Kyi and her democratic followers threatens our Nation's efforts in the drug area.

Accordingly, I urge my colleagues to support House Resolution 274.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

(Mr. HAMILTON asked and was given permission to revise and extend his remarks.)

Mr. HAMILTON. Mr. Speaker, I want to commend my friend and chairman, the gentleman from New York [Mr. GILMAN], for bringing this resolution before the House. It is a timely statement of our opposition to repressive measures practiced by the Government of Burma and to Burma's continued failure to address the grave drug trafficking problem in a serious manner.

I believe it is important that this committee and this Congress speak up for political freedom and human rights whenever they are threatened. The United States should not, and will not, turn a blind eye toward political repression or a violation of fundamental human rights in Burma or anywhere else in the world.

Unfortunately, the people of Burma are governed by a ruthless military regime that has no understanding of the concepts of freedom or liberty or of individual rights. That is why it is important for the Congress to send a strong and unambiguous signal that clearly places the United States on the side of the Burmese people and their aspirations for democracy and human rights.

Similarly, this committee should reiterate its strong support for a vigorous attack on the very serious problem of drug trafficking.

House Resolution 274 calls on the Government of Burma to take concrete and effective action to control the massive flow of heroin from Burma. In this context, I also believe it is important for the United States to continue to support alternative development activities being conducted by the United Nations drug control program in the principal opium growing areas of Burma.

Given the limited contact we can and should have with the State Law and Order Restoration Counsel, or SLORC, I believe that these efforts have the best chance of impacting opium production in Burma at this time.

I urge the support of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER], the distinguished chairman of our Subcommittee on Asia and the Pacific.

Mr. BEREUTER. Mr. Speaker, House Resolution 274, the resolution concerning Burma and the U.N. General Assembly that this body is considering today is both important and timely. Recent developments have heightened tension in Burma. Burma's democratic opposition leader Aung Sang Suu Kyi recently announced that she and her party, the NLD, would boycott the national constitutional convention organized by Burma's military junta, the SLORC. SLORC responded by expelling the NLD from the convention, thus foreclosing any chance for dialog between the Government and the opposition. Without dialog between the democratic opposition and the SLORC the prospects for democracy and stability in Burma are bleak. Clearly, conditions in Burma are once again on a downward spiral.

This Member commends the distinguished gentleman from New York [Mr. GILMAN], chairman of the House International Relations Committee, for his tireless efforts in promoting democracy in Burma and other parts of Asia and, specifically, for his initiative in drafting this resolution. House Resolution 274 addresses the human rights and narcotics problems in Burma in a constructive way. This Member hopes that Burma's generals understand that the Congress of the United States wants to promote cooperative ties between our two countries, but that would only be possible if they take effective action to expand human rights and democracy in Burma and to clamp down on Burma's massive opium production.

The Committee on International Relations unanimously approved House Resolution 274 on December 14. This Member understands the administration has no objections to the resolution as amended and approved by the Subcommittee on Asia and the Pacific and the Committee on International Relations, which I chair.

This Member urges all of our colleagues to support House Resolution 274.

Mr. HAMILTON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New Mexico [Mr. RICHARDSON].

(Mr. RICHARDSON asked and was given permission to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, I rise in support of this resolution which urges the governing State Law and Order Restoration Council to open a dialog with Aung San Suu Kyi and her National League for Democracy, release all political prisoners, repeal laws limiting freedom of association and expression, and help control the flow of heroin from Burma.

I commend Ambassador Madeleine Albright for her tremendous work on this issue. I encourage all Members to support the work of our U.N. Representative as she relentlessly pursues the cause of Burmese democracy leader Aung San Suu Kyi. Ambassador Albright had a great meeting in Burma this fall with Aung San Suu Kyi.

I join Ambassador Albright's endorsement of the recent U.N. resolution which urges the Government of Burma to cease its violations of internationally recognized human rights.

The United States did not cosponsor the U.N. resolution because it did not focus on several specific problem areas that must be recognized. Additionally, the U.N. resolution fails to take into account the impact of recent developments in Burma that have given us cause for great concern. It is imperative that the SLORC understand that the United States and the international community will not tolerate threats or actions that suppress the advancement of the democratic movement in Burma.

The bill before us today sends a message to the SLORC that is consistent with Ambassador Albright's policy.

I would like to caution Members of the risks we take by treating Burma in the same manner as we handled South Africa under its former regime. We need to weigh the merits of isolating Burma, prohibiting trade or investment, denying access to international capital flows, and employing economic pressures to force the current military regime, SLORC, to act according to our wishes.

We need to keep in mind that the United States economic role in Burma is limited. And, while I support efforts to employ what leverage we have to our advantage, I insist that we use it wisely.

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Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentleman from New Mexico [Mr. RICHARDSON] for his strong support of democracy in Burma. I know the gentleman has traveled to Burma. He was instrumental in helping to gain the release of Aung San Suu Kyi from house arrest, and we commend the gentleman for his efforts and thank him for his participation in this debate.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BUNN of Oregon). The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the resolution. House Resolution 274, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

EXTENDING AUTHORITIES UNDER MIDDLE EAST PEACE FACILITATION ACT OF 1994

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2808) to extend authorities under the Middle East Peace Facilitation Act of 1994 until March 31, 1996, and for other purposes.

The Clerk read as follows:

H.R. 2808

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORITIES.

(a) IN GENERAL.—Section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236), as amended by Public Law 104-47, is amended by striking "December 31, 1995" and inserting "March 31, 1996".

(b) CONSULTATION.—For purposes of any exercise of the authority provided in section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) prior to January 10, 1996, the written policy justification dated December 1, 1995, and submitted to the Congress in accordance with section 583(b)(1) of such Act, shall be deemed to satisfy the requirements of section 583(b)(1) of such Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2808 temporarily extends the Middle East Peace Facilitation Act of 1994, which otherwise will expire on December 31, 1995.

That act was previously extended by Public Law 104-17, by Public Law 104-22, by Public Law 104-30, and by Public Law 104-47. H.R. 2808 extends the act until March 31, 1996, and includes a transition provision to permit the President to immediately exercise the authorities granted him by this extension.

Obviously, there have been a number of temporary extensions of the Middle East Peace Facilitation Act. We had anticipated that the most recent extension would be the last, because a new Middle East Peace Facilitation Act was included in the conference report on the Foreign Operations Appropriations Act, H.R. 1868, and we expected that bill to be enacted into law by now.

Regrettably, that bill has been stalled because of a disagreement over an unrelated matter, and we are now confronted by the need to once again extend the Middle East Peace Facilitation Act of 1994.

This temporary extension was requested by the State Department, and I am not aware of any objection to it.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

(Mr. HAMILTON asked and was given permission to revise and extend his remarks.)

Mr. HAMILTON. Mr. Speaker, first I want to commend the chairman, the gentleman from New York [Mr. GILMAN] for bringing the bill before the House and to let him know that I give my full support to it. I would prefer that we had in place at this time the 18 month new Middle East Peace Facilitation Act that is part of the foreign operations conference report already approved by the House. I think a longer term MEPFA would strengthen the peace process.

Unfortunately, because another item in that conference report remains in disagreement with the other body, we need to move yet another short-term extension of the existing law at this time.

I also want to note that adopting this bill today and enacting the full 1 month MEPFA is the best possible way to pay tribute to the memory of Prime Minister Rabin and to support the quest for peace that Prime Minister Perez described here last week.

Prime Minister Perez, when he was here last week, specifically and strongly endorsed MEPFA as important to the continued success of the peace process. We offer these two prime ministers then our support by our actions today in passing this bill. Today we have an opportunity to help the Middle East peace process move forward. I urge the adoption of the bill.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank my good friend and colleague from Indiana for yielding me time.

Mr. Speaker, I rise today, first of all, to say that bringing this up again, I think the fifth time, reminds me of the old saying by Yogi Berra saying: "it is deja vu all over again."

We have had these temporary extensions time and time again. This is no way to run things. This is no way to fund the Middle East Peace Facilitation Act. I think the process is, frankly, terrible.

We ought to be marking up a bill that I introduced many, many months ago to have peace facilitation, or the Helms-Pell bill, which the Senate has discussed. To me, this is the way it ought to be done, not a simple extension. Every time we come back here, a month later, 2 months later, 3 months later, nothing has been done.

I think the chairman is absolutely right: This House did pass a new Middle East Peace Facilitation Act as part of the foreign operations appropriations bill. Unfortunately, that bill is stalled due to a fight on abortion, which has nothing to do with foreign operations in terms of funding MEPFA, so we are being held hostage once again.

This ought not to be the way that we fund things. This ought not to be the way that we do things. Prime Minister Rabin lost his life in the fight for peace. Certainly as partners in the peace process, the United States ought to be doing things in a little better way:

Quite frankly, our Government here is shut down because appropriations bills were not passed. The majority here has not done its job by the end of the fiscal year and passed the appropriations bills. That is why our Government here is shut down. The Republican leadership talks about a family friendly Congress and family values in Congress, and Congress is now going to be in session not only this week, but through next week and Christmas week and so on and so forth. If we simply had a continuing resolution to keep funding the Government the way we should have because the Republican leadership did not do its job, the Government would not be shut down.

Frankly, if the Republican leadership did its job and did not stall this over a dispute on abortion, we would have a foreign operations bill, and we would not have to be doing this now with a temporary extension of MEPFA.

So I just think the leadership here has not been doing its job, and that is why we are in the pickle we are in now. We are shutting down our Government, we are not fulfilling our obligations, we are stalling Middle East peace by not having MEPFA in place. Not only is the PLO not being funded, but the Government of Israel, the Government of Egypt, and other countries that get foreign aid are not getting their foreign aid, because, again, we are not passing the foreign operations bill, which is what we should be doing.

So while I certainly support peace and I certainly will support this, I think it is a tribute to Prime Minister Rabin and Prime Minister Perez, who came here last week, this is no way to run a Government. This is no way to run foreign operations. This is no way to have an extension for the fifth time again. We ought to be doing a markup of a separate bill and ought to be passing the foreign operations bill. I tell you, comes March 31, we could be coming here again asking for another extension. This is not fair for the Middle East peace process, and it just to me shows a tremendous lack of leadership in the way this House is run.

So, Mr. Speaker, I will support this, very reluctantly, this way, because while I certainly support peace, I think, as I have said before, that we must hold all parties to the agreements feet to the fire. I am not worried about the Israeli Government not keeping its end of the bargain, I worry about Yasser Arafat and the PLO. He has agreed to a number of things. I think we should hold his feet to the fire.

I want to see those covenants calling for the destruction of Israel removed from the PLO, from the Palestinian

Council. I want the Palestinian Council to remove that. I want them to agree to everything that they agreed to when they signed the Middle East peace facilitation act, nothing more, nothing less.

But if Yasser Arafat and the PLO and the Palestinians said they would do certain things, then we ought to make them do those certain things before American aid flows. I think American aid should flow, because American aid is very, very important to the peace process. But I also think when parties say they are going to do something, they have an obligation to fulfill what they say. That is all we are looking for. That is why it is important to have new MEPFA language, not to simply keep renewing the old one.

Again, I reluctantly go along with this. I hope we will not be back here on March 31 doing the same thing all over again.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and pass the bill, H.R. 2808.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2808 and House Resolution 274, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REAUTHORIZING TIED AID CREDIT PROGRAM OF EXPORT-IMPORT BANK

Mr. CASTLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2203) to reauthorize the tied aid credit program of the Export-Import Bank of the United States, and to allow the Export-Import Bank to conduct a demonstration project, as amended.

The Clerk read as follows:

H.R. 2203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TIED AID CREDIT PROGRAM.

(a) Section 10(c)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(c)(2)) is amended by striking "1995" and inserting "1997".

(b) Section 10(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(e)) is amended by striking the first sentence and inserting the following: "There are authorized to be appropriated to the Fund such sums as may be necessary for each of fiscal years 1996 and 1997.".

SEC. 2. AUTHORITY TO CONDUCT A DEMONSTRATION PROJECT.

Notwithstanding section 4701(a)(1)(A) of title 5, United States Code, the Export-Import Bank of the United States may conduct a demonstration project in accordance with section 4703 of such title.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware [Mr. CASTLE] will be recognized for 20 minutes, and the gentleman from New York [Mr. FLAKE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in support of H.R. 2203, a bill that protects American businesses from unfair trading practices of other countries, primarily Japan and Germany. I am grateful to enjoy the support of Representative JIM LEACH, chairman of the Committee on Banking and Financial Services. On the other side of the aisle, Representative GONZALEZ, former committee chairman, and Representative FLAKE, the ranking member of the subcommittee have provided their strong support for this legislation, and I appreciate their efforts.

Mr. Speaker, the Subcommittee on Domestic and International Monetary Policy has primary jurisdiction over the tied aid credit program of the Export-Import Bank. A subcommittee hearing and markup was held on September 7, 1995, and H.R. 2203 was favorably reported out of subcommittee by voice vote. The previous authorization expired on September 30, 1995; American exporters have been at a severe disadvantage since then. This authorization is necessary to protect American exporters and their trading in developing countries.

Mr. Speaker, the tied aid program is an important tool for American companies against international exporters. The tied aid matching authority allows the Ex-Im Bank to respond to American exporters' need for competitive financing in developing markets. Tied aid, in the form of grants and loans, is defined as below-market rate confessional financing, used for purchasing capital tools manufactured in the developed country. By matching foreign countries' offers of aid, the Ex-Im Bank has forced those countries to withdraw several of their offers, and has matched 33 other offers worth almost $2 billion of potential export sales. Additionally, the Ex-Im Bank's tied aid credit has had a chilling effect on excessive use of tied aid by foreign countries.

Mr. Speaker, the tied aid program levels the playing field of international trade, and permits recipient countries to compare project on the basis of price, technology, quality, delivery, and service. The manager's amendment substitutes an indefinite authorization for tied aid credits in place of the authorization contained in the introduced bill of $500 million per year. Previous spending has not exceeded $100 million per annum. This bill does not affect direct spending on receipts, and is not subject to pay-as-you-go procedures.

H.R. 2203 protects American trade and businesses. I urge its immediate adoption.

☐ 1130

Mr. Speaker, I reserve the balance of my time.

Mr. FLAKE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 2203, a measure to reauthorize the tied-aid authority of the Export-Import Bank. In the past, I have supported this measure, and I will do so again today. However, given the gravity of the current debate over the size and purpose of various government agencies, I have welcomed the opportunity to learn about the efficacy of the Export-Import Bank. Moreover, I wish to personally thank the distinguished Ex-Im president and chairman Kenneth Brody. Chairman Brody is leaving the Bank for other endeavors, and in doing so, the United States is losing one of its champions of increased exports.

My fellow colleagues, I have been amazed at the intensity of the debate on whether or not we should fund, or even have the Export-Import Bank. Both those who are in favor of the Bank, and those who vehemently oppose it have executed overwhelmingly comprehensive lobbying campaigns. The result is that we have a broad spectrum of opinions as to how much closing the Bank will save the American taxpayer, and it is no surprise that several Members of Congress have sometimes staked their positions on this aspect alone. I must note for the record, however, that savings is not the only issue, and to make it the only issue is shortsighted.

Most of our competitors in the industrialized world use economic credit agencies to assist their exporters, and thus foreign governments seek to ensure the viability of their industries in an ever increasing atmosphere of competitiveness. Beyond this one aspect there are many salient issues, and probably more important to our constituents, is the fact that exporting to emerging markets is probably the only area where American business can expect to grow in the future. To the extent that tied-aid is just one tool that the Ex-Im Bank uses to further this projected growth, I urge my colleagues to support H.R. 2203.

Tied aid is one of the strongest tools Ex-Im has when it attempts to deter foreign governments from offering concessional financing to borrowing countries. Tied aid represents perhaps the most overt and most distorting subsidy associated with export credit assistance. The Ex-Im Bank aptly describes this practice as the buying of export deals because perpetrating countries extend concessional funding packages in exchange for the purchase of its products. When U.S. companies face competition backed by tied aid, there is little doubt that they will lose bids without Ex-Im matching support.

We would be remiss and should be embarrassed if we were to take several steps backward in not passing this bill, and thus cripple American export business. U.S. exporters are benefiting from Ex-Im's matching policy, because of the overall reductions in global tied aid. From the Ex-Im banks bottom line perspective, given our strong deterrent use of tied aid matching, U.S. exporters are in fact competing on a more level playing field, and yet have kept their gloves on in a competitive fistfight.

In closing Mr. Speaker, I would like to thank Chairman CASTLE and his staff for their cooperation in finally moving this legislation to the floor, and regret that Congress as a whole does not have the relationship that we have established in this subcommittee. The public would be better served if we could extend our cooperation to other issues, and to other committees.

Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no other speakers, so the gentleman from New York [Mr. FLAKE] may want to call on anyone else he may have, but I would like to say before we yield back, if we are going to do that, that Mr. Ken Brody will be leaving his position as president and chairman of the Export-Import Bank, and I have enjoyed working with him. I believe him to be an excellent public servant who understands his subject matter extremely well, eliminates politics from carrying out his responsibilities, and I think has served both the administration and this country exceptionally well, and we appreciate that.

Mr. FLAKE. Mr. Speaker, I have no further speakers and I yield back the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BUNN of Oregon). The question is on the motion offered by the gentleman from Delaware [Mr. CASTLE] that the House suspend the rules and pass the bill, H.R. 2203, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SMITHSONIAN INSTITUTION SESQUICENTENNIAL COMMEMORATIVE COIN ACT OF 1995

Mr. CASTLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2627), to require the Secretary of the Treasury to mint coins in commemoration of the sesquicentennial of the founding of the Smithsonian Institution, as amended.

The Clerk read as follows:

H.R. 2627

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Smithsonian Institution Sesquicentennial Commemorative Coin Act of 1995".

SEC. 2. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue the following coins in commemoration of the founding of the Smithsonian Institution:

(1) $5 GOLD COINS.—Not more than 100,000 5 dollar coins, which shall—

(A) weigh 8.359 grams;

(B) have a diameter of 0.850 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) $1 SILVER COINS.—Not more than 650,000 1 dollar coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(b) PLATINUM COINS.—The Secretary may mint and issue not more than 100,000 5 dollar platinum coins instead of the gold coins required under subsection (a)(1) in accordance with such specifications as the Secretary determines to be appropriate.

(c) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(d) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under other provisions of law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the scientific, educational, and cultural significance and importance of the Smithsonian Institution.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "1996";

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum"; and

(D) an inscription of the following phrase from the original bequest of James Smithson: "for the increase and diffusion of knowledge".

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Board of Regents of the Smithsonian Institution and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the 1-year period beginning on August 1, 1996.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales shall include a surcharge of—

(1) $35 per coin for the $5 coin; and

(2) $10 per coin for the $1 coin.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—All surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Smithsonian Institution for the following purposes:

(1) 85 percent of the amount transferred shall be available for such purposes as the Board of Regents of the Smithsonian Institution determines to be appropriate.

(2) 15 percent of the amount transferred shall be dedicated to the support of the operation and activities of the National Numismatic Collection at the National Museum of American History.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Smithsonian Institution as may be related to the expenditures of amounts paid under subsection (a).

SEC. 9. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware [Mr. CASTLE] and the gentleman from New York [Mr. FLAKE] each will be recognized for 20 minutes.

The Chair recognizes the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in support of H.R. 2627, the Smithsonian Sesquicentennial commemorative coin bill. This bill has received very broad-based support in this body as represented by its more than 300 cosponsors. It is also supported by the numismatic collectors and their representatives on the Citizens Commemorative Coin Advisory Committee.

Mr. Speaker, apart from the significance of the Smithsonian anniversary, the designation of 15 percent of the surcharge proceeds to benefit the numismatic collection at the Museum of American History is another reason for this support. The Smithsonian has agreed to have its coins be the first to be governed by the rules and restrictions set down in H.R. 2614, the Commemorative Coin Reform Act of 1995. As a consequence, providing the mint can prepare in time, they may also have the benefit of issuing the first platinum coinage in U.S. history.

Mr. Speaker, the Commemorative Coin program is clearly in trouble, largely because too many unpopular coins are being produced. The mintage level of 800,000 silver $1 coins in the Livingston bill caused some discussion during subcommittee markup. Amendments of 400,000 and 500,000 were both offered, and the ultimate compromise amendment offered to this bill is for a mintage level of 650,000 $1 silver coins. This number was reached following representations by the CCCAC membership and the mint reaffirming their belief that the unique marketing ability of the Smithsonian justifies a higher authorization than 400,000 or 500,000 coins.

The proponents of this bill have observed the rules of the Banking Committee by obtaining more than 290 cosponsors. This bill also demonstrates that the Banking Committee rules are not simply a block to all coin legislation, and that if a group follows the rules, they have an opportunity to get a coin.

Mr. Speaker, our actions today should not be taken as an invitation for more coin projects to advance; 1996 is already at least fully subscribed, no more coins can be considered for that year.

In the coming years, we will continue to press for full compliance with Banking Committee rules and if necessary we will recommend that they be tightened should it appear that more coins are being proposed than the market will absorb.

I urge this body to immediately adopt H.R. 2627.

Mr. Speaker, I reserve the balance of my time.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, would it not be nice if the Smithsonian were open so that the general public, the Americans who are visiting Washington, were able to see the marvelous collection of coins that the Smithsonian usually has on display for them?

Mr. CASTLE. Mr. Speaker, I do not disagree with the gentleman at all, but I do not think this is the time to get into the discussion of why the Smithsonian is not open today. That may happen starting in about 20 minutes or so. But perhaps this is not the time. Hopefully, by the time we pass this bill it will be open and we will be able to see that.

Mr. Speaker, I reserve the balance of my time.

Mr. FLAKE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2627, the Smithsonian Institution Sesquicentennial Commemorative Coin Act of 1995. I also support the manager's amendment, which was reached in bipartisan agreement with strong input from Representative KENNEDY from Massachusetts. Furthermore, I commend all parties involved in this effort, including Chairman CASTLE, Mr. KENNEDY, the mint, the Smithsonian, and the Citizens Commemorative Coin Advisory Committee. I would also be remiss if I did not thank Mr. LIVINGSTON and our former colleague Mr. Mineta.

This act celebrates one of our Nation's most celebrated treasures, and will commemorate 150 years of excellence in the arts, sciences, and history. The Smithsonian has chronicled its own history, and I would like to state for the RECORD a brief account from the Smithsonian's history annals:

In 1826, James Smithson, a British scientist, drew up his last will and testament, naming his nephew as beneficiary. Smithson stipulated that, should the nephew die without heirs—as he would in 1835—the estate should go "to the United States of America, to found at Washington, under the name of the Smithsonian Institution, an establishment for the increase and diffusion of knowledge among men."

The motives behind Smithson's bequest remain mysterious. He never traveled to the United States and seems to have had no correspondence with anyone here. Some have suggested that his bequest was motivated in part by revenge against the rigidities of British society, which had denied Smithson, who was illegitimate, the right to use his father's name. Others have suggested it reflected his interest in the Enlightenment ideals of democracy and universal education.

Smithson died in 1829, and six years later, President Andrew Jackson announced the bequest to Congress. On July 1, 1836, Congress accepted the legacy bequeathed to the nation and pledged the faith of the United States to the charitable trust. In September 1838, Smithson's legacy, which amounted to more than 100,000 gold sovereigns, was delivered to the mint at Philadelphia. Recoined in U.S. currency, the gift amounted to more than $500,000.

After eight years of sometimes heated debate, an Act of Congress signed by President James K. Polk on Aug. 10, 1846, established the Smithsonian Institution as a trust to be administered by a Board of Regents and a Secretary of the Smithsonian.

Mr. Speaker, this is the first legislation to be considered under the rubric of legislation passed just 2 weeks ago under the guidance of Chairman CASTLE. I could not think of a better bill to mark our new process minting commemorative coins, and I hope that the collecting community, and the general public, will benefit from this new process. H.R. 2627 shows that the Citizens Commemorative Coin Advisory Committee process works, and that the Banking Committee will only consider CCCAC coin recommendations with the cosponsorship of two-thirds of the House.

In closing, let me say that during the subcommittee markup, I was prepared to offer an amendment to allow the minting of no more than 500,000 silver coins, which was the original recommendation of CCCAC. Valid concerns from Mr. KENNEDY were debated, and after discussion we finally arrived at a mintage level of 650,000 silver dollars coins. In the future, I strongly urge the mint and CCCAC to resolve discrepancies early, and to report to Congress firm recommendations.

Mr. Speaker, I strongly support this bill, and urge all of my colleagues to do the same.

Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman from New York, my good friend Mr. FLAKE, for yielding me this time.

I rise in very strong support of this legislation. I rise for a reason in addition to that. The American public is angry with us today, as well, in my opinion, they ought to be.

□ 1145

The American public sees, on a very regular basis, the confrontation between Members on this floor and on the Senate floor and between the Congress and the President. They conclude, all too often, that all we do here is fight with one another; that we cannot, as adults, as reasonable, rational representatives of our various constituencies, come together and do things that make sense.

Mr. Speaker, I rise, therefore, to not only note that this legislation is important legislation that will not only commemorate, but will assist the work of one of the great institutions in this country, the Smithsonian Institution. My friend, who is in charge of funding the Smithsonian Institution, in exile, I should say, he and the gentleman from Ohio [Mr. REGULA] are in charge. The fact of the matter is that it is one of the great institutions of the world, as the gentleman from Illinois [Mr. YATES] so well observes.

I want to, therefore, rise and congratulate and express appreciation to one of the very decent and able Members of this House, the gentleman from Delaware [Mr. CASTLE], the former Governor of the State of Delaware. The gentleman, frankly, is the kind of representative every American wants to have. A thoughtful, hard-working, conscientious, honest individual. Not only in addressing this issue, which is a relatively minor issue, but some of the great issues that confront this House.

The gentleman from Delaware and I have had the opportunity of working together over the last few months on this particular piece of legislation. As he observed, there is a problem. The numismatic community has observed the problem of overissuance of coins and, therefore, the glutting of the market and the threatening of the value of each one of the issues.

The gentleman from Delaware has been concerned about that. The gentleman from New York [Mr. FLAKE] has expressed his concern about that. The gentleman from New York and the gentleman from Delaware together are individuals who did and do work with one another and on both sides of the aisle to try to make good common sense, and turn that into good public policy. I think they have done that in this bill.

Mr. Speaker, I also want to thank the gentleman from Massachusetts [Mr. KENNEDY]. He is the former chairman of this committee and is very interested and knowledgeable about the whole issue of the authorization of the minting of coins. He has addressed this issue, and I appreciate very much, as the gentleman from New York has observed, his agreement to compromise between the 800,000 that the Smithsonian thought was a viable number and the 500,000 that the numismatic committee originally recommended, and then modified their recommendation because of the ability of the Smithsonian to market its coins.

Mr. Speaker, I want to thank the gentleman from Massachusetts, the gentleman from Delaware, and the gentleman from New York.

I would close, Mr. Speaker, in support of this legislation by simply mentioning one additional individual. John Berry, formerly of my staff, now works at Smithsonian and he has been very interested in this particular piece of legislation. I thank him for the energy and the tenaciousness that he has shown and congratulate him on the success of the passage of this legislation.

Mr. FLAKE. Mr. Speaker, if the gentleman from Delaware [Mr. CASTLE] does not have any additional speakers, and before the gentleman and I get our own coins here with all of these marvelous commendations, I am prepared to yield back.

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we do not have additional speakers. I know the gentleman from Louisiana [Mr. LIVINGSTON] is trying to get here. He is in a press conference, and the gentleman will submit a statement later as sponsor of the legislation.

Mr. Speaker, I would like very much to thank the gentleman from New York [Mr. FLAKE] for his very interesting history lesson on the Smithsonian, which I think is a good lesson for schoolchildren and people who may have heard it across the country. It is one that maybe even not a lot of Members know and understand.

Mr. Speaker, I also thank the gentleman from Maryland [Mr. HOYER] for his very kind words and his work throughout this, and I thank the gentleman from New York for all the exceptional hard work that he and his staff do and the cooperation to allow us to get legislation like this done. If I thought it was that simple, I would suggest that we take over the budget. But we will leave it alone at this point.

Mr. LIVINGSTON. Mr. Speaker, as a member of the Smithsonian Board of Regents, I rise in support of H.R. 2627, which authorizes the minting of a coin to commemorate the Smithsonian Institution's 150th anniversary.

I appreciate Chairman CASTLE and Ranking Member FLAKE for moving so quickly in subcommittee so that we can enact this bill in time for next year's anniversary. I also appreciate Full Committee Chairman LEACH and Ranking Member GONZALEZ for their work in moving the bill to the House floor.

The Institution is planning a number of events beginning in January 1996 to celebrate 150 years of providing education, research, and exhibitions to the American public and the world. The proceeds generated from this coin program will help finance a travelling exhibition, which will take many of our national treasures "off the mall" and display them in cities across the country. Many Americans who are unable to come to Washington will be able to enjoy a blockbuster exhibition of 350 treasured Smithsonian artifacts including the Apollo 14 space capsule, a hat belonging to Abraham Lincoln, and a Wright Brothers biplane.

This coin bill will also devote 15 percent of the proceeds to the numismatic collection at the National Museum of American History helping coin collectors invest in their own history. This provision will insure that the Smithsonian coin will have the support of the coin collecting community.

I am pleased that the interested members were able to compromise on the number of coins to be minted under this bill. While I am disappointed that we are not authorizing the full 800,000 coins as supported by the Citizens Advisory Committee, I am glad that we could compromise on the 650,000 level. The marketing opportunities provided through Smithsonian's magazine and catalogue coupled with the support of the coin collecting community, will ensure that the Secretary of Treasury will quickly sell the authorized level of coins.

This coin bill complies with H.R. 2614, the Commemorative Coin Authorization and Reform Act of 1995, which passed the House on December 5, 1995. The Smithsonian will audit all proceeds from the coin and the Comptroller General will have the right to review the audit. The Smithsonian will not receive any funding until the Treasury has recovered all costs associated with minting the coin. This bill has the support of the U.S. Mint and the congressionally established Citizens Commemorative Coin Advisory Committee, and the numismatic community.

I urge my colleagues to support H.R. 2627, and I yield back the balance of my time.

Mr. FLAKE. Mr. Speaker, I yield back the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BUNN of Oregon). The question is on the motion offered by the gentleman from Delaware [Mr. CASTLE] that the House suspend the rules and pass the bill, H.R. 2627, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2203 and 2627, the bill just considered, and that I may include extraneous materials for the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

PROVIDING FOR PROVISIONAL APPROVAL OF REGULATIONS APPLICABLE TO HOUSE AND ITS EMPLOYEES

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 311) to provide for the provisional approval of regulations applicable to the House of Representatives and employees of the House of Representatives and to be issued by the Office of Compliance before January 23, 1996.

The Clerk read as follows:

H. RES. 311

Resolved,

SECTION 1. APPROVAL OF REGULATIONS.

The regulations applicable to the House of Representatives and the employees of the House of Representatives which are to be issued by the Office of Compliance before January 23, 1996, are hereby approved on a provisional basis until such time as such regulations are approved in accordance with section 304(c) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(c)).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. THOMAS] will be recognized for 20 minutes, and the gentleman from Connecticut [Mr. GEJDENSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. GOODLING], chairman of the Committee on Education and Economic Opportunities, for a colloquy.

Mr. GOODLING. Mr. Speaker, I rise in support of the resolution before us today and would like to engage in a colloquy with the distinguished gentleman from California [Mr. THOMAS], the chairman of the Committee on House Oversight, regarding the jurisdiction of these resolutions.

Mr. Speaker, while this matter is within the jurisdiction of the Committee on House Oversight and the Committee on Economic and Educational Opportunities, we do not intend to delay the progress in considering this matter and support suspending the rules and passing without consideration in committee these two resolutions.

I also join the gentleman from California in his assurances that we will work to have the final regulations promptly considered by the House once we reconvene in January.

Mr. THOMAS. Mr. Speaker, I concur with the gentleman's conclusions and obviously we share jurisdiction. The Committee on House Oversight, primary jurisdiction; the Committee on Economic and Educational Opportunities, sequential jurisdiction. Neither one of us want to delay putting these into effect. I will support the gentleman's jurisdiction.

Mr. Speaker, the Congressional Accountability Act, which was passed on the first day of this Congress, created an Office of Compliance. It is to become effective January 23, 1996. The board of directors of the Office of Compliance have issued notice of proposed rulemaking and is in the process of reviewing those comments on the proposed regulations.

Mr. Speaker, the problem is that the board is scheduled to make final those regulations on January 8, 1996. It is our fervent belief that we are going to adjourn sine die prior to that time and not reconvene for the second session of the 104th Congress until January 23.

Therefore, this resolution provisionally adopts the anticipated regulations that are applicable to the House and at the next regularly scheduled meeting, which will be as soon as possible upon reconvening, we will review the final regulations and make a recommendation as to their final approval to the House.

Obviously, in that interim period between January 8 and January 23, we do believe it is appropriate to offer provisional approval, whatever those regulations may be. That is the intent and purpose of House Resolution 311.

Mr. Speaker, I reserve the balance of my time.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is clearly needed legislation and it needs to be implemented, not just in the technical sense, but in the spirit of the law. Some of the treatment of employees in this House over the last year, I believe, has been reprehensible. The long-time employees of this institution have been treated badly.

Mr. Speaker, I am hopeful that this new legislation will improve their lot. We ought to be an example for the Nation, not just of following the letter of the law, but the spirit of the law in dealing with our employees.

Frankly, leaving all Federal employees in a lurch over the failure to pass a continuing resolution is another example of some of the hypocrisy here, but I do commend the spirit of this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I rise in support of this resolution. I am pleased that the process that was started in the 103d Congress is finally nearing implementation. Very frankly, we had a political discussion, in the 102d and 103d, about merit hiring and about doing away with patronage; doing away with the politicization of the ministerial duties of the House of Representatives.

Mr. Speaker, I was for that. I thought we were moving in the right direction. In fact, we adopted in the last Congress a rule which would have said that employees could not be removed for purely political reasons. That, in fact, they would be treated as merit employees if they were performing administerial functions.

One of the first acts of this Republican leadership was, frankly, to delete that rule from the rules of the House of Representatives, while at the same time projecting legislation, which had been killed by Republicans in the Senate, as their legislation, which had been previously passed in the 103d Congress, and providing for the covering of the House of Representatives under the laws that we had passed vis-a-vis employees' rights and working conditions to the private sector, that they be applied to the Congress.

That legislation was supported by over 400 Members of this body, and as some of my colleagues may recall, I was the floor leader on this side of the aisle for that legislation.

Mr. Speaker, notwithstanding my support of that policy and this resolution, my colleagues should not be fooled that the passage of this resolution will ensure that the employees of this House will be treated fairly, equitability, and nonpolitically. I want to call to the attention of every Member of this House the recent actions that have been taking place by the Clerk.

I want to say something at the outset. I have a great deal of respect and affection for the Clerk of this House. I think she has operated in what I perceive to be an open and fair fashion over the last few months of her tenure. I appreciated that. It was, frankly, in juxtaposition to some other leaders dealing with personnel in this House, and so it was doubly appreciated.

As many of my colleagues may have read in recent press reports, however, 10 employees have recently been dismissed by the Clerk, contrary to the management plan submitted to and approved by the Committee on House Oversight; contrary to the rules of the 103d Congress, which stated that employees cannot be dismissed without cause and cannot be dismissed for reasons other than their nonperformance or malfeasance in office.

Mr. Speaker, the rules of the 104th Congress, did not include the referenced language of the 103d Congress.

Some may think that these dismissals were part of the transition, which would have been understandable, I suppose, except for the fact that the gentleman from Kansas [Mr. ROBERTS], a member of the Committee on House Oversight, the gentleman from Virginia [Mr. WOLF], the chairman of the Subcommittee on Transportation and then the ranking member of the Subcommittee on Treasury, Postal Service, and General Government, properly expressed outrage on this floor when members of the travel office in the White House were removed, notwithstanding they served at the will of the President.

Mr. Speaker, there was an expression of outrage and, in fact, the Treasury-

Postal bill was held up by the gentleman from Virginia because of that concern. I think that concern was appropriate, and I said so on the floor of this House then when it was the Clinton White House acting.

Some may think, as I said, that these were part of the transition. In fact, each of these employees were kept on through the transition, and each was in receipt of a letter from the Clerk in May offering them continued employment.

Each employee was informed that they were specifically being dismissed in December, just a few days ago, without cause.

□ 1200

I was surprised to learn these employees had all been offered continued employment prior to their dismissals. I was shocked to learn that one of the employees had, as recently as July, been given a promotion. I was shocked that one employee had been asked to make suggestions for his replacement. I do not know what that does to the morale of the employees who remain. I was appalled, Mr. Speaker, that a Vietnam veteran with 23 years' experience, who had started his employment with the House by filling out a Standard 171 Form, not a political employee, a ministerial employee, not fired for cause, a Vietnam veteran, 23 years of seniority, and just a few short weeks before that, maybe a few months, a noncitizen had been hired in this office at a comparable salary with comparable responsibilities.

Shame, shame, shame that we would treat employees so cavalierly and then stand on this floor and say how we want to protect the rights of veterans in America whom we sent overseas to defend this country and then a few days before Christmas say, "Guess what, we have a noncitizen whom we have hired who probably can do your job." That was not said specifically. I want to make that clear. But the inference is very clear. The inference is very clear. "We have got somebody else to do the job." Twenty-three years of experience.

I was further troubled, Mr. Speaker, to learn that in spite of repeated representations by many in the majority that a "nonpartisan, professional work force" was being employed, several recent hires in the Clerk's office come from the Republican National Committee. There is nothing wrong with that. Clearly, the same happened from the Democratic National Committee under Democratic leadership of this House. But it is wrong to tell the employees or to imply to the public that this is going to be merit hiring, nonpolitical, and then pursue that practice.

Earlier this year, we learned a number of senior managers in the office of the chief administrative officer are also either former staff of the Republican National Committee, the Republican National Campaign Committee, or former political appointees of the Reagan or Bush administrations. That is not wrong. I do not allege it to be wrong. What I do allege is, if you say you are going to hire on merit and retain on merit and performance, then do not replace folks with political appointees and expect your personnel to believe, in fact, they work in a merit-based system.

It is becoming increasingly apparent hiring is being done on the basis of political affiliation. What is so troubling, Mr. Speaker, about these recent firings is that each of these employees had been given the impression, as I have said, that they had been performing their jobs in a professional, competent manner. In fact, they were told they were not, I underline not, removed for cause. Each of these employees had made it through the transition period.

Let me reiterate that. They had made it through the transition period. I was told by the Clerk herself that the transition was over in the summer. I talked to her just a few days ago, and she reiterated that.

Let me make it clear, I do not question the ability of this Clerk or her attitude or fairness. But this instance is one that I think does not comport with my experience for that practice. Suddenly, after further recent partisan hirings, these employees have been dismissed. Despite repeated inquiries on my behalf, no reasonable business purpose for these terminations has yet been stated to me, and I suggest has not been submitted to the committee.

The Clerk's office has an employee manual. I have got that employee manual right here, issued by this Clerk, not a prior Clerk, in this Congress. It lays out clear steps for dismissal. Each employee was given this manual when they received their offers of continued employment, presumably so they knew the rules of the road as employees. Yet this manual and its process was ignored.

Now, very frankly, the Clerk says, "Oh, no, the employees serve at the will of the Clerk." Let me read the language: "Two steps, notice of action. Suspensions, terminations, and," conjunctive, in addition to, and counsel, I am sure, understands that interpretation, "and all performance-based actions requiring the following two-step approach"; in other words, in other words, not only do performance-based terminations require these two steps, it is an "and", but suspensions and terminations also, according to this manual, require those steps. They were not taken, period.

This was clearly a termination. They are terminated. Many Members of the House took to this well when President Clinton dismissed members of the travel office. As I said previously, they were outraged that employees were fired for seemingly partisan purposes. I was outraged because a number of them were my constituents. I think what was done was wrong, and as chairman of the Treasury, Postal Committee, I assured that everyone but one received offers of employment in the executive department, and those who wanted it got it at comparable levels.

So let there be no mistake, when the White House did it, I thought it was wrong. When the Clerk does it, I think it is wrong.

My colleagues, I would ask that that outrage that was expressed on the Republican side of the aisle at those firings to be at least evidenced today and now.

There have been no allegations of mismanagement or poor performance by these employees. I understand that the Compliance Act relates to discrimination. That act goes into effect, of course, on January 22 of this coming year or January 23. However, each of these employees is being terminated in such a way that even if they wanted to explore their rights under that act, I believe they are precluded.

It can be argued that some of them, perhaps all, will be on the payroll technically and, therefore, may be included. We will see.

I have repeatedly raised my concerns that a goal which I strongly supported, ending patronage in the House of Representatives for ministerial employees and assuring a professional work force for the administrative functions of the House, is being seriously undermined beneath the rhetoric of professionalism.

A number of these employees have expressed concerns over their treatment in the media. It has been brought to my attention that the word has been spread that these employees better watch out. Let no one in this House be mistaken, I and my colleagues, I hope on both sides of the aisle, will not stand for any reprisals being taken against any employee for exercising their rights of free speech.

The new Republican majority may feel at will to enforce a gag rule on this House from time to time. But we ought not to, and it would be wrong to, enforce a gag rule on our employees or former employees by threats of recrimination.

Mr. Speaker, I believe these dismissals were wrong. They superficially, at least, appear to be based on partisanship. But whether they are or not, they were wrong, and they have left the staff of the House of Representatives, in my opinion, demoralized and feeling insecure.

If dismissals are not based on job performance, for those who are not involved in policy making, and clearly those employees in policy making are subject to the will of the policy maker; that is the way it must be and should be. But for those people that we ask day to day to come to this House, to come to this Capitol and perform duties for us in a professional manner, unrelated to formulation or promulgation of policy, they ought to know that if they perform, for Republicans or Democrats, in a fashion that brings credit on this institution and facilitates the work of this House, that they will be continued in their employment.

Mr. Speaker, again, I rise in support of this resolution. I supported it as a Member of the Committee on House Oversight. The gentleman from California [Mr. THOMAS], the chairman of the Committee on House Oversight, has rightfully said that this moves the process forward. I agree with him. I am pleased that we are moving. I will vote for this legislation.

But I would hope that all of the leadership of this House would review this matter, not just for concern with these 10 but concern for every person who works for this institution, people of whom we are proud, people of whom we are very appreciative for the work they do for us and for the American people, and people whom we ought to treat with respect and the dignity they deserve.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Although the argument of the gentleman from Maryland is not on the measure in front of us, I think, based upon the innuendo, the qualifiers, the rumor and gossip, the straw man argument that he constructed needs to be responded to.

Frankly, his statements are inaccurate, factually as well as in the innuendo, suggestions, and qualifiers. There were 9 individuals involved, not 10. They were employed by the Clerk in a number of activities. The Clerk continues to rethink the structure under her auspices, and, as in any business, there are restructurings that take place from time to time. This is one of those restructurings.

I find it interesting that the gentleman from Maryland indicated that he was the floor leader in the passage of the legislation that the resolution actually deals with. I am pleased to say he was the floor leader on the minority side. His party had 40 years to pass this kind of legislation. They never did. They talked a lot about it. They made innuendos at that time that it was a fair system. In fact, it was a plantation run totally by patronage.

What we did was say that that was to stop. What we are doing is restructuring this House, as we have from day one. We continue to restructure it. We probably will not get it all done by the end of the 104th Congress, and we will probably continue as the majority in the 105th to continue to restructure.

The gentleman used a number of phrases and then couched them that that is not really what he meant, but there were rumors and gossip, and according to the media that certain things were going on.

I will tell the gentleman that he ought to rely on something other than unnamed sources in the media.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. I am not going to yield at this time.

Mr. HOYER. I do not think I used any of those phrases. None.

Mr. THOMAS. I believe the gentleman, if he checks the RECORD, will find out that several times he referred to stories in the media. I believe the RECORD will show that. We will find out about it after the fact.

But I would ask unanimous consent to place in the RECORD a letter that I received from the Clerk of the House, Robin Carle——

The SPEAKER pro tempore. Without objection.

There was no objection.

Mr. THOMAS. Reviewing some of the statements that have been made.

The letter referred to is as follows:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, December 18, 1995.

Hon. BILL THOMAS,
Chairman, Committee on House Oversight, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: In light of inaccurate media reports that suggested various personnel actions of recent weeks have jeopardized or impacted the performance of the House floor, I am writing to clarify the current situation. I hope you find this information of assistance.

First, contrary to media reports by an "unnamed source", let me clearly state that at no time in the last week has the integrity of the House floor or the quality of work produced by the Offices of the Clerk suffered. Between November 30 and December 7, nine individuals in the various offices of the Clerk were informed that their services were no longer needed and that from that day forward they would be placed on Administrative Leave until January 16, 1996 and in addition provided payment for their accrued annual leave for up to 30 calendar days. While these individuals were relieved of service and their responsibilities assigned to other current personnel, at no time have these actions influenced or threatened the work of the floor or the internal administrative activities associated with the legislative process. In fact, only three of the nine individuals were employed in the Office of Legislative Operations and only one of them worked directly on the House floor.

I, obviously, evaluated the workload of my offices prior to taking these personnel actions and I was confident we would be able to maintain the timeliness and quality of Clerk operations. Although inaccurate press accounts and hallway gossip would suggest otherwise, I believe it is clearly evident that the House's ability to function did not rest solely on the shoulders of these nine individuals. The Clerk employees have and will continue to provide the high quality of service needed to support the House's legislative functions.

Over the last week, all systems and procedures of the Office of Legislative Operations have performed successfully. No irregular delays in the handling of legislative papers and no errors in the final recording of votes have occurred. Further, while a printing error on the part of the Government Print Office was discovered prior to consideration of a House Resolution, the Office of Legislative Operations was able to assist interested parties to ensure that no disruption occurred in the House's legislative schedule.

Let me stress, it is a regular occurrence, particularly during the closing days of a legislative session, for the administrative procedures related to the legislative process to play "catch up" in light of the multiple legislative actions that are occurring in a compressed period on both the House and Senate floors. The legislative schedule of last week, despite our preparations for increased activity, was relatively calm and routine. The Clerk's offices have performed well during this busy session, but can certainly handle even more activity.

In particular, during this time of budget negotiations, individuals have raised concerns about the enrolling of appropriations measures. I am aware it has been suggested that the enrolling of the FY97 Interior and VA–HUD Appropriations Bills were somehow delayed in my offices and could not be forwarded to the President on Friday. In fact, the VA–HUD bill was completed and forwarded to the Speaker's Office for signature on Friday evening. That same evening the Office of Legislative Operations completed its work on the Interior Appropriations Bill and forwarded it back to the Committee for final actions. The Committee completed its work on the morning of Saturday, December 16, and I understand that both bills were delivered to the President at that time.

I stand ready to discuss any of these issues with you in more detail if you would find it useful.

With warm regards,

ROBIN H. CARLE.

Mr. THOMAS. The Clerk says in her letter, "First, contrary to media reports by an 'unnamed source', let me clearly state that at no time in the last week has the integrity of the House floor or the quality of the work produced by the Offices of the Clerk suffered."

The Clerk goes on to say that, "I, obviously, evaluated the workload of my offices prior to taking these personnel actions and I was confident that we would be able to maintain the timeliness and quality of Clerk operations. Although inaccurate press accounts and hallway gossip would suggest otherwise," she says, "I believe it is clearly evident that the House's ability to function did not rest solely on the shoulders of these nine individuals." I agree with her completely. As a matter of fact, very few of them were directly involved in the legislative process.

The letter goes on to analyze arguments that have been made about the inability to get the job done around here. Interestingly enough, one of the problems was a printing error on the part of the Government Printing Office. It was, of course, discovered prior to consideration of a House resolution, and it was corrected.

□ 1215

We are in the latter days of the first session, and there is always a crunch-time involved and decisions hastily remade, notwithstanding the number of employees that have to be reviewed periodically.

Mr. HOYER. Mr. Speaker, I reserve the right to object. Before the gentleman finished what he wanted to include in the RECORD, the Speaker said "without objection." But the fact of the matter is, he had not finished his request.

Mr. THOMAS. Mr. Speaker, I had concluded, I heard "without objection," and, therefore, I read from the letter.

The SPEAKER pro tempore. The Chair said "without objection." The gentleman did not respond with an objection.

Mr. HOYER. The Chair, I believe, and I will not press it further, I said "without objection," before the gentleman finished his sentence.

Mr. THOMAS. Mr. Speaker, I asked for unanimous consent, I received it, and, without objection, it was given. I then proceeded to supply for the RECORD portions of that letter that I thought were pertinent to the statement that I want to make.

Mr. Speaker, I am sure it is difficult for the gentleman from Maryland to understand that people who are employed are not guaranteed lifetime employment; that, as a matter of fact, somebody can be dismissed through no fault of their own. It happens all the time in the private sector based upon business decisions, business cycles, decisions to merge or eliminate businesses, and what will go on around here will be business decisions.

We have responsibility for running this place, and we are going to run it in a professional manner. The gentleman can from time to time come to the floor, as he has done now, and criticize those decisions. He has every right to criticize the decision. But he has to understand that people are dismissed in this world when there is no cause for their dismissal, other than the fact that there is a restructuring going on, and heaven knows, this place continues to need restructuring.

No one is guaranteed lifetime employment under this majority. Based upon his assertions, apparently that was the case under the old regime, with patronage and plantation as the model.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. That is not the model that we are using in organizing this place.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. I will tell the gentleman that he well knows, conjunction or not, that for business decisions, you can, without cause, dismiss people.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. No, I will not yield, and the gentleman can continue to say that and I will not yield.

Mr. Speaker, based upon the CRS request that we have some modicum of decorum on the floor, can I continue my statement without the harassing yielding requests from the gentleman from Maryland?

The SPEAKER pro tempore. The gentleman from California controls the time.

Mr. THOMAS. Mr. Speaker, we currently have a discrimination procedure available to us under the Office of Fair Employment Practices. If it was for discrimination, title VII of the Civil Rights Act applies. I do not believe anyone is arguing that there was discrimination.

I cannot believe the gentleman's argument about a Vietnam vet and someone who has permanent residence who is seeking U.S. citizenship deserves to even be responded to. It is that kind of pejorative placement, of course, not on his own hands, but on others and through the media, that is exactly the kind of argument that the American people are fed up with.

As the new majority, we intend to run this place in as lean a fashion as possible. There will be additional dismissals, I will tell you that right now. They will be because we are restructuring this place. It is not because someone is not doing the job that they used to have here as well as they could do it; it is that probably that job does not need to be done.

There are a number of people, I have to tell you, that are still employed here who are doing jobs that should not be done, and they will be dismissed and the job will be ended. That was the commitment the American people said they wanted out of this new majority, and we are doing it.

It seems to me that if the gentleman from Maryland has any facts based upon all of the innuendo about politics in terms of evidence to indicate that someone was not professionally prepared to do the job, notwithstanding the fact that they may happen to be a Republican. Since the old test under their majority was whether they were a Democrat or not, not whether or not they could do the job, it seems to me that if he has any evidence whatsoever, we would certainly like to take a look at it, that people were hired for partisan reasons, rather than for their professional competency, I say notwithstanding the fact that they were Republicans.

So, Mr. Speaker, what we have in front of us, once again, is a resolution that was passed by the committee for the interim approval of regulations which we believe will go into effect while we are in adjournment, and I would ask that we move on to the next resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. GEJDENSON. Mr. Speaker, I yield 1½ minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the chairman rose and responded and talked about the media. I did not say anything about the media. He talked about hallway allegations. I did not say anything about that. I think where he got that was from the letter from Ms. Carle. I was not going to object to the submission of this letter. I disagree with some aspects of it, but it is fine to have it in the RECORD and we will discuss its pertinent parts.

I thought there were 10, I still think there are 10, maybe there are 9. Whether it is 9 or 10, the fact remains that a few days before Christmas, for no cause, they were told, some after 23 years of service, some after 20, some after 19, some after 15, that their services were no longer going to be utilized by the House of Representatives. They effectively were fired before Christmas. They are still on the payroll; they will still be paid. They have comp time coming to them, they have certain leave coming to them. But the fact of the matter is we took that action.

The issue here is that in July of 1995, in reorganization, this manual was published and given to the employees, and it said if they were going to be removed, they would have certain rights. This was not complied with. Period. That is not a newspaper report, that is not hallway talk. That is STENY HOYER standing on this floor reading this very simple sentence and saying the Clerk's own rules were not complied with in this action. That was wrong, unfair, and ought to be reversed.

Mr. GEJDENSON. Mr. Speaker, I yield the balance of my time to the gentleman from Ohio [Mr. TRAFICANT].

The SPEAKER pro tempore. The gentleman from Ohio is recognized for 2 minutes.

Mr. TRAFICANT. Mr. Speaker, I have never disagreed with the American people's votes. The Republicans are in charge and run the place, and I support that.

One of these fellows that was let go was a Vietnam vet, did not come here under patronage, filled out a general application, and was instructed as of July that he would be free and clear and ended up purchasing property, an individual that fought hard to get the gentleman from Florida, BILL YOUNG, a voting booth in the back.

One of these new hires is a noncitizen with a green card. I think that is the problem with the country here. I think it starts in the Congress of the United States. I think this is a damn shame. And from what I am hearing now, there will be more dismissals.

Take this staff. They start at 10 in the morning. If some long-winded politicians should have special orders until 2 o'clock the following morning, they are here. Now, they are looking over their shoulder worrying if they are going to have a job.

We passed an accountability act, an accountability act that would in fact make Congress sensitive to the laws of the land. My God, we have uprooted families. In July we were supposed to have been beyond this.

This is wrong. The Congress of the United States should stand for more than this. And when an individual comes in here without patronage, without a sponsor, and is fair to everybody on both sides of the aisle, a Vietnam vet, it is a week before Christmas, set loose, 1 day, 1 week before the January 23 deadline, officially, look, everybody is saying they do not question the Clerk. I question the Clerk, and the Clerk is not the boss around here. She is not in charge. The Republican majority is in charge, and I think you should do what is right on this and put to rest this dismissal business. We have good quality people. We should be keeping them and reinforcing them, not scaring the hell out of them.

Mr. THOMAS. Mr. Speaker, I ask unanimous consent to place in the RECORD a letter to the gentleman from Maryland [Mr. HOYER] from the Clerk.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HOYER. Reserving the right to object, Mr. Speaker, and I do not intend to object, first of all, let me ask, is this the letter of December 13?

Mr. THOMAS. I will tell the gentleman, this is the letter of December 18.

Mr. HOYER. Mr. Speaker, I have that copy as well. I will not object, but simply reiterate that I want to make it clear, because she says that I question her abilities or her abilities have been questioned, I do not question that. There are some other things in the letter with which I disagree. But I think she has set forth her case, and I think it is appropriate that it be in the RECORD at this time.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The letters referred to follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 13, 1995.

Hon. ROBIN CARLE,
Clerk of the House, U.S. House of Representatives, Washington, DC.

DEAR ROBIN, As a follow-up to our meeting yesterday, I am writing to again express my grave concerns over the personnel actions you have taken over the last two weeks. I am fearful that the ability of the Office of the Clerk to perform the administrative functions of the House has been compromised. I am specifically concerned about the ability of the enrolling and tally clerks to perform their functions to their usual high standard in light of the severe staff reductions you have undertaken.

Furthermore, I and other members of the Committee on House Oversight were under the impression that your reorganization was complete. Yet these employees, who had all received and accepted offers of continued employment, have now been summarily dismissed without cause. In our recent conversation you also implied that some of these positions would be filled, some changed and some would not be filled. As you know, this is contrary to the plan you submitted to the Committee on House Oversight.

I have also been troubled to learn that contrary to my understanding from our recent conversation that you had not made any recent hires, that in fact, there are several new employees in Legislative Operations.

Since our conversation, I have had the opportunity to speak personally with a number of individuals that you or your representatives dismissed. I am shocked at the way these dismissals were handled. These dismissals all seem contrary to the policies you lay out in the Policies and Procedures manual of your office. Furthermore, many of these employees had been recently promoted and were, by your or our staff's own admission, quality employees. Again, I am very concerned that employees are now being dismissed without cause after the end of the transition period. That was not my understanding of the protections the new majority was seeking for House employees and is contrary to all public statements made by the Majority. It is also clearly inconsistent with conversations you and I have had in the past.

In light of these recent events, I would like to see the staffing levels in each of your offices as of the following dates: November 1, 1994, January 5, 1995, July 1, 1995 and today. In addition, I now make the request to you that I have made to other officers of the House for the resumes of your senior staff, including office chiefs and of the personnel you have hired since February and the positions they occupy.

I can find no readily apparent logical or appropriate reasonable business purpose for these actions. I urge you to revisit these decisions to ensure the proper function and integrity of the Office of the Clerk, I look forward to receiving your materials and to further discussing these matters with you.

Sincerely yours,

STENY H. HOYER.

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, December 18, 1995.

Hon. STENY HOYER,
Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN HOYER: This letter is a follow up to our conversation of Tuesday, December 12, and your letter dated December 13. I appreciate knowing of your interest in the internal management and personnel actions of my office and your concern with my personal management abilities.

First, I would like to address your questions regarding the current integrity of the Office of Legislative Operations, the Office of Legislative Computer Systems, LEGIS, the House Document Room and the overall functioning of the House floor in light of these personnel actions. It is my position, that while nine individuals were relieved of service and their responsibilities assigned to other current personnel, at no time has the integrity or quality of work produced by the Clerk's operations suffered, as evidenced by our successful performance during last week's legislative schedule. I was confident this would be the case at the time these actions were taken. Although inaccurate press accounts and hallway gossip would suggest otherwise, I believe it is now even more clearly evident to you and others that the House's ability to function did not rest solely on the shoulders of these nine individuals.

Several other rumors and issues have been circulating in light, I believe, of our earlier conversation and your subsequent conversations with other parties. Issues have been raised regarding the demographic makeup of the group of individuals hired in the last eight months, their gender and other questions regarding employees of foreign origin. In general, I have been criticized for hiring women, minorities and individuals of foreign background. I have been hiring and firing people for 20 years. It is and has always been my personal objective to hire people competent to carry out the missions required of individual positions, separate of race, gender and religious background. Not only would discrimination based upon these characteristics be in violation of House Rules and federal law, it would be against my personal beliefs and character. I am proud of my hiring record since February, which includes the appointment of 35 individuals, of whom 19 are women (54.3%), eight are minorities (22.9%) including two individuals who hold permanent work visas and who prior to employment with my office, applied for U.S. citizenship, and two military reservists.

In addition, let me assure you that I am the employing authority for the Offices of the Clerk. I personally determine the hiring and other personnel actions that are taken in my offices. All references that either the Committee on House Oversight, Leadership Offices or others determine my personnel decisions are untrue and I find personally insulting. I made these and other personnel decisions and will not hide behind someone's political agenda to suggest otherwise. Further, I believe it is a stretch to be criticized for "wholesale" termination of individuals employed prior to the 104th Congress. After these nine actions, 168 professionals are employed by the Clerk, in addition to 66 House Page positions. Of these 168 employees, 133 are holdovers from the Democrat-controlled 103rd Congress. Therefore, 80 percent of the Clerk's current employees are holdovers from the 103rd Congress.

Also, as I explained to you earlier, in the reorganization of the Clerk's offices as I proposed to the Committee on House Oversight and as it was approved, all positions were abolished effective June 30, 1995, and new standardized positions created effective July 1, 1995. All employees who were retained within the Clerk's organization were re-assigned to these new standardized positions and this re-assignment may have resulted in increases or decreases in pay. While these nine employees were retained at that time, none of the employees received merit raises or promotions.

Between November 30 and December 7, all nine employees were informed that they were going to be placed on administrative leave from their notification date forward until January 16—22 days after Christmas and more than five weeks advance notice before their removal from the Clerk's payroll. This voluntary action was also accompanied by my further commitment to provide lump sum payments for accrued annual leave for all of these employees for up to 30 calendar days and other help in their efforts to find alternative employment. No employee was terminated during the Christmas Holiday week as stated throughout various media reports.

Other media reports have contained statements that the released employees were "locked out" of computers prior to their notification. This statement is completely inaccurate. While changes in computer user IDs and passwords have now occurred, it came after notification of individuals of their future employment status. In fact, all employees were asked during their exit interview with the Immediate Office to complete a checkout process with my office prior to close of business Monday, December 11. This process is routine and requires the return of office keys, House equipment, parking stickers and House IDs prior to the finalization of payroll actions. A number of these released individuals have failed to meet this deadline and could jeopardize timely processing of their lump sum payments during this compressed administrative period. Any personal assistance you could provide in the retrieval of these items would be of great help.

I'd like to again state that while all these positions were contained within my reorganization proposal adopted by the Committee on House Oversight and implemented on July 1, 1995, I have yet to determine whether to fill these positions with new candidates, hold them as vacant positions or forward a proposal to CHO for their elimination.

You also raise questions regarding the personnel manual I have provided my staff on the operation of the Offices of the Clerk. The manual clearly outlines procedures and guidelines for disciplinary actions and dismissals for cause. In no way does the manual prohibit dismissal without cause or end the category of at-will employment. In fact, contrary to various media reports, the enactment and implementation of the Congressional Accountability Act will not end at-will employment in these offices.

I know and respect your interest in the institutional aspects of Capitol Hill. Like you, I have a deep sense of obligation and responsibility to ensure the success of the House and in particular the Clerk's organization. Consequently, I have never had any interest in taking internal administrative actions that would threaten the abilities of the House. I would like to personally discuss with you again any questions or concerns you have regarding these actions and my management abilities.

Finally, I share your belief that these individuals have and could continue, in different capacities, to make positive contributions to the House. While I do not wish to further their employment with the Clerk's organization, I am not the only employing authority on Capitol Hill. I would happily recommend them for employment with you or any other Member interested in offering them new opportunities.

If you have any further inquiries, I would welcome them.

With warm regards,

ROBIN H. CARLE.

Mr. THOMAS. Mr. Speaker, I would like to emphasize briefly in the letter to Mr. HOYER the Clerk indicated, "These positions were contained within my reorganization proposal adopted by the Committee on House Oversight and implemented on July 1, 1995." The Clerk says, "I have yet to determine whether to fill these positions with new candidates, hold them as vacant positions, or forward a proposal to the Committee on House Oversight for their elimination."

Again, this is a business reorganization decision on the part of the Clerk. She goes on to say, "You have also raised questions regarding the personnel manual I have provided my staff on the operation of the offices of the Clerk." The letter states, "The manual clearly outlines procedures and guidelines for disciplinary actions and dismissals for cause. In no way does the manual prohibit dismissal without cause or in the category of at-will employment. In fact, contrary to various media reports, the enactment and implementation of the Congressional Accountability Act will not end at-will employment in these offices."

Mr. Speaker, I would go on to tell you that it will not end the reorganization of this institution, and that there will be individuals who will no longer have jobs, through no fault of their own, other than the fact that this place was padded with scores of people who should never have been on the payroll in the first place, and who had jobs which did not make a lot of sense. We will continue to restructure this place until it makes sense. We will do it with as much reasonableness as we can, but we will do it.

Mr. Speaker, I yield back the balance of my time.

Mr. HOYER. Mr. Speaker, I ask unanimous consent that the letter directed to Ms. Carle dated December 13, 1995, appear immediately preceding her response, so that the record is clear.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. THOMAS] that the House suspend the rules and agree to the resolution, House Resolution 311.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 122, REVISED BUDGET RESOLUTION REFLECTING THE PRESIDENT'S MOST RECENT PROPOSAL

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 309 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 309

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the concurrent resolution (H. Con. Res. 122) setting forth a revised congressional budget for the United States Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002. The concurrent resolution shall be debatable for two hours equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget. The previous question shall be considered as ordered on the concurrent resolution to final adoption without intervening motion or demand for division of the question.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for debate purposes only.

Mr. Speaker, House Resolution 309 is a closed rule providing for consideration in the House of House Concurrent Resolution 122, a revised budget resolution for fiscal years 1996 through 2002. The resolution is based on the Congressional Budget Office scoring of the most recent budget proposal of the President as laid before the Congress last Friday, December 15. The rule provides for 2 hours of general debate, equally divided between the chairman and ranking minority member of the Committee on the Budget.

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The rule provides that the previous question is ordered to final adoption without intervening motion.

Now, Members, what that means is that there will not be a motion to recommit. That is consistent with the existing provision of the Budget Act, which prohibits recommitting a budget resolution.

Mr. Speaker, and as Members will recall, last spring I wrote to the President and offered him the opportunity to present to us an alternative 7-year balanced budget that we could make in order during consideration of the congressional budget resolution, along with other alternatives we would bring to the floor for debate. If Members will recall, all of those resolutions were balanced budgets that were brought to the floor.

At that time, we received no response from the President. By its lack of response to my request, the administration was, in my opinion, indicating that it was not interested in even trying to achieve a balanced budget within 7 years or within any other time.

Mr. Speaker, the President subsequently, later on, suggested that it might be possible to offer a balanced budget in 10 years, then maybe in 9 years, he said, then 8 years, and, finally, only recently, maybe he could do it in 7 years.

But, still, unfortunately, the President has not been willing to use Congressional Budget Office estimates as required, and this is so important for the press and for Members back in their offices, he was not willing to use

Congressional Budget Office estimates as required by the law and signed by President Clinton himself as part of the continuing appropriations resolution.

Mr. Speaker, the purpose of this rule today is to give the House an opportunity to decide whether it wants to proceed with the President's 7-year budget that is not in balance. Let me repeat that. To proceed with the President's 7-year budget that he has given us last Friday, December 15, that is not in balance, according to CBO. That is the Congressional Budget Office.

What that budget shows, when we factor in all the off-budget items, is that the President is still some $87 billion in deficit after 7 years, compared to $3 billion in surplus in the Balanced Budget Act recently passed by this Congress, that means both Houses, and sent to the President, and which he vetoed that bill.

Mr. Speaker, a commitment was made by both the President and the Congress to enact a 7-year balanced budget using nonpartisan Congressional Budget Office estimates and to do so this year. There is no question about the meaning or requirements of that language that both branches have committed to by law; that the President has committed to by law. But the administration has, thus far, refused to agree to CBO estimates in bringing their budget request into balance by fiscal year 2002.

Yesterday, the House overwhelmingly reaffirmed, by a vote of 351 to 40, its commitment to the 7-year, CBO-scored balanced budget. Today, the House will have an opportunity to decide the same question from a different angle. Today's resolution will give this House a straight up or down vote on the President's $87 billion deficit in fiscal year 2002. That is what this vote will be all about here today on this floor.

If the House agrees that we should accept the President's priorities and estimates, then we will proceed with budget negotiations based on those assumptions. That means the President's assumptions and the President's priorities.

If the House decides to, however, stick to its guns and stick by the law, incidentally that we enacted, that says we really do want to balance the budget in 7 years, scored by the nonpartisan Congressional Budget Office, then we can, hopefully, get back to the negotiating table with that clear statement of our intent. Again, that is what that vote is all about on this floor today.

Mr. Speaker, we cannot proceed to negotiate from different tables. Either we are at the CBO table or the OMB table. But the people want us to sit down again at the same table, and they want us to make sure that that table is on the level and that everything is on the level and on the table. That is what this is all about. That is what we are asking today.

Mr. Speaker, I know it is sometimes difficult for the American people to follow all this talk about CBO and OMB. They have trouble even understanding what that is all about. It is more beltway talk or alphabet soup than anything else. But what they may recall, Mr. Speaker, is that the President, and Members should listen to this because it is so important, the President declared in 1993, in his first State of the Union Address, and I have it over here for Members if they want to see the actual quotations, the President said in his first State of the Union Address that we should use the more reliable numbers of the Congressional Budget Office in scoring his budget in that year. That was this President Clinton that said that.

In that address on February 17, 1993, the President asked this Congress to score his budget using, and I quote, "the independent numbers of the Congressional Budget Office." And he went on to say, and this is a continuation of his quote, "I will point out that the Congressional Budget Office was normally more conservative in what was going to happen and closer to the right than previous Presidents have been."

What could be more simple and honest than that admission? Therefore, Mr. Speaker, I was just shocked, I was aghast to hear on Sunday's TV talk show the President's Chief of Staff, Mr. Panetta, and he is a former chairman of this House Committee on the Budget and former Director of the Office of Management and Budget, and he tried to wiggle out of the commitment to use CBO economic estimates in scoring the President's budget proposals as required, again, by law. It is the law that we do that.

Instead, what he proposed was that somehow we should begin without using anybody's assumptions; we should proceed to negotiate a budget agreement; and then, and only then, score the agreement by some kind of negotiated compromise between CBO and OMB. That is smoke and mirrors at its worst.

Mr. Speaker, that is the most mind-boggling, mind-blowing, mind-bending suggestion that I have ever heard coming out of someone with the experience of Mr. Panetta.

The President of the United States is talking about compromising the integrity of the independent Congressional Budget Office, formerly touted by that President, which I just read my colleagues, in saying that economic projections should be a matter of political negotiations after the fact.

Members of the House, the President is coming across like the 300-pound man who has promised his wife he will lose 100 pounds by the end of the year. But when it comes to the end of the year, and he has only lost 25 pounds, he asks his wife to renegotiate the meaning of the 100 pounds so that it conforms to the 25 pounds he actually lost. That is how ridiculous this whole argument is. It is outrageous.

Mr. Speaker, I do not think the question of a real balanced budget should be a matter that is subject to negotiation just to conform to the appetites of government and those that want to spend, spend, spend. It should, instead, conform to the American taxpayers' pocketbook, as we would like to see it, and that is in balance.

Mr. Speaker, just as a rose, is a rose, is a rose, a balanced budget, is a balanced budget, is a balanced budget. And just as a rose by any other name would still smell as sweet, an unbalanced budget by any other name would still smell rotten.

Members, is it any wonder that the American people are so fed up and holding their noses over the smells emanating from this President's attempt to portray an unbalanced budget as balanced? What could be more transparent than a gilded rose that still smells like a skunk cabbage? And do Members know what a skunk cabbage is? My friends, try smelling one one time.

Mr. Speaker, the charge was made in the Committee on Rules that this rule and this budget resolution it makes in order is political. Well, Mr. Speaker, I would simply point out that we are now engaged in the political process, in a political body that is the Congress, under a political system that is established by our Constitution. Politics is about the allocation of resources, about setting priorities, making choices. That is what this Congress is all about.

Yes, this is politics in the most honorable and defining sense of that term. We are indeed engaged in the most important political debate of our generation, over whether we are willing to put our political and financial House in order by living within our means. That is something the American people do. They expect us to do it.

This debate will define for the next generation whether we were willing to face up to that challenge of balancing the budget and providing a brighter future for our children and our grandchildren, and I have four of them, or whether we will be too cowardly to do that and, instead, consign these people, these children of ours, and our posterity to deeper debt, stagnation and failure. We just cannot do that.

This is about politics in its finest sense of that term, the politics of making tough, hard choices. That is what we have to do if we are to balance the budget, but they are choices that will determine the future direction of this Nation and what kind of legacy we will leave to our posterity.

I urge support of this rule and defeat of the President's unbalanced budget that will be on this floor in just a few minutes so that we can get back on the course we and the President, by law, committed to, and that is achieving a truly balanced budget in the next 7 years; and getting back to a common negotiating table that is on the level with everything on it. That is what this is all about.

Mr. Speaker, Members should come over here, vote for this rule, and then defeat this unbalanced budget so that we can get on with what we have all agreed to, and that is bringing some fiscal sanity to this Government of ours.

Mr. Speaker, I include for the RECORD, a document entitled "The Amendment Process Under Special Rules Reported By The Rules Committee, 103rd Congress v. 104th Congress (As of December 18, 1995)."

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of December 19, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	57	65
Modified Closed [3]	49	47	20	23
Closed [4]	9	9	11	12
Total	104	100	88	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of December 19, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of December 19, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109 H.R. 2491	Social Security Earnings Reform Seven-Year Balanced Budget	PQ: 228–191 A: 235–185 (10/26/95).
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2621	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands.	
H. Res. 309 (12/18/95)	C	H. Con. Res. 122	Budget Res. W/President.	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, the truth is this is not even the President's budget. It was put together by a Republican staff without consulting the White House and without consulting OMB. So let us get that matter straight.

Mr. Speaker, once again, the House of Representatives is spending time on a matter that is a complete waste of time. Today is the 10th day this year that the U.S. Government has been closed.

Today 383,000 people will be turned away from National Park Service facilities. Today 80,000 people will be turned away from the Smithsonian Institutions and the National Zoo. Today the January 1 benefit checks for 3.3 million veterans will be threatened. Today 20,000 students who apply for loans will not have their applications processed, and may not be able to pay for college.

Mr. Speaker, my Republican colleagues have been in control of the Congress for almost a year.

On October 1, 10 months into their reign, the Republican Congress should have finished the 13 appropriations bills so that the Federal Government wouldn't shut down and these things wouldn't happen.

So, Mr. Speaker, here we are. It's nearly Christmas and we haven't even sent all the appropriations bills to the President yet. The American people will feel it.

That's why my Republican colleagues are negotiating with the President today. That's why it's so important to keep those negotiations open instead of playing these type of political games.

This bill today is just an attempt to embarrass the President, and it is a waste of time; and, so I said, it is a waste of time.

Last week my Republican colleagues dismissed this proposal out of hand. They refuse to reconsider their own Medicare and Medicaid cuts to pay for tax breaks for the rich. They refuse to keep their end of the contract and propose a budget that protects Medicare, education, and the environment.

So why on Earth is this out-of-date negotiating offer on the floor now? and why haven't my Republican colleagues put together their own alternative?

If Congress and the President are in the midst of negotiating then negotiate. Keep going until you get it right. The American people are getting tired of these silly political games, and I just don't blame them.

Mr. Speaker let's get a deal the House can vote on, or at least let's get the appropriations bills on the floor. Mr. Speaker, I urge my colleagues to defeat this rule. The resolution is a waste of time, and Congress shouldn't be playing these games. Let's stop the politics and give the American people their Government back.

Mr. Speaker, I reserve the balance of my time.

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Mr. SOLOMON. Mr. Speaker, I will be glad to respond to the gentleman's remark, in my closing remarks.

Mr. Speaker, I yield 4 minutes to the gentleman from Claremont, CA [Mr. DREIER], one of the outstanding Members of this body, and a member of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend from Glens Falls, the distinguished chairman of the Committee on Rules, for yielding me this time.

Mr. Speaker, I rise to strong support of this rule, believing that we should, in fact, keep out promises. That is really what this comes down to, very simply and basically, Mr. Speaker.

We made a commitment on September 27, 1994, that we would move ahead with the Contract With America. Within that plan, we called for balancing the Federal budget. We all read the newspaper. We watch television. We know that there is a very low level of support right now for Republicans in the U.S. Congress. But guess what? To a Member, we have found on our side of the aisle a very strong commitment to the promise that was made. That commitment is to balance the Federal budget within 7 years.

Mr. Speaker, I have been criticized for this in the past. I am going to say it again. I want to help Bill Clinton become a better President. The gentleman from New York [Mr. SOLOMON] has ridden me for saying that, and several others have.

Do my colleagues know why I want to make Bill Clinton a better President? Because he is our Commander in Chief and we only have one President at a time. I believe that we can make him a better President by helping him keep the promises that he made back in 1992 when he was a candidate.

He said that he would balance the budget within 5 years. Just a few months after he won that election, he stood right here, as the gentleman from New York [Mr. SOLOMON] has said, and he said on February 17, 1993, in his state of the union message, that he wanted us to use the reliable Congressional Budget Office scoring procedure.

Mr. Speaker, he has also said time and time again that he wants to reduce the size and scope of Government. He does not want to make cuts in Medicare and Medicaid. Mr. Speaker, we are doing every single one of those things. But unfortunately, unfortunately, the President is going down the road toward further deficit spending.

He is claiming that we are cutting Medicare and Medicaid when, in fact, we all know we are bringing about a 63-percent increase in the level of spending for Medicare over the next 7 years and we are dramatically increasing Medicaid and allowing the States to have the opportunity to establish their priorities.

Unfortunately, as we look at where we are headed, the President's plan calls for deficits as far as the eye can see, and as the gentleman from New York said, $87 billion in the year 2002.

Mr. Speaker, one of the things that has not been talked about much as been the fact that we are putting into place an economic growth package here. The gentleman from Massachusetts [Mr. MOAKLEY], my pal from south Boston, talked about tax breaks for the rich, when in fact he knows, and even President Clinton acknowledges, that if we were to reduce the top rate on capital gains we could stimulate economic growth.

Mr. Speaker, we also know that an overwhelming majority of the benefits for reducing the top rate on capital gains goes toward working Americans. Many of the people who are categorized as rich have a low level of income the year before they take their appreciated asset; that small business, or their home, and realize it. And the year after, they are also making $30,000 or $40,000 a year. But the 1 year they look at this asset, they are categorized as the rich, when in fact they are working Americans who have simply been aspiring to attain the American dream: The success of a business, owning a home, and the chance to pass on to their children and grandchildren some of the benefits of their very hard work.

Mr. Speaker, if we were to reduce the top rate on capital gains, it is not a drain on the Treasury. Every single time in the history of this country that we have seen the top rate on capital gains reduced, we have seen economic growth and, yes, an increase in the flow of revenues to the Federal Treasury.

In fact, if we were to have a 15 percent rate on capital gains, we would, over a 7-year period, see an increase of $200 billion in revenues to the Federal Treasury.

This is a very balanced package. We should support this rule, and move forward and, in fact, defeat the President's budget. We all know that it is smoke and mirrors and it is really an abrogation of the responsibility the President was given when he was elected in 1992.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY], ranking minority member on the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, I hope that no one here thinks that anything real is going on, because it is not and that is a disgrace. It is a downright shame.

Mr. Speaker, as everyone knows, the President and the Republican leadership in the Congress have a "slightly" different view about what budget priorities ought to be, about what tax priorities ought to be, and they have reached an impasse, apparently.

So, to try to gain more brownie points politically, what is now happening is that the Republican leadership of the House is bringing a bill to the floor which they pretend is the President's budget.

Mr. Speaker, it is not the President's budget. It is their own concoction, their own political concoction designed to create another vehicle by which they can rhetorically beat up on the President for a couple of hours, rather than sitting down seriously and talking about real program differences on budget negotiations.

Mr. Speaker, they also are planning later today, apparently, at least they have been, to bring up a continuing resolution to allow the Government of the District of Columbia to proceed, but not to allow the Federal Government to reopen. I also find that position ludicrous and unreal.

What we need to have happen here is for the political rhetoric to stop. What we need to have happen is for the Republican leadership of the Congress to sit down and negotiate with the President with no preconditions. What we need is for all of us to stop attacking each other rhetorically because we are not about to do anything real.

Mr. Speaker, we ought to be doing something that is real. What we ought to be doing is to try to find ways to bridge differences, not to find rhetorical arguments that will expand those differences. Why should we have a closed rule on this budget to allow only this so-called President's budget to come up, when it is not even the President's budget? He is not even asking that you do it. Why should the coalition budget not be up? Why should a number of other options not be up on the floor?

All this is is a narrow political exercise that substitutes rhetoric for real action. What has happened in plain view is that the majority party has taken so much heat in the polls for their budgets which have squashed Medicare, squashed Medicaid, squashed education, that they are trying to divert attention from that.

To do that, first of all they engineer an unneeded Government shutdown, an artificially created crisis, and then they bring this joke to the floor. They should be ashamed of themselves. We have better things to do with our time than this dog and pony act.

Mr. SOLOMON. Mr. Speaker, I yield myself 15 seconds just to say to the gentleman from Wisconsin [Mr. OBEY], the Committee on the Budget made a request to the Office of Management and Budget to bring their figures, to bring their budget here. They flatly refused to do it. The only way we could smoke out the President's budget is to take what he has been saying through the media.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Sanibel, FL [Mr. GOSS], a member of the Committee on Rules.

(Mr. GOSS asked and was given permission to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I thank the gentleman from Glens Falls, NY [Mr. SOLOMON], my friend, the distinguished chairman of the Committee on Rules, for yielding.

Mr. Speaker, I rise in support of the rule, but in strong opposition to the underlying resolution.

Some may wonder why we are taking the time to debate this budget resolution, when it so clearly does not meet the simple test that the President signed into law just last month: A balanced budget in 2002. The reason is that people need to know the President is unwilling to come to the table with a real balanced budget proposal. It seems the only way to get through the spin zone at the White House is to force the issue—put his numbers up to the test and watch the plan fall of its own weight.

Once a majority of this House rejects the President's cooked-book numbers then maybe the President will drop his pretenses and come to the table in good faith. We've given him four chances to meet this goal: His first two budgets, including his first so-called balanced budget would have resulted in $200 billion in deficits in 2002, according to CBO. The President's third and fourth budgets—submitted after he signed into law a commitment to achieve a balanced budget in 7 years—still come up short by some $87 billion in the final year. This is absolutely unacceptable—to the American people, and to a bipartisan majority of this House.

Yesterday the House of Representatives voted overwhelmingly in favor of balancing the budget in 7 years using real numbers: 351 Members, including a majority of the Democratic Party recognize the overwhelming need to balance the budget.

Mr. Speaker, the time has come for the President to realize that he cannot have it both ways—he must come to the table in good faith, or put at risk the future of not just our children, but—according to the bipartisan commission on entitlement and tax reform—our entire Federal safety net. I am disappointed that we have come to this exposé today, but it must be done. Support the rule; vote down the President's unbalanced budget and invite him to work realistically on accomplishing balance by 2002. Let's do what we must before 1996 arrives.

Mr. MOAKLEY. Mr. Speaker, I yield 6 minutes to the gentleman from Missouri [Mr. VOLKMER].

(Mr. VOLKMER asked and was given permission to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, well, we have got a big joke here today. We have got a bunch of adults acting as children. I can remember back when I was a youngster and the circus would come to town, Ringling Brothers/Barnum & Bailey. That was the "Greatest Show on Earth." Well, Mr. Speaker, this is the greatest show on Earth today.

It is unbelievable that we would have grown people playing games that are being played here today, knowing that the resolution that they are going to offer is not the President's budget; it is one that they made up, what they say is based on what the President proposed way back when, not today, and they are playing games. They are trying to fool the public.

Mr. Speaker, it is really just a plain old show. That is all it is, with no real purpose as far as legislators are concerned.

Mr. Speaker, I have been a legislator in the State legislature and in this Congress for 29 years. I have never, in my history, ever seen an act like this. We do not see an act this good on Broadway. I do not know why we do not sell tickets for this big show, because that is all it is.

Who is the ringmaster? Well, the Speaker is. There is no question in my mind. The Speaker has divined that this is the greatest show, and we have seen the shows that the Speaker has presented in the past.

So come one, come all. Come and visit the show, because that is all it is. At the end, this whole proposal will not hardly get a vote, if one, in this whole Congress.

So what is the purpose? The whole purpose? The purpose is they want a show. What it is is all part of a game. It is all part of the game that started not just yesterday, not a week ago, not a month ago. This game started way back in the spring when the majority decided that they were not going to pass the appropriation bills in time for September 30, so the Government would run, because they wanted to use the shutdown of the Government in order to force the President and the Democrats to accept their budget.

Mr. Speaker, one has nothing to do with the other. Appropriation bills are separate bills that should have been passed, but they did not want to. They decided that they could force the President, in order to not shut down the Government.

Mr. Speaker, I say to the President, "Mr. President, I want to tell you, and I want to tell this House, you stand firm for your principles. I will stay with you right to the end."

When is the end? Maybe sometime next year when these people finally realize on the other side of the aisle what they have done not only to Government employees, but what they have done unmercifully, mean-spirited, radical, revolution to this country, this great country of ours.

Mr. Speaker, they say they are patriots. They are not patriots when they are willing to shut down Wall Street; when they are willing to shut down the bond market. They are not patriots when they are willing to tell investors that their money is not worth anything when they get down to the bond market, because we could very well get there on the road we are going and the at attitude that has been taken by the majority.

□ 1300

How long, Mr. President, I say, Mr. President, you stand with your principles as long as it takes until the majority realizes that you are not going to cave in to their blackmail. That is all it is, pure blackmail, pure threats. Do not cave in. I ask my Democratic friends not to cave in. Stand firm. Stand firm for our principles. If they want to ruin the country, let them ruin the country.

I would like to say one other thing. At the time that I was off from here and when my wife was ill, I used to watch the news. I did not have time to play silly games. I listened to people like Tom Brokaw and Peter Jennings and Dan Rather, read the Washington Post, Wall Street Journal, and other noteworthy newspapers.

Not one of those people know what is really going on here in this House, not a one of them. They are ignorant. I never saw such major commentators in the media with such major influence in this country, that do not realize what the majority, under NEWT GINGRICH, is planning to do to this country in order to try to force the President and the Democrat Members to accept their priorities and what they believe in.

They do not believe in compromise. The Speaker has said there is no compromise. Ask any one of them to take the tax cuts out of the bill, ask them. They will not do it. They could have a balanced budget in 7 years if they just take their tax cuts out. That is all they have to do. Then we can work through the rest of it.

Members have seen a budget. We voted on it in this House, the coalition budget. That was the best budget that has ever been offered to either one of these bodies. Yet the Republican Members say "no," they will not take it because it does not have that tax cut for the rich.

Well, folks that tells you something. It is a tax cut for the rich that they are after.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, I rise in opposition to this rule and urge my colleagues to defeat the previous question so that in fact we could bring the coalition budget to the floor of the House for debate. Obviously the parties do not wish to negotiate in what is supposed to be taking place in negotiations between the House and Senate leadership and the President. It appears that they wish to negotiate the budget here on the floor of the House by bringing this particular resolution. If we are going to do that, then bring the coalition budget to the floor and let us present it also. If we are going to negotiate here, bring all of the options to the floor of the House under an open rule without time limits and let us, all of us, stay right here in this House without recessing, without closing the doors until we battle it out and come to an agreement.

If that is what my colleagues want to do here on the floor, then open it up and let us do it. But to bring this kind of a closed rule forward, all it is is lobbing hand grenades back and forth between the Hill and the White House. It is very nonproductive, and the people in the country are getting tired of it.

Rather than lobbing grenades, if we really wanted to do something real, last night we brought a resolution to this floor to restate the parameters of the negotiations that are supposed to be taking place but are not. And we said it has to be under CBO scoring. I stood up and said, fine, but we could make this resolution better by expanding it to say, let us get the negotiations going and keep them going until there is a resolution and let us keep the Government operating while negotiations are going on in good faith.

Do Members know what happened? My colleagues in the majority objected to that addition to the resolution. They object to allowing us to bring the coalition budget to the floor, to talk about what is really a middle-of-the-road plan.

Let us decide where we are going to negotiate. If we are going to negotiate in S. 207 with the President, with the leaders of the House and Senate, then let them negotiate and let us stop bringing each offer to the floor to try to bash it and say what is wrong with that and criticize it. That is not the way you conduct negotiations. If you conducted negotiations that way out in the real world, you would never negotiate with anybody.

So if in fact we are going to conduct those negotiations, let us let them do their work but let us pass the resolution to help them. Let us try and find ways to come together with real solutions instead of just lobbing grenades back and forth.

I submit to my colleagues that, if we could bring the coalition budget to the floor along with all of the other budget alternatives, close the doors in this place and keep everybody in here until we come to a resolution, we could find agreement. It would be an agreement that would have bipartisan support, but that agreement would have to start from the middle of this body and move out, not from either opposite pole, and move toward the center.

Mr. SOLOMON. Mr. Speaker, I yield myself 15 seconds.

I say to my good friend we have had the coalition budget on the floor. We have had the Republican alternative on the floor. The only alternative we cannot get on the floor is the President's, and that is why we have had to take his proposals, even though it is not a budget, put it in the form of a budget, and bring it to the floor today.

Mr. Speaker, I yield 2 minutes to the gentleman from Glenwood Springs, CO

[Mr. McINNIS], a very distinguished member of the Committee on Rules.

Mr. McINNIS. Mr. Speaker, it is all very, very simple. The President made a deal, and the people of America expect the President to stick to his deal.

Granted, the President does not have a very good track record. I looked in the Wall Street Journal today and they have got an ad. Let me repeat what that ad says.

"Without a balanced budget, the party is over, no matter which party you are in. There are moments in history when a single choice can make the difference between vastly differing futures, one a bright future, the other a dark. We believe that you, the political leaders of this country, are now confronting such a choice in your deliberations over a plan to balance the Federal budget."

It comes back to a balanced budget. The President made that promise to the American people. All of us saw it. All of us rejoiced because this President said he would agree to a 7-year balanced budget, which surprised all of us, because, as you remember, he went to 5 to 9, 8, but he agreed in writing to a 7-year budget scored by the CBO.

Yesterday he put a bunch of children behind him, kind of as props and attacks everybody who is expecting him to keep his word.

It is very simple. Mr. President, keep your word to the American people. When you talk to those children, talk to them about Scout's honor, talk to them about the importance of keeping your word. That is what it all comes down to.

Mr. ABERCROMBIE. Mr. Speaker, the President is being maligned. That is against the rules of the House.

Mr. Speaker, I demand that those words be taken down.

The SPEAKER pro tempore. The gentleman will suspend. The clerk will report the words.

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Mr. ABERCROMBIE. Mr. Speaker, I object to Mr. WALKER's contention to me. Mr. Speaker, the gentleman from Pennsylvania [Mr. WALKER] just stated on the floor the gentleman has been maligned, so that is equivalent to the President.

The SPEAKER pro tempore. The gentleman from Hawaii will suspend. No business is in order until the Clerk has reported the words.

Mr. ABERCROMBIE. If that is the case, Mr. Speaker, somebody should have taken down the words.

Mr. McINNIS. Order in the House, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Hawaii will suspend.

Mr. CUNNINGHAM. Mr. Speaker, parliamentary inquiry. The gentleman should not be——

The SPEAKER pro tempore. The House must first deal with the matter before it.

Mr. WALKER. The gentleman should not be at the desk.

The SPEAKER pro tempore. The Clerk will report the words.

The Clerk read as follows:

> Yesterday he puts a bunch of children behind him kind of as props and attacks everybody who is expecting him to keep his word. It is very simple. Mr. President, keep your word to the American people. When you talk to those children, talk to them about scout's honor, talk to them about the importance of keeping your word. That is what it all comes down to.

The SPEAKER pro tempore. In the opinion of the Chair, this is not an improper personal reference to the President.

PARLIAMENTARY INQUIRIES

Mr. VOLKMER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. VOLKMER. Were not those words just read a direct statement to the President of the United States? Read them again. That is not, under the rules of the House, permitted.

The SPEAKER pro tempore. That is not a parliamentary inquiry.

Mr. ABERCROMBIE. Mr. Speaker, parliamentary inquiry.

Mr. VOLKMER. That was directed right at the President.

Mr. ABERCROMBIE. Mr. Speaker, parliamentary inquiry.

Mr. VOLKMER. Not to the Speaker.

The SPEAKER pro tempore. The Member should not directly address the President.

Mr. VOLKMER. They were, too. Read them.

The SPEAKER pro tempore. While the Chair will remind all Members to address the Speaker, not the President, the words were not a pejorative reference to the President.

Mr. ABERCROMBIE. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Hawaii will state his parliamentary inquiry.

Mr. ABERCROMBIE. Did I understand you correctly, just before your last sentence, that you did indicate that the words taken down were not out of order, question No. 1; and, No. 2, question No. 2, did you make an admonition to the body not to make direct references to the President?

The SPEAKER pro tempore. The Members are to direct their remarks to the Chair, and not to the President, and the Chair did not declare that the remarks were otherwise out of order.

Mr. ABERCROMBIE. A parliamentary inquiry, Mr. Speaker, is it in order to direct remarks from this floor to the President?

The SPEAKER pro tempore. The Members have been reminded that it is proper to direct their remarks to the Speaker and not to the President.

Mr. ABERCROMBIE. I thank the Chair very much.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Colorado [Mr. McINNIS].

Mr. McINNIS. Prior to the distraction, we got back to the key issue here, and the key issue is we have got to reach a balanced budget. That is what the American people expect, and that is what this Congress should deliver, and in a few moments, we are going to get an opportunity to vote on the proposal the President calls a balanced budget.

I would venture to say very few Republicans are going to support that, excuse me, very few Democrats are going to support that, because they know, as we know, that his proposal will not balance the budget.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MILLER].

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, the reason we are here talking about a Republican proposal that they want to pretend is the President's budget is because what the Republicans do not want to talk about is their budget, because this may be the most unpopular budget in the history of this country because the American people have discovered over the last several months that the Republicans are set on a course which is to devastate the Medicare Program of this Nation, to remove that health care protection from our seniors, to devastate the Medicaid and abolish the Medicaid Program that provides health care to poor women and poor children of this Nation, to people who have lost their jobs, and that devastates the environment of this country by removing the environmental protections, and it devastates the education programs of this country by savaging the cuts and the support for education.

This is not the President's budget. But, again, the Republicans would rather talk about this than talk about what is in their budget. They do not want to talk about the fact that they have not kept the agreement with the President, that the budget that would come from that agreement would protect Medicare, would protect Medicaid, would protect education, and would protect the environment. They have not met that test.

So what did they do? They shut down the Government because they do not want to discuss the fact that they have failed the test to protect Medicare and Medicaid. They have not met that test.

What are they going to talk about today? They have decided they would try and talk about the President of the United States, as opposed to their budget.

They should not be let off the hook so cheaply. The fact of the matter is that not only do the Democrats reject this Republican budget, but overwhelming numbers of the American citizenry reject this budget. Why? Because they know now what it means to their families. They know what it means to the health security of their parents and their grandparents. They know what it means to their family's health security should they lose their job.

It is the Republican budget that devastates those programs, and the Republicans do not want to talk about it.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

(Mr. STENHOLM asked and was given permission to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, at first glance today I thought that this was not going to be a very helpful exercise, and with some of the tone, I think that was proven right.

But let us get back to taking a lemon and let us try to make some lemonade out of it. I am on the nonnegotiating team. We have spent the last 2 weeks plus trying to get to the table and discuss the policy differences, and we have been denied that day after day after day. We have been denied the opportunity to sit down and talk about the honest policy differences.

So I look at this as an opportunity. I ask every Member of this body to oppose the previous question. Oppose the previous question and let us spend the next 3 hours discussing the coalition budget under an open rule in which any Member of this body on either side of the House can sit down and talk about what we like and dislike about the policy that has been presented by the coalition. If we defeat this previous question, we can do that, and I say in the spirit of Christmas and fairness, instead of spending the next 3 hours debating a budget which really has never been presented, which will get no votes, and that is what it should, let us spend the next 3 hours dealing with policy differences where we have some agreement on both sides of the aisle and some disagreement.

You know, this budget agreement and why we have been unable to negotiate has been painful to me because I read and re-read the President has agreed to support a 7-year balanced budget CBO scored. What he has not agreed was to present this final offer in the beginning of the negotiating process.

What the President has argued for is let us have consultation and negotiation, and that is something that I sense because I have talked to enough friends on the Republican side of the aisle as well as my colleagues on the Democratic side of the aisle that we would love to get to doing. But the rule before us does not allow that. It is not helpful, and it is not constructive. It certainly is not in keeping with the Christmas spirit.

Let us defeat the previous question. If we defeat the previous question, we will put the coalition budget on the floor under an open rule, not a closed rule, and we can spend 3 hours of constructive discussions and see whether we might not be able to bridge some of the differences before us.

Our Government is shut down for no good reason. There is no good reason for us to have our employees out on the streets before Christmas. We cannot bring ourselves to sit down as intelligent men and women and discuss the policy differences when we have already agreed in the end there will be a balanced budget CBO scored, 7 years, that will, in fact, be passed and certified.

I ask the defeat of the previous question, and let us have a productive 3 hours of discussion.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER], one of the most respected Members of this body, chairman of the Committee on Government Reform and Oversight.

Mr. CLINGER. Mr. Speaker, today we have before us Clinton IV—the President's fourth attempt this year to balance the Federal budget. Unfortunately, despite the rhetoric coming from the White House, this budget—like its three predecessors—never reaches balance

When the President signed the last continuing resolution into law 30 days ago, he gave his word to Congress and the American people that he would work in good faith to balance the budget in 7 years using honest CBO numbers. However, since then, the White House has given very little indication that it truly wants a balanced budget.

The latest White House budget is evidence of the President's lack of commitment to balancing the budget because it once again relies on overly optimistic economic projections to balance the budget.

The Clinton administration has decided to cook the books and use accounting gimmicks to give the illusion of a balanced budget. But in reality, Clinton IV falls $487 billion short of a balanced budget, leaving us with a deficit of $87 billion in 2002.

Mr. Speaker, we all know there are only two ways to balance the budget. We can reduce outlays or increase revenues. In laymen's terms, that means we can either cut Federal spending or raise taxes.

Assuming the White House is working in good faith, it's my understanding the President can't find any more savings in the Federal budget beyond what is in Clinton IV.

Mr. Speaker, that's fine with me. I take the President at his word that he can't cut any more wasteful, unnecessary spending in the Federal Government's $1.5 trillion annual budget.

I accept the fact that he can't find anymore budgetary savings by reducing the size of Government and making it more efficient.

And, I believe him and other White House officials when they say that this is the President's best attempt to balance the budget while protecting his priorities.

However, the fact still remains that the President's budget never reaches balance. And if he can't cut any more spending, then he only has one other option—to raise taxes.

To me, this sounds an awful lot like the Clinton budget of 1993—the largest tax increase in U.S. history—the one the President said was a mistake just several weeks ago.

It appears the President wants to raise taxes $487 billion to balance the budget in 7 years. If it is, it's time you square with the American people and admit that you can't find any more Government to cut and you'll have to raise their taxes, again.

Mr. Speaker, I urge my colleagues to reject the newest, largest record-breaking tax increase in U.S. history.

Mr. MOAKLEY. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas [Mr. COLEMAN].

(Mr. COLEMAN asked and was given permission to revise and extend his remarks.)

Mr. COLEMAN. Mr. Speaker, I guess the question a lot of us had when we saw that this was on the calendar, what exactly or from what numbers are we working? I did not get a budget sent to my office like I got when the President first submitted his budget, nor did I get one when I saw the Republican budget like that. I retrieved from the desk of the gentleman from New York [Mr. SOLOMON] there a copy.

I was wondering what happened in the transportation and related provisions section, as the ranking member on that particular subcommittee. I wonder if you might be able to give me some idea about what this balanced budget proposal by the administration did to the minimum allocation program.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. COLEMAN. I yield to the gentleman from New York.

Mr. SOLOMON. There is a 2-hour general debate coming up in which the gentleman from Ohio [Mr. KASICH] has the entire outline. We would be very glad to answer your question. The truth is that document you have there is $87 billion out of balance in the year 2002.

Mr. COLEMAN. No, excuse me. Reclaiming my time, the gentleman from New York makes that claim. But he is on the Committee on Rules. Should we not wait for the gentleman from Ohio [Mr. KASICH] to tell us it is $87 billion out of whack? I mean, the gentleman from Ohio [Mr. KASICH] has all the knowledge in this arena, does he not? I understood that he, reclaiming my time, if the gentleman will permit me, I understood it was the gentleman from Ohio [Mr. KASICH] who knew best what, where to go, to look for dollars and exactly which numbers we should be using. My understanding of that is that we have all agreed CBO, most of us have agreed, CBO is the proper place to look.

Yet I am not sure that the gentleman from Ohio [Mr. KASICH], who is putting his pencil to this, has an accurate number at all. Certainly, the Committee on Rules does not. You are taking the word of the gentleman from Ohio [Mr. KASICH] only. Is that correct?

Mr. SOLOMON. If the gentleman will yield further, I am taking the word of the Committee on the Budget. When you look at this document, again it is $87 billion out of whack.

Mr. COLEMAN. Reclaiming my time, because I am going to run out of time, that is not true either, I say to the gentleman from New York. You are taking the word of the Committee on the Budget. This document right here, let me point out, reclaiming my time, Mr. Speaker, looking at this document, it says right on the top of it, and this is what is amazing about this waste of time under this rule, that we are all being put upon, "Prepared by the majority staff of the House Committee on the Budget." That means only the Republican staff prepared this. And that is what the reality of all of this is. This does not mean anything else but that.

Members, Members from the majority and the minority were probably not even party to this. Certainly not from the minority, not even the minority staff. I think that what you are asking us to do, I say to the gentleman from New York [Mr. SOLOMON] is ridiculous.

Mr. SOLOMON. Mr. Speaker, I yield myself 15 seconds. The gentleman failed to read the next line of the document before. It says, "Incorporating updated Congressional Budget Office estimates." That is what is here. The gentleman knows that.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I thank the gentleman for yielding me this time.

I, along with the gentleman from Texas [Mr. STENHOLM], urge that we defeat the previous question, defeat the rule, bring the coalition budget to the floor under an open rule.

Folks, we have not had a President submit a balanced budget probably in my lifetime. President Reagan never came within $100 billion. President Bush never came within $200 billion. President Clinton has stayed more or less in that league, between $200 billion and $300 billion. This is nothing new, neither Democratic nor Republican.

There are folks out of work. It is a week before Christmas. We are 80 days behind on our schedule to submit a budget for next year, this year. Let us cut the nonsense out.

I know the President's budget is a nonstarter. You know it is a nonstarter.

So many of you who have come up to me privately in different places and said let us get the coalition budget on the floor, if you have some parts of it you think are too high, offer an amendment to cut it. If there are parts you think are too low, offer an amendment to increase it. Let us just come to the floor with some ground rules where we have to be at the end of the day, so we do not end up with a $270 billion annual operating deficit next year under the Republican budget, I say to the gentleman from New York [Mr. SOLOMON], or an $80 billion-something budget deficit in 2002 under the President's budget.

Let us fix it. We are legislators. It is a week before Christmas, and people are wondering whether or not they are going to get paid. Veterans are wondering whether or not they are going to get their checks.

Let us act like human beings. Let us act like statesmen. Let us defeat the previous question. Let us bring the coalition budget to the floor under an open rule, and let us pass a budget that the people of the United States want us to do and will be proud of us for doing.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Mt. Holly, NJ [Mr. SAXTON], the vice chairman of our Joint Economic Committee.

□ 1330

Mr. SAXTON. Mr. Speaker, I would just say to my good friend from Mississippi, [Mr. TAYLOR,] who just explained that Presidents have not traditionally offered balanced budgets, that is what makes this Republican conference different. We offered and passed a balanced budget. Today we are here to look at the President's latest proposal. I rise in opposition to it because it will increase the national debt and it fails to provide tax incentives to create economic growth.

I believe the President's real objective is political. But sooner or later, the American people will realize that the President is not serious about a balanced budget and he is not serious about a middle-class tax cut either.

Look, economic growth is brought about through a good tax policy, and that is not a partisan issue. It is bipartisan. Jack Kennedy knew so in 1963 and he said so, and the Republicans in this House know it today as well.

Also, the President's latest budget proposals fail to balance the budget. In fact, this proposal will add $1 trillion to the national debt. It is important that the American people know were the President is and it is important that he knows where the Congress is.

The excessive level of Federal spending is a serious drag on economic growth, and that is beyond question. According to a Joint Economic Committee study, which I will release soon, for every dollar of projected spending, the economy is reduced by 38 cents. In other words, for every $100 billion in projected Federal spending growth, the economy will shrink by $38 billion.

The Republican approach would reverse this process and for the first time in decades we have an opportunity to balance the budget, and it is not through this proposal.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this is not rocket science that is going on here; it is kind of like when you have done something that you do not want to talk about and you try to change the subject. That is exactly what my Republican colleagues are trying to do.

They have got a budget that an overwhelming majority of the American public does not like, and they do not want to talk about their budget. So they bring something to the floor that has no relevance to what is going on to all, and they try to change the subject. That is what this debate is all about. It is a waste of time.

Before I came to this body, I used to practice law, and I used to get so frustrated when we had domestic cases and the party with the money would say "I am not even going to support my children while we have got a debate going on, while we have got differences between the wife and the husband."

That is exactly what is happening in this body as we speak. We have got people out of work, the Government shut down, our children are starving, and the parties are saying "We don't care about it, because we have got a dispute going on." The people with the money, the majority party, has said we will not even give you a continuing resolution to feed the children of America while this dispute is going on, because we do not like you and we do not like your proposals.

Reject this rule and this resolution.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, in asking that we reject this rule, I want to reiterate that the proposition before us has been prepared by the majority staff. It purports to utilize Congressional Budget Office projections, and perhaps something of what the President has proposed in one form or another. But I would submit to you, Mr. Speaker, that the real agenda here today is to do the following, in the guise of balancing the budget: To actually undermine and in fact to subvert Medicare and Medicaid and to see to it that a tax giveaway goes to the very wealthy people in ths country, and ultimately to privatize Social Security.

That is the real agenda, I believe, behind the whole argument about the balanced budget, because this balanced budget is nothing but an illusion. As the gentleman from Mississippi [Mr. TAYLOR] indicated previously, from a copy of a letter I have from the Congressional Budget Office in 1996, the deficit under the Republican budget proposal is $260 billion. Reject the rule and the resolution.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. BRYANT], an outstanding new Member.

Mr. BRYANT of Tennessee. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, about 30 days ago the President joined with Congress in agreeing to balance the budget in 7 years, using good, real numbers, CBO numbers, and for the first 3 weeks or so of that 30 days, his team sat on the bench on their hands and did nothing in this.

In the last few days of this 30 days, before the Government shutdown, they came forward with something I thought was a budget. They said it was a budget, I understood it was a budget, but it was not scored by CBO numbers. I today understand that my colleagues on the other side are saying, "This is not a budget and we do not want anything to do with it, and instead let us bring forth the coalition budget."

The coalition budget was brought forth about 2 months ago and was voted on, and the Democrats voted on their own budget there. Sixty-eight people voted for it, and 128 of their own people rejected that budget. So now they are trying to distance themselves from the President's budget and go back to the coalition budget, which they rejected soundly last October. But the President's budget falls short $87 billion at the year 2002.

Now the current position of the President and his people is "We don't think we can do it in 7 years, and we don't want to use CBO numbers." But, know what? The American people that sent me to Washington want us to balance the budget, they want us to do it this year, and they want us to do it with good numbers, not cookbook numbers.

The results of yesterday's vote in this House indicates that most Members in this House want it done that way; 351 people voted to do it with CBO numbers in 7 years. Only 40 people voted against it. I cannot imagine 40 people voting against it.

Yesterday, the stock market, as a result of the lack of confidence in this President to balance the budget, fell 100 points.

I simply would say to this Congress and to those in Washington that Santa Claus no longer drops down from the Rotunda; that the people that sent me to Washington last year, in November of 1994, want us to send a message that Santa Claus does not live in Washington anymore, he moved to the North Pole.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Mr. COLEMAN. Mr. Speaker, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Texas.

Mr. COLEMAN. Mr. Speaker, I wanted to be sure, the last speaker in the well had his metaphors wrong. It was the Easter Bunny that was supposed to pass down. You all were supposed to pass the budget back in April.

Ms. JACKSON-LEE of Texas. Mr. Speaker, reclaiming my time, I thank the ranking member of the Committee on Rules for helping me to understand what we are doing this afternoon. I have got a document here that my Republican friends say is somebody's budget. I do not know what it is. It has handwritten numbers. I think the American people should really know whether we are serious. They are handwritten numbers in a document they tell me is supposed to be the President's budget.

But I would ask the gentleman from Massachusetts [Mr. MOAKLEY] if he would answer a question, because we need to be about the people's business. As the former chairman of this committee, if the Committee on Rules was presenting a real serious intent to balance the budget, would we put forward a budget that no one knows where it came from, with no opportunity for input, amendment, or offering of alternatives? Is that something that has likely happened to the gentleman's knowledge during the time of his tenure here.

Mr. MOAKLEY. Mr. Speaker, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, this is not the President's budget. It was put together by the Republican majority and brought out without the President's knowledge. He has not seen it. OMB has not seen it. If we are going to put out a bill to really attack the budget, we would have had one or two or three alternatives. This is not the way to do it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, reclaiming my time, I thank the gentleman for his wisdom and as well his knowledge.

Let me suggest that with a budget that has nothing but handwritten numbers, no prior notice to this body this is not a budget. Let me tell you what we are really fighting about, a Republican budget that denies 5 million low income elderly access to Medicare, a Republican budget that denies 1.3 million people the Medicaid they need, a Republican budget that denies 3.8 million children the Medicaid they need. What we need to do is pass a clean continuing resolution to allow a real debate on protecting Medicare, Medicaid, the environment, and education along with a Balanced Budget.

We have not been sent here to be obstructionists to keep the Government's doors closed, to burden the people working in the Government to provide services to the American people. This is a falsehood. This is a document that has handwritten numbers on it. It is not realistic.

Let us pass a clean continuing resolution, open the Government, sit down at the table of negotiation and pass a budget that the Republicans were supposed to pass in April of this year that balance the budget while protecting Medicare, Medicaid, education, jobs, and the environment.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Delmar, CA, Mr. DUKE CUNNINGHAM, one of the people I admire most in this body, a former fighter pilot.

Mr. CUNNINGHAM. Mr. Speaker, everything that both sides are arguing about boils down to power. For 40 years the Democrats had the power to spend money out of the Federal Government, which improved their chances to get reelected. They are not handling being in the minority very well, and they are doing everything they can to get the power and the ability to spend money.

They do not want a balanced budget, because it limits their ability to get reelected. Let me give you two different ways. One, let us take a look at education. Two principles: One is the power in the Federal Government, the other is back to the people.

Let us look at the President's direct lending program. It cost $1 billion more than sending it down to the private industries to do it. $1 billion, and that does not even include what it costs to take the money back, because it takes seven years to find that out. But yet we turn it back to private enterprise and save $1 billion.

We increase the amount of money going to education, but we cut out the Federal bureaucracy, the power orientation in Washington, DC. We increase Pell grants to the highest rates. We increase student loans by 50 percent. Yet the other side says you are destroying education. What we are destroying is your ability to disburse money down out of the Federal Government

Let us look at Goals 2000. We only get about 23 cents out of every dollar back into education because of the bureaucracy. Logically, you would want to increase education by getting more money down to the people and to education. Goals 2000 at the Federal level, absolutely, we killed it out of the Federal level. We send the money back to the States. They do not have the rules, the regulations. That 7 percent of the Federal Government education budget requires over 50 percent of the rules and regulations, 75 percent of the paperwork. It is not effective to do it that way. But yet you still want the power, the power to disburse money, so you can get reelected, and that is wrong, and that is what this whole fight is about.

Mr. MOAKLEY. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan [Mr. DINGELL], the former chairman.

Mr. DINGELL. Mr. Speaker, this is a political exercise. It does not have anything to do with dealing with the budget or the balancing of the budget. The proposal has never been read, it has never been exposed to the light of day. My Republican colleagues know as much about the Russian budget as they know about what is in this legislation. The bill is not going to be read, this bill is not going to be heard in any committee, there is no opportunity to amend. There is not even a motion to recommit made available under this rule.

Mr. Speaker, this is a sorry charade. Only a scoundrel would say or a fool would say that this is a fair process, and only a fool would believe that this is a fair process. This is a mechanism simply to get my Republican colleagues off the hook because they have closed down the Federal Government.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I submit the following material for the RECORD.

PREVIOUS QUESTION AMENDMENT TO HOUSE RESOLUTION 309 TO CONSIDER THE COALITION BUDGET UNDER AN OPEN RULE

At the end of the resolution, add the following:

Upon disposition of House Concurrent Resolution 122, the House shall immediately resolve itself into the Committee of the Whole to consider a concurrent resolution consisting of the text of the amendment in the nature of a substitute numbered 1 and printed in the Congressional Record of May 16, 1995. General debate shall not exceed three hours, equally divided and controlled by the proponent and an opponent thereto. After the conclusion of consideration of the concurrent resolution for amendment, the committee shall rise and report the concurrent resolution to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the concurrent resolution and amendments thereto to final adoption without intervening motion. The concurrent resolution shall not be subject to a demand for a division of the question of its adoption.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(l)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D; 1R.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A.
H.R. 1905	Energy & Water Appropriations	H Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment.	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min. each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments.	N/A.
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1977	Interior Appropriations	H.Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments pre-printed before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority. ***RULE AMENDED***.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title.	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min.); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	ID.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min.) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bipartisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min.), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate, makes in order the committee substitute as original text	N/A.
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional Record.	N/A.
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A.
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A.
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A.
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min.) If adopted, it is considered as base text; Pre-printing gets priority.	N/A.
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D.
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A.
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A.
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A.
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D.
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes).	1D.
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A.
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes).	1D.
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A.
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min.); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min.); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A.
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A.
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min.) on regulatory reform.	5R.
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1 hr).	N/A.
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1 hr).	N/A.
H. Res. 250	House Gift Rule Reform	H. Res. 268	Closed; provides for consideration of the bill in the House; 30 min. of debate; makes in order the Burton amendment and the Gingrich en bloc amendment (30 min. each); waives all points of order against the amendments; Gingrich is only in order if Burton fails or is not offered.	2R.
H.R. 2564	Lobbying Disclosure Act of 1995	H. Res. 269	Open; waives cl. 2(l)(6) of rule XI against the bill's consideration; waives all points of order against the Istook and McIntosh amendments.	N/A.
H.R. 2606	Prohibition on Funds for Bosnia Deployment	H. Res. 273	Restrictive; waives all points of order against the bill's consideration; provides one motion to amend if offered by the Minority Leader or designee (1 hr non-amendable); motion to recommit which may have instructions only if offered by Minority Leader or his designee; if Minority Leader motion is not offered debate time will be extended by 1 hr.	N/A.
H.R. 1788	Amtrak Reform and Privatization Act of 1995	H. Res. 289	Open; waives all points of order against the bill's consideration; makes in order the Transportation substitute modified by the amend in the report; bill read by title; waives all points of order against the substitute; makes in order a managers amend as the first order of business, if adopted it is considered base text (10 min.); waives all points of order against the amendment; pre-printing gets priority.	N/A.
H.R. 1350	Maritime Security Act of 1995	H. Res. 287	Open; makes in order the committee substitute as original text; makes in order a managers amendment which if adopted is considered as original text (20 min.) unamendable; pre-printing gets priority.	N/A.
H.R. 2621	To Protect Federal Trust Funds	H. Res. 293	Closed; provides for the adoption of the Ways & Means amendment printed in the report; 1 hr of general debate.	N/A.
H.R. 1745	Utah Public Lands Management Act of 1995	H. Res. 303	Open; waives cl 2(l)(6) of rule XI and sections 302(f) and 311(a) of the Budget Act against the bill's consideration. Makes in order the Resources substitute as base text and waives cl 7 of rule XVI and sections 302(f) and 308(a) of the Budget Act; makes in order a managers' amend as the first order of business, if adopted it is considered base text (10 min).	N/A.
H. Res. 304	Providing for Debate and Consideration of Three Measures Relating to U.S. Troop Deployments in Bosnia.	N/A	Closed; makes in order three resolutions; H.R. 2770 (Dornan), H. Res. 302 (Buyer), and H. Res. 306 (Gephardt); 1 hour of debate on each.	1D; 2R.
H. Res. 309	Revised Budget Resolution	H. Res. 309	Closed; provides 2 hours of general debate in the House	N/A.

*Contract Bills, 67% restrictive; 33% open. **All legislation, 56% restrictive; 44% open. ***Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. ****Not included in this chart are three bills which should have been placed on the Suspension Calendar: H.R. 101, H.R. 400, H.R. 440.

Mr. MOAKLEY. Mr. Speaker, I urge my colleagues to vote against the previous question so that we may bring an alternative rule to the floor. The rule would make in order the coalition budget proposal under an open rule as well as any other substitute budget that Members may wish to offer.

Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from New York is recognized for 1 minute and 15 seconds.

☐ 1345

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

Why are we here today with the President's budget? Let me just read a quote from today's newspaper.

White House press secretary Mike McCurry said Republicans would have to drop their insistence that we produce a 7-year balanced budget.

Ladies and gentlemen, that is why we are here. I just heard Members complain that the Washington Monument is closed today because the President vetoed a bill saying that we did not spend enough on it. He vetoed a bill yesterday that said we do not spend enough money on EPA.

How are we going to balance the budget? Look at this. Last year he gave us a 5-year projection of his spending budgets totaling another $900 billion added to the deficit. This year he gave us one adding almost a trillion dollars. Ladies and gentlemen, this is the most serious problem facing this country today. That is why we have already had the minority's coalition budget on the floor, we have already had the Republican majority budget on the floor, and now we want the President's. Let us have a vote on it, up or down.

Mr. Speaker, I yield back the balance of my time, and I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BUNN of Oregon). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to provisions of clause 5, rule XV, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 230, nays 188, not voting 15, as follows:

[Roll No. 867]

YEAS—230

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)
Zeliff
Zimmer

NAYS—188

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—15

Berman
Chapman
Clinger
de la Garza
Edwards
Kaptur
Lantos
Mfume
Pryce
Ros-Lehtinen
Rush
Scarborough
Tejeda
Waxman
Young (AK)

☐ 1405

Mr. SERRANO changed his vote from "yea" to "nay."

Mr. HAYES and Mr. LEWIS of California changed their votes from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BUNN of Oregon). The question is the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MOAKLEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 229, noes 189, not voting 15, as follows:

[Roll No. 868]

AYES—229

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)
Zeliff
Zimmer

NOES—189

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Deutsch

Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—15

Berman
Chapman
Clinger
Davis
de la Garza
Edwards
Kaptur
Lantos
Mfume
Pryce
Ros-Lehtinen
Rush
Scarborough
Tejeda
Young (AK)

□ 1416

The Clerk announced the following pair:

On this vote:

Ms. Ros-Lehtinen for, with Mr. Edwards against.

Mr. WALSH and Mr. EWING changed their vote from "no" to "aye."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 1655, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1996

Mr. COMBEST. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight to file the conference report on the bill (H.R. 1655) to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the U.S. Government, the community management account, and the Central Intelligence Agency retirement and disability system, and for other purposes.

The SPEAKER pro tempore (Mr. BUNN of Oregon). Is there objection to the request of the gentleman from Texas?

There was no objection.

REVISED BUDGET RESOLUTION REFLECTING THE PRESIDENT'S MOST RECENT PROPOSAL

Mr. KASICH. Mr. Speaker, Pursuant to House Resolution 309, I call up the concurrent resolution (H. Con. Res. 122) setting forth the congressional budget for the U.S. Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The text of House Concurrent Resolution 122 is as follows:

H. CON. RES. 122

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1996.

That the Congress determines and declares that the concurrent resolution on the budget for fiscal year 1996 is hereby revised and replaced and the appropriate budgetary levels for fiscal years 1997 through 2002 are hereby set forth.

SEC. 2. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution:

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 1996: $1,039,000,000,000.
Fiscal year 1997: $1,073,000,000,000.
Fiscal year 1998: $1,114,000,000,000.
Fiscal year 1999: $1,162,000,000,000.
Fiscal year 2000: $1,214,000,000,000.
Fiscal year 2001: $1,291,000,000,000.
Fiscal year 2002: $1,354,000,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 1996: −$3,000,000,000.
Fiscal year 1997: −$9,000,000,000.
Fiscal year 1998: −$9,000,000,000.
Fiscal year 1999: −$11,000,000,000.
Fiscal year 2000: −$17,000,000,000.
Fiscal year 2001: $3,000,000,000.
Fiscal year 2002: $3,000,000,000.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 1996: $1,282,000,000,000.
Fiscal year 1997: $1,334,000,000,000.
Fiscal year 1998: $1,399,000,000,000.
Fiscal year 1999: $1,438,000,000,000.
Fiscal year 2000: $1,493,000,000,000.
Fiscal year 2001: $1,539,000,000,000.
Fiscal year 2002: $1,569,000,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 1996: $1,268,000,000,000.
Fiscal year 1997: $1,334,000,000,000.
Fiscal year 1998: $1,378,000,000,000.
Fiscal year 1999: $1,426,000,000,000.
Fiscal year 2000: $1,482,000,000,000.
Fiscal year 2001: $1,525,000,000,000.
Fiscal year 2002: $1,556,000,000,000.

(4) DEFICITS.—For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

Fiscal year 1996: $229,000,000,000.
Fiscal year 1997: $261,000,000,000.
Fiscal year 1998: $264,000,000,000.
Fiscal year 1999: $264,000,000,000.
Fiscal year 2000: $268,000,000,000.
Fiscal year 2001: $234,000,000,000.
Fiscal year 2002: $202,000,000,000.

(5) PUBLIC DEBT.—The appropriate levels of the public debt are as follows:

Fiscal year 1996: $5,149,000,000,000.
Fiscal year 1997: $5,423,000,000,000.
Fiscal year 1998: $5,691,000,000,000.
Fiscal year 1999: $5,954,000,000,000.
Fiscal year 2000: $6,200,000,000,000.
Fiscal year 2001: $6,474,000,000,000.
Fiscal year 2002: $6,718,000,000,000.

SEC. 3. DEBT INCREASE.

The amounts of the increase in the public debt subject to limitation are as follows:

Fiscal year 1996: $264,000,000,000.
Fiscal year 1997: $274,000,000,000.
Fiscal year 1998: $268,000,000,000.
Fiscal year 1999: $263,000,000,000.
Fiscal year 2000: $266,000,000,000.
Fiscal year 2001: $254,000,000,000.
Fiscal year 2002: $244,000,000,000.

SEC. 4. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority, budget outlays, new direct loan obligations, and new primary loan guarantee commitments for fiscal years 1996 through 2002 for each major functional category are:

(1) National Defense (050):

Fiscal year 1996:
(A) New budget authority, $257,000,000,000.
(B) Outlays, $261,000,000,000.
Fiscal year 1997:
(A) New budget authority, $253,000,000,000.
(B) Outlays, $256,000,000,000.
Fiscal year 1998:
(A) New budget authority, $259,000,000,000.
(B) Outlays, $254,000,000,000.
Fiscal year 1999:
(A) New budget authority, $266,000,000,000.
(B) Outlays, $259,000,000,000.
Fiscal year 2000:
(A) New budget authority, $276,000,000,000.
(B) Outlays, $268,000,000,000.
Fiscal year 2001:
(A) New budget authority, $286,000,000,000.
(B) Outlays, $275,000,000,000.
Fiscal year 2002:
(A) New budget authority, $286,000,000,000.
(B) Outlays, $280,000,000,000.

(2) International Affairs (150):

Fiscal year 1996:
(A) New budget authority, $19,000,000,000.
(B) Outlays, $17,000,000,000.
Fiscal year 1997:
(A) New budget authority, $17,000,000,000.
(B) Outlays, $17,000,000,000.
Fiscal year 1998:
(A) New budget authority, $16,000,000,000.
(B) Outlays, $17,000,000,000.
Fiscal year 1999:
(A) New budget authority, $15,000,000,000.
(B) Outlays, $16,000,000,000.
Fiscal year 2000:
(A) New budget authority, $17,000,000,000.
(B) Outlays, $16,000,000,000.
Fiscal year 2001:
(A) New budget authority, $16,000,000,000.
(B) Outlays, $15,000,000,000.
Fiscal year 2002:
(A) New budget authority, $16,000,000,000.
(B) Outlays, $15,000,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1996:
(A) New budget authority, $17,000,000,000.
(B) Outlays, $17,000,000,000.
Fiscal year 1997:
(A) New budget authority, $17,000,000,000.
(B) Outlays, $17,000,000,000.
Fiscal year 1998:
(A) New budget authority, $16,000,000,000.
(B) Outlays, $16,000,000,000.
Fiscal year 1999:
(A) New budget authority, $16,000,000,000.
(B) Outlays, $16,000,000,000.
Fiscal year 2000:
(A) New budget authority, $16,000,000,000.
(B) Outlays, $16,000,000,000.
Fiscal year 2001:
(A) New budget authority, $16,000,000,000.
(B) Outlays, $16,000,000,000.
Fiscal year 2002:
(A) New budget authority, $16,000,000,000.
(B) Outlays, $16,000,000,000.
(4) Energy (270):
Fiscal year 1996:
(A) New budget authority, $5,000,000,000.
(B) Outlays, $4,000,000,000.
Fiscal year 1997:
(A) New budget authority, $4,000,000,000.
(B) Outlays, $3,000,000,000.
Fiscal year 1998:
(A) New budget authority, $4,000,000,000.
(B) Outlays, $3,000,000,000.
Fiscal year 1999:
(A) New budget authority, $3,000,000,000.
(B) Outlays, $2,000,000,000.
Fiscal year 2000:
(A) New budget authority, $3,000,000,000.
(B) Outlays, $2,000,000,000.
Fiscal year 2001:
(A) New budget authority, $3,000,000,000.
(B) Outlays, $2,000,000,000.
Fiscal year 2002:
(A) New budget authority, $3,000,000,000.
(B) Outlays, $2,000,000,000.
(5) Natural Resources and Environment (300):
Fiscal year 1996:
(A) New budget authority, $22,000,000,000.
(B) Outlays, $22,000,000,000.
Fiscal year 1997:
(A) New budget authority, $21,000,000,000.
(B) Outlays, $22,000,000,000.
Fiscal year 1998:
(A) New budget authority, $20,000,000,000.
(B) Outlays, $21,000,000,000.
Fiscal year 1999:
(A) New budget authority, $20,000,000,000.
(B) Outlays, $20,000,000,000.
Fiscal year 2000:
(A) New budget authority, $19,000,000,000.
(B) Outlays, $19,000,000,000.
Fiscal year 2001:
(A) New budget authority, $19,000,000,000.
(B) Outlays, $19,000,000,000.
Fiscal year 2002:
(A) New budget authority, $19,000,000,000.
(B) Outlays, $19,000,000,000.
(6) Agriculture (350):
Fiscal year 1996:
(A) New budget authority, $9,000,000,000.
(B) Outlays, $8,000,000,000.
Fiscal year 1997:
(A) New budget authority, $11,000,000,000.
(B) Outlays, $10,000,000,000.
Fiscal year 1998:
(A) New budget authority, $14,000,000,000.
(B) Outlays, $13,000,000,000.
Fiscal year 1999:
(A) New budget authority, $13,000,000,000.
(B) Outlays, $12,000,000,000.
Fiscal year 2000:
(A) New budget authority, $13,000,000,000.
(B) Outlays, $12,000,000,000.
Fiscal year 2001:
(A) New budget authority, $12,000,000,000.
(B) Outlays, $11,000,000,000.
Fiscal year 2002:
(A) New budget authority, $12,000,000,000.
(B) Outlays, $11,000,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 1996:
(A) New budget authority, $4,000,000,000.
(B) Outlays, -$6,000,000,000.
Fiscal year 1997:
(A) New budget authority, $3,000,000,000.
(B) Outlays, -$4,000,000,000.
Fiscal year 1998:
(A) New budget authority, $3,000,000,000.
(B) Outlays, -$5,000,000,000.
Fiscal year 1999:
(A) New budget authority, $2,000,000,000.
(B) Outlays, -$3,000,000,000.
Fiscal year 2000:
(A) New budget authority, $4,000,000,000.
(B) Outlays, $0.
Fiscal year 2001:
(A) New budget authority, $2,000,000,000.
(B) Outlays, -$1,000,000,000.
Fiscal year 2002:
(A) New budget authority, $2,000,000,000.
(B) Outlays, -$1,000,000,000.
(8) Transportation (400):
Fiscal year 1996:
(A) New budget authority, $37,000,000,000.
(B) Outlays, $38,000,000,000.
Fiscal year 1997:
(A) New budget authority, $39,000,000,000.
(B) Outlays, $38,000,000,000.
Fiscal year 1998:
(A) New budget authority, $38,000,000,000.
(B) Outlays, $37,000,000,000.
Fiscal year 1999:
(A) New budget authority, $35,000,000,000.
(B) Outlays, $38,000,000,000.
Fiscal year 2000:
(A) New budget authority, $34,000,000,000.
(B) Outlays, $36,000,000,000.
Fiscal year 2001:
(A) New budget authority, $34,000,000,000.
(B) Outlays, $36,000,000,000.
Fiscal year 2002:
(A) New budget authority, $34,000,000,000.
(B) Outlays, $35,000,000,000.
(9) Community and Regional Development (450):
Fiscal year 1996:
(A) New budget authority, $10,000,000,000.
(B) Outlays, $10,000,000,000.
Fiscal year 1997:
(A) New budget authority, $9,000,000,000.
(B) Outlays, $10,000,000,000.
Fiscal year 1998:
(A) New budget authority, $9,000,000,000.
(B) Outlays, $9,000,000,000.
Fiscal year 1999:
(A) New budget authority, $8,000,000,000.
(B) Outlays, $8,000,000,000.
Fiscal year 2000:
(A) New budget authority, $8,000,000,000.
(B) Outlays, $8,000,000,000.
Fiscal year 2001:
(A) New budget authority, $8,000,000,000.
(B) Outlays, $8,000,000,000.
Fiscal year 2002:
(A) New budget authority, $8,000,000,000.
(B) Outlays, $8,000,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1996:
(A) New budget authority, $59,000,000,000.
(B) Outlays, $55,000,000,000.
Fiscal year 1997:
(A) New budget authority, $60,000,000,000.
(B) Outlays, $59,000,000,000.
Fiscal year 1998:
(A) New budget authority, $62,000,000,000.
(B) Outlays, $60,000,000,000.
Fiscal year 1999:
(A) New budget authority, $63,000,000,000.
(B) Outlays, $62,000,000,000.
Fiscal year 2000:
(A) New budget authority, $65,000,000,000.
(B) Outlays, $64,000,000,000.
Fiscal year 2001:
(A) New budget authority, $66,000,000,000.
(B) Outlays, $64,000,000,000.
Fiscal year 2002:
(A) New budget authority, $67,000,000,000.
(B) Outlays, $66,000,000,000.
(11) Health (550):
Fiscal year 1996:
(A) New budget authority, $124,000,000,000.
(B) Outlays, $123,000,000,000.
Fiscal year 1997:
(A) New budget authority, $132,000,000,000.
(B) Outlays, $132,000,000,000.
Fiscal year 1998:
(A) New budget authority, $142,000,000,000.
(B) Outlays, $142,000,000,000.
Fiscal year 1999:
(A) New budget authority, $154,000,000,000.
(B) Outlays, $153,000,000,000.
Fiscal year 2000:
(A) New budget authority, $167,000,000,000.
(B) Outlays, $166,000,000,000.
Fiscal year 2001:
(A) New budget authority, $181,000,000,000.
(B) Outlays, $181,000,000,000.
Fiscal year 2002:
(A) New budget authority, $197,000,000,000.
(B) Outlays, $197,000,000,000.
(12) Medicare (570):
Fiscal year 1996:
(A) New budget authority, $180,000,000,000.
(B) Outlays, $178,000,000,000.
Fiscal year 1997:
(A) New budget authority, $196,000,000,000.
(B) Outlays, $195,000,000,000.
Fiscal year 1998:
(A) New budget authority, $211,000,000,000.
(B) Outlays, $209,000,000,000.
Fiscal year 1999:
(A) New budget authority, $226,000,000,000.
(B) Outlays, $224,000,000,000.
Fiscal year 2000:
(A) New budget authority, $240,000,000,000.
(B) Outlays, $238,000,000,000.
Fiscal year 2001:
(A) New budget authority, $258,000,000,000.
(B) Outlays, $256,000,000,000.
Fiscal year 2002:
(A) New budget authority, $277,000,000,000.
(B) Outlays, $275,000,000,000.
(13) Income Security (600):
Fiscal year 1996:
(A) New budget authority, $216,000,000,000.
(B) Outlays, $219,000,000,000.
Fiscal year 1997:
(A) New budget authority, $233,000,000,000.
(B) Outlays, $237,000,000,000.
Fiscal year 1998:
(A) New budget authority, $252,000,000,000.
(B) Outlays, $246,000,000,000.
Fiscal year 1999:
(A) New budget authority, $257,000,000,000.
(B) Outlays, $257,000,000,000.
Fiscal year 2000:
(A) New budget authority, $267,000,000,000.
(B) Outlays, $268,000,000,000.
Fiscal year 2001:
(A) New budget authority, $276,000,000,000.
(B) Outlays, $275,000,000,000.
Fiscal year 2002:
(A) New budget authority, $286,000,000,000.
(B) Outlays, $283,000,000,000.
(14) Social Security (650):
Fiscal year 1996:
(A) New budget authority, $6,000,000,000.
(B) Outlays, $9,000,000,000.
Fiscal year 1997:
(A) New budget authority, $8,000,000,000.
(B) Outlays, $11,000,000,000.
Fiscal year 1998:

(A) New budget authority, $9,000,000,000.
(B) Outlays, $12,000,000,000.
Fiscal year 1999:
(A) New budget authority, $10,000,000,000.
(B) Outlays, $13,000,000,000.
Fiscal year 2000:
(A) New budget authority, $10,000,000,000.
(B) Outlays, $13,000,000,000.
Fiscal year 2001:
(A) New budget authority, $11,000,000,000.
(B) Outlays, $14,000,000,000.
Fiscal year 2002:
(A) New budget authority, $12,000,000,000.
(B) Outlays, $15,000,000,000.
(15) Veterans Benefits and Services (700):
Fiscal year 1996:
(A) New budget authority, $39,000,000,000.
(B) Outlays, $37,000,000,000.
Fiscal year 1997:
(A) New budget authority, $39,000,000,000.
(B) Outlays, $39,000,000,000.
Fiscal year 1998:
(A) New budget authority, $39,000,000,000.
(B) Outlays, $39,000,000,000.
Fiscal year 1999:
(A) New budget authority, $40,000,000,000.
(B) Outlays, $40,000,000,000.
Fiscal year 2000:
(A) New budget authority, $40,000,000,000.
(B) Outlays, $42,000,000,000.
Fiscal year 2001:
(A) New budget authority, $40,000,000,000.
(B) Outlays, $42,000,000,000.
Fiscal year 2002:
(A) New budget authority, $42,000,000,000.
(B) Outlays, $43,000,000,000.
(16) Administration of Justice (750):
Fiscal year 1996:
(A) New budget authority, $22,000,000,000.
(B) Outlays, $20,000,000,000.
Fiscal year 1997:
(A) New budget authority, $23,000,000,000.
(B) Outlays, $22,000,000,000.
Fiscal year 1998:
(A) New budget authority, $24,000,000,000.
(B) Outlays, $23,000,000,000.
Fiscal year 1999:
(A) New budget authority, $25,000,000,000.
(B) Outlays, $24,000,000,000.
Fiscal year 2000:
(A) New budget authority, $25,000,000,000.
(B) Outlays, $25,000,000,000.
Fiscal year 2001:
(A) New budget authority, $24,000,000,000.
(B) Outlays, $25,000,000,000.
Fiscal year 2002:
(A) New budget authority, $22,000,000,000.
(B) Outlays, $23,000,000,000.
(17) General Government (800):
Fiscal year 1996:
(A) New budget authority, $14,000,000,000.
(B) Outlays, $14,000,000,000.
Fiscal year 1997:
(A) New budget authority, $15,000,000,000.
(B) Outlays, $16,000,000,000.
Fiscal year 1998:
(A) New budget authority, $15,000,000,000.
(B) Outlays, $16,000,000,000.
Fiscal year 1999:
(A) New budget authority, $15,000,000,000.
(B) Outlays, $15,000,000,000.
Fiscal year 2000:
(A) New budget authority, $15,000,000,000.
(B) Outlays, $15,000,000,000.
Fiscal year 2001:
(A) New budget authority, $15,000,000,000.
(B) Outlays, $15,000,000,000.
Fiscal year 2002:
(A) New budget authority, $16,000,000,000.
(B) Outlays, $15,000,000,000.
(18) Net Interest (900):
Fiscal year 1996:
(A) New budget authority, $279,000,000,000.
(B) Outlays, $279,000,000,000.
Fiscal year 1997:
(A) New budget authority, $291,000,000,000.
(B) Outlays, $291,000,000,000.
Fiscal year 1998:
(A) New budget authority, $302,000,000,000.
(B) Outlays, $302,000,000,000.
Fiscal year 1999:
(A) New budget authority, $309,000,000,000.
(B) Outlays, $309,000,000,000.
Fiscal year 2000:
(A) New budget authority, $316,000,000,000.
(B) Outlays, $316,000,000,000.
Fiscal year 2001:
(A) New budget authority, $320,000,000,000.
(B) Outlays, $320,000,000,000.
Fiscal year 2002:
(A) New budget authority, $325,000,000,000.
(B) Outlays, $325,000,000,000.
(19) Allowances (920):
Fiscal year 1996:
(A) New budget authority, −$5,000,000,000.
(B) Outlays, −$5,000,000,000.
Fiscal year 1997:
(A) New budget authority, −$6,000,000,000.
(B) Outlays, −$6,000,000,000.
Fiscal year 1998:
(A) New budget authority, −$5,000,000,000.
(B) Outlays, −$5,000,000,000.
Fiscal year 1999:
(A) New budget authority, −$6,000,000,000.
(B) Outlays, −$6,000,000,000.
Fiscal year 2000:
(A) New budget authority, −$3,000,000,000.
(B) Outlays, −$3,000,000,000.
Fiscal year 2001:
(A) New budget authority, −$7,000,000,000.
(B) Outlays, −$7,000,000,000.
Fiscal year 2002:
(A) New budget authority, −$23,000,000,000.
(B) Outlays, −$23,000,000,000.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 1996:
(A) New budget authority, −$32,000,000,000.
(B) Outlays, −$32,000,000,000.
Fiscal year 1997:
(A) New budget authority, −$31,000,000,000.
(B) Outlays, −$31,000,000,000.
Fiscal year 1998:
(A) New budget authority, −$31,000,000,000.
(B) Outlays, −$31,000,000,000.
Fiscal year 1999:
(A) New budget authority, −$33,000,000,000.
(B) Outlays, −$33,000,000,000.
Fiscal year 2000:
(A) New budget authority, −$39,000,000,000.
(B) Outlays, −$39,000,000,000.
Fiscal year 2001:
(A) New budget authority, −$41,000,000,000.
(B) Outlays, −$41,000,000,000.
Fiscal year 2002:
(A) New budget authority, −$48,000,000,000.
(B) Outlays, −$48,000,000,000.

SEC. 5. RECONCILIATION INSTRUCTIONS.

Upon the adoption of this resolution, the chairman of the Committee on the Budget of the House of Representatives and the chairman of the Committee on the Budget of the Senate, after consultation with the ranking minority member of such committee, shall each file reconciliation directives in the Congressional Record to effectuate the provisions and requirements of this resolution. For all purposes of the Congressional Budget Act of 1974, those reconciliation directives shall be deemed to be reconciliation directives set forth in this revised concurrent resolution on the budget for fiscal year 1996.

The SPEAKER pro tempore (Mr. EMERSON). Pursuant to House Resolution 309, the gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. SABO] each will be recognized for 1 hour.

The Chair recognizes the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HOEKSTRA], a member of the Committee on the Budget.

Mr. HOEKSTRA. Mr. Speaker, I thank the gentleman from Ohio for yielding time to me.

Twenty-eight days ago, this Congress reached an historic agreement with the President, really a contract, submit a plan to balance the budget, a plan that would balance the budget within 7 years, a plan that would balance the budget using Congressional Budget Office numbers.

Over the next 2 hours, you will hear a lot of debate and discussion on the President's plan. We will then have a referendum. We will have a vote on the President's best effort to balance the budget, an effort which disappointingly still has at least a $75 billion deficit in the year 2002.

The President's plan does not reach balance. We will have to decide as a Congress whether this plan is good enough, whether this plan is good enough for this Congress at this time. But more importantly, we will have to decide whether this plan is a plan that is good enough for our kids. Is it good enough for the next generation?

I do not think this plan meets that test. This House can do better. This House must do better. We must do significantly better than the President's plan.

I think over the last 28 to 30 days it has become increasingly clear that, as we wage this historic battle, this House of Representatives must take the lead in restoring fiscal sanity to this country. This is an historic battle. This House has to lead this effort. The vote will happen in 2 hours. Vote no on the President's plan, and let us continue working on a real plan that reaches balance.

Mr. SABO. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Missouri [Mr. GEPHARDT], the minority leader.

(Mr. GEPHARDT asked and was given permission to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, I rise today in deep disappointment with the Republican Members of this House.

It's bad enough that they are pushing a budget plan that slices deeply into Medicare and Medicaid to shower tax breaks on the wealthiest Americans.

It's bad enough that they won't accept the President's constitutional obligation to veto their extremist budget—and actually shut down the Government twice to try to keep it on the table.

Now the Republicans want to waste 3 hours of the precious time in which we should be negotiating, by forcing a vote on a phony budget which even the Republicans admit is a sham.

I suppose the Republican leadership thinks this is good politics. But let's face it: It's lousy Government.

This pointless, vote has absolutely nothing to do with the real work of this Congress: reopening the Government with no threats or conditions; and then finding budget solutions, not just budget soundbites.

This vote does nothing to end the Republicans' Government shutdown, which has denied millions of Americans the services they depend on—the services they pay for.

This vote does nothing to balance the budget in 7 years—or in any number of years.

In fact, this vote amounts to little more than a posture and a press release—a cynical attempt to play politics instead of rolling up our sleeves and getting down to work.

Well, let me say this:

America doesn't want deep Medicare cuts that will double seniors' premiums and force them to give up their doctors—all to give wealthy investors another tax windfall.

America doesn't want to slash child health, child nutrition, and school lunches to stuff the stockings of the most affluent Americans.

You never told them that was your agenda when they voted for you in last November's elections. In fact, when they find out what's really going on, hard-working families are overwhelmingly opposed to the Republican agenda.

And I hate to be the one to tell you this, but nowhere in the United States Constitution does it say that the Congress gets to shut down the Government if it does not like the President's veto, and doesn't feel like compromising even 1 inch.

You see, that seems to be the Speaker's belief. He said in yesterday's Wall Street Journal, and I quote, he "had to find a trump to match—the President's veto." So while the Republicans are busy rewriting the Constitution and inventing partisan card games—children, seniors, and whole families are falling on the chopping block.

You see, almost 1 month ago, the Republicans in this House made a pledge to protect Medicare, Medicaid, education, and the environment. Since then, they have failed that test—every day and in every way.

So let us stop trying to change the subject. Let us stop these hollow political gestures.

Let us start to work together, across party lines—not just to play accountant, and balance the budget at any cost and in any way——

But to balance the budget in a way that also balances our priorities.

Frankly, if the Republicans can not do that—if it's more important to them to stall and showboat—then it's not Republicans or Democrats who lose—it's all of America.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the very distinguished gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Speaker, I thank the chairman for yielding time to me.

Mr. Speaker, the previous gentleman, the minority leader, as well as the other gentleman from Missouri suggested that this is a show, this vote is a show. The problem is not that this vote is a show. The problem is that the President has been a no-show. The President made an agreement 29 days ago that he would in good faith negotiate a balanced budget based on honest numbers by the year 2002. But the President has been a complete no-show.

So I applaud our chairman, the gentleman from Ohio [Mr. KASICH], who has rendered into reality the ideas that the President has talked about and has forced the President into a budget which actually shows what he would have. If the President does not like it, if the Democrats do not like it, then let them say where they do not like it and correct it, and let the President come to the table and negotiate with the only, the sole precondition that we have a balanced budget in 7 years with honest numbers.

□ 1430

Mr. SABO. Mr. Speaker, I yield myself such time as I may consume.

Mr. COLEMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. SABO. I yield to the gentleman from Texas.

Mr. COLEMAN. Mr. Speaker, we were just told by the gentleman in the well, the gentleman from Ohio [Mr. HOKE]; he said to us that, if we did not like it, we could change it. I suppose he means change it here on the floor.

Let me ask the gentleman this question:

Was there a committee hearing on this proposal that we are to vote on today?

Mr. SABO. No.

Mr. COLEMAN. Mr. Speaker, how in the world, the question then is how in the world, are we supposed to change it? By the way, it is a closed rule that the Republicans just passed, does not allow us to offer any amendments, so we cannot say how we would change it other than by giving up and trying to get a second or two and make a speech.

Mr. Speaker, the gentleman and I know this is a political sham it is hollow, as the minority leader said, and it is not deserving of the attention of this House, nor is it deserving of the votes of the Members who represent constituents across this country, and I, for one, do not intend to vote for what is now being called a majority staff report, and that is all it is on the Committee on the Budget, the staff puts some notes together, and I am not going to vote for or against it. It is not worthy of my time.

Mr. SABO. Mr. Speaker, I reclaim my time.

Mr. Speaker and Members, I think it is sort of a sad day. We have important work to do in this Congress. We should be passing a continuing resolution to have the Government operating. Then people who have very large and fundamental disagreements should be at the table negotiating differences. We should be there negotiating over substance and dollars that involve the fundamental future of this country rather than engaging in gamemanship.

To my friends on the Republican side, Mr. Speaker, let me just say, Please watch your rhetoric as it relates to certain things. I hear all this description of honest numbers, real numbers. I don't know what they are, CBO doesn't know that they are. I would just remind my friends that from midsummer to a couple of weeks ago those so-called and honest numbers changed by $135 billion. They were called real and honest in mid-summer; $135 billion later they are still real; and honest.

The reality is we are looking to the future, we are trying to look longer in to the future than we have ever looked before in a budget. We are looking 7 years rather than 5 years. We have trouble looking 5 years into the future. We make guesses based on certain assumptions, and we should have a little humility.

I happen not to disagree with my colleague's conclusion that we should use in the fundamental differences over CBO revenue numbers, where there is a $57 billion difference in 2002, but I do not describe them as honest or unreal, but if we are going to seriously try and balance the budget and hope that it may actually work, we should use cautious numbers. That is what they are, the more cautious numbers, not the real numbers as if somebody else is using unreal or honest versus dishonest. That is not the case. There are legitimate, very small differences in economic assumptions than when you project over 7 years become substantial. If we were projecting 5 years, those differences would not be that great.

As a matter of fact, over the first 3 years amazingly the revenue number between OMB and CBO differs by a grant total of $1 billion. But just as in the hope that what we do this year may actually work, I want to use cautious numbers. I also want to make sure that we structure a program on the spending side that may actually work rather than putting together crazy scenarios where the odds of success are very little. That relates in part to how we structure a tax cut.

Mr. Speaker, I look at their tax numbers, I disagree with them on the substance of capital gains tax cut for the most affluent in this country, but, if we are going to do it, do honestly.

I look at their numbers, and it costs $9 billion in 2001, and then it gains money in 2002. Where did the money go? Then it is back up to $9 billion in 2003. How amazingly it goes like this, dips in the year they are in balance, and goes up the year afterwards. Same as using the most optimistic revenue assumptions.

I look at their Medicaid Program. My State; I trust that better than the projections I get from various experts around here. Lo and behold, I discover that they expect in the first 2 years they are going to get more money than if we did no change. But then at the end of the year 4 it falls off the table. I compare it to our coalition budget. First 3 to 4 years, about the same; year 2002, miraculously theirs costs $2 billion less.

Unrealistic assumptions about what States with any great flexibility can do. I suspect a little politics. All of these Governors are going to get all their money to play with with no guarantee they provide health care to anyone. I think they will all either be reelected to their second term in office or they will all be out of office before the real cuts occur that are going to force them either to take people off the health rolls or they increase their State and local taxes, and they do that throughout their budget.

So to the President I say, Be cautious on your revenue estimates. To the Republican majority I say, Be real in the way you structure the long-term funding of programs. Then may be we can succeed in the end.

But I have to tell my colleagues if I really want to balance the budget, have lower interest rates, which I think will happen, it is possible, but we are going to have to get pragmatic, we are going to have to depolarize things, and we are going to have to fundamentally conclude that borrowing lots of extra money to pay for a tax cut to start on the path to a balanced budget does not make much common sense.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. SABO. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, I just want to ask one question I have asked several times. I was hoping the gentleman from Ohio [Mr. KASICH] would be here because I trust him to be a honorable man in, certainly, our friendship over the years, and I have asked this question time and time again. People have come to this well and talked about how there is no cuts in Medicare, and we have talked about how the cuts in Medicare will affect senior citizens, and I happen to be a senior citizen. We talked about how they are going to use the tax cuts from Medicare for a tax cut. I would ask the gentleman:

If CBO does not score the $270 billion in reductions, or cuts, or whatever the gentleman wants to call it, in Medicare, unless they score them, we cannot have the $240 billion tax cut; is that right?

Mr. SABO. Mr. Speaker, we have got to score enough cuts in Medicare and other programs to provide for a $242 billion tax cut over 7 years, and the Medicare cut was 270, now it is 230-something.

Mr. HEFNER. But we have to have it scored by CBO.

Mr. SABO. Absolutely.

Mr. HEFNER. So if it is scored to make room for a tax cut, it is a cut in Medicare to make room for a tax cut, it is a cut in Medicare to make room for a tax cut. If it walks like a duck, it quacks like a duck, in all probability it is a tax cut, and they are going to use Medicare to pay for it, and make no mistake about it, and it is not scare tactics. It is telling the senior citizens the truth, and that is what scares them.

Mr. SABO. The gentleman from North Carolina has good judgment.

Mr. HOBSON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DeLAY. Mr. Speaker, I rise in opposition to this sad alternative to a real balanced budget.

The President agreed almost a month ago to balance the budget using honest numbers. Instead, he has offered us this budget, unbalanced and discredited.

This budget alternative has been discredited for two simple reasons. It does not balance. It will not get any support from an overwhelming bipartisan majority of this House.

First, the budget does not balance. It does not even come close to balancing. Even with a parade of smoke and mirrors that would make Houdini blush, the President's budget still remains $87 billion short of balance.

Why is reaching balance so important? Because if we do not reach balance, we cannot get the balanced budget dividend.

The President wants his cake, and wants to eat it too. That may work in the White House, but it does not work in the real world.

To get interest rates down, to give middle-class families a break on car loans, on mortgage rates, on school loans, we need a balanced budget.

And if my colleagues do not believe me, look what happened yesterday on the stock market.

Second, this budget will not come close to receiving a majority vote in this House, and that opposition will be bipartisan. Members on both sides realize that the President's budget is a loser.

My question to the President is this: If you knew it was wildly unpopular, why did you put it on the table?

And that is the real reason why we are voting on this alternative. We have not been able to engage the President in honest discussions, so we are forced to show the American people where the administration has failed. And it has failed miserably.

So, I urge my colleagues on both sides of the aisle to send the President another message:

Get serious on a real balanced budget. Keep your promise, keep your word, and work with the Congress to save America's future.

Balance the budget now.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Speaker, sometimes the answers to our problems are so obvious that we miss them entirely, and that is exactly what is happening right now in this debate.

With the budget developed by the Democratic coalition, we can break this impasse right now. We can give the American people the best Christmas present ever: A budget that is balanced fairly and equitably.

Our plan balances the budget in 7 years under CBO scoring, it reduces the deficit faster and deeper than the Republican plan, and it provides greater resources to programs vital to working Americans.

But let me use my time to focus for a moment just on Medicare.

The coalition has developed a Medicare reform plan that meets the demand of the American people for fairness, and efficiency and reform. It assures the solvency of Medicare through the year 2014. It asks all participants in Medicare to share in protecting the program's future. It achieves private-sector innovations, including provider-sponsored networks and private-sector managed care. It provides expanded coverage for preventive care. It avoids the deep cuts that threaten the future of rural hospitals in my district and other rural areas.

Our bill provides $100 billion more for Medicaid than does the Republican conference plan, and by doing so it insures health care coverage for our most vulnerable citizens and for our rural communities. This is why an increasing number of health providers are lining up behind the coalition's Medicare reforms.

Just last Thursday, the American Hospital Association issued a statement which said it is time for a bipartisan solution on the budget and on Medicare and Medicaid, and the coalition plan is a good framework. More than a dozen other leading organizations have joined the AHA in praising our budget's health care providers.

REVISED BUDGET RESOLUTION REFLECTING THE PRESIDENT'S MOST RECENT PROPOSAL

(Continued)

☐ 1445

Mr. KASICH. Mr. Speaker, the American people want us to break this impasse and to balance this budget now. On Medicare and every other contentious issue, it is the coalition's budget that provides the framework to do just that. Let us get back to the table, Democrats and Republicans, and let us balance this budget for the American people.

Mr. HOBSON. Mr. Speaker, I yield 45 seconds to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, I would like to congratulate the gentleman from Virginia [Mr. PAYNE]. The problem is that only 60-some Democrats voted for his budget that did balance.

Mr. Speaker, it is easy for the President and some Democrats to say they want a balanced budget, but it is hard for them to offer a proposal to show where those cuts are coming from. I believe one of two things is going to have to happen before we break this budget impasse. One, the President is going to have to stop playing politics and do what is right for the future of this country; or, Americans are going to have to spend some hard studying time realizing how serious this overspending problem is and what it does to their future.

Mr. Speaker, it is not easy politically to reduce the growth in Government. The bottom line is if we fail this time in cutting the growth of Government and balancing the budget, we are not going to do it for many years. Vote against this budget for what it is. It is politics as usual, spending and taxing and borrowing as usual.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank my friend, the gentleman from Minnesota, for yielding time to me.

Mr. Speaker, this is an exercise in fun and games, Republican-style. We are just given this budget. We do not know what is in it. It is just like yesterday's irrelevant resolution. We should be doing the work of the people. We should be passing a clean continuing resolution so the Government could open, but Republicans do not want to do it.

Let us make one thing clear: It is the Republicans that have shut the Government down. There is no reason to link the continuing resolution to keep the Government open with a 7-year balanced budget. There is no reason to link it. The reason we have the Government shutdown is because the Republicans did not do their job and pass the appropriations bills by the end of the fiscal year, September 30.

Let us look at the Republican budget. Medicare decimated, Medicaid decimated, all to pay for tax cuts for the rich; education, our children's future, decimated; the environment, decimated; tax increases for working families. This is the Republican budget. It is mean-spirited and it is extreme.

Let us stop playing the phony Republican shell game. That is all it is. They talk about family values. What kind of values are we giving to our children under this Republican plan? This is a farce. We should be passing a continuing resolution to keep the Government open.

Mr. HOBSON. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Speaker, President Clinton has abandoned his commitment to balance the budget in 7 years. Still, after four attempts, the Clinton budget maintains a $426 billion deficit over 7 years. Just 30 days ago the President signed a promise to the American people, and I quote, "The President and Congress shall enact legislation to achieve a balanced budget no later than fiscal year 2002." The President has broken his word. Vote "no" on the President's massive $426 billion unbalanced budget.

Mr. HOBSON. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, my colleagues on the Democrat side of the aisle keep telling the American people that we are cutting, cutting, cutting, we are going to hurt everybody. Let me give some figures. We are increasing, increasing the earned income tax credit by $6 billion; school lunches we are increasing by $1.7 billion; student loans by $12 billion over the next 7 years; Medicaid we are increasing by $38 billion, and Medicare by $112 billion. Yet they continue to tell the American people and scare old people into believing we are cutting them.

Yet, when we bring to the floor the President's budget, they do not want to vote on it. Do Members know why they do not want to vote on it? Because they know it is not a real budget. They know it is nothing but smoke and mirrors. They know the President is not sincere. They know it is a bad budget that is bad for America, and they know that even they will vote against it. They do not want to have to vote against it.

Our budget is real. We balance the budget in 7 years. We still give a tax cut, and we increase spending for very important programs like Medicare. The Democrats should come clean.

Mr. HOBSON. Mr. Speaker, I yield 45 seconds to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, the goal we have here, all of us, Democrats and Republicans, as I see it, is to have a balanced budget, the first one in 27 years, but we are at an impasse. We have to overcome this impasse.

If there were a plan to do it, would you be interested? Because I have a plan. Here is what we should do. The bill we have before us is not a balanced budget. Let us vote it down. Let us pass the Republican balanced budget for the first time in 27 years, but let us give President Clinton the benefit. Let us say it is his budget so we can both win here in the Capitol and at the White House.

We had Edward Demming here before he passed away, the great strategist, who said, "In the world today you have to have a win-win strategy." This would be a win-win strategy. The Democrats would win, the Republicans would win, but do you know who would be the biggest winners of all? It would be the American people, because for the first time in 27 years we would have a balanced budget.

Let us do it. Let us get over this hurdle. Let us get around this impasse. This is the way of doing it.

Mr. STENHOLM. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I rise in support of the Coalition budget, the best budget around here.

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, the Republicans are on the floor with another meaningless bill. They had one yesterday when they tried to make the people believe that the President had not already agreed to the CBO numbers and a 7-year balanced budget. He had already done that, so that was meaningless. Today they are back again.

Nobody knows what is in this bill. They do not know, we do not know. It has not been scored. It has not been analyzed. The real negotiations start at 3 o'clock. The President has a meeting with Senator DOLE and with NEWT GINGRICH. They know it. They know that they are not accomplishing anything by being there.

As a matter of fact, Mr. Speaker, the President has been to the table. He has told you he is not going to let you devastate old people. You cannot get any more money out of Medicare and Medicaid. You cannot do away with our priorities of education and environment that you agreed to. The real problem is you cannot count. You cannot save money and give away money at the same time. You have got to learn. If you want to save, you cannot have a tax cut of $245 billion.

Mr. HOBSON. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, what we have in front of us is our best attempt to construct the President's budget. I want to spend a few minutes talking about the Medicare portions of the President's budget, because frankly, he has probably focused on this more than most of the other provisions in the budget.

The gentlewoman from California just indicated that we cannot get any more money out of Medicare. Rather than listen to me, I would rather have Members listen to the words of a television program that ran December 12.

It is called Nightline. Ted Koppel said, "Tonight Mediscare, Rhetoric Versus Reality."

For one of the very few times on the national media, serious newspaper people focused on the rhetoric versus the reality in the Medicare discussion. What was said, I hope, will enlighten us. What was said on that program by an ABC reporter by the name of Chris Bury was that the Washington Post said:

> The Democrats, led by the President, have shamelessly used the issue, demagogued on it, because they think that's where the votes are.

The Democrats are demagoguing on Medicare. To substantiate that point, Nightline then discussed the fact that you have to reduce Medicare to balance the budget. In fact, they used a clip from 1993 when the First Lady, Hillary Rodham Clinton, was in front of the Committee on Ways and Means. This is what the First Lady said in front of the Committee on Ways and Means in 1993. She said:

> We are talking about beginning to reduce the rate of increase in Medicare from about 11 percent to about 6 or 7 percent annually.

In fact, the Republican plan reduces it to 7.2 percent. What did the President say about the Republican plan? On October 19, on the program, a news clip of the President, he said:

> On Medicare, the House is voting on a $270 billion cut on Medicare that will eviscerate the health care system for our older Americans.

That is plain and simple demagoguing, plain and simple demagoguing.

More importantly, Mr. Speaker, what was said in the program later is what I want to focus on for a minute. Uwe Rhinehardt, who is a professor at Princeton University, in fact he helped the task force on an unassigned basis, said:

> The real problem is the current Medicare program cannot accommodate the baby boom after the year 2010. We need to reform Medicare.

Ted Koppel asked Mr. Glassman, who is a columnist for the Post, "Do you agree, Mr. Glassman, the problem is not the one between now and the year 2002 but the one beyond the year 2010?" The answer, "Absolutely." What is it that is going on beyond the year 2010? Guy King, an actuary for HCFA for 24 years, for 17 years the chief actuary, has now given us a picture of the world beyond 2010.

Let us take a worker who in 2010 is 22 years old. They are going to get an average wage for the time they work. In 2053 they retire at 65 years of age. Under the current law for Medicare, part B this person would pay over their lifetime into the current law Medicare, in nominal dollars, $281,000. Under President Clinton's plan as determined by the actuary, $280,000. What is the GOP plan, the plan that reforms Medicare? One hundred and forty thousand dollars ($140,000) over the lifetime of that worker.

This is what this debate is about. For those people who go to work at 22 years of age in 2010 and work hard for an average wage, the President makes virtually no change from the current law, despite all of his handwringing. What Republicans do is reform Medicare. What was said on that program by all of the experts is if you do not reform Medicare, you cannot balance the budget. The President has a phony plan. He does not do what he needs to be done in the area of reforming Medicare. It is Mediscare, it is demagoguery.

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Speaker, this debate here this afternoon is in many ways a metaphor for what has been wrong with this session of the Congress. It is a lot of politics and very little substances. The gentleman that preceded me to the floor here just a few moments ago is alleging to convince us that he knows what is going to be going on with regard to the health care system 58 years from now, a preposterous notion.

They are claiming to balance the budget. If they really wanted to balance the budget, they would follow the rule that was laid down 3 year ago. The budget deficit today is half of what it was just 3 years ago. If they really wanted to balance the budget, the plan has been laid out. They know how to do it. We have set the pattern for them.

What you want to do, really, is to destroy the health care system for older people and for people on Medicaid. We know that. We have it in your own words. BOB DOLE was bragging that he voted against it when it was first brought to the floor here 35 years ago. Your own Speaker, speaking before the Blue Cross-Blue Shield group at your convention here in Washington just a few weeks ago, said that you did not have the nerve to attack Medicare directly, you were going to go about it circuitously, withdraw the funds and let it wither on the vine. We are wise to you. We know what you are all about.

□ 1500

Mr. HOBSON. Mr. Speaker, I yield 13 minutes to the gentleman from Texas [Mr. ARCHER] and ask unanimous consent that he be allowed to control the time.

The SPEAKER pro tempore (Mr. EMERSON). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ARCHER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, for 26 years, Republicans wandered in the minority, crying out for a balanced budget. If only we were elected the majority, we said in our Contract With America, out first action would be to balance the budget, and last November it happened. We were elected to the majority and we did exactly what we said. We passed a balanced budget and we did it without increasing taxes.

Conventional wisdom said, it cannot be done. But we knew that it was too important to our children's future not to balance the budget.

The critics, however, said the budget could not be balanced because politicians were afraid to confront the problem of explosive entitlement spending, and they said that the budget could not be balanced without increasing taxes.

Well, Mr. Speaker, the new majority broke with that conventional wisdom and proved the skeptics wrong. We threw aside the politics of the past and made the tough decisions that have brought us to the brink of a balanced budget, our Nation's first since 1969.

Make no mistake: We are here today talking about a balanced budget solely because the people elected a Republican Congress. If the Congress was still controlled by the Democrats, they would still be passing tax increases and President Clinton would still be signing them. They would still be dodging reforms of entitlement and President Clinton would be there with them.

But fortunately we have another direction to choose. Republicans have defeated conventional wisdom and are bringing real change to Washington. We are now at the point where the only person standing in the way of real change and a real balanced budget today is President Clinton. This debate today tests the question of whether this President is truly committed to a balanced budget, and at this point, I can only conclude that he is not.

Mr. Speaker, the President's budget strikes out on three pitches. It is not balanced, it spends more, and it taxes more. His fourth budget of the year, the one we vote on today, leaves the Nation with a deficit of $87 billion in the year 2002.

If you like the politics of the past, if you support higher taxes, more Government spending and continued deficits for as far as the eye can see, then you will support this President's budget. If you want to break with the past, cut taxes, cut spending and bring our Nation's budget into balance for the first time in a generation, then you will vote against the President's budget and support our plan for welfare reform, cutting taxes on middle-income Americans, saving Medicare, and balancing the budget, using real numbers.

Join with me, break with the past, and bring real change to Washington, defeat the President's budget.

Mr. Speaker, I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, here we are debating another smoke screen to keep the American people from knowing exactly what is in the Republican budget, what that budget really does. Exactly 1 month ago today, the President and the Congress adopted by resolution a continuing resolution that said quite clearly that we were going to have a balanced budget by the year 2002, and that that balanced budget must, and I quote, "provide adequate funding for Medicaid, education, agriculture, national defense, veterans, and the environment," and further, quote, "will adopt tax policies to help working families."

Now, what does the budget do? Does it provide adequate funding for Medicaid? Absolutely not. It cuts Medicaid by $133 billion, by the most recently revised figures. That takes money from long-term care, which is what provides for elders in nursing homes, people who have used all of the resources that they have available, and takes away their capacity.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, let us not forget that the balanced budget that we are looking at today is more than just a balanced budget; it is also about its contents. On the question of welfare reform, it is time for a compromise. The President can start by stopping his campaign to demonize the Republican plan. We have bargained in good faith and we have moved dramatically in the administration's direction by putting together a reasonable welfare reform bill that the President can and should sign.

We recently sent to the President a lengthy response showing that our negotiations have produced an agreement that is complete or in substantial agreement with 85 percent of the 88 specific objections that the administration raised in October, 85 percent. How many negotiations do we enter into where the other side can win on 85 percent of the issues, and they still are not satisfied?

We provide more child care funds and more cash welfare funds than States would get under current law. These are not cuts; these are not even reductions in the rate of spending growth. The are absolute increases in Federal spending above the CBO line, and spending on all of these welfare programs covered in our bill rises over 4 percent each year. Yet, despite our willingness to compromise, the administration continues to claim that is not enough and that we are harming millions of children. That is baloney.

This administration has shown no willingness to compromise, to put a credible alternative plan on the table, and the budget we have before us today is simply proof of that fact.

Mr. Speaker, I would say to the President if he were here that the welfare reforms in your latest bill do not end welfare as we know it today, and the President knows that. He knows that the American people know that.

Mr. President, in the next few days, you will receive a bill that will allow you to fulfill your pledge to end the current failed welfare system. We await you decision, and the American people are watching to see whether you can be counted on to keep your word and change welfare as we know it today.

Mr. STENHOLM. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, here we are, a week before Christmas, and almost 3 months past the beginning of the fiscal year, and we have a Government that is shut down. We are nowhere close to passing a 7-year balanced budget plan that protects Medicare, Medicaid, education, the environment, and poor children. How come? How come?

Well, Speaker GINGRICH and the new majority just does not seem to be able to do their job. For sure, they have not done their job when it comes to passing the spending bills. In fact, 75 percent of nonmilitary domestic spending for this year has yet to be approved, 75 percent. And the new majority certainly has not done their job when it comes to living up to their side of the budget negotiations. They have yet to deliver a plan that protects Medicare, Medicaid, education, our environment, and poor children.

Instead, the new majority is down here on the floor today fiddling, fiddling as the Nation burns. That is right. The new majority is fiddling today as crucial services for the elderly, veterans, and our national parks are cut off, and the stock market is drooping.

This Nation cannot afford another day of NEWT's dangerous games. It is time for the majority to stop fiddling, to stop fiddling around and wasting time. It is time to stop the political grandstanding. Let us reopen the Government today.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, if this Congress does nothing, in 15 short years with the policies embodied in current law, every single dollar of tax revenue will go to entitlements or interest. If there is no serious reform of our budget and the policies that underlie it, in 15 years there will be no money for roads and bridges and airports, no money for education and Head Start, no money for embassies abroad, no defense, no EPA enforcement.

We cannot allow that to happen, and yet the President's budget does nothing but deal with dollar figures. Just cutting here and cutting there will not put this Nation on a sound financial basis. We must reform the way we use our dollars. We have to reform Medicare, we have to reform welfare. This is not a budget that creates a future for our Nation.

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Mr. Speaker, let us face it. The President and the Democrats want to save Medicare and Medicaid. Those are our priorities. The Republicans want to do that, but they want $245 billion in tax cuts. The two things cannot be done. My colleagues, we cannot have $245 billion in tax cuts and save Medicare and Medicaid. It is just that simple. That is what the American public needs to understand.

Forget about all of this rhetoric, forget about all of this air. The bottom line is, we need to save this for the people of this country.

Mr. Speaker, we have been talking about how this is President Clinton's budget. How can we vote for this when this is just like taking one of the old master's paintings, one of the old Dutch masters, and come up and reproduce it and say, this is a real Rembrandt or this is one of the real Dutch masters. It is not. We must know a phony when we see it.

So we cannot do that. The real Clinton budget saves older Americans, it saves education, it saves children. We need real, honest figures. These are not real, honest figures. The Congressional Budget Office has changed this by $135 billion, different from what it was in the beginning.

Face it, America. Come through with the figures and then help the American public save Medicare and Medicaid. We have to do it.

The resolution before us today is just like those phony paintings by the old masters that pop up every now and then. The sellers say that the painting is a Rembrandt, but the experts know that it is really just a fake. Let us face it President Clinton and the Democrats want a balanced budget in 7 years with our priorities—Medicare and Medicaid.

Well, let us get real: This is not really President Clinton's budget; it is a Republican reproduction of President Clinton's budget.

The real Clinton budget will provide Medicare and Medicaid for older Americans.

The Republicans have taken something of value and made it worthless, because they are so desperate.

They were elected to govern, but they have proven that they do not know how to govern. They can only stalemate.

They do not know how to compromise; Republicans can not pass appropriations bills on time—three of them have not even gotten to the President yet.

CHARLIE STENHOLM and the coalition and President Clinton have proven that you can balance the budget in 7 years and still maintain our compassion for the poor, and the elderly, and people in nursing homes. Republicans talk about balancing the budget with real, honest Congressional Budget Office numbers. Let me remind you that Congressional Budget Office real numbers have changed by $135 billion. So the key is getting rid of that hallowed Republican $245 billion tax cut.

But here we are, less than a week before Christmas, and we see this Republican reverse Robin Hood: "Take from the poor and give to the rich".

Republicans, you can balance the budget in 7 years, but you cannot provide a $245 billion tax cut.

Mr. Chairman, defeat this phony facsimile of the Presidents' budget resolution; drop that quarter-trillion dollar tax cut; and let us write real budget.

I will show you how.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana [Mr. MCCRERY].

Mr. MCCRERY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, what we are debating here today is the latest offering of the President in the budget negotiations, and that latest offering has been scored by Congressional Budget Office, and that latest offering has been found by Congressional Budget Office not to balance the budget in the year 2002. So for those of my colleagues who are saying that we are fiddling here today, that we are doing nothing, I want to point out that it is the President who is fiddling.

The President has yet to put on the table a budget that will be in balance in the year 2002, and what we are doing here today, very frankly, is underscoring one more time that the legislative branch of this Government wants to produce, with the President's help and signature, a balanced budget in 7 years using Congressional Budget Office figures.

If my colleagues vote for this budget today, they are saying they do not want a balanced budget in the year 2002. But I suspect they do, and I suspect they will vote against it.

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, the President, Democrats, and Republicans have all agreed to balance the budget in 7 years. That debate has been won. What are we talking about? The debate had been won that we would balance the budget in a time certain, 7 years. So why are we going through this?

We should not be in a debate about whether we balance the budget; the debate is really about how we balance the budget, who will pay and who will lose? Will there be shared pain, shared sacrifice, as we go through this process? That is what the debate is about.

This resolution that is on this floor is an insult to our intelligence and to the American people. This is not the President's budget. My Republican colleagues took his old submission and gave their interpretation of it. It really should be a clean continuing resolution to allow the Government to go on as we serve the citizens and the Nation. While we debate how we actually balance the budget, we should let the people of this country be served well by the citizens.

This debate really is the wrong debate. We should defeat this bill not because it is the President's bill, we should defeat the bill because it is a phony act on the part of the Republicans.

□ 1515

Mr. ARCHER. Mr. Speaker I yield 1 minute to the gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Speaker, the President's budget we vote on today, and I would agree with the former speaker, is insulting. It is not only a broken promise, it is a broken law.

Twenty-nine days ago the President signed into law a commitment to present a plan to balance the budget in 7 years using Congressional Budget Office numbers. Instead, he has sent us a budget that continues deficit-spending and fails to balance by at least $87 billion in the year 2002. It is out of balance by $87 billion.

Mr. Speaker, the President has said in speech after speech and press release after press release that he favors a balanced budget. Why does he refuse to submit one? We will negotiate a great many items in our balanced budget proposal but we cannot and will not compromise on our commitment to balance the Federal budget in 7 years with honest numbers.

Vote against the President's budget and end the policy of spend now, pay later.

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Speaker, the reason we are here today is to talk about the comparisons between what the Republicans want to have in their budget and what the President wants.

The President has agreed to a 7-year budget using CBO numbers, but the reason we cannot come to an agreement is because of the tax cuts that the Republicans want to have before they really get to the 7-year balanced budget.

The Republican budget not only wants to provide tax cuts, but they want to slow growth in, their terminology, Medicare by forcing seniors into managed care that they opposed last year in President Clinton's health care plan, raise the premiums, cut doctor and hospital reimbursements, and cut senior citizen health care.

I have a letter I received today from a senior citizen in my district who may very well decide to use managed health care right now, but that is her choice. Under the Republican budget, she will be forced to do it because she cannot afford the $100 extra that it is going to cost her on her supplemental policy.

The other difference is the education cuts. The Republican budget over the 7 years will cut Federal funding for education just like the rescissions bill earlier this year cut schools in my district. It is wrong to cut Medicare and education to provide tax cuts.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. ENGLISH].

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I rise in strong opposition to the Clinton budget. Not only is it bloated and unbalanced but it contains a dog's breakfast of job-killing tax changes dreamed up by green eyeshade types apparently in the bowels of the Treasury.

For example, the Clinton budget would strike the so-called 2 percent de minimis rule which allows companies to invest up to 2 percent of their assets in tax-exempt bonds without any cumbersome recordkeeping. Eliminating this rule would severely impact the market for small issue industrial development bonds, a key local job creation instrument, and would raise interest costs for all State and local government borrowing. In short, eliminating this rule will eliminate jobs and raise local taxes.

In addition, the President's plan contains a proposal to deny deductions to companies on certain securities they issue, discriminating against long-term debt financing.

By limiting the financial options of American companies, the Clinton budget would limit their ability to invest in new equipment and technology. It would hurt the ability of American workers to compete in the world market. Vote against this budget.

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I would like to continue on the trend of the gentlewoman from North Carolina talking about where we are today. As she pointed out, yesterday we voted roughly 390 to 41 to have a 7-year balanced budget. That is set up.

Where we are now at this very moment hopefully, our leaders and our President are meeting and going to get back on the track and especially back to the table so that we can begin talking about a budget that we can all agree on and that we can pass and get the Government working again.

There are differences and they are honest differences in this budget that we should be talking about at the negotiating table. One of these is the cuts in the earned income tax credit, because when we look at the amounts being suggested, this would roughly increase taxes by $508 a year for roughly 3.3 million Americans, low-income-earning, working families. The coalition budget, which we are not even talking about here today, takes the 7-year balanced budget CBO scoring and does not do this.

I am just saying, let us get back to the table, let us have a budget. That one is not even alive anymore.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Speaker, the balanced budget is made up of many components, one of which is welfare reform, and I would like to talk about it very briefly. It is an issue that both sides have expressed their opinions about.

In looking at that component of the President's package, I think we find that it falls short of both of our expectations. All of us recognize that if we are going to reform welfare, first of all we have to emphasize work. The conference committee report puts more people to work every year than does the President's plan.

Second, we have to emphasize individual responsibility. Time limits. We are told in a recent survey that the average family now stays on welfare for 6½ years and that will rise to 13 years. The conference committee report puts a 2-year limit with an overall 5-year limit. The President's plan literally would allow people to remain in a subsidized program and never go into the private sector.

Third is State flexibility. States are our partners in welfare reform. Under the Clinton proposal, they still have to go through a bureaucratic maze and beg the HHS for waivers in order to put their plans into place. The conference committee report gives them flexibility.

Last of all, it should not serve as a magnet for those who are immigrants into our country. I would tell Members that the conference committee report is far superior in the area of welfare reform.

Mr. POMEROY. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia [Mr. SISISKY].

Mr. SISISKY. Mr. Speaker, I rise today in strong opposition to this proposal which does not balance the budget and with really great disappointment that we are not going to be allowed to consider the coalition plan today.

Nobody here is more serious about deficit reduction than the coalition, but make no mistake, there is a right way and a wrong way to balance the budget. The coalition, the blue dog Democrats, proves that in 7 years you can balance the budget without undermining the American family farmer, you can balance the budget without limiting opportunities for our children and our grandchildren to better themselves through education, and you can balance the budget without jeopardizing the health care that our seniors have relied on for over 30 years.

The coalition substitute balances the budget with fairness, common sense and without gimmicks. Right from the start we have been motivated by a commitment to both fiscal responsibility and fairness. We are determined to meet our responsibility not to burden future generations with our debt but we are also determined to preserve what is working, the very best policies that enable our children to succeed, our farmers to compete and our seniors to feel secure that their health needs will be met.

The coalition is willing to work with anyone who wants to balance the budget. We know that our colleagues may not agree with everything we want to do, but we want to stop wasting the time of the American people and start working on a solution. This is a great opportunity that must not be wasted. We must do the right thing by our children and our grandchildren. We must start working together. I hope we do it now.

Mr. ARCHER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, when the President of the United States came into this Chamber to make his first speech to a joint session of Congress, he observed that only by controlling the runaway growth of Medicare could we hope to ever balance the budget. We do that in our budget by transforming Medicare contrary to the misinformation and wrongful rhetoric for political purposes. We force no one off of the current program. They may elect to continue with the current program. But we offer them choices, choices that will give them more benefits at less cost and at the same time transform Medicare and save it, not just for the next election but for the next generation.

For 15 years, CBO scores our plan to save Medicare so that it will not go bankrupt. That is what this balanced budget is about. But it is also about saving Medicare.

Now the Democrats should not be able to have it both ways. They claim on the one hand that the President has submitted a balanced budget in 7 years. Yet, if in fact, it is not specific enough to be scored by CBO, which they have argued today in the way that we present it, how can it be concluded to be in balance? It is not specific. If it could be, it would then certainly undermine their argument that what we present is not scored by CBO. They cannot have it both ways.

Hopefully the President, who is meeting right now with our leadership, will finally come to the bargaining table and seriously present a CBO-scored 7-year balanced budget with real numbers. Let us find solutions for the next generation, not political fixes for the next election.

Mr. POMEROY. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. I thank the gentleman for yielding me the time.

Let me say, Mr. Speaker, and to my neighbor from Houston, that unfortunately what we are doing today is all about rhetoric. This is not about the budget process. We do not have the coalition budget on the table that is a 7-year CBO budget. This is about how absurd things get in this House the closer we seem to get to Christmas.

Last week we passed a bill that was supposed to save Social Security from an impending default which would destroy our creditworthiness and in fact the bill would do the opposite. This week we are voting on a budget that is not even the real budget that the President submitted. This is just something to buy time so we can come down and talk on the floor. This is a Dale Carnegie course for the House of Representatives.

The fact of the matter is that we ought to be sitting down negotiating at the table. We have a coalition budget that we could talk about. Your budget is not the only way to do things. You all are not the smartest people in the world as much as you would like to think.

Let me say it is absurd. You all talk about interest rate cuts. You use your CBO and you say it is going to cut interest rates by 200 basis points, but when you look at what CBO says, it is going to cut them by 35 basis points. The fact of the matter is we are not doing our work. Let us do our work and let us go home.

Mr. KOLBE. Mr. Speaker, I yield 12½ minutes to the gentleman from Virginia [Mr. BLILEY], chairman of the Committee on Commerce, and ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore (Mr. EMERSON). Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the members of the Commerce Committee were proud and privileged, earlier this year, when we were called upon to play a central role in the development of the first balanced budget for this Republic in a generation.

We were called upon to make difficult choices, overdue choices, choices that are imperative if we and our children are to maintain this economy.

With respect to Medicaid, as in so many other areas, those choices involved political risk. But that is the essence of leadership. And as we all know, leadership has been in short supply in this Capitol for far too long.

We took the political risks. We made the difficult choices.

We transformed Medicaid, with more money for more doctors and more medicines—and fewer bureaucrats, fewer rules, less paperwork.

We brought Medicaid spending under control, and for the first time since the Great Depression, we moved power away from the Washington bureaucrats.

We gave responsibility back to the people in their States and local communities, where Medicaid can be managed more fairly and with greater efficiency.

And Bill Clinton sat in the bleachers.

For years, when he was Governor of Arkansas, Bill Clinton came to this Congress and asked us to give the States the power to manage their own Medicaid programs.

Today, he gives those States an unfunded mandate instead. A mandate from Washington to the States, without the money to pay for it—a mandate of the sort we outlawed, earlier this Congress, and which the President himself has signed into law.

This is not just another unfunded mandate.

This is the "Mother of All" unfunded mandates—one with a pricetag for State and local taxpayers of $47 billion.

If President Clinton were to succeed in this stalemate, if he were to get his way with the so-called per-capita cap on Medicaid, it would force the States to come up with an additional $47 billion.

That is because the States would still have to comply with all the rules, all the requirements of the existing Medicaid system, but with a cap on the amount of Federal money to help them do so.

Forty-seven billion dollars, Mr. Speaker, 47 billion hard-earned dollars. Money that could be used for schoolbooks, for teachers, for roads and bridges.

As Bill Clinton himself told us in 1989, in a Resolution he wrote which was signed by 49 of the 50 Governors, "the Medicaid mandates have put great stress on state budgets and undermined the states' ability to properly fund education and other important services."

As Governor after Governor has told us, the President's budget is a recipe for disaster—all the Washington rules, all the Washington mandates, just a cap on the amount of money that Washington is willing to contribute.

The members of my committee are here, Mr. Speaker, to make the case—loud and clear—that America can no longer afford the pricetag of Washington's bumbling good intentions, and that the States are ready, willing and able to deliver better health care for the poor and elderly, at lower cost, if only they are given the chance.

□ 1530

Mr. Speaker, I reserve the balance of my time.

Mr. POMEROY. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. TANNER].

Mr. TANNER. Mr. Speaker, I think this rhetoric today and all of the things that have been said point up the need for an American solution.

In the unlikely event there is anybody still watching these proceedings, I think they are tired of listening to blaming of the President, blaming of this, blaming of that. It is not getting us anywhere.

I asked Coach Adolph Rupp one time years ago if it was true that it was not whether or not you won or lost but how you played the game. He said, "Well, I guess that may have some truth to it. But if that is totally the truth, why do they have a scoreboard at either end?" I would suggest there is a scoreboard up at this end and a scoreboard here. If you want to balance the budget, bring any budget, the President's, Republican, coalition, bring it in here on an open rule. Let us sit in here, start the voting on amendments. If you get more than 50 percent, you win. It goes on. If you do not, it does not.

Let us sit down and work and balance the budget. That is what people want us to do in this country.

This business the President did or did not do this or did or did not do that, people are tired of that. They want us to go to work.

In a democracy, thank God in a democracy, when the other fellow is as intellectually honest and sincere in his beliefs as you or I may be, the way you do things is sit down and you try to reach a consensus and compromise. You do not have to do that if you live under a dictatorship or under communism. But in a free country, no one gets their way on everything.

Republicans run the House now. We understand that. But let us come in here with an open rule, sit down and go through item by item, as long as people can stand it, and sooner or later we will have a balanced budget for the American solution.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS], the chairman of the Subcommittee on Health and Environment.

Mr. BILIRAKIS. Mr. Speaker, today's debate on the President's budget raises questions in the minds of our people, and it is our responsibility to answer these questions truthfully.

As chairman of the House Subcommittee on Health and Environment, I will focus on the Medicaid Program. Everyone agrees that Medicaid cannot continue in its present state. Between 1990 and 1994, it was the fastest growing part of the Government. The programs' average annual growth rate was more than 19 percent. Over the years, the Nation's Governors have complained bitterly to Congress about the unfunded mandates that have been placed upon States.

On August 1, 1989, the Nation's Governors' Association sent a letter to Congress urging us to "adopt a 2-year freeze on the enactment of further Medicaid mandates." The letter was signed by 49 Governors, including then Arkansas Gov. Bill Clinton.

In this Congress, we are listening to these Governors. The Medigrant plan approved by Congress shifts responsibility for the Medicaid Program to the States, where it will be closer to the people it serves. Washington bureaucrats would no longer make the decisions. However, a handful of Governors and at least one former Governor are now criticizing this effort, wishing to retain control in Washington.

I might add that my home State of Florida received $13 million in Federal dollars over the last 7 years. During the next 7 years, under our plan, Florida will receive better than $33 billion. This is a cut?

Ironically, the President's budget advocates a principle that is completely contrary to that in the 1989 letter he signed. His budget continues the current flawed and failing program. This means Washington micromanagement continues, and State flexibility, a top priority of Governors, would not be permitted.

Plainly and simply, Mr. Speaker, the Medicaid program cannot survive unless the needed Medigrant reforms are made law, and this program must be saved. Accepting anything less would be breaking faith with those who depend upon it, and that would be the real injustice.

Mr. STENHOLM. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, it has been through incredible political brinksmanship, NEWT GINGRICH has managed to shut down our Government, and by Christmas Day cost the American taxpayer a little over a billion dollars with these two shutdowns, paying Federal workers not to work. But now, with this resolution, in addition to brinksmanship, we have gamesmanship. It is as if we are going to consider a make-believe budget that they are presenting and planning to vote against instead of sitting down in good-faith negotiations to try to resolve this problem.

It is as if they have been watching too much daytime television. You know, it is like "Let's Make a Deal." "Mr. and Mrs. America, behind door No. 1, we have got misery. We have got misery for those families who will be called on to pay for a senior who gets left in a nursing home when you raid the family's income. Behind door No. 2, you can choose indifference. Yes, if you are a young person concerned about an education, if you are concerned about clean air or clean water, go with door No. 2. And behind door No. 3, why, we have got tax breaks, yes, tax breaks."

And so you choose door No. 3, and what do our Republican friends say? Are you a corporation that made a lot of money and did not want to pay any taxes? No? Well, then you are not entitled to go to door No. 3. Are you a family sitting up there at the top of the economic ladder feeling really good and being asked to sacrifice by taking a little more income and a bigger tax break? Well, no. Well, then you are not entitled to go to door No. 3; you can only go to misery or to indifference, which is what this Republican budget is all about.

You see, they have failed yet to present a balanced budget, a balanced budget that provides balance to the American people and fairness to the American people.

Mr. BLILEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the question before us today is simple: Should seniors be given the same choices in their health care that Members of Congress enjoy?

Under the Republican plan to save Medicare, seniors get choices just like we do. They can choose from traditional Medicare, HMOs, PPOs, Provider Sponsored Organizations, Medical Savings Accounts, or other private insurance packages.

Under the Republican plan, seniors' first choice is traditional Medicare. Seniors are automatically enrolled in traditional Medicare if they don't choose a different option.

Under the President's plan, seniors do not get all of these choices. Isn't it time that we allow seniors to enroll in the same types of plans that Members of Congress can enroll in. Don't you think it's time we give seniors the same options that we give ourselves under our health plan.

Mr. Speaker, the proposal before us today includes the President's plan to get money from Medicare. His plan does not include giving seniors all the choices that the Republican plan would provide.

I urge my colleagues to reject the President's budget proposal. We have already proven that we can do better.

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentlewoman from Arkansas [Mrs. LINCOLN].

Mrs. LINCOLN. Mr. Speaker, it seems like the freshman Republican class thinks they are the only ones sent here to work for change. But as a second-term Member, I was sent to bring about commonsense change.

But, instead, everyone is here today throwing stones, arguing political rhetoric. You know what that is, that is the status quo, exactly what I came here to change.

No Member, no Member in this body, I do not think, would be willing not to stay here Christmas Day if they thought there was a true national crisis. But it is not fair. It is not fair to the Federal employees, to our families, to the American people, most of all, to fabricate a crisis for the sake of a campaign slogan.

Because there is a commonsense budget out there that does balance the national budget by the year 2000, and it does it with good, honest CBO numbers. That is the coalition budget. If we are serious about doing the American people's business, we would have that budget up and we would be negotiating it now because it is good policy. It does not devastate agriculture. It does not devastate rural health, seniors, or our young people and education.

So I encourage all Members to come to the table here to find a commonsense solution for the American people who sent us.

Mr. BLILEY. Mr. Speaker, I yield 1½ minutes to the gentleman from North Carolina [Mr. BURR].

Mr. BURR. Mr. Speaker, I am very concerned about the Clinton budget plan, particularly with regard to health care rationing through micromanagement by HCFA.

The President's Medicaid plan is a per capita cap plan which maintains all of the mandates, regulations, and obstacles to flexibility just as they are, while limiting the amount of money the States will receive. In a nutshell, the President is placing dollar figures on the value of health care for poor Americans, and forcing the States to use the cookie cutter method once again to classify who is Medicaid eligible. Poor children get the least and poor elderly get the most, regardless of their individual circumstances. Not only does this open the door to fraud and abuse via misclassification, it hogties the States and actually creates a much more difficult situation than the horrendous circumstances that States currently face.

Worst of all, the President's plan will enable HCFA to create a virtual health care police state in every State in the country to track down those who would misclassify beneficiaries. HCFA will dispatch dozens of bureaucrats to detect such practices.

This is the worst possible solution for a program which already faces way too many problems. The President's plan is unfair, unworkable, indefensible, and is doomed to failure. The Republican plan, on the other hand, frees States to enact innovative solutions to the difficult situations they face, utilizing the resources that are available. Mr. Speaker, we want to give States the ability to innovate with regard to providing health care for poor Americans, not place the States in a regulatory strait jacket with no room to move.

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, yesterday, Speaker NEWT GINGRICH was named Time Magazine's "Man of the Year". Today, the man of the year brings us the scam of the year. That's what this resolution is, a colossal scam.

Everybody knows that when you can't defend your position, you change the subject. That's what this resolution is—a diversionary tactic. Republicans cannot defend cutting Medicare, Medicaid, education, and the environment to finance a tax break for the wealthy.

The American people have rejected the GOP budget which will do harm to the people of this country. But, instead of working to come up with a budget that reflects the priorities of the American people, the Speaker shuts down the Government, throwing thousands of people out of work a week before Christmas.

Mr. Speaker, stop playing games with people's lives. Stop playing games on the floor of the people's House. Give the American people an early Christmas present: a balanced budget that reflects America's priorities, not yours.

Mr. BLILEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker and Members of the House of Representatives, I rise in opposition to what we are calling the President's budget. It is, in the materials that I have, the Clinton administration December 7 budget option which we are referring to in some of our working papers as Clinton's budget option No. 4.

I want to speak specifically on two specific items in this budget: the President's proposal for Medicare, which covers health care needs for senior citizens; and Medicaid, which covers health care for low-income Americans.

In Medicare, the balanced budget bill that we passed and the President vetoed would have resulted, according to CBO, in savings in waste, fraud, and abuse of $3.4 billion over 7 years. The President's option has Medicare savings in waste, fraud, and abuse of $2.4 billion, which is $1 billion less.

In relationship to Medicaid, which is health care for low-income Americans, the budget bill that the President vetoed, we would have block-granted Medicaid, given more money to the States, given the Governors and the State legislatures the opportunity to actually run the programs as they saw fit. In the case of Texas, the State that I represent in the Congress, Texas would have received $55 billion over 7 years, including half a billion dollars for legal alien health care costs.

□ 1645

The President's budget is silent on that. It maintains Medicaid as an entitlement and does not give the States the right to do anything. I hope we would reject the President's budget.

Mr. STENHOLM. Mr. Speaker, I yield 1½ minutes to the gentleman from Minnesota [Mr. MINGE.].

Mr. MINGE. Mr. Speaker, this afternoon we are engaged in a debate over a supposed presidential budget that does not actually represent the President's position. I think it is important for us to recognize that the Congressional Budget Office, or CBO, last week came out with projections that are new, and that the President today is completing work on a new budget proposal.

What is the point of having a debate and a vote on something that all of us know is already out of date? Instead, I suggest that we ought to be addressing the basic underlying conflict that plagues us here in the House of Representatives and in Congress in reaching an agreement with the President.

There are two basic issues: The first is tax cuts, and the second is block-granting Medicaid. I think almost everybody in this body agrees that we ought to cut taxes. We disagree on whether that ought to be the top priority or whether balancing the budget ought to be the top priority. And if it is not the top priority to cut taxes, can we actually wait and cut taxes after we have balanced the budget?

I submit that the top priority is balancing the budget, and we ought to wait with the tax cuts until we have accomplished that. I submit that if we made that fundamental decision, that we could reconcile with the President the issue of how we deal with block-granting Medicaid.

The coalition has presented a budget which does exactly this. It is a midground budget between the extremes that are represented in the debate today.

Mr. BLILEY. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Speaker, I rise today in strong opposition to the budget plan offered by the President. There are many reasons to vote "no" today, particularly because the President's budget violates the pledge the Congress and the President made to enact 7-years balanced budgets using honest numbers.

But there is another reason to object to the President's budget. The President's plan guts health care improvements for seniors in rural America contained in the bill passed by Congress. Under current law, the formula used to pay private health plans participating in Medicare varies widely and unreasonably. While plans in some areas of the country receive over $7,500 per year for each senior, an HMO or other plan in a Adair County, IA, would get less than $3,000. The Clinton budget continues this unfair reimbursement. It protects the status quo. Iowans pay just as much into the Medicare system as everyone else in the country does.

The president of the Iowa health association has stated "Iowa Medicare beneficiaries deserve to have the same kind of choices which are available already in New York City, Miami, and southern California. The Republican budget bill is a good first step in addressing Medicare health plan payment equity."

The balanced budget plan passed by the House and Senate addresses this issue. The President's budget plan is a slap in the face to rural health care. We worked too hard and made too much progress to let this issue die. We owe it to seniors in rural areas to defeat the Clinton budget.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I have heard my Republican colleagues get up time after time today and criticize their budget bill that is before us today. My answer is very simple: Why are they bringing the bill up? They are in the majority. If they think the bill is a bad bill, why are they debating it and why did they bring it to the floor?

I think the Republican majority has forgotten it is their responsibility to govern. They should be bringing up a continuing resolution so the Government is not shut down. Friday passed, Monday passed, and now it Tuesday. No CR was brought up. The Government is shut down. They should bring up an appropriations bill so the Government would not be shut down and we can get on with the business of governing. No appropriations bill comes up.

They made a commitment a few weeks ago with the CR they were going to protect Medicare, protect Medicaid, protect the environment. Once again we see no movement whatsoever on the budget to try to protect these important programs that the American people want protected and that have been a success.

I do not understand the whole philosophy of what they are doing today. They are simply wasting our time. They know that this is a bill that will not pass. They are not even going to give it a single vote, I do not think, and yet they continue to debate it. It is not fair.

Mr. BLILEY. Mr. Speaker, I am happy to yield 1½ minutes to the gentleman from Pennsylvania [Mr. GREENWOOD].

Mr. GREENWOOD. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, the gentleman who preceded me, the gentleman from New Jersey, protests that the bill before us in fact does not fairly represent the President's positions and wonders why we bring this vehicle to the floor. The reason we do is because the President has never submitted a budget that actually reflects his positions. He has never done that.

The story really begins in 1992 when Bill Clinton ran for President. He made every promise anyone ever asked him to do in order for votes. He promised he could balance the budget in 5 years. He promised a middle-class tax cut. He promised to spend more money on virtually every program in the country.

The fact of the matter is, and the President knows it and my colleagues on the other side of the aisle know it, it is impossible to do that and balance the budget in 7 years scored with honest numbers. It is impossible. That is why the President has to this date never walked into the room with a document that balances the budget in 7 years, scored by honest numbers. He has never done that to this date, and it is nearly Christmas.

So my colleagues and I, out of a sense of frustration, to show the country that the President of the United States has not even submitted a budget that his party will support, bring it to the floor today to show that the President of the United States remains, this late in the year, bereft of a plan that lives up to the conflicting promises that he has made through his campaign in 1992 and the conflicting statements that he has made throughout his tenure as President.

This is a bad bill. We are waiting for an honest bill from the President of the United States.

Mr. SABO. Mr. Speaker, I yield 1½ minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, this dreadful Christmas budget standoff will only end when Members of the majority work with Members of the minority to bridge the differences that divide us. The scriptures say blessed are the peacemakers, and I congratulate each and every one who is working today to try to find a way to resolve these differences.

Now, in contrast to that effort, the resolution before us is a shallow, obviously partisan effort, to preen and posture, rather than tend to substantive business. With portions of the Government shut down and with budget talks at impasse before they have even begun, the American people can expect much more of the House than this silly sideshow today.

For those of us looking for a bipartisan agreement, I commend your attention to the coalition budget plan. It reaches a balanced budget, it does so in 7 years, it uses CBO numbers. It protects vital programs. The coalition plan restores $75 billion to the cuts the majority has proposed for Medicare. It adds back $68 billion to Medicaid, reducing by more than 50 percent the devastating cuts the vetoed budget would have imposed.

When we finish wasting our time on this meaningless resolution, I look forward to working with one and all on arriving at a balanced budget plan. I suggest the coalition budget will be a very good way to get this difficult job done.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, for the 10th day this year, major sectors of the American Government are at a standstill, with the White House and Congress at an impasse.

We have heard from our friends on the other side that this debate is an attempt to embarrass the President.

No. With the Government in gridlock, this is an effort to give the President's plan its day in Court.

As this debate has progressed, it has become apparent that what is at stake for the President is not an effort to balance the budget. What is at stake for him is the status quo—uncontrolled spending, bigger bureaucracies, higher taxes on the American people.

It is hard to imagine a deficit more in need of fixing. It is hard to imagine a program in greater risk than Medicare.

And it is hard to imagine a worse situation than the current Medicaid setup—Federal micromanagement, thousands of bureaucrats, volumes of rules.

And yet nowhere in these rules do we see the word "patient."

Nowhere do we see the words "quality of care."

It is hard to imagine a structure more complex, more inefficient than Medicaid is today.

But as the last 15 minutes of debate has shown, the President's proposal on Medicaid does just that—all the rules, all the mandates, all the bureaucrats, but a cap on the money available to the States to comply.

It is the biggest unfunded mandate in history, with a pricetag to the States of $47 billion.

Mr. President, I hope you are watching me now. I beg you, sir. Listen to this debate, watch the vote today, and realize that your plan fails on its own weight.

Then come to the table, Mr. President, and work with us in good faith. Let us do what you asked as Governor—give the States the responsibility for better Medicaid, with better health care, at lower costs, for more elderly and poor Americans.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida [Mrs. THURMAN], my good friend.

Mrs. THURMAN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am sick and tired of all the rhetoric that I am hearing on the floor of this House. Everyone in America knows now that this shameful Government shutdown has nothing to do with reaching a balanced budget. It has to do with not passing the appropriations bill. Federal workers are sitting at home and our constituents are disgusted because this Congress has not completed its work. Unable to agree among themselves, the majority party is threatening the President to accept radical changes in policy or shut down the Government.

Well, I've got news for you. People's problems do not recognize a shut down. For example, the Annie Johnson Senior Center in Dunellon, FL, can no longer accept senior citizens to its congregate dining table because the Labor-HHS bill has not been passed. For the past 15 years, this center has been funded by the Older Americans Act. It provides home delivered meals, transportation, and homemaking help for senior citizens in Dunnellon. However, because this Republican Congress has not done its job, the center could close down.

It is time to get beyond this tiresome bickering and pass a continuing resolution that gets Americans back to work. Balancing the Federal Budget is everyone's objective but we do not need to ruin Christmas for Federal workers to achieve that goal. How we get to a balanced Federal budget can be debated after we put Americans back to work.

Stop the games and open up the Government. Peoples problems do not recognize a shutdown. Seniors need their food. Veterans need their benefits. College students need their loans. This is Christmas. The majority should quit playing scrooge and approve a CR. That is the best present we could give the American people.

Mr. LIVINGSTON. Mr. Speaker, will the gentlewoman yield?

Mrs. THURMAN. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I would just point out to the gentlewoman that the reason that bill has not passed is because it is filibustered by the Democratic Party in the U.S. Senate.

Mr. SABO. Mr. Speaker, will the gentlewoman yield?

Mrs. THURMAN. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Speaker, I would ask the gentlewoman, was the center open when the House passed the continuing resolution?

Mrs. THURMAN. Yes, it was.

Mr. HOBSON. Mr. Speaker, I yield 6½ minutes to the gentleman from Pennsylvania [Mr. GOODLING], chairman of the Committee on Economic and Educational Opportunities, and ask unanimous consent that he be allowed to control the time.

The SPEAKER pro tempore (Mr. EMERSON). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. GOODLING. Mr. Speaker, I yield 30 seconds to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, while the President's overall approach to the budget is deplorable, he actually occupies the conservative high ground on the issue of student loans. Both guaranteed and direct student lending are Government programs, and both are run primarily by the private sector. The key difference is in the pricing of those private sector services.

Under guaranteed lending, all the payments to the private sector are determined politically—by Congress in the Higher Education Act. Under direct lending, all private sector services are procured through competitively bid contracts. [Let me repeat: under guaranteed lending, every payment made to private parties is determined politically. Under direct lending, every payment to private parties is determined in a market process.] Conservatives should prefer a market process over a political process every time.

It should come as no surprise that direct lending, as a market-oriented program, also costs less. The CBO does not score the savings primarily because it scores direct loans as if they were fixed rate loans carrying interest rate risk for the Government, when in fact they are variable rate loans with no such risk. Conservatives should care more about the real cost than the CBO cost.

Mr. Speaker, politically set payments for private services are a classic recipe for corporate welfare, and guaranteed student loans demonstrate it. I deeply regret that many Members of my party have been led to support home State special interests rather than true conservative principles on this issue. I believe it undermines all our other efforts at Government reform, and therefore I urge all my colleagues to examine this issue much more closely.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, in 1776, our Founding Fathers fought it out at the Continental Congress trying to work out their differences, and they were able to work it out and form what we know of as the United States of America. I do not know why we cannot work out our differences now.

Harry Truman once said if you want a friend in Washington, DC, buy yourself a dog. Maybe that is what is wrong with us. Maybe we need to buy a dog, because it is obvious a lot of us do not know how to talk to one another. It is obvious we do not know how to work with one another, and it is surely obvious that we do not know how to solve any problems.

The American people are sick and tired of this gridlock that we have now. I blame some of it on the freshman Republicans, because some of them believe if you compromise, that you lose your principles.

□ 1600

Well, I do not think that is true at all. I think and believe very strongly that we can have a difference of opinion without having a difference of principle. That is what it is all about.

Mr. Speaker, the question I have is why are we voting on this budget today. This gets us no closer to breaking the impasse which currently exists today and, in fact, acts as a wedge between the President and the Republican Congress preventing a budget agreement from ever being reached.

It has been said that a House divided against itself will not stand. It could also be said that a Government divided against itself will not stand. Before our foundation begins to crumble even more, it is time for the President and the Republican leaders in Congress to agree to compromise to end the current Federal Government shutdown.

Compromise is a word that has been thrown around in Washington quite a bit lately, but the time has come to stop talking the talk and start walking the walk: Congress needs to pass a temporary—very temporary—spending bill without any superfluous additions; we need to pass the six remaining appropriations bills; and, most importantly, we need to sit at the table together and agree to a 7-year balanced budget. But everyone needs to give a little. We all need to compromise.

The current budget impasse has been without a doubt the most frustrating situation I have endured as a Member of Congress. I am a strong proponent of balancing our budget, just as I am strongly committed to protecting our environment; enhancing education for our young people; and guaranteeing necessary health care for our seniors. There is a way to protect these vital interests and still crack the current budget gridlock, and that is through honest compromise and negotiation.

I have been meeting regularly with a bipartisan group of Members of Congress who are committed to solving this crisis, and who are willing to give a little to get a little. We support a balanced budget using numbers from the Congressional Budget Office that minimize the tax cuts proposed by the GOP while increasing funding for Medicare and Medicaid. The time has come for this spirit of optimism and compromise to find its way to the upper echelon of Government so that we can all move toward the middle and find an acceptable resolution to this budget fiasco.

Mr. GOODLING. Mr. Speaker, I yield 45 seconds to the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Mr. Speaker, I thank the chairman for yielding me time.

There has been a lot of talk about the Republicans killing student loans in the last few months, and today, I want to set the record straight. The Balanced Budget Act that the President vetoed actually enhanced the postsecondary student's ability to get a loan. Under our plan, every student will be able to receive a student loan. The student loan provisions in the Balanced Budget Act achieve our goal of protecting student loans for every student and saving taxpayer dollars.

Student loan dollars increase by 50 percent over the next 7 years. Every student who applies will be able to receive a student loan. No parent or student pays more for a loan under our budget than they do under the current law or under the President's budget, for that matter. More importantly, our budget spends money to give students more flexible repayment terms.

The President's budget fails to include such a provisions, making one wonder why the President does not feel that all students should have the same opportunity to select from various repayment terms.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN], my good friend.

Mr. CARDIN. Mr. Speaker, let me thank my friend for yielding me this time.

People listening to this debate have to be wondering what we are debating about and why we are debating this. It is certainly not advancing a bipartisan solution of our budget crisis in this country, and it is certainly not about deficit reduction, because the budget resolution before us is not being seriously considered. Those who brought it forward indicate they will vote against it.

Democrats would welcome a new budget resolution. We know that the Republican budget resolution is not going to become law. We welcome bringing a new budget resolution to the floor. Many of us have suggested the coalition budget, a budget that has much more deficit reduction, realistic spending targets, and protects Medicare, Medicaid, education, and the environment. It does that by putting tax breaks after we balance the budget.

If we want to reduce the deficit, we can do that today. Let us pass a clean CR and stop wasting $40 million a day of the taxpayers' money by closing Government when it should be open and we should be negotiating a new budget.

These are childish games to be debating this type of an issue while Government is closed. We need serious negotiations without preconditions. That is what the Democrats are asking for.

Yes, the Majority asked about a 7-year balanced budget and CBO numbers. We are prepared for that. But what my constituents are saying is, where is the change in the budget that protects Medicare, Medicaid, education, and the environment?

The continuing resolution that we passed last month contained those promises as well, but the Republicans have not, in good faith, brought forth changes in their budget in order to protect Medicare, Medicaid, education, and the environment.

Mr. Speaker, let us stop these games, let us sit down and negotiate a budget that we can all agree with so that we can pass a new budget resolution on the floor of this House that, yes, brings us to a balanced budget but also protects the priorities that are important to the American people. That is what we should be doing here today and not playing the games on this resolution.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. TALENT].

Mr. TALENT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to read a letter I recently received from a young man named Aaron from my district.

He writes, "When I turned 16 I did two things right away. I went out and obtained my driver's license, and I got a job. I am now almost 17 and have been working at various jobs for the past year. I have learned a lot from working, such as the value of money, the responsibility of having a job and how important it is to get a good education. One big thing I learned is that taxes will affect me for the rest of my life."

"Before I started working I had no idea how much the government really took out of your paycheck for taxes. I have discovered that it is a lot of money. Actually, I don't really mind paying the money, as long as it is not too outrageous, and if I know for sure that one day I will benefit. For example, I want to be sure that when I am old enough to receive Social Security and Medicare, it will still be around."

"I want to thank you for all your efforts toward decreasing taxes, and in making sure that the things my taxes pay for, such as Medicare and Social Security, will still be around in the future."

Mr. President, when you promised to present a balanced budget, you promised it to young men and women like this. Keep your promise, help us pass a balanced budget and keep faith with America.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I expect that there will be some embarrassment today among some of my Democratic colleagues who will find themselves voting against President Clinton's budget. I remember in the 1980's the humiliation that Republicans experienced when they voted against several budgets of our beloved former President, Ronald Reagan.

There have been votes against the Bush budget, votes against the Carter budget. In fact, I have been here 17 years, and I remember only 2 budgets that truly were the budgets of the President that passed this Congress in those 17 years. Three years ago, by one vote. In fact, I tied the vote and Congresswoman Margolies-Mezvinsky cast the deciding vote, and President Clinton got the budget he wanted.

Early in President Reagan's term, in his first year, he got the budget he wanted. All other Presidents, all other budgets since I have been here, have been turned down by this House, regardless of who was President.

This House has passed only budgets when the President would compromise with us. So today's vote, which I expect will come down against President Clinton, will be nothing new.

Mr. GOODLING. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, I realize and I empathize with those on the other side of the aisle who do not want to vote on the President's budget. My colleague put me through that exercise many, many times during the last, I do not know how many years. It is painful for a little while, but it goes away very quickly. So have no fear.

I want to thank the minority leader for indicating that he has a concern about school lunch. I hope he will join with me. I have a tremendous concern about school lunch. Fifty percent of all of the children who are eligible for free and reduced-priced meals do not participate. Do not participate. That means they are in school all day long, I suppose, without any food. I suppose they have no breakfast when they come to school.

So we should not do the status quo that the gentlewoman from Arkansas talked about. We should make changes. So I am happy that the gentleman is ready to deal with that.

Another person from the other side talked about decimating education. Well, education is 6 percent of the budget from the national level. That is all we spend, 6 percent. But let me tell my colleagues, in the 7 years that we are talking about, we are willing to spend $340 billion. The minority, in the last 7 years, spent $315 billion. We are ready to spend $25 billion more than they spent in the last 7 years.

Over the next school year, national spending on elementary and secondary education under our budget will increase by 4.1 percent. Again, let us talk about access to excellence and not mediocrity. Going back to the gentlewoman from Arkansas again, let us talk about something other than the status quo.

The gentleman from Maryland, who is going to speak later, has joined with me the last couple of years, but prior to that, I was the only one who kept talking about what we are getting in terms of quality from chapter 1. What we are getting as far as quality is concerned in Head Start.

Well, chapter 1, title I, we have spent $90 billion since 1967, and this is the report we get from the Department of Education. Comparison of similar cohorts by grade and poverty show that program participation does not reduce, not reduce, the test score gap for disadvantaged students. Indeed, chapter 1 students scored in all poverty cohorts declined between the third and fourth grade.

Going to Head Start, we have spent $31.2 billion on the Head Start program, and this is, again, what they say. Unchecked growth over the last 5 years has brought about sloppy program management. Of course, every President and every Congress has said we will put more into the program. And so the program has increased in 5 years' time 186 percent. Do my colleagues know what it increased as far as participation is concerned? It increased participation 39 percent.

The expenditure increases 186 percent, the participation 39 percent. And as the Secretary of HHS said, we do not say that improving quality will cost more money. So, again, let us not have the status quo. Let us insist on excellence in education, not just access.

Mr. Speaker, one other area, let me talk about very quickly, and that is the whole area of higher education. The President says that in his proposal he saves $3 billion in higher education by slashing the income earned by the banks and the State guarantee agencies. Folks, that cannot be. How can that happen? Because he is going to direct lending 100 percent in 2 years' time, so he cannot get $3 billion from the rest of the lending programs. He has eliminated them all in a 2-year budget. So he cannot say he will get $3 billion there.

Mr. Speaker, we got $5 billion from those same agencies, but we also allow the competition, and that is what we are talking about when we set up the program. We want to see in a 7-year period what is better. We cannot, if he goes directly, and he cannot save that kind of money.

So, again, look carefully at these budgets and let us talk about excellence rather than just access to mediocrity.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, let us be honest with the public about what is going on and what is not going on. What is supposed to be going on right now is a negotiation between the President and the leadership of the House and Senate. In that negotiation each comes to the table with a position. During the negotiation each makes different offers about where they could move and where they could change.

The President made such an offer of movement during a previous negotiation last week. That was not the President's budget. It was an offer of movement in a negotiation. What this resolution we are debating today represents is the chairman of the Committee on the Budget attempting to identify, with a large variety of assumptions, what that would look like in the form of a budget, and then bring it here and say we are voting on the President's budget.

That is not the truth. What we are doing is putting up a straw man to then take shots at so that we can attack the President as part of this negotiating posture. I would suggest it would be far more beneficial if rather than standing outside the room lobbing grenades into the negotiation room, that we actually find ways to find agreement between the two of us.

Now, if we want to negotiate with the President and the leadership, let them go into the room and we ought to stop throwing grenades in the room. If we want to do it here, if we do not want the President and the leadership to negotiate it, if we want to negotiate it here on the floor of the House, there is a way to do that.

We have suggested bring the majority resolution, the minority resolution, the President's, bring any resolution anyone wants to this floor under an open rule, without time limitations; put all of the Members in here, lock the doors, and do not even give any bathroom breaks, if the majority does not want to, but keep us here debating and using our voting card and doing what this Congress is supposed to do, what the people of the United States expect us to do, and let us vote and the winning vote passes. That is what we ought to be doing.

Mr. HOBSON. Mr. Speaker, I yield 4 minutes to the gentleman from Louisiana [Mr. LIVINGSTON], the distinguished chairman of the Committee on Appropriations, my leader.

Mr. LIVINGSTON. Mr. Speaker, I thank my very good friend from Ohio for yielding time to me.

Mr. Speaker, the President really has not come to the table, and that is what brings us here today. He promised in his campaign to balance the budget in 5 years, and then the next year he raised taxes on the American people by a greater amount than ever before.

□ 1615

And then February, February 1995, he says, "Well, I do not want to balance the budget. I just want to give the American people a deficit of about $200 billion a year, sometimes $300 billion a year, as far as the eye can see."

Then he came up with a second budget, a 10-year balanced budget, because he got a lot of criticism for the first one. Still, when the Congressional Budget Office scored that budget, it was $200 billion in imbalance by the year 2005. Then he came up with a 7-year balanced budget, his third budget, and it was $115 billion in imbalance. Now, we have the fourth budget, given to us only a few weeks ago; $87 billion imbalance by the year 2002.

The President has said he is committed to a balanced budget within 7 years, but not now.

He says he is for tax cuts, or at least he has from time to time, but not now.

He says he is for Medicare reform and Medicaid reform, but not now.

He says he is for welfare reform, but not now.

He says he is even for discretionary cuts, but he criticizes the Congress for making those cuts in the appropriations process now.

Mr. Speaker, oh, he did say that he wanted to cut defense by $7 billion, but he sent the troops off to Bosnia, so he said not now.

Otherwise, the President is in an awkward position. He really does want to protect the bureaucracy now; duplication of programs, waste, inefficiency of government, high regulation, yes, high taxes, centralized government. He is the champion of those issues now.

My colleagues might call him the stalwart of the status quo. But he says he wants a balanced budget within 7 years. Now, these conflict. How does he do it? Well, we ask him to present his budget, but he still has not gotten there.

Mr. Speaker, I would suggest if the President wanted to balance the budget and save our economy and bring down interest rates and preserve the American dream for our children and our grandchildren, then he would come forward and put his package on the table, as we have done. But, unfortunately, there is no "there" there in the President's package. Ours is on the table. Where is his?

Our reforms in welfare, Medicare, and Medicaid, our cuts in taxes are all in the package that he has vetoed. Our attempts in the appropriations process to cut $22 billion in this year's discretionary spending for fiscal year 1996 have, in part, been adopted and signed into law or accepted into law by the President. Seven bills have passed, and I will offer for the RECORD the status of those. But three bills have been vetoed in the last 2 days. That is despite the fact that overall, our appropriations process has eliminated 260-plus programs and substantially cut hundreds of others. But the President says, "Not now."

He says, "No, we will veto those bills, and we will take up those bills later."

Mr. Speaker, Christmas is coming and we have not taken them up. We have got an impasse, a constitutional impasse.

It is our prerogative under the Constitution to pass the laws and send them to him. It is his prerogative to veto them.

Where do we end up? I am not sure anybody knows, unless the President comes to the table now. His budget is a fig leaf. If he really wants to put America back on the right track, he should accept our budget and our appropriation bills. But maybe that is just not good politics. Mr. Speaker, I hope he comes to the table.

Mr. Speaker, I include for the RECORD the following:

STATUS OF APPROPRIATIONS BILLS FISCAL YEAR 1996

[As of December 19—3 p.m.]

7–Enacted into law.—Military Construction (P.L. 104–32); Agriculture (P.L. 104–37); Energy & Water (P.L. 104–46); Transportation (P.L. 104–50); Treasury-Postal Service (P.L. 104–52); Legislative Branch (P.L. 104–53); and National Security (P.L. 104–61).

3–Vetoed by the President.—Commerce-Justice-State; Interior; and VA–HUD.

1–Conference reports pending in Senate.—Foreign Operations (Amendment No. 115—Abortion).

1–Bill in conference.—District of Columbia.

1–Passed the House and pending Senate floor action.—Labor-HHS.

PROGRAM ELIMINATIONS

Transportation.—Highway demonstration projects ($352 million); Local rail freight assistance ($17 million); Penn Station Redevelopment ($40 million); Interstate Commerce Commission (after Jan. 1) ($15.4 million); Coast Guard buoy replacement project ($8.5 million); Coast Guard 82-foot WPB capability replacement ($4 million); Coast Guard HH–65 helicopter gearbox upgrade ($2.5 million); Coast Guard GPS 2nd District ($2.4 million); FAA "Quality through partnership" program ($1.79 million); and FAA NAS management automation program ($2 million).

FAA traffic management system ($10.8 million); FAA Digital BRITE display ($5.5 million); FAA remote maintenance monitoring system upgrade ($3 million); FAA Integrated network management system ($300,000); FAA precision runway monitors ($1.2 million); FAA future airway facilities technologies (R&D) ($3.4 million); FAA general aviation renaissance ($1 million); Federal Hwy. Admin. OJT/supportive svcs. ($5 million); FHWA ITS advanced technology applications ($10 million); and FHWA ITS priority corridors ($10 million).

Agriculture.—Cattle Tick Eradication Program, Food Stamp Program ($12.5 million); Closed 3 Agriculture Research Svc. laboratories ($1 million); Eliminated 26 research grants ($4.7 million); and Nutrition Education Initiative, Extension activities ($4.3 million).

Treasury-Postal Service.—Advisory Commission on Intergovt. Relations ($216,000); Administrative Conference of the U.S. ($1.2 million); Treasury Special Forfeiture Fund ($45 million); IRS Tax Compliance ($405 million); OPM Federal Quality Institute ($800,000); OPM International Affairs Office ($140,000); OPM Research Office ($2.2 million); OPM Job Information ($2.5 million); and OPM Occupational Testing ($14.4 million).

Legislative Branch.—Office of Technology Assessment ($18.4 million); U.S. Code subscriptions for Members ($420,000); House Parking Lot 6 ($238,000); Warehouse at 120 Canal St., SE ($181,000); Historical Society calendars for Members ($850,000); Folding Room (privatized) ($6.1 million); Barber Shop (privatized) ($148,000); and Ended taxpayer-subsidized flag office ($324,000).

Energy and Water.—Gas Turbine Modular Helium Reactor ($20.7 million); Russian replacement program ($5 million); Technology Partnership program ($3 million); In House Energy Mgmt. ($31.3 million); Water Conservation Challenge Partnerships ($9 million); Energy/Water Product Efficiency Standards ($450,000); Construction Prod. Advancement Research Program ($6 million); and Nat'l Assessment of Water Supply Demand & Avail. ($3 million).

Nat'l Spacial Data Infrastructure ($2 million); Dredging Oper. and Environmental Research ($3 million); Water Operations Tech. Support Program ($1.5 million); River Confluence Ice Research ($1 million); Natural Resources Technical Support ($1.6 million); Environmental Review Guide for Operations ($1.5 million); Reinvested User Fees for Recreation Improvements ($5 million); and Real Time Water Control Research Program ($850,000).

Interior.—Bureau of Mines ($30 million); Emergency Preparedness (DOE) ($8 million); Pennsylvania Avenue Development Corp. ($7 million); Urban park and recreation fund ($6 million); State grants/land and water conservation fund ($25 million); Business enterprise development grants ($2 million); Indian direct loan program ($1 million); Navajo rehabilitation trust fund ($2 million); Rural abandoned mine program (RAMP) ($8 million); Advanced computational technology initiative ($10 million); and Coalbed methane program ($2 million).

Planar solid oxide fuel cells program ($3 million); Mild gasification process development unit ($4 million); Gasifier improvement facility ($4 million); Advanced absorption fluids ($1 million); Microcogeneration ($2 million); Lighting collaboratives ($1 million); Federal energy efficiency fund ($7 million); Cool communities ($2 million); Training for commercial building operators ($2 million); Pressure calciner project ($2 million); and Aluminum spray forming ($3 million).

Advanced fluid catalytic cracker ($2 million); Food, textiles and agriculture program ($1 million); Grants to industrial associations ($1 million); Industrial assessments ($1 million); CNG absorbent systems and tank design ($1 million); Federal fleet vehicle acquisition (elim. central DOE fund) ($20 million); Collaborative effort with DOT on crash behavior ($1 million); Automotive piston technologies ($5 million); Locomotive fuel cell program ($1 million); Fuel cells for buses ($3 million); and Integrated resource planning (utility sector programs) ($9 million).

VA-HUD, Indep. Agencies.—National Community Service/Americorps ($577 million); Community Development Financial Institutions ($125 million); Chemical Safety and Hazards Investigation Board ($500,000); Office of Consumer Affairs ($2.2 million); Public Housing Development ($598 million); Enterprise Zone Homes ($50 million); Pension Fund Partnerships ($350 million); Flexible Subsidy Fund ($50 million); Neighborhood Development ($5 million); and Community Adjustment Planning ($2 million).

National Homeownership Trust Demonstration ($50 million); Congregate Housing ($25 million); Project Based Service Coordinators ($22 million); Economic Development Initiative ($350 million); Joint Community Development ($6 million); Lease Adjustments ($22 million); Loan Management ($150 million); Public Housing Coordinators ($30 million); and Service Coordinators ($30 million).

Commerce, Justice, State.—Advanced Technology Program ($340 million); U.S. Travel and Tourism Administration ($14 million; $2 million left for closeout costs); Nonpoint Pollution Source Control grants ($5 million); Endowment for Children's Educational Television ($2.5 million); Contributions to U.N. Industrial Dev. Organization ($28 million); Competitive Policy Council ($1 million); and Ounce of Prevention Council ($1.5 million).

Labor, HHS (House eliminations).—Summer Youth ($871 million); Low Income Home Energy Assistance ($1 billion); Goals 2000 ($372 million); Library Constitution &

Categoricals ($37 million); Corporation for National and Community Service/Americorps ($577 million); Community Development Financial Institutions ($125 million); Council on Environmental Quality ($1.19 million); Chemical Safety and Hazards Investigation Board ($500,000); Severely Distressed Public Housing ($500 million); Flexible Subsidy Fund—HUD ($50 million); Congregate Services—HUD ($25 million); HOPE grants ($50 million); Youthbuild Program—HUD ($50 million); and National Homeownership Trust Demonstration Program ($50 million).

Department of Labor

Employment and Training Administration.—Youth Fair Chance ($24 million); Rural Concentrated Employment ($3.8 million); JTPA Concentrated Employment ($6 million); National Commission for Employment Policy ($2.2 million); American Samoans (Training & Employment Services) ($5 million); Microenterprise Grants ($2.25 million); National Occupational Information Committee ($6 million); National Center for the Workplace ($1.1 million); Office of the American Workplace Departmental Management ($7.4 million); National Veteran's Training Institute ($2.9 million).

Department of Health and Human Services

Public Health Services.—Trauma Care—Public Health Service ($4.7 million); Black Lung Clinics ($4.1 million); Payments to Hawaii-Hansen's Disease ($2.9 million); Pacific Basin Initiative—Public Health Service ($2.8 million); Native Hawaiian Health Care ($4.5 million); and National Institute Occupational Safety & Health Training ($12.8 million).

Substance Abuse and Mental Health Services Administration.—Community Support Demonstrations—Substance Abuse & Mental Health Services Admin. ($24 million); Treatment Grants to Crisis Areas—Substance Abuse Services ($35 million); Comprehensive Comm. Treatment Program—Substance Abuse Services ($27 million); Training—Training Improvement Demos. ($5.5 million); High Risk Youth—Prevention Demonstrations ($65 million); Other Programs—Prevention Demonstration ($6.6 million); Community Partnerships ($114 million); and Prevention Education/Dissemination ($13.4 million).

Assistant Secretary for Health.—Office of Disease Prevention & Health Promotion ($4.6 million); Emergency Preparedness ($2.1 million); and Health Care Reform Data Analysis ($2.7 million).

Health Care Financing Administration.—Counseling Program ($4.5 million); and New Rural Health Grants ($1.7 million).

Administration for Children and Families.—Civics & English Education Grants ($6 million); Child Development Associate Scholarships ($1.3 million); ABCAN ($288,000); Child Welfare Research ($6.3 million); Social Services Research ($14.9 million); Family Support Centers ($7 million); Community Based Resource Centers ($31.3 million); Rural Housing ($2.9 million); Farmworker Assistance ($3 million); and Demonstration Partnerships ($7.9 million).

Administration on Aging.—Ombudsman Services ($4.4 million); Pension Counseling ($1.9 million); Preventive Health ($16.9 million); Aging Research & Special Project ($26.5 million); Federal Council on Aging ($176,000); and White House Conference on Aging ($3 million).

Department of Education

State School Improvement ($27 million); and Impact Aid-Payments for Federal Property ($16 million).

School Improvement Programs.—Safe & Drug Free Schools-National Programs ($25 million); Education Infrastructure ($35 million); Law Related Education ($5.8 million); Christa McAuliffe Scholarship ($1.9 million); Women's Educational Equity ($3.9 million); Training and Advisory Services ($21.4 million); Dropout Prevention Demonstrations ($28 million); and Ellender Fellowships (Close-Up).

Education for Native Hawaiians ($12 million); Foreign Language Assistance ($10 million); Training in Early Childhood ($13 million); Comp. Regional Assistance Centers ($44 million); and Family and Community Endeavor Schools ($11 million).

Bilingual and Immigrant Education.—Support Services ($14 million); and Professional Development ($25 million).

Special Education.—Innovation and Development ($20 million); Technology Applications ($10 million); Special Studies ($4 million); Personnel Development ($91 million); Parent Training ($13 million); Clearinghouses ($2 million); Regional Resources Centers ($7 million); Endowment Grants-National Tech. Institute for the Deaf ($336,000); Construction-National Tech. Institute for the Deaf ($150,000); and Endowment Grants-Gallaudet University ($1 million).

Vocational and Adult Education.—Community Based Organizations ($9 million); Consumer and Homemaker Education ($34 million); State Councils ($8.8 million); Demonstrations-National Program ($20 million); National Occupational Info. Coord. Committee ($6 million); Evaluation & Technical Assistance-Adult Education ($3.9 million); National Institute for Literacy ($4.8 million); and Workplace Literacy Partnerships ($18 million).

Student Financial Assistance.—Federal Perkins Loans-Capital Contributions ($158 million); State Student Incentive Grants ($63 million); and State Post-Secondary Review Program ($20 million).

Higher Education.—Endowment Grants ($6 million); HBCU Set-aside ($2 million); Evaluation ($1 million); Native Hawaiian & Alaska Native Cultural Arts ($1 million); Eisenhower Leadership Program ($4 million); Innovation Projects in Community Service ($1.4 million); Institute for International Public Policy ($1 million); Cooperative Education ($6.9 million); Law School Clinical Experience ($14.9 million); Urban Community Service ($13 million); Student Financial Aid Database ($496,000); and Mary McLeod Bethune Memorial Fine Arts Center ($4 million).

National Early Intervention Scholarship & Partnerships ($3.1 million); Byrd Scholarships ($29 million); National Science Scholarships ($4.4 million); National Academy of Science, Space & Technology ($2 million); Douglas Teacher Scholarships ($14.5 million); Olympic Scholarships ($1 million); Teacher Corps ($1.8 million); Harris Scholarships ($20 million); Javits Fellowships ($7 million); Faculty Development Fellowships ($3.7 million); School, College and University Partnerships ($3.8 million); and Legal Training for the Disadvantaged ($2.9 million).

Howard University.—Regular Program-Endowment Program ($3.5 million); Clinical Law Center-Endowment Program ($5.5 million); Research ($4.6 million); Construction ($5 million); and College housing & Acad. Facilities Loans ($1 million).

Education Research, Statistics & Improvements.—21st Century Learning ($750,000); Eisenhower Prof. Development-Nat. Programs ($21 million); Eisenhower Math/Science Education Consortia ($15 million); National Writing Project ($3.2 million); National Diffusion Network ($14 million); Star Schools ($30 million); Ready to Learn TV ($7 million); and Telecommunications Demo for Math ($2 million).

Libraries.—Construction ($17 million); Library Literacy Programs ($8 million); Library Education and Training ($4.9 million) and Research and Demonstrations ($6.5 million).

Department Management.—National Board of the Fund for the Improv. of Post Secondary Ed. ($128,000); President's Ad. Comm. on Ed. Excellence for Hispanic Am. ($286,000); and President's Bd. of Advisors on Hist. Black Colleges & Univ. ($128,000).

Related Agencies.—Vista Literacy Corps-Domestic ($5 million); Senior Demonstration Program ($1 million); National Education Goals Panel ($3 million); and National Ed. Standards & Improvement Council ($2 million).

MAJOR CUTS IN PROGRAMS

Agriculture.—Congressional Affairs activities ($1.1 million or 25%); USDA advisory committees ($278,000 or 30%); Rural Housing Preservation Grants ($11 million or 50%); Sect. 515 rental housing program ($40 million or 21%); and Title III—commodity grants and P.L. 480 ($67 million or 57%).

Transportation.—Essential Air Service ($10.8 million); Transit formula grants ($457 million); Transit operating assistance ($310 million); Northeast corridor improvement program ($85 million); and Amtrak operating subsidies ($198 million).

Legislative Branch.—One-third Committee reduction ($45 million); Eliminated 6,000 daily copies of The Congressional Record ($1.5 million); Recording studio and photographers ($1.2 million); Closed captioning ($800,000); Joint committees ($2.6 million or 22.8%); Architect of the Capitol ($16.7 million); Govt. Accounting Office ($75 million or 15%); Congressional Printing and Binding ($6 million); and GPO Superintendent of Documents ($1.9 million).

Energy and Water.—Army Corps of Engineers ($138 million); Bureau of Reclamation ($31 million); Dept. of Energy ($173 million); Appalachian Regional Commission ($102 million); Tennessee Valley Authority ($29 million); and Nuclear Regulatory Commission ($52 million).

Interior.—Territories ($31 million); Bureau of Indian Affairs ($160 million); Department of Energy ($87 million); National Endowment on the Arts ($52 million); National Endowment on Humanities ($51.5 million); Institute of Museum Services ($8.8 million); Natural Resources Research ($25 million); Office of Surface Mining ($24 million); and Natural Resource Agencies ($200 million) (non-essential construction, land acquisition and grants).

VA-HUD, Indep. Agencies.—NASA ($556 million); HUD ($6.1 billion); Superfund ($267 million); Environmental Protection Agency ($1.5 billion); Academic Research Infrastructure ($150 million); and Property Disposition ($289 million).

National Security.—Technology Reinvestment Program ($305 million); Consultants/research centers ($90 million); Environmental restoration ($200 million); Cooperative Threat Reduction ($71 million); Energy management programs ($199 million); Defense acquisition/management ($164 million); UN peacekeeping assessment ($65 million); and Travel/support aircraft operations ($129 million).

Commerce, Justice, State.—Department of Commerce ($578 million); Asia Foundation ($10 million); Contributions to Inter'l Organizations ($172 million); Contributions to Inter'l Peacekeeping ($293 million); Arms

Control and Disarmament Agency ($14.7 million); U.S. Information Agency ($310 million); East-West Center ($13 million); Federal Communications Commission ($9.5 million); Legal Services Corporation ($122 million); and State Justice Institute ($8.3 million).

Mr. SABO. Mr. Speaker, I yield 2½ minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, 2½ minutes is insufficient time to correct all the misstatements, I am sure, that the gentleman from Louisiana [Mr. LIVINGSTON] made just now, so I will not endeavor to do that.

Mr. Speaker, we need to understand what we are doing. We are continuing to play games. The Committee on Rules has reported out this resolution, which they purport to be the President's provision in response to their reconciliation. Everybody honestly knows that is not the case.

This is the Republican reconciliation bill. Does anybody in this House believe this is an analogous document? Does anybody believe this is an analogous, fair, alternative proposal that the Republicans are putting on the floor? Does anybody? I do not believe it.

Mr. Speaker, these are six bills, smaller than the bill that I just raised. They are the appropriation bills that would run Government if we could pass them. The gentleman from Louisiana just got on the floor recently and said, "Where is the Labor-Health bill? It is being filibustered in the Senate." Why? Not on the money issue, but because they put an extraneous provision on that bill called strikebreaker so that people can be fired without notice.

Mr. Speaker, I understand that is their position. We do not agree with it. But it should not be on that bill and it should not be on any one of these six. We ought to make them law.

Mr. Speaker, this is a continuing resolution. It is simple and it says we will continue to operate Government. While we debate the differences we have in this bill, we will pass this simple bill and say America is paying for its Government, and we are going to deliver it.

Mr. Speaker, we could pass this simple little resolution in 5 minutes. We have already passed one twice. We will take the figures that our Republican colleagues put in their resolution last time and simply say, Let us go to January 3 or 17 or 29, and then let us try to figure out, as adults, as responsible Americans sent here to represent our fellow citizens, how do we resolve the differences in this bill? But it is the failure to pass this one that has shut down parts of Government. That brings no credit to us or to this institution.

Mr. HOBSON. Mr. Speaker, I yield 4 minutes to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I realize there is a great deal of concern on the part of my Democrat colleagues regarding this debate and vote. They say the President' budget is not really a budget, it is more like a plan or a proposal or an internal working document. In any case, they say that we should not be voting on it, whatever it is.

Mr. Speaker, let me point out that the agriculture title of the President's budget is very real. There are 187 pages of specific policy recommendations from the Office of Management and Budget. Just for the record, when specific and real budgets were presented by Republican Presidents in the past years, the Democratic majority made it a regular ritual to call for a vote and to put everybody on the record, so today it is no different.

Mr. Speaker, despite all of the welcome and helpful efforts of various Democrats, those who call themselves the Blue Dogs, those who are part of the coalition group, this document right here really contains the only current and specific policy recommendations on agriculture by this administration.

What are the proposals for farm country? Well, farmers are not freed from massive USDA regulation. The Secretary of Agriculture is given broad authority to arbitrarily establish mandatory land set-asides. The budget that the President vetoed deregulates all of that practice.

The President revives the off-farm income means test for farm programs that calls for farmers and ranchers to surrender their income tax return to the Department. That is the very reason the House overwhelmingly rejected this idea earlier this year.

Marketing loans and other programs that farmers file for all year are wrecked by the President's plan for cotton, rice, and peanuts.

Sugar farmers do not have that problem. The President simply eliminates their program after 2 years, with no mechanism to ease the transition.

There are new taxes in the form of user fees and assessments. They are levied on producers to finance marketing orders and the peanut program. There is a new tax levied on the crop protection industry.

Assessments on dairy farmers are retained and the scheduled decrease is canceled. All Republican dairy proposals are premised on eliminating the assessments entirely.

The bulk of the agriculture savings in the President's budget comes from increasing the acres for which no payments will be made. That is a straight cut in income support. There is no protection against any future budget cuts through deregulation; no effort to help farmers make an assisted transition to market-oriented farming. The President offers farmers cuts in income, more cuts to come, and the status quo.

The President has stressed how important it is to protect farmers in this budget process; that cuts in ag should be limited to $5 billion instead of the $12 billion in the balanced budget that he vetoed. But the crucial issue is how much help farmers will get, not about how much is cut.

The budget he vetoed contained $44 billion as an investment in farm program reform over 7 years. The President's budget contains only $37 billion. I want to make it very clear to those who care about the future of American agriculture what is at stake in this debate. If we can bring the Federal budget into balance, interest rates will fall, and farmers who are among the heaviest users of credit in this country will save $15 billion in borrowing costs.

If we fail in this task, if we fail, if we delay, the Federal Reserve Chairman, Alan Greenspan, has warned that interest rates will sharply rise, heavily impacting farmers. The longer we delay, the worse agriculture will fare in this budget process as we struggle with a collapsing baseline.

My colleagues, America needs a balanced budget bill that will really balance the budget. The President has vetoed one serious budget effort. We need to send a strong signal to the President that a status quo ag policy that does not preserve an adequate investment in agriculture is a nonstarter. Let us renew our efforts for a budget plan that truly balances the budget and treats our farmers fairly.

Mr. HOBSON. Mr. Speaker, could I inquire of the time on each side?

The SPEAKER pro tempore (Mr. EMERSON). The gentleman from Ohio [Mr. HOBSON] has 7 minutes remaining, and the gentleman from Texas [Mr. STENHOLM] has 14 minutes remaining.

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, over the last 30 days or so, I have really started to worry about whether I am in the right place. I am worried about whether we are following somebody who has any sense of responsibility to the American people.

A Speaker who would close down the Government because he had to get off the back of a plane; a Speaker who would lead us to default on the obligations that the U.S. Government has to people that it owes money to; a Speaker that would close down the Government 2 or 3 days before the Christmas holiday.

Yet, we spend our time dealing with trivia that has no meaning, like this bill.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. BROWDER].

Mr. BROWDER. Mr. Speaker, I am concerned about what is happening here today. I am afraid that our Government has been taken hostage by a stubborn gang of right-wingers, left-wingers, and campaign consultants.

Mr. Speaker, I know that this budget disagreement is a serious debate about real issues and the future of our country. This fight is about principles. But sooner or later, the public interest requires that even principled fighters settle on something.

I have done a little research back in my office. I first consulted my Bible, and I learned that Moses went up on that mountain and came down with the Ten Commandments 40 days later. I consulted the Bicentennial edition of the U.S. Constitution and I learned that the Founders wrote the Constitution of the United States of America in less than 4 months.

Mr. Speaker, we have been in session since January. That is 350 days. That is 12 months. That is 1 year. Now we have shut down the Government twice, and still have not finished our work.

Mr. Speaker, I say the President and the Republican leadership ought to put their plans on the table and come to a compromise. If they cannot agree on how to run the Government, then they ought to put the coalition budget on the table and go from there. The coalition plan is not perfect, but I think that if Moses or the Founders or the American people could have their say, they would give them the same advice.

Mr. Speaker, if some politicians think it is in their interest to continue this posturing and carry this debate into the 1996 elections, then I hope the electorate will send us some good old-fashioned, practical Americans.

□ 1630

Mr. SABO. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, I welcome this opportunity on the eve of those people that are able to celebrate the birth of Christ and their own religious holidays to realize that what we are doing today has nothing to do with balancing the budget. All of the things that my Republican friends are talking about can and should be done. As a matter of fact, it should have been done a long time ago.

It is one thing to hold the President of the United States hostage, to force him to do what you would want him to do by closing down the Government. It is another thing to take the American people who have nothing to do with the dilemma we find ourselves in and to say, you are not going to vote for a continuing resolution until you make them suffer the pain, until you make certain that those that have a responsibility to take care of their family are now just going to be angry with government in general.

If my colleagues really believe that these mean-spirited tactics are going to make their party and their Speaker popular, then why do they not talk with the people that have the responsibility of providing the care to the poor and to the sick, talk with the Catholic bishops who say that these programs make no sense, the nuns and the women and the teachers and the doctors that provide for those people that even our Lord said are the lesser among us, that we would have their budgets cut, for what? To balance the budget?

Do we balance a budget really by starting off saying that we are going to give $245 billion to the richest Americans? My colleagues, do not do it. So play around with Democrats and Republicans. Do what we have to do for the Presidential election. But as we go into the celebration of the birth of Christ, do not take these holidays and play politics with the American people.

People cannot even go to the Statue of Liberty, a place that is symbolic for what this country stands for, and we are down here just playing politics without allowing Government to continue.

Mr. SABO. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I opposed the first budget the President submitted this year and stated so in the Committee on the Budget because it did not do what I want done, and that is balance the budget in 7 years.

I opposed his second budget but applauded him for moving into the 10-year balanced budget frame. I applauded the President when he moved again 1 week ago, not as far as I would like to see, and I certainly will vote against this so-called budget today, which really is not a budget. It is an opportunity to talk about whatever it is we have been talking about.

But I also voted against the Republican budget. We hear a lot about the deficit. And I have a lot of agreements with the Republican budget. I think we will find whenever we can start negotiating that we will have some agreements. I have a lot of strong disagreements. The biggest one is I do not believe it makes sense to borrow 53 billion more dollars over the next 3 years in order to give ourselves a tax cut.

If my colleagues are concerned about deficits, it seems to me that the good-faith first effort ought to be reduce the deficit, not cut taxes.

We talk about negotiations. I have not seen any movement on this as yet. Does it really make sense to borrow 53 billion more dollars when we are talking about reducing the deficit? I ask my colleagues to justify that one.

We have heard a lot about honest numbers. Again let me repeat, honest numbers, real numbers, CBO, all of this that I support, but CBO adjusted their real, honest numbers $135 billion since we started the fussing.

I am on the nonnegotiating team. I hope today as our leaders have met, I hope that later today we will hear that the negotiators can sit down and start working out the differences between the various ideas and that we come to an agreement, and that budget agreement will be signed by the President because he has said, I will sign a 7-year CBO-scored budget. But we will not get there with what we are doing this afternoon.

Mr. HOBSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Speaker, I rise in strong opposition to President Clinton's unbalanced budget and in support of the balanced budget that has already passed this Congress.

The President has now had four tries at sending the Congress a balanced budget. And, he still has not gotten close to honoring the commitment he made to the American people and the law he signed 29 days ago agreeing to a balanced budget in 7 years using real numbers, not smoke and mirrors. President Clinton's latest budget keeps piling on the debt—an estimated $265 billion in the red.

While the President cannot send us a budget that actually balances, he can stand over at the White House and scare our seniors, scare our families, and scare our veterans with dire rhetoric and self-serving political posturing that lacks one essential element—the truth.

The President has his seasons mixed up. It is Christmas, not Halloween. So maybe he should put away the "senior-scare" tactics and "bogey-man" budgets and join the Congress in actually helping our Nation by balancing the budget.

Today, each and every Member of Congress faces a crystal clear decision. Members can vote for President Clinton's fourth budget and with their vote they will say to their folks back home, "I agree with President Clinton. We simply don't want to balance the budget so let's not even try. Let's just keep piling on the debt that our children and grandchildren will be stuck with anyway. And, we'll keep playing the tried and true Washington political game of saying one thing and doing another. Saying we want a balanced budget, but voting to keep up the outrageous spend-a-thon." That's what some wrongheaded Members might say.

Or, Members of Congress can vote "no" on President Clinton's budget. By voting "no," a Member of Congress is saying, "President Clinton, it really is time to finally balance the budget. No more Washington, DC gimmicks. No more political games. No more divisive grandstanding. Let's do the right thing. Let's balance the budget. Let's put our government back to work."

I urge my colleagues, Republicans and Democrats, to vote "no" and send a bipartisan message to President Clinton that we are ready to move forward to balance the budget and it is about time that he joined us.

The American people are waiting and watching.

Mr. HOBSON. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina [Mr. SPENCE].

Mr. SPENCE. Mr. Speaker, I want to briefly comment on the significant differences between the administration's recent unbalanced budget proposal and the Republican balanced budget plan.

The Republican plan stops a decade-long hemorrhage in defense spending, in the President's 5-year defense plan. We do not know how much further the President might be cutting the defense budget because his latest proposal does not provide specific budget function numbers. While the Republican defense plan is far from a cure-all, it does begin to restore quality of life for our personnel and their families. It does sustain readiness. It does begin the long and expensive process of reinvigorating a faltering modernization program, and it does initiate long overdue Pentagon reforms.

Mr. Speaker, let me cite just one important example where the President's recent proposal is not only inconsistent with the bipartisan congressional priorities but breaks faith with our military personnel.

Two years ago the President signed into law reconciliation legislation that disproportionately delayed the payment of military retiree COLA's relative to their Federal civilian counterparts. Realizing the error of his ways, the President finally requested the restoral of COLA equity in his budget submission earlier this year. The Republican balanced budget plan endorsed COLA equity. Just last Friday the House passed a fiscal year 1966 defense authorization conference report containing the statutory changes necessary to implement COLA equity.

Yet it appears that the President has had a change of heart. His most recent unbalanced budget proposal would once again unfairly penalize our military retirees by delaying payments of their COLA's to October while endorsing the payment of Federal civilian retiree COLA's to April. To use another's famous words, it is deja vu all over again.

Mr. SABO. Mr. Speaker, the last gentleman described the Republican reconciliation bill.

Mr. Speaker, I yield 1 minute to my friend the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, the country moves on. In fact today Alan Greenspan reduced interest rates by a quarter of a percent so the country can grow at a quicker rate. Only the Government shuts down. Only we in Congress can open it. Yet while Rome burns, the leadership of the Republican Party fiddles.

Thanks to the Speaker, the Federal Government is shut down again, 250,000 employees are out of work because the Speaker's nose is out of joint. Happy holidays. Instead of passing a continuing resolution, putting people back to work and going back to the negotiating table, we are voting on a poorly plagiarized budget document.

I support a balanced budget. I support the President's commitment to do so while protecting Medicare and Medicaid and education and the environment. But this is not the President's budget. This is a gimmick.

Mr. Speaker, stop wasting our time. Go back to the negotiating table and stop holding Federal employees hostage, just because the Gingrich-Kasich budget is a loser to the American people.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. HOBSON] has 5 minutes remaining, and the gentleman form Minnesota [Mr. SABO] has 6 minutes remaining.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. CRAMER].

Mr. CRAMER. Mr. Speaker, my colleagues, what we are engaging in here tonight is in fact a charade. This is certainly a family unfriendly Congress. There is a legitimate budget on the table, that is the coalition's budget. I want to congratulate the gentleman from Texas [Mr. STENHOLM], the gentleman from California [Mr. CONDIT], the gentleman from Utah [Mr. ORTON], and the gentleman from Alabama [Mr. BROWDER], for having the courage to set forth earlier in this year a very detailed, a very difficult budget that makes very difficult choices. That is what we ought to be negotiating here today, not this mindless game that we are playing here, where we are not really getting anywhere.

We are in fact holding Federal employees hostage. They are sitting out there wondering if this is in fact the way Government should work. No, it is not. Let us get serious. Let us look at the coalition budget and let us do the job that the American people sent us here to do.

Mr. SABO. Mr. Speaker, I yield 30 seconds to my good friend, the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the honorable ranking member for his leadership on these budget issues.

Let me say, Mr. Speaker, that we need to take this budget misrepresentation off of the congressional agenda. This is not a budget. This has not been offered by the President. We need to get rid of the $270 billion tax cut, talk seriously about reducing the deficit, stop eliminating Medicare and Medicaid, hurting the hospitals in Houston and in Texas, stop eliminating summer jobs for our youth, stop a welfare reform plan that does not allow people to become independent, and stop the foolish ego fight that the Republican majority is engaged in. This Congress, in a bipartisan manner, should put forward an American budget that all Americans can support. This is not a time for an unneeded tax cut. It is time for a reasonable approach to get a balanced budget. This is not a time to not accept an unnamed, unscared, and unacceptable proposal that the Republicans have without reason placed on this House floor for a vote.

Mr. HOBSON. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. CHAMBLISS].

Mr. CHAMBLISS. Mr. Speaker, this country is at war. Everyone in this Congress and people throughout America recognize that this country is at war. Mr. Speaker, this country it is at war with an issue that has the potential of wreaking more destruction on this great Nation and more hurt on the American people than any war in our history. This issue, of course, Mr. Speaker, is the budget deficit, a fact of life for every American over the last quarter century that has made products more expensive, created higher interest rates, and depressed an economy and a nation that is poised for economic boom.

Last November, the American people elected a new leadership in Washington. In doing so the American people sent to battle the troops they believed would carry the flag of responsibility and reason. The war over our economic future is a fight we cannot afford to lose—the stakes are too high.

Mr. Speaker, there are very close parallels between this Nation's national security and this budget war. Just as Americans have asked our brave sons and daughters to spend the holidays in a cold and distant land in Europe, now is the time to ask our Nation's political leaders to join the battle and balance the budget.

Mr. Speaker, it has been said before that "It is Morning in America." And I firmly believe that this week we are on the threshold of greatness once again. There will be no brighter dawn than the hopes and dreams made possible by a sound economy. We have an opportunity at this time to balance the budget for the first time in a quarter century and preserve the future for every American—a new dawn, indeed.

Mr. Speaker, this is the President's call to arms. Now is the time for the President to join the overwhelming majority of the Members of this body who are willing to do all it takes to balance the budget of this great Nation.

Certainly, it will require sacrifice. Certainly, it will require tough decisions. But Mr. Speaker we must win this very important battle today if we are to balance the people's books tomorrow. Oppose the latest Clinton unbalanced budget plan and support a serious plan to reach a balanced budget by 2002.

Mr. SABO. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Michigan [Mr. BONIOR], distinguished minority whip and my good friend.

Mr. BONIOR. Mr. Speaker, I thank my friend from Minnesota for yielding time to me.

Mr. Speaker, the American people want us to balance the Federal Budget. They would like us to do it in 7 years.

That is a true fact. But it is also a true fact that 75 percent of the American people reject the Republican plan. they reject cuts in Medicare. They reject cuts in Medicaid. They reject cuts in education and the environment. They reject tax breaks for the wealthiest individuals and corporations in America that are in the Republican proposal.

My colleagues have put their budget before the American people, and the American people have said no, that budget goes too far. But instead of sitting down and negotiating, instead of coming up with a balanced budget that protects Medicare and Medicaid, the environment, education, things that we said in the last CR we were going to protect, for the second time in less than a month, Speaker GINGRICH has closed down the government, has manufactured a crisis in an attempt to ram through the Republican budget plan.

□ 1645

Mr. Speaker, it is not going to work. Blackmail did not work the first time, and it is not going to work the second time. We are not going to be forced to accept a budget that devastates seniors, the disabled, children, students, and working families all over this country.

My colleagues want to talk about priorities? Well, let us talk about the Republican tax breaks. Eighty percent, 80 percent of America, has not seen a raise in wages in the last 20 years. That is a fact. Yet over 50 percent of the tax breaks in their budget go to people making over $100,000 a year or more. No wonder all those corporate CEO's, and the Washington Post, and the New York Times today took out a full-page ad, a full-page ad. Under the Republican plan wealthy corporations, they are going to be the biggest winners of all, and if everything is going to be on the table in this debate, then corporate welfare and corporate tax breaks have to be on the table, too.

And I say to these gentlemen here they want a balanced budget? Come on down and participate, participate. It is not fair to ask our seniors to pay more, to ask working families throughout this country to pay more, if they are not willing to ask the wealthiest corporations in America to at least do something in the way of tax expenditures and corporate welfare.

They want to talk about keeping their promises? Well, let us talk about what the Republican Medicare and Medicaid proposals do to seniors. Let us listen to what Consumer Reports has to say. Everybody knows Consumer Reports. My colleagues want to buy a TV, want to buy a cart, they go to Consumer Reports, they try to get a rundown on what is a good deal. They came out with a report, and this is what they said, and I quote:

"What Congress isn't telling you: Families of nursing home residents may face financial ruin under Federal Medicaid bill."

That is what they say they do to Medicaid in their budget proposal. This report says that if the Republican budget passes, and I quote, 36 million Americans will lose Medicaid protection they have now, and an estimated 395,000 long-term care patients are likely to reduce Medicaid payments for their nursing home care next year.

Do my colleagues want to talk about keeping promises? What about all the promises we have made to our parents and to our grandparents? Their budget abandons them.

Do my colleagues want to talk about accounting gimmicks? Let us talk about years 8, 9, and 10 under their budget. Just look at what the tax breaks do, the Republican tax breaks do. They dip down in year 7, in the year 2002. What happens in years 8, 9, and 10? They explode, they go through the ceiling.

Now how are we going to pay for this? More cuts in Medicare, more cuts in Medicaid, more cuts in education.

Mr. Speaker, we all want a balanced budget, but, if we want to get to a balanced budget in 7 years, we have got to make sure that it stays balanced, and we have got to guarantee our children's future, not guarantee the future of the wealthy through these exploding tax breaks.

Mr. HOBSON. Mr. Speaker, I yield the balance of our time to the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Speaker, I rise in opposition to the President's budget proposal. It does not balance the budget.

By contrast, the Congress has repeatedly demonstrated its determination to balance the budget with real deficit reduction, not phoney numbers.

As a member of the Budget Committee and the Resources and Agriculture Committees, I know first hand that all of the Committees have worked hard to carry out their mandate for deficit reduction.

The Resources Committee has worked on the difficult task of ensuring the wise use and protection of our nation's natural resources.

Strong environmental protections are critical. There is no question here. Those of us who represent the West know first hand how important it is to protect our nation's resources. We have grown up amidst those resources and we understand the principle of "wise use."

The goal of the Resources Committee has been to restore some balance to the equation. In many of our states, the federal government owns over a third or more of the land. We are simply asking that our citizens have some say over the manner in which those lands and resources are maintained and protected.

We are also working to protect the interests of the working families whose wise use of our resources is critical to their livelihood and to our nation's future.

The Resources Committee has produced over $2.3 billion in savings through 2002. This will help us balance the budget and ensure a better future for our children.

All our opponents have done is complain about our plan. My question is, where is their plan? The President's budget never gets to balance.

Mr. Speaker, if we do not balance the budget, our children will pay the price. Already, a child born today will pay $187,000 in taxes just to pay for their share of interest on the debt.

The Congress has not balanced the budget since 1969. We cannot wait any longer. Our children are depending on us to finally do the responsible thing, and end these endless deficits.

This is not easy work, it involves tough choices and tough votes. Unfortunately, the President has declined to join with us in the heavy lifting.

Last month, the President gave the Congress and the American people his word that he would submit a budget that achieves balance in seven years with real numbers. So far, he has not fulfilled his commitment.

Mr. Speaker, the reason there is conflict this week in our government is because this Congress is different. We promised the American people a balanced budget, and we are going to deliver.

The easy course would be to postpone the tough choices to a future Congress. After all, Congress has been doing this since 1969.

Mr. Speaker, this time we are not going to pass the buck. We are here, we are ready to negotiate, and we are ready to work with the President to produce the balanced budget he has promised.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I regret that the Budget Committee's majority members and staff has taken it upon themselves to speak for the President of the United States and his staff by introducing House Concurrent Resolution 122. It is wrong and misleading to the public and to this body to present before this House a phoney budget which has not been issued by the President. I am distressed by this not only because it is wrong to mislead the House and the public as to the authorship of a document but also because it detracts from the real issues of this debate.

We need to address the real proposals in front of us. We do not have time to play around when 260,000 dedicated Federal workers are sitting at home, unsure if they will be paid, 6 days before Christmas. We do not have time to play around when Members are trying to get home to their families and their districts in time for the holidays. We do not have time to play around while the future of this Nation hangs in the balance.

I urge my colleagues to stop playing politics and start paying attention to the real issues here—the people—the senior citizens, veterans, students, and children who will be hurt by the current Republican budget proposals. It is time to get down to business, it is time to end this second Government shutdown and to pass a balanced budget that is good for the people of this country.

Mr. BALLENGER. Mr. Speaker, Monday the President vetoed and VA–HUD appropriations bill. No doubt one of the reasons behind this veto was the elimination of funding for his pet program, AmeriCorps.

Most of us have served as volunteers in our local communities and never thought of being paid in the process. The AmeriCorps National Service Program is the Democrat initiative for paying people to volunteer. During the 1993 debate on the program, a senior Democrat Senator declared "Congress will not, and should not fund a program if it is unsuccessful. I do not believe it will happen but if it does I would favor cutting the program." I, and many others, question the success of AmeriCorps. After 3 years, the program has developed an average cost per volunteer between $26,000 and $31,000. And, one-fourth of AmeriCorps so-called volunteers don't work in their communities—they work in Government or Government funded agencies. In my opinion, this program runs contrary to the idea of selflessly giving of ones time and talents for the betterment of the greater community.

We agree with the Senior Democrat Senator who said that if a program's unsuccessful to its original goal, eliminate it. Unfortunately, it seems that President Clinton prefers to continue supporting this wasteful program.

Mr. DINGELL. Mr. Speaker, I rise in opposition to the tactics of my Republican colleagues. Rather than trying to score political points, we should be working to balance the budget and to restore Government services to our constituents. The current shutdown is costing the American people more than $100 million a day. It is also creating problems such as delaying benefits for our veterans and seniors.

We must protect future generations from being saddled with debt. However, the balanced budget we enact must meet several fundamental principles which have been stated by the President many times.

It must protect Medicare, Medicaid, education, veterans medical care and benefits, nutrition programs for children and the elderly, and the environment.

My Republican colleagues agreed to these same principles last month. Yet, they refuse to talk. And, they are unwilling to negotiate any significant changes to their extreme budget proposal which targets our most vulnerable citizens to give the rich a generous tax cut. They would rather see the Government close and risk default.

The President's budget, which this bill represents in name only, does not take that mean-spirited, reckless approach. It protects health care for the elderly and the disabled persons of this Nation. It also makes sure that our children receive a decent meal and a quality education in a safe environment.

The Republicans claim that the President's budget will not reach balance in 7 years. However, it may. The fact of the matter is we don't know. Seven years is a long time, and there is no way to predict with certainty what our economic growth will be over that period.

Furthermore, history teaches us that every time Republicans put their stamp on a budget deal, the deficit has ballooned. The 1990 budget deal that President Bush signed was supposed to bring the budget to balance. It ultimately led to the highest annual deficits on record—well above $300 billion.

The first Reagan budget also was supposed to balance the budget. It too failed miserably. In 1981, when President Reagan took office, the national debt stood at $1 trillion. After 12 years of Republican administrations pushing their failed economic policies, the debt skyrocketed to more than $4 trillion.

My Republican colleagues are fond of claiming that the escalation of the national debt is the fault of the Democrats. I would remind them that Congress cut every budget request that Presidents Reagan and Bush submitted except one.

The record of President Clinton on deficit reduction is quite different. Rather than merely talking about deficit reduction, President Clinton set out on day one to address a problem he did not create but inherited from his predecessors. He did so in a fair and responsible manner, and with great success.

President Clinton's 1993 budget cut the deficit by $700 billion. During his Presidency, the deficit has fallen 3 years in a row—that has not happened since President Harry S. Truman was in office. It now stands at the lowest level in 12 years.

We can and must build upon this progress. We should not, however, shut down the Government, break off negotiations, and bring up proposals that are invented to represent the President's budget. Sadly, this is just what the Republicans have done. Why? Because the President is unwilling to accept their extreme budget plan, or should I say their tax cut.

When it comes time to vote, I will stand with the President who has shown the American people he knows how to reduce the deficit. I urge my colleagues to do the same, and I call upon the leadership to put aside this political charade and begin the work of the people.

Mr. LEWIS of Kentucky. Mr. Speaker, the fourth Clinton budget is before us.

Once again, it continues to rob our children and grandchildren because it doesn't balance.

Once again, it does not abide by the nonpartisan Congressional Budget Office projections.

Once again, it breaks Clinton's promise to use CBO numbers—because they're more accurate than those cooked up by White House appointees.

And once again, Mr. Speaker, a Clinton budget will lose badly on the House floor.

Bill Clinton has not told the truth about our effort to balance the budget.

The fact is, the only condition we are holding him to during the current stalemate is that he use real, honest, nonpartisan CBO numbers. That's all. He already promised to do that, both in his first State of the Union Address and in the last continuing resolution.

Those on the far left side of the aisle use the word "extremists" almost daily.

Mr. Speaker, it's not extremism to care more about the next generation than the next election.

And it's not extremism to follow through on promises like balancing the budget and saving Medicare.

The only extremism I see comes from people who don't keep their word and demagogue honest efforts to do the right thing.

I yield back the balance of my time.

Mr. EWING. Mr. Speaker, I want to highlight concerns I have regarding the administration's budget and its impact on agriculture. At first glance it appears the President is reducing agriculture spending much less than the Republican budget. Below, I list reasons why the Republican budget does more for agriculture than the administration's bill.

Although the administration proposes reductions in agriculture spending of $5 billion over 7 years, as compared to $12.3 as proposed by the Republicans, the President's proposal will spend $37 billion over the next 7 years. This compares to $44 billion that Republicans have budgeted over the same period. As you can see, Republicans are doing more for the American family farmer.

President Clinton wants to continue the same 60 year antiquated farm program that restricts farmers in what they plant. The Republican plan allows farmers to respond to market conditions to determine what they plant.

Also eliminated by the Republicans are land set-asides. This market distorting practice pays farmers not to plant crops in demand in the world marketplace.

The President's plan stresses high commodity prices as the only barometer of farm profitability. Surely, our self-proclaimed agriculture expert President understands that yield and other factors contribute to the farmers' bottom line. Just ask those farmers who experienced a crop failure this year, how well they like Mr. Clinton's proposal.

The sugar program is not even mentioned in the administration's budget. Under this scenario, authority to even have a sugar program would expire in 2 years.

Farmers will be freed from massive USDA regulation. No more signing up for an annual program and then returning to the local office to certify that what was planted was what he or she said they would plant. Also eliminated would be restrictions on how many acres of a particular crop could be planted.

Every congressional proposal regarding dairy eliminates farmer assessments; the administration's does not.

The President proposes means testing those with more than $100,000 off-farm income from receiving farm payments. This may sound good, but in my Illinois district, some 75 percent of all land is owned by someone who does not farm the land. Means testing would shift farm land rents to a cash rent system where small family farmers will assume all the risk.

The President's budget will leave farmers exposed to future budget reductions, while the Republican budget will preserve agricultural spending.

In closing, the Republicans left Washington and went to rural America for input on the 1995 farm bill. Nineteen field hearings were held and four common issues consistently mentioned: First, no more land set-asides; second, give us planting flexibility; third, make the programs "user friendly"; fourth, provide certainty in payments.

In the interest of farmers, agribusiness, and rural America, I support the Republican budget proposal.

Mr. PACKARD. Mr. Speaker, the most important debate in decades is taking place right now. It is a debate about whether this Nation should balance the Federal budget in 7 years.

In October, my Republican colleagues and I did what needed to be done for decades. We made difficult decisions and Congress passed a historic balanced budget—a budget that finally reforms the Nation's welfare system, provides pro-family and pro-jobs tax relief, and saves Medicare from bankruptcy. The President has chosen the veto pen over the balancing pen. Apparently, he and his Democrat colleagues are not interested in a budget agreement if it means actually cutting spending and saving billions of dollars for our children.

This week, parts of the Government are shut down because the President chose to veto three appropriations bills. With the stroke of a pen, he could open the Government. But he would rather posture and make speeches than roll up his sleeves and sit down in good faith to negotiate a balanced budget that we can all agree on.

What the President and Congress do now about balancing the budget, will define the scope and the nature of our Government well into the 21st century. Mr. Speaker, this is a rare chance to step off the deficit treadmill. My Republican colleagues and I have delivered to the American people a budget plan with honest numbers that balance in just 7 years. The President must step up to the plate, live up to his word and do the same.

The SPEAKER pro tempore (Mr. EMERSON). All time expired.

Pursuant to House Resolution 309, the previous question is ordered.

The question is on agreeing to the concurrent resolution.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 0, nays 412, answered "present" 5, not voting 16, as follows:

[Roll No. 869]

NAYS—412

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Coble
Coburn
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Roybal-Allard
Royce
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—5

Clyburn
Engel
Filner
Mink
Williams

NOT VOTING—16

Berman
Chapman
Coleman
Edwards
Gephardt
Kaptur
Lantos
Murtha
Pryce
Ros-Lehtinen
Rose
Rush
Scarborough
White
Yates
Young (AK)

☐ 1711

Messrs. HILLIARD, DURBIN, BEREUTER, RIGGS, and Mrs. CHENOWETH changed their vote from "yea" to "nay."

So the concurrent resolution was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. ROS-LEHTINEN. Mr. Speaker, due to my mother-in-law's death, I was unable to be present for the vote on House Concurrent Resolution 122 and, had I been present, I would have voted "no."

PERSONAL EXPLANATION

Mr. WHITE. Mr. Speaker, I was unavoidably caught in traffic during the vote on rollcall vote 869. If I had been here, I would have voted "no."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. EMERSON). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken tomorrow.

☐ 1715

PROVIDING FOR PROVISIONAL APPROVAL OF REGULATIONS ISSUED BY OFFICE OF COMPLIANCE

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 123), to provide for the provisional approval of regulations applicable to certain covered employing offices and covered employees and to be issued by the Office of Compliance before January 23, 1996.

The Clerk read as follows:

H. CON. RES. 123

Resolved,

SECTION 1. APPROVAL OF REGULATIONS.

The regulations applicable to employing offices which are not the House of Representatives or the Senate and covered employees who are not the employees of the House of Representatives or the Senate which are to be issued by the Office of Compliance before January 23, 1996, are hereby approved on a provisional basis until such time as such regulations are approved in accordance with section 304(c) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(c)).

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Pursuant to the rule, the gentleman from California [Mr. THOMAS] will be recognized for 20 minutes, and the gentleman from California [Mr. FAZIO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 123 is a companion resolution to House Resolution 311 that we looked at earlier in the day and accepted. House Resolution 311 applied to the House of Representatives, and the House Concurrent Resolution 123 applies to covered employee offices and others, such as the Architect, and so forth.

Mr. Speaker, recall the situation in which probably a provision of rules will be passed on January 8. We probably will not be here. We will accept these provisionally. When we come back on January 23, we will examine and then approve the final orders.

Mr. Speaker, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this resolution. It has been a very cooperative effort on the part of the majority and the minority to develop standards and guidelines that we can all benefit from as we live with the new law that applies all of the laws that this Congress has passed to ourselves at some point during the next calendar year. I believe that the step that we are taking today is appropriate.

Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman from California [Mr. FAZIO] for yielding me this time.

As I did earlier today, I rise in support of this resolution, which I think is an appropriate resolution. I congratulate the chairman of the Committee on House Oversight for bringing it to the floor and for moving this process forward.

However, as I did this morning, I take this opportunity to rise to consider legislation and resolutions which move the process forward of extending to employees protections to which I think they are entitled and which will enhance morale and the quality of our work force. I rise because I think that we have taken action in recent weeks to undermine both of those objectives.

I will not repeat the facts as I know them to be with reference to the nine employees who were removed by the Clerk just a few days ago, shortly before the Christmas holidays, some of whom have spent more than two decades as employees of this body. Suffice it to say that none of them were removed for cause.

The reason I rise is because the distinguished chairman of the Committee on House Oversight made some observations at the end of that debate which I want to comment on. The gentleman observed that the majority had not indicated that it would not take further actions after reorganization had been completed to eliminate redundant positions, to eliminate, in effect, featherbedding which might have been created, he did not use that term, but that was the implication, that had been created under the patronage-plagued system that the gentleman alleged existed under the Democrats. Not getting into that argument, let me say that the unfortunate implication was that any of these positions fall in that category.

None of them do, Mr. Speaker. Let me repeat, none of the nine fall into a category of being eliminated because they were described as was characterized by the chairman. I do not say that the gentleman form California [Mr. THOMAS] was characterizing these positions. I do not know that the gentleman was doing that at all. However, the implication could have been drawn that, in fact, that was the rationale for this action.

In my opinion, it was not. That opinion is drawn after personal conversations with the Clerk, Ms. Carle, and after correspondence from her.

I rise once again to discuss this issue simply because we are moving a process forward which in a bipartisan way we agree will accomplish an objective of depoliticizing and professionalizing the ministerial staff that serves this institution. When I refer to ministerial staff, I simply mean that staff which is not involved in the formulation or promulgation of policy, but simply involved in making sure that the day-to-day operations of the House of Representatives are as efficient and honest as they possibly can be.

That is, of course, the objective we want to both accomplish. When I say both, both the majority party and the minority party.

Mr. Speaker, I would hope that as we go through this season, as we adopt, probably unanimously, perhaps without a vote, this resolution and the previous resolution, that the majority party will look once again at the actions that have been taken with respect to these nine individuals, and see if that might be reconsidered: see if very loyal, very hard-working, very effective employees might be reinstated to the duties that I think they have done so well.

Furthermore, within the course of that review, ensure that other employees equally talented, equally essential are not subjected to the same precipitous, and that is my word, not anybody else's, termination of their services, not because of lack of performance, but simply because a decision is made that their services are no longer needed.

Mr. Speaker, in closing, I would reiterate that a manual has been distributed to the employees of the Office of the Clerk which sets forth that terminations will be done in a manner that will provide employees with an opportunity to be heard.

It does not imply, nor do I interpret it to mean, that termination at will has been changed. In fact, I believe that House employees should be in the status of being terminated at will. But in that context of professionalizing our staff, they ought to have a sense that it will not be an arbitrary or political determination that leads to that action. Rather, it should be based upon their professional performance on the job.

As I said, Mr. Speaker, I do not intend to oppose this resolution; indeed, I support this resolution, and I support the chairman and our committee's efforts to move this process forward.

I appreciate the gentleman from California [Mr. FAZIO] giving me this opportunity to again call to the attention of the House a matter that I think is important not from a political standpoint, but from the standpoint of professionalizing this House. That is the stated intent of the majority. I congratulate and applaud them for that effort. It is an effort in which I and many, I think all, of my colleagues join.

It is an effort, however, that needs to be more than rhetoric. It needs to be reality for each and every one of our employees. I hope we will accomplish that objective, and I thank the gentleman from California for yielding me the time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

If anyone has watched the House of Commons, one of the things that goes on there is something that we might adopt; and I will see if we can work it today. I will refer the gentleman to comments the chairman made a few hours ago in response to his statement, but I will also say that the gentleman from Maryland [Mr. HOYER] is certainly entitled to his opinions.

The Clerk has indicated that the reorganization was not based upon arbitrary or political reasons, and I am not going to replace the Clerk's judgment with the opinions of the gentleman from Maryland.

Mr. Speaker, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Speaker, I have no further speakers on this side, so I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. THOMAS] that the House suspend the rules and agree to the concurrent resolution, 123.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

POSTPONING CONSIDERATION OF VETO MESSAGE ON H.R. 2076, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996, UNTIL WEDNESDAY, DECEMBER 20, 1995

Mr. ROGERS. Mr. Speaker, I ask unanimous consent if the Chair lays before the House a veto message from the President on the bill, H.R. 2076 today, that the objections of the President be spread at large upon the Journal and that the message and bill be ordered printed as a House document; and that consideration of the veto message be postponed until tomorrow, December 20, 1995.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

□ 1730

POSTPONING CONSIDERATION OF VETO MESSAGE ON H.R. 1058, SECURITIES LITIGATION REFORM ACT UNTIL WEDNESDAY, DECEMBER 20, 1995

Mr. THOMAS. Mr. Speaker, I ask unanimous consent if the Chair lays before the House a veto message from the President on the bill, H.R. 1058 today, that the objections of the President be spread at large upon the Journal and that the message and bill be ordered printed as a House document; and that consideration of the veto message be postponed until tomorrow, December 20, 1995.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from California?

There was no objection.

PERMITTING USE OF ROTUNDA FOR CEREMONY COMMEMORATING VICTIMS OF THE HOLOCAUST

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 106) permitting the use of the rotunda of the Capitol for a ceremony to commemorate the days of remembrance of victims of the Holocaust, as amended.

The Clerk read as follows:

H. CON. RES. 106

Resolved by the House of Representatives (the Senate concurring), That the rotunda of the Capitol is authorized to be used from 8 o'clock ante meridiem until 3 o'clock post meridiem on April 16, 1996, for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. THOMAS] will be recognized for 20 minutes, and the gentleman from California [Mr. FAZIO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the week of April 14 to 21, 1996, has been designated as the days of remembrance by the U.S. Holocaust Memorial Council. This particular week is chosen to commemorate the liberation of the Dachau concentration camp by American troops on April 19, 1945.

I believe it is entirely appropriate for a society, indeed, societies around the world and cultures to remember the pleasant human experiences, the triumphs and the achievements of mankind. I think it is also important that we remember man at his basest hour so that we will not repeat, but that the memories will be held forever in terms of how man can degrade his fellow man.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], the chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of House Concurrent Resolution 106, sponsored by our distinguished colleague from Illinois, Mr. YATES, and wish to also commend the distinguished chairman of the House Committee on House Oversight, Mr. THOMAS, for the expeditious consideration of this bill.

House Concurrent Resolution 106 will permit the use of our great congressional rotunda for the annual ceremony to commemorate "the Days of Remembrance of Victims of the Holocaust." The annual days of remembrance, sponsored by the Holocaust Memorial Council of which Mr. Yates and I are both congressional members, will be held on April 16, 1996. This important commemorative program allows Congress and our Nation to appropriately observe the days of remembrance for victims of the Holocaust, to pay tribute to the American liberators of the concentration camp's survivors, and by commemorating this enormous tragedy, ensure that it will never happen again anywhere in the world.

Accordingly, Mr. Speaker, I urge swift adoption of this resolution.

Mr. THOMAS. Mr. Speaker, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the minority strongly supports this resolution which has passed numerous times here in the House of Representatives. It has been once again cosponsored by a child of Holocaust survivors, the gentleman from Connecticut [Mr. GEJDENSON] and the gentleman from California [Mr. LANTOS], who is the only Member of Congress to have survived the Holocaust, and has been authored for many years by a colleague, the gentleman from Illinois [Mr. YATES]. Those are Members on our side who have a particular and personal interest in this, but we all share the views expressed by the gentleman from California [Mr. THOMAS].

Mr. Speaker, with those comments, I yield back the balance of my time and urge once again this resolution be adopted.

Mr. THOMAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. THOMAS] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 106, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title of the concurrent resolution was amended so as to read: "Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.".

A motion to reconsider was laid on the table.

CHARLES J. COYLE POST OFFICE BUILDING

Mr. MCHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1398) to designate the U.S. Post Office building located at 1203 Lemay Ferry Road, St. Louis, MO, as the "Charles J. Coyle Post Office Building".

The Clerk read as follows:

H.R. 1398

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office building located at 1203 Lemay Ferry Road, St. Louis, Missouri, shall be known and designated as the "Charles J. Coyle Post Office Building".

SEC. 2 REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the "Charles J. Coyle Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. McHUGH] will be recognized for 20 minutes, and the gentlewoman from Michigan [Miss COLLINS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. McHUGH].

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Government Reform and Oversight voted favorably on H.R. 1398. This legislation was introduced by Representative WILLIAM CLAY of Missouri and was cosponsored by the entire House delegation of the State of Missouri as required by the Committee on Government Reform and Oversight. This bill designates the U.S. Post Office building located at 1203 Lemay Ferry Road, St. Louis, MO, as the "Charles J. Coyle Post Office Building".

Mr. Coyle, who is honored in this legislation, was a U.S. Army veteran before he started his career with the Post Office Department in 1960. He started in the clerk craft and later served as a letter carrier. He was active with the National Association of Letter Carriers in his local chapter and at the national level. He later served as that organization's national secretary/treasurer in 1994. Charlie Coyle died on February 18, 1995, at the age of 60.

Mr. Speaker, I urge all our colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Miss COLLINS of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1398, legislation sponsored by Congressman WILLIAM L. CLAY, designating the U.S. Post Office building located at 1203 Lemay Ferry Road in St. Louis, MO, as the "Charles J. Coyle Post Office Building."

Charles Coyle began his career with the Postal Service in 1960, working in the clerk craft. Within a very short time he moved up to letter carrier only to feel the need to affect change within the union structure. In 1973, Mr. Coyle was elected president of his Branch, number 343, and served as a full-time union officer at the local and national levels for the rest of his career. He served with pride and worked hard for a strong and responsive National Association of Letter Carriers Union.

Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, first of all I thank the gentlewoman for yielding me the time.

Mr. Speaker, Charles Coyle was a postal worker who rose from clerk to secretary-treasurer of the National Association of Letter Carriers. He served in many and various positions in the union. He was president of Branch 343, correspondent to the Postal Record, and member of the branch negotiating team. In addition to that, he was president of that local.

In 1994 he was elected secretary-treasurer of the National Association of Letter Carriers.

Mr. Speaker, although Charlie served in office during a very turbulent time of change for the Postal Service, he demonstrated a deep and abiding commitment to improving conditions of letter carriers. He established training programs and initiated a newsletter to keep the membership better informed about the issues and the events. He also maintained a long-term association with the University of Missouri in an advisory capacity in the field of labor studies.

Charlie Coyle left a legacy of accomplishments which greatly benefited letter carriers and the entire Postal Service. Mr. Speaker, his memory deserves to be honored. I would like to thank the other members of the Missouri delegation for cosponsoring this piece of legislation.

Thus, I encourage my colleagues to support this bill to designate the post office at 1203 Lemay Ferry Road in St. Louis as the Charles J. Coyle Post Office Building.

Miss COLLINS of Michigan. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McHUGH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. McHUGH] that the House suspend the rules and pass the bill, H.R. 1398.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1398, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

EDWARD MADIGAN POST OFFICE BUILDING

Mr. McHUGH. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 1880, to designate the United States Post Office located at 102 South McLean, Lincoln, Illinois, as the "Edward Madigan Post Office Building".

The Clerk read as follows:

H.R. 1880

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office building located at 102 South McLean, Lincoln, Illinois, shall be known and designated as the "Edward Madigan Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the "Edward Madigan Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. McHUGH] will be recognized for 20 minutes, and the gentlewoman from Michigan [Miss COLLINS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. McHUGH].

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the measure before us was voted on favorably by the Committee on Government Reform and Oversight. Mr. Speaker, H.R. 1880 was introduced by Representative RAY LAHOOD of Illinois and it is cosponsored by the entire House Delegation of the State of Illinois per the requirement of the committee rules.

Mr. Speaker, H.R. 1880 honors the late Edward Madigan. Mr. Madigan was a respected member of this body and was elected to the U.S. House of Representatives 10 times by his Illinois constituents. While serving in the House, Mr. Madigan became the ranking Republican member on the Agriculture Committee in the 98th Congress. In 1991, President Bush nominated Mr. Madigan to be the 24th Secretary of Agriculture; he was confirmed by the Senate by a vote of 99 to 0. Mr. Madigan was a native of Lincoln, IL, and a graduate of Lincoln College.

I urge all our colleagues to support H.R. 1880.

Mr. Speaker, I reserve the balance of my time.

Miss COLLINS of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1880, legislation sponsored by the gentleman from Illinois [Mr. LAHOOD] designating the U.S. Post Office building located at 102 South McLean in Lincoln, IL, as the "Edward Madigan Post Office Building."

Former Congressman Edward Madigan had a very distinguished career in Congress, and he was well known for his ability to influence people and secure results. Congressional Quarterly's Politics in America described him best by saying, "Madigan does not often have to resort to obstructionist tactics because usually he has a well-placed seat at the bargaining table.''

Being a smart, savvy and skillful legislator certainly paid off for Congressman Madigan. I am pleased to support the naming of a post office in his hometown after such a man.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS], the ranking member of the Committee on Government Reform and Oversight.

Mrs. COLLINS of Illinois. I thank the gentlewoman for yielding me the time.

Mr. Speaker, I rise in support of H.R. 1880, legislation sponsored by Congressman LAHOOD, designating the U.S. Post Office building located at 102 South McLean, in Lincoln, IL, as the "Edward Madigan Post Office Building." As a cosponsor of this measure, I am pleased we have chosen to honor a postal facility after former Congressman Madigan in his hometown of Lincoln, IL.

Ed Madigan was a fighter. He was also a skillful and successful negotiator, using his influence and leadership to move legislation through committee and on the floor. His sphere of influence included the House Agriculture Committee and the former House Committee on Energy and Commerce, Subcommittee on Health and the Environment where he served as the ranking minority member. I was pleased to have served with him on the Energy and Commerce Committee.

Congressman Madigan was relentless in his pursuit of workable and sensible compromise legislation. I am sorry he is not around in the 104th Congress. Many of my colleagues could have taken pointers on his style and method of conducting legislative business.

Former Congressman Ed Madigan was a man of integrity and a person comfortable with having an open mind and speaking and acting his conscience. I fear those characteristics are becoming a lost art in this Congress. So, as we consider this measure, I urge my colleagues to remember Ed Madigan. We could all benefit from such a refreshing change in the manner in which we treat each other and pass legislation.

□ 1745

Miss COLLINS of Michigan. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DE LA GARZA], ranking member of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of this legislation and commend the gentleman from Illinois [Mr. LAHOOD] and those that have joined him in introducing it.

I had the great privilege to know Ed Madigan as a friend, as a fellow colleague, and then we had the responsibility of the Committee on Agriculture, I as chairman and he as ranking member. We worked together as a team. We left the imprints from the Committee on Agriculture on the future of thousands, not only in the United States but throughout the world. Ed Madigan was certainly a person that I enjoyed working with. We had many opportunities to have legislation on the floor.

Finally, I would like to say on a lighter note that we went to Spain, I to look for my Spanish roots, and then we went to Ireland, he to look for his Irish roots. When we went to Spain, to northern Spain to Galicia, I went there to find out that they say they are Celtic, that they are not Spanish. So I came back a Celt. We went to Ireland looking for Mr. Madigan's roots and found out that there was no Madigan name in the Irish genealogy chart, that it had been formerly a Spanish name, Madegano. So, Madigan came back a Spaniard, and I came back a Celt, but we continued our relationship on the committee.

I think it is very appropriate that a Federal building will bear his name for all to see and hopefully to remember the major contribution that he made to this country, to his district, and to the world.

Miss COLLINS of Michigan. Mr. Speaker, I yield back the balance of my time.

Mr. MCHUGH. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. LAHOOD], the prime sponsor of this legislation.

Mr. LAHOOD. Mr. Speaker, I thank the gentleman very much for allowing me this time.

It is a very proud moment in my very short legislative career here to say that the first bill that I have introduced and will be passed is a bill in honor of a dear friend of so many Members on both sides of the aisle, former Congressman Ed Madigan. The Madigan family resides in my congressional district in Lincoln, IL. I am proud to call a number of members of his family my constituents. I know that the people of Lincoln, IL are going to be very proud to see his name emblazoned above the post office in Lincoln, IL, because he is Lincoln. He represented Lincoln, IL so well.

Mr. Speaker, I rise in support today of H.R. 1880, the Edward Madigan Post Office Designation Act of 1995.

It is, indeed, a privilege to be on the floor speaking on behalf of this measure commemorating Edward Madigan, a Congressman, a Cabinet Secretary, and above all, a respected citizen of the State of Illinois.

This bill honors not only a great legislator—one that made significant contributions to this institution and this country—but, this bill, also honors the citizens of Edward Madigan's hometown, Lincoln, IL.

Mr. Madigan's career in public service is impressive: He served in the U.S. House of Representatives for 18 years. And, during those 18 years, he rose to the rank of chief deputy whip and ranking member of the Committee on Agriculture.

His expertise in agricultural issues was duly recognized in January 1991 when he was appointed by President Bush to the post of Secretary of Agriculture.

Throughout his career, Mr. Madigan conducted himself with integrity and with decency, and I urge all Members to support H.R. 1880 so that we may rightfully honor Edward Madigan, his family, and his hometown.

This bill is but a small tribute to one of Illinois' finest public servants. The legacy of leadership and service that Edward Madigan left to Illinois, and to this Nation, will not be soon forgotten.

And, if one takes a look at Mr. Madigan's career, it is easy to see why; his achievements were eminently impressive.

Mr. Madigan's public service career spanned nearly 30 years, with service to both the State of Illinois and the U.S. Government.

He began in 1966 as a member of the Illinois State House of Representatives, where he served with distinction for 6 years.

Carrying forward his experience and knowledge that he gained in the State House, Mr. Madigan moved on to the U.S. House of Representatives in 1973, where he served for 18 years.

During his tenure in Congress, Mr. Madigan ascended to various leadership positions, including ranking member of the Committee on Agriculture and chief deputy whip.

Mr. Madigan's accomplishments as a member of Congress were also impressive.

In 1985 and 1990, as the ranking member of the Committee on Agriculture, he was instrumental in shepherding two farm bills through the House of Representatives.

He also led the effort to protect farm income and expand export markets.

In 1990, as part of the Clean Air Act amendments, Mr. Madigan, as a senior member of the energy and Commerce Committee, put forth legislation that would encourage the use of alternative fuels, such as ethanol.

Other accomplishments of Mr. Madigan include legislation that helped deregulate the railroad freight industry, as well as legislation that helped bring stability to the Rural Electrification Administration revolving fund.

He also worked hard to improve health care in rural areas and was instrumental in creating a nursing research center at the National Institutes of Health.

These, and many other legislative initiatives, owe their success, in no small part, to Mr. Madigan's relentless determination and exceptional leadership.

Just as Mr. Madigan's experiences in the Illinois State House served him well in the House of Representatives, his experiences gained in Congress proved to be a tremendous asset when he was appointed in January 1991 to be the Secretary of Agriculture under former President George Bush.

Confirmed by the Senate on March 8, 1991, by a vote of 99 to 0, Mr. Madigan served with great regard as a member of the Cabinet.

During Mr. Madigan's tenure as Secretary of Agriculture, he lead the agricultural negotiations during the discussions on the General

Agreement on Tariffs and Trade, and he was responsible for overseeing agricultural aid to the Republics of the former Soviet Union.

And, as with his service in Congress, Mr. Madigan always placed the needs of the public first.

Perhaps, the former House minority leader Bob Michel, best summed up Mr. Madigan's legacy when he remarked at Mr. Madigan's funeral that "Ed Madigan's life is the answer to give to those who doubt that a genuine sense of public service still lives in this country."

Mr. Speaker, I urge support for H.R. 1880. Passage of this bill will bring great honor to the Madigan family and the citizens of Lincoln, IL, and will help preserve the legacy of Edward Madigan's distinguished public service.

Mr. ROBERTS. Mr. Speaker, will the gentleman yield?

Mr. LAHOOD. I yield to the gentleman from Kansas, distinguished chairman of the Committee on Agriculture, a friend of Ed Madigan's.

Mr. ROBERTS. Mr. Speaker, I associate myself with the gentleman's timely remarks and his tribute and for his leadership in naming Ed's hometown post office in his name.

He was a good friend, a colleague and a mentor for many of us. Like Mr. DE LA GARZA, the distinguished gentleman from Texas, the chairman emeritus of the committee, has indicated, we have worked together long and hard on many matters in regard to farmers and ranchers and agriculture in general.

I would think the gentleman from Illinois is certainly following his example on the House Committee on Agriculture in terms of his demeanor and in working hard for agriculture and his farmers and ranchers. I would only add that Ed Madigan is now certainly sorely missed by his friends and colleagues. We certainly need him in the midst of the agriculture debate that we are having in regard to the reconciliation bill.

One thought is that I would not be surprised if the good citizens of his hometown of Lincoln, IL, will now be assured of the best postal service of any in the country. Ed would not have it any other way.

Mr. MCHUGH. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. EWING].

Mr. EWING. Mr. Speaker, I had the distinct privilege of following Ed Madigan to this body after he became Secretary of Agriculture. Ed Madigan and I were born in the same county, in the same year, grew up in the same time. Our families were friends throughout our lives.

I did not know Ed as well as a young man as I got to know him later. Our political careers paralleled themselves, and it was in the general assembly, and he came to Congress. But I have represented that county when I first came here before reapportionment. I had most of the old Ed Madigan district.

He was, indeed, revered by the people he served. He did an excellent job in his work here in the Congress and in representing the people from our district. He was, of course, a marvel on the stump because he could tell such great Irish jokes, even if he was not Irish. If he was Spanish, he told great Irish jokes. He had a number of jokes about my father, who was a horse trader, who had supposedly taken his father on a bad horse deal. But we had so many memorable occasions.

He was indeed a great Congressman, a great leader. His wife Evelyn is back in Lincoln. He has a daughter who lives in my district. They are great people. His brother is a State senator, and I know that they will be indeed proud for the tribute today to Ed Madigan and to have this post office as a living and continuing memorial.

Mr. Speaker, I rise today in strong support of H.R. 1880, which officially renames the U.S. Post Office building located at 102 South McLean in Lincoln, IL, in honor of Edward Madigan.

Ed Madigan served the citizens of central Illinois with great distinction during his tenure in the U.S. House of Representatives, and later as President Bush's Secretary of Agriculture. Although Ed is sadly no longer with us, his service, dedication, honor, charisma, and love of family continue to inspire each of us and should serve as a role model for all to follow.

As the Member of Congress who followed Ed Madigan into office, I want to take just a moment to share some of Ed Madigan's life with the House. Ed was born on January 13, 1936, and he remained a life-long resident of Lincoln, IL. He was first elected to the Illinois House of Representatives in 1966, where he served for 6 years until he was elected to the U.S. House of Representatives in 1972. Ed continued to serve the citizens of central Illinois in the House until he accepted President Bush's invitation to serve as our Nation's 24th Secretary of Agriculture.

In such a short time it is difficult to appropriately commemorate Ed Madigan's distinguished public service and personal richness, but I think H.R. 1880 embodies a fitting tribute to our dear former colleague. Although current residents of Lincoln need no reminder of who Ed Madigan was, Ed Madigan deserves to be properly memorialized in the town and amongst the people he loved and served so proudly.

Mr. Speaker, I urge all of my colleagues to support H.R. 1880.

Mr. MCHUGH. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. HASTERT], esteemed deputy majority whip.

Mr. HASTERT. Mr. Speaker, I can remember coming to the Congress, and Ed Madigan would sit over there on the side. If you needed some wisdom or if he thought you needed a little wisdom, he would have you come over and sit down. We would have a little talk, and I learned a lot from Ed Madigan. He certainly was sage. He was wise.

I think he was a politician in the finest sense of the word politician. He knew how to make a deal. He knew how to bring people into the picture. He knew how to compromise. He knew how to put things together.

I tell the story, I guess it links up with something the gentleman from Illinois [Mr. EWING] was talking about. We talked about his heritage a lot, growing up in Lincoln, IL. I guess his father, too, was a horse trader, and they had a livery business. That meant you rented out horses. That livery business grew into a taxicab business. Ed's first job was to run the taxicab in Lincoln, IL.

Out of that he had a fondness of cars. He especially had a fondness for Packard automobiles. I do not know how many taxicabs were Packards back then. Anyway, he collected Packard automobiles. But the stories that he told about the livery business and horse trading, I guess if you ever got into a deal with Ed Madigan, you knew that he was a pretty good horse trader.

He knew how to make a deal, and he knew the value of what he was putting together. He certainly was a valued Member of this Congress in both the Committee on Energy and Commerce, which I had the privilege of serving with him, and also in the Ag Committee. He, as I said, was a Member who was a Member's Member. He could put things together. He understands people.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. HASTERT. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding to me.

I want to join my colleagues in this tribute and thank the gentleman for naming this Federal post office facility for our former colleague, Ed Madigan. I think the gentleman from Illinois [Mr. HASTERT] has touched upon what many of us felt about Congressman Madigan, and that was his wisdom. And he was wise. He would offer some advice sometimes when he thought maybe you had gone a little too far one way or another.

I happened to share an area in the House gymnasium, and, even when he was Secretary of Agriculture, he would come in late at night. We would talk about what it was like to be Secretary of Agriculture and about the House. He was a Member's Member.

He had a great sense of individuals, of personalities, of the needs of people. Maybe sometimes when this place got a little off track, Ed Madigan was one of the people that would try to bring us back and to be a little bit more civil and understanding of one another.

I just wanted to associate myself with the gentleman's remarks and thank him.

Mr. HASTERT. Mr. Speaker, I guess in closing we will remember Ed as a gentle man, a man of great humility, a man who had a great sense about this House and the history of this House, and certainly aptly coming from a town named after Abraham Lincoln.

I served with Ed's brother who served in the Illinois House and now in the Illinois Senate. I certainly stand with a great deal of pride with that family knowing this post office in Lincoln, IL, will be named after Ed and wish them very, very well.

Mr. PORTER. Mr. Speaker, I rise in strong support of this legislation and in tribute to a good friend and a great leader, Ed Madigan.

Ed left his mark on this institution and this Nation through his thoughtful leadership and quiet effectiveness. Both as a Member of the House and as our Secretary of Agriculture under President Bush, Ed's expertise and common sense helped guide America toward a sound farm policy. Ed Madigan provided me with a great deal of guidance on Agriculture issues and helped me to learn and understand the needs of the farmers and how to approach these issues.

But beyond his wise judgment, I will always cherish Ed's great strength of character and his personal warmth. He was not only a leader who informed our debates, but a friend whose great courage in facing cancer inspired all of us. He was not only a Representative who knew how to get the job done, but someone who knew how to keep things in perspective.

Ed was a consummate legislator and—both in his role as ranking member of the full House Agriculture Committee, and of Energy and Commerce Health Subcommittee—he understood how to obtain bipartisan agreement on contentious matters, a skill that is unfortunately too often in short supply in this body.

Mr. Speaker, I commend the gentleman for bringing this legislation to the floor today, it is a fitting tribute to a great American and I yield back the balance of my time.

Mr. MCHUGH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on the motion offered by the gentleman from New York [Mr. MCHUGH] that the House suspend the rules and pass the bill, H.R. 1880.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1880, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

HOLK POST OFFICE BUILDING

Mr. MCHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2262) to designate the United States Post Office building located at 218 North Alston Street in Foley, AL, as the "Holk Post Office Building."

The Clerk read as follows:

H.R. 2262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office building located at 218 North Alston Street in Foley, Alabama, shall be known and designated as the "Holk Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the "Holk Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. MCHUGH] and the gentlewoman from Michigan [Miss COLLINS] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. MCHUGH].

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation before us has been approved by the Committee on Government Reform and Oversight. H.R. 2262 was introduced by the gentleman from Alabama [Mr. CALLAHAN] and joined by the entire House Delegation of the State of Alabama as required by the rules of the Committee on Government Reform and Oversight.

This legislation honors Arthur A. Holk and his father, George Holk. Arthur Holk was elected as mayor of the city of Foley in 1979 and is presently serving his fifth term. George Holk also served as mayor of the city of Foley from 1924 to 1928. Both father and son have participated actively in various city organizations and on the city and county school boards.

Mr. Speaker, I urge our colleagues to support H.R. 2262.

Mr. Speaker, I reserve the balance of my time.

□ 1800

Miss COLLINS of Michigan. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MCHUGH. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. CALLAHAN], the prime sponsor of this bill.

Mr. CALLAHAN. Mr. Speaker, I thank the gentleman from New York [Mr. MCHUGH] for yielding this time to me, and I appreciate the committee bringing this measure before the House today naming this post office in my district after two mayors, a mayor current, Arthur Holk, the mayor of Foley, AL, as well as his father, George, and it is a distinct honor for me to have introduced this legislation, and I introduce the following statement for the RECORD and urge favorable passage of this resolution:

Mr. Speaker, today I rise to lend my strong support for H.R. 2262, a bill to designate the U.S. post office building in Foley, AL, as the "Holk Post Office Building."

I first want to thank the full Government and Oversight Committee chairman, Mr. CLINGER, and the Postal Service Subcommittee chairman, Mr. MCHUGH, for their diligence in bringing this bill to the floor in such a timely manner. The professionalism of you and your staff is most appreciated.

I introduced this bill to honor my good friend, Mayor Arthur A. Holk and his father, George. These two men have been inspirational in contributing to the city of Foley, AL, over the past two generations.

George Holk served as mayor of the city of Foley from 1924–1928. He was a past member of the Baldwin County Board of Education and the Foley American Legion Club.

His legacy continues to live in his son, Arthur. Arthur Holk's list of accomplishments are most impressive. He is currently serving on the board of directors of several companies in south Alabama and has previously served on the Foley school board. He was a charter member and past president of the Foley Rotary, and is a Rotary International Paul Harris Fellow.

Mayor Holk has also been active in many charitable organizations. Among other things he served as past chairman of the Baldwin County Heart Fund and the Baldwin County Crippled Children's Society.

Mr. Speaker, I cannot think of a better way to honor these two men than to name the post office in Foley after them. The people of Foley support this bill 100 percent and I am confident they will be proud to have their post office bear the Holk name.

I thank you for your time and hope you will support a bill very important to the people of Foley, AL.

Mr. MCHUGH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on the motion offered by the gentleman from New York (Mr. MCHUGH] that the House suspend the rules and pass the bill, H.R. 2262.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2262, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

CHARLES A. HAYES POST OFFICE BUILDING

Mr. McHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2704) to provide that the U.S. post office building that is to be located on the 2600 block of East 75th Street in Chicago, IL, shall be known and designated as the "Charles A. Hayes Post Office Building" as amended.

The Clerk read as follows:

H.R. 2704

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office building that is to be located at 7436 South Exchange Avenue, Chicago, Illinois, shall be known and designated as the "Charles A. Hayes Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the "Charles A. Hayes Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. McHUGH] will be recognized for 20 minutes, and the gentlewoman from Michigan [Miss COLLINS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. McHUGH].

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Government Reform and Oversight voted favorably on the measure before us. Congresswoman COLLINS of Illinois, ranking minority member of the committee, introduced H.R. 2704 and was joined by the State delegation in cosponsoring this bill, as required by committee policy. The bill was amended in committee to accurately identify the address of the facility to be renamed.

Mr. Speaker, the legislation honors former Representative Charles Hayes. He was a labor organizer and served as a Member of this body. Charlie Hayes was first elected to Congress in 1983, in a special election succeeding former Representative Harold Washington, who had resigned his seat after being sworn in as mayor of Chicago. Prior to his departure from Congress, Representative Hayes served as chairman of the former Committee on Post Office and Civil Service, Subcommittee on Postal Personnel and Modernization.

Mr. Speaker, I urge our colleagues to support H.R. 2704 as amended, a bill which would name a post office in Chicago after one of our colleagues who served his constituents in the First District of Illinois.

Mr. Speaker, I reserve the balance of my time.

Miss COLLINS of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2704, legislation sponsored by two members of the Illinois Congressional Delegation, Congresswoman CARDISS COLLINS and Congressman DENNIS HASTERT. H.R. 2704, as amended in Committee, would designate the post office to be located at 7436 South Exchange Avenue in Chicago, Illinois as the "Charles A. Hayes Post Office Building."

Former Congressman Charles A. Hayes, better known as "Charlie" was a "man for the unions" and working people. One of his many accomplishments before coming to Congress in 1983 was when he was elected International Vice President of the United Food and Commercial Workers Union, one of the largest unions in the AFL-CIO. He fought hard to protect the rights of workers and left this distinguished body with a 100% lifetime voting record on issues important to labor. I am truly proud that his colleagues, Congresswoman CARDISS COLLINS and Congressman DENNIS HASTERT chose to recognize him in such a manner.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS], the ranking member of the Committee on Government Reform and Oversight.

Mrs. COLLINS of Illinois. Mr. Speaker, I thank the gentlewoman from Michigan [Miss COLLINS] for yielding this time to me.

Mr. Speaker, on December 5, 1995, in the spirit of bipartisanship, Congressman DENNIS HASTERT and I introduced H.R. 2704, legislation naming a U.S. post office in Chicago, Illinois, as the "Charles A. Hayes Post Office." The post office will be located at 7436 South Exchange Avenue in Chicago.

I wish to thank my friend and Illinois colleague, Congressman DENNIS HASTERT for joining me in sponsoring H.R. 2704 and Congressman McHUGH, chairman of the House Committee on Government Reform and Oversight, Subcommittee on the Postal Service for having this bill considered for full committee action.

Congressman Charles A. Hayes was first elected to Congress in 1983, in a special election, succeeding our former colleague, Harold Washington, who resigned from the House after being sworn in as mayor of Chicago. He was the first international union leader to be elected to Congress and spend his early years as a working man, organizing his first union. "Charlie" was elected to his first union office as President of Local 1424 of the Carpenter's International Union at age 20.

Congressman Hayes went on to secure bargaining rights for workers in Chicago's stockyards through the United Packinghouse Workers of America. In 1954, he was elected District Director of the Packinghouse Union and moved continuously through the ranks and after several mergers became International Vice President of the United Food and Commercial Workers Union which was at that time the largest union in the AFL-CIO. Rising from the small town of Cairo, Illinois, "Charlie" became one of the most important labor leaders in America.

While serving here in the House, Charlie Hayes fought fiercely to protect American jobs and was active in the fight to increase Federal funds for schools, to increase funds for public works and to protect the rights of ordinary workers. He introduced full employment legislation and denounced unemployment as "morally unacceptable." He supported National Health Insurance from his earliest union days throughout his service in Congress and is to be commended for his 100 percent lifetime voting record on issues important to labor.

Prior to his departure, Congressman Charles A. Hayes chaired the Post Office and Civil Service Subcommittee on Postal Personnel and Modernization. He was known to his friends as the "Labor Democrat" and is widely recognized as a first-rate public servant and first-class friend, a man who worked hard to ensure that workers across the country had food on the table, pensions that were protected, and safe working conditions.

When I called Charlie, about 2 or 3 weeks ago to say, "Charlie, how would you like to have a post office named after yourself," he said, "Gosh, CARDISS, I'd be absolutely honored to have that. Do you think it will happen?"

I said, "I think it will happen because everybody knows you, Charlie, everybody knows how dedicated you were as a Member of Congress, everybody knows that you fought for the things that you believe in." So, Mr. Speaker, I am really very pleased to have this opportunity to stand here and be about the business of presenting this piece of legislation on the floor with the help of the subcommittee chair, the gentleman from Illinois [Mr. HASTERT], who cosponsored this legislation, of the gentlewoman from Michigan [Miss COLLINS] who is a ranking member on the subcommittee.

She mentioned Charlie's "regular order" call. Charlie used to sit over in the fourth row around the corner all the time, and it got to be quite a joke that when everybody was busy talking, and what have you, he had this deep gravel voice, "Regular order," and everybody knew that that was Charlie because that was his trademark, if my colleagues will, and so it seems to me that the one thing I miss most about Charlie, besides his wonderful smile, besides his very sincere efforts to do good for working people, is the fact that we do not happen to hear that regular order anymore.

Mr. Speaker, we are pleased to have this honor and to have a post office named after him in behalf of working

Americans, and I thank all of the Illinois delegation and all of those here in this House who are supporting it.

Miss COLLINS of Michigan. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me in closing extend my words of appreciation and thanks both to the gentlewoman from Michigan [Miss COLLINS], the ranking member on the subcommittee, and to the gentlewoman from Illinois [Mrs. COLLINS], the ranking member on the full committee, for their support, and their efforts, and their leadership on these bills. We are all very appreciative of their efforts.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RUSH. Mr. Speaker, I rise in heartfelt support of this measure. It gives me great honor to speak in support of the postal facility being named in honor of my predecessor in the First Congressional District of Illinois, the great Charlie A. Hayes.

Charlie Hayes was the first international union leader to be elected to Congress. He rose through the ranks of the Chicago stockyards to become International Vice President of the United Food and Commercial Workers Union, then the largest union in the AFL–CIO. He has been characterized as the working man's man. His passion for changing unjust practices in the Chicago stockyards made him one of the most important labor leaders in America. His commitment to working people extended to his tenure in Congress.

Charlie Hayes continued his fight for the ordinary man in Congress. His concern for the young, and less privileged was evidenced by his introduction of legislation that was aimed at guaranteeing opportunity and quality of life for all Americans. His empathy was exemplified by his actions, for he was an ardent spokesman for the working class, senior citizens, and the underprivileged.

Mr. Speaker, the Honorable Charlie Hayes makes me proud to be a Chicagoan. His character and commitment are worthy of both praise and emulation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. McHUGH] that the House suspend the rules and pass the bill, H.R. 2704, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to provide that the United States Post Office building that is to be located at 7436 South Exchange Avenue, Chicago, Illinois, shall be known and designated as the 'Charles A. Hayes Post Office Building'."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2704, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

FARM CREDIT SYSTEM REGULATORY RELIEF ACT OF 1995

Mr. ALLARD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2029) to amend the Farm Credit Act of 1971 to provide regulatory relief, as amended.

The Clerk read as follows:

H.R. 2029

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Farm Credit System Regulatory Relief Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.
Sec. 3. Regulatory review.
Sec. 4. Examination of Farm Credit System institutions.
Sec. 5. Farm Credit Insurance Fund operations.
Sec. 6. Powers with respect to troubled insured System banks.
Sec. 7. Farm Credit System Insurance Corporation board of directors.
Sec. 8. Conservatorship and receiverships.
Sec. 9. Oversight and regulatory actions by the Farm Credit System Insurance Corporation.
Sec. 10. Formation of administrative service entities.
Sec. 11. Requirements for loans sold into the secondary market.
Sec. 12. Removal of antiquated and unnecessary paperwork requirements.
Sec. 13. Removal of government certification requirement for certain private sector financing.
Sec. 14. Reform of regulatory limitations on the dividend, member business, and voting practices of eligible farmer-owned cooperatives.
Sec. 15. Extension of interest rate reduction program for 5 years.

SEC. 2. REFERENCES.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Farm Credit Act of 1971.

SEC. 3. REGULATORY REVIEW.

(a) FINDINGS.—The Congress finds that—

(1) the Farm Credit Administration, in its role as an arms-length, safety and soundness regulator, has made considerable progress in reducing the regulatory burden on Farm Credit System institutions;

(2) the efforts of the Farm Credit Administration in this regard have resulted in cost savings for Farm Credit System institutions; and

(3) such cost savings ultimately benefit the Nation's farmers, ranchers, agricultural cooperatives, and rural residents.

(b) REQUIREMENT FOR CONTINUED REVIEW.—The Farm Credit Administration shall continue its comprehensive review of regulations governing the Farm Credit System in order to further identify and eliminate, consistent with safety and soundness, all regulations that are unnecessary, unduly burdensome or costly, or not based on statute.

SEC. 4. EXAMINATION OF FARM CREDIT SYSTEM INSTITUTIONS.

Section 5.19(a) (12 U.S.C. 2254(a)) is amended by striking "each year" in the first sentence and inserting "every 18 months".

SEC. 5. FARM CREDIT INSURANCE FUND OPERATIONS.

(a) ADJUSTMENT OF PREMIUMS.—

(1) IN GENERAL.—Section 5.55(a) (12 U.S.C. 2277a–4(a)) is amended—

(A) in paragraph (1), by striking "Until the aggregate of amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the annual premium due from any insured System bank for any calendar year shall" and inserting "If, at the end of any calendar year, the aggregate of the amounts in the Farm Credit Insurance Fund does not exceed the secure base amount, the annual premium due from any insured System bank for that calendar year shall, subject to paragraph (2),"; and

(B) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following:

"(2) REDUCED PREMIUMS.—The Corporation, in its sole discretion, may reduce, by a percentage uniformly applied to all insured System banks, the annual premium due from each insured System bank during any calendar year, as determined under paragraph (1).".

(2) CONFORMING AMENDMENTS.—

(A) SECTION 5.55(b).—Section 5.55(b) (12 U.S.C. 2277a–4(b)) is amended—

(i) by striking "Insurance Fund" each place such term appears and inserting "Farm Credit Insurance Fund";

(ii) by striking "for the following calendar year"; and

(iii) by striking "subsection (a)" and inserting "subsection (a)(1)".

(B) SECTION 5.56(a).—Section 5.56(a) (12 U.S.C. 2277a–5(a)) is amended in each of paragraphs (2) and (3) by striking "section 5.55(a)(2)" and inserting "section 5.55(a)(3)".

(C) SECTION 1.12(b).—Section 1.12(b) (12 U.S.C. 2020(b)) is amended—

(i) in paragraph (1), by inserting "(as defined in section 5.55(a)(3))" after "government-guaranteed loans"; and

(ii) in paragraph (3), by inserting "(as so defined)" after "government-guaranteed loans" each place such term appears.

(b) TECHNICAL AMENDMENT.—Section 5.55(d) (12 U.S.C. 2277a–4(d)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "and (c)" and inserting ", (c), and (e)"; and

(B) by striking "a Farm Credit Bank" and inserting "an insured System bank"; and

(2) by striking "Farm Credit Bank" each subsequent place such term appears and inserting "insured System bank".

(c) ALLOCATION TO INSURED SYSTEM BANKS AND OTHER SYSTEM INSTITUTIONS OF EXCESS AMOUNTS IN THE FARM CREDIT INSURANCE FUND.—Section 5.55 (12 U.S.C. 2277a–4) is amended by adding at the end the following:

"(e) ALLOCATION TO SYSTEM INSTITUTIONS OF EXCESS RESERVES.—

"(1) ESTABLISHMENT OF ALLOCATED INSURANCE RESERVES ACCOUNTS.—There is hereby established within the Farm Credit Insurance Fund—

"(A) for each insured System bank; and

"(B) subject to paragraph (5)(C), for all holders, in the aggregate, of Financial Assistance Corporation stock,

an Allocated Insurance Reserves Account. Amounts in any Allocated Insurance Reserves

Account shall be considered to be part of the Farm Credit Insurance Fund.

''(2) ANNUAL ALLOCATIONS.—If, at the end of any calendar year, the aggregate of the amounts in the Farm Credit Insurance Fund exceeds the average secure base amount for the calendar year (as calculated on an average daily balance basis), the Corporation shall allocate to the Allocated Insurance Reserves Accounts such excess amount less the amount that the Corporation, in its sole discretion, determines to be the sum of the estimated operating expenses and estimated insurance obligations of the Corporation for the immediately succeeding calendar year.

''(3) ALLOCATION FORMULA.—From the total amount required to be allocated at the end of a calendar year pursuant to paragraph (2)—

''(A) 10 percent of such total amount shall be credited to the Allocated Insurance Reserves Account established under paragraph (1)(B), subject to paragraph (5)(C); and

''(B) there shall be credited to the Allocated Insurance Reserves Account of each insured System bank an amount that bears the same ratio to such total amount (less any reduction under subparagraph (A)) as the average principal outstanding for the 3-year period ending with the end of such calendar year on loans made by the bank that are in accrual status bears to the average principal outstanding for such 3-year period on loans made by all insured System banks that are in accrual status (excluding, in each case, the guaranteed portions of government-guaranteed loans described in subsection (a)(1)(C)).

''(4) USE OF FUNDS IN ALLOCATED INSURANCE RESERVES ACCOUNTS.—To the extent that the sum of the operating expenses of the Corporation and the insurance obligations of the Corporation for a calendar year exceeds the estimated sum described in paragraph (2) for the calendar year, the Corporation shall cover such expenses and obligations by reducing each Allocated Insurance Reserves Account by the same proportion and expending the amounts so obtained, before expending other monies in the Fund.

''(5) OTHER DISPOSITION OF ACCOUNT FUNDS.—

''(A) IN GENERAL.—Beginning in calendar year 2003, if the aggregate of the amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the Corporation may—

''(i) subject to subparagraph (D), pay to each insured System bank, in a manner determined by the Corporation, an amount equal to the lesser of—

''(I) 20 percent of the balance in the bank's Allocated Insurance Reserves Account as of the preceding December 31; or

''(II) 20 percent of the balance in the bank's Allocated Insurance Reserves Account on the date of payment; and

''(ii) subject to subparagraphs (C) and (E), pay to each System bank and association holding Financial Assistance Corporation stock its proportionate share, determined by dividing the number of shares of Financial Assistance Corporation stock held by such institution by the total number of shares of Financial Assistance Corporation stock outstanding, of the lesser of—

''(I) 20 percent of the balance in the Allocated Insurance Reserves Account established under paragraph (1)(B) as of the preceding December 31; or

''(II) 20 percent of the balance in the Allocated Insurance Reserves Account established under paragraph (1)(B) on the date of the payment.

''(B) AUTHORITY TO ELIMINATE OR REDUCE PAYMENTS.—The Corporation may eliminate or reduce payments under subparagraph (A) if the Corporation determines, in its sole discretion, that such payments, or other circumstances that might require use of the Farm Credit Insurance Fund, could cause the amount in the Farm Credit Insurance Fund during that calendar year to be less than the secure base amount.

''(C) REIMBURSEMENT FOR FINANCIAL ASSISTANCE CORPORATION STOCK.—

''(i) SUFFICIENT FUNDING.—Notwithstanding paragraph (3)(A), upon provision by the Corporation for the accumulation in the account established under paragraph (1)(B) of funds in an amount equal to $56 million, the Corporation shall not allocate any further funds to such account except to replenish such account in the event that funds are diminished below such amount by the Corporation pursuant to paragraph (4).

''(ii) WIND DOWN AND TERMINATION.—

''(I) FINAL DISBURSEMENTS.—Upon disbursement of a total of $53 million from such Allocated Insurance Reserves Account, the Corporation shall disburse the remaining amounts in such account, as determined under paragraph (5)(A)(ii), without regard to the percentage limitation in subclauses (I) and (II) thereof.

''(II) TERMINATION OF ACCOUNT.—Upon disbursement of a total of $56 million from such Allocated Insurance Reserves Account established under paragraph (1)(B), the Corporation shall close the Allocated Insurance Reserves Account established under paragraph (1)(B) and transfer any remaining funds in such Account to the remaining Allocated Insurance Reserves Accounts in accordance with the formula in paragraph (3)(B) for the calendar year in which the transfer occurs.

''(D) DISTRIBUTION OF PAYMENTS RECEIVED.—Within 60 days after receipt of a payment made under subparagraph (5)(A)(i), each insured System bank, in consultation with its affiliated associations, and taking into account the direct or indirect payment of insurance premiums by such associations, shall develop and implement an equitable plan to distribute payments received pursuant to subparagraph (5)(A)(i) among the bank and its associations.

''(E) EXCEPTION FOR PREVIOUSLY REIMBURSED ASSOCIATIONS.—For purposes of subparagraph (5)(A)(ii), in any Farm Credit District in which the funding bank has reimbursed one or more of its affiliated associations for the previously unreimbursed portion of the Financial Assistance stock held by such associations, the funding bank shall be deemed to be the holder of the shares of Financial Assistance Corporation stock for which it has provided such reimbursement.''.

SEC. 6. POWERS WITH RESPECT TO TROUBLED INSURED SYSTEM BANKS.

(a) LEAST-COST RESOLUTION.—Section 5.61(a)(3) (12 U.S.C. 2277a–10(a)(3)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (F); and

(2) by striking subparagraph (A) and inserting the following:

''(A) LEAST-COST RESOLUTION.—Assistance may not be provided to an insured System bank under this subsection unless the total amount of such assistance is the least costly to the Farm Credit Insurance Fund of all possible alternatives available to the Corporation, including liquidation of the bank (including paying the insured obligations issued on behalf of the bank). Before making a least-cost determination under this subparagraph, the Corporation shall accord such other insured System banks as the Corporation determines appropriate the opportunity to submit information relating to such determination.

''(B) PROCEDURAL RULES.—In determining the least costly alternative under subparagraph (A), the Corporation shall—

''(i) evaluate alternatives on a present-value basis, using a reasonable discount rate;

''(ii) document that evaluation and the assumptions on which the evaluation is based; and

''(iii) retain the documentation for not less than 5 years.

''(C) TIME OF DETERMINATION.—

''(i) COST OF ASSISTANCE.—For purposes of this subsection, the determination of the costs of providing any assistance under any provision of this section with respect to any insured System bank shall be made as of the date on which the Corporation makes the determination to provide such assistance to the institution under this section.

''(ii) COST OF LIQUIDATION.—For purposes of this subsection, the determination of the costs of liquidation of any insured System bank shall be made as of the earliest of—

''(I) the date on which a conservator is appointed for the bank;

''(II) the date on which a receiver is appointed for the bank; or

''(III) the date on which the Corporation makes any determination to provide any assistance under this section with respect to the bank.

''(D) EVALUATION OF MANAGEMENT.—Before providing any assistance under paragraph (1), the Corporation shall evaluate the adequacy of the managerial resources of the bank. The continued service of any director or senior ranking officer who serves in a policymaking role for the assisted bank, as determined by the Corporation, shall be subject to approval by the Corporation as a condition of such assistance.

''(E) DISCRETIONARY DETERMINATION.—Any determination that the Corporation makes under this paragraph shall be in the sole discretion of the Corporation.''.

(b) CONFORMING AMENDMENTS.—Section 5.61(a) (12 U.S.C. 2277a–10(a)) is amended—

(1) in paragraph (1), by striking ''IN GENERAL'' and inserting ''STAND-ALONE ASSISTANCE''; and

(2) in paragraph (2)—

(A) by striking ''ENUMERATED POWERS'' and inserting ''FACILITATION OF MERGERS OR CONSOLIDATION''; and

(B) in subparagraph (A), by striking ''FACILITATION OF MERGERS OR CONSOLIDATION'' and inserting ''IN GENERAL''.

SEC. 7. FARM CREDIT SYSTEM INSURANCE CORPORATION BOARD OF DIRECTORS.

Section 201 of the Farm Credit Banks and Associations Safety and Soundness Act of 1992 (106 Stat. 4104–4105) is repealed.

SEC. 8. CONSERVATORSHIP AND RECEIVERSHIPS.

(a) INCLUSION AMONG GENERAL CORPORATE POWERS.—Section 5.58(9) (12 U.S.C. 2277a–7(9)) is amended to read as follows:

''(9) CONSERVATOR OR RECEIVER.—The Corporation may act as conservator or receiver.''.

(b) CONFORMING AMENDMENTS.—Section 5.51 (12 U.S.C. 2277a) is amended by striking paragraph (5) and redesignating paragraph (6) as paragraph (5).

SEC. 9. OVERSIGHT AND REGULATORY ACTIONS BY THE FARM CREDIT SYSTEM INSURANCE CORPORATION.

Part E of title V of the Farm Credit Act of 1971 (12 U.S.C. 2277–2277a–14) is amended by inserting after section 5.61 the following:

"SEC. 5.61A. AUTHORITY TO REGULATE GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS.

''(a) IN GENERAL.—The Corporation may prohibit or limit, by regulation or order, any golden parachute payment or indemnification payment by a Farm Credit System institution (including the Federal Agricultural Mortgage Corporation and any conservator or receiver for the Federal Agricultural Mortgage Corporation) in troubled condition (as defined in regulations issued by the Corporation).

''(b) FACTORS TO BE TAKEN INTO ACCOUNT.—The Corporation shall prescribe, by regulation,

the factors to be considered by the Corporation in taking any action under subsection (a), which may include the following:

"(1) Whether there is a reasonable basis to believe that the institution-related party has committed any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the Farm Credit System institution involved that has had a material effect on the financial condition of the institution.

"(2) Whether there is a reasonable basis to believe that the institution-related party is substantially responsible for the insolvency of the Farm Credit System institution, the appointment of a conservator or receiver for the institution, or the institution's troubled condition (as defined in regulations prescribed by the Corporation).

"(3) Whether there is a reasonable basis to believe that the institution-related party has materially violated any applicable law or regulation that has had a material effect on the financial condition of the institution.

"(4) Whether there is a reasonable basis to believe that the institution-related party has violated or conspired to violate—

"(A) section 215, 657, 1006, 1014, or 1344 of title 18, United States Code; or

"(B) section 1341 or 1343 of title 18, United States Code, affecting a Farm Credit System institution.

"(5) Whether the institution-related party was in a position of managerial or fiduciary responsibility.

"(6) The length of time that the party was related with the Farm Credit System institution and the degree to which—

"(A) the payment reasonably reflects compensation earned over the period of employment; and

"(B) the compensation involved represents a reasonable payment for services rendered.

"(c) CERTAIN PAYMENTS PROHIBITED.—No Farm Credit System institution may prepay the salary or any liability or legal expense of any institution-related party if such payment—

"(1) is made in contemplation of the insolvency of such institution or after the commission of an act of insolvency; and

"(2) is made with a view to, or has the result of—

"(A) preventing the proper application of the assets of the institution to creditors; or

"(B) preferring one creditor over another.

"(d) GOLDEN PARACHUTE PAYMENT DEFINED.—As used in this section:

"(1) IN GENERAL.—The term 'golden parachute payment' means any payment (or any agreement to make any payment) in the nature of compensation by any Farm Credit System institution for the benefit of any institution-related party under an obligation of the institution that—

"(A) is contingent on the termination of the party's relationship with the institution; and

"(B) is received on or after the date on which—

"(i) the institution is insolvent;

"(ii) any conservator or receiver is appointed for the institution;

"(iii) the Farm Credit Administration has assigned the institution a composite CAMEL rating of 4 or 5 under the Farm Credit Administration Rating System, or an equivalent rating; or

"(iv) the Corporation otherwise determines that the institution is in a troubled condition (as defined in regulations issued by the Corporation).

"(2) CERTAIN PAYMENTS IN CONTEMPLATION OF AN EVENT.—Any payment that would be a golden parachute payment but for the fact that the payment was made before the date referred to in paragraph (1)(B) shall be treated as a golden parachute payment if the payment was made in contemplation of the occurrence of an event described in any clause of such paragraph.

"(3) CERTAIN PAYMENTS NOT INCLUDED.—The term 'golden parachute payment' shall not include—

"(A) any payment made under a retirement plan that is qualified (or is intended to be qualified) under section 401 of the Internal Revenue Code of 1986 or other nondiscriminatory benefit plan;

"(B) any payment made under a bona fide deferred compensation plan or arrangement that the Corporation determines, by regulation or order, to be permissible; or

"(C) any payment made by reason of the death or disability of an institution-related party.

"(e) OTHER DEFINITIONS.—As used in this section:

"(1) INDEMNIFICATION PAYMENT.—The term 'indemnification payment' means any payment (or any agreement to make any payment) by any Farm Credit System institution for the benefit of any person who is or was an institution-related party, to pay or reimburse the person for any liability or legal expense with regard to any administrative proceeding or civil action instituted by the Farm Credit Administration that results in a final order under which the person—

"(A) is assessed a civil money penalty; or

"(B) is removed or prohibited from participating in the conduct of the affairs of the institution.

"(2) LIABILITY OR LEGAL EXPENSE.—The term 'liability or legal expense' means—

"(A) any legal or other professional expense incurred in connection with any claim, proceeding, or action;

"(B) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

"(C) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

"(3) PAYMENT.—The term 'payment' means—

"(A) any direct or indirect transfer of any funds or any asset; and

"(B) any segregation of any funds or assets for the purpose of making, or under an agreement to make, any payment after the date on which such funds or assets are segregated, without regard to whether the obligation to make such payment is contingent on—

"(i) the determination, after such date, of the liability for the payment of such amount; or

"(ii) the liquidation, after such date, of the amount of such payment.

"(4) INSTITUTION-RELATED PARTY.—The term 'institution-related party' means—

"(A) any director, officer, employee, or agent for a Farm Credit System institution;

"(B) any stockholder (other than another Farm Credit System institution), consultant, joint venture partner, or any other person determined by the Farm Credit Administration to be a participant in the conduct of the affairs of a Farm Credit System institution;

"(C) any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in any violation of any law or regulation, any breach of fiduciary duty, or any unsafe or unsound practice that caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the Farm Credit System institution; or

"(D) any receiver or conservator of a Farm Credit System institution.

"(f) SPECIAL RULE.—No provision of this section may be construed as prohibiting any Farm Credit System institution from purchasing any commercial insurance policy or fidelity bond, except that such insurance policy or bond shall not cover any legal or liability expense of the institution that is described in subsection (e)(1).

"(g) SPECIAL RULE REGARDING THE FARM CREDIT ADMINISTRATION.—No provision of this section may be construed as limiting the powers, functions, or responsibilities of the Farm Credit Administration.".

SEC. 10. FORMATION OF ADMINISTRATIVE SERVICE ENTITIES.

Part E of title IV (12 U.S.C. 2211–2214) is amended by adding at the end the following:

"SEC. 4.28A. DEFINITION OF BANK.

"As used in this part, the term 'bank' includes each association operating under title II.".

SEC. 11. REQUIREMENTS FOR LOANS SOLD INTO THE SECONDARY MARKET.

(a) BORROWER STOCK.—Section 4.3A (12 U.S.C. 2154a) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

"(f) LOANS DESIGNATED FOR SALE OR SOLD INTO THE SECONDARY MARKET.—Notwithstanding any other provision of this section:

"(1) GENERAL RULE.—Subject to paragraph (2), the bylaws adopted by any bank or association under subsection (b) may provide—

"(A) for any loan made on or after the date of the enactment of this subsection that is designated, at the time the loan is made, for sale into a secondary market under title VIII or otherwise, that no voting stock or participation certificate purchase requirement shall apply to the borrower of the loan; and

"(B) for any loan made before the date of the enactment of this subsection that is sold into a secondary market under title VIII or otherwise, that all outstanding voting stock or participation certificates held by the borrower with respect to the loan shall, subject to subsection (d)(1), be retired.

"(2) EXCEPTION.—If a loan designated for sale as described in paragraph (1)(A) is not sold into a secondary market within 180 days after the designation, the voting stock or participation certificate purchase requirement that would otherwise apply to the loan in the absence of bylaw provisions adopted under paragraph (1)(A) shall be effective, except that the bylaws may provide that if such a loan is thereafter sold into a secondary market, all outstanding voting stock or participation certificates held by the borrower with respect to such loan shall, subject to subsection (d)(1), be retired.".

(b) BORROWER RIGHTS.—

(1) IN GENERAL.—Section 4.14A(a)(5) (12 U.S.C. 2202a(a)(5)) is amended to read as follows:

"(5) LOAN.—

"(A) IN GENERAL.—The term 'loan' means a loan made to a farmer, rancher, or producer or harvester of aquatic products, for any agricultural or aquatic purpose and other credit needs of the borrower, including financing for basic processing and marketing directly related to the borrower's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products.

"(B) EXCLUSION OF LOANS DESIGNATED FOR SALE INTO A SECONDARY MARKET.—The term 'loan' does not include a loan made on or after the date of enactment of this subparagraph that, at the time the loan is made, is designated for sale into a secondary market under title VIII or otherwise, except as provided in subparagraph (C).

"(C) SPECIAL RULE.—If a loan designated for sale into a secondary market is not sold into a secondary market within 180 days after such designation, the provisions of sections 4.14, 4.14A, 4.14B, 4.14C, 4.14D, and 4.36 that would apply to the loan in the absence of subparagraph (B) shall apply to the loan until the loan is so sold.".

(2) CONFORMING AMENDMENT.—Section 8.9(b) (12 U.S.C. 2279aa–9(b)) is amended by inserting "(as defined in section 4.14A(a)(5))" after "At the time of application for a loan".

SEC. 12. REMOVAL OF ANTIQUATED AND UNNECESSARY PAPERWORK REQUIREMENTS.

(a) DISCLOSURE ON ADJUSTABLE RATE LOANS.—Section 4.13(a)(4) (12 U.S.C. 2199(a)(4)) is amended by inserting ", except that any regulation of the Farm Credit Administration implementing this paragraph shall include a provision permitting notice to a borrower of a change in the interest rate applicable to the borrower's loan to be made within a reasonable time after the effective date of the change" before the semicolon.

(b) COMPENSATION OF ASSOCIATION PERSONNEL.—Section 1.5(13) (12 U.S.C. 2013(13)) is amended by striking "and the appointment and compensation of the chief executive officer thereof,".

(c) JOINT MANAGEMENT AGREEMENTS.—Section 5.17(a)(2)(A) (12 U.S.C. 2252(a)(2)(A)) is amended in the 1st sentence by striking "or management agreements".

(d) REMOVAL OF CERTAIN BORROWER REPORTING REQUIREMENTS.—Section 1.10(a) (12 U.S.C. 2018(a)) is amended by striking paragraph (5).

(e) USE OF PRIVATE MORTGAGE INSURANCE.—

(1) IN GENERAL.—Section 1.10(a)(1) (12 U.S.C. 2018(a)(1)) is amended by adding at the end the following:

"(D) PRIVATE MORTGAGE INSURANCE.—Loans on which private mortgage insurance is obtained may exceed 85 percent of the appraised value of the real estate security to the extent that the loan amount in excess of such 85 percent is covered by the insurance.".

(2) CONFORMING AMENDMENT.—Section 1.10(a)(1)(A) (12 U.S.C. 2018(a)(1)(A)) is amended by striking "paragraphs (2) and (3)" and inserting "subparagraphs (C) and (D)".

(f) DISSEMINATION OF QUARTERLY REPORTS.—Section 5.17(a)(8) (12 U.S.C. 2252(a)(8)) is amended by inserting "the requirements of the Farm Credit Administration governing the dissemination to stockholders of quarterly reports of System institutions may not be more burdensome or costly than the requirements applicable to national banks, and" after "except that".

SEC. 13. REMOVAL OF GOVERNMENT CERTIFICATION REQUIREMENT FOR CERTAIN PRIVATE SECTOR FINANCING.

Section 3.8(b)(1)(A) (12 U.S.C. 2129(b)(1)(A)) is amended—

(1) by striking "have been certified by the Administrator of the Rural Electrification Administration to be eligible for such" and inserting "are eligible under the Rural Electrification Act of 1936 for"; and

(2) by striking "loan guarantee, and" and inserting "loan guarantee from such agencies (or their successors), and".

SEC. 14. REFORM OF REGULATORY LIMITATIONS ON THE DIVIDEND, MEMBER BUSINESS, AND VOTING PRACTICES OF ELIGIBLE FARMER-OWNED COOPERATIVES.

(a) IN GENERAL.—Section 3.8(a) (12 U.S.C. 2129(a)) is amended by adding at the end the following: "Any such association that has received a loan from a bank for cooperatives shall, without regard to the requirements of the preceding sentence, continue to be so eligible for so long as more than 50 percent (or such higher percentage as is established by the bank board) of the voting control of the association is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations.".

(b) CONFORMING AMENDMENT.—Section 3.8(b)(1)(D) (12 U.S.C. 2129(b)(1)(D)) is amended by inserting ", or under the last sentence," after "(4)".

SEC. 15. EXTENSION OF INTEREST RATE REDUCTION PROGRAM FOR 5 YEARS.

Section 1320 of the Food Security Act of 1985 (7 U.S.C. 1999 note) is amended by striking "1995" and inserting "2000".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes, and the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support H.R. 2029, the Farm Credit System Regulatory Relief Act of 1995. H.R. 2029 provides regulatory relief for the Farm Credit System and gives further flexibility for the Farm Credit Administration, the regulator of the System. This legislation has the bipartisan support of the House Agriculture Committee and was reported out of subcommittee and committee on a voice vote. H.R. 2029 cuts back on paperwork on the System and, according to the FCA, saves between $18 and $20 million over the next 5 years by eliminating an unnecessary board of directors and eliminating unnecessary regulations. I would like to enter into the RECORD a letter from the FCA outlining the savings. The CBO has also scored this and they indicate that implementation of H.R. 2029 would not have any pay-go implications.

This legislation will also provide greater flexibility to the FCA should a problem arise at a System bank. It will allow them to review management at a troubled bank and make changes in management if necessary. It will also allow them to nullify golden parachutes at troubled institutions if they are being paid to bank management who are responsible for the troubled condition of the bank. None of these changes will result in expanded authorities for the System and none of these changes will place the safety and soundness of the System at risk. These changes only reflect the better financial condition of the System in 1995. Thank you, Mr. Speaker.

Mr. Speaker, I include for the RECORD the following letter:

FARM CREDIT ADMINISTRATION,
McLean, VA, August 11, 1995.

Hon. PAT ROBERTS,
Chairman, House Committee on Agriculture,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for providing the Farm Credit Administration (FCA) with the opportunity to communicate our support for H.R. 2029, a bill to amend the Farm Credit Act of 1971. It was a pleasure for me to testify before Chairman Allard and Members of the Subcommittee on Resource Conservation, Research, and Forestry on this legislation.

You have asked that FCA provide an estimate of the cost of enacting H.R. 209. After careful review, it has been determined that significant savings could be realized were this bill to be adopted by Congress. Estimated savings of as much as $4 million annually could be achieved under two provisions of H.R. 2029, the 18-month examination schedule extension and retention of the current three member Farm Credit System Insurance Corporation (FCSIC) Board.

The Agency estimates that adoption of an 18 month examination schedule for many of our institutions, in lieu of the current 12 month examination schedule, could save as much as $2 million annually. This change would further streamline RCA without compromising the safety and soundness of the institutions it regulates.

If the statutory requirement for establishment of an independent FCSIC Board is repealed, as proposed by H.R. 2029, additional costs can be avoided. The implementation of an independent, full time three member Board of Directors would increase FCSIC administrative costs by approximately $2.0 million annually. Under H.R. 2029, FCSIC would continue to benefit from access to FCA professional and administrative resources under the same operating procedures that have been in place since 1990.

Were H.R. 2029 enacted with the extended examination schedule and the repeal of an independent FCSIC Board, a cost savings of $18 to $20 million could be realized over the next five years.

Should you have additional questions regarding H.R. 2029, please let me know.

Sincerely,

MARSHA MARTIN,
Chairman.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2029, and a statement on behalf of the gentleman from South Dakota [Mr. JOHNSON] will be submitted to appear at the appropriate place in the RECORD.

Mr. Speaker, I thank the chairman for moving this bill through the Committee on Agriculture in an expeditious manner, and I also would like to commend the subcommittee chairman, the gentleman from Colorado [Mr. ALLARD], and the ranking member, the gentleman from South Dakota [Mr. JOHNSON], for their hard work in guiding the regulatory relief through their subcommittee.

Mr. Speaker I rise today in support of H.R. 2029. I would like to thank Chairman ROBERTS for moving this bill through the Committee on Agriculture in an expeditious manner. I would also like to commend Subcommittee Chairman ALLARD and the ranking member, Mr. JOHNSON, for their hard work in guiding the regulatory relief bill through their subcommittee.

The bill before the House today reflects the hard work of Members from both sides of the aisle. It is the product of a careful review of current regulations, and it targets those regulations that have become outdated. For example, the legislation removes an outdated certification procedure for certain Banks for Cooperatives lending activities, without changing eligibility requirements in current law.

Other changes will give the system more flexibility, and provide farmers and ranchers with better loan rates. Section 4 will give the Farm Credit Administration more flexibility in carrying out its examinations of Farm Credit System institutions. Section 5 of the bill authorizes the Insurance Corporation to reduce premiums it receives from System banks and to distribute to System Institutions amounts in the insurance fund [Fund] that are in excess of the secure base amount. Section 10 authorizes associations to jointly form administrative service entities, which will reduce operating expenses.

These changes will result in lower costs to the System and lower interest rates for farmers, ranchers, and rural homeowners. I urge my colleagues to join me in support of the bill, H.R. 2029, as amended, and I look forward to continuing work with Chairman ROBERTS toward enactment of this legislation.

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise today in support of H.R. 2029, the Farm Credit System Regulatory Relief Act of 1995. I was pleased to have joined Chairman ALLARD in the introduction of H.R. 2029 and to have worked with both he and Chairman ROBERTS to bring the bill to the floor. This legislation would provide flexibility to the regulator of the Farm Credit System banks and institutions as well as removing some of the rigidity of the Farm Credit Act, which governs the activities of the System.

I am hopeful that our efforts will provide the Farm Credit System with the ability to reduce their internal paperwork and bureaucracy, and in turn, pass that reduction in costs on to their farm and ranch borrowers. As one of the few members of the Agriculture Committee who was here in 1987, when we faced a crisis in agricultural credit, I am confidant that we have adequate protection and tools in place to ensure that the Farm Credit System will be able to weather any downswings in the agriculture sector.

I supported the regulatory relief legislation for the commercial banking sector that moved through Congress in the last session and hopefully additional legislation that will move yet this year, and I am pleased to have been involved in this similar effort for the Farm Credit System. I want to assure my colleagues that this bill is not about expanded authorities or other contentious issues, but about cutting down on unnecessary redtape and ensuring balanced competitiveness of the Farm Credit System institutions with commercial banks.

Included in the bill during full committee consideration were several provisions which should be of interest to our colleagues, including the specific inclusion of Farmer Mac in the section precluding the granting of golden parachutes to institutions considered to be troubled. I'm also pleased that Chairmen ROBERTS and ALLARD included an extension of the authority for the interest rate assistance program, so that commercial banks and farm credit institutions will have an assurance that the program will be available this spring to help farm and ranch borrowers receive guaranteed loans. It is also my hope that we will have reached a compromise on the issue of Financial Assistance Corporation stock purchase that will put the issue to rest.

As the result of a request during the Resource Conservation Subcommittee hearing held on H.R. 2029, we heard from the Farm Credit Administration in regard to additional technical changes they would like to have changed in their statute. It is my hope that we can address these provisions during consideration of the credit title in the farm bill in the coming year.

Thank you, Mr. Speaker, and I urge my colleagues to support this legislation for the benefit of their farm and ranch constituents.

Mr. HEINEMAN. Mr. Speaker, I rise today in support of H.R. 2029, the Farm Credit System Regulatory Relief Act of 1995. H.R. 2029 eases unnecessary regulatory requirements on the Farm Credit System. These burdensome regulatory costs have increased the amount that farmers pay for credit.

Currently, regulators are required to review lenders yearly. Yearly review is overly burdensome and costly on the Farm Credit System. Those higher costs are then passed on to our Nation's farmers. H.R. 2029 would allow regulators to review lenders every 18 months and reduces a number of other regulatory burdens on the Farm Credit System that have become outdated.

This legislation will give the Farm Credit System and farmers some much needed relief. The Farm Credit Administration has estimated that this legislation will save an estimated $18 million to $20 million dollars over the next 5 years.

Farm credit institutions are very important to North Carolina's farmers. H.R. 2029 will give farm credits more flexibility to provide farmers with better service and loan rates. I urge my colleagues to support our Nation's farmers, vote for H.R. 2029.

☐ 1815

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

Mr. ALLARD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on the motion offered by the gentleman from Colorado [Mr. ALLARD] that the House suspend the rules and pass the bill, H.R. 2029, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Farm Credit Act of 1971 to provide regulatory relief, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ALLARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–149)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 2076, the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996."

This bill does not meet the priorities and needs of our Nation and people. It would undermine our ability to fight the war on crime; decimate technology programs that are critical to building a strong U.S. economy; and weaken our leadership in the world by drastically cutting funding for international organizations, peacekeeping, and other international affairs activities.

First, the bill represents an unacceptable retreat in our fight against crime and drugs. It eliminates my COPS initiative (Community Oriented Policing Services) to put 100,000 more police officers on the street. Already, this initiative has put thousands of police on the street, working hand-in-hand with their communities to fight crime. The block grant that H.R. 2076 would offer instead would not guarantee a single new police officer. That's not what the American people want, and I won't accept it. As I have said, I will not sign any version of this bill that does not fund the COPS initiative as a free-standing, discretionary grant program, as authorized.

The bill also eliminates my "drug courts" initiative. And it unwisely abandons crime prevention efforts such as the Ounce of Prevention Council and the Community Relations Service. I am also disappointed that the funding levels in the bill fall short of my request for the Drug Enforcement Administration, and OCDETF (Organized Crime Drug Enforcement Task Force). This is no time to let down our guard in the fight against drugs.

Second, the bill constitutes a short-sighted assault on the Commerce Department's technology programs that work effectively with business to expand our economy, help Americans compete in the global marketplace, and create high quality jobs. As we approach a new, technology-driven century, it makes no sense to eliminate an industry-driven, highly competitive, cost-shared initiative like our Advanced Technology Program (ATP), which fosters technology development, promotes industrial alliances, and creates jobs. Nor does it make sense to sharply cut funding for measures that will help assure our long-term growth and competitiveness—such as our National Information Infrastructure grants program, which helps connect schools, hospitals, and libraries to the information superhighway; the GLOBE program, which promotes the study of science and the environment in our schools; the Manufacturing Extension Partnership, which helps small manufacturers meet the hi-tech demands of the new marketplace; Defense Conversion; or the Technology Administration. And I oppose the bill's harmful cuts for the Census Bureau and for economic and statistical analysis.

Third, I am deeply concerned that this bill would undermine our global leadership and impair our ability to protect and defend important U.S. interests around the world—both by making unwise cuts in funding for international organizations and peacekeeping activities, and by cutting programs of the State Department, the Arms Control and Disarmament Agency, and the United States Information Agency. These cuts would impair our ability to support important activities such as the nonproliferation of weapons, the promotion of human rights, and the control of infectious disease like the Ebola virus. Moreover, sections of the bill include inappropriate restrictive language, including language limiting the conduct of U.S. diplomatic relations with Vietnam, that I believe infringe on Presidential prerogatives. And I cannot accept the provision that would cut off all funding for these agencies on April 1, 1996, unless the State Department Authorization Act and related legislation had been signed into law.

Fourth, the bill includes three additional provisions that I cannot accept.

It cripples the capacity of the Legal Services Corporation (LSC) to fulfill its historic mission of serving people in need—slashing its overall funding, sharply limiting the administrative funds LSC needs to conduct its business, and imposing excessive restrictions on LSC's operations. LSC should be allowed to carry on its work in an appropriate manner, both in its basic programs and in special initiatives like the migrant legal services program.

Section 103 of the bill would prohibit the use of funds for performing abortions, except in cases involving rape or danger to the life of the mother. The Justice Department has advised that there is a substantial risk that this provision would be held unconstitutional as applied to female prison inmates.

The bill also includes an ill-considered legislative rider that would impose a moratorium on future listings under the Endangered Species Act by the National Oceanic and Atmospheric Administration and other agencies. That rider not only would make bad policy, it also has no place in this bill.

Finally, I would urge the Congress to continue the Associate Attorney General's office.

For these reasons and others my Administration has conveyed to the Congress in earlier communications, I cannot accept this bill. H.R. 2076 does not reflect my priorities or the values of the American people. I urge the Congress to send me an appropriations bill that truly serves this Nation and its people.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *December 19, 1995.*

The SPEAKER pro tempore. The objections of the President will be spread at large upon the Journal, and the message and the bill will be printed as a House document.

Pursuant to the order of the House of today, consideration of the veto message is postponed until tomorrow, December 20, 1995.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

JOINT ECONOMIC COMMITTEE REPORT SHOWS BALANCED BUDGET WILL IMPROVE FAMILY INCOME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. SAXTON] is recognized for 5 minutes.

Mr. SAXTON. Mr. Speaker, just a few minutes ago the Speaker of the House and the President concluded a meeting on which we hope there was substantial progress on negotiations toward a balanced budget.

I take this opportunity this evening to speak of a Joint Economic Committee report which shows clearly that there is a marked effect on family income and on the economic status of a family because of our movement which will eventually conclude in a balanced budget.

First, Mr. Speaker, it is important to point out, and this is extra from the report that I want to talk about today, that the individual share of the national debt that we have collectively accrued for each of the 280 million people who live in this country is about $18,000. That is right, for every man, woman, and child who is a citizen of the United States of America, the individual share of the national debt amounts to just about $18,000.

To bring that close to home, to let us see clearly what it means to each person, obviously, off in the abstract someplace there is a problem because there is an $18,000 debt, but it is kind of out of sight until we understand that when we pay our income tax bill each year there is interest that must be paid on that $18,000 debt.

If I went down to the bank to borrow $18,000 and the person at the bank said, "OK, Mr. SAXTON, we will lend you the $18,000, but you need to know that you have to pay interest on it," the interest on that $18,000 note that I would take out would amount to somewhere, if it were a 7-percent note or thereabouts, it would amount to about $1,060 a year that I would have to pay on that $18,000 loan that I took out at the bank.

That is precisely what happens with the $18,000 that we each owe the Federal Government. When we pay our Federal income taxes each year, on average, about $1,060 goes to pay the interest on our $18,000 share of the national debt. Of course, for an average family of four, that gets a little expensive, because $1,060 times four comes out to about $42,040 a year. So there is a definite economic impact on each and every individual and on each and every family.

Further, the Joint Economic Committee Report, which Members have access to by calling my office, the Joint Economic Committee report that we published shows that there is a further impact on each American family that amounts to a very significant amount of money. As a matter of fact, it amounts to about $2,308 a year. It is interesting to see how this report takes us there, because all of our families have certain things in common. If your individual family does not face these exact facts, you will at least be able to relate to them, because they are not uncommon.

For example, we believe that balancing the budget, and most economists believe that balancing the budget and Alan Greenspan believes that our balancing the budget will have a significant impact on interest rates. As a matter of fact, on most interest rates they are projecting about 2.2 percent lower at the conclusion of our 7-year balanced budget plan. So in the plan that we passed, and we provided for that economic benefit.

For a family that has a mortgage on their home, a $100,000 mortgage, as is used in the case here, and the interest rate drops by 2 percent, it amounts to a whopping $1,456 a year in savings on that home mortgage. So we jump right out front with a big savings for the individual homeowner of about $1,456.

It also would not be unusual for a family of, let us say, three, as is the case in this example, for a family of three, it would not be unusual for that family to have a student loan. If we reduced the interest rate on that student loan, like we did for the interest rate on the home mortgage, we see here there would be an additional $50 a year in savings, another significant amount, as we add up this total pie.

It would not also be unusual for a family like our family to have a car loan. That car loan at $15,000 and a lowered interest rate by 2.22 percent would produce a savings of $108 a year.

In the plan that we passed to balance the budget, as Members will recall, we had a $500 per child tax credit. So in this family, you see, we have another $500 savings. There would also be some savings or some additional income because we know that if we put our fiscal house in order, it will have a positive effect on our economy. We believe that it will produce jobs, and we also believe it will produce higher rates of wages, higher rates of pay, so our economist friends projected that additional income would amount to about $194 a year.

Adding all of these savings up from a better fiscal situation for our Government and a better economic situation for our country, in actual savings for American families, we come up with a net savings of $2,308 a year for this family of three.

The conclusion that we almost draw from this, Mr. Speaker, is that the facts presented in this analysis, which, again, is available by calling my office, lead to but one conclusion: The price of higher spending and greater debt accumulation is far too high not to balance the budget. Refusing to bring spending in line with revenue will cost a typical American family $192 a month, and over $2,300 a year.

So I invite all of my colleagues and anyone else on Capitol Hill or around the country that is interested to give a call. We will be happy to send out a copy of this economic analysis, which shows these facts very clearly.

□ 1830

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2359, ICC TERMINATION ACT OF 1995

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–425) on the resolution (H. Res. 312) waiving points of order against the conference report to accompany the bill (H.R. 2539) to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes, which was referred to the House Calendar and ordered printed.

PROVIDING FOR CONSIDERATION OF H.R. 558, THE TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL CONSENT ACT

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–426) on the resolution (H. Res. 313) providing for the consideration of the bill (H.R. 558) to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact, which was referred to the House Calendar and ordered printed.

REPUBLICAN BUDGET LACKS ADEQUATE FUNDING

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under a previous order of the House, the gentleman from Massachusetts [Mr. OLVER] is recognized for 5 minutes.

Mr. OLVER. Mr. Speaker, exactly 1 month ago today we adopted a continuing resolution which was a commitment on the part of the President and the Members of Congress by a vast majority in both parties to achieving a balanced budget by the year 2002. That was 1 month ago today.

In the intervening 1 month, we have seen not a single one of the budget bills which is necessary to run the Government for fiscal year 1996, not a single one of those bills has been signed into law. Indeed, three of them have actually reached the President's desk and he has vetoed them, including the Commerce-State-Justice bill, for which you just heard the veto message read. That veto message gives very profound and good reasons for why it was vetoed; and the other two, similarly.

However, the other three budget bills, including the major legislation for the Labor, Health and Human Service Departments and Education Department, all of those have never even been taken up by the Senate; they are not even close to being passed.

Mr. Speaker, the continuing resolution that was adopted 1 month ago said that the President and the Congress shall agree, and agree to working toward a balanced budget that must, "provide adequate funding for Medicaid and education and agriculture and national defense and veterans and the environment," and continuing the quote, "Further, the balanced budget will adopt tax policies to help working families." That is a section of the quote from that continuing resolution.

Here we are 1 month later and what has been the progress on providing adequate funding? Let me take just a couple of these areas that have been so specifically spoken of in the continuing resolution that Members of both parties and the President agreed would guide how we would go about creating that balanced budget for the year 2002.

What about adequate funding for Medicaid? Well, what we know, Mr. Speaker, is that the Medicaid budget, as passed by the Congress and sent to the President, has $133 billion worth of cuts in Medicaid. That is revised by the latest CBO numbers. Now, is that adequate funding for Medicaid?

Well, let us examine what it is that Medicaid provides for. It provides long-term care, Mr. Speaker. Long-term care is mostly for elders, for senior citizens in this country who have used every bit of their resources and are now destitute and need to be in nursing homes, need long-term care. So that $133 billion cut comes out of long-term care for destitute elderly people in this country.

Number 2, it covers the safety net for poor families and where there may be no sympathy for poor people on the Republican side here, the legislation does provide health care, Medicaid does provide health care for children, for little children, little children who happen to be growing up in low-income statuses and surely deserve to have health care, as good a health care as my child, as good a health care as any child of any Member in this Congress has. But that, with the $133 billion of cuts in Medicaid, is jeopardized.

Then the other major thing is disabled Americans, the most tragic cases of people that we have to deal with as Members of Congress and among our constituents, people, mostly younger people, who have crippling birth defects or have debilitating or progressive diseases and need again the assistance from Medicaid that is provided to people who are disabled; and again, that $133 billion of cuts in Medicaid taken from them.

What about the question of adequate funding for education? Well, the budget that the Republicans keep pushing as the correct budget is one that continues to take money from financial aid for college students, $5 billion over 7 years from financial aid for college students, including the elimination of the direct lending program.

The Speaker is telling me that my time is up, so I can assure my colleagues that the list goes on here, but we need to follow the continuing resolution and provide for adequate funding for Medicaid and education and the environment and make certain that that balanced budget will indeed adopt tax policies to help working families.

CORPORATE LEADERS SHOULD SHARE SACRIFICES TO BALANCE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER. Mr. Speaker, Members of the House, this morning we woke up to an advertisement, a full-page ad in today's New York Times and in the Washington Post that called on President Clinton and the congressional leaders of both parties to expedite agreements on a budget plan that would balance the budget within 7 years.

The advertisement, which echoed much of the frustration felt by many Americans, was signed by the presidents and the CEOs of America's largest corporations. However this budget dispute is resolved, millions of Americans and, in all likelihood, Americans with the very least are going to be asked to give up more. Working families, children, students, the elderly and the sick and the poor and the disabled are going to be asked to give up more in this dispute than anyone who signed this ad from these corporations.

What is at stake in this debate is how the burdens of reaching a balanced budgeted are apportioned, how will we share the pain, how will we share the burden?

The Republican Party and their budget is grossly unfair, placing the overwhelming burden of cuts, rollbacks, and denials of services on the backs of vulnerable Americans.

I recognize that the corporate officers who signed yesterday's advertisement are sincere in their desire for a balanced budget, but there is something unseemly, something unfair about some of the richest men in America who lead some of the biggest corporations in America lecturing us to pass a budget that, when all is said and done, preserves many of their privileges, their profits and their perks on the backs of the average working man and woman in this country.

The wealth of these corporations is due not only to the hard work of their employees, including their very generously compensated CEOs, but also to billions of dollars in the Federal spending that underwrites them. Most of that Federal spending remains untouched in this budget proposal. In fact, for many, the passage of the balanced budget will mean a multibillion dollar windfall as millions of Americans are denied basic medical care, education, nutrition, child care, and income support.

The signatories to this advertisement are questionable spokesmen for tightening our belts. These are men who have made many millions of dollars, in some cases many millions of dollars in just the last year.

Allied Signal's Lawrence Bossidy was reportedly paid $12.3 million. American International's M.R. Greenberg was paid $12 million. Chrysler's Robert Eaton was paid $6.1 million. Nation's Bank Hugh McColl earned $13 million. Xerox's Paul Allaire made $6.8 million. They all signed this ad suggesting that we could arrive at a balanced budget.

Most of these others earn between $1 million and $6 million a year, who sign these ads. Many of these companies are not only doing well because of their product line and their marketing skills, but because the very same government that they ask now to balance the budget is showering them with benefits.

The pharmaceutical companies like Abbot Laboratories and American Home Products and Baxter International and Johnson & Johnson enjoy multimillion dollar tax breaks through the 936 subsidy program which is preserved in the balanced budget that they want others to pay for.

Major corporations like AT&T, Exxon, Ford Motor, and GTE Corporation have enjoyed millions through foreign sales assistance through the OPIC program that is a subsidy provided by the Federal Government to some of the wealthiest corporations in the country.

Financial corporations like the Blackstone Group, the Bloomberg Financial Services, Dean Witter, Goldman Sachs, Merrill Lynch, all are expecting the windfalls that they believe will arrive from the capital gains tax, most of which goes to the wealthiest people in this Nation, and yet these people who are paid millions have said to us that others should pay to balance the budget.

The energy corporations like Amoco and Exxon and Chevron benefit from a royalty holiday, a holiday from paying the people of the United States a royalty for the oil and the gas that they extract from the people's lands in the Gulf of Mexico. ASARCO benefits by not paying a royalty on the minerals it extracts from the public lands, and yet they sign an ad and tell us how easy it is to balance the budget. Alcoa, the aluminum company, will profit from continued subsidizing of the hydroelectric power that allows them to make aluminum in the Pacific Northwest subsidized by the taxpayers.

These gentlemen are not suggesting that they offer up this corporate welfare to help us balance the budget, this perk, this privilege. No, they are suggesting that others should have to pay to balance the budget.

These corporate leaders have got it wrong. They too must help to contribute to balance the budget. They too must put their perks and privileges on the table.

PUTTING A FACE ON GOVERNMENT SHUTDOWN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. MORELLA] is recognized for 5 minutes.

Mrs. MORELLA. Mr. Speaker, yesterday this House, by a resounding vote of 351 to 40, voted for a resolution for a balanced budget in 7 years using CBO numbers. The President has indicated that he is in favor of it; certainly the leadership in Congress is in favor of it. Let us get on with it. Let us get on with it.

What is happening with this Government shutdown, Mr. Speaker, is that we have Federal employees and those who have Federal contracts and those in the community that really are victims of the fact that Congress and the administration have not come to grips with balancing this budget.

I want to put a face on this Federal shutdown. This is shutdown No. 2. This is shutdown No. 2 that has said to 260,000 Federal employees and their families, we do not need you; there is no work for you now. This is the third day of Hannukah. In 6 days it will be Christmas, and yet we have these people and their families who have been told they are nonemergency. I do not even use that term, "nonessential," because everybody is essential who works for the Federal Government. But nonessential, or nonemergency is probably the term to use.

I have heard from a woman who was deemed emergency and who made prearranged plans to take time off, time that she had accrued for the holidays, but she has been told that because she is emergency, she cannot take that prearranged time off; she must report to work. If she takes that vacation time, her agency told her that under the rules, she would be fired.

I had another extraordinary situation which we are trying to work out, and that is again somebody who had claimed time off for a honeymoon that was told, you are essential and we do not believe that you can take the time off for a honeymoon, even though it was planned months and months in advance.

□ 1845

I have a person at the National Institutes of Health, and this is pretty typical, a pharmacist, a pharmacist who had been deemed emergency because people across the country depend on the prescriptions that he fills. Although he is at work filling these prescriptions, he cannot send them out. Why? Because the mail room is closed.

During the last shutdown, he sent them out with his own money, but he does not know whether he can afford it this time. Can you imagine that?

I have some neighbors down the street from me in Montgomery County, MD, and I noticed their cars were parked in their driveway this morning at 7:15 in the morning. Ordinarily they are gone at about 6:45 or certainly by 7. Why were they there? Because one works for Health and Human Services and the other one works for the Department of Commerce. They have 4 children, 2 are in college, and I am sure they are looking for gifts for Hanukkah and Christmas but I am not sure that they are going to be able to feel that they can transcend that anxiety and the angst of not having work.

I just think that we must look at the human factor of this shutdown and those people who are being unfairly victimized and held hostage for it. It should let us know that we have got to lead, very soon, like within the next few moments say that we can come together as we are supposed to.

But I also want you to know that there are others who are affected adversely by this shutdown, too. The local economy, hotels and restaurants, Federal contracts, certainly I can use as an example the National Institutes of Health grants, research that has been slowed down.

There is an article in the paper today that come out, too. It said that the National Institutes of Health, this is the time of year officials normally would be deciding how to hand out more than $2 billion in research grants. "They have gone through peer review, have been found to be excellent science and we're about ready to fund them."

This is research. This is important research. However, we cannot do it. We cannot do it because we do not know what is going to happen with the budget, and we have been told that we must shut down that facet of government.

So there are thousands of Federal workers in Maryland who are on furlough—this comes from the newspaper story—for the second time in 2 months, feeling the most immediate impact of the inability of President Clinton and Congress to agree on a budget.

But there is also a trickle-down effect, and I would like to point that out, albeit briefly, the trickle-down effect to the local economy. I have a letter from a suburban Maryland high technology council talking about those people who are on Federal contracts, who will not be reimbursed.

I say, Mr. Speaker, to this distinguished body, let our people go back to work. Let us balance this budget.

THE BUDGET AND CHRISTMAS

The SPEAKER pro tempore (Mr. DICKEY). Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, today we witnessed the Republicans playing raw politics by putting up senseless resolutions that are designed to make noise and avoid making policy.

The result is that we are giving the American people a Gingrich Christmas, a Gingrich Christmas of 250,000 Federal employees or more who have a joyless gift of being furloughed and called nonessential in their effort to serve America with their vital services.

A Gingrich Christmas for children means virtually eliminating nutrition programs through block grants and creating 50 different standards, cutting current levels of SSI benefits for children with disability by 25 percent, eliminating the immunization program, eliminating the guarantee of child care and providing inadequate funding, making it difficult if not impossible for their parents to go to work.

A Gingrich Christmas for senior citizens means cutting Medicare by $270 billion, cutting Medicaid by $163 billion, eliminating the guaranteed coverage for health care, eliminating home heating assistance for the poor, radically restructuring nursing home care.

A Gingrich Christmas for the wealthy, however, means a tax cut of $245 billion and welfare for corporate America.

The President would like to give the American people a fair opportunity to be productive and to contribute to this great Nation through their work. The President would like to put those furloughed Federal employees back to work who should not be held hostage just before Christmastime.

The President Clinton Christmas for children would mean maintaining nutritional programs with one Federal standard across America, making sure that there is a hearty breakfast and a healthy lunch for needy children, keeping SSI benefits for children with disabilities, making sure that every needy child gets immunized against polio, tuberculosis and every other disease, retaining the guarantee for child care and providing adequate funds so that their parents who need to go back to work can go back to work and become independent from dependency on this Government.

A President Christmas for senior citizens would mean providing Medicare coverage for American poor elderly, 90 percent of whom have such coverage now in America, protecting the guarantee of Medicaid for the poor, the disabled and children, retaining the 30-year guarantee of health care coverage, maintaining home heating assistance, and keeping nursing home care and providing the same standard of care in those homes.

The President's Christmas to the wealthy Americans would mean, however, a fair tax rather than a free tax ride, for all Americans. A balanced budget in 7 years? Yes, making sure we have a strong, stable and working economy.

Mr. Speaker, Christmas is a time that should bring out the best in America, not the worst in America. The best in America means a real chance for children, real genuine security for our senior citizens.

Christmas is less than a week away, 6 days. The question today is, what will Congress do to ensure that America experiences a joyful Christmas? There will be no joy nor happiness nor excitement if Federal workers are out of work, if children have no reason to smile, and if seniors face undue pain in their most vulnerable years.

Christmas has become important in America today. Christmas is really a holy day, a righteous day where we should celebrate the expectation of a coming of Christ. It is a day where we care about our fellow Americans or our fellow human beings.

Congress must not transform this cheer and this religiously significant day into a day of gloom. We must get on and do the work that we should do to make Christmas a happy day for all Americans.

THE LACK OF POWER OF THE PRESIDENT TO COMMIT TROOPS ABROAD WITHOUT CONGRESSIONAL AUTHORIZATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HORN] is recognized for 5 minutes.

Mr. HORN. Mr. Speaker, we have a President with a lack of will on the budget but an excess of will on having troops in Bosnia.

The excess of will includes the use of an excess of power that in reality does not exist. If George Washington, our greatest President, and John Marshall, our greatest Chief Justice, were here today, they would not believe what the President has done.

Why do I say that? Very simply. Washington presided over the Constitutional Convention. He knew what the Framers meant when they gave the President the power to be Commander in Chief gave the President the power to be Commander in Chief of the Army and Navy. So did Marshall and his court, a court he dominated for over three decades. They made the basic interpretations of what the Constitution was meant to be.

In "The Federalist" No. 74 Alexander Hamilton said, very simply, "The President of the United States is to be 'Commander in Chief of the Army and Navy of the United States and of the militia of the several States when called into the actual service of the United States.'

But when the first President, Washington, confronted a situation such as the current President confronted, he deferred to Congress, as did John Adams, as did Thomas Jefferson, as did most other Presidents.

The expert on this area is Dr. Louis Fisher, senior specialist in separation of powers of the Office of Senior Specialists of the Congressional Research Service in the Library of Congress. Dr. Fisher, in his essay "The Barbary Wars: Legal Precedent for Invading Haiti?" noted this: That George Washington and John Adams in their "military action conformed to the Framers' expectation that the decision to go to war or to mount military operations was reserved to Congress and required advance authorization."

For example, "President Washington's military actions against Indian tribes were initially authorized by Congress." In his writings, George Washington noted specifically that "military operations were confined to defensive measures. Offensive action required authority from Congress."

Each President that I have mentioned—Washington, Adams, and Jefferson—said the same thing. Jefferson listened to his Cabinet on the subject of the use of force against the Barbary powers (Morocco, Algiers, Tunis, and Tripoli), and their various theories of when Jefferson decided to act he based his action "on statutory authority rather than theories of inherent presidential power," something we have heard a lot about since 1933.

As Dr. Fisher restates this history, he observes that Jefferson cited the statute of March 3, 1801 as a basis for his action. A directive of May 20th ordered a captain of the Navy to take his squadron to the Mediterranean to protect American commerce against the Barbary powers. Jefferson settled on consulting Congress. Between 1802 and 1815, a dozen statutes were passed by Congress and approved by Presidents Jefferson and Madison to deal with the Barbary pirates who were hurting U.S. shipping. "By the end of 1815," as Dr. Fisher sums up, "Madison could report to Congress on the successful termination of the war with Algiers."

Jefferson recognized there was a difference—as had Washington—that between defensive and offensive military operations. That was not surprising. After all, Jefferson had been Washington's Secretary of State. In fact, Washington said in 1793, "the Constitution vests the power of declaring war with Congress; therefore, no offensive expedition of importance can be undertaken until after they have deliberated upon the subject, and authorized such a measure."

We also have in modern times a wise Secretary of Defense who set out some fairly substantial criteria that any President or any Secretary of Defense should meet before committing American troops abroad. In a very significant speech on November 28, 1984, on "The Uses of Military Power," then Secretary of Defense Casper W. Weinberger suggested that there are at least six tests that must be met if American forces are to be used.

Let me just read a few lines from the Secretary's remarks and then we will put the rest in the RECORD.

"First, the United States should not commit forces to combat overseas unless the particular engagement or occasion is deemed vital to our national interest or that or our allies * * *."

Fourth, he noted still later that when the forces do change, in terms of size, composition and disposition, then so must our combat requirements be continually reassessed. He cautioned: "We must continuously keep as a beacon light before us the basic questions. Is this conflict in our national interest?

Fifth, he noted that "before the U.S. commits combat forces abroad, there must be some reasonable assurance we will have the support of the American people and their elected representatives in Congress. This support cannot be achieved unless we are candid in making clear the threats we face; the support cannot be sustained without continuing and close consultation."

He means with Congress as his next sentence clearly states: "We cannot fight a battle with the Congress at home while asking our troops to win a war overseas or, as in the case of Vietnam, in effect asking our troops not to win but just to be there."

Finally, said Secretary Weinberger, "the commitment of U.S. forces to combat should be a last resort."

Those are wise words, wise decisions made by George Washington, made by John Adams, made by Thomas Jefferson, made by the Supreme Court of the United States and the Chief Justice of the United States, John Marshall, and in modern times seconded by one of the major Secretaries of Defense of the post-war period.

Mr. Speaker, our troops should not be in Bosnia. Of course, we support them once they are put there. We came within five votes in the House of Representatives in not having our troops in Bosnia when we voted for the Dornan amendment. It is sad that we lost a majority. That was a mistake. It is too bad we did not pick up a few votes on that, but now that our armed services are there, we do have to help.

But "help our troops" has also been the ruse that two Presidents found to keep soldiers in Vietnam when it was clear that they should not be there. Of course we support the troops. Every single Member of this body supports the troops. The question is: "Should they be there in the first place?"

Mr. Speaker, I include the following documents for the RECORD:

EXCERPTS FROM AN ADDRESS ON "THE USES OF MILITARY POWER" BY SECRETARY OF DEFENSE CASPAR W. WEINBERGER BEFORE THE NATIONAL PRESS CLUB, NOVEMBER 28, 1984:

I believe the postwar period has taught us several lessons, and from them I have developed six major tests to be applied when we are weighing the use of U.S. Combat Forces abroad. Let me now share them with you:

(1) First, the United States should not commit forces to combat overseas unless the particular engagement or occasion is deemed vital to our national interest or that of our allies. That emphatically does not mean that we should declare beforehand, as we did with Korea in 1950, that a particular area is outside our strategic perimeter.

(2) Second, if we decide it is necessary to put combat troops into a given situation, we should do so wholeheartedly, and with the clear intention of winning. If we are unwilling to commit the forces or resources necessary to achieve our objectives, we should not commit them at all. Of course if the particular situation requires only limited force to win our objectives, then we should not hesitate to commit forces sized accordingly. When Hitler broke treaties and remilitarized the Rhineland, small combat forces then could perhaps have prevented the Holocaust of World War II.

(3) Third, if we do decide to commit forces to combat overseas, we should have clearly defined political and military objectives. And we should know precisely how our forces can accomplish those clearly defined objectives. And we should have and send the forces needed to do just that. As Clausewitz wrote, "no one starts a war—or rather, no one in his senses ought to do so—without first being clear in his mind what he intends to achieve by that war, and how he intends to conduct it."

War may be different today than in Clausewitz's time, but the need for well-defined objectives and a consistent strategy is still essential. If we determine that a combat mission has become necessary for our vital national interests, then we must send forces capable to do the job—and not assign a combat mission to a force configured for peacekeeping.

(4) Fourth, the relationship between our objectives and the forces we have committed—their size, composition and disposition—must be continually reassessed and adjusted if necessary. Conditions and objectives invariably change during the course of a conflict. When they do change, then so must our combat requirements. We must continuously keep as a beacon light before us the basic questions: "Is this conflict in our national interest?" "Does our national interest require us to fight, to use force of arms?" If the answers are "yes", then we must win. If the answers are "no", then we should not be in combat.

(5) Fifth, before the United States commits combat forces abroad, there must be some reasonable assurance we will have the support of the American people and their elected Representatives in Congress. This support cannot be achieved unless we are candid in making clear the threats we face; the support cannot be sustained without continuing and close consultation. We cannot fight a battle with the Congress at home while asking our troops to win a war overseas or, as in the case of Vietnam, in effect asking our troops not to win, but just to be there.

(6) Finally, the commitment of U.S. Forces to combat should be a last resort.

THE BARBARY WARS: LEGAL PRECEDENT FOR INVADING HAITI?

SUMMARY

The claim that President Clinton has constitutional authority to invade Haiti without first obtaining congressional authority is often linked to early presidential actions. Supporters of broad executive power argue that a President may deploy troops on his own authority and that Congress can restrain him only after he acts. As support for this position, the Barbary Wars during the time of Presidents Jefferson and Madison are often cited. However, the historical record demonstrates that these military operations received advance authority from Congress. To the extent that presidential initiatives were taken before congressional action, they were defensive in nature and not offensive (as contemplated for Haiti).

BACKGROUND

During the Presidencies of George Washington and John Adams, U.S. military action conformed to the framers' expectation that the decision to go to war or to mount military operations was reserved to Congress and required advance authorization. For example, President Washington's military actions against Indian tribes were initially authorized by Congress. 1 Stat. 96, §5 (1789); 1 Stat. 121, §16 (1790); 1 Stat. 222 (1791). Consistent with these statutes, military operations were confined to defensive measures. Offensive action required authority from Congress. 33 The Writings of George Washington 73 (John C. Fitzpatrick ed. 1939).

Similarly, when President Washington used military force in the Whiskey Rebellion of 1794, he acted on the basis of statutory authority. 1 Stat. 264, §1 (1792). President John Adams engaged in the "quasi-war" with France from 1798 to 1800. Although Congress did not declare war, military activities were fully authorized by more than two dozen statutes in 1798. 1 Stat. 547–611.

ACTIONS BY JEFFERSON AND MADISON

Elected President in 1800, Thomas Jefferson inherited the pattern established during the Washington and Adams administrations: Congress had to authorize offensive military actions in advance. One of the first issues awaiting Jefferson was the practice of paying annual bribes ("tributes") to four states of North Africa: Morocco, Algiers, Tunis, and Tripoli. Regular payments were made so that these countries would not interfere with American merchantmen. Over a period of ten years, Washington and Adams paid nearly $10,000,000 in tributes.

In his capacity as Secretary of State in 1790, Jefferson had identified for Congress a number of options in dealing with the Barbary powers. In each case it was up to Congress to establish national policy and the executive branch to implement it:

> Upon the whole, it rests with Congress to decide between war, tribute, and ransom, as the means of re-establishing our Mediterranean commerce. If war, they will consider how far our own resources shall be called forth, and how far they will enable the Executive to engage, in the forms of the constitution, the co-operation of other powers. If tribute or ransom, it will rest with them to limit and provide the amount; and with the Executive, observing the same constitutional forms, to make arrangements for employing it to the best advantage. 1 American State Papers: Foreign Relations 105 (Walter Lowrie & Matthew St. Clair Clarke, eds. 1832).

On March 3, 1801, one day before Jefferson took office as President, Congress passed legislation to provide for a "naval peace establishment." 2 Stat. 110, §2 (1801). On May 15, Jefferson's Cabinet debated the President's authority to use force against the Barbary powers. The Cabinet agreed that American vessels could repel an attack, but some departmental heads insisted on a larger definition of executive power. For example, Albert Gallatin, Secretary of the Treasury, remarked: "The Executive can not put us in a state of war, but if we be put into that state either by the decree of Congress or of the other nation, the command and direction of the public force then belongs to the Executive." Other departmental heads expressed different views. Franklin B. Sawvel, ed., The Complete Anas of Thomas Jefferson 213 (1903).

After hearing these opinions from his Cabinet, Jefferson chose to rely on statutory authority rather than theories of inherent Presidential power. Citing the statute of March 3, the State Department issued a directive on May 20 to Captain Richard Dale of the U.S. Navy, stating that under "this [statutory] authority" Jefferson had directed that a squadron be sent to the Mediterranean. If the Barbary powers declared war on the United States, American vessels were ordered to "protect our commerce & chastise their insolence—by sinking, burning or destroying their ships & vessels wherever you shall find them." 1 Naval Documents Relating to the United States Wars With the Barbary Powers 467 (1939). Having issued that order, based on congressional authority, Jefferson also wrote that it was up to Congress to decide what policy to pursue in the Mediterranean: "The real alternative before us is whether to abandon the Mediterranean or to keep up a cruise in it, perhaps in rotation with other powers who would join us as soon as there is peace. But this Congress must decide." 8 The Writings of Thomas Jefferson 63–64 (Ford ed. 1897).

Insisting on a larger tribute, the Pasha of Tripoli declared war on the United States. Jefferson did not interpret this action as authority for the President to engage in unlimited military activities. He informed Congress on December 8, 1801, about the demands of the Pasha. Unless the United States paid tribute, the Pasha threatened to seize American ships and citizens. Jefferson had sent a small squadron of frigates to the Mediterranean to protect against the attack. He then asked Congress for further guidance, stating that he was "[u]nauthorized by the Constitution, without the sanction of Congress, to go beyond the line of defense * * *." It was up to Congress to authorize "measures of offense also." Jefferson gave Congress all the documents and communications it needed so that the legislative branch, "in the exercise of this important function confided by the Constitution to the Legislature exclusively," could consider the situation and act in the manner it considered most appropriate. 1 A Compilation of the Messages and Papers of the Presidents 315 (James D. Richardson ed. 1897–1925) (hereafter "Richardson").

Alexander Hamilton, writing under the pseudonym "Lucius Crassus," issued a strong critique of Jefferson's message to Congress. Hamilton believed that Jefferson had defined executive power with insufficient scope, deferring too much to Congress. But even Hamilton, pushing the edge of executive power, never argued that the President had full power to make war on other nations. Hamilton merely argued that when a foreign nation declares war on the United States, the President may respond to that fact without waiting for congressional authority:

> The first thing in [the President's message], which excites our surprise, is the very extraordinary position, that though Tripoli had declared war in form against the United States, and had enforced it by actual hostility, yet that there was not power, for want of the sanction of Congress, to capture and detain her cruisers with their crews.
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> * * * [The Constitution] has only provided affirmatively, that, "The Congress shall have power to declare War;" the plain meaning of which is, that it is the peculiar and exclusive province of Congress, when the nation is at peace to change that state into a state of war; whether from calculations of policy, or from provocations, or injuries received: in other words, it belongs to Congress only, to go to War. But when a foreign nation declares, or openly and avowedly makes war upon the United States, they are then by the very fact already at war, and any declaration on the part of Congress is nugatory; it is at least unnecessary." 7 The Works of Alexander Hamilton 745–747 (John C. Hamilton ed.).

Congress responded to Jefferson's message by authorizing him to equip armed vessels to protect commerce and seamen in the Atlantic, the Mediterranean, and adjoining seas. The statute authorized American ships to seize vessels belonging to the Bay of Tripoli, with the captured property distributed to those who brought the vessels into port. 2 Stat. 129 (1802). Legislators had no doubt about their constitutional authority and duties. "The simple question now," said Cong. William Eustis, "is whether [the President] shall be empowered to take offensive steps." Cong. Samuel Smith added: "By the prescriptions of the law, the President deemed himself bound." Annals of Cong., 7th Cong., 1st Sess. 328–329 (1801).

Congress continued to pass legislation authorizing military action against the Barbary powers. Legislation in 1803 provided additional armament for the protection of seamen and U.S. commerce. 2 Stat. 106. Legislation the next year gave explicit support for "warlike operations against the regency of Tripoli, or any other of the Barbary powers." 2 Stat. 291. Duties on foreign goods were placed in a "Mediterranean Fund" to finance these operations. Id. at 292, §2. Further legislation on the Barbary powers appeared in 1806, 1807, 1808, 1809, 1811, 1812, and 1813. 2 Stat. 391 (1806); 2 Stat. 436 (1807); 2 Stat. 456 (1808); 2 Stat. 511 (1809); 2 Stat. 616 (1811); 2 Stat. 675 (1812); 2 Stat. 809 (1813).

Jefferson often distinguished between defensive and offensive military operations, permitting presidential initiatives for the former but not for the latter. In 1805, he notified Congress about a conflict with the Spanish along the eastern boundary of the Louisiana Territory (West Florida). After detailing the problem he noted: "Considering that Congress alone is constitutionally invested with the power of changing our condition from peace to war, I have thought it my duty to await their authority for using force in any degree which could be avoided." 1 Richardson 377.

Military conflicts in the Mediterranean continued after Jefferson left office. The Dey of Algiers made war against U.S. citizens trading in that region and kept some in captivity. With the conclusion of the War of 1812 with England. President Madison recommended to Congress in 1815 that it declare war on Algiers: "I recommend to Congress the expediency of an act declaring the existence of a state of war between the United States and the Dey and Regency of Algiers, and of such provisions as may be requisite for a vigorous prosecution of it to a successful issue." 2 Richardson 539. Instead of declaration of war, Congress passed legislation "for the protection of the commerce of the United States against the Algerine cruisers." The first line of the statute read: "Whereas the Dey of Algiers, on the coast of Barbary, has commenced a predatory warfare against the United States * * *." Congress gave Madison authority to use armed vessels for the purpose of protecting the commerce of U.S. seamen on the Atlantic, the Mediterranean, and adjoining seas. U.S. vessels (both governmental and private) could "subdue, seize, and make prize of all vessels, goods and effects of or belonging to the Dey of Algiers." 3 Stat. 230 (1815).

An American flotilla set sail for Algiers, where is captured two of the Dey's ships and forced him to stop the piracy, release all captives, and renounce the practice of annual tribute payments. Similar treaties were obtained from Tunis and Tripili. By the end of 1815, Madison could report to Congress on the successful termination of war with Algiers.

LEGISLATIVE CONTROLS OF PROSPECTIVE ACTIONS

Can Congress only authorize and declare war, or may it also establish limits on prospective presidential actions? The statutes authorizing President Washington to "protect the inhabitants" of the frontiers "from hostile incursion of the Indians" were interpreted by the Washington administration as authority for defensive, not offensive, actions. 1 Stat. 96. §5(1789); 1 Stat. 121. §16 (1790); 1 Stat. 222 (1791). Secretary of War Henry Knox wrote to Governor Blount on October 9, 1792: "The Congress which possess the powers of declaring War will assemble on the 5th of next Month—Until their judgments shall be made known it seems essential to confine all your operations to defensive measures." 4 The Territorial Papers of the United States 196 (Clarence Edwin Carter ed. 1936). President Washington consistently held to this policy. Writing in 1793, he said that any offensive operations against the Creek Nation must await congressional action: "The Constitution vests the power of declaring war with Congress; therefore no offensive expedition of importance can be undertaken until after they have deliberated upon the subject, and authorized such a measure." 33 The Writings of George Washington 73.

The statute in 1792 upon which President Washington relied for his actions in the Whiskey Rebellion, conditioned the use of military force by the President upon an unusual judicial check. The legislation said that whenever the United States "shall be invaded or be in imminent danger of invasion from any foreign nation or Indian tribe," the President may call forth the state militias to repel such invasions and to suppress insurrections." 1 Stat. 264, §1 (1792). However, whenever federal laws were opposed and their execution obstructed in any state, "by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by the act," the President would have to be first notified of that fact by an Associate Justice of the Supreme Court or by a federal district judge. Only after that notice could the President call forth the militia of the state to suppress the insurrection. Id. §2.

In the legislation authorizing the Quasi-War of 1796. Congress placed limits on what President Adams could and could not do. One statute authorized him to seize vessels sailing to French ports. He acted beyond the terms of this statute by issuing an order directing American ships to capture vessels sailing to or from French ports. A naval captain followed his order by seizing a Danish ship sailing from a French port. He was sued for damages and the case came to the Supreme Court. Chief Justice John Marshall ruled for a unanimous court the President Adams had exceeded his statutory authority. Little v. Barreme. 6 U.S. (2 Cr.) 169 (1840).

The Neutrality Act of 1794 led to numerous cases before the federal courts. In one of the significant cases defining the power of Congress to restrict presidential war actions, a circuit court in 1806 reviewed the indictment of an individual who claimed that his military enterprise against Spain "was begun, prepared, and set on foot with the knowledge and approbation of the executive department of our government." United States v. Smith. 27 Fed. Cas. 1192. 1229 (C.C.N.Y. 1806) (No. 16.342). The court repudiated this claim that a President could authorize military adventures that violated congressional policy. Executive officials were not at liberty to waive statutory provisions: "if a private individual, even with the knowledge and approbation of this high and preeminent officer of our government [the President], should set on foot such a military expedition, how can he expect to be exonerated from the obligation of the law?" The court said that the President "cannot control the statute, nor dispense with its execution and still less can he authorize a person to do what the law forbids. If he could, it would render the execution of the laws dependent on his will and pleasure; which is a doctrine that has not been set up, and will not meet with any supporters in our government. In this particular, the law is paramount." The President could not direct a citizen to conduct a war "against a nation with whom the United States are at peace." Id. at 1230. The court asked: "Does [the President] possess the power of making war? That power is exclusively vested in Congress * * * it is the exclusive province of Congress to change a state of peace into a state of war." Id.

GOPAC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. SHADEGG] is recognized for 5 minutes.

Mr. SHADEGG. Mr. Speaker, I rise this evening to discuss with my colleagues and those who are paying attention the recent allegations against GOPAC. Indeed, we have read a great deal about them. Much of the information that has been put forward has been put forward on the premise that it is fact.

Well, it is not fact. What is going on is a lawsuit, a partisan political lawsuit brought to stop a political movement, a movement which captured the hearts and minds of the American people over the last few years.

□ 1900

We ought to get some facts on the table. What are the facts? Is it true that GOPAC broke the law, the Federal Election Commission regulations which say that it cannot involve itself in Federal campaigns without first registering as a Federal PAC? That is the essence of the allegation.

Let us begin with one fact. When was the lawsuit brought? It was brought by the Democratic Congressional Campaign Committee on the eve of Speaker GINGRICH's 1990 re-election campaign. Indeed, within 30 days of when he stood for reelection, a tough re-election campaign. You might ask yourself if the timing of that was at all political. I suggest it was.

That is almost 5 years ago that they brought those allegations against the Speaker and against GOPAC. The essence of the allegation was that GOPAC had crossed the line, that it had failed to register as a Federal election campaign committee and, therefore, had violated Federal law. And that was investigated by the FEC and ultimately a lawsuit was brought.

Last week they brought all kinds of new information to the table. The shocking thing about that information is that although it was presented as fact and as woefully damaging to GOPAC, in fact it was vacuous. It lacked any substance whatsoever.

Here is the issue. The allegation is that because people are involved in GOPAC, including the Speaker and his advisors, discussed their ultimate goal at retreats of winning the presidency and some day taking over the Congress of the United States for the Republican cause, for a conservative movement, for a movement which believes in limited government and lower taxes and sending authority away from Washington and giving it back to the people and the States, that because they generally discussed those ideas at GOPAC meetings, that was a violation of Federal law. Think about that theory. I call upon the ACLU across this Nation to think about that theory.

The theory is that if you and a group of like-minded people sit down in a room and/or at a retreat and you discuss your goal, your goal is some day to have a Republican President, because we do not have one, or your goal is to take over Republican majority, a conservative majority of the United States Congress, because we do not have the right then, instantaneously, as a result of those discussions, you are required to register with the Federal Election Campaign Committee and to file their reports year in and year out. Every first amendment lawyer in America ought to be aghast at that allegation, but that is the premise that the FEC brought.

What does it mean? It means if you or your wife or your husband are the member of a Republican women's club or men's club back home or a Democrat women's club or men's club and if in fact you attend one of your meetings and in those discussions you talk about the fact that you would like to see a President elected of your party or you would like to see the Congress strengthen its hold in your party or take over the majority for your party, suddenly those mere discussions subject you to regulation by the FEC.

The notion is shocking. It is a frontal assault on the first amendment. And yet that is exactly what happened, because we learned that at the North Pole Basin retreat of GOPAC, where those involved in this movement, a grass roots movement, which admittedly had as its goal the election of State and local officials to State and local offices, who believed in the agenda of smaller government, who believed in lower taxes, that when they discussed those things, that that was okay until the moment that they said, and some day it would be nice to take over Congress or some day it would be nice to have a Republican President, suddenly at that moment because they had those discussions, there was a requirement that they register with the FEC and a requirement that they then comply with all of the laws.

I submit that that argument is so absurd that the reverse is true. If you had had a retreat of GOPAC and they had simply discussed the Super Bowl or whether or not somebody was going to win the national bake off, then there would have been shocking news. In fact, the allegations are vacuous, and no one can substantiate what was said against the speaker or against GOPAC on those occasions.

WASTEFUL SPENDING BY FEDERAL EMPLOYEES AND NAFTA ACCOUNTABILITY ACT

The SPEAKER pro tempore (Mr. DICKEY). Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I rise tonight to speak on two unrelated but very important national issues.

The first is wasteful and ridiculously expensive travel by Federal employees, particularly by certain Cabinet members who should be setting a better example.

Even members of the President's own Party, such as Senator REID of Nevada, have called for Energy Secretary Hazel O'Leary's resignation.

She has been galavanting all over the world at horrendous expense to the taxpayer.

She has been chartering private jets, when she could easily have flown commercially, and she has consistently been staying in the most expensive hotels in the world.

She spent $2.6 million on just four of these trips—$845,000 for a trip to China, $500,000 for a trip to Pakistan, $560,000 for a trip to South Africa, and $720,000 for a trip to India.

No wonder we can't balance the budget.

This is a terrible abuse of taxpayer dollars, but then the easiest thing in the world to do is to spend other people's money.

Another Cabinet Secretary who has been wasting taxpayer funds on travel is Secretary of the Interior Bruce Babbitt.

He has been traveling all over the United States to make political attacks on the Republican budget.

Almost all of his trips should have been paid for by the Democratic National Committee since he has been so blatantly partisan in his statements and press conferences.

And then the trip that really takes the cake is the one 400 Federal employees took to Disney World last month.

The Washington Post said that taxpayers paid "hundreds of thousands of dollars so about 400 Federal employees could go to Disney World and stay at a four-star hotel."

No wonder we have a five trillion dollar national debt.

The Associated Press said these employees were from the National Park Service, Army Corps of Engineers, Fish and Wildlife Service, Forest Service, and the Bureau of Land Management.

These bureaucrats had training sessions on such topics as "The Power of Magic in Shaping History," and "Goofy (and Educational) Nature Songs."

These agencies, plus almost all other Federal offices are screaming today about cuts and shortages of funds.

Well, there is no shortage of money if they can send employees on a trip like this. In fact, it appears that they have such a surplus of funds that they cannot even use good sense in how their money is spent.

Of course, the truth is that almost all Federal agencies are still getting increases. And the best question to ask is what were they getting 10 years ago.

Over that period, inflation has averaged only about 3 percent a year.

Their spending should have gone up by about ⅓ at the most, but almost all these Federal departments and agencies have increased spending at two or three or four times the rate of inflation.

The Head Start Program, for one, has gone up 300 percent in the last 10 years about 10 times the rate of inflation.

The budget for the EPA for 1995 is twice-double-what it was in 1985-a 100 percent increase.

We have allowed our Federal Government to get so big that it is simply out of control.

That is why you have abuses of the taxpayer like these.

Also, we have a civil service system that is so overly protective that Federal bureaucrats know that they can get away with almost anything.

Instead of letting Federal spending increase, but at a slower rate, as we do in the Republican budget, we should really be cutting a few things so the people can keep more of their money.

The second topic I wanted to mention, Mr. Speaker, is the NAFTA Accountability Act.

This act would require that we take another look at NAFTA to see if it is causing more harm than good.

Apparently, in an effort to sell NAFTA 2 years ago, we were given misleading or incomplete information about the Mexican economy.

Just a few days ago in my district in Tennessee, the two largest employers in Tellico Plains announced that they were leaving, one going to Mexico, one to Honduras.

At almost the same time, the largest employer in Etowah, TN announced that it was going into bankruptcy in large part due to NAFTA.

These three companies will mean almost 900 people in my district will lose their jobs. For these two small towns, the impact is devastating.

Now I do not know if the company moving to Honduras is using funds from the Caribbean Basin Initiative but "60 Minutes" and others have reported that we are making loans to American companies to set up branches in Central America and the Caribbean.

Through NAFTA and GATT, and all the money we contribute to the World Bank, and the International Monetary Fund, and things like the African Development Bank, and the Export-Import Bank, and the Caribbean Basin Initiative, all the money we spend overseas, through the State Department, the Commerce Department, the Defense Department, we seem to be giving our country away.

Then when you add in our direct foreign aid program to all these other giveaways and loans to foreign countries, and then the billions we have spent for nation-building in Rwanda, Somalia, Haiti, and now Bosnia, in addition to the multibillion bailout of Mexico. I repeat Mr. Speaker.

We seem to be giving away our own country and selling out our own people.

A TALE OF TWO PRESIDENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. LEWIS] is recognized for 5 minutes.

Mr. LEWIS of Kentucky. Mr. Speaker, I would like to tell a story this evening. I will keep it short though it could last for hours. It is called a Tale of Two Presidents, a President in 1992 and 1993 and now a different President in 1993.

Two years ago the President and his top health care specialist, Hillary Rodham Clinton, told the American people again and again, we are talking about beginning to reduce the rate of increase in Medicare from about 11 percent annually to about 6 or 7 percent increase annually.

Mr. and Mrs. Clinton told Americans again and again, do not let people tell you these are cuts in Medicare. All we are doing is slowing the rate of increase. That is not a cut.

Remember those words very carefully because my colleagues are about to hear them again. Bill Clinton wanted to use those Medicare savings he was talking about in 1993 to help pay for his Government-run health care scheme.

Now let us move forward to early 1995. Medicare board of trustees reports Medicare part A will be bankrupt in 2002. The trustees, four of whom are Clinton appointees, also say Medicare part B was growing at an unsustainable rate.

So this Congress passed the Balanced Budget Act, which included a plan to save Medicare for another decade. The plan slowed the rate of growth to more than 7 percent annually. Remember, the President said 2 years ago, that is not a cut. But guess what Bill Clinton has to say about essentially the same idea today?

He said, Republicans want to destroy, devastate and dismantle Medicare. He is talking about terrible cuts now. What happened to the President that was talking about slowing the rate of growth just 2 years ago? The Republican plan increases spending per senior from $4800 to $7100 in the year 2002. There are no cuts though the rate of spending increases are slowed slightly.

The Clinton plan would increase spending per senior to $7200 in the year 2002. That is a 2 percent differences, or little more than $100 a year 7 years from now. Remember, the President's Medicare proposal is not of a balanced budget, because even though he submitted four of them, none of them balance. More on that a little bit later.

Yet, Bill Clinton's accusations against the Republicans, that we are trying to destroy Medicare, the Nation's top elected official is telling these fictitious stories to the American people. Our President, our leader, the one on whom we depend to lead us through times of crisis and through times of need, is not coming forth and telling the American people what he was saying just 2 years ago, that we are not going to devastate Medicare. We are not cutting Medicare. We are slowing the rate of growth. He and Mrs. Clinton said 2 years ago, do not let them tell you that we are cutting.

□ 1915

Well, do not let them tell you today that we are cutting Medicare.

Let us talk about Medicare part A premiums. Seniors now pay $47 a month for part A premiums, and Bill Clinton and liberal Democrats have blasted Republicans and said they are doubling Medicare premiums. First of all, as every senior knows, Medicare part A premiums rise about almost every year. Even Bill Clinton and liberal Democrats know this. The Republican plan would see premiums rise from $47 to $87 a month in the year 2002. That is an increase, though it is not a doubling of the premium.

But here is the punch line: The President's plan would cost only $4 less per month than what we are proposing.

Bill Clinton says Republicans want to destroy Medicare, but the premiums in this plan are $83 instead of $87. That is 13 cents a day difference.

It gets worse. Most of this year we have heard Bill Clinton and other liberals accuse Republicans of trying to force seniors into managed care plans—even though every senior could remain in the current plan just as it is. They have also blasted our innovative proposals like medical savings accounts. Now, Bill Clinton has "borrowed" every good idea Republicans wanted to use to help save Medicare in his plan.

A few weeks ago, the Washington Post, no friend of conservatives, had this to say: "The Democrats, led by the President, have shamelessly used this issue, demagogued on it because they think that's where the votes are."

Mr. President, remember 1992, 1993. There are no cuts.

LET'S BALANCE THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. GOODLATTE] is recognized for 5 minutes.

Mr. GOODLATTE. Mr. Speaker, the President has now had four tries at sending the Congress a balanced budget, and he still has not gotten close to honoring the commitment he made to the American people and the law he signed 29 days ago agreeing to a balanced budget in 7 years using real numbers, not smoke and mirrors. President Clinton's latest budget keeps piling on the debt, an estimated $265 billion in the red.

Mr. Speaker, we voted on that budget here in the House today, and Democrats and Republicans alike combined to reject it 412 to zero. That is right, not a single Member of the House in either party voted for the President's latest budget.

Yesterday we had a similar bipartisan vote in favor of a 7-year balanced budget using realistic assumptions about economic growth.

While the President cannot send us a budget that actually balances, he can stand over at the White House and scare our seniors, scare our families, scare our veterans with dire rhetoric and self-serving political posturing that lacks one essential element, the truth. He and his allies have spent an estimated $30 million attempting to mislead the American people about Medicare, Medicaid, education, and the Earned Income Tax Credit.

So let us look at the facts. He says Republicans are devastating Medicare, destroying Medicare. Here are the facts:

In this current year we are spending per senior citizen $4,816 on Medicare; in the year 2002, $7,101 per senior citizen on Medicare. Where is the cut? I would suggest to my colleagues that only in Washington, DC, can a $2,300 increase in spending on Medicare be called a cut. Only in Washington, DC, and on negative misleading ads such as the one the United Mine Workers are running in my district on the radio this week, absolutely false, totally intended to try and scare senior citizens, and for what? Purely political demagoguery and nothing else.

Medicaid. We are increasing the amount of money spent on Medicaid by nearly 50 percent over the next 7 years.

Education. The chairman of the committee is going to speak on this at great length, but let us take a look at just one example, a very important part of education, student loans. Cuts to student loans they say. Well, here in 1995 the total amount of money made available for student loans this year is $24.5 billion. In the year 2002 under our budget that has been sitting on the table waiting for a budget from the President to negotiate over we increase it to $36.4 billion over the next 7 years, more than, or nearly, a 50-percent increase in student loans, and yet the President would have the students of this country and their parents scared with the idea that we are trying to cut education. Nothing could be further from the truth.

The Earned Income Tax Credit. The President says we are being unfair to hard-working, low-income families in this country, yet we are increasing the amount of money that is spent, that the amount of tax credits that are available for the Earned Income Tax Credit for low-income families by $5 billion in the 7th year of our budget, increasing again, and overall in the last 7 years we spent $9½ trillion. That is the total amount of money the Government spent; in the next 7 years with our budget, $12 trillion, a $2½ trillion increase, and yet the President wants to spend more, originally proposing to spend nearly $1 trillion more, still wanting to spend $300 billion more than what is necessary, more than what it takes to balance the budget in 7 years, and we cannot balance the budget using his smoke and mirrors.

Mr. Speaker, the President has got his seasons mixed up. It is Christmas, not Halloween, so maybe he should put away the senior scare tactics and bogie-man budgets and join the Congress in actually helping our Nation by balancing the budget.

Today each and every Member of Congress had a crystal-clear decision. Members could vote for President Clinton's fourth budget, and with their vote they would say to their folks back home, "I agree with President Clinton; we simply don't want to balance the budget. So let's not even try. Let's just keep piling on the debt that our children and grandchildren will be stuck with, and we'll keep playing the tried and true Washington political game of saying one thing and doing another, saying we want a balanced budget, but voting to keep up the outrageous spendathon."

Mr. Speaker, clearly that was rejected by the Members of this Congress today. Members today who voted no voted no and said, "President Clinton, it is really time to finally balance the budget. The American people are waiting and watching."

No more Washington, D.C. gimmicks. No more political games. No more divisive grandstanding. Let's do the right thing. Let's balance the budget. Let's put our Government back to work.

The vote was unanimous. Republicans and Democrats voted "no" and sent a bipartisan message to President Clinton that we are moving forward to balance the budget and it's about time that he joined us.

The American people are waiting and watching.

STRENGTHENING, PRESERVING, AND PROTECTING MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, I wanted to continue this dialog and discussion that we are having which the American people on Medicare, and I need to first begin with the 1995 April 3 trustees' report which said at the present financing schedule the Medicare Program is sufficient to insure the payment of benefits for only 7 years. It will be out of money in—it will be bankrupt in 7 years.

Mr. Speaker, that is why the Republican Congress has taken the steps to preserve, protect, and strengthen Medicare.

Now we are doing this by ourselves. The Democrat Party, the President, has done absolutely nothing in this process to strengthen, preserve, and protect Medicare, but they are doing all kinds of things to scare the American people, saying, "Cut, cut, Cut.'

Mr. Speaker, in response to that the chairman of the Republican National Committee, Haley Barbour, put out this ad and challenge to the Democrats. It said, "If you can prove that we are cutting Medicare, come get a check for $1 million."

Now what I would think with over 200 Democrats in the House, that they would have been lining up because all we have heard, Mr. Speaker, for 6 months is Republicans are cutting Medicare, and yet somehow, when there is a million dollars in it, suddenly there is silence, and I have never known Democrats to be overwhelmingly statesmanlike, so I assume, when it comes time to putting money where their mouth is, that they are not interested in really participating because, Mr. Speaker, they know that the truth is that Medicare spending is going from $,816 per person to $7,100, and with that kind of truth, then they do not want to come get their million-dollar check.

Now the gentleman from Pennsylvania who has just helped keep these charts on the floor has also studied this very carefully with me. I know he is on top of Medicare, but also on the budget as well.

Mr. FOX of Pennsylvania. Congressman KINGSTON, I appreciate the opportunity for you to yield to me. The fact is that Medicare spending under the Republican proposal will go from $4,800 a year to at least $7,100 a year. This big increase is going to make sure that Medicare is going to be there for all seniors. The fact is the proposal also does some other important things. The American public should also know, and our colleagues, that we are going to reduce the cost of paperwork involved with Medicare from 12 percent to like 3 percent or less with electronic billing. We also, the medical education, the indirect and direct costs, instead of being part of Medicare will have its own separate item so that those funds will again go to seniors' health care. I think it is also important to note the options they have, the Medisave accounts and the managed care. All will make sure that Medicare goes up double the rate of inflation.

Mr. KINGSTON. Mr. Speaker, the gentleman is correct. Medicare is essentially 1964 Blue Cross plan, and I would not want my mama to be driving around in a 1964 Ford Falcon. I want her to have all the technology, and those options that you are talking about, she wants traditional Medicare, she can have it, but if she wants all the other options, she can.

Now you know what is interesting is that we had to have a trustees' report on Medicare to tell us it is going bankrupt. As Members of Congress, we should have known that already, but there is one thing that we do not need the trustees' report on, and that is the fact that the U.S. Government is going bankrupt.

We have a debt right now of $4.9 trillion which we are passing on to our children today, just because the Democrats and many others in Washington are acting like, well, this does not affect me. In some of the major newspapers in the country; I think the Wall Street Journal, the Washington Post, Washington Times, maybe the L.A. Times; the CEO's of many of the Fortune 500 companies in America took out an ad urging Congress, urging the President, to balance the budget within 7 years.

Now a lot of the colleagues on the other side of the aisle have been bad mouthing these people. Let me tell you who they are bad mouthing. I heard one of the speakers earlier tonight say how horrible these folks were. We are talking IBM, Ford Motor Co., Circuit City, Toys "R" Us, and, as I sat here and listened to what we used to call parlor pinks—parlor pinks, as you know, were Socialists. They are not quite Communists, but they do not like—they are collectivists. They do not like people making a profit—bad mouth all these companies, and these are companies that have products in every one of our households around America, but, more importantly than that, the jobs.

Where do these parlor pinks think jobs come from if not employers?

Mr. FOX of Pennsylvania. If the gentleman would yield, I appreciate, Congressman KINGSTON, your bringing this topic forward because frankly most Americans want to see a balanced budget, a balanced budget, and these companies, and their executives, and their employees all agree that we balance the budget, we are going to be able to reduce the costs of car payments, mortgage costs, college expenses, health care costs. We have been spending almost the same size as the Defense Department just on our Nation's debt, and 25 years or 26 years of overspending have gotten us $4.9 trillion in debt.

Mr. KINGSTON. Well, have you ever thought about this, Mr. FOX? What if the children could vote? All we hear from here is oh, the children, the children. What if those children who are going to be paying $150,000 in interest on the national debt over a 75-year period of time on top of their Federal, on top of their State, on top of their local taxes, what if those 5 year olds that we are so, that they are allegedly so concerned now about out there on the playground, what if they could vote?

☐ 1930

Mr. FOX of Pennsylvania. Obviously, they would also want a balanced budget.

Mr. KINGSTON. Obviously they would say, wait a minute, mom and dad. You mean to say all of that stuff that you are charging, I have to pay for? Maybe we do not need all of those Federal spending programs after all. Maybe all those bureaucrats in Washington should go home.

Mr. FOX of Pennsylvania. If the gentleman will continue to yield, the fact is that the vote today was very historic. The Clinton budget, which would give us nothing but more deficit, more spending, more tax increases, which would create less jobs, was in fact defeated 412 to zero. Republicans and Democrats together said that was not the answer.

ZERO VOTES ON PRESIDENT CLINTON'S BUDGET

The SPEAKER pro tempore (Mr. DICKEY). Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I would ask the gentleman from Georgia [Mr. KINGSTON] to join me in this special order.

Mr. KINGSTON. Let me start out by asking a question, Mr. Speaker. I am not sure what the gentleman said. The President had a balanced budget plan, is that correct?

Mr. FOX of Pennsylvania. Yes.

Mr. KINGSTON. He introduced it in Congress?

Mr. FOX of Pennsylvania. Correct.

Mr. KINGSTON. We voted on it, right?

Mr. FOX of Pennsylvania. That is correct.

Mr. KINGSTON. So it obviously got over 200 votes on the Democrat side, who rejected the Republican vote?

Mr. FOX of Pennsylvania. It did not get any votes from either side.

Mr. KINGSTON. The gentleman from Michigan, DAVID BONIOR, the gentleman from Missouri, DICK GEPHARDT, the leaders of the minority, voted against President Clinton's plan?

Mr. FOX of Pennsylvania. No Democrat or Republican voted for it, or independent.

Mr. KINGSTON. The President of the United States, who has been bad mouthing Republicans in Congress assiduously for a year, has now introduced a budget that got zero Democrat votes? I find that bizarre, even for Washington.

Mr. FOX of Pennsylvania. Let me tell you why. It was bipartisan in its rejection because that budget would put us in the red by $265 billion. There is a better answer. It is having a budget that balances, just like counties do, States, school boards, families. We need to make sure that this government is, like the rest of those outside of Washington, outside the beltway, balancing our budget, spending money where government can make a difference, but not duplicating what is happening in the States or in the private sector.

Mr. KINGSTON. You, sir, have been in office 12 months now. You have a balanced budget. Your freshman class has supported a balanced budget. The President has had a 2-year jump, actually a 3-year jump on you. Remember, on June 4, 1992, he said on "Larry King Live," he would have a balanced budget in 4 years. He has been in office 3 years. You have been in office in your freshman class 1 year. Are you saying to me that the President has yet to submit a balanced budget?

Mr. FOX of Pennsylvania. Yes; that is true. There have been four attempts. Each one has been over budget, in the red, in the deficit, and will not help us get out of the problem. What we need to do is make sure that the American people realize that what we need is a bipartisan budget in the Republican House and in the Republican Senate that will in fact balance, give people a chance to have the American dream, and not be overtaxed, overspent, and overregulated.

Mr. KINGSTON. Let me ask you this, because the Democrats keep talking about, of course, they want a balanced budget. Surely they have submitted a balanced budget; is that right?

Mr. FOX of Pennsylvania. That is correct.

Mr. KINGSTON. They have?

Mr. FOX of Pennsylvania. There has been a budget.

Mr. KINGSTON. It is a balanced budget?

Mr. FOX of Pennsylvania. It does not include the tax reforms for families.

Mr. KINGSTON. Is that the official budget or is that the rump caucus, the blue tick budget?

Mr. FOX of Pennsylvania. That is correct, it is the latter.

Mr. KINGSTON. That is not even the official budget of the Democratic Party.

Mr. FOX of Pennsylvania. The official would be the Clinton budget, which was defeated today, 412 to zero.

Mr. KINGSTON. I find that appalling, just to think about that. That, I believe, is why they have taken a full page ad out. As you know, they are not asking anything, really, out of the blue, but they are saying, "Let us use CBO, Congressional Budget Office numbers, let us balance the budget in 7 years, let us have both parties and all parties come to the table," and the part in bold print is what is most important. "Without a balanced budget, the party is over, no matter which party you are in."

Mr. FOX of Pennsylvania. It is also important to point out that under the Republican proposal, which has a balanced budget, Medicare spending will increase 62 percent, from $178 billion this year to almost $290 billion by the year 2002. As well for Medicaid, that increase under the Republican budget will go from $89 billion this year to $127 billion by the year 2002, a 43-percent increase.

So the fact is the important programs that everyone wants, whether it be Medicaid, Medicare, earned income tax credit, education, child care, all those programs will be increased under the Republican budget, while still balancing the budget for the first time since 1969.

Mr. KINGSTON. I think it is ironic that rather than cutting the budget, rather than freezing the budget, we are actually debating increasing it 3 trillion new dollars, as the Republican plan indicates, or 4 trillion new dollars, as the President wants, and all we are debating is the growth.

Mr. FOX of Pennsylvania. The key feature here is that we are eliminating the fraud and abuse, and waste. In Medicare alone, there is $30 billion in fraud, abuse and waste, in Medicaid it is $14 billion, by governmental figures. The fact is that if we just eliminate the fraud and abuse, we will go a long way to make sure the true services go back to those who are needy, whether they be seniors, children, or those who are poor. We want to make sure we take care of people. We are compassionate, Republicans and Democrats together, working to make sure we have a balanced budget. I know we can achieve that.

VACATION OF SPECIAL ORDER TIME AND REALLOCATION OF SPECIAL ORDER TIME

Mr. DORNAN. Mr. Speaker, because of the inclement weather, not nearly as bad as that of Bosnia, I do not want our staff to stay much later. I ask unanimous consent to reduce my 60-minute special order to 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REAL SLEAZE IN THE NOT-SO-GAY NINETIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, I said I would be procuring a cloisonne pin for the 1st Armored Division, Old Ironsides. It came in the mail today from one of the troopers of that division, and the package arrived later with about 10 of them. I will wear it for the entire year.

An interesting development in Bosnia over the weekend. I was not aware that the Mujaheddin from Afghanistan, from extremist elements in Egypt, Turkey, Saudi Arabia, from Pakistan, that they had an entire brigade there. One of the more well-known of their terrorists, Anwar Shaban, was executed over the weekend with four others, or killed in a firefight, we do not know which, by Croatian Bosnian troops.

If the remaining Mujaheddin, outside terrorists, we now have home-grown Bosnian terrorists of Islamic persuasion, but not faith, if they decide that this is because of the United States Dayton agreement pushing the confederation of Croatia and Bosnia internal governments to drive out all Mujaheddin volunteer fighters, then Americans will be targeted.

It has been snowing all day in Tuzla, but the fog is gone and our first C-17 Globemaster III arrived. I do not understand the agreement between the leadership of Congress and Clinton not to allow a single Congressman or Congresswoman on a codel for the rest of this month over the holidays, as I volunteered and deeply wanted to do, or anybody for the whole month of January to go from this Congress to that dangerous part of the world. I do not understand that. Harry Smith of the CBS Morning Show will be broadcasting from Tuzla tomorrow. Until today, there were more news people there than the less than 100 advanced military people on the ground.

In lieu of that special order tonight, Mr. Speaker, let me change subjects, one that our Speaker in the Chair has some knowledge about. Without mentioning any names, so as not to get in trouble with the parliamentarians, and knowing that I will not finish this but submitting it for the RECORD, let me tell everybody why we seem to be having a problem with people not living up to their word here.

I would call this Real Sleaze in the Not So Happy Nineties, taking into account that my dad was born in 1892 in the probably over-romanticized gay nineties, but this is real sleaze in the not so gay nineties.

What does any thinking person associate with these names and events? I will break it down into the good guys, once bad, seeking redemption, that bad guys and gals, and then events.

Here we go, and I will just keep going until my time runs out. First, the good guys and gals: Jean Lewis and the other law-respecting workers at the Resolution Trust Corporation. Of whom could we think? Paula Corbin Jones, victim of criminal flashing, the ultimate sexual harassment, right up there with criminal groping a la Packwood, but far worse.

Billy Ray Dale, that is a good guy, and the six people whose reputations were partially destroyed. They are being rebuilt in the travel office. Not too many good guys and gals in this story.

B, once bad but now seeking redemption: Sally Perdue, Gennifer Flowers, Marilyn Jenkins, and unnamed others, one through who knows; and Arkansas troopers 1, 2, 3, 4, and particularly No. 5, nicknamed "J.D."

Now the bad guys and gals:

Bimbos IV through Roman numerals XX, XXX;

James McDougal, disgraced former owner of Madison Guaranty, cost the taxpayers $60 million;

Susan McDougal, wife and partner of James, partner of others, embezzler of Zubin Mehta in Los Angeles;

Bernard Nussbaum, former senior White House counsel, left under a cloud; current convict Webster Hubble, former Associate Attorney General, first fix-it man at Justice, actually over Janet Reno in the pecking order.

William Kennedy, III, former White House associate counsel;

Dan "Cocaine" Lassiter, ex-convict who laundered drug money through S&Ls, paid Roger's $10,000 cocaine debt, was pardoned by the Governor;

Margaret Williams, Chief of Staff, enemy of the truth;

Patsy Thomasson, F.O. and enemy of truth.

Mr. Speaker, I will submit the rest for the RECORD.

REAL SLEAZE IN THE NOT-SO-GAY NINETIES

I. Whom does any thinking person associate with these names and events?

A. First the Good Guys & Gals:

Jean Lewis and other law respecting workers at the Resolution Trust Corporation.

Paula Corbin Jones—victim of criminal flashing—the ultimate sexual harassment, right up there with criminal groping—worse.

Billy Ray Dale + 6.

B. Once Bad But Now Seeking Redemption:

Sally Perdue.

Gennifer Flowers.

Marilyn Jenkins.

Arkansas Troopers No. 1, No. 2, No. 3, No. 4, No. 5 ("J.D.").

C. BAD GUYS AND GALS:

Bimbos IV through XX.

James McDougal, owner of Madison Guaranty.

Susan McDougal wife and partner of James, embezzler of Zubin Mehta.

Bernard Nussbaum, former senior White House Counsel.

Current convict Webster Hubbell, former Associate Attorney General (No. 1 fix-it man at justice).

William Kennedy III, former White House Associate Counsel.

Dan "Cocaine" Lasater, ex-convict who laundered drug money through S&L's and paid Rogers $10,000.00 cocaine debt, was pardoned by Governor.

Margaret Williams, Chief of Staff and Enemy of Truth.

Patsy Thomasson, FO and Enemy of Truth No. 2.

Morton Halperin, National Security Counsel, he was rejected for Asst. Sec. of Defense by U.S. Senate.

Hazel O'Leary, Energy Secretary, world traveler.

Bruce Babbitt, Interior Secretary, master of babble.

Strobe Talbott, No. 2 at State Department (Dayton Conference Greize eminence"—brother-in-law of Derek Shear.) Time Magazine lying F.O.B. in '92.

Ira Magaziner, former Health Care Reform Guru, can't add financial figures.

Robert Altman, BCCI.

Clark Clifford, BCCI, avoids justice trial due to ***

Ex Judge convicted David Hale, John Dean of 1995.

Ron Brown, Commerce Secretary, Rich F. of fired F.O.

Kristine Gebbie, former AIDS Czar.

Bruce Lindsey, Former Deputy Counsel (falsely claimed attorney/client privilege in Whitewater hearing on taxpayer payroll).

David Mixner, Senior Homosexual fundraiser.

Susan Thomases, FOH.

Betsey Wright, Bimbo Patrol ultra fixer-upper.

Jack Paladino, personal detective, "fixer" with heavy cash.

Jean Bertrand Aristide, defrocked priest, "I love the smell of burning flesh," anti-Christian, anti-American accessory to multiple murders.

Paula Casey, belatedly self-recused U.S. attorney in Little Rock—bad memory.

Zoe Baird, botched Attorney General nominee (badly vetted Liberal Victim #1).

Kimba Wood, botched Attorney General nominee (badly vetted Liberal Victim #2).

Lani Guinier (badly vetted Liberal Victim #3).

Henry Foster, sometime Abortionist (badly vetted Liberal Victim #4).

Double dipping prior female Surgeon General who wanted to teach self-gratifiation to grade schoolers. Still does. Ugh.

Charles Ruff, liberal Democrat, prosecutor, potential Clinton appointee.

Vincent Foster, Marley's ghost for third Christmas in a row, former inside super fix-it Clinton lawyer, either a victim or guilt ridden over WACO children deaths and the vicious Travelgate assassination of reputations of 7 innocent working folks.

Christophe and the infamous $200 haircut at LAX.

Ex-trooper Captain Buddy Young, coverup artist and chief of procurers. Double income payoff at F.E.M.A.

II. Events associated with whom?:

Five "culture of death" executive orders pushing abortion-on-demand for any reason or no reason on first working day in office.

Bimbo turf, otherwise known as Astroturf in pickup truck.

Normalizing Relations with Vietnam in spite of live sightings and missing heroes (on advice of ol Raw Evil MacNamara)

Herb and Lois Shugart, parents of Medal of Honor recipient refusing to shake the President's hand, 25 May '93.

"Loathsome" letter to Bataan Death March survivor, Colonel Gene Holmes stating we've come to loathe the military.

The Magnificent but suppressed Col. Holmes' response.

The return of anti-American psychotic defrocked priest to power in Haiti.

White House Travel Office Worker reputation assassinations.

Waco deaths of pregnant women and 20 or more children who were hostages of a cult guru.

Bootlicking by political appointees of Communist Poliburo in Hanoi.

Secretive Health Care Task Force of 511 socialists or pointy headed bureaucrats.

Bisexuals and homosexuals in the military.

On MTV: "Is it boxers or briefs?""Briefs." Ugh. Worn above or below copious lust handles??

19 heroes cut down in the alleys of Mogadishu, then heroes' bodies dragged by crowds, desecrated and burned.

Offensive photo ops:

4 May '93 30 U.S. on White House south lawn.

19 July '93 Joints Chiefs-of-Staff, four star rank, everyone, used as puppets for pro-homosexual charade. Now that is loathing the military.

50th Anniversary of D-Day 4 June '94 Omaha Beach loathsome posing.

1 December 1995 Baumholder, Germany, 1st Armored Division, 10 yard "Follow me" march to nowhere with Division staff.

Pornographic bi-sexual pro-homosexual "AIDS in the Workplace Training" for all federal employees—temporarily reduced until whatever happens on January 20, 1997.

Whitewater, financing of 1986 Arkansas Governors race, 1990 Arkansas Governors race.

Aug. 1993 Largest tax increase in the history of our nation—the history of any democracy ever!

Military officers ordered to serve hors d'oeuvres at White House picnic.

Socialized medicine for Americans, doctors and nurses be damned.

Encouraging condom ads during family hour, prime-time television programming.

Organizing pro-Hanoi demonstrations in a foreign country in 1969 and 1970.

Triple draft dodging, July 1968, April 1969, and political reversal of induction show-up date of 28 July 1969.

Attempting to disarm law abiding citizens.

Forcible return of Haitian refugees breaking promises made during '92 campaign.

"I didn't inhale" vs. "Sure I would, I tried once didn't I?" (MTV June 1992)

Middle class tax cut—NOT!

Failed BTU tax.

Nannygate, over and over.

White House senior staff abusing U.S. Marine helicopters to zip over to golf courses.

Sacrilege of appropriating the Messiah's Self-description of "New Covenant," Jesus Christ is the New and Everlasting Covenant. Amen.

Daughter to elite Sidwell Friends School.

Desire for UN control of U.S. troops, everywhere.

Heber Springs Hideaway, "liaisons dangereuse."

Vadis Bosnia? Whither goest our emperor's whims?

Mr. DORNAN. Now, Mr. Speaker, with this partial list of whom could I possibly be speaking. Who is at the center of this listing of ignominy?

THE FEDERAL DEBT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine [Mr. LONGLEY] is recognized for 5 minutes.

Mr. LONGLEY. Mr. Speaker, I yield to the gentleman from California.

Mr. DORNAN. Mr. Speaker, I saw the Monday night Nightline on what the gentleman is doing, and I thought it was absolutely compelling. It is bordering on the legendary, and I wish you good luck. If there is anything I or any of the more senior Members can do around here to advance your seeking the truth, please tell us.

Mr. LONGLEY. I appreciate the gentleman's comments.

Mr. Speaker, this afternoon the Federal debt is now $4,989,213,998,043.63, again a slight decline from yesterday of about $370 million, but still the national debt stands at about $89 billion, higher than what has been actually authorized by Congress, nor does this number include the additional $61 billion that the administration has chosen to borrow from the Civil Service employee retirement accounts.

I mention that because, in light of all the talk about the unfortunate result of this stalemate causing many Federal employees to be on furlough pending some resolution of the disagreements between the President and the Congress, I would suggest that the ultimate disrespect is the extent to which the administration is cavalierly dipping into these retirement fund accounts, again, to the tune of in excess of $60 billion. That is unprecedented.

I mentioned this morning briefly on the floor that given the current stalemate in Washington, that unfortunately I was not going to be able to return this week during Christmas recess. I spoke with my daughter Sarah this morning, who was very disappointed that I was going to be unable to attend her Christmas play tomorrow morning. Again, she has a role in the play and she is quite excited about it. Obviously, I am very disappointed that I will not be able to see her, because I am sure she is going to be very excited and do a tremendous job.

But, Mr. Speaker, I attempted to explain to my daughter, my 7-year-old, why it was important that we remain in Washington to deal with these issues. The plain facts are that this Congress has in the past, and will, at least for the next 5 or 6 or 7 years, be borrowing additionally, increasing this debt in order to continue to finance a level of spending that is in excess of our revenues and that ultimately my daughter Sarah, age 7, and my son Matt, age 11, are going to be faced with the obligation of retiring or redeeming this debt. The taxes in their lifetimes could well exceed over $100,000 just to keep up with the interest on the debts.

Earlier this morning I challenged Members on the other side who were parading about their concern for Medicare, welfare, education, veterans, and the environment, but yet they have been absolutely unwilling to put their names on a line telling us what they would want to spend; nor have they been willing to address their financial priorities in a manner that would allow us to balance the Federal budget, and that effectively, this fight is about truly whether or not this Congress is going to insist on a balanced Federal budget using legitimate, honest numbers as certified by the Congressional Budget Office. In fact, it is clear to me that this is at the root of the disagreement.

As a practical matter, the amount of money that we would spend is not that far off; a few, $10 billion or $20 billion here or there, which in Washington is not a large amount of money, given the fact that over the next 7 years this Federal Government will be spending in excess of $12 trillion. That amount of money totally dwarfs any of the issues we have been talking about.

There has been a great outcry about the $245 billion tax cut, with yet barely any attention whatsoever to the fact that $245 billion is barely 2 percent of the total amount of money that this Government will spend in the next 7 years. I have to raise the question whether this Government would be severely handicapped at the prospect of only spending 98 percent of $12 trillion, as opposed to 100 percent of $12 trillion.

I might also mention, let us talk about the issue of Medicare. As we all know, this is a program that is paid for by taxes on the wages of working people. It has become exceedingly clear that our failure to slow the rate of growth of Medicare spending could result in a doubling or a tripling of these highly regressive taxes on the wages of working people, working people who are already holding down two and three jobs, trying to make ends meet.

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Nor has there been any attention to the fact that these dollars are invested in a trust fund which consists not only of taxes that are collected on the wages of working people, but also on the premiums that the seniors pay on a monthly basis. Nor has there been any attention to the fact that we are still maintaining a system whereby two-thirds of the senior's premium will be paid by the Federal Taxpayer in addition to the one-third that is paid by the beneficiary.

NO MORE EXCUSES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. RIGGS] is recognized for 5 minutes.

Mr. RIGGS. Mr. Speaker, it is a pleasure to see you in the chair tonight. I very much appreciate the leadership of the gentleman from Maine [Mr. LONGLEY]. In fact, perhaps we should leave this here at all time while we are proceeding with our business, the people's business, on the floor of the House; and I join my colleague from California, [Mr. DORNAN] in saluting the gentleman from Maine for his leadership in the balanced budget fight.

Mr. Speaker, it has been exactly 1 month, 30 days, since the President made a commitment in the form of a bill which he signed into law, a resolution to balance the budget in 7 years using honest numbers provided by the neutral, nonpartisan Congressional Budget Office. In fact, Mr. Speaker and colleagues, it has been 1,293 days since candidate Clinton promised on the Larry King show to balance the Federal budget in 5 years.

Sadly, the President has failed to keep his commitment, and now he says he will propose a 7-year balanced budget plan only if we go along with his Medicare charade.

Well, let me just tell my colleagues, for months now, and I think the American people are beginning to see through this smokescreen, but for months the President has demagogued many of the people in his party here in the Congress, they have demagogued on the issue of Medicare.

The President's real concern is to be able to spend billions of dollars to fund his liberal agenda and his liberal pet projects. He is concerned about keeping intact his political base. Of the $436 billion difference in total spending between the President's proposal and our plan, only about $32 billion is allocated toward Medicare. That would leave the President, if we did not insist on a balanced budget, with $404 billion to dole out to traditional Democratic social welfare programs.

Of course, there is no way the President can admit this, and that is really why he has never proposed a balanced budget, even though again, 30 days ago, back on November 19, he signed into law a bill that says, "The President and the Congress shall," mandatory, not discretionary, "shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002, as estimated by the Congressional Budget Office."

Again, the President has failed to keep his word, and in the process, he has caused the Government, at least part of the Government, to shut down again. He has also defied the wishes of Congress, because last night, the House of Representatives votes 351 to 40 in favor of a resolution reaffirming our commitment to a 7-year balanced budget using CBO scoring. Mr. Speaker, 133 Democrats and one Independent crossed the aisle, this center aisle right here, to join us Republicans in an overwhelmingly bipartisan vote.

Earlier today this House took a unanimous vote on the President's latest budget proposal, the Clinton budget "IV", if you will, which comes nowhere close to balancing the budget and projects annual deficits in the range of $200 billion well into the next century. So clearly, Mr. Speaker, it is not just Republicans who feel the President should be forced to keep his word.

I would also like to point out to my colleagues that today the leaders of 80 major American companies, Democrats and Republicans, concerned about the economic cost of failure to achieve a balanced budget took out a 2-page newspaper ad endorsing nothing less than a balanced budget in 7 years, using Congressional Budget Office numbers.

So Mr. Speaker and colleagues, we Republicans have kept our word. We have done our job. We have made good on our promise and our commitment to the American people to pass a balanced budget and to finally get our Nation's fiscal house in order. We have worked hard, fought many battles over these past 11 months to develop the first balanced budget in 26 years and to do it in a way that offers real deficit reduction based on honest numbers and does not entail a major tax increase imposed on the backs of the American people. To the contrary, we want to relieve and reduce taxes on the middle and working classes.

So no matter how hard the President might try to wiggle out of his agreement, which again he signed 30 days ago, we Republicans are not going to settle now for a phony budget based on cooked White House numbers.

The worst thing, the worst thing that we could do now is to go along with the White House in pretending to balance the budget, while leaving all of the difficult decisions to be fought out again in future Congresses. So that is why, Mr. Speaker and colleagues, we are insisting that in this session of Congress, before this month and this year are out, we work out a bipartisan agreement here in the Congress and with the President and his administration on a 7-year plan which balances the Federal budget, again using honest numbers provided by the Congressional Budget Office.

This is so important because the American people lose faith in their political institutions when politicians fail to keep their word.

Republicans in this Congress are establishing a new standard. We have said that from now on, any politician who makes a promise to the American people had better be prepared to keep it; and that certainly goes for Bill Clinton who again, 30 days ago, promised by signing this law to enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002, as estimated by the Congressional Budget Office.

So no more excuses, no more Washington gimmicks, it is time for the President and our colleagues, Democratic colleagues here in the Congress, to do the right thing for our children's future.

The SPEAKER pro tempore (Mr. Dickey). The Members are reminded that the President is to be referred to with the proper respect accorded him under the Rules of the House.

AMERICANS SEE THROUGH SCARE TACTICS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Pennsylvania [Mr. Goodling] is recognized for 60 minutes as the designee of the majority leader.

Mr. GOODLING. Mr. Speaker, the administration and the minority have waged a real campaign of misinformation regarding the Republican Balanced Budget Act of 1995, and I think it is finally starting to catch up with them.

On Medicare they say that the Republican plan is extreme, will gut the program and will devastate the program, but ABC's Ted Koppel on "Nightline" last week showed that the President and the minority were misinforming the public, that the Republicans were increasing Medicare, and that senior citizens were the victims of an orchestrated scare campaign.

We have the same type of scare campaign lodged against Republicans with regard to what our balanced budget plan does with education, including student loans. The administration has used the power and the high profile of the office of the presidency to scare young people into believing Republicans plan to balance the budget, and that would prevent them from obtaining student loans. The President just as recently as last week said the Republicans cut deeply into student loans.

He also claims we are increasing the cost of student loans, and I think it is time to set the record straight. As you can see, in 1995, we spent $24.5 billion on student loans. At the end of our 7-year plan, we spend $36.4 billion. That is a 50 percent increase, hardly cutting student loans. Therefore, who knows how many young people out there have been scared by these tactics, have given up on college because they think loans will not be available? How many parents believe now that they will not be able to help their children with a college education because of the scare tactics that are used? As I said, it is time to set that record straight.

They also tell us in relationship to Pell grants that student should worry. Well, here is the Pell grant chart. In 1990, maximum grant $2,300; 1995, maximum grant, $2,340; in 1996, under our plan, $2,440, the highest point in history for Pell grants. So again, I think it is very important that we set the record straight so that we do not have students or parents worrying about what we may be doing or may not be doing with student loans and Pell grants.

Mr. Speaker, we hear the same thing about education in general, and I think it is very important that we take a look at this and set the record straight. You will notice from this chart that the minority, when they were in the majority during the previous 7 years, spent $315.1 billion over a 7-year period on elementary, secondary education, job training, student loan funding. Our 7-year proposal proposes to spend $340.8 billion during that 7-year period, which again shows that we plan to spend $25 billion more on education than what the minority spend during the last 7 years, again setting the record straight.

I would like to briefly review again some of the things that were said this afternoon when we had the debate in relationship to the President's budget. The minority leader indicated that he has real concerns about school lunch, and I said that I welcome him to the group who has that concern, because I have a real concern about student lunches. My concern is that after all of the money that we have spent from the Federal level, 50 percent of all of the students who are eligible for free and reduced-price meals are not participating, 50 percent. Where are those children getting any food? Where are they getting any nutrition? Are we trying to educate them on an empty stomach?

I am not so concerned about the fact that only 46 percent of the paying customers, the eligible paying customers participate, because obviously they have money for breakfast, obviously they have money for lunch; but what about that 50 percent who are eligible for free and reduced-price meals and are not participating? That is why the minority leader and I should have a concern; that is why we should do what the young lady from Arkansas said this afternoon.

She said she did not come here to promote the status quo, and I welcome her to our opportunity to change the status quo and do a better job in providing education for our youngsters and providing school lunch and child nutrition programs.

One other said that we are decimating education. Well, again, as I indicated here, we increase dramatically in a 7-year period our participation in education programs.

So again, I would hope that we can make sure that the public understands exactly what we are doing. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding. I just want to get something straight. The President was on television the other night saying that he rejected, quote, the Republican package because among other things, according to him, it slashed and cut education.

Now, are these the same numbers, the increase, for example, in job training and student loan funding, the $340.8 billion that is projected under the Republican plan for the next 7 years, those numbers were in front of the President while he was standing there telling the American people that the plan cut education?

Mr. GOODLING. It is just the opposite of what we are doing. We are increasing by $25 billion over the next 7 years over what the former majority spent.

Mr. HUNTER. But he had that increase in front of him in the plan and obviously his analysts put it into executive summary for him: What it does in education, what it does in other areas; but he had that while he looked at the camera and said, this slashes education. He had those numbers in front of him, correct?

Mr. GOODLING. I am sure he had those numbers before him. Whether anyone in the administration has read the Republican budget, I cannot prove. If they had, they would not continue to misinform the American public about what we are doing in nutrition or disinform, because I was corrected by an English teacher who was watching me once before from some other person's district, and she said, he is using the word misinformation, it is disinformation, she said, because they know it is wrong.

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Mr. HUNTER. I would just say to my friend, first, thanks. We all owe you a real debt of gratitude for setting the record straight.

But, second, this is kind of tragic, that the President of the United States, who has these numbers in front of him, has obviously scared a lot of people. If I had not seen the gentleman's numbers that he is presenting tonight and did not know anything about this plan and heard him describing the Republican education numbers, it would give me the impression that we were slashing that $315 billion that the Democrats spent over the last 7 years in half, or doing something like that. But there is no way that any reasonable individual could conclude from the President's remarks that we were actually increasing the amount of money to be spent on job training and student loan funding, which in fact we are under out program.

Mr. GOODLING. When the tragedy is of course that we are using children and we are using senior citizens to make whatever point the administration wants to make. That is a real tragedy, because you are upsetting the most vulnerable people we have in our entire constituency when it is not correct. The figures are incorrect. What we are doing is improving.

What we try to do, however, is insist on quality. That is where we run into a philosophical difference because of course the status quo is what they want. It has always been their philosophy to pour more money into the program, and somehow or other the program will get better.

As I will point out later after some of the others have an opportunity to participate, the programs have not gotten better, and the programs have not helped the disadvantaged that we were trying to help. My chairman used to say that all the time, "The programs, BILL, are not helping those we were trying to help."

I would always say, "Let's change them." But we could never change them. Now we have an opportunity to change them so that we help the very people that we were trying to help but in fact we disadvantaged.

I yield to the gentleman from California, another member of the committee.

Mr. RIGGS. I very much appreciate the chairman yielding to me, since I have the honor and pleasure of serving under his chairmanship on the Committee on Economic and Educational Opportunities.

I also find myself in sort of a dual capacity as an appropriator serving on the funding side of the equation, if you will, on the House Labor, Health and Human Services, and Education Appropriations Subcommittee. And I very much appreciate this special order opportunity to point out, I was going to say some of the misinformation and deliberate distortion that has taken place around the education and job training issues, specifically funding for the various Federal education and job training programs, but I think in fact disinformation is a more apt and correct description.

I want to start out by pointing out, Mr. Chairman, something that you already know, one of the best kept secrets in official Washington, and that is, in the President's own budget, the budget that no Democrat Member of the House or Senate would offer, but the budget that was offered by two Republican Senators in the other body and was defeated on a vote of 96 to 0, in that budget the President proposed $2.2 billion in education spending cuts.

I have not heard the news media report on that fact as recently as yesterday, when the President went across the Potomac River to a public school in Arlington, in northern Virginia. So I think we ought to start out this special order by just pointing out some facts about the President's plan.

The minority whip is on the floor. Perhaps he would like to engage in a gentlemanly conversation or colloquy, because I would love to hear some short of explanation given regarding the President's plan. Because when you look at his proposed budget, he recommended terminating 16 education programs in the 1995 rescissions bill, which has become law, another 21 programs in his 1996 budget request, and 4 more programs which would begin phaseout in 1996. These 41 program terminations requested by the President total approximately $803 million in savings.

Now if we were doing that, that would be $803 million in cuts, not savings, that could be applied to deficit reduction or some other important purpose of the Federal Government. The President has actually embraced our idea of consolidating those programs that can be consolidated with education programs at the State and local level. He has embraced our idea of terminating those programs which are redundant or for that matter which have never been funded by the Congress, and streamlining the delivery of Federal taxpayer services for public education. In total, he has recommended terminating and consolidating 68 programs for a total savings of $757 million.

Those recommendations were incorporated into the 1995 rescissions bill and the 1996 Labor, Health and Human Services and Education appropriations bill which has already passed this body, the House, and is now pending action in the other body.

This proves, I submit to you, Mr. Chairman and colleagues, that the White House agrees with Republicans on the concept of reducing the number of unneeded and outdated education programs, that they agree that it is time to stop throwing money at the problem of poor educational results in American, and to start getting parents and local communities involved again in real solutions to the problem with learning and public education, the bootstrap improvement of public education in this country at the grassroots level.

Those are all concepts that we very much believe in and, as the chairman has pointed out, we are proposing in our different concepts. This works on both the macro level as well as the micro level.

I hope we will talk a little bit about the current what I regard as a crisis in the District of Columbia public schools before we complete our special order tonight, where I think we do have a very real oversight responsibility to the District of Columbia public schools. Perhaps we can talk a little bit about some of the reforms that we have put forward to improve this crisis situation that prevails in the District of Columbia public schools today, but that is sort of a micro application of education reform.

But whether we are talking macro or micro educational reform, we are, as you have already said, Mr. Chairman, demanding results from Federal programs for the Federal taxpayer dollar rather than simply throwing more money at programs that are not working. We want less Washington interference, we want to respect the longstanding American tradition of decentralized decisionmaking and decentralized management in public education which the chairman knows so well from his distinguished career in public education as a school administrator. And we want to demand tangible results from Federal programs. We want proof that those programs are actually helping and serving students and not Federal bureaucrats.

I just want to make two other quick comments before yielding back to the chairman so we can go on to our other colleagues. But I want to reemphasize the chairman's point because I think this is terribly important.

We have gotten a new term in Washington jargon about school lunching, as part of the official rhetoric and sometimes the demagoguery that comes out of Washington. We do not want to be "school lunched" by the minority party when we are talking about some of the other reforms contained in the Balanced Budget Act of 1995.

This is so misleading and patently unfair, because what we proposed to do was take, as the chairman well knows, 6 separate school-based nutrition programs and consolidate them into one block grant for State and local education agencies. We have a requirement in the block grant that limits the amount that State education agencies can take off the top for administration of the program, and we effectively force almost all of the money down to the local community level where it can be used to meet the nutritional needs of our kids in local schools.

That was our proposal. Why have six separate programs, the before school, after school, hot lunch, school milk program?

Mr. GOODLING. Summer feedings.

Mr. RIGGS. Why have all these programs, each with their own set of rules and regulations, each requiring a separate application from local education agencies to Washington? Why not, instead of that very bureaucratic process, full of red tape and regulatory hurdles, why not put them all in a block grant?

That is what we did. In putting them in a block grant, we proposed to increase spending for the school-based nutrition block grant 4.5 percent each and every year for the next 5 years, a total increase in spending of $1 billion in school nutrition programs.

Mr. GOODLING. Here is a good example, because in the red is what the President proposed in 1995 and what the President proposed in 1996. This is what we proposed, the 4.5-percent increase in each one of those years.

Mr. RIGGS. The other criticism that we heard from the other side and their allies across the country was that we eliminated mandatory Federal nutritional standards for this block grant program. Well, what we did instead, of course, as the chairman well knows, is suggest voluntary nutritional standards.

We know full well that, because this goes back to the canard that in the absence of mandatory nutritional standards, somehow, some way, local school districts are going to start feeding our kids ketchup, when we know that is just a bald falsehood. But I also know from my own experience as a local school board member, which I am sure the chairman as a former school principal and educational administrator would attest to, we know from our personal firsthand experiences that if any local school district in this country attempted to feed their kids ketchup, they would hear about it loud and clear at the very next school board meeting.

I appreciate the chairman giving me the opportunity to join the special order to make that point, and also reemphasize his point that we are proposing to increase funding for school loans, by $12 billion, from $24 billion today in 1995 to $36 billion in the year 2002. That proposal is incorporated into our plan, our 7-year plan for balancing the Federal budget known as the B Balanced Budget Act of 1995, a $12 billion increase in spending for student financial aid, student loans, and as the chairman has already pointed out, next year we will witness the highest level of Pell grants in our country's history.

So so much for these claims as we have heard. I actually gathered some of the more descriptive adjectives that I have seen in my local media back home in the First Congressional District, in and around the First Congressional District of California. We have heard descriptions used such as drastic, catastrophic, devastating, used to describe our proposals.

I hope that our constituents and fellow Americans listening to us tonight realize that a $12 billion spending increase for student loans, a $1 billion spending increase for school nutrition programs is hardly drastic, catastrophic or devastating. And I hope they will be able to see, with the help of this special order and other efforts such as this special order, through all this deliberate distortion and misleading rhetoric. I thank the gentleman for yielding.

Mr. GOODLING. You mentioned consolidating programs, that the President was interested in consolidating and eliminating some and we are interested in doing that.

It is interesting, I think, for the public to understand that there are 500 education programs on the Federal level. Only one-third of those are in the Department of Education, and the Department of Education cannot tell us where the others are, nor can they tell us whether they are effective, nor can they tell us how much they are costing, which means we are probably wasting about $100 billion on these phantom programs somewhere that apparently are not very effective because nobody seems to know anything about them.

I yield to another colleague from our committee, the gentleman from Michigan [Mr. HOEKSTRA].

Mr. HOEKSTRA. I thank the chairman for yielding. I would like to just reference some of the comments from my colleague from California.

Not only is going from 298 and increasing by $12 billion, not only is that not catastrophic, not only is that not devastating, I believe that—and my principal can correct me, perhaps—I believe that in 99 percent of the country, every place but Washington, when you go from 298 and you go up by $12 billion, I believe every place else in the country that is not a cut. I believe that that is an increase. It is the same thing for a number of other programs.

If I could just then talk a little bit about the bigger picture because also, in addition to serving on the Education and Economic Opportunity Committee, I also serve on the Budget Committee, and just frame it a little bit because I think as the chairman has laid out so effectively, we are increasing spending on a number of different programs.

People ask, "Well, now can that be? You guys are cutting the budget in Washington." In reality we are just slowing the growth.

We are slowing the growth for a very, very important reason. I think that is why last week, Friday, so many of us were disappointed, because in the middle of November we thought we had reached an agreement with the President.

We thought that we had reached an agreement that said he was going to submit to us a plan to balance the budget, a plan to balance the budget within 7 years, and that he would use Congressional Budget Office numbers. So that we then could take our plan to balance the budget, compare it to his plan to balance the budget, and we could get off of this debate about whether balancing the budget was important or not, but that we would all agree and then we could actually get into the policy differences.

That did not happen. Last week, Friday, the President, we were expecting his plan. He did present a plan. The disappointing thing with the plan is that that plan never got to zero. I think the best estimate said that in year 7 there would still be a $75 billion deficit, and the number could be higher than that. It just did not reach zero.

Actually, when I was back in my district a couple of weeks ago and talking to some of my constituents, they said, "PETE, we are really disappointed. Ever since you got to Washington, you forgot the word surplus."

When you were in the private sector, working for a publicly held corporation, a Fortune 500 company, the expectation from your shareholders, from your employees, was that you would deliver a profit.

☐ 2015

Now that the gentleman has gotten to Washington, he thinks that getting to zero is good enough. It is kind of like, yes, you are right, we ought to be talking about a surplus because what we are really trying to do here in this bigger picture, in a positive and constructive way, is we are trying to, I think, preserve the future for our kids, provide them with the educational opportunities, the educational reforms, the education spending that can create a positive educational environment for our kids but from an economic standpoint can do the right things, that says we are going to gradually move to balancing the budget and hopefully after that getting to a surplus so that we can start paying back the debt because what we are doing today is we are saddling onto our kids $4.9 trillion, close to $5 trillion worth of debt.

A kid born in my district today, in the gentleman's district, anywhere in this country is going to pay in their lifetime $187,000 of interest on the debt if we do not change the way that we do our spending programs. They will face effective tax rates of 82 percent.

Most of these are discretionary programs, correct, the discretionary part of the budget. What happens to these programs in the year 2012 when the only money that we have coming in for tax revenues, it is only available for entitlement programs? What happens to a lot of these programs?

Mr. GOODLING. They are going to fall with their weight.

Mr. HOEKSTRA. They are going to be gone.

Mr. GOODLING. They will not be able to be funded.

Mr. HOEKSTRA. There will not be any money for education if we do not, and I do not consider these tough decisions, I consider these reasonable decisions to reform and slow the growth of Federal spending.

Remember, in 1995 we spent, what, the numbers are big, $1.5 trillion. The year 2002, we are not going to be spending $1.4 trillion, it is not going down. We are going to be spending $1.85 trillion. We are going to add $350 billion more per year to spend. What we are trying to do is allocate those dollars toward the priorities that we think are important for this country.

So we are not cutting spending. We are trying to more effectively target the programs. The chairman has done an excellent job of identifying reforms in a number of programs so that these dollars will go back to the States, will go back to the kids in more effective ways.

We had the vote today on the President's budget which does not get us to zero. I applaud the vote that we had today; 412 Members of this Congress, of this House, stood up and said, a $75 billion deficit in year 7 is not good enough. We need to do better than that. We need to do better than that for our kids, for the next generation. We are going to have, and I think the House is going to have, to take the lead. We have worked hard all year. We have developed a lot of innovative new programs, a lot of reforms.

The House has led the way. I think we are going to have to lead, we are going to have to lead the President now because this is an historic debate. Are we finally going to take the lead in actually having a realistic plan to balance the budget? Or what a lot of my constituents are afraid of, they are afraid that there was a plan to balance the budget in the mid-1980s, there was one to balance it in the late 1980s. There was a Bush plan in 1990. There was President Clinton's plan in 1993, all of which have two things in common. They all promised to balance the budget, and they have all failed miserably.

We still have a $160 billion deficit. We are going to make sure that this Congress comes down and that we do not join that pattern. We are not the fifth in a series of failures. This Congress is actually going to go though the process and say, we are going to have a real plan. We are going to come back next year. We are going to monitor the programs and the changes and the reforms that we have made. We are going to fix them where they do not work, and we are going to build on them where they do. But we are also going to come back and make sure that we hit year 1 of the 7-year plan. Then I think we will do it the Republican way.

We are not going to meet the targets of year 2. We are going to exceed, not exceed in spending, we are going to beat the deficit targets, and we are going to improve on these plans, because I still think there is room for improvement. We just have to get better at monitoring, reforming and transferring power out.

Mr. GOODLING. Mr. Speaker, I had recently a letter that was devastating to me, because it came from someone who I admire greatly and someone with whom I am very close. He bought the rhetoric that he has heard and the things that he has read that somehow or other we are cutting education and we are cutting nutrition. Therefore, he decided that I was not doing what he and I had talked about to improve education and training in this country.

He equated, I suppose, additional funds with the improvement, and what I was trying to do was just the opposite. I was trying to do what he and I talked about, and that was to move us from access only, access to mediocrity, to access to quality. And so I tried to point out to the American public that we have spent $90 billion on title I, $90 billion since its inception.

Then I read what the department says. The department says, under program effectiveness, comparisons of similar cohorts by grade and poverty show that program participation does not reduce the test score gap for disadvantaged students. Indeed, they went on, chapter 1 students scores in all poverty cohorts declined between the third and fourth grades.

What I am trying to say is that it does not matter whether we spend $180 billion. If it is not directed toward quality, if we are not demanding more from these students, then, of course, we are spending the money to develop mediocrity. We cannot survive if we do that.

Mr. HOEKSTRA. Mr. Speaker, I had much the same dialogue with a very good friend of mine back in Michigan. We were talking about head Start and said, you are taking money away from some of the neediest kids. I thought, well, I will come back, and I talked with the staff and said, give me the numbers on Head Start.

We have gone through this earlier this year. We felt good about what we did. But some people have heard some things. Let me revisit the Head Start Program. Got the numbers and, kind of like 1989, we were spending $1.2 billion, $1.2 billion is a lot of money. I worked for a Fortune 500 company for 15 years. We tried to get to be a billion dollar company. They finally hit it this last year, and 5000 families depend on this company. It is a lot of money.

But in 1989, $1.2 billion. Now 1995, we are spending $3.5 billion. So this program had tripled, almost tripled in the amount of dollars that were being spent. I think the chairman is an expert on this, but one of the things that has happened is, you would think that the number of kids being served by the program might have at least doubled or tripled just like the dollars, but the number of kids served has only gone up by 40 percent.

Some of the studies that we have gotten back have said parts of this program are working. Some of it is not working, perhaps, or is not working quite as well as what we need.

I think we did a very good thing. We basically stabilized the growth. We cut it by, what, by about 3 percent this year. So we are still spending 3.4 billion, and we said, this program has grown very, very quickly over the last number of years. We are getting mixed kinds of feedback. Let us step back and assess the program, see what is working, see what is not. Let us make sure that we do not just dump a lot of money on it.

I think people too often, they have pealed the onion back. Just throwing dollars at these programs does not mean that they are accomplishing the goals that we have set out. I think that is the same thing that the gentleman was bringing out in his point.

Mr. GOODLING. Mr. Speaker, as I tried to point out this afternoon, and the gentleman just pointed out, this program, Head Start, has grown 186 percent in 5 years as far as dollars are concerned. But, again, there was less than 40 percent in increased student participation. But it was the health and human service inspector general who said, the reason for the problems is that we increased the money so dramatically that we have sloppy program management. They also then go on to say that only 50 percent of the programs they would rate as good programs.

So again we are talking about getting quality programs so that these children have an opportunity to be successful and get a part of the American dream. And just throwing money at mediocrity will not improve their chances of making a success of life. I think that is why we have to talk about reforms.

Mr. HOEKSTRA. Mr. Speaker, sloppy program management, what does that mean when we have sloppy program management on $3.5 billion? Sloppy program management, private sector, my boss came to me and said, you have got sloppy program management. We were not talking anywhere on these kinds of numbers, but it means dollars going down the drain that are not being used for the goals and the objectives that we have set.

It is maybe time to step back and take a look and not throw more money at it but say, let us take a look at the money that is going there, that $3.5 billion. Let us tighten up our program assessment, our criteria so that we can get more effectiveness out of $3.4 billion or $3.5 billion rather than just throwing another $2- or $300 billion at it, because that $2- or $300 billion is going to be administered how? Sloppy program management means a portion of it is gone before we ever educate one more child.

Mr. GOODLING. Every administration, not just this administration, but every administration and every Congress, each administration would say, give us more money for these two programs. All the Congress would say, more money for the program. No one paid very much attention until the last couple years as to the possibility that maybe it is mediocrity rather than quality that is being produced out there.

So, all we are saying is, sit up and take notice. These children deserve more than mediocrity. They deserve excellence. We need to demand more from them so that they have an opportunity to get a part of the American dream.

Mr. RIGGS. Mr. Speaker, one thing that we have not mentioned tonight is the three of us and our other colleagues in the majority on the Committee on Economic and Educational Opportunities are in the process of developing a very ambitious legislative agenda to address educational reform and improvement in America for next year, 1996.

I want to salute the gentleman from Michigan in particular because he is the chairman of our newly created Oversight and Investigations Subcommittee. He has helped us attend to one of our fundamental responsibilities as Members of Congress, and that is performing legislative oversight of these different programs.

Mr. Speaker, the gentleman mentioned just a moment ago the chapter 1 program, the basic skills education program, which was originally intended, going back to the congressional intent in the authorizing legislation, to help the most disadvantaged and to provide some assistance from the Federal taxpayer to low income school districts.

This program has grown in leaps and bounds as well. I am just looking down here at the latest information. Again recent studies demonstrate that the program has the long-term impact of improving educational achievement. That, after all, ought to be the bottom line.

I fully agree with the premise that equating money with educational progress or educational achievement is really a false equation. Education funding has risen steadily and dramatically in America in recent years. Yet test scores, probably the best barometer for gauging pupil achievement and educational performance, have shown little or no improvement. But this particular program, this chapter 1 program, is no longer targeted to the most disadvantaged. Ninety percent of the school districts in America receive this funding, including, as the chairman knows, the 100 most affluent school districts that received $490 million, almost half a billion dollars, in fiscal year 1994.

So it has become an operational subsidy that local school districts are now relying on, more largesse from the Federal taxpayer. There is no connection or nexus necessarily between this Federal taxpayer funding and results. As I mentioned at the outset, in my remarks, we are interested in results. That is why performing the oversight function, the oversight responsibility, of the legislative branch of Government is so important so that we really can take a hard look and determine which programs are working well, which programs are producing results and the proper bang for the taxpayer dollar.

Mr. GOODLING. And I think it is important to point out that together the administration, the majority, the minority, brought about a careers bill that took all of those, again, programs, 163, 153, how many ever may be out there again, who knows how many Federal programs that are there for job training, and together we said we got to get some quality programs out there. All we are doing is spending money so thinly all over everything that we do not know if we are accomplishing anything to help people to be better trained, and in this day and age they have to get trained and retrained constantly, and so we work together to do it, and I would call on the minority and the administration to do the same thing now for every other program. Do not keep accepting the idea that we cannot admit that they have not done well. Let us admit that we failed and then say from what we have learned we can build quality programs.

That is, I think, the message that we should get out to everybody.

Mr. RIGGS. Mr. Speaker, the gentleman mentioned the, and so did the gentleman from Michigan [Mr. HOEKSTRA] the concept of transferring responsibility and authority out of Washington back down to State and local communities, and I tried to make the point that again the centralized decision making is fundamental to America education, but I want to—you mentioned the career legislation that I, all three of us, worked on in this House, and it uses the concept of block grants, as does the school-based nutrition program as potentially further legislative initiatives will in the future. Yet our political opponents and their allies have managed to kind of give this concept of block grants a bad name. It is sort of a nasty term now when people talk about block grants, and I think we ought to point out that what we are attempting to do is consolidate programs first of all, which gives us the opportunity to identify those that can be eliminated because they are either redundant with State or local programs or they are better performed at the State or local level, and you pointed out that with the careers work force development job training consolidation legislation—that is quite a mouthful, but you pointed out that there is something like 160 separate Federal job-training programs, what we call categorical programs, and they are spread across virtually the entire Federal bureaucracy, administered by 14 different departments and agencies. So we thought it would make sense to take those programs, consolidate them down into a few block grants; in the case of the careers legislation, ultimately three block grants, and then use those block grants to transfer the authority and the revenue down to the State and local level with proper oversight from the Federal Government and the Congress as the legislative branch of Government so that these programs would be closer to the people they are intended to serve. In the process of doing that consolidation and streamlining, Mr. Speaker, we assumed that there would be an administrative cost savings that we could then use to our long-term plans to balance the Federal budget and ultimately generate a budget surplus which is so critically important, as the gentleman from Michigan has already point out, in order to pay down and pay off that $5 trillion national debt, $1.5 trillion of which are funds borrowed from the trust funds of the Federal Government including Social Security. So we are moving on two paths here. We want to improve programs by emphasizing results, not just money, and we want to do the very best things that we can possibly do for the future of our children even before improving the quality of American education, bootstrapping the performance of our schools, and that is balancing the Federal budget and getting our Nation's fiscal house in order.

Mr. GOODLING. And I think it is very important to point out to the American people what I have pointed out in committee time and time again, and what I pointed out here on the floor, and what I pointed out to the

Governors. We are not talking about revenue sharing. We do not have any revenue to share. We are talking about this is what we expect you to accomplish, these are the goals you must reach, you use your creativity, you use what you know on the local level to bring about the changes that have to be brought about, if we are going to move from mediocrity to excellence.

So we are not talking about revenue sharing, and I think it is important that the American public understands that, and I yield again to the gentleman from Michigan.

Mr. HOEKSTRA. Well, the gentleman may be disappointed he yielded. We have had our discussions and our debates about revenue sharing, but I think we are pretty close together.

As long as the money—it is kind of interesting. Revenue sharing is kind of like the impression is we are sharing with the rest of the country. It is kind of like they are sharing with us. The money comes from there in the first place, but, as long as the money is coming from the local communities and it is coming to Washington, then we are sending it back to them, I think it is important that we send it back with some broader goals, and some criteria and some measurements so they can drive toward successful programs. I think what my colleague from California was pointing out so correctly, we are not taking away the criteria, and the goals and the objective measurements, but what we are doing with block granting is we are putting in place a lot more flexibility for the people in Holland, MI; Muskegan, MI; or Ludington, communities in my district, versus communities in your district, versus communities in California, to take these dollars, take a look at the broad objectives and goals that we think they should be striving for and put the programs together to go after meeting those objectives. What we want to eliminate, and you know we had the hearings a couple of weeks ago talking about values, schools, and parents, and Bill Bennett came and testified, and he seemed to imply, and I think we going to do some followup work on this with our staff and research with the people in the Education Department that the 6 percent of dollars, the education dollars that are coming from Washington at the elementary-secondary level, that when those dollars go back to the community, the belief is that maybe they go back with too many strings attached, too many rules and regulations, so that what happens at the local level is administrators and teachers are looking to Washington for their direction in what they should be doing when really, as Mr. Bennett said, great schools, effective schools, are those that are forming a partnership with the parents in the community in talking together with about here collectively our goals and our objectives for your kids, and we are going to work together on reaching those, and what you have here is when the dollars start coming from Washington with rules and regulations, all of a sudden the administrators are looking somewhere else about what they should be doing, and what rules and regulations they should be following, and we are detracting away from their primary focus. Their primary focus should not be filling out paperwork for bureaucrats in Washington. Their primary focus should be dealing with parents in the community, in dealing with the kids in the classroom and meeting their needs, and not trying to meet the needs of detailed rules and regulations from people that cannot even find our districts on a map.

Mr. GOODLING. And what they are looking at most and what detracts them most is that they are worried about the audit because, if they commingle one penny, they are in trouble, yet they know that here are 10 small categorical programs and they are accomplishing nothing. They could put some of those together, and commingle that money and produce good programs that are effective for that particular area, but they cannot do it because the auditor will be there.

Mr. HOEKSTRA. Block grants are a positive thing because they will get rid of rules and regulations, they will be broad objectives, and it will return the primary focus back to the kids and getting them educated, and the administrators will spend more time worrying about what is happening in the classroom and less time about what is, or less time worrying about what is going to happen when the people in Washington review our documents.

It is a constructive change, it is a positive change, it is moving control back to where it should be.

Mr. GOODLING. I would like to very quickly review one other area that does not deal with education, but, you know, every time we come here we hear somebody get up and say, "Oh, you're taking from the poor and you're giving to the rich with your tax program," and I will come down every time, I will challenge them, tell them exactly what is in the tax bill. They will never get up and rebut it, but the next day they will come and say the same thing over and over again.

And so I come down, and I say, "Is a $500 tax credit for long-term-care insurance, is that something for the rich?" Every senior citizen is worried out there about what happens if I have a lengthy illness.

Mr. HOEKSTRA. It is not every senior citizen, it is every one of us is worried about.

Mr. GOODLING. But this is one where the $500 credit for long-term care cannot be for the rich. A thousand dollars for home care where every senior citizen wants to stay and where it is so much cheaper for everyone to have them, and is that for the rich? Of course not.

Is a correction of the marriage penalty for the rich? Of course not.

Is a $2,000 IRA for the parent that stays home with their children for the rich? Of course not.

Up to $5,000 credit for adoption? Is that for the rich?

A $500 credit; now here they like to play with this one, for each child under 18, but 35 percent of all of those dollars go to a family of four with an income of $30,000 or less. The next 35 percent goes to $50,000 or less. Again, something for the rich?

Capital gains. Sixty-five percent of all capital gains transactions are brought about by senior citizens, and, therefore, if some senior citizen wants to take care of themselves in their golden years, and they have to sell their property, sell their farm, between State and Federal government will take 60 percent of everything, and then we will create programs down here to send money out to try to take care of the very people whose money we took from them and brought it down here.

So again the whole package was built around how do you keep the family, the struggling young family, together, and what can you do to get small business to create more jobs, because if our welfare program works, we need those jobs, and we need them to create them.

I yield to the gentleman from Michigan.

Mr. HOEKSTRA. And I believe that it is not like our tax revenues are going to go down—I mean and let us see. We have got $175 billion deficit or a $160 billion deficit, and this year we spent $1.5 trillion, so our tax revenues must have been about $1.325 trillion, a lot. But $1.3 trillion rounding. In 7 years, we are going to have a balanced budget, we are going to do the positive kinds of tax reforms that you are talking about, and what is our revenue going to be? It will be $1.85 trillion. Tax revenues are going to go up, and they are going to go up significantly over the next 7 years even though we have made these tax reforms, so it is not like we are sitting here on a diet saying, "Oh, boy, we're not going to be getting as much money in." We are going to be getting a lot more money and we are going to be getting almost $500 billion more per year into Washington in taxes in 7 years than what we are collecting this year.

Some tax cut.

Mr. GOODLING. Yes.

I yield to the gentleman.

Mr. RIGGS. I just want to make a couple of other quick points, Mr. Speaker, because I came across some information that I think answers some of the rhetorical questions we were raising earlier. I want to point out to our colleagues, our constituents, our listeners that a lot of the Federal funding on education in recent years has gone to fuel a large bureaucracy back here known as the U.S. Department of Education, and I am going to introduce a couple of articles for the RECORD, but I want to point out according to a couple of articles from Investors Business Daily. Since its creation in 1979 the Education Department has doubled in size from $14.2 to $32.9 billion today, 1995. That is three times the growth rate of all other discretionary nondefense programs in the Federal budget. In the past 5 years, the Education Department has grown from 4,596 bureaucrats and 155 programs to 5,100 bureaucrats and more than 240 programs, and that is, as you pointed out earlier, Mr. Speaker, that is just the U.S. Department of Education. That does not include the 30 other Federal agencies which spend more than $27 billion on 308 education programs that the General Accounting Office deemed often duplicative and overlapping.

Mr. HOEKSTRA. If the gentleman would yield, we are working on this project to define or redefine the role of the Education Department in the future, and I think, as the staff, the committee has gone through that number you quoted, $27 billion in spending on education outside of the Education Department. I believe that the staff has come up with a number that says that number is closer to $80 to $100 billion. But that is the problem. We do not know where all of this money is which may be job security for me, but I think there is a role for oversight, significant oversight, and you know we have had some—we have had some very good hearings in trying to track down that kind of money, having the kind of expertise that my colleague from California and the enthusiasm that he brings for this issue I think means that we are going to have a good opportunity to manage our growth and significantly increase our effectiveness as we go through what is a more difficult process than I believe it has to be of trying to balance the budget.

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Mr. RIGGS. If the gentleman will yield again, and I thank the gentleman for his comments, I want to introduce for the RECORD a commentary published in the American Legion magazine entitled "The Wrong Answer: Washington's movement toward centrally run, politically correct, 'no-fault' education proves the government is out of touch with what America wants from its schools," by Bruno V. Manno, the former U.S. assistant secretary of education for policy and planning, now a senior fellow at the Washington, DC, office of the Hudson Institute, and also an associate director of the Hudson's Modern Red Schoolhouse project, which I think attests to what the gentleman from Michigan was saying. In fact, I would change that subhead to say "This idea of federalizing education in this country proves that the government is out of touch with what American parents and guardians want from its schools."

I wanted to make one other point, though, because it is crucial to the debate we are going to have here over the next couple of days on the House floor. That is the District of Columbia public schools. I think it is a real concern for all of us. One of my colleagues on the Committee on Appropriations, the gentleman from Virginia, [Mr. WOLF], who represents a northern Virginia suburban district, has called the situation in D.C. public schools a disgrace and a tragedy. He has suggested that no Member of Congress would willingly send their children to attend District of Columbia public schools. I would point out that the President and the Vice President, who can obviously afford to send their children to private schools, so those children do not have to attend the District of Columbia public schools, do so.

I want to point out that Washington students consistently score the worst in the Nation, lower than any other inner-city group on the national education assessment progress test. And here is truly a shocking figure: Only 56 percent of city students even graduate high school. In recent weeks, we have seen newspaper articles appearing in the local media. Here is one from the Washington Post. I believe I have it here, if I can find it.

Mr. GOODLING. Mr. Speaker, while the gentleman is looking for it, I might point out that the per pupil expenditure is one of the highest in the country.

Mr. RIGGS. In the range of $8,000 to $9,000 per pupil annually. Here is an article in the December 9 Washington Post, and the headline says, "Third Graders Mark Time During Parade of Teachers; D.C. Class Settles Down With Fourth Substitute." And we hear these stories of kids who do not have permanent teachers, who lack just basic education equipment, they lack proper textbooks, we hear horror stories, literally, of rundown facilities, facilities that do not have working plumbing, working, operating bathrooms. It is just really a crime and disgrace.

Mr. Speaker, we have passed, as an amendment to the District of Columbia annual appropriations bill, the D.C. School Reform Act. That originated, of course, with the efforts of the chairman of the committee, the gentleman from Pennsylvania, [Mr. GOODLING], the efforts of our colleague on the Committee on Educational and Economic Opportunities, Mr. GUNDERSON; the D.C. School Reform Act will establish a challenging economic core curriculum in the District of Columbia public schools and provide scholarships for low-income families so they have the same right of choice across all competing educational institutions, public and private, as more affluent families.

It establishes independent public charter schools, expanded parent literacy schools, a work force preparation initiative, and it spends money to improve the District of Columbia school facilities. That particular amendment, which again was attached to the District of Columbia annual appropriations bill, has caused a great deal of controversy in this House. It has actually held up final passage of the District of Columbia appropriations.

I hope that we can make good on our commitment to the young people, the students of the District of Columbia public schools, because this is one case where a school district is, in fact, under our direct oversight by virtue of our being Members of Congress, and I appreciate the chairman of the committee not only taking the initiative tonight on this special order, but for all the work he has done to demonstrate his concern for the District of Columbia and to try to improve the caliber of District of Columbia schools.

Mr. Speaker, I include for the RECORD the articles referred to earlier:

[From Investor's Business Daily, Nov. 21, 1995]

THE FEDERALIZATION OF EDUCATION?

CLINTON WANTS WASHINGTON IN CHARGE OF SCHOOLING

(By Matthew Robinson)

President Clinton's latest line in the sand in the budget battle is education spending.

Clinton considers his education policies one of his greatest achievements. He cites Goals 2000 and expansion of the federal student loan program as too important to trim.

But Clinton is facing a GOP just as steeled to reform the education status quo as he is bent to defend it.

The budget battle represents two different views of the federal government's role in education. Clinton wants to preserve his education policies which broaden federal power. The GOP wants to send education back to the states.

A look at the numbers shows that Clinton's favorite education programs not only have failed to deliver better-educated kids, they have undermined traditional state authority.

To address this, the GOP is seeking changes in federal education programs, which have been the fastest-growing items in the federal budget.

In total, Washington spends about $70 billion a year on education programs, according to the General Accounting Office.

Since its creation, the Education Department's budget has more than doubled from $14.2 billion in 1980 to $32.9 billion in 1995.

In the past five years, the Education Department has grown from 4,596 bureaucrats and 155 programs to 5,100 bureaucrats and more than 240 programs.

The House wants to cut $3.6 billion from the Education Department, and the Senate want $2.9 billion in cuts.

Despite his line in the sand, Clinton also called for a drop of $2.2 billion in education outlays in his 1996 budget.

Federal education spending also has risen dramatically relative to other discretionary spending since 1979, according to John Berthoud, vice president of the Alexis de

Tocqueville Institution, a think tank in Arlington, Va.

In the '70s, inflation-adjusted federal education spending grew only about half as fast as other non-defense discretionary spending items (35% vs. 65.4%).

But with the creation of the Education Department, federal education spending surged—rising three-and-a-half times as fast as the non-defense discretionary budget (29.5% vs. 7.9%).

And it's not just the department. Some 30 other federal agencies spend more than $27 billion on 308 education programs that the GAO deemed often "duplicative and overlapping."

Despite the surge in federal spending, educational achievement barely roes. Average SAT scores rose just 1.1% during the '80s. And in more than a third of the states, scores fell.

"We have been throwing an endless stream of dollars at education with ever diminishing results," Berthoud said.

Still, the president has staked a lot on Goals 2000: The Educate America Act. The legislation builds on ideas begun in the Bush administration. It provides aid to states to develop education reform plans and implement "voluntary federal standards."

The president asked for $750 million—an increase of more than 87% over fiscal year '95—to finance the program. By 2002, total funding for Goals 2000 would reach $896 million.

But House Republicans have chosen to zero out Goals 2000. The Senate has opted to keep some of Goals 2000, cutting only $62 million—a drop of 16.6% from the 1994 budget.

When compared to a federal budget of more than $1.5 trillion dollars, Goals 2000—even if fully funded—is hardly a drop in the bucket.

PHILOSOPHICAL DIRECTION

And the federal share of education pales next to state and local shares. The U.S. spends about $484 billion a year on education at all levels—7.6% of the GDP. The federal share comes to about 6%.

It isn't just the funding that bothers Republicans, it's the philosophical direction of Goals 2000.

The House, driven by the New Federalists, a group of about 50 Republican freshmen, chose to eliminate it.

Goals 2000, critics note, aims at raising national standards and performance. But it does so by expanding the federal presence in education, even though supporters claim the federal standards are voluntary.

Some of the controversial elements include:

Goals 2000 uses the command "will" more than 45 times when describing what states must do to receive federal money. The word "should" is only used three times.

States must submit plans to federal education officials showing how they will accomplish the national education goals.

Once a state accepts Goals 2000 money, it must implement the program's requirements or be subject to federal action. Thus, a local charter school free from state regulations would have to answer directly to the federal government.

Tests used to evaluate students are based on criteria such as self-esteem and thinking ability, not factual knowledge. A typical question on such tests is: "What are your feelings after reading this?" The answers may include "symbols, images and drawings" in place of words.

Curricula and textbooks must fulfill federal specifications including "gender equitable and multicultural materials."

Controversial history standards that critics say are politically biased also are an outgrowth of the Goals 2000 reforms.

But the federal guidelines don't stop there, critics say. So intrusive are these measures, said Edward Kealy, director of Federal Programs for the National School Boards Association, that "I do not think any (corrective action) is left off the list short of a nuclear attack on school districts."

It boils down to one issue, others say. "Ultimately, it is an issue of local control," said Natalie Williams, an education specialist with the Claremont Institute, a California-based think tank. "Goals 2000 purports to be a wonderful reform measure. However, the GOP is looking to reform schools by freeing up schools with charters and restoring local control.

"It is tempting to look at Goals 2000 money and not see the implications. It's stifling creative reform efforts," Williams added.

The education establishment is up in arms at the GOP efforts to stop Goals 2000 before it gets started. The National Education Association, a union representing 2.1 million of the nation's teachers, has started a campaign to block the Republican budget plans.

HYPERBOLIC RHETORIC

Declares one NEA press release: "(T)he sound of the school bell is being drowned out by the growing roar of a chainsaw as Congress hacks billions of dollars from education to pay for tax cuts for the wealthy and giveaways to big business. As the school year begins, vital education programs are on the chopping block as never before."

Dale Lestina, senior lobbyist for the NEA is just as blunt. "Both the House and Senate proposals are poison to education. One just kills it a little faster. The Senate version is a little slower, but it'll still kill the program."

The GOP also wants to reverse Clinton's changes in student aid. Such aid is still a mainstay of the Education Department, with some 40% of its spending devoted to it.

The department spends about $12 billion a year to make more than $32 billion in grants, loans and work-study programs available to 6.5 million students—nearly half of the nation's college and university population.

Clinton has pointed to this program as an example of "investing in the next generation." To do so, he pushed through a change in student aid, from federally backed private lending to direct government lending.

Yet his direct lending program has not produced the savings he promised.

By eliminating the free-market lenders and administering the loans directly, the government hoped to save $5 billion.

But according to the Congressional Budget Office, the White House plan has cost $1.5 billion to administer.

Republicans plan on shifting the burdens back onto the private lenders who benefit from the loans. They predict a savings of $10 billion.

The GOP desire for local control has even led to the first voucher-like initiative in the District of Columbia.

The House's D.C. appropriations bill approves $3,000 scholarships for parents to choose the schools their children attend, whether public or private.

Washington students consistently score the worst in the nation—lower than any other inner-city group on the National Education Assessment Progress tests. Only 56% of city students even graduate high school.

But these arguments may soon become moot. In many states, there is a growing resolve to reject Washington money. States want to proceed with their own reforms free of federal red tape.

Montana, Virginia, New Hampshire and Alabama have all declined Goals 2000 money. And in California Gov. Pete Wilson's office, a debate rages about whether to accept $42 million of Goals 2000 funding.

Not all Republicans want to trim the federal role in education.

Senator Arlen Specter of Pennsylvania helped save Goals 2000 in the Senate, fighting to keep $300 million in funding. His office also has been urging states to take the money and promising changes when state officials balked.

Even with the budget impasse, education reform is coming.

IN THE CROSSHAIRS

Ever since President Reagan promised to abolish the Education Department, conservative Republicans have had their sights set on the department.

The Back to Basics Education Reform Act, a measure introduced by Ohio Republican Steve Chabot, a former school teacher, would abolish the department.

It also would send $9 billion in block grants to the states for elementary and secondary education and provide $2 billion for higher education.

Student loans, Pell Grants and the Individuals with Disabilities Act programs would be moved to the Department of Health and Human Services.

The bill has 120 cosponsors and is expected to reach the House floor for a vote next year.

[From Investor's Business Daily, Nov. 27, 1995]

EDUCATION BAIT AND SWITCH

The program encourages states to adopt "voluntary federal standards" to qualify for new federal grants. Clinton wants to boost funding to $700 million—almost double last year's $370 million. The Senate wants to spend 16.6% less than last year. The House wants to zero out the program.

Its backers call Goals 2000 the most important education reform in three decades. But four states have already said "No," and California may join them. Virginia, Montana, New Hampshire and Alabama have rejected more than $11 million of Goals 2000 funds.

Yes, it's a drop in the bucket. Virginia spends more than $6 billion a year on education. Montana spends more than $700 million, New Hampshire $980 million and Alabama $2.8 billion.

The states, which all have Republican governors, say they're rejecting the federal intrusion and "potential interference" in state authority. Alabama Gov. Fob James complained that Goals 2000 doesn't move in the "direction of decreasing the role of the federal government and returning power to the states."

California Gov. Pete Wilson, who said last month that he would "probably not" accept $42.1 million in Goals 2000 money, has the same beef. Goals 2000 is an intrusive measure filled with a "myriad of federal dictates" that may lead to the "federal micromanagement of California's education policy."

Goals 2000 backers say it has some of the "most flexible requirements" of any education act ever handed down from Washington. And it began at the initiative of the nation's governors, back in 1989. Why are they turning down what they asked for?

In fact, it's the same old Washington bait-and-switch. The standards are only voluntary if you turn down the money. Take it, and you're under the thumb of a half-dozen new bureaucracies and research institutions. You have to submit plans to the federal government to show how you'll reach Goals 2000 standards.

The passages on what states that take the funds must do uses the command "will" 45 times, and "should" just thrice.

Most important, Goals 2000 isn't really what the governors asked for. It doesn't boost education standards. It boosts education bureaucrats who will just add "standards" to their jargon, and go on as before.

This establishment is run by union bosses, administrators, and education professors who never master any other subject. Classroom teachers have next to no voice.

Since its creation in 1979, the Education Department has doubled in size, from $14.2 billion to $32.9 billion in 1995. That's three times the growth rate of all other discretionary, non-defense programs. Nationally, inflation-adjusted per pupil spending grew 35% from 1979 to 1992.

And all that bought us is a 1.1% increase in SAT scores.

Paul Gagnon, a former director of the Education Department's Fund for the Improvement and Reform of Schools and Teaching, considers the problem in the December issue of The Atlantic Monthly. He looks at the debacle of another Education Department attempt to fulfill the governors' mandate—the effort to write national content standards.

Education hired scholars and teachers to write the humanities standards. They failed miserably. The English project was suspended after spending more than $900,000. One subcommittee voted that the phrase "standard English" be replaced by "privileged dialect."

The history standards won headlines for their relentless pursuit of political correctness. At 314 pages, the experts' "outline" of world history is longer than many textbooks. And it emphasizes everything but the foundations of Western culture and thought.

The problem, writes Gagnon, is that the education establishment has opposed real standards for over a century. As a result, we write off 80% to 90% of all kids as unable to learn the basics of citizenship and success.

The nation does need education reform, and it would be worth higher spending. There's even room for a healthy federal role.

But Goals 2000, like most other current federal "reform" efforts, only buys more red tape, bureaucracy and double-talk. It's an investment in failure.

[From the American Legion, Dec. 1995]

THE WRONG ANSWER

(By Bruno V. Manno)

She is a 10-year-old blank slate sitting with hands clasped in a classroom in Anytown, USA. Her brown eyes are large and luminous, her long dark hair is tied behind her in a satin bow. Perhaps she is your daughter, or granddaughter, or niece.

What she learns here will determine how she sees the world and her place in it. Naturally you are concerned. You want to know that her schooling will equip her to compete. You want to know what she is being told about life and living.

About all, you want to know who is making the decisions that determine what she thinks about life.

Although there have been myriad debates about the "meaning" of the election of November 1994, this much is known: The American people used the ballot to express discomfort—if not outright disgust—with the government's paternalistic role in their daily lives. At a time when Washington's role in education has been steadily growing, this raises a number of serious questions about U.S. education policy.

Can Washington do right by the nation's nearly 50 million school kids?

Are the aims of Washington out of tune with the aims of America-at-large?

What should be done to resolve this disparity?

The answers are "perhaps," "quite probably," and "listen to the people."

The Clinton administration's elementary and secondary educational policies are packaged in a comprehensive two-part education overhaul known as Goals 2000 (the Educate American Act) and HR 6 (the Improving America's School Act). Together, these two pieces of 1994 legislation represent a vigorous and misguided attempt to centralize and standardize what this country does in education.

Most of the administration's agenda is a throwback to the mid-60's "Uncle Sam knows best" policies of the Great Society. It imposes nationwide a single education game plan, so-called "systemic reform." It maximizes Uncle Sam's role in the classroom and minimizes the role of communities and parents by tying federal education funds to the states' willingness to embrace Goals 2000 and the HR 6 agenda.

This Washington-knows-best education policy has several serious flaws. First, it downplays the academic results students achieve—"outputs"—in favor of such "inputs" as school spending, class size, and other resources or money issues. It thus shifts the focus of national education reform from what children learn, to what bureaucrats spend (once more assuming that the way to fix a problem is to throw money at it). This approach, of course, has almost nothing to do with the content of what is taught, or how it is taught, to that little dark-haired girl and her millions of classmates nationally.

This leads us to flaw number two. The Clinton approach gives far greater clout to education "experts" at the national level, while slighting civilian consumers such as parents and elected officials. For starters, Goals 2000 establishes a National Education Standards and Improvement Council (NESIC). This new bureaucracy, comprising powerful interest groups, is akin to a national school board. NESIC, could, for example, set national standards for what kind of technology classrooms should have, what teaching methods are best for students, what training programs are best for teachers, or other controversial issues.

The danger here is amply demonstrated by the firestorm ignited by the debut of the new national history standards. In a now-famous essay for the The Wall Street Journal, former National Endowment for the Humanities chairman Lynne V. Cheney attacked them as "politicized history; [they] tend to save their unqualified admiration for people, places and events that are politically correct." To a lesser degree, the political correctness of Goals 2000 even seeped into its science curricula.

Meanwhile, HR 6's "Gender Equity Act" mandates "gender sensitivity [and] gender-equitable practices." This approach is a supposed remedy for an alleged "academic gender gap" that is based on discredited research. It may earn political capital for its authors, but will do little to promote quality education.

Finally, the Clinton plan bans the use of federal money to develop or administer the sorts of "high stakes" tests that should be used by states and districts in making major decisions about student promotion, graduation and employment. This reinforces and accelerates the slide toward no-fault education which began a few decades ago with the advent of "gradeless" classes. It also undermines those few aspects of Goals 2000 that are worth supporting. For example, it advocates establishing voluntary standards in such core academic areas as math, science, English, history and geography.

We are left with a system of education that neither penalizes failure nor rewards success—this, in the name of protecting kids' feelings or "safeguarding the civil rights" of low-achievers.

In sum, the new laws are little more than a Washington power-grab in which Uncle Sam appears on the doorstep of local communities and states bearing gifts. But gifts from Washington seldom come without strings, and this is no exception. The inevitable result will be more federal red tape imposing rules and regulations on parents, teachers and communities that "can't be trusted" to decide what is best for their own children.

What makes all this more than mildly ironic is that the American people apparently feel it's Uncle Sam himself who can't be trusted.

Today, public confidence in Washington is at the lowest it has been in 36 years of survey research. That's the sober verdict of the most comprehensive examination ever undertaken of the "American dream," done for the Hudson Institute's Project on the New Promise of American Life.

The Hudson survey reveals that only 2 percent of Americans trust Washington to do what's right "all the time," and just 14 percent "most of the time." Incredibly, more than one in five trust our federal government to do the right thing "almost none of the time."

Also revealing was the survey's examination of which government branch or level has, or should have, the most power. While 55 percent believe Congress has the most power, only 29 percent believe that's the way things ought to be. Conversely, while 41 percent believe that states and localities should have the most power, fewer than 10 percent think that situation actually exists. These basic findings hold across all demographic lines.

Put simply, the vast majority of us believe that things are precisely ass-backwards when it comes to the distribution of power and influence. Washington is on a collision course with what most Americans want.

These facts take on added meaning as we examine more specifically what Americans expect of their public schools: According to a poll released by the Phi Delta Kappa education publication and the Gallup Organization:

Americans rank educaiton at or near the top among national priorities.

Almost 90 percent say that developing the world's best education system is essential to America's future. Indeed, support for education as a No. 1 priority exceeds support for industrial development (60 percent) or the military (40 percent).

Americans want meaningful, measurable standards.

Eighty-one percent think schools should conform to national achievement standards and goals, with 70 percent supporting the standardized "high stakes" national tests eliminated under the Clinton plan.

Americans want key decisions about education made locally.

Some 77 percent of us want federal agencies to give local authorities more, not less, say in spending tax money from Uncle Sam, and 62 percent advocate families choosing which public schools their kids attend. Minorities—the people the new Clinton plan is trying to be "sensitive" to—are among the staunchest backers of school choice, and respective figures of 70 percent for blacks, 66 percent for Hispanics.

Another poll by the prestigious Public Agenda foundation showed:

Americans want no-nonsense schools where kids must show what they've learned before they can move on.

Fully 81 percent support student promotion only when a child has demonstrated mastery of what he's already been taught. Indeed—far from the Clinton notion of making school easier—more than three-quarters of Americans want teachers to toughen grading and be more willing to fail high-school students. Further, 76 percent say high-school diplomas should never be given to students who can't write and speak English well. (That this should even be a topic for discussion is a sad commentary on the state of education and society in general.)

The bottom line? The American public wants safe, orderly schools where discipline is enforced and students master "the basics" before promotion. As the Public Agenda poll itself puts it, Americans "seem to want a new and improved version of the little red schoolhouse."

The stark contrast between this report, and the beliefs espoused by the "experts" who are shaping national education policy, shows just how out of sync Washington is.

What does all this mean for Congress as it looks anew at education?

Elected officials should begin with the premise that local education can't be fixed in Washington. Accordingly, the 104th Congress should:

Undo the worst damage. That is, repeal the most damaging provisions of both the Goals 2000 and HR 6 federal power grabs.

Abolishing NESIC is a start. This would remove the "experts" from the driver's seat of a centralized national education policy. In fact, Congress should bar the federal bureaucracy from doing almost anything that interferes with local control of standards, curricula, testing and teaching.

Eliminate, too, all criteria that value money over marks. Don't judge progress by the amount of money a school district spends on education, but by the kinds of grades students are getting. This, of course, means overturning the provisions that frown upon the use of tests. In the final analysis, how do you really determine how well students are doing without them?

Congress also should take a clear position that true civil-rights enforcement means protecting the rights of all individuals as individuals. Enforcement should not be based on contrived gender-equity research, so-called "race norming" that "adjusts" test scores for characteristics such as race and poverty, or any other form of civil-rights activism that benefits specific groups.

Send programs home. About $10 billion in federal programs should be re-routed to the states, which can use the money to purchase needed services. Congress should consult with the nation's governors to fine-tune the details. The final package should eliminate one-size-fits-all thinking and allow states and communities to decide what they want to do.

Eliminate the Department of Education. It sounds drastic—but with so many programs sent back to the states, there's no need for a cabinet-level agency. What remains could be housed in an independent agency with a White House adviser reporting to the President.

Washington, however, should continue support for some research and statistics activities, especially state, national and international comparisons of what students are learning so that information is available to report on the nation's progress in achieving its education goals.

The time has come for an arrogant and meddlesome Washington to divest itself and send education back to families, schools, communities and states. It's the will of the people. And our children will benefit immensely.

Mr. GOODLING. When I went with the Speaker to the town meeting downtown at one of the schools, my closing remarks to the audience were something like this: "We have a golden opportunity to help the children get a part of the American dream in the District of Columbia, but my fear is that adults will act like children and nothing will happen." I hope I am not prophetic. I hope we can get beyond that, but unfortunately, that is the way it looks at this particular hour on this particular day.

Mr. HOEKSTRA. Mr. Speaker, if the gentleman will yield, I think it is all of our vision. I am glad my colleague, the gentleman from California, brought up the District of Columbia. I think it is our vision that when educators from around the country come to Washington, they stop coming here trying to get their piece of the pie, their piece of the dollars, and they come here so they can learn about the District that we have some oversight on and say, "Here is a district that we can learn from."

Our vision is to have a school district that is turning out well-trained, well-educated kids, that is the envy of other school districts around the country, so they come here not for money but they come to learn from the school district we have in Washington here. We do not know whether those reforms are going to work, but we recognize that we have to do something, and we think these are constructive approaches that we can experiment with, that hopefully will make things better, and again, we will do the normal thing. We will build off of those things that work and eliminate those things that do not, but we are going to keep plugging at this.

I thank the chairman for having this special order. I think we have been able to dispel some myths tonight and hopefully educate and share some knowledge with people.

Mr. GOODLING. Let me close by saying that there are two major responsibilities as far as the Federal Government is concerned in relationship to public education, because, as we all know, that is guarded very jealously by local communities and by States. There are two major responsibilities. That is equal access to all for a good education, and the research that must be done.

I would appeal to the American public, please, encourage us, help us make the kind of reforms that have to be made if, as a matter of fact, quality is going to be the name of the game, rather than mediocrity. I appeal to all Americans, do not encourage us to continue the status quo, encourage us, as a matter of fact, as a body to bring about the necessary reforms so that quality in education, quality in job training, will be the goal that we reach and the goal that we attain.

I thank both of you very much for participating in this discussion.

TRIBUTE TO THE HONORABLE JOHN DINGELL ON HIS 40TH ANNIVERSARY IN THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes as the designee of the minority leader.

Mr. BONIOR. Mr. Speaker, it is my pleasure this evening to come to the floor to honor one of the truly great leaders that has served in this institution over the course of our noble history in this country.

GENERAL LEAVE

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BONIOR. Mr. Speaker, I am proud this evening to join with my colleagues to pay tribute to my good friend and mentor, the gentleman from Michigan, JOHN DINGELL. All of us have favorite JOHN DINGELL stories, and let me just tell you quickly a story that I think just about says it all.

A few months ago when we were in the heat of the Medicare debate, I turned the TV on one morning on C-SPAN, and there was JOHN sitting in a committee meeting. He was reading our colleagues on this side of the aisle the riot act. A few hours later I looked again on CSPAN and there was JOHN, standing up in front of a group of senior citizens at a press conference talking about Medicare. A few minutes later the House went into session and he was sitting here, in one of the front rows, and came up and gave a 1-minute speech on the Medicare plan. Later that day, during the debate, I looked up and there he was, giving a stirring speech in opposition to the nursing home cuts that were being proposed. At the end of the day I walked out of the House and there was the gentleman from Michigan, JOHN DINGELL, in front of the Capitol. He was talking to a group of constituents about this very same issue. This all happened in a period of one day.

The next morning we were in Michigan and we had this bus tour, and it was a Medicare bus tour. We went to all these different cities in southeastern Michigan, my district and his district, SANDY LEVIN'S district, DALE KILDEE'S district, we went into the city of Detroit, JOHN CONYERS' district, to talk about Medicare.

I remember the first stop was in Pontiac. I thought, "Well, maybe I had better get there very early to make sure everything is going right." I got there, and I do not recall what time it was, but it was quite early in the morning. He was there before I was, and he was talking to some of the constituents in Pontiac about this issue. Not only did he speak at all six stops as we went throughout southeastern Michigan that day, he was the last one talking to the reporters when the day was over. I swear I expected to half see him driving the bus home at the end of the day.

I think that story says it all about JOHN DINGELL. After 40 years, my friend from the Dawn River area in Michigan is just as committed, he is just as passionate and just as dedicated to the working people that he represents as the day that he got here. I do not think I have seen a more energized and compassionate defense of working people from a Member of our party when we went into the minority this year, especially a senior Member, than I saw in JOHN DINGELL in the first 12 months of this new year. Minority status has not bothered him at all. He has been out there, he has been fighting, and I think that says a lot about his person, who he is, what he is about, and what he cares about.

For over 40 years, he has made a difference in more lives than I think virtually any other Member who has served in this great institution. I stand in awe of the legacy that he has for this great institution. If you look at what he has done, he was there for Medicare, he was there when Medicaid was established, he was there for the nursing home protection that we have in the institutions that house the elderly all over the country.

In the environmental area I had the good fortune to serve with JOHN on the Committee on Merchant Marine and Fisheries when I first came to the Congress. We worked on many, many pieces of legislation back there to help clean up our environment. He has been there on the forefront of, of course, the Clean Air Act, the Water Act, the Endangered Species Act, the Alaskan lands bill, and in the environmental area he stands out as a giant in this country.

For those who have disabilities, he was there in championing, in leading the fight in his committee on the Americans with Disabilities Act; in his efforts to remove asbestos from our children's classrooms, to improve lab testing, to increase railroad safety, and to ensure that tax dollars are used wisely. As the chairman of the subcommittee for so many years on the committee which he chaired that dealt with oversight, he has been vigilant to the abuses that have gone on in this government, and the abuses, frankly, that have gone on in the market as well, the free market as well. He has been there to crack down on waste, fraud and abuse, and so many others, other issues that he has championed over the years that this constituents in this country are indebted to him for.

People will give you a lot of reasons why JOHN DINGELL has been so successful, but those of us who are from Michigan know the real secret. He has been here for 40 years, but the truth is that JOHN DINGELL has never left his community, the people who work there, the people who work in the factories and the offices, the people he grew up with. He have never left his roots. That has been demonstrated to me personally so eloquently and so well in his fight this year when we, as a party, have needed a champion, and someone with savvy and experience. He has been here doing it, and it has meant a tremendous amount, JOHN, not only to me but to a lot of Members who noted it, who appreciated it, who respect your knowledge and your wisdom, and your tenacity for those people who have sent you here and who you have never forgotten. It has always been a source of strength and commitment to many of us, and we will always remember it.

When you come right down to it, nobody has done more for the people of the State of Michigan, nobody has done more for this institution, and nobody has done more for the working people of this country than my dear friend, JOHN DINGELL. JOHN, I am really proud to call you a mentor, I really mean that, a friend, and an inspiration for nearly 30 years. I am proud to have been able to have served at your side and to have learned from you, sometimes painfully, but to have learned from you lo these many years.

JOHN is part of a great team with his wife, Debbie, who has done tremendous work in this town, but especially back in Michigan with the charity work that she does, the work she does with our party, and the boost that she gives us to make this institution and the work JOHN, and I know and others do, so very, very important. We are delighted and honored that she is a part of one of the most dynamic and great teams in terms of helping people in this country.

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I just want to conclude by saying that I look forward to working with the gentleman from Michigan in the months ahead to fight for the issues that we believe in.

I guess I also should say before I conclude that JOHN has one of the greatest staffs that you could ever want, not only in Government, but in the private sector. He hires the best. He has the best seek him out because he is the best. He has a fantastic staff; and if you talk to any of them, they will tell you that. Good people.

JOHN, I look forward to working with you. We have a lot of work to do yet over the next few years. The health care issue that your father championed and you have championed all of these years, we have a ways to go to get there yet, but we are going to get there. I never give up on the fact that that is such an important issue to the people of this country. We are going to get it done.

So I thank you for your outstanding service and your dedication, and we look forward to your continued service.

I yield to may friend from Pennsylvania, who has patiently waited, and I thank him for participating with us.

Mr. GOODLING. I thank the gentleman for yielding. If Dad were still living today, he would have been most upset if I had walked off the floor when they were having a special order for Congressman DINGELL. Even though on some issues, they were probably 100 percent opposites, on many issues they worked very, very closely together and had a great relationship, which again was carried over with JOHN and myself when I arrive here. So from both Dad and myself, we say, thank you for outstanding service.

Mr. BONIOR. I yield to my friend from the great State of Tennessee, Mr. BART GORDON.

Mr. GORDON. Thank you, DAVE BONIOR, for yielding, but more importantly I want to thank you for taking the initiative to have this well-deserved tribute tonight.

As you mentioned earlier in your remarks, everyone could tell a JOHN DINGELL story, but I think it would all come down to sort of the same theme that you pointed out earlier, and that is that, and I see it every day on the Committee on Energy, it is not just that JOHN DINGELL is the most senior Member that walks in the room, but he is also the most prepared Member that walks in the room, and he is the hardest working Member that walks in the room.

Most folks after 40 years in any career try to coast on their experience and their reputation, but not JOHN DINGELL, and I am amazed at how he continues to work, work, work and prepare so that us young whippersnappers never have a chance to get a leg up on him, because he is always up a little later, working a little harder. So I am glad to share in this.

I guess the remembrance that I have of this is I was at a meeting with him one time and someone asked me to give a good reason why we should have Medicare and Social Security, and so I gave them that reason, and it was my mother. If someone were to ask me who my mother should thank for her Medicare and Social Security, I would answer, thank the DINGELLS.

Like your father, JOHN, before you, you have been more responsible for providing health care and income support to senior Americans like my mother than any other individual who has ever served in this Government. If your work on health care issues had been the total of your first 40 years, you would have a legacy of which every Member would be envious.

However, the truth is that your contribution has been far greater. When any of us see a bald eagle flying we can credit your work on the Endangered Species Act. When any of us breathe air that does not poison our lungs, we can credit your work on the Clean Air Act. When we are thankful that our children will be able to go into the oceans to see dolphin and whale populations growing, we can credit your work on the Marine Mammal Protection Act.

When we see disabled Americans show up for work and become full members in helping America grow, we can credit your work on the Americans With Disabilities Act. When any of us feel relieved that we live in a home that has been checked for radon and lead-based paint, we can credit your work on those important bills.

I think we are limited just to an hour, so I cannot go through all of the other bills that every day when we wake up, we know how thankful we are.

So now, I know that my mother has a lot to be thankful for to you, and so do other Americans, and I guess we should also be thankful for you bringing Debbie Dingell into our midst and being a part of what we do. We are all grateful for the contribution that she has made to all of us, and you and Debbie are a team that make our lives better, that make America better.

I want to thank you for your work, for your dedication. It has been an honor to serve with you, and I look forward to continuing to serve with you.

Mr. BONIOR. I thank my friend from Tennessee for his eloquent remarks.

I now would recognize my colleague and neighbor from the State of Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. I thank my colleague from Michigan [Mr. BONIOR]. To me, it is an honor, and it is very appropriate that I be here to join my colleagues in congratulating JOHN DINGELL on his 40th anniversary, 40 years, 4 decades. In fact, it spans in effect five decades from the 1950's through the 1990's.

I think of that, and I go back to the year that JOHN DINGELL came to this Congress after his father had been here for over 20 years, and I think about Elvis Presley who had not even come into being. I think about Sputnik, which was just around the corner, but still had not happened. Those were the Eisenhower years; and before John Kennedy became President, JOHN DINGELL was a veteran in this House.

I must tell you also that, coming from the opposite side of the aisle, JOHN DINGELL and I agree to disagree on a number of issues, but we agree on a great many issues too. I have a great deal of respect and admiration for the accomplishments that he has made in this body. I have more respect and admiration for the man.

There is no doubt that JOHN DINGELL has left his mark on this body, and he will continue. His kindness, his courtesy is something that perhaps does not shine through, but as a junior Member of this body and having been here a short time, I have had the experience, or I have had the, call it delightful experience of gaining some of the courtesy, sharing some of the courtesy he has extended to me.

Many of the issues that he and I have agreed to agree upon are issues that obviously involve Michigan, but they also deal with matters that go beyond his district and my district and the State of Michigan to involve the country at large; and most notably, I know we have worked very hard, and with other Members of this body to provide access to foreign markets for the domestic auto manufacturers in our area. Again, this is a matter that we found common ground on, that has done remarkable things for our State, our locality, and our country.

JOHN DINGELL is an ardent defender of the governing philosophy of the Democratic Party, and he has worked with Republicans for years and years and years to find that common ground on many important bills. This year, more recently, his input on the House Committee on Commerce was instrumental in moving forward a telecommunications reform bill that would create millions of new jobs and provide better telecommunications services at lower prices to the American people.

So again, I just want to emphasize the common ground, and I think that is the mark of a true legislator, someone who may disagree philosophically on a matter here or there, but can find reasons to get together, to embark on the same course and come to a conclusion that benefits all of us.

I would never question JOHN DINGELL's patriotism. He never questions mine either. He might question my thinking and I might on occasion question his, but he is a gentleman, he is a man who believes very strongly that you have a right to your philosophy, but still, in fact, he has a right to disagree with you. I do not think there is any more that you can ask of any individual.

Mr. Speaker, in my opinion, JOHN DINGELL's character and integrity are his strongest attributes. One thing that I have learned in the short time that I have known him is that when he gives you his word, you know that you can count on him to keep it. That is a quality that many people search all of their lives for and can never accomplish. I can tell you that JOHN DINGELL accomplished that years ago. I see signs of that every time I talk to him.

An interesting comment: Just a short time ago I happened to be talking to JOHN, and I cannot even tell you what we were talking about, but it had to do with—we were paying, I guess, some mutual respect, praising each other in one of those moments, and I said something to him along the line of, I appreciate all of his advice, and he said, I do not recall ever giving you any advice, I said, well, maybe you have not by words, but you have by actions.

I would say also, JOHN, it has been words as well, but certainly by your actions, and I think those actions speak much, much louder than words. I respect what you have done and the character you have shown me.

In closing, I just want to again congratulate my colleague from Trenton, from down river, on this 40th anniversary in the House. JOHN DINGELL is the dean of the House. He is called Mr. Chairman, but I also want to go beyond JOHN and salute the lady who has already been called the best asset he has, and I believe that she is, his wife, Debbie. Debbie is his greatest asset.

I wish you both the very best, and I again salute you, JOHN DINGELL, in obtaining this milestone. Thank you.

Mr. BONIOR. I thank my friend from Oakland County for his very kind remarks.

Let me just give you a little biographical sketch of JOHN. I will just do that very briefly and then I will yield to my friend from Michigan, JIM BARCIA. JOHN was born July 8, 1926, in Colorado Springs, CO; beautiful country. He was educated at Georgetown where he received his bachelor of science degree and then a law degree in 1952. He served in the U.S. Army from 1944 to 1946.

He is, indeed, a lawyer and was a Wayne County assistant prosecutor from 1953 to 1955, and Wayne County is the largest county in the State of Michigan.

As my friend, JOE KNOLLENBERG, has indicated, he is, indeed, the dean of the House and has served continuously the longest of any member of the House of Representatives.

I now yield to my friend from the Bay City area, JIM BARCIA.

Mr. BARCIA. Thank you very much, Congressman BONIOR. It is indeed a pleasure and a privilege to also rise and join my colleagues in paying tribute to the outstanding service that JOHN DINGELL has given this institution and the Nation.

Of course, I cannot go through the long list, just a few of them have been mentioned this evening, the long list of accomplishments of Congressman DINGELL spanning some 40 years of service, distinguished service in the House. But I know that sportsmen across this country, the men and women who love to fish or hunt, ought to certainly appreciate the efforts of Congressman DINGELL and the numerous public acts which he has shepherded through this body and seen signed into law during his distinguished career, that preserve and protect the bountiful natural resources that our country has.

I know that reference has been made this evening to clean air and clean water, but especially I would like to say, as also a fellow avid hunter, how much the sportsmen of this country have to appreciate the contributions that JOHN has made on behalf of this Nation.

Mr. Speaker, few people have had the ability that JOHN DINGELL has had to make a lasting mark on the policies of our National Government. Perhaps some Presidents have left their mark and some Members of our leadership have succeeded over the years. But not many could ever hope to have had the record of achievement that has been proudly and deservedly earned by JOHN DINGELL.

He has worked long and hard on behalf of his constituents, and that is apparent if you look at the margins of victory by which he has been returned to this body through the election cycle over these past 20 elections. He has worked long and hard on behalf of our Democratic Party in this body. More importantly, he has worked long and hard on the matters to which he has a personal commitment which are too numerous to mention in the few moments that I have to share in this tribute toward our colleague.

No one here can talk about health care policy without recognizing the contributions and wisdom of JOHN DINGELL. No one can expect to have a responsible discussion about trade policy without understanding that a key player in trade policy since the 1970's has been JOHN DINGELL.

Mr. Speaker, when I first came to Washington in 1993, JOHN DINGELL was among the first to come to me and offer his help and advice. I had other colleagues who offered some very important advice: Accept help from someone who remembers when he has been refused. This tenacity has been the hallmark of his success. JOHN DINGELL does not give up.

☐ 2115

It is a lesson soon learned by those who are prepared enough to challenge him, either in committee or on the floor.

While some of my colleagues who have spoken already alluded to the tremendous career JOHN'S father had in this body, and also the dedication and the contributions of Mrs. John Dingell, our friend Debbie, I have also had the honor and privilege, as some of my other colleagues who are about to speak, of serving with yet another Dingell. Christopher Dingell, JOHN'S son, who I want to say, Congressman DINGELL, you can be very, very proud of, who is succeeding in the great and fine tradition of being a tremendous public servant back in the State Senate in Lansing, Michigan. I miss seeing Christopher, but I know that he will carry on in this next generation the fine tradition of public service that your father and you have provided.

JOHN DINGELL is now the senior member of the House in terms of seniority. He has spent his time here wisely, with distinction and honor. I am sure that he will continue to conduct himself in a similar fashion for so long as his constituents exercise their good judgement to retain him as their very effective and capable Congressman.

Mr. Speaker, it has been an honor and a privilege to know JOHN DINGELL and to serve with him both as a Member of this House of Representatives and as the dean of the Michigan delegation. I join all of our colleagues in thanking him for his years of devoted service, and in wishing him the very best for whatever the future may hold for someone who has even been talked about as a future Speaker of the House.

Mr. BONIOR. Thank you very much, JIM, for your very kind remarks.

If I could just go to my friend the gentleman from Michigan [Mr. CHRYSLER]. Then I will be happy to yield to my colleague SANDY LEVIN.

Mr. CHRYSLER. Mr. Speaker, I rise this evening to join my fellow colleagues in paying tribute to Congressman JOHN DINGELL for the 40 years of public service to this Nation.

As a fellow native of the state of Michigan, I have seen the impact that JOHN has had both back home and nationally. JOHN has been a central figure in both Michigan and national politics for decades and will leave a lasting legacy as one who has dedicated his life to his fellow citizens.

Whether it be from his service in World War II, as a county prosecutor in Michigan, or his extensive legislative record here in Congress—JOHN has exemplified the qualities of leadership that have helped shape this Nation and helped educate our future leaders. And it is a great honor for me to now serve in this body with him.

I had known JOHN for many years before being elected to Congress. We have for years shared many common interests back home, most notably the auto industry. I have had the benefit of accompanying JOHN and his lovely wife Debbie at the Detroit Auto shows over the years.

And although I am new to the House of Representatives, and from the other side of the aisle of my good friend, I feel his years of service, his tenacity and persistence, and the conviction with which he has guided himself throughout the years are unparalleled.

JOHN, I, the people of Michigan, and the Nation salute you and thank you for all your dedicated service.

Mr. BONIOR. I thank you, DICK, for your kind remarks.

Let me just give you a little background about the Dingell family. We have heard references this evening about JOHN's father and son. They have represented the Congress since 1932. For 23 years JOHN's father was a New Deal champion in the health care area. Of course JOHN has specialized in that area as well as so many others.

One of the great things you can say about JOHN DINGELL is that his expertise is not necessarily narrow, it is broad. It is trade policy, it is health policy, it is transportation policy, it is regulatory concerns, environmental concerns. He has a deep and broad understanding of the workings of this country.

Of course, as JIM BARCIA mentioned, his son Christopher has served with distinction in the State Senate in Michigan. So the family has been an incredible attribute to the citizens of our State.

I now yield to another gentleman whose family has been a great attribute and who has championed some of these very same issues, SANDY LEVIN from the State of Michigan.

Mr. LEVIN. Thank you, Congressman BONIOR, our distinguished minority whip. I applaud you for, in your very busy schedule, taking time at this late hour to do something that you care about so personally, and that is paying tribute to a friend. We do not do that enough around here, and surely it is warranted on this occasion.

If we were going to have a vote on the resolution tonight, I might have to vote "present." I have a conflict of interest, in a sense. Our two families have been intertwined for a long time. I am not objective.

Indeed, my first recollection of direct involvement in politics relates to the Dingell family. It is a pretty vague memory, but I do remember it. In knickers—that dates me—carrying pamphlets for JOHN DINGELL's father in our precinct. It was my first direct involvement and it was not a very major one. I do not think JOHN's dad needed my help.

Mr. BONIOR. I am still trying to picture you in knickers.

Mr. LEVIN. I wore them. You maybe are not old enough to remember what knickers are.

Mr. BONIOR. No, I remember them.

Mr. LEVIN. I confess that I am.

We went door-to-door distributing these leaflets, and I do not quite remember the district number. But that was just part of our two families' interwovenness.

Some of my uncles knew JOHN's dad very well. My Uncle Bayre and my Aunt Lydia and my Uncle Theodore and my Aunt Rhoda, JOHN's dad was close to my uncle and with his help was elevated to the Federal bench. JOHN clerked for my uncle.

So our two families have had a long history together. And our family is so proud of our relationship with the Dingell family.

We might ask ourselves, what is the key to JOHN's success? We can point, and he would, to his own family. I think we would point to his intellect, his integrity, his perseverance, his guts, many other qualities. We also would mention as we have Debbie Dingell, a tower of strength. They have been a couple that have blessed Michigan and this city. But if I might, I just want to comment on one other aspect.

I had a chance to campaign throughout Michigan in the 1970's and see JOHN in action in his district. Then when I was elected to the Congress in the 1980's, the district I represented bordered JOHN's district.

One of JOHN's towering strengths is what I think is often overlooked. That is, no matter how powerful he became in Washington, he was still very much rooted back home.

Mr. BONIOR. Exactly.

Mr. LEVIN. No matter how much he rubbed elbows with the mighty here in Washington, he remembered those who were plying elbow grease back home to their own work.

No matter how much he was part of the famous here, JOHN remembered the humble families back home. That is where he came from, and he has never left them.

I think that has been such a source of strength and if I might say accomplishment. DAVID, you and I feel this so much. Industry, it is in JOHN's blood. Jobs. Good jobs. JOHN has been a leader in the fight to remind America that if the middle class does not grow and does not prosper, America sinks.

The auto industry and the steel industry have been such a critical part of that and JOHN has been identified: Jobs, health. Health. Even a good job is not meaningful without good health.

This goes back to JOHN's did and he has carried on this tradition, this fight, this tenacious battle to make sure that every American has an opportunity of good health.

Good environment. A job. Health. People also want to live in an environment and in a hospitable environment. JOHN has been a tenacious battler.

Safety. There is no use having a good job if you are likely to be injured there. JOHN has had a difficult balancing act representing a State with a strong auto industry and Representative BONIOR and I know. Everybody always is not a sync. I see Representative EHLERS here. There are conflicts, too. Representative CHRYSLER, who has been part of that.

You have to do some balancing. JOHN has been such a battler in terms of oversight.

Then lastly let me just mention, we all hope to grow old. JOHN DINGELL has remembered his roots.

I had a chance to travel through his district in the 1970's and, as I said, represent areas right next to him. JOHN has remembered the importance of the dignity that needs to come with old age.

In talking about age, I want to finish with this, and I think our distinguished minority whip will agree: JOHN DINGELL has made us feel young, and I say this to my colleagues in the majority, and it has been commented on. I do not think for anyone here the transition would have seemed more difficult from majority to minority status than JOHN DINGELL.

Just think of it. All of his years here. The position, the powerful position. We in Ways and Means sometimes thought his position was too powerful.

And all of a sudden, and it was a bit sudden. Maybe some of you knew it was coming.

Mr. BONIOR. It was too sudden.

Mr. LEVIN. All of a sudden he is in the minority.

Now I think some people thought JOHN DINGELL might disappear. But I think all of you admit, he has been very much on your radar screen. As the distinguished minority whip mentioned, he has been on the television screen, he has been on every screen. He has been working his heart out. He has made us feel young. He has shown that what he believes in, he fights for as hard in the minority as when he is in the majority. There is no better test of the real mettle of a human being than that he fights regardless of the circumstances.

So to JOHN DINGELL, I just say, with a completely subjective feeling, but I think there is some objectivity to it, too, that your 40th anniversary here is an important event for us to note. We are deeply proud, JOHN, of being your friend and of serving with JOHN DINGELL.

Mr. BONIOR. I thank my friend from Michigan. Well-said and beautifully said.

You reminded me in your remarks of another attribute that we have not mentioned this evening, one which I appreciate especially, and that is the great parliamentary skills of JOHN DINGELL. There are not very many people in this institution that understand the rules and can debate the rules and he is one of the best, and I think we have seen that as he has had time to do that in this the first year of our minority status.

I yield to my friend from Pennsylvania CURT WELDON.

□ 2130

Mr. WELDON of Pennsylvania. Mr. Speaker, I thank my colleague for yielding, and I want to join with my friends on both sides of the aisle in paying tribute to an outstanding American leader, JOHN DINGELL, although I hate to say, JOHN, when you first started out in this body, I was in grade school, but, like many of us here, we knew you by reputation long before we got here, and, growing up in a State that has many similar problems to the State of Michigan, the State of Pennsylvania, a State that has had the problems associated with what we refer to as the Rust Belt, we in our State saw you fighting for jobs, and economic growth and development years ago. As a former mayor of a small town, an industrial town, and the county commissioner of that county, your reputation for being a fighter on behalf of working people was known throughout our Commonwealth as it has been known throughout the Nation.

There also was another reputation that you instilled in many of us on this side, but also on your side, and that is the word "fear" because before coming to Congress, as a local official and then getting here as a freshman and sophomore, I know many a bureaucrat who feared having JOHN DINGELL, and his committee, and his investigators come in to basically get the facts on a given issue or a given set of circumstances, especially where you had evidence that things perhaps were not operating as they should, and perhaps the taxpayers and the citizens were not being as well served as they should be served by this Government, and so that fear really was out of respect for you and the job that you have established a reputation in doing for the entire time you have been here, as someone who is willing to take on any fight, any battle that you believe in and which warrants the attention of this body.

But in the last 3 years I have come to know you in a different capacity, and it has been a very enjoyable one for me. I have had the pleasure of serving as the Republican along with our colleague, the gentleman from Michigan [Mr. DINGELL], on the Migratory Bird Commission, a rather obscure commission that only has seven members, two Members of the Senate from each party, two Members of the House, one from each party, and the Secretaries of Agriculture, Interior, and the head of the Environmental Protection Agency. The seven of us meet throughout the year three or four times and basically decide how to spend the moneys that are raised from the sale of duck stamps for hunting licenses and conservation practices and to implement the programs established under the North American Wetlands Conservation Act as well as those administered by the Migratory Bird Commission.

Mr. Speaker, it was the legacy of the gentleman from Michigan [Mr. DINGELL] following his father to establish that whole effort in this country, and we talk about Federal programs that some would say have been boondoggles. Let me tell you one that is a shining example of something that both parties can point to, and conservatives and liberals can point to, that works amazingly well, the program that JOHN DINGELL has kind of like, I guess, been the grandfather of, if you will, because we honored him for 25 years of service in that capacity just this past year. He has protected millions of acres of wetlands in this country for ducks, and for hunting and for wetlands protection, not with a strong arm of Government, not with mandated actions, not with condemning properties, but with the voluntary acquisition of property that our Government has been able to enter into agreements with, all across America, to protect our vital wilderness area and our wetlands, and no one has done more in that regard than JOHN DINGELL.

Mr. Speaker, for years he was associated with the late Silvio Conte, and the two of them were a dynamic team because they were the two that represented the House in fighting for the support for this very valuable, but ofttimes unheralded, program.

But, JOHN, you know people all over this country know that you have been there day in and day out fighting for not just the continuation of this very successful effort, but fighting to make sure, working with conservation groups, working with the Defenders of Wildlife and the Nature Conservancy, to not just espouse conservation concerns, but also to take a very aggressive—yet in some cases you can argue a very conservative approach to protecting the land of this country through these two commissions, and you have just been a hero in that regard.

And I can remember when I first joined the Commission and had the honor of sitting next to the gentleman from Michigan [Mr. DINGELL] at the first meeting and said, you know, I am here to learn. He said, "No, my friend, you are here as my partner," and that is a typical attitude of a JOHN DINGELL, to have someone who, still wet behind the ears, who is at that point in time a fourth-term Member of Congress, sit down next to a veteran who has been through so many battles that I could never begin to name and to consider me an equal partner in the struggle to make sure we continue the fine work established with the tradition of excellence that the Migratory Bird Commission, the North American Wetlands Conservation Program represent.

So I join with my colleagues today in saying congratulations and thank you. You are a role model for me. We may not always agree on the issues, but you are always a role model, the way you handle yourself, the way you do your homework, the way you present your facts, the way you fight for your causes, the way that you work with every ounce of energy and body until you accomplish what you set out to achieve. Those are all the traits that all of us can and do admire and respect in you, and I am a better person for having known you and worked with you and look forward to many more years of being a colleague and associate of the Honorable JOHN DINGELL.

Mr. Speaker, I thank my colleague, the gentleman from Michigan [Mr. BONIOR], for having yielded to me.

Mr. BONIOR. Mr. Speaker, I thank my colleague for his lovely remarks, and I yield now to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, I, too, join my colleagues in an honor today to really talk a little bit about JOHN DINGELL. As was pointed out, the times that we entered this Congress or first heard of JOHN DINGELL, JOHN DINGELL entered this Congress before I was born. I was elected in 1992, but obviously I had heard of the gentleman from Michigan [Mr. DINGELL] before then. As somewhat considering myself a student of history and history of this Congress, in many ways JOHN DINGELL is the Babe Ruth of this Congress and really a legendary person, a person that, when you look back on 40 years of American history, had a role, had a piece, had a touch, on 40 years on American history, and, when we look back on 40 years of American history in terms of the good things that happened, that same hand, that same touch, that same action was there, and for those of us who studied the legislative process over the last 40 years, there is no one who has probably attained the status of master of this process of being able to use public policy to positively influence people's lives, and really that is what this process is about, using this process, using Government, to make a difference in people's lives, to make a positive force, to use Government as a positive force, in people's lives.

And that really, I guess, is the legacy of JOHN DINGELL, really having done that over a 40-year period because none of our words here tonight can possibly do justice to what he has done in the last 40 years, but tens of millions, really hundreds of millions, of Americans whose lives are different because of his work are that legacy.

And we can go through, and some of the issues have been talked about tonight, but his integrity and his commitment—but his attitude about this process I think is an example that all of us really use as a paradigm of unbought and unbossed, whose only interests really have been that goal of representing his constituents and people of this country. Whether it is health care, whether it is the environment, those differences have occurred, and I can think of no greater tribute than I can say for myself that I can look to no one in this Congress whose career that I would seek to emulate, and I think many, if not most, of the younger Members of this Chamber who have had a chance to serve with him would say the same thing, than to have a career, after any number of years, of trying to influence this process and being successful as JOHN DINGELL has during the first 40 years of his career.

Mr. BONIOR. I thank you, the gentleman from Florida, for the lovely remarks.

I now yield to the Speaker of the House.

Mr. GINGRICH. I thank my colleague for yielding. I must say that there are not many things that the Democratic whip and I agree on, but I think one of them is the extraordinary historic role that our mutual friend, the gentleman from Michigan [Mr. DINGELL], has played in this institution and the leadership he has given over the years.

I have known the gentleman from Michigan [Mr. DINGELL] as a tough partisan, and he has been as good as they get. I have seen him as a great bipartisan legislative craftsman, and he is as good as they get. He did more to build the then Energy and Commerce Committee into a powerhouse than any chairman in its history except, I guess, Sam Rayburn. He brings to the floor a level of knowledge, a level of enthusiasm, and at the same time a level of decency and concern for others that is remarkable. When you disagree, he will run over you, but he will do so in a gentlemanly way, and courteous, and on the other hand, when he was in the minority, I found that he was equally courteous and a gentleman, does not like it any more than I did when he ran over me. But on things like the Clean Air Act and clean water and a whole range of issues where Congressman DINGELL had a deep interest in the envrionment, an interest in the economy, we worked together on a number of issues that, I think, I think, have helped make America a better country.

And I think any student who wants to understand this House in the last generation has to look carefully at the role of the gentleman from Michigan [Mr. DINGELL], has to understand the tremendous tradition that he embodied going back to his father, the commitment they both had to helping people, to making this a more humane country, and to doing what they could to make Government a more useful instrument of social purpose, and I think that there is an enormous investment in creating a better America and in extending democracy that is the personification of the career of the gentleman from Michigan [Mr. DINGELL]. Marianne and I regard JOHN and Debbie as close friends, and it is just a wonderful thing in this historic period, setting a record, to be able to be with him, and I commend my colleague, the gentleman from Michigan [Mr. BONIOR], for hosting this, and I thank you very much for taking this kind of time.

Mr. BONIOR. I thank the Speaker for his comments and for honoring the gentleman from Michigan [Mr. DINGELL] this evening.

I yield now to the gentleman from Michigan [Mr. EHLERS].

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I do not have any prepared comments but would rather speak from the heart because I find I can do that much better without a prepared statement.

I have not known the gentleman from Michigan [Mr. DINGELL] for very many years. I am probably the least senior of the Members from Michigan in that regard. But I have known him long enought to know what an outstanding person he is.

My first acquaintance with him was serving with his son, Christopher, in the Michigan Senate for several years, and Chris and I came to be good friends partly because we shared a technical background, partly because we have common interests, even though we are from opposite parties, and we worked on a number of issues together and got a considerable amount accomplished. But I decided, if JOHN DINGELL was anything like his son, Christopher, he was a fine person, and it was a pleasure when I arrived here to discover indeed that that impression was correct. I must confees I was always puzzled as an outsider at the power that JOHN DINGELL was reuputed to have. I recall an article in the Michigan newspapers when Mr. Foley was elected Speaker of the House. The article stated that JOHN DINGELL could have had the job, but did not want it, and the reason was that he had more power as chairman of the Committee on Commerce than he would have had as Speaker of the House.

When I arrived here I realized why everyone considered him such a powerful member of the House. He was not only the chairman of the Committee on Commerce, but he had also defined the jurisdiction of the Committee on Commerce to include virtually everything that came before the House of Representatives.

That reminds me of the comment of the gentleman from Michigan [Mr. BONIOR] a few moments ago about the exceedingly good knowledge of the gentleman from Michigan [Mr. DINGELL] about the rules of the House, and that surprised me, because I assumed during his 40 years here he had probably managed to rewrite most of the rules of the House so that they would make more sense and could be used properly.

But what particularly impressed me when I arrived in the Congress was the kindness and courteous attitude displayed by the gentleman from Michigan [Mr. DINGELL] as the dean of our delegation. He introduced me to the House. He was extremely helpful to me, and I thought that was exceedingly gracious that the dean of the delegation, one of the wisest Members of the House of Representatives, certainly the most experienced, took the time to be considerate and thoughtful toward me as I made my maiden voyage, which is always a different thing when entering as a result of a special election, because you are thrown into the maelstrom. It is similar to sitting in a tree above the river waiting for a canoe to go by and trying to jump into the canoe without tipping it over.

□ 2045

The gentleman from Michigan [Mr. DINGELL] was very gracious and helpful in getting me established in the House, helping me learn its myriad ways. I certainly appreciated that.

Mr. Speaker, I am here not only to give tribute to Mr. DINGELL, but also to his wife Debbie, who I had the pleasure of meeting shortly after I arrived. What I have said of him is true, in many ways, of Mrs. DINGELL as well; being very thoughtful, very kind, very helpful to me in getting settled here, and also to my wife. I appreciate her thoughtfulness as well, and particularly the way she organized events for the Michigan delegation. I found that also to be a real asset.

Mr. DINGELL is a gentleman, a sportsman, a man of courage, a man of honesty, a man of integrity, all extremely valuable attributes in the House of Representatives. I wish that there were more Members of the House who had these characteristics, and we are here tonight to honor Mr. DINGELL, Congressman from Michigan for 40 years, for what he has taught us and for what he has shown us about being not only a good representative, but a civil human being who is kind and helpful to all those around him. I thank you very much for your service to our State and our Nation, Mr. DINGELL.

Mr. BONIOR. Thank you, Vern, for your very lovely remarks.

I yield to the gentleman from the upper Peninsula and parts of the lower Peninsula of Michigan, BART STUPAK.

Mr. STUPAK. Mr. Speaker, I thank the gentleman from Michigan, [Mr. BONIOR] but I am also honored tonight to be able to rise and pay tribute to my good friend, JOHN DINGELL, and celebrate his 40 years here and all the accomplishments and achievements he has accomplished over these last 40 years.

I came in when the gentleman from Pennsylvania, [Mr. WELDON] was talking. I could not help but overhear the comment that there is always a degree of fear associated with Mr. DINGELL, but it is a very respectful fear. This morning I was at a meeting and there were Democrats there and Republicans and Independents and business leaders from around town. We got to talking about the degree of animosity or the tensions that are on the floor as we are here during the holiday season, and how tempers grow short at times.

The people and the Members who have been here the longest said, "You know," because I had the honor of serving with Mr. DINGELL on the Committee on Commerce, "that there are one or two committees in this whole House where there is not the friction between the Democrats and the Republicans on the committee because of the way, when Mr. DINGELL was chairman, he treated the Republicans, and the gentleman from Virginia, [Mr. BLILEY]."

They said the Committee on Commerce has set the example, and that example is truly, JOHN DINGELL, you always treat people in a professional, respectful, civilized manner, whether you are Democrat or Republican. We wish the other committees would take up from JOHN's leadership and copy his style, because I think things would run much smoother, especially right now when time is short and tempers are getting a little frayed right now. So, JOHN, you bring a degree of civility which is recognized not only within this body but also outside this body.

I had the pleasure of serving in the Michigan legislature with JOHN's son Christopher. Tonight we have touched upon John Dingell, Senior, JOHN DINGELL here present with us, his son Christopher, his wife Debbie. I think the DINGELL family has given so much to this country and to Michigan that it is only right that we honor the whole family, because without the whole family, JOHN DINGELL could not be the individual he is that we have come to love and respect in this body.

I appreciated it when I came here 3 years ago, the outward hand, and a big hand, I may add, was given to me by JOHN DINGELL. His wife, Debbie, befriended my wife, Laurie, and they have made our times out here when Laurie comes out so much more personable, so much more enjoyable to have them with us, to be our personal friends.

Professionally, he has helped me immensely, being a young Member, learning the ropes, helping me to get on the Committee on Commerce, where I learned underneath JOHN. He has become my mentor. I learn every time I have an opportunity to talk with him. He has helped me immensely. He has helped Michigan, he has helped northern Michigan, and he certainly has helped this country.

I hope those who are listening tonight take a special note to those who would advocate term limits, how term limits is really the wrong thing for this country when you have someone like JOHN DINGELL. I hope they stop and understand that we speak here very affectionately of JOHN DINGELL as the individual, but also very affectionately of

JOHN DINGELL and his expertise, and the knowledge that he brings to this institution; that once he leaves this institution, for whatever reason, that knowledge is lost, that expertise is lost. We cannot bring it back. The advice, the leadership, the moral compass he has set for this House, that is something that would be lost. So those who advocate term limits, we rely upon JOHN DINGELL and others who have been here more than three terms or four terms for advice on the complex issues of the day.

Tonight I would like to say thank you. I consider it a high honor to know you, JOHN DINGELL, to have worked with you, to be a friend with you, to be a friend of yours, and I always appreciate it when that big paw of JOHN DINGELL gives me a slap on the shoulder or on the back. To a young Member like me, it means so much that Members who we respect and admire acknowledge us, give us some guidance, and always have a willing ear to help us in difficult times, and even when we are having some fun around this place.

We look forward to many more years of working with you, JOHN, and you have a fine family. Christopher and Debbie are great folks, and we really do appreciate your 40 years here. I have only been here for 3, but I have 37 more in me. I hope you do, too. I thank you very much.

Mr. BONIOR. Our time is just about up, so I want to close by saying to JOHN how much we admire, respect, and love you for your service to your district, your State, and the people of this great Nation. We look forward to working with you and Debbie and Christopher and your family in the years to come. We thank you so very much.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I would like to thank my dear friend, the gentleman from Michigan, [Mr. BONIOR] for his kind words, and tell him how much I cherish his friendship and how much I love him, and how grateful I am to him for having done this. It has been a singular honor, a somewhat uncomfortable moment, but nothing has been said tonight that I feel there is a strong need for me to deny.

I want to thank all of my colleagues who have stayed up so late to participate in this event and tell them how much I appreciate the gentleman from Michigan, [Mr. KNOLLENBERG] the gentleman from Tennessee, [Mr. GORDON] the gentleman from Michigan, [Mr. LEVIN] the gentleman from Pennsylvania, [Mr. GOODLING] with whose dad I served, and who was a great friend of mine in times past and with whom we wrote great legislation; my good friend, Mr. BARCIA, the gentlemen from Michigan, [Mr. CHRYSLER] Mr. SMITH, and Mr. EHLERS, who has provided some remarkable leadership in the area of the environment, and for which I am grateful, and my partner and friend, the gentleman from Pennsylvania, [Mr. WELDON] who worked with me on the Migratory Bird Commission. We have done great work in a small area which is so little known that it is able to be uniquely effective, and we are very proud. Also my good friend and colleague, the gentleman from Michigan, [Mr. STUPAK]. I am grateful to you and to Speaker GINGRICH, the gentleman from Georgia. I want to express my appreciation to him for his friendship and for his being here tonight. It means a great deal to me.

I am honored that you have mentioned my wife, Deborah, who is very dear to me and who is an extremely important part of this family and of whatever success I have had. Her wisdom and goodness and loyalty have been a shining light and a source of enormous strength to me. I am singularly blessed in having had a wonderful family, a great mother who lent strength and dignity to the family, and a dad who left a great tradition, of which I am very proud, and wonderful children.

We come from, as does my good friend, Mr. BONIOR a family of Polish immigrants, and that tradition is something of which I am enormously proud. I have served and represented a great district, the Sixteenth District. It is called the Down Rivers, and the people who live there are great people who work hard, raise great families, take pride in their communities, and are great Americans. They were the arsenal of democracy in time of war. They are people who are proud of and work hard on behalf of their communities.

I owe an enormous debt to a great staff, which has served me and this body, the committees and the people of the Sixteenth District for many years with great dedication and decency, and I have had the privilege of serving, as mentioned, on the wonderful Committee on Energy and Commerce, which is a great institution and was made so under the leadership of Sam Rayburn, who I admired. I had the benefit of his wisdom and guidance and teaching, as I did of some other great speakers, like John McCormack, to whom I hope God will be very, very kind, and I know he will, and our great friend, Tip O'Neill, who was a wonderful and unique man.

I would just like to say that it has been a singular honor to serve here for 40 years. This is a great institution, a great body. Great human beings are here, wonderful people. Great friendships are generated across the aisles. In spite of the sometimes terrifying partisanship that exists in this institution, really strong and wonderful friendships exist here. They are the thing of which service in this place is really made to be meaningful, good, and it is something which contributes to the goodness and the strength of the country. I am proud that I have been here.

I seriously doubt if I will be able to ever express my full gratitude to my colleagues for the things they have said about me tonight. I note that I will not be denying them, and that, I will enjoy them always. I will say it may, perhaps, have gone a bit to my head, and perhaps some of my colleagues and I think the lovely Deborah will have to inform me that I perhaps should not take the events of the evening too seriously. I want to also mention the fact that she was sitting up there with her very special friend, Mary Anne Gingrich, who is a wonderful and a fine woman.

I want to just conclude by saying that it is always a privilege to serve as part of this institution. It is a great body, it is a wonderful place. It is the people's House, and in good times and bad, in differences and in friendship, we serve the public interest, and remarkably well. We may all take pride in that. We may all take pride in the fact that we have had the privilege of serving in perhaps the greatest and most democratic institution in the entirety of not only the free world but the rest of the world.

I thank my colleagues for what they have said about me. I am grateful to each of you, both for what you have said, and your friendship. Thank you very much.

Mr. MANTON. Mr. Speaker, it is with great pride and admiration that I rise today to pay tribute to my very good friend and mentor, the Honorable JOHN DINGELL on the occasion of his 40 years in Congress.

When I came to the Congress as a freshman in 1985, one of my primary goals was to become a member of the Energy and Commerce Committee, and to serve under the leadership of the legendary "Chairman DINGELL." It took me a few years, but with JOHN's help and strong support, in 1989, I became one of only two new members of the Energy and Commerce Committee.

It was truly an honor and a privilege to watch Chairman DINGELL shepherd legislation through his Committee. In those days, almost forty percent of the legislation considered on the House Floor was reported by the Committee on Energy and Commerce.

During the 101st Congress, the Energy and Commerce Committee tackled one the most controversial and comprehensive measures ever considered, the Clean Air Act Amendments of 1990.

As the author of our nation's most important and lasting environmental statutes, including the Clean Water Act, the National Environmental Policy Act, the Endangered Species Act and the Marine Mammal Protection Act, JOHN DINGELL's environmental record was then, and remains today, second to none. But his skills as a legislator and a deal maker would be put to the test like never before in the effort to reauthorize the Clean Air Act. It would clearly take a herculean effort to strike a balance between competing economic interests and the need to cleanup our nation's air. Yet that is exactly what JOHN DINGELL achieved. He pulled together disparate interests and presided over the passage of a landmark and historic measure to dramatically improve the quality of our air while preserving economic growth and job opportunities in every region of the nation. It is truly a legislative achievement that has touched the life of every American.

I served on the conference committee that developed the final version of this comprehensive legislation, and I was deeply honored that Chairman DINGELL chose a new member of his committee to play a role in this historic event. I will be forever grateful.

Of course, the Clean Air Act is just one of the many achievements of his storied 40 year career. He passed legislation to improve our energy efficiency, remove asbestos from our public schools, improve clinical laboratory standards, and establish strong federal nursing home care standards.

And during the 1980's when everyone was railing against waste, fraud and abuse in government, JOHN DINGELL was doing something about it. As chairman of the Subcommittee on Oversight and Investigations, Chairman DINGELL uncovered corrupt billing practices by defense contractors and major violations at nuclear weapons facilities. He also led the effort to revamp the Red Cross' blood collection system and exposed corruption in the generic drug industry. Chairman DINGELL found waste and he cleaned it up.

JOHN DINGELL has enjoyed four decades of unparalleled success as one of the greatest leaders and legislators who has ever graced this august body. The people of Michigan and this nation owe him a great debt of gratitude.

I am proud to call JOHN DINGELL my colleague, and more importantly, my friend.

Congratulations to you and Debbie on your 40 years of service. And I know, there is much, much more to come.

Mrs. MINK of Hawaii. Mr. Speaker, it is with great pleasure that I join my colleagues tonight in honoring a friend and colleague, Representative JOHN DINGELL, on the occasion of his 40th anniversary serving in the U.S. House of Representatives. His 40 years of dedicated service in this House on behalf of the people of the 16th District of Michigan is unmatched by any of us here today and by few in the long history of this institution.

JOHN DINGELL, Mr. Chairman, as I still like to call him, is a true crusader in a form and fashion that we do not see too much of lately. Grounded in principle and integrity and skilled in legislative negotiating he is an undaunted leader who will always persevere.

There are few people who have made their mark on such a wide variety of policy issues ranging from clean air and clean water, to protection of our blood supply, removal of asbestos from our schools, protection from securities and telemarketing fraud, increased railroad safety, and promoting energy efficiency.

In tackling these often controversial issues he has a real knack for achieving that delicate balance between progress and productivity, and protection for the consumer and the environment. Through it all he has never compromised his principles working equally for improved job opportunities and worker protections for industrial workers, fighting for the preservation of our environment, and protecting our Nation's consumers.

His achievements which have improved the lives of the residents of Michigan's 16th district and indeed the entire nation are too numerous to mention. But one that stands out for me is Medicare. As a new Member of Congress in 1965, I remember JOHN DINGELL and his role in shepherding the Medicare bill through the House. It was a difficult task for anyone and JOHN took on the challenge with the tenacity of a pit bull. It is because of JOHN DINGELL that we have a Medicare program today.

For a young, new Member of Congress watching JOHN DINGELL at work, fighting for health care for our seniors was inspiring and most of all educational. Today, 30 years later, I still learn from JOHN DINGELL and look highly upon his guidance and counsel.

Not serving on the same committees I don't often get the chance to socialize or spend time with JOHN, but this summer we both had a chance to attend the commemoration of the 50th anniversary of the end of World War II in Honolulu Hawaii, before his service in this House JOHN served as a soldier in World War II. And I think it appropriate that tonight we recognize not only his 40 years of service to this institution but his 50 plus years of public service.

From his military service to his tenure in the U.S. House, JOHN DINGELL exemplifies the true meaning of a public servant. Thank you JOHN for your dedication to making this world better for us and for future generations. It is an honor to call you my colleague and my friend.

Mr. STOKES. Mr. Speaker, I want to express my appreciation to House minority whip, DAVID BONIOR, for reserving this special order. I am pleased to join my colleague and Members of the Michigan congressional delegation in saluting the dean of the delegation, Congressman JOHN DINGELL.

Forty years ago, JOHN DINGELL was elected to this legislative body. At the beginning of the 104th Congress, he marked 40 years of uninterrupted House service. This represents the longest record of continuous service in the House of Representatives. As he celebrates this important milestone in his legislative career, it is fitting that we pause to salute Congressman DINGELL.

Mr. Speaker, JOHN DINGELL was elected to the United States Congress in 1955. He came to Washington armed with an insider's view of Capitol Hill. For 23 years JOHN's father, John D. Dingell, Sr., had represented the people of Michigan in the Congress. Thus, JOHN DINGELL arrived on Capitol Hill well versed in the legislative process and parliamentary procedure.

Like his father, JOHN also brought to the Congress the highest level of commitment to public service. During his 40 year tenure in Congress, the residents of Michigan's 16th Congressional District, and indeed the Nation, has benefitted from his tireless efforts and unselfish dedication.

Mr. Speaker, as we review his legislative record, I note that Congressman DINGELL has compiled a distinguished record of legislative accomplishments that reflect highly upon this institution and the Nation. He has taken the lead on important issues which impact the lives of all Americans.

JOHN DINGELL led the fight on health care reform, greater environmental protections and the reshaping of the Nation's telecommunications industry. Congressman DINGELL has been instrumental in writing every major law to improve air quality standards, including the Clean Air Act of 1990. His efforts were also instrumental in the passage of the first ever Americans With Disabilities Act. Other legislative accomplishments include authoring the National Environmental Policy Act, the Endangered Species Act, and the National Wildlife Refuge Administration Act, just to name a few.

Mr. Speaker, when I came to the U.S. Congress as a freshman lawmaker in 1969, Congressman DINGELL was one of the individuals to whom I turned for leadership and guidance. His knowledge of the legislative process is unsurpassed. More importantly, JOHN DINGELL was willing to give freely of his time and counsel. This is something that I will always remember about this great statesman.

Mr. Speaker, I take special pride in joining members of the Michigan congressional delegation in saluting Congressman JOHN DINGELL. His service in the Congress has been exemplary. He represents the best that this institution stands for, and he is held in high esteem throughout the Nation. I extend my best wishes and salute our distinguished colleague and friend, Congressman JOHN DINGELL.

Mr. CONYERS. Mr. Speaker, I rise today to honor a longtime friend and colleague, JOHN DINGELL of Michigan. Last Wednesday marked the 40th anniversary of his election to the House of Representatives. JOHN DINGELL is the longest serving House Member of the 104th Congress, and I think we all should take a minute to reflect on the distinguished record of this distinguished gentleman.

JOHN DINGELL has spent his career fighting for the betterment of our country on a broad range of issues. As chairman of the Energy and Commerce Committee, a post he held for 14 years, JOHN DINGELL was able to make a real difference for improving the lives of all Americans. He was instrumental in writing every major law to improve air quality standards, radon testing and lead paint removal and was the author of the Clean Air Act of 1990. He is the author of the Endangered Species Act of 1973 and has been effective in protecting millions of acres of wetland and controlling pollution in the Great Lakes.

In 1987, JOHN DINGELL wrote strong Federal nursing home care standards in response to widespread abuse in our nation's nursing homes. He ushered through the Americans with Disabilities Act, the law which affords disabled Americans with the same rights and privileges other Americans enjoy.

JOHN DINGELL served as chairman of the Oversight and Investigations Subcommittee, where he was able to reveal dozens of instance of waste and abuse. His subcommittee directed an investigation of the safety of our Nation's blood supply that prompted the Red Cross to completely revamp its blood collection system. He exposed corruption in the generic drug industry and uncovered corrupt billing practices by defense contractors. JOHN

DINGELL investigated waste and abuse in public and private institutions with such tenaciousness that correspondence from the Dingell Committee was one of the most feared letters in Washington.

I have had the privilege to know JOHN DINGELL more than 30 years; he hired me to work on his staff in Detroit prior to my election to Congress in 1964, and we have worked closely together ever since. He is one of the most dignified, honest and hard-working Member this body has ever witnessed—and today those are qualities that are becoming harder to find in the House of Representatives. Congratulations, JOHN DINGELL, for 40 years of distinguished service.

Mr. HALL of Texas. Mr. Speaker, it is a privilege to join my colleagues today in paying tribute to Rep. JOHN DINGELL as we celebrate the 40th anniversary of this election to Congress. It has been an honor for me to serve on the House Energy and Commerce Committee under his effective leadership. Throughout his years of distinguished service, John always has been a fierce advocate and tough negotiator, and his legislative accomplishments are impressive.

John's efforts led to passage of milestone legislation to protect the environment. He was instrumental in passing the Americans with Disabilities Act and passed strong Federal nursing home care standards. He helped write legislation that protected the consumer from unsafe products and unfair practices. He led efforts to expose and end corruption and waste in the public and private sectors and wrote legislation that promoted competition in the telecommunications industry. Although John and I sometimes disagreed philosophically about the nature and scope of specific legislation, we developed a good working relationship and a special friendship over the years.

Mr. Speaker, JOHN DINGELL continues with great distinction his family's legacy of public service, following in the footsteps of his father, JOHN DINGELL, Sr., who preceded him in the House of Representatives. His son, Christopher, carries on the family tradition through his service as a Michigan State Senator—and perhaps he also will join this body one day. Such dedication to public service, Mr. Speaker, is part of our rich American heritage. Such commitment to public service, Mr. Speaker, deserves our respect and our gratitude. My friend and colleague, JOHN DINGELL, has served our country well and no doubt will continue to fight the good fight as long as he is a Member of the House of Representatives. I join my colleagues today in paying tribute to this great warrior.

Mr. RAHALL. Mr. Speaker, today I join my colleagues in paying tribute to the Representative from the 16th District of Michigan JOHN DINGELL, for his 40 years of service in this body. This length of service, I am told, represents the longest continuous run of any Member who has ever served in the House of Representatives.

These days, as we witness a rash of voluntary retirements from this body, it is refreshing to reflect upon JOHN DINGELL'S career and his continued, and still very much intense, service to his constituents in this body. Leafing through just about any write-up on Members of Congress such as "Politics In America" it is impossible not to find the words "powerful" and "influential" as descriptions of JOHN DINGELL, especially in terms of his tenure as chairman of the Committee on Energy and Commerce. Indeed, during his chairmanship, JOHN'S legislative savvy and tenacious oversight activities grew to almost mythical proportions.

It is true that JOHN ruled the Committee on Energy and Commerce between 1981 and 1995, and that few dared to cross him. But in my dealings with him, I knew of a kinder and gentler JOHN DINGELL. A Member of this body who would listen to your concerns, and who if he could, would seek to accommodate them into his legislative strategy. I personally found this to be true during our consideration of the Clean Air Act reauthorization in 1990, and when we devised the Energy Policy Act of 1992.

JOHN DINGELL represents the type of Member many of us view as the ideal. So to the dean of the House of Representatives, I salute you. Congratulations on your years of service, and I look forward to seeing the distinguished gentleman from Michigan serving in this body for many more years. You are a dear and true friend, "Big John," to me and many in my family. Thank you.

Mr. FROST. Mr. Speaker, I would like to take this opportunity to honor Representative JOHN DINGELL, the dean of the House of Representatives, on the 40th anniversary of his election to Congress.

As all of us recognize, JOHN DINGELL possesses a strong commitment to public service and a stellar record of legislative accomplishment. John has worked to enact meaningful legislation to protect the environment, improve health care, and defend the consumer from unsafe products and unfair practices. In fact, John has authored several of the most important environmental protection measures, including the Endangered Species Act of 1973, the Marine Mammal Protection Act, and the Clean Air Act Amendments of 1990.

In addition, as chairman of the House Energy and Commerce Committee, JOHN has written legislation to lower cable television rates, to stop securities and telemarketing fraud, and to improve energy efficiency.

It has been an honor and a privilege to serve in the House with Representative DINGELL. Clearly, JOHN's hard work and dedication to public service have improved the lives of all Americans.

Mrs. COLLINS of Illinois. Mr. Speaker, I rise this evening to pay the highest tribute to my long-time colleague, Commerce Committee ranking member, and great friend, the Honorable JOHN DINGELL of Michigan. On this day, marking his 40 years of distinguished and unparalleled service to this institution, it is only proper that we take this time to reflect upon the momentous impact Representative DINGELL's dedicated work has had on the lives of all Americans.

The list of Congressman DINGELL's accomplishments is long and impressive. For four decades, he has been a leader in the fight for expanded access to quality health care for all of our citizens. From the battle to create Medicare to the current attempts by the majority to destroy it, JOHN DINGELL has stood firmly on the side of the people, upholding the rights and needs of seniors across the Nation. He was instrumental in establishing standards governing nursing home care in response to abuses throughout the system and shepherded the Individuals with Disabilities Act through this body, giving a voice in Congress to those with special needs.

On the environmental front, Representative DINGELL has been a strong protector of our country's vast and valuable public lands and wildlife, authoring the Endangered Species Act, Marine Mammal Protection Act, and the National Wildlife Refuge Administration Act. In addition, the Congressman has staunchly championed the public health and safety of our children and families through his efforts to improve the quality of the air we breath and the water we drink.

Both the Clean Air Act Amendments and the Clean Water Act are the products of JOHN DINGELL's commitment to our future generations. When he could easily have backed down from pressure by major business interests such as the auto industry on these and other major fights over the years, Congressman DINGELL held his ground.

As a member of the Energy and Commerce Committee, I constantly marveled at the fairness that JOHN DINGELL, as chairman, exercised in moving legislation through that committee. I recall working closely with him on numerous occasions as we tackled such weighty issues as the divestiture of AT&T and the Cable Television Consumer Protection and Competition Act of 1992. Each and every time I approached Congressman DINGELL with the concerns of my constituents on a particular matter before the committee, JOHN treated me and my constituents with the utmost respect and consideration, always welcoming our input.

In his long-standing role as chairman of the Oversight Subcommittee, Representative DINGELL has been singlehandedly responsible for uncovering some of the most profligate cases of waste, fraud, and abuse at several government departments—saving American taxpayers hundreds of millions of dollars. His investigations of U.S. defense contractors turned up the infamous $600 toilet seat while his probes of EPA contract mismanagement and lack of enforcement practices in the 1980's fundamentally improved the functioning of that Agency.

Mr. Speaker, I could go on for hours. The contributions Congressman DINGELL has made to our Nation and its citizens cannot be overstated. JOHN DINGELL is truly a Representative of the people. I am proud to serve with him, and congratulate him on this historic day.

Miss COLLINS of Michigan. Mr. Speaker, I am proud to rise today to pay tribute to one of the most remarkable individuals the Congress has ever known, Congressman JOHN DINGELL of Michigan.

As a Member of Congress, JOHN DINGELL has helped write landmark legislation to protect the environment, promote American competitiveness, and defend consumers from unsafe and unfair practices. He has written legislation to improve energy efficiency, stop securities and telemarketing fraud, and lower cable television rates by promoting competition in the industry.

Under his guidance, the Energy and Commerce Committee passed measures to remove asbestos from public schools, improve clinical laboratory standards, increase railroad safety, and promote the development of alternative fuels.

Throughout Michigan, JOHN DINGELL is known as a defender of the people; an advocate for issues that are often unpopular but always critical. In this body, he has come to represent an ideal that is in short supply: the willingness to take a stand for what is right, and what is good for this country, regardless of political implications.

JOHN DINGELL is legendary for his tenacity, especially when it comes to fighting for causes in which he believes. He has been a mentor and a friend, and it has been a great honor knowing him over the years. His outspoken leadership in the area of environmental protection was inspirational in my own legislation to fight environmental injustice in poor and minority communities.

His legislative accomplishments are far too numerous to list, but let me simply say that without the presence of JOHN DINGELL this body—and this nation—would have missed one of the few great men of our time.

Mr. TOWNS. Mr.Speaker, it is indeed my pleasure to join my House colleagues in saluting a man whose 40-year contributions to our Nation are only exceeded by his commitment to public service and his unswerving sense of personal, political, and professional integrity, Congressman JOHN DINGELL.

For 40 years JOHN DINGELL has been a champion in the fight to protect consumers from fraud, waste, corruption, and environmental pollution. The 16th District of Michigan and all Americans can be confident that their welfare has been well served by the former seven term Commerce Committee chairman.

As a member of the Commerce Committee, I have fond memories of my initial introduction to the former chairman, whose vast reputation was only matched by his gigantic physical stature and expansive intellect. During my tenure as a committee member I have marveled at his mastery of legislative procedure and his gift for building political coalitions. Without equivocation, JOHN DINGELL has created an indelible impression upon anyone with whom he has come in contact. When the political annals are written about legendary members of Congress, without question, JOHN DINGELL's name will appear at the top of that list.

America owes a tremendous debt of gratitude to Congressman DINGELL for his discovery of corrupt billing practices by government contractors, and major safety violations at nuclear weapons facilities. And it was JOHN DINGELL who was directly responsible for prompting the American Red Cross to revamp its blood collection system. Americans with disabilities can now function much more effectively and comfortably given the input of Congressman DINGELL and his contributions to the Americans with Disabilities Act. And every American who cherishes breathing clean air, owes a tremendous debt to Congressman DINGELL for his efforts in promoting the Clean Air Act of 1990.

I consider JOHN DINGELL a personal friend and mentor. His 40 years of selfless service merit recognition and commendation. The institution of Congress, and the taxpaying public, has gotten the best that JOHN DINGELL has had to offer. I salute him for his years of service to, and love for the United States Congress

Mr. SENSENBRENNER. Mr. Speaker, for the past 40 years, the people of Michigan's 16th district have benefited from the representation of JOHN DINGELL. JOHN is a gentleman whose example challenges us in the House of Representatives, and will continue to do so.

Michigan is consistently recognized each year as one of the most influentional delegations in the House. Through experience and leadership, both sides of the aisle have made their legislative mark for both their State and the entire Nation. JOHN demonstrates both tenacity for his personal interests and causes, as well as a spirit of cooperation within the legislative process.

His record reflects a dedication of addressing needs of his district while balancing those with the needs of the Nation. His hard work, legislative ability and conscientious votings have earned him the admiration of his constituents and fellow Members of Congress.

I join my fellow colleagues in paying tribute to JOHN, his accomplishments and his continued service to our Nation.

Mr. BEVILL. Mr. Speaker, I rise to pay tribute to my long-time friend and colleague, JOHN DINGELL, as he marks his anniversary of serving four decades in the U.S. Congress.

JOHN is certainly a landmark around here, one of the true legends to ever serve in the Congress. He is the House's longest serving Member and no one has worked harder on so many important and complicated issues over the years.

He was one of the most outstanding chairmen we've ever had and he certainly made his mark on Energy and Commerce matters. JOHN DINGELL has always been respected for his leadership and legislative capabilities.

He remains one of most able and capable leaders in the Congress. I hope JOHN will serve many more years here. We need people of his caliber and intellect as our public servants. His fine record of accomplishment will always be remembered and appreciated.

Mr. KILDEE. Mr. Speaker, it gives me great pleasure to pay tribute to a man who has provided 40 years of dedicated service to the people of Michigan's 16th Congressional District and the United States of America, my good friend and dean of this esteemed body, JOHN D. DINGELL. The fact that Mr. DINGELL is still recognized by many of his colleagues from both sides of the aisle as "Mr. Chairman" is one example of the high level of respect and appreciation we have for his service.

Like his father before him, JOHN DINGELL has worked diligently to serve his constituents in the State of Michigan. His tireless efforts to spearhead economic development, solve local problems and meet community needs have led to an improved quality of life for his constituents.

Mr. Speaker, in serving this country, we can look to JOHN DINGELL as an example of an effective legislator who puts people before politics. He authored the original Clean Water Act, which markedly improved the quality of our Nation's rivers and lakes, including the State of Michigan's Great Lakes. As chairman of the House Committee on Energy and Commerce, he was the integral component in removing asbestos from our children's schools and passing the first ever Americans with Disabilities Act. As chairman of the Subcommittee on Oversight and Investigations, Congressman DINGELL vigorously investigated and exposed waste, fraud, and abuse resulting in saving billions of taxpayer dollars. Congressman DINGELL's father, John Dingell, Sr., authored this Nation's first comprehensive health reform legislation when he served in this body for 22 years. Following in his father's spirit, JOHN DINGELL, JR., has introduced similar legislation every year he has been in office that would provide health insurance for all Americans.

Let me say as cochairman of the Congressional Auto Caucus, there is no greater advocate for the auto industry in the history of the Congress then JOHN DINGELL.

Forty years after he was first sworn into the House of Representatives, Congressman DINGELL continues to fight for policies and values that will most benefit this country. It is because of his great wisdom and experience that I have often sought his counsel. The debt of gratitude this body owes JOHN DINGELL can never be repaid, but can and must be recognized. Mr. Speaker, it is truly an honor for me to have worked for so many years with my colleague and good friend, Chairman JOHN D. DINGELL.

Mr. Speaker, when I debate against term limits, I mention the service of Hubert Humphrey, Everett Dirksen, and JOHN DINGELL. I then rest my case.

TRIBUTE TO JOHN DINGELL

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 60 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I will not take the 60 minutes, but I will be happy to start off, and I am going to talk about the defense bill, I will be happy to start off by yielding to my good friend and colleague, the gentleman from Michigan.

Mr. SMITH of Michigan. Mr. Speaker, I will be very brief. I am a Republican, and the gentleman from Michigan, JOHN DINGELL, is a Democrat. I have been here 3 years, and what I have discovered is he is just a good person. He cares about people. His knowledge is extraordinary. I served with his son, Chris Dingell, in the Michigan Senate for 10 years. I asked Christ about 3 years ago if he was going to follow the family tradition and run for the U.S. Congress. Chris said, "Nick, you wouldn't believe how hard dad works." I did not believe it then, I believe it now.

JOHN, I think, you know, this is not a eulogy, it does not mean you can relax or let down. We need your experience, we need your help, we need your camaraderie to make some of the tough decisions ahead of us. It is a shame, you know more about many subjects and many areas and probably you have more knowledge than anybody else in the world in some of the aspects of your experience over the last 40 years. I personally think you should work harder and write a book. Debbie, encourage him to do that.

Mr. Speaker, I am proud to be from Michigan and a colleague of a gentleman that has helped Michigan a great deal and helped America a great deal. Thank you.

Mr. FIELDS of Louisiana. Mr. Speaker, will the gentleman yield?

Mr. WELDON of Pennsylvania. I yield to the gentleman from Louisiana.

Mr. FIELDS of Louisiana. Mr. Speaker, I want to thank the gentleman for yielding. I want to state that I am not from the State of Michigan, but I have had the opportunity to serve with JOHN DINGELL for the past 3 years I have been here in the House of Representatives, and I just wanted to take a moment, just a few minutes, a few seconds, actually, and just stop by and say JOHN, I want to thank you for your years of service, 40 years.

I am only 33, but I tell you, you have been serving the people of this country as long as I have been living, and it was an extraordinary opportunity for me to meet you, not only meet you, but also to develop a friendship with you, and I want to thank you for the time that you have given me in your office and talked to me about the oil and gas industries and issues relative to my State. As a young Member of this Congress, I want to thank you for taking out the time with me.

I want to also thank you for giving me the opportunity to be in your district. It was encouraging to see a Member like the gentleman from Michigan, JOHN DINGELL, at a rally at the University of Michigan, to see young students rally around a Member of this institution.

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Martin Luther King once said, "The measure of a great man is not where he stands in moments of confidence; it is where he stands in moments of challenge and controversy."

Through your 40 years of service, I am sure you have been through a lot. I just want to say, thank you so much; on behalf of not only the college students in Michigan, but across the country, thank you for your years of service.

Mr. WELDON of Pennsylvania. I thank our colleague for those very eloquent comments, and I yield to our friend from New York [Mr. OWENS].

Mr. OWENS. Mr. Speaker, I thank the gentleman for yielding. I have been patiently waiting here just in case there was no one here to take the Republican hour, and I am happy to make additional comments about JOHN DINGELL, the icon of this institution.

I came here in 1983 with a very large freshman class, I think it was something like 57 Democrats and a total of 80, and about two-thirds of the members of my freshman class all wanted to serve on the Committee on Commerce. I had a mindset for education and labor, so I was not a part of that group.

I can speak objectively, because I am not a member of the Committee on Commerce, I am not from Michigan, but I would like to add my voice to those who paid tribute to JOHN DINGELL tonight.

I could go on and on and talk about the Individuals with Disabilities Act, a piece of legislation which a number of enemies swore would never get past the Committee on Energy, but it of course got past the Committee on Energy, and in the end, all of the Members of Congress, Republicans and Democrats, joined in making that act pass as a result of the kind of leadership shown by JOHN DINGELL.

On term limitations, somebody has already spoken. I think JOHN DINGELL's 40 years in the Congress certainly answer the assertion made that we have people here too long. I have always argued that term limitations are a bit silly. Nobody goes out to look for a lawyer fresh out of law school to take a case that is important; you do not go to surgery expecting a doctor fresh out of medical school to put your life in their hands; and certainly it should not be done in a complex job like this.

The legislative process is just as complex, and those who insist that you do not need to stay here long to understand it are misunderstanding the process. I think JOHN DINGELL shows that in order to succeed in the legislative process here in America you have to have the wisdom and skill of Socrates, Plato and Aristotle, combined with the skills of Machiavelli and Jesus Christ all together. It is a very complex process and it takes a great deal; and just as nobody would say that Einstein, because he had a head of white hair and looked very old, should step down because of term limitations, I think JOHN DINGELL will never be asked to step down, in deference to some kind of theory of term limitations.

JOHN DINGELL is the Einstein of the Federal legislative process, and it is a pleasure for me to and an honor for me to raise my voice with others to pay tribute to JOHN DINGELL, Mr. Chairman, from the State of Michigan.

Mr. WELDON of Pennsylvania. I thank our colleague for joining us and I thank all of our colleagues who have joined with Congressman JOHN BONIOR, in his Special Order and the beginning of my Special Order this evening; and I again wanted to thank Mr. DINGELL for his tireless efforts in this institution.

Mr. Speaker, I will take approximately 20 or so minutes to discuss a piece of legislation that has finally made its way through this body and the other body and is now headed down to the White House for consideration by the President, and that is the 1996 defense authorization bill.

Mr. Speaker, earlier this evening the Senate passed this piece of legislation, which is the major authorization bill for our entire military, by a vote of 51 to 43. Last week the House went on record and supported the exact same conference report for this bill with a total amount of almost 270 votes. I think the final vote was 267.

The bill, when it originally passed the House, Mr. Speaker, gathered 300 signatures, the largest number of Members in a bipartisan way to support a defense bill, certainly in the 9 years that I have been here, and it is certainly showing a strong bipartisan backing of our defense authorization process.

In fact, when the bill left the Committee on National Security of the House, it passed by a vote of 48 to 3, the largest vote we have ever had, at least in my time here, in support of a bill coming out of committee.

So, this is, in fact, a good bill, Mr. Speaker. Despite intense lobbying by the White House and by the Secretary asking Members not to support final passage of the conference report, getting almost 270 Members of this body to support a national defense authorization is a major accomplishment.

In fact, there are several major items in this legislation that really merit the President to fully consider supporting this; not to do as has been rumored, and that is to veto this legislation.

The bill is consistent with the appropriated defense dollars for the next fiscal year. We worked very closely with the appropriators to make sure that our dollar amounts were consistent, that there in fact was not a large disagreement between the dollar amounts for the various items within the budgets, both authorization and appropriation.

In addition, Mr. Speaker, the conference report for the defense authorization for the 1996 fiscal year contains major legislation dealing with acquisition reform. This administration and Members of Congress on both sides of the aisle have repeatedly stated that we need to reform the way that we spend our DOD dollars, that we can save significant amounts of money, that we can buy better equipment and materials for our military and in the end save the taxpayers their tax dollars. That acquisition reform is in this legislation.

If President Clinton vetoes this bill, we lose the acquisition reform which is so critical in this year of declining defense dollars. In addition, we have the pay raise authorization.

Last week, we had the debate on whether or not to support the troops. The President asked us to support the troops; we supported the troops. Members on both sides of the aisle, depending upon which version of legislation that they supported, were unanimous in one argument on the House floor, and that was to support the troops as they are being deployed to Bosnia.

Mr. Speaker, there is no better way to support our troops than to vote for the authorization to give them a pay raise. Contrary to what is being stated here in this body, the military personnel will not receive their full pay increase if we do not have the authorization bill approved by the President and become law. The appropriation bill will not do it alone.

Those are major reasons why this President needs to consider supporting this legislation and express the urgency of putting this legislation forward.

Mr. Speaker, we have heard some comments that perhaps the reason why the President might want to veto this bill is because of what we have done in the area of missile defense. Mr. Speaker, that is an area that I have worked on this entire year as the chairman of the Subcommittee on Research and Development and have worked to try to turn around the whole debate on protecting the American people from the threat of a missile attack, either an accident or deliberate, by any Nation, not just Russia. In fact, I would agree with my colleagues that what we did in the missile defense area is perhaps one of the single biggest policy changes that we made from the President's stated policy objectives when he came out with his defense request for 1996.

It is a tough issue, but Mr. Speaker, we have tried very carefully and very exactly to make sure that what we came out with is a bill that this President can sign into law.

We were very careful this year, Mr. Speaker, during the authorization process in the committee and on the House floor; we were careful that in plussing up the funding for theater missile defense, for national missile defense, and for cruise missile defense that we do it in a way that was consistent with what the administration and the Pentagon thought should be our priorities.

Mr. Speaker, as I have sat on this floor, many times over the past several months, each of the areas in which we plussed up funding in missile defense were given to us by the administration's point person for missile defense policy. We asked Gen. Mal O'Neill, who heads the BMD office, the missile defense operation for the Pentagon, to tell us where he would put additional dollars if the Congress were to provide those dollars to him.

So we followed his advice in plussed-up money for theater missile protection, for a robust national missile program that had been devastated by the President's request, and by a plus-up in the cruise missile area, because of the threat that cruise missile proliferation poses not just to the American people, but to our troops wherever they are deployed, and we did those plus-ups, Mr. Speaker.

We fully funded programs in theater missile defense like those that are being tested right now for use in those theaters where our troops are in fact going to be committed in the future. We plussed up national missile defense to give us the ability over a period of 3, 4, or 5 years, to have a system in place much like one the Russians already have.

Most American people when you ask them whether or not they believe that we have a system like the Russians have to protect themselves against an accidental launch, they would tell you, oh, sure we have a system like that, obvious. They cannot believe that we today do not have a national missile defense system to protect the American people against a rogue nation launch.

Mr. Speaker, we also saw the threat in our hearings of cruise missile proliferation. We saw that 77 nations in the world today have cruise missiles that they are capable of using right now, today. We heard testimony from experts, including the administration, that over 20 nations are today building cruise missiles, some of them very sophisticated, well beyond what we saw with the Scuds, even beyond what we saw with our own capabilities in terms of cruise missiles. We have to put more of our resources in protecting our people and our troops from the threat of a cruise missile situation.

Mr. Speaker, we did all of these things and we did them finally in a way that this administration could not stand up and say was in violation of the ABM Treaty. That is a very important point, Mr. Speaker, because some in our Congress and in this institution wanted us to take the treaty head on on the bill.

While I have serious reservations about the ABM Treaty, I think in the end the treaty has outlived its usefulness, I think we are dealing in a different world today; I was in agreement that that should be a debate left and a fight left for a different day.

This bill, when it left the House last week and when it left the Senate today, by a vote of 51 to 43, in no way violates the ABM Treaty. In fact, it is totally consistent with the ABM Treaty. We in fact now have on the record both the Army and the Air Force telling us that we can deploy a single-sight system which is compliant with the ABM Treaty, as the Russians already have and have upgraded at least two times since they have had that system, that can protect the entire 48 States and Alaska and Hawaii.

The Air Force says they can do it using the existing Minuteman system with upgrades costing about $2.5 billion over 4 years. The Army says they can do it using THAAD for a cost of $4 billion to $5 billion over the same time period.

Well, we say in our bill that we want a system deployed by the year 2000. We want a system that is not pie-in-the-sky. We want a system where we know that technology is available today that we can afford that will give us no more than what the Russians have. My colleagues on the other side during the debate on the conference bill last week said, well, the Russians' system does not protect the entire nation of Russia.

Mr. Speaker, the ABM system that Russia deploys today protects 80 percent of the population of Russia because it was designed when it used to be the Soviet Union. So they already have a system, so that if we were to fire a missile at Russia, they could protect their citizens. If a rogue nation like Iraq or Iran or Libya were to fire a missile, they could, in effect, shoot up their missiles to protect their people.

We have no such system today, even though it is totally and completely allowable under the terms of the ABM Treaty.

Mr. Speaker, the bill that we send to President Clinton tonight, approved by both bodies of this institution, does not violate any treaty, and if the President says that to the American people tomorrow, he is just not being truthful.

Mr. Speaker, that is really an outrage, because we have been extremely careful. In fact, in the negotiations that we were involved in with the Senate, with Senator THURMAN and Senator NUNN and with Senator LOTT, we were very careful in bringing in the administration's point person on missile defense, Bob Bell. He raised eight specific concerns in the bill with us, issues involving missile defense. We were able to resolve each of those items, and finally it came down to Bob Bell realizing that we were not going to give in on the issue of a date certain for deployment.

He found out also, and I know he has called various officials in the administration that would be able to respond to this question, that what we have done in this bill in no way violates the ABM Treaty.

So what is really going to come down to the actual decision of the President and whether to veto this bill or not if he does veto it and uses the issue of missile defense, is very simple: It is that this President does not want to provide a system to provide any defensive protection for the American people.

☐ 2215

Mr. Speaker, that is outrageous because we are not talking about building more offensive weapons. We are beyond that now. We are talking about defending the American people. We are talking about a defensive system that would be able to shoot an incoming missile if it were fired not just from Russia but from China, who we know is developing a CSS–2 system that has tremendous capabilities. We know the North Koreans are about ready to deploy a new system that could eventually reach Hawaii and parts of Alaska. We know that Iraq and Iran want to buy these systems.

In fact, Mr. Speaker, I am going to include an article that appeared in the Washington Post on December 15 where the United Nations came out and said they have found documentation of missile parts and state-of-the-art technology to be used for long-range missiles that were bound for Iraq, that were made in Russia.

This is not something that came out years ago. This is from the December 15 issue of the Washington Post. I am putting the entire article in the RECORD, because in the article the United Nations verifies that missile components that can be used by Iraq to develop a long-range missile that we cannot defend ourselves against have now been captured, and even though Russia is denying where they came from, they have no idea, the best guess is that someone within the former Soviet Union has made these parts available in the black market.

Mr. Speaker, let me also say that our efforts here are not about sticking a twig in the eye of the Russian nation. This is not about calling the Russian nation an evil empire.

As most of my colleagues know, Mr. Speaker, I have been a student of the Russian government and people since I graduated from college with my undergraduate degree in Russian studies. I have spoken the language, I have traveled there, I have lived in homes.

In the past year alone, I have hosted 120 members of the Russian Duma in my office and here on the Hill. I lead the bipartisan effort in the area of energy cooperation with my colleagues GREG LAUGHLIN and STENY HOYER and GLENN POSHARD. For the last 3 years, we have worked with our energy companies to encourage and follow through on joint energy deals.

Just today we learned that the Sakhalin one and two deal had been grandfathered by legislation passed by the Russian Duma. These two projects, when completed, will see the largest western investment of dollars in energy development in the history of Russia and the former Soviet republics.

In the area of the environment, working with Nikolay Vorontsov in the Russian Duma, I lead American efforts to work with the Russians on cleaning up their nuclear waste. In January, I will be in St. Petersburg representing America in a major conference on ocean protection.

Last week, in the first ever subcommittee of our committee on ocean protection, I brought over Aleksey Yablokov, the leading environmental advocate in Russia, a member of Yeltsin's National Security Council, who testified for an hour before my subcommittee in terms of ways that we can work together to deal with the problem of ocean dumping that he helped expose in his homeland of Russian.

We are not about a radical agenda. Mr. Speaker, these efforts are designed to say yes, we want to build a strong relationship with Russian. We want to work with its leadership and its people and its Duma, but we do not want to do it with blinders on and we do not want to walk into a situation where we have some of the former military leaders still thinking that it is the cold war. Some will say, well, that is not true.

Mr. Speaker, let me include some other articles in my special order this evening. The first is an article that appeared in Krymskaya Pravda, and I monitor the FBIS reports, the Foreign Information Broadcast Service, every day. Every article that appears in the Russian media that is highlighted there, I go through.

This one caught my eye from November 28 of this year. It is an article written by Admiral Baltin, who was commander of the Black Sea fleet, hero of the Soviet Union.

Remember, the Russian Navy and the Soviet Navy has had a reputation of being among the best in the world, in many cases able to go toe-to-toe with our Navy. Here we have the commander, the current commander of the Baltic fleet, Admiral Baltin, doing an article in the Russian media about his state of concern for what is happening in his country.

I would encourage all of our colleagues to read this article in depth, Mr. Speaker, because in this article Admiral Baltin makes the case that we are in the midst of World War II. He says this is not a war like we have fought in the past. He refers to it, and I will use his direct quote, as a velvet war, a velvet war because the United States has sucked Russia into a process of not being able to defend itself.

And what does he advocate? He advocates, and I will quote him directly here, "World War III is not over." The last of the elements that are inaccessible to the West is Russia with its nuclear might. He goes on to say that Russia must not do away with its nuclear arsenal but must reinforce it, that it is the only way to deal with the West.

Now, Mr. Speaker, this is not some radical person in the Russian media. This is the commanding officer, a decorated admiral in charge of the Baltic fleet, just recently, Mr. Speaker, on November 28 of this year.

Now, I am not saying he speaks for Boris Yeltsin, I am not even saying he speaks for Pavel Grachev, but this is the mindset of some of the military leaders inside Russia that we have to be aware of, that we cannot ignore it.

Or, Mr. Speaker, I think perhaps we ought to look at some of the comments made by the fellow I had in America last week before my subcommittee, Aleksey Yablokov. Three articles, again appearing in FBIS, this time on November 21, 1995, a week before he came over here to testify before my subcommittee.

The first article quotes Mr. Yablokov in his criticism of the Russian military. He has done this repeatedly in the Russian press. This article appeared in Itar Tass in Moscow. It was an article that ran on their national TV network.

Yablokov criticizes the Russian General Staff Chief Kolesnikov in his report that Russia only has 40,000 tons of chemical weapons in its arsenal. Yablokov in this article says that is not true. We know Russia has 100,000 tons of chemical weapons.

Mr. Speaker, this is not a Member of Congress saying this. This is not some radical journalist saying this. This is a member of Boris Yeltsin's Security Council in the Russian media telling the Russian people that the military is not being honest, that it is not 40,000 tons of chemical weapons, there are 100,000 tons. In this article he says to the military, "Tell us what you have done with the other 60,000 tons of chemical weapons. Are they hidden someplace? Have you buried them? Where are they?"

The second article, also quoting Mr. Yablokov, deals with miniature nuclear weapons. Again Mr. Yablokov questions the small nuclear weapons that are portable that Russia has, which they admit they have, that can be used in a battlefield environment.

Mr. Yablokov in this case disagrees with the Russian military leadership as to the extent and the potential impact these nuclear weapons could have in a theater of operation, let alone the damage they could cause accidentally. That article appeared, by the way, in Itar Tass, as I mentioned.

The third article appeared in English in Interface in Moscow. It deals with decontaminated nuclear submarines. Mr. Yablokov again is quoted. This time he says that as the Russian military is decommissioning its nuclear submarines, 50 of them still contain nuclear fuel that they do not know how to deal with, and that 7 to 10 of these submarines have nuclear fuel that cannot be extracted for technical reasons.

He goes on to say, and I quote, "These submarines are the source of super high danger."

Mr. Speaker, may point is simple: All of us, and certainly me, want to have a stable relationship with Russia. When I go to Russia in January, besides attending a conference on the oceans in St. Petersburg, I will be in Moscow, and I will be following up on establishing a process, a formal process, with members of the Russian Duma National Security Council for an ongoing dialogue with members of our congressional Committee on National Security.

This is an outgrowth of discussions that my good friend and colleague who I am going to yield to in a moment, DUNCAN HUNTER from California, Chairman FLOYD SPENCE and I, along with Congressman and Chairman of the Committee on Appropriations BOB LIVINGSTON, had with members of the Russian Duma defense committees for 3 hours behind closed doors last spring.

Mr. Speaker, we want stable relations with Russia. Mr. Speaker, I want Russia to succeed economically, and my actions prove that. Mr. Speaker, I want us to help the Russians solve their environmental problems, and my actions prove that.

Mr. Speaker, I am reaching out to Duma members every day. If this President, Mr. Speaker, stands up and says that we are somehow radical people who want to distort the balance between our Nation and Russia, then, Mr. Speaker, I have a problem, and I will deal with that problem very vocally and verbally because the President, or whoever would say that, would in fact not be honest with the American people.

Mr. Speaker, I rise to ask that the President seriously consider supporting the bill. The elections that occurred this past weekend in Russia showed a small, not a really significant gain, but a gain by the Communist party. They garnered 22 percent of the vote. If you couple that with Zhirinovsky's party which pulled 11 percent of the vote or 12 percent of the vote, you have seen some reactionary movements in Russia, but that should not scare us.

Mr. Speaker, we want to work with people like Yablokov, we want to work with people like Yeltsin, but we do not want to do it in a vacuum or with blinders on our eyes. We want to protect the American people, and we want to make sure that in the end the people of Russia have the same protection that we have.

What is ironic about this whole thing, Mr. Speaker, if President Clinton were to veto this defense bill because we in fact are wanting to establish a national missile defense capability, the irony is that this President wants to give one of our key allies, Israel, a national missile defense largely paid for by the American people, to protect the people of Israel, but does not want that same protection for the people of America.

Mr. Speaker, that to me is the ultimate irony. Let me say in closing, before I yield to my friends here, I am a supporter of the ARROW program. It was my friend and colleague DUNCAN HUNTER, who is here tonight, who 7, 8, 9 years ago wrote a letter to the administration and to the Israelis suggesting as their strong friends and allies that instead of pursuing a Leve technology for a Leve fighter plane that they shift to missile defense. The outgrowth that that effort is the ARROW system being developed today with Israel paying a portion of the cost and America paying a portion of the cost. Is it ironic that this President and some people that are recommending bad advice to him in threatening a veto for this bill would want to fund a defensive system for Israel but not one for the United States? It just does not make sense.

So I hope the President is listening, and I hope he heeds our warning that this is a good bill and certainly one worthy of his consideration. I will be happy to yield to my friend and colleague from California the chairman of the Procurement and Acquisition Committee who did such a great job in the process of this bill and I am sure he is going to talk about the positive aspects of the bill as they were developed by his subcommittee, DUNCAN HUNTER from California.

Mr. HUNTER. I thank my friend for yielding. First let me talk about a positive aspect of his leadership. CURT WELDON has been a person who has driven this bill with respect to missile defense and you are absolutely right that in many cases you asked and solicited as much information as you could get on the problems that the administration had with this bill. Each time they developed a problem, you sat down and tried to work it out. I think you did everything you possibly could do to meet their concerns. It is going to be tragic if the President vetoes this bill, which provides by a date certain some modicum of defense, of missile defense, for the American people which, as you further pointed out, most Americans think we already have.

So I want to salute you for your leadership because you had to work with both Members of the other body and folks from this body and some of us that wanted to do more in this bill, and the President's people, and you made a number of agreements and put a number of pieces of language to accommodate them, and for the President to veto this thing simply on the basis that he does not want to protect the American people make no sense at all. I agree with you, if he did the same thing, if he was a leader of Israel and made the same decision with respect to Israel, he would not get 10 percent of the vote in the next election. Let us hope this President does the right thing and to my friend, let me just say briefly, because I know our friend from Michigan has something to add to this discussion, also, that we have done a lot for the troops in this bill. You have mentioned the 2.4 percent pay raise, the increase in the housing allowance that we have in this bill.

□ 2230

If the troops are going to get their pay raise January 1, this is the way to do it, but, secondly, we give them some good equipment, and we have increased the number of trucks, armored personnel carriers, tanks, small arms. We have given them new weapon systems. We added a lot of ammo, all the way from basic M–16 ammunition right through to these precision guided munitions like the ones we saw operating in Desert Storm that allow you to stand off, and make strategic hits, and protect people, and keep us from having to put soft bodies into a very violent contact zone with the enemy.

So we do a lot of things to equip our soldiers, to give them a quality of life, and, you know, I served a brief, served a tour in Vietnam, did not do anything special, but I served with a lot of special people. I never read a congressional resolution, we passed a number of them now, but I always read my pay raises. If the President really wants to support the troops, the way to support the troops is to sign this bill that will give the families of all those military people who are over there in snow that is even deeper than it is in Washington, DC a little bit of value and a little bit of buying power over the next several months by giving them that 2.4-percent pay raise. Let us see President Clinton really support the troops by sending a few more bucks to their families.

So I want to thank the gentleman for everything that he has done because I think you put together an excellent missile package, one that the President can work with over the next 8 or 9 months, we can get together, we can work out some of our more detailed problems in hearings working with the other body.

We have the same concern that the Soviets have about the ABM treaty, we understand that they are still wary of the United States, but one thing that you brought out when the members of the Duma met with us was that they, too, are worried about missiles coming from Third World nations, and the real tragedy in this is going to be, if we are so—if the President is so insistent on vetoing a bill that does anything at all toward moving us to defense against missiles on the basis that he thinks in some point in the future this will violate the ABM treaty, here we have an ABM treaty that was signed by two parties, us and the Soviet Union, and yet there are many countries now like North Korea, like Libya, like Iraq which are developing missiles. So because of an agreement that we made with the Russians, we are going to allow a Third World nation to have a vulnerable target either in the United States, on the mainland or against our troops in theater, because we do not want to violate this deal we made with the Russians. The North Koreans did not sign the ABM treaty. They do not care about the ABM treaty. The Libyans did not sign it, Iraqis did not sign the ABM treaty, and when you were discussing this with your fellows and your colleagues in the Duma when they were visiting the United States Congress, I noticed you asked a question of one of them, and that was were they not also concerned with missiles coming in not from the United States, but from third nations, and they answered, yes, they were, and because of that I think—I think if the President will sign this bill, they will understand that, they will understand our problems, and they will move forward accordingly to accommodate not only the United States and the Soviet Union or the Russians in our arms negotiations, but also to accommodate the safety requirements of their own citizens against incoming missiles from other countries.

So this is a good defense bill, and lastly I just say to my friend for those who say that might tell the President we are spending too much, this bill is roughly $100 billion less in real dollars than Ronald Reagan's 1986 defense bill, and the reason it is less is because we held the line in those days, and we stood strong, we stayed strong, we funded adequate ammunition, and equipment, and readiness for our troops, and because of that we were able to bring about a peace with the Soviet Union. We achieved in the 1980's peace through strength.

This budget is about a hundred billion dollars less than those budgets, and yet I think we have done the right thing in many places in this budget, and we can maintain this peace with this defense bill, and I hope the President signs it.

Mr. WELDON of Pennsylvania. I thank my colleague for his excellent comments, and, before he leaves, I just want to enter into a brief dialog with him about the—you know we hear on the floor all the time about the state of our economy and how some of the decisions that this Congress is making are putting people out of work. And you are the chairman of the acquisition committee which oversees all the items we procure. Is it not true that, what I read in the Fortune magazine and on the pages of the Wall Street Journal, that we have lost over 600,000 manufacturing jobs in the defense industrial base because of the downsizing, and while you and I both agree, I think, that our priority is not to be a job producer, that is a secondary benefit, that our ultimate goal is to protect the American people and give our troops the best.

But you wonder why you never hear these same Members of Congress talking about the only area where we are making such draconian cuts, putting real people out of work, and what is interesting is and which still boggles my mind, most of these people that have lost their jobs are members of the UAW, the machinists' union, the electrical workers. They are all AFL–CIO workers, and where are they? They are out there looking for jobs in southern California, in Pennsylvania, because they have—and Michigan. They have no place to go, people who have lost their jobs paying $40,000 and $50,000 a year where this Government has just said, "Oh, well," and is it not true that those cuts in jobs have been caused directly by our lack of support for procurement?

And you might want to comment on how much we have procured in the way of new aircraft compared to some of our allies like some of the—even the Scandinavian countries in Europe for instance.

Mr. HUNTER. Well, the gentleman is right. Last year we purchased fewer combat aircraft than that warmaking nation in Switzerland. We had—I think we did something like 29 aircraft, and they did about 31 or 32. But the facts are that every billion dollars in economic activity expenditures on defense in manufacturing means about 25,000 to 30,000 jobs. So we have lost well over 600,000 jobs in the radical cut in defense spending that this administration has embarked upon. They have gone down roughly $129 billion under the levels that George Bush, and Colin Powell, and Dick Cheney got together and agreed upon as what they considered to be a prudent number, and now we are learning in Bosnia, and the gentleman has been a leader there, we are learning that the world may be a different world now, now that the Berlin Wall has come down. But it is still a very dangerous world.

Mr. WELDON of Pennsylvania. Is it not also true, to my colleague who chairs the acquisition subcommittee as I chair the R&D subcommittee, that you were lobbied, as I was lobbied, by the heads of each of the services who told us privately that they desperately needed additional dollars to meet the needs of their troops so that when this President, if he does, and he said this repeatedly, says and makes the claim that we are spending too much on defense, that the Pentagon did not ask for this; the only one in the Pentagon who did not ask for this is his appointee who happens to be his Secretary, but that each of those service chiefs, who are career people who are responsible and whose necks are on the line if our kids are killed and not able to respond, each of them have come to us personally, as I know I have, and I would ask you if you have had the same meetings in your office saying these cuts are way out of line, you know we are not going to be able to meet our needs.

Is that true with your role as chairman?

Mr. HUNTER. The gentleman is absolutely true, my friend is stating the fact.

Once the President makes his decision on the defense number, and in this case I think it was totally arbitrary, much less than we should spend to be prudent, and you ask the leadership, military leadership, in the series of hearings that we held, you ask them at the table what do you think about this in terms of funding, their answer is we support the President's budget. It has to be like that, and it is. But there are also good, honest, candid Americans, and later on you get to have a conversation about ammunition, about modernization, and they have every single piece of equipment that we put in this bill, the gentleman has put in and I put in this bill, and other members of our committee, because we have a very bipartisan committee, Democrats and Republicans. Everything we have put in has been put in after discussion and thorough discussion with military leadership, and you know that has all come out now in the last few days. They had an article in the Washington Post to the effect that the military leadership had gone to the Joint Chiefs and said we needed to increase spending on modernization by 50 percent. Now we spent a little over $40 billion, so that is saying here they were telling their leadership in the Clinton administration we need to spend an extra $20 billion on modernization, and yet the President's aides say that the 5, or 6, or 7 billion extra that we have spent this year is just too much, and nobody wanted it, nobody asked for it.

Well, everything we put in the bill has been asked for, and you know something? I think, as the President gets into this very serious situation in Bosnia and other situations that will come down the line in the next year, he is going to say thank God for those increases in defense.

Mr. WELDON of Pennsylvania. I yield to my friend from Michigan. I would ask him the question:

He sat through the State of the Union speech, as we did. Does he recall the President standing at this very podium, and pounding his fist on the table, and saying we will not cut defense spending any further, and in fact, if the gentleman would respond, my recollection is he said he was going to add $25 billion to defense spending.

Does the gentleman remember that?

Mr. CHRYSLER. Yes, I absolutely do.

Mr. WELDON of Pennsylvania. And what he said though unfortunately is that he is not going do that until after the next Presidential election, which it is convenient for him to make that statement after he runs for reelection.

With that I will yield to our good friend from Michigan for whatever comments he would like to make.

Mr. CHRYSLER. I would just like to rise in support of this bill and certainly encourage President Clinton to sign this bill, and I commend my friend, the gentleman from Pennsylvania [Mr. WELDON], and the gentleman from California [Mr. HUNTER] for their efforts in giving us a procurement bill, a business-type procurement bill, that can save us on the $400 billion of goods and services that this Government buys up to 20 percent, which is some $400 million, and it means no more $600 toilet seats, it means no more $200 hammers, and it helps cut down the 300,000 people that we have in this Government that work at acquiring goods and services for this Government, and one of the things, and I know I went against my chairman and my subcommittee chairman on this legislation to get it passed and to get at part of this bill, and that is why I am so interested in seeing this sign, is because one of the things that we find is that this Government is the single largest purchaser of vacuum tubes.

Now some of you might be too young to remember what vacuum tubes were, but we buy more vacuum tubes than anyone else. We do not make them in this country, but because of our procurement system we have to buy them.

Now you can get a computer chip about the size of your little fingernail that equals 3,150,000 vacuum tubes, and of course nobody that is listening wants to know what we use vacuum tubes for in this Government because we use them to keep the air traffic controller system running in this country, and we need to modernize that system. This bill will allow us to do that for the first time, and that is why I rise in such strong support of it.

Mr. WELDON of Pennsylvania. I thank the gentleman because he played a major role as one of our newer Members of this institution, hit the ground running and played a major role in pushing the agenda of acquisition reform that is going to help us save the dwindling defense dollars that we are currently spending. We appreciate your leadership. It is not often that a Member comes in here and makes that kind of a difference, and we on the defense committee—I know the gentleman from California [Mr. HUNTER] shares my feelings—appreciate the leadership of you on the Government Ops Committee who played a key role in getting this added to our defense bill.

Mr. HUNTER. If the gentleman would yield, the gentleman from Michigan [Mr. CHRYSLER] is especially valuable to us because he comes with a business background, and he understands acquisition in the real marketplace; that is, in the private marketplace, and we are going to save a lot of money because of what you did.

We still have a long way to go. We still have those 300,000 Government shoppers in the Department of Defense which is roughly 2 United States Marine Corps. We call them fighting shoppers from the sky, and we are going to be trying to build a more efficient system in terms of personnel in the next couple of years, but your work has been extraordinary, and we are going to save the taxpayers some money because of it. I thank you.

Mr. WELDON of Pennsylvania. Mr. Speaker, I thank both of my colleagues for their cooperation here and for joining me here in this special order to reiterate to the President and to our colleagues the importance of this bill becoming law. It would be a real tragedy for the American troops and for the American people if this President ignored the authorization process, ignored the acquisition reform, ignored the pay raise, the benefits in terms of housing that were outlined by my friend from California, and the advances we have made in areas like missile defense consistent with his own people in the Pentagon if we would choose to veto this legislation.

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I would say to my friends and colleagues that we will be there to respond to whatever case this President attempts to make as to why this bill should be vetoed. If it is based on the missile defense, we are going to have an out-and-out war on our hands, because it will have to be filled with untruths, because of the efforts we went to to meet the administration more than halfway in getting a bill finished that he can sign into law.

With that, I thank both of the gentlemen, I thank our staff and our distinguished Speaker, the scholarly gentleman from the deep South, from Arkansas, Mr. DICKEY, for bearing with us this time.

Mr. Speaker, I include for the RECORD the articles mentioned:

[From the Washington Post, Dec. 15, 1995]

U.N. IS SAID TO FIND RUSSIAN MARKINGS ON IRAQ-BOUND MILITARY EQUIPMENT

(By R. Jeffrey Smith)

United Nations investigators have determined that an Iraq-bound shipment of sophisticated military equipment seized by Jordanian authorities last month was built in Russia and may have been designed for use in long-range, intercontinental missiles, according to informed diplomatic sources.

The shipment, which has been valued by the United Nations at more than $25 million, was seized on a western government's tip just days before it was to be shipped to Iraq, the sources said. They said it consisted of about 100 sets of advanced guidance equipment, such as accelerometers and gyroscopes, which Iraq may have wanted to use in banned missiles capable of carrying chemical or biological warheads.

The equipment was shipped in 30 or so boxes to Jordan's capital Amman in August on flights that originated in Moscow, according to three diplomatic sources. But Washington is uncertain whether the export was secretly sanctioned by part of the Russian government or was the work of criminals who obtained the parts in Russia on the black market, officials said.

If the United Nations confirms that the equipment was meant for use in long-range missiles, it would mark the first occasion that such advanced missile technology has been exported from Russia to a country considered hostile to U.S. interests.

If the export was approved by Moscow it would be a violation of Russia's pledge to abide by the terms of the Missile Technology Control Regime, a global accord aimed at stopping the spread of missiles capable of carrying nuclear, chemical or biological warheads. It would also violate Russian promises to adhere to the global trade embargo imposed on Iraq by the U.N. Security Council after the 1991 Persian Gulf War.

If the Russian export was instead illicit, it suggests that long-standing U.S. fears that such advanced arms technology would eventually leak from Russia are finally being borne out, a U.S. official said on condition he not be named. "There is a very real . . . possibility that this was provided by black marketeers" who obtained it directly from the Russian military's stockpile of long-range missile equipment, he said.

Although the Clinton administration has not yet raised the matter directly with the Russian government, the Ministry of Foreign Affairs in Moscow issued a statement last week denying any knowledge of the shipment. "It does not belong to Russia," said a spokesman for the Russian Embassy in Washington, U.S. and U.N. officials said the denial was not credible, however, because the parts were clearly marked and recognizable.

"These are Russian-made components, definitely," one official said. The parts were designed for use in Russian long-range missiles but could be adapted for use in shorter-range missiles.

Documents obtained by the United Nations indicate that the missile parts had been ordered by the Karama research center near Baghdad, where Iraq continues to work on missiles with a range of less than 150 kilometers (about 90 miles). Such short-range missiles are allowed by the cease-fire resolutions approved by the United Nations, which sought only to prohibit arms capable of directly threatening Iraq's neighbors.

But Iraq has not claimed it was trying to buy the parts to use with such short-range missiles; it instead has sought to pin the blame for the attempted export on any overly enthusiastic Jordanian businessman who it claims tried to sell the banned parts on at least two occasions this year without ever receiving an Iraqi tender offer or negotiating contract.

"The Iraqi industrial facility refused this offer categorically, in compliance with United Nations resolutions," the Iraqi News Agency said in a written statement issued in Baghdad last week.

Iraqi Deputy Prime Minister Tariq Aziz, who is visiting the United Nations this week to seek an early lifting of the punitive trade embargo, told U.N. officials on Tuesday that the seller had been arrested by the government pending a full investigation. He also alleged that the incident had resulted from a conspiracy meant to undermine Iraqi cooperation with the United Nations.

A knowledgeable diplomatic source identified the businessman as a Palestinian from Gaza and Wiyam Abu Gharbieh, and said his company's name was listed on the shipping manifests for the equipment. "We have reason to believe the Iraqi account [of official disinterest in the parts] is inaccurate," a U.N. official said.

U.S. officials said that Iraq may have wanted to use the guidance equipment on banned medium-range missiles, which they suspect remain hidden in Iraq. Alternatively, Iraq may have wanted to stockpile the equipment until it could produce other vital long-range missile components, an effort that would require many years to complete.

U.S. intelligence officials said they are confident that any Iraqi attempt to develop, assemble and test such a missile would be detected long in advance.

"We now have tangible proof of our statement" in October that Iraq was still trying to buy sensitive missile parts from foreign suppliers, said Swedish envoy Rolf Ekeus, who chairs the U.N. Special Commission on Iraq. He added that "we don't think this [revelation] is the end of the road," because Iraq has made other such purchases or attempted purchases.

[From Krymskaya Pravda, Nov. 28, 1995]

THE THIRD WORLD [WAR]? . . .

(By Adm. E. Baltin)

MILITARY DANGER FOR RUSSIA IS A REALITY

The geopolitical consequences of the collapse of the Soviet Union have not yet been completely studied. However, their negative manifestations are already visible to everyone who has made even the briefest observations on the development of events throughout the world.

A very important peculiarity of the present international situation that has an extremely unfavorable effect on Russia's situation is the existence and reinforcement of NATO, as well as the West European Union, which, essentially speaking, represent the power "fists" of the consolidated West. We might recall the discussions that were held in Brussels after the self-disbanding of the Warsaw Pact. The topic of discussion was not only the need to transform NATO from a military-political association into a political one, but even the possibility of disbanding it has having fulfilled the goals that had been set. But the words remained words. Today NATO not only preserves the structure that used to exist, but even is intensifying and consolidating it by attracting new members into its orbit. Cover for activities of this kind is provided by programs such as the notorious "Partnership For the Sake of Peace."

Meanwhile it is absolutely clear that in its present form NATO is nothing else but a military-political anachronism that not only failed to serve the reinforcement of security in Europe, but kept undermining it. The military-power course in resolving acute international questions, the arbitrary, uncontrolled expansion of the zone of its responsibility, and the policy of "movement toward the East" are links in a single chain and they are aimed primarily against Russia.

Operation Desert Storm and the recent demonstrative punishment of the Serbs, despite the lack of similarity of their causes, nevertheless had much in common. The first and most important thing is: under United Nations cover (after the divulging of the existence of a secret treaty between NATO and the United Nations that pertains to former Yugoslavia, the essence of the interaction between these organizations does not evoke any illusions), the NATO bloc personally assumed the duties of "world policeman," maintaining order in his fiefdom, and that order is established by the "policeman" himself.

Second. The armed forces of the NATO allies obtained unprecedented experience in waging aggressive combat actions on foreign territory, with the modern methods of armed combat being applied with respect to an opponent with a Soviet organization and using what is basically our tactics and weapons.

Third. Psychologically, the armies and public opinion in the countries participating in NATO have become adapted, to a considerable degree, to the waging of aggressive combat actions on foreign territory—by means of the broad-scale propaganda campaigns concerning the "extremely precise," "intelligent," and "human" weapons, the "carpet bombings," "surgical strikes," and the "clean," "local" warfare. For professionals, the absurdity of these propaganda efforts is obvious. In the Persian Gulf, NATO pilots were definitely not fighting against Khussein's army, which had lost its combat potential, but against peaceful citizens.

And there is one more thing. The undeclared NATO war against the Serbs is already the obtaining of practical experience, the conditioning of world public opinion, and the psychological preparation of NATO soldiers for unpunished combat actions against Slavs.

Let us now examine the foreign-policy situation that Russia has found itself in today and the problems in this area that are awaiting their immediate resolution. With the collapse of the USSR, Russia, which had been occupied exclusively by its domestic problems, actually lost its previous allies and failed to acquire any new ones. As a result, its situation in the world, as well as in Europe, is extremely indefinite and shaky.

The process of crowding Russia out of its age-old geopolitical positions is continuing. All we have to recall is Ukraine, which is being drawn increasingly into NATO's embrace, and the successful activity of Turkey in the trans-Caucasus, not to mention the processes in the Baltic region. The extensive crowding out of the country from Western and Central Europe has already led to the loss of basic ports in the Baltic and Black seas, as well as communication hunger with Europe. In the south of Russia is the well blackened "arc of instability"—across the Black Sea, Chechnya, Georgia, and even across Central Asia to the border of the KNR [People's Republic of China], as well as the gradual shifting of that "arc" to the north under the flag of Islamic fundamentalism. The situation is no better in the Far East or the Asia-Pacific Region. In those areas there has been the continuing weakening of Russia's positions against the background of the unresolved nature of a number of international problems, with the growing economic and military power of China, Japan, and other close neighbors of ours.

And there are also comparisons that already are not in our favor: Europe is integrating and is consolidating its positions more and closely—in our country, with the aid of certain conceited neighbors, even such an unsteady boat as the CIS is being rocked until it is listing dangerously; the United States and other NATO members have a permanent presence in practically all the regions of the world, and we are abandoning the forward-base lines that our army and navy have had for many years in the countries not only of the far abroad, but also of the near abroad; NATO submarines, the carriers of nuclear and conventional weapons, carry out constant combat duty and patrols in the immediate proximity of our borders. By virtue of our extremely meager financing, we are not only failing to build new technology, but cannot even use that which exists. By means of the holding of "joint" maneuvers and exercises, the armed forces of the NATO countries are becoming acquainted with newer and newer theaters of military actions. In Russia, even the conducting of conventional intelligence has been left practically to drift along on its own momentum, and the intelligence services that have been reorganized and renamed many times are taking on an attributive nature . . .

There arises the completely reasonable question of the goals pursued by the United States and NATO, which expend—for the purpose of arming their armies and conducting exercises and, finally, combat operations—amounts of money that would be more than enough to provide fundamental assistance to starving Africa and to carry out the technical re-equipping of the entire post-Communist Eastern Europe. The goal of these miliary preparations is obvious: to prevent the Russia that is being reborn and its allies, assuming that such should arise sooner or later, from reconstituting a serious competition to the West that has been experiencing increasingly serious problems, despite its former prosperity.

What has been stated may seem to be improbable. Since the time of open confrontation between West and East, the world has truly changed very much. But the crux of the matter is that, despite the external illusion that has been skillfully created by Western specialist in psychological operations, the world has not become more stable or more just, but, on the contrary, has become even more dangerous and unpredictable—as a consequence of the disruption of the balance among the forces that used to constitute it and the predominance in that world of interest that are extremely remote from humanitarian ones. "We won the war, but we did not win the peace," Boris Yeltsin has said. And that is the truth.

For that category of our citizens who look at the world through the prism of a forced system of values, it seems impossible that the West can find a reason for armed interference in Russian affairs—not necessarily in Russia itself.

Now the West is deciding how much democracy is sufficient for us, and how much is not. The West is dictating the principles of the construction of the Russian economy. The West determines whether human rights are being observed in our country. So long as Russia was a strong country, "comments" such as this were called interference in internal affairs, and that was perceived completely adequately by our opponents and by the world community as a whole.

The system of double standards that has been used for so long by specialists in the area of the struggle of ideas is not new. So it is strange that we have once again been hooked by it. The world remains silent about the fact that unarmed Kurds are being killed by shells fired from tanks of governmental troops in Turkey. The passions have not yet subsided in the Ireland that is thirsting for independence, but people also are generally not being reminded of that either. For yet another year the United States is incapable of coping with the periodically arising unrest among the Negro population (of whom there are approximately 30 million in the States), a population that is demanding autonomy. And is anyone actually speaking seriously about the crudest violations of human rights in Serbian Kraina? Who has counted the number of defenseless Serbs who perished under NATO bombs, or the number of their homes that have been destroyed? Those are areas that could use the numerous commissions on human rights from the CSCE and the European parliament! But they prefer to come to our country, in order to discuss the situation in Chechnya. The West has certain criteria for judging human rights in our country, and completely different ones for itself.

Let us imagine now what might become a reality in the situation of a collision between Russian and Western interests that is completely possible in the future. An invented reason (Panama, Somali, the Balkans), the United Nations "blessing," and...

The only thing that is currently restraining the appetites of our new "friends" is the nuclear weapons that Russia continues to have. Although the West attempts constantly to put under its control the production, testing, deployment, and reduction of those weapons. With the aid of the government of the former USSR, the West partially managed to do that, and continues to this day to make such attempts.

REPARTITIONING

Everything that was formulated above is occurring during a unique period of world history. I have in mind World War III, which broke out and almost ceased rumbling before our eyes. It was not a classic "world war," but, rather, a "velvet" world war that became such by virtue of the factors that caused it and the conditions in which it occurred. For all the mootness of this kind of assertion, no one will deny that mankind has entered a new phase in its development, a phase that has exceeded all its expectations. For the third time in the present century there has been a repartitioning of the spheres of influence among the leading world powers. And the most extensive one of all those known to us.

What became physically the beginning of World War III was the destruction of the Berlin Wall. But a new classic world war—judged on the basis of its form, content, and methods of waging combat actions—did not break out simply because, first of all, the public awareness of the twentieth century was saturated by the two preceding ones, which had been the bloodiest wars that had been its misfortune to endure, and, secondly, because there was absolutely no need for the classic continuation of a policy specifically by military means. There had been an offensive, but there was no proper defense, since the opponent was so demoralized by internal upheavals that he could scarcely have been called an opponent in the usual understanding of that word.

The third world war, the "velvet" one, is being waged in other forms and by other methods. Its essence lies in the strategic-informational offensive, in which the basic role is played by the well-organized means of psychological operations. But all the unconventional, nonclassic methods of waging that war combine closely with the numerous military conflicts of small and average intensity. All of which, in their turn, are frequently engendered by the same psychological effect.

Yet another peculiarity of World War III consists in the fact that it is being waged on the territory of the Old World, chiefly Europe. At one time Iosif Stalin stated that he would be able to prevent a war on the territory of the Soviet Union. His conviction has been implemented by the pragmatic Yankees.

The results of World War III have exceeded all the expectations and everything that mankind has known up until now. In none of the classic world wars were such astonishing successes achieved with practically no bloodshed. The first such success was the achievement of NATO's political goals: the system of socialism, with what had been at one time its powerful economy and military potential, was destroyed.

But World War III is not over. The last of the elements that are inaccessible to the West is Russia, with its nuclear might. In order to eliminate that factor, our state, by means of all kinds of subterfuges, is being drawn into numerous international programs under the aegis of the United Nations, NATO OSCE, CSCE, WMF, and Council of Europe (at times one cannot get rid of the impression that those programs were invented only with this purpose in mind). Within the framework of these joint programs, Russia is being pressured into participating in international agreements that are of a political, economic, and only partially a military nature (limitation, control of limitations of weapons production and testing, etc.). Participation in such missions, which are being conducted under the noble slogans of peacekeeping activity, most-favored economic conditions, arms reduction, human-rights protection, etc., leads to a situation in which the elements that are desirable for the West are forced into Russia's domestic- and foreign-policy strategy, that is, leads to the programmed formation of our policy. Factually speaking, this is the end of the process of the destruction of the Russian state system.

Hence Russia's complete political, economic, and military dependence upon the West.

But Russia is definitely not the first country to suffer as a result of World War II. Its deplorable consequences for the Old World, for Europe, will require more time to evaluate. As a result of the geopolitical reforms that have occurred, Europe lost its face by allowing the processes occurring on its territory to get almost completely out from under its control. Europe had a direct influence on those processes before and after World War II, but currently Europe has become only a test range for the concepts of world structure that have been developed in the United States, thus having transformed its peoples into hostages of the transoceanic national interests.

At one time Adolf Hitler used to dream about ruling the world. However, for him that goal proved to be unattainable. The embodiment of the wildest of all ideas that ever existed—true, with the existence of the objective prerequisites and by means of other instruments—apparently proved to be possible several decades later by the United States. The scheme "Center of power (United States)—NATO—United Nations—. . ." still lives and, as we may be convinced, is winning. The main thing now is for the world that has been deprived on equilibrium must not slip of its fulcrum. . .

A STRONG ARMY IS A STRONG RUSSIA

The current period in the history of the Russian state is a critical one. Here has been an understanding of the changes that have occurred in the world and in the country, and the first, albeit shy, attempts are being undertaken to correct the miscalculations that have been made. This segment of time has coincided with the latest parliamentary election in Russia. It appears to be indisputable that Russia's population, which has obtained a definite amount of political experience, will make the most correct choice if one compares it with the previous ones.

I would call the broad participation of the military in the current election campaign completely natural. The military, more than anyone else, are capable of subordinating themselves to the state's interests, and of differentiating among all its misfortunes and problems. Because, unlike a large number of other politicians, serving the state is their profession. Being completely aware of the importance of the Armed Forces in the modern world and, on a daily basis when resolving exceptionally practical tasks, coming up against the objective impossibility of constructing the activities of military units according to canons that correspond to the vital needs of the state, the military are forced to go into politics. Because, essentially speaking, the struggle for the Armed Forces today is becoming a struggle for the Homeland. From what has been stated above, this must be absolutely clear.

What, then, is the Russian army and Navy today? That which we have been accustomed to calling them are only fragments—and not even the largest or the best ones—remaining from the Armed Forces of the Soviet Union. Almost everything that is the best has remained on the former forward base lines, in what are now the countries of the near abroad. The only thing that remains now is to rebuild the Russian Armed Forces.

Throughout the world the building of the armed forces is carried out by proceeding from the national interests of the state. It is necessary on that basis to create the concept of the county's national security and the military doctrine the evolves from it; the structure of the Armed Forces, the concept and long-range arms program, and the state production order for them have been determined. This is the classic scheme, and that is precisely the scheme that should be followed today when we create the Russian Armed Forces for the twenty-first century. It is also necessary to save that we inherited from the former USSR: today's shield, the guarantee of the unique, independent path of Russia's development, if such is chosen. But with the attitude of society and many state figures to the Ministry of Defense that we observe today, it is a miracle that the Armed Forces are still functioning. It must be admitted that this is thanks only to the colossal stamina of the Russian enlisted man.

Let us analyze to a certain extent how the Russian power structures and de-facto functioning today. It is a paradox when only one-third of the people who are "under arms" are subordinate to the minister of defense, and the remaining two-thirds are subordinate to other power departments. Moreover, the emphasis is made on the MVD troops, the border troops, and the creation of numerous special subdivisions. The power structure are being inflated to unprecedented proportions, but this results, first of all, in the dissipation of manpower and funds, and, secondly, there is a lowering of the army's role as a factor that cements together the state system and obedience to the law. Meanwhile, all the state power institutions are being used to create conditions for the normal functioning of the state under the ordinary conditions that prevail, and under the emergency conditions it is only the army that is capable of fulfilling this task. From what has been stated it clearly follows that at the present time we are waiving the chief benefits to the advantage of the momentary ones. How, then, can a military man who understands all of this fail to go into politics?

Before our very eyes, rather than in accordance with anyone's "command," as some people attempt to represent the situation, but, rather, by virtue of objective reasons, a new formation of Russian politicians is being born. What that formation will consist of does not raise any doubts. It should not be called the "war party" or the "military party." It is the party of patriots.

The words "military" and "patriot" have always been inseparable, because a nonpatriot cannot be a military person. And if today there are so many people in shoulder boards among those laying claim to seats in the Duma, that means that the country is truly in a desperate situation.

Currently we still have perhaps the last opportunity to hold onto our Homeland's existing defense line.

PETROV: 40,000 TONNES OF CHEMICAL WEAPONS 'ACCURATE'

(By Anatoliy Yurkin)

MOSCOW.—Russia's store of 40,000 tonnes of chemical weapons, reported by Russian General Staff chief General Mikhail Kolesnikov, is an accurate figure, commander of Russian radiation, chemical and biological protection forces Colonel-General Stanislav Petrov told ITAR–TASS.

Petrov said he was surprised by the statement of Aleksey Yablokov, a member of the Russian Academy of Sciences, intersectoral commission chairman of the Ecological Safety Council, at a parliamentary meeting today that Russia has produced a total of 100,000 tonnes of chemical weapons.

Yablokov said they must have been dumped at secret sites.

Petrov said the Russian Defence Ministry has no secrets about the chemical weapons, and sites of its storage are known to the Russian Academy of Sciences and Western experts, who had visited the storage sites under international accords.

The general said Yablokov has any possibility to contact Defence Ministry officials for information about chemical weapons.

Yablokov knows full well that Russia lacks the great funds required for disposal programmes, Petrov continued, adding that President Boris Yeltsin had issued a decree on November 6, 1995, setting up a commission on chemical weapons.

The decree opens a prospect for Russia's meeting its international commitments in the area of chemical weapons, Petrov said.

He said Yablokov undoubtedly knows that and exploits the rostrum to his ends the election race.

OFFICIAL CONFIRMS SECURITY OF MINIATURE NUCLEAR WEAPONS

(By Lyudmila Yermakova)

MOSCOW.—Russia does have miniature nuclear ammunition, but panic over possible theft of it is unfounded, the head of the Russian Defence Ministry's ecological centre, Colonel Boris Alekseyev, said in a statement today.

His statement follows warnings by Aleksey Yablokov, the intersectoral commission chairman of the Russian Environmental Safety Council, at parliamentary hearings on environmental safety.

According to Alekseyev, a minimal weight of the nuclear charges is over 90 kilogrammes, not 30–40 kilogrammes, as asserted by Yablokov.

The ammunition is stored in arch-secure settings and have a fourth-degree protection system which precludes an accidental explosion.

Only the nuclear button, which is in the hands of the Russian president, can trigger this ammunition, Alekseyev said.

The military official said a restricted number of people have access to the nuclear charges. "For this reason Yablokov might be uninformed about the details," he added.

The miniature nuclear ammunition is "one of shields for Russia's security, and this is known in the world", he said.

DECOMMISSIONED NUCLEAR SUBMARINES SAID TO POSE DANGER

MOSCOW.—Over 140 nuclear submarines have been decommissioned in Russia today, but 50 of them still contain nuclear fuel, chairman of Russian Security Council's commission for ecology and Corresponding Member of the Russian Academy of Sciences Professor Aleksey Yablokov said on Tuesday [21 November] in the Federation Council.

Nuclear fuel cannot be extracted from 7–10 submarines "for technical reasons," he said. "These submarines are the source of superhigh danger," said Yablokov.

Deputy chief of the Russian Defense Ministry's nuclear security inspection Viktor Kruglov confirmed for INTERFAX the presence of "submarines from which it is impossible to unload nuclear fuel." However, he said those submarines do not present "danger of radiation for the population or the environment."

"The Defense Ministry has recommendations on how to scrap those submarines," the spokesman said. It is necessary to determine a burial site for them and earmark money for this program.

Kruglov said that there are four disaster submarines in Russia: one in the North Fleet and three in the Pacific Fleet.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SCARBOROUGH (at the request of Mr. ARMEY) for today, on account of family matters.

Ms. ROS-LEHTINEN (at the request of Mr. ARMEY) for today, on account of a death in the family.

Mr. YATES of Florida (at the request of Mr. GEPHARDT) after 3 p.m. today, on account of personal business.

Mr. EDWARDS (at the request of Mr. GEPHARDT) for today on account of the birth of his son.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MILLER of California) to revise and extend their remarks and include extraneous material:)

Mr. OLIVER, for 5 minutes, today.

Mr. MILLER of California, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. POSHARD, for 5 minutes, today.

(The following Members (at the request of Mrs. MORELLA) to revise and extend their remarks and include extraneous material:)

Mrs. MORELLA, for 5 minutes, today.

Mr. DICKEY, for 5 minutes, on December 21.

Mr. RIGGS, for 5 minutes, today.

Mr. SHADEGG, for 5 minutes, today.

Mr. DIAZ-BALART, for 5 minutes each day, today and on December 20.

Mr. LEWIS of Kentucky, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes each day, today and on December 20.

Mr. MICA, for 5 minutes, today.

Mr. SAXTON, for 5 minutes, today.

Mr. GOODLATTE, for 5 minutes, today.

Mr. HORN, for 5 minutes, today.

Mr. MCINNIS, for 5 minutes, on December 20.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 38. Joint resolution granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 395. An act to designate the United States courthouse and Federal building to be constructed at the southeastern corner of Liberty and South Virginia Streets in Reno, Nevada, as the "Bruce R. Thompson United States Courthouse and Federal Building."

H.R. 660. An act to amend the Fair Housing Act to modify the exemption from certain familial status discrimination prohibitions granted to housing for older persons.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 369. An act to designate the Federal Courthouse in Decatur, Alabama, as the "Seybourn H. Lynne Federal Courthouse," and for other purposes.

S. 965. An act to designate the United States Courthouse for the Eastern District of Virginia in Alexandria, Virginia, as the "Albert V. Bryan United States Courthouse."

S. 1465. An act to extend au pair programs.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 660. An act to amend the Fair Housing Act to modify the exemption from certain familial status discrimination prohibitions granted to housing for older persons.

ADJOURNMENT

Mr. WELDON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 45 minutes p.m.), the House adjourned until tomorrow, Wednesday, December 20, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1848. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease of defense articles to Rwanda (Transmittal No. 05–96), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

1849. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease of defense articles to Rwanda (Transmittal No. 08–96), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

1850. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report to Congress on Brazil's status as an adherent to the Missile Technology Control Regime [MTCR], pursuant to 22 U.S.C. 2797b–1; to the Committee on International Relations.

1851. A letter from the Executive Director, Committee for Purchase from People who are Blind or Severely Disabled, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1852. A letter from the Chairman, Consumer Product Safety Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1994, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

1853. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year, if any, and the budget year provided by House Joint Resolution 122 and H.R. 2126, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–578); to the Committee on Government Reform and Oversight.

1854. A letter from the Commissioner of Social Security, Social Security Administration, transmitting the semiannual report on activities of the inspector general for the period April 1, 1995, through September 30, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Omitted from the Record of December 18, 1995]

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2689. A bill to designate the U.S. Courthouse located at 301 West Main Street in Benton, IL, as the "James L. Foreman United States Courthouse" (Rept. 104–410). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2111. A bill to designate the Social Security Administration's Western Program Service Center located at 1221 Nevin Avenue, Richmond, CA, as the "Francis J. Hagel Building"; with amendments (Rept. 104–411). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2061. A bill to designate the Federal building located at 1550 Dewey Avenue, Baker City, OR, as the "David J. Wheeler Federal Building" (Rept. 104–412). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 1718. A bill to designate the U.S. courthouse located at 197 South Main Street in Wilkes-Barre, PA, as the "Max Rosenn United States Courthouse" (Rept. 104–413). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2481. A bill to designate the Federal Triangle project under construction at 14th Street and Pennsylvania Avenue, NW, in the District of Columbia, as the "Ronald Reagan Building and International Trade Center" (Rept. 104–414). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2415. A bill to designate the U.S. Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Ysleta in El Paso, TX, as the "Timothy C. McCaghren Customs Administrative Building"; with amendments (Rept. 104–415). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2504. A bill to designate the Federal Building located at the corner of Patton Avenue and Otis Street, and the U.S. courthouse located on Otis Street, in Asheville, NC, as the "Veach-Baley Federal Complex" (Rept. 104–416). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2547. A bill to designate the U.S. courthouse located at 800 Market Street in Knoxville, TN, as the "Howard H. Baker, Jr. United States Courthouse" (Rept. 104–417). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2556. A bill to redesignate the Federal building located at 345 Middlefield Road in Menlo Park, CA, and known as the Earth Sciences and Library Building, as the "Vincent E. McKelvey Federal Building" (Rept. 104–418). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. S. 369. An act to redesignate the Federal Courthouse in Decautur, AL, as the "Seybourn H. Lynne Federal Courthouse", and for other purposes (Rept. 104–419). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. S. 965. An act to redesignate the U.S. Courthouse for the Eastern District of Virginia in Alexandria, VA, as the "Albert V. Bryan United States Courthouse" (Rept. 104–420). Referred to the House Calendar.

[Submitted December 19, 1995]

Mr. QUILLEN: Committee on Rules. House Resolution 312. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2539) to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes (Rept. 104–425). Referred to the House Calendar.

Mr. McINNIS: Committee on Rules. House Resolution 313. Resolution providing for consideration of the bill (H.R. 558) to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact (Rept. 104–426). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GILMAN:

H.R. 2808. A bill to extend authorities under the Middle East Peace Facilitation Act of 1994 until March 31, 1996, and for other purposes; to the Committee on International Relations.

By Mr. UPTON (for himself and Mr. FARR):

H.R. 2809. A bill to amend the Internal Revenue Code of 1986 to eliminate the requirement that States pay unemployment compensation on the basis of services performed by election workers; to the Committee on Ways and Means.

By Mr. FILNER:

H.R. 2810. A bill to amend the Internal Revenue Code of 1986 to provide that cafeteria plans which provide for grandfathered 401(k) plans may also provide for contributions to section 457 plans; to the Committee on Ways and Means.

By Mr. FORBES:

H.R. 2811. A bill to designate the nature preserve located at the Naval Weapons Industrial Reserve Plant in Calverton, NY, and administered by the Department of the Navy as the "Otis G. Pike Preserve"; to the Committee on National Security.

By Mr. THORNBERRY:

H.R. 2812. A bill to amend the Internal Revenue Code of 1986 to provide that the rate of tax on liquefied natural gas shall be equivalent to the rate of tax on compressed natural gas; to the Committee on Ways and Means.

By Mr. THOMAS:

H. Con. Res. 123. Concurrent resolution to provide for the provisional approval of regulations applicable to certain covered employing offices and covered employees and to be issued by the Office of Compliance before January 23, 1996; to the Committee on House Oversight, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H. Res. 311. Resolution to provide for the provisional approval of regulations applicable to the House of Representatives and employees of the House of Representatives and to be issued by the Office of Compliance before January 23, 1996; to the Committee on

House Oversight, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BURTON of Indiana (for himself, Mr. LEWIS of Kentucky, Mr. STEARNS, Mr. BARTLETT of Maryland, Mr. HAYWORTH, Mr. CHABOT, Mr. KINGSTON, Mr. HOSTETTLER, Mr. NEUMANN, Mr. HERGER, Mr. DOOLITTLE, Mr. SAM JOHNSON, Mr. ISTOOK, Mr. JONES, Mr. MYERS of Indiana, Mr. SMITH of Texas, Mr. SOUDER, Mr. MCCOLLUM, Mr. CALLAHAN, and Mr. MOORHEAD):

H. Res. 314. Resolution to amend the Rules of the House of Representatives to discourage frivolous ethics complaints; to the Committee on Rules.

By Mr. LIGHTFOOT:

H. Res. 315. Resolution calling on the people of the United States to set a place at their tables during the 1995 holiday season as a reminder of the men and women of the United States serving their country in the peacekeeping efforts for Bosnia and Herzegovina; to the Committee on Government Reform and Oversight.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 676: Mr. TORRICELLI.

H.R. 739: Mr. JONES.

H.R. 789: Mr. MINGE.

H.R. 791: Mr. JOHNSON of South Dakota.

H.R. 1050: Ms. BROWN of Florida.

H.R. 1129: Mr. EVERETT.

H.R. 1201: Mrs. LOWEY.

H.R. 1274: Mr. NADLER and Mr. JOHNSON of South Dakota.

H.R. 1484: Mr. BRYANT of Texas.

H.R. 1514: Mr. BILBRAY, Mr. INGLIS of South Carolina, Mr. CLYBURN, Mrs. CLAYTON, and Mrs. CUBIN.

H.R. 1573: Mr. RIGGS.

H.R. 1684: Mr. MASCARA, Mrs. JOHNSON of Connecticut, and Ms. FURSE.

H.R. 1794: Mr. SMITH of New Jersey and Mr. CHRISTENSEN.

H.R. 1998: Mr. HINCHEY, Mr. STUMP, and Mr. CREMEANS.

H.R. 2026: Mrs. MEYERS of Kansas, Ms. MOLINARI, Mr. BURTON of Indiana, Mr. GEKAS, Mr. MCHUGH, Mr. HANSEN, Mr. CANADY, Mr. MONTGOMERY, Mr. JONES, Mr. HEINEMAN, Mr. MANZULLO, Mr. ROYCE, Mr. KING, Mr. SAXTON, Mr. ROTH, Mr. SCHAEFER, Mr. GILLMOR, Mr. BARTLETT of Maryland, Mr. THORNBERRY, Mrs. JOHNSON of Connecticut, Mr. ROHRABACHER, Mr. BURR, Mrs. SEASTRAND, Mr. DUNCAN, Mr. PORTMAN, Mr. NORWOOD, Mr. DEAL of Georgia, Mr. FUNDERBURK, Mr. TIAHRT, Mr. BILBRAY, Mr. CAMP, Mr. CHRYSLER, Mr. THOMPSON, Mr. CALVERT, Mr. GUNDERSON, and Mr. COOLEY.

H.R. 2036: Mr. COMBEST.

H.R. 2089: Mr. LINDER and Mr. EWING.

H.R. 2200: Mr. ROGERS.

H.R. 2202: Mr. TALENT.

H.R. 2245: Mrs. CLAYTON.

H.R. 2265: Mr. BONILLA.

H.R. 2407: Mr. WAXMAN, Ms. SLAUGHTER, and Mr. SERRANO.

H.R. 2497: Mr. HUTCHINSON, Mr. MCINTOSH, Mr. CAMP, Mr. CALVERT, Mr. EHLERS, and Mr. LIVINGSTON.

H.R. 2500: Mr. STENHOLM and Mr. WHITFIELD.

H.R. 2580: Ms. SLAUGHTER.

H.R. 2599: Mr. HOEKSTRA.

H.R. 2602: Mr. SHAW, Mr. BURTON of Indiana, Mr. BILBRAY, and Mr. KING.

H.R. 2654: Ms. SLAUGHTER, Mrs. CLAYTON, and Mrs. MEEK of Florida.

H.R. 2664: Mr. ARCHER, Ms. DELAURO, Mr. SPRATT, and Mr. TORRES.

H.R. 2704: Mr. CLAY, Mr. TOWNS, Mr. MFUME, Mr. FRAZER, Mr. KLECZKA, Mr. JACKSON, Mr. SKELTON, AND Miss COLLINS of Michigan.

H.R. 2740: Mr. DUNCAN.

H.R. 2745: Mrs. MEEK of Florida, Mr. TORRES, Mr. BERMAN, Ms. RIVERS, Mr. MARKEY, Ms. ESHOO, Mr RAHALL, Mr. DELLUMS, Mr. OWENS, Mr. BECERRA, Mr. WATT of North Carolina, Mr. HASTINGS of Florida, Mr. SABO, Mr. KENNEDY of Massachusetts, Ms. WOOLSEY, Mr. MEEHAN, and Mr. KLINK.

H.R. 2769: Mr. ENSIGN and Mr. BROWNBACK.

H.R. 2778: Mr. ROGERS, Mr. EWING, Mrs. MEYERS of Kansas, Mr. GENE GREEN of Texas, Mr. SOUDER, Mrs. KELLY, Mr. HUTCHINSON, Mr. UNDERWOOD, Mr. KLECZKA, Mr. TATE, Mr. CALVERT, Mr. WATTS of Oklahoma, Mr. KOLBE, Mr. DOOLITTLE, and Mr. HAYES.

H.R. 2779: Mr. HANCOCK and Mr. COBLE.

H.R. 2785: Mr. CARDIN.

H.J. Res. 106: Mr. ANDREWS.

H.J. Res. 127: Mr. HASTINGS of Washington and Mr. LAHOOD.

H. Res. 282: Mr. HASTINGS of Florida, Mr. REED, Mr. ACKERMAN, Mr. TORRICELLI, Mr. MEEHAN, Mr. DEUTSCH, Mr. PORTER, Mr. SERRANO, Ms. MCKINNEY, Ms. WOOLSEY, Mr. FOX, Mr. BROWN of California, Mr. MCNULTY, Mr. BARRETT of Wisconsin, Mr. ZIMMER, Ms. ROYBAL-ALLARD, Mr. LANTOS, Mr. GEJDENSON, Mr. BERMAN, Mr. GUNDERSON, Mr. JOHNSTON of Florida, Mr. ENGEL, Mr. MENENDEZ, Mr. JONES, Mr. RUSH, Mr. DEFAZIO, Mr. GENE GREEN of Texas, Mr. KENNEDY of Massachusetts, Ms. FURSE, Mr. WARD, Mr. LIPINSKI, and Ms. SLAUGHTER.

EXTENSIONS OF REMARKS

TIMELY INTELLIGENCE: IMPORTANT AS EVER IN THE POST-COLD-WAR ERA

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. HYDE. Mr. Speaker, as we continue to reduce the size of our military forces and their presence overseas, it is imperative that intelligence—this Nation's early warning system—is better than ever in this post-cold-war era. As a combat veteran of World War II, I vividly remember how an intelligence failure contributed to the tragedy at Pearl Harbor in December 1941. Within the Roosevelt administration there were scattered bits of information as to what the Japanese might be contemplating. But, there was no one pulling together and analyzing them as part of a coordinated effort to furnish the President with an intelligence estimate of Japan's intentions.

Indeed, it was the painful lesson of Pearl Harbor that prompted then President Truman to establish after World War II a centralized intelligence organization. We must, therefore, resist efforts to dismantle or cripple U.S. intelligence. U.S. intelligence capabilities are critical instruments of our national power and an integral part of our national security. With that historical background, I would like to offer some observations and recommendations.

THE DOWNSIDE OF DOWNSIZING

I have been told that the downsizing of the intelligence community's work force has been especially injurious in key areas. In some agencies, these reductions have allegedly exceeded 80 percent. For example, most of the seasoned Russian military analysts, including those performing highly complex analyses on strategic missile systems, are reportedly moving on or taking early retirement while the remaining talented young analysts are looking for other job opportunities that promise more advancement. Meanwhile, the intelligence community is being tasked to address a wider range of threats and policy needs, especially in the areas of proliferation, economic competitiveness, environment, drugs, terrorism, and humanitarian relief. Currently, warning of potential regional crises and providing support to NATO and U.N. forces in the Balkans are absorbing major resources. These rapidly increasing demands do not include the day-to-day crises that consume additional collection and research resources.

The upshot is a growing concern that intelligence is being stretched to the breaking point. This could have serious implications downstream. For example, if another Russian crisis were to occur—such as Yeltsin's attack on Parliament in 1993—the intelligence community today would be less able to warn of military mobilization. Informed sources claim, until recently, analysis and collection on the deception and denial activities of potential adversaries had dropped to dangerously low levels. Purportedly, remedial action is underway. This should be a high priority, as interpreting warnings of attack will become more difficult as adversaries improve their denial and deception techniques. We must remember that U.S. intelligence's highest mission is to support U.S. policymakers in identifying and forestalling threats to U.S. interests worldwide. How to do this in an era of shrinking resources poses real risks and challenges.

The idea that intelligence can stay abreast of new technology, add new missions and still downsize its personnel at a rate of 3 to 5 percent per year is fantasy. Experienced intelligence hands say downsizing must be slowed overall and halted for high priority needs. At a minimum intelligence programs should be reinvigorated in three broad areas to minimize risks to U.S. forces and insure our ability to maintain the capability to act effectively in a major crisis. First, new investment should be dedicated to increasing access to high priority targets including Russia, China, North Korea and the rogue states of the Middle East. We must not forget that Russia and China possess strategic nuclear forces and that their long-term political orientation could turn against the United States if hostile leaders were to gain power again in these megastates. Second, a robust investment program to counter denial and deception should be built to embrace satellite, air, and ground base collection. Such a program must include dedicated analysis of, and attention to denial and deception, especially in areas of highest concern. Third, programmatic and personnel policies must be formed to ensure the brightest talent, with linguistic and cultural expertise, is devoted to the most vital issues that affect U.S. security in the long run, not just to issues of the moment.

COMPETITIVE ANALYSIS—A CARDINAL PRINCIPLE THAT MUST BE PRESERVED

In this era of restructuring, the temptation may be irresistible to eliminate perceived redundancies within the intelligence community. That may be necessary in the hardware and collection areas. But, some competitive analysis must be preserved in the analytical realm, especially in areas like strategic nuclear force analysis where threats to the United States are potentially the gravest. I know I always want a second, and in some instances even a third opinion, when it comes to questions of my health. The Nation's well being often pivots around national security issues. Thus, the President and his key advisors must have a variety of assessments presented to them before they make critical, life and death decisions. Moreover, there should be an established procedure and available resources for pursuing comprehensive challenges to mainstream opinion in any analytical area significant to national security.

COMMUNICATIONS TECHNOLOGY

The explosive pace of communication technology is posing new challenges for the intelligence community. Data is moving around the world in greater volumes and at faster speeds than ever before. Maintaining our advantage in understanding secret foreign communications will hinge upon preserving a strong and robust cryptological capability in the face of rapid technological advances. I am concerned, however, about assertions from reliable sources that adequate resources are not being committed to sustaining this capability.

DIRECTORATE OF OPERATIONS (DO)/COUNTERINTELLIGENCE

The incessant battering the CIA, and the DO in particular, is receiving in the wake of the Ames case has caused morale in the DO to plummet to an all-time low. Much of the criticism is deserved. Nevertheless, there is a real need to be sensitive to this debilitating morale problem as Congress helps the DO remedy the problems cited in the IG's report on the Ames case. I was struck by the serious lack of managerial accountability with respect to the Ames case. Thus, it is very important for the congressional intelligence committees to engage in intensive oversight of what is being done in the counterintelligence area. As far back as 1988, I can recall Dick Cheney joining me in questioning the then DCI, Judge Webster, and others on why the Soviet, Chinese, and Cuba sections of the Operations Directorate were exempted from the Counterintelligence Center scrutiny applied to other areas of the world. In retrospect, it appears that this exemption may have contributed to Ames' going undetected so long. Reportedly, this inexplicable anomaly has now been remedied.

Until recently, there did not appear to be a coordinated counterintelligence mission for the Government as a whole. Consequently, no one determined what priorities and resources should be given to each agency. I understand a national counterintelligence strategy has now been developed. If so, it should include the following: First, a system for identifying which secrets are truly critical to the national security, second, assessing those secrets' vulnerability to intelligence threats, third, mandatory cunterintelligence training for all intelligence officers, and fourth, establishing professional counterintelligence services within all appropriate agencies and departments.

It is my understanding that the DO is withdrawing to a large extent from certain parts of the world. Budgetary constraints may make this necessary, but it should be very carefully watched. We do not want to repeat the mistake of the late 1970's when the CIA withdrew its presence from key areas of the world only to find shortly thereafter that it had to be reinstated. Therefore, the DO must maintain a surge capability to ensure it can rapidly respond to unexpected emergencies. And for this to be possible, a core network of agents

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

must be sustained in those places deemed momentarily quiescent and unimportant to U.S. security interests.

Recently, there have been disturbing press accounts indicating the CIA is considering new screening criteria for recruiting foreign agents. The general impression conveyed is that henceforth future foreign assets must have the pedigree of Mother Teresa or St. Francis of Assisi. Hopefully, these are exaggerated stories. To expect someone with the moral purity of a saint to penetrate the Cali Cartel is wholly unrealistic. Unfortunately, the harsh reality is that the only way to infiltrate the tightly controlled Colombian drug networks is to recruit someone who has ties to them. The same holds true for terrorist cells. We live in an imperfect world, and we sometimes must join forces with individuals with less than pristine personal histories. After all, during World War II, we allied ourselves with Joe Stalin, one of history's all-time mass murderers, to defeat Hitler.

In an experiment that bears watching, the DI, Directorate of Intelligence, and the DO have begun to colocate their personnel. In other words, the operators and the analysts are working side by side. Given the historical antipathy between these two sharply contrasting cultures, everyone is watching to see if they can work together congenially. If they can, the overall intelligence effort should benefit immeasurably, especially in the area of counterintelligence where—as spy scandals in recent years have demonstrated—there has been a crying need for better analysis. In this partnership, it is crucial that the DI maintain rigorous objectivity to preclude charges that intelligence analysis is being politicized. This problem can only be avoided through strong agency management.

COVERT ACTION

Since the mid-1970's covert action has been seen as an atypical procedure for the conduct of foreign policy. It is imperative to rebuild the consensus within the United States that once saw covert action as a regular, legitimate means of bolstering the realization of foreign policy objectives. It must not be seen, nor used, as a last resort, panacea, or substitute for policy. Rather, covert action should be employed as a normal tool of U.S. statecraft, designed to work in support of and in conjunction with government's other diplomatic, military, and economic efforts both against traditional and nontraditional targets.

CONGRESSIONAL OVERSIGHT OF INTELLIGENCE ACTIVITIES

Congress obviously must play a very substantial role in any proposal to restructure and oversee the U.S. intelligence community. In this regard, I first introduced a joint intelligence committee bill in 1984 and a congressional oath of secrecy proposal in 1987 that was inspired by a similar oath taken by Ben Franklin and four other members on the Committee of Secret Correspondence of the Second Continental Congress. The latter has now been adopted in the House, thanks to the efforts of one of my congressional colleagues, PORTER GOSS of Florida.

What prompted these confidence building measures was a desire to make congressional oversight more secure and effective. That can only be accomplished if the membership of the congressional panels trust the intelligence agencies and vice versa. If they trust each other, then both sides can be candid with each other. As former advisor to President Eisenhower, Bryce Harlow, reportedly once said, "Trust is the coin of the realm." Leaks destroy that trust and do great damage to the whole oversight process. Moreover, they can jeopardize lives, as well as vital relationships with foreign agents and friendly intelligence services.

A joint intelligence committee, composed of a small number of key Members from both Chambers of Congress, would substantially reduce the risks of leaks. The fewer people in the loop, the less likelihood of damaging disclosures. Our forefathers clearly recognized this fact of life as they limited knowledge of Revolutionary War secrets to only five Members. Moreover, each of those individuals took his oath of secrecy very seriously. None other than Thomas Paine, the author of "Common Sense," was fired as a staffer of the Secret Correspondence Committee for leaking information concerning France's covert help to our Revolutionary War effort. We should not hesitate to emulate our forefathers and punish those who violate their secrecy pledges and betray the trust bestowed upon them.

INTELLIGENCE PURITY

Periodically during my tenure on the House Intelligence Committee, there were assertions that intelligence assessments were cooked to buttress certain foreign policy objectives. Immunizing the integrity of intelligence is of paramount importance. Thus, I am opposed to any measures that would even smack of tainting objective intelligence. In this connection, two things come to mind. First, is the proposal to abolish the CIA and fold its functions into the Department of State. That is a recipe for cooking intelligence if I ever saw one. Inevitably, there will come a time when the diplomats will pressure their intelligence colleagues down the hall to color an intelligence assessment to justify a foreign policy initiative. Moreover, the more controversial the policy, the greater the risk of politicized intelligence. Second, and related to the question of cooked intelligence, the Director of Central Intelligence [DCI] must not be viewed as essentially a political operative. Clearly, it is beneficial to the intelligence community if the DCI has the President's confidence, but he or she should not be a policy maker, as are Cabinet members. Rather, he or she should be the President's ultimate intelligence advisor. In short, there must be a firewall erected between intelligence and policy which often is driven by political considerations.

INTELLIGENCE SUPPORT TO LAW ENFORCEMENT

As chairman of the House Judiciary Committee, I am cognizant of the significant role intelligence plays in supporting law enforcement efforts. I am also very much aware of the tension that often develops between intelligence and law enforcement officials as to how and when intelligence can be used.

Protecting sources and methods is the transcendent concern of every intelligence officer. Prosecutors, however, are looking for information that can be used at trial. If security reasons preclude the use of relevant intelligence, then the prosecutor is left with something that is, at best, of marginal utility. Moreover, constitutional standards of due process and the right to confront one's accusers further complicate the relationship between the intelligence community and law enforcement.

Prosecutors are constitutionally bound, in a criminal trial, to provide all exculpatory evidence and any other evidence that might tend to diminish the government witnesses' credibility. Any information given to law enforcement by the intelligence community is subject to disclosure, for these very reasons. The Classified Information Procedures Act [CIPA] model works quite well for criminal cases countenancing the government's Hobson's choice between prosecution for criminal misdeeds and the protection of sources and methods of confidential national security information. In that context, the difficult choice is rightfully upon the government. But, in nonpunitive circumstances, such as with deportation of individuals shown through classified information to be a threat to the national security if they remain in the country, the same tension exists under current law.

How to reconcile the competing needs and concerns in a deportation matter is a real challenge and one I have attempted to address in the "Comprehensive Antiterrorism Act of 1995" (H.R. 1710). In that bill, we address the frustrating situation where the intelligence community has identified an alien as engaging in terrorist activities while in the United States, but because of the current deportation laws, we cannot expel the alien from the United States without disclosing sensitive information—which could jeopardize lives and the security of this Nation.

In response to this dilemma, a procedure has been developed whereby the alien would get only a declassified summary of the classified evidence against him. All other non-classified evidence is, of course, discoverable.

Unlike CIPA cases, when a situation exists where the provision of a summary to the alien would risk irreparable and significant harm to others, or to the United States, no summary is required and the deportation procedure of the terrorist alien can proceed. The classified evidence, without disclosure to the alien, can be utilized. Because this is not a criminal case, we allow the Government action to proceed without disclosure of the classified evidence. The liberty interests of the alien are significantly less than those of a criminal defendant, and the national security interests of the United States must be superior to the interests of any noncitizen.

In criminal cases, the defendant stands to be punished—to lose either his life or his freedom for a period of time. The result of a deportation is simply explusion from the United States—to continue one's life freely and unencumbered, elsewhere. To Americans, life outside the United States may seem oppressive, or certainly less than optimal; but, it is not punishment.

A greater tension exists, however, when the United States is faced with a classified allegation that a legal permanent resident alien is engaging in terrorist activities, and a declassified summary cannot be provided without creating larger risks of harm to others or to the United States. These aliens, as recognized by the Supreme Court, have a greater liberty interest in remaining in the United States than do other nonpermanent aliens. Thus, additional procedures to safeguard the accuracy of the outcome, and the fairness of the procedure, must be established. To that end, in our antiterrorism bill, we established a special panel of cleared attorneys who will be given access to the classified information supporting the terrorism allegation so that they can challenge the reliability of that evidence. This is done to help the court in its determination of whether it should ultimately order the alien's deportation based on the classified information. The cleared attorney would be subject to a 10-year prison term for disclosure of the classified information. Hopefully, this new procedure, when enacted, will facilitate greater sharing of classified information between our intelligence and law enforcement officials, without unduly risking disclosure of sensitive information.

In summary, the world remains a treacherous place in this post-cold-war era. The increasing threat of terrorism, especially against U.S. targets both home and abroad, is just one very important reason for maintaining a robust intelligence capability around the world. To do less ignores the lessons of Pearl Harbor, and all that implies for the security of this great nation.

THANKS TO MAYOR WILLIAM LYON

HON. JAY DICKEY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. DICKEY. Mr. Speaker, when the Government shut down the first time this year, all of us heard from our constituents about the effects upon them. Let me take this opportunity to recognize a local hero in my district who responded to the shutdown with swift professionalism.

Knowing the shutdown would affect hunters in the region by keeping them from hunting in the Felsenthal Wildlife Refuge, Mayor William Lyon of Fordyce, AR, responded with swift professionalism.

A November 18, 1995, article from the Arkansas Democrat-Gazette highlights well the work of Mayor Lyon:

TAKE A STAND NEAR FORDYCE, HUNTERS TOLD

Need a place to hunt after being tossed out of your stand on a federal wildlife refuge?

Mayor William Lyon of Fordyce has just the place for you.

Call Fordyce City Hall at 352–2198 and a friendly employee will arrange for you to hunt at one of the many deer camps operating in Dallas County. There's no charge for the service.

Lyon said Friday there are an estimated 1,000 deer camps within 50 miles of Fordyce.

"I read in the Democrat-Gazette about what they had done to those people," Lyon said of an article in Wednesday's newspaper about hunters being told to leave the federal refuges. "I thought how I would feel if I was a teen-ager going hunting with my father. I thought about how my grandsons would feel."

The partial shutdown of the federal government has resulted in the closings of seven national wildlife refuges in the state and the displacement of many hunters.

Lyon said he knows most of the people running deer camps in the county and can easily put hunters in touch with them.

It's probably going to create some problems with a lot of moving around, but we are willing to help," Lyon said. It's possible we might find some good people that would like to come back and pull some industries down here."

Joe Pennington, 55 of Fordyce leases land for his deer camp and said he mainly hunts within a five-mile radius of town.

"There's not room for a whole abundance of people," he said. "But I have some spots where I can put a few people. There are a few others that will take a few for a day or two.

"It's a goodwill gesture," Pennington said. "Most sportsmen try to get along."

"We think it's very generous what the mayor has done," said Joe Mosby, spokesman for the Arkansas Game and Fish Commission. "We're tickled to death by it."

Mosby said the closing of federal refugees will not affect the majority of hunters in the state. "But the refuges are very popular," he said. "Those hunters have a real good chance of getting a deer in the refuges."

Lyon said his offer is a result of local officials trying to build on the momentum of their successful Fall Hunting Festival, held Oct. 27. Fordyce Chamber of Commerce President Jim Philips, County Judge Troy Bradley and Lyon have been meeting to discuss ways to promote Fordyce as "the Hunting Capital of Arkansas," Lyon said.

For this effort, we congratulate and honor Mayor Lyon. Perhaps many of us in Congress can learn from his dedication and ability to ensure—despite bureaucratic obstacles—that our constituents are well-served.

MEDICARE REFORM

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. HASTERT. Mr. Speaker, the following op-ed by Pamela G. Bailey ran in the Wall Street Journal on December 19, 1995. As the debate over Medicare intensifies, I commend Ms. Bailey's op-ed to my colleagues:

SEVEN DOLLARS OF SEPARATION

(By Pamela G. Bailey)

The Medicare debate reached a new low last week, if such a thing is any longer possible, as the AFL-CIO uncorked a giant media and grassroots campaign to attack 55 House members who support the Republican on Draconian GOP "cuts" in Medicare and suggest that there is a huge difference between the Republican plan and the one supported by President Clinton.

What you would never guess from the AFL-CIO campaign is that the division between the two sides comes down to roughly $7 a month in Medicare premiums. Combined with other reforms, the higher premium for seniors proposed by Republicans will save today's average seven-year-old more than $140,000 in income taxes over the course of this working life. Congress wants to protect our children from this additional tax hit—after all, they'll already be paying $300,000 in Medicare payroll taxes over their lifetime. But the president is willing to trade these taxes on our children for a $7-per-month break for seniors.

Despite this superficial difference, the president's new budget has moved to a near embrace of the Republican position on Medicare. Like the Republicans, Mr. Clinton wants to open a failed government program to the choices of the marketplace. And with notable exceptions, his overall budget numbers are within talking distance of the GOP's. It couldn't have come a moment too soon.

As most people have heard, Medicare Part A—the mandatory, payroll-tax-funded program that pays insurance costs for retirees' hospital, home health, nursing and hospice services—is hurtling toward insolvency and effective shutdown by 2002. And costs for Medicare Part B—the voluntary insurance program that pays doctor, lab, and equipment fees out of general federal revenues and beneficiary premiums—have been rising far faster than the rate of inflation for many years. In its present form, Medicare is quite simply unsustainable, either for the taxpayers who finance it or for the elderly Americans who depend on it. Not much controversy there. And neither, despite all the political noise, is there much controversy over what to do about it.

Congress's plan to preserve Medicare and restrain its costs involves $1.65 trillion in spending over the next seven years. The president's current plan forecasts $1.68 trillion in spending during the same period—a $30 billion, or less than 2%, difference. Both proposals involve better-than-inflation increase in Medicare spending on every enrolled retiree; the Republican budget allows a 62% jump in total spending (to $7,101 per beneficiary per year), for example. And where the basic structure of the program is concerned, the White House and congressional budgets mirror one another in nearly every essential respect. Except one.

Congress spreads its necessary Medicare savings across every category of program expenditure. The Republican plan brakes projected spending growth on hospitals, doctors, home health providers, nursing homes, lab tests, and medical equipment. And it asks retirees—America's wealthiest age group—to make their own, modest contribution, in the national interest, to the program that benefits them alone. How modest? In the year 2002, at the point where the two competing Medicare proposals most sharply diverge, Congress would have beneficiaries pay a monthly Part B premium $7 higher than the administration plan envisions.

This is a very small amount of money with very large potential consequences. If the president's current veto holds, and Medicare's structure is left unreformed, its Board of Trustees reports that a steep payroll tax increase will be required to pay for future medical services. The current rate, 2.9%, shared evenly between employees and their companies, will necessarily more than double.

Today's first or second-grader, who enters the labor force in 2010 at age 22, and earns average wages until retiring in 2053, will pay $450,314 over his working lifetime in Medicare payroll taxes. And by the same accounting assuming revenues needed to keep Medicare in long-term balance, this hypothetical worker will pay over $200,000 more in lifetime payroll and income taxes under the president's plan—taxes that are unnecessary under the Medicare reform endorsed by Congress. More than two-thirds of this tax difference, or $140,691, is directly attributable to that $7 monthly Part B premium increase.

Undeterred by these undeniable facts, the AFL-CIO is sending a million pieces of mail into the districts of its 55 targeted congressmen, placing 500,000 phone calls, handing out leaflets and staging rallies—all designed to punish these elected officials for approving fictitious "massive cuts in Medicare" when they voted for the Republican budget. The labor federation has spent more than $1 million to put individualized television ads on the air against 22 of these House members. Each spot, over video of a worried elderly woman, ominously (and dishonestly) reports that "he voted to cut Medicare." But no one has voted to cut Medicare this year.

With a provision entirely unrelated to the push for a balanced budget—this treasured program must be fixed and saved whether the budget is balanced or not—Congress has voted to spare the grandchildren of current and future Medicare beneficiaries enough money in taxes to pay for four expensive years of college, or purchase a first home. Is there a grandparent in America who would not pay $7 a month for that?

Find me one, and I'll eat my hat.

MR. STUDDS IS LEAVING CONGRESS

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. BEILENSON. Mr. Speaker, the decision of the gentleman form Massachusetts [Mr. STUDDS] not to seek re-election next year saddened and distressed many of his colleagues. His announcement means that this body will lose one of our very best, and most capable, Members.

Mr. STUDDS made his decision public at his open meeting at the Old Whaling Church at Edgartown, MA. I was greatly moved by his words of farewell to the people of his district, and I should like others to have the opportunity to read those words.

No one, Mr. Speaker, can read the gentleman's remarks and not appreciate how special and valuable a really good Member of Congress is.

No one can read the gentleman's remarks and not gain some insight into the best of this Congress, and the best of our constituents.

No one can read the gentleman's remarks and not gain some understanding of the close and healthy relationship that develops between Members of Congress and their constituents when there is the kind of trust and mutual respect that has clearly developed between the gentleman and the people he has represented so well these past 23 years.

I urge my colleagues and others to read these wise and humane words of a Member of Congress of great magnanimity and decency.

REMARKS OF CONGRESSMAN GERRY E. STUDDS AT OLD WHALING CHURCH, EDGARTOWN, MA

Good morning. From the warmth of your welcome, I can only conclude that you've forgotten where I work.

Those of you who have been to our Open Meetings in the past already know that these are totally informal settings in which the only rule is that there are no rules. In the unlikely event that this is your first, perhaps you can ask your parents—or grandparents—since we've hosted well over a thousand in the last 23 years. In fact, our very first Open Meeting was right here on Martha's Vineyard, during my initial visit home after taking office in 1973.

I want to test your patience by amending the second rule that has always governed these meetings—the one that forbids me from speechifying. We'll get on with the Open Meeting in a moment, but first: I learned in Politics 101 always to show up prepared to make news.

There's no reason for melodrama. You must have suspected there was some reason that, after 23 years of these gatherings, we finally offered coffee and donuts.

Throughout my tenure representing this District, we have enjoyed a remarkable rapport that is based on one fundamental principle: mutual respect. We have looked each other in the eye, and talked directly and civilly about matters of importance. Over time, that trust has been more important than any single vote or issue or campaign.

That is why I want to take some time this morning to talk with you about why I have decided that this will be my last term in the United States Congress.

It will be my privilege to continue to represent this District vigorously for the next 14 months. Then I will move on to other fields of battle.

When this news spreads, I suspect some will ascribe it to the results of last November's elections—although it is a little unclear why we ought to be dissatisfied with 69 percent of the 1994 vote.

It's true that I have less than unbridled enthusiasm for the wrecking ball of the 104th Congress, and that I am as deeply troubled by the direction we're heading as when I first had the then-original idea of challenging an entrenched incumbent. But the basis for my decision goes much deeper.

Every two years, I have considered afresh whether I could summon the energy and enthusiasm to give the people of this District the kind of effective representation you deserve. Contrary to conventional political wisdom—since we have rarely observed political convention—I have always been entirely open and candid about these reassessments.

To everything, as the Biblical verse goes, there is a season—a time to plant and a time to harvest.

It is now time for me to chart a new course: by no means to retire, but to find new endeavors, both public and private, that will allow more than an occasional weekend or evening to catch up on thing neglected for a quarter century, like reading and writing and actually using my tide chart; to be a better partner, brother, uncle and friend; and to be a useful human being in new ways that the demands of elective office have precluded for most of my adult life.

There are few jobs on the fact of this earth which offer as much to, and require as much from, the right person. The work of a Congressman, if done properly, is all-consuming. If it does not take every ounce of strength—intellectual, emotional and physical—then it probably isn't being done right.

That's why our renowned grassroots army has endured even in the age of overpriced media campaigns; and why, year in and year out, after successive late-night Congressional sessions, we'd barnstorm the District for weekends of constituent meetings squeezed between field hearings, issue forums, plant tours, testimonials, press interviews and political events.

Perhaps that is what John Randolph, who preceded even me as a Member of Congress, was thinking two centuries ago when he said that "Time is at once the most valuable and the most perishable of all our possessions."

Since embarking on this improbable journey, I have been very conscious that each of us is allotted only so many hours and so many days on this earth.

Together, we have worked our hearts out; together, we have overcome odds and obstacles that would have discouraged most others; and together, you and I have strived to make many things better than we found them.

I never anticipated serving for 24 years, and it's probably divulging no great secret to admit that I do not thrive on what some consider indispensable parts of the job.

I am not by nature a particularly gregarious person. I get annoyed by frequent interruptions. I get tired of hearing myself talk.

And there are already far too many people in Washington who confuse themselves with the monuments.

In recent years, some of my political opponents have wondered—that's a polite way to put it—about a bill I apparently authored early on to limit the years of Congressional service. I've tried for several years to explain to them that, because term limits are such a good idea, I'd better stick around as long as it takes to see them enacted into law.

So I suppose, with the new majority in the House and Senate, I can now rest easy on that front. In fact, perhaps we should limit Members of Congress to a single term. That way, the freshman Republicans can go home still knowing everything.

Last November, the American people, or at least the few who voted, sent those freshmen to Washington.

Hard-working taxpayers—and not just "angry" white males'—feel their government is more responsive to 'special interests' than to the real problems of ordinary Americans—which was the very reason I first ran for Congress.

Of course, the special interests I ran against are the ones the Republicans have put back in charge. When the House earlier this year gutted the Clean Water Act, the bill was drafted by the very industries it was supposed to regulate. The NRA and the Christian Coalition are riding high, and the House is so efficient that we frequently hold committee hearings after enacting bills into law.

One of my committees this month managed to dismantle Medicare in 48 hours. Jesse Helms and Strom Thurmond have been transformed from fringe caricatures into committee chairmen.

The changes underway at this moment in Washington are based on the dangerous misperception of this country and its people. Perhaps you heard one Republican Congressman say this week that the proposed $500-per-child tax credit to families earning up to $200,000 was not a tax cut for the rich.

They're not rich, he said, they're lower-middle-class. He went on the define "middle-class" as an annual salary of $300,000 to $750,000, and anyone above that as "upper-middle class".

When the time comes, I will join you in doing what I can to require our next Congressman to be more tightly tethered than that to the planet the rest of us inhabit.

A great deal has happened since 1992, when I came very close to the decision I'm announcing today.

We had barely escaped alive from the previous, unusually vitriolic campaign, only to be greeted that summer by the chain-saw of Congressional redistricting. The new lines removed a third of the electorate, and half of the Democrats, by amputating our New Bedford family from this District for the first time since the founding of the Republic.

Suddenly we faced a tough primary, seven weeks away, in a substantially new District—as the price of admission to a hotly contested general election.

Had it not been for the prospect of a young presidential candidate named Clinton, working with a Democratic Congress and a new Committee Chairman named Studds, I would probably be sitting with you in the audience today.

But that constellation seemed so well aligned—and the opportunity to make a real difference so clear—that Dean and I committed ourselves to yet another all-out reelection campaign and, if successful, to work through the first term of a Clinton Presidency.

I envisioned two years to launch the Merchant Marine and Fisheries Committee on an aggressive new course and two more to work with the Administration to complete that agenda, before returning home.

One out of two isn't bad.

Still, while I have deep—nearly unfathomable—reservations about the direction the new Congressional majority is pulling this nation, my decision is at its core personal, not political.

I chose to discuss my plans here on Martha's Vineyard because, in a way, this is where that special trust I mentioned earlier began—in that first Open Meeting in 1973.

This is how you and I have always done our business—together, without fanfare, taking time to ask and explain and maybe even argue a little, and then rolling up our sleeves to get back to work.

That first trip home was a three-day swing through the Islands. In case your grandparents failed to mention it, we returned home that winter day feeling pretty good. In losing the 1970 election by the thinnest of margins, we have failed to carry a single town on either Nantucket or the Vineyard; in fact, we have won a total of one town in all of the Cape and Islands.

Then came the electoral earthquake of 1972. Not only did we win, again by a handful of votes, but we astonished everyone by taking Provincetown, Truro and West Tisbury!

I think it's fair to observe that times have changed.

What has not changed are the bedrock principles of wisdom, honesty and friendship on this Island, personified for me by two people who are not with us today: Betty Bryant, who could drown you in Portuguese guilt if you spent less than 20 of any 24 hours improving the lives of others—because she never had such days; and Gratia Harrington, proud Yankee daughter of an Island sea captain, whose strength, dignity and wit reserved her a front-row-center seat at every one of our Vineyard Open Meetings, well past her 100th birthday.

As everyone here knows, Betty took personal responsibility for our showing at the polls on the Vineyard and everywhere else. On the night of the 1992 primary, she collared me to report that we had won in Gosnold by 33–0 and in Chilmark by 251–2—and that she had already identified the misguided Chilmark couple.

Both Betty and Gratia would understand the reason I brought my news to this Island today, just as I will bring it to friends in Quincy, Hingham and Hyannis tomorrow: that by ever measure—geographical, historical, commercial, cultural and spiritual—this Congressional District is about the sea.

From the Irish moss I gathered off Cohasset and Scituate ledges as a boy and the lobster traps I pull these days in Provincetown Harbor, to the marine environmental notches on our proud legislative belt, nearly everything of consequence that you and I care about derives from a deep love and respect for the ocean.

If you visit the Race Point visitors center in the Cap Cod National Seashore, you may hear a recitation of these words from Harry Kemp, poet-laureate of the Cape:

There is battle here.
There is clean and vigorous war.
There are bivouacs visited by night's every star.
There are long barren slopes of enchantment burned clean by the sun, and
ramparts of strange new dreams to be stormed and won.
Here the five-petaled wild rose blossoms more sweet
Because the earth is barren
and the heat intolerable for lush domestic grass.
The ocean shines like many discs of brass,
Or between white hollows it lapses great and green
Where solitude sifts slowly in between
the hills of sparkling waste that rise and fall.
Hills whose one music is the seabird's call.
And there is all space that ever I can see.
The ocean completing all immensity,
and the sky—mother of infinity,
Where greatness on smallness jostles till both are one,
And a grain of sand stands doorkeeper to the sun.

Not everyone, however, shares our devotion to salt water.

You may have noticed, for example, that the new majority has not only eliminated the Congressional Committee that makes oceans policy, but also targeted the federal agency that administers it.

The kind of "reform" will undermine everything from Pacific tsunami warnings to the million-dollar-a-year whale-watching industry on Stellwagen Bank. And just think—a lot of the damage was done in a legislative vehicle called Reconciliation.

But we are not new to changes in the political tides. You and I know a little something about real reform. In 1970, we took on a Republican supporter of the Vietnam War in a District that had never before elected a Democrat to Congress—assembling a textbook grassroots campaign, before there even was a textbook for these things.

The stakes were so high, the commitment so deep and the coffers so empty that, by election day, we had 60 people working full-time on an entirely volunteer basis, directing our organization in every community in this District—often reaching down to the ward and block level.

My mother converted our modest home into a 24-hour staff hotel, restaurant and laundromat. For countless weekends, my sister Gaynor commuted from Buffalo to campaign in New Bedford supermarkets with my brother Colin, who carried a card, in Portuguese, saying "Eu sou o seu irmao"—"I am his brother."

My dad, a talented architect who kept his Republican roots very private, was working entire function rooms by the end of that race. One of my few regrets is that he was no longer with us by the time I was elected.

Dad was with us as we waited—and waited, until the afternoon following the election—for the Hingham totals, only to learn that we had fallen short by a half of one percent of the District-wide vote.

After a few hours of sleep, we started right back in. Two years later, after re-living our all-night vigil for Hingham's final count, ours was again the second closest race in the nation. This time we had prevailed.

That spring, when the House voted 202-202 to defeat an amendment on Vietnam War funding, every single person who had stuffed an envelope, held a sign, or contributed a dollar knew their work was helping to keep youngsters from Weymouth or Falmouth or New Bedford out of harm's way.

Since the original thrust for our candidacy was the appalling lack of official candor about Vietnam, it seemed self-evident that a Representative should actually engage his constituency in an ongoing dialogue about things that matter.

We pioneered the idea of weekly reports on every vote and twice-a-year Open Meetings in each of our four-dozen communities. For the first time in its history, we opened offices in *each* of the three regions of the District; in fact, we now have four.

Since you can do only so much well, we chose our battles carefully and developed expertise to carve out a national leadership role in coastal and marine issues. The philosophy has always been to stress the practical over the purely rhetorical or partisan, so our work would relate directly to the lives people lead, the places we work and the schools we attend.

And we somehow got by without poll-driven, consultant-crafted sound-bites.

As disorienting as Washington can be, there is no way you would ever let me drift too far off course. All it takes is a stroll through Quincy neighborhoods like Squantum or Hough's Neck, where people understand the *real* meaning of roots and family values.

And not too long ago, I came from Washington to Vineyard Haven in order to tour a marine pump-out facility—that's sort of a politically correct porta-potty on the water. The event was ripe for pretentious pomp, since the project was funded under a law I had written. Leave it to Jay Wilbur, the town harbormaster to flash a half-smile while pointing to the vessel's name: the PU-E-2.

Then there was the elderly gentleman who rose after a particularly lively Open Meeting in Harwich, pointed his finger at me and said: "Young man, I disagree with everything you just said, and I want you to know I intend to support you as long as I live!"

I wasn't quite sure what to make of that comment until coming across—of all things—the words of a Republican. Theodore Roosevelt wrote that "the most practical kind of politics is the politics of decency".

You don't hear him quoted too often these days on the House floor or on the campaign trail.

I still subscribe to the notion that public discourse and political campaigns are supposed to help articulate and illuminate matters of importance so citizens can make intelligent decisions in their lives and at the polls.

Many of our political adversaries over the years have agreed, which is the source of our longstanding tradition of challenging *them* to debate the issues. In one memorable campaign, my opponent and I had so many debates—13 in all—that we joked that we knew each other's positions so thoroughly we could just as well trade places.

It is increasingly difficult today to imagine sharing a laugh, a constructive exchange, or anything else remotely genuine with a political opponent. Attack, distortion and demagoguery are now the tools of the trade.

In this era of pandering, pontificating and potential third parties, it occurs to me that the rationale for our first candidacy remains hauntingly relevant. As I said in announcing our 1972 candidacy:

"The people of this District—like the people of this country—are far ahead of the politicians who are supposed to represent and lead them.

"The basic assumption seems to be that we, the American people, are too stupid to know and too heartless to care what our country is doing and what it is leaving undone. They count on our being too apathetic to insist that our government represent the best that is in each one of us, rather than pander to the worst. They think we will accept conventional politicians playing the cowardly game of conventional politics.

"There is a hunger in this country. It is a hunger for leadership—for candor, for courage, and for compassion. It is a hunger for leaders whose vision extends further forward than the next election and whose memories go further back than the last."

If working with six Presidents has taught me anything about leadership, it is that the world is not divided into good guys and bad guys. Human nature is not that simple.

We all have the capacity for insecurity, prejudice and fear. It is to this darker side that the demagogue plays.

Each of us can also evince strength, tolerance and compassion, and it is on these "better angels of our nature" that the leader calls.

I am making my decision public today, more than a year before the next election, to ensure plenty of time for voters and—brace yourselves—potential candidates to assess its consequences.

At the same time, I want to underscore my commitment to our full plate of issues for the coming year.

When I see assaults on education, child nutrition and Medicaid; plans to revive Star Wars, build B-2 Bombers and legalize corporate raids on employee pension funds; and "reforms" that increase taxes only on people with annual incomes under $30,000; you can be assured that my voice will be as strong as ever.

I will continue to affirm our highest priorities—restoring shipbuilding to the Quincy Shipyard and cleaning up toxic pollution at the Massachusetts Military Reservation.

I will give special attention—as a Member of Congress, and then as a private citizen—to realizing our dream of making the Boston Harbor Islands a national park.

And as one who marched 30 years ago with Dr. King from Selma to Montgomery, I will advance, in every way I can, the cause of civil rights for all Americans—black and white, gay and straight.

When confronted each day by life's crises, there are always two basic responses—despair or determination. Despair sometimes seems more logical, but determination is far more productive and far better for the soul.

Many of my colleagues were shocked when, nearly ten years ago, I sent a copy of Surgeon General Koop's Report on AIDS to every household in this District. (That, incidentally would be moot today; aside from curtailing use of the Congressional frank, the House recently voted to abolish altogether the position of Surgeon General.)

I did so because 20,000 American—including 800 Massachusetts residents—had already died from the epidemic. President Reagan had yet to even utter the name of the disease, and Dr. Koop was told to let his lifesaving information gather dust on a warehouse shelf.

Too many people in my own life have been touched by HIV. For Dean and me, there are periods of time when our most common social gatherings are funerals of friends who have died far too young.

The concerns of the gay community, like those of a Congressman who happens to be gay, are far broader than AIDS. To me, however, it is impossible to look back at the last quarter-century, or ahead to the next, without considering why this public health emergency has been handled so negligently.

My colleagues called the District-wide mailing political suicide—until I started sharing the overwhelming response. What you told me was, "What took so long?"

This constituency has always had a keen understanding that actions in Washington have consequences at home—that if you gut environmental protections, you can smell and taste dirty air and water in Plymouth and Yarmouth; that if you decimate education programs, kids in Brockton and Wellfleet may never be able to afford college; that if you are too timid, too closeted or too bigoted to confront a public health epidemic, you could pull the plug on AIDS housing in Provincetown and Marshfield.

At one Open Meeting in New Bedford, one young man got up, visibly shaking. He said that his wife had lost her job and that he was scared to death of losing his own: "You've got to do something," he said. "I've got kids. How am I going to stand it?"

Apologizing for taking too much time, he then added that he wanted to leave me with a letter. It wasn't until later that I read It—an impassioned plea to stop U.S. involvement in El Salvador.

It was a demonstration, reflected over and over across this Congressional District, of people's capacity not simply to experience their own pain, but to reach out and see beyond it.

I'll never forget the words of the Mayor of Cordova, Alaska, at a Congressional hearing on the oil spill in Prince William Sound. He told members of the Subcommittee that the two most beautiful places in the world were his home—and each of ours. "Whatever you do," he said, "go back and never let what happened here occur where you're from."

This District is a microcosm of the nation—rich in human resources and rich in human problems. We are cities and suburbs, countryside and islands—and we are a living reminder of the origins of us all, with a substantial and continuing immigration of new Americans, whether they arrive speaking Portuguese or Vietnamese.

Never has an elected representative been so blessed by the beauty of his District and by the decency and common sense of his constituents. You have stood with me in times of triumph and in times of extraordinary personal challenge. For that I am profoundly grateful.

In turn, you and I both owe another debt of thanks to a small number of remarkable people whose labor, by definition, goes unnoticed and unheralded. The truth, however, is that so very much of the real work is done by—and the real credit for the considerable success we have enjoyed belongs to—the members of my staff.

I could not name a single accomplishment over the last two decades that would have come to fruition without the competence, creativity and sweat of these dedicated individuals. They are devoted public servants, who spend inhuman numbers of hours to see that the potential of this region is realized in the federal arena. These are my friends and my colleagues, whom it has been a privilege to work beside. They have meant more to the cities and towns of this District than will ever be fully acknowledged.

As I gathered my thoughts to chat with you today. I though a lot about an Island resident who taught many of us about things of lasting value, Henry Beetle Hough. Because my favorite of his book was "Tuesday Will Be Different," I would always ask him whether he was really sure the next one would be different.

As if this surprises anyone, Henry now gets the last word. For me at least, the first Tuesday of November 1996 will be very different indeed.

For the privilege of being allowed to speak and vote in your name—for the last 23 years and over the next 14 months—I thank you with all my heart.

GEORGIA MEDICARE ADVISORY GROUP, SENIOR CITIZEN TASK FORCE REPORT FINDINGS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. GINGRICH. Mr. Speaker, in the Sixth District of Georgia, we formed a Medicare Advisory Group and a Senior Citizens Task Force to help make policy recommendations to preserve the Medicare Program. Part of the learning process for us was developing a Communications Team that went out to the people of the Sixth District and asked for their ideas based on first-hand experiences. Our findings were not surprising, but were different from what we had heard from those who had initiated a scare campaign against seniors.

The truth was that when the public knew the facts, they overwhelmingly supported Republican efforts to reform Medicare. One finding that you will not hear the scare tacticians using is that 79 percent of those we asked believe that seniors should have greater choices in health care. Compare the findings which the Communications Team presented to me on July 9, 1995, with our Medicare Preservation Act of 1995, and you will see that our plan reflects the beliefs of a majority of those we polled.

I am submitting for the CONGRESSIONAL RECORD the findings of the Report that I believe represent what my colleagues are hearing all over the Nation.

MEDICARE ADVISORY GROUP AND SENIOR CITIZEN TASK FORCE COMMUNICATIONS TEAM SUMMARY REPORT

In July 1995 Congressman Newt Gingrich appointed a group of citizens to The Georgia Sixth District Medicare Advisory Group and Senior Citizens Task Force. The purpose of the group was to obtain grass roots input and feedback on issues related to strengthening and improving Medicare, thereby allowing the citizenry to be actively involved in upcoming legislation related to Medicare.

The group was composed of thirty-eight constituents, consisting of the following:

1. Senior citizens;
2. Doctors, nurses and other health care providers with experience in dealing with Medicare and with senior citizens;
3. Senior service experts, particularly directors or representatives of community-based programs, such as senior service centers;
4. Government officials familiar with the current Medicare program;
5. Representatives from private industries who could provide knowledge regarding medical costs or novel solutions, particularly employing innovative technology; and
6. Volunteers and advocates for senior citizens.

The entire group met with Congressman Gingrich on four occasions, to ask questions and to provide feedback to him. Following their initial meeting with Congressman Gingrich, it was decided by the group members that they would divide into four working groups, which would meet separately, to tackle the four areas they considered most vital. These were: Medicare Fraud, Medical Technology, Alternatives to Medicare, and Communication. Each group reviewed information and sought input from citizens throughout the district, prior to producing and submitting its final report to Congressman Gingrich on September 9, 1995.

The Communication working group was made up of 12 members, 6 of whom were senior citizens. The group was chaired by Laura Linn, a registered nurse currently employed as a clinical specialist.

The group developed a questionnaire, which they administered to 565 seniors throughout the Sixth District. In order to collect data, several senior centers throughout the Sixth District were visited. In addition to administering the questionnaire, the group also made available a letter from Congressman Gingrich and a Contract with Seniors. Those materials, along with results of the questionnaire, are included with this report.

An analysis of the questionnaire results reveal the following:

a) More than 75% of those questioned knew that Medicare was going bankrupt;

b) More than 75% were very concerned about Medicare going bankrupt, and more than 93% thought that Congress should take steps to save Medicare;

c) In terms of the changes that should be made, 67.8% said that some changes should be made but that the program should be preserved, while 11.2% wanted a complete redesign. Only 10% thought that there should be no changes in the current program;

d) While 48% preferred getting a Medicare policy directly from the government, 15% would approve of a voucher or check to purchase private insurance and nearly 37% were undecided;

e) More than half favored reduction in payments to hospitals and doctors and thought that seniors should receive incentives for identifying fraud;

f) Personally 77.2% would be willing to check their bills for fraud and abuse, 53.5% would be willing to engage in preventive and educational programs to stay healthy, and 47.5% would be willing to engage in cost-pricing to locate the most economical, quality provider;

g) Nearly 75% thought that fraud and abuse is a serious problem that needs to be addressed when Congress reforms Medicare, while 52.7% thought that lack of incentives for finding affordable care is a serious problem in the current system;

h) While 16% claim that they always shop for economical treatment, 55% said that they would if there were incentives for doing so;

i) Seventy-nine percent of respondents believe that senior citizens should have greater choice in their medical care programs, assuming that Medicare would be one of those choices.

The Communications group presented these findings to Congressman Newt Gingrich on July 9, 1995. Reports from the Medicare Fraud, Medical Technology and Alternatives to Medicare groups were also presented at that time. All information was reviewed by health care policy staff and considered in the drafting of subsequent Medicare legislation.

A Contract With Our Seniors to Save, Strengthen and Preserve Medicare

1. The Clinton administration's trustee's report warns the Medicare Trust Fund starts to go broke next year. The Program is Bankrupt by 2002.

2. The House Republicans will save, strengthen, and preserve Medicare through new technologies, new management and new approaches.

3. Medicare is growing at 10.5% a year, more than twice the rate of private health care spending. We can make Medicare solvent by slowing the rate of growth.

4. We will increase Medicare spending over 7 years from $4,800 per beneficiary today to $6,700 in 2002.

5. Medicare and Medicaid are government-run health care programs filled with waste and fraud—tens of billions a year (GAO). We'll crack down on this waste.

6. And we'll empower seniors to fight waste and fraud if we pay them a share of any waste they find in their own bills.

7. We will preserve the current Medicare system for those who want it.

8. We will engage in a dialogue with seniors since we believe the best ideas come from the Grass Roots.

9. Together we can create a system that offers the best care at the lowest cost with seniors having the greatest control over their own health care.

Together We Will Strengthen Medicare so it Can Be Saved and Preserved

SAVING, STRENGTHENING & PRESERVING MEDICARE: A QUESTIONNAIRE FOR SENIORS; (N=565)

Gender of Sample=35.8% Male; 45.3% Female; 18.9% No response.

1. Did you know that President Clinton's Board of Trustees reported that Medicare will be bankrupt by the year 2002?

A. Yes 75.9%
B. No 19.6%
No response 4.4%

2. How concerned are you about Medicare going bankrupt?

A. Very concerned 75.2%
B. Somewhat concerned 13.5%
C. Not concerned at all 3.5%
D. Undecided 4.2%
No response 3.5%

3. Do you think that Congress should try to save Medicare?

A. Yes 93.1%
B. No 1.2%
C. Undecided 2.8%
No response 2.8%

4. Do you think that Congress should (check one):

A. Completely redesign Medicare 11.2%

B. Make some changes in Medicare but preserve the program 67.8%

C. Leave Medicare alone, even though it is going broke 10.1%

D. Undecided 5.3%
No response 5.5%

5. Would you prefer to (check one):

A. Get a Medicare policy directly from the government 48.3%

B. Receive a check or voucher to purchase private insurance 15%

C. Undecided 28.5%
No response 8.1%

6. In order to save Medicare, which of the following would you favor (check all that apply):

A. Have wealthy senior citizens pay a higher premium 37%

B. Reduce payments to physicians and hospitals for care they provide 50.4%

C. Provide incentives for seniors to join managed health care plans 24.4%

D. Provide seniors with incentives for locating fraud and abuse in their bills 59.1%

E. Raise the premiums for all Medicare recipients 15.4%

F. Raise payroll taxes 9.6%
G. Reduce benefits offered to seniors 5.7%

H. Raise the age of Medicare eligibility from 65 to 67 beginning in the year 2000. 34.5%

7. In order to save Medicare would you personally be willing to (check all that apply):

A. Check your bill for fraud and abuse 77.2%

B. Engage in preventive or educational programs to learn how to stay healthy 53.5%

C. Engage in cost-pricing to locate the most economical, quality provider 47.5%

D. Pay more money in terms of higher taxes or premiums 11%

8. As Congress looks at improving Medicare, what do you think are serious problems that ought to be addressed (check all that apply):

A. Excessive amounts of paperwork 62.8%

B. Inability to understand rules/regulations 43.7%

C. Fraud and abuse 74.3%

D. Lack of incentives for seniors to locate affordable care 52.7%

E. Issues related to long-term care 52.7%

9. Do you ordinarily check your Medicare bills for accuracy?

A. Yes 77.9%
B. No 11.3%
No response 10.8%

10. How often do you find out the cost of Medicare procedures prior to having them done?

A. Always 19.3%
B. Usually 21.4%
C. Occasionally 20.5%
D. Never 25.7%
No response 13.1%

11. How often do you shop for more economical treatment of comparable quality?

A. Always 16.6%
B. Usually 16.5%
C. Occasionally 17.5%
D. Never 34.3%
No response 15%

12. If you were rewarded monetarily for finding more affordable treatment of comparable quality, would you?

A. Yes 55%
B. No 11.5%
C. Undecided 19.8%
No response 13.6%

13. Have you ever suspected fraud or abuse on your Medicare bills?

A. Yes 38.5%
B. No 48.5%
No response 12.6%

14. If you find instances of billing errors on Medicare bills, do you do anything to rectify the situation? (If so, give details and the usual outcome)

A. Always 31.9%
B. Usually 14%
C. Occasionally 10.1%
D. Never 12.4%
E. Not applicable 16.5%
No response 15.6%

15. Would you try to locate and report instances of fraud and abuse on your Medicare bills, if there was a financial incentive for doing so?

A. Yes 72%
B. No 6.9%
C. Undecided 9%
No response 12%

16. Do you think that senior citizens should have greater choice in their medical care programs, assuming that Medicare is one of the choices?

A. Yes 79.5%
B. No 4.2%
C. Undecided 7.8%
No response 8.5%

17. What are your major concerns regarding health care?

18. If you could tell Newt one thing about saving Medicare what would that be?

KILDEE HONORS LOCAL SCHOOL BOARDS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. KILDEE. Mr. Speaker, in January, 1996 we will be celebrating national School Board Recognition Month in this country. In honor of this occasion I rise today to pay tribute to the contributions local school boards make to our education system.

As a nation we place a high premium on the benefits to be gained from pursuing educational goals. Local school board members are elected by the community to ensure that everyone is given the opportunity for self-improvement through education. School boards seek community input and involvement in the education process. They are the liaison between the community and our schools. The members of school boards have accepted the responsibility of shaping the education of future generations and thereby the future of our Nation. School boards must assess the needs of their communities and provide the learning opportunities to meet these demands. They play a vital role in safeguarding students and schools.

The theme for 1996 is "Uniting Communities through Public Education". This spotlights the role local school boards have in bringing together persons from all walks of life. They help unite us into one nation. Through the dedication of local school boards, all Americans can learn and work together. School board members speak for all schoolchildren regardless of their background or goals.

Mr. Speaker, I ask that the House of Representatives join with me today in honoring these dedicated individuals who have accepted the challenge to provide quality education to every schoolchild. They play a historic role in carrying on public education's proud tradition.

TRIBUTE TO JIM MILLS' 40 YEARS OF SERVICE TO THE MIDDLETOWN COMMUNITY

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. BOEHNER. Mr. Speaker, for 40 years, Jim Mills has served the Middletown area through his local reporting and editorial writing at the Middletown Journal. Jim began his career at the Journal in 1995 starting off as a reporter covering local government. In 1957, he was appointed Sunday editor and moved to city editor in 1960. From 1972 until 1981 Jim was the managing editor of the paper. Ultimately, in 1981, he headed the newsroom and retained the title managing editor.

Jim and Middletown, OH have seen many important news stories over the last four decades. Some of the local highlights include the growth and restructuring of Armco to its present organization as AK Steel, creation of the City Centre Mall, and redevelopment of the downtown area, State championships for area high schools, and the change Middletown and its business community have undergone.

Jim and the Middletown Journal staff were always conscientious to bring the local angle to national news items ranging from the John F. Kennedy, Martin Luther King, and Robert Kennedy assassinations, the Vietnam war, the Iranian hostage crisis, Desert Storm, and the explosion of the Space Shuttle *Challenger* explosion.

Jim has received several awards for his dedication and continuous service. Among them are an award from the Associated Press Society of Ohio for exemplary service to the news-gathering business and his assistance to the Xenia Daily Gazette publish and report the news when its' offices were destroyed in a 1974 tornado. For coverage of the devastation the Gazette won a Pulitzer Prize.

During the past four decades, Jim has worked with hundreds of reporters and local officials. They join me in saluting Jim for his work and wishing him the best in his retirement.

A TRIBUTE TO HELEN BEST

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. NEY. Mr. Speaker, I commend the following article to my colleagues:

Whereas, Mrs. Helen Best, should be recognized for celebrating her 80th birthday on December 14, 1995; and,

Whereas, Mrs. Helen Best, should be honored for her achievements, including her membership to the Carroll County Precinct Committee for forty years, deputy director and director of the Carroll County Board of Elections, and committee chair of the Subcommittee on Elections and Candidate Services; and,

Whereas, Mrs. Helen Best, has demonstrated her commitment to Carroll County and the surrounding area; and,

Whereas, the county owes Mrs. Helen Best a great deal of gratitude for her selfless, devoted service; and,

Whereas, I join the residents of Carroll County, with distinct pleasure, in celebrating Mrs. Helen Best's 80th birthday.

ADDITIONAL SUPPORT FOR H.R. 1020

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. UPTON. Mr. Speaker, I am proud to be the sponsor of H.R. 1020, the Integrated Spent Nuclear Fuel Management Act of 1995, a bill that will make the Federal Government live up to its promise of building and operating a high-level nuclear waste repository by January 31, 1998. While nearly 200 of my colleagues have cosponsored H.R. 1020, there are several that were unable to do so after the bill was put on the House calendar. I would like to acknowledge the following Members as supporters of doing what is right, making the Government live up to its promises: CHARLES BASS, HELEN CHENOWETH, BARBARA CUBIN, JAY DICKEY, VAN HILLEARY, MARGE ROUKEMA, MAC THORNBERRY.

THE PRESIDENT'S PLAN

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. PACKARD. Mr. Speaker, I don't know what we need to do to get a clear budget plan from the President, but with each day it becomes increasingly obvious that he just doesn't have one.

Our Republican negotiators need an explicit budget plan from the President. The plan submitted over the weekend is at least $75 billion out of balance. It is a phony. We cannot come to an agreement when all the White House is prepared to offer are superficial numbers severely deficient in detail.

Mr. Speaker, the President must give Republicans a specific plan with specific reforms and numbers. And, he needs to make sure it reaches balance in 7 years. My Republican colleagues and I have a plan, a real, honest balanced budget on the table. We are prepared to remain in Washington through Christmas to achieve an agreement, but we need the President and his Democrat colleagues to get serious and get to work.

TRIBUTE TO DON MACCULLOUGH, "MR. EDUCATIONAL BROADCASTING" IN SOUTH FLORIDA

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mrs. MEEK of Florida. Mr. Speaker, I rise today to pay tribute to a true pioneer in public television, Mr. Don MacCullough, who will be retiring in a few weeks after over 30 years with WLRN–TV in Miami—the past 22 years as general manager.

Throughout his career, Don MacCullough exemplified all that is right with educational television. A tireless worker, his determination helped keep WLRN based in Miami when others wanted to move it elsewhere. His dedication and skill helped the station grow in prestige over the years. His creativity and willingness to try new approaches brought in legions of new, loyal viewers, and helped make WLRN the community institution that it is today. Finally, the reputation he built over the years made him a leader in the industry. When Don MacCullough speaks, people listen.

It is difficult to think of public television in south Florida without Don MacCullough. However, the legacy he created will continue to enrich the lives of public television viewers for years to come.

I know that my colleagues join me in congratulating Don MacCullough on a remarkable career and thanking him for a job well done. We wish you every success in your future endeavors.

TRIBUTE TO LYNETTE FREEMAN

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. CLAY. Mr. Speaker, We often read stories about young people across America who possess remarkable talent and ability. Most impressive are the stories we read about school students who have set goals for themselves, and exhibit the determination to reach those goals. I rise today to salute a young student who is one such individual.

Lynette Freeman is 12 years old, and a seventh grade student at Andrews School in Willoughby, OH. Lynette is president of her seventh grade class and a member of the Environmental Club, the Literary Magazine, the Language Club and the Riding Club. These extracurricular activities are in addition to a challenging academic schedule, which includes life science, honors algebra, French and Spanish. For Lynette, however, her first love is the theater. She started acting at the age of three. Her stage credits include Annie Get Your Gun, Penelope, Pride of the Pickle Factory, as well as productions at Cuyahoga Community College.

Mr. Speaker, the Plain Dealer newspaper in Cleveland, OH, recently profiled Lynette Freeman. The paper examined how this young student has developed effective time-management skills that enable her to succeed academically and socially. In whatever field she pursues, it is obvious that this young woman is headed for success. I take pride in saluting Lynette Freeman. I am also pleased to share the Plain Dealer profile with my colleagues. The article is certainly worthwhile reading.

[From the Plain Dealer, Dec. 11, 1995]

SEVENTH GRADER AHEAD OF HER TIME AT JUGGLING SCHOOL, ACTIVITIES

(By April McClellan-Copeland)

WILLOUGHBY.—Twelve-year-old Lynnette Freeman talks about time management as if she is the CEO of a major corporation.

That's because it takes the time-management skills of an executive for the Andrews School seventh-grader to fit all of her extracurricular activities into a 24-hour day.

Lynnette is president of the seventh-grade class and a member of the Environmental Club, the literary magazine, the Language Club and the Riding Club.

She plays tennis with her mother, Ruth; takes piano, singing and ballet lessons; and even makes time to write poetry and short stories in a journal.

Lynnette, an East Cleveland resident, also reserves enough time to take part in her favorite hobby: performing in plays at the East Cleveland Theater, where she has studied for several years.

And she fits all of these activities around a challenging academic schedule, which includes life science, honors algebra, French and Spanish.

"I do some of my school work ahead of time," said Lynnette, as she used her lunch period to talk to a visitor and munch on onion rings and a cheeseburger in the Andrews cafeteria. "I do as much in class as I can and in study hall. I manage my time. All of my activities are like studying for school. This is all a commitment I make."

Lynnette said her parents, Ruth and Linton, don't push her to participate in so many activities. She said these are all things in which she has shown a natural interest.

But when the going gets tough, as sometimes it does when she has to finish an English paper at 1 a.m., Lynnette's parents give her the pep talks that keep her motivated.

"This is all my choice," Lynnette said. "Sometimes I want to quit. But my parents say, 'You made this commitment.' They give me this extra boost."

Lynnette grins as she talks about how ballet makes her feel strong and about her trip to Europe next summer through the U.S. government-sponsored People Program student ambassadorship.

But mention the theater and a smile spreads across Lynnette's face so broad it makes her squint.

"My favorite activity is when I'm acting in the theater," Lynnette said. "I get to be someone else and I get to go into character. I like drama and theater because of opening night. I get to put on a costume and make-up."

Lynnette most recently played the character Jessie, the sister of Annie Oakley, in a production of "Annie Get Your Gun" at the East Cleveland Theater.

She talks incessantly about her stage successes, as well as some of her blunders. The experiences are funny to her, but they remind her that drama is hard work.

But perhaps her fondest memories are reserved for humorous scenes like the one in the East Cleveland Theater production "Penelope, Pride of the Pickle Factory."

Reciting some of the tongue-twisting alliterations in her favorite scene in "Penelope" reduced her maturity to a gaggle of giggles only a child could appreciate.

"In the first scene, we are talking about what we had for lunch," Lynnette said, pausing to let out a hearty laugh. "I had to say I had a pickled peanut butter sandwich."

Lynnette started acting when she was 3 years old. She has also performed in productions at Cuyahoga Community College.

"My parents would take me to see different plays. I'd say, 'Gee, I want to have that lead part.' As I cleaned my room, I would be acting like I was in a play. My cat was my audience."

A FRIEND OF MORE THAN THE COURT

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. BARCIA. Mr. Speaker, our judicial system is critically dependent upon the people who toil on behalf of the public interest. This is certainly true in our criminal justice system, and is equally true in our civil justice system, particularly in our family courts. Nothing can be more traumatic than the intervention of the courts in our day-to-day activities, but in some matters there is no choice but the court's involvement. It is at times like these that we should be particularly thankful that caring and skilled people, like Leonard Portnoy, have spent their careers on behalf of those who must deal with our court system.

After 20 years of serving as friend of the court, Leonard Portnoy of Bay City, MI, is retiring next week. A thoughtful gentleman who never spared in his generous consideration of the difficulties faced by people dealing with the court, he is known by many as a patient, helpful, and dedicated individual who has the delicate task of dealing with people at a very tense time in their lives. He is in charge of making recommendations to the court about child custody, visitation rights, and support payments. He also has to operate as a mediator regarding the safeguarding of these rights. And he also must serve as the enforcer who must deal with any violation of the court's orders.

Leonard Portnoy has been in our community since 1969 in response to an ad for a staff attorney position at the Bay-Midland Legal Aid Society. He then became assistant Bay County prosecutor for Eugene Penzien, who himself is retiring as a Bay County circuit court judge next month. He became acting friend of the court in 1974, and then was officially appointed by Governor Milliken in 1975 following the death of Maxine Clarey, the prior friend of the court.

Over the years, friend of the Court Portnoy had to deal with a never-ending and demanding caseload. He had to deal with the likely stresses associated with having to sort out difficult situations at often less than friendly and objective times. He has had to administer an office that annually must oversee millions of dollars in support payments for the people under the court's jurisdiction.

Even in this important and often trying profession, Leonard Portnoy is known for having maintained his sense of humor, and for being perhaps the best target for April Fool's Day jokes in the friend of the court system. That spirit, along with the balance of convictions, has made him among the best of friends of the court that I have ever encountered.

Mr. Speaker, I urge you and all of our colleagues to join me in wishing Leonard and his wife Irene the very best as he enters retirement. His career has been of great value to thousands of people. He leaves big shoes to fill.

TRIBUTE TO ANDREW GIBBS

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. HALL. Mr. Speaker, I rise today to pay tribute to an outstanding East Texan, Andrew James Gibbs of Mabank, TX, who died recently at the age of 79. Andrew Gibbs was a dear friend and long-time business and civic leader of Mabank who devoted a lifetime to the betterment of his community.

Born on January 11, 1916, in Elm Grove, to J. Cullen and Ella Higginbotham, Andrew grew up in Elm Grove and married his hometown sweetheart, Arlene McAfee. At the age of 19, he began working at Tri-County Ford and at his father's bank. During World War II he served in the U.S. Navy and then returned to Mabank, where he purchased Tri-County Ford and raised cattle.

During the following years and until his death, he was a prosperous businessman who also devoted much of his time and energy to his community. He was active in virtually every civic activity in the region. He served as president of the Chamber of Commerce, Mabank Industrial Foundation, and Cedar Creek Hospital Board; member of the Mabank Independent School District Board of Trustees and the Trinity River Improvement Association; chairman of the board of Elm Grove Methodist Church and Elm Grove Cemetery Committee; president of Mabank Roping and Riding Club and organizer and president of the Cedar Creek Country Club and was a Mason with Roddy Blue Lodge. In 1977 he was named Citizen of the Year by Henderson, Kaufman, and Van Zandt counties in recognition of his extraordinary contributions.

Andrew also was an ardent supporter of higher education in the area. In 1970 he was appointed to the Board of Trustees of Henderson County Junior College, now Trinity Valley Community College. During his 20-year tenure and as board president, he saw enrollment grow from 1,000 to almost 5,000 students and the college expand from the Athens campus to Palestine, Terrell, and Kaufman campuses. On April 6, 1995, the Andrew Gibbs Academic Building was dedicated—a fitting tribute to his leadership, dedication, and countless hours of service on behalf of the college.

Andrew is survived by his wife, Alene; daughters, Andrea and Bettie, sons-in-law, and grandchildren, plus numerous friends and associates. He also leaves behind a powerful legacy of public service—a legacy of generosity and dedication to his family and his community. As the local newspaper, The Monitor, stated, "Men of his stature are often referred to as 'pillars of the community.' Andrew Gibbs was more than that, he was the foundation."

Mr. Speaker, I am honored today to pay a final tribute to this outstanding American and my good friend, Andrew Gibbs, whose life was an inspiration to all those who knew him and whose memory will survive for future generations.

IN HONOR OF DAISY VONDRAK

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. LIPINSKI. Mr. Speaker, I rise today to honor a fine resident of the Third Congressional District who passed away on Sunday, December 17, 1996. Mrs. Daisy Vondrak, 80, a resident of the Chicago Lawn neighborhood, died on Sunday in the Brentwood Nursing Center in Burbank, IL.

Mrs. Daisy Vondrak was the cofounder of Vondrak Publications. For almost 40 years, she coowned and operated with her husband, Edward, the Southwest News Herald and four other local community newspapers. Mrs. Vondrak handled the bookkeeping and finances of the newspaper, while her husband was in charge of the editorial operation. She watched the books closely; her attention to detail and strong work ethic pulled both the couple and the newspaper through many tough times.

During the Depression, Mrs. Vondrak and her husband purchased a small paper, the Gage Park Herald, that primarily provided neighborhood news to servicemen away from home. Deciding to broaden their publishing efforts in 1946, they attempted to purchase the Southwest News. Her husband was then an editor for the Life newspapers. They had to borrow all they could from friends and relatives and neighbors. It was a big chance for two young adults to take but they did it. Mr. and Mrs. Vondrak started out with just the two of them and ended up with 52 employees. The Vondraks retired in 1987 and initiated a humorous publication, the Chuckle Town Times.

The weekly newspapers the Vondraks copublished covered such southwest side communities as Chicago Lawn, Gage Park, Clearing, and Marquette Manor and the suburbs of Oak Lawn, Evergreen Park, Justice, Bridgeview, and Hickory Hills. The newspapers provide both national and neighborhood news to their subscribers. By faithfully watching the books and taking care of business, Mrs. Vondrak guaranteed that her neighbors would know what was going on around them in the community, the Nation, and the world. She provided a wonderful community service and will be sorely missed.

I first met Mrs. Vondrak in 1959, when I worked as the physical education instructor at Marquette Park. Every Monday night, I would submit stories to her or her husband Ed about activities at the park that would appear in the Thursday edition of the Southwest News Herald. I knew her personally and saw each week how dedicated she was to keeping the local publications up and running.

Mrs. Vondrak is survived by her two sons, James and Edward, a sister, a brother, and six grandchildren. I would like my colleagues to join me in offering sincere condolences to Mrs. Daisy Vondrak's family. She was a hard worker and strong businesswoman who will be missed by the entire community.

TAX RELIEF AND THE RIGHT TO WORK FOR OLDER AMERICANS

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. FRELINGHUYSEN, Mr. Speaker, today I rise to commend the House of Representatives for passing H.R. 2684, the Senior Citizens' Right to Work Act of 1995, which ends the practice of punishing older Americans who want to work.

Earlier this year, I promised the one million working, older Americans financial relief from the punitive Social Security earnings limit which is wrongly imposed on them. H.R. 2684, fulfills my promise by increasing the earnings limit to $30,000 by the year 2002. Today, many people across the Nation want or need to work beyond the age of 64 because a fixed Social Security income alone cannot provide adequate financial resources.

This Nation has a tremendous amount of talent available in its older Americans. Younger people in the workplace gain a lot through the experience of these individuals who continue to work. Simply put, lifting the earnings limit is the right thing to do because it is good for all of us.

When fully phased in, the Senior Citizens' Right to Work Act will exempt about 50 percent of the people who currently have to comply with the earnings limit. These individuals have worked hard to pay into the Social Security trust fund. This legislation keeps our promise to lift the earnings limit for older people so they can continue to contribute to our Nation.

DEDICATED, PROFESSIONAL, AND CARING

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. BARCIA. Mr. Speaker, the greatest need that all of us have throughout our lives is for food. And contrary to some accepted myths, it doesn't just magically appear on the grocery store shelves overnight. Food gets from farm to table through the professional and skillful efforts of many people who have spent their careers in agribusiness. Ronald W. Stebbins is one of these committed professionals who after having been involved in agribusiness for the past 40 years is about to retire.

Born and raised on a dairy and potato farm in Kalkaska County, MI, and having attended Michigan State University, over his career Ron Stebbins has worked for private industry, for cooperatives, and for the U.S. Department of Agriculture. He has worked throughout Michigan, and has developed a very impressive international marketing capability. He is well respected as a leader in agribusiness, and has served as an officer of several different professional agricultural associations, including the Michigan Bean Shippers Association, the Michigan Grain and Agri-Dealers Association, St. Paul Bank for Cooperatives, the Bank of Alma, and Valley Marketing, Inc.

In his capacity as president, secretary, and treasurer of the Michigan Agri-Business Association, Ron has helped to increase the professionalism and capability of Michigan's men and women in agribusiness. Educational events, informative meetings, legislative activities, insurance and other services have all been provided by this association, and Ron Stebbins has helped develop and improve many of these efforts.

Ron is very well known to many farmers in Michigan agriculture. Certainly his work as a grain trader has brought him in contact with many farmers, as did his work as supervisor for USDA's grain storage program many farm bills ago. His work over the years specifically with dry beans has made him a world leader in one of the most vital commodities for the economic well-being of our area's agriculture.

His work with advisory committees has helped him to maintain a close eye on the moods and needs of our producers. Many farmers and traders alike know that when they speak with Rob Stebbins, they are getting an informed and dependable assessment on important agribusiness conditions.

This gentleman has also maintained significant involvement with his community over the years, including his service as a member of several area groups in Ithaca and Gratiot County, as well as having served as a councilman for the city of Ithaca and a director of the Gratiot County Hospital Board. Together with his wife of 38 years, Mary Kay, his three children and five grandchildren, Ron continues to offer the kind of role model that all of our children should see. Commitment to family, dedication to professionalism, concern about his community, all of these factors of which Ron can be proud, and examples for the rest of us.

Mr. Speaker, in recognition of 40 years of devoted expertise and consistent professionalism, I urge you and all of our colleagues to join me in wishing Ron and his family the very best on his retirement.

IN MEMORY OF TOBY FARMER

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. HALL of Texas. Mr. Speaker, during this holiday season our thoughts naturally turn to children—our own children and grandchildren, children of our friends, children in our community, children in need. I would like to tell my colleagues about a special child, Andrew Michael "Toby" Farmer, a child who died of cancer on December 2.

Words are inadequate to convey our sense of grief and compassion in the loss of a child. Andrew was 10 years old, the son of David and Janet Farmer of Stafford County and brother to Allison Marie Farmer. He was a fifth-grade student at Garrisonville Elementary School. And he was a fighter. His mother wrote to me, "Andrew had a tough time, but he never, ever complained. He was and is the strongest person I have ever known."

Such courage in the face of death—particularly such courage in a young boy—humbles and saddens us, Mr. Speaker, but also should inspire us to work harder to find the elusive cure for a disease that prematurely ends too many lives each year. We must be sure that programs vital to biomedical research are protected and strengthened where needed. One of those programs, Mr. Speaker, is the international space station, and I commend this body for supporting funding of the space station earlier this year. The weightless environment of the space station has enormous potential for medical research—research that could lead to cures or better treatments for cancer and other diseases—and I urge my colleagues to continue support for such programs in the years to come.

Our hearts go out to Andrew's parents, sister, grandparents, and his many friends, and I ask my colleagues also to join me today in paying our last respects to this brave young man. Andrew "Toby" Farmer lived the remaining days of what should have been the normal life of a 10-year-old boy by displaying extraordinary strength and courage. Mr. Speaker, he is an inspiration to all those who knew him and loved him—and he will be missed.

BRINGING THE TERRORISM BILL TO THE FLOOR

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. SCHUMER. Mr. Speaker, yesterday the Republican leadership reversed itself again on the terrorism bill. Repeatedly, the leadership had promised to bring this legislation to the floor. First they said they would do it by Memorial Day. Then they said it would come up before August recess. Finally, they pledged a vote by the end of the year.

Yesterday afternoon, however, the bill was abruptly yanked from this week's floor schedule.

Yesterday, I also received a letter from Ms. Victoria Cummock of Coral Gables, FL. Ms. Cummock's husband was killed 7 years ago when Pan Am Flight 103 exploded over Lockerbie, Scotland. As a victim of this random, senseless terrorist attack, she had dearly hoped that the House would finally move toward passage of the terrorism bill. Once again, her hopes have been dashed by the leadership's pandering to the far right.

I would like to enter Ms. Cummock's statement in the RECORD, Mr. Speaker, to demonstrate to all of my colleagues how important this legislation really is. I share her hope that Congress will move urgently to pass the antiterrorism bill right away, rather than waiting for another tragedy to spur action.

I ask unanimous consent that her letter appear directly following these remarks:

FAMILIES OF PAN-AM 103 LOCKERBIE,
Coral Gables, FL, December 13, 1995.

Re H.R. 1710/sub/H.R. 2703 counter-terrorism legislation.

Hon. CHARLES SCHUMER,
House Judiciary Committee,
Washington, DC.

DEAR CONGRESSMAN SCHUMER: I am the widow of John Binning Cummock, a 38 yr. old American father of three, who was killed by terrorist, abroad Pan Am 103 over Lockerbie Scotland. Additionally, I am the Vice President of the Pan Am 103 Families group representing over 180 next-of-kin. I am writing in support of HR 2703 substatute for HR 1710. I feel that this current legislation is the most comprehensive and proactive approach to protect Americans from terrorism that I have seen come out of Congress in the last seven years.

After the bombing of the Murrah building in Oklahoma City, Congress vowed to get tough and pass this legislation by Memorial Day '95. Quick progress was made on the Senate side but sadly the House seems to have come to a screeching halt on debating this bill. Now that the media focus has faded from the Oklahoma City bombing, my fear is that Congress will recess before enacting this badly needed legislation. it is imperative that Congress does not forget its responsibility, not only to protect the American people, but to support the law enforcement agencies who are trying to respond to the escalating and changing threats.

In less than seven years, I have looked into the faces of hundreds of American families that have been devastated by terrorism, after the bombing of Pan Am 103, the World Trade Center and most recently after spending 11 days in Oklahoma City under the sponsorship of the American Red Cross. I know all to well what they have been sentenced to live with under the current system. We owe it to our children and to future generations to be able to live in a safe and secure America. American children must not grow up feeling like they are walking targets to potential terrorist attacks, both domestically and internationally. Unfortunately, the children of the victims of terrorism remember all too well the questions of who is protecting them and where is justice? Let us not afford more consideration and rights to illegal aliens, felons or potential terrorists, than we do to our children who daily pledge allegiance to the American flag.

Specifically, for the Pan Am 103 families the FSIA Amendment within Section 804 is of particular importance. This will provide victims of terrorism an avenue to pursue terrorist sponsoring Nations, where none existed before, by waiving Sovereign Immunity for specific acts of terrorism against America. Clearly, history has shown that the current system, of diplomacy takes decades and only serves to re-victimize the victims' families by providing little or no remedy. In our case, as the KAL 007 flight which occurred over 12 years ago, no progress is in sight. A failure to achieve swift and adequate resolution only to continues the emotional pain, and anguish of the families, especially the children. Victims' families are not entitled to access the mental health and other areas of support currently available to other American victims of violent crimes. Hence, America turns its back on the families of those who made the ultimate sacrifice for being Americans. To potentially receive compensation after 40 years can not buy back my children's childhood, especially if they have been too traumatized to be able to learn how to read or sleep through the night.

I hope that we can count on your full support when this bill is placed for a vote. I can be reached at (305) 667–7218 or Skypage 1 (800) 592–8770. My hope is that it will not take another incident to refocus Washington's priorities on counter-terrorism, and other Americans can be spared our fate. Thank you very much for your consideration.

Sincerely,
M. VICTORIA CUMMOCK,
V.P. Pam Am 103 Lockerbie,
Widow of John B. Cummock.

ENGLISH: LANGUAGE OF OPPORTUNITY IN THE UNITED STATES

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. EMERSON. Mr. Speaker, I rise today in order to share with the Members of this distinguished body and the good people of this country an account which reveals a great deal about legislation which I have introduced to establish English as the official language of the Federal Government. I have a good friend to thank for passing along this story to me, and I am pleased to now present it to you.

As you know, I have been a principal sponsor of legislation to establish English as the official language of the Federal Government since the 101st Congress. I have studied the official English issue at length and have explored its tremendous potential to contribute to the well-being and prosperity of this country. However, even though I have become very familiar with the comprehensive reports, the historical lessons, and the compelling logic which confirm the need for this kind of legislation, I am still struck by the experiences and straightforward wisdom of folks who have visited the question of a common language on the most personal of levels. Anthony Macchiaroli, an immigrant from Italy, is one of these individuals, and it is his inspiring story that I would like to relate to you today.

It is my hope that we will learn from the dedication, the workmanlike approach, and the ultimate success of this proud American. His example tells us quite a bit about the economics of official English legislation, demonstrating that new members of this great democracy must have use of the English language in order to get ahead and become fully productive citizens. It is clear from the experience of Mr. Macchiaroli that the linguistic welfare of multilingual government is nothing short of a handicap to individuals entering our country. Regrettably, the handicap of multilingual government affects all Americans, resulting in severe social and monetary costs. I commend to you the story of Mr. Macchiaroli, as it appeared in an article in the Pittsburgh Post-Gazette on September 3 of this year.

I WORKED HARD—BUT IT NEVER HURT ME

Tomorrow we pause to pay tribute to the workers who built this country. Many of those workers were immigrants, who came to America seeking a better life.

Anthony J. Macchiaroli is such a worker. The 60-year-old North Versailles resident quietly operates his New Eastland Mall store Valley Shoe Repair, where soles are mended Italian style—by hand.

"Tony," who came to the United States from Salerno, Italy, in 1953, says hard work has kept him in business at the mall since 1963.

Macchiaroli stepped off a boat in New York at age 17 with 35 cents. He went to live with an aunt and uncle in East Pittsburgh, and later opened a shoe repair shop, got married, and was able to send his two children to college. One of his sons is a physician in Johnstown, the other an electrical engineer in Florida.

He doesn't plan to retire but says instead he'll shorten his work week in coming years. "I really enjoy what I'm doing," he says. "I don't think I'll ever retire because I do enjoy talking to the people, and my customers need me too. It's a lost art—fixing shoes."

Macchiaroli talked with free-lance writer Beth Trapani about his work and his life in America.

America was a dream. It was like I could never come here. I used to pray a lot to God to let me see that I could go to America. My uncle and aunt used to send me letters with stamps of the Statue of Liberty on them. Whenever I'd get those letters, I'd wonder if I'd ever really get to see her.

I've been here 42 years, and America has been good to me. If you have ambition, you can do anything here. It truly is the land of opportunity—believe me. If people set a goal here, they can achieve it.

I came to America March 10, 1953. I was not quite 18 yet and was an orphan. My father died when I was 17 months old and my mother died when I was 3½. Before she died, my mother had written to her brother in Pittsburgh and said, "If anything happens to me, I'd like my son to come to America near you." I still have that letter today. She died in a hospital in Naples, and left me in a convent with nuns until my father's sister could take me out. She raised me until I came to the United States.

I wanted to come here because it was a new land and I had heard so much about the country, that it was so great. But it wasn't like today where you can come right away or come as a tourist. You had to wait. Three times my papers expired before I could go. Finally my uncle and aunt, Vito and Anna Parente, were able to get me. They had to guarantee me a house and job, and they didn't have a house themselves and had to buy one because of me. It was almost like they were adopting me. I'll never forget them, that's for sure.

In the small towns like Bellosguardo in Salerno, where I grew up, you always learn a trade. I had bad feet from an accident where I was burned as a baby, so I wanted to be a shoemaker. In Italy, you sit while working as a shoemaker, but here you do the work standing up.

My first job here was in Homestead with a shoemaker. I got $8 a day, six days a week, 12 hours a day. My boss justified my wage by saying, "You can't talk English and you can't run the machines." We made all handmade shoes in Italy, so I didn't know how to operate the machines. But here I could still rip shoes apart, wash windows, shine shoes. . . I worked hard—but it never hurt me. I learned a lot.

Five years later, I opened my own shoe repair business in the Great Valley Shopping Center. I was there five years and moved to the Eastland Mall in 1963 when it was being built, and I've been here ever since.

I had difficult time at first because I couldn't speak English. But people were wonderful to me, I went to night school for five years to learn to speak English. I can read good English, but I still can't write good.

In 1957, I went to the hospital to have surgery. I met a nice girl, a student nurse Rosemarie Billey, from United, near Mount Pleasant. And there was my fortune.

We got married in 1959 and had two sons. In 1969 I brought her and my children back to my hometown and traveled through Italy for three weeks. While we were there, my wife asked me if I ever wanted to go back there to live. I said, "No, No way." I'll never forget that I was born there, but America is my country now, and I'll fight for it.

In America there is so much opportunity. It seems everything I wanted came true. I wanted to get married, have a family and educate my children, and I did. I'm very appreciative. If I die tomorrow, I'll die a happy man.

THANK YOU, GERALD L. BOOMS

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 19, 1995

Mr. BARCIA. Mr. Speaker, the education of our young people is most vital if our Nation is to continue its history of accomplishment into the future. And nothing is more vital to education than the people who are dedicated to providing the type of services that are essential to the successful operation of our schools. Ubly Community Schools has been blessed over the past 33 years with the committed service of Gerald L. Booms. He is being recognized on December 27 for his generous service to the young people of his community at a retirement dinner.

Gerald Booms started as a bus driver in 1962, which he continued until 1972. He also worked as a part-time custodian, making sure that not only would students arrive at school safely, but they also would have a safe and well-tended school to attend. For the last 20 years, he has served as director of transportation for Ubly Schools, again overseeing the effective operation of this system.

During his time with Ubly Schools, Gerald Booms has remained involved with several other activities. He has been a member of the Michigan Association of Pupil Transportation, serving as a regional representative for 10 years. He also holds membership in the Ubly Community Club.

He has been very involved with his religious convictions as a member of St. Mary Catholic Church of Parisville, and its men's club. He also was president of its parish council. He is a member of St. John the Evangelist Catholic Church of Ubly, and the Ruth Knights of Columbus Council No. 3823.

Gerald and his wife, Georgeann know the importance of education to young people, being the proud parents of 7 of their own children, and the grandparents of 21 children. He has taken the care that he has for his own family, and extended it to the other children of his community who have benefited from safe transport to and from school.

Mr. Speaker, we need to remember and honor those who make it possible for our young people to receive the education they deserve and that our Nation needs. Gerald L. Booms has earned our thanks for his years of service. I urge you and all of our colleagues to join me in thanking him for his career of caring, and wish him and his family the very best in retirement.

SENATE—*Wednesday, December 20, 1995*

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

God moves in mysterious ways
His wonders to perform.
He plants His footsteps in the sea
And rides upon the storm.
His purposes will ripen fast,
Unfolding every hour.
[Leave to history what is past
And receive His mighty power.]
Blind unbelief is sure to err
And scan His work in vain.
God is His own interpreter,
And He will make it plain.—William Cowper.

Dear God, we thank You for the progress being made in negotiations on the balanced budget. Keep us steady on the course. It is the set of the sail and not the gale that determines the way the ship will go. We pray for Your spirit to continue to guide the President and Vice President, our majority leader, and the Speaker of the House. Keep them open to You and each other. Give strength to those charged with hammering out the specifics of an emerging agreement. We trust You to bring this crucial process to a successful completion. There is no limit to what can be accomplished when we give You the glory. In the name of our Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator DOLE, is recognized.

SCHEDULE

Mr. DOLE. Mr. President, for the information of my colleagues, immediately we will begin consideration of Senate Resolution 199, regarding the Whitewater subpoena. That will start as soon as we can. There is no time limit on the resolution; however, we hope we will be able to dispose of this resolution after a reasonable amount of debate.

Following the disposition of Senate Resolution 199, there are a number of possible items for consideration. We would like to complete action on House Joint Resolution 132. The Democratic leader objected to its consideration last night but indicated in a positive way that, if we could make one change and clear one other bill, we could probably pass that today. I assume there will be a request for a rollcall. It will have to go back to the House where I assume they would take the Senate amendment and send it on to the President.

A cloture vote could occur on the motion to proceed to Labor-HHS appropriations. It is my hope we will get a continuing resolution today from the House. I am not certain what the length would be, but it could go until Friday, or it could go until next Tuesday or Wednesday—probably until Friday.

We still have three appropriations bills: D.C. appropriations, foreign ops, and Labor-HHS, which we are unable to bring to the floor because of opposition on the other side.

So, there could be rollcall votes throughout the day. Let me indicate that it seems to me we ought to make a decision here that we stop the legislative business no later than Friday of this week. It is going to be difficult for those of us involved in budget negotiations if there is legislation every day in the next week. It is my hope we can complete action on a budget agreement Friday or Saturday of this week and that only the principals might have to return next week.

In any event, I ask staff and others to determine if that is a possibility, to say—of course, we are at a point now where any one Senator can object to anything and it will not come up unless you have unanimous consent or unless it is privileged. So I hope we could take a look at that.

I would just say, one thing we have agreed to—I think it is fair to state this—is if we do reach an agreement on sort of the format, framework, and scheduling, there will not be press conferences. There will be a news blackout, unless there is an agreement at the end of each day to issue a joint press statement. I think that has been part of the problem. There have been so many press conferences, so many people reacting to other people that it makes it difficult to proceed. So, hopefully we can work that out.

MEASURE PLACED ON THE CALENDAR—HOUSE JOINT RESOLUTION 132

The PRESIDING OFFICER (Mr. KEMPTHORNE). The clerk will read a bill for the second time.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 132) affirming the budget resolution will be based on the most recent technical and economic assumptions of the Congressional Budget Office and shall achieve a balanced budget by fiscal year 2002 based on those assumptions.

Mr. DOLE. I object to further consideration at this time.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 175TH ANNIVERSARY OF TUSCUMBIA, AL

Mr. HEFLIN. Mr. President, my hometown of Tuscumbia, AL is in the midst of celebrating a very special day in its history. On December 20, 1820—175 years ago—Tuscumbia was officially declared to be a city in the State of Alabama. Hers is a rich and colorful history, steeped in the tradition and development of Alabama and of the Nation.

Tuscumbia's recorded story is, first, one of French settlers, who as far back as 1780 established a trading post on Cold Water Creek near the Tennessee River about 1 mile from the present-day northern city limit. This creek, which runs through Tuscumbia, is the outlet for the immense spring which rises from the ground near the center of the city. It had probably been a center of Indian activity for many centuries prior to that.

When the French colony was established, Nashville, TN was the most important American trading station in what was then the southwestern United States. Nashville and the settlements to its south were frequently subjected to hostile incursions by Indians stirred up by the French.

In 1787, Col. James Robertson organized an expedition, marching south and across the shoals of the Tennessee River where he found the Indian village near the mouth of Cold Water Creek. The Indians and their French allies retreated a short distance up the creek to where Tuscumbia is located and here Col. Robertson attacked and defeated them, capturing the trading post and a large quantity of supplies.

In March 1817, Congress passed an act establishing the Territory of Alabama. The town was first surveyed and laid out as a city by Gen. Coffee that same year, 1817. When the territorial legislature assembled at Huntsville in October 1819, a bill was passed incorporating the town of "Ococopoosa," which

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

means "cold water." At another session of the territorial legislature a few months later, the name of the town was changed to Big Spring, and on December 20, 1820, the legislature of the new State of Alabama officially incorporated it as a town. The name was changed on December 31, 1822 to Tuscumbia, after a celebrated chief of the Chickasaw Indians who had befriended the Dickson family, the first American settlers who arrived in 1815.

When Tuscumbia was established, the Tennessee River was navigable from the Ohio River until it reached the shoals near Tuscumbia. The shoals extended to nearby Decatur, where the Tennessee River again became navigable up into the State of Tennessee. About this time, a new enterprise known as the railroad became commercially viable in the United States.

The very first railroad to be built west of the Allegheny mountains was one that connected Tuscumbia to the Tennessee River. It was completed in 1832, 2⅛ miles long. In 1834, the Tuscumbia, Courtland, and Decatur Railroad was built in order to serve as a connecting link between the 2 portions of navigable waters of the Tennessee River. Over the next 25 years, there was an enormous amount of trade with New Orleans by water. Magnificent steamers, some of them carrying as much as 6,000 bales of cotton, glided up and down the rivers. Some of these ships were palatial in their accommodations and furnishings. Excursions on one of these elegant boats to the Crescent City were very popular. Other steamers ran to cities along the Ohio River and to St. Louis. River traffic became less popular around 1857, when the Memphis and Charleston Railroad was connected with the Tuscumbia, Courtland, and Decatur Railroad.

Until completion of the Memphis and Charleston Railroad, the Tuscumbia Post Office was a major distributing office, and probably the largest and most important one between Nashville and New Orleans. A number of State lines converged here.

Tuscumbia's story is also a tragic one of war and destruction. During the War Between the States from 1861 to 1865, there were few areas of the South more completely devastated than the beautiful Tennessee Valley. Tuscumbia was at the center of the fiery track of the armies of both sides. Large blocks of brick stores and many private homes were destroyed and condemned. Cavalry horses roamed at will through grounds that were the pride of their owners.

Americans have, thankfully, rarely experienced the infliction from an enemy army's occupation. But the people of the Tennessee Valley area, including Tuscumbia, during the time of the Civil War were all-too-familiar with looting, burning, and other atrocities. In her book 200 Years at Muscle Shoals, Nina Leftwich recalls some of the conditions these citizens faced. The following passage appears in her historical writings:

> The story of the wrongs inflicted upon the defenseless citizens of Tuscumbia during the occupation by the Federals is best told by an account of it written by Mr. L.B. Thornton [the editor of the local newspaper] soon after it occurred:
>
> "The Federal army first made its appearance in Tuscumbia on the 16th of April 1862 under General Mitchell . . . They broke open nearly every store in the town, and robbed them of everything they wanted, arrested a great many peaceable citizens, forcing some to take the oath of allegiance to the U.S. government, robbed the masonic hall of its jewels and maps, and broke open and destroyed the safes in the stores and offices. They destroyed my office by breaking my desk and book cases, and destroying the papers, and took them from my office 30 maps of the state of Alabama . . .
>
> "Ladies could not safely go out of their houses. Citizens were arrested and held in confinement, or sent off to the North, in many cases without any charge being made against them, and the citizens were not permitted to meet on the streets and converse together. Person nor property was safe from the soldiers. They took from private citizens whatever they wanted—hogs, sheep, cattle of every kind, vegetables, corn, potatoes, fowl of every description . . . When they evacuated the town, they set fire to it in 4 or 5 different places * * *"

More than 30 of Tuscumbia's brave young men were killed during the war, and for years after the sound of battle had died away, the town sat on the ashes of desolation, waiting for a brighter day to dawn. That day did come when the industrial city of Sheffield was founded, bringing jobs and trade to Tuscumbia.

Colbert County was established on February 6, 1867, when it was separated from Franklin County, one of the original Alabama counties. Later that same year, the county was abolished by the Constitutional Convention. After Alabama was readmitted to the Union in 1868, the new government reestablished Colbert County. This new county need a county seat, and on March 7, 1870, an election was held to determine if Tuscumbia or Cherokee would be the permanent county seat. Tuscumbia won by a vote of 1367 to 794.

Writing in 1888, Capt. Arthur Henley Keller, who authored the book History of Tuscumbia, Alabama, described Tuscumbia as having "caught the contagion of progress and enterprise, and within the last 2 years has doubled her population. Observant and far-seeing men recognize the fact that she has every natural advantage that any other place in Northern Alabama has, and that which money can never secure. Her society is as good as can be found anywhere. She has churches of all denominations and first-rate schools. The Deshler Female Institute stands in the front rank of Southern schools. It stands as a monument to the memory of Brigadier Gen. James Deshler, of Tuscumbia, who was killed at the battle of Chickamauga."

The story of Tuscumbia is that of leaders like Robert Burns Lindsay, who served as Governor of Alabama in the early years of the 1870's, which were difficult years of Reconstruction. He opposed secession, along with most of the residents of north Alabama, but after Alabama's ordinance of secession was enacted, he remained loyal to his adopted state.

In 1870, Lindsay was elected Governor of Alabama. His leadership was important during those tough Reconstruction years and he fought mightily to end that difficult era of occupation.

Governor Lindsay and his wife Sarah had a daughter named Maud McKnight Lindsay. She attended Deshler Female Institute and received kindergarten training. She went on to teach kindergarten in Tuscumbia and served as the principal of the Florence Free Kindergarten, the first free kindergarten in Alabama. She became a great leader in the cause of educating young children and was the author of many childrens' books. She passed away in 1941.

No history of Tuscumbia would be complete without the story of Helen Keller, who was born at Ivy Green in 1880. In fact, the Keller family first settled in Tuscumbia around the time of its founding in 1820. Her grandfather was very involved in the railroad development. His son was Captain Arthur Henley Keller, a colorful confederate soldier, lawyer, and newspaper editor who wrote the history from which I quoted earlier. Capt. Keller was Helen's father.

When she was only 19 months old, she suffered acute congestion of the stomach and brain which left her deaf and blind. It was right behind the main house at Ivy Green at the water pump that Helen Keller, under the tutelage of her teacher Anne Sullivan, first learned that every object had a name. The word "w-a-t-e-r" was the first one she understood, but "teacher" became the most important word in her life.

Tuscumbia native Helen Keller contributed so much in her lifetime as an educator, author, and advocate for the disabled. She furthered the cause of improving education and general conditions for the handicapped and disabled around the world. During World War II, she visited the sick and wounded in military hospitals. Today, Ivy Green is host to an annual weekend festival celebrating the life and accomplishments of the "First Lady of Courage." Thousands of people from all across the world pay visits to see where Helen Keller lived as a child and where she learned to overcome obstacles to become an inspiring heroine. Each summer, thousands also attend live performances of the play "The Miracle Worker." This most famous daughter of Tuscumbia is a symbol of hope to those around the world who have ever doubted their ability to persevere and achieve. She passed away in 1968.

An integral part of the story of Tuscumbia is the founding of the Tennessee Valley Authority, one of the great achievements of the New Deal. Congress created TVA in 1933 and gave it the overall goal of conserving the resources of the valley region. Congress also directed TVA to speed the region's economic development and, in case of war, to use the Tennessee Valley's resources for national defense. It provided many much-needed jobs during the dark years of the Great Depression and contributed to our military success during World War II.

Congress established TVA after many years of debate on how to use the Federal Government's two nitrate plants and Wilson Dam at Muscle Shoals. During the ensuing 62 years, TVA has built dams to control floods, create electrical power, and deepen rivers for shipping. It has planted new forests and preserved existing ones, led the development of new fertilizers, and is now involved in solving the nation's environmental problems. The lakes created by damming the Tennessee River and its branches add to the beauty of our region. Besides providing electrical power, water recreation, and navigable waterways, TVA has been a major contributor in the economic growth and development of this area and all of north Alabama.

Attracted by TVA electrical power, Reynolds Metals Co. was located at Listerhill, AL, and for more than 50 years, many Tuscumbians have been provided jobs there. During a somewhat similar period, the Robbins plants located in Tuscumbia have impacted the economy of the city and region.

During a very crucial period in the development of the Tennessee Valley, the northern part of Alabama was represented in Congress by a Tuscumbian, the Hon. Edward B. Almon. He was elected in 1914 and was very much involved in the congressional authorizations for Wilson Dam and the two government nitrate plants. He played an important role in passing the National Defense Act of 1916, which was highly instrumental in the development of this area. He was the Congressman when the TVA was created. He died a short time after the TVA act was signed into law, and was succeeded by another Tuscumbian, Archibald Hill Carmichael. He served during the most formative years of the Roosevelt era.

Earlier, I mentioned Brig. Gen. James Deshler, for whom Deshler Female Institute was named and whose name our high school bears. I should also mention that his father, Maj. David Deshler, played an important role in the development of Tuscumbia, particularly with regard to the railroads.

The name of Gen. John Daniel Rather is also indelibly etched into the railroad history of Tuscumbia. He served as a director and officer of the Memphis and Charleston Railroad. While he was its president, it was merged with the East Tennessee, Virginia, and Georgia Railroad to become the Southern Railway System.

Tremendous contributions to the State's educational system came from 2 Tuscumbians, Dr. George Washington Trenholm and his son, Dr. Harper Councill Trenholm. And no history of Tuscumbia would be complete without mentioning Heinie Manush, a professional baseball player who was the first Alabamian to be enshrined in the Baseball Hall of Fame at Cooperstown, NY. He compiled a life-time batting average of .330.

I hope the celebrations and events over the last 3 weeks have brought Tuscumbians a better understanding of the city and area's history. As the 175th birthday of our beloved Tuscumbia comes to a close, and as we start speeding toward her 200th anniversary in the year 2020, I hope that each resident will take a moment to reflect upon how blessed they are to be from there.

I think back upon my life and career there and cannot imagine them having been anywhere else. It is a progressive little city that has changed a great deal over the years, but it is also one that has always retained its small-town charm and the many qualities that make it such a unique place to live. Since her birthday 175 years ago, Tuscumbia has aged gracefully and improved with time. As I said back in March when I announced my retirement from the Senate, I will enjoy the remainder of my days in my hometown after I retire, for Tuscumbia is a wonderful little town to be from and the best little town in America to go home to. I wish Tuscumbia a happy birthday and look forward to enjoying many more with her well into the next century.

PRIVILEGE OF THE FLOOR

Mr. HEFLIN. Mr. President, on behalf of Senator SARBANES, I ask unanimous consent that Richad Ben-Veniste, Lance Cole, Neal Kravitz, Timothy Mitchell, Glenn Ivey, James Portnoy, Steven Fromewick, David Luna, Jeffrey Winter, and Amy Windt be granted floor privileges during consideration of Senate Resolution 199.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SHUTDOWN II: THE RIGHT NOT TO PASS MONEY BILLS

Mr. BINGAMAN. Mr. President, we are now in the second Government shutdown of the year. This is the second one we have had in a month.

There have been many Government shutdowns in the past. In fact, I have been here in the Senate during some of those. But the shutdowns of this year seem very different than previous ones.

Prior to this Congress, the shutdowns of Government were short, and they were generally regretted by the congressional leaders. And, even when the Congress and the President continued to be at odds, those involved were eager to pass continuing resolutions to restart the Government and maintain basic services.

In this Congress we have a very different situation. In this Congress, the shutdowns are longer, and the Republican leadership in Congress sees the shutdown and the maintenance of the shutdown as an essential part of their strategy to gain leverage on the President in their negotiations with him about major policy issues.

Monday morning, when I was reading the Wall Street Journal, I saw a statement in the front page article. The statement was from Speaker GINGRICH. In reading that, I gained an insight into how we arrived at this year's shutdowns, and why these shutdowns are so different from those of the past.

The paper describes the strategy that Speaker GINGRICH devised to get his way in disagreements with the President. I will quote very briefly from that article.

"He"—that is Speaker GINGRICH—"would need to make heavy use of the only weapon at his disposal that could possibly match President Clinton's veto: The power of the purse."

Here is a quote from the Speaker.

"'That's the key strategic decision made on election night a year ago,' Mr. Gingrich says. 'If you are going to operate with his veto being the ultimate trump, you have to operate within a very narrow range of change . . . You had to find a trump to match his trump. And the right not to pass money bills is the only trump that is equally strong.'"

Mr. President, I want to focus people's attention on this phrase "the right not to pass money bills." The Speaker talks about this right, this so-called right. The obvious question is whether this is an appropriate and an acceptable trump for the Presidential veto, as the Speaker seems to believe, or whether, on the contrary, it is an abuse of power, whether it is a proper use of the power vested in the congressional majority under the Constitution, or whether it is a perversion or destruction of the delicate system of checks and balances set out by the Framers of the Constitution.

I have done my best to analyze the Constitution in light of the Speaker's remarks, and it is my conclusion that the refusal to maintain funding for basic Government services is, in fact, an abuse of the power granted by the people to the Congress and the Constitution. I would like to take a few minutes to explain that reason.

The Founding Fathers set up a very delicate system of checks and balances. In article I, Congress is given authority to make laws in a wide range of areas. For instance, Congress is given exclusive authority to appropriate money.

Article I, section 9, reads:

> No money shall be drawn from the Treasury, but in consequence of appropriations made by law.

The Framers recognized the need to have a check on irresponsible legislation by the Congress and they gave the President the power to veto.

Article I, section 7 contains that power. It says:

> Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law . . . be presented to the President of the United States; if he approve, he shall sign it, but if not he shall return it. . . .

Clearly, when there would be a disagreement between the Congress and the President, the Framers of the Constitution wanted to provide a method for reconciling the differences, and in this language, this language describing the veto, they established a procedure to determine which side should prevail. When in disagreement with the Congress, the President would veto the bill and return it to Congress. If no agreement were reached, the Congress could pass the bill again, and if they had the votes, the two-thirds votes in each House to override the President's veto, the bill would become law.

This system of checks and balances has served us reasonably well for 206 years, with both the Congress and the President generally agreeing to abide by the procedures set out in the Constitution. There was one major departure, and that was with the action by President Nixon to impound funds which the Congress had appropriated for spending. In that case, the final determination was that the President had, in fact, abused his power, that appropriations legally made and passed, in some cases over the veto of the President, prevailed over the contrary desire of the President to get his way. And just as the President in that case abused his power under the Constitution when he impounded funds that were legally appropriated over his objection, I believe that by shutting down Government services and maintaining those services shut down in order to gain leverage with the President on larger policy issues, the Congress is similarly abusing its authority under the Constitution.

Those who wrote the Constitution were focused on how to resolve legislative differences between the Congress and the President. The Supreme Court has recognized this focus of the Founding Fathers. Mr. Justice Jackson in Youngstown Sheet & Tube Ccompany versus Sawyer stated:

> While the Constitution diffuses power the better to secure liberty, it also contemplates that practice will integrate the dispersed powers into a workable Government. It enjoins upon its branches separateness but interdependence, autonomy but reciprocity. 343 U.S. 579,635 (1952).

The Founders of the country assumed that the failure of the President to sign legislation or the failure of Congress to enact legislation would be based on specific disagreements on what that legislation should contain, not on the desire of either the Congress or the President to extort concessions from the other on basic policy differences.

Mr. President, I use the word "extort" here because I believe it actively describes the current situation. The dictionary defines "extort" as "to wrest or wring from a person by violence, intimidation or abuse of authority."

I believe we have an attempt here to wrest or wring concessions from the President by abuse of authority. Mr. GINGRICH talks about Congress' so-called right not to pass money bills—in other words, the right to shut down the Government to get his way in disagreements with the President. He is not just asserting his right to disagree with the President on spending levels or levels of taxation. He is not just asserting the right to pass legislation reflecting his view of what is the right level of spending or taxation. He is not just asserting the Congress' right to pass those laws again over the President's veto if the disagreement continues.

No, here the Speaker's position goes well beyond the constitutional framework for resolving disagreements between the Congress and the President. Here we have Mr. GINGRICH's majority in Congress arguing for major changes in authorizing legislation in Medicare, in Medicaid, and in numerous other areas of policy in seeking to get its way by, in fact, refusing to fund the Government itself, the entire Government or what is left of the Government to be funded, if the President does not bow to their wishes—not just refusing to fund the portion of the Government that the President wants to fund and the majority wants to defund but refusing to fund other broadly supported areas of Government activity.

This abuse of power or extorting of concessions from the President by refusing to maintain the basic services of Government is not part of the checks and balances that the Framers of the Constitution envisioned. They assumed that the maintenance of Government activities which both the Congress and the President deemed to be worthwhile would be supported by mutual consent of the two branches of Government. They did not anticipate that one branch would be willing to kill its own children unless the other branch agreed to give ground on policy disputes.

The obvious question is whether in fact this so-called right not to pass money bills is the ultimate trump or even the best trump. I suggest it is not. I suggest that the Founding Fathers put one more trump in this delicate balance of Government structure, and that is the trump of the people's vote every 2 years.

Abuse of power is always possible in politics and government, and the Framers of our Constitution were more keenly aware of the danger than any of us. In fact, the entire Constitution was written in reaction to the very abusive power which they suffered at the hands of the British monarchy.

For that very reason, they provided what is literally the ultimate—and certainly the best—trump, the right of the people to express their will every 2 years on who comprises the House of Representatives and on who holds one-third of the seats in the Senate.

Article I, section 2, and article I, section 3, set out that the House of Representatives shall be composed of Members chosen every 2 years and that a third of the Senate shall be elected every 2 years.

Time will tell whether the people of the country decide to use that ultimate trump to remedy what appears to me to be a clear abuse of the power granted by the people to the Congress by way of the Constitution. Until that time, this extortion, this abuse of power, should stop. It should stop today.

Today we should pass a continuing resolution to bring the Government back to full operation. Today we should pass a continuing resolution for a period long enough to allow careful negotiation on the budget and serious negotiation on the budget, not for the 2 or 3 days for which we were just advised by the majority leader we are likely to be passing a continuing resolution.

And today we should resolve that the power not to pass money bills, which the Congress clearly has—and I do not dispute that Congress has that power, but that power should never become or never be seen as a right not to pass money bills, as Mr. GINGRICH asserts. Today we should fully restore the checks and balances between the President and the Congress which the Constitution of the United States contemplated at the time of the founding of the Republic.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will read the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

DIRECTING THE SENATE LEGAL COUNSEL TO BRING A CIVIL ACTION

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of Senate resolution 199, which the clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 199) directing the Senate Legal Counsel to bring a civil action to enforce a subpoena of the Special Committee to Investigate Whitewater Development Corporation and Related Matters to William H. Kennedy, III.

The Senate proceeded to consider the resolution.

PRIVILEGE OF THE FLOOR

Mr. D'AMATO. Mr. President, I ask unanimous consent that the privilege of the floor be granted to staff during consideration of Senate Resolution 199, whose names shall be submitted to the desk at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The staff names are as follows:

Alice Fisher, Chris Bartolomucci, Jennifer Swartz, David Bossie, Vinezo Deleo, Richard Ben Veniste, Lance Cole, Neal Kravitz, Tim Mitchell, Jim Portnoy, Glenn Ivey, Steve Fromewick, David Luna, Jeffrey Winter, and Amy Wendt.

PRIVILEGE OF THE FLOOR

Mr. SARBANES. Mr. President, I ask unanimous consent that Joanne Wilson, a congressional fellow with Senator SIMON's office, be granted privileges of the floor for the consideration of Senate Resolution 199.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I regret that we find ourselves here today. I must say that I believe my colleague, Senator SARBANES, has made every reasonable effort to see if we could resolve this problem. And, indeed, in the past we have been able to resolve many of the outstanding issues with our professional staff and counsel working together—even some that might be considered contentious. I believe this one is beyond the control of my friend and colleague on the other side. We have made every reasonable effort to attempt to settle this matter. That is a question of the enforcement of a subpoena on Mr. Kennedy for his notes—William Kennedy was formerly associated with the Rose law firm, former associate counsel in the White House—regarding a meeting of November 3, 1993.

I summarize that because it is well known. To go over every single aspect of it, I think, would draw this out unnecessarily.

It was but a short time ago that my colleague and friend, Senator SARBANES, requested that I speak to Chairman LEACH in the House of Representatives in regard to an offer that was made, apparently, to the Speaker in regard to a possible settlement of the manner in which to produce these notes. Let me first say that I find the conduct of the White House to be absolutely one based upon delay and obfuscation—delay, delay, delay, delay, delay.

Let me tell you, with some specificity, what I am talking about. We asked for this information, and information was covered going back to August. We had numerous conferences with the White House with regard to not only this, but all of the relevant information. Throughout these proceedings, we have had the continued posture, publicly, of cooperation and, yet, when it came to producing relevant material evidence that goes to the heart of the matter, we have had delay.

This is not the first time. Only when the issuance, or the threat of the issuance, of a subpoena and bringing this public would we get cooperation—in numerous instances. But this one takes the cake. Let me tell you why. Because after our August 25 request, ensuing meetings took place in September, October, and November. On November 2, it gets down to specificity as it relates to these notes of Mr. Kennedy. November 2. Here we are now in December. It comes to the issue of privilege for the first time and, remember, this is the same administration, and these people are working for the same President, who says, "I will go to great lengths, and I cannot imagine raising the issue of privilege." And privilege is raised.

Now, clearly, in looking at the legislative history of the Congress of the United States as it relates to the Executive, there has never been an instance where a committee, in its capacity of investigating, has been turned down or has the claim of privilege succeeded in thwarting that committee's request for documents. Never. There is a history on that. Clearly, bringing up the issue of privilege in this case is very, very doubtful, very, very tenuous. But I suggest, Mr. President, it flies in the face of what Mr. Clinton, the President of the United States, promised and said publicly: "We will cooperate." What sense is it if you have 50,000 pages of documents? You can give us the Federal Registry. So what? You can give us a million pages. But when it comes to the relevant information that we request, there is repeated delay, delay, obfuscation.

That is what we have had to deal with. This is a perfect example. Only when we say that we would vote these subpoenas, move this, do we begin to get any kind of response. Let me say that it is absolutely disingenuous, it is wrong, and it is a contrivance for the White House to say that it has offered us conditions by which to accept this agreement. The fact of the matter is, those conditions that they have added to it are over and above what was reasonable, and that back on November 2—again, almost 6 weeks ago—we said to them, "You do not have to concede anything. Give us the information and indeed it will not be deemed a waiver." So we offered that to them.

The whole month of November goes by, right up until the recess this time, and delay, delay, delay. They come back and they say, "Oh, by the way, we will be willing, if you will agree that this is not a waiver of privilege, first, and then attach other conditions—conditions to say that we, the Senate, should get approval from other bodies."

Now, I do not have any objection and, indeed, would suggest and recommend that other bodies have no reason—be they my colleagues in the House or investigatory bodies, or the independent counsel—to go along with this. But to make this public and then to claim that they have conceded something that we offered weeks ago is wrong. Spin doctors. They are very good at this spinning.

In an effort, just a little less than an hour ago, to come about some kind of suggestion, some kind of resolve of this matter, my friend and colleagues suggested that I reach out to Chairman LEACH, chairman of the House Banking Committee, which is also conducting its investigation into the matter known as Whitewater/Madison, and related matters.

I said that I would, and I did. I have seen now for the first time a letter of response or a letter from Chairman LEACH to Speaker GINGRICH. I do not know if my friend and colleague has a copy of this letter. I will make a copy available. We just received this by fax at 10:30. Mr. President, I ask unanimous consent that the complete letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE ON BANKING AND
FINANCIAL SERVICES,
Washington, DC, December 19, 1995.

Hon. NEWT GINGRICH,
Speaker, Office of the Speaker,
Washington, DC.

DEAR MR. SPEAKER: I have reviewed the letter of December 18, 1995, to you from Jack Quinn, Counsel to the President.

Committees of the Congress may from time to time consider entering arrangements of one kind or another with the White House. However, House determinations should not be contingent on Senate agreement or vice versa.

What the White House is attempting to do in this instance is position the House of Representatives—and particularly the Committee on Banking and Financial Services and the Committee on Government Reform and Oversight—in opposition to the Senate and the Independent Counsel. This is a circumstance we should prudently avoid.

In his cover letter Mr. Quinn suggests that "our interest is not in maintaining the confidentiality of the notes, but rather in ensuring that the disclosure of the notes not be deemed to waive the President's right to confidentiality with respect to other communications on the same subject covered in the notes." In the letter of December 14, 1995, from Ms. Jane Sherburne to Mr. Michael Chertoff it is noted that "our concern about disclosing the Kennedy notes has not had to do with the notes themselves, but instead the possibility that disclosure would result in an argument that there had been a waiver (in whole or in part) of the President's privileged relationship with counsel."

It is my view that while these may be credible concerns for the Counsel to the President to raise, they are inconsistent with the objectives of the Congress concerning full and complete disclosure in this matter. Just as the White House is concerned with precedent from its perspective, so must Congress be for its oversight prerogatives.

To my knowledge, this request by the White House of the House for a commitment relative to a Senate request is unprecedented. It underscores the gravity of the issues at stake and hints at White House concerns that a new path of inquiry could be opened by the information transferred. In this context, what the White House is inappropriately attempting to do is hamstring one congressional body by holding hostage documents subject to a constraining agreement by the other body.

What appears to be at issue with regard to the requested documentation is that there may have been a transfer of confidential law enforcement information related to an investigation touching on an office holder to outside attorneys representing the office holder in his personal capacity. The then House Committee on Banking, Housing and Urban Affairs was assured in 1994 that such disclosure did not occur and would not be appropriate. In this regard, for example, Bernard Nussbaum, former White House Counsel, testified that he had on his staff at the White House Neil Eggleston and Bruce Lindsey, both of whom attended the meeting the notes for which are at issue. Under oath Nussbaum stated that Lindsey and Eggleston "would not release confidential information which they received in the course of [their] official capacities to anyone outside the White House for any improper purpose, or for any purpose."

The White House's reluctance to turn over the requested documents may cast doubt on the accuracy of this and similar testimony by other White House officials before a committee of the House of Representatives.

On process grounds, I have sought to be as deferential as prudently possible to the White House, but with each new revelation, some of which if viewed in isolation might seem relatively inconsequential, the evidence of a consistent pattern of delay and obfuscation is clearly emerging.

Accordingly, my advice is that a respectful letter be sent to Mr. Quinn denying his request.

Sincerely,

JAMES A. LEACH,
Chairman.

Mr. D'AMATO. Mr. President, let me read part of the letter. I made that call because if there was an attempt to settle this and we could get the documents—let me start by saying this: If we are given the documents at any time—any time; at any time—why, we will cease and suspend. It is not necessary to go forward. We are asking the Secretary or the Senate legal counsel to seek enforcement of this subpoena, whether after the vote, prior to the vote—whatever.

Let me suggest that the White House and the President has it within his discretion and within his hands to deliver those documents to us. We could end it tomorrow. If people say you are unnecessarily going forward—no, it is because we have had nothing but delay, delay, conditions that we have not been able to accept. We have had a rebuttal of our efforts going back to November 2 when we offered to say we will put aside the question of privilege, you have not waived it. Yet it is at the last moment when we finally say we will vote to issue a subpoena that they come forth with what I consider to be another tactic of delay.

Let me read part of Chairman LEACH's letter:

What appears to be at issue with regard to the requested documentation is that there may have been a transfer of confidential law enforcement information related to an investigation touching on an office holder to outside attorneys representing the office holder in his personnel capacity. The then House Committee on Banking, Housing and Urban Affairs was assured in 1994 that such disclosure did not occur and would not be appropriate. In this regard, for example, Bernard Nussbaum, former White House counsel, testified that he had on his staff at the White House, Neil Eggleston and Bruce Lindsey, both of whom attended the meeting the notes for which are at issue. Under oath Nussbaum stated that Lindsey and Eggleston "would not release confidential information which they received in the course of [their] official capacities to anyone outside the White House for any improper purpose, or for any purpose."

I have a copy of a hearing before the Committee on Banking, Finance and Urban Affairs, dated July 28, 1994, page 18. Chairman LEACH furnished this to me, again by fax at 10:32, less than half an hour ago.

Mr. Nussbaum's testimony:

On my staff, I had a number of very experienced people, Congressman. I had Cliff Sloan, who was a former assistant solicitor general, a partner in a distinguished law firm. I had Neil Eggleston, a former assistant U.S. attorney in the Southern District of New York and an experienced litigator. Bruce Lindsey, who is on the White House staff is a lawyer of high competence and high integrity. I didn't feel it necessary to issue those kind of instructions to those people.

I knew and I still know to this day that those people would not release confidential information which they received in the course of our official capacities to anyone outside the White House for any improper purpose, or for any purpose.

A letter that Chairman Leach sent to me says:

The White House's reluctance to turn over the requested documents may cast doubt on the accuracy of this and similar testimony by other White House officials before a committee of the House of Representatives.

On process grounds, I have sought to be as deferential as prudently possible to the White House, but with each new revelation, some of which viewed in isolation might seem relatively inconsequential, the evidence of a consistent pattern of delay and obfuscation is clearly emerging.

Accordingly, my advice is that a respectful letter be sent to Mr. Quinn denying his request.

Sincerely, Chairman Leach.

The chairman advised me he might have additional letters on this matter.

I have made an attempt, as its relates to asserting what the position of my colleagues—I have explained our position that we have no problem in going forward under the conditions that we had offered to this administration, to this White House, back in early November, and which was the subject matter of discussions, repeatedly, for weeks and weeks and weeks as it related to this and other matters.

So when we want to talk about avoiding constitutional clashes, I say right now, Mr. President, please, keep your promise to the American people. Give us the information that Congress is entitled to, that the people are entitled to.

Let me, if I might, refer to the New York Times of yesterday, and, Mr. President, I will ask that the complete editorial be printed in the RECORD.

The editorial is entitled: "Averting a Constitutional Clash."

If Mr. Clinton relinquishes the documents, it would be a positive departure from the evasive tactics that have marked the Clintons' handling of questions about Whitewater since the 1992 campaign. Mr. Clinton's assertion that the subpoenaed material is protected by lawyer-client privilege, and his quieter claim of executive privilege, are legally dubious and risk a damaging precedent.

As it relates to this, let me read just part of the editorial of December 14 of the Washington Post:

The privilege claims also undercut Mr. Clinton's much-professed interest in getting the facts out.

Mr. President, I suggest again that attempting to raise this claim and raising and delaying this matter for months—for months, now—and forcing us to demonstrate that we are absolutely serious in terms of our determination to get the facts that we are entitled to, that the Congress of the United States and the Senate of the United States, the American people are entitled to, will not be delayed any longer.

Again, I said at any point, at any time the White House says we will deliver and we are going to deliver these within a period of time—and I do not mean days; I do not mean weeks; I mean within an hour or 2 hours—we will stop, but not until that takes place.

The privilege claims also undercut Mr. Clinton's much-professed interest in getting the facts out. To the contrary, these actions of administration officials and associates—like other of their actions in this long, evolving Whitewater affair—look cagey, not candid, and are suggestive of people with something to hide.

Let me go on:

It is fair to ask whether the White House exploited information it obtained improperly from Federal agencies that were looking into possible criminal matters involving the Clintons.

That is the Washington Post editorial Thursday, December 14.

We can go on and on. December 12, New York Times, an editorial:

> The committee reasonably wants to know about government matters that may have been discussed, such as the handling of investigations by the Treasury Department . . .

That is exactly what Chairman LEACH points out. Those questions were raised. Now we know, at least this Senator knows, for the first time, Mr. Nussbaum said, no, materials would not be turned over of this nature, or words to that effect.

> A court will decide whether notes taken at the meeting and a White House memo about the session can be deemed personal legal papers. That will take an expansive interpretation on Mr. Clinton's behalf.
>
> To be sure, citizen Bill Clinton is entitled to claim whatever privacy the courts will give him. But President Clinton, the politician and national leader, cannot expect the public to be reassured by mysterious mobile files and promises of openness that disappear behind the lawyer-client veil.

Mr. President, I ask unanimous consent these editorials be printed in the RECORD in their entirety for completeness.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, December 19, 1995]

Averting a Constitutional Clash

President Clinton may be moving to avoid a constitutional confrontation with Congress over the Senate Whitewater committee's access to notes taken by a White House lawyer at a Whitewater meeting two years ago that was attended by senior officials and personal lawyers for Mr. Clinton and his wife, Hillary Rodham Clinton.

If Mr. Clinton relinquishes the documents, it would be a positive departure from the evasive tactics that have marked the Clintons' handling of questions about Whitewater since the 1992 campaign. Mr. Clinton's assertion that the subpoenaed material is protected by lawyer-client privilege, and his quieter claim of executive privilege, are legally dubious and risk a damaging precedent.

A forthcoming response to the Senate's request would seem especially timely in view of new disclosures that more records have disappeared from the Rose Law Firm. These documents deal with Mrs. Clinton's legal work for Madison Guaranty, the failed savings and loan run by their Whitewater partner. This news comes one week after the disclosure that Vincent Foster removed three files from the firm during the 1992 election campaign and turned them over to the Clintons' trusty political errand-runner, Webster Hubbell.

The dispute with the committee involves notes taken by William Kennedy 3d, an associate White House Counsel, at a November 1993 meeting at the offices of the Clintons' private attorneys. This meeting was attended by three members of the White House Counsel's office, three lawyers for the Clintons and Bruce Lindsey, one of the President's senior political aides. Clearly, lawyer-client confidentiality ought to apply to Mr. Clinton's exchanges with his personal lawyer. But to try to extend the privilege to such a broadly constituted meeting is a stretch, especially given the committee's mandate to find out whether Administration officials, including some at the meeting, may have improperly used confidential Government information to aid the Clinton's private defense.

Mr. Clinton's various lawyers, and some legal ethics experts, speak of the overlap of the President's public and private roles to justify the claim of lawyer-client privilege. But this argument misses the vastly different and even conflicting responsibilities of Mr. Clinton's two sets of attorneys.

As for executive privilege, it ought to be a way to protect a narrow band of Presidential privacy on important matters of governance, including national security. It is a distortion of the doctrine's history to raise it to block a legitimate Congressional inquiry into the Clintons' Arkansas financial dealings and the official conduct of senior Administration aides.

A decent resolution that had the White House handing over the notes seemed to be in sight over the weekend. But yesterday Senator Alfonse D'Amato, the committee chairman, complained that the White House was trying to bargain in the media instead of negotiating with the committee. It should still be possible to make arrangements before tomorrow, when the full Senate is due to take up the matter. If not, the Senate has no choice but to vote to go to court to enforce the committee's subpoena.

[From the Washington Post, December 14, 1995]

Now a Subpoena Controversy

In refusing to honor a Senate Whitewater committee subpoena for notes taken by then-White House associate counsel William Kennedy during a Nov. 5, 1993, meeting between White House officials and the Clintons' attorneys, the administration risks traveling down a familiar dead-end. Seeking refuge from a legislative inquiry behind the twin shields of executive privilege and attorney-client privilege—as the administration is doing—may slow Congress. But it will do nothing to avoid a confrontation and a debilitating fight that is likely to end up in court.

Claims of executive and attorney-client privilege play directly into the hands of Republicans on the Hill who, despite their wails of protest, are not the least bit bothered by the image of a stonewalling Democratic administration. The privilege claims also undercut Mr. Clinton's much-professed interest in getting the facts out. To the contrary, these actions of administration officials and associates—like other of their actions in this long, evolving Whitewater affair—look cagey, not candid, and are suggestive of people with something to hide. The political affiliation of Sen. Alfonse D'Amato and company notwithstanding, there are aspects of the November 1993 meeting that raise legitimate questions.

It is fair to ask whether the White House exploited information it obtained improperly from federal agencies that were looking into possible criminal matters involving the Clintons. If, for instance, administration officials used confidential government information to try to shield Bill and Hillary Rodham Clinton from exposure to probes into Madison Guaranty, the failed Arkansas thrift partially owned by the Clintons, and the Small Business Administration-backed loan company owned by Judge David Hale, then they have something serious to answer for. Obviously Mr. Kennedy's notes on the Nov. 5 meeting can shed light on those questions. His notes, however, are what the administration seeks to withhold.

This impasse between the Senate committee and the White House over so-called privileged documents must and will be resolved. It would be better, however, if the dispute could be settled between the executive and legislative branches. A reasonable accommodation of each side's interests, not a legal challenge, is what's needed at this time. The overriding interest is to get at the truth. If, however, a satisfactory solution cannot be reached, then the courts must decide. It shouldn't have to come to that.

[From The New York Times, December 12, 1995]

Traveling Whitewater Files

Just when it seemed possible that the White House could not handle Whitewater any more clumsily, here come two new moves to undermine public confidence.

The disclosure that Vincent Foster removed three files from Hillary Clinton's law firm during the 1992 election campaign and turned them over to the Clintons' political fixer, Webster Hubbell, is truly a blow to those who want to believe the Clintons have nothing to hide. The files related to Mrs. Clinton's work for Madison Guaranty, the savings and loan owned by the Clintons' Whitewater investment partner, James McDougal. The White House will no doubt argue that the files are innocuous.

But that claim seems lighter than air compared with the fact that they were stored in the basement of a lawyer later convicted of a felony and that they disappeared from the Rose Law Firm in a year when the Clinton campaign team was perfecting its stonewall defense on Whitewater.

The other matter has to do with the dubious claim of lawyer-client privilege being advanced by President Clinton about a 1993 meeting at which his senior lawyers and aides discussed Whitewater. Mr. Clinton seems headed for a messy legal showdown with the Senate Whitewater committee. But the President is stretching attorney-client privilege beyond any reasonable limit and also revoking his promise of openness about this matter.

Surely no one wants to intrude on exchanges between the President and his personal lawyers. But this meeting included a top political aide, Bruce Lindsey, and a battery of attorneys on the public payroll, including White House Counsel Bernard Nussbaum and two of his assistants.

The committee reasonably wants to know about government matters that may have been discussed, such as the handling of the investigation by the Treasury Department and the Resolution Trust Company into Madison Guaranty. A court will decide whether notes taken at the meeting and a White House memo about the session can be deemed personal legal papers. That will take an expansive interpretation in Mr. Clinton's behalf.

To be sure, citizen Bill Clinton is entitled to litigate all he wants and to claim whatever privacy the courts will give him. But President Clinton, the politician and national leader, cannot expect the public to be reassured by mysteriously mobile files and promises of openness that disappear behind the lawyer-client veil.

Mr. D'AMATO. Mr. President, last Friday our committee voted out this resolution, asking that the full Senate authorize the Senate legal counsel to go to court to enforce the subpoena served on William Kennedy, former associate counsel to the President. The subpoena seeks the notes that Mr. Kennedy took at the Whitewater defense meeting, and which was attended by others, on November 5, 1993, with other White House officials and President and Mrs. Clinton's personal attorneys, a meeting that took place at the Clintons' personal attorney's office.

The President has repeatedly claimed that he would not assert privilege with regard to Whitewater matters. He has promised to cooperate fully with our committee investigation. But over the past weeks, President Clinton has chosen to resist our committee's investigation by preventing Mr. Kennedy from turning over his notes. Our committee must obtain Mr. Kennedy's notes in order to fulfill our obligation to the Senate and to the American people.

I could go on and on. I, indeed, will raise other matters. I will say that what we are attempting to do is to find the truth about the failure of an Arkansas savings and loan called Madison Guaranty that cost the American people $65 million. We want to find the truth about what happened to documents in Vincent Foster's office following his death, and why White House officials prevented law enforcement officials from seeing those documents; the truth about the activities of Hillary Clinton's law firm, the Rose Law Firm, in connection with their representation of Madison; the truth about White House efforts to obtain confidential law enforcement information about Madison and Whitewater and what they did with that information; the truth—not what Mr. Lindsey has said to us, that he gathered it so he could answer newspaper inquiries. But getting to the truth about these matters has proved to be rather difficult. And these notes, we believe, are relevant and will answer some of the questions and will lead us to other areas.

President Clinton's refusal to deal openly with our committee's investigations comes at a time when damaging facts have begun to mount and mount. These are facts that we have had to uncover on a daily basis, dragging out, dredging out, fighting for the information. So, again, to come before the American people and say we provided 50,000 pages of documentation means little, when the critical, crucial matters—which may be 8 pages, 10 pages, 2 pages of notes, telephone calls, logs that are missing, missing files—that is the key.

Vincent Foster was deeply concerned about Whitewater. That he was concerned about Whitewater can be attested to by his notes in which he said, "Whitewater, can of worms you should not open." Vincent Foster had files about Madison that Webster Hubbell transferred to the Clintons' personal attorneys. Their phone records and White House entry and exit logs indicate that the President, that the First Lady, her chief of staff, Maggie Williams, and the First Lady's confidant, Susan Thomases, were deeply involved in the decision to prevent law enforcement officials from searching Vince Foster's office.

Let me again say, phone records indicate and the White House entry and exit logs indicate that the First Lady, the chief of staff, Maggie Williams, and the First Lady's confidant, Susan Thomases, were deeply involved.

That the First Lady was concerned about allowing law enforcement officers unfettered access to the documents in Mr. Foster's office; that a Secret Service officer saw Mrs. Clinton's chief of staff, Maggie Williams, carry files from Foster's office on the night of his death; that Hillary Clinton had not been forthcoming about the amount of work she did for Madison while a partner at the Rose Law Firm.

We have also learned that the critical billing records have disappeared, which raises the question: What was in the files Maggie Williams was carrying from Vince Foster's office? What did they contain? Are they the billing records? Where have the billing records gone to?

That former White House Counsel, Lloyd Cutler, misled the Banking Committee when he claimed, in the summer of 1994, that the Office of Government Ethics had exonerated the White House colleagues for their handling of confidential RTC information and that high White House officials sought to obtain confidential information from the Small Business Administration and in the Small Business Administration office in Little Rock about David Hale, a former Arkansas judge, who contended that the then Governor Clinton forced him to make an improper $300,000 loan to the Governor's Whitewater partner, Susan McDougal; that there was a deliberate effort to obstruct the RTC's criminal investigation of Madison and Whitewater; the U.S. attorney in Little Rock remained on the Madison case over the warnings of senior Justice Department officials in Washington and declined the first RTC referring.

Mr. President, our committee has uncovered these and other patterns, patterns of people who cannot remember where they were or what they were doing or who they were doing it with. We have a constant attempt at a diversion of information and the American people and the committee have a right to the facts.

Mr. President, let me say it is the intent of the committee to go forward. It is the intent of the committee to see to it that the subpoenas are enforced. It is the intent of the committee to bring this matter to a head.

I would say, even after a vote we stand ready to accept this information as we had outlined, going back to November. We had detailed that, I believe in writing, November 27. What we want is the facts. What we want is the information that the President has promised us.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I am going to take a few minutes to discuss the legal issue because I think it is very important in terms of the Senate reaching a decision whether to go to court with respect to obtaining these notes. The fact of the matter is the White House has said that these notes will be available. The White House, in order to make the notes available, is seeking certain assurances that it will not have a general, broad waiver of the attorney-client relationship. Our committee has indicated that the conditions the White House is seeking are reasonable ones and our committee is prepared to agree to them.

The White House concern, then, is with respect to other investigative bodies. For example, the independent counsel and the House of Representatives.

As I understand it, I am told that the White House has reached an understanding with the independent counsel that I presume parallels what our committee is prepared to do regarding the turning over of the notes as not being a waiver. So we are very close to having a resolution of this matter.

The problem now becomes, will the House of Representatives treat it—are they unwilling, in effect, to say this is not a general waiver?

Let me discuss briefly why this is important. The White House has made a number of proposals to try to resolve this matter. I disagree with the chairman, in terms of the chronology he set out with respect to efforts, back and forth, and who was being uncooperative. I think, frankly, the committee staff, on occasions, was not seeking a resolution of this matter and was moving in the direction of provoking a confrontation and a crisis, constitutional confrontation.

The special committee has agreed that the production of the notes of Mr. Kennedy, taken at this November 5, 1993, meeting—on which there are strong assertions of attorney-client privilege—but our committee has agreed that the production of those notes shall not act as a general waiver of the attorney-client privilege.

The only remaining hurdle then to getting those notes is agreement by the independent counsel and the House. I understand the independent counsel now has worked out an understanding with the White House.

I believe that the concerns about a general waiver of the attorney-client privilege are meritorious, and that the Senate should make additional efforts to accommodate them before sending this matter to the Federal court. It always should be borne in mind that when the executive and legislative branches fail to resolve a dispute between them and instead submit their disagreements to the courts for resolution, significant power is then placed in the judicial branch to write rules that will govern the relationship between the elected branches. In other words, we have a chance here to work this out in a way that we get the notes, the White House concern about a general waiver of a privilege is accommodated, and there is no need to go to court running the risk, I would suggest to some Senators, of an adverse precedent. And I will make reference to that shortly.

Since a mutually acceptable resolution of this matter is at hand, if we can just reach out and grasp it, I strongly urge the Senate not to precipitate unnecessary litigation by passing this resolution. The argument is made, well, there is a time factor. If you go to court on this matter, there certainly will be a time factor. I mean you are caught in a situation here, the choice as it were, between achieving a resolution which would make the notes immediately available to us and going through an extended court proceeding which would take an extended period of time even under the most expedited procedures.

Let me first simply state that a number of legal scholars have examined this meeting that was held on the 5th of November of 1993, a meeting between the private lawyers the President was engaging and the governmental lawyers who had been handling various aspects of these matters for the President. The meeting was to brief the new private counsel hired by the Clintons. Several legal scholars have examined that meeting and have concluded that a valid claim of privilege has been asserted.

For example, University of Pennsylvania law professor Geoffrey Hazard, a specialist in legal ethics and the attorney-client privilege, provided a legal view that the communications between White House lawyers and the President's private lawyers are protected by the attorney-client privilege.

Other legal experts have concurred with that view. New York University law school professor Stephen Gillers stated, and I quote—this was in the paper:

> The oddity here is that Clinton is in both sets of clients, in one way with his presidential hat on and in one way as a private individual. The lawyers who represent the President have information that the lawyer who represents the Clintons legitimately needs, and that is the common interest. It is true that Government lawyers cannot handle the private matters of Government officials. However, perhaps uniquely for the President, private and public are not distinct categories. So while the principle is clear, the application is going to be nearly impossible.

And there are other legal experts who have said that there is a privilege that applies here.

Efforts have been made over the last few weeks to try to resolve this matter in a way that the committee would get the information it was seeking, and the White House would get assurances that it was not broadly and generally waiving the lawyer-client privilege—not only with respect to this particular meeting but with respect to all other meetings that touched on this subject matter. That is what the law may well provide. And that is one of the things, of course, that seems to me is a legitimate concern on the part of counsel for the President.

There is an original proposal for Mr. Kendall, the President's private lawyer, that would allow for questioning of people at that meeting in terms of what they knew when they went in and what they did after they came out. But I will not get into the questioning about the meeting itself. I thought that was an effort to try to accommodate, and to give the committee the chance to gain information, and, yet, not intrude upon the lawyer-client privilege. The majority projected that proposal, and the White House went back and sort of obviously reconsidered and came forward with a new proposal that embraced providing the notes to the committee.

Mr. KENNEDY, it needs to be pointed out here, is sort of a stakeholder. He happens to have these notes. He is not providing them in response to the committee's subpoena because he is instructed that he has to observe the lawyer-client privilege and, therefore, cannot provide this information. The canon of lawyer ethics is that you have to abide by the lawyer-client privilege. So he in effect says, "Well, I have these notes. This is what I have been told and this is what I am doing." The White House and Mr. Kendall, the President's lawyer who was brought in to handle the private side of this matter, have in effect said that those notes ought not to be provided until they can get assurances with respect to the lawyer-client privilege.

Let me just make a point that I think legitimate privilege issues have been raised. I think it is clear that an attorney-client privilege does apply here. It is one of the oldest of privileges for confidential communications known to the law. I mean, if anyone stops and thinks about it, it is obvious why you have it. People then say, "Well, if you have nothing to hide, why do you not tell everything?" Of course, the logic of that assertion is that there would be no lawyer-client privilege. The logic of that assertion is that there would be no lawyer-client privilege, and in this instance, the White House says we are prepared to give the notes. We are prepared to provide the notes. We just want assurances that providing the notes will not be seen as a general waiver of the lawyer-client privilege.

So that in other fora, and in other matters, it will be sort of, well, in fact here you waive the lawyer-client privilege.

So they are trying to be forthcoming. They are trying to meet the demands of the committee for this information, and at the same time not completely eliminate the lawyer-client privilege. And the committee in the conditions it is prepared to accept—our committee, this committee—has moved to address that problem. The question then is will others who may undertake an investigation be prepared to do the same? As I understand it, the independent counsel is prepared to do so as well.

So it now really is a question of whether the House, the relevant committees in the House of Representatives, are prepared to do the same. Will they in effect make the same undertaking our committee is prepared to take? I might point out it does not lose them any position. I mean I have read this letter from Chairman LEACH that Chairman D'AMATO provided me. I am not quite sure that it is understood that they will not lose any of the positions they now have. The notes will become available. But it is understood that the notes do not constitute a waiver of a privilege. And the question then becomes why will not that be acceptable? What is the difficulty with that? I mean we obviously asked the same question amongst ourselves and reached a conclusion that those conditions were reasonable. There were some others that the White House dropped by the wayside. But we are now back to these conditions as was mentioned in the committee hearing, the two or three which the committee had been prepared to accept.

Let me just talk briefly about the general waiver issue.

The concern here is that the production of these notes could constitute a general waiver of the attorney-client privilege, and it would be a waiver that would apply to all communications relating to the subject matter of the meeting. In other words, you could then turn to other meetings, other discussions between the President and his lawyers and say, oh, no, the privilege has been waived with respect to those meetings.

It is this far-reaching aspect of the law of attorney-client privilege, the subject matter waiver, that creates the difficulty the special committee is facing here. Production of the notes without these understandings could be construed as a waiver of the privilege as to all communications on this subject matter. Potentially such a waiver would encompass all communications between the President and his lawyers at any time up to the present that pertain to the subject matter of this meeting.

Obviously, that is very far-reaching. The committee itself recognized that. Our committee recognized that. And our committee in effect said, no, that is not what we want to do. We do not want to intrude in that manner into the attorney-client privilege, and therefore we are willing to agree to the condition that it would not be used, the argument would not be used that this constituted a general waiver.

This is a complex issue, no question about it, and it seems to me that taking it to the courts instead of resolving it, especially when it appears we are very close to resolution of the matter—that must be understood. We have a situation now in which the White House says we are willing to make the notes available. Our committee has said we will accept them on certain conditions which constitute an accommodation between the legislative and the executive branch. The independent counsel apparently has taken the same view. And the question becomes, will the House of Representatives join in, so you do not end up having a whipsaw action in which notes are provided in good faith and on certain understandings and then another investigative body says, oh, no, we are going to treat that as a general waiver and we are going to proceed on that basis, after this committee has said it would not treat it as a general waiver and after apparently the independent counsel has taken the same position.

In my view, this dispute has escalated needlessly. The White House has offered to provide the Kennedy notes to the committee, provide the Government lawyers for testimony, and in my view, rather than proceeding to the court at this time, the Senate should make a further effort to obtain this information in a manner that protects against an unintended general waiver of the attorney-client privilege.

It seems to me there is a constructive role that the committee can play in trying to accomplish that. We are not very far away from it, in my view, and it comports I think with the advice and counsel that has generally been provided historically with respect to these potential confrontations between the Congress and the Executive.

First of all, let me note that Congress historically has respected the attorney-client privilege. Indeed, Congress first acknowledged the confidentiality of attorney-client discussions back in the middle of the last century. In the middle of this century, the Senate considered a rule that would have expressly recognized testimonial privileges that traditionally are protected in litigation. The Senate thought of adopting a rule. It ultimately decided that a rule was unnecessary and stated:

> With few exceptions, it has been committee practice to observe the testimonial privileges of witnesses with respect to communications between clergyman and parishioner, doctor and patient, lawyer and client, and husband and wife.

As recently as 1990, Senate majority leader Mitchell stated that:

> As a matter of actual experience, Senate committees have customarily honored the attorney-client privilege where it has been validly asserted.

That has been true even in highly charged political investigations with respect to respecting the attorney-client privilege. For instance, during Iran-Contra, Gen. Secord and Col. North successfully asserted the attorney-client privilege. During the proceedings against Judge HASTINGS, the impeachment trial committee considered his claim of attorney-client privilege and ruled that testimony would not be received in evidence.

The Senate's most recent experience with the attorney-client privilege arose in the disciplinary proceedings against Senator Packwood. Prior to the controversy over Senator Packwood's diaries—prior to that—the Select Committee on Ethics considered Senator Packwood's assertion that certain documents other than the diaries were covered by the attorney-client or work product privileges. That was the assertion he made, that he was covered by these privileges.

To resolve that claim, the Ethics Committee appointed a former jurist—interestingly enough, it was Ken Starr—as a hearing examiner to make recommendations to the committee and accepted his recommendation that the privilege be sustained. With respect to the diaries, the committee agreed to protect Senator Packwood's privacy concerns by allowing him to mask over the information dealing with attorney-client privilege.

So there was no intrusion into the attorney-client privilege claim in that instance. The Senate respected that. This committee has extended protection of the attorney-client privilege to witnesses that have been before the committee.

During the hearing testimony of Thomas Castleton, Chairman D'AMATO confirmed that Castleton need not testify about conversations with his attorney. Similarly, he limited questioning of Randall Coleman by minority counsel regarding an interview his client, David Hale, granted to a reporter for the New York Times during which Coleman was present. That was Coleman, the client, and this reporter for the New York Times, and that was given this protection.

It seems to me that the President and Mrs. Clinton ought to have protection for the lawyer-client privilege consistent with past Senate practice.

Let me turn to why we need to avoid a needless constitutional confrontation by pursuing a negotiated resolution to this dispute.

Congressional attempts to inquire into privileged executive branch communications are rare and with good reason. In fact, the courts on occasion have refused to determine the dispute and have encouraged the two branches to settle the differences without further judicial involvement. In other words, when it comes to the court, it says you ought to settle it between yourselves and not involve the court in trying to address this matter. The U.S. Court of Appeals for the District of Columbia has long held that Presidential communications are presumptively privileged, and therefore it would take this matter to court. The committee is taking on a heavy burden.

Really what you have to do here is balance the interests. And how do you reconcile these differences? William French Smith, when he was the Attorney General, commented:

> The accommodation required is not simply an exchange of concessions or a test of political strength, it is an obligation of each branch to make a principled effort to acknowledge and, if possible, to meet the legitimate needs of the other branch.

The White House is trying to meet our needs by providing the notes. The White House now is taking the position, we will provide to the committee. The committee asserts that it wants these notes and needs these notes in order to carry forward its inquiry. The White House has said we will make these notes available. The White House says there is one problem with doing that, that making these notes available will then be seen as a general waiver of the lawyer-client privilege. And we do not want to be in that posture. We want to have assurances with respect that this does not constitute a waiver of the lawyer-client relationship.

This committee has recognized that argument because the committee has indicated that it is willing to accept the conditions that preclude that general waiver. The White House says well, that works with the committee, but there are other investigative places that could make the providing of the notes to the committee say this constitutes a general waiver, which is, I think, what the law provides. So they say, "We want assurances with respect to these other bodies."

One such body was the independent counsel. It was my own view that we should all get the independent counsel in, have a meeting, see if we cannot resolve this matter, and that the committee could have, you know, played a constructive role in doing that.

In any event, the White House went and engaged in its own direct discussions with the independent counsel and I am told they reached an understanding as of yesterday evening that will make the notes available, will provide the assurances against the general waiver of the lawyer-client relationship.

The question now becomes with respect to the House of Representatives, the White House apparently wrote to the Speaker about this matter. The two chairmen of the relevant committees have indicated that they will not agree to the assurance, the very one this committee is prepared to make. I find it difficult to understand that. In other words, there is nothing in these conditions that causes them to lose anything in terms of their position. It does not deny them their position in any way with respect to future assertions that they might choose to make. It makes the notes available, which people say needs to be done, and it does it in a way that the White House is not confronted with the very high risk that they have waived the lawyer-client relationship.

The Senate has recognized and respected this relationship for more than a century. A waiver of the privilege would deprive the President and Mrs. Clinton of the right to communicate in confidence with their counsel, a basic right afforded to all Americans. It is my view that the committee ought to turn its attention to resolving this matter in a way that the committee is prepared to do with respect to itself, that the independent counsel is prepared to do.

If that is accomplished, then the notes become available and you do not have any risk of the waiver of the principle. If you go to court, who knows how a court will rule. I think there is a very substantial chance that the court will rule against the Senate, and may in fact establish limits with respect to the Senate's congressional investigatory power that some of those pressing this matter will come to regret. You do not know what the court's outcome will be, but I think that is a very real possibility in this situation.

There has been a lot of movement on this issue. And it seems to me that the offer now that the White House has made in an effort to try to resolve it is very reasonable, is justified on the law and that it behooves us to try the accommodate to it and find a solution to this matter, a solution which would make this information available now as opposed to going to court.

I have difficulty understanding why this matter is at this point. I do not understand—I do not begin to understand why the House committees are taking this position because I think if they make the accommodation they have something to gain and nothing to lose. Now, if they simply want to provoke a confrontation, if that is the objective, that is a different story.

Mr. D'AMATO. Will my friend yield for an observation?

Mr. SARBANES. Certainly.

Mr. D'AMATO. On this point, and I just got this letter faxed to me. It says 12:18, but indeed it was 11:18. It is off an hour, this time clock, wherever this fax is operating from, which I have just sent over to my colleague.

Mr. SARBANES. Still on daylight saving time.

Mr. D'AMATO. And it comes from Chairman LEACH. And he did point out to me in a conversation—and it has just taken me a little time to assimilate this—obviously Chairman LEACH is very perplexed and disturbed and will not agree to a limitation of his rights even as it relates to the possible lawyer-client relationship because he feels that there is testimony in the record before him to his question that Mr. Nussbaum indicated these people at the meeting would not transfer information that should not have been transferred that would be inappropriate. I am summarizing it in order to save time.

And he goes down to—I will go to the last two paragraphs on page two. He says:

> To accede to the White House position that disclosure of the notes of the Nov. 5, 1993 meeting does not constitute a waiver of the President's attorney-client privilege, one must accept the proposition that a privilege attaches to this meeting in the first place. Given the presence of three Government lawyers at the meeting—and the indication that confidential law enforcement information may have been improperly disclosed to the President's private lawyer—that is a proposition that legal experts the committee has consulted on the subject cannot accept.

I think more importantly is his last paragraph that he points out to me:

> Given White House denials under oath to a House Committee that a transfer of information to parties outside the White House occurred, White House efforts to place limitations upon the House's ability to gather information necessary to fulfill its legitimate oversight function takes particular chutzpah.

I did not know that my colleague from Iowa would use a term that was frequently used in the Northeast, particularly in the Northeast. But—

> To date the White House has not consulted in any manner on this issue with the House Banking Committee.

I do not mean to be arguing the case on behalf of the House, but I think that what Congressman LEACH is saying quite clearly is they are very much concerned that under oath, the question he raised, as it relates to the possible transfer of documents that would be inappropriate to be transferred, such as criminal referrals to people outside of the White House, being assured by Mr. Nussbaum that it did not take place, and it appearing that maybe it did take place, he is not willing to concede or give up or limit the ability of the House to proceed as related to what took place to those documents.

That raises the question, a very interesting question, of whether or not even that relationship, which this Senator under most circumstances would say absolutely exists between a lawyer and his client may come into sharp contrast if information improperly received is passed to a private attorney, whether or not that private attorney may be examined as it relates to what he did, what he did not do, et cetera.

I believe that that is—this is again outside of my particular knowledge—but it is certainly contained within this letter. And I think that is one of the things that Mr. LEACH is concerned about.

Again, coming back to our particular proposition, I will say to my friend and colleague, I think that you and I and the committee, Democrats and Republicans, the minority and majority, have really gone as far as we possibly could. And I do not think this is a failure on the part of the committee. We did put forth fact that we would not say that this constituted a waiver. That is not the issue.

The issue is, when will you produce this documentation? As it relates to the independent counsel, we contacted him and the office of independent counsel has informed this committee that they cannot confirm or deny. So maybe they have worked it out. Obviously if the White House says that their objections have been met, I am not going to contest that. But they are not in a position to confirm or deny this statement, and an agreement has been reached.

But once again what we are hearing is the White House and the President saying one thing, and he is willing to make these documents available, that "I will not hide behind privilege," and yet doing exactly that. And that is what this Senator has difficulty understanding. We have gone, this committee and this Senate, as far as we can. We have made every reasonable effort, and that is what brings us to this point.

I might note that in the five cases we have come forward as relates to the enforcement of subpoenas, in every one of those cases Congress has gone forward to enforce the subpoenas.

I thank my friend for yielding. We just did get this communique, and I shared it with you as soon as we received it. I wanted to bring it to your attention.

Mr. SARBANES. I am glad the Senator brought it to my attention, because it really does underscore the problem the White House is concerned about. In fact, Chairman LEACH is wrong in asserting they would have limitations placed upon their ability to gather information, just as that is not happening to us.

So the question then becomes, if you can get the notes which everyone asserts would provide an important piece of information, if you can get the notes and the condition you agree to for getting the notes is that the providing of the notes will not be treated as a general waiver of the lawyer-client privilege, which is a perfectly reasonable condition, it seems to me, why would you not enter into that arrangement? What is the problem? Why are the House committees taking this position? What game is afoot?

It is not a reasonable position to take in the circumstance. They lose nothing by accepting the notes and agreeing to the condition. In fact, they get ahead of where they are now, because the notes then become available. They cannot use the furnishing of the notes to claim the privilege was waived somewhere else, but if the notes are not provided, they cannot make that claim elsewhere, in any event. So it is not as though this sets them back. This, in fact, makes some progress in the inquiry.

I just do not understand this position, and it seems to me what this committee ought to be doing, frankly, is seeing if we cannot get the accommodation—well, I hear the statement from the independent counsel, and we would have to see what the story is there, but I understood that could be resolved in the direct communications and then with respect to the House. Then you get the notes and you do not intrude on the lawyer-client privilege.

This administration has provided an enormous amount of material and access. Of course, people say a long time ago, you made a quote everything would be provided and there would be no invocation of privilege. I was asked about that by a newspaper person the other day. They said, "Well, what about that?"

I said, "Well, I'm sure when the President made that statement," and, in my view, he has delivered on it essentially, "he never anticipated that we would get to the point where you would make a kind of a sweeping request that would carry the risk of totally wiping out his lawyer-client relationship."

Obviously, when he made that statement, it seems to me, he was assuming that the request that would come would be within the area of reasonableness and that he would not confront one that carried with it the very real risk of no more lawyer-client relationship.

Obviously, when it reached that point, the President's lawyer said, "Wait a minute, the logic of this is that you will not be able to have any confidentiality in your relationship with your lawyer." Of course, then some say, "Well, he doesn't need any, he should just tell everything." "What do you have to hide?"

But the logic of that argument is that you would never have any confidential relationship.

In fact, when the committee sent letters down to the White House requesting various materials, we recognized in the letters that we sent that some of the material sought would be subject to claims of privilege. In fact, we told the White House, if that were the case, to provide a log identifying the date, the author, the recipient and the subject matter and the basis for the privilege.

So this committee recognized at the outset that we could make interests for which a privilege could be asserted. We did not start from the premise that asserting a privilege was off bounds. We recognized it in the request that we made to the White House.

We have had a tremendous number of depositions, witnesses. None of that has been impeded or inhibited. We have had 32 days of hearings. We have had about 150 people who have been deposed. We have had, I think, some 80 people who have been actually heard in open hearings.

Virtually all of the differences have been resolved with respect to providing information. This one could be resolved. I want to underscore that point again: This one could be resolved.

We are at the point where the White House, in effect, has said we will accept the conditions the committee was willing to validate to provide the notes. They are trying to find the same assurances from the independent counsel and from the House of Representatives. That is not unreasonable. In fact, I think that is very sensible. And, therefore, the opportunity is here, in effect, to resolve this matter, without going to the courts, without, in effect, running this risk of trespassing on this very important relationship.

The chairman says, "Well, you have turned over a lot of pages of documents," but that is not the relevant matter. Well, it is partly relevant. They have turned over an incredible amount of material. The committee has worked through it. It constitutes the basis for our questioning. The committee has now focused on the notes of this meeting and has said, "We want the notes of those meetings."

Originally, the position that was taken by Mr. Kendall was, "Well, you can get that information in a different way without actually getting the notes."

The majority said, "Well, we don't accept that. We want the notes." The White House now has made a bona fide offer to provide the notes with certain assurances. This committee is prepared to give those assurances.

So if we were the only forum in which this issue might arise about the waiver, there would be no problem if the committee was the only forum. But the fact is there are other forums, and I think the White House reasonably says if we give the notes to this special committee, others will argue in those other forums that this constitutes a waiver; therefore, we want assurances there as well—the independent counsel and the House committees.

It is a perfectly reasonable request. My own view is, frankly, that the committee ought to take a more positive role and, in effect, bring these parties in and say, "Let's resolve this matter without a constitutional confrontation." It is obvious that it can be done, and that is the course we ought to take. That, in effect, would provide the information far, far sooner than going to court will provide the information, and it will meet, I think, a very reasonable concern on the part of the White House that there is a general waiver of the lawyer-client privilege.

I would be surprised if there were Members of this body who thought there should be a general waiver of all lawyer-client relationships.

That is not the way the Senate has acted in the past. It is not the position we have taken. It was clearly not the position we took with respect to witnesses before our very committee. It was not the position the Senate took in the Packwood matter. I can run on back through history with respect to the decision to accord a certain respect to the lawyer-client relationship.

So, Mr. President, I think it is important that the Senate shift its attention to resolving this matter without a constitutional conflict. In my view, that is within reach, and we ought to be engaged in the process of trying to bring that about. That would be a solution that would provide the information, protect against the general waiver. That is something this committee is prepared to do. I understand it is something the independent counsel is prepared to do. If our colleagues in the House were prepared to do it, this confrontation would be set aside and this issue would be resolved.

I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I have listened with interest to my colleague from Maryland. We have discussed many of these issues in committee already, but I think it is necessary that we talk about them here on the floor.

Let me state to my colleague, and any other colleagues who may be listening, that I will stand absolutely with the Senator from Maryland to protect the attorney-client privilege in every circumstance, whether it regards the President of the United States, any citizen of the United States, or a convicted felon who is incarcerated by the United States. Wherever you wish to go where there is a legitimate attorney-client privilege, this Senator will stand to protect that privilege.

That is not an issue here. The President has the right to the attorney-client privilege. The President has the right to consult his attorneys on matters relating to his personal affairs, with the absolute assurance that no committee of Congress will ever intrude upon that consultation, and that no one will ever do anything that would weaken that right. It is one of the more fundamental rights established in American common law, and it must be protected.

I make that strong statement so that people will understand that the issue here is not the President's right to an attorney, or the President's right to protect the attorney-client privilege. The issue here is whether or not Government attorneys, paid for by the taxpayers, attending a meeting with the President's private attorneys, discussing matters that did not impact the Presidency, matters that took place prior to the President's election, have the same attorney-client privilege.

I am troubled by the number and type of people who attended the meeting with the President's private attorneys. This was a matter of discussing the President's private legal problems, so why was it necessary for four members of the White House staff to be present at this discussion, one of whom, though he has graduated from law school and has practiced as an attorney, at the time of his attendance, was not involved in legal matters for the White House. He was the head of White House personnel. He was not functioning in his capacity as an attorney when he attended that meeting.

I recall, Mr. President, when the office of counsel to the President was occupied by a single individual. It was not necessary for the President of the United States to have a substantial law firm operating under the cloak of "counsel to the President," paid by the taxpayers, handling the President's personal affairs.

If I may, I will go all the way back to an era, which I realize has passed and cannot be reclaimed, to find an example and use it as an example of the kind of separation between personal affairs and private affairs that we once had. Harry Truman, as President of the United States, kept a roll of 3-cent stamps in his desk. Whenever he wrote a letter to his mother, which he did almost daily, he would reach into his desk and pull out the roll of 3-cent stamps, lick the stamp himself and put it on the envelope because, he said, "Letters to my mother are not public business and, therefore, I will pay the postage myself." I realize we have come a long way from that point, and I would not expect the President of the United States to take the time now to say in his correspondence, "Well, I must pay the postage on this one," or "I will not pay the postage on that one." All of us in official life are so beset with correspondence that we never know whether the answer to a letter is a response from our official capacity or our private capacity. We pay for our Christmas cards ourselves, but much of the correspondence that comes out of our office could easily fall into either category.

But it is the mindset that there must be a separation between private affairs and public affairs that I want to appeal to. Here is a President who appoints—as it is his perfectly legitimate right to do—as deputy White House counsel a man whose principal activity in the White House turns out to be handling the Clintons' personal affairs—Vincent Foster, the focus of all of this investigation—who made himself the focus by virtue of his tragic suicide. He spent most of his time handling the Clintons' tax matters, the Clintons' investment matters, the Clintons' personal affairs. That came out in our hearings, as one of the support people on the White House staff—a secretary—was sufficiently concerned about the amount of time Mr. Foster was spending on nonpublic issues that she went to the general counsel for the President, Mr. Nussbaum, and asked the question, "Is this a legitimate thing for Mr. Foster to be doing while being paid by the taxpayers?" She made the comment that she, as a long-time employee of the White House counsel's office, had never seen anything like that being done in previous Presidencies. Specifically, she referenced the Bush Presidency. She was told that it is up to the counsel, Mr. Nussbaum, to make the decision as to what is appropriate and what is not in terms of time allocation, and as long as Mr. Nussbaum says that it is all right for Mr. Foster to spend the majority of his time handling the Clintons' personal affairs, that means it is all right for Mr. Foster to spend the majority of his time handling the Clintons' personal affairs.

I raise this because it is at the core of the controversy we find ourselves in. The Clintons obviously believe that anyone who works for the counsel to the President immediately becomes subject to the Clintons' private attorney-client privilege. If Mr. Foster was spending his time doing the Clintons' personal tax affairs, I think the case could be made that those tax matters could be covered by the attorney-client privilege. I certainly hope that my consultation with my attorney on tax matters is covered by the attorney-client privilege, if anybody should ever challenge me. And if I use Government lawyers to do that—I have not and will not—I guess the presumption in my mind would be that even though they are paid by the taxpayers, because they are doing this personal work for me, the work would be covered by the attorney-client privilege if they were private attorneys, so it should be covered by the attorney-client privilege now that they are public attorneys.

Let me digress, Mr. President, long enough to make the point that all of us in our official capacities do indeed have to call upon Government employees from time to time to advise us on private activities that impinge upon our public circumstance.

For example, when I was called upon to put my assets in a managed trust by virtue of my election as a Senator, I turned to the attorney in my Senate office who is familiar with Ethics Committee positions and requirements and asked him for advice as to how this should be done. I would expect those conversations to be covered by the attorney-client privilege as I discuss with him matters of some confidentiality.

The trust has been formed, the assets have been placed there, and documents have been filed with the Ethics Committee disclosing all of that. That is an example where I have a matter of personal concern that I discuss with an attorney who is on the payroll because he is in a position to advise me as to how my personal affairs impact in a public arena; in this case, the Senate Ethics Committee and the filings we are required to make here.

Accordingly, if the President were to turn to a member of the counsel to the President's office and say, "I have a matter that stems from my personal affairs but that impacts on my public duties. I would like you to counsel me on those affairs, and I would expect that your counsel would fall within the attorney-client privilege." I have no argument with that.

The argument here is a meeting where the President's personal attorneys, concerned with actions that took place prior to his becoming President, concerned with allegations about impropriety if not illegality in those matters, holds a meeting with four employees of the White House to discuss those matters, and then says, "Those employees of the White House are covered by attorney-client privilege, the same as we are."

I find that a bit of a stretch, Mr. President. I made the point in the committee that there must be a dividing line somewhere between the President and Government employees. If you say, "No, there is no such dividing line," you can then go to the point of saying any attorney who works for the executive branch anywhere in the executive branch can, by the President's direction, be covered by attorney-client privilege. Obviously, nobody would say that is common.

Where does the line move back to? Does the President have attorney-client privilege just with the counsel to the President? Does the President have personal attorney-client privilege with everyone in the counsel to the President's office no matter how large it gets? I am alarmed at how large it is getting. I remember when a President needed only one lawyer. If he wanted a legal opinion on something other than his own direct office matters he called the Attorney General. We are getting away from that now. We have a whole law firm under the title of counsel to the President. It seems to be supplanting the Attorney General in the role of advising the President on legal matters. That is another issue.

I think the line must be drawn as tightly to the President as possible. The President obviously thinks the line should be drawn as far away from him as possible. That is where the controversy for this Senator arises on this issue.

I am happy to exchange with my friend, the Senator from Maryland, in any colloquy or exchange, as long as I do not lose my right to the floor.

The PRESIDING OFFICER (Mr. SANTORUM). Without objection, it is so ordered.

Mr. SARBANES. First, let me say I think the Senator has made a very reasoned statement about the matter. Let me simply say when Mr. Roger Adams was before the committee, he is a career person in the Department of Justice, and he is sort of the one who gives advice on Government ethics to attorneys in the Department of Justice. That is his specialty. He was asked about Foster doing private law work for the President and Mrs. Clinton. He says, "That doesn't surprise me a bit. There is a thin line between public business and private business and it does not offend me at all that the counsel or deputy counsel to the President does work on some personal things of the President and the First Lady."

Just as the Senator indicated you might have a member of your staff, suppose you are doing your disclosure statement——

Mr. BENNETT. Precisely, and I have no problem with that. I do have a personal problem, whether it is legal or not, with the extent to which this President seems to use this White House staff. I am entitled to that concern.

Mr. SARBANES. When Lloyd Cutler took over as White House counsel he raised that and apparently changes were made in the workings of the White House to more clearly draw the line between personal and public matters.

Mr. BENNETT. I have Lloyd Cutler's statement to that effect, if the Senator would like to hear it.

Mr. SARBANES. I think he was on point with that.

Let me go a step further on this question about this particular meeting and your observations about the extent of it which apparently causes you to question whether the lawyer-client privilege applies to it. Of course that, ultimately, if we press forward will be resolved by a court.

Let me just read this letter from Geoffrey Hazard, a very distinguished legal scholar, professor of law at the University of Pennsylvania, and he travels all over the country talking about these very problems. This was a letter to the White House counsel.

> You have asked my opinion whether the communications in a meeting between lawyers on the White House staff, engaged in providing legal representation, and lawyers privately engaged by the President are protected by the attorney-client privilege. In my opinion, they are so protected.

The facts, in essence, are that a conference was held among lawyers on the White House staff, and lawyers who had been engaged to represent the President personally. The conference concerned certain transactions that occurred before the President assumed office but which had significance after he took office. The Governmental lawyers were representing the President ex officio. The other lawyers were retained by the President to provide private representation to him. On this basis, it is my opinion that the attorney-client privilege is not waived or lost.

> A preliminary question is whether the attorney-client privilege may be asserted by the President, with respect to communications with White House lawyers, as against other departments and agencies of Government, particularly Congress and the Attorney General. There are no judicial decisions on this question of which I am aware. However, Presidents of both political parties have asserted that the privilege is thus effective.
>
> This position is, in my opinion, correct, reasoning from such precedents as can be applied by analogy. Accordingly, in my opinion, the President can properly invoke attorney-client privilege concerning communications with White House lawyers.

Then he goes as he draws toward a close:

> The principal question, then, is whether the privilege is lost when the communications were shared with lawyers who represent the President personally. One way to analyze a situation is simply to say that the "President" has two sets of lawyers, engaged in conferring with each other. On that basis there is no question that the privilege is effective. Many legal consultations for a client involve the presence of more than one lawyer.
>
> Another way to analyze the situation is to consider that the "President" has two legal capacities, that is, the capacity ex officio—in his office as President—and the capacity as an individual. The concept that a single individual can have two distinct legal capacities or identities has existed in law for centuries. On this basis, there are two "clients", corresponding to the two legal capacities or identities.
>
> The matters under discussion were of concern to the President in each capacity as client. In my opinion, the situation is, therefore, the same as if lawyers for two different clients were in conference about a matter that was of concern to both clients. In that situation, in my opinion the attorney-client privilege is not lost by either client.
>
> The recognized rule is set forth in the Restatement of the Law Governing Lawyers, Section 126 (Tent. Draft No. 2, 1989), as follows:
>
> If two or more clients represented by separate lawyers share a common interest in a matter, the communications of each separately represented client . . .
>
> (1) Are privileged against a third person . . .
>
> Inasmuch as the White House lawyers and the privately engaged lawyers were addressing a matter of common interest to the President in both legal capacities, the attorney-client privilege is not waived or lost as against third parties.

Now, as he said, it has never been adjudicated in a court. It could be decided differently. But this is a leading expert, and I think that is a very strong letter with respect to this matter.

Mr. BENNETT. I understand. I agree he is a leading expert. And it is a very strong letter.

I also note, however, as you have, that the matter has not been adjudicated in a court, and I think that may well argue strongly for us to proceed and allow the court to so adjudicate, because if we solve these matters by getting legal opinions on opposite sides and then reading the opinions to each other, we do not need courts. The courts exist to take the legal opinions on one side and the other and listen to them and make a decision. Many of those decisions, as the Senator well knows, are decided on a five-to-four vote, with strong letters from real experts ending up on the side of the four, sometimes, when it goes to the Supreme Court, and the strong letters from real experts ending up, sometimes, on the side of the five.

I have heard from distinguished commentators, lawyers of sufficient reputation to require us to pay attention to their views, that the President, in this case, has little or no grounds to stand on. The lawyer you have just quoted obviously disagrees with those opinions. I think that is why we have courts. It may be that this matter is important enough to be resolved once and for all, and the way to get it resolved is to proceed with the subpoena and let the court hear the matter.

Mr. SARBANES. Will the Senator yield?

Mr. BENNETT. Sure.

Mr. SARBANES. If the reason you are proceeding is in order to get the notes, and if the notes can be made available under what I regard as perfectly reasonable conditions, why should we provoke a court controversy on this matter?

Mr. BENNETT. If I may respond to the Senator, quoting comments he made in his opening statement, he said, "There has been a lot of movement here." I agree with him, that there has been some movement here. But it is my observation that the movement has always come after the committee has decided to get tough, that the movement on this issue has come after the chairman said, "We are going to issue a subpoena. We are going to go to the floor. We are going to demand Senate action." That is when the movement started to come.

So when the Senator from Maryland says if it is my purpose to get the notes, we can drop this and get the notes through other means, I say to the Senator, I would be willing to drop this as soon as the notes appear. I would be willing to vacate the order for a subpoena as soon as the notes appear, and not provoke this kind of confrontation. But until the notes come along, the pattern of behavior that I have seen on the committee says to me the best way to keep the movement going is to keep the pressure on.

Mr. SARBANES. If the Senator will yield?

Mr. BENNETT. I will be happy to yield.

Mr. SARBANES. First of all, it is my view, as I indicated also in my remarks, that the White House has been trying to reach an accommodation, and to some extent I think the confrontation was provoked by the committee.

But putting that to one side, we are now at the point where the proposition that we are wrestling with is pretty simple. That is, if the White House can get the same assurances from the independent counsel and the House that it has gotten from our committee with respect to this waiver question, they are prepared to provide the notes at once. We obviously thought that the conditions were reasonable in dealing with the White House on this matter, because we have agreed to them.

I think it is reasonable for the White House then to say that we ought not to be blind-sided or whipsawed on this thing, by other investigatory bodies, in other forums. And, therefore, we need to get from them the same or comparable assurances.

As I understand it—I do not have anything definitive—but I am told that this matter has been worked out with the independent counsel. Of course, assuming that is the case, that itself is a further major step forward. Then it just, apparently, now leaves us with a question of the House of Representatives.

Mr. BENNETT. If I could respond to the Senator? I agree. If, in fact, the independent counsel has made this agreement, that is a significant step forward. He says that leaves only the House with which to deal. I am glad to know that, because the original condition that was sent to the committee had other agencies besides the independent counsel and the House. It had the RTC and the FDIC. I am assuming from the Senator's statement that means the White House has now dropped the demand that those people also have a veto power on whether or not the notes will be given to us?

Mr. SARBANES. Let me just read a letter from the White House counsel to Chairman D'AMATO. A copy was sent to me.

Mr. BENNETT. Absolutely.

Mr. SARBANES. It said:

> DEAR CHAIRMAN D'AMATO. As I informed you yesterday we would, Counsel for the President have undertaken to secure non-waiver agreements from the various entities with an investigative interest in Whitewater-Madison matters. I requested an opportunity to meet with your staff to determine how we might work together to facilitate this process. Mr. Chertoff declined to meet.
>
> Nonetheless, we have succeeded in reaching an understanding with the Independent Counsel that he will not argue that turning over the Kennedy notes waives the attorney-client privilege claimed by the President. With this agreement in hand, the only thing standing in the way of giving these notes to your committee is the unwillingness of Republican House Chairmen similarly to agree. As I am sure you are aware, two of the Committee Chairmen who have asserted jurisdiction over Whitewater matters in the House have rejected our request that the House also enter a non-waiver agreement with respect to disclosure of these notes and related testimony.
>
> We have said all along that we are prepared to make the notes public; that all we need is an assurance that other investigative bodies will not use this as an excuse to deny the President the right to lawyer confidentiality that all Americans enjoy. The response of the House Committee Chairmen suggests our concern has been well-founded.
>
> If your primary objective in pursuing this exercise is to obtain the notes, we need to work together to achieve that result. You earlier stated that you were willing to urge the Independent Counsel to go along with a non-waiver agreement. We ask that you do the same with your Republican colleagues in the House. Be assured, as soon as we secure an agreement from the House, we will give the notes to the Committee.

Mr. BENNETT. If my colleague will yield——

Mr. SARBANES. Let me read the last paragraph because it is important to keep this thing current.

> Mr. Chertoff has informed me that the Committee will not acknowledge that a reasonable claim of privilege has been asserted with respect to confidential communications between the President's personal lawyer and White House officials acting as lawyers for the President. In view of the overwhelming support exercised by legal scholars and experts for the White House position on this subject, we are prepared simply to agree to disagree with the Committee on this point.
>
> Accordingly, the only remaining obstacle to resolution of this matter is the House.

So that is where the matter now stands.

Mr. BENNETT. I thank the Senator for that. It represents, in this Senator's view, a significant movement on the part of the White House from the position taken less than a week ago, when the same Jane Sherburne gave us five conditions, two of which the majority on the committee had recommended to her, and the other three of which many members of the committee found to be unacceptable.

The two most objectionable of those conditions that she placed on giving up the notes, Nos. 4 and 5, in her correspondence of the 14th of December have been dropped from the letter that the Senator from Maryland just talked about. There is no relevance.

Mr. SARBANES. If the Senator will yield, 4 and 5 have been dropped; 4 is still relevant because that involves trying to get those assurances from another investigatory body.

Mr. BENNETT. No. 4 has been dropped as proposed. It has been replaced, in my view, with the request that the House now be involved because she wanted the House involved in No. 4 in the original letter. It represents movement. But I think the tenor of No. 4 has, in fact, been dropped and replaced by the acceptance on her part of taking just the House. We no longer have any references to the Resolution Trust Corporation and its successor and the Federal Deposit Insurance Corporation, which were for this Senator the two most difficult requirements that the White House had placed. So we have had movement. We have had significant movement. We have seen that movement come in response to the pressure created by the requirement for this subpoena.

The only other comment I would make with respect to Ms. Sherburne's letter of the 20th that the Senator from Maryland has just quoted is a personal disagreement with the opening clause in her sentence in paragraph 3 when she says, "We have said all along that we are prepared to make the notes public." That does not coincide with this Senator's memory of the way the White House has proceeded. I will take the notes. I will read the notes as soon as they are provided. But I personally do not agree that the White House has indeed said all along that they are prepared to make the notes public. As I have said, I believe they have responded as the committee has gotten tough, and they are now saying things that in fact do not coincide with this Senator's memory of history.

If I can proceed then, Mr. President, if my colleague from Maryland is finished with the colloquy on this issue, I want to make some general points about why it is necessary for the committee to continue this somewhat militant stance that we have taken. I have been interested to watch this thing unfold as covered by the media.

If we were to go back to the beginning of the hearing, the reaction on the part of people covering this issue was that it was, frankly, a gigantic yawn and nothing for anybody to pay any attention to, nothing for anybody to get very excited about. I will not go back with a quotation trail beyond the month of December. But someone who wants to do a historical pattern of this could follow the pattern of media comments from the summertime on through the fall and then into December and see that people are beginning to pick up in their understanding, pick up in their concern about this. And, interestingly enough, it has come not just from the media that one would automatically assume would be favorable to the Republican point of view, but it has come from sources that have been traditionally, shall we say, somewhat skeptical of Republican positions.

In this month alone, Mr. President, starting toward the first of the month we have the following paper trail, if you will, from some of the leading papers in this country.

The New York Times on the 6th of December with the lead editorial entitled "Whitewater Evasions, Cont." That is an interesting lead, an interesting title for an editorial. "Whitewater Evasions, Cont." The Times has had previous editorials on Whitewater evasions, and they talk about it.

The final sentence of the editorial says, "* * * what we are left with is a portrait that grows cloudier by the day of an administration that always dodges full disclosure."

I suggest that comment by the New York Times corresponds with my response to the Senator from Maryland about the latest White House letter that says "We have said all along that we are prepared to make the notes public."

On the 7th of December, the next day, the Washington Post has an editorial entitled "The White House Mess." This editorial states "And the conflicting statements keep coming. That is the problem. Ms. Williams told the Senate Whitewater Committee this summer that she has given the Clintons' lawyer access to some 24 files found in Mr. Foster's office that contained personal matters of the Clintons. But she did not say that she was with him when he reviewed the files or that the review occurred in the first family's residence, as he now maintains." The editorial continues with the specifics of that particular comment.

How does this editorial conclude following on the editorial of the New York Times? "Has the White House, through these twists, managed to throw suspicion over matters of little consequence, or is there something serious being covered up? The question is everywhere these days, in large part because of all of the improbable and implausible responses that have been made to inquiries so far. If the White House can clear them up, it surely should. Congress and the independent counsel are clearly not going to let things stand as they are now."

That was the Washington Post on Pearl Harbor day, the 7th of December.

We go on to the 12th of December. The New York Times again, in an editorial entitled "Traveling Whitewater Files," talks about the mysterious movement of files back and forth from closet to attorneys' offices and back to attorneys with occasional stops at basements of other attorneys. And it concludes with the point we have been discussing at such length here this morning, Mr. President. "To be sure, citizen Bill Clinton is entitled to litigate all he wants and to claim whatever privacy the courts will give him. But President Clinton, the politician and national leader, cannot expect the public to be reassured by mysteriously mobile files and promises of openness that disappear behind the lawyer-client veil."

Then we go on. We get closer to today. On the 14th of December, the Washington Post has an editorial entitled "Now a Subpoena Controversy." It begins, "In refusing to honor a Senate Whitewater Committee subpoena for notes taken by then-White House associate counsel William Kennedy during a November 5, 1993, meeting between White House officials and the Clintons' attorneys, the administration risks traveling down a familiar dead end."

The Washington Post apparently is losing patience.

The final comment of this editorial is: "The overriding interest is to get at the truth. If, however, a satisfactory solution cannot be reached, then the courts must decide. It shouldn't have to come to that."

Apparently, the lawyers that advise the editorial writers for the Washington Post are not as easily convinced as the lawyers who have sent their opinions to the Senator from Maryland.

Just yesterday, in the New York Times again, the editorial is headed "Averting a Constitutional Clash." And I quote: "If Mr. Clinton relinquishes the documents, it would be a positive departure from the evasive tactics that have marked the Clintons' handling of questions about Whitewater since the 1992 campaign."

"Mr. Clinton's assertion that the subpoenaed material is protected by lawyer-client privilege, and his quieter claim of executive privilege, are legally dubious and risk a damaging precedent."

Now, I cannot argue that the New York Times is as distinguished a legal source as the lawyer who gave the opinion that the Senator from Maryland quoted, but again the lawyers who advise the editorial writers in the New York Times must have looked at this and they find it, to quote, "Legally dubious, risking a damaging precedent."

Mr. D'AMATO. Will my colleague yield——

Mr. BENNETT. Yes, I will be happy to yield.

Mr. D'AMATO. Just for an observation. Given the posture which the White House has taken and given the difficulty we have had in getting documents or information, given the dubious claim as it relates to lawyer-client privilege, is it not even harder for us, the committee, to accept this claim in light of the President's public statements as it relates to not raising privilege as a manner by which to protect documents? Does this impact on the Senator?

This is a statement that comes from the President on March 8, 1994, when he is appointing Lloyd Cutler, and the question was, was he going to invoke Executive privilege or a lawyer-client relationship privilege, and he ends up with, as his answer, he says, "It's hard for me to imagine circumstances in which that would be an appropriate thing for me to do."

Does this square then, Ms. Sherburne raising this, with what the President has said, that he would not—it is hard for him to imagine raising that privilege?

Mr. BENNETT. The Senator is correct to raise that quote in this context. It simply demonstrates that there are now some circumstances that the President was unable to imagine that long time ago because he has now asserted the privilege and we confront it.

Mr. D'AMATO. The meeting took place. He was aware of this meeting, obviously.

Mr. BENNETT. I believe he was aware of the meeting.

Mr. D'AMATO. This meeting took place well before, in November, and he made the statement in March. So he was aware of the meeting. It was not a circumstance that took place after the meeting.

Mr. BENNETT. I do not wish to be flippant about these matters because they are important matters, but I find myself saying the lapse of memory seems to fit a pattern that we have seen from other people in the White House.

Mr. D'AMATO. I thank my friend.

Mr. BENNETT. Mr. President, going back to the editorial in the New York Times of yesterday, after they made the statement that I have quoted about the legally dubious claims, they conclude that editorial with this comment cutting straight to the issue that we are talking about today on the floor:

> It should still be possible to make arrangements before tomorrow when the Senate is due to take up the matter. If not, the Senate has no choice but to vote to go to court to enforce the committee's subpoena.

Now, I have gone to the trouble of quoting all of these editorials leading up to this to indicate that this is not a sudden decision on the part of the editorial writers of the New York Times or I would assume the Washington Post, whose stream of editorials has gone the same way. As I say, I have not quoted from all of the papers that have been considered to be Republican friendly. I have quoted from papers that would normally be expected to take the President's side on this issue, and I find it somewhat interesting that the leader of those papers concludes its editorial by saying that the Senate has no choice but to vote to go to court and enforce the committee's subpoena. I see my friend from Connecticut rising.

Mr. DODD. Will my colleague yield?

Mr. BENNETT. Under the same procedure, Mr. President, that it is understood I would not lose my right to the floor, I will be happy to engage in whatever colloquy and debate my friend from Connecticut may desire.

Mr. DODD. I thank my colleague from Utah, Mr. President.

I just ask my colleague if he could enlighten us on whether the media have ever taken a position, on any matter where access to documents was the issue, they should not have total access to everything they want?

Going back over time, when the issue was attorney-client privilege or executive privilege, can the Senator cite to me an editorial from the New York Times or the Washington Post or any other paper where the paper did not think they ought to have unfettered access to documents? My point is that the media always want all of the documents. So we should expect to see the editorials my colleague cites.

Does my colleague disagree with me that, unlike legal scholars who look at constitutional issues, the press always takes the position that materials should be turned over?

Mr. BENNETT. I have not done that kind of research. I will go back and take a look at the past media circumstance. It is my impression that no one has called for breaching the attorney-client privilege for the President or anybody else; that the concern here has to do with whether or not that privilege extends to Government lawyers. I do not know of anybody in the media who would say that if the meeting was confined entirely to the President and the lawyers who had been hired by him and are being paid by him to represent him in his personal matters, the notes should be turned over. I have not had anybody say that to me. The issue is whether or not the presence of Government lawyers at the meeting so changed the nature of the meeting as to make it appropriate for the committee to ask for those notes.

So I understand the point that my friend from Connecticut is making, and I am sure that he is correct in terms of the institutional bias of the press. I would stop short of saying that it applies to violating all kinds of privilege. I think it applies to the narrow issue here as to what happens by virtue of the Government lawyers having been present.

Mr. DODD. Let me further inquire. I appreciate my colleague's generosity in allowing me to inquire. As I understand this particular point, we are down to basically one problem that stands in the way of an agreement—we need the House to agree that the release of the notes by the White House will not constitute a general waiver of the attorney-client privilege. That seems like a small problem to work out. Clearly, we would all like to avoid having to take this matter to the courts. After all, precedent suggests they may just throw it back in our lap and say "resolve it." So we spend 2 months on this issue and we are back where we started.

Mr. BENNETT. Two months, if we are lucky.

Mr. DODD. My colleague from Utah is probably correct. As I understand it, the independent counsel has already reached an agreement with the White House. It occurs to me that if the independent counsel, which has a prosecutorial function, can reach an agreement, than the congressional committees, whose fundamental function is legislative, should also be able to reach an agreement. If the independent counsel is satisfied with the agreement, then we should also be able to reach an agreement.

I am just curious as to why it would not be in our interest to take some time to have the conversation with our colleagues in the other body who are apparently resisting this to see if we can work out an agreement and put this issue behind us.

Is there some compelling reason why we ought not try to do that? If the independent counsel said this is totally unacceptable, I need the subpoenas, I can almost understand at that point why we would have to go through this process. But that is not the case. I ask my colleague if he would not agree with that.

(Mr. KYL assumed the chair.)

Mr. BENNETT. I say to my colleague that I would be happy to sit down with him if it were just the two of us and see if we could arrive at an agreement on that point. I have learned long since, even though I am a relatively new Member here, not to try to guess what the House will do under any circumstance.

Mr. DODD. My colleague has become very wise in the few years he has been here.

Mr. BENNETT. So I would not presume to try to give instructions to my colleagues in the House. But I think it is appropriate that we have these kinds of conversations. I think the Senator from Connecticut raises a very logical course of action that we should consider.

But I am not prepared to remove the pressure that the existence of this vote creates toward getting a solution because, as I said to the senior Senator from Maryland, in my opinion, the movement to which he refers would not have taken place if the committee had not taken the tough stance that it has taken.

The movement that we have seen in the White House position in just the last 24 hours, I believe, is attributable to the pending vote that we are going to take. If we take the vote and the White House and the House can come to some kind of a conclusion, then the subpoena called for in this vote is rendered mute and the matter is taken care of. But I would rather not remove the pressure that this vote represents until after the agreement is reached because I believe that the pressure of this vote has had a salutary effect in moving us toward that.

Mr. DODD. I thank my colleague for the time he has given.

Mr. BENNETT. Mr. President, I had not planned to go on this long.

Mr. SARBANES. Would the Senator yield on this point? I think there is a chance, once the vote is taken and the matter is sent to the court, then the people may say, "Well, let the court decide it." And if the court decides it, first, you do not know what opinion you will get. That is, people make their reasonable calculations. Second, the timeframe then becomes quite extended.

It seems to me, given all the admonitions about trying to avoid a confrontation between the executive and the legislative branches, it would behoove us to do that because I think we are at a point right now where that opportunity is right here in front of us.

Mr. BENNETT. The Senator has raised a possibility which may indeed turn out to be the outcome. The matter becomes a matter of judgment as to which scenario you believe is the one that will play out, the one I have posited or the one that the Senator from Maryland has posited. And we will all have to vote and see which of those two scenarios is the one that comes about.

Mr. President, I had not planned to go on this long. I will be happy to yield again to my colleague from Connecticut, but I would like to wrap up.

Mr. DODD. I will seek recognition later in my own right. I thank my colleague.

Mr. BENNETT. I thank the Senator.

Mr. President, before I leave the quotations from the media, I must share with my colleagues one last editorial which comes from a source that is clearly not generally favorable to Republican positions, from a man whose writings I am not familiar with. However, I can catch the flavor of his position simply from reading this particular editorial. His name is James M. Klurfeld. He is the editorial page editor for Newsday. I will just quote a few comments, but I think it summarizes what is happening on this issue.

He says:

> I have to admit that I haven't paid that much attention to the Whitewater investigation. That is not only because it's too complicated to figure out, but also because an essential element of any real scandal is missing: the anticipation that the high and the mighty are about to be brought down. There has been, to be blunt, no scent of blood. Until now.

Mr. Klurfeld then goes on to recite some of the specifics of what has come up. He says:

> At the crux of the Whitewater investigation is whether they knowingly got money from the Whitewater-related projects and mixed it illegally with campaign money for a gubernatorial re-election campaign. That

> case has not been made. But there has always been a second Whitewater issue: whether the Clintons have abused the power of the White House to obstruct the investigation. And here things begin to look more troubling. There are credible allegations of files removed from the White House, of improper interference with the investigation of Foster's death and, most recently, the White House has refused to give memos of conversations involving the Whitewater matter to the Senate committee, first claiming lawyer-client privileges and now invoking the doctrine of executive privilege.

He continues later on in the article:

> What keeps nagging at me is that if my first assumption is true—that there is no criminal wrongdoing involved in the matter—then why is the White House and Hillary Clinton, in particular, so reluctant to come clean about everything? What does she have to hide? Why not just open all the files? After all, Hillary Clinton worked as an investigator on the Watergate matter. We all know she is smart and as sharp as any lawyer in Washington, let alone Little Rock. She knows, as we all know, Richard Nixon got caught up by the coverup of Watergate, not the burglary itself. It is inconceivable she would blunder into the same type of mistake. Unless, of course, there is something to hide. Then a cover-up makes sense, at least from her point of view.

Once again we find a pattern. Mr. President, I quote the summary sentence. Mr Klurfeld says:

> There are enough unanswered questions and White House evasions to justify further investigation. And I am ready to pay some attention to it.

The one area that has struck me as I have listened to this whole thing, that for some reason reached out and grabbed my attention, concerns the law firm records relating to Mrs. Clinton's billing for her services to Madison Guaranty. This first came up, Mr. President, when Mr. Hubbell was before our committee, and as part of the documents that were furnished to us at that time, we received a summary—recap, to use the word that is on the document—a recap of fees, from Madison Savings and Loan, and then typed below it says "FINAL RECAP." And that is in all caps.

Understand, Mr. President, to put it in context, this is the legal work for which Mr. McDougal has said Mrs. Clinton was paid a retainer of $2,000 a month. Mr. McDougal's testimony was that then-Governor Bill Clinton came to him and said, "We're having financial troubles. Can you get Hillary some money?" And he said, "I'll pay $2,000 a month to the Rose law firm. And she can handle the Madison affairs."

To be clear in the RECORD, denial from the Clintons that this ever happened has been entered in the record. So it is Mr. McDougal's word against the Clintons' word on that particular issue. But nonetheless, in the documents that came from Mr. Hubbell, here is the final recap of fees paid.

When Mrs. Clinton was asked about these fees, she said—and I am quoting from her press conference—"The young bank officer did all the work. And the letter was sent, but because I was what you call the billing attorney—in other words, I had to send the bill to get the payment made, my name was put on the bottom of the letter."

The strong implication there, you see, is she did little or no work, she simply signed the letter because she was the billing partner, and the client did not want to pay a bill if it was from an associate.

In an interview with the Office of Inspector General at the FDIC on the same matter, we find this characterization: "Mrs. Clinton indicated she did not consider herself to be the attorney of record for Rose's representation of Madison before the ASD and presumed it to be Rick Massey. She recalled Massey came to her and asked her to be the billing attorney, which was a normal practice when an associate was handling a matter."

Then, Mr. President, in her affidavit on this matter that was given to the FDIC Office of Inspector General, she, being duly sworn, says, "While I was the billing partner on this matter, the great bulk of the work was done by Mr. Richard Massey, who was then an associate at Rose and whose specialty was securities law."

"I was not involved in the day-to-day work on the project. My knowledge of the events concerning this representation, as set forth in this Answer, has been largely derived from a review of the relevant documents, rather than my contemporaneous involvement in the representation since Mr. Massey primarily handled the matter."

The reason this is important, Mr. President, is that Mrs. Clinton clearly had some relevant documents she reviewed in order to conclude that she was not involved in the day-to-day work on the Madison matter. She had no contemporaneous memory of it. She had to go back to the relevant documents.

Now we have what I consider to be two relevant documents, and the first one is the one that came before the committee, the recap of fees for Madison Guaranty Savings & Loan. I questioned Mr. Hubbell about this at some length, and Mr. Hubbell finally said, "Senator, I apologize that I am unable to articulate to you exactly the way things are handled so that you can really understand what happened."

I said, "Mr. Hubbell, I'm sorry, I can't articulate to you my reaction to these numbers. I am not a lawyer. I have never made out a time sheet, but I have paid lots of legal bills. I think I can read a time sheet." And I went over this as I would if it were submitted to me, and I find the following, Mr. President.

In the total amounts covered by this final recap, the amount billed by Mr. Massey by name is $5,000, rounded. I have not added up the odd dollars and cents, but I have rounded it. Mr. Massey, over the period of this representation by the Rose law firm, billed around $5,000. Mrs. Clinton, in that same period, billed approximately $7,700. She says she reviewed relevant documents that refreshed her memory, but that she was nothing more than the billing partner and that the work was done by Mr. Massey. But from these billings, Madison Guaranty was billed in Mr. Massey's name for around $5,000. If Mrs. Clinton was just the billing partner who signed for him, all of the billing should be in her name and his name should not appear. But if he is billing in his own name, then why was it necessary for her to bill significantly more than he did, if he was the one doing all the work?

There is an interesting pattern here, Mr. President, because in the month of May, Mr. Massey billed $695, Mrs. Clinton, $840. Thus Mrs. Clinton billed more than Mr. Massey when the account was brought in.

Then very dramatically the pattern changes. In June, she only billed $60. I assume that is a half hour's worth of work. Mr. Massey, $186. In July, she billed $144, he billed 10 times that, $1,400, and so on. Mr. Massey, in November billed $552; Mrs. Clinton does not appear. In December, he billed over a thousand; she billed around $4,200.

Then it changes very dramatically and Mr. Massey disappears, as Mrs. Clinton starts billing heavy-hitter numbers to the point where at the bottom of the sheet, when you add it all up, Mr. Massey billed around $5,000. Mrs. Clinton has billed around $7,700.

The other contemporary document which we have been able to obtain, which presumably Mrs. Clinton had available to her as she refreshed her memory, was the document that came before the committee this week where Susan Thomases took notes on a conversation during the campaign with Web Hubbell. These notes are very revealing against the background I have just outlined.

This is what Susan Thomases testified Mr. Hubbell told her. She made it clear she did not know whether this was the truth or not; she was simply recording what she was told. To put it in context, Mr. President, her assignment on the campaign at the time this conversation took place was damage control over the Whitewater controversy.

Mr. DODD. Will my colleague yield on that point?

Mr. BENNETT. Surely.

Mr. DODD. I appreciate going into these matters. As I understand it, we are debating the issue of subpoenas. We are kind of revisiting what we went over in the committee. My colleague has a right to do it. I am not suggesting he does not. I would like to debate the issue of subpoenas—that is what draws us to the floor today—instead of rehashing billing questions. At some point, are we going to get to the issue of subpoenas?

Mr. BENNETT. I say to my colleague, I will get to it as quickly as I can. If I had not had the exchanges I had, I would have been through with this a long time ago.

Mr. DODD. I thank my colleague.

Mr. BENNETT. Having started, I want to finish the point, and I think it important all Members of the Senate find out about this because it goes to the heart of why we are having this conversation at all.

Here are the notes that Ms. Thomases took of her telephone conversation with Web Hubbell: "Massey has relationship with Latham and Hillary Clinton had relationship with McDougal. Rick"—that is to say Massey—"will say he had relationship with Latham and had a lot to do with getting the client in."

These are the notes of the damage control person. "This is what we're going to say about how Madison Guaranty came to the Rose law firm: Rick will say he had relationship with Latham and had a lot to do with getting the client in. She did all the billing. Hillary Clinton had number of conferences with Latham, Massey, and McDougal on both transactions. She reviewed some documents. She had one telephone conversation in 4–85 beginning of the deal with Bev."

Bev is the appropriate Arkansas State regulator handling these matters.

"Neither deal went through. Broker dealer was opposed by staff but approved by Bev under certain conditions which they never met."

Now here is a crucial sentence for me: "But for Massey, it would not have been there. Rose firm prohibited from filing examiner's report." And at the bottom: "Hillary Clinton was billing partner and attended conferences. He"—I am assuming "he" is Massey—"he had a major role blank hours versus Hillary Clinton's blank hours."

We are trying to fill in the blank, and the only document we have with which to fill in the blank goes contrary to these notes. That is, Mrs. Clinton's hours are greater than Mr. Massey's hours rather than less. But the interesting thing for me is the statement flat out: "Rick will say he had relationship with Latham and had a lot to do with getting the client in."

Later on: "But for Massey, it would not have been there."

The December 18 New York Times has the following comment:

> In her 1992 notes, Ms. Thomases records how top campaign officials discussed how to answer questions about Madison and the Rose firm.
>
> Her notes show that Mr. Hubbell told her that an associate in the firm, Richard Massey, "will say he had a lot to do with getting client in." Mrs. Clinton has also said, in sworn testimony to regulators, that Mr. Massey brought in Madison as a client. But Mr. Massey, now a partner in the Rose firm, has told Federal investigators that he does not know how the firm came to represent Madison.

Well, Mr. President, I think the Senator from Connecticut makes an appropriate point, and we should not rehash everything that happened in the hearings. I will now step down. But I go through all of this to demonstrate my conviction that pressure from the committee has been essential to the forthcoming of documents. Whether the pressure has been continued badgering by the majority staff or whether it has been formal subpoenas or threats of subpoenas, it has taken pressure every step of the way for us to get documents. And in every case, when we have come close to getting a resolution to an issue, we were told, "Well, that document does not exist," or "I do not remember." And we find the same circumstance here. After we discussed the conflicting evidence, Web Hubbell told me, "The only way you are going to find out what really happened, Senator, is to get the original billing sheets." We now find that the original billing sheets do not exist.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Alabama [Mr. SHELBY] is recognized.

Mr. DODD. Mr. President, point of order. This Senator was standing, and I have been here for some time to speak. Also, are we not going back and forth on either side of this matter?

The PRESIDING OFFICER. The Senator has made a point of order. It is my understanding that it is in the Chair's discretion to recognize the Senator from Alabama. I am advised that he has been here for 2 hours, which is a significantly longer period of time than the Senator from Connecticut.

The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, it is not surprising to me today that we are where we are today—forced to seek enforcement in the courts of a subpoena for documents from the White House.

It is no surprise to me, Mr. President, because the White House's refusal to release the notes sought under this resolution is part and parcel of this administration's consistent and continuous way of operating, its modus operandi, if you will, on how to cooperate with the special committee without really cooperating.

It goes something like this: "Do not give up any information or documents unless you absolutely have to, and if forced to give them up, release it to the press first with your spin on it before giving it to the committee."

Mr. President, throughout the committee's investigation, witnesses from the White House have come before the committee and, en masse, failed to recollect, remember, or to recall important meetings, conversations, and phone calls.

We have so much testimony on the record, reciting the lines, "I cannot remember, I do not recall, I do not have a specific recollection," that you would begin to wonder whether amnesia is, in fact, contagious.

We had the dance of the seven veils from the White House witnesses, whom the committee was being forced to recall every time a new document or phone log previously unattainable mysteriously appeared in some way.

Interestingly, Mr. President, while White House officials were suffering under the debilitating loss of memory, or selective memory, career prosecutors and law enforcement personnel were able to remember phone calls, conversations, and meetings with great specificity.

Quite frankly, the testimony before the committee has come to be the tale of two stories. One story was told by the Clintons' political appointees and long-time business partners and friends, versus the story told by career professionals, civil servants, law enforcement personnel and, yes, investigators.

Mr. President, this wholesale memory loss, evasive answers, and claims of privilege against document production sounds strangely familiar, does it not?

Indeed, Mr. President, in the past couple of weeks I have noted what I believe is an increasing similarity between this White House and the Nixon White House. In my view, the committee's need to enforce the subpoena for the notes only reinforces the Nixonian comparison.

Last week, during the committee hearing on Whitewater, I compared some of the arguments that Mr. Clinton has made with the arguments that Mr. Nixon made in support of Executive privilege in 1973 and 1974. Now, some have suggested that this is purely a political exercise. But the fact is, Mr. President, that this is the first time that such a defense—that I am aware of—has been raised since the Nixon administration.

Furthermore, this same defense of privilege has been tried and tested in the courts, and it has failed. The comparison is, therefore, self-evident, Mr. President, and the exercise rather instructive, giving all of us an opportunity to examine the reasonableness of the White House's claim of attorney-client and possibly Executive privilege.

I would like to share some of the quotes with you. First, this is President Nixon's response to a question from a UPI reporter on March 15, 1973. He said:

> Mr. Dean is counsel to the White House. He is also one who was counsel to a number of people on the White House staff. He has, in effect, what I would call a double privilege, the lawyer-client privilege relationship, as well as the Presidential privilege.

Those were the words of President Nixon. Compare those with the following words, which were sent up to the committee by the White House on December 12, 1995:

> The presence of White House lawyers at the meeting does not destroy the attorney-client privilege. On the contrary, because of the presence of White House lawyers, who themselves enjoy a privileged relationship with the President and who are his agents, was in furtherance of Mr. Kendall's and White House counsel's provision of effective legal advice to their mutual client, their presence reinforced, rather than contradicted, the meeting's privileged nature.

Think about that just a minute. Compare them in your own mind.

I will read President Nixon's address to the Nation announcing an answer to the House Judiciary Committee subpoena for additional Presidential tape recordings on April 29, 1974.

President Nixon said:

> Unless a President can protect the privacy of the advice he gets, he cannot get the advice he needs. This principle is recognized in the constitutional doctrine of executive privilege, which has been defended and maintained by every President since Washington and which has been recognized by the courts, whenever tested, as inherent in the Presidency.

Let us compare Nixon's statement to the White House brief on behalf of President Clinton to the committee, December 12, 1995:

> If notes of this type of meeting are accessible to a congressional investigating committee, then the White House counsel could never communicate, in confidence on behalf of the President, with the President's private counsel, even when the discussions in question are properly within the scope of the official duties of the governmental lawyers. Such a rule would deprive the White House counsel of the ability to advise the President and his White House staff most effectively regarding matters affecting the performance of their constitutional duties.

You be the judge. The words of Nixon and the words on behalf of President Clinton.

I will now share with you a statement President Nixon made to reporters' questions, the National Association of Broadcasters, on March 19, 1974:

> Now, I realize that many think, and I understand that, that this is simply a way of hiding information that they should be entitled to, but that isn't the real reason. The reason goes far deeper than that. In order to make decisions that a President must make, he must have free, uninhibited conversation with his advisers and others.

The words of President Nixon. Compare those with the words of the White House brief on behalf of President Clinton, December 12, 1995:

> The committee's action also implicates important governmental interests—namely, first, the ability of White House counsel to discuss in confidence with the President's private counsel matters of common interest that indisputably bear on both the proper performance of executive branch duties and the personal legal interests of the President, and second, the ability of White House counsel to provide effective legal advice to the President about matters within the scope of their duties, including the proper response of executive branch officials to inquiries and investigations arising out of the President's private legal interests.

Again, "Private legal interests." Compare, again; you be the judge of the similarity.

Now, from the words of President Nixon in a letter responding to the House Judiciary Committee subpoenas requiring production of Presidential tape recordings and documents, June 10, 1974. What did he say?

> From the start of these proceedings, I have tried to cooperate as far as I reasonably could in order to avert a constitutional confrontation. But I am determined to do nothing which, by the precedents it set, would render the executive branch, henceforth and forevermore, subservient to the legislative branch, and would thereby destroy the constitutional balance. This is the key issue in my insistence that the executive must remain the final arbiter of demands in its confidentiality, just as the legislative and judicial branches must remain the final arbiters of demand on their confidentiality.

The word of President Nixon.

Now, in the brief on behalf of President Clinton to the committee, December 12, 1995:

> In a spirit of openness and with considerable expenditure of resources, the White House has produced thousands of pages of documents and made scores of White House officials available for testimony, foregoing assertion of applicable privileges. In view of this cooperation, the committee's attempt, after 18 months, to invade the relationship between the President and his private counsel smacks of an effort to force a claim of privilege by the President, who must assert that right to avoiding risking the loss, in all fora, of his confidential relationship with his lawyer.

Now, you compare it. You have seen the words and the comparison. I think they are relevant. This comparison, I believe, Mr. President, is self-evident and the exercise rather instructive.

I do not know whether the Clinton administration has anything to hide. But I do know this: The first administration to use these arguments certainly did have something to hide, and we know what happened there.

If the White House does not have anything to hide, and I hope they do not, if there is nothing of substance in these notes, nothing damaging in these notes as they claim, then they should comply with the subpoena and produce them to the committee without any reservations, without any conditions, because, Mr. President, if there is nothing damaging in these notes, it is incomprehensible to me why they would raise a defense clearly rejected over 20 years ago.

Mr. President, I also would ask unanimous consent that a letter from Mr. Hamilton, to the President, dated January 5, 1994 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, December 14, 1995.

Michael Chertoff,
Special Counsel.
Richard Ben-Veniste,
Minority Special Counsel, U.S. Senate, Special Committee to Investigate Whitewater Development Corporation and Related Matters, Dirksen Building, Washington, DC.

GENTLEMEN: Pursuant to the agreement described in my letter to Mr. Chertoff of December 13, 1995, I am enclosing copies of the January 5, 1994, letter from James Hamilton to the President (S 012511–S 012516).

Please feel free to call me if you have any questions.

Sincerely yours,
JANE C. SHERBURNE,
Special Counsel to the President.

SWIDLER & BERLIN,
Washington, DC, January 5, 1994.

The President,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: At Renaissance you asked for my ideas on management of the Whitewater and trooper matters. This responds.

As a preface let me mention that, because of my representation of the Foster family, I've had numerous calls from the media about these issues and thus know the views that some of them hold. Let me also say that, so far, the White House generally has handled these matters well.

Here are my ideas, some of which are obvious and have been implemented, but perhaps bear repeating.

1. Despite the falsity of the allegations, these remain treacherous matters. *L.A. Times* reporters basically believe the troopers (although this confidence should now be shaken). *Washington Post* reporters consider the Lyons report a "joke" because of its incompleteness, and suspect a cover-up when it is cited in response to current inquiries. Reporters are intrigued by Vince's inexplicable death, and thus continue to search for Whitewater connections.

2. Investigations, like other significant matters, must be carefully managed. One person in the White House (Bruce, I assume) should be assigned responsibility for coordinating information gathering, responses to official inquiries and public statements about these matters. *This cannot be treated as an incidental assignment.*

3. The White House should say as little and produce as few documents as possible to the press. Statements and documents likely will be incomplete or inclusive, and could just fuel the fires.

4. The White House should ensure that what statements it does make are consistent and coordinated. Erroneous or conflicting statements could be disastrous; the Nixon White House brought huge trouble upon itself by issuing inaccurate, inconsistent statements about Watergate. *The Washington Times* in particular has been dissecting current White House communications.

5. Responses to official inquiries—both written and oral—must be carefully made. Even oral misstatements could result in investigations and sanctions. Moreover, the Department of Justice, FBI and Park Police all leak unconscionably (and already have as to these matters), and some officials obviously are inclined to attack the White House's handling of the inquiries.

6. The White House should not forget that attorney-client and executive privileges are legitimate doctrines in proper contexts.

While the on-going release of Whitewater documents to Justice seems appropriate, Bernie initially acted properly in protecting the contents of Vince's files.

7. If politically possible, Janet Reno should stick to her guns in not appointing an independent counsel for Whitewater. An independent counsel—who might pursue his or her self-aggrandizement rather than the truth—is a recipe for trouble.

8. The White House must let Justice do its investigation without interference. Any hint of attempts at interdiction or manipulation would raise the spectre of Watergate.

9. The White House also should avoid any future contacts with subjects of the investigation that might provoke cover-up allegations.

10. You should continue to demonstrate that you are engaged fully in the business of running the government and not distracted by these side shows. If the press senses concern, its efforts redouble.

11. Because you will continue to receive reporter questions about these matters, I respectfully suggest that you always be prepared personally with a response to the issues of the day. I expect that "no further comment" often will suffice.

I hope the above views are at least somewhat useful. Kristina and I hugely enjoyed the opportunity to visit and recreate with you and Hillary in Hilton Head. The football game was stupendous fun; the "scrum play" was the call of the day. I only wish the rest of America knew you as the Renaissance family does and had heard your moving remarks on Saturday night.

Best regards,

JAMES HAMILTON.

Mr. SHELBY. Mr. President, just to paraphrase some of it, not all of it, in this advice to the President by Mr. Hamilton, the attorney:

> The White House should say as little and produce as few documents as possible to the press. Statements and documents likely will be incomplete or inconclusive, and could just fuel the fire.

Listen to this advice to the President:

> The White House should ensure that what statements it does make are consistent and coordinated. Erroneous or conflicting statements could be disastrous; the Nixon White House brought huge trouble upon itself by issuing inaccurate, inconsistent statements about Watergate. The Washington Times in particular has dissecting current White House communications.

Then, item No. 6 on the advice to the President:

> The White House should not forget that attorney-client and executive privileges are legitimate doctrines in proper contexts. While the ongoing release of Whitewater documents to Justice seems appropriate, Bernie initially acted properly in protecting the contents of Vince's files.

Item 11:

> Because you will continue to receive reporter questions about these matters, I respectfully suggest that you always be prepared personally with a response to the issues of the day. I expect that "no further comment" often will suffice.

Now, Mr. President, item No. 2, back on the first page of the letter which I have introduced, to the President by Mr. Hamilton says:

> Investigations, like other significant matters, must be carefully managed. One person in the White House, (Bruce I assume) should be assigned responsibility for coordinating information gathering, responses to official inquiries and public statements about these matters. This cannot be treated as an incidental assignment.

However, Mr. President, rather than heeding the advice, this advice which has, in fact, led to the same mistakes that the Nixon White House made, I think the White House should be forthcoming on these subpoenas. If they have nothing to hide, and I hope they do not, why go through the exercise? Why go through this?

What are we interested in, Mr. President, as this committee? We are looking at the truth of what went on. Did they have information that they should not have had? Where did they get this information? I believe the President would serve himself well and the American people if he produced these documents with no conditions, without reservation.

Mr. DODD. Mr. President, let me begin by addressing some of the issues that have been raised by my colleague from Alabama.

Clearly, anytime there is a confrontation between the executive branch and the legislative branch, which oftentimes happens, people are going to make similar arguments. We should not be surprised if some statements sound similar.

But comparing Watergate and Whitewater is just ridiculous in the mind of this Senator—there is just no comparison whatsoever. When someone tries to make that sort of comparison they are just creating some sort of sideshow.

The comparison is spurious. First, no one ever sought to invade the attorney-client privilege of President Nixon. President Nixon raised the issue of executive privilege. The appropriate committees during that period respected the attorney-client privilege when it was raised. Now, Executive privilege was another matter, but attorney-client privilege, even in Watergate, was never breached.

Second, when the executive privilege claims of President Nixon were overcome, it was only through a grand jury subpoena issued by Special Prosecutor Cox. As I mentioned earlier, the independent counsel in our case has reached an agreement with the White House concerning the notes that are at issue in the subpoena. So the situation is completely different.

Also, during the Watergate matter, the Senate's attempt to get the material obtained by Special Prosecutor Cox was rebuffed by the courts.

Finally, the Special Prosecutor's efforts to get materials in the Watergate matter occurred in the context of overwhelming evidence of criminal conduct—obstruction, misuse of the CIA, FBI, and IRS, the payment of hush money, clemency for burglars. By contrast, in the Whitewater matter, after months of hearings by the special committee, there is no evidence of impropriety much less illegality by the Clinton administration.

In fact, my colleagues may have seen buried away in the newspaper articles in the last couple of days, that Pillsbury Madison & Sutro, an independent law firm, just completed a report examining whether there should be any additional civil proceedings against the Clintons with regard to Madison Guaranty Savings & Loan and the Whitewater Development Corp. The report was commissioned by the RTC and it took 2 years and $4 million for it to be completed. Mr. President, this report, which I am going to ask unanimous consent be printed in this RECORD—it was made a part of our committee record the other day—goes into great detail, and concludes that no further action should be taken against the Clintons. It exonerates the Clintons.

So, when we compare the obstruction of justice and the great criminality that a special prosecutor saw in Watergate and compare that with this particular case, it just goes to confirm what many people, unfortunately, are feeling here. This is becoming a political sideshow, and it should not.

Every Member has the right to raise whatever issues they want, but I do not think it does us any good as an institution, nor the committee, when we start drawing comparisons that have no relevancy whatsoever when it comes to the particular matter that we are being asked to address.

Mr. President, let me also address one of the comments that was made by my friend and colleague from Utah, Senator BENNETT. He said, in effect, that we need this kind of pressure to get evidence from the witnesses.

Again, I just remind my colleagues here, this year alone we have had 32 days of hearings and meetings on this matter. Last year we had extensive hearings on this matter. We have spent now a total, if you take congressional committees and you take the independent counsel's activities, over the last year or so, we have spent in excess of $25 million. Let me repeat that, the taxpayers have paid over $25 million on these investigations. To date, there has been no substantial evidence of any illegalities or unethical behavior. That has been the conclusion of witness after witness.

The White House has submitted to the committee over 15,000 pages of official records without a single court order being necessary, not one. The President's personal attorney has produced 28,000 pages of documents. Every witness that has appeared, last year and this year, has come at the urging of the White House. So when my colleague from Utah says without the pressure of having a subpoena filed, or the Senate as a body taking an action—that is not borne out by the facts.

We can disagree with what witnesses say. We may have problems, as the chairman has had, with the testimony of a number of witnesses. I respect that. I am not suggesting that we have all agreed with all the testimony. But there is a significant difference between what has happened in this matter, and what has happened in the past. We are all familiar with previous administrations that fought congressional committees tooth and nail. That has not been the case here.

It is very important, I think, for our colleagues and the public at large to understand that significant difference. This White House has been extremely forthcoming, extremely forthcoming when it comes to documents and when it comes to witnesses appearing before our committee. So the notion that it would be impossible to get any kind of negotiated result on the issue now before us, based on what has happened previous to this, is not borne out by the facts.

To the contrary, we have been able to reach agreement on virtually every other issue that has come before us without having to go to the courts. So, for those of us who stand here today and urge this body and urge our colleagues here to try a little bit harder to resolve this issue without getting to the courts, that is based on the fact that we have not had to do that yet. We have completed an awful lot of work without any problems. The committee has taken over 150 depositions and over 70 witnesses have appeared before the committee. As the chairman pointed out the other day in committee, we are basically through with the first two phases, other than some witnesses that need to be brought back. But we are prepared now to move to the last phase.

So here we have gone through all of this without having to resort to the courts. We are down to a legitimate issue here. The White House is not being obstructionist, this is not Watergate. As our colleague from Maryland pointed out, there are significant legal scholars who believe that the executive branch assertion of attorney-client privilege here has merit. In fact, they go to some length and cite the case law and so forth that upholds their point. I know there are others who have a different point of view. I am not arguing there are others who have a different point of view.

To the chairman's credit and to his counsel's credit, there has been an effort here now to narrow this and get it done. As I said to my colleague from Utah a few minutes ago, the independent counsel now has agreed to conditions with the White House. He is satisfied with an agreement that will protect the White House from a waiver of the attorney-client privilege. Our chairman in our committee would be satisfied with a similar agreement. The one missing link in all of this is our colleagues in the other body, to get them to agree to what the independent counsel has agreed to, what the chairman has agreed to, and what the White House has agreed to; that is, to turn over these documents with the understanding there has not been a general waiver of the attorney-client privilege.

Clearly, it is not unreasonable for the White House to pursue these agreements. As has been pointed out by legal experts, there have been a number of cases where, if you waive the privilege in one instance, it is seen as subject matter waiver. So there is a legitimate interest in trying to make sure that, in order to comply with committee's request to look at the notes from this meeting, that the President has not waived his attorney-client privilege. Understandably, the President wants to avoid a fishing expedition that goes off in a number of directions. All of my colleagues can appreciate that concern.

We have to remember that we are setting a precedent with our actions today. And that precedent could also affect Members of this body. Like the President, we are public officials who have both public and private roles. Some of my colleagues on one side of the issue today may change their minds when, in the future, someone argues that they have waived their attorney-client privilege in similar circumstances. We can all understand the President's argument, that he needed both his private attorneys and counsel for the Presidency in that meeting in order to properly address all of the issues that might arise. As has been noted, legal scholar after legal scholar after legal scholar has said that is an appropriate invocation of that privilege.

So it seems to me we ought to try to avoid going to court on this issue. That is why we make the strong case we do here. It is not because someone is trying to hide documents. If that were the case, then I suspect the executive branch might rely on the advice of legal experts and say let us just take it to court. But they have said they will turn over these documents, but do not ask us to waive, on the entire subject matter, the attorney-client privilege. We do not want to do that. And I do not blame them for not wanting to do that. I do not think anyone would, given the dangers associated with that particular approach.

So, I am still hopeful that, given the history of this White House, when you go back and look over the last 2 years, the dozens and dozens of witnesses, the thousands of pages of documents, an agreement can be worked out. I hope future administrations will look at how this administration has responded, again, never requiring the committee to go to court, never requiring the committee to drag witnesses in, never requiring the committee to fight for documents. So, with all due respect to my colleague from Utah, because of that cooperation, there is an opportunity to resolve this issue short of a vote by the full Senate. And the fact that the independent counsel has reached an agreement, the fact that the committee could settle for a similar agreement, suggests that we ought to try to meet with our colleagues in the House and resolve this matter quickly and efficiently. Let's get the notes and move on so this committee can complete its work.

My hope would be in these coming hours here that will be the result. Some may say, well, if we can vote on it here, we will put more pressure on them. There will then be the vote of the U.S. Senate, issuing subpoenas where attorney-client privilege has been invoked. I think that is a wrong approach to take on this matter.

I point out, Mr. President, I have referred to the Pillsbury Madison & Sutro report on the RTC issues. Again, I urge my colleagues to obtain a copy of this report and to review this report and to examine the results.

The Wall Street Journal reported the results the other day.

Let me quote, if I can, the Wall Street Journal story on this report:

> President Clinton and Hillary Rodham Clinton had little knowledge and no control over the Whitewater project in which they invested, and they weren't aware that any funds that went to Whitewater may have been taken from Madison. . . . Accordingly, there is no basis to sue them.

Mr. President, let me emphasize that: "There is no basis to sue the President or the First Lady." That is not Democrats and Republicans sitting there squabbling about this; that is an independent investigation, which took 2 years, without the glare of hearings and cameras, and on the central issue they say that no further civil proceedings should take place. That is a very important piece conclusion.

So, again, I hope in the next few hours that our colleagues would adhere to the advice of our colleague from Maryland and others, and take care of this matter without going to the courts. Let us avoid a dangerous precedent.

I know what is happening here. Some of my colleagues are thinking, "Well, you know, we have them on the ropes now. What are you trying to hide?"

Obviously, that is just politics. We all know that. You can cause some damage with just the photograph of witnesses huddling with lawyers. That is titillating. That is exciting stuff. "Now they are bleeding. Now we have them."

That is what we really have going on here now. We ought to try to avoid that. Our role, fundamentally, is legislative. We conduct investigations, of course, but that is primarily to help develop legislation. And it seems to me that, where you have a White House that is cooperating, you ought to avoid a confrontation with the executive branch.

After all, it is not clear what the third branch of government, the judiciary, will do. In similar cases, the courts have thrown the matter right back to us and have said, "Look, you people sort this out your own way. We are not going to make the decision for you." So we may end up, after months of squabbling, in no better position than we are in today.

So I urge my colleagues, let us adopt a resolution, if you will, or language which would urge us all to stay at that table and resolve this over the next few days. I believe we can. As I say, we are down to one last entity here. We are down to our colleagues in the other body being satisfied that this is an acceptable agreement. The independent counsel agrees, we agree, and the White House agrees. This is not a time to provoke an unwarranted and unwise confrontation that would create problems for us in the years to come.

Mr. FAIRCLOTH addressed the Chair.

Mr. D'AMATO. Mr. President, I intend to yield to my friend and colleague who has been on the floor for quite a while. If I might, without prejudicing anybody, ask my colleague——

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. D'AMATO. Might I ask my colleague to give me a minute?

Mr. FAIRCLOTH. Sure.

Mr. D'AMATO. First of all, I want to thank the Senator from Connecticut for an observation that he has made. It is not easy when there are politically charged times and atmosphere. Admittedly, this is. We would be disingenuous at the least to say that it was not. So I admit that. Therefore, it takes even more courage for the Senator from Connecticut to recognize that the chairman—and, more importantly, that the committee—has really made every effort to avoid unnecessary confrontations, repeatedly, as it is related to documents that may have been in the possession of White House counsel, documents that may have been in the possession of Mr. Foster's counsel.

We have set up procedures whereby we could have review of notes, where counsel will agree, or where the ranking member and the chairman would agree, so that we would not put matters into the public domain that had no relationship to this committee. So we have made these extraordinary efforts, and indeed it was on the basis of the two suggestions that the White House did concede.

We indicated that we were quite content to get the notes. That still remains our position. We are not looking to invade any legitimate claim or to speak to the President's counsel. At least we are not as it relates to what he did, et cetera, or what advice he may have given to the President. We are not asking that. That is an important acknowledgment. I want to thank my colleague.

Unfortunately, we can only speak for ourselves and we can do on the committee—Democrats and Republicans. Unfortunately, that is not the connotation that has come from those many associated with the White House or from the White House spokesperson. If you could read their statements, there is a failure to acknowledge the great and extraordinary lengths that over a period of time—not just with respect to this matter—we have engaged in, and certainly I would submit that we made every effort not to move it, but it has finally reached a point where I determined that it was necessary for us if we are going to resolve this and move to this point. So I make that observation.

Mr. DODD. If my colleague will yield, I appreciate that, and I realize that we will at times have disagreements.

I also made the observation—I ask my chairman and friend —that this administration has been extremely forthcoming with witnesses and documents the committee has wanted.

Would not my colleague agree that is the case?

Mr. D'AMATO. There I have to say we have a disagreement, and we just do. I am not suggesting that there have not been many areas as it relates to documents that have come forth.

Mr. DODD. But we have not had to go to court.

Mr. D'AMATO. That is right. I think the reason that is because we have made an extraordinary effort—"we" being the committee—on a bipartisan basis both before, when my friend and colleague and the Democrats were in the majority, and since we have carried that further.

So I say the committee has made the extraordinary effort in a bipartisan effort to interact and to do our job appropriately. But as it relates to the "forthcoming," some of this may not be fair, but I will make an observation as it relates to witnesses and production of documents. Without going through the whole thing, I believe that it has not been an exercise of the same faith and bipartisanship that we have operated with in the committee.

Mr. DODD. I appreciate my colleague's comments. I would just say, if you use other examples——

Mr. D'AMATO. There are always examples. Look, some people can do these things better in terms of an appearance, and I do not want to, ourselves, to degenerate into who did more and less and who withheld and who did not in terms of all of the administrations that the Congress has dealt with. But I would say it is not the quantity of records that are produced but it is the quality. It is the fact that information that is important and goes to the essence of this investigation has to be produced in a timely manner without there being bits and pieces. Of course, some of that comes from witnesses themselves who may not be fair. And it would not be fair, for example, as it relates to Mrs. Thomases' testimony and also the production of records as a kind of a trickling. But the same could be said in other areas as it relates to the White House. But again we could disagree on that. And I respect my colleague's right to share a difference of opinion on it.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. I rise in strong support of Senate Resolution 199. Mr. President, Whitewater has come to mean many things to many people, but it is worth discussing how we arrived at this point. It is worth reviewing how Whitewater became a national story because it tells us something about the failure of the savings and loan industry and it also tells us a lot about the ethics of Bill and Hillary Clinton.

In February 1989, Madison Guaranty Savings & Loan failed. The failed cost to the American taxpayers was $60 million. This may not seem like a lot of money in Washington, but beyond the beltway it is still considered a sizable amount. In fact, the entire savings and loan crisis cost the American taxpayers $150 billion, which is truly a staggering amount. Is it any wonder that the Banking Committee has every right—in fact, a duty—to review the cause of the crisis? While Madison was a small institution, its failure ranks as one of the worst. It failed to the taxpayers; over 50 percent of its assets were lost. The taxpayers had to pick them up. Fifty percent of its assets were totally worthless.

Jim McDougal took over Madison from 1982 to 1986. In 4 short years, the so-called assets grew from $6 to $123 million. During McDougal's tenure at Madison, loans to insiders increased from $500,000 to $17 million—insider loans from $500,000 to $17 million. Madison, frankly, was typical of many savings and loans in Arkansas. During his tenure as Governor of Arkansas, 80 percent of Arkansas State chartered thrifts failed, costing U.S. taxpayers $3 billion. That is $3 billion in tax money because the savings and loan system in Arkansas was run as a cozy operation without any worthwhile regulatory oversight. The Whitewater debacle was among one of the those risky real estate ventures that caused Madison to fail. We know from the hearings held by the House Banking Committee that at least $80,000 in insured deposits was taken from Madison Guaranty and siphoned off to Whitewater—$80,000 of it was lost on Whitewater.

Furthermore, the claim that the Clintons lost money is just absolutely false. They never had their money at risk. It was a sweetheart deal for the new Governor and much like the commodities trade in which Hillary earned $100,000 because she read the Wall Street Journal. Madison was a high flier. It has been called a personal piggy bank for the politically elite in Arkansas. I called it a calabash of intrigue.

I do not often agree with the editorial pages of the New York Times, but they somewhat paraphrased me and they said it was "a stew of evasion and memory lapses." I think they are absolutely correct.

Mr. President, the central issue in Whitewater has been whether Madison received favorable treatment from the Arkansas savings and loan regulators because of Jim McDougal's close ties to Bill Clinton. Essential to the question is this: Did the losses to the taxpayers increase because Jim McDougal hired the Rose law firm to press his case with the State regulators which Bill Clinton had appointed?

The answers are becoming more clear. In just the last few days, on Monday, evidence was revealed that Mrs. Clinton was a lead attorney on matters relating to Madison at the Rose law firm. Further, and most significant, Mrs. Clinton may have made false statements—a Federal crime—to the RTC about who was responsible for bringing Madison's business to the Rose law firm. Mrs. Clinton contended in writing to the RTC that Richard Massey, then a first-year associate at the firm, was responsible for bringing Madison's business to the Rose law firm.

This is incredible, to say the least. It is unbelievable to think that a first-year associate would be responsible for bringing Madison as a client to the Rose law firm given the Clintons' close ties to Jim McDougal who ran Madison.

The unbelievable nature of this contrived story may be borne out in the notes of one of Mrs. Clinton's best friends, Susan Thomases. Miss Thomases was the point person for press stories regarding Whitewater in the 1992 campaign. She was in charge of attempting to distance Hillary Clinton from the failure of Madison. But her own notes read that "Mr. Massey will say he had a lot to do with getting the client in." Her own notes show that the Clintons intended Mr. Massey to fabricate a story about who got Madison as a client for the Rose firm. This is a direct contradiction to what Mrs. Clinton had told Federal investigators. Mr. Massey has told the FDIC that he had no idea how the Rose law firm was hired by Madison.

Mr. President, this is significant for two reasons. First, it demonstrates the Clintons were involved in obtaining lenient treatment from the regulators for Jim McDougal and his savings and loan that was deep in financial trouble. Why? Because at the same time their friend Mr. McDougal was covering the Clintons' loan payments for Whitewater. McDougal was covering the Clintons' loan payments for Whitewater.

Can you imagine two Yale-educated attorneys that have no idea how their indebtedness was being paid? They knew full well. In exchange, the Governor's wife was going to exert her influence with the State regulators to help her friend and business partner, Mr. McDougal. It was quid pro quo, pure and simple, and there is not any other way to describe it.

Second, Mr. President, it is becoming more apparent that Hillary Clinton may have lied to Federal investigators. Her story that it was Mr. Massey who obtained Madison as a client is belied by the notes of her best friend.

Mr. President, in my opinion, the Whitewater hearings and the entire episode have been so full of so many half-truths, misleading statements and selective memories that it is only a matter of time before someone is guilty or charged with perjury. I think we have reached that point for some already.

It is clear that the Clintons tried to distance themselves from Madison and Whitewater. Had the American public been given the real picture in the wake of the savings and loan crisis, I think they would have reacted very differently to the insider quid pro quo way of doing business in Arkansas, particularly since the American taxpayers paid for the lax regulations.

Mr. President, Whitewater extends even farther than Madison Guaranty. It involves a small business investment corporation called Capital Management Services. This company was run by a man named David Hale. It, too, served as a personal bank for the well-to-do in Arkansas.

Its purpose was to make loans to the disadvantaged—the disadvantaged. But that turned out to be the ruling class in Arkansas. Regrettably, the American taxpayers paid over $3 million for the failure of Capital Management.

Mr. President, it is fact that Capital Management made a $300,000 loan to Whitewater. Now, you remember, it was supposed to be making loans to the disadvantaged. But Whitewater got $300,000. We have strong evidence that Bill Clinton asked that this loan be made. I think time will tell that David Hale is telling the truth when he said that Bill Clinton pressured him to make the loan to help benefit Whitewater. Here again the American taxpayers have paid to subsidize Bill Clinton's failed real estate venture.

That is essentially what these hearings are about: The loss of taxpayers' money in Madison, Whitewater, and Capital Management. Mr. President, these instances may have remained Arkansas history and been laid to rest but for three defining events. First, the tragic death of Vince Foster, close friend and deputy counsel to the President; second, criminal referrals made to the RTC regarding Madison and Whitewater; and, finally, the closing of Capital Management, David Hale's small business company.

Mr. President, Vince Foster's death on July 20, 1993, and the handling of his papers on the night of his death have raised the most questions with the committee. We know for a fact the First Lady spoke with Maggie Williams before Maggie Williams went to the White House and Vince Foster's office. We know they spoke later that evening when Maggie Williams returned to her home from Vince Foster's office and called the First Lady. We also know that, at nearly 1 a.m., Maggie Williams and Susan Thomases spoke. We have the sworn testimony of uniformed Secret Service officer Henry O'Neil, who saw Maggie Williams remove documents from Vince Foster's office on the night of his death.

Officer O'Neil is an 18-year career man with the Secret Service. All of this is fact. Within the last few weeks we have gathered more information that I think gives credence to the notion that files were indeed removed on the night of Mr. Foster's death.

First, two files relating to the Madison Guaranty were sent back to the Rose law firm by David Kendall. Yet, files were never part of the box that Maggie Williams said she took from Foster's office 2 days after his death.

These documents were reviewed and cataloged by Bob Barnett, the Clintons' other lawyer. The two Madison files never appeared in any list compiled by Mr. Barnett. In other words, they had been removed from the boxes before they were given to Mr. Barnett.

I think the files were removed by Maggie Williams and given directly to Hillary Clinton. We have further evidence that Maggie Williams visited the First Lady on the Sunday following Mr. Foster's death. Previously, Maggie Williams has said she did not see the First Lady until later.

We have Secret Service logs that show Maggie Williams spent time on the second floor residence of the White House on Sunday immediately after Mrs. Clinton returned from the Foster funeral. I believe that at this time Maggie Williams personally delivered to Mrs. Clinton whatever material she removed from Mr. Foster's office that night.

What evidence do we have to suggest that Madison may have been a problem or a concern for the White House or Vince Foster on July 20, 1993? This was the same day that a search warrant was authorized for the office of David Hale in Little Rock. That warrant sought information about David Hale's $300,000 loan to Whitewater via Madison Marketing and Susan McDougal.

Again, our Whitewater hearings have uncovered that the White House was aware of the Hale investigation from the very beginning.

We have testimony from a career Small Business Administration official. The SBA briefed Mack McLarty in May 1993 about the SBA investigation of David Hale. I have no doubt that within the legal circles of Arkansas, the impending search of David Hale's office was a well-known fact within the community. If so, this information surely would have reached Vince Foster.

We know Mr. Foster thought Whitewater was a "can of worms," his own words, even before he became deputy White House counsel. We also know that the failure of Madison and the first criminal referrals were known to the White House.

In March 1993, Roger Altman, the Deputy Secretary of the Treasury, was informed of this referral naming the Clintons. Do we know that he relayed this information to the White House? We know that about the same time Altman received his briefings, two articles were faxed to Bernie Nussbaum's office—one sent so hurriedly that its cover sheet was handwritten by Josh Steiner.

The next day the same fax was sent again, this time by Mr. Altman's secretary. It is clear he wanted the White House to know more about Whitewater.

All of these matters were known to the White House. Madison, criminal referrals, David Hale, all were on the White House's mind. Maybe not the public's at the time, but certainly the White House was tracking events closely. Whether this was a defining moment for Mr. Foster, we do not know. But the circumstantial evidence that has been brought out in these hearings is very strong.

Mr. President, now we begin to focus on the significance of the November 5 meeting that is the subject of this subpoena. The RTC issued more criminal referrals on October 8. However, the White House had prior knowledge of these referrals. This is laid out carefully in the report on this resolution.

Jean Hanson, Treasury's general counsel, imparted nonpublic information to Bernie Nussbaum. Nussbaum then directed this information to Bruce Lindsey. He told the President. The existence of these criminal referrals became null after an October 31, 1993, article in the Washington Post. Six days later the White House gathered their legal team in the private office of David Kendall.

There, I believe, the White House imparted the information they had received in a Government capacity and used it to aid them in the private legal problems of Bill and Hillary Clinton. In other words, I believe they took information that they received because of their governmental capacity and used it for their personal and private legal problems. Further, this private meeting may have led to an effort to gather more nonpublic information about the Clintons' problem.

Just days later Neil Eggleston, one of the White House attorneys present in the meeting, sought inside information from the SBA about David Hale. Finally, some of what may have been discussed at this meeting, I suspect, could be perceived as an obstruction of justice if the White House did anything that smacks of interfering with the RTC or the SBA investigation.

Mr. President, this is what is so important about the November 5 meeting. It is really the missing link for the White House hearings. We know from our hearings in 1994 that the White House received privileged information about the RTC's investigation of Madison. We do not know what the White House did with the information. The November 5 meeting may finally reveal what they did.

It is inexcusable that taxpayers paid for these attorneys to essentially function as a private legal team for the Clintons. It is inexcusable that they would engage in this activity on Government-paid time. And it is inexcusable that they have the audacity to claim privilege as if they were private attorneys.

Mr. President, in short, the real importance of this meeting is whether the heads-up the White House received from Treasury and others turned out to be a leg-up for the Clinton legal defense team. That would be wrong, unethical, and possibly illegal. This Congress needs to find out which.

Finally, Mr. President, let me turn to another subject I have raised often in committee. Time and time again the subject of the First Lady's involvement in all of these issues has surfaced over and over for—soon it will be 3 years.

She handled Madison work at the Rose law firm. She was active in Whitewater. She spoke with Maggie Williams twice on the night of Mr. Foster's death, before and after Ms. Williams went to the White House. She spoke with Susan Thomases who, in turn, spoke with Bernie Nussbaum about calling off the official search of Foster's office. Her chief of staff, Maggie Williams, was briefed about the statute of limitations issue, which may have affected her personally and the Rose law firm.

Over and over, the subject keeps coming back to Hillary Clinton. I have called for her to appear before the committee. My friend and colleague from New York has been patient, very patient—sometimes I feel too patient—in getting the answers. I do not think we can wait any longer, and I do not think we should wait any longer. We have to have the First Lady as a witness and under oath so we can get the real answers to our questions. This is the key to finding out what happened, and I do not know any reason why she should not be willing to come and clarify the problems we have run into. Without her testimony, no investigation will be complete.

Mr. President, let me conclude by saying that Whitewater is a very serious concern. We have a witness in Arkansas, David Hale, that has made a serious allegation against the President: That he pressured David Hale to make a phony $300,000 loan to Whitewater.

The President has denied this, but with Mr. Hale's cooperation, the independent counsel's investigation has now resulted in nine guilty pleas and five more indictments, including Jim McDougal, Bill Clinton's business partner, and the current Governor of Arkansas, Jim Guy Tucker, friend of the President and friend to David Hale.

Mr. President, the tide of Whitewater is rising. The scandal is getting closer to the President and the First Lady. It is getting closer to the White House by the day and spelling trouble for this President. What we can do here today may be the beginning of the end of the Clinton White House. These notes may begin to unravel the scandal and the truth finally may at last be told.

I yield the floor.

The PRESIDING OFFICER (Ms. SNOWE). The Senator from California.

Mrs. BOXER. Madam President, I am very pleased I was on the floor to hear my colleague from North Carolina because he has a theory about Whitewater, and he has every right to hold any theory he chooses. I respect his right to his opinion, but I am here to tell my colleagues that not only are his views not backed up by the facts, but they are contradicted by the facts. I want to take just one example.

He says the Clintons were actively involved in Whitewater. He said the Clintons were actively involved. Jay Stephens of Pillsbury Madison & Sutro just got paid by the RTC $3.6 million, and what does their report say? It was referred to by Senator DODD. I am quoting:

> There is no basis to charge the Clintons with any kind of primary liability for fraud or intentional misconduct. This investigation has revealed no evidence to support such claims, nor would the record support any claim of secondary or derivative liability for the possible misdeeds of others.

It goes on:

> It is recommended that no further resources be expended on the Whitewater part of this investigation.

So here you have a Senator who comes to the floor and says that the Clintons were involved when a Republican, a former U.S. attorney—and you can remember there were some people in the Clinton White House who were very concerned that perhaps he would not be objective—finds that, in fact, they have no involvement.

So to come on this floor and stick to a theory that has been disproven I do not think does this Senate any good, especially since we are trying to work with the facts.

Madam President, $3.6 million was expended to find out that the Clintons did not have anything to do with it, and we have a Senator say, "It's getting worse. The tide is rising. We have to have Mrs. Clinton come before the committee," and all the rest.

I suppose there is nothing that I can say to my friend that will dissuade him from his theory and, therefore, I am not going to try to do that, except to continue to rebut what he says with the facts.

He has talked about obstruction of justice. He has talked about perjury, and I urge him to be very careful with the kind of things he says on the Senate floor, because I have to say it is very hurtful to reputations of people to throw those kinds of charges around here.

I speak today as a member of the committee who voted all along to continue this Whitewater investigation. Some of my colleagues in the last vote did not vote to continue it. They felt it was a waste of money. I felt it was important to continue it under the leadership of my chairman and my ranking member.

Why did I think it was important, and why do I think it is still important to continue this until it is done? Because I feel when allegations are thrown around here, either on this floor or in the press, it is very dangerous to allow those things to go unchallenged. So what we have is a committee that can look at these allegations, can bring the witnesses forward and can ascertain the facts. If we do not do it, then there are always going to be people out there who suspect wrongdoing, reputations will be ruined, and we will never get to the facts. So I support the work of this committee and continuing to do it in a bipartisan way.

That leads me to where we are today with the subpoena. I know, because I am very familiar with my chairman and my ranking member, that when those two get together and agree on something, they can move mountains. I find it hard to believe that if, in fact, the Republicans on the committee have agreed wholeheartedly to the conditions of the White House, which it appears to be so, that they cannot take it a step further, get together with the ranking member and counsel and sit down in a room with the other parties and reach an agreement.

Why do I say that? I say that because I believe to get into this confrontation in the courts is, at a minimum, going to delay matters. It is also going to cost more dollars, and I want to talk about that for a minute.

We are in a Government shutdown. We are in a government shutdown because it is so important to Republicans, particularly in the House at this point, that negotiations go just the way they want before they will allow the Government to continue operating. Frankly, I think it is embarrassing for the greatest Nation on Earth to have a partial shutdown of the Government because certain people act like children and will not do what we have to do, which is get a clean continuing resolution, keep the Government operational and take the argument over the long-term balancing of the budget into a room and figure it out. I voted for two balanced budgets in 7 years. Others have voted for other forms of balancing the budget. We can do it. Everyone is so concerned about spending money, but not the Republicans when it comes to this investigation.

It is incredible to me. Madam President, $1,350,000 has been spent thus far by the Senate committee; $10,000 a week on little TV sets they have all across that room—$10,000 a week. But they are worried about balancing the budget. So you take documents and instead of handing them out, you put them on a screen. You cannot really see it anyway. It is a waste of money, but money does not matter when it comes to Whitewater. But I suppose it was too hard for our committees to hold hearings on the drastic cuts in Medicare, where we did not hold any on this side and there was one held in the House. But when it comes to Whitewater, we can meet and meet and meet. And we can enforce the subpoenas and waste more taxpayer dollars and not get the documentation we want. I want to see those documents. It seems to me that if we support the alternative that will be offered by our ranking member today, Senator SARBANES of Maryland, we can get everything we want. We can avoid a costly subpoena battle. We can avoid, frankly, losing in the courts, which would harm the U.S. Senate out into the future, and we can get the information if we sit down together with our colleagues in the House. I served over there for 10 years. I think JIM LEACH and PAUL SARBANES, AL D'AMATO, and the other principals can sit down and figure this out. But, oh, no, we are bringing this to a confrontation. Most of my Republican friends have not even talked about that. They just talked about their view of Whitewater.

Money is no object when it comes to this, friends. So when you wonder why they are shutting down the Government and they tell you, "Oh, my goodness, it is the only way we can get a balanced budget," ask them why we are going to spend all this money on Whitewater. I do not think you will get a very good answer.

Waco—hearings and hearings and hearings. Ruby Ridge—hearings and hearings and hearings. Whitewater—more hearings. Medicare cuts—no hearings. One begins to think, are we only here to deal with politics, or are we here to deal with substance? So we face an unnecessary legal confrontation, it seems to me. I think that the ranking member, Senator SARBANES, is going to offer us a very wise way out, a way that would result in getting the papers that we need and keeping this away from the courts, which is always costly and time consuming.

When you look at what has been spent so far on Whitewater, it is staggering—$1.350 million in the Senate. I told you about the RTC investigation, which was $3.6 million. We just referred to the Stephens report, which just was a recommendation not to file a civil lawsuit against Bill Clinton. Then you have the independent counsel, which has cost $22 million to date, and 100 FBI agents, not only looking at this President and his family and all of his dealings now, but all the way back to campaigns for Governor, and everything else. Well, I will tell you, when this is over, this President and his family will have had more scrutiny than a chest x-ray. Every detail—$27 million total—without including what the House has spent. We do not know what they have spent because it is hidden in their Banking Committee.

We have had 32 hearings, or public meetings, of our Senate committee. So how anybody can say, we better rush and do this subpoena and get to court because we have not had enough meetings, enough information—I think, frankly, the people are losing faith in this Whitewater investigation, and I would not blame them. We do not listen to the impact of cutting Medicare and Medicaid and education and the environment and shutting down the Government. We do not do that. But there is hearing after hearing, millions of dollars after millions of dollars spent to do what? So that the Senator from North Carolina can get his wish and the First Lady is going to come before the Senate committee. After the Clintons have been exonerated in a $3 million study by Jay Stephens, our Republican former U.S. attorney.

Madam President, I was not on the floor when the Senator from Alabama spoke, Senator SHELBY, but I understand that he took quotes from Richard Nixon and Bill Clinton, and the whole implication is that—it is not hard to get to the bottom line —this is terrible, and this is going to result in the President resigning. That is the implication. Well, I have to say, we have seen more smoking guns in this investigation than I ever saw in a cowboy movie.

Smoking gun No. 1: Jean Lewis' testimony—this was their star. She was billed as their star, and she came before us to show how the administration has muzzled her investigation. As it turns out, her appearance only showed, in my view, how biased her investigation was. She even planned to profit from it by going into the T-shirt business. It was embarrassing to think of a professional woman, who was their star, who took phone calls about her T-shirt business in her office. This was their star. By the way, she said her tape recorder went on by itself, miraculously, and she taped, without her knowing, a woman from the RTC, and then she gave that tape over to the committee to show this other smoking gun which turned out to be not very much.

We also learned in that questioning period that this woman had a bias against the President. Oh, that caused a big brouhaha. She had written about the President in a negative fashion, in an obscene fashion, right before she made the referrals, which named the Clintons as possible witnesses. That is the number-one smoking gun, the No. 1 star of their show.

The second smoking gun: The letter from the President's lawyer—

Oh, I must say, sadly, Miss Lewis got ill in front of the committee. I hope she is better now, I really do. But I was not finished with my questioning. I do not know if I will ever have a chance to continue it because I had a lot more questions. But she became ill, clearly, and had to leave.

The second smoking gun: The letter from the President's lawyer, David Kendall, to the Rose firm attaching three Madison Guaranty files. Our committee chairman, in a public hearing, called the letter a "smoking gun," in his words, alleging that the attached files were likely taken from the White House office of Vince Foster. Mr. Kendall testified that he had not gotten the files at all from Vince Foster's office.

The third smoking gun: The Small Business Administration's mishandling of the David Hale matter. That has been referred to by my friend from North Carolina.

Another smoking gun was the allegation that the SBA delayed the investigation of David Hale's misuse of SBA money. Well, my goodness, what did the testimony show? Not only did the SBA move forward aggressively, under Erskine-Boles, with the investigation, but Hale was indicted in record time—in record time—leading some members of the committee to say that is a model for all administrations to follow because the administrator knew that David Hale, who knew the President and the First Lady, was from Arkansas, and he said, go after them, and they did.

Smoking gun No. 4: The secret telephone number called by the First Lady the night of the Foster suicide. This hung out there in the press. Who did she call? A secret number. Nobody knows. The telephone company did not know. No one knew. The investigative team could not find out. Well, it was a big smoking gun. It was a phone number that was used when the White House switchboard was overloaded. It was a White House switchboard number. And the testimony from Bill Burton, who spoke to the First Lady, was exactly this: The First Lady called him at the specific time that the committee was after, and said, "Please make sure that Vince Foster's mother is told this news in the most caring way, with her minister present, so that she does not learn of it through news reports." That was smoking gun No. 4. Maybe having a compassionate First Lady is a bad thing. I happen to think it is a good thing.

Smoking gun No. 5, the Jay Stephens report. There we were again. What is going to happen with this civil investigation? Are we going to see that the Clintons spent a lot of time with Whitewater?

Madam President, $3.6 million smoking gun. Well, it just came out. They said Whitewater had cost Madison Guaranty a minimal amount of $60,000 to $150,000. At most, there was a $60 million loss to the institution. The Clintons, as far as they could tell, did not know much about Whitewater, and there was no case. Do not proceed.

Now we come to smoking gun No. 6, and nearing the end of my comments today, the notes of White House counsel William Kennedy. The notes were taken when the President's lawyers met together when they were handing over the information to the private attorney. The undercurrent that has been out there is the President has something to hide, except for one thing. They are ready to hand over the papers. They are ready to hand over the papers. First, they had five conditions. They are down to one condition. Down to one condition. We have agreed with that condition in a bipartisan fashion. We think the independent counsel has, although we have not confirmed it. That is our belief. Which leaves the House.

Now I know those people over in the House, and I like them. I think we ought to talk to them face to face and get them to understand that by taking the position they are taking, we are not going to get the papers.

Why do we want to have a court fight that would set a bad precedent? It does not make sense. All individuals have an attorney-client privilege. It does not matter whether you are the poorest of the poor, the richest of the rich, the most powerful or the least powerful. That is what is so great about our country. We do not go on political witch hunts and deny people their rights.

In this U.S. Senate in the Ethics Committee on the PACKWOOD case, Republicans and Democrats together said that the attorney-client privilege for Bob Packwood must take precedence. So I have got to be a little surprised when that occurs in the Ethics Committee, and we are bipartisan, and suddenly here we are splitting into Democrats and Republicans. That is bad for this institution. It is bad for this investigation. It is bad for the precedence of the United States. Frankly, I think it is bad for individual Senators.

Who knows some day when one of us might say, I do not want people to see the private notes of my attorney on a divorce. I do not want someone to see the private notes of my attorney in a child custody case, or an ethics proceeding, or any kind of matter where we may be involved.

We should stand together on the principle as we did in the Packwood case, and we know emotions were running high in that case, but we did not invade that attorney-client privilege, as our ranking member, Senator SARBANES, has pointed out far more eloquently than I because I am not a lawyer. I am just trying to bring some common sense to the discussion and to move along the process of the committee's work and getting the notes that we want to get.

I think we should send the resolution back to the committee with instructions to consider all reasonable ways of obtaining the notes. I think that we can do it. I have seen my chairman and my ranking member team up and be very persuasive, and I think if they teamed up on this and they sat down with their counterparts in the House, we could resolve this in a moment's time. That is the faith I have in their ability to work together.

The bottom line is, do you want to get the notes or do you want to play politics? That is the way I see it. I hope we decide we want to get the notes, we want to do it in a way that keeps this committee working in a bipartisan fashion because, frankly, if we do not stick together on this, on the procedures, I think the American people are going to think this is all politics and all the hard work that we do to put light on this subject will simply not be respected.

Thank you. I yield the floor.

Mr. HATCH. Madam President.

Mr. FAIRCLOTH. Will the Senator yield?

Mr. HATCH. Without losing my right to the floor, and I ask unanimous consent in that regard.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FAIRCLOTH. Very briefly, I reply to the honorable Senator from California. I do not intend to get into a point-by-point debate.

Mrs. Clinton has admitted while Jim McDougal was on trial in 1990, she took over Whitewater affairs. She even sought power of attorney in 1986. In fact, the Clintons have all of the Whitewater documents. They were so active that they had to turn back boxes of documents to Jim McDougal so he could do the return.

Finally, the reason Pillsbury Madison might have said there was no wrongdoing, they simply do not have the information that has been available to this committee and will be available to the committee.

To answer one three-line quote, and I am quoting Mrs. Clinton as to her involvement in Whitewater, her words:

> Because my husband was a fourth owner of Whitewater Development Company while he was actually occupied as Governor of Arkansas, it fell to me to take certain steps to attempt to assure that Whitewater Development Corporation affairs were properly conducted and that they complied with the law.

If that does not involve her, I do not know what does. I thank the Senator from California.

Mrs. BOXER. If the Senator would yield for 30 seconds.

Mr. HATCH. Under the same unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I say to my friend from North Carolina, and I respect his right to hold any view he wishes, what he said is, essentially, that he does not agree with the conclusion of this report.

I just want to reiterate, Madam President, that $3 million was spent on it. It was headed by a very well-respected Republican former U.S. attorney, James Jay Stephens. Clearly, it says, "The evidence does not suggest the Clintons had managerial control of the enterprise or even received annual reports or financial summaries. Instead, the main contact seems to consist of signing loans and renewals."

To suggest some 3-point-some million dollars they spent here did not give them the information they need is, really, it seems to me, an indirect hit at Mr. Stephens and Pillsbury Madison & Sutro. I take great pride in that law firm because that is in San Francisco. I think the facts do not bear out the intentions.

Mr. BYRD. Madam President, the distinguished Senator from Utah was on the floor before I was here. It is not a great matter of importance that I speak immediately, but I do have some other things that are going to demand my attention later. I wonder if the distinguished Senator from Utah could tell me how long he might be speaking?

Mr. HATCH. I do not believe I will be very long, and I am happy to yield to my distinguished colleague, but I ask unanimous consent that he be permitted to speak immediately following my remarks, which should not be too long.

Mr. BYRD. That would be very fine.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the distinguished Senator for his characteristic courtesy. Could he tell me about when he might end?

Mr. HATCH. I do not think I will be much more than 15 minutes. Pretty close to 3 o'clock, maybe a little less than that.

Mr. BYRD. I hope the Senator will not hurry.

Mr. HATCH. I appreciate my colleague. I am happy to yield to him.

Mr. SARBANES. If the Senator would yield, given the agreement, maybe we could even put in a quorum call if it catches the Senator from West Virginia unaware at the conclusion of the time. I am sure that is agreeable to the chairman.

Mr. D'AMATO. Why do we not say—we have been trying to work this back and forth, and certainly the Senator from West Virginia would be recognized, and if he needs an opportunity to come to the floor, and I make an observation I would yield immediately. Why do we not just keep it at that, and he will be recognized thereafter or as soon as he comes to the floor.

Mr. BYRD. I thank the Senator from New York and I thank the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I appreciate the action of my friend from West Virginia because I know how busy he is, as all of us are, and my friends who are managing this bill. I think I would always yield to him, if I could. But he has been gracious enough to ask me to go forward.

It has been implied in this debate that I have been listening to that the Whitewater investigation has been a waste, that it has been too costly and too expensive. I have to say, I did not hear the same arguments during the Iran-contra problem. But let me say, I would note that the Whitewater investigation has resulted in five indictments, including the indictment of a sitting Governor, and nine guilty pleas so far.

We have also seen the No. 3 person at the Justice Department go to Federal prison. I personally feel badly about that because I liked him very much. I still like him very much and I am sorry he has had that difficulty. But I have to say, it shows that the Whitewater investigation has not been in vain, that it has been extremely important.

Frankly, the investigation is not complete. I wonder how much all of that work is worth to the country. It seems to me the American people would want to investigate wrongdoing. I think the record shows that the independent counsel is moving ahead in an appropriate manner. And I believe the distinguished committee on Whitewater is moving ahead very well, too. I commend the two leaders, Senators D'AMATO and SARBANES, for the good way that they worked together and the tremendous amount of work they have done on this—plus their counsel. Their respective counsel have been as good as any I have ever seen.

Having said that, Madam President, I rise in support of the resolution to authorize enforcement of the subpoena to obtain notes from a White House meeting concerning Whitewater. I do not take this step lightly, however. As chairman of the Judiciary Committee, I see it as my duty to defend the prerogatives of the executive branch and the separation of powers. Indeed, I recognize that the executive branch has a right to confidential communications regarding its core functions. After giving this issue careful thought and consideration, however, I have decided that enforcing the subpoena is the proper course of action to take. This issue transcends claims of partisanship and goes to the very constitutional authority of Congress to investigate wrongdoing at the highest levels of Government.

The Senate has a constitutional obligation to conduct oversight hearings. It is a duty we must not surrender. The President has refused to comply with a legitimate request to obtain information relating to Whitewater. After President Clinton's initial refusal to provide the meeting notes, the Special Whitewater Committee took the wholly appropriate step of subpoenaing the notes. It is unfortunate that the President has chosen to resist the congressional subpoena. Not only has President Clinton defied a Congress that is in good faith attempting to investigate a matter of great public concern, he has chosen to do so by hiding behind a questionable claim of attorney-client privilege.

I would like to review the claim of privilege the President is asserting and explain to the American people why it is simply not credible.

First, the President not only claims that the November 5 Whitewater meeting is cloaked in attorney-client privilege, but that the privilege applies against Congress. No Congress in history, however, has recognized the existence of a common-law privilege that trumps the constitutionally authorized investigatory powers of Congress. While Congress has chosen, as a matter of discretion, to permit clear, legitimate claims of privilege, it has never allowed its constitutional authority to investigate wrongdoing in the executive branch to be undermined by universal recognition of the attorney-client privilege. As Senator SARBANES has noted, we have chosen, in our discretion, to recognize the privilege with respect to some of the witnesses who have testified before the Committee.

The attorney-client privilege exists as only a narrow exception to broad rules of disclosure. And the privilege exists only as a statutory creation, or by operation of State common law. No statute or Senate or House rule applies the attorney-client privilege to Congress. In fact, both the Senate and the House have explicitly refused to formally include the privilege in their rules. As the Clerk of the House stated in a memorandum opinion in 1985: "attorney-client privilege cannot be claimed as a matter of right before a congressional committee." The attorney-client privilege is a rule of evidence that generally applies only in court; it does not apply to Congress which, under article I, section 5 of the Constitution, has the sole authority to "determine the Rules of its Proceedings."

The historical practice of congressional committees has borne this out. As Joseph diGenova, a special counsel and former U.S. attorney, has pointed out in an article in today's Wall Street Journal, as early as in the 19th century investigation of the Credit Mobilier scandal, Congress clearly refused to recognize attorney-client privilege. Indeed, in 1934, Senator Hugo Black, later one of the Supreme Court's great liberal justices, as chairman of a committee refused to recognize the privilege. As recently as 1986, a House subcommittee, Committee on Foreign Affairs, Subcommittee on Asian and Pacific Affairs, took pains to note that it need not recognize the privilege asserted by individuals involved in setting up a web of dummy corporations for the Marcos family.

This body cannot simply take the President's claim of privilege against Congress at face value. To do so would be to surrender an important constitutional obligation. We can not compromise the ability of the Congress to conduct investigatory hearings. I ask my colleagues on the other side of the aisle to place partisan politics aside and to support the institutional integrity of this body.

Second, the President has stated that he is merely asserting the type of attorney-client privilege that any American would claim with respect to his or her own attorney. I do not think that any of us would disagree that Mr. Clinton, as a private citizen dealing with personal legal troubles, has a claim of attorney-client privilege. That goes without saying. Certainly with regard to Mr. Kendall, his personal attorney.

The problem, however, is that we do not have an ordinary citizen here, nor are we in a court of law. An ordinary citizen does not supervise the law enforcement resources of the Federal Government; an ordinary citizen does not appoint or fire U.S. attorneys; an ordinary citizen does not direct the FBI; an ordinary citizen does not control IRS or the RTC. An ordinary citizen is not in the position to interfere with the legitimate law enforcement investigation of his own activities.

Indeed, President Richard Nixon did not assert attorney-client privilege. What would have happened if President Nixon had attempted to use the privilege to prevent White House counsel John Dean from testifying? That is essentially what is happening now. Even during the so-called Iran-Contra affair, Department of Justice lawyers concluded that the privilege could only be claimed by lawyers preparing for litigation, not preparing for congressional inquiries. Although the committee recognized attorney-client privilege for Oliver North and certain others, it did so only as a matter of discretion, which the committee has a right to do.

Thus, if we are going to recognize any attorney-client privilege of the President, we do so at our discretion. Now, in general I would be willing to recognize the privilege when it validly exists. Here, however, it clearly does not, and so Congress must issue the resolution to enforce the subpoena.

Courts recognize the privilege only for communications between a client and his attorney for the purpose of providing legal advice. It makes perfect sense that a person would be able to discuss legal matters with his or her lawyer that should not be revealed in court or to the opposing side. That is a well-established principle we can all agree with.

I, as well as legal experts such as former U.S. Attorney General William Barr, former U.S. Attorney Joseph diGenova, and Prof. Ronald Rotunda fail to see how Mr. Clinton can assert privilege over the November 1993 meeting. It is hard for me to understand how advice about a private legal matter could be given at a meeting where neither the President nor the First Lady were present.

An additional problem is that in addition to Mr. Kennedy and Mr. Kendall, other lawyers were at the meeting who represented the President in his official capacity. These White House lawyers had a duty to represent the American people as well as the Office of the President. It would be a violation of the basic ethical rules for Government lawyers to work on private legal matters for the President. A memo from the President's personal lawyers at Williams & Connolly concedes that each group of lawyers—the Government lawyers and the private lawyers—had a different client: the Government lawyers represented the Office of the President and the U.S. Government, the private lawyers represented the President in his personal capacity. Since they are representing different entities, they cannot share the same attorney-client privilege.

The administration responds to this straightforward legal point by drawing an analogy to the common-interest privilege that is given to coconspirators who are permitted to share advice and information in preparing a joint defense. This analogy collapses upon close examination. The supposed common interest is that both clients represented at the November 5 meeting—the Clintons in their private capacity and the Office of the President—faced adversarial legal proceedings. But in this setting, the only possible adversary for the Clintons is the U.S. Government, and one group of lawyers at the November 5 meeting—those representing the Office of the President, represent the U.S. Government, and were on the payroll of the U.S. Government.

Therefore, the U.S. Government and those lawyers who represented it could not possibly have a common interest with the Clintons in thwarting or defending against adversarial legal proceedings brought or potentially to be brought by the U.S. Government against the Clintons in their private capacities. In fact, the lawyers from the White House Counsel's Office represented the only possible adversaries of the President, and therefore there could not have been a common interest between the two groups of lawyers.

In fact, there is no claim that Whitewater involves the Office of the President; the issues should not involve the Presidency at all. At the time that the Whitewater affair occurred, Mr. Clinton was not even President. It is hard to say that the Office of the Presidency was facing any adversary, with whom it would need to coordinate a common defense.

The White House, in a memorandum provided to the special committee, claims that this was a meeting in which the President's former private attorney, Mr. Kennedy, was handing off information to his newly retained counsel, Mr. Kendall. The White House's lawyers claim that they were serving necessary and important public interests at the meeting, and that they were at the meeting to "impart information that had been provided to them in the course of official duties." What information was imparted? Surely the transmission of Government information to private attorneys is not protected by the attorney-client privilege.

I am deeply troubled by the fact that White House lawyers were present at this meeting. After all, these lawyers do not represent the President in his personal capacity. I am concerned about the possibility that Government lawyers, who have an obligation to the American people, as well as to the President, may have passed information to the Clinton's personal lawyers that the White House Counsel's Office may have gained through their official capacities. Is it the proper role of Government officials to act as messengers for Mr. Clinton in his private capacity to the President's private lawyers?

These lawyers were discussing Whitewater matters that were being investigated by the Department of Justice and the RTC—legal matters that would place Mr. Clinton in an adverse position to the U.S. Government. Essentially, Mr. Clinton is claiming attorney-client privilege over a meeting in which Government lawyers may have been involved in a strategy session to frustrate investigations conducted by other parts of the executive branch. I hope that nothing occurred during the meeting that would in any way sully the Office of the President. But to find out whether anything illegal occurred, the President must disclose the notes.

It is also likely that even if a privilege may have existed, it was waived. After all, Bruce Lindsey, who did not serve in the White House Counsel's Office at this time, but rather served in the White House Personnel Office, was at the meeting. He was not legal counsel to the President in either a personal or a professional capacity. To say that he represented the Office of the President as legal counsel at this meeting is dubious at best. Information discussed in his presence thus would constitute a waiver of the privilege. Were this legal fiction to survive judicial review, virtually any discussions or conspiracies involving lawyers could be claimed as privileges.

In order to avoid the brewing constitutional confrontation that will arise when this issue goes to court, I call upon the President to release the notes of the November 5 meeting now. It is in the best interests of the President, of the Congress, and, indeed, of the American people, for all the information concerning Whitewater to come out into the open. As Justice Louis Bradeis put so succinctly: "Sunlight is the best of disinfectants." By being forthcoming with the American people, President Clinton can begin to put Whitewater behind this administration. While we must, in my opinion, vote today to enforce the subpoena, I would hope that we will not ultimately have to resolve this dispute in court. I would hope that the President would do as he has long promised: fully comply with the investigation into the Whitewater affair.

Having said all of that, again I note that this has not been a waste of time—the work these two leaders on the committee have done, the work the special counsel has done which has resulted in five indictments, nine guilty pleas, and the imprisonment of one of our top Justice Department officials.

I think those facts alone justify the work that the distinguished chairman of this committee has been trying to do.

So I want to commend him for the work he is doing, and I want to commend all members of committee for the attention that they have given to this work. And I hope that some of the comments that I have made will help on this matter.

I yield the floor.

Mr. D'AMATO. Madam President, let me, before Senator BYRD comes to the floor, first of all thank the Senator from Utah who also in his capacity as chairman of the Judiciary Committee has a keen insight, has been here and understands this area that sometimes might be somewhat difficult for people to grasp. But I think in the summation he went right to the heart of this matter. It is a matter of the President of the United States keeping faith with his commitment to the people, a matter of the President of the United States, President Clinton, keeping faith not only with the people but indeed with the Congress and the Senate. It is a matter of the President of the United States keeping faith with the commitment that he made on March 8. On March 8, 1994, the President held a press conference in connection with the appointment of Lloyd Cutler as interim White House counsel. During that press conference the President was asked about the possibility of asserting Executive privilege, and he gave a response. He said:

> It is hard for me to imagine a circumstance in which that would be the appropriate thing for me to do.

Madam President, once again, the President has an opportunity to keep his commitment. It is not good enough to say one thing and to do another. It is not good enough to promise us cooperation and then hide behind technicalities. It is not good enough to say that I will produce everything that I can to be cooperative and getting to the bottom of this matter, and then assert privilege—and then put conditions on it and do it in a manner in which we are forced to come to this floor.

So I would hope that irrespective of the votes that we take, irrespective of our positions, that the President would come forward—and come forward now and make those notes available. People have a right to know the Congress has a right to know, and we have worked in the cooperative effort to avoid this. It is only because of the necessity to see to it that we get this information in a timely way, that we have taken this extraordinary action.

So I agree with Senator HATCH. The duty and the obligation is not upon this Senate. We should not have to be compelling this. It should be President of the United States who steps forward and who keeps his commitment; a commitment that right now he is failing to observe, a promise that has been made, a promise that has been made but a promise that has not been kept.

Mr. SARBANES. Will the chairman yield?

Mr. D'AMATO. I certainly will. I note that we are awaiting Senator BYRD because he is the next scheduled person, but certainly I will yield. Have we made inquiry? Has the Senator been advised?

Mr. SARBANES. We have sent a message to him and he is on his way, is what I am told.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I ask unanimous consent to have printed in the RECORD at this point, in light of the comments we just heard, a letter to Chairman D'AMATO from Jane Sherburne, special counsel to the President.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, December 20, 1995.

Hon. ALFONSE M. D'AMATO,
Chairman, U.S. Senate, Special Committee to Investigate Whitewater Development Corporation and Related Matters, Washington, DC.

DEAR CHAIRMAN D'AMATO: As I informed you yesterday we would, Counsel for the President have undertaken to secure non-waiver agreements from the various entities with an investigative interest in Whitewater-Madison matters. I requested an opportunity to meet with your staff to determine how we might work together to facilitate this process. Mr. Chertoff declined to meet.

Nonetheless, we have succeeded in reaching an understanding with the Independent Counsel that he will not argue that turning over the Kennedy notes waives the attorney-client privilege claimed by the President. With this agreement in hand, the only thing standing in the way of giving these notes to your Committee, is the unwillingness of Republican House Chairmen similarly to agree. As I am sure you are aware, two of the Committee Chairmen who have asserted jurisdiction over Whitewater matters in the House have rejected our request that the House also enter a non-waiver agreement with respect to disclosure of these notes and related testimony.

We have said all along that we are prepared to make the notes public; that all we need is an assurance that other investigative bodies will not use this as an excuse to deny the President the right to lawyer confidentiality that all Americans enjoy. The response of the House Committee Chairmen suggests our concern has been well-founded.

If your primary objective in pursuing this exercise is to obtain the notes, we need to work together to achieve that result. You earlier stated that you were willing to urge the Independent Counsel to go along with a non-waiver agreement. We ask that you do the same with your Republican colleagues in the House. Be assured: as soon as we secure an agreement from the House, we will give the notes to the Committee.

Mr. Chertoff has informed me that the Committee will not acknowledge that a reasonable claim of privilege has been asserted with respect to confidential communications between the President's personal lawyer and White House officials acting as lawyers for the President. In view of the overwhelming support expressed by legal scholars and experts for the White House position on this subject, we are prepared simply to agree to disagree with the Committee on this point.

Accordingly, the only remaining obstacle to resolution of this matter is the House.

Sincerely yours,
JANE C. SHERBURNE,
Special Counsel to the President.

Mr. SARBANES. I thank the Chair.

She indicates in the letter that the President is prepared to turn over these notes as soon as they can achieve a formal waiver agreement with the House. They have such an agreement with our committee. We have indicated that is acceptable to us. And they apparently reached such an understanding with the independent counsel. In fact, this letters says:

> We have succeeded in reaching an understanding with the independent counsel that he will not argue that turning over the Kennedy notes waives the attorney-client privilege claimed by the President. With this agreement in hand, the only thing standing in the way of giving these notes to your committee is the unwillingness of Republican House chairmen similarly to agree.

I understand they are going to be meeting with the House chairmen this afternoon, and hopefully out of that an understanding can be reached because the White House has indicated they are prepared to turn these notes over if they can get these agreements. They have an understanding with our committee; they have an understanding with the independent counsel, and the other relevant body where they need an understanding is with the House committees. And I gather that matter is being worked on, and hopefully it will be worked on in a successful way.

So I just wanted to enter this letter into the RECORD and make those comments in light of the observations that were just made.

I notice that Senator BYRD is in the Chamber.

I would like to say to the chairman, I take it Senator GRAMS would seek recognition next, is that correct, after Senator BYRD?

Mr. D'AMATO. Correct. Yes.

Mr. SARBANES. Could we then recognize Senator LEAHY after Senator GRAMS?

Mr. D'AMATO. Certainly.

Mr. SARBANES. I ask unanimous consent that following Senator BYRD, Senator GRAMS be recognized and following Senator GRAMS, Senator LEAHY be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. If I might intrude for 30 seconds upon my friend and colleague from West Virginia, I think it is important to note I mentioned that on March 8 the President had a press conference made in connection with the appointment of Lloyd Cutler and specifically as it related to the question of bringing up privilege said it was hard for him to imagine any circumstance which would be appropriate.

That this took place almost 4 months to the day after, 4 months and 3 days after this meeting, it is inconceivable that the President was not aware of this meeting where his personal attorneys were in attendance. So this is not a question—it seems to me this would not be an extraordinary circumstance. This was the circumstance and the fact he was aware of when he indicated that he would not raise the issue of privilege.

I just thought it was important to note that for the RECORD. I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from West Virginia is recognized under the previous order.

Mr. BYRD. Mr. President, I thank the Chair.

Mr. President, has the Pastore rule run its course?

The PRESIDING OFFICER. The Pastore rule has run its course.

Mr. BYRD. I thank the Chair. Then I shall speak out of order, that being my privilege, in view of the fact that there is no controlled time at the moment.

Mr. President, I speak today with apologies to the two managers of the pending resolution.

Mr. President, I should also state to Senators that I expect to speak for no less than 45 minutes.

CIVILITY IN THE SENATE

Mr. BYRD. Mr. President, I speak from prepared remarks because I wanted to be most careful in how I chose my words and so that I might speak as the Apostle Paul in his epistle to the Colossians admonished us to do:

> Let your speech be always with grace, seasoned with salt, that ye may know how ye ought to answer every man.

Mr. President, I rise today to express my deep concern at the growing incivility in this Chamber. It reached a peak of excess on last Friday during floor debate with respect to the budget negotiations and the Continuing Resolution. One Republican Senator said that he agreed with the Minority Leader that we do have legitimate differences. "But you do not have the guts to put those legitimate differences on the table," that Senator said. He went on to state, "and then you have the gall to come to us and tell us that we ought to put another proposal on the table." Now, Mr. President, I can only presume that the Senator was directing his remarks to the Minority Leader, although he was probably including all members on this side of the aisle. He also said that the President of the United States "has, once again, proven that his commitment to principle is non-existent. He gave his word; he broke his word. It is a habit he does not seem able to break."

Mr. President, I do not know what the matter of "guts" has to do with the Continuing Resolution or budget negotiations. Simply put, those words are fighting words when used off the Senate floor. One might expect to hear them in an alehouse or beer tavern, where the response would likely be the breaking of a bottle over the ear of the one uttering the provocation, or in a pool hall, where the results might be the cracking of a cue stick on the skull of the provocator. Do we have to resort to such language in this forum? In the past century, such words would be responded to by an invitation to a duel.

And who is to judge another person's commitment to principle as being nonexistent?

I am not in a position to judge that with respect to any other man or woman in this Chamber or on this Earth.

Mr. President, the Senator who made these statements is one whom I have known to be amiable and reasonable. I like him. And I was shocked to hear such strident words used by him, with such a strident tone. I hope that we will all exercise a greater restraint upon our passions and avoid making extreme statements that can only serve to further polarize the relationships between the two parties in this Chamber and between the executive and legislative branches. By all means, we should dampen our impulses to engage in personal invective.

Another Senator, who is very new around here, made the statement—and I quote from last Friday's RECORD: "This President just does not know how to tell the truth anymore," and then accused the President of stating to "the American public—bald-faced untruths." The Senator went on to say that, "we are tired of stomaching untruths over here. We are downright getting angry over here"—the Senator was speaking from the other side of the aisle. Then with reference to the President again, the Senator said, "This guy is not going to tell the truth," and then proceeded to accuse the President "and many Senators"—"and many Senators"—of making statements that tax cuts have been targeted for the wealthy, "when they know that is a lie." Now, the Senator said, "I am using strong terms like 'lie.'" Then the Senator made reference to a lack of statesmanship: "When are we going to get statesmen again in this country? When are we going to get these statesmen here in Washington again?" And then answering his own question, he said, "they are here," presumably, one would suppose, referring to himself as one such statesman.

Mr. President, such statements are harsh and severe, to say the least. And when made by a Senator who has not yet held the office of Senator a full year, they are really quite astonishing. In my 37 years in this Senate, I do not recall such insolence, and it is very sad that debate and discourse on the Senate floor have sunk to such a low level. The Senator said, "We are downright getting angry over here." Now, what is that supposed to mean? Does it mean that we on this side should sit in fear and in trembling because someone is getting downright angry? Mr. President, those whom God wishes to destroy, he first makes mad. Solomon tells us: "He that is slow to anger is better than the mighty; and he that ruleth his spirit than he that taketh a city."

Moreover, Mr. President, for a Senator to make reference on the Senate floor to any President, Democrat or Republican, as "this guy" is to show an utter disrespect for the office of the presidency itself, and is also to show an uncaring regard for the disrespect that the Senator brings upon himself as a result. "This guy is not going to tell the truth," the Senator said, and then he proceeded to state that the President "and many Senators" have made statements concerning tax cuts—and that would include almost all Senators on this side, because almost all of us have so stated—that "they know that is a lie."—and I am quoting—that "they know that is a lie"—admitting, the Senator said, that the word "lie" is a strong term. I have never heard that word used in the Senate before in addressing other Senators. I have never heard other Senators called liars. I have never heard a Senator say that other Senators lie.

Mr. President, the use of such maledicent language on the Senate floor is quite out of place, and to accuse other Senators of being liars is to skate on very, very thin ice, indeed.

In his first of three epistles, John admonishes us: "He that saith, I know him, and keepeth not his commandments, is a liar, and the truth is not in him." Mr. President, it seems to me that by that standard, all of us are certainly—or certainly most of us fall into the classification of liar, and before accusing other Senators of telling a lie, one should "cast first the beam out of thine own eye, and then shalt thou see clearly to pull out the mote that is in thy brother's eye."

Mr. President, can't we rein in our tongues and lower our voices and speak to each other and about each other in a more civil fashion? I can disagree with another Senator. I have done so many times in this Chamber. I can state that he is mistaken in his facts; I can state that he is in error. I can do all these things without assaulting his character by calling him a liar, by saying that he lies. Have civility and common courtesy and reasonableness taken leave of this Chamber? Surely the individual vocabularies of Members of this body have not deteriorated to the point that we can only express ourselves in such crude and coarse and offensive language. The proverb tells us that "A fool uttereth all his mind: but a wise man keepeth it in till afterwards." Can we no longer engage in reasoned, even intense, partisan exchanges in the Senate without imputing evil motives to other Senators, without castigating the personal integrity of our colleagues? Such utterly reckless statements can only poison the waters of the well of mutual respect and comity which must prevail in this body if our two political parties are to work together in the best interests of the people whom we serve. The work of the two Leaders, the work of Mr. DOLE, the work of Mr. DASCHLE, is thus made more difficult. There is enough controversy in the natural course of things in this bitter year, without making statements that stir even greater controversy and divisiveness.

"If a House be divided against itself, that House cannot stand," we are told in Mark's Gospel. Surely the people who see and hear the Senate at its worst must become discouraged and throw up their hands in disgust at hearing such sour inflammatory rhetoric, which exhales itself fuliginously. What can our young people think—they listen to C-SPAN; they watch C-SPAN. What can our young people think when they hear grown men in the premiere upper body among the world's legislatures casting such rash aspersions upon the President of the United States and upon other Senators? Political partisanship is to be expected in a legislative body—we all engage in it—but bitter personal attacks go beyond the pale of respectable propriety. And let us all be scrupulously mindful of the role that vitriolic public statements can play in the stirring of the dark cauldron of violent passions which are far too evident in our land today. Oklahoma City is but 8 months behind us. Washington, in his farewell address, warned against party and factional strife. In remarks such as those that were made last Friday, we are seeing bitter partisanship and factionalism at their worst. I hope that the leaders of our two parties will attempt to impress upon our colleagues the need to tone down the rhetoric and to avoid engaging in vicious diatribes that impugn and question the motives and principles and the personal integrity of other Senators and of the President of the United States.

It is one thing to criticize the policies of the President and his administration. I have offered my own strong criticism of President Clinton and past Presidents of both parties in respect to some of their policies. I simply do not agree with some of them. But it is quite another matter to engage in personal attacks that hold the President up to obloquy and opprobrium and scorn. Senators ought to be bigger than that. Anyone who thinks of himself as a gentleman ought to be above such contumely. The bandying about of such words as liar, or lie, can only come from a contumelious lip, and for one, who has been honored by the electorate to serve in the high office of United States Senator, to engage in such rude language arising from haughtiness and contempt, is to lower himself in the eyes of his peers, and of the American people generally, to the status of a street brawler.

Mr. President, in 1863, Willard Saulsbury of Delaware, in lengthy remarks, referred to President Abraham Lincoln as a "weak and imbecile man" and accused other Senators of "blackguardism." Saulsbury was ruled out of order by the Vice President who sat in the Chair and ordered to take his seat. Another Senator offered a resolution the following day for his expulsion, but Saulsbury appeared the next day and apologized to the Senate for his remarks, which were quite out of order, and that was the end of the matter. Senators should take note of this and try to restrain their indulgence for outlandish and extreme accusations and charges in public debate on this floor.

The kind of mindless gabble and rhetorical putridities as were voiced on this floor last Friday can only create bewilderment and doubt among the American people as to our ability to work with each other in this Chamber. And that is what they expect us to do. Certainly these are not the attributes and marks of a statesman. Statesmen do not call each other liars or engage in such execrations as fly from pillar to post in this Chamber. I have seen statesmen during my time in the Senate, and they have stood on both sides of the aisle. They have stood tall, suncrowned, and above the fog in public duty and in private thinking—above the fog of personal insinuations and malicious calumny.

The Bob Tafts, the Everett Dirksens—I have seen him stand at that desk—the Everett Dirksens, the Norris Cottons, the George Aikens, the Howard Bakers, the Jack Javitses, the Hugh Scotts, or the John Heinzes of yesteryear did not throw the word "lie" in the teeth of their colleagues. Nor do such honorable colleagues who serve today as THAD COCHRAN, MARK HATFIELD, TED STEVENS, JOHN CHAFEE, ARLEN SPECTER, NANCY KASSEBAUM, BILL COHEN, ORRIN HATCH, JOHN WARNER, DIRK KEMPTHORNE, ALAN SIMPSON—oh, there is one I will miss when he leaves this Chamber—and many other Senators on that side of the aisle. BOB BENNETT of Utah recognized the rhetorical cesspool for what it was last Friday and he kept himself above it. He took note of it. I have never heard our majority leader, I have never heard our minority leader, I have never heard any majority leader or minority leader accuse other Senators of lying. I am confident that our leaders and most Senators find such gutter talk to be unacceptable in this forum.

Mr. President, in 1986, I helped to open the Senate floor to the televising of Senate debate. On the whole, I think it has worked rather well. I believed then and I still believe that TV coverage of Senate debate can and should educate and inspire the American people. But in my 37 years in the United States Senate, this has been a different year. William Manchester in his book "The Glory and the Dream" speaks of the year 1932 as the "cruelest year." I was a boy growing up in the Depression in 1932. I remember it as the cruelest year. But, Mr. President, in some ways, I think this year has been even more cruel. I have seen the Senate deteriorate this year. The decorum in the Senate has deteriorated, and political partisanship has run rife. And when the American people see and hear such intellectual pemmican as was spewed forth on this floor last Friday, no wonder there is such a growing disrespect for Congress throughout the country. The American people have every right to think that we are just a miserable lot of bickering juveniles, and I have come to be sorry that television is here, when we make such a spectacle of ourselves. When we accuse our colleagues of lying—I have never done that. I have never heard it done in this Senate before. Clay and John Randolph fought a duel over less than that. Aaron Burr shot and killed Alexander Hamilton for less than that. When we accuse our colleagues of lying and deliver ourselves of reckless imprecations and vengeful maledictions against the President of the United States, and against other Senators, it is no wonder—no wonder—that good men and women who have served honorably and long in this body are saying they have had enough! They may not go out here publicly and say that, but they have had enough.

Mr. President, it is with profound sadness that I have taken the Floor today to express my alarm and concern at the poison that has settled in upon this chamber. There have been giants in this Senate, and I have seen some of them. Little did I know when I came here that I would live to see pygmies stride like colossuses while marveling, like Aesop's fly, sitting on the axle of a chariot, "My, what a dust I do raise!"

Mr. President, party has a tendency to warp intelligence. I was chosen a Senator by a majority of the people of West Virginia seven times, but not for a majority only. I was chosen by a party, but not for a party. I try to represent all of the people of the state—Democrats and Republicans—who sent me here. I recognize no claim upon my action in the name and for the sake of party only. The oath I have taken 13 times, and in my 50 years of public service, is to support and defend the Constitution of my country's government, not the fiat of any political organization. This is not to say that political party is not important. It is. But party is not all important. Many times I have said that, and I have said that there are several things that are more important than political party. Sometimes as I sit and listen to Senate debate, I get the impression that to some of us, political party is above everything else. I sometimes get the impression that, more important than what serves the best interests of our country is what serves the political fortunes of a political party in the next elections. This Senate was not created for that purpose. This is not a forum that was created for the purpose of advancing one's political career or one's political party. In the day that the Senate was created, no such thing as political party in the United States was even a consideration. None of our forebears who created our republican form of government was for a party, but all were for the state. Political parties were formed afterward and have grown in strength since, and today the troubles that afflict our country, in many ways, chiefly may be said to arise from the dangerous excess of party feeling in our national councils. What does reason avail, when party spirit presides?

The welfare of the country is more dear than the mere victory of party. As George William Curtis once said, some may scorn this practical patriotism as impracticable folly. But such was the folly of the Spartan Leonidas, holding back, with his 300, the Persian horde, and teaching Greece the self reliance that saved her. Such was the folly of the Swiss Arnold von Winkelried, gathering into his own breast the points of Austrian spears, making his dead body the bridge of victory for his countrymen. Such was the folly of Nathan Hale, who, on September 22, 1776, gladly risked the seeming disgrace of his name, and grieved that he had but one life to give for his country. Such was the folly of Davy Crockett and 182 other defenders of the Alamo who were slain after holding out 13 days against a Mexican army in 1836, thus permitting Sam Houston time enough to perfect plans for the defense of Texas. Such are the beacon lights of a pure patriotism that burn forever in men's memories and shine forth brightly through the illuminated ages. What has happened to all of that?

Mr. President, when our forefathers were blackened by the smoke and grime at Shiloh and at Fredericksburg, they did not ask or care whether those who stood shoulder to shoulder beside them were Democrats or Republicans; they asked only that they might prove as true as was the steel in the rifles that they grasped in their hands. The cannonballs that mowed brave men down like stalks of corn were not labeled Republican cannonballs or Democrat cannonballs. When those intrepid soldiers fought with unfailing loyalty to General Thomas J. Jackson—who was born in what is now Harrison County, West Virginia—who stood like a wall of stone in the midst of shot and shell at the first battle of Bull Run, they did not ask each other whether that brave officer, who later fell the victim of a rifle ball, was a Democrat or Republican. They did not pause to question the politics of that cool gunner standing by his smoking cannon in the midst of death, whether the poor wounded, mangled, gasping comrades, crushed and torn, and dying in agony all about them—had voted for Lincoln or Douglas, for Breckinridge or Bell. No. They were full of other thoughts. Men were prized for what they were worth to the common country of us all, not for the party to which they belonged. The bones that molder today beneath the sod in Flanders Field and in Arlington Cemetery do not sleep in graves that are Republican or Democrat. These are Americans who gave their lives in the service of their country, not in the service of a political party. We who serve together in this Senate, must know this in our hearts.

I understand, and we understand, that partisanship plays a part in our work here. There is nothing inherently wrong with that. There is nothing inherently wrong with partisanship. But I hope that we will all take a look at ourselves on both sides of this aisle and understand also that we must work together in harmony and with mutual respect for one another. This very charter of government under which we live was created in a spirit of compromise and mutual concession. And it is only in that spirit that a continuance of this charter of government can be prolonged and sustained. When the Committee on Style and Revision of the Federal Convention of 1787 had prepared a digest of their plan, they reported a letter to accompany the plan to Congress, from which I take these words: "And thus the Constitution which we now present is the result of a spirit of amity and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable."

Mr. President, Majorian, the Emperor of the West, in 457 A.D. said he was a prince "who still gloried in the name of Senator."

Mr. President, as one who has gloried in the name of Senator, I shudder to think of the day when, because of the shamelessness and reckless intemperance of a few, I might instead become one who is embarrassed by it.

Let us stop this seemingly irresistible urge to destroy all that we have always held sacred. Let us cease this childish need to resort to emotional strip-tease on the Senate Floor.

Let us remember that we are lucky enough to reside in the greatest country on earth and to have the further fortune to have been selected by the American people to actively participate as their representatives in this miraculous experiment in freedom which has set the world afire with hope.

Mr. President, there are rules of the Senate and we simply cannot ignore those rules. We must defend them and cherish them. I will read to the Senate what Vice President Adlai E. Stevenson said with regard to the Senate's rules on March 3, 1897, because I believe his observation is as fitting today as it was at the end of the 19th century:

> It must not be forgotten that the rules governing this body are founded deep in human experience; that they are the result of centuries of tireless effort in legislative hall, to conserve, to render stable and secure, the rights and liberties which have been achieved by conflict. By its rules the Senate wisely fixes the limits to its own power. Of those who clamor against the Senate, and its methods of procedure, it may be truly said: "They know not what they do." In this Chamber alone are preserved, without restraint, two essentials of wise legislation and of good government—the right of amendment and of debate. Great evils often result from hasty legislation; rarely from the delay which follows full discussion and deliberation. In my humble judgment, the historic Senate—preserving the unrestricted right of amendment and of debate, maintaining intact, the time-honored parliamentary methods and amenities which unfailingly secure action after deliberation—possesses in our scheme of government a value which cannot be measured by words.

Mr. President, we must honor these rules. The distinguished Presiding Officer today, SLADE GORTON of Washington, respects and honors these rules. We simply have to stop this business of castigating the integrity of other Senators. We all have to abide by these rules.

Mr. President, may a temperate spirit return to this chamber and may it again reign in our public debates and political discourses, that the great eagle in our national seal may continue to look toward the sun with piercing eyes that survey, with majestic grace, all who come within the scope and shadow of its mighty wings.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader is informed under the previous order the next Senator to be recognized was the Senator from Minnesota [Mr. GRAMS].

Mr. DASCHLE. Mr. President, I ask unanimous consent to speak out of order for 2 minutes.

Mr. LOTT. Mr. President, I also ask to be allowed to speak out of order for 5 minutes. I do think that this has been a very important discourse, but I do think it is important that a response be heard from both sides of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. I want to thank, first, the Senator from Minnesota for accommodating my unanimous-consent request.

I begin by saying I believe the Senate owes a debt of gratitude to the distinguished Senator from West Virginia for the appropriate lecture that he has given each and every one of us. That speech ought to be reprinted and sent to every civics class in the country. It ought to be reprinted and sent to every legal function that is held for the next several weeks, and perhaps most importantly it ought to be reprinted and sent to every U.S. Senator and Congressman sitting today. It ought to be reread. It ought to be studied. It ought to be respected. Never has his wisdom, clarity of his reasoning or his eloquence been more evident. It needed to be said.

The distinguished Senator from West Virginia mentioned many giants, past and present, of the U.S. Senate. I add to that list the name ROBERT C. BYRD, a Senator motivated by a profound respect for this institution, a Senator driven by a profound belief in what is right, what is good, and what is so critical in this remarkable institution.

Today, he is right. We have lost civility. The need for bipartisan spirit, as we debate the critical issues of the day, could never be more profound and more important. Excessive partisanship is as destructive to this institution as violence is to ourselves.

So I express the gratitude of many who have had the good fortune this afternoon to have heard his remarkable words. I simply urge each of our colleagues to reread his remarks, to think of them carefully, and to listen to them and take the advice. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Mississippi is recognized.

Mr. LOTT. Mr. President, I, too, came to the floor and listened to the entire presentation by the distinguished Senator from West Virginia. I knew it would be illuminating. No Senator, I am sure, knows as much about the history, the record, the decorum in this institution than the Senator from West Virginia. And he very often comes and reminds us of history and how it should relate to what we are doing today. I always find it extremely interesting. And he laces his remarks with quotations from history, from great statesmen, from the Bible. They are all woven together beautifully and we are all indebted for his presentations.

And I agree that it is timely and that we should all take stock of what he had to say, his admonitions, on both sides of the aisle.

I have been in this city, now, for 27 years—4 years as a staff member to the chairman of the Rules Committee in the House of Representatives, a Democrat; 16 years in the House of Representatives, including 8 years as the minority whip, and 7 years in the Senate. I remember how civility collapsed in the House of Representatives during the latter part of those years; the second half of the 1980's, 1985, 1986, 1987. I remember the night I decided to run for this body. It became so uncivil that the Members were literally shouting at each other. A vote was held open for over 30 minutes so that one Member from Texas could be brought back to the Chamber and, in effect, forced to switch his vote. I was ashamed of our conduct. I was ashamed of my own conduct that night. And I said there has to be a better place than this. I hoped I would find it here.

I remember one time in the House of Representatives, when the Speaker of the House of Representatives came from the chair down into the well, and impugned the integrity of a Member of the House of Representatives. And I rose to my feet and demanded that the Speaker's words be taken down, and the acting Speaker had to rule that the Speaker of the institution was out of order, at which point I asked unanimous consent that the RECORD be expunged of his remarks and we be allowed to proceed. He was out of order. I know about excessive partisanship, excessive rhetoric, and the breakdown of civility. I have seen it as a staff member, as a House Member.

And now we come to this body. It is a body that we should all have reverence for, and that is what the Senator from West Virginia seeks. It is a body that has always prided itself in respect for each other and for the rights of the individual Senator. I still chafe, sometimes, under the idea that one Senator can tie up this entire institution to the disadvantage of all the rest of us, or one Senator can keep us all waiting while he or she comes to vote and we all stand around, shuffling our feet. But that is this system. It is unique. It is special. While I, as an old House Member, grumble about it, I do not want a Rules Committee over here. I want the Senate to be the Senate. I understand its uniqueness.

So we do not want decorum to slip, and it has been slipping on both sides. But let me suggest that maybe you should think about it on both sides of the aisle. Because I have been seeing it slipping on the other side. The partisanship has been getting heated.

Party is not the most important thing here—not for me, not for most of us. I was a Democrat. I showed that party was not the important thing to me, that my philosophy was more important, because I ran as a Republican after having been raised, I guess, as a Democrat. I am here because I care for the country and because of the things that I think are important for the country.

I submit, one of the reasons why this year has been so tough is because this year we are dealing with big issues, fundamental changes—fundamental changes. I care about them, not because of my party or this President or that President. I care about them because of my daughter and my son. I want to make sure that they have the opportunities that I have had for the rest of their lives. So they do matter.

These are tense intense times. There are differences that really matter. But we do not have to be disrespectful to each other to disagree. I have a great respect for the distinguished minority leader. I have known him for years, worked with him, talked to him. And the Senator from California, [Mrs. FEINSTEIN] we talk together, we work together. I believe in sharing information. One of the things that bothers me around here sometimes is you cannot get information from either side.

But I think we need to remember that these are important issues and I think maybe part of what is happening here is a little chafing that, after all, after 8 years we have a majority over here. We had it briefly in the 1980's, but there has been a switch back. The minority is just unhappy with not having the votes for their issues.

But when we do get right up in each other's faces on these issues and start using words like "tawdry" and "sleazy," when you are talking about an action of the leader, that is not the way we ought to proceed.

So, whether it is partisanship, or strong political feelings, or words that are too strong, we should all just cool it a little bit. I think, perhaps, as a result of the speech of the Senator from West Virginia and others who feel that we do need to find a way to bring this under control, that we will find a way to do so. I hope we will work in that vein and I certainly will support that effort with my own efforts.

Mr. BYRD. Will the Senator yield?

Mr. LOTT. I do.

Mr. BYRD. The Senator calls to the attention of the Senate the words "tawdry" and "sleazy" that I once used on the floor. Of course he had a purpose in doing that.

May I say, I never called any Senator a liar. I was not talking about the personality of the majority leader in that instance. I was talking about an agreement that had been broken.

I am very careful, I try to be careful, and sometimes I speak in haste. And subsequent to that remark on this very floor one evening, I referred to my having spoken in haste, and to my having used some words, which I wish I had chosen differently. So nobody needs to remind this Senator as to what this Senator has said. I am ready to defend anything I say.

Never once have I said that any Senator lied, or that any Senator was a liar. And I do not intend ever to do that. That is what we are talking about here today.

Mr. LOTT. I agree and we should not be calling each other liars, or other people, or anybody here on the floor. But we all ought to be careful not to skate too close to the edge in the words we use, and try to find a way to make our case positively. I think we can all do that, and I hope that we will strive to do that, on both sides of the aisle, in the future.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is entitled to be recognized.

Mr. D'AMATO. Mr. President, if I might, I believe under the previous order there is a unanimous consent for Senator GRAMS, to be followed by Senator LEAHY.

The PRESIDING OFFICER. The Senator is correct.

Mr. D'AMATO. I ask unanimous consent to expand that, so Senator MACK might be recognized after Senator LEAHY.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota.

Mr. GRAMS. Mr. President, as a member of the special committee to investigate Whitewater, I rise today to urge my colleagues to support Senate Resolution 199.

For months, our committee has been trying to get to the bottom of the controversial affair known as Whitewater—the unsavory Arkansas land development deal whose principal investors included the President and the First Lady and which contributed in large part to the $60 million failure of Madison Guaranty Savings & Loan.

This committee was initially convened to investigate the failure of Madison, which was bailed out at the expense of the taxpayers, and the role that the Clintons' investments in Whitewater may have played in Madison's demise.

But as time has passed and the committee has dug deeper into this matter, new issues regarding the Clinton administration have arisen—issues related to arrogance, abuse of power, lack of accountability to the people, and obstruction of justice.

There is no clearer example of these unseemly traits than the issue facing the Senate today: the President's assertion of the attorney-client privilege to withhold notes taken by a taxpayer-paid public servant at a meeting to discuss Bill Clinton's personal legal problems.

On November 5, 1993, a meeting was held in Washington by seven men—three private attorneys and four White House officials: White House counsel Bernard Nussbaum, associate White House counsels William Kennedy and Neil Eggleston, and White House Personnel Director Bruce Lindsey.

From the information we have been able to collect, the meeting concerned: first, criminal referrals related to Madison Guaranty which named Bill and Hillary Clinton as potential witnesses; and second, the criminal lending practices of Capital Management Services—a federally licensed company which allegedly diverted funds to Whitewater.

When questioned by the special committee, both Mr. Lindsey and Mr. Kennedy refused to discuss the substance of that November 1993 meeting. In addition, Mr. Kennedy refused to provide us with his notes from the meeting, despite evidence showing that these notes may be significantly related to our investigation.

Mr. Kennedy, at the instruction of counsel for both the President and the First Lady, went so far as to ignore a subpoena from our committee for these notes. Instead, he and the President asserted that the attorney-client privilege protects them from disclosing these notes.

For reasons given by many of my colleagues today, this claim on a legal basis is at best questionable. But in the midst of this important debate over the legal ramifications of the President's abuse of this privilege, I hope that the ethical issues that have surrounded this event will not be ignored.

At the time of this meeting, Mr. Kennedy served as associate White House counsel. Like Mr. Nussbaum, Mr. Eggleston, and Mr. Lindsey, he was paid not by President Clinton, but by the taxpayers. His office was furnished by taxpayers' dollars. His business expenses were covered by taxpayers' dollars.

Given these facts, it is obvious to me that Mr. Kennedy's true clients, the people to whom he owned his legal services, were you and me: the taxpayers. This relationship, however, has still not been honestly recognized by President Clinton.

By asserting privilege over these notes, President Clinton essentially said that Mr. Kennedy worked for him, in spite of the fact that Bill Clinton did not pay Mr. Kennedy's salary. By using this legal tool, Bill Clinton in essence turned his own personal legal bills over to the taxpayers. And that, Mr. President, is dead wrong.

I suppose we should not be too surprised by President Clinton's actions. After all, Mr. Kennedy is just one of many current and former employees of the executive branch involved in this apparent coverup of Whitewater.

During our hearings, we have heard from a number of Federal employees—political appointees and civil servants alike—about their roles in keeping this whole matter quiet and away from the eye of public scrutiny.

It's clear to me and anyone else who has paid attention to our hearings that Bill Clinton has used every tool in his grasp to stonewall this investigation. This use of privilege to shield Mr. Kennedy's notes from the public was the most blatant abuse of power we have seen, but it has not been the only one.

Do not misunderstand me—I believe every citizen, including the President of the United States of America, is entitled to the protections of the attorney-client privilege. But no one, not even the President, has the right to abuse this privilege, especially when doing so means furthering one's personal gain over the public good.

And even with the White House inching toward some sort of agreement, the damage has already been done. The attorney-client privilege has already been asserted to protect not Just Bill Clinton, but also President Clinton.

Today, the Oliver Stone film "Nixon" is opening in theaters across America. I suggest that Bill Clinton arrange a private screening in the White House theater, as it should be most instructive for the future.

What the people hated most about the Watergate scandal was not the amateur break-in at the Democratic National Committee. What they could not tolerate and what led to the resignation of President Nixon was the cover-up, the stonewalling, the fact that the President placed himself above the law.

But Mr. President, even Richard Nixon did not hide behind the attorney-client privilege. Bill Clinton did.

Eighteen-months ago this was something that President Clinton said that he would never do, as we can see from a quote from President Clinton's remarks to a town meeting in Charlotte, NC on April 5, 1994. The President said:

> I've looked for no procedural ways to get around this. I say, you tell me you want to know, I'll give you the information. I have done everything I could to be open and aboveboard.

Some have asked why it is so important that the special committee receive access to Mr. Kennedy's notes. I can only answer by asking President Clinton why it was so important to him that these notes not be seen. Why did he go to such lengths as to use privilege as a shield to hide these notes from the public?

Obviously, if there is nothing to hide, there is no reason to keep these notes a secret or to conditionally withhold them. If there is nothing incriminating in these pages, why not disclose them openly and honestly?

The fact of the matter is we will not know until we see them. And if there is something there, these notes may help us piece together the puzzle known as Whitewater.

Because unlike the witnesses from the administration who have been expertly coached to experience suspiciously selective memory during their testimony, these notes cannot hide anything. They cannot duck questions by saying, "My memory fails me" or "I can't recollect at this time."

And maybe that is what scares Bill Clinton the most.

Mr. President, it may surprise you, but I hope that these notes do not incriminate anyone. Like most Americans, I want to think the best of our President.

But we have a responsibility to get to the bottom of this whole affair, because, like everyone who has worked for the Clinton administration, we too are paid by the taxpayers. And we owe it to them to uncover the truth, no matter how dark or unsavory it might be.

That, Mr. President, is what this resolution before the Senate is all about—it is what this entire Whitewater investigation is about: Our obligation to tell the truth, the whole truth and nothing but the truth. I urge the President to unconditionally release these notes.

If he does not, I hope my colleagues will join me in a spirit of honesty and openness in supporting this resolution. We owe the American people that much.

Thank you, Mr. President. I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Vermont.

THE STATEMENT OF SENATOR BYRD

Mr. LEAHY. Mr. President, I am going to speak about the issue before us on Whitewater, but because of the extraordinary statement by the distinguished senior Senator from West Virginia, I wish to make a few additional comments.

I have been privileged to serve in this body for 21 years with Senator ROBERT C. BYRD. I have been privileged to serve with a number of giants—I consider him one, certainly—but giants on both sides of the aisle, both Republicans and Democrats. I think of the leadership of Senator BYRD, who has served both as majority and minority leader, and how much I appreciate and respect his leadership. I think also of our other Democratic leaders like Mike Mansfield, George Mitchell, and TOM DASCHLE and the great Republican leaders, BOB DOLE and Howard Baker, who have served with such distinction in this body.

I think, as I have been on this floor, of the remarkable opportunity I have been given to serve here. One set of my grandparents came to Vermont and came to these shores not speaking a word of English. My other great-grandparents left a distant country to come to Vermont to seek a better way of life. Both my grandfathers were stonecutters in Vermont. My paternal grandfather died when my father was just a youngster. He died in the stone sheds of Vermont leaving a widow and two children—my grandmother, my father, and his sister.

My father, as a teenager, had to help support the family and never completed the schooling that his son was later able to pursue. He became a self-taught historian, certainly one of the best I ever knew. And he revered and respected the U.S. Senate.

So many times my father would tell me, as I sat here on the floor of the Senate, that this body should be the conscience of our Nation. In my first two terms, when my father was still alive, he was able to come and listen to Senators debate. I remember him repeating almost verbatim statements made by Senators—again, both Republicans and Democrats. He spoke with a sense of admiration of the courage that those men, and now women, show in this body in speaking to the conscience of our Nation. He talked about how this is where leaders of our Nation reside.

Only 15 people in the present Senate have served in this body longer than I. No Democrat has served longer than Senator BYRD. I believe Senator BYRD has done a great service for this body today. I hope that each of us will read and reread what he said, because, in my 21 years here, I have seen the Senate degenerate. And I do not use that word casually. I have seen some of the finest Members leave, and in leaving say this body is not what it used to be.

People truly respect the Senate. My good friend from Arkansas, Senator PRYOR, who is on the floor today, one whose absence I will feel greatly in the next Congress, and Senator ALAN SIMPSON of Wyoming, another good friend, Senator KASSEBAUM, Senator HATFIELD, Senator BROWN, Senator BRADLEY, Senator NUNN, Senator PELL, Senator SIMON, Senator HEFLIN, and others with whom I have talked—these are people of great experience and great quality—every one of them will tell you the same thing: This Senate has changed.

Mr. President, we owe it to ourselves to listen to what Senator BYRD said, and we owe it to the Senate to listen. More than owing anything to Senator BYRD or me or any other Member, we owe it to the Senate because long after all of us leave, I pray to God this body will still be here. And I pray to God this body will be here as the conscience of the Nation.

If you go back and read the writings of Jefferson, if you go back and read the writings of the founders of this country, you know that this body is a place where ideas should be debated, where the direction of our Nation and the conscience of our Nation should be shaped.

Mr. President, I fear that we are not doing this. I fear that this country will suffer if we do not listen. All of us have a responsibility to listen, Republicans and Democrats alike. Presidents will come and Presidents will go. We will have great Presidents, and we will have Presidents who are not so great. They will come and go. Members of the Senate will come and go, and we will have great Members of the Senate and some not so great. But all of us take the same oath to uphold the Constitution of this great country, and we also come here privileged to help lead this country, but we ought to be humbled by the responsibility that gives us.

I have taken an oath to uphold this country's Constitution four times in this body, and five times as a prosecutor before that. I hold that oath as a very sacred trust. Each one of us ought to ask ourselves if we engage in debate or actions or votes that denigrate that Constitution or denigrate the country or denigrate the most important functions of our Government, do we really deserve to be here? Partisan positions are one thing. Positions that hurt the country are yet another.

So let us listen to what was said here. Let us listen to what was said and let us, each one of us, when we go home tonight or this weekend, ask ourselves what we have done to keep the Senate the institution it should be for the good of our country—not for our individual political fortunes but for the good of the country.

Let us ask ourselves what we have done this year to do that. I do not think that Senator BYRD has to ask himself that question. We know his answer. It is one with which I agree. But all of us should ask ourselves that question.

Mr. President, in later days I will speak more on the subject.

DIRECTING THE SENATE LEGAL COUNSEL TO BRING A CIVIL ACTION

The Senate continued with the consideration of the resolution.

Mr. LEAHY. I would like, Mr. President, to speak about Senate Resolution 199. We have been asked this session to consider a number of matters with which I did not agree. I think, frankly, this one, Senate Resolution 199, may take a special holiday season award. I am not here to talk about the arguments over the attorney-client privilege issues or the precedent we are being asked to establish, or the failure fully to explore settlement of this matter in light of the President's willingness to produce the notes to the Whitewater special counsel and to the Senate so long as a general waiver of privilege does not result. I will not linger on being asked to enforce a subpoena that was not properly served.

Let me direct my colleagues' attention to one aspect of this matter that has not yet been explored: We are being asked to authorize Senate legal counsel to commence an action that cannot be brought.

Senate resolution 199 expressly proposes that we, the Senate, direct our Senate legal counsel to bring a civil action to enforce a subpoena of the Special Committee To Investigate Whitewater Development Corporation and Related Matters for notes taken by an associate counsel to the President. The statute under which we are being asked to authorize the proposed civil contempt proceeding expressly precludes just the kind of legal action we are being asked to authorize, one that would create a confrontation with the executive branch.

The second sentence of section 1365 of title 28, United States Code, provides:

> This section shall not apply to an action to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened refusal to comply with, any subpoena or order issued to an officer or employee of the Federal Government acting within his official capacity.

This, of course, was put in the statute to avoid putting the courts in a position of having to resolve a conflict between the other two independent branches of government.

So long as it would not violate anyone's attorney-client privilege, I would be extremely interested in knowing what Senate legal counsel has advised the special committee with regard to subpoenas to the White House and for White House legal counsel notes and with regard to their enforceability by way of civil action. I think before the Senate is asked to authorize it, we ought to know whether the civil contempt proceeding we are being asked to authorize is even legal. Does the special committee have a legal opinion from our Senate legal counsel on the viability of the action proposed? If so, I would like to have it put in the RECORD.

This dispute arises, as the special committee's report explains, from a demand for documents to the White House in response to which the White House identified Mr. Kennedy's notes as privileged.

The special committee goes to great lengths in its report to argue Mr. Kennedy was not acting as a personal attorney to the President and the First Lady, but then dismisses the conclusion that follows. If Mr. Kennedy attended the meeting in his role as associate counsel to the President, then it would appear that no legal action can be brought under section 1365. The special committee cannot have it both ways.

So I think we should consider that which we are being asked to authorize. I know millions of dollars have been spent on this investigation. I know we will probably spend millions more. But at least when we vote we ought to know whether we are voting to do something that can be done.

We have no need to authorize legal action, least of all one that cannot be brought under the terms of the very statute under which authorization is being sought.

I appreciate the distinguished chairman arranging this time for me.

Mr. D'AMATO. Mr. President, in order to attempt to move the flow, I would ask unanimous consent that following Senator MACK, Senator SIMON be recognized, and following Senator SIMON, Senator THOMPSON be recognized.

Mr. SARBANES. And then Senator GLENN.

Mr. D'AMATO. And then followed by Senator GLENN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. I thank the Chair.

CIVILITY IN SENATE DEBATE

Mr. MACK. Mr. President, I had initially come to participate in the debate on Whitewater, but there was a speech of some 45 minutes or so by Senator BYRD a little bit earlier that made reference to some comments I made in the Chamber of the Senate last Friday. The Senator referred to my use of the word "guts" and drew from that that I was implying that a number of Senators maybe did not have the guts to present an alternative proposal.

It would be easy for me to come here with a sense of defensiveness and anger, but I do not. I come to the floor to speak—I am not quite sure how long, and I am not quite sure what about, other than it was clearly not my intention to impugn the integrity or the intentions of my colleagues in the U.S. Senate.

I really have been, I think, driven to come to the floor this afternoon, as I said, not out of anger but, frankly, out of love. I have strived in my life to try to make civility one of my No. 1 concerns. And when I heard civility being talked about, and I heard it being talked about with reference to words that I had said last Friday, it made me take notice, it made me think about that impassioned speech that I gave last Friday.

Let me say that I feel very strongly about what I had to say about what was going on with respect to the budget and the failure to get a balanced budget and the importance of getting a balanced budget and what that means for this country, for America, for future generations, for children, for my grandchildren. I felt that very deeply.

But since I apparently—maybe I should take out the word "apparently" so there would be no question—since I have been charged with breaking rule IXX, I apologize to my colleagues in the U.S. Senate. I am driven to do this even though I know there are those who would say, "Oh, you should never apologize, never engage in a defense of your actions because, you know, that brings too much attention to what you've done." But I come to the floor of the U.S. Senate to once again say to my friend and colleague, and somebody whom I respect tremendously, Senator DASCHLE, who in essence is kindness, that in no way did I attempt or did I mean to challenge the minority leader.

I have no ill-feelings toward Senator BYRD. He is right to remind us of the rules of the U.S. Senate. But I hope that we would all take notice of that, Democrat and Republican alike.

For me to stand here on the floor of the U.S. Senate and imply or allow others to conclude that I am the only one that might have pushed the envelope with respect to words used would, in fact, be a tragic mistake. So I hope that we would all listen to what Senator BYRD had to say.

If my coming forward today to react to Senator BYRD's comments will help reduce the rhetoric and allow us to return to a time of greater civility, then my coming to the floor will have been worth it.

I do not know how many times I thought of how we could begin the process of bridging the differences between us, of truly understanding how the other side truly believes the policies, the ideas, and the principles they put forward instead of always questioning the motive. And so I welcome those on the other side of the aisle who want to be engaged in discussions about how we bridge that divide, how we could begin the process of really truly finding out how it is that we can satisfy your concerns and at the same time satisfy ours, instead of there always having to be one winner.

If I did not mention it, again I will mention M. Scott Peck's book "The World Waiting To Be Born" and some of the other books that he has written, "People of the Lie: The Hope for Healing Human Evil," his discussion about evil in America. His initial book, at least the one that most of us are familiar with is "The Road Less Traveled." We do need more civility and more grace in our lives in America today.

So, Mr. President, I could not allow this situation to develop without again responding from my heart and from my soul to say that if my words the other day, in fact, have heightened or have increased the lack of civility, I apologize to my colleagues. But I ask you as I do this that you be honest with yourselves, ask yourself about your actions and about your rhetoric. Ask yourselves the question, How, in fact, can we find a way to work together?

Mr. President, I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER (Mr. D'AMATO). The Senator from Illinois.

SINCERITY IN THE U.S. SENATE

Mr. SIMON. Mr. President, first, if I may comment on the remarks of our colleague from Florida. It was a gracious and generous statement on his part. I think all of us—PAUL SIMON has been guilty, like most of us have been guilty from time to time, of getting—you know, we get a little wrought up more than we should from time to time.

Part of the answer to the question raised by Senator MACK is, if we assume that our colleagues are just as sincere about their position as we are, it makes for a different kind of an atmosphere.

If my colleagues have real good memories, you may remember I was a Presidential candidate at one time. I remember a reporter for one of the major newspapers telling me that he had been talking to Senator HELMS and Senator THURMOND, with whom I frequently disagree, and both of them spoke very highly of me. He wanted to know how that could be, and I mentioned, whenever I get into a debate I try to remind myself that the other person is just as sincere as I am.

I think that helps. But that is not the sole answer. The question that Senator MACK poses is, How can we work together more? It is not a question easily answered. But I think it is very important for the future of the Senate and the future of our country, and I thank him for posing the question.

DIRECTING THE SENATE LEGAL COUNSEL TO BRING A CIVIL ACTION

The Senate continued with the consideration of the resolution.

Mr. SIMON. Mr. President, I rise on the subject that the Presiding Officer knows more about that than I do, because he has had to sit through all these Whitewater hearings. I have been designated by the Judiciary Committee as a Democrat to sit on that hearing along with Senator HATCH being designated by the Republicans from the Judiciary Committee.

What do we do? I think whenever—it really is kind of related to what we have just been talking about—whenever we can work things out without confrontation, I think we are better off in this body, and the Nation is better off.

I really believe the White House has gone about as far as they can go without just giving up completely on this constitutional right that people have in terms of the lawyer-client relationship.

I am also concerned about the amount of time that we are taking on this question. I cast one of three votes against creating the committee. Senator GLENN, who is on the floor, cast one and Senator BINGAMAN, who is on the floor, cast one. My feeling was, we were going to get preoccupied and spend a lot of time on something that really did not merit that amount of time.

We have spent infinitely more time: 32 days of hearings, as the Presiding Officer knows better than I, on this; 152 individuals have been deposed; the White House has produced more than 15,000 pages of documents; and Williams & Connolly, the President's personal attorney, has produced more than 28,000 pages of documents. We have spent a huge amount of time.

We have spent much more time on Whitewater in hearings than we spent on health care in hearings last year on an issue infinitely more important to the people of this country; much more time on Whitewater than on hearings on drugs, for example. We may have had 2 or 3 days of hearings on drugs this year. I do not know. It certainly is not more than that. We have had 1 day of hearings so far this year on Medicare.

I think when we spend huge amounts of time on this, we distort what happens in our country. I read the excellent autobiography of the Presiding Officer, Senator D'AMATO, and unlike a lot of autobiographies that are obviously written by someone else, it is pure vintage AL D'AMATO. But I know AL D'AMATO, our distinguished colleague, represents a State with a lot of poverty. We have spent infinitely more time on this issue than we have spent on the issue of poverty in our country. Mr. President, 24 percent of our children live in poverty. No other Western industrialized nation has anything close to that.

I hope we use the telephone a little more frequently, get together a little more and see if we cannot work this thing out without confrontation. I think everyone benefits.

Let me add one final thing. I am 67 years old now. I have been around long enough to know that when we get into these things, we really do not know the ultimate consequences. It is like throwing a boomerang: It may hit here, it may hit there, it may hit somewhere else.

I hope this resolution is turned down and the alternative of Senator SARBANES is approved. But I am a political realist. I know that is not likely to happen, because of the partisan kind of confrontation that has occurred and is occurring in this body much too much. But I hope we try, once this gets over, to pull our rhetoric down, and I think all of us benefit when that happens.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I want to thank the Senator from Illinois for his eloquent and heartfelt remarks. He has the admiration of us all. He is going to be missed in this institution.

Mr. President, I would like to speak for a few minutes with regard to the issue at hand having to do with the subpoena and the President's claim of privilege to resist that subpoena.

I have been called upon over the past several weeks and months on many occasions, by members of the media, and others, to comment on the Whitewater investigation, to give my opinion. Others have, too, I am sure. In my case, I was minority counsel to the Watergate committee many years ago. People want to draw those comparisons.

I refuse to make those comparisons. I do not think it is appropriate to make those comparisons. In fact, I have said as little as possible about the whole matter. I left town as a much younger man, having spent a year and a half investigating Watergate, and I had been on another committee assignment or two as counsel to the U.S. Senate. Some time ago, I kind of became tired of investigating and, frankly, would like to spend more of my time in trying to build things up than in trying to appear to be trying to tear things down.

I think there is something important going on here that has to be commented upon with regard to the issue at hand. It looks like perhaps something might be worked out with regard to this particular subpoena, with regard to the particular notes that are being sought by this subpoena, and I hope that is the case. But there is something more important that is happening here that is going to have ramifications, I am afraid, for the next several months in this body and in this country, and that is, we should not get so caught up in the fine print and lose sight of the fact that, once again, we have a President who is claiming privilege to shield information from a committee of the U.S. Senate and ultimately from the American people, and it is a very, very weak claim at best. But even if it were a strong claim, Mr. President, it concerns me greatly that the President, under these circumstances, with the history that we have in this country of congressional investigations and the obvious need that the Congress has and congressional committees have for information to get to the bottom of any perceived wrongdoing, that the President would choose to stand behind a privilege to keep this information from coming out.

It cannot stand. It cannot be successful. I have watched the predicament that is unfolding in the Senate with increasing concern, thinking any day that it might be resolved, but by resisting this subpoena and trying to keep this information from the public, I believe the President is making a tragic mistake. His action will only serve to raise questions as to what is being hidden. It will keep this investigation alive much longer than it otherwise would. It will fuel the cynicism of a public that is already all too distrustful of its public institutions. And for what purpose?

The White House says that the President is taking this position in order to defend a principle, and that principle is the President's right to private conversations with his attorney. But nobody is disputing that right. What is being disputed is the President's right to privileged conversations with lawyers who are Government officials paid by the taxpayers when the matters involved are personal in nature and do not have to do with the Presidency.

This assertion of the attorney-client privilege by ordinary citizens in the face of congressional subpoenas have been consistently struck down by this Nation's courts. The privilege is designed, basically, for litigation between private parties. In case after case, the courts have concluded that allowing it to be used against Congress would be an impediment to Congress' obligation and duty to get to the truth and carry out its investigative and oversight responsibilities.

If the President is claiming special status because he is President, then his assertion is really one of executive privilege and not attorney-client privilege. While I can still remember Sam Ervin's repeated admonitions that no man is above the law and that we are entitled to every man's evidence, I still concede that executive privilege can be a valid claim, under some circumstances. However, the President must assert it.

As I understand it to this point, he has chosen not to assert executive privilege. Of course, there may be political consequences associated with the claim of executive privilege, but the President cannot have it both ways. He cannot assert attorney-client privilege as a defense to a congressional subpoena which, if asserted by a private citizen, would stand little chance of prevailing, and then try to place the shroud of the Presidency around it without claiming Executive privilege.

As best I can tell, Mr. President, no President in history has ever claimed attorney-client privilege to defeat a congressional subpoena.

Richard Nixon did not claim attorney-client privilege. He allowed White House counsel, John Dean, to testify. Ronald Reagan did not claim attorney-client privilege during Iran-Contra. Notes and documents of his White House counsel were produced, along with those of the lawyer for the National Security Council, the lawyer for the Foreign Intelligence Advisory Board, and the lawyer for the Intelligence Oversight Board. In both of these investigations, those documents were produced without the claim of any sort of privilege.

President Nixon finally claimed Executive privilege with regard to the White House tapes and, of course, ultimately saw his claim of privilege defeated in the Supreme Court in the case of U.S. versus Nixon. So if the President is going to assert greater privilege protection than any of his predecessors, perhaps he is doing it solely for the purpose of protecting a legal principle. But the President must understand that the people are going to assume that there may be other reasons, in light of this country's history.

So let us examine the strength of the President's legal position. In the first place, an invocation of the attorney-client privilege is not binding on Congress. It is well established that in exercising its constitutional investigatory powers, Congress possesses discretionary control over witnesses' claims of privilege. It is also undisputed that Congress can exercise its discretion completely without regard to the approach that courts might take with respect to that same claim.

In the 19th century, House committees refused to accede the claims of attorney-client privilege that developed from actions taken during the impeachment trial of Andrew Johnson and in the investigation of the Credit Mobilier scandal. House committees in the 1980's also rejected claims of attorney-client privilege. For example, in 1986, the House voted 352 to 34 to deny the privilege claims of Ferdinand Marcos' attorneys.

The Senate, too, has rejected invocations of attorney-client privilege on numerous occasions. In 1989, the Subcommittee on Nuclear Regulation rejected the privilege claim with respect to its investigation of restrictive agreements between nuclear employers and employees who might impact safety.

The subcommittee's formal opinion rejecting the claim of privilege asserted:

> We start with the jurisdictional proposition that this Subcommittee possesses the authority to determine the validity of any attorney-client privilege that is asserted before the subcommittee. A committee's or subcommittee's authority to review or compel testimony derives from the constitutional authority of the Congress to conduct investigations and take testimony as necessary to carry out its legislative powers. As an independent branch of government with such constitutional authority, the Congress must necessarily have the independent authority to determine the validity of non-constitutional evidentiary privileges that are asserted before the Congress.

Importantly, as the Congressional Research Service found, "No court has ever questioned the assertion of that prerogative * * *." Indeed, a 1990 Federal court decision, In the Matter of Provident Life & Accident Co., found that whatever a court might hold concerning application of a claim of attorney-client privilege in a court proceeding, "is not of constitutional dimensions, [and] is certainly not binding on the Congress of the United States." Instead, committees, upon assertion of the privilege, have made a determination based on a "weighing [of] the legislative need against any possible injury."

This longstanding history, Mr. President, of discretionary congressional acceptance of the attorney-client privilege reflects the basic differences between judicial and legislative spheres. The attorney-client privilege is not constitutionally based. It is a judge-made doctrine based on policy considerations designed to foster a fair and effective adversary legal system. It theoretically promotes the interest of an individual facing an adversary civil or criminal action.

But the U.S. Senate is not a court. We do not have the authority to make final determinations of legal rights, or to adjudicate individuals' liberty or property. In fact, it is probably unconstitutional under the separation of powers doctrine for us to be bound by judicially created common law rules of procedure. Under Article I, section 5 of the Constitution, each House determines its own rules. And the rule of this body in connection with attorney-client privilege claims is longstanding and consistent: We balance the legislative need for the information against any possible injury. And, of course, a committee of this body has made that determination.

Does President Clinton want to rely on a technical, legal defense when the issue is whether his own White House has engaged in wrongdoing? The legislative need is obvious: to determine the truth of allegations of potential wrongdoing at the White House. Enforcing the subpoena furthers that interest. The integrity of the investigatory process is at stake here. The President's only potential interests are the free flow of information that is protected by Executive privilege, and the desire to shield what is potentially damaging information. To me, the balance is very clear: The subpoena must be complied with.

Even if we were to abandon our historic discretionary consideration of attorney-client privilege in favor of adopting judicial rules for its application, we would still reject the objections to the subpoena. Courts would not find the attorney-client privilege to apply on these facts.

Courts do not view the attorney-client privilege as a fundamental judicial procedural requirement that is vital for fairness. The most prominent expert on the law of privileges and evidence, Dean Wigmore, wrote of the attorney-client privilege the following: "[i]ts benefits are all indirect and speculative, its obstruction is plain and concrete * * *. It is worth preserving for the sake of a general policy, but it is nonetheless an obstacle to the investigation of truth. It ought to be strictly confined within the narrowest possible limits consistent with the logic of its principle." The second, sixth, and seventh circuits have all adhered to that approach. Although the submissions by the White House counsel's office and the Clintons' private attorneys read the privilege very broadly, the courts construed it very narrowly.

Courts universally require the party asserting the existence of the attorney-client privilege to bear the burden of establishing its existence. Blanket assertions of the privilege are rejected. The proponent must demonstrate conclusively that each element of the privilege is satisfied. This means that specific facts establishing an attorney-client privilege must be revealed. Conclusory assertions are not sufficient. And the proponent must also prove that the privilege has not been expressly, or by implication, waived.

In this respect, it must be noted that courts have rejected the linchpin of the President's argument supporting the existence of an attorney-client privilege here. He claims that if the information requested by the subpoena were produced to the special committee, the privilege would be waived as to other conversations in other proceedings. But the U.S. Court of Appeals for the District of Columbia Circuit specifically has held to the contrary. In its 1979 decision Murphy versus Department of the Army, the court ruled that disclosure of allegedly privileged material to a congressional committee would not waive the privilege in any future litigation. As CRS notes, "There appears to be no case holding otherwise, and several which have followed Murphy."

The President simply has not proven that the elements exist which are necessary to satisfy the attorney-client privilege. For courts to accept the privilege, the attorney must be acting as an attorney for the client and the communication at issue must be made for the purpose of securing legal services. That is not true here for two major reasons.

First, attendees at the critical November 5 meeting, including individuals who were not acting as attorneys for President Clinton. Bruce Lindsey is a lawyer, but he did not act as the President's lawyer in this meeting. Nowhere in either the White House or Clinton personal lawyer submissions is any claim made that Mr. Lindsey passed communications from either the President or Mrs. Clinton to any other lawyer. Nowhere in his testimony before the special committee did Mr. Lindsey establish that he was present at this meeting as a lawyer for President Clinton or that he discussed confidential communications between himself and the Clintons.

Several of those present were Government lawyers, including Mr. Kennedy, to whom the subpoena was directed, Mr. Nussbaum and Mr. Lindsey. And a Government lawyer cannot establish a personal representational relationship with the President about a private matter. In prior administrations, when the President had private legal issues, a private attorney was hired because the Government attorney could not raise the attorney-client privilege in the context of a Government investigation. That is the situation we have here. This was particularly true where the facts that were the subject of a Government investigation relate to the President's personal, not official, acts. Here, of course, the acts are not only personal, but predate President Clinton's assumption of the Office of the Presidency.

So the discussion, by the President's own admission, concerned logistics, dividing responsibilities among different groups of lawyers, not providing legal advice. Such communications simply fall outside the scope of the attorney-client privilege. In fact, they are no different than any other communications among Presidential advisers. Their character is not changed by the fact that some of the participants have law degrees. Hence, to the extent that official Government business was discussed at this meeting, the only theory preventing its disclosure would be, again, executive privilege, which the President refused to invoke.

Moreover, the communications at this meeting were made in the presence of persons who were not lawyers for President Clinton. Because the attorney-client privilege inhibits discovering truth, the courts are quick to find that the privilege has been waived. Where attorneys voluntarily disclose confidential client communications with a third party, the privilege is destroyed. The communication is no longer confidential and a justification for the privilege disappears. Confidentiality was lost for these communications because attorneys for the President shared information with others who did not represent the President. Lawyers cannot serve two masters. Those who represent the Government as a client do not represent the President as a client.

For this reason, the President's claim of a joint defense privilege is not applicable. President Clinton raises this argument because he claims that the conversation of November 5 involved two clients: The President in his official capacity, and the President in his personal capacity. But these are not two different clients facing a common adversary. The President in his official capacity is represented by Government lawyers. A Government lawyer's client is the Government, and that client's interest may be to enforce the laws against the President as an individual. That is a different interest than that represented by the President's personal lawyers. Thus, these lawyers were potential adversaries, not lawyers sharing information for multiple clients against a common adversary.

Additionally, courts have adopted the crime-fraud exception to the attorney-client privilege. Courts will not apply the privilege to communications that may facility the commission of improper acts. The notes that are the subject of the subpoena concern a meeting at which discussions may have been held about certain information that may have been improperly passed to private lawyers for purposes of preparing a defense.

The work product privilege has also been raised, Mr. President, but it does not apply to this conversation, either.

The attorney work product privilege is not constitutionally based and applies to Congress only on a discretionary basis. Further, it is qualified. It is not absolute. The sufficient showing of need will brush aside the work product privilege. The Clinton briefs quote broad generalities about the privilege, but as the Supreme Court held in Hickman v. Taylor, "We do not mean to say that all [] materials obtained are prepared * * * with an eye toward litigation are necessarily free from discovery in all cases." The materials at issue were not prepared in anticipation of litigation on behalf of President Clinton. Mr. Kennedy was a Government lawyer. His notes could not have been taken in anticipation of preparing litigation strategy for President and Mrs. Clinton. His client was the Government, not the Clintons, therefore, work product privilege is simply inoperative.

Even if this doctrine applied, it is readily overcome when production of material is important to the discovery of needed information. Some courts have even refused to call the doctrine a privilege. In short, Mr. President, President Clinton simply has not met the burden of showing that either of these privileges apply to the notes that are the subject of this subpoena. His legal position is unprecedented and extremely tenuous. Clearly, Congress does not have to honor such a position.

I suggest to my colleagues on the other side of the aisle that we do not want to establish a precedent that says that future Presidents can use White House counsel with regard to personal matters or even matters that occurred before the President was elected and be shielded from congressional inquiry.

With regard to the references to partisanship that we have read and heard so much about, now that the battle lines have seemingly been drawn on this matter, we are told it will pretty much be a partisan vote. I find it somewhat ironic that over the past several years that many of those who wanted to investigate seemingly everything that came down the pike, now have gotten to be sensitive about congressional overreaching and partisanship.

Unfortunately, it always just seems to depend on whose ox is being gored. You look back over the congressional investigations and you will see that invariably there is some partisanship involved in it because the majority party investigates the President of the other party and the minority party cries "politics" and talks about how much money we are wasting and how much money we are spending. I remember those conversations back when some of these other investigations over the years were started. The pattern seems to be the same.

So now we can all assume our natural and customary positions as Republicans and Democrats, or we can actually look to the merits of the case. I suggest that we do that. I think the American people would appreciate it. It would not be unprecedented.

The vote in the Senate to form the Watergate Committee, for example, was a unanimous vote at a time when still most people thought that it was, in fact, a third-rate burglary. When it came time to subpoena President Nixon's White House tapes, the vote on the Watergate Committee was unanimous, including that of the distinguished Senator from Hawaii, Senator INOUYE. When it came time to sue the President to enforce that subpoena, I signed the pleadings as counsel to the committee. All this was not because the proceedings were totally free of partisanship. It was because we believed the privilege was not being properly asserted by the President. I respectfully suggest that the same is true here.

I still have hope that the President will reconsider his position—not over the question of a handful of notes—over the general proposition of whether at this particular time in our history we want to see another President claim a privilege to keep information from the American people.

We are not writing on a blank slate here, Mr. President. Our country has a history with regard to such matters and it has had an effect on us as a people. This day in time when a President who withholds information from the public has a higher duty and a higher burden than ever before. The people want the facts. They want the truth. The President, any President, should have a very good reason for denying it. The President in this case simply does not have one. I yield the floor.

The PRESIDING OFFICER. Under the unanimous consent agreement the Senator from Ohio is to be recognized.

The Chair, in my capacity as a Senator from the State of New York, asks unanimous consent that, thereafter, Senator MURKOWSKI from Alaska be recognized.

Without objection, it is so ordered.

CONCERN FOR CONGRESS

Mr. GLENN. Mr. President, I rise to speak very briefly about the remarks that Senator BYRD made on the floor. Mr. President, the subject that Senator BYRD brought up today is something that has been bothering me in an increasing way all during this year. Perhaps it is because some of the tensions are particularly high with regard to the directions that the Government, the Congress, is trying to take us this year. These concerns have bothered me as much as they have Senator BYRD and not just in the examples he mentioned earlier today but some others, also.

I think it is time to reflect briefly on that and I will not take the Senate's time for very long, but I want to make a few remarks in support of his earlier statement.

Our Government is formed with the respect of the view of all parties. We look back and our Constitution did not establish a benevolent monarchy where one person makes the decisions for all of our country and moves us ahead or behind on the decisions of one person. We have split powers in Government. We have a legislative, executive and a judicial branch of Government. We have seen our system of constitutional Government evolve into 435 House Members and 100 Members of the U.S. Senate. Mr. President, 535 people were sent here not to be of one mind or one kind of person or one view, but sent here expecting to bring our varied views from all over the country and work out the best solution to what the future of this country may be.

Try as they may, no one person or one small group has all the wisdom so that they can confidently say we are right and you are wrong. That is not the way we are set up. And when it comes down to where we stoop to just name calling, which has happened on the floor, it tells more to me about the speaker than it does about the object the speaker happens to be belittling at the moment.

I think we maybe should remember something that too often is forgotten on the floor. That is, you cannot build yourself up by tearing someone else down. When someone uses belittling or semi-insulting language to the President of the United States, does that demean the President? No, it does not. It demeans the speaker. And it brands the speaker as someone who is, perhaps, covering up an inability to deal with the matters at hand by attacking the other side in a belittling way. The resort to invective and character assassination is not constructive legislative discourse, as the voters expected. We have seen examples here on the floor in the last few months of signs being put up, "Where is Bill? Where is Bill? Hey, where is Bill?" Arms waving, "Where is Bill?" Playing to the cameras and referring to the President as "that guy," repeatedly.

We had, one evening here, over by the exit door over there on the east side of the floor, a number of House Members who had come over here and were on the floor that day. Senator BYRD was making a short statement, and they were milling around and actually laughing at Senator BYRD, laughing out loud at Senator BYRD on the Senate floor, sneering at him. When we called attention to them there, they kept right up, one person in particular.

What has happened? I do not think we would have seen that some years ago. It is insulting, No. 1; insulting, not just to the President or not insulting just to Senator BYRD; it is insulting to the Senate of the United States of America. To me that is a new low. Is it any wonder, when we see our own Members behaving like that, any wonder why people have their doubts about the Congress of the United States?

"Politics," a great word, it stems from an old Greek word meaning "business of all the people." I cannot think of anything in a democracy, anything in this United States of America, that deserves more respect and deserves more effort, nothing is more important than that business of all the people.

We bemoan the lack of respect for Congress, while we need the greatest faith between the people of this country and their elected officials. We need the greatest faith, underline that, faith between each other here, if we are to accomplish what we are all about. We want to know that everyone here is working for the best long-term interests of the United States of America and not just trying to salve their own egos at the moment by making belittling remarks about others here or about the President.

If we had a scale here and faith was on one end, doubt would be over here on the other. How do we move that scale toward faith? How do we restore faith? Not by casting insulting remarks at other officials. You have faith, you have confidence in our institutions, in our legislative, executive and judicial branches—we must have faith in Congress. We must do the things that will engender faith and confidence in Congress. We must do the things that will engender faith and confidence in the Presidency, whether Democrat or Republican, the office of the Presidency of the United States, the chief executive officer of our Nation. We must have faith and confidence in the Senate. We must have faith and confidence in Senators. We must have faith and confidence in each other if we are to accomplish our job.

As Senator BYRD said, to use deprecating language toward each other or toward the President moves toward doubt; it moves toward doubt and dissension, and not toward that kind of faith that we need if we are to do our job. That just makes our problems even more intractable.

We are all proud of our mothers, of course. I am proud of my mother. She has long since departed this world, but she used to have a lot of little homilies and a lot of little sayings. I still remember some of them today.

When we, as kids, were being too critical of someone I remember my mother saying this one, "There is so much bad in the best of us, and so much good in the worst of us, it ill-behooves any of us to speak badly about the rest of us."

Maybe here on the Senate floor, when we get a little carried away sometimes back and forth, it gets very personal—as it has gotten too personal recently. Maybe we need to remember that. Here, where the business of all the people, the melding of ideas is supposed to take place, where the business of all the people is taking place on this floor, our conduct has to contribute to that, not detract from it.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). Under the previous order, the Senator from Alaska is recognized.

DIRECTING THE SENATE LEGAL COUNSEL TO BRING A CIVIL ACTION

The Senate continued with the consideration of the resolution.

Mr. MURKOWSKI. Mr. President, this is a difficult issue for all Members of this body relative to the business at hand and the necessity of proceeding with the subpoena. I suggest that probably not since the days of the Watergate constitutional confrontation has this body considered an action that is as serious as the one that we are considering here today.

It is the feeling of this Senator from Alaska that this day did not have to come, but it is here. The subpoena was not something that was inevitable. But we are here today for one reason and only one reason, and that is because we have a situation where our President refuses to cooperate with this Senate investigation and turn over the notes that could be very crucial to the public's understanding of the Whitewater scandal.

The President and the administration seem to be hiding behind the shield of attorney-client privilege. At the same time, one can see through the raising of the specter of executive privilege. You cannot have it both ways. It is one or the other.

The White House claims that it will turn over these notes on one hand, and then lays down conditions, conditions that are so totally unreasonable that what the President is really saying is that he will not turn over the notes in the sense of full disclosure.

It is interesting, because from the day these hearings began, in July of 1994, my colleague from New York, Senator D'AMATO, and I made several appeals on this floor concerning various issues, the statute of limitations and others, relative to questions that had been raised to which were not forthcoming responsible answers. So, back in July of 1994, the White House, at that time, professed the President's desire to cooperate, cooperate with the formation of the special committee of which I am a member. The President said that he, too, was interested in getting the facts—all the facts out on Whitewater.

At nearly every turn of the committee's deliberations the White House has tried to make these deliberations more difficult, more prolonged, refuses to answer more questions, and seems to have a shorter memory. What this committee is charged with doing, under the able leadership of Senator D'AMATO, is to hold the President to his promise to cooperate with this committee. One has to ask if the administration has an ulterior motive, or other reason, for not cooperating? At all times it seems what the President professes is not necessarily what the President ultimately means. I do not have to go into the issue of balancing the budget with OMB's figures or CBO figures—that's an argument for another time. But I think the American public is now aware that what the President professes is not necessarily what the President means.

We see this pattern repeated again and again and again. That is part of the problem here today, Mr. President. The American public has seen this pattern over and over, and the concern now is that the President's tactics have almost conditioned the public for a norm. The public has come to expect this from the administration as a consequence because of this repeated inconsistency, and has become used to it. That is very dangerous. At times it seems that, because of the President's track record, the public's expectations and standards for the President are lower.

I think we agree that we have an obligation to hold the President accountable. The President must be held to his promises. Today, we must hold the President accountable by preventing him and his administration from withholding information from the American public, information that the public is entitled to know. We have to put an end to the stalling and to the delay tactics that have become so familiar to the Special Whitewater Committee. Even the media is beginning to pick up on it. You can hardly find a newspaper article today where the term "stonewalling" and "the President" do not appear in tandem.

These delay tactics that this committee has endured, which I know many of my colleagues have elaborated at great length on today, can only lead to one conclusion: The administration has led a deliberate and systematic effort to cover up. And cover up what? What is there to hide? Why is the administration fighting us and being so reluctant to turn this information over?

I want to bottom line the seriousness of the vote that we are going to be taking at some point in time. Chairman D'AMATO outlined what our investigation is all about. The investigation of Madison Guaranty and Whitewater have led to felony convictions and resignations. Think about that. That is pretty serious, Mr. President. The investigation so far has led to felony convictions and resignations, and there are those that just pooh-pooh this matter and simply say, well, we have not really learned anything. We have some convictions. We have some resignations.

The McDougals, the owners of Madison Guaranty, were involved in numerous improper loans and land deals which led to the loss of tens of millions of taxpayer dollars. Witnesses testified before the committee that the Whitewater Corp., which is half owned by the Clintons and half owned by the McDougals, had improperly "kited" funds.

That is serious, Mr. President. That is very serious. I spent 25 years in the banking business as the chief executive officer of a statewide organization. I know what cease and desist orders mean relative to mandates by the controller of currency, the Federal Deposit Insurance Corporation.

What was going on in Madison Guaranty was clearly illegal. There is a story that has yet to be told relative to the obligations of the various agencies that examined that financial institution. I am convinced that those examiners were doing a conscientious job relative to the reporting of the true condition of that organization, and they were reporting up to their level. And for reasons that have yet to be made clear to the committee and made public, no action was taken by the administrators associated with the insurance of the depositors with Madison Guaranty.

So, clearly, there were pressures brought to bear on the top regulators by political influences that surrounded Madison Guaranty not to take action relative to the illegal activities that were associated with Madison Guaranty, whether it be the kiting of the checks or the manner in which clearly Madison Guaranty, under the McDougals, was being operated almost for the benefit of a few selected individuals who were receiving favorable loans at favorable interest rates. The loans were rewritten to bring the due dates current. The interest was simply added to the principal to bring those loans current.

These are all flagrant violations that suggest, if you will, not just inappropriate or improper handling, but an illegal activity of a very, very serious nature subject to formal charges by the banking authorities and the regulators. But we did not see that, Mr. President. That did not occur as the true condition of Madison Guaranty become known to the regulators.

I think that there is a story yet to be told. I hope that we find those that are willing to come forth and explain to the committee why appropriate action was not taken when indeed Madison Guaranty was running amuck, running almost as a personal extension of the McDougals and some of their friends.

We have been attempting to get information in the committee. The committee has been hindered from obtaining information because of numerous delays, stonewalling tactics. One of the things that is very, very hard for this Senator to accept is the convenient loss of memory.

Susan Thomases, the First Lady's friend and adviser, responded, "I do not remember" over 70 times to even the most basic questions asked by this committee. These were not everyday events; these were significant events from very, very bright people who were associated with a responsibility to perform. And to suggest that they cannot remember, over 70 times in testimony, significant events is pretty hard to accept by the committee.

Maggie Williams, the First Lady's chief of staff, a very, very bright, articulate person, told the committee over 140 times that she did not recall. Once in a while, OK. I cannot recall every specific event that happened last year, but in regard to important matters, I can tell you what happened last year. And I can tell that certain events stand out in one's memory, Mr. President. For example, I have been deposed by attorneys relative to business activities of the organizations that I have run, and those proceedings, those types of proceedings, do stand out in your memory. It may be very convenient to say I do not recall, but to do it 140 times to the committee in response to some very, very basic questions about some dramatic events, events that some of the witnesses themselves documented, is simply pretty hard to accept.

During the week of the committee's investigation we learned now of the possibility of more cover up in the White House, and we have discovered that files are missing.

Mrs. Clinton's law firm represented Madison Guaranty against the State and Federal investigations that were occurring. Mrs. Clinton professed that she did "very minimal work" on the Madison Guaranty case. On Monday, the committee learned that the First Lady's statement may need to be questioned.

The personal notes of the close friend and adviser to the First Lady, Susan Thomases, were disclosed in the committee and revealed the following:

One, that Mrs. Clinton actually had numerous conferences, which have been documented, with the Madison Guaranty officials.

Two, that Mrs. Clinton made several efforts to keep the failing thrift afloat. Obviously, that was her job as counsel representing the Rose law firm. There is nothing wrong with that. But the fact is, we are not able to get the documentation to just how far those efforts went.

And last, that Mrs. Clinton was solely responsible for all the law firm's bills for the Madison case. The accuracy of that should be able to be ascertained relatively easily by documentation, but we do not have the documentation.

Earlier this month, Webster Hubbell, former Assistant Attorney General and former Rose law firm partner, who is now serving 21 months in Federal prison, also testified that Mrs. Clinton did little work on the Madison Guaranty case. However, the committee was able to produce billing records showing that Mrs. Clinton billed the Madison account for more than $6,000.

Again, I would remind my colleagues that the suggestion that this matter is not really very important, that nothing has been proven, Webster Hubbell would contend otherwise. He is serving 21 months in Federal prison relative to his role. And again, he was former Attorney General and former Rose law firm partner.

What is all this concern about? Why should the committee or the Senate or especially the American people be concerned about Madison Guaranty and Whitewater? Because, Mr. President, when Madison Guaranty ultimately failed, the American taxpayer picked up the cost, which was somewhere between $47 million and $60 million. The scam that went on at Madison was underwritten by the U.S. taxpayers.

We know that Mrs. Clinton had involvement to some extent through the Rose law firm in some of the activities of Madison. And I am not suggesting that those were inappropriate. Why can we not find out? Why do they not tell us? What are they hiding? As I said earlier, Mrs. Clinton billed over $6,000 to the Madison Guaranty account. According to the Rose law firm's accounting records, Mrs. Clinton did perhaps more work on Madison than anyone at her firm except one junior associate. Now everything that the committee learned may be just the tip of the iceberg because the Rose law firm claims that its billing files that recorded Madison activity from 1983 to 1986 are missing.

Let me repeat that, Mr. President. The Rose law firm now claims that its billing files that recorded Madison activity from 1983 to 1986 are missing. Well, it sounds more like "I don't remember" 70 times or "I don't recall" 140 times. And here is a sophisticated law firm with a long, long tenure, a respected law firm. There are a number of lawyers in this body, and I think they are all familiar with the meticulous process of billing. We always joke about the lawyer: Start talking to the lawyer and the clock starts. If you have ever received a billing from a lawyer, you have some idea how meticulous they are. They do not forget very much. They are trained to do that. The young attorneys bill out so much an hour, and they are expected to bill out so much a day. I have a daughter who occasionally reminds me of that as a young lawyer. But nevertheless to suggest that these are now missing from 1983 to 1986 is incredible.

I am reminded here of a reference that was made in the New York Post today. And this may or may not be pertinent, but it is certainly suggestive. It says, "A Rose law firm clerk said he was told to shred documents in February of 1994 shortly after a Whitewater special prosecutor was appointed."

As a consequence, Mr. President, the files contain information of just how involved perhaps the First Lady might be in the Madison Guaranty issue. The files could provide the committee with details of who contacted whom and what was discussed about Madison. It is rather curious to me that we do not have information from the RTC, Resolution Trust Corporation, which took over from the organization when it eventually failed. Upon such a takeover, there is inevitably a series of events that must occur. Madison was taken over by an organization, and then that organization failed and the RTC must have ultimately taken control over all the Madison records.

Now, those records should contain billing statements that were sent from the Rose law firm to Madison Guaranty. They might not be as specific as the Rose law firm's own records that would document specific topics and the details of the legal representation, however, the RTC records might be able to shed some light on the amount that the firm billed, the amount of time spent on the case, and may reference certain specific subject matters. I suggest that this might be an avenue that the committee investigates. It would seem to me it would be appropriate to make a determination whether or not the RTC has those records from Madison Guaranty and, if not, then attempt to determine what happened to the records. I think this could shed some light on determining how much the Rose law firm was reimbursed for its representation of Madison Guaranty.

Now, Susan Thomases' own notes appear to contradict the sworn testimony of Mrs. Clinton in an affidavit of 1994 in which she said that she had little or no involvement in Madison.

Let us find out. Come on up with the evidence. Come up with the records. Yet, when we attempt to get the evidence, the Rose law firm says their records are missing from 1983 to 1986. Were those shredded? The Rose law firm, I think, owes the committee an explanation. Thomases' notes show that Mrs. Clinton had numerous conversations with Mr. McDougal, the Madison Guaranty's President, about a preferred stock plan and brokerage deals that the thrift was proposing to State regulators to keep Madison in business.

The only way to find out the extent that Mrs. Clinton was involved is to review the law firm's records. But as I have said before, these files seem to have mysteriously vanished. Apparently the files were removed—perhaps by Webster Hubbell. We believe that the files may have been stored in his garage for a period of time. No one seems to have any accurate knowledge of where the files are now. So to suggest that there is nothing here that bears examination, that there is nothing here that should not be brought before the public, I think, is an injustice to the committee members and those who have worked so hard to bring the facts forward.

I am personally, as a member of the committee, tired of the withholding tactics. I am tired of the stonewalling, tired of the excuses, "I don't recall," "I can't remember." I think we are at a crucial point now, a point in which this body can and should make the White House accountable. The committee's request for William Kennedy's notes is not unreasonable, Mr. President. The meeting that occurred between the President's private attorneys and the Government attorneys goes to the very heart of our investigation, an investigation to determine whether the White House misused official information. So I regret that the events have come to this extent today, to the vote that we are going to be taking at some time. However, it is the White House that forces the hand of this body to act. And I would again encourage the President to reconsider and come forthwith the information that has been asked by the committee and keep his promise to fully disclose information. I believe that the American public has a right to know. And it is certainly responsible for this committee to make such a request and initiate such action if that material is not forthcoming.

Mr. President, I ask for only one other item to be included in the RECORD, and that is a recap of the fees from Madison Guaranty Savings & Loan. And it is January, 1985. It identifies specific billings. It does not have a total on it for services rendered, but that can be ascertained by anyone looking at it.

I ask unanimous consent that that be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RECAP OF FEES FROM MADISON GUARANTY SAVING & LOAN—FINAL RECAP

1983: None		
1984: None		
1985: January—None		
Feb./Mar./April/1985: None		
May 1985:		
Baledge	Madison Guaranty	$82.50
Massey	do	695.50
S. Grimes	do	260.00
Clinton	do	840.00
June 1985:		
Clinton	Madison Guaranty	60.00
Massey	Madison Guaranty/stock offering.	186.00
Massey	do	819.00
July 1985:		
D. Thomas	Madison Guaranty/Stock	90.00
Giroir	do	55.00
Massey	do	1,391.00
Law Clerks	do	210.00
Clinton	do	144.00
Aug/Sept/Oct. 1985: None		
Nov. 1985:		
Thrash	Madison Guaranty/IDC	550.00
Thrash	do	283.50
Thrash	do	355.50
Speed	do	32.50
Massey	do	552.50
Dec. 1985:		
Gary Garrett	Madison Guaranty/Stock Offering.	85.00
Giroir	do	100.00
Giroir	do	225.00
Massey	do	555.00
Massey	do	437.00
Massey	do	234.00
Clinton	do	88.00
Clinton	Madison Guaranty	232.50
Donovan	Madison Guaranty/Stock Offering.	90.00
1986: January 1986:		
Donovan	Madison Guaranty/Stock Offering.	468.75
Dave Thomas	do	262.50
Massey	do	952.50
Massey	Madison Guaranty/Limited Partnership.	165.00
S. Grimes	Madison Guaranty/Stock Offering.	60.00
Clinton	Madison Guaranty/Stock Offering and IDC.	2,731.25
Clinton	Madison Guaranty/Limited Partnership.	62.50
Clinton	Madison Guaranty/Stock Offering.	802.50
March 1986:		
Donovan	Madison Guaranty/IDC Stock offering.	825.00
B. Arnold	Madison Guaranty/Stock Offering.	80.00
April 1986:		
B.Arnold	Madison Guaranty/Stock Offering.	236.00
Donovan	do	318.75
Clinton	do	12.50
Clinton	do	262.50
May 1986:		
Clinton	Madison Guaranty	82.88
Clinton	Madison Guaranty/Babcock	1,050.00
Clinton	Madison Guaranty/IDC	70.00
Clinton	Madison Guaranty/General	197.12
Massey	do	112.50
B.Arnold	Madison Guaranty/IDC	48.00
July 1986:		
Clinton	Madison Guaranty/General	56.00
Clinton	Madison Guaranty/Babcock	308.00
October 1986: Clinton	Madison Guaranty/Babcock Loan.	84.00
1987: September 1987: Clinton.	Madison Guaranty/General	500.00

Mr. MURKOWSKI. I thank the Chair and I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank the Chair. I also commend our distinguished chairman of the Banking Committee, of the special Whitewater committee, for the good work that he has done.

Mr. President, we are here today because the Senate special Whitewater committee has finally reached the point where we have to say enough is enough. In our efforts over the past year to take testimony, gather documents, collect phone records, review handwritten notes, we found that, rather than cooperation and responsiveness, we have been met with a pattern of delay, obstruction and obfuscation.

After spending months trying to get access to various documents and phone records the old-fashioned way—we requested them—we discovered that a wide variety of records were being withheld. So we were forced to threaten to issue subpoenas.

This started a trickle of information. Usually the information arrived either late the evening before or the morning of the hearing.

But then we realized we were not receiving the documents to which the committee was entitled, so the chairman moved to actually issue subpoenas for anything and everything. In fact, after subpoenas were issued, surprise, surprise, documents and phone records began coming in, records that previously could not be found or could not be accessed.

On top of the resistance to releasing documents and the long delays in releasing phone records, we have also had some amazing instances of not only lapse of memory, but in one instance a witness, April Breslaw, said she was not able to identify her own voice on tape. To anybody who has not done so, if you want to witness a truly amazing discussion, you should read the transcript where Chairman D'AMATO asked Ms. Breslaw if she was the one that was actually on the tape. Ms. Breslaw said that the quality of the tape was not great, she was not sure that she was the one on the tape, and she did not know what to think.

Mr. President, we have seen some truly remarkable things. Months ago we had a witness who claimed that he lied to his diary, another witness who cannot remember his own notes.

But the strategy, I think, of obfuscation and obstruction has been taken to an art form in the testimony of Susan Thomases, the First Lady's close friend and associate. Over and over we heard Mrs. Thomases tell the committee that she "did not recall," had "no specific recollection," she had "no personal knowledge" of various events and phone calls surrounding the search of Vince Foster's office, the removal of documents from his office, the transfer of documents to a closet in the White House residence, and the discovery of the so-called suicide note.

Yet, after much digging and digging and a dribble and drabble, and a bit here and a bit there, phone records, we found that in fact she was omnipresent on the telephone lines of the White House during the critical times in question and she was calling the people who were directly involved. But obviously a minor matter like that a potential major investigation of the suicide of a White House aide, she could not remember what actually went on.

I believe today's Washington Post noted—or yesterday's Washington Post noted—that "Thomases failed to recall virtually all the events Republicans question her about, and for the first time since this round of hearings began in August, Democrats dropped their defense of an administration witness. . ."

Mr. President, that is what we have been facing throughout this investigation—fact by fact, record by record, note by note, and document by document, we have been dragging the truth out of the administration and its associates, little by little.

If anybody had any question as to whether there may be something to hide, if you simply look at the pattern of delay, and refusal and dragging of feet, it should become obvious that there is a concerted effort by the White House not to give all the information they have. Everyone should understand this has been the underlying current of Whitewater since the beginning.

The initial stories of this administration at nearly every step of the way have proven to be incomplete, inaccurate, or just plain untrue. It is only after pressure from Congress and the media that the truth, slowly, slowly, slowly trickles out. And we do not have it all yet.

We come to the infamous Kennedy notes. This time they cannot claim that they do not remember or cannot recall. They cannot say the records cannot be found by the phone company. They cannot claim they are not sure if it is their voice on the tape. They cannot claim they cannot find the files or the billing records are missing.

So what is left? They now claim that the notes made by a White House counsel, an official of the Government, of a meeting to discuss the Whitewater, Madison financial and legal activities, where there is significant allegations of wrongdoing which involve violations of Governmental laws and which involve the exposure of the Federal insurance trust funds, taxpayer trust funds, to private claims, they say meetings between a Government official, a White House counsel and a private attorney should not be released because they would violate the attorney-client privilege.

The President has said he is standing on principle to defend his rights as a private citizen to have meetings with his lawyers. Well, there is no question the President has a right to have a private meeting with his private counsel. But if you read the Op-Ed article in today's Wall Street Journal by Joseph diGenova, he goes through instance after instance of congressional investigation where the various privileges were held by the other party when they were in power and in charge of the investigation not to be applicable to congressional investigations.

Let us take a moment to talk about the principle which the President is defending. We have to remember that during 1993, the investigative wheels were in motion in three different Federal agencies, all pointing a finger at some activities that involved the top political elite, the political infrastructure of Arkansas.

The RTC, the agency investigating the S&L failures, was looking into the activities of Madison Guaranty, specifically in the misappropriation of a $260,000 loan by now-Arkansas Governor Jim Guy Tucker, the embezzlement and conspiracy by bank owner Jim McDougal, and a loan illegally diverted to the Clinton 1984 reelection campaign. The Small Business Administration was working putting together a criminal case against David Hale and Capital Management Services.

In this case we find Mr. Hale accusing the President of pressuring him to make an illegal loan to Jim McDougal, which eventually leads to Mr. Hale's conviction and the indictment of the current Governor of Arkansas. The Little Rock U.S. attorneys' office was in possession of an earlier criminal referral on Madison Guaranty in which massive check kiting was alleged.

Mr. President, while all the investigative work was going on, political appointees of the President at the Department of the Treasury were briefed in late September 1993 about the contents of the RTC's criminal referrals I just briefly described.

Unfortunately, instead of holding this information close, handling it as responsible governmental officials should handle the very sensitive, nonpublic information relating to a potential criminal investigation and/or action to be pursued by the Federal Government, the political appointees, Jean Hanson and Roger Altman, made the decision to tell the White House about the investigations. Then on September 29, 1993, Jean Hanson briefed then-White House counsel Bernie Nussbaum.

One of the key facts which we discovered during our earlier hearings was that while Mrs. Hanson clearly had the details of the referrals and discussed them with the White House, she had been told by the RTC, specifically Mr. Roelle, that while the Clintons were not targets of the investigation, "* * * the language of that referral could lead to the conclusion that if additional work were done [that is, further investigative work] the President and Mrs. Clinton might possibly be more than just witnesses."

That, Mr. President, is from the deposition of Jean Hanson, given to the inspector general of the RTC.

And, of course, in October 1993, the possibility of further investigative work being done by the U.S. Attorney for the FBI was not a closed question. As we now know, the U.S. attorney in Little Rock, Paula Casey, is a Clinton appointee and while she declined to do any further investigative work on the first referral, had just received the second and had not at that time recused herself.

Which brings us to the November 5, 1993 meeting between the Clintons' attorneys. Again, as we now know—and it has taken us a long time to get all of these details, even to find out about the November 5 meeting—when several Federal agencies were investigating the activities of Jim McDougal, Jim Guy Tucker and David Hale, the investigators have indicated that if more investigation was done, it is possible that the Clintons would become more than just witnesses.

Mr. President, we ought to add here, also from what we have now learned, it is or should be an open question as to whether there is any complicity of the lawyers who were representing the participants in the shady transactions which resulted in losses to Federal insurance funds. As a general proposition, an attorney friend of mine who has worked on a number of these cases says that where there is wrongdoing of a consistent pattern by a federally insured institution, usually the law firm knows about it or may possibly be involved in it. There is a real question as to what involvement a law firm representing an illegal scam-ridden operation has in the criminal activity.

In this instance, obviously, Jim McDougal used Madison Guaranty, the savings and loan, as his piggy bank and did many things with it. At the time he was doing that, the Rose law firm was representing Madison Guaranty, and the partner in charge was Mrs. Clinton.

My colleague from Alaska has raised the question about what happened to the files. Mr. President, that is a very important matter to consider, because I have worked in law firms, and you cannot walk in and take the files out of a law firm. You cannot go in and clean out the files. How did the original files from the Rose law firm wind up in the hands of political allies of the Clintons here in Washington? It would seem to me that when the RTC took over Madison Guaranty, they became the client and had the right to the files at the law firm representing the taken-over institution. Did they give their approval to removing those files? That is a question that bears further investigation.

But let us go back to the specific instance of November 5. According to David Kendall's memo which he sent to the committee, he said that we can assume, just for the purposes of this discussion, that every bit of information possessed by the participants was discussed at the meeting. He said, "Go ahead and assume it, as you make this decision." He did not say it conclusively. We don't have the notes. But that means for the purposes of this question of whether we ought to compel the production of the notes, we can assume that not only was the Clintons' private lawyer told about the details of the case by Mr. Nussbaum and Mr. Eggleston, he could also have been told that "if further investigative work" were done his client's status could possibly shift from witness to something else, to something more serious.

This is a question that has bothered me throughout the investigation of what went on at Whitewater.

Mr. President, I had a not-too-pleasant discussion with Mr. Nussbaum the first time he came before the committee because I did not feel he was representing the people of the United States as White House counsel should. I asked him if he had taken the time to advise and instruct the other people in the White House who had come in possession of this vital nonpublic information that could be used, if it were to get into the hands of those who were potential targets of the investigation, to prepare their defense, perhaps even to change or get rid of evidence to prepare themselves to prevent prosecution or active pursuit by the Government of its rights.

Mr. Nussbaum told me that it was totally, totally unrealistic. He said: These people—I don't have to tell them that you shouldn't misuse inside information or nonpublic information you're getting—these people knew their responsibilities, knew their roles. I didn't have to go around telling these people not to do that and, indeed, Senator, with all respect—I realize you feel strongly about this, too—with all respect, Senator, there is not a single shred of evidence that anybody misused this information in any way. Not a single shred of evidence that documents were destroyed, people tipped off.

Mr. President, obviously, when he said there is not a shred of evidence, I pointed out to him that was precisely what we were concerned about. We were concerned about the reports of the former nonlawyer, nonlegal intern, runner or clerk in the Rose law firm who talked about shredding documents. That is why we are concerned about the broader picture.

But let me return to the President's statement that he was withholding the notes of the meeting on principle. Is he saying he believes it is his right for Government attorneys, who by virtue of their position, come into possession of confidential information, in this case information about an investigation into the Clintons' business partner in Whitewater development, an investigation about Mrs. Clinton's client, the law firm, the Rose law firm, about his Arkansas political allies and about his own 1984 campaign, to have this information transferred to his own attorney when it may directly involve himself, his wife, their legal liabilities and the legal liabilities of their political allies?

Is he saying, as a President he has the right to know of these investigations into his associates and political allies, as well as his own campaign. Is he saying he has the right to know that if further work was done, he might become more than just a witness?

Does the President seriously want to defend the principles that he should not only receive tipoffs, but he should also have the right to get the information to his private attorneys in order to prepare his and his wife's defense if needed?

What other individual in America could get this special treatment? Who else would dare claim that meetings in which tipoffs of confidential information about an investigation into a business partner, political ally, to his own campaign, to his wife's law practice should be protected from investigation? I hope that he was not serious if this is the principle he wishes to defend.

I think there are principles the President should be standing up for. No. 1, breach of the public trust is as serious an offense as committing a crime. No. 2, in exchange for the powers and responsibilities given the Government, the people expect fairness, evenhanded justice, impartiality, and they hold the basic belief that those in power can be trusted to be good stewards of their power. No. 3, They do not expect those in power to give themselves special treatment, tipoffs or the ability to hide documents.

Congress must also believe that those in high positions of responsibility are telling us the truth. When we ask questions or make inquiries, we trust the administration will tell the truth, will be honest, and when we get an answer, it is a full and complete one.

Unfortunately, throughout this Whitewater investigation, beginning with questions we asked in the Banking Committee in February of 1994, it appears that a guiding principle for some has been that the ends justify the means. The ends, as outlined in the memo from my good friend James Hamilton to the President, was you should not provide anything; make sure you do not give them too much information; keep your head down; do not let anything out.

I am afraid that this tone is apparently set from the top; that somehow that the public's best interest is served if the private interests of the President and First Lady are served, whether that be their political interest, the interest of the Presidency or even their commercial activities prior to the time they became the President and First Lady.

As I have said many times before, this ethical blurry, coupled with a set of standards that seem to imply if you are not indicted, you are fit to serve, has caused several administration officials to resign and continues to hound this administration still today.

To my colleagues in the Senate, I urge that we move forward with the subpoena. We need to get the full details of what was given to the private attorneys by the Government attorneys and what I think may have been a gross violation of public trust, if not more.

I commend the chairman for his dogged pursuit, his evenhanded manner in affording all sides an opportunity to be heard, and I urge my colleagues to support the committee on this request.

I yield the floor.

Mr. BAUCUS. Mr. President, earlier this year, I joined an almost unanimous Senate in voting to support a broad resolution creating a special committee to investigate the Whitewater matter. I believe this investigation must be both vigorous and fair.

First and foremost, it is our responsibility to find the facts and the truth. That is what people want. But, as we look for the truth, we must do everything possible to be fair and to respect the rights of everyone involved.

So I believe there are two fundamental questions that must be answered in deciding whether to seek this subpoena:

First, is the subject matter of this subpoena necessary to find the truth in the Whitewater matter?

And, second, is this subpoena being sought with respect for the fundamental rights of those involved? Or is it being sought in order to carry on a political fishing expedition?

The material sought by the special committee are the notes of Mr. William Kennedy from a meeting of the President's personal and official lawyers at a private law office on November 5, 1993. It is important to note that Mr. Kennedy, although an Associate White House Counsel at the time this meeting took place, had represented President Clinton before he was elected to the White House.

The special committee has determined that Mr. Kennedy's notes of this meeting are a necessary part of their investigation; they are necessary to help get at the truth. I respect that. I believe Mr. Kennedy's notes should be made available to the special committee and to Mr. Kenneth Starr, the Independent Counsel investigating Whitewater. And I am pleased that the President has consented to the release of these notes.

That should be the end of the story. This issue should be resolved. Mr. Kennedy's notes should be released without anybody having to go to court. That seems to be enough to satisfy the Independent Counsel, Mr. Starr, a Republican. That is enough to satisfy the distinguished chairman of the committee, Senator D'AMATO, also a Republican. But it does not seem to be enough to satisfy Speaker GINGRICH and the Republicans in the House of Representatives.

They appear to want more than Mr. Kennedy's notes. They also appear to want the President to surrender one of his fundamental rights, the right of attorney-client privilege. Whether a Republican or a Democrat occupies the White House, that President should enjoy the same rights as any other American. And that includes the right to communicate in confidence with his attorney, doctor, or minister.

This is not, as some have said today, a question of hiding the facts. Instead, it is a question of protecting a fundamental right—the fundamental right to talk candidly with your lawyer, your doctor, or your minister without having your words used against you. I do not care if we are talking about the President of the United States or the most average of Americans, that is one of the things—one of the values, one of the liberties—that make this country special.

To me, it is that simple. If the President is willing to authorize the release of Mr. Kennedy's notes—as he is—there is no reason to go to court. There is no reason to challenge the President's right to maintain the confidentiality of his communication with his legal counsel.

For these reasons, I will oppose the resolution before us today.

Mr. President, it is with great pride that I note an act of kindness and selflessness by Ashley Silvernell from Forsyth, MT.

Ashley was walking down the street a few days ago when she spotted a $100 bill in front of Eagle Hardware store. Now, $100 means a lot to anybody, but to someone in middle school it's a pot of gold. Without hesitation, however, Ashley turned the $100 in to the store manager, Ken Allison. Ashley asked for no reward.

It turns out that just a few days earlier, a family from Wyoming was shopping in the store that day and accidentally dropped the money. They didn't have credit cards. The family later called Mr. Allison from Wyoming, but never dreamed that the money would be found. When Ashley turned the $100 bill in, as you can imagine the family was thrilled.

Ashley's act should recall for this U.S. Senate what the holidays are all about. As we are knotted here in gridlock, 5 days before Christmas, we must remember that honesty and good judgment are qualities to strive for everyday of our lives. Ashley's good will is an inspiration to us all and must not go unnoticed.

And on behalf of myself and the thousands of Montanans who certainly will be inspired by her story, I would like to thank Ashley Silvernell for making a difference.

Thank you. And I yield the floor.

Mr. ABRAHAM. Mr. President, I rise in support of Senate Resolution 199. I would like to focus on this from a slightly different perspective from those that have been suggested so far. In particular, I would like this body to consider the following question: Has President Clinton, in withholding material Congress is seeking for an obviously legitimate purpose, acted consistently with the standard of conduct set by every President who has served since President Nixon?

Regrettably, Mr. President, I conclude that he has not. Accordingly, I believe it is incumbent on the Senate to adopt the pending resolution.

President Nixon's assertion of executive privilege precipitated a constitutional crisis that ultimately played a major role in forcing his resignation. Since that time, Presidents have been extremely cautious in using privilege as a basis for withholding materials from legitimate Congressional inquiries. They have been especially cautious when this withholding of information might suggest to a reasonable person that privilege might be being asserted to cloak Presidential or other high level wrongdoing.

The reason for this caution is clear: relations between the branches and the people's confidence in their Government suffer greatly when the President gives the appearance of withholding information in order to protect himself or others close to him from public scrutiny of potential wrongdoing.

This practice was codified in a directive from President Reagan issued on November 4, 1982. Addressed to all general counsels, the directive describes how President Reagan wanted the assertion of executive privilege handled.

Mr. President, I ask unanimous consent that the text of the memorandum be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ABRAHAM. Mr. President, let me quote from the memorandum:

> The policy of this Administration is to comply with Congressional requests for information to the fullest extent consistent with the constitutional and statutory obligations of the Executive Branch.
>
> While this Administration, like its predecessors, has an obligation to protect the confidentiality of some communications, executive privilege will be asserted only in the most compelling circumstances, and only after careful review demonstrates that assertion of the privilege is necessary.
>
> Historically, good faith negotiations between Congress and the Executive Branch have minimized the need for invoking executive privilege, and this tradition of accommodation should continue as the primary means of resolving conflicts between the Branches.* * *

To this end President Reagan set up prudential limitations regarding the assertion of privilege even where a claim might be legitimate:

> Congressional requests for information shall be complied with as promptly and as fully as possible, unless it is determined that compliance raises a substantial question of executive privilege.
>
> A substantial question of executive privilege exists if disclosure of the information requested might significantly impair the national security (including the conduct of foreign relations), the deliberative processes of the Executive Branch or other aspects of the

> performance of the Executive Branch's constitutional duties.
>
> Every effort shall be made to comply with the Congressional request in a manner consistent with the legitimate needs of the Executive Branch.
>
> The Department Head, the Attorney General and the Counsel to the President may, in the exercise of their discretion in the circumstances, determine that executive privilege shall not be invoked and release the requested information.

Similarly, those advising Presidents since President Nixon have universally recommended great caution before assertions of privilege are made. One particular aspect of this advice is well worth quoting:

> An additional limitation on the assertion of executive privilege is that privilege should not be invoked to conceal evidence of wrongdoing or criminality on the part of executive officers.
>
> The documents must therefore be reviewed for any evidence of misconduct which would render the assertion of privilege inappropriate.
>
> It should always be remembered that even the most carefully administered department or agency may have made a mistake or failed to discover a wrongdoing committed inside or outside the Government. Study, Congressional Inquiries Concerning the Decisionmaking Process and Documents of the Executive Branch: 1953–1960.
>
> The greatest danger attending any assertion of Executive Privilege has always arisen from the difficulty, perhaps impossibility, of establishing with absolute certainty that no mistake or wrongdoing will subsequently come to light which lends credence to congressional assertions that the privilege has been improperly invoked.

This passage comes from a 1984 opinion written by Robert B. Shanks, Deputy Assistant Attorney General for the Office of Legal Counsel.

Mr. Shanks was responding to the Deputy Attorney General's request for an opinion regarding Congressional subpoenas of Department of Justice Investigate Files. His opinion can be found at 8 Op. OLC 252. It well summarizes, I think, the dangers that any assertion of privilege may present even where the assertion is undertaken for legitimate reasons, but where its bona fide is bound to be suspect.

Now I recognize, Mr. President, that the principal label President Clinton is placing on this privilege claim is attorney-client—although he has not disavowed a claim of executive privilege.

But even apart from the fact that it is unclear whether the President has a separate attorney-client privilege in communications with government lawyers apart from his executive privilege, it does not seem to me that the label should matter. In either case the need to protect the President's authority to assert privilege where he really needs to, and to prevent gratuitous undermining of the public's faith in its government present the same overwhelming arguments for caution.

Now it is clear to me that no matter what the basis of the President's assertion of privilege here, it does not meet the standards that previous Presidents have followed in these matters.

The meeting at issue was apparently about a matter so far from the core interests of the Presidency that it required the involvement of private lawyers to defend the President's interests. It has nothing to do with national security. And it is impossible to believe that furnishing these notes will in any way impair the President in the performance of his constitutional functions.

Moreover, given that the President's associates have managed to force the appointment of an independent counsel by withholding and removing files relevant to the Department of Justice's investigation into Vincent Foster's death, it seems to me that the President should take his obligation of candor even more seriously than is ordinarily the case.

Thus, even if President Clinton has a valid claim of privilege—a point on which I am profoundly skeptical—I believe he ought not assert it here.

He has given no reasons weighty enough to justify its assertion.

And indeed, what he has said about this matter shows a surprising lack of perspective regarding the circumstances in which such assertions should be made.

President Clinton is quoted in the press as saying that he "doesn't think he should be the first President in history" not to protect communications arguably protected by the attorney-client privilege. I don't know if this statement was accurately reported, but if it was, frankly it is as peculiar as some of the other claims that the President has been making in the last few weeks.

Without going back very far in history at all, we can all come up with examples where Presidents have waived possible attorney-client privilege claims in the face of congressional requests for information.

Indeed, if Congress is really and legitimately interested in something, such waivers are the norm, not the exception.

Let us look at the select committee's 1987 investigation of the Iran-Contra matter. The hearings, reports, and depositions are replete with references to notes, interviews, and testimony from government lawyers obviously covering potentially privileged materials. These include notes of then White House Counsel Peter Wallison, testimony from Attorney General Meese and Assistant Attorney General for the Office of Legal Counsel Charles Cooper, and National Security Council counsel Paul Thompson.

Similarly, when Congress became concerned about issues arising out of the United States relations with Iraq, President Bush provided numerous materials to various committees investigating these matters. And these materials could have been the subject of claims of attorney-client privilege at least as strong as the one President Clinton is making here.

Indeed, President Bush even provided notes and other materials relating to meetings among lawyers including the White House counsel and the counsel to the National Security Council regarding how to respond to congressional document requests. President Bush also interposed no bar to these lawyers' testifying before Congress and responding to questions.

Indeed, Mr. President, as recently as 2 days ago President Clinton's own White House counsel voluntarily provided to members of the Judiciary Committee an opinion of the Assistant Attorney General for the Office of Legal Counsel regarding his interpretation of an antinepotism statute as not limiting the President's appointment power.

This opinion undoubtedly would be subject to as strong an attorney-client privilege claim as one can imagine the President making. But the White House counsel provided it, knowing that it would waive any privilege claim, because he believed it was in the interest of the President for the Judiciary Committee to have it.

I ask unanimous consent that the letter transmitting this opinion be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> THE WHITE HOUSE,
> *Washington, December 18, 1995.*
>
> Hon. ORRIN HATCH,
> Hon. JOE BIDEN,
> *U.S. Senate, Committee on the Judiciary, Washington, DC.*
>
> DEAR CHAIRMAN HATCH AND SENATOR BIDEN: At my request, Walter Dellinger has reexamined the question of the application of the anti-nepotism statute, 28 U.S.C. §458 to the President's nomination of William Fletcher to the Ninth Circuit Court of Appeals. I am forwarding to you Mr. Dellinger's memorandum which concludes that the section does not apply to the presidential appointment of federal judges.
>
> His analysis of the text and its history confirms that the position of judge on a federal court is not an office or duty "in any court" within the meaning of section 458; that it was not considered to be so by the Congresses that enacted either the original or the current version of the section; and that it has never been treated as such by any subsequent President or Senate. The evident purpose of this statute was to prevent judges (and, as revised in 1911, person working for judges) from appointing their relatives to such positions as clerks, bailiffs, and the like. On the other hand, the novel view that section 458 applies to the nomination by the President of Article III judges would commit one to the conclusion that a number of distinguished judges had served their country illegally, including Augustus and Learned Hand.
>
> Mr. Dellinger has also concluded that the statute does not apply to presidential appointment of judges because of the well-established "clear statement" rule that statutes will not be read to intrude on the President's responsibilities in matters assigned to

him by the Constitution, including the appointments power, unless they expressly state that Congress intends to limit the President's authority. The Supreme Court has applied this principle often, even to statutes the text of which would otherwise clearly appear to cover the President.

Any assumption that section 458 limits the President's authority to appoint Article III judges—and that such a limitation would not raise any serious constitutional question—would establish a precedent that would profoundly alter the constitutional separation of powers in ways that sweep well beyond the statute at issue here. Any assumption that general statutory language should be read to limit the authority of the President of the United States to carry out his constitutional responsibilities would overturn important executive branch legal determinations by a succession of Assistant Attorneys General including William H. Rehnquist, Theodore B. Olsen, Charles J. Cooper and William Barr and by Deputy Attorney General Lawrence Silberman, in addition to clearly applicable Supreme Court decisions.

In light of its text, its statutory history, and the constitutional principle embodied in the clear statement rule, it is beyond doubt that any court would find section 458 to be inapplicable to the presidential appointment of federal judges. I hope that the Senate will not base its important decision regarding the nomination of Mr. Fletcher on the view that section 458 applies to it.

Many thanks for your consideration.

Sincerely,

JACK QUINN,
Counsel to the President.

Mr. ABRAHAM. In short, there is nothing extraordinary or unprecedented in the Select Committee's interest in these notes and the committee's desire to get them is far from extraordinary or unprecedented in the history of Congressional-Presidential relations.

Rather, what is extraordinary and inconsistent with the way Presidents since President Nixon have handled such questions is President Clinton's assertion of privilege.

This is particularly striking given the circumstances surrounding these materials; circumstances suggesting to many reasonable observers, including the editorialists quoted on the floor today, that there is a issue of potential high level wrongdoing at issue here.

Mr. President, I would like to make one final point. Some have said that if we vote to enforce the subpoena, all efforts to reach a negotiated settlement of this matter will cease.

Mr. President, that would greatly surprise me. The courts have stated time and time again that both branches have an obligation to accommodate each other's interests in these matters. Thus, if either branch were to cease all efforts at accommodation, it would do great damage to its legal case. Moreover, it is in both branches' interest, and indeed it is both branches' constitutional duty, to try to resolve this matter without going to court.

Therefore I do not think any Member of this body should view a vote to enforce this resolution as a vote to end our efforts at resolving this matter without going to court.

Rather, even if we adopt this resolution and Senate Legal Counsel begins work on legal papers, I am sure the committee will at the same time continue its efforts to obtain these notes with the President's consent. And it is my hope that, resolution or no resolution, the President will provide them promptly.

That is his duty, as it is our duty to defend the committee's ability to investigate potential wrongdoing.

I yield the floor.

EXHIBIT 1

THE WHITE HOUSE
Washington, November 4, 1982.

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

Subject: Procedures Governing Responses to Congressional Requests for Information

The policy of this Administration is to comply with Congressional requests for information to the fullest extent consistent with the constitutional and statutory obligations of the Executive Branch. While this Administration, like its predecessors, has an obligation to protect the confidentiality of some communications, executive privilege will be asserted only in the most compelling circumstances, and only after careful review demonstrates that assertion of the privilege is necessary. Historically, good faith negotiations between Congress and the Executive Branch have minimized the need for invoking executive privilege, and this tradition of accommodation should continue as the primary means of resolving conflicts between the Branches. To ensure that every reasonable accommodation is made to the needs of Congress, executive privilege shall not be invoked without specific Presidential authorization.

The Supreme Court has held that the Executive Branch may occasionally find it necessary and proper to preserve the confidentiality of national security secrets, deliberative communications that form a part of the decision-making process, or other information important to the discharge of the Executive Branch's constitutional responsibilities. Legitimate and appropriate claims of privilege should not thoughtlessly be waived. However, to ensure that this Administration acts responsibly and consistently in the exercise of its duties, with due regard for the responsibilities and prerogatives of Congress, the following procedures shall be followed whenever Congressional requests for information raise concerns regarding the confidentiality of the information sought:

1. Congressional requests for information shall be complied with as promptly and as fully as possible, unless it is determined that compliance raises a substantial question of executive privilege. A "substantial question of executive privilege" exists if disclosure of the information requested might significantly impair the national security (including the conduct of foreign relations), the deliberative processes of the Executive Branch or other aspects of the performance of the Executive Branch's constitutional duties.

2. If the head of an executive department or agency ("Department Head") believes, after consultation with department counsel, that compliance with a Congressional request for information raises a substantial question of executive privilege, he shall promptly notify and consult with the Attorney General through the Assistant Attorney General for the Office of Legal Counsel, and shall also promptly notify and consult with the Counsel to the President. If the information requested of a department or agency derives in whole or in part from information received from another department or agency, the latter entity shall also be consulted as to whether disclosure of the information raises a substantial question of executive privilege.

3. Every effort shall be made to comply with the Congressional request in a manner consistent with the legitimate needs of the Executive Branch. The Department Head, the Attorney General and the Counsel to the President may, in the exercise of their discretion in the circumstances, determine that executive privilege shall not be invoked and release the requested information.

4. If the Department Head, the Attorney General or the Counsel to the President believes, after consultation, that the circumstances justify invocation of executive privilege, the issue shall be presented to the President by the Counsel to the President, who will advise the Department Head and the Attorney General of the President's decision.

5. Pending a final Presidential decision on the matter, the Department Head shall request the Congressional body to hold its request for the information in abeyance. The Department Head shall expressly indicate that the purpose of this request is to protect the privilege pending a Presidential decision, and that the request itself does not constitute a claim of privilege.

6. If the President decides to invoke executive privilege, the Department Head shall advise the requesting Congressional body that the claim of executive privilege is being made with the specific approval of the President.

Any questions concerning these procedures or related matters should be addressed to the Attorney General, through the Assistant Attorney General for the Office of Legal Counsel, and to the Counsel to the President.

RONALD REAGAN.

Mr. BYRD. Mr. President, on a day when some 260,000 federal employees remain idle because the Congress has not completed work on the annual appropriations bills—its most fundamental constitutional task—this body has before it a measure dealing with Whitewater that is unwise, and, quite frankly, wholly unnecessary. Instead of acting on the remaining appropriations bills, instead of completing our most basic task, we are being asked to divert our attention and adopt a resolution which is, I believe, nothing more than a vehicle to promote the political fortunes of some.

The special committee, which the Senate created to investigate the Whitewater matter, has held more than a month of hearings. They have heard testimony from more than 150 witnesses. The White House, in conjunction with these hearings, has produced more than 15,000 pages of material, while the law firm of Williams and Connolly, which represents the President and Mrs. Clinton, have produced an additional 28,000 pages. And through it all, the American taxpayer has been billed more than $27 million dollars.

Yet, despite this, the American people are being led to believe that, unless the Senate adopts this resolution, which would require the Senate Legal Counsel to go into federal court in an attempt to enforce a Senate subpoena, some facet of the investigation will go uncovered. Mr. President, nothing could be further from the truth.

The fact is that the White House has already stated its willingness to supply the material the Senate has asked for. The President has said he will make available the documents in question; notes taken by a former White House attorney during a November 1993 meeting. He has, as I think these actions show, acted in a reasonable, good faith manner. But at the same time the President has been willing to produce the subpoenaed material, he has also asked that he not lose the fundamental privilege of attorney-client confidentiality.

Mr. President, every American has the right to talk to a lawyer fully and frankly without fear that the government will compel the disclosure of these personal communications. The President of the United States, be he Democrat or be he Republican, is no different. He is, like every other American citizen, entitled to the benefits of the attorney-client privilege.

In view of the President's offer of cooperation, the Committee's attempt, to invade the relationship between the President and his private counsel smacks of an effort to force a claim of privilege by the President, who must assert that right to avoid risking the loss, in all forums, of his confidential relationship with his lawyer. This effort, at this time, and in light of the President's willingness to comply with the Senate's subpoena, simply smacks of political partisanship.

Why else, if not simply to score political points, would the majority reject the President's offer? Why not accept the material, which the majority says it needs, and get on with the investigation? Why go to court, an action that will only prolong the investigation, if there is no intent to simply win headlines and seek political advantage?

Mr. President, I hope my colleagues who may be inclined to support this resolution will reconsider their position. I hope they will reexamine the road down which we may be traveling, and vote against the subpoena resolution.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. D'AMATO. Mr. President, if I might seek recognition, first, for the purposes of propounding a unanimous-consent agreement.

Mr. SPECTER. I will consent with the understanding that I do not lose my right to the floor after the unanimous-consent agreement is propounded.

Mr. SARBANES. We imagine it will include the Senator within it.

UNANIMOUS-CONSENT AGREEMENT

Mr. D'AMATO. Absolutely. First of all, I thank the ranking member, Senator SARBANES, as well as Senator PRYOR, for giving Senator SPECTER an opportunity to proceed. He is going to use about 10 minutes. Thereafter, I ask unanimous consent that Senator PRYOR be recognized following Senator SPECTER.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I support the pending resolution, but I express at the outset my concern about some of the legal arguments which have been raised that the attorney-client privilege does not apply to Congress, to congressional investigations. It is not necessary for me to reach that issue in my own conclusion or judgment here, that the attorney-client privilege does not apply, but I do express that concern.

There has been an argument raised that the attorney-client privilege is different from the privilege against self-incrimination because the privilege against self-incrimination has a constitutional base. In my view, however, there is a constitutional nexus to the attorney-client privilege which arises from the constitutional right to counsel. Since the citations of authority limiting the attorney-client privilege in the context of congressional investigations—since those cases were handed down, there has been a considerable expansion in constitutional law on the right to counsel—Gideon versus Wainright, in 1963, asserting that anybody was entitled to counsel if they were haled into court on a felony charge, whereas, the practice in the prior period had been that the right to counsel did not apply, and the expansion of warnings and waivers under Miranda versus Arizona. So I think the breadth of the conclusion that the attorney-client privilege is not constitutional is certainly entitled to some skepticism at the present time.

It is my view, however, that the attorney-client privilege does not apply here to preclude enforcement of this subpoena because the attorney-client privilege simply, on the facts, does not apply. Upjohn versus United States contains the basic proposition that the attorney-client privilege is the oldest of the privileges for confidential communications known to the law, with the citation to Wigmore. The Supreme Court in the Upjohn case says that the purpose of the attorney-client privilege is to encourage full and frank communications between attorneys and their clients and thereby promote the broader public interest in the observance of law and the administration of justice. The privilege recognizes that sound legal advice and advocacy serve public ends, but such advice or advocacy depends upon lawyers being fully informed by their clients.

In the Westinghouse versus Republic of the Philippines case, the Third Circuit articulated this view: "Full and frank communication is not an end in itself, but merely a means to achieve the ultimate purpose of privilege, promoting broader public interest in the observance of law and the administration of justice."

The Third Circuit, in the Westinghouse case, goes on to point out, "because the attorney-client privilege obstructs the truth-finding process, it is narrowly construed."

The essential ingredients for the attorney-client privilege were set forth in United States versus United Shoe Machinery Corp., a landmark decision by Judge Wyzanski, pointing out that one of the essentials for the privilege is that the communication has to have a connection with the functioning of the lawyer in the lawyer-client relationship. Professor Wigmore articulates the same basic requirement.

As I take a look at the facts present here and a number of the individuals present, there was not the attorney-client relationship. There were present at the meeting in issue David Kendall, a partner at the Washington, DC, law firm of Williams & Connolly, recently retained as private counsel to the President and Mrs. Clinton. That status would certainly invoke the attorney-client privilege. Steven Engstrom, a partner of the Little Rock law firm that had provided private personal counseling in the past. That certainly would support the attorney-client privilege. James Lyons, a lawyer in private practice in Colorado, who had provided advice to the President when he was Governor, and to Mrs. Clinton at the same time. But then, also present, were Bruce Lindsey, then director of White House personnel, who had testified that he had not provided advice to the President regarding Whitewater matters. Once parties are present who were not in an attorney relationship, the attorney-client privilege does not continue to exist in that context, where they are privy to the information. There was Mr. Kennedy, himself, associate counsel to the President—William Kennedy, who said he was "not at the meeting representing anyone." Then you had the presence of then counsel to the President, Mr. Bernard Nussbaum, and also associate counsel to the President, Mr. Neal Eggleston, who were present, not really functioning in a capacity as counsel to the President or Mrs. Clinton.

So, as a legal matter, when those individuals are present, the information which is transmitted is not protected by the attorney-client privilege. And then you have, further, the disclosure which was made by White House spokesman, Mark Fabiani, to the news media characterizing what happened at the November 5 meeting, and discussing the subject matter of the meeting, which would constitute as a legal matter, in my judgment, a waiver of the privilege.

So that recognizing the importance of the attorney-client privilege, I would be reluctant to see this matter decided on the basis that Congress has such broad investigating powers that the attorney-client privilege would not be respected. As I say, we do not have to reach that issue. On the facts here, people were present who were not attorneys for the President or Mrs. Clinton. Therefore, what is said there is not protected by the attorney-client privilege. The later disclosure by the White House spokesman, I think, would also constitute a waiver. For these reasons, and on somewhat narrower grounds, it is my view that the resolution ought to be adopted and the subpoena ought to be enforced.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas is recognized.

ACCOLADES TO SENATOR BYRD

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me.

Mr. President, first, I want to add my accolades, if I might, for just a moment, to the very distinguished senior Senator from West Virginia, ROBERT BYRD, who earlier this afternoon, I think probably gave one of the more classic speeches that has been given on this floor for many a year.

I hope the result of that will be that this Senate makes a video tape of this particular speech available—and certainly the CONGRESSIONAL RECORD—and that it would be widely disbursed, and that, hopefully, each incoming Senate class in years to come in this great institution would have the privilege, during the orientation period, of listening to the wise and truthful and very strong words of Senator ROBERT C. BYRD—about the institution that he loves and that we love and respect. I applaud him for his statement. I think it was timely. I think it was on the point. I think all of us owe him a deep debt of gratitude for that statement which was given from Senator BYRD's heart.

DIRECTING THE SENATE LEGAL COUNSEL TO BRING A CIVIL ACTION

The Senate continued consideration of the resolution.

The PRESIDING OFFICER (Mr. Faircloth). The Senator from Arkansas.

Mr. PRYOR. Mr. President, here we are, almost the night before Christmas, in the U.S. Senate, the House of Representatives, and we find ourselves still in session. We do not find ourselves, tonight, ironically, talking about what to do about the budget impasse. We do not find ourselves on the floor of the U.S. Senate this evening talking among each other and colleagues as we should about how to reopen the Government.

No, Mr. President, we find ourselves this evening talking about a more arcane and mundane situation, something called Whitewater. Whitewater has become the fixation of one of our political parties. There is no secret about that.

Today, the Republicans control the Congress. They set the agenda for what committees meet, when they meet, what issues come before those committees, what issues are brought before the floor of the U.S. Senate. I think it very timely, Mr. President, for us to examine the priorities of this session of Congress.

I think it very interesting to note that tonight, a few hours before Christmas, when we had hoped to be back in our home States or wherever we might have been, when all of the employees of the Federal Government who are furloughed would prefer to be working and serving the public, as they do so well, we find ourselves once again engaged in what I call the Whitewater fixation.

Here are the priorities that are established not by this Senator, not by this side of the aisle, but by our colleagues who might be well meaning on the other side of the aisle. I think it bears listening to for a few moments, Mr. President, to see that in this year we have had some 34 hearings relating to Whitewater. That would be the red bar going up the chart. Thirty-four hearings in 34 days of the U.S. Senate that have been designated for Whitewater—the Whitewater fixation.

How many days have been set aside for Medicaid funding? Mr. President, six hearings, Mr. President—six compared to 34 for the Whitewater fixation.

How many hearings have we held in the U.S. Senate in the calendar year 1995, in this session of Congress, that relate to education funding, Mr. President? Four hearings—four hearings compared to 34 hearings of Whitewater.

And how many hearings, Mr. President, have we had on the Medicare plan, as proposed by the majority party? How many days of hearings have we heard about Medicare? One day, one hearing. There it is, the small green bar on the bottom of the chart.

That tells the story, Mr. President, I think of priorities for 1995 and this session of Congress, where the priorities lie with the leadership of this Congress and what we really are faced with in determining what to do about this very critical vote this evening on what I call the Whitewater fixation.

Mr. President, that is not the end of the story about the so-called Whitewater fixation and the Whitewater priority, because I think that sometimes we fail to recognize, as we go through 1 week, 1 month, one Congress at a time, continually appropriating money to chase the Whitewater fixation and to further study the Whitewater matter. I think from time to time it might be good to recapitulate how much it is actually costing the American taxpayers to engage the U.S. Senate, the resources of the special counsel, the resources of our Senate committees, in dealing with the Whitewater concern.

For example, the first special counsel that was named to look into the Whitewater matter, who, I might add, was a Republican and in very, very good standing, Mr. Fiske. Mr. Fiske, as special counsel, spent $5.9 million—$5.9 million, Mr. President, in his investigation of the Whitewater matter. Mr. Fiske, evidently, did not find enough. He did not find a smoking gun. He did not nail any scalps to the wall, so Mr. Fiske was relieved of his responsibility. He was relieved. He was fired.

Then came on to the scene Mr. Kenneth Starr, who has spent, from August 5, 1994 to March 31 of 1995, $8.7 million in the investigation of this illusory situation known as Whitewater. Mr. Starr could not finish his work, Mr. President. He had to come before the Congress and he had to have more money as a special counsel. So he comes back to the Congress this April. From April to November of 1995, independent counsel Kenneth Starr spent another $8 million.

So we are adding up the figures. No, we could not quite spend enough money to satisfy Mr. Starr. In two appropriations, we could not spend enough to satisfy Mr. Fiske. He got no indictments of any consequence. He did not nail any scalps to the wall.

So what happens next? We hire, by the RTC, the Pillsbury law firm, basically a firm with very strong Republican connections. I might add, a very splendid law firm, according to all reports. The U.S. taxpayer writes a check for $3.6 million to the Pillsbury law firm in California, to come forward with a report that basically says this: The Clintons are clean, the RTC should not pursue any criminal action whatever against the Clintons, nor this administration.

Mr. President, that is still not enough: $3.6 million, $5.9 million, $8.7 million, $8 million. So now we have to go back and see what our own committee spent: in 1994, $400,000; in 1995, $950,000—a total, Mr. President, of $27.6 million that we have spent that we can account in this illusory situation, this illusory item known as Whitewater.

This is the Whitewater fixation. This is the Whitewater fixation, Mr. President, that I think really is the Whitewater witch hunt. It is the witch hunt of the 1990's. It has become a waste of the taxpayers' dollars.

What we are doing today is simply, in my opinion, showing where the priorities of this session of Congress are: with 34 hearings dedicated to Whitewater, 6 hearings dedicated to Medicaid, four hearings dedicated to education, and 1 hearing dedicated to Medicare. That is the priorities of this particular Congress thus far, in 1995.

We have had brilliant arguments this afternoon and, I think, some brilliant arguments in the Banking Committee, perhaps, on each side of the aisle, relative to the question of the privilege created between attorney and client. I am not going to argue this. I am not a constitutional lawyer. I am not one who specialized in this particular area of the law. But I would just say this. I think it is very, very necessary for the American public at this time to have the knowledge that this administration in no way is trying to keep the U.S. Senate, the Banking Committee charged with this particular concern, keeping the notes of November 5, taken by Bill Kennedy, away from this committee.

The White House has repeatedly said: We want you to have these notes. We think you should have these notes. We will give you these notes, taken by Mr. Kennedy and/or Mr. Lindsey. I forget which. But, what we want to make sure is that we are not waiving the very important, crucial matter of the attorney-client privilege.

If we can, basically, in a political arena, invade or take away this privilege in any form, shape or fashion, if we erode that particular privilege, if we come before the U.S. Senate and say that privilege does not exist, then what is the next step? Are we going to come to the U.S. Senate and say we do not think we need to have a doctor-patient privilege? We want to do something about eroding that? So we start pecking away at that.

I do not think that should be the business of the Senate at this particular time, to start eroding and emasculating the particular right that we revere in the common law and have for so many years, and that is the right of privilege created between lawyer and client.

The White House wants to know how far this action extends. Should they make these notes available, they are seeking clarification. That is basically what this is about and I am very, very concerned that some people are making a very, very overrated political issue about the Whitewater matter.

The Senate has spent a total of $1.35 million in 1994 and 1995 on the Whitewater matter. I would like to ask this question. What is the charge? What is the accusation against the White House? What is the accusation against any of the people who have been brought before the committee in the last 12 months, before the Senate committee? What are they being charged with?

I would like to also know if anyone is taking cognizance of the fact that, even though some may be enjoying this event and may be making a little political hay out of it from time to time, I wonder if anyone has taken cognizance of how much the legal fees and the expenses of these witnesses are, some of whom certainly cannot afford the very, very high cost of counsel.

The $27 million that the taxpayers have spent on the Whitewater investigation is almost three times what it would have been to have closed down Madison Savings & Loan institution in Little Rock, AR. The White House has provided, I think, according to the information that we have, over 15,000 pages of documents to the Senate committee. The President's personal attorney has produced more than 28,000 documents for the Senate committee. The Senate committee has deposed some 152 individuals. The Senate committee has heard testimony from 78 people during the hearing, in the hearing examination process.

All of this activity has been done with the total cooperation of the White House. And still there is no smoking gun. The so-called smoking gun that some say would be found in the notes taken by Mr. KENNEDY and/or Mr. Lindsey, those particular notes, in my opinion, even though I have not been privy to seeing them, probably, in all likelihood, contain no more of a smoking gun than has been found in the past several months during this investigation and during the tenure of two special counsels, Mr. Fiske and now Mr. Starr.

I think we are going to have to face, Mr. President—I do not know when this comes up, perhaps in February—we are going to be faced with a decision. OK, we spent some $27 million on this, and I am not sure that includes the cost of all of the army of FBI, of the RTC, of the FDIC, all of the Federal employees, all of the Federal negotiators, all of the resources of the Federal Government, all the copying, the printing, the committee reports and all this—I am not certain that this cost even covers that particular amount. But we are going to be faced in the Senate, in February, I believe, if I am correct, with another question. Are we going to appropriate another $5, $6, $8 million for the committee to continue down this same path of dragging these people before the committee, of interrogating them, of asking them to pay for their own lawyers' fees and basically bringing them in and putting them in the lockbox, so to speak, as they wait their turn to testify before the committee? Is this the best that we can do in all of these months and all of these years of investigating this thing called Whitewater? During this period of the Whitewater witch-hunt? During this period of Whitewater fixation?

I think we are better than that. I think this Senate is better than that.

Mr. D'AMATO. Mr. President, could I ask just for a moment, so we might be able to hotline a resolution of this matter and I will yield the floor right back to my colleague?

Mr. PRYOR. I will be glad to yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. D'AMATO. Mr. President, I ask unanimous consent, after having consulted with my friend and colleague, Senator SARBANES, that the time between now and 7:15 be equally divided, excluding the Senator's time. After the Senator concludes his remarks, the time after the Senator concludes his remarks be equally divided in the usual form for debate on Senator SARBANES' substitute amendment; that no other amendments or motions to recommit be in order, that it be in order for the amendment to amend both the preamble and resolving clause, and that at 7:15 the Senate vote on the Sarbanes amendment and upon the disposition of the amendment the Senate vote on passage of Senate Resolution 199, as amended, if amended, and that the preceding all occur without any intervening action or debate.

AMENDMENTS—NOS. 3101, 3102, AND 3103—EN BLOC

Mr. D'AMATO. Mr. President, also, I will send three amendments to the desk which have been cleared by the other side, my friend in the minority. I ask they be considered en bloc, agreed to en bloc, and I will move to reconsider.

Mr. SARBANES. Are these the amendments directed toward a possible deficiency in the issuing of the subpoenas?

Mr. D'AMATO. That is correct. They are the technical amendments that deal with the issuance of the subpoena.

The PRESIDING OFFICER. Is there objection to the request as regards the amendments? If not, it is so ordered.

The amendments—Nos. 3101, 3102 and 3103—were considered and agreed to en bloc, as follows:

AMENDMENT NO. 3101

(Purpose: To amend the resolution to reflect the serving of the second subpoena)

The first section of the resolution is amended by striking "subpoena and order" and inserting "subpoenas and orders".

AMENDMENT NO. 3102

(Purpose: To amend the resolution to reflect the serving of the second subpoena)

After the sixth Whereas clause in the preamble insert the following:

"Whereas on December 15, 1995, the Special Committee authorized the issuance of a second subpoena duces tecum to William H. Kennedy, III, directing him to produce the identical documents to the Special Committee by 12:00 p.m. on December 18, 1995;

"Whereas on December 18, 1995, counsel for Mr. Kennedy notified the Special Committee that, based upon the instructions of the White House Counsel's Office and personal counsel for President and Mrs. Clinton, Mr. Kennedy would not comply with the second subpoena;

"Whereas, on December 18, 1995, the chairman of the Special Committee announced that he was overruling the legal objections to the second subpoena for the same reasons as for the first subpoena, and ordered and directed that Mr. Kennedy comply with the second subpoena by 3:00 p.m. on December 18, 1995;

"Whereas Mr. Kennedy has refused to comply with the Special Committee's second subpoena as ordered and directed by the chairman".

AMENDMENT NO. 3103

(Purpose: To amend the resolution to reflect the serving of the second subpoena)

Amend the title so as to read: "Resolution directing the Senate Legal Counsel to bring a civil action to enforce subpoenas and orders of the Special Committee to Investigate Whitewater Development Corporation and Related Matters to William H. Kennedy, III."

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there any objection to the request for a vote on the Sarbanes amendment at 7:15 and a vote on the resolution after the 7:15 vote?

Mr. SARBANES. The consent request was broader than that. I do not think there is any objection to the unanimous-consent request which was read by the chairman.

The PRESIDING OFFICER. Is their objection to the request of the Senator from New York?

If not, it is so ordered.

Mr. D'AMATO. I thank my friend and colleague for extending us this time.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I thank the Chair.

Mr. President, I am going to conclude once again by saying that personally I think holding 34 hearings on Whitewater this year is enough. I think spending $27.6 million is enough. I think that expending these amounts of resources that we have expended, for the FBI and all of the other investigation teams, whatever, looking into Whitewater that have been utilized by the Federal Government I think frankly is more than enough.

I hope—and I urge my colleagues on each side of the aisle—if there is something wrong that someone has done, let us name the cause, let us bring them to justice, and let us do what is necessary. But, Mr. President, to keep this issue out, to keep it dangling as it is today, to keep it as an issue that I fear is becoming politicized to a very great extent, and to not recognize the simple unfairness that we have created in not bringing charges when we might or might not have charges to bring but to just to keep that issue out there over and over and over and day after day, month after month, millions after millions of dollars, I think is unfair. I think this institution is better than that.

I hope that we will reach down and find in our souls somewhere a way to finally conclude the Whitewater witch hunt and our fixation on the Whitewater matter.

Mr. President, I thank the Chair. I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the time from now until 7:15 is equally divided.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the three amendments just adopted en bloc be in order at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. SARBANES. Have the three amendments been agreed to?

The PRESIDING OFFICER. Yes.

AMENDMENT NO. 3104

(Purpose: To direct the Special Committee to exhaust all available avenues of negotiation, cooperation, or other joint activity in order to obtain the notes of former White House Associate Counsel William H. Kennedy, III.)

Mr. SARBANES. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland (Mr. SARBANES) proposes an amendment numbered 3104.

Mr. SARBANES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the resolving clause and insert the following: "That the Special Committee should, in response to the offer of the White House, exhaust all available avenues of negotiation, cooperation, or other joint activity in order to obtain the notes of former White House Associate Counsel William H. Kennedy, III, taken at the meeting of November 5, 1993. The Special Committee shall make every possible effort to work cooperatively with the White House and other parties to secure the commitment of the Independent Counsel and the House of Representatives not to argue in any forum that the production of the Kennedy notes to the Special Committee constitutes a waiver of attorney-client privilege.".

The preamble is amended to read as follows:

"Whereas the White House has offered to provide the Special Committee to Investigate Whitewater Development Corporation and Related Matters ('the Special Committee') the notes taken by former Associate White House Counsel William H. Kennedy, III, while attending a November 5, 1993 meeting at the law offices of Williams and Connolly, provided there is not a waiver of the attorney-client privilege;

"Whereas the White House has made a well-founded assertion, supported by respected legal authorities, that the November 5, 1993 meeting is protected by the attorney-client privilege;

"Whereas the attorney-client privilege is a fundamental tenet of our legal system which the Congress has historically respected;

"Whereas whenever the Congress and the President fail to resolve a dispute between them and instead submit their disagreement to the courts for resolution, an enormous power is vested in the judicial branch to write rules that will govern the relationship between the elected branches;

"Whereas an adverse precedent could be established for the Congress that would make it more difficult for all congressional committees to conduct important oversight and other investigatory functions;

"Whereas when a dispute occurs between the Congress and the President, it is the obligation of each to make a principled effort to acknowledge, and if possible to meet, the legitimate needs of the other branch;

"Whereas the White House has made such an effort through forthcoming offers to the Special Committee to resolve this dispute; and

"Whereas the Special Committee will obtain the requested notes much more promptly through a negotiated resolution of this dispute than a court suit:".

Mr. SARBANES. Mr. President, I note that the preamble is also amended. But under the unanimous consent request, it is in order to amend both the preamble and the resolve clause. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. SARBANES. And no other amendments or motions to recommit are in order.

The PRESIDING OFFICER. That is correct.

Mr. SARBANES. The vote will occur at 7:15 and the time between now and then to be equally divided.

The PRESIDING OFFICER. That is correct.

Mr. SARBANES. How much time is then available to each side?

The PRESIDING OFFICER. Approximately 27 minutes to each side.

Mr. SARBANES. I thank the Chair.

Mr. President, I yield myself 8 minutes and ask that the Chair notify me upon the expiration of the 8 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland.

Mr. SARBANES. I thank the Chair.

Mr. President, this amendment, very simply put, takes the position that rather than going to court at this point, the special committee should exhaust all available avenues of negotiation and cooperation, or other joint activity, in order to obtain the notes and to work cooperatively with the White House and other parties to secure the commitment of the independent counsel and the House of Representatives not to argue that the furnishing of the notes, the production of the notes, constitutes the waiver of attorney-client privilege.

We have been lead to understand that the independent counsel is amenable to such an arrangement in his discussions with the White House, although that has not been confirmed with us. But that is my understanding. This committee has agreed to this proposition.

As the chairman indicated, two of the conditions the White House put forward when it offered the notes is that we will make the notes available, but we want to guard against the total waiver of the attorney-client privileges. One of those conditions was that the committee would not take the position in any forum that the production of the notes constituted a general waiver of the attorney-client privilege. In effect, that was recognized by the committee as a reasonable proposition and agreed to.

The question now is, if the House committees would agree to the same proposition, the notes are forthcoming, if you eliminate then the risk of the waiver of the attorney-client privilege? I have heard discussion on the floor today—I did not challenge it on every occasion—that there is no reasonable claim here to a lawyer-client privilege. That is not what the experts tell us. Professor Hazard, who is one of the leading men in the country on this, has been rather clear in thinking there is an attorney-client privilege.

In addition, once you waive it, you then have the risk of waiving your confidential relationship with your lawyer with respect to all meetings—not just with respect to this meeting. In any event, I think it serves our purposes to try to work this matter out.

As I understand it, the discussions took place in the House today with the chairmen of the relevant House committees, and it seems to me that those discussions ought to continue and that we ought to get a posture hopefully on the part of the House committees comparable to the position this committee has taken and comparable to what the independent counsel has taken.

It behooves us to try to avoid a confrontation, and it serves the Senate's purposes not to go to court if the matter can be resolved in a way that has been suggested. What is before us is a process whereby we can obtain the notes and yet not have any trespass or intrusion into the attorney-client privilege.

This is a very important issue. One of my colleagues said earlier there is no case about the Congress dealing with the attorney-client privilege. The Congress has not trespassed the attorney-client privilege. One of my colleagues cited a quote of the President who said he would provide any information available. That was a year and a half ago, I guess. My reaction to that is obviously when he said it, he never envisioned that we would face the prospect of an unreasonable intrusion into the attorney-client privilege. I never thought that would happen, and when confronted with it here, the question is, how can we work through it? We can get these notes, not waive the attorney-client privilege, and proceed with our inquiry. Of course, that would make the notes available immediately. That is the path that I think the Senate should follow.

So I think it would serve the Senate well to make a further effort at working with the White House and the other parties to get the kind of understanding from all of the relevant investigatory bodies—and we are now talking about the House committees—in view of the decision of the independent counsel; that furnishing of the notes is not a general waiver of the privilege. We recognize that is reasonable. The independent counsel apparently recognizes that it is reasonable. If we can just close the loop with respect to the House committees, this matter can be settled. The notes will be furnished.

There is a letter from the White House counsel saying, "We have succeeded in reaching an understanding with the independent counsel that he will not argue that turning over the Kennedy notes waive the attorney-client privilege claim by the President."

With this agreement in hand, the only thing standing in the way of giving these notes to your committee is the unwillingness of Republican House chairmen similarly to agree.

I understand they entered into discussion this afternoon with the House chairmen in respect to this very issue. Of course, the House chairmen, as I see it, have nothing to lose by the agreement. The notes become available. The agreement does not preclude them from any action that is currently available to them. It would not eliminate any course of conduct that they wished to follow that is currently available to them.

The White House has indicated that as soon as they secured such an agreement from the House, they would provide the notes to the committee. So it seems to me that we ought not to provoke a constitutional confrontation. We ought not go to the courts in order to resolve this issue. I suggest to my colleagues, although many have asserted that there is a weak attorney-client privilege, I think just the contrary. In any event, the court may well decide that there is a strong attorney-client privilege which, of course, would have an impact on the investigatory authority of the Congress. It would be a prudent course of action to resolve the matter without going to the courts. There is every indication that that may well be possible.

That is the situation in which we now find ourselves. This committee has recognized it as reasonable. The independent counsel has recognized it as reasonable. And if we can get the House committees to follow the same path, the notes can be furnished, there is no trespass on attorney-client, the committee can continue its work and continue to do it now. If we go to court, we have a long time ahead of us.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. D'AMATO. Mr. President, first, let me say that I am forced to oppose the amendment for a number of reasons. I certainly do not question the sincerity of my colleague, Senator SARBANES, in an attempt to bring about a successful mediation, successful in that it would result in the notes being turned over. I absolutely had no doubt from the beginning he has pursued this and worked to achieve this end. I am forced to oppose this, though, because there are a number of problems that I could see taking place.

No. 1. I believe that this amendment could result, if passed—if adopted, this approach could result in prolonging what has really been a very long, now unnecessary, delay. This issue of these records and other records really goes back to August 25 and reaches a high point, begins to reach a high point in November, starting November 2 and culminates in December when we actually issue subpoenas.

One actually has to understand that we did, in fairness again to the committee, issue these subpoenas on a bipartisan basis. We attempted to avoid it, attempted to mediate this before we finally came to the conclusion that we had to issue the subpoenas. And it was only then, when the White House raised the issue of privilege, the attorney-client privilege, that we kind of parted ways.

When I say we parted ways, there was a recognition by the majority that this privilege, on our part we felt, did not apply, and there was a concern on the part of the minority that the White House was within its realm. But, notwithstanding the differences of opinion, I must say that my colleagues on the Democratic side urged an attempt to work this out. The fact is, though, we have been working toward this, I think, for several weeks very intensively. When I say "we," I am talking about counsel—majority counsel, minority counsel—working to attempt to resolve this. We had offered basically to say we will not intrude into Mr. Kendall, we will not ask or seek a waiver. We say that this sets no precedent, so therefore you will not be bound in other areas. We will agree to those things. And that is basically now the position that the White House counsel finally came around to. But understand, it only came around to that after we indicated we would go forward and push this issue on the subpoenas. Very, very grudgingly did they come to this position, and they came to this position very late in the game. Notwithstanding that, we indicated that we would accept.

Now, the problem we have is when we get into this language and we say that this committee will exhaust all available avenues of negotiation, cooperation, or other joint activity with the White House, the committee would have to attend more meetings, have endless negotiations—it could possibly take us, we do not know how long—ignores what we have done, good faith work and negotiation starting in August and culminating finally when we have said basically enough is enough. If we cannot resolve the matter—reasonable people disagree; you contend it is privileged material; we do not believe that to be the case—we are going forward. And that is how we come here. If we were to adopt the amendment that is now being considered, we would put off the time when the committee could enforce the subpoena for Lord knows how long.

I believe that my colleague really wants good faith negotiations and wants those notes. I do not know when the House may or may not agree to this. We have been told that the independent counsel has agreed. I have no doubt that, if that is the representation that has come from the White House, that is the case. But this amendment could literally require the committee to negotiate on behalf of the House, and this would be unprecedented and would require the committee to delay even more.

Now, let me go to the merits of this. This amendment, if we read lines 1 through 19, says, "Where the White House has made a well-founded assertion, supported by respected legal authorities, that the November 5, 1993, meeting is protected by the attorney-client privilege."

Let me say, No. 1, no President has ever raised the attorney-client privilege. He just has not done it. It is unprecedented. No. 2, we would have to be conceding that this is well-founded. And notwithstanding that there may be a legal scholar or some who would give testimony to this who might believe this to be the case, I have to tell you that I do not believe that this is a well-founded assertion, as Senator THOMPSON, I believe, so scholarly and so powerfully argued; that the attorney-client privilege certainly did not apply to this meeting even given the limited circumstances that we understand as to how this meeting came about, even conceding—and I think if we were to go further, we would find out there would be ample testimony and proof that there is no way that that privilege should attach to this meeting.

Notwithstanding, we offered to say there would be no deem, no waiver, of any attorney-client privilege. We did that. That was not the White House that came forth. They rejected that. It was only when we said we were going to issue a subpoena that they then said, well, here we are coming forth. Again, I think we have to discern the legitimate attempts at compromising, which absolutely comes from my colleagues on the Democratic side on the Banking Committee but was not supported by the actions and activities of the White House. That we have to distinguish.

I am very much concerned that we would be prevented from pursuing other avenues of investigation in regard to White House contacts with the President's personal lawyers and we would not be able to see if there were other Whitewater joint defense meetings, and that is a very critical point.

Now, Mr. President, let me go to something that I do not take lightly, but I have mentioned it and I will mention it again. There are political overtones. Make no mistake about it, there absolutely are.

But you see, Mr. President, when the President of the United States says, as he has on a number of occasions, on March 8, in a press conference in connection with the appointment of Mr. Cutler, during that press conference the President was asked about the possibility of asserting privilege, and he gave the following response. He said, "It is hard for me to imagine a circumstance in which that would be an appropriate thing for me to do."

I believe Senator THOMPSON answered quite compellingly, and argued that, what does he do, he goes and raises a privilege that has never been raised because he did not want to be in an embarrassing position when he said "executive privilege," when he spoke quite clearly on this on a number of occasions.

By the way, March 8, 1994, is a very important date. Let me tell you why. Because that was 4 months after this meeting. He knew about that meeting. Understand what he said. "It is hard for me to imagine circumstances in which that would be an appropriate thing for me to do." This was not an event that transpired after March 8. This took place 4 months before.

This is not the first time that the President made that assertion. Indeed, on April 5, 1994, I believe in North Carolina, again in response to a question, the President said, "I look for no procedural ways to get around this. And I tell you, you want to know, I'll give you the information. I have done nothing, and I will be open and above board. I have claimed no executive privilege." Indeed, he did not claim that, and obviously the interpretation is, "nor will he."

Remember, this was 5 months to the day after this meeting. So this is not a circumstance that occurs after something that will be extraordinary, not anticipated.

So, Mr. President, I have to say that we have gone that extra step. We have gone that extra mile. We have gone to the point that we may have even—and I believe we have, because if you look at the points that we have conceded in that letter, which I do not have here, a letter where the five points initially were submitted to us, that we have indicated that we are not going to say this is a waiver of privilege, although we do not believe there is a privilege, nor will we raise and look to examine Mr. Kendall.

I believe if you look at all the constitutional authorities where privilege has been waived by the actions of the parties, that is, by those who are nonlawyers or those who are nonparticipants or outside of the scope of the legal arguments, you waive that privilege. Where people who attended that meeting speak about that meeting, a waiver of that privilege is, notwithstanding that we agreed on points 2 and 3, that we suggested that the committee would limit its testimony and inquiry about this meeting to the White House officials who attended it, that we would not seek to examine Mr. Kendall.

I believe that constitutionally we have a right to actually examine Mr. Kendall, absolutely. If that meeting was not privileged, we have a right to examine him. But we said, "Look, we want the notes. We don't want to create a situation where you have this argument." That is why we came up with this offer. Understand, this is not the White House's offer. It was our offer. Now, they have accepted, and they attempted to put additional conditions.

Indeed, if my House colleagues go along with this, fine. We will go forward. But I would only suggest if the effort was made, and the effort has been made and has been made by both the minority and the majority on this committee for months now, and as it relates to these specific notes for 3 weeks, hard bargaining, working at it, giving suggestions, that that which we put forth in good faith could have been and should have been accepted. That is unfortunately the kind of situation that we have encountered as we attempt to gather the facts and the information.

So I put it to you that I would hope that we would get these notes, that we would get them without the necessity of having to go to court. I hope that the White House will make them available. If our brethren in the House agree, then that resolves it, then so be it. But I do not believe, in good conscience, I could recommend to my colleagues that we delay the implementation mechanism with the caveat that the door will be open.

It is open, even after we pass this, if we do pass this resolution, to go forward and seek enforcement of it. I made the commitment that I would move to withdraw that enforcement action upon the proffer of the notes of Mr. KENNEDY. I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Mr. President, how much time do we have on each side?

The PRESIDING OFFICER. The Senator's side has about 12 minutes, and there is 17½ for the other side.

Mr. BUMPERS. Mr. President, how much time does this side have remaining? Parliamentary inquiry, how much time is left on our side?

The PRESIDING OFFICER. There is approximately 17½ minutes.

Mr. SARBANES. I yield 3 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator form Arkansas.

Mr. BUMPERS. Thank you, Mr. President.

Mr. President, just as a country lawyer who tried a few criminal cases over a period of 20 years—I never had a case involving attorney-client privilege, so I do not profess to be an expert on it—I would say based on listening to some of the scholars on some of the talk shows and what I have read, and I have a couple bright youngsters on my staff that I have discussed it with, I would say it is probably a 50-50 proposition if it went to court. But I am not here really to debate that.

The thing that is mildly perplexing to me is, I was watching the news this afternoon, CNBC and CNN, and they kept saying the Senate Whitewater committee is seeking a subpoena to force the President to hand over the notes of young William Kennedy taken at this infamous meeting and in the President's attorney's office.

As I understand it, that is not really the issue here. The issue here is whether or not we will agree to allow the President to hand over the notes, which he has agreed to do and to the chairman and the members of his party's side of the committee agreed to. The committee agreed to it. I thought it was a fine resolution of the matter. But I also think that the President was entirely within his rights to say, "I will be happy to hand these notes over to you, but I do not want to waive the attorney-client privilege forever from now on on any other meeting."

Is that a fair statement? Let me ask the Senator from Maryland, is that a fair statement?

Mr. SARBANES. What the President said is, "I need the same assurance that the committee was going to give, because they saw it as being reasonable from other investigatory bodies, like the independent counsel and the House committees." The independent counsel has agreed to do it. If you could get it from the House committees, then the President could turn over the notes, he would not waive the attorney-client privilege, you would not have intruded into the privilege, and yet the notes would have been made available to the Senate committee.

It is a perfectly reasonable position.

Mr. BUMPERS. It, to me, is like the best of all worlds, I say to the Senator. I would have hoped that instead of getting into this all-day debate in the Senate, that the chairman and ranking member of the Senate committee, their counterparts in the House, the independent counsel—I do not know that there is any great sense of urgency about these notes—and the three of them, that group sit down and agree to this.

One additional minute.

Mr. SARBANES. I yield one additional minute.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. SARBANES. I yield an additional minute.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. So all I am saying, Mr. President, is it seems it is not a constitutional crisis. This does not reach the level of some of those infamous battles of the Watergate hearings or even Iran-contra. But it just seems to me that in the interest of comity, in the interest of taking advantage of an offer by the President to say here they are, take them, but you know, let us let the House and the independent counsel both say, as well as the Senate, that we are not waiving, that the White House is not waiving.

The President is personally not waiving the attorney-client privilege. I daresay there is not a Member of the U.S. Senate that would have made a more generous offer under the same conditions than the President of the United States has made in this case.

So I yield back such time as I have to the Senator from Maryland.

Mr. SARBANES. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland.

Mr. SARBANES. I say to the Senator from Arkansas that it has been suggested to us by the courts, which have said, "Each branch should take cognizance of an implicit constitutional mandate to seek optimal accommodation through a realistic evaluation of the needs of the conflicting branches in the particular facts situation."

In other words, if we can work out an accommodation, that is what we ought to do, not provoke a confrontation. And, Attorney General William French Smith noted, "The accommodation required is not simply an exchange of concessions, or a test of political strength, it is an obligation of each branch to make a principled effort to acknowledge and, if possible, to meet the legitimate needs of the other branch."

As I say, I think, in this instance, if we work at it, we can get the notes and not trespass on the attorney-client privilege. That ought to be the objective.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. I yield to the minority leader whatever time he may use.

Mr. DASCHLE. Mr. President, I thank the ranking member of the committee. I appreciate having the opportunity to express myself on this important matter. Today, Mr. President, is December 20. The holiday season is upon us, and the Senate is in session. A casual observer of the events of the past few weeks —the Government shutdowns, the rancorous budget negotiations—might expect to find the Senate debating such critical issues as how we provide for our children's future and our parents' retirement, or how we protect our precious natural resources while still balancing the Federal budget. One might expect.

Sadly, we are not debating such important subjects. No, we are here on the Senate floor debating an issue in which the American people have said repeatedly they have very little interest—Whitewater—or, more specifically, the Senate inquiry into Whitewater.

How did we end up here? How did the Senate come to find itself considering a resolution that pushes this body toward an inevitable and, in my view, wholly unnecessary confrontation with the White House?

The answer, Mr. President, is that the Senate finds itself here by design.

The majority in the Senate, faced with the prospect that the exhaustive investigation into the Whitewater matter will produce little in the way of substantive results, has crafted a legal and constitutional confrontation. This confrontation, the majority hopes, will finally accomplish what all the Whitewater Committee hearings, depositions, and subpoenas have failed to accomplish: political damage to the President. That is why the Senate is on the floor, on December 20, debating a Whitewater resolution.

Mr. President, other Members on both sides of the aisle have laid out the legal arguments surrounding this resolution. And make no mistake about it, there are some difficult legal questions at issue here. We all recognize and accept there are good-faith differences of opinion on those issues.

But let us be honest. If this debate were solely about the legal merits of the White House's assertion of the attorney-client privilege, and general waivers of that privilege, then I doubt we would even be having this debate at all.

That, Mr. President, is precisely what is so troubling about this whole matter. It is not a dispute about conflicting interpretations of law. It is not a dispute about the arcania of the attorney-client privilege, or attorney-work product privileges, or any legal privileges at all. This is about an old-fashioned, hardball political confrontation, pure and simple.

I am not an attorney, but let me briefly state my perspective. The attorney-client privilege is a basic, fundamental tenet of our legal system. The privilege reflects the long-held belief of the courts that confidential communications between attorneys and their clients should remain confidential. Every American has the right to talk frankly to his or her lawyer. Indeed, the courts, in creating this privilege, believed that the protection of the privilege would lead to a surer rendering of justice in our legal system. The President of the United States, like every other American, is entitled to the protection of the law.

So this resolution represents a dangerous encroachment on a basic protection in our legal system. It is also unnecessary.

The proponents of this resolution conveniently omit a very crucial fact, and that fact is that the White House has repeatedly offered to provide the notes in question—the notes taken by associate White House counsel William Kennedy, the notes that are the target of the special committee's subpoena.

Let me repeat that. The White House is willing to provide—it has been said many, many times—the documents that the committee seeks. There is no question about that. All the White House asks is that the special committee assist in efforts to secure the agreement of the independent counsel and the House that the White House has not waived its attorney-client privilege.

In fact, Mr. President, the White House apparently has already secured the concurrence of the independent counsel that no waiver will occur when the notes are provided to the Senate committee. So the only remaining issue is the position of the House of Representatives.

So let us, very briefly, review the facts. The attorney-client privilege is a fundamental tenet of our legal system.

President Clinton has legitimately asserted the privilege in this case.

The White House has offered to provide the notes to the committee, provided the attorney-client privilege is respected.

The Special Committee will receive the notes from the White House immediately if it will only agree to this limited, reasonable condition.

Those are the facts. That is all there is to it. It is not complicated.

The proponents of this resolution seem determined to seek conflict, when conciliation is within easy reach. Before we vote on this resolution, I think everyone should ask ourselves why that is. Why, when there is a solution at hand, should we pursue a deliberate strategy of conflict?

Every Member of the Senate knows that a President's private legal interests may, from time to time, legitimately affect the official operations of the office of the Presidency. In fact, I can imagine no group that might be more sensitive to how private and public interests can sometimes converge than the Members of the U.S. Senate.

Let there be no misimpression: The precedent set in this case may involve the President of the United States, but it will affect Members of the U.S. Senate. We will be bound—directly—by what we decide tonight.

The pending resolution is an unnecessary, headline-seeking ploy, designed for one reason and one reason only: to damage the President politically. I hope that my colleagues on the other side of the aisle will reconsider the course they have chosen.

I encourage my Republican colleagues to resist the temptation to score political points.

We have serious work to do. Let us stop wasting our time on a cynical political exercise and get on with that work. I hope that all Senators will vote for the SARBANES amendment.

I yield the floor.

Mr. D'AMATO. Mr. President, I yield 6 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Thank you, Mr. President. First, I want to compliment the distinguished Senator from New York, Senator D'AMATO, chairman of this committee, because I do believe that this has been a very delicate set of hearings. They have lasted a long time. They have involved an awful lot of discovery work, trying to get to the truth. I truly believe he has conducted this committee in a very, very proper and propitious manner.

We are here tonight in one of the rare episodes and events in this committee on Whitewater's history, where we have not been able to agree. On most matters of importance, under the leadership of Senator D'AMATO, with the excellent cooperation of the distinguished Senator from Maryland, Senator SARBANES, most serious confrontational matters have been resolved amicably and, if not directly in the manner sought by the majority party, at least to the satisfaction of the majority and the chairman and with the cooperation of the minority. But somehow or another we find ourselves tonight in a position that is different than any of the others.

I want to say as a practicing attorney I never had an opportunity to involve myself in the privilege that attorneys have with reference to their work product for their clients. I understand that it is a serious, serious thing but I also understand that this attorney-client privilege, to keep confidential conversations between lawyers and their clients, does not really exist just because the client says so or because an attorney claims it is so. It has to meet certain tests.

Let me talk a little bit about the tests and why I think the President should have given this subject matter over to the committee in August of this year. For those who say we can resolve it here tonight, and that the President wants to cooperate, let me tell you that this committee started trying to get this information in August of this year and we are almost at Christmas. In fact, I believe it started August 25. On Christmas day—it will be the months of September, October, November, December, that is 4 months. So it has not been with genuine accommodation that the President's lawyers have seen fit to help with this truth-requiring set of facts.

Let me say that 20-some years ago Chief Justice Burger noted that when privileges are called upon "it is not lightly created nor expansively construed for they"—that is the privileges—"are in the derogation of the search of truth."

In other words, if you are looking for truth, you have to construe this kind of privilege narrowly because it is in derogation of finding the truth. It keeps the truth hidden, because there is a real reason for hiding it. So it is to be construed narrowly.

Let me move on and tell you what I found from my reading from the staff work that lawyers have put into this. Let me read you my definition of the attorney-client privilege, and I believe this is rather well settled. When I read through these factors—think of the facts in this case. My good friend, Senator BUMPERS, says this is a 50-50 case. I believe this is a 90-10 case, maybe a 95-5 case.

First of all, these are the elements: First, where legal advice of any kind is sought from a professional legal advisor; second, acting as such; third, the communications relating to that purpose; fourth, made in confidence by the client; fifth, are at the client's insistence; sixth, permanently protected from disclosure by himself or the legal advisor; and seventh, unless waived.

Now, Mr. President, and fellow Senators, while I have not been an integral part of the Whitewater hearings, I am on the committee. At least I am of late, and I believe it is my responsibility before I vote tonight, to at least discuss briefly how those qualifications and qualities are not met in this case.

First of all, the meeting was held to discuss President Clinton's private financial legal matters—but not all of the attorneys present at the meeting were private Clinton attorneys. Instead, three of the lawyers from the White House Counsel's office, and Bruce Lindsey, who was White House policy advisor responsible for dealing with media inquiries into Whitewater, were present at the meeting with Clinton's private lawyer. Therefore, because they were public employees with no responsibility for the management of the President's pre-Whitewater affairs, their presence precludes the claim of personal attorney-client privilege by the President. Their mere presence waives it. It is no longer a privileged subject matter.

One of the stated purposes of that meeting was to discuss pending inquiries into Whitewater.

Mr. D'AMATO. How much time remains?

The PRESIDING OFFICER. The Senator has 5 minutes and 40 seconds.

Mr. D'AMATO. I yield 3 minutes and 40 seconds to the Senator from New Mexico.

Mr. DOMENICI. Let me proceed as quickly as I can because I want to give Senator D'AMATO as much time as he can to wrap this up.

The President's claim of attorney-client privilege, as I see it, rests on very shaky legal ground, and there are other reasons that it does not fit these qualities that I have just described, and I will have those printed in the RECORD.

I believe this committee has a responsibility to the people of the United States. It is not wonderful or marvelous or something we all think is good, that we have to have these hearings. But we have some responsibilities. When facts of the type that are before us here present themselves, we have a responsibility and the Senate confirmed that responsibility by the adoption of a resolution. It said "Go find out the truth," as I understand it. The chairman has been seeking the truth with reference to these various incidents and episodes. This one is a sad one because it centers around the office of a man who committed suicide, who had worked there, and I am not bringing up the suicide to rehash it. It is difficult. What happened there is not easy for us to go after, but it does mean that we should search for the truth.

Clearly, the President owes us some explanations here, of those who work for him. He owe us some explanations, some facts. It is high time we get these facts, because essentially, they were made in a setting that was not part of the attorney-client relationship as the common law in the United States defines it, and should be made available to the committee.

I have more observations. Mr. President, today we will hear a lot about the attorney-client privilege. As an attorney, I understand the need to keep confidential certain conversations between lawyers and their clients. I also understand the need for a President to consult with his private attorneys on matters which occurred in his private life prior to his coming to the White House.

However, in this case I believe that the President has gone too far, and in fact has purposefully sought to impede the special committee's search for the truth by hiding behind a tenuous claim that the attorney-client privilege protects the notes of a meeting between the President's private lawyers and his political advisors in the White House counsel's office.

Over 20 years ago, the Supreme Court examined another President's claim of privilege with respect to documents sought by congressional investigators. In rejecting President Nixon's claim of executive privilege, Chief Justice Burger noted that privileges, which prohibit the discovery of relevant evidence, "are not lightly created nor expansively construed, for they are in derogation of the search for truth."

By raising what is, at best, a tenuous claim of attorney-client privilege, it is clear that the President seeks at every opportunity to frustrate the Whitewater Committee's search for the truth. I hope that with this vote, my colleagues will agree that we should get on with the investigation and put an end to the White House's needless stall tactics. This investigation must begin before it can end, and this vote finally will put an end to the delay and allow the dispute over the attorney-client privilege to be decided in a court of law.

Everyone recognizes that the President has a legitimate right to assert the attorney-client privilege under the proper circumstances. However, the facts of this case clearly indicate that the President is not entitled to assert the privilege.

The elements of the attorney-client privilege are well-settled: Where legal advice of any kind is sought from a professional legal advisor acting as such; the communications relating to that purpose made in confidence by the client; are at the client's insistence permanently protected from disclosure by himself or the legal advisor unless the protection is waived.

The notes of the November 1993 meeting at the office of President Clinton's private attorneys are not protected by the privilege for at least three reasons:

First, the meeting was held to discuss President Clinton's private financial and legal matters, but not all of the attorneys present at the meeting were private Clinton attorneys. Instead, three lawyers from the White House Counsel's office and Bruce Lindsey, who was White House Policy Advisor responsible for dealing with media inquiries into Whitewater, were present at the meeting with Clinton's private lawyers.

Because they were public employees with no responsibility for the management of the President's pre-White House affairs, their presence precludes any claim of the personal attorney-client privilege by the President.

Second, one of the stated purposes of the November meeting was to discuss the pending press inquiries into Whitewater. At the time of the meeting, the media began to question the White House about allegations of improper handling of SBA loan funds by the President and Jim McDougal and about the pending RTC criminal referral on Madison Guaranty. Clinton's private attorneys convened with White House advisors to discuss how to respond to these media inquiries.

In order to gain the protection of the attorney-client privilege, confidential communications must relate to legal advice. The privilege governs performance of duties by the attorney as legal counselor, and if chooses to undertake other duties on behalf of his client that cannot be characterized as legal, then the communications related to those additional duties are not protected. In this case, his attorneys met to discuss media and political strategy. These activities clearly are not legal in nature, and thus the notes should not be protected.

Third, President Clinton waived the attorney-client privilege by allowing Bruce Lindsey, who was neither his private attorney nor a member of the White House Counsel's office, to attend the meeting. At the time of the meeting, Bruce Lindsey was White House Policy Advisor and a spokesman for the Administration. He advised the President on media and public relations matters, and was specifically tasked to handle Whitewater press inquiries.

The law implies a waiver of the attorney-client privilege whenever the holder of the privilege voluntarily allows to be disclosed any significant part of a confidential communication to one with whom the holder does not have a privileged relationship. Since Bruce Lindsey was neither a White House attorney nor a private attorney, he enjoyed no attorney-client privilege with the President. The fact that the President allowed him to attend the meeting waives the attorney-client privilege with respect to matters discussed at the meeting.

The President's claim of attorney-client privilege rests on very shaky legal ground. With that in mind, I think that if my colleagues examine the White House's behavior concerning these notes, coupled with that of Mr. Kennedy and his private attorney, they should conclude that the only reason that the White House has raised this issue is because the President seeks to delay for as long as possible the legitimate fact-finding responsibility of the committee. Up until this point, the committee's work largely has been bipartisan, but the White House's stonewalling has caused our work to become highly politicized. This is unfortunate.

The special committee has sought Mr. Kennedy's notes through reasonable means for quite some time, and only recently has the President chosen to assert the attorney-client privilege to frustrate our efforts to obtain them. I understand that the counsel for the special committee asked the White House for these notes several months ago, and that the request went unanswered until only recently, when the White House refused to make them available.

Because we were unable to obtain the notes from the White House, the committee then was forced to call Mr. Kennedy to testify about the meeting.

While before the committee, he asserted that he would refuse to produce the documents because his client, the President, had asserted certain privileges, including the attorney-client privilege.

Upon Mr. Kennedy's assertion of privilege, the chairman of the committee, Senator D'AMATO, agreed to allow the parties to submit legal briefs on the issue. After rejecting the arguments of counsel on attorney-client privilege and the work product doctrine, the committee voted to compel, Mr. Kennedy to produce the documents. It then served a subpoena on Mr. Kennedy's attorney, who had accompanied him to his appearance before the Committee when the issue of the attorney-client privilege arose.

Upon being served, Mr. Kennedy's attorney informed the committee that he "was not authorized" to receive the subpoena. This despite the fact that he sat with Mr. Kennedy during his testimony and previously had received correspondence from the committee on Mr. Kennedy's behalf. Because of this additional unnecessary delay, the committee was forced to reconvene and reissue the subpoena to Mr. Kennedy personally.

One they realized that the committee did not intend to abandon its request for Mr. Kennedy's notes, the White House tried another delay tactic: they sent up an "offer" to the committee to release the notes, subject to certain conditions. In fact, the White House offered five conditions before they would turn over the notes. Two of these conditions were agreed to previously by the Republican counsel for the special committee.

The other three were essentially nonoffers. The conditions were so vague and imprudent that the White House must have known that we would not agree to them. One condition required the committee to obtain from the independent counsel and other congressional investigatory bodies an agreement to abide by the terms of the White House's offer to the special committee. Imagine that: the White House asked the Senate Whitewater Committee to interfere with the independent counsel's investigation of this matter. Is this not precisely what the White House said we should not do when the independent counsel originally undertook his investigation? Clearly all of this was done just for the purpose of delay.

Throughout this entire matter, however, the White House has claimed to the press that the notes contain nothing to implicate the White House in any wrongdoing and that the special committee is engaged in a wild goose chase. Other White House aides have claimed to the media that they have nothing to hide and that Chairman D'AMATO and the Special Committee are undertaking a political fishing expedition.

They claim to have nothing to hide, yet they fight the committee at every turn. This policy of stonewalling while claiming that the investigation is politically motivated sounds an awful lot like the tactics employed by the President 20 years ago in response to another congressional investigation. In fact, here is what Charles Colson, one of President Nixon's advisors said about the way the Clinton White House is handling this investigation: "I can't believe my eyes and ear. These people are repeating our mistakes."

Not only are former advisors to President Nixon amazed by the way the White House has handled this investigation—the New York Times editorial page yesterday also questioned the President's tactics. In its editorial, the Times noted that the White House's invocation of the attorney-client and executive privilege was "a distortion of the doctrine's history to raise it to block a legitimate congressional inquiry into the Clinton's Arkansas financial dealings and the official conduct of senior administration aides." The Times goes on to acknowledge that absent a "decent resolution, the Senate has no choice but to go to court to enforce the Committee's subpoena."

Mr. President, I too, think that we have no choice at this point but to go to court. It is unfortunate that President Clinton and his advisors have chosen to delay and ridicule the committee's efforts in the press. The time has come to get on with the business of the Whitewater Committee, and to do so again in a less political manner. Allowing a court to decide this issue is the only way to achieve those goals.

Mr. SARBANES. I yield 3 minutes to the Senator from Nevada.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from Nevada.

Mr. BRYAN. I thank the distinguished Senator from Maryland.

Madam President and colleagues, I intend to offer a more lengthy statement, but I was tied up on other matters. I want to offer a dimension on the attorney-client privilege that I think is helpful for our colleagues to be aware.

The question of attorney-client privilege has arisen on a number of occasions recently and I just share an experience of how it was handled in a bipartisan, and I think a most responsible fashion.

My colleagues are much aware in the recently concluded Packwood matter there was the issue of a diary. Aside from that, during the course of our investigation, a number of times arose in which a question of attorney-client privilege was asserted. First let me say, on a bipartisan basis with every member of the Ethics Committee in concurrence, we agreed with respect to those assertions of privilege, that we ought to subject those to an independent outside nonpartisan review.

In that context, by coincidence, in light of the role that this was later to play, I engaged the services of Ken Starr, and he independently reviewed and the committee accepted his recommendations in each and every case. Not only were there questions of conversation but there were also questions of documents.

In a similar vein to the concern that the President of the United States has legitimately voiced today, Senator Packwood's counsel was understandably concerned that if any particular document was released, that that may be deemed a waiver with respect to other documents that were covered under the attorney-client privilege.

Let me say in that context, once again, the committee agreed in bipartisan fashion not to assert that the privilege has been waived with respect to any subsequent conversation or any subsequent document which might come to the attention of the Ethics Committee that would be arguably a predicate for arguing that a prior submission of a document constituted a waiver.

That is the bipartisan way of doing it. The President faces a Hobson's choice. In one instance he has come forward and indicated he wants to make the contents of those notes available—no ifs, ands or buts. The problem that he faces in doing so without getting the signoff by others who would have jurisdictional basis to proceed, is that the waiver doctrine might be asserted against him.

I think what my colleague, Senator SARBANES, has done by way of the amendment that he has offered here today provides a responsible way for us to achieve what we ought to be interested in: That is, the contents of the document. Yet we respect and recognize the attorney-client relationship.

Madam President, as a member of the Banking Committee I oppose this resolution, and I am very disappointed that the Republican members of the committee are taking this step. I believe it is premature and counterproductive and totally partisan.

The heart of this issue revolves around notes taken by Associate White House Counsel William Kennedy at a meeting held on November 5, 1993. Notes that have already been offered to the Banking Committee.

This meeting raises several legitimate and serious attorney-client privilege issues that must be resolved before the Senate charges ahead into these unchartered waters. We may be setting precedents here today that have far reaching implications.

For those truly interested in knowing the content of Mr. Kennedy's notes, and in a timely manner, this resolution will only retard any efforts to secure those notes which have already been offered to the committee. Only through good faith negotiations will we be able to accomplish the goal of securing the notes and protecting legitimate privilege issues at the same time.

The Supreme Court has stated that the Attorney-client privilege "is the oldest of the privileges for confidential communications known to the common law."

The purposes of the privilege are to encourage full and frank communication between attorneys and their clients and to protect not only the giving of professional advice to those who can act on it but also the giving of information to the lawyer to enable him to give sound and informed advice.

The privilege applies with equal force among a client's attorneys, whether or not the client is present during the conversation. It is well-settled that the attorney-client privilege extends to written material reflecting the substance of an attorney-client communication.

Every person at the November 5, 1993 meeting was an attorney who represented the Clintons in either their personal or their official capacities. As an attorney myself and a former attorney general, I strongly believe this meeting was fully covered by the attorney-client privilege.

I dare say any citizen of this country who was told he could not have a confidential communication with his attorney would be outraged.

This is a crucial point: This all could be avoided if the Senate would take the same position that Special Prosecutor Kenneth Starr took just yesterday when he agreed that the release of the document did not constitute a waiver of the President's privileges.

How foolish the Senate looks today—wasting our time and resources—when this could be so easily resolved.

Any independent observer must be drawn to the conclusion that the reason we are forcing this issue is an attempt to embarrass the President. Why else would we not take the same approach that the independent prosecutor has taken?

If the President were to turn over these documents without an agreement on the privileges, what would be the consequences?

Clearly what we have here is an attempt by the majority to put the President in a catch-22 situation. If he releases the document without first securing an agreement, he could be waiving his attorney-client privileges with his attorney David Kendall on all Whitewater related matters. If he exercises his legitimate privileges, he is accused of a coverup.

The courts will prove the President is taking the legally appropriate step in exercising his attorney-client privilege on this meeting. But we all know he will suffer from a public perception that he is hiding something. That is why the majority is forcing this issue today.

It is clear how this issue should be handled if scoring political points were not the main goal here.

The Senate's most recent experience with the attorney-client privilege claim arose during the Ethics Committee proceedings against Senator Bob Packwood.

Apart from the diary dispute, the Ethics Committee had an assertion by Senator Packwood that certain other documents were covered by the attorney-client or work-product privileges. To resolve that claim, as Chairman of the Ethics Committee, I asked Kenneth Starr to make recommendations to the committee and both parties agreed in advance to accept his recommendations.

With respect to the diaries, the committee agreed "to protect Senator Packwood's privacy concerns by allowing him to mask information dealing with attorney-client and physician-patient privileged matters, and information dealing with personal, private, and family matters.

Kenneth Starr reviewed Senator Packwood's assertions of attorney-client privilege. The committee abided by all of Mr. Starr's determinations and did not call upon the court to adjudicate any of the attorney-client privilege claims.

In addition, the Ethics Committee on other occasions agreed with Senator Packwood's attorney upfront that to provide documents did not waive the attorney-client privilege. Let me read from one of the documents we released. This is a conversation between Mr. Muse, one of the Senator's attorneys, and Victor Baird, chief counsel for the Ethics Committee.

> Mr. MUSE. Victor, what I don't want to do is get on a slippery slope with regard to waiver of any of the issues you and I have talked about, and with reference to your letter of January 31 on the other hand, there is a date that can be fixed based on the memorandum which attaches diary entries, and I'm prepared to give you that, and identify and show it to Mr. Sacks as a representative of Arnold and Porter, provided it is understood there is no waiver. It would simply reorient them to something they already know that they received, if that's acceptable to you.
>
> Mr. BAIRD. Right. And we understand that by your sharing the memo with them, and their being able to provide us with the dating information that we want if you will, that it is not going to waive the privilege so that we are entitled to look at the memo or anything like that.
>
> Mr. MUSE. All right.

This is clearly a better precedent for us to follow if we want to act in a bipartisan, professional manner. If all we are doing is scoring political points, we should proceed on the path we are heading toward today.

The administration has asked the committee to agree that turning over the notes does not waive attorney-client privilege. The independent prosecutor has already agreed and can now proceed with his investigation, getting the material we are seeking without a lengthy and costly court fight.

Why cannot this committee and this Senate accept Judge Starr's judgment and follow the same course. That is what the Ethics Committee did and in a bipartisan unanimous manner.

Which brings up another question. If there is a respected former judge who has been given an almost unlimited budget and staff of highly trained attorneys and investigators, doing a thorough investigation of this issue, what is the purpose of this Senate Whitewater investigation?

The Senate will spend millions on this. We do not have the capability or resources as does Judge Starr. It is taking countless hours of Senate time when we have a government shutdown, and important legislation like welfare reform, that is more properly our focus.

The administration has asked the Banking Committee to agree that to give us the Kennedy notes does not waive the attorney-client privilege. The independent prosecutor has already agreed and can now proceed with his investigation.

The Senate should do the same. Put this resolution aside today. And let the Senate operate in a more professional, noncombative, and bipartisan approach. This debate is an extraordinary waste of time.

Mr. D'AMATO. Madam President, I inquire how much time remains?

The PRESIDING OFFICER. The Senator has 3 minutes and 19 seconds.

Mr. D'AMATO. I have 3 minutes and 19 seconds?

Madam President, why are we here? December 20, getting close, maybe a day or two, during this holiday time? Great events, budget pressures, Government technically shut down in some areas? It has been suggested—politics, injure the President.

Madam President, if one were to examine the facts, the facts will put that contention to rest. It is unfair. That is unfair.

On August 25, 4 months ago, we requested this information. Let me tell you when we got what I considered to be the first really bona fide reply to our offer to say, "You do not waive the lawyer-client relationship." That was us. We did that, the committee. We did not have to. We said, "You do not have to waive it." We did not get a reply—and then here is the reply, and it was a conditioned acceptance with all kinds of conditions: No. 1, that we had to concede that the meeting was privileged. We do not. The White House could not even accept our proposal, the one that they are now attempting to get the House to accept, until 6 days ago.

So why are we here now? Because, without us pushing forward, we would not have even had a conditional acceptance of our proposal. We would not have even had it. Six days ago was the first time. When did they finally accept our proposal that they are now trying to push through? Two days ago. So, when someone says, "Why are you here December 20," it is because the White House has stonewalled us—stonewalled. The American people have a right to know. President Clinton made promises. He said, "I will not raise privilege, I will not hide behind that." And he has broken those promises.

The Senate has a right to know and we have a right to be dealt with in good faith. I do not lay this over to my colleagues on the other side. They have attempted to work together to get this information. But it is the White House.

Madam President, those notes simply are not privileged. The people who took those notes were Government employees. Mr. Lindsey was not working in the White House counsel's office. Yet, notwithstanding that, we are still willing to say, fine, we will not say that any privilege that you might have would be waived. Give us the notes.

I make an offer here, and I repeat it again. Mr. President, give us the notes. We will continue—even after we vote, I am willing to drop this matter, regardless of what the House does. We do not have to go and test this out. But keep your commitment to the people of this country. Keep your commitment. We should not be here. You, Mr. President, have created this problem that necessitates us going forth.

Mr. SARBANES. Is there time remaining?

The PRESIDING OFFICER. The Senator from Maryland has 1 minute, 45 seconds.

Mr. SARBANES. Madam President, the White House has tried very hard, I think, to provide information to the committee. This particular issue arose in November. The White House made several offers. The first was turned down. Then the White House said, look, we will give you the notes. We will provide these notes, but we want to be protected against the assertion that there has been a general waiver of the lawyer-client relationship—an eminently reasonable position.

This committee recognized it as being reasonable because we agreed that the providing of the notes would not constitute a general waiver. The independent counsel has agreed to that.

All that is left are the House committees, and I, for the life of me, cannot understand why they would not agree to it as well. So there is no need to press this matter to a constitutional confrontation between the Congress and the Executive. A procedure has been worked out. The committee, this committee, has recognized it. The independent counsel has recognized it. The House committees now need to recognize it, and then the notes can be produced.

The White House has said as much in a letter to Chairman D'AMATO today, that they would produce the notes immediately, once that was achieved.

It is my own view that we should be working to achieve it. I am frank to say I think we should be part of a constructive effort to bring that solution about, and that is what this amendment would commit us to do.

I urge its support.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment, No. 3041, offered by the Senator from Maryland.

The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM] and the Senator from Delaware [Mr. ROTH] are necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 45, nays 51, as follows:

[Rollcall Vote No. 609 Leg.]

YEAS—45

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

NAYS—51

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—3

Gramm
Inouye
Roth

So, the amendment (No. 3041) was rejected.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the resolution, S. Res. 199, as amended. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM] and the Senator from Delaware [Mr. ROTH] are necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 45, as follows:

[Rollcall Vote No. 610 Leg.]

YEAS—51

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—45

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

NOT VOTING—3

Gramm
Inouye
Roth

So the resolution (S. 199), as amended, was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

[The resolution was not available for printing. It will appear in a future issue of the RECORD.]

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SANTORUM. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. Madam President, I request that I be able to speak as in morning business——

Mr. DOLE. If the Senator will withhold, let me indicate that there will be no more votes this evening. We do hope we can get an agreement on House Joint Resolution 132.

UNANIMOUS CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 132

Mr. DOLE. Madam President, I ask unanimous consent that the majority leader, after consultation with the minority leader, may turn to the consideration of calendar No. 293, House Joint Resolution 132, regarding use of CBO assumptions and that it be considered under the following limitation:

One hour of time for debate, to be equally divided in the usual form, with one amendment in order relative to the original continuing resolution budget agreement language; that following the conclusion or yielding back of time, the Senate proceed to adopt the amendment and proceed to third reading and final passage of House Joint Resolution 132, all without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

LIVESTOCK CONCENTRATION REPORT ACT

Mr. DOLE. Madam President, I now ask unanimous consent that the Senate now proceed to the immediate consideration of calendar No. 261, S. 1340; further, that the Hatch amendment No. 3105, which is at the desk be considered agreed to, the committee amendment be agreed to, the bill be deemed read the third time, and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 3105) was agreed to, as follows:

Sec. 4 Duties of Commission: delete lines 9 and 10 (page 9) and add: (2) to request the Attorney General to report on the application of the antitrust laws and operation of other Federal laws applicable, with respect to concentration and vertical integration in the procurement and pricing of slaughter cattle and of slaughter hogs by meat packers;

Sec. 4(b) Solicitation of Information.

line 7 page 10 insert: "industry employees'.

So the committee amendment was agreed to.

So the bill (S. 1340), as amended, was deemed read the third time, and passed, as follows:

S. 1340

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Livestock Concentration Report Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) ANTITRUST LAWS.—The term "antitrust laws" has the meaning provided in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that the term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent the section applies to unfair methods of competition.

(2) COMMISSION.—The term "Commission" means the Commission on Concentration in the Livestock Industry established under section 3.

(3) STUDY OF CONCENTRATION IN THE RED MEAT PACKING INDUSTRY.—The term "study of concentration in the red meat packing industry" means the study of concentration in the red meat packing industry proposed by the Department of Agriculture in the Federal Register on January 9, 1992 (57 Fed. Reg. 875), and for which funds were appropriated by Public Law 102–142 (105 Stat. 878).

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) IN GENERAL.—A Commission on Concentration in the Livestock Industry shall be established that shall be composed of—

(1) the Secretary of Agriculture, who shall be the chairperson of the Commission; and

(2) 2 members who represent each of the following categories:

(A) Cattle producers.

(B) Hog producers.

(C) Lamb producers.

(D) Meat packers.

(E) Experts in antitrust laws.

(F) Economists.

(G) Corporate chief financial officers.

(H) Corporate procurement experts.

(b) APPOINTMENT.—The members of the Commission appointed under subsection (a)(2) shall be appointed as follows:

(1) The President shall appoint 4 members.

(2) The Majority Leader of the Senate shall appoint 4 members.

(3) The Minority Leader of the Senate shall appoint 2 members.

(4) The Speaker of the House of Representatives shall appoint 4 members.

(5) The Minority Leader of the House of Representatives shall appoint 2 members.

SEC. 4. DUTIES OF COMMISSION.

(a) IN GENERAL.—The Commission shall—

(1) determine whether the study of concentration in the red meat packing industry adequately—

(A) examined and identified procurement markets for slaughter cattle in the continental United States;

(B) analyzed the effects that slaughter cattle procurement practices, and concentration in the procurement of slaughter cattle, have on the purchasing and pricing of slaughter cattle by beef packers;

(C) examined the use of captive cattle supply arrangements by beef packers and the effects of the arrangements on slaughter cattle markets;

(D) examined the economics of vertical integration and of coordination arrangements in the hog slaughtering and processing industry;

(E) examined the pricing and procurement by hog slaughtering plants operating in the Eastern corn belt;

(F) reviewed the pertinent research literature on issues relating to the structure and operation of the meat packing industry; and

(G) represents, with respect to the matters described in subparagraphs (A) through (F), the current situation in the livestock industry compared to the situation of the industry reflected in the data on which the study is based;

(2) to request the Attorney General to report on the application of the antitrust laws and operation of other Federal laws applicable, with respect to concentration and vertical integration in the procurement and pricing of slaughter cattle and of slaughter hogs by meat packers;

(3) review laws and regulations relating to the operation of the meat packing industry regarding the concentration, vertical integration, and vertical coordination in the industry;

(4) review the farm-to-retail price spread for livestock during the period beginning on January 1, 1993, and ending on the date the report is submitted under section 5(a);

(5) review the adequacy of price data obtained by the Department of Agriculture under section 203 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622);

(6) make recommendations regarding the adequacy of price discovery in the livestock industry for animals held for market; and

(7) review the lamb industry study completed by the Department of Justice during 1993.

(b) SOLICITATION OF INFORMATION.—For purposes of complying with paragraphs (2), (3), and (4) of subsection (a), the Commission shall solicit information from all parts of the livestock industry, including livestock producers, livestock marketers, industry employees, meat packers, meat processors, and retailers.

SEC. 5. REPORT AND TERMINATION.

(a) REPORT.—Not later than 90 days after the study of concentration in the red meat packing industry is submitted to Congress, the Commission shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report summarizing the results of the duties carried out under section 4.

(b) TERMINATION.—Not later than 30 days after submission of the report, the Commission shall terminate.

The title was amended so as to read: "A bill to establish a Commission on Concentration in the Livestock Industry, and for other purposes."

Mr. PRESSLER. Madam President, I am pleased that an agreement has been reached to enable S. 1340 to pass the Senate. I have worked closely with Majority Leader DOLE and Minority Leader DASCHLE on this issue that is vitally important to livestock producers in South Dakota and the Nation.

This issue has been a troubling one for producers in South Dakota for more than a year now. Frankly, I still say that the U.S. Department of Agriculture can take immediate action today and not have to wait for this legislation to become law.

Yesterday, I called Secretary Glickman to discuss this with him. He told me he was watching Senate action on this issue and would appoint a Commission.

Madam President, now is the time to act. Twice before I have urged the Secretary to take this action. I ask unanimous consent that two letters on this subject be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. This past August, I chaired a field hearing of the Senate Commerce, Science, and Transportation Committee in my home state of South Dakota. It was the first time that a Commerce Committee hearing had been held in South Dakota and the turnout was tremendous.

Hundreds of people attended the hearing and witness after witness clearly demonstrated the importance of this issue and the need for action is needed because extremely low prices for fed cattle and calves deeply hurt South Dakota ranchers. Further, the impact of this will be felt beyond our ranches. It affects our rural communities, as well as larger towns and cities. With ranchers having fewer dollars to spend, small businesses in our small towns could be put in jeopardy.

What is of great concern to producers is the fact that while cattle prices are nearing, or at record lows, retail prices have not shown any significant drop.

This represents a combination punch to South Dakota ranchers —as producers, they are getting fewer dollars for their livestock; yet, as consumers, ranchers—armed with fewer dollars—are forced to pay more to put their own product on the dinner table.

To say this is a concern of my fellow South Dakotans is a gross understatement. Thousands of South Dakotans have written, called, or visited with me on this. They rightly are concerned about the impact of the current situation on their ability to run their farms and businesses and provide for their families.

I would like to commend the South Dakota Secretary of Agriculture, Dean Anderson, for being a national leader on this issue. Dean was responsible for bringing this matter before the National Association of State Departments of Agriculture who have called for an investigation that we are asking for in this bill. I am proud of Secretary Anderson's leadership on this matter.

In summary, I am pleased the Senate is taking action in support of South Dakota ranchers. However, this action could get delayed in the other body. Therefore, I ask once again that Secretary Glickman immediately appoint a Commission on this subject. Either way, I will not rest until this Government finally addresses this disturbing problem facing our livestock producers.

EXHIBIT NO. 1

U.S. SENATE,
Washington, DC, October 17, 1995.

Hon. DAN GLICKMAN,
Secretary, Department of Agriculture, Washington, DC.

DEAR MR. SECRETARY: I am writing you to ask you to appoint a commission to make recommendations on action needed to assure competitive markets in the livestock industry.

As you well know Mr. Secretary, for some time now there has been great concern among livestock producers about packer concentration in the marketing of livestock. In 1992, Congress appropriated $500,000 for the U.S. Department of Agriculture to issue a report on this very subject. That report is due shortly. However, that report only contains data through 1993. Since 1993, retail price spreads and the prices that producers have received for their livestock do not even compare with the 1992 or 1993 numbers.

The Congress continues to be concerned on this subject. In August, the Senate Commerce, Science and Transportation Committee held a field hearing in Huron, South Dakota, on this matter. The high attendance and strong concern by South Dakota ranchers was overwhelming and universal. Previously, I requested that you appoint an independent counsel to recommend an action plan to remedy problems livestock producers are experiencing due to captive supplies by livestock packers. Legislation is expected to be introduced shortly to establish a Presidential Commission on this matter.

Mr. Secretary, you have the authority to establish a commission immediately and begin to find solutions to this problem. You do not need to wait for legislation. An independent review would ensure a completely unbiased report for an appropriate action plan.

I urge your prompt attention to this request and look forward to working with you to resolve this problem.

Sincerely,

LARRY PRESSLER,
United States Senator.

U.S. SENATE,
Washington, DC, September 22, 1995.

Hon. DAN GLICKMAN,
Swecretary, Department of Agriculture, Washington, DC.

DEAR MR. SECRETARY: I ask that you appoint an independent counsel to recommend an action plan to remedy problems livestock producers are experiencing due to captive supplies by livestock packers. I also ask that the counsel's report be made simultaneously with USDA's report on captive supplies that is expected in December.

As you know, I recently held a U.S. Senate Commerce, Science and Transportation Committee field hearing on captive supplies, controlled markets and impacts on consumers and producers. There was a large turnout for this hearing. Collectively, the witnesses clearly articulated the need for federal action on this issue. With livestock prices near record lows, consumers are not seeing the price of meat go down at the grocery store as the market should dictate. Something must be done soon.

Several things were learned at the hearing. The hearing record will show widespread concern that something needs to be done to ensure fair and competitive pricing in the livestock industry. One troubling fact was discovered at the hearing. It was learned that the data in the captive supply report USDA is expected to release in December only covers the years 1992 and 1993. As you know, the current cattle prices are near record lows, while in 1992 cattle prices were near record highs.

I believe an independent counsel could review existing data, including the report you expect to release this December. As you know, federal officials have been studying this issue since 1992, while concentration in the packing industry has grown during this time. An independent counsel would be able to review studies and documents of USDA, Justice and the Federal Trade Commission and quickly review current market conditions. An independent review would ensure a completely unbiased report on an appropriate action plan. We do not need to wait for months after USDA issues its report to determine the best course of action. An independent counsel could take care of that and help resolve this issue. Now is the time to act. We don't need any more reports.

Mr. Secretary, many cattlemen in South Dakota may not make it this year unless the pricing problem is corrected. The current retail price spread cannot be explained or justified with ranchers receiving such low prices for their cattle. I share the cattlemens' concerns over possible market manipulation.

I urge your prompt attention to this request, and look forward to working with you to resolve this problem.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

Mr. BURNS. Thank you, Madam President. I rise today in support of S. 1340, a bill to provide for a commission to study the concentration of packers in the United States. I am very pleased to be a cosponsor of this legislation. It is my hope that the Senate will pass this bill without prolonged debate, so that the livestock producers of this country will have a few answers to the questions they have about the packers.

This bill will provide the hardworking men and women who work on the land raising livestock to have an insight into what is occurring in the market today. The producers in this country have, recently, seen extremely low prices for their livestock. This is related to several different trends in the market. Among these trends is the low number of packing houses left in the country. This concentration of packing houses places a burden on the producer to sell his or her livestock to a select location close to their operation. In my State of Montana, this is a very real burden, since we no longer have a packing house in our State.

Another of the concerns that the producers have center around the number of live cattle that the packers own at this time. The terms of contracts let on these cattle are not widely known and those that are known are extremely confusing to all involved. These contracts have placed many of the smaller producers in the peril. The small operation in the country that may run less than a hundred head of cattle feel the pinch the packers have put on them through the major operations in the Midwest.

The most easily measured and common aspect of the concentration of packing houses, relates to the consumer cost of meat. Recently I was in a local grocery store, and noticed the cost of a pound of hamburger and was astounded. My astonishment came from the fact that I had just returned from Montana, where I had witnessed the price being paid for live cattle at the sale ring. The difference in the price per pound for live cattle compared to the price we must pay for the final product is way beyond the lines of reason. And $20 cows do not draw the price of $5-a-pound steak. Where is the responsibility to the producers of the livestock in this country?

Madam President, it is my hope that this measure will pass today and that the President will quickly sign and nominate the members of the study commission. The time has come that we need to find out the discrepancies in the pricing system for our meat, today. Thank you and I yield the floor.

Mr. DOLE. I thank my colleague from Minnesota. There will be no more votes this evening.

Mr. GRAMS. Madam President, I request that I be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. GRAMS pertaining to the introduction of S. 1441 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RONALD REAGAN BUILDING AND INTERNATIONAL TRADE CENTER

Mr. DOLE. Madam President, this has been cleared on each side. I ask unanimous consent that the Committee on Environment and Public Works be immediately discharged from further consideration of H.R. 2481, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 2481) to designate the Federal Triangle Project under construction at 14th Street and Pennsylvania Avenue, Northwest, in the District of Columbia, as the Ronald Reagan Building and International Trade Center.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. I ask unanimous consent that the bill be deemed read a third time, passed, and the motion to reconsider be laid upon the table, and any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2481) was deemed read the third time and passed.

Mrs. BOXER. I would like to have about 20 minutes in morning business.

Mr. DOLE. Could we do wrap-up first?

Mrs. BOXER. Absolutely.

Mr. SANTORUM. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANTORUM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. SANTORUM. Madam President, I ask unanimous consent that there be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MISSILE SALES TO TURKEY

Mr. PRESSLER. Madam President, on Monday, December 18, my good friend from New York, Senator D'AMATO and I, sent a letter to Secretary of State Warren Christopher, urging the Clinton administration to reconsider its decision to sell 120 Army tactical missile systems [ATACMs] to the government of Turkey.

I was troubled to learn last night that the Clinton administration intends to proceed with the sale. This transfer is ill-advised, to say the least. I strongly urge the administration to reconsider its decision or at the very least, place clear, indisputable restrictions on deployment and use of these weapons.

This transfer does not make sense. Generally, it is disturbing because the Turkish government has used U.S. and NATO military equipment repeatedly in the past to advance policy and military objectives that are clearly not in our best interests.

As all of us are well aware, the Turkish government in 1974 used NATO military equipment when it invaded the island of Cyprus. More than two decades later, Cyprus remains divided, with one side subjected to an occupation force of 35,000 Turkish troops. I have held a great interest in resolving the Cyprus dispute. This is a matter of strong, bipartisan interest. The Clinton administration has stated that it intends to make a serious effort to reunite Cyprus. Frankly, I cannot see how the proposed missile sale helps our nation achieve this goal. I believe the opposite is true, and that is very unfortunate.

I also am concerned about American made military equipment being used to prolong the conflict between Armenia and Azerbaijan. It has been documented that Turkey has transferred U.S. and NATO military hardware to the Azeris, who have made use of this equipment against civilian populations in the besieged Nagorno-Karabagh region. It is my understanding that it is contrary to U.S. policy for a buyer of U.S.-made military equipment to transfer such equipment to a third party. What assurances do we have from Turkey that it intends to abide by this policy?

Finally, I am concerned that this missile sale could serve to prolong continued violence between the Turkish Army and the Kurds. For more than a decade the Turkish government has waged a brutal war against the Kurdish people. Human Rights Watch [HRW] estimated that the conflict has resulted in the death of 19,000 Kurds, including 2,000 civilians, and the destruction of 2,000 villages. More than 2 million Kurds have been forced from their homes.

HRW also reported that in 29 incidents from 1992 and 1995, the Turkish Army used U.S.-supplied fighter-bombers and helicopters to attack civilian villages and other targets. Further, U.S. and NATO-supplied small arms and armored personnel carriers have been used in a counter-insurgency campaign against thousands of Kurdish villages.

Clearly, these instances stretching over a period of more than two decades are contrary to our nation's interests as well as our own moral sensibility. In the face of this evidence, the President now wishes to supply the Turkish Army with 120 ATACMs. What exactly are ATACMs? Basically, the U.S. Army handbook describes the ATACM as a conventional surface-to-surface ballistic missile launched from a M270 launcher. Each missile has a warhead that carries a combined payload of 950 small cluster bomblets, which can spray shrapnel over a large area.

The practical use of an ATACM does not leave much to the imagination. This kind of missile can be used to disable numerous human and material targets at once and very quickly. Kurdish villages and organized teams of Kurdish dissidents easily could be targets for ballistic missile attack. This would be a terrible tragedy.

The administration has argued that these missiles are a necessary deterrent against two potential aggressors along Turkey's borders—Iran and Iraq. I believe these missiles are far from necessary. Consider the following: Turkey is an ally of the United States. It is a member of NATO. The Turkish military's Incrylik air base is a launching point for our enforcement of the no-fly zone over Northern Iraq. And Turkey will participate in the enforcement of the Dayton peace accord in Bosnia. I would think that the strategic importance of Turkey to the United States and Europe is enough to deter any foolish military action by either Iran or Iraq. If our nation can mobilize the world to expel Iraq from the tiny nation of Kuwait, imagine our response if Iraq or Iran even made a hostile gesture toward Turkey. Clearly, the Administration's "deterrent" argument to justify the missile sale is hollow at best.

Indeed, I can find no credible political, economic or strategic cause that is furthered by the sale of the ATACMs to Turkey.

Madam President, just last month, Congress took a strong stand against Turkish aggression in the region by voting to cap US economic support funds for Turkey. This is an important step. My friend from New York, Senator D'AMATO, and I are sponsors of legislation that would take even tougher action. It is my hope that we in Congress can all agree that there must be an added price for US economic and military assistance to our allies, particularly our NATO allies, and that price is morally responsible use of U.S. assistance. I do not see how the Administration's missile sale fits even that basic standard.

We have seen a number of different initiatives designed to bring peace to troubled regions, such as Bosnia-Herzegovina, Northern Ireland, Cyprus, and the Middle East. However, the Administration needs to demonstrate our nation's strong interest in bringing the violence in Kurdistan and Nagorno-Karabagh to an end. The sale of 120 ATACMs moves our nation in the wrong direction and could further fuel the war and destruction in both regions.

Though the Administration has announced it intends to pursue the sale, I make one last plea to urge it to reconsider its decision. If the Administration intends to complete the sale, I would urge at the very least that it impose a few basic conditions. In short, if these missiles are for national self-defense, the sale should be conditioned solely for that purpose. More to the point, the missiles should not be placed so as to pose a threat to the people of Greece and Cyprus. Further, the Turkish Government should promise that none of the missiles be transferred to Azerbaijan. And finally, the missiles should not be used to prolong the violence in Kurdistan. The Clinton Administration at the very least should insist on these conditions at the very least. The Clinton Administration also should make clear that failure to abide by these conditions could undermine future economic and military assistance.

Again I believe this sale to be bad policy. It is a mistake. However, if the Administration intends to pursue this sale, it should at the very least make clear that this nation insists on this equipment being strictly limited to self-defense. If we are going to be forced to swallow this very bitter bill, the Administration should try to make it less bitter.

I ask unanimous consent that the text of the letter to Secretary Christopher be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, December 18, 1995.

Hon. WARREN M. CHRISTOPHER,
Secretary of State,
Washington, DC.

DEAR MR. SECRETARY: We are writing to express our strong opposition to the Clinton Administration's proposed sale of 120 army tactical surface-to-surface missiles (ATACMS) to Turkey.

As you well know, for more than a decade the Turkish government has waged a brutal war against the Kurdish people. According to recent data from Human Rights Watch (HRW), the conflict has resulted in 19,000 military and civilian dead, 2,000 villages destroyed and more than 2 million being forced from their homes.

What concerns us deeply is the use of American-made military equipment to commit these atrocities and to prolong the war against the Kurdish people. Specifically, it has been reported that in 29 incidents from 1992 and 1995, the Turkish Army has used U.S.-supplied fighter-bombers and helicopters to attack and fire against civilian villages and targets. Further, U.S. and NATO-supplied small arms and armored personnel carriers have been used in a counter-insurgency campaign against thousands of Kurdish villages.

The Kurds are not the only ones to have been subjected to attack with U.S. or NATO equipment from Turkey. Indeed, the record of the last twenty years is disturbing. Most notably, the Turkish military used NATO military hardware when it invaded and occupied the now-divided island of Cyprus. Further, Turkey has transferred US and NATO weapons to Azerbaijan, where they have been used against civilian Armenians residing in Nagorno-Karabagh.

In the face of this history, the President now wishes to supply the Turkish Army with 120 ATACMS, each of which is capable of carrying a warhead payload of 950 small cluster bombs. With these weapons, the Turkish Army has the capability to launch a horrendous ballistic missile attack on the Kurdish people. The results would be equally disturbing if any of these missiles ended up in the hands of the Azeris, or were deployed within range of either Cyprus or Greece.

Mr. Secretary, the Clinton Administration has taken a great interest in achieving peace in troubled regions, such as Bosnia-Herzegovina, Northern Ireland, Cyprus, and the Middle East. However, the Administration needs to demonstrate our nation's strong interest in bringing the violence in Kurdistan and Nagorno-Karabagh to an end. By arming Turkey with 120 ATACMS, we would send the opposite message and further fuel destruction in both regions.

The time has come for the United States to take a stand for peace throughout the entire Middle East. For that reason, we urge the Clinton Administration to reconsider its proposed sale of tactical surface-to-surface missiles to Turkey.

Thank you for your attention to this important issue.

Sincerely,

LARRY PRESSLER.
ALFONSE M. D'AMATO.

THE BAD DEBT BOXSCORE

Mr. HELMS. Madam President, almost 4 years ago I commenced these daily reports to the Senate to make a matter of record the exact Federal debt as of close of business the previous day.

In that report—February 27, 1992—the Federal debt stood at $3,825,891,293,066.80, as of close of business the previous day. The point is, the Federal debt has increased by $1,163,199,095,296.10 since February 26, 1992.

As of the close of business Tuesday, December 19, the Federal debt stood at exactly $4,989,090,388,362.90. On a per capita basis, every man, woman, and child in America owes $18,938.67 as his or her share of the Federal debt.

THE RETIREMENT OF COL. FRANK K. HURD, JR.

Mr. THURMOND. Madam President, I rise today to recognize the retirement of Col. Frank K. Hurd, Jr., from the U.S. Army. Colonel Hurd has served his country for over 26 years. He was an outstanding soldier and a dedicated Chief of the Army Liaison Office to the U.S. Senate, a position he has held for the past 3 years.

Colonel Hurd was commissioned as a second lieutenant of Armor through the Army Reserve Officer Training Corps upon graduation from Mercer University in his home State of Georgia. During his distinguished career, he served in a number of leadership assignments that took him to Korea; Bad Kissingen, Germany, where he commanded cavalry troops; Athens, Georgia, where he was an assistant professor of military science; and to Bamberg, Germany, where he commanded the 2d Squadron, 2d Armored Cavalry Regiment.

Colonel Hurd has succeeded admirably in his role of representing the Army's interests on Capitol Hill and acting as a liaison between the Department of the Army and the Senate. He has always been prompt, responsive, and sensitive to the needs of members and staff for up-to-date, complete, and accurate information.

As Chairman of the Senate Armed Services Committee, I am pleased to offer him my congratulations on a distinguished career, and I wish him and his family good health and happiness in the years ahead.

THE YORKTOWN AND MONROE COUNTY HIGH SCHOOLS CULTURAL EXCHANGE PROGRAM: UNDERSTANDING AND APPRECIATING CULTURAL DIVERSITY BY BRIDGING THE MILES

Mr. HEFLIN. Madam President, over 3 years ago, in September 1992, teacher Susan Ross of Yorktown High School in Yorktown Heights, NY, contacted my office to inform me of a wonderful new project which she had recently developed for her ninth grade students. She had just organized a cultural exchange program between her students and the students of Monroe County High School in Monroeville, AL. As part of the program, she wanted to get my recollections of what it was like growing up in Alabama and in the South.

Yorktown Heights is located about a half-hour's drive from New York City in a rural area surrounded by farming towns. Monroeville is the hometown of writer Harper Lee and was the model for the fictional town of Macomb in her Pulitzer Prize winning novel "To Kill a Mockingbird." The courthouse in Monroeville actually served as part of the set for the Academy Award-winning film version.

This classic novel, which Ms. Ross has taught her classes off and on for 26 years, proved to be the catalyst for her program. One year, while reviewing the books that she would use in her class for the upcoming school term, she realized, in her words: "I was teaching a book about a culture I knew nothing about, and I was possibly doing a disservice to it. To understand the issue from the character's point of view, you need to go to the source, so I did."

Going to the source meant first approaching her counterparts in Monroeville. First, she contacted Monroe County High School Principal Pat Patterson, who put her in touch with Paralee Broughton, a 9th and 10th grade teacher at the high school. Ms. Broughton told Susan that since "To Kill a Mockingbird" would serve as the central link between the two schools, she should get in touch with Mrs. Sarah Dyess, whose eighth-grade students were reading the book.

With the help of Ms. Broughton, Mrs. Dyess, and other teachers, educators, and administrators in Monroeville, Ms. Ross established a truly unique and stimulating cultural exchange program which she hoped would teach respect for each other's cultural differences and individuality and give students an understanding of basic universal human rights that are vital to democratic society. The project came to be known as Understanding and Appreciating Cultural Diversity, and was to help create cultural awareness and understanding through letters, tapes, pictures, and interviews. As part of the program, Ms. Ross' students would create all these materials and exchange them with students from the other school. The program is special because it was the first time that a project of this nature and scope had been done between any schools from the North and South.

Ms. Ross had high hopes for her program, the key to which was overcoming stereotypes. It was not to be simply a pen-pal correspondence exercise. Instead, each class was to communicate with the other class as a group, each serving as a microcosm of its community. To get the exchange underway, the students at Yorktown compiled a written and visual profile of their community, including its history and information gathered through interviews with local officials. They provided an analysis of the town's transportation, entertainment, and shopping facilities.

The Alabama students, under the guidance of their teacher Mrs. Dyess, compiled a videotape of their community which they sent to their friends in New York. Monroeville sent Yorktown an autographed copy of "To Kill a Mockingbird," while Yorktown in turn sent Monroeville books set in the Hudson Valley, including Washington Irving's "The Legend of Sleepy Hollow."

Their teacher watched as the students' misconceptions began to crumble. She saw lackadaisical youngsters grow interested in reading when they began believing that the South was a real and multidimensional place. They learned that there are many different Souths, just as there are Norths, and both groups learned that it is dangerous to generalize about any region.

While learning of each others' differences, the exchange also made obvious the similarities between Yorktown Heights and Monroeville. Both are a mix of suburban and small town. Both have many working farms in the community. The two schools are about the same size, 900 or so students. In both places, the school is a vital link in the community and there are strong family values present.

The program has had its lighthearted movements along the way. Yorktown students were surprised to discover upon receiving a copy of Monroe County's yearbook that the students did not wear overalls. On the other side of the connection, one Yorktown student, Guy Gentile, was surprised to be asked by one of his Monroeville counterparts "If I walk out the street—in Yorktown—will I be shot?"

Soon, other schools learned of Ms. Ross' innovative program and expressed an interest in becoming involved. Her students eventually began an exchange with a school in Louisiana to gain a better understanding and awareness of the influence of French culture on the United States. On November 14 of this year, Ms. Ross called to let me know that two of her current students were visiting Monroeville as part of the Bridging the Miles program, as it is now called.

Overall, the program has served as a bridge for students who would otherwise depend on often inaccurate and shallow media stereotypes. Ms. Ross said that a typical Yorktown student's opinions of Southerners were formed by movies such as "My Cousin Vinny" and television shows like "The Beverly Hillbillies." The students were surprised to learn of the extent to which the racial climate in the South has changed since the 1930's, when "To Kill a Mockingbird" was set. They had not expected students who were so open about race and who participated in school activities together regardless of race.

In Monroeville, the students realized we have a tendency to cluster everyone in one stereotypical unit and mark them as being nondescript people. The sharing of poetry and letters has given the students a whole new perspective on the relationship between North and South.

The program begun by Ms. Ross has gained a great amount of attention all over the country, having been spotlighted by The New York Times, Atlanta Journal-Constitution, and the CBS television network. So far, most of its funding has come directly from Ms. Ross; this is how strongly she believes in what she is doing. Hopefully, the program will continue to expand and promote further understanding among the many diverse areas of the United States.

Just as programs such as the one between Yorktown and Monroeville demonstrate that it is wrong to generalize and stereotype about regions of the country, the energy, drive, and example of Susan Ross prove that it is also harmful to generalize about the health of our public schools and the commitment of public school teachers. I congratulate her for her broad-mindedness and innovativeness in educating young people.

It is my hope that others interested in ways of improving American education will see the great benefits that can be realized through projects such as this. One thing that makes us unique as Americans is our diverse cultural heritages that bind us together even as we maintain our regionally distinct traditions and customs. We tend to think of exchange programs only in terms of those between citizens of different nations, and these are indeed important and valuable tools for learning about our world. But as Ms. Ross and students of Yorktown High School and their counterparts at Monroe County High School have demonstrated, we have so much to draw from different regions within the United States itself that it is not necessary to go out of our own country to experience a cultural exchange. I commend her and wish her every continued success for her programs.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a withdrawal and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:10 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 395. An act to designate the United States courthouse and Federal building to be constructed at the southeastern corner of Liberty and South Virginia Streets in Reno, Nevada, as the "Bruce R. Thompson United States Courthouse and Federal Building."

S. 369. An act to designate the Federal Courthouse in Decatur, Alabama, as the "Seybourn H. Lynne Federal Courthouse," and for other purposes.

S. 965. An act to designate the United States Courthouse for the Eastern District of Virginia in Alexandria, Virginia, as the "Albert V. Bryan United States Courthouse."

S. 1465. An act to extend au pair programs.

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

MEASURES PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

H.J. Res. 132. Joint resolution affirming that budget negotiations shall be based on the most recent technical and economic assumptions of the Congressional Budget Office and shall achieve a balanced budget by fiscal year 2002 based on those assumptions.

The following measure was ordered placed on the calendar:

H.R. 394. An act to amend title 4 of the United States Code to limit State taxation of certain pension income.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on December 20, 1995 he had presented to the President of the United States, the following enrolled bills:

S. 369. An act to designate the Federal Courthouse in Decatur, Alabama, as the "Seybourn H. Lynne Federal Courthouse," and for other purposes.

S. 965. An act to designate the United States Courthouse for the Eastern District of Virginia in Alexandria, Virginia, as the "Albert V. Bryan United States Courthouse."

S. 1465. An act to extend au pair programs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1742. A communication from the Secretary of Labor, transmitting, pursuant to law, the report on the trade and employment effects of the Caribbean Basin Economic Recovery Act (CBERA); to the Committee on Finance.

EC–1743. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential Determination relative to the Assistance Program for New Independent States of the Former Soviet Union; to the Committee on Foreign Relations.

EC–1744. A communication from the Assistant Attorney General (Legislative Affairs), transmitting, a draft of proposed legislation to extend the life of the U.S. Parole Commission to deal with a still-substantial workload of federal prisoners and parolees who committed their crimes prior to the effective date of the Sentencing Guidelines; to the Committee on the Judiciary.

EC–1745. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation to establish an Equipment Capitalization Fund within the Bureau of Indian Affairs; to the Select Committee on Indian Affairs.

EC–1746. A communication from the Chairman and General Counsel of the National Labor Relations Board, transmitting, pursuant to law, the annual report ending fiscal year 1994; to the Committee on Labor and Human Resources.

EC–1747. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report relative to the Prescription Drug User Fee Act (PDUFA) during fiscal year 1995; to the Committee on Labor and Human Resources.

EC–1748. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, reports regarding the receipts and use of federal funds by candidates who accepted public financing for the 1992 Presidential Primary and General Elections; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1164. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 with respect to inventions made under cooperative research and development agreements, and for other purposes (Rept. No. 104–194).

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 1260. A bill to reform and consolidate the public and assisted housing programs of the United States, and to redirect primary responsibility for these programs from the Federal Government to States and localities, and for other purposes (Rept. No. 104–195).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LAUTENBERG (for himself, Mr. ROBB, Mr. SARBANES, and Ms. MIKULSKI):

S. 1486. A bill to direct the Office of Personnel Management to establish placement programs for Federal employees affected by reduction in force actions, and for other purposes; to the Committee on Governmental Affairs.

By Mr. McCAIN (for Mr. GRAMM (for himself, Mr. INOUYE, Mr. McCAIN, Mrs. HUTCHISON, and Mr. INHOFE)):

S. 1487. A bill to establish a demonstration project to provide that the Department of Defense may receive medicare reimbursement for health care services provided to certain medicare-eligible covered military beneficiaries; to the Committee on Finance.

By Mr. SARBANES:

S. 1488. A bill to convert certain excepted service positions in the United States Fire Administration to competitive service positions, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. MURRAY:

S. 1489. A bill to amend the Wild and Scenic Rivers Act to designate a portion of the Columbia River as a recreational river, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMON (for himself, Mr. JEFFORDS, Mr. LEAHY, and Mrs. BOXER):

S. 1490. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve enforcement of such title and benefit security for participants by adding certain provisions with respect to the auditing of employee benefit plans, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GRAMS (for himself, Mr. HEFLIN, Mr. PRYOR, Mr. McCONNELL, Mr. CONRAD, Mr. COVERDELL, and Mr. SANTORUM):

S. 1491. A bill to reform antimicrobial pesticide registration, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG (for himself, Mr. ROBB, Mr. SARBANES, and Ms. MIKULSKI)

S. 1486. A bill to direct the Office of Personnel Management to establish placement programs for Federal employees affected by reduction in force actions, and for other purposes.

THE PUBLIC SERVANT PRIORITY PLACEMENT ACT OF 1995

Mr. LAUTENBERG. Mr. President, I rise today with Senators ROBB, SARBANES, and MIKULSKI to introduce the Public Servant Priority Placement Act, a bill to assist Federal workers who lose their jobs as a result of downsizing. This legislation would require Government agencies to give priority consideration to these employees when filling vacancies.

Mr. President, the Federal Government is in the process of significant downsizing, and that process is likely to intensify substantially in the coming years. Under current law, 272,000 civilian positions will be eliminated by fiscal year 1999. If an agreement is reached to balance the budget, that number probably will be much larger.

Mr. President, it is easy for some to ignore the plight of these workers by talking derisively of so-called faceless bureaucrats. But all of these workers are human beings with families, bills to pay, and obligations to meet. For most, getting laid off is a painful and traumatic event. And for many, the financial implications are severe.

Most dislocated employees are hardworking, talented, skilled, and dedicated individuals who have contributed much to our Nation. They did not lose their jobs because they were lazy, or because they did poor work. They were simply innocent victims of forces larger than themselves.

Mr. President, in an effort to assist these employees, and to ensure that their talents are not lost entirely to the Government, agencies have developed their own placement programs for former employees. The most successful such program is the Department of Defense's Priority Placement Program, or PPP. Under the program, involuntarily separated workers are granted a preference when vacancies are filled. Since PPP's inception in 1965, over 100,000 DOD employees have been placed successfully elsewhere in the Department. Unfortunately, the program's placement rate has been reduced in recent years because fewer job opportunities have been available.

In coming years, few Federal agencies are likely to excape the budget axe. Some agencies probably will be eliminated altogether. It is critically important, therefore, that Congress work to ensure that all displaced workers get the support they need.

Mr. President, the Office of Personnel Management operates two government-wide placement programs that supplement the efforts of individual agencies. Yet OPM's programs are not sufficient, in part because agencies all too often do not grant any preference to workers displaced from other agencies. According to a 1992 report by the General Accounting Office, in fiscal year 1991, OPM's programs had 4,433 registrants and made 110 placements. Although OPM has made improvements to its programs since 1992, there clearly remains a need for a coordinated, mandatory, Governmentwide placement program.

The Public Servant Priority Placement Act would direct OPM to establish such a program for RIF'd employees. It also would require agencies to institute their own intra-agency placement programs for these workers. Unlike the current placement programs, except for DOD's, agencies would be required to offer positions to dislocated workers if they are qualified.

Under this legislation, if an agency has a vacancy it cannot fill internally, such as through a promotion, it would be required to offer that position to a qualified RIF'd employee of that agency who meets certain criteria relating to classification and pay, and who is located within the same commuting area. If no such employee exists, then that agency shall offer the vacancy to a comparably-situated, well-qualified RIF'd employee from another Federal agency. Should no RIF'd employee meet these criteria, then the agency may hire a person who is outside of the Federal Government.

Mr. President, I introduced a very similar bill in the last Congress, and I am pleased that the concept has begun to attract support. A bipartisan bill was introduced a week and a half ago in the House, a component of which is almost identical to the bill we are introducing today. The Clinton administration also endorses the concept of a mandatory placement preference system.

Mr. President, I urge my colleagues to support the bill and ask unanimous consent that a copy of the legislation be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PLACEMENT PROGRAMS FOR FEDERAL EMPLOYEES AFFECTED BY REDUCTION IN FORCE ACTIONS.

(a) SHORT TITLE.—This Act may be cited as the "Public Servant Priority Placement Act of 1995".

(b) IN GENERAL.—Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 3329b. Placement programs for Federal employees affected by reduction in force actions

"(a) For purposes of this section the term "agency" means an "Executive agency" as defined under section 105, except such term shall not include the General Accounting Office.

"(b) No later than 180 days after the date of the enactment of this section, the Director of the Office of Personnel Management shall establish a Government-wide program and each agency shall establish an agency program to facilitate employment placement for Federal employees who—

"(1) are scheduled to be separated from service under a reduction in force under—

"(A) regulations prescribed under section 3502; or

"(B) procedures established under section 3595; or

"(2) are separated from service under such a reduction in force.

"(c) Each agency placement program established under subsection (b) shall provide a system to require the offer of a vacant position in an agency to an employee of such agency affected by a reduction in force action, if—

"(1) the position cannot be filled within the agency;

"(2) the employee to whom the offer is made is qualified for the offered position;

"(3)(A) the classification of the offered position is equal to or no more than one grade below the classification of the employee's present or last held position; or

"(B)(i) the basic rate of pay of the offered position is equal to the basic rate of pay of the employee's present or last held position; or

"(ii) sections 5362 and 5363 apply to the basic rate of pay of the employee in the offered position; and

"(4) the geographic location of the offered position is within the commuting area of—

"(A) the residence of the employee; or

"(B) the location of the employee's present or last held position.

"(d) The Government-wide placement program established under subsection (b) shall—

"(1) coordinate with programs established by agencies for the placement of agency employees affected by a reduction in force action within such agency; and

"(2) provide a system to require the offer of a vacant position in an agency to an employee of another agency affected by a reduction in force action, if—

"(A) the vacant position cannot be filled through the placement program or otherwise be filled from within the agency in which the position is located;

"(B) the employee to whom the offer is made is well qualified for the offered position;

"(C)(i) the classification of the offered position is equal to the classification of the employee's present or last held position; or

"(ii) the basic rate of pay of the offered position is equal to the basic rate of pay of the employee's present or last held position; and

"(D) the geographic location of the offered position is within the commuting area of—

"(i) the residence of the employee; or

"(ii) the location of the employee's present or last held position.

"(e)(1) The agency placement program established under this section shall not affect any priority placement program of the Department of Defense that is in operation on the date of the enactment of this section.

"(2) The interagency placement program established under this section shall not affect the priority of placement of any employee under the agency placement program of such employee's employing agency.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The section heading for the second section 3329 (relating to Government-wide list of vacant positions) is amended to read as follows:

"§ 3329a. Government-wide list of vacant positions".

(2) The table of sections for chapter 33 of title 5, United States Code, is amended by striking out the item relating to the second section 3329 (relating to Government-wide list of vacant positions) and inserting in lieu thereof the following:

"3329a. Government-wide list of vacant positions.
"3329b. Placement programs for Federal employees affected by reduction in force actions.".

By Mr. MCCAIN (for Mr. GRAMM (for himself, Mr. INOUYE, Mr. MCCAIN, Mrs. HUTCHISON, and Mr. INHOFE)):

S. 1487. A bill to establish a demonstration project to provide that the Department of Defense may receive Medicare reimbursement for health care services provided to certain Medicare-eligible covered military beneficiaries; to the Committee on Finance.

THE UNIFORMED SERVICES MEDICARE SUBVENTION DEMONSTRATION ACT OF 1995

• Mr. GRAMM. Mr. President, when we ask men and women to serve in our Nation's Armed Forces, we make them certain promises. One of the most important is the promise that, upon the retirement of those who serve 20 years or more, a graceful nation will make health care available to them for the rest of their lives. Unfortunately, for many 65-and-over military retirees, promises are being broken.

When the military's Civilian Health and Medical Program of the U.S. [CHAMPUS] was established in 1966, just 1 year after Medicare, 65-and-over military retires were excluded from CHAMPUS because it was felt they could receive care on a space-available basis from local military hospitals and they would not require health care services from the private medical community. For many years, there were few problems and plenty of available space, but as military bases and their hospitals have closed, more and more retirees are finding it increasingly difficult to receive the care they have been promised.

For many, being denied access to the local base hospital means they are completely reliant on Medicare. While Medicare is a valuable program that serves millions of Americans well, it was not designed as compensation for service to our country. Our military retirees, how-ever, have all served our Nation for a minimum of 20 years, and many for 30 years or more. With all the sacrifices they have made during their careers, I believe military retirees clearly have earned the benefits that they were promised.

While many health care options have been discussed that would appropriately reward the contributions of our military retirees, at a minimum they ought to be able to use their Medicare reimbursement eligibility wherever they choose, including the military health system. Our military treatment facilities also ought to be able to accept Medicare reimbursement and serve as Medicare providers for people who are eligible for both Medicare and for care in the military treatment system.

For this reason, today I am joined by Senators INOUYE, MCCAIN, HUTCHISON, and INHOFE in introducing a bill to establish a 2-year demonstration project that will allow Medicare to reimburse the Defense Department for health care services provided to Medicare-eligible beneficiaries who are also eligible to receive care in military treatment facilities. Called subvention. Medicare reimbursement to military treatment facilities has long been a priority of military retirees, and I believe passing this bill and getting this project under way should be a top priority for the Congress.

I am aware that some of my colleagues have also wrestled with this problem and have tried many different ways to establish a subvention program. As I introduce this bill, the Senate Armed Services Committee is working with the Pentagon and the Health Care Financing Administration [HCFA] to outline a demonstration project. In the House of Representatives, Congressman JOEL HEFLEY has introduced a bill to begin a subvention effort. While my subvention project is different than these, I believe it complements their efforts.

This program will not increase the cost to the taxpayer because it will ensure that DOD cannot shift costs to HCFA, and that the total Medicare cost to HCFA will not increase. In fact, I believe subvention could actually save money. The Retired Officers Association, in their letter to me of December 15, 1995, reports that:

> Using 1995 as a baseline, the eligible Medicare population will grow by 1.6 million beneficiaries by 2000. This will increase Medicare's cost by $7.7 billion if new beneficiaries rely on Medicare as their sole source of care. But, with subvention and DOD's 7 percent discount to the Health Care Financing Administration (HCFA), the aggregate cost increase can be reduced by $361 million over that same time frame. Because health care will be managed, further savings could be realized which could be passed on by DOD to Medicare through reduced discounts.

This legislation is strongly supported by many military and veterans organizations. I would ask unanimous consent to include in the RECORD 18 statements of support from the following groups: The Retired Officers Association, National Association for Uniformed Services, Air Force Association, National Military Families Association, Veterans of Foreign Wars of the United States, The American Legion, The Retired Enlisted Association, Reserve Officers Association of the United States, Military Service Coalition of Austin (Texas), Association of the United States Army, Air Force Sergeants Association, Non Commissioned Officers Association of the United States of America, United States Army Warrant Officers Association, Chief Warrant and Warrant Officers Association United States Coast Guard, Naval Reserve Association, Naval Enlisted Reserve Association, Association of Military Surgeons of the United States, and Jewish War Veterans of the United States of America.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

ALEXANDRIA, VA,
December 15, 1995.

Hon. PHIL GRAMM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAMM: The Retired Officers Association (TROA) with its 400,000 members (including 68,000 auxiliary members), strongly endorses your bill to authorize the Department of Defense (DoD) to test an innovative concept called Medicare subvention, which would allow Medicare to reimburse DoD for care provided to Medicare-eligible uniformed services beneficiaries through the Military Health Services System. Uniformed services retirees and their families are entitled to medical treatment in military treatment facilities (MTFs) on a "space available" basis. However, DoD can't afford to enroll authorized Medicare-eligible retirees in its new Tricare program and will not make available "space available" care for older retirees unless Congress changes the law to allow reimbursement from Medicare.

Using 1995 as a baseline, the eligible Medicare population will grow by 1.6 million beneficiaries by 2000. This will increase Medicare's cost by $7.7 billion if new beneficiaries rely on Medicare as their sole source of care. But, with subvention and DoD's 7 percent discount to the Health Care Financing Administration (HCFA), the aggregate cost increase can be reduced by $361 million over that same time frame. Because health care will be managed, further savings could be realized which could be passed on by DoD to Medicare through reduced discounts. In addition to saving money for Medicare, taxpayers and beneficiaries, subvention will:

Promote military medical readiness,

Give older retirees the freedom to choose where they would like to get their health care services, i.e., either from civilian or military sources,

Prevent retirees from being "shoved out" of Tricare Prime (DoD's HMO-like program) when they turn age 65,

Enable those 65 and older to choose the military managed care approach for their comprehensive, cost-effective health care, and

Allow Congress and the government to keep the life-time health care promises made to those who served.

In closing, we applaud your efforts to introduce legislation that will test the viability of subvention and its potential cost savings to the government. The potential benefits of subvention are detailed in the enclosed fact sheet.

Sincerely,

MICHAEL A. NELSON,
President.

NATIONAL ASSOCIATION
FOR UNIFORMED SERVICES
Springfield, VA, December 14, 1995.

Hon. PHIL GRAMM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAMM: I am writing to express strong support for your legislation directing the conduct of a demonstration project to authorize Medicare reimbursement to the Department of Defense and its medical facilities for care provided in military treatment facilities (MTFs) and in DoD managed care networks.

Military retirees and their families are the only federal employees who lose their employer provided health care upon reaching age 65. Although eligible to use MTFs on a space available basis, deep cutbacks in health care personnel and funding as well as hospital closures resulting from Base Realignment and Closure Commission actions have shoved hundreds of thousands of retirees out of military medicine.

Medicare eligible retirees served in WWII, Korea, Vietnam and the long Cold War. They were recruited and reenlisted by promises of lifetime medical care. Now when they need it most they are being disenfranchised. Further, DoD's TRICARE program excludes them despite the fact that these retirees earned military sponsored health care through years of arduous service and paid for Medicare through payroll deductions.

Your Medicare reimbursement legislation will allow these patriots and their families to use their Medicare benefits in military treatment facilities which will save scarce Medicare trust funds while providing the necessary funds needed for their care. Your Medicare reimbursement bill is win-win legislation for everyone—Medicare, taxpayers, beneficiaries and military medicine.

I very much appreciate your leadership on this issue and you have our full support. We are confident that this demonstration will prove the need for a permanent reimbursement program.

Sincerely,

J.C. PENNINGTON,
Major General, USA (retired), President.

AIR FORCE ASSOCIATION,
Arlington, VA, December 15, 1995.

Hon. PHIL GRAMM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAMM: The members of the Air Force Association strongly support your legislative initiative to develop a demonstration project to authorize Medicare subvention. Medicare Subvention would provide military retirees with seamless health care coverage regardless of age.

Most military members believe they were promised, through tradition and practice, "health care for life," when deciding to choose a career in the military. In the past, Medicare eligible retirees have received health care in the military treatment facilities (MTFs) on a "space available" basis. However, cutbacks in health care funding and medical personnel, and base hospital closures resulting from base realignment and closure, is likely to force many Medicare eligible retirees out of the military medical system.

Military retirees are the only group of retired government employees who lose their health benefit upon reaching age 65. At age 65, retirees must enroll in Medicare or continue to take the risk of receiving health care on a space available basis in the MTFs or if eligible Veterans Administration facilities. Under current law, Medicare eligible retirees cannot enroll in TRICARE unless changes are made to the Social Security Act allowing Medicare subvention.

You have the Air Force Association's full support for the Medicare subvention demonstration program.

Sincerely,

R.E. SMITH,
President.

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, DC, December 14, 1995.

Hon. PHIL GRAMM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAMM: Thank you for taking the initiative to introduce legislation that is so important to the Veterans of Foreign Wars of the United States (VFW). Specifically, we have repeatedly sought legislation that would allow the Secretary of Health and Human Services to reimburse the Military Health Service System for care provided to Medicare-eligible military retirees and their spouses in the Military Health Service System. This inter-departmental reimbursement proposal is referred to as "Medicare subvention". It would improve present government health care services to taxpayers in a more cost-effective and service-efficient manner than is presently the case.

Today, more than half the 2.1 million members of the Veterans of Foreign Wars of the United States (VFW) who are eligible to receive Medicare are military retirees who fought in World War II, Korea, and/or Vietnam. Hence, they now must receive medical treatment in the civilian community or private sector at a higher cost than could be provided in a military treatment facility. To further compound this problem most VFW military retirees prefer to continue to receive their medical care in military facilities whenever and wherever possible. To make this point, at our last national convention held in August 1995 our voting delegates unanimously passed VFW Resolution No. 643 titled "Health Care for Medicare Eligible Military Retirees." A copy is attached to this letter. Our position is to have Congress pass legislation that allows Medicare eligible retirees and their dependents to continue to receive the high quality of military medical service they are familiar with and are accustomed to receiving.

Thank you for your past and present efforts on behalf of all military retired veterans. They have earned military sponsored health care through past years of arduous service. Today, they are the only federal employees who lose their employer provided health care upon reaching age 65. Your proposed legislation will correct this inequity.

Sincerely,

PAUL A. SPERA,
Commander in Chief.

Attachment: as stated.

RESOLUTION NO. 643

HEALTH CARE FOR MEDICARE ELIGIBLE MILITARY RETIREES

Whereas, military retirees find it difficult to be treated at military facilities once they become eligible for Medicare since the military is not allowed to take Medicare money and hospital Commanders are reluctant to provide care for which they receive no reimbursement; and

Whereas, there is presently a bill before the House of Representatives, H.R. 861, by Congressmen Randy (Duke) Cunningham and Duncan L. Hunter that would allow military retirees and veterans to use their Medicare benefits at military or VA hospitals; and

Whereas, this would reduce the government's cost of providing health care since the government hospitals can treat these patient less expensively than paying Medicare to civilian medical facilities; now, therefore, be it

Resolved, by the Veterans of Foreign Wars of the United States, that we urge Congress to support passage of legislation that would allow military retirees and veterans to use their Medicare entitlements in military or VA hospitals.

THE AMERICAN LEGION,
Washington, DC, December 19, 1995.

Sen. PHIL GRAMM,
Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: The American Legion commends you for introducing and fully supports the "Medicare Subvention Demonstration Project Act." This bill, which proposes a two-year demonstration program at selected sites, serves to implement an adopted American Legion mandate, namely medicare subvention or reimbursement of Department of Defense (DOD) medical facilities by the Department of Health and Human Services (DHHS) for treatment of enrolled medicare-eligible military retirees and their dependents.

Recognizably, this demonstration project legislation represents a significant first step in the direction of full-fledged medicare subvention which has been long supported by The American Legion. The goal of this effort would improve access to needed health care services for this dual-eligible population while assuring the demonstration does not increase the total federal cost of both programs. It is our aspiration that this legislation become law, and that it eventually be implemented at all military medical facilities throughout the country.

Most importantly, this bill would ease the tremendous frustration expressed by medicare-eligible military retirees and their dependents that their government has reneged in its promises of free, lifetime, heath care in exchange for decades of service to this nation in time of war and peace. Military retirees and their dependents are the only group of Federal retirees who essentially lose their health care coverage when they become 65 and are no longer eligible for CHAMPUS/TRICARE coverage. Aside from the Department of Defense itself providing health care for this group—which it states it can no longer afford—medicare subjection appears to provide the only viable solution to resolve the health care crisis experienced by this growing group of deserving veterans who have served their country for so long. Enclosed is a copy of American Legion Resolution No. 107, "Department of Defense Health Care Reform for Military Beneficiaries," which supports the proposed legislation.

Military retirees have seen the promise of lifetime health care, and other promises, being broken which is not only a demoralizing factor, but one which can and will impact on recruiting and retaining a quality force if it is left unresolved. The American Legion salutes your initiative.

Sincerely,

G. MICHAEL SCHLEE,
Director National Security-Foreign Relations Division.

THE RETIRED ENLISTED ASSOCIATION,
Alexandria, VA, December 19, 1995.

Hon. PHIL GRAMM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: On behalf of The Retired Enlisted Association (TREA), and its Auxiliary, I want to express our collective appreciation to you for introducing legislation that will require a demonstration project authorizing Medicare reimbursement to the Department of Defense when treating Medicare eligible military retirees seeking care from the Military Health Services System (MHSS) within the demonstration area.

Medicare eligible military retirees began their service during World War II or the Korean War and continued their service through the Cold War and the many conflicts during that era, including the Vietnam War.

Without your Medicare reimbursement legislation, too many of these dedicated American patriots would find themselves disenfranchised from the Military Health Care System despite decades of promises of health care for life from the military.

If TREA can be of assistance to you on this most important issue, please don't hesitate to contact us.

Sincerely,

JOHN M. ADAMS,
MCPO, USN (Ret.), Director for Government Affairs.

MILITARY SERVICE
COALITION OF AUSTIN,
Austin, TX, December 15, 1995.

Sen. PHIL GRAMM,
Washington, DC.

DEAR SENATOR GRAMM: Our Military Service Coalition in Austin, Texas is extremely pleased with your authorship of such a balanced and unique approach to the Military

Medicare Subvention debate. It is our opinion that your proposed "Medicare Subvention Demonstration Project Act" provides for both fiscal soundness and an operationally feasible method to test the theory and concept of Military Medicare Subvention.

Clearly, this legislation is a pragmatic alternative to other proposals that were simply too progressive, too soon. We believe that although, theoretically attractive, they were simply too far reaching and were introduced without any clear method to gain a better understanding of any potential adverse impact on both providers and customers.

Again, you and your staff are to be commended on the introduction of such a well coordinated and reasoned approach to legislative change which we believe will begin to improve our existing military health care delivery systems. We appreciate the opportunity you gave us to work closely with your staff during the development of this fine effort.

May God continue to bless your efforts to make health care more accessible to our Nation's Veterans.

Respectfully,

BRUCE CONOVER, *President.*

ASSOCIATION OF THE
UNITED STATES ARMY,
Arlington, VA, December 14, 1995.

Hon. PHIL GRAMM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: Medicare Subvention, the reimbursement of the Department of Defense for the medical care it provides to Medicare-eligible beneficiaries, has long been a goal of the Association of the United States Army. Despite the bureaucratic resistance that often meets new ideas, Subvention continues to pass every test of fairness and logic to which it is subjected. In an age of constrained budgets and fiscal restraint, Medicare Subvention is an initiative that makes too much sense to ignore and actually holds the promise of saving money.

On behalf of the more than 100,000 members of the Association of the United States Army, thank you for your courage in confronting the bureaucratic resistance by introducing legislation to permit a demonstration of Medicare Subvention. While I believe a test is unnecessary to show that value of Subvention, the demonstration will remove any doubt that this is an initiative in which there are no losers. The Medicare-eligible military beneficiary wins. The military health care system wins. The Health Care Financing Administration wins and, in the final analysis, the American people win because a quality product will be delivered to a deserving segment of our population at a lower cost and in a more practical manner.

Medicare Subvention does not answer all the concerns we have with the military medical system, but it goes a long way to help one segment of the beneficiary population. It is an idea whose time has come. Thank you again for your willingness to sponsor a bill that will make Medicare Subvention a reality.

Sincerely,

JACK N. MERRITT,
General, USA Retired.

AIR FORCE
SERGEANTS ASSOCIATION,
Temple Hills, MD, December 15, 1995.

Hon. PHIL GRAMM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: On behalf of the 160,000 members of the Air Force Sergeants Association, thank you for your introduction of Medicare subvention legislation before the United States Senate. Our shared concern for health care needs of our oldest military retirees will, hopefully, result in legislative action on your bill during this Congress, with the eventual goal of attaining subvention for all over-64 military retirees.

As you are aware, current law requires that over-65, Medicare-eligible military retirees be thrown out of formal participation in the Military Health Services System (MHSS) simply because they have attained that age and status. For many, this effectively ends their care possibilities within the MHSS, because "space-available" care in Military Treatment Facilities is increasingly difficult to obtain.

Most other federal employees keep their federal health insurance upon reaching age 65. Therefore, the current practice toward over-65 military retirees is discriminatory and must end. The full-scale enactment of Medicare subvention could result in the ability of many of our older military retirees to participate in DOD's new health care program, TRICARE. Your efforts to begin the process are needed and appreciated. As always, feel free to ask for AFSA's support of this or any other legislation of mutual concern.

Sincerely,

JAMES D. STATION,
Executive Director.

NON COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA,
Alexandria, VA, December 15, 1995.

Hon. PHIL GRAMM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: The Non Commissioned Officers Association of the USA (NCOA) wishes to express strong support for your efforts to introduce legislation directing that a demonstration project be conducted to authorize Medicare reimbursement to the Department of Defense (DoD) for medical care provided in Military Treatment Facilities (MTFs) and in the department's managed care networks. It is very important that your bill include TRICARE and the Uniformed Services Treatment Facilities in the demonstration.

NCOA and it's members are very concerned that the efforts of DoD to improve health care availability and accessibility through implementation of the TRICARE program for all military beneficiaries are being hampered simply because Medicare will not reimburse DoD for the medical treatment provided to the age-65 military retiree. NCOA cannot just standby and watch a group of military retirees who earned a free lifetime medical care benefit be disenfranchised from that benefit.

In this regard, NCOA applauds your efforts and supports your legislation.

Sincerely,

MICHAEL F. OUELLETTE,
Sgt Maj, US Army, (Ret), Director of Legislative Affairs.

NATIONAL MILITARY
FAMILY ASSOCIATION,
Alexandria, VA, December 14, 1995.

Hon. PHIL GRAMM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: The National Military Family Association supports your legislation providing for a demonstration project to authorize Medicare reimbursement to the Department of Defense and its medical facilities for care provided in military treatment facilities (MTFs) and in DoD managed care networks. The bill includes TRICARE and the Uniformed Services Treatment Facilities in the demonstration.

Military retirees and their families are the only federal employees who lose their employer provided health care upon reaching age 65. Although eligible to use MTFs on a space available basis, deep cutbacks in health care personnel and funding as well as hospital closures resulting from Base Realignment and Closure Commission actions have shoved hundreds of thousands of retirees out of military medicine.

Medicare eligible retirees served in WWII, Korea, Vietnam and the long Cold War. They were recruited and reenlisted by promises of lifetime medical care. Now when they need it most they are being disenfranchised. DoD's TRICARE program excludes them despite the fact that these retirees earned military sponsored health care through years of arduous service and paid for Medicare through payroll deductions.

NMFA is aware that Medicare reimbursement to DoD will only benefit those living in areas where MTFs exist and/or TRICARE Prime is available and continues to support offering all non-active duty military beneficiaries the option of enrolling in the Federal Employees Health Benefit Plan. Nonetheless, Medicare reimbursement to DoD will benefit many who would otherwise lose access to the military system.

Sincerely,

SYLVIA E.J. KIDD,
President.

RESERVE OFFICERS ASSOCIATION
OF THE UNITED STATES,
Washington, DC, December 18, 1995.

Hon. PHIL GRAMM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: I write to you today on behalf of the more than 100,000 members of the Reserve Officers Association, an organization chartered by Congress to "support a military policy for the United States that will provide adequate national security. . . ." ROA strongly supports your legislation directing the conduct of a demonstration project to authorize Medicare reimbursement to the Department of Defense and its medical facilities for care provided in military treatment facilities (MTFs) and in DoD managed care networks. The bill includes TRICARE and the Uniformed Services Treatment Facilities in the demonstration.

Military retirees and their families are the only federal employees who lose their employer provided health care upon reaching age 65. Although military retirees are entitled to use MTFs on a space available basis, deep cutbacks in health care personnel and funding as well as hospital closures resulting from Base Realignment and Closure Commission actions will shove hundreds of thousands of them out of military medicine.

Medicare-eligible retirees served in WWII, Korea, Vietnam and the long Cold War. When they were recruited and reenlisted they were promised lifetime medical care. Now when they need it most they are being disenfranchised. Further, DoD TRICARE program excludes them despite the fact that these retirees earned military sponsored health care through years of arduous service and paid for Medicare through payroll deductions.

Your Medicare reimbursement legislation will allow these patriots and their families to use their Medicare benefits in military treatment facilities which will save scarce Medicare trust funds while providing the necessary funds needed for their care. Your Medicare reimbursement bill is win-win legislation for everyone—Medicare, taxpayers, beneficiaries and military medicine.

You have our association's full support for this important legislation. I am sure that this demonstration will prove the need for a permanent reimbursement program.

Sincerely,

ROGER E. SANDLER,
Major General, AUS (Ret.),
Executive Director.

JEWISH WAR VETERANS OF THE
UNITED STATES OF AMERICA,
December 14, 1995.

Hon. PHIL GRAMM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: I am writing to express strong support for your legislation directing the conduct of a demonstration project to authorize Medicare reimbursement to the Department of Defense and its medical facilities for care provided in military treatment facilities (MTFs) and in DOD managed care networks. The bill includes TRICARE and the Uniformed Services Treatment Facilities in the demonstration.

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Your Medicare reimbursement legislation will allow these patriots and their families to use their Medicare benefits in military treatment facilities which will save scarce medicare trust funds while providing the necessary funds needed for their care. Your Medicare reimbursement bill is win-win legislation for everyone—Medicare, taxpayers, beneficiaries and military medicine.

You have our full support for this legislation. I am sure that this demonstration will prove the need for a permanent reimbursement program.

Sincerely,

NEIL GOLDMAN,
National Commander.

U.S. ARMY
WARRANT OFFICERS ASSOCIATION,
December 15, 1995.

Hon. PHIL GRAMM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: On behalf of the United States Army Warrant Officers Association (USAWOA) I am writing to express strong support for your legislation directing the conduct of a demonstration project to authorize Medicare reimbursement to the Department of Defense and its medical facilities for care provided in military treatment facilities (MTFs) and in DOD managed care networks.

Military retirees and their families are the only federal employees who lose their employer provided health care upon reaching age 65. Although eligible to use MTFs on a space available basis, deep cutbacks in health care personnel and funding as well as hospital closures resulting from Base Realignment and Closure Commission actions have excluded hundreds of thousands of retirees from military medicine.

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Your Medicare reimbursement legislation will allow these patriots and their families to use their Medicare benefits in military treatment facilities which will save scarce medicare benefits in military treatment facilities while providing the necessary funds needed for their care.

Your leadership in initiating this important legislation is appreciated. We are confident that this demonstration will prove the need for a permanent reimbursement program.

Sincerely,

DON HESS,
CW4, USA,
Executive Vice President.

USCG, CHIEF WARRANT AND
WARRANT OFFICERS ASSOCIATION,
Washington, DC, December 15, 1995.

Hon. PHIL GRAMM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: I am writing to express strong support for your legislation directing the conduct of a demonstration project to authorize Medicare reimbursement to the Department of Defense and its medical facilities for care provided in military treatment facilities (MTFs) and in DoD managed care networks. The bill includes, Tricare and the Uniformed Services Treatment Facilities in the demonstration.

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Your Medicare reimbursement legislation will allow these patriots and their families to use their Medicare benefits in military treatment facilities which will save scarce Medicare trust funds while providing the necessary funds needed for their care. Your Medicare reimbursement bill is win-win legislation for everyone—Medicare, taxpayers, beneficiaries and military medicine.

You have our full support for this legislation. I am sure that this demonstration will prove the need for a permanent reimbursement program.

Sincerely,

ROBERT L. LEWIS,
Executive Director.

NAVAL ENLISTED RESERVE ASSOCIATION,
Falls Church, VA, December 14, 1995.

Hon. PHIL GRAMM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: I am writing to express NERA's strong support for your legislation directing the conduct of a demonstration project to authorize Medicare reimbursement to the Department of Defense and its medical facilities for care provided in military treatment facilities and in DoD managed care networks. The bill includes TRICARE and the Uniformed Services Treatment Facilities in the demonstration.

Military retirees and their families are the only federal employees who lose their employer provided health care upon reaching age 65. Although eligible to use MTFs on a space available basis, deep cutbacks in health care personnel and funding as well as hospital closures resulting from Base Realignment and Closure Commission actions have shoved hundreds of thousands of retirees out of military medicine.

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Your Medicare reimbursement legislation will allow these patriots and their families to use their Medicare benefits in military treatment facilities which will save scarce Medicare trust funds while providing the necessary funds needed for their care. Your Medicare reimbursement bill is win-win legislation for Medicare, taxpayer, beneficiaries and military medicine.

You have our full support for this legislation. I am sure that this demonstration will prove the need for a permanent reimbursement program.

Sincerely,

EDDIE OCA,
National President.

NAVAL RESERVE ASSOCIATION,
Alexandria, VA, 15 December 1995.

Hon. PHIL GRAMM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: I am writing to express strong support for legislation directing the conduct of a demonstration project to authorize Medicare reimbursement to the Department of Defense and its medical facilities for care provided in military treatment facilities (MTFs) and in DoD managed care networks. The bill include TRICARE and the Uniformed Services Treatment Facilities in the demonstration.

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You have our full support for this legislation.

Sincerely,

JAMES E. FOREREST

ASSOCIATION OF MILITARY SURGEONS
OF THE UNITED STATES,
Bethesda, MD, December 15, 1995.

Hon. PHIL GRAMM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: I am writing to express strong support for your legislation directing the conduct of a demonstration project to authorize Medicare reimbursement in the Department of Defense and its medical facilities for care provided in military treatment facilities (MTFs) and in DoD managed care networks. The bill includes TRICARE and the Uniformed Services Treatment Facilities in the demonstration.

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You have our full support for this legislation. I am sure that this demonstration will prove the need for a permanent reimbursement program.

Sincerely,

MAX B. BRALLIAR,
LT General, USAF, MC Ret.
Executive Director.●

●Mr. MCCAIN. Mr. President, today I am cosponsoring with Senator PHIL GRAMM the Uniformed Services Medicare Subvention Demonstration Act, this bill would allow Medicare reimbursement to the Department of Defense for care provided by the military system to Medicare-eligible uniformed services beneficiaries.

In the case of those Medicare-eligible uniform services beneficiaries who enroll in the Department's managed health care plan, Tricare, this legislation would authorize a demonstration project that allows Medicare to pay DOD based on a reduced rate per enrollee of 93 percent from what Medicare pays eligible health maintenance organizations. In the case of DOD beneficiaries who do not enroll in Tricare, Medicare would pay military treatment facilities [MTFs] for services provided based on the methodology it would use in paying a discounted rate of 93 percent of what Medicare pays a similar civilian provider.

Under current law, DOD retirees may receive care free of charge at a MTF on a space available basis. There are currently about 1.2 million uniformed services beneficiaries age 65 and older. By 1997, this number is expected to grow to 1.4 million. It is estimated that 97 percent of these retirees are eligible for Medicare. An estimated 324,000 of these individuals currently use military health care facilities on a regular basis when space is available, at a cost of $1.4 billion per year from DOD's annual appropriation. Due to budgetary considerations, DOD soon will no longer have the resources to treat Medicare-eligible beneficiaries unless it is able to obtain Medicare reimbursement.

For military retirees, the cost of care provided through civilian providers in the Medicare Program is significantly higher than if the care is provided at a military hospital. One study by DOD found that the cost of care at a military hospital is 10–24 percent less. Such savings are further supported by a GAO study of six hospitals in which estimated savings to the CHAMPUS Program ranged from $18 to $21 million. With Medicare reimbursement, DOD will be able to treat more Medicare-eligible beneficiaries at lower cost to the Government.

There would be substantial benefits to our military readiness associated with this legislation. Under this demonstraion project, the readiness of the military health care system would be enhanced in two significant ways. First, military treatment facilities would be able to maintain their service capacity despite DOD budgetary restrictions due to the infusion of Medicare funds. Second, DOD physicians and other military health care personnel will be able to treat the broad range of medicare problems presented by retired beneficiaries, thereby assisting them to maintain and expand their knowledge and skills.

Even more important, this legislation is important to overall military personnel readiness. Particularly in times of conflict, our Armed Forces depend heavily on the high quality of career mid-level and senior management. We must therefore continue to attract such personnel to serve full military careers, often comprising 30 years of service and sacrifice. Offering an attractive retirement benefits package, including military health care during retirement, and keeping our Government's promises concerning such benefits, is essential to maintaining these key personnel.

I believe that this bill is at least budget neutral and will save the Government money. It will seek a reduced reimbursement from Medicare only for new beneficiaries who otherwise obtain care through Medicare within the civilian sector. DOD concludes that subvention will reduce Government costs. Allowing Medicare reimbursements for DOD health care has been a longstanding proposal. This bill would allow us to demonstrate the initiative on a limited basis to ensure that it provides the promised benefits to Medicare recipients who are retired uniform service beneficiaries, to Department of Defense's health care system and to the Medicare trust fund. I hope it is a demonstration we can implement to increase success for broader application.

Mr. President, this bill is important to the military, its retirees and the Nation. The military needs to maintain its readiness and its ability to provide the best care possible. Retirees who have served their careers in our uniformed services, and who have also paid into the Medicare trust fund like other Medicare beneficiaries, deserve the full range of choice that this legislation offers. They should be able to use their Medicare coverage wherever they are eligible to receive care, including a military treatment facility or the Tricare Program.

This legislation is supported in principle by the Department of Defense and fully by all the uniformed services organizations and the major veterans organizations, including the entire military coalition. Additionally, the Senate has already taken a positive position on Medicare subvention when it earlier this year passed a sense-of-the-Senate resolution in the Defense authorization bill. I am proud to be part of an effort with Senator PHIL GRAMM to continue to move forward on this important legislation for military service members and their families.

Again, this legislation should provide the catalyst to demonstrate that, in fact, those career uniformed service members continue to have options in terms of health care and allows them to continue to be able to choose their health care provider like most Americans. For the active service members and their families they will continue to enjoy the highest quality health care that is our duty to provide.●

By Mr. SARBANES:

S. 1488. A bill to convert certain excepted service positions in the U.S. Fire Administration to competitive service positions, and for other purposes; to the Committee on Governmental Affairs.

U.S. FIRE ADMINISTRATION LEGISLATION

● Mr. SARBANES. Mr. President, today I am introducing legislation to convert eight remaining excepted service positions at the U.S. Fire Administration to competitive service status.

During its first few years of operation, the Federal Emergency Management Agency used an excepted service authority provided under the Fire Prevention and Control Act of 1974 in order to quickly staff the National Fire Academy with personnel who were uniquely qualified in fire education.

In the early 1980's, after the Academy's original vacancies had been filled and the Academy was up and running, it became FEMA's policy to fill openings at the NFA through a competitive civil service hiring system. Today, 91 of the NFA's 99 employees are under the general schedule with only eight employees who were hired in the 1970's and early eighties remaining in excepted service status. As a result, these remaining eight are subject to significant limitations within the USFA. Although they each average over 17 years of Federal service and were hired solely because of their strong backgrounds and unique qualifications in fire education, they are legally barred from competing for management positions within the Fire Administration. The remaining eight excepted service employees are not even allowed to serve on details to competitive service jobs—even within their own organization—without an official waiver from the Office of Personnel Management.

Mr. President, I am proposing to remedy this situation. The legislation which I am introducing will enable the Director of the Federal Emergency Management Agency and the Director of the Office of Personnel Management to convert any employees appointed to the Fire Administration under the Federal Fire Protection and Control Act, to competitive service—without any break in service, diminution of service, reduction of cumulative years of service, or requirement to serve any additional probationary period with the Administration. Those converted under this legislation shall also remain in the Civil Service Retirement System and retain their seniority. This practice is consistent with other federally supported training academies. The Congressional Budget Office has indicated that there would be no cost for this conversion, and I urge my colleagues to join me in support of this legislation.•

By Mrs. MURRAY:

S. 1489. A bill to amend the Wild and Scenic Rivers Act to designate a portion of the Columbia River as a recreational river, and for other purposes; to the Committee on Energy and Natural Resources.

COLUMBIA RIVER BASIN LEGISLATION

• Mrs. MURRAY. Mr. President, I am introducing legislation today to designate the 50-miles of the mid-Columbia River known as the Hanford Reach—the last free-flowing stretch of the river—a wild and scenic river and to improve fish and wildlife habitat downstream of the reach.

Although I have been working for less than a year with the community and members of my Hanford Reach Advisory Panel to develop a broadly-supported means of protecting the river corridor, the effort to save the reach has been underway for 30 years.

The Hanford Reach is an issue whose time has come.

While most of the Columbia River Basin was being developed during the middle of this century, the Hanford Reach and other buffer areas within the Hanford Nuclear Reservation were kept pristine, ironically, by the same veil of secrecy and security that led to the notorious nuclear and chemical contamination of the central Hanford site. Today, these relatively undisturbed Hanford buffer areas are wild remnants of a great river and vast shrub-steppe ecosystem that have been tamed by dams, farms, and other economically important development.

As the last free-flowing stretch of the Columbia between the Canadian border and Bonneville Dam, the significance of the Hanford Reach has only recently become fully appreciated. Mile for mile, it contains some of the most productive and important fish spawning habitat in the lower 48 States. The cool, clear waters of the Columbia River that sweep through the reach have the volume and velocity to produce ideal conditions for spawning and migrating salmon. The reach produces 80 percent of the Columbia Basin's fall chinook salmon, as well as thriving runs of steelhead trout and sturgeon. It is the only truly healthy segment of the mainstem of the Columbia River.

At a time when the Pacific Northwest is struggling to restore declining salmon runs—and spending hundreds of millions annually on restoration and enhancement efforts—protecting the Hanford Reach is the most cost-effective step we can take. That is why the Northwest Power Planning Council, Trout Unlimited, conservation groups, tribes, and many other regional interests involved in the salmon controversy support designation of the reach under the National Wild and Scenic Rivers Act.

The reach is also rich in other natural and cultural resources. Bald eagles, wintering and migrating waterfowl, deer, elk, and a diversity of other wildlife depend on the reach. It is home to dozens of rare, threatened, and endangered plants and animals, some found only in the reach.

This part of the Columbia Basin is also of great cultural importance. Native American culture thrived on the shores and islands of the reach for millennia, and there are over 150 archaeological sites in the proposed designation, some dating back more than 10,000 years. The reach's naturally-spawning salmon and cultural sites remain a vital part of the culture and religion of Native American groups in the area.

The southern shore of the reach chronicles a different kind of history: the story of the Manhattan project and defense nuclear production during the cold war. Nowhere else in the world is there a higher concentration of nuclear facilities, some of which are on the National Register of Historic Places, than along this stretch of the Columbia River.

In stark contrast to the old defense reactors is the section of the reach dominated by the White Bluffs, whose towering but fragile cliffs offer dramatic scenery and opportunities for solitude. Irrigation water flowing through unstable Ringold formation sediments has caused part of the White Bluffs to slide into the River, smothering spawning beds, reducing water quality, and even deflecting the course of the river. This constitutes one of the great threats to the reach.

The reach offers residents and visitors recreation of many types—from hunting, fishing, and hiking to kayaking, waterskiing, and birdwatching—and adds greatly to the quality of life and economy of the area.

My legislation builds on a foundation begun in the 100th Congress by Senators Dan Evans and Brock Adams, and Congressman Sid Morrison, who enacted legislation which called for a moratorium on development within the river corridor and a detailed study of policy options. Our bill implements the preferred alternative of the Hanford Reach EIS, which recommended Congress designate the reach a recreational river under the National Wild and Scenic Rivers Act.

With the guidance of my Hanford Reach Advisory Panel, the legislation also contains some refinements and protections. For example, the bill explicitly allows current activities, such as agriculture, power generation and transmission, and water withdrawals along the river corridor to continue. It excludes private property, which comprises only about three percent of the study area. The legislation also guarantees that local government and other local interests have a formal role in the management of the river corridor, which will come under the jurisdiction of the U.S. Fish and Wildlife Service.

The legislation also includes provisions which complement the Wild and Scenic River designation. The Secretary of Interior and relevant Federal agencies are directed to work with local and State sponsors in developing a program of education and interpretation related to the Hanford Reach. The city of Richland and area tribes, among others, have been working with the Department of Energy on a museum and regional visitor center proposal and are eager to make the natural and human history of the reach part of the project. Federal agencies should help coordinate with local sponsors on this initiative.

There is also great interest in the tri-cities, and among some government agencies, in improving the habitat value, access, and appearance of the Columbia River shoreline in the area, much of which is lined with high, steep levees that were put into place before the network of Columbia River dams controlled the flow of the River and reduced the need for such flood control structures. Migrating salmon and wildlife now face a sterile gauntlet, populated by predatory fish species, in this part of the River.

This bill directs the Army Corps of Engineers, which built, owns, and maintains the levees, to coordinate with local sponsors on demonstration projects to restore the rivershore. In the short-term, the bill directs the corps to undertake some small levee modification projects under their existing Section 1135 Project Restoration Program, assuming the local sponsors meet program requirements for planning and cost-sharing. The cities of Kennewick and Pasco, and the Port of Kennewick, have already indicated an interest and ability to pursue this course of action. In the long-term, the corps is directed to undertake a comprehensive study of the levees and determine if rivershore restoration in the area is feasible and an important Federal priority.

I am proud of the way this legislation was developed. It is the product of an open, consensus-building process that heard from virtually every interested group in the community and in the region. The bill was drafted with the assistance of a diverse panel of community leaders from local government, business, labor, and the conservation community.

I am deeply grateful to the members of my Hanford Reach Advisory Panel for their public spirited commitment of their valuable time, energy, and creativity. Sue Frost, manager of the Port of Kennewick; Chris Jensen, Pacso City Council; Joe King, Richland City Manager; Rick Leaumont with the Lower Columbia Basin Audubon Society; John Lindsay, president of TRIDEC; Kris Watkins with the Tri-Cities' Visitor and Convention Bureau; and Jim Watts with the Oil, Chemical and Atomic Workers did an outstanding job tackling the tough issues associated with this legislation and developing a consensus proposal.

I look forward to working with my colleagues in the Senate to enact this historic and balanced measure.●

By Mr. SIMON (for himself, Mr. JEFFORDS, Mr. LEAHY, and Mrs. BOXER):

S. 1490. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve enforcement of such title and benefit security for participants by adding certain provisions with respect to the auditing of employee benefit plans, and for other purposes; to the Committee on Labor and Human Resources.

THE PENSION AUDIT IMPROVEMENT ACT OF 1995

Mr. SIMON. Mr. President, Senator JEFFORDS and I are introducing the Pension Audit Improvement Act of 1995 today in order to improve the quality of audits performed pursuant to the Employee Retirement Income Security Act of 1974 [ERISA]. The bill repeals the limited scope audit exemption, enhances ERISA auditor qualifications, and requires speedy reporting of serious ERISA violations discovered during plan audits.

Over the past few years, both the Inspector General of the Department of Labor and the GAO have issued reports documenting the need to strengthen the quality of pension audits. Recent investigations by Secretary Reich of 401(k) plans further demonstrate the need for Congress to Act promptly on this measure.

I want to commend Senator JEFFORDS for his interest and work in support of this bill. I also want to commend Secretary Reich for the Department's substantial work and effort in support of this bill. I am also pleased to report that this bill is supported by the American Institute of Certified Public Accountants, and I thank them for their efforts to move this bill forward. I ask unanimous consent to have a summary of the bill printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PENSION AUDIT IMPROVEMENT ACT OF 1995

CURRENT LAW

Title I of the Employee Retirement Income Security Act of 1974 (ERISA), requires that pension plan administrators obtain a financial audit of employee benefit pension plans. ERISA's audit requirement was designed to protect employee benefit plan assets and assist the Labor Department's enforcement activities by insuring the integrity of financial and compliance information disclosed on the annual report filed with the government.

Under current law, plan auditors are permitted to exclude plan assets invested in regulated institutions, such as banks or insurance companies, from the annual audit. This exclusion, referred to as a limited-scope audit, prohibits auditors from rendering an opinion on the plan's financial statements in accordance with professional auditing standards. Consequently, there is no assurance that plan assets are secure. About fifty percent of plan audit reports contain a limited scope audit disclaimer, resulting in approximately $950 billion dollars in pension plan assets that are not subject to a full financial audit.

Federal law enforcement agencies including, the Office of the Inspector General of the Department of Labor, the General Accounting Office (GAO) and the Pension and Welfare Benefits Administration of the Department of Labor have found that current ERISA audits do not consistently meet professional standards, therefore, hundreds of millions of dollars in pension funds are not being adequately audited.

MAJOR PROVISIONS OF THE PENSION AUDIT IMPROVEMENT ACT OF 1995

The Pension Audit Improvement Act is designed to improve the integrity of private audits of employee pension plan benefits to better protect retirees and active workers future retirement income. In order to insure that pension funds are adequately safeguarded, this bill repeals the limited scope audit exception, enhances ERISA auditor qualifications, and requires speedy reporting of serious ERISA violations discovered during plan audits.

1. Repeal of limited scope audits

The bill repeals the limited-scope audit. Limited scope audits were originally designed to exempt institutions that were already examined by federal or state agencies from duplicative detailed audits. The Inspector General of the Department of Labor, has found, however, that a significant number of these financial institutions are not audited annually increasing risks to plan participants of inadequate retirement security. Eliminating the limited scope audit will not require that the plan's accountant duplicate the work of a bank or insurance company audit. It is expected that the ERISA plan auditors will rely on the reports of the financial institution, meeting certain certified public accounting standards, which speak to the reliability of that audit. This "single audit" approach would fulfill the purposes of the audit requirement without imposing the additional cost of independently reviewing the financial institution's records. At the same time, accountants will now be able to issue audit reports that provide employees the assurance that their retirement income is secure.

2. Reporting and enforcement requirements for pension plans

a. Prompt reporting of serious violations

ERISA's current reporting rules create a time lag between the detection of a reportable event and the filing of the annual report which increases the risk to plan participants and beneficiaries that full recoveries will not be made. This audit bill requires faster reporting duties on auditors who discover serious violations or whose services are terminated by the employer client. This provision should substantially enhance ERISA enforcement because the Department of Labor will receive notices of violations from plan auditors, up to eighteen months, before the Department currently receives this information.

The new reporting rules apply only to the most egregious violations like theft, embezzlement, bribery or kickbacks. The primary reporting obligation remains with the plan administrator. Auditors report serious violations directly to the Labor Department only if the administrator fails to notify within a specific time frame.

b. Auditor termination

The bill also requires a pension plan that terminates an accountant to promptly notify the Secretary of Labor. The plan's notice must specify the reasons for termination, and a copy of the notice must be sent to the accountant.

c. Penalty for failure to report

The bill provides a civil penalty of up to $100,000 against any accountant or pension plan that violates the reporting requirement. A violation could also result in criminal sanctions.

3. Enhanced qualifications for ERISA plan auditors

The Department of Labor reports that it "continues to detect substantial auditing work" by ERISA auditors. This bill creates a peer review and continuing professional education requirement for ERISA plan auditors. The bill also gives the Secretary of Labor regulatory authority to insure the quality of plan audits.

The bill requires that qualified public accountants participate in an external quality peer review relevant to employee benefit plans within a three year period prior to conducting an ERISA audit. This review must meet recognized auditing standards as determined by the Comptroller General of the United States. The bill also requires that qualified public accountants performing ERISA plan audits satisfy specific continuing education requirements.

4. Clarification of fiduciary penalties

The bill provides the Secretary of Labor the discretion to reduce the current civil penalties (the penalty is an amount equal to 20% of amount recovered pursuant to a settlement agreement for breach of fiduciary duty). The Secretary has determined that the automatic penalty disadvantages plan participants because it serves as a "disincentive" for parties to settle with the Department.

The bill also clarifies that ERISA's anti-alienation rule, which protects pensions from third party creditors, does not protect fiduciaries who breach ERISA and cause a loss to the plan. The bill clarifies that ERISA does not prohibit a plan from offsetting a fiduciary's, or criminal wrongdoer's pension benefits when such person causes a loss to the plan.

Mr. JEFFORDS. Mr. President, I rise today with my good friend and colleague, Senator SIMON, to introduce the Pension Audit Improvement Act of 1995. I'd also like to thank the Department of Labor and the American Institute of Certified Public Accountants who have worked very closely with us to produce this bill.

The primary purpose of this legislation is to repeal the limited scope audit exception currently in the Employee Retirement Income Security Act [ERISA]. Similar bills have been introduced by my colleagues Senators KASSEBAUM and HATCH in previous years. The current bill has the added feature of putting some teeth into private auditor enforcement efforts and responsibilities.

Limited scope audits are audits where independent accountants are not required to examine, test, or evaluate funds or assets held in trust by banks or other regulated financial institutions. This provision in ERISA has created a major loophole in the oversight of pension plans. While the assumption is that these institutions are adequately audited by federal agencies, these audits are generally done only once every two years. More significantly, when an independent auditor is restricted from examining significant information in an audit, she generally disclaims any opinion about whether that plan's financial statements are correct.

Workers and retirees have the right to except that somebody is making sure that their pensions are there when they retire. The sheer numbers of private pension plans over 900,000, make it virtually impossible for the government to possibly maintain a viable enforcement effort without the help of private plan auditors. Also, is it realistic to expect an accountant, who has continuing ties with an employer, to identify and report to the Department of Labor questionable transactions between the plan and plan sponsor?

The current enforcement system incorrectly assumes, to a large degree, that independent public accountants will detect serious violations in a timely manner. A 1987 report, by the Department of Labor's Office of Inspector General found that in 71% of their reviews, that the independent auditors had failed to discover existing ERISA violations. In a more recent 1989 report, the Inspector General found large numbers of audits didn't adequately examine or test plan assets and lacked timely reporting of ERISA violations.

Furthermore, these studies indicate a number of problems with the detection of potential ERISA violations, including: incomplete or inadequate information being reported, the ability of the government to examine only about one percent of these plans per year, and that private plan audits do not consistently meet generally accepted professional accounting standards.

The intent of the Pension Audit Improvement Act is to increase the overall integrity of private pension plan auditing enforcement practices. To enhance the integrity of audits this bill will subject qualified public accountants to external peer review. In addition, public accountants performing ERISA audits will be required to satisfy continuing education requirements emphasizing employee benefits ERISA rules.

In addition, this bill will place new, expedited reporting duties on auditors whose services are terminated by the plan administrator before the audit is completed and, for those auditors who discover evidence of serious violations such as theft, embezzlement, bribery or kickbacks. Auditors will be required to report these violations directly to the Department of Labor only if the administrator fails to notify the Department within a specified time frame. The primary reporting, of any violation, still remains with the plan sponsor.

I look forward to working with all interested parties in turning this bill into a first step toward strengthening our current pension enforcement system. Although, these changes to ERISA's reporting rules may seem minor they have the potential to create lasting reform with respect to the enforcement of Title I of ERISA. Giving private sector auditors the tools and responsibility of early detection of violations will prevent workers from losing hard earned pension benefits.

We simply must do a better job of safeguarding the pension benefits of a growing number of workers and pensioners. The economic security of tens of millions of Americans depends on these benefits being adequately protected.

By Mr. GRAMS (for himself, Mr HEFLIN, Mr. PRYOR, Mr. MCCONNELL, Mr. CONRAD, Mr. COVERDELL, and Mr. SANTORUM):

S. 1491. A bill to reform antimicrobial pesticide registration, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

ANTI-MICROBIAL LEGISLATION

Mr. GRAMS. Mr. President, I rise today to introduce bipartisan legislation reforming the burdensome regulatory process for pesticide approvals under the Federal Insecticide, Fungicide, and Rodenticide Act.

I am pleased to say that my legislation achieves that goal while preserving and improving upon our Nation's public health.

This legislation is a product of compromise between the affected industry and the Environmental Protection Agency.

The spirit of bipartisanship is best exemplified by the list of my colleagues joining me in this effort, including Senator HEFLIN, Senator PRYOR, Senator MCCONNELL, Senator CONRAD, Senator COVERDELL and Senator SANTORUM.

As members of the Agriculture Committee, their support for this commonsense legislation is essential and appreciated.

Mr. President, Congress has finally begun to recognize the severe burdens we place upon America's job creators when we impose regulatory legislation without respect to its cost or ultimate benefits.

So I am pleased that we have made significant progress this year in reforming and reducing some of that regulatory burden, and I believe this legislation takes us another step forward.

The pesticides covered by this legislation, called antimicrobial products, include common household disinfectant cleaners, bleaches, sanitizers, and disinfectants.

Antimicrobials play an important and beneficial role in controlling disease and in maintaining a high public-health standard in hospitals, nursing homes, clinics, schools, hotels, restaurants, and even in our own homes.

Because emergency workers rely on antimicrobial pesticides to disinfect contaminated water supplies, they are especially valuable during times of natural disasters, such as flooding in the Midwest, hurricanes in Florida, and earthquakes in California.

Yet despite the critical role antimicrobials play in maintaining public health, and the efforts of our colleagues to develop a responsible solution, there have been significant and unintended delays on the EPA's part in approving these products for use.

Unfortunately, those delays in the registration process have stifled the ability of the industry to market new products—products which could have an even more significant impact on the public health.

I would like to share an example.

A new product which provides extraordinary effectiveness against a powerful form of bacteria was developed by an international supplier of cleaning and sanitizing products.

Not only was this new product found to be extremely effective, but it was also developed to break down rapidly once it had achieved its sanitizing work. In short, it effectively helped destroy bacteria while it reduced the likelihood of environmental damage.

While this revolutionary product had proven merits, the company could not get the product approved by the EPA for over 2 years because of the cumbersome approval process.

At the end of that 2-year period, the EPA granted its approval and agreed that this product was of great importance to public health and the environment. It's unfortunate that it has taken so long for the Government to recognize what its manufacturer had long known.

Such examples have become commonplace. Because of this inappropriate backlog of anti-microbial applications pending within the EPA that have little or no chance of being resolved within a reasonable period of time, the need for legislative reform is clear.

Our legislation will establish process for expediting the review of anti-microbial products.

It incorporates predictability into the system without compromising public health and safety. It encourages industry and Government to work together to actually improve products which can better guarantee our public health.

In a legislative climate that is too often partisan and uncompromising, this bill is an example of how Congress, the administration and its Federal agencies, industry, and consumers can pool their efforts to achieve a common end.

Again, I thank my colleagues who have cosponsored this bill, the antimicrobial industry, user groups, and the EPA for coming together to work out the details of this bill. I urge the rest of my colleagues to join us in supporting this commonsense reform.

ADDITIONAL COSPONSORS

S. 607

At the request of Mr. WARNER, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 984

At the request of Mr. GRASSLEY, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 984, a bill to protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1183, a bill to amend the act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standards for coverage under the act, and for other purposes.

S. 1379

At the request of Mr. THOMAS, his name was added as a cosponsor of S. 1379, a bill to make technical amendments to the Fair Debt Collection Practices Act, and for other purposes.

S. 1386

At the request of Mr. BURNS, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1386, a bill to provide for softmetric conversion, and for other purposes.

S. 1400

At the request of Mrs. KASSEBAUM, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1400, a bill to require the Secretary of Labor to issue guidance as to the application of the Employee Retirement Income Security Act of 1974 to insurance company general accounts.

S. 1419

At the request of Mrs. KASSEBAUM, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1419, a bill to impose sanctions against Nigeria.

SENATE CONCURRENT RESOLUTION 25

At the request of Ms. SNOWE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Concurrent Resolution 25, a concurrent resolution concerning the protection and continued viability of the Eastern Orthodox Ecumenical Patriarchate.

AMENDMENTS SUBMITTED

WHITEWATER SUBPOENA RESOLUTION

D'AMATO AMENDMENTS NOS. 3101-3103

Mr. D'AMATO proposed three amendments to the resolution (S. Res. 199) directing the Senate Legal Counsel to bring a civil action to enforce a subpoena of the Special Committee to Investigate Whitewater Development Corporation and Related Matters to William H. Kennedy, III; as follows:

AMENDMENT NO. 3101

The first section of the resolution is amended by striking "subpoena and order" and inserting "subpoenas and orders".

AMENDMENT NO. 3102

After the sixth Whereas clause in the preamble insert the following:

"Whereas on December 15, 1995, the Special Committee authorized the issuance of a second subpoena duces tecum to William H. Kennedy, III, directing him to produce the identical documents to the Special Committee by 12:00 p.m. on December 18, 1995;

"Whereas on December 18, 1995, counsel for Mr. Kennedy notified the Special Committee that, based upon the instructions of the White House Counsel's Office and personal counsel for President and Mrs. Clinton, Mr. Kennedy would not comply with the second subpoena;

"Whereas, on December 18, 1995, the chairman of the Special Committee announced that he was overruling the legal objections to the second subpoena for the same reasons as for the first subpoena, and ordered and directed that Mr. Kennedy comply with the second subpoena by 3:00 p.m. on December 18, 1995;

"Whereas Mr. Kennedy has refused to comply with the Special Committee's second subpoena as ordered and directed by the chairman;".

Amend the title so as to read: "Resolution directing the Senate Legal Counsel to bring a civil action to enforce subpoenas and orders of the Special Committee to Investigate Whitewater Development Corporation and Related Matters to William H. Kennedy, III."

SARBANES AMENDMENT NO. 3104

Mr. SARBANES proposed an amendment to the resolution, Senate Resolution 199, supra; as follows:

Strike all after the resolving clause and insert the following: "That the Special Committee should, in response to the offer of the White House, exhaust all available avenues of negotiation, cooperation, or other joint activity in order to obtain the notes of former White House Associate Counsel William H. Kennedy, III, taken at the meeting of November 5, 1993. The Special Committee shall make every possible effort to work cooperatively with the White House and other parties to secure the commitment of the Independent Counsel and the House of Representatives not to argue in any forum that the production of the Kennedy notes to the Special Committee constitutes a waiver of attorney-client privilege.".

The preamble is amended to read as follows:

“Whereas the White House has offered to provide the Special Committee to Investigate Whitewater Development Corporation and Related Matters (‘the Special Committee’) the notes taken by former Associate White House Counsel William H. Kennedy, III, while attending a November 5, 1993 meeting at the law offices of Williams and Connolly, provided there is not a waiver of the attorney client privilege;

“Whereas the White House has made a well-founded assertion, supported by respected legal authorities, that the November 5, 1993 meeting is protected by the attorney-client privilege;

“Whereas the attorney-client privilege is a fundamental tenet of our legal system which the Congress has historically respected;

“Whereas whenever the Congress and the President fail to resolve a dispute between them and instead submit their disagreement to the courts for resolution, an enormous power is vested in the judicial branch to write rules that will govern the relationship between the elected branches;

“Whereas an adverse precedent could be established for the Congress that would make it more difficult for all congressional committees to conduct important oversight and other investigatory functions;

“Whereas when a dispute occurs between the Congress and the President, it is the obligation of each to make a principled effort to acknowledge, and if possible to meet, the legitimate needs of the other branch;

“Whereas the White House has made such an effort through forthcoming offers to the Special Committee to resolve this dispute; and

“Whereas the Special Committee will obtain the requested notes much more promptly through a negotiated resolution of this dispute than a court suit:”.

THE LIVESTOCK CONCENTRATION REPORT ACT OF 1995

HATCH AMENDMENT NO. 3105

Mr. DOLE (for Mr. HATCH) proposed an amendment to the bill (S. 1340) to require the President to appoint a Commission on Concentration in the Livestock Industry; as follows:

Sec. 4 Duties of Commission: delete lines 9 and 10 (page 9) and add:

(2) to request the Attorney General to report on the application of the antitrust laws and operation of other Federal laws applicable, with respect to concentration and vertical integration in the procurement and pricing of slaughter cattle and of slaughter hogs by meat packers;

Sec. 4(b) Solicitation of Information.

Line 7 page 10 insert: ‘industry employees’.

THE IRAN FOREIGN OIL SANCTIONS ACT OF 1995

KENNEDY (AND D'AMATO) AMENDMENT NO. 3106

Mr. SANTORUM (for Mr. KENNEDY, for himself and Mr. D'AMATO) proposed an amendment to the bill (S. 1228) to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran; as follows:

At the end of the bill, add the following new section:

SEC. . APPLICATION OF THE ACT TO LIBYA.

The sanctions of this Act, including the terms and conditions for the imposition, duration, and termination of sanctions, shall apply to persons making investments for the development of petroleum resources in Libya in the same manner as those sanctions apply under this Act to persons making investments for such development in Iran.

REIMBURSEMENTS TO STATES FOR FEDERALLY FUNDED EMPLOYEES DURING SHUT DOWN

DOMENICI (AND OTHERS) AMENDMENT NO. 3107

Mr. SANTORUM (for Mr. DOMENICI, Mr. LOTT, Mr. WARNER, Mr. STEVENS, Mr. COHEN, Mr. EXON, Mr. PRESSLER, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. THOMAS, Mr. COHEN, Mr. COCHRAN, Mr. KERREY, Mr. GRASSLEY, and Mr. HARKIN) proposed an amendment to the bill (S. 1429) to provide clarification in the reimbursement to States for federally funded employees carrying out Federal programs during the lapse in appropriations between November 14, 1995, through November 19, 1995; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. CLARIFICATION OF REIMBURSEMENT TO STATES FOR FEDERALLY FUNDED EMPLOYEES.

Section 124 of the joint resolution entitled “A joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes”, approved November 20, 1995 (Public Law 104–56) is amended by adding at the end thereof the following new subsection:

“(b)(1) If during the period beginning November 14, 1995, through November 19, 1995, a State used State funds to continue carrying out a Federal program or furloughed State employees whose compensation is advanced or reimbursed in whole or in part by the Federal Government—

“(A) such furloughed employees shall be compensated at their standard rate of compensation for such period;

“(B) the State shall be reimbursed for expenses that would have been paid by the Federal Government during such period had appropriations been available, including the cost of compensating such furloughed employees, together with interest thereon due under section 6503(d) of title 31, United States Code; and

“(C) the State may use funds available to the State under such Federal program to reimburse such State, together with interest thereon due under section 6503(d) of title 31, United States Code.

“(2) For purposes of this subsection, the term ‘State’ shall have the meaning as such term is defined under the applicable Federal program under paragraph (1).”.

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, December 20, 1995, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to consider S.594, Presidio, to review a map associated with the San Francisco Presidio. Specifically, the purposes are to determine which properties within the Presidio of San Francisco should be transferred to the administrative jurisdiction of the Presidio Trust and to outline what authorities are required to ensure that the trust can meet the objective of generating revenues sufficient to operate the Presidio without a Federal appropriation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Wednesday, December 20, 1995, at 10 a.m. in SD226.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BUDGET SCOREKEEPING REPORT

• Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through December 18, 1995. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1996 concurrent resolution on the budget (H. Con. Res. 67), show that current level spending is under the budget resolution by $131.3 billion in budget authority and by $55.0 billion in outlays. Current level is $43 million below the revenue floor in 1996 and $0.7 billion below the revenue floor over the 5 years 1996–2000. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $190.7 billion, $54.9 billion above the maximum deficit amount for 1996 of $245.6 billion.

Since my last report, dated December 7, 1995, Congress cleared for the President's signature the Commerce, State, Justice, and the Judiciary Appropriations Act (H.R. 2076). These actions, and the expiration of continuing resolution authority on December 15, 1995, changed the current level of budget authority and outlays.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 19, 1995.
Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1996 shows the effects of Congressional action on the 1996 budget and is current through December 18, 1995. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1996 Concurrent Resolution on the Budget (H. Con. Res. 67). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report, dated December 7, 1995, Congress cleared for the President's signature the Commerce, State, Justice and the Judiciary Appropriations Act (H.R. 2076). These actions, and the expiration of continuing resolution authority on December 15, 1995, changed the current level of budget authority and outlays.

Sincerely,
JUNE E. O'NEILL, *Director.*

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1996, 104TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS DECEMBER 18, 1995

[In billions of dollars]

	Budget resolution (H. Con. Res. 67)	Current level [1]	Current level over/under resolution
ON-BUDGET			
Budget authority	1,285.5	1,154.2	−131.3
Outlays	1,288.1	1,233.1	−55.0
Revenues:			
1996	1,042.5	1,042.5	[2] −0.
1996–2000	5,691.5	5,690.8	−0.7
Deficit	245.6	190.7	−54.9
Debt subject to limit	5,210.7	4,900.0	−310.7
OFF-BUDGET			
Social Security outlays:			
1996	299.4	299.4	0.0
1996–2000	1,626.5	1,626.5	0.0
Social Security revenues:			
1996	374.7	374.7	0.0
1996–2000	2,061.0	2,061.0	0.0

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] Less than $50 million.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1996, AS OF CLOSE OF BUSINESS DECEMBER 18, 1996

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			1,042,557
Permanents and other spending legislation	830,272	798,924	
Appropriation legislation		242,052	
Offsetting receipts	(200,017)	(200,017)	
Total previously enacted	630,254	840,958	1,042,557
ENACTED THIS SESSION			
Appropriation bills:			
1995 Rescissions and Department of Defense Emergency Supplementals Act (P.L. 104–6)	(100)	(885)	
1995 Rescissions and Emergency Supplementals for Disaster Assistance Act (P.L. 104–19)	22	(3,149)	
Agriculture (P.L. 104–37)	62,602	45,620	
Defense (P.L. 104–61)	243,301	163,223	
Energy and Water (P.L. 104–46)	19,336	11,502	
Legislative Branch (P.L. 105–53)	2,125	1,977	
Military Construction (P.L. 104–32)	11,177	3,110	
Transportation (P.L. 104–50)	12,682	11,899	
Treasury, Postal Service (P.L. 104–52)	15,080	12,584	
Authorization bills:			
Self-Employed Health Insurance Act (P.L. 104–7)	(18)	(18)	(101)
Alaska Native Claims Settlement Act (P.L. 104–42)	1	1	
Fishermen's Protective Act Amendments of 1995 (P.L. 104–43)		([1])	
Perishable Agricultural Commodities Act Amendments of 1995 (P.L. 104–48).			
Alaska Power Administration Sale Act (P.L. 104–58)	(20)	(20)	
Total enacted this session	366,191	245,845	(100)
PENDING SIGNATURE			
Commerce, Justice, State (H.R. 2076)	27,110	18,910	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	130,678	127,394	
Total Current Level [2]	1,154,233	1,233,108	1,042,457
Total Budget Resolution	1,285,500	1,288,100	1,042,500
Amount remaining:			
Under Budget Resolution	131,267	54,992	43
Over budget Resolution			

[1] Less than $500,000.

[2] In accordance with the Budget Enforcement Act, the total does not include $3,400 million in budget authority and $1,590 million in outlays for funding of emergencies that have been designated as such by the President and the Congress.

Notes.—Detail may not add due to rounding. Numbers in parentheses are negative.

DONALD L. BREIHAN: A COMMITTED PUBLIC SERVANT

● Mr. HOLLINGS. Mr. President, I rise today to pay tribute to the 38-year career of a dedicated public servant who makes the Internal Revenue Service look good. Donald L. Breihan, who is the district director of the Columbia District of the IRS and who runs the service's 11 offices across South Carolina, will retire January 5. To put it succinctly, he'll be missed.

For 16 years, Don's down-to-earth, hands-off style of managing nearly 400 IRS employees in South Carolina has transformed many local tax initiatives and programs into national models. On the job, he is known throughout the Nation for his fairness and professionalism. And in the community as an adjunct professor at the school of business at the University of South Carolina and as a past member of the board of directors of the Combined Federal Campaign, Don is known for his dedication and service.

Don has been head of the Columbia District since 1980. In his years there, he is credited with developing an award-winning Federal/State Tax Administration Sharing Program. As the IRS Southeast Region Federal/State Sharing Program executive, he coordinates Federal/State programs in the nine Southeastern States. Don also oversees the operation of Federal tax administration in South Carolina—a job in which he manages the collection of $11 billion in Federal tax every year from 1.5 million filers of Federal income tax returns.

Don was born 60 years ago in St. Louis, MO. He joined the IRS after he got a bachelor's degree in accounting from St. Louis University. In 1973, he started training in the agency's executive development program and became assistant district director of its Richmond, VA, office later that year. After a stint in Baltimore, he moved in 1980 to Columbia to take over IRS operations for the State of South Carolina.

Mr. President, Don Breihan is not a native of our Palmetto State, but he quickly earned the respect to be treated like one. His hard work, commitment, and spirit of dedication make him a tried and true South Carolinian. His brand of public service won't be able to be replaced.

Mr. President, I appreciate the opportunity to recognize the years of energy and devotion that Donald L. Breihan has worked to make our State a better place. I am glad that he is making South Carolina his permanent home. And I wish him and his wife Nancy all the best during Don's retirement and many more happy years to come.●

THE FIRST ANNIVERSARY OF THE MEXICAN PESO CRISIS

● Mr. D'AMATO. Mr. President, today marks the 1-year anniversary of a sad chapter in Mexico's history and a sad chapter in American financial management by the Clinton administration. After the sudden devaluation of the Mexican peso on December 19, 1994, the Mexican economy continued to collapse. In response to the economic crisis, the Clinton administration circumvented Congress and unilaterally committed $20 billion of United States taxpayer funds to bail out Mexico.

The public relations campaign conducted by the Clinton administration and the Mexican Government have attempted to portray the Mexican bailout as a success and that, given enough time and enough money—United States taxpayers' money—conditions in Mexico will eventually improve. Public relations campaigns and publicity stunts aside, the facts are that the Clinton administration's taxpayer funded bailout of Mexico is a colossal failure.

In early 1994, Mexico was hailed by the administration as a hallmark of success and was embraced as a partner in the North American Free-Trade Agreement. The subsequent 2 years have revealed that this image was a costly mirage forced upon the American and Mexican citizens. Mexico has become a dependent of the United States, looking north for more money to bail out its failed economic and social policies. But the answer to Mexico's problems is, and always has been, in Mexico City, not Washington, DC.

I have been saying for almost 1 year that the Clinton administration's bailout was an ill-conceived disaster. It is not just my opinion, it is the cold hard facts—evidenced by the Mexican economic figures. The last few months have demonstrated that the Mexican financial sector can no longer disguise what is happening in Mexico. Mexico's economic crisis is now 1 year old and there is no indication of any meaningful improvement in Mexico's real economy: Record numbers of Mexicans are out of work, interest rates are soaring, the people are starving, and the country is reeling under increasing social and political unrest.

Mr. President, we must look at the objective facts, and the performance of the Mexican peso is an excellent starting point. On December 20, 1994, the peso was trading at 3.97. Yesterday the peso closed at 7.54 against the dollar—that is a 50-percent drop in 1 year.

Mr. President, no one wants to hold pesos because they are considered worthless. As reported by the New York Times on November 11, 1995, "In the land of the peso, the dollar is common coin." But the Mexican Government continues to spend United States taxpayer dollars in their frantic and futile attempt to support the peso. Money from our Exchange Stabilization Fund—the ESF—that was supposed to be used to support the dollar. The Clinton administration's use of the ESF was unprecedented, and legally tenuous. In August of this year, I sponsored the Senate passed an amendment to the ESF statute which will prevent this administration from using the ESF as the President's personal piggybank again.

The currency speculators will continue to reap huge profits from the fluctuating peso. On December 22, 1994, Mexico adopted a floating rate regime, which can only be successful if people have confidence in the Mexican Central Bank. The Central Bank's performance so far has failed to inspire such confidence. These problems are exacerbated by the continuing dismal condition of the Mexican banking system. I have been saying all year that the Mexican banking system is the weak link in any financial recovery. In May of this year, the Banking Committee held a hearing to review the condition of the banks and their apparent inaccurate reports. The end result in that the Mexican Government is bailing our Mexican banks. On December 15, 1995, the Mexican Government announced that it was buying $2 billion of bad loans from Banamex, Mexico's largest financial groups. Where is the Meixcan Government getting this money? From the U.S. taxpayers?

In the year since the peso's collapse, Mexico has received over $23 billion from the United States and the IMF and it has not solved anything.

American taxpayer dollars have been spent paying off private investors and not one dime of it is staying in Mexico or helping the Mexican people. Over 1 million jobs have been lost and annual inflation has exceeded 50 percent. It is clear the bailout is a failure, so I hope that this administration will not consider throwing more good money after bad.

Mr. President, I want to address a related matter concerning the IMF. On October 18, I sent a letter to the Managing Director of the IMF, Mr. Camdessus, requesting the public release of the so-called "Whittome Report". Two months later, the Congress and the American public still have not seen the Report. The Whittome Report is the result of an internal study by the IMF of its surveillance and response to the Mexican crisis. According to news articles, the Whittome Report concluded that the IMF distorted its own reporting on Mexico in response to political pressure from the Mexican Government. The Report apparently provides a comprehensive analysis of the IMF's monitoring and response to the Mexican Economic Crisis. The Congress and the American people need all the information we can get on this multi-billion dollar bailout.

The United States is the single largest financial contributor to the IMF, almost ¼ of their funds, and we deserve some answers. The IMF has sent $11.4 billion to Mexico this year and they will disburse $1.6 billion more every 3 months until August of next year. So when you add the indirect contributions the United States has made from the IMF to the $12.5 billion the United States has given directly to Mexico, it is obvious that we all have a very large stake in this game. When we have questions—we deserve answers.

It is unconscionable that full disclosure has not been given the Congress—or the American taxpayer—about what happened in this Mexican bailout. The Treasury Department has classified the Whittome Report so the American people cannot read it and make their own judgment about how this crisis was handled. That's wrong.

In October I introduced a resolution calling for the IMF to release the Whittome Report and requesting that the Treasury Department declassify it so that the American public can judge it for themselves. If this report is not declassified and made available to the public and the Congress by the start of the next session, I will ask my colleagues to vote for this resolution and take further steps to obtain the information we deserve.

Mr. President, the Mexican peso crisis is now 1 year old. It is time to reassess the situation and learn all we can from the mistakes that were made. At a time when we are struggling to balance our own budget, and make necessary cuts in social programs, we must think long and hard about spending United States tax dollars to bail out Mexico's financial problems.●

RETIREMENT OF DAVID COLE

● Mr. BUMPERS. Mr. President, David Cole, the officer in charge of the Memphis office of the Immigration and Naturalization Service is soon to retire. Today I wish to pay tribute to this dedicated civil servant.

For 34 years David Cole has labored in the vineyards at INS, and, along the way, he earned a law degree from Memphis State University. All who have come in contact with Dave have been impressed with his knowledge, his dedication, and his integrity.

David Aaron Cole joined the agency as an immigration patrol inspector on August 15, 1961, at Laredo, TX, following his graduation from Mississippi State University in Starkville. Dave answered the call during the Berlin crisis and entered the military, assuming active duty status on December 23, 1961, where he served until August 27, 1962. He then returned to the U.S. Border Patrol in Laredo.

On January 6, 1966, Dave was promoted and transferred from the Border Patrol to Boston as a records and information specialist. In August 1967, he was promoted and transferred to records and information specialist in New York City and became chief of records in 1970.

On November 19, 1970, Dave was selected as officer in charge, Memphis, TN, where he has faithfully served since then.

Mr. President, Federal employees are often the brunt of jokes, cartoons, and talk shows. There are thousands like David Cole who faithfully do their job without recognition or fanfare.

I salute David Cole for his commitment to public service and for his dedication to the people he served. I wish him the very best as he retires from public service and begins a new career in the private sector.●

GENERALIZED SYSTEM OF PREFERENCES

● Mr. PRYOR. Mr. President, renewal of the Generalized System of Preferences ["GSP"] duty-free import program is currently up for consideration as part of the budget reconciliation package. The GSP program allows duty-free imports of certain products into the U.S. from well over 100 GSP eligible nations as a way to help less developed nations export into the U.S.

market. While I support this program, it is essential to remember that from its inception in the Trade Act of 1974, the GSP program has provided for the exemption of "articles which the President determines to be import-sensitive." This is a critical provision to many of our industries.

Mr. President, a clear example of an import sensitive article which should not be subject to GSP is ceramic tile. The U.S. ceramic tile market has been repeatedly recognized as extremely import-sensitive. During the past thirty-years, this U.S. industry has had to defend itself against a variety of unfair and illegal import practices carried out by some of our closest trade partners. Imports already dominate the U.S. ceramic tile market and have done so for the last decade. They currently provide nearly 60 percent of the largest and most important glazed tile sector according to the 1994 year-end government figures.

Moreover, a major guiding principle of the GSP program has been reciprocal market access. Currently, GSP eligible beneficiary countries supply almost one-fourth of the U.S. ceramic tile imports, and they are rapidly increasing their sales and market shares. U.S. ceramic tile manufacturers, however, are still denied access to many of these foreign markets.

Also, previous abuses of the GSP eligible status with regard to some ceramic tile product lines has been well documented. In 1979, the USTR rejected various petitions for duty-free treatment of ceramic tile from certain GSP beneficiary countries. With the acquiescence of the U.S. industry, however, the USTR at that time created a duty-free exception for the then minuscule category of irregular edged "speciality" mosaic tile. Immediately thereafter, foreign manufacturers from major GSP beneficiary countries either shifted their production to "specialty" mosaic tile or simply identified their existing products as "specialty" mosaic tile on customs invoices and stopped paying duties on these products. These actions flooded the U.S. market with superficially restyled or mislabeled duty-free ceramic tile.

Mr. President, in light of the increasing foreign dominance of the U.S. ceramic tile market, for whatever reason, the U.S. industry has been recognized by successive Congresses and Administrations as "import-sensitive" dating back to the Dillon and Kennedy Rounds of the General Agreement of Tariffs and Trade (GATT). Yet during this same period, the American ceramic tile industry has been forced to defend itself from over a dozen petitions filed by various designated GSP eligible countries seeking duty-free GSP treatment for their ceramic tile sent into this market.

The domestic ceramic tile industry has been fortunate, to date, in the fact that both the USTR and the International Trade Commission thus far have recognized the "import-sensitivity" of the U.S. market and have denied these repeated GSP petitions that would result in further import penetration. If, however, just one petitioning nation ever succeeds in gaining GSP benefits for ceramic tile, then all GSP beneficiary countries also are entitled to GSP duty-free benefits for ceramic tile. If any of these petitions were grated, it would eliminate American tile jobs and could devastate this domestic industry.

Mr. President, I believe an import sensitive and already import-dominated product such as ceramic tile should not have to continually defend itself against repeated duty-free petitions but should be exempted from this program in some manner. While I understand USTR has serious reservations about granting exemptions without periodic review, I am hopeful we can find some common ground so that the ceramic tile industry does not have to defend itself each and every year.

While I support reauthorization of the GSP program, I trust and expect that import-sensitive products such as ceramic tile will not be subject to GSP.●

HOWARD H. BAKER, JR., UNITED STATES COURTHOUSE

Mr. SANTORUM. Madam President, I ask unanimous consent that the Committee on Environment and Public Works be immediately discharged from further consideration of H.R. 2547, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:.

> A bill (H.R. 2547) to designate the United States courthouse located at 800 Market Street in Knoxville, Tennessee, as the "Howard H. Baker, Jr., United States Courthouse."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. THOMPSON. Madam President, I am pleased to support this bill which will designate the new United States Federal Courthouse in Knoxville, TN as the Howard H. Baker, Jr. United States Courthouse. I think it is fitting that this newly purchased courthouse be named for one of the most distinguished members ever to grace this body, a true gentleman who served his Nation for nearly 20 years as Senator from Tennessee, Senate Majority Leader, and, finally, White House Chief of Staff.

Senator Howard Baker begin his career as an attorney in Huntsville and nearby Knoxville, TN, after his graduation from the University of Tennessee School of Law. In 1966, he was elected to the United States Senate. Here, he established a lasting reputation as an outstanding lawmaker. Because of his broad appeal in our home state, the people of Tennessee chose to reelect him in 1972 and again in 1978.

In 1973, I had the opportunity to work under Senator Baker as he served as Vice Chairman of the Senate Watergate Committee. His leadership on this investigatory committee proved to be an asset as he helped this investigation during one of the most difficult time in our Nation's history.

From 1977 to 1981, Senator Baker served as Republican Leader of the Senate. In 1981, he became first Republican in more than 25 years to be elected Senate Majority Leader, a post he held until his retirement in January of 1985. During all of his Senate service, Senator Baker was known for his fair and impartial treatment of members from both sides of the aisle. He was also known in the Senate as someone who could bring both sides of an issue together, especially when political partisanship was intense.

In 1987, Senator Baker again answered his country's call, returning to public service as Chief of Staff to President Reagan. His tenure came at a difficult time for the Reagan Administration, during the Iran-Contra controversy. Senator Baker helped to steer the Administration through this trying situation, uncovering the relevant details of the controversy and helping to convey them to the public.

My friend, Howard Baker, who recently celebrated his 70th birthday, has retired from public service but continues to work on the behalf of many worthwhile causes. Over the years, he has received a number of awards and honors including The Presidential Medal or Freedom and the Jefferson Award for Greatest Public Service Performed by an Elected or Appointed Official. In addition, he has been presented a number of honorary degrees from several institutions of higher education, including: Bradley, Centre College, Dartmouth, Georgetown, Pepperdine, and Yale.

As Senator Baker has served his country and Tennessee admirably and well for nearly two decades, and it is my hope that the U.S. Senate will see fit to observe this service by naming the U.S. Courthouse in Knoxville in his honor.

Mr. FRIST. Madam President, I rise today in support of the bill offered by Senator THOMPSON and myself, which would designate the U.S. Courthouse located at 800 Market Street in Knoxville, Tennessee, as the "Howard H. Baker, Jr. United States Courthouse."

In 1966, Senator Baker became the first Republican ever popularly elected to the U.S. Senate from Tennessee, and he won reelection by wide margins in

1972 and 1978. Senator Baker first won national recognition in 1973 as the Vice Chairman of the Senate Watergate Committee. He was the keynote speaker at the Republican National Convention in 1976, and a candidate for the Republican Presidential nomination in 1980.

He served in the Senate from 1967 until January 1985, and concluded his Senate career by serving two terms as Minority Leader (1977–1981) and two terms as Majority Leader (1981–1985).

I came to know Howard Baker when I was making my decision to run for the U.S. Senate. He listened carefully, gave me excellent counsel, and helped steer me and my wife Karyn in the right direction as we made our decision. Like so many of my colleagues here in the Senate, I continue to rely on his advice, and am proud to call him my friend.

Madam President, the Howard Baker Courthouse will stand as a wonderful tribute to a dedicated and distinguished senator, Howard Baker. I urge my colleagues to support this piece of legislation.

Mr. SANTORUM. Madam President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2547) was deemed read a third time and passed.

ROMANO L. MAZZOLI FEDERAL BUILDING DESIGNATION ACT

Mr. SANTORUM. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 289, H.R. 965.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 965) to designate the Federal building located at 600 Martin Luther King, Jr., Place in Louisville, Kentucky, as the "Romano L. Mazzoli Federal Building."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SANTORUM. Madam President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statement relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 965) was deemed read a third time, and passed.

DON EDWARDS SAN FRANCISCO BAY NATIONAL WILDLIFE REFUGE DESIGNATION ACT

Mr. SANTORUM. Madam President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 290, H.R. 1253.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1253) to rename the San Francisco Bay National Wildlife Refuge as the Don Edwards San Francisco Bay National Wildlife Refuge.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SANTORUM. Madam President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 1253) was deemed read a third time, and passed.

IRAN OIL SANCTIONS ACT OF 1995

Mr. SANTORUM. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 280, S. 1228.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1228) to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Iran Oil Sanctions Act of 1995".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The efforts of the Government of Iran to acquire weapons of mass destruction and the means to deliver them and its support of international terrorism endanger the national security and foreign policy interests of the United States and those countries with which it shares common strategic and foreign policy objectives.

(2) The objective of preventing the proliferation of weapons of mass destruction and international terrorism through existing multilateral and bilateral initiatives requires additional efforts to deny Iran the financial means to sustain its nuclear, chemical, biological, and missile weapons programs.

SEC. 3. DECLARATION OF POLICY.

The Congress declares that it is the policy of the United States to deny Iran the ability to support international terrorism and to fund the development and acquisition of weapons of mass destruction and the means to deliver them by limiting the development of petroleum resources in Iran.

SEC. 4. IMPOSITION OF SANCTIONS.

(a) IN GENERAL.—Except as provided in subsection (d), the President shall impose one or more of the sanctions described in section 5 on a person subject to this section (in this Act referred to as a "sanctioned person"), if the President determines that the person has, with actual knowledge, on or after the date of enactment of this Act, made an investment of more than $40,000,000 (or any combination of investments of at least $10,000,000 each, which in the aggregate exceeds $40,000,000 in any 12-month period), that significantly and materially contributed to the development of petroleum resources in Iran.

(b) PERSONS AGAINST WHICH THE SANCTIONS ARE TO BE IMPOSED.—The sanctions described in subsection (a) shall be imposed on any person the President determines—

(1) has carried out the activities described in subsection (a);

(2) is a successor entity to that person;

(3) is a person that is a parent or subsidiary of that person if that parent or subsidiary with actual knowledge engaged in the activities which were the basis of that determination; and

(4) is a person that is an affiliate of that person if that affiliate with actual knowledge engaged in the activities which were the basis of that determination and if that affiliate is controlled in fact by that person.

(c) PUBLICATION IN FEDERAL REGISTER.—The President shall cause to be published in the Federal Register a current list of persons that are subject to sanctions under subsection (a). The President shall remove or add the names of persons to the list published under this subsection as may be necessary.

(d) EXCEPTIONS.—The President shall not be required to apply or maintain the sanctions under subsection (a)—

(1) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanction; or

(2) to medicines, medical supplies, or other humanitarian items.

SEC. 5. DESCRIPTION OF SANCTIONS.

The sanctions to be imposed on a person under section 4(a) are as follows:

(1) EXPORT-IMPORT BANK ASSISTANCE FOR EXPORTS TO SANCTIONED PERSONS.—The President may direct the Export-Import Bank of the United States not to guarantee, insure, extend credit, or participate in the extension of credit in connection with the export of any goods or services to any sanctioned person.

(2) EXPORT SANCTION.—The President may order the United States Government not to issue any specific license and not to grant any other specific permission or authority to export any goods or technology to a sanctioned person under—

(A) the Export Administration Act of 1979;

(B) the Arms Export Control Act;

(C) the Atomic Energy Act of 1954; or

(D) any other statute that requires the prior review and approval of the United States Government as a condition for the exportation of goods and services, or their re-export, to any person designated by the President under section 4(a).

(3) LOANS FROM UNITED STATES FINANCIAL INSTITUTIONS.—The United States Government may prohibit any United States financial institution from making any loan or providing any credit to any sanctioned person in an amount exceeding $10,000,000 in any 12-month period (or two or more loans of more than $5,000,000 each

in such period) unless such person is engaged in activities to relieve human suffering within the meaning of section 203(b)(2) of the International Emergency Economic Powers Act.

(4) PROHIBITIONS ON FINANCIAL INSTITUTIONS.—The following prohibitions may be imposed against financial institutions sanctioned under section 4(a):

(A) DESIGNATION AS PRIMARY DEALER.—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, such financial institution as a primary dealer in United States Government debt instruments.

(B) GOVERNMENT FUNDS.—Such financial institution shall not serve as agent of the United States Government or serve as repository for United States Government funds.

SEC. 6. ADVISORY OPINIONS.

The Secretary of State may, upon the request of any person, issue an advisory opinion, to that person as to whether a proposed activity by that person would subject that person to sanctions under this Act. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

SEC. 7. DURATION OF SANCTIONS; PRESIDENTIAL WAIVER.

(a) DELAY OF SANCTIONS.—

(1) CONSULTATIONS.—If the President makes a determination described in section 4(a) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this Act.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this Act for up to 90 days. Following such consultations, the President shall immediately impose a sanction or sanctions unless the President determines and certifies to the Congress that the government has taken specific and effective actions, including, as appropriate, the imposition of appropriate penalties, to terminate the involvement of the foreign person in the activities that resulted in the determination by the President pursuant to section 4(a) concerning such person.

(3) ADDITIONAL DELAY IN IMPOSITION OF SANCTIONS.—The President may delay the imposition of sanctions for up to an additional 90 days if the President determines and certifies to the Congress that the government with primary jurisdiction over the foreign person is in the process of taking the actions described in paragraph (2).

(4) REPORT TO CONGRESS.—Not later than 90 days after making a determination under section 4(a), the President shall submit to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives a report which shall include information on the status of consultations with the appropriate foreign government under this subsection, and the basis for any determination under paragraph (3).

(b) DURATION OF SANCTIONS.—The requirement to impose sanctions pursuant to section 4(a) shall remain in effect until the President determines that the sanctioned person is no longer engaging in the activity that led to the imposition of sanctions.

(c) PRESIDENTIAL WAIVER.—(1) The President may waive the requirement in section 4(a) to impose a sanction or sanctions on a person in section 4(b), and may waive the continued imposition of a sanction or sanctions under subsection (b) of this section, 15 days after the President determines and so reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives that it is important to the national interest of the United States to exercise such waiver authority.

(2) Any such report shall provide a specific and detailed rationale for such determination, including—

(A) a description of the conduct that resulted in the determination;

(B) in the case of a foreign person, an explanation of the efforts to secure the cooperation of the government with primary jurisdiction of the sanctioned person to terminate or, as appropriate, penalize the activities that resulted in the determination;

(C) an estimate as to the significance of the investment to Iran's ability to develop its petroleum resources; and

(D) a statement as to the response of the United States in the event that such person engages in other activities that would be subject to section 4(a).

SEC. 8. TERMINATION OF SANCTIONS.

The sanctions requirement of section 4 shall no longer have force or effect if the President determines and certifies to the appropriate congressional committees that Iran—

(1) has ceased its efforts to design, develop, manufacture, or acquire—

(A) a nuclear explosive device or related materials and technology;

(B) chemical and biological weapons; or

(C) ballistic missiles and ballistic missile launch technology; and

(2) has been removed from the list of state sponsors of international terrorism under section 6(j) of the Export Administration Act of 1979.

SEC. 9. REPORT REQUIRED.

The President shall ensure the continued transmittal to Congress of reports describing—

(1) the nuclear and other military capabilities of Iran, as required by section 601(a) of the Nuclear Non-Proliferation Act of 1978 and section 1607 of the National Defense Authorization Act, Fiscal Year 1993; and

(2) the support provided by Iran for acts of international terrorism, as part of the Department of State's annual report on international terrorism.

SEC. 10. DEFINITIONS.

As used in this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committees on Banking, Housing, and Urban Affairs and Foreign Relations of the Senate and the Committees on Banking and Financial Services and International Relations of the House of Representatives.

(2) FINANCIAL INSTITUTION.—The term "financial institution" includes—

(A) a depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act), including a branch or agency of a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978);

(B) a credit union;

(C) a securities firm, including a broker or dealer;

(D) an insurance company, including an agency or underwriter;

(E) any other company that provides financial services; or

(F) any subsidiary of such financial institution.

(3) INVESTMENT.—The term "investment" means—

(A) the entry into a contract that includes responsibility for the development of petroleum resources located in Iran, or the entry into a contract providing for the general supervision and guarantee of another person's performance of such a contract;

(B) the purchase of a share of ownership in that development; or

(C) the entry into a contract providing for participation in royalties, earnings, or profits in that development, without regard to the form of the participation.

(4) PERSON.—The term "person" means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity.

(5) PETROLEUM RESOURCES.—The term "petroleum resources" includes petroleum and natural gas resources.

AMENDMENT NO. 3106

(Purpose: To deter investment in the development of Libya's petroleum resources)

Mr. SANTORUM. Madam President, I send an amendment to the desk in behalf of Senators KENNEDY and D'AMATO, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SANTORUM), for Mr. KENNEDY, for himself and Mr. D'AMATO, proposes an amendment numbered 3106.

Mr. SANTORUM. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . APPLICATION OF THE ACT TO LIBYA.

The sanctions of this Act, including the terms and conditions for the imposition, duration, and termination of sanctions, shall apply to persons making investments for the development of petroleum resources in Libya in the same manner as those sanctions apply under this Act to persons making investments for such development in Iran.

Mr. D'AMATO. Madam President, I rise in support of the Kennedy-D'Amato amendment to S. 1228, the Iran Oil Sanctions Act of 1995.

What can one say about Libya. It has now been over 4 years since the United States indicted two Libyan agents, Lamen Khalifa Fhimah and Abdel Basset Ali Megrahi, for responsibility in the bombing of Pan Am Flight 103 in December 1988. So far there has been no action, no surrender of these men. We must answer the cry for justice by the families of the 270 victims of this terrorist attack, 189 of them Americans, with 35 from New York State.

For us to add Libya to a bill placing sanctions on those countries which seek to develop Iran's petroleum resources is, I feel, a justified action. We must send the message that terrorism, sponsorship of terrorism, and those who subsidize terrorism will not be ignored.

Mu'ammar Qadhafi brazenly dismisses the indictment while at the same time pounding his chest, bragging to the world that he has again withstood American aggression. His offer to try the two agents in a Libyan court is a mockery of justice and an insult to the families of the victims.

Just yesterday, a Scottish businessman was charged in a Boston court with violating the U.S. embargo on Libya by attempting to export over 250,000 dollars' worth of computers and related equipment. This is only further proof that Qadhafi is still up to his old games and is trying to flaunt our sanctions against him.

I want to discuss, very briefly, the amount of oil that the Organization for Economic Cooperation and Development [OECD] countries buy from Libya. According to the Energy Department, OECD countries bought over $7 billion in oil from Libya in 1994. The worst offenders were Italy, with over $3 billion and Germany with over $1 billion.

As far as how this legislation would affect Libya, one need only look at the contracts signed by European firms in the last few years. Just in August, a Spanish company, Repsol, awarded a Cypriot company a $155 million contract to build a crude oil pipeline in Libya. Furthermore, European companies such as Agip—Italy, Total—France, Petrofina—Belgium, OMV—Austria, and Veba—Germany, have all signed contracts for upstream activities in Libya and would be affected by this bill.

While the focus of the underlying bill has been Iran and an attempt to stop the subsidizing of Iranian terrorism, I cannot see why we should not seek to prevent the subsidizing of Libyan terrorism at the same time? More importantly, who is to say that the attack on Pan Am 103 was not directed by Iran and conducted by the Libyans. If this were the case, then we will get two terrorist states with one bill.

There can be no rest until the individuals who ordered, directed, and paid for the commission of the terrible crime of the bombing of Pan Am Flight 103 are brought to justice, no matter where they may be located. The investigation of the bombing must continue to be vigorously and intensively pursued. Libya, with a long and documented history of obscene violations of human rights and international law, must pay the price for its part in this slaughter and its past support for other international terrorist acts.

It is for this reason, that I enthusiastically agree with the Senator from Massachusetts and am glad to have worked with him on this issue.

Mr. KENNEDY. Madam President, I offer an amendment to apply the sanctions in this legislation to Libya.

I support the pending bill which is intended to provide a stronger deterrent to the development of nuclear weapons by Iran by applying economic sanctions to those in other countries who substantially assist Iran in oil production.

My amendment extends the same sanctions to those who help Libya in oil production. Its purpose is to use stronger economic sanctions to encourage the Government of Libya to turn over the two suspects indicted for the terrorist bombing of Pan Am Flight 103.

On December 21, 1988, 7 years ago tomorrow, in one of the worst terrorist atrocities in recent years, Pan Am Flight 103 was blown up over Lockerbie, Scotland, killing 270 citizens of 21 nations, including 189 Americans.

In November 1991, two Libyan nationals were indicted for carrying out that bombing. Despite U.N. economic sanctions which have been in force since 1992, the Government of Libya has refused to turn over the suspects, and the two suspects remain in Libya under the protection of Colonel Qadhafi.

Many of us on both sides of the aisle have called for stronger international sanctions against Libya, including an international oil embargo, and our proposals have had the strong support of both Senator D'AMATO and Senator HELMS.

Because of Libya's earlier well-known support for terrorism, the United States imposed our own oil embargo against Libya during the Reagan administration in 1986, 2 years before the Pan Am bombing. Our efforts since the Pan Am bombing to persuade other nations to join the oil embargo have not succeeded, primarily because several European countries purchase oil from Libya and refuse to support such a measure.

Additional sanctions on Libya are essential if we are to have any chance of bringing the terrorists to trial. This bill offers an effective opportunity to enact such sanctions.

According to experts familiar with oil production investment in Libya, this action may very well affect the investment plans of numerous foreign oil companies.

As in the case of Iran, this amendment will not prevent any foreign companies from doing business in Libya. But they will not be able to do so with the benefit of U.S. assistance.

This Christmas season is a very difficult time for the families of the victims of Pan Am flight 103. We cannot bring back their loved ones. What we can do is take every available step to see that the terrorists charged with committing this atrocity are finally at long last brought to justice. This is one such step, and I urge the Senate to support it.

Mr. SARBANES. Madam President, I rise in support of S. 1228, the Iran Oil Sanctions Act of 1995. This bill would put sanctions on foreign companies that invest in Iran and thereby help that country develop its oil and gas resources. The increased revenue from such enhanced oil production augments Iran's ability to fund its development of nuclear weapons and its support for international terrorism.

Since the Iranian Revolution in 1979, American administrations with bipartisan congressional support have used economic sanctions to hinder Iran's support for international terrorism and to make it harder for that country to get materials and revenues to strengthen its nuclear and conventional weapons programs.

Earlier this year, just prior to the Banking Committee's March 16 hearing on our country's economic relations with Iran, the committee learned that then existing restrictions on such relations did not prohibit the Conoco Co. from signing a contract with Iran to develop a huge offshore oil field in the Persian Gulf. The Clinton administration immediately announced that while Conoco's actions were not illegal, they were inconsistent with our policy of bringing pressure on Iran, both politically and economically to change its unacceptable behavior. The President then on March 15 issued an Executive order prohibiting U.S. persons from entering into contracts for the financing or the overall supervision and management of the petroleum resources of Iran.

On May 8, President Clinton issued another Executive order that imposed significant new economic sanctions on Iran, including a prohibition on trading in goods or services of Iranian origin, a ban on exports to Iran, and a ban on new investment or bank loans to Iran. The new prohibitions applied to U.S. persons, wherever they may be, including the foreign branches of U.S. entities.

The Clinton administration also urged other countries to support United States efforts to pressure Iran economically and persuaded our G7 allies to avoid any collaboration with Iran that might help that country develop a nuclear weapons capability. A number of foreign corporations, however, are supporting Iran's efforts to increase its oil and gas production. S. 1228 seeks to persuade such companies from assisting Iran as the latter uses its oil and gas revenues to fund behavior harmful to the international community.

At the Banking Committee's October 11 hearing on S. 1228, Under Secretary of State Tarnoff told the committee that a straight line links Iran's oil income and its ability to sponsor terrorism, build weapons of mass destruction, and acquire sophisticated armaments. He also told us that the administration was making great efforts to persuade other nations to cooperate with our embargo of Iran. He expressed concerns, however, that we not enact legislation that would make it more difficult to get that cooperation. Chairman D'AMATO assured Under Secretary Tarnoff that he wanted to work with the administration in crafting legislation that would persuade foreign companies to cooperate with our embargo of Iran.

Prior to the December 12 committee markup of S. 1228, Chairman D'AMATO, Senator BOXER, myself, and other members of the committee worked with the administration to develop a bill the administration could endorse. Agreement was reached and on December 12, the committee adopted a substitute version of S. 1228 that President Clinton supports.

It does not target trade but rather new investment contracts that enhance Iran's ability to produce oil and gas. The bill also provides the President the necessary flexibility to determine the best mix of sanctions in a particular case, and to waive the imposition, or continued imposition, of sanctions when he determines it is important to the national interest to do so. In using these authorities, the President is directed to consider factors such as the significance of an investment, the prospects of cooperation with other governments, U.S. international commitments, and the effect of sanctions on U.S. economic interests and regional policies. Finally, S. 1228 authorizes the Secretary of State to provide advisory opinions on whether a proposed activity would be covered to avoid unnecessary uncertainty on the part of companies and friction with allies.

This bill was reported out of committee by a vote of 15 to 0. It is a bill I support because it will make it more difficult for Iran to fund its efforts to develop weapons of mass destruction and its support for international terrorism. I urge its enactment.

Mr. SANTORUM. Madam President, I ask unanimous consent that the amendment be considered read and agreed to, the committee amendment be agreed to, the bill be deemed a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 3106) was agreed to.

So the committee amendment was agreed to.

So the bill (S. 1228), as amended, was deemed read for a third time, and passed, as follows:

S. 1228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Iran Oil Sanctions Act of 1995".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The efforts of the Government of Iran to acquire weapons of mass destruction and the means to deliver them and its support of international terrorism endanger the national security and foreign policy interests of the United States and those countries with which it shares common strategic and foreign policy objectives.

(2) The objective of preventing the proliferation of weapons of mass destruction and international terrorism through existing multilateral and bilateral initiatives requires additional efforts to deny Iran the financial means to sustain its nuclear, chemical, biological, and missile weapons programs.

SEC. 3. DECLARATION OF POLICY.

The Congress declares that it is the policy of the United States to deny Iran the ability to support international terrorism and to fund the development and acquisition of weapons of mass destruction and the means to deliver them by limiting the development of petroleum resources in Iran.

SEC. 4. IMPOSITION OF SANCTIONS.

(a) IN GENERAL.—Except as provided in subsection (d), the President shall impose one or more of the sanctions described in section 5 on a person subject to this section (in this Act referred to as a "sanctioned person"), if the President determines that the person has, with actual knowledge, on or after the date of enactment of this Act, made an investment of more than $40,000,000 (or any combination of investments of at least $10,000,000 each, which in the aggregate exceeds $40,000,000 in any 12-month period), that significantly and materially contributed to the development of petroleum resources in Iran.

(b) PERSONS AGAINST WHICH THE SANCTIONS ARE TO BE IMPOSED.—The sanctions described in subsection (a) shall be imposed on any person the President determines—

(1) has carried out the activities described in subsection (a);

(2) is a successor entity to that person;

(3) is a person that is a parent or subsidiary of that person if that parent or subsidiary with actual knowledge engaged in the activities which were the basis of that determination; and

(4) is a person that is an affiliate of that person if that affiliate with actual knowledge engaged in the activities which were the basis of that determination and if that affiliate is controlled in fact by that person.

(c) PUBLICATION IN FEDERAL REGISTER.—The President shall cause to be published in the Federal Register a current list of persons that are subject to sanctions under subsection (a). The President shall remove or add the names of persons to the list published under this subsection as may be necessary.

(d) EXCEPTIONS.—The President shall not be required to apply or maintain the sanctions under subsection (a)—

(1) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanction; or

(2) to medicines, medical supplies, or other humanitarian items.

SEC. 5. DESCRIPTION OF SANCTIONS.

The sanctions to be imposed on a person under section 4(a) are as follows:

(1) EXPORT-IMPORT BANK ASSISTANCE FOR EXPORTS TO SANCTIONED PERSONS.—The President may direct the Export-Import Bank of the United States not to guarantee, insure, extend credit, or participate in the extension of credit in connection with the export of any goods or services to any sanctioned person.

(2) EXPORT SANCTION.—The President may order the United States Government not to issue any specific license and not to grant any other specific permission or authority to export any goods or technology to a sanctioned person under—

(A) the Export Administration Act of 1979;

(B) the Arms Export Control Act;

(C) the Atomic Energy Act of 1954; or

(D) any other statute that requires the prior review and approval of the United States Government as a condition for the exportation of goods and services, or their reexport, to any person designated by the President under section 4(a).

(3) LOANS FROM UNITED STATES FINANCIAL INSTITUTIONS.—The United States Government may prohibit any United States financial institution from making any loan or providing any credit to any sanctioned person in an amount exceeding $10,000,000 in any 12-month period (or two or more loans of more than $5,000,000 each in such period) unless such person is engaged in activities to relieve human suffering within the meaning of section 203(b)(2) of the International Emergency Economic Powers Act.

(4) PROHIBITIONS ON FINANCIAL INSTITUTIONS.—The following prohibitions may be imposed against financial institutions sanctioned under section 4(a):

(A) DESIGNATION AS PRIMARY DEALER.—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, such financial institution as a primary dealer in United States Government debt instruments.

(B) GOVERNMENT FUNDS.—Such financial institution shall not serve as agent of the United States Government or serve as repository for United States Government funds.

SEC. 6. ADVISORY OPINIONS.

The Secretary of State may, upon the request of any person, issue an advisory opinion, to that person as to whether a proposed activity by that person would subject that person to sanctions under this Act. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

SEC. 7. DURATION OF SANCTIONS; PRESIDENTIAL WAIVER.

(a) DELAY OF SANCTIONS.—

(1) CONSULTATIONS.—If the President makes a determination described in section 4(a) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this Act.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this Act for up to 90 days. Following such consultations, the President shall immediately impose a sanction or sanctions unless the President determines and certifies to the Congress that the government has taken specific and effective actions, including, as appropriate, the imposition of appropriate penalties, to terminate the involvement of the foreign person in the activities that resulted in the determination by the President pursuant to section 4(a) concerning such person.

(3) ADDITIONAL DELAY IN IMPOSITION OF SANCTIONS.—The President may delay the

imposition of sanctions for up to an additional 90 days if the President determines and certifies to the Congress that the government with primary jurisdiction over the foreign person is in the process of taking the actions described in paragraph (2).

(4) Report to Congress.—Not later than 90 days after making a determination under section 4(a), the President shall submit to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives a report which shall include information on the status of consultations with the appropriate foreign government under this subsection, and the basis for any determination under paragraph (3).

(b) Duration of Sanctions..—The requirement to impose sanctions pursuant to section 4(a) shall remain in effect until the President determines that the sanctioned person is no longer engaging in the activity that led to the imposition of sanctions.

(c) Presidential Waiver.—(1) The President may waive the requirement in section 4(a) to impose a sanction or sanctions on a person in section 4(b), and may waive the continued imposition of a sanction or sanctions under subsection (b) of this section, 15 days after the President determines and so reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives that it is important to the national interest of the United States to exercise such waiver authority.

(2) Any such report shall provide a specific and detailed rationale for such determination, including—

(A) a description of the conduct that resulted in the determination;

(B) in the case of a foreign person, an explanation of the efforts to secure the cooperation of the government with primary jurisdiction of the sanctioned person to terminate or, as appropriate, penalize the activities that resulted in the determination;

(C) an estimate as to the significance of the investment to Iran's ability to develop its petroleum resources; and

(D) a statement as to the response of the United States in the event that such person engages in other activities that would be subject to section 4(a).

SEC. 8. TERMINATION OF SANCTIONS.

The sanctions requirement of section 4 shall no longer have force or effect if the President determines and certifies to the appropriate congressional committees that Iran—

(1) has ceased its efforts to design, develop, manufacture, or acquire—

(A) a nuclear explosive device or related materials and technology;

(B) chemical and biological weapons; or

(C) ballistic missiles and ballistic missile launch technology; and

(2) has been removed from the list of state sponsors of international terrorism under section 6(j) of the Export Administration Act of 1979.

SEC. 9. REPORT REQUIRED.

The President shall ensure the continued transmittal to Congress of reports describing—

(1) the nuclear and other military capabilities of Iran, as required by section 601(a) of the Nuclear Non-Proliferation Act of 1978 and section 1607 of the National Defense Authorization Act, Fiscal Year 1993; and

(2) the support provided by Iran for acts of international terrorism, as part of the Department of State's annual report on international terrorism.

SEC. 10. DEFINITIONS.

As used in this Act:

(1) Appropriate congressional committees.—The term "appropriate congressional committees" means the Committees on Banking, Housing and Urban Affairs and Foreign Relations of the Senate and the Committees on Banking and Financial Services and International Relations of the House of Representatives.

(2) Financial institution.—The term "financial institution" includes—

(A) a depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act), including a branch or agency of a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978);

(B) a credit union;

(C) a securities firm, including a broker or dealer;

(D) an insurance company, including an agency or underwriter;

(E) any other company that provides financial services; or

(F) any subsidiary of such financial institution.

(3) Investment.—The term "investment" means—

(A) the entry into a contract that includes responsibility for the development of petroleum resources located in Iran, or the entry into a contract providing for the general supervision and guarantee of another person's performance of such a contract;

(B) the purchase of a share of ownership in that development; or

(C) the entry into a contract providing for participation in royalties, earnings, or profits in that development, without regard to the form of the participation.

(4) Person.—The term "person" means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity.

(5) Petroleum resources.—The term "petroleum resources" includes petroleum and natural gas resources.

SEC. 11. APPLICATION OF THE ACT TO LIBYA.

The sanctions of this Act, including the terms and conditions for the imposition, duration, and termination of sanctions, shall apply to persons making investments for the development of petroleum resources in Libya in the same manner as those sanctions apply under this Act to persons making investments for such development in Iran.

So the title was amended so as to read:

A bill to deter investment in the development of Iran's petroleum resources.

UNANIMOUS-CONSENT AGREEMENT—H.R. 665

Mr. SANTORUM. I ask unanimous consent that the majority leader, after consultation with the minority leader, may turn to the consideration of calendar No. 257, H.R. 665, the victim restitution bill, and it be considered under the following limitation: 1 hour of debate on the bill equally divided between the two managers; that the only amendment in order to the bill be a substitute amendment offered by the managers; that no second-degree amendments be in order to the amendment; that, at conclusion or yielding back of any debate time, the managers' amendment be agreed to; the bill then be read a third time, and the Senate then proceed to a vote on passage of the bill, H.R. 665, without any intervening action or debate.

I further ask unanimous consent that if the bill is agreed to, the Senate insist on its amendment, request a conference with the House, and that the Chair to be authorized to appoint conferees on part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—H.R. 394

Mr. SANTORUM. Madam President, I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 394, and that the bill be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLARIFICATION OF REIMBURSEMENT TO STATES FOR FEDERALLY FUNDED EMPLOYEES

Mr. SANTORUM. Madam President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of S. 1429 and, further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1429) a bill to provide clarification in the reimbursement to States for federally funded employees carrying out Federal programs during the lapse in appropriations between November 14, 1995, through November 19, 1995.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3107

(Purpose: To provide clarification in the reimbursement to States for federally funded employees carrying out Federal programs during the lapse in appropriations between November 14, 1995, through November 19, 1995)

Mr. SANTORUM. Madam President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. Santorum), for Mr. Domenici, (for himself Mr. Lott, Mr. Warner, Mr. Stevens, Mr. Cohen, Mr. Exon, Mr. Pressler, Mrs. Hutchison, Mr. Bingaman, Mr. Thomas, Mr. Cochran, Mr. Kerrey, Mr. Grassley, and Mr. Harkin), proposes an amendment numbered 3107.

Mr. SANTORUM. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. CLARIFICATION OF REIMBURSEMENT TO STATES FOR FEDERALLY FUNDED EMPLOYEES.

Section 124 of the joint resolution entitled "A joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes", approved November 20, 1995 (Public Law 104–56) is amended by adding at the end thereof the following new subsection:

"(b)(1) If during the period beginning November 14, 1995, through November 19, 1995, a State used State funds to continue carrying out a Federal program or furloughed State employees whose compensation is advanced or reimbursed in whole or in part by the Federal Government—

"(A) such furloughed employees shall be compensated at their standard rate of compensation for such period;

"(B) the State shall be reimbursed for expenses that would have been paid by the Federal Government during such period had appropriations been available, including the cost of compensating such furloughed employees, together with interest thereon due under section 6503(d) of title 31, United States Code; and

"(C) the State may use funds available to the State under such Federal program to reimburse such State, together with interest thereon due under section 6503(d) of title 31, United States Code.

"(2) For purposes of this subsection, the term 'State' shall have the meaning as such term is defined under the applicable Federal program under paragraph (1).".

Mr. DOMENICI. Mr. President, on November 28, I introduced legislation to fix an inadvertent effect of the 6-day Government shutdown between November 14 through November 19, 1995. That bill, S. 1429, with the amendment that I currently am introducing, will allow hundreds of State employees who administer the disability determination program of the Social Security Administration and who administer vocational rehabilitation programs for the Department of Education to receive the pay that they lost during the Government shutdown. The fact that they were not paid was not intended, but it has occurred, and I and those who have cosponsored this legislation are anxious to fix this problem. My distinguished cosponsors include Senators LOTT, WARNER, STEVENS, COHEN, EXON, PRESSLER, HUTCHISON, COCHRAN, BINGAMAN, THOMAS, KERREY, GRASSLEY, and HARKIN.

Mr. President, the furlough pay language that the Congress adopted as part of House Joint Resolution 122, the Further Continuing Resolution for Fiscal Year 1996, was the language that previous Congresses have adopted to provide compensation to Federal employees during periods of Government closure.

This language was enacted to provide compensation to Federal employees affected by Government closure in 1984, 1986, 1987, and 1990. This language was provided to Congress and to the administration to meet our stated intent that Federal workers should not suffer a loss of pay as a result of the 6-day closure of the Federal Government.

I introduced S. 1429 when it was brought to my attention that the language included in the Continuing Resolution regarding the payment of compensation might not cover all employees who were subject to the furlough, mostly State employees paid with Federal funds to administer Federal programs.

The affected agencies and the General Accounting Office have reviewed the language that I am offering as a substitute to S. 1429 and indicate that it will fix this inadvertent consequence. It will ensure that these State employees receive their pay, or in cases where States used their own funding to pay these workers, the State can be reimbursed for those costs.

Mr. President, it was and is clearly the intent of the Congress to pay Federal workers and State workers who administer Federal programs for the 6-day period of the Government shutdown. The language I am offering will carry out this intent, and I urge my colleagues to adopt the bill, S. 1429, as amended.

Mr. COCHRAN. Madam President, I support this legislation which makes clear that it is the intent of Congress that all furloughed Federal workers, including federally funded State workers, affected by the shutdown of the Federal Government receive their pay.

The Congress adopted furlough pay language as part of the continuing resolution, House Joint Resolution 122, to provide compensation to Federal employees affected by the recent 6-day Government closure.

The continuing resolution has been interpreted by some to not cover all employees who were affected by the Government closure. For instance, there are State employees paid with 100 percent Federal funds who make disability determinations and administer unemployment insurance benefits who may not be covered by the language in the continuing resolution regarding the payment of employees who were subject to furlough.

This legislation ensures that 100 percent federally funded State employees affected by the furlough receive their pay as Congress intended, and that States using their own funds to make up for the lack of Federal funds for these employees are reimbursed to carry out 100 percent federally supported functions.

I urge my colleagues to support this measure.

Mr. SANTORUM. Madam President, I ask unanimous consent that the amendment be agreed to, the bill be deemed read a third time, passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 3107) was agreed to.

So the bill (S. 1429), as amended, was deemed read a third time, and passed, as follows:

S. 1429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF REIMBURSEMENT TO STATES FOR FEDERALLY FUNDED EMPLOYEES.

Section 124 of the joint resolution entitled "A joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes", approved November 20, 1995 (Public Law 104–56) is amended by adding at the end thereof the following new subsection:

"(b)(1) If during the period beginning November 14, 1995, through November 19, 1995, a State used State funds to continue carrying out a Federal program or furloughed State employees whose compensation is advanced or reimbursed in whole or in part by the Federal Government—

"(A) such furloughed employees shall be compensated at their standard rate of compensation for such period;

"(B) the State shall be reimbursed for expenses that would have been paid by the Federal Government during such period had appropriations been available, including the cost of compensating such furloughed employees, together with interest thereon due under section 6503(d) of title 31, United States Code; and

"(C) the State may use funds available to the State under such Federal program to reimburse such State, together with interest thereon due under section 6503(d) of title 31, United States Code.

"(2) For purposes of this subsection, the term 'State' shall have the meaning as such term is defined under the applicable Federal program under paragraph (1).".

THE PRINTING OF "VICE PRESIDENTS OF THE UNITED STATES, 1789–1993"

Mr. SANTORUM. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 273, Senate Concurrent Resolution 34.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 34) to authorize the printing of "Vice Presidents of the United States 1789–1993."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution, which had been reported from the Committee on Rules and Administration with an amendment, as follows:

[The part intended to be stricken is shown in brackets, the part to be inserted in italic.]

S. CON. RES. 34

Whereas the United States Constitution provides that the Vice President of the United States shall serve as President of the Senate; and

Whereas the careers of the 44 Americans who held that post during the years 1789 through 1993 richly illustrate the development of the nation and its government; and

Whereas the vice presidency, traditionally the least understood and most often ignored constitutional office in the Federal Government, deserves wider attention: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. PRINTING OF THE "VICE PRESIDENTS OF THE UNITED STATES, 1789–1993".

(a) IN GENERAL.—There shall be printed as a Senate document the book entitled "Vice Presidents of the United States, 1789–1993", prepared by the Senate Historical Office under the supervision of the Secretary of the Senate.

(b) SPECIFICATIONS.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

(c) NUMBER OF COPIES.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 1,000 copies (750 paper bound and 250 case bound) for the use of the Senate, to be allocated as determined by the Secretary of the Senate; [and] *or*

(2) a number of copies that does not have a total production and printing cost of more than $11,100.

Mr. SANTORUM. I ask unanimous consent that the committee amendment be agreed to, the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and any statements relating to the resolution be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 34), as amended, was agreed to.

The preamble was agreed to.

AMENDING THE FEDERAL ELECTION CAMPAIGN ACT OF 1971

Mr. SANTORUM. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 274, H.R. 2527.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2527) to amend the Federal Election Campaign Act of 1971 to improve the electoral process by permitting electronic filing and preservation of Federal Election Commission reports, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SANTORUM. I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2527) was deemed to have been read a third time and passed.

BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION CITIZEN REGENT APPOINTMENT ACT OF 1995

Mr. SANTORUM. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 275, House Joint Resolution 69.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 69) providing for the reappointment of Homer Alfred Neal as citizen regent of the Board of Regents of the Smithsonian Institution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. SANTORUM. I ask unanimous consent that the joint resolution be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 69) was deemed to have been read three times and passed.

BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION CITIZEN REGENT APPOINTMENT ACT OF 1995

Mr. SANTORUM. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 276, House Joint Resolution 110.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

A joint resolution (H.J. Res. 110) providing for the appointment of Howard H. Baker, Jr., as a citizen regent of the Board of Regents of the Smithsonian Institution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. SANTORUM. I ask unanimous consent that the joint resolution be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 110) was deemed to have been read three times and passed.

BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION CITIZEN REGENT APPOINTMENT ACT OF 1995

Mr. SANTORUM. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 277, House Joint Resolution 111.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 111) providing for the appointment of Anne D'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. SANTORUM. I ask unanimous consent that the joint resolution be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the joint resolution be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 111) was deemed to have been read three times and passed.

BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION CITIZEN REGENT APPOINTMENT ACT OF 1995

Mr. SANTORUM. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 278, House Joint Resolution 112.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 112) providing for the appointment of Louis Gerstner as a citizen regent of the Board of Regents of the Smithsonian Institution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. SANTORUM. I ask unanimous consent that the joint resolution be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the joint resolution be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H. J. Resolution 112) was deemed to have been read a third time and passed.

ORDERS FOR THURSDAY, DECEMBER 21, 1995

Mr. SANTORUM. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Thursday, December 21; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. I ask unanimous consent that at 9:30 a.m. the Senate turn to the consideration of House Joint Resolution 132, relative to the budget and the use of CBO assumptions, with a 1 hour time limit. Therefore, a vote will occur at approximately 10:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SANTORUM. For the information of all Senators, the Senate will begin consideration of House Joint Resolution 132 at 9:30. A vote will occur at 10:30 a.m.

Also, the Senate is expected to consider the veto message with respect to the securities litigation, a possible continuing resolution, available appropriations bills and other items cleared for action. Rollcall votes are therefore expected throughout the day Thursday.

ORDER FOR POSTPONEMENT OF CLOTURE VOTE

Mr. SANTORUM. I further ask unanimous consent that the cloture vote scheduled for today be postponed to occur at a time to be determined by the two leaders on Thursday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Reserving the right to object, I would simply say to my colleague from Pennsylvania and to the Chair we have one matter that may be cleared tonight. It had been agreed to on both sides pending one telephone call.

Mr. EXON. Madam President, could I ask that the Senate stand in a quorum call for at least 10 minutes to give me a chance to get this straightened out?

Mrs. BOXER. Madam President, if the Senator would yield, I have about 10, 15 minutes of morning business I would love to do at this point. If the Senator from Pennsylvania would agree, then we can do that.

Mr. EXON. That would be fine with me, if that can be agreed to.

Mrs. BOXER. I am sure the Senator from Pennsylvania would accommodate the Senator from Nebraska.

Mr. SANTORUM. I have been informed by the staff it does not look like we will be able to clear the matter the Senator suggested tonight, and we could do that possibly tomorrow. That is what I have been informed.

Mr. EXON. The matter has not been cleared on the Senator's side?

I withdraw my objection.

ORDER FOR ADJOURNMENT

Mr. SANTORUM. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator BOXER for up to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California is recognized for up to 20 minutes.

Mrs. BOXER. Thank you very much, Madam President.

THE GOVERNMENT SHUTDOWN

Mrs. BOXER. Madam President, I have waited around the floor of the Senate tonight because I wanted to make a few remarks about where we stand in this battle for some sanity around here in the Congress.

We are now in the 5th day of our second Government shutdown this year. It seems to me if we have any obligation, it is to keep the people's business moving forward. It is totally unnecessary to have this shutdown, but for the fact that there are some who want to essentially hold a legislative gun to the head of President Clinton and use the threat of a shutdown, indeed, the fact of a shutdown, to force him to sign a 7-year budget that in his opinion will harm the American people because there are terribly deep cuts in Medicare, Medicaid, education and the environment, and tax increases on those people earning under $30,000 a year.

So the President is not going to agree to that. So there are those on the Republican side, particularly on the House side, who believe that shutting down this Government is a perfectly legitimate way for them to express their dissatisfaction with President Clinton for not signing this very extreme and very radical budget.

The President is not going to sign it. The American people do not want a President who will fold under that kind of tactic. And here we stand. No reason at all. I was here on the weekend, Sunday, when the Democratic side offered an opportunity to resolve this, pass the resolution, the continuing resolution, keep the Government going, and continue the hard and fast negotiations that have begun. But no. I have never seen anything quite like it.

I saw a freshman Republican Member of the House on national television tonight, all smiles. He thinks this is really fun and games. He said he did not care if the Government ever opened up again as far as he was concerned. He would not vote to keep the Government going until the President signed a budget he agreed with.

I think that Representative ought to read the Constitution. He may not understand that we have a separation of powers and a balance of powers. The fact of the matter is, as much as this Representative does not like it, President Clinton is a Democrat and so are many Members of the House and Senate. The Republicans do not run the White House or, frankly, have a working control over the Senate or the House. There are very close margins here, and so they have to compromise. But this young fellow does not seem to have the word "compromise" in his vocabulary.

But I will tell you one thing he has in his pocket, he has his paycheck. He has his paycheck in his pocket. He can demagog this issue and never feel the pain. But the American people, who deserve to have the parks open, who deserve to have the veterans checks sent out, who deserve to have a functioning Government, deserve to be able to get a passport, if they need it.

They are getting hurt, inconvenienced. For what? For what? NEWT GINGRICH has said several times he is going to vote to pay all these people who are not going to work. What is going on here? What is going on?

So there are Federal employees, despite NEWT GINGRICH's comments, who are not getting paid right now. Oh, but Members of Congress, we are getting our pay. It is just fine and dandy. What a legislative runaround my "No Budget, No Pay" bill has been given. And if I ever go into the classroom to teach a course in Government, I am going to bring this chart with me. It says "No Budget, No Pay. How a Bill Does Not Become a Law." I have never seen a runaround like it.

Three times—three times—Senators have passed this legislation. Senator DOLE supports it, Senator DASCHLE supports it; Republicans and Democrats alike—approved, approved, approved. Passed as an amendment to the D.C. appropriations bill. Unfortunately, the D.C. bill is stuck and we do not know the fate of "No Budget, No Pay." But it does not look promising.

Amendment to the reconciliation bill—knocked out.

Amendment to the ICC sunset bill, which may come up tomorrow —knocked out.

Who knocked it out? The Republican Congress.

Blocked in the House by the leadership-controlled Rules Committee which refuses to allow a vote on it.

Five times Congressman Dick Durbin tried to get a vote. It is real simple. If Federal employees do not get their pay, neither should we. Blocked, stalled. And the President waits with his pen to sign it. He supports this. His pay would be docked as well. So "How a Bill Does Not Become a Law," a new chapter in the textbook of our children—a sad new chapter.

NEWT GINGRICH has consistently blocked a House vote on this bill. I have to, again, say to my friends on the other side, they ought to read the Constitution, Article I, Section 7, which says:

> Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States.* * *

Imagine, we have a President and he has to sign the bill. If he does not like it and if he thinks it is harmful, if he thinks it cuts too deeply into Medicare and Medicaid and education and the environment, he will not sign it, he will veto it. Then what happens? It does not say shut down the Government. It does not say that. It says that if two-thirds of those voting override him, the bill shall become law. Everyone should read the Constitution every once in a while—especially the new freshmen over there. They do not control the President of the United States of America. Thank goodness. Thank goodness, or we would have a mean-spirited country.

Now, this Government shutdown, while more limited than the first one, has caused great hardship. National parks have closed; veterans benefits checks, due next week, will not be sent; passport offices virtually have closed, and the program for tracking deadbeat dads is not operating.

Swell. Where are our family values? Family values. But shut down the program that tracks the deadbeat dads, and you, Members of Congress, keep getting your pay.

Lovely. Great values. Great values for our kids.

Safety inspections of new toys have stopped. Great timing.

New FHA homeowner loans are not being processed for people who want to buy their first home.

I have talked, on this floor, about the individuals who work for the Federal Government, who went to work for their country because they are proud to work for their country, and they cannot even buy their kids Christmas gifts. But Members of Congress, oh, we can get our kids gifts—Hanukkah gifts, Christmas gifts. It is OK because we are so important that we set ourselves above the other working men and women of the Federal Government.

A lot of our Federal employees are not independently wealthy. They live from paycheck to paycheck. Some families have two workers in them that both work for the Federal Government, like Larry Drake and his wife Joan. Larry works for the Bureau of Labor Statistics, and Joan works at the Public Health Service. Both have been furloughed. Their family has lost 100 percent of its income. They do not know if they will get it back or when they will get it back. They hope they will get it back. They want to go to work. If this shutdown lasts long, they may not be able to make their mortgage payment.

Ray Montgomery works for the Census Bureau in Los Angeles. He is classified as an intermittent employee even though he works 40 hours a week, but he will not ever recover his back pay. Ray told my office he is so worried about the second shutdown he has not bought any Christmas presents for his family. Ray wrote to me,

> For heavens sakes, I am one paycheck away from being homeless. I work hard to be a credit for my country. I try to be a good representative of Government employees for the American people.

It is absolutely embarrassing that the greatest country in the world cannot keep services going. If we want to argue about whether these services are important, that is a legitimate argument. Some of us might think it is very important to have people tracking deadbeat dads. Others might say, "No, leave that to someone else, we should not do it." That is fair. That is the long-term discussion of what our priorities are. It should not mean that in the short run these hard-working people are in limbo.

By the way, there are about 280,000 of them. That is 280,000 families. My home county has about 215,000 people living in it. So there is more unemployed tonight in this interim period than my entire home county. It is unbelievable. You figure 280,000 workers, and many them are married with children. You are talking half a million people who are probably directly impacted by this.

Now, the Senator from Maine and I, Senator SNOWE, have an excellent bill. It says Members of Congress should be treated the same way as the most adversely impacted Federal employee. We had our efforts blocked here also. This is a bipartisan effort here in the U.S. Senate. The Senator from West Virginia, Senator BYRD, said put partisanship aside. I think that is very good advice. That is why I reached out to the Senator from Maine, Senator SNOWE, and to Senator DOLE, and brought Senator DOLE and Senator DASCHLE both solidly behind this bill.

Over on the House, a Republican Congress has blocked it, blocked it, blocked it, blocked it, blocked it, blocked it, five times—stalled it. Members of Congress who go on national television practically giggling with joy at what they are doing, continue to bring home a pretty hefty paycheck. It is embarrassing.

Now, I have to say there is a show on CNN entitled "Talk Back Live." A Member of the House leadership said that he opposed my bill, saying—and this is directly from the transcript—"I am not a Federal employee." Imagine—who pays his check? Some private corporation? No, the Federal Government. But he does not consider himself a Federal employee. He is more important. He said, "I am not a Federal employee. I am a constitutional officer."

Madam President, it is this kind of attitude that has led us to these unnecessary Government shutdowns. We are setting ourselves above others, and that is dangerous. People who do that come down real hard. Ever see people like that in life who set themselves apart, they think they are so special? Well, some day, they will learn to be humble. God has a way of doing that and so do the voters.

I continue to believe if we fail to do the most basic part of our job, then we do not deserve to be paid.

I want to read from this transcript from the show. Just so I put it on the Record, this is Representative THOMAS DELAY, who is the majority whip over in the House of Representatives. Susan Rook, the MC, says, "I think PATTY brings up a really good point * * * I want it go back to Representative BOXER in the Senate who cosponsored a bill, and it was saying, 'OK, we, the legislators, will not get paid' * * * Her office said the bill passed unanimously in the Senate three times, but it was held up in the House because of NEWT GINGRICH. Your response?"

To which Representative TOM DELAY says, "Look, Ms. BOXER"—he did not say "Senator," but that is OK—"Ms. BOXER is demagoguing this issue and trying to change the subject. Ask Ms. BOXER if she voted for a balanced budget. She did not. She does not want a balanced budget, and she's trying to change the subject."

Now, No. 1, he had no idea what I voted for. I voted for two balanced budgets. It is in the RECORD. One was written by BILL BRADLEY and one written by KENT CONRAD, and I support another effort by the Senate Democrats, CBO scored, 7 years, balance the budget.

But, of course, he knows what I voted for, I guess. So he says I was just trying to change the subject. But the moderator does not buy it and says, "Yeah, but if Federal employees are not getting their pay, or Marty—actually Cathy, right behind you. Marty you were telling us a story. Now, you are a Federal employee but considered essential. What about some of your supplies?"

Answer, "Supplies aren't available. We work a 24-hour shift, so the fire department is our home for 24 hours. And you've got to basically ration because the money is not in our budget, because there is no budget * * *"

This is someone in a fire department.

And then an audience member says—oh, and then she says, "Marty, would you feel better if they said, 'OK, if you're not getting your supplies, if they're not getting their paychecks, we won't get paid either'? Would that make you feel at least better toward all of them?" Meaning us Members of Congress.

And the audience member says, "Either that or else have them, you know, cut back what they were making. They're making $100,000, I'm making, you know, 32."

He is wrong, we are making $133,000. We are making $133,000 a year and we are getting our pay. And people making $32,000 and $24,000 are trying to support their families.

Then another person said, "Good ol' Newt. Pay him, but not the government workers, by golly."

So, people do not like this. And then it went on and on, people asking Mr. DeLay continually.

This is Tom DeLay, one of the leaders in the House. He says, "Well, Susan, you can play all these games you want to change the subject. The point here is that if the President was concerned about Federal employees and their pay, he wouldn't have vetoed [all these bills]."

And she says, "OK, but Marty's question * * * why don't you go ahead and take a pay cut? So would you support the Boxer bill or no?"

And he says, "No, I would not. I am not a Federal employee. I am a constitutional officer. My job is in the Constitution.* * *"

And then an audience member says, "But why are you not a government employee?"

And he says, the leader, the majority whip over there, "I am not a government employee. I am in the Constitution."

"You are, sir," says another audience member.

And then the audience member says, "Where is your ethics at? You're a government employee. All of you are government. All of you fall into the Federal Government * * * everybody gets paid by the Government."

And then he says, Susan, why is it all you want to do is talk about salaries, et cetera.

So, here you have a situation where the leadership of the Republican House of Representatives is thrilled and delighted to shut this Government down. They object to a very clean CR, that is a continuing resolution, to in fact keep this Government running. They want to put a gun to the President's head and hold this Government hostage. And he is not going to do it. And that is where we stand tonight.

Madam President, I am going to complete my remarks, could I have just an additional 1 minute?

The PRESIDING OFFICER. Absolutely.

Mrs. BOXER. Thank you very much. I just hope that Members who might have heard me talk tonight will begin to feel a little bit embarrassed themselves about the situation, a little bit ashamed about the situation, and that they will not continue, over there on the House side, to block the bipartisan "No Budget, No Pay" bill. But more important, that we get this Government rolling and we sit down like grown-ups, men and women, Republicans and Democrats, to debate the long-term issues.

I know we can resolve the long-term issues. I know that we can. There is a lot of room for compromise. The Constitution wants us to compromise. Our founders envisioned something like this. That is why they have something called a veto, and a two-thirds override. If you cannot get that, my friends, you compromise to make it happen.

So I am prayerful and I am hopeful that we will all grow up around here, start working together, and solve this crisis.

Madam President, thank you for your generosity. I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate will stand adjourned until 9:30, Thursday, December 21, 1995.

Thereupon, the Senate, at 8:54 p.m., adjourned until Thursday, December 21, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate December 20, 1995:

FEDERAL DEPOSIT INSURANCE CORPORATION

GASTON L. GIANNI, JR., OF VIRGINIA, TO BE INSPECTOR GENERAL, FEDERAL DEPOSIT INSURANCE CORPORATION. (NEW POSITION)

DEPARTMENT OF STATE

RITA DERRICK HAYES, OF MARYLAND, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS CHIEF TEXTILE NEGOTIATOR.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST OF THE U.S. NAVY IN THE GRADE INDICATED UNDER SECTION 1370 OF TITLE 10, UNITED STATES CODE:

To be vice admiral

VICE ADM. ROBERT J. SPANE, 530-24-1323.

WITHDRAWAL

Executive message transmitted by the President to the Senate on December 20, 1995, withdrawing from further Senate consideration the following nomination:

FEDERAL DEPOSIT INSURANCE CORPORATION

NORWOOD J. JACKSON, JR., OF VIRGINIA, TO BE INSPECTOR GENERAL, FEDERAL DEPOSIT INSURANCE CORPORATION (NEW POSITION), WHICH WAS SENT TO THE SENATE ON JANUARY 5, 1995.

HOUSE OF REPRESENTATIVES—*Wednesday, December 20, 1995*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. WICKER].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
December 20, 1995.

I hereby designate the Honorable ROGER F. WICKER to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May Your word, O God, that brought the Earth into being and sustains us along life's way not only comfort us, but examine and correct us in our vision, our motivations, and our purposes. We know that we are accountable to You for our lives and responsible to each other for our deeds so we pray that we will see Your mighty purposes for justice among us. Sustain us, strengthen us, judge us, forgive us, and minister to us in the depths of our hearts. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Mississippi [Mr. MONTGOMERY] come forward and lead the membership in the Pledge of Allegiance.

Mr. MONTGOMERY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1530), "An Act to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain fifteen 1-minutes per side.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON TODAY

Mr. STEARNS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

DEMOCRATS AND PRESIDENT DUCK RESPONSIBILITY

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, there are two arguments the Democrats and the President use to justify their not signing a 7-year balanced budget agreement.

One is the Medicare scare. Right now the difference between what the President and we are proposing is .7 percent a year or $11 billion. So how can Americans believe the President when he said, "I simply cannot sign a budget that devastates Medicare to the elderly." Come on, Mr. President, we are in agreement on Medicare so stop the scare.

The other sound bite for Democrats and the President is tax cuts. The American people have suffered through at least 19 different major tax increases since 1981 without one single tax cut. There is no reason why they should have to wait another 7 to 10 years for tax relief.

Our tax cuts were paid for on April 5, 1995, before the debate began on saving Medicare. And they have nothing to do with saving Medicare. In fact we have a lock box in the Medicare legislation to keep all savings there.

The President and the Democrats have fabricated the Medicare-scare and tax cut connection because it is useful politically. "It allows them to attack and to duck responsibility, both at the same time." Those are not my words. That is from the Washington Post editorial on September 25, 1995.

Come on, Mr. President, sign the agreement and let us stop ducking responsibility.

GET VETERANS' CHECKS OUT ON TIME

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, first we must be sure that the 3 million veterans' checks get out on time. The deadline is tomorrow. Really, let us not let these veterans down. Let us get these checks out on time.

OUR TROOPS IN BOSNIA

Mr. Speaker, like most Americans, I have watched our American forces move into Bosnia on the ground and in the air. Mr. Speaker, even though I am not happy with the mission, I am very impressed with the way our Armed Forces are handling themselves. With temperatures below freezing, fog, snow and ice, our military is operating as well-trained unit in Bosnia.

Next time that our soldiers and Air Force personnel are wearing their uniforms and equipment the way they are and the way they were trained, look at them; I am not one that has seen any Americans walking around without his or her helmet being on, and as you look, they are carrying their individual weapons, plus they are doing an outstanding job with our great airplanes in landing in the fog, ice, and snow.

Mr. Speaker, we must remember that all of our personnel in Bosnia are from the all-volunteer system. They are the finest military force in the world, and it shows. Just look at them tonight on television.

WHAT REALLY WENT ON LAST NIGHT?

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, the United States, the President, and Washington, DC, better understand what went on

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

last night. The Speaker, the majority leader, and the President negotiated for 2½ hours.

We were under the impression that the President was absolutely adamant about making a deal and bringing a balanced budget now. Within 15 to 30 minutes, the vice president walked out and contradicted what the Speaker understood to be the beginning of a deal. This is deja vu all over again. This is exactly what happened on November 20 that we have been manipulated for now going on 30 days.

The President obviously is not interested in balancing the budget. This administration cannot be trusted. They can not keep their word. They cannot keep their promises.

And so make no mistake about it, there will be no CR until the administration proves that they can be trusted.

MAJORITY PARTY SHOULD GOVERN

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, there goes the Republican leadership again, saying they want to keep the Government shut down because they do not get their way, and that is the problem here. The Republican majority has an obligation to keep this Government going. They are the only ones that can bring up a continuing resolution. They refuse to do so, because they do not get their way.

The President has stood strong, and he has said, "I will negotiate, I will sit down with you, but I will not negotiate away Medicare, I will not negotiate away Medicaid, the environment, and education." He is being fair. He is being strong.

But this Republican leadership, and there you heard it said very clearly, they want to keep the Government shut down and they want to hold this Government hostage. That is not what the majority party is supposed to do. They are supposed to govern. They are supposed to care about the Government and all the Government agencies and all the things that people need in order to continue functioning in this country. It is not fair. They are the problem.

THE BASIC PREMISE OF STRENGTH

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, once again I listened with great interest to my friend from New Jersey set down his parameters for what a majority party should do and offer us an interesting definition of strength. I respectfully beg to differ.

The most stirring example of strength is to keep your promise to the American people. The most stirring example of responsibility is to save this country and this Government from fiscal disaster for generations yet unborn. The most stirring example of true responsibility is to provide for our seniors by making sure that their health care is still here in 7 years, to make plans for the next generation and not just the next election.

The sad fact is that the liberals on this side of the aisle and the liberals at the other end of Pennsylvania Avenue do not seem to understand that basic premise of strength.

Once again, the new majority says to our friends on the other side, join with us and govern, but let us play by the rules.

WE MUST BALANCE PRIORITIES

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, we have got some disagreements and, indeed, sometimes the rhetoric gets a little heated around here from both sides.

Let me explain, we are not just talking dollars and cents as some of our colleagues on the other side who spoke earlier. We are not talking about the fact we are a few billion dollars apart.

We are talking about balancing priorities as well as balancing the budget. There are a lot of us on our side of the aisle that say, look, if we are going to force adult children of the elderly who are in nursing homes to pick up the cost of that nursing home care because we have changed Medicaid, we have made a medigrant program, we have not guaranteed that all of these senior citizens are even going to have a nursing home, we have not guaranteed the standard of care, we have not guaranteed that spouses are not going to be impoverished.

Let me tell you something, in the committee, 100 percent of the Republicans on the other side voted against each one of those amendments protecting adult children, protecting spouses from impoverishment, protecting people so that they have at least some standard of care.

I understand, in the conference report, that may have begun to change. It has not changed enough. We must protect those care standards.

WORDS FROM A PROMINENT AMERICAN POLITICIAN

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, I would like to quote from a prominent American politician:

> We have to cut the deficit, because the more we spend paying off the debt, the less tax dollars we have to invest in jobs and education and the future of this country. The more money we take out of the pool available savings, the harder it is for people in the private sector to borrow money at affordable interest rates for a college loan or for their children, for a home mortgage or to start a new business. That is why we have got to reduce the debt, because it is crowding out other activities we ought to be engaged in and the American people ought to be engaged in. We cut the deficit so that our children will be able to buy a home, so that our companies can invest in the future, retaining their workers, so our government can make the kinds of investments we need to be strong and smarter and safer.

These are not the words of NEWT GINGRICH, but the words of Bill Clinton on February 2, 1993, in his budget address. He said it. We agree with it. Let us do it. Let us do it now.

AMERICA, TAKE A LOOK AT THE LOSS OF JOBS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I would like to talk about budget deficits. Polaroid has announced they are laying off 1,300 Americans, 1,300 more Americans losing their livable-wage jobs.

But Polaroid said, "Don't worry." They are going to join forces with the Federal Government and provide retraining. What are we retraining American workers to do? How many more welders and auto body specialists do we need? Pantyhose crotch-closers?

Beam me up, Mr. Speaker. Since NAFTA, 50,000 American workers have lost their jobs. Just last week Boeing laid off 3,200 Americans, moved to Mexico. They were making $18 an hour in Seattle. They will make 76 cents in Mexicali.

Ladies and gentlemen, you are talking about balancing the budget? America and Congress will never balance the budget with jobs at Mickey D's.

It is time to take a look at the loss of jobs, ladies and gentlemen.

GET RID OF SECRETARY O'LEARY

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, as we continue to try to achieve a balanced budget, I think we ought to keep in mind the one Cabinet Secretary who has been singled out by Vice President GORE for doing, and I quote the Vice President, "a fabulous job on eliminating unnecessary spending." Yes, I am talking about the administration's poster child for government frugality, Hazel O'Leary.

How can we be so callous, so downright mean-spirited, Mr. Speaker, as to work for a balanced budget at a time when the Secretary of Energy already may be going a whole night or two without staying in a 5-star European hotel at taxpayer expense?

The Vice President insists that she is doing, in his words, a fabulous job. But here is a question: The law clearly states in title 5, section 3107, that a Cabinet Secretary may not use appropriated funds to pay a publicity expert unless the money has been appropriated specifically for that purpose. Was that law violated by Mrs. O'Leary when she used taxpayer dollars to hire a private PR firm?

Let us look into that. Let us balance the budget. Let us get rid of Secretary O'Leary.

□ 1015

GET ECONOMIC HOUSE IN ORDER

(Mr. BARRETT of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT of Wisconsin. Mr. Speaker, when the Republicans took over this House in January, they said they would run this Government like a business. Well, Mr. Speaker, I am still looking for the business that would run this Government like the Republicans are running it. They are sending home workers because they are upset they are not getting their own way, and in the end they are going to pay them. I would like to see one business, just one business in this country, that is going to send home its employees because it is so mad it is not getting its own way, and then is going to pay them in the end.

There is no reason to send these people home. They should work if they want to work. And why are they sending them home? They are not getting their own way, because President Clinton and the Democrats in Congress are saying "No, we don't want seniors' monthly premiums for Medicare to raise at four times the rate of inflation. We think that is wrong. And we think it is wrong that you have tax cuts that disproportionately go to the richest people in this country."

Yes, Mr. Speaker, some day we should have a tax cut, but we should not have the hot fudge sundae until after we eat the vegetables. Let us get our economic house in order first, and then let us talk about tax cuts.

AFL–CIO SPENDING UNION MONEY TO ATTACK BALANCED BUDGET

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, opponents of the Republican effort to balance the budget have made a number of attempts to frighten the American people. It began with medi-scare, continued with edu-scare, and now it culminates with union-scare. The Washington based leadership of the AFL–CIO intends to spend $22 million on a campaign that attacks Republican efforts to balance the budget. Their campaign, however, is not based on the facts of the Republican plan to balance the budget, but rather on a series of lies, half-truths, and distortions.

The interesting part of this campaign is that the $22 million is being financed by dues, fees, fines, and other special assessments on the hardworking men and women who are members of the AFL–CIO and their affiliate unions. Moreover, it is also important to note that this money is not being spent to further the interests of the union members, but rather is being spent to advance the political interests and agenda of the AFL–CIO's newly elected leadership. I wonder if the men and women who are paying for this campaign would support the use of their $22 million, if they were aware that it was being used to advance purely political objectives that stand in the way of a balanced Federal budget and brighter future for all Americans.

BALANCED BUDGET PLAN AFFECTS RETIREES

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, what this budget debate is all about is the Republican plan to give a $253 billion tax break to wealthy individuals and to repeal the minimum corporate tax. And where does the GOP balanced budget plan leave real people, like Mrs. Johnson, who wrote to me and said:

> I will be 65 years old next month, but have been disabled for 9 years. At this point in time I'm very concerned about what will happen to me and my husband when changes in Medicare are made. My check is for $332, which doesn't cover the cost of the supplemental health insurance. My husband's check is $670 a month. At present he is quite ill and in the VA hospital.
>
> We tried to save for our retirement years, but I had to quit my job as a nursing assistant because of many health problems. This means we have spent more just to get by than we have in income. At this rate, our small savings will not go too far. I don't know what the answers are to these problems, but I desperately hope a solution can be found that won't make life harder.

BALANCING RIGHTS OF ALL PARTIES IN COLLECTIVE BARGAINING

(Mr. FAWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAWELL. Mr. Speaker, in two hearings earlier this year, the Committee on Economic and Educational Opportunities heard from witnesses who shared their experiences with so-called "union salters." In many cases, paid union organizers, known as salters, sought employment simply to disrupt the employer's workplace or to force the employer out of business or to defend itself against frivolous charges filed with the National Labor Relations Board [NLRB]. For most of these companies—many of which were smaller businesses—the economic harm inflicted by the union's salting campaigns was devastating.

Mr. Speaker, last month the Supreme Court issued a decision that such salters were nevertheless employees under the National Labor Relations Act [NLRA] and thus entitled to all rights and protections of that act.

Mr. Speaker, I believe that any employer is entitled to know that its employees are loyal employees not being paid by others to be destructive to its business. I am therefore exploring legislative alternatives for curbing the abusive practices involved with salting. The Court's decision notwithstanding, we must retain and ensure the balance of rights of employers and employees that is fundamental to the system of collective bargaining.

FAMILY FRIENDLY CONGRESS

(Mr. BENTSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENTSEN. Mr. Speaker, welcome to the family friendly Congress. If you are a Federal employee, say, at NASA, tell the kids "Sorry, no Christmas. Dad is out of work. Santa ain't coming. The grinch stole Christmas."

If you are a tourist visiting the Smithsonian with your kids, sorry, no Air and Space Museum. But what about buying a coin?

If you are a veteran, sorry, no Veterans Administration.

Mr. Speaker, this is family unfriendly, because this House, your House, has failed to do its duty. You did not pass your budget in time, you did not pass your appropriations in time, you failed to realize how the Constitution works. And if all of America does not accept your budget, Medicare cuts, tax cuts and all, then there is no deal, no Christmas, sorry, kids, sorry, America.

The Constitution does not work that way. This Congress is not working the way that our forefathers intended it to.

TIME TO BALANCE BUDGET IS NOW

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, the time to balance the budget is now. For

40 years, the liberal politicians in this town were willing to put off decisions until tomorrow. And look what it got us—a 5 trillion dollar debt.

No, let me rephrase that. Look what it got our children—a 5 trillion dollar debt. You see, Mr. Speaker, that's what this debate is really about. It's about our children and it's about our children's children. Unless we stand firm now, their future doesn't look very bright. But if we can just restrain our spending, we can help restore the American dream for our children.

That is a Christmas gift worth giving the American people. Mr. Speaker, I'm tired of hearing excuses from the President. It's time to do the right thing for our children's future—it's time to balance the budget. So we ask the President, put a real plan on the table. Help us save the next generation. Balance the budget now.

FREE THE NATION'S CAPITAL

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, I rise this morning to alert this body that the Capital of the United States is still hanging out there about to choke. The conference report that was to materialize yesterday did not because of the complications here and in the Senate.

The conference report, I am told, will come forward today. That would be the ball game. That is the right way to handle this. We are already into extra innings that are killing the Capital of the United States.

An agreement structured by the Speaker himself will come before us as the conference report. Vouchers will be out, not because this body wanted them out or because the Speaker wanted them out, but because of a filibuster in the Senate. It is an act of leadership for the Speaker to bring it forward, and I appreciate that. I understand he will speak for it.

It would be easy for this body to sit this out, but nobody wants to shut the Capital of the United States down. We are now running on empty. Even the gentleman from New York [Mr. WALSH], who does not support this report, does not want to shut the District down. Do the responsible thing; free the District of Columbia.

TIME FOR SECRETARY O'LEARY TO RESIGN AND FOR THE PRESIDENT TO NEGOTIATE A BALANCED BUDGET

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, it is no wonder the President is unable to come up with a balanced budget. He has Secretary O'Leary tied around his neck like a millstone. Secretary O'Leary has taken 16 international trips, she takes as many as 50 staffers with her, 60 other guests, she hires photographers and video crews to catch her at her best. She has 520 public relations employees. She has a personal media consultant, even hired a private investigative firm to see what reporters and Congressmen are trying to see which reporters and Congressmen tarnish her image, all at a cost of about $30 million to taxpayers.

Mr. Speaker, it is not about the tax breaks for the rich or Medicare. That is all bogus. It is about wasting millions of dollars. Mike Royko of the Washington Times had it right:

> Buy a rope, tie one end of the rope to Mrs. O'Leary's ankle, tie the other end to her desk. See, whipping the deficit doesn't seem to be so complicated.

Mr. Speaker, it is time for Secretary O'Leary to resign, and it is time for the President to honestly negotiate a balanced budget.

TIME TO STOP PLAYING GAMES

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, last month, Speaker GINGRICH shut down the Government because he did not like his seat on Air Force One. Now he is at it again.

This time Speaker GINGRICH has shut down the Government to try to get his way on the budget, throwing more than 200,000 people out of work a week before Christmas. These families are being used as pawns in the Speaker's attempt to force through huge cuts in Medicare, Medicaid, education, and the environment, all to pay for a $245 billion tax break for the wealthiest Americans.

Mr. Speaker, they are so wedded to this tax break, the crown jewel of the Contract on America, that they are willing to put the lives of 200,000 working Americans at risk. These folks are not being paid one week before Christmas holidays, and they are willing to put those lives at risk in order to give their rich CEO friends this tax break.

Stop playing games with people's lives. Have a budget that protects Medicare, Medicaid, and America's priorities.

BEAM ME UP

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, I would just like to point out to the gentlewoman who just spoke that as she well knows, it was the President who vetoed three bills that could have put all of those workers back to back.

Ms. DELAURO. Mr. Speaker, will the gentleman yield?

Mr. HOKE. No, I will not yield.

Ms. DELAURO. If the gentleman will yield, he knows that is not true.

Mr. HOKE. Mr. Speaker, I have got to tell you about something I read in the paper this morning. It says Clinton told reporters before yesterday's meeting that now he thinks it is possible to reach the GOP goal of a balanced budget by 2002, using the conservative economic calculations by CBO.

Mr. Speaker, in the words of my good friend, fellow Ohioan and honorary theme team member, "Beam me up." Beam me up. It is unbelievable. The President says that he thinks it is possible to reach the GOP goal of a balanced budget by 2002. Did he read the language of the CR that he personally signed into law before he signed it? Did he read that language agreeing to do exactly that 30 days ago? And now he tells us, now he tells us that he thinks well, maybe it is possible to do that.

Mr. Speaker, what planet is the President on? This is just incredible.

AMBASSADOR SPIEGEL DESERVES OUR RESPECT

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, in the Washington Post this morning there is a report about the majority leader and the Speaker expressing concern about remarks made by Ambassador Dan Spiegel, our U.N. representative in Geneva, for allegedly attacking the Congress.

Mr. Speaker, Ambassador Spiegel's remarks were taken out of context. He was not attacking the Congress. He was discussing the impact of a growing isolationist trend which has had a devastating impact on our payments to the United Nations and its specialized agencies.

Dan Spiegel worked in the U.S. Senate for 6 years for Senator Hubert Humphrey. He has great respect for this institution. In any event, Ambassador Spiegel has apologized and the matter should be put to rest.

Mr. Speaker, Ambassador Spiegel is one of our best ambassadors. We should now move on, now that his remarks have been clarified. He deserves our strong support, as he has an outstanding record, both from the private as well as the public sector.

TIME FOR THE PRESIDENT TO LEAD

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Speaker, the most frightening thing today is the fact that we have a President that is not leading, but that he engages in fear tactics to scare the elderly about Medicare, when the fact is there is only 2 percent difference in the Medicare plan that we have and what the President has, $138 difference over a whole year in the year 2002.

The fact of the matter is the President is not concerned about Medicare, he is concerned about AmeriCorps, he is concerned about all the liberal social programs that he wants to spend dollars on and bankrupt our economy and not provide a future for our children.

Mr. Speaker, it is time the President starts to lead us into the 21st century and save this Nation from economic disaster. It is time to save the future for my 13-year-old daughter and my 24-year-old son. It is time for the President to be the President and lead this Nation and do the right thing.

PROGRESS REPORT ON THE 104TH CONGRESS

(Mr. FARR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FARR. Mr. Speaker, I rise on this cold, wintry day here at the end of the year to remind us how it all got started. Remember we were here last January with all our families when a new leadership took over, a leadership that promised that this Congress would be family friendly, that we would have an ambitious agenda, that they would deliver their Contract on America, and that first 100 days they really went to work. They did a lot and celebrated here with great big circuses and things like that.

Mr. Speaker, look at it at the end of the year. We have been in Congress more days, cast more votes, and done less than any Congress in history. No budget bill was adopted on time, none of the appropriation bills were adopted on time. Why? All because of stubbornness of the Speaker to keep a tax break, keep a promise.

☐ 1030

Look at what the Speaker said. He said, "I do not care what the price is. I do not care if we have no executive offices and no bonds for 30 days. Not at this time."

This Speaker has shut down Washington just at Christmas time. Well, Mr. Speaker, join the spirit of Christmas, start giving. Give up the tax break.

FEDERAL EMPLOYEES AND OTHERS HURT DUE TO SHUTDOWN CAUSED BY DISAGREEMENT ON BUDGET

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, we hear there is a ray of light and hope in the Budget Balancing Act that is going on. I certainly hope so, because it is about time. I urge the President to work with the leadership to develop the balanced budget plan.

We have 260,000 families who have been furloughed, Federal employees furloughed. And their families and their friends, they are worried, demoralized, filled with anguish, lacking self-esteem, and here it is during a holiday season. They do want to work.

I have also heard from Federal employees who are not furloughed. They are frustrated that they cannot get their work done during the shutdown. It poses serious threats when a pharmacist cannot send out a prescription, NIH must stop research and CDC has furloughed 61 percent of its employees.

Some of the other effects of the shutdown will cost $40 million a day in lost wages in the private sector. For each day of the shutdown 2,500 families will not be able to close on their mortgages because new Federal housing insurance guarantees were stopped, removing $200 million a day in housing transacted from the economy. Two hundred sixty businesses that receive SBA loans will not get financing, and maybe later on welfare and veterans benefits will be delayed. Let us get on and let the light shine through and come to a conclusion.

GOVERNMENT SHUTDOWN DUE TO FISCAL MISMANAGEMENT BY NEW MAJORITY

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I do not think there is one American business or one American family that would dare run their finances the way the Republican leadership is running the finances of this country. We are now one quarter of the way, almost, into this fiscal year, and 75 percent of the domestic budget has not passed yet; 75 percent. Imagine.

What is their excuse? They do not like, or they cannot agree on projections as to what is going to happen 7 years from now. Hey, try that when they come and ask us to pay our bills, and we say I cannot pay my bills yet because I have not put my budget together yet because I have not figured out what kind of predictions are going to be 7 years out.

This is all to distract people on the fact of the tremendous mismanagement, the fiscal mismanagement of this Government. It is an outrage that many people are out on the streets, that veterans may not get their checks, that we can go on and on and on, and this is the first time in history we have had two shutdowns.

This is outrageous.

PRESIDENT AND DEMOCRATS WISH TO AVOID BALANCING THE BUDGET

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, this morning I want to read a brief section from this morning's New York Times concerning yesterday's budget meeting between the President, Vice President, Speaker GINGRICH, and Senator DOLE:

> Vice President Al Gore, who attended the oval office session and called it "constructive," said there was a "slight misunderstanding," and that there had been no pledge to use the Congressional Budget Office's assumptions. He also said no timetable had been set.

"But minutes later, Michael D. McCurry, the White House Press Secretary, scurried," this is their quote, "to amend Mr. GORE's remarks and said the President has agreed that when any individual part of the budget was discussed, the parties would use Congressional Budget Office estimates of how much it would save or cost."

Mr. Speaker, this revealing exchange points up a simple fact. We are hearing from the White House the dying gasp of liberalism, the ferocious efforts of our Democratic colleagues to avoid balancing the budget, reflected by the Vice President's frantic efforts to back away from fiscal integrity.

The President signed a law he has now reaffirmed: to balance the budget. Mr. Speaker, the Republican Congress will stay here as long as it takes to get a balanced budget, lower taxes, less centralized government, lower interest rates, a brighter future for America's seniors and children and all future generations.

REPUBLICANS' IDEA OF BALANCING THE BUDGET IS NOT BALANCED FOR ALL AMERICANS

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, could it be too much Christmas eggnog? Surely there must be some explanation as to why our Republican colleagues continue to insist on a balanced budget that has no balance for ordinary American families. For the privileged, of course, this budget is what one might call the eat-dessert-first approach.

They propose to provide tax breaks to the privileged in our society and to give a lot of them out next year on election eve. They will actually, under the budget they insist the President should capitulate to, they will actually solve the budget deficit by increasing the budget next year, not decreasing it.

And what happens later on, after 2002? Well, within 10 years, this budget deficit will explode because of their tax breaks for the privileged, costing a total of $416 billion.

That is no way to balance the budget. Indeed, it is the same way they are handling this government shutdown. Waste a billion dollars of taxpayers' money to pay Federal employees not to work because they do not like the Government. Some logic, some approach to a budget that is not balanced for ordinary Americans.

PRESIDENT'S REASONS FOR VETOING OF SECURITIES LITIGATION REFORM BILL WERE WRONG

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, just a couple of weeks ago this House, by a vote of 320 Members in support, nearly 100 Democrats joining Republicans, voted for landmark securities litigation reform, a bill to stop frivolous lawsuits that are driving up the cost of doing business in America unnecessarily.

Yesterday, amazingly, the President vetoed that legislation. He did so in a veto message that is equally amazing. He did it with the following excuses:

One, that the pleading requirements were too strong. The pleading requirements are simply what one alleges in a lawsuit. That is all one has to do is allege a proper cause of action. Second, he did not like the statement of the managers. Not the bill, the statement of the managers included with the bill. And, third, he did not like the notion that rule XI, the provision that gives the court the right to assess costs on a frivolous lawsuit lawyer, the plaintiff's lawyer, he thought that was too hard on the plaintiff, not hard enough on the defendant.

Mr. President, it is plaintiffs who file frivolous lawsuits, not defendants. Those are not good reasons to veto this bill. Why did he do it? My conclusion. He wants this House and the Senate to take responsibility for making this good bill law. He wants us to override. We will have that chance today. Let us override the veto.

DEMOCRATS REFUSE TO GIVE IN TO REPUBLICANS' MEAN-SPIRITED APPROACH TO BALANCING THE BUDGET

(Mr. WATT of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATT of North Carolina. Mr. Speaker, I have two questions for my Republican colleagues this morning. How in the world does one justify giving a $240 billion tax break to the richest people in the United States when they are cutting $270 billion from Medicare and $180 billion from Medicaid?

Second, how does one justify shutting down the Government when the President and the Democrats refuse to give in to that insane, mean-spirited approach to balancing the budget?

Imagine that, the rich get richer, the poor and the elderly get sicker, and GINGRICH does, in fact, steal Christmas.

DEMOCRATS' LEFT-WING EXTREMIST PROGRAMS STEAL FROM AMERICA'S CHILDREN

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, the Democratic party has truly confused their role with Santa Claus, but not with giving gifts of their own making, with money they have confiscated from the overworked, overtaxed, underappreciated, middle-income working families. But what is worse, realizing that Christmas is about children, the Democrats have stolen the majority of their money for their left-wing extremist programs from America's children.

Yes, that is true, today's children, taxpayers of tomorrow, will get a gift from President Clinton and his extreme liberal Democrat allies: a $5 trillion debt. If a baby is born today, over the next 75 years he or she will owe $187,000 as his or her portion of the debt above and beyond local State and Federal taxes.

Mr. Speaker, if that is compassion, if that is the Christmas spirit, I would just as soon be celebrating ground-hog day.

REPUBLICANS CHANGING OUR FAVORITE CHRISTMAS CAROLS

(Mr. MENENDEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Speaker, we all know that the Republicans said things would change when they took over the Congress, but nobody thought they'd be changing some of our favorite Christmas carols.

Have you heard the new version of this old favorite carol about the latest Government shutdown?

The weather on the Hill is frightful,
and the budget cutting so spiteful.
But the Republican Scrooges, pose,
let it close, let it close, let it close.

It's time for Republicans to understand that there are some things better left untouched, and that includes keeping government open so that veterans and seniors can get their claims processed, taxpayers don't lose out on the valuable services they pay for, and visitors to the Nation's capital from throughout the world don't find themselves shut out.

And finally, Federal workers don't find themselves with the GINGRICH that stole Christmas.

We can balance the budget—but it must be balanced not only by the numbers—but in its affect on seniors, children, families & working Americans.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
Washington, DC, December 20, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Tuesday, December 19, 1995 at 11:11 p.m. and said to contain a message from the President whereby he returns without his approval H.R. 1058 the "Private Securities Litigation Reform Act of 1995."

With warm regards,

ROBIN H. CARLE,
Clerk.

PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–150)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 1058, the "Private Securities Litigation Reform Act of 1995." This legislation is designed to reform portions of the Federal securities laws to end frivolous lawsuits and to ensure that investors receive the best possible information by reducing the litigation risk to companies that make forward-looking statements.

I support those goals. Indeed, I made clear my willingness to support the bill passed by the Senate with appropriate "safe harbor" language, even though it did not include certain provisions that I favor—such as enhanced provisions with respect to joint and several liability, aider and abettor liability, and statute of limitations.

I am not, however, willing to sign legislation that will have the effect of closing the courthouse door on investors who have legitimate claims. Those who are the victims of fraud should have recourse in our courts. Unfortunately, changes made in this bill during conference could well prevent that.

This country is blessed by strong and vibrant markets and I believe that they function best when corporations can raise capital by providing investors with their best good-faith assessment of future prospects, without fear of costly, unwarranted litigation. But I also know that our markets are as strong and effective as they are because they operate—and are seen to operate—with integrity. I believe that this bill, as modified in conference, could erode this crucial basis of our markets' strength.

Specifically, I object to the following elements of this bill. First, I believe that the pleading requirements of the Conference Report with regard to a defendant's state of mind impose an unacceptable procedural hurdle to meritorious claims being heard in Federal courts. I am prepared to support the high pleading standard of the U.S. Court of Appeals for the Second Circuit—the highest pleading standard of any Federal circuit court. But the conferees make crystal clear in the Statement of Managers their intent to raise the standard even beyond that level. I am not prepared to accept that.

The conferees deleted an amendment offered by Senator Specter and adopted by the Senate that specifically incorporated Second Circuit case law with respect to pleading a claim of fraud. Then they specifically indicated that they were not adopting Second Circuit case law but instead intended to "strengthen" the existing pleading requirements of the Second Circuit. All this shows that the conferees meant to erect a higher barrier to bringing suit than any now existing—one so high that even the most aggrieved investors with the most painful losses may get tossed out of court before they have a chance to prove their case.

Second, while I support the language of the Conference Report providing a "safe harbor" for companies that include meaningful cautionary statements in their projections of earnings, the Statement of Managers—which will be used by courts as a guide to the intent of the Congress with regard to the meaning of the bill—attempts to weaken the cautionary language that the bill itself requires. Once again, the end result may be that investors find their legitimate claims unfairly dismissed.

Third, the Conference Report's Rule 11 provision lacks balance, treating plaintiffs more harshly than defendants in a manner that comes too close to the "loser pays" standard I oppose.

I want to sign a good bill and I am prepared to do exactly that if the Congress will make the following changes to this legislation: first, adopt the Second Circuit pleading standards and reinsert the Specter amendment into the bill. I will support a bill that submits all plaintiffs to the tough pleading standards of the Second Circuit, but I am not prepared to go beyond that. Second, remove the language in the Statement of Managers that waters down the nature of the cautionary language that must be included to make the safe harbor safe. Third, restore the Rule 11 language to that of the Senate bill.

While it is true that innocent companies are hurt by frivolous lawsuits and that valuable information may be withheld from investors when companies fear the risk of such suits, it is also true that there are innocent investors who are defrauded and who are able to recover their losses only because they can go to court. It is appropriate to change the law to ensure that companies can make reasonable statements and future projections without getting sued every time earnings turn out to be lower than expected or stock prices drop. But it is not appropriate to erect procedural barriers that will keep wrongly injured persons from having their day in court.

I ask the Congress to send me a bill promptly that will put an end to litigation abuses while still protecting the legitimate rights of ordinary investors. I will sign such a bill as soon as it reaches my desk.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *December 19, 1995.*

□ 1045

The SPEAKER pro tempore (Mr. WICKER). The objections of the President will be spread at large upon the Journal, and the veto message and the bill will be printed as a House document.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman from Virginia [Mr. BLILEY] is recognized for 1 hour.

Mr. BLILEY. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Massachusetts [Mr. MARKEY], pending which, I yield myself such time as I may consume.

Mr. Speaker, the conference report on securities litigation reform passed this House on December 6 by a vote of 320 to 102. It had previously cleared the Senate by a vote of 65 to 30. Strong bipartisan majorities have embraced this legislation as a way to end the scandalous state of securities strike suits. Testimony has revealed that these suits amount to legalized extortion by the plaintiffs bar.

The plaintiffs bar is not more important than the investors who lose their savings to these extortion artists.

In the floor debate we learned that every single one of the top 10 companies in Silicon Valley—world class multinational competitors like Hewlett-Packard, Intel, Sun Microsystems, and Apple Computer—have been accused of violating the antifraud provisions of the securities laws. Not all of these companies are guilty of fraud, they are at least as worthy of protection as is the plaintiff bar.

We do know that the safe harbor in Securities Litigation Reform has been endorsed by the President's own SEC Chairman, Arthur Levitt. We do know that CHRIS DODD, the general chairman of the Democratic Party supports securities litigation reform. I rise today to urge an override of this veto which flies in the face of common sense and the hard work of bipartisan majorities in both Houses of Congress.

This is extremely important legislation for investors and for our economy. It is designed to curb frivolous and abusive securities litigation. This kind of litigation exacts a tax on this country's most productive and competitive companies and their shareholders.

Job creating, wealth producing companies that have done nothing wrong, too often find themselves subject to class action lawsuits whenever their stock price drops. They are forced to pay extortionate settlements, because the costs of defending these lawsuits are prohibitive. And, when companies are forced to settle, their shareholders, ultimately, pay the costs.

We have tolerated this scandalous situation long enough. Let's end these strike suits. Stand with investors, professionals, and jobs. Vote to override the veto.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the President has determined that a veto is appropriate for this particular piece of legislation, and has sent back to this Congress a number of concerns which I think he has legitimately raised about the legislation in its present form.

I think that it is ill-advised for us to be debating a veto and its override at this particular time. I think that the more appropriate course for this House would have been for there to now have been conducted a conversation, a negotiation between the White House and the Members of Congress who have an interest in this bill to determine whether or not changes could have been made which would have dealt with the very legitimate concerns which were raised in the President's veto message.

That has not been the case. Instead, what we see is a rush here to the floor to override the President's veto without any real deliberation as to the substantive issues which were raised in his message. I think that is a big mistake, Mr. Speaker. I think that this House should have, in fact, engaged today at least in a discussion of the very important issues that have been raised.

Mr. Speaker, let us begin with a number of these concerns and try our best to lay out why the President did take the time to pour over this particular bill and to dissect it, as the good law professor which he used to be, in an attempt to come to some common sense resolution of a very troublesome set of issues.

Clearly, the President agrees with just about every Member out here that frivolous lawsuits have to be cut off. We cannot allow the courts to be used in a way that have frivolous lawsuits being brought by unscrupulous lawyers in an attempt to hold up legitimate businesspeople across this country.

But at the same time, the President does not want the law changed in a way that prohibits meritorious lawsuits from being brought. He makes quite clear his concern that, in fact, that would be the necessary result of passage and ultimate implementation of the bill as it had originally been passed through the House and the Senate.

The pleading requirement, as it has been included in the legislation originally, must be modified so that it is tough, but that it is also reasonable.

The second circuit's existing standard for pleading, which passed the Senate, by the way, in June, should be included in the bill, in my opinion. This is the second highest priority, I think, overall in this legislation, along with a number of other concerns which I will raise a little bit later.

My colleagues should note that the ninth circuit, which includes California, rejected the second circuit standard in favor of a much more relaxed approach. So, the codification of the second circuit's standard is something which in my opinion is something that we should be debating out here on the floor.

The issue has been raised by Senator SPECTER who has taken the time to write to the White House and he strenuously objects to the bill in its present form. Leading legal scholars, including the dean of the NYU Law School, believes that this is one of the most harmful issues in the bill.

In addition, and something that is quite important in the overall deliberations, is the safe-harbor provision for forward-looking statements, which would give blanket immunity to those who would commit intentional fraud. A scienter requirement should be added to the safe-harbor so that intentional wrongdoers cannot cloak them in immunity that was intended only for those who make good-faith projections in estimates. That is, in fact, a contention which has to be debated throughout this entire proceeding.

Mr. Speaker, it is important to note that the statement of managers accompanying the conference report instructs courts to look only at the adequacy of the meaningful cautionary language to determine if the safe-harbor should apply. The state of mind of the company's executives, meaning whether not they intended to deceive or to mislead investors, is supposed to be irrelevant, even if the executive of the company, of the financial firm, intentionally lies to the investing public.

Now, that is wrong; simply wrong, and it must be addressed in this debate that we are having on such an important piece of legislation.

I also want to note that this revision would be consistent with a statement previously attributed to the President, which I think is now quite clear in his veto message, that he could not sign a bill that allowed someone to lie intentionally and to get away with it. That is the core of his message, and it is something that I think we are going to have to deal with today, and in the subsequent days ahead, as we, with what the ramifications of passage of this bill without inclusion of the very wise recommendations that have been made by the President to the Congress in his veto message.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. FIELDS], the chairman of the Subcommittee on Telecommunications and Finance.

Mr. FIELDS of Texas. Mr. Speaker, it is with a heavy heart that I rise today. The Congress crafted strong bipartisan legislation designed to curb securities litigation abuse. The legislation was approved by veto-proof majorities in both houses. The President obviously does not see the wisdom of the approach and vetoed the legislation.

Mr. Speaker, I call on all Members to override this veto on this very important piece of legislation. As was pointed out in the floor debate, American companies, paticularly high-technology companies in California, have become the target of speculative, abusive securities litigation which enriches lawyers at the expense of shareholders and the economy.

These abusive securities lawsuits are brought by a relatively small number of lawyers specializing in initiating this type of litigation. In many cases, the plaintiffs are investors who own only a few shares of the defendant corporation and the corporations are frequently high-technology companies whose share price volatility precipitates that lawsuit.

The plaintiffs do not need to allege any specific fraud. Many of these suits are brought only because the market price on the securities has dropped. The plaintiff's attorneys name, as individual defendants, the officers and directors of the corporation and proceed to engulf management in a time-consuming and a costly fishing expedition for the alleged fraud.

Mr. Speaker, it has been pointed out that one of the most compelling statistics for reform, I believe, comes from Silicon Valley where one out of every two companies has been the subject of a 10(b)(5) securities class action.

Mr. Speaker, the current securities litigation system is seriously affecting the competitiveness and the productivity of America's high-technology companies, and it is also affecting our ability to create jobs.

In summary, Mr. Speaker, I believe we have demonstrated that the current securities litigation system promotes meritless litigation, shortchanges investors and it costs jobs. It is a showcase example of the legal system gone awry.

Mr. Speaker, I urge Members to override this veto to support wise and prudent litigation reform.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, a bad bill, conceived with bad process, badly handled, leading to serious abuses in the marketplace, putting innocent and helpful investors at mercy of scoundrels and rogues, has been vetoed by the President.

□ 1100

The President said that he is prepared to sign a good bill, that he is prepared to work with the Congress to end the litigation abuses while at the same time protecting the legitimate rights of ordinary investors. He says that in his message.

I urge my colleagues to listen to the President of the United States and to read the veto message, to see why it is this iniquitous piece of legislation was vetoed. It is a poor piece of legislation. It favors rascals and rogues over the innocent and the honest. It creates a situation where a law-abiding citizen cannot get decent redress in the courts. It raises questions as to the integrity of the American process for offering securities, and it will raise questions about the integrity of our markets. It will ultimately hurt the process of developing capital in this country because it will threaten the thing which is absolutely essential to the workings of the capital markets of the United States, and that is public confidence.

A lot of people think that the public securities offerings and the industry in this country run on money. That is not true. The market runs on public confidence, and if it produces the public confidence it has been doing since the 1934 act was passed, the market produces a lot of money for everybody involved.

What is wrong with this bill? First, the process was unfair, and no careful attention was given to responsible amendments or to intelligent discussion of the abuses that were going to be unleashed upon the investing public.

But beyond that, the President points out why he has vetoed it. The pleading requirements require not a genius but a psychiatrist, and the discovery process is closed until such time as it is impossible to deal with the claims that an honest claimant would make who had been improperly treated and had been hurt by improper behavior of scoundrels in the securities industry.

Second, it has a most curious safe-harbor provision, a safe-harbor provision which permits active fraud, active fraud, deceit, deceit and serious misbehavior.

I would urge my colleagues to not permit a safe-harbor provision which allows such scandalous behavior to be inflicted upon the trusting and the innocent investor by slippery managers of corporations interested in maximizing stock prices or their particular earnings.

Last of all, it treats the plaintiffs in suits of this kind in a way which makes the loser pay, a situation which will deny honest citizens who might not prevail in a lawsuit an opportunity to expect fair treatment from the courts of their country.

I would urge my colleagues to support the President. The veto is a good one. If the veto is sustained, we can come back and write a decent bill. We can write a bill which addresses the real problems which exist with regard to litigation abuses, and at the same time we can protect American investors and protect the confidence of the American people in their securities industry and their securities markets. That is the step which would be in the best interests of not only the country, the securities market, the securities industry, public confidence in the securities that are offered in this country, but also something which is best and fairest to those who do not have the means to protect themselves against malefactors of great wealth.

I urge my colleagues to vote to sustain the veto. I urge my colleagues on the committee who have the ability to do these things to then work with us to achieve a decent bill which protects the interests of all.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. ESHOO], a member of the committee.

Ms. ESHOO. Mr. Speaker, I rise in strong support this morning of this measure to override the President's veto of the securities litigation conference report. I think that it is highly regrettable that the President chose to send up a veto message to us. With all due respect to that veto message, I think that it is an excuse slip.

On every point that is mentioned in the veto, in a bipartisan effort all of this year we have worked to satisfy the concerns of the Securities and Exchange Commission, the administration, and the Senate in the key areas, certainly on pleadings and second circuit language, certainly on safe harbor, and that is also mentioned in the veto message, and certainly on statute of limitations. This bill is a strong bipartisan bill. It is good for investors, and it is good for our economy.

In my view, the price of not passing this conference report this year is simply too high. As the Representative from Silicon Valley, I know that businesses in my region cannot wait for an answer. The legislation provides companies with relief, but not a blank check. The right of investors to sue in cases of actual fraud is protected by this bill. In fact, the bill's safe harbor provision meets the demands set down by CALPERS, the Nation's largest pension fund, representing nearly 1 million shareholders.

Members who supported the conference report are now being asked to change their vote to satisfy its concerns about report language. I do not remember when report language was reason for a veto, and that is why I call it an excuse slip and not a true veto message.

Mr. Speaker, I urge my colleagues to override the President's veto. I think it is regrettable, but I think that this bill needs to become law.

Mr. BLILEY. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, Members of the House, I, too, rise in support of this bill and for the motion to override the veto.

Let me point out what the President did not do. He did not say this was a bad bill. In fact, he complimented it. He said he supported goals of this bill. He did not say that he objected to the safe harbor provisions of this bill. In fact, he said he supported the language of the safe harbor provisions of this bill.

In fact, all he has said he objected to was the pleading requirements of this bill. Now, the pleading requirements are what the plaintiff lawyer does when he files a lawsuit, and what we have done is to make sure that the lawyer alleges a case, that you just do not go on a fishing expedition. Is that terrible?

I suggest if we are trying to deal with frivolous lawsuits, that is the very least we ought to do is require the plaintiff lawyer to plead a case, to have a decent and not a frivolous lawsuit before the court.

Second, he objected to the managers' language, not the language of the bill. I would remind the House that when a bill is sent to the President, the managers' language, the legislative history is not sent to the President. He does not veto the legislative history. He vetoes the language of the bill. He does not veto the language in the bill. He only objected to the language of the managers' report in that area. He suports, in fact, the safe harbor provisions that a previous speaker objected to this in this bill.

Finally, he objected to what is called the rule 11 section, where frivolous lawsuits are punished; that is, the plaintiff is required to put up the cost of the lawsuit. I want point out to you that he said in his veto message that we did something wrong here; we did not have a balance between plaintiffs and defendants.

First of all, it is plaintiffs who file frivolous lawsuits, not defendants. That is the problem. And rule 11 seeks to make sure when plaintiff lawyers file frivolous lawsuits that they have the obligation of paying the costs of the parties who are necessarily brought to court and required to hire attorneys.

Let me point out our language was very fair. It said that existing rules would apply to each party, plaintiffs and defendants, and that a violation by a party, plaintiff or defendant, would require mandatory sanctions by the court.

We have a balanced provision in here. What I concluded when I read this veto message is, one, the President likes the bill; two, he does not really want to sign it. He would rather we override his veto and we made it law. And, three, that we have huge bipartisan support for this bill, and we ought to, in fact, override the veto. Nearly 100 members of the Democratic side joined the Republican Party in this bill. It is a bill that has been in the works for well over 6, perhaps 8, years now. It is a bill in which a veto-proof majority in the House and Senate adopted the bill. It is a bill, in fact, that ought to become law. If the President will not sign it, then he is telling us to do it, and I suggest we do like Mikey, we just do it, override this veto.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at this point, the Members are presented with a very narrow issue: Will the House block meritorious suits, or will it allow meritorious suits to go forward in the courts of this country as they have throughout our history?

The President has asked for a very narrow set of changes. This is not about frivolous lawsuits any longer. The President agrees that frivolous lawsuits must be discontinued.

This is now a battle over whether or not we will support the President's veto, sustain him and, in fact, then begin the discussion over the narrow set of issues which he has raised to ensure that this bill does not go too far in cutting off the meritorious cases which citizens of our country have been allowed to bring throughout our history.

The President has said that he will sign just about anything in the bill except those provisions which block meritorious suits. The veto message makes very clear what changes he is seeking, and that those changes are meant to protect investors who have been defrauded.

Let me emphasize again that the President is not seeking to allow frivolous suits. The only issue raised by his veto message is whether or not, in fact, we will deal with the points in the legislation which have gone too far, which have raised pleadings standards too far, which have changed the safe harbor provisions to the point where actual lying is permitted, which put an unfair burden upon plaintiffs in terms of the risks which they must assume in terms of loser-pays. That is what we are talking about now. The rest of it the President says is acceptable to him.

Now, he is in good company. Let me read to you some of the people who side with the President. We begin with the Fraternal Order of Police, the Fraternal Order of Police, "I urge you to reject the bill which would make it less risky for white-collar criminals to steal from police pension funds while the police are risking their lives against violent criminals." That is the national president of the Fraternal Order of Police.

□ 1115

The International Association of Firefighters: "Firefighters put their lives at risk to save others. Should they also have to put their hard-earned savings at risk too?" That is the general president of the International Association of Firefighters.

The Consumer Federation of America: "The bill would immunize knowing and reckless violations of the securities laws, reduce compensation to victims of fraud, and undermine public confidence in the market. It represents special interest politics at its worst." That is the Consumer Federation of America.

Here are the Attorneys General of the United States, 11 attorneys general writing to the Congress: "We cannot countenance such a weakening of critical enforcement against white collar fraud. The bill goes too far beyond what is necessary. It would likely result in a dramatic increase in securities fraud."

Here is the U.S. Conference of Mayors and the National League of Cities commenting on this bill: "Over 1,000 letters from state and local officials from all regions of the country have been sent to Washington, representing an extraordinary bipartisan national consensus that this bill would imperil the ability of public officials to protect billions of dollars of taxpayers monies in short-term investments and pension funds."

The changes which the President recommends in his veto message will still guarantee that the frivolous lawsuits will be straight-armed out of court. But what it also does is ensure that we do not raise the bar so high that the meritorious cases, in instances where individuals across this country have been defrauded, are also knocked out of court.

If we ask people to put at risk their money in a loser-pay provision, after they have already lost half of their life savings to some financial scam, who in this Chamber expects that person to now take the double or nothing risk of knowing that under loser-pays they would be held responsible for the additional cost of trying to defend themselves against the fraud which had been perpetrated against them under these extremely high barriers that are being constructed in this bill?

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Michigan.

Mr. CONYERS. That is, if they have any money left.

Mr. MARKEY. Exactly. I am saying they would have to put at risk the money they do have left after they have been defrauded.

Who in the world as an ordinary citizen would do that to their family, to take on a major financial or corporate entity, with the sure uncertain knowledge, not that they could lose, but that there is the risk? The risk itself it could happen, no matter how small, would serve as an absolute bar to an ordinary citizen participating in these lawsuits. That is what this debate is about; not immunizing ordinary lawsuits, just the opposite.

Let us join together to ban frivolous lawsuits with the President, but let us not wall out the capacity to have the meritorious lawsuits which we all know, we all know in our souls, should be continued to be brought in court.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I think the gentleman from Massachusetts knows how much I respect and like him, and I would hope that the President would know as well, how much I respect him, even though I must urge my colleagues to vote to override this veto. I am surprised, frankly, that the President vetoed this, because I know that one of his favorite books is "The Death of Common Sense" by Phillip Howard. This is commonsense legislation. It is necessary legislation. If in faith it does get vetoed, we may not get another shot at it.

Frankly, when you read this message, much of his objection is of a nitpicking nature. It is legalistic. We know we are going to have the Second Circuit standard applied, and that in fact when legislation is at variance with legislative history or report language, that it is the bill itself that prevails.

But I do not want to speak as a lawyer, I want to speak as a stockbroker, which I was for 10 years. The fact is the most frustrating thing we encounter is the need for accurate, informative, relevant information. But I have to say, if I were the CEO of a high growth company, I would not provide that information, because of the number of people out there that will game the system. These people who exploit the deficiency of our legal system do not put any money into capital, they do not do anything for our economy. They find ways to make themselves wealthy by abusing the system. What this is is an antifraud and abuse bill that ought to be passed.

Mr. MARKEY. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, well, it is nice to find out stockbrokers would advise us to vote on this special interest legislation. Some believe the President perhaps overreacted last night with the veto. But could I suggest another route? What about making some commonsense revisions he is recommending and then coming back and unanimously passing this bill?

Besides, I think there is another body that has something to say about the override. So let us not get too carried away on the vote here. Let us all settle down here for just a minute.

Now, the bill simply goes too far. We are not talking about simply limiting frivolous cases with this bill. So could all the rest of the speakers comport all of the passion that they have about frivolous cases just a little bit? We want to stop frivolous cases. What we do not want to do is stop meritorious cases. And, there are a few meritorious cases around.

This House was mistaken in trying to gauge the President's determination about these matters. The gentleman from Massachusetts told you repeatedly the President was going to veto the bill because you overreached, and now he did it today. So now we are faced with an extreme measure that requires a two-house override.

Why do we not do something more reasonable? Let us go back and look at what we can do to repair what provoked the veto, and then come back with a bill that we can all agree on. Is there something wrong with that? I do not think so.

Even the conservative Money Magazine told you the bill went too far, once, twice, three times, four times, and the local officials, 15 attorneys general, told you the same. Thank you, Mr. President, for having the courage to do the right thing.

So, Mr. Speaker, I rise in strong opposition to this matter. The gentleman from Michigan [Mr. DINGELL] pointed out that this is classic special interest lobbying legislation.

So now we are at a point of where the American people are not going to get robbed. The Nation's seniors, whose life savings are tied up in investments, depend on honesty in investment transactions. They are being robbed with this bill.

Now, American investors know they may be robbed by swindlers, but they do not expect to be robbed from the House of Representatives. So let us get a little bit of reason in here. I think a few of our leaders on this measure, Mr. MARKEY for instance, have some suggestions that would make for a decent agreement, and that would meet White House objections, and we could go home feeling that we have not involved ourselves in this rather large rip-off that is occurring.

Now, does somebody not have something to explain about Money magazine and the 15 attorneys general and the thousands of local officials, the 150 outspoken editorials all who believe this bill is to extreme? Are we all nuts and you are all right?

Mr. Speaker, I thank the gentleman for allowing me to make a few comments on the floor.

Mr. BLILEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Washington [Mr. WHITE], a member of the committee.

Mr. WHITE. Mr. Speaker, I thank the gentleman very much for yielding me this time.

Mr. Speaker, I would like to respond to a couple of things we heard this morning. As I told members of the committee many times, it is only 11 months ago that I was a practicing lawyer, and I can tell you that anybody who is out there in the real world practicing law knows that this system is broken and badly needs to be fixed. It is just not something that most people who are objective about it can disagree about.

Mr. Speaker, I would have to express a little bit of concern at some of the arguments we have heard from the other side. We are hearing maybe if we just made a few changes, just took a little more time, we can come up with a better bill. The fact is we have been working on this bill for 6 or 7 years. For some people the time is just never right to make this fundamental change. The time is now; it is time to make sure we enact this.

We have also heard a lot of pious remarks about how we have to protect the investors, protect our grandmothers, all the people investing money in these companies. But the fact is, we have not really heard from the investors. It is not the investors who are concerned about this bill; it is their lawyers. It is the trial lawyers who are concerned about this bill, not the people who are supposed to be.

The great tragedy of the system we have right now is that it makes a mockery of our legal system. It sets up a system where you win not if you are right, but you win because you are able to game the system, and it is a system where even if you do win, you do not get the money. You may get a little bit of money, but most of the money goes to trial lawyers. Our system right now is a jackpot for trial lawyers. It needs to be fixed, and we need to override this veto.

Mr. BLILEY. Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, I supported the conference agreement that passed the House because I believe it was a balanced bill and I believe it sought to solve a significant problem in the securities market while, I believe, protecting legitimately defrauded investors.

I and over 60 of my colleagues wrote to the President not long ago, since the conference committee completed its work, urging him to support the securities legislation compromise, which I think was the appropriate product of that deliberation, which did smooth some of the rough edges off the bill that passed the House.

Our letter outlined many of the changes that had been made to provide added protection to those with legitimate claims. No one wants to keep those people out of court. These improvements met all the goals that would benefit investors and companies alike. The compromise I believe would stimulate the economy, curb abuses, increase the flow of information to investors, reduce fraud, and strengthen our capital markets.

The man in charge of the Securities and Exchange Commission has written a letter that reassures many of us to that extent. The most important element of the conference agreement is the fact that it reduces the need for lawsuits. The extreme litigious environment that currently exists certainly suggests that the ability to sue is readily protected.

Under present circumstances, a plaintiff can sue first and collect evidence of fraud later through discovery motions; as a result, a number of class action attorneys actively seek to put together lawsuits out of unforeseeable investor losses. High-tech companies in my State of California, are particularly susceptible to this kind of predatory action. It has helped dry up capital in our markets, and I believe made it harder to create jobs for Americans.

All we want to do is restore common sense to this process. We do not want to prevent legitimate actions from going forward. I understand the President has questions about the potential impact of this measure.

□ 1130

What he should not question is the impact the lack of protection is having on American businesses. Efforts to prevent frivolous actions should be supported. We need to restore the faith of the American public and the business community that when we see evidence of abuse we do something about it.

I urge the President to reconsider his position and accept this very well-crafted, well-thought-out, carefully negotiated compromise. The confidence in our markets, in our system of funding startup ventures requires it.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. PAXON], a member of the committee.

Mr. PAXON. Mr. Speaker, the President's decision to veto this legislation, I believe, is a serious blow to economic opportunity, job creation and entrepreneurship in our Nation. The goal of this bipartisan legislation is to provide some protection from frivolous securities lawsuits filed against businesses, often small cutting-edge technology companies.

More and more these companies are truly the engine of growth in our economy, creating new high-paying jobs, developing new and innovative technologies, and increasing America's exports. Unfortunately, this pro-growth reform legislation fell victim to some of the Nation's most powerful special interests. A win for these special interests is unfortunately a loss for the American economy.

The good news is we can turn this around today. I urge my colleagues to override the President's ill-advised veto of this vitally important securities lawsuit reform legislation.

Mr. BLILEY. Mr. Speaker, I yield 1 minute and 10 seconds to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Speaker, I have been reading through the veto message of the President. I think there is some good news and some misplaced rhetoric here on the floor today.

The President supports the securities bill, I believe, that is before us. And what remains are sort of nerd-like lawyers issues on the technical details of the language.

The President says he supports the second circuit standard for pleading. So do I. That is what is included in this bill. The President says he supports the safe harbor language in the bill, but he is concerned about the legislative history.

I am mindful that years ago the President of the United States taught law school, and years ago so did I, and this is an issue that lawyers can argue about, but I think the sounder course is to override this veto and get this bill done.

I am not meaning to say that the President does not disagree on these technical issues, but in his veto message he does support it overall. I would like to say the overheated rhetoric about fraud is entirely misplaced. These are very technical issues, and I think the sounder course is to override this veto.

Mr. BLILEY. Mr. Speaker, I yield 1-½ minutes to the gentleman from California [Mr. DREIER], a member of the Committee on Rules.

Mr. DREIER. Mr. Speaker, clearly, the vanguard of economic revitalization in this country has been the high-technology industry and the cutting edge biotechnology industry. Unfortunately, if we look at the State of California, where we have gained tremendous jobs from exports, this legislation is designed to expand that rather than jeopardize it.

We have seen very, very strong statements made by those industries from the Silicon Valley that have been victimized by this; Hewlett Packard, Sun Microsystems, Intel, Apple Computer. A wide range of companies have been impacted, and we need to realize that job creation is very important, but there is also the compassionate side to this.

I wonder how much research is not being done in the area of AIDS and cancer because of the threat of these kinds of lawsuits. When Speaker GINGRICH established his task force on California, passage of the legislation authored by the gentleman from California, [Mr. COX] was among our very top priorities, and we hope very much that in a bipartisan way, in a bipartisan way, we will be able to come together and successfully override this veto so that we, as a Congress, can send the very important signal to the largest State in the Union that we are committed to job creation, economic growth and the very important research to meet some of our most important societal needs.

Mr. BLILEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, I rise in favor of the legislation.

Mr. Speaker, I rise in support of the motion to override the President's veto.

Clearly, securities litigation reform is needed. It is good for investors and good for America's economy.

SEC rules were designed to protect investors. Investors need accurate and timely information from companies in which they invest their money. However, spectators are misusing the law to virtually extort money from honest companies when no fraud has taken place.

Frivolous class action suits are being filed—sometimes multiple suits with the same typing errors—often forcing innocent companies to settle out of court rather than face massive court fees—again, after no fraud has taken place.

Investors still have solid protection against fraud under this bill. However, this unwarranted litigation is harming U.S. companies and the economy. Business capital that could be used for technical innovation, capital investment, job creation, and investor dividends are diverted to lawsuits. In a sense, these suits represent a tax on capital.

Lest we forget that frivolous lawsuits really exist, it is interesting to note that during the last 3 years, one out of every 12 companies listed on the New York Stock Exchange was sued for securities fraud. As the author of this survey remarked, "Either you have to believe there's rampant fraud on the New York Stock Exchange, or there are a lot of people getting sued who shouldn't be."

Some may claim to be in support of getting rid of these meritless suits, but unless they are in support of this legislation, they are doing nothing to change the current problem. Suits with merit should be brought before the proper authorities and will continue to be brought and won under this legislation.

Mr. Speaker, investors need better information. The changes to prospectuses contained in this bill encourage companies to give more and better information to investors. That is why numerous citizen investor groups have been running advertisements in favor of this bill.

They know their dividends are going to be higher if the companies they invest in are not fighting off frivolous lawsuits.

I urge my colleagues to support this bill, which serves investors, small business and the American economy well.

Mr. BLILEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Speaker, I rise in favor of this legislation.

Mr. Speaker, last night the President vetoed the securities litigation reform measure placed on his desk. This legislation is needed for two main reasons. First, so proper plaintiffs will have a place to redress valid grievances in a system ensuring fraud victims recover their losses and not merely the estimated pennies on the dollar. Second, the securities industry must be allowed to get back to its intended functions. A veto-proof majority in both Houses of Congress supported this legislation.

The President gave three major reasons for vetoing the legislation. First, he objects to the mandatory sanctions imposed if the court finds a rule 11 violation. Sanctions are mandatory against any party violating the rule. He claims that the provision is unreasonably harsh on plaintiffs' lawyers found in violation of the rule and that this will have a chilling effect on a plaintiff's right to sue.

The only thing chilled by this provision is meritless lawsuits that shouldn't have been brought in the first place. Plaintiffs should be forced to more carefully weigh the merits of their case before filing suit. With less meritless suits clogging up the court system, valid plaintiffs will more quickly be able to redress their grievances.

Second, the President claims the safe harbor provision will allow wrongdoers to get off scot-free. This could not be further from the truth. The provision protects companies and executives when they have done their job from meritless suits being brought against them. Companies are protected only if they have adequately informed the investor of risks associated with the investment, and if they have not made a knowing misinformation. It does not prevent plaintiffs from bringing meritless suits.

Third, tougher pleading standards ensure that the plaintiff's lawyer actually has a case before bringing a frivolous suit. Frivolous suits serve no purpose. They waste everyone's time and money. Nobody benefits—not plaintiffs and defendants involved in litigation that will go nowhere despite countless amounts of time and money expended, not the court system which gets clogged, and future plaintiffs who can't get in the courthouse door because it is so jammed.

This bill has broad bipartisan support and is endorsed by the SEC Chairman, Arthur Levitt. So why did the President veto this bill?

Does he want to put the Silicon Valley out of business as it continues to spend time defending frivolous suits rather than advancing the technological future of our country?

Does he want to keep valid plaintiffs out of court?

According to some newspaper reports, the President's decision may have been influenced by a leading member of the trial bar. We must ask whether the President's veto was designed to protect the American people or a special interest that has funneled millions of dollars to the Democratic Party.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. DEUTSCH], a member of the committee.

Mr. DEUTSCH. Mr. Speaker, I rise today in support of an override of the veto on this legislation, and I do that as a member of the Democratic Caucus and a member of the committee.

I would, once again, point out to my colleagues that this is a bipartisan bill. A majority of Democrats in this Chamber voted for this bill, both as it originally passed the House as well as the conference report. The President's veto message highlights several specific things, and I want to discuss those in the short time that I have.

The first is the issue of pleadings. Let me be very clear about that. That particular issue was in the bill at the request of the judicial conference, not at the request of any particular industry group, but by a group of judges that deal with pleading requirements. That is why that particular issue was in the bill.

The other issue that the President raises is the issue of report language. And let me focus on that for my colleagues. What courts in this country have determined in terms of our legislative intent is that report language is not considered. It is the language that we pass in the bill. So the President's focus actually might have been accurate when he was a professor of law several decades ago in Arkansas, but by the latest court decisions that is just not accurate. Report language has no effect on the bill.

But let me talk about what the President did agree with. He agreed with the safe-harbor provisions. He had no objections to the aiding-and-abetting provisions or for the issue of fraud, because the facts of this bill are that this bill is an antifraud bill. It creates an affirmative duty by accountants to report fraud, which does not exist under existing law. So, if anything, this bill truly is an antifraud bill.

Finally, I would close just on the substance of the bill itself. This bill is really at the heart of what we are as Democrats as well. This is a jobs bill. Because the reality is the existing law stops access to capital, stops job creation in this country today. I urge support of the override of the President's veto.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. OXLEY], vice chairman of the subcommittee.

Mr. OXLEY. Mr. Speaker, I rise in support of securities litigation reform and the veto override attempt.

As Members know, and the White House must know, legislation to curb abusive securities-fraud lawsuits was approved by veto-proof margins by both Houses of Congress earlier in the year.

I think this is a case where the Congress needs to act to save the President from himself.

The legislation before us takes a moderate approach to the problem of frivolous securities class-action lawsuits.

There is a collection of class-action lawyers out there who are filing meritless fraud suits against publicly traded companies, especially high-technology firms, whenever their stock prices fall. They have used the securities laws to win billions from corporations and their accountants.

Meanwhile, defrauded mom-and-pop investors recover only 7 cents for every dollar lost in the market.

This legislation will return the focus of securities laws to their original purpose—protecting investors and helping actual victims of fraud.

This legislation has been described as a boon for securities firms, accounting firms, and public companies. I might add that it is a boon for employees of those companies, as well as anyone who invests in them in the hope that their stock will go up, not down.

These reforms are long overdue, the President's veto message notwithstanding. They're good for American business, they're good for American competitiveness, and they're good for American investors.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Speaker, I thank the gentleman for yielding me this time. First of all, I want to make a few points and that is that there really is not a difference of opinion between the two sides that are arguing this case about what to do concerning frivolous assembly-line lawsuits. We all agree. There are some suits where we have anecdotal evidence that this occurs, but when we look at the numbers, when we look at statistics on those studies that have been done when stock prices fluctuate, the evidence is not there that there is this avalanche of frivolous suits. It exists, it does inhibit capital, and we should take some action, but indeed the President is correct when he says this legislation goes too far.

Now, there are two ways we can deal with this problem. No. 1, we can expand the bureaucracy, which I do not think that there is anyone on the other side of the aisle and very few on our side of the aisle who would like to see that happen. We can expand the bureaucracy and allow some bureaucrats to be able to police whether or not securities are being misrepresented to the plaintiffs; or we can do what SEC Chairman Levitt said in front of the committee, and that is identify ways to make the system more efficient while preserving the essential role that many private actions play in supporting the integrity of our markets. That is where we have gone too far.

We can have self-policing of the markets by allowing a private right of action when an individual has been hurt, and this legislation simply goes too far.

The conference report's rule XI, the President states, this provision lacks balance. It treats the plaintiffs more harshly than the defendants in a manner that comes so close to loser pay. Now, I ask my colleagues, when we start getting close to loser pay, how many people, and the gentleman from Michigan [Mr. CONYERS] brought this up a few moments ago, how many people are going to take the action after they have lost so much of their resources to lose more of it by bringing a meritorious case? We must allow room for meritorious lawsuits.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. BROWN], a member of the committee.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of H.R. 1058. Many of us on this side of the aisle have opposed extreme tort reform because we want consumers and workers protected through sensible regulation and through the specter of potential lawsuits. H.R. 1058, however, does provide that investor protection.

H.R. 1058 is a jobs protection bill. I represent an area in northeast Ohio which is a hotbed of innovation and entrepreneurial spirit. Exporting is important, small business is important, high-tech companies are important. H.R. 1058 is a mechanism, as a bipartisan effort, to create jobs in my district and throughout this country. I urge a "yes" vote.

Mr. MARKEY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Speaker, I am in opposition to the motion to override the President's veto.

Mr. Speaker, I rise in opposition to the motion to override the President's veto of the conference report to accompany H.R. 1058, the Securities Litigation Reform Act. This so-called agreement would slam the doors of justice on hard-working Americans who unwittingly fall victim to corporate misconduct and fraud. It is shamelessly anticonsumer, antismall investor, and antitaxpayer.

Every Member of this body recognizes that there continue to be some cases in which meritless securities class action lawsuits are brought and we must take steps to deter such behavior. But the GOP's approach on this issue, as with many other issues throughout this Congress, has been to blow a minor problem way out of proportion for short-term political gain. This is simply irresponsible, Mr. Speaker.

The facts are these: Of the 225,000 suits filed in Federal courts annually, only about 300 or so are securities fraud class action suits, and the courts currently have the full authority to dismiss those suits they deem to be without just cause.

Private securities lawsuits have provided a very powerful deterrent to fraud and have been invaluable in supplementing and enhancing Securities and Exchange Commission [SEC] enforcement of Federal securities laws. The Lincoln S&L/Charles Keating debacle and the Drexel Burnham/Michael Milken disaster were just two high-profile cases that were initiated as a result of private investor action.

In these two cases alone, $262 million in hard-earned taxpayer dollars, mostly the dollars of senior citizens, was recovered. Under the conference report for H.R. 1058, a mere $16 million of this money would have been retrievable.

It is not justifiable to throw the baby out with the bath water in the name of so-called reform. However, that is what the conference report does.

It offers a great number of incentives for corporate misconduct. Most distressing to me is the fact that the bill imposes "loser pays" requirements forcing a losing small investor in a securities fraud suit to shoulder the legal fees of the investment banking houses, accounting firms, megacorporations, etc. I don't want to tell my constituents who lose their life savings that they had invested in mutual funds, IRAs, or pension plans because of a fraudulent action that they must then risk their homes and whatever else they may have left to have even a chance of recovering a small portion of what they lost. Do you think these investors will pursue any suit, regardless of its merits?

In addition, the measure's "safe harbor" liability exemption for "forward-looking" statements excuses unethical corporate wolves from prosecution. With these provisions, any statements made by a defendant in a securities fraud case would be exempt from liability—even if the statement is deliberately false—as long as it is accompanied by vaguely defined "cautionary" language.

I urge my colleagues to vote no on this motion, support the President, and help prevent a grave injustice to our Nation's consumers and small investors from occurring.

Mr. MARKEY. Mr. Speaker, I yield 2½ minutes to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, when securities litigation reform legislation came to this House earlier this year, I voted for it. The Clinton administration supported it. Democrats and Republicans in this body overwhelmingly gave their assent.

☐ 1145

This is not that bill.

Mr. Speaker, this is a good example of what happens when this institution does not function according to its own rules and procedures.

The bill the President vetoed is not the result of a conference committee. The conference committee did not meet. It is not the result of a bipartisan effort. Democrats were never consulted. We started with Democrats, Republicans, both bodies of the Congress, and the administration toward a common language, largely with common language, with a good purpose, and because we could not work together in good faith, we came up with a product that forced the President to issue a veto and many of us to oppose the legislation.

Mr. Speaker, that is why 15 attorneys general have stated their concerns, and leaders of the business community themselves. Look how far we went wrong, and be careful that you want to be identified with this legislation if you do not vote to sustain the veto.

The conference report drops language exempting from the safe-harbor provisions "statements knowingly made with the purpose and actual intent of misleading investors." That was dropped.

Mr. Speaker, I know we all want to do right by the business community. How about your retirees? Small business people? Pension fund managers? Ultimately, the strength of this economy rests on the confidence of our people to invest. This is not a small Latin American nation where a few large families carry the raising of capital. Our people must feel confident. We cannot pass this bill and have people believe that they can go and make an investment and have recourse. The President will sign a bill with modest changes. It is the bill many of you voted for originally.

Mr. Speaker, I urge the Members of this body, sustain this veto. Let us get a bill worth voting for.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from California from [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, I rise in support of H.R. 1058, and I rise in support for many reasons, but one of them being the fact that I think the American people have a chance today to see a bipartisan effort to protect the most critical resource of our country; that is, the ability of people to venture into agreements to invest their capital.

Mr. Speaker, I think that one of the things we see again and again, contrary to what some speakers would like to say, is that this is a bipartisan effort. You see the Representatives from California especially, from both sides of the aisle, do what we do not do enough, cross the aisle and work together for the benefit of the public.

Mr. Speaker, I wish to point out this is not just an issue of jobs. This is not just an issue of investing money. This is an issue of life and death because the companies that are being attacked are not those that are big companies, but these are the small dynamic companies that are working on issues that are absolutely essential for our citizens, such as cures for cancer, looking for a cure for AIDS, looking for those items that will save lives.

So, Mr. Speaker, I ask Members to support the override not just for the jobs, not just for the bipartisan effort, but for the citizens' lives too.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Speaker, I represent a district in California that I consider the aerospace center of the universe, and its future depends on two things. One is a right-sized defense, but the second is diversification, so that the industrial base can prosper in industries like medical research, communications, biotechnology, green technologies, and so forth.

Mr. Speaker, that diversification will be hampered if we do not have securities law reform. I am very sorry that the White House has chosen to veto this bill, as it chose or will choose to veto our Defense authorization bill. I think in both cases the growth of California, its export potential, and its cutting-edge technology in the 21st century depend on policies opposite those the White House has chosen to take.

Mr. Speaker, I would make this point in closing. As a corporate lawyer, I know that there are investors on both sides of securities litigation and victims on both sides. These reforms will protect those who invest and are subsequently defrauded as well as those who invest in companies that are unfairly targeted by strike suits.

These reforms are critical to all investors, to our Nation's future economic growth, and to the leading-edge advances that high-technology companies make to improve the quality of our lives.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Speaker, there is nothing wrong with this bill. It went through the House and the Senate in a bipartisan way. And during the whole process, we worked with the SEC, we worked with the administration, and we had an agreed-upon bill.

All the sudden, at the eleventh hour, the President decides to veto it. Everybody in this Chamber knows what this is. This is nothing more than raw politics. The President, having a few of his friends over for dinner and deciding, "Well, I really do not want to tell those trial lawyers, no. I really do not want to stand up and do the right thing for the American people."

Mr. Speaker, it is very simple. It is time to send the President a message that we are not going to negotiate this way. This is the same thing we have been going through with the budget for the last several months. All we get is idle talk, idle talk, but we never get serious negotiations.

Mr. Speaker, we had serious negotiations on this bill. We came to an agreement, and the fact is we ought to override it and we ought to do it today.

Mr. BLILEY. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. FARR].

Mr. FARR. Mr. Speaker, I voted for this bill because it addressed things that were broken and needed fixing. We had a bipartisan effort to fix those things, and we did. We need to keep America competitive. Technology development depends on risk taking. This bill allows risks to be taken and rights to be protected.

Mr. Speaker, I was shocked by this veto. It is the first time I have ever not agreed with the President on a veto, and I am going to vote to override it. I urge my colleagues who supported it in the first instance to do so in the latter.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I hear a lot of talk, general talk, about climate for investors and climate for new ventures, and trial lawyers, and bipartisan efforts. No one seems to want to address the specific points of the veto, I suggest, because there is no good answers to those specific points.

Mr. Speaker, if I heard it once, I heard it 10 times from the gentleman from California when this bill passed: We want a pleading standard that matches the Second Circuit, not the loose pleading requirement of the Ninth Circuit.

Why do they come back? The Second Circuit standard is not enough. We want to make it even tougher to file a suit based on fraud and defrauding investors.

The question of sanctions; I think there should be tough sanctions on frivolous lawsuits. I think there should be tough sanctions on frivolous defenses. Here we presume a frivolous plaintiff pays all the legal costs and we specifically prohibit a presumption of all the costs of the plaintiff by frivolous defenses by the defendant.

Finally, on the safe-harbor provisions, they allow an individual to lie to potential investors, make some cautionary statements, and state specifically they cannot make any general allegation with respect to the state of mind of the person who is lying, and then allows omission of major, major kinds of cautionary statement.

Mr. Speaker, a new drug company could represent future earnings, make forward-looking statements, talk about the problem of floods and talk about the problem of earthquakes and the problem of labor disputes, and never mention that the company that their drug is based on has not yet had FDA approval.

All we are asking is to clean this bill up so that my colleagues can achieve the purposes they say they want, without undermining the ability of fraudulent actors to pay the penalties they should be paying to the investors they have defrauded.

Mr. BLILEY. Mr. Speaker, I yield 30 seconds to the gentleman from New York [Mr. FRISA], a member of the committee.

Mr. FRISA. Mr. Speaker, the President, as is his right, chose to use his pen to veto legislation that I feel is very important for our high-technology companies to encourage growth, to encourage innovation, to encourage the creation of more jobs, to protect our accounting profession and other professions that deal with especially new, emerging companies that create growth.

So, Mr. Speaker, I would urge all of the Members of the House to exercise their right to override the ill-advised veto of the President so that we can accomplish these objectives.

Mr. BLILEY. Mr. Speaker, I yield 30 seconds to the gentleman from Wisconsin [Mr. ROTH], a member of the Committee on Banking and Financial Services.

Mr. ROTH. Mr. Speaker, as chairman of the Subcommittee on Economic Policy and Trade, I, along with the gentleman from Connecticut [Mr. GEJDENSON], have looked at this issue of jobs. The reason this bill is so important, this securities legislation, is because it really revolving around jobs.

Many of our companies are moving overseas. Why? Because of frivolous lawsuits. Many of our companies are not bringing in the innovation that we need today. Why? Because they are afraid of frivolous lawsuits.

Mr. Speaker, in his opening remarks, the gentleman from Virginia [Mr. BLILEY] pointed to a "T" to the central nub of the problem, and that is what we want to focus on. I know if the President had a chance to reconsider, he would sign this legislation.

Mr. BLILEY. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, just to follow my colleague's remarks, 53 percent of our high-technology companies in Silicon Valley have been hit with the type of fraudulent lawsuits that this legislation would prohibit. If my colleagues want to bring back the California economy—and it is still struggling—and if the President wants to bring back the California economy and get a little credit for it, let us get this legislation passed. Please support this override.

The SPEAKER pro tempore. The gentleman from Virginia [Mr. BLILEY] has 2½ minutes remaining, and the gentleman from Massachusetts [Mr. MARKEY] has 2 minutes remaining.

Mr. BLILEY. Mr. Speaker, we have one speaker left to close, and I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, when a hurricane or a tornado causes a billion dollars' worth of damage to homes and families, the Nation races to their aid. But when investors are defrauded of $1 billion, such as the Prudential Securities case, it is a silent hurricane that ravages the life savings of families across this country.

The President wants to protect growing companies and growing families. We must help him to fix this bill. We must have a "no" vote on this override. It is absolutely critical for us to block all frivolous cases. The President, and those of us who are supporting the President's position, want to block all frivolous lawsuits, and we will do so. But we do not want to block meritorious cases.

Mr. Speaker, what a sad state of affairs in this country if, in the name of job creation, we block meritorious cases brought by defrauded investors against financial scam artists who have lied and deceived investors in this country.

Mr. Speaker, a "no" vote is the only correct vote here to defend against the defrauding of investors in this country; to ensure that meritorious cases can be brought; to ensure that the pleadings are not too high; to ensure that, in fact, loser-pays does not become an absolute block to ordinary individuals in bringing cases; to ensure that companies and financial experts cannot lie, deliberately lie, deliberately defraud individuals across this country.

Support the President. Vote "no". Vote "no" here to protect average investors in this country. Mr. Speaker, I tell my colleagues, we will come back and we will give them a bill which will block all frivolous lawsuits that will be brought in this country. Vote "no."

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Mr. BLILEY. Mr. Speaker, I yield the remainder of our time to the gentleman from California [Mr. COX], a member of the committee who has done more work on this bill perhaps than almost anyone else on our side.

Mr. COX of California. Mr. Speaker, I thank the gentleman for yielding me this time.

Christmas Day is approaching. We are still hard at work because we are in the midst of a historic effort to pass the first balanced budget in 30 years. It is a difficult time. There is some partisan rhetoric on the floor.

But in the midst of this we have managed to produce one of the most bipartisan, carefully crafted pieces of legislation in congressional history. It is no accident that this bill passed the House of Representatives and the Senate by overwhelming, more than two-thirds, more than veto-proof margins.

Fraudulent litigation, everyone has accepted, is a serious problem in America. The manipulation and abuse of our securities laws by unethical multimillionaire bandits is a serious problem in need of a remedy. This bill comes after long and hard work, not just between the House and the Senate, not just Democrats, a majority of whom have voted to support this legislation, and Republicans, but with the administration and with the Securities and Exchange Commission.

We wanted to craft a careful balance because this is such a serious issue that affects all of us. In California, it affects us at least as much as anywhere else. That is why the Governor of California has asked for your support. That is why you have seen so many California Democrats and Republicans on the floor today asking for an override of this ill-considered veto.

The President made three points. First, he believes that people who bring cases in violation of existing Federal rule 11 should not be subject to sanctions. Let me read you what rule 11 says:

> Only those cases that are brought for the purpose of harassment are subject to these sanctions; cases brought for an improper purpose, to intentionally delay; frivolous cases.

That is what rule 11 says. Those cases have no place in our system.

And, yes, at the end of a lawsuit after the judge has heard all of the evidence, he should, or she should, be able to impose sanctions in those cases.

Second, the President said the pleadings standards, which are changed in our bill to prevent fishing expeditions, should be weakened. But we do not wish to see fishing expedition lawsuits. That is why the President's own Securities and Exchange Commission did not level this objection to this part of the bill. * * * complaint about the safe harbor. The SEC chairman approved it. The Administration's own SEC approved this part of the bill.

It took 12 months to craft this legislation. It took 12 seconds for the President to set these efforts back. Let us put ourselves back on track and vote now to override the President's veto and support this most bipartisan and most important legislation.

Mr. SCHUMER. Mr. Speaker, I strongly support the override of the President's veto of H.R. 1058. I voted in favor of both the original House bill and the conference report, and I must respectfully differ with the President and urge my colleagues to vote in favor once again of this fair, well-balanced bill, which passed the House only 2 weeks ago by an overwhelming vote of 320 to 102.

We need to put an end to frivolous securities suits that needlessly cost millions of dollars, impair capital formation and investment, and clog up our court system. Under the current system lawyers often bring lawsuits immediately after a drop in a company's stock price, without any further research into the real cause of the price decline. As a result the suits often have no substantive merit, but they have the effect of presenting the company with the unhappy choice between a costly, lengthy discovery process and an exorbitant, unjustified settlement. And what's worse, an inordinate share of the ultimate settlement often ends up in the pockets of the lawyers who brought the case, rather than in the bank accounts of the shareholders on whose behalf the lawyers ostensibly filed in the first place.

This bill goes a long way toward correcting these abuses without curtailing the essential rights of shareholders to sue corporations and insiders when there is legitimate evidence of fraud and deception. It continues to protect those vital rights—as we must—while at the same time protecting companies from needless and costly distractions. In the end, shareholders will win twice because the value of their investments will grow, and the American economy will win because we'll have removed one more impediment to the kind of robust growth and investment we all agree are so critically needed. I urge my colleagues to support this bill.

The SPEAKER pro tempore (Mr. WICKER). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 319, nays 100, answered "present" 1, not voting 14, as follows:

[Roll No. 870]

YEAS—319

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Flake
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lucas
Luther
Maloney
Manton
Manzullo
Martini
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Petri
Pickett
Pombo
Porter
Portman
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Rush
Sabo
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Towns
Traficant
Upton
Vento
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wyden
Wynn
Young (FL)
Zeliff
Zimmer

NAYS—100

Baldacci
Becerra
Beilenson
Berman
Bonior
Borski
Brown (CA)
Brown (FL)
Bryant (TX)
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
DeFazio
Dellums
Dicks
Dingell
Dixon
Doggett
Durbin
Engel
Evans
Fattah
Foglietta
Ford
Gephardt
Gibbons
Gonzalez
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kildee
Klink
Levin
Lewis (GA)
Markey
Martinez
Mascara
Matsui
McDermott
McKinney
Meek
Menendez
Mfume
Miller (CA)
Mink
Moakley
Mollohan
Nadler
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Pomeroy
Poshard
Rahall
Rangel
Richardson
Rivers
Roybal-Allard
Sanders
Schroeder
Scott
Serrano
Skaggs
Stark
Stokes
Studds
Stupak
Taylor (MS)
Thompson
Thurman
Torres
Torricelli
Velazquez
Volkmer
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Yates

ANSWERED "PRESENT"—1

Lowey

NOT VOTING—14

Abercrombie
Chapman
Crane
de la Garza
Dooley
Dornan
Edwards
Emerson
Filner
Lantos
Peterson (MN)
Pryce
Watts (OK)
Young (AK)

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The Clerk announced the following pair:

On this vote:

Mr. Edwards for, with Mr. Filner against.

Mr. ROSE changed his vote from "nay" to "yea."

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The Clerk will notify the Senate of the action of the House.

PERSONAL EXPLANATION

Mr. ABERCROMBIE. Mr. Speaker, on the last vote, rollcall 870, I was unavoidably detained. Had I been here, I would have voted "nay."

PERSONAL EXPLANATION

Mr. WATTS of Oklahoma. Mr. Speaker, on rollcall No. 870, I was inadvertently detained with constituents. Had I been present, I would have voted "yea."

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1058.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

CONFERENCE REPORT ON H.R. 1655, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1996

Mr. COMBEST submitted the following conference report and statement on the bill (H.R. 1655) to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes:

CONFERENCE REPORT (H. REPT. 104–427)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1655), to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1996".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified schedule of authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Community Management Account.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.
Sec. 303. Application of sanctions laws to intelligence activities.
Sec. 304. Thrift savings plan forfeiture.
Sec. 305. Authority to restore spousal pension benefits to spouses who cooperate in criminal investigations and prosecutions for national security offenses.
Sec. 306. Secrecy agreements used in intelligence activities.
Sec. 307. Limitation on availability of funds for automatic declassification of records over 25 years old.
Sec. 308. Amendment to the Hatch Act Reform Amendments of 1993.
Sec. 309. Report on personnel policies.
Sec. 310. Assistance to foreign countries.
Sec. 311. Financial management of the National Reconnaissance Office.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Extension of the CIA Voluntary Separation Pay Act.
Sec. 402. Volunteer service program.
Sec. 403. Authorities of the Inspector General of the Central Intelligence Agency.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

Sec. 501. Defense intelligence senior level positions.
Sec. 502. Comparable benefits and allowances for civilian and military personnel assigned to defense intelligence functions overseas.
Sec. 503. Extension of authority to conduct intelligence commercial activities.
Sec. 504. Availability of funds for Tier II UAV.
Sec. 505. Military Department Civilian Intelligence Personnel Management System.
Sec. 506. Enhancement of capabilities of certain army facilities.

TITLE VI—FEDERAL BUREAU OF INVESTIGATION

Sec. 601. Disclosure of information and consumer reports to FBI for counterintelligence purposes.

TITLE VII—TECHNICAL AMENDMENTS

Sec. 701. Clarification with respect to pay for Director or Deputy Director of Central Intelligence appointed from commissioned officers of the Armed Forces.
Sec. 702. Change of designation of CIA Office of Security.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1996 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

(11) The National Reconnaissance Office.

(12) The Central Imagery Office.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1996, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill H.R. 1655 of the One Hundred Fourth Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 1996 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed two percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 1996 the sum of $90,713,000. Within such amounts authorized, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the Advanced Research and Development Committee and the Environmental Task Force shall remain available until September 30, 1997.

(b) AUTHORIZED PERSONNEL LEVELS.—The Community Management Staff of the Director of Central Intelligence is authorized 247 full-time personnel as of September 30, 1996. Such personnel of the Community Management Staff may be permanent employees of the Community Management Staff or personnel detailed from other elements of the United States Government.

(c) REIMBURSEMENT.—During fiscal year 1996, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Community Management Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1996 the sum of $213,900,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES.

(a) GENERAL PROVISIONS.—The National Security Act of 1947 (50 U.S.C. 401 et seq.), is amended by adding at the end thereof the following new title:

"TITLE IX—APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES

"STAY OF SANCTIONS

"SEC. 901. Notwithstanding any provision of law identified in section 904, the President may stay the imposition of an economic, cultural, diplomatic, or other sanction or related action by the United States Government concerning a foreign country, organization, or person when the President determines and reports to Congress in accordance with section 903 that to proceed without delay would seriously risk the compromise of an ongoing criminal investigation directly related to the activities giving rise to the sanction or an intelligence source or method directly related to the activities giving rise to the sanction. Any such stay shall be effective for a period of time specified by the President, which period may not exceed 120 days, unless such period is extended in accordance with section 902.

"EXTENSION OF STAY

"SEC. 902. Whenever the President determines and reports to Congress in accordance with section 903 that a stay of sanctions or related actions pursuant to section 901 has not afforded

sufficient time to obviate the risk to an ongoing criminal investigation or to an intelligence source or method that gave rise to the stay, he may extend such stay for a period of time specified by the President, which period may not exceed 120 days. The authority of this section may be used to extend the period of a stay pursuant to section 901 for successive periods of not more than 120 days each.

"REPORTS

"SEC. 903. Reports to Congress pursuant to sections 901 and 902 shall be submitted promptly upon determinations under this title. Such reports shall be submitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate. With respect to determinations relating to intelligence sources and methods, reports shall also be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate. With respect to determinations relating to ongoing criminal investigations, reports shall also be submitted to the Committees on the Judiciary of the House of Representatives and the Senate.

"LAWS SUBJECT TO STAY

"SEC. 904. The President may use the authority of sections 901 and 902 to stay the imposition of an economic, cultural, diplomatic, or other sanction or related action by the United States Government related to the proliferation of weapons of mass destruction, their delivery systems, or advanced conventional weapons otherwise required to be imposed by the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102-182); the Nuclear Proliferation Prevention Act of 1994 (title VIII of Public Law 103-236); title XVII of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510) (relating to the nonproliferation of missile technology); the Iran-Iraq Arms Nonproliferation Act of 1992 (title XVI of Public Law 102-484); section 573 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1994 (Public Law 103-87); section 563 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1995 (Public Law 103-306); and comparable provisions.

"APPLICATION

"SEC. 905. This title shall cease to be effective on the date which is one year after the date of the enactment of this title.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by adding at the end thereof the following:

"TITLE IX—APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES

"Sec. 901. Stay of sanctions.
"Sec. 902. Extension of stay.
"Sec. 903. Reports.
"Sec. 904. Laws subject to stay.
"Sec. 905. Application.".

SEC. 304. THRIFT SAVINGS PLAN FORFEITURE.

(a) IN GENERAL.—Section 8432(g) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(5) Notwithstanding any other provision of law, contributions made by the Government for the benefit of an employee or Member under subsection (c), and all earnings attributable to such contributions, shall be forfeited if the annuity of the employee or Member, or that of a survivor or beneficiary, is forfeited under subchapter II of chapter 83.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to offenses upon which the requisite annuity forfeitures are based occurring on or after the date of the enactment of this Act.

SEC. 305. AUTHORITY TO RESTORE SPOUSAL PENSION BENEFITS TO SPOUSES WHO COOPERATE IN CRIMINAL INVESTIGATIONS AND PROSECUTIONS FOR NATIONAL SECURITY OFFENSES.

Section 8318 of title 5, United States Code, is amended by adding at the end the following:

"(e) The spouse of an individual whose annuity or retired pay is forfeited under section 8312 or 8313 after the date of enactment of this subsection shall be eligible for spousal pension benefits if the Attorney General of the United States determines that the spouse fully cooperated with Federal authorities in the conduct of a criminal investigation and subsequent prosecution of the individual which resulted in such forfeiture.".

SEC. 306. SECRECY AGREEMENTS USED IN INTELLIGENCE ACTIVITIES.

Notwithstanding any other provision of law not specifically referencing this section, a nondisclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum—

(1) require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government; and

(2) provide that the form or agreement does not bar—

(A) disclosures to Congress; or

(B) disclosures to an authorized official of an executive agency that are deemed essential to reporting a violation of United States law.

SEC. 307. LIMITATION ON AVAILABILITY OF FUNDS FOR AUTOMATIC DECLASSIFICATION OF RECORDS OVER 25 YEARS OLD.

(a) IN GENERAL.—The Director of Central Intelligence shall use no more than $25,000,000 of the amounts authorized to be appropriated for fiscal year 1996 by this Act for the National Foreign Intelligence Program to carry out the provisions of section 3.4 of Executive Order 12958. The Director may, in the Director's discretion, draw on this amount for allocation to the agencies within the National Foreign Intelligence Program for the purpose of automatic declassification of records over 25 years old.

(b) REQUIRED BUDGET SUBMISSION.—The President shall submit for fiscal year 1997 and each of the following fiscal years through fiscal year 2000 a budget request which specifically sets forth the funds requested for implementation of section 3.4 of Executive Order 12958.

SEC. 308. AMENDMENT TO THE HATCH ACT REFORM AMENDMENTS OF 1993.

Section 7325 of title 5, United States Code, is amended by adding after "section 7323(a)" the following: "and paragraph (2) of section 7323(b)".

SEC. 309. REPORT ON PERSONNEL POLICIES.

(a) REPORT REQUIRED.—Not later than three months after the date of enactment of this Act, the Director of Central Intelligence shall submit to the intelligence committees of Congress a report describing personnel procedures, and recommending necessary legislation, to provide for mandatory retirement for expiration of time in class, comparable to the applicable provisions of section 607 of the Foreign Service Act of 1980 (22 U.S.C. 4007), and termination based on relative performance, comparable to section 608 of the Foreign Service Act of 1980 (22 U.S.C. 4008), and to provide for other personnel review systems for all civilian employees of the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, and the intelligence elements of the Army, Navy, Air Force, and Marine Corps. Such report shall contain a description and analysis of voluntary separation incentive options, including a waiver of the 2 percent penalty reduction for early retirement under certain Federal retirement systems.

(b) COORDINATION.—The preparation of the report required by subsection (a) shall be coordinated as appropriate with elements of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(4)).

(c) DEFINITION.—As used in this section, the term "intelligence committees of Congress" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 310. ASSISTANCE TO FOREIGN COUNTRIES.

Notwithstanding any other provision of law, funds authorized to be appropriated by this Act may be used to provide assistance to a foreign country for counterterrorism efforts if—

(1) such assistance is provided for the purpose of protecting the property of the United States Government or the life and property of any United States citizen, or furthering the apprehension of any individual involved in any act of terrorism against such property or persons; and

(2) the Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives are notified not later than 15 days prior to the provision of such assistance.

SEC. 311. FINANCIAL MANAGEMENT OF THE NATIONAL RECONNAISSANCE OFFICE.

(a) MANAGEMENT REVIEW.—(1) The Inspector General for the Central Intelligence Agency, assisted by the Inspector General of the Department of Defense, shall undertake a comprehensive review of the financial management of the National Reconnaissance Office to evaluate the effectiveness of policies and internal controls over the budget of the National Reconnaissance Office, including the use of carry-forward funding, to ensure that National Reconnaissance Office funds are used in accordance with applicable Federal acquisition regulations and the policies of the Director of Central Intelligence and consistent with those of the Department of Defense, the guidelines of the National Reconnaissance Office, and congressional direction.

(2) The review required by paragraph (1) shall—

(A) determine the quality of the development and implementation of the budget process within the National Reconnaissance Office at both the comptroller and directorate level;

(B) assess the advantages and disadvantages of the use of incremental versus full funding for contracts entered into by the National Reconnaissance Office;

(C) assess the advantages and disadvantages of the National Reconnaissance Office's use of carry-forward funding;

(D) determine how the National Reconnaissance Office defines, identifies, and justifies carry-forward funding requirements;

(E) determine how the National Reconnaissance Office tracks and manages carry-forward funding;

(F) determine how the National Reconnaissance Office plans to comply with congressional direction regarding carry-forward funding;

(G) determine whether or not a contract entered into by the National Reconnaissance Office has ever encountered a contingency which required the utilization of more than 30 days of carry-forward funding;

(H) consider the proposal by the Director of Central Intelligence for the establishment of a position of a Chief Financial Officer, and assess how the functions to be performed by that officer would enhance the financial management of the National Reconnaissance Office; and

(I) make recommendations, as appropriate, to improve control and management of the budget process of the National Reconnaissance Office.

(3) The Director of Central Intelligence shall submit a report to the Congress setting forth the findings of the review required by paragraph (1) not later than March 1, 1996, with an interim report provided to the Congress not later than 2 weeks after the enactment of this Act.

(b) REPORT.—(1) Not later than January 30, 1996, the President shall submit a report to the appropriate committees of the Congress on a proposal to subject the budget of the intelligence community to greater oversight by the executive branch of Government.

(2) Such report shall include (among other things)—

(A) consideration of establishing by statute a financial control officer for the National Reconnaissance Office, other elements of the intelligence community, and for the intelligence community as a whole;

(B) recommendations for procedures to be used by the Office of Management and Budget for review of the budget of the National Reconnaissance Office;

(C) a proposed statutory provision that would require the Director of Central Intelligence to establish a policy to restrict the National Reconnaissance Office authority on carry-forward funding in a manner consistent with the restriction on such authority within the Department of Defense; and

(D) an evaluation of how changes proposed as a result of the review required by subsection (a) will affect, directly or indirectly, the National Reconnaissance Office's streamlined acquisition process and, ultimately, program costs.

(c) DEFINITION.—As used in this section, the term "intelligence community" has the meaning given to the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. EXTENSION OF THE CIA VOLUNTARY SEPARATION PAY ACT.

(a) EXTENSION OF AUTHORITY.—Section 2(f) of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4(f)) is amended by striking "September 30, 1997" and inserting "September 30, 1999".

(b) REMITTANCE OF FUNDS.—Section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4) is amended by inserting at the end the following new subsection:

"(i) REMITTANCE OF FUNDS.—The Director shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund (in addition to any other payments which the Director is required to make under subchapter III of chapter 83 and subchapter II of chapter 84 of title 5, United States Code), an amount equal to 15 percent of the final basic pay of each employee who, in fiscal year 1998 or fiscal year 1999, retires voluntarily under section 8336, 8412, or 8414 of such title or resigns and to whom a voluntary separation incentive payment has been or is to be paid under this section.".

SEC. 402. VOLUNTEER SERVICE PROGRAM.

(a) GENERAL AUTHORITY.—The Director of Central Intelligence is authorized to establish and maintain a program from fiscal years 1996 through 2001 to utilize the services contributed by not more than 50 annuitants who serve without compensation as volunteers in aid of the review for declassification or downgrading of classified information by the Central Intelligence Agency under applicable Executive orders governing the classification and declassification of national security information and Public Law 102–526.

(b) COSTS INCIDENTAL TO SERVICES.—The Director is authorized to use sums made available to the Central Intelligence Agency by appropriations or otherwise for paying the costs incidental to the utilization of services contributed by individuals under subsection (a). Such costs may include (but need not be limited to) training, transportation, lodging, subsistence, equipment, and supplies. The Director may authorize either direct procurement of equipment, supplies, and services, or reimbursement for expenses, incidental to the effective use of volunteers. Such expenses or services shall be in accordance with volunteer agreements made with such individuals. Sums made available for such costs may not exceed $100,000.

(c) APPLICATION OF CERTAIN PROVISIONS OF LAW.—A volunteer under this section shall be considered to be a Federal employee for the purposes of subchapter I of title 81 (relating to compensation of Federal employees for work injuries) and section 1346(b) and chapter 171 of title 28 (relating to tort claims). A volunteer under this section shall be covered by and subject to the provisions of chapter 11 of title 18 of the United States Code as if they were employees or special Government employees depending upon the days of expected service at the time they begin volunteering.

SEC. 403. AUTHORITIES OF THE INSPECTOR GENERAL OF THE CENTRAL INTELLIGENCE AGENCY.

(a) REPORTS BY THE INSPECTOR GENERAL.—Section 17(b)(5) of the Central Intelligence Act of 1949 (50 U.S.C. 403q(b)(5)) is amended to read as follows:

"(5) In accordance with section 535 of title 28, United States Code, the Inspector General shall report to the Attorney General any information, allegation, or complaint received by the Inspector General relating to violations of Federal criminal law that involve a program or operation of the Agency, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of all such reports shall be furnished to the Director.".

(b) EXCEPTION TO NONDISCLOSURE REQUIREMENT.—Section 17(e)(3)(A) of such Act is amended by inserting after "investigation" the following: "or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken".

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. DEFENSE INTELLIGENCE SENIOR LEVEL POSITIONS.

Section 1604 of title 10, United States Code, is amended to read as follows:

"§1604. Civilian personnel management

"(a) GENERAL PERSONNEL AUTHORITY.—The Secretary of Defense may, without regard to the provisions of any other law relating to the number, classification, or compensation of Federal employees—

"(1) establish such positions for employees in the Defense Intelligence Agency and the Central Imagery Office as the Secretary considers necessary to carry out the functions of that Agency and Office, including positions designated under subsection (f) as Defense Intelligence Senior Level positions;

"(2) appoint individuals to those positions; and

"(3) fix the compensation for service in those positions.

"(b) AUTHORITY TO FIX RATES OF BASIC PAY; OTHER ALLOWANCES AND BENEFITS.—(1) The Secretary of Defense shall, subject to subsection (c), fix the rates of basic pay for positions established under subsection (a) in relation to the rates of basic pay provided in subpart D of part III of title 5 for positions subject to that title which have corresponding levels of duties and responsibilities. Except as otherwise provided by law, an employee of the Defense Intelligence Agency or the Central Imagery Office may not be paid basic pay at a rate in excess of the maximum rate payable under section 5376 of title 5.

"(2) The Secretary of Defense may provide employees of the Defense Intelligence Agency and the Central Imagery Office compensation (in addition to basic pay under paragraph (1)) and benefits, incentives, and allowances consistent with, and not in excess of the levels authorized for, comparable positions authorized by title 5.

"(c) PREVAILING RATES SYSTEMS.—The Secretary of Defense may, consistent with section 5341 of title 5, adopt such provisions of that title as provide for prevailing rate systems of basic pay and may apply those provisions to positions in or under which the Defense Intelligence Agency or the Central Imagery Office may employ individuals described by section 5342(a)(2)(A) of such title.

"(d) ALLOWANCES BASED ON LIVING COSTS AND ENVIRONMENT FOR EMPLOYEES STATIONED OUTSIDE CONTINENTAL UNITED STATES OR IN ALASKA.—(1) In addition to the basic compensation payable under subsection (b), employees of the Defense Intelligence Agency and the Central Imagery Office described in paragraph (3) may be paid an allowance, in accordance with regulations prescribed by the Secretary of Defense, at a rate not in excess of the allowance authorized to be paid under section 5941(a) of title 5 for employees whose rates of basic pay are fixed by statute.

"(2) Such allowance shall be based on—

"(A) living costs substantially higher than in the District of Columbia;

"(B) conditions of environment which—

"(i) differ substantially from conditions of environment in the continental United States; and

"(ii) warrant an allowance as a recruitment incentive; or

"(C) both of those factors.

"(3) This subsection applies to employees who—

"(A) are citizens or nationals of the United States; and

"(B) are stationed outside the continental United States or in Alaska.

"(e) TERMINATION OF EMPLOYEES.—(1) Notwithstanding any other provision of law, the Secretary of Defense may terminate the employment of any employee of the Defense Intelligence Agency or the Central Imagery Office if the Secretary—

"(A) considers such action to be in the interests of the United States; and

"(B) determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such employee cannot be invoked in a manner consistent with the national security.

"(2) A decision by the Secretary of Defense to terminate the employment of an employee under this subsection is final and may not be appealed or reviewed outside the Department of Defense.

"(3) The Secretary of Defense shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Secretary terminates the employment of any employee under the authority of this subsection.

"(4) Any termination of employment under this subsection shall not affect the right of the employee involved to seek or accept employment with any other department or agency of the United States if that employee is declared eligible for such employment by the Director of the Office of Personnel Management.

"(5) The authority of the Secretary of Defense under this subsection may be delegated only to the Deputy Secretary of Defense, the Director of the Defense Intelligence Agency (with respect to employees of the Defense Intelligence Agency),

and the Director of the Central Imagery Office (with respect to employees of the Central Imagery Office). An action to terminate employment of an employee by any such officer may be appealed to the Secretary of Defense.

''(f) Defense Intelligence Senior Level Positions.—(1) In carrying out subsection (a)(1), the Secretary may designate positions described in paragraph (3) as Defense Intelligence Senior Level positions. The total number of positions designated under this subsection, when combined with the total number of positions in the Defense Intelligence Senior Executive Service under section 1601 of this title, may not exceed the total number of positions in the Defense Intelligence Senior Executive Service as of June 1, 1995.

''(2) Positions designated under this subsection shall be treated as equivalent for purposes of compensation to the senior level positions to which section 5376 of title 5 is applicable.

''(3) Positions that may be designated as Defense Intelligence Senior Level positions are positions in the Defense Intelligence Agency and Central Imagery Office that (A) are classified above the GS–15 level, (B) emphasize functional expertise and advisory activity, but (C) do not have the organizational or program management functions necessary for inclusion in the Defense Intelligence Senior Executive Service.

''(4) Positions referred to in paragraph (3) include Defense Intelligence Senior Technical positions and Defense Intelligence Senior Professional positions. For purposes of this subsection—

''(A) Defense Intelligence Senior Technical positions are positions covered by paragraph (3) that involve any of the following:

''(i) Research and development.

''(ii) Test and evaluation.

''(iii) Substantive analysis, liaison, or advisory activity focusing on engineering, physical sciences, computer science, mathematics, biology, chemistry, medicine, or other closely related scientific and technical fields.

''(iv) Intelligence disciplines including production, collection, and operations in close association with any of the activities described in clauses (i), (ii), and (iii) or related activities; and

''(B) Defense Intelligence Senior Professional positions are positions covered by paragraph (3) that emphasize staff, liaison, analytical, advisory, or other activity focusing on intelligence, law, finance and accounting, program and budget, human resources management, training, information services, logistics, security, and other appropriate fields.

''(g) 'Employee' Defined as Including Officers.—In this section, the term 'employee', with respect to the Defense Intelligence Agency or the Central Imagery Office, includes any civilian officer of that Agency or Office.''.

SEC. 502. COMPARABLE BENEFITS AND ALLOWANCES FOR CIVILIAN AND MILITARY PERSONNEL ASSIGNED TO DEFENSE INTELLIGENCE FUNCTIONS OVERSEAS.

(a) Civilian Personnel.—Section 1605 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ''(1)'' after ''(a)'';

(B) by striking ''of the Department of Defense'' and all that follows through ''this subsection,'' and inserting ''described in subsection (d)''; and

(C) by designating the second sentence as paragraph (2);

(2) by striking subsection (c) and inserting the following:

''(c) Regulations prescribed under subsection (a) may not take effect until the Secretary of Defense has submitted such regulations to—

''(1) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

''(2) the Committee on National Security and the Permanent Select Committee on Intelligence of the House of Representatives.''; and

(3) by adding at the end the following new subsection:

''(d) Subsection (a) applies to civilian personnel of the Department of Defense who—

''(1) are United States nationals;

''(2) in the case of employees of the Defense Intelligence Agency, are assigned to duty outside the United States and, in the case of other employees, are assigned to Defense Attaché Offices or Defense Intelligence Agency Liaison Offices outside the United States; and

''(3) are designated by the Secretary of Defense for the purposes of subsection (a).''.

(b) Military Personnel.—Section 431 of title 37, United States Code, is amended—

(1) in subsection (a), by striking ''who are assigned to'' and all that follows through ''of this subsection'' and inserting ''described in subsection (e)'';

(2) by striking subsection (d) and inserting the following:

''(d) Regulations prescribed under subsection (a) may not take effect until the Secretary of Defense has submitted such regulations to—

''(1) the Committee on Armed Services and the Select Committee on Intelligence of the Senate; and

''(2) the Committee on National Security and the Permanent Select Committee on Intelligence of the House of Representatives.''; and

(3) by adding at the end the following new subsection:

''(e) Subsection (a) applies to members of the armed forces who—

''(1) are assigned—

''(A) to Defense Attaché Offices or Defense Intelligence Agency Liaison Offices outside the United States; or

''(B) to the Defense Intelligence Agency and engaged in intelligence-related duties outside the United States; and

''(2) are designated by the Secretary of Defense for the purposes of subsection (a).''.

SEC. 503. EXTENSION OF AUTHORITY TO CONDUCT INTELLIGENCE COMMERCIAL ACTIVITIES.

Section 431(a) of title 10, United States Code, is amended by striking ''1995'' and inserting ''1998''.

SEC. 504. AVAILABILITY OF FUNDS FOR TIER II UAV.

All funds appropriated for fiscal year 1995 for the Medium Altitude Endurance Unmanned Aerial Vehicle (Tier II) are specifically authorized, within the meaning of section 504 of the National Security Act of 1947 (50 U.S.C. 414), for such purpose.

SEC. 505. MILITARY DEPARTMENT CIVILIAN INTELLIGENCE PERSONNEL MANAGEMENT SYSTEM.

(a) Establishment of Training Program.—Chapter 81 of title 10, United States Code, is amended by adding at the end thereof the following new section:

''§1599a. Financial assistance to certain employees in acquisition of critical skills

''(a) Training Program.—The Secretary of Defense shall establish an undergraduate training program with respect to civilian employees in the Military Department Civilian Intelligence Personnel Management System that is similar in purpose, conditions, content, and administration to the program established by the Secretary of Defense under section 16 of the National Security Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.

''(b) Use of Funds for Training Program.—Any payment made by the Secretary to carry out the program required to be established by subsection (a) may be made in any fiscal year only to the extent that appropriated funds are available for that purpose.''.

(b) Clerical Amendment.—The table of sections at the beginning of that chapter is amended by adding at the end thereof the following new item:

''Sec. 1599a. Financial assistance to certain employees in acquisition of critical skills.''.

SEC. 506. ENHANCEMENT OF CAPABILITIES OF CERTAIN ARMY FACILITIES.

(a) Authority.—(1) In addition to funds otherwise available for such purpose, the Secretary of the Army may transfer or reprogram funds for the enhancement of the capabilities of the Bad Aibling Station and the Menwith Hill Station, including improvements of facility infrastructure and quality of life programs at those installations.

(2) The authority of paragraph (1) may be exercised notwithstanding any other provision of law.

(b) Source of Funds.—Funds available for the Army for operations and maintenance for fiscal years 1996 and 1997 shall be available to carry out subsection (a).

(c) Congressional Notification.—Whenever the Secretary of the Army determines that an amount to be transferred or reprogrammed under this section would cause the total amount transferred or reprogrammed in that fiscal year under this section to exceed $1,000,000, the Secretary shall notify in advance the Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the Senate and the Permanent Select Committee on Intelligence, the Committee on National Security, and the Committee on Appropriations of the House of Representatives and provide a justification for the increased expenditure.

(d) Statutory Construction.—Nothing in this section may be construed to modify or obviate existing law or practice with regard to the transfer or reprogramming of funds in excess of $2,000,000 from the Department of the Army to the Bad Aibling Station and the Menwith Hill Station.

TITLE VI—FEDERAL BUREAU OF INVESTIGATION

SEC. 601. DISCLOSURE OF INFORMATION AND CONSUMER REPORTS TO FBI FOR COUNTERINTELLIGENCE PURPOSES.

(a) In General.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after section 623 the following new section:

''§624. Disclosures to FBI for counterintelligence purposes

''(a) Identity of Financial Institutions.—Notwithstanding section 604 or any other provision of this title, a consumer reporting agency shall furnish to the Federal Bureau of Investigation the names and addresses of all financial institutions (as that term is defined in section 1101 of the Right to Financial Privacy Act of 1978) at which a consumer maintains or has maintained an account, to the extent that information is in the files of the agency, when presented with a written request for that information, signed by the Director of the Federal Bureau of Investigation, or the Director's designee, which certifies compliance with this section. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

''(1) such information is necessary for the conduct of an authorized foreign counterintelligence investigation; and

''(2) there are specific and articulable facts giving reason to believe that the consumer—

''(A) is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978) or a person who is not a United States person (as defined in such section 101) and is an official of a foreign power; or

"(B) is an agent of a foreign power and is engaging or has engaged in an act of international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

"(b) IDENTIFYING INFORMATION.—Notwithstanding the provisions of section 604 or any other provision of this title, a consumer reporting agency shall furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation when presented with a written request, signed by the Director or the Director's designee, which certifies compliance with this subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(1) such information is necessary to the conduct of an authorized counterintelligence investigation; and

"(2) there is information giving reason to believe that the consumer has been, or is about to be, in contact with a foreign power or an agent of a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978).

"(c) COURT ORDER FOR DISCLOSURE OF CONSUMER REPORTS.—Notwithstanding section 604 or any other provision of this title, if requested in writing by the Director of the Federal Bureau of Investigation, or a designee of the Director, a court may issue an order ex parte directing a consumer reporting agency to furnish a consumer report to the Federal Bureau of Investigation, upon a showing in camera that—

"(1) the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought—

"(A) is an agent of a foreign power, and

"(B) is engaging or has engaged in an act of international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

The terms of an order issued under this subsection shall not disclose that the order is issued for purposes of a counterintelligence investigation.

"(d) CONFIDENTIALITY.—No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall disclose to any person, other than those officers, employees, or agents of a consumer reporting agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section, that the Federal Bureau of Investigation has sought or obtained the identity of financial institutions or a consumer report respecting any consumer under subsection (a), (b), or (c), and no consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such information or a consumer report.

"(e) PAYMENT OF FEES.—The Federal Bureau of Investigation shall, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing report or information in accordance with procedures established under this section a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this section.

"(f) LIMIT ON DISSEMINATION.—The Federal Bureau of Investigation may not disseminate information obtained pursuant to this section outside of the Federal Bureau of Investigation, except to other Federal agencies as may be necessary for the approval or conduct of a foreign counterintelligence investigation, or, where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

"(g) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, in connection with a judicial or administrative proceeding to enforce the provisions of this Act. Nothing in this section shall be construed to authorize or permit the withholding of information from the Congress.

"(h) REPORTS TO CONGRESS.—On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to subsections (a), (b), and (c).

"(i) DAMAGES.—Any agency or department of the United States obtaining or disclosing any consumer reports, records, or information contained therein in violation of this section is liable to the consumer to whom such consumer reports, records, or information relate in an amount equal to the sum of—

"(1) $100, without regard to the volume of consumer reports, records, or information involved;

"(2) any actual damages sustained by the consumer as a result of the disclosure;

"(3) if the violation is found to have been willful or intentional, such punitive damages as a court may allow; and

"(4) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney fees, as determined by the court.

"(j) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

"(k) GOOD-FAITH EXCEPTION.—Notwithstanding any other provision of this title, any consumer reporting agency or agent or employee thereof making disclosure of consumer reports or identifying information pursuant to this subsection in good-faith reliance upon a certification of the Federal Bureau of Investigation pursuant to provisions of this section shall not be liable to any person for such disclosure under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

"(l) LIMITATION OF REMEDIES.—Notwithstanding any other provision of this title, the remedies and sanctions set forth in this section shall be the only judicial remedies and sanctions for violation of this section.

"(m) INJUNCTIVE RELIEF.—In addition to any other remedy contained in this section, injunctive relief shall be available to require compliance with the procedures of this section. In the event of any successful action under this subsection, costs together with reasonable attorney fees, as determined by the court, may be recovered.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after the item relating to section 623 the following new item:

"624. Disclosures to FBI for counterintelligence purposes.".

TITLE VII—TECHNICAL AMENDMENTS

SEC. 701. CLARIFICATION WITH RESPECT TO PAY FOR DIRECTOR OR DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE APPOINTED FROM COMMISSIONED OFFICERS OF THE ARMED FORCES.

(a) CLARIFICATION.—Subparagraph (C) of section 102(c)(3) of the National Security Act of 1947 (50 U.S.C. 403(c)(3)) is amended to read as follows:

"(C) A commissioned officer of the Armed Forces on active duty who is appointed to the position of Director or Deputy Director, while serving in such position and while remaining on active duty, shall continue to receive military pay and allowances and shall not receive the pay prescribed for the Director or Deputy Director. Funds from which such pay and allowances are paid shall be reimbursed from funds available to the Director.".

(b) TECHNICAL CORRECTIONS.—(1) Subparagraphs (A) and (B) of such section are amended by striking "pursuant to paragraph (2) or (3)" and inserting "to the position of Director or Deputy Director".

(2) Subparagraph (B) of such section is amended by striking "paragraph (A)" and inserting "subparagraph (A)".

SEC. 702. CHANGE OF DESIGNATION OF CIA OFFICE OF SECURITY.

Section 701(b)(3) of the National Security Act of 1947 (50 U.S.C. 431(b)(3)), is amended by striking "Office of Security" and inserting "Office of Personnel Security".

And the Senate agree to the same.

From the Permanent Select Committee on Intelligence, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

LARRY COMBEST,
R.K. DORNAN,
BILL YOUNG,
JAMES V. HANSEN,
JERRY LEWIS,
PORTER J. GOSS,
BUD SHUSTER,
BILL MCCOLLUM,
MICHAEL N. CASTLE,
NORMAN DICKS,
BILL RICHARDSON,
JULIAN C. DIXON,
ROBERT G. TORRICELLI,
RON COLEMAN,
DAVID E. SKAGGS,
NANCY PELOSI,

As additional conferees from the Committee on National Security, for consideration of defense tactical intelligence and related activities:

FLOYD SPENCE,
BOB STUMP,

As additional conferees from the Committee on International Relations, for consideration of section 303 of the House bill, and section 303 of the Senate amendment, and modifications committed to conference:

BENJAMIN A. GILMAN,
CHRISTOPHER SMITH,
HOWARD L. BERMAN,

Managers on the Part of the House.

ARLEN SPECTER,

RICHARD G. LUGAR,
RICHARD SHELBY,
MIKE DEWINE,
JON KYL,
JIM INHOFE,
KAY BAILEY HUTCHISON,
CONNIE MACK,
BILL COHEN,
STROM THURMOND,
ROBERT KERREY,
JOHN GLENN,
RICHARD H. BRYAN,
BOB GRAHAM,
JOHN F. KERRY,
MAX BAUCUS,
J. BENNETT JOHNSTON,
CHARLES ROBB,
SAM NUNN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1655) to authorize appropriations for fiscal year 1996 for intelligence and the intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION FOR APPROPRIATIONS.

Section 101 of the conference report lists the departments, agencies and other elements of the United States Government for whose intelligence and intelligence-related activities the Act authorizes appropriations for fiscal year 1996.

SEC. 102—CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

Section 102 of the conference report makes clear that the details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and applicable personnel ceilings covered under this title for fiscal year 1996 are contained in a classified Schedule of Authorizations. The Schedule of Authorizations is incorporated into the Act by this section. The details of the Schedule are explained in the classified annex to this report.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

Section 103 of the conference report authorizes the Director of Central Intelligence, with the approval of the Director of the Office of Management and Budget, in fiscal year 1996 to exceed the personnel ceilings applicable to the components of the Intelligence Community under section 102 by an amount not to exceed two percent of the total of the ceilings applicable under section 102. The Director may exercise this authority only when doing so is necessary to the performance of important intelligence functions. Any exercise of this authority must be reported to the two intelligence committees of the Congress.

The conferees emphasize that the authority conferred by Section 103 is not intended to permit the whosesale raising of personnel strength in any intelligence component. Rather, the section provides the Director of Central Intelligence with flexibility to adjust personnel levels temporarily for contingencies and for overages caused by an imbalance between hiring of new employees and attrition of current employees. The conferees do not expect the Director of Central Intelligence to allow heads of intelligence components to plan to exceed levels set in the Schedule of Authorizations except for the satisfaction of clearly identified hiring needs which are consistent with the authorization of personnel strengths in this bill. In no case is this authority to be used to provide for positions denied by this bill.

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

Section 104 of the conference report authorizes appropriations for the Community Management Account of the Director of Central Intelligence and sets the personnel end-strength for the Intelligence Community Management Staff for fiscal year 1996.

Subsection (a) authorizes appropriations of $90,713,000 for fiscal year 1996 for the activities of the Community Management Account of the Director of Central Intelligence. It also authorizes funds identified for the Advanced Research and Development Committee and the Environmental Task Force to remain available for two years.

Subsection (b) authorizes 247 full-time personnel for the Community Management Staff for fiscal year 1996 and provides that such personnel may be permanent employees of the Staff or detailed from various elements of the United States Government.

Subsection (c) requires that personnel be detailed on a reimbursable basis except for temporary situations of less than one year.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Section 201 authorizes appropriations in the amount of $213,900,000 for fiscal year 1996 for the Central Intelligence Agency Retirement and Disability Fund.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Section 301 of the conference report provides that appropriations authorized by the conference report for salary, pay, retirement and other benefits for federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law. Section 301 is identical to section 301 of the House bill and section 301 of the Senate amendment.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

Section 302 provides that the authorization of appropriations by the conference report shall not be deemed to constitute authority for the conduct of any intelligence activity that is not otherwise authorized by the Constitution or laws of the United States. Section 302 is identical to section 302 of the House bill and section 302 of the Senate amendment.

SEC. 303. APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES.

Section 303 of the conference report amends the National Security Act of 1947 with a new Title IX to permit the President to stay the imposition of an economic, cultural, diplomatic, or other sanction or related action when the President determines and reports to Congress that to proceed without delay would seriously risk the compromise of an intelligence source or method or an ongoing criminal investigation. Both the House bill and the Senate amendment contained provisions pertaining to deferrals of sanctions.

Section 901 of the new Title IX of the National Security Act of 1947 grants the President the authority to stay the imposition of a sanction or related action. Section 901 requires that when a sanction or related action is to be deferred due to the risk of compromise of a source or method or an ongoing criminal investigation, the source or method or the law enforcement matter in question must be related to the activities giving rise to the sanction. The section allows the President to stay the imposition of a sanction or related action for a specified period not to exceed 120 days.

Section 902 of the new Title IX provides that when the President determines and reports to Congress that a stay of an imposition of a sanction or related action has not afforded sufficient time to obviate the risk to an ongoing criminal investigation or to an intelligence source or method that gave rise to the stay, the President may extend the stay for successive periods of not more than 120 days.

Section 903 of the new Title IX requires that reports to Congress pursuant to section 901 and 902 be submitted promptly upon the President's determination to stay the imposition of a sanction or related action. Reports required under the new title are to be submitted to the Committee on International Relations of the House and the Committee on Foreign Relations of the Senate. Those reports pertaining to determinations related to intelligence sources and methods are also to be submitted to the Permanent Select Committee on Intelligence of the House and the Select Committee on Intelligence of the Senate. Those reports pertaining to determinations related to ongoing criminal investigations are also to be submitted to the Judiciary Committees of the House and Senate. The conferees further recognize that the actual structure and content of the reports to the Senate and House committees of jurisdiction will be achieved as a result of ongoing dialogue between the Congress and the Executive Branch. The conferees expect that the reports submitted pursuant to the new title will indicate the nature of the activities giving rise to the sanction or related action, the applicable law concerned, the country or countries in which the activity took place, and other pertinent details, to the maximum extent practicable consistent with the protection of intelligence sources and methods. The reports should also include a determination that the delay in the imposition of a sanction or related action will not be seriously prejudicial to the achievement of the United States' nonproliferation objectives or significantly increase the threat or risk to United States' military forces.

Section 904 of the new Title IX enumerates specific nonproliferation laws requiring a sanction or related action, the imposition of which the President may stay pursuant to sections 901 and 902. The section also grants the President the authority to stay the imposition of a sanction or related action contained in laws comparable to the enumerated acts.

Section 905 of the new Title IX states that the title ceases to be effective one year from the date of its enactment. The conferees believe this will afford Congress an opportunity to evaluate the use and effect of this provision in relation to sanctions laws. The Senate bill did not contain a similar provision.

The conferees expect that when the President chooses to exercise the deferral authority, the utmost will be done to resolve sources or methods or law enforcement problems as soon as possible so as to permit sanctions to be imposed as required by law. The intelligence and judiciary committees, as appropriate, should be informed fully of the efforts being made to address the circumstances that led to the delay. The conferees understand that instances where sanctions would be deferred would be rare, and that the deferral authority will be exercised only when an intelligence source or method or a criminal investigation is seriously at risk, and not to protect generic or speculative intelligence or law enforcement interests. Moreover, the presidential determination should not be used as a pretext for some other reason not to impose sanctions such as economic or foreign policy reasons. The President should lift the stay when the President determines that it is no longer necessary to protect against compromise.

The President must have sufficient information to determine whether the risk to intelligence sources and methods or an ongoing criminal investigation is significant and outweighs any potential harm to U.S. nonproliferation objectives. The conferees expect that determinations to invoke a stay authorized under this new title will be preceded by a rigorous interagency review process in which the recommendations of all relevant agencies, together with supporting facts, are made available to the President. The conferees intend to closely monitor the use of the authority provided under this title.

SEC. 304. THRIFT SAVINGS PLAN FORFEITURE.

Section 304 of the conference report adds a new subsection to section 8432(g) of title 5, United States Code, to provide that the Government's contribution to the Thrift Savings Plan under the Federal Employees Retirement System (FERS) and interest earned on that contribution shall be forfeited if the employee's annuity has been forfeited under subchapter II of Chapter 83, title 5, United States Code. This provision closes a loophole that was created when the FERS was established.

Prior to the enactment of the FERS, an employee's retirement annuity was based entirely on contributions made by the employee and by the Government to the applicable retirement fund. Under subchapter II of Chapter 83, any employee convicted of various national security offenses, including espionage, would forfeit his annuity and be entitled to receive only his monetary contributions to the annuity. A new retirement benefit, however, was created with the establishment of FERS, payable under the Thrift Savings Plan.

The Thrift Savings Plan now permits the employee to contribute into the Government-managed fund and requires that the Government also contribute to the fund on the employee's behalf. When FERS was enacted, the forfeiture provisions of subchapter II were not amended to cover the Government's contributions to the Plan. This situation clearly undermines the intent of subchapter II by permitting an employee convicted of espionage to retain the Government's contributions to the Plan. Section 304 corrects this anomaly by requiring the forfeiture of the Government's contribution to the Plan and attributable earnings on that contribution in situations where an individual's annuity is forfeited under subchapter II. Section 304 is identical to section 304 of the House bill and section 304 of the Senate amendment.

SEC. 305. AUTHORITY TO RESTORE SPOUSAL PENSION BENEFITS TO SPOUSES WHO COOPERATE IN CRIMINAL INVESTIGATIONS AND PROSECUTIONS FOR NATIONAL SECURITY OFFENSES.

Section 304 of the conference report amends section 8318 of title 5, United States Code, to make the spouse of an individual whose annuity or retired pay has been forfeited under section 8312 or 8313 of title 5 eligible for spousal pension benefits if the Attorney General determines that the spouse fully cooperated in the criminal investigation and prosecution of the individual. Enactment of this legislation will help to protect the national security interests of the United States by encouraging the spouses of federal employees who know or suspect that their husband or wife is engaged in espionage activities to inform the Government and to cooperate in a subsequent criminal investigation and prosecution. Current law actually discourages cooperation with the Government, since under current law pension benefits are lost upon conviction and forfeiture of the husband's or wife's annuity, even if the spouse has cooperated with the Government. Section 305 is identical to section 305 of the House bill and section 305 of the Senate amendment.

SEC. 306. SECRECY AGREEMENTS USED IN INTELLIGENCE ACTIVITIES.

Section 306 addresses a problem that CIA has experienced with secrecy agreements in the conduct of authorized intelligence activities. Beginning with the Treasury, Postal Service, and General Government Appropriations Act for fiscal year 1991 and in each year thereafter, Congress has required that agreements to protect classified information must contain certain prescribed language to put the executor on notice that the agreement does not supersede specified laws and Executive Order 12356. The language is as follows:

> These restrictions are consistent with and do not supersede, conflict with or otherwise alter the employee obligations, rights or liabilities created by Executive Order 12356; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse of public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents), and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. section 783(b)). The definitions, requirements, obligations, rights, sanctions and liabilities created by said Executive Order and listed statutes are incorporated into the Agreement and are controlling.

Notwithstanding that several of the laws cited apply only to federal employees, the Treasury appropriations acts have required CIA to include the specified language in nondisclosure agreements intended to be executed by private parties. The prescribed language is required in every secrecy agreement entered into, so federal employees and private entities alike must have such language included in the agreement that they sign. The recitation of numerous statutes in the overbearing but required "legalese" has caused confusion, complicated authorized intelligence activities, and even disrupted them when parties refuse to sign agreements containing provisions that do not apply to them. The required language is intimidating and has chilled otherwise promising intelligence relationships with private entities.

Consequently, section 306 clarifies that CIA and other intelligence agencies have the flexibility to tailor nondisclosure agreements according to the needs of the intelligence activity at hand, as long as the agreement at a minimum requires nondisclosure without specific authorization by the United States Government. The form or agreement must also make clear that the form or agreement does not bar disclosures to Congress or disclosures to an authorized official of an executive agency that are deemed essential to reporting a violation of United States laws. This section, when enacted, will permit the use of secrecy agreements stated in plain and understandable English and that will not intimidate the layman. The provision will make it easier for people to understand their rights and obligations when signing a secrecy agreement, which will ultimately enhance the protection of national security information.

SEC. 307. LIMITATION ON AVAILABILITY OF FUNDS FOR AUTOMATIC DECLASSIFICATION OF RECORDS OVER 25 YEARS OLD.

Section 307 limits the availability of funds authorized to be appropriated by this Act to implement section 3.4 of Executive Order 12958 to $25 million in fiscal year 1996. The Director of Central Intelligence, at the Director's discretion, may allocate this amount among the agencies of the National Foreign Intelligence Program for this purpose. Section 307 requires the President to submit budget requests that specifically identify the funds necessary to implement section 3.4 for fiscal years 1997 through 2000.

Given that the conferees have received four different estimates of the cost of implementing section 3.4 since the beginning of the year, the conferees believe there needs to be a continuing effort to fully evaluate the potential costs associated with the declassification review programs. The conferees further urge that this declassification effort be coordinated closely with CIA's Historical Review Program Office so as to enhance the intellectual coherence of the declassification process. In the budget submission for FY1997, the President is to provide a detailed request supported by firm estimates of declassification costs.

Section 307 of the House bill limited each agency of the National Foreign Intelligence Program to $2.5 million to carry out the provisions of section 3.4. The Senate amendment had no similar provision.

SEC. 308. AMENDMENT TO THE HATCH ACT REFORM AMENDMENTS OF 1993.

Section 308 restores the authority of the Office of Personnel Management (OPM) to extend "de-Hatching" to employees of the agencies listed in 5 U.S.C. §7323(b)(2)(B)(i).

Previously, under 5 U.S.C. §7323, OPM had the authority to designate certain municipalities and other political subdivisions in which federal employees in both competitive and excepted services could actively participate in local partisan elections. (Such designation of municipalities and political subdivisions by OPM is commonly referred to as "de-Hatching".) However, when this authority was amended by Public Law 103-94 and recodified in 5 U.S.C. §7325, the authority was granted only "without regard to the prohibitions in paragraphs (2) and (3) of section 7323(a)". The prohibitions in section 7323(a) apply to the federal employees, both competitive and excepted service. However, employees of NSA, CIA, DIA and the other agencies listed in 5 U.S.C. §7323(b)(2)(B)(i) are subject to additional prohibitions under section 7323(b)(2)(A) which section 7325 does not permit OPM to disregard. Thus, OPM cannot extend de-Hatching to employees of the listed agencies and the implementing interim regulations issued by OPM (59 Fed. Reg. 5313 (1994) to be codified at 5 C.F.R. Part 733) reflect this restriction.

This provision would amend the "de-Hatching" provision (5 U.S.C. §7325) to include the excepted services in the category of federal employees that OPM may permit to take an active part in local (not Federal) political campaigns.

Section 308 is identical to section 306 of the Senate amendment. The House bill did not contain a similar provision.

SEC. 309.—REPORT ON PERSONNEL POLICIES.

Section 309 of the conference report requires the DCI to report to the intelligence oversight committees within three months detailed personnel procedures that could be implemented across the intelligence community to provide for mandatory retirement at expiration of time in class and termination based on relative performance similar to comparable provisions in sections 607 and 608 of the Foreign Service Act of 1980 (Title 22 U.S.C. 4007 and 4008) for civilian employees.

The Director of Central Intelligence and Secretary of Defense were directed in the FY 1995 Intelligence Authorization Act to provide a report by December 1, 1994 on the advisability of providing for mandatory retirement at expiration of time in class. The oversight committees have reviewed the issue and determined that a performance-based policy is advisable and are now directing the DCI to develop and report on procedures that could be implemented.

Senate floor action added a provision requiring that the DCI's report include a description and analysis of voluntary separation incentives, including a waiver of the "two percent penalty" reduction for early retirement under certain federal retirement systems. Section 309 is substantially similar to section 307 of the Senate amendment. The House bill did not contain a similar provision.

SEC. 310.—ASSISTANCE TO FOREIGN COUNTRIES.

Section 310 of the conference report authorizes assistance to a foreign country for counterterrorism efforts, notwithstanding any other provision of law, for the purpose of protecting the property of the United States Government or the life and property of any United States citizen or furthering the apprehension of any individual involved in any act of terrorism against such property or persons. The appropriate committees of Congress are to be notified not later than 15 days prior to the provision of such assistance. This authority is needed for the purpose of furthering United States interests. By providing this authority, there will be no doubt that the United States will be able to provide assistance to foreign countries that are willing to help identify, track and apprehend persons who have destroyed American property or harmed American citizens. Section 310 is identical to section 308 of the Senate amendment. There was no comparable language in the House bill.

SEC. 311.—FINANCIAL MANAGEMENT OF THE NATIONAL RECONNAISSANCE OFFICE.

Section 311 of the conference report seeks to improve accountability and financial management control over the National Reconnaissance Office. The section further requires a review of NRO's financial management by the Inspector General of CIA, assisted by the Inspector General of DOD, to evaluate the effectiveness of policies and internal controls over the NRO budget, particularly with regard to carry-forward funding. It is the intention of the conferees that the Director of Central Intelligence notify the intelligence oversight committees prior to reprogramming, reallocating, and/or rescinding funds previously authorized and appropriated for NRO programs, projects, and activities. The section also requires the President to report no later than January 30, 1996 on a proposal to subject the budget of the Intelligence Community to greater Executive Branch oversight, including the possibility of a statutory financial control officer for the NRO and greater Office of Management and Budget review of the NRO's budget. The report must include an analysis of the option for a statutory provision requiring the DCI to establish a policy to restrict the NRO's authority on carry-forward funding consistent with the restriction on such authority within the Department of Defense. The President shall also report on how changes proposed as a result of this review will affect, directly or indirectly, the NRO's streamlined acquisition process and ultimately, program costs.

Elements of section 311 were added to the Senate amendment in floor action, but the provision has been substantially changed in subsequent discussions among conferees. There was no comparable provision in the House bill.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. EXTENSION OF THE CIA VOLUNTARY SEPARATION PAY ACT.

Section 401 amends section 2(f) of the CIA Voluntary Separation Pay Act, 50 U.S.C. §403-4(f), to extend the Agency's authority to offer separation incentives until September 30, 1999. Without this amendment, the Agency's authority to offer such incentives will expire on September 30, 1997.

CIA's separation incentive program has been an effective force reduction tool. It is necessary to extend this authority until September 30, 1999, because CIA, Like DoD, will continue to downsize through that year. Enactment of this provision will ensure that CIA can minimize the need to separate employees involuntarily. In light of the conferees' concern that this authority may have been used in the past in lieu of more rigorous personnel policies, this authority is extended with the understanding that the Intelligence Community will be pursuing such policies, and that this authority can be used to ease the transition to the more rigorous, performance-based criteria and policy.

Section 401(b) is designed to offset the direct spending cost of the extension of the authority provided for in the CIA Voluntary Separation Pay Act. Specifically, it establishes procedures to conform with the pay-as-you-go provision, section 252, of the Balanced Budget and Emergency Deficit Control Act, by requiring the Director of Central Intelligence to remit to the Treasury an amount equal to 15 percent of the final basic pay of each employee who, in fiscal year 1998 or fiscal year 1999, retires voluntarily or who resigns and to whom a voluntary separation incentive has been or is to be paid.

Section 401(a) is identical to section 401 of the House bill. Section 401(b) is identical to section 401(b) of the Senate amendment. The House bill did not contain a similar offset provision.

SEC. 402. VOLUNTEER SERVICE PROGRAM.

Section 402 authorizes the Director to establish, as a demonstration project, a limited volunteer service program for fiscal years 1996 through 2001, whereby no more than 50 retirees can volunteer their services to the CIA to assist the Agency in its systematic or mandatory review for declassification or downgrading of classified information under certain Executive Orders and Public Law 102-526. The provision limits expenditures to no more than $100,000.

This section authorizes the Agency to pay costs incidental to the use of the services of volunteers, such as training, equipment, lodging, subsistence, equipment and supplies. It also ensures that volunteers are covered by workers compensation and the Federal Torts Claim Act. Without this legislation, the CIA would be unable to pay costs incident to the use of gratuitous services provided by volunteers, such as training and equipment. The program established under this section will be temporary and limited. Section 402 is identical to section 402 of the House bill and section 402 of the Senate amendment.

SEC. 403. AUTHORITIES OF THE INSPECTOR GENERAL OF THE CENTRAL INTELLIGENCE AGENCY.

Section 403(a) of the conference report modifies the CIA Inspector General statute to require the IG to report violations of Federal law by any person, as opposed to violations by officers or employees of the CIA. It also allows the reports to go directly from OIG to the Department of Justice, rather than through the DCI, although the DCI must receive a copy of the report. This is consistent with the Inspector General Statute of 1978 and enhances the independence of the IG. The conferees understand that the Inspector General has agreed to give advanced notice to the DCI and the conferees strongly support this agreement. The conferees further understand that this advance notice will not be used to prevent reports from going to the Department of Justice. Section 403(a) is identical to section 403(a) of the Senate amendment. The House bill did not contain a similar provision.

Section 403(b) of the conference report clarifies the CIA Inspector General statute to ensure that the identity of an employee who has been granted confidentiality can be disclosed to the Department of Justice official responsible for determining whether a prosecution should be undertaken. Current law already provides for this but this provision would clarify and simplify the process. Section 403(b) is identical to section 403(b) of the Senate amendment. The House bill did not contain a similar provision.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. DEFENSE INTELLIGENCE SENIOR LEVEL POSITIONS.

Section 501 of the conference report amends section 1604 of title 10, United States Code, by authorizing the Secretary of Defense to establish the Defense Intelligence Senior Level (DISL) personnel system for the Defense Intelligence Agency (DIA) and the Central Imagery Office (CIO). Section

1604 currently authorizes the Secretary of Defense to establish positions for civilian officers and employees in DIA and CIO. The rates of basic pay for these positions are fixed in relation to the rates of basic pay provided in the General Schedule under section 5332 of title 5. Section 5332, however, which limits the grades of employees to GS–15, is insufficient for the needs of DIA and CIO.

In 1991, two Army field activities were transferred to DIA. The employees at the Missile and Space Intelligence Center and the Armed Forces Medical Intelligence Center are high-level technical employees. Their positions do not meet the management and program criteria for Senior Executive Service (SES) inclusion, but they do exceed the GS–15 criteria. DIA is also acquiring the Human Intelligence (HUMINT) resources of the Military Services. This functional transfer will add over 1,000 civilian and military personnel to DIA's rolls, and there may be a need to structure at least one senior advisory assignment as part of the Defense HUMINT Service (DHS) architecture. Additionally, the increased Defense intelligence leadership roles of DIA and CIO require increased high level activity in technical analysis, liaison and advisory services.

The primary purpose of DISL positions will be to provide technical expertise and advisory services beyond the GS–15 level established by DIA and CIO. Employees in DISL positions will not be responsible for managerial and program oversight, which are functions of the SES. DISL positions will include Defense Intelligence Senior Technical (DIST) and Defense Intelligence Senior Professional (DISP) assignments. These positions are classifiable above the DIA and CIO GS–15 level but do not involve the organizational or program management functions necessary for the Defense Intelligence Senior Executive Service.

DIST positions are those that involve research and development; test and evaluation; or substantive analysis, liaison, and/or advisory activity focusing on engineering, physical sciences, computer science, mathematics, medicine, biology, chemistry, or other closely related scientific and technical fields; and intelligence disciplines including production, collection, and operations in close association with the preceding or related activities.

DISP positions are those that emphasize staff, liaison, analytical, advisory, or other activity focusing on intelligence, law, finance and accounting, program and budget, human resources management, training, information services, logistics, and other appropriate support fields.

DISL positions will provide DIA and CIO with the flexibility that is essential to recruit effectively and to retain highly competent employees with scientific, technical, or other complex skills. This provision allows the Secretary of Defense to establish a basic rate of pay that does not exceed the rate paid to Executive Level IV. It also authorizes the Secretary of Defense to provide to DIA and CIO employees other benefits, allowances, incentives, or compensation that similarly situated federal employees are eligible to receive under title 5, United States Code. Section 501 is identical to section 501 of the House bill. The Senate amendment did not contain a similar provision.

SEC. 502. COMPARABLE BENEFITS AND ALLOWANCES FOR CIVILIAN AND MILITARY PERSONNEL ASSIGNED TO DEFENSE INTELLIGENCE FUNCTIONS OVERSEAS.

Section 502 of the conference report amends section 1605 of title 10, United States Code, and section 431 of title 37, United States Code, to provide to civilian personnel and members of the armed forces serving with the Defense HUMINT Service outside the United States benefits and allowances comparable to those provided by the Secretary of State to officers and employees of the Foreign Service.

The Secretary of Defense has the authority to provide to civilian personnel and members of the armed forces assigned to the Defense Attaché Offices and the Defense Intelligence Agency Liaison Offices outside the United States benefits and allowances comparable to those provided by the Secretary of State to officers and employees of the Foreign Service. This authority was attained in 1983 (Public Law 98–215) because travel allowances and related benefits for overseas personnel at the Defense Attaché Offices and the Defense Intelligence Agency Liaison Offices were different from Foreign Service personnel assigned overseas.

With the consolidation of Department of Defense human intelligence into the Defense HUMINT Service, the Defense Intelligence Agency will be responsible for a significant number of employees overseas. Although a number of these employees may be assigned to Defense Attaché Offices or Defense Intelligence Agency Liaison Offices outside the United States, there will be some assigned to other overseas locations. Since the Agency's authority to provide benefits and allowances to overseas employees is limited to the Defense Attaché Office and the Defense Intelligence Agency Liaison Offices, inequities will once again occur. Section 502 ensures comparable benefits for civilian and military personnel assigned to the Defense HUMINT Service overseas. Section 502 is virtually identical to Section 501 of the Senate amendment and section 502 of the House bill.

SEC. 503. EXTENSION OF AUTHORITY TO CONDUCT INTELLIGENCE COMMERCIAL ACTIVITIES.

Section 503 of the conference report would extend for three years, until December 31, 1998, the authority of the Secretary of Defense to initiate intelligence commercial activities to provide cover security to intelligence collection activities undertaken abroad by the Defense Department. This authority permits the Secretary to waive compliance with certain types of federal laws and regulations pertaining to the management and administration of federal entities when he determines that compliance by the commercial cover activity would create an unacceptable risk of compromise of an authorized intelligence collection activity. This authority is similar to the authority granted to the Central Intelligence Agency and the Federal Bureau of Investigation.

The Secretary's intelligence commercial cover authority was originally enacted as part of the FY 1991 Intelligence Authorization Act (Public Law 102–88) August 14, 1991. However, the intelligence commercial cover authority did not become effective until December 2, 1992, after the statutorily required promulgation and submission to Congress of a directive from the Secretary governing the implementation of the statute. Due to a variety of reasons, including the launching of a plan in 1993 to create a new Defense Humint Service under which all Defense Department human intelligence activities are being consolidated, this intelligence commercial activities authority has not yet been used, due largely to significant budget cuts effected in December 1992. Recently, however, DoD has enhanced its HUMINT efforts and is working closely with CIA to develop the skills, plans, and infrastructure necessary to effectively utilize this authority. Thus, the conference report extends the sunset provision to December 31, 1998.

The Administration's intelligence authorization legislative proposal sought repeal of the existing "sunset" clause, thus making the Secretary's intelligence commercial activities authority permanent. Senior officials from both the Defense Department and the Central Intelligence Agency testified to the continuing and growing need for the Secretary to have this authority under certain circumstances to provide bona fide commercial cover that can withstand detailed investigation by hostile foreign intelligence services as well as domestic scrutiny. The conferees agreed to the extension of the authority. However, in view of the lack of a record of use thus far, Section 503 extends the authority for three years, instead of the permanent extension originally sought by the Administration. Three years should provide time for the development and oversight of a track record on the use of this authority without encouraging overuse of it, and particularly its more elaborate and sophisticated applications. At the end of that time, and based on its oversight of the record, the Intelligence Committees can address whether to make this authority permanent, extend it for a specific period or allow it to lapse. Section 503 is the same as section 503 of the House bill. Section 502 of the Senate amendment had extended the authority for five years.

SEC. 504. AVAILABILITY OF FUNDS FOR TIER II UAV.

The Fiscal Year 1995 authorization bill authorized full funding of the Defense Department's request for the Tier-2 Medium Altitude Endurance Unmanned Aerial Vehicle (UAV) Advanced Concept Technology Demonstration. The Fiscal Year 1995 defense appropriations bill included appropriations $20 million above the amount authorized for the program. As these additional funds were not specifically authorized, as required by Section 504 of the National Security Act of 1947, the Department of Defense could not spend them. To remedy this problem, Section 504 of the conference report specifically authorizes an additional $20 million for this program. Section 504 is identical to section 504 of the House bill. The Senate bill did not contain a similar provision.

SEC. 505. MILITARY DEPARTMENT CIVILIAN INTELLIGENCE PERSONNEL MANAGEMENT SYSTEM.

Section 505 of the conference report authorizes the Secretary of Defense to send civilian employees in the Military Departments' Civilian Intelligence Personnel Management System (CIPMS) to be students at accredited professional, technical, and other institutions of higher learning for training at the undergraduate level. This authority would be similar to that already granted to the Defense Intelligence Agency (DIA) in 10 U.S.C. section 1608 (Public Law 101–93, title V, section 507(a)(1), Nov 30, 1989, 103 Stat. 1710) and the National Security Agency (NSA) in 50 U.S.C. 402 note. The purpose of the new section is to establish an undergraduate training program, including training which may lead to the baccalaureate degree, to facilitate the recruitment of individuals, particularly minority, women, and handicapped high school students with a demonstrated capability to develop skills critical to the intelligence missions of the Military Departments in areas such as computer science, engineering, foreign language, and area studies. In exchange for this financial assistance from the respective CIPMS organization, the student participant would undertake an obligation to work for a period of one-and-one half year for each year or partial yea of schooling.

The missions of the intelligence entities of the United States Government demand employees of extraordinary aptitude and strong undergraduate training. These same entities must compete with a private sector—capable of offering more favorable compensation arrangements—that in most instances has been able to outbid the USG in terms of attracting qualified minority candidates. Statistics in recent years indicate that the success of the Military Departments' CIPMS to attract minority group candidates has been marginal.

This proposal is designed to enhance the capabilities of the intelligence elements of the Military Departments to: (i) ensure equal employment opportunity with their civilian ranks through affirmative action; (ii) develop and retain personnel trained in the skills essential to the effective performance of their intelligence mission; and, (iii) compete on equal footing with other intelligence Community entities for personnel with critical skills. Section 505 is identical to section 503 of the Senate amendment. The House bill did not contain a similar provision.

SEC. 506. ENHANCEMENT OF CAPABILITIES OF CERTAIN ARMY FACILITIES.

Section 506 of the conference report is intended to assist the Department of the Army as it assumes executive agent responsibility for the Bad Aibling, Germany and Menwith Hill, England stations. Specifically, this provision would permit the Department of the Army to use up to $2 million of appropriated operations and maintenance funds to rectify infrastructure and quality of life problems at Menwith Hill and Bad Aibling. At the present time, the Army is prohibited by statute from using appropriated funds to support certain activities. Section 506 was added to the Senate amendment in floor action. The House bill did not include a similar provision.

TITLE VI—FEDERAL BUREAU OF INVESTIGATION

SEC. 601. DISCLOSURE OF INFORMATION AND CONSUMER REPORTS TO FBI FOR COUNTERINTELLIGENCE PURPOSES.

Section 601 of the conference report would amend the Fair Credit Reporting Act (FCRA) (15 U.S.C. 1681f) to grant the Federal Bureau of Investigation (FBI) access to certain information in consumer credit records in counterintelligence investigations.

A similar provision was included in the Intelligence Authorization Act for FY 1995 as reported by the Senate Select Committee on Intelligence. The provision was dropped in conference at the request of the House Committee on Banking, Finance, and Urban Affairs upon assurances that it would pursue similar legislation. The U.S. House of Representatives ultimately adopted H.R. 5143 which was substantially the same as section 601 of this Act. The bill was never acted upon by the Senate during the last Congress. The conferees have recently received a letter from the Chairman of the House Committee on Banking and Financial Services in support of this provision. The language of that letter is as follows:

HOUSE OF REPRESENTATIVES, COMMITTEE ON BANKING AND FINANCIAL SERVICES,
Washington, DC, October 11, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I am writing concerning H.R. 1655, the "Intelligence Authorization Act for Fiscal Year 1996" on which the House will soon appoint conferees to reconcile differences with the Senate. Section 601 of H.R. 1655, as added by the Senate amends the Fair Credit Reporting Act (FCRA) and thereby falls under the jurisdiction of the Committee on Banking and Financial Services, as provided for under Rule X of the Rules of the House of Representatives.

Section 601 of the Senate reported bill amends the FCRA to allow the FBI greater access to consumer reports when investigating foreign terrorism. The FCRA imposes certain obligations and liabilities on consumer reporting agencies in assembling, evaluating and maintaining consumer credit reports. Section 601 amends the FCRA to grant authority to the FBI to obtain certain information from a consumer report on a suspected terrorist without a court order.

The section is carefully crafted to protect consumers' rights to privacy while allowing law enforcement agencies to obtain necessary information in order to conduct authorized foreign counterintelligence investigations. This issue was considered by the Banking Committee in the last several Congresses and a provision similar to section 601 was passed by the full House in the 103rd Congress. In addition, Banking Committee conferees were appointed by the House to the Intelligence Authorization conference (H.R. 4299) last Congress on this issue. Given past precedent of the House and the fact that the language of this section was developed in consultation with the House Banking Committee.

I would strongly urge the House conferees to recede to the Senate on Section 601 or to consult with the Banking Committee in the event of any substantive modifications.

Sincerely,

JAMES A. LEACH,
Chairman.

This provision would provide a limited expansion of the FBI's authority in counterintelligence investigations (including terrorism investigations), to obtain a consumer credit report with a court order. In addition, it would allow the FBI to use a "National Security Letter," i.e. a written certification by the FBI Director or the Director's designee, to obtain from a consumer credit agency the names and addresses of all financial institutions at which a consumer maintains an account, as well as certain identifying information.

Under current law, when appropriate legal standards are met, FBI is able to obtain mandatory access to credit records by means of a court order or grand jury subpoena (see the FCRA, 15 U.S.C. 168b(1)), but such an option is available to the FBI only after a counterintelligence investigation has been converted to a criminal investigation or proceeding. Many counterintelligence investigations never reach the criminal stage but proceed for intelligence purposes or are handled in diplomatic channels.

In addition, FBI presently has authority to use the National Security Letter mechanism to obtain two types of records; financial institution records (under the Right to Financial Privacy Act, 12 U.S.C. 3414(a)(5)) and telephone subscriber and toll billing information (under the Electronic Communications Privacy Act, 18 U.S.C. 2709). Expansion of this extraordinary authority is not taken lightly by the conferees, but the conferees have concluded that in this instance the need is genuine, the threshold for use is sufficiently rigorous, and, given the safeguards built in to the legislation, the threat to privacy is minimized.

Under a provision of the Right to Financial Privacy Act (RFPA) (12 U.S.C. 3414(a)(5)), the FBI is entitled to obtain financial records from financial institutions, such as banks and credit card companies, by means of a National Security Letter when the Director or the Director's designee certifies in writing to the financial institution that such records are sought for foreign counterintelligence purposes and that there are specific and articulable facts giving reason to believe that the customer or entity whose records are sought is a foreign power or an agent of a foreign power, as those terms are defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

The FBI considers such access to financial records crucial to trace the activities of suspected spies or terrorists. The need to follow financial dealings in counterintelligence investigations has grown as foreign intelligence service increasingly operate under non-official over, i.e., pose as business entities or executives, and as foreign intelligence service activity has focused increasingly on U.S. economic information.

FBI's right of access under the Right of Financial Privacy Act cannot be effectively used, however, until the FBI discovers which financial institutions are being utilized by the subject of a counterintelligence investigation. Consumer reports maintained by credit bureaus are a ready source of such information, but, although such report are readily available to the private sector, they are not available to FBI counterintelligence investigators. Under section 608 of the Fair Credit Reporting Act, without a court order, FBI counterintelligence officials, like other government agencies, are entitled to obtain only limited information from credit reporting agencies—the name, address, former addresses, places of employment, and former places of employment, of a person—and this information can be obtained only with the consent of the credit bureau.

FBI has made a specific showing to the conferees that the effort to identify financial institutions in order to make use of FBI authority under the Right to Financial Privacy Act can not only be time-consuming and resource-intensive, but can also require the use of investigative techniques—such as physical and electronic surveillance, review of mail covers, and canvassing of all banks in an area—that would appear to be more intrusive than the review of credit reports. FBI has offered a number of specific examples in which lengthy, intensive and intrusive surveillance activity was required to identify financial institutions doing business with a suspected spy or terrorist.

Section 601 of the instant legislation would amend FCRA by adding a new section 624, consisting of 13 paragraphs.

Paragraph 624(a) of the amended FCRA requires a consumer reporting agency to furnish to the FBI the names and addresses of all financial institutions at which a consumer maintains or has maintained an account, to the extent the agency has that information, when presented with a written request signed by the FBI Director or the Director's designee, which certifies compliance with the subsection. The FBI Director or the Director's designee may make such certification only if the Director or the Director's designee has determined in writing that such records are necessary for the conduct of an authorized foreign counterintelligence investigation and that there are specific and articulable facts giving reason to believe that the person whose consumer report is sought is a foreign power, a non-U.S. official of a foreign power, or an agent of a foreign power (as defined in Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)) and is engaged in terrorism or other criminal clandestine intelligence activities.

The requirement that there be specific and articulable facts giving reasons to believe that a U.S. person is an agent of a foreign power before FBI can obtain access to a consumer report is consistent with the standards in the Right to Financial Privacy Act, U.S.C. 3414(a)(5)(A), and the Electronic Communications Privacy Act, 18 U.S.C. 2709(b).

However, in contrast to those statutes, the conferees have drafted the FCRA certification requirement to provide that the FBI demand submitted to the consumer reporting agency make reference to the statutory provision without providing the agency with a written certification that the subject of the consumer report is believed to be an agent of a foreign power. FBI would still be required to record in writing its determination regarding the subject, and the credit reporting agency would be able to draw the necessary conclusion, but the conferees believe that this approach would reduce the risk of harm from the certification process itself to the person under investigation. A similar approach is taken in paragraph 624(b), described below.

Section 605 of the FCRA, 15 U.S.C. 1681c, defines "consumer report" in a manner that prohibits the dissemination by credit reporting agencies of certain older information except in limited circumstances. None of these excepted circumstances would apply to FBI access under proposed FCRA paragraph 624(a) (or proposed FCRA paragraph 624(b)). Accordingly, FBI access would be limited to "consumer reports" as defined in section 605.

The term "an authorized foreign counterintelligence investigation" includes those FBI investigations conducted for the purpose of countering international terrorist activities as well as those FBI investigations conducted for the purpose of countering the intelligence activities of foreign powers. Both types of investigations are conducted under the auspices of the FBI's Intelligence Division, headed by an FBI Assistant Director.

As is the case with the FBI's existing National Security Letter authority under the Right to Financial Privacy Act (see Senate Report 99-307, May 21, 1986, p. 16; House Report 99-952, October 1. 1986, p. 23), the conferees expect that, if the Director of the FBI delegates this function under paragraph 624(a), as well as under paragraph 624(b) discussed below, the Director will delegate it no further than the level of FBI Deputy Assistant Director. (There are presently two Deputy Assistant Directors for the National Security Division, one with primary responsibility for counterintelligence investigations and the other with primary responsibility for international terrorism investigations.)

Paragraph 624(b) would give the FBI mandatory access to the consumer identifying information—name address, former addresses, places of employment, or former places of employment—that it may obtain under current section 608 only with the consent of the credit reporting agency. A consumer reporting agency would be required signed by the FBI Director or the Director's designee, which certifies compliance with the subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that such information is necessary to the conduct of an authorized foreign counterintelligence investigation and that there is information giving reason to believe that the person about whom the information is sought has been or is about to be, in contact with a foreign power or an agent of a foreign power, as defined in Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et. seq.).

FBI officials have indicated that they seek mandatory access to this identifying information in order to determine if a person who has been in contact with a foreign power or agent is a government or industry employee who might have access to sensitive information of interest to a foreign intelligence service. Accordingly, the conferees have drafted this provision to require that such limited information can be provided only in circumstances where the consumer has been or is about to be in contact with the foreign power or agent.

The conferees have also drafted paragraphs 624(a) and 624(b) in a manner intended to make clear the conferees' intent that the FBI may use this authority to obtain this information only as regard those persons who either are a foreign power or agent there of or have been or will be in contact with a foreign power or agent. Although the consumer records of another person, such as a relative or friend of an agent of a foreign power, or identifying information respecting a relative or friend of a person in contact with an agent of a foreign power, may be of interest to FBI counterintelligence investigators, they are not subject to access under paragraphs 624(a) and 624(b).

It is not the intent of the conferees to require any credit reporting agency to gather credit or identifying information on a person for the purpose of fulfilling an FBI request under paragraphs 624(a) and 624(b). A credit reporting agency's obligation under these provision is to provide information responsive to the FBI's request that the credit reporting agency already has in its possession.

Paragraph 624(c) provides that, if requested in writing by the FBI, a court may issue an order ex parte directing a consumer reporting agency to furnish a consumer report to the FBI upon a showing in camera that the report is necessary for the conduct of an authorized foreign counterintelligence investigation and that there are specific and articulable facts giving reason to believe the consumer is an agent of a foreign power and is engaged in international terrorism or clandestine intelligence activities that may involve a crime.

Paragraph 624(d) provides that no consumer reporting agency or officer, employee, or agent of such institution shall disclose to any person, other than those officers, employees or agents of such institution necessary to fulfill the requirement to disclose information to the FBI under subsection 624, that the FBI has sought or obtained a consumer report or financial institution, or identifying information respecting any consumer under paragraphs 624, nor shall such agency, officer, employee, or agent include in any consumer report any information that would indicate that the FBI has sought or obtained such information. The prohibition against including such information in a consumer report is intended to clarify the obligations of the consumer reporting agencies. It is not intended to preclude employees of consumer reporting agencies from complying with company regulations or policies concerning the reporting of information, nor to preclude their complying with a subpoena for such information issued pursuant to appropriate legal authority.

Paragraph 624(d) departs from the parallel provision of the RFPA by clarifying that disclosure is permitted within the contacted institution to the extent necessary to fulfill the FBI request. The conferees have not concluded that, or otherwise taken a position whether, disclosure for such purpose would be forbidden by the RFPA; indeed, practicalities would dictate that the provision not be interpreted to exclude such disclosure. However, the conferees believe that clarification of the obligation for purposes of the FCRA is desirable.

Paragraph 624(e) requires the FBI, subject to the availability of appropriations, to pay to the consumer reporting agency assembling or providing credit records a fee in accordance with FCRA procedures for reimbursement for costs reasonably necessary and which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required or requested to be produced under section 624. The FBI informs the Committee that such reports are commercially available for approximately $7 to $25 and that FBI could expect to pay fees in approximately that range. FBI officials have advised the conferees that the costs of such reports would be easily recouped from the savings afforded by the reduced need for other investigative techniques aimed at obtaining the same information.

Paragraph 624(f) prohibits the FBI from disseminating information obtained pursuant to section 624 outside the FBI, except as may be necessary for the approval of conduct of a foreign counterintelligence investigation, or, where the information concerns military service personnel subject to the Uniform Code of Military Justice, to appropriate investigation authorities in the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation with the FBI. Since the military departments have concurrent jurisdiction to investigate and prosecute military personnel subject to the Uniform Code of Military Justice, paragraph 624(g) permits the FBI to disseminate consumer credit reports it obtains pursuant to this section to appropriate military investigative authorities where a foreign counterintelligence investigation involves a military service person and is being conducted jointly with the FBI.

Paragraph 624(g) provides that nothing in section 624 shall be construed to prohibit information from being furnished by the FBI pursuant to subpoena or court order, or in connection with judicial or administrative proceeding to enforce the provisions of the FCRA. The paragraph further provides that nothing in section 624 shall be construed to authorize or permit the withholding of information from the Congress.

Paragraph 634(h) provides that on a semiannual basis the Attorney General shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking, Finance, and Urban Affairs of the U.S. House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the U.S. Senate concerning all requests made pursuant to section 624.

Semiannual reports are required to be submitted to the intelligence committees on (1) use of FBI's mandatory access provision of the RFPA by section 3414(a)(5)(C) of title 15, United States Code; and (2) use of the FBI's counterintelligence authority, under the

Electronic Privacy Communications Act of 1986, to access telephone subscriber and toll billing information by section 2709(e) of title 18, United States Code. The conferees expect the reports required by FCRA paragraph 624(h) to match the level of detail included in these reports, i.e., a breakdown by quarter, by number of requests, by number or persons or organizations subject to requests, and by U.S. persons and organizations and non-U.S. persons and organizations.

Paragraphs 624(i) through 624(m) parallel the enforcement provisions of the Right to Financial Privacy Act, 12 U.S.C. 3417 and 3418.

Paragraph 624(i) establishes civil penalties for access or disclosure by an agency or department of the United States in violation of section 624. Damages, costs and attorney fees would be awarded to the person to whom the consumer reports related in the event of a violation.

Paragraph 624(j) provides that whenever a court determines that any agency or department of the United States has violated any provision of section 624 and that the circumstances surrounding the violation raise questions of whether an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was responsible for the violation.

Paragraph 624(k) provides that any credit reporting institution or agent or employee thereof making a disclosure of credit records pursuant to section 624 in good-faith reliance upon a certificate by the FBI pursuant to the provisions of section 624 shall not be liable to any person for such disclosure under title 15, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

Paragraph 624(l) provides that the remedies and sanctions set forth in section 624 shall be the only judicial remedies and sanctions for violations of the section.

Paragraph 624(m) provides that in addition to any other remedy contained in section 624, injunctive relief shall be available to require that the procedures of the section are compiled with and that in the event of any successful action, costs together with reasonable attorney's fees, as determined by the court, may be recovered.

Section 601 is identical to section 601 of the Senate amendment. The House bill did not contain a similar provision.

TITLE VII—TECHNICAL AMENDMENTS

SEC. 701. CLARIFICATION WITH RESPECT TO PAY FOR DIRECTOR OR DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE APPOINTED FROM COMMISSIONED OFFICERS OF THE ARMED FORCES.

Section 701 of the conference report amends section 102(c)(3)(C) of the National Security Act of 1947 to make clear that a retired military officer appointed as Director or Deputy Director of Central Intelligence can receive compensation at the appropriate level of the Executive Schedule under 5 U.S.C. §5313 (Director) or 5 U.S.C. §5314 (Deputy Director). This was clearly the intent of the drafters of this provision. The conferees are aware of the restriction on compensation that applies to active duty military personnel appointed as DCI or DDCI, and in no way wish to change this restriction. Section 701 is similar to Section 601 in the House bill and Section 701 in the Senate amendment.

SEC. 702. CHANGE OF DESIGNATION OF CIA OFFICE OF SECURITY.

Section 702 of the conference report amends the CIA Information Act of 1984 to reflect the recent reorganization of the CIA Office of Security into the Office of Personnel Security and the Office of Security Operations. The amendment will ensure that the Office of Personnel Security, where the records intended to be subject to the Act are kept, will continue to receive the benefit of the Act's exception from search and review under the Freedom of Information Act. Section 701 is similar to Section 602 in the House bill and Section 702 in the Senate amendment.

PROVISIONS NOT INCLUDED IN THE CONFERENCE REPORT

The Senate amendment included, at Section 404, a requirement for an annual report on liaison relationships. While the Conferees are committed to ensuring that the oversight committees are appropriately informed on liaison relationships, they do not believe that a statutory reporting requirement is the best way to achieve that result. Consequently, the conferees agreed to delete section 404.

From the Permanent Select Committee on Intelligence, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

Larry Combest,
R. K. Dornan,
Bill Young,
James V. Hansen,
Jerry Lewis,
Porter J. Goss,
Bud Shuster,
Bill McCollum,
Michael N. Castle,
Norman Dicks,
Bill Richardson,
Julian C. Dixon,
Robert G. Torricelli,
Ron Coleman,
David E. Skaggs,
Nancy Pelosi,

As additional conferees from the Committee on National Security, for consideration of defense tactical intelligence and related activities:

Floyd Spence,
Bob Stump,

As additional conferees from the Committee on International Relations, for consideration of section 303 of the House bill, and section 303 of the Senate amendment, and modifications committed to conference:

Benjamin A. Gilman,
Christopher Smith,
Howard L. Berman,
Managers on the Part of the House.

Arlen Specter,
Richard G. Lugar,
Richard Shelby,
Mike DeWine,
Jon Kyl,
Jim Inhofe,
Kay Bailey Hutchison,
Connie Mack,
Bill Cohen,
Strom Thurmond,
Robert Kerrey,
John Glenn,
Richard H. Bryan,
Bob Graham,
John F. Kerry,
Max Baucus,
J. Bennett Johnston,
Charles Robb,
Sam Nunn,
Managers on the Part of the Senate.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1966—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104-149)

The SPEAKER. The unfinished business is the further consideration of the veto of the President on the bill (H.R. 2076) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

The Clerk read the title of the bill.

MOTION OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Speaker, I offer a preferential motion and I ask for its immediate consideration.

The SPEAKER pro tempore (Mr. UPTON). The Clerk will report the motion.

The Clerk read as follows:

Mr. ROGERS moves that the message, together with the accompanying bill, be referred to the Committee on Appropriations.

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. ROGERS] is recognized for 1 hour.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and that I be allowed to include tabular and extraneous material on H.R. 2076.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. ROGERS. Mr. Speaker, I yield 15 minutes to the gentleman from West Virginia [Mr. MOLLOHAN] for the purposes of debate only, and I yield back 30 minutes.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is a sad day today, after the President has vetoed the largest crime fighting budget in the Nation's history, just one day after the FBI announced that crime rates are finally starting to drop. It is a sad day today, when all of the Federal employees in the Departments of Justice, State, and Commerce, the Federal Courts, and 20 related agencies, more than 200,000 of them, have their jobs left in doubt because the President refused to sign the full year appropriation for them.

Two-thirds of the funding in this bill, Mr. Speaker, nearly $18 billion, would have gone to putting criminals behind bars.

Think about the programs that will not go into effect because of this veto: $14.6 billion for law enforcement, a 19-percent increase, including $3.6 billion for State and local law enforcement to give them the resources to fight crime where it counts, on our streets. That is a 57-percent increase over last year.

An $895 million increase to combat illegal immigration and secure the Nation's borders; $146 million more than the President requested, including 3,000 more INS personnel and 1,000 more border patrols on the border. We need to get these people hired and trained. Otherwise the money will be wasted.

The bill includes $500 million for California, Texas, Florida, New York, and other States most impacted by criminal aliens, and the President is telling those States, "tough luck."

In the bill vetoed is also $175 million for violence against women programs, 7 times more than we provided this year, the full amount of the President's request. Now he is vetoing the money for violence against women.

On October 15, the President accused the Congress of reducing domestic violence programs by $50 million, hampering "our efforts to protect battered women and their children, to preserve families, and to punish those crimes."

□ 1230

Well, Mr. Speaker, that $50 million is included in this conference report, plus $125 million more. We fully fund the program. And what does the President do? He says "no."

Why is he vetoing the bill? He says we do not spend enough money on some programs. Even while he is meeting now to reduce spending, he wants us to include and increase spending for things like the Ounce of Prevention Council, $2 million; the Globe Program, $7 million. Great international organizations he wants money spent for, and among the reasons he vetoed the bill, are things like the Bureau of International Expositions; and, get this one, the International Office of Epizootics.

That is why he says he is vetoing the bill, and for corporate welfare programs he says we did not fund, like the Advanced Technology Program. That is corporate welfare. I think we were all determined to cut it and we did in this bill. And he is vetoing the bill, he says, because of his pique over the COPS Program. As we have said so many times, this is not a debate over putting more police on the streets. The conference report fully funds the request of $1.9 billion, giving our local communities the resources to hire every single policeman on the beat that the President proposed, and then some, as the President says. The difference is over who controls the program. Is it a Washington-based, one-size-fits-all program, that the President wants; or do we empower local communities to decide what they need most to fight crime?

We have heard the problems with the President's COPS Program. According to the General Accounting Office, 50 percent of the communities do not participate because they cannot afford to participate. It costs them 25 percent of the total cost the first year; more in the second; and after that, they are entirely on their own. They simply cannot afford it.

What we do in our program is make them put up 10 percent, and they can use the money for cops, if they want, or for cop cars, if they need that, or for other things.

COPS is a discretionary grant program, so communities cannot predict whether they will receive funds or not. And the COPS Program that the President wants, and here is the rub, requires a whole brand new Washington bureaucracy. In fiscal 1996, 236 positions; $26 million. They have rented a 10-floor, 51,000 square foot building where the rent alone costs $1.5 million.

The block grant program, which we put in the bill, corrects all of those problems, but the President objects because Washington knows best.

So for those reasons, not spending enough on lower priority programs, a dispute over who gets credit for putting more police on the streets, the President has vetoed the bill, the biggest crime fighting appropriation in the Nation's history, putting at risk the jobs of some 200,000 Federal employees.

I wish the President would get over this pique, this political pique. We are not asking him to vacate Air Force One by the rear door. All we are saying is sign this bill; we sent you a good one.

Every day these crime fighting funds are delayed because of the President's veto is a day wasted in the fight against violent crime, drugs, illegal immigration, and violence against women.

I regret the President's veto. I regret the fact that the White House never saw fit to sit down with us to try to work out an acceptable bill. I regret the fact that 200,000 Federal employees continue to be at risk of furloughs because the President puts his priorities ahead of theirs.

But the bill has been vetoed. The only alternative we have, Mr. Speaker, is to send the bill back to the committee and start the process over. Congress did its job on this bill. It passed the appropriations for Commerce, Justice, State, the Federal Judiciary, and others for fiscal 1996.

There is no bill in place now, not because the Congress did not act, it is purely because the President acted to kill a bill that would have funded the greatest crime fighting era ever in the Nation's history.

Mr. Speaker, I reserve the balance of my time.

Mr. MOLLOHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the President has vetoed the fiscal year 1996 Commerce, Justice, State and Judiciary and related agencies appropriations bill. As everyone knows, this is the third appropriations bill the President has vetoed this week, and his action on this bill is not unexpected. As a matter of fact, Mr. Speaker, it is anything but unexpected.

When the Commerce, Justice, State and Judiciary conference report was on the floor 2 weeks ago, it was clear that the President was going to veto it. In fact, when this bill passed the House in July, the President clearly indicated that he would veto any version of the bill that did not fund the Cops on the Beat Program in its already-authorized last-year form.

The President has, from the beginning of this process this year, indicated his priorities for the bill, and the bill Congress sent to him does not fund those priorities.

Now, Mr. Speaker, this is a perfunctory motion we debate this afternoon. It is absolutely perfunctory. We should not even be here debating this motion to send this bill back to the committee. We ought to be debating a continuing resolution so that we can get the Government up and operating, so that we can get these agencies funded, so that we can get this COPS program funded.

Mr. Speaker, there are 8,000 additional community policemen, on top of the 26,000 that the President has already gotten out during the last year. There are 8,000 new cops that have been appointed, but they cannot be funded because this bill has not passed, or because we have not passed a continuing resolution while we debate the policy priorities that are contained in this bill.

Mr. Speaker, there is no reason, there is no reason that these Justice Department programs, that these crime-fighting initiatives that were started under President Clinton's program 2 years ago cannot now be funded. We could be operating under a continuing resolution. No reason why we could not be operating under a continuing resolution if we were not trying to use the appropriations process as leverage to bring the President to tow.

Now, that is what the majority is doing. They are saying, oh, we are not funding all of these crime-fighting programs because the President has vetoed this bill. This bill was supposed to be passed the 1st of October. This bill, and six other appropriations bills that are not passed, were supposed to be passed 3 months ago. They are not passed, and now we are sending it back to committee to try to rework the bill to accommodate the President's concerns. In the meantime, unless we pass a continuing resolution, which is what we ought to be debating here, unless we pass that continuing resolution, Mr. Speaker, these agencies are going to continue to be shut down.

The point is, we could be funding these programs right now if we were debating passing a CR and going forward, funding them while we debate these policy priorities and while we consider the reconciliation bill.

Mr. Speaker, let us move forward with the CR. The President was granted applications for 8,000 additional policemen to go into every community, every State, every congressional district across this Nation. Last year we appointed 26,000. We have 8,000 more ready to go as soon as this money is released. It can be released with a continuing resolution.

If the majority wants to debate the priorities, if it wants to debate block grants, fine, let us debate block grants. Let us debate priorities before this bill passes. Let us allow these policemen to get on the street by debating a CR, getting a CR out and passed so we can implement some of these crime-fighting programs that the majority alludes to.

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana [Mr. LIVINGSTON], the great chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Speaker, I thank my great chairman of the Subcommittee on Commerce, Justice, State and Judiciary for yielding time to me.

Mr. Speaker, the President vetoed this bill, but it was no surprise to the President what was in this bill. He has known about this bill for 3 months, because it passed the House in July. The President has known the numbers that were in this bill since then.

He has known that this is a real crime bill; that this bill provides $14.6 billion to fight crime, which is 20 percent more than last year's level. He has known that it provides 25 percent more for immigration initiatives than last year's level, and 57 percent more for State and local law enforcement than last year's level, plus it gives State and local law enforcement officials more opportunity to determine where the money goes, and it requires less money up front from them than that COPS Program that we have heard so much about.

This bill gives States 285 percent more for State criminal alien assistance, and it includes 573 percent more for violence-against-women's programs. We have heard that there is a great need for violence against women's programs because of what battered women around this country are telling us. This bill answers their pleas. It answers their call. And the President crassly vetoed this bill yesterday, a few days before Christmas, right on the heels of his veto of the VA-HUD and Interior bills.

If he had not vetoed those 3 bills, 620,000 Federal employees would be employed today without worry about whether or not they are going to get their paycheck at Christmas.

Mr. Speaker, this bill is a good bill, and it should have been signed, but the President could remedy this. He could come back with an overall comprehensive package that puts us on a balanced budget by the year 2002, that includes whatever extra funding that he may want, as long as he can find it in some other area in the entitlement programs. He can present to the American people the proposal that he can govern, that he can work with this Congress, if only he will sit down to the table with our negotiators. He has promised he would, he has promised he is for a 7-year balanced budget, as scored by CBO, but all we have heard is rhetoric.

When the President decides to get serious, this bill or some variation will be signed into law.

Mr. MOLLOHAN. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. CONYERS], the ranking member.

Mr. CONYERS. Mr. Speaker, I thank the ranking member of the subcommittee for yielding time to me.

Mr. Speaker, we are back to the bill that has come from the nicest subcommittee chairman in the Congress with the lousiest bill. Here we are again.

I guess the Republicans have to say I believe the President now. He told them in the summer; he told them in the fall; he told them when the bill was being debated, I will veto this bill. And the Republicans gave him their advice, which is their responsibility, and now he has vetoed the bill. They believe him now.

Now, where is the continuing resolution? I think the gentleman from West Virginia is absolutely correct. Look at what we are doing here, gentlemen. Over and above the COPS Program, we are eliminating the Drug Initiative Program. I am glad the chairman of the subcommittee saw fit not to mention it. It is on the first page of the veto, if he will take a look at it.

We are getting rid of or crippling the Legal Services Corporation, the program that would represent people who are indigent and cannot otherwise afford these services.

We have a rider in the bill that the gentleman did not mention, a moratorium on the Endangered Species Act, which has nothing whatsoever to do with the bill. I guess the gentleman does not know where that one came from.

□ 1245

So, I would suggest to my colleagues that this is a very serious veto, well anticipated. We knew it was coming. Why they would want to take away the Death Penalty Resource Center out of the legal services programs, I do not know.

Mr. Speaker, when race relationships are at an all-time high in terms of misunderstanding, what do they do with the Community Relations Service in the Department of Justice? Wipe it out.

Now, we come to the floor belaboring the fact that the President did precisely what he said he was going to do. Do not be ashamed. Look, my colleagues have been there before. They have done it all summer. I still say that the chairman of the appropriations subcommittee here is still one of the nicest guys in the Congress, with the lousiest bills that ever come to the floor.

Mr. ROGERS. Mr. Speaker, I am not sure whether I should thank the gentleman or not; at least a half a thank you.

Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, today the lives of women and children are in great danger. I must remind my colleagues that the Commerce, Justice, State Appropriations Act contains critical funding for the Violence Against Women Act, legislation that has had the overwhelming support of the Congress and the President.

Without these monies, we will not have desperately needed training programs for those who are on the frontlines—our police and judges—in fighting domestic violence, rape, and other crimes against women.

We will not have the funds to strengthen efforts in our local communities by our local law enforcement agencies and by our prosecutors to combat violent crimes against women. States and local government cannot do this work without the funds in VAWA.

We will not have the funds to pay for victims services for women and children who are in danger and in desperate circumstances.

In short, the progress we have made in the struggle to end domestic violence and violent crimes against women is in jeopardy. Our States are depending on these funds to proceed with much needed programs in our communities all across our country.

Mr. Speaker, we cannot allow the women and children of this country to be caught up in the crossfire of the budget battles.

We cannot leave this House without ensuring that we stand firm on our commitment to the women and families of this Nation. We must reach agreement on this vital spending bill. The women and children of this country are depending on us.

Mr. MOLLOHAN. Mr. Speaker, I yield 1 minute to myself, and I would like to ask the gentlewoman from Maryland [Mrs. MORELLA] if she would engage me in a colloquy.

Mr. Speaker, I would like to ask the gentlewoman, she was not intending to imply that because the President vetoed this bill that was sent to him almost 2 months after the time it was supposed to be sent to him, that, for example, the money that is in here, the $175 million for the violence against women will not be funded. The gentlewoman is not suggesting that, is she?

Mrs. MORELLA. Mr. Speaker, if the gentleman would yield, we just cannot tell. Right now, it is in total jeopardy.

Mr. MOLLOHAN. Mr. Speaker, reclaiming my time, how is it in jeopardy? This bill is going to come back to committee. No matter what happens to this bill, for my part and the majority's part, no matter what happens to this bill, that money is going to be there.

The President was very supportive of this. That was in his request. The violence against women money will be in there. We should not be scaring people out there and suggesting that that money is not going to be there because the President vetoed the bill. The President vetoed the bill for a lot of policy reasons. That money will be there, and we ought not attempt to scare people.

Mrs. MORELLA. Mr. Speaker, if the gentleman would continue to yield, there are a lot of promises and assumptions that we feel in this legislative arena and we find out that may not happen. We want to be assured that it is signed so that we do have the money.

Mr. MOLLOHAN. Mr. Speaker, again reclaiming my time, I hope I have given the gentlewoman a little assurance.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS], a distinguished member of our committee.

Mr. SKAGGS. Mr. Speaker, why in the world are we here in the middle of December without this bill passed, with the Government shut down? All of this was supposed to have been out of the way by the first of October. And through no fault of the minority party, here we are.

Mr. Speaker, the majority simply does not know how to run the Congress on time, on schedule, to get our basic work done, our basic responsibilities taken care of.

In this instance, as in the case of so many of the appropriations bills, we are 2½ months late because the majority insisted on jamming a bunch of controversial policy matters into bills to deal with appropriations matters, where they have absolutely no business, and then getting hung up with the Senate when they could not get any agreement on how to do this.

Mr. Speaker, we wasted months on the contract. We are late in getting the appropriations bills done here. We are 2½ months into fiscal 1996, with the Government shut down, going through this drill.

We should be ashamed of ourselves. Any majority party that took seriously its basic responsibilities to run this place, to get our work done, would not be bringing a bill like this up now with the Government in chaos. We would be getting a continuing resolution done that at least acknowledged the failure of the majority party to be able to get its basic work accomplished on time.

Mr. Speaker, we stand ready to see a continuing resolution, to get this Government back on its feet promptly this week before Christmas. It is a shame that we are here in this kind of dysfunctional state of mind and state of inaction while the good men and women of this country, who have a right to expect more of their Government than this kind of behavior, sit out there looking at us aghast at our inability to get our basic responsibilities accomplished.

Mr. Speaker, let us dismiss this particular distraction; get back to appropriation bills that are true to the traditions of this place; get a continuing resolution through; and, get this Government on its feet.

Mr. ROGERS. Mr. Speaker, I yield 1 minute to the gentlewoman from Staten Island, NY [Ms. MOLINARI].

Ms. MOLINARI. Mr. Speaker, I rise today to express my strong disappointment with President Clinton's veto of this bill. This bill included full funding for the Violence Against Women Act; $175 million to protect women and children from abuse. That is an increase of 573 percent from last year.

Mr. Speaker, regardless of why the President vetoed this bill, when he did, he canceled the implementation of this funding. In the next 5 minutes, 1 woman will be raped in America and 14 more will be beaten by their husbands and boyfriends. We need to start as soon as possible to get money and programs to our State and local governments for things such as law enforcement and prosecution grants; court appointed special advocate programs for victims of child abuse; training for judicial personnel and practitioners; $28 million to go for arrest policies to encourage local governments to deal with domestic violence as a serious criminal offense; $1.5 million for a national stalkers and domestic violence reduction program; $7 million for rural domestic and child abuse enforcement.

Mr. Speaker, these are terrible tragedies that are existing every minute throughout this country in every corner of this country. We can go a long way toward stopping this as soon as the President will not hold this funding program hostage to the veto of the Commerce bill. I hope that he sees the error of his ways and implements his cooperation to get this money to the States.

Mr. MOLLOHAN. Mr. Speaker, I yield myself 1 minute to engage the gentlewoman from New York [Ms. MOLINARI].

Mr. Speaker, the gentlewoman again suggests that money in here has been canceled for this program for the year. Is that what the gentlewoman is implying?

Ms. MOLINARI. Mr. Speaker, if the gentleman would yield, I am sure I was clear to say that when the President vetoed this bill, he canceled the expenditure of these funds until he finds a bill that he wants to sign.

Mr. MOLLOHAN. Mr. Speaker, reclaiming my time, but the gentlewoman is not suggesting that money will not be in this program once this bill is processed and signed by the President?

Ms. MOLINARI. Mr. Speaker, if the gentleman will yield further, with all due respect, if the gentleman knows what the President has in his mind these days, he is smarter that the rest of America.

Mr. MOLLOHAN. Reclaiming my time, will the gentlewoman acknowledge that she was engaged in a bipartisan effort to get this money in the bill, and it was supported by the President?

Ms. MOLINARI. Mr. Speaker, if the gentleman would continue to yield, I appreciate the cooperation given from the Democratic side of the aisle in this funding. I am only sorry that the President did not enter into that spirit of cooperation.

Mr. MOLLOHAN. Mr. Speaker, will the gentlewoman acknowledge that if we pass a continuing resolution here on this bill, that we would be able to immediately fund this program while we go forward and debate these other issues, and we could immediately fund it, get everybody back to work and get them back to work now and pass the rest of the programs and the violence against women programs? Does the gentlewoman agree with that?

Ms. MOLINARI. No, absolutely not.

Mr. MOLLOHAN. The gentlewoman does not agree that if we get a continuing resolution passed, we would be able to do that?

Ms. MOLINARI. At last year's level, which is a significant diminution of what we are appropriating in this Congress at 573 percent more this year. That is a tremendous difference.

Mr. MOLLOHAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, the issue today is not this motion that is before us which is being debated, but rather that we ought to be debating a continuing resolution so that we can keep this Government open and we can talk about the Commerce, State, and Justice bill, and the Cops on the Beat Program.

Mr. Speaker, let me make just one point in that the President in my view was correct to veto the Commerce, State and Justice bill for, particularly in my view, for the Cops on the Beat Program and dismantling it.

But the gentlewoman from New York [Ms. MOLINARI] and the gentlewoman from Maryland [Mrs. MORELLA] both know about the President's commitment to the Violence Against Women's Act, and that if we got this Government open and running, that that money would flow and the commitment is absolutely there.

Mr. Speaker, they were part of a bipartisan effort to put it together, and anything that they get up to say about it was partisan on the their part today.

Mr. Speaker, let me say that I strongly support what the President did on Commerce, State and Justice, specifically because I oppose dismantling the community policing initiative. It is a crime fighting program that has worked and one that we ought to continue, and it has lowered the crime rate in this Nation tremendously.

Mr. ROGERS. Mr. Speaker, I reserve the balance of my time.

Mr. MOLLOHAN. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Wisconsin [Mr. OBEY], the ranking minority member of the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, as previous speakers have already indicated, the President indicated a long time ago that he was going to veto this bill, and he indicated that repeatedly because of his concern that this bill rips up his Cops on the Beat Program and a number of other concerns listed in the veto message. That is not the issue here today.

The program with what is happening here today is that we are debating a perfunctory motion to which absolutely no one is opposed. This motion is simply to send the bill to committee. Everybody is going to support that.

Mr. Speaker, instead of wasting time on this meaningless motion, what we ought to be doing, as the gentleman from West Virginia [Mr. MOLLOHAN] has indicated, is bringing a clean continuing resolution to this floor to keep the Government open so that all programs, including these programs, can continue to function.

What is rally at stake here is exactly what the gentleman from West Virginia has indicated. What is happening is that the Republican leadership of this House is trying to gain leverage on their discussions with the President on the 7-year budget by shutting down Government and holding hostage all of these programs and all of the people running them until the President caves in to the demands of the gentleman from Georgia [Mr. GINGRICH].

Mr. Speaker, what is at stake here was summed up by the chairman of the Committee on Appropriations in a press conference he held after President Clinton signed the defense bill. When the President signed the defense bill, my good friend, the gentleman from Louisiana [Mr. LIVINGSTON], then said as follows: "The President is at our mercy. If the Government shuts down on December 15 and 300,000 people are again out of work, most of the people going out will be his people. I think he's going to care more about that than we do."

Mr. Speaker, that is apparent today. It is very apparent that there is very little concern on the part of the majority party leadership for the individual workers in this country who are being crunched because of a power game between the White House and the Speaker of the House.

Mr. Speaker, the leverage games ought to stop. I know full well that if those leverage games were not going on, the subcommittee chairman of this subcommittee and the ranking Democrat could work out these differences in half an hour, because they are both good men. I know that would happen.

The fact is, this debate is a waste of time. For any of our citizens who happen to be watching it today, it is a sad day in my view because it once again demonstrates that we are mistaking motion for movement.

□ 1300

We should not be wasting our time on a meaningless motion like this.

I would urge the Speaker of the House to immediately bring a continuing resolution to the floor so that this charade can stop, so that Government can stay open, so that Government agencies can provide the services to which the taxpayers are entitled, and stop the political game.

Mr. ROGERS. Mr. Speaker, I yield the balance of my time to the gentleman from Florida [Mr. MCCOLLUM], the chairman of the Subcommittee on Crime of the Committee on the Judiciary.

Mr. MCCOLLUM. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to say that I truly believe that there is probably no other illustration better than this bill today of the differences between Republicans and Democrats, fundamentally about our approach to government and fundamentally about the revolution that is taking place with the new majority. We are not doing business as usual, and some, I can understand it, on the other side of the aisle would like to see us do it the traditional way.

Yes, there is authorizing legislation that normally would come through the authorizing committee to the floor in this bill, and, yes, we are doing some major changes, different from what the President wants, and, yes, we know that we cannot succeed in some of these votes up and down with a straight ability to override a Presidential veto because we do not have the votes to do that.

But we are determined in our revolution this year in making the change to the new majority to do what the public wants us to do, and that is to make a difference, to really change the way we fight crime, among other things, and the way our Government responds to things.

What this bill does and what this legislation on crime fighting does is to do that. It, first of all, takes a program or two passed by the Democrats in the last Congress that provided Washington business-as-usual grants out there for more police officers and for all kinds of so-called prevention programs that governments would have to apply for and do it the way Washington said, takes all of those programs and rolls them into one single $10-billion grant program, block-grant program, for which local cities and counties would get the money to fight crime as they see fit. If they wanted to hire new policemen, they could. If they wanted to do a drug treatment program, they could. If they wanted to use that money for a new piece of equipment, they could do that. Whatever they wanted to do; what is good for Portland, OR, is not good for Charleston. One size does not fit all. That is a very big difference between Republicans and Democrats.

We do not believe Washington should be dictating how to fight crime or many other things to local governments. They ought to be making those decisions, and the President's veto is an indication he does not agree with us. He agrees with the typical business-as-usual liberal Democrats who like big government in Washington.

The second thing in this bill about fighting crime we seem to overlook that is very important, maybe more important in some ways than getting 100,000 cops and changing the way we do business around here and so on, is the fact that we have in this bill a change in the way we go about the incentive program for building new prisons to try to encourage States, if they meet the goal of requiring violent repeat offenders to serve at least 85 percent of their sentences, then they can get prison grant money. Many States are changing their laws to build these prisons. We have prisoners today getting out, serving only a third of their sentences and committing violent crimes over and over again.

We ought to take away the key and throw it away and do away with it.

The last piece in this bill is prison litigation reform. The President vetoed that, too. This bill should not have been vetoed.

The SPEAKER pro tempore (Mr. UPTON). Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. ROGERS].

The motion was agreed to.

A motion to reconsider was laid on the table.

REQUEST FOR COMMITTEE ON APPROPRIATIONS BE DISCHARGED FROM FURTHER CONSIDERATION OF HOUSE JOINT RESOLUTION 131, FURTHER CONTINUING APPROPRIATION, FISCAL YEAR 1996

Mr. OBEY. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of House Joint Resolution 131, which is a clean continuing resolution to extend the Government through January 26, authorize 2.4 percent military pay raise, effective January 1, eliminate 6-month disparity between COLA payment dates for military and civilian retirees in fiscal 1996, and ask for its immediate consideration in the House.

Mr. ROGERS. Mr. Speaker, regular order.

The SPEAKER pro tempore. Under the guidelines consistently issued by successive Speakers as recorded on page 534 of the House rules manual, the Chair is constrained not to entertain the gentleman's request until it has been cleared by the bipartisan floor and committee leaderships, and, therefore, it is not in order at this time.

Mr. OBEY. I hope it will soon be cleared.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2539, THE ICC TERMINATION ACT OF 1995

Mr. QUILLEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 312 and ask for the immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 312

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2539) to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. QUILLEN] is recognized for 1 hour.

Mr. QUILLEN. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my good friend, the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 312 allows for the consideration of the conference report to accompany H.R. 2539, the Interstate, Commerce Commission Termination Act of 1995. Under the rule, all points of order against the conference report and against its consideration are waived, and the conference report shall be considered as read.

Mr. Speaker, although I do not generally favor granting blanket waivers, the Rules Committee was provided with a list of specific waivers required for consideration of this bill, and this rule was adopted by voice vote in the Rules Committee.

Also, there was discussion yesterday that the Senate might consider a concurrent resolution which would effectively amend this conference report to include the Whitfield amendment as passed by the House. I supported the Whitfield amendment when it was adopted by the House because it provided important protections for small and medium size railroad employees who lose their jobs because of a merger or acquisition. I think this language should have been retained without change in this conference report.

Unfortunately, the language of this concurrent resolution was unavailable to the Rules Committee, and the committee was unable to accommodate consideration of the concurrent resolution in this rule.

Mr. Speaker, funding for the ICC expires at the beginning of next year, and if we do not pass this conference report, the important functions of this agency that are being transferred to the Department of Transportation will fall by the wayside. This bill provides for an orderly termination and transfer of the vital functions of the ICC.

This is an important part of our efforts to downsize the Federal Government, and I urge adoption of the rule and the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume and I thank my colleague from Tennessee for yielding me the customary half hour.

Mr. Speaker, although this is a standard conference report rule, I am very much opposed to this bill.

Despite promises to the contrary, despite the House-passed compromise on November 14—this bill contains some serious antiworker provisions.

This bill takes away class 2 and class 3 railroad workers' right to collective bargaining. It will hurt thousands of hard working Americans and it is unfair.

Mr. Speaker, nearly every other American worker has the right to collective bargaining, including class 1 railroad workers, class 2 and class 3 railroad workers should have the same worker protection as everyone else.

But, Mr. Speaker, once again, my Republican colleagues are choosing employers over employees.

They are saying that hard-working railroad workers do not deserve the most basic worker protections. They are saying that rail carrier mergers are more important than people.

Thankfully, President Clinton has said he will veto this bill, and I think he should. My colleagues should have kept their word and rail workers should be able to keep their jobs.

Mr. Speaker, I urge my colleagues to oppose this rule. American workers deserve every protection we can give them.

Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. OBERSTAR], ranking member of the committee.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, when the Committee on Rules met last night and our side testified at the meeting of the Committee on Rules, we asked for very few things. We asked that if points of order are going to be waived in this rule, that they be specified, that there be a specific reference to which points of order are to be waived in the interests of fairness and openness, and we asked that issues such as scope, germaneness, Budget Act problems, 3-day layover of conference reports issue be specified if there are going to be waivers of points of order.

The rule comes out with no specificity whatever. It just waives all points of order.

We also made a very modest request that if the Senate acted on a Senate concurrent resolution to restore the Whitfield amendment as a substitute for the language in the conference report dealing with labor protective provisions, that it be made in order for us to take up that Senate concurrent resolution. The Senate has not yet acted. It may not act on that concurrent resolution. But there is no provision in this rule as we requested. It was a modest request. I thought it was favorably received by the chairman of the Committee on Rules. But it is not included here as a mere courtesy to the Democrats.

This conference report is not a simple matter. This is 164 pages of very technical language dealing with a complex subject in the sunsetting of the oldest regulatory body in the Federal Government structure dealing with a mode of transportation that, in the 19th century, was the life line of America and all the way up through until the end of World War II was the cornerstone of our national economy, the railroad industry.

We are going to wipe it away. We have a bill with 164 pages of technical language. Points of order are simply waived. They do not say which ones. They do not give us the opportunity to bring up, should it be enacted, should it be passed by the Senate, the Senate concurrent resolution.

I find this very, very curious. I find it unpalatable. I find it inappropriate.

Nonetheless, I recognize that the other side has the votes. We will save our fight for the conference report.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge adoption of the rule and the conference report when it is brought before the House.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 558, TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT CONSENT ACT

Mr. McINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 313 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 313

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 558) to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. Each section shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

☐ 1315

The SPEAKER pro tempore. The gentleman from Colorado [Mr. McINNIS] is recognized for 1 hour.

Mr. McINNIS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California, [Mr. BEILENSON], pending which I yield myself such time as I may consume. During the consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 313 is a very simple resolution. The proposed rule is an open rule providing for 1 hour of general debate divided equally between the chairman and ranking minority member of the Committee on Commerce. After general debate, the bill shall be considered as read for amendment under the 5 minute rule. The resolution allows the Chair to accord priority recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD. Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, the chairman of the Committee on Commerce, Mr. BLILEY, requested an open rule for this legislation. This open rule was reported out of the Committee on Rules by unanimous voice vote.

Mr. Speaker, earlier this year, I voted against this legislation under the suspension of the rules because I felt that this legislation should be thoroughly debated. Under the proposed rule, each Member has an opportunity to have their concerns addressed, debated, and ultimately voted up or down by this body. I urge my colleagues to support this rule, as well as the underlying legislation.

Mr. Speaker, I include the following data for the RECORD.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of December 19, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	58	65
Modified Closed [3]	49	47	20	23
Closed [4]	9	9	11	12
Total	104	100	89	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of December 19, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17 H.J. Res. 1	Social Security Balanced Budget Amdt	A: 255–172 (1/25/95).
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of December 19, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2621	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands.	
H. Res. 309 (12/18/95)	C	H. Con. Res. 122	Budget Res. W/President	PQ: 230–188 A: 229–189 (12/19/95).
H. Res. 313 (12/19/95)	O	H.R. 558	Texas Low-Level Radioactive.	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BONILLA].

Mr. BONILLA. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in opposition to the Texas Low-Level Radioactive Waste Disposal Compact Consent Act and the rule for the bill. As you all know this bill was considered by the House back in September. The House overwhelmingly defeated this bill by a vote on 243 to 176 under suspension of the rules.

I commend the Rules Committee for a job well done in developing this rule. It is an open and very fair rule, however, I believe this bill should not be coming to the floor for another vote. This rule would have been appropriate had the bill been considered in regular order back in September when it was first voted upon.

The House already made its statement loud and clear by rejecting this bill. This bill is not in order today and I urge my colleagues to oppose the bill and the rule.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Colorado [Mr. MCINNIS] for yielding the customary 30 minutes of debate time to me.

Mr. Speaker, we support this open rule for H.R. 558, the Texas Low-Level Radioactive Waste Disposal Compact Consent Act. The bill was defeated overwhelmingly by a vote of 176 to 243 in September when it was taken up on the suspension calendar, and the bill itself remains quite controversial.

In fact, we were surprised to see it placed on the schedule for today with such little notice. Members of the Committee on Rules were not notified until yesterday afternoon that it would be taken up by committee at 5:15 yesterday evening. We questioned the wisdom of considering this bill again, even under an open rule, at this time in the session. It is not at all clear that the most open procedure can solve the problems that the bill seems to have. The fact that the Texas delegation itself is split evenly on the bill, 15 Members voted for it and 15 against it when it was before us in September, should have been a sign to the leadership that the strong vote against the bill should, for the moment at least, be allowed to stand.

Nevertheless, we are here today considering this legislation when we should be putting all of our efforts and energy into passing the long-overdue annual appropriations bills that are crucial to returning Government services to the American people.

Again, Mr. Speaker, we support this rule. It is an open rule, but we remain disturbed that it is being taken up at all for legislation that has already been defeated by the House, as the gentleman from Texas just said, when we should be considering the spending legislation that is critical to ensuring that our citizens receive the Government services they deserve.

Mr. Speaker, I reserve the balance of my time.

Mr. McINNIS. Mr. Speaker, I yield three minutes to the gentleman from Colorado [Mr. SCHAEFER] who is also chairman of the subcommittee.

Mr. SCHAEFER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in support of House Resolution 313, the rule which accompanies H.R. 558, the Texas Low-Level Radioactive Waste Compact Consent Act. This bill, introduced by our colleague, JACK FIELDS, will allow the States of Texas, Maine, and Vermont to join the other 42 States which have already entered into low-level radioactive waste disposal agreements.

The open rule, providing that debate on and possible amendments to H.R. 558 will allow for a broad range of issues to be discussed, is a welcome step. The measure had strong bipartisan support during the Commerce Committee's consideration of it, and I am hopeful that once Members have listened to this debate at the full House level, the bill will enjoy similar wide support on final passage.

Low-level wastes emit a low intensity of radioactivity. In fact, the vast majority of low-level wastes—97 percent—do not require any special shielding to protect workers or the surrounding community. Examples of these wastes range from the coverall uniforms used at nuclear power sites to the radioactive elements of a hospital x-ray machine.

Currently, 42 States are already involved in nine compact arrangements for the disposal of low-level waste. H.R. 558 would finally allow the States of Texas, Maine, and Vermont to begin their efforts to fully comply with the Low-Level Radioactive Waste Policy Act of 1980 and to join the other States which have already entered into such compacts.

One of the important and controversial matters raised during the House's first consideration of this bill revolved around the siting of the low-level waste facility. H.R. 558, like the other nine compacts before it, does not specify a site. It was the intent of Congress that siting, like the other responsibilities outlined in the Low-Level Radioactive Waste Act, would remain a State issue. Regardless of the site, the States of Texas, Maine, and Vermont need the congressional consent of this compact. And regardless of the compact, these States will have a need for low-level radioactive waste disposal capability. The facts are very clear.

An open rule will provide a good forum to debate these points. The rule is a good one and I urge the House's adoption.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Maine [Mr. BALDACCI].

Mr. BALDACCI. Mr. Speaker, I rise today in support of the rule on H.R. 558, the bill to give congressional consent to the Texas low-level radioactive waste disposal compact.

Many of my colleagues had opposed this bill when it came up under the Suspension Calendar, and I have talked to some of them about their vote. One of the reasons that they most frequently gave for their opposition was the lack of an opportunity to fully debate this question.

The Committee on Rules has recommended an open rule allowing for 1 hour of general debate. I fully expect a vigorous discussion on the compact. I look forward to that debate and to answering any questions that may arise.

The compact is important for Texas. It is important for Vermont, and it is important for Maine. This would be the 10th compact that Congress has ratified since 1985, when Congress enacted the low-level radioactive waste disposal policy amendments.

This was one of those unfunded mandates that Congress gave the States to develop methods of managing low-level nuclear waste. The three States have diligently complied with that mandate.

The Governors and the legislatures of Vermont and Texas have approved the compact. The Governor and legislature and people of Maine have approved the compact.

Mr. Speaker, I urge support of the rule.

Mr. Speaker, since my good friend has allowed me such time as I may consume, I thought it was probably important to utilize this opportunity to discuss the low-level radioactive waste compact.

The measure before us today would give congressional approval to the compact between Maine, Vermont, and Texas for the disposal of low-level radioactive waste produced in those States.

Experience has probably taught all of us just how difficult waste management issues can become. And none is more difficult than those involving radioactive materials.

In 1985, after considerable debate, Congress enacted the low-level radioactive waste disposal policy amendments act. Congress gave responsibility to the States for the management of low-level radioactive waste. These materials are byproducts of nuclear medicine, nuclear research, industrial processes, as well as nuclear power generation.

Congress clearly gave the States a mandate, without funding I might add, to develop responsible methods for managing this waste. H.R. 558 would simply ratify the compact negotiated between Maine, Vermont, and Texas. It represents the last step in the process. These three States have diligently complied with the congressional mandate. H.R. 558 deserves our overwhelming support.

Congress, in dictating to the States and requiring the States to come up with these compacts, this is the 10th compact that Congress has approved since 1985—9 others involving 42 States have received speedy consent. It would be very irresponsible and also unfair if we were to reject the compact now before us. It would be a complete reversal of the policy established by Congress.

Opponents of the legislation have objected to the proposed site of the low-level waste disposal facility in Texas. These objections are not relevant to the compact. The compact presented in H.R. 558 is site neutral. In fact, the siting process conducted by the State of Texas and the compact between the States of Maine, Vermont, and Texas, are separate and independent. As I understand it, Texas initiated the siting process long before it began negotiations with Maine and Vermont. In fact, the proposed site still requires approval of the Texas Natural Resources Conservation Commission.

So the commission has just now started what will be a lengthy public proceeding to consider all the issues associated with the proposed site. So for those reasons, and many others, I would support the rule and also support the passage of this legislation.

The Texas commission has just now started what will be a lengthy public proceeding to consider all of the issues associated with the proposed site. If the proposed site is found to be deficient, then the license will not be granted and another site will have to be selected. Nonetheless, the siting issues such as water quality impacts, seismology matters, and related concerns are simply not germane to our consideration of our H.R. 558. Neither the compact nor H.R. 558 specify any particular site in Texas. This decision is solely the responsibility of the government of the State of Texas. The siting decision is the right of the State of Texas. We, in Washington, should not interfere in that process.

Finally, it is also important to understand that the compact under consideration contains real and significant advantages for all three States. With the compact, Texas will be able to limit the amount of low-level radioactive waste coming into its facility from out-of-State sources.

Maine and Vermont together produce a fraction of what is generated in Texas. For Maine and Vermont, the compact relieves either State from the need to develop its own facility. Given the relatively small volume of waste produced in Maine, developing such a facility would be disproportionately expensive.

These benefits are among the reasons that the compact received overwhelming support from the Governors and legislatures in all three States.

We should act now to approve H.R. 558 without amendments. It represents the States best efforts to comply with a Federal mandate. It is not directly linked to the development of any specific site in Texas. It contains major benefits for all three States. I urge you to support H.R. 558.

Mr. McINNIS. Mr. Speaker, I yield 15 minutes to the fine gentleman from the State of Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I will not use 15 minutes, I assure the Chair and the other Members of the body. I do want to speak for more than 1 or 2 minutes.

Mr. Speaker, when I was elected in 1984, I came to the Congress in January 1985, I had the honor to be placed on what was then called the Interior Committee, chaired by the distinguished gentleman from Arizona, Mr. Mo Udall. One of the pieces of legislation that that committee moved that year was the Low-Level Waste Policy Act Amendments of 1985, in which it gave States the authority to create interstate compacts with other States for the disposal of low-level nuclear waste.

At that time, the State of Texas chose to create a compact simply within its State boundaries and not to create an interstate compact with other States. Since that time, the State of Texas has been in negotiations with the State of Vermont and the State of Maine and has decided to take advantage of the 1985 act and create an interstate compact. Nine other interstate compacts have been approved by this Congress since the Low-Level Waste Policy Act Amendments of 1985.

When this bill first came to the floor earlier this year, it was defeated, and it was defeated primarily because many Members felt like that since one or two Members in the State of Texas on the Republican side were opposed to this legislation, that the State of Texas itself and the Republican delegation in general was opposed.

Nothing could be further from the truth. The Governor of the State of Texas, the Honorable George Bush, strongly supports the passage of this act. The former Governor, the Honorable Ann Richards, formerly when she was Governor supported this act. So both our Democrat former Governor and Republican Governor support the passage of H.R. 558.

When it comes to a vote later this week, my guess is that almost, not every Texan, but almost every Texas Member will support this act. On the Republican side, all but one or two will support it.

This bill does not site the low-level waste depository within the State of Texas. It simply gives the State the authority to contract with Vermont and Maine for their low-level waste. It will be a State decision within Texas where to put the depository.

The Members from our State delegation that oppose this legislation apparently oppose it because they oppose where the State has so far decided to locate the depository. But this act, in and of itself, is not site specific. It simply gives the State of Texas and the State of Vermont and the State of Maine the right to enter into a compact as this Congress or other previous Congresses have given nine other compacts.

So I want to strongly support the rule. I hope we pass the rule, and then I would hope that all Members would vote positively on the underlying bill, H.R. 558. It is simply giving these three States, Texas, Vermont, and Maine, the right, as other States have, to enter into an interstate compact for the transmission and disposal of low-level nuclear waste.

☐ 1330

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. GENE GREEN].

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in support of the rule and the bill, H.R. 558, the Texas low-level radioactive waste disposal compact.

Low-level waste is a byproduct of many industrial and medical activities that contribute to our economy in Texas and also enhance our lives. For example, it is not in my district but it serves my community, our hospitals in the city of Houston and around the State are national leaders in health care and medical research, and we have this low-level waste now literally on the property of the hospitals because they have to have someplace to put it. We have an agreement now with two other States, and that is why H.R. 558 is so important.

Responsible management of this waste that the hospitals produce include clothing, the laboratory supplies, and paper requiring permanent disposal in a site specifically designed for that purpose.

The States of Texas, Maine, and Vermont have all agreed to proceed with this compact which, by law, Congress must approve; however, the implementation and site selection is a State matter. And I believe the States who sign this compact should be allowed to proceed with it.

I know in Texas, Mr. Speaker, we have done that. Governor McKernan of Maine signed the compact in 1993 and the Maine voters approved it by referendum later that year. Governor Dean in Vermont in April 1994. In Texas, both the previous Governor, Governor Anne Richards, and current Governor Bush also strongly supported this compact. In fact, in 1991, as the State senator representing part of the Harris County area in Houston, I supported the compact as a State senator.

This law allows us to maintain control over this issue for the States and just simply allows the process to go forward.

We cannot continue to stick our head in the sand and say we do not have a place for this. By allowing this compact it would allow the State of Texas, a large geographic State with a great deal of urban area that produces this low-level waste, a place to store it other than the urban areas that is close to all of our homes.

Again, Mr. Speaker, we need this because our hospitals and our medical centers are contributing to it and they need to have someplace that is the least affected environment for it. That is why, Mr. Speaker, I rise in support of the rule and also in support of H.R. 558.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. GENE GREEN of Texas. I yield to the gentleman from Texas, who, frankly, he and I served in the State legislature together, but not in the 1990's, because he was in Congress then.

Mr. COLEMAN. Mr. Speaker, I guess my question for the gentleman is, since he was for this legislation when he was in the State Senate in the State of Texas, I guess my question is, would he agree to an amendment, if we were to offer an amendment, and under this rule we would be allowed to offer an amendment, that would restrict this compact to only these three States?

Mr. GENE GREEN of Texas. Mr. Speaker, I would say to the gentleman that that was the intent when we voted for it in the State of Texas in the legislature; and as a Member of Congress, I would agree to that.

I am glad my colleague brought this up. If that would get my colleague from El Paso on board, I would be more than happy to support that amendment that would limit it to only those three States.

Mr. COLEMAN. Well, Mr. Speaker, maybe I should ask this question.

Mr. GENE GREEN of Texas. I gave the gentleman the right answer, did I not?

Mr. COLEMAN. It was a good answer.

As I understand the compact, however, I wonder whether or not this Congress would be willing to restrict those commissioners in any vote they might subsequently take to allow other States to join the compact? Can we do that in this legislation; is that the gentleman's understanding?

Mr. GENE GREEN of Texas. Again, I do not know. I would think the rule would allow that amendment to be considered, but the State legislature and the State of Texas would be the one that would actually vote on that. Again, I do not have any fear about the State legislature dealing with this issue because I worked on it then.

Mr. COLEMAN. So then the gentleman understands, if Connecticut, for example, which already has made some approaches to this compact, or proposed compact States, if Connecticut wanted to join the compact, then, of course, the gentleman's statement is that we cannot prohibit that here in the Congress; that that would be up to the commissioners only who serve on the commission; is that right?

Mr. GENE GREEN of Texas. It is not my bill, but I would support limiting it to the waste of the three States.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. COLEMAN].

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield for an answer to the question?

Mr. COLEMAN. I am happy to yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I would say to the gentleman that I was one of the authors of the amendments in 1985, and it is the intent of the legislation to give the States the right to negotiate between themselves for these compacts. It would, in my opinion, be outside the scope of this particular bill to try to limit any of the legislatures in what they could do.

I would oppose the gentleman's amendment if he were to offer such an amendment. I personally do not have a problem limiting the States, but the underlying legislation gives the States the right to negotiate these compacts, and the Congress' role is simply to ratify or to not ratify the compact.

Mr. COLEMAN. Mr. Speaker, reclaiming my time, I would say to my colleagues in the Congress that this is exactly the issue. The issue here is simply one we call back home greed. Texas decided they would get a whole bunch of money from a couple of States if they would take their waste and dump it. And, of course, everybody says, well, these will just be these three States.

The minute I suggest we make sure it is only these three States, everybody goes, oh no. We just heard my colleague from Texas a minute ago, just now, say, oh, no, we sure would not want to do that. After all, Texas could get more money for this.

So what if it is out in west Texas, in a poor little old town called Sierra Blanca; right? It is not in his backyard. Not in my colleague's backyard, Mr. GENE GREEN'S backyard, in Houston, TX, or up near Dallas. No, it is just out in west Texas. So who cares, other than those 900 people that live in that county. Who cares?

Well, I will tell my colleagues what. Putting it in an unsafe place, which they are doing, they are putting it near the epicenter of an earthquake that occurred just last April, 5.6 on the Richter scale, and everybody says we do not care. Heck, I am in Dallas, or I am in Houston. We do not care, it is out in west Texas. Who cares.

The point is, we are finally going to get to the truth of the matter, and the last gentleman who addressed this House told us what the truth of the matter is. What they do not care about is the consequences. If there is an earthquake or an accident that occurs in the next 300 or 400 years, they do not care. They do not care if they are on record because they will not be here. If it occurs in the next 5 or 10 years, my colleagues may care.

It may not look too good that they were willing to put this dump site where it should not be in the first place; and, second, that they are willing to take a nuclear reactor from Connecticut, because that is the next thing that is coming. I hope everybody understands that.

All of my colleagues in Texas that think this is smart better start thinking ahead just a little bit. This is not about Maine and Vermont and Texas only. Once they open this site, these commissioners will elect to put radioactive nuclear waste from every State, if they want to, because only they will be doing it.

We are told it is outside the scope for this Congress to act for the health care and welfare of the American people, and that is flat wrong.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

I would remind my colleagues that the issue we are talking about right now is the rule, and we have an open rule. It came out of the Committee on Rules on a unanimous voice vote. I do not want everyone's attention being diverted away from the fact that the debate on this issue will take place when the bill comes up. Right now the issue is the rule.

I respect the gentleman's arguments, but I would point out, let us focus back on the rule. It is an open rule. There is no reason anyone in here should object to the rule because it will allow the kind of healthy debate we have just seen.

Mr. COLEMAN. Mr. Speaker, will the gentleman yield?

Mr. McINNIS. I yield to the gentleman from Texas.

Mr. COLEMAN. Mr. Speaker, I thank the gentleman for highlighting that. In fact, it was my intention to come here and only to speak on behalf of the rule.

I think the rule is fair and it gives us an opportunity to offer the very amendments that I was speaking about. But I came up here and all of a sudden I heard one of my colleagues from Maine tell us what a great bill this was.

Maybe we can make it a good bill, if we are allowed to amend it and we get the support we had last time of a majority of this Congress to permit us to do that. I thank the gentleman for pointing it out and giving me the opportunity to say I, too, am in support of the rule.

Mr. McINNIS. Mr. Speaker, reclaiming my time, the gentleman will have that opportunity to amend, and I certainly appreciate where the gentleman comes from and his purpose in affording that debate, but I do want to remind all of us that we will have a lot more time for debate, so I think we should try to wrap this rule up.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman very much and I rise to make several brief points because I support both the rule and the bill.

I think it is important to focus our attention where it should be focused, and that is, one, this is an environmentally driven bill. This is a question of what to do with low-level radioactive waste, something that raises enough question for many of us. Whenever we hear of nuclear reactors or radioactive waste we are concerned.

I am concerned about the research and the medical services done at the Texas Medical Center and the inability of that facility, that brings about good health and saves lives, to be able to find a safe and environmentally protected area to eliminate low-level radioactive waste.

The other point is that this is a bipartisan effort. The former Governor of Texas, Anne Richards, supported this, as well as the present Governor.

Lastly, let me say that this is not a matter that is a question of sites, or one site that has already been selected. I think there should be reasonable discussion and a fair discussion that no poor area, no poor neighborhood should be biasly selected as the site for this. The commissioners should take into consideration the very safest of locations being driven by the environmental aspects of what we are trying to do here.

I think it is particularly important to instruct the States to work these arrangements with the requirement that safety and the environment be crucial issues to be addressed. In fact, no State, I hope, would want to jeopardize communities with a site that would not be environmentally safe, focusing on the question that there is low-level radioactive waste, we must do something with it, but it must be safely done.

H.R. 558 provides an open rule. I think that is extremely positive. I hope we can draw on more bipartisan discussion to make this the best bill, because this is something that should not have the tensions of disagreement when we all realize that this is a national problem that is impacting our States across the country. If there is a question of other States being involved, I think hard questions should be asked, but this particular Texas, Maine, Vermont low-level radioactive waste compact has reasonably been reviewed by the respective Governors, as I said, both Democratic and Republican alike.

The compact limits Vermont and Maine to 20 percent of the total volume. It is a question of medical radioactive waste that is a prime concern for all of us in the State of Texas, and particularly, as I said earlier, the question dealing with the site selection should be carefully reviewed. I think it is important that we realize that there will be no site selection in Texas without full public hearings. In that instance, all of those communities that may ultimately be impacted will have the complete access to those public hearings. the commissioners should be sensitive to this.

I would ask my colleagues to make this truly a bipartisan piece of legislation, for it is for the safety of all of us, and it certainly is for the safety of those of us who are concerned about how we eliminate, and safely and environmentally secure low-level radioactive waste.

Mr. Speaker, I rise today in support of H.R. 558, the Texas-Maine-Vermont low-level radioactive waste compact. This bill has received considerable attention since it concerns the issue of States' rights, the issue of protecting the environment and the rights of citizens to determine the quality of life in their communities.

Since the 1985 amendments to the Low-Level Radioactive Waste Policy Act, the 50 States have been responsible for managing their low-level radioactive waste program because the Federal Government recognized that States are better suited to implement such policies due to their close attention to local concerns.

There are already nine State compacts in existence representing agreements among 42 States. Congress passed the bills approving those compacts under the Suspension Calendar. The House Commerce Subcommittee on Energy and Power unanimously passed H.R. 558. The full committee passed the bill by a vote of 41 to 2.

The Governors of Texas, Maine, and Vermont strongly support this legislation. The State Legislatures in Texas, Maine, and Vermont have approved the compact. The majority of the Texas congressional delegation supports this bill.

Contrary to popular belief, a specific disposal site has not yet been designated. The appropriate agencies in Texas have been considering various sites. It will be located in Texas, however, since Texas would have the vast majority of the low-level radioactive waste. The compact limits Vermont and Maine to 20 percent of the total volume. The Texas medical center is without available alternative.

No site will be selected without public hearings that give concerned citizens the opportunity to express their views on the location of the facility. Environmental agencies will conduct the appropriate review and resolve environmental concerns in accordance with current law and regulations. No radioactive waste from States other than Texas, Maine, and Vermont would be stored at the facility. The future facility must meet Federal regulatory standards developed by the Nuclear Regulatory Commission relating to safety in the construction and operation of the facility.

I urge my colleagues to support this bill, which approves this compact among Texas, Maine, and Vermont and permits those states to manage their low-level radioactive waste in compliance with Federal environmental law and regulations.

☐ 1345

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Speaker, first with regard to those Members from Texas and those who are concerned about this issue from Texas, in the dialog with the gentleman from Texas [Mr. BARTON] a moment ago I think for the first time we saw what really is going to happen if this thing passes. And maybe nobody else should care, but if Members are from Texas, they ought to care.

Mr. Speaker, what it means is that this commission is going to be able to accept nuclear waste from every State of the Union. It is, in my view, very regrettable.

We are going to offer an amendment to say that it is limited to the two States involved, Vermont and Maine. I see no way to justify doing otherwise. The bill has been lobbied to Members of Congress from my region to say that it just involved the two States. The fact of the matter is that it does not. If it did, I think no one would mind if we offered an amendment that said this would be a compact between the three States.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. BRYANT of Texas. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I appreciate my good friend for yielding to me.

Mr. Speaker, I want to point out that there are 9 compacts that cover 41 States. My understanding of the Federal law is that if 1 of those 41 States want to get out of their existing compact and come into this compact which has not yet been approved, that that would take congressional approval. I could be proven wrong on that, but it is a fact that there are 41 States that are in these types of compacts.

Mr. Speaker, I have not received any information in my office from the Governor's office, or anybody in the Texas Legislature, that they are trying to enlarge the compact.

Mr. BRYANT of Texas. Mr. Speaker, reclaiming my time, if that is the case, then surely the gentleman will support us in our amendment that will say this compact will be limited to Texas, Maine, and Vermont. Would the gentleman support us in that amendment?

Mr. BARTON of Texas. Mr. Speaker, if the gentleman would continue to yield, on a personal level I do not have a problem with that.

Mr. BRYANT of Texas. Mr. Speaker, I mean on the big board when we vote.

Mr. BARTON of Texas. Mr. Speaker, if the gentleman would continue to yield, my problem with that particular amendment, if offered by the gentleman from Dallas, TX [Mr. BRYANT] and the gentleman from El Paso, TX [Mr. COLEMAN], is that the underlying law that gives the Congress the right to approve or disapprove the compact, gives the States the right to negotiate the compact, and we would be stepping into the State area.

Mr. BRYANT of Texas. Mr. Speaker, reclaiming my time, it is just a plain and simple concept. If the gentleman wants the entire United States to be able to dump nuclear waste in our State under approval from this commission, then he would vote against our amendment. If the gentleman believes we ought to limit it to just the two States, and I cannot imagine why he would not want to do that, why would the gentleman not vote for the amendment and let us make this thing do what everybody has promised that it would do?

Mr. BARTON of Texas. Mr. Speaker, if the gentleman would continue to yield, does the gentleman have information that leads him to believe that these other 41 States are going to get out of their existing compacts and want to come into this particular compact?

Mr. BRYANT of Texas. Mr. Speaker, again reclaiming my time, in the first place there are 50 States, so there are 9 unaccounted for that would obviously be interested, No. 1.

First, I cannot predict the future, but I do know this, no matter what the situation might be, I do not want them to come and dump their nuclear waste in Texas. So the amendment will simply say that, and I would hope to have the gentleman's support of that amendment.

Second, I would call the Members of the House to look at this from a national perspective. We do not wish to avoid responsibility under the law to deal with this problem of siting a nuclear waste depository. But from the standpoint of the national interest, this is not a small matter.

The site that has been chosen is one that is on an international border, very close to the Rio Grande River in an area that is a volatile earthquake zone. This area experienced an earthquake scoring 5.6 on the Richter scale on April 13 of this year. The epicenter was less than 100 miles away and the quake was felt by individuals several hundreds of miles away.

Mr. Speaker, numerous earthquakes have occurred in this area. The largest was 6.4 in 1931, with its epicenter only 40 miles from the site, and the U.S. Geological Survey has concluded that quakes of 7.5 in magnitude could occur at any time along 14 faults in the immediate vicinity.

Mr. Speaker, it is not in the national interest to ratify this knowing that the State of Texas plans to locate this in this place. If it were to pollute the Rio Grande River, we would have an enormous problem with Mexico; a problem not only for the people of Texas, but all the people of the United States who would have to help pay this liability.

Mr. Speaker, the fact that we have it in an earthquake zone is preposterous. In effect, the legislature and other parts of the Texas State Government decided to put it in a place that has no political power, hardly any people, rather than putting it in a place that has people and political power, and they did so regardless of the illogical nature of their decision.

Mr. Speaker, we will oppose it and will offer an amendment to provide that if this is approved, that this cannot be located in a seismically active area and an amendment that it will be limited to the three States mentioned, Texas, Maine, and Vermont. Mr. Speaker, I hope when we do, Members will support us on those amendments.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] has 6 minutes remaining.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I also rise in support of the rule. I wanted to really point out that this legislation did come out of our Subcommittee on Energy and Power on a bipartisan basis. I do support it as the ranking member.

Obviously, this is an open rule, as has been mentioned, and there is no reason why Members cannot bring up any substantive amendment that they would like. Obviously, some of the amendments will be brought up.

Mr. Speaker, I just wanted to mention, as I think has been brought out, that this is the 10th compact to receive congressional approval. Basically, the compact system envisions that low-level radioactive waste policy is developed with the strong support of the National Governors' Association, and under the law the task of selecting the disposal sites is the States' responsibilities. So, the subcommittee, in reporting out the bill, was cognizant of the fact that the States involved in the compact do support it.

Traditionally, Congress' responsibility is to simply act quickly on the compacts' request by the respective States and if all is in order, to approve it promptly.

Mr. Speaker, I do not really relish getting involved in a Texas battle here. I guess I learned a long time ago not to do that, and I think I am about to be. One of the Texas Members already suggested to me that perhaps they could bring up an amendment moving the site to New Jersey. I hope that does not happen.

Mr. BRYANT of Texas. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from Texas.

Mr. BRYANT of Texas. Mr. Speaker, I am not going to propose that. I think the gentleman from New Jersey has been constructive in his effort to deal with this issue. But I would point out to the gentleman that it is not possible to imagine that it does not bother this Member, or any ranking member somewhat, that the decision has been made to locate this in a seismically active zone.

Now, recognizing that, and the national implications of that since it is on the Rio Grande River, an international border with Mexico, would not the gentleman agree that we ought to at least amend the bill to say that it cannot be put in an obviously irresponsible place just so that local legislators can avoid the inconvenience of making the tough decision?

Would the gentleman not see the logic in at least saying this is unique with regard to this compact, We are not going to let you locate it there, but you will have to locate it some place else?

Mr. PALLONE. Mr. Speaker, reclaiming my time, as the gentleman knows, I did not support any amendments like that in the subcommittee and I would not support it on the floor. Again, because my understanding is that this has been looked into and that those on the State level that looked into it took that into consideration.

That is not to in any way to prejudice the gentleman from Texas [Mr. BRYANT], obviously, from bringing that up and arguing it. But my position is that the States and the legislatures that looked at this looked into those problems and, therefore, made that decision to support it.

Mr. COLEMAN. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from Texas.

Mr. COLEMAN. Mr. Speaker, I think the reason the gentleman from Texas asked the question is simply because it will be taxpayers in New Jersey and Kansas and California and New York that will be participating in the cleanup of an accident when it occurs. It is not going to just be Texas, Maine, or Vermont.

I hope that the gentleman and my colleagues understand that, that it will be the responsibility of all of us, because it is an international river and an international boundary that belongs to the United States as well as to Mexico.

Mr. PALLONE. Mr. Speaker, reclaiming my time, I would just say that I see no reason why that should not be brought up on the floor and discussed, but again I would say that these issues were brought up in the subcommittee and our opinion was that they were decided on the State level and that we should respect that.

Mr. McINNIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS of Texas. Mr. Speaker, first of all, let me apologize to my colleagues. We were trying to wrap up our telecommunications conference, and so I could not get here as quickly as I would have liked.

Mr. Speaker, this is an extremely important piece of legislation for the State of Texas and the other two States involved. It is important because it involves the issue of waste and there has been a decision by three State legislatures on what to do in this particular compact, as the States are allowed in the underlying Federal statute. The process has been pristine in terms of meeting what is allowed under the statute.

Mr. Speaker, I think it is very important for my colleagues to understand that the site that has been chosen by the State of Texas will be used as a waste site regardless of what the House of Representatives does. That decision has been made. That is where waste generated in the State of Texas will be disposed.

Mr. Speaker, the advantage of our State entering into a compact with other States is basically we put a lock on what waste our State at any point in the future would have to accept. That is why it is so important that the State has made the decision, entered into the compact and made the ironclad decision that that site is going to be used, whether this compact passes or not.

Mr. Speaker, I would just ask my friends and my colleagues to look at this not only in terms of process, process that has been met both in the State legislatures and in regard to the Federal statute, but also in terms of this being a final decision. The only thing the House would do, if they overturned this particular decision, is set a very bad precedent for other States wishing to enter into similar compacts. If this decision by the three States is overturned, it is the first time that States having made a decision will have that decision contradicted by an action of the House, and I think that is tragic.

Mr. COLEMAN. Mr. Speaker, will the gentleman yield?

Mr. FIELDS of Texas. I yield to the gentleman from Texas.

Mr. COLEMAN. Mr. Speaker, I would only hope that the gentleman understands that there is a distinction with a difference. Just because the Texas House and the Texas Senate made a decision to place a dumpsite near an international boundary, I do not happen to think should obligate taxpayers from the rest of the country to have to be involved in the cleanup. I see that as a huge difference.

Mr. FIELDS of Texas. Mr. Speaker, reclaiming my time, when we get into the debate on this particular issue, we will talk about the specifics of what the State of Texas has done in constructing this particular facility. The safeguards that have been built in to meet any possible contingency are more than adequate.

The State has gone far beyond what science and engineering would necessarily dictate. To think that there is going to be some sort of disaster that is going to burden the rest of the country I think goes beyond reason.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, the concern in many parts of Texas about this bill is that after it passes, it will not just be poor old Rudolf whose nose is all aglow. There are many Texans who are not eager to have our State change its name from the Lone Star State to the Lone Dump State.

It has become very apparent in the course of the debate thus far that that is exactly what is going to happen, because the sponsors of this measure are unwilling to limit it to the three States of Texas, Vermont and Maine. They envision a vehicle here where an unelected commission will be able to expand this compact to include an unlimited number of States.

Mr. Speaker, I think that there is some question as to why we are here today debating this rule in the first place. It has only been about 3 months since this House overwhelmingly rejected this compact and all the problems that it poses. The only thing that has changed between the time that this House rejected this compact and now is that we have had more lobbyists swarming around this Capitol than we will find gnats on the banks of the Colorado River on a June morning. They have been working overtime to set up a compact that can be expanded to make Texas the Lone Dump State.

There have also been developments since that time in our neighboring partner with reference to environmental issues throughout the Southwest, and that is the country of Mexico. It was earlier in 1995 that the Governor of the neighboring State of where this site will be located wrote to the Governor of the State of Texas to express his great concern over the news that there would be the construction of what the Governor quite properly referred to as a nuclear cemetery in Sierra Blanca, TX.

Mr. Speaker, he went on to say the confinement of radioactive material in that place endangers the health of the population due to the possible emissions of radioactivity into the air, soil, and water.

□ 1400

Of course, that letter was sent a couple of earthquakes ago with reference to this site. Just within the past few days, the Commission on Ecology and Environment of the Mexican House of Delegates has also expressed its concern saying, and I quote, that this low level waste contains dangerous concentrations of radioactivity that are contaminated with plutonium, a material that has a radioactive life of 240,000 years. The latent danger for our population is represented by the fact that the land indicated by the State of Texas for the project is over a geological fault known as the Apache Fault, the largest one in the State of Texas. There have been movements there that have registered an intensity of 5.3 on the Richter scale which, if they occur again, cause fissures in the storage sites and consequently contaminate the underground deposits of water that feed the sister cities of El Paso and Juarez.

This is not a matter for short-term decision. It will affect generations and generations to come.

The SPEAKER pro tempore (Mr. UPTON). The gentleman from Colorado [Mr. MCINNIS] has 15 minutes remaining.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

What is the rule doing down here? I would once again remind my colleagues it is down here because we passed it by unanimous consent on a voice vote. It is an open rule. We should not have this kind of debate on this rule, which is what everybody has an opportunity to amend.

Let me go back just a second. I would ask the gentleman from Texas to respond to a question, and I will yield to the gentleman for that response, and it is, does he support the open rule? That is, I think, the crux of what we are arguing here.

Mr. Speaker, I yield to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, I supported the rejection of this whole measure by the House last time, and I guess we will have another opportunity to do the same thing. I think the open rule is a good one, if we are going to consider this, but it should not be here at all.

Mr. MCINNIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS of Texas. Mr. Speaker, I want to emphasize one point, that with the approval of this compact, there will be 10 compacts covering 45 States. It was the decision of our State legislature to enter a compact with Maine and Vermont. In my view and obviously the view of the legislature and our State leadership, it is much preferred if Texas is already designated a site. Again I want people to understand the site is going to be where the legislature has decided, whether this House acts or not.

Is it better for us to have a partner like Maine and Vermont or should we be subject to anyone's waste? Should we be subject to the waste of California or New York or Illinois or some other larger State? We have had a concerted effort to obfuscate what is the real issue here. The real issue is whether we are going to stand with the decision made by three legislatures on a decision that solely should be within the province of those State legislatures, as long as it meets the Federal statute, which they have.

Mr. BEILENSON. Mr. Speaker, I yield the balance of my time to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, let me just first of all say that I am in strong agreement with the rule. It is an open rule and will allow for a substantive debate.

Let me recapitulate some of the main points that are involved in this legislation. No. 1, we hear a lot of discussion on the floor of this House about local control and respecting the rights of the people back home. This legislation was discussed intensively in three different State legislatures. The people of Texas through their legislature approved this compact. The people of Maine did the same. The people of Vermont also approved this compact.

I should point out the Governor of Texas is a Republican; the Governor of Vermont is a Democrat and, as it happens, the Governor of Maine is an Independent.

Second, as has already been stated, there are nine compacts that have already been approved by the Congress, impacting 42 States. This will be the 10th compact. I think from a precedent point of view, it is important for this Congress to pass this compact.

Third, what has also, I think, not been made clear is this Congress is not designating a specific disposal site. That is not what we are doing. Presumably, the people of Texas have a process to determine what is in the best interest of their own people. Frankly, I would hope and expect that the people of Texas would not do anything that is environmentally dangerous to the people of their region. We in Congress are not making that decision. The people of Texas are making that decision, and I hope that we could respect that process.

I would simply suggest that from a precedent point of view, from respect for local control, we should support this rule and we should eventually support the bill.

Mr. COLEMAN. Mr. Speaker, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Texas.

Mr. COLEMAN. Mr. Speaker, since the gentleman is a member from Vermont, maybe he could give us some idea. I heard my colleague from Houston, TX a minute ago suggest that it has been reviewed by three different State legislatures. Did the legislature of Vermont get to hold hearings on the siting of the facility in west Texas?

Mr. SANDERS. Mr. Speaker, I believe that is left to the people of Texas.

Mr. COLEMAN. Mr. Speaker, if the gentleman will continue to yield, so it was really only one legislature, not three; we cannot speak for Maine, but obviously just one.

Mr. SANDERS. Reclaiming my time, Mr. Speaker, there is no secret that the depository is going to be in Texas. That is a decision for the people of Texas.

Mr. McINNIS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS of Texas. Mr. Speaker, just to amplify on what my good friend just said, and he may want to retake the mike. Under the compact, Texas has full control of the site, the development, the operation and management and the closure of the low-level waste disposal facility. It really would not matter for his State to come and review where Texans decided to put a particular site, whether the House passes this or not. We will dispose of our waste at that particular site. If we do not pass this compact, we are going to be subject to the entire country's waste coming to that particular site.

Also the gentleman raised a question about the procedure in Texas. Let me just point out, our house of representatives passed the site decision and the compact by a voice vote, voice vote in the Texas House of Representatives. The Texas Senate passed this by a vote of 26 to 2. The legislature wants this particular compact as does our Governor. It is important, if one is concerned about the environment and they are a Texan, they should want this particular compact.

I thank the gentleman for yielding time to me.

Mr. McINNIS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Speaker, I would like to point out that a lot of statements that have been made here have very little to do actually with H.R. 558. These statements I think go toward and should go toward the proposed low level site and will be the subject of a lengthy and detailed permit review process that the Texas Natural Resources and Conservation Commission is to conduct in Texas this coming year. It is there I think that the statements that have been made here regarding the site should be expressed and probably not on the floor of this House.

H.R. 558 is a compact between Texas, Maine and Vermont. That has been said over and over again. It was the subject of many legislative hearings, how many I really do not know, floor debate, negotiations by the Governors of these States, including the Statewide referendum. All of these actions were taken because we here in Congress directed the States to do this by legislation action passed in 1980 and 1985.

The States have complied with their directive, and I think we ought to honor there good-faith efforts by vote to go ratify this compact. I urge Members to vote for H.R. 558.

Mr. COLEMAN. Mr. Speaker, will the gentleman yield?

Mr. HALL of Texas. I yield to the gentleman from Texas.

Mr. COLEMAN. Mr. Speaker, I guess the only thing that question about what the gentleman says that we are going to have hearings next year. That is after the site has already been selected. So it does not do us a lot of good out there.

I will say I am proud of those two Senators since the country that is concerned here, called Hudspeth County, TX does not have a State Senator from that county. The one Senator that represents that area may or may not have voted no, and certainly we only had one representative, again not from that county. So I am not surprised by the vote in Texas. It is that county does not have a lot of population, and it is out in the desert, and I understand the gentleman's saying that, well, Texas has made the decision. All I would hope is that we try to not feel that we have to rubber-stamp an act that was a mistake. I do not think the Congress ought to be called on to do that.

Mr. McINNIS. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. BEILENSON] from the Committee on Rules.

Mr. BEILENSON. Mr. Speaker, I ask unanimous consent to insert extraneous material at this point in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The material referred to is as follows:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 125	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of I[illegible].	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A.
H.R. 1944	Rescissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment.	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min. each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments.	N/A.
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1977	Interior Appropriations	H. Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments preprinted before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 Of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority. ***RULE AMENDED***.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title..	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min.); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	1D.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min.) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bipartisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min.), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate. makes in order the committee substitute as original text	N/A.
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional record.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A.
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A.
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A.
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min.) If adopted, it is considered as base text; Pre-printing gets priority.	N/A.
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D.
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A.
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A.
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A.
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A.
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D.
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes).	1D.
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A.
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes).	1D.
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A.
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min.); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min.); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A.
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A.
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min.) on regulatory reform.	5R.
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H. Res. 250	House Gift Rule Reform	H. Res. 268	Closed; provides for consideration of the bill in the House; 30 min. of debate; makes in order the Burton amendment and the Gingrich en bloc amendment (30 min. each); waives all points of order against the amendments; Gingrich is only in order if Burton fails or is not offered.	2R.
H.R. 2564	Lobbying Disclosure Act of 1995	H. Res. 269	Open; waives cl. 2(l)(6) of rule XI against the bill's consideration; waives all points of order against the Istook and McIntosh amendments.	N/A.
H.R. 2606	Prohibition on Funds for Bosnia Deployment	H. Res. 273	Restrictive; waives all points of order against the bill's consideration; provides one motion to amend if offered by the Minority Leader or designee (1 hr non-amendable); motion to recommit which may have instructions only if offered by Minority Leader or his designee; if Minority Leader motion is not offered debate time will be extended by 1 hr.	N/A.
H.R. 1788	Amtrak Reform and Privatization Act of 1995	H. Res. 289	Open; waives all points of order against the bill's consideration; makes in order the Transportation substitute modified by the amend in the report; Bill read by title; waives all points of order against the substitute; makes in order a managers amend as the first order of business, if adopted it is considered base text (10 min.); waives all points of order against the amendment; Pre-printing gets priority.	N/A.
H.R. 1350	Maritime Security Act of 1995	H. Res. 287	Open; makes in order the committee substitute as original text; makes in order a managers amendment which if adopted is considered as original text (20 min.) unamendable; pre-printing gets priority.	N/A.
H.R. 2621	To Protect Federal Trust Funds	H. Res.	Closed; provides for the adoption of the Ways & Means amendment printed in the report. 1 hr. of general debate.	N/A.
H.R. 1745	Utah Public Lands Management Act of 1995	H.Res. 303	Open; waives cl 2(l)(6) of rule XI and sections 302(f) and 311(a) of the Budget Act against the bill's consideration. Makes in order the Resources substitute as base text and waives cl 7 of rule XVI and sections 302(f) and 308(a) of the Budget Act; makes in order a managers' amend as the first order of business, if adopted it is considered base text (10 min)..	N/A.
H.Res. 304	Providing for Debate and Consideration of Three Measures Relating to U.S. Troop Deployments in Bosnia.	N/A	Closed; makes in order three resolutions; H.R. 2770 (Dorman), H.Res. 302 (Buyer), and H.Res. 306 (Gephardt); 1 hour of debate on each..	1D; 2R.
H.Res. 309	Revised Budget Resolution	H.Res. 309	Closed; provides 2 hours of general debate in the House.	N/A.
H.R. 558	Texas Low-Level Radioactive Waste Disposal Compact Consent Act	H.Res. 313	Open; pre-printing gets priority	N/A.

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*Contract Bills, 67% restrictive; 33% open. ** All legislation, 55% restrictive; 45% open. *** Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. **** Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

Mr. McINNIS. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS of Texas. Mr. Speaker, I was not able to yield just a moment ago to my friend. If he wants me to yield, I will, after I make the one statement. Not only is Governor Bush, our current Governor, endorsing this, but former Governor Ann Richards endorses not only the process but the site that was selected.

Mr. COLEMAN. Mr. Speaker, will the gentleman yield?

Mr. FIELDS of Texas. I yield to the gentleman from Texas.

Mr. COLEMAN. Mr. Speaker, I want to thank the gentleman. I understand the politics of doing what they did. What I have to tell the gentleman is, however, it is something I hope that we will have during the course of the debate. I hope to be able to show this House the geological findings concerning not just this site but others that were far more suitable. But politically, both the Governors the gentleman just cited, and politically the legislature would refuse to site it where it was the safest. I understand that.

Mr. FIELDS of Texas. Reclaiming my time, Mr. Speaker, let me ask the gentleman, is he glad this is an open rule?

Mr. COLEMAN. Mr. Speaker, absolutely. As I told my colleagues on the Committee on Rules, I intend to support this rule and hope it passes.

Mr. FIELDS of Texas. Mr. Speaker, I appreciate the gentleman's comment.

Mr. McINNIS. Mr. Speaker, I yield 1 minute to the gentleman from Maine [Mr. LONGLEY].

Mr. LONGLEY. Mr. Speaker, this process that we are debating today stems from a 1985 Low Level Radioactive Waste Disposal Policy Amendment Act. In full compliance with the procedures established under that statute, the States of Maine, Vermont, and Texas entered into negotiations that were approved by citizens groups and by legislative bodies and by executives in each of the three States.

This is a win/win situation for all three States. In particular, the State of Texas is going to benefit to the extent of $50 million that will be contributed by the States of Maine and Vermont. I think it is a positive for all three parties involved.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we wrap up the debate here, I would just want to remind my colleagues that the issue in front of us is the rule. The rule came out of the Committee on Rules on a unanimous vote. It is an open rule.

Today we have heard some very good debate. We have heard healthy debate. There is going to be an opportunity if this rule passes, which I fully expect it to do on voice vote here on the House floor, then all of this debate can be presented again at the proper time.

With that, Mr. Speaker, I thank my colleague from the State of California, my colleague on the Committee on Rules, and would urge a "yes" vote on the rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1415

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. UPTON). The Chair will begin special orders without prejudice to further legislative business.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

PARTIAL LIST OF MOST RECENT CASES OF INTIMIDATION AND ARRESTS BY THE CUBAN REGIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. DIAZ-BALART] is recognized for 5 minutes.

Mr. DIAZ-BALART. Mr. Speaker, the Cuban dictator just returned from a trip to Asia. He was disappointed. The Japanese gave him a credit of $100,000. I think he wanted a little bit more than that.

He is in poor health. Things do not seem to be going right for him. But nevertheless that does not keep him from engaging in his traditional repression.

Castro has initiated a new campaign of terror and aggression against all of his internal opposition and his henchmen have been attacking the members of a new group that has formed that has brought together over 130 of the opposition groups within the island. It is Concilio Cubano, Cuban Council. So Castro is paranoid, and he is cracking down on them, and in, for him traditional, but nevertheless unacceptable manner.

Dissidents of all ideological tendencies have joined together in this Cuban Council. So I think Castro has reason to be worried.

In the last few weeks, Jose Martinez Puig, executive secretary of the Proconstitutional Democracy Association has been detained numerous times by Castro's henchmen.

Castro's henchmen have also harassed Felix Fleites Posada, president of the Proconstitutional Democracy Association.

Agents of the dictatorship have invaded the home of the well-known opposition leader Elizardo Sanchez Santa Cruz, obviously seeking to intimidate him.

Amado Gonzalez Paz and Lazaro Garcia Torres have both been arrested and their families' physical safety has been threatened if they remained in Cuban Council.

Recently, Nerys Goristoza Campo Alegre and Marta Ramirez Jerez, both members of the Popular Democratic Alliance, were also arrested. Another member of the Popular Democratic Alliance, Maria de la Caridad Salazar Ramirez was thrown in a prison cell with 14 common criminals.

Radamaes Alfaro Garcia was arrested and told that he had to convince his mother, Beatriz Garcia Alvarez, and brother, Rinaldo Alfaro Garcia, to resign from the Cuban Council.

Lazaro Miguel Rivero de Quesada was arrested along with his mother, Dulce Maria de Quesada. This is within recent weeks, Mr. Speaker.

Sergio Aguiara Cruz was sentenced to 4 years in prison under the charge of predelinquent dangerousness. Aguiara is the president of the Union of Cubans for Liberty.

In Camaguey Province, well-known dissident Antonio Femenias Echemendia, has been continuously harassed by Castro's state security for the last 5 weeks.

Also, in Camaguey, Alberto Hernandez Frometa, from the group Man's Human Rights, was arrested.

The regime has consistently sought to intimidate Marcelino Soto, Jose Nieves Arrieta and Bernardo Fuentes Cambior on a regular basis for their activities on behalf of human rights.

The list goes on, Mr. Speaker. This is just the tip of the iceberg. Some dissidents issued a statement in support of the conference that was held in Beijing, the World Conference on Women, and Ileana Somellan Fernandez, her home was ransacked by state security on August 25 for doing that. Also, September 1 and September 2, several members of the group called Mothers for Solidarity were arrested.

Marta Maria Vega Cabrera was summoned to appear at headquarters of state security in Havana, where she was interrogated, also, for a statement she made to an international journalist.

On September 2, state security agents visited Mercedes Paradas Antunez, where she was accused along with Aida Rosa Jimenez, of "planning a protest march" on Havana.

On the same day, Raquel Naranjo Ruize and Aida Rosa Jimenez were continously followed by state security agents in Havana in a manner that they subsequently describe to the international press as insolent and incessant.

Moises Rodriguez Quesada, Leonardo Calvo, and Manuel Cuesda Morua also have been victims of threats and interrogations from state security. And, of course, Carmen Arias Jose Miranda, Francisco Chavino, Omar del Pozo, and Colonel Enrique Labrada and Reverend Orson Villa, these are all political prisoners, they remain incarcerated.

I want to see where the international community is, Mr. Speaker. Where is the Clinton administration? Where is that State Department that we pay those salaries to? Where are they denouncing this? Where is the international community? Where is the United Nations denouncing this, Mr. Speaker? Where are they? Earn your salaries, bureaucrats. Earn your salaries. At least denounce this every once in a while.

This is going on now in Cuba, and I want to hear one condemnation by the international press or the international organizations.

Where are they Mr. Speaker? We will continue talking about this.

CRUNCHING NUMBERS, CRUNCHING PEOPLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DOGGETT] is recognized for 5 minutes.

Mr. DOGGETT. Mr. Speaker, I would tell the last speaker that where some of those people from the State Department are is that they are at home or maybe they are out doing their Christmas shopping because under the orders of Speaker NEWT GINGRICH we are paying our Federal employees not to work again this week, just as we paid them not to work in November.

You see, this is part of an extremist approach to Government that, if you hate Government so much, as some of these Republicans do, the way to demonstrate how much you dislike the Government is to pay the Government workers not to do any work, and so some, I think it is 9,000 members of the State Department, are not at work today, even though I am confident that the vast majority of them would like to be at work doing their job for America, dealing on issues with Cuba and dealing with issues even closer to home.

But our Republican colleagues have decided to shut down the Government and to pay our Federal worker not to work.

I guess perhaps all of this is designed to focus national attention on the whole concept of a Republican Christmas. You know, the Republican Christmas, it is probably just like the Christmas that you celebrate in your hometown. The only difference is that the only stockings that Santa stuffs are the silk stockings, and that is the way that the Republican Christmas proposed in this Republican budget would be presented to the American people were it not for the steadfast position that President Clinton and others of us within the Democratic Party have taken with regard to its misplaced priorities.

You see, it is my position that our Republican colleagues have, to this day, not ever come forward with a budget that is truly balanced. Yes; they do know how to crunch the numbers and calculate it all out so that that part will become even, and that is an important part of having a balanced budget.

But balancing the budget is being concerned with more than just crunching the numbers. It is also as a set of national priorities, a matter of considering how much you crunch the people. And when it comes to crunching the people, this Republican balanced budget is way out of balance because it crunches a good many middle-class families in this country. It crunches many seniors in this country because its objective is to stuff those silk stockings with one tax advantage after another.

Indeed, even that very gross tax loophole that we attempted to close earlier this year that lets those people who have prospered the most from America, who have made literally billions of dollars and who can celebrate this Christmas in Belize or in the Bahamas or somewhere in the Caribbean, having renounced their American citizenship and burned their citizenship card, torn it up, at the same time having burned the American Treasury and the American taxpayer, renouncing their citizenship to avoid paying their taxes, that loophole is still largely present under this Republican budget.

Of course, on the eve of the elections next year, our Republican colleagues propose with their eat-dessert-first budget to provide the checks to people on the eve of the election, not unlike some old ward heeler passing out hams just prior to the election time, to try to sell the idea that the only way to get the deficit down is to make it go up next year, which is the approach that is taken in this Republican budget.

But the vast majority of the tax breaks, though there is an occasional sweetener, is designed to go to those at the top of the economic ladder, who have benefited from America.

We have heard that we have had nothing but horrors in this country for the last six decades, to hear the majority leader speak the other day. Well, some people have done rather well in America during those six decades of evil. They prospered. They have become millionaires and billionaires, and now the Republicans would reward them with huge tax breaks, tax breaks that will drive the deficit up next year, that will cause it to explode in the year 2002, in the last part of this decade, and all of that is going to be paid by the impact that it has on middle-class families.

A commentator just earlier this week reported on the impact on middle-class families that suddenly find a parent, a loved one who has to go into a nursing home either because of a disability or because of advanced years, and it is going to be possible under the Republican budget as proposed to require the children to pay for the nursing home expenses which can run up to $30,000, $40,000 a year of the senior, to tap into the assets of those middle-class families at the same time they may be trying to get a young person through school, through college, trying to struggle to make ends meet themselves, but to force them to have to pay those expenses.

That is the way people get crunched under this Republican budget. We need a truly balanced budget that is balanced to the people of America.

TRIBUTE TO THE BRAVERY OF MARIETTA POLICE OFFICER MIKE POWELL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. BARR] is recognized for 5 minutes.

Mr. BARR of Georgia. Mr. Speaker, I rise before the House today to pay tribute to the brave actions of Marietta GA, police officer Mike Powell, a 6-year veteran of the department, a constituent, and a friend. Officer Powell's quick response to a 911 call this past Saturday saved the life of a local woman while placing himself in great danger.

Approaching the apartment building in which this woman and her husband lived, officer Powell heard screams from the woman upstairs as she hid from her attacker in a bedroom. Upon entering the stairwell leading to the apartment, he found the husband already dead. Then suddenly Mike started receiving gun fire. He quickly returned fire on the man until back-up arrived and subdued the perpetrator.

While making this extraordinary stand, officer Powell was hit two times. Thankfully he escaped serious harm, with one shot grazing his side and the other ricocheting off his gun and hitting him in the arm. The woman was able to flee the apartment unharmed during the commotion. It is certain the quick response of Officer Powell saved the woman's life.

Every day the heroic actions of men and women serving in police departments across the country save lives. The job is stressful, dangerous, and frightening, yet thousands put their lives on the line so that all of us may live more securely. Mike Powell's bravery is a tribute to him and a reminder to all of us of how much the men and women in blue do to protect and to serve. On behalf of the citizens of Marietta and the entire Seventh District of Georgia, I commend Officer Powell for his selfless actions in the line of duty and at great personal sacrifice.

☐ 1430

RTC REPORT EXONERATES CLINTONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, we live, as we all know, in an era in which good news is no news. So the recent report issued by Jay Stevens on behalf of the Resolution Trust Corporation which exonerates President Clinton and Mrs. Clinton from any liability to the RTC involving Madison Guaranty has gone largely unnoticed in the press. People who have an interest in perpetuating inaccurate accusations against President Clinton and Mrs. Clinton have understandably ignored this.

People will remember that Jay Stevens is the Republican who was a U.S. Attorney appointed by the previous Republican administrations who was considering running for the U.S. Senate as a Republican. He is a deeply committed conservative partisan, but also an honest man, not that there is any inconsistency there. He was hired by the

RTC to investigate President Clinton and Mrs. Clinton. Indeed, it was the fact that so committed a Republican partisan had been hired that caused the uproar in the White House, when people said to the Treasury Department, how could you let this happen?

Well, Mr. Stevens has now given his final report.

The RTC has asked that grand jury information not be released, and I have none here. They have asked that their future litigation strategy not be discussed, and I would not do that here. I will quote from Mr. Stevens' report.

"The foregoing list contains essentially all the documents regarding Whitewater that seem to have been addressed to or written by the Clintons." I skip a little bit. It says, "Therefore, on this record, there is no basis to assert that the Clintons knew anything of substance about the McDougals's advances to Whitewater, the source of the funds used to make those advances, or the source of the funds used to make payments on bank debt. In particular, there is no evidence that the Clintons knew anything of substance about the transactions as to which the RTC might be able to establish liability as to people other than the Clintons."

Skipping again to the summation, "On this record," this is Jay Stevens, the very committed Republican who was hired by the RTC over the objections of the Clinton administration to investigate the Clinton involvement with RTC, Madison Guaranty, Whitewater, here is his final recommendation based on his extensive survey of all of the evidence: "On this record, there is no basis to charge the Clintons with any kind of primary liability for fraud or intentional misconduct. This investigation has revealed no evidence to support any such claims, nor would the record support any claim of secondary or derivative liability for the possible misdeeds of others."

Skipping a little, "There are legal theories by which one can become reliable for the conduct of others—e.g., conspiracy and aiding and abetting. On this evidentiary record, however, these theories have no application to the Clintons. To hold one liable for conspiracy or aiding or abetting, the RTC must plead and prove the elements of these theories. These elements include a general awareness of the wrongful acts being committed by others and an intention to assist in the commission of the primary offenses. There is no evidence here that the Clintons had any such knowledge or intent. Accordingly, there is no basis to use them."

Mr. Speaker, partisan Republicans, extreme right wingers, and others have been engaged in a desperate, unyielding, incessant search for evidence to tarnish the Clintons with regard to Whitewater. They have found none. There is no evidence, and here we have a comprehensive report by a Republican prosecutor, a would-be candidate for office, who thoroughly investigates this and, as conclusively as you can get an investigator to say, he says there is no basis for this.

Pirandello wrote a play, "Six Characters in Search of an Author." Our Republican colleagues have collaborated on a more fantastic creative work. It is hundreds of accusations against the Clintons in search of any evidence. And Mr. Stevens, a professional investigator and Republican charged with looking into not just criminal liability, but civil liability, has concluded that after all of the evidence is examined, there is no basis whatsoever to make an accusation against the Clintons.

Will this stop our colleagues from their accusations? No. But it ought to mean that the public will receive those accusations with the total lack of respect to which Jay Stevens says they are entitled.

ORDER OF BUSINESS

Mr. TIAHRT. Mr. Speaker, I ask unanimous consent to exchange places in the special order list with the gentleman from Pennsylvania [Mr. GEKAS].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

PROBLEMS IN THE CLINTON ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. TIAHRT] is recognized for 5 minutes.

Mr. TIAHRT. Mr. Speaker, we have heard a lot of nonsense about the Republicans ruining Christmas for some of the Government workers. I want to talk a little bit about the Fourth District of Kansas. We have 1,038 Federal workers subject to furlough. This week the President vetoed legislation that would have put 940 of them back to work, 940, but the President vetoed Christmas for those employees and their families. Thank you very much, Mr. President.

You know, there is struggle going on here about balancing the budget, and we have come to a real critical point, because if we are unable to balance the budget now, then when will we balance it? We have a future to think about for our children. We are $5 trillion in debt. It is a tremendous amount of money. We are trying to strengthen our economy.

We have seen two dramatic moves in our economy. No. 1, when we went through the 5,000 mark on the New York Stock Exchange, it was the same week when we thought we had an agreement to balance the Federal budget in 7 years. This week, when we thought the balanced budget had failed, the stock market dropped dramatically, over 100 points, and then bounced back the next day, when Alan Greenspan, Chairman of the Federal Reserve, said that he hoped that we could get to a balanced budget, and in good faith he was going to lower interest rates a quarter of a percent.

But it is going to be very difficult for the President to concede to a balanced budget, because his liberal agenda does not include balancing the budget, only paying off liberal interest groups. Plus he is being dragged down by members of his own Cabinet.

Currently Secretary O'Leary in the Department of Energy is falling under fire. It started out with GAO reports as early as the first part of this year when they reported that she had a "mission a minute," quote-unquote, a mission a minute, that there were very large management problems within the Department. Then Vice President GORE's National Performance Review came out, which said that portions of the Department of Energy, like of the environmental management portion, was 40-percent inefficient, and it could cost taxpayers $70 billion over the next 30 years.

Then we started to see travel problems, with the Secretary of the Department of Energy having the highest travel budget per trip of anyone inside the President's Cabinet, staying at four-star hotels, traveling first class, taking along large staffs for her domestic travel. But that was all based on her current responsibilities in the Department of Energy, which are all domestic.

Then we started to hear about the international trips. Secretary O'Leary has taken 16 international trips, taking along as many as 50 staff members, as many as 68 guests, often CEO's who do not pay their portion of the travels. One trip cost $720,000. With 16 of them, it is in the millions of dollars, the costs of this. Often she travels on the same plane as Madonna leases. So the material girl of Clinton's Cabinet is spending unwisely taxpayer dollars in these travels.

She hires photographers and video crews to come along, because she wants to be caught at her best. She is very worried about the public image she is presenting and has been quoted as trying to bring the second term of the President's campaign, the ideals of it, to the forefront now.

In the zeal to project a good public image, Secretary O'Leary has hired a personal media consultant at a cost of $75,000 per year to the taxpayers. She also employs inside the Department of Energy more than 520 public relations employees at a payroll of over $25 million per year. She has even hired a private investigative firm to investigate reporters and Congressmen who are tarnishing her favorable image. She has developed a list of unfavorables.

Well, it is going to be hard to hit the budget target, especially when you are unable to control spending like this. This is excessive, it is unnecessary, and it is a waste. We are so concerned about the poor, and yet we allow first-class travel within members of the Cabinet overseas, on the same airplane that is leased by Madonna. That is not the lifestyle that is projected by the administration when they are trying to speak for the poor. It is quite the opposite.

So, Mr. Speaker, I would encourage President Clinton to ask for the resignation of Secretary O'Leary. I would urge him to get back into some honest negotiations on the Federal budget, so that we can enjoy Christmas as a government, get everyone back to work, and also preserve a future for our children, strengthen our economy, and just plain do the right thing. Balancing the budget is the right thing to do.

PRESIDENT RIGHT TO STAND FIRM ON BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, let me just comment on one thing that the prior speaker mentioned at the beginning of his remarks, and that was that the President was holding out, was hanging tough, whatever phrase you want to use, on the budget, because of the people that he cares about, or the interests that he cares about.

I have got to tell you I am very proud of the President and his holding firm on this budget, because of in fact who he is holding out for, and that is for the folks who are on Medicare, those elderly who are in nursing homes, that get their health care paid for through either in whole or in part by Medicaid, by concerning himself with the environment, and by concerning himself with the working families of this country.

By the same token, Speaker GINGRICH is trying to hold the President hostage on this budget because of the special interests that he has, and I will match the President's commitment to the working people of this country with Mr. GINGRICH holding out for those special interests, those who are going to get the benefits of $245 billion in tax breaks, those richest of American corporations who are going to see a $17 billion windfall with the repeal of the alternate minimum tax.

Last month Speaker GINGRICH shut the Government down. He shut it down, and, in his own words, he shut it down because he did not like his seat on Air Force One. Now he is at it again. This time the Speaker has shut the Government down because he is not getting his way on the budget, even though the overwhelming number of Americans reject Speaker GINGRICH's budget, and I might add, that 60 percent of the American public wanted President Clinton to veto the Gingrich budget because of the issues of Medicare, Medicaid, education, and the environment.

The Speaker is not getting his way on this budget. He would like to cut Medicare, Medicaid, education, and the environment, all to help finance that tax break for the wealthiest Americans. Those may be the Speaker's priorities, but in fact they are not America's priorities. But instead of listening of the American people and fixing this unbalanced budget, the Speaker has chosen to shut the Government down for the second time in a month. His decision to shut the Government down has thrown more than 200,000 people out of work 1 week before the Christmas holidays.

Yesterday my colleague from Virginia, Mr. MORAN, was on the floor, and he put the Government shutdown into human terms that I think everyone who is listening can understand. He said he visited a school in his suburban Washington district where the teachers told him that the children are not enjoying Christmas this year as they have in the past. Why? Because many of their parents are Federal employees who are out of work today, people who want to go to work, people who take on personal responsibility for themselves and their families. They are out of work today, thanks to Speaker GINGRICH. Their parents are fighting more, worried that they will not get paid, and afraid to spend money on the Christmas holiday gifts.

We should not be surprised that Speaker GINGRICH is willing to go to such extreme lengths to get his way if you take a look at what the Speaker said in September about shutting the Government down. This is a quote from the Washington Post on September 22. It says, "I don't care what the price is. I don't care if we have no executive offices and no bonds for 30 days—not at this time. I don't care what the price is."

☐ 1445

Quite honestly, that sums up the philosophy of the Speaker. It explains why he is willing to shut down the Government and ruin the holidays for thousands of hard-working families in this country.

This is someone who talks about a budget that is good for our children. What happens to these youngsters who are watching their parents worry about their jobs and what they are going to be able to do in the future? It explains why Speaker GINGRICH's budget cuts health care for the elderly and the poor while providing massive tax breaks for the wealthiest people and corporations in this country.

Believe it or not, this is the same man who last week was named Times "Man of the Year," leaving America to wonder who was the runner up, Ebenezer Scrooge?

BALANCING THE BUDGET IS A MILESTONE FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. FOLEY] is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, to respond for a moment to the prior speaker, it is not about ruining the holidays for Federal Government employees, it is about restoring faith in America. It is about people coming to Washington and honoring their commitment to balance the budget.

It is interesting when we have votes on the board whether Democrats and Republicans will seek to balance the budget. Overwhelmingly, both parties join in saying, yes, we want a balanced budget. The President wants a balanced budget. He said it many times.

In reviewing the document that the President submitted to this Congress, the only difference is that it incurs hundreds of billions of dollars of budget deficits for the next 7 years. That is not balancing a budget. Maybe in Washington spending $115 billion more than we have next year is balancing a budget, but in real America, in the real business community that is bankruptcy. That is out of business.

So as we approach the season of Christmas, the Speaker and Members of Congress have committed to staying here as long as it takes. That is not good news for families. It is not good news for anyone that Congress would work in session through Christmas. But I think we must honor the tradition of this House.

When we run for elections we tell voters if they will send us to Congress, that we will do the heavy lifting; that we will bring back a balanced budget and restore fiscal unity and dignity to this Nation. So we cannot just say, oh, well, it is almost Christmas. We have to be home. We have to leave Washington. We cannot be here. We cannot be away from the house, our districts, because certainly the balanced budget can come later.

This is a milestone in our Nation. This is a unique opportunity. As Mr. GINGRICH says, this is gut-check time, whether we have the fortitude to bring down overspending or do we want to just keep playing games.

We have heard the Medicare scam, and many people have talked about it, but we have seen the tapes, we have seen the visuals of Mr. and Mrs. Clinton saying we should bring it down to 6 or 7 percent a year. Well, we are doing 7-plus percent a year in Medicare spending per recipient. So it is not a cut. We know that. We have proven that. We will go on to the next issues.

Wasting taxpayers' dollars, though, is legendary around this process. We have appropriators, authorizers, the Committee on the Budget, all working somewhat together and then, at times, apart.

Mr. Speaker, I had an interesting opportunity to kill the gas turbine this year, which was an exciting year for me and an exciting project for me, because it had spent hundreds of millions of dollars a year. Always killed in the Senate, denounced by three Presidents, but here in the House it survived year after year. We killed it here in the House, went over to the Senate and killed it there, and, finally, the gas turbine no longer finds its way into our budget. The same Government that had the Department of Defense procurement system paying $450 for a hammer.

We just heard from one of my colleagues, the gentleman from Kansas [Mr. TIAHRT], talking about Secretary O'Leary's trips. As I recall, we started the Department of Energy during the Carter administration because we had a gas shortage, a crisis, and they wanted to make certain that the thermostats would stay at 78 degrees. Now we are traveling the globe trying to seek out whatever we are trying to look for and spending hundreds of millions of dollars to do it.

I think the Cabinet Secretary needs to reexamine her priorities, reexamine why the Department was created and show some leadership and some frugality and not spend the taxpayers' money as if she is, in fact, a corporate executive on the shareholders' nickel.

Yes, Congress has failed to act. Many people look back at the Reagan years and say, oh, it is Reagan's fault for running up massive deficits. Hey, the buck stops here in Congress, folks. The buck stops here in Congress. The Congress are the appropriators. They are the authorizers. They are the check writers. They are the fiscal clearinghouse for this Nation. So Congress has to accept the responsibilities.

The President submits a budget, and we have sure seen his. It does not look like it is going to reduce the debt, but, no, he gets a chance to submit it and he gets a chance to veto, which he has done.

I was proud today, Mr. Speaker, when we came to the securities legislation, that a number of our colleagues, both Democrats and Republicans, overrode his veto. We are sending him a message that it is time to start working and stop vetoing messages and then sending hollow bills back to this floor suggesting he is committed to deficit reduction.

We have a lot of problems in America and we have a lot of problems we can solve together, and I think there has been a great bipartisan spirit on a number of issues. But I do think it is time for all of us to end the charade, end the political games, end the characterizations and assaults against the Speaker, and on both sides of the aisle. The Republicans do not need to fire missiles over to the Democrats, and I think the Democrats need to cease and desist.

Mr. Speaker, I listened to the gentleman from Massachusetts [Mr. FRANK] talk about the exonerations of the Clintons. The same thing is happening to the Speaker on the numerous charges being filed by the other side of the aisle, in order to tie up the process, in order to try to impugn his reputation and trying to do a number of things.

So I think if this Congress is serious about Christmas, about the holidays, and about the future of this Nation, that we will put aside personalities and get down to balancing the budget initiative, and we will work on it successfully, like we should. We have all voted for it, we have all supported it, and now let us do the heavy lifting and provide the leadership necessary in order to pass it.

ORDER OF BUSINESS

Mr. MILLER of California., Mr. Speaker, I ask unanimous consent to exchange special order times with the gentleman from Michigan [Mr. STUPAK].

The SPEAKER pro tempore (Mr. COBLE). Is there objection to the request of the gentleman?

There was no objection.

FRESHMEN REPUBLICANS DO NOT CARE ABOUT FAMILY VALUES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of California. Mr. Speaker, the previous speaker said that this was not about ruining the holidays for the families of Federal employees; that that really was not important and what was important was a balanced budget.

I think that that shows such incredible lack of respect for those families, for their relationships with their children at a time of the holidays, for their religious beliefs. I think it shows such an incredible lack of respect for our families and our religious beliefs. This is more than shopping days. This is a religious holiday. It is a time when we gather with our families and we think of our fortunes and our misfortunes, and we take stock of the year we have and the year we look forward to and we pay respect to our God.

The suggestion somehow is that that can all be held ransom, that can be held ransom and somehow that will make the negotiations more serious; that, apparently, the Speaker of the House of Representatives is incapable of negotiating unless he has a hostage. He shut down the Government a month ago because the President of the United States would not talk to him. Now he is shutting down the Government because the President is talking to him.

Last night the President agreed to sit down with Senator DOLE and with Speaker GINGRICH, they would roll up their sleeves and they would negotiate a balanced budget that would be scored, the numbers would be guaranteed so it truly came into balance by the Congressional Budget Office.

They walked out of that office with that agreement: and, apparently, the Speaker brought that back to the Hill and the freshmen Republicans told him, no; that that was not good enough to release the Federal hostages; that that was not good enough to let people enjoy Christmas; and that was not good enough to put people back to work.

Maybe we were wrong. I assume that the President assumed that when the Speaker said he wanted to negotiate vis-a-vis the President, that he assumed he had the authority to negotiate. The President was speaking for the Presidency, the executive branch and the people he represents. Senator DOLE seemed to think he was representing the people in the Senate from the Republican Party. Apparently, the Speaker did not have negotiating authority from the freshmen in the House of Representatives.

So apparently, the Government will remain shut down through Christmas. We will or will not be here through Christmas, and families will have to go through that kind of trauma. It is terribly unfortunate, but it shows such a basic flaw in all of the rhetoric and all of the debate and all of the hot air from the Republicans about family values, about the importance of families, about how this was going to be a Congress that took that into consideration when we recognize the importance of the Christmas season to our families.

Now, what is the debate about? The debate, apparently, is that the freshmen Republicans told the Speaker there will be no give on the $245 billion tax cut; that that was sacred to their sense of a balanced budget. So at the time that we are cutting the seniors' health care benefits, at a time that we are limiting the amount of money to be made available for the elderly in nursing homes, at a time that we are cutting back on health care benefits and abolishing the Medicaid Program for children, for poor women in this country, the first time that we have put children back into poverty instead of lifting them out of poverty, at a time that we are cutting back on access to student loans and increasing the cost of education, at a time that we are making those fundamental changes and cutbacks that affect every family in America, the bottom line for the Republicans is that if they do not get the tax cut for the wealthy in this country, if they do not get that, then there can be no negotiations.

To hold on to that position, they have decided, for the second time, to take hostages from the Federal work force. This is a little bit like a family that sits down, as we must do to balance a budget, and decides that they will only go to the show once a week, they will not eat out any longer, they will drive the car for a longer period of time, they will not buy a new house, they will take an extra job, maybe the kids will have to work, but then, all of a sudden, they turn around and say, but we are going to give the children a raise in their allowance.

We do not have the money for this tax cut. We do not have the $245 billion when we are cutting $270 billion out of seniors' health care and $180 billion out of Medicaid. I think the freshmen Republicans ought to quit being so selfish and start thinking about America's families and families that need their help.

A BALANCED BUDGET IS THE MOST SERIOUS CRISIS OF THIS GENERATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. MCINNIS] is recognized for 5 minutes.

Mr. MCINNIS. Mr. Speaker, we need a Government that keeps on ticking, but we do not need a Government that keeps on giving. This balanced budget is the most serious crisis of this generation. There is not a family in America that finds themselves in a situation where they spend more money than they bring in that they do not call it a crisis. There is not a family in America that if they got themselves into the same kind of situation as this Government, spending more than they bring in, would not sit down at a table and say, you know something, somewhere we are going to have to reduce the amount of money that we are spending.

Our problem back here in Washington, DC, by the way, is not a lack of money. We have plenty of money in Washington. We have twice as much as we did 10 years ago. Our problem back here in the Nation's Capital is spending. We are spending more money than we bring in. Our problem back here is not a lack of taxes. In fact, the average person in this country spends the first 2 hours and 45 minutes of every working day just paying their taxes.

Like an old farmer one time told me, before you put more water in the bucket, you better plug the holes. That is what is happening in this Government. We need to plug the holes. We need to reduce this spending. You cannot tax the American people anymore.

□ 1500

And the American people have every right to expect this Government to conduct its business as we expect them, the constituents, our bosses, to conduct their business.

Mr. Speaker, what will happen if we can balance this budget? First of all, let me tell my colleagues that the President, regardless of all of the rhetoric that goes on, regardless of what the President says right now, I can guarantee my colleagues that this President will be forced to accept a 7-year balanced budget; I can guarantee my colleagues that this President will be forced to have that scored by the Congressional Budget Office; and I can guarantee my colleagues that the President is going to have to address entitlement programs.

Mr. Speaker, if my colleagues think entitlement progarms in this country are run well, ask anybody how well our welfare system is run. Imagine winning $100 million in the lottery and wanting to give $50 million of it to the poor people in this country. Would anyone send that to Washington, DC for distribution to the poor people in this country? Of course they would not. The system is broken, and the President is going to have to be part of the solution in fixing that.

Mr. Speaker, another thing we have got to do is we have got to restore confidence in the American people. How confident can the American people be that business in Washington is changing when we have the Secretary of Energy traveling around the country in one of her jet rides that costs $400,000 just for the jet, taking an entourage of 50 or 60 or 70 staff people with her, having 500 people to handle public relations?

We cannot allow that to go on. How confident can the American people be when we stand by and let that happen? The President should immediately ask for, and the Secretary of Energy should immediately submit, her resignation. We need to look at the scare tactics that are being deployed, and we have heard some of them on this floor today.

Mr. Speaker, we are not ending Medicaid. We are doing it in a different way. We are sending the money to the States and bypassing the bureacruacy in Washington, DC. Medicare is not being eliminated.

Mr. Speaker, if we listened to some of the scare tactics, we would think there will be no more school lunches for kids. That is obviously false. Not one kid who got a lunch this year is going to be denied lunch next year. We would believe that students will not get loans and the senior citizens are going to be thrown out in the street to starve. We would think all of these dramatic things are going to happen.

Mr. Speaker, a year from now, after this President is forced to accept a 7-year balanced budget and after this President is forced to have it scored by the CBO, a year from now we are not going to find any of that having occurred.

In fact, what we are going to find is lower interest rates. We are going to find that the next generation has got this generation paying off its credit card so that we do not send that debt on to the next generation. That debt right now accrues at a rate of $30 million an hour. This next generation is watching our generation overspend the budget by $30 million an hour.

What will we see a year from now? We are going to see that come to an end. We are going to see the U.S. Government in Washington, DC do as 48 States do, and every family in America is expected to do, and that is to balance their budget, to not spend more money than they bring in.

Mr. Speaker, let me say that our issue back here is spending. We are not cutting Medicare; we are reducing the growth of Medicare. The President's proposal, by the way, on Medicare is very similar to ours. If some of these people get up talk about the Republicans and want to use the word "cut," they better talk about their own President.

Mr. Speaker, we need to stop the spending in Washington and we need to control. With that, I would just urge and tell the American people I am positive and optimistic that we will have a balanced budget and all of us, including the next generation and especially the next generation, will be better off for it.

SPEAKER AND HOUSE REPUBLICANS SHOULD NEGOTIATE WITH PRESIDENT AND END GOVERNMENT SHUTDOWN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. GEPHARDT] is recognized for 5 minutes.

Mr. GEPHARDT. Mr. Speaker, the President reached an agreement with the Republican leadership last night, both to begin intensive discussions about how to balance the budget on a rapid timetable and also that the Congress would pass a continuing resolution today to reopen the Government. Evidently, the extreme elements of the House Republicans have rejected this agreement and prevented the Government from reopening today.

Mr. Speaker, the President is committed to balancing the budget in 7 years and doing so in a way that reflects our values and also our priorities: health care, education, the environment, tax fairness. He is prepared to talk with the Republican leaders today, tomorrow, the next day, as long as is necessary to get the job done.

But Congress in the meantime should reopen the Federal Government. We cannot achieve this important goal through threats and ultimatums. The Republicans in Congress have threatened to keep the Government shut down unless the President agrees to deep and unconscionable cuts in Medicare and Medicaid. The President will never give in to these kinds of threats, nor should he.

Mr. Speaker, this country has a responsibility not only to balance the budget, but also to protect our values and our interests as people. We must act in the interest of the 3.3 million veterans who will not receive their benefits checks due December 29 unless the Congress passes a continuing resolution by tomorrow morning.

Our first obligation must be to these people, not to confrontational tactics or extreme agendas. Let me last say this. I believe that if this cannot move forward today, we are in a constitutional crisis. This is the first time in memory that the Speaker of the House and a majority in the House has said that the President's veto, being an extraordinary power, must be met on the side of the majority in Congress if they disagree with that veto, not with a two-thirds majority to override the veto, not with another bill that might gain the President's signature, but with shutting the Government down.

Mr. Speaker, there is no language in the Constitution that says that is what the majority in Congress should do if they are displeased with the veto. The Constitution says we override the veto or we pass another bill that the President may or may not sign.

It is irresponsible, it is unconscionable, it is immoral to have taxpayers' money to pay for services and then to say we are not going to give those services to people or, in the case of veterans, their checks for their pension, because we are in a pique with the President with his priorities on the budget.

Mr. Speaker, I cannot believe this is happening to our country. In the name of sense, in the name of morality, in the name of logic, in the name of decency, I ask the Republican majority and the Speaker of this House to come to this floor today to pass a continuing resolution, to open this Government back up and to get in a room with the President of the United States and the other leaders in Congress and try to see as hard as we can if we can find a budget for this country for the next year, if not 7 years.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Speaker, the Leader is obviously here, as are many Democrats, ready to work this afternoon. I am advised that unless this Congress, which went into a kind of recess at 2 o'clock eastern time today, unless by 8 o'clock in the morning it has approved a continuing resolution, thousands of veterans in Austin, TX, and I believe you said 3.3 million across the country, people that have served our country, who have put their lives on the line, many of them disabled veterans, will not get their checks on time if that resolution is not passed within just a matter of hours.

Mr. Speaker, does the gentleman from Missouri [Mr. GEPHARDT] know of any reason why those veterans should be asked to sacrifice and should be caught in the middle of all the crisis that is going on here in Washington?

Mr. GEPHARDT. Mr. Speaker, reclaiming my time, there is absolutely no justification for it. It is immoral. It is immoral to say that they will not get their benefits because there is a disagreement between the Congress and the President on a budget. That is not the adult way, the sensible way to handle this disagreement.

GOVERNMENT SHUTDOWN UNNECESSARILY INCONVENIENCES CONSTITUENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I wanted to follow on the remarks of our distinguished minority leader here. This is a serious moment for our country. Our congressional office has now been in receipt of phone calls from constituents who are not able to get their passports processed because of the shutdown of the Government. So, in addition to veterans, whose checks are being threatened at this point because this Congress and this Speaker chooses not to move legislation through this body that will keep the various agencies operating, and not inconveniencing the public during this very busy travel season, it is truly a tragedy what is happening here just to make some sort of political point.

Mr. Speaker, I think it is time for people here to grow up or get out, and to deliver the kind of services to the American public that they expect of us. We have thousands of families across this country who have filed for home mortgages that have a relationship to HUD where they insure and process those mortgages. Mr. Speaker, 20,000 of those a month cannot be processed because of this Government shutdown.

We are inconveniencing the American people from coast to coast. We have tourists all around this country that cannot get into the monuments. Think of when in recent history my colleagues ever remember this happening. This does not need to happen, especially during this very important season of the year when so many people are traveling and expecting the goodwill that this season represents to govern our actions toward others.

YES! TOLEDO WINS IN OVERTIME

Mr. Speaker, I came to the floor this afternoon on a little bit lighter subject, and I would like to say that my good colleague from the State of Nevada has elected not to join me here this afternoon, but I am compelled to rise to tell my colleagues that if they happened to miss the first college bowl game of the 1995 season, they may have missed the best, most historic bowl game of the year.

Mr. Speaker, in the Las Vegas Bowl, the still undefeated University of Toledo Rockets beat the University of Nevada Wolf Pack 40 to 37 in the first overtime game in the history of postseason college football.

It was a close game, as evidenced by the 34 to 34 fourth quarter score sparkling with flashes of offensive brilliance on both sides. But in overtime, Reno's Wolf Pack defense could not withstand the onslaught of Rocket star Wasean Tate's powerful running game. Tate scored a touchdown and the game, as it is often said and this time never more true, was history.

Mr. Speaker, I want to thank my colleague, the gentlewoman from Nevada [Mrs. VUCANOVICH], for graciously honoring our friendly wager by awarding our team this Nevada Wolf Pack sweatshirt, which I intend to present to the team at an appropriate moment, for it was they who won it fair and square.

Mr. Speaker, I want to say to the Rockets, because I know many of them are listening, and as this particular T-shirt indicates over here, are undefeated champs of the mid-American conference. Our newspaper had a complete front page headline: "Toledo Rockets Win Vegas Bowl." We are so extremely proud of them and their hard work.

Go Rockets and Go Toledo and thank you, Mrs. VUCANOVICH.

NOW IS NOT TIME FOR BUSINESS AS USUAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. HAYWORTH] is recognized for 5 minutes.

Mr. HAYWORTH. Mr. Speaker, I thank the Speaker and I thank many of our colleagues for joining us here on the floor today.

Mr. Speaker, I listened with great interest to the gentlewoman from Ohio [Ms. KAPTUR], and indeed would offer in the spirit of bipartisanship, congratulations to the Toledo Rockets for their great victory. I am sure I am speaking for my colleagues from the great State of Nevada. She was more than happy to supply the Tee-shirt and she is equally proud of the Wolf Pack of Nevada, Reno, even though they came up on the short end of the score.

Mr. Speaker, again, on that bipartisan remark, let me address the remarks of my colleague from Ohio and other remarks in this Chamber earlier today with reference to what is transpiring here in Washington, DC, and indeed throughout the country.

There has been a plea from the other side of the aisle, a request to go back to business as usual. Indeed, this morning, my dear friend from New Jersey, who is also here on the floor, basically said that in his opinion, what is transpiring now is not the way a majority should govern in the United States.

□ 1515

Let me simply offer these thoughts. It is precisely because of business as usual and the constant drumbeat of taxing and spending and spending a little more and making special accommodations and spending more and more and more and more that we never come to grips with the central issue we must confront. And that is we are committing fiscal suicide upon this Nation and upon future generations if we fail to stand now and respond to the clarion call of the American people who say enough is enough. Balance the Federal budget now. Put into place the framework today is that in 7-years time we can have a balanced budget and start to eliminate this national debt that will suffocate generations to come.

There is nothing moral about taking the money from generations still to come simply because they do not have a vote. Good people may disagree, and my good friend from Massachusetts is here on the floor, and I am sure he will get a chance to speak here in a few moments. Good people may disagree on how money may best be spent. But for the executive branch of this Government to walk away from a public commitment and, moreover, a public law, signed 30 days ago by the Chief Executive, committing this Nation, committing this Government as terms of the previous continuing resolution to use the framework of a commitment to a balanced budget in 7 years using the honest numbers of the Congressional Budget Office, but for the President to walk away from that statement, to walk away from that public law is absolutely patently wrong.

Now, others may try to massage the wording, and there may be countervailing philosophies, but the undergirding part of that public law was a commitment to work for a balanced budget within 7 years using the honest, nonpartisan numbers of the Congressional Budget Office.

Are there differences in philosophy? Of course, but there should be no difference on that broad bedrock of principle.

Mr. Speaker, I freely acknowledge that good people can disagree and, indeed, we are here to debate those differences. But surely, certainly the bounds of common decency suggest, that, even though good people may disagree, there should be a basic framework upon which to work out the disagreement. Now this White House and this administration and regrettably some others in this Chamber want to walk away from that basic agreement.

Much is made of the holidays. Much is made of the hardship that many Americans face. But again, Mr. Speaker, the greatest Christmas present that we can give the American people is to make sure that we have a Nation fiscally sane and sound, morally responsible for generations to come, saving the health care system for our grandparents, ensuring fiscal responsibility and no to business as usual, trying to find a way to always tax and spend and spend some more.

TRIBUTE TO AARON FEUERSTEIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. KENNEDY] is recognized for 5 minutes.

Mr. KENNEDY of Massachusetts. Mr. Speaker, as we face a kind of conflagration in Washington, a meltdown, a fire storm that seems to be taking place both on the House floor and in Washington in general tonight, the truth is that there was a real fire that took place in the State of Massachusetts last week that I think can act as kind of a moral for all of us in this Chamber to take some advice and some lessons from.

I rise today to pay tribute to a remarkable man in Aaron Feuerstein. Aaron is the owner of the Malden Mills in Methuen, MA. He saw his family business go up in flames last week. Over 2,400 families worked in that company.

Against all odds, Aaron Feuerstein built up a company in Massachusetts that has for the last several decades lost tens of thousands of mill jobs to other countries. Tens of thousands of mill jobs have moved down to the South and have left Massachusetts because of high wages, because of the high cost of energy. But while others were abandoning the State, Aaron Feuerstein was building up the State. He pays union wages. Ron Alman, the head of the International Ladies Garment Workers, has nothing but kind words to say about Mr. Feuerstein.

Mr. Feuerstein, at a time when his company and his life savings were burning, stood and made a commitment to his workers that he would continue to pay them through the Christmas season, would continue to pay them on into next month and committed himself to rebuilding that plant. Maybe the Congress, maybe the President, maybe the House and Democrats and Republicans can learn a little something about Mr. Feuerstein's commitment to this country, to his community.

This is an individual who employs immigrant workers as well as people that have lived in this country for generations. He has invested in their education. He spent millions of dollars of his own funds to teach people English, to give people job training. He has worked with the Government. It is through that kind of partnership and commitment that he has built up his company. He has made a recommitment to making certain that we in this Nation can have the kind of high wage, high skilled jobs that mean the future of America is going to be safe.

Yet, as that goes on in Methuen and Malden and other parts of the State of Massachusetts, what we see is divisiveness and name calling and a tearing apart of the future of this country. We are saying, as this guy is standing in Boston making certain that his workers, when he has no income, are going to get paid. We are saying, we are going to cut off the workers in this country today.

There should be a lesson that we all take about how we can try to get along, how we can try to make this country grow and prosper in the future by recognizing that these companies do not have to just line their pockets with their profits. We do not have to measure our degree of growth in our country just by how Wall Street does, but we can look at how American workers do and how families do and whether we build up communities. That is what this individual is doing.

That is why I hope that the Congress of the United States would join with me in honoring Aaron Feuerstein and his legacy to the company that he has built, that his workers have helped him build. That means that there is going to be a happy Christmas, a happy Chanukah, a happy holiday season for so many families in Massachusetts that last week looked like they were burned out and had no hope and no future. His commitment means they do have hope, they do have a future, and all of us can learn something from his example.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. KENNEDY of Massachusetts. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I want to join with the gentleman and his words, as one who is not even close to Massachusetts, but I saw it on the news. The gentleman stood up and said: All of my employees are going to continue to receive their wages, even though the plants are not operating, and we are going to start up some of those plants—I think it was—within 30 days.

Mr. KENNEDY of Massachusetts. That is exactly right.

Mr. VOLKMER. Then soon thereafter they were going to be in full production. It is such a positive mode, just the opposite of what we have here today. This is a negative mode that we have here that we are going to reduce the Federal Government. We are going to shut it down if we do not have our way. He did not have his way. He got burned out.

Mr. KENNEDY of Massachusetts. The gentleman is exactly right.

Mr. VOLKMER. I think it is a very good example of the differences in the way we just think about things.

GRANTING OF SPECIAL ORDER

Mr. LINDER. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. VOLKMER. Mr. Speaker, reserving the right to object, I just wondered if there are others that are waiting to be heard here on the floor. And those of us who are not on the list anymore, I lost my turn, I am willing to wait until all the rest of them are finished.

Mr. LINDER. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Georgia.

Mr. LINDER. Mr. Speaker, what we are trying to do, under unanimous consent, is to agree to have alternating speakers, is all.

Mr. VOLKMER. Mr. Speaker, the gentleman is just filling in for the gentleman from Maine [Mr. LONGLEY].

Mr. Speaker, I withdraw by reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

BUDGET NEGOTIATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. LINDER] is recognized for 5 minutes.

Mr. LINDER. Mr. Speaker, let me just say that I just came upstairs from a Republican conference meeting, and it was very discouraging. There seems to be a whole lot less progress on this budget than we thought would be there.

This President has said on so many times that he was in favor of a balanced budget. During the campaign it was 5 years. Later it was 10 years, and then 8 years, and then between 7 and 9, and then 9 years, and then 7 years. And last night our leadership believed, and the press reported, that the President was prepared to put his numbers, his specific numbers for spending on the table for discussion using Congressional Budget Office numbers.

Subsequent to that, this morning the Vice President goes live on C-SPAN at the press room of the White House and, when asked that specific question, when will you have a budget, the Vice President responded, well, we will put all the budgets on the table, our OMB-scored budget, the Congress's CBO numbers, and other budgets that may be offered. And under insistent questioning by the media, he was asked, are you going to do what was said last night, put a budget on the table with CBO scoring numbers? And the Vice President said no.

This is very, very discouraging. If we cannot even get in the same rules, play in the game with the same rules, we cannot get to the end of this. Each of us would like to be home with family for Christmas and New Year's and the work that we have to do in our districts during January. But I believe we are prepared to stay through Christmas until this is done, that what we insist happening is that we are going to not go home until we have a balanced budget now.

The interesting thing about this is that we are not all that far apart. For all the talk we have heard about Medicare and gutting Medicare, we wanted to spend in year 7 on Medicare $289 billion. The President wants to spend $294 billion. That is not a large difference. It can be bridged easily.

We want to grow the spending in this budget by 3 percent. The President wants to grow it by 4 percent. We want to use numbers that presume an increase in revenues of 5 percent. The President wants numbers that would presume an increase in revenues of 5.5 percent.

None of these differences are too broad to sit down at the table and just cut a deal and go home with their families for the holidays. No, this is not about numbers. This is not about numbers. This is about a basic philosophy, because we believe and have believed all year that Medicaid and welfare can be handled more efficiently and more effectively by the States. So do the Governors, including many of the Democrat Governors.

We want to take that money that we have been spending and turn it back to the States for them to handle in the community person to person, face to face. We think that welfare and Medicaid ought to be more in the form of caring than caretaking. The President disagrees. This is all about who decides, who chooses on behalf of others, who sets the power.

In 1958, John Kenneth Galbraith published a book entitled The Affluent Society. I always thought it was ironic that 7 years after he published a book entitled The Affluent Society, he enlisted in the War on Poverty. But in his book in 1958, the entire book was essentially this. It is not that Americans have too little or they have too much. But they make bad choices with their dollars. And it is the obligation of an educated government to tax those dollars from them and make better choices on their behalf.

□ 1530

I submit that is what the issue is about.

The first 2 years of the administration the budget, welfare, health care, virtually everything proposed, was for more taxes, more Federal bureaucracy, more deciding on behalf of the American citizens. Indeed Mrs. Clinton said in the house of the gentleman from Ohio [Mr. KASICH] one evening, "We have an obligation to make better choices on our citizens' behalf."

That is what it is about, the left versus the right. The left thinks that we should decide for the future and shape a future that our children and grandchildren will be secure in; it will be fair and warm. The right says if you gave us every lever of governance tomorrow, we would not have the slightest idea of what to do. I could not satisfy 10 percent of the Members of this House because we all come to the table with different hopes, and dreams, and aspirations.

I do know this: I could build a future that my daughter would love and my son would hate. So our side says return those choices to the people, let them keep more of the dollars in their pockets, and 260 million Americans acting in their own behalf hundreds of times every day will shape the future, and it will be one with which most of them will be happy, Mr. Speaker.

This is not about money. It is about the direction in the country. It is very serious, and I am prepared to stay here until we are done.

STOP THE REVOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. WATERS] is recognized for 5 minutes.

Ms. WATERS. Mr. Speaker, and Members, we just heard from the minority leader that the negotiations have broken down, that the talks, rather, that were going on to try and get this Government going have broken down. I was hopeful, but I guess I am not surprised. I am not surprised because I have kept up and watched very carefully what has been going on, and I suppose, as I thought about this, I was reminded that Speaker NEWT GINGRICH said he is a revolutionary and this is a revolution, and I suppose Speaker GINGRICH is leading a revolution, and in order to do that you must disrupt, you must block, you must impede, you must deny, you must do whatever is necessary—I guess by any means necessary—you must even take extreme means to keep anything from happening. I guess that is what revolution is all about.

It is unfortunate that the Speaker has decided to lead this revolution against the American people. Government, for all intents and purposes, has stopped. It is closed down. We cannot get a continuing resolution because the revolutionary has stopped everything.

Now I was led to believe that there were some agreements. Now, if you will recall, we got a continuing resolution that carried us up until December 15. How did they get that? They got that because there were some agreements. They got together, and the revolutionary said, "Mr. President, if you will agree to a 7-year balanced budget and CBO numbers, then we can talk," and the President, in order to get a continuing resolution so that we could keep going, we could keep Government open and get on with the negotiations, essentially agreed to that. So that is off the table, that is already agreed to, a 7-year balanced budget and CBO numbers.

So what is stopping the negotiations?

The revolutionary GINGRICH also agreed that he would recognize and respect our priorities. The President said to him, "I cannot allow you to dismantle Medicare, I cannot allow you to gut Medicaid, I cannot allow you to do away with education in this country, and we must, we must, protect the environment."

And the revolutionary, NEWT GINGRICH, said, "All right, we will respect that."

So, Mr. Speaker, they came together and agreed on those basic principles in order to get to the negotiation table.

Now revolutionary NEWT GINGRICH is saying, "Unless you agree to gut Medicare and Medicaid, I don't want to play, I don't want to negotiate," and so we are past December 15 now, the Government is closed down, we cannot get a continuing resolution, and the revolutionary will not go back to the negotiating table.

That is where we are, my colleagues. That is what it is all about. I am convinced that this really is a revolution; I just did not think it would be so extreme. I never dreamed, not in my wildest imagination did I dream, that revolutionary NEWT GINGRICH would be willing to stop this country dead in its tracks in order to prove that he is a revolutionary.

So I suppose, when the veterans do not get their paychecks, when people cannot use their public parks, I suppose when people cannot get passports, when all of this is taking place, that revolutionary NEWT GINGRICH is willing to sit here and say, "That's all right, I want my way."

We have seen some of the actions of the revolutionary in the past, and we know that the revolutionary gets very upset when he does not have his way. If you can recall what happened just a few weeks ago when there was a plane that went to a most important funeral in Israel, and the revolutionary could not have his way, he came back, he pouted, he made statements, he went on and on and on.

Mr. Speaker, I hope the revolutionary will stop this revolution on the people and allow Government to work.

BALANCING THE BUDGET IS THE MOST IMPORTANT THING WE CAN DO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. TORKILDSEN] is recognized for 5 minutes.

Mr. TORKILDSEN. Mr. Speaker, I appreciate the chance to talk a little bit. I want to applaud my colleague, the gentleman from Massachusetts [Mr. KENNEDY], who was here a few minutes ago when he talked about Aaron Feuerstein who runs and owns the Malden Mills in Methuen, the factory that very tragically burnt down and literally hundreds of people, thousands of people were left without a job. Several people lost their lives in that fire, and Mr. Feuerstein very generously, first, committed to rebuild the factory in Massachusetts; second, the next day told employees that they would be paid for at least 30 days and also that their health insurance would be continued for at least 90 days, and in the holiday season everyone in Massachusetts appreciated that. Even though the factory is not in my district, many of my constituents work in that factory because it neighbors the Sixth District of Massachusetts, and I just wanted to, first, applaud Mr. Feuerstein for what he has done. I have not met him personally, but I have called to congratulate him and offer assistance, and I think it is something that all of us nationally do across the country. Any time there is a tragedy like that, we all pull together.

I would disagree with my colleague from Massachusetts though in just what enables a very generous employer to do what was done in this particular case. In the case of the United States we have had a deficit in this country now for 26 consecutive years. If any company had run a deficit for 26 consecutive years, they could not have offered employees pay for 30 days, they probably would not even be in business. And so the situation for the United States of America is something that we have to address because instead of a one-time immediate calamity, the calamity for the United States has been a long time in coming and will not be resolved overnight.

I give people the analogy of the situation with the debt in the United States and why it is so important to balance the budget. I compare it to someone's personal finances. Imagine that you had four credit cards and you had charged the maximum amount you could on each of those four credit cards. Well, if you wanted to go and make payments, you would hope to pay down the balance, but if you, instead of doing that, you went out and applied for a fifth credit card so you could start paying the other four credit cards, it would not take someone long to figure out that indeed it would be a very quick amount of time before that fifth card was also run up and, indeed, the debt would be much, much worse.

That is very close to the situation where the United States is right now. It has borrowed and borrowed and borrowed. Now the debt is officially just below $5 trillion, but if you add all the money that has been promised to Social Security recipients and others, the debt is even larger than that, and at some point there will not be enough money to make all those commitments which have been made, those things which are called mandatory spending, and that is why it is so important that now we take steps necessary to have a balanced budget. I am someone who believes that we could not do it in 1 year; I mean even that would be too drastic, and that is why a 7-year plan is very reasonable. If we can do it in 5, all the better, but a 7-year plan certainly would be very, very positive.

Now we are in a situation now where we are debating the 7-year balanced budget, and not too long ago we thought we had an agreement between the White House and Congress that we would use Congressional Budget Office numbers, that we would protect certain things like Medicare, education, the environment, provide for an adequate defense, provide for fair tax policy for working families, and even though we thought we had that agreement, the White House did not respond with Congressional Budget Office numbers, and instead came back and said, well, no we have what is called a rosy scenario, we think everything is going to be better. Indeed when you cannot even agree on the parameters, it is very difficult to have negotiations if one side comes to the table with apples and the other side comes to the table with oranges, and you cannot figure out why you cannot have any type of negotiation. I think it is probably because the two sides have come to the table with different measures of what they are talking about.

That is why I think that resolution, the continuing resolution we have voted for, was so important, and I would call on the White House to go back to its agreement and say please live up to your agreement. If you do not like the budget that passed the House and Senate, and that is your option, please submit your own balanced budget using the same estimates. If you do not want any tax cut, take the tax cut out. If you do not want any defense spending, take defense spending out. If you want a lower amount of defense spending, put in a lower amount of defense spending. But please submit your own balanced budget so we can have a comparison and we can actually have legitimate negotiations.

Now a lot of people say, well, the Government shut down at least some departments; is that not the fault of the Congress? Well, the President was sent the appropriations bill for the Interior Department, and he vetoed that. That was his option, but if he had signed it, the Interior Department would be open now. The President would sign the appropriations bill that covered the Veterans Administration. If he had signed that, the VA would be opened now. He choose to veto it. The President was sent the appropriations bill for Housing and Urban Development. He vetoed that bill as well, and

HUD remains closed. He was sent the appropriations bill for the Commerce Department. He vetoed that bill, and Commerce is closed. Also with the Department of Justice and the Department of State.

I would call on the President to submit an honest balanced budget so we can balance the budget for our children's future. That is the most important thing we can do.

HOLIDAY SPIRIT IN THE CONGRESS; WHERE IS IT?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, I would remind our colleagues in the spirit of Christmas and the observation of Hanukkah there are certain words or feelings that come to us. There are feelings of joy. In fact, the whole religious experience of being a Christian is the advent, is the spirit of expectation, looking forward to something. Also we have feeling of caring and feeling of responsibility, feeling of families and friends. I would just ask you, what joy is there to the more than 250,000 Federal employees who we are holding hostage this Christmas because of our failure to pass budgets? Why should we make them victims of the fight that we have going on? Certainly does not seem to be in the spirit of Christmas, it certainly is not consistent with religious feelings of that.

In terms of responsibility, who is responsible for the situation? One would say that, well, the President is the only one standing between American people and a balanced budget. Truth be known, as far as the shutdown, it is Congress' responsibility. On October 1 we were to have a budget, and we did not have that budget reconciliation. It is our fault because we could not come to that.

What is this debate about?

□ 1545

What is this debate about? It certainly is not about what the Republicans will say over and over again: "It is about balancing the budget, about balancing the budget in 7 years." It could not be about that because the majority have already agreed upon that.

Why do they repeat that? Simply to confuse or to persuade the American people that the debate is not about real issues, is not about who wins and who loses, it is not about our commitment to compassion, it is not about whether the wealthy succeed at the expense of the poor. It is not about our lack of commitment or commitment to the environment or education. They would rather have you think of this principle that they are willing to die on the sword for and say, "We promise, now, and we are going to keep our promise, come hell or high water."

What they are saying to you, Americans, is that "We will allow you to die on the sword. So we get our provision, or what we perceive to be, we are willing to allow 250,000 employees to have no Christmas." That is what they are saying. They are not standing up for principle. They are saying, "It is my way or no way." No compassion in that position, and certainly nothing to be lofty about.

This whole idea that a balanced budget is sacrosanct escapes me. A balanced budget is because it makes sense to balance the budget, but we balance the budget how? I was told if I want to make a good living, I want to be honorable. I can make a living several ways, but I would rather do it in an honest way. It is as important how we balance the budget as to balance the budget.

It is important in my sight if those Americans who are senior citizens have the opportunity at the end of their lives to make sure that they are not frustrated and in pain because of lack of health care. It is important in my life to think that I would like to prepare for the future, and the future means we want to invest in education. I hear my colleagues get up and say, "You know, I want my grandkids to grow up in a society where they do not have to pay all of this debt."

I have three grandkids too. I want my three grandkids to grow up so they do not have to pay for a lot of debt, too, but I also want my grandkids and other peoples' grandkids—I happen to be privileged, and have been not because I came to Congress, but because I just happened to be, but I know there are those who are not. America is not just great because of its defense, its technology. America is also great because it makes a place for those who are least among us. We are also great because we have a sense of compassion.

I would say to you, I do not know a better time to show compassion other than in the Christmas season. Surely, there is no compassion in closing down Government. Veterans may not get their checks, welfare mothers may not get their checks. Surely there isn't any compassion with those Federal workers who will not know whether, indeed, they will be paid.

I think, Mr. Speaker, our colleagues need to know the spirit of Christmas is the spirit of joy, caring, and responsibility. We have been ill responsible, and I certainly know we have not been compassionate.

THE SPIRIT OF GIVING, AND THE DIFFICULTY IN MAKING TOUGH BUDGET DECISIONS

The SPEAKER pro tempore (Mr. COBLE). Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, it is a season to be very conscious of giving and what we can do for other people. It seems to me that the President and some of the Democrats feel they are gaining politically by calling Republicans mean-spirited in their efforts to whether we are going to reduce the growth of Government and end up with a balanced budget. It is easy for the President, I think, and some of the Democrats to say they want a balanced budget, but it is hard to come up with the specific cuts and reductions in growth that are necessary to achieve that balanced budget.

If we are going to give a present, it seems very, very important that we start considering the tremendous obligations that we are putting on our kids and our grandkids by spending the money today to satisfy what we consider our today's problems with money they have not even earned yet, so we are obligating them to pay our today's bills. I think all of us, collectively, must believe that their problems are going to be as difficult and as great as our problems today, if not greater.

It seems to me that there are two things that are going to have to happen before we can break this budget impasse: First, the President is going to have to stop playing politics, and doing what is right for the future of our country. I think that is sort of what he is doing. He sees his poll numbers gaining by saying, "No, I am not going to allow these cuts."

I think here is the other second option, that the American people spend some really tough, hard studying time learning about the budget of the U.S. Government, and what it is really doing to their future, what it is doing to their future standard of living, what it is doing to their obligation they are going to have when they start paying off this debt.

Mr. Speaker, it has been politically damaging to many Republicans to go home, because the PR battle has probably, there has been greater success on the part of the Democrats in saying that, "Look, Republicans are taking away school lunches, they are going to put poor people out on the streets," and so when we go home, it is politically damaging.

Let me tell you, Democrats, Mr. President, if we do not succeed this go-around in achieving a balanced budget and start living within our means, my guess is there are not going to be politicians willing to even try it again for the next 15 or 20 years. It is not easy. On the other hand, it is so easy for the President and some of the Democrats to say, "Look at these mean-spirited Republicans as they try cutting this program and cutting that program and reducing the growth in this other program." It is not politically easy to reduce the growth in Government.

The bottom line is this: We either do it now, or we are going to wait until the baby boomers start retiring, around 2011 to 2019. Then we are going to have to do it. If we wait that long to make these decisions, those decisions are going to be drastic.

Let me just give you one example that sort of puts it in perspective, the difficulty of making these decisions. If it was easy, we would have made the decisions a long time ago. If you go back to after World War II, there were 45 people working for every 1 Social Security retiree recipient. Today there are three people working for every one retiree. People are living longer. The ratio of those working to those retired is becoming greater, and therefore, more difficult to charge more to those working in taxes to pay for some of the benefits of those that are retired. We have increased the FICA tax 29 times in the last 21 years, in either the rate or the base, so we continue to tax those that are working more and more to pay for our overspending.

The interest on the national debt this last year was $320 billion, the interest on the total debt, subject to the debt limit. That is the largest expenditure of the Federal Government. We cannot go on, Mr. Speaker, we cannot continue to overspend and run this country deeper and deeper into debt, and jeopardize the success, the economic success of the future.

Mr. Greenspan, our top banker in this country, came to our Committee on the Budget. He said: "Look, if you guys and gals do it in Congress, if you balance the budget, interest rates will be going down 1½ to 2 percent." Such a dramatic increase in the economy.

Let us do it now. Let us stick to our guns, if we have to stay here every day. I am hoping I am going to spend Christmas Eve and Christmas with my family. Other than that, I say, let us stay here every day, negotiate, get this done, have a budget that balances, and gives our kids and our grandkids a good Christmas present.

THE BUDGET IMPASSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. GEJDENSON] is recognized for 5 minutes.

Mr. GEJDENSON. Mr. Speaker, there are a couple of issues that I think need to be focused in on. The first is that the outlays in this year's budget are virtually the same between the President's budget and the Republican Congress' budget. Would the gentleman agree with that? The gentleman agrees with that. So what we are doing is we are shutting down Government on no difference; a 7-year difference, but in the meantime, we are causing injury to American citizens.

On the other hand, what we could simply do is what we have done in the past, to say "Government will continue to operate even at a lower figure than either the Republicans or the President has asked for, and we will continue to negotiate."

Why are we having this impasse? The impasse is because the Republicans believe that they cannot give up their tax break; that everything else ought to be discussed: that student loans for kids ought to be cut, or worse than ought to be cut. On student loans, their proposal shifts billions of dollars to bankers, and makes it harder for kids to go to school by ending the direct loan program.

They say that seniors ought to pay more for health care; that poor people get no health care at all, possibly; that seniors get thrown out of nursing homes; that the environment is degraded. But let me tell you something; one thing they will not talk about is why we cannot shrink the tax break for billionaires.

Mr. Speaker, $245 billion in tax breaks, that is what is holding this process up. The difference between having people go to work and people not working is whether or not the tax break is sacrosanct. Mr. Speaker, what is going to happen here? Some 3.3 million veterans who have their checks due on December 29 may not get them. We are having problems in the Northeast with cold weather and snow. Programs that help the needy are going to be cut and stopped so that the greediest among us can be benefited.

Let us think about how you run a family. If you have a family and there is a crisis, you call the family together. You do not tell the kids they are not eating for a week until mom and dad can get together on a decision. You sit down and you start talking and you talk until there is a solution, but you also do not say "Well, our youngest son just got married. He has a mortgage, he is in trouble. We are going to cut him. Our two other kids in college, we are pulling them out. Our oldest kid is in Beverly Hills, living in a $10 million mansion. Do you know what we are going to do? We are going to send that child a little extra money." That is not how you run a family, that is not how you run a business. The responsibilities that we have in this institution are not simply to take our ball and go home if we do not get it our way.

Mr. SMITH of Michigan. Mr. Speaker, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Michigan.

Mr. SMITH of Michigan. My understanding is that the gentleman from Ohio [Mr. KASICH] and the gentleman from Georgia [Mr. GINGRICH] say everything is on the negotiating table except a true, real balanced budget in 7 years.

Mr. GEJDENSON. Mr. Speaker, what we have seen is that the one place your side has refused to budge on is the tax break. We have even said, bring the tax break down to working families. Get rid of the guys at the top, the people who make $200,000, $300,000 a year, and then we are closer. "No, we want to protect them," is what the Republicans say.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I say to my friend, the gentleman from Michigan [Mr. SMITH], you had an opportunity to do that yesterday. The gentleman from Texas [Mr. STENHOLM], who has been the most outspoken advocate of a balanced budget on this floor in either party, I suggest to you, and in fact it was the Stenholm constitutional amendment that passed this House this year, as the gentleman knows who got up on the floor yesterday and said, "Let us defeat the previous question, put the coalition budget on the floor with an open rule."

The coalition budget, as you know, cuts more money than the Republican budget that we passed. It has less of a deficit. Next year, the year after, as a matter of fact, as you know, your budget has a very substantial deficit in the first 2 years. It does not cut taxes. It preserves, as the President has indicated, Medicare and Medicaid at numbers that the President, I believe, could sign. It is a cut, as you know, substantial, more than some on my side could support, but the fact of the matter is every Republican Member voted against allowing that on this floor.

Mr. SMITH of Michigan. That is not true. Some Republicans voted for it. Only 60-some Democrats voted for it.

Mr. HOYER. I stand corrected, it was four.

☐ 1600

UNINTERRUPTED NEGOTIATIONS FOR BALANCED BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. SAXTON] is recognized for 5 minutes.

Mr. SAXTON. Mr. Speaker, earlier this afternoon the House Republican Conference passed by a unanimous majority a resolution calling on Speaker GINGRICH and Leader DOLE to proceed with uninterrupted negotiations until this budget matter is resolved.

I would like to be home with my family, as I am sure all of you would, but I think there are some matters that take precedence from time to time, and in this case in a historic time, over matters of personal interest. This is a matter of personal interest to many Americans across the country.

Now, when we talk about the national debt and that it is $5 trillion, it is kind of easy for people's eyes to glaze over because none of us can relate to a sum of money that is that large. So sometimes we say, well, if you divided it by 280 million, you could see how much that is for each man, woman, and child in the country. Of course, that number of $18,000 for each of us, our share of the responsibility; but that is somewhere off somewhere else, and we do not have to worry about it immediately.

I would say to all of my colleagues on both sides of the aisle, it is important to stay here and keep these negotiations going, which I am convinced we are going to do, because April 15 comes around every year, and look at it this way: If you went to the bank or if I went to the bank to get a loan and, let us say, I borrowed $18,000 and the bank was kind enough to make that loan to me, they would charge me interest, and that interest probably would be in the neighborhood of 6 or 7 or 8 percent, depending on conditions at the time. And that would cost me, if it were 7 percent, that would cost me $1,260 a year as an individual in interest.

Now, I would submit to you that when America's families sit down at the kitchen table and fill out their income tax forms each year, they write a check for the interest on $18,000, which is probably about 7 percent, and send the check for each member of the family for $1,260 to Washington, DC, so that we can pay our interest on the national debt. So it is something that families relate to, and it is something that has a monetary pocketbook-type importance to American families.

Recently the Joint Economic Committee did a report, and published it, on further costs to the American family. This chart represents the cost of not balancing the budget to each American family for things other than interest on the national debt, an additional $2,308. Let me just suggest how we got to that figure.

Most families have a mortgage on their house; not everybody, but most families have a mortgage on their house. It would not be unusual today to have a mortgage for, say, $100,000. The economists tell us that the interest on mortgage rates would be reduced by about 2.2 percent a year, in other words, coming down from an average of about 8 percent to about 6 percent; and that would be pretty neat, amounting to a savings of $1,456 a year for a family. That is not bad by anybody's standards.

It is not unusual also for middle-class families to have students in school, and it is not unusual for them to have a loan to send that student to school. If we got that interest rate reduction because we balanced the budget, families would save an additional $50 a year.

It is not unusual for families to have car loans, either; $15,000 would be a modest car loan today, and if we got that 2 percent reduction in interest because we balanced the budget, the family would save an additional $108 a year.

Now, part of the Republican tax cut package that the Democrats have referred to here as cuts for the rich, part of that package, a substantial part of that package, is a $500-per-child tax credit; and so if our family that we are talking about had one child, they would save an additional $500 because they would get the child deduction.

So all of these things added together, plus what we might anticipate in higher wages and more jobs, which could produce an economic growth which some estimate could be just under $200 a year for this family, another $194, all adding up to over $2,300 a year in savings for the family.

So if we balance the budget and people did not have to send their $1,200 to Washington for each member of the family to pay interest on the national debt, and if we arrived at savings something like this, we would have a very significant savings for each family. That is why it is important to balance the budget. That is why we released this JEC report.

We would be happy to send it out to any Member or anyone else who wants this report, simply by calling my office.

RECESSION LIKELY FOR 1996

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. VOLKMER] is recognized for 5 minutes.

Mr. VOLKMER. Mr. Speaker, it has been interesting to listen to the various speakers today, especially from this side of the aisle, talking about how they are going to balance the budget.

Earlier today we had a gentleman from Colorado [Mr. MCINNIS], and I think it was a slip of the tongue, I hope so, but we will find out what is in the CONGRESSIONAL RECORD tomorrow, and he says that we are going to have about a $200 or $300 billion deficit this year.

Next year, he says, next year, we are going to have a balanced budget. Well, baloney. Next year under the Republican budget, the deficit goes up, it does not go down. This whole idea that they are saying, we want a balanced budget now, I have heard that so many times on this floor: We want a balanced budget now. Baloney.

There is no balanced budget now. They are talking about down the road, and it is all projected; and all kinds of things can happen in that 7 years, and you will not have a balanced budget.

Mr. Speaker, as one who was here in 1981, I can remember another group of people, including former President Reagan saying, under my budget in 4 years, it is going to be balanced. It is going to be balanced. Guess what, folks? Guess what? We had the largest deficit in the history of this country in that fourth year.

Now, all of this yakity-yak, that is all it is, that in 7 years we are going to have a balanced budget, that is a bunch of yak-yak, a bunch of baloney. There is no truth to it at all. They do not know for sure that it is going to be balanced. If we have a recession next year, and I dare say, the way this majority is going under our imperious Speaker, NEWT GINGRICH, the way it is going right now, we could very easily have a recession next year. Because in my opinion, if our President stands where I think he should stand, and the Republicans stay where they say they are going to stay, we are going to hit the debt limit sometime in January, and then we will see what happens to interest rates.

Then we will see what happens on interest rate. Because of activity of this Republican blackmail position of the majority, and that is just what it is, a blackmail position, you could very well end up with a recession this next year.

I will guarantee you, going back in history again, going back and remembering our great President Ronald Reagan, in 1982, folks, I do not know how many of you remember, guess what happened? Because of his tight money policy, because of the Reagan tight money policy, we had a huge, a horrendous recession.

We had parts of this country, including my district, parts of my district, 13 and 14 percent unemployment. Government revenues just went to pot, went way down. Expenditures, because of all of those people being out of work, went up. The deficit went way, real high, and what was the other part of that deficit? Well, remember the old theory that we could really stimulate the economy with a big tax cut? You have heard that again, too. That was Reagan's cause of the big recession.

A guy named Bush, remember him? Back when he was running in 1980, he called it voodoo economics. They are playing the same game all over again. Voodoo economics did not work then; it is not going to work again, and this whole idea that this is all because we are going to help our children at the same time you are going to tell children they cannot eat, they are not going to get enough to eat, the poor kids, the school lunches, the food stamps, we are going to take care of our kids because we are going to balance the budget. That is a pipe dream.

They say, according to their projections they are going to balance the budget. Let us be truthful about it. According to the projections of CBO, you are going to balance the budget in 7 years. Well, folks, you have not taken the time to look at those projections. You need to do that. You need to look at those projections, and if you do not agree with them, like I do not agree with them, and I do not agree with the cuts in Medicare and all of those things, you are not going to have a balanced budget. They are not going to have a balanced budget, but yet they want to shut down the Government.

BALANCED DEBATE GOOD FOR BALANCED BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. EWING] is recognized for 5 minutes.

Mr. EWING. Mr. Speaker, I come here to this floor to add a little balance to the debate. The rhetoric that you have heard from the other side of the aisle, I think has been very strong, many times stretching the believability of almost anyone who would be listening. I think the American people can see through this debate.

The last speaker, my good colleague from Missouri, has a selective memory. His selective memory forgot about the Carter administration and double-digit inflation, unemployment, and interest rates. He can go back only a little ways, and of course I would have to defend Ronald Reagan, who had a very liberal, a very spending Congress who certainly never helped to balance the budget.

The time has come to try and balance the budget. We know we have a tough job to do it even in 7 years. But this party, the Republican Party in this Congress is dedicated to doing that.

I want to talk about the shutdown. We have heard some very, very strong words about the shutdown and revolution. Well, many people back in the country do not realize any of Government is shut down, and the part that is shut down, if we look at it, we might say, those employees have the best of all worlds. They will probably get paid and have the week off before Christmas. I do not think that is so mean-spirited to those employees.

Then we have to look at why we have even a partial shutdown of Government. Well, most of it is because the President vetoed the spending bills that we sent to him. He did not like those; they were not spending enough. Very basically, the disagreement between the President's budget and Congress' budget is that we want to spend $3 trillion less over the next 7 years.

We are going to spend more on every program of importance to this country for environment, for education, for senior citizens, for health care, more money, in many cases, a high percentage of increase in the spending.

Why have we not reached a budget then? Why have we not reached an agreement? Well, the White House is too interested in talking about talking. They do not want to talk about anything specific; they only want to talk about how we are going to talk about the specifics if and when we can get to the specifics if the President is in town and if it can be done, and it is on and on like that; and then the President makes an agreement with the leadership, and before they can get back to the Capitol, he sends the Vice President out and reneges on every agreement.

The American people are surprised, I think, about all this talking and no action. They want something to happen, and so does this caucus. And that is why the Republicans have said, no more temporary spending, Mr. President. Come to the table. The budget could be put together before Christmas.

There is only one viable document on the table, and that is the Republican version that we have worked on for months; no one else has one that is so complete, and changes can be made in that. Within 2 days the President and the leadership of this Congress, if they would stay at it continuously, would have a budget and we would be on the road to balancing the budget; we would be on the road to funding social programs in this country, yes, at a higher level, and we would be on the road to a balanced budget.

☐ 1615

I do not think that we could give the American people a better Christmas present, if we would put away the cruel, mean-spirited, yes, the rhetoric from the other side, and sit down and start talking about the issues. We are here, we are ready to do that. We will stay ready to do that right through the holiday if necessary, so that we can accomplish what is good for America, and to it at this time of good will, this Christmastime when we all should be thinking not only of our families but what we can do for our neighbors and everyone in our society.

IN MEMORY OF STEVE ROULETTE

The SPEAKER pro tempore (Mr. COBLE). Under a previous order of the House, the gentleman from Ohio [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, as Americans celebrate the holiday season with their families and friends, my thoughts turn to the family of a young man in my district in my hometown of Lorain, OH.

This Christmas season will be an especially difficult time for Steven Roulette's family. Steve, a seemingly very healthy 23-year-old, was playing basketball with friends when he collapsed. He died a short time later.

It is always disturbing when a young person dies. In Steve's case it was even more tragic. A native of Lorain, Steve believed in giving back to his community. He worked diligently in my campaign in 1994. Prior to that, he had worked at the Nord Family Foundation that supports social services in Lorain County.

Steve Roulette believed in public service in the best sense of the term. He always had a twinkle in his eye and a passion in his voice when he talked about commitment, when he talked about involvement, when he talked about helping his fellow men and fellow women. He cared deeply about his family and passionately about his community.

So many in Lorain whom Steve's life touched were so saddened by his untimely death. I would like to offer at this Christmas season my sincere condolences to his family. Steve left behind his fiancee Denise, his parents Orah and Kathryn, his stepmother Alice, his brother Alan, and his sister Angela. As a father of two young daughters, I cannot begin to imagine their grief but my thoughts and prayers are with his family and his friends during this holiday season.

WELCOMING A NEW REPUBLICAN, THE BUDGET, AND NATIONAL DEFENSE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. CHAMBLISS] is recognized for 5 minutes.

Mr. CHAMBLISS. Mr. Speaker, I was not aware of the situation the gentleman from Ohio [Mr. BROWN] had reference to there, but I commend him for taking the floor to recognize this young man and all our best wishes for this holiday season go out to his family.

Mr. Speaker, I rise to talk on a couple of things here. First of all, I had a very special point of pride today when I received a phone call from my hometown advising me that in spite of all the lambasting of Republicans by folks on the other side, that this morning the sheriff of my county, the Honorable Billy Howell, a two-term Democratic incumbent, switched to the Republican Party.

I commend Sheriff Howell on what I think is a very wise decision for him. I welcome him to the party. He is a good friend, and I know will continue to serve the people of my county in a Republican manner the same as he did in a Democratic manner.

I cannot help but make one quick comment about my good friend, and he is truly my good friend, who serves on the Committee on Agriculture with me, the gentleman from Missouri [Mr. VOLKMER], who was critical of the Republican budget, saying that our budget is not a balanced budget because it does not balance the budget now. Well, by golly, we could balance the budget now but the best way to do that is to cut out all congressional pay and send all of us home. That would certainly go a long way toward balancing the budget now.

Everybody understands we cannot balance the budget now. We presented a budget that will balance the budget of this country in the year 2002. Everybody knows and understands that, I hope, and I hope the gentleman from Missouri [Mr. VOLKMER] will better understand that. He said he has been here since 1981 and frankly that is part of the problem. We have had too many people who have been here too long, who have spent too much money over the years and, by golly, it is just time we stopped spending so much money.

I really got up here, though, to talk about another matter that I am extremely excited about and something that took place on the floor of this House several days ago, and that is the passage of the national defense authorization conference report. The report passed in the House, it also passed in the Senate yesterday, and it is headed to the White House as we speak.

The President has given every indication that he is going to use the same veto pen that he used on several other authorization bills and veto this bill. I hope he changes his mind. I want to encourage him to change his mind, because in my opinion the national defense authorization conference report that we passed in the House, has been passed in the Senate, is a good bill. It is not a perfect bill. There are a lot of ways that perhaps we could improve it. But it is a good bill, and it does a lot of things that are absolutely necessary from the standpoint of the national security of this country that have needed to be done for many years.

First of all, one thing this bill does is give all of our active military personnel a pay raise. Admittedly, it is only 2.4 percent, I wish it could have been 24 percent, but it does give the military personnel of this country an immediate pay raise.

I am very pleased, when I go on the three military bases that are located in my district and have an opportunity to talk to the young men and women, all of whom are volunteers in the military, when I talk to those young men and women and find out that without question they are absolutely the finest young men and women that America has to offer. It gives me a real sense of pride, and I am extremely proud of those young men and women. If anybody deserves a pay raise at this very difficult time in our budget process, it is the men and women in military service.

Right now here we are at Christmastime. Here we are dealing with a very serious crisis in a very cold and distant land called Bosnia, a country which a lot of folks in this country had never heard of before 30 or 60 days ago. We are sending 20,000 of our finest to Bosnia at this time of year. The President has an opportunity to give those folks a very special Christmas present, to say thank you for a job well done. That Christmas present will be a 2.4-percent increase in their pay.

Another thing that this bill does is it provides a 5.2-percent increase in what we call BAQ housing allowance. What BAQ housing allowance is, it is a provision which pays to military personnel a certain amount of money to allow them to rent an apartment or rent a home that is off the military base where they are serving.

If we do not have military housing on base, a lot of times our personnel are required to go off base, and we provide them some money to do that with. It is never enough to fully fund what it costs for an apartment or a house but it does help out. We provide an increase in that. Mr. President, that increase is needed. I urge you to sign it.

Another thing we do is we equalize the retired military COLA's to retired civilian COLA's. That is something that is an extremely important aspect of this bill. Mr. President, I urge you to look at this bill. If for no other reason than from these standpoints, please sign the Defense authorization bill.

THE BUDGET PROCESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

BOSNIA

Mr. WISE. Mr. Speaker, let me pick up where the previous speaker left off in the sense of talking about Bosnia for a second. The first West Virginians are now passing through Fort Dix, NJ, Mr. Speaker, en route to Bosnia.

As Reserve units are called up and others are activated and, of course, active duty, I think it is most likely that we will see a lot of West Virginians going to Bosnia. West Virginians always answer the call. Certainly the C-130 squadrons, the 167th in Martinsburg and the 130th in Charleston, are just about everywhere on the globe anytime there is a problem. They have been to Bosnia as well before.

And so at this Christmas time we need to reflect on what is happening, and as these West Virginia troops pass through Fort Dix and as the others activate or are shipped out.

I voted against the initial military involvement, not because I questioned the good intentions of the policy, and certainly it is well-intentioned, but I questioned whether or not the military would have the ability and means to carry it out.

That question has been answered in an affirmative vote here on the House. The decision has been made. The troops are going, and we must now all stand behind our troops and I am going to make sure they have whatever is necessary to carry out their mission.

I am encouraged by the fact that the rules of engagement for these troops are different than we have seen in Somalia, than we have seen in other areas, where we have now the ability to hit back and hit back hard should our troops be threatened in any way.

But as these troops leave this country, millions of American citizens are asking, what about the other parts of our Government? We know these troops are going to operate efficiently and effectively and carry out their mission. Why are not other parts of Government?

Why do we have parts of our Government shut down? That is a fair question. We are now in our 11th day cumulative this year, the Federal Government or parts of the Federal Government not working. That is an all-time record, I believe, for the Republic, certainly for this century.

There are two parts really that have to be dealt with. Unfortunately the two processes have been brought together by the leadership of this House. One part is the annual budget, what you do to fund the Government on a day-to-day basis for a year at a time, for the fiscal year 1996.

The other part is the budget debate that is taking place in negotiations between the White House and the Republicans and Democrats in the House and the Senate for a 7-year balanced budget. Running the Government day-to-day, one process. Balanced budget, the next. Regrettably, the leadership under Speaker GINGRICH have chosen to tie these two inextricably, and so the Government is held hostage while these important negotiations take place.

So what happens to those who say, well, really are we seeing much of a shutdown in Government? Yes, we are seeing cumulative right now about 60,000 students who will not be able to fill out applications for Pell grants and other student loans as the next semester comes on. We are seeing thousands who had vacation plans turned away.

Well, vacation plans, is that very important? No, but what about people who call the EPA hot line for drinking water violations and want some assurances about the environment? We are finding that those folks are not going to have their calls answered.

When this leadership, the Republican leadership, took over in the spring, I complimented them, not because I agreed with the Contract with America, but I thought that they brought it to the floor in an orderly way and in a very purposeful way and they moved it through quickly. It was not much fun for anybody but they did it. They demonstrated an ability to command the floor.

Unfortunately I have to say, in the same vein, I have seen a total breakdown of that ability in the appropriations process. I recognize this is a complicated area. It sounds like it ought to just be beltway gobbledygook except for this.

The appropriations process is very important. We have 13 appropriation bills that fund the Government on a yearly basis. October 1 is the deadline to get them all passed. We had a handful at best, three or four, that had passed and been signed into law on October 1.

By just this week, I believe we now have seven that have been signed into law. We still have six, and they are fairly big ones, that have not been signed into law. Some of them have not even been taken up by the other body.

I yield to the gentleman from Illinois [Mr. DURBIN], a member of the Committee on Appropriations.

Mr. DURBIN. I would like to report to my colleague from West Virginia that I just left the conference committee on the District of Columbia. The gentleman would not believe what is going on there.

The Republicans have failed to enact the District of Columbia appropriations bill which was due October 1. We are now almost 3 months into this fiscal year. The District of Columbia Government, their local funds as well as Federal funds, are all appropriated funds, so this government is literally running without authority.

In providing police protection, they are trying to keep the streets safe for us to drive on, they are trying to keep the community as safe as they can for the tourists who are visiting Washington, and some of my colleagues who have just joined me on the floor here from the State of Georgia as well as from the State of Wisconsin blame President Clinton for this. They said the President is responsible, and yet the fact is we have not sent the appropriation bill to the President, almost 3 months into this fiscal year.

A REPUBLICAN VIEW OF THE BUDGET PROCESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico [Mr. SCHIFF] is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, I want to take up where the gentleman from West Virginia just left off. That is, when we talk about in the short term why is the Government in this partial shutdown mode, as it has been called, the gentleman is mechanically correct when he explains how our systems work, that a number of agencies are funded through a total of 13 separate appropriations bills, and of those 13 appropriations bills, 7 have been passed by Congress and signed by the President.

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Once that occurs, there is no longer a need for a continuing resolution to be passed to keep these agencies open, which is to say the agencies function whether there is or whether there is not a continuing resolution.

However, the gentleman did not mention the fact that with respect to the other six appropriations bills, three of them were passed by the Congress and were just recently vetoed by the President of the United States. The appropriations bill for the Veterans' Administration and independent agencies, for the Department of the Interior and for the Departments of Commerce, State, and Justice, those are contained in three bills that the President vetoed. If the President of the United States had signed the appropriations bills for those agencies, they would be open right now regardless of the impasse over a continuing resolution.

Now, it is important to say that the Democratic side has continually said why does the Congress not do its job and pass appropriations bills, but when we do pass appropriations bills, the President vetoes them.

The gentleman is suggesting that is up to the President of the United States to sign appropriations bills as part of his duties. I do not think they are going to suggest that.

I would like to make the further point, Mr. Speaker, that the President vetoed these bills, these three bills because he felt the amount of spending or other policies within them does not fit his long-term view of where the Government should be going. The President has that prerogative under the Constitution to veto appropriations bills, or any other bills, for that matter. There is a specific procedure in the Constitution for that.

The point I am making is there is no difference, no difference at all, between the President tying long-term policy to his vetoing three appropriations bills which would have reopened those agencies today and the Congress tying the continuing resolution for the rest of the agencies or these agencies, too, without an appropriations bill to Congress' view of a long-term policy for the Government. Both sides are now doing the same thing.

That brings me to the central point of where why I took the floor right now, which is to talk about that long-range policy. Both sides, both the President and the Congress, have said we want to reach a balanced budget, and I hope that goes without saying. The national debt right now is almost $5 trillion that our children and grandchildren will have to pay back someday.

Further, the interest we have to pay on this borrowed money, and we pay interest on money we borrow like any individual would or any business would, the interest we pay is over $200 billion a year. That is more than 10 percent of our current budget.

When I talk about the effect, when I hear talk about the effect of spending on programs, imagine how much we could spend on important programs or allowing tax reductions if we had the use of $200 billion plus a year that taxpayers already send to Washington and, from an economic point of view, we throw out the window because interest buys you nothing. But we have to pay it in order to borrow more, just like anyone else would.

When the Government went through this partial shutdown a month ago, the Government was reopened under an agreement between the President and the Congress that said, among other things, that by the end of the year the parties would reach a balanced budget in 7 years, using the Congressional Budget Office economic projections, although the Congressional Budget Office was expected to, and I believe has, consulted with other agencies and other individuals, and protect certain spending programs. The Congress passed a budget that the Congress believes meets all of those requirements.

Now, I do not agree with every single item and every single choice in that budget. But the Congress as a whole, the majority, believes that it meets the requirements of our agreement of a month ago.

As everyone knows, the President vetoed that budget, vetoed it on the basis it did not adequately protect his spending priorities. Again, that is the President's prerogative.

What the Congress is saying now is, Mr. President, if you believe that the budget we passed does not comply with your priority of spending, show us what your priority of spending is under the terms of an agreement; in other words, put out a budget proposal which is balanced in 7 years and which uses Congressional Budget Office economic projections, and then show us how you would protect your priorities. There is nothing in that that says how the President of the United States has to set spending levels. There is nothing in there that says he has to cut spending for programs or anything else, only that the President of the United States abide by the agreement he made a month ago.

Today the Vice President of the United States said the President refuses to comply with the agreement he made a month ago, and that is why we are at this impasse right now.

THE BUDGET IMPASSE

The SPEAKER pro tempore (Mr. COBLE). Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, the American public must be very perplexed. In addition, of course, we know that they are very angry and, very frankly, a number of us that sit in this body are very angry.

We began this session with the election of a new leadership. Speaker GINGRICH annoiunced a new order, an order committed to revolutionary change. We have had, to some degree, a revolution. It is not, as so many revolutions are, not a pretty thing to watch.

The Contract With America, which was the plan of this so-called revolution, talked about, in two of its first three items, responsibility, personal responsibility, and fiscal responsibility. Personal responsibility was urged on all Americans to do that which would make their lives better and, consequently, the lives of their families and their communities and their State and Nation better and more productive, more successful.

We have been debating that contract for the last 11 months, and very frankly it has not gone very far. One of the reasons it has not gone very far is because the Republicans in the Senate could not agree with the Republicans in the House. Frankly, the Democrats have not been able to defeat or pass much on their own. We understand that, we are in the minority.

Now we come to funding Government. Personal responsibility would say that each and every one of us ought to share the most efficient and effective operations of the people's Government; reduce it, change it, eliminate some activities, do all of that, but ensure that those activities that we support operate in an efficient and effective manner. The Republican leadership has failed miserably in that effort. Because of Democrats? No. In the first instance, when this fiscal year ended September 30, the Republican leadership had failed to pass any appropriations bills to fund Government. Not 1 of the 13.

My colleague points out that perhaps we passed the legislative bill prior to the first of October, and that was, of course, vetoed because the President thought it unseemly that we take care of ourselves first before we took care of other people's business, and he made a good point.

The Republicans passed a short-term CR that expired, and they had yet to pass the appropriation bills that the President would sign and, indeed, as of today have seven bills that have yet to be passed into law.

Now, ladies and gentleman, we have come to a point where the President, President Clinton, the majority leader BOB DOLE, and the Speaker, NEWT GINGRICH, sat down together at the White House last night and said, "As reasonable people, let us work this out," and the reports I received this morning were that the Speaker thought that was a positive meeting. Senator DOLE, the majority leader, thought that was a reasonable meeting. The President of the United States thought that that was a positive, productive meeting, and the three leaders came out and said, "We think we have a construct to move forward."

And then what happened? The Republican freshmen apparently thought that was not enough. The Republican freshmen want a guarantee that the President would agree to certain things that he believes are not in the best interests of this country, cutting Medicare deeply, cutting Medicaid deeply, cutting education for young people, which he believes, and I share his views is an investment in the future of America, undermining programs that protect our environment.

In point of fact, in the last legislation we passed to keep Government working, both parties agreed that that would be part of it. Unfortunately, Mr. Speaker, the freshmen Republicans have demanded that Government shut down until the President gives up.

That is not right.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. VOLKMER. Mr. Speaker, is it out of order that anyone in this 5-minute time be given additional time under unanimous consent?

The SPEAKER pro tempore. Under special order speeches extensions of time are not allowed.

Mr. VOLKMER. I thank the Chair.

THE EFFECTS OF THE GOVERNMENT SHUTDOWN ON FEDERAL EMPLOYEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. MORAN] is recognized for 5 minutes.

Mr. MORAN. Mr. Speaker, there is no good reason why 260,000 Federal employees should be shut out of their jobs, particularly at Christmastime. This is unprecedented to punish Federal employees because they chose to be civil servants. But that is what this body is doing. And to do it at Christmastime, when virtually all of these Federal employees have children, have been looking forward to Christmas, would like to be out shopping after they finish work each day, but they cannot. They do not know whether they will be paid.

They are aware of the press conference that the Speaker had where he alluded to the fact that a great many Republican Members of this body, particularly freshman, are opposed to reimbursing Federal employees for this period of time when they have been locked out of their jobs. Imagine the strain, imagine the anxiety, imagine the sadness on the part of their children when they see the toll this is taking on their parents.

I have been told by teachers, by one of the principals, in fact, of an elementary school in my district where a lot of Federal employees send their children, that their children are not acting like this is Christmas. Normally, you have pageants and children jumping up and down and squealing with laughter and looking forward in anticipation of Santa Claus. But we have stolen their Christmas from them this year, because their parents cannot afford to go out and buy presents. Their parents have no reason to be happy. Their parents do not know what is going to happen to them, because it is in our hands.

We control what this Christmas will be like for these thousands of Federal employees. And it is wrong. It does not have any reason to be tied to a 7-year balanced budget.

You know, you look back at history, when we have had conflicts between the majority in the Congress and the executive branch, when President Reagan had a conflict with the Democratic Congress in 1987, we went the whole year on a continuing resolution. President Reagan never thought of sending Federal employees home and punishing them and locking them out of their job just because he could not agree with the Congress. Certainly, the Democratic Congress never for a moment thought that they would punish Federal employees like that.

In 1988 we had the same situation, a continuing resolution all year. And now we cannot even get a continuing resolution for the 3 days of Christmas, for this Christmas weekend. We cannot even get this continuing resolution to let Federal employees function and to open up the Government.

□ 1645

Why? Because certain Members on the Republican side of the aisle are saying "It is our way or no way." They just passed a resolution, I am told it was unanimous, I cannot believe it was unanimous because there are good people on the Republican side of the aisle, to say that there will not be a continuing resolution unless the President agrees to the entire 7-year balanced budget. It is wrong, it has got to stop, and the American people have to got to say no, this is not what we want from our Government.

AMERICANS SUPPORT PRESIDENT ON BUDGET IMPASSE

The SPEAKER pro tempore (Mr. COBLE). Under a previous order of the House, the gentleman from Pennsylvania [Mr. FATTAH] is recognized for 5 minutes.

Mr. FATTAH. Mr. Speaker, I do not rise as normally when Members ask for an opportunity to revise their remarks and extend them. I would like my remarks to be recorded as I speak them. In this case, because I think that what we need to focus on is the simplest assertion of the truth.

We have a Republican majority that is trying to sell something that no one is buying. The American public has rejected, almost 2 to 1, their budget proposal for this Nation. They offer us on one hand a budget that would cut education, Head Start, Pell Grant opportunities for youngsters to go to college, increase the cost of student loans, and cut teacher training programs.

In every poll that has been done, the American public indicates that they do not agree with this budget. They are trying to sell a budget to the President of the United States, and he has vetoed it. He has said that he will not add his signature, he will not join in a conspiracy to rob this great country of ours from developing its fullest potential. He will not join in attempts to cut millions of young people in terms of their needs, in terms of health care and Medicaid, to further burden senior citizens and their families when they are in need of nursing home care. So, because the Nation and the President have rejected their budget product, they have folded their hands and are now stuck in the same position they started out in, refusing to compromise, refusing to move toward some shared consensus about what direction our budget priorities should be as a country.

The U.S. Constitution is clear, and that is that laws have to be passed by the House and the Senate and signed by the President. I am not proud of the fact that I have been a Member of the least productive Congress in the history of our country in terms of actually passing legislation that moves on to the upper Chamber, or the other body, depending on how you like to phrase it, and then on to the President for his signature.

What we have here is a group of people who are now in the majority that seems to lack the maturity to be productive participants in shaping the course of public policy in our land. So, because their budget product has been rejected by the American people, they have decided to hold hostage 75 percent of the U.S. Government domestic programs.

So we come now on the eve of a holiday season, and many of my colleagues have pleaded for sympathy for Federal workers. I really would hope that we would understand their plight, but I think it is even more a compelling case to feel sympathy for the misguided priorities of the Republican majority. This is a defining moment, I believe, in this Congress. This shows clearly that they do not have what it takes in terms of being able to govern the people's House, to be responsible and reasonable in their actions.

So I would ask that as we reflect upon this moment in time, that we would think clearly about the opportunities that the new year will bring; for the American public to think anew about what type of person they would like to have in the U.S. Congress; to think anew about how we can further develop a more perfect union; to think anew about our responsibilities, as so eloquently outlined in the Declaration of Independence and the U.S. Constitution, in the preamble where it says to promote the general welfare, being our essential priority.

We have a lot to be thankful for in this land, and one of the things we have to be thankful for is that there is an election for Congress every 2 years, and that we will arrive at a point in which the American public will hold the trump card, and they will have an opportunity to make choices about what kind of country we really want to be and what kind of Nation we really want to move toward.

I would challenge each of us as we continue our work in this body to try to be more reasonable, to try to accommodate the differences of opinion that truly exist in terms of how to move our country forward, but always to be prepared, even in a moment in which we lack some degree of comfort, to stand firm for what we believe in, to stand up for our principles, and for the democratic majority and for a President who has struggled to try to reason with an unreasonable majority of the Congress. I think we owe President Clinton a great degree of gratitude for his leadership for our Nation in our hour of need.

REASONS FOR THE BUDGET TURMOIL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think this is an important time in this country. Many of our citizens are turning toward a very spiritual time. Many having been in the midst of celebration of Hanukkah, and others who are looking toward a celebration and commemoration of the birth of Christ.

The value of this Nation is that this holiday will be celebrated differently in many homes across this country. It is the wonderfulness of America, diversity of thought and religion, but a Constitution that applauds differences and recognizes the three branches of government. I think it is important to tell the American people why we are here today, on December 20, 1995, in the midst of turmoil without a budget.

This Congress started on January 4, 1995. I was sworn in as a new freshman, running on the issues of accountability and accessibility, and yes, responsibility, values that I hold very dear and very near to my heart and to my principles, and values that I represent to my constituents at every moment in interacting with them in my district visits.

But what happened to us that time in January and February and March? We were faced with something called a contract. Oh, it is so well for a while, but let me tell you, it was a gimmick. I do not know of any American who can say to me that they engaged and entered into a contract with anyone who was elected to the U.S. Congress.

There was some flag waving on the Capitol steps, and wannabees and others who were running for Congress at that time came up and made some sort of false representations about signing some document. But I would venture to say that even constituents in those districts did not sign any dotted line.

Oh, yes; they might have found exciting some very popular political issues that were raised about tort reform and crime off the streets, bashing the liberals, and other such talk. But that is what it was, it was political gimmickry. And 37 percent of the people voted, so it was not that exciting anyhow.

But we spent 100 days and more in turmoil over the so-called contract, I call it on America. In the meantime, serious health reform did not occur. Many of us came here saying that we could reasonably reform Medicare and Medicaid, not on the backs of senior citizens and children who need immunization and preventive health care, but really sit down to the table of reason and bargaining.

But out of this 100 days came a bashing and elmiminating of the environmental protection laws that most Americans, Republicans and Democrats and Independents, have grown to respect, the Clean Water Act and the Clean Air Act, and then the bashing of Medicare and Medicaid.

We should have had bills passed in April. We should have had all the appropriation bills passed by September or October 1. But what we have now is a quagmire of confusion. Republican proposed block grants which go to States, and when the money runs out and the needs of the people rise up, as we find in the natural disasters that have faced California, Texas, and Florida, among others, that have what we call natural disasters, we would not be prepared to assist those people. Do you think that is reasonable and the American people want that?

We now come to December 20 with no budget. That is what it is, plain and simple, folks. We had a gimmick called a contract. Out of that came one bill that was passed, and we now have no budget. And we have people trying to appropriate away America's values by intimidating us, by saying they stand for what America believes in.

The President, regardless of what your party may be, has an actual constitutional right to engage in this process. He has sat down with the leaders of the House and the Senate, and I might add, if you saw the media accounts, and they sure do reflect accurately many times people's expressions and views, those that came out of the meeting said we are on track.

Today we find out about an extremist position by freshmen Republicans that say all or nothing. We want to take the $270 billion tax cut right now and we will stand on the backs of seniors and children, Medicaid and Medicare, and we do not want to reason. Yet, the President spoke to the leadership and they said we are ready to sit down. Who is leading the leadership at this point? I am a Democratic freshman, and I am not going to let some other guy take the moral high ground on people in my community, Federal employees who give services, children who have sicknesses who need Medicaid. We must come together to recognize political gimmickry goes out the door, leadership stands up, get a budget, open the doors of this Government, right now, today. Pass a clean continuing resolution to open the doors of the Government and engage in budget talks that do not ask for $270 billion out of Medicare and Medicaid simply to give the rich a tax cut.

That is the moral high ground.

ALL OUT OF PATIENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I must say, in my religion we are in the season of Advent, and on one of these Advent Sundays, we light a patience candle. I fear that patience candle may not even do it for me this year. I have totally lost patience with the extremism of the New Republican freshmen. They appear to have the Speaker on a very short leash. But I am here today, joining the gentleman from Massachusetts, Mr. JOE KENNEDY, and others, in signing a letter to both Senator DOLE and to our Speaker asking for a Christmas trust in this budget war. Can we please have a Christmas trust for the 3.3 million veterans who went wherever they were sent, whether it was whatever holiday, whatever family situation, they went where they were sent. And I do not think they are going to appreciate figuring out tomorrow morning that if we have not done this Christmas trust for at least those 3.3 million, they are not going to get their checks on time on December 29. That is outrageous. That is why I have no patience.

Everybody knows today is the busiest mail day. People are using the mails to get through their holiday packages. So these checks have got to be in the mail tomorrow if they are going to be timely. And you cannot write checks if you do not have anybody there to be there and put them in.

Now, let me say, in hot wars we have insisted on trusts over Christmas. Why in the world in this budget war can we not get the Republican leadership down here and at least get our veterans out of the crossfire in this stupid little budget tantrum that some of the new Members are having?

I guess I just do not understand who is leading whom. But I think we really look pathetic. Here it is, 5 o'clock in the afternoon, we have not really done anything since 2 o'clock except yap, yap, yap, yap, yap. Yesterday, they named post offices. We have not done anything of substance. We discussed some budget that the President had like 9 months ago that was like a dead dog. Nobody has talked about it since, he has moved way beyond. He has agreed to the 7-year balancing of the budget.

I must say, here is a group of people who cannot even get this year's budget done. Hey, we are three Mondays into the fiscal year, and they cannot get this budget done. Seventy-five percent of the domestic spending has not been done, 25 percent of the way through this year. And what are they arguing about? They are arguing about projections 7 years out. Imagine, any American refusing to pay their bills this year because they have not put their budget together because they do not like the budget projections 7 years out? It will not work, America. It will not work.

☐ 1700

And yet somehow people here are caving and allowing it to work on the other side of the aisle.

They have no credibility. If we cannot get this year's budget together, how do we ever anticipate getting to the next 6 years? So I really hope that very soon we can get through to the Republican leadership, that they answer the letter so many of us signed, that we see a Christmas truce, and we at least get our veterans out of the crossfire.

Mr. VOLKMER. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I would say to the gentlewoman that it is my information that within a short period of time, supposedly, the Committee on Rules is supposed to meet and bring forward a continuing resolution just for those people, that they can go to work in order to get those checks out for the veterans.

That is great, but that bothers me.

Mrs. SCHROEDER. I agree. The gentleman is absolutely right. We still have students. We have 60,000 students who have theirs to be processed. We can list all those others.

Mr. VOLKMER. Homeowners, trying to get loans from HUD, and everything else. All that will not be done.

What it does is, it tells me that they want to be very political. The majority of the Republicans are very political. They do not want the veterans mad at them, but they do not care about the rest of the people and the Federal workers and everything.

Mrs. SCHROEDER. Mr. Speaker, reclaiming my time, I do not know about the gentleman's veterans, but the veterans in my area did not come to town on a turnip truck. They realized that had a lot of us not signed that letter to them, and pointed out that these veterans were being held hostage and we should at least have a Christmas truce, they would not be going to the Committee on Rules right now. My veterans have figured that out. They are not dumb.

Mr. VOLKMER. If the gentlewoman would further yield, why do we not have a Christmas truce for all the Federal Government?

Mrs. SCHROEDER. I certainly agree. And I think we should have a Christmas truce for students. They did not cause this. They are totally innocent. They could not even vote in these last elections, and we could go on and on. But especially veterans.

The fact they were going to roll right over them, until a lot of us made some noise, is absolutely unbelievable. As I say, I think all of our patience has been tried. Let us hope they hurry up and get this down here, and I thank the gentleman for his comments.

Mr. VOLKMER. Mr. Speaker, I want to commend the gentlewoman for her leadership in this effort.

LET US NOT MAKE THE POOR THE SCAPEGOATS IN BALANCING THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. POSHARD] is recognized for 5 minutes.

Mr. POSHARD. Mr. Speaker, I am grateful for the opportunity to come to the floor in this special order here. And let me say before I begin any of my remarks that I would consider myself to be a fairly moderate to conservative member of my caucus, as a Democrat.

Mr. Speaker, I have been reading the welfare reform conference report this afternoon, and I wanted to just make a few remarks on it, because I have some concerns about it, frankly, and I wanted to express those concerns to the body.

I favor welfare reform. I know that we have to do certain things to make sure that people exercise their self-responsibility in our society and that Government cannot be the keeper of everyone. I was reading this afternoon, however, and I could not help but think of a time when I was in the State Senate back in Illinois, several years ago, and we were going through a proposal then that I believe the Governor had initiated to cut back on some of the benefits to some of the neediest in our State.

I remember there was a little lady, a nun in the church, who brought a bus load of folks down to Springfield. And they came into our committee room, and we were considering, I believe, at that time perhaps the override of this initiative that was going to cut back funds for these folks. These were all folks that lived in a rundown part of Chicago. They were ragtag. They did not have good clothes. They did not seem to be very clean. Some of them were pretty smelly.

They came into our room, and the little nun who ran the program had some of them come up and testify before our committee about how important it was just to have the extra $10 or $12 or $15 a month to help them survive.

We were all sitting there listening to this, and I think pretty moved by some of the stories that these folks who lived on skid row were telling us. And I remember very specifically there was this one little guy that came up to the testimonial table and began to speak to our committee. He told us about how difficult it was to get through the winter and how he really did not have a place to stay, and he said those few extra bucks that we were taking away from them meant a lot to him. He said, "I like to get a pack of cigarettes every now and then."

The minute he said that, all the air just went out of the committee room. We were all just kind of sitting there waiting on somebody to validate every prejudice we had in our heart against poor people, and he did it for us. He said the wrong thing. I could just feel the tension begin to rise again in the room and members of the committee sitting there and saying, yeah, well, we told you so. Those welfare cheats. That is all they want the money for is so they can buy cigarettes.

I wrote all that down, I remember specifically, because I thought it was such a tragedy. I do not want us to make the same mistake out here in our welfare reform package. The poor among us are really important. They do not have a lot and they only take up a very small part of our budget. If we look at the whole budget, and we consider Medicaid and housing and food stamps and family support, and those sorts of things, it takes up a very small part of our budget. Yet somehow in this country we want to make the poor the scapegoats for all the problems that we are having here with respect to balancing our budget. Let us not do that, please.

I recall a very important scripture where it said in the end time we will all come before the judgment and the Lord will say, "Enter my good and faithful servant. You have been faithful in a few things; I am going to make you master over many." And we will say, "Well, when did I do that?" And it says that He will say, "Well, when you did it unto the least of these, My brother, you did it unto Me. When I was hungry, you gave Me food. When I was without clothes, you clothed Me. When I was thirsty, you gave Me drink. When I was in prison, you visited Me."

That is what is important, too. We should not, any of us here, just because we need to crunch numbers, or because we need to satisfy ourselves that the poor are the cause of our troubles, forget that we have a responsibility to be our brother's keeper.

DISCUSSIONS BETWEEN DEMOCRATS AND REPUBLICANS SHOULD REFLECT REALITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. COBLE] is recognized for 5 minutes.

Mr. COBLE. Mr. Speaker, I will say to my friend from Illinois, before he leaves the floor, he is one of the most gentle, one of the kindest persons on this floor. And oftentimes when a Member comes to the mike on the floor, Mr. Speaker, it is an advantage to follow someone who is not very popular and who is a scoundrel. I have the unlucky draw today to follow the most gentle Member of the House, but I do that nonetheless.

Mr. Speaker, I did not plan to speak today. As the Speaker knows, I have been in the Chair for the past 3 hours and I have had the benefit of listening to discussions on both sides of the aisle.

My friend from Missouri, Mr. VOLKMER, says what a benefit, and it has been beneficial. Not surprisingly, both sides are subjective, as I am. I am guilty of that. But I want to try to add some balance to this in my brief 5 minutes.

One of my friends who sits here to my left now conveniently remembered some of the bad fiscal times under President Reagan. But as was mentioned subsequent to his speech, he conveniently forgot about the fiscal chaos that occurred in the Carter years. Well, this is only natural, I think. I think it is convenient for Democrats to remember the bad for Republicans, and the Republicans to remember the bad for the Democrats. That is only natural, and that is part of the nature of the beast, but I think when we do it so consistently then we are seeking out a balance that we need to retrieve and bring it back into the realm of discussion.

When I was last home, Mr. Speaker, a woman came to me, one of my constituents, and she said answer a question for me. She said, as best I remember the last time the Government was shut down, prior to this last time, she said it was in 1991. And I think it was, indeed, in 1991. And she said to me, the spin from the media then was that President Bush shut down the Government. And she said, even I blamed him. But she said, now, virtually no one from the media is pointing an accusatory finger to the President. They are saying NEWT GINGRICH or the majority Republican Congress has shut it down.

I am wondering, and I do not want to sound paranoid, Mr. Speaker, but I am wondering, is it convenient to blame a President when he happens to be a Republican and to exonerate a Congress when it happens to be controlled by the Democrats? I am afraid that is the spin that we are taking. What is good for the goose is good for the gander.

Many people today have blamed the Congress for veterans not receiving their checks, if they, in fact, do not receive their checks. President Clinton had every opportunity to sign the appropriations bill into law this week and those checks would have been forthcoming. I cannot for the life of me figure why that would be the fault of the Congress.

Am I missing something, America? As my friend from Ohio says: Wake up, Congress.

Mr. HOKE. Mr. Speaker, will the gentleman yield?

Mr. COBLE. I yield to the gentleman from Ohio.

Mr. HOKE. Mr. Speaker, I was going to ask the gentleman that very question, if I had missed something.

Correct me if I am wrong, is it not true that the President vetoed three appropriations bills, and that had he signed them, the Government would be up and running again today, right now?

Mr. COBLE. Mr. Speaker, reclaiming my time, I know of two. It may well be three. Two comes to my mind. Is it three?

Mr. HOKE. The third was vetoed.

Mr. COBLE. So it is three. So my friends and the viewers who are watching C-SPAN now, let us come back into reality here and let us add balance to this discussion.

Mr. Speaker, as is obvious, I am not prepared, because I am doing this impromptu, but I am grateful for having had this time and I yield back the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WHITE). Members are reminded to direct their remarks to the Chair and not to the President or the viewing audience.

PRESIDENT SAYS IT IS POSSIBLE TO BALANCE BUDGET BY 2002 AND MEET GOP GOAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. HOKE] is recognized for 5 minutes.

Mr. HOKE. Mr. Speaker, I saw this morning in the Baltimore Sun this report, and it was so stunning to me that I just have to read part of it to you, Mr. Speaker. I want to be sure not to offend the gentleman from Texas, and I want to make it clear that I am addressing my remarks to you, Mr. Speaker.

In the paper it says, "In a positive signal, Clinton told reporters before the meeting", this is before yesterday's meeting with Speaker GINGRICH and with Majority Leader DOLE, says "In a positive signal, Clinton told reporters before the meeting that he now thinks it is possible to reach the GOP goal of a balanced budget by 2002 using the conservative economic calculations by CBO."

Let me read that again, Mr. Speaker. It says, "In a positive signal, Clinton told reporters before the meeting that he now thinks it is possible to reach the GOP goal of a balanced budget by 2002 using the conservative economic calculations by CBO." He said this yesterday. At that point, it had been 29 days since he had personally signed his name to a piece of legislation known as a continuing resolution that included the language that said that he agreed to work with the Congress to achieve a CBO-scored balanced budget by 2002 and that he would do this before the end of this term.

Now, here he told reporters yesterday that now he thinks it is possible to reach that goal using CBO numbers. What is going on? Did he not read the legislation that he himself had signed?

□ 1715

Was the President not aware of what he had signed? Did the President not read that paragraph in the continuing resolution that said that he was agreeing to actually come forward with a CBO-scored balanced budget by the year 2002? Did he not read it? Does not he read the legislation he signs?

Mr. Speaker, I cannot understand this. Here he acts with complete surprise that now he is saying that gosh, he thinks it is possible to reach that goal of a balanced budget by the year 2002.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. HOKE. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, I keep hearing about CBO and OMB, and they are all projections. No one for a certainty can say what the accurate final result would be. But I would like to inject into the discussion the name of Sister Rosa. He tells the future by reading cards. I think she could do better than OMB and CBO.

Mr. HOKE. Mr. Speaker, I thank the gentleman for his suggestion.

Mr. DE LA GARZA. Mr. Speaker, she is a lady that does that back in my district.

Mr. HOKE. Mr. Speaker, reclaiming my time, I think that maybe Sister Rosa do a better job than CBO or OMB. But the fact remains that the President did not agree in a piece of legislation that he signed into law to take the projections of Sister Rosa. He did not agree to take the projections of the OMB. He agreed to use the projections of the CBO, and then yesterday he acts as though it is a completely novel idea and he says: Gosh, maybe it will be possible to reach that goal. I think maybe we will do that. This is something new. I had not thought about that. I think we can put it all together.

Well, for heaven's sakes, Mr. Speaker, that is what he agreed to 29 years ago. It seems to me that what is really going on here is a stalling tactic. It is an amazing thing. The President thinks that for his own political good that he will do better by putting this off longer and longer and longer and longer.

We see the same thing going on right now with respect to the subpoena on the Whitewater papers in the Committee on the Judiciary or the Whitewater committee over in the Senate. What the President has done is that he has said: I am invoking an attorney-client privilege. He knows there is no good attorney-client privilege on this matter, but he has invoked the attorney-client privilege, knowing that he will spin that one through.

Mr. Speaker, that will take some time, and then he will go to an Executive privilege that he will call up and ask to spin that one through, all the while, delaying, delaying, delaying.

The President seems to think that time is on his side, but the fact is that he did agree to and we will insist on and we will come up with a balanced budget using honest numbers.

BUDGET IMPASSE REQUIRES COMPROMISE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. KANJORSKI] is recognized for 5 minutes.

Mr. KANJORSKI. Mr. Speaker, I yield to the gentleman from Texas, Mr. DE LA GARZA.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding briefly to me. The previous speaker, I guess, inadvertently mentioned that the President said that 29 years ago, and he meant 29 days. But the one that introduced a balanced budget amendment 31 years ago was this gentleman from Texas. So it is not new. Everyone is climbing on board now. I did it 31 years ago.

Mr. HOKE. Mr. Speaker, if the gentleman would yield, the gentleman from Texas [Mr. DE LA GARZA] should be commended for that. We appreciate it and we appreciate his support working for a balanced budget now. But the fact remains, we have got this agreement and the President should honor his word. That is all we are saying.

Mr. DE LA GARZA. Mr. Speaker, I think we ought to bring Sister Rosa into the picture. She has got better figures than OMB and CBO.

Mr. KANJORSKI. Mr. Speaker, reclaiming my time, I enjoy the fact that we can sit here particularly with the Members of the freshman and sophomore class, and participate in this open discussion. It is worthwhile for those individuals across America who may be bored with Christmas shopping and watching C-SPAN, or perhaps going through some therapy that they are undergoing trying to understand what is going on down here in the asylum.

Mr. Speaker, the fact of the matter is that probably for the first time in the history of the United States, we have extreme polarization of positions on the passage of the budget. A lot of people who are not necessarily informed with the process may think that we are indeed insane, or that what the House of Representatives of the Congress or the entire Federal Government is going through right now is a form of insanity, but in reality we all know that it is a very serious thing and it has to do with very honest and real differences of my friends on the Republican side and our side.

Mr. Speaker, if I could just address for a few moments what those differences are and maybe encourage some of my friends on the other side to talk about it.

Mr. Speaker, the previous speaker talked about some contract. Having been a lawyer, particularly having dealt with Philadelphia lawyers, although not claiming to be a Philadelphia lawyer myself, there is a great deal of respect paid to contracts; that supposedly any time we have a contract, that says something that in reality will take place in accordance with the word of the contract, or that that has some superforce above and beyond anything else.

Well, there are several ways to interpret contracts and I think we have to accept that as a given. Very clearly in the situation of the President and whatever contract is interpreted by the majority party of the House, there is a definitely wide distinction as to how they interpret the meaning of what was agreed to some 29 days ago.

Second, just because we have the Contract for America, or on America, I am never sure, but just because we have that, that does not pass the value of the Constitution and how we interpret that, nor does it pass good sense for what we do this year, next year, for the next 7 years of this Republic, and for as long as this Republic endures under this Constitution.

The one certainly that we have is that government in a democracy is very expensive; it takes a great deal of time; it is very inefficient, because there is the necessity that if 250 million people are to exist in this world with different thoughts and philosophies, different political positions, different social positions, and coming from different cultural backgrounds, it takes a requirement of that ugly word which some of my younger friends on the other side of the aisle seem to find a great deal of distaste for and that is the word called "compromise."

I have heard the Speaker talk much earlier, I think maybe as long as 6 months ago, that with the new revolution that occurred in the House of Representatives, that there would be cooperation but not compromise. If my colleagues have extreme views, I do not know how we get to a final solution without compromise.

Mr. Speaker, let me talk about what those extreme views are. We can all write a budget that will balance in 7 years, which is a projection of time with no certainty, all dependent on variables that are so complicated and uncertain in their nature that at best it is a guesstimation. We could arrive at a balanced budget in 7 years under the numbers scored by the CBO, the Office of Management and Budget, Morgan and Stanley, the Harvard Business School, the Wharton School, we could find any number of people who would be willing to score it and we could agree that it should be CBO.

FEDERAL WORKERS UNFAIRLY BURDENED BY BUDGET IMPASSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. DAVIS] is recognized for 5 minutes.

Mr. DAVIS. Mr. Speaker, I would be happy to yield to the gentleman from Pennsylvania [Mr. KANJORSKI] to finish his point.

Mr. KANJORSKI. Mr. Speaker, our point is that we could all come up with this type of budget. We could have 435 different budgets taking into consideration various conditions. Right now we have what is called the coalition budget that has no tax cut in it and that does balance the budget, so clearly the Democratic side or the President could put that budget on the table or some various of that, which the Senate seems to have put together on their side.

It requires, however, a decision as to whether or not we are going to have a tax cut, a smaller proportional tax cut, or no tax cut at all to arrive at that balance. That is what we call in common political parlance, and legal parlance, compromise.

Mr. SCARBOROUGH. Mr. Speaker, would the gentleman yield?

Mr. KANJORSKI. It is the time of the gentleman from Virginia [Mr. DAVIS].

Mr. DAVIS. Mr. Speaker, I would be happy to yield to my friend, the gentleman from Florida [Mr. SCARBOROUGH].

Mr. SCARBOROUGH. Mr. Speaker, let me state, the problem is not compromising between Republicans, even freshman Republicans and some conservative to moderate Democrats. We have the numbers to pass a balanced budget right now through this House if the administration would just get on board.

The votes last night, where not one person supported the President's budget. The vote two nights ago, where an overwhelming number of Democrats supported 7-year CBO showed that we could work together. We are willing to put everything on the table, but it has to be in the President's best interest to pass a balanced budget before he gets engaged in this.

Mr. DAVIS. Mr. Speaker, I have to reclaim my time. If I have time, I will yield for a question. Let me say to my friend from Pennsylvania, I do not know if it is extreme polarization on the budget. Clearly, among 435 Members, we have all kinds of opinions.

Some Members do not feel that we ought to balance the budget. Some want to balance the budget their way or no way, and we have some of that. We cannot all stand completely on principle, or we would never get anything out of here. We have to compromise, and I recognize that.

The difficulty that we have on our side of the aisle is that the President whether he was campaigning in 1992, said he was not balancing the budget in 5 years. In 1993, he got up here at the State of the Union and said CBO numbers were the most reliable numbers. Now we come up with CBO 7-years and we have yet to see a plan from him that balance in 7 years, and that has caused us some confusion.

Mr. Speaker, when we see that plan, I think it is going to be easier to compare the President's vision with numbers that balance and our plan.

Mr. KANJORSKI. Mr. Speaker, if the gentleman would yield, I would say but, you realize that 5 years, 7 years, all depends what you want to do. Look, I can give you a budget today, and you can too, that balances the budget in year.

Mr. DAVIS. Mr. Speaker, reclaiming my time, I recognize that, but I think it is key if we could get in that box of 7 years, with honestly scored numbers, then we are all talking off the same song sheet. Right now we are not there.

Ours has been scored by the Congressional Budget Office. We know what it does. If my Democrat colleagues do not like the values or what it does to people, that is fine. But how would my friend do it within the same box?

Let me make a couple of other points. Federal employees have really, during this whole debate, been an unintended victim of this debate. Over the last several years they have seen the Federal Government downsized and many Federal employees have been losing their jobs and having to go elsewhere.

We have seen their benefits cut. We saw them cut in the last Congress. This time, there were resolutions up here to have them give up another 2½ percent of their pay to put in their retirement. We saw an effort to bring their retirement down so that their standards would not be the high 3 years, but the high 5 years. That would basically reduce their retirement.

We saw some proposals up here that would cap the Federal payment for the Federal Employees Health Benefit Plan, which would mean they would be paying more for their health insurance. We saw another proposal here that would charge Federal employees for parking, even in buildings where nobody else was paying a parking fee. We were able to defeat most of those as we were moving ahead, but the unsettling thing is that working for the Federal Government is not what it used to be.

We used to say, "Give me your best and your brightest." Now it is come work for us; we will cut your benefits, we will downsize you, we will furlough you. Now they are experiencing furloughs and it is the Christmas time. Today is December 20. Many Federal employees would have received their paychecks today, but because of the shutdown in some agencies, that is not going to happen.

Mr. Speaker, the good news today, and I would like to ask unanimous consent to put in the RECORD a letter to Senator JOHN WARNER, to myself, to the gentlewoman from Maryland, Mrs. MORELLA, the gentleman from Virginia, Mr. WOLF, my colleague from Virginia, a letter from Speaker NEWT GINGRICH and Senate Majority Leader BOB DOLE, where they say in here that, and I will put the whole letter in the RECORD, but they basically assure Federal employees that when this is over, they will be paid retroactively.

Mr. Speaker, this has always been done before; this will be done this time. Having the House leadership on board, and the Senate leadership on board at this time, is very important.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. I am pleased to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I am pleased to hear the news that the Federal employees are going to be paid, but they are not going to be working.

Mr. Speaker, I submit the following letter for the RECORD.

CONGRESS OF THE UNITED STATES,
December 20, 1995.

Hon. JOHN WARNER,
U.S. Senate.

Hon. FRANK R. WOLF
Hon. CONSTANCE A. MORELLA
Hon. TOM DAVIS
U.S. House of Representatives.

Dear Colleagues:

Because of your interest in the ongoing budget negotiations and your strong support for federal employees, we wanted to take this opportunity to reaffirm our letter of November 10, 1995, in which we made clear that employees furloughed through no fault of their own should not be punished.

It is unfortunate that President Clinton has chosen to veto appropriations bills that would have funded the salaries of federal employees at the Departments of Justice, State, Commerce, Veterans Affairs, and Housing and Urban Development, as well as independent agencies such as the Environmental Protection Agency. Similarly, procedural objections by Democrats have prevented the funding of salaries at the Departments of Labor, HHS and Education.

The direct result of those actions is that furloughed federal employees at those particular agencies cannot be paid. However, we would like to reaffirm our commitment to restoring any lost wages for federal employees in a subsequent funding bill.

Thank you for your continued and strong leadership on behalf of federal workers.

NEWT GINGRICH,
Speaker of the House.
BOB DOLE,
Senate Majority Leader.

CONTINUING RESOLUTION IS CONGRESS' RESPONSIBILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. DICKS] is recognized for 5 minutes.

Mr. DICKS. Mr. Speaker, I was very surprised and disappointed today to learn that negotiations to get the Government operating again have been broken off. I just want to make sure that my constituents in the State of Washington know that I believe that this impasse is not justified; that it is, I believe, time for the senior Members of the House, both on the Democratic side, and the Republican side, to come together and to insist that we get a continuing resolution enacted which can only be done by this House and by this Congress.

It is not the President of the United States's fault that the Republican Congress has refused to enact a continuing resolution. They have precipitated this crisis. As we remember, Speaker GINGRICH said many months ago that he intended to do this very thing in order to try to get the President to capitulate and to accept his budget priorities which clearly are not acceptable to the American people.

□ 1730

I feel very strongly as someone who has served in this body for 19 years that we have a responsibility as Members of this institution to keep this Government running. We have veterans who may possibly not get their checks in the next few days unless we get a continuing resolution passed. I am going to support that. If the leadership of the House brings it to the floor, we ought to vote on it and get it done. But I do not think it should stop there.

I am concerned about the people who work in the Forest Service, who work in the Park Service, who work in the Department of the Interior and the people who work at Health and Human Services, all these other agencies who are not going to be taken care of. It is very obvious that, when there is a little heat put on, the majority is willing to make some adjustments. So if the American people want this Government to operate, they are going to have to make sure that the new Members who were elected last time hear from their constituents that they want this Government reopened and started.

This is ridiculous, and then there is no justification for it. This is the worst crisis we have had in terms, I think, of the confidence of the people of this country about our Government. What the Republican majority wants is for Bill Clinton to capitulate and accept their very radical prescription for the budget. The American people do not accept the levels of cuts in Medicare and Medicaid. I think it is preposterous to have a $254 billion tax cut when we are trying to balance the budget. That tax cut makes it incumbent upon the majority then to make these very large cuts in Medicare and Medicaid and also in education and other very sensitive and important programs to the American people.

I just hope we can bring some common sense back. I hope that the senior Members in the Democratic Party, the senior Members in the Republican Caucus can bring some sense back to this institution and do our job. We should initiate a continuing resolution to get these people back to work.

I feel sorry for the Government workers and their families who at this Christmas time are being denied their work, their opportunity to earn a living, because of this impasse.

I also urge the President to stand his ground. He should not capitulate. He should not accept this radical agenda. I am very upset about this. I am very upset and feel very badly for the people and their families who are being forced out of work because of this inability to reach an agreement.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Missouri.

Mr. VOLKMER. It becomes very obvious to me at least, maybe not others, that there are those, especially among the freshman group, after listening to one of the freshman speak earlier today, that they almost relish the Government shutting down. The Federal Government is the enemy. They want to take it down to nothing.

I can remember back when I had a conservative tell me that the Federal Government should defend our shores, deliver the mail, and get out of our pocketbooks. In other words, that is all the Federal Government should do. That is what I am hearing here, especially among the radical ones, that they want to shut the Federal Government down. To them there is nothing wrong with it. That is what one of the freshmen said earlier today.

JUST THE TRUTH

The SPEAKER pro tempore (Mr. WHITE). Under a previous order of the House, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 5 minutes.

Mr. SCARBOROUGH. Mr. Speaker, people are talking about how disappointed they are and how sad they are. Let me say what saddens me, that people can get on this floor with a straight face, with a straight face, mind you, and still spread the untruth that we are cutting Medicare. I hear that we are slashing Medicare. It is a radical agenda.

I had a member of my district call and say, please, will somebody tell me who is telling the truth up in Washington. The President keeps saying that he is shutting down the Government, and he is not going to pass the first balanced budget in a generation because you are radically cutting Medicare.

I do not want to call the President of the United States a liar, and I will not. I will let the Washington Post, the New Republic, and members of the President's own staff, former staff do this. This is the front cover of the New Republic. It says why the Democrats' demagoguery is even worse than you thought. The New Republic is one of the most liberal publications in America since 1914. It is flat out saying the President is not telling the truth.

The Washington Post writes an editorial. What saddens me, what deeply saddens me is every person that comes up and says that we are slashing Medicare is, A, either knowing that that is not true or, B, is ignorant of the facts. Ignorant of the facts that the Washington Post points out, when they say that the Democrats led by the President have chosen instead to present themselves as Medicare's great protectors, they have shamelessly used the issue, demagogued on it because they think that is where the votes are and the way to derail the Republicans.

The President was still doing it this week. A Republican proposal to increase Medicare premiums was the reason he alleged to veto and shut down the Government. But never mind the fact that the President himself would countenance the same increase. The Washington Post—this is not from NEWT GINGRICH. Wake up, America. Wake up. This is from the Washington Post, the New Republic: We are being called radical.

Do you know what is so radical about our plan, that on Medicare, we are doing the same exact thing that President Clinton and Hillary Clinton said we needed to do 2 years ago. Hillary Clinton, shake your head, Hillary Clinton testified on Capitol Hill that we needed to slow the growth in Medicare to twice the rate of inflation. She suggested 6½ percent. The Republican plan increases it to 7 percent. Furthermore, spending on Medicare explodes to 65 percent over the next 7 years.

The press knows it. The press has stated as much. The markets have stated as much. Everybody knows the truth. Do not believe me, do not believe NEWT GINGRICH, do not believe the Democrats. Listen to what neutral observers are saying. They are trying to scare senior citizens because they are devoid of any plan to balance the budget in 7 years.

The New Republic has said it. The Washington Post has said it. The Washington Times has said it. The Wall Street Journal has said it. Editorial boards around America have said it. They said it this past week when they called Leon Panetta on the carpet on This Week with David Brinkley.

Do my colleagues know what Leon Panetta's final remark was? Well, it is just to give the rich tax cuts. Let me tell my colleagues, check it out. Eighty-nine percent of these tax cuts for the so-called rich, 89 percent as scored by CBO, goes to families earning under $75,000. Check it out. Check out the truth.

Is $75,000 or less for a family the way that Bill Clinton defines rich these days? If so, I think he needs to lead a Third World country instead of America, because there are a lot of people with three or four children making $75,000 or less that have trouble getting by. If that is a tax cut for the rich, label me guilty. I am sick and tired of what is going on. I just want to hear the truth. Give me some truth.

REPUBLICAN PROPOSAL ON MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Dakota [Mr. POMEROY] is recognized for 5 minutes.

Mr. POMEROY. Mr. Speaker, that was quite a display we just saw, for all the fire and volume, kind of a temper tantrum really at the rostrum. I think it is very unfortunate that we are not proceeding in more of a thoughtful way reflective of the weighty issues that we have responsibility to resolve.

The gentleman hollering, describing how nothing is impacted under the Republican-passed budget regarding Medicare, in point of fact that is simply not the case. The part B premium alone, Mr. Speaker, $46.10 a month today, in the final year of the Republican plan that will be $88.90, compared to $46.10.

Mr. SCARBOROUGH. Mr. Speaker, will the gentleman yield?

Mr. POMEROY. I yield to the gentleman from Florida.

Mr. SCARBOROUGH. Would the gentleman also admit that under the President's plan there is only a $4 difference between the Republican plan and the President's own plan?

Mr. POMEROY. Reclaiming my time, it is not at all clear to me where the administration is on the part B premium number. But I will tell the gentleman this. The only plan that virtually doubles the part B premium is the GOP-passed budget resolution.

Let me tell my colleagues another thing. I used to regulate insurance. I spent a lot of time dealing with the insurance needs of senior citizens in the State that I represent. There is an issue called balanced billing. In the old days, I mean back just now a decade, even less than that, Medicare would pay a portion of the bill, but the physician could bill the senior citizen that amount. Then any amount more, Medicare would pay the Medicare part, but the senior citizen out of pocket would be eligible for the difference.

Congress in its wisdom a few years ago in a bipartisan vote voted to say, no, no, no, doctors, you cannot charge unlimited amounts over Medicare. You can only bill in fact when fully implemented, I believe the difference is 15 percent over what Medicare approves as an appropriate charge. If you are in an indemnity plan under the Republican budget, you are again exposed to that virtually unlimited amount over what is a Medicare approved charge.

So we can talk differences in part B premium. I believe they are very serious differences, new out-of-pocket costs for seniors. But I think even more serious is this whole business of balanced billing, the physician billing over and above what the Medicare has said is an acceptable charge.

Mr. SCARBOROUGH. Mr. Speaker, if the gentleman will continue to yield, please just clarify for me. The administration proposal is scored, shows a $4 difference in the year 2002 between the Republican plan. I mentioned that before, and then the gentleman said that he did not know if that was the case, but said the Republican plan was the only plan that doubled premiums. If in fact that is the case and that has been documented in the Post and other publications, then the President's plan too would double it, would it not, if there is only a $4 difference in premiums in 2002?

Mr. POMEROY. Reclaiming my time, Mr. Speaker, the only plan that causes part B premiums to double is the GOP budget plan. The things that the gentleman does not consider Medicare cuts in fact to a senior citizen that suddenly has to pay a lot more out of pocket because Medicare does not pay it anyone, I am telling the gentleman, they think their benefits have been cut. They think it in a very real and personal way.

I yielded happily to my friend from South Carolina, and we had an interesting exchange. In fact I wish we had a lot more of that going on right now in constructive circumstances, most particularly at a negotiating table.

I have been in public life a long time. It has been my opportunity, I have not been in Congress long, but I have got the opportunity to work for public issues on behalf of North Dakotans in the State legislature and for the insurance commissioner. In addition to that, I was in the private sector practicing law in my hometown. I have been involved in lots of negotiations, lots and lots of negotiations.

What I learned is, you come to the table with the position. You care deeply about it. The other side comes to the table with a position. They care deeply about that. And then you start to deal. I do not mean callously, just cutting deals willy-nilly. But you begin to negotiate, engaging the other side, talking about the things that really matter to you, trying to find common grounds.

I think it is a tragedy that this afternoon, with the Federal Government, portions of it shut down, with budget talks at an impasse, we do not have this kind of negotiation under way. I urge all of my colleagues to insist we get negotiations underway and let us fund Government while these important talks proceed.

DO NOT PLAY POLITICS WITH MEDICARE OR THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, prior to coming to the U.S. Congress, I used to practice medicine. I practiced internal medicine and half of my patients were senior citizens. I do hope someday to be able to go back to my practice and resume taking care of senior citizens because I very much enjoy that type of practice. I have always like caring for seniors.

☐ 1745

They are all in the Medicare program. The Medicare program has been a tremendous success. I think it has been instrumental in prolonging lives of seniors. And one of the key components of our balanced budget plan that we put on the President's desk is maintaining the solvency of the Medicare plan that makes sure that it will be there for seniors, and all we have done with this plan is we have done exactly what the President and the First Lady said needed to be done in 1993 when they were pushing their health care plan. They said, and if I may paraphrase them if I do not quote them exactly right, is that all you need to do is lower the inflation rate in the Medicare plan from where it is right now, 10 or 11 percent down to about 7 percent, and the plan comes into balance.

Now there has been a lot of stuff said about the Medicare Part B premium. The GOP plan is going to double the Medicare Part B premium over the next 7 years. Well, guess what, my colleagues. Under the Democrats who have controlled this House for 40 years, guess what? Over the last 7 years the Medicare Part B premium doubled, they doubled the premium the last 7 years. Under the President's proposal it is going to much double. But, you know what? Next year, in the election year, under the President's proposal, he wants to reduce the Medicare Part B premium, and then he will increase it steadily every year thereafter once he is firmly ensconced in the White House for another 4 years.

I believe this is wrong, that you should not play politics with a program as important as Medicare which provides health care for our seniors. I also think you should not be playing politics with an issue as important, as crucial, as balancing our budget in 7 years.

Mr. Speaker, I ran on a campaign that says you must balance the budget in 7 years, and there was a very, very high degree of frustration amongst the voters in my district because they heard about Gramm-Rudman, they heard about the budget deal of 1987, they heard about the budget deal of 1990, and the tax increase of 1990 and how that was going to balance our budget, and then they heard again about the 1993 program, how this was finally going to do it.

Here we go again in 1995. We have got $200—$180 billion deficit, and the budget that the President presented to us scored by the CBO, an agency that the President himself said is the group that should be scoring the budgets, says that his budget is going to be in debt, show deficits $200 billion a year out of 5 to 7 years into the plan. He finally produced a slightly better budget that was only going to have a deficit of about $100–120 billion a year.

Now what we are saying, what the Republican freshmen are saying, is enough is enough, no more smoke and mirrors. We want a budget that is going to balance in 7 years.

Now there are a lot of people getting up here and saying, "Oh, we need to do a continuing resolution and get the Government open." I have got a lot of Government workers in my district. I have got Kennedy Space Center. I have got engineers who are furloughed, and guess what, my colleagues on that side of the aisle? They call me up, and they send me letters, and they say, "Don't give in. I know I'm laid off, I know I'm not working, but you have got to balance the budget. We cannot continue to run these deficits." Mr. Speaker, they tell me it is immoral, they want me to hang tough, they do not want me to cave in. They want the budget balanced, and they want the budget balanced in 7 years.

Indeed I got a phone call yesterday from a Democrat who told me that everything we are doing is right. He said, "Don't give in."

Now I am not going to vote for another CR. We signed a CR 3 or 4 weeks ago, and what happened? That gave the President the chance to waffle for 3 or 4 weeks and the AFL–CIO 3 to 4 weeks to run million-dollar-a-day ads trying to get us not to balance the budget.

I will tell you what I think we need to do. Half of your conference over there agrees we need to balance the budget in 7 years, and what I say is the President will not come around, let us forget about the President, let us sit down with the conservative side of the Democratic Caucus with us and come to terms on a 7-year balanced budget so we can do a veto override, and we can reopen the Government, and we can all go home for Christmas.

But I bought a Christmas tree, and I brought my wife and daughter up here, and I am willing to stay as long as it takes.

THIS IS A HOSTAGE SITUATION

The SPEAKER pro tempore (Mr. WHITE). Under a previous order of the House, the gentleman from Florida [Mr. PETERSON] is recognized for 5 minutes.

Mr. PETERSON of Florida. Mr. Speaker, this is a hostage situation. I know from which I speak. I was a hostage of the Vietnamese Government for six Christmases. I knew what was going on at that time. As a hostage in Vietnam I knew what my options were. I really had a feel of the paralysis of the circumstance, and I could live with that. I was a volunteer, just like so many of our brave men and women that are in Bosnia right now are volunteers to serve their Nation, and I would take my hit. I did not have any problem with that. But what we have here is a nation, an entire nation, every citizen of the United States, being held hostage to the radical extremist portion of the Republican Caucus conference.

Now maybe they can justify that. Maybe that is OK. Maybe they are OK out there writing the new Dickens Christmas Schrooge Carol based on new circumstances, modern circumstances. Maybe in fact they all wish to be the Christmas Scrooge because they are holding not only the Federal employees who have been furloughed, they are holding this entire country hostage to an ideology that the country is not buying into.

The United States citizenry is not extreme, they are not radicals. They are God-fearing, compassionate, logically thinking people, and they cannot understand why it is that we as a House of Representatives cannot sit down and agree to disagree; first of all, to get down to some negotiations, but then to get to the point of compromise, yes, compromise, the word "compromise" which has been for whatever reason essentially destroyed in its definition. In fact we are using the term "compromise" in its worst categorization, which would be to suggest to compromise one's values.

We are ultimately going to have to compromise, my colleagues. We are ultimately going to have to do the people's business. We are ultimately going to have to answer to the mainstream of America as we deal with this budget issue.

Extremist, radical ideas are not America's ideas. There will be a price to pay if the radical elements continue, and that price will be paid at the ballot box next November because that is how it works here.

The question is who, in fact, is in charge? Who is in charge? Who is leading here in this national government? We have lost our leadership. Clearly the Republican side has lost its leadership because they have failed to keep the motors of government working, which is their contract with America as a majority. It is their contract to keep the offices of the government running. They have purposefully shut them down, and they have done so, in fact I believe, with malice. We need to move on.

THE BLAME GAME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. LEWIS] is recognized for 5 minutes.

Mr. LEWIS of Kentucky. Mr. Speaker, today I listened to the President in his news conference, and he was talking about essentially in the same way and with the same terms as the previous speaker about extreme freshmen, 73 individuals that are holding up the Government, and you know it is the same old story: the blame game.

By the way, I remember a President by the name of John F. Kennedy, and I remember when the Bay of Pigs tragedy happened, and President Kennedy stood up and said, "I take the blame, the buck stops here." But what I heard from President Clinton today was that it is the freshmen that are causing this problem, those extremists.

It reminded me not too long ago when we had the tragedy in Waco. The President said, "It is not my fault," and the Attorney General had to take the blame.

He is never to blame. It is never his fault.

He has offered four budgets that do not keep his word with CBO scoring, but it is not his fault. There were three bills on his desk that he could have signed that would have got the Government up and running again, Commerce, Interior, and VA–HUD, that would have put the people back to work, but he vetoed them, and he blames the freshmen.

Mr. Speaker, let us talk about those extreme freshmen just for a minute. What is extreme, and I asked this the other day, what is extreme about wanting a balanced budget in 7 years? Seven years, not tomorrow, not next year, not 2 years from now, but 7 years. A glidepath for 7 years that is going to actually spend basically $3 billion more than what we are spending now. There are no cuts. We are going to be spending more money. As I said, a glidepath toward a balanced budget that will provide a future for our children and our grandchildren, that will not allow this country to go bankrupt. What is extreme about that? Trying to save the economic viability of this country.

Medicare. The President said we are extremists, that we are going to cut, slash, kill Medicare. There is only a 2-percent difference between the Republican plan and the President's plan. Basically $138 difference over a year period of time in the year 2002 on what would be spent per individual.

What are we talking about here when we are talking about extremists and radicals? Individuals that want to save Medicare for their mothers and fathers. My mother and father are 78 years old. I want to save Medicare.

□ 1800

Why would I do anything to hurt the most precious people that I know? I do not know when this rhetoric is going to stop, but it is time that we get serious about balancing the budget. It is time we do have serious negotiations, but the President is not willing. He is the one that is not willing. He is the one that broke it off last night. He is the one that said, in one instance through the Vice President, that, "Well, we cannot go specifically by the CBO. We have to have other numbers in there." Then he comes back later and he said, "That was not what we meant. We are willing to go by CBO scores now."

What are we dealing with here? Mr. President, Mr. Speaker, I wish the President would just come forth, put a budget on the table that would provide for a balanced budget in 7 years and that would allow the CBO to score it to see if the numbers are right. I think we would be willing to then look at, what is he talking about, Medicare and taxes? We are willing to look.

WE CANNOT FORGET THE POOR IN OUR NATION IN ORDER TO MAKE THE WEALTHY WEALTHIER

The SPEAKER pro tempore (Mr. WHITE). Under a previous order of the House, the gentlewoman from Texas [Ms. EDDIE BERNICE JOHNSON] is recognized for 5 minutes.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I have listened with interest. I, too, am tired with the rhetoric. No matter which way you put it, there are real people out there being affected. I am from a regional city with many, many, many Federal employees. I, too, have gotten messages: Stick with the President.

I am from a city and a district that has one of the most well-known medical schools, one of the most well-known dental schools. A medical school that has four Nobel Prize winners there now in my district. None of them are for these cuts. All of them understand that when we put the bottom line to it, there are a few more dollars being added. So no, there is not a cut as such; but what we have forgotten to be honest with the people about, there are a million more people going into the system to share these dollars. When you put that many more people into a system, those dollars will not spread broadly enough.

When these dollars do not spread, the individuals see it as a cut because the services are simply not there. We can call it whatever we want to call it, but when the services are not there, the choices are not there, and people are having to pay more out of their pockets. When offsprings of these senior citizens are having to pick up the tab, when spouses are having to give up their job security and their homes to pay bills, they see it as a cut. We can count the dollars, whatever we want to do, it is a cut for the people. They feel it. They know it when they feel it.

Mr. Speaker, we are doing this just the opposite than what America has promised. We are punishing the poor and the most vulnerable to help the rich. That is not the way it has been intended. You can say that we are giving a tax break to persons making $75,000 a year, but when you are taking away from those who are making $25,000 or less, that is punishment of the most vulnerable population. When we take away Head Start, when we take away education funds, we are doing just the opposite of what our society needs to cope with tomorrow. Any way you look at it, that is hurting all of us, because we hurt our future.

Every nation that is doing better economically has a history of investing in their human resources. That is their people. We are refusing to do that. We are in the shape of a Third World nation, but it is OK if you are rich. It is the poor, the disabled, the elderly, that are being affected, and our children, which is this Nation's future.

Anyone who thinks the rich children are safe while we let poor children wander around in the wilderness of poverty, hunger, and the lack of education is in a different world than reality. Every child's future is at stake, not just the wealthy. We can get up here and talk all we want to talk about saving the future for our children, taking away the price tag. Let me assure you, when we remove food, when we remove shelter, when we subject the poorest children to water that is not safe, food that is not safe, and continue to dump in the neighborhoods where air is not safe, do not think we are not going to pick up the tab. We are going to pick it up through hospital bills, we will pick it up through prisons, but we have the responsibility and we will pick it up somehow.

We simply cannot forget the poor in our Nation just to keep making the wealthy wealthier. It does not work. It does not work, no matter what gender, no matter what color, no matter what the origin of birth. It does not work for any of us.

It is time for all of us to come to the table, forget the rhetoric, forget we are going to do just a revolution for the sake of revolution. We have to think about human beings. These are human beings we are affecting. These are living, breathing people. I say to you, it is time, it is time for us for give attention to the most vulnerable.

PASSING A CONTINUING RESOLUTION WOULD LET PEOPLE HAVE A MERRY CHRISTMAS AND A HAPPY NEW YEAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. HEFNER] is recognized for 5 minutes.

Mr. HEFNER. Mr. Speaker, I would like to maybe digress here. I wish some of the speakers who have spoken earlier were here. I have been around here for quite some time, and some people have a tendency to kind of rewrite history here.

The people that continually come to this well, and the good gentleman from Florida who practiced medicine in Florida, he said he was so concerned about his parents, and I feel sure he is, and is glad he still has his parents with him. Some of us do not have that privilege. But their rhetoric does not match up with the record of the Republican Party.

I remember back early on when Ronald Reagan first came to office, the first budget David Stockman sent to this House called for the $125 cut for the oldest, neediest senior citizens in this country, to cut out the $125 for these senior citizens. I can also remember, and I look at the RECORD back when Medicare was established, and it got no support. In fact, the majority leader in the Senate said he fought, he fought very, very hard to try to see that Medicare would never become a reality. Social Security was not supported by the Republican Party. Certainly Medicaid was not supported by the Republican Party.

The folks say to me, they say, "We are going to give senior citizens a bigger choice. We are going to let you do, and you are going to get an insurance policy. We are going to give you some choice." One of the things that they crucified Hillary Clinton and President Clinton for was to try to get people to move into HMO's and these areas. I can just imagine if I go to Prudential or some carrier that carrier health insurance and I say, "I want to get some insurance," and they say, "How old are you?" I say, "I am 66 years old. I have had open heart surgery. I have heart disease. It will get progressively worse." "Well, I'm sorry about that, but we cannot handle you," and the anxiety that it gives to our senior citizens.

One of the gentlemen mentioned it is only like $100 or $150 a year. That does not sound like much to a Member of Congress here, but I have people who come into my district offices in North

Carolina every day, senior citizens living on fixed incomes that have to make a determination whether they are going to pay their monthly bills or whether they are going to get a prescription filled. It is not just the Medicare and the Medicaid that is so wrong with the budget that the Republicans have passed. It goes to other areas. Unless they have taken it out recently, you have the spousal impoverishment that is in the bill. If one of the couple has to go into the nursing home, the existing spouse no longer can protect their property. Their children can be liable for that homestead or what have you. It is just a cruel hoax, this entire bill. It is not just the Medicare and Medicaid portion of it. It is all across. There is a mean spirit through this entire budget.

The gentleman spoke down here and said the President sent up a bill which we voted on the other day which was a total hoax. There was not one day's hearing. They took some quotes out of some statements that had been made months and months ago and put together a bill with not one day's hearings. It did not even go to the Rules Committee, and they brought it here on this floor and try to pan it off. It was a charade, it was a phony bill, it was a phony vote to embarrass the President of the United States.

Mr. Speaker, I would like to get to another point. My grandkids, if you will permit me to be personal, my grandkids are coming here this weekend. They are going to spend Christmas with me. I do not have to leave this town. The gentleman made the remark his kids are coming. He is probably going to fly his wife and kids up from Florida to be here for Christmas. We can stay here for Christman. But there are thousands and thousands of American citizens out there that do not take part in this debate, they had no part in this, and they are going to be absolutely frustrated during the holidays. They are going to be concerned about it.

Let me just remind my colleagues on the other side, they talk about a revolution that took place in November. Let me just remind my colleagues that 60 percent of the American people said, "A pox on both of your parties. We did not vote for any of you." Your Contract With America said when you were going to balance the budget, you did not go far enough and say we are going to balance the budget, but we are going to cut Medicare, Medicaid, we are going to do away with clean water, all these things. Had you added that into the contract, the numbers would have gone down drastically.

Why do we not do a continuing resolution, let people have a merry Christmas and a happy new year, and same to you, Tiny Tim.

AMERICANS WANT AN HONEST BALANCED BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. UPTON] is recognized for 5 minutes.

Mr. UPTON. Mr. Speaker, I would like to say a couple of things during this span, as we wait for the rule to come down from the Committee on Rules. On this side we want a balanced budget. I believe a lot of Members on that side want a balanced budget, too. They want it honestly scored, and that means by the Congressional Budget Office. We are tired of smoke and mirrors and phony numbers and the CR that we had last time. A lot of us were optimistic that something was going to happen, and it did not. That is why we are in the situation that we are in today.

Mr. Speaker, I reminded a colleague of mine earlier this afternoon that I was one of those who voted against the Bush budget back in 1990. I remember being down in the White House and meeting with a number of his advisers, and I said then that his assumptions and statistics that he was showing us in 1990 were wrong, because he told us that if that budget passed in 1990, and it did, despite my opposition, that we would have a surplus in 1995 of $65 billion. The OMB was off $225 billion.

We are tired of that. We are tired of trying to hoodwink the American public in terms of making tough decisions, and when the pie is finally taken out of the oven, it is not done. We want it done. The end product every one of us on this side wants and a good number on your side, and I hope including yourself: that pie done in a balanced fashion by the year 2002.

One of the things we are trying to do now is to get the sides together, put them in a room, lock the door, call out for Domino's Pizza on whatever you are going to do, and not let them out until we get a deal.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. UPTON. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, just to make two points on the scoring, I do not think the American people are sitting out there having dinner and saying they are talking about a score by OMB rather than CBO. But CBO was off $135 billion. I will agree with you, get some people together that want to balance this budget. I am for balancing this budget. But we are being told they are not going to pass a budget in this House unless it is Democrats that go your way. You say, "You do it our way, or it will be no way," and that is no way to negotiate.

Mr. LAHOOD. Mr. Speaker, will the gentleman yield?

Mr. UPTON. I yield to the gentleman from Illinois.

Mr. LAHOOD. Mr. Speaker, I agree with the gentleman about the point, I think there are probably a lot of people out there eating dinner and probably some of them watching C-Span, and I doubt if very few of them understand all the scoring. But I will tell you one thing the American people understand. I think it is reflected in votes that have been made on this floor throughout the year. The fact that we passed a balanced budget amendment with 300 votes, it included a lot of Democrats, and maybe some of the people who are sitting here this evening. We passed a balanced budget resolution with the vast majority of Democrats voting with us.

The reason is that our people who are elected to these jobs, whether they be Republicans or Democrats, know that the American people want a balanced budget. The reason is because of the fact they balance their budget year in and year out, they know how to do it, they look at their ledgers, they see how much money is coming in, and they say, "Why can't you do this in Washington? What is the problem? Why do we have a $5 trillion debt?" Because we have overspent.

So the average person watching television out there, eating dinner, for those people that are, they understand how this works.

Mr. HEFNER. If the gentleman will yield further, Mr. Speaker, I am not disagreeing with him. But it boils down to this: we can have negotiations, but it cannot be "My way or no way."

□ 1815

That is no way to negotiate.

Mr. UPTON. Reclaiming my time, I think that we can reach a bipartisan accord. The vote that we had here 2 nights ago, it passed big time: 7 years, CBO numbers, most of us, again. I think only 40 Members voted against it. I think that there is room for a bipartisan agreement, and there are a number of us that want to do that.

Mr. HEFNER. Mr. Speaker, I do not mean to sound sarcastic, but if we could put together a budget, get to a budget in 7 years scored by CBO, is the gentleman at liberty to deliver some Republican votes if it met with your approval?

Mr. UPTON. I believe so, and I think that is what we all ought to be working here tonight to try and do, and tomorrow night and the next night, until it is done.

Mr. HEFNER. Because we understand and have been told that the only budget we are going to get will be a Republican budget with enough votes over here to override a veto. If we cannot get some support to where we can come as a bipartisan group, we have very serious reservations about it. But I am asking if you and I could sit down as honest brokers.

LET THE LEADERS LEAD

The SPEAKER pro tempore (Mr. WHITE). Under a previous order of the

House, the gentlewoman from Connecticut [Mrs. KENNELLY] is recognized for 5 minutes.

Mrs. KENNELLY. Mr. Speaker, I rise to come down here on the floor and say that all week I have stayed away from the floor. I felt that there was really nothing that could be said at this point in time, that the American people mostly, those that are fortunate enough to be with their families and about to enjoy a holiday with shopping and getting ready for Christmas and trying to have a family occasion where there could be happiness and good cheer, that they probably thought that we in Washington, Members of the House of Representatives and the Senate, that we could not get our job done.

They pay us well, they send us to Washington to represent them, and they would like us to carry out our duties. Yet we hear this more or less "blame game." I do not think that is going on in the country. I think they are saying, all of us are not doing our job.

I reached a point of frustration this afternoon, listening to the conversation on the floor, because things get mixed, what is happening here. We have appropriation bills that are passed on this floor and on the floor of the Senate that go to the President and are signed, and those bills fund, through taxpayers' money, the various agencies of the U.S. Government. Six of these bills have not been finished.

That has happened in other years, and then we have what is called a continuing resolution. It comes to both floors and is passed, and then the problems within the different bills are hammered out and worked out, and then eventually we have an appropriations bill. Of course, that is not what happened 2 weeks ago and that is not what is happening now.

The continuing resolution does not pass and, therefore, those agencies stop, and the result is that 200,000 people cannot go to work.

I do not understand it. This is not the budget. The budget is another whole process. The budget, there are a lot of differences, differences about values, differences about priorities, differences about the budget of the United States of America and about the size of the Federal Government. That is all in the budget.

But the continuing resolution is different, and I do not see why we hold the continuing resolution hostage to the budget.

We as Members of Congress are fortunate. We have an office down here and at home. In that office, I think each and every one of us works very hard on casework, and yet we are saying to 200,000 Federal workers, we are not letting you go to work. I just think that goes against everything I have ever worked for.

We are saying to people who want to go to work at the Smithsonian and other museums and our art galleries, at our monuments that we are so proud of, at our parks that are so beautiful, no, you cannot go. Yet, as Members of Congress, we work very hard so that people who want to come to Washington can get their tickets, can go to the Washington Monument and the Mint, yet we have closed all of these. It is beyond me.

So I would just like to say tonight, can we not pass a continuing resolution, open up the Government to the people who pay for it, the citizens of the United States of America, and not hold it hostage to the budget of the Federal Government which has different philosophical thinking and priorities. I just do not understand why we do not respect our Federal worker more.

Some of us have traveled in other countries; we have read about other countries, we have dealt with other countries, and we know that their federal governments, their government workers are not respected to the extent they should be because they have not been treated correctly. They work at a lower rate of pay, they do not get the respect that they deserve over the years, and as a result, they do not function like our Federal Government has always functioned and its workers.

Our workers are proud of what they do, they go to work in the morning, they do a full day's work, they go home at night, they are with their families and they are very, very good citizens. They should not be put in the vise of this budget resolution.

Tomorrow we should have a continuing resolution on this floor and on the Senate floor, and our Government should go on.

Then I hear people saying, well, what is happening about the budget; and it is said, you know, that there is a group that does not want the budget, the new freshman class, they are saying, no, you cannot have this particular budget unless it has what we want in it. You cannot do it that way.

First I heard a young man down here talking tonight and he was talking about the President of the United States, the President, another President, a former President saying, "The buck stops here." We did have a former President that said that. But they are not letting the buck stop here with this President.

Yesterday we had the President of the Senate, Mr. DOLE, and the speaker of the House, Mr. GINGRICH, go to the White House. All of the television cameras were on, and the two gentleman walked in and sat down with the President and they began some discussion; they came out, and it looked like we were going to have some progress, and we all felt so good.

Yet today we hear that, no, the 73 freshmen are not exactly satisfied with what happened there.

Well, you cannot have it both ways. You cannot have it: "The buck stops here," and the: "We want to all be involved." The negotiations, any negotiations, breaking it down to a smaller group with only the leaders. In Dayton, they sent the Presidents of those countries and they sat down at the table and they figured out what was going on. They could not bring all of the countries with them.

So what I am saying is why do we not all step out of the way and decide what is happening and come back and vote on it. Let us let the leaders lead.

PRESIDENT SHOULD GET SERIOUS ABOUT BALANCED BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CHRYSLER] is recognized for 5 minutes.

Mr. CHRYSLER. Mr. Speaker, 31 days ago, President Clinton committed to balancing the budget in a signed contract with Congress that stated: "The President and the Congress shall enact legislation in the first session of the 104th Congress to achieve a balanced budget not later than fiscal year 2002 as estimated by the Congressional Budget Office * * *." Since that time, however, it has become more apparent that this President has no intention of living up to the agreement.

Last October, the 104th Congress passed a balanced budget, one that finally reforms the Nation's welfare system, provides pro-family and pro-jobs tax relief, and saves Medicare from bankruptcy. For 26 years our Federal Government has continued deficit spending, crippling the Nation with a national debt of nearly $5 trillion and jeopardizing the future prosperity of our Nation. This is our last, best hope to do the right thing for the future of our children and grandchildren.

The President claimed he could not agree to our budget and used his Constitutional authority to veto it. This is his right, but in exercising his power to veto he has a moral obligation to present the American people with an honest alternative.

After 4 weeks we are still waiting for him to present us with a budget that balances in accordance with the terms agreed to last month.

Instead of a comprehensive budget proposal, we have received press releases and rhetoric. Instead of negotiating in good faith to seek an agreeable compromise, the President and his allies produced and aired commercials bashing our proposal even before sitting down at the negotiating table. The President talks about compromise but in reality has only engaged in confrontation and demagoguery.

Last Friday, President Clinton submitted yet another budget that comes no where close to balance in 7 years according to the honest, nonpartisan

CBO. In 2002, when our budget would produce a surplus, his plan remains at least $75 billion short. This is the same "we'll get to it someday" mentality that has overshadowed this issue for decades and left us in the current deficit mess we have today.

When put to a vote before this House, the President's budget did not get one single vote—not one Republican vote, not one Democratic vote.

The day before the vote on the President's budget, the House voted overwhelmingly, by a vote of 351 to 40, to reaffirm our commitment to a 7-year balanced budget as determined by the Congressional Budget Office signed by December 31, 1995.

Taken together, that should be a clear signal to the President to get serious about a balanced budget.

Today, however, we get another sign that the President still has not gotten serious. Today the President once again broke his word and broke off negotiations, continuing the partial shutdown of the Federal Government.

I, for one, will not support another continuing resolution until the President lives up to the agreement he made law.

In 1992, President Clinton campaigned on a balanced budget, ending welfare as we know it, and providing tax relief for America's middle class working families—our proposal simply follows through on what this President could not. We have kept our word to the American people and attempted to negotiate in good faith for an agreement both sides could live with. Has the President? Strip away the rhetoric and there is little evidence he truly wants a balanced budget.

NO LINKAGE BETWEEN CR AND BALANCED BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. ENGEL] is recognized for 5 minutes.

Mr. ENGEL. Mr. Speaker, my colleagues, let us make no mistake about this. It is the Republicans who are shutting down the Government. Clearly and simply, the Republicans, by refusing to vote for a continuing resolution to keep the Government open, are shutting down the Government. They have the majority of votes here and in the Senate, they could easily keep the Government open by voting for a clean continuing resolution with no strings attached, no blackmail attached, and the Government would open and 250,000 Federal workers would go back to work, and then we could negotiate a budget.

But no, they will not do that, because they are trying to link the two issues together; they are saying they will vote for no continuing resolution until there is a 7-year balanced budget.

Now, I want everybody to understand that there is no linkage to keeping the Government open with a continuing resolution and a balanced budget. The Republicans are the ones who are linking it. The reason we are in trouble in the first place is because they did not do their job.

October 1, 1995 was the start of the new fiscal year, and there are 13 appropriations bills which the Republicans were supposed to have sent to the President of the United States, and by that time they had sent only 3. So it is their fault that the Government could not continue and that the Government had to shut down; and the only way you can keep the Government open under those circumstances, when the majority party does not do its job by sending the appropriations bills to the President, is by passing a continuing resolution. They are refusing to do that.

All of this talk and rhetoric about balancing the budget in 7 years is a separate issue from the continuing resolution and from the Government shutdown. The President of the United States has said, and rightfully so, that he will not be blackmailed into accepting the Republican mean-spirited and extreme agenda.

Yes, the majority of Americans want to see a balanced budget, but when you ask the majority of Americans, do you want to see a balanced budget at the expense of Medicare and Medicaid, if it means devastating Medicare and Medicaid, the American people overwhelmingly say no. Well, on the Democratic side of the aisle we say that Medicare and Medicaid and education and the environment and helping working people and not giving a tax break for the rich are Democratic priorities.

□ 1830

While the President did agree 31 days ago to have a 7-year balanced budget, CBO-scored, the Republicans also agreed to protect the Democratic priorities of Medicare, Medicaid, education, the environment, and student loans.

It seems to me that the President, by accepting the concept of a 7-year balanced budget, CBO-scored, has done more to compromise with what the Republicans want to see than the Republicans are doing to compromise with the Democrats. Instead, we get this mean-spirited, extreme attitude, "We're going to shut the Government down if we don't get our way."

NEWT GINGRICH came to the Republican Conference this morning attempting to compromise, apparently, and he was told, "No, we are not going to have a continuing resolution, we're going to shut the Government down." This from the party that talks about family values. A quarter of a million American workers before Christmas are thrown out of work, and they talk about family values.

Congress is going to be in session next week, so we cannot be with our families. They talk about family values. Now, I do not mind Congress being in session if we are actually doing something, but we have been sitting around here all day long today and yesterday while the Republicans are caucusing and not getting anything done, not doing the people's work, arguing, quibbling, passing ridiculous, irrelevant resolutions instead of passing the continuing resolution to get Government open again.

That is the truth. So do not talk to me about family values, do not talk to me about balanced budgets, when you are the ones that are not allowing compromises to be made.

We talk about health care, whether it is a cut in Medicare or just a lessening of an increase, the bottom line is senior citizens in my district and in everybody's districts are on Medicare and Medicaid. The health care coverage is inadequate now. They do not have enough money now to buy medicine.

But let us look at the health care that seniors are getting now in 1995, and what kind of health care will they be getting in 2002 under the Republican plan? The answer is seniors will be paying more and getting less. They will not have the choice. They will be thrown into HMO's. They will not have a choice.

So let us stop the nonsense, let us pass the continuing resolution, let us open up Government again, and then let us negotiate on a balanced budget. One issue has nothing to do with the other.

BOTTOM LINE IN BUDGET BATTLE

The SPEAKER pro tempore (Mr. LAHOOD). Under a previous order of the House, the gentleman from Connecticut [Mr. SHAYS] is recognized for 5 minutes.

Mr. SHAYS. Mr. Speaker, I would like to respond to my colleague and say to him that this is about everything that is important. I have waited 8 years to see my Government finally balance its budget and get its financial house in order, and that is what we are attempting to do.

We are attempting to do three basic things. Get our financial house in order, balance our Federal budget, is one. The second issue is to save our trust funds, particularly Medicare, from bankruptcy. It starts to become insolvent next year and becomes literally bankrupt in 7 years. The third thing we intend to do and are working very hard to, is to change both the social and corporate welfare state into a caring opportunity society.

That is our objective. I know my colleague feels very heated about this issue, but it is really a distortion to talk about cuts to education when education loans are going to go from $24 to $36 billion. That is a 50-percent increase in education loans.

Mr. ENGEL. Mr. Speaker, will the gentleman yield?

Mr. SHAYS. If I could just make some points first. Then if I have some time, I would be glad to.

Again, let me say that we intend to have this go from $24 to $36 billion. Only in Washington when you spend 50 percent more on student loans do people call it a cut.

Our Medicaid number is going to go from $89 to $127 billion. Again, only in Washington when you spend so much more do people call it a cut.

We are increasing the school lunch program. We are increasing the student loan program. We are increasing Medicare, we are increasing Medicaid.

We are absolutely determined, and this is not something which one part of our party feels strongly about, we, this Republican Conference, have been working all year long to balance our Federal budget. That is what we are going to do. We are going to get our financial house in order.

It is just amazing to me that we have had such a struggle throughout the year.

Ms. BROWN of Florida. Mr. Speaker, will the gentleman yield?

Mr. SHAYS. No. I will not yield yet. I will be happy to yield later if I have time. I only have 5 minutes.

I do want to make the point and I think it is very important to be made. We are not saying that it has to be the Republican balanced budget. We do not even come close to saying that.

Yes, we would like to see tax cuts, if it is going to be extended over 7 years. I would be happy to give up any tax cut if we balance the budget in 5 years, but if it is going to take 7 years, I cannot understand why we cannot balance the budget in 7 years with a tax cut. Balance it in 4 or 5 years without a tax cut, it makes sense.

It does not have to be our spending priorities on discretionary spending. Obviously the President and this Congress, Democrats and Republicans, have to weigh in. It is just wrong, in my judgment, for anyone on that side of the aisle to suggest that it has to be our budget. No, it does not. It just has to be balanced in 7 years using the nonpartisan numbers of the CBO.

I would be happy to yield to the gentleman from New York.

Mr. ENGEL. Mr. Speaker, I just want to say to my good friend from Connecticut, when he spoke about taking care of Medicare and not letting Medicare go bankrupt, the actuaries said that it would take $89 billion to ensure that Medicare would not go bankrupt. Why then under the Republican plan are there $270 billion worth of cuts?

Mr. SHAYS. Reclaiming my time, the gentleman needs to recognize that we need to make it solvent for many more years, and we want to bring it up to the year 2010, 2011, which is the start of the baby boomers. Your plan brings it to solvency for a few more years but does not get it up to the year 2010, which is our objective. We want to balance our Federal budget, we want to save Medicare, and we want it to be solvent to the year 2010.

I would be happy to yield to my colleague.

Ms. BROWN of Florida. Mr. Speaker, I have a question on the shutdown. You and I had a lengthy discussion yesterday. I raised the issue to you that this shutdown is costing the American people over $800 million. You indicated to me that you all felt that this was the only way you could get the attention of the President of the United States. So the purpose of this shutdown has nothing to do with the balanced budget but with trying to get the President's attention.

Mr. SHAYS. Mr. Speaker, reclaiming my time, and I plead this not be used against my time. It is very simple to respond. I wish that 10 years ago this Congress had shut down the Government and balanced our Federal budget, and we would not be in the mess we are in today. Our big regret on this side of the aisle is that we gave the President 30 days to come forward with a balanced budget and he chose not to. That is the bottom line to this issue.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. SHAYS. I am happy just to continue with the time that I have left.

The bottom line to this issue, Mr. Speaker, is that we need to get our budget balanced. We would like to do it in less than 7 years. We are determined to save Medicare in particular.

Mr. Speaker, we are determined to balance our budget, get our financial house in order, and save our trust funds.

THE DEMOCRATIC RESPONSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. WYNN] is recognized for 5 minutes.

Mr. WYNN. Mr. Speaker, over the last few days we have been having a momentous debate on this floor and in this country. We have been debating the balanced budget, not whether to have a balanced budget but how to have it. What are the proper priorities?

A lot of people come to me and say, "Why are you guys going back and forth on this?" I tell them, no, it is a good debate, we ought to have this debate. But the question tonight becomes, why do we have to shut down the Government in order to have this debate?

As a point of fact, I believe in a balanced budget, a 7-year balanced budget with CBO estimates. That is not the problem. The question before us tonight is why are we shutting down the Government, why are we putting millions of Federal employees out of work, why are we then paying them not to work on the eve of Christmas?

That is the issue before us tonight.

Well, I will tell you why. The reason why we are shutting down Government is because the Republicans cannot get their budget. Not because they cannot have this debate but because they cannot have their way.

You see we were making progress. The President and the Republican leadership and the Democratic leadership were making good progress and they said, since we are making this progress, why do we not pass a continuing resolution to keep the Government up and running?

The gentleman from Georgia [Mr. GINGRICH] took this issue back to his Republican colleagues and the radical freshman Republicans said, "No, it's our way or no way." So instead of having a reasonable compromise, a continuing resolution while this debate continues, we have shut down the Government.

I was particularly irritated when I heard one of our smug freshman colleagues comment that, "Well, I've got my Christmas tree and I'm bringing my family up, so I really don't care."

Well, I think that speaks for itself, but it is certainly a sad statement.

Mr. LEWIS of Kentucky. Mr. Speaker, will the gentleman yield for a second?

Mr. WYNN. I would be happy to yield in just a minute.

Let us talk about the merits of this issue. Let us talk about their notion of a balanced budget. First of all they cut $270 billion out of Medicare. Now, a gentleman got up a little earlier on the Republican side and said, "Oh, no, this isn't a cut. We're just slowing the increase."

Let me tell you, ladies and gentlemen, try this on the Defense Department. Take $270 billion out of a Defense Department budget that is below projected needs and then tell them that is not a cut. I do not think it would fly.

We all know this is a cut. It is a significant cut. It means that by the year 2002 seniors will be paying on average $138 more per year just in additional premiums, not to mention the loss of choice of their doctors.

They say, "Well, that's not all that significant." Keep in mind these same seniors only average about $25,000 or less in annual income. So the Medicare question is significant. We do not need the big cut in Medicare. As was indicated, the actuaries say we only need to cut about $89 or $90 billion and we could solve the solvency problem.

Then we go to Medicaid, and in their budget they want to cut 8 million people off the rolls by the year 2002. They want to eliminate the guarantees that we have for the sick, the elderly, the poor, the blind, and the disabled. They want to take 3.8 million children off the Medicaid rolls and deny them the safety net guarantee that we have now.

We have a problem with that. We do not think it is necessary. The reason it is not necessary is because they have hidden in their budget a little poison pill in the form of a $245 billion tax break for the wealthy.

You cannot see this chart out there in America but I will tell you what it says. It says that about half of the tax breaks, half of the $245 billion, go to people making over $100,000 a year. I do not see any reason why we in this Congress ought to be giving a tax break to people making over $100,000 a year. But apparently they do. That is why we are having this problem.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. WYNN. I would be happy to yield to my colleague from North Carolina.

Mr. HEFNER. I want to ask you a question, because I heard you say that you believe in doing the CBO scoring. Is that right?

Mr. WYNN. Absolutely.

Mr. HEFNER. Let me ask you this and see if it makes sense. You are going to have a $245 billion tax cut, basically going to the wealthiest people in the country. Unless they get the $270 billion reduction in Medicare, and it gets scored that way, you cannot have the $245 billion tax cut. Does that make sense?

Mr. WYNN. That makes sense to me.

Mr. HEFNER. Is that not the way the scoring works?

Mr. WYNN. That is the way the scoring works.

Mr. HEFNER. Unless you get the cuts in Medicare, you cannot have the $245 billion tax cut?

Mr. WYNN. That is right.

Mr. HEFNER. And that ain't fair in any State in this country.

Mr. WYNN. Absolutely. That is why they want to do it, so they can deliver this big tax break to people making over $100,000 a year.

Mr. HUTCHINSON. Mr. Speaker, will the gentleman yield?

Mr. WYNN. In just a minute.

That does not make any sense. They come down and they say, give us honest figures, give us 7 years.

Gentlemen, I will make you a deal. We will give you honest figures and 7 years. You get rid of the tax break for the wealthy, and I think we can work this out.

Mr. HUTCHINSON. Mr. Speaker, will the gentleman yield?

Mr. WYNN. In just a minute.

The gentleman said, why do we not put all these people in a room, order pizzas and all that. Maybe we could do that, but you do not need to shut down the Government. You have got Scrooge and the Grinch that stole Christmas. Add to that list the Republican freshmen.

REPUBLICAN REBUTTAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. HUTCHINSON] is recognized for 5 minutes.

Mr. HUTCHINSON. Mr. Speaker, I am going to yield my time in just a moment, but I do want to respond to the previous speaker.

We repeatedly hear this demagoguery that there are tax cuts for the wealthy, and repeatedly during his comments when I asked an opportunity to enter into a colloquy, we heard that these tax benefits are for people making over $100,000 per year.

Well, I have had a lot to do with that $500 per child tax credit. It is something that I have worked on from day one when I entered this Congress, something I totally believe in, because the American family is overtaxed, squeezed to the limit.

For the family making $30,000 a year, I say to the gentleman, to the family making $30,000 a year with two children, they will see their Federal tax liability cut in half. That is not a tax break for the wealthy.

Mr. WYNN. Mr. Speaker, would the gentleman yield on that specific point?

Mr. HUTCHINSON. No, sir, I believe I have the time and since you would not yield to me, I would like to complete my statement.

The family making $30,000 a year with two children will see their Federal tax liability cut in half. That is a tax break to the wealthy? That family with $30,000 income and two children? I suggest to you no. They are not wealthy at all.

□ 1845

Mr. Speaker, they are the very people who most need tax relief. For that couple with two children making $25,000 a year, they will see their entire Federal tax liability eliminated. I suggest to you that there are millions and millions of families out there right now who are desiring this tax relief to become a reality. In fact, I was on a radio talk show this morning, one call after another saying, please, do not let the liberals back you down on family tax relief. They need it. We need it. America needs it.

I yield to the gentleman from Florida [Mr. SCARBOROUGH].

Mr. SCARBOROUGH. Mr. Speaker, what is so distressing to me is the fact that the numbers are just being misstated politically. I saw Leon Panetta this weekend say that the majority of the tax cuts that go to the families were for wealthy Americans.

The fact of the matter is, CBO has scored it that 89 percent, 89 percent of these tax cuts go to families making $75,000 or less. What frightens me about this is that this is the liberal view, I guess, and the President's view of what now constitutes a rich person in America, a family with three or four people now making $75,000 or less is, according to Leon Panetta on This Week with David Brinkley, is now a rich person in America. That is a truly sad view of America.

Mr. SHAYS. Mr. Speaker, if the gentleman will continue to yield, I would like to point out that the $500 tax credit applies to a single person whose income is less than $75,000. Only then would her child be given a $500 tax credit and a married couple of 110. It is income sensitive to those families at that number and below.

I want to reiterate the fact that we have tax cuts in our 7-year plan. We actually eliminate some programs. We slow the growth of other programs. We take entitlements and we definitely slow the growth of entitlements. But with Medicare, Medicare was to grow at 10 or 11 percent. We did what Hillary Rodham Clinton suggested, that we get the growth of Medicare down to 6 to 7 percent. In fact it is actually 7.2 percent. It is .2 percent higher than the First Lady suggested it should be.

So what we are trying to do is slow the growth of certain programs. But if our colleagues on the other side of the aisle and the President do not agree to that, it is a concept of opportunity cost. If you do not slow the growth of one program, where are you going to slow the growth of another program ultimately to balance the budget in 7 years?

So I would just say it is just a misrepresentation of the fact if someone suggests that we are saying they have to agree to our budget. The President does not have to agree to our budget. He has to, for the first time, submit a balanced budget. If I had my wallet in my hand, I would take it out and I would offer it to my colleagues on the other side if they could show me a budget from the President of the United States that is balanced in 7 years using the Congressional Budget Office numbers. It simply has not been done.

In fact, when the President submitted his last budget we put it up for a vote and only a very few Members on either side of the aisle supported it. What we are asking is a balanced budget in 7 years, scored by the Congressional Budget Office. It does not have to be our budget. It can be their tax cuts, with or without.

Mr. SCARBOROUGH. If the gentleman will continue to yield, this is an important point. Even though we believe that that is important to us, we will put that on the table. We will put everything on the table. All we want is a balanced budget for future generations. If we have to take up certain tax cuts next year, fine. I just want to see the President of the United States say that my children and future generations are important enough that the Federal Government finally spends only as much money as they take in. Everything is on the table but negotiating our children's future. We must balance the budget.

MEDICARE AND MEDICAID

The SPEAKER pro tempore (Mr. LAHOOD). Under a previous order of the House, the gentlewoman from New York [Mrs. MALONEY] is recognized for 5 minutes.

Mrs. MALONEY. Mr. Speaker, I yield to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Speaker, let us get straight on these tax figures. The gentleman talks about the people who make $30,000. They only get 13 percent of the total tax break. We could balance this budget and have a deal. Cut out the tax breaks for the wealthy. Just give it to the folks that make $30,000. They are only getting 13 percent. The rich, over $100,000, are getting almost half, almost 50 percent of the tax breaks.

In addition, they repeal the family tax credit so they are actually increasing the taxes on the middle class and working poor. They also give another windfall to the rich because they eliminate the alternative minimum tax. What does that mean? That means $17 billion to the richest corporations in America. That is the truth about the so-called tax breaks.

Mrs. MALONEY. Mr. Speaker, I yield to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, I want to say to the gentleman from Connecticut, he talks about demagoguery, there was a little bit of demagoguery that took place on this floor yesterday when they offered up the sham on the President's budget that had not been scored. It had not been brought here by the President. The President did not request it. It did not go to the Committee on Rules. It had not one day of hearing, not reported out of any committee. There were no comments on it. The gentleman from Connecticut [Mr. SHAYS] has been around here a long time. He knows that was a sham to embarrass the President of the United States, and we are better than that.

I could not let him get away with saying that all those Members voted against the President's budget, because it was a sham and it was a disgrace to the most deliberative body in this country.

Mrs. MALONEY. Mr. Speaker, the American people do not just want a balanced budget.

They want a balanced balanced budget.

And the Republican budget—which the President is rightfully resisting—is an unbalanced balanced budget.

The Republican budget is unfairly balanced on the backs of seniors on Medicare.

It is unfairly balanced on the backs of the poor, the disabled and middle class families whose parents benefit from Medicaid.

It is unfairly balanced on the backs of the children of our public schools and students with student loans.

The Republican budget is a load off the backs of corporate welfare recipients, defense contractors, polluters, and all the other Republican special interest groups.

No issue more clearly divides Democrats and Republicans than Medicare and Medicaid reform.

The proposal to block grant Medicaid takes away the guarantee that poor people will receive health care.

At this time in history—when the gap between rich and poor is wider than ever—that is inexcusable.

The block grant proposal is predicated on a blind-faith fantasy, that States will come up with a magic formula, to do much more in health care for the poor with much less money.

If there are any such miracle cures to health care in New York State, I've certainly never heard of them.

And neither has anyone else in the New York hospital system.

What's more, this block grant proposal has no flexibility.

It will be most effective in providing health care for the poor during good economic times, and least effective in recessions, when America needs Medicaid most.

That stands the very purpose of Medicaid on its head.

The Republican Medicare plan is just as reckless, and just as cruel.

Cutting $270 billion out of a program that needs a $90 billion cut to remain solvent—and is so important to so many seniors—is outrageous.

Just as this proposal will hurt Medicaid and Medicare clients/it will also devastate Medicaid and Medicare providers.

Estimates vary, but it is clear that if the Republican plans are enacted, New York State will lose between $40 and $50 billion dollars.

That would endanger the very survival of literally every public hospital in New York City.

Two provisions are of particular concern to the city and State of New York under the Republican Medicare proposal.

They are programs which took decades to evolve and refine.

If they are gutted by these senseless cuts, these programs will be virtually impossible to reconstruct.

The proposal to cut formulas for Medicare graduate medical education and disproportionate share payments would devastate New York's hospitals.

Fifteen percent of all medical residents in the America are educated in New York metropolitan area hospitals.

New York City's hospitals also serve an unusually high proportion of special needs patients: the elderly, the disabled, the chronically ill, and the poor.

Overall Medicare payment rates determine indirect Medical education and disproportionate share payments.

If those payments are reduced because of smaller inflation adjustments, New York's hospitals would be hit with a double whammy.

Graduate Medical Education would be further devastated by new restrictions on training international residents, who comprise 45 percent of all residents.

What country a resident comes from is unimportant as long as he or she is saving American lives.

New York's world-renowned hospital system is struggling to stay afloat TODAY.

These cuts are far in excess of what that system can absorb without catastrophic consequences.

Medicaid cuts will especially hurt New York nursing homes and other long-term care providers, who rely on Medicaid for 90 percent of all payments.

That will trickle down to middle class families, who could be bankrupted by simply giving their parents quality care in their old age.

Mr. Speaker, it comes down to this.

New York State, with 7 percent of the population, would absorb 11 percent of the cuts in Medicare and Medicaid.

New York City, with 2.9 percent of the population, would absorb 6.5 percent of these cuts.

These numbers don't just represent dollars.

These numbers represent lives.

Thousands of lives lost, ruined or needlessly compromised.

There are numbers in this budget that we can cut which will NOT represent lives.

It's time to spare these critically important health care programs for our seniors, our poor, our disabled and our people.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 134, FURTHER CONTINUING APPROPRIATIONS TO ENSURE PAYMENT OF VETERANS BENEFITS

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–428) on the resolution (H. Res. 317) providing for consideration of the joint resolution (H.J. Res. 134) making further continuing appropriations for the fiscal year 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1655, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1996

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–429) on the resolution (H. Res. 318) waiving points of order against the conference report to accompany the bill (H.R. 1655) to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 134, FURTHER CONTINUING APPROPRIATIONS TO ENSURE PAYMENT OF VETERANS BENEFITS

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 317 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 317

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 134) making further continuing appropriations for the fiscal year 1996, and for other purposes. The joint resolution shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit. The motion to recommit may include instructions only if offered by the Minority Leader or his designee.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 317 allows for consideration of House Joint Resolution 134, which will make further continuing appropriation to ensure that our veterans continue to receive the payment of their benefits during the budget negotiations and the current partial Government shutdown. The rule provides for 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

The rule also provides for one motion to recommit which may include instructions if offered by the minority leader or his designee.

Earlier this week, the President vetoed the conference report for the VA-HUD appropriations for fiscal year 1996, and as a result, put the Government in the position of reneging on its promise to pay veterans benefits checks. We cannot allow our veterans to lose these benefits, and this Congress will take any action to protect our service men and women and their families.

This is a simple resolution which deals with one specific issue in our Federal budget that we in Congress believe is important enough to merit this action. This resolution provides a temporary solution by ensuring the payment of veterans benefits in the event of a lack of appropriations through fiscal year 1996.

Mr. Speaker, the 3.3 million veterans in the United States and their dependents not only look forward to and need these benefits—they deserve these benefits. If we do not act on this temporary funding measure tonight, our veterans and their dependents who are expecting benefit checks will see a delay in the receipt of these critical funds.

I have co-sponsored this resolution and I strongly support this action to provide our veterans with the benefits that they have earned and rightly deserve. Despite the importance of the budget negotiations to the future of our Nation, there is no arguing that the men and women who have served this Nation do not deserve the financial uncertainty that may occur. Both parties are responsible for putting this Nation into the fiscal mess that we now face, but this resolution shows that we will not punish those who have put their lives on the line to protect the freedoms that we enjoy today.

This resolution was unanimously approved by the Rules Committee and it is a fair resolution that will assure that our veterans receive the benefits they deserve.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume. I thank my colleague from Georgia for yielding me the customary 30 minutes.

Mr. Speaker this continuing resolution is a very small step in the right direction.

This resolution says to American veterans that they should not have to pay the price for this ridiculous game of political brinkmanship my Republican colleagues are playing. What I do not understand Mr. Speaker, is why my Republican colleagues believe the entire country should pay this price.

Why don't my Republican colleagues tell the 383,000 people who are shut out of National Park Service facilities every day that Congress cares about them too?

Why don't my Republican colleagues tell the 80,000 people who are shut out of the Smithsonian and the National Zoo every day that Congress cares about them too?

Why don't my Republican colleagues tell the 2,500 people whose FHA home purchase loans aren't being processed that we care about them too?

As the gentleman from Massachusetts noted up in the Rules Committee earlier this evening, although the Speaker and the Majority Leader supposedly had a very productive discussion with the President, a funny thing happened to the Speaker at the Republican conference, he found out his radical colleagues would rather cut Medicare and Medicaid than keep the Government running. He found out that Members of the Republican Party won't let a continuing resolution come to the floor at all.

So, Mr. Speaker, I'm sure the country will support my attempt to defeat the previous question in order to expand this continuing resolution to the entire Government, not just the veterans.

I'm sure the country wants Congressional Republicans to stop these games, leave Medicare alone, and fund the entire Federal Government through January 26.

I urge my colleagues to defeat the previous question.

□ 1900

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is worth pointing out that the State of Arizona has kept the Grand Canyon open by working out an intergovernmental agreement.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. FOX.].

Mr. FOX of Pennsylvania. Mr. Speaker, I, too, rise to support House Joint Res. 134. This is a bipartisan effort under the leadership of the gentleman from Arkansas [Mr. HUTCHINSON], the chairman of the Committee on Veterans' Affairs' Subcommittee on Hospitals and Health Care, and our chairman of the Committee on Appropriations, the gentleman from Louisiana [Mr. LIVINGSTON]. This legislation would ensure, Mr. Speaker, the payments to more than 3.3. million veterans and their dependents will continue to be made on schedule during the current partial Government shutdown. The bill also ensures vendor payments to contractors who supply the Veterans Administration with products and services vital to the health and the safety of our VA patients.

The Hutchinson-Livingston bill currently has the support of nearly 30 Members of both parties and obviously, by the number of speakers here this evening, many more Members of the House are in support of this important legislation.

The President's veto of the VA-HUD appropriation bill means the veterans' benefit checks will not be paid on time next month, and veterans may be denied needed medical supplies if the partial shutdown continues. The President could have easily signed the bill and avoided putting veterans' benefits at risk and in jeopardy. However, this legislation would solve that problem, and I believe that the Hutchinson-Livingston bill will assure that GI bill benefits, compensation, and pension payments for veterans will continue, as well as dependency payments and indemnity compensation for survivors of veterans are made on schedule.

So, I support this legislation, and, Mr. Speaker, I urge my colleagues to unanimously vote for its adoption.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY], the ranking Democratic Member on the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, there is not a day that goes by that when I pass the Capitol and take a look at the dome that I am not immensely proud of the privilege that I have of representing the people of my district in this Congress of the United States, in this great Capitol Building. I have profound respect and love for this institution and respect for every Member in it because of what they represent and who they represent. But I have to say there are some times when I get very disappointed about the conduct of this institution and people in this institution, and tonight is one such occasion.

Anybody who knows me knows that I have strong partisan views and I am not afraid to express them. But I think anybody who has worked with me through the years also knows that when it comes to my legislative responsibilities, in dealing with my committee work, that I have always tried to approach that work in a bipartisan way, and I think the record speaks for itself. We produced 9 appropriations subcommittee bills under my chairmanship, all of which were bipartisan, and when I chaired the Committee on Appropriations last year, we produced an allocation of budget resources to all 13 subcommittees, which was a bipartisan allocation.

I think we need that same approach tonight.

Last night the networks told the country that the President, and the Speaker, and Senator DOLE had begun talking again about the budget, and, as the networks showed tonight, Mr. Panetta came down here today expecting to try to negotiate on that and on the question of reopening the Federal Government. We are then told on the nightly news that the Republican caucus, led by the freshmen, decided to reject any effort whatsoever to reopen the Government until a total deal is consummated between the White House and the leadership of the Congress.

As anyone who understands anything about government knows, even if agreement on policy were reached tonight, it would take a good period of time to draft the legislation necessary to reflect that policy.

If we are truly interested in meeting our bipartisan responsibilities, what we would do is pass this motion before us tonight to allow veterans to be paid their benefits, but we would expand it so that all of Government, which is closed down, is opened. The taxpayers deserve to get the services they are paying for from all the workers in the Federal Government, not just those in the Veterans Department.

Mr. Speaker, that is why I will be asking at the appropriate time that we defeat the previous question on this rule tonight so that we can offer a resolution which would allow all of the Government to reopen.

I think it is just fine that this proposal would allow us to pay veterans' benefits, disability, pension, education benefits, but it will not allow us to process new claims for veterans' benefits, it will not allow us to deal with the same 2,000 claims a day that come for those benefits it will not allow us to tell our troops who are on the way to Bosnia that they will be guaranteed their military pay raise this year, their COLA, because we are not opening all of the Government under this resolution.

I have talked to many of you on the majority side of the aisle, and I know you as human beings, and I know that there are a good many of you who do not agree with the idea of keeping Government closed down. I understand the peer pressure that is being put upon you. But I ask you to rise above that tonight and do what is necessary to restore some semblance of respect in the country for our processes in this institution by reopening all of Government and dealing with our divisions on long-term budget policy in a restrained, disciplined, and adult manner. That is the only way in my view that we can earn our pay the way the public expects us to earn our pay.

Mr. LINDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Glens Falls, NY [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Georgia [Mr. LINDER] for yielding this time to me, and I would just say to my very good friend, the gentleman from Wisconsin [Mr. OBEY], who I have a great deal of respect for, he has been here longer than I have; I have been here for close to 18 years now, I guess; but I just want the gentleman to know, yes, the freshman feel very strongly that we are going to stay here, and we are going to get this job done, we are going to balance this budget. But, as my colleagues know, there are others, too. I feel like an 18-year veteran freshman because I feel the same way.

Mr. Speaker, I have been here during times when Ronald Reagan, when that great President, tried to bring about this revolution. He could not do it because he did not have the control of both Houses. And then I recall a time later on in 1985 when this body had the courage to pass something called Gramm-Rudman. As my colleagues know, that was a balanced budget. That was an attempt to do what we are doing now, to balance the budget over a 5-year period, and even though we did not have the right figures to work with, we were making those cuts.

As my colleagues know, I have a button in my pocket here that says, "It is the spending, stupid," and that is the problem out here.

But my colleagues know we conscientiously, with good Democrats supporting us, passed Gramm-Rudman, and the only problem with it is that in bringing that to a balanced budget over 5 years, we did not make any cuts in years 1, 2, and 3. We only did it in years 4 and 5.

So what happened? The Congress sent out all their press releases, we are going to balance the budget. But then what happened in year 1? We did not have to make the hard cuts, so we got through that, we got through year 2, we got through year 3, and all of a sudden it became too difficult, and we abandoned that attempt to balance the budget.

I am going to say to my friends on the other side of the aisle that is not going to happen this time. No matter what, we are going to balance that budget, and that means staying on the glidepath, staying on that glidepath in the very first year.

Now having said that, that is what I guess I get so upset about, and I am going to be calm here tonight, but when the President then vetoes this bill which has all these benefits in it, it just irritates me because we have to say on that glidepath.

We had a part of the pie which was allocated for the Department of Veterans Affairs, Department of Housing, the Environmental Protection Agency, and all of these other sundry departments, bureaus, and agencies, and we were willing to say to the President, "Please, you tell us how you would like to divide up that part of the pie," and he would not do it. He would not tell us. So we sent him our way that we would divide it up, and do my colleagues know what we did because there is not enough money there for all of these programs? We first determined that the medical care delivery system function of the VA Department of Veterans Affairs had to have about a $550 million increase in order to maintain the veterans hospitals outpatient clinics, et cetera, and in order to get that, then we had to cut and reduce the growth of the other programs like NASA, like EPA, like Department of Housing, and that was our way of staying on this glidepath.

Now the President has vetoed that bill, and that is why we are here today. In doing so we have not reached a conclusion, and the veterans' checks for medical compensation will not be going out unless we pass this piece of legislation.

That is why today, after hearing all this rhetoric out here, I believe everybody is going to come over here, and they are going to vote for this very important bill. We need to do it. We need to do it for these people that have sacrificed their lives for their country, that have come home wounded and disabled, and that is where most of this money will go. This continuing resolution would allow them to get their checks on time.

So let us put aside the rhetoric, let us go ahead and pass this bill and make sure that those checks go out on the 1st of January.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Speaker, the rule we are considering today is a very good rule. American veterans should not have to pay the price for the Republican inability to pass appropriations bills, nor do I think the American people should be used as pawns in a political game.

That's why I will be supporting the effort to defeat the previous question so that we can expand this continuing resolution to the entire Government not just the veterans. And everyone in this Chamber will have a chance to vote for that amendment to stop these games and fund the entire Federal Government through January 26.

I look forward to seeing all of my colleagues put politics aside and vote against the previous question so we can offer an amendment to fund the entire Government.

Mr. LINDER. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Florida [Mr. SCARBOROUGH].

Mr. SCARBOROUGH. Mr. Speaker, I thank the gentleman from Georgia [Mr. LINDER] for yielding this time to me, and I think it is important that we clarify a few things.

First of all, we are not here tonight because of Congress' inability to pass an appropriation bill regarding veterans. We have done that. It is the President who vetoed it for his own political purposes, and that is why the Republican Congress has had to come forward with help, with bipartisan help, on the Committee on Rules to pass this important rule.

The national parks. I heard somebody complain about the national parks being closed. We did our job, we passed the bill; the President vetoed it.

The employees of Commerce, State, and Justice did not work today, not because we did not do our job. We passed the bill; the President vetoed it.

VA-HUD, EPA, Independent Agencies; all of these agencies would be open today but for the fact that the President of the United States did not sign into law the appropriation bills that we passed.

We did our job, and now if I can address comments from the gentleman from Wisconsin who stated, and I quote, that he is disappointed in the conduct of Congress tonight.

☐ 1915

I respectfully would state to the gentleman that Americans who elected me and Americans who swept the Republicans into Congress for the first time in 40 years have been disappointed in the conduct of this institution over the past 40 years, not just tonight, but over the past 40 years, when we only managed to balance the budget one time in 40 years.

As far as respecting, and I am quoting again, "Respecting the process in Congress and moving forward in a restrained, disciplined manner," let me ask what is so restrained and disciplined about passing deficit bills for 40 years; of running up a $4.9 trillion debt? If that is discipline, if that is restraint, then count me out. There is nothing restrained or disciplined about that.

We are here tonight as part of a bigger showdown. The one thing that I hope all of us in this Chamber can agree on, and I see the gentleman from Mississippi, SONNY MONTGOMERY, a champion of veterans for years, a Democrat, who has been out front on it, what I hope we can all do tonight is unite together and make sure those veterans that sacrificed for this country to protect and defend the Constitution, hope that they will not be left out in the lurch tonight.

I hope we can join together, pass this important rule, and pass this bill. The veterans should not be part of this political battle simply because the President of the United states did not like environmental policies of the Republican party. We need to separate them. Veterans' benefits should not be held hostage. The veterans earned it, they sacrificed, they stayed away from their families.

I hear a lot of Members whining about not being with their families this year. Think about the future veterans who are in Bosnia tonight. That is the sacrifice veterans have been doing. We need to protect veterans' rights.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, we had an agreement.

Last night, the President agreed to sit down and talk. The Senate majority leader agreed to sit down and talk. Even the Speaker of the House agreed to sit down and talk.

They had a deal.

They had a commitment to go forward.

But the Speaker is not willing or able to keep that commitment today. Why?

Because a small minority in this House, who don't represent the views of the people, who don't represent the views of this House, who don't represent the mainstream of America, who want to shut down this Government, and force their priorities on the American people.

The only reason the Government is shut down tonight is because 73 militant freshman Republicans can't get their way.

And once again, national parks are closed.

Benefit checks for 3.3 million veterans are threatened; 60,000 students and parents applying for Pell Grants and student loans are being denied.

Small businesses have not received the loans they need.

And hundreds of calls to the EPA's hotline for drinking water contamination have gone unanswered.

All because a small group of extreme Republicans are holding America hostage.

And what are they holding out for?

Tax breaks for the wealthiest people and the wealthiest corporations in America, paid for by extreme cuts in Medicare, Medicaid, education, and the environment.

In other words, they are holding out for the biggest transfer in income—from the middle class to the wealthy—in the history of America.

The Speaker gave his word last night—that the talks would start—that we would move forward, but today, he can't or won't deliver.

Who is in control here?

Who speaks for the Republican Party?

Does the Speaker expect us to believe that he can't persuade his own membership to stand behind his word?

This is a sad and irresponsible act by a party who claims to be leading a second American revolution.

Mr. Speaker we are 5 days away from Christmas.

For many of us, this holiday is about more than just gifts and reindeer.

It's one of the most sacred and joyous religious holidays of the year.

It's a time to celebrate our faith and a time to hold close to our families.

It is a disgrace to watch this spectacle of partisan gamesmanship overshadow one of the most holy days of the year.

For over 200,000 families who have been shut out of work today, they are facing the Christmas season without another paycheck.

It is wrong to hold these people hostage.

It is wrong to hold our Government hostage.

It is wrong to hold this Nation hostage to the views of an extreme minority who are trying to force their way.

The American people deserve better.

Defeat the previous question and get America back to work.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I listened with great interest to our friend, the minority whip, who used the phrase "partisan gamesmanship." I think that accurately describes the diatribe which he launched here from this well just a few moments ago; this mindless mantra, always dealing with fiction rather than fact, and now separating out the newest Members of the House, those who made a new majority and who, Mr. Speaker, if we are extreme, are only extreme in terms of making extremely good sense.

The gentleman noted the spiritual significance of the days coming now. At the risk of being politically incorrect, I would offer this scriptural admonition, for He whose birth we will celebrate in a few days said, "It is more blessed to give than to receive." So let us give our children the chance for a meaningful future. Let us give this entire Nation a chance to survive and prosper into the next century and beyond. Let us also give our veterans, those who have served with distinction, the benefits they deserve.

No, the gamesmanship and the interesting interpretations of what transpires in this body are best left to the fiction writers. The American people will understand the fiction inherent in the comments of the gentleman from Michigan. Members of Congress will recognize their responsibility to pass this rule, and to pass this legislation, and to ensure that our veterans are provided for, and indeed, this entire Nation is provided for.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, the Republicans' problem is with the Constitution. They want to make very drastic, extreme changes in programs like Medicaid and environmental protection, and they do not have the votes, so they have decided to take the Government hostage. But they are getting a little heat. They did not have a game plan.

So what do they do? They come up now and say, "We will let the veterans' checks get paid, but we will not let the EPA function, we will not let housing authorities function so veterans who live in housing will be hurt, but we will let the VA function." So now I understand their game plan. It is literally a game plan. This one is "Red Rover, Red Rover, let the Veterans' Department come over," and then we will do that. Tomorrow, we will hear from another group that is complaining, and it will be time to "Let the housing department come over."

I do not know what has come over them, but it certainly is not rational government.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would say to the previous speaker that it is not a game at all. The reason we are in the situation that we are in right now is because President Clinton determined that he would veto a very good and very fair veterans' appropriation bill. We did our job. We are faced with the dilemma we are tonight faced with because he chose to veto that bill.

A previous speaker referred to this as a game of brinksmanship. It is not a game of brinksmanship. It is not a game of dare. It is not a game at all. There are very high stakes about what this is all concerned with. That is the future of this Nation, the future of our children, the future of our grandchildren, what kind of hope we are going to give them, what kind of life and what kind of standard of living our veterans are going to have.

It has saddened me deeply that the President, who hails from my State, has chosen, has gone to the lengths of using every vulnerable part of our society as pawns in this budget debate: little children and their school lunches; students and their loans; the disabled, as if they are going to be thrown in the streets; senior citizens, as if they are going to lose their Medicare; and now, the veterans of this Nation, used as pawns.

Tragically enough, the usual bipartisan support that has existed for veterans of this country has begun to unravel as the VA has become more and more politicized, attacking those in good faith who want to tend and care for our veterans, a concerned campaign to scare the most vulnerable.

There was a veto. Had it not been for that veto, we would not face this situation that we face right now. We would have the veterans cared for. What was vetoed was this: An appropriation bill that in 1996 would have provided $399 million more for medical care than the 1995 level, a total of $16.5 billion; medical research would increase $5 million, to $257 million.

During the next 7 years, more than $275 billion will be spent on veterans' programs under our appropriation bill. That is $40 billion more than was spent during the last 7 years. We increase veterans' programs by $40 billion at a time that the VA population, the veteran population, will be decreasing. That reflects a deep commitment for the welfare of our veterans.

In spite of that appropriation bill being vetoed, tonight we will do the responsible thing and we will pass this CR to ensure that not one veteran's benefit check is delayed even 1 day, in spite of the President's veto. I urge support.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Texas for yielding time to me.

Mr. Speaker, I come to this floor to plead with people to please, please, let us have a Christmas truce. Yes, I am very pleased Members are going to open the gates finally for veterans, and not hold them hostage in this incredible war on the budget. But what are you going to say to small business men who cannot get their loans and need to be moving forward? What are you going to say to students who need to be making their plans for going on to school, over 60,000 of them? What about the Federal workers whose lives have been put into a total tailspin, not knowing what is going on. What about the parks? Why are these people guilty? Why are they the hostages of this budget war? Why should they be the hostages?

Mr. Speaker, I am from Northern Ireland. That is where my relatives come from. They used to even be able to have peace during the Christmas period, and they have been fighting forever. We now see in Bosnia all sorts of groups met in Dayton, OH, and they were able to come up with some kind of a peace. These folks should not be held hostage while these negotiations go on and while people argue about how big is the table, how many people get to sit there, what kind of food, where are we going to have the meeting. What is going on? Petty, petty, petty stuff. We cannot even get the thing launched and going.

To say to Americans who all work for this same flag, who all pay money to this flag as taxpayers, and who all think it means something, they have got to be really asking questions when for the second time this year, 3 months into the fiscal year, we are slamming the door shut again. I am pleased that we are opening it for veterans, but please, vote against the previous question so we can open the door for all, and in the name of the season and in the name of shedding the rhetoric, let us not hold hostage innocent people who do not have a dog in this fight.

□ 1930

Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama [Mr. BACHUS].

Mr. BACHUS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, many years ago there was written on a wall in Gibraltar these words:

God and the soldier all men adore;
In time of trouble and not before.
When trouble is gone, and all wrongs are righted,
God is forgotten, and the old soldier slighted.

Mr. Speaker and my colleagues, today the President once again insulted and offended and slighted our military men and our veterans when he stood up and claimed that it was Republicans who were preventing their benefit checks from being mailed to them, their dependents and their widows.

Mr. Speaker, the President has offended our veterans on many, many occasions, and I think our veterans have tried to overlook this in the past. When he told his draft board many years ago that he was too educated to fight, to wear the uniform, they overlooked that. We all said, he was young, those of us who did serve, and we overlooked that. We excused the fact that he went to England and he led demonstrations. He was young. It was his right to lead demonstrations.

Then, when he became our President and we had doubts, then we started hearing that his staff and the staff of the First Lady showed open disdain for our military fighting men at the White House, and it again made us question this President and his respect for our fighting men.

Then sadly, recently, he sent our fighting men and women into harm's way in Bosnia, and many of us questioned that. We questioned the fact that when he was at the University of Arkansas, he told Colonel Holmes, we should not be involved in a civil war, they are dangerous. Yet, he sent our fighting men and women into an ancient civil war.

More recently, he wrote in his journal, and later affirmed that he still believed this, that:

> From my work, I came to believe that no government rooted in democracy should have the power to make its citizens fight and kill and die in a war they oppose, a war which, in any case, does not involve immediately the peace and freedom of the Nation.

Does he believe now that we should not send our fighting men and women into a war that does not involve immediately the peace and freedom of the Nation? Regardless, that is what he has done.

Mr. FROST. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the previous speaker has brought into question the patriotism of the President of the United States. I would like to point out to the people on the other side the old saying that "People in glass houses should not throw stones."

Of the current elected Republican leadership of the House, not a single Member of the elected leadership of the Republican House has served in the military. The Speaker did not serve in the military. The majority leader did not serve in the military. The whip did not serve in the military. My counterpart, the chairman of the Republican Campaign Committee, did not serve in the military.

On the Democratic side, the minority leader [Mr. GEPHARDT] served in the military. The minority whip [Mr. BONIOR], served in the military. I served in the military.

I resent the remarks made by the previous speaker, directed at the President of the United States, and I would suggest that he direct those remarks to the Members of his own leadership who chose not to serve in the military.

Mr. LINDER. Mr. Speaker, I might point out that none of those Republican leaders sent people into a war zone.

Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I thank the gentleman from Georgia [Mr. LINDER] for yielding me this time.

I do not claim to have been in leadership here, but I did serve in the Army, and I was proud to do it, and I am very concerned about the veterans.

Mr. Speaker, Americans need to understand that the reason many Federal agencies—including the administrative services of the Veterans' Administration—are closed today is because our President, President Clinton, vetoed three major appropriations bills that were sent to him last week, before the shutdown began. It appears that he vetoed those bills to score political points. We can only assume that he did so in order to evade serious discussions about balancing the budget in 7 years. Regardless of all the propaganda coming out of the White House, there is no escaping the facts: If the President had done his job and signed those spending bills on time, we would not be facing yet another day of Federal shutdown of this magnitude, and our Nation's veterans would not be worried about receiving their benefit checks on time this month. However, because our President vetoed those bills and because President Clinton still refuses to come to the table with a balanced budget proposal using real numbers and meeting the 7-year commitment that he agreed to, we now are taking steps to provide limited spending authority on behalf of our Nation's veterans. House Joint Resolution 134 will provide the funds necessary to keeping veterans' services up and running throughout this negotiations process. We know the shutdown has been difficult for many Americans besides veterans and we are willing to keep working at the discussions to bring this stalemate to an end. All we need is for the President to stop the posturing and come to the table in good faith—and remain true to his word.

If the President spent more time at the negotiating conference and less time at the press conference, I believe we would get the job done.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I think if we needed any example of why it is we have the mess in Washington that we have tonight, it has been provided by some of the speakers among our Republican colleagues, people that come here wanting to even old political scores instead of trying to even up the budget and get the Government back to work. It is wrong.

America wants to put an end to the politics and to have a little good sense and maybe even a tad of goodwill at this time of the year.

It has been said that we would not have this problem if the President had not vetoed a particular piece of legislation. Thank heavens he had the courage to do that, because that is a piece of legislation that a majority of this House, including a number of Members from the Republican side, voted to recommit with instructions that over $200 million added in medical benefits and health care benefits for our veterans.

After a lot of arm-twisting, some of our Republican colleagues backed off of the bill and brought it back without those resources in it.

This is a bill our veterans can understand that the President vetoed. It is a bill that provided for unilateral disarmament. It required a tremendous cut in the law enforcement powers to enforce our clean air and our clean water. Thank heavens the President had the courage to veto that bill and then to say, as with some of these other measures, let us keep the Government going. Let us protect our veterans and our clean air and our clean water by operating the Government instead of having a high-jack or a blackmail with reference to that.

Yet, I read, as did the thousands of veterans in Austin, TX in today's paper, that unless this Congress acted by tomorrow, they would not get the benefits that they worked for and deserve.

Mr. Speaker, they are not the only people. In Texas, because of the inaction of this Republican majority, Texas will not get $24 million for child support enforcement. I think our veterans are important, but I think it is important to take care of child support; and the same thing is true of "workfare" and child care as well. We need to get this Government going again, not just to take care of one problem, but take care of all of them.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. FRELINGHUSEN].

Mr. FRELINGHUYSEN. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in strong support of both the rule and the resolution. As a member of the Appropriations Subcommittee on VA-HUD and Independent Agencies that provides funding for our veterans, I want to make it clear, we did our job, we passed our bill, we provided for our Nation's veterans. For some to suggest otherwise, I think is an outrage.

Surely the President must have well understood when he vetoed the VA-HUD bill on Monday that in fact he was jeopardizing health benefit checks for our veterans. Frankly, we would not be here today had the President signed the VA-HUD bill and these other appropriations bills. Without the support of the President, we are taking this necessary action to honor our financial commitment to our veterans. Our veterans deserve nothing less. We need to support the rule and the bill.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, it has been suggested the last couple of days that the shutdown of the Federal Government by the Republicans is a matter of high principle, but apparently that is not so, because if you have the strength of the veterans' lobbies and you have the concerns of this Congress that we have for veterans, you can escape that. But if you are trying to refinance your home or you are trying to buy your first home or you are trying to provide for your family, you will be out of luck.

This is not a matter of high principle; this is again another temper tantrum. The first temper tantrum was thrown by the Speaker; the second is now by the Republican caucus that insists that if they do not get their way at the outset of the talks, then the Government must be shut down.

Mr. Speaker, we are here rewarding veterans for their service to this country to protect a democracy. Dictating the terms at the outset of negotiations is not in keeping with the democratic spirit or principles of this Government. So I think we ought to understand why we are here.

The President had the courage to veto a very bad bill; the Republicans do not have the courage to face the consequences, and yet they want to dictate the terms of the shutdown of the Federal Government.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I would urge that we vote against this rule, because veterans, every veteran is a former public servant, every veteran is a citizen, every veteran is a taxpayer.

Veterans do not just care about their own benefit checks, they care about the Federal workers that have been locked out of their jobs that cannot provide Christmas for their families this week. They care about the other Americans who are denied services because the Government is shut down, and they care about the other taxpayers, taxpayers who will pay out, as of today, $900 million to Federal employees to not work.

Federal employees want to be on the job, and yet every Republican on the Committee on Rules voted against an amendment that I offered that would let Federal employees go to work and then get paid subsequently, and those who chose not to go to work would not get reimbursed, but at least we would not be paying money for people not to work. I cannot believe we are creating this situation where we now are going to pay almost $1 billion for no work performed.

We have an opportunity tonight to rectify an unconscionable situation, unconscionable to Federal employees, to taxpayers, to the entire American public. We ought to do it, do it now, add it to this rule. But without it being added to the rule, we ought to vote it down.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DE LA GARZA].

Mr. de la GARZA. Mr. Speaker, I am getting tired of finger-pointing, blaming the President and Mrs. Clinton for everything that is happening.

My friends, we are here tonight on the verge of closing the Government because you did not pass the appropriations bills in time. That is the main reason. It is a legislative failure, Mr. Speaker; the Republicans failed.

I have told my colleagues, and I will tell them again, my colleagues waited 40 years to be in power and they have messed it up the first year.

☐ 1945

You did not pass the appropriation bills in time. You are saying the President vetoed them this week.

Where were you when the fiscal year ended? You have the majority. You have an overwhelming majority, and the veterans and the people of this country should know it was a legislative failure.

It has nothing to do with the President. He does not legislate it. You, my friends, messed it up. You messed it up royally. You cannot blame it on the President. It was pure simple legislative failure and you made it fail.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, the President vetoed the bill. We did not veto the bill. The President vetoed the bill. I think America should know that.

Let me just talk about something else that came to my attention tonight that really concerns me. I went to a conference that the Republicans had today and we were unanimous, like a fist of steel, we are unanimous, 235, that we are going to get a balanced budget in 7 years using CBO figures. But I watched television tonight, and I saw Tom Brokaw and Dan Rather and their people saying that our party is split all to heck and that NEWT GINGRICH cannot lead, and it is all because of the freshmen that we have this problem.

Let me tell Dan Rather and Peter Jennings and Tom Brokaw and the Democrats and the President, and anybody else, we are united. We want a balanced budget in 7 years using CBO figures and we will not be deterred. I do not care what you guys tell the media. The media was spewing out exactly what the Democrats have been telling the people tonight. It is wrong.

We are united, we are not going to deviate. We are going to get a balanced budget in 7 years using CBO figures or else. I just want to tell everybody that I get a little bit concerned when I see the national media spewing out garbage that I know to be false. We had a conference today and when NEWT GINGRICH walked into that room, he got a standing ovation. Everybody applauded. And yet they keep telling us on television, he cannot lead our party.

He is leading our party, he is doing a great job. We are united. So, Mr. President, Mr. Brokaw, Mr. Jennings, Mr. Rather, my Democrat colleagues, we are united, we are going to get it one way or another, and we are not going to pass any more CRs until we do.

Mr. FROST. Mr. Speaker, I yield 30 seconds to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, evidently what the previous speaker is saying is they have not been able to fool the public, they have not been able to fool the President, they have not been able to fool the press, and somehow it is somebody's fault but not their own.

If you want to know why your position is not selling, if you want to know why you are in trouble, look in the mirror. It is because of the way you have been acting. Do not blame somebody else for your own failure to meet your responsibilities. People know what you are doing. They have caught on. They do not like it and they want you to change it.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, this is a sad situation. I do not take any comfort in standing in this well realizing that a quarter of a million Federal employees have been sent home.

Some people on the Republican side of the aisle believe that this is part of a grand political strategy. They say it is a matter of principle. If it is a matter of principle, you should put your own paychecks on the line, not the paychecks of innocent Federal employees who showed up for work ready to do their job and were sent home to an uncertain future and, for many of them, an unhappy Christmas season.

But the sad fact of the matter is, neither Speaker NEWT GINGRICH nor any of the Republican leaders has been willing to put his paycheck on the line and say, as a matter of principle, "I will not get paid until this budget crisis is over." No, you will all be in line to get your checks but you say to a quarter of a million Federal employees, "You are the ones who will have to sacrifice for principle."

So tonight comes this resolution because, quite frankly, we all honor the veterans. We want to do our best by them, and maybe inadvertently, but certainly you have to admit it is a fact, the veterans are losing out because of the Republican strategy. They may not get their checks in time, and the Republicans are afraid of that. They are afraid of facing veterans' groups, trying to explain how this crazy strategy of theirs did not penalize any Republican Members of Congress but may have penalized some veterans unwittingly.

I will be with you on the veterans, but let me tell you, do not forget the other people you are hurting.

When you suspend medical research at the National Institutes of Health, you are hurting every family in America. When you suspend the awarding of Pell grants and student loans to kids from working families, you are hurting every family in America. When you suspend the activities of the Department of Housing and Urban Development, you are saying to families who have been dreaming for a lifetime that they might own their own home, "Wait until Newt is ready." That is unfair.

If it is a matter of principle, put your own paycheck on the line. Do not put the paychecks of 250,000 innocent Federal employees on the line. Support "no budget, no pay." It is the only way to end this crisis.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, what kind of message are we sending tonight to those currently stationed in various war zones around the world?

We really should not be blaming each other, no matter what party we are from.

All of us should urge passage of this legislation. I think it is clear tonight, if the President had signed the VA-HUD bill, we would not be in this sorry position that we are in here tonight. We would not have to have a continuing resolution to ensure that our veterans receive their rightful and hard-earned benefits.

I could sit here tonight and blame you and you could blame us. But tonight we should all come together and pass this continuing resolution. Maybe the President had a good reason to not sign the VA-HUD appropriations bill. Maybe he had his reasons and maybe a lot of you agree with him, but I have been here before when I saw you provide a VA-HUD bill that we did not like.

But now the bickering is over. There is no use screaming and hollering. Let us think about our veterans first and let us proceed and pass this continuing resolution. But, frankly, I think all of us should realize that this problem can be solved by the President signing the VA-HUD appropriations bill; we would not be here tonight this close to Christmas discussing this if he had signed the VA-HUD appropriation bill.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in support of our veterans and against the previous question.

I am pleased that America's veterans will not be held hostage to the budget impasse. What I do not understand is why Republicans are willing to make this concession for veterans but not for the 250,000 Federal employees who are out of work because of the shutdown.

As we embark on the holiday season, I ask my Republican colleagues to think about those 250,000 families.

The gentleman from Virginia [Mr. MORAN] came to the floor yesterday and put a human face on the Government shutdown when he told a story about his visit to a local elementary school. He said that the teachers told him that the children were not enjoying the holidays as they had in the past.

Why are these children not enjoying the holidays? Because many of their parents are Federal employees, hard-working men and women who now find themselves out of work at Christmastime. They want to be working.

And the children? They hear their parents fighting, they know that Mom and Dad are not working. They listen to their parents explain that this will be a lean Christmas because they do not know when or if they will get their next paycheck.

It is right that we are making certain that veterns do not suffer because the Republican majority failed to produce a budget. Now it is time to summon the same compassion for the 250,000 families who are the unfortunate pawns in Speaker GINGRICH's game of budget blackmail.

The Speaker would have you believe that he did not want to break his promise to the President to reopen the Government. He claims that the extremists in his party forced his hand. But we all know that this extreme agenda is the Speaker's agenda, to cut Medicare and Medicaid and education to pay for a tax break for the wealthiest Americans.

Mr. Speaker, give Americans an early Christmas present, a budget that reflects their priorities and not yours.

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Speaker, yesterday the President of the United States had the opportunity to sign an appropriations bill that we presented to him which would have funded the Veterans Administration, as well as the Department of Housing and Urban Development, as well as NASA.

POINT OF ORDER

Mr. FROST. Mr. Speaker, point of order.

The SPEAKER pro tempore (Mr. LAHOOD). The Chair recognizes the gentleman from Texas for a point of order.

Mr. FROST. Mr. Speaker, the gentleman has removed the button from his lapel.

The SPEAKER pro tempore. The gentleman from Florida may proceed.

Mr. WELDON of Florida. I thank the Speaker.

Again I would like to resume and just point out that the President had the opportunity to fund NASA. He had the opportunity to fund the VA. And he chose not to. He chose to veto that bill. Today we have a good piece of legislation before us here which will at least keep the veterans' checks going to our needy veterans, the veterans in District 15 of Florida that need them.

Mr. Speaker, I rise in strong support of this legislation and I rise in strong support of the rule.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida [Mrs. THURMAN].

Mrs. THURMAN. Mr. Speaker, it is time to stop the suffering of the people. But, that can be done only if we bring a clean continuing resolution to the House floor tonight.

Is the other side afraid of the outcome of a vote on a straight, clean CR? If not, then give the House a chance. Straight. Up or down.

A month ago, we exempted from this Republican-imposed government shutdown the Federal workers who help people on social security. Tonight, we are helping veterans.

Who is next? What about the first-time home buyer whose HUD loan cannot be approved by the end of the month? What about the senior citizen who needs a simple hot meal once a day? Or the student applying for a college loan?

These programs also are affected by the inaction of the other side of the aisle. My Democratic colleagues colleagues and I are willing to keep vital functions operating during budget negotiations. A shutdown is not necessary for negotiations. Indeed, a shutdown could have been avoided if, as in the 103d Congress, the majority had passed its appropriations bills by mid-November.

Because I support not only veterans but also new home buyers, needy students, and senior citizens, I urge Members of good will toward their fellow Americans to pass a clean CR tonight.

Mr. LINDER. Mr. Speaker, I have one speaker left, and I reserve the right to close.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I would inquire the amount of time I have remaining.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] has 3½ minutes remaining.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, by the action of the Republicans this evening, we see how easy it would be to make whole all the Federal employees, all the people out there looking for services, while we continue to negotiate an agreement for 7 years. There virtually is no difference in spending in 1996.

We are going to take care of veterans' benefits in this one instance. But if you are a veteran working for the Federal Government in one of the other agencies that shut down tonight, you are not getting a paycheck or you are in limbo at the moment. If you are a veteran trying to get a new student loan, you cannot get that student loan because we are taking care of one small group of veterans as compared to all the veterans out there asking for Federal services.

□ 2000

If you are a veteran looking for an SBA loan to bridge some spending for your company or to help you reorganize so you can keep your business and your family together, you do not have any Government services today. Veterans who are waiting for the benefits of biomedical research are left out. We need to solve all our country's problems and the veterans', and we could do it tonight.

Mr. FROST. Mr. Speaker, I yield 1 minute and 30 seconds to the gentleman from Maryland [Mr. HOYER].

My. HOYER. Mr. Speaker, Americans, as I said earlier today, are distressed. They are angry. They do not understand why adult, presumably responsible, individuals they have sent to represent them from 435 districts throughout America cannot honestly debate and come to resolve the differences between them and, indeed, to compromise.

Our Speaker has said that he will cooperate but not compromise. There is not an American who lives who has been in a family who knows that compromise is essential if those with differences are to make progress.

We have shut down a portion of the Government. Not only will it not solve the budget deficit problem, it will add to it. There is a cost to doing that. Those of you on your side of the aisle talk about privatize, go and contract out and in fact we have done that. A lot of people talk about Federal employees, but let me tell you, there are a lot of contractors out there for NASA, somebody mentioned NASA, who have been told, you cannot work. They and their employees are not drawing a salary. And notwithstanding Mr. GINGRICH's letter, nobody is saying they are going to be reimbursed. My colleagues, America expects of us responsibility. America expects us to act in a fashion which will bring credit to our Government and to our country. I am going to vote for this resolution but it ought to be a resolution affect go all of the Government that is shut down.

PARLIAMENTARY INQUIRY

Mr. TAYLOR of Mississippi. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman will state it.

Mr. TAYLOR of Mississippi. Mr. Speaker, I have a privileged resolution. When would be the proper time to bring it before this body?

The SPEAKER pro tempore. The Chair will not respond to that at this point without knowledge of the resolution.

The Chair recognizes the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker. I urge a note vote on the previous question. If the previous question is defeated, I shall offer an amendment to the rule which would make in order the text of House Joint Resolution 131. This resolution would provide for a clean continuing resolution that would fund the Government through January 26th and would also provide for the military pay raise and retiree COLA provided for in the Defense authorization bill that was passed by the House earlier this month. This amendment is in addition to the continuation of veterans' benefits. I include the text of the amendment at this point in the RECORD.

H.J. RES. 131

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FURTHER CONTINUING APPROPRIATIONS.

Section 106(c) of Public Law 104–56 is amended by striking "December 15, 1995" and inserting "January 26, 1996".

SEC. 2. MILITARY PAY RAISE FOR FISCAL YEAR 1996.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1996 shall not be made.

(b) INCREASE IN BASIC PAY AND BAS.—Effective on January 1, 1996, the rates of basic pay and basic allowance for subsistence of members of the uniformed services are increased by 2.4 percent.

(c) INCREASE IN BAQ.—Effective on January 1, 1996, the rates of basic allowance for quarters of members of the uniformed services are increased by 5.2 percent.

SEC. 3. ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEAR 1996.

(A) IN GENERAL.—The fiscal year 1996 increase in military retired pay shall (notwithstanding subparagraph (B) of section 1401a(b)(2) of title 10, United States Code) first be payable as part of such retired pay for the month of March 1996.

(b) DEFINITIONS.—For the purposes of subsection (a):

(1) The term "fiscal year 1996 increase in military retired pay" means the increase in retired pay that, pursuant to paragraph (1) of section 1401a(b) of title 10, United States Code, becomes effective on December 1, 1995.

(2) The term "retired pay" includes retainer pay.

(c) FINANCING.—The Secretary of Defense shall transfer, from any other funds made available to the Department of Defense, such sums as may be necessary for payment to the Department of Defense Military Retirement Fund solely for the purpose of offsetting the estimated increase in outlays to be made from such Fund in fiscal year 1996 by reason of the provisions of subsection (a). Notwithstanding any other provision of law, the transfer authority made available to the Secretary in Public Law 104–61 or any other law shall be increased by the amounts required to carry out the provisions of this section.

Mr. Speaker, I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Georgia, [Mr. LINDER], is recognized for 5 minutes.

Mr. LINDER. Mr. Speaker, one of the first persons to speak on this rule noted that the networks told the country last night that we would be working again. A two-hour meeting in the White House with our leadership led us to believe that was the case.

The morning papers all said that the President has agreed to put on the table his specific budget proposal using CBO numbers and shortly thereafter the Vice President spoke and said, no, we are not going to do that.

We have not just 73 Republican freshmen but 236 members of a caucus that is still growing that are very, very frustrated in trying to reach a balanced budget in 7 years using honest numbers. We are not only frustrated but we are united that we will balance the budget using honest numbers in 7 years and we will do it now.

This administration has had so many different positions on this issue that it is hardly worth recounting, but it reminds me, dealing with this administration reminds me of duck hunting. You get off in the wind, because every time you see a target it moves and the wind changes it.

Virtually every speaker on this rule tonight voted against the balanced budget amendment, the coalition's balanced budget and our balanced budget. We are faced not with Members who want to balance the budget under different terms but with Members who want to spend more money, liberal extremists who want to spend more money. And that is what the whole thing is about.

We should have gotten off the discussion of whose numbers we use and just say we are not going to spend more than $12 trillion. Sit down at the table with us, argue priorities, but we are not going to continue to spend money that we have not raised. That is our children and grandchildren's money. There is not a program in this budget that cannot be defended by somebody, but we should not be spending it if we have not raised it.

We have for 30 years voted ourselves wishes and dreams over needs and passed the bill on to future generations. And this Republican majority said that is going to stop.

Much has happened; much movement has occurred. We now are all discussing a 7-year balanced budget and by the time this weekend or early next week passes, we will be talking about using the same numbers. I think by the end of the year, we will have passed and the President will have signed a 7-year balanced budget with honest numbers and we will have done our children and grandchildren a great service. It is time.

Frankly, the numbers are not that far apart. We want to increase spending 3 percent; the President wants to increase it 4 percent. We want to presume an additional 5 percent revenue; the President wants to presume 5.5. The numbers are not that far apart.

We can get together if we will just sit down and honestly and straightforwardly look each other in the eye and say, where are your priorities? The President's budget is not on the table using the same numbers, even though he has said he would do that. So this effort tonight under this rule is merely to say for those veterans who have served their nation, who have earned their benefits, we are going to pass a continuing resolution to assure that you will get your checks. We are not inclined to pass a continuing resolution for the rest of the government because it will take entirely the pressure off the President. The last time we did that, under certain assurances, 30 days went by where we were hammered and demagogued with our specific numbers; $30 million was spent by unions trashing our specifics in our districts where we have marginal districts for freshmen. We are not going to do that again. We are going to keep the feet to the fire.

It is unfortunate that decent, hardworking, honest Federal employees are caught in this pinch. But the President, seemingly to bolster the notion in this country that he believes something, has chosen to pitch a battle with the Congress of the United States. It seems to have helped him in the polls and he seems to think that is the thing to get reelected on so he will continue to veto and we will continue to have this problem. But I tell my colleagues, from our point of view, we are united. We were sent here to change the economic direction of this nation, to balance the budget for our children and grandchildren. We intend to do that.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 238, nays 172, not voting 23, as follows:

[Roll No. 871]

YEAS—238

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—172

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Costello
Coyne
Cramer
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Slaughter
Spratt
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wyden
Wynn

NOT VOTING—23

Beilenson
Chapman
Conyers
Edwards
Filner
Flake
Foglietta
Gilchrest
Gutierrez
Hall (OH)
Istook
Lantos
Martinez
Myers
Packard
Payne (VA)
Rose
Skaggs
Stark
Weldon (PA)
Williams
Wilson
Yates

□ 2028

Ms. BROWN of Florida changed her vote from "yea" to "nay."

Mr. SKELTON and Mr. PICKETT changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 2030

PERSONAL EXPLANATION

Mr. PACKARD. Mr. Speaker, I was here during the entire last vote. I put my card in and pushed the button. It apparently did not record. If it would have recorded, it would have recorded a "yes" vote.

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 134, and that I may include tabular and extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

CONFERENCE REPORT ON H.R. 4, PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY ACT OF 1995

Mr. ARCHER laid before the House a conference report and statement on the bill (H.R. 4) to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence:

(The conference report on H.R. 4 will appear in a subsequent issue of the RECORD.)

REQUEST FOR PERMISSION TO AMEND HOUSE RESOLUTION 317

Mr. OBEY. Mr. Speaker, I ask unanimous consent that the rule just passed be amended to read as follows:

> It shall be also in order to consider an amendment by the minority leader or his designee adding at the end of House Joint Resolution 134 a new title II consisting of the text of House Joint Resolution 131, continuing funds for many critical Federal departments through January 26, 1996, and authorizing a 2.4 percent pay raise for the Armed Forces of the United States. All points of order shall be waived against such an amendment.

The SPEAKER pro tempore (Mr. LAHOOD). Under the guidelines consistently issued by successive Speakers as recorded on page 534 of the House Rules Manual, specifically the guideline of November 14, 1991, the Chair is constrained not to entertain the gentleman's request until it has been cleared by the bipartisan floor and committee leadership.

Mr. OBEY. Mr. Speaker, I would urge the Speaker to clear that request.

FURTHER CONTINUING APPROPRIATIONS TO ENSURE PAYMENTS OF VETERANS BENEFITS

Mr. LIVINGSTON. Mr. Speaker, pursuant to House Resolution 317, I call up the joint resolution (H.J. Res. 134) making further continuing appropriations for the fiscal year 1996, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of the joint resolution is as follows:

H.J. RES. 134

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

SEC. 101. ENSURED PAYMENT DURING FISCAL YEAR 1996 OF VETERANS' BENEFITS IN EVENT OF LACK OF APPROPRIATIONS.

(a) PAYMENTS REQUIRED.—In any case during fiscal year 1996 in which appropriations are not otherwise available for programs, projects, and activities of the Department of Veterans Affairs, the Secretary of Veterans Affairs shall nevertheless ensure that—

(1) payments of existing veterans benefits are made in accordance with regular procedures and schedules and in accordance with eligibility requirements for such benefits; and

(2) payments to contractors of the Veterans Health Administration of the Department of Veterans Affairs are made when due in the case of services provided that directly relate to patient health and safety.

(b) FUNDING.—There is hereby appropriated such sums as may be necessary for the payments pursuant to subsection (a), including such amounts as may be necessary for the costs of administration of such payments.

(c) CHARGING OF ACCOUNTS WHEN APPROPRIATIONS MADE.—In any case in which the Secretary uses the authority of subsection (a) to make payments, applicable accounts shall be charged for amounts so paid, and for the costs of administration of such payments, when regular appropriations become available for those purposes.

(d) EXISTING BENEFITS SPECIFIED.—For purposes of this section, existing veterans benefits are benefits under laws administered by the Secretary of Veterans Affairs that have been adjudicated and authorized for payment as of—

(1) December 15, 1995; or

(2) if appropriations for such benefits are available (other than pursuant to subsection(b)) after December 15, 1995, the last day on which appropriations for payment of such benefits are available (other than pursuant to subsection (b)).

The SPEAKER pro tempore. Pursuant to House Resolution 317, the gentleman from Louisiana [Mr. LIVINGSTON] will be recognized for 30 minutes, and the gentleman from Wisconsin [Mr. OBEY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I bring to the floor a continuing resolution for certain activities of the Department of Veterans Affairs. This continuing resolution would only have effect in fiscal year 1996 during periods when appropriations are otherwise not available. This is the situation we are in right now. If the regular bill or another CR is enacted, then this particular continuing resolution would not be operable.

The activities provided for in this continuing resolution are payments for compensation, pensions, and educational benefits within the Department of Veterans Affairs. In addition, it also provides for payments to contractors for services that directly relate to patient health and safety. It also provides for the necessary administrative expenses to carry out these activities.

Mr. Speaker, this continuing resolution will assure that veterans benefits checks will be received on time, at the end of the month, and in the full amount authorized. Let me stress, had the President not vetoed the VA–HUD bill, this continuing resolution would not have been necessary and these benefits would have been paid. These benefits would have been paid and this CR would not have been necessary if the President had not vetoed the VA–HUD bill. Once again, these benefits would have been paid if the President had not vetoed the VA–HUD bill. I want everybody to understand it. He vetoed it. That is why we are here today. The President vetoed it.

Mr. Speaker, I urge all my friends and colleagues to support this resolution.

Mr. Speaker, two more points. This bill is necessary because the President vetoed the VA–HUD bill, but it would not be necessary to progress through both houses and be enacted into law if the President would, in good faith, come to the bargaining table, reach a final agreement on a 7-year balanced budget, according to Congressional Budget Office numbers, and put this whole deal to bed and let us get out of here. But so far that is not happening. We cannot get a deal from the President, so we progress into the Christmas holidays.

Mr. Speaker, let me remind our colleagues, let me remind everyone here that the House went on record on Monday by a vote of 351 to 40 in favor of a balanced budget within 7 years as scored by the Congressional Budget Office. Yesterday, on Tuesday, the President's budget got zero votes, zero votes; none on the Republican side, none on the Democratic side. The President's budget got zero votes.

Now we are on record for a 7-year balanced budget as scored by the CBO. His budget got zero. That leaves only one alternative. That leaves the alternative of the President coming to the bargaining table with the leaders of the Congress and reaching a deal, reaching a deal that allows us to fund government, to score the budget according to the Congressional Budget Office with a balanced budget for 7 years, and to go home. I hope that happens, Mr. Speaker.

Today, today I might remind our colleagues, today we overrode his veto on the securities litigation bill. This place is not getting better for the President. He should come and cut a deal.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me simply say that nobody is opposed to this bill. This bill will pass, probably 435 to nothing. Our objection is not to this proposal. Our objection is to not going beyond this proposal.

We are here because the appropriations legislation was delayed for 90 days in this House because our friends on the Republican side of the aisle wanted first to adopt their contract. That is their privilege. They are in the majority. They run the House. But as a practical consequence of that, that meant that the appropriations bills were shoved back 90 days in the cycle. That meant that there was no possible way for the gentleman from Louisiana [Mr. LIVINGSTON] to produce all of the appropriation bills on time.

The when the bills were brought to the floor, a number of extraneous legislative items were added to the bills, and that slowed up consideration of those bills even more. That meant that by the time of October 1, the beginning of the new fiscal year, a huge number of appropriation bills had not yet become law. That and only that necessitated the passage of a continuing resolution. You do not need a continuing resolution to keep discussions going between the President and the Speaker on a 7-year budget proposal. You need a continuing resolution simply because the 1-year appropriations have not become law.

☐ 2045

So tonight we have a proposition before us under which the majority party is saying that they will not allow the remainder of the Government to reopen; since they have been closed down this week, they only want us to allow the Veterans Department to reopen, and then only for certain purposes.

Now, we think it is fine that this bill will say, OK, let us pay veterans' benefits, let us pay veterans' disability benefits, let us pay veterans' pensions, let us pay their education benefits, and also let us pay some contractors with the VA. But we would also ask the following questions:

Why should we not also allow the Veterans Department to process legitimate new claims for veterans' benefits? Some 2,000 veterans will apply each week for benefits to which they are entitled by law. Why should not the Veterans Department be open to provide those services?

Why should the Veterans Department not be open, further, to provide services for home loans? Veterans have earned the right to those home loans. Why should they not be allowed to have those claims processed?

I would also ask, why should not veterans who want to go to Yosemite be able to get in?

Why should not veterans who need education loans be able to have those processed, or to have the Pell grants open for application for everyone?

Why should we only open up the Government for a very narrow band of American citizens?

The taxpayers have paid their hard-earned money so that they might get all of the Government services to which they are entitled, and unless we go beyond this resolution tonight, they will not get those services. That is our objection.

What is happening is very clear. There was an agreement yesterday that the President and the leaders of both parties would try to reopen discussions for a 7-year budget, and at the same time, they would explore ways to open the Government for all citizens. Instead, tonight, the network news tells us because that agreement blew up in the Republican caucus, again we face the prospect of not having any continuation of services from those departments shut down.

Mr. Speaker, the gentlemen in the well here likes to laugh every time somebody else is speaking. I would ask him for the same courtesy I give him every time he speaks.

Mr. HAYWORTH. Mr. Speaker, will the gentleman yield?

Mr. OBEY. No, I will not, until the gentleman demonstrates some degree of courtesy.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Wisconsin has the time, and the Chair would ask Members to extend the same courtesy to speakers when they are in the well, speaking on this bill to all Members.

Let us extend courtesy to one another.

The gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, let me simply say that I think what is at stake here is that the American public is simply being held hostage to the power agenda of the new 73 freshmen who have come into this place on the Republican side of the aisle. They have a perfect right to be here and do anything they think is in the interests of their constituents, but the American citizens will judge the balance and the temperament that they bring to those efforts.

I would simply say that what we really face was summed up by my very good friend, the chairman of the committee on Appropriations [Mr. LIVINGSTON].

When the President signed the Defense appropriation bill, against my advice, because I warned him that he would then lose whatever leverage he had on the remainder of the appropriations bills, the President signed that bill for two reasons: because he wanted a bipartisan consideration of his policy in Bosnia, and because he thought that it would be taken as a sign of goodwill to our Republican friends in the majority on other appropriation items.

Instead, the following day, the chairman of the Committee on Appropriations said as follows:

> The President is at our mercy. If the government shuts down on December 15 and 300,000 people are again out of work, most of the people going out will be his people. I think he is going to care more than we do.

Now, as everyone knows, I have a great deal of respect and affection for the chairman of this committee. We have been friends for years, and we have had a constructive working relationship for years. But I think that the leverage which other power centers in this body are bringing to bear on the appropriations process is making it very difficult for this House to do its duty to every single citizen in this country.

We have a duty not just to disagree on what we disagree upon; we also have a duty to agree on that which we can agree upon. Right now, we ought to at least be able to agree upon the idea that every citizen of this country has a right to the full range of services that he has paid for. He cannot have access to those services when the Government is shut down.

So what I ask my colleagues to do tonight is not only to support this resolution, but to support our efforts at the end of the debate in our recommittal motion to expand the services which are providing a narrow range for some veterans' programs, expand those to all veterans' programs and, indeed, all of the programs to which our citizens are entitled. if we do not do that, we are not earning our salaries; we are not providing the services which our taxpayers have a right to expect.

Forget the leverage games, forget the zeal, remember your duty; open up the entire Government for the benefit of the American people.

Mr. LIVINGSTON. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN] the distinguished chairman of the Committee on National Security.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am pleased to rise in strong support of House Joint Resolution 134, a continuing resolution to extend veterans' benefits for the month of January. I commend the distinguished gentleman from Louisiana [Mr. LIVINGSTON] for his worthy efforts in bringing this important measure to the floor at this time.

In these days of fiscal debate and disagreement, it is crucial that we forget those who rely on us. There are millions of deserving veterans who depend upon their monthly pension or disability checks. It would be an injustice if we, in our current impasse over the budget, allow these veterans' checks, which contain a 2.6-cost-of-living adjustment, not to be processed due to a lack of authorized funds.

Our Nation's veterans answered their country's call, sacrificing their time, quite often their health. They loyally fulfilled their duty to their Nation. In this holiday season, their Nation should fulfill its obligation to them. This resolution will fulfill that obligation, even as we continue our important debate over a balanced budget.

Accordingly, I urge my colleagues to fully support this worthy measure designed to protect our veterans during this Government shutdown.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Speaker, this continuing resolution for one segment of our society, one category of our citizenry is symbolic of the destructive nature of the politics of division that our Republican colleagues are practicing so successfully, but just because it is successful does not make it right.

This CR, for one group of our people over another, begins the Republican crusade to pit our American people against one another. It starts with this CR and it will end with the block grants. You will pit elderly people against poor kids. You are going to pit the veterans against children on AFDC.

Why are you not giving a CR for AFDC recipients? It is because you are making a value judgment here that veterans count more than young kids.

That is what is wrong with your approach, and that is what is wrong with your Contract With America.

Mr. LIVINGSTON. Mr. Speaker, I yield 30 seconds to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I would say to the gentleman from Rhode Island [Mr. KENNEDY] that AFDC does not require a continuing resolution.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas [Mr. HUTCHINSON], the distinguished chairman of the Subcommittee on Hospitals and Health Care of the Committee on Veterans Affairs.

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would say to the gentleman who just spoke that there is nothing that we can do for our children that is more important than balancing the budget. If you want to talk about pitting something against the young people of this country, then please talk about the crushing load of debt that we are transferring to them because of our selfishness. Talk about the $187,000 in taxes that they are going to pay during their lifetime to pay for our profligacy and our unwillingness to discipline ourselves.

I say to my colleagues there is nothing more proveteran than balancing the budget. They know what it is to serve this country, and they could use the 2-percent lower interest rates that a balanced budget will mean.

One of the speakers on the other side referred to the veterans of this country, the 2.2 million veterans who are going to be affected by this resolution this evening, as a narrow band of our society. Well, 2.2 million veterans are not a narrow band, and they are the most deserving constituency in this country.

What we are doing is right, and what we are doing is responsible.

Mr. Speaker, 2.2 million veterans receiving compensation for their service-connected disabilities; 308,000 widows, children, and survivors of veterans who have died of service-connected disabilities; 450,000 veterans receiving pensions for their wartime service; and thousands of veterans receiving the Montgomery GI bill payments each month, that is no narrow band of our country.

It is a shame, it is a crying shame that what we are doing this evening is even necessary because this Congress did its business, it did its duty, it passed a VA appropriations bill, one that was good and fair to veterans, increasing veterans' spending over the next 7 years by $40 billion more than the last 7 years at the time that the veteran population is going down.

Let us support our veterans.

Mr. FAZIO of California. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, I do not understand why we are here just a few days before Christmas, and I hope some of the rhetoric that I am hearing around here is just that.

Let me just point out one thing. Sixty percent of the eligible voters in this country, where you hear about a mandate and a revolution, 60 percent of the eligible voters in this country sent "a pox on both our Houses." That is not a revolutionary number.

Mr. Speaker, let me say one other thing. The gentleman talked about children. I would suspect that some of those 275,000 or 280,000 people that are going to be out of work have children and grandchildren that are going to be impacted because their parents and their grandparents are out of work; and I would suspect that there are some veterans, whom I strongly support and take no back seat to anybody in this building, that have children and grandchildren with jobs that are going to be impacted by this shutdown of government.

I was watching television the other night, and I was watching some of the freshmen on the Republican side, which shows what kind of life I lead. But a young man from Tennessee said, we want to close the Government down. That is what we want to do, close this Government down.

What do my colleagues have against those 270,000 people that have absolutely nothing to do with this budget argument? Absolutely nothing.

Now, what we can do, we can do a resolution that lets these people go back to work, go to their jobs; and we will stay here all weekend, and my colleagues can take turns thrashing the President. Will that not serve the same purpose?

These people have absolutely nothing to do with the budget negotiations. These people have been put out of work for absolutely no reason, and I challenge anybody on this side to give me a reasonable reason why we are putting these people out of work here 3 or 4 days from Christmas when they could be shopping with their children and their grandchildren and experiencing the spirit of Christmas.

So let us get on with the continuing resolution. Let the people go back to work, and then we can continue to work on the budget.

□ 2100

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding me the time.

Let me just say, the gentleman from Wisconsin a few minutes ago, as others have, has made reference to the 73 freshmen we have on our side of the aisle, indicating that they are going off on a tangent and holding us all hostage and stopping progress on the negotiations.

Many of us have been waiting for a long, long time to head this country toward a balanced budget. I have been here 13 years. We have waited and we have waited and we have waited for that additional cadre of people who are willing to fight with us to get to a balanced budget.

We have heard all the rhetoric, all the arguments for years from the Democrat side of the aisle saying, "We're going to do it, we're going to do it, we're going to do it" but we never do it. The deficit continues to rise and rise and rise and we now have a $5 trillion national debt.

So I would just like to say to my colleague from Wisconsin, thank God for the 73 new Republican freshmen because they speak for what we have been speaking for the past 13 years. They do not speak by themselves. They speak for all of us. We are all together on this and we are going to get the job done.

Mr. FAZIO of California. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, the previous speaker in the well said that the most important thing we can do for our children is to give them this balanced budget.

It is a strange notion of Christmas, as you gather your children around, and you say you gave them a balanced budget. But when your children ask you what is the price to other children, you tell them the children in foster care will not be able to receive placement, children who are abused are likely not to receive placement in a safe home away from the abuse, children that need health care because their parents lost their jobs will find that not there because of your cuts in Medicaid.

They always say the children are not as cruel as adults, but they will find out how cruel it was. When you tell them the price for the other children in this Nation, they are going to say, "Shame on you, Daddy. Shame on you, that you did that to the children of this Nation." Because children do not desire to see their colleagues hurt, to see their colleagues suffer that kind of pain, but that is what your budget does and that is why it should not be accepted.

I yield to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Speaker, the gentleman from Florida [Mr. SHAW], who attempted to correct me, is not quite correct in his trying to correct me.

If we do not complete the work on the Labor-HHS bill, States will not get the money that they need to provide for these dependent children, and that was the point I was trying to make. In fact, the point seems to have been lost here that we are trying to make a value judgment in passing a CR for one group of Americans and not another, because we all perceive this group to have political legitimacy but the children do not. That is the point I was trying to make.

Mr. MILLER of California. The gentleman is exactly right.

Mr. LIVINGSTON. Mr. Speaker, yielding myself 15 seconds, I am concerned for all of the poor people that the gentleman from California referred to. But the point is that if he would get on the phone and talk to his colleagues on the other side of the building, so they might release their filibuster and that Labor-Health and Human Services bill that has been filibustered for the last 6 months by the Democrats in the Senate might go forward.

Mr. Speaker, I yield 1 minute to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker I would really like to talk about what the resolution does. I rise in support of the continuing resolution that will assure that 3 million veterans will get their benefit checks on time. Two million of the 3 million veterans are service-connected either because of wounds or because of wounds or because they were hurt in the service. Also, the service-connected will get a 2.6-percent cost of living increase in their checks.

Mr. Speaker, I have felt very strongly about this, that the Federal Government has a stronger responsibility to the persons who marched off to war and came home, or to the widows and orphans of those who did not come home. So let us vote for this veterans' resolution.

Mr. FAZIO of California. Mr. Speaker, I yield 30 seconds to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, the distinguished chairman of the committee has made the point on a number of occasions that the Labor-Health bill is held up because of a filibuster. But he never says why, the reason being, because the Republicans have put a provision on the Labor-Health bill that will make it easy to fire people, easy to get rid of people, easy to get them out of jobs. Is it not ironic that the CR that you will not allow us to pass does exactly the same thing, keeping people out of jobs? That is why the Labor-Health bill has not passed.

Mr. LIVINGSTON. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida [Mr. BILIRAKIS], a distinguished member of the Committee on Veterans' Affairs.

Mr. BILIRAKIS. Mr. Speaker, I rise in strong support of this legislation to ensure that veterans' programs will continue to be funded in the wake of the President's recent veto. Because President Clinton vetoed H.R. 2099, the 1996 VA-HUD appropriations bill, as has been said so many times here tonight, veterans' benefit checks will not be paid on time next month unless a short-term spending measure is passed by 8 o'clock tomorrow morning.

The President should have signed H.R. 2099 and avoided putting these benefits and services in jeopardy. However, since he did not, we in Congress must act to ensure this funding and protect the Nation's veterans.

The question has been asked a few times tonight: Why do this special thing for the veteran? I will tell why. Because if history has taught us anything, it is that the American serviceman has borne any hardship, has overcome any obstacle and has conquered any foe in the defense of liberty, justice, and freedom.

I think that he and she, more than anyone, can understand our battle to balance the budget for the sake of our children and our grandchildren. We must maintain our commitment to them, and Congress is here tonight because we feel strongly that veterans' benefits must not get lost in the battle to balance the Nation's budget.

America can never really fully repay our veterans and we will never be able to express our feelings to our fallen soldiers, but we can act to ensure that veterans will receive the benefit checks that they have earned. Our Nation's veterans deserve nothing less. I urge my colleagues to support this legislation and ensure its passage.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. FATTAH].

Mr. FATTAH. Mr. Speaker, first of all I would like to associate myself with the remarks of the gentleman from Rhode Island [Mr. KENNEDY]. Then I would like to get to this point at hand.

There is no veteran in this country who has exhibited bravery and courage on behalf of our Nation who did that to protect or to defend themselves. They did that to protect and defend this country and the people who live here, the women and children and senior citizens of our land who are being victimized by this budget impasse and by this Government shutdown.

So to come to the floor and say we want to honor the veterans by allowing their checks to go out, we should honor their bravery and their courage by putting this Nation's budget back in order and allowing the Government to operate so that the children of these veterans, the parents and grandparents of these veterans, so that the communities that these veterans live in, can be the kind of Nation that may of them fought and gave so much for.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BUYER], the chairman of the Subcommittee on Education, Training, Employment and Housing of the Committee on Veterans' Affairs.

Mr. BUYER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I agree with the comments of my good friend, the gentleman from Mississippi [Mr. MONTGOMERY], who said we really should be talking about what is before us. That is, as chairman of the Subcommittee on Education, Training, Employment and Housing of the Committee on Veterans' Affairs, I take my duty and responsibilities very seriously to the 26 million veterans.

The bill which the President vetoed was very disappointing because we had over a $400 million increase in VA medical care. The research budget totaled $257 million. Veterans' benefits programs funding will increase from $36.9 billion in fiscal year 1996 to $41.8 billion in fiscal year 2002. So during the next 7 years, more than $275 billion will be spent on veterans' programs, $40 billion more than the previous 7 years. I think that is very important.

The budget which is being attacked here all of a sudden, it fully funds the important veterans' compensation, pension programs, the GI bill, vocational rehabilitation insurance, the home loan program, and a COLA increase of 2.6 percent.

The bill that is before us will ensure the on-time payment of benefits for compensation, pension, DIC, and the GI bill. It will also ensure that contractors who supply the services directly related to patient health and safety will be paid, and it will also ensure that such services as ambulance service and contract physician coverage for emergency care will continue.

I also would like to share with my colleagues, as I witnessed the debate on the rule, I would almost caution my colleagues, my Republican colleagues and my Democratic colleagues, that I was disappointed in some of the lack of civility shown here in the House.

No one in this Chamber by political party has a cornerstone on the concerns of veterans. Many of us in this body, when we wore the uniform, no one ever asked us were we a Republican or were we a Democrat. This is why we operate in the Committee on Veterans' Affairs in a tremendous bipartisan spirit, not only in the authorizing committee but in the appropriating committee.

Here is what is going to happen here tonight. We are going to continue to play a little politics, but America will receive a message here tonight. This body will overwhelmingly support this because we believe in bipartisanship for veterans.

Mr. FAZIO of California. Mr. Speaker, I yield 30 seconds to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, of course I intend to support this bill. I was sitting in the back of the Chamber listening to the rhetoric, and some of it rather fiery and some of it rather tough, and here in this season, the season supposed to be that of good will and peace, and I think that we lack that element here in this whole debate, that of good will.

I hope that in the days ahead, not just for this body, a very special revered body in this country, but for the people back home, that we reexamine and have good will and work toether and get the people's work done.

Mr. LIVINGSTON. Mr. Speaker, in the spirit of good will, I yield 2 minutes to the gentleman from Alabama [Mr. EVERETT], chairman of the Subcommittee on Compensation, Pension, Insurance and Memorial Affairs of the Committee on Veterans' Affairs.

Mr. EVERETT Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, our Nation's veterans deserve better treatment than they have received from this President. President Clinton alone bears responsibility for the Government shutdown, since he vetoed the Veterans Administration appropriations bill earlier this week. This is a good bill. It added $400 million above last year's VA health care budget and increased overall VA spending while most departments of government face cuts.

Mr. Clinton had a choice to put veterans first. Instead, he put treehuggers first. In his statement today, President Clinton spoke of protecting Medicare. He is going to leave saving Medicare to Republicans. Medicaid, education, and the environment. True to his principles, Mr. Clinton left out out Nation's veterans. He has lavished funding on his priorities, the paid volunteer AmeriCorps boondoggle, a Bosnian occupation, jet-setting Cabinet members, and a host of failed liberal social programs.

But, sadly, the President has chosen to play politics with our Nation's veterans and to jeopardize the balanced budget which benefits our Nation and all Americans. Our bill corrects this. Rather than shortcutting our Nation's veterans as the President was willing to accept, this bill ensures that payment to some 3 million veterans and their dependents will continue to be made on schedule.

Despite the utter lack of this President's leadership, Congress will look out for those who have worn our Nation's uniform. Though this President has avoided the tough choices required in restoring fiscal sanity needed to support our veterans, we will ensure their protection. I urge adoption of this legislation.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. KLINK].

□ 2115

Mr. KLINK. Mr. Speaker, I thank the gentleman for yielding time to me.

I was in the district of the gentleman from Pennsylvania [Mr. MASCARA], my colleague, a couple of months ago. We were traveling with some hospital administrators in our area who were telling senior citizens the impact in a nonpartisan way. Many of them were Republicans. They were telling the senior citizens about the impact of the Republican cuts in Medicare and Medicaid on their hospitals. They were telling them in their own words. We did not coach them.

At the end of it this exsteelworker looked up at me with a big broad smile that turned into a very sad face, and he actually started to cry. And I said, What is the matter? He said, You know, I have never asked this country for much of anything. I laid in the snow and I laid in the mud and the rain for 5 years in Europe. I was not wounded. I was one of the the fortunate ones. I never asked this country for anything except keep its promise to me. Give me Medicare and Medicaid, if I need it. Do not make my children have to give up educating my grandchildren because they have to pick up the bill because we no longer prohibit that sort of thing to occur.

He was very sad. So I am glad that we are taking care of the veterans with this rifle shot CR. But there are so many things that we are doing that is hurting those same veterans. We are balancing the budget on their backs and they are being asked to fight again.

Mr. LIVINGSTON. Mr. Speaker, I yield 1½ minutes to the gentleman from Oregon [Mr. COOLEY], a member of the Committee on Veterans' Affairs.

Mr. COOLEY. Mr. Speaker, I rise today in favor of House Joint Resolution 134—a bill to ensure that our Nation's veterans receive their compensation checks during this shutdown.

I am firmly committed to balancing our Nation's budget, but our veterans are innocent victims of this shutdown.

Those who have risked their lives and liberty in service of this Nation—those who depend on the monthly benefits that our Federal Government has contracted to give them—should not be cut off at any time.

For all of us, this should be an easy vote. It would be immoral to turn our backs on our veterans.

That said—I must say one thing. Let there be no mistake about it.

This budget fight might be ugly—but the Republicans in Congress are waging this fight to preserve the strength and integrity of this Nation.

As a veteran myself, I cannot sit back and watch our Nation become weaker—racking up trillions of dollars in debt.

I hope and believe that other veterans throughout this great Nation agree with me.

Congress must—for once—exercise some fiscal discipline.

Meanwhile, we will provide for those who have served this Nation.

I urge a "yes" vote on the bill.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, as a ranking member of the Subcommittee on Education, Training, Employment, and Housing of the Committee on Veterans' Affairs, I am ashamed to hear the staging and profiling by too many of my Republican friends on the other side of the aisle proclaiming their love for our veterans.

Where were they when the President needed them for resources for hospitals and medical care? He had to veto the VA-HUD bill and in his message he told them why he was doing it. They refused to support him for hospital resources for veterans.

Besides that, where were they when the Republican-appointed Clerk just fired a veteran of 23 years who helped to install the electronic voting system for this House? A veteran who served in Vietnam, who was fired without cause, they just kicked him out before Christmas without cause. They just let go a veteran who served in Vietnam and told him they did not care about him or his family.

With friends like you, the veterans do not need any enemies.

Mr. LIVINGSTON. Mr. Speaker, wondering whether the preceding speaker voted for the defense appropriations bill, I yield 2 minutes to the gentleman from Arizona [Mr. HAYWORTH], a distinguished member of the Committee on Veterans' Affairs.

Mr. HAYWORTH. Mr. Speaker, I thank the chairman of the Committee on Appropriations for yielding time to me.

Mr. Speaker, I would like to endorse fully the remarks made in a bipartisan fashion by the gentleman from Missouri and the gentleman from Indiana. I, too, yearn for a return to civility, which is why I listened with great interest when my friend, the ranking member on the Committee on Appropriations, chose to attack me personally.

Mr. Speaker, I think it must be forgiven when a web of fiction is so intricately weaved and pronounced here on the floor of this House that quite often it is my natural reaction to chuckle. If a smile or a chuckle at the absurdity is inappropriate, well, then I suppose I am guilty of having a sense of humor, but a sense of humor born of the fact that we have to laugh to keep from crying. Because once again, Members of the minority get up with a straight face and they ignore reality.

The President of the United States vetoed veterans appropriations that were genuine increases in spending, $400 million over last year, fact. And the fact is that this new majority, working in concert with responsible Members of the minority, will pass this overwhelmingly. I dare say that was the one remark given by the ranking member of the Committee on Appropriations that I can agree with. This legislation will pass overwhelmingly because it is the right thing to do.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY], former chairman of this committee, who would like to speak to the issue of veterans benefits.

Mr. OBEY. Mr. Speaker, I would simply comment on the comments of the previous speaker who addressed himself to something I said on the floor.

I would simply note, I have observed him on three occasions this week sitting in the front row of the Chamber and loudly laughing at whoever it was who was speaking at the moment, disrupting their ability to speak. I think the House deserves better conduct than that from any Member.

I would also make the point, if we want to talk about fiction, I would make the point that it was solid fact when we stated earlier in the day, and when I stated in that same statement, that the bill for veterans funding, for veterans health care was $213 million below the amount that the bill was when it left the House.

That conference report contained $1½ billion more in total funding, and yet they managed to cut the veterans funding by $213 million.

The gentleman may feel that that is an adequate level of funding. That is his prerogative. I happen to honestly disagree. It would be nice if we could honestly disagree without constantly demonstrating physical disrespect for each other.

Mr. LIVINGSTON. Mr. Speaker, I yield 30 seconds to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Speaker, good people can disagree. Good people can disagree about a great many subjects. But when repeated fiction is stated on the floor of this House, it is sad.

Once again, the ranking member has chosen to personally attack this Member of the Congress. I just simply want to say that it is shameful that these people would rather engage in shenanigans than to confront the problems we have today.

Once again, I reach out my hand to the minority side and indeed to the gentleman at the other end of Pennsylvania Avenue. Let us reason together and solve America's problems.

Mr. FAZIO of California. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MURTHA], a senior member of the Committee on Appropriations, former chairman of the Subcommittee on National Security.

Mr. MURTHA. Mr. Speaker, one of the things I wanted to point out to the Members that I think is so important in the recommittal motion that we had, and this may not be the right time and I know the Members that voted for the authorization feel that they have taken care of the two problems that we have in this recommittal motion, but in this recommittal motion we have language which will take care of the disparity in the COLA between the military retiree and the civilian retiree. We think that is important. We also have in this legislation to take care of the increase in pay for the military.

Now, I know the President is going to veto the bill. I know it passed by a slight majority in the Senate. As I understand it, the majority leader on the other side may add this to their bill at some point, but I just want the Members to realize, this is something that has to be done by the first of the year. If we do not take care of it, if we do not put this type of language in one of our appropriations bills, if the authorization is vetoed, then it means that the members of the armed services would not get their first month's increase or whatever increase it was or the COLA disparity would continue.

For 3 years the Subcommittee on National Security has taken care of the COLA disparity. We put the money in, even though it was forced on the authorization. So I would hope as the Members vote they think about this one particular provision in this recommittal. It is a very simple provision that takes care of those two things.

As I say, since the authorization has not been vetoed at this point, my colleagues may feel that this is not the time to do it. but at some point we have to do this. I would hope that the majority would recognize this so we could get it done before the first of the year.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute and 30 seconds to the gentleman from Georgia, [Mr. COLLINS].

Mr. COLLINS of Georgia. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, there is only one person who stands between a balanced budget in this town and that is the President of the United States because he vetoed the balanced budget. There is only one person that stands between those employees of the Commerce and Justice Department being at work, and that is the gentleman who vetoed that bill, the appropriations that would have paid their wages. That is the President of the United States.

There is only one person that stands between the national parks being open and the people who work for the Department of Interior, and that is the gentleman who vetoed that appropriation bill, the President of the United States. There is only one person who stands between those who work for VA and HUD and besides there would have been a 2.4-percent increase for our military had this bill been approved, and that is the President of the United States, the man who vetoed the appropriation bill.

Mr. Speaker, I was reading the other day in Reader's Digest a quote that I think fits this area, this time very well. It was by the late Harry Truman. He said, it is not the hand that signs the laws that holds the destiny of America; it is the hand that cast the ballot.

I think that we could say the same here. It is not the hand that vetoes the laws that holds the destiny of America; it is the hand that casts the ballot.

I urge support of this continuing resolution to fund the benefits of our veterans.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Speaker, I rise in support of this bill.

The untold story of the Gingrich budget process is that this Congress simply did not get its work done on time. Thirteen appropriations bills were supposed to be completed by October 1. Not one of them was signed by the President into law by that deadline.

This Congress has been badly run, poorly administered, extreme and radical. That is why we now have this absurd Government shutdown.

The other reason American taxpayers have had to bear this ridiculous Gingrich Government shutdown is that the Speaker personally threatened over and over and over to shut down the Government so he could have his way to have a massive shift of money and resources from the poor and from the middle class to give to the rich; Medicare cuts so we could have tax breaks for the rich; student loan cuts so we could have tax breaks for the largest corporations in this country; education and environmental cuts so we could have tax breaks for billionaires who renounce their citizenship.

It is wrong, and the Gingrich Republicans know it is wrong.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I get confused. Is this the same President that went on TV tonight and said, after vetoing the VA appropriations bill, we are going to delay veterans benefits?

□ 2130

Is this the same President that I recall that cooked with the other side a bill to delay military COLA's for months and months and would permanently have to reinstate it? Is this the same President that proposes better benefits for a volunteer program, a new volunteer program, than he does for our veterans? Is this the same President—I keep getting confused—who proposes better benefits for welfare recipients than our veterans? My goodness, am I confused. Is this the same President who offers better and cooked with the other side better benefits for illegal aliens who wash up on the shore and have never served the country? Is this the same President who just a few weeks ago threatened to veto the appropriations bill until he was going to send our troops into Bosnia? I get confused. Is this the same President that my colleagues have said he, as a candidate, he was going to have a plan, and he would get elected, and he would have a plan to balance the budget in 5 years? I get confused. Is this the same President who called the 73 freshmen extremists, the businessmen and women, people who have worked for a honest living and come to this place to straighten up its messed-up finances?

Now who do my colleagues believe? I am telling my colleagues that there are over 230 of us who are prepared to stay here until Washington, or whatever, freezes over, until we get a balanced budget and until we treat our veterans right.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Needless to say by the previous speaker's antics, Mr. Speaker, my Republican colleagues are mired in confusion for they believe that they have the moral high ground, and yet I find them someplace that we would not want to proceed.

The American people know where the trouble is. They realize that the President of the United States stands with opportunity. They also realize that there was a Congress here some years ago, a Democratic Congress with two Republican Presidents, and they recognize that there was great dispute on the budget, and under Reagan there was no historic shutdown, under Bush there was no long, extended shutdown.

So, Mr. Speaker, we realize that politics of Republicans is to bring the country to its knees. The people realize that the Democrats offered to increase the pay of those in Bosnia; the Republicans rejected it. They realize that we can have a clean continuing resolution, and the Republicans rejected it so that we cannot keep this Government open. They realize that disabled children will not have their benefits because of the Republicans.

This is not about the President of the United States. This is about no moral leadership with the Republicans.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Speaker, I was surprised to hear earlier the question from the other side, of the wonderment from the other side, that we would actually prioritize a particular rifle-shot continuing resolution for veterans, that we should not somehow be putting them at the top priority, and I just want to remind my friends on both sides of the aisle that, if there is one group that we ought to, for heaven's sakes, prioritize as being No. 1, that we should take care of without any question before, yes clearly before we take care of other groups in our society, those are veterans.

Think about the veterans who have spilled blood and are now on a pension, and think about that veteran's widow, that veteran's children. Why on Earth would it come as a surprise, why would it even be an issue? Where would the question ever come from?

Ms. KAPTUR. Mr. Speaker, will the gentleman yield?

Mr. HOKE. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Speaker, I have a great deal of respect for the gentleman from Cleveland, but I would like to ask him the question, "If you truly want to serve the veterans of this country, would you vote with me to pass the VA-HUD-EPA bill with the amendments that we have been trying to offer in the committee?"

Mr. HOKE. Reclaiming my time, I did vote for the VA-HUD appropriations bill that was passed in this House that was vetoed by the President of the United States 2 days ago. I vote for it proudly. We would not be here tonight, we would not be doing this tonight, had the President not vetoed that bill.

Ms. KAPTUR. Would the gentleman yield further?

Mr. HOKE. No. I will not yield, but I will yield at the end if I have time.

Clearly what disturbs me is that there would be a question as to why we would be here this evening to prioritize the needs of the Nation's veterans. It seems to me absolutely and utterly appropriate that we would do that, and it is only a very mean-spirited, very extreme liberal agenda that would not put that first.

Mr. FAZIO of California. Mr. Speaker, I yield 30 seconds to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, there is absolutely nothing wrong with putting veterans at the head of a line. We ought to put all of the veterans at the head of the line. What is wrong with making available Government services so that new veterans who are entitled to housing benefits, who are entitled to disability benefits, who are entitled to pensions; why do we not handle this resolution tonight so they can also get the services they need in order to get the aid that they have a right to expect from their Government? Why are our colleagues shutting the Government down to them and only opening it to people who already have those benefits?

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, listening to this debate tonight reminded me of when I was a small child. In the Catholic school I attended there was a framed picture on the wall, and it said, "Suffer little children and come unto me." I could not understand it. I asked by parents and teacher who would want children to suffer, and then it was explained to me that the third or fourth meaning of suffer was permit, allow, children to come unto me.

Listening to our colleagues exclude children from this continuing resolution goes to the first meaning of suffer little children, to hear our colleagues come to the well and say that they have to have it this way, only the veterans.

By the way, I agree that the question here tonight is not why should we be doing this for the veterans. Of course we should. The question really is why should we not be doing it for children and others as well? But to hear our colleagues come to the well and say they are doing this so their children do not have to pay interest on the national debt 20 years from now, some children do not have anything to eat 20 minutes from now.

The message is very clear, Republican majority: Suffer, little children.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the Committee on Appropriations, for yielding me the time, and I rise in strong support of this resolution to get payment to our Nation's veterans. They have sacrificed for our country, they have laid their lives on the line, and this is a very important continuing resolution, and those on the other side of the aisle who pointed out that there are a number of other things that need to be resolved, they are absolutely right as well. As a matter of fact, there are a number of things that should be taken care of, and we pointed out on our side that many of them would have been taken care of if the President had signed into law the veterans appropriations, the Department of Housing and Urban Development appropriations, the Commerce Department appropriations, and State Department appropriations, the Justice Department appropriations, the Interior Department appropriations. But this week he vetoed every single one of those appropriation measures and has effectively closed down all of those agencies except for essential personnel.

Now the President of the United States has a constitutional right to veto every single one of those pieces of legislation, but he also has a moral obligation and an obligation based on the law he signed over 30 days ago to balance the budget in 7 years using real numbers, to come forward with his itemized response to everything he does not like in each one of those appropriations bills, in each one of the entitlement measures we have in the country, so that we can sit down with him and negotiate. It is time to stop name calling, it is time to get down and negotiate, but we have got to have a reasonable, responsible approach to do that, and both parties laying their cards on the table, and everybody sitting down and getting serious about this is exactly what is needed, and I call upon everybody, including the President of the United States, to stop the press conferences and start negotiating.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Speaker, I am glad to follow the last speaker, because I hope we would put our cards on the table, and if the other side would do it and say, OK, let us take that tax cut off the table, $245 billion, $200 billion, we would not have to be worried about keeping the checks going to our veterans or veterans' widows.

I had the opportunity tonight to talk to a widow of a veteran. She said she could not pay for her food, she could not pay for her utilities unless her check is there, and I am glad we are at least dealing with that.

The reason we are here though is because this bill, the VA-HUD bill, was rejected by this Congress I do not know how many times because of the 20-percent cut in HUD, cuts in veterans' programs, cuts in lots of programs, and that is why we are here tonight on a stopgap measure.

I hope we pass this, but let us remember the reason we are here is because the majority could not pass these bills by October 1, not because the President vetoed it, because they could not pass them, and now they are having to take care of it on this. I would hope we would take care of our veterans, but I hope we would also be able to take care of those who need housing.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Georgia [Mr. KINGSTON], a member of the Committee on Appropriations.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from Louisiana [Mr. LIVINGSTON] for yielding this time to me.

As my colleagues know, I hear a lot of partisan finger pointing tonight, but this is not about Democrats, it is not about Republicans. It is about veterans. Do my colleagues want to help those who have helped us? Do my colleagues want to honor what they have done for us in the past?

Samuel Johnson said we should always remember our forefathers and our future generations, but, more importantly, we should remember the sacrifices of the former on behalf of the latter, and that is what we are doing tonight. We are remembering our veterans.

Now I would say to the gentlewoman from San Francisco, CA [Ms. PELOSI] we are not forgetting our children, we are certainly not forgetting the children. Our colleagues are going to give them a $5 trillion debt when they are through with their left-wing spending policies. If a child is born today, he or she owes $187,000 as his or her part of interest on the national debt over a 75-year working period of time. That is $187,000 above and beyond local, State, and Federal taxes. I say to my colleague, "Boy, you have not forgotten the children, I must say, and I tell you what. If that's your idea of compassion, that's your idea of caring, if that's your idea of a great Christmas present, fast forward me and my kids to groundhog day."

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Speaker, I rise today to join my colleagues in expressing my concern and dismay that we must be here tonight to debate this mini CR. As we all know, this work should have been completed months ago.

As we work tonight to ensure that our veterans receive the benefit checks they so deserve, I cannot help thinking about the over 250,000 federal employees who are sitting in their homes, wondering and worrying about their fate and wondering if we care.

Christmas is 5 days away. Yet the radical new Majority refuses to find a way to solve this budget impasse, and insists on holding hardworking federal workers—and their families—hostage to their misguided and unfair budget priorities.

Let us stop the nonsense. Let us open the entire government. And let us finish our work so Federal employees can do their work.

Mr. LIVINGSTON. Mr. Speaker, I only have one more speaker, so I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. MORAN].

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Mr. MORAN. Mr. Speaker, I thank the ranking Democrat on the Committee on Appropriations for yielding time to me.

Mr. Speaker, let me explain why we have problems with this bill. It is certainly not that this bill provides benefits for veterans. The problem with this bill is that it is shortsighted and insufficient. If we do not pass a continuing resolution by December 22, this Friday, 13 million welfare checks cannot be processed by the Department of Health and Human Services. Are we going to pass a specific continuing resolution for welfare checks? I think not. But they cannot be processed if we do not have a CR by December 22. If we do not have a continuing resolution by next Wednesday, $11 million in checks cannot be sent to the States by the Medicaid program. The States cannot function without that $11 billion in Medicaid programs.

Between votes I checked my message machine. I just want to share with you a little message that was on it. It said: "Please tell Congressman MORAN that we veterans have been hungry before, we veterans have been cold before, but we veterans have never put our interests ahead of the country's interests before." He said: "As far as I am concerned, I do not want my benefit check until women and children get their checks first."

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me take this time to point out that the recommit motion that I will offer would simply do everything that the motion before us purports to do. Our motion would open up the government for all of the veterans services described in the motion before us. We would add to that all other services to be provided, that could be provided by the Veterans Department, so the Veterans Department is open for all programs, for servicing all programs. We would expand that to provide, in fact, a clean CR through January 26 for all other functions of government, and we would at the same time authorize the 2.4 percent military pay raise for our servicemen and eliminate the 6-month disparity between COLA payment dates for military and civilian retirees, so we can assure that our military personnel will in fact be treated fairly, and will in fact receive their full COLA.

As we know, Mr. Speaker, the authorization bill is expected to be vetoed. Without this language, we can, therefore, not guarantee our troops going to Bosnia that they will have the full COLA. We think we ought to do that and, most fundamentally, we think we ought to open all of the services of government because the taxpayers have paid for those services and they are entitled to receive them.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have heard a number of arguments on this joint resolution. I am not sure they were in opposition to it, because it appears that everybody is going to vote for this bill. Some of the arguments were, "We are not doing enough." Well, if the President had not vetoed the last three appropriations bills we sent him, we would be doing a heck of a lot more than we have done so far. The fact is, as was said in the well, the President has vetoed the Justice Department appropriation, the Commerce Department appropriation, the State Department appropriation, the Interior Department appropriation, the VA-HUD appropriation, the Judiciary appropriation, and the NASA appropriation. He has vetoed all of those in the last week. All the people that work for those agencies could have gone back to work and been paid. All of the benefits that accrue under those bills could have gone into effect if the President simply signed these bills. And for all of those people who say they are concerned about children, for crying out loud, do not direct your concern at us. Tell those people, your counterparts in the other body that are filibustering the Labor-Health and Human Services bill in the Senate. It has been there for 5 months. It is about time to move that bill.

As a matter of fact, Mr. Speaker, it would be real nice if they would all of a sudden lift that filibuster, and we could dispose of it through a conference report, send it to the President, and maybe he might sign that bill and maybe he might not. Listening to his messages that we hear on television day after day about the Republicans being extremists, I get a little confused, as the gentleman from Florida earlier pointed out. Who is on first base here?

It is about time he starts getting the message. The Republican message is we want a balanced budget in 7 years, 2002. That is the only message. The rest of it is just quibbling about details. But the President has said on various times, "I am for a 5-year balanced budget, I am for a 10-year balanced budget, I am for a 9-year balanced budget, I am for an 8-year balanced budget, and yes, I am even for a 7-year balanced budget, but not that 7-year balanced budget." He does not have any details. He has come to us, he has given us, one after another, budgets that were imbalanced year after year after year, and he has not come to the table and bargained in good faith to give us what we are asking for, a 7-year balanced budget.

Mr. Speaker, this is a good bill. It may not cover everything we want, but it is a start. It gives the veterans the benefit payments that they need, and hopefully, if the President comes to the table, we can take care of the rest of the unfunded activities as well.

Ms. BROWN of Florida. Mr. Speaker, I rise in support of this continuing resolution to make sure that veterans receive their checks on time at the end of this month. There is no doubt that this Congress is concerned about our veterans. It is clear that this continuing resolution is important and I will vote for it.

However, I must say that there is no reason why we can't pass a continuing resolution to keep the rest of the Government operating.

More than a quarter of a million Federal workers who have been furloughed are important, too. They have families. They have children. Federal workers matter.

Any yet the Republicans in this Congress refuse to pass a continuing resolution to keep our Government open because they want to force the President to accept their extreme agenda.

Mr. Speaker, we were sent to Congress to do the work of the people. We know what we need to do—pass a responsible budget that protects seniors, protects children, protects veterans, and sends our Federal employees back to work.

Mr. Speaker, let's stop the partisan fighting. Let's get our work done and let's give the American people the best Christmas presents they could ask for—a holiday they can spend with their families and a Government that can work together to solve this budget crisis.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of House Joint Resolution 134, legislation to ensure that veterans, dependents, and survivors will continue to receive their well-earned benefits during this Government shutdown.

I would like to recognize the dedicated efforts of TIM HUTCHINSON, who has been a tireless advocate for veterans and has introduced legislation to ensure that veterans receive the compensation they deserve even when the Government is closed. I would also like to thank Chairman STUMP and ranking member MONTGOMERY for their tireless work on behalf of this legislation.

Mr. Speaker, this legislation should never have been necessary. This week, the President had an opportunity to sign the VA-HUD appropriations bill, which would have secured the funding for veterans benefits. Instead, he vetoed it. President Clinton also has the unilateral authority to order the delivery of veterans' benefits during a Government shutdown. But he has not used it. Because of the administration's insistence on playing partisan politics with veterans, the livelihood of 3.3 million veterans, dependents, and survivors is in jeopardy.

No one in this country has a greater claim to this Nation's Treasury than veterans who have been disabled as a result of service in the Armed Forces and the survivors of those who made the ultimate sacrifice and gave their lives in the defense of our Nation. Keeping faith with these heroes, their widows and their orpahns—whatever our Nation's fiscal circumstance—is as important as anything we do in Congress.

We must do what we can to guarantee that these brave men and women, who answered the call to duty and were willing to put their lives on the line in defense of their country, will receive what they deserve. This bill does that.

Our veterans deserve better than to be sacrificed at the altar of partisan politics. I urge my colleagues to vote in favor of this bill, which will put veterans ahead of politics.

Mrs. LINCOLN. Mr. Speaker, tonight we consider a bill that is vital to protect our veterans during this Christmas season. As you know, the current Government shutdown means that veterans' checks will be delayed if we do not pass a "rifle-shot" continuing resolution to allow the checks to be sent. I applaud the efforts of my fellow Arkansan, Mr. HUTCHINSON, chairman of the Subcommittee on Hospitals and Health Care, for his effort to get this bill to the floor so that we can protect the benefits of those who have served our country.

I strongly feel that each of us is forever in debt to our fellow Americans who risked their lives to protect our freedoms. I believe that after a person has served in the military, like my father did and his father before him, we should make every effort as a country to care for them, especially if they were injured in the line of duty. I want to ensure that veterans benefits receive fair treatment during the current budget negotiations. The current budget debate should not cloud our country's responsibilities and obligations to her veterans and this bill safeguards that obligation.

As important as this bill is, it should not be necessary. There is no excuse for holding any of our citizens hostage to the partisan bickering which has led to the current government shutdown. Although this bill will protect our veterans throughout the rest of the budget debate, we still have millions of other citizens who are not protected from the ill effects of this ideological impasse. For example, many hunters in Arkansas have been turned away from our wildlife refuges at the height of hunting season, even though they played by the rules and purchased their permits.

Since the principal parties have agreed to balance the budget in 7 years, let's end this partisan bickering and accomplish our stated goal. No group, especially our veterans who selflessly served to protect our liberty and freedom, should be pawns in our political games. I strongly support this legislation because it protects our veterans from being used again. However, we should do the same for our hunters and all Americans. The coalition budget proves that a reasonable compromise is possible. Let's stop this demagoguery and get down to the heavy lifting we were sent here to do.

Mr. LIVINGSTON. Mr. Speaker, I urge passage of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 317, the previous question is ordered on the joint resolution.

The question is on engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. OBEY. Mr. Speaker, at the direction of the minority leader, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the joint resolution?

Mr. OBEY. At this point, in its present form, Mr. Speaker, I certainly am.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. OBEY moves to recommit the resolution to the Committee on Appropriations with instructions to report back forthwith with an amendment as follows:

Strike all after the resolving clause and insert:

SEC. 101. ENSURED PAYMENT DURING FISCAL YEAR 1996 OF VETERANS' BENEFITS IN EVENT OF LACK OF APPROPRIATIONS.

(a) PAYMENTS REQUIRED.—In any case during fiscal year 1996 in which appropriations are not otherwise available for programs, projects, and activities of the Department of Veterans Affairs, the Secretary of Veterans Affairs shall nevertheless ensure that—

(1) payments of existing veterans benefits are made in accordance with regular procedures and schedules and in accordance with eligibility requirements for such benefits; and

(2) payments to contractors of the Veterans Health Administration of the Department of Veterans Affairs are made when due in the case of services provided that directly relate to patient health and safety.

(b) FUNDING.—There is hereby appropriated such sums as may be necessary for the payments pursuant to subsection (a), including such amounts as may be necessary for the costs of administration of such payments.

(c) CHARGING OF ACCOUNTS WHEN APPROPRIATIONS MADE.—In any case in which the Secretary uses the authority of subsection (a) to make payments, applicable accounts shall be charged for amounts so paid, and for the costs of administration of such payments, when regular appropriations become available for those purposes.

(d) EXISTING BENEFITS SPECIFIED.—For purposes of this section, existing veterans benefits are benefits under laws administered by the Secretary of Veterans Affairs that have been adjudicated and authorized for payment as of—

(1) December 15, 1995; or

(2) if appropriations for such benefits are available (other than pursuant to subsection (b)) after December 15, 1995, the last day on which appropriations for payment of such benefits are available (other than pursuant to subsection (b)).

SEC. 102. FURTHER CONTINUING APPROPRIATIONS.

Section 106(c) of Public Law 104-56 is amended by striking "December 15, 1995" and inserting "January 26, 1996".

SEC. 103. MILITARY PAY RAISE FOR FISCAL YEAR 1996.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1996 shall not be made.

(b) INCREASE IN BASIC PAY AND BAS.—Effective on January 1, 1996, the rates of basic pay and basic allowance for subsistence of members of the uniformed services are increased by 2.4 percent.

(c) INCREASE IN BAQ.—Effective on January 1, 1996, the rates of basic allowance for quarters of members of the uniformed services are increased by 5.2 percent.

SEC. 104 ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEAR 1996.

(a) IN GENERAL.—The fiscal year 1996 increase in military retired pay shall (notwithstanding subparagraph (B) of section 1401a(b)(2) of title 10, United States Code) first be payable as part of such retired pay for the month of March 1996.

(b) DEFINITIONS.—For the purposes of subsection (a):

(1) The term "fiscal year 1996 increased in military retired pay" means the increase in retired pay that, pursuant to paragraph (1) of section 1401a(b) of title 10, United States Code, becomes effective on December 1, 1995.

(2) The Term "retired pay" includes retainer pay.

(c) FINANCING.—The Secretary of Defense shall transfer, from any other funds made available to the Department of Defense, such sums as may be necessary for payment to the Department of Defense Military Retirement Fund solely for the purpose of offsetting the estimated increase in outlays to be made from such Fund in fiscal year 1996 by reason of the provisions of subsection (a). Nothwithstanding any other provision of law, the transfer authority made available to the Secretary in Public Law 104-61 or any other law shall be increased by the amounts required to carry out the provisions of this section.

Mr. OBEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. OBEY. Mr. Speaker, I ask unanimous consent that I may be permitted to explain the amendment.

Mr. LIVINGSTON. Mr. Speaker, reserving the right to object, if the gentleman would explain which motion to recommit he is talking about.

Mr. OBEY. No. 1.

Mr. LIVINGSTON. Mr. Speaker, I reserve a point of order on the gentleman's motion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. A point of order is reserved on the motion to recommit.

Mr. OBEY. Mr. Speaker, I think the purpose of this motion is quite clear. As I said earlier, this motion would incorporate the provisions of the Veterans Department which are included in the original legislation before us. We would open up the Government for those services, but we would add to that the following: We would add all remaining services to be provided by the Veterans Department.

Mr. LIVINGSTON. Mr. Speaker, I must insist on my point of order.

Mr. OBEY. We would also add all other remaining functions of the Government which have been closed down up until now. We would also, as I said, guarantee that the military receive their 2.5-percent pay raise, and correct the differential that now exists between civilian pay and military pay, so that the military pay would be provided in the same terms and conditions as civilian pay.

Mr. Speaker, I would urge the adoption of the motion to recommit.

POINT OF ORDER

The SPEAKER pro tempore. Does the gentleman from Louisiana [Mr. LIVINGSTON] insist on his point of order?

Mr. LIVINGSTON. Mr. Speaker, I make a point of order against the motion to recommit with instructions because it is not germane to the underlying resolution, and as such in violation of clause 7 of rule XVI.

Mr. Speaker, I quote from the Precedents of the House:

"It is not in order to do indirectly by a motion to commit with instructions what may not be done directly by way of amendment."

Mr. Speaker, a specific proposition cannot be amended by another proposition broader in scope. The motion to recommit deals with funding and authorizing activities outside the Department of Veterans Affairs, and therefore is not germane to the underlying resolution which deals only with funding for selected activities in this department.

Mr. Speaker, the gentleman's motion to instruct is not germane, Mr. Speaker, and I ask for a ruling from the Chair.

The SPEAKER pro tempore. Does the gentleman from Wisconsin, Mr. OBEY, wish to be heard on the point of order?

Mr. OBEY. Yes, I do, Mr. Speaker, I would simply say the purpose of the resolution before us this evening is to provide additional services to taxpayers. The purpose of my motion is to provide additional services to taxpayers. It simply expands the number of services available. It is the same taxpayers we are talking about, and I think they are entitled to a full range of services. I would therefore urge the Chair support the germaneness of the proposition.

The SPEAKER pro tempore. The Chair is prepared to rule.

The pending joint resolution continues the availability of appropriations for a specified fiscal period to fund certain activities of the Department of Veterans' Affairs.

The amendment proposed in the motion to recommit offered by the gentleman from Wisconsin seeks to continue the availability of appropriations for a similar fiscal period to fund the activities of other departments and agencies for which regular appropriations for fiscal year 1996 have not yet been enacted.

One of the important lines of precedent under clause 7 of rule 16—the germaneness rule—holds that a proposition addressing a specific subject may not be amended by a proposition more general in nature.

For example, the Chair held on September 27, 1967, that an amendment applicable to all departments and agencies was not germane to a bill limited in its applicability to certain departments and agencies of Government. That precedent is annotated in section 798f of the House Rules and Manual.

The Chair notes another illustrative ruling that is recorded in the Deschler-Brown precedents of the House at volume 10, chapter 28, section 9.22. On that occasion in 1967 the House was considering a joint resolution continuing appropriations for a portion of a fiscal year. An amendment was offered to restrict total administrative expenditures for the fiscal year. Noting that the amendment affected funding beyond that continued by the joint resolution, the Chair sustained a point of order that the amendment was not germane.

The amendment proposed in the motion to recommit offered by the gentleman from Wisconsin addresses funding not continued by the pending joint resolution. Where the joint resolution confines itself to funding within one department, the amendment ranges to at least six others. As such, the amendment is not germane.

The point of order is sustained. The motion to recommit is ruled out of order.

Mr. OBEY. Mr. Speaker, I most respectfully and reluctantly appeal the ruling of the Chair.

The SPEAKER pro tempore. The question is: "shall the decision of the Chair stand as the judgment of the House?"

MOTION OFFERED BY MR. LIVINGSTON

Mr. LIVINGSTON. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana [Mr. LIVINGSTON] to lay the appeal of the ruling of the Chair on the table.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 176, not voting 21, as follows:

[Roll No. 872]

AYES—236

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—176

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skelton
Slaughter
Spratt
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wyden
Wynn

NOT VOTING—21

Beilenson
Berman
Chapman
Conyers
Edwards
Filner
Flake
Foglietta
Gilchrest
Gutierrez
Hall (OH)
Lantos
Myers
Payne (VA)
Rose
Skaggs
Stark
Weldon (PA)
Williams
Wilson
Yates

□ 2217

Miss COLLINS of Michigan changed her vote from "aye" to "no."

So the motion to table the appeal of the ruling of the Chair was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, at the direction of the minority leader, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. LAHOOD). Is the gentleman opposed to the joint resolution?

Mr. OBEY. In its present form, yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OBEY moves to recommit the resolution to the Committee on Appropriations with instructions to report back forthwith with an amendment as follows:

Strike all after the resolving clause and insert:

Sec. 101. ENSURED PAYMENT DURING FISCAL YEAR 1996 OF VETERANS' BENEFITS IN EVENT OF LACK OF APPROPRIATIONS.

(a) PAYMENTS REQUIRED.—In any case during fiscal year 1996 in which appropriations are not otherwise available for programs, projects, and activities of the Department of Veterans Affairs, the Secretary of Veterans Affairs shall nevertheless ensure that—

(1) payments of existing veterans benefits are made in accordance with regular procedures and schedules and in accordance with eligibility requirements for such benefits; and

(2) payments to contractors of the Veterans Health Administration of the Department of Veterans Affairs are made when due in the case of services provided that directly relate to patient health and safety.

(b) FUNDING.—There is hereby appropriated such sums as may be necessary for the payments pursuant to subsection (a), including such amounts as may be necessary for the costs of administration of such payments.

(c) CHARGING OF ACCOUNTS WHEN APPROPRIATIONS MADE.—In any case in which the Secretary uses the authority of subsection (a) to make payments, applicable accounts shall be charged for amounts so paid, and for the costs of administration of such payments, when regular appropriations become available for those purposes.

(d) EXISTING BENEFITS SPECIFIED.—For purposes of this section, existing veterans benefits are benefits under laws administered by the Secretary of Veterans Affairs that have been adjudicated and authorized for payment as of—

(1) December 15, 1995; or

(2) if appropriations for such benefits are available (other than pursuant to subsection (b)) after December 15, 1995, the last day on which appropriations for payment of such benefits are available (other than pursuant to subsection (b)).

SECTION 201. PAY FOR FEDERAL AND DISTRICT OF COLUMBIA EMPLOYEES DURING LAPSE IN APPROPRIATIONS FOR FISCAL YEAR 1996.

(a) PROVISIONS RELATING TO THOSE WHO ARE PERMITTED OR REQUIRED TO SERVE.—Any officer or employee of the United States Government or of the District of Columbia government who is permitted or required to serve during any period in which there is a lapse in appropriations with respect to the agency in or under which such officer or employee is employed shall be compensated at the standard rate of compensation for such officer or employee for such period.

(b) PROVISIONS RELATING TO THOSE WHO HAVE BEEN FURLOUGHED.—

(1) IN GENERAL.—Any officer or employee of the United States Government or of the District of Columbia government who is furloughed for any period as a result of a lapse in appropriations shall not be entitled to basic pay with respect to any portion of such period, except as provided in paragraph (2)

(2) EXCEPTION.—Notwithstanding any other provision of law, any officer or employee referred to in paragraph (1) who is willing and able to serve during the period of the lapse in appropriations—

(A) shall be permitted to serve; and

(B) shall be compensated for any such service in accordance with subsection (a).

(c) DEFINITION.—For the purpose of this section, the term "agency" includes any employing entity of the United States Government or of the District of Columbia government.

(d) APPLICABILITY.—This section shall apply with respect to any lapse in appropriations for fiscal year 1996 occurring after December 15, 1995.

Mr. OBEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, I make a point of order but reserve that point of order if the gentleman will make a brief explanation.

The SPEAKER pro tempore. The gentleman from Louisiana reserves a point of order.

The gentleman from Wisconsin [Mr. OBEY] will be recognized for 5 minutes.

Mr. OBEY. Mr. Speaker, I will not take the 5 minutes I will only take 1.

Mr. Speaker, as it now stands, government workers cannot volunteer to come in to work during the shutdown, but the Speaker has announced tonight that they will nonetheless be paid. What this motion would simply do, at the suggestion of the gentleman from Virginia [Mr. MORAN], is that we simply say that since workers will be paid, the ought to be allowed to come in and work if they want to. That is in essence all this does.

Mr. Speaker, let me simply, in asking for a ruling from the Chair, indicate that I think on both sides of the aisle we recognize that you have tried to do an extremely fair job tonight, and we congratulate you for it.

POINT OF ORDER

Mr. LIVINGSTON. Mr. Speaker, I echo the gentleman's remarks about the way the Speaker has maintained order throughout this debate.

Mr. Speaker, I make a point of order against the motion to recommit with instructions because it is not germane to the underlying resolution, and as such is in violation of clause 7, of Rule XVI.

Mr. Speaker, I quote from the Precedents of the House:

> It is not in order to do indirectly by a motion to commit with instructions what may not be done directly by way of amendment.

Mr. Speaker, a specific proposition can not be amended by another proposition broader in scope. The motion to recommit deals with funding and authorizing activities outside the Department of Veterans Affairs, and therefore is not germane to the underlying resolution which deals only with funding for selected activities in this department.

Mr. Speaker, the gentleman's motion to instruct is not germane, and I ask for a ruling from the Chair.

The SPEAKER pro tempore. Does the gentleman from Wisconsin desire to be heard on the point of order?

Mr. OBEY. Mr. Speaker, I would simply say that the purpose of this resolution tonight is to open certain functions of the veterans Department so that the public can receive the benefit of the services from that department.

We are simply saying that since it has already been announced that government workers will be paid afterwards, whether they work or not, that we think they ought to be allowed to work, and I will leave the ruling in the hands of the Chair.

The SPEAKER pro tempore. Using the same reasoning as in the case of the previous point of order, the Chair finds that the amendment proposed in this second motion to recommit exceeds the relatively narrow ambit of the joint resolution by addressing the compensation of Federal employees on government-wide bases. Accordingly, the point of order is sustained, and the motion to recommit is ruled out of order.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, at the direction of the minority leader, I offer a third motion to recommit.

The SPEAKER pro tempore. The gentleman remains opposed to the joint resolution?

Mr. OBEY. I do, Mr. Speaker.

Mr. SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OBEY moves to recommit the resolution to the Committee on Appropriations with instructions to report back forthwith with an amendment as follows:

Strike all after the resolving clause and insert:

SEC. 101. ENSURED PAYMENT DURING FISCAL YEAR 1996 OF VETERANS' BENEFITS IN EVENT OF LACK OF APPROPRIATIONS.

(a) PAYMENTS REQUIRED.—In any case during fiscal year 1996 in which appropriations are not otherwise available for programs, projects, and activities of the Department of Veterans Affairs, the Secretary of Veterans Affairs shall nevertheless ensure that—

(1) payments of existing veterans benefits are made in accordance with regular procedures and schedules and in accordance with eligibility requirements for such benefits; and

(2) payments to contractors of the Veterans Health Administration of the Department of Veterans Affairs are made when due in the case of services provided that directly relate to patient health and safety.

"(3) all other authorized activities of the Department of Veterans Affairs including processing of existing and new applications for benefits and pensions, processing of certificates of eligibility for homeownership loans and loan guarantees, and payment of salaries of federal government personnel providing health care for our nation's veterans, are continued at a rate for operations not to exceed the rate in existence on December 15, 1995.

(b) FUNDING.—There is hereby appropriated such sums as may be necessary for the payments pursuant to subsection (a), including such amounts as may be necessary for the costs of administration of such payments.

(c) CHARGING OF ACCOUNTS WHEN APPROPRIATIONS MADE.—In any case in which the Secretary uses the authority of subsection (a) to make payments, applicable accounts shall be charged for amounts so paid, and for the costs of administration of such payments, when regular appropriations become available for those purposes.

(d) EXISTING BENEFITS SPECIFIED.—For purposes of this section, existing veterans benefits are benefits under laws administered by the Secretary of Veterans Affairs that have been adjudicated and authorized for payment as of—

(1) December 15, 1995; or

(2) if appropriations for such benefits are available (other than pursuant to subsection (b)) after December 15, 1995, the last day on which appropriations for payment for such benefits are available (other than pursuant to subsection (b)).

Mr. OBEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. OBEY] is recognized for 5 minutes.

Mr. OBEY. Mr. Speaker, this amendment is very simple. The proposition now before the House allows the Veterans Department to open for the purpose of payments of existing veterans' benefits and to provide payments to contractors of the Veterans Health Administration of the Department of Veterans Affairs when due in the case of services, provided that those services directly relate to patient health and safety.

All we would do is add the following language. We would add language saying that the Veterans Department would also be open for all other authorized activities of the Department of Veterans Affairs, including the processing of existing and new applications for benefits and pensions, processing of certificates of eligibility for home ownership loans and loan guarantees, and payment of salaries of Federal Government personnel providing health care for our Nation's veterans.

And that they would be continued at a rate for operations not to exceed the rate in existence on December 15, 1995.

That is all it does. It simply says if you are going to open up the Veterans Department, open it up to everyone.

I would urge the Members of the majority, in the interest of comity, in the interest of rationality, to accept this amendment.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON] for 5 minutes.

Mr. LIVINGSTON. Mr. Speaker, I am compelled to oppose this motion, and I ask that it be defeated. We have made a good-faith effort to address the specific veterans' problems that were included in this bill, so that they can get their checks next week. We should pass this bill.

We want to work with all parties, the White House, the minority, and various members of our committee to take care of the balance of the other concerns down the line. But let us defeat this motion, let us pass the bill, let us conclude our business and let us go home for the night.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 234, not voting 21, as follows:

[Roll No. 873]

AYES—178

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skelton
Slaughter
Spratt
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wyden
Wynn

NOES—234

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)

Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—21

Beilenson
Chapman
Conyers
Edwards
Filner
Flake
Foglietta
Gilchrest
Gutierrez
Hall (OH)
Lantos
Myers
Olver
Payne (VA)
Rose
Skaggs
Stark
Weldon (PA)
Williams
Wilson
Yates

□ 2242

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LaHood). The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LIVINGSTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 411, nays 1, not voting 21, as follows:

[Roll No. 874]

YEAS—411

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—1

Obey

NOT VOTING—21

Beilenson
Chapman
Conyers
Edwards
Filner
Flake
Foglietta
Gibbons
Gilchrest
Gutierrez
Hall (OH)
Lantos
Myers
Payne (VA)
Rose
Skaggs
Stark
Weldon (PA)
Williams
Wilson
Yates

□ 2258

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WILLIAMS. Mr. Speaker, I was unable to be present due to a family emergency.

On vote #871, the previous question I would have voted "No.".

On vote #872, the motion to table, I would have voted "No."

On vote #873 the motion to recommit I would have voted, "Yes."

On vote #874, House Joint Resolution 134, the targeted C.R., I would have voted "Yes."

GOVERNMENT SHOULD BE OPEN FOR ALL CITIZENS

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, I simply take this time to explain for the Record why I have cast the only vote against the proposition the House just voted on. I did not vote no because I was opposed to the proposition; as I said during debate, no one was opposed to the proposition. But House rules dictate if I were to be in a position to offer a motion to recommit that I needed to vote "no" on final passage.

I did so because I felt strongly that we should not only open the government for the services provided in the resolution, but should also open the Government for the purpose of other services that could be provided by the veterans department, and all other government employees as well.

The motion that I offered included all of the language of the original resolution, plus the additional language that would have opened up other functions of the veterans department, providing those services as well, and opened up all other agencies of the government which remained closed.

So for procedural reasons, to protect my right to offer that language which included all of the language provided in the original resolution, I was required by the House rules to vote "no".

NOTICE OF INTENTION TO OFFER PRIVILEGED RESOLUTION PROVIDING DEFICIT REDUCTION AND ACHIEVE A BALANCED BUDGET BY FISCAL YEAR 2002

Mr. TAYLOR of Mississippi. Mr. Speaker, I have a privileged resolution at the desk.

The SPEAKER pro tempore (Mr. LaHood). Is the gentleman from Mississippi making a notice?

Mr. TAYLOR of Mississippi. I have a privileged resolution at the desk. As you know, the Chair can either bring this up immediately——

The SPEAKER pro tempore. The Chair would advise the gentleman from Mississippi that there is no privileged resolution at the desk.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Pennsylvania will state his inquiry.

Mr. WALKER. Mr. Speaker, the inquiry that the gentleman from Pennsylvania has is, has his privileged motion been properly noticed?

The SPEAKER pro tempore. The Chair believes that the gentleman is trying to properly notice his resolution as privileged.

The Chair recognizes the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I am informing the Chair of my intention to serve a privileged resolution before this body, and as the Chair knows, under the Rules of the House, the Chair may bring this up immediately or may ask for a 2-legislative-day delay on this matter.

Since the matter involves the highest privilege of the Members collectively, and that is the privilege of doing our constitutionally mandated responsibility of providing for the budget in the appropriations of this country, I would ask for its immediate consideration.

As you know, Mr. Speaker, we have no budget before this country, and 300,000 good people are wondering whether or not they are going to get paid.

We have a job to do. We are 81 days late in fulfilling our legal responsibility of providing for a budget for this country. The budget that was passed has been vetoed by the President. There are not sufficient votes to get the two-thirds majority to override the President, and it is my intention to submit, as a result of that, privileged resolution H.R. 2530, commonly referred to as the coalition budget, in an effort to break this impasse.

I would like to point out that under rule IV of the Rules of the House of Representatives, Questions of Privilege, clause 1 states questions of privilege shall be, first, those affecting the rights of the House collectively. Article I, section 9, clause 7 reads, and I am quoting, "No money shall be drawn from the Treasury but in consequence of an appropriation made by law."

Obviously, we cannot solve this budget impasse until we have passed and the President has approved a budget. Today marks the 81st day that this Congress has been delinquent in fulfilling our statutory responsibility of enacting a budget into law; and again, one has passed, but short of the two-thirds majority needed to override the presidential veto.

Mr. Speaker, by failing to enact a budget into law, this body has failed to fulfill our most basic constitutionally mandated duties. This Congress has failed to appropriate the necessary funds to fulfill the vital functions of our Nation.

The SPEAKER pro tempore. Will the gentleman from Mississippi suspend?

The Chair would advise the gentleman, the gentleman needs to make notice to the House of his resolution. The Chair would ask the gentleman to state his notice.

Mr. TAYLOR of Mississippi. Mr. Speaker, I am doing so in telling my fellow Members.

The SPEAKER pro tempore. Could the gentleman from Mississippi read the title of his resolution in order to give notice to the House?

Mr. TAYLOR of Mississippi. Sir, as of today, I am introducing the coalition budget, H.R. 2530, to provide for deficit reduction and achieve a balanced budget by fiscal year 2002, as a privileged resolution and request its immediate consideration.

The SPEAKER pro tempore. Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the Speaker in the legislative schedule within 2 legislative days of its being properly noticed. That designation will be announced at a later time.

In the meantime, the form of the resolution proffered by the gentleman from Mississippi will appear in the RECORD at this point.

The Chair is not at this point making a determination as to whether the resolution constitutes a question of privilege. That determination will be made at a time designated for consideration of the resolution.

Mr. TAYLOR of Mississippi. Will the Speaker recognize me for a unanimous-consent request?

The SPEAKER pro tempore. The Chair would advise the gentleman that the title will appear in the RECORD.

Mr. TAYLOR of Mississippi. The Chair has fulfilled my request.

PARLIAMENTARY INQUIRIES

Mr. BROWDER Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BROWDER. Mr. Speaker, the gentleman from Mississippi [Mr. TAYLOR] has filed a motion, and I understand that the Chair has ruled that this will be dealt with by the Speaker in the next 2 days.

My inquiry is this: Does this mean that before we leave this Friday that this request will be scheduled by the Speaker so that the people of this country will not go through Christmas without a budget for the U.S. Government?

The SPEAKER pro tempore. The Chair would advise the gentleman that consideration will be scheduled within 2 legislative days by the Speaker.

Mr. WALKER. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. In the action that just took place here a few minutes ago with regard to the privileged resolution, is the totality of the privileged resolution, namely the budget offered by the gentleman, going to be printed in the RECORD, or just the title?

The SPEAKER pro tempore. The Chair stated earlier the title of the resolution would be printed in the RECORD.

Mr. WALKER. So the totality of the resolution would not be printed?

The SPEAKER pro tempore. The title of the bill will be printed, not the totality.

Mr. WALKER. I thank the Chair.

Mr. TANNER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. TANNER. Mr. Speaker, how much notice would the Chair give to the sponsor of the resolution? Would it be tomorrow or would it be Friday, or is it impossible for the Speaker to so advise at the moment?

The SPEAKER pro tempore. The Chair intend to give adequate notice to Members.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members are recognized for 5 minutes each.

TRIBUTE TO ROBERT WALKER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise on this occasion to speak to my colleagues about someone very special who has been working very hard for this House and this country and the Commonwealth of Pennsylvania for 20 years. I speak of Congressman ROBERT WALKER who announced this week that he would not be seeking an 11th term in the House of Representatives.

There is no one I can think of presently, in Congress or in recent years, who has been more of a deficit hawk, a budget hawk, or a U.S. Representative extraordinaire. His expertise on parliamentary rules has been the best, and for many of us, like myself, he has been a role model for how to be a U.S. Congressman when it comes to constituent services and legislative advocacy.

His 10 terms of outstanding service to the people of Chester County and Lancaster County in Pennsylvania have certainly shown just what an outstanding Congressman can do for his State and his community. He is Pennsylvania's favorite son, ROBERT WALKER, a champion.

As chairman of the Committee on Science, he has worked to increase research for health care, for jobs, and for science. This is a man who loves this institution, who has respected its traditions, its history. It seems appropriate that the House now stands, Mr. Speaker, poised on the verge of passing a balanced budget for the first time since 1969, and that with Congressman ROBERT WALKER, his inspiration, his spirit, his drive, his enthusiasm have helped to sustain all Members of the House who believe that we can balance this budget, that we can in the next few days or weeks come to an agreement with the President of the United States and the Senate in helping our children, our grandchildren, to pass a balanced budget.

We know from Alan Greenspan that by passing a balanced budget we will reduce interest rates and thereby reduce the cost of home mortgages, car expenses and college costs. The balanced budget is what we need for our country, and ROBERT S. WALKER, the outstanding Congressman from Pennsylvania, will help lead us there, as he has through many fights, to make sure we maintain fiscal responsibility in this country.

I am proud to yield to the gentleman from Arizona [MR. HAYWORTH], for his comments.

Mr. HAYWORTH. I thank my good friend from Pennsylvania, and I would join him in the remarks of respect and affection for our colleague, BOB WALKER.

Mr. Speaker, through C–SPAN, millions of Americans have been able to see the expertise and the grace and the exemplary conduct with which ROBERT WALKER has comported himself on this floor. While it was his brother, Wally, who grew to a taller height and started, both at the University of Virginia and the National Basketball Association, and still labors in the front office of the Seattle Supersonics, I think it is safe to say that BOB WALKER has always stood tall, both for the people of Pennsylvania Dutch country, and more importantly, for the entire citizenry of the United States.

With that, I would yield back to my colleague from Pennsylvania, [Mr. FOX].

Mr. FOX of Pennsylvania. I would yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I thank the gentleman for yielding, and let me just say that everybody holds BOB WALKER in great esteem.

I am reminded of a story by Jack Kemp when he was on a plane in the Caribbean, and somebody saw him and started to come toward him, saying, are you a Member of Congress. Jack figured here was another guy coming to recognize him, the potential Presidential candidate and a well-known sports star and Congressman; and when Jack Kemp said, I am, the guy said, well, then you must know BOB WALKER. I have seen him on C–SPAN.

All of us have seen BOB on C–SPAN, but what a lot of folks have not seen is that BOB WALKER is a guy who was always here to help anybody who comes out on the House floor, who has a legislative initiative. Whether you are a freshman or a Member who has been here for 16 years, Bob is always gracious, always willing to help, and maybe most importantly, always ready to fight for you.

I can remember when we did the all-night special orders, and BOB would always be the guy that volunteered for the slot from 2 a.m. to 3 a.m. in the morning. That takes a lot of guts.

A great American, and it is a real tragedy that he is leaving this House, a wonderful friend of all of us.

Mr. FOX of Pennsylvania. I am hoping this special order will change his mind.

I yield to the gentleman from Georgia, Congressman KINGSTON.

Mr. KINGSTON. I feel that I am a second-generation special order guy; I know that I am walking down a trail that was blazed by BOB WALKER and NEWT GINGRICH and JACK KEMP and DUNCAN HUNTER and a lot of guys before us who got a lot of people in the habit of watching C–SPAN, but more importantly got people to tune in to the issues of reducing the size of Government, providing tax relief, welfare reform, cutting down on Government, micromanagement out of Washington, and increasing personal freedom and responsibility, and I attribute that to BOB WALKER.

Mr. FOX of Pennsylvania. Thank you, Mr. Speaker, for your indulgence and thank you, BOB WALKER, for being a great American and a great Congressman.

☐ 2315

THE BUDGET DEBATE

The SPEAKER pro tempore (Mr. CHRYSLER). Under a previous order of the House, the gentlewoman from Florida [Ms. BROWN] is recognized for 5 minutes.

Ms. BROWN of Florida. Mr. Speaker, older Americans have fought this country's wars, built its cities, reared its children and tilled its soil. They deserve much and need much. So said the late Claude Pepper, who served Florida for 15 years in the Senate and 26 years more in the House. He was a true champion for the seniors of Florida and this country.

Mr. Speaker, we all agree that we were sent to Congress to pass a responsible budget. But I do not believe we should balance the budget on the backs of the elderly, the sick, the poor, and the disabled.

Claude Pepper once said, "My one great wish is to live long enough to see the day when this great and prosperous Nation can give every man, woman, and child every bit of health care he or she needs. I think this is a part of the American dream."

Mr. Speaker, I share Claude Pepper's dream. Let us protect seniors. Let us pass a responsible budget, and let us do it now.

I yield to the gentleman from New Jersey [Mr. PALLONE].

Would the gentleman explain for the constituents of Florida why we are into this second shutdown. And I think the first one cost over $800 million?

Mr. PALLONE. Exactly.

I appreciate the gentlewoman from Florida bringing that to our attention. I think that much of that has been lost, unfortunately, during the debate.

The bottom line is that after the first shutdown, both the President and the Congress got together and passed what we call a continuing resolution which allowed the Government to operate for a few weeks while the parties involved worked out their differences over the budget. The resolution that was passed not only called for the Government to continue to operate, it also called for a balanced budget in 7 years, and it recognized certain priorities that had to be protected as part of that budget, such as Medicare, Medicaid, education.

Ms. BROWN of Florida. School lunch.

Mr. PALLONE. Environment, nutrition programs, et cetera. The problem is that when that resolution ran out last Friday, the Republican leadership refused to bring up another continuing resolution. They have not done so Friday, Saturday, Sunday, Monday, Tuesday. Now we are into the fifth day, if you will, without a continuing resolution, which means that the Government continues to be shut down. They have refused so far to meet the agreement, if you will, of the previous continuing resolution.

Ms. BROWN of Florida. Does the continuing resolution have anything to do with the budget talks that we can pick up in January and go on until the November election of 1996? Because I really believe that the American people are going to have to resolve this. They have got to decide what kind of House do they want.

Mr. PALLONE. Exactly.

Ms. BROWN of Florida. And whether or not they want this House to be run by extreme radicals.

Mr. PALLONE. Exactly. I think the point is that we had agreed, with the previous continuing resolution, that while we worked out our differences on the budget, the Government would continue to operate. And it set forth an agreement that we would have a 7-year balanced budget, assuming that certain priorities were maintained, such as Medicare and Medicaid and some of the other programs that you mentioned.

The problem now is that the Republicans let that continuing resolution run out and have refused to bring up another one, and as a consequence, the Government shutdown is in a sense the hostage that is being held by the Republican leadership because they cannot get their way, if you will, on the budget.

Ms. BROWN of Florida. I heard some of the freshmen earlier said that they would never vote for another continuing resolution. Did we not just have one on VA?

Mr. PALLONE. We had one on VA.

Ms. BROWN of Florida. Did they not vote for it?

Mr. PALLONE. They voted for one just with the VA but they refused to bring up a larger continuing resolution that would prevent the rest of the Government from being shut down. Basically, what they are doing is playing politics, because they know that veterans' benefits will not go out tomorrow. So they agreed to let that go by, but they refused to worry about the other benefits, the other programs, whether it be education or some of the other social programs or agencies, whatever is necessary for various agencies.

Ms. BROWN of Florida. I was talking about Claude Pepper earlier, and I have a picture of Claude and Lyndon Baines Johnson together.

I have heard these Republicans get up here and talk about they want to tear this Government down, brick by brick. I think the American people need to weigh in on how they want this country to look, whether or not they just want this country for the rich and famous or for all of us.

Mr. PALLONE. I think you are absolutely right. This is the first time, and I think it is outrageous, that people have articulated that they are going to close the Government down because they cannot get their way on legislation.

Ms. BROWN of Florida. In closing, you can fool some of the people some of the time but you cannot fool all of the people all of the time.

A TITANIC BUDGET BATTLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. METCALF] is recognized for 5 minutes.

Mr. METCALF. Mr. Speaker, is there anyone in America that believes that there is no waste in our budget today? That we cannot make cuts or decrease the increases which have been projected, in a $1.6 trillion budget?

We spend over $1.6 trillion each year. Some say there is no way we can cut it at all. Every dollar we try to cut brings a chorus of screams. Any projected increase that we try to decrease, they say will devastate Medicare and will take food out of the mouths of children, it will put the poor right out on the streets.

This is a huge system that has been built, a spending system that has been built over many years. It is producing deficits of hundreds of billions of dollars. Now we have come to the time we have to make the decision.

Everyone in America knows that there is a lot that we can remove from this budget without serious harm to anything. What is going on, then? What is going on in this House? What is going on is a titanic battle that is being waged that will determine the destiny of this Nation.

The question that will be answered in the next 2 weeks, 3 weeks, month or so, will we in this time be able to balance the budget or will we continue with the deficits that are destroying this Nation? This huge $5 trillion debt is strangling America. The interest on this debt will surpass the defense spending, the huge defense spending bill. The interest will surpass defense spending next year in the budget that we start on in the next few months.

My wife and I have realized the American dream. We own our own home, free and clear. We run a small business in our home. It is not a large business, just a small business. But that, to me, and I think to most people, is the American dream.

But let us look to the future. What chance do our children, what chance do our grandchildren have to realize the American dream? A child born in 1995 will pay $187,000 in taxes just to pay the interest on the debt. Just to pay the interest on the debt—$187,000 will buy a pretty good house today. The previous spending has destroyed the American dream for a lot of the children that will be born in 1995, because it is that $187,000 house that they are not going to get, because they had to pay that $187,000 just to pay the interest on the national debt.

Every vote for an unbalanced budget over the last 40 years was a vote to destroy the American dream for our own children.

We have got to look at this interest thing and the amount of money that we pay in interest. England is still paying interest on the money that they borrowed to fight Napoleon. They have paid that principal in interest over 15 times and they still owe that principal.

Mr. Speaker, we have to balance the budget. We have no choice. This is not really negotiable. A balanced budget with honest numbers is the only way that we will protect the American dream for our children and grandchildren, and we must succeed at that.

PARLIAMENTARY INQUIRY

Mr. KINGSTON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. KINGSTON. With both the Democrat and the Republican leaders having an hour left and there being less than 1 hour remaining, we would like to split the time. That being the case, I would like to know how much time each side would have.

The SPEAKER pro tempore. Each side will have 17½ minutes.

Mr. KINGSTON. It is my intention to split that time with the gentleman from New Jersey [Mr. PALLONE].

FAILURE TO PASS CONTINUING RESOLUTION A REAL TRAGEDY

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 17½ minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I wanted to use my time tonight to point out what I consider to be a real tragedy in what has happened here today in the House of Representatives. This morning when we began the session, I was particularly upset because the gentleman from Texas, who is part of the Republican leadership, got up and made a point of the fact that it was incumbent, if you will, on the Republican majority to shut down the Government until they were able to get agreement on the budget.

I strongly disagree with the message that was sent in that regard. As the day went on, we saw speaker after speaker on the Republican side get up and say basically the same thing, which is that if the Republicans cannot get their way on the budget, if the President and I guess the Democrats in the House do not agree on the policy of the budget that the Republicans have put forth, then we should simply shut down the Government and it should not continue to operate until that agreement is reached.

That is totally the opposite of what I believe we should be doing here and what I believe the obligation of the majority is.

The majority that was elected in this House of Representatives in November of 1994, like any majority, has the obligation to govern. The obligation to govern means that the Government continues to operate while you work out your differences with the minority or with the President about what the budget should be.

Speaker GINGRICH actually articulated a few weeks ago exactly what the position is that the Republicans represented today. He said, "I don't care what the price is, I don't care if we have no executive offices and no bonds for 30 days, not at this time."

It is totally irresponsible in my opinion to hold the Government hostage, in essence, and say that unless we get our way on this budget, unless our priorities are met, we are going to keep this Government shut down. That is exactly what we have in front of us.

This evening there was a continuing resolution passed, a continuing resolution, which is what allows the Government to continue to operate, only on one aspect of the government shutdown and that was with regard to veterans' benefits.

But it should be pointed out, as it was today by many of the Democrats, that the price of the Government shutdown is not only millions of dollars that are lost because Federal employees will get paid for doing nothing, and also the fact that the Government has to keep certain essential services going, but also that many Americans who have paid taxes all along simply do not have the benefit of Government services that for many of them are very important or are very necessary.

We only dealt with one aspect of that this evening, and that was with veterans' benefits. Thankfully the Republican majority was willing to bring up the provision that would allow veterans' benefits to be paid starting tomorrow. But for whatever political reasons they saw fit to do that so as not to offend the veterans, the same should be done for every other Government agency and every other Government program. They should be allowed to continue to operate.

Just as an example, we have as of day 5 of this shutdown, this second shutdown now, almost 2 million people who have been turned away from National Park Service facilities. Four hundred thousand people have been turned away from the Smithsonian museums and the National Zoo just here in Washington. Sixty thousand students and parents applying for Pell grants or student loans have not had their applications processed and may not be able to pay for college. Over 780 small businesses have not received SBA guaranteed financing totaling over $120 million in loans. And about 720 calls made to the EPA, the Environmental Protection Agency's hot line for drinking water contamination outbreaks, have gone unanswered.

I could go on. There is a long list of the various Government services that are not functioning now with the shutdown. Again, I would say, what is the reason for this? What possible reason is there to hold the government hostage and to not allow the taxpayers who have paid for these services to receive them and thus be inconvenienced?

□ 2330

We could talk about passport offices, we could talk about many other things that are not being accomplished here.

The problem is that the President and the Democrats in Congress together have a very different sense of a priority for a balanced budget than the Republican majority, and what I have maintained all along is, if there are those differences, and there are, we should continue to operate the government while we work out the differences, and do not misunderstand that the Republican majority, because they control the Congress, they are the only ones that can bring up a continuing resolution and send it to the President so that Government can continue to operate. So, if anyone suggests to you that somehow the President is shutting the Government down, it is simply not true. The legislative responsibility for passing the continuing resolution exists with the Congress and with the majority party that governs the Congress.

Today it was my understanding actually that the leadership in the Republican Party, both Speaker GINGRICH and the House, as well as the Senate leadership in the Senate, were willing to go along with a continuing resolution to reopen the Government, and the President articulated and said that that was the case, and they, both of the gentlemen who lead the House and the Senate, indicated to the President that they were willing to go along with that. But our understanding is that when Speaker GINGRICH went back to the Republican Caucus, he was told mostly by the less senior members, the freshmen and some others perhaps, that that was unacceptable, that the Government should not continue to operate until the budget is signed by the President.

I think that those on our side who have characterized many of the new members of the Republican Party as extremists because of their position on the budget realize now that those extremist elements, if you will, within the Republican Members of Congress are now controlling the show and that even the Speaker, who has the responsibility, if you will, to represent the majority party, does not have the ability any more to control those extremist elements within the Republican Party, the less senior members who want to hold the Government hostage because they cannot get their way on the budget.

Now in the time that I have left I would like to talk about these priorities that the President has set forward and that he insists must be maintained in the context of a 7-year balanced budget before he would sign the bill, before he would sign a budget bill, and I want to stress that these are important priorities, these are priorities that effect every American in some way.

One of the most important, of course, is Medicare.

The problem is that the Republican budget would take so much money out of Medicare that Medicare as we know it essentially would not be able to continue to operate. And for those who doubt that that is the case I will go back to a statement that Speaker GINGRICH made awhile ago on Medicare where he said, "We don't do not get rid of it in round one because we don't think that's politically smart, and we don't think that's the right way to go through a transition period, be we believe it is going to wither on the vine because we think people are voluntarily going to leave it." He said that; it was quoted in the Washington Post on October 26 of this year.

This is the problem. So much money is cut out of the Medicare program under the Republican budget, and the way that the Medicare program is transformed essentially so that those who now have a choice of doctors are essentially pushed into managed care or HMO's where they do not have a choice any more, the changes to the Medicare program are going to be so radical, if you will, and the money is going to be so much less in terms of what is needed to operate a quality Medicare program that Medicare will essentially wither on the vine and eventually cease to exist. That is the major reason why the President and the Democrats in the Congress are so concerned not to go along with this Republican budget.

And, secondly, there is also the Medicaid program which is the health care program for low income individuals, mainly again seniors, the disabled, children, and, in many cases, pregnant women. The Medicaid program under the Republican budget, $163 billion is cut out of it essentially making it so that it cannot cover all the people that are now eligible for Medicaid, and then it is block granted or sent to the State, that money that is essentially cut back is block granted and sent to the States, and the States have to decide whether or not those who are now covered by Medicaid will continue to be covered. And so Medicaid, like Medicare, essentially withers on the vine, it does not have adequate funds, it is block granted, it is no longer guaranteed, and many of the people who now receive it will probably end up with no health insurance because many of the States, with the less money that is involved, will not be able to cover the seniors, the disabled, the children, the pregnant women who are now covered by Medicaid.

Now in the context of this, one of the most egregious, if you will, problems that the President sees and that the Democrats in Congress see, and one of the reasons why they are most unwilling to go along with this Republican budget plan, is because the money that is being taken away from these two health care programs is primarily going to tax breaks for wealthy Americans and wealthy corporations, and one of the main criteria or one of the main concerns that we have is that the Republicans have so far been unwilling to, if you will, eliminate or take back most of these tax breaks in order to finance Medicare and Medicaid.

It would be fairly easy for the Republican leadership to say, "OK, we won't provide these tax breaks to wealthy Americans, we won't provide these tax breaks to wealthy corporations, and we'll use that money that we were going to use for those tax breaks and put it back into Medicare and Medicaid in order to keep those programs viable." But so far there has been no willingness on the part of the Republican leadership to go in that direction, which is one of the reasons why the President can simply not support the Republican budget the way it has been laid out.

Now I have one more chart here that I wanted to, and I only have another 5 minutes, and the gentleman can use his time, so let me just finish this, and if I have a few minutes left, I will yield, but I just wanted to show this chart that gives you some indication of the exploding costs of the Republican tax breaks.

The tax breaks are not only the wrong way to go because they are financing tax breaks for mostly wealthy people in order to cut Medicare and Medicaid, but they also do exactly the opposite, if you will, of what the Republicans say they want to do with this budget. They say they want to balance the budget, they want to eliminate the Federal deficit, and that is certainly a noble goal that both Democrats and Republicans in Congress, as well as the President, want to accomplish. But how in the world do you manage to balance the budget if you provide more tax breaks for wealthy Americans, or for anybody for that matter, and, as you can see, the cost of the tax breaks in the 7 years that the Republican budget sets forth beginning from 1996 into 2002, you can see what that means in terms of the overall budget. It makes it much more difficult to balance the budget, and many of us maintain that by the time the year 2000, or 2001, or 2002 comes around, the effect of giving out so many tax breaks will mean that ultimately the budget is not balanced.

So you can really see, I think it should be clear, why this battle that exists, if you will, between the Democrats and the Republicans, between the President and the Republican majority in Congress is so important for the future of the country. In order to truly balance the budget over 7 years, in order to protect Medicare and Medicaid, in order to protect some of the other priorities that the President wants to maintain such as education, direct student loan programs, environmental protection to make sure that our air and water quality does not deteriorate, all these things are crucial, and it is not just a question of people getting together and saying, you know, we can go along with what the Republicans have proposed because, if the President does and if the Democrats do, there are going to be some major negative impacts on the lives of the average American whether it be their health care, their education, or the quality of their life.

This is important; this is not something that should be trivialized. But I would stress again, and I think in closing, if I could, that the most important thing is that the Government should not be held hostage to the differences between the two parties or between the President and the Republican leadership over the budget. The Government should continue to remain open. A commitment was made when we passed the last continuing resolution a few weeks ago that we were all going to let the Government continue to operate while we negotiated and while we worked out a 7-year balanced budget that would protect the priorities such as Medicare, Medicaid, education, and the environment, and I was really outraged, and I really do not know where we are supposed to go the next few days when so many in the Republican Party in Congress now insist that the Government should remain shut down and that unless the President simply signs on the dotted line what the Republicans want in the budget, that we are going to continue to have this impasse.

This impasse is having a terrible effect on our country. Many of you saw that the stock market once again plunged today. It is going to have a major impact on the economy during the Christmas holiday and beyond, and I think that it is really tragic that so many of my colleagues on the Republican side got up today during the various times of the debate and said that they were insistent on closing the Government down in order to accomplish their goal.

If I have some time left, I would be glad to yield for a question.

Mr. KINGSTON. What I would like to ask you in particular, but not necessarily—I mean you and a lot of other Democrats:

If the Republicans said, "OK, forget the taxes," then would Democrats then say, "OK, we'll balance the budget in 6 years instead of 7?"

Mr. PALLONE. My understanding, and I think that it was brought home to you very clearly today with the coalition—you know the coalition, a group of more conservative Democrats who want to bring up their budget—that one of the things that they have in their budget is that they say we will use the 7 years that the Republicans have asked for, we will eliminate all the tax breaks, all the tax cuts, and we will take a lot of that money and put it back into Medicare and Medicaid in order to preserve those programs.

I think that it is not possible to accomplish the goal. It would be very difficult to accomplish the goal of protecting Medicare and Medicaid if you reduced your time frame to less than 7 and made it 6 or 5.

I would like to see the money from the tax break used to be put back into Medicare and Medicaid and keep the suggested 7-year time limit.

Mr. KINGSTON. And does the gentleman believe that the tax breaks for the working people of America, that, you know, most of it goes to people with a family earning less than $75,000, that that would not help stimulate the economy and, therefore, increase the number of jobs and, therefore, increase the revenues?

Mr. PALLONE. I will say this first of all. I do not agree with the gentleman that the majority of the tax breaks go to middle-income people. I think that I can show, and I do not have the chart here, but I can read some documents to you that show the majority of the money actually goes to wealthy Americans, but I would say to you, just respond to your question, if I could, and I forgot what your question is.

A REALISTIC BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Georgia [Mr. KINGSTON] is recognized until midnight.

Mr. KINGSTON. Mr. Speaker, I yield to the gentleman from New Jersey [Mr. PALLONE], my friend.

Mr. PALLONE. You mean the stimulation of the economy.

No, I believe that it is more important to balance the budget than to rely on a theory that says with these tax breaks that will go to most wealthy Americans that we can stimulate the economy. I think the economy would be better served by balancing the budget and not using and not providing the tax breaks.

Mr. KINGSTON. I thank the gentleman for his honesty on that. We will have to debate that further and continue.

Let me yield to the gentleman from California [Mr. HUNTER], my friend.

Mr. HUNTER. Mr. Speaker, I thank the gentleman from Georgia [Mr. KINGSTON] for yielding and, let me just say that in listening to my friend from New Jersey I have learned I have got some new terms for what I call my liberalspeak dictionary. The first term is the rich.

The rich, according to liberalspeak, is anybody who has children, because the tax cuts and credits that are given in the Republican budget are given to people who have children.

☐ 2345

That means if you get a $500 tax credit per child and you are a working guy who pays $1,500 a year in taxes, you have three children times $500, you take $1,500 off your taxes and you have reduced your taxes to zero. If you are a guy that pays $50,000 and you have three children at $500 apiece you take $500 off your $50,000 tax liability, and you still pay $48,500. The first liberalspeak term that they have been using extensively is "the rich." "The rich" are any people that have children. That makes you rich in America. I guess in a way it does.

The other liberalspeak term that we have all been learning is "a cut." This is why we have a $5 trillion deficit today. For the liberals, any increase that is less than 40 percent is a cut, because Medicare payments per senior citizen are going under the Republican budget from $4,800 to in excess of $6,700 per senior.

Mr. KINGSTON. If I could reclaim my time, I think I could enhance the gentleman's words. This is what is happening with Medicare under the Republican plan. It goes from $4,816 in the year 1995 to $7,101 in the year 2002. Only in Washington, DC would that be called a cut. I would suggest it is really a mathematics problem.

Mr. HUNTER. The gentleman is absolutely right. But we have to accept this liberal dictionary because all of our Democrat friends are using it across the country. Any increase in a government program that is less than a 40-percent increase they will call a cut.

Lastly, they have a new term. It is called "radical." Anybody that believes that working men and women who earn money with their own sweat should be allowed to keep that money is a radical. The moderate view, the accepted view for the liberals, is that all the money belongs to the government, and only in times of extreme prosperity can the government afford to give back working men and women the money that they earned with their own sweat. Otherwise, you are a radical. So we have some new terms from the liberal dictionary, and I just heard the fine gentleman from New Jersey expound on those terms and once again define them for us.

Mr. KINGSTON. I yield to the gentleman from Arizona [Mr. HAYWORTH], but for a minute I want to point out the infamous $1 million check that is waiting here for any Democrat or any member of America who can show where the Republican plan is cutting Medicare. It is interesting that this check is dated December 6, and it has been collecting interest because nobody can prove there is a cut and nobody can collect this check.

Mr. HAYWORTH. I thank the gentleman for yielding, and to have our colleague, the gentleman from California, and another great gentleman from Georgia [Mr. COLLINS] here during the course of this special order with my good friend, the gentleman from Savannah, GA, in the well.

It is worth noting for the record, though, there have been those who have tried to change the terms of the offer, just as they have tried to change the terms of the debate. Indeed as my colleague, the gentleman from California [Mr. HUNTER] pointed out, this liberal lexicon is not limited only to the other side of the aisle in this Chamber. As my good friends know, Mr. Speaker, that liberal lexicon exists on the other end of Pennsylvania Avenue, with a President who I am sure means well but who has the most inventive approach to history that I have ever seen.

For example, this afternoon the President of the United States went out to a press conference and said that there was one group in this institution that was causing all the problems, these infamous 73 freshman in the House of Representatives. I know my colleagues here take great umbrage at that, because indeed they are part of the new majority.

It is not only 73 percent of the freshman class, nor the 236 or maybe 237 Members now of our new majority, but if the President would check the RECORD he would find, Mr. Speaker, that yesterday when his budget was brought to this floor no one, no Republican, no Democrat, not even the Independent in this Congress cast a vote in favor of that budget.

Mr. KINGSTON. Let me claim the time now, Mr. Speaker, because I want to make sure I understand what the gentleman is saying. Does the gentleman mean to tell me that the President of the United States had a balanced budget on the floor and not one Democrat voted for it? Is that what you are saying?

Mr. HAYWORTH. I would ask my friend to yield, because that is the important caveat. You see, again the President, who talked about a balanced budget as a campaigner in 1992, said we could balance it in 5 years, and who more recently has said 7, 8, 9, 10 years, the President of the United States has yet to send to this Congress a budget that will balance in 7 years. So I think, quite forthrightly and responsibly, Democrats, independents, and Republicans rejected that budget yesterday.

Of course, 2 days prior to today there was another resolution on the floor of this House simply restating the parameters and the guidelines for the balanced budget agreement, the same words the President signed into law 30 days ago agreeing to balance the budget in 7 years, using the honest, nonpartisan numbers of the Congressional Budget Office. On that occasion, 2 days ago, not only did this majority vote for that resolution, but so did three out of every four Democrats, and the lone Independent in this Congress, the self-described Socialist, the gentleman from Vermont [Mr. SANDERS].

Mr. Speaker, I would make this appeal to the President of the United States. Mr. President, thanks for the credit, but in reality, if you fancy yourself a student of history and a self-described policy wonk, take a close look at the real numbers, because you see Republicans, Democrats, and Independents united on this floor, and get real numbers into this budget negotiation process. Then you can join with us, Mr. President, and say that you truly have made history.

Mr. KINGSTON. Mr. Speaker, what I wanted to do was get back on the tax issue a minute. We have the distinguished gentleman from Georgia on the Committee on Ways and Means here, and the gentleman from California, Mr. DUNCAN HUNTER, who used to be in charge of the policy committee and knows all these things. It is interesting that the chart I am about to show you was actually developed by the Heritage Foundation which, while it is conservative, is certainly not Republican and is an independent think tank as opposed to some of the charts we are seeing by the Democrats.

This $500 per child tax credit, which we have heard time and time again, "a tax credit for the rich," and I do not know when the Democrat Party crossed the line, but it is obvious if you are rich in the Democrat Party, it is worse than being a criminal, and it is certainly a lot worse than being an illegal alien, given the benefits they want to give to illegal aliens in California. In San Diego, goodness gracious, you cross the border and you are a lot more welcome than somebody is who is rich. Good gosh, a rich person might be an employer.

Here are 89 percent of the people in America who will benefit from the $500 per child tax credit, and almost 90 percent have a family income of $75,000 or less. These are the rich people. So I guess what the extreme left is telling us is that if you make $75,000 or less, as the gentleman from California [Mr. HUNTER] said, if you got a job, they do not like you. You are one of those big, bad, evil rich.

I am glad to yield to the gentleman from Georgia [Mr. COLLINS].

Mr. COLLINS of Georgia. Mr. Speaker, I appreciate the gentleman yielding.

A lot has been said about the agreement in the bill that the President signed some 30 days ago dealing with the balanced budget and the agreement that we would reach one by the end of this legislative session. You asked the gentleman from New Jersey a while ago a very good question about tax policy: Did he think tax policy change would actually help to create jobs, as evidenced by the $500 per child tax credit?

I want to refer to the agreement, too, that the President also agreed with. That is, the last line in the first paragraph says "Further, the balanced budget shall adopt tax policies to help working families and to stimulate future economic growth." Even the

President himself believes that if you help working families, and working families are the ones that pay the bills in this country, they are the ones that work, earn a paycheck, and money comes out of that paycheck and comes into the Government, he agrees that if you help those people, you will help and stimulate economic growth, also through tax policy that helps benefit those who provide those jobs for those working people. So the President himself has said, "Let us change and adopt tax policy that helps working America and also stimulates the economy."

Mr. KINSTON. Mr. Speaker, I would ask the gentleman, was that candidate Clinton or President Clinton?

Mr. COLLINS of Georgia. Mr. Speaker, that is in the law the President signed some 30 days ago. He himself promotes the fact that we need to change and adopt tax codes that will stimulate the economy, and that goes back to the capital gains, the repeal of the depreciation schedule, the alternative minimum tax, the $500 per child tax credit. All of those things will help stimulate the economy, you do have growth, economic growth, as he agreed to.

□ 2355

Mr. HUNTER. If the gentleman will yield, one thing we have noticed with the liberals with their new dictionary that says that if you are rich, that means anybody who has children is rich. They have avoided in all of their descriptions of the budget, of the Republican budget, the term children, because they know that the American people have common sense, and if the American people know that the bulk of the tax cuts in the Republican plan are giving anybody who has children $500, count them, $500 per child tax credit, then everybody has enough common sense to realize that that is mostly going to be absorbed by working people.

Rich people do not have 50, 100, 200 children. They do not have more children than people in middle income class or lower income class. They know that everybody has children. They also know that working people, the working guy who is paying $1,500 a year in tax liability who has three children at $500 apiece will see his tax liability totally erased, and the guy who has $50,000 a year in tax liability and has three children at $500 apiece will only have it reduced about 1 percent, down to $48,500.

That is why the Democrats never use the word "children." They think they want to let the American people rely on the notion that there is some obscure formula that we put together that says only the Forbes family gets this tax cut, and that is not true. Anybody with children.

Mr. COLLINS of Georgia. Will the gentleman yield? Let us look at how that $500 actually helps that working family and then simultaneously stimulates the economy. What will they do with the $500? They will spend it. They will spend it on their family. That is how it helps that family, and once they spend it, they spend it normally on consumer goods or some type of service.

That helps stimulate the economy. It is a very positive move for this country to adopt tax policy, as the President has agreed, that will help working families and stimulate economic growth.

Mr. KINGSTON. Well, the thing that I think is also important to remember is that the average middle-income family in the 1950's paid 2-percent Federal income tax. Today that same average middle-income family pays 24-percent Federal income tax, and that does not even take into account all of your State and local taxes that have gone up year after year, and as a result, we have less time as a family to sit down and import information to the next generation: help educate kids, help teach them manners, and help teach them right from wrong. You have to have two-income families just to pay the Government. It has become a lower quality of life.

I yield to the gentleman from Arizona.

Mr. HAYWORTH. I thank my colleague from Georgia, and I think he absolutely again addresses this situation in the most accurate manner possible. Because again, when we are talking about our children, there is nothing ignoble or selfish about letting hard-working Americans hang on to more of the money that they earn, because as our colleague from California points out, this money is not the Government's; the Government does not create the wealth. Working people create the wealth by the fruit of their own labors. As our colleague from Georgia points out, yes, Americans will spend that money, but it is also true, Mr. Speaker, that those Americans will save that money and invest that money in their children's future.

I thought my colleague from Georgia who stands in the well here in this special hour said it quite well during the course of the debate. This is all about children, and how dangerous and how immoral for us to saddle unborn generations with a debt that my young son faces. John Michael Hayworth, now 2 years old, over $185,000, almost $187,000 in interest on the debt the will have to pay if we do not make a change for the better.

Mr. KINGSTON. Gentlemen, we are about out of time. Let us all wrap up quickly.

Mr. COLLINS of Georgia. Our final word for my colleague from Georgia. You made a very important statement a while ago when you compared the tax policy of 1950 to today and how much more it takes out of a family income.

There has been a lot said in this Chamber about the erosion of family income. The President himself has talked about the erosion of family income. One of the reasons for erosion is taxation. Another is excessive regulations that go into the cost of consumer goods and services. That has accounted for the erosion of family income in this country.

Mr. HUNTER. Let us balance this budget. That is what we are here for. We are not going to leave this Hill until the budget is balanced, and I thank the gentleman for his great leadership in this area.

Mr. HAYWORTH. I would concur in that. I thank our friend from Georgia for organizing this special order, and I would simply say again to the President of the United States, you can try to attack us, but ultimately, the President should work with us, because the future of this Nation, nothing less than the future of this Nation, the future of our children and the future of all Americans is at stake. With that, I yield back to the gentleman.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from Arizona [Mr. HAYWORTH], the gentleman from Georgia [Mr. COLLINS] and the gentleman from California [Mr. HUNTER] for being with me tonight.

Balanced budget, what does it mean to you? Lower interest rates. Small businesses can expand, create more jobs. It means lower home mortgages, lower car payments, lower student loan rates. It means a better quality of life, and more importantly than anything, it means an honest American Government, one that can look forward to even greater heights.

Mr. COLLINS of Georgia. To sum it up, the only person standing between the balanced budget and the people of this country is the President of the United States, because he vetoed the balanced budget that the leader from the other body and the Speaker of this House were instrumental in passing and sent to his desk. He vetoed it. He stands between the people and the balanced budget, and I thank the gentleman for yielding.

Mr. KINGSTON. Mr. Speaker, I yield back the balance of my time.

THE PEOPLE'S WORK

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection without objection.

Mr. HAYWORTH. Mr. Speaker, I would just simply like to point out that this is more evidence that this House is about the work of the American people. It is this House that has passed appropriations bills that this President has vetoed. He has put Americans out of work. It is his decision; the mantle of leadership rests uneasily on his shoulders.

We are here in the Congress of the United States to lend a helping hand to inject a dose of honesty and reality into these proceedings, and that is why even now, as our friends in the Committee on Rules labor, they are doing so for the highest of purposes: to restore the ideal of limited and effective Government and to achieve the balanced budget which we all have said we want to achieve, for our children deserve no less.

Mr. KINGSTON. Will the gentleman yield?

Mr. HAYWORTH. I would be happy to yield to my friend from Georgia.

Mr. KINGSTON. Mr. Speaker, what is curious about this whole process is that we are not cutting spending, unfortunately. We are not freezing spending, unfortunately. We, over a 7-year period of time, are increasing spending 3 trillion new dollars, and the President wants to increase it 4 trillion new dollars.

Mr. HAYWORTH. Would the gentleman from Georgia please repeat those numbers?

Mr. KINGSTON. We, over a 7-year period of time, we being the Republican Party, are suggesting increasing spending 3 trillion new dollars over the next 7 years. The President wants to increase spending $4 trillion over the next 7 years.

Mr. HAYWORTH. The $4 trillion in additional spending is what this President would like to do, and that is the reason he is against a balanced budget?

Mr. KINGSTON. The gentleman talked earlier about the 73 new freshmen, and I assume not 1 of you ran on a platform of increasing spending 3 trillion new dollars. The point being is I really and truly believe the American people want a balanced budget. I believe the time has come for it, and I also believe, to paraphrase Dwight W. Eisenhower, that once the American people make up their mind to do something, there is not much you can do to stop it.

So I believe, thank the Lord, that this is beyond the President, this is beyond Congress, this is beyond the Senate. This is something the American people want, and therefore, I think we are going to get a balanced budget.

Mr. HUNTER. Will the gentleman yield?

Mr. HAYWORTH. I am happy to yield to our friend from California.

Mr. HUNTER. Mr. Speaker, the gentleman just hit the nail on the head, because you mentioned the time. A number of our friends on the other side of the aisle call a balanced budget a noble goal, but it is never the right time to have it. It is always the right time to increase another program by 50 percent, because if you increase it by less than 40 percent, they will call it a cut, but it is never quite the right time to have a balanced budget.

I think you are exactly right. The American people think that this is the right time. If we leave this Hill without having a balanced budget over this next 5, 10, 15 days, we will have failed the American people.

Mr. KINGSTON. On that subject, I want to mention that I know Mr. Hayworth knows this story, because I have told it before, about the guy that goes to the farmer and wants to borrow his friend's ax and he goes next door and he says, "I want to borrow your ax today; I have to chop some wood." The guy says to the farmer, "I do not want to lend you my ax," and the farmer says, "why not?" He says, "I am making soup today." He says, "making soup? What does that have to do with me borrowing your ax?" He says, "nothing, but if I do not want to do something, any excuse is a good one."

What we are seeing on issue after issue is: yes, I want to balance the budget, but not here, not now, not this one, not that program.

I yield back to the gentleman from Arizona.

Mr. HAYWORTH. I thank the gentleman, and I thank the Speaker.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

□ 0010

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CHRYSLER) at 12 o'clock and 10 minutes a.m.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4, THE PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY ACT OF 1995

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–431) on the resolution (H. Res. 319) waiving points of order against the conference report to accompany the bill (H.R. 4) to restore the American family, reduce illegitimacy, control welfare spending, and reduce welfare dependence, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION AUTHORIZING SPEAKER TO DECLARE RECESSES SUBJECT TO THE CALL OF THE CHAIR FROM DECEMBER 23, 1995 THROUGH DECEMBER 27, 1995

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–432) on the resolution (H. Res. 320) authorizing the Speaker to declare recesses subject to the call of the Chair from December 23, 1995, through December 27, 1995, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. EDWARDS of Texas (at the request of Mr. GEPHARDT), for today, on account of his son's birth.

Mr. EMERSON (at the request of Mr. ARMEY), for today until 7 p.m., on account of chemotherapy treatment.

Mr. YATES (at the request of Mr. GEPHARDT), for today, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COLEMAN) to revise and extend their remarks and include extraneous material:)

Mr. DOGGETT, today, for 5 minutes.

Mr. POSHARD, today, for 5 minutes.

Ms. WATERS, today, for 5 minutes.

Ms. DELAURO, today, for 5 minutes.

Mr. STUPAK, today, for 5 minutes.

Ms. BROWN of Florida, today, for 5 minutes.

Mr. VOLKMER, today, for 5 minutes.

Mr. FRANK of Massachusetts, today, for 5 minutes.

(The following Members (at the request of Mr. MCINNIS) to revise and extend their remarks and include extraneous material:)

Mr. BARR, today, for 5 minutes.

Mr. GEKAS, today, for 5 minutes.

Mr. FOLEY, today, for 5 minutes.

Mr. LEWIS of Kentucky, today, for 5 minutes.

Mr. BARTLETT of Maryland, today, for 5 minutes.

Mr. KIM, today, for 5 minutes.

Mr. LONGLEY, today, for 5 minutes.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. KENNEDY of Massachusetts, for 5 minutes, today.

Mr. LINDER, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. GEPHARDT, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HAYWORTH, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. MORAN, today, for 5 minutes.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. FRANK of Massachusetts, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HOYER, today, for 5 minutes.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. FATTAH, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. COBLE, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. KANJORSKI, for 5 minutes, today.

Mr. DAVIS, for 5 minutes, today.

Mr. DICKS, for 5 minutes, today.

(The following Members (at their own request) and to include extraneous matter:)

Mrs. EDDIE BERNICE JOHNSON of Texas.

Mr. HEFNER.

(The following Member (at his own request) and to include extraneous matter:)

Mr. UPTON.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. PETERSON of Florida, for 5 minutes, today.

(The following Member (at this own request) to revise and extend his remarks and include extraneous material:)

Mr. SHAYS, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. WYNN, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous materials:)

Mr. HUTCHINSON, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous materials:)

Mr. SCARBOROUGH, for 5 minutes, today.

Mr. POMEROY, for 5 minutes, today.

Mr. WELDON of Florida, for 5 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mr. DUNCAN, for 5 minutes, on December 21.

Mr. FOLEY, for 5 minutes, on December 21.

Mr. FOX, for 5 minutes, today.

Mr. METCALF, for 5 minutes, today.

ADJOURNMENT

Mr. GOSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 11 minutes a.m.), the House adjourned until today, Thursday, December 21, 1995, at 10 a.m.

OATH OF OFFICE, MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely; without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Members of the 104th Congress, pursuant to the provisions of 2 U.S.C. 2b:

Honorable JESSE L. JACKSON, Second District, Illinois.

Honorable TOM CAMPBELL, 15th District, California.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 or rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1855. A letter from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force; transmitting a report concerning contracting of work currently performed at Newark Air Force Base [AFB], OH, pursuant to 10 U.S.C. 2304 note; to the Committee on National Security.

1856. A letter from the Secretary of Health and Human Services, transmitting a report on activities of the Office of Minority Health, pursuant to Public Law 101-527, section (104 Stat. 2313); to the Committee on Commerce.

1857. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the Secretary's determination and justification for authorizing the use of $8.1 million in fiscal year 1996 funds made available to carry out chapter 6 of part II of the FAA for assistance for states participating in the ECOMOG peacekeeping mission in Liberia, pursuant to 22 U.S.C. 2261(a)(2); to the Committee on International Relations.

1858. A letter from the Director, Division of Commissioned Personnel, Department of Health and human Services, transmitting the annual report of the Public Health Service Commissioned Corps retirement system, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform and Oversight.

1859. A letter from the President, National Railroad Passenger Corporation [Amtrak], transmitting the semiannual report on activities of the inspector general for the period April 1, 1995, through September 30, 1995, and management's response for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1860. A letter from the Secretary of Transportation, transmitting a report on the U.S. Coast Guard military retirement system for fiscal year 1994, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform and Oversight.

1861. A letter from the Chairman, Federal Election Commission, transmitting reports regarding the receipt and use of Federal funds by candidates who accepted public financing for the 1992 Presidential primary and general elections, pursuant to 26 U.S.C. 9009(a)(5)(A) and 9039(a); to the Committee on House Oversight.

1862. A letter from the Administrator, Federal Highway Administration, transmitting the Administration's status report entitled, "Progress Made in Implementing Sections 6016 and 1038 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA)," pursuant to Public Law 102-240, section 6016(e) (105 Stat. 2183); to the Committee on Transportation and Infrastructure.

1863. A letter from the Secretary of Transportation, transmitting the Department's report entitled, "Ability of Crewmembers to Take Emergency Actions," pursuant to Public Law 101-380, section 4111(c) (104 Stat. 516); to the Committee on Transportation and Infrastructure.

1864. A letter from the Administrator, Environmental Protection Agency, transmitting the 1994 National Water Quality Inventory Report, pursuant to 33 U.S.C. 1315(b)(2); to the Committee on Transportation and Infrastructure.

1865. A letter from the Secretary of Labor, transmitting the Department's report on the impact of the Andean Trade Preference Act, pursuant to Public Law 102-182, section 207 (105 Stat. 1244); to the Committee on Ways and Means.

1866. A letter from the Secretary of Labor, transmitting the 11th report on trade and employment effects of the Caribbean Basin Economic Recovery Act, pursuant to 19 U.S.C. 2705; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. COMBEST: Committee of Conference. Conference report on H.R. 1655. A bill to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the U.S. Government, the community management account, and the Central Intelligence Agency retirement and disability system, and for other purposes (Rept. 104–427). Ordered to be printed.

Mr. LINDER: Committee on Rules. House Resolution 317. Resolution providing for consideration of the joint resolution (H.J. Res. 134) making further continuing appropriations for the fiscal year 1996, and for other purposes (Rept. 104–428). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 318. Resolution waiving points of order against the conference report to accompany the bill (H.R. 1655) to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the U.S. Government, the community management account, and the Central Intelligence Agency retirement and disability system, and for other purposes (Rept. 104–429). Referred to the House Calendar.

Mr. ARCHER: Committee of Conference. Conference report on H.R. 4. A bill to restore the American family, reduce illegitimacy, control welfare spending, and reduce welfare dependence (Rept. 104–430). Ordered to be printed.

Mr. SOLOMON: Committee on Rules. House Resolution 319. Resolution waiving points of order against the conference report to accompany the bill (H.R. 4) to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence (Rept. 104–431). Referred to the House Calendar.

Ms. PRYCE: Committee on Rules. House Resolution 320. Resolution authorizing the Speaker to declare recesses subject to the call of the Chair from December 23, 1995, through December 27, 1995 (Rept. 104–432). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HUTCHINSON (for himself, Mr. Stump, Mr. Smith of New Jersey, Mr. Bilirakis, Mr. Buyer, Mr. Quinn, Mr. Bachus, Mr. Stearns, Mr. Ney, Mr. Fox, Mr. Barr, Mr. Hayworth, Mr. Cooley, Mr. Schaefer, Mr. Chabot, Mr. Weldon of Florida, Mr. Thornberry, Mr. Coburn, Mr. Montgomery, Mr. Edwards, Mr. Spence, Mr. Mascara, Mr. Kennedy of Massachusetts, Mr. Doyle, Mr. Cunningham, Mr. Tejeda, Mr. Everett, Mr. Weller, Mr. Flanagan, Ms. Brown of Florida, Mr. Neumann, Mr. Hoekstra, Mr. Riggs, Mr. Taylor of North Carolina, Mr. Towns, Mr. Davis, Mr. Deal of Georgia, Mr. Dellums, Mr. Dicks, Mr. Ehrlich, Mr. Dickey, Mr. Traficant, Mr. Hastings of Florida, Mr. Hefley, Mr. Packard, Mr. Mica, Mr. Bunn of Oregon, Mr. Parker, Mr. LaHood, Ms. Danner, Mr. Diaz-Balart, Ms. Dunn of Washington, Mr. Ehlers, Mr. English of Pennsylvania, Mr. Ewing, Mr. Ballenger, Mr. LaTourette, Mr. Lucas, Mr. Dornan, Mr. Emerson, Mr. Largent, Mr. Hall of Ohio, Mr. Heineman, Mr. Hancock, Mrs. Lincoln, Mr. Laughlin, Mr. Tanner, Mr. Duncan, Mr. McHugh, Mr. Norwood, Mr. Nethercutt, Mr. McInnis, Mr. Linder, Mr. McIntosh, Mr. Metcalf, Mr. Martini, Mr. McCollum, Mr. Hayes, Mr. McKeon, Mr. McDade, Mr. McCrery, Mr. Baker of California, Mr. Lazio of New York, and Mr. Horn):

H.R. 2813. A bill to ensure that payments during fiscal year 1996 of compensation for veterans with service-connected disabilities, of dependency and indemnity compensation for survivors of such veterans, and of other veterans benefits, and payments to Department of Veterans Affairs contractors providing services directly related to patient health and safety, are made regardless of Government financial shortfalls; to the Committee on Appropriations, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUMP (for himself, Mr. Montgomery, Mr. Hutchinson, and Mr. Edwards):

H.R. 2814. A bill to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal year 1996, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. KNOLLENBERG (for himself, Mr. Bono, Mr. Boucher, Mr. Heineman, Mr. Schiff, and Mr. Smith of Texas):

H.R. 2815. A bill to amend section 101 of title 11 of the United States Code to modify the definition of single asset real estate and to make technical corrections; to the Committee on the Judiciary.

By Mr. NEY (for himself and Mr. Regula):

H.R. 2816. A bill to reinstate the license for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Ohio, and for other purposes; to the Committee on Commerce.

By Mr. SCHUMER:

H.R. 2817. A bill to treat juvenile records in the same manner as adult records in certain cases; to the Committee on Economic and Educational Opportunities, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SERRANO:

H.R. 2818. A bill to provide demonstration grants to establish clearing houses for the distribution to community-based organizations of information on prevention of youth violence and crime; to the Committee on the Judiciary, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WILLIAMS:

H.R. 2819. A bill to authorize the construction of the Fort Peck Rural County Water Supply System, to authorize assistance to the Fort Peck Rural County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the water supply system, and for other purposes; to the Committee on Resources.

By Mr. WATTS of Oklahoma:

H.R. 2820. A bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. STUPAK:

H.R. 2821. A bill to provide for the transfer of six obsolete tugboats of the Navy; to the Committee on National Security.

By Mr. LIVINGSTON:

H.J. Res. 134. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; to the Committee on Appropriations.

By Mr. DORNAN:

H.J. Res. 135. Joint resolution to establish a joint committee to oversee the conduct of Operation Joint Endeavor/Task Force Eagle; to the Committee on Rules.

By Mr. GILMAN (for himself, Mr. Yates, Mr. Lantos, Mr. LaTourette, and Mr. Regula):

H. Res. 316. Resolution deploring individuals who deny the historical reality of the Holocaust and commending the vital, ongoing work of the U.S. Holocaust Memorial Museum; to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 104: Mr. Moran.

H.R. 359: Mr. Souder.

H.R. 885: Mr. King and Mr. Houghton.

H.R. 969: Mr. Shaw.

H.R. 1073: Mrs. Clayton.

H.R. 1074: Mrs. Clayton.

H.R. 1305: Mrs. Clayton.

H.R. 1656: Mr. Olver.

H.R. 1674: Mr. Johnson of South Dakota.

H.R. 1972: Mr. McHugh, Mr. Schiff, Mr. Martini, and Mr. Packard.

H.R. 2223: Mr. Zimmer.

H.R. 2246: Mr. Frazer, Mr. Foglietta, Mr. Burr, Mr. Lipinski, and Ms. Pelosi.

H.R. 2309: Mr. Matsui.

H.R. 2406: Mr. Bachus, Mr. King, Mr. Hayworth, Mr. Ney, Mr. Chrysler, and Mr. Stockman.

H.R. 2407: Mr. Zimmer.

H.R. 2531: Mr. Ensign and Mr. Hayworth.

H.R. 2535: Mr. Hancock.

H.R. 2540: Mr. Coburn.

H.R. 2575: Mr. Lewis of Georgia.

H.R. 2579: Mr. Hobson and Mr. Riggs.

H.R. 2632: Mr. Bilirakis.

H.R. 2657: Mr. Ehrlich.

H.R. 2697: Mr. Conyers, Mr. Towns, Mr. Reed, Mr. Sabo, Mr. Waxman, and Mrs. Clayton.

H.R. 2727: Mr. Norwood, Mr. Jacobs, Mr. Stockman, and Mr. Chrysler.

H.R. 2729: Mr. Pastor.

H.R. 2747: Mrs. Kelly and Mr. Clyburn.

H.R. 2757: Mr. Regula, Mr. Wamp, Mr. Wilson, Ms. Pelosi, and Mr. Ney.

H.R. 2785: Mr. Oberstar, Mr. Fazio of California, Ms. Pelosi, Mr. Lipinski, Mr. Sawyer, Mr. Scott, and Mr. Borski.

H.R. 2807: Mr. Gene Green of Texas.

H. Con. Res. 50: Ms. Ros-Lehtinen.

H. Res. 283: Mr. WALSH, Mr. ZIMMER, Mrs. CHENOWETH, and Mr. ROTH.

H. Res. 286: Mr. WARD.

H. Res. 315: Mr. GILMAN, Mr. CLINGER, Mr. PACKARD, Mr. HEFLEY, Mr. LEACH, Mr. VISCLOSKY, Mr. LATHAM, Mr. HEINEMAN, Mr. KNOLLENBERG, and Mr. MANZULLO.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 558

OFFERED BY: MR. BRYANT OF TEXAS

AMENDMENT NO. 1: Page 2, line 9, "(a) IN GENERAL.—" before "The consent", in line 15 strike "and", in line 18 strike the period and insert "; and", and after line 18 insert the following:

(4) is granted subject to the condition described in subsection (b).

(b) CONDITION.—The consent of the Congress to the compact set forth in section 5 is granted on the condition that no compact facility (as defined in section 2.01(3) of the compact) may be sited within an active earthquake zone. For purposes of this subsection, an active earthquake zone is an area within 150 miles from the epicenter of an earthquake which measured in excess of 5.0 on the Richter scale and which occurred in 1995.

H.R. 558

OFFERED BY: MR. COLEMAN

AMENDMENT NO. 2: Page 2, line 9, insert "(a) IN GENERAL.—" before "The consent", in line 15 strike "and", in line 18 strike the period and insert "; and", and after line 18 insert the following:

(4) is granted subject to the condition described in subsection (b).

(b) CONDITION.—The consent of the Congress to the compact set forth in section 5 is granted on the condition that no compact facility (as defined in section 2.01(3) of the compact) may be sited within 60 miles of an international boundary which is a river and which is within an active earthquake zone. For purposes of this subsection, an active earthquake zone is an area within 150 miles from the epicenter of an earthquake which measured in excess of 5.0 on the Richter scale and which occurred in 1995.

EXTENSIONS OF REMARKS

TRANSFORMATION: HELPING THE NEEDY BECOME NON-POOR

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. GINGRICH. On this floor, I've often discussed the book "The Tragedy of American Compassion," where author Marvin Olasky examined over 300 years of what has worked in American social policy. His main point: You do not want to maintain the poor, you want to transform them. The goal of helping is to get them to be non-poor. You help an addict by getting them to give up their addiction. You help an alcoholic by getting them to be a recovering alcoholic. You work to transform people, because if you only maintain them, you will ruin their lives.

One of our colleagues, the gentleman from Maryland, Mr. MFUME, knows more than a little bit about this kind of transformation. His life is a testimony to it. He recently announced his decision to leave this body to assume the Executive Directorship of the National Association for the Advancement of Colored People. His very personal journey is detailed poignantly in Courtland Milloy's excellent column from the Sunday, December 17 Washington Post. As the gentleman embarks on a very different mission of transformation, we wish him well. I submit the Post column into the CONGRESSIONAL RECORD. Certain lessons should transcend either party or ideological lines:

[From the Washington Post, December 17, 1995.]

TRANSFORMED, MFUME LEADS BY EXAMPLE

(By Courtland Milloy)

In explaining his transformation from street dude to political leader, Kweisi Mfume talks of having had a "spiritual experience." This is not to be mistaken for a religious occasion, such as going to church. It's more akin to a spiritual emergency, or crisis, in which Mfume tried for years to change his ways but found willpower alone to be insufficient.

Mfume recalls the days when his name was Frizzell Gray, and how he and his buddies used to stand outside a liquor store in Baltimore, drinking alcohol and telling lies. On one particular night while in his early twenties, he was overpowered by a feeling of ruination, of being a man on a road to nowhere. It was in that moment of truth, he says, that he received the courage and strength, some would say grace, to start a new life.

Now that Mfume has been selected to serve as president of the National Association for the Advancement of Colored People much is being made of the man he became after that night on the street corner. He went on to become a radio disc jockey, a Baltimore city councilman and a member of the U.S. House of Representatives.

But Mfume's true value has little to do with his job descriptions. It is the process of his personal change that holds the key to the transformation of the NAACP; it is the spiritual emergency of Frizzell Gray that points the way to real advancement for African Americans.

"People thought I was crazy," Mfume told Peter J. Boyer of the New Yorker magazine last year. "But that night I left that corner and prayed and asked for God's forgiveness and asked my mother to please forgive me this one time for letting her down. I had let her down—that was not the way I was raised.

"I said that if I had just one more chance, I would never, every again go back to that, and I would try to find a way to atone for it. And I cried on the floor that night on my knees. I made a very real promise to myself, to my mother and to God that night—that if I could just get to that point and get one more chance I would do everything I could do to make a difference."

Mfume had to fight to get off that corner. His former drinking buddies would not let him just walk away. He says they regularly beat him up until they decided that he was a "lost cause" and finally left him alone.

Mfume learned a most important lesson from those struggles: Sometimes you may have to take a fall to take a stand.

Among the most difficult tasks facing Mfume now is redefining the struggle for civil rights; no one seems to know for sure where to go from here. But Mfume has a pretty good idea. His story suggests that we don't have to go anywhere, that we need only stand where we are and begin to treat those around us with courtesy, kindness, justice and love.

"You are not a man because you killed somebody," Mfume said last year during a Father's Day service at St. Edwards Catholic Church in West Baltimore. "You're a man when you know how to heal somebody." As Boyer described the scene, "it was no greeting card homage to dear Dad, but, rather, call to arms in a war for cultural survival."

Some would say that Mfume won that war when he went back to school and earned a high school equivalency degree in 1968. But it was when he began taking responsibility for the children he had fathered out of wedlock that he became a real winner.

Some would say that he won when, as a disc jockey, he stopped playing jock rap music in favor of political dialogue and jazz. But more important was Mfume's newfound attitude of gratitude that had allowed him to work at the radio station as a low-paid gofer until he had learned some skills.

Mfume, now 47, has been elected to Congress five times since 1986. He has served on the powerful House Banking Committee and, in 1992, became chairman of the Congressional Black Caucus.

But he sacrificed a secure job to help resurrect the NAACP, an organization that, for all intents and purposes, is dead. It died the day black Americans forgot where we came from and began to act as if the modicum of success that some of us enjoy had somehow been won through personal charm and good looks instead of the struggles and sacrifice of others.

This misguided sense of self-reliance, brought on in part by a profound ignorance of history, is probably the single most important reason black America has been brought to its knees.

To make his change, Mfume had to admit that he was spiritually bankrupt and that he needed help from a power greater than himself. That honesty paid off with a new consciousness, and his willingness to be of service to his fellow man has resulted in a new energy, insight and intuition worthy of his new name, which means "conquering son of kings."

The NAACP, like much of black America, is in the same boat that Frizzell Gray had been in. But with Mfume at the helm, there is hope that what happened to him can happen to others as well.

TRIBUTE TO SGT. MAJ. JAMES JUSTIN HEINZLER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. SKELTON. Mr. Speaker, today I wish to recognize Cmd. Sgt. Maj. (Ret.) James Justin Heinzler for serving over 42 years in the Missouri Army National Guard. He served from April 22, 1952, to September 11, 1994.

Command Sergeant Major (Ret.) Heinzler's most recent service with the Missouri Army National Guard was with the 1st Battalion, 128th Field Artillery. He served in this position for his last 16 years of service. Throughout his career, he has strongly committed himself to all that is required. He has gone beyond to provide guidance and support for his fellow officers.

He has received numerous military awards throughout his career. The awards are the Army Service Ribbon, the National Defense Service Medal, the Army Reserve Components Achievement Medal with silver oak leaf cluster, the Armed Forces Reserve Medal with three 10 year devices, and the Army Commemoration Medal. He is submitted for the Meritorious Service Medal.

Command Sergeant Major (Ret.) Heinzler has not only provided faithful and dedicated service to the Missouri National Guard, but to his country as well. I urge my colleagues to join me in congratulating him on his service.

THE CLINTON DEFENSE POSTURE WILL RATTLE OUR MILITARY FOR YEARS TO COME

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. CUNNINGHAM. Mr. Speaker, newspapers being delivered across the country are hitting the doorsteps of military families hard

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

enough to rattle their households. The papers, radio, and the television are carrying President Clinton's message that it is no longer worth the trouble to serve your country in the armed services.

Mr. Speaker, this Congress has made the difficult choices that will take this Government to a balanced budget by 2002, while at the same time re-establishing the security of our Nation. Just this week, we sent the President H.R. 1530, a Defense authorization bill that restores a reasonable quality of life for our military, sustains basic military readiness, reinvigorates the Pentagon's efforts to modernize weapons, and makes a downpayment on our effort to make the Pentagon run more like a business.

The bill gets the Pentagon back into the business of defending our country, without a skyrocketing Defense budget.

Despite the fact that this bill includes a long overdue 2.4-percent pay raise, a 5.2-percent increase in housing allowance for our troops and their families, and $35 million to educate children of military personnel, the newspapers now tell us that President Clinton will veto that bill.

Any sergeant, colonel, admiral, or general will tell you that their most important asset is a well-trained and dedicated man or woman. Unfortunately, because of a declining quality of military life and number of broken Government promises, the rank and file soldier and sailor is becoming an increasingly rare asset.

We have American soldiers and sailors trying to feed their families with food stamps. Some of the kids that the President is sending into harm's way in Bosnia are leaving their families behind in housing that is substandard. Clinton's historic 1993 tax hike not only forced more taxes on hard-working middle-income American families—despite a promise to actually cut taxes—it also delayed COLA's for military retirees by three-quarters of a year—breaking a promise that was made to many of those men and women while they served this country overseas and at war. The Defense authorization bill fixes the Clinton COLA grab.

The veterans, retirees, and active military families that I talk to every day tell me that they don't trust the Government anymore. Fully half of this country's new military enlistees come from military families, and those families are beginning to tell their kids that it just isn't worth it. As a 20-year veteran of the U.S. Navy, I dedicated my life and service to this country in exchange for a few promises of pay and benefits. If the Government, led by President Clinton, continues to break those promises and deny a reasonable quality of life, our military families will find it even more difficult to dedicate themselves to military service.

Mr. Speaker, what the President is doing is wrong. I challenge him to change his ways and demonstrate a commitment to our men and women in uniform. At a time when he plans to send over 32,000 troops into war-torn Bosnia, enactment of the Defense authorization bill is a good place to start.

HONORING THE LUDLOW BOY'S SOCCER TEAM'S STATE CHAMPIONSHIP VICTORY

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. NEAL of Massachusetts. Mr. Speaker, today I would like to pay tribute to Coach Tony Goncalves and his Ludlow High School Lions boy's soccer team for their outstanding 4-to-1 victory over Somerville High School to win the Massachusetts Boys Division I State Soccer Championship. The impressive performance by the Lions in the championship capped off a tremendous 17–2–3 campaign for Coach Goncalves and his team and earned them a spot in the top 25 of the Umbro Boys High School Soccer Poll. Over the years Ludlow High School has enjoyed a rich tradition of soccer excellence and this team will certainly be remembered as one of the best in Ludlow High School history.

I would also like to recognize Coach Goncalves' assistants Jack Vilaca, Greg Kolodziey, and Jon Cavallo for their outstanding efforts throughout this championship season. It is the unsung efforts of people like these that often make championships possible, and Ludlow was quite fortunate to be assisted by such able individuals.

Finally, I would like to recognize the players who delivered this spectacular victory: Seniors, Bob Nascimento, Eddie Pires, Rich Huff, John Summerlin, Aaron Majka, Carlos Gomes, Adriano Dos Santos, Wesley Manuel, Chris Goncalves, Mark Eusebio, Jeff Leandro, Juniors, Robe Gomes, Matthew Goncalves, Adriano Genovevo, Danny Elias, Jason Alves, Ryan Lemek, Sophomores, Alex Carvalho, Dave Garcia, Jon Haluch, and Justin Larame.

The achievements of these young men are a tremendous source of pride for not only the town of Ludlow but for the entire Second Congressional District. I am honored to represent such outstanding individuals and I join with the citizens of the Second Congressional District in offering a most heartfelt congratulations. I would also like to wish the returning players the best of luck as they embark on their title defense next season.

HONORING A McCREARY COUNTY LEADER

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. ROGERS. Mr. Speaker, I rise to honor my good friend Napoleon "Nip" Perkins who recently passed away just shy of his 90th birthday. My family and thousands of others throughout McCreary County and southern Kentucky are deeply saddened by this tragic loss.

Our area has lost a topnotch businessman, an inspiring civic and community volunteer, a political leader, and a good friend. He helped everyone he could and always was willing to sacrifice his time for others.

Nip Perkins was a retired land agent and an engineer for Stearns Coal and Lumber Co., where his high energy, friendly style is what always stood out most.

Politics was where Nip was most influential. Serving as a field representative for my two predecessors in Congress, Congressmen Eugene Siler and Tim Lee Carter, he has been a recognized leader for more than seven decades.

Nip was also a great confidant for me, always keeping his ear close to the ground and my best interests at heart. He was wise, informed, and always positive.

Nip served six terms as the McCreary County Republican chairman and was the first inductee of the Fifth Congressional District Lincoln Club Hall of Fame for his honorable and dedicated service.

I could not think of a better person to be our first Hall of Fame inductee.

In addition to his political service, Nip was a former McCreary County master commissioner and served on the County Selective Service Board. He was a 65-year member of the Orie S. Ware Lodge in Stearns and the 32d degree Mason in the Valley of Covington.

My heart goes out to Nip's wife of 62 years, Evelyn Anderson Perkins, and his wonderful family. He was a great friend and a good man, and he will be sorely missed.

ADDRESS BY CAPT. MARTY SMITH

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. SKELTON. Mr. Speaker, On October 14, 1995, Capt. Marty Smith, commander of the U.S.S. *Jefferson City* addressed the annual Mid-Missouri Navy League Navy Birthday Ball in Jefferson City, MO. This speech is set forth herein:

SPEECH GIVEN AT THE 1995 MID-MISSOURI NAVY LEAGUE NAVY BIRTHDAY BALL HELD ON OCTOBER 14, 1995 IN JEFFERSON CITY, MO

Congressman and Mrs. Skelton, President Green, members of the mid-Missouri Navy League, and citizens of Jefferson City, it's a great honor and privilege for me to speak to you all tonight in the ship's namesake city. I, along with my eleven shipmates, have had a wonderful time since we arrived here Friday. Crew members who have been here before have told us of the friendliness and hospitality of the great state of "Missoura", and we are finding it all true. Everyone has been wonderful, starting with Herman Smith and Petty Officer Wall who picked us up in St. Louis early Friday morning, to the host families who have gone out of their way to make us feel like adopted sons.

Well, we missed you all last year, because as most of you know, last October, the ship was in the middle of a Western Pacific deployment, having all sorts of adventures in the Sea of Japan with the Kitty Hawk Battle Group. And yes, next year you'll have toast us in absentia because we'll once again be deployed, this time with the Karl Vinson Battle Group in the Arabian Gulf. Perhaps you'll be able to delay the festivities for awhile until we return in mid-November!

I don't get paid to make speeches, but if there's one thing about public speaking I do know, it's that the hardest audience in the world is a bunch of submariners and submariner supporters sitting around waiting for the speech to end so they can resume the party. So let me just fill you in briefly on what we've been up to in the past year, and what our future schedule holds.

We got back from our maiden deployment last year a couple of days before Christmas, and what a deployment it was * * * So unique, with so many challenges, for such a relatively inexperienced crew. I can't possibly convey to you how proud I was of the crew as they put in 110 percent every single day for six months away from their friends and loved ones. They did such a good job, as a matter of fact, that as Congressman Skelton can tell you, I was asked to give a debrief of the deployment to the top admiral of the Navy, the Chief of Naval Operations, Admiral Boorda. This kind of recognition, by the way, only happens to a very few ships every year. In addition, the crew was awarded a total of 4 Navy Commendation Medals, 25 Navy Achievement Medals, and over 50 Flag Officer Letters of Commendation. I can't give you the details of our deployment, obviously, for security reasons, but JFC, as we're known in message traffic shorthand, accomplished many unique firsts, achieved innovative and significant tactical breakthroughs across the spectrum of submarine operations, including anti-diesel ASW, tomahawk strike warfare, and very shallow water operations. We visited Japan, South Korea, Singapore, Hong Kong for Thanksgiving, and Pearl Harbor on the way home. The crew was underway, underwater, for over 78 percent of the six months, enjoyed great liberty visits, and even found time for a humanitarian project at an orphanage in Singapore. The ship steamed more than 40,000 miles on nuclear power with no major equipment problems, which was especially notable since we had only a single ten-day maintenance period over the entire six months. The contributions Jefferson City made to the Kitty Hawk battle group were real and played a major role in helping Admiral Blair, the Battle Group Commander, to complete his assigned mission—to provide a stabilizing and influential presence in the Western Pacific after the dictator of North Korea, Kim il Sung, died in early July 1994, with no apparent successor. As you may remember, there was more than a little concern because of the leadership void and the vast military forces which North Korea has poised just north of the 39th parallel. So Jefferson City and the rest of the Battle Group remained tethered to the South Korean peninsula, instead of going to the beautiful Arabian gulf, and we followed the traditions of several famous WWII submarines, such as CDR Mush Morton and Electrician's Mate Herman Smith seated in the back there, in seeing just how yellow the yellow sea can be. In recognition of our efforts, Jefferson City received the first of many unit commendations she will undoubtedly receive during her 30-year career, a Meritorious Unit Commendation, which is represented by a ribbon you see on our chests tonight and a pennant which we fly proudly from our sail inport.

Anyway, I or any of the crew here tonight will be glad to answer your questions about the ship or the deployment. We also brought the ship's photo album here, which you're welcome to take a look at. It's too bad that the old COB, Master Chief Harden, isn't here to explain a couple of those pictures!

Since the deployment, Jefferson City has been tasked with several local operations in the Southern California area with other ships and submarines, some torpedo testing in the Pacific Northwest on a couple of trips, a major tactical inspection which we did very well on, and had the distinct pleasure of hosting some of you for a VIP cruise last June. In August we started a 3-month shipyard modernization period in San Diego. Right now the boat is in drydock, getting many improvements, which will make us quieter, faster, and deadlier to our potential adversaries. When Jefferson City returns to sea in late-November, we will head up to Alaska for sound trials and then return to port just before Christmas following a big engineering inspection. In February and March we conduct training exercises with our new boss, the Karl Vinson Battle Group, and then start our second six month deployment in mid-May. And for those of you waiting to visit the ship until we move to Pearl Harbor, Hawaii, that date has been firmed up and is now November of 1997.

You may have also heard about another VIP cruise we hosted, this one for Mr. George Will, the national political columnist who writes in Newsweek and over 250 news papers nationwide. After his cruise he wrote a very impressive essay for Newsweek magazine which resulted in several nice accolades for the ship. I'd like to quote the beginning paragraph from Mr. Will's essay for those of you who didn't get a chance to read it. The back cover page of the Sept 3 issue of Newsweek begins thusly: "Aboard the USS Jefferson City (SSN 759) underway off San Diego—Submariners say there are just two kinds of ships: submarines and targets. Feel free to disagree, but smile when you do, because the 140-man crew of this fast attack nuclear submarine is armed. It carries torpedoes, Harpoon anti-ship missiles for distances torpedoes cannot travel—far over the horizon—and Tomahawk land-attack cruise missiles. (Two submarines of this class, one in the Red Sea and one in the Mediterranean, launched a total of 12 tomahawks during the gulf War). The Jefferson City can cruise quietly at above 25 kts submerged and its acoustic detection systems can find quiet adversaries. The psalmist didn't know the half of it when he wrote that they who go down to the sea in ships see "wonders in the deep." This ship is a wonder of tightly packed technology. End quote. Mr. Will then goes on with an insightful and accurate discussion of the contribution of the nuclear submarine to modern warfare and why the United States needs to keep on the leading edge of undersea warfare, in front of the Russian submarine force and other countries with modern submarines.

What Mr. Will doesn't discuss is the sailor or officer, the Petty Officer Campbell's and the LT Smiths, standing watch, day and night, 6 hrs on and a quick 12 hrs off, for weeks on end away from his friends and loved ones, deep under the ocean's surface. These men and women are something that no country can buy from a Russian army-navy surplus store, and is, and will always be, the difference between the United States Navy and all other navies. These people are why we are here, celebrating the 220th birthday of the greatest navy in the world. Our top boss of the Pacific Fleet, Admiral Zlatoper, who toured our ship last summer in Japan, sent out the following message this past week: quote "The Navy's 220th birthday finds the Pacific Fleet emerging from its restructuring as a lean formidable, combat ready force with a strong commitment of quality of life for our people. America needs its navy more than ever as we contend with regional conflicts, proliferation of weapons, and political uncertainties around the globe. Today the Navy-Marine Corps team is forward-deployed, first on the scene, and flexible enough to respond to almost every contingency from the sea. With fewer U.S. bases overseas and uncertain access to bases of the nations, the Navy will be the primary guarantor of American interests in the Pacific for decades. End quote."

And the Navy needs your continued support as Navy League members, educating the public on the need to maintain a strong maritime armed service and helping to recruit quality people like the officers and crew you see here tonight. I was on a Trident ballistic missile submarine on alert patrol in the Northern Pacific when the Soviet Union dissolved, ending the Cold War. Yet there was no celebration or overt glee—just the feeling that our mission had changed in ways we didn't quite know yet. And today, one gulf war later, the world is not a safer, more stable place for you and your children, but more unstable than ever before. And the United States is the only country which will make the right things happen, when we choose, because our Navy, first on the scene, has the "right stuff." As George Will concludes his Jefferson City essay, "And the history of this century teaches a grim truth: When at peace the nation should always assume that it may be living in what subsequent historians will call "interwar years."

But now I'd like to conclude my remarks so that we can all enjoy these interwar years. (Pause) And I'd like to especially thank Melody Green for her dedicated work as President of the Navy League in maintaining what is undoubtedly one of the strongest and closest ties between a ship and her namesake city. I know that this visit is one of the highlights of my naval career, and I think it is for my crew here tonight as well. Knowing how much you support us, and your warmth and friendship, makes us work a little bit harder every day and puts a proud gleam in our eyes when we say we are on the USS JEFFERSON CITY. On behalf of my crew, I would like to express our heartfelt appreciation for your wonderful hospitality, and your work as members of the Navy League in keeping the United States Navy such that generations to come can continue to enjoy such birthday celebrations as we enjoy tonight. Thank you all very much.

POTABLE DRINKING WATER FOR PARTS OF MONTANA

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. WILLIAMS. Mr. Speaker, today there are folks who are forced several times each week to travel miles to fill tanks and barrels with pure water to drink. The situation I refer to is not somewhere in a Third World country, but—remarkably—in Valley County, Montana. Because groundwater supplies in this part of Montana are not potable, the residents of these communities drive in their trucks for hours each week, both summer and winter, to deliver this water to hundreds of people.

The irony of this situation is that these folks live adjacent to one of the largest bodies of water ever developed by the Federal Government in the West, the Fort Peck Reservoir, which stores over 18 million acre feet. The bill

I am introducing today will authorize the development of a rural municipal water system for the residents of the Fort Peck Rural Water District. This much needed project will tap into Fort Peck Reservoir to construct a safe and reliable drinking system for both municipal and agricultural purposes. When this project is completed, it will also enable this area of Montana to attract economic development, which up to now has been stifled due to the unavailability of water.

Mr. Speaker, the Bureau of Reclamation has completed a needs assessment and feasibility study on this project, and I am proposing its construction through a partnership arrangement where State and local interests will contribute 20 percent of the cost toward its completion. The feasibility study estimates that the total Federal expenditure will be less than $6 million. If we can afford to spend much more than this to help undeveloped nations all around the world to develop safe supplies of drinking water, we can certainly afford to do this for folks living in Montana.

A TRIBUTE TO CARL L. "PAT" PATRICK

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. COLLINS of Georgia. Mr. Speaker, I rise today to pay tribute to a real gentleman of Georgia. Carl L. "Pat" Patrick of Columbus is a man who is known and admired greatly by industrial, civic and community leaders throughout our State. He is the founder and chairman of Carmike Cinemas Inc. which operates movie theaters throughout Georgia and the South.

And while he is known best for his work in the cinema industry, it is his generosity and selfless charitable acts for which I commend this man. Pat and his wife, Frances, have long been supporters of and contributors to Columbus community causes such as Columbus Technical Institute, the Columbus Museum and the John B. Amos Community Cancer Center at the Medical Center.

Pat's most recent contribution, however, is one of his greatest. He donated $1 million to St. Francis Hospital of Columbus—the hospital where his son was born during the facility's first year of operation in 1950. St. Francis now specializes in cardiac medicine and the Patricks want to ensure the hospital is able to purchase the necessary equipment to keep pace with the strides being made in this field.

On a more personal note, when Julie and I received our Christmas card from Pat and Frances this year, we had a most pleasant and touching surprise awaiting us. In addition to the wonderful holiday message, the card informed us that a contribution had been made by the Patricks in our name to the Will Rogers Memorial Fund.

Again, I commend Carl L. "Pat" Patrick. He has touched the lives of so many people in so many ways with his warmth and generosity. Thank you Pat and Frances.

SINGLE-ASSET BANKRUPTCY

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. KNOLLENBERG. Mr. Speaker, I rise today to introduce a bill to address an injustice that exists within title 11 of the United States Code regarding single asset bankruptcies.

This injustice stems back to the 103d Congress when an 11th hour decision placed an arbitrary $4 million ceiling on the single asset provisions of the bankruptcy reform bill. The affect has been to render investors helpless in foreclosures on single assets valued over $4 million.

To rectify this problem, my bill eliminates the $4 million ceiling, thereby allowing creditors the ability to recover their losses. Under the current law, chapter 11 of the Bankruptcy Code becomes a legal shield for the debtor. Upon the investor's filing to foreclose, the debtor preemptively files for chapter 11 protection which postpones foreclosure indefinitely.

While in chapter 11, the debtor continues to collect the rents on the commercial asset. However, the commercial property typically is left to deteriorate and the property taxes go unpaid. When the investor finally recovers the property through the delayed foreclosure, they owe an enormous amount in back taxes, they receive a commercial property left in deterioration which has a lower rent value and resale value, and meanwhile, the rent for all the months or years they were trying to retain the property went to an uncollectible debtor.

My bill does not leave the debtor without protection. First, it is only as a last resort when the investor brings a foreclosure against a debtor. This usually is after all other efforts to reconcile delinquent mortgage payments are unsuccessful. Second, the debtor retains up to 90 days to reorganize under chapter 11. It should be noted, however, that single asset reorganizations are typically a false hope since the owner of a single asset does not have other properties from which he can recapitalize his business.

Finally, Mr. Speaker, my bill helps all American families by making their investments more secure and more valuable. The hardworking American families who depend on their life insurance policies and who have paid for years into their pensions will save millions in reduced costs. My bill protects the "little guy" from being plagued with years of litigation while the commercial property owner continues to collect the rent to line his own pockets.

WHAT'S WRONG ON THE RIGHT

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. GINGRICH. Mr. Speaker, I would like to bring to my colleagues' attention the following article from the "Outlook" section of the December 17 Washington Post. The author, noted Boston University economics professor Glenn Loury, has a valuable lesson for both conservatives and liberals alike. Though condemning the paternalism of the left, which has helped exacerbate the awful conditions of our inner cities, he observes that "a conservatism worthy of majority support would not view with cool indifference a circumstance in which so many Americans suffer such unspeakable degradation." I enter the full article into the CONGRESSIONAL RECORD and urge all my colleagues to read it.

[From the Washington Post, Dec. 17, 1995]

WHAT'S WRONG ON THE RIGHT: SECOND THOUGHTS OF A BLACK CONSERVATIVE

(By Glenn C. Loury)

The recently deceased British writer Kingsley Amis, celebrated by conservatives on both sides of the Atlantic, was never comfortable with political movements nor those who champion them. In the poem, "After Goliath," Amis wryly noted that "* * * even the straightest of issues looks pretty oblique when a movement turns into a clique." As a black American who nevertheless came to call himself a conservative, I have recently watched with growing dismay how this "movement" has dealt with racial issues, and have thereby gained new appreciation for the wisdom of Kingsley Amis.

Looking back, three factors seem to have been paramount in my move toward conservatism. The first attraction was that it was not liberalism. By the end of the 1970s I had become disgusted with the patronizing relativism that white liberals seemed inevitably to bring to questions of race. Wearing their guilt on their sleeves, they were all too ready to "understand" the shortcomings and inadequacies of blacks. Obsessed with the wrongs inflicted by society on the supposedly hapless victims of discrimination, they were blinded to the desperate need of these "victims" to take responsibility for their own lives. They therefore supported and reinforced what I saw as the debilitating tendency among many blacks to avoid facing squarely the real challenges of the post-civil rights era.

There was hypocrisy in this liberal stance. Though advocating racial equality, liberals did not treat blacks and whites as moral equals: Historic oppression precluded blacks from being held accountable for their actions; whites, suffering no such disability, warranted criticism by liberals because they could choose to stop being racists, or to become more generous and compassionate. In effect, the liberals were saying that whites were powerful moral agents, and blacks were pitiable subjects shaped by forces outside themselves. This smacked of racism, and I hated it.

The second attraction of conservatism was that, on the range of policy issues with which I was most concerned, it made intellectual sense to me. As a professional economist, I have always been sensitive to the deep incentive problems that plague the liberal social vision. High taxes, heavy-handed regulation, bureaucratic service provision and expansive social benefits tend to reduce economic growth and foster dependence. Some social programs would always be necessary, of course, but liberals seemed too little concerned about the costs of their ambitions. Moreover, again in the late 1970s, I watched workers in the auto and steel industries price themselves out of their burgeoning international markets while liberals cheered them on. Public employee unions often seemed to be feathering their own nests, with little apparent concern for the public interest, and with the broad support of the Democratic Party.

Finally, the cultural assumptions of social conservatism seemed like an appealing alternative to those of liberal secularism. In no small part, my move to the political right has been a move away from the people on the left who seemed unremittingly hostile to any evocation of spiritual commitments in the public square. With the family disintegrating before our very eyes, liberals could only heap ridicule on "traditional values" advocates who expressed alarm. In the face of over 1 million abortions per year, liberals could find no place in their political lexicon for a discourse on the morality of this course of action in our society.

For all of these reasons, I was drawn to embrace conservatism. Yet now, some years later, these same beliefs are provoking my growing discomfort with the conservative ascendancy, particularly on the issue of race.

It is certainly true that liberals adopted a condescending posture on racial questions. Their methods—such as strong affirmative action leading to racial double standards, or an excessive concern to avoid "blaming the victim" that precluded acknowledgment of social pathology—were definitely flawed. But there was never much doubt that liberals sought to heal the rift in our body politic engendered by the institution of chattel slavery. The liberal goal of securing racial justice in America was, and is, a noble one. I cannot say with confidence that conservatism as a movement is much concerned to pursue that goal.

This is not the old canard that conservatives are inherently racists because believers in states' rights opposed the civil rights revolution. Rather, my concern is that too many conservatives seem blind to the need to constructively engage the problem of racial division. Yet the success of any governing coalition, whether it is the conservative "revolution" or something else, will ultimately depend largely on how well it deals with a problem that cannot be wished away.

It is now fashionable for conservatives to attribute the catastrophe unfolding in the urban ghettos to some combination of mistaken liberal policies and the deficiencies of inner-city residents themselves. Yet a conservatism worthy of majority support in this country would not view with cool indifference a circumstance in which so many Americans suffer such unspeakable degradation, from lack of shelter, health care, education, nutrition or any hope for a better life. The efforts of various conservative writers to attribute this deep-seated, complex problem to the disincentives of federal assistance programs, the so-called pathologies of black culture, or the cognitive disabilities of certain group of Americans, seem designed mainly to rationalize their disengagement from it.

Where is their passion? Where is their moral outrage? In light of the scale of the tragedy unfolding in cities across the land, the narrowly academic and highly ideological posture of conservative intellectuals—who are in effect saying, "Too bad about what's happening, but we told you liberals so"—is simply breathtaking. Is it paranoia for a black to wonder whether this posture toward urban problems would be embraced with such confidence among conservatives if those inner-city hell holes were populated by whites?

Conservatives should view with skepticism the notion that economic or biological factors ultimately underlie behavioral problems like those involving sexuality and parenting. After all, behaviors of this sort reflect people's basic understandings of what gives meaning to their lives. The idea that the mysteries of human motivation within the family are susceptible to calculated intervention by the state would have been rejected out of hand by a classical conservative like Edmund Burke, to whom the phrase "conservative revolution" would have seemed an oxymoron. Yet, today's conservative revolutionaries would have us believe that only by dismantling the federal establishment can the deepest social problems of American society be solved.

I doubt that the most clever of economists (and I know some smart ones) could design an incentive scheme to insure responsible parenting that would work as effectively as the broad acceptance among parents of the idea that they are God's stewards in the lives of their children. The best pregnancy deterrent may be to inculcate in the heart of each adolescent the belief that, as Paul wrote to the Corinthians, "Your body is the temple of the Holy Spirit . . . Therefore, honor God with your body.

There is also wisdom in the New Testament for those conservatives who see in America's black communities another country, separate from and unrelated to the one in which they live, inhabited by a different kind of man. In Acts 10:34–35 one finds Simon Peter saying, "Of a truth I perceive that God is no respecter of persons, but in every nation he that feareth him, and worketh righteousness, is accepted with him." The point here is that the problems observed in the darkest corners of our society are human problems, not racial ones. The fault-line between civilization and barbarism runs down the middle of every human heart, and the grace of God remains available to provide a way out for all who would seek it. While we reject moral relativism, and so stand ready to judge between better and worse ways of living, we should strive to avoid self-righteousness. We certainly should eschew completely any notions of collective, racial condemnation or virtue.

Unfortunately, some conservatives now write about "the problem of black crime," about "the crisis of black illegitimacy," about "the threat of black social pathology." But what has race to do with these problems, per se? I am, of course, keenly aware that the rates of crime and illegitimacy among blacks are substantially higher than among whites. I am merely observing that neither the causes nor the cures of such maladies depend on one's skin color. Which group of Americans are innocent and which are the culprits in these affairs? These are problems of sin, not of skin. I would have thought that religious conservatives would be the ones objecting most strenuously and insistently to this lapse of social virtue on the right. Sadly, they have not been.

It is true that, in the recent history of American social policy, it was liberals who "played the race card" by arguing that the disadvantages of blacks justified race-based remedies. Some liberals even claimed that the self-esteem of black youngsters could not be secured without rewriting history so as to provide minorities with equal time. But, while these liberal efforts are largely discredited, we now find conservatives, with the political initiative in hand, acting to maintain and reinforce this inordinate focus on race.

Thus, when conservatives talk of the "culture of poverty" in reference to urban black communities they miss the deeper truth—that America's real problem is its reluctance to affirm those common moral standards that could guide the behavior of blacks and whites alike. Similarly, one conservative critic now declares victory over Afrocentrists by noting that the latter's search for a black Shakespeare has ended in failure. But surely the larger point is that such a search was unnecessary all along, because Shakespeare belongs every bit as much to the ghetto-dwelling black youngster as he does to the offspring of middle-class whites. Why are conservatives, who make so much of the importance of being "color-blind" in public policy, not the first to stress this point?

There is hypocrisy in this conservative stance. Though advocating race neutrality, conservatives do not treat blacks and whites as moral equals. Critics of affirmative action often invoke Dr. Martin Luther King Jr., who in 1963 said famously, "I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character." It is a corollary of this principle that, when gazing upon Americans who are welfare mothers, juvenile felons or the cognitively deficient, we should see human beings with problems, not races of people plagued by pathology. Yet, as I have argued, conservatives do not always do so.

Perhaps more significantly, this selective remembrance of Dr. King's moral leadership diminishes the challenge which his life, and death, should pose for all Americans. Two years before his most famous speech, in a commencement address at Lincoln University, Dr. King made a less well known reference to his dream for our nation:

"One of the first things we notice in this dream is an amazing universalism. It does not say some men [are created equal], but it says all men. It does not say all white men, but it says all men, which includes black men. . . . And there is another thing we see in this dream that ultimately distinguishes democracy and our form of government from all of the totalitarian regimes that emerge in history. It says that each individual has certain basic rights that are neither conferred by nor derived from the state. To discover where they come from, it is necessary to move back behind the dim mist of eternity, for they are God-given. Very seldom, if ever, in the history of the world has a sociopolitical document expressed in such profoundly eloquent and unequivocal language the dignity and the worth of the human personality. The American dream reminds us that every man is heir to the legacy of worthiness."

This too would be a worthy dream for conservatism: to insure that every American can lay claim to his most precious civic inheritance—a legacy of worthiness. To secure it, conservatives must learn not to look upon poor urban blacks as the Others—aliens apart from and a threat to our civilization. Instead, these Americans should be seen as inseparably interwoven constituents of the larger social fabric.

MESSAGE TO PRESIDENT CLINTON: END IMPASSE, BALANCE THE BUDGET

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday December 20, 1995

Mr. BEREUTER. Mr. Speaker, this Member highly commends to his colleagues this editorial which appeared in the Omaha World-Herald on December 20, 1995:

[From the Omaha World-Herald, Dec. 20, 1995]

MESSAGE TO CLINTON GROWS LOUDER: END IMPASSE, BALANCE THE BUDGET

Wall Street may have accomplished something that the public—which, in opinion surveys, tilted toward President Clinton's position on a balanced budget—had failed to do. Traders and investors sent a strong message to Washington about the urgency of ending the impasse over a balanced budget.

The message came in the form of a decline in the value of stocks and bonds as the street expressed its concern over the collapse of budget negotiations between the White House and GOP congressional leaders. By the end of the day Monday, the White House was setting a new round of talks in motion.

For such indications of urgency have come from the general public. Clinton's approval rating has risen to a two-year high since he began characterizing the GOP budget as an act of cruelty against the poor, the sick and the elderly. Republicans, in effect, have been punished in the polls for trying to keep their 1994 campaign promise to balance the budget.

Not all Democrats, however, were buying the White House line. On the same day that Wall Street roared its disapproval of the impasse, a bipartisan group presented a position paper at a symposium in Minneapolis. The group included former office-holders Paul Tsongas, Richard Lamm, Gary Hart, Tim Penny, Lowell Weicker and John Anderson. All but Weicker and Anderson are Democrats.

Their statement included this "core principle": "We can no longer stay the course, spending more than we earn." They said, "We are maintaining our standard of living by borrowing from our children." They urged that the nation's leaders commit to a policy of economic stability, which means no inflation and no federal budget deficits "to soak up an already inadequate national savings pool."

Sacrifice will be necessary, they said. Among other things, Social Security and Medicare must be reformed to prepare them for the retirement of large numbers of baby boomers after the turn of the century. Clinton has described even the modest adjustments the Republicans have proposed as draconian. He simply must compromise on Medicare and Medicaid, bring himself to take the decisive actions that moderates in his own party are increasingly coming to consider necessary.

Another message was leveled at Washington Tuesday morning. In a "bipartisan appeal from business leaders," published as a newspaper advertisement and carrying the names of more than 90 business executives, Clinton and Congress were urged to remember that the health of the economy rests on the ability of the government to agree on a credible plan.

Among other things, the business leaders said, it's time to accept the economic projections from the Congressional Budget Office—projections that Clinton has opposed because they would allow less spending than the more optimistic White House figures. The bipartisan business leaders also said long-term entitlement spending should be "on the table" for reconsideration, as should any proposed tax cuts.

Little by little, Clinton's attempts to exploit the situation for political gain are being called to account by members of his own party. Something has been needed to neutralize his tacky insistence that the struggle has been between an enlightened, compassionate White House and an evil gang of GOP extremists. Some Democrats have helped set the record straight by adding their voices to bipartisan messages.

LEGISLATION DEPLORING HOLOCAUST DENIERS AND COMMENDING THE HOLOCAUST MEMORIAL MUSEUM, HOUSE RESOLUTION 316

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. GILMAN. Mr. Speaker, I am today introducing a resolution, House Resolution 316, on behalf of myself and my House colleagues on the Holocaust Memorial Museum Council, Mr. YATES, Mr. LATOURETTE, Mr. REGULA, and Mr. LANTOS, which deplores the persistent, ongoing, and malicious efforts by some persons in this country and abroad to deny the historical reality of the Holocaust, and which commends the vital, ongoing work of the U.S. Holocaust Memorial Museum.

Yesterday, the House adopted legislation that will facilitate the museum's annual Days of Remembrance ceremony in the Rotunda on April 16, 1995. Yet, the work of the Holocaust Memorial Museum is conducted year-round, as evidenced by the larger than expected attendance at the museum, which is steadily increasing.

One of the reasons for the museum's existence is to counter Holocaust deniers. Those who promote the denial of the Holocaust do so either out of profound ignorance or for furthering anti-Semitism and racism. The Holocaust Memorial Museum, through its permanent exhibitions, traveling programs, and educational outreach efforts, both memorialize the victims of the Holocaust, and counters these accusers through its honest and sensitive approach to one of the most ferociously heinous state acts the world has ever known.

Accordingly, Mr. Speaker, I request that the full text of the legislation be printed at this point in the CONGRESSIONAL RECORD for my colleagues' review, and urge all Members of the House of Representatives to express their support for the work of the Holocaust Memorial Museum by cosponsoring this legislation, House Resolution 316.

H. RES. 316

Deploring individuals who deny the historical reality of the Holocaust and commending the vital, ongoing work of the United States Holocaust Memorial Museum.

Whereas the Holocaust is a basic fact of history, the denial of which is no less absurd than the denial of the occurrence of the Second World War;

Whereas the Holocaust—the systematic, state-sponsored mass murders by Nazi Germany of 6,000,000 Jews, alongside millions of others, in the name of a perverse racial theory—stands as one of the most ferociously heinous state acts the world has ever known; and

Whereas those who promote the denial of the Holocaust do so out of profound ignorance or for the purpose of furthering anti-Semitism and racism: Now, therefore, be it

Resolved, That the House of Representatives—

(1) deplores the persistent, ongoing and malicious efforts by some persons in this country and abroad to deny the historical reality of the Holocaust; and

(2) commends the vital, ongoing work of the United States Holocaust Memorial Museum, which memorializes the victims of the Holocaust and teaches all who are willing to learn profoundly compelling and universally resonant moral lessons.

H.R. 1804, THE JUDGE ISAAC PARKER FEDERAL BUILDING

HON. Y. TIM HUTCHINSON

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. HUTCHINSON. Mr. Speaker, recently the House passed H.R. 1804, which would name the Federal building in Fort Smith, AR, after Judge Issac Parker.

While this legislation was overwhelmingly supported by 373 Members of the House, there were 40 Members who voted against H.R. 1804. It was subsequently reported that a number of Members who voted against the bill did so because they believed Judge Parker was a racist and one was even quoted as saying Parker "Hung blacks because they were black."

This past year our country faced the issue of race in ways it never had before. It is a sad and unfortunate fact that racism is alive and well in our society today. It is also a fact that racism knows no color or ethnic boundaries. People of all races are subject to their own prejudices. We must all fight to overcome our own personal prejudices and biases.

That is why I cannot allow the statements about Judge Parker to go unanswered. I think it is important for people to know the real Judge Parker and the man that he was. He was a man who was ahead of his time. He was a man who freely gave of himself to his community. He was a man who had a deep respect for the law and a deep concern for those who came before his court. His reputation is so respected that 100 years after his death the citizens of Fort Smith, AR still want to honor him and his legacy.

I would, therefore, bring to your attention letters which were sent to me from the Department of the Interior the day after the vote on H.R. 1804. One is from the superintendent of the Fort Smith National Historic Site and the other is a letter to the editor by the park historian. I hope this information is helpful to Members' understanding of the real Judge Parker.

U.S. DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE,
Fort Smith, AR, December 6, 1995.

Hon. TIM HUTCHINSON,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE HUTCHINSON: We have been following your efforts over the last few months to rename the Fort Smith federal building in honor of Judge Isaac C. Parker with great interest and support. I read the news article in this morning's paper and was surprised and disappointed to read the statements calling Judge Parker a racist and the unsubstantiated remarks that he hanged blacks "just because they were black". There is no historical record supporting these statements. In fact the record proves just the opposite. Our historian has written the attached letter to the editor to hopefully clarify the issue. She also received a call today from the AP service in Little Rock about this and she provided the same information to them. We are forwarding similar letters to Senators Bumpers and Pryor in the hopes that they will also support your efforts.

I am sorry that we did not offer you more substantial support earlier in the process. I was frankly surprised that there would be much protest. If we can provide you any further details or information please call on us. Thank you.

Sincerely,

WILLIAM N. BLACK,
Superintendent.

U.S. DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
Fort Smith, AR, December 6, 1995.

EDITOR,
Southwest Times Record,
Fort Smith, AR.

TO THE EDITOR: In response to criticism of Isaac C. Parker leveled by lawmakers opposing the House bill to name the federal courthouse in Fort Smith after the judge, I would like to make the following comments. The statement that Parker hanged African Americans "just because they were black" is simply not true. Of the 87 men who were executed on the Fort Smith gallows (79 of those while Parker was on the bench), 33 (38%) were white, 36 (41%) were Indian and 18 (21%) were black. Of those 18 African Americans, 17 were convicted of murder and one of rape in jury trials. Federal statute at that time ordered that anyone convicted of rape or murder was to receive the death penalty. Parker had no choice except to sentence these people to death.

Furthermore, Parker provided opportunities for African Americans that otherwise would not have been available. He appointed Bass Reeves the first African American deputy U.S. marshal west of the Mississippi in 1875. Other blacks served prominently on the deputy force throughout Parker's years in Fort Smith, including Grant Johnson, Zeke Miller, Robert Fortune, John Garrett and Bynum Colbert. Parker's personal bailiff while he was in Fort Smith was a former slave named George Winston. Other African Americans served on the staff of the federal jail at Fort Smith.

Nothing in the historical record supports the idea that Parker was a racist. The Ohio native, Union Civil War veteran and Congressman from Missouri used his position as a federal judge to empower African Americans. Yes, there were black men hanged on the gallows, but these were convicted criminals guilty of severe crimes. By the time they reach Parker's courtroom, there was little he could do but provide them a fair trial and then, if necessary, sentence them as the law provided.

Sincerely,

JULIET L. GALONSKA,
Park Historian.

AWARD-WINNING ENVIRONMENTAL CONSCIOUSNESS

HON. JAMES A. BARCIA

OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 20, 1995

Mr. BARCIA. Mr. Speaker, one of the most important issues for the future of our Nation is the application of responsible environmental policy. Our natural resources are most precious, and cannot be replaced. Our policy decisions must be based upon careful deliberations sounded in credible, objective, and thorough information. I am proud to say that the Bay City Times has been tremendously successful in meeting this test with its award-winning series, "Cleaning our Troubled Waters".

Over an 8-day period last year, the Bay City Times carefully examined the facts surrounding the condition of the Saginaw Bay and Saginaw River. The State of Michigan had dedicated this waterway as the most contaminated body of water in the State. The people who live around the Saginaw Bay and River, and who depend upon it as a source of water, recreation, and commerce, deserved and needed accurate information, and they got it.

Nearly half of the editorial staff of the Times worked on this series over a 10-month period, carefully checking and rechecking information to provide as accurate a view of the situation as possible. Their hard work resulted in four major awards: the 1994 Associated Press Division 2 News Sweepstakes Award; 1st place in the 1994 AP Division 2 Public Service for News; Michigan United Conservation Club's Ben East Award; and 2d place for Local News Reporting from the Michigan Press Association.

Following an exhaustive review of environmental records, numerous site visits, extensive interviews, this series has enlightened many of us who truly care about how we preserve the Saginaw Water Basin, how we keep funding alive for the Saginaw Bay Watershed Initiative, and what each of us can do to be more aware of the impact that we have on our environment.

I want to offer my heartiest congratulations to the dedicated staff who worked on this series: Reporters Eric English, Kelly Adrian Frick, Tom Gilchrist, Greta Guest, Lydia Hodges, John Herbst, Jenni Laidman, and Amy Reyes; photographers Wes Stafford and Dick Van Nostrand; graphic artist Tammie Stimpfel; and editors Elizabeth Gunther, Pam Panchak and David Vizard. These people contributed to the work of a lifetime, and their efforts should have a major impact on public policy designed to safeguard the Saginaw Bay and River. I also want to compliment Bay City Times publisher Kevin Dykema and editor Paul Keep for having the foresight to devote this level of skilled resources to a project that could be very unpopular, but was, nonetheless, vital for the long-term environmental health of our area.

Mr. Speaker, in this instance a marvelous case was made to justify action to preserve a vital resource. All communities should be so lucky to have such a thorough and professional review of a vital resource. I urge you and all of our colleagues to join me in complimenting the Bay City Times and its award-winning staff for truly trying to help clean our troubled waters.

TRAVEL AND TOURISM PARTNERSHIP ACT

HON. TOBY ROTH

OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 20, 1995

Mr. ROTH. Mr. Speaker, as chairman of the Congressional Travel and Tourism Caucus, I ask all Members to support H.R. 2579.

Embodied in this bill are some of the boldest new ideas to ever come out of the private sector.

H.R. 2579 will strengthen U.S. tourism promotion efforts in a expanding and highly-competitive international market.

Our bill builds on the strength of the travel and tourism industry, rather than putting another item on the Federal Government's tab.

The 1,700 delegates to the White House Conference on Travel and Tourism have already endorsed our public-private partnership plan that does just that.

Some in Congress may ask why it is so critical that we focus on tourism, particularly tourism from abroad.

I can tell you in very clear terms—this is a $535 billion business.

But this year, we will have 2 million fewer visitors from abroad than 2 years ago.

What is 2 million visitors here or there?

That drop has cost us 177,000 jobs which should have gone to American workers.

H.R. 2579, the Travel and Tourism Partnership Act would change this.

Through partnering government with the resources and creative talents of the American tourism industry, we can recapture our share of the world market.

For future jobs and economic growth in your district, join me in supporting this ground breaking legislation.

COMMUNITY OF IMLAY CITY

HON. DALE E. KILDEE

OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 20, 1995

Mr. KILDEE. Mr. Speaker, I rise to ask my colleagues to join me in paying tribute to the citizens of Imlay City, MI, as they celebrate the official opening of their new city office building.

In 1850 the Township of Imlay first was recognized by an act of the Michigan Legislature. As the area developed, it became apparent to the city officials that they must plan for the future, and therefore on April 14, 1872, Imlay City was incorporated. Since that time the population has grown from less than 500 to approximately 3,000 residents.

The first city office building was finished in 1904, the second was opened in 1975; this third facility is to be dedicated today, December 20, 1995. Planning for this facility has been long in the works with the many and growing needs of the community taken into account in order that this new building will serve for many years to come. As planning began, the city commission and city manager were particularly concerned and committed to making sure that the building would be accessible to all their residents and be in compliance with the Americans with Disabilities Act.

I stand before my colleagues today to compliment all the citizens of Imlay City on the opening of their new city office building that is dedicated to serving the needs of all the residents.

TRIBUTE TO CONGRESSMAN JOHN DINGELL ON THE 40TH ANNIVERSARY OF HIS ELECTION TO CONGRESS

HON. ALAN B. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. MOLLOHAN. Mr. Speaker, I am delighted to join my colleagues in paying tribute to the dean of this House and a very good friend, Congressman JOHN D. DINGELL.

JOHN DINGELL is, without question, one of the most respected Members of this institution. And so it is highly appropriate that we gather to recognize his remarkable 40-year record of service and achievement.

When you look at that record, you have to marvel at Congressman DINGELL's sphere of influence, for it is far reaching.

Most Members of Congress, either through conscious choice or subconscious tendency, choose a level at which to focus their energies. For some, it is on national policies. For others, it is on local issues. It is rare to find a legislator who has the energy, the intellect, and the political savvy to do both.

JOHN DINGELL is just such a legislator, one who shapes national policies and works with great diligence for Michigan's 16th District.

I would invite you to first look at the national policy arena, where JOHN DINGELL has worked to better the lives of the American people through his powerful committee position.

He has been—and remains—an effective advocate of consumers and taxapayes, whose interests he vigilantly defends. He also has worked to help disabled Americans gain access that the rest of us sometimes take for granted. And his service has benefited all who value a healthy environment and the protection of rare lands and species.

Closer to home, well, the citizens of the 16th are hardworking people; people who understand and appreciate the value of a hardworking Representative. That's why, 20 times and by overwhelming margins, they've chosen JOHN DINGELL as their voice here in the Nation's Capital.

And he's a powerful voice for them. Congressman DINGELL works hard here to protect Michigan jobs and create new ones. He fights for working families, for veterans, for seniors, for students. He also has developed important environmental initiatives on local waterways.

Finally, I would like to point out that this House, too, benefits greatly from Mr. DINGELL's service. He is a man of integrity. Of course, he is also a tremendous source of institutional knowledge. And he is a master of House rules and procedures. I am honored to serve with him and count him as a personal friend.

Let me note again, Mr. Speaker, that it is a true pleasure to recognize the gentleman from Michigan and commemorate his four decades of distinguished service.

THANK YOU FOR THE GIFT FROM PETER NICHOLAS TO DUKE UNIVERSITY

HON. DAVID FUNDERBURK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. FUNDERBURK. Mr. Speaker, my district is proud to be the home of Duke University, one of our Nation's finest institutions of higher education. On December 7, that university happily announced a gift of $20 million from the family of Peter M. Nicholas, a Massachusetts business executive and trustee of the university as well as the founder and president of Boston Scientific, a leading manufacturer of medical devices. His family's gift will support Duke University's School of the Environment, which the university has renamed in honor of the Nicholas family.

The Nicholas School of the Environment is unique among university programs dedicated to environmental research and education, in that it bases its approach to complex environmental problems in an interdisciplinary perspective. As a former academic myself, I know that a broad focus grounded in the insight and understanding of different scientific disciplines provides a powerful way of unraveling the most complicated problems. Other institutions tend to approach problems of the environment from either a scientific or public policy perspective, and advances in understanding our environment have certainly come from this traditional approach. But my constituents at Duke are excited about the potential that is offered by looking at environmental problems from an interdisciplinary perspective including natural sciences, public policy, economics, and management. I too share their optimism, and look forward to hearing of significant advances made at the Nicholas School of the Environment.

At the university's news conference announcing the gift, there were many comments made about the importance of the school's programs of research and education, and about the importance to all life on earth of understanding our environment better. However, when asked the reasons why his family had chosen to make this generous gift to support environmental research and education at Duke, Peter Nicholas stressed an important theme that echoes something many of us in public service have been saying.

"Government * * * can't do everything. What the government is trying to do is come to terms with what its role is with respect to the priorities of the country," Mr. Nicholas said.

Mr. Nicholas went on to note his belief that educational institutions have a responsibility to help understand issues, set priorities, "and then galvanize the resource that exists throughout society—industrial, academic, government and others—to in fact make a difference."

"I think we shouldn't misinterpret what our government is saying," Mr. Nicholas continued. "[I]t is clear that the government has a leadership role in terms of being sure that we understand what our priorities are, what the urgencies are, as it relates to the environment," he said. "It is also important that the ground rules and the incentives are in place at the federal level to ensure that behavior by all elements of our society is consistent with what everyone's goals are. But it is not clear that it is a central government role to fund the environment objectives that we have."

Mr. Nicholas' comments at Duke, and, more important, his family's gift of $20 million for the university's school of the environment, constitute a welcome signal that some leaders of the private sector understand and appreciate the value of the partnership by government, academia, and industry in problem solving. His words, and his family's personal investment in that effort, are thus worthy of note by this body, and I commend them to my colleagues in the House.

TRIBUTE TO DON FAUROT, UNIVERSITY OF MISSOURI TIGERS FOOTBALL COACH

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. SKELTON. Mr. Speaker, today I rise to pay tribute to Don Faurot, a legendary figure in University of Missouri athletics, who died on October 19, 1995. He was 93.

Don Faurot, who coached the Tigers football team from 1935 through 1956, was credited with creating the split-T formation at Missouri in 1941.

He was 101–79–10 in his coaching career.

Coach Faurot's 1939 team won his first Big Six title and the Tigers' first trip to the Orange Bowl. As an 8-year-old boy, I was present in Miami, FL, when his M.U. team played Georgia Tech.

Missouri's football stadium is named for him.

Through the years, he had continued to attend every Missouri home game.

Coach Faurot, who set the cornerstone for the Missouri football program that exists today, was even more respected for the integrity he brought to the game.

"If everybody in collegiate athletics was a Don Faurot," Big Ten Commissioner Wayne Duke once said, "then collegiate athletics would be what it is supposed to be."

Don Faurot was born in Mountain Grove, MO, on June 23, 1902. Despite losing the first two fingers on his right hand in a boyhood farming accident, he was a 145-pound fullback at Missouri in 1923 and 1924, and played basketball and baseball.

He took over the football program at Missouri in 1935 after coaching 9 years at Kirksville State Teachers College, now Northeast Missouri State University. At Kirksville, his teams went 26–0 from 1923–32, the best small college record in the country.

When he returned to Missouri, he took over a team that had won just two games in 3 years and the athletic program was $500,000 in debt.

Under Faurot's direction, though, the Tigers won three conference titles and went to four bowl games. When he retired as athletic director in 1967, the program was in the black and the stadium's seating capacity had doubled to more than 50,000.

This despite rigorously adhering to recruiting policies and relying primarily on homegrown players.

"If you lose with home-state boys, that's bad," he said. "But if you lose with out-of-state boys, that's terrible. If you win with imported athletes, that's good. If you win with your own, that's great."

A member of football's National Hall of Fame and the Missouri Sports Hall of Fame, Faurot remained active in his later years as talent procurer and coach for the Blue-Gray game in Montgomery, AL, and as executive secretary of the Missouri Senior Golf Assocation.

In 1972, Coach Faurot received what probably ranked as his greatest personal honor when the Missouri football stadium was officially named Faurot Field.

In 1926, Don Faurot, an agricultural student at Missouri, helped lay sod for the field, then known as Memorial Stadium.

Coach Faurot is survived by his wife, Mary, of Columbia, three daughters, seven grandchildren, and a brother, Fred, of Columbia.

JUSTICE , COMMERCE, STATE APPROPRIATIONS

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Ms. JACKSON-LEE of Texas. Mr. Speaker, I arise today to express my great disappointment that this appropriation bill would replace the COPS programs, which have enjoyed such unequivocal support, with a law enforcement block grant. In my congressional district in Houston, TX, the COPS programs have placed 529 more officers on our streets. The COPS programs have played an integral part in reclaiming our neighborhoods.

Throughout the Nation, in the course of 1 year alone, the COPS programs have been a proven success and have enabled local law enforcement to hire or redeploy 25,933 new community policing officers, who will serve 80 percent of all Americans.

The COPS program has guaranteed more patrol police for our neighborhoods and cities, but the block grant which replaces the COPS program would jeopardize this guarantee and goes against the promise that the U.S. Congress made to the American people under the Violent Crime Control Act of 1994.

Community policing has been successful at meeting public safety needs. Having police officers on foot patrol fosters stronger bonds between community residents and police officers. This partnership is particularly important at a time when there are many heightened tensions between law enforcement officers and residents of inner-city neighborhoods. The National Organization of Black Law Enforcement [NOBLE] has supported community policing as the only hope to regain the trust and respect necessary to providing quality police service to our citizens in many of these neighborhoods.

Local law enforcement groups across the Nation have unequivocally endorsed the COPS programs. The majority of Americans also support community policing. In August 1995, the National Association of Police Organizations survey found that the American public overwhelmingly supports the COPS program over block grants to State and local governments for public safety use by 65 percent to 35 percent.

Community police patrols are an essential line of defense against crime. We need to maintain our national commitment to carry out our promise of safety and increased police manpower.

The public wants us to listen and not play politics with a program that is a proven success story. The COPS program has worked—keep it working to help prevent crime.

Additionally, as a member of the women's caucus I fought for dollars for the program fighting against violence against women. If we pass a clean continuing resolution we will keep that money.

A TRIBUTE TO JOHN BUTLER, T.L.C. MEDICAL SERVICES, INC.

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. WALSH. Mr. Speaker, I would ask my colleagues in the House of Representatives today to join me in paying special tribute to an industrious individual with a good heart. A constituent of mine who in addition to dedicating his life to a business which saves people's lives, has shown the ingenuity to rise above the hundreds who provide a similar service by coming up with an idea that helps drunk drivers help themselves back to respectability.

The man's name is David J. Butler of T.L.C. Medical Services, Inc., an ambulance service in Cortland, NY. Mr. Butler recently was honored by his peers in the American Ambulance Association when he won the Public Safety Program Award in a national competition.

Working in conjunction with the Cortland County district attorney and the county sheriff, Mr. Butler developed a program which allowed first-time DWI offenders who were not involved in a serious infraction connected with their offense to benefit from a plea bargain which required them to do community service.

The community service, as you might guess, was to ride with ambulance personnel to drinking-related calls so as to experience, while sober, the devastating effect alcohol can have on drivers and on domestic situations

The program is called Riding for Life. |t is to the credit of David J. Butler, who 22 years ago acquired his ambulance company and since then has shown what commitment means. He has increased the number of ambulances and other vehicles, and he still works very hard himself.

Mr. Butler is a civic leader in central New York. I am very proud to call him a neighbor and thank my colleagues for acknowledging his accomplishment.

PERSONAL EXPLANATION

HON. DEBORAH PRYCE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Ms. PRYCE. Mr. Speaker, due to inclement weather in my district, I was unavoidably detained and not able to vote earlier this week. Had I been present, I would have voted "aye" on rollcall No. 866, "aye" on rollcall No. 867, "aye" on rollcall No. 868, "no" on rollcall No. 869, and "aye" on rollcall No. 870.

CORRESPONDENCE WITH ROLF EKEUS OF UNSCOM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. HAMILTON. Mr. Speaker, on November 1, 1995 I wrote to Mr. Rolf Ekeus, the Executive Chairman of the Office of the U.N. Special Commission [UNSCOM] in charge of weapons destruction and monitoring in Iraq. My basic question was: Why doesn't UNSCOM release the names of companies providing dual-use or military items to Iraq?

Mr. Ekeus' basic answer is that UNSCOM cannot carry out its weapons dismantlement tasks without the help of sovereign governments, sovereign governments—often because of ongoing legal cases—want to control the release of information about companies, and releasing the names of companies without the approval of sovereign governments will undermine the ability of UNSCOM to carry out its important mission.

I appreciate Mr. Ekeus' response, but I am still of the belief that sunshine is a powerful deterrent, and I will want to pursue this question further.

The text of the correspondence follows:

COMMITTEE ON
INTERNATIONAL RELATIONS,
Washington, DC, November 1, 1995.

Hon. ROLF EKEUS
Chairman, U.N. Special Commission on Iraq, United Nations Headquarters, New York, N.Y.

DEAR MR. CHAIRMAN: I write with respect to the question of companies that supplied or are supplying dual-use goods, services or technology to Iraq, and the use of those dual-use items in Iraq's programs to build weapons of mass destruction.

At the time of the creation of UNSCOM by UN Security Council Resolution 687 in April, 1991, it had been my impression, from both you and from U.S. officials, that the names of companies supplying dual-use items to Iraq eventually would be made public. Thus far, to my knowledge, no such list has been made public.

I continue to think that it is important to make a list of all such companies public, on the theory that sunshine is the best deterrent of such transfers of dual-use items in the future.

I would like to ask a number of questions:

1. Why has a list of companies supplying dual-use items to Iraq not been made public?

When will a list of such companies be made public?

2. What is the policy of UNSCOM on the publication of such a list of companies?

Does UNSCOM set policy on disclosure of names of companies itself, or is it acting on instructions of the Security Council or members of the Security Council?

Is it the policy of UNSCOM to defer to individual governments on the publication of such information? If so, why?

3. Do you agree that the publication of such a list of companies would serve as an important deterrent on future dealings with Iraq in dual-use items?

What steps can be taken to bring about the publication of such a list?

What additional steps can be taken to deter future transfers of dual-use items to Iraq?

Thank you for your time and attention, and I look forward to your early reply.

With best regards,
Sincerely,
LEE H. HAMILTON,
Ranking Democratic Member.

UNITED NATIONS
SPECIAL COMMISSION,
December 14, 1995.

Hon. LEE H. HAMILTON,
Ranking Democratic Member, Committee on International Relations; House of Representatives, Washington, DC.

DEAR CONGRESSMAN HAMILTON: Thank you for your letter of 1 November 1995. I appreciate your letting me know of your concerns and inviting me to give my response. I regret the delay in this letter, but I was away from the United States much of November, principally in the Gulf region.

Your personal attention to our mission is highly appreciated and important as Iraq's insistent efforts in retaining and reacquiring weapons of mass destruction is and should remain of public concern.

Given the importance of foreign acquisition for Iraq's WMD programmes, the Special Commission gives priority to the task of securing as much information as possible on foreign suppliers to Iraq. It is especially important to map out Iraq's supplier network. In this respect, UNSCOM has so far been quite successful, thanks very much to the support from governments of those States from which supplier companies have been operating. Each case of export to Iraq of prohibited or dual-use items has to be carefully explored and investigated. Access to the companies concerned is crucial for the indepth investigation. To get such access, UNSCOM has in practice to get the approval of the government concerned. Otherwise, governments would, no doubt, be upset were UNSCOM to initiate investigations without consent on their national territory. Our experience is that governments are cautious in providing access, and that without government support to the Commission's investigations, companies are at liberty to refuse talking to our experts. Over time, the Special Commission has learnt that a primary concern of governments appears to be the question of confidentiality. This requirement is applied almost on a universal basis. It means that if data like the name and identity of a company, and of the country of a supplier could be suspected to be published, the government would refuse access for investigation of the company concerned. Without government pressure, the supplier company would tend to be even more uncooperative. Thus, publication of data on supplier companies would have a devastating effect on the continuous and future efforts by the Special Commission to effectively block Iraq from retaining or reacquiring proscribed weapons.

These explanations should serve to set the background to the answer to your first question, namely that at the present, it is not advisable for the Special Commission to make public the names of foreign suppliers.

Concerning the policy of the Special Commission on the publication of names of suppliers, I can state that the data on suppliers are kept safely within the Headquarters in New York. Information concerning a supplier is, as a matter of policy, shared with the government of the supplier-country, with requests for further information (through interviews with visits and/or interrogation) of the company concerned.

This policy was originally formulated by the Special Commission and presented in briefings to the Security Council. A strong and vigorous support for the policy so defined has been the answer to these briefings.

I agree that the publication of a list on the names of supplier companies could serve as a deterrent on future dealings with Iraq in dual-use items. But such a publication would at the same time bring an end to practically all efforts of the Special Commission to get indispensable support and intelligence from the governments and information from the named companies. That would seriously compromise the task of the Special Commission to identify and eliminate all proscribed weapons in Iraq.

When our policy was originated, it was considered that publication of a list of names of companies could lead to certain presumptions which might very well be unjustified. Prior to the Gulf War, there was no ban on many of the dual-use items and chemicals exported to Iraq. Furthermore, Iraq frequently used agents and front companies to purchase items which were banned or controlled under certain multilateral export control systems, and resorted to false declarations as to destination and end-user. The supplier company, in such circumstances, could have been completely ignorant of the ultimate destination of the items concerned. It is because of these difficulties that the Special Commission reports the name of a company, which it identifies as the source of now proscribed items or materials in Iraq, only to the government in which that company is established. The government then, in most cases, assists in the investigation of the circumstances, of the export concerned and, where those circumstances so justify, undertakes prosecution of the offender. The Special Commission can support such prosecution through the supply of evidence in its possession and, in certain circumstances, through the provision of expert witnesses. Prosecution of a company, which is necessarily public, is surely the most powerful deterrent in convincing other companies not to engage in illegal trade. The Special Commission has every reason to believe that its policy has led to its gaining a much wider knowledge of Iraq's procurement networks, and the names of many more suppliers, than would otherwise have been the case. The cooperation with governments which has been obtained, and national prosecutions which have or are taking place, testify to the effectiveness of the policy. A complete understanding of Iraq's supplier networks is the most potent instrument in preventing the reactivation of these networks. The Special Commission already has evidence of certain attempts by Iraq to do so and has been able to prevent the export or to interdict the items concerned on their way to, or upon their arrival in Iraq.

In addition to measures already taken, especially those under the plans approved by the Security Council, the most effective step to deter future transfers to Iraq of dual-use items would be the early adoption by the Security Council of a resolution approving the mechanism for export/import control of Iraq designed by UNSCOM and the IAEA. Under the mechanism, all states would be obliged to notify UNSCOM and the IAEA of intended exports (including transshipment) to Iraq of such items. The proposed mechanism has just been transmitted to the Security Council where we hope for very early action.

I would be happy to meet with you on one of my visits to Washington to explain this matter further to you if you consider this would be useful. One of your staff could telephone my office at (212) 963-3018 to make arrangements.

Yours sincerely,
ROLF EKEUS,
Executive Chairman,
Office of the Special Commission.

HONORING MAYOR ROBERT ROSEGARTEN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my constituents and the members of the Great Neck Lawyers Association as they meet to present Robert Rosegarten, mayor of the village of Great Neck Plaza with their most prestigious Community Service Award.

While maintaining an active business enterprise, Mayor Robert Rosegarten established a model of civic responsibility and participation that served to enhance the lives of all the citizens of Great Neck. He has received both State and national acclaim for developing the economic revitalization programs in the downtown shopping region of Great Neck Plaza and for his work to enhance the beautification of Great Neck Plaza. He has served as mayor of the village of Great Neck Plaza since 1992, and as its deputy mayor for 8 years. Under his leadership, the village of Great Neck Plaza has emerged as an effective municipal government with many of its programs being replicated throughout New York State.

In his role of enhancing the village of Great Neck Plaza, Mayor Rosegarten has shared his many talents with a wide array of community organizations providing both leadership and creativity in addressing community concerns. Among his many community roles, Mayor Rosegarten serves as president of the Great Neck Village Officials Organization, commissioner of the Great Neck Central Police Auxiliary, and board member of Great Neck's United Community Fund, Chamber of Commerce, and the Great Neck Arts Center. In addition, he is the vice-president of the Great Neck Plaza Management Council and director of the Water Authority of Great Neck North. In 1988, Mayor Rosegarten received the Great Neck United Community Fund's prestigious Leo M. Friend Award for community service.

Mayor Rosegarten's guiding tenet in public service has been to make a positive difference in the lives of his village's citizens. In that undertaking, he has dramatically succeeded. I am most proud to join with so many in honoring him.

THE REPUBLICANS' ATTEMPT TO DISGUISE THE PRESIDENT'S PROPOSAL

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. STOKES. Mr. Speaker, I rise in recognition of the Republicans' attempt to draw attention away from their life threatening budget, by attacking the President's budget proposal, are trying to disguise his proposal as a legislative measure. The President continues to be upfront with the Republicans. He has openly voiced his commitment to protecting Medicare, Medicaid, education, and the environment. And, the President has openly warned the GOP that he will veto measures which threaten the quality of life of the American people.

Yet, for some reason, our Republican colleagues just don't get it. What does it take for them to realize that they cannot hide from their budget massacre. The GOP budget will adversely affect the lives of millions of children, seniors, the disabled, veterans, and families across the country.

No matter how many times the Republicans show that they can pass a measure that will devastate the lives of the American people for generations to come—still does not make it right. As we gather here now, to vote on the Republicans' spin on the President's budget, the GOP is attempting to take the American people through another smoke and mirror budget maze.

Mr. Speaker, we do not have time for more of the GOP's pranks. The time the Republicans are wasting here today should be being invested in completing action on the rest of the appropriations bills that are needed to reopen the Federal Government. If the Republican budget could stand on its own merit, the GOP would not have to resort to extremist tactics like we see here today. This action, coupled with the Republicans' politically staged shutdown of the Federal Government, to avoid real debate and serious negotiations on their budget, is not only ridiculous, it is in fact irresponsible.

The American people must be asking themselves, when will the Republicans stop playing games with our lives: When will the Republicans take the needs of the American people seriously? And, most important, are the Republicans capable of negotiating, and passing a budget that is compassionate to children, seniors, the disabled, veterans, and hard-working families?

Mr. Speaker, so far the Republicans' positive response to these critical questions remains to be seen. I urge my colleagues to put an end to the Republicans' pranks, and to strongly urge our Republican colleagues to negotiate a compassionate budget. The American people deserve nothing less.

RETIREMENT OF JOHN M. COLLINS FROM THE CONGRESSIONAL RESEARCH SERVICE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. SKELTON. Mr. Speaker, I rise today to salute a distinguished servant of the Congress and the Nation in the area of national defense and national security. On Wednesday, January 3, 1996, John M. Collins will retire after 22½ years as the Senior Specialist in National Defense of the Congressional Research Service, Library of Congress. Since 1972, Mr. Collins has provided authoritative, in-depth, and profound analysis and advice to the Congress on a range of national defense issues unparalleled in its breadth and scope.

Mr. Collins' retirement closes a lifetime of Government service which mirrors the tumultuous history of the past 50-odd years. A native, I am proud to say, of my State of Missouri, he began his public service with his enlistment in the U.S. Army in May 1942—after being rejected by the Marine Corps, a fact he reiterates with great delight and good humor to numerous marines and friends over the years. As a young enlisted soldier he came ashore over the Normandy beaches a few days after D-day, in 1944. As a captain he served in the Korean war. As a colonel he served as Chief of the Campaign Planning Group in General Westmoreland's headquarters in Vietnam during 1967–68—managing to get involved in, and survive as the winner, a point-blank shootout with a North Vietnamese soldier in the ruins of Hue City in early 1968.

In between these wartime duties he served in intelligence and contingency planning posts in Japan and the Middle East; training assignments in the United States; commanded a battalion in the 82d Airborne Division; was one of the principal planners for the possible invasion of Cuba which, fortunately, never had to take place during the fateful days of the Cuban missile crisis in October–November 1962; and graduated from the Industrial College of the Armed Forces. He closed his 30-year Army career as a faculty member and chief of the strategic studies group at the National War College during 1968–72.

Immediately upon retirement from the Army, Colonel Collins joined the Congressional Research Service as Senior Specialist in National Defense. From the beginning of his CRS career he showed a willingness to examine fundamental assumptions. One of his first CRS reports examined whether the strategic nuclear triad of bombers, ground-based ICBM's, and submarine-launched ballistic missiles had been arrived at rationally, and whether it was in fact the only possible method of constructing U.S. strategic nuclear forces. At the height of the first Arab oil embargo, in 1975, he and a CRS coauthor, Clyde Mark, poured cold water on the idea that seizing Arab oil fields by military force would be an easy task. He wrote a book-length examination of overall U.S. defense planning processes, and how they might be improved.

John Collins' single greatest service to the Congress and the Nation, however, was provided in the form of a series of book-length reports, beginning in 1976 and running through 1985, which meticulously documented the relentless military buildup and geostrategic expansion of the Soviet Union and its client states in almost every category of military power and area of the world. His comparisons of United States-Soviet military forces, together with the respective allies of both countries, demonstrated with clarity and precision how American military capabilities, relative to our interests, were steadily declining, and those of the Soviet Union were increasing. Widely read, quoted, and debated, John Collins' works on the United States-Soviet military balance unquestionably played a role in persuading the American people and their elected representatives that, by the early 1980's, major increases in United States military forces and defense spending were required to restore our national credibility and deter and prevent Soviet expansionism. This was not an easy time for John Collins. Some were not happy with what he had to say about the shifting balance of military power in favor of the Soviet Union, and he had to withstand considerable bureaucratic and political pressure to continue to do his job. However, those who exerted such pressure against him are gone. He and his works remain.

By helping alert the country to the growing menace of Soviet military power in the late 1970's and early 1980's, Mr. Collins also said to have played a role in the ultimate demise of the Soviet Union and the Warsaw Pact. Without the American military resurgence of the 1980's, it is difficult to see how the Soviet military-political juggernaut of the mid and late 1970's could have been halted, turned inward, and forced to collapse of its own internal strains. Indeed, in October 1985, only a few months after Gorbachev assumed power in the Soviet Union, he presciently suggested that "the whole Soviet security apparatus in Central Europe is coming unraveled."[1]

The thawing of the cold war and the eventual demise of the Soviet Union and the Warsaw Pact in no way lessened Mr. Collins' output. He produced authoritative studies of military space forces, United States and Soviet special operations forces, lessons learned from America's small wars, and a host of other reports and analyses. During the Persian Gulf war, he was frequently interviewed on national and international radio and television, and wrote numerous short analyses of possible issues and problems related to war with Iraq. At one point, well over a hundred congressional staffers gathered to listen with rapt attention to this veteran of three wars outline not the possible nature of a ground war with Iraq—not just in academic, and analytical terms, but how ground combat was "close up, and personal, and dirty." Within the past few years, his talents have turned to as diverse a set of subjects as counterproliferation, U.S. prepositioned military equipment, nonlethal weapons, and criteria for U.S. military intervention overseas. His last CRS report, finished just days ago, deals with the military aspects of NATO enlargement.

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[1] Collins, John M. What Have We Got for $1 Trillion? The Washington Quarterly, Spring 1986: 49, based on testimony before the Defense Policy Panel, House Armed Services Committee, October 9, 1985.

Mr. Speaker, although John Collins is completing almost 54 years of total Federal service when he retires from CRS, he has no intention of remaining inactive. General Shalikashvili, Chairman of the Joint Chiefs of Staff, has had the eminent good sense to agree to provide Mr. Collins with some office and study space at the National Defense University at Fort McNair. With the time he now will have, plus the assistance from DOD, Mr. Collins intends to write books on military geography and military strategy. He will have more time to spend with his wife Gloria, to whom he has dedicated many of his books; his son Sean, holder of a doctorate in aeronautical and astronautical engineering from MIT, and a contributor to national defense and security in his own right in the field of ballistic missile defense; and his grandchildren.

Few people have devoted so much of a long life to the service of the United States as has John Collins. I wish him well as he enters yet another stage of that service.

OPPOSES SECURITIES LITIGATION CONFERENCE REPORT VETO OVERRIDE

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. DE FAZIO. Mr. Speaker, I strongly oppose the motion to override the President's veto of the Securities Litigation Conference Report.

The laws governing securities litigation can certainly stand to be improved, but the language of this conference report does much more harm than good. This legislation—written by and for the large securities firms—is antismall investor and antiworking family.

The conference report reduces consumers protection. An investors ability and right to sue unscrupulous securities firms should not be stifled or circumscribed by Congress. For example, the language includes a sweeping loser pays provision that will make it extremely difficult for anyone without a multimillion dollar trust fund to challenge a large corporation in court.

Supporters of this legislation claim that there is an explosion of frivolous suits. The fact is that the number of securities class action suits has shrunk over the past 20 years. During the last several years, suits have been filed against only 120 companies annually—out of over 14,000 public corporations reporting to the SEC.

The President was correct in his veto. This conference report goes against the interests of working people and small investors. I sincerely hope that the Congress will sustain the veto that we can then enact true reform of our Nation's securities litigation laws.

OPPORTUNITIES TO CHANGE

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Ms. MOLINARI. Mr. Speaker, I would like to commend the December 8, 1995, editorial from one of my local papers, the New York Post, which sums up exactly a sentiment most of us, I think, feel about Newt Gingrich. In these times of overt partisanship, the editors write that they,

> [H]ope that Gingrich takes heart, stands his ground and stays the course. Opportunities to change the direction in American politics don't come around often; and if the Republicans don't succeed in disrupting business as usual in Washington now, the chance will likely pass.

We have no choice, for the sake of our children, but to balance the budget and I urge Speaker GINGRICH to continue his effort to focus this Nation into realizing fiscal sanity.

[From the New York Post, Dec. 8, 1995]

THE GINGRICH INQUISITION

House Minority Leader David Bonior (D-Mich.) and other congressional Democrats have been trying for more than half a decade to pin ethics violations on Speaker Newt Gingrich. To this end, they and their allies in the land of the left leveled endless charges against Gingrich. Indeed, over the course of the last 15 months, the House Ethics Committee has considered 65 separate counts.

On Wednesday, the committee ruled that with respect to 64, the speaker has been completely or partially exonerated. (It should be noted that one of these charges turned on Gingrich's book contract with HarperCollins, a publishing concern owned by News Corp., which is also this newspaper's corporate parent.)

Only one of the 65 charges was deemed worthy of further exploration by an independent counsel. Pardon us if we suggest that this six-year fishing expedition has produced decidedly unimpressive results.

The committee voted to retain a special counsel to explore whether or not the speaker violated the law by using tax-deductible contributions to finance a college course he taught at Kennesaw State University in Georgia. Gingrich has expressed confidence that he will be fully exonerated on this seemingly narrow and highly technical charge. In light of the fate of all the other accusations lodged against him, it's hard not to credit this possibility. Many critics on both sides of aisle have contended that, in general, the standards for appointing independent counsels are exceedingly low; the Ethics Committee's decision here would seem to confirm this observation.

It is worth recognizing a distinction between the ethics problems allegedly swirling around Gingrich and those that brought down ex-House Speaker Jim Wright, a Democrat. The latter came under investigation after years of abusing his power. While Gingrich (as a back-bencher) played a leading role in the campaign against Wright, even loyal Democrats—in the end—couldn't ignore the ex-speaker's transgressions.

House Democrats, by contrast, have tried to demonize Gingrich ever since his success in that effort. And from the day the Georgia Republican became speaker, the "get Newt" campaign has been a central concern of the official Democratic party leadership.

Such prejudgment suggests that what bothers Bonior & Co. about Gingrich has nothing to do with whether or not tax-deductible contributions were mistakenly used to help finance his political science lectures at Kennesaw State. The Democrats object to the fact that Gingrich—the most able parliamentarian in recent memory—is an energetic conservative who's mounted a serious challenge to the national ideological status quo.

Similarly, it is not the mere existence of the speaker's political action committee, GOPAC, that disturbs the Democrats (though they are, in fact, urging the special counsel to expand his inquiry to include some of GOPAC's activities). What really distresses the Democratic leadership is the fact that Gingrich has used GOPAC to forge a spirited GOP congressional majority that's serious about welfare reform, tax reduction and shrinking the power of the federal government.

To a considerable extent, the Ethics Committee's willingness to order just one charge probed vindicates the speaker. We hope, therefore, that Gingrich takes heart, stands his ground and stays the course. Opportunities to change the direction in American politics don't come around often; and if the Republicans don't succeed in disrupting business as usual in Washington now, the chance will likely pass.

HOUSE JOINT RESOLUTION 134 MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1996

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 20, 1995

Mr. STOKES. Mr. Speaker, I rise in support of H.J. Res. 134, a measure that will provide the payment of compensation and pension benefits for our Nation's veterans and their families for fiscal year 1996. I am glad to see that my colleagues on the other side of the aisle are at least concerned about some aspect of their obligation to these patriots who answered the call of their Nation.

Despite the fact that this resolution has a noble objective, it is clearly incomplete. It simply does not go far enough. While our veterans and their families will be somewhat comforted by the passage of this resolution, who will give some financial assurance to the millions of Americans who continue to face uncertain futures because Congress has not fulfilled its obligations regarding the remaining appropriations bills? These remaining bills, which are not included in this resolution, are so harmful and unreasonable that the President has had to veto them and no action has been taken by the House to improve them or continue them in a continuing resolution.

Take for example, the Labor-HHS-Education appropriations bill. Action on this measure is still pending. While the Department of Health and Human Services is closed, Medicare and Medicaid applications cannot be processed. While the Department of Labor is closed, unemployment applications cannot be processed.

In addition, the drastic cuts in the appropriations measure for the Department of Education will deny critical resources to schools and communities across the country. The $1.1 billion cut in title 1 will deny over one million children the basic assistance they need in math and reading. The 50 percent cut in safe and drug free schools will take away the resources necessary to provide children a safe, crime free, and violence free classroom in which to attend school.

While we take these steps to assist our veterans, the threat to our environment continues to intensify. Because the VA-HUD-and Independent Agencies appropriations bill is not completed, environmental protection and oversight has come to a screeching halt. There is no enforcement of the Nation's environmental laws—laws that protect our water and air. Polluters are going unchecked everyday that the EPA is closed. Furthermore, the level of cuts proposed for EPA in the FY96 appropriations bill deprives our children of clean and safe environment.

Mr. Speaker, the list of vital programs that enhance the quality of life for all Americans is far greater than just that of veterans compensation and pension programs. What we are doing for America's veterans tonight is the right thing to do. We should do the right thing for all Americans and pass a clean continuing resolution.

HOUSE OF REPRESENTATIVES—*Thursday, December 21, 1995*

CONFERENCE REPORT ON H.R. 4, PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY ACT OF 1995

Mr. ARCHER submitted the following conference report and statement on Wednesday, December 20, 1995, on the bill (H.R. 4) to restore the American family, reduce illegitimacy, control welfare spending, and reduce welfare dependence:

CONFERENCE REPORT (H. REPT. 104–430)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4), to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Personal Responsibility and Work Opportunity Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—BLOCK GRANTS FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

Sec. 101. Findings.
Sec. 102. Reference to Social Security Act.
Sec. 103. Block grants to States.
Sec. 104. Services provided by charitable, religious, or private organizations.
Sec. 105. Census data on grandparents as primary caregivers for their grandchildren.
Sec. 106. Report on data processing.
Sec. 107. Study on alternative outcomes measures.
Sec. 108. Conforming amendments to the Social Security Act.
Sec. 109. Conforming amendments to the Food Stamp Act of 1977 and related provisions.
Sec. 110. Conforming amendments to other laws.
Sec. 111. Development of prototype of counterfeit-resistant social security card required.
Sec. 112. Disclosure of receipt of Federal funds.
Sec. 113. Modifications to the job opportunities for certain low-income individuals program.
Sec. 114. Medicaid eligibility under title IV of the Social Security Act.
Sec. 115. Secretarial submission of legislative proposal for technical and conforming amendments.
Sec. 116. Effective date; transition rule.

TITLE II—SUPPLEMENTAL SECURITY INCOME

Sec. 200. Reference to Social Security Act.

Subtitle A—Eligibility Restrictions

Sec. 201. Denial of SSI benefits for 10 years to individuals found to have fraudulently misrepresented residence in order to obtain benefits simultaneously in 2 or more States.
Sec. 202. Denial of SSI benefits for fugitive felons and probation and parole violators.

Subtitle B—Benefits for Disabled Children

Sec. 211. Definition and eligibility rules.
Sec. 212. Eligibility redeterminations and continuing disability reviews.
Sec. 213. Additional accountability requirements.
Sec. 214. Reduction in cash benefits payable to institutionalized individuals whose medical costs are covered by private insurance.
Sec. 215. Regulations.

Subtitle C—State Supplementation Programs

Sec. 221. Repeal of maintenance of effort requirements applicable to optional State programs for supplementation of SSI benefits.

Subtitle D—Studies Regarding Supplemental Security Income Program

Sec. 231. Annual report on the supplemental security income program.
Sec. 232. Study of disability determination process.
Sec. 233. Study by General Accounting Office.

Subtitle E—National Commission on the Future of Disability

Sec. 241. Establishment.
Sec. 242. Duties of the Commission.
Sec. 243. Membership.
Sec. 244. Staff and support services.
Sec. 245. Powers of Commission.
Sec. 246. Reports.
Sec. 247. Termination.
Sec. 248. Authorization of appropriations.

Subtitle F—Retirement Age Eligibility

Sec. 251. Eligibility for supplemental security income benefits based on social security retirement age.

TITLE III—CHILD SUPPORT

Sec. 300. Reference to Social Security Act.

Subtitle A—Eligibility for Services; Distribution of Payments

Sec. 301. State obligation to provide child support enforcement services.
Sec. 302. Distribution of child support collections.
Sec. 303. Privacy safeguards.
Sec. 304. Rights to notification and hearings.

Subtitle B—Locate and Case Tracking

Sec. 311. State case registry.
Sec. 312. Collection and disbursement of support payments.
Sec. 313. State directory of new hires.
Sec. 314. Amendments concerning income withholding.
Sec. 315. Locator information from interstate networks.
Sec. 316. Expansion of the Federal parent locator service.
Sec. 317. Collection and use of social security numbers for use in child support enforcement.

Subtitle C—Streamlining and Uniformity of Procedures

Sec. 321. Adoption of uniform State laws.
Sec. 322. Improvements to full faith and credit for child support orders.
Sec. 323. Administrative enforcement in interstate cases.
Sec. 324. Use of forms in interstate enforcement.
Sec. 325. State laws providing expedited procedures.

Subtitle D—Paternity Establishment

Sec. 331. State laws concerning paternity establishment.
Sec. 332. Outreach for voluntary paternity establishment.
Sec. 333. Cooperation by applicants for and recipients of temporary family assistance.

Subtitle E—Program Administration and Funding

Sec. 341. Performance-based incentives and penalties.
Sec. 342. Federal and State reviews and audits.
Sec. 343. Required reporting procedures.
Sec. 344. Automated data processing requirements.
Sec. 345. Technical assistance.
Sec. 346. Reports and data collection by the Secretary.

Subtitle F—Establishment and Modification of Support Orders

Sec. 351. Simplified process for review and adjustment of child support orders.
Sec. 352. Furnishing consumer reports for certain purposes relating to child support.
Sec. 353. Nonliability for financial institutions providing financial records to State child support enforcement agencies in child support cases.

Subtitle G—Enforcement of Support Orders

Sec. 361. Internal Revenue Service collection of arrearages.
Sec. 362. Authority to collect support from Federal employees.
Sec. 363. Enforcement of child support obligations of members of the Armed Forces.
Sec. 364. Voiding of fraudulent transfers.
Sec. 365. Work requirement for persons owing past-due child support.
Sec. 366. Definition of support order.
Sec. 367. Reporting arrearages to credit bureaus.
Sec. 368. Liens.
Sec. 369. State law authorizing suspension of licenses.
Sec. 370. Denial of passports for nonpayment of child support.
Sec. 371. International child support enforcement.
Sec. 372. Financial institution data matches.
Sec. 373. Enforcement of orders against paternal or maternal grandparents in cases of minor parents.
Sec. 374. Nondischargeability in bankruptcy of certain debts for the support of a child.

Subtitle H—Medical Support

Sec. 376. Correction to ERISA definition of medical child support order.
Sec. 377. Enforcement of orders for health care coverage.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Subtitle I—Enhancing Responsibility and Opportunity for Non-Residential Parents

Sec. 381. Grants to States for access and visitation programs.

Subtitle J—Effect of Enactment

Sec. 391. Effective dates.

TITLE IV—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

Sec. 400. Statements of national policy concerning welfare and immigration.

Subtitle A—Eligibility for Federal Benefits

Sec. 401. Aliens who are not qualified aliens ineligible for Federal public benefits.
Sec. 402. Limited eligibility of certain qualified aliens for certain Federal programs.
Sec. 403. Five-year limited eligibility of qualified aliens for Federal means-tested public benefit.
Sec. 404. Notification and information reporting.

Subtitle B—Eligibility for State and Local Public Benefits Programs

Sec. 411. Aliens who are not qualified aliens or nonimmigrants ineligible for State and local public benefits.
Sec. 412. State authority to limit eligibility of qualified aliens for State public benefits.

Subtitle C—Attribution of Income and Affidavits of Support

Sec. 421. Federal attribution of sponsor's income and resources to alien.
Sec. 422. Authority for States to provide for attribution of sponsors income and resources to the alien with respect to State programs.
Sec. 423. Requirements for sponsor's affidavit of support.
Sec. 424. Cosignature of alien student loans.

Subtitle D—General Provisions

Sec. 431. Definitions.
Sec. 432. Reapplication for SSI benefits.
Sec. 433. Verification of eligibility for Federal public benefits.
Sec. 434. Statutory construction.
Sec. 435. Communication between State and local government agencies, and the Immigration and Naturalization Service.
Sec. 436. Qualifying quarters.

Subtitle E—Conforming Amendments

Sec. 441. Conforming amendments relating to assisted housing.

TITLE V—REDUCTIONS IN FEDERAL GOVERNMENT POSITIONS

Sec. 501. Reductions.
Sec. 502. Reductions in Federal bureaucracy.
Sec. 503. Reducing personnel in Washington, D.C. Area.

TITLE VI—REFORM OF PUBLIC HOUSING

Sec. 601. Failure to comply with other welfare and public assistance programs.
Sec. 602. Fraud under means-tested welfare and public assistance programs.
Sec. 603. Effective date.

TITLE VII—CHILD PROTECTION BLOCK GRANT PROGRAM AND FOSTER CARE AND ADOPTION ASSISTANCE

Subtitle A—Block Grants to States for the Protection of Children and Matching Payments for Foster Care and Adoption Assistance

Sec. 701. Establishment of program.
Sec. 702. Conforming amendments.
Sec. 703. Transfer and amendment to foster care protection requirement.
Sec. 704. Effective date; transition rule.
Sec. 705. Sense of the Congress regarding timely adoption of children.

Subtitle B—Child and Family Services Block Grant

Sec. 751. Child and family services block grant.
Sec. 752. Reauthorizations.
Sec. 753. Repeals.

TITLE VIII—CHILD CARE

Sec. 801. Short title and references.
Sec. 802. Goals.
Sec. 803. Authorization of appropriations.
Sec. 804. Lead agency.
Sec. 805. Application and plan.
Sec. 806. Limitation on State allotments.
Sec. 807. Activities to improve the quality of child care.
Sec. 808. Repeal of early childhood development and before- and after-school care requirement.
Sec. 809. Administration and enforcement.
Sec. 810. Payments.
Sec. 811. Annual report and audits.
Sec. 812. Report by the Secretary.
Sec. 813. Allotments.
Sec. 814. Definitions.
Sec. 815. Repeals.

TITLE IX—CHILD NUTRITION PROGRAMS

Subtitle A—National School Lunch Act

Sec. 901. State disbursement to schools.
Sec. 902. Nutritional and other program requirements.
Sec. 903. Free and reduced price policy statement.
Sec. 904. Special assistance.
Sec. 905. Miscellaneous provisions and definitions.
Sec. 906. Summer food service program for children.
Sec. 907. Commodity distribution.
Sec. 908. Child care food program.
Sec. 909. Pilot projects.
Sec. 910. Reduction of paperwork.
Sec. 911. Information on income eligibility.
Sec. 912. Nutrition guidance for child nutrition programs.
Sec. 913. Information clearinghouse.
Sec. 914. School nutrition optional block grant demonstration program.

Subtitle B—Child Nutrition Act of 1966

Sec. 921. Special milk program.
Sec. 922. Free and reduced price policy statement.
Sec. 923. School breakfast program authorization.
Sec. 924. State administrative expenses.
Sec. 925. Regulations.
Sec. 926. Prohibitions.
Sec. 927. Miscellaneous provisions and definitions.
Sec. 928. Accounts and records.
Sec. 929. Special supplemental nutrition program for women, infants, and children.
Sec. 930. Cash grants for nutrition education.
Sec. 931. Nutrition education and training.
Sec. 932. Breastfeeding promotion program.

TITLE X—FOOD STAMPS AND COMMODITY DISTRIBUTION

Sec. 1001. Short title.

Subtitle A—Food Stamp Program

Sec. 1011. Definition of certification period.
Sec. 1012. Definition of coupon.
Sec. 1013. Treatment of children living at home.
Sec. 1014. Optional additional criteria for separate household determinations.
Sec. 1015. Adjustment of thrifty food plan.
Sec. 1016. Definition of homeless individual.
Sec. 1017. State option for eligibility standards.
Sec. 1018. Earnings of students.
Sec. 1019. Energy assistance.
Sec. 1020. Deductions from income.
Sec. 1021. Vehicle allowance.
Sec. 1022. Vendor payments for transitional housing counted as income.
Sec. 1023. Doubled penalties for violating food stamp program requirements.
Sec. 1024. Disqualification of convicted individuals.
Sec. 1025. Disqualification.
Sec. 1026. Caretaker exemption.
Sec. 1027. Employment and training.
Sec. 1028. Comparable treatment for disqualification.
Sec. 1029. Disqualification for receipt of multiple food stamp benefits.
Sec. 1030. Disqualification of fleeing felons.
Sec. 1031. Cooperation with child support agencies.
Sec. 1032. Disqualification relating to child support arrears.
Sec. 1033. Work requirement.
Sec. 1034. Encourage electronic benefit transfer systems.
Sec. 1035. Value of minimum allotment.
Sec. 1036. Benefits on recertification.
Sec. 1037. Optional combined allotment for expedited households.
Sec. 1038. Failure to comply with other means-tested public assistance programs.
Sec. 1039. Allotments for households residing in centers.
Sec. 1040. Condition precedent for approval of retail food stores and wholesale food concerns.
Sec. 1041. Authority to establish authorization periods.
Sec. 1042. Information for verifying eligibility for authorization.
Sec. 1043. Waiting period for stores that fail to meet authorization criteria.
Sec. 1044. Operation of food stamp offices.
Sec. 1045. State employee and training standards.
Sec. 1046. Exchange of law enforcement information.
Sec. 1047. Expedited coupon service.
Sec. 1048. Withdrawing fair hearing requests.
Sec. 1049. Income, eligibility, and immigration status verification systems.
Sec. 1050. Disqualification of retailers who intentionally submit falsified applications.
Sec. 1051. Disqualification of retailers who are disqualified under the WIC program.
Sec. 1052. Collection of overissuances.
Sec. 1053. Authority to suspend stores violating program requirements pending administrative and judicial review.
Sec. 1054. Expanded criminal forfeiture for violations.
Sec. 1055. Limitation of Federal match.
Sec. 1056. Standards for administration.
Sec. 1057. Work supplementation or support program.
Sec. 1058. Waiver authority.
Sec. 1059. Authorization of pilot projects.
Sec. 1060. Response to waivers.
Sec. 1061. Employment initiatives program.
Sec. 1062. Adjustable food stamp cap.
Sec. 1063. Reauthorization of Puerto Rico nutrition assistance program.
Sec. 1064. Simplified food stamp program.
Sec. 1065. State food assistance block grant.
Sec. 1066. American Samoa.
Sec. 1067. Assistance for community food projects.

Subtitle B—Commodity Distribution Programs

Sec. 1071. Commodity distribution program; commodity supplemental food program.
Sec. 1072. Emergency food assistance program.
Sec. 1073. Food bank demonstration project.
Sec. 1074. Hunger prevention programs.
Sec. 1075. Report on entitlement commodity processing.
Sec. 1076. National commodity processing.

TITLE XI—MISCELLANEOUS

Subtitle A—General Provisions

Sec. 1101. Expenditure of Federal funds in accordance with laws and procedures applicable to expenditure of State funds.
Sec. 1102. Elimination of housing assistance with respect to fugitive felons and probation and parole violators.
Sec. 1103. Sense of the Senate regarding enterprise zones.
Sec. 1104. Sense of the Senate regarding the inability of the non-custodial parent to pay child support.
Sec. 1105. Food stamp eligibility.
Sec. 1106. Establishing national goals to prevent teenage pregnancies.
Sec. 1107. Sense of the Senate regarding enforcement of statutory rape laws.
Sec. 1108. Sanctioning for testing positive for controlled substances.
Sec. 1109. Abstinence education.
Sec. 1110. Provisions to encourage electronic benefit transfer systems.
Sec. 1111. Reduction in block grants to States for social services.

TITLE I—BLOCK GRANTS FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

SEC. 101. FINDINGS.

The Congress makes the following findings:

(1) Marriage is the foundation of a successful society.

(2) Marriage is an essential institution of a successful society which promotes the interests of children.

(3) Promotion of responsible fatherhood and motherhood is integral to successful child rearing and the well-being of children.

(4) In 1992, only 54 percent of single-parent families with children had a child support order established and, of that 54 percent, only about one-half received the full amount due. Of the cases enforced through the public child support enforcement system, only 18 percent of the caseload has a collection.

(5) The number of individuals receiving aid to families with dependent children (in this section referred to as "AFDC") has more than tripled since 1965. More than two-thirds of these recipients are children. Eighty-nine percent of children receiving AFDC benefits now live in homes in which no father is present.

(A)(i) The average monthly number of children receiving AFDC benefits—

(I) was 3,300,000 in 1965;

(II) was 6,200,000 in 1970;

(III) was 7,400,000 in 1980; and

(IV) was 9,300,000 in 1992.

(ii) While the number of children receiving AFDC benefits increased nearly threefold between 1965 and 1992, the total number of children in the United States aged 0 to 18 has declined by 5.5 percent.

(B) The Department of Health and Human Services has estimated that 12,000,000 children will receive AFDC benefits within 10 years.

(C) The increase in the number of children receiving public assistance is closely related to the increase in births to unmarried women. Between 1970 and 1991, the percentage of live births to unmarried women increased nearly threefold, from 10.7 percent to 29.5 percent.

(6) The increase of out-of-wedlock pregnancies and births is well documented as follows:

(A) It is estimated that the rate of nonmarital teen pregnancy rose 23 percent from 54 pregnancies per 1,000 unmarried teenagers in 1976 to 66.7 pregnancies in 1991. The overall rate of nonmarital pregnancy rose 14 percent from 90.8 pregnancies per 1,000 unmarried women in 1980 to 103 in both 1991 and 1992. In contrast, the overall pregnancy rate for married couples decreased 7.3 percent between 1980 and 1991, from 126.9 pregnancies per 1,000 married women in 1980 to 117.6 pregnancies in 1991.

(B) The total of all out-of-wedlock births between 1970 and 1991 has risen from 10.7 percent to 29.5 percent and if the current trend continues, 50 percent of all births by the year 2015 will be out-of-wedlock.

(7) The negative consequences of an out-of-wedlock birth on the mother, the child, the family, and society are well documented as follows:

(A) Young women 17 and under who give birth outside of marriage are more likely to go on public assistance and to spend more years on welfare once enrolled. These combined effects of "younger and longer" increase total AFDC costs per household by 25 percent to 30 percent for 17-year olds.

(B) Children born out-of-wedlock have a substantially higher risk of being born at a very low or moderately low birth weight.

(C) Children born out-of-wedlock are more likely to experience low verbal cognitive attainment, as well as more child abuse, and neglect.

(D) Children born out-of-wedlock were more likely to have lower cognitive scores, lower educational aspirations, and a greater likelihood of becoming teenage parents themselves.

(E) Being born out-of-wedlock significantly reduces the chances of the child growing up to have an intact marriage.

(F) Children born out-of-wedlock are 3 times more likely to be on welfare when they grow up.

(8) Currently 35 percent of children in single-parent homes were born out-of-wedlock, nearly the same percentage as that of children in single-parent homes whose parents are divorced (37 percent). While many parents find themselves, through divorce or tragic circumstances beyond their control, facing the difficult task of raising children alone, nevertheless, the negative consequences of raising children in single-parent homes are well documented as follows:

(A) Only 9 percent of married-couple families with children under 18 years of age have income below the national poverty level. In contrast, 46 percent of female-headed households with children under 18 years of age are below the national poverty level.

(B) Among single-parent families, nearly ½ of the mothers who never married received AFDC while only ⅕ of divorced mothers received AFDC.

(C) Children born into families receiving welfare assistance are 3 times more likely to be on welfare when they reach adulthood than children not born into families receiving welfare.

(D) Mothers under 20 years of age are at the greatest risk of bearing low-birth-weight babies.

(E) The younger the single parent mother, the less likely she is to finish high school.

(F) Young women who have children before finishing high school are more likely to receive welfare assistance for a longer period of time.

(G) Between 1985 and 1990, the public cost of births to teenage mothers under the aid to families with dependent children program, the food stamp program, and the medicaid program has been estimated at $120,000,000,000.

(H) The absence of a father in the life of a child has a negative effect on school performance and peer adjustment.

(I) Children of teenage single parents have lower cognitive scores, lower educational aspirations, and a greater likelihood of becoming teenage parents themselves.

(J) Children of single-parent homes are 3 times more likely to fail and repeat a year in grade school than are children from intact 2-parent families.

(K) Children from single-parent homes are almost 4 times more likely to be expelled or suspended from school.

(L) Neighborhoods with larger percentages of youth aged 12 through 20 and areas with higher percentages of single-parent households have higher rates of violent crime.

(M) Of those youth held for criminal offenses within the State juvenile justice system, only 29.8 percent lived primarily in a home with both parents. In contrast to these incarcerated youth, 73.9 percent of the 62,800,000 children in the Nation's resident population were living with both parents.

(9) Therefore, in light of this demonstration of the crisis in our Nation, it is the sense of the Congress that prevention of out-of-wedlock pregnancy and reduction in out-of-wedlock birth are very important Government interests and the policy contained in part A of title IV of the Social Security Act (as amended by section 103 of this Act) is intended to address the crisis.

SEC. 102. REFERENCE TO SOCIAL SECURITY ACT.

Except as otherwise specifically provided, wherever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

SEC. 103. BLOCK GRANTS TO STATES.

Part A of title IV (42 U.S.C. 601 et seq.) is amended to read as follows:

"PART A—BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

"SEC. 401. PURPOSE.

"(a) IN GENERAL.—The purpose of this part is to increase the flexibility of States in operating a program designed to—

"(1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

"(2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

"(3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and

"(4) encourage the formation and maintenance of two-parent families.

"(b) NO INDIVIDUAL ENTITLEMENT.—This part shall not be interpreted to entitle any individual or family to assistance under any State program funded under this part.

"SEC. 402. ELIGIBLE STATES; STATE PLAN.

"(a) IN GENERAL.—As used in this part, the term 'eligible State' means, with respect to a fiscal year, a State that, during the 2-year period immediately preceding the fiscal year, has submitted to the Secretary a plan that includes the following:

"(1) OUTLINE OF FAMILY ASSISTANCE PROGRAM.—

"(A) GENERAL PROVISIONS.—A written document that outlines how the State intends to do the following:

"(i) Conduct a program, designed to serve all political subdivisions in the State, that provides assistance to needy families with (or expecting) children and provides parents with job preparation, work, and support services to enable them to leave the program and become self-sufficient.

"(ii) Require a parent or caretaker receiving assistance under the program to engage in work (as defined by the State) once the State determines the parent or caretaker is ready to engage in work, or once the parent or caretaker has received assistance under the program for 24 months (whether or not consecutive), whichever is earlier.

"(iii) Ensure that parents and caretakers receiving assistance under the program engage in work activities in accordance with section 407.

"(iv) Take such reasonable steps as the State deems necessary to restrict the use and disclosure of information about individuals and families receiving assistance under the program attributable to funds provided by the Federal Government.

"(v) Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies, and establish numerical goals for reducing the illegitimacy ratio of the State (as defined in section 403(a)(2)(B)) for calendar years 1996 through 2005.

"(B) SPECIAL PROVISIONS.—

"(i) The document shall indicate whether the State intends to treat families moving into the State from another State differently than other families under the program, and if so, how the State intends to treat such families under the program.

"(ii) The document shall indicate whether the State intends to provide assistance under the program to individuals who are not citizens of the United States, and if so, shall include an overview of such assistance.

"(2) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD SUPPORT ENFORCEMENT PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child support enforcement program under the State plan approved under part D.

"(3) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD PROTECTION PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child protection program under the State plan approved under part B.

"(4) CERTIFICATION OF THE ADMINISTRATION OF THE PROGRAM.—A certification by the chief executive officer of the State specifying which State agency or agencies will administer and supervise the program referred to in paragraph (1) for the fiscal year, which shall include assurances that local governments and private sector organizations—

"(A) have been consulted regarding the plan and design of welfare services in the State so that services are provided in a manner appropriate to local populations; and

"(B) have had at least 60 days to submit comments on the plan and the design of such services.

"(5) CERTIFICATION THAT THE STATE WILL PROVIDE INDIANS WITH EQUITABLE ACCESS TO ASSISTANCE.—A certification by the chief executive officer of the State that, during the fiscal year, the State will provide each Indian who is a member of an Indian tribe in the State that does not have a tribal family assistance plan approved under section 412 with equitable access to assistance under the State program funded under this part attributable to funds provided by the Federal Government.

"(b) PUBLIC AVAILABILITY OF STATE PLAN SUMMARY.—The State shall make available to the public a summary of any plan submitted by the State under this section.

"SEC. 403. GRANTS TO STATES.

"(a) GRANTS.—

"(1) FAMILY ASSISTANCE GRANT.—

"(A) IN GENERAL.—Each eligible State shall be entitled to receive from the Secretary, for each of fiscal years 1996, 1997, 1998, 1999, 2000, and 2001 a grant in an amount equal to the State family assistance grant.

"(B) STATE FAMILY ASSISTANCE GRANT DEFINED.—As used in this part, the term 'State family assistance grant' means the greatest of—

"(i) 1/3 of the total amount required to be paid to the State under former section 403 (as in effect on September 30, 1995) for fiscal years 1992, 1993, and 1994 (other than with respect to amounts expended by the State for child care under subsection (g) or (i) of former section 402 (as so in effect));

"(ii)(I) the total amount required to be paid to the State under former section 403 for fiscal year 1994 (other than with respect to amounts expended by the State for child care under subsection (g) or (i) of former section 402 (as so in effect)); plus

"(II) an amount equal to 85 percent of the amount (if any) by which the total amount required to be paid to the State under former section 403(a)(5) for emergency assistance for fiscal year 1995 exceeds the total amount required to be paid to the State under former section 403(a)(5) for fiscal year 1994, if, during fiscal year 1994, the Secretary approved under former section 402 an amendment to the former State plan with respect to the provision of emergency assistance in the context of family preservation; or

"(iii) 4/3 of the total amount required to be paid to the State under former section 403 (as in effect on September 30, 1995) for the 1st 3 quarters of fiscal year 1995 (other than with respect to amounts expended by the State under the State plan approved under part F (as so in effect) or for child care under subsection (g) or (i) of former section 402 (as so in effect)), plus the total amount required to be paid to the State for fiscal year 1995 under former section 403(l) (as so in effect).

"(C) TOTAL AMOUNT REQUIRED TO BE PAID TO THE STATE UNDER FORMER SECTION 403 DEFINED.—As used in this part, the term 'total amount required to be paid to the State under former section 403' means, with respect to a fiscal year—

"(i) in the case of a State to which section 1108 does not apply, the sum of—

"(I) the Federal share of maintenance assistance expenditures for the fiscal year, before reduction pursuant to subparagraph (B) or (C) of section 403(b)(2) (as in effect on September 30, 1995), as reported by the State on ACF Form 231;

"(II) the Federal share of administrative expenditures (including administrative expenditures for the development of management information systems) for the fiscal year, as reported by the State on ACF Form 231;

"(III) the Federal share of emergency assistance expenditures for the fiscal year, as reported by the State on ACF Form 231;

"(IV) the Federal share of expenditures for the fiscal year with respect to child care pursuant to subsections (g) and (i) of former section 402 (as in effect on September 30, 1995), as reported by the State on ACF Form 231; and

"(V) the aggregate amount required to be paid to the State for the fiscal year with respect to the State program operated under part F (as in effect on September 30, 1995), as determined by the Secretary, including additional obligations or reductions in obligations made after the close of the fiscal year; and

"(ii) in the case of a State to which section 1108 applies, the lesser of—

"(I) the sum described in clause (i); or

"(II) the total amount certified by the Secretary under former section 403 (as in effect during the fiscal year) with respect to the territory.

"(D) INFORMATION TO BE USED IN DETERMINING AMOUNTS.—

"(i) FOR FISCAL YEARS 1992 AND 1993.—

"(I) In determining the amounts described in subclauses (I) through (IV) of subparagraph (C)(i) for any State for each of fiscal years 1992 and 1993, the Secretary shall use information available as of April 28, 1995.

"(II) In determining the amount described in subparagraph (C)(i)(V) for any State for each of fiscal years 1992 and 1993, the Secretary shall use information available as of January 6, 1995.

"(ii) FOR FISCAL YEAR 1994.—In determining the amounts described in subparagraph (C)(i) for any State for fiscal year 1994, the Secretary shall use information available as of April 28, 1995.

"(iii) FOR FISCAL YEAR 1995.—

"(I) In determining the amount described in subparagraph (B)(ii)(II) for any State for fiscal year 1995, the Secretary shall use the information which was reported by the States and estimates made by the States with respect to emergency assistance expenditures and was available as of August 11, 1995.

"(I) In determining the amounts described in subclauses (I) through (IV) of subparagraph (C)(i) for any State for fiscal year 1995, the Secretary shall use information available as of October 2, 1995.

"(II) In determining the amount described in subparagraph (C)(i)(V) for any State for fiscal year 1995, the Secretary shall use information available as of October 5, 1995.

"(E) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1996, 1997, 1998, 1999, 2000, and 2001 such sums as are necessary for grants under this paragraph.

"(2) GRANT TO REWARD STATES THAT REDUCE OUT-OF-WEDLOCK BIRTHS.—

"(A) IN GENERAL.—In addition to any grant under paragraph (1), each eligible State shall be entitled to receive from the Secretary for fiscal year 1998 or any succeeding fiscal year, a grant in an amount equal to the State family assistance grant multiplied by—

"(i) 5 percent if—

"(I) the illegitimacy ratio of the State for the fiscal year is at least 1 percentage point lower than the illegitimacy ratio of the State for fiscal year 1995; and

"(II) the rate of induced pregnancy terminations in the State for the fiscal year is less than the rate of induced pregnancy terminations in the State for fiscal year 1995; or

"(ii) 10 percent if—

"(I) the illegitimacy ratio of the State for the fiscal year is at least 2 percentage points lower than the illegitimacy ratio of the State for fiscal year 1995; and

"(II) the rate of induced pregnancy terminations in the State for the fiscal year is less than the rate of induced pregnancy terminations in the State for fiscal year 1995.

"(B) ILLEGITIMACY RATIO.—As used in this paragraph, the term 'illegitimacy ratio' means, with respect to a State and a fiscal year—

"(i) the number of out-of-wedlock births that occurred in the State during the most recent fiscal year for which such information is available; divided by

"(ii) the number of births that occurred in the State during the most recent fiscal year for which such information is available.

"(C) DISREGARD OF CHANGES IN DATA DUE TO CHANGED REPORTING METHODS.—For purposes of subparagraph (A), the Secretary shall disregard—

"(i) any difference between the illegitimacy ratio of a State for a fiscal year and the illegitimacy ratio of the State for fiscal year 1995 which is attributable to a change in State methods of reporting data used to calculate the illegitimacy ratio; and

"(ii) any difference between the rate of induced pregnancy terminations in a State for a fiscal year and such rate for fiscal year 1995 which is attributable to a change in State methods of reporting data used to calculate such rate.

"(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal year 1998 and for each succeeding fiscal year such sums as are necessary for grants under this paragraph.

"(3) SUPPLEMENTAL GRANT FOR POPULATION INCREASES IN CERTAIN STATES.—

"(A) IN GENERAL.—Each qualifying State shall, subject to subparagraph (F), be entitled to receive from the Secretary—

"(i) for fiscal year 1997 a grant in an amount equal 2.5 percent of the total amount required to

be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994; and

"(ii) for each of fiscal years 1998, 1999, and 2000, a grant in an amount equal to the sum of—

"(I) the amount (if any) required to be paid to the State under this paragraph for the immediately preceding fiscal year; and

"(II) 2.5 percent of the sum of—

"(aa) the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994; and

"(bb) the amount (if any) required to be paid to the State under this paragraph for the fiscal year preceding the fiscal year for which the grant is to be made.

"(B) PRESERVATION OF GRANT WITHOUT INCREASES FOR STATES FAILING TO REMAIN QUALIFYING STATES.—Each State that is not a qualifying State for a fiscal year specified in subparagraph (A)(ii) but was a qualifying State for a prior fiscal year shall, subject to subparagraph (F), be entitled to receive from the Secretary for the specified fiscal year, a grant in an amount equal to the amount required to be paid to the State under this paragraph for the most recent fiscal year for which the State was a qualifying State.

"(C) QUALIFYING STATE.—

"(i) IN GENERAL.—For purposes of this paragraph, a State is a qualifying State for a fiscal year if—

"(I) the level of welfare spending per poor person by the State for the immediately preceding fiscal year is less than the national average level of State welfare spending per poor person for such preceding fiscal year; and

"(II) the population growth rate of the State (as determined by the Bureau of the Census for the most recent fiscal year for which information is available exceeds the average population growth rate for all States (as so determined) for such most recent fiscal year.

"(ii) STATE MUST QUALIFY IN FISCAL YEAR 1997.—Notwithstanding clause (i), a State shall not be a qualifying State for any fiscal year after 1997 by reason of clause (i) if the State is not a qualifying State for fiscal year 1997 by reason of clause (i).

"(iii) CERTAIN STATES DEEMED QUALIFYING STATES.—For purposes of this paragraph, a State is deemed to be a qualifying State for fiscal years 1997, 1998, 1999, and 2000 if—

"(I) the level of welfare spending per poor person by the State for fiscal year 1996 is less than 35 percent of the national average level of State welfare spending per poor person for fiscal year 1996; or

"(II) the population of the State increased by more than 10 percent from April 1, 1990 to July 1, 1994, as determined by the Bureau of the Census.

"(D) DEFINITIONS.—As used in this paragraph:

"(i) LEVEL OF WELFARE SPENDING PER POOR PERSON.—The term 'level of State welfare spending per poor person' means, with respect to a State and a fiscal year—

"(I) the sum of—

"(aa) the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994; and

"(bb) the amount (if any) paid to the State under this paragraph for the immediately preceding fiscal year; divided by

"(II) the number of individuals, according to the 1990 decennial census, who were residents of the State and whose income was below the poverty line.

"(ii) NATIONAL AVERAGE LEVEL OF STATE WELFARE SPENDING PER POOR PERSON.—The term 'national average level of State welfare spending per poor person' means, with respect to a fiscal year, an amount equal to—

"(I) the total amount required to be paid to the States under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994; divided by

"(II) the number of individuals, according to the 1990 decennial census, who were residents of any State and whose income was below the poverty line.

"(iii) STATE.—The term 'State' means each of the 50 States of the United States and the District of Columbia.

"(E) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1997, 1998, 1999, and 2000 such sums as are necessary for grants under this paragraph, in a total amount not to exceed $800,000,000.

"(F) GRANTS REDUCED PRO RATA IF INSUFFICIENT APPROPRIATIONS.—If the amount appropriated pursuant to this paragraph for a fiscal year is less than the total amount of payments otherwise required to be made under this paragraph for the fiscal year, then the amount otherwise payable to any State for the fiscal year under this paragraph shall be reduced by a percentage equal to the amount so appropriated divided by such total amount.

"(G) BUDGET SCORING.—Notwithstanding section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, the baseline shall assume that no grant shall be made under this paragraph after fiscal year 2000.

"(b) CONTINGENCY FUND.—

"(1) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a fund which shall be known as the 'Contingency Fund for State Welfare Programs' (in this section referred to as the 'Fund').

"(2) DEPOSITS INTO FUND.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal years 1997, 1998, 1999, 2000, and 2001 such sums as are necessary for payment to the Fund in a total amount not to exceed $1,000,000,000.

"(3) GRANTS.—From amounts appropriated pursuant to paragraph (2), the Secretary of the Treasury shall pay to each eligible State for a fiscal year an amount equal to the lesser of—

"(A) the Federal medical assistance percentage for the State for the fiscal year (as defined in section 1905(b), as in effect on September 30, 1995) of the amount (if any) by which the expenditures of the State in the fiscal year under the State program funded under this part exceed the historic State expenditures (as defined in section 409(a)(7)(B)(iii)) for the State with respect to the fiscal year; or

"(B) 20 percent of the State family assistance grant for the fiscal year.

"(4) ELIGIBLE STATE.—For purposes of this subsection, a State is an eligible State for a fiscal year, if—

"(A) the average rate of total unemployment in such State (seasonally adjusted) for the period consisting of the most recent 3 months for which data for all States are published equals or exceeds 6.5 percent;

"(B) the average rate of total unemployment in such State (seasonally adjusted) for the 3-month period equals or exceeds 110 percent of such average rate for either (or both) of the corresponding 3-month periods ending in the 2 preceding calendar years; and

"(C) the total amount expended by the State during the fiscal year under the State program funded under this part is not less than 100 percent of the level of historic State expenditures (as defined in section 409(a)(7)(B)(iii)) with respect to the fiscal year.

"(5) STATE.—As used in this subsection, the term 'State' means each of the 50 States of the United States and the District of Columbia.

"(6) PAYMENT PRIORITY.—The Secretary shall make payments under paragraph (3) in the order in which the Secretary receives claims for such payments.

"(7) ANNUAL REPORTS.—The Secretary of the Treasury shall annually report to the Congress on the status of the Fund.

"(8) BUDGET SCORING.—Notwithstanding section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, the baseline shall assume that no grant shall be made under this subsection after fiscal year 2001.

"SEC. 404. USE OF GRANTS.

"(a) GENERAL RULES.—Subject to this part, a State to which a grant is made under section 403 may use the grant—

"(1) in any manner that is reasonably calculated to accomplish the purpose of this part, including to provide low income households with assistance in meeting home heating and cooling costs; or

"(2) in any manner that the State was authorized to use amounts received under part A or F, as such parts were in effect on September 30, 1995.

"(b) LIMITATION ON USE OF GRANT FOR ADMINISTRATIVE PURPOSES.—

"(1) LIMITATION.—A State to which a grant is made under section 403 shall not expend more than 15 percent of the grant for administrative purposes.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the use of a grant for information technology and computerization needed for tracking or monitoring required by or under this part.

"(c) AUTHORITY TO TREAT INTERSTATE IMMIGRANTS UNDER RULES OF FORMER STATE.—A State operating a program funded under this part may apply to a family the rules (including benefit amounts) of the program funded under this part of another State if the family has moved to the State from the other State and has resided in the State for less than 12 months.

"(d) AUTHORITY TO USE PORTION OF GRANT FOR OTHER PURPOSES.—

"(1) IN GENERAL.—A State may use not more than 30 percent of the amount of the grant made to the State under section 403 for a fiscal year to carry out a State program pursuant to any or all of the following provisions of law:

"(A) Part B of this title.

"(B) Title XX of this Act.

"(C) The Child Care and Development Block Grant Act of 1990.

"(2) APPLICABLE RULES.—Any amount paid to the State under this part that is used to carry out a State program pursuant to a provision of law specified or described in paragraph (1) shall not be subject to the requirements of this part, but shall be subject to the requirements that apply to Federal funds provided directly under the provision of law to carry out the program.

"(e) AUTHORITY TO RESERVE CERTAIN AMOUNTS FOR ASSISTANCE.—A State may reserve amounts paid to the State under this part for any fiscal year for the purpose of providing, without fiscal year limitation, assistance under the State program funded under this part.

"(f) AUTHORITY TO OPERATE EMPLOYMENT PLACEMENT PROGRAM.—A State to which a grant is made under section 403 may use the grant to make payments (or provide job placement vouchers) to State-approved public and private job placement agencies that provide employment placement services to individuals who receive assistance under the State program funded under this part.

"(g) IMPLEMENTATION OF ELECTRONIC BENEFIT TRANSFER SYSTEM.—A State to which a grant is made under section 403 is encouraged to implement an electronic benefit transfer system for providing assistance under the State program funded under this part, and may use the grant for such purpose.

"SEC. 405. ADMINISTRATIVE PROVISIONS.

"(a) QUARTERLY.—The Secretary shall pay each grant payable to a State under section 403 in quarterly installments.

''(b) NOTIFICATION.—Not later than 3 months before the payment of any such quarterly installment to a State, the Secretary shall notify the State of the amount of any reduction determined under section 412(a)(1)(B) with respect to the State.

''(c) COMPUTATION AND CERTIFICATION OF PAYMENTS TO STATES.—

''(1) COMPUTATION.—The Secretary shall estimate the amount to be paid to each eligible State for each quarter under this part, such estimate to be based on a report filed by the State containing an estimate by the State of the total sum to be expended by the State in the quarter under the State program funded under this part and such other information as the Secretary may find necessary.

''(2) CERTIFICATION.—The Secretary of Health and Human Services shall certify to the Secretary of the Treasury the amount estimated under paragraph (1) with respect to a State, reduced or increased to the extent of any overpayment or underpayment which the Secretary of Health and Human Services determines was made under this part to the State for any prior quarter and with respect to which adjustment has not been made under this paragraph.

''(d) PAYMENT METHOD.—Upon receipt of a certification under subsection (c)(2) with respect to a State, the Secretary of the Treasury shall, through the Fiscal Service of the Department of the Treasury and before audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health and Human Services, the amount so certified.

''(e) COLLECTION OF STATE OVERPAYMENTS TO FAMILIES FROM FEDERAL TAX REFUNDS.—

''(1) IN GENERAL.—Upon receiving notice from the Secretary of Health and Human Services that a State agency administering a program funded under this part has notified the Secretary that a named individual has been overpaid under the State program funded under this part, the Secretary of the Treasury shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual, regardless of whether the individual filed a tax return as a married or unmarried individual. If the Secretary of the Treasury finds that any such amount is so payable, the Secretary shall withhold from such refunds an amount equal to the overpayment sought to be collected by the State and pay such amount to the State agency.

''(2) REGULATIONS.—The Secretary of the Treasury shall issue regulations, after review by the Secretary of Health and Human services, that provide—

''(A) that a State may only submit under paragraph (1) requests for collection of overpayments with respect to individuals—

''(i) who are no longer receiving assistance under the State program funded under this part;

''(ii) with respect to whom the State has already taken appropriate action under State law against the income or resources of the individuals or families involved to collect the past-due legally enforceable debt; and

''(iii) to whom the State agency has given notice of its intent to request withholding by the Secretary of the Treasury from the income tax refunds of such individuals;

''(B) that the Secretary of the Treasury will give a timely and appropriate notice to any other person filing a joint return with the individual whose refund is subject to withholding under paragraph (1); and

''(C) the procedures that the State and the Secretary of the Treasury will follow in carrying out this subsection which, to the maximum extent feasible and consistent with the provisions of this subsection, will be the same as those issued pursuant to section 464(b) applicable to collection of past-due child support.

"SEC. 406. FEDERAL LOANS FOR STATE WELFARE PROGRAMS.

''(a) LOAN AUTHORITY.—

''(1) IN GENERAL.—The Secretary shall make loans to any loan-eligible State, for a period to maturity of not more than 3 years.

''(2) LOAN-ELIGIBLE STATE.—As used in paragraph (1), the term 'loan-eligible State' means a State against which a penalty has not been imposed under section 409(a)(1).

''(b) RATE OF INTEREST.—The Secretary shall charge and collect interest on any loan made under this section at a rate equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the period to maturity of the loan.

''(c) USE OF LOAN.—A State shall use a loan made to the State under this section only for any purpose for which grant amounts received by the State under section 403(a) may be used, including—

''(1) welfare anti-fraud activities; and

''(2) the provision of assistance under the State program to Indian families that have moved from the service area of an Indian tribe with a tribal family assistance plan approved under section 412.

''(d) LIMITATION ON TOTAL AMOUNT OF LOANS TO A STATE.—The cumulative dollar amount of all loans made to a State under this section during fiscal years 1997 through 2001 shall not exceed 10 percent of the State family assistance grant.

''(e) LIMITATION ON TOTAL AMOUNT OF OUTSTANDING LOANS.—The total dollar amount of loans outstanding under this section may not exceed $1,700,000,000.

''(f) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated such sums as may be necessary for the cost of loans under this section.

"SEC. 407. MANDATORY WORK REQUIREMENTS.

''(a) PARTICIPATION RATE REQUIREMENTS.—

''(1) ALL FAMILIES.—A State to which a grant is made under section 403 for a fiscal year shall achieve the minimum participation rate specified in the following table for the fiscal year with respect to all families receiving assistance under the State program funded under this part:

"If the fiscal year is:	***The minimum participation rate is:***
1996	*15*
1997	*20*
1998	*25*
1999	*30*
2000	*35*
2001	*40*
2002 or thereafter	*50.*

''(2) 2-PARENT FAMILIES.—A State to which a grant is made under section 403 for a fiscal year shall achieve the minimum participation rate specified in the following table for the fiscal year with respect to 2-parent families receiving assistance under the State program funded under this part:

"If the fiscal year is:	***The minimum participation rate is:***
1996	*50*
1997	*75*
1998	*75*
1999 or thereafter	*90.*

''(b) CALCULATION OF PARTICIPATION RATES.—

''(1) ALL FAMILIES.—

''(A) AVERAGE MONTHLY RATE.—For purposes of subsection (a)(1), the participation rate for all families of a State for a fiscal year is the average of the participation rates for all families of the State for each month in the fiscal year.

''(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for all families of the State for a month, expressed as a percentage, is—

''(i) the number of families receiving assistance under the State program funded under this part that include an adult who is engaged in work for the month; divided by

''(ii) the amount by which—

''(I) the number of families receiving such assistance during the month that include an adult receiving such assistance; exceeds

''(II) the number of families receiving such assistance that are subject in such month to a penalty described in subsection (e)(1) but have not been subject to such penalty for more than 3 months within the preceding 12-month period (whether or not consecutive).

''(2) 2-PARENT FAMILIES.—

''(A) AVERAGE MONTHLY RATE.—For purposes of subsection (a)(2), the participation rate for 2-parent families of a State for a fiscal year is the average of the participation rates for 2-parent families of the State for each month in the fiscal year.

''(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for 2-parent families of the State for a month shall be calculated by use of the formula set forth in paragraph (1)(B), except that in the formula the term 'number of 2-parent families' shall be substituted for the term 'number of families' each place such latter term appears.

''(3) PRO RATA REDUCTION OF PARTICIPATION RATE DUE TO CASELOAD REDUCTIONS NOT REQUIRED BY FEDERAL LAW.—

''(A) IN GENERAL.—The Secretary shall prescribe regulations for reducing the minimum participation rate otherwise required by this section for a fiscal year by the number of percentage points equal to the number of percentage points (if any) by which—

''(i) the number of families receiving assistance during the fiscal year under the State program funded under this part is less than

''(ii) the number of families that received aid under the State plan approved under part A (as in effect on September 30, 1995) during fiscal year 1995.

The minimum participation rate shall not be reduced to the extent that the Secretary determines that the reduction in the number of families receiving such assistance is required by Federal law.

''(B) ELIGIBILITY CHANGES NOT COUNTED.—The regulations described in subparagraph (A) shall not take into account families that are diverted from a State program funded under this part as a result of differences in eligibility criteria under a State program funded under this part and eligibility criteria under the State program operated under the State plan approved under part A (as such plan and such part were in effect on September 30, 1995). Such regulations shall place the burden on the Secretary to prove that such families were diverted as a direct result of differences in such eligibility criteria.

''(4) STATE OPTION TO INCLUDE INDIVIDUALS RECEIVING ASSISTANCE UNDER A TRIBAL FAMILY ASSISTANCE PLAN.—For purposes of paragraphs (1)(B) and (2)(B), a State may, at its option, include families receiving assistance under a tribal family assistance plan approved under section 412.

''(5) STATE OPTION FOR PARTICIPATION REQUIREMENT EXEMPTIONS.—For any fiscal year, a State may, at its option, not require an individual who is a single custodial parent caring for a child who has not attained 12 months of age to engage in work and may disregard such an individual in determining the participation rates under subsection (a).

''(c) ENGAGED IN WORK.—

''(1) ALL FAMILIES.—For purposes of subsection (b)(1)(B)(i), a recipient is engaged in

work for a month in a fiscal year if the recipient is participating in such activities for at least the minimum average number of hours per week specified in the following table during the month, not fewer than 20 hours per week of which are attributable to an activity described in paragraph (1), (2), (3), (4), (5), (7), or (8) of subsection (d) (or, in the case of the first 4 weeks for which the recipient is required pursuant to this section to participate in work activities, an activity described in subsection (d)(6)):

"If the month is in fiscal year:	***The minimum average number of hours per week is:***
1996	*20*
1997	*20*
1998	*20*
1999	*25*
2000	*30*
2001	*30*
2002	*35*
2003 or thereafter	*35.*

"(2) 2-PARENT FAMILIES.—For purposes of subsection (b)(2)(B)(i), an adult is engaged in work for a month in a fiscal year if the adult is making progress in such activities for at least 35 hours per week during the month, not fewer than 30 hours per week of which are attributable to an activity described in paragraph (1), (2), (3), (4), (5), (7), or (8) of subsection (d) (or, in the case of the first 4 weeks for which the recipient is required pursuant to this section to participate in work activities, an activity described in subsection (d)(6)).

"(3) LIMITATION ON VOCATIONAL EDUCATION ACTIVITIES COUNTED AS WORK.—For purposes of determining monthly participation rates under paragraphs (1)(B)(i) and (2)(B)(i) of subsection (b), not more than 20 percent of adults in all families and in 2-parent families determined to be engaged in work in the State for a month may meet the work activity requirement through participation in vocational educational training.

"(d) WORK ACTIVITIES DEFINED.—As used in this section, the term 'work activities' means—

"(1) unsubsidized employment;

"(2) subsidized private sector employment;

"(3) subsidized public sector employment;

"(4) work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available;

"(5) on-the-job training;

"(6) job search and job readiness assistance;

"(7) community service programs;

"(8) vocational educational training (not to exceed 12 months with respect to any individual);

"(9) job skills training directly related to employment;

"(10) education directly related to employment, in the case of a recipient who has not attained 20 years of age, and has not received a high school diploma or a certificate of high school equivalency; and

"(11) satisfactory attendance at secondary school, in the case of a recipient who—

"(A) has not completed secondary school; and

"(B) is a dependent child, or a head of household who has not attained 20 years of age.

"(e) PENALTIES AGAINST INDIVIDUALS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an adult in a family receiving assistance under the State program funded under this part refuses to engage in work required in accordance with this section, the State shall—

"(A) reduce the amount of assistance otherwise payable to the family pro rata (or more, at the option of the State) with respect to any period during a month in which the adult so refuses; or

"(B) terminate such assistance, subject to such good cause and other exceptions as the State may establish.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a State may not reduce or terminate assistance under the State program funded under this part based on a refusal of an adult to work if the adult is a single custodial parent caring for a child who has not attained 6 years of age, and the adult proves that the adult has a demonstrated inability (as determined by the State) to obtain needed child care, for 1 or more of the following reasons:

"(A) Unavailability of appropriate child care within a reasonable distance from the individual's home or work site.

"(B) Unavailability or unsuitability of informal child care by a relative or under other arrangements.

"(C) Unavailability of appropriate and affordable formal child care arrangements.

"(f) NONDISPLACEMENT IN WORK ACTIVITIES.—

"(1) IN GENERAL.—Subject to paragraph (2), an adult in a family receiving assistance under a State program funded under this part attributable to funds provided by the Federal Government may fill a vacant employment position in order to engage in a work activity described in subsection (d).

"(2) NO FILLING OF CERTAIN VACANCIES.—No adult in a work activity described in subsection (d) which is funded, in whole or in part, by funds provided by the Federal Government shall be employed or assigned—

"(A) when any other individual is on layoff from the same or any substantially equivalent job; or

"(B) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy so created with an adult described in paragraph (1).

"(3) NO PREEMPTION.—Nothing in this subsection shall preempt or supersede any provision of State or local law that provides greater protection for employees from displacement.

"(g) SENSE OF THE CONGRESS.—It is the sense of the Congress that in complying with this section, each State that operates a program funded under this part is encouraged to assign the highest priority to requiring adults in 2-parent families and adults in single-parent families that include older preschool or school-age children to be engaged in work activities.

"(h) SENSE OF THE CONGRESS THAT STATES SHOULD IMPOSE CERTAIN REQUIREMENTS ON NONCUSTODIAL, NONSUPPORTING MINOR PARENTS.—It is the sense of the Congress that the States should require noncustodial, nonsupporting parents who have not attained 18 years of age to fulfill community work obligations and attend appropriate parenting or money management classes after school.

"SEC. 408. PROHIBITIONS; REQUIREMENTS.

"(a) IN GENERAL.—

"(1) NO ASSISTANCE FOR FAMILIES WITHOUT A MINOR CHILD.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to a family, unless the family includes—

"(A) a minor child who resides with a custodial parent or other adult caretaker relative of the child; or

"(B) a pregnant individual.

"(2) NO ADDITIONAL CASH ASSISTANCE FOR CHILDREN BORN TO FAMILIES RECEIVING ASSISTANCE.—

"(A) GENERAL RULE.—A State to which a grant is made under section 403 shall not use any part of the grant to provide cash benefits for a minor child who is born to—

"(i) a recipient of assistance under the program operated under this part; or

"(ii) a person who received such assistance at any time during the 10-month period ending with the birth of the child.

"(B) EXCEPTION FOR CHILDREN BORN INTO FAMILIES WITH NO OTHER CHILDREN.—Subparagraph (A) shall not apply to a minor child who is born into a family that does not include any other children.

"(C) EXCEPTION FOR VOUCHERS.—Subparagraph (A) shall not apply to vouchers which are provided in lieu of cash benefits and which may be used only to pay for particular goods and services specified by the State as suitable for the care of the child involved.

"(D) EXCEPTION FOR RAPE OR INCEST.—Subparagraph (A) shall not apply with respect to a child who is born as a result of rape or incest.

"(E) STATE ELECTION TO OPT OUT.—Subparagraph (A) shall not apply to a State if State law specifically exempts the State program funded under this part from the application of subparagraph (A).

"(F) SUBSTITUTION OF FAMILY CAPS IN EFFECT UNDER WAIVERS.—Subparagraph (A) shall not apply to a State—

"(i) if, as of the date of the enactment of this part, there is in effect a waiver approved by the Secretary under section 1115 which permits the State to deny aid under the State plan approved under part A of this title (as in effect without regard to the amendments made by title I of the Personal Responsibility and Work Opportunity Act of 1995) to a family by reason of the birth of a child to a family member otherwise eligible for such aid; and

"(ii) for so long as the State continues to implement such policy under the State program funded under this part, under rules prescribed by the State.

"(3) REDUCTION OR ELIMINATION OF ASSISTANCE FOR NONCOOPERATION IN CHILD SUPPORT.—If the agency responsible for administering the State plan approved under part D determines that an individual is not cooperating with the State in establishing, modifying, or enforcing a support order with respect to a child of the individual, then the State—

"(A) shall deduct from the assistance that would otherwise be provided to the family of the individual under the State program funded under this part the share of such assistance attributable to the individual; and

"(B) may deny the family any assistance under the State program.

"(4) NO ASSISTANCE FOR FAMILIES NOT ASSIGNING CERTAIN SUPPORT RIGHTS TO THE STATE.—

"(A) IN GENERAL.—A State to which a grant is made under section 403 shall require, as a condition of providing assistance to a family under the State program funded under this part, that a member of the family assign to the State any rights the family member may have (on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance) to support from any other person, not exceeding the total amount of assistance so provided to the family, which accrue (or have accrued) before the date the family leaves the program, which assignment, on and after the date the family leaves the program, shall not apply with respect to any support (other than support collected pursuant to section 464) which accrued before the family received such assistance and which the State has not collected by—

"(i) September 30, 2000, if the assignment is executed on or after October 1, 1997, and before October 1, 2000; or

"(ii) the date the family leaves the program, if the assignment is executed on or after October 1, 2000.

"(B) LIMITATION.—A State to which a grant is made under section 403 shall not require, as a condition of providing assistance to any family under the State program funded under this part, that a member of the family assign to the State any rights to support described in subparagraph

(A) which accrue after the date the family leaves the program, except to the extent necessary to enable the State to comply with section 457.

"(5) NO ASSISTANCE FOR TEENAGE PARENTS WHO DO NOT ATTEND HIGH SCHOOL OR OTHER EQUIVALENT TRAINING PROGRAM.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to an individual who has not attained 18 years of age, is not married, has a minor child at least 12 weeks of age in his or her care, and has not successfully completed a high-school education (or its equivalent), if the individual does not participate in—

"(A) educational activities directed toward the attainment of a high school diploma or its equivalent; or

"(B) an alternative educational or training program that has been approved by the State.

"(6) NO ASSISTANCE FOR TEENAGE PARENTS NOT LIVING IN ADULT-SUPERVISED SETTINGS.—

"(A) IN GENERAL.—

"(i) REQUIREMENT.—Except as provided in subparagraph (B), a State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to an individual described in clause (ii) of this subparagraph if the individual and the minor child referred to in clause (ii)(II) do not reside in a place of residence maintained by a parent, legal guardian, or other adult relative of the individual as such parent's, guardian's, or adult relative's own home.

"(ii) INDIVIDUAL DESCRIBED.— For purposes of clause (i), an individual described in this clause is an individual who—

"(I) has not attained 18 years of age; and

"(II) is not married, and has a minor child in his or her care.

"(B) EXCEPTION.—

"(i) PROVISION OF, OR ASSISTANCE IN LOCATING, ADULT-SUPERVISED LIVING ARRANGEMENT.—In the case of an individual who is described in clause (ii), the State agency referred to in section 402(a)(4) shall provide, or assist the individual in locating, a second chance home, maternity home, or other appropriate adult-supervised supportive living arrangement, taking into consideration the needs and concerns of the individual, unless the State agency determines that the individual's current living arrangement is appropriate, and thereafter shall require that the individual and the minor child referred to in subparagraph (A)(ii)(II) reside in such living arrangement as a condition of the continued receipt of assistance under the State program funded under this part attributable to funds provided by the Federal Government (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate).

"(ii) INDIVIDUAL DESCRIBED.—For purposes of clause (i), an individual is described in this clause if the individual is described in subparagraph (A)(ii), and—

"(I) the individual has no parent, legal guardian or other appropriate adult relative described in subclause (II) of his or her own who is living or whose whereabouts are known;

"(II) no living parent, legal guardian, or other appropriate adult relative, who would otherwise meet applicable State criteria to act as the individual's legal guardian, of such individual allows the individual to live in the home of such parent, guardian, or relative;

"(III) the State agency determines that—

"(aa) the individual or the minor child referred to in subparagraph (A)(ii)(II) is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the individual's own parent or legal guardian; or

"(bb) substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the individual and the minor child lived in the same residence with the individual's own parent or legal guardian; or

"(IV) the State agency otherwise determines that it is in the best interest of the minor child to waive the requirement of subparagraph (A) with respect to the individual or the minor child.

"(iii) SECOND-CHANCE HOME.—For purposes of this subparagraph, the term 'second-chance home' means an entity that provides individuals described in clause (ii) with a supportive and supervised living arrangement in which such individuals are required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children.

"(7) NO MEDICAL SERVICES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a State to which a grant is made under section 403 shall not use any part of the grant to provide medical services.

"(B) EXCEPTION FOR FAMILY PLANNING SERVICES.—As used in subparagraph (A), the term 'medical services' does not include family planning services.

"(8) NO ASSISTANCE FOR MORE THAN 5 YEARS.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a State to which a grant is made under section 403 shall not use any part of the grant to provide cash assistance to a family that includes an adult who has received assistance under any State program funded under this part attributable to funds provided by the Federal Government, for 60 months (whether or not consecutive) after the date the State program funded under this part commences.

"(B) MINOR CHILD EXCEPTION.—In determining the number of months for which an individual who is a parent or pregnant has received assistance under the State program funded under this part, the State shall disregard any month for which such assistance was provided with respect to the individual and during which the individual was—

"(i) a minor child; and

"(ii) not the head of a household or married to the head of a household.

"(C) HARDSHIP EXCEPTION.—

"(i) IN GENERAL.—The State may exempt a family from the application of subparagraph (A) by reason of hardship or if the family includes an individual who has been battered or subjected to extreme cruelty.

"(ii) LIMITATION.—The number of families with respect to which an exemption made by a State under clause (i) is in effect for a fiscal year shall not exceed 15 percent of the average monthly number of families to which assistance is provided under the State program funded under this part.

"(iii) BATTERED OR SUBJECT TO EXTREME CRUELTY DEFINED.—For purposes of clause (i), an individual has been battered or subjected to extreme cruelty if the individual has been subjected to—

"(I) physical acts that resulted in, or threatened to result in, physical injury to the individual;

"(II) sexual abuse;

"(III) sexual activity involving a dependent child;

"(IV) being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;

"(V) threats of, or attempts at, physical or sexual abuse;

"(VI) mental abuse; or

"(VII) neglect or deprivation of medical care.

"(D) RULE OF INTERPRETATION.—Subparagraph (A) shall not be interpreted to require any State to provide assistance to any individual for any period of time under the State program funded under this part.

"(9) DENIAL OF ASSISTANCE FOR 10 YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN ASSISTANCE IN 2 OR MORE STATES.—A State to which a grant is made under section 403 shall not use any part of the grant to provide cash assistance to an individual during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under programs that are funded under this title, title XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI.

"(10) DENIAL OF ASSISTANCE FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.—

"(A) IN GENERAL.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance to any individual who is—

"(i) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(ii) violating a condition of probation or parole imposed under Federal or State law.

"(B) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—If a State to which a grant is made under section 403 establishes safeguards against the use or disclosure of information about applicants or recipients of assistance under the State program funded under this part, the safeguards shall not prevent the State agency administering the program from furnishing a Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient if the officer furnishes the agency with the name of the recipient and notifies the agency that—

"(i) the recipient—

"(I) is described in subparagraph (A); or

"(II) has information that is necessary for the officer to conduct the official duties of the officer; and

"(ii) the location or apprehension of the recipient is within such official duties.

"(11) DENIAL OF ASSISTANCE FOR MINOR CHILDREN WHO ARE ABSENT FROM THE HOME FOR A SIGNIFICANT PERIOD.—

"(A) IN GENERAL.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance for a minor child who has been, or is expected by a parent (or other caretaker relative) of the child to be, absent from the home for a period of 45 consecutive days or, at the option of the State, such period of not less than 30 and not more than 90 consecutive days as the State may provide for in the State plan submitted pursuant to section 402.

"(B) STATE AUTHORITY TO ESTABLISH GOOD CAUSE EXCEPTIONS.—The State may establish such good cause exceptions to subparagraph (A) as the State considers appropriate if such exceptions are provided for in the State plan submitted pursuant to section 402.

"(C) DENIAL OF ASSISTANCE FOR RELATIVE WHO FAILS TO NOTIFY STATE AGENCY OF ABSENCE OF CHILD.—A State to which a grant is made under section 403 shall not use any part of the grant to provide assistance for an individual who is a parent (or other caretaker relative) of a minor child and who fails to notify the agency administering the State program funded under

this part of the absence of the minor child from the home for the period specified in or provided for pursuant to subparagraph (A), by the end of the 5-day period that begins with the date that it becomes clear to the parent (or relative) that the minor child will be absent for such period so specified or provided for.

"(12) INCOME SECURITY PAYMENTS NOT TO BE DISREGARDED IN DETERMINING THE AMOUNT OF ASSISTANCE TO BE PROVIDED TO A FAMILY.—If a State to which a grant is made under section 403 uses any part of the grant to provide assistance for any individual who is receiving a payment under a State plan for old-age assistance approved under section 2, a State program funded under part B that provides cash payments for foster care, or the supplemental security income program under title XVI, then the State shall not disregard the payment in determining the amount of assistance to be provided under the State program funded under this part, from funds provided by the Federal Government, to the family of which the individual is a member.

"(b) ALIENS.—For special rules relating to the treatment of aliens, see section 402 of the Personal Responsibility and Work Opportunity Act of 1995.

"SEC. 409. PENALTIES.

"(a) IN GENERAL.—Subject to this section:

"(1) USE OF GRANT IN VIOLATION OF THIS PART.—

"(A) GENERAL PENALTY.—If an audit conducted under chapter 75 of title 31, United States Code, finds that an amount paid to a State under section 403 for a fiscal year has been used in violation of this part, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter by the amount so used.

"(B) ENHANCED PENALTY FOR INTENTIONAL VIOLATIONS.—If the State does not prove to the satisfaction of the Secretary that the State did not intend to use the amount in violation of this part, the Secretary shall further reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter by an amount equal to 5 percent of the State family assistance grant.

"(2) FAILURE TO SUBMIT REQUIRED REPORT.—

"(A) IN GENERAL.—If the Secretary determines that a State has not, within 1 month after the end of a fiscal quarter, submitted the report required by section 411(a) for the quarter year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to 4 percent of the State family assistance grant.

"(B) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under subparagraph (A) with respect to a report for a fiscal quarter if the State submits the report before the end of the immediately succeeding fiscal quarter.

"(3) FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—

"(A) IN GENERAL.—If the Secretary determines that a State to which a grant is made under section 403 for a fiscal year has failed to comply with section 407(a) for the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 5 percent of the State family assistance grant.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) based on the degree of noncompliance.

"(4) FAILURE TO PARTICIPATE IN THE INCOME AND ELIGIBILITY VERIFICATION SYSTEM.—If the Secretary determines that a State program funded under this part is not participating during a fiscal year in the income and eligibility verification system required by section 1137, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by an amount equal to not more than 2 percent of the State family assistance grant.

"(5) FAILURE TO COMPLY WITH PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT REQUIREMENTS UNDER PART D.—Notwithstanding any other provision of this Act, if the Secretary determines that the State agency that administers a program funded under this part does not enforce the penalties requested by the agency administering part D against recipients of assistance under the State program who fail to cooperate in establishing paternity in accordance with such part, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year (without regard to this section) by not more than 5 percent.

"(6) FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—If the Secretary determines that a State has failed to repay any amount borrowed from the Federal Loan Fund for State Welfare Programs established under section 406 within the period of maturity applicable to the loan, plus any interest owed on the loan, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year quarter (without regard to this section) by the outstanding loan amount, plus the interest owed on the outstanding amount. The Secretary shall not forgive any outstanding loan amount or interest owed on the outstanding amount.

"(7) FAILURE OF ANY STATE TO MAINTAIN CERTAIN LEVEL OF HISTORIC EFFORT.—

"(A) IN GENERAL.—The Secretary shall reduce the grant payable to the State under section 403(a)(1) for fiscal year 1997, 1998, 1999, 2000, or 2001 by the amount (if any) by which qualified State expenditures for the then immediately preceding fiscal year is less than the applicable percentage of historic State expenditures with respect to the fiscal year.

"(B) DEFINITIONS.—As used in this paragraph:

"(i) QUALIFIED STATE EXPENDITURES.—

"(I) IN GENERAL.—The term 'qualified State expenditures' means, with respect to a State and a fiscal year, the total expenditures by the State during the fiscal year, under all State programs, for any of the following with respect to eligible families:

"(aa) Cash assistance.

"(bb) Child care assistance.

"(cc) Educational activities designed to increase self-sufficiency, job training, and work.

"(dd) Administrative costs.

"(ee) Any other use of funds allowable under section 404(a)(1).

"(II) EXCLUSION OF TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such term does not include funding supplanted by transfers from other State and local programs.

"(III) ELIGIBLE FAMILIES.—As used in subclause (I), the term 'eligible families' means families eligible for assistance under the State program funded under this part, and families who would be eligible for such assistance but for the application of paragraph (2) or (8) of section 408(a) of this Act or section 402 of the Personal Responsibility and Work Opportunity Act of 1995.

"(ii) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means—

"(I) for fiscal year 1996, 75 percent; and

"(II) for fiscal years 1997, 1998, 1999, and 2000, 75 percent reduced (if appropriate) in accordance with subparagraph (C)(iii).

"(iii) HISTORIC STATE EXPENDITURES.—The term 'historic State expenditures' means, with respect to a State and a fiscal year specified in subparagraph (A), the lesser of—

"(I) the expenditures by the State under parts A and F (as in effect during fiscal year 1994) for fiscal year 1994; or

"(II) the amount which bears the same ratio to the amount described in subclause (I) as—

"(aa) the State family assistance grant for the fiscal year immediately preceding the fiscal year specified in subparagraph (A), plus the total amount required to be paid to the State under former section 403 for fiscal year 1994 with respect to amounts expended by the State for child care under subsection (g) or (i) of section 402 (as in effect during fiscal year 1994); bears to

"(bb) the total amount required to be paid to the State under former section 403 (as in effect during fiscal year 1994) for fiscal year 1994.

Such term does not include any expenditures under the State plan approved under part A (as so in effect) on behalf of individuals covered by a tribal family assistance plan approved under section 412, as determined by the Secretary.

"(iv) EXPENDITURES BY THE STATE.—The term 'expenditures by the State' does not include—

"(I) any expenditures from amounts made available by the Federal Government;

"(II) State funds expended for the medicaid program under title XIX; or

"(III) any State funds which are used to match Federal funds or are expended as a condition of receiving Federal funds under Federal programs other than under this title.

"(C) APPLICABLE PERCENTAGE REDUCED FOR STATES WITH BEST OR MOST IMPROVED PERFORMANCE IN CERTAIN AREAS.—

"(i) SCORING OF STATE PERFORMANCE.—Beginning with fiscal year 1997, the Secretary shall assign to each State a score that represents the performance of the State for the fiscal year in each category described in clause (ii).

"(ii) CATEGORIES.—The categories described in this clause are the following:

"(I) Increasing the number of families that received assistance under a State program funded under this part in the fiscal year, and that, during the fiscal year, become ineligible for such assistance as a result of unsubsidized employment.

"(II) Reducing the percentage of families that, within 18 months after becoming ineligible for assistance under the State program funded under this part, become eligible for such assistance.

"(III) Increasing the average earnings of families that receive assistance under this part.

"(IV) Reducing the percentage of children in the State that receive assistance under the State program funded under this part.

"(iii) REDUCTION OF MAINTENANCE OF EFFORT THRESHOLD.—

"(I) REDUCTION FOR STATES WITH 5 GREATEST SCORES IN EACH CATEGORY OF PERFORMANCE.—The applicable percentage for a State for a fiscal year shall be reduced by 2 percentage points, with respect to each category described in clause (ii) for which the score assigned to the State under clause (i) for the immediately preceding fiscal year is 1 of the 5 highest scores so assigned to States.

"(II) REDUCTION FOR STATES WITH 5 GREATEST IMPROVEMENT IN SCORES IN EACH CATEGORY OF PERFORMANCE.—The applicable percentage for a State for a fiscal year shall be reduced by 2 percentage points for a State for a fiscal year, with respect to each category described in clause (ii) for which the difference between the score assigned to the State under clause (i) for the immediately preceding fiscal year and the score so assigned to the State for the 2nd preceding fiscal year is 1 of the 5 greatest such differences.

"(III) LIMITATION ON REDUCTION.—The applicable percentage for a State for a fiscal year may not be reduced by more than 8 percentage points pursuant to this clause.

"(8) SUBSTANTIAL NONCOMPLIANCE OF STATE CHILD SUPPORT ENFORCEMENT PROGRAM WITH REQUIREMENTS OF PART D.—

"(A) IN GENERAL.—If a State program operated under part D is found as a result of a review conducted under section 452(a)(4) not to have complied substantially with the requirements of such part for any quarter, and the Secretary determines that the program is not complying substantially with such requirements at the time the finding is made, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the quarter and each subsequent quarter that ends before the 1st quarter throughout which the program is found not to be in substantial compliance with such requirements by—

"(i) not less than 1 nor more than 2 percent;

"(ii) not less than 2 nor more than 3 percent, if the finding is the 2nd consecutive such finding made as a result of such a review; or

"(iii) not less than 3 nor more than 5 percent, if the finding is the 3rd or a subsequent consecutive such finding made as a result of such a review.

"(B) DISREGARD OF NONCOMPLIANCE WHICH IS OF A TECHNICAL NATURE.—For purposes of subparagraph (A) and section 452(a)(4), a State which is not in full compliance with the requirements of this part shall be determined to be in substantial compliance with such requirements only if the Secretary determines that any noncompliance with such requirements is of a technical nature which does not adversely affect the performance of the State's program operated under part D.

"(9) FAILURE OF STATE RECEIVING AMOUNTS FROM CONTINGENCY FUND TO MAINTAIN 100 PERCENT OF HISTORIC EFFORT.—If, at the end of any fiscal year during which amounts from the Contingency Fund for State Welfare Programs have been paid to a State, the Secretary finds that the State has failed, during the fiscal year, to expend under the State program funded under this part an amount equal to at least 100 percent of the level of historic State expenditures (as defined in paragraph (7)(B)(iii) of this subsection) with respect to the fiscal year, the Secretary shall reduce the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year by the total of the amounts so paid to the State.

"(10) FAILURE TO EXPEND ADDITIONAL STATE FUNDS TO REPLACE GRANT REDUCTIONS.—If the grant payable to a State under section 403(a)(1) for a fiscal year is reduced by reason of this subsection, the State shall, during the immediately succeeding fiscal year, expend under the State program funded under this part an amount equal to the total amount of such reductions.

"(b) REASONABLE CAUSE EXCEPTION.—

"(1) IN GENERAL.—The Secretary may not impose a penalty on a State under subsection (a) with respect to a requirement if the Secretary determines that the State has reasonable cause for failing to comply with the requirement.

"(2) EXCEPTION.—Paragraph (1) of this subsection shall not apply to any penalty under subsection (a)(7).

"(c) CORRECTIVE COMPLIANCE PLAN.—

"(1) IN GENERAL.—

"(A) NOTIFICATION OF VIOLATION.—Before imposing a penalty against a State under subsection (a) with respect to a violation of this part, the Secretary shall notify the State of the violation and allow the State the opportunity to enter into a corrective compliance plan in accordance with this subsection which outlines how the State will correct the violation and how the State will insure continuing compliance with this part.

"(B) 60-DAY PERIOD TO PROPOSE A CORRECTIVE COMPLIANCE PLAN.—During the 60-day period that begins on the date the State receives a notice provided under subparagraph (A) with respect to a violation, the State may submit to the Federal Government a corrective compliance plan to correct the violation.

"(C) CONSULTATION ABOUT MODIFICATIONS.—During the 60-day period that begins with the date the Secretary receives a corrective compliance plan submitted by a State in accordance with subparagraph (B), the Secretary may consult with the State on modifications to the plan.

"(D) ACCEPTANCE OF PLAN.— A corrective compliance plan submitted by a State in accordance with subparagraph (B) is deemed to be accepted by the Secretary if the Secretary does not accept or reject the plan during 60-day period that begins on the date the plan is submitted.

"(2) EFFECT OF CORRECTING VIOLATION.—The Secretary may not impose any penalty under subsection (a) with respect to any violation covered by a State corrective compliance plan accepted by the Secretary if the State corrects the violation pursuant to the plan.

"(3) EFFECT OF FAILING TO CORRECT VIOLATION.—The Secretary shall assess some or all of a penalty imposed on a State under subsection (a) with respect to a violation if the State does not, in a timely manner, correct the violation pursuant to a State corrective compliance plan accepted by the Secretary.

"(d) LIMITATION ON AMOUNT OF PENALTY.—

"(1) IN GENERAL.—In imposing the penalties described in subsection (a), the Secretary shall not reduce any quarterly payment to a State by more than 25 percent.

"(2) CARRYFORWARD OF UNRECOVERED PENALTIES.—To the extent that paragraph (1) of this subsection prevents the Secretary from recovering during a fiscal year the full amount of penalties imposed on a State under subsection (a) of this section for a prior fiscal year, the Secretary shall apply any remaining amount of such penalties to the grant payable to the State under section 403(a)(1) for the immediately succeeding fiscal year.

"SEC. 410. APPEAL OF ADVERSE DECISION.

"(a) IN GENERAL.—Within 5 days after the date the Secretary takes any adverse action under this part with respect to a State, the Secretary shall notify the chief executive officer of the State of the adverse action, including any action with respect to the State plan submitted under section 402 or the imposition of a penalty under section 409.

"(b) ADMINISTRATIVE REVIEW.—

"(1) IN GENERAL.—Within 60 days after the date a State receives notice under subsection (a) of an adverse action, the State may appeal the action, in whole or in part, to the Departmental Appeals Board established in the Department of Health and Human Services (in this section referred to as the 'Board') by filing an appeal with the Board.

"(2) PROCEDURAL RULES.—The Board shall consider an appeal filed by a State under paragraph (1) on the basis of such documentation as the State may submit and as the Board may require to support the final decision of the Board. In deciding whether to uphold an adverse action or any portion of such an action, the Board shall conduct a thorough review of the issues and take into account all relevant evidence. The Board shall make a final determination with respect to an appeal filed under paragraph (1) not less than 60 days after the date the appeal is filed.

"(c) JUDICIAL REVIEW OF ADVERSE DECISION.—

"(1) IN GENERAL.—Within 90 days after the date of a final decision by the Board under this section with respect to an adverse action taken against a State, the State may obtain judicial review of the final decision (and the findings incorporated into the final decision) by filing an action in—

"(A) the district court of the United States for the judicial district in which the principal or headquarters office of the State agency is located; or

"(B) the United States District Court for the District of Columbia.

"(2) PROCEDURAL RULES.—The district court in which an action is filed under paragraph (1) shall review the final decision of the Board on the record established in the administrative proceeding, in accordance with the standards of review prescribed by subparagraphs (A) through (E) of section 706(2) of title 5, United States Code. The review shall be on the basis of the documents and supporting data submitted to the Board.

"SEC. 411. DATA COLLECTION AND REPORTING.

"(a) QUARTERLY REPORTS BY STATES.—

"(1) GENERAL REPORTING REQUIREMENT.—

"(A) CONTENTS OF REPORT.—Beginning July 1, 1996, each State shall collect on a monthly basis, and report to the Secretary on a quarterly basis, the following disaggregated case record information on the families receiving assistance under the State program funded under this part:

"(i) The county of residence of the family.

"(ii) Whether a child receiving such assistance or an adult in the family is disabled.

"(iii) The ages of the members of such families.

"(iv) The number of individuals in the family, and the relation of each family member to the youngest child in the family.

"(v) The employment status and earnings of the employed adult in the family.

"(vi) The marital status of the adults in the family, including whether such adults have never married, are widowed, or are divorced.

"(vii) The race and educational status of each adult in the family.

"(viii) The race and educational status of each child in the family.

"(ix) Whether the family received subsidized housing, medical assistance under the State plan approved under title XIX, food stamps, or subsidized child care, and if the latter 2, the amount received.

"(x) The number of months that the family has received each type of assistance under the program.

"(xi) If the adults participated in, and the number of hours per week of participation in, the following activities:

"(I) Education.

"(II) Subsidized private sector employment.

"(III) Unsubsidized employment.

"(IV) Public sector employment, work experience, or community service.

"(V) Job search.

"(VI) Job skills training or on-the-job training.

"(VII) Vocational education.

"(xii) Information necessary to calculate participation rates under section 407.

"(xiii) The type and amount of assistance received under the program, including the amount of and reason for any reduction of assistance (including sanctions).

"(xiv) From a sample of closed cases, whether the family left the program, and if so, whether the family left due to—

"(I) employment;

"(II) marriage;

"(III) the prohibition set forth in section 408(a)(8);

"(IV) sanction; or

"(V) State policy.

"(xv) Any amount of unearned income received by any member of the family.

"(xvi) The citizenship of the members of the family.

"(B) USE OF ESTIMATES.—

"(i) AUTHORITY.—A State may comply with subparagraph (A) by submitting an estimate which is obtained through the use of scientifically acceptable sampling methods approved by the Secretary.

“(ii) SAMPLING AND OTHER METHODS.—The Secretary shall provide the States with such case sampling plans and data collection procedures as the Secretary deems necessary to produce statistically valid estimates of the performance of State programs funded under this part. The Secretary may develop and implement procedures for verifying the quality of data submitted by the States.

“(2) REPORT ON USE OF FEDERAL FUNDS TO COVER ADMINISTRATIVE COSTS AND OVERHEAD.—The report required by paragraph (1) for a fiscal quarter shall include a statement of the percentage of the funds paid to the State under this part for the quarter that are used to cover administrative costs or overhead.

“(3) REPORT ON STATE EXPENDITURES ON PROGRAMS FOR NEEDY FAMILIES.—The report required by paragraph (1) for a fiscal quarter shall include a statement of the total amount expended by the State during the quarter on programs for needy families.

“(4) REPORT ON NONCUSTODIAL PARENTS PARTICIPATING IN WORK ACTIVITIES.—The report required by paragraph (1) for a fiscal quarter shall include the number of noncustodial parents in the State who participated in work activities (as defined in section 407(d)) during the quarter.

“(5) REPORT ON TRANSITIONAL SERVICES.—The report required by paragraph (1) for a fiscal quarter shall include the total amount expended by the State during the quarter to provide transitional services to a family that has ceased to receive assistance under this part because of employment, along with a description of such services.

“(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to define the data elements with respect to which reports are required by this subsection.

“(b) ANNUAL REPORTS TO THE CONGRESS BY THE SECRETARY.—Not later than 6 months after the end of fiscal year 1997, and each fiscal year thereafter, the Secretary shall transmit to the Congress a report describing—

“(1) whether the States are meeting—

“(A) the participation rates described in section 407(a); and

“(B) the objectives of—

“(i) increasing employment and earnings of needy families, and child support collections; and

“(ii) decreasing out-of-wedlock pregnancies and child poverty;

“(2) the demographic and financial characteristics of families applying for assistance, families receiving assistance, and families that become ineligible to receive assistance;

“(3) the characteristics of each State program funded under this part; and

“(4) the trends in employment and earnings of needy families with minor children living at home.

“SEC. 412. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES.

“(a) GRANTS FOR INDIAN TRIBES.—

“(1) TRIBAL FAMILY ASSISTANCE GRANT.—

“(A) IN GENERAL.—For each of fiscal years 1997, 1998, 1999, and 2000, the Secretary shall pay to each Indian tribe that has an approved tribal family assistance plan a tribal family assistance grant for the fiscal year in an amount equal to the amount determined under subparagraph (B), and shall reduce the grant payable under section 403(a)(1) to any State in which lies the service area or areas of the Indian tribe by that portion of the amount so determined that is attributable to expenditures by the State.

“(B) AMOUNT DETERMINED.—

“(i) IN GENERAL.—The amount determined under this subparagraph is an amount equal to the total amount of the Federal payments to a State or States under section 403 (as in effect during such fiscal year) for fiscal year 1994 attributable to expenditures (other than child care expenditures) by the State or States under parts A and F (as so in effect) for fiscal year 1994 for Indian families residing in the service area or areas identified by the Indian tribe pursuant to subsection (b)(1)(C) of this section.

“(ii) USE OF STATE SUBMITTED DATA.—

“(I) IN GENERAL.—The Secretary shall use State submitted data to make each determination under clause (i).

“(II) DISAGREEMENT WITH DETERMINATION.—If an Indian tribe or tribal organization disagrees with State submitted data described under subclause (I), the Indian tribe or tribal organization may submit to the Secretary such additional information as may be relevant to making the determination under clause (i) and the Secretary may consider such information before making such determination.

“(2) GRANTS FOR INDIAN TRIBES THAT RECEIVED JOBS FUNDS.—

“(A) IN GENERAL.—The Secretary shall pay to each eligible Indian tribe for each of fiscal years 1996, 1997, 1998, 1999, and 2000 a grant in an amount equal to the amount received by the Indian tribe in fiscal year 1994 under section 482(i) (as in effect during fiscal year 1994).

“(B) ELIGIBLE INDIAN TRIBE.—For purposes of subparagraph (A), the term ‘eligible Indian tribe’ means an Indian tribe or Alaska Native organization that conducted a job opportunities and basic skills training program in fiscal year 1995 under section 482(i) (as in effect during fiscal year 1995).

“(C) USE OF GRANT.—Each Indian tribe to which a grant is made under this paragraph shall use the grant for the purpose of operating a program to make work activities available to members of the Indian tribe.

“(D) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $7,638,474 for each fiscal year specified in subparagraph (A) for grants under subparagraph (A).

“(b) 3-YEAR TRIBAL FAMILY ASSISTANCE PLAN.—

“(1) IN GENERAL.—Any Indian tribe that desires to receive a tribal family assistance grant shall submit to the Secretary a 3-year tribal family assistance plan that—

“(A) outlines the Indian tribe's approach to providing welfare-related services for the 3-year period, consistent with this section;

“(B) specifies whether the welfare-related services provided under the plan will be provided by the Indian tribe or through agreements, contracts, or compacts with intertribal consortia, States, or other entities;

“(C) identifies the population and service area or areas to be served by such plan;

“(D) provides that a family receiving assistance under the plan may not receive duplicative assistance from other State or tribal programs funded under this part;

“(E) identifies the employment opportunities in or near the service area or areas of the Indian tribe and the manner in which the Indian tribe will cooperate and participate in enhancing such opportunities for recipients of assistance under the plan consistent with any applicable State standards; and

“(F) applies the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

“(2) APPROVAL.—The Secretary shall approve each tribal family assistance plan submitted in accordance with paragraph (1).

“(3) CONSORTIUM OF TRIBES.—Nothing in this section shall preclude the development and submission of a single tribal family assistance plan by the participating Indian tribes of an intertribal consortium.

“(c) MINIMUM WORK PARTICIPATION REQUIREMENTS AND TIME LIMITS.—The Secretary, with the participation of Indian tribes, shall establish for each Indian tribe receiving a grant under this section minimum work participation requirements, appropriate time limits for receipt of welfare-related services under the grant, and penalties against individuals—

“(1) consistent with the purposes of this section;

“(2) consistent with the economic conditions and resources available to each tribe; and

“(3) similar to comparable provisions in section 407(d).

“(d) EMERGENCY ASSISTANCE.—Nothing in this section shall preclude an Indian tribe from seeking emergency assistance from any Federal loan program or emergency fund.

“(e) ACCOUNTABILITY.—Nothing in this section shall be construed to limit the ability of the Secretary to maintain program funding accountability consistent with—

“(1) generally accepted accounting principles; and

“(2) the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(f) PENALTIES.—

“(1) Subsections (a)(1), (a)(6), and (b) of section 409, shall apply to an Indian tribe with an approved tribal assistance plan in the same manner as such subsections apply to a State.

“(2) Section 409(a)(3) shall apply to an Indian tribe with an approved tribal assistance plan by substituting ‘meet minimum work participation requirements established under section 412(c)’ for ‘comply with section 407(a)’.

“(g) DATA COLLECTION AND REPORTING.—Section 411 shall apply to an Indian tribe with an approved tribal family assistance plan.

“(h) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—

“(1) IN GENERAL.—Notwithstanding any other provision of this section, and except as provided in paragraph (2), an Indian tribe in the State of Alaska that receives a tribal family assistance grant under this section shall use the grant to operate a program in accordance with requirements comparable to the requirements applicable to the program of the State of Alaska funded under this part. Comparability of programs shall be established on the basis of program criteria developed by the Secretary in consultation with the State of Alaska and such Indian tribes.

“(2) WAIVER.—An Indian tribe described in paragraph (1) may apply to the appropriate State authority to receive a waiver of the requirement of paragraph (1).

“SEC. 413. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.

“(a) RESEARCH.—The Secretary shall conduct research on the benefits, effects, and costs of operating different State programs funded under this part, including time limits relating to eligibility for assistance. The research shall include studies on the effects of different programs and the operation of such programs on welfare dependency, illegitimacy, teen pregnancy, employment rates, child well-being, and any other area the Secretary deems appropriate. The Secretary shall also conduct research on the costs and benefits of State activities under section 409.

“(b) DEVELOPMENT AND EVALUATION OF INNOVATIVE APPROACHES TO REDUCING WELFARE DEPENDENCY AND INCREASING CHILD WELL-BEING.—

“(1) IN GENERAL.—The Secretary may assist States in developing, and shall evaluate, innovative approaches for reducing welfare dependency and increasing the well-being of minor children living at home with respect to recipients of assistance under programs funded under this part. The Secretary may provide funds for training and technical assistance to carry out the approaches developed pursuant to this paragraph.

"(2) EVALUATIONS.—In performing the evaluations under paragraph (1), the Secretary shall, to the maximum extent feasible, use random assignment as an evaluation methodology.

"(c) DISSEMINATION OF INFORMATION.—The Secretary shall develop innovative methods of disseminating information on any research, evaluations, and studies conducted under this section, including the facilitation of the sharing of information and best practices among States and localities through the use of computers and other technologies.

"(d) ANNUAL RANKING OF STATES AND REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—

"(1) ANNUAL RANKING OF STATES.—The Secretary shall rank annually the States to which grants are paid under section 403 in the order of their success in placing recipients of assistance under the State program funded under this part into long-term private sector jobs, reducing the overall welfare caseload, and, when a practicable method for calculating this information becomes available, diverting individuals from formally applying to the State program and receiving assistance. In ranking States under this subsection, the Secretary shall take into account the average number of minor children living at home in families in the State that have incomes below the poverty line and the amount of funding provided each State for such families.

"(2) ANNUAL REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—The Secretary shall review the programs of the 3 States most recently ranked highest under paragraph (1) and the 3 States most recently ranked lowest under paragraph (1) that provide parents with work experience, assistance in finding employment, and other work preparation activities and support services to enable the families of such parents to leave the program and become self-sufficient.

"(e) ANNUAL RANKING OF STATES AND REVIEW OF ISSUES RELATING TO OUT-OF-WEDLOCK BIRTHS.—

"(1) ANNUAL RANKING OF STATES.—

"(A) IN GENERAL.—The Secretary shall annually rank States to which grants are made under section 403 based on the following ranking factors:

"(i) ABSOLUTE OUT-OF-WEDLOCK RATIOS.—The ratio represented by—

"(I) the total number of out-of-wedlock births in families receiving assistance under the State program under this part in the State for the most recent fiscal year for which information is available; over

"(II) the total number of births in families receiving assistance under the State program under this part in the State for such year.

"(ii) NET CHANGES IN THE OUT-OF-WEDLOCK RATIO.—The difference between the ratio described in subparagraph (A)(i) with respect to a State for the most recent fiscal year for which such information is available and the ratio with respect to the State for the immediately preceding year.

"(2) ANNUAL REVIEW.—The Secretary shall review the programs of the 5 States most recently ranked highest under paragraph (1) and the 5 States most recently ranked the lowest under paragraph (1).

"(f) STATE-INITIATED EVALUATIONS.—A State shall be eligible to receive funding to evaluate the State program funded under this part if—

"(1) the State submits a proposal to the Secretary for the evaluation;

"(2) the Secretary determines that the design and approach of the evaluation is rigorous and is likely to yield information that is credible and will be useful to other States, and

"(3) unless otherwise waived by the Secretary, the State contributes to the cost of the evaluation, from non-Federal sources, an amount equal to at least 10 percent of the cost of the evaluation.

"(g) FUNDING OF STUDIES AND DEMONSTRATIONS.—

"(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $15,000,000 for each fiscal year specified in section 403(a)(1) for the purpose of paying—

"(A) the cost of conducting the research described in subsection (a);

"(B) the cost of developing and evaluating innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b);

"(C) the Federal share of any State-initiated study approved under subsection (f); and

"(D) an amount determined by the Secretary to be necessary to operate and evaluate demonstration projects, relating to this part, that are in effect or approved under section 1115 as of September 30, 1995, and are continued after such date.

"(2) ALLOCATION.—Of the amount appropriated under paragraph (1) for a fiscal year—

"(A) 50 percent shall be allocated for the purposes described in subparagraphs (A) and (B) of paragraph (1), and

"(B) 50 percent shall be allocated for the purposes described in subparagraphs (C) and (D) of paragraph (1).

"SEC. 414. STUDY BY THE CENSUS BUREAU.

"(a) IN GENERAL.—The Bureau of the Census shall expand the Survey of Income and Program Participation as necessary to obtain such information as will enable interested persons to evaluate the impact of the amendments made by title I of the Personal Responsibility and Work Opportunity Act of 1995 on a random national sample of recipients of assistance under State programs funded under this part and (as appropriate) other low income families, and in doing so, shall pay particular attention to the issues of out-of-wedlock birth, welfare dependency, the beginning and end of welfare spells, and the causes of repeat welfare spells.

"(b) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $10,000,000 for each of fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 for payment to the Bureau of the Census to carry out subsection (a).

"SEC. 415. WAIVERS.

"(a) CONTINUATION OF WAIVERS.—

"(1) WAIVERS IN EFFECT ON DATE OF ENACTMENT OF WELFARE REFORM.—Except as provided in paragraph (3), if any waiver granted to a State under section 1115 or otherwise which relates to the provision of assistance under a State plan under this part (as in effect on September 30, 1995) is in effect as of the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995, the amendments made by such Act shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the waiver.

"(2) WAIVERS GRANTED SUBSEQUENTLY.—Except as provided in paragraph (3), if any waiver granted to a State under section 1115 or otherwise which relates to the provision of assistance under a State plan under this part (as in effect on September 30, 1995) is submitted to the Secretary before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995 and approved by the Secretary before the effective date of this title, and the State demonstrates to the satisfaction of the Secretary that the waiver will not result in Federal expenditures under title IV of this Act (as in effect without regard to the amendments made by the Personal Responsibility and Work Opportunity Act of 1995) that are greater than would occur in the absence of the waiver, such amendments shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the waiver.

"(3) FINANCING LIMITATION.—Notwithstanding any other provision of law, beginning with fiscal year 1996, a State operating under a waiver described in paragraph (1) shall be entitled to payment under section 403 for the fiscal year, in lieu of any other payment provided for in the waiver.

"(b) STATE OPTION TO TERMINATE WAIVER.—

"(1) IN GENERAL.—A State may terminate a waiver described in subsection (a) before the expiration of the waiver.

"(2) REPORT.—A State which terminates a waiver under paragraph (1) shall submit a report to the Secretary summarizing the waiver and any available information concerning the result or effect of the waiver.

"(3) HOLD HARMLESS PROVISION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a State that, not later than the date described in subparagraph (B), submits a written request to terminate a waiver described in subsection (a) shall be held harmless for accrued cost neutrality liabilities incurred under the waiver.

"(B) DATE DESCRIBED.—The date described in this subparagraph is the later of—

"(i) January 1, 1996; or

"(ii) 90 days following the adjournment of the first regular session of the State legislature that begins after the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995.

"(c) SECRETARIAL ENCOURAGEMENT OF CURRENT WAIVERS.—The Secretary shall encourage any State operating a waiver described in subsection (a) to continue the waiver and to evaluate, using random sampling and other characteristics of accepted scientific evaluations, the result or effect of the waiver.

"(d) CONTINUATION OF INDIVIDUAL WAIVERS.—A State may elect to continue 1 or more individual waivers described in subsection (a).

"SEC. 416. ASSISTANT SECRETARY FOR FAMILY SUPPORT.

"The programs under this part and part D shall be administered by an Assistant Secretary for Family Support within the Department of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be in addition to any other Assistant Secretary of Health and Human Services provided for by law.

"SEC. 417. LIMITATION ON FEDERAL AUTHORITY.

"No officer or employee of the Federal Government may regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part.

"SEC. 418. DEFINITIONS.

"As used in this part:

"(1) ADULT.—The term 'adult' means an individual who is not a minor child.

"(2) MINOR CHILD.—The term 'minor child' means an individual who—

"(A) has not attained 18 years of age; or

"(B) has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

"(3) FISCAL YEAR.—The term 'fiscal year' means any 12-month period ending on September 30 of a calendar year.

"(4) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the terms 'Indian', 'Indian tribe', and 'tribal organization' have the meaning given such terms by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(B) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—The term 'Indian tribe' means, with respect to the State of Alaska, only the Metlakatla Indian Community of the Annette Islands Reserve and the following Alaska Native regional nonprofit corporations:

''(i) Arctic Slope Native Association.

''(ii) Kawerak, Inc.

''(iii) Maniilaq Association.

''(iv) Association of Village Council Presidents.

''(v) Tanana Chiefs Conference.

''(vi) Cook Inlet Tribal Council.

''(vii) Bristol Bay Native Association.

''(viii) Aleutian and Pribilof Island Association.

''(ix) Chugachmuit.

''(x) Tlingit Haida Central Council.

''(xi) Kodiak Area Native Association.

''(xii) Copper River Native Association.

''(5) STATE.—Except as otherwise specifically provided, the term 'State' means the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa.''.

SEC. 104. SERVICES PROVIDED BY CHARITABLE, RELIGIOUS, OR PRIVATE ORGANIZATIONS.

(a) IN GENERAL.—

(1) STATE OPTIONS.—A State may—

(A) administer and provide services under the programs described in subparagraphs (A) and (B)(i) of paragraph (2) through contracts with charitable, religious, or private organizations; and

(B) provide beneficiaries of assistance under the programs described in subparagraphs (A) and (B)(ii) of paragraph (2) with certificates, vouchers, or other forms of disbursement which are redeemable with such organizations.

(2) PROGRAMS DESCRIBED.—The programs described in this paragraph are the following programs:

(A) A State program funded under part A of title IV of the Social Security Act (as amended by section 103 of this Act).

(B) Any other program established or modified under title I, II, or VI of this Act, that—

(i) permits contracts with organizations; or

(ii) permits certificates, vouchers, or other forms of disbursement to be provided to beneficiaries, as a means of providing assistance.

(b) RELIGIOUS ORGANIZATIONS.—The purpose of this section is to allow States to contract with religious organizations, or to allow religious organizations to accept certificates, vouchers, or other forms of disbursement under any program described in subsection (a)(2), on the same basis as any other nongovernmental provider without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

(c) NONDISCRIMINATION AGAINST RELIGIOUS ORGANIZATIONS.—In the event a State exercises its authority under subsection (a), religious organizations are eligible, on the same basis as any other private organization, as contractors to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, under any program described in subsection (a)(2) so long as the programs are implemented consistent with the Establishment Clause of the United States Constitution. Except as provided in subsection (k), neither the Federal Government nor a State receiving funds under such programs shall discriminate against an organization which is or applies to be a contractor to provide assistance, or which accepts certificates, vouchers, or other forms of disbursement, on the basis that the organization has a religious character.

(d) RELIGIOUS CHARACTER AND FREEDOM.—

(1) RELIGIOUS ORGANIZATIONS.—A religious organization with a contract described in subsection (a)(1)(A), or which accepts certificates, vouchers, or other forms of disbursement under subsection (a)(1)(B), shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

(2) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State shall require a religious organization to—

(A) alter its form of internal governance; or

(B) remove religious art, icons, scripture, or other symbols;

in order to be eligible to contract to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, funded under a program described in subsection (a)(2).

(e) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

(1) IN GENERAL.—If an individual described in paragraph (2) has an objection to the religious character of the organization or institution from which the individual receives, or would receive, assistance funded under any program described in subsection (a)(2), the State in which the individual resides shall provide such individual (if otherwise eligible for such assistance) within a reasonable period of time after the date of such objection with assistance from an alternative provider that is accessible to the individual and the value of which is not less than the value of the assistance which the individual would have received from such organization.

(2) INDIVIDUAL DESCRIBED.—An individual described in this paragraph is an individual who receives, applies for, or requests to apply for, assistance under a program described in subsection (a)(2).

(f) EMPLOYMENT PRACTICES.—A religious organization's exemption provided under section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1a) regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in subsection (a)(2).

(g) NONDISCRIMINATION AGAINST BENEFICIARIES.—Except as otherwise provided in law, a religious organization shall not discriminate against an individual in regard to rendering assistance funded under any program described in subsection (a)(2) on the basis of religion, a religious belief, or refusal to actively participate in a religious practice.

(h) FISCAL ACCOUNTABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), any religious organization contracting to provide assistance funded under any program described in subsection (a)(2) shall be subject to the same regulations as other contractors to account in accord with generally accepted auditing principles for the use of such funds provided under such programs.

(2) LIMITED AUDIT.—If such organization segregates Federal funds provided under such programs into separate accounts, then only the financial assistance provided with such funds shall be subject to audit.

(i) COMPLIANCE.—Any party which seeks to enforce its rights under this section may assert a civil action for injunctive relief exclusively in an appropriate State court against the entity or agency that allegedly commits such violation.

(j) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—No funds provided directly to institutions or organizations to provide services and administer programs under subsection (a)(1)(A) shall be expended for sectarian worship, instruction, or proselytization.

(k) PREEMPTION.—Nothing in this section shall be construed to preempt any provision of a State constitution or State statute that prohibits or restricts the expenditure of State funds in or by religious organizations.

SEC. 105. CENSUS DATA ON GRANDPARENTS AS PRIMARY CAREGIVERS FOR THEIR GRANDCHILDREN.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Commerce, in carrying out section 141 of title 13, United States Code, shall expand the data collection efforts of the Bureau of the Census (in this section referred to as the ''Bureau'') to enable the Bureau to collect statistically significant data, in connection with its decennial census and its mid-decade census, concerning the growing trend of grandparents who are the primary caregivers for their grandchildren.

(b) EXPANDED CENSUS QUESTION.—In carrying out subsection (a), the Secretary of Commerce shall expand the Bureau's census question that details households which include both grandparents and their grandchildren. The expanded question shall be formulated to distinguish between the following households:

(1) A household in which a grandparent temporarily provides a home for a grandchild for a period of weeks or months during periods of parental distress.

(2) A household in which a grandparent provides a home for a grandchild and serves as the primary caregiver for the grandchild.

SEC. 106. REPORT ON DATA PROCESSING.

(a) IN GENERAL.—Within 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Congress a report on—

(1) the status of the automated data processing systems operated by the States to assist management in the administration of State programs under part A of title IV of the Social Security Act (whether in effect before or after October 1, 1995); and

(2) what would be required to establish a system capable of—

(A) tracking participants in public programs over time; and

(B) checking case records of the States to determine whether individuals are participating in public programs of 2 or more States.

(b) PREFERRED CONTENTS.—The report required by subsection (a) should include—

(1) a plan for building on the automated data processing systems of the States to establish a system with the capabilities described in subsection (a)(2); and

(2) an estimate of the amount of time required to establish such a system and of the cost of establishing such a system.

SEC. 107. STUDY ON ALTERNATIVE OUTCOMES MEASURES.

(a) STUDY.—The Secretary shall, in cooperation with the States, study and analyze outcomes measures for evaluating the success of the States in moving individuals out of the welfare system through employment as an alternative to the minimum participation rates described in section 407 of the Social Security Act. The study shall include a determination as to whether such alternative outcomes measures should be applied on a national or a State-by-State basis and a preliminary assessment of the effects of section 409(a)(7)(C) of such Act.

(b) REPORT.—Not later than September 30, 1998, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing the findings of the study required by subsection (a).

SEC. 108. CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) AMENDMENTS TO TITLE II.—

(1) Section 205(c)(2)(C)(vi) (42 U.S.C. 405(c)(2)(C)(vi)), as so redesignated by section 321(a)(9)(B) of the Social Security Independence

and Program Improvements Act of 1994, is amended—

(A) by inserting "an agency administering a program funded under part A of title IV or" before "an agency operating"; and

(B) by striking "A or D of title IV of this Act" and inserting "D of such title".

(2) Section 228(d)(1) (42 U.S.C. 428(d)(1)) is amended by inserting "under a State program funded under" before "part A of title IV".

(b) AMENDMENTS TO PART D OF TITLE IV.—

(1) Section 451 (42 U.S.C. 651) is amended by striking "aid" and inserting "assistance under a State program funded".

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A";

(B) by striking "such aid" and inserting "such assistance"; and

(C) by striking "under section 402(a)(26) or" and inserting "pursuant to section 408(a)(4) or under section".

(3) Section 452(a)(10)(F) (42 U.S.C. 652(a)(10)(F)) is amended—

(A) by striking "aid under a State plan approved" and inserting "assistance under a State program funded"; and

(B) by striking "in accordance with the standards referred to in section 402(a)(26)(B)(ii)" and inserting "by the State".

(4) Section 452(b) (42 U.S.C. 652(b)) is amended in the first sentence by striking "aid under the State plan approved under part A" and inserting "assistance under the State program funded under part A".

(5) Section 452(d)(3)(B)(i) (42 U.S.C. 652(d)(3)(B)(i)) is amended by striking "1115(c)" and inserting "1115(b)".

(6) Section 452(g)(2)(A)(ii)(I) (42 U.S.C. 652(g)(2)(A)(ii)(I)) is amended by striking "aid is being paid under the State's plan approved under part A or E" and inserting "assistance is being provided under the State program funded under part A".

(7) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended in the matter following clause (iii) by striking "aid was being paid under the State's plan approved under part A or E" and inserting "assistance was being provided under the State program funded under part A".

(8) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended in the matter following subparagraph (B)—

(A) by striking "who is a dependent child" and inserting "with respect to whom assistance is being provided under the State program funded under part A";

(B) by inserting "by the State agency administering the State plan approved under this part" after "found"; and

(C) by striking "under section 402(a)(26)" and inserting "with the State in establishing paternity".

(9) Section 452(h) (42 U.S.C. 652(h)) is amended by striking "under section 402(a)(26)" and inserting "pursuant to section 408(a)(4)".

(10) Section 453(c)(3) (42 U.S.C. 653(c)(3)) is amended by striking "aid under part A of this title" and inserting "assistance under a State program funded under part A".

(11) Section 454(5)(A) (42 U.S.C. 654(5)(A))) is amended—

(A) by striking "under section 402(a)(26)" and inserting "pursuant to section 408(a)(4)"; and

(B) by striking "; except that this paragraph shall not apply to such payments for any month following the first month in which the amount collected is sufficient to make such family ineligible for assistance under the State plan approved under part A;" and inserting a comma.

(12) Section 454(6)(D) (42 U.S.C. 654(6)(D)) is amended by striking "aid under a State plan approved" and inserting "assistance under a State program funded".

(13) Section 456(a)(1) (42 U.S.C. 656(a)(1)) is amended by striking "under section 402(a)(26)".

(14) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "402(a)(26)" and inserting "408(a)(4)".

(15) Section 466(b)(2) (42 U.S.C. 666(b)(2)) is amended by striking "aid" and inserting "assistance under a State program funded".

(16) Section 469(a) (42 U.S.C. 669(a)) is amended—

(A) by striking "aid under plans approved" and inserting "assistance under State programs funded"; and

(B) by striking "such aid" and inserting "such assistance".

(c) REPEAL OF PART F OF TITLE IV.—Part F of title IV (42 U.S.C. 681–687) is repealed.

(d) AMENDMENT TO TITLE X.—Section 1002(a)(7) (42 U.S.C. 1202(a)(7)) is amended by striking "aid to families with dependent children under the State plan approved under section 402 of this Act" and inserting "assistance under a State program funded under part A of title IV".

(e) AMENDMENTS TO TITLE XI.—

(1) Section 1108 (42 U.S.C. 1308) is amended—

(A) by redesignating subsection (c) as subsection (g);

(B) by striking all that precedes subsection (c) and inserting the following:

"SEC. 1108. ADDITIONAL GRANTS TO PUERTO RICO, THE VIRGIN ISLANDS, GUAM, AND AMERICAN SAMOA; LIMITATION ON TOTAL PAYMENTS.

"(a) LIMITATION ON TOTAL PAYMENTS TO EACH TERRITORY.—Notwithstanding any other provision of this Act, the total amount certified by the Secretary of Health and Human Services under titles I, X, XIV, and XVI, under parts A and B of title IV, and under subsection (b) of this section, for payment to any territory for a fiscal year shall not exceed the ceiling amount for the territory for the fiscal year.

"(b) ENTITLEMENT TO MATCHING GRANT.—

"(1) IN GENERAL.—Each territory shall be entitled to receive from the Secretary for each fiscal year a grant in an amount equal to 75 percent of the amount (if any) by which—

"(A) the total expenditures of the territory during the fiscal year under the territory programs funded under parts A and B of title IV; exceeds

"(B) the sum of—

"(i) the total amount required to be paid to the territory (other than with respect to child care) under former section 403 (as in effect on September 30, 1995) for fiscal year 1995, which shall be determined by applying subparagraphs (C) and (D) of section 403(a)(1) to the territory;

"(ii) the total amount required to be paid to the territory under former section 434 (as so in effect) for fiscal year 1995; and

"(iii) the total amount expended by the territory during fiscal year 1995 pursuant to parts A, B, and F of title IV (as so in effect), other than for child care.

"(2) USE OF GRANT.—Any territory to which a grant is made under paragraph (1) may expend the amount under any program operated or funded under any provision of law specified in subsection (a).

"(c) DEFINITIONS.—As used in this section:

"(1) TERRITORY.—The term 'territory' means Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(2) CEILING AMOUNT.—The term 'ceiling amount' means, with respect to a territory and a fiscal year, the mandatory ceiling amount with respect to the territory plus the discretionary ceiling amount with respect to the territory, reduced for the fiscal year in accordance with subsection (f).

"(3) MANDATORY CEILING AMOUNT.—The term 'mandatory ceiling amount' means—

"(A) $105,538,000 with respect to for Puerto Rico;

"(B) $4,902,000 with respect to Guam;

"(C) $3,742,000 with respect to the Virgin Islands; and

"(D) $1,122,000 with respect to American Samoa.

"(4) DISCRETIONARY CEILING AMOUNT.—The term 'discretionary ceiling amount' means, with respect to a territory and a fiscal year, the total amount appropriated pursuant to subsection (d)(3) for the fiscal year for payment to the territory.

"(5) TOTAL AMOUNT EXPENDED BY THE TERRITORY.—The term 'total amount expended by the territory'—

"(A) does not include expenditures during the fiscal year from amounts made available by the Federal Government; and

"(B) when used with respect to fiscal year 1995, also does not include—

"(i) expenditures during fiscal year 1995 under subsection (g) or (i) of section 402 (as in effect on September 30, 1995); or

"(ii) any expenditures during fiscal year 1995 for which the territory (but for section 1108, as in effect on September 30, 1995) would have received reimbursement from the Federal Government.

"(d) DISCRETIONARY GRANTS.—

"(1) IN GENERAL.—The Secretary shall make a grant to each territory for any fiscal year in the amount appropriated pursuant to paragraph (3) for the fiscal year for payment to the territory.

"(2) USE OF GRANT.—Any territory to which a grant is made under paragraph (1) may expend the amount under any program operated or funded under any provision of law specified in subsection (a).

"(3) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For grants under paragraph (1), there are authorized to be appropriated to the Secretary for each fiscal year—

"(A) $7,951,000 for payment to Puerto Rico;

"(B) $345,000 for payment to Guam;

"(C) $275,000 for payment to the Virgin Islands; and

"(D) $190,000 for payment to American Samoa.

"(e) AUTHORITY TO TRANSFER FUNDS AMONG PROGRAMS.—Notwithstanding any other provision of this Act, any territory to which an amount is paid under any provision of law specified in subsection (a) may use part or all of the amount to carry out any program operated by the territory, or funded, under any other such provision of law.

"(f) MAINTENANCE OF EFFORT.—The ceiling amount with respect to a territory shall be reduced for a fiscal year by an amount equal to the amount (if any) by which—

"(1) the total amount expended by the territory under all programs of the territory operated pursuant to the provisions of law specified in subsection (a) (as such provisions were in effect for fiscal year 1995) for fiscal year 1995; exceeds

"(2) the total amount expended by the territory under all programs of the territory that are funded under the provisions of law specified in subsection (a) for the fiscal year that immediately precedes the fiscal year referred to in the matter preceding paragraph (1)."; and

(C) by striking subsections (d) and (e).

(2) Section 1109 (42 U.S.C. 1309) is amended by striking "or part A of title IV,".

(3) Section 1115 (42 U.S.C. 1315) is amended—

(A) in subsection (a)(2)—

(i) by inserting "(A)" after "(2)";

(ii) by striking "403,";

(iii) by striking the period at the end and inserting ", and"; and

(iv) by adding at the end the following new subparagraph:

"(B) costs of such project which would not otherwise be a permissible use of funds under

part A of title IV and which are not included as part of the costs of projects under section 1110, shall to the extent and for the period prescribed by the Secretary, be regarded as a permissible use of funds under such part."; and

(B) in subsection (c)(3), by striking "under the program of aid to families with dependent children" and inserting "part A of such title".

(4) Section 1116 (42 U.S.C. 1316) is amended—

(A) in each of subsections (a)(1), (b), and (d), by striking "or part A of title IV,"; and

(B) in subsection (a)(3), by striking "404,".

(5) Section 1118 (42 U.S.C. 1318) is amended—

(A) by striking "403(a),";

(B) by striking "and part A of title IV,"; and

(C) by striking ", and shall, in the case of American Samoa, mean 75 per centum with respect to part A of title IV".

(6) Section 1119 (42 U.S.C. 1319) is amended—

(A) by striking "or part A of title IV"; and

(B) by striking "403(a),".

(7) Section 1133(a) (42 U.S.C. 1320b–3(a)) is amended by striking "or part A of title IV,".

(8) Section 1136 (42 U.S.C. 1320b–6) is repealed.

(9) Section 1137 (42 U.S.C. 1320b–7) is amended—

(A) in subsection (b), by striking paragraph (1) and inserting the following:

"(1) any State program funded under part A of title IV of this Act;"; and

(B) in subsection (d)(1)(B)—

(i) by striking "In this subsection—" and all that follows through "(ii) in" and inserting "In this subsection, in";

(ii) by redesignating subclauses (I), (II), and (III) as clauses (i), (ii), and (iii); and

(iii) by moving such redesignated material 2 ems to the left.

(f) AMENDMENT TO TITLE XIV.—Section 1402(a)(7) (42 U.S.C. 1352(a)(7)) is amended by striking "aid to families with dependent children under the State plan approved under section 402 of this Act" and inserting "assistance under a State program funded under part A of title IV".

(g) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE TERRITORIES.—Section 1602(a)(11), as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972 (42 U.S.C. 1382 note), is amended by striking "aid under the State plan approved" and inserting "assistance under a State program funded".

(h) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE STATES.—Section 1611(c)(5)(A) (42 U.S.C. 1382(c)(5)(A)) is amended to read as follows: "(A) a State program funded under part A of title IV,".

(i) AMENDMENT TO TITLE XIX.—Section 1902(j) (42 U.S.C. 1396a(j)) is amended by striking "1108(c)" and inserting "1108(g)".

SEC. 109. CONFORMING AMENDMENTS TO THE FOOD STAMP ACT OF 1977 AND RELATED PROVISIONS.

(a) Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in the second sentence of subsection (a), by striking "plan approved" and all that follows through "title IV of the Social Security Act" and inserting "program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)";

(2) in subsection (d)—

(A) in paragraph (5), by striking "assistance to families with dependent children" and inserting "assistance under a State program funded"; and

(B) by striking paragraph (13) and redesignating paragraphs (14), (15), and (16) as paragraphs (13), (14), and (15), respectively;

(3) in subsection (j), by striking "plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.)" and inserting "program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.)"; and

(4) by striking subsection (m).

(b) Section 6 of such Act (7 U.S.C. 2015) is amended—

(1) in subsection (c)(5), by striking "the State plan approved" and inserting "the State program funded"; and

(2) in subsection (e)(6), by striking "aid to families with dependent children" and inserting "benefits under a State program funded".

(c) Section 16(g)(4) of such Act (7 U.S.C. 2025(g)(4)) is amended by striking "State plans under the Aid to Families with Dependent Children Program under" and inserting "State programs funded under part A of".

(d) Section 17 of such Act (7 U.S.C. 2026) is amended—

(1) in the first sentence of subsection (b)(1)(A), by striking "to aid to families with dependent children under part A of title IV of the Social Security Act" and inserting "or are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)"; and

(2) in subsection (b)(3), by adding at the end the following new subparagraph:

"(I) The Secretary may not grant a waiver under this paragraph on or after October 1, 1995. Any reference in this paragraph to a provision of title IV of the Social Security Act shall be deemed to be a reference to such provision as in effect on September 30, 1995.";

(e) Section 20 of such Act (7 U.S.C. 2029) is amended—

(1) in subsection (a)(2)(B) by striking "operating—" and all that follows through "(ii) any other" and inserting "operating any"; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "(b)(1) A household" and inserting "(b) A household"; and

(ii) in subparagraph (B), by striking "training program" and inserting "activity";

(B) by striking paragraph (2); and

(C) by redesignating subparagraphs (A) through (F) as paragraphs (1) through (6), respectively.

(f) Section 5(h)(1) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–186; 7 U.S.C. 612c note) is amended by striking "the program for aid to families with dependent children" and inserting "the State program funded".

(g) Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(C)(ii)(II)—

(i) by striking "program for aid to families with dependent children" and inserting "State program funded"; and

(ii) by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(B) in paragraph (6)—

(i) in subparagraph (A)(ii)—

(I) by striking "an AFDC assistance unit (under the aid to families with dependent children program authorized" and inserting "a family (under the State program funded"; and

(II) by striking ", in a State" and all that follows through "9902(2)))" and inserting "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(ii) in subparagraph (B), by striking "aid to families with dependent children" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(2) in subsection (d)(2)(C)—

(A) by striking "program for aid to families with dependent children" and inserting "State program funded"; and

(B) by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

(h) Section 17(d)(2)(A)(ii)(II) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(A)(ii)(II)) is amended—

(1) by striking "program for aid to families with dependent children established" and inserting "State program funded"; and

(2) by inserting before the semicolon the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

SEC. 110. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) Subsection (b) of section 508 of the Unemployment Compensation Amendments of 1976 (42 U.S.C. 603a; Public Law 94–566; 90 Stat. 2689) is amended to read as follows:

"(b) PROVISION FOR REIMBURSEMENT OF EXPENSES.—For purposes of section 455 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information requested of such offices—

"(1) pursuant to the third sentence of section 3(a) of the Act entitled 'An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes', approved June 6, 1933 (29 U.S.C. 49b(a)), or

"(2) by a State or local agency charged with the duty of carrying a State plan for child support approved under part D of title IV of the Social Security Act,

shall be considered to constitute expenses incurred in the administration of such State plan.".

(b) Section 9121 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(c) Section 9122 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(d) Section 221 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 602 note), relating to treatment under AFDC of certain rental payments for federally assisted housing, is repealed.

(e) Section 159 of the Tax Equity and Fiscal Responsibility Act of 1982 (42 U.S.C. 602 note) is repealed.

(f) Section 202(d) of the Social Security Amendments of 1967 (81 Stat. 882; 42 U.S.C. 602 note) is repealed.

(g) Section 903 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 11381 note), relating to demonstration projects to reduce number of AFDC families in welfare hotels, is amended—

(1) in subsection (a), by striking "aid to families with dependent children under a State plan approved" and inserting "assistance under a State program funded"; and

(2) in subsection (c), by striking "aid to families with dependent children in the State under a State plan approved" and inserting "assistance in the State under a State program funded".

(h) The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

(1) in section 404C(c)(3) (20 U.S.C. 1070a-23(c)(3)), by striking "(Aid to Families with Dependent Children)"; and

(2) in section 480(b)(2) (20 U.S.C. 1087vv(b)(2)), by striking "aid to families with dependent children under a State plan approved" and inserting "assistance under a State program funded".

(i) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended—

(1) in section 231(d)(3)(A)(ii) (20 U.S.C. 2341(d)(3)(A)(ii)), by striking "the program for aid to dependent children" and inserting "the State program funded";

(2) in section 232(b)(2)(B) (20 U.S.C. 2341a(b)(2)(B)), by striking "the program for aid to families with dependent children" and inserting "the State program funded"; and

(3) in section 521(14)(B)(iii) (20 U.S.C. 2471(14)(B)(iii)), by striking "the program for aid to families with dependent children" and inserting "the State program funded".

(j) The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) in section 1113(a)(5) (20 U.S.C. 6313(a)(5)), by striking "Aid to Families with Dependent Children Program" and inserting "State program funded under part A of title IV of the Social Security Act";

(2) in section 1124(c)(5) (20 U.S.C. 6333(c)(5)), by striking "the program of aid to families with dependent children under a State plan approved under" and inserting "a State program funded under part A of"; and

(3) in section 5203(b)(2) (20 U.S.C. 7233(b)(2))—

(A) in subparagraph (A)(xi), by striking "Aid to Families with Dependent Children benefits" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act"; and

(B) in subparagraph (B)(viii), by striking "Aid to Families with Dependent Children" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act".

(k) Chapter VII of title I of Public Law 99–88 (25 U.S.C. 13d–1) is amended to read as follows: "Provided further, That general assistance payments made by the Bureau of Indian Affairs shall be made—

"(1) after April 29, 1985, and before October 1, 1995, on the basis of Aid to Families with Dependent Children (AFDC) standards of need; and

"(2) on and after October 1, 1995, on the basis of standards of need established under the State program funded under part A of title IV of the Social Security Act,

except that where a State ratably reduces its AFDC or State program payments, the Bureau shall reduce general assistance payments in such State by the same percentage as the State has reduced the AFDC or State program payment.".

(l) The Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) is amended—

(1) in section 51(d)(9) (26 U.S.C. 51(d)(9)), by striking all that follows "agency as" and inserting "being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance during the 90-day period which immediately precedes the date on which such individual is hired by the employer.";

(2) in section 3304(a)(16) (26 U.S.C. 3304(a)(16)), by striking "eligibility for aid or services," and all that follows through "children approved" and inserting "eligibility for assistance, or the amount of such assistance, under a State program funded";

(3) in section 6103(l)(7)(D)(i) (26 U.S.C. 6103(l)(7)(D)(i)), by striking "aid to families with dependent children provided under a State plan approved" and inserting "a State program funded";

(4) in section 6103(l)(10) (26 U.S.C. 6103(l)(10))—

(A) by striking "(c) or (d)" each place it appears and inserting "(c), (d), or (e)"; and

(B) by adding at the end of subparagraph (B) the following new sentence: "Any return information disclosed with respect to section 6402(e) shall only be disclosed to officers and employees of the State agency requesting such information.";

(5) in section 6103(p)(4) (26 U.S.C. 6103(p)(4)), in the matter preceding subparagraph (A)—

(A) by striking "(5), (10)" and inserting "(5)"; and

(B) by striking "(9), or (12)" and inserting "(9), (10), or (12)";

(6) in section 6334(a)(11)(A) (26 U.S.C. 6334(a)(11)(A)), by striking "(relating to aid to families with dependent children)";

(7) in section 6402 (26 U.S.C. 6402)—

(A) in subsection (a), by striking "(c) and (d)" and inserting "(c), (d), and (e)";

(B) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(C) by inserting after subsection (d) the following:

"(e) COLLECTION OF OVERPAYMENTS UNDER TITLE IV–A OF THE SOCIAL SECURITY ACT.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 405(e) of the Social Security Act (concerning recovery of overpayments to individuals under State plans approved under part A of title IV of such Act)."; and

(8) in section 7523(b)(3)(C) (26 U.S.C. 7523(b)(3)(C)), by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act".

(m) Section 3(b) of the Wagner-Peyser Act (29 U.S.C. 49b(b)) is amended by striking "State plan approved under part A of title IV" and inserting "State program funded under part A of title IV".

(n) The Job Training Partnership Act (29 U.S.C. 1501 et seq.) is amended—

(1) in section 4(29)(A)(i) (29 U.S.C. 1503(29)(A)(i)), by striking "(42 U.S.C. 601 et seq.)";

(2) in section 106(b)(6)(C) (29 U.S.C. 1516(b)(6)(C)), by striking "State aid to families with dependent children records," and inserting "records collected under the State program funded under part A of title IV of the Social Security Act,";

(3) in section 121(b)(2) (29 U.S.C. 1531(b)(2))—

(A) by striking "the JOBS program" and inserting "the work activities required under title IV of the Social Security Act"; and

(B) by striking the second sentence;

(4) in section 123(c) (29 U.S.C. 1533(c))—

(A) in paragraph (1)(E), by repealing clause (vi); and

(B) in paragraph (2)(D), by repealing clause (v);

(5) in section 203(b)(3) (29 U.S.C. 1603(b)(3)), by striking ", including recipients under the JOBS program";

(6) in subparagraphs (A) and (B) of section 204(a)(1) (29 U.S.C. 1604(a)(1) (A) and (B)), by striking "(such as the JOBS program)" each place it appears;

(7) in section 205(a) (29 U.S.C. 1605(a)), by striking paragraph (4) and inserting the following:

"(4) the portions of title IV of the Social Security Act relating to work activities;";

(8) in section 253 (29 U.S.C. 1632)—

(A) in subsection (b)(2), by repealing subparagraph (C); and

(B) in paragraphs (1)(B) and (2)(B) of subsection (c), by striking "the JOBS program or" each place it appears;

(9) in section 264 (29 U.S.C. 1644)—

(A) in subparagraphs (A) and (B) of subsection (b)(1), by striking "(such as the JOBS program)" each place it appears; and

(B) in subparagraphs (A) and (B) of subsection (d)(3), by striking "and the JOBS program" each place it appears;

(10) in section 265(b) (29 U.S.C. 1645(b)), by striking paragraph (6) and inserting the following:

"(6) the portion of title IV of the Social Security Act relating to work activities;";

(11) in the second sentence of section 429(e) (29 U.S.C. 1699(e)), by striking "and shall be in an amount that does not exceed the maximum amount that may be provided by the State pursuant to section 402(g)(1)(C) of the Social Security Act (42 U.S.C. 602(g)(1)(C))";

(12) in section 454(c) (29 U.S.C. 1734(c)), by striking "JOBS and";

(13) in section 455(b) (29 U.S.C. 1735(b)), by striking "the JOBS program,";

(14) in section 501(1) (29 U.S.C. 1791(1)), by striking "aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act";

(15) in section 506(1)(A) (29 U.S.C. 1791e(1)(A)), by striking "aid to families with dependent children" and inserting "assistance under the State program funded";

(16) in section 508(a)(2)(A) (29 U.S.C. 1791g(a)(2)(A)), by striking "aid to families with dependent children" and inserting "assistance under the State program funded"; and

(17) in section 701(b)(2)(A) (29 U.S.C. 1792(b)(2)(A))—

(A) in clause (v), by striking the semicolon and inserting "; and"; and

(B) by striking clause (vi).

(o) Section 3803(c)(2)(C)(iv) of title 31, United States Code, is amended to read as follows:

"(iv) assistance under a State program funded under part A of title IV of the Social Security Act".

(p) Section 2605(b)(2)(A)(i) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(2)(A)(i)) is amended to read as follows:

"(i) assistance under the State program funded under part A of title IV of the Social Security Act;".

(q) Section 303(f)(2) of the Family Support Act of 1988 (42 U.S.C. 602 note) is amended—

(1) by striking "(A)"; and

(2) by striking subparagraphs (B) and (C).

(r) The Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) is amended—

(1) in the first section 255(h) (2 U.S.C. 905(h)), by striking "Aid to families with dependent children (75–0412–0–1–609);" and inserting "Block grants to States for temporary assistance for needy families;"; and

(2) in section 256 (2 U.S.C. 906)—

(A) by striking subsection (k); and

(B) by redesignating subsection (l) as subsection (k).

(s) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 210(f) (8 U.S.C. 1160(f)), by striking "aid under a State plan approved under" each place it appears and inserting "assistance under a State program funded under";

(2) in section 245A(h) (8 U.S.C. 1255a(h))—

(A) in paragraph (1)(A)(i), by striking "program of aid to families with dependent children" and inserting "State program of assistance"; and

(B) in paragraph (2)(B), by striking "aid to families with dependent children" and inserting *"assistance under a State program funded under part A of title IV of the Social Security Act"; and*

(3) in section 412(e)(4) (8 U.S.C. 1522(e)(4)), by striking "State plan approved" and inserting "State program funded".

(t) Section 640(a)(4)(B)(i) of the Head Start Act (42 U.S.C. 9835(a)(4)(B)(i)) is amended by striking "program of aid to families with dependent children under a State plan approved" and inserting "State program of assistance funded".

(u) Section 9 of the Act of April 19, 1950 (64 Stat. 47, chapter 92; 25 U.S.C. 639) is repealed.

(v) Subparagraph (E) of section 213(d)(6) of the School-To-Work Opportunities Act of 1994 (20 U.S.C. 6143(d)(6)) is amended to read as follows:

"(E) part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) relating to work activities;".

(w) Section 552a(a)(8)(B)(iv)(III) of title 5, United States Code, is amended by striking "section 464 or 1137 of the Social Security Act" and inserting "section 404(e), 464, or 1137 of the Social Security Act.".

SEC. 111. DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD REQUIRED.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Commissioner of Social Security (in this section referred to as the "Commissioner") shall, in accordance with this section, develop a prototype of a counterfeit-resistant social security card. Such prototype card shall—

(A) be made of a durable, tamper-resistant material such as plastic or polyester,

(B) employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits, and

(C) be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) ASSISTANCE BY ATTORNEY GENERAL.—The Attorney General of the United States shall provide such information and assistance as the Commissioner deems necessary to enable the Commissioner to comply with this section.

(b) STUDY AND REPORT.—

(1) IN GENERAL.—The Commissioner shall conduct a study and issue a report to Congress which examines different methods of improving the social security card application process.

(2) ELEMENTS OF STUDY.—The study shall include an evaluation of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3-, 5-, and 10-year period. The study shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3-, 5-, and 10-year phase-in options.

(3) DISTRIBUTION OF REPORT.—The Commissioner shall submit copies of the report described in this subsection along with a facsimile of the prototype card as described in subsection (a) to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate within 1 year after the date of the enactment of this Act.

SEC. 112. DISCLOSURE OF RECEIPT OF FEDERAL FUNDS.

(a) IN GENERAL.—Whenever an organization that accepts Federal funds under this Act or the amendments made by this Act makes any communication that in any way intends to promote public support or opposition to any policy of a Federal, State, or local government through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public advertising, such communication shall state the following: "This was prepared and paid for by an organization that accepts taxpayer dollars.".

(b) FAILURE TO COMPLY.—If an organization makes any communication described in subsection (a) and fails to provide the statement required by that subsection, such organization shall be ineligible to receive Federal funds under this Act or the amendments made by this Act.

(c) DEFINITION.—For purposes of this section, the term "organization" means an organization described in section 501(c) of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATES.—This section shall take effect—

(1) with respect to printed communications 1 year after the date of enactment of this Act; and

(2) with respect to any other communication on the date of enactment of this Act.

SEC. 113. MODIFICATIONS TO THE JOB OPPORTUNITIES FOR CERTAIN LOW-INCOME INDIVIDUALS PROGRAM.

Section 505 of the Family Support Act of 1988 (42 U.S.C. 1315 note) is amended—

*(1) in the heading, by striking "**DEMONSTRATION**";*

(2) by striking "demonstration" each place such term appears;

(3) in subsection (a), by striking "in each of fiscal years" and all that follows through "10" and inserting "shall enter into agreements with";

(4) in subsection (b)(3), by striking "aid to families with dependent children under part A of title IV of the Social Security Act" and inserting "assistance under the program funded part A of title IV of the Social Security Act of the State in which the individual resides";

(5) in subsection (c)—

(A) in paragraph (1)(C), by striking "aid to families with dependent children under part A of title IV of the Social Security Act" and inserting "assistance under a State program funded part A of title IV of the Social Security Act";

(B) in paragraph (2), by striking "aid to families with dependent children under title IV of such Act" and inserting "assistance under a State program funded part A of title IV of the Social Security Act";

(6) in subsection (d), by striking "job opportunities and basic skills training program (as provided for under title IV of the Social Security Act)" and inserting "the State program funded under part A of title IV of the Social Security Act"; and

(7) by striking subsections (e) through (g) and inserting the following:

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of conducting projects under this section, there is authorized to be appropriated an amount not to exceed $25,000,000 for any fiscal year.".

SEC. 114. MEDICAID ELIGIBILITY UNDER TITLE IV OF THE SOCIAL SECURITY ACT.

(a) IN GENERAL.—Section 1902(a)(10)(A) (42 U.S.C. 1396a(a)(10)(A)) is amended—

(1) in clause (i), by amending subclause (I) to read as follows:

"(I) who are receiving a foster care maintenance payment described in section 423(b)(1)(A) or an adoption assistance payment described in section 423(b)(1)(B),"; and

(2) in clause (ii)—

(A) by striking "or" at the end of subclause (XI),

(B) by adding "or" at the end of subclause (XII), and

(C) by adding at the end the following new subclause:

"(XIII) to individuals (which may include individuals who receive payment under any plan of the State approved under title I, X, XIV, or XVI, or a program funded under part A of title IV of this Act, as amended by the Personal Responsibility and Work Opportunity Act of 1995, and other similar individuals) who meet such eligibility criteria as the State establishes, so long as the State demonstrates to the satisfaction of the Secretary that the application of such criteria does not result in Federal expenditures under this title that are greater than the Federal expenditures that would have been made under this title if such Act had not been enacted,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance for items and services furnished on or after the date of the enactment of this Act.

SEC. 115. SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL FOR TECHNICAL AND CONFORMING AMENDMENTS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services and the Commissioner of Social Security, in consultation, as appropriate, with the heads of other Federal agencies, shall submit to the appropriate committees of Congress a legislative proposal proposing such technical and conforming amendments as are necessary to bring the law into conformity with the policy embodied in this title.

SEC. 116. EFFECTIVE DATE; TRANSITION RULE.

(a) IN GENERAL.—Except as otherwise provided in this title, this title and the amendments made by this title shall take effect on October 1, 1996.

(b) TRANSITION RULES.—

(1) STATE OPTION TO ACCELERATE EFFECTIVE DATE.—

(A) IN GENERAL.—If, within 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services receives from a State a plan described in section 402(a) of the Social Security Act (as added by the amendment made by section 103 of this Act), this title and the amendments made by this title (except section 409(a)(7) of the Social Security Act, as added by the amendment made by such section 103) shall also apply with respect to the State during the period that begins on the date of such receipt and ends on September 30, 1996, except that the State shall be considered an eligible State for fiscal year 1996 for purposes of part A of title IV of the Social Security Act (as in effect pursuant to the amendment made by such section 103).

(B) LIMITATIONS ON FEDERAL OBLIGATIONS.—

(i) UNDER AFDC PROGRAM.—If the Secretary receives from a State the plan referred to in subparagraph (A), the total obligations of the Federal Government to the State under part A of title IV of the Social Security Act (as in effect on September 30, 1995) with respect to expenditures by the State after the date of the enactment of this Act shall not exceed an amount equal to—

(I) the State family assistance grant (as defined in section 403(a)(1)(B) of the Social Security Act (as in effect pursuant to the amendment made by section 103 of this Act)); minus

(II) any obligations of the Federal Government to the State under part A of title IV of the Social Security Act (as in effect on September 30, 1995) with respect to expenditures by the State during the period that begins on October 1, 1995, and ends on the day before the date of the enactment of this Act.

(ii) UNDER TEMPORARY FAMILY ASSISTANCE PROGRAM.—Notwithstanding section 403(a)(1) of the Social Security Act (as in effect pursuant to the amendment made by section 103 of this Act), the total obligations of the Federal Government to a State under such section 403(a)(1) for fiscal year 1996 after the termination of the State AFDC program shall not exceed an amount equal to—

(I) the amount described in clause (i)(I) of this subparagraph; minus

(II) any obligations of the Federal Government to the State under part A of title IV of the Social Security Act (as in effect on September 30, 1995) with respect to expenditures by the State on or after October 1, 1995.

"(iii) CHILD CARE OBLIGATIONS EXCLUDED IN DETERMINING FEDERAL AFDC OBLIGATIONS.—As used in this subparagraph, the term "obligations of the Federal Government to the State under part A of title IV of the Social Security Act" does not include any obligation of the Federal Government with respect to child care expenditures by the State.

(C) SUBMISSION OF STATE PLAN FOR FISCAL YEAR 1996 DEEMED ACCEPTANCE OF GRANT LIMITATIONS AND FORMULA.—The submission of a plan by a State pursuant to subparagraph (A) is deemed to constitute the State's acceptance of the grant reductions under subparagraph (B)(ii) (including the formula for computing the amount of the reduction).

(D) DEFINITIONS.—As used in this paragraph:

(i) STATE AFDC PROGRAM.—The term "State AFDC program" means the State program under parts A and F of title IV of the Social Security Act (as in effect on September 30, 1995).

"(ii) STATE.—The term "State" means the 50 States and the District of Columbia.

(2) CLAIMS, ACTIONS, AND PROCEEDINGS.—The amendments made by this title shall not apply with respect to—

(A) powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, assistance, or services provided before the effective date of this title under the provisions amended; and

(B) administrative actions and proceedings commenced before such date, or authorized before such date to be commenced, under such provisions.

(3) CLOSING OUT ACCOUNT FOR THOSE PROGRAMS TERMINATED OR SUBSTANTIALLY MODIFIED BY THIS TITLE.—In closing out accounts, Federal and State officials may use scientifically acceptable statistical sampling techniques. Claims made with respect to State expenditures under a State plan approved under part A of title IV of the Social Security Act (as in effect before the effective date of this Act) with respect to assistance or services provided on or before September 30, 1995, shall be treated as claims with respect to expenditures during fiscal year 1995 for purposes of reimbursement even if payment was made by a State on or after October 1, 1995. Each State shall complete the filing of all claims under the State plan (as so in effect) no later than September 30, 1997. The head of each Federal department shall—

(A) use the single audit procedure to review and resolve any claims in connection with the close out of programs under such State plans; and

(B) reimburse States for any payments made for assistance or services provided during a prior fiscal year from funds for fiscal year 1995, rather than from funds authorized by this title.

(4) CONTINUANCE IN OFFICE OF ASSISTANT SECRETARY FOR FAMILY SUPPORT.—The individual who, on the day before the effective date of this title, is serving as Assistant Secretary for Family Support within the Department of Health and Human Services shall, until a successor is appointed to such position—

(A) continue to serve in such position; and

(B) except as otherwise provided by law—

(i) continue to perform the functions of the Assistant Secretary for Family Support under section 417 of the Social Security Act (as in effect before such effective date); and

(ii) have the powers and duties of the Assistant Secretary for Family Support under section 416 of the Social Security Act (as in effect pursuant to the amendment made by section 103 of this Act).

TITLE II—SUPPLEMENTAL SECURITY INCOME

SEC. 200. REFERENCE TO SOCIAL SECURITY ACT.

Except as otherwise specifically provided, wherever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

Subtitle A—Eligibility Restrictions

SEC. 201. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES.

(a) IN GENERAL.—Section 1614(a) (42 U.S.C. 1382c(a)) is amended by adding at the end the following new paragraph:

"(5) An individual shall not be considered an eligible individual for the purposes of this title during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under programs that are funded under title IV, title XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under this title.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 202. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.

(a) IN GENERAL.—Section 1611(e) (42 U.S.C. 1382(e)) is amended by inserting after paragraph (3) the following new paragraph:

"(4) A person shall not be considered an eligible individual or eligible spouse for purposes of this title with respect to any month if during such month the person is—

"(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(B) violating a condition of probation or parole imposed under Federal or State law.".

(b) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by subsection (a), is amended by inserting after paragraph (4) the following new paragraph:

"(5) Notwithstanding any other provision of law, the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of benefits under this title, if the officer furnishes the Commissioner with the name of the recipient and notifies the Commissioner that—

"(A) the recipient—

"(i) is described in subparagraph (A) or (B) of paragraph (4); or

"(ii) has information that is necessary for the officer to conduct the officer's official duties; and

"(B) the location or apprehension of the recipient is within the officer's official duties.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Benefits for Disabled Children

SEC. 211. DEFINITION AND ELIGIBILITY RULES.

(a) DEFINITION OF CHILDHOOD DISABILITY.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)), as amended by section 201(a), is amended—

(1) in subparagraph (A), by striking "An individual" and inserting "Except as provided in subparagraph (C), an individual";

(2) in subparagraph (A), by striking "(or, in the case of an individual under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)";

(3) by redesignating subparagraphs (C) through (I) as subparagraphs (D) through (J), respectively;

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) An individual under the age of 18 shall be considered disabled for the purposes of this title if that individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. Notwithstanding the preceding sentence, no individual under the age of 18 who engages in substantial gainful activity (determined in accordance with regulations prescribed pursuant to subparagraph (E)) may be considered to be disabled."; and

(5) in subparagraph (F), as redesignated by paragraph (3), by striking "(D)" and inserting "(E)".

(b) CHANGES TO CHILDHOOD SSI REGULATIONS.—

(1) MODIFICATION TO MEDICAL CRITERIA FOR EVALUATION OF MENTAL AND EMOTIONAL DISORDERS.—The Commissioner of Social Security shall modify sections 112.00C.2. and 112.02B.2.c.(2) of appendix 1 to subpart P of part 404 of title 20, Code of Federal Regulations, to eliminate references to maladaptive behavior in the domain of personal/behavorial function.

(2) DISCONTINUANCE OF INDIVIDUALIZED FUNCTIONAL ASSESSMENT.—The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in sections 416.924d and 416.924e of title 20, Code of Federal Regulations.

(c) MEDICAL IMPROVEMENT REVIEW STANDARD AS IT APPLIES TO INDIVIDUALS UNDER THE AGE OF 18.—Section 1614(a)(4) (42 U.S.C. 1382(a)(4)) is amended—

(1) by redesignating subclauses (I) and (II) of clauses (i) and (ii) of subparagraph (B) as items (aa) and (bb), respectively;

(2) by redesignating clauses (i) and (ii) of subparagraphs (A) and (B) as subclauses (I) and (II), respectively;

(3) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and by moving their left hand margin 2 ems to the right;

(4) by inserting before clause (i) (as redesignated by paragraph (3)) the following:

"(A) in the case of an individual who is age 18 or older—";

(5) at the end of subparagraph (A)(iii) (as redesignated by paragraphs (3) and (4)), by striking the period and inserting "; or";

(6) by inserting after and below subparagraph (A)(iii) (as so redesignated) the following:

"(B) in the case of an individual who is under the age of 18—

"(i) substantial evidence which demonstrates that there has been medical improvement in the individual's impairment or combination of impairments, and that such impairment or combination of impairments no longer results in marked and severe functional limitations; or

"(ii) substantial evidence which demonstrates that, as determined on the basis of new or improved diagnostic techniques or evaluations, the individual's impairment or combination of impairments, is not as disabling as it was considered to be at the time of the most recent prior decision that the individual was under a disability or continued to be under a disability, and

such impairment or combination of impairments does not result in marked or severe functional limitations; or";

(7) by redesignating subparagraph (D) as subparagraph (C) and by inserting in such subparagraph "in the case of any individual," before "substantial evidence"; and

(8) in the first sentence following subparagraph (C) (as redesignated by paragraph (7)), by—

(A) inserting "(i)" before "to restore"; and

(B) inserting ", or (ii) in the case of an individual under the age of 18, to eliminate or improve the individual's impairment or combination of impairments so that it no longer results in marked and severe functional limitations" immediately before the period.

(d) AMOUNT OF BENEFITS.—Section 1611(b) (42 U.S.C. 1382(b)) is amended by adding at the end the following new paragraph:

"(3)(A) Except with respect to individuals' described in subparagraph (B), the benefit under this title for an individual described in section 1614(a)(3)(C) shall be payable at a rate equal to 75 percent of the rate otherwise determined under this subsection.

"(B) An individual is described in this subparagraph if such individual is described in section 1614(a)(3)(C), and—

"(i) in the case of such an individual under the age of 6, such individual has a medical impairment that severely limits the individual's ability to function in a manner appropriate to individuals of the same age and who without special personal assistance would require specialized care outside the home; or

"(ii) in the case of such an individual who has attained the age of 6, such individual requires personal care assistance with—

"(I) at least 2 activities of daily living;

"(II) continual 24-hour supervision or monitoring to avoid causing injury or harm to self or others; or

"(III) the administration of medical treatment; and

who without such assistance would require full-time or part-time specialized care outside the home.

"(C)(i) For purposes of subparagraph (B), the term 'specialized care' means medical care beyond routine administration of medication.

"(ii) For purposes of subparagraph (B)(ii)—

"(I) the term 'personal care assistance' means at least hands-on and stand-by assistance, supervision, or cueing; and

"(II) the term 'activities of daily living' means eating, toileting, dressing, bathing, and mobility.".

(e) EFFECTIVE DATES, ETC.—

(1) EFFECTIVE DATES.—

(A) IN GENERAL.—The provisions of, and amendments made by, subsections (a), (b), and (c) shall apply to applicants for benefits under title XVI of the Social Security Act for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such provisions and amendments.

(B) ELIGIBILITY RULES.—The amendments made by subsection (d) shall apply to—

(i) applicants for benefits under title XVI of the Social Security Act for months beginning on or after January 1, 1997; and

(ii) with respect to continuing disability reviews of eligibility for benefits under such title occurring on or after such date.

(2) APPLICATION TO CURRENT RECIPIENTS.—

(A) ELIGIBILITY DETERMINATIONS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall redetermine the eligibility of any individual under age 18 who is receiving supplemental security income benefits by reason of disability under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the provisions of, or amendments made by, subsections (a), (b), and (c). With respect to any redetermination under this subparagraph—

(i) section 1614(a)(4) of the Social Security Act (42 U.S.C. 1382c(a)(4)) shall not apply;

(ii) the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under title XVI of such Act;

(iii) the Commissioner shall give such redetermination priority over all continuing eligibility reviews and other reviews under such title; and

(iv) such redetermination shall be counted as a review or redetermination otherwise required to be made under section 208 of the Social Security Independence and Program Improvements Act of 1994 or any other provision of title XVI of the Social Security Act.

(B) GRANDFATHER PROVISION.—The provisions of, and amendments made by, subsections (a), (b), and (c), and the redetermination under subparagraph (A), shall only apply with respect to the benefits of an individual described in subparagraph (A) for months beginning on or after January 1, 1997.

(C) NOTICE.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify an individual described in subparagraph (A) of the provisions of this paragraph.

(3) REPORT.—The Commissioner of Social Security shall report to the Congress regarding the progress made in implementing the provisions of, and amendments made by, this section on child disability evaluations not later than 180 days after the date of the enactment of this Act.

(4) REGULATIONS.—The Commissioner of Social Security shall submit for review to the committees of jurisdiction in the Congress any final regulation pertaining to the eligibility of individuals under age 18 for benefits under title XVI of the Social Security Act at least 45 days before the effective date of such regulation. The submission under this paragraph shall include supporting documentation providing a cost analysis, workload impact, and projections as to how the regulation will effect the future number of recipients under such title.

(5) APPROPRIATIONS.—

(A) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are authorized to be appropriated and are hereby appropriated, to remain available without fiscal year limitation, $200,000,000 for fiscal year 1996, $75,000,000 for fiscal year 1997, and $25,000,000 for fiscal year 1998, for the Commissioner of Social Security to utilize only for continuing disability reviews and redeterminations under title XVI of the Social Security Act, with reviews and redeterminations for individuals affected by the provisions of subsection (b) given highest priority.

(B) ADDITIONAL FUNDS.—Amounts appropriated under subparagraph (A) shall be in addition to any funds otherwise appropriated for continuing disability reviews and redeterminations under title XVI of the Social Security Act.

(6) BENEFITS UNDER TITLE XVI.—For purposes of this subsection, the term "benefits under title XVI of the Social Security Act" includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act, and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.

SEC. 212. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS.

(a) CONTINUING DISABILITY REVIEWS RELATING TO CERTAIN CHILDREN.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as redesignated by section 211(a)(3), is amended—

(1) by inserting "(i)" after "(H)"; and

(2) by adding at the end the following new clause:

"(ii)(I) Not less frequently than once every 3 years, the Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this title of each individual who has not attained 18 years of age and is eligible for such benefits by reason of an impairment (or combination of impairments) which may improve (or, at the option of the Commissioner, which is unlikely to improve).

"(II) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

"(III) If the representative payee refuses to comply without good cause with the requirements of subclause (II), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly terminate payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.

"(IV) Subclause (II) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combination of impairments). Section 1631(c) shall not apply to a finding by the Commissioner that the requirements of subclause (II) should not apply to an individual's representative payee.".

(b) DISABILITY ELIGIBILITY REDETERMINATIONS REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS OF AGE.—

(1) IN GENERAL.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsection (a), is amended by adding at the end the following new clause:

"(iii) If an individual is eligible for benefits under this title by reason of disability for the month preceding the month in which the individual attains the age of 18 years, the Commissioner shall redetermine such eligibility—

"(I) during the 1-year period beginning on the individual's 18th birthday; and

"(II) by applying the criteria used in determining the initial eligibility for applicants who are age 18 or older.

With respect to a redetermination under this clause, paragraph (4) shall not apply and such redetermination shall be considered a substitute for a review or redetermination otherwise required under any other provision of this subparagraph during that 1-year period.".

(2) CONFORMING REPEAL.—Section 207 of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 1382 note; 108 Stat. 1516) is hereby repealed.

(c) CONTINUING DISABILITY REVIEW REQUIRED FOR LOW BIRTH WEIGHT BABIES.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsections (a) and (b), is amended by adding at the end the following new clause:

"(iv)(I) Not later than 12 months after the birth of an individual, the Commissioner shall review in accordance with paragraph (4) the continuing eligibility for benefits under this title by reason of disability of such individual whose low birth weight is a contributing factor material to the Commissioner's determination that the individual is disabled.

"(II) A review under subclause (I) shall be considered a substitute for a review otherwise required under any other provision of this subparagraph during that 12-month period.

"(III) A representative payee of a recipient whose case is reviewed under this clause shall

present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

"(IV) If the representative payee refuses to comply without good cause with the requirements of subclause (III), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly terminate payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.

"(V) Subclause (III) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combination of impairments). Section 1631(c) shall not apply to a finding by the Commissioner that the requirements of subclause (III) should not apply to an individual's representative payee.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 213. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.

(a) DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE.—

(1) IN GENERAL.—Section 1613(c) (42 U.S.C. 1382b(c)) is amended to read as follows:

"Disposal of Resources for Less Than Fair Market Value

"(c)(1)(A)(i) If an individual who has not attained 18 years of age (or any person acting on such individual's behalf) disposes of resources of the individual for less than fair market value on or after the look-back date specified in clause (ii)(I), the individual is ineligible for benefits under this title for months during the period beginning on the date specified in clause (iii) and equal to the number of months specified in clause (iv).

"(ii)(I) The look-back date specified in this subclause is a date that is 36 months before the date specified in subclause (II).

"(II) The date specified in this subclause is the date on which the individual applies for benefits under this title or, if later, the date on which the disposal of the individual's resources for less than fair market value occurs.

"(iii) The date specified in this clause is the first day of the first month that follows the month in which the individual's resources were disposed of for less than fair market value and that does not occur in any other period of ineligibility under this paragraph.

"(iv) The number of months of ineligibility under this clause for an individual shall be equal to—

"(I) the total, cumulative uncompensated value of all the individual's resources so disposed of on or after the look-back date specified in clause (ii)(I), divided by

"(II) the amount of the maximum monthly benefit payable under section 1611(b) to an eligible individual for the month in which the date specified in clause (ii)(II) occurs.

"(B) An individual shall not be ineligible for benefits under this title by reason of subparagraph (A) if the Commissioner determines that—

"(i) the individual intended to dispose of the resources at fair market value;

"(ii) the resources were transferred exclusively for a purpose other than to qualify for benefits under this title;

"(iii) all resources transferred for less than fair market value have been returned to the individual; or

"(iv) the denial of eligibility would work an undue hardship on the individual (as determined on the basis of criteria established by the Commissioner in regulations).

"(C) For purposes of this paragraph, in the case of a resource held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the resource (or the affected portion of such resource) shall be considered to be disposed of by such individual when any action is taken, either by such individual or by any other person, that reduces or eliminates such individual's ownership or control of such resource.

"(D)(i) Notwithstanding subparagraph (A), this subsection shall not apply to a transfer of a resource to a trust if the portion of the trust attributable to such resource is considered a resource available to the individual pursuant to subsection (e)(3) (or would be so considered, but for the application of subsection (e)(4)).

"(ii) In the case of a trust established by an individual (within the meaning of subsection (e)(2)(A)), if from such portion of the trust (if any) that is considered a resource available to the individual pursuant to subsection (e)(3) (or would be so considered but for the application of subsection (e)(2)) or the residue of such portion upon the termination of the trust—

"(I) there is made a payment other than to or for the benefit of the individual, or

"(II) no payment could under any circumstance be made to the individual,

then the payment described in subclause (I) or the foreclosure of payment described in subclause (II) shall be considered a disposal of resources by the individual subject to this subsection, as of the date of such payment or foreclosure, respectively.

"(2)(A) At the time an individual (and the individual's eligible spouse, if any) applies for benefits under this title, and at the time the eligibility of an individual (and such spouse, if any) for such benefits is redetermined, the Commissioner of Social Security shall—

"(i) inform such individual of the provisions of paragraph (1) providing for a period of ineligibility for benefits under this title for individuals who make certain dispositions of resources for less than fair market value, and inform such individual that information obtained pursuant to clause (ii) will be made available to the State agency administering a State plan approved under title XIX (as provided in subparagraph (B)); and

"(ii) obtain from such individual information which may be used in determining whether or not a period of ineligibility for such benefits would be required by reason of paragraph (1).

"(B) The Commissioner of Social Security shall make the information obtained under subparagraph (A)(ii) available, on request, to any State agency administering a State plan approved under title XIX.

"(3) For purposes of this subsection—

"(A) the term 'trust' includes any legal instrument or device that is similar to a trust; and

"(B) the term 'benefits under this title' includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall be effective with respect to transfers that occur at least 90 days after the date of the enactment of this Act.

(b) TREATMENT OF ASSETS HELD IN TRUST.—

(1) TREATMENT AS RESOURCE.—Section 1613 (42 U.S.C. 1382) is amended by adding at the end the following new subsection:

"Trusts

"(e)(1) In determining the resources of an individual who has not attained 18 years of age, the provisions of paragraph (3) shall apply to a trust established by such individual.

"(2)(A) For purposes of this subsection, an individual shall be considered to have established a trust if any assets of the individual were transferred to the trust.

"(B) In the case of an irrevocable trust to which the assets of an individual and the assets of any other person or persons were transferred, the provisions of this subsection shall apply to the portion of the trust attributable to the assets of the individual.

"(C) This subsection shall apply without regard to—

"(i) the purposes for which the trust is established;

"(ii) whether the trustees have or exercise any discretion under the trust;

"(iii) any restrictions on when or whether distributions may be made from the trust; or

"(iv) any restrictions on the use of distributions from the trust.

"(3)(A) In the case of a revocable trust, the corpus of the trust shall be considered a resource available to the individual.

"(B) In the case of an irrevocable trust, if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual, the portion of the corpus from which payment to or for the benefit of the individual could be made shall be considered a resource available to the individual.

"(4) The Commissioner may waive the application of this subsection with respect to any individual if the Commissioner determines, on the basis of criteria prescribed in regulations, that such application would work an undue hardship on such individual.

"(5) For purposes of this subsection—

"(A) the term 'trust' includes any legal instrument or device that is similar to a trust;

"(B) the term 'corpus' means all property and other interests held by the trust, including accumulated earnings and any other addition to such trust after its establishment (except that such term does not include any such earnings or addition in the month in which such earnings or addition is credited or otherwise transferred to the trust);

"(C) the term 'asset' includes any income or resource of the individual, including—

"(i) any income otherwise excluded by section 1612(b);

"(ii) any resource otherwise excluded by this section; and

"(iii) any other payment or property that the individual is entitled to but does not receive or have access to because of action by—

"(I) such individual;

"(II) a person or entity (including a court) with legal authority to act in place of, or on behalf of, such individual; or

"(III) a person or entity (including a court) acting at the direction of, or upon the request of, such individual; and

"(D) the term 'benefits under this title' includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.".

(2) TREATMENT AS INCOME.—Section 1612(a)(2) (42 U.S.C. 1382a(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (E);

(B) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(G) any earnings of, and additions to, the corpus of a trust (as defined in section 1613(f))

established by an individual (within the meaning of section 1613(e)(2)(A)) and of which such individual is a beneficiary (other than a trust to which section 1613(e)(4) applies), except that in the case of an irrevocable trust, there shall exist circumstances under which payment from such earnings or additions could be made to, or for the benefit of, such individual.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1996, and shall apply to trusts established on or after such date.

(c) REQUIREMENT TO ESTABLISH ACCOUNT.—

(1) IN GENERAL.—Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended—

(A) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(B) by inserting after subparagraph (E) the following new subparagraph:

''(F)(i)(I) Each representative payee of an eligible individual under the age of 18 who is eligible for the payment of benefits described in subclause (II) shall establish on behalf of such individual an account in a financial institution into which such benefits shall be paid, and shall thereafter maintain such account for use in accordance with clause (ii).

''(II) Benefits described in this subclause are past-due monthly benefits under this title (which, for purposes of this subclause, include State supplementary payments made by the Commissioner pursuant to an agreement under section 1616 or section 212(b) of Public Law 93–66) in an amount (after any withholding by the Commissioner for reimbursement to a State for interim assistance under subsection (g)) that exceeds the product of—

''(aa) 6, and

''(bb) the maximum monthly benefit payable under this title to an eligible individual.

''(ii)(I) A representative payee may use funds in the account established under clause (i) to pay for allowable expenses described in subclause (II).

''(II) An allowable expense described in this subclause is an expense for—

''(aa) education or job skills training;

''(bb) personal needs assistance;

''(cc) special equipment;

''(dd) housing modification;

''(ee) medical treatment;

''(ff) therapy or rehabilitation; or

''(gg) any other item or service that the Commissioner determines to be appropriate;

provided that such expense benefits such individual and, in the case of an expense described in item (cc), (dd), (ff), or (gg), is related to the impairment (or combination of impairments) of such individual.

''(III) The use of funds from an account established under clause (i) in any manner not authorized by this clause—

''(aa) by a representative payee shall constitute misuse of benefits for all purposes of this paragraph, and any representative payee who knowingly misuses benefits from such an account shall be liable to the Commissioner in an amount equal to the total amount of such misused benefits; and

''(bb) by an eligible individual who is his or her own representative payee shall be considered an overpayment subject to recovery under subsection (b).

''(IV) This clause shall continue to apply to funds in the account after the child has reached age 18, regardless of whether benefits are paid directly to the beneficiary or through a representative payee.

''(iii) The representative payee may deposit into the account established pursuant to clause (i)—

''(I) past-due benefits payable to the eligible individual in an amount less than that specified in clause (i)(II), and

''(II) any other funds representing an underpayment under this title to such individual, provided that the amount of such underpayment is equal to or exceeds the maximum monthly benefit payable under this title to an eligible individual.

''(iv) The Commissioner of Social Security shall establish a system for accountability monitoring whereby such representative payee shall report, at such time and in such manner as the Commissioner shall require, on activity respecting funds in the account established pursuant to clause (i).''.

(2) EXCLUSION FROM RESOURCES.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(A) in paragraph (9), by striking ''; and'' and inserting a semicolon;

(B) in the first paragraph (10), by striking the period and inserting a semicolon;

(C) by redesignating the second paragraph (10) as paragraph (11), and by striking the period and inserting ''; and''; and

(D) by adding at the end the following:

''(12) the assets and accrued interest or other earnings of any account established and maintained in accordance with section 1631(a)(2)(F).''.

(3) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(A) by striking ''and'' at the end of paragraph (19);

(B) by striking the period at the end of paragraph (20) and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(21) the interest or other earnings on any account established and maintained in accordance with section 1631(a)(2)(F).''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after the date of the enactment of this Act.

SEC. 214. REDUCTION IN CASH BENEFITS PAYABLE TO INSTITUTIONALIZED INDIVIDUALS WHOSE MEDICAL COSTS ARE COVERED BY PRIVATE INSURANCE.

(a) IN GENERAL.—Section 1611(e)(1)(B) (42 U.S.C. 1382(e)(1)(B)) is amended—

(1) by striking ''title XIX, or'' and inserting ''title XIX,''; and

(2) by inserting ''or, in the case of an eligible individual under the age of 18 receiving payments (with respect to such individual) under any health insurance policy issued by a private provider of such insurance'' after ''section 1614(f)(2)(B),''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to benefits for months beginning 90 or more days after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 215. REGULATIONS.

Within 3 months after the date of the enactment of this Act, the Commissioner of Social Security shall prescribe such regulations as may be necessary to implement the amendments made by this subtitle.

Subtitle C—State Supplementation Programs

SEC. 221. REPEAL OF MAINTENANCE OF EFFORT REQUIREMENTS APPLICABLE TO OPTIONAL STATE PROGRAMS FOR SUPPLEMENTATION OF SSI BENEFITS.

Section 1618 (42 U.S.C. 1382g) is hereby repealed.

Subtitle D—Studies Regarding Supplemental Security Income Program

SEC. 231. ANNUAL REPORT ON THE SUPPLEMENTAL SECURITY INCOME PROGRAM.

Title XVI (42 U.S.C. 1381 et seq.), as amended by section 201(c), is amended by adding at the end the following new section:

''ANNUAL REPORT ON PROGRAM

''SEC. 1637. (a) Not later than May 30 of each year, the Commissioner of Social Security shall prepare and deliver a report annually to the President and the Congress regarding the program under this title, including—

''(1) a comprehensive description of the program;

''(2) historical and current data on allowances and denials, including number of applications and allowance rates at initial determinations, reconsiderations, administrative law judge hearings, council of appeals hearings, and Federal court appeal hearings;

''(3) historical and current data on characteristics of recipients and program costs, by recipient group (aged, blind, work disabled adults, and children);

''(4) projections of future number of recipients and program costs, through at least 25 years;

''(5) number of redeterminations and continuing disability reviews, and the outcomes of such redeterminations and reviews;

''(6) data on the utilization of work incentives;

''(7) detailed information on administrative and other program operation costs;

''(8) summaries of relevant research undertaken by the Social Security Administration, or by other researchers;

''(9) State supplementation program operations;

''(10) a historical summary of statutory changes to this title; and

''(11) such other information as the Commissioner deems useful.

''(b) Each member of the Social Security Advisory Board shall be permitted to provide an individual report, or a joint report if agreed, of views of the program under this title, to be included in the annual report under this section.''.

SEC. 232. STUDY OF DISABILITY DETERMINATION PROCESS.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and from funds otherwise appropriated, the Commissioner of Social Security shall make arrangements with the National Academy of Sciences, or other independent entity, to conduct a study of the disability determination process under titles II and XVI of the Social Security Act. This study shall be undertaken in consultation with professionals representing appropriate disciplines.

(b) STUDY COMPONENTS.—The study described in subsection (a) shall include—

(1) an initial phase examining the appropriateness of, and making recommendations regarding—

(A) the definitions of disability in effect on the date of the enactment of this Act and the advantages and disadvantages of alternative definitions; and

(B) the operation of the disability determination process, including the appropriate method of performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(2) a second phase, which may be concurrent with the initial phase, examining the validity, reliability, and consistency with current scientific knowledge of the standards and individual listings in the Listing of Impairments set forth in appendix 1 of subpart P of part 404 of title 20, Code of Federal Regulations, and of related evaluation procedures as promulgated by the Commissioner of Social Security; and

(3) such other issues as the applicable entity considers appropriate.

(c) REPORTS AND REGULATIONS.—

(1) REPORTS.—The Commissioner of Social Security shall request the applicable entity, to submit an interim report and a final report of the findings and recommendations resulting

from the study described in this section to the President and the Congress not later than 18 months and 24 months, respectively, from the date of the contract for such study, and such additional reports as the Commissioner deems appropriate after consultation with the applicable entity.

(2) Regulations.—The Commissioner of Social Security shall review both the interim and final reports, and shall issue regulations implementing any necessary changes following each report.

SEC. 233. STUDY BY GENERAL ACCOUNTING OFFICE.

Not later than January 1, 1998, the Comptroller General of the United States shall study and report on—

(1) the impact of the amendments made by, and the provisions of, this title on the supplemental security income program under title XVI of the Social Security Act; and

(2) extra expenses incurred by families of children receiving benefits under such title that are not covered by other Federal, State, or local programs.

Subtitle E—National Commission on the Future of Disability

SEC. 241. ESTABLISHMENT.

There is established a commission to be known as the National Commission on the Future of Disability (referred to in this subtitle as the "Commission").

SEC. 242. DUTIES OF THE COMMISSION.

(a) In General.—The Commission shall develop and carry out a comprehensive study of all matters related to the nature, purpose, and adequacy of all Federal programs serving individuals with disabilities. In particular, the Commission shall study the disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such Act.

(b) Matters Studied.—The Commission shall prepare an inventory of Federal programs serving individuals with disabilities, and shall examine—

(1) trends and projections regarding the size and characteristics of the population of individuals with disabilities, and the implications of such analyses for program planning;

(2) the feasibility and design of performance standards for the Nation's disability programs;

(3) the adequacy of Federal efforts in rehabilitation research and training, and opportunities to improve the lives of individuals with disabilities through all manners of scientific and engineering research; and

(4) the adequacy of policy research available to the Federal Government, and what actions might be undertaken to improve the quality and scope of such research.

(c) Recommendations.—The Commission shall submit to the appropriate committees of the Congress and to the President recommendations and, as appropriate, proposals for legislation, regarding—

(1) which (if any) Federal disability programs should be eliminated or augmented;

(2) what new Federal disability programs (if any) should be established;

(3) the suitability of the organization and location of disability programs within the Federal Government;

(4) other actions the Federal Government should take to prevent disabilities and disadvantages associated with disabilities; and

(5) such other matters as the Commission considers appropriate.

SEC. 243. MEMBERSHIP.

(a) Number and Appointment.—

(1) In General.—The Commission shall be composed of 15 members, of whom—

(A) five shall be appointed by the President, of whom not more than 3 shall be of the same major political party;

(B) three shall be appointed by the Majority Leader of the Senate;

(C) two shall be appointed by the Minority Leader of the Senate;

(D) three shall be appointed by the Speaker of the House of Representatives; and

(E) two shall be appointed by the Minority Leader of the House of Representatives.

(2) Representation.—The Commission members shall be chosen based on their education, training, or experience. In appointing individuals as members of the Commission, the President and the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives shall seek to ensure that the membership of the Commission reflects the general interests of the business and taxpaying community and the diversity of individuals with disabilities in the United States.

(b) Comptroller General.—The Comptroller General of the United States shall advise the Commission on the methodology and approach of the study of the Commission.

(c) Term of Appointment.—The members shall serve on the Commission for the life of the Commission.

(d) Meetings.—The Commission shall locate its headquarters in the District of Columbia, and shall meet at the call of the Chairperson, but not less than 4 times each year during the life of the Commission.

(e) Quorum.—Ten members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) Chairperson and Vice Chairperson.—Not later than 15 days after the members of the Commission are appointed, such members shall designate a Chairperson and Vice Chairperson from among the members of the Commission.

(g) Continuation of Membership.—If a member of the Commission becomes an officer or employee of any government after appointment to the Commission, the individual may continue as a member until a successor member is appointed.

(h) Vacancies.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made not later than 30 days after the Commission is given notice of the vacancy.

(i) Compensation.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(j) Travel Expenses.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 244. STAFF AND SUPPORT SERVICES.

(a) Director.—

(1) Appointment.—Upon consultation with the members of the Commission, the Chairperson shall appoint a Director of the Commission.

(2) Compensation.—The Director shall be paid the rate of basic pay for level V of the Executive Schedule.

(b) Staff.—With the approval of the Commission, the Director may appoint such personnel as the Director considers appropriate.

(c) Applicability of Civil Service Laws.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) Experts and Consultants.—With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) Staff of Federal Agencies.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist in carrying out the duties of the Commission under this subtitle.

(f) Other Resources.—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress and agencies and elected representatives of the executive and legislative branches of the Federal Government. The Chairperson of the Commission shall make requests for such access in writing when necessary.

(g) Physical Facilities.—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning of the Commission.

SEC. 245. POWERS OF COMMISSION.

(a) Hearings.—The Commission may conduct public hearings or forums at the discretion of the Commission, at any time and place the Commission is able to secure facilities and witnesses, for the purpose of carrying out the duties of the Commission under this subtitle.

(b) Delegation of Authority.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) Information.—The Commission may secure directly from any Federal agency information necessary to enable the Commission to carry out its duties under this subtitle. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of a Federal agency shall furnish the information to the Commission to the extent permitted by law.

(d) Gifts, Bequests, and Devises.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 246. REPORTS.

(a) Interim Report.—Not later than 1 year prior to the date on which the Commission terminates pursuant to section 247, the Commission shall submit an interim report to the President and to the Congress. The interim report shall contain a detailed statement of the findings and conclusions of the Commission, together with the Commission's recommendations for legislative and administrative action, based on the activities of the Commission.

(b) Final Report.—Not later than the date on which the Commission terminates, the Commission shall submit to the Congress and to the President a final report containing—

(1) a detailed statement of final findings, conclusions, and recommendations; and

(2) an assessment of the extent to which recommendations of the Commission included in the interim report under subsection (a) have been implemented.

(c) Printing and Public Distribution.—Upon receipt of each report of the Commission under this section, the President shall—

(1) order the report to be printed; and

(2) make the report available to the public upon request.

SEC. 247. TERMINATION.

The Commission shall terminate on the date that is 2 years after the date on which the members of the Commission have met and designated a Chairperson and Vice Chairperson.

SEC. 248. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out the purposes of the Commission.

Subtitle F—Retirement Age Eligibility

SEC. 251. ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME BENEFITS BASED ON SOCIAL SECURITY RETIREMENT AGE.

(a) In General.—Section 1614(a)(1)(A) (42 U.S.C. 1382C(a)(1)(A)) is amended by striking "is 65 years of age or older," and inserting "has attained retirement age.".

(b) Retirement Age Defined.—Section 1614 (42 U.S.C. 1382c) is amended by adding at the end the following new subsection:

"Retirement Age

"(g) For purposes of this title, the term "retirement age" has the meaning given such term by section 216(l)(1).".

(c) Conforming Amendments.—Sections 1601, 1612(b)(4), 1615(a)(1), and 1620(b)(2) (42 U.S.C. 1381, 1382a(b)(4), 1382d(a)(1), and 1382i(b)(2)) are amended by striking "age 65" each place it appears and inserting "retirement age".

(d) Effective Date.—The amendments made by this section shall apply to applicants for benefits for months beginning after September 30, 1995.

TITLE III—CHILD SUPPORT

SEC. 300. REFERENCE TO SOCIAL SECURITY ACT.

Except as otherwise specifically provided, where ever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

Subtitle A—Eligibility for Services; Distribution of Payments

SEC. 301. STATE OBLIGATION TO PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES.

(a) State Plan Requirements.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking paragraph (4) and inserting the following new paragraph:

"(4) provide that the State will—

"(A) provide services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations, as appropriate, under the plan with respect to—

"(i) each child for whom (I) assistance is provided under the State program funded under part A of this title, (II) benefits or services for foster care maintenance and adoption assistance are provided under the State program funded under part B of this title, or (III) medical assistance is provided under the State plan approved under title XIX, unless the State agency administering the plan determines (in accordance with paragraph (29)) that it is against the best interests of the child to do so; and

"(ii) any other child, if an individual applies for such services with respect to the child; and

"(B) enforce any support obligation established with respect to—

"(i) a child with respect to whom the State provides services under the plan; or

"(ii) the custodial parent of such a child."; and

(2) in paragraph (6)—

(A) by striking "provide that" and inserting "provide that—";

(B) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) services under the plan shall be made available to residents of other States on the same terms as to residents of the State submitting the plan;";

(C) in subparagraph (B), by inserting "on individuals not receiving assistance under any State program funded under part A" after "such services shall be imposed";

(D) in each of subparagraphs (B), (C), (D), and (E)—

(i) by indenting the subparagraph in the same manner as, and aligning the left margin of the subparagraph with the left margin of, the matter inserted by subparagraph (B) of this paragraph; and

(ii) by striking the final comma and inserting a semicolon; and

(E) in subparagraph (E), by indenting each of clauses (i) and (ii) 2 additional ems.

(b) Continuation of Services for Families Ceasing To Receive Assistance Under the State Program Funded Under Part A.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding after paragraph (24) the following new paragraph:

"(25) provide that if a family with respect to which services are provided under the plan ceases to receive assistance under the State program funded under part A, the State shall provide appropriate notice to the family and continue to provide such services, subject to the same conditions and on the same basis as in the case of other individuals to whom services are furnished under the plan, except that an application or other request to continue services shall not be required of such a family and paragraph (6)(B) shall not apply to the family.".

(c) Conforming Amendments.—

(1) Section 452(b) (42 U.S.C. 652(b)) is amended by striking "454(6)" and inserting "454(4)".

(2) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended by striking "454(6)" each place it appears and inserting "454(4)(A)(ii)".

(3) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "in the case of overdue support which a State has agreed to collect under section 454(6)" and inserting "in any other case".

(4) Section 466(e) (42 U.S.C. 666(e)) is amended by striking "paragraph (4) or (6) of section 454" and inserting "section 454(4)".

SEC. 302. DISTRIBUTION OF CHILD SUPPORT COLLECTIONS.

(a) In General.—Section 457 (42 U.S.C. 657) is amended to read as follows:

"SEC. 457. DISTRIBUTION OF COLLECTED SUPPORT.

"(a) In General.—An amount collected on behalf of a family as support by a State pursuant to a plan approved under this part shall be distributed as follows:

"(1) Families Receiving Assistance.—In the case of a family receiving assistance from the State, the State shall—

"(A) pay to the Federal Government the Federal share of the amount so collected; and

"(B) retain, or distribute to the family, the State share of the amount so collected.

"(2) Families That Formerly Received Assistance.—In the case of a family that formerly received assistance from the State:

"(A) Current Support Payments.—To the extent that the amount so collected does not exceed the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected to the family.

"(B) Payments of Arrearages.—To the extent that the amount so collected exceeds the amount required to be paid to the family for the month in which collected, the State shall distribute the amount so collected as follows:

"(i) Distribution of Arrearages That Accrued After the Family Ceased To Receive Assistance.—

"(I) Pre-October 1997.—The provisions of this section (other than subsection (b)(1)) as in effect and applied on the day before the date of the enactment of section 302 of the Personal Responsibility and Work Opportunity Act of 1995 shall apply with respect to the distribution of support arrearages that—

"(aa) accrued after the family ceased to receive assistance, and

"(bb) are collected before October 1, 1997.

"(II) Post-September 1997.—With respect the amount so collected on or after October 1, 1997, or before such date, at the option of the State—

"(aa) In General.—The State shall first distribute the amount so collected (other than any amount described in clause (iv)) to the family to the extent necessary to satisfy any support arrearages with respect to the family that accrued after the family ceased to receive assistance from the State.

"(bb) Reimbursement of Governments for Assistance Provided to the Family.—After the application of division (aa) and clause (ii)(II)(aa) with respect to the amount so collected, the State shall retain the State share of the amount so collected, and pay to the Federal Government the Federal share (as defined in subsection (c)(2)(A)) of the amount so collected, but only to the extent necessary to reimburse amounts paid to the family as assistance by the State.

"(cc) Distribution of the Remainder to the Family.—To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.

"(ii) Distribution of Arrearages That Accrued Before the Family Received Assistance.—

"(I) Pre-October 2000.—The provisions of this section (other than subsection (b)(1)) as in effect and applied on the day before the date of the enactment of section 302 of the Personal Responsibility and Work Opportunity Act of 1995 shall apply with respect to the distribution of support arrearages that—

"(aa) accrued before the family received assistance, and

"(bb) are collected before October 1, 2000.

"(II) Post-September 2000.—Unless, based on the report required by paragraph (4), the Congress determines otherwise, with respect to the amount so collected on or after October 1, 2000, or before such date, at the option of the State—

"(aa) In General.—The State shall first distribute the amount so collected (other than any amount described in clause (iv)) to the family to the extent necessary to satisfy any support arrearages with respect to the family that accrued before the family received assistance from the State.

"(bb) Reimbursement of Governments for Assistance Provided to the Family.—After the application of clause (i)(II)(aa) and division (aa) with respect to the amount so collected, the State shall retain the State share of the amount so collected, and pay to the Federal Government the Federal share (as defined in subsection (c)(2)) of the amount so collected, but only to the extent necessary to reimburse of the amounts paid to the family as assistance by the State.

"(cc) Distribution of the Remainder to the Family.—To the extent that neither division (aa) nor division (bb) applies to the amount so collected, the State shall distribute the amount to the family.

"(iii) Distribution of Arrearages That Accrued While the Family Received Assistance.—In the case of a family described in this subparagraph, the provisions of paragraph (1) shall apply with respect to the distribution of support arrearages that accrued while the family received assistance.

"(iv) Amounts Collected Pursuant to Section 464.—Notwithstanding any other provision of this section, any amount of support collected *pursuant to section 464 shall be retained by the State to the extent necessary to reimburse amounts paid to the family as assistance by the State. The State shall pay to the Federal Government the Federal share of the amounts so retained. To the extent the amount collected pursuant to section 464 exceeds the amount so retained, the State shall distribute the excess to the family.*

"(v) ORDERING RULES FOR DISTRIBUTIONS.—For purposes of this subparagraph, the State shall treat any support arrearages collected as accruing in the following order:

"(I) to the period after the family ceased to receive assistance;

"(II) to the period before the family received assistance; and

"(III) to the period while the family was receiving assistance.

"(3) FAMILIES THAT NEVER RECEIVED ASSISTANCE.—In the case of any other family, the State shall distribute the amount so collected to the family.

"(4) STUDY AND REPORT.—Not later than October 1, 1998, the Secretary shall report to the Congress the Secretary's findings with respect to—

"(A) whether the distribution of post-assistance arrearages to families has been effective in moving people off of welfare and keeping them off of welfare;

"(B) whether early implementation of a pre-assistance arrearage program by some states has been effective in moving people off of welfare and keeping them off of welfare;

"(C) what the overall impact has been of the amendments made by the Personal Responsibility and Work Opportunity Act of 1995 with respect to child support enforcement in moving people off of welfare and keeping them off of welfare; and

"(D) based on the information and data the Secretary has obtained, what changes, if any, should be made in the policies related to the distribution of child support arrearages.

"(b) CONTINUATION OF ASSIGNMENTS.—Any rights to support obligations, which were assigned to a State as a condition of receiving assistance from the State under part A and which were in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995, shall remain assigned after such date.

"(c) DEFINITIONS.—As used in subsection (a):

"(1) ASSISTANCE.—The term 'assistance from the State' means—

"(A) assistance under the State program funded under part A or under the State plan approved under part A of this title (as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995); or

"(B) benefits under the State plan approved under part E of this title (as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995).

"(2) FEDERAL SHARE.—The term 'Federal share' means that portion of the amount collected resulting from the application of the Federal medical percentage in effect for the fiscal year in which the amount is collected.

"(3) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means—

"(A) the Federal medical assistance percentage (as defined in section 1118), in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa; or

"(B) the Federal medical assistance percentage (as defined in section 1905(b)) in the case of any other State.

"(4) STATE SHARE.—The term 'State share' means 100 percent minus the Federal share.

"(d) HOLD HARMLESS PROVISION.—If the amounts collected which could be retained by the State in the fiscal year (to the extent necessary to reimburse the State for amounts paid to families as assistance by the State) are less than the State share of the amounts collected in fiscal year 1995 (determined in accordance with section 457 as in effect on the day before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995), the State share for the fiscal year shall be an amount equal to the State share in fiscal year 1995.".

(b) CONFORMING AMENDMENTS.—

(1) Section 464(a)(1) (42 U.S.C. 664(a)(1)) is amended by striking "section 457(b)(4) or (d)(3)" and inserting "section 457".

(2) Section 454 (42 U.S.C. 654) is amended—

(A) in paragraph (11)—

(i) by striking "(11)" and inserting "(11)(A)"; and

(ii) by inserting after the semicolon "and"; and

(B) by redesignating paragraph (12) as subparagraph (B) of paragraph (11).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall be effective on October 1, 1996, or earlier at the State's option.

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (b)(2) shall become effective on the date of the enactment of this Act.

SEC. 303. PRIVACY SAFEGUARDS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by section 301(b) of this Act, is amended—

(1) by striking "and" at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting "; and"; and

(3) by adding after paragraph (25) the following new paragraph:

"(26) will have in effect safeguards, applicable to all confidential information handled by the State agency, that are designed to protect the privacy rights of the parties, including—

"(A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish or enforce support;

"(B) prohibitions against the release of information on the whereabouts of 1 party to another party against whom a protective order with respect to the former party has been entered; and

"(C) prohibitions against the release of information on the whereabouts of 1 party to another party if the State has reason to believe that the release of the information may result in physical or emotional harm to the former party.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997.

SEC. 304. RIGHTS TO NOTIFICATION AND HEARINGS.

(a) IN GENERAL.—Section 454 (42 U.S.C. 654), as amended by section 302(b)(2) of this Act, is amended by inserting after paragraph (11) the following new paragraph:

"(12) provide for the establishment of procedures to require the State to provide individuals who are applying for or receiving services under the State plan, or who are parties to cases in which services are being provided under the State plan—

"(A) with notice of all proceedings in which support obligations might be established or modified; and

"(B) with a copy of any order establishing or modifying a child support obligation, or (in the case of a petition for modification) a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997.

Subtitle B—Locate and Case Tracking

SEC. 311. STATE CASE REGISTRY.

Section 454A, as added by section 344(a)(2) of this Act, is amended by adding at the end the following new subsections:

"(e) STATE CASE REGISTRY.—

"(1) CONTENTS.—The automated system required by this section shall include a registry (which shall be known as the 'State case registry') that contains records with respect to—

"(A) each case in which services are being provided by the State agency under the State plan approved under this part; and

"(B) each support order established or modified in the State on or after October 1, 1998.

"(2) LINKING OF LOCAL REGISTRIES.—The State case registry may be established by linking local case registries of support orders through an automated information network, subject to this section.

"(3) USE OF STANDARDIZED DATA ELEMENTS.—Such records shall use standardized data elements for both parents (such as names, social security numbers and other uniform identification numbers, dates of birth, and case identification numbers), and contain such other information (such as on-case status) as the Secretary may require.

"(4) PAYMENT RECORDS.—Each case record in the State case registry with respect to which services are being provided under the State plan approved under this part and with respect to which a support order has been established shall include a record of—

"(A) the amount of monthly (or other periodic) support owed under the order, and other amounts (including arrearages, interest or late payment penalties, and fees) due or overdue under the order;

"(B) any amount described in subparagraph (A) that has been collected;

"(C) the distribution of such collected amounts;

"(D) the birth date of any child for whom the order requires the provision of support; and

"(E) the amount of any lien imposed with respect to the order pursuant to section 466(a)(4).

"(5) UPDATING AND MONITORING.—The State agency operating the automated system required by this section shall promptly establish and maintain, and regularly monitor, case records in the State case registry with respect to which services are being provided under the State plan approved under this part, on the basis of—

"(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;

"(B) information obtained from comparison with Federal, State, or local sources of information;

"(C) information on support collections and distributions; and

"(D) any other relevant information.

"(f) INFORMATION COMPARISONS AND OTHER DISCLOSURES OF INFORMATION.—The State shall use the automated system required by this section to extract information from (at such times, and in such standardized format or formats, as may be required by the Secretary), to share and compare information with, and to receive information from, other data bases and information comparison services, in order to obtain (or provide) information necessary to enable the State agency (or the Secretary or other State or Federal agencies) to carry out this part, subject to section 6103 of the Internal Revenue Code of 1986. Such information comparison activities shall include the following:

"(1) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—Furnishing to the Federal Case Registry of Child Support Orders established

under section 453(h) (and update as necessary, with information including notice of expiration of orders) the minimum amount of information on child support cases recorded in the State case registry that is necessary to operate the registry (as specified by the Secretary in regulations).

"(2) FEDERAL PARENT LOCATOR SERVICE.—Exchanging information with the Federal Parent Locator Service for the purposes specified in section 453.

"(3) TEMPORARY FAMILY ASSISTANCE AND MEDICAID AGENCIES.—Exchanging information with State agencies (of the State and of other States) administering programs funded under part A, programs operated under State plans under title XIX, and other programs designated by the Secretary, as necessary to perform State agency responsibilities under this part and under such programs.

"(4) INTRASTATE AND INTERSTATE INFORMATION COMPARISONS.—Exchanging information with other agencies of the State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this part.".

SEC. 312. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 301(b) and 303(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting "; and"; and

(3) by adding after paragraph (26) the following new paragraph:

"(27) provide that, on and after October 1, 1998, the State agency will—

"(A) operate a State disbursement unit in accordance with section 454B; and

"(B) have sufficient State staff (consisting of State employees) and (at State option) contractors reporting directly to the State agency to—

"(i) monitor and enforce support collections through the unit in cases being enforced by the State pursuant to section 454(4) (including carrying out the automated data processing responsibilities described in section 454A(g)); and

"(ii) take the actions described in section 466(c)(1) in appropriate cases.".

(b) ESTABLISHMENT OF STATE DISBURSEMENT UNIT.—Part D of title IV (42 U.S.C. 651–669), as amended by section 344(a)(2) of this Act, is amended by inserting after section 454A the following new section:

"SEC. 454B. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

"(a) STATE DISBURSEMENT UNIT.—

"(1) IN GENERAL.—In order for a State to meet the requirements of this section, the State agency must establish and operate a unit (which shall be known as the 'State disbursement unit') for the collection and disbursement of payments under support orders—

"(A) in all cases being enforced by the State pursuant to section 454(4); and

"(B) in all cases not being enforced by the State under this part in which the support order is initially issued in the State on or after January 1, 1994 and in which the wages of the absent parent are subject to withholding pursuant to section 466(a)(8)(B).

"(2) OPERATION.—The State disbursement unit shall be operated—

"(A) directly by the State agency (or 2 or more State agencies under a regional cooperative agreement), or (to the extent appropriate) by a contractor responsible directly to the State agency; and

"(B) except in cases described in paragraph (1)(B), in coordination with the automated system established by the State pursuant to section 454A.

"(3) LINKING OF LOCAL DISBURSEMENT UNITS.—The State disbursement unit may be established by linking local disbursement units through an automated information network, subject to this section, if the Secretary agrees that the system will not cost more nor take more time to establish or operate than a centralized system. In addition, employers shall be given 1 location to which income withholding is sent.

"(b) REQUIRED PROCEDURES.—The State disbursement unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures—

"(1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other obligees, the State agency, and the agencies of other States;

"(2) for accurate identification of payments;

"(3) to ensure prompt disbursement of the custodial parent's share of any payment; and

"(4) to furnish to any parent, upon request, timely information on the current status of support payments under an order requiring payments to be made by or to the parent.

"(c) TIMING OF DISBURSEMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the State disbursement unit shall distribute all amounts payable under section 457(a) within 2 business days after receipt from the employer or other source of periodic income, if sufficient information identifying the payee is provided.

"(2) PERMISSIVE RETENTION OF ARREARAGES.—The State disbursement unit may delay the distribution of collections toward arrearages until the resolution of any timely appeal with respect to such arrearages.

"(d) BUSINESS DAY DEFINED.—As used in this section, the term 'business day' means a day on which State offices are open for regular business.".

(c) USE OF AUTOMATED SYSTEM.—Section 454A, as added by section 344(a)(2) and as amended by section 311 of this Act, is amended by adding at the end the following new subsection:

"(g) COLLECTION AND DISTRIBUTION OF SUPPORT PAYMENTS.—

"(1) IN GENERAL.—The State shall use the automated system required by this section, to the maximum extent feasible, to assist and facilitate the collection and disbursement of support payments through the State disbursement unit operated under section 454B, through the performance of functions, including, at a minimum—

"(A) transmission of orders and notices to employers (and other debtors) for the withholding of wages and other income—

"(i) within 2 business days after receipt from a court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State of notice of, and the income source subject to, such withholding; and

"(ii) using uniform formats prescribed by the Secretary;

"(B) ongoing monitoring to promptly identify failures to make timely payment of support; and

"(C) automatic use of enforcement procedures (including procedures authorized pursuant to section 466(c)) if payments are not timely made.

"(2) BUSINESS DAY DEFINED.—As used in paragraph (1), the term 'business day' means a day on which State offices are open for regular business.".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1998.

SEC. 313. STATE DIRECTORY OF NEW HIRES.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 301(b), 303(a) and 312(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (26);

(2) by striking the period at the end of paragraph (27) and inserting "; and"; and

(3) by adding after paragraph (27) the following new paragraph:

"(28) provide that, on and after October 1, 1997, the State will operate a State Directory of New Hires in accordance with section 453A.".

(b) STATE DIRECTORY OF NEW HIRES.—Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 453 the following new section:

"SEC. 453A. STATE DIRECTORY OF NEW HIRES.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—

"(A) REQUIREMENT FOR STATES THAT HAVE NO DIRECTORY.—Except as provided in subparagraph (B), not later than October 1, 1997, each State shall establish an automated directory (to be known as the 'State Directory of New Hires') which shall contain information supplied in accordance with subsection (b) by employers on each newly hired employee.

"(B) STATES WITH NEW HIRE REPORTING IN EXISTENCE.—A State which has a new hire reporting law in existence on the date of the enactment of this section may continue to operate under the State law, but the State must meet the requirements of this section (other than subsection (f)) not later than October 1, 1997.

"(2) DEFINITIONS.—As used in this section:

"(A) EMPLOYEE.—The term 'employee'—

"(i) means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986; and

"(ii) does not include an employee of a Federal or State agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting pursuant to paragraph (1) with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

"(B) EMPLOYER.—

"(i) IN GENERAL.—The term 'employer' has the meaning given such term in section 3401(d) of the Internal Revenue Code of 1996 and includes any governmental entity and any labor organization.

"(ii) LABOR ORGANIZATION.—The term 'labor organization' shall have the meaning given such term in section 2(5) of the National Labor Relations Act, and includes any entity (also known as a 'hiring hall') which is used by the organization and an employer to carry out requirements described in section 8(f)(3) of such Act of an agreement between the organization and the employer.

"(b) EMPLOYER INFORMATION.—

"(1) REPORTING REQUIREMENT.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), each employer shall furnish to the Directory of New Hires of the State in which a newly hired employee works, a report that contains the name, address, and social security number of the employee, and the name and address of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

"(B) MULTISTATE EMPLOYERS.—An employer that has employees who are employed in 2 or more States and that transmits reports magnetically or electronically may comply with subparagraph (A) by designating 1 State in which such employer has employees to which the employer will transmit the report described in subparagraph (A), and transmitting such report to such State. Any employer that transmits reports pursuant to this subparagraph shall notify the Secretary in writing as to which State such employer designates for the purpose of sending reports.

"(C) FEDERAL GOVERNMENT EMPLOYERS.—Any department, agency, or instrumentality of the

United States shall comply with subparagraph (A) by transmitting the report described in subparagraph (A) to the National Directory of New Hires established pursuant to section 453.

"(2) TIMING OF REPORT.—Each State may provide the time within which the report required by paragraph (1) shall be made with respect to an employee, but such report shall be made—

"(A) not later than 20 days after the date the employer hires the employee; or

"(B) in the case of an employer transmitting reports magnetically or electronically, by 2 monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

"(c) REPORTING FORMAT AND METHOD.—Each report required by subsection (b) shall be made on a W–4 form or, at the option of the employer, an equivalent form, and may be transmitted by 1st class mail, magnetically, or electronically.

"(d) CIVIL MONEY PENALTIES ON NONCOMPLYING EMPLOYERS.—The State shall have the option to set a State civil money penalty which shall be less than—

"(1) $25; or

"(2) $500 if, under State law, the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report.

"(e) ENTRY OF EMPLOYER INFORMATION.—Information shall be entered into the data base maintained by the State Directory of New Hires within 5 business days of receipt from an employer pursuant to subsection (b).

"(f) INFORMATION COMPARISONS.—

"(1) IN GENERAL.—Not later than May 1, 1998, an agency designated by the State shall, directly or by contract, conduct automated comparisons of the social security numbers reported by employers pursuant to subsection (b) and the social security numbers appearing in the records of the State case registry for cases being enforced under the State plan.

"(2) NOTICE OF MATCH.—When an information comparison conducted under paragraph (1) reveals a match with respect to the social security number of an individual required to provide support under a support order, the State Directory of New Hires shall provide the agency administering the State plan approved under this part of the appropriate State with the name, address, and social security number of the employee to whom the social security number is assigned, and the name of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

"(g) TRANSMISSION OF INFORMATION.—

"(1) TRANSMISSION OF WAGE WITHHOLDING NOTICES TO EMPLOYERS.—Within 2 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State agency enforcing the employee's child support obligation shall transmit a notice to the employer of the employee directing the employer to withhold from the wages of the employee an amount equal to the monthly (or other periodic) child support obligation (including any past due support obligation) of the employee, unless the employee's wages are not subject to withholding pursuant to section 466(b)(3).

"(2) TRANSMISSIONS TO THE NATIONAL DIRECTORY OF NEW HIRES.—

"(A) NEW HIRE INFORMATION.—Within 3 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State Directory of New Hires shall furnish the information to the National Directory of New Hires.

"(B) WAGE AND UNEMPLOYMENT COMPENSATION INFORMATION.—The State Directory of New Hires shall, on a quarterly basis, furnish to the National Directory of New Hires extracts of the reports required under section 303(a)(6) to be made to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals, by such dates, in such format, and containing such information as the Secretary of Health and Human Services shall specify in regulations.

"(3) BUSINESS DAY DEFINED.—As used in this subsection, the term 'business day' means a day on which State offices are open for regular business.

"(h) OTHER USES OF NEW HIRE INFORMATION.—

"(1) LOCATION OF CHILD SUPPORT OBLIGORS.—The agency administering the State plan approved under this part shall use information received pursuant to subsection (f)(2) to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations.

"(2) VERIFICATION OF ELIGIBILITY FOR CERTAIN PROGRAMS.—A State agency responsible for administering a program specified in section 1137(b) shall have access to information reported by employers pursuant to subsection (b) of this section for purposes of verifying eligibility for the program.

"(3) ADMINISTRATION OF EMPLOYMENT SECURITY AND WORKERS' COMPENSATION.—State agencies operating employment security and workers' compensation programs shall have access to information reported by employers pursuant to subsection (b) for the purposes of administering such programs.".

(c) QUARTERLY WAGE REPORTING.—Section 1137(a)(3) (42 U.S.C. 1320b–7(a)(3)) is amended—

(1) by inserting "(including State and local governmental entities and labor organizations (as defined in section 453A(a)(2)(B)(iii))" after "employers"; and

(2) by inserting ", and except that no report shall be filed with respect to an employee of a State or local agency performing intelligence or counterintelligence functions, if the head of such agency has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission" after "paragraph (2)".

SEC. 314. AMENDMENTS CONCERNING INCOME WITHHOLDING.

(a) MANDATORY INCOME WITHHOLDING.—

(1) IN GENERAL.—Section 466(a)(1) (42 U.S.C. 666(a)(1)) is amended to read as follows:

"(1)(A) Procedures described in subsection (b) for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.

"(B) Procedures under which the wages of a person with a support obligation imposed by a support order issued (or modified) in the State before October 1, 1996, if not otherwise subject to withholding under subsection (b), shall become subject to withholding as provided in subsection (b) if arrearages occur, without the need for a judicial or administrative hearing.".

(2) CONFORMING AMENDMENTS.—

(A) Section 466(b) (42 U.S.C. 666(b)) is amended in the matter preceding paragraph (1), by striking "subsection (a)(1)" and inserting "subsection (a)(1)(A)".

(B) Section 466(b)(4) (42 U.S.C. 666(b)(4)) is amended to read as follows:

"(4)(A) Such withholding must be carried out in full compliance with all procedural due process requirements of the State, and the State must send notice to each noncustodial parent to whom paragraph (1) applies—

"(i) that the withholding has commenced; and

"(ii) of the procedures to follow if the noncustodial parent desires to contest such withholding on the grounds that the withholding or the amount withheld is improper due to a mistake of fact.

"(B) The notice under subparagraph (A) of this paragraph shall include the information provided to the employer under paragraph (6)(A).".

(C) Section 466(b)(5) (42 U.S.C. 666(b)(5)) is amended by striking all that follows "administered by" and inserting "the State through the State disbursement unit established pursuant to section 454B, in accordance with the requirements of section 454B.".

(D) Section 466(b)(6)(A) (42 U.S.C. 666(b)(6)(A)) is amended—

(i) in clause (i), by striking "to the appropriate agency" and all that follows and inserting "to the State disbursement unit within 2 business days after the date the amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part. The employer shall comply with the procedural rules relating to income withholding of the State in which the employee works, regardless of the State where the notice originates.".

(ii) in clause (ii), by inserting "be in a standard format prescribed by the Secretary, and" after "shall"; and

(iii) by adding at the end the following new clause:

"(iii) As used in this subparagraph, the term 'business day' means a day on which State offices are open for regular business.".

(E) Section 466(b)(6)(D) (42 U.S.C. 666(b)(6)(D)) is amended by striking "any employer" and all that follows and inserting "any employer who—

"(i) discharges from employment, refuses to employ, or takes disciplinary action against any noncustodial parent subject to wage withholding required by this subsection because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer; or

"(ii) fails to withhold support from wages, or to pay such amounts to the State disbursement unit in accordance with this subsection.".

(F) Section 466(b) (42 U.S.C. 666(b)) is amended by adding at the end the following new paragraph:

"(11) Procedures under which the agency administering the State plan approved under this part may execute a withholding order without advance notice to the obligor, including issuing the withholding order through electronic means.".

(b) CONFORMING AMENDMENT.—Section 466(c) (42 U.S.C. 666(c)) is repealed.

SEC. 315. LOCATOR INFORMATION FROM INTERSTATE NETWORKS.

Section 466(a) (42 U.S.C. 666(a)) is amended by adding at the end the following new paragraph:

"(12) LOCATOR INFORMATION FROM INTERSTATE NETWORKS.—Procedures to ensure that all Federal and State agencies conducting activities under this part have access to any system used by the State to locate an individual for purposes relating to motor vehicles or law enforcement.".

SEC. 316. EXPANSION OF THE FEDERAL PARENT LOCATOR SERVICE.

(a) EXPANDED AUTHORITY TO LOCATE INDIVIDUALS AND ASSETS.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (a), by striking all that follows "subsection (c))" and inserting ", for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, or enforcing child custody or visitation orders—

"(1) information on, or facilitating the discovery of, the location of any individual—

"(A) who is under an obligation to pay child support or provide child custody or visitation rights;

"(B) against whom such an obligation is sought;

"(C) to whom such an obligation is owed,

including the individual's social security number (or numbers), most recent address, and the name, address, and employer identification number of the individual's employer;

"(2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

"(3) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual."; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "social security" and all that follows through "absent parent" and inserting "information described in subsection (a)"; and

(B) in the flush paragraph at the end, by adding the following: "No information shall be disclosed to any person if the State has notified the Secretary that the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent. Information received or transmitted pursuant to this section shall be subject to the safeguard provisions contained in section 454(26).".

(b) AUTHORIZED PERSON FOR INFORMATION REGARDING VISITATION RIGHTS.—Section 453(c) (42 U.S.C. 653(c)) is amended—

(1) in paragraph (1), by striking "support" and inserting "support or to seek to enforce orders providing child custody or visitation rights"; and

(2) in paragraph (2), by striking ", or any agent of such court; and" and inserting "or to issue an order against a resident parent for child custody or visitation rights, or any agent of such court;".

(c) REIMBURSEMENT FOR INFORMATION FROM FEDERAL AGENCIES.—Section 453(e)(2) (42 U.S.C. 653(e)(2)) is amended in the 4th sentence by inserting "in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information)" before the period.

(d) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES.—Section 453 (42 U.S.C. 653) is amended by adding at the end the following new subsection:

"(g) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES.—The Secretary may reimburse Federal and State agencies for the costs incurred by such entities in furnishing information requested by the Secretary under this section in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information).".

(e) CONFORMING AMENDMENTS.—

(1) Sections 452(a)(9), 453(a), 453(b), 463(a), 463(e), and 463(f) (42 U.S.C. 652(a)(9), 653(a), 653(b), 663(a), 663(e), and 663(f)) are each amended by inserting "Federal" before "Parent" each place such term appears.

(2) Section 453 (42 U.S.C. 653) is amended in the heading by adding "FEDERAL" before "PARENT".

(f) NEW COMPONENTS.—Section 453 (42 U.S.C. 653), as amended by subsection (d) of this section, is amended by adding at the end the following new subsections:

"(h) FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS.—

"(1) IN GENERAL.—Not later than October 1, 1998, in order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry (which shall be known as the 'Federal Case Registry of Child Support Orders'), which shall contain abstracts of support orders and other information described in paragraph (2) with respect to each case in each State case registry maintained pursuant to section 454A(e), as furnished (and regularly updated), pursuant to section 454A(f), by State agencies administering programs under this part.

"(2) CASE INFORMATION.—The information referred to in paragraph (1) with respect to a case shall be such information as the Secretary may specify in regulations (including the names, social security numbers or other uniform identification numbers, and State case identification numbers) to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have the case.

"(i) NATIONAL DIRECTORY OF NEW HIRES.—

"(1) IN GENERAL.—In order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall, not later than October 1, 1996, establish and maintain in the Federal Parent Locator Service an automated directory to be known as the National Directory of New Hires, which shall contain the information supplied pursuant to section 453A(g)(2).

"(2) ENTRY OF DATA.—Information shall be entered into the data base maintained by the National Directory of New Hires within 2 business days of receipt pursuant to section 453A(g)(2).

"(3) ADMINISTRATION OF FEDERAL TAX LAWS.—The Secretary of the Treasury shall have access to the information in the National Directory of New Hires for purposes of administering section 32 of the Internal Revenue Code of 1986, or the advance payment of the earned income tax credit under section 3507 of such Code, and verifying a claim with respect to employment in a tax return.

"(4) LIST OF MULTISTATE EMPLOYERS.—The Secretary shall maintain within the National Directory of New Hires a list of multistate employers that report information regarding newly hired employees pursuant to section 453A(b)(1)(B), and the State which each such employer has designated to receive such information.

"(j) INFORMATION COMPARISONS AND OTHER DISCLOSURES.—

"(1) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION.—

"(A) IN GENERAL.—The Secretary shall transmit information on individuals and employers maintained under this section to the Social Security Administration to the extent necessary for verification in accordance with subparagraph (B).

"(B) VERIFICATION BY SSA.—The Social Security Administration shall verify the accuracy of, correct, or supply to the extent possible, and report to the Secretary, the following information supplied by the Secretary pursuant to subparagraph (A):

"(i) The name, social security number, and birth date of each such individual.

"(ii) The employer identification number of each such employer.

"(2) INFORMATION COMPARISONS.—For the purpose of locating individuals in a paternity establishment case or a case involving the establishment, modification, or enforcement of a support order, the Secretary shall—

"(A) compare information in the National Directory of New Hires against information in the support case abstracts in the Federal Case Registry of Child Support Orders not less often than every 2 business days; and

"(B) within 2 such days after such a comparison reveals a match with respect to an individual, report the information to the State agency responsible for the case.

"(3) INFORMATION COMPARISONS AND DISCLOSURES OF INFORMATION IN ALL REGISTRIES FOR TITLE IV PROGRAM PURPOSES.—To the extent and with the frequency that the Secretary determines to be effective in assisting States to carry out their responsibilities under programs operated under this part and programs funded under part A, the Secretary shall—

"(A) compare the information in each component of the Federal Parent Locator Service maintained under this section against the information in each other such component (other than the comparison required by paragraph (2)), and report instances in which such a comparison reveals a match with respect to an individual to State agencies operating such programs; and

"(B) disclose information in such registries to such State agencies.

"(4) PROVISION OF NEW HIRE INFORMATION TO THE SOCIAL SECURITY ADMINISTRATION.—The National Directory of New Hires shall provide the Commissioner of Social Security with all information in the National Directory, which shall be used to determine the accuracy of payments under the supplemental security income program under title XVI and in connection with benefits under title II.

"(5) RESEARCH.—The Secretary may provide access to information reported by employers pursuant to section 453A(b) for research purposes found by the Secretary to be likely to contribute to achieving the purposes of part A or this part, but without personal identifiers.

"(k) FEES.—

"(1) FOR SSA VERIFICATION.—The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, for the costs incurred by the Commissioner in performing the verification services described in subsection (j).

"(2) FOR INFORMATION FROM STATE DIRECTORIES OF NEW HIRES.—The Secretary shall reimburse costs incurred by State directories of new hires in furnishing information as required by subsection (j)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining such information).

"(3) FOR INFORMATION FURNISHED TO STATE AND FEDERAL AGENCIES.—A State or Federal agency that receives information from the Secretary pursuant to this section shall reimburse the Secretary for costs incurred by the Secretary in furnishing the information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and comparing the information).

"(l) RESTRICTION ON DISCLOSURE AND USE.—Information in the Federal Parent Locator Service, and information resulting from comparisons using such information, shall not be used or disclosed except as expressly provided in this section, subject to section 6103 of the Internal Revenue Code of 1986.

"(m) INFORMATION INTEGRITY AND SECURITY.—The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—

"(1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and

"(2) restrict access to confidential information in the Federal Parent Locator Service to authorized persons, and restrict use of such information to authorized purposes.

"(n) FEDERAL GOVERNMENT REPORTING.—Each department, agency, and instrumentality of the United States shall on a quarterly basis report to the Federal Parent Locator Service the *name and social security number of each employee and the wages paid to the employee during the previous quarter, except that such a report shall not be filed with respect to an employee of a department, agency, or instrumentality performing intelligence or counterintelligence functions, if the head of such department, agency, or instrumentality has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.''.*

(g) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—

(A) Section 454(8)(B) (42 U.S.C. 654(8)(B)) is amended to read as follows:

''(B) the Federal Parent Locator Service established under section 453;''.

(B) Section 454(13) (42 U.S.C.654(13)) is amended by inserting ''and provide that information requests by parents who are residents of other States be treated with the same priority as requests by parents who are residents of the State submitting the plan'' before the semicolon.

(2) TO FEDERAL UNEMPLOYMENT TAX ACT.—Section 3304(a)(16) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''Secretary of Health, Education, and Welfare'' each place such term appears and inserting ''Secretary of Health and Human Services'';

(B) in subparagraph (B), by striking ''such information'' and all that follows and inserting ''information furnished under subparagraph (A) or (B) is used only for the purposes authorized under such subparagraph;'';

(C) by striking ''and'' at the end of subparagraph (A);

(D) by redesignating subparagraph (B) as subparagraph (C); and

(E) by inserting after subparagraph (A) the following new subparagraph:

''(B) wage and unemployment compensation information contained in the records of such agency shall be furnished to the Secretary of Health and Human Services (in accordance with regulations promulgated by such Secretary) as necessary for the purposes of the National Directory of New Hires established under section 453(i) of the Social Security Act, and''.

(3) TO STATE GRANT PROGRAM UNDER TITLE III OF THE SOCIAL SECURITY ACT.—Subsection (h) of section 303 (42 U.S.C. 503) is amended to read as follows:

''(h)(1) The State agency charged with the administration of the State law shall, on a reimbursable basis—

''(A) disclose quarterly, to the Secretary of Health and Human Services wage and claim information, as required pursuant to section 453(i)(1), contained in the records of such agency;

''(B) ensure that information provided pursuant to subparagraph (A) meets such standards relating to correctness and verification as the Secretary of Health and Human Services, with the concurrence of the Secretary of Labor, may find necessary; and

''(C) establish such safeguards as the Secretary of Labor determines are necessary to insure that information disclosed under subparagraph (A) is used only for purposes of section 453(i)(1) in carrying out the child support enforcement program under title IV.

''(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, the Secretary shall make no future certification to the Secretary of the Treasury with respect to the State.

''(3) For purposes of this subsection—

''(A) the term 'wage information' means information regarding wages paid to an individual, the social security account number of such individual, and the name, address, State, and the Federal employer identification number of the employer paying such wages to such individual; and

''(B) the term 'claim information' means information regarding whether an individual is receiving, has received, or has made application for, unemployment compensation, the amount of any such compensation being received (or to be received by such individual), and the individual's current (or most recent) home address.''.

(4) DISCLOSURE OF CERTAIN INFORMATION TO AGENTS OF CHILD SUPPORT ENFORCEMENT AGENCIES.—

(A) IN GENERAL.—Paragraph (6) of section 6103(l) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local child support enforcement agencies) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) DISCLOSURE TO CERTAIN AGENTS.—The following information disclosed to any child support enforcement agency under subparagraph (A) with respect to any individual with respect to whom child support obligations are sought to be established or enforced may be disclosed by such agency to any agent of such agency which is under contract with such agency to carry out the purposes described in subparagraph (C):

''(i) The address and social security account number (or numbers) of such individual.

''(ii) The amount of any reduction under section 6402(c) (relating to offset of past-due support against overpayments) in any overpayment otherwise payable to such individual.''

(B) CONFORMING AMENDMENTS.—

(i) Paragraph (3) of section 6103(a) of such Code is amended by striking ''(l)(12)'' and inserting ''paragraph (6) or (12) of subsection (l)''.

(ii) Subparagraph (C) of section 6103(l)(6) of such Code, as redesignated by subsection (a), is amended to read as follows:

''(C) RESTRICTION ON DISCLOSURE.—Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.''

(iii) The material following subparagraph (F) of section 6103(p)(4) of such Code is amended by striking ''subsection (l)(12)(B)'' and inserting ''paragraph (6)(A) or (12)(B) of subsection (l)''.

SEC. 317. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR USE IN CHILD SUPPORT ENFORCEMENT.

(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by section 315 of this Act, is amended by adding at the end the following new paragraph:

''(13) RECORDING OF SOCIAL SECURITY NUMBERS IN CERTAIN FAMILY MATTERS.—Procedures requiring that the social security number of—

''(A) any applicant for a professional license, commercial driver's license, occupational license, or marriage license be recorded on the application;

''(B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and

''(C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate.

For purposes of subparagraph (A), if a State allows the use of a number other than the social security number, the State shall so advise any applicants.''.

(b) CONFORMING AMENDMENTS.—Section 205(c)(2)(C) (42 U.S.C. 405(c)(2)(C)), as amended by section 321(a)(9) of the Social Security Independence and Program Improvements Act of 1994, is amended—

(1) in clause (i), by striking ''may require'' and inserting ''shall require'';

(2) in clause (ii), by inserting after the 1st sentence the following: ''In the administration of any law involving the issuance of a marriage certificate or license, each State shall require each party named in the certificate or license to furnish to the State (or political subdivision thereof), or any State agency having administrative responsibility for the law involved, the social security number of the party.'';

(3) in clause (ii), by inserting ''or marriage certificate'' after ''Such numbers shall not be recorded on the birth certificate''.

(4) in clause (vi), by striking ''may'' and inserting ''shall''; and

(5) by adding at the end the following new clauses:

''(x) An agency of a State (or a political subdivision thereof) charged with the administration of any law concerning the issuance or renewal of a license, certificate, permit, or other authorization to engage in a profession, an occupation, or a commercial activity shall require all applicants for issuance or renewal of the license, certificate, permit, or other authorization to provide the applicant's social security number to the agency for the purpose of administering such laws, and for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.

''(xi) All divorce decrees, support orders, and paternity determinations issued, and all paternity acknowledgments made, in each State shall include the social security number of each party to the decree, order, determination, or acknowledgement in the records relating to the matter, for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.''.

Subtitle C—Streamlining and Uniformity of Procedures

SEC. 321. ADOPTION OF UNIFORM STATE LAWS.

Section 466 (42 U.S.C. 666) is amended by adding at the end the following new subsection:

''(f) UNIFORM INTERSTATE FAMILY SUPPORT ACT.—

''(1) ENACTMENT AND USE.—In order to satisfy section 454(20)(A), on and after January 1, 1998, each State must have in effect the Uniform Interstate Family Support Act, as approved by the American Bar Association on February 9, 1993, together with any amendments officially adopted before January 1, 1998 by the National Conference of Commissioners on Uniform State Laws.

''(2) EMPLOYERS TO FOLLOW PROCEDURAL RULES OF STATE WHERE EMPLOYEE WORKS.—The State law enacted pursuant to paragraph (1) shall provide that an employer that receives an income withholding order or notice pursuant to section 501 of the Uniform Interstate Family Support Act follow the procedural rules that apply with respect to such order or notice under the laws of the State in which the obligor works.

SEC. 322. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

Section 1738B of title 28, United States Code, is amended—

(1) in subsection (a)(2), by striking ''subsection (e)'' and inserting ''subsections (e), (f), and (i)'';

(2) in subsection (b), by inserting after the 2nd undesignated paragraph the following:

'' 'child's home State' means the State in which a child lived with a parent or a person

acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the 6-month period.";

(3) in subsection (c), by inserting "by a court of a State" before "is made";

(4) in subsection (c)(1), by inserting "and subsections (e), (f), and (g)" after "located";

(5) in subsection (d)—

(A) by inserting "individual" before "contestant"; and

(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";

(6) in subsection (e), by striking "make a modification of a child support order with respect to a child that is made" and inserting "modify a child support order issued";

(7) in subsection (e)(1), by inserting "pursuant to subsection (i)" before the semicolon;

(8) in subsection (e)(2)—

(A) by inserting "individual" before "contestant" each place such term appears; and

(B) by striking "to that court's making the modification and assuming" and inserting "with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume";

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(10) by inserting after subsection (e) the following new subsection:

"(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If 1 or more child support orders have been issued in this or another State with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

"(1) If only 1 court has issued a child support order, the order of that court must be recognized.

"(2) If 2 or more courts have issued child support orders for the same obligor and child, and only 1 of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

"(3) If 2 or more courts have issued child support orders for the same obligor and child, and more than 1 of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

"(4) If 2 or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court may issue a child support order, which must be recognized.

"(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction.";

(11) in subsection (g) (as so redesignated)—

(A) by striking "PRIOR" and inserting "MODIFIED"; and

(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";

(12) in subsection (h) (as so redesignated)—

(A) in paragraph (2), by inserting "including the duration of current payments and other obligations of support" before the comma; and

(B) in paragraph (3), by inserting "arrears under" after "enforce"; and

(13) by adding at the end the following new subsection:

"(i) REGISTRATION FOR MODIFICATION.—If there is no individual contestant or child residing in the issuing State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification.".

SEC. 323. ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315 and 317(a) of this Act, is amended by adding at the end the following new paragraph:

"(14) ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.—Procedures under which—

"(A)(i) the State shall respond within 5 business days to a request made by another State to enforce a support order; and

"(ii) the term 'business day' means a day on which State offices are open for regular business;

"(B) the State may, by electronic or other means, transmit to another State a request for assistance in a case involving the enforcement of a support order, which request—

"(i) shall include such information as will enable the State to which the request is transmitted to compare the information about the case to the information in the data bases of the State; and

"(ii) shall constitute a certification by the requesting State—

"(I) of the amount of support under the order the payment of which is in arrears; and

"(II) that the requesting State has complied with all procedural due process requirements applicable to the case;

"(C) if the State provides assistance to another State pursuant to this paragraph with respect to a case, neither State shall consider the case to be transferred to the caseload of such other State; and

"(D) the State shall maintain records of—

"(i) the number of such requests for assistance received by the State;

"(ii) the number of cases for which the State collected support in response to such a request; and

"(iii) the amount of such collected support.".

SEC. 324. USE OF FORMS IN INTERSTATE ENFORCEMENT.

(a) PROMULGATION.—Section 452(a) (42 U.S.C. 652(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(11) not later than June 30, 1996, after consulting with the State directors of programs under this part, promulgate forms to be used by States in interstate cases for—

"(A) collection of child support through income withholding;

"(B) imposition of liens; and

"(C) administrative subpoenas.".

(b) USE BY STATES.—Section 454(9) (42 U.S.C. 654(9)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by inserting "and" at the end of subparagraph (D); and

(3) by adding at the end the following new subparagraph:

"(E) no later than October 1, 1996, in using the forms promulgated pursuant to section 452(a)(11) for income withholding, imposition of liens, and issuance of administrative subpoenas in interstate child support cases;".

SEC. 325. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466 (42 U.S.C. 666), as amended by section 314 of this Act, is amended—

(1) in subsection (a)(2), by striking the 1st sentence and inserting the following: "Expedited administrative and judicial procedures (including the procedures specified in subsection (c)) for establishing paternity and for establishing, modifying, and enforcing support obligations."; and

(2) by inserting after subsection (b) the following new subsection:

"(c) EXPEDITED PROCEDURES.—The procedures specified in this subsection are the following:

"(1) ADMINISTRATIVE ACTION BY STATE AGENCY.—Procedures which give the State agency the authority to take the following actions relating to establishment or enforcement of support orders, without the necessity of obtaining an order from any other judicial or administrative tribunal, and to recognize and enforce the authority of State agencies of other States) to take the following actions:

"(A) GENETIC TESTING.—To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).

"(B) FINANCIAL OR OTHER INFORMATION.—To subpoena any financial or other information needed to establish, modify, or enforce a support order, and to impose penalties for failure to respond to such a subpoena.

"(C) RESPONSE TO STATE AGENCY REQUEST.—To require all entities in the State (including for-profit, nonprofit, and governmental employers) to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor, and to sanction failure to respond to any such request.

"(D) ACCESS TO CERTAIN RECORDS.—To obtain access, subject to safeguards on privacy and information security, to the following records (including automated access, in the case of records maintained in automated data bases):

"(i) Records of other State and local government agencies, including—

"(I) vital statistics (including records of marriage, birth, and divorce);

"(II) State and local tax and revenue records (including information on residence address, employer, income and assets);

"(III) records concerning real and titled personal property;

"(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

"(V) employment security records;

"(VI) records of agencies administering public assistance programs;

"(VII) records of the motor vehicle department; and

"(VIII) corrections records.

"(ii) Certain records held by private entities, including—

"(I) customer records of public utilities and cable television companies; and

"(II) information (including information on assets and liabilities) on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought) held by financial institutions (subject to limitations on liability of such entities arising from affording such access), as provided pursuant to agreements described in subsection (a)(18).

"(E) CHANGE IN PAYEE.—In cases in which support is subject to an assignment in order to comply with a requirement imposed pursuant to part A or section 1912, or to a requirement to pay through the State disbursement unit established pursuant to section 454B, upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.

"(F) INCOME WITHHOLDING.—To order income withholding in accordance with subsections (a)(1) and (b) of section 466.

"(G) SECURING ASSETS.—In cases in which there is a support arrearage, to secure assets to satisfy the arrearage by—

"(i) intercepting or seizing periodic or lump-sum payments from—

"(I) a State or local agency, including unemployment compensation, workers' compensation, and other benefits; and

"(II) judgments, settlements, and lotteries;

"(ii) attaching and seizing assets of the obligor held in financial institutions;

"(iii) attaching public and private retirement funds; and

"(iv) imposing liens in accordance with subsection (a)(4) and, in appropriate cases, to force sale of property and distribution of proceeds.

"(H) INCREASE MONTHLY PAYMENTS.—For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages, subject to such conditions or limitations as the State may provide.

Such procedures shall be subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal.

"(2) SUBSTANTIVE AND PROCEDURAL RULES.—The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all proceedings to establish paternity or to establish, modify, or enforce support orders:

"(A) LOCATOR INFORMATION; PRESUMPTIONS CONCERNING NOTICE.—Procedures under which—

"(i) each party to any paternity or child support proceeding is required (subject to privacy safeguards) to file with the tribunal and the State case registry upon entry of an order, and to update as appropriate, information on location and identity of the party, including social security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and name and telephone number of employer; and

"(ii) in any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the tribunal may deem State due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the tribunal pursuant to clause (i).

"(B) STATEWIDE JURISDICTION.—Procedures under which—

"(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties; and

"(ii) in a State in which orders are issued by courts or administrative tribunals, a case may be transferred between local jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.

"(3) COORDINATION WITH ERISA.—Notwithstanding subsection (d) of section 514 of the Employee Retirement Income Security Act of 1974 (relating to effect on other laws), nothing in this subsection shall be construed to alter, amend, modify, invalidate, impair, or supersede subsections (a), (b), and (c) of such section 514 as it applies with respect to any procedure referred to in paragraph (1) and any expedited procedure referred to in paragraph (2), except to the extent that such procedure would be consistent with the requirements of section 206(d)(3) of such Act (relating to qualified domestic relations orders) or the requirements of section 609(a) of such Act (relating to qualified medical child support orders) if the reference in such section 206(d)(3) to a domestic relations order and the reference in such section 609(a) to a medical child support order were a reference to a support order referred to in paragraphs (1) and (2) relating to the same matters, respectively.".

(b) AUTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section 344(a)(2) and as amended by sections 311 and 312(c) of this Act, is amended by adding at the end the following new subsection:

"(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—The automated system required by this section shall be used, to the maximum extent feasible, to implement the expedited administrative procedures required by section 466(c).".

Subtitle D—Paternity Establishment

SEC. 331. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) (42 U.S.C. 666(a)(5)) is amended to read as follows:

"(5) PROCEDURES CONCERNING PATERNITY ESTABLISHMENT.—

"(A) ESTABLISHMENT PROCESS AVAILABLE FROM BIRTH UNTIL AGE 18.—

"(i) Procedures which permit the establishment of the paternity of a child at any time before the child attains 18 years of age.

"(ii) As of August 16, 1984, clause (i) shall also apply to a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was then in effect in the State.

"(B) PROCEDURES CONCERNING GENETIC TESTING.—

"(i) GENETIC TESTING REQUIRED IN CERTAIN CONTESTED CASES.—Procedures under which the State is required, in a contested paternity case (unless otherwise barred by State law) to require the child and all other parties (other than individuals found under section 454(29) to have good cause for refusing to cooperate) to submit to genetic tests upon the request of any such party, if the request is supported by a sworn statement by the party—

"(I) alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

"(II) denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties.

"(ii) OTHER REQUIREMENTS.—Procedures which require the State agency, in any case in which the agency orders genetic testing—

"(I) to pay costs of such tests, subject to recoupment (if the State so elects) from the alleged father if paternity is established; and

"(II) to obtain additional testing in any case if an original test result is contested, upon request and advance payment by the contestant.

"(C) VOLUNTARY PATERNITY ACKNOWLEDGMENT.—

"(i) SIMPLE CIVIL PROCESS.—Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the mother and the putative father must be given notice, orally and in writing, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

"(ii) HOSPITAL-BASED PROGRAM.—Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child, subject to such good cause exceptions, taking into account the best interests of the child, as the State may establish.

"(iii) PATERNITY ESTABLISHMENT SERVICES.—

"(I) STATE-OFFERED SERVICES.—Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

"(II) REGULATIONS.—

"(aa) SERVICES OFFERED BY HOSPITALS AND BIRTH RECORD AGENCIES.—The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies.

"(bb) SERVICES OFFERED BY OTHER ENTITIES.—The Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, use the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as the provision of such services is evaluated by, voluntary paternity establishment programs of hospitals and birth record agencies.

"(iv) USE OF PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Such procedures must require the State to develop and use an affidavit for the voluntary acknowledgment of paternity which includes the minimum requirements of the affidavit developed by the Secretary under section 452(a)(7) for the voluntary acknowledgment of paternity, and to give full faith and credit to such an affidavit signed in any other State according to its procedures.

"(D) STATUS OF SIGNED PATERNITY ACKNOWLEDGMENT.—

"(i) INCLUSION IN BIRTH RECORDS.—Procedures under which the name of the father shall be included on the record of birth of the child of unmarried parents only if—

"(I) the father and mother have signed a voluntary acknowledgment of paternity; or

"(II) a court or an administrative agency of competent jurisdiction has issued an adjudication of paternity.

Nothing in this clause shall preclude a State agency from obtaining an admission of paternity from the father for submission in a judicial or administrative proceeding, or prohibit the issuance of an order in a judicial or administrative proceeding which bases a legal finding of paternity on an admission of paternity by the father and any other additional showing required by State law.

"(ii) LEGAL FINDING OF PATERNITY.—Procedures under which a signed voluntary acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within the earlier of—

"(I) 60 days; or

"(II) the date of an administrative or judicial proceeding relating to the child (including a proceeding to establish a support order) in which the signatory is a party.

"(iii) CONTEST.—Procedures under which, after the 60-day period referred to in clause (ii), a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.

"(E) BAR ON ACKNOWLEDGMENT RATIFICATION PROCEEDINGS.—Procedures under which judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.

"(F) ADMISSIBILITY OF GENETIC TESTING RESULTS.—Procedures—

"(i) requiring the admission into evidence, for purposes of establishing paternity, of the results of any genetic test that is—

"(I) of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary; and

"(II) performed by a laboratory approved by such an accreditation body;

"(ii) requiring an objection to genetic testing results to be made in writing not later than a specified number of days before any hearing at which the results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of the results); and

"(iii) making the test results admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy, unless objection is made.

"(G) PRESUMPTION OF PATERNITY IN CERTAIN CASES.—Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability that the alleged father is the father of the child.

"(H) DEFAULT ORDERS.—Procedures requiring a default order to be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by State law.

"(I) NO RIGHT TO JURY TRIAL.—Procedures providing that the parties to an action to establish paternity are not entitled to a trial by jury.

"(J) TEMPORARY SUPPORT ORDER BASED ON PROBABLE PATERNITY IN CONTESTED CASES.—Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, if there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

"(K) PROOF OF CERTAIN SUPPORT AND PATERNITY ESTABLISHMENT COSTS.—Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child.

"(L) STANDING OF PUTATIVE FATHERS.—Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.

"(M) FILING OF ACKNOWLEDGMENTS AND ADJUDICATIONS IN STATE REGISTRY OF BIRTH RECORDS.—Procedures under which voluntary acknowledgments and adjudications of paternity by judicial or administrative processes are filed with the State registry of birth records for comparison with information in the State case registry.".

(b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended by inserting ", and develop an affidavit to be used for the voluntary acknowledgment of paternity which shall include the social security number of each parent and, after consultation with the States, other common elements as determined by such designee" before the semicolon.

(c) CONFORMING AMENDMENT.—Section 468 (42 U.S.C. 668) is amended by striking "a simple civil process for voluntarily acknowledging paternity and".

SEC. 332. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

Section 454(23) (42 U.S.C. 654(23)) is amended by inserting "and will publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support by means the State deems appropriate" before the semicolon.

SEC. 333. COOPERATION BY APPLICANTS FOR AND RECIPIENTS OF TEMPORARY FAMILY ASSISTANCE.

Section 454 (42 U.S.C. 654), as amended by sections 301(b), 303(a), 312(a), and 313(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by inserting after paragraph (28) the following new paragraph:

"(29) provide that the State agency responsible for administering the State plan—

"(A) shall make the determination (and redetermination at appropriate intervals) as to whether an individual who has applied for or is receiving assistance under the State program funded under part A or the State program under title XIX is cooperating in good faith with the State in establishing the paternity of, or in establishing, modifying, or enforcing a support order for, any child of the individual by providing the State agency with the name of, and such other information as the State agency may require with respect to, the noncustodial parent of the child, subject to such good cause exceptions, taking into account the best interests of the child, as the State may establish through the State agency, or at the option of the State, through the State agencies administering the State programs funded under part A and title XIX;

"(B) shall require the individual to supply additional necessary information and appear at interviews, hearings, and legal proceedings;

"(C) shall require the individual and the child to submit to genetic tests pursuant to judicial or administrative order;

"(D) may request that the individual sign a voluntary acknowledgment of paternity, after notice of the rights and consequences of such an acknowledgment, but may not require the individual to sign an acknowledgment or otherwise relinquish the right to genetic tests as a condition of cooperation and eligibility for assistance under the State program funded under part A or the State program under title XIX; and

"(E) shall promptly notify the individual and the State agency administering the State program funded under part A and the State agency administering the State program under title XIX of each such determination, and if noncooperation is determined, the basis therefore.".

Subtitle E—Program Administration and Funding

SEC. 341. PERFORMANCE-BASED INCENTIVES AND PENALTIES.

(a) DEVELOPMENT OF NEW SYSTEM.—The Secretary of Health and Human Services, in consultation with State directors of programs under part D of title IV of the Social Security Act, shall develop a new incentive system to replace, in a revenue neutral manner, the system under section 458 of such Act. The new system shall provide additional payments to any State based on such State's performance under such a program. Not later than June 1, 1996, the Secretary shall report on the new system to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(b) CONFORMING AMENDMENTS TO PRESENT SYSTEM.—Section 458 (42 U.S.C. 658) is amended—

(1) in subsection (a), by striking "aid to families with dependent children under a State plan approved under part A of this title" and inserting "assistance under a program funded under part A";

(2) in subsection (b)(1)(A), by striking "section 402(a)(26)" and inserting "section 408(a)(4)";

(3) in subsections (b) and (c)—

(A) by striking "AFDC collections" each place it appears and inserting "title IV–A collections", and

(B) by striking "non-AFDC collections" each place it appears and inserting "non-title IV–A collections"; and

(4) in subsection (c), by striking "combined AFDC/non-AFDC administrative costs" both places it appears and inserting "combined title IV–A/non-title IV–A administrative costs".

(c) CALCULATION OF IV–D PATERNITY ESTABLISHMENT PERCENTAGE.—

(1) Section 452(g)(1)(A) (42 U.S.C. 652(g)(1)(A)) is amended by striking "75" and inserting "90".

(2) Section 452(g)(1) (42 U.S.C. 652(g)(1)) is amended by redesignating subparagraphs (B) through (E) as subparagraphs (C) through (F), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) for a State with a paternity establishment percentage of not less than 75 percent but less than 90 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 2 percentage points;".

(3) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended in the matter preceding clause (i)--

(A) by striking "paternity establishment percentage" and inserting "IV–D paternity establishment percentage"; and

(B) by striking "(or all States, as the case may be)".

(4) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended by adding at the end the following new sentence: "In meeting the 90 percent paternity establishment requirement, a State may calculate either the paternity establishment rate of cases in the program funded under this part or the paternity establishment rate of all out-of-wedlock births in the State.".

(5) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is amended—

(A) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(B) in subparagraph (A) (as so redesignated), by striking "the percentage of children born out-of-wedlock in a State" and inserting "the percentage of children in a State who are born out of wedlock or for whom support has not been established"; and

(C) in subparagraph (B) (as so redesignated) by inserting "and securing support" before the period.

(d) EFFECTIVE DATES.—

(1) INCENTIVE ADJUSTMENTS.—

(A) IN GENERAL.—The system developed under subsection (a) and the amendments made by subsection (b) shall become effective on October 1, 1997, except to the extent provided in subparagraph (B).

(B) APPLICATION OF SECTION 458.—Section 458 of the Social Security Act, as in effect on the day before the date of the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years before fiscal year 1999.

(2) PENALTY REDUCTIONS.—The amendments made by subsection (c) shall become effective with respect to calendar quarters beginning on or after the date of the enactment of this Act.

SEC. 342. FEDERAL AND STATE REVIEWS AND AUDITS.

(a) STATE AGENCY ACTIVITIES.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (14), by striking "(14)" and inserting "(14)(A)";

(2) by redesignating paragraph (15) as subparagraph (B) of paragraph (14); and

(3) by inserting after paragraph (14) the following new paragraph:

"(15) provide for—

"(A) a process for annual reviews of and reports to the Secretary on the State program operated under the State plan approved under this part, including such information as may be necessary to measure State compliance with Federal requirements for expedited procedures, using such standards and procedures as are required by the Secretary, under which the State agency will determine the extent to which the program is operated in compliance with this part; and

''(B) a process of extracting from the automated data processing system required by paragraph (16) and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including IV–D paternity establishment percentages to the extent necessary for purposes of sections 452(g) and 458.''.

(b) Federal Activities.—Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended to read as follows:

''(4)(A) review data and calculations transmitted by State agencies pursuant to section 454(15)(B) on State program accomplishments with respect to performance indicators for purposes of subsection (g) of this section and section 458;

''(B) review annual reports submitted pursuant to section 454(15)(A) and, as appropriate, provide to the State comments, recommendations for additional or alternative corrective actions, and technical assistance; and

''(C) conduct audits, in accordance with the Government auditing standards of the Comptroller General of the United States—

''(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet the requirements of this part concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used in calculating performance indicators under subsection (g) of this section and section 458;

''(ii) of the adequacy of financial management of the State program operated under the State plan approved under this part, including assessments of—

''(I) whether Federal and other funds made available to carry out the State program are being appropriately expended, and are properly and fully accounted for; and

''(II) whether collections and disbursements of support payments are carried out correctly and are fully accounted for; and

''(iii) for such other purposes as the Secretary may find necessary;''.

(c) Effective Date.—The amendments made by this section shall be effective with respect to calendar quarters beginning 12 months or more after the date of the enactment of this Act.

SEC. 343. REQUIRED REPORTING PROCEDURES.

(a) Establishment.—Section 452(a)(5) (42 U.S.C. 652(a)(5)) is amended by inserting '', and establish procedures to be followed by States for collecting and reporting information required to be provided under this part, and establish uniform definitions (including those necessary to enable the measurement of State compliance with the requirements of this part relating to expedited processes) to be applied in following such procedures'' before the semicolon.

(b) State Plan Requirement.—Section 454 (42 U.S.C. 654), as amended by sections 301(b), 303(a), 312(a), 313(a), and 333 of this Act, is amended—

(1) by striking ''and'' at the end of paragraph (28);

(2) by striking the period at the end of paragraph (29) and inserting ''; and''; and

(3) by adding after paragraph (29) the following new paragraph:

''(30) provide that the State shall use the definitions established under section 452(a)(5) in collecting and reporting information as required under this part.''.

SEC. 344. AUTOMATED DATA PROCESSING REQUIREMENTS.

(a) Revised Requirements.—

(1) In general.—Section 454(16) (42 U.S.C. 654(16)) is amended—

(A) by striking '', at the option of the State,'';

(B) by inserting ''and operation by the State agency'' after ''for the establishment'';

(C) by inserting ''meeting the requirements of section 454A'' after ''information retrieval system'';

(D) by striking ''in the State and localities thereof, so as (A)'' and inserting ''so as'';

(E) by striking ''(i)''; and

(F) by striking ''(including'' and all that follows and inserting a semicolon.

(2) Automated Data Processing.—Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 454 the following new section:

"SEC. 454A. AUTOMATED DATA PROCESSING.

''(a) In General.—In order for a State to meet the requirements of this section, the State agency administering the State program under this part shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section with the frequency and in the manner required by or under this part.

''(b) Program Management.—The automated system required by this section shall perform such functions as the Secretary may specify relating to management of the State program under this part, including—

''(1) controlling and accounting for use of Federal, State, and local funds in carrying out the program; and

''(2) maintaining the data necessary to meet Federal reporting requirements under this part on a timely basis.

''(c) Calculation of Performance Indicators.—In order to enable the Secretary to determine the incentive payments and penalty adjustments required by sections 452(g) and 458, the State agency shall—

''(1) use the automated system—

''(A) to maintain the requisite data on State performance with respect to paternity establishment and child support enforcement in the State; and

''(B) to calculate the IV–D paternity establishment percentage for the State for each fiscal year; and

''(2) have in place systems controls to ensure the completeness and reliability of, and ready access to, the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B).

''(d) Information Integrity and Security.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use of data in the automated system required by this section, which shall include the following (in addition to such other safeguards as the Secretary may specify in regulations):

''(1) Policies restricting access.—Written policies concerning access to data by State agency personnel, and sharing of data with other persons, which—

''(A) permit access to and use of data only to the extent necessary to carry out the State program under this part; and

''(B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data.

''(2) Systems controls.—Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies described in paragraph (1).

''(3) Monitoring of access.—Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms, to guard against and promptly identify unauthorized access or use.

''(4) Training and information.—Procedures to ensure that all personnel (including State and local agency staff and contractors) who may have access to or be required to use confidential program data are informed of applicable requirements and penalties (including those in section 6103 of the Internal Revenue Code of 1986), and are adequately trained in security procedures.

''(5) Penalties.—Administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential data.''.

(3) Regulations.—The Secretary of Health and Human Services shall prescribe final regulations for implementation of section 454A of the Social Security Act not later than 2 years after the date of the enactment of this Act.

(4) Implementation timetable.—Section 454(24) (42 U.S.C. 654(24)), as amended by section 303(a)(1) of this Act, is amended to read as follows:

''(24) provide that the State will have in effect an automated data processing and information retrieval system—

''(A) by October 1, 1997, which meets all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988, and

''(B) by October 1, 1999, which meets all requirements of this part enacted on or before the date of the enactment of the Personal Responsibility and Work Opportunity Act of 1995, except that such deadline shall be extended by 1 day for each day (if any) by which the Secretary fails to meet the deadline imposed by section 344(a)(3) of the Personal Responsibility and Work Opportunity Act of 1995;''.

(b) Special Federal Matching Rate for Development Costs of Automated Systems.—

(1) In general.—Section 455(a) (42 U.S.C. 655(a)) is amended—

(A) in paragraph (1)(B)—

(i) by striking ''90 percent'' and inserting ''the percent specified in paragraph (3)'';

(ii) by striking ''so much of''; and

(iii) by striking ''which the Secretary'' and all that follows and inserting '', and''; and

(B) by adding at the end the following new paragraph:

''(3)(A) The Secretary shall pay to each State, for each quarter in fiscal years 1996 and 1997, 90 percent of so much of the State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16) (as in effect on September 30, 1995) but limited to the amount approved for States in the advance planning documents of such States submitted on or before May 1, 1995.

''(B)(i) The Secretary shall pay to each State, for each quarter in fiscal years 1996 through 2001, the percentage specified in clause (ii) of so much of the State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements of sections 454(16) and 454A.

''(ii) The percentage specified in this clause is 80 percent.''.

(2) Temporary limitation on payments under special Federal matching rate.—

(A) In general.—The Secretary of Health and Human Services may not pay more than $400,000,000 in the aggregate under section 455(a)(3)(B) of the Social Security Act for fiscal years 1996 through 2001.

(B) Allocation of limitation among States.—The total amount payable to a State under section 455(a)(3)(B) of such Act for fiscal years 1996 through 2001 shall not exceed the limitation determined for the State by the Secretary of Health and Human Services in regulations.

(C) Allocation formula.—The regulations referred to in subparagraph (B) shall prescribe a formula for allocating the amount specified in subparagraph (A) among States with plans approved under part D of title IV of the Social Security Act, which shall take into account—

(i) the relative size of State caseloads under such part; and

(ii) the level of automation needed to meet the automated data processing requirements of such part.

(c) Conforming Amendment.—Section 123(c) of the Family Support Act of 1988 (102 Stat. 2352; Public Law 100–485) is repealed.

SEC. 345. TECHNICAL ASSISTANCE.

(a) For Training of Federal and State Staff, Research and Demonstration Programs, and Special Projects of Regional or National Significance.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following new subsection:

"(j) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 1 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the 3rd calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for—

"(1) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs under this part (including technical assistance concerning State automated systems required by this part); and

"(2) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.

The amount appropriated under this subsection shall remain available until expended.".

(b) Operation of Federal Parent Locator Service.—Section 453 (42 U.S.C. 653), as amended by section 316 of this Act, is amended by adding at the end the following new subsection:

"(o) Recovery of Costs.—Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 2 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the 3rd calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for operation of the Federal Parent Locator Service under this section, to the extent such costs are not recovered through user fees.".

SEC. 346. REPORTS AND DATA COLLECTION BY THE SECRETARY.

(a) Annual Report to Congress.—

(1) Section 452(a)(10)(A) (42 U.S.C. 652(a)(10)(A)) is amended—

(A) by striking "this part;" and inserting "this part, including—"; and

(B) by adding at the end the following new clauses:

"(i) the total amount of child support payments collected as a result of services furnished during the fiscal year to individuals receiving services under this part;

"(ii) the cost to the States and to the Federal Government of so furnishing the services; and

"(iii) the number of cases involving families—

"(I) who became ineligible for assistance under State programs funded under part A during a month in the fiscal year; and

"(II) with respect to whom a child support payment was received in the month;".

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) in the matter preceding clause (i)—

(i) by striking "with the data required under each clause being separately stated for cases" and inserting "separately stated for (1) cases";

(ii) by striking "cases where the child was formerly receiving" and inserting "or formerly received";

(iii) by inserting "or 1912" after "471(a)(17)"; and

(iv) by inserting "(2)" before "all other";

(B) in each of clauses (i) and (ii), by striking ", and the total amount of such obligations";

(C) in clause (iii), by striking "described in" and all that follows and inserting "in which support was collected during the fiscal year;";

(D) by striking clause (iv); and

(E) by redesignating clause (v) as clause (vii), and inserting after clause (iii) the following new clauses:

"(iv) the total amount of support collected during such fiscal year and distributed as current support;

"(v) the total amount of support collected during such fiscal year and distributed as arrearages;

"(vi) the total amount of support due and unpaid for all fiscal years; and".

(3) Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G)) is amended by striking "on the use of Federal courts and".

(4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended—

(A) in subparagraph (H), by striking "and";

(B) in subparagraph (I), by striking the period and inserting "; and"; and

(C) by inserting after subparagraph (I) the following new subparagraph:

"(J) compliance, by State, with the standards established pursuant to subsections (h) and (i).".

(5) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended by striking all that follows subparagraph (J), as added by paragraph (4).

(b) Effective Date.—The amendments made by subsection (a) shall be effective with respect to fiscal year 1996 and succeeding fiscal years.

Subtitle F—Establishment and Modification of Support Orders

SEC. 351. SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS.

Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amended to read as follows:

"(10) Review and Adjustment of Support Orders Upon Request.—Procedures under which the State shall review and adjust each support order being enforced under this part upon the request of either parent or the State if there is an assignment. Such procedures shall provide the following:

"(A) In General.—

"(i) 3-Year Cycle.—Except as provided in subparagraphs (B) and (C), the State shall review and, as appropriate, adjust the support order every 3 years, taking into account the best interests of the child involved.

"(ii) Methods of Adjustment.—The State may elect to review and, if appropriate, adjust an order pursuant to clause (i) by—

"(I) reviewing and, if appropriate, adjusting the order in accordance with the guidelines established pursuant to section 467(a) if the amount of the child support award under the order differs from the amount that would be awarded in accordance with the guidelines; or

"(II) applying a cost-of-living adjustment to the order in accordance with a formula developed by the State and permit either party to contest the adjustment, within 30 days after the date of the notice of the adjustment, by making a request for review and, if appropriate, adjustment of the order in accordance with the child support guidelines established pursuant to section 467(a).

"(iii) No Proof of Change in Circumstances Necessary.—Any adjustment under this subparagraph (A) shall be made without a requirement for proof or showing of a change in circumstances.

"(B) Automated Method.—The State may use automated methods (including automated comparisons with wage or State income tax data) to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders eligible for adjustment under the threshold established by the State.

"(C) Request Upon Substantial Change in Circumstances.—The State shall, at the request of either parent subject to such an order or of any State child support enforcement agency, review and, if appropriate, adjust the order in accordance with the guidelines established pursuant to section 467(a) based upon a substantial change in the circumstances of either parent.

"(D) Notice of Right to Review.—The State shall provide notice not less than once every 3 years to the parents subject to such an order informing them of their right to request the State to review and, if appropriate, adjust the order pursuant to this paragraph. The notice may be included in the order.".

SEC. 352. FURNISHING CONSUMER REPORTS FOR CERTAIN PURPOSES RELATING TO CHILD SUPPORT.

Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by adding at the end the following new paragraphs:

"(4) In response to a request by the head of a State or local child support enforcement agency (or a State or local government official authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that—

"(A) the consumer report is needed for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of such payments;

"(B) the paternity of the consumer for the child to which the obligation relates has been established or acknowledged by the consumer in accordance with State laws under which the obligation arises (if required by those laws);

"(C) the person has provided at least 10 days' prior notice to the consumer whose report is requested, by certified or registered mail to the last known address of the consumer, that the report will be requested; and

"(D) the consumer report will be kept confidential, will be used solely for a purpose described in subparagraph (A), and will not be used in connection with any other civil, administrative, or criminal proceeding, or for any other purpose.

"(5) To an agency administering a State plan under section 454 of the Social Security Act (42 U.S.C. 654) for use to set an initial or modified child support award.".

SEC. 353. NONLIABILITY FOR FINANCIAL INSTITUTIONS PROVIDING FINANCIAL RECORDS TO STATE CHILD SUPPORT ENFORCEMENT AGENCIES IN CHILD SUPPORT CASES.

(a) In General.—Notwithstanding any other provision of Federal or State law, a financial institution shall not be liable under any Federal or State law to any person for disclosing any financial record of an individual to a State child support enforcement agency attempting to establish, modify, or enforce a child support obligation of such individual.

(b) Prohibition of Disclosure of Financial Record Obtained by State Child Support Enforcement Agency.—A State child support enforcement agency which obtains a financial record of an individual from a financial institution pursuant to subsection (a) may disclose such financial record only for the purpose of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation of such individual.

(c) Civil Damages for Unauthorized Disclosure.—

(1) Disclosure by State Officer or Employee.—If any person knowingly, or by reason of negligence, discloses a financial record of an individual in violation of subsection (b), such individual may bring a civil action for damages

against such person in a district court of the United States.

(2) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this subsection with respect to any disclosure which results from a good faith, but erroneous, interpretation of subsection (b).

(3) DAMAGES.—In any action brought under paragraph (1), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

(A) the greater of—

(i) $1,000 for each act of unauthorized disclosure of a financial record with respect to which such defendant is found liable; or

(ii) the sum of—

(I) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure; plus

(II) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages; plus

(B) the costs (including attorney's fees) of the action.

(d) DEFINITIONS.—For purposes of this section—

(1) FINANCIAL INSTITUTION.—The term "financial institution" means—

(A) a depository institution, as defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

(B) an institution-affiliated party, as defined in section 3(u) of such Act (12 U.S.C. 1813(v));

(C) any Federal credit union or State credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752), including an institution-affiliated party of such a credit union, as defined in section 206(r) of such Act (12 U.S.C. 1786(r)); and

(D) any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity authorized to do business in the State.

(2) FINANCIAL RECORD.—The term "financial record" has the meaning given such term in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401).

(3) STATE CHILD SUPPORT ENFORCEMENT AGENCY.—The term "State child support enforcement agency" means a State agency which administers a State program for establishing and enforcing child support obligations.

Subtitle G—Enforcement of Support Orders

SEC. 361. INTERNAL REVENUE SERVICE COLLECTION OF ARREARAGES.

(a) COLLECTION OF FEES.—Section 6305(a) of the Internal Revenue Code of 1986 (relating to collection of certain liability) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ", and";

(3) by adding at the end the following new paragraph:

"(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor."; and

(4) by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1997.

SEC. 362. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) CONSOLIDATION AND STREAMLINING OF AUTHORITIES.—Section 459 (42 U.S.C. 659) is amended to read as follows:

"SEC. 459. CONSENT BY THE UNITED STATES TO INCOME WITHHOLDING, GARNISHMENT, AND SIMILAR PROCEEDINGS FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS.

"(a) CONSENT TO SUPPORT ENFORCEMENT.—Notwithstanding any other provision of law (including section 207 of this Act and section 5301 of title 38, United States Code), effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof) to any individual, including members of the Armed Forces of the United States, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to withholding in accordance with State law enacted pursuant to subsections (a)(1) and (b) of section 466 and regulations of the Secretary under such subsections, and to any other legal process brought, by a State agency administering a program under a State plan approved under this part or by an individual obligee, to enforce the legal obligation of the individual to provide child support or alimony.

"(b) CONSENT TO REQUIREMENTS APPLICABLE TO PRIVATE PERSON.—With respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 466, or any other order or process to enforce support obligations against an individual (if the order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), each governmental entity specified in subsection (a) shall be subject to the same requirements as would apply if the entity were a private person, except as otherwise provided in this section.

"(c) DESIGNATION OF AGENT; RESPONSE TO NOTICE OR PROCESS—

"(1) DESIGNATION OF AGENT.—The head of each agency subject to this section shall—

"(A) designate an agent or agents to receive orders and accept service of process in matters relating to child support or alimony; and

"(B) annually publish in the Federal Register the designation of the agent or agents, identified by title or position, mailing address, and telephone number.

"(2) RESPONSE TO NOTICE OR PROCESS.—If an agent designated pursuant to paragraph (1) of this subsection receives notice pursuant to State procedures in effect pursuant to subsection (a)(1) or (b) of section 466, or is effectively served with any order, process, or interrogatory, with respect to an individual's child support or alimony payment obligations, the agent shall—

"(A) as soon as possible (but not later than 15 days) thereafter, send written notice of the notice or service (together with a copy of the notice or service) to the individual at the duty station or last-known home address of the individual;

"(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to such State procedures, comply with all applicable provisions of section 466; and

"(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatory, respond to the order, process, or interrogatory.

"(d) PRIORITY OF CLAIMS.—If a governmental entity specified in subsection (a) receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than 1 person—

"(1) support collection under section 466(b) must be given priority over any other process, as provided in section 466(b)(7);

"(2) allocation of moneys due or payable to an individual among claimants under section 466(b) shall be governed by section 466(b) and the regulations prescribed under such section; and

"(3) such moneys as remain after compliance with paragraphs (1) and (2) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.

"(e) NO REQUIREMENT TO VARY PAY CYCLES.—A governmental entity that is affected by legal process served for the enforcement of an individual's child support or alimony payment obligations shall not be required to vary its normal pay and disbursement cycle in order to comply with the legal process.

"(f) RELIEF FROM LIABILITY.—

"(1) Neither the United States, nor the government of the District of Columbia, nor any disbursing officer shall be liable with respect to any payment made from moneys due or payable from the United States to any individual pursuant to legal process regular on its face, if the payment is made in accordance with this section and the regulations issued to carry out this section.

"(2) No Federal employee whose duties include taking actions necessary to comply with the requirements of subsection (a) with regard to any individual shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by the employee in connection with the carrying out of such actions.

"(g) REGULATIONS.—Authority to promulgate regulations for the implementation of this section shall, insofar as this section applies to moneys due from (or payable by)—

"(1) the United States (other than the legislative or judicial branches of the Federal Government) or the government of the District of Columbia, be vested in the President (or the designee of the President);

"(2) the legislative branch of the Federal Government, be vested jointly in the President pro tempore of the Senate and the Speaker of the House of Representatives (or their designees), and

"(3) the judicial branch of the Federal Government, be vested in the Chief Justice of the United States (or the designee of the Chief Justice).

"(h) MONEYS SUBJECT TO PROCESS.—

"(1) IN GENERAL.—Subject to paragraph (2), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section—

"(A) consist of—

"(i) compensation paid or payable for personal services of the individual, whether the compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay);

"(ii) periodic benefits (including a periodic benefit as defined in section 228(h)(3)) or other payments—

"(I) under the insurance system established by title II;

"(II) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

"(III) as compensation for death under any Federal program;

"(IV) under any Federal program established to provide 'black lung' benefits; or

"(V) by the Secretary of Veterans Affairs as compensation for a service-connected disability paid by the Secretary to a former member of the

Armed Forces who is in receipt of retired or retainer pay if the former member has waived a portion of the retired or retainer pay in order to receive such compensation; and

"(iii) worker's compensation benefits paid under Federal or State law but

"(B) do not include any payment—

"(i) by way of reimbursement or otherwise, to defray expenses incurred by the individual in carrying out duties associated with the employment of the individual; or

"(ii) as allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, United States Code, as prescribed by the Secretaries concerned (defined by section 101(5) of such title) as necessary for the efficient performance of duty.

"(2) CERTAIN AMOUNTS EXCLUDED.—In determining the amount of any moneys due from, or payable by, the United States to any individual, there shall be excluded amounts which—

"(A) are owed by the individual to the United States;

"(B) are required by law to be, and are, deducted from the remuneration or other payment involved, including Federal employment taxes, and fines and forfeitures ordered by court-martial;

"(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1986 may be permitted only when the individual presents evidence of a tax obligation which supports the additional withholding);

"(D) are deducted as health insurance premiums;

"(E) are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage); or

"(F) are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage).

"(i) DEFINITIONS.—For purposes of this section—

"(1) UNITED STATES.—The term 'United States' includes any department, agency, or instrumentality of the legislative, judicial, or executive branch of the Federal Government, the United States Postal Service, the Postal Rate Commission, any Federal corporation created by an Act of Congress that is wholly owned by the Federal Government, and the governments of the territories and possessions of the United States.

"(2) CHILD SUPPORT.—The term 'child support', when used in reference to the legal obligations of an individual to provide such support, means amounts required to be paid under a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages or reimbursement, and which may include other related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief.

"(3) ALIMONY.—

"(A) IN GENERAL.—The term 'alimony', when used in reference to the legal obligations of an individual to provide the same, means periodic payments of funds for the support and maintenance of the spouse (or former spouse) of the individual, and (subject to and in accordance with State law) includes separate maintenance, alimony pendente lite, maintenance, and spousal support, and includes attorney's fees, interest, and court costs when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction.

"(B) EXCEPTIONS.—Such term does not include—

"(i) any child support; or

"(ii) any payment or transfer of property or its value by an individual to the spouse or a former spouse of the individual in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

"(4) PRIVATE PERSON.—The term 'private person' means a person who does not have sovereign or other special immunity or privilege which causes the person not to be subject to legal process.

"(5) LEGAL PROCESS.—The term 'legal process' means any writ, order, summons, or other similar process in the nature of garnishment—

"(A) which is issued by—

"(i) a court or an administrative agency of competent jurisdiction in any State, territory, or possession of the United States;

"(ii) a court or an administrative agency of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor the process; or

"(iii) an authorized official pursuant to an order of such a court or an administrative agency of competent jurisdiction or pursuant to State or local law; and

"(B) which is directed to, and the purpose of which is to compel, a governmental entity which holds moneys which are otherwise payable to an individual to make a payment from the moneys to another party in order to satisfy a legal obligation of the individual to provide child support or make alimony payments.".

(b) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV.—Sections 461 and 462 (42 U.S.C. 661 and 662) are repealed.

(2) TO TITLE 5, UNITED STATES CODE.—Section 5520a of title 5, United States Code, is amended, in subsections (h)(2) and (i), by striking "sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)" and inserting "section 459 of the Social Security Act (42 U.S.C. 659)".

(c) MILITARY RETIRED AND RETAINER PAY.—

(1) DEFINITION OF COURT.—Section 1408(a)(1) of title 10, United States Code, is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding after subparagraph (C) the following: new subparagraph

"(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a program under a State plan approved under part D of title IV of the Social Security Act), and, for purposes of this subparagraph, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.".

(2) DEFINITION OF COURT ORDER.—Section 1408(a)(2) of such title is amended—

(A) by inserting "or a support order, as defined in section 453(p) of the Social Security Act (42 U.S.C. 653(p))," before "which—";

(B) in subparagraph (B)(i), by striking "(as defined in section 462(b) of the Social Security Act (42 U.S.C. 662(b)))" and inserting "(as defined in section 459(i)(2) of the Social Security Act (42 U.S.C. 662(i)(2)))"; and

(C) in subparagraph (B)(ii), by striking "(as defined in section 462(c) of the Social Security Act (42 U.S.C. 662(c)))" and inserting "(as defined in section 459(i)(3) of the Social Security Act (42 U.S.C. 662(i)(3)))".

(3) PUBLIC PAYEE.—Section 1408(d) of such title is amended—

(A) in the heading, by inserting "(OR FOR BENEFIT OF)" before "SPOUSE OR"; and

(B) in paragraph (1), in the 1st sentence, by inserting "(or for the benefit of such spouse or former spouse to a State disbursement unit established pursuant to section 454B of the Social Security Act or other public payee designated by a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D)" before "in an amount sufficient".

(4) RELATIONSHIP TO PART D OF TITLE IV.—Section 1408 of such title is amended by adding at the end the following new subsection:

"(j) RELATIONSHIP TO OTHER LAWS.—In any case involving an order providing for payment of child support (as defined in section 459(i)(2) of the Social Security Act) by a member who has never been married to the other parent of the child, the provisions of this section shall not apply, and the case shall be subject to the provisions of section 459 of such Act.".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of the enactment of this Act.

SEC. 363. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.

(a) AVAILABILITY OF LOCATOR INFORMATION.—

(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Transportation, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

(2) TYPE OF ADDRESS.—

(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service established under section 453 of the Social Security Act.

(b) FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS.—

(1) REGULATIONS.—The Secretary of each military department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to facilitate the granting of leave to a member of the Armed Forces under the jurisdiction of that Secretary in a case in which—

(A) the leave is needed for the member to attend a hearing described in paragraph (2);

(B) the member is not serving in or with a unit deployed in a contingency operation (as defined in section 101 of title 10, United States Code); and

(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.

(2) COVERED HEARINGS.—Paragraph (1) applies to a hearing that is conducted by a court or pursuant to an administrative process established under State law, in connection with a civil action—

(A) to determine whether a member of the Armed Forces is a natural parent of a child; or

(B) to determine an obligation of a member of the Armed Forces to provide child support.

(3) DEFINITIONS.—For purposes of this subsection—

(A) The term "court" has the meaning given that term in section 1408(a) of title 10, United States Code.

(B) The term "child support" has the meaning given such term in section 459(i) of the Social Security Act (42 U.S.C. 659(i)).

(c) PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH CHILD SUPPORT ORDERS.—

(1) DATE OF CERTIFICATION OF COURT ORDER.—Section 1408 of title 10, United States Code, as amended by section 362(c)(4) of this Act, is amended—

(A) by redesignating subsections (i) and (j) as subsections (j) and (k), respectively; and

(B) by inserting after subsection (h) the following new subsection:

"(i) CERTIFICATION DATE.—It is not necessary that the date of a certification of the authenticity or completeness of a copy of a court order for child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt by the Secretary.".

(2) PAYMENTS CONSISTENT WITH ASSIGNMENTS OF RIGHTS TO STATES.—Section 1408(d)(1) of such title is amended by inserting after the 1st sentence the following new sentence: "In the case of a spouse or former spouse who, pursuant to section 408(a)(4) of the Social Security Act (42 U.S.C. 607(a)(4)), assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights.".

(3) ARREARAGES OWED BY MEMBERS OF THE UNIFORMED SERVICES.—Section 1408(d) of such title is amended by adding at the end the following new paragraph:

"(6) In the case of a court order for which effective service is made on the Secretary concerned on or after the date of the enactment of this paragraph and which provides for payments from the disposable retired pay of a member to satisfy the amount of child support set forth in the order, the authority provided in paragraph (1) to make payments from the disposable retired pay of a member to satisfy the amount of child support set forth in a court order shall apply to payment of any amount of child support arrearages set forth in that order as well as to amounts of child support that currently become due.".

(4) PAYROLL DEDUCTIONS.—The Secretary of Defense shall begin payroll deductions within 30 days after receiving notice of withholding, or for the 1st pay period that begins after such 30-day period.

SEC. 364. VOIDING OF FRAUDULENT TRANSFERS.

Section 466 (42 U.S.C. 666), as amended by section 321 of this Act, is amended by adding at the end the following new subsection:

"(g) LAWS VOIDING FRAUDULENT TRANSFERS.—In order to satisfy section 454(20)(A), each State must have in effect—

"(1)(A) the Uniform Fraudulent Conveyance Act of 1981;

"(B) the Uniform Fraudulent Transfer Act of 1984; or

"(C) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor, which the Secretary finds affords comparable rights to child support creditors; and

"(2) procedures under which, in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must—

"(A) seek to void such transfer; or

"(B) obtain a settlement in the best interests of the child support creditor.".

SEC. 365. WORK REQUIREMENT FOR PERSONS OWING PAST-DUE CHILD SUPPORT.

(a) IN GENERAL.—Section 466(a) of the Social Security Act (42 U.S.C. 666(a)), as amended by sections 315, 317(a), and 323 of this Act, is amended by adding at the end the following new paragraph:

"(15) PROCEDURES TO ENSURE THAT PERSONS OWING PAST-DUE SUPPORT WORK OR HAVE A PLAN FOR PAYMENT OF SUCH SUPPORT.—

"(A) IN GENERAL.—Procedures under which the State has the authority, in any case in which an individual owes past-due support with respect to a child receiving assistance under a State program funded under part A, to seek a court order that requires the individual to—

"(i) pay such support in accordance with a plan approved by the court, or, at the option of the State, a plan approved by the State agency administering the State program under this part; or

"(ii) if the individual is subject to such a plan and is not incapacitated, participate in such work activities (as defined in section 407(d)) as the court, or, at the option of the State, the State agency administering the State program under this part, deems appropriate.

"(B) PAST-DUE SUPPORT DEFINED.—For purposes of subparagraph (A), the term 'past-due support' means the amount of a delinquency, determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a child, or of a child and the parent with whom the child is living.".

(b) CONFORMING AMENDMENT.—The flush paragraph at the end of section 466(a) (42 U.S.C.666(a)) is amended by striking "and (7)" and inserting "(7), and (15)".

SEC. 366. DEFINITION OF SUPPORT ORDER.

Section 453 (42 U.S.C. 653) as amended by sections 316 and 345(b) of this Act, is amended by adding at the end the following new subsection:

"(p) SUPPORT ORDER DEFINED.—As used in this part, the term 'support order' means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other relief.".

SEC. 367. REPORTING ARREARAGES TO CREDIT BUREAUS.

Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended to read as follows:

"(7) REPORTING ARREARAGES TO CREDIT BUREAUS.—

"(A) IN GENERAL.—Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) the name of any noncustodial parent who is delinquent in the payment of support, and the amount of overdue support owed by such parent.

"(B) SAFEGUARDS.—Procedures ensuring that, in carrying out subparagraph (A), information with respect to a noncustodial parent is reported—

"(i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and

"(ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency (as so defined).".

SEC. 368. LIENS.

Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended to read as follows:

"(4) LIENS.—Procedures under which—

"(A) liens arise by operation of law against real and personal property for amounts of overdue support owed by a noncustodial parent who resides or owns property in the State; and

"(B) the State accords full faith and credit to liens described in subparagraph (A) arising in another State, without registration of the underlying order.".

SEC. 369. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315, 317(a), 323, and 365 of this Act, is amended by adding at the end the following:

"(16) AUTHORITY TO WITHHOLD OR SUSPEND LICENSES.—Procedures under which the State has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.".

SEC. 370. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT.

(a) HHS CERTIFICATION PROCEDURE.—

(1) SECRETARIAL RESPONSIBILITY.—Section 452 (42 U.S.C. 652), as amended by section 345 of this Act, is amended by adding at the end the following new subsection:

"(k)(1) If the Secretary receives a certification by a State agency in accordance with the requirements of section 454(31) that an individual owes arrearages of child support in an amount exceeding $5,000, the Secretary shall transmit such certification to the Secretary of State for action (with respect to denial, revocation, or limitation of passports) pursuant to section 370(b) of the Personal Responsibility and Work Opportunity Act of 1995.

"(2) The Secretary shall not be liable to an individual for any action with respect to a certification by a State agency under this section.".

(2) STATE CASE AGENCY RESPONSIBILITY.—Section 454 (42 U.S.C. 654), as amended by sections 301(b), 303(a), 312(b), 313(a), 333, and 343(b) of this Act, is amended—

(A) by striking "and" at the end of paragraph (29);

(B) by striking the period at the end of paragraph (30) and inserting "; and"; and

(C) by adding after paragraph (30) the following new paragraph:

"(31) provide that the State agency will have in effect a procedure for certifying to the Secretary, for purposes of the procedure under section 452(k), determinations that individuals owe arrearages of child support in an amount exceeding $5,000, under which procedure—

"(A) each individual concerned is afforded notice of such determination and the consequences thereof, and an opportunity to contest the determination; and

"(B) the certification by the State agency is furnished to the Secretary in such format, and

accompanied by such supporting documentation, as the Secretary may require.".

(b) STATE DEPARTMENT PROCEDURE FOR DENIAL OF PASSPORTS.—

(1) IN GENERAL.—The Secretary of State shall, upon certification by the Secretary of Health and Human Services transmitted under section 452(k) of the Social Security Act, refuse to issue a passport to such individual, and may revoke, restrict, or limit a passport issued previously to such individual.

(2) LIMIT ON LIABILITY.—The Secretary of State shall not be liable to an individual for any action with respect to a certification by a State agency under this section.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective October 1, 1996.

SEC. 371. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

(a) AUTHORITY FOR INTERNATIONAL AGREEMENTS.—Part D of title IV, as amended by section 362(a) of this Act, is amended by adding after section 459 the following new section:

"SEC. 459A. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

"(a) AUTHORITY FOR DECLARATIONS.—

"(1) DECLARATION.—The Secretary of State, with the concurrence of the Secretary of Health and Human Services, is authorized to declare any foreign country (or a political subdivision thereof) to be a foreign reciprocating country if the foreign country has established, or undertakes to establish, procedures for the establishment and enforcement of duties of support owed to obligees who are residents of the United States, and such procedures are substantially in conformity with the standards prescribed under subsection (b).

"(2) REVOCATION.—A declaration with respect to a foreign country made pursuant to paragraph (1) may be revoked if the Secretaries of State and Health and Human Services determine that—

"(A) the procedures established by the foreign nation regarding the establishment and enforcement of duties of support have been so changed, or the foreign nation's implementation of such procedures is so unsatisfactory, that such procedures do not meet the criteria for such a declaration; or

"(B) continued operation of the declaration is not consistent with the purposes of this part.

"(3) FORM OF DECLARATION.—A declaration under paragraph (1) may be made in the form of an international agreement, in connection with an international agreement or corresponding foreign declaration, or on a unilateral basis.

"(b) STANDARDS FOR FOREIGN SUPPORT ENFORCEMENT PROCEDURES.—

"(1) MANDATORY ELEMENTS.—Child support enforcement procedures of a foreign country which may be the subject of a declaration pursuant to subsection (a)(1) shall include the following elements:

"(A) The foreign country (or political subdivision thereof) has in effect procedures, available to residents of the United States—

"(i) for establishment of paternity, and for establishment of orders of support for children and custodial parents; and

"(ii) for enforcement of orders to provide support to children and custodial parents, including procedures for collection and appropriate distribution of support payments under such orders.

"(B) The procedures described in subparagraph (A), including legal and administrative assistance, are provided to residents of the United States at no cost.

"(C) An agency of the foreign country is designated as a Central Authority responsible for—

"(i) facilitating child support enforcement in cases involving residents of the foreign nation and residents of the United States; and

"(ii) ensuring compliance with the standards established pursuant to this subsection.

"(2) ADDITIONAL ELEMENTS.—The Secretary of Health and Human Services and the Secretary of State, in consultation with the States, may establish such additional standards as may be considered necessary to further the purposes of this section.

"(c) DESIGNATION OF UNITED STATES CENTRAL AUTHORITY.—It shall be the responsibility of the Secretary of Health and Human Services to facilitate child support enforcement in cases involving residents of the United States and residents of foreign nations that are the subject of a declaration under this section, by activities including—

"(1) development of uniform forms and procedures for use in such cases;

"(2) notification of foreign reciprocating countries of the State of residence of individuals sought for support enforcement purposes, on the basis of information provided by the Federal Parent Locator Service; and

"(3) such other oversight, assistance, and coordination activities as the Secretary may find necessary and appropriate.

"(d) EFFECT ON OTHER LAWS.—States may enter into reciprocal arrangements for the establishment and enforcement of child support obligations with foreign countries that are not the subject of a declaration pursuant to subsection (a), to the extent consistent with Federal law.".

(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 301(b), 303(a), 312(b), 313(a), 333, 343(b), and 370(a)(2) of this Act, is amended—

(1) by striking "and" at the end of paragraph (30);

(2) by striking the period at the end of paragraph (31) and inserting "; and"; and

(3) by adding after paragraph (31) the following new paragraph:

"(32)(A) provide that any request for services under this part by a foreign reciprocating country or a foreign country with which the State has an arrangement described in section 459A(d)(2) shall be treated as a request by a State;

"(B) provide, at State option, notwithstanding paragraph (4) or any other provision of this part, for services under the plan for enforcement of a spousal support order not described in paragraph (4)(B) entered by such a country (or subdivision); and

"(C) provide that no applications will be required from, and no costs will be assessed for such services against, the foreign reciprocating country or foreign obligee (but costs may at State option be assessed against the obligor).".

SEC. 372. FINANCIAL INSTITUTION DATA MATCHES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315, 317(a), 323, 365, and 369 of this Act, is amended by adding at the end the following new paragraph:

"(17) FINANCIAL INSTITUTION DATA MATCHES.—

"(A) IN GENERAL.—Procedures under which the State agency shall enter into agreements with financial institutions doing business in the State—

"(i) to develop and operate, in coordination with such financial institutions, a data match system, using automated data exchanges to the maximum extent feasible, in which each such financial institution is required to provide for each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each noncustodial parent who maintains an account at such institution and who owes past-due support, as identified by the State by name and social security number or other taxpayer identification number; and

"(ii) in response to a notice of lien or levy, encumber or surrender, as the case may be, assets held by such institution on behalf of any noncustodial parent who is subject to a child support lien pursuant to paragraph (4).

"(B) REASONABLE FEES.—The State agency may pay a reasonable fee to a financial institution for conducting the data match provided for in subparagraph (A)(i), not to exceed the actual costs incurred by such financial institution.

"(C) LIABILITY.—A financial institution shall not be liable under any Federal or State law to any person—

"(i) for any disclosure of information to the State agency under subparagraph (A)(i);

"(ii) for encumbering or surrendering any assets held by such financial institution in response to a notice of lien or levy issued by the State agency as provided for in subparagraph (A)(ii); or

"(iii) for any other action taken in good faith to comply with the requirements of subparagraph (A).

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) FINANCIAL INSTITUTION.—The term 'financial institution' means any Federal or State commercial savings bank, including savings association or cooperative bank, Federal- or State-chartered credit union, benefit association, insurance company, safe deposit company, money-market mutual fund, or any similar entity authorized to do business in the State; and

"(ii) ACCOUNT.—The term 'account' means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.".

SEC. 373. ENFORCEMENT OF ORDERS AGAINST PATERNAL OR MATERNAL GRANDPARENTS IN CASES OF MINOR PARENTS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315, 317(a), 323, 365, 369, and 372 of this Act, is amended by adding at the end the following new paragraph:

"(18) ENFORCEMENT OF ORDERS AGAINST PATERNAL OR MATERNAL GRANDPARENTS.—Procedures under which, at the State's option, any child support order enforced under this part with respect to a child of minor parents, if the custodial parents of such child is receiving assistance under the State program under part A, shall be enforceable, jointly and severally, against the parents of the noncustodial parents of such child.".

SEC. 374. NONDISCHARGEABILITY IN BANKRUPTCY OF CERTAIN DEBTS FOR THE SUPPORT OF A CHILD.

(a) AMENDMENT TO TITLE 11 OF THE UNITED STATES CODE.—Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (16) by striking the period at the end and inserting "; or",

(2) by adding at the end the following:

"(17) to a State or municipality for assistance provided by such State or municipality under a State program funded under section 403 of the Social Security Act to the extent that such assistance is provided for the support of a child of the debtor.", and

(3) in paragraph (5), by inserting "or section 408" after "section 402(a)(26)".

(b) AMENDMENT TO THE SOCIAL SECURITY ACT.—Section 456(b) of the Social Security Act (42 U.S.C. 656(b)) is amended to read as follows:

"(b) NONDISCHARGEABILITY.—A debt (as defined in section 101 of title 11 of the United States Code) to a State (as defined in such section) or municipality (as defined in such section) for assistance provided by such State or municipality under a State program funded under section 403 is not dischargeable under section 727, 1141, 1228(a), 1228(b), or 1328(b) of title 11 of the United States Code to the extent that such assistance is provided for the support of a child of the debtor (as defined in such section).".

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply only with respect to cases commenced under title 11 of the United States Code after the effective date of this section.

Subtitle H—Medical Support

SEC. 376. CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER.

(a) IN GENERAL.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—

(1) by striking "issued by a court of competent jurisdiction";

(2) by striking the period at the end of clause (ii) and inserting a comma; and

(3) by adding, after and below clause (ii), the following:

"if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued through an administrative process established under State law and has the force and effect of law under applicable State law.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1996.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the 1st plan year beginning on or after January 1, 1996, if—

(A) during the period after the date before the date of the enactment of this Act and before such 1st plan year, the plan is operated in accordance with the requirements of the amendments made by this section; and

(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such 1st plan year.

A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.

SEC. 377. ENFORCEMENT OF ORDERS FOR HEALTH CARE COVERAGE.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315, 317(a), 323, 365, 369, 372, and 373 of this Act, is amended by adding at the end the following new paragraph:

"(19) HEALTH CARE COVERAGE.—Procedures under which all child support orders enforced pursuant to this part shall include a provision for the health care coverage of the child, and in the case in which a noncustodial parent provides such coverage and changes employment, and the new employer provides health care coverage, the State agency shall transfer notice of the provision to the employer, which notice shall operate to enroll the child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice.".

Subtitle I—Enhancing Responsibility and Opportunity for Non-Residential Parents

SEC. 381. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

Part D of title IV (42 U.S.C. 651–669) is amended by adding at the end the following:

"SEC. 469A. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

"(a) IN GENERAL.—The Administration for Children and Families shall make grants under this section to enable States to establish and administer programs to support and facilitate noncustodial parents' access to and visitation of their children, by means of activities including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision and neutral drop-off and pickup), and development of guidelines for visitation and alternative custody arrangements.

"(b) AMOUNT OF GRANT.—The amount of the grant to be made to a State under this section for a fiscal year shall be an amount equal to the lesser of—

"(1) 90 percent of State expenditures during the fiscal year for activities described in subsection (a); or

"(2) the allotment of the State under subsection (c) for the fiscal year.

"(c) ALLOTMENTS TO STATES.—

"(1) IN GENERAL.—The allotment of a State for a fiscal year is the amount that bears the same ratio to the amount appropriated for grants under this section for the fiscal year as the number of children in the State living with only 1 biological parent bears to the total number of such children in all States.

"(2) MINIMUM ALLOTMENT.—The Administration for Children and Families shall adjust allotments to States under paragraph (1) as necessary to ensure that no State is allotted less than—

"(A) $50,000 for fiscal year 1996 or 1997; or

"(B) $100,000 for any succeeding fiscal year.

"(d) NO SUPPLANTATION OF STATE EXPENDITURES FOR SIMILAR ACTIVITIES.—A State to which a grant is made under this section may not use the grant to supplant expenditures by the State for activities specified in subsection (a), but shall use the grant to supplement such expenditures at a level at least equal to the level of such expenditures for fiscal year 1995.

"(e) STATE ADMINISTRATION.—Each State to which a grant is made under this section—

"(1) may administer State programs funded with the grant, directly or through grants to or contracts with courts, local public agencies, or non-profit private entities;

"(2) shall not be required to operate such programs on a statewide basis; and

"(3) shall monitor, evaluate, and report on such programs in accordance with regulations prescribed by the Secretary.".

Subtitle J—Effect of Enactment

SEC. 391. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise specifically provided (but subject to subsections (b) and (c))—

(1) the provisions of this title requiring the enactment or amendment of State laws under section 466 of the Social Security Act, or revision of State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996; and

(2) all other provisions of this title shall become effective upon the date of the enactment of this Act.

(b) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of this title shall become effective with respect to a State on the later of—

(1) the date specified in this title, or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions,

but in no event later than the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) GRACE PERIOD FOR STATE CONSTITUTIONAL AMENDMENT.—A State shall not be found out of compliance with any requirement enacted by this title if the State is unable to so comply without amending the State constitution until the earlier of—

(1) 1 year after the effective date of the necessary State constitutional amendment; or

(2) 5 years after the date of the enactment of this Act.

TITLE IV—RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

SEC. 400. STATEMENTS OF NATIONAL POLICY CONCERNING WELFARE AND IMMIGRATION.

The Congress makes the following statements concerning national policy with respect to welfare and immigration:

(1) Self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statutes.

(2) It continues to be the immigration policy of the United States that—

(A) aliens within the nation's borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and

(B) the availability of public benefits not constitute an incentive for immigration to the United States.

(3) Despite the principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates.

(4) Current eligibility rules for public assistance and unenforceable financial support agreements have proved wholly incapable of assuring that individual aliens not burden the public benefits system.

(5) It is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens be self-reliant in accordance with national immigration policy.

(6) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

(7) With respect to the State authority to make determinations concerning the eligibility of qualified aliens for public benefits in this title, a State that chooses to follow the Federal classification in determining the eligibility of such aliens for public assistance shall be considered to have chosen the least restrictive means available for achieving the compelling governmental interest of assuring that aliens be self-reliant in accordance with national immigration policy.

Subtitle A—Eligibility for Federal Benefits

SEC. 401. ALIENS WHO ARE NOT QUALIFIED ALIENS INELIGIBLE FOR FEDERAL PUBLIC BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), an alien who is not a qualified alien (as defined section 431) is not eligible for any Federal public benefit (as defined in subsection (c)).

(b) EXCEPTIONS.—

(1) Subsection (a) shall not apply with respect to the following Federal public benefits:

(A) Emergency medical services under title XIX or XXI of the Social Security Act.

(B) Short-term, non-cash, in-kind emergency disaster relief.

(C)(i) Public health assistance for immunizations.

(ii) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(D) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.

(E) Programs for housing or community development assistance or financial assistance administered by the Secretary of Housing and Urban Development, any program under title V of the Housing Act of 1949, or any assistance under section 306C of the Consolidated Farm and Rural Development Act, to the extent that the alien is receiving such a benefit on the date of the enactment of this Act.

(2) Subsection (a) shall not apply to any benefit payable under title II of the Social Security Act to an alien who is lawfully present in the United States as determined by the Attorney General, to any benefit if nonpayment of such benefit would contravene an international agreement described in section 233 of the Social Security Act, to any benefit if nonpayment would be contrary to section 202(t) of the Social Security Act, or to any benefit payable under title II of the Social Security Act to which entitlement is based on an application filed in or before the month in which this Act becomes law.

(c) Federal Public Benefit Defined.—

(1) Except as provided in paragraph (2), for purposes of this title the term "Federal public benefit" means—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) any retirement, welfare, health, disability, public or assisted housing, post-secondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

(2) Such term shall not apply—

(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States; or

(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Attorney General, after consultation with the Secretary of State.

SEC. 402. LIMITED ELIGIBILITY OF CERTAIN QUALIFIED ALIENS FOR CERTAIN FEDERAL PROGRAMS.

(a) Limited Eligibility for Specified Federal Programs.—

(1) In general.—Notwithstanding any other provision of law and except as provided in paragraph (2), an alien who is a qualified alien (as defined in section 431) is not eligible for any specified Federal program (as defined in paragraph (3)).

(2) Exceptions.—

(A) Time-limited exception for refugees and asylees.—Paragraph (1) shall not apply to an alien until 5 years after the date—

(i) an alien is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act;

(ii) an alien is granted asylum under section 208 of such Act; or

(iii) an alien's deportation is withheld under section 243(h) of such Act.

(B) Certain permanent resident aliens.—Paragraph (1) shall not apply to an alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(ii)(I) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 436, and (II) did not receive any Federal means-tested public benefit (as defined in section 403(c)) during any such quarter.

(C) Veteran and active duty exception.—Paragraph (1) shall not apply to an alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii).

(D) Transition for aliens currently receiving benefits.—Paragraph (1) shall apply to the eligibility of an alien for a program for months beginning on or after January 1, 1997, if, on the date of the enactment of this Act, the alien is lawfully residing in any State and is receiving benefits under such program on the date of the enactment of this Act.

(3) Specified federal program defined.—For purposes of this title, the term "specified Federal program" means any of the following:

(A) SSI.—The supplemental security income program under title XVI of the Social Security Act.

(B) Food stamps.—The food stamp program as defined in section 3(h) of the Food Stamp Act of 1977.

(b) Limited Eligibility for Designated Federal Programs.—

(1) In general.—Notwithstanding any other provision of law and except as provided in section 403 and paragraph (2), a State is authorized to determine the eligibility of an alien who is a qualified alien (as defined in section 431) for any designated Federal program (as defined in paragraph (3)).

(2) Exceptions.—Qualified aliens under this paragraph shall be eligible for any designated Federal program.

(A) Time-limited exception for refugees and asylees.—

(i) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 5 years after the date of an alien's entry into the United States.

(ii) An alien who is granted asylum under section 208 of such Act until 5 years after the date of such grant of asylum.

(iii) An alien whose deportation is being withheld under section 243(h) of such Act until 5 years after such withholding.

(B) Certain permanent resident aliens.—An alien who—

(i) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(ii)(I) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 436, and (II) did not receive any Federal means-tested public benefit (as defined in section 403(c)) during any such quarter.

(C) Veteran and active duty exception.—An alien who is lawfully residing in any State and is—

(i) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(ii) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(iii) the spouse or unmarried dependent child of an individual described in clause (i) or (ii).

(D) Transition for those currently receiving benefits.—An alien who on the date of the enactment of this Act is lawfully residing in any State and is receiving benefits under such program on the date of the enactment of this Act shall continue to be eligible to receive such benefits until January 1, 1997.

(3) Designated federal program defined.—For purposes of this title, the term "designated Federal program" means any of the following:

(A) Temporary assistance for needy families.—The program of block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act.

(B) Social services block grant.—The program of block grants to States for social services under title XX of the Social Security Act.

(C) Medicaid and medigrant.—The program of medical assistance under title XIX and XXI of the Social Security Act.

SEC. 403. FIVE-YEAR LIMITED ELIGIBILITY OF QUALIFIED ALIENS FOR FEDERAL MEANS-TESTED PUBLIC BENEFIT.

(a) In General.—Notwithstanding any other provision of law and except as provided in subsection (b), an alien who is a qualified alien (as defined in section 431) and who enters the United States on or after the date of the enactment of this Act is not eligible for any Federal means-tested public benefit (as defined in subsection (c)) for a period of five years beginning on the date of the alien's entry into the United States with a status within the meaning of the term "qualified alien".

(b) Exceptions.—The limitation under subsection (a) shall not apply to the following aliens:

(1) Exception for refugees and asylees.—

(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.

(B) An alien who is granted asylum under section 208 of such Act.

(C) An alien whose deportation is being withheld under section 243(h) of such Act.

(2) Veteran and active duty exception.—An alien who is lawfully residing in any State and is—

(A) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(B) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B).

(c) Federal Means-Tested Public Benefit Defined.—

(1) Except as provided in paragraph (2), for purposes of this title, the term "Federal means-tested public benefit" means a public benefit (including cash, medical, housing, and food assistance and social services) of the Federal Government in which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(2) Such term does not include the following:

(A) Emergency medical services under title XIX or XXI of the Social Security Act.

(B) Short-term, non-cash, in-kind emergency disaster relief.

(C) Assistance or benefits under the National School Lunch Act.

(D) Assistance or benefits under the Child Nutrition Act of 1966.

(E)(i) Public health assistance for immunizations.

(ii) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(F) Payments for foster care and adoption assistance under part B of title IV of the Social

Security Act for a child who would, in the absence of subsection (a), be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent or parents of such child are not described under subsection (a).

(G) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver in-kind services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life or safety.

(H) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965.

(I) Means-tested programs under the Elementary and Secondary Education Act of 1965.

SEC. 404. NOTIFICATION AND INFORMATION REPORTING.

(a) NOTIFICATION.—Each Federal agency that administers a program to which section 401, 402, or 403 applies shall, directly or through the States, post information and provide general notification to the public and to program recipients of the changes regarding eligibility for any such program pursuant to this title.

(b) INFORMATION REPORTING UNDER TITLE IV OF THE SOCIAL SECURITY ACT.—Part A of title IV of the Social Security Act is amended by inserting the following new section after section 411:

"SEC. 411A. STATE REQUIRED TO PROVIDE CERTAIN INFORMATION.

Each State to which a grant is made under section 403 of title IV of the Social Security Act (as amended by section 103 of the Personal Responsibility and Work Opportunity Act of 1995) shall, at least 4 times annually and upon request of the Immigration and Naturalization Service, furnish the Immigration and Naturalization Service with the name and address of, and other identifying information on, any individual who the State knows is unlawfully in the United States.".

(c) SSI.—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended—

(1) by redesignating the paragraphs (6) and (7) inserted by sections 206(d)(2) and 206(f)(1) of the Social Security Independence and Programs Improvement Act of 1994 (Public Law 103–296; 108 Stat. 1514, 1515) as paragraphs (7) and (8), respectively; and

(2) by adding at the end the following new paragraph:

"(9) Notwithstanding any other provision of law, the Commissioner shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this paragraph referred to as the 'Service'), furnish the Service with the name and address of, and other identifying information on, any individual who the Commissioner knows is unlawfully in the United States, and shall ensure that each agreement entered into under section 1616(a) with a State provides that the State shall furnish such information at such times with respect to any individual who the State knows is unlawfully in the United States.".

(d) INFORMATION REPORTING FOR HOUSING PROGRAMS.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 28. PROVISION OF INFORMATION TO LAW ENFORCEMENT AND OTHER AGENCIES.

"Notwithstanding any other provision of law, the Secretary shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this section referred to as the 'Service'), furnish the Service with the name and address of, and other identifying information on, any individual who the Secretary knows is unlawfully in the United States, and shall ensure that each contract for assistance entered into under section 6 or 8 of this Act with a public housing agency provides that the public housing agency shall furnish such information at such times with respect to any individual who the public housing agency knows is unlawfully in the United States.".

Subtitle B—Eligibility for State and Local Public Benefits Programs

SEC. 411. ALIENS WHO ARE NOT QUALIFIED ALIENS OR NONIMMIGRANTS INELIGIBLE FOR STATE AND LOCAL PUBLIC BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsections (b) and (d), an alien who is not—

(1) a qualified alien (as defined in section 431),

(2) a nonimmigrant under the Immigration and Nationality Act, or

(3) an alien who is paroled into the United States under section 212(d)(5) of such Act for less than one year,

is not eligible for any State or local public benefit (as defined in subsection (c)).

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following State or local public benefits:

(1) Emergency medical services under title XIX or XXI of the Social Security Act.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3)(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(4) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

(c) STATE OR LOCAL PUBLIC BENEFIT DEFINED.—

(1) Except as provided in paragraph (2), for purposes of this subtitle the term "State or local public benefit" means—

(A) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and

(B) any retirement, welfare, health, disability, public or assisted housing, post-secondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.

(2) Such term shall not apply—

(A) to any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the United States; or

(B) with respect to benefits for an alien who as a work authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the United States under reciprocal treaty agreements is required to pay benefits, as determined by the Secretary of State, after consultation with the Attorney General.

(d) STATE AUTHORITY TO PROVIDE FOR ELIGIBILITY OF ILLEGAL ALIENS FOR STATE AND LOCAL PUBLIC BENEFITS.—A State may provide that an alien who is not lawfully present in the United States is eligible for any State or local public benefit for which such alien would otherwise be ineligible under subsection (a) only through the enactment of a State law after the date of the enactment of this Act which affirmatively provides for such eligibility.

SEC. 412. STATE AUTHORITY TO LIMIT ELIGIBILITY OF QUALIFIED ALIENS FOR STATE PUBLIC BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), a State is authorized to determine the eligibility for any State public benefits (as defined in subsection (c) of an alien who is a qualified alien (as defined in section 431), a nonimmigrant under the Immigration and Nationality Act, or an alien who is paroled into the United States under section 212(d)(5) of such Act for less than one year.

(b) EXCEPTIONS.—Qualified aliens under this subsection shall be eligible for any State public benefits.

(1) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES.—

(A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 5 years after the date of an alien's entry into the United States.

(B) An alien who is granted asylum under section 208 of such Act until 5 years after the date of such grant of asylum.

(C) An alien whose deportation is being withheld under section 243(h) of such Act until 5 years after such withholding.

(2) CERTAIN PERMANENT RESIDENT ALIENS.—An alien who—

(A) is lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act; and

(B)(i) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 436, and (ii) did not receive any Federal means-tested public benefit (as defined in section 403(c)) during any such quarter.

(3) VETERAN AND ACTIVE DUTY EXCEPTION.—An alien who is lawfully residing in any State and is—

(A) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage,

(B) on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B).

(4) TRANSITION FOR THOSE CURRENTLY RECEIVING BENEFITS.—An alien who on the date of the enactment of this Act is lawfully residing in any State and is receiving benefits on the date of the enactment of this Act shall continue to be eligible to receive such benefits until January 1, 1997.

(c) STATE PUBLIC BENEFITS DEFINED.—The term "State public benefits" means any means-tested public benefit of a State or political subdivision of a State under which the State or political subdivision specifies the standards for eligibility, and does not include any Federal public benefit.

Subtitle C—Attribution of Income and Affidavits of Support

SEC. 421. FEDERAL ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN.

(a) IN GENERAL.—Notwithstanding any other provision of law, in determining the eligibility and the amount of benefits of an alien for any Federal means-tested public benefits program (as defined in section 403(c)), the income and resources of the alien shall be deemed to include the following:

(1) The income and resources of any person who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as added by section 423) on behalf of such alien.

(2) The income and resources of the spouse (if any) of the person.

(b) APPLICATION.—Subsection (a) shall apply with respect to an alien until such time as the alien—

(1) achieves United States citizenship through naturalization pursuant to chapter 2 of title III of the Immigration and Nationality Act; or

(2)(A) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 436, and (B) did not receive any Federal means-tested public benefit (as defined in section 403(c)) during any such quarter.

(c) REVIEW OF INCOME AND RESOURCES OF ALIEN UPON REAPPLICATION.—Whenever an alien is required to reapply for benefits under any Federal means-tested public benefits program, the applicable agency shall review the income and resources attributed to the alien under subsection (a).

(d) APPLICATION.—

(1) If on the date of the enactment of this Act, a Federal means-tested public benefits program attributes a sponsor's income and resources to an alien in determining the alien's eligibility and the amount of benefits for an alien, this section shall apply to any such determination beginning on the day after the date of the enactment of this Act.

(2) If on the date of the enactment of this Act, a Federal means-tested public benefits program does not attribute a sponsor's income and resources to an alien in determining the alien's eligibility and the amount of benefits for an alien, this section shall apply to any such determination beginning 180 days after the date of the enactment of this Act.

SEC. 422. AUTHORITY FOR STATES TO PROVIDE FOR ATTRIBUTION OF SPONSORS INCOME AND RESOURCES TO THE ALIEN WITH RESPECT TO STATE PROGRAMS.

(a) OPTIONAL APPLICATION TO STATE PROGRAMS.—Except as provided in subsection (b), in determining the eligibility and the amount of benefits of an alien for any State public benefits (as defined in section 412(c)), the State or political subdivision that offers the benefits is authorized to provide that the income and resources of the alien shall be deemed to include—

(1) the income and resources of any individual who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as added by section 423) on behalf of such alien, and

(2) the income and resources of the spouse (if any) of the individual.

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following State public benefits:

(1) Emergency medical services.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Programs comparable to assistance or benefits under the National School Lunch Act.

(4) Programs comparable to assistance or benefits under the Child Nutrition Act of 1966.

(5)(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of a serious communicable disease if the appropriate chief State health official determines that it is necessary to prevent the spread of such disease.

(6) Payments for foster care and adoption assistance.

(7) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General of a State, after consultation with appropriate agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

SEC. 423. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act is amended by inserting after section 213 the following new section:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"SEC. 213A. (a) ENFORCEABILITY.—(1) No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) unless such affidavit is executed as a contract—

"(A) which is legally enforceable against the sponsor by the sponsored alien, the Federal Government, and by any State (or any political subdivision of such State) which provides any means-tested public benefits program, but not later than 10 years after the alien last receives any such benefit;

"(B) in which the sponsor agrees to financially support the alien, so that the alien will not become a public charge; and

"(C) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (e)(2).

"(2) A contract under paragraph (1) shall be enforceable with respect to benefits provided to the alien until such time as the alien achieves United States citizenship through naturalization pursuant to chapter 2 of title III.

"(b) FORMS.—Not later than 90 days after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall formulate an affidavit of support consistent with the provisions of this section.

"(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

"(d) NOTIFICATION OF CHANGE OF ADDRESS.—

(1) IN GENERAL.—The sponsor shall notify the Attorney General and the State in which the sponsored alien is currently resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(2).

(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—

(A) not less than $250 or more than $2,000, or

(B) if such failure occurs with knowledge that the alien has received any means-tested public benefit, not less than $2,000 or more than $5,000.

"(e) REIMBURSEMENT OF GOVERNMENT EXPENSES.—(1)(A) Upon notification that a sponsored alien has received any benefit under any means-tested public benefits program, the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance.

"(B) The Attorney General, in consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

"(2) If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.

"(3) If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

"(4) No cause of action may be brought under this subsection later than 10 years after the alien last received any benefit under any means-tested public benefits program.

"(5) If, pursuant to the terms of this subsection, a Federal, State, or local agency requests reimbursement from the sponsor in the amount of assistance provided, or brings an action against the sponsor pursuant to the affidavit of support, the appropriate agency may appoint or hire an individual or other person to act on behalf of such agency acting under the authority of law for purposes of collecting any moneys owed. Nothing in this subsection shall preclude any appropriate Federal, State, or local agency from directly requesting reimbursement from a sponsor for the amount of assistance provided, or from bringing an action against a sponsor pursuant to an affidavit of support.

"(f) DEFINITIONS.—For the purposes of this section—

"(1) SPONSOR.—The term 'sponsor' means an individual who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

"(B) is 18 years of age or over;

"(C) is domiciled in any of the 50 States or the District of Columbia; and

"(D) is the person petitioning for the admission of the alien under section 204.

"(2) MEANS-TESTED PUBLIC BENEFITS PROGRAM.—The term 'means-tested public benefits program' means a program of public benefits (including cash, medical, housing, and food assistance and social services) of the Federal Government or of a State or political subdivision of a State in which the eligibility of an individual, household, or family eligibility unit for benefits under the program, or the amount of such benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 213 the following:

"Sec. 213A. Requirements for sponsor's affidavit of support.".

(c) EFFECTIVE DATE.—Subsection (a) of section 213A of the Immigration and Nationality Act, as inserted by subsection (a) of this section, shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under subsection (b) of such section.

(d) BENEFITS NOT SUBJECT TO REIMBURSEMENT.—Requirements for reimbursement by a *sponsor for benefits provided to a sponsored alien pursuant to an affidavit of support under section 213A of the Immigration and Nationality Act shall not apply with respect to the following:*

(1) Emergency medical services under title XIX or XXI of the Social Security Act.

(2) Short-term, non-cash, in-kind emergency disaster relief.

(3) Assistance or benefits under the National School Lunch Act.

(4) Assistance or benefits under the Child Nutrition Act of 1966.

(5)(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of a serious communicable disease if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(6) Payments for foster care and adoption assistance under part B of title IV of the Social Security Act for a child, but only if the foster or adoptive parent or parents of such child are not otherwise ineligible pursuant to section 403 of this Act.

(7) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety.

(8) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965.

SEC. 424. COSIGNATURE OF ALIEN STUDENT LOANS.

Section 484(b) of the Higher Education Act of 1965 (20 U.S.C. 1091(b)) is amended by adding at the end the following new paragraph:

"(6) Notwithstanding sections 427(a)(2)(A), 428B(a), 428C(b)(4)(A), and 464(c)(1)(E), or any other provision of this title, a student who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act shall not be eligible for a loan under this title unless the loan is endorsed and cosigned by the alien's sponsor under section 213A of the Immigration and Nationality Act or by another creditworthy individual who is a United States citizen.".

Subtitle D—General Provisions

SEC. 431. DEFINITIONS.

(a) IN GENERAL.—Except as otherwise provided in this title, the terms used in this title have the same meaning given such terms in section 101(a) of the Immigration and Nationality Act.

(b) QUALIFIED ALIEN.—For purposes of this title, the term "qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is—

(1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act,

(2) an alien who is granted asylum under section 208 of such Act,

(3) a refugee who is admitted to the United States under section 207 of such Act,

(4) an alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year,

(5) an alien whose deportation is being withheld under section 243(h) of such Act, or

(6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980.

SEC. 432. REAPPLICATION FOR SSI BENEFITS.

(a) APPLICATION AND NOTICE.—Notwithstanding any other provision of law, in the case of an individual who is receiving supplemental security income benefits under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits would terminate by reason of the application of section 402(a)(D), the Commissioner of Social Security shall so notify the individual not later than 90 days after the date of the enactment of this Act.

(b) REAPPLICATION.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, each individual notified pursuant to subsection (a) who desires to reapply for benefits under title XVI of the Social Security Act shall reapply to the Commissioner of Social Security.

(2) DETERMINATION OF ELIGIBILITY.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall determine the eligibility of each individual who reapplies for benefits under paragraph (1) pursuant to the procedures of such title XVI.

SEC. 433. VERIFICATION OF ELIGIBILITY FOR FEDERAL PUBLIC BENEFITS.

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Attorney General of the United States, after consultation with the Secretary of Health and Human Services, shall promulgate regulations requiring verification that a person applying for a Federal public benefit (as defined in section 401(c)), to which the limitation under section 401 applies, is a qualified alien and is eligible to receive such benefit. Such regulations shall, to the extent feasible, require that information requested and exchanged be similar in form and manner to information requested and exchanged under section 1137 of the Social Security Act.

(b) STATE COMPLIANCE.—Not later than 24 months after the date the regulations described in subsection (a) are adopted, a State that administers a program that provides a Federal public benefit shall have in effect a verification system that complies with the regulations.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this section.

SEC. 434. STATUTORY CONSTRUCTION.

(a) LIMITATION.—

(1) Nothing in this title may be construed as an entitlement or a determination of an individual's eligibility or fulfillment of the requisite requirements for any Federal, State, or local governmental program, assistance, or benefits. For purposes of this title, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage.

(2) Nothing in this title may be construed as addressing alien eligibility for a basic public education as determined by the Supreme Court of the United States under Plyler v. Doe (457 U.S. 202)(1982).

(b) NOT APPLICABLE TO FOREIGN ASSISTANCE.—This title does not apply to any Federal, State, or local governmental program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by the Secretary of State in consultation with the Attorney General.

(c) SEVERABILITY.—If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 435. COMMUNICATION BETWEEN STATE AND LOCAL GOVERNMENT AGENCIES AND THE IMMIGRATION AND NATURALIZATION SERVICE.

Notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States.

SEC. 436. QUALIFYING QUARTERS.

For purposes of this title, in determining the number of qualifying quarters of coverage under title II of the Social Security Act an alien shall be credited with--

(1) all of the qualifying quarters of coverage as defined under title II of the Social Security Act worked by a parent of such alien while the alien was under age 18 if the parent did not receive any Federal means-tested public benefit (as defined in section 403(c)) during any such quarter, and

(2) all of the qualifying quarters worked by a spouse of such alien during their marriage if the spouse did not receive any Federal means-tested public benefit (as defined in section 403(c)) during any such quarter and the alien remains married to such spouse or such spouse is deceased.

Subtitle E—Conforming Amendments

SEC. 441. CONFORMING AMENDMENTS RELATING TO ASSISTED HOUSING.

(a) LIMITATIONS ON ASSISTANCE.—Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) is amended—

(1) by striking "Secretary of Housing and Urban Development" each place it appears and inserting "applicable Secretary";

(2) in subsection (b), by inserting after "National Housing Act," the following: "the direct loan program under section 502 of the Housing Act of 1949 or section 502(c)(5)(D), 504, 521(a)(2)(A), or 542 of such Act, subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act,";

(3) in paragraphs (2) through (6) of subsection (d), by striking "Secretary" each place it appears and inserting "applicable Secretary";

(4) in subsection (d), in the matter following paragraph (6), by striking "the term 'Secretary'" and inserting "the term 'applicable Secretary'"; and

(5) by adding at the end the following new subsection:

"(h) For purposes of this section, the term 'applicable Secretary' means—

"(1) the Secretary of Housing and Urban Development, with respect to financial assistance administered by such Secretary and financial assistance under subtitle A of title III of the Cranston-Gonzalez National Affordable Housing Act; and

"(2) the Secretary of Agriculture, with respect to financial assistance administered by such Secretary.".

(b) CONFORMING AMENDMENTS.—Section 501(h) of the Housing Act of 1949 (42 U.S.C. 1471(h)) is amended—

(1) by striking "(1)";

(2) by striking "by the Secretary of Housing and Urban Development"; and

(3) by striking paragraph (2).

TITLE V—REDUCTIONS IN FEDERAL GOVERNMENT POSITIONS

SEC. 501. REDUCTIONS.

(a) DEFINITIONS.—As used in this section:

(1) APPROPRIATE EFFECTIVE DATE.—The term "appropriate effective date", used with respect to a Department referred to in this section, means the date on which all provisions of this Act (other than title II) that the Department is required to carry out, and amendments and repeals made by such Act to provisions of Federal law that the Department is required to carry out, are effective.

(2) COVERED ACTIVITY.—The term "covered activity", used with respect to a Department referred to in this section, means an activity that the Department is required to carry out under—

(A) a provision of this Act (other than title II); or

(B) a provision of Federal law that is amended or repealed by this Act (other than title II).

(b) REPORTS.—

(1) CONTENTS.—Not later than December 31, 1995, each Secretary referred to in paragraph (2) shall prepare and submit to the relevant committees described in paragraph (3) a report containing—

(A) the determinations described in subsection (c);

(B) appropriate documentation in support of such determinations; and

(C) a description of the methodology used in making such determinations.

(2) SECRETARY.—The Secretaries referred to in this paragraph are—

(A) the Secretary of Agriculture;

(B) the Secretary of Education;

(C) the Secretary of Labor;

(D) the Secretary of Housing and Urban Development; and

(E) the Secretary of Health and Human Services.

(3) RELEVANT COMMITTEES.—The relevant Committees described in this paragraph are the following:

(A) With respect to each Secretary described in paragraph (2), the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(B) With respect to the Secretary of Agriculture, the Committee on Agriculture and the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(C) With respect to the Secretary of Education, the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(D) With respect to the Secretary of Labor, the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(E) With respect to the Secretary of Housing and Urban Development, the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(F) With respect to the Secretary of Health and Human Services, the Committee on Economic and Educational Opportunities of the House of Representatives, the Committee on Labor and Human Resources of the Senate, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate.

(4) REPORT ON CHANGES.—Not later than December 31, 1996, and each December 31 thereafter, each Secretary referred to in paragraph (2) shall prepare and submit to the relevant Committees described in paragraph (3), a report concerning any changes with respect to the determinations made under subsection (c) for the year in which the report is being submitted.

(c) DETERMINATIONS.—Not later than December 31, 1995, each Secretary referred to in subsection (b)(2) shall determine—

(1) the number of full-time equivalent positions required by the Department headed by such Secretary to carry out the covered activities of the Department, as of the day before the date of enactment of this Act;

(2) the number of such positions required by the Department to carry out the activities, as of the appropriate effective date for the Department; and

(3) the difference obtained by subtracting the number referred to in paragraph (2) from the number referred to in paragraph (1).

(d) ACTIONS.—Each Secretary referred to in subsection (b)(2) shall take such actions as may be necessary, including reduction in force actions, consistent with sections 3502 and 3595 of title 5, United States Code, to reduce the number of positions of personnel of the Department—

(1) not later than 30 days after the appropriate effective date for the Department involved, by at least 50 percent of the difference referred to in subsection (c)(3); and

(2) not later than 13 months after such appropriate effective date, by at least the remainder of such difference (after the application of paragraph (1)).

(e) CONSISTENCY.—

(1) EDUCATION.—The Secretary of Education shall carry out this section in a manner that enables the Secretary to meet the requirements of this section.

(2) LABOR.—The Secretary of Labor shall carry out this section in a manner that enables the Secretary to meet the requirements of this section.

(3) HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services shall carry out this section in a manner that enables the Secretary to meet the requirements of this section and sections 502 and 503.

(f) CALCULATION.—In determining, under subsection (c), the number of full-time equivalent positions required by a Department to carry out a covered activity, a Secretary referred to in subsection (b)(2), shall include the number of such positions occupied by personnel carrying out program functions or other functions (including budgetary, legislative, administrative, planning, evaluation, and legal functions) related to the activity.

(g) GENERAL ACCOUNTING OFFICE REPORT.—Not later than July 1, 1996, the Comptroller General of the United States shall prepare and submit to the committees described in subsection (b)(3), a report concerning the determinations made by each Secretary under subsection (c). Such report shall contain an analysis of the determinations made by each Secretary under subsection (c) and a determination as to whether further reductions in full-time equivalent positions are appropriate.

SEC. 502. REDUCTIONS IN FEDERAL BUREAUCRACY.

(a) IN GENERAL.—The Secretary of Health and Human Services shall reduce the Federal workforce within the Department of Health and Human Services by an amount equal to the sum of—

(1) 75 percent of the full-time equivalent positions at such Department that relate to any direct spending program, or any program funded through discretionary spending, that has been converted into a block grant program under this Act and the amendments made by this Act; and

(2) an amount equal to 75 percent of that portion of the total full-time equivalent departmental management positions at such Department that bears the same relationship to the amount appropriated for the programs referred to in paragraph (1) as such amount relates to the total amount appropriated for use by such Department.

(b) REDUCTIONS IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Notwithstanding any other provision of this Act, the Secretary of Health and Human Services shall take such actions as may be necessary, including reductions in force actions, consistent with sections 3502 and 3595 of title 5, United States Code, to reduce the full-time equivalent positions within the Department of Health and Human Services—

(1) by 245 full-time equivalent positions related to the program converted into a block grant under the amendment made by section 103; and

(2) by 60 full-time equivalent managerial positions in the Department.

SEC. 503. REDUCING PERSONNEL IN WASHINGTON, D.C. AREA.

In making reductions in full-time equivalent positions, the Secretary of Health and Human Services is encouraged to reduce personnel in the Washington, D.C., area office (agency headquarters) before reducing field personnel.

TITLE VI—REFORM OF PUBLIC HOUSING

SEC. 601. FAILURE TO COMPLY WITH OTHER WELFARE AND PUBLIC ASSISTANCE PROGRAMS.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 27. FAILURE TO COMPLY WITH OTHER WELFARE AND PUBLIC ASSISTANCE PROGRAMS.

"(a) IN GENERAL.—If the benefits of a family are reduced under a Federal, State, or local law relating to welfare or a public assistance program for the failure of any member of the family to perform an action required under the law or program, the family may not, for the duration of the reduction, receive any increased assistance under this Act as the result of a decrease in the income of the family to the extent that the decrease in income is the result of the benefits reduction.

"(b) EXCEPTION.—Subsection (a) shall not apply in any case in which the benefits of a family are reduced because the welfare or public assistance program to which the Federal, State, or local law relates limits the period during which benefits may be provided under the program.".

SEC. 602. FRAUD UNDER MEANS-TESTED WELFARE AND PUBLIC ASSISTANCE PROGRAMS.

(a) IN GENERAL.—If an individual's benefits under a Federal, State, or local law relating to a means-tested welfare or a public assistance program are reduced because of an act of fraud by the individual under the law or program, the individual may not, for the duration of the reduction, receive an increased benefit under any other means-tested welfare or public assistance program for which Federal funds are appropriated as a result of a decrease in the income of the individual (determined under the applicable program) attributable to such reduction.

(b) WELFARE OR PUBLIC ASSISTANCE PROGRAMS FOR WHICH FEDERAL FUNDS ARE APPROPRIATED.—For purposes of subsection (a), the term "means-tested welfare or public assistance program for which Federal funds are appropriated" includes the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), any program of public or assisted housing under title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), and State programs funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

SEC. 603. EFFECTIVE DATE.

This title and the amendment made by this title shall become effective on the date of enactment of this Act.

TITLE VII—CHILD PROTECTION BLOCK GRANT PROGRAM AND FOSTER CARE AND ADOPTION ASSISTANCE

Subtitle A—Block Grants to States for the Protection of Children and Matching Payments for Foster Care and Adoption Assistance

SEC. 701. ESTABLISHMENT OF PROGRAM.

Title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by striking part B and inserting the following:

"PART B—BLOCK GRANTS TO STATES FOR THE PROTECTION OF CHILDREN AND MATCHING PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE

"SEC. 421. PURPOSE.

"The purpose of this part is to enable eligible States to carry out a child protection program to—

"(1) identify and assist families at risk of abusing or neglecting their children;

"(2) operate a system for receiving reports of abuse or neglect of children;

"(3) improve the intake, assessment, screening, and investigation of reports of abuse and neglect;

"(4) enhance the general child protective system by improving risk and safety assessment tools and protocols;

"(5) improve legal preparation and representation, including procedures for appealing and responding to appeals of substantiated reports of abuse and neglect;

"(6) provide support, treatment, and family preservation services to families which are, or are at risk of, abusing or neglecting their children;

"(7) support children who must be removed from or who cannot live with their families;

"(8) make timely decisions about permanent living arrangements for children who must be removed from or who cannot live with their families;

"(9) provide for continuing evaluation and improvement of child protection laws, regulations, and services;

"(10) develop and facilitate training protocols for individuals mandated to report child abuse or neglect; and

"(11) develop and enhance the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level.

"SEC. 422. ELIGIBLE STATES.

"(a) IN GENERAL.—As used in this part, the term 'eligible State' means a State that has submitted to the Secretary, not later than October 1, 1996, and every 3 years thereafter, a plan which has been signed by the chief executive officer of the State and that includes the following:

"(1) OUTLINE OF CHILD PROTECTION PROGRAM.—A written document that outlines the activities the State intends to conduct to achieve the purpose of this part, including the procedures to be used for—

"(A) receiving and assessing reports of child abuse or neglect;

"(B) investigating such reports;

"(C) with respect to families in which abuse or neglect has been confirmed, providing services or referral for services for families and children where the State makes a determination that the child may safely remain with the family;

"(D) protecting children by removing them from dangerous settings and ensuring their placement in a safe environment;

"(E) providing training for individuals mandated to report suspected cases of child abuse or neglect;

"(F) protecting children in foster care;

"(G) promoting timely adoptions;

"(H) protecting the rights of families, using adult relatives as the preferred placement for children separated from their parents where such relatives meet the relevant State child protection standards;

"(I) providing services to individuals, families, or communities, either directly or through referral, that are aimed at preventing the occurrence of child abuse and neglect; and

"(J) establishing and responding to citizen review panels under section 426.

"(2) CERTIFICATION OF STATE LAW REQUIRING THE REPORTING OF CHILD ABUSE AND NEGLECT.—A certification that the State has in effect laws that require public officials and other professionals to report, in good faith, actual or suspected instances of child abuse or neglect.

"(3) CERTIFICATION OF PROCEDURES FOR SCREENING, SAFETY ASSESSMENT, AND PROMPT INVESTIGATION.—A certification that the State has in effect procedures for receiving and responding to reports of child abuse or neglect, including the reports described in paragraph (2), and for the immediate screening, safety assessment, and prompt investigation of such reports.

"(4) CERTIFICATION OF STATE PROCEDURES FOR REMOVAL AND PLACEMENT OF ABUSED OR NEGLECTED CHILDREN.—A certification that the State has in effect procedures for the removal from families and placement of abused or neglected children and of any other child in the same household who may also be in danger of abuse or neglect.

"(5) CERTIFICATION OF PROVISIONS FOR IMMUNITY FROM PROSECUTION.—A certification that the State has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.

"(6) CERTIFICATION OF PROVISIONS AND PROCEDURES FOR EXPUNGEMENT OF CERTAIN RECORDS.—A certification that the State has in effect laws and procedures requiring the facilitation of the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false.

"(7) CERTIFICATION OF PROVISIONS AND PROCEDURES RELATING TO APPEALS.—A certification that not later then 2 years after the date of the enactment of this part, the State shall have laws and procedures in effect affording individuals an opportunity to appeal an official finding of abuse or neglect.

"(8) CERTIFICATION OF STATE PROCEDURES FOR DEVELOPING AND REVIEWING WRITTEN PLANS FOR PERMANENT PLACEMENT OF REMOVED CHILDREN.—A certification that the State has in effect procedures for ensuring that a written plan is prepared for children who have been removed from their families. Such plan shall specify the goals for achieving a permanent placement for the child in a timely fashion, for ensuring that the written plan is reviewed every 6 months (until such placement is achieved), and for ensuring that information about such children is collected regularly and recorded in case records, and include a description of such procedures.

"(9) CERTIFICATION OF STATE PROGRAM TO PROVIDE INDEPENDENT LIVING SERVICES.—A certification that the State has in effect a program to provide independent living services, for assistance in making the transition to self-sufficient adulthood, to individuals in the child protection program of the State who are 16, but who are not 20 (or, at the option of the State, 22), years of age, and who do not have a family to which to be returned.

"(10) CERTIFICATION OF STATE PROCEDURES TO RESPOND TO REPORTING OF MEDICAL NEGLECT OF DISABLED INFANTS.—

"(A) IN GENERAL.—A certification that the State has in place for the purpose of responding to the reporting of medical neglect of infants (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

"(i) coordination and consultation with individuals designated by and within appropriate health-care facilities;

"(ii) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

"(iii) authority, under State law, for the State child protective service to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

"(B) WITHHOLDING OF MEDICALLY INDICATED TREATMENT.—As used in subparagraph (A), the term 'withholding of medically indicated treatment' means the failure to respond to the infant's life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that such term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician's or physicians' reasonable medical judgment—

"(i) the infant is chronically and irreversibly comatose;

"(ii) the provision of such treatment would—

"(I) merely prolong dying;

"(II) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

"(III) otherwise be futile in terms of the survival of the infant; or

"(iii) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

"(11) IDENTIFICATION OF CHILD PROTECTION GOALS.—The quantitative goals of the State child protection program.

"(12) CERTIFICATION OF CHILD PROTECTION STANDARDS.—With respect to fiscal years beginning on or after April 1, 1996, a certification that the State—

"(A) has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—

"(i) the appropriateness of, and necessity for, the foster care placement;

"(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

"(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

"(B) is operating, to the satisfaction of the Secretary—

"(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

"(ii) a case review system for each child receiving foster care under the supervision of the State;

"(iii) a service program designed to help children—

"(I) where appropriate, return to families from which they have been removed; or

"(II) be placed for adoption, with a legal guardian, or if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement; and

"(iv) a preplacement preventive services program designed to help children at risk for foster care placement remain with their families; and

"(C)(i) has reviewed (or not later than October 1, 1997, will review) State policies and administrative and judicial procedures in effect for

children abandoned at or shortly after birth (including policies and procedures providing for legal representation of such children); and

“(ii) is implementing (or not later than October 1, 1997, will implement) such policies and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children.

“(13) CERTIFICATION OF REASONABLE EFFORTS BEFORE PLACEMENT OF CHILDREN IN FOSTER CARE.—A certification that the State in each case will—

“(A) make reasonable efforts prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from the child's home, and to make it possible for the child to return home; and

“(B) with respect to families in which abuse or neglect has been confirmed, provide services or referral for services for families and children where the State makes a determination that the child may safely remain with the family.

“(14) CERTIFICATION OF COOPERATIVE EFFORTS.—A certification by the State, where appropriate, that all steps will be taken, including cooperative efforts with the State agencies administering the plans approved under parts A and D, to secure an assignment to the State of any rights to support on behalf of each child receiving foster care maintenance payments under this part.

“(15) CERTIFICATION OF CONFIDENTIALITY AND REQUIREMENTS FOR INFORMATION DISCLOSURE.—

“(A) IN GENERAL.—A certification that the State has in effect and operational—

“(i) requirements ensuring that reports and records made and maintained pursuant to the purposes of this part shall only be made available to—

“(I) individuals who are the subject of the report;

“(II) Federal, State, or local government entities having a need for such information in order to carry out their responsibilities under law to protect children from abuse and neglect;

“(III) child abuse citizen review panels;

“(IV) child fatality review panels;

“(V) a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and

“(VI) other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose; and

“(ii) provisions that allow for public disclosure of the findings or information about cases of child abuse or neglect that have resulted in a child fatality or near fatality.

“(B) LIMITATION.—Disclosures made pursuant to clause (i) or (ii) shall not include the identifying information concerning the individual initiating a report or complaint alleging suspected instances of child abuse or neglect.

“(C) DEFINITION.—For purposes of this paragraph, the term 'near fatality' means an act that, as certified by a physician, places the child in serious or critical condition.

“(b) DETERMINATIONS.—The Secretary shall determine whether a plan submitted pursuant to subsection (a) contains the material required by subsection (a), other than the material described in paragraph (10) of such subsection. The Secretary may not require a State to include in such a plan any material not described in subsection (a).

“SEC. 423. GRANTS TO STATES FOR CHILD PROTECTION AND PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE.

“(a) FUNDING OF BLOCK GRANTS.—

“(1) ENTITLEMENT COMPONENT.—Each eligible State shall be entitled to receive from the Secretary for each fiscal year specified in subsection (c)(1) a grant in an amount equal to the State share of the child protection amount for the fiscal year.

“(2) AUTHORIZATION COMPONENT.—

“(A) IN GENERAL.—For each eligible State for each fiscal year specified in subsection (c)(1), the Secretary shall supplement the grant under paragraph (1) of this subsection by an amount equal to the State share of the amount (if any) appropriated pursuant to subparagraph (B) of this paragraph for the fiscal year.

“(B) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For grants under subparagraph (A), there are authorized to be appropriated to the Secretary an amount not to exceed $325,000,000 for each fiscal year specified in subsection (c)(1).

“(b) MAINTENANCE PAYMENTS.—

“(1) IN GENERAL.—In addition to the grants described in subsection (a), each eligible State shall be entitled to receive from the Secretary for each quarter of each fiscal year specified in subsection (c)(1) an amount equal to the sum of—

“(A) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act as in effect on the day before the date of enactment of this part) of the total amount expended during such quarter as foster care maintenance payments under the child protection program under this part for children in foster family homes or child-care institutions; plus

“(B) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act (as so in effect)) of the total amount expended during such quarter as adoption assistance payments under the child protection program under this part pursuant to adoption assistance agreements.

“(2) ESTIMATES BY THE SECRETARY.—

“(A) IN GENERAL.—The Secretary shall, prior to the beginning of each quarter, estimate the amount to which a State will be entitled to receive under paragraph (1) for such quarter, such estimates to be based on—

“(i) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with paragraph (1), and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived;

“(ii) records showing the number of children in the State receiving assistance under this part; and

“(iii) such other information as the Secretary may find necessary.

“(B) PAYMENTS.—The Secretary shall pay to the States the amounts so estimated under subparagraph (A), reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this subsection to such State for any prior quarter and with respect to which adjustment has not already been made under this paragraph.

“(C) PRO RATA SHARE.— The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to foster care and adoption assistance furnished under this part shall be considered an overpayment to be adjusted under this paragraph.

“(3) ALLOWANCE OR DISALLOWANCE OF CLAIM.—

“(A) IN GENERAL.—Within 60 days after receipt of a State claim for expenditures pursuant to paragraph (2)(A), the Secretary shall allow, disallow, or defer such claim.

“(B) NOTICE.—Within 15 days after a decision to defer a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.

“(C) DECISION.—Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—

“(i) disallow the claim, if able to complete the review and determine that the claim is not allowable; or

“(ii) in any other case, allow the claim, subject to disallowance (as necessary)—

“(I) upon completion of the review, if it is determined that the claim is not allowable; or

“(II) on the basis of findings of an audit or financial management review.

“(c) DEFINITIONS.—As used in this section:

“(1) CHILD PROTECTION AMOUNT.—The term 'child protection amount' means—

“(A) $2,047,000,000 for fiscal year 1997;

“(B) $2,200,000,000 for fiscal year 1998;

“(C) $2,342,000,000 for fiscal year 1999;

“(D) $2,487,000,000 for fiscal year 2000;

“(E) $2,592,000,000 for fiscal year 2001; and

“(F) $2,766,000,000 for fiscal year 2002;

“(2) STATE SHARE.—

“(A) IN GENERAL.—The term 'State share' means the qualified child protection expenses of the State divided by the sum of the qualified child protection expenses of all of the States.

“(B) QUALIFIED CHILD PROTECTION EXPENSES.—The term 'qualified child protection expenses' means, with respect to a State the greater of—

“(i) the total amount of—

“(I) $\frac{1}{3}$ of the Federal grant amounts to the State under the provisions of law specified in clauses (i), (ii), and (iii) of subparagraph (C) for fiscal years 1992, 1993, and 1994; and

“(II) $\frac{1}{3}$ of the Federal share of expenditures (without regard to disputed expenditures) with respect to administration, training, and statewide mechanized data collection and information systems under the provision of law specified in subparagraph (C)(iv) as reported by the State on ACF Form IV-E-12 for fiscal years 1992, 1993, and 1994; or

“(ii) the total amount of—

“(I) the Federal grant amounts to the State under the provisions of law specified in clauses (i), (ii), and (iii) of subparagraph (C) for fiscal year 1994; and

“(II) the Federal share of expenditures (without regard to disputed expenditures) with respect to administration, training, and statewide mechanized data collection and information systems under the provision of law specified in subparagraph (C)(iv) as reported by the State on ACF Form IV-E-12 for fiscal year 1994.

“(C) PROVISIONS OF LAW.—The provisions of law specified in this subparagraph are the following (as in effect with respect to each of the fiscal years referred to in subparagraph (B)):

“(i) Section 423 of this Act.

“(ii) Section 434 of this Act.

“(iii) Section 474(a)(4) of this Act.

“(iv) Section 474(a)(3) of this Act.

“(D) DETERMINATION OF INFORMATION.—In determining amounts for fiscal years 1992, 1993, and 1994 under subclause (I) of clauses (i) and (ii) of subparagraph (B), the Secretary shall use information listed as actual amounts in the Justification for Estimates for Appropriation Committees of the Administration for Children and Families for fiscal years 1994, 1995, and 1996, respectively. In determining amounts for fiscal years 1992, 1993, and 1994 under subclause (II) of clauses (i) and (ii) of subparagraph (B), the Secretary shall use information available as of February 22, 1995.

“(d) USE OF GRANT.—

“(1) IN GENERAL.—A State to which a grant is made under this section may use the grant in

any manner that the State deems appropriate to accomplish the purpose of this part.

"(2) TIMING OF EXPENDITURES.—A State to which a grant is made under this section for a fiscal year shall expend the total amount of the grant not later than the end of the immediately succeeding fiscal year.

"(3) RULE OF INTERPRETATION.—This part shall not be interpreted to prohibit short- and long-term foster care facilities operated for profit from receiving funds provided under this part.

"(e) TIMING OF PAYMENTS.—The Secretary shall pay each eligible State the amount of the grant payable to the State under this section in quarterly installments.

"(f) PENALTIES.—

"(1) FOR USE OF GRANT IN VIOLATION OF THIS PART.—If an audit conducted pursuant to chapter 75 of title 31, United States Code, finds that an amount paid to a State under this section for a fiscal year has been used in violation of this part, then the Secretary shall reduce the amount of the grant that would (in the absence of this paragraph) be payable to the State under this section for the immediately succeeding fiscal year by the amount so used, plus 5 percent of the grant paid under this section to the State for such fiscal year.

"(2) FOR FAILURE TO MAINTAIN EFFORT.—

"(A) IN GENERAL.—If an audit conducted pursuant to chapter 75 of title 31, United States Code, finds that the amount expended by a State (other than from amounts provided by the Federal Government) during the fiscal years specified in subparagraph (B), to carry out the State program funded under this part is less than the applicable percentage specified in such subparagraph of the total amount expended by the State (other than from amounts provided by the Federal Government) during fiscal year 1994 under parts B and E of this title (as in effect on the day before the date of the enactment of this part), then the Secretary shall reduce the amount of the grant that would (in the absence of this paragraph) be payable to the State under this section for the immediately succeeding fiscal year by the amount of the difference, plus 5 percent of the grant paid under this section to the State for such fiscal year.

"(B) SPECIFICATION OF FISCAL YEARS AND APPLICABLE PERCENTAGES.—The fiscal years and applicable percentages specified in this subparagraph are as follows:

"(i) For fiscal years 1997 and 1998, 100 percent.

"(ii) For fiscal years 1999 through 2002, 75 percent.

"(3) FOR FAILURE TO SUBMIT REQUIRED REPORT.—

"(A) IN GENERAL.—The Secretary shall reduce by 3 percent the amount of the grant that would (in the absence of this paragraph) be payable to a State under this section for a fiscal year if the Secretary determines that the State has not submitted the report required by section 427(b) for the immediately preceding fiscal year, within 6 months after the end of the immediately preceding fiscal year.

"(B) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under subparagraph (A) with respect to a report for a fiscal year if the State submits the report before the end of the immediately succeeding fiscal year.

"(4) FOR FAILURE TO COMPLY WITH SAMPLING METHODS REQUIREMENTS.—The Secretary may reduce by not more than 1 percent the amount of the grant that would (in the absence of this paragraph) be payable to a State under this section for a succeeding fiscal year if the Secretary determines that the State has not complied with the Secretary's sampling methods requirements under section 427(c)(2) during the prior fiscal year.

"(5) STATE FUNDS TO REPLACE REDUCTIONS IN GRANT.—A State which has a penalty imposed against it under this subsection for a fiscal year shall expend additional State funds in an amount equal to the amount of the penalty for the purpose of carrying out the State program under this part during the immediately succeeding fiscal year.

"(6) REASONABLE CAUSE EXCEPTION.—Except in the case of the penalty described in paragraph (2), the Secretary may not impose a penalty on a State under this subsection with respect to a requirement if the Secretary determines that the State has reasonable cause for failing to comply with the requirement.

"(7) CORRECTIVE COMPLIANCE PLAN.—

"(A) IN GENERAL.—

"(i) NOTIFICATION OF VIOLATION.—Before imposing a penalty against a State under this subsection with respect to a violation of this part, the Secretary shall notify the State of the violation and allow the State the opportunity to enter into a corrective compliance plan in accordance with this paragraph which outlines how the State will correct the violation and how the State will insure continuing compliance with this part.

"(ii) 60-DAY PERIOD TO PROPOSE A CORRECTIVE COMPLIANCE PLAN.—During the 60-day period that begins on the date the State receives a notice provided under clause (i) with respect to a violation, the State may submit to the Federal Government a corrective compliance plan to correct the violation.

"(iii) CONSULTATION ABOUT MODIFICATIONS.—During the 60-day period that begins with the date the Secretary receives a corrective compliance plan submitted by a State in accordance with clause (ii), the Secretary may consult with the State on modifications to the plan.

"(iv) ACCEPTANCE OF PLAN.— A corrective compliance plan submitted by a State in accordance with clause (ii) is deemed to be accepted by the Secretary if the Secretary does not accept or reject the plan during the 60-day period that begins on the date the plan is submitted.

"(B) EFFECT OF CORRECTING VIOLATION.—The Secretary may not impose any penalty under this subsection with respect to any violation covered by a State corrective compliance plan accepted by the Secretary if the State corrects the violation pursuant to the plan.

"(C) EFFECT OF FAILING TO CORRECT VIOLATION.—The Secretary shall assess some or all of a penalty imposed on a State under this subsection with respect to a violation if the State does not, in a timely manner, correct the violation pursuant to a State corrective compliance plan accepted by the Secretary.

"(8) LIMITATION ON AMOUNT OF PENALTY.—

"(A) IN GENERAL.—In imposing the penalties described in this subsection, the Secretary shall not reduce any quarterly payment to a State by more than 25 percent.

"(B) CARRYFORWARD OF UNRECOVERED PENALTIES.—To the extent that subparagraph (A) prevents the Secretary from recovering during a fiscal year the full amount of all penalties imposed on a State under this subsection for a prior fiscal year, the Secretary shall apply any remaining amount of such penalties to the grant payable to the State under section 423(a) for the immediately succeeding fiscal year.

"(g) TREATMENT OF TERRITORIES.—

"(1) IN GENERAL.—A territory, as defined in section 1108(b)(1), shall carry out a child protection program in accordance with the provisions of this part.

"(2) PAYMENTS.—Subject to the mandatory ceiling amounts specified in section 1108, each territory, as so defined, shall be entitled to receive from the Secretary for any fiscal year an amount equal to the total obligations to the territory under section 434 (as in effect on the day before the date of the enactment of this part) for fiscal year 1995.

"(h) LIMITATION ON FEDERAL AUTHORITY.—Except as expressly provided in this Act, the Secretary may not regulate the conduct of States under this part or enforce any provision of this part.

"SEC. 424. REQUIREMENTS FOR FOSTER CARE MAINTENANCE PAYMENTS.

"(a) IN GENERAL.—Each State operating a program under this part shall make foster care maintenance payments under section 423(b) with respect to a child who would meet the requirements of section 406(a) or of section 407 (as in effect on the day before the date of the enactment of this part) but for the removal of the child from the home of a relative (specified in section 406(a)(as so in effect)), if—

"(1) the removal from the home occurred pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian, or was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child and that reasonable efforts of the type described in section 422(a)(13) have been made;

"(2) such child's placement and care are the responsibility of—

"(A) the State; or

"(B) any other public agency with whom the State has made an agreement for the administration of the State program under this part which is still in effect;

"(3) such child has been placed in a foster family home or child-care institution as a result of the voluntary placement agreement or judicial determination referred to in paragraph (1); and

"(4) such child—

"(A) would have been eligible to receive aid under the eligibility standards under the State plan approved under section 402 (as in effect on the day before the date of the enactment of this part and adjusted for inflation, in accordance with regulations issued by the Secretary) in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated; or

"(B) would have received such aid in or for such month if application had been made therefore, or the child had been living with a relative specified in section 406(a) (as so in effect) within 6 months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month such child had been living with such a relative and application therefore had been made.

"(b) LIMITATION ON FOSTER CARE PAYMENTS.—Foster care maintenance payments may be made under this part only on behalf of a child described in subsection (a) of this section who is—

"(1) in the foster family home of an individual, whether the payments therefore are made to such individual or to a public or private child-placement or child-care agency; or

"(2) in a child-care institution, whether the payments therefore are made to such institution or to a public or private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term 'foster care maintenance payments' (as defined in section 429(6)).

"(c) VOLUNTARY PLACEMENTS.—

"(1) SATISFACTION OF CHILD PROTECTION STANDARDS.—Notwithstanding any other provision of this section, Federal payments may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this part, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a), only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section 422(a)(12).

“(2) REMOVAL IN EXCESS OF 180 DAYS.—No Federal payment may be made under this part with respect to amounts expended by any State as foster care maintenance payments, in the case of any child who was removed from such child's home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) to the effect that such placement is in the best interests of the child.

“(3) DEEMED REVOCATION OF AGREEMENTS.—In any case where—

“(A) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a); and

“(B) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative,

the voluntary placement agreement shall be deemed to be revoked unless the State opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child's best interests.

“SEC. 425. REQUIREMENTS FOR ADOPTION ASSISTANCE PAYMENTS.

“(a) IN GENERAL.—A State operating a program under this part shall enter into adoption assistance agreements with the adoptive parents of children with special needs.

“(b) PAYMENTS UNDER AGREEMENTS.—Under any adoption assistance agreement entered into by a State with parents who adopt a child with special needs who meets the requirements of subsection (c), the State may make adoption assistance payments to such parents or through another public or nonprofit private agency, in amounts determined under subsection (d).

“(c) CHILDREN WITH SPECIAL NEEDS.—For purposes of subsection (b), a child meets the requirements of this subsection if such child—

“(1)(A) at the time adoption proceedings were initiated, met the requirements of section 406(a) or section 407 (as in effect on the day before the date of the enactment of this part) or would have met such requirements except for such child's removal from the home of a relative (specified in section 406(a) (as so in effect)), either pursuant to a voluntary placement agreement with respect to which Federal payments are provided under section 423(b) (or 403 (as so in effect)) or as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child;

“(B) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits; or

“(C) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent;

“(2)(A) would have received aid under the eligibility standards under the State plan approved under section 402 (as in effect on the day before the date of the enactment of this part, adjusted for inflation, in accordance with regulations issued by the Secretary) in or for the month in which such agreement was entered into or court proceedings leading to the removal of such child from the home were initiated;

“(B) would have received such aid in or for such month if application had been made therefore, or had been living with a relative specified in section 406(a) (as so in effect) within 6 months prior to the month in which such agreement was entered into or such proceedings were initiated, and would have received such aid in or for such month if in such month such child had been living with such a relative and application therefore had been made; or

“(C) is a child described in subparagraph (A) or (B); and

“(3) has been determined by the State, pursuant to subsection (g) of this section, to be a child with special needs.

“(d) DETERMINATION OF PAYMENTS.—The amount of the payments to be made in any case under subsection (b) shall be determined through agreement between the adoptive parents and the State or a public or nonprofit private agency administering the program under this part, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

“(e) PAYMENT EXCEPTION.—Notwithstanding subsection (d), no payment may be made to parents with respect to any child who has attained the age of 18 (or, where the State determines that the child has a mental or physical disability which warrants the continuation of assistance, the age of 21), and no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this part shall keep the State or public or nonprofit private agency administering the program under this part informed of circumstances which would, pursuant to this section, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

“(f) PRE-ADOPTION PAYMENTS.—For purposes of this part, individuals with whom a child who has been determined by the State, pursuant to subsection (g), to be a child with special needs is placed for adoption in accordance with applicable State and local law shall be eligible for adoption assistance payments during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

“(g) DETERMINATION OF CHILD WITH SPECIAL NEEDS.—For purposes of this section, a child shall not be considered a child with special needs unless—

“(1) the State has determined that the child cannot or should not be returned to the home of the child's parents; and

“(2) the State had first determined—

“(A) that there exists with respect to the child a specific factor or condition such as the child's ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance under this part or medical assistance under title XIX or XXI; and

“(B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under title XIX or XXI.

“SEC. 426. CITIZEN REVIEW PANELS.

“(a) ESTABLISHMENT.—Each State to which a grant is made under section 423 shall establish at least 3 citizen review panels.

“(b) COMPOSITION.—Each panel established under subsection (a) shall be broadly representative of the community from which drawn.

“(c) FREQUENCY OF MEETINGS.—Each panel established under subsection (a) shall meet not less frequently than quarterly.

“(d) DUTIES.—

“(1) IN GENERAL.—Each panel established under subsection (a) shall, by examining specific cases, determine the extent to which the State and local agencies responsible for carrying out activities under this part are doing so in accordance with the State plan, with the child protection standards set forth in section 422(a)(12), and with any other criteria that the panel considers important to ensure the protection of children.

“(2) CONFIDENTIALITY.—The members and staff of any panel established under subsection (a) shall not disclose to any person or government any information about any specific child protection case with respect to which the panel is provided information.

“(e) STATE ASSISTANCE.—Each State that establishes a panel under subsection (a) shall afford the panel access to any information on any case that the panel desires to review, and shall provide the panel with staff assistance in performing its duties.

“(f) REPORTS.—Each panel established under subsection (a) shall make a public report of its activities after each meeting.

“SEC. 427. DATA COLLECTION AND REPORTING.

“(a) ANNUAL REPORTS ON STATE CHILD WELFARE GOALS.—On the date that is 3 years after the effective date of this part and annually thereafter, each State to which a grant is made under section 423 shall submit to the Secretary a report that contains quantitative information on the extent to which the State is making progress toward achieving the goals of the State child protection program.

“(b) STATE DATA REPORTS.—

“(1) BIANNUAL REPORTS.—Each State to which a grant is made under section 423 shall biannually submit to the Secretary a report that includes the following disaggregated case record information with respect to each child within the State receiving publicly-supported child welfare services under the State program funded under this part:

“(A) Whether the child received services under the program funded under this part.

“(B) The age, race, gender, and family income of the parents and child.

“(C) The county of residence of the child.

“(D) Whether the child was removed from the family.

“(E) Whether the child entered foster care under the responsibility of the State.

“(F) The type of out-of-home care in which the child was placed (including institutional care, group home care, family foster care, or relative placement).

“(G) The child's permanency planning goal, such as family reunification, kinship care, adoption, or independent living.

“(H) Whether the child was released for adoption.

“(I) Whether the child exited from foster care, and, if so, the reason for the exit, such as return to family, placement with relatives, adoption, independent living, or death.

“(J) Other information as required by the Secretary and agreed to by a majority of the States, *including information necessary to ensure that there is a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.*

"(2) ANNUAL REPORTS.—Each State to which a grant is made under section 423 shall annually submit to the Secretary a report that includes the following information:

"(A) The number of children reported to the State during the year as alleged victims of abuse or neglect.

"(B) The number of children for whom an investigation of alleged maltreatment resulted in a determination of substantiated abuse or neglect, the number for whom a report of maltreatment was unsubstantiated, and the number for whom a report of maltreatment was determined to be false.

"(C) The number of families that received preventive services.

"(D) The number of infants abandoned during the year, the number of such infants who were adopted, and the length of time between abandonment and adoption.

"(E) The number of deaths of children resulting from child abuse or neglect.

"(F) The number of deaths occurring while children were in the custody of the State.

"(G) The number of children served by the State independent living program.

"(H) Quantitative measurements demonstrating whether the State is making progress toward the child protection goals identified by the State.

"(I) The types of maltreatment suffered by victims of child abuse and neglect.

"(J) The number of abused and neglected children receiving services.

"(K) The average length of stay of children in out-of-home care.

"(L) The response of the State to the findings and recommendations of the citizen review panels established under section 426.

"(M) Other information as required by the Secretary and agreed to by a majority of the States, including information necessary to ensure that there is a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.

"(3) REGULATORY AUTHORITY.—The Secretary shall define by regulation the information required to be included in the reports submitted under paragraphs (1) and (2).

"(c) AUTHORITY OF STATES TO USE ESTIMATES.—

"(1) IN GENERAL.—A State may comply with a requirement to provide precise numerical information described in subsection (b) by submitting an estimate which is obtained through the use of scientifically acceptable sampling methods.

"(2) SECRETARIAL REVIEW OF SAMPLING METHODS.—The Secretary shall periodically review the sampling methods used by a State to comply with a requirement to provide information described in subsection (b). The Secretary may require a State to revise the sampling methods so used if such methods do not meet scientific standards and shall impose the penalty described in section 423(f)(4) upon a State if a State has not complied with such requirements.

"(d) ANNUAL REPORT BY THE SECRETARY.—Within 6 months after the end of each fiscal year, the Secretary shall prepare a report based on information provided by the States for the fiscal year pursuant to subsection (b), and shall make the report and such information available to the Congress and the public.

"(e) SCOPE OF STATE PROGRAM FUNDED UNDER THIS PART.—As used in subsection (b), the term 'State program funded under this part' includes any equivalent State program.

"SEC. 428. FUNDING FOR STUDIES OF CHILD WELFARE.

"(a) NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE.—There are authorized to be appropriated and there are appropriated to the Secretary for each of fiscal years 1996 through 2002—

"(1) $6,000,000 to conduct a national study based on random samples of children who are at risk of child abuse or neglect, or are determined by States to have been abused or neglected under section 208 of the Child and Family Services Block Grant Act of 1995; and

"(2) $10,000,000 for such other research as may be necessary under such section.

"(b) STATE COURTS ASSESSMENT AND IMPROVEMENT OF HANDLING OF PROCEEDINGS RELATING TO FOSTER CARE AND ADOPTION.—There are authorized to be appropriated and there are appropriated to the Secretary for each of fiscal years 1996 through 1998 $10,000,000 for the purpose of carrying out section 13712 of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 670 note). All funds appropriated under this subsection shall be expended not later than September 30, 1999.

"SEC. 429. DEFINITIONS.

"For purposes of this part, the following definitions shall apply:

"(1) ADMINISTRATIVE REVIEW.—The term 'administrative review' means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

"(2) ADOPTION ASSISTANCE AGREEMENT.—The term 'adoption assistance agreement' means a written agreement, binding on the parties to the agreement, between the State, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum—

"(A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement; and

"(B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time.

The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.

"(3) CASE PLAN.—The term 'case plan' means a written document which includes at least the following:

"(A) A description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the voluntary placement agreement entered into or judicial determination made with respect to the child in accordance with section 424(a)(1).

"(B) A plan for assuring that the child receives proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his or her own home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

"(C) To the extent available and accessible, the health and education records of the child, including—

"(i) the names and addresses of the child's health and educational providers;

"(ii) the child's grade level performance;

"(iii) the child's school record;

"(iv) assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement;

"(v) a record of the child's immunizations;

"(vi) the child's known medical problems;

"(vii) the child's medications; and

"(viii) any other relevant health and education information concerning the child determined to be appropriate by the State.

Where appropriate, for a child age 16 or over, the case plan must also include a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.

"(4) CASE REVIEW SYSTEM.—The term 'case review system' means a procedure for assuring that—

"(A) each child has a case plan designed to achieve placement in the least restrictive (most family like) and most appropriate setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child, which—

"(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child; and

"(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 12 months, a caseworker on the staff of the State in which the home of the parents of the child is located, or of the State in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the State in which the home of the parents of the child is located;

"(B) the status of each child is reviewed periodically but no less frequently than once every six months by either a court or by administrative review (as defined in paragraph (1)) in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship;

"(C) with respect to each such child, procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than 18 months after the original placement (and not less frequently than every 12 months thereafter during the continuation of foster care), which hearing shall determine the future status of the child (including whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child's special needs or circumstances) be continued in foster care on a permanent or long-term basis) and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child, and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living; and procedural safeguards shall also be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the

child's placement, and to any determination affecting visitation privileges of parents; and

"(D) a child's health and education record (as described in paragraph (3)(C)) is reviewed and updated, and supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care.

"(5) CHILD-CARE INSTITUTION.—The term 'child-care institution' means a private child-care institution, or a public child-care institution which accommodates no more than 25 children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

"(6) FOSTER CARE MAINTENANCE PAYMENTS.—

"(A) IN GENERAL.—The term 'foster care maintenance payments' means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

"(B) SPECIAL RULE.—In cases where—

"(i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution; and

"(ii) payments described in subparagraph (A) are being made under this part with respect to such child,

the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.

"(7) FOSTER FAMILY HOME.—The term 'foster family home' means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing.

"(8) STATE.—The term 'State' means the 50 States and the District of Columbia.

"(9) VOLUNTARY PLACEMENT.--The term 'voluntary placement' means an out-of-home placement of a minor, by or with participation of the State, after the parents or guardians of the minor have requested the assistance of the State and signed a voluntary placement agreement.

"(10) VOLUNTARY PLACEMENT AGREEMENT.—The term 'voluntary placement agreement' means a written agreement, binding on the parties to the agreement, between the State, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.".

SEC. 702. CONFORMING AMENDMENTS.

(a) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL FOR TECHNICAL AND CONFORMING AMENDMENTS.—Not later than 90 days after the date of the enactment of this subtitle, the Secretary of Health and Human Services, in consultation, as appropriate, with the heads of other Federal agencies, shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this subtitle.

(b) AMENDMENTS TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—

(1) Section 452(a)(10)(C) of the Social Security Act (42 U.S.C. 652(a)(10)(C)), as amended by section 108(b)(2) of this Act, is amended—

(A) by striking "under part E" and inserting "under section 423(b)(1)(A)"; and

(B) by striking "or under section 471(a)(17)".

(2) Section 452(g)(2)(A) of such Act (42 U.S.C. 652(g)(2)(A)), as amended by paragraphs (6) and (7) of section 108(b), is amended—

(A) by inserting "or benefits or services were being provided under the State child protection program funded under part B" after "part A" each place it appears; and

(B) in the matter following subparagraph (B), by striking "agency administering the plan under part E" and inserting "under the child protection program funded under part B".

(3) Section 466(a)(3)(B) of such Act (42 U.S.C. 666(a)(3)(B)), as amended by section 108(b)(14), is amended by striking "or 471(a)(17)".

(c) AMENDMENT TO TITLE XVI OF THE SOCIAL SECURITY ACT AS IN EFFECT WITH RESPECT TO THE STATES.—Section 1611(c)(5)(B) of such Act (42 U.S.C. 1382(c)(5)(B)) is amended to read as follows: "(B) section 423(b)(1)(A) of this Act (relating to foster care maintenance payments),".

(d) REPEAL OF PART E OF TITLE IV OF THE SOCIAL SECURITY ACT.—Part E of title IV of the Social Security Act (42 U.S.C. 671–679) is hereby repealed.

(e) AMENDMENT TO SECTION 9442 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1986.—Section 9442(4) of the Omnibus Budget Reconciliation Act of 1986 (42 U.S.C. 679a(4)) is amended by inserting "(as in effect before October 1, 1995)" after "Act".

(f) REDESIGNATION AND AMENDMENTS OF SECTION 1123.—

(1) REDESIGNATION.—The Social Security Act is amended by redesignating section 1123, the second place it appears (42 U.S.C. 1320a–1a), as section 1123A.

(2) AMENDMENTS.—Section 1123A of such Act, as so redesignated, is amended—

(A) in subsection (a)—

(i) by striking "The Secretary" and inserting "Notwithstanding section 423(h), the Secretary";

(ii) in the matter preceding paragraph (1), and in paragraph (1), by striking "parts B and E" and inserting "part B"; and

(iii) in paragraph (2), by inserting "under this section" after "promulgated";

(B) in subsection (b)—

(i) in paragraph (3), by striking "matching"; and

(ii) in paragraph (4)(C), by striking "matching"; and

(C) in subsection (c)(1)(B), by striking "matching".

SEC. 703. EFFECTIVE DATE; TRANSITION RULES.

(a) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this subtitle and the amendments made by this subtitle shall take effect on October 1, 1996.

(2) EXCEPTION.—Section 428 of part B of title IV of the Social Security Act, as added by section 701, and section 702(a) shall take effect on the date of the enactment of this subtitle.

(3) TEMPORARY REDESIGNATION OF SECTION 428.—During the period beginning on the date of the enactment of this subtitle and ending on October 1, 1996, section 428 of part B of title IV of the Social Security Act, as added by section 701, shall be redesignated as section 428A.

(b) TRANSITION RULES.—

(1) CLAIMS, ACTIONS, AND PROCEEDINGS.—The amendments made by this subtitle shall not apply with respect to—

(A) powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, assistance, or services provided before the effective date of this subtitle under the provisions amended; and

(B) administrative actions and proceedings commenced before such date, or authorized before such date to be commenced, under such provisions.

(2) CLOSING OUT ACCOUNT FOR THOSE PROGRAMS TERMINATED OR SUBSTANTIALLY MODIFIED BY THIS SUBTITLE.—In closing out accounts, Federal and State officials may use scientifically acceptable statistical sampling techniques. Claims made under programs which are repealed or substantially amended in this subtitle and which involve State expenditures in cases where assistance or services were provided during a prior fiscal year, shall be treated as expenditures during fiscal year 1995 for purposes of reimbursement even if payment was made by a State on or after October 1, 1995. States shall complete the filing of all claims no later than September 30, 1997. Federal department heads shall—

(A) use the single audit procedure to review and resolve any claims in connection with the close out of programs; and

(B) reimburse States for any payments made for assistance or services provided during a prior fiscal year from funds for fiscal year 1995, rather than the funds authorized by this subtitle.

SEC. 704. SENSE OF THE CONGRESS REGARDING TIMELY ADOPTION OF CHILDREN.

It is the sense of the Congress that—

(1) too many children who wish to be adopted are spending inordinate amounts of time in foster care;

(2) there is an urgent need for States to increase the number of waiting children being adopted in a timely and lawful manner;

(3) studies have shown that States spend an excess of $15,000 each year on each special needs child in foster care, and would save significant amounts of money if they offered incentives to families to adopt special needs children;

(4) States should allocate sufficient funds under this title for adoption assistance and medical assistance to encourage more families to adopt children who otherwise would languish in the foster care system for a period that many experts consider detrimental to their development;

(5) States should offer incentives for families that adopt special needs children to make adoption more affordable for middle-class families;

(6) when it is necessary for a State to remove a child from the home of the child's biological parents, the State should strive—

(A) to provide the child with a single foster care placement and a single coordinated case team; and

(B) to conclude an adoption of the child, when adoption is the goal of the child and the State, within one year of the child's placement in foster care; and

(7) States should participate in local, regional, or national programs to enable maximum visibility of waiting children to potential parents. Such programs should include a nationwide, interactive computer network to disseminate information on children eligible for adoption to help match them with families around the country.

Subtitle B—Child and Family Services Block Grant

SEC. 751. CHILD AND FAMILY SERVICES BLOCK GRANT.

The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) is amended to read as follows:

"SEC. 1. SHORT TITLE.

This Act may be cited as the "Child and Family Services Block Grant Act of 1995".

"SEC. 2. FINDINGS.

"The Congress finds the following:

"(1) Each year, close to 1,000,000 American children are victims of abuse and neglect.

"(2) Many of these children and their families fail to receive adequate protection or treatment.

"(3) The problem of child abuse and neglect requires a comprehensive approach that—

"(A) integrates the work of social service, legal, health, mental health, education, and substance abuse agencies and organizations;

"(B) strengthens coordination among all levels of government, and with private agencies, civic, religious, and professional organizations, and individual volunteers;

"(C) emphasizes the need for abuse and neglect prevention, assessment, investigation, and treatment at the neighborhood level;

"(D) ensures properly trained and support staff with specialized knowledge, to carry out their child protection duties; and

"(E) is sensitive to ethnic and cultural diversity.

"(4) The child protection system should be comprehensive, child-centered, family-focused, and community-based, should incorporate all appropriate measures to prevent the occurrence or recurrence of child abuse and neglect, and should promote physical and psychological recovery and social re-integration in an environment that fosters the health, safety, self-respect, and dignity of the child.

"(5) The Federal government should provide leadership and assist communities in their child and family protection efforts by—

"(A) generating and sharing knowledge relevant to child and family protection, including the development of models for service delivery;

"(B) strengthening the capacity of States to assist communities;

"(C) helping communities to carry out their child and family protection plans by promoting the competence of professional, paraprofessional, and volunteer resources; and

"(D) providing leadership to end the abuse and neglect of the nation's children and youth.

"SEC. 3. PURPOSES.

"The purposes of this Act are the following:

"(1) To assist each State in improving the child protective service systems of such State by—

"(A) improving risk and safety assessment tools and protocols;

"(B) developing, strengthening, and facilitating training opportunities for individuals who are mandated to report child abuse or neglect or otherwise overseeing, investigating, prosecuting, or providing services to children and families who are at risk of abusing or neglecting their children; and

"(C) developing, implementing, or operating information, education, training, or other programs designed assist and provide services for families of disabled infants with life-threatening conditions.

"(2) To support State efforts to develop, operate, expand and enhance a network of community-based, prevention-focused, family resource and support programs that are culturally competent and that coordinate resources among existing education, vocational rehabilitation, disability, respite, health, mental health, job readiness, self-sufficiency, child and family development, community action, Head Start, child care, child abuse and neglect prevention, juvenile justice, domestic violence prevention and intervention, housing, and other human service organizations within the State.

"(3) To facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit from adoption, particularly children with special needs, including disabled infants with life-threatening conditions, by—

"(A) promoting model adoption legislation and procedures in the States and territories of the United States in order to eliminate jurisdictional and legal obstacles to adoption;

"(B) providing a mechanism for the Department of Health and Human Services to—

"(i) promote quality standards for adoption services, pre-placement, post-placement, and post-legal adoption counseling, and standards to protect the rights of children in need of adoption;

"(ii) maintain a national adoption information exchange system to bring together children who would benefit from adoption and qualified prospective adoptive parents who are seeking such children, and conduct national recruitment efforts in order to reach prospective parents for children awaiting adoption; and

"(iii) demonstrate expeditious ways to free children for adoption for whom it has been determined that adoption is the appropriate plan; and

"(C) facilitating the identification and recruitment of foster and adoptive families that can meet children's needs.

"(4) To respond to the needs of children, in particular those who are drug exposed or inflicted with Acquired Immune Deficiency Syndrome (AIDS), by supporting activities aimed at preventing the abandonment of children, providing support to children and their families, and facilitating the recruitment and training of health and social service personnel.

"(5) To carry out any other activities as the Secretary determines are consistent with this Act.

"SEC. 4. DEFINITIONS.

"As used in this Act:

"(1) CHILD.—The term 'child' means a person who has not attained the lesser of—

"(A) the age of 18; or

"(B) except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides;

"(2) CHILD ABUSE AND NEGLECT.—The term 'child abuse and neglect' means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm.

"(3) FAMILY RESOURCE AND SUPPORT PROGRAMS.—The term 'family resource and support program' means a community-based, prevention-focused entity that—

"(A) provides, through direct service, the core services required under this Act, including—

"(i) parent education, support and leadership services, together with services characterized by relationships between parents and professionals that are based on equality and respect, and designed to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

"(ii) services to facilitate the ability of parents to serve as resources to one another (such as through mutual support and parent self-help groups);

"(iii) early developmental screening of children to assess any needs of children, and to identify types of support that may be provided;

"(iv) outreach services provided through voluntary home visits and other methods to assist parents in becoming aware of and able to participate in family resources and support program activities;

"(v) community and social services to assist families in obtaining community resources; and

"(vi) follow-up services;

"(B) provides, or arranges for the provision of, other core services through contracts or agreements with other local agencies; and

"(C) provides access to optional services, directly or by contract, purchase of service, or interagency agreement, including—

"(i) child care, early childhood development and early intervention services;

"(ii) self-sufficiency and life management skills training;

"(iii) education services, such as scholastic tutoring, literacy training, and General Educational Degree services;

"(iv) job readiness skills;

"(v) child abuse and neglect prevention activities;

"(vi) services that families with children with disabilities or special needs may require;

"(vii) community and social service referral;

"(viii) peer counseling;

"(ix) referral for substance abuse counseling and treatment; and

"(x) help line services.

"(4) INDIAN TRIBE AND TRIBAL ORGANIZATION.—The terms 'Indian tribe' and 'tribal organization' shall have the same meanings given such terms in subsections (e) and (l), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e) and (l)).

"(5) RESPITE SERVICES.—The term 'respite services' means short term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, or guardian) to children who—

"(A) are in danger of abuse or neglect;

"(B) have experienced abuse or neglect; or

"(C) have disabilities, chronic, or terminal illnesses.

Such services shall be provided within or outside the home of the child, be short-term care (ranging from a few hours to a few weeks of time, per year), and be intended to enable the family to stay together and to keep the child living in the home and community of the child.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(7) SEXUAL ABUSE.—The term 'sexual abuse' includes—

"(A) the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or

"(B) the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

"(8) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(9) WITHHOLDING OF MEDICALLY INDICATED TREATMENT.—The term 'withholding of medically indicated treatment' means the failure to respond to the infant's life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician's or physicians' reasonable medical judgment—

"(A) the infant is chronically and irreversibly comatose;

"(B) the provision of such treatment would—

"(i) merely prolong dying;

"(ii) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

"(iii) otherwise be futile in terms of the survival of the infant; or

"(C) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

"TITLE I—GENERAL BLOCK GRANT

"SEC. 101. CHILD AND FAMILY SERVICES BLOCK GRANTS.

"(a) ELIGIBILITY.—The Secretary shall award grants to eligible States that file a State plan that is approved under section 102 and that otherwise meet the eligibility requirements for grants under this title.

"(b) AMOUNT OF GRANT.—The amount of a grant made to each State under subsection (a) for a fiscal year shall be based on the population of children under the age of 18 residing in each State that applies for a grant under this section.

"(c) USE OF AMOUNTS.—Amounts received by a State under a grant awarded under subsection (a) shall be used to carry out the purposes described in section 3.

"SEC. 102. ELIGIBLE STATES.

"(a) IN GENERAL.—As used in this title, the term 'eligible State' means a State that has submitted to the Secretary, not later than October 1, 1996, and every 3 years thereafter, a plan which has been signed by the chief executive officer of the State and that includes the following:

"(1) OUTLINE OF CHILD PROTECTION PROGRAM.—A written document that outlines the activities the State intends to conduct to achieve the purpose of this title, including the procedures to be used for—

"(A) receiving and assessing reports of child abuse or neglect;

"(B) investigating such reports;

"(C) with respect to families in which abuse or neglect has been confirmed, providing services or referral for services for families and children where the State makes a determination that the child may safely remain with the family;

"(D) protecting children by removing them from dangerous settings and ensuring their placement in a safe environment;

"(E) providing training for individuals mandated to report suspected cases of child abuse or neglect;

"(F) protecting children in foster care;

"(G) promoting timely adoptions;

"(H) protecting the rights of families, using adult relatives as the preferred placement for children separated from their parents where such relatives meet the relevant State child protection standards;

"(I) providing services to individuals, families, or communities, either directly or through referral, that are aimed at preventing the occurrence of child abuse and neglect.

"(2) CERTIFICATION OF STATE LAW REQUIRING THE REPORTING OF CHILD ABUSE AND NEGLECT.—A certification that the State has in effect laws that require public officials and other professionals to report, in good faith, actual or suspected instances of child abuse or neglect.

"(3) CERTIFICATION OF PROCEDURES FOR SCREENING, SAFETY ASSESSMENT, AND PROMPT INVESTIGATION.—A certification that the State has in effect procedures for receiving and responding to reports of child abuse or neglect, including the reports described in paragraph (2), and for the immediate screening, safety assessment, and prompt investigation of such reports.

"(4) CERTIFICATION OF STATE PROCEDURES FOR REMOVAL AND PLACEMENT OF ABUSED OR NEGLECTED CHILDREN.—A certification that the State has in effect procedures for the removal from families and placement of abused or neglected children and of any other child in the same household who may also be in danger of abuse or neglect.

"(5) CERTIFICATION OF PROVISIONS FOR IMMUNITY FROM PROSECUTION.—A certification that the State has in effect laws requiring immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect.

"(6) CERTIFICATION OF PROVISIONS AND PROCEDURES FOR EXPUNGEMENT OF CERTAIN RECORDS.—A certification that the State has in effect laws and procedures requiring the facilitation of the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false.

"(7) CERTIFICATION OF PROVISIONS AND PROCEDURES RELATING TO APPEALS.—A certification that not later then 2 years after the date of the enactment of this Act, the State shall have laws and procedures in effect affording individuals an opportunity to appeal an official finding of abuse or neglect.

"(8) CERTIFICATION OF STATE PROCEDURES FOR DEVELOPING AND REVIEWING WRITTEN PLANS FOR PERMANENT PLACEMENT OF REMOVED CHILDREN.—A certification that the State has in effect procedures for ensuring that a written plan is prepared for children who have been removed from their families. Such plan shall specify the goals for achieving a permanent placement for the child in a timely fashion, for ensuring that the written plan is reviewed every 6 months (until such placement is achieved), and for ensuring that information about such children is collected regularly and recorded in case records, and include a description of such procedures.

"(9) CERTIFICATION OF STATE PROGRAM TO PROVIDE INDEPENDENT LIVING SERVICES.—A certification that the State has in effect a program to provide independent living services, for assistance in making the transition to self-sufficient adulthood, to individuals in the child protection program of the State who are 16, but who are not 20 (or, at the option of the State, 22), years of age, and who do not have a family to which to be returned.

"(10) CERTIFICATION OF STATE PROCEDURES TO RESPOND TO REPORTING OF MEDICAL NEGLECT OF DISABLED INFANTS.—A certification that the State has in place for the purpose of responding to the reporting of medical neglect of infants (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

"(A) coordination and consultation with individuals designated by and within appropriate health-care facilities;

"(B) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

"(C) authority, under State law, for the State child protective service to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

"(11) IDENTIFICATION OF CHILD PROTECTION GOALS.—The quantitative goals of the State child protection program.

"(12) CERTIFICATION OF CHILD PROTECTION STANDARDS.—With respect to fiscal years beginning on or after April 1, 1996, a certification that the State—

"(A) has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—

"(i) the appropriateness of, and necessity for, the foster care placement;

"(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

"(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

"(B) is operating, to the satisfaction of the Secretary—

"(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

"(ii) a case review system for each child receiving foster care under the supervision of the State;

"(iii) a service program designed to help children—

"(I) where appropriate, return to families from which they have been removed; or

"(II) be placed for adoption, with a legal guardian, or if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement; and

"(iv) a preplacement preventive services program designed to help children at risk for foster care placement remain with their families; and

"(C)(i) has reviewed (or not later than October 1, 1997, will review) State policies and administrative and judicial procedures in effect for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of such children); and

"(ii) is implementing (or not later than October 1, 1997, will implement) such policies and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children.

"(13) CERTIFICATION OF REASONABLE EFFORTS BEFORE PLACEMENT OF CHILDREN IN FOSTER CARE.—A certification that the State in each case will—

"(A) make reasonable efforts prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from the child's home, and to make it possible for the child to return home; and

"(B) with respect to families in which abuse or neglect has been confirmed, provide services or referral for services for families and children where the State makes a determination that the child may safely remain with the family.

"(14) CERTIFICATION OF INFORMATION DISCLOSURE PROVISIONS.—A certification that the State has in effect and operational—

"(A) requirements for the prompt disclosure of all relevant information to any Federal, State, or local government entity, citizens review panel, child fatality review panel, or any agent of such government entity determined by the State to have a need for such information in order to carry out its responsibilities under law to protect children from abuse or neglect; and

"(B) provisions that allow for the public disclosure of the findings of information about a case of child abuse or neglect which has resulted in a child fatality or near-fatality, except that the public disclosure of such information shall be made in a manner that protects the privacy rights of individuals involved in the case, unless such individuals have waived such rights or criminal court proceedings have been initiated.

"(b) DETERMINATIONS.—The Secretary shall determine whether a plan submitted pursuant to subsection (a) contains the material required by subsection (a), other than the material described in paragraph (10) of such subsection. The Secretary may not require a State to include in such a plan any material not described in subsection (a).

"SEC. 103. DATA COLLECTION AND REPORTING.

"(a) ANNUAL REPORTS ON STATE CHILD WELFARE GOALS.—On the date that is 3 years after the date of enactment of this Act and annually thereafter, each State to which a grant is made under section 101 shall submit to the Secretary *a report that contains quantitative information on the extent to which the State is making progress toward achieving the purposes of this Act.*

''(b) State Data Reports.—

''(1) Biannual reports.—Each State to which a grant is made under section 101 shall biannually submit to the Secretary a report that includes the following disaggregated case record information with respect to each child within the State receiving publicly-supported child welfare services under the State program funded under this Act:

''(A) Whether the child received services under the program funded under this Act.

''(B) The age, race, gender, and family income of the parents and child.

''(C) The county of residence of the child.

''(D) Whether the child was removed from the family.

''(E) Whether the child entered foster care under the responsibility of the State.

''(F) The type of out-of-home care in which the child was placed (including institutional care, group home care, family foster care, or relative placement).

''(G) The child's permanency planning goal, such as family reunification, kinship care, adoption, or independent living.

''(H) Whether the child was released for adoption.

''(I) Whether the child exited from foster care, and, if so, the reason for the exit, such as return to family, placement with relatives, adoption, independent living, or death.

''(J) Other information as required by the Secretary and agreed to by a majority of the States, including information necessary to ensure that there is a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.

''(2) Annual reports.—Each State to which a grant is made under section 101 shall annually submit to the Secretary a report that includes the following information:

''(A) The number of children reported to the State during the year as alleged victims of abuse or neglect.

''(B) The number of children for whom an investigation of alleged maltreatment resulted in a determination of substantiated abuse or neglect, the number for whom a report of maltreatment was unsubstantiated, and the number for whom a report of maltreatment was determined to be false.

''(C) The number of families that received preventive services.

''(D) The number of infants abandoned during the year, the number of such infants who were adopted, and the length of time between abandonment and adoption.

''(E) The number of deaths of children resulting from child abuse or neglect.

''(F) The number of deaths occurring while children were in the custody of the State.

''(G) The number of children served by the State independent living program.

''(H) Quantitative measurements demonstrating whether the State is making progress toward the child protection goals identified by the State.

''(I) The types of maltreatment suffered by victims of child abuse and neglect.

''(J) The number of abused and neglected children receiving services.

''(K) The average length of stay of children in out-of-home care.

''(L) Other information as required by the Secretary and agreed to by a majority of the States, including information necessary to ensure that there is a smooth transition of data from the Adoption and Foster Care Analysis and Reporting Systems and the National Center on Abuse and Neglect Data System to the data reporting system required under this section.

''(3) Regulatory authority.—The Secretary shall define by regulation the information required to be included in the reports submitted under paragraphs (1) and (2).

''(c) Authority of States to Use Estimates.—

''(1) In general.—A State may comply with a requirement to provide precise numerical information described in subsection (b) by submitting an estimate which is obtained through the use of scientifically acceptable sampling methods.

''(2) Secretarial review of sampling methods.—The Secretary shall periodically review the sampling methods used by a State to comply with a requirement to provide information described in subsection (b). The Secretary may require a State to revise the sampling methods so used if such methods do not meet scientific standards.

''(d) Annual Report by the Secretary.—Within 6 months after the end of each fiscal year, the Secretary shall prepare a report based on information provided by the States for the fiscal year pursuant to subsection (b), and shall make the report and such information available to the Congress and the public.

''(e) Scope of State Program Funded Under This Act.—As used in subsection (b), the term 'State program funded under this Act' includes any equivalent State program.

"TITLE II—RESEARCH, DEMONSTRATIONS, TRAINING, AND TECHNICAL ASSISTANCE

"SEC. 201. RESEARCH GRANTS.

''(a) In General.—The Secretary, in consultation with appropriate Federal officials and recognized experts in the field, shall award grants or contracts for the conduct of research in accordance with subsection (b).

''(b) Research.—Research projects to be conducted using amounts received under this section—

''(1) shall be designed to provide information to better protect children from abuse or neglect and to improve the well being of abused or neglected children, with at least a portion of any such research conducted under a project being field initiated;

''(2) shall at a minimum, focus on—

''(A) the nature and scope of child abuse and neglect;

''(B) the causes, prevention, assessment, identification, treatment, cultural and socio-economic distinctions, and the consequences of child abuse and neglect;

''(C) appropriate, effective and culturally sensitive investigative, administrative, and judicial procedures with respect to cases of child abuse; and

''(D) the national incidence of child abuse and neglect, including—

''(i) the extent to which incidents of child abuse are increasing or decreasing in number and severity;

''(ii) the incidence of substantiated and unsubstantiated reported child abuse cases;

''(iii) the number of substantiated cases that result in a judicial finding of child abuse or neglect or related criminal court convictions;

''(iv) the extent to which the number of unsubstantiated, unfounded and false reported cases of child abuse or neglect have contributed to the inability of a State to respond effectively to serious cases of child abuse or neglect;

''(v) the extent to which the lack of adequate resources and the lack of adequate training of reporters have contributed to the inability of a State to respond effectively to serious cases of child abuse and neglect;

''(vi) the number of unsubstantiated, false, or unfounded reports that have resulted in a child being placed in substitute care, and the duration of such placement;

''(vii) the extent to which unsubstantiated reports return as more serious cases of child abuse or neglect;

''(viii) the incidence and prevalence of physical, sexual, and emotional abuse and physical and emotional neglect in substitute care;

''(ix) the incidence and outcomes of abuse allegations reported within the context of divorce, custody, or other family court proceedings, and the interaction between this venue and the child protective services system; and

''(x) the cases of children reunited with their families or receiving family preservation services that result in subsequent substantiated reports of child abuse and neglect, including the death of the child; and

''(3) may include the appointment of an advisory board to—

''(A) provide recommendations on coordinating Federal, State, and local child abuse and neglect activities at the State level with similar activities at the State and local level pertaining to family violence prevention;

''(B) consider specific modifications needed in State laws and programs to reduce the number of unfounded or unsubstantiated reports of child abuse or neglect while enhancing the ability to identify and substantiate legitimate cases of abuse or neglect which place a child in danger; and

''(C) provide recommendations for modifications needed to facilitate coordinated national and Statewide data collection with respect to child protection and child welfare.

"SEC. 202. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.

''(a) Establishment.—The Secretary shall, through the Department of Health and Human Services, or by one or more contracts of not less than 3 years duration provided through a competition, establish a national clearinghouse for information relating to child abuse.

''(b) Functions.—The Secretary shall, through the clearinghouse established by subsection (a)—

''(1) maintain, coordinate, and disseminate information on all programs, including private programs, that show promise of success with respect to the prevention, assessment, identification, and treatment of child abuse and neglect;

''(2) maintain and disseminate information relating to—

''(A) the incidence of cases of child abuse and neglect in the United States;

''(B) the incidence of such cases in populations determined by the Secretary under section 105(a)(1) of the Child Abuse Prevention, Adoption, and Family Services Act of 1988 (as such section was in effect on the day before the date of enactment of this Act); and

''(C) the incidence of any such cases related to alcohol or drug abuse;

''(3) disseminate information related to data collected and reported by States pursuant to section 103;

''(4) compile, analyze, and publish a summary of the research conducted under section 201; and

''(5) solicit public comment on the components of such clearinghouse.

"SEC. 203. GRANTS FOR DEMONSTRATION PROJECTS.

''(a) Awarding of General Grants.—The Secretary may make grants to, and enter into contracts with, public and nonprofit private agencies or organizations (or combinations of such agencies or organizations) for the purpose of developing, implementing, and operating time limited, demonstration programs and projects for the following purposes:

''(1) Innovative programs and projects.—The Secretary may award grants to public agencies that demonstrate innovation in responding to reports of child abuse and neglect including

programs of collaborative partnerships between the State child protective service agency, community social service agencies and family support programs, schools, churches and synagogues, and other community agencies to allow for the establishment of a triage system that—

"(A) accepts, screens and assesses reports received to determine which such reports require an intensive intervention and which require voluntary referral to another agency, program or project;

"(B) provides, either directly or through referral, a variety of community-linked services to assist families in preventing child abuse and neglect; and

"(C) provides further investigation and intensive intervention where the child's safety is in jeopardy.

"(2) KINSHIP CARE PROGRAMS AND PROJECTS.—The Secretary may award grants to public entities to assist such entities in developing or implementing procedures using adult relatives as the preferred placement for children removed from their home, where such relatives are determined to be capable of providing a safe nurturing environment for the child and where, to the maximum extent practicable, such relatives comply with relevant State child protection standards.

"(3) ADOPTION OPPORTUNITIES.—The Secretary may award grants to public entities to assist such entities in developing or implementing programs to expand opportunities for the adoption of children with special needs.

"(4) FAMILY RESOURCE CENTERS.—The Secretary may award grants to public or nonprofit private entities to provide for the establishment of family resource programs and support services that—

"(A) develop, expand, and enhance Statewide networks of community-based, prevention-focused centers, programs, or services that provide comprehensive support for families;

"(B) promote the development of parental competencies and capacities in order to increase family stability;

"(C) support the additional needs of families with children with disabilities;

"(D) foster the development of a continuum of preventive services for children and families through State and community-based collaborations and partnerships (both public and private); and

"(E) maximize funding for the financing, planning, community mobilization, collaboration, assessment, information and referral, startup, training and technical assistance, information management, reporting, and evaluation costs for establishing, operating, or expanding a Statewide network of community-based, prevention-focused family resource and support services.

"(5) OTHER INNOVATIVE PROGRAMS.—The Secretary may award grants to public or private nonprofit organizations to assist such entities in developing or implementing innovative programs and projects that show promise of preventing and treating cases of child abuse and neglect (such as Parents Anonymous).

"(b) GRANTS FOR ABANDONED INFANT PROGRAMS.—The Secretary may award grants to public and nonprofit private entities to assist such entities in developing or implementing procedures—

"(1) to prevent the abandonment of infants and young children, including the provision of services to members of the natural family for any condition that increases the probability of abandonment of an infant or young child;

"(2) to identify and address the needs of abandoned infants and young children;

"(3) to assist abandoned infants and young children to reside with their natural families or in foster care, as appropriate;

"(4) to recruit, train, and retain foster families for abandoned infants and young children;

"(5) to carry out residential care programs for abandoned infants and young children who are unable to reside with their families or to be placed in foster care;

"(6) to carry out programs of respite care for families and foster families of infants and young children; and

"(7) to recruit and train health and social services personnel to work with families, foster care families, and residential care programs for abandoned infants and young children.

"(c) EVALUATION.—In making grants for demonstration projects under this section, the Secretary shall require all such projects to be evaluated for their effectiveness. Funding for such evaluations shall be provided either as a stated percentage of a demonstration grant or as a separate grant entered into by the Secretary for the purpose of evaluating a particular demonstration project or group of projects.

"SEC. 204. TECHNICAL ASSISTANCE.

"(a) CHILD ABUSE AND NEGLECT.—

"(1) IN GENERAL.—The Secretary shall provide technical assistance under this title to States to assist such States in planning, improving, developing, and carrying out programs and activities relating to the prevention, assessment identification, and treatment of child abuse and neglect.

"(2) EVALUATION.—Technical assistance provided under paragraph (1) may include an evaluation or identification of—

"(A) various methods and procedures for the investigation, assessment, and prosecution of child physical and sexual abuse cases;

"(B) ways to mitigate psychological trauma to the child victim; and

"(C) effective programs carried out by the States under this Act.

"(b) ADOPTION OPPORTUNITIES.—The Secretary shall provide, directly or by grant to or contract with public or private nonprofit agencies or organizations—

"(1) technical assistance and resource and referral information to assist State or local governments with termination of parental rights issues, in recruiting and retaining adoptive families, in the successful placement of children with special needs, and in the provision of pre- and post-placement services, including post-legal adoption services; and

"(2) other assistance to help State and local governments replicate successful adoption-related projects from other areas in the United States.

"SEC. 205. TRAINING RESOURCES.

"(a) TRAINING PROGRAMS.—The Secretary may award grants to public or private non-profit organizations—

"(1) for the training of professional and paraprofessional personnel in the fields of medicine, law, education, law enforcement, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect, including the links between domestic violence and child abuse;

"(2) to provide culturally specific instruction in methods of protecting children from child abuse and neglect to children and to persons responsible for the welfare of children, including parents of and persons who work with children with disabilities; and

"(3) to improve the recruitment, selection, and training of volunteers serving in private and public nonprofit children, youth and family service organizations in order to prevent child abuse and neglect through collaborative analysis of current recruitment, selection, and training programs and development of model programs for dissemination and replication nationally.

"(b) DISSEMINATION OF INFORMATION.—The Secretary may provide for and disseminate information relating to various training resources available at the State and local level to—

"(1) individuals who are engaged, or who intend to engage, in the prevention, identification, assessment, and treatment of child abuse and neglect; and

"(2) appropriate State and local officials, including prosecutors, to assist in training law enforcement, legal, judicial, medical, mental health, education, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children who have been subjected to abuse.

"SEC. 206. APPLICATIONS AND AMOUNTS OF GRANTS.

"(a) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant to a State or other entity under this title unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

"(b) AMOUNT OF GRANT.—The Secretary shall determined the amount of a grant to be awarded under this title.

"SEC. 207. PEER REVIEW FOR GRANTS.

"(a) ESTABLISHMENT OF PEER REVIEW PROCESS.—

"(1) IN GENERAL.—The Secretary shall, in consultation with experts in the field and other Federal agencies, establish a formal, rigorous, and meritorious peer review process for purposes of evaluating and reviewing applications for grants under this title and determining the relative merits of the projects for which such assistance is requested. The purpose of this process is to enhance the quality and usefulness of research in the field of child abuse and neglect.

"(2) REQUIREMENTS FOR MEMBERS.—In establishing the process required by paragraph (1), the Secretary shall appoint to the peer review panels only members who are experts in the field of child abuse and neglect or related disciplines, with appropriate expertise in the application to be reviewed, and who are not individuals who are officers or employees of the Administration for Children and Families. The panels shall meet as often as is necessary to facilitate the expeditious review of applications for grants and contracts under this title, but may not meet less than once a year. The Secretary shall ensure that the peer review panel utilizes scientifically valid review criteria and scoring guidelines for review committees.

"(b) REVIEW OF APPLICATIONS FOR ASSISTANCE.—Each peer review panel established under subsection (a)(1) that reviews any application for a grant shall—

"(1) determine and evaluate the merit of each project described in such application;

"(2) rank such application with respect to all other applications it reviews in the same priority area for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

"(3) make recommendations to the Secretary concerning whether the application for the project shall be approved.

The Secretary shall award grants under this title on the basis of competitive review.

"(c) NOTICE OF APPROVAL.—

"(1) IN GENERAL.—The Secretary shall provide grants under this title from among the projects which the peer review panels established under subsection (a)(1) have determined to have merit.

“(2) REQUIREMENT OF EXPLANATION.—In the instance in which the Secretary approves an application for a program under this title without having approved all applications ranked above such application, the Secretary shall append to the approved application a detailed explanation of the reasons relied on for approving the application and for failing to approve each pending application that is superior in merit.

“SEC. 208. NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE.

“(a) IN GENERAL.—The Secretary shall conduct a national study based on random samples of children who are at risk of child abuse or neglect, or are determined by States to have been abused or neglected, and such other research as may be necessary.

“(b) REQUIREMENTS.—The study required by subsection (a) shall—

“(1) have a longitudinal component; and

“(2) yield data reliable at the State level for as many States as the Secretary determines is feasible.

“(c) PREFERRED CONTENTS.—In conducting the study required by subsection (a), the Secretary should—

“(1) collect data on the child protection programs of different small States or (different groups of such States) in different years to yield an occasional picture of the child protection programs of such States;

“(2) carefully consider selecting the sample from cases of confirmed abuse or neglect; and

“(3) follow each case for several years while obtaining information on, among other things—

“(A) the type of abuse or neglect involved;

“(B) the frequency of contact with State or local agencies;

“(C) whether the child involved has been separated from the family, and, if so, under what circumstances;

“(D) the number, type, and characteristics of out-of-home placements of the child; and

“(E) the average duration of each placement.

“(d) REPORTS.—

“(1) IN GENERAL.—From time to time, the Secretary shall prepare reports summarizing the results of the study required by subsection (a).

“(2) AVAILABILITY.—The Secretary shall make available to the public any report prepared under paragraph (1), in writing or in the form of an electronic data tape.

“(3) AUTHORITY TO CHARGE FEE.—The Secretary may charge and collect a fee for the furnishing of reports under paragraph (2).

“(4) FUNDING.—The Secretary shall carry out this section using amounts made available under section 428 of the Social Security Act.

“TITLE III—GENERAL PROVISIONS

“SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

“(a) TITLE I.—There are authorized to be appropriated to carry out title I, $230,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 2002.

“(b) TITLE II.—

“(1) IN GENERAL.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall make available 12 percent of such amount to carry out title II (except for sections 203 and 208).

“(2) GRANTS FOR DEMONSTRATION PROJECTS.—Of the amount made available under paragraph (1) for a fiscal year, the Secretary shall make available not less than 40 percent of such amount to carry out section 203.

“(c) INDIAN TRIBES.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall make available 1 percent of such amount to provide grants and contracts to Indian tribes and Tribal Organizations.

“(d) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated under subsection (a) shall remain available until expended.

“SEC. 302. GRANTS TO STATES FOR PROGRAMS RELATING TO THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE AND NEGLECT CASES.

“(a) GRANTS TO STATES.—The Secretary, in consultation with the Attorney General, is authorized to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve—

“(1) the handling of child abuse and neglect cases, particularly cases of child sexual abuse and exploitation, in a manner which limits additional trauma to the child victim;

“(2) the handling of cases of suspected child abuse or neglect related fatalities; and

“(3) the investigation and prosecution of cases of child abuse and neglect, particularly child sexual abuse and exploitation.

“(b) ELIGIBILITY REQUIREMENTS.—In order for a State to qualify for assistance under this section, such State shall—

“(1) be an eligible State under section 102;

“(2) establish a task force as provided in subsection (c);

“(3) fulfill the requirements of subsection (d);

“(4) submit annually an application to the Secretary at such time and containing such information and assurances as the Secretary considers necessary, including an assurance that the State will—

“(A) make such reports to the Secretary as may reasonably be required; and

“(B) maintain and provide access to records relating to activities under subsection (a); and

“(5) submit annually to the Secretary a report on the manner in which assistance received under this program was expended throughout the State, with particular attention focused on the areas described in paragraphs (1) through (3) of subsection (a).

“(c) STATE TASK FORCES.—

“(1) GENERAL RULE.—Except as provided in paragraph (2), a State requesting assistance under this section shall establish or designate, and maintain, a State multidisciplinary task force on children's justice (hereafter in this section referred to as ‘State task force’) composed of professionals with knowledge and experience relating to the criminal justice system and issues of child physical abuse, child neglect, child sexual abuse and exploitation, and child maltreatment related fatalities. The State task force shall include—

“(A) individuals representing the law enforcement community;

“(B) judges and attorneys involved in both civil and criminal court proceedings related to child abuse and neglect (including individuals involved with the defense as well as the prosecution of such cases);

“(C) child advocates, including both attorneys for children and, where such programs are in operation, court appointed special advocates;

“(D) health and mental health professionals;

“(E) individuals representing child protective service agencies;

“(F) individuals experienced in working with children with disabilities;

“(G) parents; and

“(H) representatives of parents' groups.

“(2) EXISTING TASK FORCE.—As determined by the Secretary, a State commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the State task force for purposes of this subsection.

“(d) STATE TASK FORCE STUDY.—Before a State receives assistance under this section, and at 3 year intervals thereafter, the State task force shall comprehensively—

“(1) review and evaluate State investigative, administrative and both civil and criminal judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal; and

“(2) make policy and training recommendations in each of the categories described in subsection (e).

The task force may make such other comments and recommendations as are considered relevant and useful.

“(e) ADOPTION OF STATE TASK FORCE RECOMMENDATIONS.—

“(1) GENERAL RULE.—Subject to the provisions of paragraph (2), before a State receives assistance under this section, a State shall adopt recommendations of the State task force in each of the following categories—

“(A) investigative, administrative, and judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal, in a manner which reduces the additional trauma to the child victim and the victim's family and which also ensures procedural fairness to the accused;

“(B) experimental, model and demonstration programs for testing innovative approaches and techniques which may improve the prompt and successful resolution of civil and criminal court proceedings or enhance the effectiveness of judicial and administrative action in child abuse and neglect cases, particularly child sexual abuse and exploitation cases, including the enhancement of performance of court-appointed attorneys and guardians ad litem for children; and

“(C) reform of State laws, ordinances, regulations, protocols and procedures to provide comprehensive protection for children from abuse, particularly child sexual abuse and exploitation, while ensuring fairness to all affected persons.

“(2) EXEMPTION.—As determined by the Secretary, a State shall be considered to be in fulfillment of the requirements of this subsection if—

“(A) the State adopts an alternative to the recommendations of the State task force, which carries out the purpose of this section, in each of the categories under paragraph (1) for which the State task force's recommendations are not adopted; or

“(B) the State is making substantial progress toward adopting recommendations of the State task force or a comparable alternative to such recommendations.

“(f) FUNDS AVAILABLE.—For grants under this section, the Secretary shall use the amount authorized by section 1404A of the Victims of Crime Act of 1984.

“SEC. 303. TRANSITIONAL PROVISION.

“A State or other entity that has a grant, contract, or cooperative agreement in effect, on the date of enactment of this Act, under the Family Resource and Support Program, the Community-Based Family Resource Program, the Family Support Center Program, the Emergency Child Abuse Prevention Grant Program, or the Temporary Child Care for Children with Disabilities and Crisis Nurseries Programs shall continue to receive funds under such grant, contract, or cooperative agreement, subject to the original terms under which such funds were provided, through the end of the applicable grant, contract, or agreement cycle.

“SEC. 304. RULE OF CONSTRUCTION.

“(a) IN GENERAL.—Nothing in this Act, or in part B of title IV of the Social Security Act, shall be construed—

“(1) as establishing a Federal requirement that a parent or legal guardian provide a child

any medical service or treatment against the religious beliefs of the parent or legal guardian; and

"(2) to require that a State find, or to prohibit a State from finding, abuse or neglect in cases in which a parent or legal guardian relies solely or partially upon spiritual means rather than medical treatment, in accordance with the religious beliefs of the parent or legal guardian.

"(b) STATE REQUIREMENT.—Notwithstanding subsection (a), a State shall have in place authority under State law to permit the child protective service system of the State to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, to provide medical care or treatment for a child when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatment from children with life threatening conditions. Except with respect to the withholding of medically indicated treatments from disabled infants with life threatening conditions, case by case determinations concerning the exercise of the authority of this subsection shall be within the sole discretion of the State.

"SEC. 305. REMOVAL OF BARRIERS TO INTERETHNIC ADOPTION.

"(a) PURPOSE.—The purpose of this section is to decrease the length of time that children wait to be adopted and to prevent discrimination in the placement of children on the basis of race, color, or national origin.

"(b) MULTIETHNIC PLACEMENTS.—

"(1) PROHIBITION.—A State or other entity that receives funds from the Federal Government and is involved in adoption or foster care placements may not—

"(A) deny to any person the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the person, or of the child, involved; or

"(B) delay or deny the placement of a child for adoption or into foster care, or otherwise discriminate in making a placement decision, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.

"(2) PENALTIES.—

"(A) STATE VIOLATORS.—

"(i) IN GENERAL.—If the Secretary determines that a State is in violation of paragraph (1), the Secretary shall notify the State of such violation. The State shall have 90 days from the date on which such notice is received to correct such violation. During such 90-day period, the Secretary shall provide technical assistance to the State to assist such State in complying with the requirements of paragraph (1).

"(ii) FAILURE TO COMPLY.—If after the expiration of the 90-day period described in clause (i) the Secretary determines that the State continues to be in violation of paragraph (1), the Secretary shall reduce the amount due to the State for the succeeding fiscal year under the block grant program under part B of title IV of the Social Security Act by 10 percent.

"(B) PRIVATE VIOLATORS.—Any other entity that violates paragraph (1) during a period shall remit to the Secretary all funds that were paid to the entity during the period by a State from funds provided under this part.

"(3) PRIVATE CAUSE OF ACTION.—

"(A) IN GENERAL.—Any individual who is aggrieved by a violation of paragraph (1) by a State or other entity may bring an action seeking relief in any United States district court.

"(B) STATUTE OF LIMITATIONS.—An action under this paragraph may not be brought more than 2 years after the date the alleged violation occurred.".

SEC. 752. REAUTHORIZATIONS.

(a) MISSING CHILDREN'S ASSISTANCE ACT.—Section 408 of the Missing Children's Assistance Act (42 U.S.C. 5777) is amended—

(1) by striking "To" and inserting "(a) IN GENERAL.—"

(2) by striking "and 1996" and inserting "1996, and 1997"; and

(3) by adding at the end thereof the following new subsection:

"(b) EVALUATION.—The Administrator shall use not more than 5 percent of the amount appropriated for a fiscal year under subsection (a) to conduct an evaluation of the effectiveness of the programs and activities established and operated under this title.".

(b) VICTIMS OF CHILD ABUSE ACT OF 1990.—Section 214B of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13004) is amended—

(1) in subsection (a)(2), by striking "and 1996" and inserting "1996, and 1997"; and

(2) in subsection (b)(2), by striking "and 1996" and inserting "1996 and 1997".

SEC. 753. REPEALS.

(a) IN GENERAL.—The following provisions of law are repealed:

(1) Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111 et seq.).

(2) The Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note).

(3) The Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986 (42 U.S.C. 5117 et seq.).

(4) Section 553 of the Howard M. Metzenbaum Multiethnic Placement Act of 1994 (42 U.S.C. 5115a).

(5) Subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11481 et seq.).

(b) CONFORMING AMENDMENTS.—

(1) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of the Congress and the Director of the Office of Management and Budget, the Secretary of Health and Human Services shall prepare and submit to the Congress a legislative proposal in the form of an implementing bill containing technical and conforming amendments to reflect the repeals made by this section.

(2) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this chapter, the Secretary of Health and Human Services shall submit the implementing bill referred to under paragraph (1).

TITLE VIII—CHILD CARE

SEC. 801. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "Child Care and Development Block Grant Amendments of 1995".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

SEC. 802. GOALS.

(a) GOALS.—Section 658A (42 U.S.C. 9801 note) is amended—

(1) in the section heading by inserting "AND GOALS" after "TITLE";

(2) by inserting "(a) SHORT TITLE.—" before "This"; and

(3) by adding at the end the following:

"(b) GOALS.—The goals of this subchapter are—

"(1) to allow each State maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within such State;

"(2) to promote parental choice to empower working parents to make their own decisions on the child care that best suits their family's needs;

"(3) to encourage States to provide consumer education information to help parents make informed choices about child care;

"(4) to assist States to provide child care to parents trying to achieve independence from public assistance; and

"(5) to assist States in implementing the health, safety, licensing, and registration standards established in State regulations.".

SEC. 803. AUTHORIZATION OF APPROPRIATIONS AND ENTITLEMENT AUTHORITY.

(a) IN GENERAL.—Section 658B (42 U.S.C. 9858) is amended to read as follows:

"SEC. 658B. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this subchapter $1,000,000,000 for each of the fiscal years 1996 through 2002.".

(b) SOCIAL SECURITY ACT.—Part A of title IV of the Social Security Act (as amended by section 103) is amended—

(1) by redesignating section 418 as section 419; and

(2) by inserting after section 417, the following new section:

"SEC. 418. FUNDING FOR CHILD CARE.

"(a) GENERAL CHILD CARE ENTITLEMENT.—

"(1) GENERAL ENTITLEMENT.—Subject to the amount appropriated under paragraph (3), each State shall, for the purpose of providing child care assistance, be entitled to payments under a grant under this subsection for a fiscal year in an amount equal to—

"(A) the sum of the total amount required to be paid to the State under former section 403 for fiscal year 1994 with respect to amounts expended for child care under section—

"(i) 402(g) of this Act (as such section was in effect before October 1, 1995); and

"(ii) 403(i) of this Act (as so in effect); or

"(B) the average of the total amounts required to be paid to the State for fiscal years 1992 through 1994 under the sections referred to in subparagraph (A);

whichever is greater.

"(2) REMAINDER.—

"(A) GRANTS.—The Secretary shall use any amounts appropriated for a fiscal year under paragraph (3), and remaining after the reservation described in paragraph (5) and after grants are awarded under paragraph (1), to make grants to States under this paragraph.

"(B) AMOUNT.—Subject to subparagraph (C), the amount of a grant awarded to a State for a fiscal year under this paragraph shall be based on the formula used for determining the amount of Federal payments to the State under section 403(n) (as such section was in effect before October 1, 1995).

"(C) MATCHING REQUIREMENT.—The Secretary shall pay to each eligible State in a fiscal year an amount, under a grant under subparagraph (A), equal to the Federal medical assistance percentage for such State for fiscal year 1994 (as defined in section 1905(b)) of so much of the expenditures by the State for child care in such year as exceed the State set-aside for such State under subparagraph (A) for such year and the amount of State expenditures in fiscal year 1994 that equal the non-Federal share for the programs described in subparagraphs (A), (B) and (C) of paragraph (1).

"(3) APPROPRIATION.—There are authorized to be appropriated, and there are appropriated, to carry out this section—

"(A) $1,300,000,000 for fiscal year 1997;

"(B) $1,400,000,000 for fiscal year 1998;

"(C) $1,500,000,000 for fiscal year 1999;

"(D) $1,700,000,000 for fiscal year 2000;

"(E) $1,900,000,000 for fiscal year 2001; and

"(F) $2,050,000,000 for fiscal year 2002.

"(4) REDISTRIBUTION.—With respect to any fiscal year, if the Secretary determines that amounts under any grant awarded to a State under this subsection for such fiscal year will not be used by such State for carrying out the purpose for which the grant is made, the Secretary shall make such amounts available for

carrying out such purpose to one or more other States which apply for such funds to the extent the Secretary determines that such other States will be able to use such additional amounts for carrying out such purpose. Such available amounts shall be redistributed to a State pursuant to section 402(i) (as such section was in effect before October 1, 1995) by substituting 'the number of children residing in all States applying for such funds' for 'the number of children residing in the United States in the second preceding fiscal year'. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under this subsection) for such year.

"(5) INDIAN TRIBES.—The Secretary shall reserve not more than 1 percent of the aggregate amount appropriated to carry out this section in each fiscal year for payments to Indian tribes and tribal organizations.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Amounts received by a State under this section shall only be used to provide child care assistance.

"(2) USE FOR CERTAIN POPULATIONS.—A State shall ensure that not less than 70 percent of the total amount of funds received by the State in a fiscal year under this section are used to provide child care assistance to families who are receiving assistance under a State program under this part, families who are attempting through work activities to transition off of such assistance program, and families who are at risk of becoming dependent on such assistance program.

"(c) APPLICATION OF CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT of 1990.—Notwithstanding any other provision of law, amounts provided to a State under this section shall be transferred to the lead agency under the Child Care and Development Block Grant Act of 1990, integrated by the State into the programs established by the State under such Act, and be subject to requirements and limitations of such Act.

"(d) DEFINITION.—As used in this section, the term 'State' means each of the 50 States or the District of Columbia.".

SEC. 804. LEAD AGENCY.

Section 658D(b) (42 U.S.C. 9858b(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "State" the first place that such appears and inserting "governmental or nongovernmental"; and

(B) in subparagraph (C), by inserting "with sufficient time and Statewide distribution of the notice of such hearing," after "hearing in the State"; and

(2) in paragraph (2), by striking the second sentence.

SEC. 805. APPLICATION AND PLAN.

Section 658E (42 U.S.C. 9858c) is amended—

(1) in subsection (b)—

(A) by striking "implemented—" and all that follows through "(2)" and inserting "implemented"; and

(B) by striking "for subsequent State plans";

(2) in subsection (c)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) in clause (i) by striking ", other than through assistance provided under paragraph (3)(C),"; and

(II) by striking "except" and all that follows through "1992", and inserting "and provide a detailed description of the procedures the State will implement to carry out the requirements of this subparagraph";

(ii) in subparagraph (B)—

(I) by striking "Provide assurances" and inserting "Certify"; and

(II) by inserting before the period at the end "and provide a detailed description of such procedures";

(iii) in subparagraph (C)—

(I) by striking "Provide assurances" and inserting "Certify"; and

(II) by inserting before the period at the end "and provide a detailed description of how such record is maintained and is made available";

(iv) by amending subparagraph (D) to read as follows:

"(D) CONSUMER EDUCATION INFORMATION.—Certify that the State will collect and disseminate to parents of eligible children and the general public, consumer education information that will promote informed child care choices.";

(v) in subparagraph (E), to read as follows:

"(E) COMPLIANCE WITH STATE LICENSING REQUIREMENTS.—

"(i) IN GENERAL.—Certify that the State has in effect licensing requirements applicable to child care services provided within the State, and provide a detailed description of such requirements and of how such requirements are effectively enforced. Nothing in the preceding sentence shall be construed to require that licensing requirements be applied to specific types of providers of child care services.

"(ii) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—In lieu of any licensing and regulatory requirements applicable under State and local law, the Secretary, in consultation with Indian tribes and tribal organizations, shall develop minimum child care standards (that appropriately reflect tribal needs and available resources) that shall be applicable to Indian tribes and tribal organization receiving assistance under this subchapter.";

(vi) by striking subparagraph (F);

(vii) in subparagraph (G)—

(I) by redesignating such subparagraph as subparagraph (F);

(II) by striking "Provide assurances" and inserting "Certify"; and

(III) by striking "as described in subparagraph (F)"; and

(viii) by striking subparagraphs (H), (I), and (J) and inserting the following:

"(G) MEETING THE NEEDS OF CERTAIN POPULATIONS.—Demonstrate the manner in which the State will meet the specific child care needs of families who are receiving assistance under a State program under part A of title IV of the Social Security Act, families who are attempting through work activities to transition off of such assistance program, and families who are at risk of becoming dependent on such assistance program.";

(B) in paragraph (3)—

(i) in subparagraph (A), by striking "(B) and (C)" and inserting "(B) through (D)";

(ii) in subparagraph (B)—

(I) by striking ".—Subject to the reservation contained in subparagraph (C), the" and inserting "AND RELATED ACTIVITIES.—The";

(II) in clause (i) by striking "; and" at the end and inserting a period;

(III) by striking "for—" and all that follows through "section 658E(c)(2)(A)" and inserting "for child care services on sliding fee scale basis, activities that improve the quality or availability of such services, and any other activity that the State deems appropriate to realize any of the goals specified in paragraphs (2) through (5) of section 658A(b)"; and

(IV) by striking clause (ii);

(iii) by amending subparagraph (C) to read as follows:

"(C) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 3 percent of the aggregate amount of funds available to the State to carry out this subchapter by a State in each fiscal year may be expended for administrative costs incurred by such State to carry out all of its functions and duties under this subchapter. As used in the preceding sentence, the term 'administrative costs' shall not include the costs of providing direct services."; and

(iv) by adding at the end thereof the following:

"(D) ASSISTANCE FOR CERTAIN FAMILIES.—A State shall ensure that a substantial portion of the amounts available (after the State has complied with the requirement of section 418(b)(2) of the Social Security Act with respect to each of the fiscal years 1997 through 2002) to the State to carry out activities this subchapter in each fiscal year is used to provide assistance to low-income working families other than families described in paragraph (2)(F)."; and

(C) in paragraph (4)(A)—

(i) by striking "provide assurances" and inserting "certify";

(ii) in the first sentence by inserting "and shall provide a summary of the facts relied on by the State to determine that such rates are sufficient to ensure such access" before the period; and

(iii) by striking the last sentence.

SEC. 806. LIMITATION ON STATE ALLOTMENTS.

Section 658F(b) (42 U.S.C. 9858d(b)) is amended—

(1) in paragraph (1), by striking "No" and inserting "Except as provided for in section 658O(c)(6), no"; and

(2) in paragraph (2), by striking "referred to in section 658E(c)(2)(F)".

SEC. 807. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

Section 658G (42 U.S.C. 9858e) is amended to read as follows:

"SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

"A State that receives funds to carry out this subchapter for a fiscal year, shall use not less than 3 percent of the amount of such funds for activities that are designed to provide comprehensive consumer education to parents and the public, activities that increase parental choice, and activities designed to improve the quality and availability of child care (such as resource and referral services).".

SEC. 808. REPEAL OF EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL CARE REQUIREMENT.

Section 658H (42 U.S.C. 9858f) is repealed.

SEC. 809. ADMINISTRATION AND ENFORCEMENT.

Section 658I(b) (42 U.S.C. 9858g(b)) is amended—

(1) in paragraph (1), by striking ", and shall have" and all that follows through "(2)"; and

(2) in the matter following clause (ii) of paragraph (2)(A), by striking "finding and that" and all that follows through the period and inserting "finding and shall require that the State reimburse the Secretary for any funds that were improperly expended for purposes prohibited or not authorized by this subchapter, that the Secretary deduct from the administrative portion of the State allotment for the following fiscal year an amount that is less than or equal to any improperly expended funds, or a combination of such options.".

SEC. 810. PAYMENTS.

Section 658J(c) (42 U.S.C. 9858h(c)) is amended by striking "expended" and inserting "obligated".

SEC. 811. ANNUAL REPORT AND AUDITS.

Section 658K (42 U.S.C. 9858i) is amended—

(1) in the section heading by striking "ANNUAL REPORT" and inserting "REPORTS";

(2) in subsection (a), to read as follows:

"(a) REPORTS.—

"(1) COLLECTION OF INFORMATION BY STATES.—

"(A) IN GENERAL.—A State that receives funds to carry out this subchapter shall collect the information described in subparagraph (B) on a monthly basis.

"(B) REQUIRED INFORMATION.—The information required under this subparagraph shall include, with respect to a family unit receiving assistance under this subchapter information concerning—

"(i) family income;

"(ii) county of residence;

"(iii) the gender, race, and age of children receiving such assistance;

"(iv) whether the family includes only one parent;

"(v) the sources of family income, including the amount obtained from (and separately identified)—

"(I) employment, including self-employment;

"(II) cash or other assistance under part A of title IV of the Social Security Act;

"(III) housing assistance;

"(IV) assistance under the Food Stamp Act of 1977; and

"(V) other assistance programs;

"(vi) the number of months the family has received benefits;

"(vii) the type of child care in which the child was enrolled (such as family child care, home care, or center-based child care);

"(viii) whether the child care provider involved was a relative;

"(ix) the cost of child care for such families; and

"(x) the average hours per week of such care;

during the period for which such information is required to be submitted.

"(C) SUBMISSION TO SECRETARY.—A State described in subparagraph (A) shall, on a quarterly basis, submit the information required to be collected under subparagraph (B) to the Secretary.

"(D) SAMPLING.—The Secretary may disapprove the information collected by a State under this paragraph if the State uses sampling methods to collect such information.

"(2) BIANNUAL REPORTS.—Not later than December 31, 1997, and every 6 months thereafter, a State described in paragraph (1)(A) shall prepare and submit to the Secretary a report that includes aggregate data concerning—

"(A) the number of child care providers that received funding under this subchapter as separately identified based on the types of providers listed in section 658P(5);

"(B) the monthly cost of child care services, and the portion of such cost that is paid for with assistance provided under this subchapter, listed by the type of child care services provided;

"(C) the number of payments made by the State through vouchers, contracts, cash, and disregards under public benefit programs, listed by the type of child care services provided;

"(D) the manner in which consumer education information was provided to parents and the number of parents to whom such information was provided; and

"(E) the total number (without duplication) of children and families served under this subchapter;

during the period for which such report is required to be submitted."; and

(2) in subsection (b)—

(A) in paragraph (1) by striking "a application" and inserting "an application";

(B) in paragraph (2) by striking "any agency administering activities that receive" and inserting "the State that receives"; and

(C) in paragraph (4) by striking "entitles" and inserting "entitled".

SEC. 812. REPORT BY THE SECRETARY.

Section 658L (42 U.S.C. 9858j) is amended—

(1) by striking "1993" and inserting "1997";

(2) by striking "annually" and inserting "biennially"; and

(3) by striking "Education and Labor" and inserting "Economic and Educational Opportunities".

SEC. 813. ALLOTMENTS.

Section 658O (42 U.S.C. 9858m) is amended—

(1) in subsection (a)—

(A) in paragraph (1)

(i) by striking "POSSESSIONS" and inserting "POSSESSIONS";

(ii) by inserting "and" after "States,"; and

(iii) by striking ", and the Trust Territory of the Pacific Islands"; and

(B) in paragraph (2), by striking "3 percent" and inserting "1 percent";

(2) in subsection (c)—

(A) in paragraph (5) by striking "our" and inserting "out"; and

(B) by adding at the end thereof the following new paragraph:

"(6) CONSTRUCTION OR RENOVATION OF FACILITIES.—

"(A) REQUEST FOR USE OF FUNDS.—An Indian tribe or tribal organization may submit to the Secretary a request to use amounts provided under this subsection for construction or renovation purposes.

"(B) DETERMINATION.—With respect to a request submitted under subparagraph (A), and except as provided in subparagraph (C), upon a determination by the Secretary that adequate facilities are not otherwise available to an Indian tribe or tribal organization to enable such tribe or organization to carry out child care programs in accordance with this subchapter, and that the lack of such facilities will inhibit the operation of such programs in the future, the Secretary may permit the tribe or organization to use assistance provided under this subsection to make payments for the construction or renovation of facilities that will be used to carry out such programs.

"(C) LIMITATION.—The Secretary may not permit an Indian tribe or tribal organization to use amounts provided under this subsection for construction or renovation if such use will result in a decrease in the level of child care services provided by the tribe or organization as compared to the level of such services provided by the tribe or organization in the fiscal year preceding the year for which the determination under subparagraph (A) is being made.

"(D) UNIFORM PROCEDURES.—The Secretary shall develop and implement uniform procedures for the solicitation and consideration of requests under this paragraph."; and

(3) in subsection (e), by adding at the end thereof the following new paragraph:

"(4) INDIAN TRIBES OR TRIBAL ORGANIZATIONS.—Any portion of a grant or contract made to an Indian tribe or tribal organization under subsection (c) that the Secretary determines is not being used in a manner consistent with the provision of this subchapter in the period for which the grant or contract is made available, shall be allotted by the Secretary to other tribes or organizations that have submitted applications under subsection (c) in accordance with their respective needs.".

SEC. 814. DEFINITIONS.

Section 658P (42 U.S.C. 9858n) is amended—

(1) in paragraph (2), in the first sentence by inserting "or as a deposit for child care services if such a deposit is required of other children being cared for by the provider" after "child care services"; and

(2) by striking paragraph (3);

(3) in paragraph (4)(B), by striking "75 percent" and inserting "85 percent";

(4) in paragraph (5)(B)—

(A) by inserting "great grandchild, sibling (if such provider lives in a separate residence)," after "grandchild,";

(B) by striking "is registered and"; and

(C) by striking "State" and inserting "applicable".

(5) by striking paragraph (10);

(6) in paragraph (13)—

(A) by inserting "or" after "Samoa,"; and

(B) by striking ", and the Trust Territory of the Pacific Islands";

(7) in paragraph (14)—

(A) by striking "The term" and inserting the following:

"(A) IN GENERAL.—The term"; and

(B) by adding at the end thereof the following new subparagraph:

"(B) OTHER ORGANIZATIONS.—Such term includes a Native Hawaiian Organization, as defined in section 4009(4) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4909(4)) and a private nonprofit organization established for the purpose of serving youth who are Indians or Native Hawaiians.".

SEC. 815. REPEALS.

(a) CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE ACT OF 1985.—Title VI of the Human Services Reauthorization Act of 1986 (42 U.S.C. 10901-10905) is repealed.

(b) STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT.—Subchapter E of chapter 8 of subtitle A of title VI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9871-9877) is repealed.

(c) PROGRAMS OF NATIONAL SIGNIFICANCE.—Title X of the Elementary and Secondary Education Act of 1965, as amended by Public Law 103-382 (108 Stat. 3809 et seq.), is amended—

(1) in section 10413(a) by striking paragraph (4),

(2) in section 10963(b)(2) by striking subparagraph (G), and

(3) in section 10974(a)(6) by striking subparagraph (G).

(d) NATIVE HAWAIIAN FAMILY-BASED EDUCATION CENTERS.—Section 9205 of the Native Hawaiian Education Act (Public Law 103-382; 108 Stat. 3794) is repealed.

SEC. 816. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on October 1, 1996.

(b) EXCEPTION.—The amendment made by section 803(a) shall take effect on the date of enactment of this Act.

TITLE IX—CHILD NUTRITION PROGRAMS

Subtitle A—National School Lunch Act

SEC. 901. STATE DISBURSEMENT TO SCHOOLS.

(a) IN GENERAL.—Section 8 of the National School Lunch Act (42 U.S.C. 1757) is amended—

(1) in the third sentence, by striking "Nothing" and all that follows through "educational agency to" and inserting "The State educational agency may";

(2) by striking the fourth, fifth, and eighth sentences;

(3) by redesignating the first through sixth sentences, as amended by paragraph (1), as subsections (a) through (f), respectively;

(4) in subsection (b), as redesignated by paragraph (3), by striking "the preceding sentence" and inserting "subsection (a)"; and

(5) in subsection (d), as redesignated by paragraph (3), by striking "Such food costs" and inserting "Use of funds paid to States".

(b) DEFINITION OF CHILD.—Section 12(d) of the Act (42 U.S.C. 1760(d)) is amended by adding at the end the following:

"(9) 'child' includes an individual, regardless of age, who—

"(A) is determined by a State educational agency, in accordance with regulations prescribed by the Secretary, to have 1 or more mental or physical disabilities; and

"(B) is attending any institution, as defined in section 17(a), or any nonresidential public or nonprofit private school of high school grade or under, for the purpose of participating in a school program established for individuals with mental or physical disabilities.

No institution that is not otherwise eligible to participate in the program under section 17 shall be considered eligible because of this paragraph.".

SEC. 902. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS.

(a) NUTRITIONAL STANDARDS.—Section 9(a) of the National School Lunch Act (42 U.S.C. 1758(a)) is amended—

(1) in paragraph (2)—

(A) by striking "(2)(A) Lunches" and inserting "(2) Lunches";

(B) by striking subparagraph (B); and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(b) ELIGIBILITY GUIDELINES.—Section 9(b) of the Act is amended—

(1) in paragraph (2)—

(A) by striking subparagraph (A); and

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(2) in paragraph (5), by striking the third sentence; and

(3) in paragraph (6), by striking "paragraph (2)(C)" and inserting "paragraph (2)(B)".

(c) UTILIZATION OF AGRICULTURAL COMMODITIES.—Section 9(c) of the Act is amended by striking the second, fourth, and sixth sentences.

(d) CONFORMING AMENDMENT.—The last sentence of section 9(d)(1) of the Act is amended by striking "subsection (b)(2)(C)" and inserting "subsection (b)(2)(B)".

(e) NUTRITIONAL INFORMATION.—Section 9(f) of the Act is amended—

(1) by striking paragraph (1);

(2) by striking "(2)";

(3) by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively;

(4) by striking paragraph (1), as redesignated by paragraph (3), and inserting the following:

"(1) NUTRITIONAL REQUIREMENTS.—Except as provided in paragraph (2), not later than the first day of the 1996–1997 school year, schools that are participating in the school lunch or school breakfast program shall serve lunches and breakfasts under the program that—

"(A) are consistent with the goals of the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341); and

"(B) provide, on the average over each week, at least—

"(i) with respect to school lunches, $1/3$ of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences; and

"(ii) with respect to school breakfasts, $1/4$ of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences.";

(5) in paragraph (3), as redesignated by paragraph (3)—

(A) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(B) in subparagraph (A), as so redesignated, by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(6) in paragraph (4), as redesignated by paragraph (3), by striking the first sentence and inserting the following: "Schools may use any reasonable approach to meet the requirements of this paragraph, including any approach described in paragraph (3).".

(f) USE OF RESOURCES.—Section 9 of the Act is amended by striking subsection (h).

SEC. 903. FREE AND REDUCED PRICE POLICY STATEMENT.

Section 9(b)(2) of the National School Lunch Act (42 U.S.C. 1758(b)(2)), as amended by section 902(b)(1), is further amended by adding at the end the following:

"(C) FREE AND REDUCED PRICE POLICY STATEMENT.—After the initial submission, a school shall not be required to submit a free and reduced price policy statement to a State educational agency under this Act unless there is a substantive change in the free and reduced price policy of the school. A routine change in the policy of a school, such as an annual adjustment of the income eligibility guidelines for free and reduced price meals, shall not be sufficient cause for requiring the school to submit a policy statement.".

SEC. 904. SPECIAL ASSISTANCE.

(a) FINANCING BASED ON NEED.—Section 11(b) of the National School Lunch Act (42 U.S.C. 1759a(b)) is amended—

(1) in the second sentence, by striking ", within" and all that follows through "all States,"; and

(2) by striking the third sentence.

(b) APPLICABILITY OF OTHER PROVISIONS.—Section 11 of the Act is amended—

(1) by striking subsection (d);

(2) in subsection (e)(2)—

(A) by striking "The" and inserting "On request of the Secretary, the"; and

(B) by striking "each month"; and

(3) by redesignating subsections (e) and (f), as so amended, as subsections (d) and (e), respectively.

SEC. 905. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

(a) ACCOUNTS AND RECORDS.—Section 12(a) of the National School Lunch Act (42 U.S.C. 1760(a)) is amended by striking "at all times be available" and inserting "be available at any reasonable time".

(b) RESTRICTION ON REQUIREMENTS.—Section 12(c) of the Act is amended by striking "neither the Secretary nor the State shall" and inserting "the Secretary shall not".

(c) DEFINITIONS.—Section 12(d) of the Act, as amended by section 901(b), is further amended—

(1) in paragraph (1), by striking "the Trust Territory of the Pacific Islands" and inserting "the Commonwealth of the Northern Mariana Islands";

(2) by striking paragraphs (3) and (4); and

(3) by redesignating paragraphs (1), (2), and (5) through (9) as paragraphs (6), (7), (3), (4), (2), (5), and (1), respectively, and rearranging the paragraphs so as to appear in numerical order.

(d) ADJUSTMENTS TO NATIONAL AVERAGE PAYMENT RATES.—Section 12(f) of the Act is amended by striking "the Trust Territory of the Pacific Islands,".

(e) EXPEDITED RULEMAKING.—Section 12(k) of the Act is amended—

(1) by striking paragraphs (1), (2), and (5); and

(2) by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(f) WAIVER.—Section 12(l) of the Act is amended—

(1) in paragraph (2)—

(A) by striking "(A)";

(B) in clause (iii), by adding "and" at the end;

(C) in clause (iv), by striking the semicolon at the end and inserting a period;

(D) by striking clauses (v) through (vii);

(E) by striking subparagraph (B); and

(F) by redesignating clauses (i) through (iv), as so amended, as subparagraphs (A) through (D), respectively;

(2) in paragraph (3)—

(A) by striking "(A)"; and

(B) by striking subparagraphs (B) through (D);

(3) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking "of any requirement relating" and inserting "that increases Federal costs or that relates";

(B) by striking subparagraphs (B), (D), (F), (H), (J), (K), and (L);

(C) by redesignating subparagraphs (C), (E), (G), (I), (M), and (N) as subparagraphs (B) through (G), respectively; and

(D) in subparagraph (F), as redesignated by subparagraph (C), by striking "and" at the end and inserting "or"; and

(4) in paragraph (6)—

(A) by striking "(A)(i)" and all that follows through "(B)"; and

(B) by redesignating clauses (i) through (iv) as subparagraphs (A) through (D), respectively.

(g) FOOD AND NUTRITION PROJECTS.—Section 12 of the Act is amended by striking subsection (m).

SEC. 906. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) ESTABLISHMENT OF PROGRAM.—Section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking "initiate, maintain, and expand" and insert "initiate and maintain"; and

(B) in subparagraph (E) of the second sentence, by striking "the Trust Territory of the Pacific Islands,"; and

(2) in paragraph (7)(A), by striking "Except as provided in subparagraph (C), private" and inserting "Private".

(b) SERVICE INSTITUTIONS.—Section 13(b) of the Act is amended by striking "(b)(1)" and all that follows through the end of paragraph (1) and inserting the following:

"(b) SERVICE INSTITUTIONS.—

"(1) PAYMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, payments to service institutions shall equal the full cost of food service operations (which cost shall include the costs of obtaining, preparing, and serving food, but shall not include administrative costs).

"(B) MAXIMUM AMOUNTS.—Subject to subparagraph (C), payments to any institution under subparagraph (A) shall not exceed—

"(i) $1.82 for each lunch and supper served;

"(ii) $1.13 for each breakfast served; and

"(iii) 46 cents for each meal supplement served.

"(C) ADJUSTMENTS.—Amounts specified in subparagraph (B) shall be adjusted each January 1 to the nearest lower cent increment in accordance with the changes for the 12-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Each adjustment shall be based on the unrounded adjustment for the prior 12-month period.".

(c) ADMINISTRATION OF SERVICE INSTITUTIONS.—Section 13(b)(2) of the Act is amended—

(1) in the first sentence, by striking "four meals" and inserting "3 meals, or 2 meals and 1 supplement,"; and

(2) by striking the second sentence.

(d) REIMBURSEMENTS.—Section 13(c)(2) of the Act is amended—

(1) by striking subparagraph (A);

(2) in subparagraph (B)—

(A) in the first sentence—

(i) by striking ", and such higher education institutions,"; and

(ii) by striking "without application" and inserting "upon showing residence in areas in which poor economic conditions exist or on the basis of income eligibility statements for children enrolled in the program"; and

(B) by adding at the end the following: "The higher education institutions referred to in the preceding sentence shall be eligible to participate in the program under this paragraph without application.";

(3) in subparagraph (C)(ii), by striking "severe need"; and

(4) by redesignating subparagraphs (B) through (E), as so amended, as subparagraphs (A) through (D), respectively.

(e) Advance Program Payments.—Section 13(e)(1) of the Act is amended—

(1) by striking "institution: Provided, That (A) the" and inserting "institution. The";

(2) by inserting "(excluding a school)" after "any service institution"; and

(3) by striking "responsibilities, and (B) no" and inserting "responsibilities. No".

(f) Food Requirements.—Section 13(f) of the Act is amended—

(1) by redesignating the first through seventh sentences as paragraphs (1) through (7), respectively;

(2) by striking paragraph (3), as redesignated by paragraph (1);

(3) in paragraph (4), as redesignated by paragraph (1), by striking "the first sentence" and inserting "paragraph (1)";

(4) in paragraph (6), as redesignated by paragraph (1), by striking "that bacteria levels" and all that follows through the period at the end and inserting "conformance with standards set by local health authorities."; and

(5) by redesignating paragraphs (4) through (7), as redesignated by paragraph (1), as paragraphs (3) through (6), respectively.

(g) Permitting Offer Versus Serve.—Section 13(f) of the Act, as amended by subsection (f), is further amended by adding at the end the following:

"(7) Offer versus serve.—A school food authority participating as a service institution may permit a child attending a site on school premises operated directly by the authority to refuse not more than 1 item of a meal that the child does not intend to consume. A refusal of an offered food item shall not affect the amount of payments made under this section to a school for the meal.".

(h) Health Department Inspections.—Section 13(k) of the Act is amended by striking paragraph (3).

(i) Food Service Management Companies.—Section 13(l) of the Act is amended—

(1) by striking paragraph (4);

(2) in paragraph (5), by striking the first sentence; and

(3) by redesignating paragraph (5), as so amended, as paragraph (4).

(j) Records.—The second sentence of section 13(m) of the Act is amended by striking "at all times be available" and inserting "be available at any reasonable time".

(k) Removing Mandatory Notice to Institutions.—Section 13(n)(2) of the Act is amended by striking ", and its plans and schedule for informing service institutions of the availability of the program".

(l) Plan.—Section 13(n) of the Act is amended—

(1) in paragraph (2), by striking "including the State's methods of assessing need";

(2) by striking paragraph (3);

(3) in paragraph (4), by striking "and schedule"; and

(4) by redesignating paragraphs (4) through (7), as so amended, as paragraphs (3) through (6), respectively.

(m) Monitoring and Training.—Section 13(q) of the Act is amended—

(1) by striking paragraphs (2) and (4);

(2) in paragraph (3), by striking "paragraphs (1) and (2) of this subsection" and inserting "paragraph (1)"; and

(3) by redesignating paragraph (3), as so amended, as paragraph (2).

(n) Expired Program.—Section 13 of the Act is amended—

(1) by striking subsection (p); and

(2) by redesignating subsections (q) and (r), as so amended, as subsections (p) and (q), respectively.

(o) Effective Date.—The amendments made by subsection (b) shall become effective on January 1, 1996.

SEC. 907. COMMODITY DISTRIBUTION.

(a) Cereal and Shortening in Commodity Donations.—Section 14(b) of the National School Lunch Act (42 U.S.C. 1762a(b)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(b) Impact Study and Purchasing Procedures.—Section 14(d) of the Act is amended by striking the second and third sentences.

(c) Cash Compensation for Pilot Project Schools.—Section 14(g) of the Act is amended by striking paragraph (3).

(d) State Advisory Council.—Section 14 is amended—

(1) by striking subsection (e); and

(2) by redesignating subsections (f) and (g), as so amended, as subsections (e) and (f), respectively.

SEC. 908. CHILD CARE FOOD PROGRAM.

(a) Establishment of Program.—Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended—

(1) in the section heading, by striking "AND ADULT"; and

(2) in the first sentence of subsection (a), by striking "initiate, maintain, and expand" and inserting "initiate and maintain".

(b) Payments to Sponsor Employees.—Paragraph (2) of the last sentence of section 17(a) of the Act (42 U.S.C. 1766(a)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following:

"(D) in the case of a family or group day care home sponsoring organization that employs more than 1 employee, the organization does not base payments to an employee of the organization on the number of family or group day care homes recruited.".

(c) Technical Assistance.—The last sentence of section 17(d)(1) of the Act is amended by striking ", and shall provide technical assistance" and all that follows through "its application".

(d) Reimbursement of Child Care Institutions.—Section 17(f)(2)(B) of the Act (42 U.S.C. 1766(f)(2)(B)) is amended by striking "two meals and two supplements or three meals and one supplement" and inserting "two meals and one supplement".

(e) Improved Targeting of Day Care Home Reimbursements.—

(1) Restructured day care home reimbursements.—Section 17(f)(3) of the Act is amended by striking "(3)(A) Institutions" and all that follows through the end of subparagraph (A) and inserting the following:

"(3) Reimbursement of family or group day care home sponsoring organizations.—

"(A) Reimbursement factor.—

"(i) In general.—An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home sponsored by the organization, reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.

"(ii) Tier I family or group day care homes.—

"(I) Definition.—In this paragraph, the term 'tier I family or group day care home' means—

"(aa) a family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9;

"(bb) a family or group day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

"(cc) a family or group day care home that is operated by a provider whose household meets the income eligibility guidelines for free or reduced price meals under section 9 and whose income is verified by the sponsoring organization of the home under regulations established by the Secretary.

"(II) Reimbursement.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

"(III) Factors.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on the date of enactment of this subclause.

"(IV) Adjustments.—The reimbursement factors under this subparagraph shall be adjusted on August 1, 1996, July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment in effect on June 30 of the preceding school year.

"(iii) Tier II family or group day care homes.—

"(I) In general.—

"(aa) Factors.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be 90 cents for lunches and suppers, 25 cents for breakfasts, and 10 cents for supplements.

"(bb) Adjustments.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

"(cc) Reimbursement.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

"(II) Other factors.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

"(aa) Children eligible for free or reduced price meals.—In the case of meals or *supplements served under this subsection to children who are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).*

"(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the income eligibility guidelines, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

"(III) INFORMATION AND DETERMINATIONS.—

"(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

"(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the income eligibility guidelines under section 9.

"(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

"(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that sponsors the home. The procedures the Secretary prescribes may include 1 or more of the following:

"(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

"(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the income eligibility guidelines under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

"(cc) Such other simplified procedures as the Secretary may prescribe.

"(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any necessary minimum verification requirements.".

(2) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—Section 17(f)(3) of the Act is amended by adding at the end the following:

"(D) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—

"(i) IN GENERAL.—

"(I) RESERVATION.—From amounts made available to carry out this section, the Secretary shall reserve $5,000,000 of the amount made available for fiscal year 1996.

"(II) PURPOSE.—The Secretary shall use the funds made available under subclause (I) to provide grants to States for the purpose of providing—

"(aa) assistance, including grants, to family and day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automated data processing assistance, and other assistance for the staff of the sponsoring organizations; and

"(bb) training and other assistance to family and group day care homes in the implementation of the amendment to subparagraph (A) made by section 913(e)(1) of the Personal Responsibility and Work Opportunity Act of 1995.

"(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i)(I)—

"(I) $30,000 in base funding to each State; and

"(II) any remaining amount among the States, based on the number of family day care homes participating in the program in a State during fiscal year 1994 as a percentage of the number of all family day care homes participating in the program during fiscal year 1994.

"(iii) RETENTION OF FUNDS.—Of the amount of funds made available to a State for fiscal year 1996 under clause (i), the State may retain not to exceed 30 percent of the amount to carry out this subparagraph.

"(iv) ADDITIONAL PAYMENTS.—Any payments received under this subparagraph shall be in addition to payments that a State receives under subparagraph (A).".

(3) PROVISION OF DATA.—Section 17(f)(3) of the Act, as amended by paragraph (2), is further amended by adding at the end the following:

"(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

"(ii) SCHOOL DATA.—

"(I) IN GENERAL.—A State agency administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall provide to approved family or group day care home sponsoring organizations a list of schools serving elementary school children in the State in which not less than ½ of the children enrolled are certified to receive free or reduced price meals. The State agency shall collect the data necessary to create the list annually and provide the list on a timely basis to any approved family or group day care home sponsoring organization that requests the list.

"(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

"(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.".

(4) CONFORMING AMENDMENTS.—Section 17(c) of the Act is amended by inserting "except as provided in subsection (f)(3)," after "For purposes of this section," each place it appears in paragraphs (1), (2), and (3).

(f) REIMBURSEMENT.—Section 17(f) of the Act is amended—

(1) in paragraph (3)—

(A) in subparagraph (B), by striking the third and fourth sentences; and

(B) in subparagraph (C)—

(i) in clause (i)—

(I) by striking "(i)";

(II) in the first sentence, by striking "and expansion funds" and all that follows through "rural areas";

(III) by striking the second sentence; and

(IV) by striking "and expansion funds" each place it appears; and

(ii) by striking clause (ii); and

(2) by striking paragraph (4).

(g) NUTRITIONAL REQUIREMENTS.—Section 17(g)(1) of the Act is amended—

(1) in subparagraph (A), by striking the second sentence; and

(2) in subparagraph (B), by striking the second sentence.

(h) ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN.—Section 17 of the Act is amended by striking subsection (k) and inserting the following:

"(k) TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.".

(i) RECORDS.—The second sentence of section 17(m) of the Act is amended by striking "at all times" and inserting "at any reasonable time".

(j) MODIFICATION OF ADULT CARE FOOD PROGRAM.—Section 17(o) of the Act is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking "adult day care centers" and inserting "day care centers for chronically impaired disabled persons" ; and

(B) by striking "to persons 60 years of age or older or"; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking "adult day care center" and inserting "day care center for chronically impaired disabled persons"; and

(ii) in clause (i)—

(I) by striking "adult";

(II) by striking "adults" and inserting "persons"; and

(III) by striking "or persons 60 years of age or older"; and

(B) in subparagraph (B), by striking "adult day care services" and inserting "day care services for chronically impaired disabled persons".

(k) UNNEEDED PROVISION.—Section 17 of the Act is amended by striking subsection (q).

(l) CONFORMING AMENDMENTS.—

(1) Section 17B(f) of the Act (42 U.S.C. 1766b(f)) is amended—

(A) in the subsection heading, by striking "AND ADULT"; and

(B) in paragraph (1), by striking "and adult".

(2) Section 18(e)(3)(B) of the Act (42 U.S.C. 1769(e)(3)(B)) is amended by striking "and adult".

(3) Section 25(b)(1)(C) of the Act (42 U.S.C. 1769f(b)(1)(C)) is amended by striking "and adult".

(4) Section 3(1) of the Healthy Meals for Healthy Americans Act of 1994 (Public Law 103–448) is amended by striking "and adult".

(m) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.

(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1), (3), and (4) of subsection (e) shall become effective on August 1, 1996.

(3) REGULATIONS.—

(A) INTERIM REGULATIONS.—Not later than February 1, 1996, the Secretary shall issue interim regulations to implement—

(i) the amendments made by paragraphs (1), (3), and (4) of subsection (e); and

(ii) section 17(f)(3)(C) of the National School Lunch Act (42 U.S.C. 1766(f)(3)(C)).

(B) FINAL REGULATIONS.—Not later than August 1, 1996, the Secretary shall issue final regulations to implement the provisions of law referred to in subparagraph (A).

(n) STUDY OF IMPACT OF AMENDMENTS ON PROGRAM PARTICIPATION AND FAMILY DAY CARE LICENSING.—

(1) IN GENERAL.—The Secretary of Agriculture, in conjunction with the Secretary of Health and Human Services, shall study the impact of the amendments made by this section on—

(A) the number of family day care homes participating in the child care food program established under section 17 of the National School Lunch Act (42 U.S.C. 1766);

(B) the number of day care home sponsoring organizations participating in the program;

(C) the number of day care homes that are licensed, certified, registered, or approved by each State in accordance with regulations issued by the Secretary;

(D) the rate of growth of the numbers referred to in subparagraphs (A) through (C);

(E) the nutritional adequacy and quality of meals served in family day care homes that—

(i) received reimbursement under the program prior to the amendments made by this section but do not receive reimbursement after the amendments made by this section; or

(ii) received full reimbursement under the program prior to the amendments made by this section but do not receive full reimbursement after the amendments made by this section; and

(F) the proportion of low-income children participating in the program prior to the amendments made by this section and the proportion of low-income children participating in the program after the amendments made by this section.

(2) REQUIRED DATA.—Each State agency participating in the child care food program under section 17 of the National School Lunch Act (42 U.S.C. 1766) shall submit to the Secretary data on—

(A) the number of family day care homes participating in the program on July 31, 1996, and July 31, 1997;

(B) the number of family day care homes licensed, certified, registered, or approved for service on July 31, 1996, and July 31, 1997; and

(C) such other data as the Secretary may require to carry out this subsection.

(3) SUBMISSION OF REPORT.—Not later than 2 years after the effective date of this section, the Secretary shall submit the study required under this subsection to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 909. PILOT PROJECTS.

(a) UNIVERSAL FREE PILOT.—Section 18(d) of the National School Lunch Act (42 U.S.C. 1769(d)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(b) DEMO PROJECT OUTSIDE SCHOOL HOURS.—Section 18(e) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "(A)"; and

(ii) by striking "shall" and inserting "may"; and

(B) by striking subparagraph (B); and

(2) by striking paragraph (5) and inserting the following:

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1997 and 1998.".

(c) ELIMINATING PROJECTS.—Section 18 of the Act is amended—

(1) by striking subsections (a) and (g) through (i); and

(2) by redesignating subsections (b) through (f), as so amended, as subsections (a) through (e), respectively.

(d) CONFORMING AMENDMENT.—Section 17B(d)(1)(A) of the Act (42 U.S.C. 1766b(d)(1)(A)) is amended by striking "18(c)" and inserting "18(b)".

SEC. 910. REDUCTION OF PAPERWORK.

Section 19 of the National School Lunch Act (42 U.S.C. 1769a) is repealed.

SEC. 911. INFORMATION ON INCOME ELIGIBILITY.

Section 23 of the National School Lunch Act (42 U.S.C. 1769d) is repealed.

SEC. 912. NUTRITION GUIDANCE FOR CHILD NUTRITION PROGRAMS.

Section 24 of the National School Lunch Act (42 U.S.C. 1769e) is repealed.

SEC. 913. INFORMATION CLEARINGHOUSE.

Section 26 of the National School Lunch Act (42 U.S.C. 1769g) is repealed.

SEC. 914. SCHOOL NUTRITION OPTIONAL BLOCK GRANT DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The National School Lunch Act is amended by inserting after section 4 (42 U.S.C. 1753) the following:

"SEC. 5. SCHOOL NUTRITION OPTIONAL BLOCK GRANT DEMONSTRATION PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) BLOCK GRANT DEMONSTRATION PROGRAM.—The term 'block grant demonstration program' means the block grant program demonstration program established under subsection (b).

"(2) DEPARTMENT OF DEFENSE DOMESTIC DEPENDENTS' SCHOOL.—The term 'Department of Defense domestic dependents' school' means an elementary or secondary school established under section 2164 of title 10, United States Code.

"(3) LOW-INCOME STUDENT.—The term 'low-income student' means a student who is a member of a family whose income is less than 130 percent of the poverty line.

"(4) NEEDY STUDENT.—The term 'needy student' means a student who is a member of a family whose income is not less than 130 percent, and not more than 185 percent, of the poverty line.

"(5) POVERTY LINE.—The term 'poverty line' has the meaning provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

"(6) STATE PLAN.—The term 'State plan' means a State plan submitted to and approved by the Secretary under subsection (d).

"(b) ESTABLISHMENT.—The Secretary shall establish an optional block grant demonstration program in not more than 1 State in each of the 7 Food and Consumer Service regions of the United States Department of Agriculture to make grants to States to carry out a school lunch and breakfast program for all schoolchildren that—

"(1) safeguards the health and well-being of children through the provision of nutritious, well-balanced meals in schools;

"(2) provides children who are low-income students access to nutritious free meals;

"(3) provides children who are needy students access to nutritious low-cost meals;

"(4) ensures that children are receiving the nutrition required to take advantage of educational opportunities;

"(5) emphasizes foods that are naturally good sources of vitamins and minerals over foods that have been enriched with vitamins and minerals and are high in fat or sodium content;

"(6) provides a comprehensive school nutrition program for children, which may include offering free meals to all children at a school;

"(7) minimizes paperwork burdens and administrative expenses for participating schools; and

"(8) at the option of the State, provides meal supplements to children in afterschool care.

"(c) ELECTION BY THE STATE.—

"(1) IN GENERAL.—A State with respect to which an application submitted under subsection (d)(1) is approved may participate in the block grant demonstration program.

"(2) ELECTION IRREVOCABLE.—A State with respect to which an application under paragraph (1) is approved may not subsequently reverse the decision of the State to participate in the block grant demonstration program until the termination of the program under subsection (n).

"(3) BLOCK GRANT DEMONSTRATION PROGRAM EXCLUSIVE.—Except as otherwise provided in this section, a State that is participating in the block grant demonstration program shall not be subject to, or receive any benefit under—

"(A) the school lunch program established under this Act;

"(B) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); or

"(C) the commodity distribution programs established under sections 6 and 14.

"(4) MAINTENANCE OF SERVICE TO LOW-INCOME AND NEEDY STUDENTS.—

"(A) PROPORTIONS OF STUDENTS SERVED.—A State shall ensure that, during each year in which the State is participating in the block grant demonstration program, the proportions of school lunches and school breakfasts served to low-income students and needy students under the block grant demonstration program are not less than the proportions of school lunches and school breakfasts, respectively, served to low-income students and needy students in the last year of participation by the State in the school lunch program established under the other sections of this Act or the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), respectively.

"(B) PROPORTIONS OF FUNDS USED TO PROVIDE SERVICE.—A State shall ensure that, during each year in which the State is participating in the block grant demonstration program, the proportions of funds used by the State to provide school lunches and school breakfasts for low-income students and needy students under the block grant demonstration program are not less than the proportions of State funds used to provide school lunches and school breakfasts, respectively, for low-income students and needy students in the last year of participation by the State in the school lunch program established under the other sections of this Act or the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), respectively.

"(d) APPLICATION AND STATE PLAN.—

"(1) APPLICATION.—To be eligible to receive assistance under the block grant demonstration program, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the

Secretary shall by regulation reasonably require, including—

"(A) an assurance that the State will comply with the requirements of this section;

"(B) a State plan that meets the requirements of paragraph (2);

"(C) an assurance that the State will comply with the requirements of the State plan under paragraph (2); and

"(D) an assurance that the State will submit an annual report in accordance with paragraph (4).

"(2) REQUIREMENTS OF STATE PLAN.—

"(A) USE OF BLOCK GRANT DEMONSTRATION PROGRAM FUNDS.—

"(i) IN GENERAL.—Subject to clause (ii), the State plan shall provide that the State shall use the amounts provided to the State for each fiscal year under the block grant demonstration program to provide assistance to schools to provide lunches and breakfasts, including—

"(I) free lunches and breakfasts in accordance with subparagraph (E) to low-income students at the schools;

"(II) low-cost lunches and breakfasts to needy students at the schools;

"(III) at the option of the State, lunches and breakfasts to all students; and

"(IV) at the option of the State, meal supplements.

"(ii) ADMINISTRATIVE EXPENSES.—A State may not use the amounts described in clause (i) for the payment of State administrative expenses incurred in carrying out the block grant demonstration program.

"(iii) NONPROFIT OPERATION.—The school lunch and school breakfast program under the block grant demonstration program shall be operated on a nonprofit basis.

"(iv) MAINTENANCE OF STATE EFFORT.—For each fiscal year for which the State participates in the block grant demonstration program, the amount of the State revenues (excluding State revenues derived from the operation of the program) appropriated or used specifically for block grant demonstration program purposes (other than any State revenues expended for salaries and administrative expenses of the program at the State level) shall be not less than the amount of such State revenues made available for the preceding fiscal year under this section or for the school lunch program under the other sections of this Act and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), as appropriate.

"(B) NUTRITIONAL REQUIREMENTS.—

"(i) PROHIBITION ON ADDITIONAL REQUIREMENTS.—The Secretary may not impose any additional nutritional requirement beyond the requirements specified in this subparagraph.

"(ii) REQUIREMENTS.—The State plan shall provide for the establishment and implementation of minimum nutritional requirements for meals provided under the block grant demonstration program based on the most recent tested nutritional research available, except that the requirements shall not prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students.

"(iii) DIETARY GUIDELINES.—The nutritional requirements established under clause (ii) shall be consistent with the goals of the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341).

"(iv) RECOMMENDED DIETARY ALLOWANCES.—The nutritional requirements established under clause (ii) shall require that meals provided under the block grant demonstration program provide, on the average over each week, at least—

"(I) with respect to school lunches, 1/3 of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences; and

"(II) with respect to school breakfasts, 1/4 of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences.

"(C) REVIEW OF MEAL OPERATIONS.—The State plan shall provide that the State shall review the meal operations of each school food authority participating in the block grant demonstration program not later than 2 years, and not later than 4 years, after the implementation of the block grant demonstration program in the State.

"(D) GROUPS SERVED.—Subject to subsection (c)(4), the State plan shall describe how the block grant demonstration program will serve specific groups of students in the State.

"(E) ELIGIBILITY LIMITATIONS.—

"(i) IN GENERAL.—Subject to clauses (ii) and (iii), the State plan shall describe the income eligibility limitations established for the receipt of free meals and low-cost meals under the block grant demonstration program.

"(ii) ELIGIBILITY FOR FREE MEALS.—

"(I) LOW-INCOME STUDENTS.—A low-income student who attends a school participating in the block grant demonstration program shall be eligible to receive free school lunches and school breakfasts under the block grant demonstration program.

"(II) OTHER STUDENTS.—The State plan may provide that a student who is a member of a family whose income is equal to or more than 130 percent of the poverty line and who attends a school participating in the block grant demonstration program shall be eligible to receive free school lunches and school breakfasts under the block grant demonstration program.

"(iii) ELIGIBILITY FOR LOW-COST MEALS.—

"(I) IN GENERAL.—The State plan shall provide that a needy student who attends a school participating in the block grant demonstration program shall be eligible to receive a low-cost meal under the block grant demonstration program.

"(II) PRICE.—A low-cost meal under subclause (I) shall be offered to a needy student at a price that is less than the price charged to a student who is a member of a family whose income is more than 185 percent of the poverty line.

"(III) GROUP ELIGIBILITY CRITERIA.—Subject to the other provisions of this subparagraph and to subsection (c)(4), each State may develop group eligibility criteria based on census or other accurate data that measures the income of families with school-aged children in a school district or based on prior year participation.

"(F) OPPORTUNITY FOR CONTINUED PARTICIPATION.—The State plan shall provide that each school participating in the school lunch program under the other sections of this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), or both, on the day before the effective date of this subparagraph shall be provided the opportunity to participate in the block grant demonstration program. Such continued participation shall include the opportunity for the school to provide the meal or combination of meals offered prior to the effective date of this subparagraph.

"(G) PROVISION OF COMMODITIES TO CASH/CLOC SCHOOLS.—

"(i) IN GENERAL.—A State plan may not require a school district, nonprofit private school, or Department of Defense domestic dependents' school described in clause (ii), except on request of the school district, private school, or domestic dependents' school, as the case may be, to accept commodities for use in the school lunch or school breakfast program of the school district, private school, or domestic dependents' school in accordance with this section. The school district, private school, or domestic dependents' school may continue to receive commodity assistance in the form that the school received the assistance as of January 1, 1987.

"(ii) SCHOOLS.—Clause (i) applies to a school district, nonprofit private school, or Department of Defense domestic dependents' school, as the case may be, that as of January 1, 1987, was receiving all cash payments or all commodity letters of credit in lieu of entitlement commodities for the school lunch program of the school district, private school, or domestic dependents' school under section 18(b).

"(H) PRIVACY.—

"(i) IN GENERAL.—The State plan shall provide for safeguarding and restricting the use and disclosure of information about any student receiving assistance under the block grant demonstration program.

"(ii) RECIPIENTS OF FREE OR LOW-COST MEALS.—In providing assistance to schools to serve meals under the block grant demonstration program, the State shall ensure that the schools do not—

"(I) physically segregate students eligible to receive free or low-cost meals on the basis of the eligibility;

"(II) provide for the overt identification of the students by special tokens or tickets, announced or published list of names, or other means; or

"(III) otherwise discriminate against the students.

"(I) OTHER INFORMATION.—The State plan shall contain such other information as may be reasonably required by the Secretary.

"(3) APPROVAL OF APPLICATION AND STATE PLAN.—The Secretary shall approve an application and State plan that meet the requirements of this section.

"(4) REPORT.—The Secretary may provide a grant under the block grant demonstration program to a State for a fiscal year only if the State agrees that the State will submit, for the fiscal year, a report to the Secretary describing—

"(A) the number of students receiving assistance under the block grant demonstration program;

"(B) the different types of assistance provided to the students;

"(C) the extent to which the assistance was effective in achieving the goals described in subsection (b);

"(D) the total number of meals served to students under the block grant demonstration program, including the percentage of the meals served to low-income students and needy students;

"(E) the standards and methods that the State is using to ensure the nutritional quality of the meals served under the block grant demonstration program; and

"(F) any other information that may be reasonably required by the Secretary.

"(e) USE OF FUNDS.—Funds made available under this section may be expended only for—

"(1) school lunches, school breakfasts, and meal supplements; and

"(2) the purchase of equipment needed to improve school food services under the block grant demonstration program.

"(f) ENFORCEMENT.—

"(1) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this section and the State plan.

"(2) NONCOMPLIANCE.—

"(A) IN GENERAL.—If the Secretary, after providing reasonable notice to a State and opportunity for a hearing, finds that—

"(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the State plan; or

"(ii) in the operation of any program or activity for which assistance is provided under the

block grant demonstration program, there is a failure by the State to comply substantially with any provision of this section;

the Secretary shall notify the State of the finding and that no further payments will be made to the State under the block grant demonstration program, or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to the program or activity, until the Secretary determines that there is no longer any failure to comply or that the noncompliance will be promptly corrected.

"(B) OTHER SANCTIONS.—In the case of a finding of noncompliance made under subparagraph (A), the Secretary may, in addition to, or in lieu of, imposing the sanctions described in subparagraph (A), impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this section and disqualification from the receipt of financial assistance under this section.

"(C) NOTICE.—The notice required under subparagraph (A) shall include a specific identification of any additional sanction being imposed under subparagraph (B).

"(3) ISSUANCE OF REGULATIONS.—The Secretary shall establish by regulation procedures for—

"(A) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this section; and

"(B) imposing sanctions under this section.

"(g) PAYMENTS.—

"(1) IN GENERAL.—For each fiscal year, the Secretary shall pay to a State that has an application approved by the Secretary under subsection (d)(3) and that complies with paragraph (3) an amount that is equal to the allotment of the State under subsection (i) for the fiscal year.

"(2) METHODS OF PAYMENT.—The Secretary shall make payments to a State for a fiscal year under this section on a quarterly basis—

"(A) by issuing letters of credit for the fiscal year, with necessary adjustments on account of overpayments or underpayments, as determined by the Secretary; and

"(B) by providing not less than 8 percent but not more than 10 percent of the amount of the allotment to the State in the form of commodities.

"(3) EXPENDITURE OF FUNDS BY STATES.—Payments to a State from an allotment under subsection (i) for a fiscal year may be expended by the State only in the fiscal year or in the succeeding fiscal year.

"(4) PROVISION OF SCHOOL LUNCHES AND BREAKFASTS.—Subject to the other provisions of this section, a State may provide school lunches and school breakfasts under the block grant demonstration program in any manner determined appropriate by the State.

"(h) AUDITS.—

"(1) REQUIREMENT.—After the close of each fiscal year, the Secretary shall carry out an audit of the expenditures from amounts received under this section by each State participating in the block grant demonstration program during the fiscal year.

"(2) RECORDS.—Each State described in paragraph (1) shall maintain such records as the Secretary may reasonably require to carry out an audit under this subsection.

"(3) REPAYMENT OF AMOUNTS.—Each State shall repay to the United States any amounts determined through an audit under this subsection to have not been expended in accordance with this section or to have not been expended in accordance with the State plan, or the Secretary may offset the amounts against any other amount paid to the State under this section.

"(i) ALLOTMENTS.—

"(1) FIRST FISCAL YEAR.—

"(A) IN GENERAL.—For the first fiscal year in which the State participates in the block grant demonstration program, the Secretary shall allot to the State, from amounts made available under section 3 of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), an amount that is equal to the amount that the Secretary projects would be made available to the State to carry out the school lunch program under the other sections of this Act and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) (including the value of commodities made available under the commodity distribution programs established under sections 6 and 14) for the fiscal year.

"(B) BASIS FOR PROJECTIONS.—In making a projection under subparagraph (A), the Secretary shall take into account—

"(i) participation trends in the State; and

"(ii) projected changes in reimbursement rates under the school lunch program under the other sections of this Act, and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

"(C) PUBLICATION IN THE FEDERAL REGISTER.—The Secretary shall publish in the Federal Register—

"(i) not later than February 1, 1996, and each February 1 thereafter, the amount that the Secretary projects will be made available to each State that, as of the date of publication, is not participating in the block grant demonstration program to carry out the school lunch program under the other sections of this Act and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) for the first fiscal year that begins after the date of publication; and

"(ii) not later than February 1, 1998, and each February 1 thereafter, with respect to each State for which a projection was made under clause (i)—

"(I) the amount that the Secretary projected would be made available to the State for the fiscal year that ended the preceding September 30; and

"(II) the amount that actually was made available to the State for the fiscal year that ended the preceding September 30.

"(2) LATER FISCAL YEARS.—For each fiscal year after the first fiscal year referred to in paragraph (1), the Secretary shall allot to the State, from amounts made available under section 3 of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), an amount that is equal to the sum of—

"(A) the amount allotted under paragraph (1); and

"(B) the product of—

"(i) the amount allotted under paragraph (1); and

"(ii) a factor consisting of the sum of—

"(I) ½ of the percentage change in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period for which such data are available; and

"(II) ½ of the percentage change in the number of children projected to be enrolled in school in the State in the current school year (as of the first day of the fiscal year) as compared to the number of children enrolled in school in the State in the preceding school year.

"(j) RELATIONSHIP TO OTHER LAWS.—The value of assistance provided to students under the block grant demonstration program shall not be considered to be income or resources for any purpose under any Federal or State law, including any law relating to taxation and welfare and public assistance programs.

"(k) ALTERNATIVE ASSISTANCE TO CERTAIN STUDENTS.—

"(1) ASSISTANCE.—If, by reason of any other provision of law, a State participating in the block grant demonstration program is prohibited from providing assistance from amounts received from a grant under the block grant demonstration program to a nonprofit private school or Department of Defense domestic dependents' school for a fiscal year to carry out the block grant demonstration program, or the Secretary determines that a State has substantially failed or is unwilling to provide the assistance to a nonprofit private school, Department of Defense domestic dependents' school, or public school, for the fiscal year, the Secretary shall, after consultation with appropriate representatives of the State and affected school, arrange for the provision of the assistance to the school for the fiscal year in accordance with the other sections of this Act.

"(2) REDUCTION IN AMOUNT OF STATE GRANT.—If the Secretary arranges for the provision of assistance to a nonprofit private school, Department of Defense domestic dependents' school, or public school in a State for a fiscal year under paragraph (1), the amount of the grant to the State for the fiscal year shall be reduced by the amount of the assistance provided to the school.

"(l) TRANSITION PROVISIONS.—

"(1) TRANSITION INTO BLOCK GRANT DEMONSTRATION PROGRAM.—A State for which an application and State plan are approved under subsection (d)(3) shall be eligible to use a portion (as determined by the Secretary) of the funds and commodities made available to the State for the preceding fiscal year under the school lunch program under the other sections of this Act, and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), to make a transition into the block grant demonstration program.

"(2) TRANSITION UPON TERMINATION OF BLOCK GRANT DEMONSTRATION PROGRAM.—Upon termination of the block grant demonstration program, a State that participated in the block grant demonstration program shall be eligible to use a portion (as determined by the Secretary) of the funds and commodities made available to the State for the preceding fiscal year under the block grant demonstration program to make a transition back to the operation of the school lunch program under the other sections of this Act and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

"(m) EVALUATIONS BY THE SECRETARY.—

"(1) IN GENERAL.—Not later than 3 years after the establishment of the block grant demonstration program and not later than 180 days prior to the termination date specified in subsection (n), the Secretary shall conduct an evaluation, and submit a report on the evaluation to Congress (including the comments of the Comptroller General of the United States under paragraph (3)), concerning the block grant demonstration program.

"(2) CONTENTS.—In carrying out paragraph (1), the Secretary shall evaluate, using, to the extent practicable, data required to be reported by the States under this section—

"(A) the effects of the block grant demonstration program on the nutritional quality of the meals offered;

"(B) the degree to which children, especially children who are low-income students and children who are needy students, participated in the block grant demonstration program during each fiscal year covered by the evaluation as compared to the participation of the children in the block grant demonstration program, or in the school lunch program under the other sections of this Act and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), during the prior fiscal year;

"(C) the income distribution of the children served and the amount of Federal assistance the children received under the block grant demonstration program for each fiscal year;

"(D) the schools participating in, and the types of meals offered under, the block grant demonstration program during each fiscal year covered by the evaluation as compared to the schools participating in, and the types of meals offered under, the block grant demonstration program, or the school lunch program under the other sections of this Act and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), during the prior fiscal year;

"(E) how the implementation of the block grant demonstration program differs from the implementation of the school lunch program under the other sections of this Act and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

"(F) the effect of the block grant demonstration program on the administrative costs paid by States and schools to carry out school lunch and school breakfast programs;

"(G) the effect of the block grant demonstration program on the paperwork required to be completed by schools and parents under school lunch and school breakfast programs; and

"(H) such other issues concerning the block grant demonstration program as the Secretary considers appropriate.

"(3) COMMENTS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States shall—

"(A) comment on the evaluation conducted under paragraph (1), including the methodology used by the Secretary in conducting the evaluation; and

"(B) submit the comments to the Secretary for inclusion in the evaluation.

"(n) TERMINATION OF AUTHORITY.—The authority to carry out the block grant demonstration program shall terminate on September 30, 2000.".

(b) STATE ADMINISTRATIVE EXPENSES.—The first sentence of section 7(a)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(1)) is amended by inserting "5," after "4,".

(c) PROHIBITION ON WAIVERS.—Section 12(l)(4) of the National School Lunch Act (42 U.S.C. 1760(l)(4)) is amended—

(1) in subparagraph (M), by striking "and" at the end;

(2) in subparagraph (N), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(O) the school nutrition optional block grant demonstration program established under section 5.".

Subtitle B—Child Nutrition Act of 1966

SEC. 921. SPECIAL MILK PROGRAM.

Section 3(a)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(3)) is amended by striking "the Trust Territory of the Pacific Islands" and inserting "the Commonwealth of the Northern Mariana Islands".

SEC. 922. FREE AND REDUCED PRICE POLICY STATEMENT.

Section 4(b)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(1)) is amended by adding at the end the following:

"(E) FREE AND REDUCED PRICE POLICY STATEMENT.—After the initial submission, a school shall not be required to submit a free and reduced price policy statement to a State educational agency under this Act unless there is a substantive change in the free and reduced price policy of the school. A routine change in the policy of a school, such as an annual adjustment of the income eligibility guidelines for free and reduced price meals, shall not be sufficient cause for requiring the school to submit a policy statement.".

SEC. 923. SCHOOL BREAKFAST PROGRAM AUTHORIZATION.

(a) TRAINING AND TECHNICAL ASSISTANCE IN FOOD PREPARATION.—Section 4(e)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)) is amended—

(1) in subparagraph (A), by striking "(A)"; and

(2) by striking subparagraph (B).

(b) EXPANSION OF PROGRAM; STARTUP AND EXPANSION COSTS.—

(1) IN GENERAL.—Section 4 of the Act is amended by striking subsections (f) and (g).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall become effective on October 1, 1996.

SEC. 924. STATE ADMINISTRATIVE EXPENSES.

(a) USE OF FUNDS FOR COMMODITY DISTRIBUTION ADMINISTRATION; STUDIES.—Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) is amended—

(1) by striking subsections (e) and (h); and

(2) by redesignating subsections (f), (g), and (i) as subsections (e), (f), and (g), respectively.

(b) APPROVAL OF CHANGES.—Section 7(e) of the Act, as so redesignated, is amended—

(1) by striking "each year an annual plan" and inserting "the initial fiscal year a plan"; and

(2) by adding at the end the following: "After submitting the initial plan, a State shall only be required to submit to the Secretary for approval a substantive change in the plan.".

SEC. 925. REGULATIONS.

Section 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1779) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "(1)"; and

(B) by striking paragraphs (2) through (4); and

(2) in subsection (c), by striking "may" and inserting "shall".

SEC. 926. PROHIBITIONS.

Section 11(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1780(a)) is amended by striking "neither the Secretary nor the State shall" and inserting "the Secretary shall not".

SEC. 927. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

Section 15 of the Child Nutrition Act of 1966 (42 U.S.C. 1784) is amended—

(1) in paragraph (1), by striking "the Trust Territory of the Pacific Islands" and inserting "the Commonwealth of the Northern Mariana Islands"; and

(2) in the first sentence of paragraph (3)—

(A) in subparagraph (A), by inserting "and" at the end; and

(B) by striking ", and (C)" and all that follows through "Governor of Puerto Rico".

SEC. 928. ACCOUNTS AND RECORDS.

The second sentence of section 16(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1785(a)) is amended by striking "at all times be available" and inserting "be available at any reasonable time".

SEC. 929. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) DEFINITIONS.—Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended—

(1) in paragraph (15)(B)(iii), by inserting "of not more than 90 days" after "accommodation"; and

(2) in paragraph (16)—

(A) in subparagraph (A), by adding "and" at the end; and

(B) in subparagraph (B), by striking "; and" and inserting a period; and

(C) by striking subparagraph (C).

(b) SECRETARY'S PROMOTION OF WIC.—Section 17(c) of the Act is amended by striking paragraph (5).

(c) ELIGIBLE PARTICIPANTS.—Section 17(d) of the Act is amended by striking paragraph (4).

(d) NUTRITION EDUCATION AND DRUG ABUSE EDUCATION.—Section 17(e) of the Act is amended—

(1) in the first sentence of paragraph (1), by striking "shall ensure" and all that follows through "is provided" and inserting "shall provide nutrition education and may provide drug abuse education";

(2) in paragraph (2), by striking the third sentence;

(3) by striking paragraph (4) and inserting the following:

"(4) INFORMATION.—The State agency may provide a local agency with materials describing other programs for which participants in the program may be eligible.";

(4) in paragraph (5), by striking "The State" and all that follows through "local agency shall" and inserting "A local agency may"; and

(5) by striking paragraph (6).

(e) STATE PLAN.—Section 17(f) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "annually to the Secretary, by a date specified by the Secretary, a" and inserting "to the Secretary, by a date specified by the Secretary, an initial"; and

(ii) by adding at the end the following: "After submitting the initial plan, a State shall only be required to submit to the Secretary for approval a substantive change in the plan.";

(B) in subparagraph (C)—

(i) by striking clause (iii) and inserting the following:

"(iii) a plan to coordinate operations under the program with other services or programs that may benefit participants in, and applicants for, the program;";

(ii) in clause (vi), by inserting after "in the State" the following: "(including a plan to improve access to the program for participants and prospective applicants who are employed, or who reside in rural areas)";

(iii) by striking clauses (vii), (ix), (x), and (xii);

(iv) in clause (xiii), by striking "may require" and inserting "may reasonably require"; and

(v) by redesignating clauses (viii), (xi), and (xiii), as so amended, as clauses (vii), (viii), and (ix), respectively;

(C) by striking subparagraph (D); and

(D) by redesignating subparagraph (E) as subparagraph (D);

(2) by striking paragraphs (2), (6), (8), (20), (22), and (24);

(3) in the second sentence of paragraph (5), by striking "at all times be available" and inserting "be available at any reasonable time";

(4) in paragraph (9)(B), by striking the second sentence;

(5) in the first sentence of paragraph (11), by striking ", including standards that will ensure sufficient State agency staff";

(6) in paragraph (12), by striking the third sentence;

(7) in paragraph (14), by striking "shall" and inserting "may";

(8) in paragraph (17), by striking "and to accommodate" and all that follows through "facilities";

(9) in paragraph (19), by striking "shall" and inserting "may"; and

(10) by redesignating paragraphs (3), (4), (5), (7), (9) through (19), (21), and (23), as so amended, as paragraphs (2), (3), (4), (5), (6) through (16), (17), and (18), respectively.

(f) INFORMATION.—Section 17(g) of the Act is amended—

(1) in paragraph (5), by striking "the report required under subsection (d)(4)" and inserting "reports on program participant characteristics"; and

(2) by striking paragraph (6).

(g) PROCUREMENT OF INFANT FORMULA.—

(1) IN GENERAL.—Section 17(h) of the Act is amended—

(A) in paragraph (4)(E), by striking "and, on" and all that follows through "(d)(4)";

(B) in paragraph (8)—

(i) by striking subparagraphs (A), (C), and (M);

(ii) in subparagraph (G)—

(I) in clause (i), by striking "(i)"; and

(II) by striking clauses (ii) through (ix);

(iii) in subparagraph (I), by striking "Secretary—" and all that follows through "(v) may" and inserting "Secretary may";

(iv) by redesignating subparagraphs (B) and (D) through (L) as subparagraphs (A) and (B) through (J), respectively;

(v) in subparagraph (A)(i), as so redesignated, by striking "subparagraphs (C), (D), and (E)(iii), in carrying out subparagraph (A)," and inserting "subparagraphs (B) and (C)(iii),";

(vi) in subparagraph (B)(i), as so redesignated, by striking "subparagraph (B)" each place it appears and inserting "subparagraph (A)"; and

(vii) in subparagraph (C)(iii), as so redesignated, by striking "subparagraph (B)" and inserting "subparagraph (A)"; and

(C) in paragraph (10)(A), by striking "shall" and inserting "may".

(2) APPLICATION.—The amendments made by paragraph (1) shall not apply to a contract for the procurement of infant formula under section 17(h)(8) of the Act that is in effect on the effective date of this subsection.

(h) NATIONAL ADVISORY COUNCIL ON MATERNAL, INFANT, AND FETAL NUTRITION.—Section 17(k)(3) of the Act is amended by striking "Secretary shall designate" and inserting "Council shall elect".

(i) COMPLETED STUDY; COMMUNITY COLLEGE DEMONSTRATION; GRANTS FOR INFORMATION AND DATA SYSTEM.—Section 17 of the Act is amended by striking subsections (n), (o), and (p).

(j) DISQUALIFICATION OF VENDORS WHO ARE DISQUALIFIED UNDER THE FOOD STAMP PROGRAM.—Section 17 of the Act, as so amended, is further amended by adding at the end the following:

"(n) DISQUALIFICATION OF VENDORS WHO ARE DISQUALIFIED UNDER THE FOOD STAMP PROGRAM.—

"(1) IN GENERAL.—The Secretary shall issue regulations providing criteria for the disqualification under this section of an approved vendor that is disqualified from accepting benefits under the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

"(2) TERMS.—A disqualification under paragraph (1)—

"(A) shall be for the same period as the disqualification from the program referred to in paragraph (1);

"(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and

"(C) shall not be subject to judicial or administrative review.".

SEC. 930. CASH GRANTS FOR NUTRITION EDUCATION.

Section 18 of the Child Nutrition Act of 1966 (42 U.S.C. 1787) is repealed.

SEC. 931. NUTRITION EDUCATION AND TRAINING.

(a) FINDINGS.—Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended—

(1) in subsection (a), by striking "that—" and all that follows through the period at the end and inserting "that effective dissemination of scientifically valid information to children participating or eligible to participate in the school lunch and related child nutrition programs should be encouraged."; and

(2) in subsection (b), by striking "encourage" and all that follows through "establishing" and inserting "establish".

(b) USE OF FUNDS.—Section 19(f) of the Act is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (B); and

(B) in subparagraph (A)—

(i) by striking "(A)";

(ii) by striking clauses (ix) through (xix);

(iii) by redesignating clauses (i) through (viii) and (xx) as subparagraphs (A) through (H) and (I), respectively; and

(iv) in subparagraph (H), as so redesignated, by inserting "and" at the end;

(2) by striking paragraphs (2) and (4); and

(3) by redesignating paragraph (3) as paragraph (2).

(c) ACCOUNTS, RECORDS, AND REPORTS.—The second sentence of section 19(g)(1) of the Act is amended by striking "at all times be available" and inserting "be available at any reasonable time".

(d) STATE COORDINATORS FOR NUTRITION; STATE PLAN.—Section 19(h) of the Act is amended—

(1) in the second sentence of paragraph (1)—

(A) by striking "as provided in paragraph (2) of this subsection"; and

(B) by striking "as provided in paragraph (3) of this subsection";

(2) in paragraph (2), by striking the second and third sentences; and

(3) by striking paragraph (3).

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 19(i) of the Act is amended—

(1) in the first sentence of paragraph (2)(A), by striking "and each succeeding fiscal year";

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

"(3) FISCAL YEARS 1997 THROUGH 2002.—

"(A) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1997 through 2002.

"(B) GRANTS.—

"(i) IN GENERAL.—Grants to each State from the amounts made available under subparagraph (A) shall be based on a rate of 50 cents for each child enrolled in schools or institutions within the State, except that no State shall receive an amount less than $75,000 per fiscal year.

"(ii) INSUFFICIENT FUNDS.—If the amount made available for any fiscal year is insufficient to pay the amount to which each State is entitled under clause (i), the amount of each grant shall be ratably reduced.".

(f) ASSESSMENT.—Section 19 of the Act is amended by striking subsection (j).

(g) EFFECTIVE DATE.—The amendments made by subsection (e) shall become effective on October 1, 1996.

SEC. 932. BREASTFEEDING PROMOTION PROGRAM.

Section 21 of the Child Nutrition Act of 1966 (42 U.S.C. 1790) is repealed.

TITLE X—FOOD STAMPS AND COMMODITY DISTRIBUTION

SEC. 1001. SHORT TITLE.

This title may be cited as the "Food Stamp Reform and Commodity Distribution Act of 1995".

Subtitle A—Food Stamp Program

SEC. 1011. DEFINITION OF CERTIFICATION PERIOD.

Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended by striking "Except as provided" and all that follows and inserting the following: "The certification period shall not exceed 12 months, except that the certification period may be up to 24 months if all adult household members are elderly or disabled. A State agency shall have at least 1 contact with each certified household every 12 months.".

SEC. 1012. DEFINITION OF COUPON.

Section 3(d) of the Food Stamp Act of 1977 (7 U.S.C. 2012(d)) is amended by striking "or type of certificate" and inserting "type of certificate, authorization card, cash or check issued in lieu of a coupon, or an access device, including an electronic benefit transfer card or personal identification number,".

SEC. 1013. TREATMENT OF CHILDREN LIVING AT HOME.

The second sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking "(who are not themselves parents living with their children or married and living with their spouses)".

SEC. 1014. OPTIONAL ADDITIONAL CRITERIA FOR SEPARATE HOUSEHOLD DETERMINATIONS.

Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by inserting after the third sentence the following: "Notwithstanding the preceding sentences, a State may establish criteria that prescribe when individuals who live together, and who would be allowed to participate as separate households under the preceding sentences, shall be considered a single household, without regard to the common purchase of food and preparation of meals.".

SEC. 1015. ADJUSTMENT OF THRIFTY FOOD PLAN.

The second sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—

(1) by striking "shall (1) make" and inserting the following: "shall—

"(1) make";

(2) by striking "scale, (2) make" and inserting "scale;

"(2) make";

(3) by striking "Alaska, (3) make" and inserting the following: "Alaska;

"(3) make"; and

(4) by striking "Columbia, (4) through" and all that follows through the end of the subsection and inserting the following: "Columbia; and

"(4) on October 1, 1996, and each October 1 thereafter, adjust the cost of the diet to reflect the cost of the diet, in the preceding June, and round the result to the nearest lower dollar increment for each household size, except that on October 1, 1996, the Secretary may not reduce the cost of the diet in effect on September 30, 1996.".

SEC. 1016. DEFINITION OF HOMELESS INDIVIDUAL.

Section 3(s)(2)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2012(s)(2)(C)) is amended by inserting "for not more than 90 days" after "temporary accommodation".

SEC. 1017. STATE OPTION FOR ELIGIBILITY STANDARDS.

Section 5(b) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by striking "(b) The Secretary" and inserting the following:

"(b) ELIGIBILITY STANDARDS.—Except as otherwise provided in this Act, the Secretary".

SEC. 1018. EARNINGS OF STUDENTS.

Section 5(d)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(7)) is amended by striking "21" and inserting "19".

SEC. 1019. ENERGY ASSISTANCE.

(a) IN GENERAL.—Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by striking paragraph (11) and inserting the following: "(11) a 1-time payment or allowance made under a Federal or State law for the costs of weatherization or emergency repair or replacement of an unsafe or inoperative furnace or other heating or cooling device,".

(b) CONFORMING AMENDMENTS.—

(1) Section 5(k) of the Act (7 U.S.C. 2014(k)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "plan for aid to families with dependent children approved" and inserting "program funded"; and

(ii) in subparagraph (B), by striking ", not including energy or utility-cost assistance,";

(B) in paragraph (2), by striking subparagraph (C) and inserting the following:

"(C) a payment or allowance described in subsection (d)(11);"; and

(C) by adding at the end the following:

"(4) THIRD PARTY ENERGY ASSISTANCE PAYMENTS.—

"(A) ENERGY ASSISTANCE PAYMENTS.—For purposes of subsection (d)(1), a payment made under a Federal or State law to provide energy assistance to a household shall be considered money payable directly to the household.

"(B) ENERGY ASSISTANCE EXPENSES.—For purposes of subsection (e)(7), an expense paid on behalf of a household under a Federal or State law to provide energy assistance shall be considered an out-of-pocket expense incurred and paid by the household.".

(2) Section 2605(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(f)) is amended—

(A) by striking "(f)(1) Notwithstanding" and inserting "(f) Notwithstanding";

(B) in paragraph (1), by striking "food stamps,"; and

(C) by striking paragraph (2).

SEC. 1020. DEDUCTIONS FROM INCOME.

(a) IN GENERAL.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by striking subsection (e) and inserting the following:

"(e) DEDUCTIONS FROM INCOME.—

"(1) STANDARD DEDUCTION.—The Secretary shall allow a standard deduction for each household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States of $134, $229, $189, $269, and $118, respectively.

"(2) EARNED INCOME DEDUCTION.—

"(A) DEFINITION OF EARNED INCOME.—In this paragraph, the term 'earned income' does not include income excluded by subsection (d) or any portion of income earned under a work supplementation or support program, as defined under section 16(b), that is attributable to public assistance.

"(B) DEDUCTION.—Except as provided in subparagraph (C), a household with earned income shall be allowed a deduction of 20 percent of all earned income (other than income excluded by subsection (d)) to compensate for taxes, other mandatory deductions from salary, and work expenses.

"(C) EXCEPTION.—The deduction described in subparagraph (B) shall not be allowed with respect to determining an overissuance due to the failure of a household to report earned income in a timely manner.

"(3) DEPENDENT CARE DEDUCTION.—

"(A) IN GENERAL.—A household shall be entitled, with respect to expenses (other than excluded expenses described in subparagraph (B)) for dependent care, to a dependent care deduction, the maximum allowable level of which shall be $200 per month for each dependent child under 2 years of age and $175 per month for each other dependent, for the actual cost of payments necessary for the care of a dependent if the care enables a household member to accept or continue employment, or training or education that is preparatory for employment.

"(B) EXCLUDED EXPENSES.—The excluded expenses referred to in subparagraph (A) are—

"(i) expenses paid on behalf of the household by a third party;

"(ii) amounts made available and excluded for the expenses referred to in subparagraph (A) under subsection (d)(3); and

"(iii) expenses that are paid under section 6(d)(4).

"(4) DEDUCTION FOR CHILD SUPPORT PAYMENTS.—

"(A) IN GENERAL.—A household shall be entitled to a deduction for child support payments made by a household member to or for an individual who is not a member of the household if the household member is legally obligated to make the payments.

"(B) METHODS FOR DETERMINING AMOUNT.—The Secretary may prescribe by regulation the methods, including calculation on a retrospective basis, that a State agency shall use to determine the amount of the deduction for child support payments.

"(5) HOMELESS SHELTER ALLOWANCE.—A State agency may develop a standard homeless shelter allowance, which shall not exceed $139 per month, for such expenses as may reasonably be expected to be incurred by households in which all members are homeless individuals but are not receiving free shelter throughout the month. A State agency that develops the allowance may use the allowance in determining eligibility and allotments for the households, except that the State agency may prohibit the use of the allowance for households with extremely low shelter costs.

"(6) EXCESS MEDICAL EXPENSE DEDUCTION.—

"(A) IN GENERAL.—A household containing an elderly or disabled member shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess medical expense deduction for the portion of the actual costs of allowable medical expenses, incurred by the elderly or disabled member, exclusive of special diets, that exceeds $35 per month.

"(B) METHOD OF CLAIMING DEDUCTION.—

"(i) IN GENERAL.—A State agency shall offer an eligible household under subparagraph (A) a method of claiming a deduction for recurring medical expenses that are initially verified under the excess medical expense deduction in lieu of submitting information or verification on actual expenses on a monthly basis.

"(ii) METHOD.—The method described in clause (i) shall—

"(I) be designed to minimize the burden for the eligible elderly or disabled household member choosing to deduct the recurrent medical expenses of the member pursuant to the method;

"(II) rely on reasonable estimates of the expected medical expenses of the member for the certification period (including changes that can be reasonably anticipated based on available information about the medical condition of the member, public or private medical insurance coverage, and the current verified medical expenses incurred by the member); and

"(III) not require further reporting or verification of a change in medical expenses if such a change has been anticipated for the certification period.

"(7) EXCESS SHELTER EXPENSE DEDUCTION.—

"(A) IN GENERAL.—A household shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 percent of monthly household income after all other applicable deductions have been allowed.

"(B) MAXIMUM AMOUNT OF DEDUCTION.—In the case of a household that does not contain an elderly or disabled individual, the excess shelter expense deduction shall not exceed—

"(i) in the 48 contiguous States and the District of Columbia, $247 per month; and

"(ii) in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $429, $353, $300, and $182 per month, respectively.

"(C) STANDARD UTILITY ALLOWANCE.—

"(i) IN GENERAL.—In computing the excess shelter expense deduction, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance that does not fluctuate within a year to reflect seasonal variations.

"(ii) RESTRICTIONS ON HEATING AND COOLING EXPENSES.—An allowance for a heating or cooling expense may not be used in the case of a household that—

"(I) does not incur a heating or cooling expense, as the case may be;

"(II) does incur a heating or cooling expense but is located in a public housing unit that has central utility meters and charges households, with regard to the expense, only for excess utility costs; or

"(III) shares the expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the household and the other individual, household, or both.

"(iii) MANDATORY ALLOWANCE.—

"(I) IN GENERAL.—A State agency may make the use of a standard utility allowance mandatory for all households with qualifying utility costs if—

"(aa) the State agency has developed 1 or more standards that include the cost of heating and cooling and 1 or more standards that do not include the cost of heating and cooling; and

"(bb) the Secretary finds that the standards will not result in an increased cost to the Secretary.

"(II) HOUSEHOLD ELECTION.—A State agency that has not made the use of a standard utility allowance mandatory under subclause (I) shall allow a household to switch, at the end of a certification period, between the standard utility allowance and a deduction based on the actual utility costs of the household.

"(iv) AVAILABILITY OF ALLOWANCE TO RECIPIENTS OF ENERGY ASSISTANCE.—

"(I) IN GENERAL.—Subject to subclause (II), if a State agency elects to use a standard utility allowance that reflects heating or cooling costs, the standard utility allowance shall be made available to households receiving a payment, or on behalf of which a payment is made, under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) or other similar energy assistance program, if the household still incurs out-of-pocket heating or cooling expenses in excess of any assistance paid on behalf of the household to an energy provider.

"(II) SEPARATE ALLOWANCE.—A State agency may use a separate standard utility allowance for households on behalf of which a payment described in subclause (I) is made, but may not be required to do so.

"(III) STATES NOT ELECTING TO USE SEPARATE ALLOWANCE.—A State agency that does not elect to use a separate allowance but makes a single standard utility allowance available to households incurring heating or cooling expenses (other than a household described in subclause (I) or (II) of subparagraph (C)(ii)) may not be required to reduce the allowance due to the provision (directly or indirectly) of assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

"(IV) PRORATION OF ASSISTANCE.—For the purpose of the food stamp program, assistance provided under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be prorated over the entire heating or cooling season for which the assistance was provided.".

(b) CONFORMING AMENDMENT.—Section 11(e)(3) of the Act (7 U.S.C. 2020(e)(3)) is amended by striking ". Under rules prescribed" and all that follows through "verifies higher expenses".

SEC. 1021. VEHICLE ALLOWANCE.

Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by striking paragraph (2) and inserting the following:

"(2) INCLUDED ASSETS.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Secretary shall, in prescribing inclusions in, and exclusions from, financial resources, follow the regulations in force as of June 1, 1982 (other than those relating to licensed vehicles and inaccessible resources).

"(B) ADDITIONAL INCLUDED ASSETS.—The Secretary shall include in financial resources—

"(i) any boat, snowmobile, or airplane used for recreational purposes;

"(ii) any vacation home;

"(iii) any mobile home used primarily for vacation purposes;

"(iv) subject to subparagraph (C), any licensed vehicle that is used for household transportation or to obtain or continue employment to the extent that the fair market value of the vehicle exceeds $4,600; and

"(v) any savings or retirement account (including an individual account), regardless of whether there is a penalty for early withdrawal.

"(C) EXCLUDED VEHICLES.—A vehicle (and any other property, real or personal, to the extent the property is directly related to the maintenance or use of the vehicle) shall not be included in financial resources under this paragraph if the vehicle is—

"(i) used to produce earned income;

"(ii) necessary for the transportation of a physically disabled household member; or

"(iii) depended on by a household to carry fuel for heating or water for home use and provides the primary source of fuel or water, respectively, for the household.".

SEC. 1022. VENDOR PAYMENTS FOR TRANSITIONAL HOUSING COUNTED AS INCOME.

Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) is amended—

(1) by striking subparagraph (F); and

(2) by redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

SEC. 1023. DOUBLED PENALTIES FOR VIOLATING FOOD STAMP PROGRAM REQUIREMENTS.

Section 6(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)) is amended—

(1) in clause (i), by striking "six months" and inserting "1 year"; and

(2) in clause (ii), by striking "1 year" and inserting "2 years".

SEC. 1024. DISQUALIFICATION OF CONVICTED INDIVIDUALS.

Section 6(b)(1)(iii) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)(iii)) is amended—

(1) in subclause (II), by striking "or" at the end;

(2) in subclause (III), by striking the period at the end and inserting "; or"; and

(3) by inserting after subclause (III) the following:

"(IV) a conviction of an offense under subsection (b) or (c) of section 15 involving an item covered by subsection (b) or (c) of section 15 having a value of $500 or more.".

SEC. 1025. DISQUALIFICATION.

(a) IN GENERAL.—Section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)) is amended by striking "(d)(1) Unless otherwise exempted by the provisions" and all that follows through the end of paragraph (1) and inserting the following:

"(d) CONDITIONS OF PARTICIPATION.—

"(1) WORK REQUIREMENTS.—

"(A) IN GENERAL.—No physically and mentally fit individual over the age of 15 and under the age of 60 shall be eligible to participate in the food stamp program if the individual—

"(i) refuses, at the time of application and every 12 months thereafter, to register for employment in a manner prescribed by the Secretary;

"(ii) refuses without good cause to participate in an employment and training program under paragraph (4), to the extent required by the State agency;

"(iii) refuses without good cause to accept an offer of employment, at a site or plant not subject to a strike or lockout at the time of the refusal, at a wage not less than the higher of—

"(I) the applicable Federal or State minimum wage; or

"(II) 80 percent of the wage that would have governed had the minimum hourly rate under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) been applicable to the offer of employment;

"(iv) refuses without good cause to provide a State agency with sufficient information to allow the State agency to determine the employment status or the job availability of the individual;

"(v) voluntarily and without good cause—

"(I) quits a job; or

"(II) reduces work effort and, after the reduction, the individual is working less than 30 hours per week; or

"(vi) fails to comply with section 20.

"(B) HOUSEHOLD INELIGIBILITY.—If an individual who is the head of a household becomes ineligible to participate in the food stamp program under subparagraph (A), the household shall, at the option of the State agency, become ineligible to participate in the food stamp program for a period, determined by the State agency, that does not exceed the lesser of—

"(i) the duration of the ineligibility of the individual determined under subparagraph (C); or

"(ii) 180 days.

"(C) DURATION OF INELIGIBILITY.—

"(i) FIRST VIOLATION.—The first time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 1 month after the date the individual became ineligible; or

"(III) a date determined by the State agency that is not later than 3 months after the date the individual became ineligible.

"(ii) SECOND VIOLATION.—The second time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 3 months after the date the individual became ineligible; or

"(III) a date determined by the State agency that is not later than 6 months after the date the individual became ineligible.

"(iii) THIRD OR SUBSEQUENT VIOLATION.—The third or subsequent time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 6 months after the date the individual became ineligible;

"(III) a date determined by the State agency; or

"(IV) at the option of the State agency, permanently.

"(D) ADMINISTRATION.—

"(i) GOOD CAUSE.—The Secretary shall determine the meaning of good cause for the purpose of this paragraph.

"(ii) VOLUNTARY QUIT.—The Secretary shall determine the meaning of voluntarily quitting and reducing work effort for the purpose of this paragraph.

"(iii) DETERMINATION BY STATE AGENCY.—

"(I) IN GENERAL.—Subject to subclause (II) and clauses (i) and (ii), a State agency shall determine—

"(aa) the meaning of any term in subparagraph (A);

"(bb) the procedures for determining whether an individual is in compliance with a requirement under subparagraph (A); and

"(cc) whether an individual is in compliance with a requirement under subparagraph (A).

"(II) NOT LESS RESTRICTIVE.—A State agency may not determine a meaning, procedure, or determination under subclause (I) to be less restrictive than a comparable meaning, procedure, or determination under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

"(iv) STRIKE AGAINST THE GOVERNMENT.—For the purpose of subparagraph (A)(v), an employee of the Federal Government, a State, or a political subdivision of a State, who is dismissed for participating in a strike against the Federal Government, the State, or the political subdivision of the State shall be considered to have voluntarily quit without good cause.

"(v) SELECTING A HEAD OF HOUSEHOLD.—

"(I) IN GENERAL.—For the purpose of this paragraph, the State agency shall allow the household to select any adult parent of a child in the household as the head of the household if all adult household members making application under the food stamp program agree to the selection.

"(II) TIME FOR MAKING DESIGNATION.—A household may designate the head of the household under subclause (I) each time the household is certified for participation in the food stamp program, but may not change the designation during a certification period unless there is a change in the composition of the household.

"(vi) CHANGE IN HEAD OF HOUSEHOLD.—If the head of a household leaves the household during a period in which the household is ineligible to participate in the food stamp program under subparagraph (B)—

"(I) the household shall, if otherwise eligible, become eligible to participate in the food stamp program; and

"(II) if the head of the household becomes the head of another household, the household that becomes headed by the individual shall become ineligible to participate in the food stamp program for the remaining period of ineligibility.".

(b) CONFORMING AMENDMENT.—

(1) The second sentence of section 17(b)(2) of the Act (7 U.S.C. 2026(b)(2)) is amended by striking "6(d)(1)(i)" and inserting "6(d)(1)(A)(i)".

(2) Section 20 of the Act (7 U.S.C. 2029) is amended by striking subsection (f) and inserting the following:

"(f) DISQUALIFICATION.—An individual or a household may become ineligible under section 6(d)(1) to participate in the food stamp program for failing to comply with this section.".

SEC. 1026. CARETAKER EXEMPTION.

Section 6(d)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(2)) is amended by striking subparagraph (B) and inserting the following: "(B) a parent or other member of a household with responsibility for the care of (i) a dependent child under the age of 6 or any lower age designated by the State agency that is not under the age of 1, or (ii) an incapacitated person;".

SEC. 1027. EMPLOYMENT AND TRAINING.

(a) IN GENERAL.—Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)) is amended—

(1) in subparagraph (A)—

(A) by striking "Not later than April 1, 1987, each" and inserting "Each";

(B) by inserting "work," after "skills, training,"; and

(C) by adding at the end the following: "Each component of an employment and training program carried out under this paragraph shall be delivered through a statewide workforce development system, unless the component is not available locally through the statewide workforce development system.";

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking the colon at the end and inserting the following: ", except that the State agency shall retain the option to apply employment requirements prescribed under this subparagraph to a program applicant at the time of application:";

(B) in clause (i), by striking "with terms and conditions" and all that follows through "time of application"; and

(C) in clause (iv)—

(i) by striking subclauses (I) and (II); and

(ii) by redesignating subclauses (III) and (IV) as subclauses (I) and (II), respectively;

(3) in subparagraph (D)—

(A) in clause (i), by striking "to which the application" and all that follows through "30 days or less";

(B) in clause (ii), by striking "but with respect" and all that follows through "child care"; and

(C) in clause (iii), by striking ", on the basis of" and all that follows through "clause (ii)" and inserting "the exemption continues to be valid";

(4) in subparagraph (E), by striking the third sentence;

(5) in subparagraph (G)—

(A) by striking "(G)(i) The State" and inserting "(G) The State"; and

(B) by striking clause (ii);

(6) in subparagraph (H), by striking "(H)(i) The Secretary" and all that follows through "(ii) Federal funds" and inserting "(H) Federal funds";

(7) in subparagraph (I)(i)(II), by striking ", or was in operation," and all that follows through "Social Security Act" and inserting the following: "), except that no such payment or reimbursement shall exceed the applicable local market rate";

(8)(A) by striking subparagraphs (K) and (L) and inserting the following:

"(K) LIMITATION ON FUNDING.—Notwithstanding any other provision of this paragraph, the amount of funds a State agency uses to carry out this paragraph (including under subparagraph (I)) for participants who are receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall not exceed the amount of funds the State agency used in fiscal year 1995 to carry out this paragraph for participants who were receiving benefits in fiscal year 1995 under a State program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.)."; and

(B) by redesignating subparagraphs (M) and (N) as subparagraphs (L) and (M), respectively; and

(9) in subparagraph (L), as redesignated by paragraph (8)(B)—

(A) by striking "(L)(i) The Secretary" and inserting "(L) The Secretary"; and

(B) by striking clause (ii).

(b) FUNDING.—Section 16(h) of the Act (7 U.S.C. 2025(h)) is amended by striking "(h)(1)(A) The Secretary" and all that follows through the end of paragraph (1) and inserting the following:

"(h) FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.—

"(1) IN GENERAL.—

"(A) AMOUNTS.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies from funds made available for each fiscal year under section 18(a)(1) the amount of—

"(i) for fiscal year 1996, $77,000,000;

"(ii) for fiscal year 1997, $79,000,000;

"(iii) for fiscal year 1998, $81,000,000;

"(iv) for fiscal year 1999, $84,000,000;

"(v) for fiscal year 2000, $86,000,000;

"(vi) for fiscal year 2001, $88,000,000; and

"(vii) for fiscal year 2002, $90,000,000.

"(B) ALLOCATION.—The Secretary shall allocate the amounts reserved under subparagraph (A) among the State agencies using a reasonable formula (as determined by the Secretary) that gives consideration to the population in each State affected by section 6(o).

"(C) REALLOCATION.—

"(i) NOTIFICATION.—A State agency shall promptly notify the Secretary if the State agency determines that the State agency will not expend all of the funds allocated to the State agency under subparagraph (B).

"(ii) REALLOCATION.—On notification under clause (i), the Secretary shall reallocate the funds that the State agency will not expend as the Secretary considers appropriate and equitable.

"(D) MINIMUM ALLOCATION.—Notwithstanding subparagraphs (A) through (C), the Secretary shall ensure that each State agency operating an employment and training program shall receive not less than $50,000 in each fiscal year.".

(c) ADDITIONAL MATCHING FUNDS.—Section 16(h)(2) of the Act (7 U.S.C. 2025(h)(2)) is amended by inserting before the period at the end the following: ", including the costs for case management and casework to facilitate the transition from economic dependency to self-sufficiency through work".

(d) REPORTS.—Section 16(h) of the Act (7 U.S.C. 2025(h)) is amended—

(1) in paragraph (5)—

(A) by striking "(5)(A) The Secretary" and inserting "(5) The Secretary"; and

(B) by striking subparagraph (B); and

(2) by striking paragraph (6).

SEC. 1028. COMPARABLE TREATMENT FOR DISQUALIFICATION.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended—

(1) by redesignating subsection (i), as added by section 107, as subsection (p); and

(2) by inserting after subsection (h) the following:

"(i) COMPARABLE TREATMENT FOR DISQUALIFICATION.—

"(1) IN GENERAL.—If a disqualification is imposed on a member of a household for a failure of the member to perform an action required under a Federal, State, or local law relating to a means-tested public assistance program, the State agency may impose the same disqualification on the member of the household under the food stamp program.

"(2) RULES AND PROCEDURES.—If a disqualification is imposed under paragraph (1) for a failure of an individual to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to impose the same disqualification under the food stamp program.

"(3) APPLICATION AFTER DISQUALIFICATION PERIOD.—A member of a household disqualified under paragraph (1) may, after the disqualification period has expired, apply for benefits under this Act and shall be treated as a new applicant, except that a prior disqualification under subsection (d) shall be considered in determining eligibility.".

(b) STATE PLAN PROVISIONS.—Section 11(e) of the Act (7 U.S.C. 2020(e)) is amended—

(1) in paragraph (24), by striking "and" at the end;

(2) in paragraph (25), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(26) the guidelines the State agency uses in carrying out section 6(i); and".

(c) CONFORMING AMENDMENT.—Section 6(d)(2)(A) of the Act (7 U.S.C. 2015(d)(2)(A)) is amended by striking "that is comparable to a requirement of paragraph (1)".

SEC. 1029. DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 1028, is further amended by inserting after subsection (i) the following:

"(j) DISQUALIFICATION FOR RECEIPT OF MULTIPLE FOOD STAMP BENEFITS.—An individual shall be ineligible to participate in the food stamp program as a member of any household for a 10-year period if the individual is found by a State agency to have made, or is convicted in a Federal or State court of having made, a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple benefits simultaneously under the food stamp program.".

SEC. 1030. DISQUALIFICATION OF FLEEING FELONS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 1029, is further amended by inserting after subsection (j) the following:

"(k) DISQUALIFICATION OF FLEEING FELONS.—No member of a household who is otherwise eligible to participate in the food stamp program shall be eligible to participate in the program as a member of that or any other household during any period during which the individual is—

"(1) fleeing to avoid prosecution, or custody or confinement after conviction, under the law of the place from which the individual is fleeing, for a crime, or attempt to commit a crime, that is a felony under the law of the place from which the individual is fleeing or that, in the case of New Jersey, is a high misdemeanor under the law of New Jersey; or

"(2) violating a condition of probation or parole imposed under a Federal or State law.".

SEC. 1031. COOPERATION WITH CHILD SUPPORT AGENCIES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 1030, is further amended by inserting after subsection (k) the following:

"(l) CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—

"(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as 'the individual') who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

"(A) in establishing the paternity of the child (if the child is born out of wedlock); and

"(B) in obtaining support for—

"(i) the child; or

"(ii) the individual and the child.

"(2) GOOD CAUSE FOR NONCOOPERATION.—Paragraph (1) shall not apply to the individual if good cause is found for refusing to cooperate, as determined by the State agency in accordance with standards prescribed by the Secretary in consultation with the Secretary of Health and Human Services. The standards shall take into consideration circumstances under which cooperation may be against the best interests of the child.

"(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services

provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

"(m) NON-CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—

"(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), a putative or identified non-custodial parent of a child under the age of 18 (referred to in this subsection as 'the individual') shall not be eligible to participate in the food stamp program if the individual refuses to cooperate with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

"(A) in establishing the paternity of the child (if the child is born out of wedlock); and

"(B) in providing support for the child.

"(2) REFUSAL TO COOPERATE.—

"(A) GUIDELINES.—The Secretary, in consultation with the Secretary of Health and Human Services, shall develop guidelines on what constitutes a refusal to cooperate under paragraph (1).

"(B) PROCEDURES.—The State agency shall develop procedures, using guidelines developed under subparagraph (A), for determining whether an individual is refusing to cooperate under paragraph (1).

"(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

"(4) PRIVACY.—The State agency shall provide safeguards to restrict the use of information collected by a State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to purposes for which the information is collected.".

SEC. 1032. DISQUALIFICATION RELATING TO CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 1031, is further amended by inserting after subsection (m) the following:

"(n) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

"(1) IN GENERAL.—No individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) a court is allowing the individual to delay payment; or

"(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.".

SEC. 1033. WORK REQUIREMENT.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 1032, is further amended by inserting after subsection (n) the following:

"(o) WORK REQUIREMENT.—

"(1) DEFINITION OF WORK PROGRAM.—In this subsection, the term 'work program' means—

"(A) a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

"(B) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

"(C) a program of employment or training operated or supervised by a State or political subdivision of a State that meets standards approved by the Governor of the State, including a program under section 6(d)(4), other than a job search program or a job search training program.

"(2) WORK REQUIREMENT.—Subject to the other provisions of this subsection, no individual shall be eligible to participate in the food stamp program as a member of any household if, during the preceding 12-month period, the individual received food stamp benefits for not less than 4 months during which the individual did not—

"(A) work 20 hours or more per week, averaged monthly; or

"(B) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency; or

"(C) participate in a program under section 20 or a comparable program established by a State or political subdivision of a State.

"(3) EXCEPTION.—Paragraph (2) shall not apply to an individual if the individual is—

"(A) under 18 or over 50 years of age;

"(B) medically certified as physically or mentally unfit for employment;

"(C) a parent or other member of a household with responsibility for a dependent child;

"(D) otherwise exempt under section 6(d)(2); or

"(E) a pregnant woman.

"(4) WAIVER.—

"(A) IN GENERAL.—On the request of a State agency, the Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

"(i) has an unemployment rate of over 10 percent; or

"(ii) does not have a sufficient number of jobs to provide employment for the individuals.

"(B) REPORT.—The Secretary shall report the basis for a waiver under subparagraph (A) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(5) SUBSEQUENT ELIGIBILITY.—

"(A) IN GENERAL.—Paragraph (2) shall cease to apply to an individual if, during a 30-day period, the individual—

"(i) works 80 or more hours;

"(ii) participates in and complies with the requirements of a work program for 80 or more hours, as determined by a State agency; or

"(iii) participates in a program under section 20 or a comparable program established by a State or political subdivision of a State.

"(B) LIMITATION.—During the subsequent 12-month period, the individual shall be eligible to participate in the food stamp program for not more than 4 months during which the individual does not—

"(i) work 20 hours or more per week, averaged monthly;

"(ii) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency; or

"(iii) participate in a program under section 20 or a comparable program established by a State or political subdivision of a State.".

(b) TRANSITION PROVISION.—Prior to 1 year after the date of enactment of this Act, the term "preceding 12-month period" in section 6(o) of the Food Stamp Act of 1977, as amended by subsection (a), means the preceding period that begins on the date of enactment of this Act.

SEC. 1034. ENCOURAGE ELECTRONIC BENEFIT TRANSFER SYSTEMS.

(a) IN GENERAL.—Section 7(i) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) ELECTRONIC BENEFIT TRANSFERS.—

"(A) IMPLEMENTATION.—Each State agency shall implement an electronic benefit transfer system in which household benefits determined under section 8(a) or 24 are issued from and stored in a central databank before October 1, 2002, unless the Secretary provides a waiver for a State agency that faces unusual barriers to implementing an electronic benefit transfer system.

"(B) TIMELY IMPLEMENTATION.—State agencies are encouraged to implement an electronic benefit transfer system under subparagraph (A) as soon as practicable.

"(C) STATE FLEXIBILITY.—Subject to paragraph (2), a State agency may procure and implement an electronic benefit transfer system under the terms, conditions, and design that the State agency considers appropriate.

"(D) OPERATION.—An electronic benefit transfer system should take into account generally accepted standard operating rules based on—

"(i) commercial electronic funds transfer technology;

"(ii) the need to permit interstate operation and law enforcement monitoring; and

"(iii) the need to permit monitoring and investigations by authorized law enforcement agencies.";

(2) in paragraph (2)—

(A) by striking "effective no later than April 1, 1992,";

(B) in subparagraph (A)—

(i) by striking ", in any 1 year,"; and

(ii) by striking "on-line";

(C) by striking subparagraph (D) and inserting the following:

"(D)(i) measures to maximize the security of a system using the most recent technology available that the State agency considers appropriate and cost effective and which may include personal identification numbers, photographic identification on electronic benefit transfer cards, and other measures to protect against fraud and abuse; and

"(ii) effective not later than 2 years after the effective date of this clause, to the extent practicable, measures that permit a system to differentiate items of food that may be acquired with an allotment from items of food that may not be acquired with an allotment.";

(D) in subparagraph (G), by striking "and" at the end;

(E) in subparagraph (H), by striking the period at the end and inserting "; and"; and

(F) by adding at the end the following:

"(I) procurement standards."; and

(3) by adding at the end the following:

"(7) REPLACEMENT OF BENEFITS.—Regulations issued by the Secretary regarding the replacement of benefits and liability for replacement of benefits under an electronic benefit transfer system shall be similar to the regulations in effect for a paper food stamp issuance system.

"(8) REPLACEMENT CARD FEE.—A State agency may collect a charge for replacement of an electronic benefit transfer card by reducing the monthly allotment of the household receiving the replacement card.

"(9) OPTIONAL PHOTOGRAPHIC IDENTIFICATION.—

"(A) IN GENERAL.—A State agency may require that an electronic benefit card contain a photograph of 1 or more members of a household.

"(B) OTHER AUTHORIZED USERS.—If a State agency requires a photograph on an electronic benefit card under subparagraph (A), the State agency shall establish procedures to ensure that any other appropriate member of the household or any authorized representative of the household may utilize the card.".

(b) SENSE OF CONGRESS.—It is the sense of Congress that a State that operates an electronic benefit transfer system under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) should operate the system in a manner that is compatible with electronic benefit transfer systems operated by other States.

SEC. 1035. VALUE OF MINIMUM ALLOTMENT.

The proviso in section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by striking ", and shall be adjusted" and all that follows through "$5".

SEC. 1036. BENEFITS ON RECERTIFICATION.

Section 8(c)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)(2)(B)) is amended by striking "of more than one month".

SEC. 1037. OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.

Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by striking paragraph (3) and inserting the following:

"(3) OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.—A State agency may provide to an eligible household applying after the 15th day of a month, in lieu of the initial allotment of the household and the regular allotment of the household for the following month, an allotment that is equal to the total amount of the initial allotment and the first regular allotment. The allotment shall be provided in accordance with section 11(e)(3) in the case of a household that is not entitled to expedited service and in accordance with paragraphs (3) and (9) of section 11(e) in the case of a household that is entitled to expedited service.".

SEC. 1038. FAILURE TO COMPLY WITH OTHER MEANS-TESTED PUBLIC ASSISTANCE PROGRAMS.

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by striking subsection (d) and inserting the following:

"(d) REDUCTION OF PUBLIC ASSISTANCE BENEFITS.—

"(1) IN GENERAL.—If the benefits of a household are reduced under a Federal, State, or local law relating to a means-tested public assistance program for the failure of a member of the household to perform an action required under the law or program, for the duration of the reduction—

"(A) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of the reduction; and

"(B) the State agency may reduce the allotment of the household by not more than 25 percent.

"(2) RULES AND PROCEDURES.—If the allotment of a household is reduced under this subsection for a failure to perform an action required under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the State agency may use the rules and procedures that apply under part A of title IV of the Act to reduce the allotment under the food stamp program.".

SEC. 1039. ALLOTMENTS FOR HOUSEHOLDS RESIDING IN CENTERS.

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by adding at the end the following:

"(f) ALLOTMENTS FOR HOUSEHOLDS RESIDING IN CENTERS.—

"(1) IN GENERAL.—In the case of an individual who resides in a center for the purpose of a drug or alcoholic treatment program described in the last sentence of section 3(i), a State agency may provide an allotment for the individual to—

"(A) the center as an authorized representative of the individual for a period that is less than 1 month; and

"(B) the individual, if the individual leaves the center.

"(2) DIRECT PAYMENT.—A State agency may require an individual referred to in paragraph (1) to designate the center in which the individual resides as the authorized representative of the individual for the purpose of receiving an allotment.".

SEC. 1040. CONDITION PRECEDENT FOR APPROVAL OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(1)) is amended by adding at the end the following: "No retail food store or wholesale food concern of a type determined by the Secretary, based on factors that include size, location, and type of items sold, shall be approved to be authorized or reauthorized for participation in the food stamp program unless an authorized employee of the Department of Agriculture, a designee of the Secretary, or, if practicable, an official of the State or local government designated by the Secretary has visited the store or concern for the purpose of determining whether the store or concern should be approved or reauthorized, as appropriate.".

SEC. 1041. AUTHORITY TO ESTABLISH AUTHORIZATION PERIODS.

Section 9(a) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)) is amended by adding at the end the following:

"(3) AUTHORIZATION PERIODS.—The Secretary shall establish specific time periods during which authorization to accept and redeem coupons, or to redeem benefits through an electronic benefit transfer system, shall be valid under the food stamp program.".

SEC. 1042. INFORMATION FOR VERIFYING ELIGIBILITY FOR AUTHORIZATION.

Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended—

(1) in the first sentence, by inserting ", which may include relevant income and sales tax filing documents," after "submit information"; and

(2) by inserting after the first sentence the following: "The regulations may require retail food stores and wholesale food concerns to provide written authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating documentation from other sources so that the accuracy of information provided by the stores and concerns may be verified.".

SEC. 1043. WAITING PERIOD FOR STORES THAT FAIL TO MEET AUTHORIZATION CRITERIA.

Section 9(d) of the Food Stamp Act of 1977 (7 U.S.C. 2018(d)) is amended by adding at the end the following: "A retail food store or wholesale food concern that is denied approval to accept and redeem coupons because the store or concern does not meet criteria for approval established by the Secretary may not, for at least 6 months, submit a new application to participate in the program. The Secretary may establish a longer time period under the preceding sentence, including permanent disqualification, that reflects the severity of the basis of the denial.".

SEC. 1044. OPERATION OF FOOD STAMP OFFICES.

Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020), as amended by section 1020(b), is further amended—

(1) in subsection (e)—

(A) by striking paragraph (2) and inserting the following:

"(2)(A) that the State agency shall establish procedures governing the operation of food stamp offices that the State agency determines best serve households in the State, including households with special needs, such as households with elderly or disabled members, households in rural areas with low-income members, homeless individuals, households residing on reservations, and households in areas in which a substantial number of members of low-income households speak a language other than English.

"(B) In carrying out subparagraph (A), a State agency—

"(i) shall provide timely, accurate, and fair service to applicants for, and participants in, the food stamp program;

"(ii) shall develop an application containing the information necessary to comply with this Act;

"(iii) shall permit an applicant household to apply to participate in the program on the same day that the household first contacts a food stamp office in person during office hours;

"(iv) shall consider an application that contains the name, address, and signature of the applicant to be filed on the date the applicant submits the application;

"(v) shall require that an adult representative of each applicant household certify in writing, under penalty of perjury, that—

"(I) the information contained in the application is true; and

"(II) all members of the household are citizens or are aliens eligible to receive food stamps under section 6(f);

"(vi) shall provide a method of certifying and issuing coupons to eligible homeless individuals, to ensure that participation in the food stamp program is limited to eligible households; and

"(vii) may establish operating procedures that vary for local food stamp offices to reflect regional and local differences within the State.

"(C) Nothing in this Act shall prohibit the use of signatures provided and maintained electronically, storage of records using automated retrieval systems only, or any other feature of a State agency's application system that does not rely exclusively on the collection and retention of paper applications or other records.

"(D) The signature of any adult under this paragraph shall be considered sufficient to comply with any provision of Federal law requiring a household member to sign an application or statement.";

(B) in paragraph (3)—

(i) by striking "shall—" and all that follows through "provide each" and inserting "shall provide each"; and

(ii) by striking "(B) assist" and all that follows through "representative of the State agency;";

(C) by striking paragraphs (14) and (25);

(D)(i) by redesignating paragraphs (15) through (24) as paragraphs (14) through (23), respectively; and

(ii) by redesignating paragraph (26) as paragraph (24); and

(2) in subsection (i)—

(A) by striking "(i) Notwithstanding" and all that follows through "(2)" and inserting the following:

"(i) APPLICATION AND DENIAL PROCEDURES.—

"(1) APPLICATION PROCEDURES.—Notwithstanding any other provision of law,"; and

(B) by striking "; (3) households" and all that follows through "title IV of the Social Security Act. No" and inserting a period and the following:

"(2) DENIAL AND TERMINATION.—Other than in a case of disqualification as a penalty for failure to comply with a public assistance program rule or regulation, no".

SEC. 1045. STATE EMPLOYEE AND TRAINING STANDARDS.

Section 11(e)(6) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(6)) is amended—

(1) by striking "that (A) the" and inserting "that—

"(A) the";

(2) by striking "Act; (B) the" and inserting "Act; and

"(B) the";

(3) in subparagraph (B), by striking "United States Civil Service Commission" and inserting "Office of Personnel Management"; and

(4) by striking subparagraphs (C) through (E).

SEC. 1046. EXCHANGE OF LAW ENFORCEMENT INFORMATION.

Section 11(e)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)) is amended—

(1) by striking "that (A) such" and inserting the following: "that—

"(A) the";

(2) by striking "law, (B) notwithstanding" and inserting the following: "law;

"(B) notwithstanding";

(3) by striking "Act, and (C) such" and inserting the following: "Act;

"(C) the"; and

(4) by adding at the end the following:

"(D) notwithstanding any other provision of law, the address, social security number, and, if available, photograph of any member of a household shall be made available, on request, to any Federal, State, or local law enforcement officer if the officer furnishes the State agency with the name of the member and notifies the agency that—

"(i) the member—

"(I) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime (or attempt to commit a crime) that, under the law of the place the member is fleeing, is a felony (or, in the case of New Jersey, a high misdemeanor), or is violating a condition of probation or parole imposed under Federal or State law; or

"(II) has information that is necessary for the officer to conduct an official duty related to subclause (I);

"(ii) locating or apprehending the member is an official duty; and

"(iii) the request is being made in the proper exercise of an official duty; and

"(E) the safeguards shall not prevent compliance with paragraph (16);".

SEC. 1047. EXPEDITED COUPON SERVICE.

Section 11(e)(9) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(9)) is amended—

(1) in subparagraph (A)—

(A) by striking "five days" and inserting "7 days"; and

(B) by inserting "and" at the end;

(2) by striking subparagraphs (B) and (C);

(3) by redesignating subparagraph (D) as subparagraph (B); and

(4) in subparagraph (B), as redesignated by paragraph (3), by striking ", (B), or (C)".

SEC. 1048. WITHDRAWING FAIR HEARING REQUESTS.

Section 11(e)(10) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(10)) is amended by inserting before the semicolon at the end a period and the following: "At the option of a State, at any time prior to a fair hearing determination under this paragraph, a household may withdraw, orally or in writing, a request by the household for the fair hearing. If the withdrawal request is an oral request, the State agency shall provide a written notice to the household confirming the withdrawal request and providing the household with an opportunity to request a hearing".

SEC. 1049. INCOME, ELIGIBILITY, AND IMMIGRATION STATUS VERIFICATION SYSTEMS.

Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended—

(1) in subsection (e)(18), as redesignated by section 1044(1)(D)—

(A) by striking "that information is" and inserting "at the option of the State agency, that information may be"; and

(B) by striking "shall be requested" and inserting "may be requested"; and

(2) by adding at the end the following:

"(p) STATE VERIFICATION OPTION.—Notwithstanding any other provision of law, in carrying out the food stamp program, a State agency shall not be required to use an income and eligibility or an immigration status verification system established under section 1137 of the Social Security Act (42 U.S.C. 1320b–7).".

SEC. 1050. DISQUALIFICATION OF RETAILERS WHO INTENTIONALLY SUBMIT FALSIFIED APPLICATIONS.

Section 12(b) of the Food Stamp Act of 1977 (7 U.S.C. 2021(b)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) for a reasonable period of time to be determined by the Secretary, including permanent disqualification, on the knowing submission of an application for the approval or reauthorization to accept and redeem coupons that contains false information about a substantive matter that was a part of the application.".

SEC. 1051. DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021) is amended by adding at the end the following:

"(g) DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.—

"(1) IN GENERAL.—The Secretary shall issue regulations providing criteria for the disqualification under this Act of an approved retail food store and a wholesale food concern that is disqualified from accepting benefits under the special supplemental nutrition program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (7 U.S.C. 1786).

"(2) TERMS.—A disqualification under paragraph (1)—

"(A) shall be for the same length of time as the disqualification from the program referred to in paragraph (1);

"(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and

"(C) notwithstanding section 14, shall not be subject to judicial or administrative review.".

SEC. 1052. COLLECTION OF OVERISSUANCES.

(a) COLLECTION OF OVERISSUANCES.—Section 13 of the Food Stamp Act of 1977 (7 U.S.C. 2022) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) COLLECTION OF OVERISSUANCES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, a State agency shall collect any overissuance of coupons issued to a household by—

"(A) reducing the allotment of the household;

"(B) withholding amounts from unemployment compensation from a member of the household under subsection (c);

"(C) recovering from Federal pay or a Federal income tax refund under subsection (d); or

"(D) any other means.

"(2) COST EFFECTIVENESS.—Paragraph (1) shall not apply if the State agency demonstrates to the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective.

"(3) MAXIMUM REDUCTION ABSENT FRAUD.—If a household received an overissuance of coupons without any member of the household being found ineligible to participate in the program under section 6(b)(1) and a State agency elects to reduce the allotment of the household under paragraph (1)(A), the State agency shall not reduce the monthly allotment of the household under paragraph (1)(A) by an amount in excess of the greater of—

"(A) 10 percent of the monthly allotment of the household; or

"(B) $10.

"(4) PROCEDURES.—A State agency shall collect an overissuance of coupons issued to a household under paragraph (1) in accordance with the requirements established by the State agency for providing notice, electing a means of payment, and establishing a time schedule for payment."; and

(2) in subsection (d)—

(A) by striking "as determined under subsection (b) and except for claims arising from an error of the State agency," and inserting ", as determined under subsection (b)(1),"; and

(B) by inserting before the period at the end the following: "or a Federal income tax refund as authorized by section 3720A of title 31, United States Code".

(b) CONFORMING AMENDMENTS.—Section 11(e)(8) of the Act (7 U.S.C. 2020(e)(8)) is amended—

(1) by striking "and excluding claims" and all that follows through "such section"; and

(2) by inserting before the semicolon at the end the following: "or a Federal income tax refund as authorized by section 3720A of title 31, United States Code".

(c) RETENTION RATE.—Section 16(a) of the Act (7 U.S.C. 2025(a)) is amended by striking "25 percent during the period beginning October 1, 1990" and all that follows through "error of a State agency" and inserting the following: "25 percent of the overissuances collected by the State agency under section 13, except those overissuances arising from an error of the State agency".

SEC. 1053. AUTHORITY TO SUSPEND STORES VIOLATING PROGRAM REQUIREMENTS PENDING ADMINISTRATIVE AND JUDICIAL REVIEW.

Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended—

(1) by redesignating the first through seventeenth sentences as paragraphs (1) through (17), respectively; and

(2) by adding at the end the following:

"(18) SUSPENSION OF STORES PENDING REVIEW.—Notwithstanding any other provision of this subsection, any permanent disqualification of a retail food store or wholesale food concern under paragraph (3) or (4) of section 12(b) shall be effective from the date of receipt of the notice of disqualification. If the disqualification is reversed through administrative or judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period.".

SEC. 1054. EXPANDED CRIMINAL FORFEITURE FOR VIOLATIONS.

(a) FORFEITURE OF ITEMS EXCHANGED IN FOOD STAMP TRAFFICKING.—The first sentence of section 15(g) of the Food Stamp Act of 1977 (7 U.S.C. 2024(g)) is amended by striking "or intended to be furnished".

(b) CRIMINAL FORFEITURE.—Section 15 of the Act (7 U.S.C. 2024) is amended by adding at the end the following:

"(h) CRIMINAL FORFEITURE.—

"(1) IN GENERAL.—In imposing a sentence on a person convicted of an offense in violation of subsection (b) or (c), a court shall order, in addition to any other sentence imposed under this subsection, that the person forfeit to the United States all property described in paragraph (2).

"(2) PROPERTY SUBJECT TO FORFEITURE.—All property, real and personal, used in a transaction or attempted transaction, to commit, or to facilitate the commission of, a violation (other than a misdemeanor) of subsection (b) or (c), or proceeds traceable to a violation of subsection (b) or (c), shall be subject to forfeiture to the United States under paragraph (1).

"(3) INTEREST OF OWNER.—No interest in property shall be forfeited under this subsection as the result of any act or omission established by the owner of the interest to have been committed or omitted without the knowledge or consent of the owner.

"(4) PROCEEDS.—The proceeds from any sale of forfeited property and any monies forfeited under this subsection shall be used—

"(A) first, to reimburse the Department of Justice for the costs incurred by the Department to initiate and complete the forfeiture proceeding;

"(B) second, to reimburse the Department of Agriculture Office of Inspector General for any costs the Office incurred in the law enforcement effort resulting in the forfeiture;

"(C) third, to reimburse any Federal or State law enforcement agency for any costs incurred in the law enforcement effort resulting in the forfeiture; and

"(D) fourth, by the Secretary to carry out the approval, reauthorization, and compliance investigations of retail stores and wholesale food concerns under section 9.".

SEC. 1055. LIMITATION OF FEDERAL MATCH.

Section 16(a)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)(4)) is amended by inserting after the comma at the end the following: "but not including recruitment activities,".

SEC. 1056. STANDARDS FOR ADMINISTRATION.

(a) IN GENERAL.—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by striking subsection (b).

(b) CONFORMING AMENDMENTS.—

(1) The first sentence of section 11(g) of the Act (7 U.S.C. 2020(g)) is amended by striking "the Secretary's standards for the efficient and effective administration of the program established under section 16(b)(1) or".

(2) Section 16(c)(1)(B) of the Act (7 U.S.C. 2025(c)(1)(B)) is amended by striking "pursuant to subsection (b)".

SEC. 1057. WORK SUPPLEMENTATION OR SUPPORT PROGRAM.

Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025), as amended by section 1056(a), is further amended by inserting after subsection (a) the following:

"(b) WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—

"(1) DEFINITION OF WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—In this subsection, the term 'work supplementation or support program' means a program under which, as determined by the Secretary, public assistance (including any benefits provided under a program established by the State and the food stamp program) is provided to an employer to be used for hiring and employing a public assistance recipient who was not employed by the employer at the time the public assistance recipient entered the program.

"(2) PROGRAM.—A State agency may elect to use an amount equal to the allotment that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, for the purpose of subsidizing or supporting a job under a work supplementation or support program established by the State.

"(3) PROCEDURE.—If a State agency makes an election under paragraph (2) and identifies each household that participates in the food stamp program that contains an individual who is participating in the work supplementation or support program—

"(A) the Secretary shall pay to the State agency an amount equal to the value of the allotment that the household would be eligible to receive but for the operation of this subsection;

"(B) the State agency shall expend the amount received under subparagraph (A) in accordance with the work supplementation or support program in lieu of providing the allotment that the household would receive but for the operation of this subsection;

"(C) for purposes of—

"(i) sections 5 and 8(a), the amount received under this subsection shall be excluded from household income and resources; and

"(ii) section 8(b), the amount received under this subsection shall be considered to be the value of an allotment provided to the household; and

"(D) the household shall not receive an allotment from the State agency for the period during which the member continues to participate in the work supplementation or support program.

"(4) OTHER WORK REQUIREMENTS.—No individual shall be excused, by reason of the fact that a State has a work supplementation or support program, from any work requirement under section 6(d), except during the periods in which the individual is employed under the work supplementation or support program.

"(5) LENGTH OF PARTICIPATION.—A State agency shall provide a description of how the public assistance recipients in the program shall, within a specific period of time, be moved from supplemented or supported employment to employment that is not supplemented or supported.

"(6) DISPLACEMENT.—A work supplementation or support program shall not displace the employment of individuals who are not supplemented or supported.".

SEC. 1058. WAIVER AUTHORITY.

Section 17(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) in subparagraph (A)—

(A) by striking the second sentence; and

(B) by striking "benefits to eligible households, including" and inserting the following: "benefits to eligible households, and may waive any requirement of this Act to the extent necessary for the project to be conducted.

"(B) PROJECT REQUIREMENTS.—

"(i) PROGRAM GOAL.—The Secretary may not conduct a project under subparagraph (A) unless the project is consistent with the goal of the food stamp program of providing food assistance to raise levels of nutrition among low-income individuals.

"(ii) PERMISSIBLE PROJECTS.—The Secretary may conduct a project under subparagraph (A) to—

"(I) improve program administration;

"(II) increase the self-sufficiency of food stamp recipients;

"(III) test innovative welfare reform strategies; and

"(IV) allow greater conformity with the rules of other programs than would be allowed but for this paragraph.

"(iii) IMPERMISSIBLE PROJECTS.—The Secretary may not conduct a project under subparagraph (A) that—

"(I) involves the payment of the value of an allotment in the form of cash, unless the project was approved prior to the date of enactment of this subparagraph;

"(II) substantially transfers funds made available under this Act to services or benefits provided primarily through another public assistance program; or

"(III) is not limited to a specific time period.

"(iv) ADDITIONAL INCLUDED PROJECTS.—Pilot or experimental projects may include".

SEC. 1059. AUTHORIZATION OF PILOT PROJECTS.

Section 17(b)(1)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(B)), as amended by section 1058, is further amended—

(1) in clause (iv), by striking "coupons. Any pilot" and inserting the following: "coupons.

"(v) CASH PAYMENT PILOT PROJECTS.—Any pilot"; and

(2) in clause (v), as so amended, by striking "1995" and inserting "2002".

SEC. 1060. RESPONSE TO WAIVERS.

Section 17(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)), as amended by section 1058, is further amended by adding at the end the following:

"(D) RESPONSE TO WAIVERS.—

"(i) RESPONSE.—Not later than 60 days after the date of receiving a request for a waiver under subparagraph (A), the Secretary shall provide a response that—

"(I) approves the waiver request;

"(II) denies the waiver request and explains any modification needed for approval of the waiver request;

"(III) denies the waiver request and explains the grounds for the denial; or

"(IV) requests clarification of the waiver request.

"(ii) FAILURE TO RESPOND.—If the Secretary does not provide a response in accordance with clause (i), the waiver shall be considered approved, unless the approval is specifically prohibited by this Act.

"(iii) NOTICE OF DENIAL.—On denial of a waiver request under clause (i)(III), the Secretary shall provide a copy of the waiver request and a description of the reasons for the denial to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.".

SEC. 1061. EMPLOYMENT INITIATIVES PROGRAM.

Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by striking subsection (d) and inserting the following:

"(d) EMPLOYMENT INITIATIVES PROGRAM.—

"(1) ELECTION TO PARTICIPATE.—

"(A) IN GENERAL.—Subject to the other provisions of this subsection, a State may elect to carry out an employment initiatives program under this subsection.

"(B) REQUIREMENT.—A State shall be eligible to carry out an employment initiatives program under this subsection only if not less than 50 percent of the households that received food stamp benefits during the summer of 1993 also received benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) during the summer of 1993.

"(2) PROCEDURE.—

"(A) IN GENERAL.—A State that has elected to carry out an employment initiatives program under paragraph (1) may use amounts equal to the food stamp allotments that would otherwise be issued to a household under the food stamp program, but for the operation of this subsection, to provide cash benefits in lieu of the food stamp allotments to the household if the household is eligible under paragraph (3).

"(B) PAYMENT.—The Secretary shall pay to each State that has elected to carry out an employment initiatives program under paragraph (1) an amount equal to the value of the allotment that each household would be eligible to receive under this Act but for the operation of this subsection.

"(C) OTHER PROVISIONS.—For purposes of the food stamp program (other than this subsection)—

"(i) cash assistance under this subsection shall be considered to be an allotment; and

"(ii) each household receiving cash benefits under this subsection shall not receive any other food stamp benefit for the period for which the cash assistance is provided.

"(D) ADDITIONAL PAYMENTS.—Each State that has elected to carry out an employment initiatives program under paragraph (1) shall—

"(i) increase the cash benefits provided to each household under this subsection to compensate for any State or local sales tax that may be collected on purchases of food by any household receiving cash benefits under this subsection, unless the Secretary determines on the basis of information provided by the State that the increase is unnecessary on the basis of the limited nature of the items subject to the State or local sales tax; and

"(ii) pay the cost of any increase in cash benefits required by clause (i).

"(3) ELIGIBILITY.—A household shall be eligible to receive cash benefits under paragraph (2) if an adult member of the household—

"(A) has worked in unsubsidized employment for not less than the preceding 90 days;

"(B) has earned not less than $350 per month from the employment referred to in subparagraph (A) for not less than the preceding 90 days;

"(C)(i) is receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or ''(ii) was receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at the time the member first received cash benefits under this subsection and is no longer eligible for the State program because of earned income;

''(D) is continuing to earn not less than $350 per month from the employment referred to in subparagraph (A); and

''(E) elects to receive cash benefits in lieu of food stamp benefits under this subsection.

''(4) EVALUATION.—A State that operates a program under this subsection for 2 years shall provide to the Secretary a written evaluation of the impact of cash assistance under this subsection. The State agency, with the concurrence of the Secretary, shall determine the content of the evaluation.''.

SEC. 1062. ADJUSTABLE FOOD STAMP CAP.

Section 18 of the Food Stamp Act of 1977 (7 U.S.C. 2027) is amended—

(1) in subsection (a)(1)—

(A) in the first sentence, by striking ''1991 through 1995'' and inserting ''1996 through 2002''; and

(B) in the last sentence, by striking ''In each monthly report, the Secretary shall also state'' and inserting the following: ''The Secretary shall file a report each February 15, April 15, and July 15, stating''; and

(2) by striking subsection (b) and inserting the following:

''(b) LIMITATION ON FOOD STAMP ALLOTMENTS.—

''(1) OBLIGATIONS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, except as provided in subparagraphs (B) and (C), obligations to carry out this Act shall not exceed—

''(i) $25,443,000,000 for fiscal year 1996;

''(ii) $24,636,000,000 for fiscal year 1997;

''(iii) $25,319,000,000 for fiscal year 1998;

''(iv) $26,307,000,000 for fiscal year 1999;

''(v) $27,568,000,000 for fiscal year 2000;

''(vi) $28,602,000,000 for fiscal year 2001; and

''(vii) $29,804,000,000 for fiscal year 2002.

''(B) COST OF FOOD ADJUSTMENT.—On October 1 of each fiscal year, the Secretary shall adjust the limit on obligations under subparagraph (A) for the fiscal year to reflect any change in the cost of the program due to any increase or decrease in the cost of the thrifty food plan compared to the cost of the thrifty food plan for the same period projected by the Director of the Congressional Budget Office prior to the date of enactment of this subparagraph.

''(C) CASELOAD ADJUSTMENT.—On May 15 of each fiscal year, the Secretary shall adjust the limit on obligations under subparagraph (A) for the fiscal year to reflect any change in the cost of the program due to any increase or decrease in participation as estimated by comparing participation during the first 6 months of the fiscal year to participation for the same period projected by the Director of the Congressional Budget Office prior to the date of enactment of this subparagraph.

''(2) REDUCTION.—Notwithstanding any other provision of this Act, if the Secretary finds that for any fiscal year the requirements of participating States will exceed the amount of obligations specified in paragraph (1), the Secretary shall direct State agencies to reduce the value of allotments to be issued to households certified as eligible to participate in the food stamp program to the extent necessary to comply with paragraph (1).

''(3) REPORT.—The Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the methodology and assumptions under, effects of, and adjustments under, this subsection.''.

SEC. 1063. REAUTHORIZATION OF PUERTO RICO NUTRITION ASSISTANCE PROGRAM.

The first sentence of section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by striking ''$974,000,000'' and all that follows through ''fiscal year 1995'' and inserting ''$1,143,000,000 for each of fiscal years 1995 and 1996, $1,174,000,000 for fiscal year 1997, $1,204,000,000 for fiscal year 1998, $1,236,000,000 for fiscal year 1999, $1,268,000,000 for fiscal year 2000, $1,301,000,000 for fiscal year 2001, and $1,335,000,000 for fiscal year 2002''.

SEC. 1064. SIMPLIFIED FOOD STAMP PROGRAM.

(a) IN GENERAL.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

"SEC. 24. SIMPLIFIED FOOD STAMP PROGRAM.

''(a) DEFINITION OF FEDERAL COSTS.—In this section, the term 'Federal costs' does not include any Federal costs incurred under section 17.

''(b) ELECTION.—Subject to subsection (d), a State may elect to carry out a Simplified Food Stamp Program (referred to in this section as a 'Program'), statewide or in a political subdivision of the State, in accordance with this section.

''(c) OPERATION OF PROGRAM.—If a State elects to carry out a Program, within the State or a political subdivision of the State—

''(1) a household in which all members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall automatically be eligible to participate in the Program; and

''(2) subject to subsection (f), benefits under the Program shall be determined under rules and procedures established by the State under—

''(A) a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

''(B) the food stamp program (other than section 25); or

''(C) a combination of a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and the food stamp program (other than section 25).

''(d) APPROVAL OF PROGRAM.—

''(1) STATE PLAN.—A State agency may not operate a Program unless the Secretary approves a State plan for the operation of the Program under paragraph (2).

''(2) APPROVAL OF PLAN.—The Secretary shall approve any State plan to carry out a Program if the Secretary determines that the plan—

''(A) complies with this section; and

''(B) contains sufficient documentation that the plan will not increase Federal costs for any fiscal year.

''(e) INCREASED FEDERAL COSTS.—

''(1) DETERMINATION.—During each fiscal year and not later than 90 days after the end of each fiscal year, the Secretary shall determine whether a Program being carried out by a State agency is increasing Federal costs under this Act above the Federal costs incurred under the food stamp program in operation in the State or political subdivision of the State for the fiscal year prior to the implementation of the Program, adjusted for any changes in—

''(A) participation;

''(B) the income of participants in the food stamp program that is not attributable to public assistance; and

''(C) the thrifty food plan under section 3(o).

''(2) NOTIFICATION.—If the Secretary determines that the Program has increased Federal costs under this Act for any fiscal year or any portion of any fiscal year, the Secretary shall notify the State not later than 30 days after the Secretary makes the determination under paragraph (1).

''(3) ENFORCEMENT.—

''(A) CORRECTIVE ACTION.—Not later than 90 days after the date of a notification under paragraph (2), the State shall submit a plan for approval by the Secretary for prompt corrective action that is designed to prevent the Program from increasing Federal costs under this Act.

''(B) TERMINATION.—If the State does not submit a plan under subparagraph (A) or carry out a plan approved by the Secretary, the Secretary shall terminate the approval of the State agency operating the Program and the State agency shall be ineligible to operate a future Program.

''(f) RULES AND PROCEDURES.—

''(1) IN GENERAL.—In operating a Program, a State or political subdivision of a State may follow the rules and procedures established by the State or political subdivision under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under the food stamp program.

''(2) STANDARDIZED DEDUCTIONS.—In operating a Program, a State or political subdivision of a State may standardize the deductions provided under section 5(e). In developing the standardized deduction, the State shall consider the work expenses, dependent care costs, and shelter costs of participating households.

''(3) REQUIREMENTS.—In operating a Program, a State or political subdivision shall comply with the requirements of—

''(A) subsections (a) through (g) of section 7;

''(B) section 8(a) (except that the income of a household may be determined under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.));

''(C) subsection (b) and (d) of section 8;

''(D) subsections (a), (c), (d), and (n) of section 11;

''(E) paragraphs (8), (12), (16), (18), (20), (24), and (25) of section 11(e);

''(F) section 11(e)(10) (or a comparable requirement established by the State under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and

''(G) section 16.

''(4) LIMITATION ON ELIGIBILITY.—Notwithstanding any other provision of this section, a household may not receive benefits under this section as a result of the eligibility of the household under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.''.

(b) STATE PLAN PROVISIONS.—Section 11(e) of the Act (7 U.S.C. 2020(e)), as amended by sections 1028(b) and 1044, is further amended by adding at the end the following:

''(25) if a State elects to carry out a Simplified Food Stamp Program under section 24, the plans of the State agency for operating the program, including—

''(A) the rules and procedures to be followed by the State agency to determine food stamp benefits;

''(B) how the State agency will address the needs of households that experience high shelter costs in relation to the incomes of the households; and

''(C) a description of the method by which the State agency will carry out a quality control system under section 16(c).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 8 of the Act (7 U.S.C. 2017), as amended by section 1039, is further amended—

(A) by striking subsection (e); and

(B) by redesignating subsection (f) as subsection (e).

(2) Section 17 of the Act (7 U.S.C. 2026) is amended—

(A) by striking subsection (i); and

(B) by redesignating subsections (j) through (l) as subsections (i) through (k), respectively.

SEC. 1065. STATE FOOD ASSISTANCE BLOCK GRANT.

(a) IN GENERAL.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section

1064, is further amended by adding at the end the following:

"SEC. 25. STATE FOOD ASSISTANCE BLOCK GRANT.

"(a) DEFINITIONS.—In this section:

"(1) FOOD ASSISTANCE.—The term 'food assistance' means assistance that may be used only to obtain food, as defined in section 3(g).

"(2) STATE.—The term 'State' means each of the 50 States, the District of Columbia, Guam, and the Virgin Islands of the United States.

"(b) ESTABLISHMENT.—The Secretary shall establish a program to make grants to States in accordance with this section to provide—

"(1) food assistance to needy individuals and families residing in the State; and

"(2) funds for administrative costs incurred in providing the assistance.

"(c) ELECTION.—

"(1) IN GENERAL.—A State may annually elect to participate in the program established under subsection (b) if the State—

"(A) has fully implemented an electronic benefit transfer system that operates in the entire State;

"(B) has a payment error rate under section 16(c) that is not more than 6 percent as announced most recently by the Secretary; or

"(C) has a payment error rate in excess of 6 percent and agrees to contribute non-Federal funds for the fiscal year of the grant, for benefits and administration of the State's food assistance program, the amount determined under paragraph (2).

"(2) STATE MANDATORY CONTRIBUTIONS.—

"(A) IN GENERAL.—In the case of a State that elects to participate in the program under paragraph (1)(C), the State shall agree to contribute, for a fiscal year, an amount equal to—

"(A)(i) the benefits issued in the State; multiplied by

"(ii) the payment error rate of the State; minus

"(B)(i) the benefits issued in the State; multiplied by

"(ii) 6 percent.

"(B) DETERMINATION.—Notwithstanding sections 13 and 14, the calculation of the contribution shall be based solely on the determination of the Secretary of the payment error rate.

"(C) DATA.—For purposes of implementing subparagraph (A) for a fiscal year, the Secretary shall use the data for the most recent fiscal year available.

"(3) ELECTION LIMITATION.—

"(A) RE-ENTERING FOOD STAMP PROGRAM.—A State that elects to participate in the program under paragraph (1) may in a subsequent year decline to elect to participate in the program and instead participate in the food stamp program in accordance with the other sections of this Act.

"(B) LIMITATION.—Subsequent to re-entering the food stamp program under subparagraph (A), the State shall only be eligible to participate in the food stamp program in accordance with the other sections of this Act and shall not be eligible to elect to participate in the program established under subsection (b).

"(4) PROGRAM EXCLUSIVE.—

"(A) IN GENERAL.—A State that is participating in the program established under subsection (b) shall not be subject to, or receive any benefit under, this Act except as provided in this section.

"(B) CONTRACT WITH FEDERAL GOVERNMENT.—Nothing in this section shall prohibit a State from contracting with the Federal Government for the provision of services or materials necessary to carry out a program under this section.

"(d) LEAD AGENCY.—A State desiring to receive a grant under this section shall designate, in an application submitted to the Secretary under subsection (e)(1), an appropriate State agency responsible for the administration of the program under this section as the lead agency.

"(e) APPLICATION AND PLAN.—

"(1) APPLICATION.—To be eligible to receive assistance under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall by regulation require, including—

"(A) an assurance that the State will comply with the requirements of this section;

"(B) a State plan that meets the requirements of paragraph (3); and

"(C) an assurance that the State will comply with the requirements of the State plan under paragraph (3).

"(2) ANNUAL PLAN.—The State plan contained in the application under paragraph (1) shall be submitted for approval annually.

"(3) REQUIREMENTS OF PLAN.—

"(A) LEAD AGENCY.—The State plan shall identify the lead agency.

"(B) USE OF BLOCK GRANT FUNDS.—The State plan shall provide that the State shall use the amounts provided to the State for each fiscal year under this section—

"(i) to provide food assistance to needy individuals and families residing in the State, other than residents of institutions who are ineligible for food stamps under section 3(i); and

"(ii) to pay administrative costs incurred in providing the assistance.

"(C) GROUPS SERVED.—The State plan shall describe how and to what extent the program will serve specific groups of individuals and families and how the treatment will differ from treatment under the food stamp program under the other sections of this Act of the individuals and families, including—

"(i) elderly individuals and families;

"(ii) migrants or seasonal farmworkers;

"(iii) homeless individuals and families;

"(iv) individuals and families who live in institutions eligible under section 3(i);

"(v) individuals and families with earnings; and

"(vi) members of Indian tribes or tribal organizations.

"(D) ASSISTANCE FOR ENTIRE STATE.—The State plan shall provide that benefits under this section shall be available throughout the entire State.

"(E) NOTICE AND HEARINGS.—The State plan shall provide that an individual or family who applies for, or receives, assistance under this section shall be provided with notice of, and an opportunity for a hearing on, any action under this section that adversely affects the individual or family.

"(F) ASSESSMENT OF NEEDS.—The State plan shall assess the food and nutrition needs of needy persons residing in the State.

"(G) ELIGIBILITY STANDARDS.—The State plan shall describe the income, resource, and other eligibility standards that are established for the receipt of assistance under this section.

"(H) DISQUALIFICATION OF FLEEING FELONS.—The State plan shall provide for the disqualification of any individual who would be disqualified from participating in the food stamp program under section 6(k).

"(I) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—The State plan shall provide for the disqualification of any individual who would be disqualified from participating in the food stamp program under section 6(n).

"(J) RECEIVING BENEFITS IN MORE THAN 1 JURISDICTION.—The State plan shall establish a system for the exchange of information with other States to verify the identity and receipt of benefits by recipients.

"(K) PRIVACY.—The State plan shall provide for safeguarding and restricting the use and disclosure of information about any individual or family receiving assistance under this section.

"(L) OTHER INFORMATION.—The State plan shall contain such other information as may be required by the Secretary.

"(4) APPROVAL OF APPLICATION AND PLAN.—The Secretary shall approve an application and State plan that satisfies the requirements of this section.

"(f) NO INDIVIDUAL OR FAMILY ENTITLEMENT TO ASSISTANCE.—Nothing in this section—

"(1) entitles any individual or family to assistance under this section; or

"(2) limits the right of a State to impose additional limitations or conditions on assistance under this section.

"(g) BENEFITS FOR ALIENS.—

"(1) ELIGIBILITY.—No individual who is an alien shall be eligible to receive benefits under a State plan approved under subsection (e)(4) if the individual is not eligible to participate in the food stamp program due to the alien status of the individual.

"(2) INCOME.—The State plan shall provide that the income of an alien shall be determined in accordance with section 5(i).

"(h) EMPLOYMENT AND TRAINING.—

"(1) WORK REQUIREMENTS.—No individual or household shall be eligible to receive benefits under a State plan funded under this section if the individual or household is not eligible to participate in the food stamp program under subsection (d) or (o) of section 6.

"(2) WORK PROGRAMS.—Each State shall implement an employment and training program in accordance with the terms and conditions of section 6(d)(4) for individuals under the program and shall be eligible to receive funding under section 16(h).

"(i) ENFORCEMENT.—

"(1) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this section and the State plan approved under subsection (e)(4).

"(2) NONCOMPLIANCE.—

"(A) IN GENERAL.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—

"(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the State plan approved under subsection (e)(4); or

"(ii) in the operation of any program or activity for which assistance is provided under this section, there is a failure by the State to comply substantially with any provision of this section;

the Secretary shall notify the State of the finding and that no further grants will be made to the State under this section (or, in the case of noncompliance in the operation of a program or activity, that no further grants to the State will be made with respect to the program or activity) until the Secretary is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected.

"(B) OTHER PENALTIES.—In the case of a finding of noncompliance made pursuant to subparagraph (A), the Secretary may, in addition to, or in lieu of, imposing the penalties described in subparagraph (A), impose other appropriate penalties, including recoupment of money improperly expended for purposes prohibited or not authorized by this section and disqualification from the receipt of financial assistance under this section.

"(C) NOTICE.—The notice required under subparagraph (A) shall include a specific identification of any additional penalty being imposed under subparagraph (B).

"(3) ISSUANCE OF REGULATIONS.—The Secretary shall establish by regulation procedures for—

"(A) receiving, processing, and determining the validity of complaints made to the Secretary

concerning any failure of a State to comply with the State plan or any requirement of this section; and

"(B) imposing penalties under this section.

"(j) GRANT.—

"(1) IN GENERAL.—For each fiscal year, the Secretary shall pay to a State that has an application approved by the Secretary under subsection (e)(4) an amount that is equal to the grant of the State under subsection (m) for the fiscal year.

"(2) METHOD OF GRANT.—The Secretary shall make a grant to a State for a fiscal year under this section by issuing 1 or more letters of credit for the fiscal year, with necessary adjustments on account of overpayments or underpayments, as determined by the Secretary.

"(3) SPENDING OF GRANTS BY STATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a grant to a State determined under subsection (m)(1) for a fiscal year may be expended by the State only in the fiscal year.

"(B) CARRYOVER.—The State may reserve up to 10 percent of a grant determined under subsection (m)(1) for a fiscal year to provide assistance under this section in subsequent fiscal years, except that the reserved funds may not exceed 30 percent of the total grant received under this section for a fiscal year.

"(4) FOOD ASSISTANCE AND ADMINISTRATIVE EXPENDITURES.—In each fiscal year, not more than 6 percent of the Federal and State funds required to be expended by a State under this section shall be used for administrative expenses.

"(5) PROVISION OF FOOD ASSISTANCE.—A State may provide food assistance under this section in any manner determined appropriate by the State, such as electronic benefit transfer limited to food purchases, coupons limited to food purchases, or direct provision of commodities.

"(k) QUALITY CONTROL.—Each State participating in the program established under this section shall maintain a system in accordance with, and shall be subject to section 16(c), including sanctions and eligibility for incentive payment under section 16(c), adjusted for State specific characteristics under regulations issued by the Secretary.

"(l) NONDISCRIMINATION.—

"(1) IN GENERAL.—The Secretary shall not provide financial assistance for any program, project, or activity under this section if any person with responsibilities for the operation of the program, project, or activity discriminates with respect to the program, project, or activity because of race, religion, color, national origin, sex, or disability.

"(2) ENFORCEMENT.—The powers, remedies, and procedures set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) may be used by the Secretary to enforce paragraph (1).

"(m) GRANT CALCULATION.—

"(1) STATE GRANT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), from the amounts made available under section 18 for each fiscal year, the Secretary shall provide a grant to each State participating in the program established under this section an amount that is equal to the sum of—

"(i) the greater of, as determined by the Secretary—

"(I) the total dollar value of all benefits issued under the food stamp program established under this Act by the State during fiscal year 1994; or

"(II) the average per fiscal year of the total dollar value of all benefits issued under the food stamp program by the State during each of fiscal years 1992 through 1994; and

"(ii) the greater of, as determined by the Secretary—

"(I) the total amount received by the State for administrative costs under section 16(a) (not including any adjustment under section 16(c)) for fiscal year 1994; or

"(II) the average per fiscal year of the total amount received by the State for administrative costs under section 16(a) (not including any adjustment under section 16(c)) for each of fiscal years 1992 through 1994.

"(B) INSUFFICIENT FUNDS.—If the Secretary finds that the total amount of grants to which States would otherwise be entitled for a fiscal year under subparagraph (A) will exceed the amount of funds that will be made available to provide the grants for the fiscal year, the Secretary shall reduce the grants made to States under this subsection, on a pro rata basis, to the extent necessary.

"(2) REDUCTION.—The Secretary shall reduce the grant of a State by the amount a State has agreed to contribute under subsection (c)(1)(C).".

(b) EMPLOYMENT AND TRAINING FUNDING.—Section 16(h) of the Act (7 U.S.C. 2025(a)), as amended by section 1027(d)(2), is further amended by adding at the end the following:

"(6) BLOCK GRANT STATES.—Each State electing to operate a program under section 25 shall—

"(A) receive the greater of—

"(i) the total dollar value of the funds received under paragraph (1) by the State during fiscal year 1994; or

"(ii) the average per fiscal year of the total dollar value of all funds received under paragraph (1) by the State during each of fiscal years 1992 through 1994; and

"(B) be eligible to receive funds under paragraph (2), within the limitations in section 6(d)(4)(K).".

(c) RESEARCH ON OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.—Section 17 of the Act (7 U.S.C. 2026), as amended by section 1064(c)(2), is further amended by adding at the end the following:

"(l) RESEARCH ON OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.—The Secretary may conduct research on the effects and costs of a State program carried out under section 25.".

SEC. 1066. AMERICAN SAMOA.

The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 1065, is further amended by adding at the end the following:

"SEC. 26. TERRITORY OF AMERICAN SAMOA.

From amounts made available to carry out this Act, the Secretary may pay to the Territory of American Samoa not more than $5,300,000 for each of fiscal years 1996 through 2002 to finance 100 percent of the expenditures for the fiscal year for a nutrition assistance program extended under section 601(c) of Public Law 96–597 (48 U.S.C. 1469d(c)).".

SEC. 1067. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.

The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 1066, is further amended by adding at the end the following:

"SEC. 27. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.

"(a) DEFINITION OF COMMUNITY FOOD PROJECTS.—In this section, the term 'community food project' means a community-based project that requires a 1-time infusion of Federal assistance to become self-sustaining and that is designed to—

"(1) meet the food needs of low-income people;

"(2) increase the self-reliance of communities in providing for their own food needs; and

"(3) promote comprehensive responses to local food, farm, and nutrition issues.

"(b) AUTHORITY TO PROVIDE ASSISTANCE.—

"(1) IN GENERAL.—From amounts made available to carry out this Act, the Secretary may make grants to assist eligible private nonprofit entities to establish and carry out community food projects.

"(2) LIMITATION ON GRANTS.—The total amount of funds provided as grants under this section for any fiscal year may not exceed $2,500,000.

"(c) ELIGIBLE ENTITIES.—To be eligible for a grant under subsection (b), a private nonprofit entity must—

"(1) have experience in the area of—

"(A) community food work, particularly concerning small and medium-sized farms, including the provision of food to people in low-income communities and the development of new markets in low-income communities for agricultural producers; or

"(B) job training and business development activities for food-related activities in low-income communities;

"(2) demonstrate competency to implement a project, provide fiscal accountability, collect data, and prepare reports and other necessary documentation; and

"(3) demonstrate a willingness to share information with researchers, practitioners, and other interested parties.

"(d) PREFERENCE FOR CERTAIN PROJECTS.—In selecting community food projects to receive assistance under subsection (b), the Secretary shall give a preference to projects designed to—

"(1) develop linkages between 2 or more sectors of the food system;

"(2) support the development of entrepreneurial projects;

"(3) develop innovative linkages between the for-profit and nonprofit food sectors; or

"(4) encourage long-term planning activities and multi-system, interagency approaches.

"(e) MATCHING FUNDS REQUIREMENTS.—

"(1) REQUIREMENTS.—The Federal share of the cost of establishing or carrying out a community food project that receives assistance under subsection (b) may not exceed 50 percent of the cost of the project during the term of the grant.

"(2) CALCULATION.—In providing for the non-Federal share of the cost of carrying out a community food project, the entity receiving the grant shall provide for the share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services.

"(3) SOURCES.—An entity may provide for the non-Federal share through State government, local government, or private sources.

"(f) TERM OF GRANT.—

"(1) SINGLE GRANT.—A community food project may be supported by only a single grant under subsection (b).

"(2) TERM.—The term of a grant under subsection (b) may not exceed 3 years.

"(g) TECHNICAL ASSISTANCE AND RELATED INFORMATION.—

"(1) TECHNICAL ASSISTANCE.—In carrying out this section, the Secretary may provide technical assistance regarding community food projects, processes, and development to an entity seeking the assistance.

"(2) SHARING INFORMATION.—

"(A) IN GENERAL.—The Secretary may provide for the sharing of information concerning community food projects and issues among and between government, private for-profit and nonprofit groups, and the public through publications, conferences, and other appropriate forums.

"(B) OTHER INTERESTED PARTIES.—The Secretary may share information concerning community food projects with researchers, practitioners, and other interested parties.

"(h) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall provide for the evaluation of the success of community food projects supported using funds under this section.

"(2) REPORT.—Not later than January 30, 2002, the Secretary shall submit a report to Congress regarding the results of the evaluation.".

Subtitle B—Commodity Distribution Programs

SEC. 1071. COMMODITY DISTRIBUTION PROGRAM; COMMODITY SUPPLEMENTAL FOOD PROGRAM.

(a) REAUTHORIZATION.—The first sentence of section 4(a) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2002".

(b) FUNDING.—Section 5 of the Act (Public Law 93–86; 7 U.S.C. 612c note) is amended—

(1) in subsection (a)(2), by striking "1995" and inserting "2002"; and

(2) in subsection (d)(2), by striking "1995" and inserting "2002".

SEC. 1072. EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) DEFINITIONS.—Section 201A of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended to read as follows:

"SEC. 201A. DEFINITIONS.

"In this Act:

"(1) ADDITIONAL COMMODITIES.—The term 'additional commodities' means commodities made available under section 214 in addition to the commodities made available under sections 202 and 203D.

"(2) AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS.—The term 'average monthly number of unemployed persons' means the average monthly number of unemployed persons in each State in the most recent fiscal year for which information concerning the number of unemployed persons is available, as determined by the Bureau of Labor Statistics of the Department of Labor.

"(3) ELIGIBLE RECIPIENT AGENCY.—The term 'eligible recipient agency' means a public or nonprofit organization—

"(A) that administers—

"(i) an emergency feeding organization;

"(ii) a charitable institution (including a hospital and a retirement home, but excluding a penal institution) to the extent that the institution serves needy persons;

"(iii) a summer camp for children, or a child nutrition program providing food service;

"(iv) a nutrition project operating under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), including a project that operates a congregate nutrition site and a project that provides home-delivered meals; or

"(v) a disaster relief program;

"(B) that has been designated by the appropriate State agency, or by the Secretary; and

"(C) that has been approved by the Secretary for participation in the program established under this Act.

"(4) EMERGENCY FEEDING ORGANIZATION.—The term 'emergency feeding organization' means a public or nonprofit organization that administers activities and projects (including the activities and projects of a charitable institution, a food bank, a food pantry, a hunger relief center, a soup kitchen, or a similar public or private nonprofit eligible recipient agency) providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons.

"(5) FOOD BANK.—The term 'food bank' means a public or charitable institution that maintains an established operation involving the provision of food or edible commodities, or the products of food or edible commodities, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis.

"(6) FOOD PANTRY.—The term 'food pantry' means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.

"(7) POVERTY LINE.—The term 'poverty line' has the same meaning given the term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

"(8) SOUP KITCHEN.—The term 'soup kitchen' means a public or charitable institution that, as integral part of the normal activities of the institution, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.

"(9) TOTAL VALUE OF ADDITIONAL COMMODITIES.—The term 'total value of additional commodities' means the actual cost of all additional commodities made available under section 214 that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).

"(10) VALUE OF ADDITIONAL COMMODITIES ALLOCATED TO EACH STATE.—The term 'value of additional commodities allocated to each State' means the actual cost of additional commodities made available under section 214 and allocated to each State that are paid by the Secretary (including the distribution and processing costs incurred by the Secretary).".

(b) STATE PLAN.—Section 202A of the Act (7 U.S.C. 612c note) is amended to read as follows:

"SEC. 202A. STATE PLAN.

"(a) IN GENERAL.—To receive commodities under this Act, a State shall submit a plan of operation and administration every 4 years to the Secretary for approval. The plan may be amended at any time, with the approval of the Secretary.

"(b) REQUIREMENTS.—Each plan shall—

"(1) designate the State agency responsible for distributing the commodities received under this Act;

"(2) set forth a plan of operation and administration to expeditiously distribute commodities under this Act;

"(3) set forth the standards of eligibility for recipient agencies; and

"(4) set forth the standards of eligibility for individual or household recipients of commodities, which shall require—

"(A) individuals or households to be comprised of needy persons; and

"(B) individual or household members to be residing in the geographic location served by the distributing agency at the time of applying for assistance.

"(c) STATE ADVISORY BOARD.—The Secretary shall encourage each State receiving commodities under this Act to establish a State advisory board consisting of representatives of all interested entities, both public and private, in the distribution of commodities received under this Act in the State.".

(c) AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE FUNDS.—Section 204(a)(1) of the Act (7 U.S.C. 612c note) is amended—

(1) in the first sentence—

(A) by striking "1991 through 1995' and inserting "1996 through 2002"; and

(B) by striking "for State and local" and all that follows through "under this title" and inserting "to pay for the direct and indirect administrative costs of the State related to the processing, transporting, and distributing to eligible recipient agencies of commodities provided by the Secretary under this Act and commodities secured from other sources"; and

(2) by striking the fourth sentence.

(d) DELIVERY OF COMMODITIES.—Section 214 of the Act (7 U.S.C. 612c note) is amended—

(1) by striking subsections (a) through (e) and (j);

(2) by redesignating subsections (f) through (i) as subsections (a) through (d), respectively;

(3) in subsection (b), as redesignated by paragraph (2)—

(A) in the first sentence, by striking "subsection (f) or subsection (j) if applicable," and inserting "subsection (a)"; and

(B) in the second sentence, by striking "subsection (f)" and inserting "subsection (a)";

(4) by striking subsection (c), as redesignated by paragraph (2), and inserting the following:

"(c) ADMINISTRATION.—

"(1) IN GENERAL.—Commodities made available for each fiscal year under this section shall be delivered at reasonable intervals to States based on the grants calculated under subsection (a), or reallocated under subsection (b), before December 31 of the following fiscal year.

"(2) ENTITLEMENT.—Each State shall be entitled to receive the value of additional commodities determined under subsection (a)."; and

(5) in subsection (d), as redesignated by paragraph (2), by striking "or reduce" and all that follows through "each fiscal year".

(e) TECHNICAL AMENDMENTS.—The Act (7 U.S.C. 612c note) is amended—

(1) in the first sentence of section 203B(a), by striking "203 and 203A of this Act" and inserting "203A";

(2) in section 204(a), by striking "title" each place it appears and inserting "Act";

(3) in the first sentence of section 210(e), by striking "(except as otherwise provided for in section 214(j))"; and

(4) by striking section 212.

(f) REPORT ON EFAP.—Section 1571 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 612c note) is repealed.

(g) AVAILABILITY OF COMMODITIES UNDER THE FOOD STAMP PROGRAM.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), as amended by section 1067, is further amended by adding at the end the following:

"SEC. 28. AVAILABILITY OF COMMODITIES FOR THE EMERGENCY FOOD ASSISTANCE PROGRAM.

"(a) PURCHASE OF COMMODITIES.—From amounts appropriated under this Act, for each of fiscal years 1997 through 2002, the Secretary shall purchase $300,000,000 of a variety of nutritious and useful commodities of the types that the Secretary has the authority to acquire through the Commodity Credit Corporation or under section 32 of the Act entitled 'An Act to amend the Agricultural Adjustment Act, and for other purposes', approved August 24, 1935 (7 U.S.C. 612c), and distribute the commodities to States for distribution in accordance with section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note).

"(b) BASIS FOR COMMODITY PURCHASES.—In purchasing commodities under subsection (a), the Secretary shall, to the extent practicable and appropriate, make purchases based on—

"(1) agricultural market conditions;

"(2) preferences and needs of States and distributing agencies; and

"(3) preferences of recipients.".

(h) EFFECTIVE DATE.—The amendments made by subsection (d) shall become effective on October 1, 1996.

SEC. 1073. FOOD BANK DEMONSTRATION PROJECT.

Section 3 of the Charitable Assistance and Food Bank Act of 1987 (Public Law 100–232; 7 U.S.C. 612c note) is repealed.

SEC. 1074. HUNGER PREVENTION PROGRAMS.

The Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note) is amended—

(1) by striking section 110;

(2) by striking subtitle C of title II; and

(3) by striking section 502.

SEC. 1075. REPORT ON ENTITLEMENT COMMODITY PROCESSING.

Section 1773 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law

101–624; 7 U.S.C. 612c note) is amended by striking subsection (f).

SEC. 1076. NATIONAL COMMODITY PROCESSING.

The first sentence of section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended by striking "1995" and inserting "2002".

TITLE XI—MISCELLANEOUS

SEC. 1101. EXPENDITURE OF FEDERAL FUNDS IN ACCORDANCE WITH LAWS AND PROCEDURES APPLICABLE TO EXPENDITURE OF STATE FUNDS.

(a) In General.—Notwithstanding any other provision of law, any funds received by a State under the provisions of law specified in subsection (b) shall be expended only in accordance with the laws and procedures applicable to expenditures of the State's own revenues, including appropriation by the State legislature, consistent with the terms and conditions required under such provisions of law.

(b) Provisions of Law.—The provisions of law specified in this subsection are the following:

(1) Part A of title IV of the Social Security Act (relating to block grants for temporary assistance for needy families).

(2) Section 25 of the Food Stamp Act of 1977 (relating to the optional State food assistance block grant).

(3) The Child Care and Development Block Grant Act of 1990 (relating to block grants for child care).

SEC. 1102. ELIMINATION OF HOUSING ASSISTANCE WITH RESPECT TO FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.

(a) Eligibility for Assistance.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) in section 6(l)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

(C) by inserting immediately after paragraph (6) the following new paragraph:

"(7) provide that it shall be cause for immediate termination of the tenancy of a public housing tenant if such tenant—

"(A) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(B) is violating a condition of probation or parole imposed under Federal or State law."; and

(2) in section 8(d)(1)(B)—

(A) in clause (iii), by striking "and" at the end;

(B) in clause (iv), by striking the period at the end and inserting "; and"; and

(C) by adding after clause (iv) the following new clause:

"(v) it shall be cause for termination of the tenancy of a tenant if such tenant—

"(I) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(II) is violating a condition of probation or parole imposed under Federal or State law;".

(b) Provision of Information to Law Enforcement Agencies.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), as amended by section 601 of this Act, is amended by adding at the end the following:

"SEC. 28. EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.

"Notwithstanding any other provision of law, each public housing agency that enters into a contract for assistance under section 6 or 8 of this Act with the Secretary shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of assistance under this Act, if the officer—

"(1) furnishes the public housing agency with the name of the recipient; and

"(2) notifies the agency that—

"(A) such recipient—

"(i) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(ii) is violating a condition of probation or parole imposed under Federal or State law; or

"(iii) has information that is necessary for the officer to conduct the officer's official duties;

"(B) the location or apprehension of the recipient is within such officer's official duties; and

"(C) the request is made in the proper exercise of the officer's official duties.".

SEC. 1103. SENSE OF THE SENATE REGARDING ENTERPRISE ZONES.

(a) Findings.—The Senate finds that:

(1) Many of the Nation's urban centers are places with high levels of poverty, high rates of welfare dependency, high crime rates, poor schools, and joblessness;

(2) Federal tax incentives and regulatory reforms can encourage economic growth, job creation and small business formation in many urban centers;

(3) Encouraging private sector investment in America's economically distressed urban and rural areas is essential to breaking the cycle of poverty and the related ills of crime, drug abuse, illiteracy, welfare dependency, and unemployment;

(4) The empowerment zones enacted in 1993 should be enhanced by providing incentives to increase entrepreneurial growth, capital formation, job creation, educational opportunities, and home ownership in the designated communities and zones.

(b) Sense of the Senate.—Therefore, it is the Sense of the Senate that the Congress should adopt enterprise zone legislation in the One Hundred Fourth Congress, and that such enterprise zone legislation provide the following incentives and provisions:

(1) Federal tax incentives that expand access to capital, increase the formation and expansion of small businesses, and promote commercial revitalization;

(2) Regulatory reforms that allow localities to petition Federal agencies, subject to the relevant agencies' approval, for waivers or modifications of regulations to improve job creation, small business formation and expansion, community development, or economic revitalization objectives of the enterprise zones;

(3) Home ownership incentives and grants to encourage resident management of public housing and home ownership of public housing;

(4) School reform pilot projects in certain designated enterprise zones to provide low-income parents with new and expanded educational options for their children's elementary and secondary schooling.

SEC. 1104. SENSE OF THE SENATE REGARDING THE INABILITY OF THE NON-CUSTODIAL PARENT TO PAY CHILD SUPPORT.

It is the sense of the Senate that—

(a) States should diligently continue their efforts to enforce child support payments by the non-custodial parent to the custodial parent, regardless of the employment status or location of the non-custodial parent; and

(b) States are encouraged to pursue pilot programs in which the parents of a non-adult, non-custodial parent who refuses to or is unable to pay child support must—

(1) pay or contribute to the child support owed by the non-custodial parent; or

(2) otherwise fulfill all financial obligations and meet all conditions imposed on the non-custodial parent, such as participation in a work program or other related activity.

SEC. 1105. FOOD STAMP ELIGIBILITY.

Section 6(f) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f)) is amended by striking the third sentence and inserting the following:

"The State agency shall, at its option, consider either all income and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection, or such income, less a pro rata share, and the financial resources of the ineligible individual, to determine the eligibility and the value of the allotment of the household of which such individual is a member.".

SEC. 1106. ESTABLISHING NATIONAL GOALS TO PREVENT TEENAGE PREGNANCIES.

(a) In General.—Not later than January 1, 1997, the Secretary of Health and Human Services shall establish and implement a strategy for—

(1) preventing out-of-wedlock teenage pregnancies, and

(2) assuring that at least 25 percent of the communities in the United States have teenage pregnancy prevention programs in place.

(b) Report.—Not later than June 30, 1998, and annually thereafter, the Secretary shall report to the Congress with respect to the progress that has been made in meeting the goals described in paragraphs (1) and (2) of subsection (a).

SEC. 1107. SENSE OF THE SENATE REGARDING ENFORCEMENT OF STATUTORY RAPE LAWS.

It is the sense of the Senate that States and local jurisdictions should aggressively enforce statutory rape laws.

SEC. 1108. SANCTIONING FOR TESTING POSITIVE FOR CONTROLLED SUBSTANCES.

Notwithstanding any other provision of law, States shall not be prohibited by the Federal Government from sanctioning welfare recipients who test positive for use of controlled substances.

SEC. 1109. ABSTINENCE EDUCATION.

(a) Increases in Funding.—Section 501(a) of the Social Security Act (42 U.S.C. 701(a)) is amended in the matter preceding paragraph (1) by striking "Fiscal year 1990 and each fiscal year thereafter" and inserting "Fiscal years 1990 through 1995 and $761,000,000 for fiscal year 1996 and each fiscal year thereafter".

(b) Abstinence Education.—Section 501(a)(1) of such Act (42 U.S.C. 701(a)(1)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by adding "and" at the end; and

(3) by adding at the end the following new subparagraph:

"(E) to provide abstinence education, and at the option of the State, where appropriate, mentoring, counseling, and adult supervision to promote abstinence from sexual activity, with a focus on those groups which are most likely to bear children out-of-wedlock.".

(c) Abstinence Education Defined.—Section 501(b) of such Act (42 U.S.C. 701(b)) is amended by adding at the end the following new paragraph:

"(5) ABSTINENCE EDUCATION.—For purposes of this subsection, the term 'abstinence education' means an educational or motivational program which—

"(A) has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity;

"(B) teaches abstinence from sexual activity outside marriage as the expected standard for all school age children;

"(C) teaches that abstinence from sexual activity is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems;

"(D) teaches that a mutually faithful monogamous relationship in context of marriage is the expected standard of human sexual activity;

"(E) teaches that sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects;

"(F) teaches that bearing children out-of-wedlock is likely to have harmful consequences for the child, the child's parents, and society;

"(G) teaches young people how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances; and

"(H) teaches the importance of attaining self-sufficiency before engaging in sexual activity.".

(d) SET-ASIDE.—

(1) IN GENERAL.—Section 502(c) of such Act (42 U.S.C. 702(c)) is amended in the matter preceding paragraph (1) by striking "From" and inserting "Except as provided in subsection (e), from".

(2) SET-ASIDE.—Section 502 of such Act (42 U.S.C. 702) is amended by adding at the end the following new subsection:

"(e) Of the amounts appropriated under section 501(a) for any fiscal year, the Secretary shall set aside $75,000,000 for abstinence education in accordance with section 501(a)(1)(E).

SEC. 1110. PROVISIONS TO ENCOURAGE ELECTRONIC BENEFIT TRANSFER SYSTEMS.

Section 904 of the Electronic Fund Transfer Act (15 U.S.C. 1693b) is amended—

(1) by striking "(d) In the event" and inserting "(d) APPLICABILITY TO SERVICE PROVIDERS OTHER THAN CERTAIN FINANCIAL INSTITUTIONS.—

"(1) IN GENERAL.—In the event"; and

(2) by adding at the end the following new paragraph:

"(2) STATE AND LOCAL GOVERNMENT ELECTRONIC BENEFIT TRANSFER PROGRAMS.—

"(A) EXEMPTION GENERALLY.—The disclosures, protections, responsibilities, and remedies established under this title, and any regulation prescribed or order issued by the Board in accordance with this title, shall not apply to any electronic benefit transfer program established under State or local law or administered by a State or local government.

"(B) EXCEPTION FOR DIRECT DEPOSIT INTO RECIPIENT'S ACCOUNT.—Subparagraph (A) shall not apply with respect to any electronic funds transfer under an electronic benefit transfer program for deposits directly into a consumer account held by the recipient of the benefit.

"(C) RULE OF CONSTRUCTION.—No provision of this paragraph may be construed as—

"(i) affecting or altering the protections otherwise applicable with respect to benefits established by Federal, State, or local law; or

"(ii) otherwise superseding the application of any State or local law.

"(D) ELECTRONIC BENEFIT TRANSFER PROGRAM DEFINED.—For purposes of this paragraph, the term 'electronic benefit transfer program'—

"(i) means a program under which a government agency distributes needs-tested benefits by establishing accounts to be accessed by recipients electronically, such as through automated teller machines, or point-of-sale terminals; and

"(ii) does not include employment-related payments, including salaries and pension, retirement, or unemployment benefits established by Federal, State, or local governments.".

SEC. 1111. REDUCTION IN BLOCK GRANTS TO STATES FOR SOCIAL SERVICES.

Section 2003(c) of the Social Security Act (42 U.S.C. 1397b(c)) is amended—

(1) by striking "and" at the end of paragraph (4); and

(2) by striking paragraph (5) and inserting the following:

"(5) $2,800,000,000 for each of the fiscal years 1990 through 1996 and for each fiscal year after fiscal year 2002; and

"(6) $2,520,000,000 for each of the fiscal years 1997 through 2002.".

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, amend the title so as to read as follows: "An Act to restore the American family, enhance support and work opportunities for families with children, reduce out-of-wedlock pregnancies, reduce welfare dependence, and control welfare spending.".

And the Senate agree to the same.

BILL ARCHER,
BILL GOODLING,
PAT ROBERTS,
E. CLAY SHAW, JR.,
JAMES TALENT,
JIM NUSSLE,
TIM HUTCHINSON,
JIM MCCRERY,
LAMAR SMITH,
NANCY L. JOHNSON,
DAVE CAMP,
GARY A. FRANKS,

As an additional conferee:

BILL EMERSON,

As an additional conferee:

RANDY "DUKE" CUNNINGHAM,

Managers on the Part of the House.

WILLIAM V. ROTH, JR.,
BOB DOLE,
JOHN H. CHAFEE,
CHARLES GRASSLEY,
ORRIN HATCH,

From the Committee on Labor and Human Resources:

NANCY LANDON KASSEBAUM,
JIM JEFFORDS,
DAN COATS,
JUDD GREGG,

From the Committee on Agriculture, Nutrition, and Forestry:

JESSE HELMS,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4) to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

TABLE 1.—ORGANIZATION OF CONFERENCE COMPARISON DOCUMENT BY TITLE AS COMPARED WITH TITLES OF HOUSE BILL AND SENATE AMENDMENT

Name of title	Conference title	House title	Senate title
Part 1:			
Block Grants for Temporary Assistance for Needy Families.	I	I	I
Supplemental Security Income.	II	VI	II
Child Support Enforcement.	III	VII	IX
Restricting Welfare and Public Benefits in for Aliens.	IV	IV	V
Reductions in Federal Government Positions.	V		XII
Housing	VI		X
Protection of Battered Individuals.	(1)		VIII
Miscellaneous	XI	VIII	XIII
Part 2:			
Child Protection	VII	II	XI
Adoption Expenses	VII		VIII
Child Care Block Grant.	VIII	III	VI
Part: 3			
Child Nutrition	IX	III	IV
Food Stamp Reform	X	V	III
Commodity Distribution.	X	V	IV

[1] Not included.

TITLE I. BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

1. SHORT TITLE (SECTION 1)

Present law

Not applicable.

House bill

The Personal Responsibility Act of 1995.

Senate amendment

The Work Opportunity Act of 1995.

Conference agreement

The conference agreement follows the House bill and the Senate amendment as follows: The personal Responsibility and Work Opportunity Act of 1995.

2. OBJECTIVES

Present law

To provide for the general welfare by enabling the several States to make more adequate provision for dependent children. (Social Security Act, 1935)

House bill

To restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence.

Senate amendment

To enhance support and work opportunities for families with children, reduce welfare dependence, and control welfare spending.

Conference agreement

The conference agreement follows the House bill and the Senate amendment as follows: To restore the American family, enhance support and work opportunities for families with children, reduce out-of-wedlock pregnancies, reduce welfare dependence, and control welfare spending.

3. SENSE OF THE CONGRESS ON FAMILIES (SECTION 101)

Present law

To provision.

House bill

It is the sense of the Congress that marriage is the foundation of a successful society, and an essential social institution which promotes the interests of children and society at large. The negative consequences of an out-of-wedlock birth on the child, the mother, and society are well documented. Yet the nation suffers unprecedented and growing levels of illegitimacy. In light of this crisis, the reduction of out-of-wedlock births is an important government interest and the policy contained in provisions of this title address the crisis.

Senate amendment

Congress finds that marriage is the foundation of a successful society and an essential institution that promotes the interests of children. Promotion of responsible fatherhood and motherhood is integral to successful child-rearing and well-being of children. It is the sense of Congress that prevention of out-of-wedlock pregnancy and reduction in out-of-wedlock birth are very important government interests and that the policy contained in provisions of this title is intended to address the crisis.

Conference agreement

The conference agreement follows the Senate amendment.

4. REFERENCE TO SOCIAL SECURITY ACT
(SECTION 102)

Present law

Not applicable.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

Except as otherwise specifically provided, wherever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

5. GRANTS TO STATES FOR NEEDY FAMILIES
(SECTION 103)

A. Purpose

Present law

Title IV–A, which provides grants to States for aid and services to needy families with children (AFDC), is designed to encourage care of dependent children in their own homes by enabling States to provide cash aid and services, maintain and strengthen family life, and help parents attain maximum self-support consistent with maintaining parental care and protection.

House bill

Block grants for temporary assistance for needy families (Title IV–A) are established to increase the flexibility of States in operating a program designed to:

(1) provide assistance to needy families so that children may be cared for in their homes or in the homes of relatives;

(2) end the dependence of needy parents on government benefits by promoting work and marriage; and

(3) discourage out-of-wedlock births.

Senate amendment

Block grants for temporary assistance for needy families (Title IV–A) are established to increase the flexibility of States in operating a program designed to:

(1) provide assistance to needy families with minor children;

(2) provide job preparation and opportunities for such families; and

(3) prevent and reduce the incidence of out-of-wedlock pregnancies, with a special emphasis on teen pregnancies, and establish annual goals for preventing and reducing these pregnancies for fiscal years 1996 through 2000.

Conference agreement

The conference agreement follows the House bill and the Senate amendment to read as follows:

Block grants for temporary assistance for needy families (Title IV–A) are established to increase the flexibility of States in operating a program designed to:

(1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

(2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

(3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and

(4) encourage the formation and maintenance of two-parent families.

B. Eligible States; State Plan

Present law

A State must have an approved State plan for aid and services to needy families containing 43 provisions, ranging from single-agency administration to overpayment recovery rules. State plans explain the aid and services that are offered by the State. Aid is defined as money payments. For most parents without a child under age 3, States must provide education, work, or training under the JOBS program to help needy families with children avoid long-term welfare dependence. To receive Federal funds, States must share in program costs. The Federal share of costs (matching rate) varies among States and is inversely related to the square of State per capita income. For AFDC benefits and child care, the Medicaid matching rate is used. This rate now ranges from 50 percent to 79 percent among States and averages about 55 percent. For JOBS activities, the rate averages 60 percent; for administrative costs, 50 percent. In FY 1995, 20 percent of employable (nonexempt) adult recipients must participate in education, work, or training under JOBS, and at least one parent in 50 percent of unemployed-parent families must participate at least 16 hours weekly in an unpaid work experience or other work program. States must restrict disclosure of information to purposes directly connected to administration of the program and to any connected investigation, prosecution, legal proceeding or audit. Each State must offer family planning services to all "appropriate" cases, including minors considered sexually active. States may not require acceptance of these services. States must have in effect an approved child support program. States must also have an approved plan for foster care and adoption assistance. States must have an income and verification system (covering AFDC, Medicaid, unemployment compensation, food stamps, and—in outlying areas—adult cash aid) in accordance with Sec. 1137 of the Social Security Act.

House bill

An "eligible State" is a State that, during the 3-year period immediately preceding the fiscal year, had submitted a plan to the Secretary of HHS for approval. The plan must include:

(1) A written document describing how the State will:

a. conduct a program that provides cash benefits to needy families with children, and provides parents with help in preparing for and obtaining employment and becoming self-sufficient;

b. require at least one parent in a family that has received benefits for 24 months to engage in work activities defined by the State;

c. ensure that parents engage in work activities in accord with section 404;

d. treat interstate immigrants, if their benefits differ from State residents;

e. take such reasonable steps as State deems necessary to restrict use and disclosure of information about recipients;

f. take actions to reduce out-of-wedlock pregnancies, including helping unmarried mothers and fathers avoid subsequent pregnancies and provide care for their children; and

g. reduce teen pregnancy, including through the provision of education and counseling to male and female teens.

(2) Certification by the Governor that the State will operate a child support enforcement program.

(3) Certification by the Governor that the State will operate a child protection program, including a foster care and adoption program.

(4) The Secretary shall determine whether the State plan contains the material required.

Senate amendment

An "eligible State" is a State that annually submits to the Secretary: an outline of its program; a 3-year strategic plan; various certifications on programs offered by the State; and an estimate of State and local expenditures. The detailed requirements of State plan submissions to the Secretary are:

(1) A written document outlining how the State intends to:

a. provide aid to needy families with at least one minor child (or any expectant family); and provide a parent or (other) caretaker in these families with work activities and support services to enable them to leave the program and become self-sufficient;

b. conduct a program designed to serve all political subdivisions;

c. provide a parent or caretaker in such families with work experience, assistance in finding employment, and other work preparation activities and support services that the State considers appropriate to enable such families to leave the program and become self-sufficient;

d. require a parent or caretaker to engage in work, as defined by the State, after 24 months of benefits, or, if earlier, when the State finds the person ready for work (see i. below for community service rule after 3 months of benefits;

e. satisfy the minimum participation rate specified in section 404;

f. treat families with minor children moving into the State; and noncitizens of the U.S.;

g. safeguard and restrict use and disclosure of information about recipients;

h. establish goals and take action to prevent and reduce out-of-wedlock pregnancies, with emphasis on teenage pregnancies; and

i. unless the State ops out by notice to the Secretary, require participation in community service (with hours and tasks set by the State), after 3 months of benefits, by a parent or caretaker not exempt from work requirements (effective 2 years after enactment).

(2) A strategic plan that shall include:

a. a description of the goals of the 3-year strategic plan, including outcome-related goals of, and benchmarks for, program activities;

b. a description of how the above goals and benchmarks will be achieved, or progress made toward them, in the current year;

c. a description of performance indicators to be used in measuring/assessing output service levels and outcomes of activities;

d. information on external factors that could significantly affect attainment of goals and benchmarks;

e. information on a mechanism for conducting program evaluation, for use in comparing results with goals and benchmarks;

f. information on how minimum participation rates specified in section 404 will be satisfied; and

g. an estimate of the total amount of State and local expenditures under the program for the current fiscal year.

(3) Certification that the State will operate a child support enforcement program.

(4 Certification that the State will operate child protection programs, including a foster care and adoption programs, under parts B and E.

(5) Certification by the Chief Executive Officer that the State will participate during the fiscal year in the income and eligibility verification system (IEVS) required by Section 1137 of Social Security Act.

(6) Certification by the Chief Executive Officer specifying which State agency or agencies will administer and supervise the program and ensuring that local governments and private sector organizations have been consulted about the plan and design of welfare services in the State.

(7) Certification by the Chief Executive Officer that the State shall provide the Secretary with required reports.

(8) Estimate of the total amount of State and local expenditures under the State program for the fiscal year.

(9) The Chief Executive Officer must certify that the State will provide Indians in each tribe that does not have a tribal family assistance plan with equitable access to assistance under the State block grant program.

(10) The State shall make available to the public a summary of the State plan and shall provide a copy to the "approved entity" conducting the audit of State expenditures from the block grant.

Conference agreement

An "eligible State" is a State that once every two years submits to the Secretary an outline of its program and various certifications on programs offered by the State. The detailed requirements of State plan submissions to the Secretary are:

(1) A written document describing how the State will:

a. conduct a program that provides assistance to needy families with children (or families that include a pregnant mother) and provides parents with job preparation, work and support services to enable them to leave the program and become self-sufficient;

b. conduct a program designed to serve all political subdivisions;

c. require a parent or caretaker to engage in work, as defined by the State, after 24 months of benefits, or, if earlier, when the State finds the person ready for work;

d. ensure that families engage in work activities in accord with section 407;

e. treat families moving into the State from another State, if such families are to be treated differently than other families;

f. take such reasonable steps as State deems necessary to safeguard and restrict the use and disclosure of information about recipients;

g. establish goals and take action to prevent and reduce out-of-wedlock pregnancies, with emphasis on teenage pregnancies; and

h. treat noncitizens, if the benefits for which they may be eligible will be different than those available to citizens.

(2) Certification by the chief executive officer that the State operate a child support enforcement program;

(3) Certification by the chief executive officer that the State will operate a child protection program and a foster care and adoption program under part B;

(4) Certification by the chief executive officer specifying which State agency or agencies will administer and supervise the program and ensuring that local governments and private sector organizations have had 60 days to submit comments about the plan and the design of welfare services in the State;

(5) Certification by the chief executive officer that the State will provide Indians in each tribe that does not have a tribal family assistance plan with equitable access to assistance under the program; and

(6) The State shall make available to the public a summary of the State plan.

For purposes of this section, the term "Eligible State" means, with respect to a fiscal year, a State that has submitted to the Secretary the plan described above within 3 months after the date of enactment.

C. Payments to States

(1) Entitlements

Present law

AFDC entitles States to Federal matching funds. Current law provides permanent authority for appropriations without limit for grants to States for AFDC benefits, administration, and AFDC-related child care. Over the years, because of court rulings, AFDC has evolved into an entitlement for individuals to receive cash benefits. In general, States must give AFDC to all persons whose income and resources are below State-set limits if they are in a class or category eligible under Federal rules.

There are no grants increased to reward states that reduce out-of-wedlock births (illegitimacy ratio).

There is no adjustment for population growth. Instead, current law provides unlimited matching funds. When AFDC enrollment climbs, Federal funding automatically rises.

There is no adjustment for emergency assistance (EA) plan amendments. Current law provides unlimited matching funds for EA expenditures.

There is no job placement performance bonus, performance bonus, or high performance bonus.

The law imposes an aggregate ceiling on matching funds for AFDC, adult cash welfare (aged, blind, disabled), and foster care and adoption assistance in Guam, Puerto Rico, the Virgin Islands, and American Samoa (AFDC, foster care, and adoption assistance only). (Sec. 1108(a) and (d) of the Social Security Act.) The Federal matching rate is 75 percent, except for adoption assistance and foster care maintenance payments, whose matching rate is 50 percent. (Note: American Samoa has not implemented AFDC). Separate funding ceilings apply to matching funds for AFDC family planning services (75 percent Federal) and for Medicaid (50 percent Federal) in each territory (sec. 1108(b) and (c) of the Social Security Act). The outlying areas listed above are entitled to JOBS matching funds (75 percent Federal), allocated on the same basis as States (by share of AFDC adult recipients). (Sec. 403(1)(1)(A) of the Social Security Act.)

Indian tribes and Alaska native organizations receive no special treatment regarding AFDC, and tribes and native organizations do not administer AFDC funds. Indian and Alaska families with children receive AFDC benefits on the same terms as other families in their States or from State or local AFDC agencies. More than 80 tribes and native organizations in 24 States are JOBS grantees, having applied to conduct JOBS within 6 months of enactment of the law establishing it. Their allocation of JOBS funds is based on the percentage of AFDC adult recipients within the State who are in the tribal service area. Their JOBS allocation is subtracted from that of their State. JOBS funds granted to Indians and Alaska natives are 100 percent Federal, requiring no matching. Further, their JOBS programs need not meet participation rules of the regular JOBS program. In FY 1995 the estimated allocation of JOBS funds for these groups totaled $8.9 million.

House bill

Each eligible State is entitled to receive a grant from the Secretary for each of 5 fiscal years (1996–2000) in the amount equal to the State family assistance grant for the fiscal year. There is no individual entitlement (implicit in bill). For each fiscal year beginning with 1998, a State's grant amount is increased by 5 percent if the State illegitimacy ratio is 1 percentage point lower in that year than its 1995 illegitimacy ratio; the State grant is increased 10 percent if the illegitimacy ratio is 2 or more percentage points lower than its 1995 illegitimacy ration. In 1997, 1998, 1999, and 2000, a State's grant amount is increased by the State's percentage share of national population growth among growing States multiplied by $100 million. States that have negative population growth are omitted from the calculation. The House bill entitles territories to a cash block grant for temporary assistance to needy families (on same basis as States). It repeals AFDC and foster care/adoption assistance (and, accordingly, territorial ceilings for them and for AFDC family planning). (Sec. 104(e)(1) of H.R. 4.) It establishes new separate territorial ceilings for adult cash welfare. The bill retains territorial ceilings for Medicaid, but repeals ceilings for AFDC family planning (along with AFDC itself). As noted, the bill repeals JOBS. The basic cash block grant for outlying areas includes base-year level JOBS funds. Indian tribes and Alaska native organizations receive no special treatment regarding the cash block grant that will replace AFDC. Tribes and native organizations would not administer the new grants. The bill repeals JOBS (sec. 104(c)), and the basic cash block grant includes base-year level JOBS funds of each State (those funds include ones earmarked previously for administration by Indian tribes and Alaska native organizations). Tribes and native organizations would not administer the new grants.

Senate amendment

The Secretary is required to pay each eligible State for each of 5 fiscal years (1996–2000) a grant equal to the State family assistance grant for the fiscal year. The amendment states that no person is entitled to any assistance under Title IV–A. For fiscal years 1998, 1999 and 2000, a State's grant amount is increased if the State illegitimacy ratio is at least 1 percentage point lower than its 1995 illegitimacy ratio and the State rate of "induced pregnancy terminations" is no higher than in 1995. The bonus equals $25 times the number of children in the State in families with income below the poverty line, according to the most recently available Census data. The bonus is $50 per poor child if the illegitimacy ratio is at least 2 percentage points lower and the abortion rate no higher than in 1995. The bonus shall not be paid if the Secretary finds that the illegitimacy ratio declined, or the abortion rate held steady, because of a change in State reporting methods. The amendment authorizes to be appropriated, and appropriates, sums necessary for these grants. For each of fiscal years 1997, 1998, 1999, and 2000, qualifying States shall receive a supplemental grant amount equal to 2.5 percent of the block grant received in the preceding fiscal year. For this purpose, a qualifying State is one with an average level of State welfare spending per poor person in the preceding fiscal year below the national average and with an estimated rate of State population growth above the average growth rate for all States for the most recent fiscal year for which information is available. Additionally, States whose population rose more than 10 percent from April 1, 1990, to July 1, 1994, are deemed eligible, as are States with a FY 1996 level of State welfare spending per poor person that is less than 35 percent of the national average level. State welfare spending per poor person is defined as the State cash block grant divided by the number of persons in the State who had an income below the poverty line, according to the 1990 decennial census. For these grants, a total of $878 million is authorized to be appropriated, and is appropriated to be spent in 1997, 1998, 1999, and 2000. The Senate amendment makes available up to a total of $800 million for grants for years FY 1996 through FY 2000 equal to increased EA expenditures in fiscal year 1995 attributable to State EA plan amendments made during fiscal year 1994. If this amount is insufficient, State EA adjustment grants are to be reduced proportionately. For each of 2 years (FY 1998 and 1999) the Secretary shall pay a job placement performance bonus to eligible States. This bonus fund shall equal 3 percent of the national cash block grant for FY1998 and 4 percent for FY1999. The DHHS Secretary shall develop a formula for allocating funds to States on the basis of the number of families who, during the previous year, lost eligibility for continued aid from the cash block grant program because of obtaining unsubsidized employment. The formula must provide a larger bonus for families who remain employed for longer periods or who are at greater risk of long-term welfare enrollment and take into account each State or geographic area's unemployment condition. For FY 2000, the Secretary shall pay a performance bonus to each qualified State. To qualify for a performance bonus, a State must exceed overall average performance of all States in a measurement category (in the time period starting 6 months after enactment and ending on September 30, 1999) or improve its own performance in a category by at least 15 percent over that of FY1994. The 5 measurement categories are: reduction in average length of time families receive cash aid, increase in the percentage of recipient families that receive child support payments, increase in the number of families who lose eligibility for continued cash aid as a result of unsubsidized work, increase in earnings of recipient families, and reduction in percentage of families that become re-eligible for cash aid within 18 months after leaving the program. The bonus fund shall equal 5 percent of the national cash block grant and is to be deducted from that grant (by reducing each State's FY2000 grant by 5 percent). For FY 2000, in addition, "high performance" States shall be entitled to a share of a high performance bonus fund. Appropriated for the high performance bonus fund is an amount equal to penalties imposed on States (and "collected" by reductions in State grants) for FYs 1996–1999. High performance bonuses will be awarded for each of the 5 measurement categories to the 5 States with the highest percentage of improvement over their FY94 baseline in the category and to the 5 States with the highest overall average performance in the category. Retains but increases aggregate ceilings in each of the territories for cash aid to needy families, cash aid to needy aged, blind or disabled adults, and foster care/adoption assistance. Ends requirement that territories share cost of cash aid for needy families. Ceilings for Puerto Rico, Guam, and the Virgin Islands would rise by $19.521 million (representing a 12.5 percent increase in the old ceilings, plus $8.446 million for their FY1994 JOBS funds). Retains territorial ceilings for Medicaid, but repeals ceilings for AFDC family planning (along with AFDC itself). The Senate amendment repeals JOBS, but increases ceilings for the outlying areas to include their base-year level JOBS funds. The Senate amendment allows block grant funds to be directly administered by Indian tribes and Alaska native organizations. The amount is the total of Federal AFDC payments to the State for FY 1994 attributable to Indiana families. The Senate amendment requires the DHHS Secretary to continue to pay Indian tribes and Alaska native organizations that have been JOBS grantees an annual grant equal to the amount they received in FY95 for JOBS for each of fiscal years 1996, 1997, 1998, 1999 and 2000. For this purpose it appropriates $7,638,474 for each year. These funds are separate from, and in addition to, the national cash block grant.

Conference agreement

The conference agreement follows the House bill and the Senate amendment on grants for family assistance, so that each eligible State is entitled to receive a grant equal to the State family assistance grant from the Secretary for each of 5 fiscal years. The conference agreement follows the Senate amendment on the explicit statement that no person is entitled to any assistance under Title IV–A of the Social Security Act.

The conference agreement follows the House bill with respect to the amount of Grant Increases to Reward States that Reduce Out-of-Wedlock births (namely grant increases of 5 percent and 10 percent, based on reductions in illegitimacy). The conference agreement follows the Senate amendment with respect to the determination of how States may qualify for grant increases for this purpose, including the prohibition on a State's receiving a grant increase for this purpose if the State's rate of induced pregnancy terminations is higher than in 1995.

For purposes of this part, the Secretary is to disregard changes in rates of illegitimacy due to a change in State methods of reporting such data.

The conference agreement generally follows the Senate amendment with regard to the Adjustment for Population Growth, with the modification that $800 million is authorized and appropriated for this purpose.

The conference agreement follows the House bill regarding the adjustment for Emergency Assistance Plan Amendments (no provision).

The conference agreement follows the House bill regarding the Job Placement Performance Bonus (no provision).

The conference agreement follows the Senate amendment regarding the Performance Bonus, except that States that are most successful or most improved in moving families off welfare into work may reduce their 75 percent State maintenance of effort requirement by up to 8 percentage points.

The conference agreement follows the House bill regarding the High Performance Bonus (no provision).

The conference agreement generally follows the Senate amendment regarding the treatment of outlying areas, with increases to the aggregate ceilings on cash benefits for the specified territories.

The conference agreement on H.R. 4 would:

Increase the limits on Federal grants to the territories for adult assistance and benefits and services for families with children;

Replace AFDC, EA, and JOBS with the Temporary Assistance for Needy Families (TANF) block grant;

Replace the child welfare services and family preservation program with a child protection block grant;

Continue the existing programs of adult assistance; and

Provide explicit authority for the territories to transfer funds among adult assistance, temporary assistance for needy families with children, and child protection programs.

The conference agreement would require that the territories maintain their own funding effort under adult assistance, assistance for needy families with children, and child protection. For a territory to receive funds above the FY 1995 level, it would have to spend at least as much as the Federal Government counted toward their reimbursable FY 1995 spending for the replaced programs.

The chart below provides the mandatory caps and the authorization of discretionary funds for the territories agreed to by conferees. The final column of the chart shows the maximum potential payments to the territories for adult assistance, TANF, and child protection these figures represent the level of funds that each territory would receive if the territory reached its respective cap under the mandatory programs and if Congress appropriated the full authorization amount for the discretionary grant. Under P.L. 94–241, the Northern Mariana Islands are provided the same treatment as Guam under financial assistance programs.

CAPS ON MANDATORY PAYMENTS AND AUTHORIZATION OF DISCRETIONARY GRANTS TO THE TERRITORIES PROPOSED IN H.R. 4.

[In thousands of dollars]

Territory	Cap on mandatory payments	Authorization of discretionary grant	Maximum potential payment to the territories
Puerto Rico	105,538	7,951	113,489
Guam	4,902	345	5,247
Virgin Islands	3,742	275	4,017
American Samoa	1,122	190	1,312

The conference agreement generally follows the Senate amendment regarding the treatment of Indian tribes and Alaska native organizations, except that these groups will receive benefits through their State's block grant in FY1996 and will be eligible to receive direct funding to administer their own family assistance program in FY1997 and thereafter. In order to be eligible to receive direct funding, an Indian tribe or Alaska native organization must submit a three year plan to the Secretary of HHS outlining how the will administer their program. The tribal assistance plan is subject to the approval of the Secretary of HHS. Tribes and native organizations must meet minimum work participation rates established jointly by each tribe and native organization and the Secretary of HHS. Tribes and native organizations will be subject to the same penalties as States for misusing funds, failing to pay back Federal loan funds, and failing to meet established work participation rates. Tribes and native organizations will also be required to abide by the same data collection and reporting requirements as States. In addition, all tribes and native organizations that currently receive direct funding under the JOBS program will continue to receive an annual grant equal to the amount they received in FY1995.

(2) Definitions

Present law

AFDC law defines "State" to include the 50 States, the District of Columbia, Puerto Rico, Virgin Islands, Guam, and American Samoa. However, special funding ceilings apply to them.

House bill

The "State family assistance grant" is determined by the greater of (1) the average of Federal obligations to the State for selected programs (AFDC benefits and administration, Emergency Assistance, and JOBS) authorized by Title IV–A for FY 1992–1994; or (2) the amount of Federal obligations for FY 1994, multiplied by the total amount of State outlays for these programs for FY 1994, divided by the amount of Federal obligations for FY 1994. The selected programs are all those authorized under Title IV–A of current law except the day care programs (the at-risk program, AFDC/JOBS day care, and transitional day care). If the sum of all the State shares, as calculated here, exceeds (or falls short of) the national block grant amount below ((2)(b)), each State's share will be reduced (or increased) proportionately.

In each fiscal year between 1996 and 2000, the "National Block Grant Amount" available to all eligible States will be equal to $15,390,296,000.

The State's "Illegitimacy Ratio" for a fiscal year is the sum of the number of out-of-wedlock births that occurred in the State during the most recent fiscal year for which the data are available and the amount, if any, by which the number of abortions performed in the State during the most recent year for which information is available exceeds the number of abortions performed in the State during the fiscal year that immediately precedes such most recent fiscal year, divided by the number of births that occurred in the State for the most recent fiscal year.

The term "State" includes the 50 States, the District of Columbia, Puerto Rico, Virgin Islands Guam, and American Samoa.

Senate amendment

The State share of the block grant for each year equals the total Federal payments to the State under Title IV–A in Fiscal Year 1994 (for AFDC benefits and administration, Emergency Assistance, JOBS, and three child care programs—AFDC/JOBS child care, "transitional" child care, and "at-risk child care"); reduced by any amount set aside for tribal family assistance programs in the State and (FY 2000 only) by 5 percent (for the performance bonus fund) and increased by the amount, if any, of increased FY95 Emergency Assistance spending attributable to FY94 amendments.

The block grant amount is $16,803,769,000.

(Note: A major reason for the difference between the House and Senate block grant amount is that the House removed mandatory child care funds currently authorized under Title IV–A and placed most of the money in a separate discretionary child care block grant, while the Senate kept IV–A child care funds in the cash block grant but earmarked them for child care.)

The term "illegitimacy ratio" means the number of out-of-wedlock births that occurred in the State during the most recent fiscal year for which the data are available, divided by the number of births that occurred in the State during the most recent fiscal year for which the data are available.

The term "State" is identical to the House bill. However, for supplemental grants for population increases, the term "State" applies only to the 50 States.

In general, the terms "Indian," "Indian tribe organization" have the meaning given by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b). The Senate amendment provides that only 12 specified regional non-profit corporations of Alaska natives can administer tribal family assistance grants.

Conference agreement

The conference agreement follows the House bill and Senate amendment with regard to the State family assistance grant, except that the State share of the block grant is determined by the greater of (1) the average of Federal payments for FY 1992–94; (2) Federal payments in FY 1994; or (3) Federal payments in FY 1995. House conferees recede with regard to the proportionate reduction in State shares included in the House bill. For all programs except JOBS, Federal payments represent the Federal share of a State's total expenditures on these programs, as reported by the States. For JOBS, the payment represents the grant amount. Table 2 summarizes the annual State allocation under the basic TANF Block Grant.

Table 2.—Estimated Annual State Allocations Under the Temporary Assistance for Needy Families Block Grant

[In thousands of dollars]

State:	*Amount*
Alabama	93,006
Alaska	63,609
Arizona	222,420
Arkansas	56,733
California	3,733,818
Colorado	135,553
Connecticut	258,392
Delaware	32,291
District of Columbia	92,610
Florida	558,436
Georgia	330,742
Hawaii	98,905
Idaho	31,851
Illinois	585,057
Indiana	206,799
Iowa	130,088
Kansas	101,931
Kentucky	181,288
Louisiana	163,972
Maine	78,121
Maryland	229,098
Massachusetts	451,843
Michigan	775,353
Minnesota	265,203
Mississippi	86,768
Missouri	211,588
Montana	45,534
Nebraska	58,029
Nevada	43,977
New Hampshire	38,263
New Jersey	394,955
New Mexico	126,103
New York	2,359,975
North Carolina	302,240
North Dakota	24,684
Ohio	717,863
Oklahoma	148,014
Oregon	167,925
Pennsylvania	719,499
Rhode Island	95,022
South Carolina	99,968
South Dakota	21,352
Tennessee	183,236
Texas	486,257
Utah	74,952
Vermont	47,353
Virginia	158,285
Washington	399,637
West Virginia	110,176
Wisconsin	318,188

	Amount
Wyoming	21,781
Total	16,338,743

Source.—Table prepared by the Congressional Research Service (CRS), based on data from the U.S. Department of Health and Human Services (DHHS). Allocations based on the sum of the Federal share of expenditures for Title IV-A programs (except child care) and the grant amount for the Job Opportunity and Basic Skills (JOBS) program. Title IV-A expenditure data are based on reports by the States to the DHHS. FY1992 to FY1994 data reflect information available from DHHS, April 1995. Preliminary FY1995 data are the first 3 quarters of FY 1995 data, as reported by the States to DHHS, divided by 0.75. JOBS grant amount includes adjustments to obligations made after the close of the fiscal year. FY1992 and FY1993 JOBS grants reflect information available from DHHS, January 1995. FY1994 JOBS grants reflect information available from DHHS, April 1995. FY1995 JOBS data represent grant awards for the 4 quarters of FY1995. FY1995 data reflect information available October 1995. Allocations include an adjustment for States that had EA plan amendments related to family preservation activities in FY 1994. Estimates are based on FY1995 EA data available in August 1995. They are also based on a list of 13 States with FY 1994 EA plan amendments related to family preservation obtained by CRS from DHHS. If more States amended their EA plans for family preservation in FY 1994, the allocations for some States would be different.

The conference agreement follows the Senate amendment regarding the definition of a State's Illegitimacy Ratio.

The conference agreement follows the House bill and Senate amendment regarding the definition of "State", but the House recedes to the Senate so that, for purposes of the supplemental grants for population increases only, the term "State" applies only to the 50 States and the District of Columbia.

The conference agreement follows the Senate amendment regarding the definition of "Indian."

For purposes of determining the Federal and State shares pursuant to section 457(a)(1) of the Social Security Act of amounts collected on behalf of families receiving assistance, it is the intent of the conferees that amounts collected on behalf of families receiving assistance do not include amounts distributed to the family by the State that would have been authorized as gap payments pursuant to Section 402(a)(28) of the Social Security Act as in effect on the day before enactment of the Personal Responsibility and Work Opportunity Act of 1995.

(3) Use of grant

Present law

AFDE and JOBS funds are to be used in conformity with State plans. A State may replace a caretaker relative with a protective payee or a guardian or legal representative.

Current law sets aside some JOBS funds (deducting them from State allocations) for Indian tribes and Native Alaska organizations. See (4)(C)(1)(f).

Regulations permit States to receive Federal reimbursement funds (50 percent administrative cost-sharing rate) for operation of electronic benefit systems. To do so, States must receive advance approval from DHHS and must comply with automatic data processing rule.

House bill

States may use funds in any manner reasonably calculated to accomplish the purpose of this part (except for prohibitions listed below under (4)(F)). No part of the grant may be used to provide medical services. Explicitly allowed are noncash aid to mothers under the age of 18 assistance to low-income households for heating and cooling costs.

The House bill has no set-aside provision.

In the case of families that have lived in a State for less than 12 months, States are authorized to provide them with the benefit level of the State from which they moved.

States may transfer up to 30 percent of the funds paid to the State under this section to any or all of the following: (1) child protection block grant; (2) social services block grant under the XX of the Social Security Act; (3) any food and nutrition block grant passed during the 104th Congress; and (4) the child care and development block grant program. Rules of the recipient program will apply to the transferred funds.

States are allowed to reserve some block grant funds received for any fiscal year for the purpose of providing emergency assistance under the block grant program.

States are encouraged to implement an electronic benefit transfer system for providing assistance under the State program funded under this part, and may use the grant for such purpose. In general, exempt State and local government electronic transfers of need-based benefits from certain rules issued by the Federal Reserve Board regarding electronic fund transfers, (i.e., Regulation E, which limits liability of cardholders).

Senate amendment

States may use funds in any manner reasonably calculated to accomplish the purpose of this part, provided that administrative costs not exceed 15 percent of the State's grant (except from prohibitions listed below, under section F).

The following rules apply to set-asides under the Senate amendment: (1) maintains current law set-asides for JOBS funding for Indian tribes and Alaska native organizations; (2) from the national cash block grant, the State Amendment earmarks for child care annually the amount paid with Federal funds in FY1994 for AFDC-related child care (about $980 million); and (3) for the Performance fund (FY2000 only), each State's share of the family assistance block grant shall be reduced by 5 percent. The set-aside funds are to finance FY2000 performance bonuses.

With regard to the treatment of "interstate immigrants", the Senate amendment includes a similar provision, with slight differences in wording, in relation to the House bill.

States may transfer up to 30 percent of block grant funds to the child care and development block grant program.

A State may reserve amounts paid to the State for any fiscal year for the purpose of providing assistance under this part. Reserve funds can be used in any fiscal year. Any funds set aside for child care, if reserved, must be used only for child care.

States may use a portion of the temporary assistance block grant to make payments (or provide job placement vouchers) to State-approved agencies that provide employment services to recipients of cash aid.

Conference agreement

The conference agreement follows the House bill and Senate amendment with respect to the general uses of the grant, clarifying that the grant may be used in any manner reasonably calculated (including activities now authorized under titles IV-A and IV-F of the Social Security Act and providing low-income households with assistance in meeting home heating and cooling costs) to increase the flexibility of States in operating a program designed to:

(1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

(2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

(3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and

(4) encourage the formation and maintenance of two-parent families.

The conference agreement follows the Senate amendment's 15 percent cap on administrative spending. However, spending for information technology and computerization needed to implement the tracking and monitoring required by this title are excluded from this limitation.

The conference agreement follows the House bill with regard to set-asides for child care and the performance fund, and follows the Senate amendment with regard to the set-aside for Indians (no provision).

With regard to the treatment of "interstate immigrants", the conferees agree to follow the House bill and Senate amendment.

The conference agreement follows the House bill with regard to transfer of funds.

The conference agreement follows the Senate amendment on reservation of funds.

The conference agreement follows the House bill with regard to the Electronic Benefit Transfer System.

The conference agreement follows the Senate amendment on the authority of States to use funds to operate an employment placement program.

It is the intent of Congress that, after the date of enactment, neither the Federal nor State governments can be made liable for retroactive payments required to be made by States by court order to AFDC recipients under the current AFDC program.

(4) Cost-sharing (maintenance of effort)

Present law

Current law requires States to share program costs. For administrative costs the rate is 50 percent. For other costs it varies among States (and, within limits, is inversely related to the square of State per capita income, compared to the square of National per capita income). For AFDC benefits and AFDC-related child care, the Medicaid Federal matching rate is used; it now ranges among States from a floor of 50 percent to 79 percent. For JOBS activities, the law provides an "enhanced" rate, ranging from 60 percent to 79 percent.

House bill

No cost-sharing required.

Senate amendment

The Senate amendment requires State cost-sharing for the temporary assistance block grant for 4 years, starting in FY1997. To receive the full grant for one of these years, States must spend in the preceding year from their own funds under their temporary assistance program at least 80 percent of the amount they spent in FY1994 on the replaced programs—AFDC benefits, AFDC-related child care, Emergency Assistance, and JOBS. Grants are to be reduced one dollar for each dollar by which a State falls short of this requirement. Cost-sharing also is required for "contingency" funds and additional child care funds. To qualify for contingency funds, States must spend at least 100 percent of FY1994 expenditures on programs replaced by the cash block grant. For additional child care funds they must spend at least 100 percent of FY1994 expenditures on AFDC-related child care.

Conference agreement

The conference agreement follows the Senate amendment, with the modification that

States must spend at least 75 percent of the amount they spent in FY1994.

(5) Timing of payments

Present law

The Secretary pays AFDC funds to the State on a quarterly basis.

House bill

The Secretary shall make each grant payable to a State in quarterly installments.

Senate amendment

Similar to the House provision.

Conference agreement

The conference agreement follows the House bill.

(6) Penalties

Present law

If the Secretary finds that a State has failed to comply with the State plan, she is to withhold all payments from the State (or limit payments to categories not affected by noncompliance).

There is no specific penalty for failure to submit a report, although the general noncompliance penalty could apply.

The Secretary is to reduce payments by 1 percent for failure to offer an provide family planning services to all appropriate AFDC recipients who request them.

Except as expressed provided, the Secretary may not regulate the conduct of the States or enforce any provisions of this paragraph.

The penalty against a State for noncompliance with child support enforcement rules—loss of AFDC matching funds—shall be suspended if a State submits and implements a corrective action plan.

House bill

The Secretary shall reduce the funds paid to a State by any amount found by audit to be in violation of this part, but the Secretary cannot reduce any quarterly payment by more than 25 percent. If necessary, funds will be withheld from the State's payments during the following year.

The Secretary must reduce by 3 percent the amount otherwise payable to a State for a fiscal year if the State has not submitted the annual report regarding the use of block grant funds within 6 months after the end of the immediately preceding fiscal year. The penalty is rescinded if the report has been submitted within 12 months.

The Secretary must reduce by 1 percent the amount of a State's annual grant if the State fails to participate in the IEVS designed to reduce welfare fraud.

With regard to failure to offer and provide family services, there is no penalty specified, but States are allowed to use block grant funds to pay for family planning services.

Except as expressly provided, the Secretary may not regulate the conduct of States under Part A of Title IV or enforce any provision of it.

There is no provision in the House bill regarding overdue repayments to the Federal rainy day loan fund, which is described below.

Senate amendment

For all penalties, the Secretary may not impose any of the penalties if she finds the State had reasonable cause for its failure to comply with the relevant provision. The State must spend on the block grant program a sum of its own funds to equal the amount of withheld Federal dollars. No quarterly payment may be reduced more than 25 percent. If necessary, penalty funds will be withheld from the State's payment for the next year. Except for the first item, all penalties take effect October 1, 1996.

The Secretary shall reduce funds paid to a State by any amount found by audit to be in violation of this part. If the State does not prove to the Secretary that the unlawful expenditure was not made intentionally, the Secretary shall impose an additional penalty of 5 percent of the basic block grant.

If a State fails to submit the annual report required by sec. 409 within 6 months after the end of a fiscal year, the Secretary shall reduce by 5 percent the amount otherwise payable to the State for the next year. However, the penalty shall be rescinded if the State submits the report before the end of the year in which the report was due.

The Secretary shall reduce by not more than 5 percent the annual grant of a State, if the State fails to participate in the IEVS designed to reduce welfare fraud.

If the Secretary determines that a State does not enforce penalties requested by the Title IV-D child support enforcement agency against receipts of cash aid who fail to cooperate in establishing paternity in accordance with Part D, the Secretary shall reduce the cash assistance block grant by not more than 5 percent.

Except as expressly provided, neither the DHHS Secretary nor the Treasury Secretary may regulate the conduct of States under Part A of Title IV nor enforce any provision of it.

If a State fails to pay any amount borrowed from the Federal Loan Fund for State Welfare Programs within the maturity period, plus any interest owed, the Secretary shall reduce the State's cash assistance block grant for the immediately succeeding fiscal year quarter by the outstanding loan amount, plus the interest owed on it. The Secretary may not forgive these overdue debts.

The Senate amendment requires the Federal government, before assessing a penalty against a State under any program established or modified by the act, to notify the State about the violation and allow it to enter into a corrective compliance plan within 60 days after notification. The Federal government shall have 60 days to accept or reject the plan; if it accepts the plan, and if the State corrects the violation, no penalty shall be assessed. If the State fails to make a timely correction, some or all of the penalty shall be assessed. An alternate corrective action section requires a State to correct the violation pursuant to its plan within 90 days after the Federal government accepts the plan.

Conference agreement

The conference agreement follows the Senate amendment on the general conditions for setting penalties; i.e., penalties may not be imposed if the Secretary finds the State has reasonable cause for its failure to comply; the State must spend on the block grant program a sum of its own funds to equal the amount of withheld Federal dollars; no quarterly payment may be reduced more than 25 percent; if necessary, penalty funds will be withheld from the State's payment for the next year; and that, except for the first item, all penalties take effect October 1, 1996.

The conference agreement follows the Senate amendment on penalties for use of the grant for unauthorized purposes. The conferees also agreed that if a State could not demonstrate to the Secretary that the State did not intend to use the amount in violation of this part, an additional penalty of 5 percent is imposed on the grant amount. The conference agreement follows the House bill and the Senate amendment regarding penalties for State failure to submit the required report, except that the penalty is to be a reduction of 4 percent in the block grant. The conference agreement follows the House bill and the Senate amendment regarding penalties for State failure to participate in the Income and Eligibility Verification System, except that the penalty is to be 2 percent.

The conference agreement follows the Senate amendment on penalties for State failure to cooperate on child support enforcement. The conference agreement follows the House bill and the Senate amendment regarding penalties for failure to offer and provide family planning services (no provision). The conference agreement includes penalties for failure to satisfy minimum work participation rates. The conference agreement follows the Senate amendment regarding the limitation of Federal authority.

The conference agreement follows the Senate amendment regarding the penalty for failure to timely repay the Federal loan fund for State welfare programs. The conference agreement follows the Senate amendment regarding the Corrective Action Plan.

(7) Federal rainy day loan fund

Present law

No provision. Instead, current law provides unlimited matching funds.

House bill

The Federal government will establish a fund of $1 billion modeled on the Federal Unemployment Account, which is part of the Unemployment Compensation system. The fund is to be administered by the Secretary of Health and Human Services, who must deposit into the fund any principal or interest payments received with respect to a loan made under this provision. Funds are to remain available without fiscal year limitation for the purpose of making loans and receiving payments of principal and interest. States must repay their loans, with interest, within 3 years. The rate of interest will equal the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the period to maturity of the loan. At any given time, no State can borrow more from the fund than half its annual share of block grant funds or $100 million, whichever is less. States may borrow from the fund if their total unemployment rate for any given 3-month period is more than 6.5 percent and is at least 110 percent of the same measure in the corresponding quarter of the previous 2 years.

Senate amendment

Establishes a $1.7 billion revolving loan fund called the "Federal Loan Fund for State Welfare Programs." The Secretary shall make loans, and the rate of interest will equal the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the period to maturity of the loan. Ineligible are States that have been penalized for misspending block grant funds as determined by an audit. Loans are to mature in 3 years, at the latest, and the maximum amount loaned to a State cannot exceed 10 percent of its basic block grant, and States face penalties for failing to make timely payments on their loan.

Conference agreement

The conference agreement follows the Senate amendment.

(8) Contingency fund (for States with high unemployment)

Present law

No provision. Current law provides unlimited matching funds.

House bill

No provision.

Senate amendment

Establishes a "Contingency Fund for State Welfare Programs" and appropriates funds of up to $1 billion for a total period of 7 years (FY 1996–2002). The fund would provide matching grants (at the Medicaid matching rate) to States that have unemployment rates above specified levels, provided they first spend from their own funds a yearly sum a least equal to their FY 1994 expenditures on AFDC, AFDC-related child care, Emergency Assistance, and JOBS. The maximum contingency grant could not exceed 20 percent of a State's temporary assistance block grant. Eligible would be States that met the maintenance of effort requirement and had an average rate of total unemployment, seasonally adjusted, of at least 6.5 percent during the most recent 3 months with published data and a rate at least 10 percent above that of either or both of the corresponding 3-month periods in the 2 preceding calendar years.

Conference agreement

The conference agreement follows the Senate amendment.

(9) Additional day care funds

Present law

No provision. Current law provides unlimited matching funds for AFDC/JOBS child care and transition child care (but a capped amount for "at-risk" care).

House bill

No provision.

Senate amendment

The Senate amendment authorizes to be appropriated, and appropriates, $3 billion in matching grants to States for the 5-year period beginning in FY1996 for child care assistance (in addition to Federal funds set aside for child care in the family assistance block grant). The funds, which are allocated among the States on the basis of their share of the nation's child population, are to be used to reimburse a State, at the Medicaid matching rate, for child care spending in a fiscal year that exceeds its share of child care set-aside funds (100 percent Federal) plus the amount it spent from its own funds in FY1994 for AFDC/JOBS child care, transitional child care, and at-risk child care. Funds are to be used only for child care assistance under Part IV–A. In the last quarter of the fiscal year, FY2000, if any portion of a State allotment is not used, the Secretary shall make it available to applicant States. Notwithstanding section 658T of the Child Care and Development Block Grant Act, the State agency administering the family assistance block grant shall determine eligibility for all child care assistance provided under Title IV–A. (For budget scoring, the Amendment states that the baseline shall assume that no grant will be made after FY2000.)

Conference agreement

See discussion in Title VIII of the conference agreement under Child Care and Development Block Grant. In general, conferees agree on a child care block grant that provides States with a total of $18 billion in funds for child care, $11 billion of which is entitlement funding.

D. Contracts/Client Agreements

(1) Terms

Present law

After assessing the needs and skills of recipients and developing an employability plan, States may require JOBS participants to negotiate and enter into an agreement that specifies their obligations.

House law

No provision.

Senate amendment

States must assess, through a case manager, the skills of each parent for use in developing and negotiating a personal responsibility contract (PRC). Each recipient family must enter into a contract developed by the State or into a limited benefit plan. The PRC means a binding contract outlining steps to be taken by the family and State to get the family "off of welfare" and specifying a negotiated time-limited period of eligibility for cash aid. An alternate provision requires the case manager to consult with the parent applicant (client) in developing a PRC, lists client activities that the PRC might require, specifies that clients must agree to accept a bona fide offer of an unsubsidized full-time job unless they have good cause not to, but does not require a time limit in the PRC nor make provision for a limited benefit plan. A State may exempt a battered person from entering into a PRC if its terms would endanger his/her well-being.

Conference agreement

The conference agreement follows the House bill (no provision).

(2) Penalties

Present law

No provision.

House bill

No provision.

Senate amendment

The PRC is to provide that if a family fails to comply with its terms, the family automatically will enter into a limited benefit plan (with a reduced benefit and later termination of aid, in accordance with a schedule determined by the State). If the State agency violates the PRC, the contract shall be invalid. The State is to establish a procedure, including the opportunity for hearing, to resolve disputes concerning participation in the PRC. The alternate PRC language provides these penalties: for the first act of noncompliance with the PRC, 33 percent reduction in the family's benefit for one month; for the second act, 66 percent reduction for 3 months; for third and subsequent acts of noncompliance, loss of eligibility for 6 months. Job refusal without good cause is treated as a third violation. However, in no case shall the penalty period extend beyond the duration of noncompliance.

Conference agreement

The conference agreement follows the House bill (no provision).

E. Mandatory Work Requirements

(1) Work activities

Present law

JOBS programs must include specified educational activities (high school or equivalent education, basic and remedial education, and education for those with limited English proficiency); jobs skills training, job readiness activities, and job development and placement. In addition, States must offer at least two of these four items: group and individual job search; on-the-job training; work supplementation or community work experience program (CWEP) (or another work experience program approved by the DHHS Secretary). The State also may offer postsecondary education in "appropriate" cases.

House bill

"Work activities" are defined as unsubsidized employment, subsidized employment, subsidized public sector employment or work experience, on-the-job training, job search, education and training directly related to employment, and jobs skills training directly related to employment. Satisfactory attendance at secondary school, at State option, may be included as a work activity for a parent under 20 who has not completed high school.

Senate amendment

Establishes this list of work activities: unsubsidized employment, subsidized employment, on-the-job training, community service programs, job search (first 4 weeks only) and vocational educational training (12 months maximum). For work participation requirements, the proportion of persons counted as engaged in "work" through participation in vocational educational training cannot exceed 25 percent. For each tribe receiving a family assistance block grant, the Secretary, with participation of Indians tribes, shall establish minimum work participation rules, appropriate time limits for benefits, and penalties, similar to the general family assistance rules but consistent with the economic conditions and resources of the tribe.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, with the modification that, for the work participation requirements, the proportion of persons counted as engaged in work through participation in vocational education cannot exceed 20 percent.

(2) Participation requirements: all families

Present law

The following minimum percentage of nonexempt AFDC families must participate in JOBS:

Fiscal year:	*Minimum Percentage*
1995 (last year)	20
1996 and thereafter (no requirement)	0

Exempt from JOBS are parents whose youngest child is under 3 (1, at State option). Other exemptions include persons who are ill, incapacitated or needed at home because of illness or incapacity of another person. Also exempt are parents of a child under 6, unless the State guarantees child care and requires no more than 20 hours weekly of JOBS activity.

Participation rates are calculated for each month. A State's rate, expressed as a percentage, equals the number of actual JOBS participants divided by the number of AFDC recipients required to participate (non-exempt from JOBS).

In calculating a State's overall JOBS participation rate, a standard of 20 hours per week is used. The welfare agency is to count as participants the largest number of persons whose combined and averaged hours in JOBS activities during the month equal 20 per week.

The law requires States to guarantee child care when needed for JOBS participants and for other AFDC parents in approved education and training activities. Regulations require States to guarantee care for children under age 13 (older if incapable of self-care) to the extent that it is needed to permit the parent to work, train, or attend school. States must continue child care benefits for 1 year to ex-AFDC working families, but must charge them an income-related fee.

House bill

The following minimum percentages of all families receiving cash assistance must engage in work activities:

Minimum Percentage

Fiscal year:	
1996	10
1997	15
1998	20
1999	25
2000	27
2001	29
2002	40
2003 or thereafter	50

If States achieve net caseload reductions, they receive credit for the number of families by which the caseload is reduced for purposes of meeting the overall family participation requirements. The minimum participation rate shall be reduced by the percentage by which the number of recipient families during the fiscal year falls below the number of AFDC families in fiscal year 1995, except to the extent that the Secretary determines that the caseload reduction was required by terms of Federal law.

The fiscal year participation rates are the average of the rates for each month during the year. The monthly participation rates are measured by the number of recipient families in which an individual is engaged in work activities for the month, divided by the total number of recipient families that include a person who is 18 or older.

To be counted as engaged in work activities for a month, the recipient must be making progress in qualified activities for at least the minimum average number of hours per week shown in the table below. Of these hours, at least 20 hours must be spent in unsubsidized employment, subsidized private sector employment, subsidized public sector employment, work experience, or on-the-job training. During the first 4 weeks of required work activity, hourly credit also is given for job search and job readiness assistance.

Minimum average hours weekly

Fiscal year:	
1996	20
1997	20
1998	20
1999	25
2000	30
2001	30
2002	35
2003 or thereafter	35

Although a person must work at least 20 hours weekly in order for any hours of their training or education to count toward required participation, the bill does not prohibit a State from offering cash recipients an opportunity to participate in education or training before requiring them to work. In this case, however, participation does not count toward fulfillment of the State mandatory participation rate. Note: although the above table is in a paragraph entitled "requirements applicable to all families receiving assistance," another paragraph establishes a higher hourly requirement (35 hours weekly) in all years for 2-parent families. See below.

Senate amendment

The following minimum percentages of all families receiving cash assistance (except those with a child under 1, if exempted by the State) must participate in work activities:

Minimum percentage

Fiscal year:	
1996	25
1997	30
1998	35
1999	40
2000 or thereafter	50

The Secretary is directed to prescribe regulations for reducing the minimum participation rate required for a State if its caseload under the new program is smaller than in the final year of AFDC, but not if the decrease was required by Federal law or results from changes in eligibility criteria adopted by the State. With these qualifications, the regulations are to reduce the participation rate by the number of percentage points, if any, by which the caseload in a fiscal year is smaller than in FY1995.

States may exempt a parent or caretaker relative of a child under one year old and may exclude them from the participation rate calculation. States may exempt a battered person if their well-being would be endangered by a work requirement.

As in the House bill, the fiscal year participation rate is the average of the rates for each month of the year. However, overall monthly rates are measured by adding (1) the number of recipient families with an adult engaged in work for the month, (2) the number subject to a work refusal penalty in the month (if not subject to the penalty for more than 3 months out of the preceding 12), and (3) the number who worked their way off the program in the previous 6 months and that include an adult who is working for the month, and then dividing this total by the number of families enrolled in the program during the month that include an adult recipient. States have the option to include in the calculation of monthly participation rates families who receive assistance under a tribal family assistance plan if the Indian or Alaska Native is participating in work under standards comparable to those of the State for being engaged in work.

To be counted as engaged in work for a month, an adult must be participating in work for at least the minimum average number of hours per week shown in the table below (of which not fewer than 20 hours per week are attributable to a work activity). See list of work activities above.

Exception to the table: In FY1999 and thereafter, when required weekly hours rise above 20, a State may count a single parent with a child under age 6 as engaged in work for a month if the parent works an average of 20 hours weekly. Also, community service participants may be treated as engaged in work if they provide child care services for another participant for the number of hours deemed appropriate by the State.

Minimum average hours weekly

Fiscal year:	
1996	20
1997	20
1998	20
1999	25
2000	30
2001	30
2002	35
2003 or thereafter	35

Note: Although the above table is in a paragraph entitled "all families," another paragraph establishes a higher hourly requirement (35 hours weekly) in all years for 2-parent families. See below.

The Senate amendment states that nothing in sec. 421 (amounts for child care) shall be construed to provide an entitlement to child care services to any child.

Conference agreement

The conference agreement follows the House bill and the Senate amendment as follows:

The following minimum percentages of all families receiving cash assistance (except those with a child under 1, if exempted by the State) must participate in work activities:

Minimum percentage

Fiscal year:	
1996	15
1997	20
1998	25
1999	30
2000	35
2001	40
2002 or thereafter	50

The conference agreement generally follows the Senate amendment regarding reduction in the participation rate, including the requirement that regulations shall not take into account families diverted from the State program as a result of differences in eligibility criteria under the State program (in comparison with the AFDC program that operated prior to the date of enactment). The conferees agree to modify the Senate provision by requiring that regulations shall place the burden on the Secretary to prove that families were diverted as a direct result of differences in eligibility criteria.

The conference agreement follows the House bill regarding exemptions from the work requirement for battered individuals, and follows the Senate amendment regarding the State option to exempt families with a child under 1.

The conference agreement follows the House bill and the Senate amendment regarding the calculation of the fiscal year rate. The conference agreement generally follows the Senate amendment regarding the calculation of monthly rates, except that the Senate recedes on counting people who have worked their way off the rolls in the previous 6 months and including sanctioned individuals in the numerator; conferees agree that sanctioned persons are to be subtracted from the denominator in determining monthly rates.

The conference agreement follows the House bill with regard to the number counted as engaged in work, except that the phrase "making progress in qualified activities" is replaced with "participating in qualified activities."

The conference agreement follows the House bill and the Senate amendment regarding the minimum average hours of weekly work required. Conferees did not agree to the Senate provision that States have the option of allowing single parents with children under 6 to work only 20 hours per week and still count toward the participation standard.

(3) Participation requirements: Two-parent families

Present law

The following minimum percentages of two-parent families receiving cash assistance must participate in specified work activities:

Minimum percentage

Fiscal year:	
1995	50
1996	60
1997	75
1998 (last year)	75

Minimum percentage—Continued

1999 and thereafter (no requirement)	0

Participation rates for a month equal the number of parents who participate divided by the number of principal earners in AFDC-UP families (but excluding families who received aid for 2 months or less, if one parent engaged in intensive job search).

One parent in the 2-parent family must participate at least 16 hours weekly in on-the-job training, work supplementation, community work experience program, or a State-designated work program.

House bill

The following minimum percentages of two-parent families receiving cash assistance must engage in work activities:

Minimum percentage

Fiscal year:	
1996	50
1997	50
1998 (last year)	90
1999 and thereafter	90

Participation rates for a month are measured by the number of two-parent recipient families in which at least one adult is engaged in work activities for the month, divided by the total number of two-parent families that received cash aid during the month.

An adult in a 2-parent family is engaged in work activities when making progress in them for 35 hours per week, at least 30 of which are in unsubsidized employment, subsidized private sector employment, subsidized public sector employment, work experience, or on-the-job training (or job search and job readiness assistance for the first 4 weeks only).

Senate amendment

The following minimum percentages of two-parent families receiving cash assistance must participate in work:

Minimum percentage

Fiscal year:	
1996	60
1997	75
1998	75
1999 and thereafter	90

Participation rates for 2-parent families are measured (like those for all families) by adding (1) the number of 2-parent recipient families with an adult engaged in work for the month; (2) the number of 2-parent families subject to a work refusal penalty in the month (if not subject to the penalty for more than 3 months out of the preceding 12); and (3) the number of 2-parent families who worked their way off the program in the previous 6 months and that include an adult who is working for the month, and then dividing this total by the number of 2-parent families enrolled in the program during the month that include an adult recipient.

An adult in a 2-parent family must participate in work for at least 35 hours per week during the month, and at least 30 hours weekly must be attributable to one or more of the 6 work activities listed above in "4.E. Mandatory Work Requirements."

Conference agreement

The conference agreement follows the House bill and Senate amendment so that the following minimum percentages of two-parent families receiving cash assistance must participate in specified work activities:

Minimum percentage

Fiscal year:	
1996	50
1997	75
1998	75
1999 and thereafter	90

With regard to participation rates for a month, the conference agreement for 2-parent families matches the agreement for all families described above, so that the rates equal the number of two-parent recipient families in which at least one adult is engaged in work activities for the month, divided by the total number of two-parent families that received cash assistance minus sanctioned persons.

The conference agreement follows the House bill and the Senate amendment regarding creditable activities, except the House and Senate compromise so that the percentage of the caseload able to be counted as engaged in a work activity through vocational education training cannot exceed 20 percent.

(4) Penalties

Present law

For failure to meet JOBS requirements without good cause, AFDC benefits are denied to the offending parent and payments for the children are made to a third party.

In a 2-parent family, failure of 1 parent to meet JOBS requirements without good cause results in denial of benefits for both parents (unless the other parent participates) and third-party payment on behalf of the children. Repeated failures to comply bring potentially longer penalty periods.

If a State fails to achieve the two required participation rates (overall and for 2-parent families), the Federal reimbursement rate for its JOBS spending (which ranges among States from 60 percent to 79 percent for most JOBS costs) is to be reduced to 50 percent.

House bill

If recipients refuse to participate in required work activities, their cash assistance is reduced by an amount to be determined by individual States, subject to good cause and other exceptions that the State may establish.

Recipients in two-parent families who fail to work the required number of hours receive the proportion of their monthly cash grant that equals the proportion of required work hours they actually worked during the month, or less at State option.

No officer or employee of the Federal government may regulate the conduct of States under this paragraph (about penalties against individuals) or enforce this paragraph against any State.

States not meeting the required participation rates have their overall grant (calculated without the bonus for reducing out-of-wedlock births and before other penalties listed in C(5) above) reduced by up to 5 percent the following fiscal year; penalties shall be based on the degree of noncompliance as determined by the Secretary.

Senate amendment

If an adult recipient refuses to engage in required work, the State shall reduce the amount of assistance to the family pro rata (or more, at State option) with respect to the period of work refusal, or shall discontinue aid, subject to good cause and other exceptions that the State may establish. A State may not penalize a single parent caring for a child under age 6 for refusal to work if the parent has a demonstrated inability to obtain needed child care. Penalties against individuals in 2-parent families follow those against individuals, except that the penalties may apply against parents of children under 6 who refuse to work due to an inability to obtain child care.

No specific provision about regulation of penalties against individuals. However, the amendment provides that neither the DHHS Secretary nor the Treasury Secretary may regulate the conduct of States under Title IV-A or enforce any of its provisions, except to the extent expressly provided in the Act.

If a State fails to meet minimum work participation rates, the Secretary is to reduce the family assistance block grant as follows: For the first year of failure, by 5 percent (applied in the next year); for subsequent years of failure, by an additional 5 percent (thus, by 5.25 percent). The Secretary shall impose reductions on the basis of the degree of noncompliance.

Conference agreement

The conference agreement follows the Senate amendment regarding penalties against individuals, with the modification that the burden of proof to demonstrate an inability to find needed child care rests on the parent of a child under age 6. The conference agreement follows the Senate amendment regarding penalties against individuals in two-parent families.

The conference agreement follows the House bill on penalties against States not meeting work requirements, except the House recedes to the Senate on the corrective action provision.

(5) Rule of interpretation (concerning education and training)

Present law

JOBS programs must include specified educational activities and job skills training.

House bill

This part does not prohibit a State from establishing a program for recipients that involves education and training.

Senate amendment

No provision. However, the amendment qualifies vocational educational training as a "work activity," with a 12-month maximum and a limit on the proportion of vocational educational trainees who can be counted in calculating work participation rates.

Conference agreement

The House recedes (no provision). Vocational training, however, counts in the calculation of participation standards with the limitation described above.

(6) Research (about work programs)

Present law

Authorizes States to make "initial" evaluations (in FY 1991) of demographic characteristics of JOBS participants and requires the DHHS Secretary, in consultation with the Labor Secretary, to assist the States as needed.

House bill

The Secretary is to conduct research on the costs and benefits of mandatory work requirements in the Act, and to evaluate promising State approaches in employing welfare recipients. See also "Research, Evaluations, and National Studies" below.

Senate amendment

The Secretary is to conduct research on the costs, benefits, and effects of operating different State programs of temporary assistance to needy families, including their time limits. Research shall include studies of effects on employment rates. See also "Research, Evaluations, and National Studies" below.

Conference agreement

The conference agreement generally follows the House bill and the Senate amendment.

(7) Evaluation of innovative approaches to employing recipients of assistance

Present law

No provision.

House bill

The Secretary shall evaluate innovative approaches by the States to employ recipients of assistance.

Senate amendment

The Secretary may assist States in developing, and shall evaluate innovative approaches for reducing welfare dependency and increasing the well-being of minor children, using random assignments in these evaluations "to the maximum extent feasible."

Conference agreement

The conference agreement follows the Senate amendment.

(8) Annual ranking of States and review of work programs

Present law

No provision.

House bill

The Secretary must annually rank the States in the order of their success in moving recipients into long-term private sector jobs, and review the 3 most and 3 least successful programs. HHS will develop these rankings based on data collected under the bill.

Senate amendment

Taking account of the number of poor children in the State and funds provided for them, the Secretary of HHS shall rank the States annually in the order of their success in placing recipients into long-term private sector jobs, reducing the overall caseload, and, when a practicable method for calculation becomes available, diverting persons from application and entry into the program. The Secretary shall review the 3 most and 3 least successful programs that provide work experience, help in finding jobs, and provide other support services to enable families to become independent of the program.

Conference agreement

The conference agreement follows the House bill.

(9) Annual ranking of States and review of out-of-wedlock births

Present law

No provision.

House bill

No provision.

Senate amendment

The Secretary is to annually rank States in the order of their success in reducing out-of-wedlock births and to review the programs of the 5 ranked highest and 5 ranked lowest in decreasing their absolute out-of-wedlock birth ratios (defined as the total number of out-of-wedlock births in families receiving cash assistance, divided by the total number of births in recipient families).

Conference agreement

The conference agreement follows the Senate amendment.

(10) Sense of Congress on work priority for mothers without young children

Present law

No provision.

House bill

It is the sense of Congress that States should give highest priority to requiring families with older preschool children or school-aged children to engage in work activities.

Senate amendment

Adds to highest priority group "adults in 2-parent families and adults in single-parent families with children that are older than preschool age."

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

(11) Work/school requirements for noncustodial parents

Present law

The Secretary shall permit up to 5 States, on a voluntary or mandatory basis, to provide JOBS services to unemployed noncustodial parents unable to pay child support

House bill

States must adopt procedures to ensure that persons owing past-due support to a child (or to a child and parent) receiving Title IV–A either work or have a plan for payment of that support. States must seek a court order requiring the parent to make payment, in accordance with a court-approved plan to work (unless incapacitated). It is the sense of Congress that States should require non-custodial, non-supporting parents under age 18 to fulfill community work obligations and attend appropriate parenting or money management classes after school.

Senate amendment

States must seek a court order or administrative order requiring a person who owes support to a child receiving Title IV–D services to pay the support in accordance with a court-approved plan or to work (unless incapacitated).

Conference agreement

The conference agreement follows the House bill.

(12) Delivery of work activities

Present law

Current law permits States to carry out JOBS programs directly or through arrangement or under contracts with administrative entities under the Job Training Partnership Act (JTPA), with State and local educational agencies or with private organizations, including community-based organizations as defined in JTPA (Section 485(A) of Social Security Act).

House bill

No provision.

Senate amendment

Requires that work activities for recipients of the temporary family assistance program be delivered through the Statewide workforce development system that was earlier included in the Work Opportunity Act, unless a required activity is not available locally through the Statewide workforce development system. However, as passed, the amendment does not include the workforce development title.

Conference agreement

The conference agreement follows the House bill (no provision).

(13) Displacement of workers

Present law

Under JOBS law, no work assignment may displace any currently employer worker or position (including partial displacement such as a reduction in hours of non-overtime work, wages, or employment benefits). Nor may a JOBS participant fill a position vacant because of layoff or because the employer has reduced the workforce with the effect of creating a position to be subsidized.

House bill

No provision.

Senate amendment

Provides that no adult in a Title IV–A work activity shall be employed or assigned when another person is on layoff from the same or a substantially equivalent job, or when the employer has terminated the employment of a regular worker or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy thus created with a subsidized worker. This provision does not preempt or supersede any State or local law providing greater protection from displacement.

Conference agreement

The conference agreement follows the Senate amendment.

F. Prohibitions

(1) Families without a minor child

Present law

Only families with dependent children (under age 18, or 19 at State option if the child is still in secondary school or in the equivalent level of vocational or technical training) can participate in the program.

House bill

Only families with minor children (under 18 years of age or under 19 years of age for full-time students in a secondary school or the equivalent) can participate in the program.

Senate amendment

Similar to House bill, but specifies that the minor children must live with their parent or other caretaker relative.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, with the modification that a pregnant individual may receive assistance under the block grant.

(2) Assistance for aliens

Present law

Illegal aliens are ineligible, but legal aliens and others permanently residing under color of law are eligible for Federal means-tested benefit programs. States must operate a System for Verification of Eligibility (SAVE) for determination of immigration or citizenship status of applicants and must verify the immigration status of aliens with the Immigration and Naturalization Service.

House bill

Block grant funds may not be used to provide cash benefits to a non-citizen unless the individual is a refugee under section 207 of the Immigration and Nationality Act who has been in the U.S. for under 5 years, a legal permanent resident over age 75 who has lived in the U.S. at least 5 years, a veteran (or the spouse or unmarried dependent child of a veteran) honorably discharged from the U.S. Armed Forces, or a legal permanent resident unable because of disability or mental impairment to comply with certain naturalization requirements. In addition, legal permanent residents who are current beneficiaries retain eligibility for the first year after enactment.

Senate amendment

Aliens entering after enactment are barred from receiving benefits for 5 years, with exceptions similar to House bill. Separately, States have the option to deny non-citizens benefits using block grant funds. Eligibility may be affected by changes in the sponsor-to-alien deeming provisions. These changes may affect their eligibility even after aliens have attained citizenship.

Conference agreement

The conference agreement generally follows the Senate amendment so that noncitizens arriving after the date of enactment may not receive benefits from the block grant during their first 5 years in the U.S.; the conference agreement modifies the Senate amendment so that there is a State option to provide block grant assistance to noncitizens currently residing in the U.S., except that noncitizens receiving AFDC benefits on the date of enactment would continue to be eligible to receive block grant benefits until January 1, 1997. The conference agreement makes specific exceptions to these restrictions for refugees, asylees, veterans and active duty military, and aliens who have worked at least 40 calendar quarters as defined under title II of the Social Security Act. For further details see Title IV: Noncitizens.

(3) No cash assistance for out-of-wedlock births

Present law

No provision forbidding eligibility. Current law permits a State to provide AFDC to an unwed mother under 18 and her child only if they live with their parent or another adult relative or in another adult-supervised arrangement; exceptions are allowed (Sec. 402(A)).

AFDC law has no provision directly comparable for funding second-chance homes (see below).

AFDC law requires States, to the extent resources permit, to require mothers under age 20 who failed to complete high school to participate in an educational activity, even if they otherwise would be exempt because of having a child under age 3 (or, at State option, under age 1). However, States may exempt some school dropout mothers under 18 years old from this requirement.

House bill

Temporary Assistance for Needy Families Block Grant funds may not be used to provide cash benefits to a child born out-of-wedlock to a mother under age 18 or to the mother until the mother reaches age 18. States must exempt mothers to whom children are born as a result of rape or incest. Block grant funds can be used to provide non-cash (e.g. voucher) assistance to young mothers and their children.

Senate amendment

Explicitly permits States to decide whether or not to give assistance to a child born out-of-wedlock to a mother under 18 years old, and to the mother until she reaches 18. However, if a State elects to extend assistance to these families, the minor mother must live with a parent, legal guardian or other adult relative unless they have no such appropriate relative or the State agency determines (1) that they had suffered, or might suffer, harm in the relative's home or (2) that the requirement should be waived for the sake of the child.

The State shall provide or assist a minor mother in finding a suitable home, a second chance home, maternity home, or other appropriate adult-supervised supportive living arrangement. The amendment authorizes to be appropriated, and appropriates funding for second-chance homes for unmarried teenage parents ($25 million yearly for FYs 1996 and 1997 and $20 million yearly for FYs 1998–2000).

Further, if a State aids these unwed minor mothers, it must require those who have not completed high school, or its equivalent, to attend school unless their child is under 12 weeks old. If the mother fails to attend high school or an approved alternative training program, the State must reduce her benefit or end it.

Conference agreement

The conference agreement follows the Senate amendment regarding the state option to deny cash assistance for out-of-wedlock births. The conference agreement follows the Senate amendment with regard to second chance homes, except that funding is authorized but not appropriated for this purpose. The conference agreement follows the Senate amendment regarding the school requirement for unwed minor mothers.

(4) No additional assistance for additional children

Present law

No provision.

House bill

Block grant funds may not be used to provide additional cash benefits for a child born to a recipient of cash welfare benefits, or an individual who received cash benefits at any time during the 10-month period ending with the birth of the child. Mothers to whom children are born as a result of rape or incest are exempted. Block grant funds can be used to provide non-cash (voucher) assistance to young mothers and their children.

Senate amendment

Explicitly permits States to deny aid to child born to a mother already receiving aid under the program or to one who received benefits from the program at any time during the 10 months ending with the baby's birth.

Conference agreement

The conference agreement represents a compromise between the House and Senate provisions. The compromise is that States must deny additional assistance to mothers already receiving assistance who have babies, but that States can exempt themselves from this requirement if they enact a law to the effect that the State wants to be excluded from this Federal requirement.

(5) No assistance for more than 5 years

Present law

No provision.

House bill

Block grant funds may not be used to provide cash benefits for the family of an individual who, after attaining 18 years of age, has received block grant funds for 60 months, whether or not successive; States are permitted to provide hardship exemptions from the 60-month time limit for up to 10 percent of their caseload.

Senate amendment

Block grant funds may not be used to provide cash benefits for the family of a person who has received block grant aid for 60 months (or less at State option), whether or not consecutive. States may give hardship exemptions to up to 20 percent of their caseload. (Exempted from the 60-month time limit is a person who received aid as a minor child and who later applied as the head of her own household with a minor child.)

Conference agreement

The conference agreement follows the Senate amendment, with the modification that no assistance may be provided beyond 5 years and that States may exempt up to 15 percent of their caseload from this limit. Battered individuals may qualify for this exemption, but States are not required to exempt such individuals.

(6) Reduction or elimination of assistance for noncooperation in child support

Present law

As a condition of eligibility, applicants or recipients must cooperate in establishing paternity of a child born out-of-wedlock, in obtaining support payments, and in identifying any third party who may be liable to pay for medical care and services for the child.

House bill

Block grant funds may not be used to provide cash benefits to persons who fail to cooperate with the State child support enforcement agency in establishing the paternity of any child of the individual; the child support agency defines cooperation.

Senate amendment

Maintains current law. In addition, see "Payments To States" for penalty against a State that fails to enforce penalty requested by the IV–D against a person who does not cooperate in establishing paternity.

Conference agreement

The conference agreement follows the Senate amendment with the modification that States must deny a parent's share of the family welfare benefit if the parent fails to cooperate; the State may deny benefits to the entire family for failure to cooperate.

(7) No assistance for families not assigning support rights to the State

Present law

As a condition of AFDC eligibility, applicants must assign child support and spousal support rights to the State.

House bill

Block grant funds may not be used to provide cash benefits to a family with an adult who has not assigned to the State rights to child support or spousal support.

Senate amendment

Gives States the option to require applicants for temporary family assistance (and recipients) to assign child support and spousal support rights to the State.

Conference agreement

The conference agreement follows the House bill.

(8) Withholding portion of aid for child whose paternity is not established

Present law

No provision.

House bill

If, at the time a family applies for assistance, the paternity of a child in the family has not been established, the State must impose a financial penalty ($50 or 15 percent of the monthly benefits of a family of that size, whichever the State chooses) until the paternity of the child is established. Once paternity is established, all the money withheld as a penalty must be remitted to the family if it is still eligible for aid. Mothers to whom children are born as a result of rape or incest are exempted from this penalty. Provision effective 1 year after enactment (2 years at State option).

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with the modification that States may, but are not required to, impose a financial penalty if paternity is not established.

(9) Denial of benefits to persons who fraudulently received aid in two States

Present law

No provision.

House bill

Ineligible for block grant assistance for 10 years is any individual convicted of having fraudulently misrepresented residence (or found by a State to have made a fraudulent statement) in order to obtain benefits or services from two or more States from the block grant, Medicaid, Food Stamps, or Supplemental Security Income.

Senate amendment

Ineligible for block grant assistance for 10 years is any person convicted in Federal court or State court of having fraudulently misrepresented residence in order to obtain benefits or services from two or more States from the cash block grant, Medicaid, Food Stamps, or Supplemental Security Income.

Conference agreement

The conference agreement follows the Senate amendment.

(10) Denial of aid for fugitive felons, probation and parole violators

Present law

No provision.

House bill

No assistance may be provided to an individual who is fleeing to avoid prosecution, custody or confinement after conviction for a crime (or an attempt to commit a crime) that is a felony (or, in New Jersey, a high misdemeanor), or who violates probation or parole imposed under Federal or State law.

Any safeguards established by the State against use or disclosure of information about individual recipients shall not prevent the agency, under certain conditions, from providing the address of a recipient to a law enforcement officer who is pursuing a fugitive felon or parole or probation violator. This provision applies also to a recipient sought by an officer not because he is a fugitive but because he has information that the officer says is necessary for his official duties. In both cases the officer must notify the State that location or apprehension of the recipient is within his official duties.

Senate amendment

A State shall furnish law enforcement officers, upon their request, the address, social security number, and photograph (if available) of any recipient if the officers notify the agency that the recipient is a fugitive felon, or a violator of probation or parole, or that he has information needed by the officers to perform their duties, and that the location or apprehension of the recipient is within the officers' official duties.

Conference agreement

The conference agreement follows the House bill.

(11) No assistance for minor children who are absent, or relatives who fail to notify agency of child's absence

Present law

Regulations allow benefits to continue for children who are "temporarily absent" from home.

House bill

No assistance may be provided for a minor child who has been absent from the home for 45 consecutive days or, at State option, between 30 and 90 consecutive days. States may establish a good cause exemption as long as it is detailed in the State report to the Secretary. No assistance can be given to a parent or caretaker who fails to report a missing minor child within 5 days of the time it is clear that the child is absent.

Senate amendment

Similar provision to House bill, with different wording.

Conference agreement

The conference agreement follows the House bill.

G. Income/Resource Limits, Treatment of Earnings and Other Income

(1) Resource limits

Present law

$1,000 per family in counted resources (excluding home and some of the value of an auto, funeral arrangements, burial plots, real property that the family is attempting to sell, and—for two months—refunds of the Earned Income Tax Credit (EITC)).

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment (no provision).

(2) Income limits

Present law

Gross family income limit: 185 percent of the State standard of need.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment (no provision).

(3) Earnings

Present law

Mandatory disregard: during first 4 months of a job, $120 and one-third, plus child care costs up to a limit; next 8 months, $120 plus child care; after 12 months, $90 plus child care.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment (no provision).

(4) Earned income tax credit

Present law

Mandatory disregard: advance EITC payments must be disregarded.

House bill

Repeals mandatory EITC disregard (a provision of AFDC law). States would set policy about treatment of EITC payments by block grant program.

Senate amendment

Provision is identical to House position.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

(5) Child support

Present law

Mandatory disregard: first $50 monthly in child support collections is passed through to the family. In some States, child support payments that fill some or all of the gap between payment and need standard must be ignored.

House bill

In determining a family's eligibility and payment amount under the block grant, a State may not disregard child support collected by the State and distributed to the family.

Senate amendment

States are given the option of disregarding child support. Repeals required disregard of the first $50 monthly in child support collections distributed to the family (a provision of AFDC law).

Conference agreement

The conference agreement follows the Senate amendment.

(6) Other cash aid

Present law

AFDC benefits may not be paid to a recipient of old-age assistance (predecessor to Supplemental Security Income (SSI) and now available only in Puerto Rico, Guam, and the U.S. Virgin Islands), SSI, or AFDC foster care payments.

House bill

If block grant funds are used to provide payments to a recipient of old-age assistance, SSI, or payments under the Child Protection Block grant, a State may not disregard these other payments in determining a family's eligibility for and payment amount from the block grant.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

H. Various Procedural and Policy Rules

(1) Statewide requirement

Present law

AFDC must be available in all political subdivisions, and, if administered by them, be mandatory upon them.

House bill

No provision.

Senate amendment

Under the State plan, a State must outline how it intends to conduct a family assistance program "designed to serve all political subdivisions in the State."

Conference agreement

The conference agreement follows the Senate amendment.

(2) Single State agency

Present law

Single agency must administer or supervise administration of the plan.

House bill

No provision.

Senate amendment

The State's Chief Executive Officer must certify which State agency or agencies are responsible for administration and supervision of the program for the fiscal year.

Conference agreement

The conference agreement follows the Senate amendment, with the modification that public and local agencies must have 60 days to submit comments.

(3) State cost sharing

Present law

State must share in program costs.

House bill

No provision.

Senate amendment

States must continue to spend at least 80 percent of what they expended in FY1994 on AFDC or face a dollar-for-dollar reduction in their basic block grant amount for FY1997–2000.

In order to qualify for additional funding under the contingency fund or additional child care funds, States must continue to spend at least 100 percent of what they expended in FY1994.

Conference agreement

The conference agreement generally follows the House bill and the Senate amendment with the modification to require a 75 percent maintenance of effort for the basic family assistance block grant, but no maintenance of effort for child care funds under the CCDBG.

(4) Aid to all eligibles

Present law

State must furnish aid to eligible persons with reasonable promptness and give opportunity to make application to all wishing to do so.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment (no provision).

(5) Fair hearing

Present law

State must give fair hearing opportunity to person whose claim is denied or not acted upon promptly.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment (no provision).

(6) Administrative methods

Present law

State must adopt administrative methods found necessary by the Secretary.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment (no provision).

(7) Zero benefit below $10, rounding benefits

Present law

State cannot pay AFDC below $10 monthly and must round down to the next lower dollar both the need standard and the benefit.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment (no provision).

(8) Pre-eligibility fraud detection

Present law

State must have measures to detect fraudulent applications for AFDC before establishing of eligibility.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment (no provision).

(9) Correction of erroneous payments

Present law

State must promptly correct overpayments and underpayments.

House bill

No provision.

Senate amendment

Requires the Treasury Secretary, upon notification from a State that it has overpaid a former recipient of temporary cash assistance and has attempted unsuccessfully to collect the overpayment, to collect the sum from Federal tax refunds.

Conference agreement

The conference agreement follows the Senate amendment.

(10) Appeal procedure (for States)

Present Law

Current law (sec. 1116 of the Social Security Act) entitles a State to a reconsideration, which DHHS must grant upon request, of any disallowed reimbursement claim for an item or class of items. The section also provides for administrative and judicial review, upon petition of a State, of DHHS decisions about approval of State plans. At the option of a State, any plan amendment may be treated as the submission of a new plan.

House bill

Repeals reference to Title IV-A in section 1116.

Senate amendment

Requires the Secretary to notify the Governor of a State of any adverse decision or action under Title IV-A, including any decision about the State's plan or imposition of a penalty. Provides for administrative review by a Departmental Appeals Board within DHHS and requires a Board decision within 60 days after an appeal is filed. Provides for judicial review (by a United States district court) within 90 days after a final decision by the Board. The Amendment also repeals the reference to Title IV-A in section 1116.

Conference agreement

The conference agreement follows the Senate amendment.

I. Quality Control/Audits

Present law

The Secretary must operate a quality control system to determine the amount of Federal matching funds to be disallowed, if any, because of erroneous payments. The law also prescribes penalties for payment error rates above the national average. AFDC payments to States are subject to audits conducted under the Single Audit Act [Ch. 75, Title 31, U.S.C.]

House bill

Family assistance block grants are subject to the Single Audit Act. If an audit conducted under this Act finds that a State has used block grant funds in violation of the law, its grant for the next year is to be reduced by that amount (but no quarterly payment is to be reduced by more than one-fourth).

Senate amendment

Requires a State to offset loss of Federal funds with its own, maintaining the full block grant level. Also, the penalty shall not be imposed if the State proves to the Secretary that the violation was not intentional, and if the State implements an approved corrective action plan. Each State must audit its cash block grant expenditures annually and submit a copy to the State legislature, Treasury Secretary and DHHS Secretary. The audit must be conducted by an entity that is independent from any agency administering activities under title IV-A. Also subject to the Single Audit Act.

Conference agreement

The conference agreement follows the House bill regarding audits to review States' use of funds with the modification that the funds come directly from the Department of Treasury. (See also the Penalties section below on States misusing funds and States failing to meet work requirements.)

J. Data Collection and Reporting

(1) Reporting requirements

Present law

States are required to report the average monthly number of families in each JOBS activity, their types, amounts spent per family, length of JOBS participation and the number of families aided with AFDC/JOBS child care services, the kinds of child care services provided, and sliding fee schedules. States that disallow AFDC for minor mothers in their own living quarters are required to report the number living in their parent's home or in another supervised arrangement. States also must report data (including numbers aided, types of families, how long aided, payments made) for families who receive transitional Medicaid benefits. DHHS collects data about demographic characteristics and financial circumstances of AFDC families from its National Integrated Quality Control System (NIQCS) and publishes State and national information that represents average monthly amounts for a fiscal year. The NIQCS uses monthly samples of AFDC cases.

House bill

States are required, not later than 6 months after the end of each fiscal year, to transmit to the Secretary the following aggregate information on families receiving block grant benefits during the fiscal year:

(a) the number of adults receiving assistance;

(b) the number of children receiving assistance and the average age of children;

(c) the employment status and average earnings of employed adults;

(d) the number of one-parent families in which the sole parent is a widow or widower, is divorced, is separated, or is never married;

(e) the age, race, educational attainment, and employment status of parents;

(f) the average assistance provided to families;

(g) whether, at the time of application, the families or anyone in the families receive benefits from the following public programs:

(1) Housing
(2) Food Stamps
(3) Head Start
(4) Job Training;

(h) the number of months the families have been on welfare during their current spell;

(i) the total number of months for which benefits have been provided to the families;

(j) data necessary to indicate whether the State is in compliance with the State's plan;

(k) the components of any employment and training activities, and the average monthly number of adults in each component; and

(l) the number of part-time and full-time job placements made by the program, the number of cases with reduced assistance, and the number of cases closed due to employment.

Senate amendment

States are required to make quarterly reports based on sample case records providing disaggregated data for the quality assurance system, including:

(a) age of adults and children (including pregnant women) in each family;

(b) marital and familial status of each family member (including whether family includes 2 parents and whether child is living with an adult relative other than a parent);

(c) gender, educational level, work experience, and race of each family head;

(d) health status of each family member (including whether any is seriously ill, disabled, or incapacitated and is being care for by another family member);

(e) type and amount of any benefit or assistance received, including amount of and reason for any benefit reduction, and if help is ended, whether this is because of employment, sanction, or time limit;

(f) any benefit or assistance received by a family member with respect to housing, food stamps, job training, or Head Start;

(g) number of months since the family's most recent application for aid, and if application was denied, the reason;

(h) number of times a family applied for and received aid from the cash block grant program and the number of months were received in each "spell" of assistance;

(i) employment status of adults in family (including hours worked and amount earned);

(j) date on which an adult family member began to engage in work, hours worked, work actively performed, amount of child care assistance, if any;

(k) number of persons in each family receiving, and the number not receiving, assistance, and the relationship of each person to the youngest child in the family;

(l) citizenship status of each family member;

(m) housing arrangement of each family member;

(n) amount of unearned income, child support, assets and other financial factors relevant to eligibility;

(o) location in the State of each recipient family; and

(p) any other data determined by Secretary to be necessary for efficient and effective administration.

States are required to report the following aggregated monthly data about families who received temporary family assistance for each month in the calendar quarter preceding the one in which the data are submitted, families applying for assistance in the preceding quarter, and families that became ineligible for aid during that quarter:

(1) number of families,

(2) number of adults in each family,

(3) number of children in each family, and

(4) number of families whose assistance ended because of employment, sanctions, or time limits.

The Secretary shall determine appropriate subsets of the data listed above that a State is required to submit regarding applicant and no-longer eligible families.

Conference agreement

The conference agreement generally follows the House bill and the Senate amendment, but with some modifications. Specifically, beginning July 1, 1996, each State must collect on a monthly basis, and report to the Secretary on a quarterly basis, the following information on individual families receiving assistance:

(1) the county of residence of the family;

(2) whether a child receiving assistance or an adult in the family is disabled;

(3) the ages of the members of such families;

(4) the number of individuals in the family, and the relationship of each family member to the youngest child in the family;

(5) the employment status and earnings of the employed adult in the family;

(6) the marital status of the adults in the family, including whether such adults are never married, widowed, or divorced;

(7) the race and education status of each adult in the family;

(8) the race and educational status of each child in the family;

(9) whether the family received subsidized housing, Medicaid, food stamps, or subsidized child care, and if the later two, the amount received;

(10) the number of months the family has received each type of assistance under the program;

(11) if the adults participated in, and the number of hours per week of participation in, the following activities;

(A) education;

(B) subsidized private sector employment;

(C) unsubsidized employment;

(D) public sector employment, work experience, or community service;

(E) job search;

(F) job skills training or on-the-job training; and

(G) vocational education;

(12) information necessary to calculate participation rates under section 407;

(13) the type and amount of assistance received under the program, including the amount of and reason for any reduction of assistance (including sanctions);

(14) from a sample of closed cases, whether the family left the program, and if so whether the family left due to

(A) employment;

(B) marriage;

(C) the prohibition set forth in section 408(a)(8);

(D) sanction; or

(E) State policy;

(15) any amount of unearned income received by any member of the family; and

(16) the citizenship of the members of the family.

(2) Authority of States to use estimates

Present law

The National Integrated Quality Control System (above) uses monthly samples of AFDC cases. JOBS regulations require States to submit a sample of monthly unaggregated case record data.

House bill

States may use scientifically acceptable sampling methods to estimate the data elements required for annual reports.

Senate amendment

The Secretary shall provide States with case sampling plans and data collection procedures deemed necessary for statistically valid estimates.

Conference agreement

The conference agreement follows the House bill and the Senate amendment and clarifies that sampling methods used by States must be approved by the Secretary.

(3) Other State reporting requirements

Present law

Regulations require each State to submit quarterly estimates of the total amount (and the Federal share) of expenditures for AFDC benefits and administration.

Required quarterly reports include estimates of the Federal share of child support collections made by the State; see above for transitional child care and Medicaid reporting requirements.

House bill

The report submitted by the State each fiscal year must also include:

(1) a statement of the percentage of the funds paid to the State that are used to cover administrative costs or overhead;

(2) a statement of the total amount expended by the State during the fiscal year on programs for needy families; and

(3) the number of noncustodial parents in the State who participated in work activities as defined in the bill during the fiscal year.

Senate amendment

The report required by a State for a fiscal year must include:

(1) a statement of the total amount and percentage of Federal funds paid to the State under Title IV-A that are used for administrative costs or overhead;

(2) a statement of the total amount of State funds expended on programs for the needy;

(3) the number of noncustodial parents who participated in work activities during the fiscal year;

(4) the total amount of child support collected by the State IV-D agency on behalf of a family in the cash assistance program;

(5) the total amount spent by the State for child care under Title IV-A, with a description of the types of care, including transitional care for families who no longer receive assistance because of work and "at-risk" care for persons who otherwise might become eligible for assistance; and

(6) the total amount spent by the State for providing transitional services to a family that no longer receive assistance because of employment, along with a description of those services.

Conference agreement

The conference agreement follows the House bill and Senate amendment as follows:

(1) follow the House bill regarding administrative funds;

(2) follow the House bill regarding reports of State expenditures;

(3) follow the House bill regarding noncustodial parent participation;

(4) follow the House bill regarding child support (no provision; separate reporting requirement);

(5) follow the House bill regarding child care (no provision; separate reporting requirement); and

(6) follow the Senate amendment regarding reports on transitional services.

K. Reports Required by DHHS Secretary (Sections 103, 106, and 107)

Present law

The law requires the DHHS Secretary to report promptly to Congress the results of State reevaluations of AFDC need standards and payment standards required at least every 3 years. The Secretary is to annually compile and submit to Congress annual State reports on at-risk child care. The Family Support Act required the Secretary to submit recommendations regarding JOBS performance standards by a deadline that was extended.

House bill

The DHHS Secretary must report to Congress within 6 months on the status of automatic data processing systems in the States and on what would be required to produce a system capable of tracking participants in public programs over time and checking case records across States to determine whether some individuals are participating in public programs in more than one State. The report should include a plan for building on the current automatic data processing system to produce a system capable of performing these functions as well as an estimate of the time required to put the system in place and the cost of the system.

The DHHS Secretary must, to the extent feasible, produce and publish for each State, county, and local unit of government for which data have been compiled in the most recent census of population, and for each school district, data about the incidence of poverty. Data shall include, for each school district, the number of children age 5 to 17 inclusive, in families below the poverty level, and, for each State and county for which data have been compiled by the Census Bureau, the number of persons aged 65 or older. Data shall be published for each State, county and local unit of government in 1996 and at least every second year thereafter; and for each school district, in 1998 and at least every second year thereafter. Data may be produced by means of sampling, estimation, or any other method that the Secretary determines will produce current, comprehensive, and reliable information. If reliable data could not be otherwise produced, the Secretary is given authority to aggregate school districts. The DHHS Secretary is to consult with the Secretary of Education in producing data about school districts. If unable to produce and publish the required data, the Secretary must submit a report to the President of the Senate and the Speaker of the House not later than 90 days before the start of the following year, enumerating each government or school district excluded and giving the reason for the exclusion.

Senate amendment

The Secretary must in cooperation with the States, study and analyze measures of program outcomes (as an alternative to minimum participation rates) for evaluating the success of State block grant programs in helping recipients leave welfare. The study must include a determination of whether outcomes measures should be applied on a State or national basis and a preliminary assessment of the job placement performance bonus established in the Act. The Secretary must report findings to the Committee on Finance and the Committee on Ways and Means not later than September 30, 1998.

The Secretary is to report by Dec. 31, 1997, to the Committee on Ways and Means and the Committee on Economic and Educational Opportunities of the House and the Committee on Finance, the Committee on Labor and Human Resources, and the Special Committee on Aging of the Senate setting forth findings of a study on the effects of welfare changes made by the Act on grandparents who are primary caregivers for their grandchildren. The study is to identify barriers to participation in public programs by grandparent caregivers, including inconsistent policies, standards, and definitions of programs providing medical aid, cash, child support enforcement, and foster care.

Not later than March 31, 1998, and each fiscal year thereafter, the Secretary shall send Congress a report describing:

(1) whether States are meeting minimum participation rates and whether they are meeting objectives of increasing employment and earnings of needy families, increasing child support collections, and decreasing out-of-wedlock pregnancies and child poverty;

(2) demographic and financial characteristics of applicant families, recipient families, and those no longer ineligible for temporary family assistance;

(3) characteristics of each State program of temporary family assistance; and

(4) trends in employment and earnings of needy families with minor children.

Conference agreement

The conference agreement follows the House bill and Senate amendment as follows:

(1) follow the House bill with regard to the Secretary's report on data processing;

(2) follow the Senate amendment on the report on poverty (no provision);

(3) follow the Senate amendment with regard to the report on alternative outcome measures;

(4) follow the House bill on the report on grandparent caregivers (no provision); and

(5) follow the Senate amendment with regard to the annual report on State process.

L. Research, Evaluations, and National Studies

Present law

The law authorizes $5 million annually for cooperative research or demonstration projects, such as those relating to the prevention and reduction of dependency.

House bill

The Secretary may conduct research on the effects, costs, benefits, and caseloads of State programs funded under this part. The Secretary may assist the States in developing, and shall evaluate (using random assignment to experimental and control groups to the maximum extent feasible), innovative approaches to employing recipients of cash aid under this part. The Secretary may conduct studies of the welfare caseloads of States operating welfare reform programs. The Secretary shall develop innovative methods of disseminating information on research, evaluations, and studies.

Senate amendment

The Secretary may conduct research on the effects, benefits, and costs of operating different State programs of Temporary Assistance for Needy Families, including time limits for eligibility. The research shall include studies on the effects of different programs and the operation of the programs on welfare dependency, illegitimacy, teen pregnancy, employment rates, child well-being, and any other appropriate area. The Secretary may assist States in developing, and shall evaluate innovative approaches for reducing welfare dependency and increasing the well-being of minor children, using random assignments in these evaluations "to the maximum extent feasible."

The Secretary shall develop innovative methods of disseminating information on research, evaluations, and studies, including ways to facilitate sharing of information via computers and other technologies.

The Senate amendment makes a State eligible to receive funding to evaluate its family assistance program if it submits an evaluation design determined by the Secretary to be rigorous and likely to yield credible and useful information. The State must pay 10 percent of the study's cost, unless the Secretary waives this rule. For these State-initiated evaluation studies of the family assistance program (and for costs of operating and evaluating demonstration projects begun under the AFDC waiver process) the amendment authorizes to be appropriated, and appropriates, to total of $20 million annually for 5 years (FYs 1996–2000).

Conference agreement

The conference agreement follows the Senate amendment except that $15 million is appropriated annually for this purpose. Conferees agree that the Secretary can use funds appropriated for research to pay for evaluations conducted by both governmental and non-governmental organizations.

M. Waivers

Present law

The law authorizes the DHHS Secretary to waive specified requirements of State AFDC plans in order to enable a State to carry out any experimental, pilot, or demonstration project that the Secretary judges likely to assist in promoting the program's objective. (Sec. 1115 of Social Security Act) Some 34 States have received waivers from the Clinton Administration for welfare reforms of their own.

House bill

Repeals AFDC. Also, expressly repeals authority for waiver of specified provisions of AFDC law (Sec. 402, State plan requirements, and Sec. 403, terms of payment to States) for demonstration projects.

Senate amendment

Provides that terms of AFDC waivers in effect, or approved, as of October 1, 1995, will continue until their expiration, except that beginning with FY1996 a State operating under a waiver shall receive the block grant described under Section 403 in lieu of any other payment provided for in the waiver. The amendment gives States the option to terminate waivers before their expiration, but requires that early-ended projects be summarized in written reports. The amendment provides that a State that submits a request to end a waiver by January 1, 1996, or 90 days after adjournment of the first regular session of the State legislature that begins after the date of enactment, shall be held harmless for accrued cost neutrality liabilities incurred under the waiver.

The Secretary is directed to encourage any State now operating a waiver to continue the project and to evaluate its result or effect. The amendment allows a State to elect to continue one or more individual waivers.

Conference agreement

The conference agreement follows the Senate amendment.

N. Studies by the Census Bureau (Sections 103 and 105)

Present law

No provision.

House bill

The Census Bureau must expand the Survey of Income and Program Participation (SIPP) to evaluate the impact of welfare reforms made by this title on a random national sample of recipients and, as appropriate, other low-income families. The study should focus on the impact of welfare reform on children and families, and should pay particular attention to the issues of out-of-wedlock birth, welfare dependency, the beginning and end of welfare spells, and the causes of repeat welfare spells. $10 million per year for 7 years in entitlement funds are authorized for this study.

Senate amendment

Expansion of SIPP is identical to House provision.

In addition, the Secretary of Commerce shall expand the Census Bureau's question (for the decennial census and mid-decade census) concerning households with both grandparents and their grandchildren so as to distinguish between households in which a grandparent temporarily provides a home and those where the grandparent serves as primary caregiver.

Conference agreement

The conference agreement follows the House bill regarding the expansion of SIPP to evaluate welfare programs and follows the Senate amendment regarding census data on grandparents as caregivers.

O. Services From Charitable, Religious, or Private Organizations (Section 104)

Present law

The Child Care and Development Block Grant Act prohibits use of any financial assistance provided through any grant or contract for any sectarian purpose or activity. In general, it requires religious nondiscrimination, but it does allow a sectarian organization to require employees to adhere to its religious tenets and teachings.

House bill

No provision.

Senate amendment

Authorizes States to administer and provide family assistance services (and services under Supplemental Security Income and public housing) through contracts with charitable, religious, or private organizations. Authorizes States to pay recipients by means of certificates, vouchers, or other forms of disbursement that are redeemable with these private organizations. States that religious organizations are eligible, on the same basis as any other private organization, to provide assistance as contractors or to accept certificates and vouchers so long as their programs "are implemented consistent with" the Establishment Clause of the Constitution. Stipulates that any religious organization with a contract to provide welfare services shall retain independence from all units of government and that such a religious organization (or not that redeems welfare certificates) may require employees who render service related to the contract or certificates to adhere to the religious tenets and teaching of the organization and to its rules, if any, regarding use of drugs or alcohol. Provides that, except as otherwise allowed by law, a religious organization administering the program may not discriminate against beneficiaries on the basis of religious belief, or refusal to participate in a religious practice. Requires States to provide an alternative provider for a beneficiary who objects to the religious character of the designated organization. Provides that no funds provided directly to institutions or organizations to provide services and administer programs shall be spent for sectarian worship or instruction, but does not apply this limitation to financial assistance in the form of certificates or vouchers, if the beneficiary may choose where the aid is redeemed.

Conference agreement

This section (section 104) generally follows the Senate amendment. Subsection (j) states that no funds provided directly to institutions or organizations to provide services and administer programs under subsection (a)(1)(A) shall be expended for sectarian worship, instruction, or proselytization. Subsection (a)(1)(A) refers to contracts that States may have with charitable, religious, or private organizations. While Congress recognizes the need to ensure that money provided directly through contracts should not be expended for worship, instruction, or proselytization, Congress does not intend that the prohibition should apply when beneficiaries receive benefits in the form of certificates, vouchers, or other forms of disbursement redeemable with nongovernmental entities. Where the character of the aid goes directly to the ultimate beneficiary in the form of a voucher or certificate, the beneficiary exercises personal choice as to where to use the voucher or certificate, and may or may not choose to redeem it at a religious provider which incorporates worship or instruction in its provision of services. Congress has recognized and allowed such use of vouchers and certificates in the Child Care and Development Block Grant of 1990 (42 U.S.C. 9858 et seq.)

More importantly, a beneficiary's redemption of a government-provided voucher at a religious entity has been determined as nonviolative of the Establishment Clause by the Supreme Court provided that the beneficiary has genuine choice about where to redeem the voucher or certificate. The Court has consistently held that government may confer a benefit on individuals in a manner which allows them to exercise personal choice among similarly qualified institutions, whether public, private non-sectarian, or religious, even when the benefit can be said to indirectly advance religion. *Zobrest v. Catalina Foothills School Dist.*, 113 S. Ct. 2462 (1993) (providing special education services to Catholic student not prohibited by Establishment Clause); *Witters v. Washington Dep't of Services for the Blind*, 474 U.S. 481 (1986) (upholding a State vocational rehabilitation grant to disabled student choosing to use grant for training as cleric); *Mueller v. Allen*, 463 U.S. 388 (1983) (upholding State income tax deduction for parents for educational expenses).

Subsection (k) states that nothing in this section shall be construed to preempt State constitutions or statutes which restrict the expenditure of State funds in or by religious organizations. In some States, provisions of the State constitution or a State statute prohibit the expenditure of public funds in or by sectarian institutions. It is the intent of Congress, however, to encourage States to involve religious organizations in the delivery of welfare services to the greatest extent possible. The conferees do not intend that this language be construed to require that funds provided by the Federal government referred to in subsection (a) be segregated and expended under rules different than funds provided by the State for the same purposes; however, States may revise such laws, or segregate State and Federal funds, as necessary to allow full participation in these programs by religious organizations.

In addition, the conference agreement revises Senate language on employment discrimination by religious organizations by stating that the exemption provided under section 702 of the Civil Rights Act of 1964 is not affected by participation in or receipt of funds from programs described in subsection (a).

6. TRANSFERS (SECTION 103)

A. Child Support Penalties

Present law

If a State's child support plan fails to comply substantially with Federal requirements, the Secretary is to reduce its AFDC matching funds by percentages that rise for successive violations (Sec. 403(h) of the Social Security Act).

House bill

The provision for child support review penalties—loss of Federal payments of up to 5 percent of the block grant amount—now found in 403(h) of part A of the Social Security Act is retained in the block grant.

Senate amendment

No provision. However, there is a penalty assessed against States for failure to enforce penalties requested by child support agency against recipients who do not cooperate in establishing paternity.

Conference agreement

The conference agreement follows the House bill.

B. Assistant Secretary for Family Support

Present law

An Assistant Secretary for Family Support, appointed by the President by and with consent of the Senate, is to administer AFDC, child support enforcement, and the Jobs Opportunities and Basic Skills (JOBS) program.

House bill

The provision for an Assistant Secretary for Family Support now found in section 417 of Part A of the Social Security Act is retained in the block grant (as sec. 409), but modified to remove the reference to JOBS (which the House bill repeals).

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

7. CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT AND THE FOOD STAMP ACT (SECTIONS 108 AND 109)

Present law

No provision.

House bill

These sections make a series of technical amendments that conform the provisions of the House bill with various titles of the Social Security Act and the Food Stamp Act and provide for the repeal of Part F of Title IV (the JOBS program).

Senate amendment

This section makes a series of amendments that conform provisions of the Senate amendment with various titles of the Social Security Act and the Food Stamp Act.

Conference agreement

The conference agreement generally follows the House bill and the Senate amendment, with changes made as appropriate.

8. CONFORMING AMENDMENTS TO OTHER LAWS (SECTION 110)

Present law

No provision.

House bill

This section makes a series of technical amendments to conform provisions of the House bill to the Internal Revenue Code, the Omnibus Reconciliation Act of 1987, the Housing and Urban-Rural Recovery Act of 1983, the Tax Equity and Fiscal Responsibility Act of 1982, and the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.

Senate amendment

Section 107 makes a series of amendments that conform provisions of the Senate amendment to the Food Stamp Act, the Agriculture and Consumer Protection Act, the National School Lunch Act, and the Child Nutrition Act.

Section 108 makes a series of amendments that conform provisions of the Senate amendment to the Unemployment Compensation Amendments of 1976, the Omnibus Budget Reconciliation Act of 1987, the House and Urban-Rural Recovery Act of 1983, the Tax Equity and Fiscal Responsibility Act of 1982, the Social Security Amendments of 1967, the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, the Higher

Education Act of 1965, the Carl D. Perkins Vocational and Applied Technology Education Act, the Elementary and Secondary Education Act of 1965, Public Law 99-88, the Internal Revenue Code of 1986, the Wagner-Peyser Act, the Job Training Partnership Act, the Low-Income Home Energy Assistance Act of 1981, the Family Support Act of 1988, the Balanced Budget and Emergency Deficit Control Act of 1985, the Immigration and Nationality Act, the Head Start Act, and the School-to-Work Opportunities Act of 1994.

Conference agreement

The conference agreement generally follows the House bill and the Senate amendment, with changes made as appropriate.

9. CONTINUED APPLICATION OF CURRENT STANDARDS UNDER MEDICAID PROGRAM (SECTION 114)

Present law

States must continue Medicaid (or pay premiums for employer-provided health insurance) for 6 months to a family that loses AFDC eligibility because of hours of, or income from, work of the caretaker relative, or because of loss of the earned income disregard after 4 months of work. States must offer an additional 6 months of medical assistance, for which it may require a premium payment if the family's income after child care expenses is not above the poverty guideline. For extended medical aid, families must submit specified reports. States must continue Medicaid for 4 months to those who lose AFDC because of increased child or spousal support.

House bill

Although AFDC would be repealed, its standards would continue to be used by the Medicaid program. States would have to give Medicaid to families who would have received AFDC if it still existed as in effect on March 7, 1995. The frozen AFDC rules would govern Medicaid eligibility for both recipients and non-recipients of the new block grant funds, including those categorically ineligible for cash benefits.

Senate amendment

Same as House provision except for date at which AFDC rules would be "frozen" (June 1, 1995, rather than March 7, 1995). If an AFDC waiver (as of June 1, 1995) affects Medicaid eligibility, the State has the option to continue to apply the waiver in regard to Medicaid after the date when the waiver otherwise would end.

Conference agreement

The conference agreement changes both the House bill and the Senate amendment because of pending changes in Medicaid legislation. In conforming with this legislation, conferees agree that States will determine Medicaid eligibility for recipients of block grant assistance.

10. EFFECTIVE DATES (SECTION 116)

Present law

No provision.

House bill

The amendments and repeals made by this title take effect on October 1, 1995. The authority to reduce assistance for certain families that include a child whose paternity is not established will begin 1 year after the effective date or, at the option of the State, 2 years after the effective date.

Amendments made by Title I (Block Grants for Temporary Assistance for Needy Families) shall not apply to powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, or services provided (under AFDC) before the effective date of the Act. Nor shall amendments of the bill apply to administrative actions and proceedings commenced or authorized before the effective date of the bill.

Senate amendment

AFDC is repealed effective October 1, 1995. Family assistance block grant provisions also take effect October 1, 1995 (except for penalties, most of which are effective October 1, 1996), but expire on September 30, 2000. A State may continue to operate its AFDC program for 9 months, until June 30, 1996. If it does so, its FY 1996 cash block grant under the new program shall be reduced by the amount of Federal matching funds received for that year for AFDC expenditures.

Conference agreement

Conferees agree that States must begin their block grant program under this title by 1 October, 1996. However, States have the option of initiating their block grant program at any time after the date of enactment.

11. MISCELLANEOUS

A. County Authority for Demonstration Projects

Present law

No provision.

House bill

No provision.

Senate amendment

Requires the DHHS Secretary and the Agriculture Secretary jointly to enter into negotiations with all counties having a population greater than 500,000 that desire to conduct a demonstration project in which: (1) the county shall have the authority and duty to administer the operation of the family assistance program as if the county were considered a State; (2) the State shall pass through directly to the county the portion of the block grant that the State determines is attributable to the residents of the county; and (3) the project shall last 5 years.

To be eligible: (1) a county already must be administering the Title IV-A program; (2) must represent less than 25 percent of the State's total welfare caseload; and (3) the State must have more than one county with a population of greater than 500,000.

Not later than 56 months after the end of a county demonstration project, the two Secretaries shall send a report to Congress that includes a description of the project, its rules, and innovations (if any).

Conference agreement

The conference agreement follows the House bill.

B. Collection of Overpayments from Federal Tax Refunds

Present law

No provision.

House bill

No provision.

Senate amendment

Requires the Treasury Secretary, upon notification from a State that it has overpaid a former recipient of temporary cash assistance and has attempted unsuccessfully to collect the overpayment, to collect the sum from Federal tax refunds.

Conference agreement

The conference agreement follows the Senate amendment.

C. Tamper-Proof Social Security Card (Section 111)

Present law

No provision.

House bill

No provision.

Senate amendment

Requires the Commissioner of Social Security to develop a prototype of a counterfeit-resistant social security card. The card must be made of a durable, tamper-resistant material such as plastic or polyester, employ technologies that provide security features, and be developed so as to provide individuals with reliable proof of citizenship of legal resident alien status. The Commissioner is to report to Congress on the cost of issuing a tamper-proof card for all persons over a 3-, 5-, and 10-year period. Copies of the report, along with a facsimile of the prototype card, shall be submitted to the Committees on Ways and Means and Judiciary of the House and the Committees on Finance and Judiciary of the Senate within one year of enactment.

Conference agreement

The conference agreement follows the Senate amendment except that funding is not made through Title II of the Social Security Act.

D. Disclosure of Receipt of Federal Funds (Section 112)

Present law

No provision.

House bill

No provision.

Senate amendment

Requires disclosure of specified public funds received by 501(c) organizations, which are non-profit and tax-exempt. When a 501(c) organization that accepts Federal funds under the Work Opportunity Act makes any communication that intends to promote public support or opposition to any governmental policy (Federal, State or local) through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public advertising, the communication must state: "This was prepared and paid for by an organization that accepts taxpayer dollars".

Conference agreement

The conference agreement follows the Senate amendment.

E. Projects to Expand Job Opportunities for Certain Low-Income Individuals (JOLI) (Section 113)

Present law

The Family Support Act of 1988 (Sec. 505) directed the Secretary to enter into agreement with between 5 and 10 nonprofit organizations to conduct demonstrations to create job opportunities for AFDC recipients and other low-income persons. For these projects, $6.5 million was authorized to be appropriated for each fiscal year, 1990–1992.

House bill

No provision.

Senate amendment

Strikes the word "demonstration" from the description of these projects and converts them to grant status. The provision requires the Secretary to enter into agreements with nonprofit organizations to conduct projects that create job opportunities for recipients of family assistance and other persons with income below the poverty guideline. The sum of $25 million annually is authorized for these projects.

Conference agreement

The conference agreement follows the Senate amendment.

F. Demonstration Projects To Expand Use of Schools

Present law

The 21st Century Community Learning Centers Act (established by P.L. 103-382) makes available funds directly to rural or inner-city schools, or consortia of them, to act as centers for providing education and human resources services. Services allowed include: literacy education, parenting skills education, employment counseling, training and placement. The Elementary and Secondary Education Act includes a program called "Extend Time for Learning and Longer School Year," which support local educational agencies' efforts to lengthen learning time. Grantees may engage other community members in these efforts.

House bill

No provision.

Senate amendment

The Secretary of Education is required to make grants to not more than 5 States for demonstration grants to increase the number of hours when public school facilities are available for use. Schools selected must have a significant percentage of students receiving family assistance benefits. The longer hours are intended to enable volunteers and parents or professionals paid from other sources to teach, tutor, coach, organize, advise, or monitor students. Grants are intended also to make school facilities available for clubs, civic associations, Boy and Girl Scouts and other groups. The amendment authorizes $10 million annually (FYs 1996-2000) for grants plus $1 million annually for administration by the Secretary.

Conference agreement

The conference agreement follows the House bill (no provision).

G. Secretarial Submission of Legislative Proposal for Technical and Conforming Amendments (Section 115)

Present law

No provision.

House bill

No provision.

Senate amendment

Not later than 90 days after enactment of this Act, the Secretary must submit to the appropriate committees of Congress a legislative proposal providing for technical and conforming amendments.

Conference agreement

The conference agreement follows the Senate amendment.

TITLE II. SUPPLEMENTAL SECURITY INCOME

SUBTITLE A—ELIGIBILITY RESTRICTIONS

1. DENIAL OF SUPPLEMENTAL SECURITY INCOME BENEFITS BY REASON OF DISABILITY TO DRUG ADDICTS AND ALCOHOLICS

A. In General

Present law

Individuals whose drug addiction or alcoholism is a contributing factor material to their disability are eligible to receive SSI cash benefits for up to three years if they meet SSI income and resource requirements. These recipients must have a representative payee, must participate in an approved treatment program when available and appropriate, and must allow their participation in a treatment program to be monitored. Medicaid benefits continue beyond the 3-year limit, as long as the individual remains disabled, unless the individual was expelled from SSI for failure to participate in a treatment program.

House bill

Under the House provision, an individual is not considered disabled if drug addiction or alcoholism is a contributing factor material to his or her disability. Individuals with drug addiction and/or alcoholism who cannot qualify based on another disabling condition will not be eligible for SSI benefits.

Senate amendment

Identical to House bill.

Conference agreement

This section was deleted from the conference agreement on H.R. 4 because it was included in H.R. 2684, The Senior Citizens' Right to Work Act.

B. Representative Payee Requirements

Present law

SSI law requires that the SSI payments of individuals whose drug addiction or alcoholism is a contributing factor material to their disability must be made to another individual, or an appropriate public or private organization (i.e., the individual's "representative payee") for the use and benefit of the individual or eligible spouse.

House bill

No provision.

Senate amendment

Under the Senate amendment, if a disabled person also has an alcoholism or drug addiction condition (as determined by the Commissioner of Social Security), their SSI checks must be sent to a representative payee.

Conference agreement

This section was deleted from the conference agreement on H.R. 4 because it was included in H.R. 2684, The Senior Citizens' Right to Work Act.

C. Treatment Referrals for Individuals With an Alcoholism or Drug Addiction Condition

Present law

Federal law requires SSI recipients whose drug addiction or alcoholism is a contributing factor material to their disability to undergo appropriate treatment, if it is available.

House bill

No provision.

Senate amendment

The Senate amendment requires the Commissioner of Social Security to refer to the appropriate State agency administering the State plan for substance abuse services any disabled SSI recipient who is identified as having an alcoholism or drug addiction condition. Any individual who refuses to accept the referred services without good cause is no longer eligible for SSI benefits.

Conference agreement

This section was deleted from the conference agreement on H.R. 4 because it was included in H.R. 2684, The Senior Citizens' Right to Work Act.

D. Conforming Amendments

E. Supplemental Funding for Alcohol and Substance Abuse Treatment Programs

Present law

SSI cash benefits are limited to 3 years for recipients whose drug addiction or alcoholism is a contributing factor material to their disability. These individuals must undergo "appropriate substance abuse treatment." While the Social Security Administration currently contracts with agencies for referral, monitoring and reporting of compliance with treatment, it does not pay for treatment. Medicaid benefits are to continue beyond the 3-year limit, as long as the individual remains disabled, unless the individual was expelled from SSI for noncompliance with treatment.

House bill

For four years beginning with FY 1997, $100 million of the savings realized from denying cash SSI payments and Medicaid coverage to individuals whose drug addiction or alcoholism is a contributing factor material to their disability will be targeted to drug treatment and drug abuse research. Each year, $95 million will be expended through the Federal Capacity Expansion Program (CEP) to expand drug treatment availability and $5 million will be allocated to the National Institute on Drug Abuse to be expended solely on the medication development project to improve drug abuse and drug treatment research.

Senate amendment

For two years beginning with FY 1997, $50 million will be spent to fund additional drug (including alcohol) treatment programs and services through Substance Abuse Prevention and Treatment Block Grant.

Conference agreement

This section was deleted from the conference agreement on H.R. 4 because it was included in H.R. 2684, The Senior Citizens' Right to Work Act.

F. Effective Dates

Present law

Not applicable.

House bill

This section of the bill becomes effective on October 1, 1995, and applies with respect to months beginning on or after that date.

Senate amendment

Generally, changes apply to applicants for benefits for months beginning on or after the date of enactment. An individual receiving benefits on the date of enactment whose eligibility would end would continue to be eligible for benefits until January 1, 1997. The Commissioner of Social Security shall notify individuals losing eligibility within three months of the date of enactment.

In addition, in the case of an individual with an alcoholism or drug addiction condition who is receiving SSI benefits on the date of enactment, the representative payee requirement will apply on or after the first continuing disability review occurring after enactment. For recipients with an addiction who are over the age of 65, the Commissioner will determine appropriate representative payee requirements.

Conference agreement

This section was deleted from the conference agreement on H.R. 4 because it was included in H.R. 2684, The Senior Citizens' Right to Work Act.

Reapplication

Present law

Not applicable.

House bill

No provision.

Senate amendment

Individuals receiving SSI benefits on the date of enactment who are notified of their termination of eligibility and who desire to reapply for benefits must do so within four months after the date of enactment. The Commissioner of Social Security will determine within one year after the date of enactment the eligibility of individuals who reapply.

Conference agreement

This section was deleted from the conference agreement on H.R. 4 because it was included in H.R. 2684, The Senior Citizens' Right to Work Act.

2. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES (SECTION 201)

See description in section 103 of title 1 of the conference agreement.

SUBTITLE B—BENEFITS FOR DISABLED CHILDREN

1. DEFINITION AND ELIGIBILITY RULES (SECTION 211)

A. Definition of Childhood Disability

Comparable severity repealed

Present law

A needy individual under age 18 is determined eligible for SSI "if he suffers from any medically determinable physical or mental impairment of comparable severity" with that of an adult considered work disabled and otherwise eligible for SSI benefits.

House bill

The "comparable severity" test in statute for determining disability of children (defined as individuals under 18) is repealed.

Senate amendment

Similar to the House bill.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

Disability definition

Present law

There is no definition of childhood disability in the statute. Under current disability evaluation procedures, to be found disabled, a child must have a medically determinable physical or mental impairment that substantially reduces his or her ability to independently and effectively engage in age-appropriate activities. This impairment must be expected to result in death or to last for a continuous period of not less than 12 months.

House bill

Eligibility, as determined by the Commissioner of Social Security, for cash benefits or new medical or non-medical services described below will be based solely on: (1) meeting the non-disability-related requirement for eligibility; (2) meeting or equalling the current Listing of Impairments set forth in the Code of Federal Regulations (i.e., the Listing which is currently in regulations is to be codified in statute); and (3) being a disabled SSI recipient in the month prior to this provision's effective date or being in a hospital, skilled nursing facility, residential treatment facility, intermediate care facility for the mentally retarded, or otherwise would be placed in such a facility if the child were not receiving personal assistance necessitated by the impairment. Personal assistance refers to assistance with activities of daily living such as eating and toileting.

Senate amendment

Adds a new statutory definition of childhood disability. An individual under the age of 18 is considered disabled for the purposes of this section if the individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

Conference agreement

The conference agreement follows the Senate amendment with technical modification and provides that the Commissioner of Social Security shall submit for review to the committees of jurisdiction in the Congress any final regulation with supporting documentation pertaining to the eligibility of individuals under age 18 for SSI benefits at least 45 days before the effective date of such regulation.

By this definition, the conferees intend that only needy children with severe disabilities be eligible for children's SSI and that the Listing and other disability determination regulations as modified by the conference agreement properly reflect the severity of disability contemplated by the statutory definition. In those areas of the Listing that involve domains of functioning, the conferees expect no less than market limitations in no fewer than two domains or extreme limitations in at least one domain as the standard for qualification. The conferees are also aware that the Social Security Administration uses the term "severe" to often mean "other than minor" in an initial screening procedure for disability determination and in other places. The conferees, however, use the term "severe" in its common sense meaning.

The conferees do not intend to suggest by this definition of childhood disability that every child need be especially evaluated for functional limitations, or that this definition creates a supposition for any such examination. Under current procedures for writing individual listings, level of functioning is an explicit consideration in deciding which impairment, with what medical or other findings, are of sufficient severity to be included in the Listing. Nonetheless, the conferees do not intend to limit the use of functional assessments and functional information, if reflecting sufficient severity and are otherwise appropriate.

B. Changes to Childhood SSI Regulations

Reliance on "Listing of Impairments"

Present law

Under the disability determination process for children, individuals whose impairments do not meet or equal the "Listing of Impairments" in Federal regulations are subject to an "individualized Functional Assessment (IFA)". This assessment examines whether the child can engage in age-appropriate activities effectively. If the child cannot, he or she is determined disabled.

House bill

The Commissioner of Social Security must annually report to Congress on the Listings and recommend any needed revisions. Individualized functional assessments are no longer grounds for determination of disability.

Senate amendment

The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in the Code of Federal Regulations.

Conference agreement

The conference agreement follows the Senate amendment. The conferees agree that a significant amount of the growth of the children's SSI program resulted from regulations issued in 1991 by the Social Security Administration establishing the individualized functional assessment which liberalized program eligibility criteria beyond Congressional intent. Children with modest conditions or impairments were made eligible for SSI due to the individualized functional assessment, and therefore should not be eligible for SSI benefits.

Multiple references to "Maladaptive Behavior" eliminated

Present law

Under the disability determination process for children, the Social Security Administration first determines if a child meets or equals the Listings of Impairments. Under the Listings that relate to mental disorders, maladaptive behavior may be scored twice, in domains of social functioning and of personal/behavior functioning.

House bill

No provision.

Senate amendment

Requires the Commissioner of Social Security to eliminate references in the Listing to maladaptive behavior among medical criteria for evaluation of mental and emotional disorders in the domain of personal/behavioral function.

Conference agreement

The conference agreement follows the Senate amendment.

C. Medical Improvement Review Standard as it Applies to Individuals Under the Age of 18

This section in the legislative language contains technical modifications to the medical improvement review standard based on the new definition of childhood disability.

D. Amount of Benefits

Present law

A child who is determined to be disabled and who is eligible on the basis of his income and resources shall be paid benefits. If the child lives at home, the parents' financial resources are deemed available to the child. If the same child is institutionalized, after the first month away home only the child's own financial resources are deemed to be available for the child's care. The child may then qualify for a reduced ("personal needs allowance") SSI benefit and for Medicare coverage. Because of these "deeming" rules, some children who could have been cared for at home might remain in institutions because, if they were to return home, they would lose Medicaid benefits. Medicaid "waivers" allow States to disregard the deeming rule, provide Medicaid coverage, and pay for support services to help families keep children at home.

House bill

Children may be eligible for cash SSI payments in one of three circumstances:

(1) if a child who is currently (defined as during the month prior to the first month for which this provision takes effect) receiving cash SSI payments by reason of disability will continue to be eligible for cash SSI benefits if the child has an impairment that meets or equals an impairment specified in the Listing of Impairments. Children receiving cash benefits under the grandfather provision whose financial eligibility is suspended would continue to receive cash benefits if financial eligibility is restored;

(2) for all other children, a child may only receive cash SSI payments if the child has an impairment which meets or equals an impairment specified in the Listings of Impairments cited above, and is either in a hospital, skilled nursing facility, residential treatment facility, intermediate care facility for the mentally retarded, or otherwise would be placed in such a facility if the child were not receiving personal assistance necessitated by the impairment. Personal assistance refers to assistance with activities of daily living such as eating and toiling; and

(3) if a child who is overseas as a dependent of a member of the U.S. Armed Forces and

who is eligible for block grant services but not eligible for cash benefits under the new criteria shall be eligible for cash benefits. Cash benefits cease when the child returns to the United States.

Senate amendment

No provision.

Conference agreement

The conference agreement follows a modified version of the House bill. Once an eligible child is determined to meet the definition of disability, the amount of the individual's cash benefit will be based on whether the child meets the newly developed criteria for needing personal assistance enabling the child to remain with their family at home. This criteria is as follows:

For a child under age 6—such individual has a medical impairment that severely limits the individual's ability to function in a manner appropriate to individuals of the same age and who without special personal assistance would require specialized care outside the individual's home; or

For a child age 6 or over—such individual requires personal care assistance with: (a) at least two activities of daily living, (b) continual 24-hour supervision or monitoring to avoid causing injury or harm to self or others, or (c) the administration of medical treatment; and who without such assistance would require full-time or part-time specialized care outside the individual's home.

The conferees have provided a different definition of the eligibility for children under age 6 and over age 6 because of the differing expectations of age appropriate behavior for children above and below this age. As described below, the conferees have requested the Commissioner of Social Security to undertake a study on ways to improve these definitions and the disability determination process.

Children with disabilities meeting this criteria will receive 100 percent of the benefit amount provided by current law. Disabled children who do not meet this criteria will receive seventy-five percent of the benefit amount provided by current law. The conferees note that the SSI benefit under either tier is very generous. In 1995, the average SSI benefit for a child recipient is $5,040. Seventy-five percent of that benefit would be $3,780. Both the maximum children's SSI benefit or seventy-five percent of the maximum benefit is greater than the maximum 1995 AFDC benefit for a family of three in many States.

The conferees acknowledge that many families of disabled children incur expenses beyond those by families of nondisabled children. However, the conferees agree that the extra expenses related to a child's disability vary widely depending on the nature and degree of disability and the availability of Federal, State, and local health care and/or disability programs. In order to reduce the inequity of the current system which provides one benefit level to all families without regard to additional disability-related financial needs, the conferees agree to establish a two-tiered benefit system. The higher tier is intended for families of children with the most severe disabilities who require full or part-time personal assistance which would prevent a parent from working full-time or which would require the presence of a personal assistance provider.

The conferees also believe that Congress should investigate whether the unmet needs of families of disabled children could be better and more efficiently met through services, such as mental health treatment or purchase of items of assistive technology, rather than cash payments. In the twenty-three years since the SSI program was created, substantial new Federal programs have been authorized to assist children with disabilities, including Federal, State and local funding of special education and expansion of Medicaid. The impact of these programs on cash needs of children with disabilities merits further investigation by Congress.

E. Effective Dates and Other Changes

Present law

Not applicable.

House bill

Changes apply to benefits for months beginning ninety or more days after enactment, without regard to whether regulations have been issued. Recipients of SSI cash benefits during the month of enactment who would lose eligibility under the House bill may continue to receive SSI benefits for up to 6 months.

Senate amendment

The Senate amendment changes apply to applicants for months beginning on or after the date of enactment, without regard to whether regulations have been issued. However, the Commissioner must issue necessary regulations within two months of enactment. For child SSI recipients who were eligible for SSI on the date of enactment but who would lose eligibility under the Senate amendment, the changes would not take effect until January 1, 1997. The Commissioner is to redetermine the eligibility of these persons within one year of enactment.

Conference agreement

The conference agreement follows the Senate amendment with modification that the effective date for the two-tiered benefit system is January 1, 1997, for current recipients and new applications. The conferees agreed to require the Commissioner to report to Congress within 180 days regarding the progress made in implementing the SSI children's provisions.

Notice

Present law

Not applicable.

House bill

Not later than one month after the date of enactment, the Commissioner must notify individuals whose eligibility for SSI benefits will terminate.

Senate amendment

Within three months of enactment, the Commissioner must notify individuals whose eligibility for SSI will terminate.

Conference agreement

The conference agreement follows the Senate amendment.

New provision for administrative funds for the Social Security Administration

Present law

Not applicable.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conferees recognize that implementation of the SSI provisions by the Social Security Administration is a big job and have provided $300 million to assist the agency meeting its obligations. The conferees are very mindful of the problems encountered by the Social Security Administration in the early 1980s in conducting a large number of redeterminations and continuing disability reviews, and strongly urge the Commissioner to conduct the redeterminations and continuing disability reviews required in this bill in an orderly and careful manner.

Block grants to States for children with disabilities

Entitlement to grants

Present law

Not applicable.

House bill

Each State that meets the requirements listed below for FY 1997 or later years shall be entitled to receive a grant equal to the State's allotment for that fiscal year. The Commissioner of Social Security will make block grants to States for the purpose of providing specified medical and non-medical benefits for children who have an impairment which meets or equals an impairment specified in the Listing of Impairments. Grants are an entitlement to eligible States on behalf of qualifying children, not an entitlement to any such child.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

Requirements

Present law

Not applicable.

House bill

Each State must establish a program to provide block grant services. The State will submit to the Commissioner an application for the grant. In the application, the State agrees it must spend grant funds to provide authorized services designed to meet the unique needs of qualifying children. The application must also contain information, agreements, and assurances required by the Commissioner. In providing authorized services, States will make every reasonable effort to obtain payment for the services from other Federal or State programs that provide such services. States will expend the grant only to the extent that payments from other programs are not available.

In order to receive a block grant under this section, the State must agree to maintain non-Federal spending for any purposes designed to meet the needs of qualifying children with physical or mental impairments. States have discretion to select the purposes for which the State expends non-Federal amounts, within the purpose of providing for the needs of qualifying children. The Consumer Price Index will be used to adjust for inflation in judging whether the State meets the maintenance of effort requirements in future years.

No child who has an impairment which meets or equals an impairment specified in the Listing of Impairments will be denied the opportunity to apply for services and to have his or her case assessed to determine the child's service needs.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

Authority of State

Present law

Not applicable.

House bill

The following decisions are in the discretion of a State:

(1) which authorized services to provide;

(2) who among qualifying children receives services; and

(3) the number of services provided a qualifying child and their duration.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

Authorized services

Present law

Not applicable.

House bill

The Commissioner shall issue regulations designating the purposes for which grants may be spent by States. The Commissioner must ensure that services on the list are designed to meet the unique needs of qualifying children that arise from their physical and mental impairments, that both medical and non-medical services are included, and that cash assistance is not available through the block grant.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

General provisions

Present law

Not applicable.

House bill

Necessary regulations are to be issued, but payments under the block grant must begin not later than January 1, 1997, regardless of whether final rules have been issued.

The value of the authorized services provided through the block grant cannot be taken into account in determining eligibility for, or the amount of, benefits or services under any Federal or federally-assisted program. For the purposes of Medicaid, each qualifying child shall be considered to be a recipient of Supplemental Security Income benefits under this title.

States are encouraged to use an existing delivery system to administer block grant services.

States that do not participate in offering block grant services are not permitted to use social security numbers in the administration of any tax, public assistance, driver's license or motor vehicle registration law. (Because of the extreme duress this would impose on States, this is regarded as effectively a "requirement.")

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

Definitions

Present law

Not applicable.

House bill

A State's "Allotment" of block grant funds equals the product of 75 percent of the average cash SSI benefit in the State and the number of children in the State receiving non-cash SSI benefits under this section.

"Authorized Service" means each service authorized by the Commissioner.

A "Qualifying Child" means an individual under 18 years of age who is eligible for cash benefits under this title by reason of disability; or an individual under 18 years of age who is eligible for SSI non-cash benefits as described above. The Commissioner will determine whether individuals meet the criteria to the eligible for block grant services.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

Effective date

Present law

Not applicable.

House bill

Block grants are available to eligible States beginning in FY 1997.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

2. Eligibility redeterminations and continuing disability reviews (section 212)

A. Continuing Disability Reviews Relating to Certain Children

Present law

Federal law requires that SSI recipients be subject to a Continuing Disability Review (CDR) at least once every 3 years, except for recipients whose impairments are judged to be permanent. The Commissioner is required to conduct periodic CDRs of at least 100,000 disabled SSI recipients per year for a period of 3 years (i.e., FY 1996–1998) and report to Congress on CDRs for disabled SSI recipients no later than October 1, 1998.

House bill

In addition to the provisions of current law, at least once every 3 years the Commissioner must conduct CDRs for SSI benefits of children receiving benefits. For children who are eligible for benefits and whose medical condition is not expected to improve, the requirement to perform such reviews does not apply

Senate amendment

Same as the House bill, with minor differences in wording. At the time of review the parent or guardian must present evidence demonstrating that the recipient is and has been receiving appropriate treatment for his or her disability.

Conference agreement

The conference agreement generally follows the Senate amendment with modification requiring evidence of needed treatment for continued representative payee status.

B. Disability Eligibility Redeterminations Required for SSI Recipients Who Attain 18 Years of Age

Present law

Current law also specifies that the Commissioner must reevaluate under adult disability criteria the eligibility of at least one-third of SSI children who turn age 18 in each of the fiscal years 1996, 1997, and 1998 (the CDR must be completed before these children reach age 19) and report to Congress no later than October 1, 1998, on CDRs for disabled children.

House bill

The eligibility for all children qualifying for SSI benefits must be redetermined using the adult criteria within one year after turning 18 years of age. The review will be considered a substitute for any other review required under the changes made in this section.

Not later than October 1, 1998, the Commissioner of Social Security must submit to the House Committee on Ways and Means and the Senate Committee on Finance a report on disability reviews for children enrolled in SSI.

The "minimum number of reviews" and the "sunset" provisions of section 207 of the Social Security Independence and Program Improvements Act of 1994 are eliminated.

Senate amendment

Same as the House bill with differences in wording. Like the House bill, the Senate amendment repeals section 207 of the Social Security Independence and Program Improvements Act of 1994.

Conference agreement

The conference agreement generally follows the House bill with modification that the Commissioner does not have to submit a report to Congress on disability reviews for SSI children.

C. Continuing Disability Review Required for Low Birth Weight Babies

Present law

Not applicable.

House bill

A review for continuing disability must be performed for all children qualifying for SSI due to low birth weight when the child has received benefits for 12 months.

Senate amendment

A review must be conducted 12 months after the birth of a child whose low birth weight is a contributing factor to the child's disability. At the time of review, the parent or guardian must present evidence demonstrating that the recipient is and has been receiving appropriate treatment for his or her disability.

Conference agreement

The conference agreement follows the Senate amendment with modification requiring evidence of needed treatment for continued representative payee status.

D. Effective Date

Present law

Not applicable.

House bill

This section applies to benefits for months beginning ninety or more days after enactment, regardless of whether regulations have been issued.

Senate amendment

Applies to benefits for months beginning on or after the date of enactment, regardless of whether regulations have been issued.

Conference agreement

The conference agreement follows the Senate amendment.

3. Additional accountability requirements (section 213)

A. Disposal Of Resources for Less Than Fair Market Value

Present law

No provision. There is a transfer of assets provision in Medicaid law that is similar to H.R. 4 provision (Sec. 1917(c) of the Social Security Act).

House bill

The House bill delays eligibility for any child applicant whose parents or guardians, in order to qualify a child for benefits, dispose of assets for less than fair market value within 36 months of the date of application. The provision stipulates that any assets in a trust in which the child (i.e., parent or representative payee) has control shall be considered assets of the child and subject to the

36-month "look-back" rule. The delay (in months) is equal to the amount of assets divided by the SSI standard benefit.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with technical modifications.

B. Treatment of Assets Held in Trust

This section is included in the law as a result of technical changes submitted by the Social Security Administration.

C. Requirement to Establish Account

Present law

Not applicable.

House bill

No provision.

Senate amendment

At the request of the representative payee (i.e., the parent), the Commissioner of Social Security may pay any lump sum payment for the benefit of a child into a dedicated savings account for the purpose of covering the costs of needs related to the child's disability and/or increasing the child's independence. The dedicated savings account could only be used to purchase education and job skills training, special equipment or housing modifications related to the child's disability, and appropriate therapy and rehabilitation. The funds in these accounts would not be counted as resources in determining SSI eligibility. This provision would take effect upon enactment.

Conference agreement

The conference agreement generally follows the Senate amendment with modification requiring the dedicated savings account (instead of it being optional at the request of the representative payee), expanding the list of allowable expenses, and requiring the Commissioner to establish a system for accountability monitoring.

Conforming amendments

Present law

Not applicable.

House bill

The House bill makes a number of conforming amendments, reflecting the addition of non-cash SSI benefits as described above.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate Amendment (i.e. no provision).

Improvements to disability evaluations for children

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Senate amendment directs the Commissioner of Social Security, within sixty days of enactment, to issue a request for comments in the Federal Register regarding improvements in the disability evaluation and determination procedures for children under age 18. The Commissioner must review the comments and issue regulations implementing changes within 18 months after enactment.

Conference agreement

The conference agreement follows the House bill (i.e., no provision).

Temporary eligibity for cash benefits for poor disabled children residing in States applying alternative income eligibility standards under medicaid

Present law

States generally are required to provide Medicaid coverage for recipients of SSI. However, States may use more restrictive eligibility standards for Medicaid than those for SSI if they were using those standards on January 1, 1972 (before implementation of SSI). States that have chosen to apply at least one more restrictive standard are known as "section 209(b)" States, after the section of the Social Security Amendments of 1972 (P.L. 92-603) that established the option. These States may vary in their definition of disability, or in their standards related to income or resources. There are 12 section 209(b) States: Connecticut, Hawaii, Illinois, Indiana, Minnesota, Missouri New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, and Virginia.

House bill

The House bill provides for temporary eligibility for cash SSI benefits (through the end of FY 1996) for children who live in States that apply alternative income eligibility standards under Medicaid (also known as "209(b)" States).

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

4. REDUCTION OF CASH BENEFITS PAYABLE TO INSTITUTIONALIZED CHILDREN WHOSE MEDICAL COSTS ARE COVERED BY PRIVATE INSURANCE (SECTION 214)

Present law

Federal law stipulates that when an individual enters a hospital or other medical institution in which more than half of the bill is paid by the Medicaid program, his or her monthly SSI benefit standard is reduced to $30 per month. This personal needs allowance is intended to pay for small personal expenses, with the cost of maintenance and medical care provided by the Medicaid program.

House bill

Cash SSI payments to institutionalized children would be reduced for those whose medical costs are covered by private insurance.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Additional accountability requirements for parents or guardians

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Senate amendment requires a disabled child's representative payee (usually the parent) to document expenditures. These expenditures would be subject to increased review by the Social Security Administration. Effective for benefits paid after enactment.

Conference agreement

The conference agreement follows the House bill (i.e., no provision).

5. REGULATIONS (SECTION 215)

Present law

Not applicable.

House bill

The Commissioner of Social Security and the Secretary of HHS will prescribe necessary regulations within three months after enactment of this Act.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Examination of mental listing used to determine eligibility of children for SSI benefits by reason of disability

Present law

Section 202 of the Social Security Independence and Program Improvements Act of 1994 established a Childhood Disability Commission to study the desirability and methods of increasing the extent to which benefits are used in the effort to assist disabled children in achieving independence and engaging in substantial gainful activity. The Commission was also charged with examining the effects of the SSI program on disabled children and their families.

House bill

The Childhood Disability Commission must review the mental listing used by the Social Security Administration to determine child SSI eligibility. The Commission should conduct this investigation to ensure that the criteria in these listings are appropriate and that SSI eligibility is limited to children with serious disabilities for whom Federal assistance is necessary to improve the child's condition or quality of life.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision) due to the Childhood Disability Commission having completed their final report.

Limitation on payments to Puerto Rico, the U.S. Virgin Islands and Guam under programs of aid to the aged, blind, or disabled

See description in section 108 of title I of the conference agreement.

SUBTITLE C—STATE SUPPLEMENTATION PROGRAMS

1. REPEAL OF MAINTENANCE OF EFFORT REQUIREMENT APPLICABLE TO OPTIONAL STATE PROGRAMS FOR SUPPLEMENTATION OF SSI BENEFITS (SECTION 221)

Present law

Since the beginning of the SSI program, States have had the option to supplement (with State funds) the Federal SSI payment. The purpose of section 1618 was to encourage States to pass along to SSI recipients the amount of any Federal SSI benefit increase. Under section 1618, a State that is found to be not in compliance with the "pass along/maintenance of effort provision" is subject to loss of its Medicaid reimbursements. Section 1618 allows States to comply with the "pass along/maintenance of effort" provision by either maintaining their State supplementary payment levels at or above 1983 levels or by maintaining total annual expenditures for supplementary payments (including any Federal cost-of-living adjustment) at a level at least equal to their prior 12-month period, provided the State was in compliance for that period. In effect, section 1618 requires that once a State elects to provide supplementary payments it must continue to do so. [Sec. 1618 of the Social Security Act]

House bill

The House bill repeals the maintenance of effort requirements (Sec. 1618) applicable to optional State programs for supplementation of SSI benefits effective date of enactment.

Senate amendment

Similar to the House bill.

Conference agreement

The conference agreement follows the Senate amendment with modification that the effective date is the date of enactment.

Limited Eligibility of Noncitizens for SSI Benefits

See description in title IV of the conference agreement.

SUBTITLE D—STUDIES REGARDING SUPPLEMENTAL SECURITY INCOME PROGRAM

1. ANNUAL REPORT ON SSI (SECTION 231)

Present law

To date, the Department of Health and Human Services and now the Social Security Administration have collected, compiled, and published annual and monthly SSI data, but Federal law does not require an annual report on the SSI program.

House bill

No provision.

Senate amendment

The Senate amendment requires the Commissioner of Social Security to prepare and provide to the President and the Congress an annual report on the SSI program, which includes specified information and data. The report is due May 30 of each year.

Conference agreement

The conference agreement follows the Senate amendment.

2. STUDY OF DISABILITY DETERMINATION PROCESS (SECTION 232)

Present law

Not applicable.

House bill

No provision.

Senate amendment

Within 90 days of enactment, the Commissioner must contract with the National Academy of Sciences or another independent entity to conduct a comprehensive study of the disability determination process for SSI and SSDI. The study must examine the validity, reliability and consistency with current scientific standards of the Listings of Impairments cited above.

The study must also examine the appropriateness of the definitions of disability (and possible alternatives) used in connection with SSI and SSDI; and the operation of the disability determination process, including the appropriate method of performing comprehensive assessments of individuals under age 18 with physical or mental impairments.

The Commissioner must issue interim and final reports of the findings and recommendations of the study within 18 months and 24 months, respectively, from the date of contract for the study.

Conference agreement

The conference agreement follows the Senate amendment.

3. GENERAL ACCOUNTING OFFICE STUDY (SECTION 233)

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Senate amendment requires the General Accounting Office to study and report on the impact of title II of the Senate amendment on the SSI program by January 1, 1998.

Conference agreement

The conference agreement follows the Senate amendment with modification that the study also include extra expenses incurred by families of children receiving SSI that are not covered by other Federal, State, or local programs.

SUBTITLE E—NATIONAL COMMISSION ON THE FUTURE OF DISABILITY

1. ESTABLISHMENT (SECTION 241)

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission is established and expenses are to be paid from funds appropriated to the Social Security Administration.

Conference Agreement

The conference agreement follows the Senate amendment with modification that there are authorized to be appropriated such sums as are necessary to carry out the purpose of the Commission.

2. DUTIES (SECTION 242)

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission must study all matters related to the nature, purpose and adequacy of all Federal programs for the disabled, and especially SSI and SSDI.

The Commission must examine: projected growth in the number of individuals with disabilities and the implications for program planning; possible performance standards for disability programs; the adequacy of Federal rehabilitation research and training; and the adequacy of policy research available to the Federal government and possible improvements.

The Commission must submit to the President and the proper Congressional committees recommendations and possible legislative proposals effecting needed program changes.

Conference agreement

The conference agreement follows the Senate amendment.

3. MEMBERSHIP (SECTION 243)

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission is to be composed of 15 members, appointed by the President and Congressional leadership. Members are to be chosen based on their education, training or experience, with consideration for representing the diversity of individuals with disabilities in the U.S.

The Comptroller General must serve as an ex officio member of the Commission to advise on the methodology of the study. With the exception of the Comptroller General, no officer or employee of any government may serve on the Commission.

Members are to be appointed not later than 60 days after enactment. Members serve for the life of the Commission, which will be headquartered in D.C. and meet at least quarterly.

The Senate amendment includes a number of specific requirements on the Commission regarding quorums, the naming of chairpersons, member replacement, and benefits.

Conference agreement

The conference agreement follows the Senate amendment with modification deleting the Comptroller General as a ex officio member and deleting the prohibition against officer or employee of any government being appointed to serve on the Commission. The conferees added that the Commission membership will also reflect the general interest of the business and taxpaying community, both of which are often impacted by Federal disability policy.

4. STAFF AND SUPPORT SERVICES (SECTION 244)

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission will have a director, appointed by the Chair, and appropriate staff, resources, and facilities.

Conference agreement

The conference agreement follows the Senate amendment.

5. POWERS (SECTION 245)

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission may conduct public hearings and obtain information from Federal agencies necessary to perform its duties.

Conference agreement

The conference agreement follows the Senate amendment.

6. REPORTS (SECTION 246)

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission must issue an interim report to Congress and the President not later than 1 year prior to terminating. A final public report must be submitted prior to termination.

Conference agreement

The conference agreement follows the Senate amendment.

7. TERMINATION (SECTION 247)

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission will terminate 2 years after first having met and named a chair and vice chair.

Conference agreement

The conference agreement follows the Senate amendment.

SUBTITLE F—RETIREMENT AGE ELIGIBILITY

1. ELIGIBILITY FOR SSI BENEFITS BASED ON SOCIAL SECURITY RETIREMENT AGE (SECTION 251)

Present law

The SSI program guarantees a minimum level of cash income to all aged, blind, or disabled persons with limited resources. The

SSI program defines "aged" as persons age 65 and older.

House bill

No provision.

Senate amendment

The Senate amendment deletes references to age 65 and instead defines as "aged" those persons who reach "retirement age" as defined by the Social Security program. The Social Security "retirement age"—the age at which retired workers receive benefits that are not reduced for "early retirement"—gradually will rise from 65 to 67. It will do so in two steps. First, the retirement age will increase by 2 months for each year that a person was born after 1937, until it reaches age 66 for those born in 1943 (i.e., those who attain age 66 in 2009). Second, it will again increase by 2 months for each year that a person was born after 1954 until it reaches age 67 for those born after 1959.

Conference agreement

The conference agreement follows the Senate amendment.

TITLE III. CHILD SUPPORT ENFORCEMENT

SUBTITLE A—ELIGIBILITY FOR SERVICES; DISTRIBUTION OF PAYMENTS

1. REFERENCES (SECTION 300)

Present law

No provision.

House bill

Any reference in this title expressed in terms of an amendment to or repeal of a section or other provision is made to the Social Security Act.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. STATE OBLIGATION TO PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES (SECTION 301)

Present law

States are required to establish paternity for children born out of wedlock if they are recipients of AFDC or Medicaid, and to obtain child and spousal support payments from noncustodial parents of children receiving AFDC, Medicaid benefits, or foster care maintenance payments. States must provide child support collection or paternity determination services to persons not otherwise eligible if the person applies for services. Federal law requires States to cooperate with other States in establishing paternity (if necessary), locating absent parents, collecting child support payments, and carrying out other child support enforcement functions.

House bill

States must provide services, including paternity establishment and establishment, modification, or enforcement of support obligations, for children receiving benefits under part A (Temporary Assistance for Needy Families block grant-TANF), part B (child protection block grant), Medicaid, and any child of an individual who applies for services. States must enforce support obligations with respect to children in their caseload and the custodial parents of such children. States must also make child support enforcement services available to individuals not residing within the State on the same terms as to individuals residing within the State. The provision also makes minor technical amendments to SSA section 454.

Senate amendment

Similar to House provision with one exception: instead of reference to part B as in House bill, reference is to part E—foster care and adoption assistance.

Conference agreement

The conference agreement follows the House bill and Senate amendment except the House recedes by agreeing that States be required to provide child support services only to children actually receiving foster care payments.

3. DISTRIBUTION OF CHILD SUPPORT COLLECTIONS (SECTIONS 302 AND 374)

A. Distribution of Collected Support

Present law

To receive AFDC benefits, a custodial parent must assign to the State any right to collect child support payments. This assignment covers current support and any arrearages, and lasts as long as the family receives AFDC. Federal law requires that child support collections be distributed as follows: First, up to the first $50 in current support is paid to the AFDC family (a "disregard" that does not affect the family's AFDC benefit or eligibility status). Second, the Federal and State governments are reimbursed for the AFDC benefit paid to the family in that month. Third, if there is money left, the family receives it up to the amount of the current month's child support obligation. Fourth, if there is still money left, the State keeps it to reimburse itself for any arrearages owed to it under the AFDC assignment (with appropriate reimbursement of the Federal share of the collection to the Federal government). If no arrearages are owed the State, the money is used to pay arrearages to the family; such moneys are considered income under the AFDC program and would reduce the family's AFDC benefit.

House bill

To receive funds from the Temporary Assistance for Needy Families (TANF) block grant, custodial parents must assign to the State their right to child support payments. The bill ends the $50 child support disregard to (TANF) families. Families receiving cash assistance—States are given the option of passing the entire child support payments through to families. If States elect this option, they must pay the Federal share of the collection to the Federal government. Families that formerly received cash assistance—Current child support payments go to the family. Payments on arrearages that accrued before or after the custodial parent received cash assistance are paid to the family first if the family leaves welfare. Only after all arrearages owed to the custodial parent and children have been repaid are arrearages owed to the State and Federal government repaid. Payments on arrearages that accrued while the family received assistance must be retained by the State. The State is required to keep the State share of the collected amount, and pay to the Federal government the Federal share of the amount collected (to the extent necessary to reimburse amounts paid to the family as cash assistance). As a general rule, States must pay to the Federal government the Federal share of child support collections for parents on the Temporary Family Assistance program. This share is calculated using the State's Medicaid match rate in effect in 1995 or in subsequent years, whichever is greater. Families that never received cash assistance—All child support payments go directly to the family.

Senate amendment

Any rights to child support that were assigned to the State before the effective date of the amendment are to remain so assigned. Gives States the option of requiring TANF applicants and recipients to assign to the State their rights to child support payments. The amendment eliminates references (in both the TANF block grant title of the amendment and the CSE title) to the $50 child support disregard, but does not explicitly eliminate the $50 child support disregard. Families receiving cash assistance—States are given the option of passing the entire child support payment through to families. If States elect this option, they must pay the Federal share of the collection to the Federal government. Families that formerly received cash assistance—Current child support payments go to the family. Payments on arrearages that accrued after the custodial parent left welfare are paid to the family. With respect to payments on arrearages that accrued before or while the family received assistance, the State may retain all or part of the State share, and if the State does so, it must retain and pay to the Federal Government the Federal share (to the extent the amount retained does not exceed the cash assistance paid to the family). The Federal share is calculated using the State's Medicaid match rate in effect in 1995 or in subsequent years, whichever is greater. Families that never received cash assistance—All child support payments go directly to the family. In addition, in the case of a family receiving cash assistance from an Indian tribe, the child support collection is to be distributed according to the agreement specified in the State plan.

Conference agreement

The conference agreement modifies the House bill and Senate amendment as follows: (1) the $50 pass-through is ended; (2) beginning October 1, 1997, arrearages that accumulate during the period after the family leaves welfare are paid to the family prior to any payments to the State for assigned support; and (3) beginning October 1, 2000, arrearages that accumulated during the period before the custodial parent went on welfare are also paid to the family prior to any payments to the State for assigned support. (This includes pre-welfare arrearages that were assigned to the State on or after October 1, 1997 but that were not collected prior to October 1, 2000.) An exception is made for any collections through the tax refund intercept program, which are paid to the State first, up to the amount of the remaining assigned support, prior to any payments to the family.

When fully implemented in 2000, the new order of assignment and distribution of arrearage payments, according to whether collections are made via the tax intercept or through any other method, will be as follows:

Tax intercept: First, post-welfare arrearages to State; Second, pre-welfare arrearages to State; Third, post-welfare arrearages to family; and Fourth, pre-welfare arrearages to family.

Other methods: First, post-welfare arrearages to family; Second, pre-welfare arrearages to family; Third, post-welfare arrearages to State; and Fourth, pre-welfare arrearages to State.

Conferees also agreed that if the amount of pre-welfare arrearages paid to the family exceeded the amount saved by a given State by ending the $50 passthrough and by other methods of improving collections contained in this legislation, the Federal government will pay that State an amount equal to the difference between pre-welfare arrearage payments to family and State savings caused by this legislation.

To further improve child support collections, conferees agree to close a loophole in the bankruptcy code that allows courts to dismiss child support debts that accumulated before a child support order was legally established (see Section 374).

B. Continuation of Service for Families Ceasing to Receive Assistance

Present law

Federal law requires States to continue providing child support enforcement services to AFDC, Medicaid, and foster care families who no longer qualify for AFDC benefits on the same basis as in the case of those who receive benefits or services, except that no application or request for services is required.

House bill

When families leave the TANF program, States are required to continue providing child support enforcement services to them subject to the same conditions and on the same basis as in the case of individuals who receive assistance.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

C. Effective Date

Present law

No provision.

House bill

The effective date for provisions relating to distribution of support collected for families who formerly received cash assistance is October 1, 1995. For all others it is October 1, 1999.

Senate amendment

The effective date for distribution of support collected for families receiving cash assistance is October 1, 1999. The effective date for the clerical amendments and provisions relating to the distribution of child support collected for families who formerly received cash assistance or who never received cash assistance is October 1, 1995.

Conference agreement

The effective date for ending the $50 pass-through is October 1, 1996 or sooner at State option. The effective date for implementing the new distribution rules applying to post-welfare arrearages is October 1, 1997; for pre-welfare arrearages, the effective date is October 1, 2000.

4. PRIVACY SAFEGUARDS (SECTION 303)

Present law

Federal law limits the use or disclosure of information concerning recipients of Child Support Enforcement Services to purposes connected with administering specified Federal welfare programs.

House bill

States must implement safeguards against unauthorized use or disclosure of information related to proceedings or actions to establish paternity or to enforce child support. These safeguards must include prohibitions on release of information where there is a protective order or where the State has reason to believe a party is at risk of physical or emotional harm from the other party. This provision is effective October 1, 1997.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

5. RIGHTS TO NOTIFICATION AND HEARING (SECTION 304)

Present law

Most States have procedural due process requirements with respect to wage withholding. Federal law requires States to carry out withholding in full compliance with all procedural due process requirements of the State.

House bill

No provision.

Senate amendment

Parties to child support cases under Title IV-D must receive notice of proceedings in which child support is established or modified and must receive a copy of orders establishing or modifying child support within 14 days of issuance. Individuals served by the child support program must also have access to a fair hearing or other complaint procedures. These rules and procedures become effective on October 1, 1997.

Conference agreement

The conference agreement is a compromise between the Senate and House provisions. The House recedes on the Senate requirement that parties be informed of hearings; the Senate recedes on the requirement for hearings in certain cases.

SUBTITLE B—LOCATE AND CASE TRACKING

6. STATE CASE REGISTRY (SECTION 311)

A. Contents

Present law

No provision.

House bill

The automated State Case Registry must contain a record on each case in which services are being provided by the State agency, as well as each support order established or modified in the State on or after October 1, 1998.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

B. Linking of Local Registries

Present law

No provision.

House bill

The Registry may be established by linking local case registries of support orders through an automated information network.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

C. Use of Standardized Data Elements

Present law

No provision.

House bill

The registry record will contain data elements on both parents, such as names, Social Security numbers and other uniform identification numbers, dates of birth, case identification numbers, and any other data to be Secretary may require.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

D. Payment Records

Present Law

Federal law requires that wage withholding be administered by a public agency capable of documenting payments of support and tracking and monitoring such payments.

House bill

Each case record will contain the amount of support owed under the order and other amounts due or overdue, any amounts that have been collected and distributed, the birth date of any child for whom the order requires the provision of support, and the amount of any lien imposed by the State.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

E. Updating and Monitoring

Present law

Federal law requires that child support orders be reviewed and adjusted, as appropriate, at least once every 3 years.

House bill

The State agency operating the registry will promptly establish and maintain and regularly update case records in the registry with respect to which services are being provided under the State plan. Updating will be based on administrative actions and administrative and judicial proceedings and orders relating to paternity and support, as well as information obtained from comparisons with Federal, State, and local sources of information, information on support collections and distributions, and any other relevant information.

Senate amendment

Identical provision.

Conference agreement.

The conference agreement follows the House bill and the Senate amendment

F. Information Comparisons and Other Disclosures

Present law

No provision.

House bill

The State automated system will be used to extract data for purposes of sharing and matching with Federal and State data bases and locator services, including the Federal Case Registry of Child Support Orders, the Federal Parent Locator Service, Temporary Assistance for Needy Families and Medicaid agencies, and intra- and interstate information comparisons.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

7. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS (SECTION 312)

A. State Disbursement Unit

Present law

No provision. But States may provide that, at the request of either parent, child support payments be made through the child support enforcement agency or the agency that administers the State's income withholding system regardless of whether there is an arrearage. States must charge the parent who requests child support services a fee equal to the cost incurred by the State for these services, up to a maximum of $25 per year.

House bill

By October 1, 1998, State child support agencies are required to operate a centralized, automated unit for collection and disbursement of payments on child support orders enforced by the child support agency. The specifics of how States will establish and operate their State Disbursement Unit must be outlined in the State plan.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

B. Operation

Present law

No provision.

House bill

The State Disbursement Unit must be operated directly by the State agency, by two or more State agencies under a regional cooperative agreement, or by a contractor responsible directly to the State agency.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

C. Linking of Local Disbursement Units

Present law

No provision.

House bill

The State Disbursement Unit may be established by linking local disbursement units through an automated information network. The Secretary must agree that the system will not cost more nor take more time to establish than a centralized system. In addition, employers shall be given one location per State to which income withholding is sent.

Senate amendment

Similar provision except that whereas the House requires only that the linked local system not cost more or take more time to establish than the single State system, the Senate adds the condition that the local system also cannot take more time to operate.

Conference agreement

The House recedes to the Senate provision allowing States to establish their State Disbursement Unit by linking local disbursement units only if linking units does not cost more money nor take more time to establish and to operate.

D. Required Procedures

Present law

No provision.

House bill

The Disbursement Unit will be used to collect and disburse support payments, to generate orders and notices of withholding to employers, to keep an accurate identification of payments, to promptly distribute money to custodial parents or other States, and to furnish parents with a record of the current status of support payments. The Unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

E. Timing of Disbursements

Present law

No provision.

House bill

The Disbursement Unit must distribute all amounts payable within 2 business days after receiving money and identifying information from the employer or other source of periodic income, if sufficient information identifying the payee is provided.

Senate amendment

Similar to House provision, except permits the retention of arrearages in the case of appeals until they are resolved.

Conference agreement

The Conference agreement follows the House bill and the Senate amendment except that the House recedes to the Senate requirement that States be allowed to retain arrearages in the case of appeals until they are resolved.

F. Use of Automated System

Present law

No provision.

House bill

State must use their automated system to facilitate collection and disbursement including at least:

(1) transmission of orders and notices to employers within 2 days after receipt of the withholding notice;

(2) monitoring to identify missed payments of support; and

(3) automatic use of enforcement procedures when payments are missed.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

G. Effective Date

Present law

No provision.

House bill

This section of the bill will go into effect on October 1, 1998.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House and the Senate.

8. STATE DIRECTORY OF NEW HIRES (SECTION 313)

A. State Plan Requirement

Present law

No provision.

House bill

State plans must include the provision that by October 1, 1997, States will operate a Directory of New Hires (as outlined below).

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

B. Establishment

Present law

No provision.

House bill

States are required to establish a State Directory of New Hires to which employers and labor organizations in the State must furnish a report for each newly hired employee, unless reporting could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission as determined by the head of an agency.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment with the clarification that States that already have new hire reporting laws may continue to follow the provisions of their own law until October 1, 1997, at which time States must conform to Federal law.

C. Employer Information

Present law

No provision.

House bill

Employers must furnish to the State Directory of New Hires the name, address, and Social Security number of every new employee and the name and identification number of the employer. Multistate employers may report to the State in which they have the most employees.

Senate amendment

Similar to House provision, but allows multistate employers to report to the single State they designate. The employer must notify the DHHS Secretary as to the name of the designated State.

Conference agreement

The conference agreement follows the House bill and the Senate amendment except that the House receedes to the Senate provision allowing multistate employers to report to the State of their choice. Employers must notify the Secretary of the name of the designated State.

D. Timing of Report

Present law

No provision.

House bill

Employers must report new hire information within 15 days of the hire or on the date the employee first receives wages.

Senate amendment

Employer must report new hire information within 30 days of the hire or if the employer reports by magnetic or electronic means, the employer can report by the first business day of the week following the date on which the employee first receives wages.

Conference agreement

Conferees agree that employers must report new hire information within 20 days of the date of hire.

Employers that report new hires electronically or by magnetic tape must file twice per month; reports must be separated by not less than 12 days and not more than 16 days.

E. Reporting Format and Method

Present law

No provision.

House bill

The report required in this section will be made on a W-4 form or the equivalent, and can be transmitted magnetically, or by first class mail.

Senate amendment

Similar to House provision, but only allows the report to be filed on a W-4 form, not the equivalent.

Conference agreement

The conferees agree to follow both the House and Senate provisions except that the Senate recedes to the House provision allowing employers, at their option, to use an equivalent form. The decision of which reporting method to use is entirely up to employers.

F. Civil Money Penalties on Noncomplying Employers

Present law

In general, no provision.

Section 1128 of the Social Security Act is an antifraud provision which excludes individuals and entities that have committed fraud from participation in medicare and State health care programs. Section 1128A pertains to civil monetary penalties and describes the appropriate procedures and proceedings for such penalties.

House bill

An employer failing to make a timely report is subject to a $25 fine for each unreported employee. There is also a $500 penalty on employers for every employee for whom they do not transmit a W-4 form if, under the laws of the State, there is shown to be a conspiracy between the employer and the employee to prevent the proper information from being filed.

The House bill makes several but not all provisions of section 1128 applicable to employers that violate reporting requirements.

Senate amendment

States have the option of setting a civil money penalty which shall be not less than $25 or $500 if, under State law, the failure is the result of a conspiracy between the employer and employee. The Senate amendment does not make any provisions of section 1128 applicable to employers.

Conference agreement

The conference agreement follows both the House and Senate provisions except that the House recedes to the Senate provision of making the penalties a State option. The application of penalties from section 1128 is dropped.

G. Entry of New Hire Information

Present law

No provision.

House bill

No provision.

Senate amendment

New hire information must be entered in the State data base within five business days of receipt from employer.

Conference agreement

The House recedes to the Senate requirement of requiring States to enter New Hire information in their data base within five business days.

H. Information Comparisons

Present law

No provision.

House bill

By October 1, 1997, each State Directory of New Hires must conduct automated matches of the Social Security numbers of reported employees against the Social Security numbers of records in the State Case Registry being enforced by the State agency and report the name, Social Security number, and employer identification number on matches to the State child support agency.

Senate amendment

Similar to House provision, except requires comparisons to begin by October 1, 1998, rather than 1997.

Conference agreement

Conferees agreed to follow the House and Senate provisions but to compromise on the date by which comparisons must begin by adopting a May 1, 1998, effective date.

I. Transmission of Information

Present law

No provision.

House bill

Within two business days of the entry of data in the registry, the State must transmit a withholding order directing the employer to withhold wages in accord with the child support order. Within four days, the State Directory of New Hires must furnish employee information to the National Directory of New Hires for matching with the records of other State case registries. The State Directory of New Hires must also report quarterly to the National Directory of New Hires information on wages and unemployment compensation taken from the quarterly report to the Secretary of Labor now required by Title III of the Social Security Act.

Senate amendment

Similar to House provision, except requires State Directory to report to the National Directory within two, rather than four, days.

Conference agreement

The conference agreement is to follow the House and Senate provisions and to compromise on the reporting date by allowing States three days to report to the National Directory of New Hires.

J. Other Uses of New Hire Information

Present law

No provision.

House bill

The State child support agency must use the new hire information for purposes of establishing paternity as well as establishing, modifying, and enforcing child support obligations. New hire information (pursuant to section 1137 of the Social Security Act) must also be disclosed to the State agency administering the Temporary Assistance for Needy Families, Medicaid, Unemployment Compensation, Food Stamp, SSI, and territorial cash assistance programs for income eligibility verification, and to State agencies administering unemployment and workers' compensation programs to assist determinations of the allowability of claims.

Senate amendment

Similar to House provision, except requires State and local government agencies to be included in quarterly wage reporting unless the agency performs intelligence or counterintelligence functions and it is determined that wage reporting could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

Conference agreement

The conference agreement allows the House and Senate provisions except that the House recedes to the Senate provision allowing State and local government agencies to exempt employees doing intelligence or counterintelligence work whose safety might be compromised by the reporting.

9. AMENDMENTS CONCERNING INCOME WITHHOLDING (SECTION 314)

Present law

Since November 1, 1990, all new or modified child support orders that were being enforced by the State's child support enforcement agency have been subject to immediate income withholding. If the noncustodial parent's wages are not subject to income withholding (pursuant to the November 1, 1990 provision), such parent's wages would become subject to withholding on the date when support payments are 30 days past due. Since January 1, 1994, the law has required States to use immediate income withholding for all new support orders, regardless of whether a parent has applied for child support enforcement services. There are two circumstances in which income withholding does not apply: (1) one of the parents demonstrates and the court or administrative agency finds that there is good cause not to do so, or (2) a written agreement is reached between both parents which provides for an alternative arrangement. States must implement procedures under which income withholding for child support can occur without the need for any amendment to the support order or for any further action by the court or administrative entity that issued the order. States are also required to implement income withholding in full compliance with all procedural due process requirements of the State, and States must send advance notice to each nonresident parent to whom income withholding applies (with an exception for some State that had income withholding before enactment of this provision that met State due process requirements). States must extend their income withholding systems to include out-of-State support orders.

House bill

States must have laws providing that all child support orders issued or modified before October 1, 1996, which are not otherwise subject to income withholding, will become subject to income withholding immediately if arrearages occur, without the need for judicial or administrative hearing. State law must also allow the child support agency to execute a withholding order through electronic means and without advance notice to the obligor. Employers must remit to the State disbursement unit income withheld within two working days after the date such amount would have been paid or credited to the employee.

Senate amendment

Similar to House provision, but requires all child support orders which are not part of the State IV-D program to be processed through the State disbursement unit. In addition, States must notify noncustodial parents that income withholding has commenced and inform them of procedures for contesting income withholding.

Conference agreement

The conference agreement follows the House and the Senate provisions except that the House recedes to the Senate provision requiring all child support orders which are not part of the State IV-D program to be processed through the State disbursement unit. In addition, States must notify noncustodial parents that income withholding has commenced and inform them of procedures for contesting income withholdng.

10. LOCATOR INFORMATION FROM INTERSTATE NETWORKS (SECTION 315)

Present law

No provision.

House bill

All State and the Federal Child Support Enforcement agencies must have access to the motor vehicle and law enforcement locator systems of all States.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

11. EXPANSION OF THE FEDERAL PARENT LOCATOR SERVICE (SECTION 316)

A. Expanded Authority to Locate Individuals and Assets

Present law

The law requires that the Federal Parent Locator Service (FPLS) be used to obtain and transmit information about the location of any absent parent when that information is to be used for the purpose of enforcing child support.

House bill

The purposes of the Federal Parent Locator Service are expanded. For the purposes of establishing parentage, establishing support orders or modifying them, or enforcing support orders, the Federal Parent Locator Service will provide information to locate individuals who owe child support or against whom an obligation is sought or to whom such an obligation is owed. Information in the FPLS includes Social Security number, address, name and address of employer, and wages and employee benefits (including information about health care coverage).

Senate amendment

Similar to House provision, except clarifies current law by stating that information from the Federal Parent Locator Service can be used to enforce visitation orders. Senate also allows FPLS to contain and provide information on assets and debts.

Conference agreement

The conference agreement is similar to both the House bill and the Senate amendment. The agreement clarifies the statute so that nonresident parents are given access to information from the FPLS if these requests are made through a court or through the State child support agency. In addition, States are required to treat requests for information from nonresident parents on the same basis and with the same priority as requests for information from the resident parent.

B. Reimbursements

Present law

Federal law requires that any department or agency of the United States must be reimbursed for costs incurred for providing requested information to the FPLS.

House bill

The Secretary is authorized to set reasonable rates for reimbursing Federal and State agencies for the cost of providing information to the FPLS and to set reimbursement rates that State and Federal agencies that use information from the FPLS must pay to the Secretary.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

C. New Components of FPLS

(1) Federal case registry of child support orders

Present law

No provision.

House bill

The House bill establishes within the FPLS an automated registry known as the Federal Case Registry of Child Support Orders. The Federal Case Registry contains abstracts of child support orders and other information specified by the Secretary (such as names, Social Security numbers or other uniform identification numbers, State case identification numbers, wages or other income, and rights to health care coverage) to identify individuals who owe or are owed support, or for or against whom support is sought to be established, and the State which has the case. States must begin reporting this information in accord with regulations issued by the Secretary by October 1, 1998.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

(2) National directory of new hires

Present law

No provision.

House bill

The bill establishes within the FPLS a National Directory of New Hires containing information supplied by State Directories of New Hires, beginning October 1, 1996. When fully implemented, the Federal Directory of New Hires will contain identifying information on virtually every person who is hired in the United States. In addition, the FPLS will contain quarterly data supplied by the State Directory of New Hires on wages and Unemployment Compensation paid. The Secretary of the Treasury must have access to information in the Federal Directory of New Hires for the purpose of administering section 32 of the Internal Revenue Code and the Earned Income Credit.

Senate amendment

The Senate provision is similar to the House provision with two exceptions:

(1) the Senate amendment includes the requirement that the information for the National Directory of New Hires must be entered within 2 days of receipt; and

(2) the Senate amendment requires the DHHS Secretary to maintain within the National Directory of New Hires a list of multistate employers that choose a State to send their report to and the name of the State so designated.

Conference agreement

Conferees agree to follow both the House bill and Senate amendment except that the House recedes on the points of difference. Thus, the National Directory must enter new information within 2 days and the Secretary must maintain a list of the States to which multistate employers send their new hire information.

D. Information Comparisons and Other Disclosures

Present law

Upon request, the Secretary must provide to an "authorized person" (i.e., an employee or attorney of a child support, a court with jurisdiction over the parties involved, the custodial parent, legal guardian, or attorney of the child) the most recent address and place of employment of any nonresident parent if the information is contained in the records of the Department of Health and Human Services, or can be obtained from any other department or agency of the United States or of any State. The FPLS also can be used in connection with the enforcement or determination of child custody, visitation, and parental kidnapping. Federal law requires the Secretary of Labor and the Secretary of Health and Human Services to enter into an agreement to give the FPLS prompt access to wage and unemployment compensation claims information useful in locating a noncustodial parent or his employer.

House bill

The Secretary must verify the accuracy of the name, Social Security number, birth date, and employer identification number of individuals in the Federal Parent Locator Service with the Social Security Administration. The Secretary is required to match data in the National Directory of New Hires against the child support order abstracts in the Federal Case Registry at least every 2 working days and to report information obtained from matches to the State child support agency responsible for the case within 2 days. The information is to be used for purposes of locating individuals to establish paternity, and to establish, modify, or enforce child support orders. The Secretary may also compare information across all components of the FPLS to the extent and with the frequency that the Secretary determines will be effective. The Secretary will share information from the FPLS with several potential users including State agencies administering the Temporary Assistance for Needy Families program, the Commissioner of Social Security (to determine the accuracy of Social Security and Supplemental Security Income), and researchers under some circumstances.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

E. Fees

Present law

"Authorized persons" who request information from FPLS must be charged a fee.

House bill

The Secretary must reimburse the Commissioner of Social Security for costs incurred in performing verification of Social Security information and to States for submitting information on New Hires. States or Federal agencies that use information from FPLS must pay fees established by the Secretary.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

F. Restriction on Disclosure and Use

Present law

Federal law stipulates that no information shall be disclosed if the disclosure would contravene the national policy or security interests of the United States or the confidentiality of Census data.

House bill

Information from the FPLS cannot be used for purposes other than those provided in this section, subject to section 6103 of the Internal Revenue Code.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

G. Information Integrity and Security

Present law

No provision.

House bill

The Secretary must establish and use safeguards to ensure the accuracy and completeness of information from the FPLS and restrict access to confidential information in the FPLS to authorized persons and purposes.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

H. Quarterly Wage Reporting

Present law

Requires the Secretary of Labor to provide prompt access for the DHHS Secretary to wage and unemployment compensation claims information and data maintained by the Labor Department or State employment security agencies.

House bill

No provision.

Senate amendment

Each department in the U.S. shall submit the name, Social Security number, and wages paid the employee, on a quarterly basis to the FPLS. Quarterly wage reporting shall not be filed for a Federal or State employee performing intelligence or counter-intelligence functions if it is determined that filing such a report could endanger the employee or compromise an ongoing investigation.

Conference agreement

The conference agreement follows the Senate amendment.

I. Conforming Amendments

Present law

No provision.

House bill

This section makes several conforming amendments to Titles III and IV of the Social Security Act and the Federal Unemployment Tax Act.

Senate amendment

Similar to House provision, except amends section 303(h) to require State unemployment insurance agencies to report quarterly wage information to the Secretary of HHS or suffer financial penalties, while the House bill amends section 303(a) and simply requires quarterly reports to the Secretary of HHS.

Conference agreement

Conferees agreed to follow both the House and Senate provisions but to follow the Senate amendment by requiring State unemployment insurance agencies to file quarterly wage reports with the Secretary or pay penalties.

J. Authorized Person for Information Regarding Visitation Rights

Present law

FPLS can be used to provide information to authorized individuals and agencies making or entering a child custody order (see Sec. 463 of Social Security Act).

House bill

No provision.

Senate amendment

Expands functions of FPLS by requiring that information be made available to nonresident parents for purposes of seeking or enforcing child visitation orders.

Conference agreement

The House recedes to the Senate amendment on this provision but with the agreement that nonresident parents cannot obtain information directly from the FPLS. Rather, they must present their request through the courts or through the State child support agency. In addition, the agreement requires State child support agencies to treat requests for information from nonresident parents on the same basis and with the same priority as requests from resident parents.

Conferees also agree to add a provision to section 6103(l) of the Internal Revenue Code to allow State child support agencies to share information on the address, social security number, and tax intercept results with private agents working under contract with the State agency.

12. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR USE IN CHILD SUPPORT ENFORCEMENT (SECTION 317)

Present law

Federal law requires that in the administration of any law involving the issuance of a birth certificate, States must require each parent to furnish their Social Security number for the birth records. The State is required to make such numbers available to child support agencies in accordance with Federal or State law. States may not place Social Security numbers directly on birth certificates.

House bill

States must have laws requiring that Social Security numbers be placed on applications for professional licenses, commercial drivers licenses, and occupational licenses, marriage licenses, and in the records for divorce decrees, child support orders, and paternity determination or acknowledgment orders. Individuals who die will have their Social Security number placed in the records relating to the death and recorded on the death certificate. There are several conforming amendments.

Senate amendment

Similar to House provision, except gives States the option of not including Social Security numbers on applications for licenses and bars the placement of Social Security numbers on marriage licenses.

Conference agreement

The conference agreement generally follows the House bill and the Senate amendment except that the House recedes to the Senate requirements that States have the option of not including Social Security numbers on applications and that States be barred from placing Social Security numbers on marriage licenses.

SUBTITLE C—STREAMLINING AND UNIFORMITY OF PROCEDURES

13. ADOPTION OF UNIFORM STATE LAWS (SECTION 321)

Present law

States have several options available for pursuing interstate child support cases including direct income withholding, interstate income withholding, and long-arm statutes which require the use of the court system in the State of the custodial parent. In addition, States use the Uniform Reciprocal Enforcement of Support Act (URESA) and the Revised Uniform Reciprocal Enforcement of Support Act (RURESA) to conduct interstate cases. Moreover, Federal law imposes a Federal criminal penalty for the willful failure to pay past-due child support to a child who resides in a State other than the State of the obligor. In 1992, the National Conference of Commissioners on State Uniform Laws approved a new model State law for handling interstate child support cases. The new Uniform Interstate Family Support Act (UIFSA) is designed to deal with desertion and nonsupport by instituting uniform laws in all 50 States that limit control of a child support case to a single State. This approach ensures that only one child support order from one court or child support agency will be in effect at any given time. It also helps to eliminate jurisdictional disputes between States that are impediments to locating parents and enforcing child support orders across State lines. As of March, 1995, 23 States had enacted UIFSA, 15 verbatim and 8 with minor changes.

House bill

By January 1, 1997, all States must have enacted the Uniform Interstate Family Support Act (UIFSA) and have the procedures required for its implementation in effect. States are required to apply UIFSA to any case involving an order established or modified in one State that is sought to be modified in another State. States must also have a new provision on long-arm statutes and petitioning for modifications of orders, and are required to recognize as valid any method of service of process used in another State that is valid in that State.

Senate amendment

Similar to the House provision, except permits but does not require States to apply UIFSA to all interstate cases.

Conference agreement

The conference agreement is that States must adopt UIFSA by January 1, 1998. The House recedes to the Senate, however, by allowing States flexibility in deciding which specific interstate cases are pursued by using UIFSA and which cases are pursued using other methods of interstate enforcement.

14. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS (SECTION 322)

Present law

Federal law requires States to treat past-due support obligations as final judgments that are entitled to full faith and credit in every State. This means that a person who has a support order in one State does not have to obtain a second order in another State to obtain support due should the debtor parent move from the issuing court's jurisdiction. P.L. 103-383 restricts a State court's ability to modify a support order issued by another State unless the child and the custodial parent have moved to the State where the modification is sought or have agreed to the modification.

House bill

The provision clarifies the definition of a child's home State, makes several revisions to ensure that full faith and credit laws can be applied consistently with UIFSA, and clarifies the rules regarding which child support orders States must honor when there is more than one order.

Senate amendment

Similar to House provision

Conference agreement

The conference agreement follows both the House and Senate provisions but the House recedes on "more than one court."

15. ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES (SECTION 323)

Present law

No provision.

House bill

States are required to have laws that permit them to send orders to and receive orders from other States without registering the underlying order unless the enforcement action is contested by the obligor on the grounds of mistake of fact or invalid order. The transmission of the order itself serves as certification to the responding State of the arrears amount and of the fact that the initiating State met all procedural due process requirements. No court action is required or permitted by the responding State. In addition, each responding State must, without requiring the case to be transferred to their State, match the case against its data bases, take appropriate action if a match occurs, and send the collections, if any, to the initiating State. States must keep records of the number of requests they receive, the number of cases that result in a collection, and the amount collected. States must respond to interstate requests within five days.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

16. USE OF FORMS IN INTERSTATE ENFORCEMENT (SECTION 324)

Present law

No provision.

House bill

The Secretary must issue forms that States must use for income withholding, for imposing liens, and for issuing administrative subpoenas in interstate cases. The forms must be issued by June 30, 1996, and States must be using the forms by October 1, 1996.

Senate amendment

Requires the DHHS Secretary to establish an advisory committee which must include State child support directors, and not later than June 30, 1996, after consultation with the advisory committee, to issue forms that States must use for income withholding, for imposing liens, and for issuing administrative subpoenas in interstate cases. States must be using the forms by October 1, 1996.

Conference agreement

Conferees agree to follow both the House and Senate provisions with a compromise on requiring the Secretary to consult with States. Rather than forming an advisory committee, the conference agreement requires the Secretary to consult with States before issuing the interstate forms. It is the intention of conferees to facilitate timely issuance of the forms but also to mandate that the Secretary work closely with State child support directors in developing the forms.

17. STATE LAWS PROVIDING EXPEDITED PROCEDURES (SECTION 325)

A. Administrative Action by State Agency

Present law

States must have procedures under which expedited processes are in effect under the State judicial system or under State administrative processes for obtaining and enforcing support orders and for establishing paternity.

House bill

States must adopt a series of procedures to expedite both the establishment of paternity and the establishment, enforcement, and modification of support. These procedures provide for:

(1) ordering genetic testing in appropriate cases;

(2) entering a default order upon a showing of service of process and any other showing required by State law to establish paternity if the putative father refuses to submit to genetic testing and to establish or modify a support order when a parent fails to appear for a hearing;

(3) issuing subpoenas to obtain information necessary to establish, modify or enforce an order, with appropriate sanctions for failure to respond to the subpoena;

(4) obtaining access to records including: records of other State and local government agencies, law enforcement records, and corrections records, including automated access to records maintained in automated data bases;

(5) directing the parties to pay support to the appropriate government entity;

(6) ordering income withholding;

(7) securing assets to satisfy arrearages by intercepting or seizing periodic or lump sum payments from States or local agencies; these payments include Unemployment Compensation, workers' compensation, judgements, settlements, lottery winnings, assets held by financial institutions, and public and private retirement funds; and

(8) increasing automatically the monthly support due to include amounts to offset arrears.

Senate amendment

Similar to House provision, except requires States to include the following additional procedures:

(1) requiring all entities in the State (including for-profit, nonprofit, and governmental employers) to provide information on employment, compensation and benefits of any employee or contractor in response to a request from the State IV–D agency;

(2) obtaining access to a variety of public and private records including: vital statistics, State and local tax records, real and personal property, occupational and professional licenses and records concerning ownership and control of corporations, partnerships and other business entities, employment security records, public assistance records, motor vehicle records, corrections records, customer records of public utilities and cable TV companies, and records of financial institutions;

(3) imposing liens to force the sale of property and distribution of proceeds;

(4) requiring financial institutions (subject to the limitation on liabilities arising from affording such access) to provide information held by them on individuals who owe or are owed child support (or against or with respect to whom a support obligation is sought) to State child support agencies; and

(5) requiring that due process safeguards be follows.

The amendment does not include the House provision regarding default orders in paternity cases upon a showing of service of process.

Conference agreement

The House recedes to the Senate by including the five additional expedited procedures in the list of State requirements. The conference agreement also includes the House provision regarding default orders in paternity cases upon a showing of service of process.

B. Substantive and Procedural Rules

Present law

Federal regulations provide a number of safeguards, such as requiring that the due process rights of the parties involved be protected.

House bill

States must follow a series of procedural rules that apply to all of the expedited procedures outlined in the preceding section:

(1) Locator Information and Notice—requires parties in paternity and child support actions to file and update information about identity, address, and employer with the tribunal and with the State Case Registry upon entry of the order. The tribunal can deem due process requirements for notice and service of process to be met in any subsequent action upon delivery of written notice to the most recent residential or employer address filed with the tribunal.

(2) Statewide Jurisdiction—grants the child support agency and any administrative or judicial tribunal with authority to hear child support and paternity cases, to exert Statewide jurisdiction over the parties, and to grant orders that have Statewide effect; also permits transfer of cases between administrative areas without additional filing or service of process.

Senate amendment

Similar provision with a minor difference in wording.

Conference agreement

The conference agreement follows the House bill and the Senate amendment except the House recedes to the Senate language by replacing the term "administrative areas" with the term "local jurisdictions" in the section of Statewide jurisdiction.

C. Automation of State Agency Functions

Present law

No provision.

House bill

The automated systems being developed by States are to be used, to the maximum extent possible, to implement the expedited procedures.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

SUBTITLE D—PATERNITY ESTABLISHMENT

18. STATE LAW CONCERNING PATERNITY ESTABLISHMENT (SECTION 331)

A. Establishment Process Available From Birth Until Age 18

Present law

Federal law requires States to strengthen their paternity establishment laws by requiring that paternity may be established until the child reaches at 18. As of August 16, 1984, these procedures would apply to a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because of statute of limitations of less than 18 years was then in effect in the State.

House bill

Same as current law.

Senate amendment

Similar to House provision, except requires that paternity may be established until age 21 rather than 18.

Conference agreement

The Senate recedes so that States are required to have laws that permit paternity establishment until at least age 18 (or a higher limit at State option).

B. Procedures Concerning Genetic Testing

Present law

Federal law requires States to implement laws under which the child and all other parties must undergo genetic testing upon the request of a party in contested cases.

House bill

The child and all other parties must undergo genetic testing upon the request of a party, where the request is supported by a sworn statement establishing a reasonable possibility of parentage or nonparentage. When the tests are ordered by the State agency, States must pay for the costs, subject to recoupment at State option from the farther if paternity is established.

Senate amendment

Similar provision. House mandates genetic tests in certain cases while Senate allows States with laws against genetic testing in some cases to follow State law.

Conference agreement

The conference agreement follows both House and Senate provisions but the House recedes on the provision allowing States to exempt certain cases from the requirement for mandatory genetic testing. No State exemption, however, can permit a putative father to avoid paternity establishment procedures.

C. Voluntary Paternity Acknowledgment

Present law

Federal law requires States to implement procedures for a simple civil process for voluntary paternity acknowledgment, including hospital-based programs.

House bill

(1) Simple Civil Process. States must have procedures that create a simple civil process

for voluntary acknowledging paternity under which benefits, rights and responsibilities of acknowledgment are explained to unwed parents;

(2) Hospital Program. States must have procedures that establish a paternity acknowledgment program through hospitals and birth record agencies (and other agencies as designated by the Secretary).

(3) Paternity Services. States must have procedures that require the agency responsible for maintaining birth records to offer voluntary paternity establishment services. The Secretary must issue regulations, including regulations on other State agencies that may offer voluntary paternity acknowledgment services and the conditions such agencies must meet.

(4) Affidavit. States must have procedures that require agencies to use a uniform affidavit developed by the Secretary that is entitled to full faith and credit in any other State.

Senate amendment

(1) Simple Civil Process. Similar to House provision; Senate does not include language requiring that the explanation of alternatives, legal consequences, and rights and responsibilities be "in a language that each can understand".

(2) Hospital Program. Similar to House provision, except States must also establish good cause exceptions for not trying to establish paternity.

(3) Paternity Services. Identical to House provision.

(4) Affidavit. Similar provision but Senate amendment allows States to develop their own voluntary paternity acknowledgment form as long as they follow all the basic elements of a form developed by the Secretary.

Conference agreement

(1) Simple Civil Process. The conference agreement follows the House and Senate provisions except the House agrees to drop its requirement that the explanation be "in a language that each [parent] can understand".

(2) Hospital Program. Conferees agree to follow the House and Senate provisions but with a modification of the Senate language on "good cause" exceptions so that such exceptions become a State option.

(3) Paternity Services. The conference agreement follows the House bill and the Senate amendment.

(4) Affidavit. The House recedes to allow States to develop their own voluntary acknowledgment form as long as the form contains all the basic elements of a form developed by the Secretary.

D. Status of Signed Paternity Acknowledgment

Present law

Federal laws requires States to implement procedures under which the voluntary acknowledgment of paternity creates a rebuttal presumption, or at State option, a conclusive presumption of paternity.

House bill

(1) Legal Finding. States must have procedures under which a signed acknowledgment of paternity is considered a legal finding of paternity unless rescinded within 60 days.

(2) Contest. States must have procedures under which a paternity acknowledgment can be challenged in court only on the basis of fraud, duress, or material mistake of fact.

(3) Rescission. States must have procedures under which minors who sign a voluntary paternity acknowledgment are allowed to rescind it until age 18 or the date of the first proceeding to establish a support order, visitation, or custody rights.

Senate amendment

(1) Legal Finding. Adds the requirement that the name of the father appear in the birth records only if there is a paternity acknowledgment signed by both parents or paternity has been established by court order;

(2) Contest. Identical to House provision.

(3) Rescission. No provision.

Conference agreement

(1) Legal Finding. The House recedes to the Senate requirement that the father's name appear in the birth records only if certain conditions are met;

(2) Contest. The conference agreement follows the House bill and the Senate amendment.

(3) Rescission. The House agrees to drop the rescission requirement, thereby leaving this decision up to States.

E. Bar on Acknowledgment Ratification Proceedings

Present law

Federal law requires States to implement procedures under which voluntary acknowledgment is admissible as evidence of paternity and the voluntary acknowledgment of paternity must be recognized as a basis for seeking a support order without requiring any further proceedings to establish paternity.

House bill

No judicial or administrative proceedings are required or permitted to ratify a paternity acknowledgment which is not challenged by the parents.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

F. Admissibility of Genetic Testing Results

Present law

Federal law requires States to implement procedures which provide that any objection to genetic testing results must be made in writing within a specified number of days before any hearing at which such results may be introduced into evidence. If no objection is made, the test results must be admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

House bill

States must have procedures for admitting into evidence accredited genetic tests, unless any objection is made within a specified number of days, and if no objection is made, clarifying that test results are admissible without the need for foundation or other testimony.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

G. Presumption of Paternity in Certain Cases

Present law

Federal law requires States to implement procedures which create a rebuttable or, at State option, conclusive presumption of paternity based on genetic testing results indicating a threshold probability that the alleged father is the father of the child.

House bill

States must have laws that create a rebuttable or, at State option, conclusive presumption of paternity when results from genetic testing indicate a threshold probability that the alleged father is the father of the child.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

H. Default Orders

Present law

Federal law requires States to implement procedures that require a default order to be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by State law.

House bill

A default order must be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by the State law.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

I. No Right to Jury Trial

Present law

No provision.

House bill

State laws must state that parties in a contested paternity action are not entitled to a jury trial.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

J. Temporary Support Based on Probable Paternity

Present law

No provision.

House bill

Upon motion of a party, State law must require issuance of a temporary support order pending an administrative or judicial determination of percentage if paternity is indicated by genetic testing or other clear and convincing evidence.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

K. Proof of Certain Support and Paternity Establishment Costs

Present law

No provision.

House bill

Bills for pregnancy, childbirth, and genetic testing must be admissible in judicial proceedings without foundation testimony.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

L. Standing of Putative Fathers

Present law

No provision.

House bill

Putative fathers must have a reasonable opportunity to initiate paternity action.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

M. Filing of Acknowledgments and Adjudications in State Registry

Present law

No provision.

House bill

Both voluntary acknowledgments and adjudications of paternity must be filed with the State registry of birth records for data matches with the central Case Registry of Child Support Orders established by the State.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

N. National Paternity Acknowledgment Affidavit

Present law

No provision.

House bill

The Secretary is required to develop an affidavit to be used for voluntary acknowledgment of paternity which includes the Social Security number of each parent.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House and Senate provisions but includes a clarification that the Secretary, after consulting with the State child support directors, should list the common elements that States must include on their forms.

19. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT (SECTION 332)

Present law

States are required to regularly and frequently publicize, through public service announcements, the availability of child support enforcement services.

House bill

States must publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

20. COOPERATION BY APPLICANTS FOR AND RECIPIENTS OF TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (SECTION 333)

Present law

AFDC applicants and recipients are required to cooperate with the State in establishing the paternity of a child and in obtaining child support payments unless the applicant or recipient is found to have good cause for refusing to cooperate. Under the "good cause" regulations, the child support agency may determine that it is against the best interests of the child to seek to establish paternity in cases involving incest, rape, or pending procedures for adoption. Moreover, the agency may determine that it is against the best interest of the child to require the mother to cooperate if it is anticipated that such cooperation will result in the physical or emotional harm of the child, parent, or caretaker relative.

House bill

Individuals who apply for or receive public assistance under the Temporary Assistance for Needy Families program must cooperate with child support enforcement efforts (establishing paternity, establishing, modifying or enforcing a support order) by providing specific identifying information about the other parent, unless the applicant or recipient is found to have good cause for refusing to cooperate. "Good cause" is defined by States. States may also require the applicant and child to submit to genetic testing. (See also Prohibitions in Title 1, Section 101 of the House bill.)

Senate amendment

The Senate provision is similar to the House provision except the Senate amendment places additional specific requirements on State procedures. These include requiring the custodial parent to appear at interviews, hearings, and legal proceedings; requiring the State child support agency to notify the custodial parent and the IV–A and Medicaid agencies of whether she is cooperating and if not what she must do to cooperate; and requiring that when determining the custodial parent's cooperation States take into account the best interests of the child. The Senate amendment also requires the individual and the child to submit to genetic tests pursuant to a judicial or administrative order. Responsibility for determining failure to cooperate is shifted from the agency that administers the Temporary Assistance program to the agency that administers the child support program.

Conference agreement

The House recedes to the Senate's additional requirements for cooperation by adults for or receiving IV–A benefits. In addition, conferees agree to let States decide which agency should make the determination of whether the parent is cooperating.

SUBTITLE E—PROGRAM ADMINISTRATION AND FUNDING

21. FEDERAL MATCHING PAYMENTS

Present law

The Federal Government currently reimburses each State at the rate of 66 percent for the cost of administering its child support enforcement program. The Federal Government also reimburses States 90 percent of the laboratory costs of establishing paternity, and through FY 1995, 90 percent of the costs of developing comprehensive Statewide automated systems. (There is no maintenance of effort provision in current law.)

House bill

The Federal matching payment for child support activities is maintained at 66 percent. The bill also adds a maintenance of effort requirement that the non-Federal share of IV–D funding for FY 1997 and succeeding years not be less than such funding for FY 1996.

Senate amendment

No provision. Maintains present law with respect to the Federal match rate of 66 percent.

Conference agreement

The conference agreement follows the Senate amendment.

22. PERFORMANCE-BASED INCENTIVES AND PENALTIES (SECTION 341)

A. Incentive Adjustments to Federal Matching Rate

Present law

The Federal government reimburses approved administrative expenditures of States at a rate of 66 percent. In addition, the Federal government pays States an incentive amount ranging from 6 percent to 10 percent of both AFDC and non-AFDC collections.

House bill

Beginning in 1999, a new incentive system will reward good State performance by increasing the State's basic matching rate by up to 12 percentage points for outstanding performance in establishing paternity and by up to an additional 12 percentage points for overall performance (as measured by the percentage of cases that have support orders, the percentage of cases in which support is being paid, the ratio of child support collected to child support due, and cost-effectiveness). The Secretary will design the specific features of the system. In doing so, she will maintain overall Federal reimbursement of State programs through the combined matching rate and incentives at the level projected for the current combined matching and incentive payments to States. The effect of this provision is to change Federal financing so that relatively more Federal dollars will be awarded to States for good performance. The State must spend the money from incentive payments on their child support enforcement program.

Senate amendment

As under current law, the Senate amendment provides for an incentive payment to States, the funds for which come from the reimbursement of cash welfare payments to the Federal Government that is the Federal share of child support collections paid on behalf of families. Not later than 60 days after enactment, the DHHS Secretary is required to establish a committee, which must include State child support directors, which must develop for the Secretary's approval a formula for the distribution of incentive payments to the States. The State's incentive payment is based on its comparative performance as measured by five criteria and seven factors that are stipulated in the amendment.

Conference agreement

The conferees agree to retain the present financing system of 66 percent Federal matching payments and an incentive system that enables States to increase their Federal payments by up to 10 percent of AFDC and non-AFDC collections. However, the conferees also require the Secretary, in consultation with State child support directors, to develop a new incentive system that provides additional payments to States (i.e., above the base matching rate of 66 percent) based on their performance and to report details of the new system to the Committees on Ways and Means and Finance by June 1, 1996. The Secretary's new system must be revenue neutral. The two committees intend to study the Secretary's recommendations, as well as recommendations by other individuals and organizations, and to design and perhaps enact a new incentive system that is revenue neutral in the near future.

B. Conforming Amendments

Present law

No provision.

House bill

Two conforming amendments are made in Section 454 of the Social Security Act.

Senate amendment

No provision.

Conference agreement

The Senate recedes to the two conforming amendments in the House bill.

C. Calculation of IV–D Paternity Establishment Percentage

Present law

States are required to meet Federal standards for the establishment of paternity. The standard relates to the percentage obtained by dividing the number of children in the State who are born out of wedlock, are receiving AFDC or child support enforcement services, and for whom paternity has been established by the number of children who are born out of wedlock and are receiving AFDC or child support enforcement services. To meet Federal requirements, this percentage in a State must be at least 75 percent or meet the following standards of improvement from the preceding year: (1) if the State paternity establishment ratio is between 50 and 75 percent, the State ratio must increase by 3 or more percentage points from the ratio of the preceding year; (2) if the State ratio is between 45 and 50, the ratio must increase at least 4 percentage points; (3) if the State ratio is between 40 and 45 percent, it must increase at least 5 percentage points; and (4) if the State ratio is below 40 percent, it must increase at least 6 percentage points. If an audit finds that the State's child support enforcement program has not substantially complied with the requirements of its State plan, the State is subject to a penalty. In accord with this penalty, the Secretary must reduce a State's AFDC benefit payment by not less than 1 percent nor more than 2 percent for the first failure to comply; by not less than 2 percent nor more than 3 percent for the second consecutive failure to comply; and by not less than 3 percent nor more than 5 percent for third or subsequent consecutive failure to comply.

House bill

The IV–D paternity establishment percentage for a fiscal year is equal to: (1) the total number of children in the State who were born out-of-wedlock, who have not reached age 1 and for whom paternity is acknowledged or established during the fiscal year, divided by (2) the total number of children born out-of-wedlock in the State during the fiscal year. The requirements for meeting the standard are the same as current law except the 75 percent rule is increased to 90 percent. The noncompliance provisions of the child support program are modified so that the Secretary must take overall program performance into account and the minimum paternity establishment percentage is raised from 75 to 90.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment. States have the option of calculating the paternity establishment rate by either counting only unwed births in the State IV–D caseload or by counting all unwed births in the State.

D. Effective Dates

Present law

No provision.

House bill

The new incentive payments go into effect on October 1, 1997, but procedures for computing the State incentive payments are not actually based on the new system until fiscal year 1999; the changes in penalty procedure become effective upon enactment.

Senate amendment

Effective upon enactment, except present law applies for purposes of incentive payments for fiscal years before FY 2000.

Conference agreement

Effective upon enactment.

23. FEDERAL AND STATE REVIEWS AND AUDITS (SECTION 342)

A. State Agency Activities

Present law

States are required to maintain a full record of child support collections and disbursements and to maintain an adequate reporting system.

House bill

States are required to annually review and report to the Secretary, using data from their automatic data processing system, both information adequate to determine the State's compliance with Federal requirements for expedited procedures and timely case processing as well as the information necessary to calculate their levels of accomplishment and rates of improvement on the performance indicators in the bill.

Senate amendment

Similar to House provision, except the Senate does not include the requirement that States submit information on State compliance with Federal mandates on timely case processing.

Conference agreement

The conference agreement follows both the House and Senate provisions but the House recedes by dropping its requirement that States submit information on timely case processing.

B. Federal Activities

Present law

The Secretary must collect and maintain, on a fiscal year basis, up-to-date State-by-State statistics on each of the services provided under the child support enforcement program. The Secretary is also required to evaluate the implementation of State child support enforcement programs and conduct audits of these programs as necessary, but not less often than once every three years (or annually if a State has been found to be out of compliance with program rules).

House bill

The Secretary is required to determine the amount (if any) of incentives or penalties. The Secretary must also review State reports on compliance with Federal requirements and provide States with recommendations for corrective action. Audits must be conducted at least once every 3 years, or more often in the case of States that fail to meet Federal requirements. The purpose of the audits is to assess the completeness, reliability, accuracy, and security of data reported for use in calculating the performance indicators and to assess the adequacy of financial management of the State program.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

C. Effective Date

Present law

No provision.

House bill

These provisions take effect beginning with the calendar quarter that begins 12 months after enactment.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

24. REQUIRED REPORTING PROCEDURES (SECTION 343)

Present law

The Secretary is required to assist States in establishing adequate reporting procedures and must maintain records of child support enforcement operations and of amounts collected and disbursed, including costs incurred in collecting support payments.

House bill

The Secretary is required to establish procedures and uniform definitions for State collection and reporting of information necessary to measure State compliance with expedited processes and timely case processing.

Senate amendment

Similar to House provision, except does not mention timely case processing.

Conference agreement

The conference agreement follow both the House and Senate provisions except, as in the State Agency Activities provision (see #23A above), the House recedes by dropping State reports on timely case processing.

25. AUTOMATED DATA PROCESSING REQUIREMENTS (SECTION 344)

A. In General

Present Law

Federal law (P.L. 104–35) requires that by October 1, 1997, States have an operational automated data processing and information retrieval system designed to control, account for, and monitor all factors in the support enforcement and paternity determination process, the collection and distribution of support payments, and the costs of all services rendered.

House bill

States are required to have a single Statewide automated data processing and information retrieval system which has the capacity to perform the necessary functions, as described in this section.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

B. Program Management

Present law

Federal law requires the that automated data processing system be capable of providing management information on all IV–D cases from intital referral or application through collection and enforcement.

House bill

The State data system must be used to perform functions the Secretary specifies, including controlling and accounting for the use of Federal, State, and local funds and maintaining the data necessary to meet Federal reporting requirements in carrying out the program.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

C. Calculation of Performance Indicators

Present law

No provision.

House bill

The automated system must maintain the requisite data for Federal reporting, calculate the State's performance for purposes of the incentive and penalty provisions, and have in place systems controls to ensure the completeness, reliability, and accuracy of the data.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

D. Information Integrity and Security

Present law

Federal law requires that the automated data processing system be capable of providing security against unauthorized access to, or use of, the data in such system.

House bill

The State agency must have safeguards to protect the integrity, accuracy, and completeness of, and access to, data in the automated systems (including restricting access to passwords, monitoring of access to and use of the system, training, and imposing penalties).

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

E. Regulations

Present law

No provision.

House bill

The Secretary shall prescribe final regulations for implementation of this section no later than 2 years after the date of the enactment of this Act.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

F. Implementation Timetable

Present law

No provision.

House bill

The statutory provisions for State implementation of Federal automatic data processing requirements are revised to provide that, first, all requirements enacted on or before the date of enactment of the Family Support Act of 1988 are to be met by October 1, 1995. The requirements enacted on or before the date of enactment of this bill must be met by October 1, 1999. The October 1, 1999 deadline will be extended by one day for each day by which the Secretary fails to meet the 2-year deadline for regulations.

Senate amendment

Similar to House provision, except allows States to meet requirements of the Family Support Act by October 1, 1997 rather than 1995.

Conference agreement

The conference agreement follows both House and Senate provisions but the completion date for data requirements imposed on States by the Family Support Act follows the Senate provision of October 1, 1997.

G. Special Federal Matching Rate for Development Costs of Automated Systems

Present law

The Federal Government, through FY 1995, reimburses States at a 90 percent matching rate for the costs of developing comprehensive Statewide automated systems.

House bill

The Federal government will provide 90 percent matching funds for fiscal year 1996 that will be applied to all State activities related to developing a comprehensive Statewide automated system. For fiscal years 1997 through 2001, the matching rate for the provisions of this bill and other authorized provisions will be the higher of 80 percent or the matching rate generally applicable to the State IV–D program, including incentive payments (which could be as high as 90 percent).

Senate amendment

Similar to House provision except continues the 90 percent matching rate for 1996 and 1997 in the case of provisions outlined in advanced planning documents submitted before May 1, 1995.

Conference agreement

The conference agreement follows the House bill and Senate amendment but the House recedes on the provision to continue 90 percent reimbursement of data processing activities that were included in any advanced planning document approved by the Secretary before May 1, 1995. The 90 percent funding, which continues through October 1, 1997, includes approved expenditures by States that were made between October 1, 1995 and the date of passage of this legislation.

H. Temporary Limitation on Payments Under Special Federal Matching Rate

Present law

No provision.

House bill

The Secretary must create procedures to cap these payments at $260,000,000 over 5 years (FY 1996–2000) to be distributed among States by a formula set in regulations which takes into account the relative size of State caseloads and the level of automation needed to meet applicable automatic data processing requirements.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment, except the limitation on payments is increased from $260,000,000 to $400,000,000. This increase was made necessary by general agreement by analysts at HHS and the Congressional Budget Office that the numerous data processing requirements imposed by this Act would cost the States $400 million to implement.

26. TECHNICAL ASSISTANCE (SECTION 345)

Present law

Annual appropriations are made to cover the expenses of the Administration for Children and Families, which includes the Federal Office of Child Support Enforcement (OCSE). Among OCSE's administrative expenses are the costs of providing technical assistance to the States.

House bill

The Secretary can use 1 percent of the Federal share of child support collections on behalf of families in the Temporary Assistance for Needy Families program the preceding year to provide technical assistance to the States. Technical assistance can include training of State and Federal staff, research and demonstration programs, and special projects of regional or national significance. The Secretary must use up to 2 percent of the Federal share of collections for operation of the Federal Parent Locator Service to the extent that costs of the Parent Locator Service are not recovered by user fees.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

27. REPORTS AND DATA COLLECTION BY THE SECRETARY (SECTION 346)

Present law

The Secretary is required to submit to Congress, not later than 3 months after the end of the fiscal year, a complete report on all child support enforcement activities.

House bill

In addition to current reporting requirements, the Secretary is required to report the following data to Congress in her annual report each fiscal year:

(1) the total amount of child support payments collected;

(2) the cost to the State and Federal governments of furnishing child support services;

(3) the number of cases involving families that became ineligible for aid under part A with respect to whom a child support payment was received;

(4) the total amount of current support collected and distributed;

(5) the total amount of past due support collected and distributed as arrearages; and

(6) the total amount of support due and unpaid for all fiscal years.

These requirements apply to fiscal year 1996 and succeeding fiscal years.

Senate amendment

Similar to House provision, except requires the Secretary to include information on the degree to which States met Federal statutory time limits in responding to interstate requests and in distributing child support collections.

Conference agreement

Conferees agree to follow the provisions in both bills except that the House recedes on the additional requirements the Senate included in the Secretary's report to Congress.

SUBTITLE F—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

28. NATIONAL CHILD SUPPORT GUIDELINES COMMISSION

Present law

No provision.

House bill

No provision.

Senate amendment

Establishes a National Child Support Guidelines Commission that is responsible for deciding whether it is appropriate to develop national child support guidelines for consideration by the Congress or for adoption by individual States and the benefits and deficiencies of such models. Several matters the Commission must consider, such as the feasibility of adapting uniform terms in all child support orders, are outlined. The Commission is to be comprised of 12 individuals, 2 each appointed by the Chairman of Finance and Ways and Means, 1 each by the ranking member of Finance and Ways and Means, and 6 by the Secretary. The Commission report must be issued within 2 years.

Conference agreement

The Senate recedes to the House provision of no National Guidelines Commission.

29. SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS (SECTION 351)

Present law

A child support order legally obligates noncustodial parents to provide financial support for their child and stipulates the amount of the obligation and how it is to be paid. In 1984, P.L. 98–378 required States to establish guidelines for establishing child support orders. In 1988, P.L. 100–485 made the guidelines binding on judges and other officials who had authority to establish support orders. P.L. 100–485 also required States to review and adjust individual child support orders once every 3 years under some circumstances. States are required to notify both resident and nonresident parents of their right to a review.

House bill

States must review and, as appropriate, adjust the support order every 3 years. States may adjust child support orders by either applying the State guidelines and updating the reward amount or by applying a cost of living increase to the order. Both parties must be given 30 days after notice of adjustment to contest the results. States may use automated methods to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders based on the threshold established by the State. States must also review and, upon a showing of a change in circumstances, adjust orders pursuant to the child support guidelines upon request of a party. States are required to give parties one notice of their right to request review and adjustment, which may be included in the order establishing the support amount.

Senate amendment

Similar to House provision except adds that review and adjustment must be done "upon the request of either parent or the State." If neither parent requests a review, States have the option of avoiding the 3-year requirement.

Conference agreement

Conferees agree to follow the House and Senate provisions with one exception. The House recedes to the Senate provision that States are not required to conduct reviews unless requested by either parent but with the additional requirement that States inform mothers at least once every 3 years in writing of their right to a review.

30. FURNISHING CONSUMER REPORTS FOR CERTAIN PURPOSES RELATING TO CHILD SUPPORT (SECTION 352)

Present law

P.L. 102–537 amends the Fair Credit Act to require consumer reporting agencies to include in any consumer report information on child support delinquencies provided by or verified by a child support enforcement agency, which antedates the report by 7 years.

House bill

This section amends the Fair Credit Reporting Act. In response to a request by the head of a State or local child support agency (or a State or local government official authorized by the head of such an agency), consumer credit agencies must release information if the person making the request: certifies that the consumer report is needed to establish an individual's capacity to make child support payments or determine the level of payments; gives the consumer credit agency 10 days notice that the report is being requested; and provides assurances that the consumer report will be kept confidential, will be used solely for child support purposes, and will not be used in connection with any other civil, administrative, or criminal proceeding or for any other purpose. Consumer reporting agencies must also give reports to a child support agency for use to set an initial or modified award.

Senate amendment

Similar to House provision, except requires that the consumer must have been shown to be the father (i.e., paternity must be established).

Conference agreement

The conference agreement follows both the House and Senate provisions except that the House recedes to the Senate requirement that the consumer must have been shown to be the father.

31. NONLIABILITY FOR DEPOSITORY INSTITUTIONS PROVIDING FINANCIAL RECORDS (SECTION 353)

Present law

No provision.

House bill

No provision.

Senate amendment

Depository institutions are not liable for information provided to child support agencies. Child support agencies can disclose information obtained from depository institutions only for child support purposes. Individuals who knowingly disclose information from financial records can have civil actions brought against them in Federal district court; the maximum penalty is $1,000 for each disclosure or actual damages plus, in the case of "willful disclosure" resulting from "gross negligence" punitive damages, plus the costs of the action.

Conference agreement

The House recedes to the Senate requirement that States have laws protecting depository institutions when information is provided to child support agencies.

SUBTITLE G–ENFORCEMENT OF SUPPORT ORDERS

32. FEDERAL INCOME TAX REFUND OFFSET

A. Changed Order of Refund Distribution Under Internal Revenue Code

Present law

Since 1981 in AFDC cases, and 1984 in non-AFDC cases, Federal law has required States to implement procedures under which child support agencies can collect child support arrearages through the inception of Federal income tax refunds.

Child support arrearages obtained through Federal income tax refunds are distributed to the State and are retained by the State for arrearages owed to it under the AFDC assignment. States must reimburse the Federal government for their share of these arrearage payments. If no arrearages are owed the State, the money is used to pay arrearages to the family.

House bill

The Internal Revenue Code is amended so that offsets of child support arrears owed to individuals take priority over most debts owed Federal agencies. Proceeds from tax intercepts will be distributed as follows:

(1) for Federal education debts and debts to the Department of Health and Human Services;

(2) for child support owed to individuals;

(3) for child support arrearages owed to State governments; and

(4) for other Federal debts.

The provision also amends the Internal Revenue Code so that the order of priority for distribution of tax offsets follows the distribution rules for child support payments specified in subtitle A of this bill.

Senate amendment

No provision.

Conference agreement

The House recedes to the Senate so that the order of payments from the intercepts remains unchanged.

B. Elimination of Disparities in Treatment of Assigned and Non-Assigned Arrearages

Present law

Federal rules set different criteria for AFDC and non-AFDC cases. For example, in AFDC cases arrearages may be collected through the income tax offset program regardless of the child's age. In non-AFDC cases, the tax offset program can be used only if the postminor child is disabled (pursuant to the meaning of disability under titles II or XVI of the SSA). Moreover, the arrearage in AFDC cases must be only $150 or more, whereas the arrearage in non-AFDC cases must be at least $500.

House bill

The bill eliminates disparate treatment of families not receiving public assistance by repealing provisions applicable only to support arrears not assigned to the State. The Secretary of the Treasury is given access to information in the National Directory of new Hires for tax purposes.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate bill (no provision).

33. INTERNAL REVENUE SERVICE COLLECTION OF ARREARAGES (SECTION 361)

Present law

If the amount of overdue child support is at least $750, the Internal Revenue Service can enforce the child support obligation through its regular collection process, which may include seizure of property, freezing accounts, or use of other procedures if the child support enforcement agencies requests assistance according to prescribed rules (e.g., certifying that the delinquency is at least $750, etc.)

House bill

No provision.

Senate amendment

Amends the Internal Revenue Code so that no additional fees can be assessed for adjustment to previously certified amounts for the same obligor, effective October 1, 1997.

Conference agreement

The House recedes to the Senate requirement that IRS cannot charge additional fees in the case of a previously certified amount for the same obligor.

34. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES (SECTION 362)

A. Consolidation and Streamlining of Authorities

Present law

Federal law allows the wages of Federal employees to be garnished to enforce legal obligations for child support or alimony. Federal law provides that moneys payable by the United States to any individual are subject to being garnished in order to meet an individual's legal obligation to provide child support or make alimony payments. An executive order issued 2/27/95 establishes the Federal government as a model employer in promoting and facilitating the establishment and enforcement of child support.

By Executive Order on 2/27/95, all Federal agencies, including the Uniformed Services, are required to cooperate fully in efforts to establish paternity and child support and to enforce the collection of child and medical support. All Federal agencies are to review their wage withhholding procedures to ensure that they are in full compliance.

Beginning no later than July 1, 1995, the Director of the Office of Personal Management must publish annually in the Federal

Register the list of agents (and their addresses) designated to receive service of withholding notices for Federal employees.

Federal law states that neither the United States nor any disbursing officer or government entity shall be liable with respect to any payment made from moneys due or payable from the United States pursuant to the legal process.

Federal law provides that money that may be garnished includes compensation for personal services, whether such compensation is denominated as wages, salary, commission, bonus, pay, or otherwise, and includes but is not limited to, severance pay, sick pay, incentive payments, and periodic payments.

Includes definitions of "United States", "child support", "alimony", "private person", and "legal process".

House bill

Federal Employees are subject to wage withholding and other actions taken against them by State Child Support Enforcement Agencies.

Federal agencies are responsible for wage withholding and other child support actions taken by the State as if they were a private employer.

The head of each Federal agency must designate an agent and place the agent's name, title, address, and telephone number in the Federal Register annually. The agent must, upon receipt of process, send written notice to the individual involved as soon as possible, but no later than 15 days, and to comply with any notice of wage withholding or respond to other process within 30 days.

Amends existing law governing allocation of moneys owed by a Federal employee to give priority to child support, to require allocation of available funds, up to the amount owed, among child support claimants, and to allocate remaining funds to other claimants on a first-come, first-served basis.

A government entity served with notice of process for enforcement of child support is not required to change its normal pay and disbursement cycle to comply with the legal process.

Similar to current law, the U.S., the government of the District of Columbia, and disbursing officers are not liable for child support payments made in accord with this section; nor is any Federal employee subject to disciplinary action or civil or criminal liability for disclosing information while carrying out the provisions of this section.

The President has the authority to promulgate regulations to implement this section as it applies to Federal employees of the Administrative branch of government; the President Pro Tempore of the Senate and Speaker of the House can issue regulations governing their employees; and the Chief Justice can issue regulations applicable to the Judicial branch.

This section broadens the definition of income to include funds such as insurance benefits, retirement and pension pay, survivor's benefits, compensation for death and black lung disease, veteran's benefits, and workers' compensation; but to exclude from income funds paid to defray expenses incurred in carrying out job duties, owed to the U.S., used to pay Federal employment taxes and fines and forfeitures ordered by court martial, withheld for tax purposes, used for health insurance or life insurance premiums, normal retirement contributions, or life insurance premiums.

This section includes definitions of "United States", "child support", "alimony", "private person", and "legal process".

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

B. Conforming Amendments

Present law

No provision.

House bill

This section includes conforming amendments to Title IV of the Social Security Act and Title 5 of the United States Code.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

C. Military Retired and Retainer Pay

Present law

No provision.

House bill

This section expands the definition of court to include an administrative or judicial tribunal which includes the child support enforcement agency.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

D. Effective Date

Present law

No provision.

House bill

This section goes into effect 6 months after the date of enactment.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

35. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES (SECTION 363)

A. Availability of Locator Information

Present law

The Executive Order issued February 27, 1995 requires a study which would include recommendations related to how to improve service of process for civilian employees and members of the Uniformed Services stationed outside of the United States.

House bill

The Secretary of Defense must establish a central personnel locator service that contains residential or, in specified instances, duty addresses of every member of the Armed Services (including retirees, the National Guard, and the Reserves). The locator service must be updated within 30 days of the time an individual establishes a new address. Information from the locator service must be made available to the Federal Parent Locator Service.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

B. Facilitating Granting of Leave for Attendance at Hearings

Present law

No provision.

House bill

The Secretary of Defense must issue regulations to facilitate granting of leave for members of the Armed Services to attend hearings to establish paternity or to establish child support orders.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

C. Payment of Military Retired Pay in Compliance With Child Support Orders

Present law

Federal law requires allotments from the pay and allowances of any member of the uniformed service when the member fails to pay child (or child and spousal) support payments.

House bill

The Secretary of each branch of the Armed Forces (including retirees, the Coast Guard, the National Guard, and the Reserves) is required to make child support payments directly to any State to which a custodial parent has assigned support rights as a condition of receiving public assistance. The Secretary of Defense must also ensure that payments to satisfy current support or child support arrears are made from disposable retirement pay. Payroll deductions must begin within 30 days or the first pay period after 30 days of receiving a wage withholding order.

Senate amendment

Identical provision

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

36. VOIDING OF FRAUDULENT TRANSFERS (SECTION 364)

Present law

No provision.

House bill

States must have in effect the Uniform Fraudulent Conveyance Act of 1981, the Uniform Fraudulent Transfer Act of 1984, or an equivalent law providing for voiding transfers of income or property in order to avoid payment of child support.

Senate amendment

Identical provision.

Conference agreement

The Conference agreement follows the House bill and the Senate amendment.

37. SENSE OF THE CONGRESS THAT STATES SHOULD SUSPEND DRIVERS', BUSINESS, AND OCCUPATIONAL LICENSES OF PERSONS OWING PAST-DUE CHILD SUPPORT

Present law

No provision.

House bill

It is the sense of Congress that each State should suspend any driver's license, business license, or occupational license issued to any person who owes past-due child support.

Senate amendment

No provision.

Conference agreement

House recedes (no provision).

38. WORK REQUIREMENT FOR PERSONS OWING PAST-DUE CHILD SUPPORT (SECTION 365)

Present law

P.L. 100–485 required the Secretary to grant waivers to up to 5 States allowing them to provide JOBS services on a voluntary or mandatory basis to noncustodial parents who are unemployed and unable to meet their child support obligations. (In their report the conferees noted that the demonstrations would not grant any new powers to the States to require participation by noncustodial parents. The demonstrations were to be evaluated.)

House bill

States must have laws that direct courts to order individuals owing past-due child support for a child receiving assistance under the Temporary Family Assistance program either to pay the support due or to participate in work activities. "Past-due support" is defined.

Senate amendment

Similar to House provision, except refers to "support" rather than "past-due support."

Conference agreement

Conferees agree to follow the House and Senate provisions except that the Senate recedes to the House provision that work apply only to nonresident parents owing past-due support.

39. DEFINITION OF SUPPORT ORDER (SECTION 366)

Present law

No provision.

House bill

A support order is defined as an order issued by a court or an administrative process established under State law that requires support of a child or of a child and the parent with whom the child lives.

Senate amendment

A support order is defined as a judgement, decree, or order (whether temporary, final, or subject to modification) issued by a court or an administrative agency for the support (monetary support, health care, arrearages, or reimbursement) of a child (including a child who has reached the age of majority under State law) or of a child and the parent with whom the child lives.

Conference agreement

The House recedes to the Senate definition of a support order.

40. REPORTING ARREARAGE TO CREDIT BUREAUS (SECTION 367)

Present law

Federal law requires States to implement procedures which require them to periodically report to consumer reporting agencies the name of debtor parents owing at least 2 months of overdue child support and the amount of child support overdue. However, if the amount overdue is less than $1,000, information regarding it shall be made available only at the option of the State. Moreover, any information may only be made available after the noncustodial parent has been notified of the proposed action and has been given reasonable opportunity to contest the accuracy of the information. States are permitted to charge consumer reporting agencies that request child support arrearage information for a fee, not to exceed the actual cost.

House bill

No provision.

Senate amendment

States are required to have procedures to periodically report to consumer credit reporting agencies the name of any noncustodial parent who is delinquent in the payment of support and the amount of overdue support owed by the parent.

Conference agreement

The House recedes to the Senate requirement that States periodically report to consumer credit reporting agencies.

41. LIENS (SECTION 368)

Present law

Federal law requires State to implement procedures under which liens are imposed against real and personal property for amounts of overdue support owed by a noncustodial parent who resides or owns property in the State.

House bill

States are required to have procedures to accord full faith and credit and to enforce in accordance with State law a lien from another State. The lien must be accompanied by a certification from the State issuing the lien of the amount of overdue support and a certification that due process requirements have been met. The second State is not required to register the underlying order, unless contested on the grounds of mistake of fact.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

42. STATE LAW AUTHORIZING SUSPENSION OF LICENSES (SECTION 369)

Present law

No provision.

House bill

States have the authority to withhold, suspend, or restrict the use of drivers' licenses, professionals and occupational licenses, and recreational licenses of individuals owing past-due support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

43. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT (SECTION 370)

Present law

No provision.

House bill

No provision.

Senate amendment

If an individual owes arrearages in excess of $5,000 of child support, the Secretary of HHS must request that the State Department deny, revoke, or limit the individual's passport. State child support agencies must have procedures for certifying arrearages in excess of $5,000 and for notifying individuals who are in arrears.

Conference agreement

The House recedes to the Senate provision of revoking passports for individuals owing more than $5,000 in delinquent child support.

44. INTERNATIONAL CHILD SUPPORT ENFORCEMENT (SECTION 371)

Present law

The United States has not signed any of the major treaties regarding international support enforcement. Pursuant to the Uniform Reciprocal Enforcement of Support Act (URESA), most States have reciprocal agreements with at least one foreign country regarding reciprocal enforcement of support orders. State do not have the power to enter into treaties.

House bill

No provision.

Senate amendment

The Secretary of State is authorized to negotiate reciprocal agreements with foreign nations on behalf of the States, territories, and possessions of the United States regarding the international enforcement of child support obligations.

Conference agreement

The conference agreement follows the Senate amendment with substantial modification. The Secretary of State, with concurrence of the Secretary of HHS, is authorized to declare reciprocity with foreign countries having requisite procedures for establishing and enforcing support orders. The Secretary may revoke reciprocity if she determines that the enforcement procedures do not continue to meet the requisite criteria.

The requirements for reciprocity include procedures in the foreign country for U.S. residents—available at no cost—to establish parentage, to establish and enforce support orders for children and custodial parents, and to distribute payments.

The Secretary of HHS is required to facilitate enforcement services in international cases involving residents of the U.S. and of foreign reciprocating countries, including developing uniform forms and procedures, and providing information from the FPLS on the State of residence of the obligor.

Where there is no Federal reciprocity agreement, States are permitted to enter into reciprocal agreements with foreign countries.

The State plan must provide that request for services in international cases be treated the same as interstate cases, except that no application will be required and no costs will be assessed against the foreign country or the obligee (costs may be assessed at State option against the obligor).

45. DENIAL OF MEANS-TESTED FEDERAL BENEFITS TO NONCUSTODIAL PARENTS WHO ARE DELINQUENT IN PAYING CHILD SUPPORT

Present law

No provision.

House bill

No provision.

Senate amendment

Noncustodial parents who are more than 2 months delinquent in paying child support are not eligible to receive means-tested Federal benefits.

Conference agreement

Senate recede (no provision).

46. CHILD SUPPORT ENFORCEMENT FOR INDIAN TRIBES

Present law

There are about 340 Federally recognized Indian tribes in the 48 contiguous States. Among these tribes there are approximately 130 tribal courts and 17 Courts of Indian Offenses. Most tribal codes authorize their courts to hear parentage and child support matters that involve at least one member of the tribe or person living on the reservation. This jurisdiction may be exclusive or concurrent with State court jurisdiction, depending on specified circumstances.

House bill

No provision.

Senate amendment

Requires States to make reasonable efforts to enter into cooperative agreements with an Indian tribe or organization if the tribe or organization has an established tribal court system to establish paternity, establish and enforce support orders, and enter support orders in accordance with guidelines established by the tribe or organization. Such agreements shall provide for the cooperative delivery of child support enforcement services in Indian country and for the forwarding of all funds collected by the tribe or organization to the State agency, or conversely, by the State agency to the tribe or organization, which shall distribute the funds according to the agreement. The DHHS Secretary in appropriate cases is authorized to send Federal funds directly to the tribe or organization.

Conference agreement

Senate recede (no provision).

47. FINANCIAL INSTITUTION DATA MATCHES (SECTION 372)

Present law

No provision.

House bill

No provision.

Senate amendment

States are required to implement procedures under which the State child support agency shall enter into agreements with financial institutions doing business within the State to develop and operate a data match system, using automated data exchanges to the maximum extent feasible, in which such financial institutions are required to provide for each calendar quarter the name, address, Social Security number, and other identifying information for each noncustodial parent identified by the State who has an account at the institution and, in response to a notice of lien or levy, to encumber or surrender assets held by the institution on behalf of the noncustodial parent who is subject to the child support lien. Includes definition of the term "financial institution."

Conference agreement

Conferees agree that the House recede to the Senate requirement that States perform data matches on information supplied by financial institutions in the case of parents who owe past-due child support and have liens against them.

48. ENFORCEMENT OF ORDERS AGAINST PATERNAL GRANDPARENTS IN CASES OF MINOR PARENTS (SECTION 373)

Present law

No provision. However, Wisconsin and Hawaii have State laws that make grandparents financially responsible for their minor children's dependents.

House bill

No provision.

Senate amendment

States would be required to implement procedures under which any child support order enforced by a child support enforcement agency would be enforceable against the paternal grandparents of a minor father if the child's minor mother were receiving benefits from the Temporary Assistance for Needy Families block grant program.

Conference agreement

The House recedes to the Senate requirement that paternal grandparents be held accountable for paying child support in the case of minor mothers with children being supported by benefits from the Temporary Assistance for Needy Families block grant, or that the maternal grandparents be held accountable for paying child support in the case of a minor father raising children who receive benefits from the Temporary Assistance for Needy Families block grant.

SUBTITLE H—MEDICAL SUPPORT

49. TECHNICAL CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER (SECTION 376)

Present law

P.L. 103–66 requires States to adopt laws to require health insurers and employers to enforce orders for medical and child support and forbids health insurers from denying coverage to children who are not living with the covered individual or who were born outside of marriage. Under P.L. 103–66, group health plans are required to honor "qualified medical child support orders.

House bill

This provision expands the definition of medical child support order in ERISA to clarify that any judgment, decree, or order that is issued by a court of competent jurisdiction or by an administrative adjudication has the force and effect of law.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

50. ENFORCEMENT OF ORDERS FOR HEALTH CARE COVERAGE (SECTION 377)

Present law

Federal law requires the Secretary to require IV–D agencies to petition for the inclusion of medical support as part of child support whenever health care coverage is available to the noncustodial parent at reasonable cost.

House bill

No provision.

Senate amendment

All orders enforced under this part must include a provision for health care coverage. If the noncustodial parent changes jobs and the new employer provides health coverage, the State must send notice of coverage, which shall operate to enroll the child in the health plan, to the new employer.

Conference agreement

The House recedes to the Senate provision on medical care coverage provided to children by nonresident parents changing jobs.

SUBTITLE I—ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NON-RESIDENTIAL PARENTS

51. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS (SECTION 381)

A. In General

Present law

In 1988, Congress authorized the Secretary to fund for FY 1990 and FY 1991 demonstration projects by States to help divorcing or never-married parents cooperate with each other, especially in arranging for visits between the child and the nonresident parent.

House bill

The bill authorizes grants to States for access and visitation programs including mediation, counseling, education, development of parenting plans, and visitation enforcement. Visitation enforcement can include monitoring, supervision, neutral drop-off and pickup, and development of guidelines for visitation and alternative custody agreements. States are required to monitor and evaluate their programs and are given the authority to subcontract the program to courts, local public agencies, or private non-profit agencies. Programs operating under the grant do not have to be Statewide. Funding is authorized as capped spending under section IV–D of the Social Security Act. Projects are required to supplement rather than supplant State funds.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

B. Amount of Grant

Present law

No provision.

House bill

The amount of the grant to a State is equal to either 90 percent of the State expenditures during the year for access and visitation programs or the allotment for the State for the fiscal year.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

C. Allotment to States

Present law

No provision.

House bill

The allotment to the State bears the same ratio to the amount appropriated for the fiscal year as the number of children living in the State with one biological parent divided by the national number of children living with one biological parent. The Administration for Children and Families must adjust allotments to ensure that no State is allotted less than $50,000 for fiscal years 1996 or 1997 or less than $100,000 for any year after 1997.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

D. State Administration

Present law

No provision.

House bill

States may use the money to create their own programs or to fund grant programs with courts, local public agencies, or nonprofit organizations. The programs do not need to be Statewide. States must monitor, evaluate, and report on their programs in accord with the regulations issued by the Secretary.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

SUBTITLE J—EFFECT OF ENACTMENT

52. EFFECTIVE DATES (SECTION 391)

Present law

No provision.

House bill

Except as noted in the text of the bill for specific provisions, the general effective date for provisions in the bill is October 1, 1996. However, given that many of the changes required by this bill must be approved by State Legislatures, the bill contains a grace period tied to the meeting schedule of State Legislatures. In any given State, the bill becomes effective either on October 1, 1996 or on the first day of the first calendar quarter after the close of the first regular session of the State Legislature that begins after the date of enactment of the bill. In the case of States that require a constitutional amendment to comply with the requirements of the bill, the grace period is extended either 1 year after the effective date of the necessary State constitutional amendment or 5 years after the date of enactment of the bill.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Senate amendment

The Senate amendment directs the Commissioner of Social Security, within sixty days of enactment, to issue a request for comments in the Federal Register regarding improvements in the disability evaluation and determination procedures for children under age 18. The Commissioner must review the comments and issue regulations implementing changes within 18 months after enactment.

Conference agreement

The conference agreement follows the House bill (i.e., no provision).

Temporary eligibility for cash benefits for poor disabled children residing in States applying alternative income eligibility standards under Medicaid

Present law

States generally are required to provide Medicaid coverage for recipients of SSI. However, States may use more restrictive eligibility standards for Medicaid than those for SSI if they were using those standards on January 1, 1972 (before implementation of SSI). States that have chosen to apply at least one more restrictive standard are known as "section 209(b)" States, after the section of the Social Security Amendments of 1972 (P.L. 92-603) that established the option. These States may vary in their definition of disability, or in their standards related to income or resources. There are 12 section 209(b) States: Connecticut, Hawaii, Illinois, Indiana, Minnesota, Missouri, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, and Virginia.

House bill

The House bill provides for temporary eligibility for cash SSI benefits (through the end of FY 1996) for children who live in States that apply alternative income eligibility standards under Medicaid (also known as "209(b)" States).

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

4. REDUCTION OF CASH BENEFITS PAYABLE TO INSTITUTIONALIZED CHILDREN WHOSE MEDICAL COSTS ARE COVERED BY PRIVATE INSURANCE (SECTION 214)

Present law

Federal law stipulates that when an individual enters a hospital or other medical institution in which more than half of the bill is paid by the Medicaid program, his or her monthly SSI benefit standard is reduced to $30 per month. This personal needs allowance is intended to pay for small personal expenses, with the cost of maintenance and medical care provided by the Medicaid program.

House bill

Cash SSI payments to institutionalized children would be reduced for those whose medical costs are covered by private insurance.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Additional accountability requirements for parents or guardians

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Senate amendment requires a disabled child's representative payee (usually the parent) to document expenditures. These expenditures would be subject to increased review by the Social Security Administration. Effective for benefits paid after enactment.

Conference agreement

The conference agreement follow the House bill (i.e., no provision).

5. REGULATIONS (SECTION 215)

Present law

Not applicable.

House bill

The Commissioner of Social Security and the Secretary of HHS will prescribe necessary regulations within three months after enactment of this Act.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Examination of mental listings used to determine eligibility of children for SSI benefits by reason of disability

Present law

Section 202 of the Social Security Independence and Program Improvements Act of 1994 established a Childhood Disability Commission to study the desirability and methods of increasing the extent to which benefits are used in the effort to assist disabled children in achieving independence and engaging in substantial gainful activity. The Commission was also charged with examining the effects of the SSI program on disabled children and their families.

House bill

The Childhood Disability Commission must review the mental listings used by the Social Security administration to determine child SSI eligibility. The Commission should conduct this investigation to ensure that the criteria in these listings are appropriate and that SSI eligibility is limited to children with serious disabilities for whom Federal assistance is necessary to improve the child's condition or quality of life.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision) due to the Childhood Disability Commission having completed their final report.

Limitation on payments to Puerto Rico, the U.S. Virgin Islands and Guam under programs of aid to the aged, blind, or disabled

See description in section 108 of title I of the conference agreement.

SUBTITLE C—STATE SUPPLEMENTATION PROGRAMS

1. REPEAL OF MAINTENANCE OF EFFORT REQUIREMENT APPLICABLE TO OPTIONAL STATE PROGRAMS FOR SUPPLEMENTATION OF SSI BENEFITS (SECTION 221)

Present law

Since the beginning of the SSI program, States have had the option to supplement (with State funds) the Federal SSI payment. The purpose of section 1618 was to encourage States to pass along to SSI recipients the amount of any Federal SSI benefit increase. Under section 1618, a State that is found to be not in compliance with the "pass along/maintenance of effort provision" is subject to loss of its Medicaid reimbursements. Section 1618 allows States to comply with the "pass along/maintenance of effort" provision by either maintaining their State supplementary payment levels at or above 1983 levels or by maintaining total annual expenditures for supplementary payments (including any Federal cost-of-living adjustment) at a level at least equal to the prior 12-month period, provided the State was in compliance for that period. In effect, section 1618 requires that once a State elects to provide supplementary payments it must continue to do so. [Sec. 1618 of the Social Security Act]

House bill

The House bill repeals the maintenance of effort requirements (Sec. 1618) applicable to optional State programs for supplementation of SSI benefits effective date of enactment.

Senate amendment

Similar to the House bill.

Conference agreement

The conference agreement follows the Senate amendment with modification that the effective date is the date of enactment.

Limited eligibility of noncitizens for SSI benefits

See description in title IV of the conference agreement.

SUBTITLE D—STUDIES REGARDING SUPPLEMENTAL SECURITY INCOME PROGRAM

1. ANNUAL REPORT ON SSI (SECTION 231)

Present law

To date, the Department of Health and Human Services and now the Social Security Administration have collected, compiled, and published annual and monthly SSI data, but Federal law does not require an annual report on the SSI program.

House bill

No provision.

Senate amendment

The Senate amendment requires the Commissioner of Social Security to prepare and provide to the President and the Congress an annual report on the SSI program, which includes specified information and data. The report is due May 30 of each year.

Conference agreement

The conference agreement follows the Senate amendment.

2. STUDY OF DISABILITY DETERMINATION PROCESS (SECTION 232)

Present law

Not applicable.

House bill

No provision.

Senate amendment

Within 90 days of enactment, the Commissioner must contract with the National Academy of Sciences or another independent entity to conduct a comprehensive study of the disability determination process for SSI and SSDI. The study must examine the validity, reliability and consistency with current scientific standards of the Listings of Impairments cited above.

The study must also examine the appropriateness of the definitions of disability (and possible alternatives) used in connection with SSI and SSDI; and the operation of the disability determination process, including the appropriate method of performing comprehensive assessments of individuals under age 18 with physical or metal impairments.

The Commissioner must issue interim and final reports of the findings and recommendations of the study within 18 months and 24 months, respectively, from the date of contract for the study.

Conference agreement

The conference agreement follows the Senate amendment.

3. GENERAL ACCOUNTING OFFICE STUDY (SECTION 233)

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Senate amendment requires the General Accounting Office to study and report on the impact of title II of the Senate amendment on the SSI program by January 1, 1998.

Conference agreement

The conference agreement follows the Senate amendment with modification that the study also include extra expenses incurred by families of children receiving SSI that are not covered by other Federal, State, or local programs.

SUBTITLE E—NATIONAL COMMISSION ON THE FUTURE OF DISABILITY

1. ESTABLISHMENT (SECTION 241)

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission is established and expenses are to be paid from funds appropriated to the Social Security Administration.

Conference agreement

The conference agreement follows the Senate amendment with modification that there are authorized to be appropriated such sums as necessary to carry out the purpose of the Commission.

2. DUTIES (SECTION 242)

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission must study all matters related in the nature, purpose and adequacy of all Federal programs for the disabled, and especially SSI and SSDI.

The Commission must examine: projected growth in the number of individuals with disabilities and the implications for program planning; possible performance standards for disability programs; the adequacy of Federal rehabilitation research and training; and the adequacy of policy research available to the Federal government and possible improvements.

The Commission must submit to the President and the proper Congressional committees recommendations and possible legislative proposals effecting needed program changes.

Conference agreement

The conference agreement follows the Senate amendment.

3. MEMBERSHIP (SECTION 243)

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission is to be composed of 15 members, appointed by the President and Congressional leadership. Members are to be chosen based on their education, training or experience, with consideration for representing the diversity of individuals with disabilities in the U.S.

The Comptroller General must serve as an ex officio member of the Commission to advise on the methodology of the study. With the exception of the Comptroller General, no officer or employee of any government may serve on the Commission.

Members are to be appointed not later than 60 days after enactment. Members serve for the life of the Commission, which will be headquartered in D.C. and meet at least quarterly.

The Senate amendment includes a number of specific requirements on the Commission regarding quorums, the naming of chairpersons, member replacement, and benefits.

Conference agreement

The conference agreement follows the Senate amendment with modification deleting the Comptroller General as a ex officio member and deleting the prohibition against officer or employee of any government being appointed to serve on the Commission. The conferees added that the Commission membership will also reflect the general interests of the business and taxpaying community, both of which are often impacted by Federal disability policy.

4. STAFF AND SUPPORT SERVICES (SECTION 244)

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission will have a director, appointed by the Chair, and appropriate staff, resources, and facilities.

Conference agreement

The conference agreement follows the Senate amendment.

5. POWERS (SECTION 245)

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission may conduct public hearings and obtain information from Federal agencies necessary to perform its duties.

Conference agreement

The conference agreement follows the Senate amendment.

6. REPORTS (SECTION 246)

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission must issue an interim report to Congress and the President not later than 1 year prior to terminating. A final public report must be submitted prior to termination.

Conference agreement

The conference agreement follows the Senate amendment.

7. TERMINATION (SECTION 247)

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Commission will terminate 2 years after first having met and named a chair and vice chair.

Conference agreement

The conference agreement follows the Senate amendment.

SUBTITLE F—RETIREMENT AGE ELIGIBILITY

1. ELIGIBILITY FOR SSI BENEFITS BASED ON SOCIAL SECURITY RETIREMENT AGE (SECTION 251)

Present law

The SSI program guarantees a minimum level of cash income to all aged, blind, or disabled persons with limited resources. The SSI program defines "aged" as persons age 65 and older.

House bill

No provision.

Senate amendment

The Senate amendment deletes references to age 65 and instead defines as "aged" those persons who reach "retirement age" as defined by the Social Security program. The Social Security "retirement age"—the age at which retired workers receive benefits that are not reduced for "early retirement"—gradually will rise from 65 to 67. It will do so in two steps. First, the retirement age will increase by 2 months for each year that a person was born after 1937, until it reaches age 66 for those born in 1943 (i.e., those who attain age 66 in 2009). Second, it will again increase by 2 months for each year that a person was born after 1954 until it reaches age 67 for those born after 1959.

Conference agreement

The conference agreement follows the Senate amendment.

TITLE IV. RESTRICTING WELFARE AND PUBLIC BENEFITS FOR ALIENS

1. STATEMENTS OF NATIONAL POLICY CONCERNING WELFARE AND IMMIGRATION (SECTION 400)

Present law

No provision.

House bill

The Congress makes the following statements concerning national policy with respect to welfare and immigration:

(i) Self-sufficiency has been a basic principle of U.S. immigration law since this country's earliest immigration statutes;

(ii) It continues to be the immigration policy of the U.S. that aliens within the nation's borders depend not on public resources, but rely on their own capabilities and the resources of their families and sponsors and that the availability of public benefits not constitute an incentive for immigration;

(iii) Aliens have been applying for and receiving public benefits at increasing rates;

(iv) Current eligibility rules and unenforceable financial support agreements have proved incapable of assuring that individual aliens not burden the public benefits system;

(v) It is a compelling government interest to enact new rules for eligibility and sponsorship agreements to assure that aliens become self-reliant; and

(vi) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, with a modification regarding a

State's option to choose to follow Federal classifications regarding eligibility.

SUBTITLE A—ELIGIBILITY FOR FEDERAL BENEFITS PROGRAMS

2. INELIGIBILITY OF ILLEGAL ALIENS FOR CERTAIN FEDERAL BENEFITS PROGRAMS (SECTION 401)

Present law

Current law limits alien eligibility for most major Federal assistance programs, including restrictions on, among other programs, Supplemental Security Income, Aid to Families with Dependent Children, housing assistance, and Food Stamps Programs. Current law is silent on alienage under, among other programs, school lunch and nutrition, Special Supplemental Food Program for Women, Infants, and Children (WIC), Head Start, migrant health centers, and the earned income tax credit.

Under the programs with restrictions, benefits are generally allowed for permanent resident aliens (also referred to as immigrants and green card holders), refugees, asylees, and parolees, but benefits (other than emergency Medicaid) are denied to nonimmigrants (or aliens lawfully admitted as, e.g., tourists, students, or temporary workers) and illegal aliens. Benefits are permitted under AFDC, SSI, unemployment compensation, and nonemergency Medicaid to other aliens permanently residing in the U.S. under color of law (PRUCOL).

House bill

Any alien who is not lawfully present in the U.S. shall not be eligible for any Federal means-tested public benefits program, with the exception of non-cash, in-kind emergency assistance, including emergency medical services. Housing-related assistance, which allows limited assistance for households containing both eligible and ineligible individuals, remains prohibited as under current law.

The Attorney General is to decide which aliens are lawfully present for purposes of benefit eligibility. In doing so, the Attorney General is not required to consider an alien to be lawfully present solely because the alien is considered to be permanently residing under color of law (PRUCOL) under current standards.

Senate amendment

Any individual who is not lawfully present in the U.S. is ineligible for any Federal benefit other than: emergency medical services under Medicaid; short-term emergency disaster relief; assistance under the National School Lunch Act or the Child Nutrition Act of 1966; and public health assistance for immunizations and, if found necessary by HHS, testing for and treatment of communicable diseases. Similarly, States which administer a Federally-funded benefit program (or provide benefits pursuant to such a program) are not required to assist aliens who are not lawfully present.

An individual is lawfully present for purposes of qualifying for benefits if the individual is a citizen, non-citizen national (i.e. American Samoan), permanent resident alien, refugee, asylee (including an alien who has had his/her deportation stayed because it would return the alien to a country which would persecute him/her), or an alien who has been paroled into the U.S. by the Attorney General for at least 1 year.

Noncitizens are not lawfully present for the purposes of the SSI program merely because they are considered to be permanently residing under color of law (PRUCOL).S0634

Conference agreement

The conference agreement generally follows the House bill and the Senate amendment, except that aliens who are not lawfully present in the U.S. and nonimmigrants and aliens paroled into the U.S. for a period of less than 1 year as described below are grouped together and defined as classes "not qualified" to receive most Federal public benefits. However, even these "non-qualified" aliens may continue to receive: short-term, in-kind, emergency disaster relief; emergency medical services under Medicaid; public health assistance for immunizations and testing and treatment to prevent the spread of communicable diseases; and programs specified by the Attorney General as necessary to protect life and safety, such as soup kitchens and crisis counseling. An exception is also made for benefits payable under title II of the Social Security Act for certain legal aliens. With regard to public housing assistance, non-qualified aliens receiving benefits on the date of enactment will continue to be treated as they are under current law. This section, however, does not prevent the Secretary of Housing and Urban Development or the Secretary of Agriculture from processing all aliens currently receiving housing assistance under the rules and regulations provided for under section 214 of the housing and Community Development Act of 1980.

The conference agreement follows the Senate amendment regarding the definition of Federal public benefits for this and subsequent sections, namely: any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and any retirement, welfare, health, disability, public or assisted housing, post-secondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family by an agency of the U.S. or by appropriated funds of the U.S.

The allowance for treatment of communicable diseases is very narrow. The conferees intend that it only apply where absolutely necessary to prevent the spread of such diseases. This is only a stop-gap measure until the deportation of a person or persons unlawfully here. It is *not* intended to provide authority for continued treatment of such diseases for a long term.

The allowance for emergency medical services under Medicaid is very narrow. The conferees intend that it only apply to medical care that is strictly of an emergency nature, such as medical treatment administered in an emergency room, critical care unit, or intensive care unit. The conferees do not intend that emergency medical services include pre-natal or delivery care assistance that is not strictly of an emergency nature as specified herein.

The intent of the conferees is that title I, part A of the Elementary and Secondary Education Act would not be affected by section 401 because the benefit is not provided to an individual, household, or family eligibility unit.

3. INELIGIBILITY OF NONIMMIGRANTS, ASYLEES, AND PAROLEES FOR CERTAIN FEDERAL BENEFITS PROGRAMS (SECTION 401)

A. In General

Present law

The Immigration and Nationality Act lists 19 categories of nonimmigrant aliens, including tourists, business visitors, foreign students, exchange visitors, temporary workers, and diplomats. Aliens granted political asylum and aliens allowed into the U.S. under the Attorney General's discretionary parole power are not among the nonimmigrant categories. Nonimmigrants generally are denied benefits under public benefits programs that have alienage restrictions. By contrast, asylees and parolees are not disqualified.

House bill

Aliens who are lawfully in the U.S. as nonimmigrants are ineligible for means-tested Federal benefits, other than the programs excepted below. Nonimmigrants admitted as temporary agricultural workers are not to be treated as nonimmigrants for public benefits purposes, but rather are to be treated as immigrants. Other aliens who also are not to be treated as nonimmigrants include aliens granted asylum and aliens paroled into the U.S. for 1 year or longer. However, aliens paroled into the U.S. for a period briefer than 1 year are subject to the nonimmigrant restrictions.

Senate amendment

Nonimmigrant aliens are not considered lawfully present for Federal benefits purposes, and are thus ineligible for any Federal benefit other than the programs specifically excepted below.

Conference agreement

The conference agreement generally follows the Senate amendment, as described in section 2 above.

B. Excepted Programs

Present law

Of Federal programs with alien eligibility restrictions, nonimmigrants are eligible for emergency services under Medicaid. Temporary agricultural workers may receive legal services funded through the Legal Services Corporation with respect to their wages, housing, and other employment rights covered by their employment contract. Those nonimmigrants whose wages are not exempt from unemployment taxes (FUTA) may qualify for unemployment compensation under certain circumstances.

House bill

Exception of the bill's blanket denial of Federal means-tested assistance to nonimmigrants is made for Emergency Assistance, including non-cash emergency medical services. Housing-related assistance is not covered by the bill's general rule, but rather existing restrictions udner housing programs are to continue to apply. These restrictions deny assisted housing to nonimmigrants except as they may incidentally benefit as members of mixed families. However, all aliens granted parole are eligible for housing assistance.

Senate amendment

Permits nonimmigrants (and all others who are not lawfully present) to receive: emergency medical services under Medicaid; short-term emergency disaster relief; school lunch and child nutrition assistance; and public health assistance for immunizations and, if found necessary by HHS, testing for and treatment of communicable diseases.

Conference agreement

The conference agreement generally follows the Senate amendment, as described in section 2 above.

The allowance for treatment of communicable diseases is very narrow. The conferees intend that it only apply where absolutely necessary to prevent the spread of such diseases. This is only a stop-gap measure until the deportation of a person or persons unlawfully here. It is *not* intended to provide authority for continued treatment of such diseases for a long term.

The allowance for emergency medical services under Medicaid is very narrow. The conferees intend that it only apply to medical care that is *strictly* of an emergency nature, such as medical treatment administered in an emergency room, critical care unit, or intensive care unit. The conferees do not intend that emergency medical services include pre-natal or delivery care assistance that is not strictly of an emergency nature as specified herein.

C. Treatment of Aliens Paroled Into the U.S.

Present law

In some cases, aliens paroled into the U.S. are entitled to public benefits while they remain in parole status.

House bill

Aliens paroled into the U.S. for less than 1 year are treated as nonimmigrants for benefits purposes (i.e., general ineligibility) but aliens paroled into the U.S. for longer than 1 year are treated as immigrants (i.e. somewhat broader, but still limited, eligibility).

Senate amendment

Aliens who have been paroled into the U.S. for a period of less than 1 year are not considered to be lawfully present for benefits purposes and therefore are generally ineligible for benefits. (Aliens who have been paroled into the U.S. for a period of 1 year or longer are considered to be lawfully present.)

Conference agreement

The conference agreement generally follows the Senate amendment, as described in section 2 above.

4. LIMITED ELIGIBILITY OF LAWFULLY PRESENT ALIENS (OTHER THAN NONIMMIGRANTS) FOR FEDERAL BENEFITS (SECTIONS 402, 403 AND 432)

A. In General

Present law

With the exception of certain buy-in rights under Medicare, immigrants (or aliens lawfully admitted for permanent residence) are eligible for major Federal benefits, but the ability of some immigrants to meet the needs tests for SSI, AFDC, and food stamps may be affected by the sponsor-to-alien deeming provisions discussed below. Refugees, asylees, and parolees also generally are eligible. Benefits are permitted under AFDC, SSI, unemployment compensation, and nonemergency Medicaid to other aliens permanently residing in the U.S. under color of law (PRUCOL).

House bill

With certain specific exceptions noted below, any alien who is lawfully present in the U.S. shall not be eligible for any of the following Federal means-tested public benefits programs (except as they provide noncash, in-kind emergency services): Supplemental Security Income, Temporary Assistance for Needy Families, Social Services Block Grant (Title XX), Medicaid, and Food Stamps.

Under programs other than the foregoing 5 major benefits programs, the eligibility of lawfully present aliens (other than nonimmigrants) for benefits would continue to be governed by current law as modified by the sponsor-to-alien deeming provisions discussed below. The Attorney General is to determine which aliens are "lawfully present" and is not bound in doing so by current interpretations of "PRUCOL", or "permanently residing under color of law."

Senate amendment

Except for specific classes noted below, all aliens are to be denied SSI.

Except for specific classes and programs noted below, all aliens arriving after enactment are ineligible for all Federal needs-based assistance for 5 years after entry.

Except for specific classes and programs noted below, States may deny noncitizens need-based assistance funded by the Federal Government (e.g., Temporary Assistance for Needy Families and similar block grants).

For lawfully present aliens who are in the United States on the date of enactment and who have been here 5 years, current rules will continue to apply to programs other than SSI, except as eligibility may be affected by the State option to deny noncitizens needs-based assistance funded by Federal funds.

Conference agreement

The conference agreement follows the House bill and the Senate amendment with the following modifications:

(1) current resident aliens and those arriving after enactment (with the exception of the specific classes described below) may not receive SSI or food stamps until attaining citizenship or working long enough (that is, at least 10 years) to qualify for Social Security retirement benefits;

(2) aliens have no entitlement to benefits;

(3) States have the option of providing benefits to lawfully present aliens under the TANF, Medicaid, or Title XX programs; and

(4) new entrants are denied benefits under all Federal means-tested programs for five years after their entry into the United States with the exception of those programs described in section (4)(B) below.

B. Excepted Programs

Present law

Not applicable (See above.)

House bill

Only exception for non-cash, in-kind emergency services, as described above.

Senate amendment

The 5-year bar on Federally-funded assistance to new arrivals does not apply to:

(1) emergency medical services under Medicaid;

(2) short-term emergency disaster relief;

(3) assistance under the National School Lunch Act or the Child Nutrition Act of 1996;

(4) the Head Start program;

(5) foster care and adoption assistance (but foster parents or adoptive parents cannot be aliens who are ineligible for benefits due to this provision);

(6) public health assistance for immunizations and, if found necessary by HHS, testing for and treatment of communicable diseases; and

(7) programs specified by the Attorney General that

(i) deliver services at the community level,

(ii) do not condition assistance on the recipient's income or resources, and

(iii) are necessary to protect life, safety, or public health (e.g. soup kitchens).

States may deny needs-based assistance funded by the Federal government to all noncitizens except (1) programs described above in 1, 2, 3, 4, 6, or 7; or (2) assistance to noncitizens in the classes described below.

Conference agreement

The conference agreement follows the Senate amendment, with the modification that Head Start is not an excepted program but the following programs are excepted: (1) programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965, and (2) means-tested programs under the Elementary and Secondary Education Act of 1965.

C. Excepted Classes

Present law

Not applicable. (See above.)

House bill

Excepted are:

(i) refugees during their first 5 years in the U.S.;

(ii) aliens who have been lawfully admitted to the U.S. for permanent residence, are over 75 years of age, and have resided in U.S. for at least 5 years;

(iii) honorably discharged veterans and active duty personnel or their spouses and unmarried dependent children lawfully residing in any State or territory or possession of the U.S.;

(iv) aliens lawfully residing in any State or Territory or Possession of the U.S. during the first year of enactment; and

(v) immigrants who are unable to comply with naturalization requirements because of disability or mental impairment.

Senate amendment

Excepted are:

(i) refugees during their first 5 years in the U.S.;

(ii) honorably discharged veterans (if determined by the Attorney General to be lawfully present), and their spouses and unmarried dependent children;

(iii) aliens receiving SSI benefits on the date of enactment (whose eligibility would end) will remain eligible for SSI until January 1, 1997;

(iv) asylees (including those who have had deportation stayed because it would return them to a country which would persecute them) during their first 5 years in the U.S.;

(v) noncitizens who have worked long enough to be fully insured for Social Security or disability insurance benefits are exempt from the ban on SSI and the prospective 5 year ban; and

(vi) agencies may exempt individuals who have been battered or subjected to extreme cruelty from the denial of State-administered Federal benefits (and the sponsor-alien "deeming" provision discussed below) if the resulting denial of assistance will endanger their well-being.

Conference agreement

The conference agreement follows the House bill and the Senate amendment so that the following classes are excepted:

(1) refugees (during their first 5 years in the U.S.), asylees (for 5 years after being adjudicated as an asylee), and aliens whose deportation has been withheld (during their first 5 years after their deportation has been withheld);

(2) with regard to current residents and with regard to noncitizens arriving after the date of enactment after their fifty year in the country, aliens who have been lawfully admitted to the U.S. for permanent residence and have worked at least 40 quarters (that is, at least 10 years which is currently the criteria for eligibility for Social Security retirement benefits);

(3) honorably discharged veterans and active duty personnel or their spouses and unmarried dependent children lawfully residing in any State, territory, or possession of the U.S.; and

(4) lawfully present aliens receiving SSI or food stamps on the date of enactment, whose eligibility would end January 1, 1997.

D. Effective Date(s)

Present law

Not applicable.

House bill

In general, applies to applicants for benefits after the date of enactment. For current residents of the U.S. on the date of enactment, restriction on eligibility does not apply until 1 year after enactment.

Senate amendment

In general, applies to benefits on or after the date of enactment. Current SSI recipients lose eligibility after January 1, 1997. The Attorney General must adopt regulations to verify the eligibility of applicants for Federal benefits no later than 18 months after enactment. States must have a verification system that complies with these regulations within 24 months of their adoption.

Conference agreement

The conference agreement follows the Senate amendment, with the modification that the eligibility of current resident noncitizens receiving SSI and food stamps on the date of enactment ends for months beginning on or after January 1, 1997.

E. Reapplication

Present law

An individual who is eligible for SSI but who thereafter becomes ineligible for a period of 12 consecutive months must reapply for benefits.

House bill

No provision.

Senate amendment

Individuals receiving SSI benefits on the date of enactment who are notified of their termination of eligibility may reapply for benefits within 4 months after the date of enactment. The Commissioner of Social Security shall determine within 1 year of enactment the eligibility of individuals who reapply.

Conference agreement

The conference agreement follows the Senate amendment.

5. NOTIFICATION (SECTION 404)

Present law

Under regulation, individual advance written notice must be given of an intent to suspend, reduce, or terminate SSI benefits.

House bill

Each Federal Agency that administers an affected program shall post information and provide general notification to the public and to program recipients of changes regarding eligibility.

Senate amendment

The Commissioner of Social Security shall notify noncitizens made ineligible for SSI benefits within 3 months after the date of enactment.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

6. VERIFICATION (SECTIONS 433 AND 435) AND INFORMATION SHARING (SECTION 404)

Present law

State agencies that administer most major Federal programs with alienage restrictions generally use the SAVE (Systematic Alien Verification for Entitlements) system to verify the immigration status of aliens applying for benefits.

AFDC and SSI require safeguards that restrict the use of disclosure of information concerning applicants or recipients to purposes connected to the administration of needs-based Federal programs.

House bill

No provision.

Senate amendment

The Attorney General must adopt regulations to verify the lawful presence of applicants for Federal benefits no later than 18 months after enactment. States must have a verification system that complies with these regulations within 24 months of their adoption.

The agencies which administer SSI, housing assistance programs under the United States Housing Act of 1937, or block grants for temporary assistance for needy families (the successor program to AFDC) are required to furnish information to the Immigration and Naturalization Service (INS) about aliens they know to be unlawfully in the United States at least 4 times annually and upon INS request.

Conference agreement

The conference agreement follows the Senate amendment, with the modification that no State or local government may be restricted from communicating with the INS about the immigration status of a noncitizen in the U.S.

SUBTITLE B—ELIGIBILITY FOR STATE AND LOCAL PUBLIC BENEFITS PROGRAMS

7. INELIGIBILITY OF ILLEGAL ALIENS FOR STATE AND LOCAL PUBLIC BENEFITS PROGRAMS (SECTIONS 411 AND 435)

Present law

Under *Plyler* v. *Doe* (457 U.S. 202 (1982)), States may not deny illegal alien children access to a public elementary education. However, the narrow 5-4 Supreme Court decision may imply that illegal aliens may be denied at least some State benefits and that Congress may influence the eligibility of illegal aliens for State benefits. Many, but not all, State general assistance laws currently deny illegal aliens means-tested general assistance.

House bill

No alien who is not lawfully present in the U.S. shall be eligible for any State and local means-tested public benefits programs (see definitions below). The only exception is emergency medical services.

Senate amendment

No provision affects programs wholly administered and funded by State and local governments. Aliens who are not lawfully present are ineligible for benefits paid with Federal funds under State-administered programs (or paid with State funds pursuant to such programs).

Conference agreement

The conference agreement follows the House bill with a modification that States are permitted to affirmatively enact a State law after the date of enactment of this Act that specifies that such State wished to provide State and local benefits to illegal aliens.

No current State law, State constitutional provision, State executive order or decision of any State or Federal court shall provide a sufficient basis for a State to be relieved of the requirement to deny benefits to illegal aliens in subsection (a). Laws, ordinances, or executive orders passed by county, city or other local officials will not allow those entities to provide benefits to illegal aliens. Only the affirmative enactment of a law by a State legislature and signed by the Governor after the date of enactment of this Act, that references this provision, will meet the requirements of this section.

The phrase "affirmatively provides for such eligibility" means that the State law enacted must specify that illegal aliens are eligible for State or local benefits as defined in subsection (c). Persons residing under color of law shall be considered to be aliens unlawfully present in the U.S. and are prohibited from receiving State or local benefits, as defined in subsection (c), regardless of the enactment of any State law.

The conference agreement provides that no State or local government entity shall prohibit, or in any way restrict, any entity or official from sending to or receiving from the INS information regarding the immigration status of an alien or the presence, whereabouts, or activities of illegal aliens. It does not require, in and of itself, any government agency or law enforcement official to communicate with the INS.

The conferees intend to give State and local officials the authority to communicate with the INS regarding the presence, whereabouts, or activities of illegal aliens. This provision is designed to prevent any State or local law, ordinance, executive order, policy, constitutional provision, or decision of any Federal or State court that prohibits or in any way restricts any communication between State and local officials and the INS. The conferees believe that immigration law enforcement is as high a priority as other aspects of Federal law enforcement, and that illegal aliens do not have the right to remain in the U.S. undetected and unapprehended.

8. INELIGIBILITY OF NONIMMIGRANTS FOR STATE AND LOCAL PUBLIC BENEFITS PROGRAMS (SECTION 411)

Present law

Currently, there is no Federal law barring nonimmigrants from State and local needs-based programs. In general, States are restricted in denying assistance to nonimmigrants where the denial is inconsistent with the terms under which the nonimmigrants were admitted. Where a denial of benefits is not inconsistent with Federal immigration law, however, States have broader authority to deny benefits and States often do deny certain benefits to nonimmigrants. Also, aliens in most nonimmigrant categories generally may have difficulty qualifying for many State and local benefits because of requirements that they be State "residents."

House bill

No alien who is lawfully present in the U.S. as a nonimmigrant shall be eligible for any State and local means-tested public benefit programs. Exceptions for: non-cash emergency assistance (including emergency medical services) aliens granted asylum, and certain temporary agricultural workers who are treated as immigrants for purposes of application for State and local means-tested benefits (see below). Aliens paroled into the U.S. for a period of less than 1 year are considered to be nonimmigrants under this part.

Senate amendment

No provision affects programs wholly administered and funded by State or local governments. Nonimmigrants are not considered to be lawfully present for Federal benefits purposes and are thus ineligible for benefits paid with Federal funds under State-administered programs (or paid with State funds pursuant to such programs).

Conference agreement

The conference agreement follows the House bill, with the modification that States may determine the eligibility of nonimmigrants and short-term parolees for State and local benefits.

9. STATE AUTHORITY TO LIMIT ELIGIBILITY OF IMMIGRANTS FOR STATE AND LOCAL MEANS-TESTED PUBLIC BENEFITS PROGRAMS (SECTION 412)

Present law

Under *Graham* v. *Richardson* (403 U.S. 365 (1971)), States are barred from denying legal permanent residents from State-funded assistance that is provided to equally needy citizens.

House bill

States are authorized to determine eligibility requirements for aliens who are lawfully present in the U.S. for any State and local means-tested public benefit program (other than non-cash emergency assistance, including emergency medical services), with exception of:

(i) refugees during their first 5 years in the U.S.;

(ii) Aliens who have been lawfully admitted to the U.S. for permanent residence, are over 75 years of age, and have resided in U.S. for five years;

(iii) Honorably discharged veterans and active duty personnel or their spouses and unmarried dependent children lawfully residing in any State or territory or possession of the U.S.; and

(iv) Aliens lawfully residing in any State or Territory or possession of the U.S. during the first year after the date of enactment. Aliens lawfully present would remain eligible for emergency medical services.

In addition to enhancing State discretion to impose alienage restrictions, eligibility for State and local needs-based benefits also would be restricted by application of new sponsor-to-alien deeming requirements discussed below.

Senate amendment

No provision restricts benefits wholly funded by State or local governments, but States may use the sponsor-alien deeming provisions, described below, to determine whether a sponsored individual qualifies for assistance under such a program.

Conference agreement

The conference agreement follows the House bill, except that excepted classes are modified so that they are identical to those excepted under (4)(C) for the purposes of the denial of Federal benefits for legal permanent resident noncitizens.

SUBTITLE C—ATTRIBUTION OF INCOME AND AFFIDAVITS OF SUPPORT

10. REQUIREMENTS FOR AFFIDAVITS OF SUPPORT (SECTIONS 423 AND 424)

A. When Required and Enforceability

Present law

Administrative authorities may request an affidavit of support on behalf of an alien seeking permanent residency. Requirements for affidavits of support are not specified under current law.

Under the Immigration and Nationality Act, an alien who is likely to become a public charge may be excluded from entry unless this restriction is waived, as is the case for refugees. By regulation and administrative practice, the State Department and the Immigration and Naturalization Service permit a prospective permanent resident alien (also immigrant or green card holder) who otherwise would be excluded as a public charge (i.e., insufficient means or prospective income) to overcome exclusion through an affidavit of support or similar document executed by a individual in the U.S. Individuals who execute affidavits of support commonly are called sponsors, even though that term also is used under immigration practice to refer to individuals and other entities who undertake various other acts (e.g., file a visa preference petition for a relative or prospective employee or undertake to resettle individuals who enter in refugee status) and who may or may not also execute affidavits of support. About one-half of the aliens who obtain legal permanent resident status have had affidavits of support filed on their behalf.

Various State court decisions and decisions by immigration courts have held that these affidavits, as currently constituted, do not impose a binding obligation on the sponsor to reimburse State agencies providing aid to the sponsored alien.

House bill

When affidavits of support are required, they must comply with the following:

(A) no affidavit of support may be accepted to overcome a public charge exclusion unless the affidavit is executed as a contract that is legally enforceable against the sponsor by the Federal government and by any State or local government with respect to any means-tested benefits paid to the sponsored alien before the alien becomes a citizen. However, affidavits of support are not to be construed to provide any right to sponsored aliens;

(B) any Federal, State or local means-tested benefits paid to sponsored alien;

(C) to qualify to execute an affidavit of support, an individual must be within the definition of sponsor set out in item G(1), below;

(D) governmental entities that provide benefits may seek reimbursement up to 10 years after a sponsored alien last receives benefits. In the affidavit of support, the sponsor must agree to submit to the jurisdiction of any Federal or State court regarding reimbursement of the cost of benefits received by the alien; and

(E) sponsorship extends until alien becomes a citizen.

Senate amendment

When affidavits of support are required, they must comply with the following:

(A) no affidavit of support may be relied upon to overcome a public charge exclusion unless the affidavit is executed as a contract that is legally enforceable against the sponsor by the sponsored alien and by Federal, State, and local governmental entities that provide the sponsored alien with means-tested assistance during the support period described below;

(B) programs for which reimbursement shall be requested are: (1) AFDC or its successor; (2) Medicaid; (3) Food Stamps; (4) SSI; (5) any State general assistance program; and (6) any other Federal, State or local need-based program. However, governmental entities cannot seek reimbursement with respect to (1) emergency medical services under Medicaid; (2) short-term emergency disaster relief; (3) assistance provided under the National School Lunch Act or the Child Nutrition Act of 1966; (4) the Head Start program; (5) public health assistance for immunizations and, if determined necessary by HHS, testing for or treatment of communicable diseases; and (6) programs specified by the Attorney General that (i) deliver services at the community level, (ii) do not condition assistance on the recipient's income or resources, and (iii) are necessary to protect life, safety, or public health (e.g. soup kitchens);

(C) to qualify to execute an affidavit of support, an individual must be within the definition of sponsor set out in item G(1), below;

(D) governmental entities may seek reimbursement of other means-tested assistance up to 10 years after a sponsored alien last receives benefits. In the affidavit of support, the sponsor must agree to submit to the jurisdiction of any Federal or State court regarding reimbursement of the cost of benefits received by the alien; and

(E) sponsor must agree in the affidavit of support to provide sufficient financial support so that the sponsored individual will not become a public charge until the individual has worked in the U.S. for 40 qualifying quarters, regardless of whether the individual chooses to naturalize or not. A qualifying quarter is a 3-month period (1) which counts as a quarter for the purposes of social security coverage, (2) during which the individual did not receive needs-based assistance, and (3) which occurs in a tax year for which the individual had income tax liability.

Conference agreement

The conference agreement follows the House bill and the Senate amendment as follows:

When affidavits of support are required, they must comply with the following:

(A) no affidavit of support may be accepted to overcome a public charge exclusion unless the affidavit is executed as a contract that is legally enforceable against the sponsor by the Federal government with respect to any means-tested benefits paid to the sponsored alien before the alien becomes a citizen. However, affidavits of support are to to be construed to provide any right to sponsored aliens;

(B) programs for which reimbursement shall be requested are: (1) AFDC or its successor; (2) Medicaid; (3) Food Stamps; (4) SSI; (5) any State general assistance program; and (6) any other Federal, State or local need-based program. However, governmental entities cannot seek reimbursement with respect to (1) emergency medical services under Medicaid; (2) short-term emergency disaster relief; (3) assistance provided under the National School Lunch Act or the Child Nutrition Act of 1966; (4) payments for foster care and adoption assistance under part B of title IV of the Social Security Act; (5) public health assistance for immunizations and, if determined necessary by HHS, testing for or treatment of communicable diseases; (6) programs specified by the Attorney General that (i) deliver services at the community level, (ii) do no condition assistance on the recipient's income or resources, and (iii) are necessary to protect life, safety, or public health (e.g. soup kitchens); and (7) postsecondary education benefits (the conference report includes a provision that, notwithstanding sections 427(a)(2)(A), 428B(a), 428C(b)(4)(A), and 464(c)(1)(E), would prohibit a lawfully admitted alien from receiving a student loan authorized under Title IV of the Higher Education Act unless the loan is endorsed and cosigned by the alien's sponsor or by another individual who is a United States citizen. The conferees recognize that this provision is not currently a feature of the Higher Education Act and are aware that this requirement will necessitate modifications to the regulations that govern Federal student aid, and the application forms through which students apply. The conferees expect the Department of Education to minimize the regulatory burden on students and schools that may attend this provision, and instruct the Department to work closely with the higher education community to develop regulations and forms to implement this requirement);

(C) to qualify to execute an affidavit of support, an individual must be within the definition of sponsor set out in item G(1) below;

(D) governmental entities that provide benefits may seek reimbursement up to 10 years after a sponsored alien last receives benefits. In the affidavit of support, the sponsor must agree to submit to the jurisdiction of any Federal or State court regarding reimbursement of the cost of benefits received by the alien; and

(E) sponsorship extends until alien becomes a citizen.

The allowance for treatment of communicable diseases is very narrow. The conferees intend that it only apply where absolutely necessary to prevent the spread of such diseases. This is only a stop-gap measure until the deportation of a person or persons unlawfully here. It is not intended to provide authority for continued treatment of such diseases for a long term.

The allowance for emergency medical services under Medicaid is very narrow. The conferees intend that it only apply to medical care that is strictly of an emergency nature, such as medical treatment administered in an emergency room, critical care unit or intensive care unit. The conferees do not intend that emergency medical services include pre-natal or delivery care assistance that is not strictly of an emergency nature as specified herein.

B. Forms

Present law

No statutory provision. The Department of Justice issues a form (Form I-134) that complies with current sponsorship guidelines.

House bill

The Attorney General, in consultation with the Secretary of State and the Secretary of HHS shall formulate an affidavit of support within 90 days after enactment, consistent with this section.

Senate amendment

The Attorney General, the Secretary of State, and the Secretary of HHS shall jointly formulate an affidavit of support with 90 days after enactment, consistent with this section.

Conference agreement

The conference agreement follows the House bill.

C. Statutory Construction

Present law

No provision.

House bill

Nothing in this section shall be construed to grant third party beneficiary rights to any sponsored alien under an affidavit of support.

Senate amendment

The Senate amendment expressly requires that affidavits of support permit sponsored individuals to enforce support obligations of their sponsors as contained in the affidavits.

Conference agreement

The conference agreement follows the Senate amendment.

D. Notification of Change of Address

Present law

There is no express requirement under current administrative practice that sponsors inform welfare agencies of a change in address. However, a sponsored alien who applies for benefits for which deeming is required must provide various information regarding the alien's sponsor.

House bill

Until they no longer are potentially liable for reimbursement of benefits paid to sponsored aliens, sponsors must notify welfare agencies of any change of their address within 30 days of moving. Failure to notify may result in a civil penalty of up to $2000 or, if the failure occurs after knowledge that the sponsored alien has received a reimbursable benefit, of up to $5000.

Senate amendment

Until they no longer are potentially liable for reimbursement of benefits paid to sponsored individuals, sponsors must notify the Attorney General and the State, district, territory or possession in which the sponsored individual resides of any change of their address within 30 days of moving. Failure to notify may result in a civil penalty of up to $2000 or, if the failure occurs after knowledge that the sponsored individual has received a reimbursable benefit, of up to $5000.

Conference agreement

The conference agreement follows the Senate amendment.

E. Reimbursement Procedures

Present law

Various State court decisions and decisions by immigration courts have held that these affidavits, as currently constituted, do not impose a binding obligation on the sponsor to reimburse State agencies providing aid to the sponsored alien.

House bill

If a sponsored alien receives any benefit under any means-tested public assistance program, the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance. Thereafter the official may seek reimbursement in court if the sponsor fails to respond within 45 days of the request that the sponsor is willing to begin repayments. The official also may seek reimbursement through the courts within 60 days after a sponsor fails to comply with the terms of repayment. The Attorney General, in consultation with the Secretary of HHS, shall prescribe regulations on requesting reimbursement. No action may be brought later than 10 years after the alien last received benefits.

Senate amendment

Upon notification that a sponsored individual has received a reimbursable need-based benefit (see above), the appropriate government official shall request reimbursement in accordance with the same procedures and limitations that are in the House bill. The Commissioner of Social Security is to prescribe regulations for requesting reimbursement from sponsors, and such regulations must include the notification of sponsors (at their last known address) by certified mail.

Conference agreement

The conference agreement follows the House bill.

F. Jurisdiction

Present law

State law sets forth which types of cases its courts will hear, subject to due process requirements on minimal connections between activities, people, or property within the State and the matter being litigated.

House bill

No provision.

Senate amendment

No State court shall decline for lack of jurisdiction to hear any action brought against a sponsor for reimbursement for the cost of any benefit if the sponsored individual received public assistance while residing in the State.

Conference agreement

The conference agreement follows the Senate amendment. The conferees intend that both Federal and State courts have jurisdiction over reimbursement actions against a sponsor.

G. Definitions

Present law

No provision.

House bill

A "Sponsor" is an individual who (1) is a citizen or national of the U.S. or an alien who is lawfully admitted to the U.S. for permanent residence; (2) is at least 18 years of age; and (3) resides in any State.

A "Means-Tested Public Benefits Program" is a program of public benefits of the Federal, State or local government in which eligibility or the amount of benefits or both are determined on the basis of income, resources, or financial need.

Senate amendment

A "Sponsor" is an individual who (1) is a citizen or national of the U.S. or an alien who is lawfully admitted to the U.S. for permanent residence; (2) is at least 18 years of age; (3) resides in any State or U.S. territory; and (4) is able to demonstrate (through evidence which includes attested copies of tax returns for the 2 most recent tax years) the means to maintain an income equal to 200 percent of the Federal poverty line for the individual and the individual's family, including the person sponsored.

"Federal Poverty Line" has the same meaning as in section 673(2) of the Community Services Block Grant Act.

A "Qualifying Quarter" is a 3-month period (1) in which the sponsored individual earned at least the minimum necessary for the period to count as one of 40 calendar quarters required to qualify for Social Security retirement benefits; (2) during which the sponsored individual did not receive need-based public assistance; and (3) which falls within a tax year for which the sponsored individual had income tax liability.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, except that the sponsor is not required to demonstrate the means to maintain an income equal to 200 percent of the poverty level and the Senate recedes on the conditions that a qualifying quarter is (1) one in which the sponsored individual did not receive need-based public assistance, and (2) one which falls within a tax year for which the sponsored individual has tax liability. The sponsor must also be the person petitioning for the alien's admission, and reside in one of the 50 States or the District of Columbia.

H. Clerical Amendment

Present law

Not applicable.

House bill

A minor clerical amendment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

I. Effective Date

Present law

Not applicable.

House bill

The changes regarding affidavits of support shall apply to affidavits of support executed no earlier than 60 days or later than 90 days after the Attorney General promulgates the form.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

11. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO SPONSORED IMMIGRANTS (SECTIONS 421 AND 422)

A. Federal Benefits

Present law

In determining whether an alien meets the means test for Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), and Food Stamps, the resources and income of an individual who filed an affidavit of support for the alien (and the income and resources of the individual's spouse) are taken into account during a designated period after entry.

House bill

During the applicable deeming period, the income and resources of an individual who files a binding affidavit of support (as required above) for an alien (and the income and resources of the individual's spouse) are taken into account under all Federal means-tested programs (with the exception of housing-related assistance) in determining a sponsored alien's neediness. Current law remains effective for aliens whose sponsors filed affidavits before the new affidavit requirements become effective (60–90 days after enactment).

Senate amendment

During the applicable deeming period, the income and resources of an individual who filed an affidavit of support for an alien (and the income and resources of the individual's spouse) are to be taken into account under all Federally-funded means-tested programs (with the exception of the programs below) in determining the sponsored individual's neediness.

Excepted programs are (1) emergency Medicaid services; (2) short-term emergency disaster relief; (3) assistance provided under the National School Lunch Act or the Child Nutrition Act of 1966; (4) the Head Start program; (5) public health assistance for immunizations and, if determined by HHS, testing for or treatment of communicable diseases; and (6) programs specified by the Attorney General that (i) deliver services at the community level, (ii) do not condition assistance on the recipient's income or resources, and (iii) are necessary to protect life, safety, or public health (e.g. soup kitchens).

Individuals who are exempt from deeming include (1) honorably discharged legal alien veterans and their spouses and unmarried children; (2) refugees; (3) asylees (including aliens who have had their deportation stayed because it would return them to a country which will persecute them); and (4) individuals who have been battered or subjected to extreme cruelty, if application of deeming would endanger their well-being.

Conference agreement

The conference agreement follows the Senate amendment, except that post-secondary education is included as an excepted program, Head Start is not included as an excepted program, individuals who have worked 40 quarters as defined in this title are included as an excepted class, and battered individuals are not included as an excepted class.

The allowance for treatment of communicable diseases is very narrow. The conferees intend that it only apply where absolutely necessary to prevent the spread of such diseases. This is only a stop-gap measure until the deportation of a person or persons unlawfully here. It is *not* intended to provide authority for continued treatment of such diseases for a long term.

The allowance for emergency medical services under Medicaid is very narrow. The conferees intend that it only apply to medical care that is *strictly* of an emergency nature, such as medical treatment administered in an emergency room, critical care unit, or intensive care unit. The conferees do not intend that emergency medical services include pre-natal or delivery care assistance that is not strictly of an emergency nature as specified herein.

B. Amount of Income and Resources Deemed

Present law

While the offset formulas vary among the programs, the amount of income and resources deemed under AFDC, SSI, and Food Stamps is reduced by certain offsets to provide for some of the sponsor's own needs.

House bill

The full income and resources of the sponsor and the sponsor's spouse are deemed to be that of the sponsored alien.

Senate amendment

If an agency determines that a sponsored individual would not be able to obtain food and shelter without the agency's assistance (taking into account the income and resources actually provided to the individual by the sponsor and others), then deeming will not apply for a period of 12 months and the agency need take into account during this period only the amount of support the sponsor actually provides.

If the address of the sponsor is unknown to the sponsored individual, then assistance is provided until 12 months after the sponsor is located.

Conference agreement

The conference agreement follows the House bill.

C. Length of Deeming Period

Present law

For AFDC and Food Stamps, sponsor-to-alien deeming applies to a sponsored alien seeking assistance within 3 years of entry. Until September 1996, sponsor-to-alien deeming applies to a sponsored alien seeking SSI within 5 years of entry.

House bill

For aliens whose sponsors have filed binding affidavits of support as required above, the sponsors' income and resources are deemed to the alien until the alien becomes a citizen. Current law remains effective for aliens whose sponsors filed affidavits before the new affidavit requirements become effective (60–90 days after enactment).

Senate amendment

Deeming applies until the immigrant has worked 40 qualifying quarters (the period of time future sponsors must agree to support the immigrant) or for 5 years from the alien's arrival in the United States (for current noncitizens), whichever is longer. Deeming continues until the above requirements are met, regardless of whether the immigrant naturalizes or not. [A qualifying quarter is a 3-month period (1) in which the sponsored individual earned at least the minimum necessary for the period to count as one of 40 calendar quarters required to qualify for Social Security retirement benefits; (2) during which the sponsored individual did not receive need-based public assistance; and (3) which falls within a tax year for which the sponsored individual had income tax liability.]

Conference agreement

The conference agreement follows the House bill, with the modification described in section A. above that sponsored noncitizens who have worked at least 40 quarters as defined in this title are excepted from deeming requirements.

D. State and Local Benefits

Present law

The highest courts of at least 2 States have held that the Supreme Court decision barring State discrimination against legal aliens in providing State benefits (*Graham* v. *Richardson*, 403 U.S. 365 (1971)) prohibits State sponsor-to-alien deeming requirements for State benefits.

House bill

In determining the eligibility and amount of benefits of an alien for any State or local means-tested public benefit program, the income and resources of the alien shall be deemed to include the income and resources of their sponsor (and their sponsor's spouse). Housing related assistance continues to be treated as under current law.

Senate amendment

With the exception of those programs exempted from all benefit restrictions (see above) and those aliens exempt from deeming requirements, States and local governments may deem a sponsor's income and resources (and those of the sponsor's spouse) to a sponsored individual in determining eligibility for and the amount of needs-based benefits. State deeming provisions must also provide for temporary assistance if the sponsor is not assisting the sponsored individual or cannot be located.

Conference agreement

The conference agreement follows the Senate amendment, except that there is no provision for temporary assistance if the sponsor is not assisting the sponsored individual or can not be located.

SUBTITLE D—GENERAL PROVISIONS

12. DEFINITIONS (SECTION 431)

A. In General

Present law

Federal assistance programs that have alien eligibility restrictions generally reference specific classes defined in the Immigration and Nationality Act.

House bill

Unless otherwise provided, the terms used in this title have the same meaning as defined in Section 101(a) of the Immigration and Nationality Act.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

B. Lawful Presence

Present law

Some programs allow benefits for otherwise eligible aliens who are "permanently residing under color of law (PRUCOL)." This term is not defined under the Immigration and Nationality Act, and there has been some inconsistency in determining which classes of aliens fit within the PRUCOL standard.

House bill

For purposes of this Title, the determination of whether an alien is lawfully present in the U.S. shall be made in accordance with regulations issued by the Attorney General. An alien shall not be considered to be lawfully present in the U.S. merely because the alien may be considered to be permanently residing in the U.S. under color of law

("PRUCOL") for purposes of any particular program.

Senate amendment

An individual is lawfully present if the individual is a citizen, non-citizen national (i.e. American Samoan), permanent resident alien, refugee, asylee (including an alien who has had his/her deportation stayed because it would return him/her to a country which would persecute him/her), or an alien who has been paroled into the U.S. by the Attorney General for at least 1 year. Individuals who are not lawfully present are ineligible for any Federal benefit.

Conference agreement

The conference agreement follows the Senate amendment with a modification that eligibility is determined by specific classes of aliens, not whether noncitizens are "lawfully present."

C. State

Present law

There is no single definition of "State" for purposes of alien eligibility under Federal assistance programs. The Immigration and Nationality Act defines "State" to include the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United States.

House bill

The term "State" includes the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

D. Public Benefits Programs

Present law

No provision.

House bill

A "Means-Tested Program" is a program of public benefits of the Federal, State, or local government in which eligibility for benefits under the program, or the amount of benefits, or both, are determined on basis of income, resources or financial need.

A "Federal Means-Tested Public Benefits Program" is a means-tested public benefit program of (or contributed to by) the Federal Government under which the Federal Government establishes standards for eligibility.

A "State Means-Tested Public Benefits Program" is a means-tested program of a State or political subdivision under which the State or political subdivision specifies the standards of eligibility, and does not include any Federal means-tested public benefits program.

Senate amendment

"Federal Benefit" means any grant, contract loan, professional or commercial license, retirement benefit, health or disability benefit, public housing, food stamps, higher education benefits, unemployment benefit, or any similar benefit provided by a Federal agency or with appropriated Federal funds. (Individuals who are not lawfully present are ineligibility for Federal benefits.)

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

13. CONSTRUCTION (SECTION 434)

Present law

Not applicable.

House bill

Nothing in this title shall be construed as addressing alien eligibility for governmental programs that are not means-tested public benefits programs.

Senate amendment

The Senate amendment's bar to Federal benefits for individuals who are not lawfully present covers a wide range of contracts, grants, licenses, and other assistance that is not means-tested.

Conference agreement

The conference agreement follows the House bill with a clarification that the subtitle is silent on alien eligibility for a basic public elementary education as determined by the U.S. Supreme Court in *Plyler* v. *Doe*, 457 U.S. 202 (1982).

SUBTITLE E—CONFORMING AMENDMENTS

14. CONFORMING AMENDMENTS RELATING TO ASSISTED HOUSING (SECTION 441)

Present law

No provision.

House bill

A series of technical and conforming amendments.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

TITLE V. REDUCTIONS IN FEDERAL GOVERNMENT POSITIONS

1. REDUCTIONS (SECTION 501)

Present law

The Department of Health and Human Services (HHS) reports that 118 employees in the Office of Family Assistance (OFA) work on AFDC and 209 (full-time equivalent positions) in regional offices of the Administration on Children and Families. The OFA employees include 30 who spend some time interpreting AFDC/JOBS policy and participating with States in State plan development.

House bill

No provision.

Senate amendment

Requires the HHS Secretary to reduce the Department work force by 245 equivalent (FTE) positions related to the AFDC program (which the amendment would replace) and by 60 full-time equivalent managerial positions. It also requires the Secretaries of Agriculture, Education, Labor, HHS, and Housing and Urban Development to report to Congress by December 31, 1995 on the number of (FTE) positions required to carry out "covered" activities before and after enactment of the amendment and to reduce the number of employees by the difference in numbers. A covered activity is defined as one that the Department must carry out under a provision of this Act or a provision of Federal law that is amended or repealed by the Act.

Conference agreement

The conference agreement follows the Senate amendment with a modification that the reductions take place over a two-year period.

2. REDUCTIONS IN FEDERAL BUREAUCRACY (SECTION 502)

Present law

No provision.

House bill

No provision.

Senate amendment

This section also provides for a reduction of 75 percent of the FTE positions "at each such Department" that relate to any direct spending program, or program funded through discretionary spending, that is converted into a block grant program under the Act (but it calls for this action to be taken by the HHS Secretary alone to each such Department).

Conference agreement

The conference agreement follows the Senate agreement.

3. REDUCING PERSONNEL IN WASHINGTON, D.C. AREA (SECTION 503)

Present law

No provision.

House bill

No provision.

Senate amendment

In making reductions the Secretaries are encouraged to reduce personnel in the Washington, D.C. area office before reducing field personnel.

Conference agreement

The conference agreement follows the Senate amendment.

TITLE VI. HOUSING

1. CEILING RENTS

Present law

The rent paid by a public housing tenant is the greater of 30 percent of "adjusted" monthly income or 10 percent of gross income. Adjusted income deducts from annual gross income $480 per dependent, $400 for an elderly family, excess medical costs for an elderly family, and costs of child care and handicapped assistance. Regulations exclude some items from "income" by definition, among them: irregular gifts, amounts that reimburse medical expenses, earnings of children, and payments received for the care of foster children. There is no ceiling on rent paid by the tenant. When a tenant's income rises, his/her rent increases, usually by 30 cents per extra dollar of income.

House bill

No provision.

Senate amendment

The Senate amendment would permit a public housing agency to establish a ceiling on monthly rent charged to a tenant. The amendment stipulates that the amount must reflect the reasonable rental value of the unit, as compared with similar types and sizes of dwelling units in the market area, must at least equal the monthly cost to operate the housing, and must not exceed the amount payable as rent under current law (30 percent of adjusted income, or 10 percent of gross income).

Conference agreement

The conference agreement follows the House bill (no provision).

2. DEFINITION OF ADJUSTED INCOME FOR PUBLIC HOUSING

Present law

Under current law adjusted income deducts from annual gross income $480 per dependent, $400 for an elderly family, excess medical costs for an elderly family, and costs of child care and handicapped assistance. Regulations exclude some items from "income" by definition, among them: irregular gifts, amounts that reimburse medical expenses, earnings of children, and payments received for the care of foster children.

House bill

No provision.

Senate amendment

The amendment would permit a public housing agency to disregard up to 20 percent of the earned income of the family, thus reducing its rental payment. It provides that if a housing agency offers this earnings incentive, the operating subsidy for the unit shall take no account of the resulting change in rental income until actual subsidies equal those that would have been received if all earnings were counted.

Conference agreement

The conference agreement follows the House bill (no provision).

3. FAILURE TO COMPLY WITH OTHER WELFARE AND PUBLIC ASSISTANCE PROGRAMS (SECTION 601)

Present law

See item 7, below.

House bill

No provision.

Senate amendment

The amendment would provide that there be no reduction in public or assisted housing rents in response to a tenant's reduced income resulting from non-compliance with welfare or public assistance program requirements; permits reduction where State or local law limits the period during which benefits may be provided.

Conference agreement

The conference agreement follows the Senate amendment.

4. APPLICABILITY TO INDIAN HOUSING

Present law

The Housing and Urban Development (HUD) Indian Housing Program operates through Indian housing authorities. In general Indian housing authorities are comparable to public housing authorities in structure and function.

House bill

No provision.

Senate amendment

Provisions of this title apply to public housing developed or operated pursuant to a contract between the HUD Secretary and an Indian housing authority.

Conference agreement

The conference agreement follows the House bill (no provision).

5. IMPLEMENTATION

Present law

No provision.

House bill

No provision.

Senate amendment

The Secretary must issue regulations necessary to carry out this title and its amendments.

Conference agreement

The conference agreement follows the House bill (no provision).

6. DEMONSTRATION PROJECT FOR ELIMINATION OF TAKE-ONE-TAKE-ALL REQUIREMENT

Present law

A federal rule requires that if a multifamily rental housing owner makes at least one unit available to a person with a section 8 certificate or voucher, the owner cannot refuse another section 8 participant on the sole basis that he has a section 8 subsidy.

House bill

No provision.

Senate amendment

Creates a demonstration project in Madison, Wisconsin; the amendment would eliminate a so-called "take-one, take-all" requirement that concerns tenant applicants with section 8 certificates or vouchers.

Conference agreement

The conference agreement follows the House bill (no provision).

7. FRAUD UNDER MEANS-TESTED WELFARE AND PUBLIC ASSISTANCE PROGRAMS (SECTION 602)

Present law

If a family's adjusted cash income declines—no matter what the reason—its housing benefit is increased (that is, its rental payment is decreased, by 30 cents per dollar). This applies to cash income from any source, including means-tested benefit programs. However, the housing programs take no account of noncash income. Thus, if food stamp benefits decline, housing benefits are unaffected.

House bill

No provision.

Senate amendment

The amendment provides that if a person's means-tested benefits from a Federal, State, or local program are reduced because of an act of fraud, their benefits from public or assisted housing (and from food stamps and family assistance) may not be increased in response to the income loss caused by the penalty.

Conference agreement

The conference agreement follows the Senate amendment.

8. EFFECTIVE DATE (SECTION 603)

Present law

Not applicable.

House bill

No provision.

Senate amendment

Date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

TITLE VII. CHILD PROTECTION BLOCK GRANT PROGRAM AND FOSTER CARE AND ADOPTION ASSISTANCE

1. ESTABLISHMENT OF PROGRAM (SECTION 701)

A. Purpose

Present law

Child Welfare Services, now provided for in Title IV–B of the Social Security Act, are designed to help States provide child welfare services, family preservation and community-based family support services, and improve State court procedures related to child welfare.

Title IV–E Foster Care and Title IV–E Adoption Assistance are intended to help States finance foster care and adoption assistance maintenance payments, administration, child placement services, and training related to foster care and adoption assistance.

The purpose of the Title IV–E Independent Living program is to help older foster children make the transition to independent living.

House bill

The House provision replaces Title IV–B and Title IV–E of the Social Security Act and several additional programs (see below) by establishing a block grant to enable eligible States to carry out child protection programs to:

(1) identify and assist families at risk of abusing or neglecting their children;

(2) operate a system for receiving reports of abuse or neglect of children;

(3) investigate families reported to abuse or neglect their children;

(4) provide support, treatment, and family preservation services to families which are, or are at risk of, abusing or neglecting their children;

(5) support children who must be removed from or who cannot live with their families;

(6) make timely decisions about permanent living arrangements for children who must be removed from or who cannot live with their families; and

(7) provide for continuing evaluation and improvement of child protection laws, regulations, and services.

Additional programs to be replaced are: the Child Abuse Prevention and Treatment Act; the Abandoned Infants Assistance Act; adoption opportunities under the Child Abuse Prevention and Treatment and Adoption Reform Act; family support centers under the McKinney Homeless Assistance Act; grants to improve investigation and prosecution of child abuse cases, and children's advocacy centers under the Victims of Child Abuse Act; crisis nurseries under the Temporary Child Care and Crisis Nurseries Act; and Family Unification under Section 8 of the Housing Act.

Senate amendment

The Senate amendment would leave intact child welfare services, foster care, adoption assistance and independent living, which are permanently authorized under Title IV–B and IV–E of the Social Security Act. The Senate amendment would reauthorize the Child Abuse Prevention and Treatment Act; adoption opportunities; abandoned infants assistance; missing children's assistance; investigation and prosecution grants, and children's advocacy centers under the Victims of Child Abuse Act. The amendment would repeal both the Temporary Child Care and Crisis Nurseries Act and the Family Support Centers under the McKinney Homeless Assistance Act.

The Senate amendment gives the Secretary authority under CAPTA to make grants to the States for purposes of assisting the States in improving the child protective service system of each State in:

(1) screening intake, assessing, and investigating of reports of abuse and neglect;

(2) creating and improving the use of multidisciplinary teams and interagency protocols to enhance investigations;

(3) improving case management and delivery of services;

(4) enhancing the general child protection system by improving risk and safety assessment tools and protocols and automation systems;

(5) developing, strengthening, and facilitating training opportunities and requirements for individuals overseeing and providing services to children and their families;

(6) developing and facilitating training protocols for individuals mandated to report child abuse or neglect;

(7) developing, strengthening, and supporting child abuse and neglect prevention, treatment, and research programs in the public and private sectors;

(8) developing, implementing, or operating information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions; and

(9) developing and enhancing the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level.

Conference agreement

The Conference agreement establishes a child protection program with three major elements: open-ended entitlements for both foster care and adoption maintenance payments, a Child Protection Block Grant program focusing on prevention and services, and a Child and Family Services Block Grant program that includes research, and demonstrations as well as services. The first block grant (the Child Protection Block Grant) has two components: an entitlement component and a discretionary spending component. Funds for the entitlement component of the block grant are made available by termination of several existing entitlement programs. These include foster care administration, foster care training, adoption assistance administration, adoption assistance training, independent living, and family preservation and support.

The second block grant established by this title is the Child and Family Services Block Grant, replacing the Child Abuse Prevention and Treatment Act, the Abandoned Infants Assistance Act, adoption opportunities under the Child Abuse Prevention and Treatment and Adoption Reform Act, family support centers under the McKinney Homeless Assistance Act, and the Temporary Child Care and Crisis Nurseries Act.

The purpose of the Child Protection Block Grant is to:

(1) identify and assist families at risk of abusing or neglecting their children;

(2) operate a system for receiving reports of abuse or neglect of children;

(3) improve the intake, assessment, screening, and investigation of reports of abuse and neglect;

(4) enhance the general child protective system by improving risk and safety assessment tools and protocols;

(5) improve legal preparation and representation, including procedures for appealing and responding to appeals of substantiated reports of abuse and neglect;

(6) provide support, treatment, and family preservation services to families which are, or are at risk of, abusing or neglecting their children;

(7) support children who must be removed from or who cannot live with their families;

(8) make timely decisions about permanent living arrangements for children who must be removed from or who cannot live with their families;

(9) provide for continuing evaluation and improvement of child protection laws, regulations, and services;

(10) develop and facilitate training protocols for individuals mandated to report child abuse or neglect; and

(11) develop and enhance the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level.

B. Eligible States

Eligible State

Present law

To be eligible for funding under Title IV-B and IV-E, States must have State plans (developed jointly with the Secretary under title IV-B, and approved by the Secretary under Title IV-E).

House bill

An "Eligible State" is one that, during the 3-year period that ends on October 1 of the fiscal year, has submitted to the Secretary a plan that describes how the State intends to pursue the purposes described above.

Senate amendment

No directly comparable provision in Titles IV-B or IV-E. Current law would remain intact. See Item 6.I., below, for summary of State eligibility under CAPTA.

Conference agreement

An "Eligible State" is one that has submitted to the Secretary, not later than October 1, 1996 and every three years thereafter, a plan (as described below) which has been signed by the Chief Executive officer of the State.

Outline of child protection program

Present law

States must have a child welfare services plan developed jointly by the Secretary and the relevant State agency which provides for single agency administration and which describes services to be provided and geographic areas where services will be available, among numerous other requirements. To receive their full allotment of incentive funds under Title IV-B, States also must comply with extensive Federal Section 427 child protections. The State plan also must meet many other requirements, such as setting forth a 5-year statement of goals for family preservation and family support and assuring the review of progress toward those goals. For foster care and adoption assistance, States must submit for approval a Title IV-E plan providing for a foster care and adoption assistance program and satisfying numerous requirements. The Child Abuse Prevention and Treatment Act requires States to have in effect a law for reporting known and suspected child abuse and neglect as well as providing for prompt investigation of child abuse and neglect reports, among many other requirements.

House bill

A State plan must include the following outline of the State's Child Protection Program including procedures to be used for:

a. receiving reports of child abuse or neglect;

b. investigating such reports;

c. protecting children in families in which child abuse or neglect is found to have occurred;

d. removing children from dangerous settings;

e. protecting children in foster care;

f. promoting timely adoptions;

g. protecting the rights of families, using adult relatives as the preferred placement for children separated from their parents if such relatives meet all relevant standards;

h. preventing child abuse and neglect; and

i. establishing and responding to citizen review panels.

Senate amendment

No directly comparable provision in Titles IV-B or IV-E. Current law would remain intact. CAPTA requires a 5-year plan that is coordinated with the State plan for child welfare services and family preservation. For amendments to CAPTA requirements, see Section 6 of this document below.

Conference agreement

A State plan must include information on the Child Protection Program including procedures to be used for:

a. receiving and assessing reports of child abuse or neglect;

b. investigating such reports;

c. with respect to families in which abuse or neglect has been confirmed, providing services or referral for services for families and children where the State makes a determination that the child may safely remain;

d. protecting children by removing them from dangerous settings and ensuring their placement in a safe environment;

e. providing training for individuals mandated to report suspected cases of child abuse or neglect;

f. protecting children in foster care;

g. promoting timely adoptions;

h. protecting the rights of families, using adult relatives as the preferred placement for children separated from their parents if such relatives meet all relevant standards;

i. providing services aimed at preventing child abuse and neglect; and

j. establishing and responding to citizen review panels.

Certifications

Present law

To receive funds under the Child Abuse Prevention and Treatment Act, States must have a law in effect that provides for reporting of known and suspected instances of child abuse and neglect and provides immunity from prosecution for reporters of abuse or neglect. States also must have a program to investigate allegations of abuse or neglect, must preserve confidentiality of records, and must provide that every abused or neglected child involved in a court proceeding is represented by a guardian ad litem. To receive funding under Title IV-B and IV-E of the Social Security Act, States must comply with certain procedures for removal of children from their families when necessary, and must develop case plans for each child that are reviewed at least every six months and contain specified information.

House bill

Also included in the submitted plan must be the following certifications;

a. certification of State law requiring reporting of child abuse and neglect;

b. certification of State program to investigate child abuse and neglect cases;

c. certification of State procedures for removal and placement of abused or neglected children;

d. certification of State procedures for developing and reviewing written plans for permanent placement of each child removed from the family that:

(1) specifies the goal for achieving a permanent placement for the child in a timely fashion;

(2) ensures that the plan is reviewed every 6 months; and

(3) ensures that information about the child is gathered regularly and placed in the case record;

e. certification that when the State begins operating under the block grant on or after October 1, 1995, families receiving adoption assistance payments at that time continue to receive adoption assistance payments;

f. certification of State program to provide Independent Living services to 16–19 year old youths (at State option to age 21) who are in the foster care system but have no family to turn to for support;

g. certification of State procedures to respond to reporting of medical neglect of disabled infants; and

h. a declaration of State child welfare goals; States must, within 3 years of the date of passage, report quantifiable information on whether they are making progress toward achieving their self-defined child protection goals. (See Data Collection and Reporting, item G. below.)

Senate amendment

No directly comparable provision in Titles IV-B or IV-E. Current law would remain intact. CAPTA requires several certifications, many of which are identical to those outlined for the House bill. For amendments to

CAPTA requirements, see Section 6 of this document, below.

Conference agreement

The following certifications must be included in the State plan:

(1) certification of State law requiring reporting of child abuse and neglect;

(2) certification of State procedures for the immediate screening, safety assessment, and prompt investigation of such reports;

(3) certification of State procedures for the removal and placement of abused or neglected children;

(4) certification of State laws requiring immunity from prosecution under State and local laws for individuals making good faith reports of suspected or known cases of child abuse or neglect;

(5) certification of State law and procedures for expungement of any public records on false or unsubstantiated cases;

(6) certification of State laws and procedures affording individuals an opportunity to appeal an official finding of abuse or neglect;

(7) certification of State procedures for developing and reviewing written plans for permanent placement of each child removed from the family that:

(A) specifies the goal for achieving a permanent placement for the child in a timely fashion;

(B) ensures that the plan is reviewed every 6 months; and

(C) ensures that information about the child is gathered regularly and placed in the case record;

(8) certification of State program to provide Independent Living Services to 16–19 year old youths (at State option to age 21) who are in the foster care system but have no family to turn to for support;

(9) certification of State procedures to respond to reporting of medical neglect of disabled infants;

(10) a declaration of quantifiable State child welfare goals;

(11) with respect to fiscal years beginning on April 1, 1996, certification that—

(A) the State has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—

(i) the appropriateness of, and necessity for, the foster care placement;

(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

(B) is operating to the satisfaction of the Secretary—

(i) a statewide information system on children who are or have been in foster care in the last year,

(ii) a case review system for each child receiving foster care under the supervision of the State;

(iii) a service program designed to help children—

(I) return families from which they have been removed; or

(II) be placed for adoption,

(iv) a preplacement preventive service program; and

(C) has reviewed (or, will review by October 1, 1997) State policies and procedures in effect for children abandoned at birth; and is implementing (or, will implement by October 1, 1997) such policies or procedures to enable permanent decisions to be made expeditiously with respect to the placement of such children;

(12) certification of reasonable efforts to prevent placement of children in foster care;

(13) certification of cooperative efforts to secure an assignment to the States of any rights to support on behalf of each child receiving foster care maintenance payments; and

(14) certification of confidentiality and requirements for information disclosure.

Determinations

Present law

State Title IV–B plans are developed jointly with the Secretary. State Title IV–E plans must be approved by the Secretary. The Secretary must approve any plan that complies with statutory provisions.

House bill

The Secretary of HHS must determine whether the State plan includes all of the elements required above but cannot add new elements or review the adequacy of State procedures. The Secretary may not require a State to alter its child protection law regarding determination of the adequacy, type, and timing of health care.

Senate amendment

No directly comparable provision in Title IV–B or IV–E. Current law would remain intact. See item 6.N., below for description of similar CAPTA provision on medical care.

Conference agreement

The Secretary of HHS must determine whether the State plan includes the required materials and certificates (except material related to the certification of State procedures to respond to reporting of medical neglect of disabled infants). The Secretary cannot add new elements beyond those listed above.

C. Grants to States for Child Protection

Entitlement

Present law

Titles IV–B and IV–E of the Social Security Act contain several types of funding, including substantial entitlement funding, for helping States provide assistance to troubled families and their children.

House bill

The block grant money is guaranteed funding to States. Each eligible State is entitled to receive from the Secretary an amount equal to the State share of the Child Protection Grant amount for fiscal years 1996 through 2000.

Senate amendment

No directly comparable provision in Title IV–B or IV–E. Current law would remain intact. See item 6 below for description of similar CAPTA provision.

Conference agreement

As explained above, the Child Protection Block Grant includes a capped entitlement component for States. Each eligible State is entitled to receive from the Secretary an amount equal to the State share of the child Protection Grant amount which increases from $2.047 billion in 1997 to $2.766 billion in 2002.

The Child Protection Block Grant also includes funds from the discretionary program outlined below. In addition to the Block Grant, each eligible State is entitled to receive reimbursements, on as open-ended basis, for the State share of allowable expenditures on eligible children placed in qualified foster care and adoption.

Child protection grant amount

Present law

Federal funds for child welfare and child protection activities consist both of direct spending under Titles IV–B and IV–E of the Social Security Act, and appropriated funds under Title IV–B of the Social Security Act and selected additional programs, including the Child Abuse Prevention and Treatment Act. (For additional programs, see Item 1.A. of this document, above.)

House bill

The Child Protection Grant amount is composed of both a direct spending component and an appropriated component as follows: $3.930 billion in 1996, $4.195 billion in 1997, $4.507 billion in 1998, $4.767 billion in 1999, and $5.071 billion in 2000 in direct spending; and $486 million in each year 1996–2000 in appropriated spending.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact. The amendment authorizes a total of $263 million for FY1996 and such sums as necessary for FY1997 through FY2000 for State grants, State demonstration projects, discretionary activities, and community-based family resources and support grants under CAPTA; adoption opportunities grants; and abandoned infants assistance grants.

Conference agreement

The discretionary component of the block grant includes a $325 million authorization for each year 1997–2002.

State share

Present law

No specific allocation formula governs the allocation of foster care and adoption assistance funds to States; States are reimbursed on an open-ended entitlement basis for eligible expenditures on behalf of eligible children. Independent living allocations to States are based on each State's share of Title IV–E foster children in FY1984. Family violence grants are awarded on the basis of State population. [Note: The family violence program would not be repealed by H.R. 4.] Child abuse State grants and community-based family resource grants are awarded on the basis of population under the age of 18. State allocations for child welfare services under Title IV–B are based on per capita income and population age 21 and under.

House bill

"State Share" means each State receives the same proportion of the block grant each year as it received of payments to States by the Federal government for the following selected child welfare programs in either the average of years 1992 through 1994 or in 1994, whichever is greater:

a. foster care maintenance, administration, and training;

b. adoption assistance maintenance, administration, and training;

c. title IV–E independent living award;

d. family violence and prevention services;

e. child abuse State grants;

f. child abuse community-based prevention grants; and

g. child welfare services.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact. See Item 6 below for description of similar CAPTA provision.

Conference agreement

The conference agreement follows the House bill, except the selected child welfare programs on which the State share is to be based are:

(1) foster care administration and training;

(2) adoption assistance administration and training;

(3) child welfare services;

(4) family preservation and family support; and

(5) independent living services.

The following table shows State percentage allocations under the Child Protection Block Grant.

Table 3.—State percentage allocations under the child protection block grant

State:	*Percent of national totals*
Alabama	0.78
Alaska	0.28
Arizona	1.07
Arkansas	0.91
California	18.71
Colorado	1.27
Connecticut	1.77
Delaware	0.15
District of Columbia	0.55
Florida	3.49
Georgia	1.36
Hawaii	0.35
Idaho	0.22
Illinois	4.98
Indiana	2.36
Iowa	0.80
Kansas	0.88
Kentucky	1.60
Louisiana	1.48
Maine	0.31
Maryland	1.89
Massachusetts	2.87
Michigan	3.85
Minnesota	1.14
Mississippi	0.47
Missouri	1.49
Montana	0.24
Nebraska	0.45
Nevada	0.17
New Hampshire	0.30
New Jersey	1.27
New Mexico	0.35
New York	19.77
North Carolina	0.84
North Dakota	0.26
Ohio	4.60
Oklahoma	0.58
Oregon	1.06
Pennsylvania	4.38
Rhode Island	0.44
South Carolina	0.62
South Dakota	0.17
Tennessee	0.80
Texas	3.93
Utah	0.41
Vermont	0.27
Virginia	0.93
Washington	1.01
West Virginia	0.29
Wisconsin	1.78
Wyoming	0.06
U.S. totals	100.00

Source.—Table prepared by the Congressional Research Service based on data received from the U.S. Department of Health and Human Services in March of 1995.

Definition of State

Present law

Under Titles IV–B and IV–E of the Social Security Act, "State" means the 50 States and the District of Columbia. The Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, and American Samoa receive funds through set-asides and under special rules.

House bill

"State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, and American Samoa.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact.

Conference agreement

"State"includes the several States and the District of Columbia. The territories will carry out a child protection program in accordance with this part; entitlement funding is provided under section 1108 of the Social Security Act.

Use of grant

Present law

Funds must be used for: "protecting and promoting the welfare of children, preventing unnecessary separation of children from their families, restoring children to their families if they have been removed, family preservation services, community-based family support services to promote the well-being of children and families and to increase parents' confidence and competence." Foster care maintenance and adoption assistance payments are an open-ended entitlement to individuals.

House bill

A State to which funds are paid under this section may use such funds in any manner that the State deems appropriate to accomplish the purposes of this part.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact. CAPTA grants can be used for improving child protective services, investigating and reporting of abuse and neglect, case management and delivery of services to children and families, training for service providers and abuse reporters, demonstration projects, kinship care arrangements, abuse and neglect prevention, and similar activities.

Conference agreement

The conference agreement follows the House bill. A State to which funds are paid under this section may use such funds in any manner that the State deems appropriate to accomplish the purposes of this part.

Transfer of funds

Present law

No provision.

House bill

In FY1998 and succeeding years, States may transfer up to 30 percent of funds paid under this section for activities under any or all of the following: the temporary assistance for needy families block grant; the social services block grant under Title XX of the Social Security Act; the child care and development block grant; and any food and nutrition or employment and training grants enacted during the 104th Congress. Rules of the recipient program will apply to the transferred funds. Funds may be transferred into the Child Protection Block Grant from other block grants and are then subject to the rules of this part.

Senate amendment

No provision.

Conference agreement

Conferees agree that no funds can be transferred out of the block grant.

Timing of expenditures

Present law

Provisions vary under programs to be replaced. Under Title IV–E, States have up to two fiscal years in which to claim reimbursement for expenditures.

House bill

A State to which funds are paid under this section for a fiscal year shall expend such funds not later than the end of the immediately succeeding fiscal year.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact.

Conference agreement

The conference agreement follows the House bill.

Rule of interpretation

Present law

For-profit foster care providers are not eligible for Federal funding under Title IV–E.

House bill

Nothing in this act shall preclude for-profit short- and long-term foster care facilities from being eligible to receive funds from this block grant.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Timing of payments

Present law

Under Title IV–B, the Secretary makes payments to States periodically. Under Title IV–E, the Secretary reimburses States for expenditures on a quarterly basis.

House bill

The Secretary must make payments on a quarterly basis.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact.

Conference agreement

The conference agreement follows the House bill.

Penalties

Present law

States that do not comply with Section 427 child protections may not receive their share of Title IV–B appropriations above $141 million. However, effective April 1, 1996, these protections are to become State plan requirements and the incentive funding mechanism will no longer be in effect. Section 1123 of the Social Security Act requires the Secretary to establish by regulation a new Federal review system for child welfare, which would allow penalties for misuse of funds.

House bill

The Secretary must reduce amounts otherwise payable to a State by any amount which an audit conducted under the Single Audit Act finds has been used in violation of this part. The Secretary, however, shall not reduce any quarterly payment by more than 25 percent. The amount of misspent funds will be withheld from the State's payments during the following year, if necessary, to recover the full amount of the penalty.

If an audit conducted pursuant to the Single Audit Act finds that a State has reduced its level of expenditures in FY 1996 or 1997 below its level of non-Federal expenditures in FY 1995 under Title IV–B or Title IV–E, the Secretary must reduce subsequent amounts otherwise payable to the State by an amount equal to the difference between State spending in FY 1995 and the current year.

The Secretary must reduce by 3 percent the amount otherwise payable to a State for a fiscal year if the State has not submitted a report required (see item 7 below) for the immediately preceding fiscal year within 6 months after the end of the year. The penalty may be rescinded if the report is submitted within 12 months after the end of the year.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact.

Conference agreement

Conferees agree to maintain the detailed child protections now found in section 427 of the Social Security Act. Conferees also agree that an additional penalty equal to 5 percent of a State's block grant amount will be imposed in cases where the Secretary finds that funds have been spent in violation of the part, or where a State has failed to meet its maintenance-of-effort requirement. States will be required to maintain 100 percent of their FY 1994 non-Federal expenditure level in FY 1997 and 1998, and 75 percent of such expenditures in subsequent years.

The agreement provides that the Secretary may not impose a penalty if she determines that the State has reasonable cause for failing to comply with the requirement. Further, a State must be informed before any penalty is imposed and be given an opportunity to enter into a corrective compliance plan. The agreement provides a series of deadlines for submission of such corrective compliance plans and review by the Federal government.

Limitation on Federal authority

Present law

See above.

House bill

Except as expressly provided in this part, the Secretary may not regulate the conduct of States under this part or enforce any provision of this part.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact.

Conference agreement

The conference agreement follows the House bill with a modification to refer to authority expressly provided in the Social Security Act

D. Child Protection Standards

Present law

In order to receive its full share of appropriations for child welfare services under subpart 1 of Title IV–B, each State must meet section 427 protections, including requirements that it: conduct an inventory of children in foster care; operate a tracking system for all children in foster care; operate a case review system for all children in foster care; and conduct a service program to reunite foster children with their families if appropriate, or be placed for adoption or another permanent placement. In addition, if Federal appropriations for the program reach $325 million for two consecutive years, States also must implement a preplacement preventive services program to help children remain with their families. [This funding level has never been reached.] Effective April 1, 1996, these provisions are scheduled to become mandatory State plan requirements, rather than funding incentives, under legislation enacted on Oct. 31, 1994 (P.L. 103–432). States also will be required to review their policies and procedures regarding abandoned children and to implement policies and procedures considered necessary to enable permanent decisions to be made expeditiously with regard to placement of such children.

House bill

The following standards are included in the bill to indicate what States must do to assure the protection of children and to provide guidance to the Citizen Review Panels:

a. the primary standard by which child welfare system shall be judged is the protection of children.

b. each State shall investigate reports of abuse and neglect promptly;

c. children removed from their homes shall have a permanency plan and a dispositional hearing within 3 months after a fact-finding hearing' and

d. all child protection cases with an out-of-home placement shall be reviewed every 6 months unless the child is already in a long-term placement.

A State receiving funds from this block grant may consider: establishing a new type of permanent foster care placement referred to as "kinship care" in which adult relatives would be the preferred placement option if they met all relevant standards, and could receive needs-payments and supportive services; and, in placing children for adoption, giving preference to adult relatives who meet applicable standards.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact. CAPTA requires a number of certifications by the State, including several that are similar to standards in the House block grant. For details see Item 6.I. below.

No directly comparable provision in Titles IV–B or IV–E. Under CAPTA, the Secretary may award grants to public entities to develop or implement procedures using adult relatives as the preferred placement for children removed from their home; see item 6.H. below.

Conference agreement

In order for a State to receive any funds under this part, such State must certify that it has conducted an inventory of children in foster care; is operating a tracking system for all children in foster care; is operating a care review for all children in foster care, and is conducting a service program to reunite foster children with their families if appropriate, or be placed for adoption or another permanent placement. States will also be required to review their policies and procedures regarding abandoned children and to implement policies and procedures considered necessary to enable permanent decisions to be made expeditiously with regard to placement of such children. These child protection standards are identical to those found in section 427 of current law.

E. Citizens Review Panels

Present law

No provision.

House bill

Each State to which funds are paid under this part must have at least three Citizen Review Panels. Each panel is to be broadly representative of the community farm which it is drawn.

The Panels, which must meet at least quarterly, are charged with the responsibility of reviewing cases from the child welfare system to determine whether State and local agencies receiving funds under this program are carrying out activities in accord with the State plan, are achieving the child protection standards, and are meeting any other child welfare criteria that the Panels consider important.

The members and staff of any Panel must not disclose to any person or government agency any information about specific cases. States must afford a Panel access to any information on any case that the Panel desires to review, and shall provide the Panels with staff assistance in performing their duties.

Panels must produce a public report after each meeting and States must include information in their annual report detailing their responses to the panel report and recommendations. (See Data Collection and Reporting, item G. below.)

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

F. Clearinghouse and Hotline for Missing and Runaway Children

Present law

The Missing Children's Assistance Act, authorized as part of the Juvenile Justice and Delinquency Prevention Act, authorizes a toll-free hotline and national clearinghouse to collect and disseminate information about missing children.

House bill

The Attorney General of the United States shall have the authority to establish and operate a national information clearinghouse, including a 24-hour toll free telephone hotline, for information on missing children cases. An appropriation not to exceed $7 million per fiscal year is authorized for this purpose.

Senate amendment

Reauthorizes the Missing Children's Assistance Act through FY 1997 (see Item 12.A. of this document, below).

Conference agreement

The House recedes.

G. Data Collection and Reporting

Present law

States are not required to report specific child welfare data. Section 479 requires the Secretary to publish regulations that implement a system for the collection of adoption and foster care data. These regulations were published as final on Dec. 22, 1993, and are mandatory for all States. In addition, section 13713 of the Omnibus Budget Reconciliation Act of 1993 (P.L. 103–66) makes available enhanced Federal matching funds (75 percent Federal match instead of 50 percent) for planning, design, development and installation of statewide automated child welfare information systems. Regulations governing these systems were published on Dec. 22, 1993, and May 19, 1995. The enhanced match expires after Sept. 30, 1996.

House bill

Three years after the effective date and annually thereafter, each State to which funds are paid under this part must submit to the Secretary a report containing quantitative information on the extent to which the State is making progress toward its child protection program goals (as described above).

Each State to which funds are paid under this part must annually submit to the Secretary of Health and Human Services a report that includes the following annual statistics:

(1) the number of children reported to the State during the year as abused or neglected;

(2) of the number of reported cases of abuse or neglect, the number that were substantiated;

(3) of the number of reported cases that were substantiated, (a) the number that received no services under the State program funded under this part; (b) the number that received services under the State program funded under this part; and (c) the number removed from their families;

(4) the number of families that received preventive services from the State;

(5) the number of children who entered foster care under the responsibility of the State;

(6) the number of children who exited foster care under the responsibility of the State;

(7) types of foster care placements made by State and the number of children in each type of care;

(8) average length of foster care placements made by State;

(9) the age, ethnicity, gender, and family income of children placed in foster care under the responsibility of the State;

(10) the number of children in foster care for whom the State has the goal of adoption;

(11) the number of children in foster care under the responsibility of the State who were freed for adoption;

(12) the number of children in foster care under the responsibility of the State whose adoptions were finalized;

(13) the number of disrupted adoptions in the State;

(14) quantitative measurements showing whether the State is making progress toward the child protection goals identified by the State;

(15) the number of infants abandoned during the year, the number of these infants who were adopted, and the length of time between abandonment and legal adoption;

(16) the number of deaths of children occurring while said children were in custody of the State;

(17) the number of deaths of children resulting from child abuse or neglect;

(18) the number of children served by the State Independent Living program;

(19) other information which the Secretary and a majority of the State agree is appropriate to collect for purposes of this part; and

(20) the response of the State to findings and recommendations of the citizen review panels.

States may fulfill the data collection and reporting requirements by collecting the required information on either individual children and families receiving child protection services or by using scientific statistical sampling methods.

Within 6 months after the end of each fiscal year, the Secretary must prepare an annual report on State data for Congress and the public.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law would remain intact. States receiving CAPTA grants must submit annual data reports to the Secretary (see Item 6.I below). CAPTA requires States to report 10 data elements, many of which are substantially similar to the House reporting requirements.

Requires the Secretary, in administering CAPTA, to prepare annual reports, based on State data, for Congress and the national information clearinghouse on child abuse and neglect. (See Item 6.I below.) Requires Secretary in 6 months after receiving State reports to prepare and submit annual report to Congress.

Conference agreement

The Senate recedes with an amendment mandating two sets of data to be collected for child protection programs. There is a single data collection and reporting system required for child protection programs. Part one of the mandated data reporting requires States to report the following data every 6 months: (1) whether the child received services under the program funded under this part; (2) the age, race, gender, and family income of the parents and child; (3) county of residence; (4) whether the child was removed from the family; (5) whether the child entered foster care under the responsibility of the State; (6) the type of out of home care in which the child was placed (including institution, group home, family foster care, or relative placement); (7) the child's permanency planning goal, such as reunification, kinship care, adoption, or independent living; (8) whether the child was freed for adoption; and (9) whether the child existed from foster care, and, if so, whether the exit was due to return to the family, adoption, independent living, or death.

In addition, the States must submit the following aggregate data annually: (1) the number of children reported to the State during the year as alleged victims of abuse or neglect; (2) of the number of children for whom an investigation of alleged maltreatment resulted in a determination of substantiated abuse or neglect, the number for whom maltreatment was unsubstantiated, and the number determined to be false; (3) the number of families that received preventive services; (4) the number of infants abandoned during the year, the number of these infants who were adopted, and the length of time between abandonment and adoption; (5) the number of deaths of children occurring while the children were in custody of the State; (6) the number of deaths of children resulting from child abuse and neglect, including those which occurred while the child was in the custody of the State; (7) the number of children served by the State Independent Living program; (8) quantitative measurements showing whether the State is making progress toward the child protection goals identified by the State; (9) the types of maltreatment suffered by victims of abuse and neglect; (10) the number of abused and neglected children receiving services; (11) the average length of stay in out-of-home care; (12) the response of the State to findings and recommendations of the citizen review panels; and (13) other information which the Secretary and a majority of the States agree is appropriate to collect for the purposes of this part. States may be required to report other information approved by the Secretary and agreed to by a majority of States, including information necessary to assure a smooth transition from AFCARS and NCANDS to the data reporting system required by this legislation. The Secretary will define by regulation the information required to be included in State data reports. States may comply with requirements for precise numerical information by using scientifically acceptable sampling methods. The Secretary will report annually to Congress and the public on information provided in State data reports.

H. Research and Training

Present law

Current law authorizes appropriations for research under Title IV–B of the Social Security Act and the Child Abuse Prevention and Treatment Act. In FY 1995, $6 million is appropriated under Title IV–B and $9 million under CAPTA.

House bill

An appropriation of $10 million per year is authorized for the Secretary to spend at her discretion on research and training in child welfare.

Senate amendment

No directly comparable provision in Titles IV–B or IV–E. Current law under Title IV–B would remain intact, and CAPTA would be reauthorized. Although CAPTA has no separate authorization for research and training, the Secretary has discretionary authority to conduct research and training. For details see Item 6.G., below.

Conference agreement

The Senate recedes with an amendment establishing specific research activities, authorized in the Child and Family Services Block Grant, to be undertaken by the Secretary of the Department of Health and Human Services. Under this part, $10 million are authorized and appropriated for each of FYs 1996–2002 for the Secretary to conduct child welfare research.

I. National Random Sample Study of Child Welfare

Present law

No provision.

House bill

The Secretary is provided with $6 million per year for fiscal years 1996–2000 to conduct a national random-sample study of child welfare. The study will have a longitudinal component, yield data reliable at the State level for as many States as the Secretary determines is feasible, and should alternate data collection in small States from year-to-year to yield an occasional picture of child welfare in small States. The Secretary has discretion in drawing the sample and in selecting measures, but should carefully consider selecting the sample from all cases of confirmed abuse and neglect and then following each case over several years while obtaining such measures as type of abuse or neglect involved, frequency of contact with agencies, whether the child was separated from the family, types and characteristics of out-of-home placements, number of placements, and average length of placement. The Secretary must prepare occasional reports on this study and make them available to the public. The reports should summarize and compare the results of this study with the data reported by States. Written reports or tapes of the raw data from the study should be made available to the public at a fee the Secretary thinks appropriate.

Senate amendment

No provision.

Conference agreement

The Senate recedes. The provisions mandating the national random sample study of child welfare are contained in the Child and Family Services Block Grant. Mandatory funds will be available to conduct the study equal to $6 million per year for FY 1996–FY 2002. In addition, $10 million are authorized and appropriated for each of FYS 1996–1998 for the Secretary to carry out the State court assessment and improvement program authorized under section 13712 of the Omnibus Budget Reconciliation Act of 1993. These funds may be expended no later than September 30, 1999.

J. Removal of Barriers to Interethnic Adoption

Present law

State law governs adoption and foster care placement. Forty three States permit race matching either in regulation, statute, policy, or practice. The Metzenbaum Multiethnic Placement Act of 1994 permits States to consider race and ethnicity in selecting a foster care or adoptive home, but States cannot delay or deny the placement of the child solely on the basis of race, color or national origin.

Noncompliance with the Metzenbaum Act is deemed a violation of title VI of the Civil Rights Act.

House bill

Section 553 of the Howard M. Metenbaum Multiethnic Placement Act of 1994 is repealed. (See conforming amendments, item 2 below.) In addition, a State or other entity that receives Federal assistance may not deny to any person the opportunity to become an adoptive or a foster parent on the basis of the race, color, or national origin of the person or of the child involved. Similarly, no State or other entity receiving Federal funds can delay or deny the placement of a child for adoption or foster care, or otherwise discriminate in making a placement decision, on the basis of the race, color, or national origin of the adoptive or foster parent or the child involved.

A State or other entity that violates this provision during a period shall remit to the Secretary all funds that were paid to the State or entity during the period.

An action under this paragraph may not be brought more than 2 years after the date the alleged violation occurred.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment modifying the sanctions which can be imposed on a State. This provision is authorized under the Child and Family Services Block Grant. If the State is found to be in violation of the provisions of this section, the Secretary will notify the State of the violation. The State will then have 90 days to correct the violation. If the violation continues after the 90 day period, the Secretary will reduce the amount allotted to a State for the next fiscal year under Part B of title IV of the Social Security Act by 10 percent. The conferees express their strong desire that States use some of the funding under this part to recruit loving families from all racial and national origin backgrounds from which social service departments may choose when it becomes necessary to find foster care and adoptive placements for children.

While agencies must obviously make placements based on the best interests of children, such family recruitment by the States may not cause a delay or prevent the timely placement of a child in an adoptive or preadoptive home.

2. CONFORMING AMENDMENTS (SECTION 702)

Present law

No provision.

House bill

This section contains technical amendments that conform provisions of the bill to Titles IV–D and XVI of the Social Security Act, and to the Omnibus Budget Reconciliation Act of 1986, and provide for the repeal of Section 553 of the Howard M. Metzenbaum Multiethnic Placement Act of 1994, Title IV–E of the Social Security Act, section 13712 of the Omnibus Budget Reconciliation Act of 1993, and subtitle C of Title 17 of the Violent Crime Control and Law Enforcement Act of 1994. (Under section 371 of Title III–C of the House bill, the following additional programs are repealed related to the Child Protection Block Grant: abandoned infants assistance, the Child Abuse Prevention and Treatment Act, adoption opportunities, crisis nurseries, mission children's assistance, family support centers, certain activities under the Victims of Child Abuse Act, and Family Unification under the Housing Act.)

Senate amendment

No provision.

Conference agreement

The conference agreement requires the Secretary of HHS to submit, within 90 days of enactment, a legislative proposal providing necessary technical and conforming amendments.

The agreement also repeals Title IV–E of the Social Security Act, and makes conforming amendments to Title XVI and Title IV–D of the Social Security Act, section 9442 of the Omnibus Budget Reconciliation Act of 1986, and section 1123 of the Social Security Act.

3. CONTINUED APPLICATION OF CURRENT STANDARDS UNDER MEDICAID PROGRAM

Present law

Children for whom Federal foster care payments are made are deemed to be "dependent children" for purposes of Medicaid eligibility.

House bill

Conforms Medicaid coverage of this title with title I of the House bill. In general, the Medicaid provision is designed to ensure that individuals who receive Medicaid coverage under current law will continue to be covered after passage of H.R. 4. Here is a summary of Medicaid provision from title I: "An individual who on enactment was receiving AFDC, was eligible for medical assistance under the State plan under this title, and would be eligible to receive aid or assistance under a State plan approved under part A of title IV but for the prohibition on grant funds being used to provide assistance to noncitizens, minor unwed mothers or their children, or children born to families already on welfare, would continue to be eligible for Medicaid. Families leaving welfare for work would also continue to receive the 1-year Medicaid transition benefit."

Senate amendment

The Senate amendment is similar to the House bill except that States have flexibility to be more restrictive in awarding Medicaid coverage than under current law.

Conference agreement

The conference agreement changes both the House bill and the Senate amendment because of pending changes in Medicaid legislation. To conform this bill with the pending Medicaid legislation, conferees agree that States will determine Medicaid eligibility for recipients of block grant assistance. This provision is found in section 114 of Title I of the conference bill.

4. EFFECTIVE DATE (SECTION 703)

Present law

No provision.

House bill

Under otherwise indicated in particular sections of the bill, the amendments and repeals made by this title take effect on October 1, 1995. The amendments shall not apply with respect to powers, duties, functions, rights, claims, penalties, or obligations applicable to aid or services provided before the effective date, or to administrative actions and proceedings commenced, or authorized to be commenced, before the effective date.

Senate amendment

No provision.

Conference agreement

The amendments will take effect on Oct. 1, 1996, except for provisions that authorize and appropriate funds in FY 1996 for research and count improvements, and requiring the Secretary to prepare technical and conforming amendments. The agreement establishes transition rules for pending claims, actions and proceedings, and relating to the closing out of accounts for programs that are terminated or substantially modified.

5. SENSE OF THE CONGRESS REGARDING TIMELY ADOPTION OF CHILDREN (SECTION 704)

Present law

No provision.

House bill

It is the sense of the Congress that:

(1) too many adoptable children are spending too much time in foster care;

(2) States must increase the number of waiting children being adopted in a timely manner;

(3) Studies have shown that States would save significant amounts of money if they offered incentives to families to adopt special needs children who would otherwise require foster care;

(4) States should allocate sufficient funds for adoption and medical assistance to encourage families to adopt children who are languishing in foster care;

(5) States should offer incentives for families that adopt special needs children to make adoption more affordable for middle-income families;

(6) States should strive to provide children removed from their biological parents with a single foster care placement and case team and to conclude an adoption of the child, when adoption is the goal, within one year of the child's placement in foster care; and

(7) States should participate in programs to enable maximum visibility of waiting children to potential parents, including a nationwide computer network to disseminate information on children eligible for adoption.

Senate amendment

Title VIII of the Senate amendment addresses adoption issues. See Section 13, below.

Conference agreement

The Senate recedes.

6. CHILD ABUSE PREVENTION AND TREATMENT; GENERAL PROGRAM (SECTION 751)

A. Reference

Present law

No provision.

House bill

No provision.

Senate amendment

Provides that, unless otherwise indicated, any amendments or repeals should be considered to apply to the Child Abuse Prevention and Treatment Act (CAPTA).

Conference agreement

The House recedes with an amendment renaming this chapter as Child and Family Services Block Grant.

B. Findings

Present law

Section 2 of CAPTA contains findings with regard to the scope of child abuse and neglect, the need for a comprehensive approach to address child abuse and neglect, various goals with regard to national policy, and the appropriate Federal role in this area.

House bill

No provision.

Senate amendment

Amends section 2 to update findings with regard to the scope of child abuse and neglect and to make minor changes, including change of references from "child protection" to "child and family protection."

Conference agreement

The Senate recedes with an amendment restructuring the findings to reflect the consolidation and blending of other programs.

C. Office of Child Abuse and Neglect

Present law

Section 101 of CAPTA requires the Secretary of HHS to establish a National Center on Child Abuse and Neglect.

House bill

No provision.

Senate amendment

Amends section 101 to allow the Secretary of HHS to establish an Office on Child Abuse and Neglect which would be responsible for executing and coordinating the functions and activities authorized by CAPTA. Repeals current mandate for a National Center on Child Abuse and Neglect.

Conference agreement

The Senate recedes.

D. Advisory Board on Child Abuse and Neglect

Present law

Section 102 of CAPTA requires the Secretary to appoint a U.S. Advisory Board on Child Abuse and Neglect, and specifies the composition and duties of the board.

House bill

No provision.

Senate amendment

Amends section 102 by repealing current mandate for a U.S. Advisory Board on Child Abuse and Neglect, and instead allows the Secretary of HHS to appoint an advisory board to make recommendations concerning child abuse and neglect issues. Duties of the new board would include making recommendations on coordination of Federal, State and local child abuse and neglect activities with similar activities regarding family violence at those levels; specific modification needed in Federal and State laws to reduce the number of unfounded or unsubstantiated cases of child maltreatment; and modifications needed to facilitate coordinated data collection with respect to child protection and child welfare.

Conference agreement

The Senate recedes with an amendment giving the Secretary authority to appoint an advisory board to: provide recommendations on coordinating Federal, State, and local child abuse and neglect activities at the State level with similar activities at the State and local level pertaining to family violence; consider specific modifications needed in State laws and programs to reduce the number of unfounded or unsubstantiated reports of child abuse or neglect while enhancing the ability to identify and substantiate legitimate cases of abuse or neglect which place a child in danger; and provide recommendations for modifications needed to facilitate coordinated national and Statewide data collection with respect to child protection and child welfare.

E. Repeal of Interagency Task Force

Present law

Section 103 of CAPTA requires the Secretary to establish an Interagency Task Force on Child Abuse and Neglect.

House bill

No provision.

Senate amendment

Repeals section 103 of CAPTA.

Conference agreement

The House and Senate concur.

F. National Clearinghouse for Information Relating to Child Abuse and Neglect

Present law

Section 104 of CAPTA requires the Secretary to establish a national clearinghouse for information relating to child abuse and neglect.

House bill

No provision.

Senate amendment

Amends section 104 to retain authorization for a national information clearinghouse on child abuse and neglect, and expands the duties of the clearinghouse to include collecting data on false and unsubstantiated reports and deaths resulting from child abuse and neglect, and, through a national data collection and analysis program, to collect and make available State child abuse and neglect reporting information which, to the extent practical, is universal and case specific, and integrated with other case-based factor care and adoption data collected by HHS.

Conference agreement

The Senate recedes with an amendment placing the Clearinghouse within the Research, Demonstrations, Training, and Technical Assistance section. The function of the clearinghouse is to: maintain, coordinate, and disseminate information on all programs, including private (nongovernmental) programs, that show promise of success with respect to the prevention, assessment, identification, and treatment of child abuse and neglect; and maintain and disseminate information relating to the incidence of cases of child abuse and neglect including the incidence of such cases that are related to alcohol or drug abuse in the United States.

G. Research, Evaluation and Assistance Activities

Present law

Section 105 of CAPTA authorizes the Secretary, through the National Center, to conduct research and technical assistance related to child abuse and neglect.

House bill

Authorizes appropriations of $10 million annually for the Secretary to conduct research and training related to child welfare. (See Item 1.H., above).

Senate amendment

Amends section 105 to restructure the research activities function of the Secretary of HHS by deleting references to the National Center and by requiring research on additional issues, including substantiated and unsubstantiated reported child abuse cases. Authorizes technical assistance to include evaluated or identification of: various methods for investigation, assessment, and prosecution of child physical and sexual abuse cases; ways to mitigate psychological trauma to child victims; and effective programs carried out under CAPTA. Allows the Secretary of HHS to provide for dissemination of information related to various training resources available at the State and local levels. Continues authorization for a formal peer review process which utilizes scientifically valid review criteria.

Conference agreement

The House recedes with an amendment restructuring the research activities to focus on information designed to better protect children from abuse or neglect by examining the national incidence of child abuse and neglect, including substantiated and unsubstantiated report child abuse or neglect cases.

H. Grants for Demonstrated Programs

Present law

Section 106 of CAPTA authorizes the Secretary to make grants to public agencies and private nonprofit organizations for demonstration or service programs or projects, that must include an evaluation component; resource centers; and discretionary grants that may be used for a variety of purposes.

House bill

No provision.

Senate amendment

Amends section 106 to retain authority for the demonstration grants program and to change the criteria for awarding grants. Authorizes the following purposes for demonstration programs and projects: training programs, mutual support and self-help programs for parents, innovative programs that use collaborative partnerships between various agencies to allow for establishment of a triage system in responding to child abuse and neglect reports; kinship care programs, and supervised visitation centers for families where there has been child abuse or domestic violence. All demonstration projects will be evaluated for their effectiveness.

Conference agreement

The House recedes with an amendment authorizing the following demonstration programs and projects: Innovative programs and projects that use collaborative partnerships between various agencies to allow for the establishment of a triage system in responding to child abuse and neglect; kinship care programs; programs to expand opportunities for the adoption of children with special needs; family resource and support programs; and other innovative preventative and treatment programs such as Parents Anonymous.

I. State Grants for Prevention and Treatment Programs

Present law

Section 107 of CAPTA authorizes the Secretary to make development and operation grants to States to assist them in improving their child protective service systems. States must meet certain eligibility requirements, which include having a State law in effect providing for reporting of child abuse or neglect allegations and providing immunity from prosecution for reporters of abuse or neglect.

Requires that States have in place procedures for responding to reports of medical neglect, including instances of withholding medically indicated treatment from disabled infants with life-threatening conditions.

House bill

States would receive Child Protection Block Grants, which would be used for child protective service systems, among other related activities. To receive block grants, States must certify that they have in effect a State law for reporting of child abuse or neglect, a program to investigate child abuse and neglect reports, and procedures to respond to reporting of medical neglect of disabled infants among other requirements. (See Item 1.B. (2) and (3), above.)

Requires States participating in the Child Protection Block Grant to submit detailed annual data reports to the Secretary. (See Item 1.G.2., above.) The Secretary would prepare annual reports for Congress. (See Item 1.G.4., above.)

Senate amendment

Revises section 107. Under revised eligibility requirements, States would provide an assurance or certification, signed by the chief executive officer of the State, that the State has a law or statewide program relating to procedures for: reporting of known and suspected instances of child abuse and neglect; immediate screening, safety assessment, and prompt investigation of such reports; procedures for immediate steps to be taken to protect the safety of children; provisions for immunity from prosecution for individuals making good faith reports of child abuse; methods for preserving confidentiality of records; requirements for the prompt disclosure of relevant information to appropriate entities working to protect children; the cooperation of law enforcement officials, court personnel and human services agencies; provision for the appointment of a guardian ad litem to represent the child in any judicial proceedings; and provisions that facilitate the prompt expungement of unsubstantiated or false child abuse reports.

Requires that States have in place procedures for responding to reports of medical neglect, including instances of withholding medically indicated treatment from disabled infants with life-threatening conditions.

States must have in place, within two years of enactment, provisions by which individuals who disagree with an official finding of abuse or neglect can appeal such a finding.

States would submit a plan every 5 years, instead of 4, demonstrating their eligibility and specifics about how their grant money will be used.

States would be required to work annually with the Secretary to provide, to the maximum extent practicable, a report containing specified data on their child protective service systems, including the number of children reported as abused or neglected, data on substantiation of reports, services provided to reported children, preventive services provided to families, the number of child deaths resulting from abuse or neglect including the number of children who died while in foster care, number of caseworkers responsible for intake and screening, agency response time to abuse or neglect reports, response time with respect to provision of services to families where abuse or neglect has been alleged, and the number of caseworkers relative to the number of reports investigated in the previous year. The Secretary would prepare a report based on State data, to be submitted to Congress and the national information clearinghouse on child abuse and neglect.

Conference agreement

The Senate recedes with an amendment providing for a block grant to States for the purpose of (1) assisting each State in improving the child protective services of such State, (2) supporting State efforts to develop, operate, expand and enhance a network of community-based, prevention-focused, family resource and support programs, (3) facilitating the elimination of barriers to adoption for children with special needs, (4) responding to the needs of children, in particular those who are drug exposed or inflicted with Acquired Immune Deficiency Syndrome (AIDS), and (5) carrying out any other activities as the Secretary determines to be consistent with this chapter. Requirements regarding the State plan, eligibility for funding, assurances and certifications, and data collection and reporting are the same as those mandated for receipt of the Child Protection Block Grant, as described below.

The conference agreement establishes uniform eligibility and reporting requirements for the programs funded under Title VII of this act (Child Protection Block Grant Program and Foster Care and Adoption Assistance). To be eligible to receive funds from the child protection block grant programs included in Title VII, States must submit a written document outlining the activities which the State will undertake to ensure the protection of abused and neglected children and their families. States are required to certify that the State has in effect and operational a State law or statewide program relating to procedures for: reporting of known and suspected instances of child abuse and neglect by public officials and professionals; the immediate screening, safety assessment, and prompt investigation of such reports; the removal of abused and neglected children from their homes (if necessary) and the placement of those children in safe environments; providing immunity from prosecution for individuals making good faith reports of child abuse; the prompt expungement of records in cases determined to be unsubstantiated or false; (within two years of enactment) appealing an official finding of abuse or neglect by individuals in disagreement with such finding; ensuring that a written plan is prepared for children who have been removed from their families; providing independent living services for older children in State protective care; responding to reports of medical neglect, including instances of withholding medically indicated treatment from disabled infants with life-threatening conditions; ensuring that reasonable efforts are made to prevent or eliminate the removal of a child from their family prior to placement in foster care or other placements outside the home; identifying quantitative goals for the State child protection services; compliance with the child protection standards specified in the Act; the prompt disclosure of relevant information to appropriate government entities working to protect children, including citizen review panels and child fatality review panels; and public disclosure of information regarding a child fatality or near-fatality caused by child abuse or neglect.

The conferees intend to preserve the confidentiality of reports and case information pertaining to child abuse and neglect except in the instances specifically delineated in this act or when a State legislature has specifically authorized limited release of such information. It is the clear intention of the conferees that case information must be shared among the various governmental agencies responsible for the protection of children form abuse or neglect in order to facilitate the most effective response to these cases. Furthermore, it also is the intent of the conferees that in the case of a fatality or near-fatality resulting from child abuse or neglect, that the factual information regarding how the case was handled may be disclosed to the public in an effort to provide public accountability for the actions or inaction of public officials.

J. Repeal

Present law

Section 108 of CAPTA authorizes the Secretary to provide training and technical assistance to States.

House bill

No provision.

Senate amendment

Repeals section 108.

Conference agreement

The House recedes with an amendment providing for technical assistance to the States in planning, improving, developing and carrying out programs and activities relating to the prevention, assessment, identification and treatment of child abuse and neglect as well as assistance to public or private non-profit agencies or organizations to expand adoption opportunities.

K. Miscellaneous Requirements

Present law

Section 110(c) of CAPTA requires the Secretary to ensure that a majority share of assistance under CAPTA is available for discretionary research and demonstration grants.

House bill

No provision.

Senate amendment

Strikes section 110(c).

Conference agreement

The House and Senate concur.

L. Definitions

Present law

Section 113 of CAPTA contains definitions.

House bill

No provision.

Senate amendment

Amends section 113 to change some definitions. Strikes definitions of "Board" and "Center," and changes the definition of "child abuse and neglect" to mean, at a minimum, "any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm."

Conference agreement

The House recedes with an amendment striking certain definitions, and modifying other including "child abuse and neglect" to mean, "at a minimum: any act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm."

M. Authorization of Appropriations

Present law

Section 114(a) authorizes appropriations for Title I of CAPTA, and specifies how funds are to be allocated among authorized activities. The authorization of appropriations expires at the end of FY 1995.

House bill

The House bill has no funding for CAPTA but includes funding for the Child Protection Block Grant; see sections C.1. and C.2., above.

Senate amendment

Amends section 114(a) to authorize $100 million in FY1996, and "such sums as necessary " in FY1997–FY2000, for title I of CAPTA. Requires that one-third of funds be spent on discretionary activities and, that of funds reserved for discretionary activities, no more than 40 percent shall be for demonstration projects under section 106.

Conference agreement

The Senate recedes with an amendment providing for $230,000,000 for FY1996, and such sums as are necessary for FY1997–FY2002, for the new Child and Family Services Block Grant.

Of the amount appropriated, 12 percent shall be made available to the Secretary to carry out subchapter B, Research, Demonstrations, Training and Technical Assistance. Not less than 40 percent of the amount made available to the Secretary may be used for Demonstration programs.

Furthermore, 1 percent of the amounts appropriated under this chapter, shall be reserved for the Secretary to make allotments to Indian tribes and tribal organizations. Block grant funds will be allocated among States according to their population of children under age 18.

N. Rule of Construction

Present law

No provision.

House bill

No directly comparable provision, but see section 1.B.4., above.

Senate amendment

Establishes a new section of CAPTA that addresses the issue of spiritual treatment of children. The section does not require a parent or legal guardian to provide a child with medical service or treatment, against his or her religious beliefs, nor does it require a State to find, or prohibit a State from finding, abuse or neglect in cases where the parent or guardian relied solely or partially on spiritual means rather than medical treatment, in accordance with their religious beliefs. The sections requires a State to have in place authority under State law to pursue any legal remedies necessary to provide medical care or treatment when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatment from children with life-threatening conditions. In general, each State has sole discretion over its case-by-case determinations relating to the exercise of authority of the subsection and is not foreclosed from considering treatment by non-medical or spiritual means. However, in light of special concerns about enforcement of Federal law protecting disabled infants from medical neglect (see e.g., U.S. Commission on Civil Rights, Medical Disabilities), the conference committee retains existing language concerning the Federal oversight with references to cases involving the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

Conference agreement

The House recedes.

O. Technical Amendment

Present law

No provision.

House bill

No provision.

Senate amendment

Makes a technical amendment to section 1404A of the Victims of Crime Act.

Conference agreement

The Senate recedes.

7. COMMUNITY-BASED FAMILY RESOURCE AND SUPPORT GRANTS

Present law

Title II of CAPTA authorizes the Secretary to make grants to States for Community-Based Family Resource Programs.

House bill

No provision.

Senate amendment

Replaces current law with a new Title II to establish Community-Based Family Resource and Support Grants.

Conference agreement

The Senate recedes. Community-Based Family Resource and Support Services are an allowable activity under the Child and Family Block Grant funds made available to the States under Subchapter A of this Chapter and demonstration grants funded by the Secretary under Subchapter B of this Chapter.

A. Purpose and Authority

Present law

No provision.

House bill

States could use Child Protection Block Grant allotments for family resource and support services. (See Item 1.C.(5), above.)

Senate amendment

Establishes the purpose of Title II as: to support State efforts to develop, operate, expand and enhance a network of community-based, prevention-focused, family resource and support programs. Authorizes the Secretary of HHS to make grants on a formula basis to entities designated by States as "lead entities."

Conference agreement

The Senate recedes.

B. Eligibility

Present law

No provision.

House bill

No provision.

Senate amendment

Establishes eligibility requirements for States to receive grants. States are eligible if:

(1) the chief executive officer has designated a lead entity that is an existing public, quasi-public or nonprofit private entity, with priority for the State trust fund advisory board or an existing entity that leverages funds for a broad range of child abuse and neglect prevention activities and family resource programs;

(2) the chief executive officer assures that the lead entity will provide or be responsible for providing a network of community-based family resource and support programs and providing direction and oversight to the network; and

(3) the chief executive officer assures that the lead entity has a demonstrated commitment to parental participation, a demonstrated ability to work with State and community-based public and private nonprofit organizations, the capacity to provide operational support and training and technical assistance to the statewide network of community-based family resource and support programs, and will integrate its efforts with experienced individuals and organizations.

Conference agreement

The Senate recedes.

C. Amount of Grant

Present law

No provision.

House bill

No provision.

Senate amendment

Reserves 1 percent of appropriations for Title II of CAPTA for allotments to Indian tribes and tribal organizations and migrant programs. Remaining funds are allotted to States equally according to the State "minor child amount" and the State "matchable amount." The State minor child amount is based on the State's relative population of children under 18, except that no State can receive less than $250,000. The State matching amount is based upon each State's relative amount of funds (including foundation, corporate and other private funding, State revenues and Federal funds) that have been dedicated toward the purposes of this program.

Conference agreement

The Senate recedes.

D. Existing and Continuation Grants

Present law

No provision.

House bill

No provision.

Senate amendment

Provides that any State or entity that has a grant, contract, or cooperative agreement in effect on the date of enactment, under the Family Resource and Support Program, the Community-Based Family Resource Program, the Family Support Center Program, the Emergency Child Abuse Prevention Grant Program, or the Temporary Child Care and Crisis Nurseries Program, shall continue to be funded under the original terms through the end of the applicable grant cycle. Also allows the Secretary to continue grants for Family Resource and Support Program grantees and other programs funded under CAPTA on a non-competitive basis, subject to available appropriations, grantee performance, and receipt of required reports.

Conference agreement

The Senate recedes.

E. Application

Present law

No provision.

House bill

No provision.

Senate amendment

Provides that, to receive grants under Title II, States must submit an application to the Secretary containing information requested by the Secretary, including:

(1) a description of the lead entity;

(2) a description of how the network of community-based, prevention-focused, family resource and support programs will operate, and how family resource and support services will be integrated into a continuum of preventive services for children and families;

(3) an assurance that an inventory of current family resource programs, respite, child abuse and neglect prevention activities, and other family resource programs in the State, and a description of current unmet needs, will be provided;

(4) a budget for the State's network of community-based, prevention-focused, family resource and support programs that verifies that the State will spend an amount equal to no less than 20 percent of the amount received under this program (in cash, not in-kind);

(5) an assurance that funds received under this Title will supplement and not supplant other State and local public funds designated for the statewide network of family resource and support programs;

(6) an assurance that the statewide network of family resource and support programs will maintain cultural diversity, and be culturally competent and socially sensitive and responsive to the needs of families with children with disabilities;

(7) an assurance that the State has the capacity to ensure meaningful involvement of parents;

(8) a description of the criteria to be used to develop, or select and fund, individual programs to be part of the statewide network;

(9) a description of outreach activities that will be used to maximize the participation of racial and ethnic minorities, new immigrant

populations, children and adults with disabilities, homeless families and those at risk of homelessness, and members of other under-served or under-represented groups;

(10) a plan for providing operational support, training and technical assistance to family resource and support programs;

(11) a description of how activities will be evaluated;

(12) a description of actions that will be taken to advocate changes in State policies, practices, procedures, and regulations to improve the delivery of family resource and support program services to all children and families; and

(13) an assurance that reports will be submitted to the Secretary on time and containing requested information.

Conference agreement

The Senate recedes.

F. Local Program Requirements

Present law

No provision.

House bill

No provision.

Senate amendment

Grants will be used for family resource and support programs that:

(1) assess community assets and needs through a planning process that includes parents, local agencies, and private sector representatives;

(2) develop a strategy to provide a continuum of preventive, holistic, family-centered services to children and families;

(3) provide "core" services, such as parent education, support and self-help, and leadership services, development screening of children, outreach, referral and follow-up services; "other core" services, which can be provided directly or through contracts, including respite services; and access to "optional" services, including child care, early childhood development and intervention, services for families with children with disabilities, job readiness, educational services, self-sufficiency and life management skills training, community referral services, and peer counseling;

(4) develop leadership roles for the meaningful involvement of parents;

(5) provide leadership in mobilizing local resources to support family resource and support programs; and

(6) participate with other community-based, prevention-focused family resource and support programs in developing and operating the statewide network.

Priority for local grants shall be given to community-based programs serving low-income communities and those serving young parents or parents with young children, and to family resource and support programs previously funded under the programs consolidated by this Title.

Conference agreement

The Senate recedes.

G. Performance Measures

Present law

No provision.

House bill

No provision.

Senate amendment

States receiving grants must submit reports to the Secretary that:

(1) demonstrate effective development of a statewide network of family resource and support programs;

(2) supply an inventory and description of services provided to families, including "core" and "optional" services;

(3) demonstrate the establishment of new respite and other new family services, and expansion of existing services, to meet identified unmet needs;

(4) describe number of families served (including families with children with disabilities), and the involvement of a diverse representation of families in designing, operating and evaluating the statewide network of family resource and support programs;

(5) demonstrate a high level of satisfaction among families that have used family resource and support program services;

(6) demonstrate innovative funding mechanisms that blend Federal, State, local and private funds, and innovative and interdisciplinary service delivery mechanisms;

(7) describe the results of a peer review process conducted under the State program; and

(8) demonstrate an implementation plan to ensure continued leadership of parents in family resource and support programs.

Conference agreement

Senate recedes.

H. National Network for Community-Based Family Resource Programs

Present law

No provision.

House bill

No provision.

Senate amendment

Authorizes the Secretary to allocate such sums as necessary from the amount provided under the State allotment to support State activities related to a peer review process, an information clearinghouse, a yearly symposium, a computerized communication system between State lead entities, and State-to-State technical assistance through biannual conferences.

Conference agreement

The Senate recedes.

I. Definitions

Present law

No provision.

House bill

No provision.

Senate amendment

Defines the following terms: "children with disabilities," "community referral services," "culturally competent," "family resource and support program," "national network for community-based family resource programs," "outreach services," and "respite services."

Conference agreement

The Senate recedes with an amendment which includes the definitions for Family Resource and Support programs and respite care in the definition section of the Chapter.

J. Authorization of Appropriations

Present law

No provision.

House bill

No provision.

Senate amendment

Authorizes $108 million for Title II for each of FY1996–FY2000.

Conference agreement

The Senate recedes.

8. REPEALS (SECTION 753)

Present law

No provision.

House bill

Repeals the crisis nurseries portion of Temporary Child Care and Crisis Nurseries; and family support centers under the Stewart B. McKinney Homeless Assistance Act. (See Item 2, above.)

Senate amendment

Repeals the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act. Also repeals family support centers under Subtitle F of Title VII of the Stewart B. McKinney Homeless Assistance Act.

Conference agreement

This portion of the conference agreement repeals Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act (adoption opportunities), the Abandoned Infants Assistance Act, section 553 of the Howard Metzenbaum Multiethnic Placement Act, family support centers under the Stewart McKinney Homeless Assistance Act, and the Temporary Child Care and Crisis Nurseries Act.

The agreement also requires the Secretary of HHS, within 6 months after enactment, to submit a legislative proposal with any necessary technical and conforming amendments.

The agreement also includes a transition provision to allow entities with a grant, contract or cooperative agreement in effect under various programs that will be terminated, to continue to receive funds through the end of the applicable grant, contract or agreement cycle.

9. FAMILY VIOLENCE PREVENTION AND SERVICES

A. State Demonstration Grants

Present law

No provision.

House bill

No provision.

Senate amendment

Amends section 303(e) of the Family Violence Prevention and Services Act, relating to non-Federal matching requirements.

Conference agreement

The Senate recedes.

B. Allotments

Present law

No provision.

House bill

No provision.

Senate amendment

Amends section 304(a)(1) of Family Violence Prevention and Services Act.

Conference agreement

The Senate recedes.

C. Authorization of Appropriations

Present law

Section 310 of the Family Violence Prevention and Services Act authorizes appropriations for the program and specifies how funds are to be allocated among activities.

House bill

No provision.

Senate amendment

Amends section 310 of Family Violence Prevention and Services Act to reduce from 80 percent to 70 percent the minimum amount of funds to be used for making grants to States for family violence activities. Also requires the Secretary to use not less than 10 percent of appropriations for grants for State family violence coalitions, and provides that Federal funds made available under this program must be used to supplement and not supplant other Federal, State or local public funds expended for similar activities.

Conference agreement

The Senate recedes.

10. ADOPTION OPPORTUNITIES; REFERENCE

A. Findings and Purpose

Present law

Section 201 of the adoption opportunities program establishes congressional findings with regard to the child welfare population, and declares the program's purpose to facilitate the elimination of barriers to adoption and to provide permanent homes for children who would benefit from adoption, particularly children with special needs.

House bill

Repeals the adoption opportunities program. (See Item 2, above.)

Senate amendment

Amends section 201 of the adoption opportunities program to update congressional findings, and delete references to the promotion of model adoption legislation and procedures.

Conference agreement

The Senate recedes.

B. Information and Services

Present law

No provision.

House bill

No provision.

Senate amendment

Amends section 203 of the adoption opportunities program, to require the Secretary of HHS to conduct studies related to kinship care, recruitment of foster and adoptive parents; and to provide technical assistance and resource and referral information related to termination of parental rights, recruitment and retention of adoptive placements, placement of special needs children, provision of pre- and post-placement services, and other assistance to help State and local governments replicate successful adoption-related projects.

Conference agreement

The Senate recedes.

C. Authorization of Appropriations

Present law

No provision.

House bill

No provision.

Senate amendment

Authorizes $20 million for FY1996, and such sums as necessary for each of FY1997–FY2000, for the adoption opportunities program.

Conference agreement

The Senate recedes.

11. ABANDONED INFANTS ASSISTANCE ACT

Present law

No provision.

House bill

Repeals abandoned infants assistance.

Senate amendment

Authorizes $35 million for each of FY1995–FY1996, and such sums as necessary for each of FY1997–FY2000, for abandoned infants assistance.

Conference agreement

The Senate recedes.

12. REAUTHORIZATION OF VARIOUS PROGRAMS (SECTION 752)

A. Missing Children's Assistance Act

Present law

The Missing Children's Assistance Act is authorized through FY1996.

House bill

Repeals the Missing Children's Assistance Act (see Item 2, above; however, authorizes appropriations of $7 million for the Attorney General to operate an information clearinghouse and telephone hotline for information on missing children (see Item 1.F, above).

Senate amendment

Extends the authorization for the Missing Children's Assistance Act through FY1997; such sums as necessary are authorized. Provides that the Department of Justice shall use no more than 5 percent of appropriations in a fiscal year to evaluate the program.

Conference agreement

The House recedes.

B. Victims of Child Abuse Act of 1990

Present law

Appropriations are authorized through FY1996 for grants to improve investigation and prosecution of child abuse cases, and for children's advocacy centers, under the Victims of Child Abuse Act.

House bill

Repeals grants to improve investigation and prosecution of child abuse and neglect cases, and children's advocacy centers, under the Victims of Child Abuse Act. (See Item 2, above.)

Senate amendment

Extends the authorization through FY1997, at such sums as necessary, for these two programs under the Victims of Child Abuse Act.

Conference agreement

The House recedes.

13. ADOPTION EXPENSES

A. Refundable Credit for Adoption Expenses

Present law

No provision.

House bill

No provision in H.R. 4, but similar provision in the House-passed H.R. 1215.

Senate amendment

Amends subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, to insert a new section 35, adoption expenses, that would provide a tax credit for expenditures for adoption fees, court costs, attorney fees, and other expenses directly related to a legal and finalized adoption. This dollar-for-dollar tax credit of up to $5,000 per child is reduced for taxpayers with adjusted gross income above $60,000 and is fully phased out at incomes of $100,000. Married couples must file a joint return and the credit is not available for expenditures that contradict State or Federal law. The amendment prohibits double benefits. The amendment will apply to taxable beginning after Dec. 31, 1995.

Conference agreement

This provision has been moved to the tax portion of the Reconciliation Act of 1995 and, if enacted, will provide a tax credit for expenditures for adoption fees, court costs, attorney fees, and other expenses directly related to a legal and finalized adoption. This dollar-for-dollar tax credit of up to $5,000 per child is reduced for taxpayers with adjusted gross income above $75,000 and is fully phased out at incomes of $115,000. The credit is not available for expenditures that contradict State or Federal law. The amendment prohibits double benefits with respect to State and local credits, except in cases of "special children". The amendment will apply to taxable years beginning after Dec. 31, 1995 and allow for carry over of up to five years in the event tax liability does not cover the entire credit during a single year.

B. Exclusion of Adoption Assistance

Present law

No provision.

House bill

No provision.

Senate amendment

Amends part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 by inserting a new section 137, which treats as a tax-free fringe benefit employer-provided adoption assistance benefits, or reimbursement by the employer of qualified adoption expenses, provided the adoptee is physically or mentally incapable of self-care (a "special needs" child). Military adoption assistance benefits for these children also would be free of tax. The amendment will apply to taxable years beginning after Dec. 31, 1995.

Conference agreement

This provision has been moved to the tax portion of the Reconciliation Act of 1995. This provision treats as a tax-free fringe benefit employer-provided adoption assistance benefits of up to $5,000, or reimbursement by the employer of qualified adoption expenses. The amendment will apply to taxable years beginning after Dec. 31, 1995. This benefit is not available if the credit (above) is chosen.

C. Withdrawal from IRA for Adoption Expenses

Present law

No provision.

House bill

No provision.

Senate amendment

Amends subsection (d) of section 408 of the Internal Revenue Code of 1986 to permit tax-free withdrawals from an individual retirement account (IRA) for qualified adoption expenses.

Conference agreement

The Senate recedes.

TITLE VIII. CHILD CARE

1. GOALS (SECTION 802)

Present law

No provision.

House bill

Establishes the following goals as part of the Child Care and Development Block Grant:

(1) to allow each State maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within such State;

(2) to promote parental choice to empower working parents to make their own decision on the child care that best suits their family's needs;

(3) to encourage States to provide consumer education information to help parents make informed choices about child care;

(4) to assist States to provide child care to parents trying to achieve independence from public assistance; and

(5) to assist States in implementing the health, safety, licensing and registration standards established in State regulation.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

2. AUTHORIZATION OF APPROPRIATIONS (SECTION 803)

Present law

The authorization of appropriations expires at the end of FY1995. Appropriations in FY1995 are $935 million; such sums as necessary are authorized. (Sec. 658B of the CCDBG Act.)

(Note: In addition, entitlement funds are available for child care under the AFDC

Child Care, Transitional Child Care, and At-Risk Child Care programs authorized by Title IV-A of the Social Security Act.)

House bill

Authorizes appropriations of $2,093 million for each of FY1996-2000.

(Note: Title I of the House bill repeals the AFDC Child Care, Transitional Child Care, and At-Risk Child Care programs.)

Senate amendment

Authorizes appropriations as follows: $1 billion for FY1996, and such sums as may be necessary for each of FY1997-2000.

(Note: Additional funds are provided for child care under Title I of the Senate amendment, to replace the current AFDC Child Care, Transitional Child Care, and At-Risk Child Care programs—$8 billion over 5 years in direct spending.)

Conference agreement

The conference agreement establishes a single child care block grant and State administrative system by adding mandatory funds to the existing Child Care and Development Block Grant (CCDBG). Specifically, one discretionary and two mandatory streams of funding will be consolidated in a reconstituted CCDBG. The effective date of this title will be October 1, 1996, except for the authorization of discretionary funds, which will be effective upon date of enactment.

The child care funds made available in the Child Care Block Grant total $18 billion over 7 years; $11 billion in mandatory funds ($1.3 billion in FY1997, $1.4 billion in FY1998, $1.5 billion FY1999, $1.7 billion in FY2000, $1.9 billion in FY2001, and $2.05 in FY2002) combined with $1 billion each year (FY1996-FY2002) in discretionary funds.

Each State will receive the amount of funds it received for child care under all of the entitlement programs currently under title IV of the Social Security Act (AFDC Child Care, transitional Child Care, and At-Risk Child Care) in the 1994 fiscal year, or the average amount of funds received for those programs from FY1992 through FY1994, which ever is greater. These programs, combined, provide approximately $990 million in mandatory child care funding for the States.

The mandatory funds remaining after the State allocations based on the child care allotments from previous years will be distributed among the States based on the formula currently used in the title IV-A At-Risk Child Care grant. Specifically, funds will be distributed based on the proportion of the number of children under the age of 13 residing in the State to the number of all of the nation's children under the age of 13. States must provide matching funds in the amount of the FY1994 State Medicaid rate to receive these funds.

If a State does not use its full portion of funds, the remaining portion will be redistributed to the States according to section 402(i) (as such section was in effect before October 1, 1995).

Discretionary funds appropriated for the Child Care Block Grant will be distributed to States based on the current formula for the Child Care and Development Block Grant. This formula utilizes the number of children in low income families and the State per capita income as criteria for the distribution of funds to States. As in current law governing the CCDBG, there is no requirement for the State to provide matching funds to receive an allotment from the discretionary funds appropriated for the Child Care Block Grant (see Table 4 for State allotments over the 7 years of the Block Grant).

Table 4—Estimated total 7-year funding by State under the child care block grant

[In thousands of dollars]

State:	*Amount*
Alabama	328,208
Alaska	45,728
Arizona	305,507
Arkansas	146,212
California	2,005,717
Colorado	202,491
Connecticut	203,659
Delaware	54,264
District of Columbia	45,711
Florida	789,027
Georgia	579,921
Hawaii	66,313
Idaho	75,410
Illinois	680,274
Indiana	359,127
Iowa	151,901
Kansas	171,492
Kentucky	301,154
Louisiana	337,574
Maine	66,441
Maryland	331,868
Massachusetts	447,645
Michigan	522,624
Minnesota	321,275
Mississippi	197,315
Missouri	352,011
Montana	56,602
Nebraska	144,930
Nevada	66,512
New Hampshire	63,772
New Jersey	412,380
New Mexico	156,887
New York	1,110,049
North Carolina	732,212
North Dakota	44,315
Ohio	781,424
Oklahoma	307,398
Oregon	247,540
Pennsylvania	717,854
Rhode Island	73,756
South Carolina	229,794
South Dakota	47,719
Tennessee	452,486
Texas	1,311,075
Utah	194,779
Vermont	49,670
Virginia	346,339
Washington	458,049
West Virginia	140,340
Wisconsin	310,981
Wyoming	40,327
Puerto Rico[1]	190,438
Guam[1]	16,829
Virgin Islands[1]	11,807
Northern Marianas[1]	6,363
Indian Set-Aside	188,500
Total	18,000,000

[1] Discretionary amounts for the territories only.

Source: Table prepared by CRS. Mandatory child care allocations based on the federal share of expenditures in title IV-A programs and Census Bureau estimates (FY1996) and projections (FY1997-2002) of the Population Under 13. Discretionary child care allocations based on DHHS estimates, 2/95. FY1996 amounts for mandatory child care assume: (1) CBO baseline amounts for national totals; and (2) a distribution among the States based on the historical distribution of mandatory funds (average of FY1992-1994 or FY1994 whichever is higher).

3. LEAD AGENCY (SECTION 804)

Present law

Requires the chief executive officer of a State to designate an appropriate State agency to act as the lead agency in administering financial assistance under the Act. (Sec. 658D of the CCDBG Act)

House bill

Changes the term "agency" to "entity."

Senate amendment

Allows the State lead agency to administer financial assistance received under the Act through other "governmental or nongovernmental" agencies (instead of other "State" agencies); requires that "sufficient time and Statewide distribution of the notice" be given of the public hearing on development of the State plan; and strikes language on issues that may be considered during consultation with local governments on development of the State plan.

Conference agreement

The House recedes.

4. APPLICATION AND PLAN (SECTION 805)

Present law

Requires States to prepare and submit to the Secretary an application that includes a State plan. The initial plan must cover a 3-year period, and subsequent plans must cover 2-year periods. Required contents of the plan include designation of a lead agency and policies and procedures regarding parental choice of providers, unlimited parental access, parental complaints, consumer education, compliance with State and local regulatory requirements, establishment of and compliance with health and safety requirements, review of State licensing and regulatory requirements, and supplementation.

In addition, the State plan must provide that funds will be used for child care services, and that 25 percent of funds will be reserved for activities to improve the quality of child care and to increase the availability of early childhood development and before- and after-school child care. (Sec. 658E of the CCDBG Act)

Further, State plans must assure that payment rates will be adequate to provide eligible children equal access to child care as compared with children whose families are not eligible for subsidies, and must assure that the State will establish and periodically revise a sliding fee scale that provides for cost sharing by families that receive child care subsidies.

House bill

Requires the State plan to cover a 2-year period. Requires States to provide a detailed description of procedures to be used to assure parental choice of providers. Changes "provide assurances" to "certify" that procedures are in effect within the State to ensure unlimited parental access to children and parental choice; also requires that the State plan provide a detailed description of such procedures. Changes "provide assurances" to "certify" that the State maintains a record of parental complaints, and requires the State to provide a detailed description of how such a record is maintained and made available. Changes the consumer education part of the State plan to require assurances that the State will collect and disseminate consumer education information. Requires that the State certify that providers comply with State and local health, safety and licensing or regulatory requirements and provide a detailed description of such requirements and how they are enforced. Eliminates current law provisions requiring establishment of and compliance with health and safety requirements, review of State licensing and regulatory requirements, notification to HHS when standards are reduced, and supplementation. Eliminates the requirement that unlicensed providers be registered.

Adds a requirement that a summary of the facts relied upon by the State to determine that payment rates are sufficient to ensure equal access to child care is included in the

State plan. Eliminates the assurance that the State will establish a sliding fee scale. Also provides that funds, other than amounts transferred under section 658T (see Item 14 below), will be used for child care services, activities to improve the quality and availability of such services, and any other activity that the State deems appropriated to realize the goals specified above (see Item 1). Deletes the current law requirement that States reserve 25 percent of funds for activities to improve the quality of child care and to increase availability of early childhood development and before- and after-school care.

Requires States to spend no more than 5 percent on administrative costs.

Senate amendment

Requires the State plan to cover a 2-year period. Replaces the requirement that providers not subject to licensing or regulation be registered with the State, with a requirement that the State implement mechanisms to ensure proper payment to providers. Requires the Secretary to develop minimum standards for Indian tribes and tribal organizations receiving assistance under the Act, in lieu of State or local licensing or regulatory requirements. Eliminates provisions related to reduction in standards and reviews of State licensing and regulatory requirements.

Requires the State plan to describe the manner in which services will be provided to the working poor. Reserves 15 percent of each State's allotment for activities to improve quality of child care, instead of 25 percent for both quality improvement and before- and after-school child care services.

Requires States to spend no more than 5 percent on administrative costs, not including direct service costs. Administrative costs shall not include direct service costs.

Conference agreement

The Senate recedes, with a modification that the States must certify that they have licensing standards for child care. The Secretary must develop minimum standards for Indian tribes and tribal organizations receiving assistance under this Act, in lieu of State or local licensing or regulatory requirements. At least 70 percent of the mandatory funding must be used to provide child care for children in families who are receiving welfare, working their way off welfare, or at risk of becoming welfare dependent. A substantial portion of the discretionary funding for child care authorized under this Act is intended to be used for low-income working families who are not working their way off welfare or at risk of becoming welfare dependent. The State plan must demonstrate how the State is meeting the specific needs of each of these populations.

5. LIMITATION ON STATE ALLOTMENTS (SECTION 806)

Present law

Prohibits the use of funds for purchase or improvement of land or buildings, except in the case of sectarian agencies or organizations that need to make renovations or repairs in order to comply with specific health and safety requirements that States are required to establish. (Sec. 658F of the CCDBG Act)

House bill

Amends section 658F to make a conforming amendment referring to the elimination of specific health and safety requirements.

Senate amendment

No provision (maintains current law).

Conference agreement

The Senate recedes, with a modification that this Act prohibit the use of funds for purchase or improvement of land or buildings except for Indian tribes or tribal organizations. Indian tribes and tribal organizations may use funds for construction or renovation of facilities, upon the request by the tribe or tribal organization and subject to the approval by the Secretary.

6. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE (SECTION 807)

Present law

As stated above, 25 percent of State allotments must be reserved for activities to improve child care quality and to increase the availability of early childhood development and before- and after-school child care (see Item 1.D above). Section 658G specifies how these funds are to be used. Of reserved funds, States are required to use no less than 20 percent for activities to improve the quality of care, including resource and referral programs, grants or loans to assist providers in meeting State and local standards, monitoring of compliance with licensing and regulatory requirements, training of child care personnel, and improving compensation for child care personnel. (Sec. 658G of the CCDBG Act)

House bill

Repeals the requirement that 25 percent of funds be set aside for quality improvement activities (see Item 5 above). Repeals section 658G regarding the use of these set-aside funds.

Senate amendment

As stated above, reduces quality improvement set-aside to 15 percent (see Item 5 above). Amends section 658G to require States to use their quality improvement set-aside for resource and referral activities, including "providing comprehensive consumer education to parents and the public, referrals that honor parental choice, and activities designed to improve the quality and availability of child care," and for one or more "other activities," which include those listed in the current section 658G, plus activities to increase the availability of before- and after-school care, infant care, and child care between the hours of 5:00 p.m. and 8:00 a.m.

Adds new language to prohibit States from discriminating against providers that wish to participate in resource and referral systems even if they are exempt from State licensing requirements as long as they are operating legally within the State.

Conference agreement

The Senate recedes, with a modification that States retain at least a 3 percent set-aside of the total mandatory and discretionary funding received for child care under this Act for activities designed to provide comprehensive consumer education to parents and the public, activities that increase parental choice, and activities designed to improve the quality and availability of child care, such as resource and referral services.

The House recedes, with a modification to limit the amount of total child care funds made available under this Act of administrative costs to 3 percent. Administrative cost shall not include direct service costs.

7. EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL CARE REQUIREMENT (SECTION 808)

Present law

Requires States to use no less than 75 percent of funds reserved for quality improvement for activities to expand and conduct early childhood development programs and before- and after-school child care. (Sec. 658H of the CCDBG Act)

House bill

Repeals section 658H.

Senate amendment

Repeals section 658H.

Conference agreement

The House and Senate concur.

8. ADMINISTRATION AND ENFORCEMENT (SECTION 809)

Present law

Requires the Secretary of Health and Human Services (HHS) to coordinate HHS and other Federal child care activities, to collect and publish a list of State child care standards every 3 years, and to provide technical assistance to States. Requires the Secretary to review, monitor, and enforce compliance with the Act and the State plan by withholding payments and imposing additional sanctions in certain cases. (Sec. 658I of the CCDBG Act)

House bill

Deletes the requirement that the Secretary of HHS collect and publish a list of child care standards every 3 years. Maintains current law for repayment.

Senate amendment

Strikes the current law requirement that the Secretary withhold further payments to a State in case of a finding of noncompliance until the noncompliance is corrected. Instead, authorizes the Secretary, in such cases, to impose additional program requirements on the State, such as a requirement that the State reimburse the Secretary for any improperly spent funds, or the Secretary may deduct from the administrative portion of the State's subsequent allotment an amount equal to or less than the misspent funds, or a combination of such options. The amendment also strikes sections related to additional sanctions and notice of such additional sanctions.

Conference agreement

The House recedes, with a modification that the Secretary may not impose additional program requirements on the State for improperly spent funds, and that the Secretary shall deduct misspent funds from subsequent State administrative allotments.

9. PAYMENTS (SECTION 810)

Present law

Provides that payments received by a State for a fiscal year may be expended in that fiscal year or in the succeeding 3 fiscal years. (ec. 658J of the CCDBG Act)

House bill

Provides that payments received by a State for a fiscal year may be obligated in the fiscal year received or the succeeding fiscal year, instead of expended in the fiscal year received or the succeeding 3 fiscal years.

Senate amendment

No provision (maintains current law).

Conference agreement

The Senate recedes.

10. ANNUAL REPORT AND AUDITS (SECTION 811)

Present law

Requires each State to prepare and submit to the Secretary every year a report: specifying how funds are used; presenting data on the manner in which the child care needs of families in the State are being fulfilled, including information on the number of children served, child care programs in the State, compensation provided to child care staff, and activities to encourage public-private partnerships in child care; describing the extent to which affordability and availability of child care has increased; summarizing findings from a review of State licensing and regulatory requirements, if applicable; explaining any action taken by the State to reduce standards, if applicable; and describing standards and health and safety requirements applied to child care providers in the State, including a description of efforts to improve the quality of child care. (Sec. 658K of the CCDBG Act)

House bill

Changes the title of the section from "Annual Report and Audits" to "Annual Report, Evaluation Plans, and Audits." Changes required data elements in annual reports to include:

(1) the number and ages of children being assisted with funds provided under this subchapter;

(2) with respect to the families of such children:

—the number of other children in such families;

—the number of such families that include only 1 parent;

—the number of such families that include both parents;

—the ages of the mothers of such children;

—the ages of the fathers of such children;

—the sources of the economic resources of such families, including the amount of such resources obtained from (and separately identified as being from)—

a. employment, including self-employment;

b. assistance received under part A of title IV of the Social Security Act (SSA);

c. part B of title IV of the SSA;

d. the Child Nutrition Act of 1966;

e. the National School Lunch Act;

f. assistance received under title XVI of the SSA;

g. assistance received under title XVI of the SSA;

h. assistance received under title XIX of the SSA;

i. assistance received under title XX of the SSA; and

j. any other source of economic resources the Secretary determines to be appropriate;

(3) the number of such providers separately identified with respect to each type of child care provider specified in section 658P(5) that provided child care services obtained with assistance provided under this subchapter;

(4) the cost of child care services and the portion of such cost paid with assistance from this Act;

(5) the manner in which consumer education information was provided to parents and the number of parents to whom such information was provided;

(6) the number of parental complaints about child care that were found to have merit and a description of corrective actions taken by the State; and

(7) information on programs to which funds were transferred under section 648T (see item 15, below).

States are also required to present evidence demonstrating that they have state requirements designed to protect the health and safety of children.

Deletes current report requirements on: (1) increasing the affordability and availability of child care; (2) reviewing findings on State licensing and regulatory requirements; and (3) reducing standards.

Requires States to include an evaluation plan in their first annual report due after enactment and every 2 years thereafter, and to include the results of such evaluation in the second annual report due after enactment and every 2 years thereafter. The plan must include an evaluation regarding the extent to which the State has realized the following goals:

(1) promoting parental choice to make their own decisions on the child care that best suits their family's needs;

(2) providing consumer education information to help parents make informed choices about child care;

(3) providing child care to parents trying to achieve independence from public assistance; and

(4) implementing the health, safety, licensing, and registration standards established in State regulations.

Senate amendment

Requires States to submit reports every 2 years, rather than every year, with the first report due no later than December 31, 1996. Requires that States include information on the type of Federal child care and preschool programs serving children in the State, and requires that States describe the extent and manner to which resource and referral activities are being carried out by the State. Strikes the current requirement for information on the type and number of child care programs, providers, caregivers and support personnel in the State, and strikes the provision related to review findings of State licensing and regulatory requirements.

Conference agreement

The Senate recedes, with a modification that the State prepare and submit a data report to the Secretary every six months, and that the report include the following information on each family receiving assistance:

(1) family income;

(2) county of residence;

(3) the sex, race, age of children receiving benefits;

(4) whether the family includes only one parent;

(5) the sources of family income, including the amount obtained from (and separately identified as being from): (a) employment, including self-employment; (b) Part A cash assistance or other assistance; (c) housing assistance; (d) food stamps; and (e) other;

(6) the number of months the family has received benefits;

(7) the type of care in which the child was enrolled (family day care, center, own home);

(8) whether the provider was a relative;

(9) the cost of care; and

(10) the average hours per week of care.

Annually, the State must submit the following aggregate data:

(1) the number of providers separately identified in accord with each type of provider specified in section 658P(5) that received funding under this subchapter;

(2) the monthly cost of child care services and the portion of such cost paid with assistance from this Act by type of care;

(3) the number and total amount of payments by the State in vouchers, contracts, cash, and disregards from public benefit programs by type of care;

(4) the manner in which consumer education information was provided; and

(5) total number (unduplicated) of children and families served.

The House recedes on the requirement that States include an evaluation plan in their reports to the Secretary.

Conferees agree to delete current report requirements on: (1) increasing the affordability and availability of child care; (2) reviewing findings on State licensing and regulatory requirements; and (3) reducing standards.

11. REPORT BY THE SECRETARY (SECTION 812)

Present law

Requires the Secretary to prepare and submit an annual report, summarizing and analyzing information provided by States, to the House Education and Labor Committee and the Senate Labor and Human Resources Committee. This report must contain an assessment and, where appropriate, recommendations to Congress regarding efforts that should be taken to improve access of the public to quality and affordable child care. (Sec. 658L of the CCDBG Act)

House bill

Revises the Secretary's report to become a biennial report to the Speaker of the House and the President pro tempore of the Senate.

Senate amendment

Requires the Secretary to prepare and submit biennial reports, rather than annual, with the first report due no later than July 31, 1997; and replaces the reference to the House Education and Labor Committee with the House Economic and Educational Opportunities Committee.

Conference agreement

The House recedes.

12. ALLOTMENTS (SECTION 813)

Present law

Requires the Secretary to reserve one-half of 1 percent of appropriations for payment to Guam, American Samoa, the Virgin Islands, the Northern Marianas and the Trust Territory of the Pacific Islands. The Secretary also must reserve no more than 3 percent for payment to Indian tribes and tribal organizations with approved applications. Remaining funds are allocated to the States based on the States' proportion of children under age 5 and the number of children receiving free or reduced-price school lunches, as well as the States' per capita income. Any portion of a State's reallotment that the Secretary determines is not needed by the State to carry out its plan for the allotment period, must be reallotted by the Secretary to the other States in the same proportion as the original allotments. (Sec. 658O of the CCDBG Act)

House bill

Maintains the current law set-asides for the Territories and Indian tribes and tribal organizations, except that the Trust Territory of the Pacific Islands is deleted from the set-aside for Territories. Allots remaining funds to States as follows: each State will receive an amount based on its relative share of the aggregate amount of Federal funds received by the State in FY1994 under the Child Care and Development Block Grant Act, and under child care programs for AFDC recipients and former AFDC recipients and the At-Risk Child Care program under Title IV–A of the Social Security Act. Eliminates reallotment provisions.

Senate amendment

Maintains current law allotment procedures. Amends section 658O(c), related to payments for the benefit of Indian children, to add new provisions allowing the use of funds by Indian tribes or tribal organizations for construction or renovation of facilities, upon request by the tribe or tribal organization and subject to approval by the Secretary. The Secretary may not permit a tribe or tribal organization to use funds for construction or renovation if such use will result in a decrease in the level of child care services. The Secretary is also allowed to reallot to other tribes any tribal allotments that are not expended, which is similar to what happens with unused State allotments.

Conference agreement

The Senate recedes, with a modification that the set-aside for Indian tribes and tribal organizations and Native Hawaiian Organizations is 1 percent of the total funds for child care made available under this Act. Any portion of a State's allotment that the Secretary determines is not needed by the State to carry out its plan for the allotment period must be realloted by the Secretary to the other States in the same proportion as the original allotments. The Secretary is also allowed to reallot to other tribes any tribal allotments that are expended, which is similar to the process for reallotment to States.

13. DEFINITIONS (SECTION 814)

Present law

Provides definitions of the following terms: caregiver, child care certificate, elementary school, eligible child, eligible child care provider, family child care provider, Indian tribe, lead agency, parent, secondary school, Secretary, sliding fee scale, State, and tribal organization. (Sec. 658P of the CCDBG Act)

House bill

Includes definitions for lead entity and child care services, and strikes definitions for elementary school, secondary school, and sliding fee scale.

Senate amendment

Revises the definition of eligible child to one whose family income does not exceed 100 percent of the State median, instead of 75 percent.

Adds the following as an allowable use of a child care certificate: "as a deposit for child care services if such a deposit is required of other children being cared for by the provider."

Revises the definition of relative child care provider by: adding great grandchild and sibling (if the provider lives in a separate residence) to the list of eligible children; striking the requirement that such providers be registered: and requiring such providers to comply with any "applicable" requirements govern child care provided by a relative.

Conference agreement

The House recedes, with a modification that strikes the definition for elementary and secondary school and revises the definition of eligible child to one whose family income does not exceed 85 percent of the State median income.

14. TRANSFER OF FUNDS

Present law

No provision.

House Bill

Adds a new section 658T to the CCDBG Act, allowing a State to transfer no more than 20 percent of CCDBG funds to one or more of the following programs:

1. Part A of Title IV of the Social Security Act;
2. Part B of Title IV of the Social Security Act;
3. Child Nutrition Act of 1966;
4. National School Lunch Act; and
5. Title XX of the Social Security Act.

Transfer funds would be subject to the rules of the program to which they are transferred.

Senate amendment

States can transfer up to 30 percent of their cash assistance block grant (title IV-A) into the CCDBG.

Conference agreement

The House recedes; no funds can be transferred out of the Child Care and Development Block Grant (although funds could be transferred into the CCDBG from other block grants).

15. APPLICATION TO OTHER PROGRAMS

Present law

No provision.

House bill

No provision.

Senate amendment

Adds a new section 658T to the CCDBG Act, that requires States that use any Federal funds for child care services to ensure that such services meet the requirements, standards and criteria, with the exception of the 15 percent quality set-aside, of the CCDBG and any regulations issued under the CCDBG. These funds must be administered through a uniform State plan and, to the maximum extent practicable, shall be transferred to the lead agency and integrated into the CCDBG program.

Conference agreement

The Senate recedes (no provision).

16. REPEALS AND TECHNICAL AND CONFORMING AMENDMENTS (SECTION 815)

Present law

Not applicable.

House bill

Repeals the following programs:

(1) Child Development Associate (CDA) Scholarship Assistance;

(2) State Dependent Care Development Grants;

(3) Programs of National Significance under Title X of the Elementary and Secondary Education Assistance Act of 1965 (child care related to Cultural Partnerships for At-Risk Children and Youth, and Urban and Rural Education Assistance); and

(4) Native-Hawaiian Family-Based Education Centers.

(Note: Title I of the House bill also repeals child care assistance provided under current law by Title IV-A of the Social Security Act. This assistance is provided under 3 programs known as AFDC Child Care, Transitional Child Care, and At-Risk Child Care.)

Senate amendment

Repeals CDA Scholarship Assistance and State Dependent Care Development Grants.

Requires the Secretary of HHS, after consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, to prepare and submit to Congress, within 6 months after enactment, a legislative proposal containing technical and conforming amendments that reflect the amendments and repeals made by this Act.

(Note: Title I of the Senate amendment also earmarks and provides additional funds for child care, to replace the AFDC Child Care, Transitional Child Care, and At-Risk Child Care programs.)

Conference agreement

The Senate recedes.

TITLE IX. CHILD NUTRITION

1. CHILD NUTRITION ACT OF 1966

Present law

Authorizes the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), the School Breakfast program, the Special Milk program, assistance to States for child nutrition administrative expenses and nutrition education and training, and school breakfast assistance for Defense Department overseas dependents' schools.

The WIC program provides specific nutritious foods to lower-income pregnant, postpartum, and breastfeeding women, and infants and children (up to age 5). Recipients' family income must be below 185% of Federal poverty guidelines, and they must be judged at nutritional risk. Federal funds, set by appropriation levels, are made available to State health agencies under a formula. States then provide funds to local health agencies, which are responsible for day-to-day operations. Funds also are used for food, nutrition assessments and counselling, referrals to other programs, breastfeeding promotion, and a farmers' market program. [Sec. 17 and 21 of the Child Nutrition Act]

Under the School Breakfast program, schools choosing to participate in the program receive per-meal Federal cash subsidies for all breakfasts they serve that meet Federal nutrition standards. Subsidies are indexed annually for inflation and differ depending on whether the meal is served free (to children from families with income below 130% of poverty), at a reduced price (to children with family income between 130% and 185% of poverty), or at "full price" (so-called "paid" meals for those with family income above 185% of poverty or who do not apply for free or reduced-price meals). Schools with high proportions of lower-income students get larger per-meal subsidies, and special grants are provided to assist in paying start-up and expansion costs. [Sec. 4 of the Child Nutrition Act]

Under the Special Milk program, schools and institutions not otherwise participating in a meal service program (and schools with split sessions for kindergartners) provide milk to all children at a low price or free, and each half-pint served is federally subsidized at a different rate—depending on whether it is served free or not. Provision of free milk is not required. [Sec. 3 of the Child Nutrition Act]

Under the State administrative expense assistance program, grants are made to States to help cover administrative costs associated with child nutrition programs. The amount available each year is 1.5% of Federal cash payments for School Lunch, School Breakfast, Child and Adult Care Food, and Special Milk programs. [Sec. 7 of the Child Nutrition Act]

For nutrition education and training, States are provided with Federal funds for training school food service personnel in food service management, instructing teachers in nutrition education, and teaching children about nutrition. [Sec. 19 of the Child Nutrition Act]

Social provisions are made for Federal assistance for school breakfast programs in Defense Department overseas dependents' schools. [Sec. 20 of the Child Nutrition Act]

House bill

Retains the designation of the Act as the Child Nutrition Act of 1966 and replaces the Act's current provisions with authorization for a Family Nutrition Block Grant Program.

Senate amendment

No comparable provisions.

Conference agreement

House recedes with an amendment to streamline provisions in the Child Nutrition Act of 1966. The following changes are intended to streamline the operation of programs under the Child Nutrition Act.

1. Strike Sec. 4(e)(1)(B) to eliminate training and technical assistance in food preparation. [Sec. 923]

2. Strike Sec. 4(f) and 4(g) to eliminate school breakfast expansion and start-up provisions. [Sec. 923]

3. Strike Sec. 7(e) to eliminate provision allowing States to use a portion of SAE funds for commodity distribution administration. [Sec. 924]

4. Revise Sec. 7(f) to provide that, after submission of an initial State plan, States are only required to submit substantive changes for approval. [Sec. 924]

5. Strike Sec. 7(h) to eliminate requirement on State to participate in Agricultural studies. [Sec. 924]

6. Strike Sec. 10(b)(2), Sec 10(b)(3) and Sec. 10(b)(4) to eliminate provisions on model competitive food language. [Sec. 925]

7. Change the provision that allows the Secretary to establish regulations providing for transfers of funds to require such regulations. This language is intended to require the Secretary to issue regulations that allow the transfer of funds on the basis of an approved State plan. It is not intended to require the Secretary to allow all States to transfer funds. [Sec. 925]

8. Strike Sec. 11(a) to eliminate the bar against States imposing curriculum or instruction requirements on school. [Sec. 926]

9. Strike Sec. 15(3)(C) to eliminate an out-of-date provision referring to Puerto Rico's special child care food program's use of schools. [Sec. 927]

10. Strike Sec. 16(a) to eliminate the requirement that accounts and records be available "at all times" and insert "at any reasonable time." [Sec. 928]

11. Revise Sec. 17(b)(15)(iii) to add limit on temporary residence of "90 days" to the definition of homeless. [Sec. 929(a)]

12. Strike 17(b)(15)(C) to eliminate the requirement for the provision of drug abuse and education materials from the definition of "Drug Abuse Education." [Sec. 929(a)]

13. Strike Sec. 17(c)(5) to eliminate the Secretary's promotion of WIC. [Sec. 929(b)]

14. Revise Sec. 17(d)(2)(A)(ii)(II) to make a conforming change with respect to the reference to AFDC.

15. Strike Sec. 17(d)(4) to eliminate provision for reports by the Secretary and the National Advisory Council. [Sec. 929(c)]

16. Revise Sec. 17(e)(1) to "allow" agencies to provide for drug abuse education. [Sec. 929(d)]

17. Revise Sec. 17(e)(2) to eliminate provision regarding evaluation of nutrition education/breastfeeding promotion. [Sec. 929(d)]

18. Revise Sec. 17(e)(4) to provide that States "may" provide local agencies with information materials on other programs for which WIC recipients may be eligible. [Sec. 929(d)]

19. Revise Sec. 17(e)(5) to provide that local agencies "may" make available information on substance abuse counseling and treatment. [Sec. 929(d)]

20. Strike Sec. 17(e)(6) to eliminate provision for "master file" information requirement for provision of nutrition education. [Sec. 929(d)]

21. Revise Sec. 17(f)(1)(A) to require that only substantive changes in the State plan be submitted annually. [Sec. 929(e)]

22. Revise Sec. 17(f)(1)(C)(iii) to provide that State agencies are required to submit a plan to coordinate with other services or programs that might benefit WIC applicants.. [Sec. 929(e)]

23. Revise Sec. 17(f)(1)(C)(vi) to require State agencies to submit a plan to improve access to the program for participants and prospective applicants who are employed, or who reside in rural areas. [Sec. 929(e)]

24. Strike Sec. 17(f)(1)(C)(vii) to eliminate requirement that State agencies submit plans to provide services to those most in need. [Sec. 929(e)]

25. Strike Sec. 17(f)(1)(C)(ix) to eliminate requirement that State agencies submit plans to provide services to those in prison. [Sec. 929(e)]

26. Strike Sec. 17(f)(1)(C)(x) Incorporates language into clause (ii). [Sec. 929(e)]

27. Strike Sec. 17(f)(1)(C)(xii) to eliminate provision for conversion of competitive bidding savings. [Sec. 929(e)]

28. Strike Sec. 17(f)(1)(C)(xiii) to eliminate requirement to State agencies to submit additional information as the Secretary may reasonably require. [Sec. 929(e)]

29. Strike Sec. 17(f)(1)(D) Technical and conforming. [Sec. 929(e)]

30. Strike Sec. 17(f)(2) to eliminate requirement for State procedures for general public comments on the State plan. [Sec. 929(e)]

31. Revise Sec. 17(f)(5) to provide that accounts and records be available at any "reasonable time." [Sec. 929(e)]

32. Strike Sec. 17(f)(6) Technical and conforming (notification of eligibility/ineligibility). [Sec. 929(e)]

33. Strike Sec. 17(f)(8) to eliminate State agency publicity/information requirements. [Sec. 929(e)]

34. Revise Sec. 17(f)(9)(B) to eliminate specific notice requirements. [Sec. 929(e)]

35. Revise Sec. 17(f)(11) to eliminate requirements regarding State staffing standards. [Sec. 929(e)]

36. Revise Sec. 17(f)(12) to eliminate provisions dealing with products specifically designed for WIC recipients. [Sec. 929(e)]

37. Revise Sec. 17(f)(14) to provide that the Secretary "may" provide education in languages other than English. [Sec. 929(e)]

38. Revise Sec. 17(f)(17) to eliminate provisions dealing with incarcerated individuals. [Sec. 929(e)]

39. Revise Sec. 17(f)(19) to provide that the Secretary "may" provide information about other potential sources of information. [Sec. 929(e)]

40. Strike Sec. 17(f)(20) to eliminate requirement for State policies on those who do not fulfill appointment schedules. [Sec. 929(e)]

41. Strike Sec. 17(f)(22) Obsolete. [Sec. 929(e)]

42. Strike Sec. 17(f)(24) Obsolete. [Sec. 929(e)]

43. Revise Sec. 17(g)(5) Technical and conforming. [Sec. 929(f)]

44. Strike Sec. 17(g)(6) Obsolete. [Sec. 929(g)]

45. Strike Sec. 17(h)(8)(A). Obsolete. [Sec. 929(g)]

46. Strike Sec. 17(h)(8)(C). Obsolete. [Sec. 929(g)]

47. Strike Sec. 17(h)(8)(G)(ii)–(ix) to eliminate specific provisions as to how the Secretary solicits bids. Insert a new clause (ii) to "grandfather" existing contracts. [Sec. 929(g)]

48. Revise Sec. 17(h)(8)(I), striking all but clause (v), which relates to funds for cost containment innovations. [Sec. 929(g)]

49. Strike Sec. 17(h)(8)(M) to eliminate requirement for product code pilot projects. [Sec. 929(g)]

50. Strike Sec. 17(h)(10) to change from "shall" to "may" the requirement for infrastructure development and breastfeeding promotion funding. [Sec. 929(g)]

51. Revise Sec. 17(k)(3) providing that the council shall elect a Chairman and a Vice-Chairman. [Sec. 929(h)]

52. Strike Sec. 17(n). Obsolete. [Sec. 929(i)]

53. Strike Sec. 17(o) to eliminate community college demonstration. [Sec. 929(i)]

54. Strike Sec. 17(p) to eliminate authorization to make grants for information/data systems. [Sec. 929(i)]

55. Strike Sec. 18 to eliminate unused authority for cash grants for nutrition education. [Sec. 930]

56. Revise Sec. 19(a) to modify language concerning Congressional findings about nutrition education and training. [Sec. 931(a)]

57. Revise Sec. 19(b) to modify language regarding purpose of nutrition education and training. [Sec. 931(a)]

58. Revise Sec. 19(f)(1)(A), striking clauses (ix)–(xix), eliminating unnecessary stipulations on uses of funds. [Sec. 931(b)]

59. Strike Sec. 19(f)(1)(B) to eliminate "language appropriate" information provision. [Sec. 931(b)]

60. Strike Sec. 19(f)(2) and 19(f)(4). Technical and conforming. [Sec. 931(b)]

61. Revise Sec. 19(g)(1) to provide that accounts and records shall be available at any "reasonable time." [Sec. 931(c)]

62. Revise Sec. 19(h)(1) to eliminate paragraph cross-references. Technical and conforming. [Sec. 931(d)]

63. Revise Sec. 19(h)(2), striking all but the first sentence to eliminate language concerning assessment of nutrition education and training needs. [Sec. 931(d)]

64. Revise Sec. 19(h)(3) to eliminate specific requirements with regard to nutrition coordinator's duties. [Sec. 931(d)]

65. Revise Sec. 19(i), to make the Nutrition Education and Training program discretionary instead of mandatory and authorize appropriations of $10 million per year. [Sec. 931(e)]

66. Strike Sec. 19(J) to eliminate requirement for Secretarial assessment of nutrition education and training. [Sec. 931(e)]

67. Repeal Sec. 21. [Sec. 932]

68. Insert, at the end of the Act, subsection (n), to disqualify approved vendors that are disqualified from accepting benefits under the food stamp program. [Sec. 929(j)]

2. AUTHORIZATION FOR FAMILY NUTRITION BLOCK GRANT

A. Requirement for Grants

Present law

The Child Nutrition Act (see item 1) and the National School Lunch Act (see item 11) require that the Secretary of Agriculture provide Federal assistance to States for the WIC, Child and Adult Care Food Summer Food Service, and Special Milk programs, as well as other support (e.g., for State administrative expenses and nutrition education and training), under terms of agreements with States meeting Federal standards.

House bill

Directs the Secretary of Agriculture to provide to each State that submits an annual application in accordance with the revised Child Nutrition Act's requirements (see item 4) an annual family nutrition grant for the purpose of achieving the goals of the Family Nutrition Block Grant Program (see item 2B for the program's goals and item 3 for State allotments).

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment making changes to Child Nutrition Act (see Item #1).

B. Goals

Present law

The Child Nutrition Act declares it the policy of Congress to extend, expand, and strengthen child nutrition programs as a measure to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of agricultural commodities by assisting States through grants and other means to more effectively meet children's nutritional needs. [Sec. 2 of the Child Nutrition Act]

House bill

Establishes the goals of the Family Nutrition Block Grant Program:

(1) to provide nutritional risk assessments, food assistance based on the assessments, and nutrition education and counseling to economically disadvantaged pregnant, postpartum, and breastfeeding women, as well as infants and young children, determined to be at nutritional risk (see item 10 for definitions);

(2) to provide nutritional risk assessments of participating women so that food assistance and nutrition education is provided that meets their specific needs;

(3) to provide nutrition education to participating women to increase their awareness of the foods needed for good health;

(4) to provide food assistance, including nutritious supplements, to participating women in order to reduce the incidence of low-birthweight babies and babies born with birth defects because of nutritional deficiencies;

(5) to provide food assistance, including nutritious supplements, to participating women, infants, and children to ensure their future good health;

(6) to ensure that participating women, infants, and children are referred to other health services, including routine pediatric/obstetric care;

(7) to ensure that children from economically disadvantaged families in day care facilities, family day care homes, homeless shelters, settlement houses, recreational centers, Head Start centers, Even Start programs, and facilities for disabled children receive nutritious meals, supplements, and low-cost milk (see item 10B for definition of "economically disadvantaged"); and

(8) to provide summer food service programs for children from economically disadvantaged families when school is not in session (see item 10B for definition of "economically disadvantaged").

Senate amendment

No provision.

Conference agreement

Senate recedes with an amendment making changes to the Child Nutrition Act (see Item #1).

C. Timing of Payments

Present law

No provision.

House bill

Directs that the Secretary of Agriculture make family nutrition grant payments to the States on a quarterly basis.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment making changes to the Child Nutrition Act (see Item #1).

3. ALLOTMENT OF FAMILY NUTRITION BLOCK GRANT

Present law

Current activities that may be funded under the House bill's Family Nutrition Block Grant include those now supported by the WIC program, the Homeless Children Nutrition program (authorized under section 17B of the National School Lunch Act), the Child and Adult Care Food program (authorized under section 17 of the National School Lunch Act), the Summer Food Service program (authorized under section 13 of the National School Lunch Act), and the Special Milk program.

Under the WIC program, Federal funds, determined by appropriations levels, are made available to States under a formula that reflects State caseloads, food cost inflation, need (as evidenced by poverty and health indices) and a specified national average per participant grant; in effect, funds are allotted so that each State can maintain its caseload from year to year, and extra money is shared so as to support expanded enrollment in States with greater need.

Under the Homeless Children Nutrition program, Federal funds are made available to existing projects to continue operations and, from any additional amounts, money is provided for new projects or to expand existing projects.

Under the Child and Adult Care Food program, child and adult care centers and family day care homes receive Federal reimbursements for each meal or supplement served at legislatively established, inflation indexed rates.

Under the Summer Food Service program, sponsors receive Federal reimbursements for each meal or supplement served, at legislatively established, inflation indexed rates.

Under the Special Milk program, schools and other participating institutions receive specified, inflation indexed Federal reimbursements for each half-pint of milk served.

House bill

As set forth below, provides for the Secretary of Agriculture to make State allotments of any appropriations for the Family Nutrition Block Grant.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment making changes to Child Nutrition Act (see Item #1).

A. First Year State Allotments

Present law

No provisions.

House bill

For the first fiscal year in which grants are made, provides that the Secretary make allotments to States based on the proportion of funds each State received under prior law for the preceding fiscal year.

Base-year State shares.—Each State's allotment would be its prior-year share of funds received under the WIC and Homeless Children Nutrition programs, plus its prior-year share of 87.5% of the amounts received under the Child and Adult Care Food, Summer Food Service, and Special Milk programs.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment making changes to Child Nutrition Act (see Item #1).

B. Second Year State Allotments

Present law

No provision.

House bill

For the second fiscal year in which grants are made, provides that (1) 95% of the amount appropriated be allotted according to each State's share of the amount allotted in the first year and (2) 5% of the amount allotted be based on each State's share of the number of individuals receiving assistance under the grant during the 1-year period ending the preceding June 30.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment making changes to Child Nutrition Act (see item 1).

C. Third and Fourth Year State Allotments

Present law

For the third and fourth fiscal years in which grants are made, provides that (1) 90% of the amount appropriated be allotted according to each State's share of the amount allotted in the preceding year and (2) 10% of the amount allotted be based on each State's share of the number of individuals receiving assistance under the grant during the 1-year period ending the preceding June 30.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment making changes to Child Nutrition Act (see item 1).

D. Fifth Year State Allotments

Present law

No provision.

House bill

For the fifth fiscal year in which grants are made, provides that (1) 85% of the amount appropriated be allotted according to each State's share of the amount allotted in the fourth year and (2) 15% of the amount allotted be based on each State's share of the number of individuals receiving assistance under the grant during the 1-year period ending the preceding June 30.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment making changes to Child Nutrition Act (see item 1).

4. APPLICATION FOR FAMILY NUTRITION GRANTS

Present law

Nutrition requirements for food assistance provided under the current WIC, Child and Adult Care Food, and Summer Food Service programs are established by the Secretary of Agriculture, as are the general standards for determining nutritional risk in women, infants, and children, on the basis of tested nutritional research. [Sec. 17(b)(8) & (14) and (f)(12) of the Child Nutrition Act; Sec. 17(g)(1) and Sec. 13(f) of the National School Lunch Act]

The use/disclosure of information obtained from applications for free/reduced-price meals is limited to those administering/enforcing child nutrition programs, administrators of other health or education programs (with restrictions), and the General Accounting Office and law enforcement officials. [Sec. 9(b)(2) of the National School Lunch Act]

House bill

Provides that the Secretary make a family nutrition grant to a State if it submits an application containing only the following:

(1) an agreement that the State will use the grant in accordance with Family Nutrition Block Grant program requirements (see item 5);

(2) an agreement that the State will set minimum nutrition requirements for food assistance provided under the grant based on the most recent tested nutrition research

available (but the requirements may not prohibit the substitution of foods to accommodate medical or other special dietary needs, and would have to be based, at a minimum, on the weekly average nutrient content of school lunches or other standards set by the State);

(3) an agreement that, with respect to assistance to pregnant, postpartum, and breastfeeding women, and infants and children, the State will implement minimum nutrition requirements based on the most recent tested nutritional research available or the model nutrition standards developed by the National Academy of Sciences (see item 8B);

(4) an agreement that the State will take reasonable steps it deems necessary to restrict the use and disclosure of information about those receiving assistance under the grant;

(5) an agreement that the State will not use more than 5% of its grant for administrative costs incurred to provide assistance (costs associated with nutritional risk assessments of pregnant, postpartum, and breastfeeding women, and infants and children, as well as those associated with nutrition education and counseling for these individuals, would not be considered administrative costs subject to the 5% limit); and

(6) an agreement that the State will submit an annual report to the Secretary (see item 6).

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment making changes to Child Nutrition Act (see item 1).

5. USE OF AMOUNTS PROVIDED UNDER THE FAMILY NUTRITION BLOCK GRANT

A. Activities Supported

Present law

The WIC program provides nutritional risk assessment, specific nutritious foods (under Federal guidelines), nutrition education/counseling, breastfeeding support, and a farmers' market program for lower-income pregnant, postpartum, and breastfeeding women, as well as infants and children (up to age 5). Recipients' family income must be below 185% of poverty, and they must be judged at nutritional risk. [Sec. 17 of the Child Nutrition Act]

The Special Milk program provides Federal reimbursement for each half-pint of milk served in schools and other child care institutions not participating in a meal service program (and schools with split sessions for kindergartners). Milk is served at a low price or for free and each half-pint is subsidized at a different rate depending on whether it is served free or not. Provision of free milk is not required. [Sec. 3 of the Child Nutrition Act]

The Child and Adult Care Food program provides Federal per-meal/supplement reimbursements for all meals and supplements served in public and private nonprofit child care centers, public and private nonprofit adult day care centers, certain for-profit child and adult day care centers, and family day care homes. Reimbursements for meals/supplements served in child/adult care centers differ according to whether they are served free (to children from families with income below 130% of Federal poverty guidelines), at a reduced price (to children with family income between 130% and 185% of the poverty guidelines), or at "full price" (so-called "paid" meals and supplements for those with family income above 185% of poverty or who do not apply for free or reduced price meals/supplements). Reimbursements for meals and supplements served in family day care homes do not vary by the family income of the child, and sponsors of family day care homes receive monthly payments for administrative costs. [Sec. 17 of the National School Lunch Act]

The Summer Food Service program provides Federal per meal/supplement reimbursements for all summer meals and supplements served through public and private nonprofit sponsors (including schools and local governments) to children in areas where 50% or more have family income below 185% of the Federal poverty guidelines (are eligible for free or reduced-price school meals). Summer food service subsidies also are provided to public and private nonprofit summer camps and higher education institutions in the National Youth Sports program. [Sec. 13 of the National School Lunch Act]

The Homeless Children Nutrition program grants funds to public and private nonprofit sponsors providing food service (meals and supplements), similar to that provided under the Child and Adult Care Food program, to homeless children under age 6 in shelters. [Sec. 17B of the National School Lunch Act]

[General Note: In addition to cash reimbursements, Federal commodity assistance is available for the Child and Adult Care Food and Summer Food Service programs.]

House bill

Provides that the Secretary of Agriculture make family nutrition grants to States if they agree to use their grant to:

(1) provide nutritional risk assessment, food assistance based on the assessment, and nutrition education and counseling to economically disadvantaged pregnant, postpartum, and breastfeeding women, and infants and young children, who are determined to be at nutritional risk (see item 10 for definitions);

(2) provide milk in nonprofit nursery schools, child care centers, settlement houses, summer camps, and similar child care settings to children from economically disadvantaged families (see item 10 for definitions) [Note: Under the School-Based Nutrition Block Grant Program, support could be provided for milk served in schools.];

(3) provide food service in institutions and family day care homes providing child care to children from economically disadvantaged families (see item 10 for definitions) [Note: Under the School-Based Nutrition Block Grant Program, support could be provided for child care food service provided through schools. Further Note: Adult-care food service would not be funded under the Family Nutrition Block Grant program.];

(4) provide summer food service to economically disadvantaged children through programs carried out by nonprofit food authorities, local governments, higher education institutions in the National Youth Sports program, and nonprofit summer camps (see item 10 for definitions) [Note: Under the School-Based Nutrition Block Grant Program, support could be provided for summer food service by schools.]; and

(5) provide nutritious meals to pre-school-age homeless children in shelters and other facilities serving the homeless.

[General Note: Federal commodity assistance would not be available for child care food and summer food service activities under the family nutrition grant.]

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment making changes to Child Nutrition Act (see item 1).

B. Additional Requirements for Assistance for Women, Infants, and Children

Present law

Under the WIC program, States must carry out cost containment measures in procuring infant formula (and, where practicable, other foods). Cost containment must be by competitive bidding (selection of a single source offering the lowest price) or another method that yields equal or greater savings. Cost savings (e.g., through manufacturer rebates) may be used by the State for WIC program purposes. The Secretary of Agriculture must provide technical assistance for cost-containment bids and offer to solicit multi-State bids for infant formula and infant cereal. In addition, certain rules against bid-rigging and anti-competitive practices are established. [Sec. 17(b) (17)–(20) and (h) (8) and (9) of the Child Nutrition Act, and Sec. 25 of the National School Lunch Act]

House bill

Requires that each State ensure that not less than 80% of its family nutrition grant is used to provide nutrition risk assessment, food assistance based on the assessment, and nutrition education and counseling to economically disadvantaged pregnant women, postpartum women, breastfeeding women, infants, and young children.

With respect to assistance provided to women, infants, and young children, requires States to establish and carry out a cost containment system for procuring infant formula. Requires States to use cost containment savings for any of the activities supported under their family nutrition grant. Requires States to submit annual reports to the Secretary (1) describing their infant formula cost containment system and (2) estimating the cost savings from the system for the report year compared to savings from the preceding year, where appropriate.

Requires States to ensure that equitable assistance for economically disadvantaged pregnant women, postpartum women, breastfeeding women, infants, and young children is provided to members of the Armed Forces and their dependents, regardless of their State of residence (see item 10 for definitions).

Senate amendment

Includes findings on the success of the WIC program in improving the health status of women, infants, and children and saving Medicaid expenditures, as well as the importance of manufacturer rebates in helping to fund the WIC program. Provides that it is the sense of the Senate that any legislation not eliminate or in any way weaken present competitive bidding requirements for the purchase of infant formula in programs supported with Federal funds.

Conference agreement

Senate recedes with an amendment making changes to Child Nutrition Act (see item 1).

C. Child Care Food Assistance on Military Installations

Present law

Assisted child care facilities must be licensed under Federal, State, or local rules. [Sec. 17(a)(1) of the National School Lunch Act]

House bill

Requires States to provide equitable assistance under its program for child care facilities to Defense Department child care programs on military installations—to the extent consistent with the number of children in the programs and after consultation with the programs' representatives.

In carrying out programs for child care facilities, bars States from requiring that those on military installations be licensed under State law if they are licensed by the Defense Department.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment making changes to the Child Nutrition Act (see item 1).

D. Authority to Use Family Nutrition Block Grant Amounts for Other Purposes

Present law

No provision.

House bill

Allows States to use not more than 20% of amounts received from a family nutrition block grant for any fiscal year to carry out State programs under other block grants authorized by:

(1) part A of title IV of the Social Security Act (relating to welfare for families with children);

(2) part B of title IV of the Social Security Act (relating to provision of child welfare services);

(3) title XX of the Social Security Act (relating to provision of social services);

(4) the National School Lunch Act (relating to school-based nutrition block grants); and

(5) the Child Care and Development Block Grant.

Provides that States may not transfer funds to other block grants unless the appropriate State agency makes a determination that sufficient amounts will remain available for the fiscal year to carry out activities under the Family Nutrition Block Grant program.

Provides that family nutrition grant amounts States transfer to other block grants (noted above) will not be subject to the requirements of the Family Nutrition Block Grant program under the revised Child Nutrition Act, but will be subject to the requirements that apply to Federal funds provided directly to the block grant to which they are transferred.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment making changes to the Child Nutrition Act (see item 1).

6. REPORTS

Present law

No comparable provision.

House bill

Requires that States, as a condition of receiving a family nutrition grant, agree to submit an annual report to the Secretary of Agriculture describing:

(1) the number of individuals receiving assistance under the grant for the reporting (fiscal) year;

(2) the different types of assistance provided;

(3) the extent to which the assistance provided was effective in achieving the goals of the Family Nutrition Block Grant program (see item 2B);

(4) the standards and methods the State is using to ensure the nutritional quality of assistance under the grant;

(5) the number of low-birthweight births in the State in the reporting (fiscal) year compared to the number of low-birthweight births in the previous year; and

(6) any other information that can be reasonably required by the Secretary.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment making changes to the Child Nutrition Act (see item 1).

7. PENALTIES

A. Penalty for Violations

Present law

The Child Nutrition and National School Lunch Acts provide penalties for fraud in relation to assistance provided under either Act, grant the Secretary of Agriculture authority to establish and adjust claims against States, and establish a compliance and accountability program to monitor the use of Federal funds. [Sec. 12(g) and Sec. 22 of the National School Lunch Act, and Sec. 16 of the Child Nutrition Act]

House bill

Requires the Secretary of Agriculture to reduce family nutrition grant amounts otherwise payable to a State by any amount paid under the grant that an audit made under the "Single Audit Act" (chapter 75 of title 31 of the United States Code) finds has been used in violation of the revised Child Nutrition Act. However, the Secretary is barred from reducing any quarterly payment to the State by more than 25%.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment making changes to Child Nutrition Act (see item 1).

B. Penalty for Failure to Submit a Required Report

Present law

No specific provision

House bill

Requires the Secretary to reduce by 3% the family nutrition grant amount otherwise payable to a State for any fiscal year if the Secretary determines that the State has not submitted the required annual report (see item 6) for the immediately preceding fiscal year within 6 months after the end of that fiscal year.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment making changes to Child Nutrition Act (see item 1).

8. MODEL NUTRITION STANDARDS FOR FOOD ASSISTANCE FOR WOMEN, INFANTS, AND CHILDREN

A. Requirement

Present law

No comparable provisions. [Note: The Secretary establishes nutrition standards for and foods to be made available under the WIC program; Sec. 17(b)(14) and 17(f)(12) of the Child Nutrition Act.]

House bill

Not later than April 1, 1996, requires the National Academy of Sciences to develop model nutrition standards for food assistance provided to economically disadvantaged pregnant women, postpartum women, breastfeeding women, infants, and young children under the Family Nutrition Block Grant program (see item 10 for definitions). The standards are to be developed by the Food and Nutrition Board of the Academy's Institute of Medicine, in cooperation with pediatricians, obstetricians, nutritionists, and directors of programs providing food assistance, nutrition education and counseling to these women, infants, and children.

The model standards must require that food assistance provided to these women, infants and children contain nutrients that are lacking in their diets, as determined by nutritional research.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment making changes to Child Nutrition Act (see item 1).

B. Report to Congress

Present law

No provision.

House bill

Not later than one year after the model nutrition standards (noted above) are developed, requires the National Academy of Sciences to report to Congress regarding effort of States to implement them.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment making changes to Child Nutrition Act (See item 1).

9. AUTHORIZATION OF APPROPRIATIONS

A. Authorization

Present law

Federal appropriations for activities under current law replaced by the House bill's Family Nutrition Block Grant program are authorized at such sums as are necessary, except for the Homeless Children Nutrition program (provided specific amounts). [Sec. 13(r), 17(b), and 17B of the National School Lunch Act; Sec. 3(a) and 4(a) of the Child Nutrition Act]

House bill

Authorizes appropriations for the Family Nutrition Block Grant program under the revised Child Nutrition Act at: $4.606 billion for fiscal year 1996, $4.777 billion for fiscal year 1997, $4.936 billion for fiscal year 1998, $5.120 billion for fiscal year 1999, and $5.308 billion for fiscal year 2000.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment making changes to Child Nutrition Act (see item 1).

B. Availability

Present law

With the exception of funding for the WIC program, appropriations for the activities under current law to be replaced by the Family Nutrition Block Grant program generally cannot be carried over to the next fiscal year.

House bill

Authorizes amounts for the Family Nutrition Block Grant program to remain available until the end of the fiscal year subsequent to the year they were appropriated for.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment making changes to Child Nutrition Act (see item 1).

10. DEFINITIONS

A. Breastfeeding Women, Infants, Postpartum Women, Pregnant Women, and Young Children

Present law

For purposes of the WIC program: (1) breastfeeding women are defined as women up to 1 year postpartum who are breastfeeding their infants; (2) infants are defined as persons under 1 year of age; (3) postpartum women are defined as women up to 6 months after termination of pregnancy; (4) pregnant women are defined as those who have 1 or more fetuses in utero; and (5) young children are persons who have had their first birthday but not attained their fifth birthday. [Sec. 17(b) of the Child Nutrition Act]

House bill

For purposes of State family nutrition grant programs, adopts present-law definitions of breastfeeding women, infants, postpartum women, pregnant women, and young children.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment making changes to Child Nutrition Act (see item 1).

B. Economically Disadvantaged

Present law

No directly comparable provisions. [Note: Under present law, means tests for assistance apply as follows: (1) for the WIC program, recipients must have family income below 185% of the Federal poverty guidelines (but States may not set standards below poverty); and (2) for those in child and adult care centers under the Child and Adult Care Food program, persons with family income below 130% of poverty are eligible for free meals/supplements, those with family income between 130% and 185% of poverty are eligible for reduced-price meals and supplements, and those with family income above 185% of poverty (or who do not apply for free or reduced-price treatment) are eligible for "paid" (but still subsidized meals and supplements. No individual income test is applied in the family day care home component of the Child and Adult Care Food program, the Summer Food Service program, the Special Milk program, and the Homeless Children Nutrition program.

House bill

The term "economically disadvantaged" is defined to apply to individuals or families with annual income below 185% of the Federal poverty guidelines. [Note: No assistance under a family nutrition grant (other than aid to homeless children) could be given to those with family income above 185% of poverty.]

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment making changes to Child Nutrition Act (see item 1).

C. School and Secretary

Present law

"Schools" are defined as public or private nonprofit elementary, intermediate, or secondary schools. The "Secretary" is defined as the Secretary of Agriculture.

House bill

"Schools" and the "Secretary" would, under the Family Nutrition Block Grant program, have the same meaning as in present law.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment making changes to Child Nutrition Act (see item 1).

D. State

Present law

In general, "State" is defined as the 50 States, the District of Columbia, Puerto Rico, the Northern Marianas, American Samoa, Guam, and the Virgin Islands. In the WIC program, it includes an Indian tribe, band, or group recognized by the Interior Department, an intertribal council or group recognized by the Interior Department, or the Indian Health Service.

House bill

"State" would, under the Family Nutrition Block Grant program have the same meaning as in present law. In addition, Indian tribal organizations (as defined under section 4(l) of the Indian Self-Determination and Education Assistance Act) would be included as States and could apply for grants.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment making changes to Child Nutrition Act (see item 1).

11. NATIONAL SCHOOL LUNCH ACT

Present law

Authorizes the School Lunch, Summer Food Service, Child and Adult Care Food, and Homeless Children Nutrition programs. Also authorizes commodity assistance for child nutrition programs and school lunch assistance for Defense Department overseas dependents' schools.

Under the School Lunch program, schools choosing to participate receive per-meal Federal subsidies for all lunches they serve that meet Federal nutrition standards. Subsidies are indexed annually and differ depending on whether the meal is served free (to children from families with income below 130% of Federal poverty guidelines), at a reduced price (to children with family income between 130% and 185% of poverty), or at "full price" (so-called "paid" lunches for those with family income above 185% of poverty or who do not apply for free or reduced-price meals). Schools with high proportions of free or reduced-price participants receive an additional per-meal subsidy. [Sec. 4 & 11 of the National School Lunch Act]

The Summer Food Service program provides Federal per-meal/supplement reimbursements for all summer meals and supplements served through public and private nonprofit sponsors (including schools and local governments) to children in areas where 50% or more have family income below 185% of the Federal poverty guidelines (are eligible for free or reduced-price school meals). Summer food service subsidies also are provided to public and private nonprofit summer camps and higher education institutions in the National Youth Sports program. [Sec. 13 of the National School Lunch Act]

The Child and Adult Care Food Service program provides Federal per-meal reimbursements for all meals and supplements served in public and private nonprofit child care centers, public and private nonprofit adult day care centers, certain for-profit child and adult daycare centers, and family day care homes. Reimbursements for meals/supplements in centers vary by the recipient's income, but not in family day care homes. Certain schools with after-school care programs also may receive assistance. [Sec. 17 & 17A of the National School Lunch Act] The Homeless Children Nutrition program grants funds to public and private nonprofit sponsors providing food service (meals and supplements), similar to that provided under the Child and Adult Care Food program, to homeless children under age 6 in shelters.

The Agriculture Department is required to provide commodity support for meals served by institutions in the School Lunch, Child and Adult Care Food, and Summer Food Service programs. Schools and other institutions are "entitled" to a specific dollar value of commodities based on the number of meals served. Schools and other institutions also receive "bonus" commodities donated from Federal stocks at the Agriculture Department's discretion. [Sec. 6 & 14 of the National School Lunch Act]

The Secretary of Agriculture is required to make funds available for school lunch programs in Defense Department overseas dependent's schools to the same degree as for other schools (authority for school breakfast programs in these schools is contained in Sec. 20 of the Child Nutrition Act). [Sec. 17A of the National School Lunch Act]

House bill

Retains the designation of the Act as the National School Lunch Act and replaces the Act's current provisions with authority for a School-Based Nutrition Block Grant Program.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment to:

A. Create an optional State block grant demonstration program entitled, "School Nutrition Optional Block Grant Demonstration Program"

Optional Block Grant Demonstration Program.—Under the terms of the optional block grant demonstration program, seven States—one per USDA Food and Consumer Service Region—will be eligible to receive funds to carry out programs offering school breakfasts and lunches for all school children under a block grant demonstration program.

Decision to participate.—States opting to participate in the block grant demonstration program may not reverse such decision prior to the end of the authorization period.

State plan.—States are required to submit a State plan to the Secretary in order to participate in the block grant demonstration program.

Use of funds.—Allows States to use funds only for school lunches, breakfasts, meal supplements and for the purchase of equipment or improvement of facilities needed to improve school food services.

Nonprofit operation.—School lunch and breakfast programs are to be operated on a nonprofit basis.

Administrative expenses.—None of the funds under the block grant demonstration program are to be used for State administrative expenses (States will continue to receive such funds under current SAE provisions).

Nutritional requirements.—States are to provide minimum nutritional requirements for meals based on the most recent tested nutritional research available. Such requirements shall be consistent with the goals of the most recent Dietary Guidelines for Americans. Meals shall provide, on the average over a week, at least ⅓ of the recommended dietary allowance for lunches and ¼ of the recommended dietary allowance for breakfasts. The Secretary may not impose any additional nutritional requirements beyond those specified in this section.

State review.—States will review the meal operations in each school food authority participating in the block grant demonstration program no later than two years after implementation of the block grant demonstration program and at the end of each 5-year period thereafter.

Income eligibility.—The State plan will describe how the block grant demonstration program will serve specific groups of children in the State. The plan will further describe the income eligibility limitations established for free meals and low-cost meals. A state may use group eligibility criteria based upon census or other data that measures family income in determining eligibility.

Free meals.—State's plans are required to offer access to free meals to students who are members of families with incomes at or below 130 percent of poverty and who attend a school participating in the block grant demonstration program. In addition, the block grant demonstration program allows States to provide students who are members of families with incomes at or above 130 percent of poverty free school lunches and school breakfasts.

Low cost meals.—The State plan must provide for a low cost meal payment charge for students who are members of families whose incomes are equal to or more than 130 percent of poverty and equal to or less than 185 percent of the poverty line. States may develop their own eligibility criteria which may be based on group eligibility, census data, demographic information, and prior year participation.

Proportion of students served.—The State shall ensure that for any year the proportion of low income and needy students served meals under the block grant demonstration program is not less than the proportion of such students served meals in the last year of participation by the State in the School Lunch program or the School Breakfast program.

Proportion of funds used to provide service.—The State plan shall provide that for any year the proportion of funds used by the State to provide meals for low income and needy students under the block grant demonstration program is not less than the proportion of funds used to provide meals for such students in the last year of participation by the State in the School Lunch program or the School Breakfast program.

Continued participation.—Each school participating in the current school lunch and breakfast program in a State opting into the block grant demonstration program is to be given the opportunity to operate similar programs under the block grant demonstration program.

CASH/CLOC.—States are required to permit to permit a school district, nonprofit private school or DOD domestic dependents' school to receive commodity assistance in the same form they received such assistance as of January 1, 1987.

Privacy.—States shall provide for safeguarding and restricting the use and disclosure of information about children receiving assistance under this Act. Physical segregation and overt identification of children participating in the block grant demonstration program is prohibited.

Required report.—In order to participate, States must agree to submit a report to the Secretary each fiscal year describing (a) the number of children receiving assistance; (b) the different types of assistance provided; (c) the extent to which assistance was effective in achieving program goals; (d) the standards and methods used to ensure the nutritional quality of meals and meal supplements; and (e) other information the Secretary can reasonably require. Failure to submit the required report will cause a 3 percent reduction in amounts otherwise payable to a State.

Compliance.—The Secretary is required to review and monitor State compliance and withhold funds to the State with respect to the program or activity for which noncompliance is found, until the Secretary determines the problem has been corrected. The sanctions to be implied may include a partial reduction of grant in subsequent years. The Secretary may seek financial restitution for misused funds.

Payments to States.—Payments to States under the block grant demonstration program shall be on a quarterly basis and may be expended by the State for the current fiscal year or the succeeding fiscal year.

Audits.—A yearly audit is required.

Allotment.—In the first year of participation, the Secretary is required to allot to each participating State an amount that is equal to the amount the Secretary projects will be made available to the State to carry out the school lunch and breakfast programs (including commodities) for the current fiscal year. In succeeding years, the amount will equal the amount provided in the preceding fiscal year, adjusted to reflect changes in the consumer price index, services for food away from home, and changes in each State's student enrollment.

State contribution.—Funds appropriated or used specifically by the State for block grant demonstration program purposes shall be not less than the amount that the State made available for the preceding fiscal year for the School Lunch program and the School Breakfast program.

Commodities.—Not less than 8 percent and not more than 10 percent of the amount of a State's allotment will be in the form of commodities.

Alternative assistance.—Requires the Secretary to arrange for the provision of assistance and reduce State allotments accordingly, in cases where a State is prohibited by law from providing assistance to a nonprofit private school or a DOD domestic dependents' school or if a State has substantially failed or is unwilling to provide such assistance to a nonprofit private school, a DOD domestic dependents' school or a public school.

Transition.—A State opting into the block grant demonstration program may use funds and commodities from the block grant demonstration program to transition out of the block grant demonstration program at the end of the authorization period.

Evaluation.—No later than three years after the establishment of the block grant demonstration program the Secretary is to conduct an evaluation and submit a report to Congress, including the comments of the Comptroller General. The report is to include information on the effects of the block grant demonstration program on the nutritional quality of meals; the degree to which children, particularly low income children participated in the block grant demonstration program, the income distribution of children served and the amount of assistance such children received; the types of meals offered under the block grant demonstration program; how the implementation of the block grant demonstration program differs from the implementation of the school lunch and breakfast programs; the effect of the block grant demonstration program on state and school administrative costs, the effect of the block grant demonstration program on paperwork.

Authorization period.—the authority to carry out the block grant demonstration program shall terminate on September 30, 2000. [Sec. 914]

B. Streamline provisions of the National School Lunch Act of 1966.

1. Revise Sec. 8, striking the third and fourth sentences, moving the 5th sentence (defining child) to the Miscellaneous/Definitions section of the Act and striking language relating to maximum per meal reimbursements. [Sec. 901]

2. Strike Sec. 9(a)(2)(B) to eliminate the required purchase of low fat cheese equivalent to estimated decline in milk fat purchases because of elimination of whole milk requirement. [Sec. 902]

3. Strike Sec. 9(a)(3) to eliminate administrative procedures to diminish plate waste. [Sec. 902]

4. Strike Sec. 9(b)(2)(A) to eliminate requirement that State Educational Agencies and local school food authorities announce income eligibility requirements each year. [Sec. 902]

5. Revise Sec. 9(b)(5), striking sentence relating to physical segregation and overt identification (duplicative of preceding language). [Sec. 902]

6. Revise Sec. 9(c), striking the second, fourth and sixth sentences to eliminate requirement that schools use commodities that are in abundance in their lunch programs. [Sec. 902]

7. Revise Sec. 9(f), striking paragraph (1) to eliminate provision requiring schools to inform students of nutritional content of lunches and their consistency with the Dietary Guidelines for Americans. [Sec. 902]

8. Revise Sec. 9(f)(2)(D) to permit schools to use any reasonable approach to meet dietary guidelines. [Sec. 902]

9. Strike Sec. 9(h) to eliminate language providing the States can use NET funds for training to improve nutritional quality and acceptance of meals. [Sec. 902]

10. Revise Sec. 11(b), striking references to "maximum per lunch amounts." [Sec. 904]

11. Strike Sec. 11(d) to eliminate language referring to applicability of other provisions in the Act to Sec. 11. [Sec. 904]

12. Revise Sec. 11(e)(2) to require that the Secretary make a request for monthly reports rather than receive them automatically. [Sec. 904]

13. Revise Sec. 12(a) providing that accounts and records shall be available at any reasonable time. [Sec. 905]

14. Revise 12(c) to strike language that prohibits "State" from imposing requirements on teaching personnel and curricula. [Sec. 905]

15. Revise Sec. 12(d) by changing the definition of "State," by striking "the Trust Territory of the Pacific Islands" and inserting "the Commonwealth of the Northern Mariana Islands." Makes conforming changes throughout. [Sec. 905]

16. Strike Sec. 12(d)(3) to eliminate "participation need rate" definition. [Sec. 905]

17. Strike Sec. 12(d)(4) to eliminate assistance need rate definition. [Sec. 905]

18. Strike Sec. 12(k)(1),(2), and (5) to eliminate provisions dealing with the establishment of regulations on food based menus. [Sec. 905]

19. Revise Sec. 12(l)(1)(B)(2)(A), striking clauses (v), (vi), (vii), and (2)(B). [Sec. 905]

20. Strike Sec. 12(l)(3(B) to eliminate requirement that Sec. respond in writing to written waiver request. [Sec. 905]

21. Strike Sec. 12(l)(3)(C) to eliminate requirement that the result of waiver decisions be disseminated by State. [Sec. 905]

22. Strike Sec. 12(l)(3)(D)(i) and (ii) to eliminate the 2 year limit on waiver period and authority for extension. [Sec. 905]

23. Revise Sec. 12(l)(4), striking subparagraphs (B), (D), (F), (H), (J), (K), (L), and inserting a general prohibition on any waiver that will increase Federal costs. [Sec. 905]

24. Strike Sec. 12(l)(6)(A) to eliminate requirement that eligible service providers receiving waivers report annually to the State, therefore eliminating the requirement that States annually submit a summary of said reports to the Secretary. [Sec. 905]

25. Strike Sec. 12(m) to eliminate Nutrition Instruction Grants. [Sec. 905]

26. Revise Sec. 13(a)(1) to eliminate reference to expansion. [Sec. 906]

27. Revise Sec. 13(a)(7)(A). Technical and conforming. [Sec. 906]

28. Revise Sec. 13(b)(2) to change "may serve up to four meals" to "three meals or two meals and one supplement." [Sec. 906]

29. In Sec. 13, references to the National Youth Sports Program are amended by (1) striking non summer months payments; (2) striking severe needs reimbursements; and (3) requiring that participants be eligible based on residence in low income areas, or on the basis of income eligibility statements from children enrolled in the program. [Sec. 906]

30. Revise Sec. 13(f) by (1) eliminating requirement that the Secretary provide additional technical assistance to service providers having difficulty maintaining compliance; and (2) providing that contracts between service institutions and food service management companies require periodic inspections by an independent State agency to determine conformance with standards set by local health authorities. [Sec. 906]

31. Strike Sec. 13(f)(4) to eliminate specific provisions governing advance payments. [Sec. 906]

32. Strike Sec. 13(g)(1)(A). Redundant in relation to preceding language. [Sec. 906]

33. Revise Sec. 13(g)(1)(B) by striking second statement to eliminate technical assistance for those with difficulty maintaining compliance. [Sec. 906]

34. Strike Sec. 13(k)(3) to eliminate added Federal funding to States for health department inspections. [Sec. 906]

35. Strike Sec. 13(l)(4) to eliminate provision for small business preference). [Sec. 906]

36. Strike Sec. 13(l)(5) to eliminate provision for standard contract forms. [Sec. 906]

37. Revise Sec. 13(m) to provide that accounts and records be available "at any reasonable time." [Sec. 906]

38. Revise Sec. 13(n)(2) by striking the clause beginning "including the State's methods." [Sec. 906]

39. Strike Sec. 13(n)(3) to eliminate provisions dealing with States' "best estimates" of those served. [Sec. 906]

40. Strike Sec. 13(n)(4) to eliminate requirement for a State "schedule" for providing technical assistance. [Sec. 906]

41. Strike Sec. 13(p). Obsolete. [Sec. 906]

42. Strike Sec. 13(q)(2) to eliminate requirements for training and technical assistance for private nonprofits. [Sec. 906]

43. Strike Sec. 13(q)(4). Technical and conforming. [Sec. 906]

44. Strike Sec. 14(b)(1) regarding the inclusion of cereal and shortening in commodity donations. [Sec. 907]

45. Revise Sec. 14(d) by striking the matter requiring an impact study of commodity distribution procedures. [Sec. 907]

46. Strike Sec. 14(e) to eliminate the State Advisory Council. [Sec. 907]

47. Strike Sec. 14(g)(3). Obsolete. [Sec. 907]

48. Revise Sec. 17 by, in the title of the section, striking "and Adult." [Sec. 908]

49. Revise Sec. 17(a) to eliminate reference to authorization to "expand" programs. [Sec. 908]

50. Revise Sec. 17(d)(1) to eliminate provision for technical assistance in completing applications. [Sec. 908]

51. Revise Sec. 17(f)(3)(B) by striking last two sentences. Obsolete. [Sec. 908]

52. Revise Sec. 17(f)(3)(C)(i) by striking all references to "expansion." [Sec 908]

53. Strike Sec. 17(f)(3)(C)(ii) to eliminate provision for outreach and recruitment. [Sec. 908]

54. Strike Sec. 17(f)(4) to eliminate specific provisions requiring advance payments. States would be allowed to make such payments but would not be required to do so. [Sec. 908]

55. Strike Sec. 17(g)(1)(A) to eliminate redundant provision. [Sec. 908]

56. Strike Sec. 17(g)(1)(B) to eliminate provision for added technical assistance for those with difficulty maintaining compliance. [Sec. 908]

57. Strike Sec. 17(k), replacing with language requiring States to provide sufficient training, technical assistance and to facilitate effective operation of the program. [Sec. 908]

58. Revise Sec. 17(m) to provide that accounts and records be available at any "reasonable time." [Sec. 908]

59. Strike Sec. 17(o) to modify provision to limit eligibility to day care centers providing services to chronically impaired disabled persons. [Sec. 908]

60. Strike Sec. 17(q). Obsolete (provisions for WIC information). [Sec. 908]

61. Strike Sec. 18(a) to eliminate the 3 State evaluation of effect of Secretary contracting with vendors to act as States in administering programs not administered by States. [Sec. 909]

62. Strike Sec. 18(d)(3)(A),(B),(C) to eliminate the universal free pilot. [Sec. 909]

63. Revise Sec. 18(e) to make the demonstration project for outside school hours discretionary. [Sec. 909]

64. Strike Sec. 18(g) and (h) dealing with additional food choices: Fruits, vegetables, cereals, organic foods and low fat dairy products. [Sec. 909]

65. Strike Sec. 18(i) to eliminate Paperwork reduction pilot. [Sec. 909]

66. Repeal Section 19. [Sec. 910]

67. Repeal Section 23. Obsolete. [Sec. 911]

68. Repeal Section 24. [Sec. 912]

69. Repeal Section 26. [Sec. 913]

12. AUTHORIZATION FOR SCHOOL-BASED NUTRITION BLOCK GRANT

A. Entitlement

Present law

States are entitled to "performance-based" funding according to the number and type of meals and supplements served under school-based programs authorized by the National School Lunch and Child Nutrition Acts.

House bill

"Entitles" each State that submits an annual application (see item 14) to receive an annual school-based nutrition grant for the purpose of achieving the goals of the School-Based Nutrition Block Grant Program (see item 12D for the program's goals and item 13 for State entitlement allotments).

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see item 11).

B. Requirement To Provide Commodities

Present law

The Secretary of Agriculture is required to ensure that no less than 12% of the total amount of "entitlement" commodity and cash assistance for the School Lunch program is in the form of commodity support (including cash in lieu of commodities in the limited instances where available and administrative costs for procuring commodities). [Sec. 6(g) of the National School Lunch Act]

House bill

Requires that 9% of the amount of assistance available under the school-based block grant be in the form of commodities.

Senate amendment

No directly comparable provision. [Note: See item 26]

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see item 11)

C. The School-Based nutrition Block grant

Present law

Federal funds for activities under existing law replaced by the House bill's school-based grant are authorized at such sums as are necessary and provided based on the number of meals, supplements, and half-pints of milk served.

The Secretary is required to make school lunch and school breakfast funding and commodities available to Defense Department overseas dependents' schools to the same degree as other schools. [Sec. 20 of the National School Lunch Act and Sec. 20 of the Child Nutrition Act]

House bill

Provides that the annual total school-based block grant provided States as their "entitlement" will be: $6.681 billion for fiscal year 1996, $6.956 billion (fiscal year 1997), $7.237 billion (fiscal year 1998), $7.538 billion (fiscal year 1999), and $7.849 billion (fiscal year 2000).

For each fiscal year, requires the Secretary to reserve from the total entitlement an amount determined necessary, in consultation with the Secretary of Defense, to establish and carry out nutritious food service programs at Defense Department overseas dependents' schools.

Permits States to obligate payments under a school-based nutrition grant in the succeeding fiscal year.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see item 11).

D. Goals

Present law

The National School Lunch Act declares it the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of agricultural commodities by assisting States through grants and other means in providing support for the establishment, maintenance, operation, and expansion of nonprofit school lunch programs. [Sec. 2 of the National School Lunch Act]

House bill

Establishes the goals of the School-Based Block Grant Program:

(1) to safeguard the health and well-being of children through the provision of nutritious, well-balanced meals and food supplements;

(2) to provide economically disadvantaged children (see item 21B for definition) access to nutritious free or low-cost meals, food supplements, and low-cost milk;

(3) to ensure that children served under the School-Based Block Grant program are receiving the nutrition they require to take advantage of educational opportunities;

(4) to emphasize foods that are naturally good sources of vitamins and minerals over enriched foods and those high in fat or sodium content;

(5) to provide a comprehensive school nutrition program for children; and

(6) to minimize paperwork burdens and administrative expenses for participating schools.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see item 11).

E. Timing of Payments

Present law

No provision.

House bill

Directs that the Secretary of Agriculture make school-based nutrition grant payments to the States on a quarterly basis.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see item 11).

13. ALLOTMENT OF SCHOOL-BASED NUTRITION BLOCK GRANT

Present law

Current activities that may be funded under the House bill's School-Based Nutrition Block Grant program include those now supported by the School Lunch and Breakfast programs, and school-sponsored programs under the Child and Adult Care Food program, the Summer Food Service program, and the Special Milk program.

In all cases, "performance funding" is provided for each meal, supplement, or half-pint of milk served by participating schools, at legislatively established, inflation indexed rates.

House bill

As set forth below, provides for the Secretary of Agriculture to make State allotments of the School-Based Nutrition Block Grant entitlement.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see item 11).

A. First Year State Allotments

Present law

No provisions.

House bill

For the first fiscal year in which grants are made, provides that the Secretary make allotments to States based on the proportion of funds each State received under prior law for the preceding fiscal year.

Base-year State Shares: Each State's allotment would be its prior-year share of funds received under the School Lunch and Breakfast programs, plus 12.5% of the amounts received under the Child and Adult Care Food, Summer Food Service, and Special Milk programs.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see item 11).

B. Second Year State Allotments

Present law

No provision.

House bill

For the second fiscal year in which grants are made, provides that (1) 95% of the total entitlement amount be allotted to each State's share of the amount allotted in the first year and (2) 5% of the entitlement amount allotted be based on each State's share of the number of meals served under the grant during the 1-year period ending the preceding June 30.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see item 11).

C. Third and Fourth Year State Allotments

Present law

No provision.

House bill

For the third and fourth fiscal years in which grants are made, provides that (1) 90% of the total entitlement amount be allotted according to each State's share of the amount allotted in the preceding year and (2) 10% of the entitlement amount allotted be based on each State's share of the number of meals served under the grant during the 1-year period ending the preceding June 30.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch (see item 11).

D. Fifth Year Sale Allotments

Present law

No provision.

House bill

For the fifth fiscal year in which grants are made, provides that (1) 85% of the total entitlement amount be allotted according to each State's share of the amount allotted in the fourth year and (2) 15% of the entitlement amount allotted be based on each State's share of the number of meals served under the grant during the 1-year period ending the preceding June 30.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see item 11).

14. APPLICATION FOR SCHOOL-BASED NUTRITION GRANTS

Present law

Nutrition requirements for school-provided meals are established by the Secretary of Agriculture on the basis of tested nutritional research, are not to be construed to prohibit substitution of foods to accommodate medical or other special dietary needs, must, at a minimum, be based on the weekly average nutrient content of school lunches, and may, with certain limits on how schools may be required to implement them, be based on the Federal "Dietary Guidelines for Americans." [Sec. 9(a) and Sec. 12(k) of the National School Lunch Act, and Sec. 4(e) of the Child Nutrition Act]

The use/disclosure of information obtained from applications for free/reduced-price meals is limited to those administering and/or enforcing child nutrition programs, administrators of other health or education programs (with restrictions), and the General Accounting Office and law enforcement officials. [Sec. 9(b) of the National School Lunch Act]

House bill

Provides that the Secretary make a school-based nutrition grant to a State if it submits an application containing only the following:

(1) an agreement that the State will use the grant in accordance with the School-Based Block Grant program requirements (see item 15);

(2) an agreement that the State will set minimum nutrition requirements for meals provided under the grant based on the most recent tested nutrition research available (but the requirements could not be construed to prohibit the substitution of foods to accommodate medical or other special dietary needs and would have to be based, at a minimum, on the weekly average nutrient content of school lunches or other standards set by the State);

(3) an agreement that, with respect to provision of meals to students, the State will implement minimum nutrition requirements based on the most recent tested nutrition research available or the model nutrition standards development by the National Academy of Sciences (see item 20);

(4) an agreement that the State will take reasonable steps it deems necessary to restrict the use and disclosure of information about those receiving assistance under the grant;

(5) an agreement that the State will not use more than 2% of its grant for administrative costs incurred to provide assistance; and

(6) an agreement that the State will submit an annual report to the Secretary (see item 16).

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see Item #11).

15. USE OF AMOUNTS PROVIDED UNDER THE SCHOOL-BASED NUTRITION BLOCK GRANT

A. Activities Supported

Present law

The School Lunch and Breakfast programs provide Federal support to schools for nonprofit meal services to schoolchildren. In addition, to a more limited degree, schools offer (and receive Federal subsidies for) after-school food assistance, milk service, and summer food service programs.

House bill

Provides that the Secretary of Agriculture make school-based nutrition grants to States if they agree to use their grant to provide assistance to schools for nutritious food service programs that provide affordable meals and supplements to students, including nonprofit:

(1) school breakfast programs;

(2) school lunch programs;

(3) before and after school supplement programs;

(4) low-cost milk services; and

(5) summer meal programs.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see Item #11).

B. Additional Requirements

Present law

Under the School Lunch and Breakfast programs, and after-school assistance, milk service, and summer food service programs, schools are provided with specific Federal reimbursements for free and reduced-price meals, supplements, and milk for lower-income children (with family income below 185% of poverty) that are higher than those granted for "paid" meals, supplements, and milk provided those with higher income.

House bill

Requires that each State ensure that not less than 80% of its school-based grant is used to provide free or low-cost meals to economically disadvantaged children (see item 21 for definitions).

Requires that each State ensure that nutritious food service programs are established and carried out in private nonprofit and Defense Department domestic dependents' schools on an equitable basis with programs in public schools in the State—to the extent consistent with the number of children in these schools and after consultation with representatives of the schools (see item 18).

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see Item #11).

C. Authority to Use School-Based Nutrition Block Grant Amounts for Other Purposes

Present law

No provision.

(2) Sufficient funding

No provision.

(3) Amounts used for other purposes

No provision.

House Bill

Allows States to use not more than 20% of amounts received from a school-based nutrition grant for any fiscal year to carry out State programs under other block grants authorized by:

(1) part A of title IV of the Social Security Act (relating to welfare for families with children);

(2) part B of title IV of the Social Security Act (relating to provision of child welfare services);

(3) title XX of the Social Security Act (relating to provision of social services);

(4) the Child Nutrition Act of 1966 (relating to family nutrition block grants); and

(5) the Child Care and Development Block Grant.

Provides that States may not transfer funds to other block grants unless the appropriate State agency makes determination that sufficient funds will remain available for the fiscal year to carry out activities under the School-Based Block Nutrition Block Grant Program.

Provides that school-based nutrition block grant amounts States transfer to other block grants (noted above) will not be subject to the requirements of the School-Based Nutrition Block Grant program under the revised National School Lunch Act, but will be subject to the requirements that apply to Federal funds provided directly to the block grant to which they are transferred.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see Item #11).

D. Limitation on Provision of Commodities

Present law

Certain schools receive cash or commodity letters of credit in lieu of entitlement commodities (so-called "Cash/CLOC" schools). [Sec. 18(b) of the National School Lunch Act]

House Bill

Provides that States may to require current Cash/CLOC schools to accept commodities in lieu of cash or commodity letters of credit.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see Item #11).

E. Segregation/Identification of Children Eligible for Free or Low-Cost Meals or Supplements

Present law

Schools may not physically segregate, overtly identify, or otherwise discriminate against any child eligible for free or reduced-price lunches. [Sec. 9(b)(4) of the National School Lunch Act]

House Bill

Requires States to ensure that schools receiving school-based nutrition grant assistance do not physically segregate, overtly identify, or otherwise discriminate against children eligible for free or low-cost meals or supplements.

Senate amendment

No Comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see Item #11).

16. REPORTS

Present law

No comparable provision.

House bill

Requires that States, as a condition of receiving a school-based nutrition grant, agree to submit an annual report to the Secretary of Agriculture describing:

(1) the number of individuals receiving assistance under the grant for the reporting (fiscal) year;

(2) the different types of assistance provided;

(3) the total number of meals served to students under the grant, including the percentage served to economically disadvantaged students;

(4) the extent to which the assistance provided was effective in achieving the goals of the School-Based Nutrition Block Grant program (see item 12D);

(5) the standards and methods the State is using to ensure the nutritional quality of assistance under the grant; and

(6) any other information that can be reasonably required by the Secretary.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see Item #11).

17. PENALTIES

A. Penalty for Violations

Present law

[Note: See item 7.]

House bill

Requires the Secretary of Agriculture to reduce the school-based nutrition grant amount otherwise payable to a State by any amount paid under the grant that an audit made under the "Single Audit Act" (chapter 75 of title 31 of the United States Code) finds has been used in violation of the revised National School Lunch Act. However, the Secretary is barred from reducing any quarterly payment to the State by more than 25%.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see Item #11).

B. Penalty for Failure to Submit a Required Report

Present law

No specific provision.

House bill

Requires the Secretary to reduce by 3% the school-based nutrition grant amount otherwise payable to a State for any fiscal year if the Secretary determines that the State has not submitted the required annual report (see item 16) for the immediately preceding fiscal year within 6 months after the end of that fiscal year.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see Item #11).

18. FEDERAL ASSISTANCE FOR CHILDREN IN PRIVATE NONPROFIT SCHOOLS AND DEFENSE DEPARTMENT DOMESTIC DEPENDENTS' SCHOOLS

Present law

Where States are by law precluded from providing child nutrition assistance to certain types of schools (e.g. private nonprofit schools), the Secretary is authorized to provide assistance directly.

House bill

If a State is precluded by law from providing assistance under the school-based nutrition grant to nonprofit private schools or Defense Department domestic dependents' schools, or the Secretary has determined that the State has substantially failed or is unwilling to provide assistance to the schools, requires the Secretary to arrange for provision of school-based nutrition assistance to the schools, after consultation with appropriate school representatives. In the case that the Secretary provides assistance to private nonprofit schools or Defense Department domestic dependents' schools, the State's school-based nutrition grant would be reduced to reflect the assistance provided.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see item 11).

19. FOOD SERVICE PROGRAMS FOR DEFENSE DEPARTMENT OVERSEAS DEPENDENTS' SCHOOLS

A. Assistance

Present law

[Note: See item 12C(2)]

House bill

Requires the Secretary to make available to the Secretary of Defense funds and commodities (as determined by the Secretary in consultation with the Secretary of Defense, and reserved from the total school-based grant) for establishing and carrying out nutritious food service programs providing affordable meals and supplements to students in Defense Department overseas dependents' schools.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see item 11).

B. Requirements

Present law

Federally subsidized school meal programs in Defense Department overseas dependents' schools must meet the same requirements as programs in domestic schools.

House bill

In carrying out food service programs in Defense Department overseas dependents' schools, requires the Secretary of Defense to (1) ensure that not less than 80% of the assistance is used to provide free or low-cost meals and supplements to economically disadvantaged children (see item 21B for definition) and (2) the schools will implement minimum nutrition requirements in the same way domestic schools receiving assistance under the school-based nutrition grant are required to (including optional use of model nutrition standards).

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see item 11).

20. MODEL NUTRITION STANDARDS FOR STUDENT MEALS

A. Requirement

Present law

No comparable provisions. [Note: The Secretary establishes nutrition standards for school meals.]

House bill

Not later than April 1, 1996, requires the National Academy of Sciences to develop model nutrition standards for meals provided to students under the School-Based Block Grant Program. The standards are to be developed by the Food and Nutrition Board of the Academy's Institute of Medicine, in cooperation with nutritionists and directors of school meal programs.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see item 11).

B. Report to Congress

Present law

No provision.

House bill

Not later than one year after the model nutrition standards (noted above) are developed, requires the National Academy of Sciences to report to Congress regarding the efforts of States to implement them.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see item 11).

21. DEFINITIONS

A. Schools and Secretary

Present law

In general, "schools" are defined as public or private nonprofit elementary, intermediate, or secondary schools. The "Secretary" is defined as the Secretary of Agriculture.

House bill

"Schools" and "Secretary" would be defined as having the same meaning as in existing law. In addition, parallel definitions are added for Defense Department domestic and overseas dependents' schools.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see Item 11).

B. Economically Disadvantaged

Present law

No directly comparable provision. [Note: Subsidies are provided for free and reduced-price meals served to children with family income under 185% of the Federal poverty guidelines. However, Federal school food service subsidies are not limited to these lower-income children.]

House bill

The term "economically disadvantaged" is defined to apply to individuals or families with annual income below 185% of the Federal poverty guidelines. [Note: Assistance under the School-Based Nutrition grant could be given to children with family income above 185% of poverty.]

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see Item 11).

C. State

Present law

In general, for school food programs, "State" is defined as the 50 States, the District of Columbia, Puerto Rico, the Northern Marianas, American Samoa, and the Virgin Islands.

House bill

"State," under the School-Based Nutrition grant, would have the same meaning as in present law, except that Indian tribal organizations (as defined under section 4(l) of the Indian Self-Determination and Education Assistance Act) would be included as States and could apply for grants.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see Item 11).

22. REPEALERS

Present law

Not applicable.

House bill

Makes conforming technical amendments repealing the Commodity Distribution Reform Act and WIC Amendments of 1987 and the Child Nutrition and WIC Reauthorization Act of 1989.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see item 11).

23. EFFECTIVE DATE

Present law

Not applicable.

House bill

Makes amendments replacing Child Nutrition and National School Lunch Act provisions with Family Nutrition and School-Based Nutrition Block Grants effective October 1, 1995.

Senate amendment

No comparable provision.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see item 11).

24. APPLICATION OF AMENDMENTS AND REPEALERS

Present law

Not applicable.

House bill

Provides that amendments and repealers associated with replacing Child Nutrition and National School Lunch Act provisions with Family Nutrition and School-Based Nutrition Block Grants not apply with respect to (1) financial assistance provided under prior law and (2) administrative actions or proceedings commenced or authorized to be commenced before the effective date.

Senate amendment

No comparable provisions.

Conference agreement

Senate recedes with an amendment creating an optional block grant demonstration program and making changes to National School Lunch Act (see item 11).

25. TERMINATION OF ADDITIONAL PAYMENTS FOR LUNCHES SERVED IN HIGH FREE AND REDUCED PRICE PARTICIPATION SCHOOLS

Present law

Lunches served by school food authorities where 60 percent or more of the lunches are served free or at a reduced price (to children with family income below 185 percent of the Federal poverty income guidelines) are reimbursed at a rate 2 cents a meal higher than regular subsidy rates. [Sec. 4(b) of the National School Lunch Act]

House bill

No comparable provision.

Senate amendment

Effective July 1, 1996 (the 1996-1997 school year), ends the extra 2-cent-a-lunch reimbursement to schools with high rates of free and reduced-price participation.

Conference agreement

Senate recedes.

26. VALUE OF FOOD ASSISTANCE

Present law

Schools and certain other child nutrition sponsors are "entitled" to commodities valued at a legislatively set, inflation-indexed amount per meal served. The per-meal reimbursement rate is indexed annually to reflect the annual percentage change in a 3-month average value of the Price Index for Food Used in Schools and Institutions, and rounded to the nearest ¼ cent. [Sec. 6(e) of the National School Lunch Act]

House bill

No directly comparable provision. [Note: See item 12B.]

Senate amendment

Freezes (for one year) the guaranteed per-meal reimbursement rate for entitlement commodity assistance and revises (by changing rounding rules) the method of calculating this reimbursement rate.

On January 1, 1996, the entitlement commodity reimbursement rate set under current law for the 1995-1996 school year (as rounded to the nearest ¼ cent) would be rounded down to the nearest lower cent. For the 1996-1997 school year, the rate would be frozen at the rate for the 1995-1996 school year (as rounded down to the nearest lower cent). For the 1997-1998 school year, the rate would be the unrounded rate for the 1995-1996 school year, adjusted for inflation over the most recent 12-month period and rounded down to the nearest lower cent. For following school years, the rate would be the unrounded rate for the preceding year, adjusted for inflation over the most recent 12-month period and rounded down to the nearest lower cent. (p. 348)

[Note: Current-law rules as to the inflation-adjustment factor to be used (i.e., the Price Index for Food Used in Schools and Institutions) are not changed.]

Conference agreement

Senate recedes.

27. LUNCHES, BREAKFASTS, AND SUPPLEMENTS

Present law

"Paid" lunches, breakfasts, and supplements are served to those with family income above 185 percent of the Federal poverty guidelines. Guaranteed Federal reimbursement rates for each paid lunch, breakfast, and supplement are indexed annually to reflect changes in the food away from home series of the Consumer Price Index. When indexed, all reimbursement rates (i.e., for paid, free, and reduced-price meals and supplements) are rounded to the nearest ¼ cent. [Sec. 11(a) of the National School Lunch Act]

House bill

No comparable provisions.

Senate amendment

Freezes (for two years) reimbursement rates for paid lunches, breakfasts, and supplements. Revises (by changing rounding rules) the method for calculating reimbursement rate for paid, free, and reduced-price lunches, breakfasts, and supplements. [Note: Reimbursement rates for meals and supplements served in family day care homes and the Summer Food Service program are and would be governed by separate provisions of law (see below).]

On January 1, 1996, reimbursement rates for paid, free, and reduced-price lunches, breakfasts, and supplements set under current law for the 1995-1996 school year (as rounded to the nearest ¼ cent) would be rounded down to the nearest lower cent. For the 1996-1997 and 1997-1998 school years, the reimbursement rates for paid lunches, breakfasts, and supplements would be frozen at the rates for the 1995-1996 school year (as rounded down to the nearest lower cent). For the 1998-1999 school year, the reimbursement rates for paid lunches, breakfasts, and supplements would be the unrounded rates for the 1995-1996 school year adjusted for inflation over the most recent 12-month period for which data are available, and rounded down to the nearest lower cent. For following school years, the reimbursement rates for paid lunches, breakfasts, and supplements would be the unrounded rates for the preceding year adjusted for inflation over the most recent 12-month period, and rounded down to the nearest lower cent.

Reimbursement rates for free and reduced-price lunches, breakfasts, and supplements would continue to be indexed annually for inflation each school year (i.e., no two-year freeze), but would be rounded down to the nearest lower cent. [Note: Current-law rules as to the inflation-adjustment factor to be used (i.e., the food away from home series of the Consumer Price Index) are not changed.]

Conference agreement

Senate recedes.

28. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Present law

Under the Summer Food Service program, all meals and supplements served are federally subsidized at legislatively set, inflation-indexed rates that, for the 1995 summer (set in January 1995), were $2.12 for each lunch/supper, $1.18 for each breakfast, and 55.5 cents for each supplement. In addition, sponsors receive payments for administrative costs based on the number of meals/supplements served. Basic Federal payments for lunches, breakfasts, and supplements are indexed for inflation annually based on the food away from home series of the Consumer Price Index, and rounded to the nearest ¼ cent. [Sec. 13(b) of the National School Lunch Act]

House bill

No comparable provisions.

Senate amendment

Establishes new, lower reimbursement rates for meals and supplements served in the Summer Food Service program as follows: $2 for lunches/suppers, $1.20 for breakfasts, and 50 cents for supplements. The new rates would become effective January 1, 1996 (for the 1996 summer program), and be adjusted each January thereafter to reflect changes in the food away from home series of the Consumer Price Index (as under current law). However, while each adjustment would be based on the unrounded rates for the prior 12-month period, it would be rounded down to the nearest cent. [Note: Additional administrative-cost payment rates to sponsors are not affected.]

Conference agreement

House recedes with an amendment establishing new, lower rates for meals and supplements served in the Summer Food service program as follows: $1.82 for lunches served; $1.13 each breakfast served and $.46 for each meal supplement served. [Sec. 906(b)]

29. SPECIAL MILK PROGRAM

Present law

Under the Special Milk program, the minimum per-half-pint reimbursement rate is indexed annually to reflect changes in the Producer Price Index for Fresh Processed Milk, and rounded to the nearest ¼ cent. [Sec. 3(a) of the Child Nutrition Act]

House bill

No comparable provisions.

Senate amendment

Freezes (for one year) the minimum per-half-pint reimbursement rate and revises (by changing rounding rules) the method of calculating the reimbursement rate.

On Jan. 1, 1996, the minimum reimbursement rate set under current law for the 1995-1996 school year (as rounded to the nearest ¼ cent) would be rounded down to the nearest cent. For the 1996-1997 school year, the minimum reimbursement rate would be frozen at the rate for the 1995-1996 school year (as rounded down to the nearest cent). For the 1997-1998 school year, the minimum reimbursement rate would be the unrounded rate for the 1995-1996 school year adjusted for inflation over the most recent 12-month period for which data are available, and rounded down to the nearest lower cent. For following school years, the minimum reimbursement rate would be the unrounded rate for the preceding year adjusted annually for inflation, and rounded down to the nearest lower cent. [Note: Current-law rules as to the inflation adjustment factor to be used (i.e., the Producer Price Index for Fresh Processed Milk) are not changed.]

Conference agreement

Senate recedes.

30. FREE AND REDUCED PRICE BREAKFASTS

Present law

Reimbursement rates for free and reduced-price breakfasts are indexed annually for inflation and rounded to the nearest ¼ cent. [Sec. 4(b) of the Child Nutrition Act]

House bill

No comparable provision.

Senate amendment

Requires that annual adjustments to reimbursement rates for free and reduced-price breakfasts be based on the previous year's unrounded rates and, after adjustment for inflation, rounded down to the nearest lower cent.

Conference agreement

Senate recedes.

31. CONFORMING REIMBURSEMENT FOR PAID BREAKFASTS AND LUNCHES

Present law

The per-meal reimbursement for paid breakfasts (paid meals are those served to children with family income above 185 percent of the Federal poverty income guidelines) is higher than the reimbursement rate for paid lunches—by about 2 cents a meal for the 1995–1996 school year. [Sec. 4(b) of the Child Nutrition Act]

[Note: The paid breakfast reimbursement rate is roughly the same as the current-law paid lunch rate for schools with free and reduced-price participation of 60 percent or more. This special lunch rate would be eliminated under Sec. 401 of the Senate amendment (see item 25).]

House bill

No comparable provision.

Senate amendment

Requires that the reimbursement rate for paid breakfasts be the same as the rate for paid lunches.

Conference agreement

Senate recedes.

32. SCHOOL BREAKFAST STARTUP GRANTS

Present law

The Secretary is required to make competitive grants to help defray costs associated with starting or expanding school breakfast and summer food service programs. Funding of $5 million a year is provided through fiscal year 1997; $6 million is provided for fiscal year 1998; and $7 million a year is provided for fiscal year 1999 and each subsequent year. [Sec. 4(g) of the Child Nutrition Act]

House bill

No comparable provision.

Senate amendment

Repeals the startup/expansion competitive grant program.

Conference agreement

House recedes. [Sec. 923]

33. NUTRITION EDUCATION AND TRAINING PROGRAMS

Present law

The Secretary is required to make funding available to States for child nutrition program nutrition education and training activities. Funding of $10 million a year is provided. [See. 19(i) of the Child Nutrition Act]

House bill

No comparable provision.

Senate amendment

Reduces the amount that must be provided for nutrition education and training to $7 million a year.

Conference agreement

House recedes with an amendment eliminating mandatory status. Authorizes appropriations of $10 million per year. [Sec. 931]

34. EFFECTIVE DATE

Present law

Not applicable.

House bill

No comparable provision.

Senate amendment

Establishes Oct. 1, 1996 as the effective date for repeal of the startup/expansion competitive grant program and reduction of funding for nutrition education and training.

Conference agreement

Makes October 1, 1996 the effective date for reduction in funding authority for nutrition education and training. [Sec. 931(g)]

35. FREE AND REDUCED PRICE POLICY STATEMENT

Present law

[Note: See note under Senate amendment.]

House bill

No comparable provision.

Senate amendment

Provides that, after initial submission, schools may not be required to submit free and reduced-price policy statements for the School Lunch and School Breakfast programs to State education agencies—unless there is a substantive change in the school's policy. Implementation of routine changes (such as the annual adjustment in the income eligibility guidelines) would not be sufficient cause to require submission of a policy statement. [Note: Under current regulations, annual submission of policy statements is required.]

Conference agreement

House recedes. [Sec. 922]

36. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

A. Permitting Offer versus Serve

Present law

No provision. [Note: The "offer versus serve" option is permitted in school meal programs.]

House bill

No comparable provision.

Senate amendment

Allows schools operating summer food service programs to permit children attending a site on school premises to refuse one item of a meal without affecting the Federal reimbursement for the meal.

Conference agreement

House recedes. [Sec. 906(g)]

B. Removing Mandatory Notice to Institutions

Present law

Under the Summer Food Service program, States must submit to the Secretary, by February 15 of each year, a plan and schedule for informing service institutions of the availability of the program. [Sec. 13(n) of the National School Lunch Act]

House bill

No comparable provision.

Senate amendment

Prohibits the Secretary from requiring States to submit their plans and schedules for informing institutions of the availability of the Summer Food Service program.

Conference agreement

House recedes. [Sec. 906(k)]

37. CHILD AND ADULT CARE FOOD PROGRAM

A. Payments to Sponsor Employees

Present law

No provision.

House bill

No comparable provision.

Senate amendment

Bars Child and Adult Care Food program sponsoring organizations with more than one employee from basing payments to employees on the number of family/group day care homes recruited.

Conference agreement

House recedes. [Sec. 908(b)]

B. Improved Targeting of Day Care Home Reimbursements

Present law

Federal reimbursement rates for meals and supplements served in family/group day care homes are standard for all homes, established separately from those for day care centers, not differentiated by the participating children's family income (as is the case for day car centers), and set approximately half-way between reimbursements for free and reduced-price meals/supplements in day care centers. They are indexed for inflation each July 1 (see item 36B(2)), and for the period July 1995–June 1996, they are: $1.5375 for all lunches/suppers, 84.5 cents for all breakfasts, and 45.75 cents for all supplements. Family/group day care home sponsors also receive separate administrative cost reimbursements based on the number of homes sponsored. [Sec. 17(f) of the National School Lunch Act]

Meal and supplement reimbursements for family/group day care homes are indexed annually to reflect changes in the Consumer Price Index for food away from home and rounded to the nearest ¼ cent. [Sec. 17(f) of the National School Lunch Act]

House bill

No comparable provisions.

Senate amendment

Restructures reimbursements for meals and supplements served in family/group day care homes. In general, homes would be divided into two "tiers," one of which would receive current-law reimbursements (with indexing adjustments, see item 37B(2) for changes in inflation indexing rules) and the other which would receive lower reimbursements as set out under the Senate amendment. [Note: Separate payments to sponsors based on the number of homes sponsored are not changed, and current rules barring certain documents requirements and reimbursements for meals/supplements served to providers' children are retained.]

Tier I homes would be paid the meal/supplement reimbursements for family/group homes in effect on the date of enactment, adjusted on August 1, 1996, and each July 1 thereafter, to reflect inflation for the most recent 12-month period for which data are available.

Tier I homes would be those (1) located in areas, as defined by the Secretary based on Census data, in which at least half of the children are members of households with income below 185 percent of the Federal poverty income guidelines, (2) located in an area served by a school enrolling elementary students in which at least 50 percent of those enrolled are certified eligible for free or reduced-price school meals (i.e., have family income below 185 percent of the Federal poverty guidelines), or (3) operated by a provider whose family income is verified by its sponsoring organization to be below 185 percent of the poverty guidelines.

In general, tier II homes would be paid reimbursements of $1 for each lunch/supper, 30 cents for each breakfast, and 15 cents for each supplement (all substantially below tier I rates), adjusted on July 1, 1997, and each July 1 thereafter, to reflect inflation for the most recent 12-month period for which data are available.

Tier II homes would be homes that do not meet the tier I low-income area/provider standards.

Tier II homes could, at their option, claim higher tier I reimbursement rates under certain conditions: Tier II homes could elect to receive tier I reimbursements for meals/supplements served to children in households with income below 185 percent of the poverty guidelines, if the sponsoring organization collects the necessary income information and makes the appropriate eligibility determinations (in accordance with the Secretary's rules). Tier II homes also could receive tier I reimbursements for children in or subsidized under (or children of parents in or subsidized under) federally or State supported child care or other benefit programs with an income limit that does not exceed 185 percent of the poverty guidelines, and could restrict their claim for tier I reimbursements to these children if they opt not to have income statements collected from parents/caretakers.

The Secretary would be required to prescribe "simplified" meal counting/reporting procedures for use by tier II homes (and their sponsors) that elect to claim tier I reimbursements for children meeting the income or program participation requirements noted above. These procedures could include: (1) setting an annual percentage of meals/supplements to be reimbursed at tier I rates based on the family income of children enrolled during a specific month or other period, (2) placing a home in a reimbursement category based on the percentage of children with household income below 185 percent of poverty, or (3) other procedures determined by the Secretary.

The Secretary also would be permitted to establish minimum requirements for verifying income and program participation for children in tier II homes opting to claim tier I reimbursement rates.

Requires that reimbursements for family/group day care homes be indexed annually to reflect changes in the Consumer Price Index for food at home, based on the unrounded rates for the preceding 12-month period, and then rounded down to the nearest lower cent.

Requires the Secretary to reserve, from amounts available for the Child and Adult Care Food program in fiscal year 1996, $5 million—to provide grants for (1) training, materials, computer and other assistance to sponsoring organization staff and (2) training and other aid to family/group day care homes in implementing the new reimbursement-rate structure directed by the Senate amendment. The funds would be allocated among the States based on their proportion of participating homes, with a minimum of $30,000 as a State's base funding share, and State would not be allowed to retain more than 30 percent of their grant at the State level (passing the remainder to sponsors and providers).

Requires (1) the Secretary to provide State agencies with Census data necessary for determining homes' tier I status and (2) State agencies to provide the data to day care home sponsoring organizations.

Requires State agencies administering school meal programs to provide approved day care home sponsoring organizations a list of schools serving elementary school children in which at least half those enrolled are certified to receive free or reduced-price meals (one test for an area eligible for tier I reimbursements). The data for the list must be collected annually and provided on a timely basis to any requesting approved sponsoring organization.

Provides that, in determining homes' tier I status, State agencies and sponsoring organizations must use the most current data available.

Provides that a determination that a home is located in an area that qualifies it as a tier I home be in effect for three years, unless the State agency determined the area no longer qualifies the home. In the case of a determination made in on the basis of Census data, the determination is to be in effect until more recent data are available.

Makes conforming technical amendments recognizing the new structure of family/group day care home reimbursement rates.

Conference agreement

House recedes with an amendment accepting Senate provisions and establishing new lower reimbursement rates for tier II homes for meals and supplements as follows: $.90 for each lunch and supper; $.25 for each breakfast; and $.10 for supplements. [Sec. 908(e)]

C. Disallowing Meal Claims

Present law

No specific provision.

House bill

No comparable provision.

Senate amendment

Makes clear that States and sponsoring organizations may recoup reimbursements to day care home providers for improperly claimed meals/supplements.

Conference agreement

Senate recedes with an amendment that deletes advance payments to sponsors. [Sec. 908(f)]

D. Elimination of State Paperwork and Outreach Burden

Present law

Provisions of the National School Lunch Act require (1) States to take affirmative action to expand availability of the Child and Adult Care Food program's benefits (including annual notification of all nonparticipating family/group day care home providers), (2) the Secretary to conduct demonstration projects to test approaches to removing or reducing barriers to participation by homes that operate in low-income areas or primarily serve low-income children, (3) the Secretary and States to provide training and technical assistance to sponsoring organizations in reaching low-income children, and (4) the Secretary to instruct States to provide information/training about child health and development through sponsoring organizations. [Sec 17(k) of the National School Lunch Act]

House bill

No comparable provision.

Senate amendment

Repeals existing "outreach" requirements noted under present law and requires that (1) States provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the Child and Adult Care Food Program and (2) the Secretary assist States in carrying out this obligation.

Conference agreement

House recedes. [Sec. 908(h)]

E. Study of Impact of Amendments on Program Participation and Family Day Care Licensing.

Present law

No provision.

House bill

No comparable provision.

Senate amendment

Not later than two years after the date of enactment, requires the Secretary of Agriculture, in conjunction with the Secretary of Health and Human Services, to study the impact of the revisions to the Child and Adult Care Food program under the Senate amendment on:

(1) the number of participating family day care homes, day care home sponsoring organizations, and day care homes that are licensed, certified, registered, or approved by each State;

(2) the rate of growth in the number of participating homes, sponsors, and licensed, certified, registered, or approved homes;

(3) the nutritional adequacy/quality of meals served in family day care homes that no longer receive reimbursements or no longer receive "full" reimbursements: and

(4) the proportion of low-income children participating in the program. (p. 377)

Requires each State agency to submit data on (1) the number of participating family day care homes on July 31, 1996, and July 31, 1997, (2) the number of licensed, certified, registered, or approved family day care homes on July 31, 1996, and July 31, 1997, and (3) other matters needed to carry out the study as required by the Secretary.

Conference agreement

House recedes. [Sec. 908(n)]

F. Effective Date and Regulations

Present law

Not applicable.

House bill

No comparable provisions.

Senate amendment

Establishes the effective date for changes in the family/group day care home reimbursement structure—August 1, 1996. Other changes affecting the Child and Adult Care Food program would be effective on enactment (e.g., grants to assist in implementation of the changes, limits on payments to sponsors' employees).

Requires that, by February 1, 1996, the Secretary issue interim regulations to implement (1) the changes in the family/group day care home reimbursement structure and (2) existing provisions of law for the use of sponsoring organizations' administrative expense payments for startup/expansion and outreach and recruitment activities. Final regulations would be required by August 1, 1996.

Conference agreement

House recedes. [Sec. 908(m)]

38. REDUCING REQUIRED REPORTS TO STATE AGENCIES AND SCHOOLS

Present law

Not applicable.

House bill

No comparable provisions.

Senate amendment

Directs the Secretary to review all existing reporting requirements placed on local providers (e.g., schools) under the National School Lunch and Child Nutrition Acts and notify the appropriate committees of Congress of those requirements that are mandated by law, with recommendations as to whether any should be eliminated because their contribution to program effectiveness is not sufficient to warrant the paperwork burden imposed. The Secretary also would be required to provide justification for those reporting requirements established solely by regulation. The review and report would be due no later than one year after enactment.

Conference agreement

House recedes.

39. CATEGORICAL ELIGIBILITY

Present law

In general, children are categorically income eligible for child nutrition programs, and women, infants, and children for the WIC program, if they are recipients of AFDC benefits. [Sec. 9(b) of the National School Lunch Act and Sec. 17(d) of the Child Nutrition Act]

House bill

No comparable provisions.

Senate amendment

Amends the National School Lunch and Child Nutrition Acts to (1) technically conform citations to the new family assistance block grant (rather than the AFDC program) and (2) make categorically eligible for child nutrition and WIC programs only those recipients in family assistance block grant programs that comply with standards established by the Secretary of Agriculture to ensure that a State's family assistance block grant program standards are comparable to or more restrictive than those in effect for the AFDC program on June 1, 1995.

Conference agreement

House recedes. [Sec. 109]

TITLE X. FOOD STAMPS AND COMMODITY DISTRIBUTION

Food Stamp Reform

1. DECLARATION OF POLICY

Present law

The Food Stamp Act's declared policy is to safeguard the health and well-being of the Nation's population by raising levels of nutrition among low-income households. To alleviate hunger and malnutrition among low-income households with limited food purchasing power, the Act authorizes the food stamp program to permit low-income households to obtain a more nutritious diet through normal channels of trade by increasing the food purchasing power of all eligible households who apply. [Sec. 2]

House bill

No comparable provision.

Senate amendment

Adds to the existing Food Stamp Act declaration of policy a statement that Congress intends that the food stamp program support the employment focus and family strengthening mission of public welfare and welfare replacement programs by facilitating transition to economic self-sufficiency through work, promoting employment as the primary means of income support and reducing barriers to employment, and maintaining and strengthening healthy family functioning and family life.

Conference agreement

The Conference agreement follows the House bill.

2. SHORT TITLE

Present law

No provision.

House bill

Cites this subtitle as "The Food Stamp Simplification and Reform Act of 1995."

Senate amendment

No comparable provision.

Conference agreement

The Conference agreement follows the House bill.

3. ESTABLISHMENT OF SIMPLIFIED FOOD STAMP PROGRAM

Present law

The Secretary is directed to establish uniform national standards of eligibility for food stamps (with certain variations allowed for Alaska, Hawaii, Guam, the Virgin Islands, and certain administrative rules). States may not impose any other standards of eligibility as a condition for participation in the program. [Sec. 5(b)]

House bill

Permits States to operate a "simplified food stamp program," either statewide or in any political subdivision. Under this program, households receiving regular cash benefits under the Temporary Assistance for Needy Families (TANF) block grant established by title I of the Personal Responsibility Act (replacing the current Aid to Families with Dependent Children (AFDC) program) could be provided food stamp benefits using the rules and procedures established by the State for its TANF block grant program, as an alternative to using regular food stamp rules.

Senate amendment

Explicitly permits non-uniform standards of eligibility. [Note: Also see item 38]

Conference agreement

The Conference agreement follows the Senate amendment.

4. SIMPLIFIED FOOD STAMP PROGRAM

A. Basic State Option

Present law

Households composed entirely of AFDC recipients are automatically eligible for food stamps, with few exceptions (e.g., aliens who do not meet the Food Stamp program's more stringent rules barring illegal aliens). [Sec. 5(a)]

As with other households, food stamp benefits for AFDC households are determined under Food Stamp program rules governing counting of income, expense deductions, and procedural requirements.

House bill

[Note: Sec. 542(a) of the House bill adds a new section 24 to the Food Stamp Act containing rules for the Simplified Food Stamp Program.]

If a State elects to exercise its option to use its TANF block grant rules and procedures for food stamp benefits, requires that (1) households in which all members receive regular cash benefits under a TANF block grant program be automatically eligible for food stamps and (2) food stamp benefits for them be determined under rules and procedures established by the State or locality under the State's TANF block grant program or the regular food stamp program.

Senate amendment

[Note: Sec. 342(a) of the Senate amendment adds a new section 24 to the Food Stamp Act containing rules for the Simplified Food Stamp Program]

Permits a State to exercise an option to use rules and procedures established for its family assistance block grant (under title I of the Senate amendment) to determine food stamp benefits for households in which all members receive family assistance block grant aid: (1) households in which all members receive aid under a family assistance block grant program would be automatically eligible for food stamps; and (2) their food stamp benefits could be determined by using rules and procedures established by the State for its family assistance block grant program, regular food stamp program rules and procedures, or a combination of the two. States also would be allowed to apply a single "shelter standard" to households that receive a housing subsidy and another to households that do not.

Conference agreement

The Conference agreement follows the Senate amendment with an amendment deleting the specific reference to use of a single shelter standard.

B. Federal Cost Control

Present law

No comparable provisions.

House bill

Requires that, when approving a State's plan to exercise its option for a simplified food stamp program, the Secretary certify that the average per-household food stamp benefit received by participating TANF households is not expected to exceed the average food stamp benefit level for AFDC or TANF recipients in the preceding fiscal year—adjusted for any changes in the "Thrifty Food Plan" (the basis for food stamp benefit levels). The Secretary also is required to compute the "permissible" average per-household benefit for each State or locality exercising the simplified program option.

Requires that, if average food stamp benefits under the simplified program exceed the permissible level (the Thrifty-Food-Plan-adjusted prior year amount), the State must pay the Federal Government the benefit cost of the excess within 90 days of notification.

Senate amendment

Provides that a State may not operate a simplified food stamp program unless it has an approved plan and requires the Secretary to approve any State plan if the Secretary determines it complies with the provisions of law governing the simplified food stamp program option and would not increase Federal costs under the Food Stamp Act. Federal costs for this purpose are defined to exclude research, demonstration, and evaluation costs.

Requires the Secretary to determine whether a State's simplified food stamp program is increasing Federal costs under the Food Stamp Act. In making the determination, the Secretary (1) could not require States to collect or report any information on households not included in the simplified food stamp program and (2) could approve State requests to use alternative accounting periods. If the Secretary determines that a simplified food stamp program has increased Federal costs, the State must be notified by January 1 of the succeeding fiscal year.

If the Secretary determines that a simplified program has increased Federal costs for a two-year period, the State must pay the Federal Government the amount of any increased costs within 90 days of the determination (or have amounts due it for administrative costs reduced).

Conference agreement

The Conference agreement follows the Senate amendment with an amendment. The Secretary must, for each fiscal year, determine whether a simplified program is increasing Federal costs above those incurred under the food stamp program in the fiscal year prior to implementation of the simplified program, adjusted for changes in participation, the non-public-assistance income of participants, and the cost of the Thrifty Food Plan. The Secretary must notify the State of a determination of increased Federal costs, and the State must submit for approval a corrective action plan designed to prevent increased Federal costs. If a State fails to submit a plan or carry out an approved plan, the Secretary must terminate approval of the State's simplified program, and the State is ineligible for future participation under simplified program rules.

C. Disqualification

Present law

Households penalized for an intentional failure to comply with a Federal, State, or local welfare program may not, for the duration of the penalty, receive an increased food stamp allotment because their welfare income has been reduced. [Sec. 8(d)]

[Note: This has been interpreted by regulation to apply only to reductions in welfare income due to repayment of overpayments resulting from a welfare violation, although a revision of the regulation is scheduled.]

House bill

Provides that (1) households receiving food stamps under the simplified program option who are sanctioned (disqualified or have their benefits reduced) under a State's TANF program may have the same penalty applied for food stamp purposes and (2) food stamp benefits to households participating under the simplified program option may not be increased as the result of a reduction in their TANF benefits caused by a sanction. Any household disqualified from food stamps as the result of a TANF program sanctions would be eligible to apply for food stamps (as a new applicant) after the disqualification period has expired.

Senate amendment

[Note: See items 10 and 43.]

Conference agreement

The Conference agreement follows the Senate amendment.

D. Extending Rules to "Mixed" Households

Present law

No comparable provisions.

House bill

Allows States the further option of applying their TANF rules and procedures to food stamp households in which some, but not all, members receive TANF benefits. These households would not be automatically eligible for food stamps (they would have to meet normal food stamp eligibility rules), but their benefits could be determined under the State's TANF rules and procedures, so long as the Secretary ensures that the State's plan provides for an "equitable" distribution of benefits among all household members.

Senate amendment

No comparable provisions.

Conference agreement

The Conference agreement follows the Senate amendment. The conferees encourage the Secretary to work with States to test methods for applying a single set of rules and procedures to households in which some, but not all, members receive cash welfare benefits under State rules.

E. Cash Assistance

Present law

No comparable provisions.

House bill

Allows States exercising the simplified program option to pay food stamp benefits in cash to some participating households. Cash benefits could be paid to households with 3 or more consecutive months' earned income of at least $350 a month from a private sector employer.

Provides that: (1) cash assistance in lieu of food stamps be considered the food stamp benefit of the earner's household, (2) the value of food stamp benefits provided in cash be treated as food stamp coupons for taxation and other purposes (i.e., disregarded), and (3) the State opting for cash payments increase the payments (at State expense) to offset the effect of any food sales taxes, unless the Secretary determines it unnecessary because of the limited nature of items taxed (sales taxes on food purchases with food stamp benefits are barred by existing law).

Requires States electing the cash benefit option to submit a written evaluation the effect of cash assistance after 2 years' operation.

Senate amendment

[Note: See item 55.]

Conference agreement

The Conference agreement follows the Senate amendment.

F. Federal Food Stamp Rules

Present law

The Federal Government shares 50% of any State food stamp administrative costs (except that certain States with very low rates of erroneous benefit and eligibility determinations can receive up to 60%). States also may retain certain proportions of any overissued benefits they recoup. Special Federal cost-sharing rules apply in the case of employment and training programs for food stamp recipients. States are subject to a quality control system under which the extent of erroneous benefit and eligibility decisions is measures. Those with high rates of erroneous benefit and eligibility decisions are subject to fiscal sanctions. [Sec. 16]

House bill

Requires States exercising the simplified program option to, at a minimum, comply with certain rules mandated under the Food Stamp Act:

(1) requirements governing issuance procedures for food stamp benefits;

(2) the requirement that benefits be calculated by subtracting 30% of a household's income (as determined by state-established, not Federal, rules under the simplified program option) from the maximum food stamp benefit;

(3) the bar against counting food stamp benefits as income or resources in other programs;

(4) the requirements that State agencies assume responsibility for eligibility certification and issuance of benefits and keep records for inspection and audit;

(5) the bar against discrimination by reason of race, sex, religious creed, national origin, or political beliefs;

(6) requirements related to submission and approval of plans of operation and administration of the food stamp program on Indian reservations;

(7) limits on the use and disclosure of information about food stamp households;

(8) requirements for notice to and fair hearings for aggrieved households (or comparable requirements established by the State under its TANF program;)

(9) requirements for submission of reports and other information required by the Secretary;

(10) the requirement to report illegal aliens to the Immigration and Naturalization Service;

(11) requirements for use of certain Federal and State data sources in verifying recipients' eligibility;

(12) requirements to take measures to ensure that households are not receiving duplicate benefits; and

(13) requirements for the provision of social security numbers as a condition of eligibility and for their use by State agencies.

States electing the simplified program option would be subject to normal food stamp program cost-sharing rules.

States electing the simplified option would be subject to the food stamp quality control system (including fiscal sanctions).

Senate amendment

Permits States exercising the option for a simplified food stamp program to apply rules and procedures under their family assistance block grant, the rules/procedures of the regular food stamp program, or the rules/procedures of one program to certain matters and those of the other in remaining matters. Permits States to standardize food stamp expense "deductions," but, in doing so, States would be required to give consideration to the work expenses, dependent car costs, and shelter costs of participating households.

Otherwise, the Senate amendment is the same as the House bill, except that it also would (1) require that States follow the revised rule in the Senate amendment (see item 43) as to not increasing food stamp benefits when other public assistance benefits are decreased (see item 4C in the House bill), (2) require that eligible households be certified and receive benefits not later than 30 days after application (as now required under the regular food stamp program), and (3) require that States issue "expedited" benefits to very low-income households (as required under the regular food stamp program).

Conference agreement

The Conference agreement follows the House bill with an amendment (1) allowing States to standardize deductions and (2) requiring States to follow the revised rule in the Senate amendment as to not increasing food stamp benefits when other public assistance benefits are decreased.

G. State Plans

Present law

No comparable provision.

House bill

Requires that State plans for those States electing to exercise the simplified program option include the rules and procedures to be followed in determining benefits under the option, whether the program will include households in which not all members receive TANF grant benefits, and the method by which the State or political subdivision participating in the simplified program will carry out its quality control obligations.

Senate amendment

Requires that State plans for those States electing to exercise the simplified program option include the rules and procedures to be followed in determining benefits under the option, how the States will address the needs of households with high shelter costs, and a description of the method by which the State will carry out its quality control obligations.

Conference agreement

The Conference agreement follows the Senate amendment.

5. CONFORMING AMENDMENTS: SIMPLIFIED FOOD STAMP PROGRAM

Present law

Allows the Secretary to operate pilot projects similar to the simplified food stamp program State option proposed in the House bill. [Sec. 8(e) and Sec. 17(i)]

House bill

Deletes provisions for pilot projects similar to the simplified food stamp program State option.

Senate amendment

Same as the House bill.

Conference agreement

The Conference agreement follows the House bill with an amendment to add necessary conforming amendments.

6. THRIFTY FOOD PLAN

Present law

Maximum monthly food stamp benefits are defined as 103% of the cost of the Agriculture Department's "Thrifty Food Plan," adjusted for food-price inflation each October according to the plan's cost in the immediately preceding June and rounded down to the nearest dollar by household size. [Sec. 3(o)]

House bill

Provides that current maximum monthly food stamp benefits (103% of the cost of the Thrifty Food Plan in June 1994) be increased by 2% a year, beginning with the October 1995 adjustment, and rounded down to the nearest dollar by household size.

Senate amendment

Sets maximum monthly food stamp benefits at 100% of the cost of the Thrifty Food Plan, effective October 1, 1995, adjusted annually, as under existing law and rounded down to the nearest dollar by household size. Requires that the October 1, 1995, adjustment not reduce maximum benefit levels.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment making it effective October 1, 1996.

7. INCOME DEDUCTIONS AND ENERGY ASSISTANCE

A. Energy Assistance

Present law

Payments or allowances for energy assistance provided by State or local law are, under rules set by the Secretary, disregarded ("excluded") as income. [Sec. 5(d)(11) and 5(k)]

Payments or allowances for weatherization assistance are disregarded as energy assistance. [Sec. 5(d)(11) and 5(k)] [Note: Weatherization payments could otherwise be disregarded as lump-sum payments, vendor payments, or reimbursements.]

Federal Low-Income House Energy Assistance Program (LIHEAP) benefits are disregarded as income. [Sec. 5(d)(11) and 5(k) of the Food Stamp Act and sec. 2605(f) of the Low-Income Home Energy Assistance Act]

Certain utility allowances under Department of Housing and Urban Development (HUD) programs are disregarded. [Sec. 5(d)(11) and 5(k)]

Shelter expense deductions may be claimed for utility costs covered by LIHEAP benefits, but not in the case of other disregarded energy assistance unless the household has additional out-of-pocket expenses. [Sec. 5(e) of the Food Stamp Act and Sec. 2605(f) of the Low-Income Home Energy Assistance Act]

House bill

Requires that State/local energy assistance be counted as income.

Continues to disregard as income payments or allowances for weatherization assistance under a Federal energy assistance program. Other weatherization assistance could be disregarded as lump-sum payments, vendor payments, or reimbursements.

Bars claiming shelter expense deductions for utility costs covered either directly or indirectly by the LIHEAP and other disregarded energy assistance.

Senate amendment

Requires that State/local energy assistance be counted as income.

Requires an income disregard for one-time payments/allowances under a Federal or State law for the costs of weatherization or emergency repair/replacement of unsafe/inoperative furnaces or other heating/cooling devices.

Counts Federal LIHEAP benefits as income.

Counts HUD utility allowances as income.

Allows claiming shelter expense deductions for utility costs covered directly or indirectly by the LIHEAP and other counted energy assistance.

Conference agreement

The Conference agreement follows the Senate amendment.

B. Standard Deductions

Present law

For purposes of determining food stamp benefits and eligibility, applicant/recipient households may claim standard deductions from their otherwise countable income. Standard deductions are indexed annually (each October 1) for inflation based on the Consumer Price Index for items other than food and rounded down to the nearest dollar. For FY1995, standard deductions are set at: $134 a month for the 48 States and the District of Columbia, $229 for Alaska, $189 for Hawaii, $269 for Guam, and $118 for the Virgin Islands. For FY1996, they were "scheduled" to rise to: $138, $236, $195, $277, and $122, respectively, but this was barred by the FY1996 agriculture appropriations act. (Sec. 5(e)]

House bill

Sets standard deductions at their FY1995 levels, effective October 1, 1995

Senate amendment

Reduces standard deductions:

(1) for FY1996, they would be $132, $225, $186, $265, and $116; and

(2) for FY1997–2002, they would be $124, $211, $174, $248, and $109.

Inflation indexing of standard deductions would resume October 1, 2002 (using existing indexing rules).

Conference agreement

The Conference agreement follows the House bill and continues to set standard deductions at their FY1995 levels.

C. Earned Income Deduction

Present law

Households may claim a deduction for 20% of any earned income. This deduction is not allowed with respect to any income that a household willfully or fraudulently fails to report in a timely manner (as proven in a fraud hearing proceeding)—i.e., it is not allowed when determining the amount of a benefit overissuance. [Sec. 5(e)]

House bill

Denies an earned income deduction for the food stamp benefit portion of income earned under a work supplementation/support program. [Note: See item 15.]

Senate amendment

Disallows an earned income deduction for any income not reported in a timely manner—i.e., the deduction would not be allowed in determining the amount of any overissued benefits.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment denying an earned income deduction for the public assistance portion of income earned under a work supplementation/support program.

D. Excess Shelter Expense Deduction

Present law

For purposes of determining food stamp benefits and eligibility, applicant/recipient households may claim excess shelter expense deductions from their otherwise countable income—in the amount of any shelter expenses (including utility costs) above 50% of their countable income after all other deductions have been applied. For households with elderly or disabled members, these deductions are unlimited. For other households, they are limited by law through December 1996; limits are lifted as of January 1, 1997. For FY1995, excess shelter expense deductions were capped at: $231 a month for the 48 States and the District of Columbia, $402 for Alaska, $330 for Hawaii, $280 for Guam, and $171 for the Virgin Islands. For October 1995 through December 1996, the caps rose to $247, $248, $353, $300, and $182, respectively. [Sec. 5(e)]

States may use "standard utility allowances" (as approved by the Secretary) in calculating households' shelter expenses. However, households may claim actual expenses instead of the allowance and may switch between an actual expense claim and the standard allowance at the end of any certification period and one additional time during any 12-month period. [Sec. 5(e)]

House bill

Sets the limits on excess shelter expense deductions at FY1995 levels.

Senate amendment

Permits States to make the use of standard utility allowances mandatory for all households if (1) the State has developed separate standards that include the cost of heating and cooling and do not include these costs and (2) the Secretary finds that the standards will not result in increased Federal costs.

Removes the option for households to switch between a standard utility allowance and actual costs once during every 12-month period.

Conference agreement

The Conference agreement follows the Senate amendment with an amendment that establishes excess shelter expense deduction limits at the October 1995/December 1996 levels.

E. Homeless Shelter Deduction

Present law

For homeless households not receiving free shelter throughout the month, States may develop a homeless shelter expenses estimate (a standard amount) to be used in calculating an excess shelter expense deduction. States must use this amount unless the household verifies higher expenses. The Secretary may prohibit the use of the deduction for households with extremely low shelter costs. The amounts is inflation indexed, and, for FY 1995, it is limited to $139 a month; effective October 1, 1995, it is scheduled to rise to $143. [Sec. 11(e)(3)]

House bill

Sets the homeless shelter deduction at the FY 1995 $139 a month amount and requires that it be used in establishig homeless households' excess shelter expense deductions when they do not receive free shelter throughout the month.

Senate amendment

Same as the House bill, except that States may prohibit the use of the deduction for households with extremely low shelter costs.

Conference agreement

The Conference agreement follows the Senate amendment.

8. VEHICLE ALLOWANCE

A. Threshold for Counting a Vehicle's Value

Present law

In determining a household's liquid assets for food stamp eligibility purposes, a vehicle's fair market value in excess of $4,550 is counted. This threshold rose to $4,600 in October 1995 and is scheduled to be annually indexed for inflation beginning in fiscal year 1997. [Sec. 5(g)(2)] [Note: Eligible households may have liquid assets of no more than $2,000 ($3,000 for households with elderly members).]

House bill

Sets the threshold above which the fair market value of a vehicle is counted as an assets at $4,550.

Senate amendment

Eliminates the October 1, 1995, increase in the increase in the threshold to $4,600 and reqires that the $4,550 threshold begin to be inflation adjusted on October 1, 1996.

Conference agreement

The Conference agreement follows the House bill, with an amendment setting the threshold at $4,600.

B. Vehicles Carrying Fuel or Water

Present law

In determining a household's liquid assets for food stamp eligibility purposes, the value of a vehicle that the household depends on to carry fuel for heating or water for home use is excluded. [Sec. 5(g)(2)

House bill

Deletes the asset exclusion for vehicles used to carry fuel or water.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

9. WORK REQUIREMENTS

Non-exempt recipients between 16 and 60 are ineligible for food stamps if they refuse to register for employment, refuse to participate in an employment/training program when required to do so by the State, or refuse a job offer meeting minimum standards. [Sec. 6(d)]

Exempt individuals are: (1) those who are not physically or mentally fit, (2) those subject to and complying with a work/training requirement under the AFDC program or the unemployment compensation system (although failure to comply with an AFDC/unemployment system requirement is treated as a failure to comply with food stamp rules, if the requirement is "comparable"), (3) parents and other household members with the responsibility for care of a dependent child under age 6 or an incapacitated person, (4) postsecondary students enrolled at least half-time (separate rules bar eligibility for most postsecondary students who are not working or do not have dependents), (5) regular participants in drug addiction or alcoholic treatment programs, (6) persons employed at least 30 hours a week or receiving the minimum wage equivalent, and (7) persons between 16 and 18 who are not head of household and are in school at least half time. [Sec. 6(d) (1) and (2)]

In addition, if a non-exempt head of household fails to comply with one of the above-noted requirements or voluntarily quits a job without good cause, or if any non-exempt household member is on strike, the entire household is ineligible for food stamps. [Sec. 6(d) (1) & (3)]

A. Job Search

Present law

As noted above, non-exempt individuals refusing to participate in an employment/training program when required to do so by the State are ineligible for food stamps (if they are head of household, the entire household is ineligible). State-designed employment and training programs may include a requirement to perform job search activities. [Sec. 6(d) (1) & (2)]

House bill

Makes ineligible non-exempt individuals (and their households if they are head of household) who refuse to participate in a State-established job search program. [Note: Able-bodied non-elderly adults without dependents would be subject to new work requirements, see below.]

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

B. Comparable Work Requirements

Present law

As noted above, individuals are exempt from food stamp employment/training requirements if they are subject to and complying with an AFDC or unemployment compensation work/training requirement, and failure to comply with such an AFDC or unemployment compensation requirement is treated as failure to comply with food stamp employment/training requirements, if the requirement is "comparable." [Sec. 6(d)(2)]

House bill

Requires that failure to comply with an TANF or unemployment compensation system work/training requirement be treated as failure to comply with a food stamp employment/training requirement, whether or not the requirement is "comparable."

Senate amendment

Same as the House bill.

Conference agreement

The Conference agreement follows the House bill.

C. New Work Requirement

Present law

As noted above, non-exempt individuals are ineligible for food stamps if they refuse to participate in an employment/training program when required to do so by the State. [Sec. 6(d)(1)]

House bill

Deletes provisions of law barring eligibility to those refusing to participate in State-established employment/training programs.

In their place, adds a new work requirement: non-exempt recipients (see below) would be disqualified if they are not employed a minimum of 20 hours a week or are not participating in the work program newly established under the House bill (see below) within 90 days of certification of eligibility.

Allows individuals who have been disqualified under the new work requirement to re-establish food stamp eligibility if they become exempt (under the rules noted immediately below), become employed at least 20 hours a week during any consecutive 30-day period, or participate in a work program (see below).

Exempt from the new requirement would be: (1) those under 18 or over 50, (2) those medically certified as physically or mentally unfit for employment, (3) parents or other household members responsible for the care of a dependent child, and (4) those who are otherwise exempt from work registration and job search rules (see present law description above).

Upon a State's request, allows the Secretary to waive application of the new work requirement for some or all individuals in all or part of a State if the Secretary determines that the area (1) has an unemployment rate over 10% or (2) does not have sufficient jobs to provide employment for those subject to the new requirement. The Secretary would be required to report to the Agriculture Committees the basis for any waiver based on lack of sufficient jobs.

Senate amendment

Adds a new work requirement: non-exempt persons (see below) would be ineligible if, during the preceding 12-month period, they received food stamps for 6 months or more while not working 20 hours or more a week (averaged monthly) or participating in and complying with a work/training program (see *note* regarding exemptions below) for at least 20 hours a week.

Exempt from the new requirement would be: (1) those under 18 or over 50, (2) those certified by a physician as physically or mentally unfit for employment, (3) parents or other household members responsible for the care of a dependent, (4) those participating a minimum of 20 hours a week in (and complying with the requirements of) a Job Training partnership Act (JTPA) program, a Trade Adjustment Assistance Act training program, or a State or local government employment or training program meeting Governor-approved standards, and (5) those otherwise exempt from work registration and job search rules (see present law description above.) [Note: The new work requirement could be met by those participating in and complying with (for 20 hours a week or more) a JTPA program, a Trade Adjustment Assistance training program, or a State/local employment or training program meeting Governor-approved standards (including a food stamp program employment/training activity other than job search or job search training).]

As in the House bill, waivers are allowed, except that the unemployment rate threshold is 8% and the Secretary must report the basis for *any* waiver.

Provides for a transition to the new work requirement. Prior to October 1, 1996, administrators would not "look back" a full 12 months in determining whether a recipient had been receiving food stamps and not meeting the new requirement; they would look back only to October 1, 1995.

Conference agreement

The Conference agreement follows the House bill, with an amendment. Non-exempt persons (see below) are ineligible if, during the preceding 12-month period, they received food stamps for 4 months or more while not working 20 hours or more a week (averaged monthly), participating in and complying with a work program (see below) for at least 20 hours a week, or participating in a workfare program.

Exempt from the new requirement are: (1) those under 18 or over 50, (2) those medically certified as physically or mentally unfit for employment, (3) parents or other household members responsible for the care of a dependent child, (4) those otherwise exempt from work registration or job search rules (e.g., those caring for incapacitated persons), and (5) pregnant women.

Work programs allowing an exemption are programs under the JTPA or the Trade Adjustment Assistance Act, or employment/training programs operated or supervised by a State or locality meeting standards approved by the Governor (including a food stamp employment/training program)—except for job search or job search training programs.

Waiver reports are required for any waiver based on unemployment rates (over 10%) or lack of sufficient jobs.

The disqualification imposed by the new work requirement ceases to apply if, during a 30-day period, an individual works 80 hours or more, participates in and complies with a work program for at least 80 hours, or participates in a workfare program. In the subsequent 12-month period, an individual is eligible for food stamps for up to 4 months while not working for at least 20 hours a week, participating in a work program for at least 20 hours a week, or participating in a workfare program.

As in the Senate amendment, a transition to the new work requirement is provided.

D. Disqualification

Present law

[Note: See present law description above. In addition, disqualification periods for failure to fulfill work requirements are (1) 2 months or until compliance (whichever is first) for most failures and (2) 90 days in case of a voluntary quit.]

House bill

No comparable provisions. [Note: The House bill creates new disqualification penalties for those covered by its new work requirement.]

Senate amendment

Rewrites and adds to rules governing disqualification for violation of work and employment/training requirements (other than those for the new work requirement noted above).

In addition to existing provisions for disqualification (e.g., job refusal, failure to participate in an employment/training program), makes ineligible (1) individuals who refuse without good cause to provide sufficient information to allow a determination of their employment status or job availability, (2) all individuals (in addition to heads of household) who voluntarily and without good cause quit a job, and (3) individuals who voluntarily and without good cause reduce their work effort (and, after the reduction, are working less than 30 hours a week).

Establishes a new household ineligibility rule: if any individual who is head of household is disqualified under a work rule, the entire household would, at State option, be ineligible for the lesser of the duration of the individual's ineligibility or 180 days—as determined by the State.

Establishes new mandatory minimum work-rule disqualification periods for individuals. For the first violation, individuals would be ineligible until the later of the date they fulfill work rules, for 1 month, or a period (determined by the State) not to exceed 3 months. For the second violation, individuals would be ineligible until the later of the date they fulfill work rules, for 3 months, or a period (determined by the State) not to exceed 6 months. For a third or subsequent violation, individuals would be ineligible until the later of the date they fulfill work rules, 6 months, a date determined by the State, or (at State option) permanently. These disqualification period also would apply to those failing to meet workfare requirements

In establishing good cause, voluntary quits, and reduction of work effort, the Secretary would determine the meaning of the terms. States would determine the meaning of other terms and the procedures for making compliance decisions, but could not make a determination that would be less restrictive than a comparable one under the State's family assistance block grant program.

States would be required to include the standards and procedures they use in making work-rule disqualification/compliance decisions in their State plan.

Conference agreement

The Conference agreement follows the Senate amendment

E. Caretaker Exemption

Present law

Parents or other household members with responsibility for the care of a dependent child under age 6 or of an incapacitated person are exempt from food stamp work rules [Sec. 6(d)(2)]

House bill

No provision.

Senate amendment

Permits States to lower the age at which a child "exempts" a parent/caretaker from 6 to not under the age of 1.

Conference agreement

The Conference agreement follows the Senate amendment.

F. Work and Employment/Training Programs

Present law

States must operate employment and training programs for non-exempt food stamp recipients and place at least 15% of those covered in a program component. Exempt are those listed above and those States opt to exempt under Federal rules. Program components can range from job search or education activities to work experience/training and "workfare" assignments. [Sec. 6(d)(4)]

Work experience/training program components must limit assignments to projects serving a useful public purpose, use the prior training/experience of assignees, not provide work that has the effect of replacing others, and provide the same benefits and working conditions provided to other comparable employees. [Sec. 6(d)(4)(B)]

States and political subdivisions also may operate workfare programs under which nonexempt recipients may be required to perform work in return for the minimum wage equivalent of their household's monthly food stamp allotment. In general, those exempt are those listed above (p. 16). [Sec. 20]

Workfare assignments may not have the effect of replacing or preventing the employment of others and must provide the same benefits and working conditions provided to other comparable employees. [Sec. 20(d)]

The total hours of work required of a household under an employment/training program (including workfare) cannot in any month exceed the minimum wage equivalent of the household's monthly food stamp benefit. The total hours of participation in an employment and training program required of any household member cannot in any month exceed 120 hours (when added to other work). And, workfare hours (when added to other work) cannot exceed 30 hours a week for a household member. [Sec. 6(d)(4)(F) and Sec. 20(c)]

Under employment and training programs for food stamp recipients, States must provide or pay for transportation and other costs directly related to participation (up to $25 a month for each participant) and necessary dependent care expenses (in general, up to $175 or $200 a month for each dependent, depending on the dependent's age). Under workfare programs, States must reimburse participants for transportation and other costs directly related to participation (up to $25 a month for each participant). [Sec. 6(d)(4)(I) and Sec. 20 (d)(3)]

House bill

Deletes the requirement for States to operate employment and training programs and current provisions for work experience/training and workfare programs.

Instead, requires the Secretary to permit any State that applies and submits a plan in compliance with the Secretary's guidelines to operate a work program for food stamp recipients subject to the new work requirement (see above) in the State or any political subdivision. A State's work program would require those accepting an offer of a work position in order to maintain food stamp eligibility to perform work on the State or local jurisdiction's behalf, or on behalf of a private nonprofit entity. The Secretary's guidelines would be required to allow States and localities to operate a work program that is consistent and compatible with similar programs they might operate.

Requires that, in order to be approved, a State's work program provide that participants work no more than the minimum wage equivalent of their household's monthly food stamp benefit (i.e., the number of hours equivalent to their household's monthly benefit divided by the minimum wage).

Limits the degree to which a State or locality can assign participants to replace other workers. No State/locality could replace an employed worker with a work program participant, but participants could be placed in (1) new positions, (2) positions that became available during the normal course of business, (3) positions that involve performing work that would otherwise be performed on an overtime basis, or (4) positions that became available by shifting current employees to an alternate position. [Note: States would receive Federal costsharing for work program participant expenses (see below).]

Senate amendment

Revises the existing requirements for State-operated employment/training programs for food stamp recipients:

(1) makes clear the work experience is a purpose of employment/training programs;

(2) requires that each component of an employment/training program be delivered through a "statewide workforce development system," unless the component is not available locally;

(3) expands the existing State option to apply work rules to applicants at application to all work requirements, not only job search;

(4) removes specific rules governing job search components (i.e., tied to those for the AFDC program);

(5) removes provisions for employment/training components related to work experience requiring that they be in public service work and use (to the extent possible) recipients' prior training and experience;

(6) removes specific Federal rules as to States' authority to exempt categories and individuals from employment/training requirements;

(7) removes the requirement to serve volunteers in employment/training programs;

(8) removes the requirement for "conciliation procedures" for resolution of disputes involving participation in an employment or training program;

(9) limits employment/training funding provided by the food stamp program for services to AFDC or family assistance block grant funding recipients to the amount used by the State for AFDC recipients in FY1995; and

(10) removes Federal performance standards on States for employment/training programs for food stamp recipients.

Conference agreement

The Conference agreement follows the Senate amendment.

G. Funding Work and Employment/Training Programs

Present law

To support employment and training programs for food stamp recipients, States receive a formula share of $75 million a year (based partially on their share of food stamp recipients not exempt from work registration and employment/training requirements and partially on their share of those placed in employment/training program components). Minimum State annual allocations are $50,000.

In addition to its portion of the $75 million annual grant, each State is entitled to (1) 50% of any additional costs incurred, (2) 50% of any transportation or other participant costs paid or incurred up to half of $25 a month for each participant, and (3) 50% of any dependent care costs paid or incurred up to half of certain limits (generally, $175/$200 a month for each dependent, depending on the dependent's age). [Sec. 16(h)]

House bill

To support work programs for food stamp recipients, requires the Secretary to allocate among States and localities operating them $75 million a year, based on their share of recipients subject to the new work requirement (see above). Minimum State allocations would be $50,000.

Requires States to notify the Secretary as to their intention to operate a work program, and requires the Secretary to reallocate unclaimed portions of the $75 million annual grant to other States, as the Secretary deems appropriate and equitable.

Requires that, in addition to its portion of the $75 million annual grant, the Secretary pay each State (1) 50% of any additional costs incurred and (2) 50% of any transportation or other participant costs paid or incurred up to half of $25 a month for each participant.

Allows the Secretary to suspend or cancel some or all payments made to States for the work program, or withdraw approval, on a finding of noncompliance.

Senate amendment

To support employment/training programs for food stamp recipients, requires the Secretary to "reserve for allocation" to States: $77 million for FY1996, $80 million for FY1997, $83 million for FY1998, $86 million for FY1999, $89 million for FY2000, $92 million for FY2001, and $95 million for FY2002. Allocations would be based on a "reasonable formula" (determined by the Secretary) that gives consideration to States' shares of the population affected by the new work requirement (see above). Minimum State allocations would be $50,000.

Requires reallocations as in the House bill.

Continues existing provisions for payments for additional costs, but adds explicit permission for a 50% Federal share of State case management costs.

Conference agreement

The Conference agreement follows the Senate amendment with an amendment. The amounts "reserved for allocation" to states are: $77 million for FY 1996; $79 million for FY 1997; $81 million for FY 1998; $84 million for FY 1999; $86 million for FY 2000; $88 million for FY 2001; and $90 million for FY 2002.

H. Conforming Amendment

Present law

There is authorized a demonstration project similar to the new work requirement in the House bill; it has not been implemented. [Sec. 17(d)]

House bill

Deletes authorization for a demonstration project similar to the new work requirement in the House bill.

Senate amendment

Makes several technical and conforming amendments to employment and training provisions.

Conference agreement

The Conference agreement follows the House bill and makes technical and conforming amendments.

10. COMPARABLE TREATMENT OF DISQUALIFIED INDIVIDUALS

Present law

[Note: See item 4C.]

House bill

Requires that individuals who have been disqualified for noncompliance with requirements under a TANF program not be eligible to participate for food stamps during the disqualification period.

Senate amendment

If an individual is disqualified for failure to perform an action required under a Federal, State, or local welfare/public assistance program, permits States to impose the same disqualification for food stamps.

If a disqualification is imposed under the family assistance block grant, permits States to use the family assistance block grant's rules and procedures to impose the same disqualification for food stamps.

Permits individuals disqualified from food stamps because of failure to perform a required action under another welfare/public assistance program to apply for food stamps as new applicants after the disqualification period has expired—except that a prior disqualification under food stamp work requirements must be considered in determining eligibility.

Requires States to include the guidelines they use in carrying out food stamp disqualification for failure to perform a required action in another welfare/public assistance program in their State plans.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment changing references to welfare or public assistance programs to references to needs-tested public assistance programs.

11. ENCOURAGE ELECTRONIC BENEFIT TRANSFER SYSTEMS

A. Regulation E

Present law

The Federal Reserve Board has ruled that, as of March 1997 and with some minor modifications, its "Regulation E" will apply to electronic benefit transfer systems. Regulation E provides certain protections for consumers using cards to access their accounts. It limits the liability of cardholders for unauthorized withdrawals (to $50, if notification is made) and requires periodic account statements and certain error resolution procedures. [Federal Register of Mar. 7, 1994]

House bill

[Note: See item 56 for optional block grants for States fully implementing electronic benefit transfer systems.]

Provides that Regulation E not apply to any electronic benefit transfer program (distributing needs-tested benefits) established or administered by States or localities.

Senate amendment

Provides that Regulation E not apply to food stamp benefits delivered through any electronic benefit transfer system.

Conference agreement

The Conference agreement follows the House bill.

B. Charging for Electronic Benefit Transfer Card Replacement

Present law

No specific provision.

House bill

No provision.

Senate amendment

Provides that States may charge recipients for the cost of replacing a lost or stolen electronic benefit transfer card and may collect the charge by reducing the recipient's food stamp benefit.

Conference agreement

The Conference agreement follows Senate amendment.

C. Photographic Identification

Present law

No provision.

House bill

Requires that each electronic benefit transfer card bear a photograph of the members of the household to which the card is issued.

Senate amendment

Permits States to require that electronic benefit transfer cards contain a photograph of 1 or more household members and requires that, if a State requires a photograph, it shall establish procedures to ensure that other appropriate members of the household and authorized representatives may use the card.

Conference agreement

The Conference agreement follows the Senate amendment.

D. Rules for Electronic Benefit Transfer Systems

Present law

State agencies, with the Secretary's approval, may implement on-line electronic benefit transfer systems for delivering food stamp benefits, in lieu of coupons. No State may implement or expand an electronic benefit transfer system without prior approval from the Secretary. States are responsible for 50% of any electronic benefit transfer system costs (as with any benefit issuance system), including equipment and electronic benefit transfer cards. [Sec. 7(i)]

The Secretary's regulations for approval must (1) include standards that require that, in any one year, the operational cost of an electronic benefit transfer system does not exceed costs of prior issuance systems and (2) include system security standards. [Sec. 7(i)]

House bill

Deletes requirements for the Secretary's prior approval, "encourages" State agencies to implement on-line electronic benefit transfer systems for delivering food stamp benefits, and authorizes States to procure and implement these systems (under terms, conditions and designs that the State deems appropriate).

Allows the Secretary to waive, on a State's request, any provision of the Food Stamp Act that prohibits effective implementation of an electronic benefit transfer system for food stamp benefits.

Requires re-issuance and revision of regulations governing food stamp electronic benefit transfer systems (current regulations for approval of these systems were issued in April 1992).

Deletes the requirement that the Secretary's regulations for electronic benefit transfer systems require that costs of the electronic benefit transfer system in any one year not exceed costs of prior issuance systems.

Adds requirements that the Secretary's standards for electronic benefit transfer systems include (1) measures to maximize system security using the most recent technology the State considers appropriate (including personal identification numbers, photographic identification on electronic benefit transfer cards, and other measures to protect against fraud and abuse) and (2) effective not later than 2 years after enactment, measures that permit electronic benefit transfer systems to differentiate food items that may be acquired with food stamp benefits from those that may not.

Senate amendment

Permits States to implement EBT systems under rules separate from those in existing law as amended, if a State notifies the Secretary of its intent to convert to a statewide system within 3 years of enactment. The Secretary may not provide coupons to a State beginning 3 years after the chief executive gives notification of intent to convert under the EBT option—but the State may extend this deadline by 2 years and the Secretary may grant a waiver of up to 6 months for good cause. [Note: The Secretary is authorized to provide coupons for disaster relief.]

Places requirements on the Secretary under the EBT option. The Secretary must:

(1) assist States in converting to an EBT system and (in consultation with the Inspector General and the Secret Service) inform States about proper security features, management techniques, and counterfeit deterrence;

(2) reimburse States for purchasing and issuing EBT cards [Note: The Secretary may charge recipients (through allotment reduction or otherwise) for the cost of replacing lost or stolen cards, unless stolen by force or threat of force];

(3) assign additional employees to investigate and monitor compliance with EBT and retailer participation rules;

(4) establish a Transition Conversion Account (TCA) to be funded with transaction fees of no more than 2 cents a transaction (maximum of 16 cents a month) taken from each EBT household's benefits [Note: Fees would be imposed during the 10-year period beginning with the first full fiscal year after enactment. They would be imposed to the extent necessary to not increase the Secretary's costs under the EBT option and could not be greater not be greater than needed for the purposes of the TCA (see below). Fees could be reduced for households receiving maximum benefits.]

(5) from the TCA and, to the extent necessary, from food stamp appropriations, provide funds to States choosing the EBT option for (1) reasonable purchase and installation costs (including reimbursements to retailers) of single-function point-of-sale equipment to be used only for Federal/State assistance programs, (2) reasonable start-up purchase and installation costs for telephone equipment and connections to the point-of-sale equipment, and (3) modification of existing EBT systems to the extent necessary to operate Statewide or interstate;

(6) from the TCA, provide funds to implement the EBT option and for (1) start-up training, (2) reasonable one-time costs of converting to a system capable of interstate and law enforcement functions, (3) liabilities assumed by the Secretary under the EBT option (e.g., for replaced replaced benefits), and (4) implementing and expanding a nationwide program for compliance with EBT and retailer rules; and

(7) consult with government, food industry, financial services, and food advocacy representatives in the conversion to EBT as to (1) integrating EBT systems into commercial networks, (2) EBT system security, (3) use of laser scanner technology to ensure that only eligible items are purchased, (4) use of EBT system data to identify fraud (5) means of ensuring confidentiality, (6) using existing terminals and systems top reduce costs (7) using EBT systems for multiple benefits.

Places requirements and conditions on States under the EBT option. States:

(1) must take into account generally accepted operating rules based on commercial technology and the need to permit interstate operations and law enforcement monitoring and investigations;

(2) may use paper-based and other benefit transfer approaches for special-need retailers (located in very rural areas, without access to dependable electricity or regular telephone service, farmers' markets, and house-to-house trade routes);

(3) must purchase and install (or reimburse for) single-function point-of-sale (and related telephone) equipment, usuable only for Federal/State assistance, for retailers that do not have point-of-sale EBT equipment and do not intend to obtain it in the near future [Note: Equipment must be capable of interstate operations (based on commericial operating principles) that permit law enforcement monitoring and be capable of giving recipients access to multiple benefits.];

(4) must purchase (or reimburse for) point-of-sale paper-based or alternative benefit transfer equipment for special-need retailers without this equipment who do not intend to obtain it in the near future (equipment would be usuable only for Federal/State assistance);

(5) must be competitive bidding systems in purchasing EBT equipment and cards [Note: States may not have purchase agreements conditioned on buying additional services or equipment, the Secretary must monitor prices paid, and the Inspector General must investigate possible wrongdoing.];

(6) must advise recipients how to promptly report lost, stolen, damaged, improperly manufactured, dysfunctional, or destroyed EBT cards;

(7) must not (following the Secretary's regulations) replace benefits lost due to unauthorized use an EBT card, but recipients would receive replacement benefits for losses caused by (1) force or threat of force, (2) unauthorized use after the State gets notice by (1) force or threat of force, (2) unauthorized use of the State and gets notice a card was lost/stolen, or (3) problems with the EBT system [Note: Except for losses caused by force or threat of force, States must reimburse the Secretary for benefit replacements, and States may obtain reimbursement from service providers for losses caused by system problems.];

(8) may require an explanation from recipients on occasions where they report lost or stolen cards or cards are used for an unauthorized transaction;

(9) must, in appropriate circumstances, investigate and act on (through administrative disqualification or court referral) cases of lost or stolen cards or unauthorized use;

(10) must (1) take into account the needs of law enforcement personnel and the need to permit and encourage technological/scientific advances, (2) ensure security is protected, (3) provide for recipient privacy, ease of EBT card use, and access to and service by retailers, (4) provide for financial accountability and system capability for interstate operations and law enforcement monitoring, (5) prohibit retailer participation unless appropriate equipment is operational and reasonably available to recipients, and (6) provide for monitoring and investigation by law enforcement agencies;

(11) must, on a recipient's request, provide, once a month, a statement of benefit transfers and balances for the preceding month; and

(12) must design systems to timely resolve disputes over errors. [Note: Recipients able to obtain error corrections under the system would not be entitled to a fair hearing.]

Provides that retailers may return equipment provided by the State and obtain equipment with their own funds and that the cost of documents or systems under the EBT option may not be imposed on retailers.

Provides that EBT retailer fraud and related activities be governed by the Food Stamp Act and 18 U.S.C. 1029.

Makes technical and conforming amendments and defines electronic benefit transfer system, retail food store, special-need retail food store, and electronic benefit transfer card.

Conference agreement

The Conference agreement follows the House bill, with an amendment. States are required to implement an electronic benefit transfer system ("on-line" or "off-line") before October 1, 2002, unless the Secretary waives the requirement because a State agency faces unusual barriers to implementation, and State are encouraged to implement an electronic benefit transfer system as soon as practicable. Subject to Federal standards, states are allowed to procure and implement an electronic benefit transfer system under terms, conditions, and design that they consider appropriate, and a new requirement for Federal procurement standards is added. A requirement is added for electronic benefit transfer standards following generally accepted standard operating rules based on commercial technology, the need to permit interstate operation and law enforcement, and the need to permit monitoring and investigations by authorized law enforcement officials. A requirement that regulations regarding replacement of benefits under an electronic benefit transfer system be similar to those in effect for a paper food stamp issuance system is added. The Conferees intend that regulations issued by the Secretary regarding the replacement of benefits and liability for replacement of benefits under an EBT system will not require greater replacement of benefits or impose greater liability than those regulations in effect for a paper-based food stamp issuance system. Provisions in the House bill that are retained are: a provision deleting the requirement that electronic benefit transfer systems be cost-neutral in any one year, requirements as to measures to maximize security, and a provision requiring measures to permit electronic benefit systems to differentiate among food items (to the extent practicable). The House bill provision allowing the Secretary to waive Food Stamp Act provisions that prohibit effective implementation of electronic benefit transfer systems is deleted.

12. VALUE OF MINIMUM ALLOTMENT

Present law

The minimum monthly allotment for 1- and 2-person households is set at $10. It is scheduled to rise to $15 in FY 1997 or 1998 (depending on food-price inflation). [Sec. 8(a)]

House bill

Sets the minimum monthly allotment for 1- and 2-person households at $10.

Senate amendment

Same as the House bill.

Conference agreement

The Conference agreement follows the House bill.

13. INITIAL MONTH BENEFIT DETERMINATION

Present law

Recipient households not fulfilling eligibility recertification requirements in the last month of their certification period are allowed a 1-month "grace period" in which to fulfill the requirements before their benefits are pro-rated (reduced) to reflect the delay in meeting recertification requirements. [Sec. 8(c)(2)(B)]

House bill

For those who do not complete all eligibility recertification requirements in the last month of their certification period, but are then determined eligible after their certification period has expired, requires that they receive reduced benefits in the first month of their new certification period (i.e., their benefits would be pro-rated to the date they met the requirements and were judged eligible).

Senate amendment

Same as the House bill.

Conference agreement

The Conference agreement follows the Senate amendment.

14. IMPROVING FOOD STAMP MANAGEMENT

A. Quality Control Fiscal Sanctions

Present law

States are assessed fiscal sanctions if their "quality control" combined (overpayment and underpayment) error rate for a given fiscal year is higher than the national average for that year. The amount of each State's sanction is determined by using a "sliding scale" so that its penalty assessment reflects the degree to which its combined error rate exceeds the national average tolerance level. In effect, the current system requires that States be sanctioned for a portion of every benefit dollar that exceeds the tolerance level. For example, if the tolerance level were 10% and the State's combined error rate were 12%, or 2 percentage points (20%) above the tolerance level, the State would be assessed a penalty of .2% of benefits issued in the State that year (i.e., 20% of the excess above the threshold). [Sec. 16(c)]

House bill

Requires the assessment of fiscal sanctions if a State's combined error rate is above a tolerance level set at the lowest national average combined error rate ever achieved, plus 1 percentage point. States would be assessed a dollar penalty for each dollar in error above the tolerance level. For example, if a State's combined error rate were 2 percentage points above the lowest ever national average tolerance level, plus 1 percentage point, it would be assessed a penalty of 2% of benefits issued in the State that year.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

B. Quality Control Administrative Rules

Present law

Errors resulting from the application of new regulations are not included in a State's error rate for assessing sanctions during the first 120 days from required implementation of the regulations. [Sec. 16(c)(3)(A)]

Specific time frames are set out for completion of quality control reviews, determining final error rates, and various steps of the appeals process. Administrative law judges are required to consider all grounds for denying a sanction claim against a State, including contentions that a claim should be waived for good cause. [Sec. 16(c)(8)]

For judging to what degree a State should be sanctioned, "good cause" is defined as including: (1) a natural disaster or civil disorder that adversely affects food stamp operations, (2) a strike by State employees who are necessary for food stamp operations, (3) a significant growth in food stamp caseload, (4) a change in the Food Stamp program (or other Federal or State program) that has a substantial adverse impact on the management of the Food Stamp program, and (5) a significant circumstance beyond the control of a State agency. [Sec. 16(c)(9)]

If a State appeals a quality control sanction claim, interest on any unpaid portion of the claim accrues from the date of the decision on the administrative appeal or from a date that is 1 year after the date a bill for the sanction is received, whichever is earlier. [Sec. 13(a)(1)]

House bill

Bars inclusion of errors resulting from the application of new regulations for 60 days (or 90 days at the Secretary's discretion).

Deletes specific time frames for reviews, error rates, and the appeals process. Deletes the directive that administrative law judges consider all grounds for denying a sanction claim against a State.

Deletes the Act's definition of good cause for the quality control system.

Requires that interest on sanction claims begin to accrue from the date of the administrative appeal decision or 2 years after the sanction bill is received, whichever is earlier.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

15. WORK SUPPLEMENTATION OR SUPPORT PROGRAM

Present law

No provisions.

House bill

Permits States having a work supplementation or support program (under which public assistance benefits are provided to employers who hire public assistance recipients and then used to pay part of their wages) to include the cash value of a recipient's household food stamp benefits in the amount paid the employer to subsidize wages paid. Work supplementation/support programs would be required to meet standards set by the Secretary in order to avail themselves of the option to include food stamp benefits. The food stamp benefit value of the supplement could not be considered income for other purposes, and the household of the participating member would not receive regular food stamp allotments while the member was in a work supplementation/support program. States would be required to include any plans for including food stamp recipients in work supplementation or support programs in their State plans.

Senate amendment

Same as the House bill, except (1) a qualified work supplementation/support program may not allow participation of any individual for longer than one year (unless the Secretary approves a longer period), and (2) a qualified work supplementation/support program must be used for hiring and employing new employees.

Conference agreement

The Conference agreement follows the House bill, with an amendment to provide that (1) States must provide a description of how recipients in the program will, within a specific period of time, be moved to employment that is not supplemented or supported and (2) programs not displace employment of those who are not supplemented or supported.

16. OBLIGATIONS AND ALLOTMENTS

Present law

The Food Stamp Act authorizes to be appropriated such sums as are necessary for each FY 1991–1995. [Sec. 18(a)]

House bill

Provides that the amount obligated under the Act will not be in excess of the cost estimate of the Congressional Budget Office for fiscal year 1996, with adjustments for additional fiscal year—in both cases reflecting amendments made by the Personal Responsibility Act.

Requires the Secretary to file reports (each February, April, and July) stating whether there is a need for additional obligational authority and authorizes the Secretary to provide recommendations as to how to equitably achieve spending reductions if allotments must be limited in any fiscal year.

Senate amendment

Authorizes such sums as are necessary through FY 2002.

Conference agreement

The Conference agreement follows the House bill with the following amendments. Appropriations (such sums as are necessary) are authorized through FY 2002. Annual obligations are limited to $25,443,000,000 in FY 1996; $24,636,000,000 in FY 1997; $25,319,000,000 in FY 1998; $26,307,000,000 in FY 1999; $27,568,000,000 in FY 2000; $28,602,000,000 in FY 2001; and $29,804,000,000 in FY 2002. On May 15 of each year, the Secretary must adjust that year's obligation limit based on the increase or decrease in participation during the first 6 months of the year. On October 1 each year (the beginning of the fiscal year), the Secretary also must adjust the upcoming year's obligation limit based on the degree to which the cost of the Thrifty Food Plan in the immediately preceding June (the basis for each October's food stamp benefit adjustment) is higher or lower than projected by the Congressional Budget Office in its estimates made prior to enactment. If the Secretary finds that program funding requirements for a year will exceed allowed obligations, the Secretary must direct States to reduce allotments to the extent necessary to stay within the obligation limits for the year. The Secretary is required to report to the House and Senate Agriculture Committees.

17. REAUTHORIZATION OF PUERTO RICO NUTRITION ASSISTANCE PROGRAM

Present law

The Food Stamp Act requires the Secretary to pay specific sums for Puerto Rico's nutrition assistance block grant for FY1991–1995. The FY1995 amount is $1.143 billion. [Sec. 19(a)]

House bill

No provision.

Senate amendment

Requires the following payments for Puerto Rico's nutrition assistance block grant: $1.143 billion for each of FY1995 and FY1996, $1.182 billion for FY1997, $1.223 billion for FY1998, $1.266 billion for FY1999, $1.310 billion for FY2000, $1.343 billion for FY2001, and $1.376 billion for FY2002.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment to require the following payments for Puerto

Rico's block grant: $1.143 billion for FY1996. $1.174 billion for FY1997. $1.204 billion for FY1998. $1.236 billion for FY1999. $1.268 billion for FY2000. $1.301 billion for FY2001. and $.1335 billion for FY2002.

18. AUTHORITY TO ESTABLISH AUTHORIZATION PERIODS

Present law

No provision.

House bill

Requires the Secretary to establish specific time periods during which retail food stores' and wholesale food concerns' authorization to accept and redeem food stamps coupons (or redeem food stamp benefits through an electronic benefit transfer system) will be valid.

Senate amendment

Permits the Secretary to issue regulations establishing specific time periods during which authorization to accept and redeem food stamp coupons will be valid.

Conference agreement

The Conference agreement follows the House bill.

19. CONDITION PRECEDENT FOR APPROVAL OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS

Present law

No provision.

House bill

Provides that no retail food stores or wholesale food concerns be approved for participation in the Food Stamp program unless an Agriculture Department employee (or, whenever possible, a State or local government official designated by the Department) has visited it.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the House bill, with an amendment limiting stores and food concerns that must be visited to those of a type, determined by the Secretary, based on factors that include size, location, and type of items sold.

20. WAITING PERIOD FOR RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS THAT ARE DENIED APPROVAL TO ACCEPT COUPONS

Present law

No provision.

House bill

Provides that retail food stores and wholesale food concerns that have failed to be approved for participation in the Food Stamp program may not submit a new application for approval for 6 months from the date they receive a notice of denial. Current law provisions granting denied retailers and wholesalers a hearing on a refusal are retained.

Senate amendment

Same as the House bill, except that stores and concerns may not submit a new application for 6 months from the date of the denial.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment providing that stores and concerns denied approval because they do not meet the Secretary's approval criteria may not, for at least 6 months, submit a new application. The Secretary is allowed to establish longer waiting periods, including permanent disqualification, that reflect the severity of the basis for denial.

21. DISQUALIFICATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS

Present law

No provision.

House bill

Requires that a retail food store or wholesale food concern that is disqualified from participation in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) also be disqualified from participating in the Food Stamp program for the period of time it is disqualified from the WIC program.

Senate amendment

Requires the Secretary to issue regulations providing criteria for disqualifying from food stamps retail food stores and wholesale food concerns disqualified from the WIC program. Disqualification must be for the same period as under the WIC program, may begin at a later date, and would not be subject to food stamp administrative/judicial review procedures.

Conference agreement

The Conference agreement follows the Senate amendment with a technical amendment.

22. AUTHORITY TO SUSPEND STORES VIOLATING PROGRAM REQUIREMENTS PENDING ADMINISTRATIVE AND JUDICIAL REVIEW

Present law

No provision.

House bill

Requires that, where a retail food store or wholesale food concern has been permanently disqualified (for its third offense or for certain instances of trafficking), the disqualification period will be effective from the date it receives notice of disqualification, pending administrative and judicial review.

Senate amendment

Permits regulations establishing criteria under which authorization of a retail food store or wholesale food concern may be suspended at the time the store/concern is initially found to have committed a violation that would result in permanent disqualification; the suspension may coincide with the period of administrative/judicial review. The Secretary would not be liable for the value of any lost sales during any suspension/disqualification period.

Requires notice in suspension cases. Stipulates that a suspension period remains in effect pending administrative/judicial review and that the suspension period be part of any disqualification imposed.

Removes provisions for courts temporarily staying administrative actions against stores, concerns, and States pending judicial appeal.

Conference agreement

The Conference agreement follows the Senate amendment with an amendment providing that any permanent disqualification of a store or concern be effective from the date the notice of disqualification is received. If the disqualification is reverse through administrative or judicial review, the Secretary is not liable for the value of lost sales during the disqualification period.

23. CRIMINAL FORFEITURE

Present law

"Administrative forfeiture" rules allow the Secretary to subject property involved in a program violation to forfeiture to the United States. [Sec. 15(g)]

House bill

Establishes "criminal forfeiture" rules. Requires courts, in imposing sentence on those convicted of trafficking in food stamp benefits, to order that the person forfeit property to the United States (in addition to any other sentence imposed). Property subject to forfeiture would include all property (real and personal) used in a transaction (or attempted transaction) to commit (or facilitate the commission of) a trafficking violation (other than a misdemeanor); proceeds traceable to the violation also would be subject to forfeiture. An owner's property interest would not be subject to forfeiture if the owner establishes that the violation was committed without the owner's knowledge or consent. (p. 246).

Requires that the proceeds from any sale of forfeited properties, and any money forfeited, be used (1) to reimburse the Justice Department for costs incurred in initiating and completing forfeiture proceedings, (2) to reimburse the Agriculture Department's Office of Inspector General for costs incurred in the law enforcement effort that led to the forfeiture, (3) to reimburse Federal or State law enforcement agencies for costs incurred in the law enforcement effort that led to the forfeiture, and (4) by the Secretary to carry out store approval, reauthorization, and compliance activities.

Senate amendment

Removes provisions for administrative forfeiture for property "intended to be furnished" in trafficking cases.

Establishes "criminal forfeiture" rules similar to those in the House bill, but applied only in trafficking cases involving benefits of $5,000 or more. Property subject to forfeiture would include: (1) food stamp benefits, and any property constituting, derived from, or traceable to any proceeds obtained directly or indirectly as the result of the violation and (2) food stamp benefits, and any property used or intended to be used to commit or facilitate the violation.

Food stamp benefits and property subject to criminal forfeiture, any seizure or disposition of the benefits/property, and any administrative/judicial proceeding relating to the benefits/property would be subject to forfeiture provisions of the Drug Abuse Prevention and Control Act of 1970 (where consistent with Food Stamp Act provisions). [Note: No specific Food Stamp Act provisions for use of the proceeds from forfeited property are included]

Conference agreement

The Conference agreement follows the House bill.

24. EXPANDED DEFINITION OF "COUPON"

Present law

The Act defines "coupon" to mean any coupon, stamp, or type of certificate issued under the provisions of the Food Stamp Act. [Sec. 3(d)]

House bill

In order to expand the types of items to which trafficking penalties apply, revises the current definition of "coupon" to include authorization cards, cash or checks issued in lieu of coupons, and "access devices" for electronic benefit transfer systems (including electronic benefit transfer cards and personal identification numbers).

Senate amendment

Same as the House bill.

Conference agreement

The Conference agreement follows the Senate amendment.

25. DOUBLED PENALTIES FOR VIOLATING FOOD STAMP REQUIREMENTS

Present law

The disqualification penalty for the first intentional violation of program requirements is 6 months. The penalty for a second intentional violation (and the first violation involving trading of a controlled substance) is 1 year. [Sec. 6(b)(1)]

House bill

Inreases the disqualification penalty for a first intentional violation to 1 year. Increases the disqualification penalty for a second intentional violation (and the first violation involving a controlled substance) to 2 years.

Senate amendment

Same as the House bill.

Conference agreement

The Conference agreement follows the Senate amendment.

26. DISQUALIFICATION OF CONVICTED INDIVIDUALS

Present law

Permanent disqualification is required for the third intentional violation of program requirements, the second violation involving trading of a controlled substance, and the first violation involving trading of firearms, ammunition, or explosives. [Sec. 6(b)(1)]

House bill

Adds a requirement for permanent disqualification of persons convicted of trafficking in food stamp benefits where the benefits trafficked have a value of $500 or more.

Senate amendment

No comparable provision.

Conference agreement

The Conference agreement follows the House bill, with a technical amendment.

27. CLAIMS COLLECTION

A. Federal Income Tax Refunds

Present law

Otherwise uncollected overissued benefits may, except for claims arising out of State agency error, may be recovered from Federal pay or pensions. [See 13(d) and Sec. 11(e)(8)]

House bill

Requires collection of otherwise uncollected overissued benefits, other than those arising out of State agency error, from Federal pay or pensions and from Federal income tax refunds.

Senate amendment

Permits collection of all otherwise uncollected overissued benefits from Federal pay or pensions and from Federal income tax refunds.

Conference agreement

The Conference agreement follows the Senate amendment.

B. Authority to Collect Overissuances

Present law

State collection of overissued benefits is limited in certain circumstances. In the case of overissuances due to an intentional program violation, households must agree to repayment by either a reduction in future benefits or cash repayment; States also are required to collect overissuances to these households through other means, such as tax refund or unemployment compensation collections (if a cash repayment or reduction is not forthcoming), unless they demonstrate that the other means are not cost effective. In cases of overissuance because of inadvertent household "error," States must collect the overissuance through a reduction in future benefits—except that households must be given 10 days' notice to elect another means, and collections are limited to 10% of the monthly allotment or $10 a month (whichever would result in faster collection)—and may use other means of collection. In cases of overissuances because of State agency error, States may request repayment or use other means of collection (not including reduction in future benefits). [Sec. 13(b)] States may retain 25% of "nonfraud" collections not caused by State error and 50% of "fraud" collections (increased from 10% and 25% on October 1, 1995). [Sec. 16(a)]

House bill

No provisions

Senate amendment

Replaces existing overissuance collection rules with provisions requiring States to collect any overissuance of benefits by reducing future benefits, withholding unemployment compensation, recovering from Federal pay or income tax refunds, or any other means—unless the State demonstrates that all of the means are not cost effective. Bars the use of future benefit reductions as a claims collection mechanism if it would cause a hardship on the household (as determined by the State) and limits benefit reductions (absent intentional program violations) to the greater of 10% of the monthly benefit or $10 a month. Provides that States must collect overissued benefits in accordance with State-established requirements for notice, electing a means of payment, and setting a schedule for payment.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment (1) deleting the specific bar against collections in hardship cases and (2) setting the percentage of collections (other than in cases of State agency error) that a State may retain at a uniform 25%.

28. DENIAL OF FOOD STAMP BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES

Present law

Disqualification periods ranging from 6 months to permanent disqualification are prescribed for intentional violations of Food Stamp program requirements. [Sec. 6(b)]

House bill

Disqualifies from food stamps for 10 years an individual found to have fraudulently misrepresented the individual's place of residence in order to receive food stamp, Medicaid, TANF, or Supplemental Security Income (SSI) benefits in two or more States.

Senate amendment

Disqualifies from food stamps permanently an individual found to have fraudulently misrepresented the individual's place of residence in order to receive food stamps in two or more States.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment disqualifying from food stamps for 10 years an individual found by a State agency or court to have made a fraudulent misrepresentation of identity or residence in order to receive multiple benefits. The conferees note that State agency hearing processes have sufficient recipient protections to warrant a decision to impose a 10-year disqualification in these cases.

29. DISQUALIFICATION RELATING TO CHILD SUPPORT ARREARS

Present law

No provision.

House bill

Disqualifies individuals during any period the individual has an unpaid liability that is under a court child support order, unless the court is allowing delayed payments.

Senate amendment

Same as the House bill, except that States are permitted to apply a child support arrears disqualification and compliance with a child support agency payment plan also exempts individuals from disqualification.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment that requires disqualification.

30. ELIMINATION OF FOOD STAMP BENEFITS WITH RESPECT TO FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS

A. Disqualification of Fleeing Felons

Present law

No provision.

House bill

Disqualifies individuals while they are (1) fleeing to avoid prosecution or custody after conviction for a crime (or crime attempt) which is a felony or (2) violating a condition of parole under Federal or State law.

Senate amendment

Same as the House bill.

Conference agreement

The Conference agreement follows the Senate amendment with a technical amendment.

B. Exchange of Information

Present law

Requires State agencies to immediately report to the Immigration and Naturalization Service a determination that a food stamp household member is ineligible for food stamps because the individual is present in the United States in violation of the Immigration and Nationality Act. [Sec. 11(e)(17)]

House bill

Requires State food stamp agencies to make available to law enforcement officers the address of a food stamp recipient if the officer furnishes the recipient's name and notifies the agency that (1) the individual is fleeing to avoid prosecution or custody for a felony crime (or attempt) or the individual has information necessary for the officer to conduct official duties, (2) the location or apprehension of the individual is within the officer's official duties, and (3) the request is made in the proper exercise of official duties.

Senate amendment

Similar to the House bill, requires State food stamp agencies to make available to law enforcement officers the address, social security number, and (when available) photograph of a food stamp recipient if the officer furnishes the recipient's name and notifies the agency as stipulated in the House bill.

Requires State agencies to furnish the Immigration and Naturalization Service with the name of, address of, and identifying information on any individual the agency knows is unlawfully in the United States.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment (1) deleting the requirement for Immigration and Naturalization Service notification and (2) making clear that the requested information must be related to apprehension of a felon or parolee.

31. EFFECTIVE DATES

Present law

No provision.

House bill

Except for amendments dealing with the Food Stamp program's quality control system (effective October 1, 1994), the food stamp and commodity distribution program amendments made by the Personal Responsibility Act would be effective October 1, 1995.

Senate amendment

Provides that Food Stamp Act amendments would be effective October 1, 1995.

Conference agreement

The Conference agreement provides that (1) provisions affecting deduction levels are effective October 1, 1996. and (2) all other provisions are effective on enactment.

32. SENSE OF CONGRESS

Present law

No provision.

House bill

Provides that it is the sense of Congress the States operating electronic benefit transfer systems to provide food stamp benefits should operate systems that are compatible with each other.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the House bill.

33. DEFICIT REDUCTION

Present law

No provision.

House bill

Provides that it is the sense of the House Committee on Agriculture that reductions in outlays resulting from Food Stamp Act (and commodity distribution program) provisions of the Personal Responsibility Act not be taken into account for purposes of Section 252 of the Balanced Budget and Emergency Deficit Control Act (relating to enforcement of "pay-as-you-go" provisions of the Budget Act).

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

34. CERTIFICATION PERIOD

Present law

For households subject to periodic (monthly) reporting of their circumstances, eligibility certification periods must be 6–12 months, except that the Secretary may waive this rule to improve program administration. For households receiving federally aided public assistance or general assistance, certification periods must coincide with the certification periods for the other public assistance. For other households, certification periods generally must be not less than 3 months—but they can be (1) up to 12 months for those consisting entirely of unemployable, elderly, or primarily self-employed persons or (2) as short as circumstances require for those with a substantial likehood of frequent changes in income or other household circumstances and for any household on initial eligibility determination (as judged by the Secretary). The Secretary may waive the maximum 12-month limit to improve program administration. [See 3(c)]

House bill

No provision.

Senate amendment

Replaces existing provisions as to certification periods with a requirement that certification periods not exceed 12 months—but can be up to 24 months if all adult household members are elderly, disabled, or primarily self-employed.

Requires State agencies to have at least 1 personal contact with each certified household every 12 months.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment allowing certification periods of up to 24 months for households whose adult members are all elderly or disabled and deleting the reference to a "personal" contact.

35. TREATMENT OF CHILDREN LIVING AT HOME

Present law

Parents and their children 21 years of age or younger who live together must apply for food stamps as a single household (thereby reducing aggregate household benefits)—except for children who are themselves parents living with their children and children who are married and living with their spouses. [Sec. 3(i)]

House bill

No provision.

Senate amendment

Removes the existing exception for children who are themselves parents living with their children and children who are married and living with their spouses.

Conference agreement

The Conference agreement follows the Senate amendment.

36. OPTIONAL ADDITIONAL CRITERIA FOR SEPARATE HOUSEHOLD DETERMINATIONS

Present law

Certain persons who live together may apply for food stamps as separate households (thereby increasing aggregate household benefits) if they (1) are unrelated and purchase food and prepare meals separately or (2) are related but are not spouses or children living with their parents (See item 35). In addition, elderly persons who live with others and cannot purchase food and prepare meals separately because of a substantial disability may apply a separate households as long as their co-residents' income is below prescribed limits (165% of the Federal poverty income guidelines). [Sec. 3(i)]

House bill

No provision.

Senate amendment

Permits States to establish criteria that prescribe when individuals living together, and would otherwise be allowed to apply as separate households, must apply as a single household (without regard to common purchase of food and preparation of meals).

Conference agreement

The Conference agreement follows the Senate amendment.

37. DEFINITION OF HOMELESS INDIVIDUAL

Present law

For food stamp eligibility and benefit determination purposes, a "homeless individual" is a person lacking a fixed/regular nighttime residence or one whose primary nighttime residence is a shelter, a residence intended for those to be institutionalize, a temporary accommodation in the resident of another, or a public or private place not designed to be a regular sleeping accommodation for humans. [Sec. 3(s)]

House bill

No provision.

Senate amendment

Provides that persons whose primary nighttime residence is a temporary accommodation in the home of another may only be considered homeless if the accommodation is for no more than 90 days.

Conference agreement

The Conference agreement follows the Senate amendment.

38. STATE OPTIONS IN REGULATIONS

Present law

The Secretary is directed to establish uniform national standards of eligibility for food stamps (with certain variations allowed for Alaska, Hawaii, Guam, and the Virgin Islands) and in other cases (e.g., imposition of monthly reporting requirements). States may not impose any other standards of eligibility as a condition of participation in the program. [Sec. 5(b)]

House bill

No directly comparable provision. [Note: See item 3.]

Senate amendment

Explicitly permits non-uniform standards of eligibility.

Conference agreement

The Conference agreement follows the Senate amendment.

39. EARNINGS OF STUDENTS

Present law

The earnings of an elementary/secondary student are disregarded as income until the student's 22nd birthday. [Sec. 5(d)(7)]

House bill

No provision.

Senate amendment

Requires that earnings of an elementary/secondary student be counted as income once the student turns age 20.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment requiring that earnings be counted for students who are 20 or older.

40. BENEFITS FOR ALIENS

A. Deeming Sponsors' Income and Resources

Present law

A portion of the income and resources of the sponsor of a lawfully admitted alien must be deemed as available to the sponsored alien for 3 years after the alien's entry. Income is deemed to the extent it exceeds the appropriate food stamp income eligibility limit (130% of the Federal income poverty guidelines); liquid resources are deemed to the extent they exceed $1,500. [Sec. 5(i)]

House bill

No directly comparable provision.

Senate amendment

Extends the deeming period for sponsored legal aliens to 5 years from lawful admittance or the period of time agreed to in the sponsor's affidavit, whichever is longer. [Note: See conference comparison for title IV in the House bill and title V in the Senate amendment.]

Conference agreement

The Conference agreement follows the House bill.

B. Counting Aliens' Income and Resources

Present law

The income (less a pro rata share) and all resources of aliens who are ineligible for food stamps under provisions of the Food Stamp Act are counted as income/resources to the rest of the household living with the alien. [Sec. 6(f)]

House bill

No provision.

Senate amendment

Permits States to count all of the income and resources of aliens ineligible for food stamps under the provisions of the Food Stamp Act as income/resources to the rest of the household.

Conference agreement

The Conference agreement follows the Senate amendment.

41. COOPERATION WITH CHILD SUPPORT AGENCIES

A. Custodial Parents

Present law

No provisions.

House bill

No provisions.

Senate amendment

Permits States to disqualify custodial parents of children under the age of 18 who have an absent parent unless the custodial parent cooperates with the State child support agency in establishing the child's paternity and obtaining support for the child and the custodial parent. Cooperation would not be required if the State finds there is good cause (in accordance with Federal standards taking into account the child's best interest). Fees or other costs for services could not be charged.

Conference agreement

The Conference agreement follows the Senate amendment.

B. Non-custodial Parents

Present law

No provisions.

House bill

No provisions.

Senate amendment

Permits States to disqualify putative or identified non-custodial parents of children under 18 if they refuse to cooperate with the State child support agency in establishing the child's paternity and providing support for the child. The Secretary and the Secretary of Health and Human Services would develop guidelines for what constitutes a refusal to cooperate, and States would develop procedures (using these guidelines) for determining whether there has been a refusal to cooperate. Fees or other costs for services could not be charged. States would be required to provide safeguards to restrict the use of information collected by the child support agency to the purposes for which it was collected.

Conference agreement

The Conference agreement follows the Senate amendment.

42. OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS

Present law

For households applying after the 15th day of the month, States may provide an allotment that is the aggregate of the initial (pro-rated) allotment and the first regular allotment—but combined allotments must be provided to households applying after the 15th of the month who are entitled to expedited service. [Sec. 8(c)(3)]

House bill

No provision.

Senate amendment

Makes provision of combined allotments a State option both for regular and expedited service applicants.

Conference agreement

The Conference agreement follows the Senate amendment.

43. FAILURE TO COMPLY WITH OTHER WELFARE AND PUBLIC ASSISTANCE PROGRAMS

Present law

Households penalized for an intentional failure to comply with a Federal, State, or local welfare program may not, for the duration of the penalty, receive an increased food stamp allotment because their welfare income has been reduced. [Sec. 8(d)]

[Note: This has been interpreted by regulation to apply only to reductions in welfare income due to repayment of overpayments resulting from a welfare violation, although a revision of the regulation is scheduled.]

House bill

[Note: See item 4C.]

Senate amendment

Bars increased food stamp allotments because the benefits of a household are reduced under a Federal, State, or local welfare or public assistance program for failure to perform a required action. In carrying out this requirement, States may, in determining food stamp allotments for the duration of the public assistance reduction, use the household's pre-reduction welfare benefits.

Permits States also to reduce the household's food stamp allotment by up to 25%. If the allotment is reduced for failure to perform an action required under a family assistance block grant program, the State may use the rules and procedures of that program to reduce the food stamp allotment.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment changing references to welfare or public assistance programs to references to mean-tested public assistance programs.

44. ALLOTMENTS FOR HOUSEHOLDS RESIDING IN INSTITUTIONS

Present law

Homeless shelters and residential drug or alcoholic treatment centers may be designated as recipients' authorized representatives. [Note: In the case of residential treatment centers, benefits generally are provided to the center.]

House bill

No provision.

Senate amendment

Permits States to divide a month's food stamp benefits between the shelter/center and an individual who leaves the shelter/center.

Permits States to require residents of shelters/centers to designate the shelter/center as authorized representatives.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment deleting homeless shelters from those institutions covered by the amendment.

45. OPERATION OF FOOD STAMP OFFICES

A. State Plan Requirements

Present law

States must:

(1) allow households contacting the food stamp office in person during office hours to make an oral/written request for aid and receive and file an application on the same day;

(2) use a simplified, uniform federally designed application, unless a waiver is approved;

(3) include certain, specific information in applications;

(4) waive in-person interviews under certain circumstances (they may use telephone interviews or home visits instead);

(5) provide for telephone contact and mail application by household with transportation or similar difficulties;

(6) require an adult representative of the household to certify as to household members' citizenship/alien status;

(7) assist households in obtaining verification and completing applications;

(8) not require additional verification of currently verified information (unless there is reason to believe that the information is inaccurate, incomplete, or inconsistent);

(9) not deny an application solely because a non-household member fails to cooperate;

(10) process applications if the household meets cooperation requirements;

(11) provide households (at certification and recertification) with a statement of reporting responsibilities;

(12) provide a toll-free or local telephone number at which households may reach State personnel;

(13) display and make available nutrition information; and

(14) use mail issuance in rural areas where low-income households face substantial difficulties in obtaining transportation (with exceptions for high mail losses). [Sec. 11(e)(2), (3), (14), & (25)]

House bill

No provisions.

Senate amendment

Replaces noted existing State plan requirements with requirements that the State:

(1) establish procedures governing the operation of food stamp offices that it determines best serve households in the State, including those with special needs (such as households with elderly or disabled members, those in rural areas, the homeless, households residing on reservations, and households speaking a language other than English);

(2) provide timely, accurate, and fair service to applicants and participants;

(3) permit applicants to apply and participate on the same day they first contact the food stamp office during office hours; and

(4) consider an application field on the date the applicant submits an application that contains the applicant's name, address, and signature.

Permits States to establish operating procedures that vary for local food stamp offices to reflect regional and local differences.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment that also (1) requires applicants to certify in writing as the truth of information on application (including citizenship status), (2) stipulates that the signature of a single adult will be sufficient to comply with any provision of Federal law requiring applicant's signatures, (3) requires that States have methods for certifying homeless households, (4) makes clear that nothing in the Food Stamp Act prohibits electronic storage of application and other information, and (5) makes technical amendments.

B. Application and Denial Procedures

Present law

A single interview for determining AFDC and food stamp benefits if required. Food stamp applications generally are required to be contained in public assistance applications, and applications and information on how to apply for food stamps must be provided local assistance applicants. Applicants (including those who have recently lost or been public assistance) must be certified eligible for food stamps based on the information in their public assistance casefile (to the extent it is reasonably verified).

No household may be terminated from or denied food stamps solely on the basis that it has terminated from or denied other public assistance and without a separate food stamp eligibility determination.

House bill

No provisions.

Senate amendment

Deletes noted existing requirements for single interviews, applications, and food stamp determinations based on public assistance information.

Permits disqualification for food stamps based on another public assistance program's disqualification for failure to comply with its rules or regulations.

Conference agreement

The Conference agreement follows the Senate amendment.

46. STATE EMPLOYEE AND TRAINING STANDARDS

Present law

States must employ agency personnel doing food stamp certifications in accordance with current Federal "merit system" standards. States must provide continuing, comprehensive training for all certification personnel. States may undertake intensive training of certification personnel to ensure they are qualified for certifying farming households. States may provide or contract for the provision of training/assistance to persons working with volunteer or nonprofit organizations that provide outreach and eligibility screening activities. [Sec. 11(e)(6)]

House bill

No provision.

Senate amendment

Deletes noted existing provisions for merit system standards and training.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment retaining existing provisions for merit system standards.

47. EXPEDITED COUPON SERVICE

Present law

States must provide expedited benefits to applicant households that (1) have gross income under $150 a month (or are "destitute" migrant or seasonal farmworker households) and have liquid resources of no more then $100, (2) homeless households, and (3) households that have combined gross income and liquid resources less than the household's monthly shelter expenses.

Expedited service means providing an allotment no later than 5 days after application. [Sec. 11(e)(9)]

House bill

No provision.

Senate amendment

Deletes noted existing requirements to provide expedited service to the homeless and households with shelter expenses in excess of their income/resources.

Lengthens the period in which expedited benefits must be provided to 7 business days.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment providing that expedited benefits must be provided in 7 calendar days.

48. FAIR HEARINGS

Present law

No provision.

House bill

No provision.

Senate amendment

Permits households to withdraw fair hearing requests orally or in writing. If it is an oral request, the State must provide a written notice to the household confirming the request and providing the household with another chance to request a hearing.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment providing that permission for households to withdraw fair hearing requests orally or in writing is a State option.

49. INCOME AND ELIGIBILITY VERIFICATION SYSTEM

Present law

States must use the "income and eligibility verification systems" established under Sec. 1137 of the Social Security Act to assist in verifying household circumstances; this includes a system for verifying financial circumstances (IEVS) and a system for verifying alien status (SAVE). [Sec. 11(e)(19) of the Food Stamp Act and Sec. 1137 of the Social Security Act.]

House bill

No provision.

Senate amendment

Makes use of IEVS and SAVE optional with the States.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment making clear that the option applies to both IEVS and SAVE.

50. TERMINATION OF FEDERAL MARCH FOR OPTIONAL INFORMATION ACTIVITIES

Present law

If a State opts to conduct informational ("outreach") activities for the food stamp program, the Federal Government shares half the cost. [Sec. 11(e)(1) & Sec. 16(a)]

House bill

No provision.

Senate amendment

Terminates the Federal share of optional State outreach activities. [Note: Sec. 333(b) makes a technical amendment to Sec. 16(g) of the Food Stamp Act.]

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment that does not terminate the Federal share of optional State outreach activities but bar a Federal share for "recruitment activities."

51. STANDARDS FOR ADMINISTRATION

Present law

The Secretary is required to (1) establish standards for efficient and effective administration of the program, including standards for review of food stamp office hours to ensure that employed individuals are adequately served, and (2) instruct States to submit reports on administrative actions taken to meet the standards. [Sec. 16(b)]

House bill

No provision.

Senate amendment

Deletes the noted existing requirements relating to Federal standards for efficient and effective administration.

Conference agreement

The Conference agreement follows the Senate amendment.

52. WAIVER AUTHORITY

Present law

The Secretary may waive Food Stamp Act requirements to the degree necessary to conduct pilot/demonstration projects, but no project may be implemented that would lower or further restrict food stamp income/resource eligibility standards or benefit levels (other than certain projects involving the payment of the average value of allotments in cash and certain work program demonstrations). [Sec. 17(b)(1)]

House bill

No provision.

Senate amendment

Replaces existing waiver authority with authority for the Secretary to waive Food Stamp Act requirements to the extent necessary to conduct pilot/experimental projects, including those designed to test innovative welfare reform, promote work, and allow conformity with other assistance programs.

Requires that any project involving the payment of benefits in the form of cash maintain the average value of allotments for affected households.

Conference agreement

The Conference agreement follows the Senate amendment. The Secretary is permitted to conduct pilot or experimental projects and waive Food Stamp Act requirements as long as the project is consistent with the goal of the food stamp program, to provide food to increase the level of nutrition among needy families. The Secretary is permitted to conduct projects that will improve the administration of the program, increase self-sufficiency of food stamp participants, test innovative welfare reform strategies, or allow greater conformity among public assistance programs than is otherwise allowed in the Food Stamp Act. The Secretary is not permitted to conduct projects that involve issuing food stamp benefits in the form of cash (beyond those approved at enactment), substantially transfer program benefits to other public assistance programs, or are not limited to specific time periods.

53. AUTHORIZATION OF PILOT PROJECTS

Present law

Existing pilot projects for the payment of food stamp benefits in the form of cash to households composed of elderly persons or SSI recipients are authorized to continue through October 1, 1995, if a State requests. [Sec. 17(b)(1)]

House bill

No provision.

Senate amendment

Extends the authorization for elderly/SSI cash-out projects through October 1, 2002.

Conference agreement

The Conference agreement follows the Senate amendment.

54. RESPONSE TO WAIVERS

Present law

No provisions.

Present law

No provisions.

House bill

No provision.

Senate amendment

Requires that, not later than 60 days after receiving a demonstration project waiver request, the Secretary (1) approve the request, (2) deny the request and explain any modifications needed for approval, (3) deny the request and explain the grounds for denial, or (4) ask for clarification of the request. If a response is not forthcoming in 60 days, the waiver would be considered approved. If a waiver request is denied, the Secretary must provide a copy of the waiver request and the grounds for denial to the House and Senate Agriculture Committees.

Conference agreement

The Conference agreement follows the Senate amendment.

55. PRIVATE SECTOR EMPLOYMENT INITIATIVES

Present law

No provision.

House bill

[Note: See item 4E.]

Senate amendment

Allows certain States to operate 'private sector employment initiatives" under which food stamp benefits could be paid in cash to some participants households. States would be eligible to operate private sector employment initiatives if not less than 50% of the households that received food stamp benefits in the summer of 1993 also received AFDC benefits. Households would be eligible to receive cash payments if an adult member so elects and (1) has worked in unsubsidized private sector employment for not less than the 90 preceding days, (2) has earned not less than $350 a month from that employment, (3) is eligible to receive family assistance block grant benefits (or was eligible when cash payments were first received and is no longer eligible because of earned income), and (4) is continuing to earn not less than $350 a month from private sector employment. States operating a private sector employment initiative for 2 years must provide a written evaluation of the impact of cash assistance (the content of the evaluation would be determined by the State).

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment requiring States that select this option to increase benefits to compensate for State or local sales taxes on food purchases.

56. OPTIONAL BLOCK GRANTS

Present law

No provisions.

House bill

[Note: Sec. 556(b) of the House bill adds a new section 25 to the Food Stamp Act containing provisions for an optional block grant.]

Allows States that have fully implemented an electronic benefit transfer system to elect an annual block grant to operate a low-income nutrition assistance program in lieu of the food stamp program.

Grants funds to States electing a block grant.—States would receive (1) the greater of: the total fiscal year 1994 amount they received as food stamp benefits; or the fiscal years 1992–1994 average they received as food stamp benefits and (2) the greater of: the fiscal year 1994 Federal share of administrative costs; or the fiscal years 1992–1994 average they received as the Federal share of administrative costs. Grant payments would be made at times and in a manner determined by the Secretary.

Requires annual submission of a State plan specifying the manner in which the block grant nutrition assistance program will be conducted. The plan must:

(1) certify that the State has implemented a State-wide electronic benefit transfer system under Food Stamp Act conditions;

(2) designate a single State agency responsible for administration;

(3) assess the food and nutrition needs of needy persons in the State;

(4) limit assistance to the purchase of food;

(5) describe the persons to whom aid will be provided;

(6) assure that assistance will be provided to the most needy;

(7) assure that applicants for assistance have adequate notice and fair hearing rights comparable to those under the regular food stamp program;

(8) provide that there be no discrimination on the basis of race, sex, religion, national origin, or political beliefs; and

(9) include other information as required by the Secretary.

In general, permits block grant payments to be expended only in the fiscal year in which they are distributed to a State. States may reserve up to 5% of a fiscal year's grant to provide assistance in subsequent years, but reserved funds may not total more than 20% of the total grant received for a fiscal year.

Requires States to keep records concerning block grant program operations and make them available to the Secretary and the Comptroller General.

If the Secretary finds there is substantial failure by a State to comply, requires the Secretary to (1) suspend all or part of a grant payment until the State is determined in substantial compliance, (2) withhold all/part of a grant payment until the Secretary determines that there is no longer a failure to comply, or (3) terminate the State's authority to operate a nutrition assistance block grant program.

Requires States to provide for biennial audits of block grant expenditures, provide the Secretary with the audit, and make it available for public inspection.

Requires an annual "activities report" comparing actual spending for nutrition assistance in each fiscal year with the spending predicted in the State plan; the report must be made available for public inspection.

Requires that whoever knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any funds or property provided or financed under a nutrition assistance block grant be fined not more than $10,000, imprisoned for not more than 5 years, or both.

Requires that the State plan provide that there will be no discrimination on the basis of race, sex, religion, national origin, or political beliefs.

Requires that all assistance provided under the block grant be limited to the purchase of food. [Note: Because the State would have fully implemented an electronic benefit transfer system, benefits would be provided through these systems.]

Senate amendment

[Note: Sec. 343(a) of the Senate amendment adds a new section 25 to the Food Stamp Act containing provisions for an optional block grant.]

Requires the Secretary to establish a program to make grants to States, in lieu of the food stamp program, to provide food assistance to needy individuals and families, wage subsidies and payments in return for work for needy individuals, funds to operate an employment and training program for needy individuals, and funds for administrative costs incurred in providing assistance.

Grants funds to States electing a block grant—States would receive (1) the greater of: the total fiscal year 1994 amount they received as food stamp benefits; or the fiscal years 1992–1994 average they received as food stamp benefits and (2) the greater of: the fiscal year 1994 Federal share of administrative costs and employment/training program costs; or the fiscal years 1992-1994 average they received as the Federal share of administrative costs and employment/training program costs. If total allotments for a fiscal year would exceed the amount of funds made available to provide them, the Secretary is required to reduce allotments on a pro rata basis to the extent necessary. Grant payments would be made by issuing 1 or more letters of credit, with necessary adjustments for overpayments and underpayments.

Requires annual submission of a State plan containing information as required by the Secretary. The plan:

(1) must have an assurance that the State will comply with block grant requirements;

(2) must identify a "lead agency" responsible for administration, development of the plan, and coordination with other programs;

(3) must provide that the State will use grant funds as follows:

(a) to give food assistance to needy persons (other than certain residents of institutions);

(b) at State option, to provide wage subsidies and workfare for needy persons;

(c) to administer an employment and training program for needy persons (and provide reimbursement for support services); and

(d) to pay administrative costs incurred in providing assistance;

(4) must describe how the program will serve specific groups of persons (and how that treatment will differ from the regular food stamp program) including the elderly, migrants or seasonal farmworkers, the homeless, those under the supervision of institutions, those with earnings, and Indians;

(5) must provide that benefits be available statewide;

(6) must provide that applicants and recipients are provided with notice and fair hearing rights;

(7) may coordinate block grant assistance with aid under the family assistance block grant;

(8) may reduce food assistance or otherwise penalize persons or families penalized for violating family assistance block grant rules;

(9) must assess the food and nutrition needs of needy persons in the State;

(10) must describe the income and resource eligibility limits established under the block grant;

(11) must establish a system to ensure that no persons receive block grant benefits in more than 1 jurisdiction;

(12) must provide for safeguarding and restricting the use and disclosure of information about recipients; and

(13) must contain other information as required by the Secretary.

Same as the House bill, except that States may reserve up to 10% a year and reserve funds may not total more than 30% of the total grant received.

Requires the Secretary to review and monitor State compliance with block grant rules and State plans. If the Secretary (after notice and opportunity for a hearing) finds that there has been a failure to substantially comply with the State's plan or the provisions of the block grant, the Secretary must notify the State and no further payments would be made until the Secretary is satisfied that there is no longer a failure to comply or that noncompliance will be promptly corrected.

Allows the Secretary (in cases of noncompliance) to impose other appropriate sanctions on States in addition to, or in lieu of, withholding block grant payments; these sanctions may include recoupment of money improperly spent and disqualification from receipt of a block grant. The Secretary also is required to establish procedures for (1) receiving, processing, and determining the validity of complaints about States' failure to comply with block grant obligations and (2) imposing sanctions. In addition, the Secretary is permitted to withhold not more than 5% of a State's annual allotment if the State does not use an "income and eligibility verification system"' established under Sec. 1137 of the Social Security Act.

Requires States to arrange for annual independent audits of block grant expenditures. Each annual audit must include an audit of payment accuracy based on a statistically valid sample and be submitted to the State legislature and the Secretary. States must repay any amounts the audit determines have not been expended in accordance with the State plan, or the Secretary can offset amounts against any other amount paid the State under the block grant.

Provides that a State that elects a food assistance block grant option may subsequently reverse that choice only once.

Finds that the Senate has adopted a resolution that Congress should not enact/adopt any legislation that will increase the number of hungry children, that it is not its intent to cause more children to be hungry, that the food stamp program serves to prevent child hunger, and that a State's election for a food assistance block grant should not serve to increase the number of hungry children in the State.

Provides that a State's election for a food assistance block grant be permanently revoked 180 days after the Secretary of Health and Human Services has made 2 successive findings (over a 6-year period) that the "hunger rate" among children is significantly higher in a food assistance block grant State than it would have been if the State had not made the choice.

Specifies procedures for a finding that a State's child hunger rate has risen significantly. Every 3 years, the Secretary must develop data and report with respect to any significant increase in child hunger in States that have elected a food assistance block grant. The Secretary must provide the report to states that have elected a block grant and must provide States with a higher child hunger rate with an opportunity to respond. If the State's response does not result in a reversal of the Secretary's determination that the child hunger rate is significantly higher than it would have been without the State's block grant election, the Secretary must publish a determination that the State's block grant choice is revoked.

Requires States to designate a lead administrative agency. The agency must administer (either directly or through other agencies) the food assistance block grant aid, develop the State plan, hold at least 1 hearing for public comment on the plan, and coordinate food assistance block grant aid with other government assistance. In developing the State plan, the lead agency must consult with local governments and private sector organizations so that services are provided in a manner appropriate to local populations.

Provides that nothing in the new food assistance block grant section of the Food Stamp Act entitles anyone to assistance or limits the right of States to impose additional limits or conditions.

Requires that no funds under the food assistance block grant be spent for the purchase or improvement of land, or for the purchase, construction, or permanent improvement of any building/facility.

Requires that no alien otherwise ineligible to participate in the regular food stamp program be eligible to participate in a food assistance block grant program, and that the income of the sponsor of an alien be counted as in the regular food stamp program.

Requires that (1) no person be eligible to receive food assistance block grant benefits if they do not meet regular food stamp program work requirements and (2) that each State operating a food assistance block grant implement an employment and training program under regular food stamp program rules.

Bars the Secretary from providing assistance for any program, project, or activity under a food assistance block grant if any person with operational responsibilities discriminates because of race, religion, color, national origin, sex, or disability. Also provides for enforcement through title VI of the Civil Rights Act.

Requires that, in each fiscal year, at least 80% of Federal funds expended under a State's block grant be for food assistance and not more than 6% be for administrative expenses. A State could provide food assistance to meet the 80% requirement in any manner it determines appropriate (such as electronic benefit transfers, coupons, or direct provision of commodities), but "food assistance" would be limited to assistance that may only be used to obtain food (as defined in the Food Stamp Act).

Provides that the Secretary may conduct research on the effects and costs of a State food assistance block grant program.

Conference agreement

The Conference agreement follows the House bill with and amendment. States that meet one of three conditions may elect to receive an annual block grant to operate a food assistance program for needy persons in lieu of the food stamp program. Eligible States may opt for a block grant at any time, but, if the State chooses to withdraw from the block grant or is disqualified, it may not again opt for a block grant. Eligible States include: (1) those that have fully implemented a statewide electronic benefit transfer system, (2) those for which the dollar value of erroneous benefit and eligibility determinations (overpayments, payments to ineligibles, and underpayments) in the food stamp program or their food assistance block grant program is 6% of benefits issued or less (a "payment error rate" of 6% or less), and (3) those with a payment error rate higher than 6% that agree to contribute, from non-Federal sources, a dollar amount equal to the difference between their payment error rate and a 6% rate to pay for benefits and administration of their food assistance block grant program. A State's payment error rate for block grant purposes is the most recent rate available, as determined by the Secretary.

States electing a block grant would be provided an annual grant equal to: (1) the greater of the FY 1994 amount they received as food stamp benefits, or the 1992–1994 average they received as food stamp benefits and (2) the greater of the FY 1994 Federal share of administrative costs, or the 1992–1994 average they received as the Federal share of administrative costs. However, grants to States with payment error rates above 6% would be reduced by the amount they are required to contribute (i.e., the dollar amount equal to the difference between their payment error rate and a 6% rate). In general, block grant payments must be expended in the fiscal year for which they were distributed; but States may reserve up to 10% a year, up to a total of 30% of the block grant. If total allotments for a fiscal year would exceed the amount of funds made available to provide them, the Secretary is required to reduce allotments on a pro rata basis to the extent necessary. Grant payments would be made by issuing letters of credit.

Block grant funding may only be used for food assistance and administrative costs related to its provision, and, in each fiscal year, not more than 6% of total funds expended (including State funds required to be spent) may be used for administrative costs.

Each participating block grant State is required to maintain a food stamp quality control program to measure erroneous benefit and eligibility determinations, and block grant States would continue to be subject to the food stamp program's quality control system (including eligibility for incentive payments and imposition of fiscal sanction for very high payment error rates). Each participating State is required to implement an employment and training program under Food Stamp Act terms and conditions and is eligible to receive Federal funding for employment and training activities (in addition to the food stamp block grant amount).

In order to receive a block grant, a State must annually submit a State plan for approval by the Secretary. The State plan must: (1) identify a lead administering agency, (2) describe how and to what extent the State's program serves specific groups (e.g., the elderly, migrant and seasonal farmworkers, the homeless, those with earnings, Indian) and how the treatment differs from their treatment under the food stamp program, (3) provide that benefits are available statewide, (4) provide for notice and an opportunity for a hearing to those adversely affected, (5) assess the food and nutrition needs of needy persons in the State, (6) describe the State's eligibility standards for assistance under the block grant program, (7) establish a system for exchanging information with other States to verify recipients' identity and the possible receipt of benefits in another State, (8) provide for safeguarding and restricting the use and disclosure of information about recipients, and (9) other information required by the Secretary.

Eligibility for assistance under the block grant is determined by the State, and there is not individual entitlement to assistance. However, certain Federal rules apply: (1) aliens who would not be eligible under the food stamp program are not eligible for block grant aid; (2) persons and households who would be ineligible under the food stamp program's work rules are not eligible for block grant aid; (3) disqualification of fleeing felons; and (4) disqualification for child support arrears.

If the Secretary finds that there has been a failure to comply with provisions of the block grant or the State's approved plan or finds that, in the operation of any program or activity for which assistance is provided, there is a State failure to comply substantially with block grant provisions—the Secretary must withhold funding, as appropriate, until satisfied there is no longer a failure to comply or that the noncompliance will be promptly corrected. In addition, the Secretary may impose other appropriate penalties, including recoupment of improperly spent money and disqualification from the block grant. States must be provided notice and an opportunity for a hearing in this process.

The Secretary is authorized to conduct research on the effects and costs of a State food assistance block grant.

57. SPECIFIC PERIOD FOR PROHIBITING PARTICIPATION OF STORES BASED ON LACK OF BUSINESS INTEGRITY

Present law

No provision.

House bill

No provision.

Senate amendment

Authorizes the Secretary to issue regulations establishing specific time periods during which retailers/wholesalers that have been denied approval or had approval withdrawn on the basis of "business integrity and reputation" may not submit a new application for approval. The periods established would be required to reflect the severity of the business integrity infractions on which the denial/withdrawal was based.

Conference agreement

See item 20 above.

58. INFORMATION FOR VERIFYING ELIGIBILITY FOR AUTHORIZATION

Present law

No provision.

House bill

No provision.

Senate amendment

Permits the Secretary to require that retailers and wholesalers seeking approval submit relevant income and sales tax filing documents. Permits regulations requiring retailers and wholesalers to provide written authorization for the Secretary to verify all relevant tax filings and to obtain corroborating documentation from other sources in order to verify the accuracy of information provided by retailers and wholesalers.

Conference agreement

The Conference agreement follows the Senate amendment.

59. BASES FOR SUSPENSIONS AND DISQUALIFICATIONS

Present law

No provision.

House bill

No provision.

Senate amendment

Requires criteria for finding violations by retailers and wholesalers (and their suspension or disqualification) on the basis of evidence including on-site investigations, inconsistent redemption data, or electronic benefit transfer system transaction reports.

Conference agreement

The Conference agreement follows the House bill. The Conferees note that the Secretary currently has the authority contained in the Senate amendment.

60. PERMANENT DEBARMENT OF RETAILERS WHO INTENTIONALLY SUBMIT FALSIFIED APPLICATIONS

Present law

No provision.

House bill

No provision.

Senate amendment

Requires regulations permanently disqualifying retailers and wholesalers that knowingly submit an application for approval that contains false information about a substantive matter. A permanent disqualification or a knowingly false application would be subject to administrative and judicial review, but the disqualification would remain in effect pending the review.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment permitting the Secretary to disqualify a store or concern, including permanently, upon knowing submission of false information on an application.

61. CATEGORICAL ELIGIBILITY

Present law

Households in which all members are recipients of AFDC are categorically eligible for food stamps. [Sec. 5(a)]

Child support payments received by a household and excluded under the AFDC program may be disregarded for food stamps, at State option and expense. [Sec. 5(d)(13)]

Household members who are AFDC recipients are considered to have met food stamp resource (asset) eligibility standards. [Sec. 5(j)]

Persons who are AFDC recipients are exempt from food stamp rules barring eligibility to most postsecondary students. [Sec. 6(e)]

In general, food stamp eligibility is barred to those with total (gross) household income above 130% of the Federal income poverty guidelines. [Sec. 5(c)]

Political subdivisions electing to operate workfare programs for food stamp recipients may comply with food stamp requirements by operating a workfare program under title IV of the Social Security Act. [Sec. 20(a)]

Households exempt from food stamp work rules because of participation in an AFDC community work experience program are subject to a limit on the number of hours of work—their cash assistance plus food stamps, divided by the minimum wage (but no person can be required to work more than 120 hours a month). [Sec. 20(a)]

House bill

No provision. [Note: TANF households would presumably be categorically eligible for food stamps under existing provisions of law.]

No provision. [Note: TANF recipients would presumably be considered to have met food stamp resource standards under existing provisions of law.]

No provision. [Note: TANF recipients would presumably not be exempt from food stamp postsecondary student rules under existing provisions of law.]

Senate amendment

Provides that households in which all members are recipients of benefits under a State's family assistance block grant program be categorically eligible for food stamps, if the Secretary determines that the program complies with Secretarial standards that ensure that State program standards are comparable to or more restrictive than those in effect June 1, 1995.

Deletes the existing provision for a State-option child support disregard. [Note: A separate provision (Sec. 5(m) of the Food Stamp Act) providing for State funding of the disregard is not deleted.]

Provides that persons receiving benefits under a State's family assistance block grant program will be considered to have met food stamp resource eligibility standards, if the Secretary determines that the program complies with Secretarial standards that ensure that State program standards are comparable to or more restrictive than those in effect June 1, 1995.

Provides that persons receiving benefits under a State's family assistance block grant program are exempt from food stamp rules barring eligibility to most postsecondary students, if the Secretary determines that the program complies with Secretarial standards that ensure that State program standards are comparable to or more restrictive than those in effect June 1, 1995.

Provides that households may not receive food stamp benefits as the result of eligibility under a State's family assistance block grant program unless the Secretary determines that households with income above 130% of the poverty guidelines are not eligible for the State's program—notwithstanding any other provision of the Food Stamp Act.

Deletes the existing provision allowing compliance with food stamp workfare rules by operating a workfare program under title IV of the Social Security Act.

Deletes the existing rule placing limits on hours worked for food stamp recipients in community work experience programs.

Makes various technical amendments to the Food Stamp Act conforming its existing references to the AFDC program to cite the new family assistance block grant program.

Conference agreement

The Conference agreement follows the Senate amendment.

62. PROTECTION OF BATTERED INDIVIDUALS

Present law

No provision. [Note: Certain work rules contain a "good cause" exemption.]

House bill

No provision.

Senate amendment

In the case of individuals who were battered or subjected to extreme cruelty, permits states to exempt them from the following provisions of food stamp law (or modify their application) if their physical, mental, or emotional well-being would be endangered:

(1) the requirement that the income and resources of a sponsor of an alien be deemed to the sponsored alien;

(2) the requirement that custodial parents cooperate with child support agencies (as added by the Senate amendment); and

(3) all work requirements (including the new work requirement added by the Senate amendment).

Conference agreement

The Conference agreement follows the House bill. The Conferees note that the Food Stamp Act already provides protection to battered individuals in the application of child support enforcement and work rules.

63. RECONCILIATION PROVISIONS

A. Transitional Housing

Present law

Payments from regular welfare benefits made on behalf of households in transitional housing are disregarded as income. [(Sec. 5(k)]

House bill

No provision.

Senate amendment

Deletes disregard of transitional housing payments.

Conference agreement

The Conference agreement follows the Senate amendment.

B. American Samoa

Present law

No provision. [Note: A food assistance program for American Samoa is supported under provisions of law granting Secretarial discretion to extend Agriculture Department programs to American Samoa.]

House bill

No provision.

Senate amendment

Provides for funding of not more than $5.3 million a year through FY 2002 for a nutrition assistance program in America Samoa.

Conference agreement

The Conference agreement follows the Senate amendment.

C. Assistance for Community Food Projects

Present law

No provision.

House bill

No provision.

Senate amendment

Authorizes $2.5 million a year for community food project grants to meet the food needs of low-income people, increase the self-reliance of communities in providing for their own food needs, and promote comprehensive responses to local food, farm, and nutrition issues.

Conference agreement

The Conference agreement follows the Senate amendment, with an amendment making the funding for community food projects mandatory.

Commodity Distribution

1. SHORT TITLE

Present law

The Emergency Food Assistance Act (EFAA), the Hunger Prevention Act of 1988, the Commodity Distribution Reform Act and WIC Amendments, the Charitable Assistance and Food Bank Act of 1987, the Food Security Act of 1985, the Agriculture and Consumer Protection Act of 1973, and the Food, Agriculture, Conservation, and Trade Act of 1990.

House bill

Combines several existing commodity donation programs and authorities under one title, the Commodity Distribution Act of 1995.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the House bill with an amendment striking the House provision and replacing it with a provision combining the emergency food assistance program (TEFAP) with the soup kitchen/food bank program into one program to be known as the TEFAP. The revised TEFAP is reauthorized through 2002, and the Secretary is required to purchase $300 million of commodities each year through 2002 for distribution through the TEFAP. The requirement to purchase $300 million of commodities is included in the Food Stamp Act authorization for appropriations.

2. AVAILABILITY OF COMMODITIES

Present law

Requires the Secretary to purchase a variety of nutritious and useful commodities using the resources of the CCC or Section 32 to supplement commodities acquired from the excess inventories of CCC for distribution to emergency feeding organizations. [Sec. 214(c) of Emergency Food Assistance Act (EFAA)]

In addition to commodities donated from excess CCC holdings, authorizes the Secretary to donate Section 32 commodities to eligible recipient agencies participating in TEFAP. [Sec. 202(c)]

Requires the Secretary to make available to eligible recipient agencies CCC commodities in excess of those needed to meet domestic and international obligations and market development and food aid commitments and to carry out farm price and income stabilization features of the AAA of 1938, the AA of 1949, and the CCC Charter. [Sec. 202(a), EFAA]

House bill

For fiscal years 1996–2000, authorizes the Secretary of Agriculture to purchase a variety of nutritious and useful commodities to distribute to the States for purposes laid out in the subtitle.

Similar to current law, but also authorizes the use of Section 32 *funds* not otherwise used or needed, to purchase, process, and distribute commodities for purposes under the new program.

Leaves current general authority untouched; maintains EFAA requirement but adds language stipulating that donations are to be in addition to authorized Section 32 donations.

Senate amendment

Extends existing law purchasing authorities through FY 2002.

Conference agreement

See Item #1 above.

3. BASIS FOR COMMODITY PURCHASES

Present law

Requires that commodities made available under the EFAA include a variety of items most useful to eligible recipient agencies, including dairy products, wheat and wheat products, rice, honey, and cornmeal. [Sec. 202(d), EFAA]

House bill

Requires the Secretary to determine the types, varieties, and amounts of commodities purchased under this subtitle, and to make such purchases, to the maximum extent practicable and appropriate, on the basis of agricultural market conditions, State and distribution agency preferences and needs, and the preferences of recipients.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

4. STATE AND LOCAL SUPPLEMENTATION OF COMMODITIES

Present law

Requires the Secretary to establish procedures by which State and local agencies, charitable institutions, or other persons may supplement the commodities distributed under TEFAP for use by emergency feeding organizations with donations of nutritious and wholesome commodities. [Sec. 203D(a), EFAA]

Allows States and emergency feeding organizations to use TEFAP funds, equipment, structures, vehicles, and all other facilities and personnel involved in the storage, handling, and distribution of TEFAP commodities to store, handle, or distribute commodities donated to supplement TEFAP commodities. [Sec. 203D(b), EFAA]

Requires States and emergency feeding organizations to continue to use volunteer workers and commodities and foods donated by charitable and other organizations, to the maximum extent practical, in operating TEFAP.

House bill

Similar to current law except that supplementation applies to all programs eligible to receive commodities under the new program, not just TEFAP.

Similar to current law except it allows use of these sources to all programs eligible to participate in the new program (not just TEFAP), and explicitly identifies the funds that States and eligible agencies may use to help with supplemental commodities as those appropriated for administrative costs under the new Section 519(b).

Same as current law, except substitutes recipient agencies for emergency feeding organizations to reflect expansion of provisions to cover other commodity donation programs as well as TEFAP.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

5. STATE PLAN

Present law

Requires Secretary to expedite the distribution of commodities to agencies designated by the Governor, or directly distribute commodities to eligible recipient agencies engaged in national commodity processing; allows States to give priority to donations to existing food bank networks serving low-income households. Requires States to expeditiously distribute commodities to eligible recipient agencies, and to encourage distribution to rural areas. Also requires States to distribute commodities only to agencies that serve needy persons and to set their own need criteria, with the approval of the Secretary. [Sec. 203B (a) and (c) of EFAA]

House bill

Requires that States seeking commodities under this program submit a plan of operation and administration every four years for approval by the Secretary and allows amendment of the plan at any time.

Requires that, at a minimum, the State receiving commodities include in its plan:

designation of the State agency responsible for distributing commodities;

the plan of operation and administration to expeditiously distribute commodities in amounts requested by eligible recipient agencies;

the standards of eligibility for recipient agencies; and

the individual or household eligibility standards for commodity recipients, which shall require that they be needy, and residing in the geographic location served by the recipient agency.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the House bill.

6. ADVISORY BOARD

Present law

No provision.

House bill

Requires the Secretary to encourage States to establish advisory boards consisting of representatives of all interested entities, public and private, in the distribution of commodities.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the House bill.

7. COOPERATIVE AGREEMENTS/TRANSFERS

Present law

Permits States receiving TEFAP commodities to enter into cooperative agreements with agencies of other States to jointly provide commodities serving eligible recipients from each State in a single area, or to transfer commodities. [Sec. 203B(d)]

House bill

Similar to current law, except adds language specifying that the State may advise the Secretary of such agreements and transfers. Note: Because the new commodity distribution program covers more than TEFAP agencies, this represents a new provision for other recipient agencies now receiving commodities (e.g., CSFP, charitable institutions).

Senate amendment

No provision.

Conference agreement

See Item #1 above.

8. ALLOCATION OF COMMODITIES TO STATES

Present law

Requires Secretary to allocate commodities purchased for TEFAP to States in the following proportions:

60% of the value of commodities available based on each State's proportion of the national total of persons with incomes below the poverty line; and

40% based on each State's proportion of the national total of the average monthly number of unemployed persons.

House bill

Similar to current law as relates to allocation of TEFAP commodities. CSFP commodities are exempted from the allocation method, however, other recipient agencies currently receiving commodities under authority other than the EFAA (e.g. charitable institutions) are covered by the allocation formula.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

9. NOTIFICATION

Present law

Requires the Secretary to notify each State of the amount of commodities it is allotted to receive. Requires each State to notify the Secretary promptly if it will not accept commodities available to it, and requires the Secretary to reallocate and distribute such commodities as he deems appropriate and equitable. Further requires the Secretary to establish procedures to permit State to decline portions of commodity allocations during each fiscal year and to reallocate and distribute such commodities, as deemed appropriate and equitable. [Sec. 214(g), EFAA]

House bill

Same as current law, except applies to all eligible agencies receiving commodities, not just TEFAP agencies.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

10. DISASTERS

Present law

Permits the Secretary to request that States consider assisting other States where substantial number of persons have been affected by drought, flood, hurricane or other natural disasters by allowing the Secretary to reallocate commodities to those States affected by such disasters. [Sec. 214(g), EFAA]

House bill

Same as current law.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

11. NATIONAL COMMODITY PROCESSING

Present law

Requires through FY1995 that the Secretary encourage agreements with private companies for reprocessing into end-use products those commodities donated at no charge to nutrition programs. [Sec. 1114(a)(2)(A) of Agriculture of Food Act of 1981]

House bill

No provision.

Senate amendment

Extends national commodity processing provision through FY2002.

Conference agreement

The Conference agreement follows the Senate amendment.

12. PURCHASES AND TIMING

Present law

Requires that in each fiscal year, the Secretary purchase commodities at times and under conditions determined appropriate; deliver such commodities at reasonable intervals to States (but no later than the end of the fiscal year), based on the allocation formula, and entitles each State to the additional commodities purchased for TEFAP in amounts based on the allocation formula. [Sec. 214(h), EFAA]

House bill

Similar to current law except for reference to CSFP, deletion of language relating to "additional" commodities, and requirement that commodities be delivered by December 31 of the following fiscal year.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

13. PRIORITY SYSTEM FOR STATE DISTRIBUTION OF COMMODITIES

A. Emergency Feeding Organizations

Present law

Requires States to give priority for commodities to emergency feeding organizations if sufficient commodities are not available to meet requests of all eligible agencies, and encourages States to distribute commodities to rural areas. [Sec. 203B(b), EFAA]

House bill

Requires that in distributing commodities allocated under this section for other than CSFP, the State agency offer its full allocation of commodities to emergency feeding organizations.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

B. Charitable Institutions

Present law

No provision.

House bill

Permits State agencies to distribute commodities that are not able to be used by emergency feeding organizations to charitable institutions (excluding penal institutions) that do not receive commodities as emergency feeding organizations.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

C. Other Eligible Agencies

Present law

No provision.

House bill

Permits the State agency to distribute commodities that are not able to be used by emergency feeding organizations or other charitable institutions to other eligible recipient agencies not receiving commodities under the previous distributions.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

14. INITIAL PROCESSING COSTS

Present law

Permits the Secretary to use CCC funds to pay the cost of initial processing and packaging of commodities distributed under this Act into forms and quantities the Secretary determines are suitable for use by individual households or institutional use. Permits payment in the form of commodities equal in value to the cost, and requires the Secretary to ensure that such payments in kind do not displace commercial sales. [Sec. 203A, EFAA]

House bill

Similar to present law, except substitutes term "eligible recipient agencies" for "institutional use."

Senate amendment

No provision.

Conference agreement

See Item #1 above.

15. ASSURANCES; ANTICIPATED USE

Present law

Requires the Secretary to take precautions to assure that eligible recipient agencies and persons receiving commodities do not diminish their normal expenditures for food because of receipt of commodities, and to ensure that commodities made available under the Act do not displace commercial sales. Prohibits Secretary from donating commodities in a quantity or manner that will substitute for agricultural produce that otherwise would be purchased in the market. Requires Secretary to submit a report to the Congress each year on whether and to what extent displacement or substitution is occurring. [Sec. 203C(a)]

House bill

Similar to current law but does not refer to individual displacement or substitutions or prohibit donation in a quantity or manner that might interfere with market sales. Also sets December 1997, and at least every two years thereafter as the dates for displacement reports.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

16. WASTE

Present law

Requires that the Secretary purchase and distribute commodities in quantities that can be consumed without waste, and prohibits eligible recipient agencies receiving commodities under this Act from receiving commodities in excess of anticipated use (based on inventory records and controls), or in excess of their ability to accept and store. [Sec. 203C(b)]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

17. AUTHORIZATION OF APPROPRIATIONS

A. Commodity Purchases

Present law

Authorizes $175 million for FY 1991, $190 million for FY 1992, and $220 million for each of FY 1993–1995 to purchase, process and distribute additional commodities to TEFAP agencies. [Sec. 214(e)]

House bill

Authorizes $260 million annually for each of fiscal years 1996 through 2000 to purchase, process, and distribute commodities to States for distribution to eligible recipient agencies, which include charitable institutions and CSFP agencies, as well as TEFAP agencies.

Senate amendment

Extends funding authority for commodity purchases at $220 million annually through FY 2002.

Conference agreement

See Item #1 above.

B. Administrative Funding

Present law

Authorizes $50 million for FY 1991–95 for the Secretary to make available to States for State and local payments of costs associated with the distribution of commodities by eligible recipient agencies. Requires Secretary to allocate funds to States on advance basis in the same proportion as the proportion each State receives of allocated commodities, and requires the Secretary to reallocate funds not able to be used by a State to other States in an appropriate and equitable manner. Permits States to use funds for costs associated with the distribution of additional commodities purchased for the program and for soup kitchens and food banks. [See 204(a)(1)]

House bill

Authorizes $40 million annually for each of fiscal years 1996 through 2000 for payments to States and local agencies (except for the CSFP) for the costs associated with transporting storing, and handling commodities other than those distributed to CSFP agencies. Same as current law with respect to allocations and reallocations, and advanced funding. No specific reference to soup kitchens and food banks, which are included as eligible recipient agencies.

Senate amendment

Extends authority for administrative funding at $50 million annually through FY 2002.

Conference agreement

The Conference agreement follows the Senate amendment with an amendment providing that administrative funds may be used for processing, transporting, or distributing commodities other than TEFAP commodities.

18. LOCAL ADMINISTRATIVE PAYMENTS

Present law

Requires each State to make available not less than 40% of the funds it receives for administrative costs in each fiscal year to pay for, or provide advance payments to eligible recipient agencies, for allowable expenses incurred by such agencies in distributing commodities to needy persons. Defines "allowable expenses" to include the costs of transporting, storing, handling, repackaging and distributing commodities after receipt by the eligible recipient agency; costs associated with eligibility, verification, and documentation of eligibility; costs of providing information to commodity recipients on appropriate storage and preparation of commodities; and costs of recordkeeping, auditing, and other required administrative procedures. [Sec. 204(a)(2), EFAA]

House bill

Same as current law except also applies to non-TEFAP agencies.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

19. STATE COVERAGE OF LOCAL COSTS

Present law

Requires that amounts of funding that States use to cover the allowable expenses of eligible recipient agencies be counted toward the amount a State must make available from administrative funding provided under this Act for eligible recipient agencies. [Sec. 204(a)(2), EFAA]

House bill

Same as present law except that it references the CSFP, which is excluded from this rule.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

20. FINANCIAL REPORTS

Present law

Requires States receiving funds to submit financial reports on a regular basis to the Secretary on the use of such funds and prohibits any such funds from being used by States for costs other than those used to the distribution of commodities by eligible recipient agencies. [Sec. 204(a)(3), EFAA]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

21. NON-FEDERAL MATCHING FUNDS

Present law

Requires that each State receiving administrative funds under this subsection provide cash or in-kind contributions from non-Federal sources in an amount equal to the amount of Federal administrative funds it receives that are not distributed to eligible recipient agencies or used to cover the expenses of such agencies. Permits States to receive administrative funding prior to satisfying the matching requirement, based on their estimated contribution, and requires the Secretary to periodically reconcile estimated and actual contributions to correct for overpayments and underpayments. [Sec. 204(a)(4), EFAA]

House bill

Same as present law, except excludes administrative funds distributed for the CSFP from the non-Federal matching requirements and rules.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

22. FEDERAL CHARGES

Present law

Prohibits any charge against the appropriations authorized by this section for the value of commodities donated for the purposes of this Act, or for the funds used by the CCC for the costs of initial processing, packaging, and delivery of program commodities to the States. [Sec. 204(b), EFAA]

House bill

Similar to present law except it applies the prohibition to bonus donations of Section 32 and CCC commodities, as well as those bought for the program.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

23. STATE CHARGES

Present law

Prohibits States from charging for commodities made available to eligible recipient agencies and from passing along the cost of matching requirements. [Sec. 204(a)(5), EFAA]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

See Item #1 above.

24. MANDATORY FUNDING FOR NUTRITION PROGRAM COMMODITIES

Present law

For each of fiscal years 1994–1996, requires $230,000 of Treasury funds not otherwise appropriated to be provided to the Secretary to purchase, process and distribute commodities that are low in saturated fats, sodium, and sugar, and a good source of calcium, protein, and other nutrients to 2 States, selected by the Secretary, to carry out a three year project to improve the health of low-income participants of TEFAP. Requires that commodities be easy for low-income families to store, use, and handle, and include low-sodium peanut butter, low-fat and low sodium cheese and canned meats, fruits, and vegetables. Also requires that $5000 of the amount provided be given to each of the participating States to help with administrative costs. [Sec. 13962 of OBRA, 1993]

House bill

No provision.

Senate amendment

Extends this requirement through FY2002.

Conference agreement

The Conference agreement follows the House bill.

25. COMMODITY SUPPLEMENTAL FOOD PROGRAM (CSFP)—AUTHORIZATION

Present law

For each of fiscal years 1991–1995, authorizes the Secretary to purchase and distribute sufficient agricultural commodities with appropriated funds to maintain the traditional level of assistance for food programs including the supplemental food programs for women, infants, children, and the elderly. [Sec. 4(a), Agriculture and Consumer Protection Act of 1973]

House bill

Requires that $94.5 million of the amount appropriated for programs under this subtitle for the period FY 1996–2000 be used each fiscal year to purchase and distribute commodities to supplemental feeding programs for women, infants, and children, or elderly individuals participating in the commodity supplemental food program.

Senate amendment

Extends present law authority through FY2002.

Conference agreement

The Conference agreement follows the Senate amendment.

26. CSFP ADMINISTRATIVE FUNDING

Present law

Requires the Secretary to provide administrative funds to State and local agencies administering the CSFP for each of fiscal years 1991–1995. Authorizes appropriations in an amount equal to not more than 20% of the value of commodities purchased for the program. [Sec. 5(a) Agriculture and Consumer Protection Act of 1973]

Defines administrative costs to include expenses for information and referral, operation, monitoring, nutrition education, start-up costs, and general administration (including staff, warehouse, and transportation personnel, insurance and administration of the State or local office. [Sec. 5(c), Agriculture and Consumer Protection Act of 1973]

House bill

Requires that not more than 20% of the funds made available for commodity purchase and distribution for the CSFP be made available to States for the State and local payments of costs associated with the distribution of commodities by CSFP agencies.

Senate amendment

Extends present law authority through FY2002.

Conference agreement

The Conference agreement follows the Senate amendment.

27. CSFP—COMMODITY PURCHASES AND ADVANCE WARNING

Present law

Permits the Secretary to determine the types, varieties, and amounts of commodities purchased for the CSFP, but requires the Secretary to report to the House and Senate Agriculture Committees plans for significant changes from commodities available or planned at the beginning of the fiscal year before implementing such changes.

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

28. CHEESE AND NONFAT DRY MILK

Present law

In each of fiscal years 1991–1995, the CCC is required to provide at least 9 million pounds of cheese and 4 million pounds of nonfat dry milk (to the extent inventory levels permit), for the Secretary to use, before the end of each fiscal year, to carry out the CSFP. [Sec. 5(d)(2), Agriculture and Consumer Protection Act of 1973]

House bill

Implements this present law provision for fiscal years 1996–2000, otherwise it is exactly the same as present law.

Senate amendment

Extends present law provision through FY2002.

Conference agreement

The Conference agreement follows the Senate amendment.

29. ADDITIONAL CSFP SITES

Present law

Requires the Secretary to approve additional sites each fiscal year, including sites serving the elderly, in areas where the program does not operate to the full extent that applications can be approved within the funding available, and without reducing participation levels (including the elderly) in areas where the program is in effect. [Sec. 5(f), Agriculture and Consumer Protection Act of 1973]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

30. ADDITIONAL RECIPIENTS

Present law

Permits a local agency to serve low-income elderly persons, with the approval of the Secretary, if it determines that the amount of assistance it receives is more than is needed to provide assistance to women, infants and children. [Sec. 5(g), Agriculture and Consumer Protection Act of 1973]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

31. COMMODITY PRICE INCREASES

Present law

Requires the Secretary to determine the decline in the number of persons able to be served by the CSFP if the price of one or more commodities purchased for the program is significantly higher than expected; to promptly notify State agencies operating programs of the decline; and ensure that State agencies notify local agencies of the decline. [Sec. 5(j)(1) and (2), Agriculture and Consumer Protection Act of 1973]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

32. AFFECT OF CSFP COMMODITIES ON OTHER RECIPIENT AGENCIES

Present law

No provision.

House bill

Stipulates that commodities distributed to CSFP agencies under this section not be considered when determining commodity allocations to States for other eligible recipient agencies receiving commodities under this Act, or in following the priority for distribution of commodities to such agencies.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

33. COMMODITIES NOT INCOME

Present law

Specifies that commodities distributed under this Act not be considered income or resources for any purposes under Federal, State, or local law. [Sec. 206, EFAA]

House bill

Similar to present law, but narrower. Specifies that receipt of commodities cannot be considered in "determining eligibility for any Federal, State, or local "means-tested program," instead of the broader "any purposes" outlined in present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

34. PROHIBITION ON STATE CHARGES

Present law

Prohibits States from charging eligible recipient agencies any amount that exceeds the difference between the State's direct costs of storing and transporting commodities to recipient agencies and the amount of funds provided for this purpose by the Secretary. [Sec. 208, EFAA]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

35. DEFINITIONS

A. Average Monthly Number of Unemployed Persons

Present law

The average monthly number of unemployed persons within a State in the most recent fiscal year for which information is available, as determined by the Bureau of Labor Statistics of the Department of Labor. [Sec. 2143(b), EFAA]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the House bill with an amendment providing that all definitions included in the TEFAP and soup kitchen/food bank program will be included in the revised TEFAP.

B. Elderly Persons

Present law

No provision.

House bill

Defines "elderly persons" to mean persons 60 years or older.

Senate amendment

No provision.

Conference agreement

See Item 35A above.

C. Eligible Recipient Agencies; Emergency Feeding Organizations

Present law

Combines definition of "eligible recipient agencies" and "emergency feeding organizations, as follows: "Eligible recipient agency" means public or non-profit organizations that administer activities or projects providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons (including those in charitable institutions, food banks, hunger centers, soup kitchens, and similar non-profit recipient agencies (hereinafter referred to as "emergency feeding organizations"); and school lunch, summer camps, and child nutrition meal service, elderly feeding programs, CSFP, charitable institutions for the needy, and disaster relief. [Sec. 201A, EFAA]

House bill

Similar to present law, but separates into two separate definitions, as follows: Defines "eligible recipient agency" to mean a public or non-profit organization that administers:

An institution operating a CSFP;

An emergency feeding organization (EFO);

A charitable institution (including a hospital and a retirement home, but excluding a penal institution) serving need persons;

A summer camp for children or a child nutrition food service program;

An elderly feeding program; or

A disaster relief program.

Defines "emergency feeding organization" to mean public or private organizations that administer activities and projects (including charitable institutions, food banks and pantries, hunger relief centers, soup kitchens, or similar non-profit eligible agencies) providing nutrition assistance to relieve situations of emergency and distress by providing food to needy persons, including low-income and unemployed persons.

Senate amendment

No provision.

Conference agreement

See Item 35A above.

D. Food Bank

Present law

The term "food bank" means a public and charitable institution that maintains an established operation providing food to food pantries, soup kitchens, hunger relief centers, or other feeding centers that provide meals or food to feed needy persons on a regular basis as an integral part of their normal activity. [Sec. 110, Hunger Prevention Act of 1988]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

See Item 35A above.

E. Food Pantry

Present law

Defines "food pantry" to mean a public or private nonprofit organization distributing food (including other than USDA food) to low-income and unemployed households to relieve situations of emergency and distress. [Sec. 110, Hunger Prevention Act of 1988]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

See Item 35A above.

F. Needy Persons

Present law

No provision.

House bill

Defines "needy persons" to mean individuals who have low incomes or are unemployed as determined by the State, as long as this is not higher than 185% of the poverty line; households certified as food stamp participants or individuals participating in other Federally-supported means-tested programs.

Senate amendment

No provision.

Conference agreement

See Item 35A above.

G. Poverty Line

Present law

The term "poverty line" is the same as the term used in Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)). [Sec. 110, Hunger Prevention Act]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

See Item 35A above.

H. Soup Kitchen

Present law

The term "soup kitchen" means a public and charitable institution that, as an integral part of its normal activities, maintains an established feeding operation for needy homeless persons on a regular basis. [Sec. 110, Hunger Prevention Act]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

See Item 35A above.

36. REGULATIONS

Present law

Requires the Secretary to issue regulations within 30 days to implement this subtitle; to minimize to the extent practicable the regulatory, recordkeeping and paperwork requirements imposed on eligible recipient agencies, to publish in the Federal Register as early as feasible, but not later than the beginning of each fiscal year, an estimate of the types and quantitites of commodities anticipated to be available; and to include in regulations provisions that set standards relating to liability for commodity losses when there is no evidence of negligence or fraud, and establish conditions for payment to cover such losses, taking into account the special needs and circumstances of the recipient agencies. [Sec. 210, EFAA]

House bill

Similar to present law except provides 120 days for Secretary to issue regulations and includes reference to "non-binding" nature of Secretary's estimates of donations.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

37. FINALITY OF DETERMINATIONS

Present law

Specifies that determinations made by the Secretary concerning the types and quantities of commodities donated under this subtitle, when in conformance with applicable regulations, be final and conclusive and not reviewable by any other officer or agency of the Government. [Sec. 211, EFAA]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

38. PROHIBITION ON SALE OF COMMODITIES

Present law

Prohibits the sale or disposal of commodities in commercial channels in any form, except as permitted under Section 517 for inkind payment of initial processing costs by the CCC. [Sec. 205(b), EFAA]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

39. SETTLEMENT OF CLAIMS

Present law

Gives the Secretary or designee authority to determine the amount of, settle and adjust any claim arising under this subtitle, and waive any claim when the Secretary determines it will serve the purposes of this Act. Specifies that nothing in this Act diminishes the authority of the Attorney General to conduct litigation on behalf of the United States. [Sec. 215, EFAA]

House bill

Same as present law.

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment.

40. REPEALERS AND AMENDMENTS

Present law

No provision.

House bill

Repeals the Emergency Food Assistance Act of 1983.

In the Hunger Prevention Act of 1988, strikes Section 110 (soup kitchens and food banks); Subtitle C of Title II (Food processing and distribution); and Section 502 (food bank demonstration project).

Stikes Section 4 of the Commodity Distribution Reform Act of 1987 (Food bank demonstration).

Strikes Section 3 of the Charitable Assistance and Food Bank Act of 1987.

Amends the Food Security Act of 1985 by striking Section 1571, and striking Section 4 of the Agriculture and Consumer Protection Act (CSFP) and inserting Section 110 of the Commodity Distribution Act of 1995.

In the Agriculture and Consumer Protection Act of 1973: In Section 4(a) strikes "institutions (including hospitals and facilities caring for needy infants and children), supplemental feeding programs serving women, infants, and children, and elderly, or both, wherever located, disaster areas, summer camps for children" and inserting "disaster areas;" In subsection 4(c) strikes "the Emergency Food Assistance Act of 1983" and inserts "The Commodity Distribution Act of 1995"; and strikes Section 5.

In the Food Agriculture, Conservation, and Trade Act of 1990, strikes Section 1773(f).

Senate amendment

No provision.

Conference agreement

The Conference agreement follows the Senate amendment with an amendment repealing section 110 (soup kitchens and food banks), subtitle C of title III (food processing and distribution), and section 502 (food bank demonstration project) of the Hunger Prevention Act of 1988, and section 3 (food bank demonstration) of the Charitable Institution and Food Bank Act of 1987.

TITLE XI. MISCELLANEOUS

1. EXPENDITURE OF FEDERAL FUNDS IN ACCORDANCE WITH LAWS AND PROCEDURES APPLICABLE TO EXPENDITURE OF STATES FUNDS (SUBTITLE A—SECTION 1101)

Present law

According to the National Conference of State Legislatures, there currently are six

States in which Federal funds go to the Governor rather than the State legislature. Those States are Arizona, Colorado, Connecticut, Delaware, New Mexico, and Oklahoma.

House bill

No provision.

Senate amendment

Stipulates that funds from certain Federal block grants to the States are to be expended in accordance with the laws and procedures applicable to the expenditure of the State's own resources, (i.e., appropriated through the State legislature in all States). This provision applies to the following block grants: temporary assistance to needy families block grant under title I, the optional State food assistance block grant under title III, and the child care block grant under title VI of the Senate amendment. Thus, in the States in which the Governor previously had control over Federal funds, the State legislatures now would share control according to State laws regarding State expenditures.

Conference agreement

The conference agreement follows the Senate amendment.

2. ELIMINATION OF HOUSING ASSISTANCE WITH RESPECT TO FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS (SUBTITLE A—SECTION 1102)

Present law

No provision.

House bill

No provision.

Senate amendment

Ends eligibility for public housing and Section 8 housing assistance of a person who is fleeing to avoid prosecution after conviction for a crime, or attempt to commit a crime, that is a felony where committed (or, in the case of New Jersey, is a high misdemeanor), or who is violating a condition of probation or parole. The amendment states that the person's flight shall be cause for immediate termination of their housing aid.

Requires specified public housing agencies to furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, social security number, and photograph (if applicable) of any SSI recipient, if the officer furnishes the public housing agency with the person's name and notifies the agency that the recipient is a fugitive felon (or in the case of New Jersey a person fleeing because of a high misdemeanor) or a probation or parole violator or that the person has information that is necessary for the officer to conduct his official duties, and the location or apprehension of the recipient is within the officer's official duties.

Conference agreement

The conference agreement follows the Senate amendment.

3. SENSE OF THE SENATE REGARDING ENTERPRISE ZONES (SUBTITLE A—SECTION 1103)

Present law

No specific provision. However, as stated, the provisions outlined in the Sense of the Senate language already can be done under present law.

House bill

No provision.

Senate amendment

Outlines findings related to urban centers and empowerment zones and includes sense of the Senate language that urges the 104th Congress to pass an enterprise zone bill that provides Federal tax incentives to increase the formation and expansion of small businesses and to promote commercial revitalization; allows localities to request waivers to accomplish the objectives of the enterprise zones; encourages resident management of public housing and home ownership of public housing; and authorizes pilot projects in designated enterprise zones to expand the educational opportunities for elementary and secondary school children.

Conference agreement

The conference agreement follows the senate amendment.

4. SENSE OF THE SENATE REGARDING THE INABILITY OF THE NON-CUSTODIAL PARENT TO PAY CHILD SUPPORT (SUBTITLE A—SECTION 1104)

Present law

No provision.

House bill

No provision.

Senate amendment

It is the sense of the Senate that States should pursue child support payments under all circumstances even if the noncustodial parent is unemployed or his or her whereabouts are unknown; and that States are encouraged to pursue pilot programs in which the parent of a minor non-custodial parent who refuses or is unable to pay child support contribute to the child support owed.

Conference agreement

The conference agreement follows the Senate amendment.

5. FOOD STAMP ELIGIBILITY (SUBTITLE A—SECTION 1105)

Present law

For purposes of determining eligibility and benefits under the Food Stamp program, the income—less a pro rata share—and financial resources of an ineligible alien are included in the income and resources of the household of which the alien is a member. [Sec. 6(f) of the Food Stamp Act]

House bill

No provision.

Senate amendment

Permits States to include all of an ineligible alien's income and resource in the income and resources of the household of which the alien is a member. (Note: This provision applies only to those aliens made ineligible under present food stamp law, not to those who might be made ineligible for food stamps under new provisions in Senate amendment.)

Conference agreement

The conference agreement follows the Senate amendment.

6. SENSE OF THE SENATE ON LEGISLATIVE ACCOUNTABILITY FOR UNFUNDED MANDATES IN WELFARE REFORM LEGISLATION

Present law

P.L. 104-4, the Unfunded Mandates Reform Act of 1995, enacted March 22, 1995, responds to the concern of many State and local officials regarding costs placed upon them by "unfunded mandates." The Act addresses this issue by requiring the Congressional Budget Office (CBO) to estimate the costs to State, local, and tribal governments and the private sector of unfunded intergovernmental mandates that exceed a specified amount and to make the information available to the Congress before a final vote on a given piece of legislation is taken.

House bill

No provision.

Senate amendment

Includes the "purposes" section of P.L. 104-4 as findings and states that it is the Sense of the Senate that before the Senate acts on the conference agreement on H.R. 4 (or any other welfare reform legislation), CBO include in its 7-year estimates the costs to States of meeting all work requirements (and other requirements) in the conference agreement, including those for single-parent families, two-parent families, and those who have received cash assistance for 2 years; the resources available to the State to meet these work requirements and what States are projected to spend under current welfare law; and the amount of additional revenue needed by the States to meet the work requirements. In addition, the Senate would like CBO to estimate how many States would pay a penalty rather than raise the additional revenue needed to comply with the specified work requirements.

Conference agreement

The conference agreement follows the House bill (no provision).

7. SENSE OF THE SENATE REGARDING COMPETITIVE BIDDING FOR INFANT FORMULA

Present law

Under the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), States must carry out cost containment measures in procuring infant formula (and, where practicable, other foods). Cost containment must be by competitive bidding or another method that yields equal or greater savings. Any cost savings may be used by the State for WIC program purposes. [Sec. 17(b) and (h) of the Child Nutrition Act]

House bill

With respect to assistance provided to women, infants, and young children under the Family Nutrition Block Grant, States are required to establish and carry out a cost containment system for procuring infant formula. States must use cost containment savings for any of the activities supported under the Family Nutrition Block Grant and must report on their system and the estimated cost savings compared to the previous year.

Senate amendment

Includes findings on the success of the WIC program in: improving the health status of women, infants, and children, saving Medicaid expenditures, and establishing the importance of infant formula manufacture rebates in helping to fund the WIC program. The amendment states that it is the sense of the Senate that any legislation enacted by Congress must not eliminate or in any way weaken present competitive bidding requirements for the purchase of infant formula supported with Federal funds.

Cjonference agreement

The conference agreement is to drop the provision on competitive bidding for infant formula.

8. ESTABLISHING NATIONAL GOALS TO PREVENT TEENAGE PREGNANCIES (SUBTITLE A—SECTION 1106)

A. Goals

Present law

No provision.

House bill

No provision.

Senate amendment

Requires the Secretary of HHS to establish and implement by January 1, 1997, a strategy for:

(1) preventing an additional 2 percent of out-of-wedlock teenage pregnancies a year; and

(2) assuring that at least 25 percent of U.S. communities have teenage pregnancy programs in place.

HHS is required to report to Congress by June 30, 1998, on progress made toward meeting these 2 goals.

Conference agreement

The conference agreement follows the Senate amendment, but eliminates the reference to "an additional 2 percent" in (1).

B. Prevention Programs

Present law

The Social Services block grant (SSBG) (sec. 2002 of SSA, 42 USC 1397a) entitles States to an allotment for services not limited to, but including: child day care; protective services for children and adults; services for children and adults in foster care; home management services; adult day care; transportation; family planning services; training and related services; employment services; information, referral and counseling; meal preparation and delivery; health support services; and, combinations of services to meet the special needs of children, the aged, the mentally retarded, the blind, the emotionally disturbed, the physically handicapped, alcoholics, and drug addicts. Also, Title XX of the Public Health Service Act establishes the Adolescent Family Life (AFL) program to encourage adolescents to delay sexual activity and to provide services to alleviate the problems surrounding adolescent parenthood. One-third of all funding for AFL program services go to projects that provide "prevention services." The purpose of the prevention component is to find effective means within the context of the family of reaching adolescents, both male and female, before they become sexually active to maximize the guidance and support of parents and other family members in promoting abstinence from adolescent premarital sexual relations. (The FY 1995 appropriation for AFL was $6.7 million.)

House bill

No provision.

Senate amendment

Amends the Social Services block grant (SSBG) (sec. 2002 of the Social Security Act) to require the Secretary to conduct a study of the relative effectiveness of different State programs to prevent out-of-wedlock and teenage pregnancies and to require States conducting programs under this provision to provide data required by the Secretary to evaluate these programs.

Conference agreement

The conference agreement follows the House bill (no provision).

9. SENSE OF THE SENATE REGARDING ENFORCEMENT OF STATUTORY RAPE LAWS (SUBTITLE A—SECTION 1107)

Present law

No provision.

House bill

No provision.

Senate amendment

Includes Sense of the Senate that States and local jurisdictions should aggressively enforce statutory rape laws.

Conference agreement

The conference agreement follows the Senate amendment.

10. SANCTIONING FOR TESTING POSITIVE FOR CONTROLLED SUBSTANCES (SUBTITLE A—SECTION 1108)

Present law

Eligibility and benefit status for most of the Federal welfare programs are not affected by a recipient's use of illegal drugs. Even under the SSI program, as long as a recipient who is classified as a drug addict or alcoholic participates in an approved treatment plan when so directed and allows his or her treatment to be monitored, he or she is in compliance with the SSI rules, and in most cases the SSI benefit would continue without interruption.

House bill

No provision.

Senate amendment

Stipulates that States shall not be prohibited by the Federal Government from sanctioning welfare recipients who test positive for use of controlled substances.

Conference agreement

The conference agreement follows the Senate amendment.

11. ABSTINENCE EDUCATION (SUBTITLE A—SECTION 1109)

Present law

The Maternal and Child Health (MCH) block grants (title V of the SSA, 42 U.S.C. 701) provides grants to States and insular areas to fund a broad range of preventive health and primary care activities to improve the health status of mothers and children, with a special emphasis on those with low income or with limited availability of health services. Sec. 502 includes a set-aside program for projects of national or regional significance. (The FY 1995 appropriation for MCH was $684 million.) See also: Title XX of the Public Health Service Act establishes the Adolescent Family Life (AFL) program to encourage adolescents to delay sexual activity and to provide services to alleviate the problems surrounding adolescent parenthood. One-third of all funding for AFL program services goes to projects that provide "prevention services." The purpose of the prevention component is to find effective means within the context of the family of reaching adolescents, both male and female, before they become sexually active to maximize the guidance and support of parents and other family members in promoting abstinence from adolescent premarital sexual relations. (The FY 1995 appropriation for AFL was $6.7 million.)

House bill

No provision.

Senate amendment

Amends the Maternal and Child Health (MCH) block grants (title V of the SSA) to set aside $75 million to provide abstinence education—defined as an educational or motivational program that has abstaining from sexual activity as its exclusive purpose—and to provide at the option of the State mentoring, counseling and adult supervision to promote abstinence with a focus on those groups most likely to bear children out-of-wedlock. Also increases the authorization level of MCH to $761 million.

Conference agreement

The conference agreement follows the Senate amendment.

12. PROVISIONS TO ENCOURAGE ELECTRONIC BENEFIT TRANSFER SYSTEMS (SUBTITLE A—SECTION 1110)

Present law

In 1978, Congress passed the Electronic Fund Transfer Act to provide a basic framework establishing the rights, liabilities, and responsibilities of participants in electronic fund transfer systems and required the Federal Reserve Board to develop implementing regulations, which generally are referred to as Regulation E.

House bill

The House bill exempts from Regulation E requirements any electronic benefit transfer program (distributing needs-tested benefits) established under State or local law or administered by a State or local government.

Senate amendment

See Sec. 320 in Senate amendment, which exempts from Regulation E any food stamp electronic benefit transfers.

Conference agreement

The conference agreement follows the House bill.

13. SOCIAL SERVICES BLOCK GRANT (SUBTITLE A—SECTION 1111)

Present law

The Social Services Block Grant (Title XX) provides funds to States in order to provide a wide variety of social services, including:

(1) Child care;

(2) Family planning;

(3) Protective services for children and adults;

(4) Services for children and adults on foster care; and

(5) Employment services.

States have wide discretion over how they use Social Services Block Grant funds. States set their own eligibility requirements and are allowed to transfer up to 10 percent of their allotment to certain Federal health block grants, and for low-income home energy assistance (LIHEAP).

States can also use their block grant funds for staff training in the field of social services. This includes training at workshops, conferences, seminars, and educational institutions.

Funding for the Social Services Block Grant is capped at $2.8 billion a year. Funds are allocated among States according to the State's share of its total population. No State matching funds are required to receive Social services Block Grant money.

House bill

No provision.

Senate amendment

Beginning in FY 1997, the Social Services Block Grant will be reduced by 20 percent.

Conference agreement

The House recedes to the Senate amendment, with the modification that the Social Services Block Grant will be reduced by only 10 percent.

Bill Archer,
Bill Goodling,
Pat Roberts,
E. Clay Shaw, Jr.,
James Talent,
Jim Nussle,
Tim Hutchinson,
Jim McCrery,
Lamar Smith,
Nancy L. Johnson,
Dave Camp,
Gary A. Franks,

As an additional conferee:

Bill Emerson,

As an additional conferee:

Randy "Duke" Cunningham,

Managers on the Part of the House.

William V. Roth, Jr.,
Bob Dole,
John H. Chafee,
Charles Grassley,
Orrin Hatch,

From the Committee on Labor and Human Resources:

NANCY LANDON
KASSEBAUM,
JIM JEFFORDS,
DAN COATS,
JUDD GREGG,

From the Committee on Agriculture, Nutrition, and Forestry:

JESSE HELMS,
Managers on the Part of the Senate.

PROCEEDINGS OF DECEMBER 21, 1995

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. CHAMBLISS].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
December 21, 1995.

I hereby designate the Honorable SAXBY CHAMBLISS to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Our prayers reach out this day for all those whose lives know the anguish of separation from those they love or who experience the emptiness that comes when the meaning and purpose of life is dimmed. O gracious God, as You have given us Your word of assurance and comfort that we ever belong to You and Your grace is sufficient for every need, so minister to all Your people with Your words of promise and peace and hope. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from New York [Mr. FRISA] will lead the House in the Pledge of Allegiance.

Mr. FRISA led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills and joint resolutions of the House of the following titles:

H.R. 965. An act to designate the Federal building located at 600 Martin Luther King, Jr. Place in Louisville, Kentucky, as the "Romano L. Mazzoli Federal Building";

H.R. 1253. An act to rename the San Francisco Bay National Wildlife Refuge as the Don Edwards San Francisco Bay National Wildlife Refuge;

H.R. 2481. An act to designate the Federal Triangle Project under construction at 14th Street and Pennsylvania Avenue, Northwest, in the District of Columbia, as the "Ronald Reagan Building and International Trade Center";

H.R. 2527. An act to amend the Federal Election Campaign Act of 1971 to improve the electoral process by permitting electronic filing and preservation of Federal Election Commission reports and for other purposes;

H.R. 2547. An act to designate the United States courthouse located at 800 Market Street in Knoxville, Tennessee, as the "Howard H. Baker, Jr. United States Courthouse";

H.J. Res. 69. Joint Resolution providing for the reappointment of Homer Alfred Neal as a citizen regent of the Board of Regents of the Smithsonian Institution;

H.J. Res. 110. Joint Resolution providing for the appointment of Howard H. Baker, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution;

H.J. Res. 111. Joint Resolution providing for the appointment of Anne D'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution; and

H.J. Res. 112. Joint Resolution providing for the appointment of Louis Gerstner as a citizen regent of the Board of Regents of the Smithsonian Institution.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1228. An act to deter investment in the development of Iran's petroleum resources;

S. 1340. An act to establish a Commission on Concentration in the Livestock Industry, and for other purposes;

S. 1429. An act to provide clarification in the reimbursement to States for federally funded employees carrying out Federal programs during the lapse in appropriations between November 14, 1995, through November 19, 1995; and

S. Con. Res. 34. Concurrent Resolution to authorize the printing of "Vice Presidents of the United States, 1789–1993".

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now entertain fifteen 1-minutes per side.

SAVING THE AMERICAN DREAM

Mr. BOEHNER. Mr. Speaker, the headline in the Washington Post this morning is wrong. It says, "House Republicans Derail Budget Talks." We should make it perfectly clear that the person who derailed the budget talks was Vice President AL GORE when he came out to the microphones at the White House the other night after the Speaker and the majority leader in the Senate met with the President, and he poisoned the well by mischaracterizing the agreements that were made at the White House.

We are intent on balancing the budget, and we are intent on doing it now. We can give our children and our grandchildren the greatest Christmas present that anyone could ever leave to the next generation, and that is a balanced budget which means saving the American dream for our children and theirs.

We are going to do it, and we are going to do it now.

LET US FIND CHRISTMAS

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, it is easy to be hard. It is hard to be both caring and responsible.

Some of our colleagues on the other side of the aisle, not all, but some of our colleagues on the other side of the aisle are determined to demonstrate to all America how hard they can be, my way or no way. Scrooge was hard.

The Christmas season, however, challenges us to care, to consider others, to reach out to our human beings, to embrace them. To share, to be caring can be hard.

The fatal plane crash over the mountains of Colombia and the near fatal plane crash on the runway of New York reminds us how all of our lives are uncontrollable, how the perils of our lives, we do not control that. We have many natural problems. We need not create more.

The stalled budget problem is one we created. We created that. This Congress and the President can bridge that gap between Medicare and Medicaid and the CBO numbers. Those are problems we created. They are easy.

I say to my Republican freshmen and others, be determined not to be hard.

Guess what, even Scrooge found Christmas. Please find Christmas.

MY MOM AND DAD: WHAT AMERICA IS ALL ABOUT

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, at a time when the President and this Congress are engaged in an historic battle over finally balancing this Nation's budget, I would like to take a moment to acknowledge the importance of this date, December 21, 1995, to me.

You see, 50 years ago today, December 21, 1945, a young soldier from Massachusetts who had just returned from the war in Europe and a young woman from North Carolina were married. Over that 50 years they raised four children. They now have 9 grandchildren and a 10th on the way. They are both now in their seventies. They are both on Social Security and Medicare, and they both realize, by the way, that we are not cutting Medicare or Social Security, despite what some in this House might allege.

They never had a lot of money, material goods, or that kind of wealth. But they did have something and they still have something that is more important. They have love. They are my mom and dad, and they are an example of what America is all about.

THE BUDGET DEBATE: DO NOT FORGET THE SENIOR CITIZENS

(Mr. REED asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REED. Mr. Speaker, we continue to resist a Republican budget with deep cuts in Medicare and Medicaid, a Republican budget which has already been repudiated by a broad cross-section of the American public.

And, as we continue to debate the Federal budget, I would like to remind my Republican colleagues that they should not lose sight of the budgets of thousands of senior citizens in their districts.

Today the elderly pay more out-of-pocket than ever before for Medicare coverage and supplemental insurance. In Rhode Island, they pay this with an average income of approximately $16,000.

Yesterday the New York Times reported that MediGap premiums for over 3 million seniors will increase an average of 30 percent next year. MediGap is the supplemental insurance which is necessary to cover nonhospital medical expenses. In Rhode Island, the average premium increase will be 35 percent.

These higher premiums would come on top of the proposed increases to beneficiaries in the Republicans budget.

The Republican budget will raise annual Medicare premiums by $264 for an elderly couple in 1996 and nearly double premiums by 2002.

And on top of these significant increases, the Republicans also propose to eliminate the Medicaid entitlement which serves as a critical safety net for thousands of seniors in Rhode Island.

I urge we repudiate these massive cuts in Medicare and Medicaid.

ANOTHER STRATEGY FROM THE WHITE HOUSE

(Mr. FORBES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FORBES. Mr. Speaker, anybody who had the opportunity to watch the President's remarks yesterday, they would have seen the unveiling of yet another strategy at the White House. After backing away from the promise the President made 30 days ago to the American people to offer a balanced budget using real numbers, the President's latest strategy now has him labeling House Republican freshmen as being extremists and radical. Imagine that. The President of the United States, the leader of the free world, is now held hostage by the Republican freshman class.

Now, I have heard a lot of tall stories in my life, Mr. Speaker, but this one takes the cake. This latest attempt to tar and feather the Republicans as extremist boogeymen is just more proof Bill Clinton has no ideas and that he is becoming increasingly irrelevant.

You know, it was just about a year ago the liberal media said that Bill Clinton was irrelevant. Considering his opposition, his opposition to an honest 7-year balanced budget, I think we now have an answer.

DO NOT WALK AWAY FROM OUR RESPONSIBILITY TO WORKING FAMILIES

(Ms. DeLAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DeLAURO. Mr. Speaker, I am holding a copy of an advertisement that ran in today's Washington Post paid for by a group of business leaders who are calling for a balanced budget. What they don't say is what they are willing to sacrifice to achieve that goal. Will they have the courage to say "no" to corporate welfare and tax breaks?

The sponsors of this ad are questionable spokesmen for tightening our belts. Let me tell you about one, Lawrence Bossidy, the CEO of AlliedSignal. Mr. Bossidy earned $12.3 million last year, while closing down a plant in my district, putting 1,400 people out of work.

Mr. Bossidy and the protectors of corporate subsidies could all learn a lesson from Aaron Feuerstein of Malden Mills. When his factory burnt to the ground earlier this month, Mr. Feuerstein did not walk away from his responsibility to his workers. This Congress should not walk away from our responsibility to America's working families by passing a Republican budget that protects corporate welfare, while cutting Medicare, Medicaid, and education for working families.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 359

Mr. HEFLEY. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 359.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

WHOSE FAULT IS THE BUDGET STALEMATE?

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, well, you have seen the headlines in the New York Times and Washington Post. All I can say is consider the source. Two of the most liberal publications in America today naturally would want to blame the Republicans, someone like the Republican freshmen, for this.

What they did not do was watch the news conference of Vice President GORE the other night, two nights ago, when NEWT GINGRICH and BOB DOLE came back to this Capitol to brief us on what happened at the White House. There was a note of encouragement in their voices. It looked like we were on our way to getting something done.

At that very moment they were briefing us, AL GORE was in front of the cameras scuttling the whole deal, repudiating everything GINGRICH and DOLE thought they had heard.

Mr. Speaker, if anyone deserves the blame for the budget talks going south, it is Bill Clinton and his liberal Vice President, AL GORE. They refused to deal in good faith. They refused to honor their commitment that they made last month, and now they want to blame freshman Republicans. Absolutely silly.

Does this not strain credibility, Mr. Speaker? Bill Clinton and his liberal administration refused to honor their commitments, and they do not deal in good faith.

PUNISH CRIMINALS, NOT THE TAXPAYERS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, I want to talk about the budget deficits.

Serial killer Joel Rifkin admitted to killing 17 women. They found the bodies of those victims in nearby creeks, even in his pickup truck bed, folks.

Joel Rifkin was sentenced to 152 years in jail where he will get free food, free health care, free clothing, free heat, free electricity, television.

Beam me up, Mr. Speaker. It is time that America cuts this business out. The shallow graves of those 17 victims are crying out for justice. The only punishment here is the punishment to the American taxpayers.

Joel Rifkin should be put to death. Congress should say, "Good night, sweet prince," and maybe we would balance around here.

Yield back the balance of all the money here.

THE MOST POWERFUL MAN IN THE WORLD

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, there is no longer any doubt in my mind that President Clinton is the most powerful man in the world. Did you see what happened yesterday? The President came out to give a speech to the press, going on and on about how distraught he was over those evil Republicans who are insisting we actually balance the budget.

While he was talking, in direct reaction to his speech, the stock market dropped 50 points, it dropped 50 points in 10 minutes, just like that, bam, a 50-point drop.

Do you know why? Because every investor in the country was scared to death the President was actually being honest for once and would continue to block a real balanced budget. You see, America, that is the problem. There is only one person standing between the American people and a balanced budget, and unfortunately it happens to be the one man who can make the stock market drop 50 points in 10 minutes. It happens to be Bill Clinton.

THE GOVERNMENT SHUTDOWN

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute.)

Ms. VELÁZQUEZ. Mr. Speaker, today the Government is in the midst of its second shutdown. Not because Congress and the President cannot decide when and why to balance the budget. But because a radical minority does not care about the rest of America.

Speaker GINGRICH and company have chosen to inflict the maximum amount of pain on the American people, rather than offer solutions.

Last fall Republicans talked about a contract with the American people. I ask you, what about the contract with the elderly, the children, and the Americans in need?

These people will not be receiving the benefits checks that they were promised for food, shelter, and medicine—because this arrogant minority decided that it should be their way not the American way.

My colleagues, these contracts with the American people were in place well before any of us came to Congress. There is so much at stake for so many Americans. We cannot allow this extreme minority to keep stalling. Stop this irresponsible governing. Let us do our job and fund the Government.

□ 1015

DOING THE RIGHT THING

(Mr. THORNBERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THORNBERRY. Mr. Speaker, all of my colleagues are anxious to get home for Christmas, and no one more so than this Member. But I recognize that the best Christmas present that we could give to all our children is to stop adding debt upon debt which they must repay.

I recognize that if we do not do it now, then it probably will not ever get done. And, while it may be more convenient to put it off yet again, as has been done so many times in the past, that would be wrong, and that would be going back to business as usual in Washington, DC, and that is what this Republican freshman ran to stop.

Mr. Speaker, we must act now to balance the budget for our kids. We must act now to save Medicare for our parents and grandparents. We must act now to reform welfare for all our sakes, and we must do so with or without the President. Whatever it takes, Mr. Speaker, we must do the right thing.

MERRY CHRISTMAS, DEAR FRIENDS

Mr. WILLIAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS. Mr. Speaker, this first session of the 104th Congress has been characterized by anger and arrogance, meanness and hubris. The result of such negative emotions was perfectly predictable—year-end stalemate.

Perhaps in this Christmas week, with just 4 days remaining prior to that precious day, we should set aside the accusations, and try a little Christmas tolerance and generosity and kindness.

Merry Christmas, dear friends.

LABOR GRINCH STEALS CHRISTMAS

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute.)

Mr. FUNDERBURK. Mr. Speaker, 3 weeks ago I stood outside a Harris-Teeter supermarket in Rocky Mount, NC, ringing the Christmas bell and collecting donations for the Salvation Army. Now, I come back to Washington, DC, to learn that many retail stores are no longer making room for kettle drives because of a recent ruling issued by the National Labor Relations Board. It seems that big labor unions—who are spending millions for TV ads against a balanced budget—feel discriminated against because the shopping centers that open their doors to the Salvation Army and other charitable organizations during the holiday season will not permit union picketing at their doorsteps. The NLRB, in its infinite wisdom, sided with the unions. Not surprisingly, many malls and shopping centers have told the Salvation Army that they would love to host kettle drives this year but they just cannot afford the enormous costs of being sued by labor unions.

Mr. Speaker, this is an outrage. This is yet another example of an out-of-touch, bloated Federal Government that doesn't care about the poor and needy who could receive a hand-up from the Salvation Army instead of a hand-out from the welfare state. Today, I am cosponsoring H.R. 2497 to stop this abuse of power by the Department of Labor. Let us stop labor unions from threatening businesses who invite bell ringers from the Salvation Army.

NO WAY TO RUN A BUSINESS

(Mr. BARRETT of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT of Wisconsin. Mr. Speaker, the Republicans claim they are going to run our Government like a business. Well, Mr. Speaker, I am still looking for one, just one business in this entire country, that would run itself like the Republicans are running this Government.

Think about it. They are so mad that they are not getting their own way that they are sending home 280,000 employees, with pay. That is right, they are sending them home with pay.

There is not a single business in this country that would do that if they were using their own money. Nobody in their right mind would do that using their own money. But they are using taxpayer money to do that. It is wrong. Those people should come back to work.

It reminds me of a kid in the neighborhood I grew up in. He was so mad he would pinch himself. He would say, "I am going to keep pinching myself," and the rest of us would look at him in complete amazement, because he was only hurting himself.

The sad joke here is the Republicans are only hurting the taxpayers.

BUDGET NEGOTIATIONS AFFECT CHILDREN

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, my son John plays on a U-10 soccer team, the Budget Bombers. Now, judging from their names, you would think we were a bunch of Democrats, but actually they are a bunch of future taxpayers who will inherit Democrat deficits.

Their coach, Kurt Rodenberg, gave me this hat. I think it is appropriate for the season. It says "Budget" on it. I will call it the Kasich cap.

But there is another cap out here. This is the Clinton cap. Something for everybody. Fun, games, promises, and make-believe; SSI for prisoners; fear and demagoguery for senior citizens; rules, regulations, and red tap for bureaucrats; American jobs and benefits for illegal aliens. And, for the children, Clinton and Demo-Clauses would never forget the children, for the children have a $5 trillion debt. Higher interest rates, higher mortgages, less jobs. What a future for the young U-10 soccer team.

This is their compassion. This is their Christmas spirit. This is their love. Merry Christmas, Mr. President. But really and truly, fast forward them to ground-hog day.

PUT AMERICAN FAMILIES FIRST

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, compromise: It is a simple concept. A 7-year-old understands it. For a child, it might mean something like having an ice cream cone or a candy bar, but not both.

Well, maybe I should have a child explain this concept to some of the extremist Republicans in this house. Because even though they are all older than 7, they are acting a lot less mature than that. You see, they want it all. Tax giveaways to the wealthiest Americans. Cuts in student loans and Head Start. Gutting regulations that protect clean air and water. Making our seniors pay more for health care.

And they will not give up, no matter how much suffering they cause, until they impose their radical demands on every American family. It is too bad.

You see, if a 7-year-old insists on ice cream and a candy bar, it just means a little disagreement. But when the Republicans will not give up any of their anitfamily demands, every American, students, seniors, children—must pay.

Come on. It is time to grow up. Stop holding your breath and stomping your feet and join the fight for a decent budget that puts American family first.

TIME TO WORK ON A BALANCED BUDGET

(Mr. FRISA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRISA. Mr. Speaker, I am sure most Americans feel as I do that we have heard enough of the blah-blah and the yak, yak, yak. We have a job to do, Mr. Speaker.

When I ran for election to this great body, I promised I would be different. I would not be like the Democrats who controlled this House for 40 years, ran up America's charge cards, got ourselves into debt, so that so much of the budget now is just going to pay the interest on our national debt. And regardless of the President's crocodile tears and his empty words and his quivering bottom lip, we are not going to be intimidated, because the simple fact is, Mr. Speaker, we have done our job and put a balanced budget on the table. The President has nothing but empty words.

We are here to work. As soon as the President is prepared to really roll up his sleeves, get the political will and drop the posturing, then we will have a balanced budget.

UPHOLD ETHICS COMMITTEE RECOMMENDATIONS

(Mr. POMEROY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POMEROY. Mr. Speaker, these are difficult days for the House of Representatives. Portions of the Federal Government are shut down because the appropriations required have not even been enacted. Budget talks that could bring us to a balanced budget plan have not even really meaningfully begun; the parties are trapped in a meaningless standoff.

But something is afoot that is more serious, even more serious to this institution than either of these unfortunate developments. The House Committee on Ethics, in a unanimous bipartisan vote has recommended closing a loophole that allows Members of this institution to cash in through lucrative book deals. Efforts are now underway to prevent the Committee on Ethics recommendation from coming to the floor of this House for a vote. These efforts, apparently done with the blessing of the Speaker himself, pose a very serious threat to this Committee on Ethics.

If the committee on Ethics, operating in a bipartisan fashion, can no longer speak and govern on issues relating to the integrity of this House, we will have forever damaged this institution.

I urge members to uphold the Committee on Ethics recommendation.

BALANCE BUDGET FOR WORKING PEOPLE AND AMERICAN FAMILIES

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, this is the debt of the United States on December 19, almost $5 trillion. Now, I think there is one thing we agree with on both sides of the aisle, that the economy is very important; not only reducing the deficit and paying off the debt, but to American families.

Mr. Speaker, just a few facts that I think are very interesting: A recent study shows that the optimum level of government spending is 17.6 percent of the gross national product. Unfortunately, government spending is 4 percentage points higher than that. If we would reduce it, we could increase the amount of energy in our economy. For every dollar of Federal spend down to the optimum level, we could get $1.38 in growth.

This week, the Dow Jones dropped 50 points when the President scuttled the budget process. Let us get back to it. Let us balance the budget for our working people and for our families.

RISK IN DELAYING AFDC CHECKS

(Mr. WATT of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATT of North Carolina. Mr. Speaker, I have talked to some of my Republican colleagues in private about this matter, and I want to say it publicly to the balance of my colleagues. If we do not pass a continuing resolution today or tomorrow at latest, 4.7 million families who are on AFDC are in risk of not getting their AFDC checks come January 1 of next year.

There are consequences that go with that, and I want to remind my Republican colleagues that they are playing with fire, if they think people will sit by and idly wait on them to play budget games with their lives and their ability to eat.

They came forward with a continuing resolution for veterans yesterday, and I am calling on my colleagues today to come forward with a continuing resolution to address this serious problem.

TIME TO GET SERIOUS ABOUT BALANCED BUDGET

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Speaker, it is strange that day in and day out we keep hearing from the President and from his liberal friends that come to the well of the House and talk about how they want a balanced budget. But to hear them talk, $12 trillion over the next 7 years is not enough. They want a balanced budget, but they are not willing to balance it.

I think they want an unbalanced budget, just like they have had for the last 26 years. More spending, more spending. And let me say this: In the year 2012, what are they going to do when every tax dollar will be consumed by entitlement and interest on the debt, and there is no future for our children and grandchildren? What are they going to do then?

It is time we get serious about a $5 trillion debt. It is time that we get serious and not play these games. What are you willing to do to get a balanced budget?

BUDGET GAMES

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, this chart shows the headlines in the Wall Street Journal, the New York Times, and the Washington Post this morning. They cut straight to the chase. One reads "GOP rebellion scuttles accord on the budget talks." Another reads "House Republicans derail budget talks." The other one from the Wall Street Journal says "The Republicans are revolting." They should read that Republicans keep government closed to give tax cuts for the few.

It appears as though there is a group that will not compromise and insists on holding not only government workers, but Social Security applicants hostage in keeping the Government shut down until they accept their harmful budget cuts and ill-advised budget-busting tax cuts for the few.

I am committed to balancing the budget, and I am also here to say I am committed to senior citizens, children, police officers, veterans, teachers, and students, and I will not sacrifice them to balance our budget.

We should remain committed to balancing the budget over 7 years, and doing so in a way that protects the priorities of Medicare, Medicaid, crime fighting, and education. Balancing the budget is not an agreement to do on Christmas eve. It is something you have to do all year.

EXCUSES FOR NOT BALANCING BUDGET

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, this Congress has not balanced the budget in 26 years, I would like to remind the gentleman, so let us just start out with the facts.

President Clinton vetoed the balanced budget passed by the House and Senate. Then 30 days ago, after his poll numbers dropped, he vowed to sign a balanced budget in 7 years using real numbers. He did nothing for 30 days.

Then the four leaders met and agreed to three things. First, we are going to balance the budget in 7 years using real numbers; second, it is nice that we can all agree; and third, we are going to do it by yearend.

Within 5 minutes, one of the four participants in the meeting, AL GORE, stepped outside and repudiated two of the three. "No, we are not going to use real numbers and we are not going to do it by the end of the year." OK, AL, so much for the agreement.

Then the President yesterday found a new excuse why he could not go along with the balanced budget. Aliens had taken over the House and they would not let this nice guy NEWT GINGRICH sign a deal to reopen government. I could not believe it.

□ 1030

The stock market did not believe it. While he was spinning that tale, it went down 50 points, but the liberal press bought it. Today's excuse: Aliens and unidentified flying objects will capture BOB DOLE and he will not be able to sign.

Folks, there are 236 Republicans on this floor that are for a balanced budget in 7 years with real numbers. Let us do it for our kids.

REAL BUDGET IMPASSE IS TAX CUT FOR THE RICH

(Ms. JACKSON-LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Speaker, the real budget impasse is a $270 billion tax cut for the rich. NEWT GINGRICH calls it the crown jewel. That is where the budget impasse exists. That is why, Mr. Speaker, I am glad to be part of the reform-minded Democratic freshmen who believe we can balance the budget without taking away from our children, or making devastating cuts in Medicaid, Medicare, and the environment. This is where we are today.

And Mr. Speaker, we have another problem with the welfare bill to be proposed on the floor of the House today. This is an unfriendly Congress when it comes to children. There are no work programs in this proposed Republican welfare plan for the parents of these children. This legislation does not want the welfare recipients to be independent. The Republicans have cut the work programs out. We take away $14 billion from Medicaid so that women and children cannot get good health care that are on welfare, and then those children who are disabled, the severely disabled children, 320,000 of them, this welfare bill tells them that we do not care about you by cutting their needed SSI benefits.

Unfriendly, childless, careless, that is what the Republicans are doing with the budget impasse; $270 billion in tax cuts for the rich, and then a welfare bill that misrepresents to the American people that the Republicans want real welfare reform. No; this legislation will not correct the welfare crises. This Republican legislation takes the safety net away from innocent children.

Mr. Speaker, it is time to stand up for the children.

LIBERAL EXTREMISM

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, yesterday during special orders I heard the gentlewoman from Connecticut [Ms. DELAURO] call our 7-year, $245 billion tax cut massive. And I looked at the CONGRESSIONAL RECORD, Mr. Speaker, and I cannot find a single instance in which the gentlewoman used the word "massive" to describe Bill Clinton's 1993 7-year tax hike of $400 billion.

In fact, she was a vocal advocate of that plan. She described it as "courageous, responsible, a bold initiative," and my favorite, "serious change."

Now, let me repeat this, Mr. Speaker, because I think it is important for the American people to understand where the Democrats are coming from philosophically. The liberal extremists criticize a $245 billion tax cut by calling it massive, but they call a $400 billion tax increase "serious change."

When it comes to letting the American people keep more of what they have earned, the liberal extremists are morally offended. But when it comes to the Government confiscating more and more money from those who have earned it, they pat themselves on the back for their courage.

REPUBLICAN RHETORIC

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, to the previous speaker I would mention that we had in 1993 a $250 billion tax increase and a $250 billion cut in spending. And that did something very historical. It brought down the deficit for 3 consecutive years. We have cut in half what was almost a $300-billion-a-year deficit, without one Republican vote.

Now we are arguing about balancing the budget. We took the vote to bring the budget much closer to balance, and the stock market reacted correctly. Employment was created in this Nation. All of the things that the naysayers on the GOP side of this House were saying were going to happen after 1993 never occurred. Not one of them has occurred.

As a matter of fact, Mr. Speaker, I have noticed that since the GOP is in control of this House, not one of those massive tax increases that they complain about have they rescinded. Not one of them have they rescinded. So the rhetoric is getting a little thick and America is beginning to notice.

PARTIAL SHUTDOWN II

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, yesterday morning there was a ray of promise. Yesterday afternoon that promise evaporated. The country cries out for a balanced budget agreement now; 260,000 Federal employees have been furloughed.

The good news is that yesterday we obtained a commitment from the Speaker and the Senate majority leader that all furloughed employees, those who are not working, will be paid. And, indeed, that is correct and it is the proper thing to do. These employees and their families should not be the victims of budget gridlock. They want to work. This is not an extended vacation. They are frustrated and anxious about their fate.

I do want to point out there are a lot of other consequences to this partial shutdown. Important research grants at NIH are not being processed. I have heard from employees who are missing important deadlines because they cannot go to work. They are frustrated and point out important work is not being done.

Each day of the shutdown 2,500 families will not be able to close on their mortgages, 260 businesses that receive SBA loans will not receive the financing they have been counting on. So many examples. This says let us resolve this impasse and do the job we were sent here to do.

'TWAS THE HOLIDAY SEASON

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker:

'Twas the holiday season, and all through the House,
Any hopes for a budget, the Speaker did douse.
But the PAC checks were tacked to the chimney with care,
In hopes that a tax cut soon would be there.
With Bill in discussions, but Newt's jaws aflap,
Our nation's fine workers must just take a nap.
When what to our wondering eyes should appear,
But GOP leaders spreading more fear:
Senior citizens, women and children disabled,
It seems any help for you soon will be tabled.
Please don't be mad, but you're taking the fall,
So the wealthiest wealthy can soon have it all.
We Democrats greeted this warning with ire,
But Newt and his friends want cuts even higher.
So to every American watching tonight,
Be assured all this the Democrats will fight.

SECRETARY OF LABOR NEEDS TO GET OUT IN THE REAL WORLD

(Mr. HOEKSTRA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOEKSTRA. Mr. Speaker, here is what the Secretary of Labor said this morning on C–SPAN. "This debate is not being driven by economic issues." I now know why the Secretary works for the Government. Everybody in the real world knows that a $4.9 trillion debt, that $200 billion deficits and that deficits as far out as the eye can see, those are economic issues.

The Secretary then goes on to moan that Federal workers cannot volunteer, at the same time his department has been shutting down Salvation Army bell ringers. Let us have some consistency.

Mr. Secretary, get out of the Washington puzzle palace into the real world. It will give you a better perspective on the issues and the solutions that we need to be making in America today.

SUPPORT THE COALITION BUDGET

(Mr. PAYNE of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE of Virginia. Mr. Speaker, sometimes the answers to our problems are so obvious that we miss them entirely. That is exactly what is happening right now with this budget stalemate. The conservative Democratic coalition has created a budget that is simple. It eliminates the major stumbling blocks to a 7-year balanced budget. It asks each of us to do exactly what the American people want us to do, that is to compromise, to work together, to get the job done. It asks my Republican colleagues and the American people to forego tax cuts until we get at this balanced budget. It asks Medicare beneficiaries and their champions in Congress to recognize that Medicare has grown at an unsustainable rate and we must curb the growth of this and other entitlement programs. Yet, it does not contain the kind of large Medicare cuts that have sparked so much partisan rancor here in Congress. It cuts the deficit faster and deeper than the Republican budget and it is the one budget that is balanced in 7 years according to CBO and occupies a sensible middle ground.

Mr. Speaker, that is where the American people are. So let us end this business as usual. Let us summon the political courage to do the right thing. Let us take some risks for a balanced budget. Let us pass this coalition budget.

APPOINTMENT OF MEMBERS TO THE FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

The SPEAKER pro tempore (Mr. CHAMBLISS). Without objection, pursuant to the provisions of Public Law 84–372, the Chair announces the Speaker's appointment to the Franklin Delano Roosevelt Memorial Commission the following Members of the House:

Mr. ENGLISH of Pennsylvania and Mr. HINCHEY of New York.

There was no objection.

WAIVING POINTS OF ORDER AGAINST CONSIDERATION OF CONFERENCE REPORT ON H.R. 1655, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1996

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 318 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 318

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1655) to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

Mr. GOSS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this is an appropriate rule for a conference report and I am delighted to bring it to the House so that we may expeditiously consider the intelligence authorization conference report for fiscal year 1996. This rule waives all points of order against the conference report and against its consideration, and I would like to commend Chairman COMBEST and his staff for diligently providing our Rules Committee with detailed information about the types of waivers that this bill requires. In addition this rule provides that the conference report shall be considered as read.

Mr. Speaker, as a conferee who worked on this bill, I am very proud of our final product. Members should know that, despite all the partisan rhetoric that's been flying in this Capitol in recent weeks, this legislation is the product of bipartisan cooperation in the finest tradition of this House. Oversight of intelligence policy and implementation of crucial national security programs are very, very serious subjects and its oversight is taken very seriously. The members of the House Committee on Intelligence, and our counterparts in the other body, sorted through a multitude of complex and vexing problems in order to complete this conference report. Although it is fashionable in today's environment to bash the intelligence agencies and complain about problems that have come to light, I think most Americans realize that today's highly complicated and chaotic world demands that our policymakers have accurate and timely information—perhaps more so in this modern information age than in any other time in our history. Of course, we must ensure that we learn from the mistakes of the past—the highly public mistakes we've all read about—so that we don't make such mistakes again. And we must also ensure that our finite resources are being put to their most effective and appropriate use and, frankly, that is what this bill is about. My colleagues, this process of review and assessment won't stop there. Our committee is undertaking a comprehensive review of our intelligence capabilities and how they can carry us into the next century; and I am proud to be a part of that effort under Mr. COMBEST's and ranking member DICKS leadership. Likewise, the former Aspin Commission—now known as the Brown Commission—is conducting a major review at direction of Congress. As a member of both those efforts, I assure my colleagues that this important subject is being carefully addressed and we will have reports to you back next spring. As an important piece of that whole picture, I urge my colleagues to support this rule and support the conference report on H.R. 1655.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume, and I thank the gentleman from Florida [Mr. GOSS] for yielding the customary 30 minutes of debate time to me.

Mr. Speaker, we support this rule for the consideration of the conference report for the Intelligence Authorization Act for fiscal year 1996. There was no objection from the minority on the Permanent Select Committee on Intelligence to the waivers that the rule provides for the conference report, and we do not oppose them.

Among the potential points of order that are protected against are those for violations of scope, germaneness requirements, prohibition on appropriations in a legislative bill, and the Budget Act requirements. The rule is, of course, waiving the 3-day layover requirement. We are reluctant, ordinarily, to provide that particular waiver, because we believe Members should have ample time to review the legislation they are voting on, but we did agree in this instance this particular waiver of the 3-day layover rule is not at all unreasonable.

□ 1045

Mr. Speaker, the minority on the Permanent Select Committee on Intelligence supports the substance of the conference agreements. I am sure we will hear more about the provisions of the agreement during the debate on the conference report itself that will follow.

The original House bill did, however, contain several controversial provisions, including the handling of certain National Reconnaissance Office activities. Because of their classified status, these issues cannot be discussed in detail, but Members should be aware that the chairman described those changes as the only major departure in the bill from the administration's request for the National Foreign Intelligence Program.

During House consideration of the bill, the minority on the Permanent Select Committee on Intelligence expressed the hope that the reservations about the NRO would be addressed in the conference on this legislation with the Senate. We trust that they were addressed satisfactorily.

We were also concerned about the limit the committee place on spending for carrying out the President's Executive order of April 17 of this year that prescribes a uniform system for classifying and declassifying national security information.

The President has properly recognized the need to ensure that Americans know about the activities of their Government, when it is possible to make that information public. We continue to believe that a carefully prescribed system is long overdue for declassifying documents that remain classified for no reason other than inertia.

The debate over the cost of compliance with the Executive order was the main obstacle to implementation of that Executive order. We understand that the conference agreement provides more flexibility than the House bill from the several intelligence agencies in carrying out this Executive order, and we support that decision.

We are also supportive of the conferees' decision to tighten up the change in the National Security Act that would allow the President to delay the imposition of economic sanctions against a foreign country in certain cases. We understand that minority Members who raised concerns about that provision agree with the conference report action in this respect.

Lastly, Mr. Speaker, we understand that the conference committee agreed to increase the authorization for the environmental task force, which has been successful in making environmental information derived from intelligence more accessible to the general public and to the scientific community.

We had been very concerned about the level of funding for the task force in the House bill, which had been a disappointing $5 million. We understand that the conferees agreed on a funding level of $15 million. We would have preferred the $17.6 million requested by the President, but the conference agreement is certainly much better than the House version, and we welcome this improvement in the legislation.

The work of the task force, established in 1993, has been very impressive. We are pleased that the conferees agree that the outstanding accomplishments associated with it should be supported.

This initiative is another way to bring the information that is collected by intelligence assets, and that is proper to share to policymakers and scientists. It promises to help us better understand the consequences of long-term environmental change and help us better manage crisis situations involving natural and ecological disasters.

Mr. Speaker, this is an important bill that recognizes the significant challenges that the U.S. intelligence community continues to face in adapting to the post-cold-war world. The conference agreement reflects a slight decrease in the intelligence budget, which some Members will welcome and others decry.

Mr. Speaker, I would point out, however, especially to those who might be tempted to criticize the decrease in spending in this legislation, that the modest reduction is the result of cuts in the huge NRO special carry-over account that was made public earlier this year. I think all agree that the conferees made the correct and proper decision in following the appropriators' lead in cutting that NRO special account.

Mr. Speaker, we all want to help ensure that the United States maintains the ability to provide timely and reliable intelligence to its policymakers and military commanders, and we think the committee has developed a responsible budget for the intelligence agencies and activities.

Despite the demise of the Soviet Union, the world clearly remains an unpredictable and dangerous place; we know that all too well as we watch American servicemen and women enter Bosnia to help keep the peace there. There is, obviously, a great need for effective intelligence, especially in light of the worldwide reduction of U.S. military personnel.

The intelligence community should continue to be encouraged to review their operations, discarding those that are no longer necessary, strengthening those that remain important, and devising new ones when they are called for.

The appropriate missions of an intelligence agency will always be a controversial and most appropriate subject in a Nation founded on Democratic principles.

In closing, Mr. Speaker, I again congratulate the gentleman from Texas [Mr. COMBEST], chairman of the Permanent Select Committee on Intelligence, and the gentleman from Washington [Mr. DICKS], ranking minority member, for helping to guide this legislation through the conference committee, and for their excellent work in general in leading this committee in a very difficult time.

Mr. Speaker, to repeat, we support the rule, and we urge its adoption, so that we may proceed with consideration of the intelligence authorization bill.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. BEILENSON. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I would like to commend my good friend and colleague, the gentleman from California [Mr. BEILENSON], who was a former chairman of the House Permanent Committee on Intelligence, for a very good statement.

Mr. Speaker, I thought the gentleman's statement fairly and very accurately summarized the bill and the provisions in it, and we appreciate the cooperation of the Committee on Rules and I want to commend the gentleman for his interest in intelligence, his leadership of this committee, and his continued fine work in this body.

Mr. BEILENSON. Mr. Speaker, reclaiming my time, I thank the gentleman from Washington very much for his kind comments.

Mr. Speaker, I again say that we strongly support this rule and the bill, and we thank especially the gentleman from Texas [Mr. COMBEST], the distinguished chairman of the committee, and the gentleman from Washington [Mr. DICKS], the distinguished ranking member, for all of their good work this year and in years past on this very difficult and important committee.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I would associate myself with the remarks of the gentleman from Washington [Mr. DICKS] about the gentleman from California [Mr. BEILENSON]. I thought that was an excellent statement, and particularly compelling coming from the gentleman from California, given his experience and deep knowledge of this subject, and I would also say his commitment to it over the years.

Mr. Speaker, the only area I might take a little bit of exception, I think of Mark Twain when I think of the Soviet Union these days: The demise of the death being greatly exaggerated. After the elections last Sunday, I am not so sure that we are where we think we are, sometimes.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas [Mr. COMBEST], chairman of the committee.

Mr. COMBEST. Mr. Speaker, I thank the gentleman from Florida [Mr. GOSS] for his support in pushing this rule. I also thank the Committee on Rules for granting the rule that was requested by myself and the ranking member, the gentleman from Washington [Mr. DICKS]. I also want to thank the gentleman from Florida for this active role in the Permanent Select Committee on Intelligence, where he as well sits, and the gentleman from California, former chairman of the committee, for his continued interest in intelligence activities; for his continued help in the rules process; and, for his continued friendship.

Mr. Speaker, I would certainly urge passage of this rule. I strongly support it.

Mr. BEILENSON. Mr. Speaker, I urge support of the rule, and I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, we had other speakers, but they are not on the floor. Since the gentleman from California [Mr. BEILENSON] has yielded back all time, I will yield back all time also, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. COMBEST. Mr. Speaker, I call up the conference report on the bill (H.R. 1655) to authorize appropriations for fiscal year 1996 for the intelligence and intelligence-related activities of the U.S. Government, community management account, and the Central Intelligence Agency retirement and disability system, and for other purposes.

The Clerk read the title of the bill.

Mr. FRANK of Massachusetts. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. FRANK of Massachusetts. Mr. Speaker, I would inquire as to whether the gentleman from Washington [Mr. DICKS], the ranking Democrat, is in favor of this conference report and would yield to the gentleman for the purpose of answering that question.

Mr. DICKS. Mr. Speaker, I am in favor of the conference report.

Mr. FRANK of Massachusetts. Mr. Speaker, therefore, under the rules, I claim the 20 minutes to be allotted to a Member in opposition when both the other Members are in favor.

The SPEAKER pro tempore. Pursuant to rule XXVIII, the time will be divided three ways. The gentleman from Texas [Mr. COMBEST] will be recognized for 20 minutes, the gentleman from Washington [Mr. DICKS] will be recognized for 20 minutes, and the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes.

The gentleman from Texas [Mr. COMBEST] is recognized for 20 minutes.

Mr. COMBEST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 1655, the Intelligence Authorization Act for fiscal year 1996. The conference report, and the House and Senate bills that led up to it, were the product of a great deal of hard work. As I stated when we debated the original authorization bill, the House Permanent Select Committee on Intelligence held 11 hearings, 20 Member briefings, and even more staff briefings to craft this legislation.

I wish to take a moment to thank our staff for their hard work. In the course of this year, they have not only helped prepare an authorization bill that will lead us in new and positive directions, but also have had a full agenda of such issues as the Ames damage assessment—which remains the subject of wild claims and few concrete findings in terms of the effects of U.S. policy decisions; allegations about activities in Guatemala; and our major effort for the 104th Congress, "IC21: The Intelligence Community in the 21st Century." I am pleased to report that IC21 is on time and on schedule, and we hope to be back before you next year with legislative proposals that will strengthen and modernize our intelligence community.

I want to thank our colleagues in the Senate. I have been engaged in ongoing negotiations with Chairman SPECTER and Vice Chairman BOB KERREY of the Senate Select Committee on Intelligence. They were always dedicated, gentlemanly, and forthcoming as we worked out the necessary compromises. It was a pleasure working with them and the rest of the Members and staff of that committee. I have enjoyed working with the ranking member, Mr. DICKS. Although we have had our differences, we have worked them out to present this report.

I would like to say a few words about the authorization we have just completed. This bill authorizes funds for all U.S. intelligence and intelligence-related activities. It is integral to our national security. As I said earlier this year, the original submission we got from the administration was a disappointment. It was a very static bill, preoccupied with this year's funding, but showing no sense of vision, no sense of where they would like the intelligence community to be as we enter the 21st century. That is why we are excited about the new directions we have forged in such areas as the national reconnaissance program.

As my colleagues know, a great deal of this authorization is, of necessity, classified. I once again urge my colleagues to take the time to visit our committee offices and go over the classified portions of the bill. You will not only come away better informed, but you will also have a much better sense of the breadth and depth of the intelligence community. What you will not get, unfortunately, is a sense of the thousands of dedicated employees who make it work. It was with some surprise and no little dismay that I read, only a few weekends ago, that the Director of Central Intelligence said he "did not find many first class minds in the ranks." He said that "compared to uniformed officers, [intelligence officers] certainly are not as competent, or as understanding of what their relative role is and what their responsibilities are." That may be the DCI's benighted view of the intelligence community, but it is not one that I or, I am sure, most of my colleagues share.

I want to highlight one provision of our bill that is in the classified annex only because of how the bill is structured, but is not classified in and of itself. Members may be aware of an agreement by the Director of Central Intelligence, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff to merge a large number of agencies and offices that deal with imagery, into something that they are calling the National Imagery and Mapping Agency, or NIMA.

This is a major proposal, involving as it does some of our most useful collection assets and a large amount of the intelligence budget. To date, we have not received any necessary details on what is involved, how this would operate, how this would affect all of the policy makers who rely on this valuable intelligence. I wish to assure my colleagues that we in the Intelligence Committee and they here on the floor will have a full opportunity to review and vote on any such major change. That is why my colleagues in the Senate and I inserted a provision in this bill requesting that no funds be used to begin implementation of such an agency until Congress has had the opportunity to review detailed plans.

Let me turn briefly to the prospects for the fiscal year 1997 intelligence authorization. As I said, the fiscal year 1996 administration proposal was lacking in vision and was a disappointment. I have made it very clear to the Vice President and to the Director of Central Intelligence that if the fiscal year 1997 authorization request is similarly lacking in vision for the next several years, then that bill will be dead on arrival.

I am also concerned by briefings that we have begun to receive about upcoming intelligence funding. The Director of Central Intelligence is apparently considering large cuts in his own budget in order to fund nonintelligence defense programs. Too often intelligence has been made a bill payer for these other programs. Earlier this week, DCI Deutch testified before our committee and stated that he disagreed "with people who say where you take the money doesn't matter. It does matter." He also said that he wanted to see an "honest competition between platforms in the defense budget." We intend to hold him to these views. Thus far, his actions speak louder than his words. I would hate to see the work we have begun to do on intelligence so quickly undone.

Mr. Speaker, the conference report for the fiscal year 1996 intelligence authorization gives the Nation a necessary beginning in reshaping and strengthening our intelligence capabilities. I urge all of my colleagues to support it.

□ 1100

Mr. Speaker, I reserve the balance of my time.

Mr. DICKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 1655, the intelligence authorization bill for fiscal year 1996.

I want to begin by commending Chairman COMBEST for his perseverance in pursuing a resolution to the several contentious issues which separated the House and Senate on this legislation. His commitment to completing action on this measure this year has resulted in an agreement which strengthens the bills previously considered by the House and Senate.

Largely because the conferees agreed to endorse a reduction, made earlier in the Defense Appropriations Act in certain funds available to the National Reconnaissance Office [NRO], the authorization level in this conference report is below the level not only in the House-passed bill and the President's request, but the amounts authorized and appropriated in fiscal year 1995 as well. The reduction in the NRO's carry-forward funds made possible some increases in intelligence activities in other agencies, without an increase in the overall size of the fiscal year 1996 intelligence authorization.

The conferees believed that the amount of carry-forward funds accumulated by the NRO was excessive, either to the needs of NRO programs in fiscal year 1996 or, at some level, to its programmatic needs in the future. I want to emphasize that there is uncertainty over how much of the carry forward funding will be necessary to complete the satellite architecture currently envisioned by the NRO, and the restoration of some of the funds eliminated in the conference report may be necessary in the future. Director of Central Intelligence [DCI] Deutch has made a commitment to resolve this uncertainty so that a better understanding of the NRO's financial needs can be defined. I want to caution against any further significant reductions in the carry-forward funds until the DCI has provided additional, clarifying information. He is also, by the way, putting in a new financial officer at the NRO, which I think is a good move and should be supported by the Congress.

The needs of the United States for intelligence collection systems, particularly those which present complex engineering challenges, are influenced by advances in technology, changes in requirements, and available resources. It is important that decisions on the acquisition of new systems, particularly those which will replace systems of proven capability, be made with a full appreciation of the ramifications of those decisions. The conference report ensures that judgments on the advisability of proceeding with a new satellite collection system will be made in a measured, deliberative manner. I believe that will ensure that the DCI will be able to make a much more informed judgment on collection architecture options than might otherwise have been possible.

As important as collection is to our intelligence needs, it is just as important that the information collected be thoroughly processed and quickly disseminated. In my judgment, we have not devoted enough attention to these areas in the past, and I am pleased that DCI Deutch intends to commit more resources to them in the future. I look forward to working with Chairman COMBEST in the fiscal year 1997 budget cycle to make certain that processing and dissemination are adequately addressed.

Recently, the DCI, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff proposed the consolidation of imaging resources and management in a single agency within the Department of Defense. In their letter informing Congress of the proposal, these national security leaders promised to consult closely with Congress before proceeding with a comprehensive implementation plan. In fact, they have said in our meetings that legislation is required before the agency can be created. The consultation process has begun. I am pleased that the conferees recognized not only the importance of Congress being fully involved in working out the details of this proposal, but in allowing the necessary studies, planning, and coordination to take place while the process of consultation is underway. I believe this will ensure that the new agency is able to begin to function as soon as all necessary approvals are obtained.

Mr. Speaker, with United States Forces beginning a significant deployment in Bosnia, the importance of timely and accurate intelligence is underscored once more. This conference report authorizes many of the programs and activities on which the success of operations like the one in Bosnia will depend. I commend this legislation to my colleagues and urge that it be adopted.

Mr. Speaker, I also want to compliment the staff. Both the majority and minority staff on this committee have done a good job this year. I think they have worked very hard, and I am pleased that on a bipartisan basis we have been able to put together this bill and to work out some very difficult issues.

I would say to some of the other Members of this body that this may be a model for how the majority and minority work together to enact important legislation in a timely way. I want to again thank the chairman for his help, cooperation and his fair-minded approach to dealing with these controversial issues.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am afraid I have to differ with my colleague who just spoke when he said this should be a model for how to deal with important legislation.

I do not think there is a less becoming example of how this Congress deals with fundamental issues than the way we have historically dealt with intelligence. First, let us underscore one point: One of the most important facts about this debate will go unuttered: How much are we authorizing? Because we have enforced upon ourselves an extraordinary stupid rule by which we cannot publicly say what the overall amount of the intelligence budget is, apparently because we think the enemy may know.

Now, of course, virtually any enemy interested in being an enemy knows. What we do here is to keep this from the average American. There will be figures presented in the newspaper. They will probably be accurate. We will look the other way.

It seems to me we bring a lot of disrespect when we wink at that. Actually, I was surprised when my friend from Washington said we were reducing the authorization this year. From what to what? We cannot tell you. How much? We cannot tell you.

The American people cannot be trusted with anything as potentially dangerous as a number, but we can tell then we are reducing it.

I am actually encouraged the Committee on Intelligence is telling us if we announced we were reducing it, we would be encouraging the enemy. I am pleasantly surprised. I do not think anything negative will happen. We are gong to see now. We have announced we are reducing it. I do not think the enemies are going to come forward.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Washington.

Mr. DICKS. I want to say to the gentleman, our former chairman, Congressman Glickman, and I both supported making this number public and have voted for it on several occasions. I think we have even joined with the gentleman from Massachusetts in that respect.

Mr. FRANK of Massachusetts. I agree

Mr. DICKS. I concur. I do not see a major national security problem with that number being made public.

Mr. FRANK of Massachusetts. I thank the gentleman. As you know our former colleague, Mr. Glickman, now Secretary of Agriculture, I understand he is interested in trying to hide the number of agricultural subsidies. That is, I think, one that angers many more Americans, what we are going to pay the farmers to do whatever they want anyway. That is probably one they ought to hide and not this one.

I acknowledge what the gentleman from Washington said. But the majority has enforced this rule. So the American people can know, I think I can say without fear of indictment, that we will be spending many billions of dollars in this bill. I think national security will survive by mentioning the figure, many billions. The American people will not know how many billions and how many less billions than we used to before.

Mr. DICKS. If the gentleman will yield further, the gentleman is right? It is many billions.

Mr. FRANK of Massachusetts. I thank the gentleman for that. I hope he has not endangered his standing as a member of the national security community prepared to help protect our secrets. But this is an example of the silliness.

There are further examples of how this is not the best way to deal with it. We are talking here about one of the most fundamental issues facing this country. We are about to adopt a budget which will severely limit spending over the next 7 years. We are going limit overall discretionary spending.

The amount we spend on national security, on intelligence and its various forms, on the military, and this is all intricately connected, will be a severe check on what we can spend elsewhere. The more we spend in this budget the less environmental protection we will have, the less we will have for education. It all becomes zero sum.

In the past we would say to ourselves, well, when it comes to the national security, we will err on the side of safety because, after all, the very security of the Nation is at stake.

We also have not been operating for many years in a limited zero-sum situation. We had a deficit, a continuing deficit. It was harder to argue then that an extra billion or two or three in this budget would come out of efforts at local enforcement where we supply money for communities to hire police officers, loans for people to go to college who could not otherwise afford to go, environmental protection. We use to be able to be more casual about this.

But today every dollar that we appropriate for this and other national security measures reduces our capacity as a society to deal with other important public problems.

Now, for many years we argued that we, if we were going to err, we should err on the side of spending money on national security because the very survival of the Nation was at stake. And it was. Beginning in the late 1930's, with the rise of Hitler and his allies and then after this Nation played a major role in defeating Hitler, beginning in 1945, with Stalin and his, not allies but vassals, we faced for 50 years outside powers that did not share our belief in freedom, that were regressive in their desire to diminish freedom elsewhere and which possessed the physical capacity to damage the United States.

Fortunately, for a combination of reasons, by the early 1990's, that situation had changed, and one thing that this budget reflects is the view, and Members have said it time and again here, the world is no less dangerous today than it was 10 years ago from the standpoint of the United States. I cannot think of a single proposition less intellectually valid, less in consonance with the real facts in the world and more damaging to the social fabric of this country.

In fact, there has been a qualitative increase in our security in the world. Yes; there are in the world today very unpleasant people running countries. You look at Iran, you look at Iraq, you look at North Korea and in a rational world the people running those countries would not even be allowed to drive cars. Sadly, they are in charge of countries. They make miserable the lives of millions, and if they could they would do great damage. But, collectively, they simply do not rise to the level of a threat of the United States.

We fought a few years ago against Iraq. We were told, and some of us took that apparently more seriously than it turned out we had to, that there would be a terrible problem because Iraq had the fourth largest army in the world. We went to war against the fourth largest army in the world, and that war was over, fortunately, very quickly in a very, very one-sided win for the United States. Then we were told, even after Iraq, there are other countries that are a threat. There is Iran. Well, Iran is run by people who are appalling in their lack of respect for the rights of others. They are clearly people who, if they could, would substantially diminish freedom. But they have not got the capacity to threaten us physically.

Iran lost a war to Iraq, which suggests to me that our fear of their overall power has been exaggerated. Again, we are talking now not about whether the United States ought to be strong, not whether the United States ought to be by far the strongest nation in the world with the best intelligence in the world, the best weapons in the world; the question is, now the Soviet Union has collapsed, that Russia is now a small part of what the old Soviet empire was, now that Poland, Hungary, East Germany and Czechoslovakia and Bulgaria have moved away, now the Soviet Union itself has been broken into smaller parts, the nature of the threat has substantially diminished.

□ 1115

Yes, there are still problems in Russia, but the capacity, and people in the military have always said, you do not look at the intention of the enemy, you look at the capacity, that capacity is rapidly diminishing.

The Russians are now trying to sell their last remaining aircraft carrier to India, because they cannot afford to keep it up. Their fleet is in disuse and they are trying to sell that off. There has been denuclearization in Kazakhstan, Ukraine, and Belarus. The question is not whether America should be strong.

The question is, and this is, as I said, the central proposition, those who are looking to prop up excessive defense spending, which comes inevitably at the cost of environmental protection and education and health care and other important needs, local law enforcement, local transportation, their argument is the world is no safer.

They are wrong. There is a qualitative difference between the Soviet Union of 10 years ago, leading the Warsaw Pact, with its capacity to inflict absolutely terrible physical damage on this country, and, on the other hand, North Korea, Iran, and Iraq. Immoral societies, societies that oppose freedom, but which simply do not have the power.

Members have said, you know, the military budget has dropped since 1990. Yes, it has. But the point is that it has not dropped nearly enough, given the drop in the threat. If, in fact, we were lucky enough to see cancer as an illness diminish in its scope the way the Soviet Union has diminished, I would predict you would see a greater drop in the National Cancer Institute. We do not spend a lot of money today combating polio. It is a terrible thing, but fortunately, we have diminished it.

The problem is that military spending survives far after the threat has diminished, and the proof of that is that people who defend this level of spending, this relatively minor cut, talk about, and I really feel at a disadvantage, because, unlike the gentleman from Washington, the majority has insisted on keeping the number secret, so they are going to tell you they cut it, but they cannot tell you how much they cut it. But that is because they do not want to tell you how much they cut it, which is, of course, silly. But it also helps them keep it at a much higher number than it should be. We have got an overly inflated national security expenditure. The world is very different.

As a matter of fact, what we are suffering from is a severe case of cultural lag. For about 50 years, from 1940 to 1990, it is true, this Nation faced, first from the Nazis and then from the Communists, physical threats to our very existence.

Today the major international problem for Americans is not that we face a physical threat to our existence; it is that we face a threat to our ability to maintain the standard of life to which we have become accustomed in a world in which you can make anything anywhere with great technological change.

That is the challenge. That is the challenge that is destabilizing France. That is the challenge that is causing grave problems in America, as company profits go up and workers are treated worse.

The problem we have is that we are using tens of billions of dollars of our resources to act as if we were still under major physical threat from the Soviet Union or some comparable force, and depriving ourselves of the ability to deal with the current threat. It is a severe case of cultural lag.

So, I hope we will reject this particular budget, because it is a reflection of the mistaken policy that says the world is just about as dangerous as it used to be. Let me say this. They said, you know, the world is just as dangerous because we have Iran, Iraq, North Korea.

None of those countries, as I recall, sprang into existence for the first time in 1992. Eight or nine years ago we had the fully nuclear-armed Soviet Union and the Warsaw Pact, and Iran and Iraq and North Korea. Now we have these smaller nations and we continue to pump it up.

As far as the intelligence agencies are concerned, what are they doing? Well, they are into, we have talked about mission creep, they are into mission search. Mission creep is when you gradually begin to do more. Mission search is when you do not have enough things to do and you look for new things to do to justify your budget. So now we are being told we need them to do economic intelligence.

Where are the free enterprisers? You want to have the Federal Government now serving as the economic research bureau of corporate America? These are people who are charged with protecting our national security. The notion that we will now transfer over and pay them billions of dollars to do economic analysis is hardly consistent with free enterprise, and also not a very good use of our money, since they are not going to be the ones you would reply on. Paying our highly trained intelligence force to be market researchers does not make a great deal of sense, but that is the direction they are moving in.

I stress again that we do this at very specific cost to everything else. Every billion dollars we spend unnecessarily in this area means you cannot spend money on student loans, for working class young people to go to college; cleaning up Superfund sites, providing adequate transportation; providing health care.

My Republican colleagues have said with regard to some of the cuts that are being made, we do not like to make them, but we have to, because we have the goal of balancing the budget. You make it much harder with this kind of legislation. To the extent you continue to pump unnecessary funds into the national security apparatus and do not recognize the extent to which there has been a diminution in the threat of a qualitative sort, you cause your own problems when you reduce spending in many other places.

Mr. Speaker, I reserve the balance of my time.

Mr. COMBEST. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, you can never do too much reconnaissance. That is General George S. Patton from his book "War as I Knew It."

This excellent intelligence conference report provides our military and our intelligence support troops what they need today in Bosnia and the intelligence capability we will need tomorrow and as far as we can recon into the future in North Korea, Iran, South America, Eastern Europe, and everywhere else on an increasingly complicated global situation.

This report provides, as has been stated several times, a 4-percent increase in tactical intelligence funding. The gentleman from Texas [Mr. COMBEST] has made me the chairman of the Subcommittee on Tactical and Technical Intelligence, and in a situation like Bosnia, everything, from our highest satellite architecture, to unmanned aerial vehicles, to everything we can do technically to detect some very difficult-to-find land mines, a great percentage of them made just across the Adriatic in Italy, it is not all Chinese plastic mines, we need all the funding we can get to truly "support our men and women in harm's way."

This is direct intelligence for the war fighters, or peace forgers, or peace hammerers, or peacekeepers, or nation builders, whatever we call our young defenders in the field.

It increases funding for, as I said, unmanned aerial vehicle programs, UAV programs, including the highly successful Predator, already supporting operations in Bosnia. The staff of our committee and myself, together with a former member of the Permanent Select Committee on Intelligence, Col.

GREG LAUGHLIN, the Congressman from Texas, we went to Albania, saw our growing friendship there, and how excellent this Predator program is.

It provides funding to reengine the existing workhorse of strategic manned reconnaissance, the RC–135 rivet joint aircraft. One of our staffers who went with me on that trip last August, Mike Meermans, spent many years on active duty in the Air Force in the infancy of this rivet joint incredible program.

Mr. Speaker, I can assure you, this is a great effort to enhance the tactical and technical intelligence capability of the U.S. military. I want a big and vigorous vote on this, to show that when you are drawing down your military to the tune of almost 700,000 patriotic men and women who planned on a career, you should be upping your intelligence.

A nation that suffered such drama in this Chamber on December 8 of this month 54 years ago, the last time we ever declared war on anybody, it was a result of Pearl Harbor, of course, I am speaking about, it was a result of a total breakdown of intelligence. We will never have that major a lapse again, but we are still now in a dangerous world where even fine tuning of intelligence makes the difference.

I encourage a massive vote by the Members of this Chamber for this excellent intelligence conference report.

Mr. Speaker, may I please add a few more key points. Our focus is to posture for the future without detriment to current fielded systems. Our intent is to invest in latest technologies to determine potential without sacrificing existing, proven programs, for example, new satellite technology initiative, while funding for existing programs; funds new UAV ACTD efforts while ensuring U–2 Dragon Lady upgrades.

Although the budget's total intel authorization is .08 percent less than the President's request, it actually, increases funding for every major national intel program except the NRO. The overall decrease is result of the large decrease in carry forward funds from NRO.

Our conference approved bill provides a 4 percent increase in TIARA-JMIP—direct warfighting—intelligence support. This reflects a turn around of continual decreases in direct military intelligence support funds since 1990.

I repeat, we fund many new UAV efforts.

We increase funding for the PREDATOR Medium Altitude endurance UAV—proven in Bosnia, where it provided direct operational support, with unprecedented real-time imagery, to NATO forces participating in the air campaign.

We increase funding for the Low Observable High Altitude Endurance UAV which will begin flight testing this January 1996.

We Fund Conventional High Altitude UAV.

I repeat, we provide funding, not included in President's request, for reengining the "strategic manned reconnaissance workhorse", the RC–135 rivet joint.

Much of this authorization focuses on processing and dissemination of collected intelligence. These have been where the intel community has been perceived as weak in the past.

This bill, Mr. Speaker, will ensure a continuing strong intelligence capability to support policymakers and our deployed military forces worldwide.

Mr. DICKS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New Mexico [Mr. Richardson], one of the senior members of the Committee on Intelligence, one of our most important Members of the House, one of our leadership Members, and a man who travels around the world bringing back people who are in trouble and does a great job for this country.

Mr. RICHARDSON. Mr. Speaker, I thank the gentleman.

Mr. Speaker, let me say in these days of budget impasse, there is a lot of talk of bipartisanship that does not exist, but I think this committee is a model for bipartisanship. I want to commend the gentleman from Texas [Mr. COMBEST] and the gentleman from Washington [Mr. DICKS] for the way they handle this committee. I especially want to thank the gentleman from Texas [Mr. COMBEST] for the support he gives me on many of my trips and other initiatives.

Let me just say this conference report is a good one. There are some good bipartisan compromises on the National Recognizance Office, on some of the covert action programs. There are good initiatives here that deal with international terrorism, good initiatives allowing also the Department of Defense to get more into the intelligence areas, recruiting women and minorities. There are some good initiatives here that deal with Bosnia.

Let me just address some observations that I have had as probably the longest serving member of the Committee on Intelligence of anyone here.

First, I think we have a very good CIA director, John Deutch. I think we should support him. He is a reformer. He is trying to make things better. He has brought some good people in. He is trying to consolidate. I think we should support him as he tries to bring the Defense Intelligence Agency and the National Security Agency under his rubric. I think we should, because what we have is a Director of Central Intelligence, we should make him. We should give him the authority to appoint those people. He has dealt with the Ames problem effectively. He is trying to clean things up.

But in this effort of reforming the agency, we have to be sure we do not hurt morale over there. There are still a lot of good people that perform good intelligence work, that have been there for many years, that are either mid-career officers, that are younger officers. Let us support them. Let us reform the agency, anything can be done better. Let us made them justify their fund. I think the gentleman from Massachusetts [Mr. FRANK] brings in some very healthy skepticism. But at the same time, let us not decimate it.

It is an unsafe world out there, maybe not as unsafe as it used to be, but there are threats of nuclear proliferation, there are threats of terrorism, tribal ethnic conflicts, international narcotics. And we do have a need for economic intelligence. I want my trade negotiators to know what the position of another country is going to be before they get to the negotiating table. We are not talking about freebies for corporations. We are talking about implications, intelligence work that is valuable for our national security; that is, our trade negotiators.

Let me also say that I think the National Security Agency, the NSA, has too many people there. They have an effort that collects data with a very broad sweep. They do not target it. They need to do betters in that area.

I do think we need more human intelligence. We need more spies. We need more people getting us intelligence. Now, that may not be popular in some circles, but we do. We need more James Bonds. We need more people out there that perform services that sometimes are not the safest and sometimes are not considered the purest of objectives. But we need covert action. There are instances where we probably should have used it, and we did not.

It has got to be carefully monitored by the Congress. It has got to be approved by this body. Let me say also the new DCI, the Director of Central Intelligence, has consulted with the Congress a lot better than his predecessors. That has always been a problem. But I think the committee and the staff have a good system of knowing what is going on, disseminating the information, and finally acting on it.

Mr. Speaker, again, we should approve this vote with a strong margin. There is strong bipartisan support for this bill. We are downsizing our military. But that does not mean that we should not give our military that intelligence that they need to deal with threats. And the world is not safe. Perhaps it is not as unsafe as it used to be, but these new threats have to be dealt with by new initiatives, consolidation. They have to be dealt with with a stronger thrust, as I said, in the human intelligence areas, and that is people. That is people that know Arab countries, that know about North Korea, that know about some of the threats that the gentleman from Massachusetts [Mr. FRANK] posed, and he is right. The Soviet Union is not that much of a threat. We do not need to know how miserable the economy of the Soviet Union is. It already is. We know that. So we should know about the intentions of other nations.

So again, I think this is a good bill. We should support it, but with a good healthy skepticism that some of our colleagues have discussed.

☐ 1130

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 3 minutes to the gentleman from Vermont [Mr. SANDERS], because he will need that for his introductions.

Mr. DICKS. Mr. Speaker, I yield 1 minute to the gentleman from Vermont [Mr. SANDERS], and I want him to know I have enjoyed working with him on the defense appropriations subcommittee on some important issues there, and I am delighted to yield to him.

Mr. SANDERS. Mr. Speaker, I thank the gentlemen for yielding me this time.

Mr. Speaker, all over this country today, the American people are frightened and alarmed and upset that the Government has closed down. Last night at 10 o'clock on the floor of this House we managed to pass a bill that got checks out to wounded veterans, but yet right now we do not know whether 8 million low-income kids, whether their families will get checks so that they can eat this Christmas week.

People here are talking about major cuts in Medicare, forcing low-income elderly people to pay more for health insurance when they just do not have the money to do that. People in this Chamber are talking about savage cuts in Medicaid, which could throw millions of low-income kids, elderly people, working people off of health insurance.

In America today millions of working class families cannot afford to send their kids to college. Today, 22 percent of our children are in poverty, by far the highest rate of children in poverty in the industrialized world.

For God's sake, let us get our priorities straight. We do not need to be funding the CIA and the intelligence budget at anywhere near the level that we funded them at the end of the cold war.

The Soviet Union, in case some of my colleagues have not heard, no longer exists. The Warsaw Pact no longer exists. But our children are still hungry, our elderly people still cannot afford their prescription drugs. Millions of kids still cannot go to college because they lack the funds.

When we talk about moving toward a balanced budget, and every day I hear people coming up here and telling us how important it is to move toward a balanced budget and how we have to cut so much from the needs of the elderly and the low-income people, what happened to the discussion of the balanced budget today? How come it is not important today?

Forty years ago Dwight David Eisenhower, a conservative Republican, said watch out for the military industrial complex. Watch out for the military industrial complex, said Dwight Eisenhower, a conservative Republican President, and was he right.

This year, with the end of the cold war, President Clinton signed a Republican defense budget asking for $7 billion more than the Pentagon requested, and the children go hungry. Today we are asking for an inflated intelligence budget, inflated CIA budget, and the elderly people cannot get the health care that they need.

Mr. Speaker, let us get our priorities right. Let us say no to this bill. Let us keep faith with the American people.

Mr. DICKS. Mr. Speaker, I yield myself 1½ minutes.

I want to remind our colleagues that since 1985 the defense budget has been reduced by $100 billion. We take this year's budget and this year's dollars and compare it to 1985, and we have come down $100 billion. We have reduced the defense budget by 39 percent in real terms. There is no other area of the budget that has been cut in that dramatic fashion.

Mr. Speaker, I agree with my friend from Massachusetts, the world has changed and we have recognized that change, but I also would point out that there are still significant problems, not only in Russia, where we still have a lot of nuclear weapons that have not been dismantled; but in China, a very strong assertive power in Asia that we must be concerned about; and, in Iran, Iraq, and North Korea, and other former members of the Soviet Union that present intelligence challenges.

Mr. Speaker, the intelligence budget is part of the defense budget and it, too, has been reduced. It certainly has not been reduced to the level that my friend from Massachusetts would accept, but I think prudent people who look at this from all cross-sections, understand that this Congress has cut it more than George Bush wanted it cut and it has cut it more than Bill Clinton wanted it cut. I think we have done a responsible job on a bipartisan basis.

We had extensive hearings both in the authorization and appropriations process, and we made cuts. When we found excess spending, like we did at the NRO, we cut it out. But we also have very serious requirements that must be met. So I urge my colleagues to continue to support this committee and this bill.

Mr. COMBEST. Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself my remaining time.

My friend from Washington said they found some extra spending in the NRO and they dealt with it. They did. They spent it somewhere else in that same budget. That is a good example.

The intelligence community hid a billion dollars from them. A billion dollars was being spent by the intelligence community and they did not know about it. And then they found out about it after the fact. Well, first, how many Federal agencies have the capacity to hide a billion dollars from the appropriators and the authorizers? The intelligence people did.

And what was the penalty, Mr. Speaker? Well, the penalty was they could not spend it the way they wanted to. But that billion dollars did not go into deficit reduction or into other purposes, it went back into this cold system because they just think they need this money.

I believe, in the first place, that when we talk about a 39-percent reduction, let us understand that that is differential accounting. Because when the Republicans talk about cuts or increases in future programs, they do not use real dollars. They do not take inflation into account. They use nominal dollars. It is only the national security budget that gets the inflation factor put in.

But even if it is 39 percent, and let us just use that real dollar term elsewhere, and then some of the increases they talk about will become decreases in real dollars, but I believe the threat to the United States has dropped by more than 39 percent.

In 1985, a fully armed Soviet Union and Warsaw Pact, and that is gone, and Iran and Iraq and those other countries do not add up to 60 percent of the threat we had. Yet there has been a drop.

It is also the case that 1985 was a great base year because that was after Ronald Reagan and Caspar Weinberger and a very quiescent Congress gave the Pentagon literally more money than even they knew what to do with. 1985, of course, was the most inflated possible base year.

I want to close by talking again about that billion dollars they hid from the Congress at the NRO. We have people today cold, endangering their health, because this Congress has refused to appropriate adequate funds for low-income home energy assistance. Let us be very clear. We have cut this back.

There are elderly people and families in a panic because in this cold they could not heat their homes because we cut back the money. The billion dollars that they hid from us that we rewarded them by letting it be spent elsewhere is more than we are going to give people to heat their homes. Crumbs, small change in this budget are essential elsewhere, and this is an example of the worst kind of priority setting.

Mr. DICKS. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from California [Ms. PELOSI], a valued member of our committee.

Ms. PELOSI. Mr. Speaker, I, too, want to commend the Chair and the ranking member of our committee for the bipartisan manner in which the business of the Permanent Select Committees on Intelligence has been conducted.

I particularly want to thank the gentleman from Texas [Mr. COMBEST] for his leadership and cooperation on the sanctions issue, on which we went into detail when the bill originally came to the floor. Simply said, if the administration chooses not to issue sanctions for reasons as are spelled out in the bill, this action would be rare and Congress would be looking closely at the actions they take.

I, too, agree with the gentleman from Massachusetts [Mr. FRANK], that as we cut spending across the board in the Congress of the United States, that our intelligence budget should be subjected to that same tightening of the belt. I wish that his amendment, which I thought was a very sensible one, because it left the discretion to the DCI and Secretary of Defense to do the cutting, was one that I had hoped this body would have accepted. It did not.

However, I still rise to support the legislation because I believe that the bill before us is one that, at least for this next year, is worthy of support. It is worthy of support, I believe, because of the work that has gone into it but also because of the new director of the Central Intelligence, Director Deutch. I believe he deserves the confidence of the Congress of the United States to attempt to change how the intelligence community relates to itself and to each other.

I also believe that we have to have appropriate funding in order to build the satellite architecture and make the determinations about the satellite architecture. I am concerned, Mr. Speaker, that the diversity issue be addressed more proactively in the Central Intelligence Agency, and I accept the director's assurances that that will take place.

I believe that our country is better served when all of its manifestations reflect the diversity of our country. It is very, very important in terms of intelligence. What country has greater diversity in terms of language, in culture, and representation than the United States? I think our needs in terms of intelligence are served by drawing upon that, diversity certainly not only in our recruiting, but in our advancement within the Central Intelligence Agency and the community. And in that I certainly include the participation of women. I am pleased with the appointment of Nora Slatkin as the executive director.

Mr. Speaker, I am concerned about the funding for their issues. We do need funds in order to declassify the material that we need to declassify. We need to prepare for a comprehensive test ban treaty verification. There are many reasons why we have to provide the resources to go forward, including the environment.

I share the concern of the gentleman from Massachusetts [Mr. FRANK] about economic espionage. I think that corporations should do their own intelligence. If the needs of the country are served by our economic intelligence, that is quite different than serving the needs of a particular company.

With that, Mr. Speaker, I again commend the chairman and the ranking member for their leadership. I, too, will fight again for cuts. I think we should have more declassification and more diversity in our intelligence services and will fight for that in the next year.

Mr. DICKS. Mr. Speaker, I yield myself 2 minutes.

I want to make clear the point on economic espionage. I think the DCI has made it very clear that we are not entering this on a company-by-company basis; that we are looking at agreements that have been entered into, economic agreements between the United States and other countries, to make sure that they are faithfully executed, sometimes using our intelligence resources for that purpose. We also verify on a government-to-government basis various negotiations that occur between countries. Some things are done there, obviously.

We have not engaged, and I think the DCI has been correct and the Congress has been correct to draw a line and say we will not go out and engage in these activities on behalf of any company. I wanted to make that point clear.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. DICKS. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Speaker, I would say to the gentleman that I have two concerns about the economic espionage. One is the one the gentleman just spelled out, that we are not here to be an extension of providing corporate welfare to corporations to help them do business internationally, and the gentleman makes the distinction very well in terms of what is in the interest of our country, trade, et cetera.

□ 1145

But I have another concern, and that is how many of my colleagues remember when we were young, what was the March of Dimes against polio, and then all of a sudden one day, who knows, the day when the March of Dimes was to fight birth defects. It happened at a time very appropriately, and I am saying that with great positive admiration for the work that is done there.

Mr. Speaker, I do not want to see the intelligence community all of the sudden justifying its existence on the economic side, when what has been described by the gentleman from Texas [Mr. COMBEST] and by the gentleman from Washington [Mr. DICKS] as real threats. And as we know, if we send our troops out, we have to provide the best intelligence, but I do not want the justification for this big budget, which I think should be cut, to be now economic espionage. That is part of my concern with this new mission.

Mr. DICKS. Mr. Speaker, I completely concur with the gentlewoman on that.

Ms. PELOSI. Mr. Speaker, certainly, economic espionage does not require the type of money that we are talking about here.

Mr. COMBEST. Mr. Speaker, could you tell me what the remaining time is?

The SPEAKER pro tempore (Mr. CHAMBLISS). The gentleman from Texas [Mr. COMBEST] has 11 minutes remaining, the gentleman from Washington [Mr. DICKS] has 1½ minutes remaining, and the time of the gentleman from Massachusetts [Mr. FRANK] has expired.

Mr. COMBEST. Mr. Speaker, I yield myself such time as I may consume to make some general comments, not specific.

Mr. Speaker, I will never forget when I first had the opportunity, actually my first trip to Washington, DC, in my life in my mid-twenties, when I went to work for U.S. Senator John Tower. One of the things that we have certainly lost in this House, and that I would like to return to, and I think the relationship with the gentlewoman from California [Ms. PELOSI] and with the gentleman from California [Mr. BEILENSON] is exemplary, is in terms of the fact that we can work together. We may have some philosophical differences, but it is not a personal matter.

Mr. Speaker, I always had a great deal of respect for the fact that Hubert Humphrey, while I disagreed with him on many philosophical issues, there could be passionate debate in the Senate, and he and my boss, John Tower, would basically walk off the floor arm in arm because of a friendship that was there. They understood the passion with which people cared about issues.

Mr. Speaker, I have that same respect certainly for the gentleman from Massachusetts [Mr. FRANK] and the gentleman from Vermont [Mr. SANDERS]. They are very passionate in their beliefs.

This is one of those issues in which there are some differences in priorities. It certainly is not that we want to see children starving. We could take all of the money in defense and in intelligence and spend it on other programs, and to many that would not be enough. And, certainly, we cannot do that.

Mr. Speaker, we are concerned about a balanced budget. This Congress passed, and it may have been over the objection of many who have spoken, a budget earlier in the year and we conform to that budget. We fit within it. We will take those reductions as they come.

Mr. Speaker, I would say to the gentleman from Massachusetts that we are substantially below where we were when this House passed this bill some months ago.

Mr. Speaker, I want to comment on what the gentlewoman from California [Ms. PELOSI] said. There is no Member of the House that has more of a concern, a very dedicated concern in the areas that she has those concerns in our foreign relations policies. I have stated on this floor as well that we should not, and we cannot, justify expending money in the intelligence budget on economic intelligence. I would have a very difficult time coming and suggesting that that is what we ought to be doing.

Mr. Speaker, if there is information in the bigger national security issue that we would gain and glean from that, I think that is as well, as the gentleman from New Mexico [Mr. RICHARDSON] so ably pointed out, an area in which we can be very helpful to our own commerce. But it is not company-specific; it is not giving one company advantage over the other.

Mr. Speaker, it is not that just the agencies within the intelligence community are going out and searching for new roles in order to justify their existence. They are being asked to do these things.

The Vice President is very concerned about the role that intelligence can play, and past intelligence information that has come together, on the environment. And if there is information that we can get on the environment, and information we can get about economic intelligence and other areas, I think that is a very legitimate cause. I think it would be very difficult to justify expenditures solely for those purposes. They are not the major priority and role of the intelligence community. They are an offshoot. The country is better served by it. And as long as it does not infringe upon or become more significant or important than that dealing with national security and the intelligence community, I will continue as well to support it.

Mr. Speaker, the gentleman from Washington only had 1½ minutes remaining. Does the gentleman need additional time?

Mr. DICKS. Mr. Speaker, no. I yield back the balance of my time.

Mr. COMBEST. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. COMBEST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4, PERSONAL RESPONSIBILITY ACT OF 1995

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 319, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 319

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 4) to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. TORKILDSEN). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to the gentleman from Ohio [Mr. HALL], pending which I yield myself such time as I may consume.

Mr. Speaker, during consideration of this resolution, of course, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 319 waives points of order against the conference report accompanying H.R. 4, the Personal Responsibility and Work Opportunity Act of 1995; that is, the Welfare Reform Act, and against its consideration. The resolution provides, further, that the conference report shall be considered as read.

Mr. Speaker, this is a traditional rule for conference reports and I know of no controversy about the rule. It was voted out of the Committee on Rules last night around midnight by a voice vote.

Mr. Speaker, today this rule will allow the House to vote on legislation which literally overhauls the Nation's dilapidated and failed welfare system. When I opened the debate on this measure back on March 21 of 1995, many months ago, I suggested then that the American people should measure welfare reform proposals based on how they would affect the status quo. That is what this debate is all about here today: the status quo. Do we want the status quo? Has it worked, or do we want to change it?

Mr. Speaker, most everyone in this country agrees the current system has failed. It has failed our families. It has failed our children. And they also agree it has not been for a lack of spending.

Mr. Speaker, over the last 35 years, taxpayers have spent $5.4 trillion in Federal and State spending on welfare programs. This welfare reform bill honestly and compassionately addresses the key problems of poverty in America, and that is illegitimate births, welfare dependency, child support enforcement, and putting low-income people back to work. That is one of the basics of this legislation, putting welfare people back to work; giving them the work ethic that literally is what built this great country of ours over all the years.

Mr. Speaker, not only does this legislation encourage responsibility and work among single mothers that are the vast majority of welfare recipients, and that is the saddest thing in the world, but this bill contains tough measures to crack down on these deadbeat fathers who have deserted their families.

The conference agreement before us today establishes uniform State tracking procedures for those who owe child support and refuse to pay it. It promotes automated child support procedures in every State of this Union; contains strong measures to ensure rigorous child support collection services; and, according to the testimony in the Committee on Rules last night by the very able gentleman from Texas [Mr. ARCHER] and the gentleman from Florida [Mr. SHAW], the child support title of their conference agreement enjoys broad bipartisan support in this Congress and, incidentally, in the Clinton administration as well, which is why this President ought to sign this bill.

Mr. Speaker, on this particular title of the bill, I would like to relate a conversation I had recently with a constituent of mine to emphasize its importance. A member of my district office staff informed me that she had received a call from a woman who explained, in between sobs, she was literally crying, that she desperately needed to speak with me.

Mr. Speaker, I have been tied up down here for several weeks and have not been able to get home. But when I went back to my office late that night, I reached my constituent by telephone and she explained to me that she was holding down two jobs to support an 8-year-old son who had a learning disability. She told me public schools do not provide her son with adequate attention to that particular disability and he needed the care of a special tutor, but, she said, that her two small salaries that she has worked at, and she has never taken 1 day or taken 1 penny of welfare payments, she said that her two small salaries do not allow her to pay the additional expense for her young son, who is now beginning to fall behind all of his peer in the third grade.

Mr. Speaker, the problem, of course, is that the boy's father provides no child support whatsoever and her efforts to track him down and force him to pay his share were to no avail.

Mr. Speaker, the sad part about all of this is the father is a college graduate. He lives in a nearby State. He holds down an excellent job, and he refuses to pay child support at all. Not a nickel. This is an absolutely heart-wrenching story, Mr. Speaker, and it is typical of the lack of responsibility that many men have demonstrated in our society today.

In an age in which some in our society find it fashionable to blame anyone but themselves, this bill, and my colleagues ought all to pay particular attention to it, this bill truly emphasizes responsibility among fathers. It is going to hold them responsible.

The child support title in this bill will help ensure that all persons are held responsible for the consequences of their actions. As we close a year-long debate on this subject today, let us ask the President of the United States a question that this House and this Senate has already courageously answered in this legislation: Which is the truly compassionate public choice for the children trapped in poverty today? To sign this landmark reform legislation, or to do nothing at all and leave the status quo, a failed status quo?

Mr. Speaker, I urge the President to uphold the promise he made to the American people in the 1992 election campaign, which is written in his book, in which he pledged to reform welfare as he knows it today.

Mr. Speaker, this is a very serious matter. It is the most important piece of legislation that will come before this body this year. It truly will help the people in this country who have been saddled by welfare all these years to recuperate, to return to the work ethic, and to be good citizens in this community. That is why I urge support of this bill.

Mr. Speaker, I reserve the balance of my time.

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Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as Chairman SOLOMON explained, this resolution, 319, makes it in order to consider the conference report on H.R. 4, the Personal Responsibility Act. It waives all points of order against the conference report.

Mr. Speaker, I object to the way the Republican majority has handled this bill. Members of the Committee on Rules were given about an hour's notice after the text of the bill was received by the committee, and that is 60 minutes to look at this enormously complex and important piece of legislation.

The bill will have an enormous effect on millions of needy Americans. It will cut into the safety net that provides basic food and nutrition services, assistance to children, and school lunches. It makes sweeping changes that roll back 6 decades, years of welfare laws, and for some it will be truly a matter of life and death. Sixty minutes, sixty minutes is all we had to read this stack of paper and get prepared to vote on such a critical bill.

Mr. Speaker, it is the height of irony that we are about to debate something called the Personal Responsibility Act when the majority party has handled this bill so irresponsibility. The process has also violated the rights of the minority. The Democrats on the Committee on Ways and Means and the Committee on Economic and Educational Opportunities were not given copies of this report until last night.

We will recognize the need to move quickly on welfare reform. But this breakneck speed increases the risk of mistakes and simply is wrong, and I think we are going to be sorry for it.

The conference agreement makes deep reductions in basic programs for low-income children, families, elderly, and disabled people. Is that really what the American people want?

Earlier this week, a Nielson poll showed that 95 percent of Americans consider hunger and poverty issues as important as balancing the Federal budget and reforming health care.

I would like to read that again. That is a very interesting poll.

Earlier this week, a Nielson poll showed that 95 percent of Americans consider hunger a poverty issues as important as balancing the Federal budget and reforming health care.

The U.S. Department of Agriculture estimates 14 million children and 2 million elderly people will be affected by reductions in the food stamp program, and it is wishful thinking to believe that private charity can absorb the deep cuts that are made by this bill.

A recent study by the U.S. Conference of Mayors showed that 18 percent of Americans requesting emergency food assistance this year were not fed, due to lack of resources, and almost two-thirds of these requests came for parents and children. Emergency shelters and feeding centers have to turn away hungry and homeless people because the demand is already greater than the resources.

Let us talk about the contract with America. No; I am not talking about the Republican contract that was trotted out for the last election. I am talking about the 60-year-old bipartisan contract that guarantees that every low-income child in America will eat a good breakfast or lunch as part of his or her schoolday.

The cuts in this bill will affect human lives. The cost we are scoring are real human costs. These people do not have a line on any CBO ledger or an item in the OMB budget.

It is 4 days until Christmas, and this bill is the gift that Congress is giving to the poor and the needy of this Nation. They need more than the bah humbug that this bill says to them.

Mr. Speaker, I oppose this rule, and I oppose this mean-spirited, shortsighted bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the gentleman from Claremont, CA [Mr. DREIER], who serves with me on the Committee on Rules, my vice chairman, and is someone who has worked diligently for many, many years on welfare reform.

Mr. DREIER. Mr. Speaker, I thank the gentleman for yielding me this time.

I would like to at this very festive time of year extend congratulations to him for his fine leadership on our committee.

I rise in strong support of this rule and the conference report. We all know that back in 1992, when Bill Clinton was a candidate for President of the United States, he used a term which has been widely stated here in the Congress and throughout the country and the media. His statement was that we would end welfare as we know it. Those were the President's words, and he made that very strong commitment that he would pursue it.

Unfortunately, if you look back at the work of the 103d Congress, we failed to do it. We are here today trying to help the President keep the commitment that he made when he was a candidate.

I have said it on a lot of legislation. This is another very clear example of an item that needs to be addressed.

Let us talk about the important benefits of this conference report. One of the most onerous burdens that has been placed on the States has been the mandates, the mandates which have said to State governments that they are required to provide a wide range of things.

Now, take my State of California, for example; under the provisions of the present law, we see the Federal Government tell the States that they have to expand State dollars, their own State dollars, to continue to provide welfare to those who are flagrantly abusing drugs and alcohol.

We feel very strongly that the States should have the flexibility to make a determination as to how they are going to expend those dollars. Roughly $475 million in my State of California has gone to those abusers of alcohol and drugs, not to say that we are not compassionate, not concerned about them, but to continue that flow of cash to those people who are engaging in that kind of abuse is obviously a terrible misuse of those taxpayer dollars.

Where should those dollars go? They obviously should go to the women and the children, the impoverished who are struggling, not to those who are out there abusing drugs.

This legislation allows the States the opportunity to make a determination as to how they will best use those dollars. That flexibility is key. It is very important.

We all know that the 535 of us who serve in the United States Congress do not have a corner on compassion. We have seen the creativity for welfare reform emanate from States, like mine of California under Governor Wilson, Massachusetts, where Governor William Weld has done a phenomenal job, as the gentleman from Massachusetts [Mr. MOAKLEY] has pointed out.

On the issue of welfare reform, look at Governor Tommy Thompson of Wisconsin, John Engler of Michigan. That is where the creativity has come from, and that is why it is key that we eliminate the mandates that are imposed, and that is exactly what this legislation does.

There is a very important other item that tragically this President has failed to address, but it is one that he has indicated that he would address, as we look at this issue of welfare reform. It has to do with the problem of illegal immigration, a very serious problem in California, and we found most recently in a wide range of other States from concern that has come forward from Members from around the country.

Let me take just a moment, Mr. Speaker, to look at the record that this President has had on the issue of illegal immigration. He opposed Proposition 187, strongly opposed that legislation. Two weeks ago he vetoed legislation that would have provided $3.5 billion to keep open the California hospitals that have been swamped by illegal immigrants.

Just this week he vetoed funding to put 1,000 new INS guards on the border and provide over $280 million to California prisons swelled by illegal immigrant felons.

If he vetoes this bill, Mr. Speaker, he will ensure that illegal immigrants continue to qualify for Federal and State welfare programs. It is a very sad record on the issue of illegal immigration.

He has an opportunity, by signing this bill, to end welfare as we know it and, in fact, reverse his record on the issue of illegal immigration.

I urge support of this rule, and I urge support of this conference report so that we can, in fact, end welfare as we know it.

Mr. HALL of Ohio. Mr. Speaker, I yield 4 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to also commend him for his leadership for children in our country and throughout the world. His approach to this problem has been effective and, indeed, even saintly, in keeping with the words of the Bible, to feed the hungry, in the words of Matthew, to provide for the least, I'd rather say, the poorest of our brethren. I thank him for that leadership.

I thank the gentleman from New York for bringing this to the floor.

I rise in opposition with the greatest respect for the chairman of the committee, the gentleman from New York [Mr. SOLOMON]; I rise in opposition to the rule and in opposition to the bill. I rise in opposition to the conference report because I think this legislation will devastate the working poor, children, legal immigrants, the elderly, and the disabled.

I listened attentively to the remarks of our colleague, the gentleman from California [Mr. DREIER], about welfare reform, and indeed we all stipulate to the fact that the welfare system in our country must be reformed.

I served as a cochairman of the Democratic platform committee with Gov. Roy Roemer of Colorado in the election year of 1992, and, yes, indeed, we had strong language making changes in the welfare system so that it better meets the needs of our people and gets them from welfare to work.

This bill, this conference report, is weak on work and tough on children. I consider it a heartless proposal and completely irresponsible in its intent to cut off families and children from the help they so desperately need.

I was helping some people collect gifts for poor children and one of the children said, "Doesn't Santa come to the homes of poor children?" Even little children know of the unfairness and of the inequity when small children have to be dependent on the largess of others. We must have public policy that enables people to take charge of their lives and to go to work.

The bill cheats our most vulnerable citizens. Our Nation's most vulnerable, poor children, two-thirds of welfare recipients are children, as a result of this bill, 1.2 million, as many as 2 million more children, could be pushed into poverty.

Our children are our future. We all say that, but we have to do something about it. This bill jeopardizes their health, safety and education. We are giving them far less than they need and certainly less than they deserve.

This bill, as I have said, is weak on work. One of the main problems of the current welfare system is the lack of sufficient funding for work programs. This bill does not even begin to provide adequate resources for work programs. It punishes parents who want to work by offering no reasonable and long-term solution to child care dilemmas faced by working families.

Lack of funding for work programs provides stronger incentives to States to cut families off the welfare rolls. Then where will these people go? What will these people do? This bill does not answer those questions, because it does nothing to promote effective programs for moving larger numbers of families off welfare and into work.

This bill cruelly discriminates against legal immigrants, punishing those who contribute to our economy and volunteer to serve in our military and whom we require to pay taxes. The overwhelming majority of legal immigrants support themselves without any government assistance. They contribute $25 billion more in annual taxes than they receive in benefits. Their goal is not to arrive in this country to be supported by it but to contribute to this country.

The so-called welfare reform bill fails to fulfill a promise by moving people from welfare to work. This is not the way to reform our welfare system.

I urge my colleagues to defeat this very harmful legislation. Vote "no" on the rule, vote "no" on the conference report, vote "yes" on the motion to recommit.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GIBBONS], the ranking minority member, former chairman of the Committee on Ways and Means.

Mr. GIBBONS. Mr. Speaker, where is everybody? I look around the floor today, and this is about the paltriest guard I think I have ever seen in the place. I am not talking about the quality of the people here. There is nobody here. There are far more staff here than there are Members.

This is a very important piece of legislation that we are taking up. I know Members hated to be reminded of this, but 70 percent of all the people we are talking about today are infants and children who had nothing to do with being brought into this world, have been cast in dysfunctional environments. I started to say families, but they really are not families. They have a mother they can probably identify, probably identify, and most of them cannot identify their father.

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These are really pitiful people we are talking about, and yet this is a cruel bill. It reduces the amount of money we are going to spend on them for health care, for food, and for shelter. It puts the money under the block grant system, where the problem used to be. It does not put it under an entitlement system, where the problem is today.

All of us know that the poverty figures and the dependent children figures vary around the United States, having to do mainly with the economy of that particular area of the country. My own State was blasted a couple of years ago, a few years ago, with a huge increase in welfare. It had nothing to do with our morals, nothing to do with anything else. It is just the jobs were not there and the people had to turn to welfare to exist.

Mr. Speaker, I guess at Christmastime, shame on us. It is a horrible excuse of people here, and it is a horrible excuse of attention we are giving to this subject. This bill is cruel, it is mean, and it is hurting the least viable part of our whole American family that we have, the infants and the children. We are taking away food, we are taking away health care, and we are taking away shelter from the people that need it most.

I guess Scrooge had it right. It is a Merry Christmas for some people, but not for the ones who need the help.

Mr. SOLOMON. Mr. Speaker, we just heard from the gentleman from Tampa, FL, and I now yield 2½ minutes to the gentleman from Sanibel, FL [Mr. GOSS], a member of the Committee on Rules, so we can now hear the other side of the story.

(Mr. GOSS asked and was given permission to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I am not feeling paltry today, Mr. Speaker. I admit to being a little fatigued, but not paltry.

Mr. Speaker, I thank my friend from Glens Falls, for yielding me this time.

Mr. Speaker, I rise in support of this rule to allow us to consider the conference report on H.R. 4, the welfare reform bill.

Despite the conspicuous lack of consistent leadership from the White House, Congress has carried this bill through. There are two reasons we need this legislation. The first is that the current system is riddled with waste and abuse of tax dollars, and I am pleased that H.R. 4 will save taxpayers some $58 billion over 7 years. But more important than money, we need this reform because the existing system simply does not work for those who need it.

Instead, we have designed a new system that will identify and protect Americans in their times of real need but will eliminate the never-ending cycle of dependency and illegitimacy that the current status quo system has fostered.

With the help of the States, we are going to encourage people to work, to make them productive contributors to American society, giving them the dignity and sense of worth that a job provides.

For our children, this bill makes two key changes. It encourages parents to work, and it aims to break the vicious circle of teenage pregnancy by unwed mothers. These reforms, along with our efforts to reform education and public housing should help us make progress in our efforts to renew our cities and save our at-risk children.

Finally, Mr. Speaker, let us look at what H.R. 4 does not do. The President says funds for child care are being cut. Not true. They are going to go up faster under this bill than under current law. The President says that disabled children will not receive Social Security Income benefits. Not true. We are eliminating Social Security Income checks for kids that are hyperactive, but not for disabled children in need of special care.

This bill is a good bill and it is a promise that we made as part of the Contract With America. Once again we are keeping our promises.

I urge adoption of the rule and passage of this important bill.

Mr. Speaker, I will say that the status quo does not work. It is bad government. We know that. Everybody knows the system is broke. We know that scaring Americans with skewed statistics is bad governance, it is not the way to do it. The gentlewoman from California before me spoke and she said just say no to this rule; just say no to this bill.

There is a time to just say no, but this is not the time to just say no. This bill has been through the process. We are at the conference report process. Both Houses have had a chance to work on it. I urge adoption. It is a good bill, it is a good rule, and there is no reason to say no.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I must say everybody knows the politically popular applause line is to come down and bash people on welfare. But let me tell you, this welfare bill, if this passes, it will bring a whole new meaning to the phrase "suffer the little children," because that is exactly what this welfare bill will do. It will be little children that suffer.

Now, people will stand up and tell you all sorts of things that we could do, and I would agree. I see the gentlewoman from New Jersey. She and I have worked forever trying to get some of these things done. But they are not being done.

We just saw the Health and Human Services report on how much child support is being collected in States. The State that is doing the best job is Minnesota, and they are collecting 38 percent. The gentleman from New York's State is getting about 15 percent. Florida is getting about 15 percent. You know, all these people are saying this, but they do not go out and do anything about it.

Car payments seem to be made in this country at a percentage of over 90 percent, and yet here these children are, and we blame the mother for struggling and trying to make ends meet. We do not do anything about the father. I am sorry, I hope all of you took biology class. None of these children got here with just the mother, and we let the father walk. Then, of course, other people who are working get angry that they are supporting that child. But constantly blaming the mother and blaming that child is the wrong thing to do. So saying to that child, "Oh, we are going to show you; we will take your health care, we will cut back the aid to your family," is just not the right thing to do.

Real reform is terribly important. I am all for real reform. But the thing this body does not want to hear is that real reform takes a lot more money, because you have got to do job training, you have got to get the mothers up with a better skill base, and you have got to spend the money to enforce the child support payments that are not being done, and that is a shame.

Mr. SOLOMON. Mr. Speaker, I am glad the gentlewoman agrees with us that the main focus of this is so that all those male parents that left my State of New York and went to Colorado, now we can go after them and get them. We are going to.

Mr. Speaker, I yield 2½ minutes to a very distinguished gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise in support of the rule and the bill. This is landmark legislation and it has my support. We must enact it now. The American people are demanding that we restore the notion of individual responsibility and self-reliance.

The system is currently out of control. Above all else, I want to stress, and here I find myself in contradiction to one of my closest colleagues, the gentleman from Ohio [Mr. HALL], he and I have worked together on numbers of issues regarding children, but I want to say that I not only want to restore self-reliance and responsibility, but we will not let innocent children go hungry and homeless. I believe that this conference report meets that test.

First, the bill requires welfare recipients to work, as have already been stated. It also places time limits on them. That has been talked about. The third thing this bill does is put a family cap in place, which means that mothers will not get extra cash benefits for having babies.

Here I want to report that New Jersey already has this policy in place, and it is working. It was initiated in New Jersey by Democrats, developed bipartisan support, and was enthusiastically signed by a Democrat Governor, and it is working.

Fourth, this bill has strong and effective child support enforcement. My colleague from Colorado, I have got to disagree with her. The heart of this bill is that it enacts the strong interstate child support enforcement measures that she and I have worked on for more than 10 years. It specifically requires interstate cooperation, and it gets to the heart of that issue that has been vexing us. It is strange how as soon as you threaten to remove a driver's license or a professional license, the money that was never there strangely shows up.That reform is in here. It is the Roukema amendment, it was retained, and it is in here.

Let me just say one more point, because it is very important, on the nutrition aspects. I opposed the House position on school lunches and WIC. I am pleased to say the Senate got it right. The Senate protects the school lunch program and keeps the WIC program, as the gentleman from Ohio [Mr. HALL] and I both desired.

Mr. Speaker, I would say that the President promised to end welfare as we know it. This is the bill where we can do that.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. FORD].

Mr. FORD. Mr. Speaker, I want to thank my colleague from Ohio for yielding me this time.

Mr. Speaker, I rise in opposition to the rule on the conference report on welfare today. Mr. Speaker, Democrats on the Committee on Ways and Means and on this side of the aisle, we tried over and over and over again to work with the Republicans to fashion a welfare reform package that would respond to the needs of poor children in this country. We know that the Republicans who have reported this bill and this conference report, we have seen letters go from five Members of the Senate and from their side of the aisle that have indicated this is not what the Senate voted on and the Senate passed in their welfare package.

We look and see that since 1935 we have protected our poor children in this country through an entitlement program with AFDC. Two-thirds of the welfare recipients are in fact poor children in this Nation. It is sad to know that here on Christmas Eve, we would send a message to more than 1.5 to 2 million children who will drop right into the poverty thresholds with this welfare reform package that is before us today.

The Republicans talk about them being tough on work. This program is due to fail. It will fail. We ought to make sure that a welfare package in the recommittal motion by the Democrats will say to poor children that we will provide the protection you need. Yes, we want a strong work program as Democrats. The President wants a strong work program for the welfare recipients. Those who are able to work should work. We are in agreement with that. But when you see a work program that is due to fail, as we know that that which is in this Republican conference report that we will vote on today will, it suggests very strongly that this is a bad bill. The Republicans ought to be ashamed of a bill that is so cruel to our poor children in this country, and I would urge my colleagues to vote no on this rule.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, 2 years ago five House Democrats, including myself, set out to end welfare as we know it. Mr. Speaker, I am disappointed today that the House and Senate conferees have presented the American people with welfare as we would never want to know it.

Ever since coming to Congress in 1988, I have been a strong advocate of a tough but reasonable welfare reform bill that empowers rather than punishes; one that calls for responsibility rather than dependence. The House Democrats and one Republican voted unanimously in support of our bill in March. Now we are given a conference report which is fundamentally different from that bill.

I want to highlight some of the differences. Our bill preserved the basic guarantees of assistance for poor, hungry, ill, disabled, abused, and neglected children and women. the conference report makes these guarantees optional. Our bill would retain the cash assistance entitlement, but the conference agreement eliminates this guarantee. Our bill maintains the AFDC program and the State match, while making needed reforms to AFDC. The conference agreement block-grants AFDC, allowing States to use the Federal funds as they wish.

Our bill would provide $8.6 billion over 5 years for work programs. The conference report is weak on work, providing no additional funds to states for work programs. If mothers or fathers are trying to escape welfare to work, they must have adequate funding for childcare. Our bill provides that increased Federal match for childcare. The conference agreement is at least $20 billion short in childcare funding. Our bill makes no changes to the successful school lunch and WIC programs. The conference report works toward eliminating this basic guarantee for low income children.

Vote "no."

□ 1230

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume to say that the gentleman is right, his bill is the status quo and ours is welfare reform.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS] one of the most outstanding women ever to serve in this body. She will be leaving here next year. She will not seek reelection. She is from Overland Park, KS, and truly a compassionate Member and we will miss her.

Mrs. MEYERS of Kansas. Mr. Speaker, I thank the gentleman for yielding me this time and for his leadership and everyone who has been responsible for bringing this issue to the floor.

I rise in strong support of this rule and of this bill. My principal concern has been AFDC. I believe that one look at the statistics shows that what started as a program to help people has become an incentive to join the system.

In 1988, when we reformed welfare, we said that there would be 5 million families on welfare by the year 1988. Well, we hit that target in 1993. The system is out of control. In just 4 years, by the year 2000, if we do not make changes, 80 percent of minority children and 40 percent of all children in this country will be born out of wedlock.

There is a tremendous human cost to this. Statistically, we know that children who get a kind of a chaotic start in life, and many of these children do, not all of them, but many, without a father, without a lot of structure in their lives, they have more trouble throughout their lives with education, health and with crime. This bill has time limits and work programs and it ends the entitlement nature of AFDC.

Mr. Speaker, I believe that it will end the incentive to join welfare. The current entitlement system has been very difficult for Congress and the taxpayer because a child out of wedlock usually means that the Government pays for that child and supports the child until he or she is 18. A young woman who has two children out of wedlock can receive cash and benefits of $18,000 annually. In the cash grant of AFDC, the portion of Medicaid and food stamps attributable to the AFDC population, housing, WIC, Head Start, college, day care, transportation, the cost to the taxpayer annually is $70 billion a year.

Mr. Speaker, we must insist for both human reasons and money reasons that we get control of this entitlement and control of the cost. Support the rule and the bill.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Speaker, I rise in opposition to this rule. Until this year, I was a member of a local government, and we actually had the responsibility to make AFDC work; and I ran for Congress wanting to change welfare as we know it. We do need to make changes.

As I listen to the debate here, I am mindful that many of the people in this Chamber have never had to actually make these programs work at a local level. It is not the Governors who make this work, it is the counties and cities throughout our country.

I have here a letter I received today from the League of Cities, the National Association of Counties, and the U.S. Conference of Mayors, urging us to vote "No" on the welfare reform conference report. They understand that block granting in their words, "dismantles the critical safety net for children and families."

They point out that without an individual entitlement they will not have sufficient funds to provide child protective services. They say the restrictions on legal immigration go too far and will transfer costs to local government. They point out that the block granting of child nutrition programs is wrong in that a child's educational success is essential to the economic well-being of our Nation's local communities. And, they say the welfare reform conference agreement would shift costs and liability and create new unfunded mandates for local governments, leaving them with two options: cut other essential services, such as law enforcement, or raise revenues.

Earlier this week I called two people upon whose advice I rely: a friend who is an administrator of my county and a Catholic priest, and they both urged me to vote against this conference report for similar reasons. It does not adequately emphasize the well-being of children. I came here to reform welfare, not to dismantle it for a simple budget cut. This bill does not achieve reform, it just achieves a cut.

Finally, I wanted to say that I saw an article in my local paper today by Governor Pete Wilson urging that we support this legislation and suggesting that he has exhibited creativity. Do not make me laugh. All he has done is taken local governments' property taxes, and unloaded the problems on them.

I would urge a "no" vote and hope that we get back to a real reform of welfare.

Mr. SOLOMON. Mr. Speaker, yielding myself 30 seconds, I would point out to the gentlewoman that, first of all, she should speak to her Democratic Members of the Committee on Rules. They all support this rule, as they should, because it is an ordinary customary rule.

Second, having serving as a town mayor, a county legislator and a State legislator, and 17 years in this Congress, I assure the gentlewoman this is a step in the right direction and we are going to pass this bill and get true welfare reform in this country.

Mr. Speaker, I yield 1 minute to the gentleman from Ocala, FL, Mr. CLIFF STEARNS, another Floridian who is an outstanding Member of this body. He has done more to help us balance this budget than anyone I know.

Mr. STEARNS. Mr. Speaker, I rise in support of the rule and this bill. Let me say to the people on this side of the aisle, no one party has a corner on compassion. For 30 years we have had this program and we have spent $5 trillion. It has become obvious to the Democratic Party and obvious to our party that this program, as it is configured now, does not work and we have to change it.

For some of my colleagues to come on the floor all the time and say they have all the compassion, really the compassion comes when we try to take away, when we take an individual and take away their incentive to work. What happens is they do not want to work. We have doomed their life to continued dependency. That is not being compassionate, and that is what the debate is about. To show compassion is to give individuals incentive.

We must instill in our young people a sense of pride that can only be realized through hard work and personal achievement. What is wrong with that? This country was founded on the work ethic. Passage of this legislation sends a clear signal that we are no longer going to subsidize and reward individuals who have chosen to take a check instead of a job.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, let it be clear that the status quo on welfare is dead. It needs to be changed. The House Democrats put together a proposition to change it. The key is getting the parents off of welfare into work and not punishing the kids. Punishment of children is not welfare reform, it is getting their parents off of welfare into work.

Here is the problem with the conference report, it is weak on work. The CBO estimates in the year 2002 that this conference report will be $7.5 billion short in terms of assistance to get people into work and child care. It is weak on work and it is tough on kids.

Just read the letter signed by four, I think more than that, Republican Senators, and they pick out the food stamp cuts of $30 billion, the SSI benefit cuts of 25 percent for 650,000 kids, the foster care changes, the legal immigrant provisions. These are extreme provisions.

Here is what the Republican Senators say. "We are dismayed at what is in the conference report. We have our strong reservations about this agreement."

Mr. Speaker, we have not worked here on a bipartisan basis. We have a highly partisan bill here that aims at a political message, but misses the key to welfare reform, moving parents off of welfare into work and not punishing their kids. We Democrats stand for that. Once this bill is turned down, and the President has said he will veto it, we will then turn and together work for true welfare reform that gets the parent into the work force without, as the Republicans do, punishing their children. Let us vote no on this conference report.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Florida, Mr. CLAY SHAW, who, as chairman of the subcommittee, along with Chairman of the full committee, the gentleman from Texas, BILL ARCHER, is one of the two outstanding Members that have had so much to do with this. I yield to him to respond and to give Members the straight story.

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the last speaker, the gentleman from Michigan [Mr. LEVIN], on the floor, I have enjoyed working with him in the subcommittee and he and I have had a lot of conversations on and off the floor, in the subcommittee. We all want to do the right thing, and I applaud him for putting forth the fact that the welfare system that we have today is archaic, it is wrong, and it is bad.

But I want to point out a couple of things that I do not think the Senators were aware of that wrote the letter he referred to, and that I am not sure the gentleman from Michigan [Mr. LEVIN] is aware of.

Under the new baseline, we are spending more in this bill on Aid to Families with Dependent Children than we do under existing law. With the funding level that we have in child care, an area that I have spoken to the gentleman from Michigan [Mr. LEVIN] about several times, and I know he is very concerned about, there is an additional billion, which puts us way above, over a billion dollars over the Senate bill, which is the one the four Senators that he referred to voted for.

The question of the cuts in SSI. They were only for those children who are not seriously afflicted and it is recognizing that we need to keep full funding for those children who are truly disabled. It is a compassionate bill, a good bill, a good rule. I encourage the House to vote for the rule and for the bill.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise today to oppose this rule because it is a bad rule supporting a bad bill. I am for welfare reform and I am for work requirements. The problem is that this bill fails in the commonsense department.

Let us turn to the CBO, their sacred cow for fiscal analysis. CBO says this bill cannot fund the work program. It cannot provide the training necessary. It says it falls $5.5 billion short in the year 2002. Over the 7 years, this bill is $14 billion short in what is needed to provide adequate employment and training.

In fact, their original Contract on America had $10 billion in it for employment and training. What happened? That is not in the bill.

Let me tell Members what the people of Maryland think. My Governor has already spoken on the subject, and he says, quite frankly, the idea is good, but the funding is grossly inadequate to support employment and training. We cannot take people who are out of work, who are low-skilled and expect them to go into the work force without training. There is no employer around, no matter how willing this person is to work, that will hire them without some level of training.

If we are serious about welfare reform and work requirements, we ought to put in the necessary funds for the training programs and not pass the buck on to the States.

What else is wrong with this bill? The child care is inadequate. That is the second component. We cannot expect women with two and three children to go to work without adequate child care. Right now States provide funds for the working poor. But with these new people coming onto the rolls, the States will not be able to afford to pay adequate child care. This bill falls $6 billion short in terms of providing the necessary child care programs.

Again, we go back to the CBO. CBO figures show that the legislation will force States to choose between maintaining current levels of child care assistance for working poor families and providing child care resources for these new families that are coming on.

So Mr. Speaker, the issue is not defending the status quo. We on the Democratic side do want welfare reform, we just want to make sure it works, and that requires common sense, something that is sorely lacking in the Republican approach.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentlewoman from Jacksonville, FL, Mrs. TILLIE FOWLER, another outstanding woman Member of this body.

Mrs. FOWLER. Mr. Speaker, I strongly urge passage of the rule for consideration of the conference report on H.R. 4. This historic legislation will fix a welfare system which has become so badly broken that it perpetuates dependence, illegitimacy, and hopelessness.

H.R. 4 reduces the intrusiveness of the Federal Government and provides flexibility for States and localities to meet the greatest needs.

It contains several provisions which discourage illegitimacy and encourage family responsibility, including one which allows States to deny additional benefits to parents who have additional children while on welfare. It provides for the creation of a nationwide tracking system for child support payments which will crack down on deadbeat parents.

It encourages independence by requiring adults who receive cash benefits to work or attend school and limiting their benefits to 5 years.

It also saves $58 billion in outlays over 7 years—while continuing to maintain a safety net for those in our society who are the most vulnerable.

This legislation is long overdue, and I urge passage of the rule and of the conference report.

☐ 1245

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I have two children who are very young, and they were actually on the floor the other day. I also served in the State legislature in New Jersey for 5 or 6 years, and I mention that only by background because I am very concerned about the policy impact of this conference agreement and what it means for children in this country and my home State and other States.

Mr. Speaker, I am concerned particularly about the elimination of the entitlement status. What I see happening in this conference report, and in many ways it is a lot worse than the bill that originally passed this House, is that we are making it a policy, essentially on AFDC, on Medicaid, to some extent also on some of the other programs, that it will be up to the States to decide who is eligible and what kind of cash benefits children get.

Mr. Speaker, I think that because we are dealing with such a vulnerable population, particularly with AFDC recipients, the tendency always is if there is a budget crunch, to cut back on the vulnerable amongst our population because they do not have the political clout. They are not the ones who can go to the State legislature and say, "We are not going to vote for you, or vote one way or another, because of your position on these benefits."

Mr. Speaker, if we look at the statement that some of the Senators made, that some of the Republican Senators made in the letter that they sent to Senator DOLE, they pointed out, for example, with regard to Medicaid, that unlike the House and the Senate bills, Medicaid no longer is an entitlement under this bill. They estimate, the Republican Senators, that we could be denying Medicaid eligibility to millions of women and to children over the age of 13.

Mr. Speaker, the same thing is true with SSI benefits, that due to significant changes in the definition of disability, the conference agreement would create a new 2-tiered system of eligibility which would result in a 25-percent reduction in SSI benefits.

Mr. Speaker, my concern here is that if we do not provide the entitlement status for some of these programs, whether it is Medicaid or AFDC, and then as the gentleman from Maryland said, we actually cut the amount of money that is available by as much as $14 billion, where are we going? A lot of people who are now receiving these benefits will not receive them. It is unconscionable and we have the obligation to ensure that the guarantee is there.

Mr. SOLOMON. Mr. Speaker, how much time is remaining on either side?

The SPEAKER pro tempore (Mr. TORKILDSEN). The gentleman from New York [Mr. SOLOMON] has 7½ minutes remaining, and the gentleman from Ohio [Mr. HALL] has 6 minutes remaining.

Mr. SOLOMON. Mr. Speaker, there are 73 new Members on our side of the aisle, new Members of this body. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. GANSKE], one of the outstanding new Members.

Mr. GANSKE. Mr. Speaker, not too long ago I was a physician taking care of young women and their children who are on welfare. My heart would go out to them, because very rarely would there be a dad with them. One of the reasons that I so enthusiastically support this rule and this bill is because it has significant improvements in the child support enforcement.

Mr. Speaker, it requires States to have automated case registries of child support ordered. It requires States to establish automated State directories. It allows States to use information for establishing paternity and forcing child support obligations and tracking. It establishes an automated Federal case registry of child support orders. It requires States to have specific laws related to paternity establishment, including a single civil process for establishing paternity. It requires States to tighten laws preventing the transfer of income or property for the purpose of avoiding child support payments.

These are all good things, long overdue, that this bill will significantly help.

Mr. Speaker, I have also been very concerned about nutrition, and I am happy that the conference report adds back $1.5 billion in child nutrition programs. The School Lunch Program continues to grow, as under current law. There are no cuts from the CBO baseline. The reimbursement rate for school lunches and breakfasts remains the same as under current law. The savings in the child nutrition program come mainly from setting up a 2-tiered system. This was proposed by President Clinton himself.

Basically, the 2-tiered system says that if communities have child care in low-income areas, they continue to get a higher reimbursement; but, if they have child care for families that are not poor, then they have to pay a little bit more in those areas. But, Mr. Speaker, if they can establish that the majority of the children in that child care program are from poor families, then they get the higher reimbursement. This is reasonable and I support the rule and the bill.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Speaker, there is a lot of controversy that takes place about who ought to get credit for reforming welfare. It is almost as though this is a new issue. But I remember as a boy growing up hearing my father, Robert Kennedy, talk about the fact that welfare was a program in dire need of reform; that it has created a whole cycle of dependency; that we had a situation that had developed in so many of our Nation's cities that people had grown used to welfare as a way of life; and, that we had to break that cycle of dependency.

Mr. Speaker, I remember great speeches by Franklin Delano Roosevelt talking about people on the Government dole and the devastating and debilitating effects of being on the Government dole for the way of life and self-determination of those individual families. This is not a new issue.

But, Mr. Speaker, there is a sense that there is a lot of common ground between Democrats and Republicans about the fact that we need welfare reform. We do need welfare reform. We ought to tell people clearly that we do not want a system where they are rewarded and given something for nothing; that they can expect to have welfare without going out and getting a job; that we want to create any kind of signal that says that recipients ought to go out and have children on the welfare system.

Mr. Speaker, those are the areas of commonality. That is not what the difference is between what the Democrats have stood for in the bill that I voted for, and that many of my colleagues have voted for, and the bill that is before us today.

Mr. Speaker, the bill that is before us today is a mean-spirited attempt not to put people to work, but is a mean-spirited attempt to go out and gut the very programs that provide for our children with cerebral palsy, that provide for our children with Down's syndrome, that go out and cut the SSI Program, cut the Food Stamp Program.

My Republican colleagues sit there under the guise of welfare reform and try to hurt little children in America. They call that reform. Mr. Speaker, it is not reform. It is the mean-spirited dollars necessary to provide a tax cut to the wealthiest people in this country at a time when we ought to be looking out after how to break the cycle of dependency and not create one for the wealthy.

Mr. SOLOMON. Mr. Speaker, I am tempted to yield myself some time right now to respond to the gentleman from Massachusetts, but I will withhold until I conclude.

Mr. Speaker, I yield 1 minute to the gentleman from Stephensburg, KY [Mr. LEWIS], an outstanding Member of this body.

Mr. LEWIS of Kentucky. Mr. Speaker, it seems we keep hearing the word "extreme" and "mean-spirited" and that we are "gutting" the welfare program, but I just want to address that just for a minute.

Mr. Speaker, I am holding an editorial by one of the fine newspapers in Kentucky, the Owensboro Messenger-Inquirer. In a Tuesday editorial they say, "The Republicans have a sensible idea in moving decision-making authority closer to the frontlines," but then they make the mistake so many on the left do when describing our plan, just as the previous speaker, they suggest that it will fail because it spends less money than the current system. Wrong, wrong, wrong.

The Republican welfare reform will increase spending by one-third over the next 7 years from $83 billion to more than $111 billion. So, I say to my friends on the left, and to the Messenger-Inquirer for whom I have a great deal of respect: If you like moving power back home and want more welfare spending, you have got it. True, we may not be spending as much on welfare as you would like but $5 trillion over the last 30 years shows just throwing money at the problem is not the answer .

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, I rise in opposition to this rule, and I rise in opposition to the rule because it is not really about reform. We need welfare reform, but this bill actually is a taking away of opportunity. In fact, it has been estimated that 1.3 million children will be denied opportunity through this bill.

Mr. Speaker, this is not the way we should talk about family values. Some of us feel that as we talk about family values we can scapegoat the poor. We can say that those children who happen not to be born in the prescribed way of a family, we should deny them food, deny them health care. That is unthinkable; unthinkable especially in the season of Christmas. Twenty-five percent of SSI benefiting kids with severe disability will be denied that opportunity. Is that reform? Is that taking?

Consider also AFDC children on Medicaid, that eligibility will now be determined by each State. Each State will decide as they proceed. School lunch, we would deny even feeding children, the least among us. This is not reform. This is taking from America's children.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentlewoman from Utah [Mrs. WALDHOLTZ], another outstanding freshman woman, a member of our Committee on Rules, who has had so much input in dealing with absent fathers.

Mrs. WALDHOLTZ. Mr. Speaker, I am pleased to stand in support of this rule and this bill. One of the fundamental principles of this bill is that people should be encouraged and rewarded for work, and this bill gives them that chance.

But parents cannot reasonably be expected to work their way out of dependency if their children are not safely cared for. So Mr. Speaker, I am glad that the conferees added additional funds for childcare even above the House-passed amendment sponsored by the gentlewoman from Connecticut [Mrs. JOHNSON], the gentlewoman from Ohio [Mr. PRYCE], the gentlewoman from Washington [Ms. DUNN], and I, that added more money for child care for low-income working parents.

Mr. Speaker, I also want to commend the conferees for including our provisions to make interstate enforcement of child support orders easier and less expensive. It is important that parents meet their obligations to their children, and this bill will help us require that of parents in divorce situations.

Mr. Speaker, I urge my colleagues to support this bill and this rule.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I hope that we can engage my colleagues to the right in an intelligent, quiet, reasonable, and respectful dialog. Could my Republican colleagues do me a favor today? Stop painting those children and welfare recipients as bad people. Can we not come together to recognize that they cry out for a helping hand, not a handout?

Mr. Speaker, the gentleman from Ohio [Mr. HALL] has been a fighter for hungry children. Welfare reform is about hungry children. And Mickey Leland, a predecessor in the 18th Congressional District, as I stand here remembering his spirit, he reached out for hungry children. This welfare reform is not that.

Mr. Speaker, it is a bad rule, it is a bad bill, because it does not provide an entitlement. Yes, America; I am going to say that. Not because I have not gone on record for welfare reform. I am proud to be part of 14 Democratic freshmen who came in on reform. But, Mr. Speaker, when I talk to my Republican colleagues, they tell me they want people to work.

Mr. Speaker, this bill does not have a working provision. I am less eloquent than my colleagues in county government, city government, and the U.S. Conference of Mayors who have said to me today there is no safety net. They are on the ground at home.

☐ 1300

They represent you Republicans and Democrats and independents alike. It is not me on the House floor. My colleagues at home have said, "Help us."

This is a bad rule, a bad bill. There is no work.

And, yes, 350,000 children, Down syndrome, cerebral palsy, muscular dystrophy, cystic fibrosis, and suffering from AIDS, they will lose their SSI, excuse me, 650,000. Can we stop calling these people bad? Can we insist upon the kind of collegiality that knows that your bill is bad because it does not help people who want to transition?

I cry out on behalf of Mickey Leland and others who believe that hungry children should be fed. Vote this rule down and vote this bill down.

Mr. Speaker, I am inserting at this point in the RECORD a letter from the National League of Cities, National Association of Counties, and the U.S. Conference of Mayors, as follows:

DECEMBER 19, 1995.

DEAR REPRESENTATIVE: On behalf of the nation's local elected officials, we are writing to urge you to oppose H.R. 4, the conference agreement on the Personal Responsibility Act. Although the conferees agreed to some changes in the areas of foster care and consultation with local governments, we cannot support the final conference agreement which fails to address many of the other significant concerns of local governments. In particular, we object to the following provisions:

1. The bill ends the entitlement to Families with Dependent Children, thereby dismantling the critical safety net for children and their families.

2. The bill places foster care administration and training into a block grant. These funds provide basic services to our most vulnerable children. If administration and training do not remain an individual entitlement, our agencies will not have sufficient funds to provide the necessary child protective services, thereby placing more children at risk.

3. The eligibility restrictions for legal immigrants go too far and will shift substantial costs onto local governments. The most objectionable provisions include denying Supplemental Security Income and Food Stamps, particularly to older immigrants. Local governments cannot and should not be the safety net for federal policy decisions regarding immigration.

4. The work participation requirements are unrealistic, and funding for child care and job training is not sufficient to meet these requirements. One example of the impracticality of these provisions is the removal of Senate language that would have allowed states to require lower hours of participation for parents with children under age six.

5. We remain very concerned with the possibility of any block granting of child nutrition programs. A strong federal role in child nutrition would continue to ensure an adequate level of nutrition assistance to children and their families. School lunch programs are necessary to ensure that children receive the nutrition they need to succeed in school. Children's educational success is essential to the economic well-being of our nation's local communities.

6. The implementation dates and transition periods are inadequate to make the changes necessary to comply with the legislation. We suggest delaying them until the next fiscal year.

As the level of government closest to the people, local elected officials understand the importance of reforming the welfare system. However, the welfare reform conference agreement would shift costs and liabilities and create new unfunded mandates for local governments, as well as penalize low income families. Such a bill, in combination with federal cuts and increased demands for services, will leave local governments with two options: cut other essential services, such as law enforcement, or raise revenues. We, therefore, urge you to vote against the conference agreement on H.R. 4.

Sincerely,

GREGORY S. LASHUTKA,
President, National League of Cities, Mayor, Columbus, OH.
DOUGLAS R. BOVIN,
President, National Association of Counties, Commissioner, Delta County, MI.
NORMAN B. RICE,
President, The U.S. Conference of Mayors, Mayor, Seattle, WA.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

I would just conclude by saying that the U.S. Catholic Conference, Bread for the World, Lutheran Social Services, they oppose the bill. The National League of Cities, the National Association of Counties, the U.S. Conference of Mayors, they oppose the bill.

I think many of us, probably all of us in the Congress, we ran on the campaign, part of our issue was on welfare reform. We never expected welfare reform to be taking money away from children relative to food, shelter, and medical expenses. And I guess this bill is OK, I guess this bill is OK if you are a healthy person or you are a healthy child. But if you are going to eat a couple of meals a day or less, this bill is going to hurt you.

So we really ask, on this side, that you oppose this bill and oppose this conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, my good friend, the gentleman from Ohio [Mr. HALL], for whom I have great respect, has said he did not expect us to do what we said we were going to do. Ladies and gentlemen, we are here today doing exactly what we said we were going to do. This is part of the Contract for America.

I just have sat here patiently for an hour listening, and I have kept track of all the speakers, I say to the gentleman from Ohio [Mr. HALL], from your side of the aisle, and every speaker without exception that I could find appears on the National Taxpayers' Union list of big spenders.

Almost every speaker from that side of the aisle has talked about maintaining the status quo. Ladies and gentlemen, what is compassionate about maintaining the status quo? It is a total failure.

I have heard the gentleman from Massachusetts [Mr. KENNEDY] stand up and talk about people in poverty. Let me tell you something friends, I was born 65 years ago into poverty. My dad walked out on my mother and me the day I was born. We never saw him again.

Ladies and gentlemen, we went through hell for 10 years. There were no jobs, and my mother would not take a nickel of welfare, and we fought our way out of it. That is what this bill does.

This bill changes that status quo, and God knows we need it. Let us give the poor people the work ethic. Let us put them back to work so there is no need for all of this kind of welfare.

Compassionate is balancing the budget, lowering this deficit so that our children and grandchildren have a chance to buy a home, to buy a car, to be able to afford it and not pay all of the increased interest that is there because of our fiscal irresponsibility over all of these years.

Let us just try something different. This bill, when it left the House, had $100 billion in savings. You know what it has today now that it is back here in the conference report? Only $58 billion. Everyone on your side of the aisle ought to say, OK, this is a compromise; it is not as tough as it was when it went out of here, like I want it to be.

So come over here, vote for this rule. It is a normal, customary rule, nothing unusual about it. It passed on a voice vote with all Democrats voting for it last night at midnight. Come over here and vote for the rule. Use your good judgment, but vote for something that is different. Vote for change.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. ARCHER. Mr. Speaker, I call up the conference report on the bill (H.R. 4) to restore the American family, reduce illegitimacy, control welfare spending, and reduce welfare dependence.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. LINDER). Pursuant to House Resolution 319, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today, Thursday, December 21, 1995.)

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes, and the gentleman from Florida [Mr. GIBBONS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, I yield 2½ minutes to the gentleman from Pennsylvania [Mr. GOODLING], the chairman of the Committee on Economic and Educational Opportunities.

Mr. GOODLING. Mr. Speaker, I rise to talk about a portion of the bill that should make everyone happy, I mean everyone should be happy about the portion I am talking about, and that deals with school lunches and school breakfasts.

The House position was maintained as far as the reimbursement issue is concerned. We said no reduction in reimbursement without great flexibility for the provider. We kept the present reimbursement rates for school lunches and breakfasts.

Second, we make the school food service people very, very happy, and we do that by streamlining and eliminating the piles of rules and paperwork that they have to deal with every year. When they come here to testify before our committee each year, they say, "We could feed more youngsters and we could do a better job if you would just get rid of some of the paperwork." So we have taken care of that and made the school food service people very, very happy.

At the same time, we allow the schools to use the old meal pattern as long as they meet the dietary guidelines.

Now, we do a third thing that should make everyone happy. Fifty percent of the youngsters who are eligible for free and reduced prices meals are not participating; I repeat, 50 percent who are eligible, free and reduced-price youngsters are not participating. That means in all probability we are trying to educate them on empty stomachs because I do not imagine they had money for breakfast. I do not imagine they had money for lunch. So we are going to try to do something about that 50 percent.

I am not worried about the 54 percent who are paying customers that do not participate, because I assume they have money. But we must do something about the 50 percent eligible for free and reduced-price meals who are not participating. What we do, we allow a 7-State demonstration program to see if those States can increase the participation, particularly for those most in need.

We keep the same nutrition guidelines. They must serve the same people. The same guidelines are in place, but we give them an opportunity to see whether they cannot do something about bringing the 50 percent who positively need the program into the nutrition program.

So, again, I repeat, everyone should be happy with the portion that deals with breakfast and lunch because I think we have tried to satisfy every need that is out there.

Mr. Speaker, today marks a milestone in our efforts to reform, repair, redo the current system by which assistance is provided to many of our needy citizens. The current system has too often failed to truly help. It has encouraged dependence rather than independence. And it has failed the test of fairness to those who pay for it, the taxpayers.

This conference report comes at the end of a long and often difficult process. I want to express my appreciation of my colleagues who have not only worked so hard to achieve a conference agreement but stood firm in helping us negotiate with the other body to achieve a final agreement. I especially want to express my appreciation to the Speaker and to the majority leader, as well as to Chairman ARCHER and Chairman SHAW for their leadership during the conference with the Senate. Our committees have worked extremely close and extremely well together to bring this conference agreement to the floor.

Mr. Speaker, the American people have rightfully demanded change in the welfare system. This conference report delivers change. It is a good package, and it deserves the support of the House and of the Senate, and the signature of the President.

The conference report reflects the principles which we set out at the beginning of this process, and which, overwhelmingly, the American public supports. First of all, it reflects the recognition that no one, including those of us in Washington, has all of the answers as to what works best. One-size-fits-all mandates do not work well. States and communities must be given flexibility to meet their needs and the needs of those who require assistance.

Second, the conference report emphasizes that the purpose of welfare should be a temporary stop on the road back to independence, and the best way off welfare is a job. The work requirements under this legislation, spearheaded by Mr. TALENT and Mr. HUTCHINSON, will have a profound impact on the nature of welfare. Under this legislation, individuals on welfare for more than 2 years will be required to participate in a State work program. In addition, States will be required to meet strict Federal work participation rates, starting at 15 percent of their caseload and increasing to 50 percent by the year 2002.

The legislation allows for up to 20 percent of the State's participation to be met by vocational educational programs. The remainder must work at least 20 hours per week in actual work settings. By the year 2002, those hours are increased to 35 hours per week.

One of the problems with past work efforts has been the lack of effective sanctions for failing to participate. Under the conference report, individuals failing to work the required number of hours will have their benefits reduced accordingly.

I have maintained all along that in order for welfare reform to work, there has to be sufficient provision for child care. I am pleased that we have been able to do that in this conference report. The conference report makes major improvements to child care. It provides more Federal money for child care, it allows for a more efficient system for helping parents pay for child care, and it expands parental choice in child care providers.

The conference agreement streamlines 8 separate child care programs into a single program. This consolidation eliminates conflicting income requirements, time limits, and work requirements among the various current programs. These conflicting requirements have in too many cases become obstacles to independence from welfare, rather than programs assisting in reaching independence.

Under the conference agreement, child care funding is increased to $18 billion over 7 years. According to CBO, this increases the amount of child care funding over current law by $2.3 billion. The conference agreement simplifies child care programs by reducing Federal mandates, while ensuring that States provide for quality improvement activities and consumer education. Additionally, States must certify that procedures are in effect to ensure child care providers comply with all applicable State and local health and safety requirements and must certify that licensing standards for child care are in effect in the State.

We have worked hard, with the Ways and Means Committee, to improve and streamline the terribly fragmented and ineffective and inefficient array of programs that are supposed to help some of our most vulnerable people, children caught in abusive families and families that have otherwise been destroyed. It was with the best of intentions, I am sure, that all of these separate programs have been created. But the result is a maze of programs and a mountain of paperwork for States trying to make their child protection systems work. The legislation reduces the current maze of 18 different child protection programs into a streamlined system aimed at protecting children and reducing paperwork imposed on States.

Among other changes, the conference report combines numerous separate categorical programs which have been under our committee's jurisdiction into a new "Child Protection Block Grant." The block grant will give States more flexibility in how they can best use these funds. At the same time, we maintain Federal oversight as to how these funds are used, and seek to ensure, through certifications which the State must make in order to receive funds, that States will have effective child protection systems.

As my colleagues know, the child nutrition provisions of this bill were amongst the most difficult to resolve. Specifically, with regard to the school lunch and breakfast programs, I have maintained all along that, contrary to the claims of some of those who have demogoged on this issue, all is not well with the current programs. That is pretty obvious from the fact that only about 50 percent of the children who are eligible for free and reduced price meals even bother to take them. They'd rather pay for other food, or not eat, I guess, than take the meals that we offer for free or low cost.

The House position has been that any reduction in the rate of spending for these programs must be accompanied by greater flexibility for States and schools. Otherwise we simply make the situation even worse.

The conference report maintains the House position in that regard. It makes no changes in reimbursement rates for school lunches and breakfasts. At the same time, we have created a demonstration program, to allow up to 7 States to test the idea that if we give States a set amount of money, they can do a better job of serving low-income children than is the case with current programs dictated from Washington.

While not reducing reimbursement rates, we have improved the current program by eliminating a number of obsolete and unnecessary provisions and streamlining some of the piles of rules and paperwork that have burdened schools in running the nutrition programs.

I want to mention specifically the issue of nutrition standards, which are provided for in the legislation, both in the existing school lunch program and in the demonstration program. No one is in a better position to determine what methods school food authorities should use to ensure that school meals adhere to the Dietary Guidelines for Americans than the school food authority itself. The changes which the conference committee has made to section 9(f) of the National School Lunch Act, with identical language carried over to the demonstration program, are intended to give school food authorities the ability to use the method they determine is best suited to their individual needs. This includes the meal pattern regulations in effect during the 1994-95 school year, in addition to the methods described in the National School Lunch Act.

In addition, the conference agreement achieves savings by targeting, for the first time, funds under the family day care food program toward more needy families. Currently there is no means testing of this program. While I would prefer to go further, and fully means test this food program like we do all other food programs, at least we made some headway in targeting funds toward more needy families.

Mr. Speaker, as I said at the beginning of my comments, this is a good bill. It makes major changes, and at the same time addresses the concerns which the President and others have had, such as sufficient funding for child care. We have listened to these concerns, and addressed them. The question now is, "Will President Clinton have the courage to stick by his pledge to the American people to end welfare as we know it, or will he cave in to those who demand to keep the current failed welfare system?" I urge my colleagues to vote for the conference agreement, and I urge the President to join with us in truly reforming the failed welfare system.

Mr. GIBBONS. Mr. Speaker, I yield myself 30 seconds, and before I begin to speak, I would ask unanimous consent that I be allowed to yield my time to the gentleman from Tennessee [Mr. FORD], the ranking minority member on the Committee on Human Resources, and that he be granted authority to yield time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GIBBONS. Mr. Speaker, this is a lousy bill. The President is going to veto it so it will not ever become law.

The idea of giving block grants for this is like putting the money where the problem was a couple of years ago, not where the problem is today.

This bill is mean to children. Children are 70 percent of this bill, infants and children. It is mean to sick children, and it just should never become law.

We need welfare reform. Let us start over again, though, on this.

Mr. FORD. Mr. Speaker, I yield myself 30 seconds.

I would just like to point out the National League of Cities and the National Association of Counties and the U.S. Conference of Mayors, they have all indicated that this bill ends entitlement for Aid to Families with Dependent Children, thereby dismantling the critical safety net for our children and our families.

We have a letter also from five Senate Members addressed to the majority leader in the Senate praising the Senate for their work on the vote of 87 to 12 in passing the welfare package. But they wrote a letter saying that they have strong reservations about this agreement that is before the House today in this conference report, and I would urge all of my colleagues to take a look at this to see that this is a bad bill for children in this Nation and the welfare population.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, my colleagues, this is the night before Christmas, and history will record that the majority of the Members in this House decided that their priority before we go home for the holidays is to cut taxes by $245 billion. Sixty billions of those dollars will come out of the welfare program, and 70 percent of those dollars would normally go to children.

It has not been that many years ago we used to go to countries in South America and see people sleeping and living in the streets, and we said, "Oh, how disgusting." And now in every major city throughout these great United States we find those homeless children and homeless people.

In some of the countries the families just kicked the kids out into the street to rob, to steal, to beg, and we say, "Never in this country," and yet right now we are saying that this Federal Government will have no obligation to those children, that it would be left up to the Governors to decide what they should do. If the Governors decide that they cannot or will not do it, then they say, "Well, let the mayors do it." The mayor says, "For God's sake, don't give us that responsibility." But all of the Republicans say, "It is part of the contract, that just because you are poor and blind and disabled, you are not entitled. The only thing you are entitled to is to go to the charities."

And so, my brother and sister, what do they say? The National Conference of Catholic Bishops say, "Don't retreat from the Nation's commitment. Protect the poor children." The churches of the U.S.A., the American Jewish Congress, the National Councils of Churches, the United Church of Christ say, "Don't appeal to affluent people at the expense of the poor children."

This is the night before Christmas. Who would you want to listen to? Wall Street or our spiritual leaders?

Mr. ARCHER. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, this is truly an historic day. With this vote we arrive at a defining moment in our Nation's welfare reform debate.

□ 1315

At long last, the Congress and this President have an opportunity to show that we mean what we say.

We bring forward today a great bill, which includes participation and input from many Members on both sides of the aisle and the White House, a bill that after too long in waiting does truly reform our Nation's failed welfare system; not by rhetoric, but by substance. It turns today's welfare trap for the needy into a trampoline to self-sufficiency.

With this bill, we fulfill our promise to replace the failed welfare state, so that America's poor can achieve independence and enjoy successes that come from work. This bill achieves long overdue welfare reform by stressing work, personal responsibility, and the return of power and flexibility to the States.

Under this bill, welfare spending will continue to grow, by an average of 4 percent per year over the next 7 years.

The agreement provides more funds for childcare than under current law, but because the overall rate of growth in welfare spending is moderated, the conference report contributes to the goal of balancing the Federal budget by providing about $58 billion in total savings, relief for hard-working, tax paying Americans, who bear the load.

Finally, this agreement reflects a reenergized partnership with the States. For too long the needs of the poor have floundered on the flawed belief that Washington alone has all the answers; that Washington alone can provide for every need. It cannot, and it certainly cannot do so efficiently.

Local officials exercising local judgment can best determine how the poor can most help themselves and be helped where they need help. Helping America's poor was our goal when we began the process of reforming the failed welfare state, and this vote marks an historic step in that direction.

Mr. Speaker, with this vote we will have the opportunity to let our constituents know if we are for or against real welfare reform.

Earlier today 30 Governors signed a letter to the President calling on him to sign this bill, to keep his word, to put his name, William Clinton, on the line. But if he does not, he will demonstrate that when it comes to welfare reform, this President is all talk and no action. He said he would end welfare as we know it. If he vetoes this bill, he will be remembered as the very liberal President who kept welfare as we have it.

Mr. Speaker, this is a great bill and a great opportunity to solve one of our Nation's most vexing problems. The previous Congresses ignored the cries of Republicans and conservative Democrats by refusing to take action. For years, Republicans and conservative

Democrats worked together to achieve welfare reform.

With this vote, our efforts will be put to the test. This is a bill that only an extreme liberal could oppose. I urge all my colleagues to fix welfare and vote for this conference report.

Mr. FORD. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MATSUI], who serves on the Committee on Ways and Means, and who has been in the forefront of welfare reform for many, many years in this Congress and who has spoken very eloquently on this issue for the children of this country for a long time.

Mr. MATSUI. Mr. Speaker, I would like to thank the ranking member of the Subcommittee on Human Resources of the Committee on Ways and Means for yielding me time.

Mr. Speaker, I have to say that I am astonished that this bill has finally reached the floor of the House in the shape it finally is in. It is somewhat ironic, because the Republicans have indicated that this will get people on welfare off welfare and into the work force.

In fact, there is a requirement by the year 2000, 5 years from now, that 50 percent of those people currently on welfare will be either in jobs or through a job training program. That sounds wonderful, and if you just think of the goals and the vision, we all as Americans support that goal and that vision. The problem is, they do not provide the resources.

I think anybody who has thought this issue through knows that before a woman can go off welfare into the work force, she has to have some kind of training. Because of the economy in America today, we do not have that kind of opportunity for a lot of people who have not graduated from high school or college.

For example, we do not have file clerks in America today who file papers alphabetically. I remember when I was a kid going through college, I would come back home and work as a file clerk for the State of California. All those people around me that were working full-time were women who had minor children. That job does not exist anymore, because we are a computerized society in America, so those women today are probably on welfare, AFDC. So you have to provide some kind of training for them. You also have to provide some kind of transportation for them. But, most of all, because by the law anybody on AFDC, has minor children, you have to provide daycare for these people.

This bill does not have any of those provisions. They block grant generally AFDC and say OK, States, figure it out. You want to give this issue to the States. Think about it for a minute. The States, this is a group of States, 50 States, that have in fact messed up the education system of this country. Now you want to put AFDC and welfare in that mess as well.

This bill is mean spirited. It will put 2 million people into poverty, children into poverty. We need to vote down this conference report.

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from Georgia [Mr. DEAL] who spent so much time this year in developing an alternative welfare reform plan, one that was offered as the Democrat substitute earlier this year and received all of the votes on the Democrat side.

Mr. DEAL of Georgia. Mr. Speaker, let me at the outset say that I recognize that my colleagues on the other side of the aisle now are sincere in their concerns about welfare reform. There is one issue that should not be partisan in this House, it is not partisan with the American people, and that is that the current system does not work. So as we measure this bill today against a standard, it maybe should not be the standard of what each of us in our individual point of view might prefer, but against the standard of where we are and where we are headed.

Mr. Speaker, I would say that by all of those measurements, the conference committee report is a substantial step in the right direction. Many of us worked together on parts of the bill that we voted for earlier this year, and I would say that if you look at this conference committee report, it has moved substantially toward the version that we worked for. It is substantially toward the version. In fact, it exceeds our version that we voted for earlier this year in the critical area of work requirements. All of the first 7 years the work requirements are in excess of the bill we voted for, and we criticized the House-passed version for being weak on work. This takes it even beyond where we were.

In terms of childcare, and I agree with the previous speakers that childcare is an important component of this, childcare funding has been substantially increased.

I would urge us to look at the bill compared with the system that is broken. I commend the conferees. I urge the adoption of this conference report.

Mr. FORD. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts [Mr. NEAL], who has cochaired the Democratic Task Force on Welfare and served on the Committee on Ways and Means and who has worked with all Democrats and tried to work with the Republicans as well on welfare reform.

Mr. NEAL of Massachusetts. Mr. Speaker, the essential point to remember here today, as the gentleman from Georgia [Mr. DEAL] has accurately said, in March of this year 204 Democrats came together to offer a tough and fair alternative. I helped to convince the Democratic caucus that this debate had shifted and we should move it to the center.

But the gentleman from Georgia [Mr. DEAL] is also correct, and I disagree with my friend, the gentleman from Texas [Mr. ARCHER], this proposal that we are being asked to vote on today is indeed extreme. Now, do not take it from me as one who has been immersed in the detail of the welfare legislation debate for the last year. Take it from ARLEN SPECTER, take it from JOHN CHAFEE, take it from BILL COHEN, from OLYMPIA SNOWE and JIM JEFFORDS, who have said in a letter to Senator DOLE dated yesterday, "We are therefore dismayed at the significant changes made to the Senate bill in conference and are writing to let you know of our strong reservations about this agreement."

The bill that the gentleman from Georgia [Mr. DEAL] offered here 9 months ago was a good strong piece of basic legislation. It involved a work requirement, it involved a time limit, but it also offered transitional assistance in the amount of $10 billion to women who were trying to get into the work force.

Yes, this debate has shifted, but it has shifted to an extreme element that is trying to change the contours of this debate. The truth is that the bill that this Democratic caucus voted for was the right bill, that was in the center, where all Americans are on this debate.

Mr. FORD. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. CLAY], the ranking member of the Committee on Economic and Educational Opportunities, one who has been active in this debate on welfare reform.

Mr. CLAY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to oppose this conference report. Descriptions of the Republican welfare plan have exhausted nearly every pejorative term found in Webster's Dictionary. "Heartless," "Cruel," "Meanspirited," "Disgraceful"; take your pick because each description is tragically accurate.

Under the guise of welfare reform, this bill would swell the ranks of the poor by more than 1 million children. How can our Nation be called civilized when the majority party in this Congress comes up with a proposal that would visit such dire, chaotic consequences on poor children?

For reasons totally unrelated to welfare reform Republicans want to experiment with programs which for decades have fed millions of children in schools and childcare centers. It is one thing to tinker with the names of Federal buildings, but another to tamper with the daily bread of little children.

Five million poor children were served a nutritious breakfast at school this morning, free of charge. Twenty-four million children will receive a nutritious school lunch this afternoon. Nearly half of these lunches are provided to poor children free of charge, and nearly 2 million lunches to low-income children at reduced prices.

Mr. Speaker, under the guise of eliminating bureaucracy and giving Governors flexibility, this conference report allows hunger prevention programs to be block granted. To experiment with these highly speculative block grants for nutrition and health programs is like playing Russian roulette with the lives of our young people.

For the past month, the Senate and House Republican conferees have had a food fight over school lunch block grants. They delayed final consideration of this conference report for months over an issue that has very little to do with welfare. Now, they have reached an agreement that would allow seven States to eliminate the Federal guarantee that every poor child will receive at least one solid meal a day.

I urge defeat of this heartless conference report.

Mr. SHAW. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas [Mr. ROBERTS], the distinguished chairman of the Committee on Agriculture.

Mr. ROBERTS. Mr. Speaker, we all know that welfare reform has become a front-burner topic in this town and throughout the Nation. Last November the American public spoke decisively on wanting change. Welfare reform was a central theme in last fall's election. The House of Representatives has responded to the American public and I believe that real welfare reform can be found in the conference report before the House today.

The changes incorporated in the conference report on H.R. 4, the Personal Responsibility Act, represent real change. I congratulate members of the Committee on Agriculture and all Members who worked diligently on reforming the Food Stamp Program and the present welfare system.

The very first hearing held by me in the committee was on enforcement in the Food Stamp Program. Following that hearing, the chairman of the subcommittee held four hearings on the Food Stamp Program. From the testimony received in these hearings the committee formulated the principles that guided its reform. The conference agreement reflects these principles.

First, keep the Food Stamp Program as a safety net so that food can be provided as a basic need while States are undergoing the transition to State-design welfare programs.

Second, harmonize welfare and the Food Stamp Program for families receiving benefits from both programs.

Third, take the Food Stamp Program off automatic pilot.

Fourth, able-bodies participants without dependents must work in private sector jobs.

Fifth, tighten controls on waste and abuse and curb trafficking with increased penalties.

The Food Stamp Program provides benefits to an average of 27 million people each month at an annual cost of more than $25 billion. For the most part these benefits go to families in need of help and are used to buy food. There is no question in my mind that the Food Stamp Program helps poor people and those who have temporarily fallen on hard times. However, there is also no question in my mind that it is in need of reform.

The conference agreement reflects the principle that the Food Stamp Program should remain a Federal program. States will be undergoing a transition to State-designed welfare programs. During this period the Food Stamp Program will remain the safety net program and able to provide food as a basic need while this transition is taking place. The Food Stamp Program will remain at the Federal level and equal access to food for every American in need is ensured.

Given the hearing record, public support for real reform, and the dollars involved, the conference committee could not continue the program without significant reforms. The five hearings held in the Committee on Agriculture between February 1–14, 1995, dictated the course of the changes needed in the Food Stamp Program.

The agreement in the welfare reform conference adopted these changes. The Food Stamp Program is taken off of automatic pilot, except for annual increases in the cost of food, and control of spending for this program is returned to Congress. The food stamp deductions are kept at the current levels instead of being adjusted automatically for increases in the Consumer Price Index. Food stamp benefits will increase to reflect increase in the cost of food. Food stamp spending will no longer grow out of control. Oversight from the Agriculture Committee is essential so that when reforms are needed, the committee will act.

States are provided the option of harmonizing their new AFDC programs with the Food Stamp Program for those people receiving assistance from both programs. Since 1981, the committee has authorized demonstration projects aimed at simplifying the rules and regulations for those receiving assistance from AFDC and food stamps. States have complained for years about the disparity between AFDC and food stamp rules. This bill provides them the opportunity to reconcile these differences. It is now time to provide all States with this option.

The conference agreement on H.R. 4 contains a strong work program. Abled-bodied persons between the ages of 18 and 50 years, with no dependents, will be able to receive food stamps for 4 months. Eligibility will cease at the end of this period if they are not working at least 20 hours per week in a regular job. This rule will not apply to those who are in employment or training programs, such as those approved by the Governor of a State. A State may request a waiver of these rules if the unemployment rates are high or if there are a lack of jobs in an area. Republicans are not heartless, we just expect able-bodied people between 18 and 50 years, who have no one relying upon them, to work at least half-time if they want to continue to receive food stamps.

It is essential to begin to restore integrity to the Food Stamp Program. Incidences of fraud and abuse and losses to the program are steadily increasing and the public has lost confidence in the program. There are frequent reports in the press and on national television concerning abuses in the Food Stamp Program. Abuse of the program occurs in three ways: fraudulent receipt of benefits by recipients; street trafficking in food stamps by recipients; and trafficking offenses made by retail and wholesale grocers. H.R. 4 doubles the disqualification periods for food stamp participants who intentionally defraud the program. For the first offense the disqualification period is changed to 1 year; for the second offense the disqualification period is changed to 2 years. Food stamp recipients who are convicted for trafficking food stamps with a value over $500 will be permanently disqualified.

Trafficking by unethical wholesale and retail food stores is a serious problem. Benefits Congress appropriates for needy families are going to others who are making money from the program. Therefore the conference agreement limits the authorization period for stores and provides the Secretary of Agriculture with other means to ensure that only those stores abiding by the rules are authorized to accept food stamps. Finally, the conference includes a provision that all property used to traffic in food stamps and the proceeds traceable to any property used to traffic in food stamps will be subject to criminal forfeiture.

The electronic benefit transfer [EBT] systems have proven to be helpful in reducing street trafficking in food stamps and have provided law enforcement officers a trail through which they can find and prosecute traffickers. EBT systems do not end fraudulent activity in the Food Stamp Program; but they are instrumental in curbing the problem. Additionally, EBT is a more efficient method to issue food benefits for participants, States, food stores, and banks. For all of these reasons we include changes in the law to encourage States to go forward with EBT systems they deem most appropriate. Also the bill we are considering today lifts the restriction placed on State EBT systems by the Federal Reserve Board. This restriction is known as regulation E and it has hindered State progress on converting a coupon delivery system to an EBT system.

Mr. Speaker, this bill and the Agriculture Committee's contribution to the bill represent good policy. We have kept the Food Stamp Program as a safety net for families in need of food. We have taken the program off of automatic pilot and placed a ceiling on spending. We save $30 billion over 7 years. Congress is back in control of spending on food stamps. If additional funding is needed Congress will act to reform the program so that it operates within the amount of funding allowed or provide additional funding when necessary. States are provided with an option to harmonize food stamps with their new AFDC programs. We take steps to restore integrity to the Food Stamp Program by giving law enforcement and USDA additional means to curtail fraud and abuse. We encourage and facilitate EBT systems. We begin a strong work program so that able-bodied people with no dependents and who are between 18 and 50 years can receive food stamps for a limited amount of time without working.

This represents good food stamp policy. I hope all Members will agree with me and support the conference agreement on H.R. 4, the Personal Responsibility Act of 1995.

□ 1330

Mr. FORD. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WATERS], who has been very active with the Democratic Task Force on Welfare Reform.

Ms. WATERS. Mr. Speaker, this conference report is not welfare reform. I support real welfare reform. I support transitioning recipients from dependency to work, to real jobs. This is simply slash and burn, causing 1.5 million more children to fall into poverty. If this is supposed to be welfare reform, why can we not assist these mothers in getting job training and getting education and transitioning into the job market? No, we do not do this.

This bill cuts job training. It simply block grants it, throws it to the States and says you train them. It is a mandate on local government and we do not fund it. If this is supposed to be welfare reform, why on heaven's earth do we cut child care? It does not take a rocket scientist to know that if mothers are to go to work, they must have child care.

To add insult to injury, this bill takes the safety net from child care protective services. As a matter of fact, I am shocked and surprised. Every time a child is murdered, like little Alicia up in New York, little Lisa 2 years ago in New York, we cry and bemoan the fact another child has been killed, yet we cut child care protective services. This bill is a sham. This is not real welfare reform.

Finally, Mr. Speaker, let me tell Members, because we block grant, we take away the possibility that when the middle-class clients and citizens lose their jobs or they are laid off and they want a little temporary help, if their State is in a recession, they are not going to be able to get it because with this block granting we say when the money runs out, it runs out. There is no guarantee. There is no safety net, and so middle-class families who find themselves in a little difficulty will not have any support from welfare because we are taking away the safety net from them.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. TALENT].

Mr. TALENT. Mr. Speaker, I thank the gentleman for yielding me time. I think colleagues refer to the historical context of this bill and also talk about the terrible job the States were doing with welfare. So I think it may be appropriate to respond a little to that.

Let us look at the historical context. In the immediate postwar era of 1948 the poverty rate in this country was about 30 percent. That was when the States and localities were handling welfare. It declined to about 15 percent in 1965, when the Federal Government declared war on poverty and took over the welfare system. In the last 30 years, the Federal Government has spent or mandated in State spending $5 trillion in entitlement spending and the poverty rate, which was 15 percent 30 years ago, is 15 percent today.

What we have gotten a sixfold increase in the out-of-wedlock- birthrate. And the reason is the two best antipoverty programs are marriage and work, and the Federal Government has brilliantly conditioned welfare assistance on the people doing neither. That is the historical context of this bill.

Mr. Speaker, what we have done is taken away from the lower-income Americans in this country the institutions that make them happy, that make them secure, family, work, responsibility, and we have given them Government, and it has been a total failure.

What does this bill try to do? It changes the welfare system so that, among other things, instead of punishing work, we encourage it and, in many cases, require it for able-bodied Americans. The bill says to the States they must have by about the end of the decade about 50 percent of the caseload working, and we mean actual work at actual labor, what the average American means by work.

Is this workable? It has been suggested it is not. Of course it is workable, if by work we do not mean we have to train them to be a vice president; if by work we do not mean we have to have a bureaucrat work out a personal employability program for them that will take 18 months before they have to do anything.

There are States already implementing real work requirements under waivers. Gov. Tommy Thompson of Wisconsin, when somebody applies for welfare there, if they do not have a small child at home who needs day care, he says, OK, go out, get work. And it has shrunk the welfare rolls.

Mr. Speaker, it is a good bill. If individuals are not liberals that believe in the failed system, they will be for this bill.

Mr. FORD. Mr. Speaker, may we inquire as to how much time is remaining on both sides?

The SPEAKER pro tempore (Mr. LINDER). The gentleman from Florida [Mr. SHAW] has 17½ minutes, and the gentleman from Tennessee [Mr. FORD] has 19½ minutes remaining.

Mr. FORD. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida [Mrs. THURMAN].

Mrs. THURMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

I stand here today as one of those who was the cosponsor of the first Democratic bill that we put forth on this floor, and I felt very strongly at that time that it was a good bill. Let me just point out to the gentleman from Georgia [Mr. DEAL], who spoke earlier, that we are still short in carrying out the work requirements of about $7 billion, according to CBO.

I want to talk about two other issues, Mr. Speaker, that I have heard on this floor for the last couple of months. The first one was that we had to move this Government closer to home, to let those people make the decisions, those people that are elected in our local governments and our State legislatures.

Well, let me address the first issue, because these folks are saying H.R. 4 is the wrong way to go. They have sent out a letter and mentioned six very prominent points of concern that they have in this piece of legislation.

I want to talk about a second part of this letter, however, one that I supported on this floor in the beginning of the 104th Congress, one of two items in the contract that has gone to the President to be signed and that was an unfunded mandate.

The first time this is being tested these folks are saying we are going to create new unfunded mandates for local governments. Do not break your contract already.

Mr. FORD. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY], the real champion of child support enforcement in this Congress and our friend.

Mrs. KENNELLY. Mr. Speaker, 3 days ago the Clinton administration approved my home State of Connecticut's welfare reform plan. Under this waiver, Connecticut will have the strictest time limit on welfare benefits in the country, 21 months, and children born on to welfare will have reduced benefits.

Along with these penalties, the plan will also provide certain rewards, including transitional child care and medical assistance for those leaving welfare for work.

I should point out that 34 other States have also had welfare reform plans approved by the current administration. So despite what some may say, the legislation before us is not necessary to provide States with the flexibility to implement their own reforms.

The main goal of this legislation would truly achieve would be to eliminate basic Federal protections for children. I do not think the American people believe that should be the central goal of welfare reform.

Americans want people to receive paychecks instead of welfare checks. For the life of me, I do not see how much of the bill before us would promote that fundamental goal. I do not understand what cutting SSI benefits for 1 million disabled children has to do with promoting work.

I do not understand what reducing food stamp benefits for 14 million children has to do with promoting work. I do not understand what eliminating the guarantee of services for foster-care families has to do with promoting work. I do not understand what block granting school lunches has to do with promoting work. And I do not understand what throwing 1.5 million children into poverty has to do with promoting work.

I very much want to vote for legislation that reforms our welfare system. But the bill before us is not welfare reform. It is merely a list of spending cuts on nearly every program designed to help children.

Real welfare reform focuses on how to move people from welfare to work. That means training, child care, medical assistance, and a strict requirement that you better be working or moving toward work.

Let us get back to that central goal. Instead of renouncing any Federal role in safeguarding children, let us pass legislation that demands responsibility, rewards work, and protects children.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CAMP], a distinguished member of the Committee on Ways and Means.

Mr. CAMP. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, today the Congress is presented with a historic opportunity to end welfare as we know it. The welfare system we have come to know is one that has failed. It has failed those dependent upon it. And it has failed the American people who believed it would end poverty. Nothing could be crueler or more heartless than the current system.

Our current welfare system imposes excessive bureaucratic regulations and guidelines on States. There are more than 340 different Federal welfare programs. In my State of Michigan, caseworkers spend 80 percent of their time complying with Federal regulations. The other 20 percent of their time is spent on personal contact with recipients. It is personal contact that often makes the difference between an individual's success and failure.

The Personal Responsibility and Work Opportunity Act would allow caseworkers more time to work directly with recipients instead of pushing paper. We eliminate unnecessary and duplicative programs. We block grant to the States in key areas including AFDC, child protection and child care $4 billion more than current levels for greater flexibility and effective targeting of critical welfare resources. We empower people to take responsibility for their lives so that success stories of individuals and families lifting themselves from poverty will become the norm instead of the exception.

Under our bill, Federal, State, and local officials will work in concert to move welfare recipients from a life of poverty and government dependence to a life of success and self-reliance. It also includes the State maintenance of effort requirement supported by Democrats and the administration that requires States to maintain spending on welfare programs.

In a bipartisan effort, we also strengthen paternity establishment and force deadbeat parents to pay child support. Most importantly, as my colleagues on the other side of the aisle and the President will agree, our bill not only encourages work, it requires it.

Support the conference report, end welfare as we know it.

Mr. FORD. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Speaker, I rise in opposition to the conference report. The only entitlements being taken away by the Republican majority are means-tested entitlements to the poorest people in America. I hope we vote "no" on this bill.

Mr. FORD. Mr. Speaker, I yield 1 minutes to the gentleman from California [Mr. FAZIO], the distinguished chair of the Democratic caucus here in the House.

Mr. FAZIO of California. Mr. Speaker, I thank my colleague from Tennessee for yielding me time.

Mr. Speaker, like any system its age, the welfare program needs to be reformed. The current system hinders self-sufficiency. It chips away at recipients personal dignity, perpetuates a cycle of poverty, and promote dependency.

But you can't reform welfare by simply taking away benefits while ignoring the basic needs that make people self-reliant—education, job training, and child care. Nor can you ignore the need for adequate nutrition and health care. You simply cannot mandate work without giving people a chance to develop the skills and work habits needed to support their families.

Unfortunately, the Republican bill on the floor does exactly that. They're not moving people off welfare to work—where they can take responsibility for their families. They're kicking them and their children into the streets.

What have we accomplished if all we do is take away the safety net and create a permanent underclass of unemployable people? What happens to the children who will grow up hungry, shelter bound, and poorly educated? These children deserve more than this bill is prepared to offer—they deserve a real future.

We know from looking at welfare-to-work programs that are successful, that there are two key elements that make real reform possible: job training and education. The proposal before us today fails miserably in both areas. This bill makes no accommodation for young mothers earning high school degrees. Instead, it simply mandates that they find a job. I don't know about you, but I am not aware of many employers anxious to hire teenage mothers without diplomas and without child care for even minimum wage jobs in this country.

As far as health services are concerned, the bill takes away the guarantee that those currently on assistance receive Medicaid benefits. So when they get sick, the people at the lowest income level in this country cannot get medical help.

The bill cuts food stamps by $35 billion, and that's not just a number—it's 14 million children who are now fed by the program who will be removed. Only overwhelming opposition from both the Democratic and Republican parties prevented he School Lunch Program from also being decimated by this bill. How does taking the food out of the mouths of children help to reform the welfare system?

We have talked a lot about family values in this Congress. Where are those values now when we are trying to take people from poverty to productivity? How is valuing poor children less than our own children, who we have raised and loved, a family value?

I urge my colleagues to approach welfare reform with a long term view toward the future productivity of this country and not just a short-term goal toward saving a few tax dollars. If we truly hope to save money on the cost of welfare over time, we need to provide a transition that translates into permanent job responsibility.

Welfare reform isn't just about saving money—it's about saving families. Let's support welfare reform that allows these families to become responsible and self-reliant. If we save families, the savings in dollars and human lives to this country will be huge.

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Mr. FORD. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DE LA GARZA], the distinguished ranking member of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, I regret exceedingly that I cannot vote for this conference report for a multiplicity of reasons. I, like many of my colleagues, came here willing and wanting to reform welfare as we know it, as it is being called here. Unfortunately, this legislation does not do that.

Mr. Speaker, in my estimation, it is used as a camouflage to go after programs we do not like. We are using the budget. We are using welfare reform to shut down programs that we do not like. I am more concerned, and I feel it very sincerely and I feel it in my heart, that we are targeting people that we do not like. That is what we are aiming at.

My colleagues can call it welfare reform, call it what they want. I can take my colleagues to the neighborhood; I can take them to the State; I can take them to the region; and, I can show them that this is targeting at its best people that they do not agree with, areas that they are not concerned about.

Mr. Speaker, I have a lot of need in my district. Everyone I meet wants to cut fraud and abuse. This does not give the State the tools to reduce fraud and abuse. My Republican colleagues are just shifting it over to the State. We took it over because the States had not done that.

Now, Mr. Speaker, a little bit about the conference. I say it with frustration and sadness. I never went to a conference committee meeting, except the initial meeting. I was not even asked to sign the report. I do not know who decided. I do not know where they met. I do not know when they met. I do not know when they put it in writing. Mr. Speaker, I am the ranking member of the Committee on Agriculture that has a section of this bill.

Mr. Speaker, I wanted to talk, also, about the aliens, legal aliens. There is a Congressional Medal of Honor winner, Jose Francisco Jimenez, who died serving this country who was not a citizen. Lance Corporal Jimenez was a Marine killed in Vietnam in 1969. He lived in Phoenix, was a Mexican citizen, but in the Untied States legally. My colleagues on the other side would aim at him and all people like him. Shame on those who want to target people that cannot defend themselves.

Mr. Speaker, House Democrats and Republicans, Senate Democrats and Republicans, and President Clinton share a common goal—all agree that welfare reform is urgently needed. Reform is needed not only for the recipients of welfare, who many times are trapped in a cycle of poverty from which they cannot escape, but also for the American taxpayers who deserve a better return on their investment in our future.

Currently, the American people lack confidence that many of our welfare programs, as they are currently designed, are really benefiting the recipients. This lack of confidence should not be translated into the idea that the American public is unwilling to spend any money on the needy. In fact, a recent Nielsen survey finds that 95 percent of Americans rate hunger and poverty issues equal to the issues of health care and a balanced budget. The lack of confidence in our welfare programs comes from the perception that waste, fraud, and abuse permeates many programs. These allegations need to be addressed in order to restore the confidence of the American people. However, we must be sure that we are addressing legitimate allegations and not some headline catching editorial writer whose hidden agenda is not program reform, but program elimination. It should be interpreted as a desire by the public to make sure that these programs are effectively designed and monitored to be effective and eliminate waste, fraud, and abuse.

We must remember that our goal is to reform welfare in order to move people toward self-sufficiency. Reform by itself is a hollow word. Reform for reform's sake is meaningless. We aren't OMB, CBO, or GAO. We can't work in the vacuum of numbers only. We cannot let the bureaucrats with the green eye shades determine what path reform will take. We are Members of Congress. It is our responsibility to put faces with these numbers. We must interject the human element into the process in order to ensure that real need is addressed in welfare reform. We must ensure that our children and the aged and disabled are not left unprotected. We must remember that a dollar spent now can actually result in saving thousands of dollars later, if we help produce a future tax paying citizen.

We must determine the policy that will move people toward self-sufficiency. This must be a policy-driven bill, not one that is driven by empty, faceless numbers that are wrong as many times as they are right.

When we look at these many programs designed to help the poorest of the poor, we must have the wisdom to be able to distinguish between those programs and policies that are working and filling a legitimate need and those that are not. We must not get wrapped up in the idea that just any reform is good reform. We must be deliberative and compassionate. We must have reform that meets the numbers, and not numbers that determine the reform.

When I go home to the 15th District of Texas every weekend, I am returning to one of the poorest areas of our country, an area where unemployment is in the double digits and newly arrived immigrants are searching for the American dream. Lest anyone think that there is no real need for many of these programs, one out of every two children in my district is living in poverty. My constituents don't want a hand-out. They want jobs. They want economic development. They want the American dream. These are the people we must help. These are the people for whom we must redesign these programs to help them achieve their desire of becoming successful citizens.

I am particularly concerned about what this bill will do to the Food Stamp Program, our frontline in the fight against hunger. It will jeopardize the nutritional status of millions of poor families because of a basic misunderstanding of how the program works. The perception is that this program is out of control, that hundreds of thousands of families are added to the food stamp rolls every month. The reality is something very different. Over the last year, as the economy has improved, food stamp participation has actually dropped by over 1 million people. This vital program is clearly filing a very real need. If the need isn't there, the program doesn't continue to expand, but if the need is there, the program is there to meet it.

The block grant provisions in this bill will set funding at levels well below that necessary to feed hungry families in times of recession or if food prices increase. If block grants had been chosen by all States in 1990, the Food Stamp Program would have served 8.3 million fewer children.

The funding cap imposed by this bill will put huge holes in the nutritional safety net. A cap takes away the flexibility to accommodate a decrease in a family's welfare benefits and the resultant increase in food stamp benefits. Efforts to raise the cap in the future by a well-intentioned Congress will be virtually impossible, requiring an offsetting tax increase, a cut in another entitlement, or an emergency designation.

To assure adequate nutrition and the good health of our poor families, the calculation of food stamp benefits must take into account extremely high housing expenses. The conference report limits this calculation, leaving poor families with children who pay more than half of their income for housing with less money to buy food. The provision will result in more hungry children.

We all want families on welfare to be self sufficient—they want to be self sufficient. But, the way to make families self sufficient is not to deny them food stamps after 4 months. Eighty percent of the able-bodied recipients between the ages of 18 and 50 receive food stamps on a temporary basis already, they leave the program within a year. What these people need most is the opportunity to work—job training, or a job slot. This bill simply kicks them off the program, without a helping hand to find a job.

Let me say once again, that we must reform these programs without the draconian cuts in funding. The goal should be to get more poor people into the work force, not to simply cut funding. By the year 2002, this bill will reduce benefits to families with children by 15 to 20 percent. Such cuts are unconscionable.

Finally, I must express the serious concerns that I share with my friends on the Congressional Hispanic Caucus about the provisions denying benefits to legal immigrants. Legal immigrants who work hard, play by the rules, pay taxes, and contribute greatly to our communities and society should not be denied access to social services when they fall on hard times, or when their sponsor falls on hard times. By denying benefits to legal immigrants, we will be shifting the responsibility to the States without any assistance from the Federal Government. State health care costs will increase as well as the costs to run State general assistance programs. I am shocked and saddened at the meaning of these provisions.

The American people are not mean-spirited. They do not want children to be poor and hungry. This bill will push 1 million children below the poverty line. How can we allow such a thing to happen? I urge Members to remember that we are reforming the programs that impact the most vulnerable of our constituents. We must remember the faces of the poor and hungry of our Nation. We must vote against this misguided attempt at welfare reform.

Mr. SHAW. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Washington [Ms. DUNN], a distinguished member of the Committee on ways and Means.

Ms. DUNN of Washington. Mr. Speaker, I am relieved and gratified that the Senate and the House have finally agreed on a proposal that will end welfare as we know it. I believe everybody in this body would agree that the cruelest thing of all, Mr. Speaker, is to limit the ability of poor women to seek gainful work and condemn those women and their children to a life of hopelessness and dependence, where often in their child's life there is never a strong role model, a parent who works and provides for the family.

Nowhere is there a better example of where the current system has failed the family than in the area of child support. Mr. Speaker, today in our Nation $34 billion is owed in back child support, court-ordered child support by deadbeat parents who have walked out on their families.

The new child support provisions in this bill are the toughest ever passed by Congress. Under our bill, States will finally receive the assistance they need to track down deadbeat parents, especially the 30 percent who leave the State to escape their responsibilities.

Child support payments can be the difference between forcing a single parent, usually the mother, onto welfare or helping her make it on her own. Our bill helps these custodial parents stay off welfare and provides them the support they are owed so that they can make a better life for themselves and, even more importantly, for their children.

Mr. Speaker, now is the time for the President and all our colleagues to stand up for the Nation's custodial parents and their children, and to recognize our efforts to accommodate their concerns so that we truly can "end welfare as we know it," as the President pledged.

Mr. FORD. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, I would like to respond to the gentlewoman from Washington [Ms. DUNN], my colleague on the Committee on Ways and Means, and to just say to my Republican colleagues that there would not be a single child support enforcement provision in this bill had it not been for the Democrats, who insisted upon this provision being in the bill.

Mr. Speaker, I yield 1 minute to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Speaker, there are nearly 10 million children who are poor and who are victims of circumstances. These are the children that we are attempting to address in this so-called welfare reform bill.

Mr. Speaker, I rise today to ask my colleagues to consider their circumstances. The only possible reason for voting for a welfare reform bill is if we have taken into consideration their circumstances, and improved their potential to have a better life in their respective communities. I say that this bill falls so far short that it is a tragedy to call it welfare reform.

Mr. Speaker, what we have done is to make an example for everyone to believe that we are doing something about the welfare system and trying to create a better circumstance for these families so they can get jobs. But look at the details of the bill.

Mr. Speaker, my colleagues on the other side have taken away child care. How can anyone go to work if they do not have child care opportunities? How could there be a better circumstance for these people if we cut them off of Medicaid support? This bill is a tragic example of harming our children, and I urge a "no" vote on the conference.

Mr. Speaker, I rise to express my outrage at the welfare reform legislation before us which promises harm to the most vulnerable Americans—the poor, the elderly, the disabled, and especially the children. Under this bill, appalling statistics we already face will worsen; 10 million of the 14 million Americans relying on welfare are children, and more than 1.5 million additional children could be forced into poverty under this bill that abolishes the essential safety net for poor families. It is a shame that the new majority in Congress, in the richest country in the world, has put such a low priority on children.

We would all like to say that American children are born into happy families with two loving parents and a warm home. We want to see our children provided with everything they need to grow into productive and responsible adults.

Instead, millions of American children are not this lucky. Many live in squalor, in rundown homes with tattered clothing and without food because a parent has lost a job or was injured or even killed. These are children of unfortunate circumstances. They do not deserve the punishment held in this irresponsible and shortsighted welfare bill. The new majority in Congress in crafting this bill was ended our contract with American children—to provide these children and their parents with a break when they are down on their luck.

During the first debate on this bill in March, every single Democrat supported a welfare reform proposal that continued the basic entitlement making up the Federal safety net for poor families. This bill before us removes the entitlement status and block grants many programs in the safety net, assuming that States will be able to make up the difference. States will be left vulnerable during recessions, when the numbers of those needing Government assistance always increase. The end of the entitlement means that no matter how many children may come to need cash assistance, child care, food, or protection from abuse or neglect, thousands of children per State will be without these services—discarded by the new Republican majority.

The bill fails low-income families who hold tremendous value for the work force by underfunding work programs, despite many success stories we hear from families who—with jobs paying a living wage—moved from poverty to self-sufficiency. Congressional Budget Office [CBO] figures show that conference report provisions combining work programs and cash assistance into a single block grant to the States falls $14.1 billion short of what CBO predicts will be needed over the next 7 years. Tough work requirements in the bill will hit States who will be forced to pay penalties for failing to comply. Cancelled work programs will deny low-income families the chance to escape poverty.

Child care, an essential component of the safety net, is also underfunded by $6 billion through fiscal year 1996, according to CBO. Neither States nor working poor families can be expected to comply with the bill's strict work requirements without providing adequate child care. Low-income parents already have very limited choices in this area compared to higher-income parents. Cuts in assistance make it virtually impossible for working poor families to secure quality child care that will assure their child's well-being while they work. Every parent should have access to safe, affordable child care.

The bill robs poor families of vital health care assistance. By severing the link between welfare and Medicaid, this Republican bill would add 3.8 million children and more than 4 million mothers to the scores of Americans without health insurance. This is in addition to proposals to block-grant the Medicaid Program which would guarantee that only a few children in a handful of States would be vaccinated. These so-called Medicaid reforms will put the health status of poor Americans children below those in many developing countries.

The new majority would dare to punish children who face special, everyday difficulties as a result of illness or physical impediment. The bill would cut by one-fourth Supplemental Security Income [SSI] for children with disabilities such as cerebral palsy, Down's syndrome, muscular dystrophy, cystic fibrosis, and AIDS. By 2002, 650,000 disabled children will be unable to receive SSI through harsh new eligibility requirements. Children whose benefits are reduced would suffer from reductions in assistance from 74 to 55 percent of poverty.

This bill fails poor Americans in their essential nutritional needs. This bill would block-grant the Food Stamp Program to threaten its future existence. Cuts of $32 billion in food stamps would hit families with a 20-percent reduction in average benefits, decreasing the per meal benefit from 78 to 62 cents. In denial of advances of the past three decades made in the nutritional safety net for poor households, this bill revises food stamps to eliminate all Federal standards, State assurances and flexibility to accommodate factors such as inflation, population growth or negative economic conditions.

Not only would this bill deny food to poor families at home, but also to children at school and to the country's smallest children. This Republican conference report would undermine the school lunch program by allowing a number of States to opt for block-grant funding—a move that would fail to allow for increasing costs of food faced by most schools today.

Programs which have protected millions of American children have been repealed under this bill, disregarding annual reports of child abuse and neglect of as many as 2.9 million children. This bill would block-grant foster care and adoption assistance funds which would cripple the ability of these programs to rescue children from abusive or unsafe situations, place children in appropriate homes, and recruit and train foster parents and parents wanting to adopt.

Finally, this bill scapegoats legal, taxpaying immigrants in this country, despite the fact that immigrants pay the Federal Government more than $70 billion in taxes annually—$25 billion more than immigrants use in services. The Republican plan unfairly restricts immigrant access to the safety net, arbitrarily prohibiting America's 22.6 million foreign-born residents from receiving food stamps and SSI unless and until they become citizens. States would be given the option to bar legal immigrants from Medicaid, temporary assistance for needy families, and title XX social services block grants. School lunches are arbitrarily denied to certain categories of immigrant school children—an unfunded mandate which would impose massive administrative burdens on schools. By denying Women, Infants and Children [WIC] assistance to certain categories of pregnant women who are immigrants, this legislation ignores clear medical evidence that WIC has contributed to lower infant mortality and reductions in the incidence of low birthweight babies. It is outrageous to abandon immigrants who have complied in every way with U.S. law and who have earned their right to live peacefully in this country.

This Republican welfare reform conference report unrealistically looks at poor families as lazy castaways who want to receive welfare rather than work. It says if you are poor, you have to find a job but don't deserve job training or search assistance. It says if you are poor, your children aren't good enough for quality child care or health care. It says if you are poor, you are a second-class citizen whom the Government has no duty to help.

The new Republican majority in this bill deserts poor American children who need food, shelter, health care, protection, and other programs critical to their existence. I very strongly urge my colleagues to vote down this egregious legislation for the sake of America's children.

Mr. SHAW. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I would like to acknowledge to the gentleman from Texas [Mr. DE LA GARZA] my friend, there have been more Mexican-Americans win the Medal of Honor than any other group in the United States. They were here legally.

Mr. Speaker, this bill also affects, especially for the border States, illegal immigration. If you are here in this country illegally, I do not care if you are Irish, I do not want you to get a penny of services that the taxpayer pays for.

Just in the State of California, there are 800,000, we use the term 400,000 so that the figures cannot be disputed, illegal aliens K through 12. At $1.90 a meal, that is $1.2 million a day just on the school meals program. At $5,000 to educate a student, it is actually $4,750 in California, that is $2 billion to illegals.

Governor Wilson, $400 million in just emergency services, $400 million in emergency services just to illegal aliens. This bill eliminates services to illegal aliens. Let us focus on legal residents of this country that are in need. Take it away from those that do not belong here and have come here illegally and focus on what the system needs to take a look at.

Mr. Speaker, I submit the following article for the RECORD:

[From the San Diego Union-Tribune, Dec. 21, 1995]

MEDICAID SYSTEM HANDCUFFS CALIFORNIA

(By Pete Wilson)

Contrary to what the weather maps indicate, a hot-air front has stalled over the nation's capital. It's hot air in the form of deception and distortion over the transfer of income support programs to the states.

President Clinton and the congressional Democrats would have us believe that the current Medicaid system protects all vulnerable populations—and that, without the benevolent oversight of the federal government, those populations would be denied needed care and thus devastated by the insensitivity of callous governors. The former governor of Arkansas wants you to believe that current governors can't be trusted with the reins.

Regrettably, it's the same kind of shabby scare tactics that the White House used in the "Mediscare" campaign to hoodwink the elderly into believing that Republicans were cutting the bottom out of their safety net. The truth was, Republicans proposed reducing the increase in Medicare spending to 7.2 percent. In fact, in September 1993, Hillary Rodham Clinton suggested slowing Medicare growth "to about 6 or 7 percent annually."

With respect to Medicaid, the White House and liberal Democrats in Congress have been even more disingenuous. They want you to believe that governors who have balanced budgets—even with limited resources—can't be trusted to manage block grants without savaging the poor (as though anyone would want to savage the poor.)

The truth is, the "benevolent" federal government has fostered a Medicaid system that prevents states from helping their own residents. Here in California, for example, many children, families and low-income pregnant women are excluded from eligibility categories established by the Federal Government. Consequently, two-thirds of California's disadvantaged families lack health insurance.

To try to mend holes in the current system, California has chosen to use state-only money to fill in the gaps in Medicaid coverage created by Washington. We've implemented a program to provide prenatal and well-baby care to low-income pregnant women who do not qualify for Medicaid.

We've also proposed expanding a package of preventive health-care benefits to low-income children who don't qualify for Medicaid. Why does the Medicaid system hinder such efforts? More importantly, why is the White House defending such a system.

To add insult to injury, the federal government forces states to cover the health care costs of low-income illegal immigrants. This means that California, which carries nearly one-half of the illegal immigrant burden for the entire nation, must spend $400 million annually to provide health care for illegal immigrants, thus forcing us to reduce or deny benefits for needy legal residents.

If the White House took a closer look at California, it would see a state where health-care reforms are well under way. We've accelerated the enrollment of Medicaid recipients in managed-care programs. Those enrollees are guaranteed access to quality care, case management by a primary-care physician, and state monitoring of the care being provided.

California has managed to contain costs and deliver quality health care for about $1,600 per recipient per year (by contrast, some states have a more expensive program costing taxpayers over $4,500 per year, per Medicaid recipient.)

One would think that a state would be rewarded for such efficiency and innovation. But to the contrary, California is punished by a federal Medicaid funding scheme that fosters runaway growth and rewards inefficiency. States that have run efficient programs and manage costs effectively are penalized by a federal funding formula which results in huge funding inequities that choke state budgets and impede further reforms.

One might ask: Is there any way for Washington to make the Medicaid system worse? Regrettably, the answer is yes. President Clinton has proposed capping the growth in per-recipient expenditures, without giving states like California the tools to slow the growth in overall Medicaid expenditures. This would reduce growth in Medicaid payments by $54 billion over the next seven years.

As a result, California would have to find an additional $5 billion to make up for Washington's shortfall. In other words, we would be forced to keep the current federal system with all the federal rules and requirements—for less money to operate it.

As long as the current Medicaid system is in place, states will be blocked from implementing reforms that meet the health-care needs of our most vulnerable populations. The Republican MediGrant plan offers a better alternative by providing states with the flexibility they deserve to design more effective and cost-efficient systems of health-care delivery.

Clinton entered office promising Americans real health-care reform. Back then, he was asking the American people to trust a governor to run the federal government. Now, he won't trust governors to help him better manage federal health care.

Columnist David Broder has noted this inconsistency. As Broder writes, "In his former life, Clinton, like every other governor, was complaining that federal Medicaid mandates were wrecking his state budget. Three years ago, in fact, Arkansas was being sued in the federal courts for jeopardizing the health of expectant others by slashing Medicaid spending—a policy Clinton then defended as necessary to save state funds for schools, roads and other important projects."

The times have changed. With a former governor in the White House and a Congress willing to give states greater autonomy, Washington has the opportunity to do what's sensible: give states the freedom to enact health-care reform that benefits all Americans, and let Californians help Californians.

Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. GOODLING] on the Committee on Economic and Educational Opportunities, who held firm, and I also thank the gentleman from Florida [Mr. SHAW].

Mr. FORD. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY], the cochair of the Democratic Welfare Reform Task Force.

Ms. WOOLSEY. Mr. Speaker, the weather outside is frightful, but it is nothing compared to the welfare bill we are considering today.

Just in time for Christmas, the new majority is putting the welfare reform package under the Christmas tree that will push at least 1.5 million children into poverty, and almost 4 million children into the ranks of the uninsured.

I cannot help but think of this Dr. Seuss tale, "How the Grinch Stole Christmas," when I think about this bill. But this Grinch-like welfare bill is not just stealing Christmas from our Nation's most vulnerable children; it is stealing their safety net. Basically it tells children, if you are poor, do not get sick, do not get hungry, do not get cold, because we do not think you are important.

Mr. Speaker, as the only Member of this Congress who has actually been a mother on welfare, my ideas about welfare reform do not come from theories or books or movies like "Boy's Town." I know it. I lived it, and as cochair of the House democratic task force on welfare, my experience was translated into legislation that 100 percent of the Democrats in the House voted for, legislation that gets parents into work and maintains the safety net for their children.

Mr. Speaker, that is the type of reform for welfare that American people want, and that is why I am urging that we defeat this bill and prevent poor children from becoming even poorer.

Mr. Speaker, let us make sure that the Grinch does not steal our children's Christmas. And, Mr. Speaker, in the words of Dr. Seuss, "the Grinch hated Christmas, the whole Christmas season. Now please do not ask why. No one quite knows the reason. It could be his head was not screwed on just right. It could be perhaps that his shoes were too tight. But I think that the most likely reason of all may have been that his heart was two sizes too small."

The SPEAKER pro tempore. The gentleman from Florida has 12½ minutes remaining, and the gentleman from Tennessee [Mr. FORD] has 10 minutes and 20 seconds remaining.

Mr. SHAW. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, for the past decade this topic, I believe, of reforming welfare has been an abiding interest of mine. I have worked through three different administrations and many Congresses on this subject, and I have always been guided by the words of Abraham Lincoln, to the effect that "The dogmas of the past are inadequate to the present. We must think anew and act anew."

The present welfare system cannot be defended. It is a disgrace. The people who receive the assistance do not like it. The people who run it do not like it, and the taxpayers do not like it and are not going to stand for a continuation of the present welfare maintenance system.

Mr. Speaker, there are more programs in existence now for providing public assistance to poor families than at any time in the past, serving more people and costing more money. There has got to be a better way to help low-income people achieve their rightful place in our society as taxpayers and as mainstream members of society.

Mr. Speaker, the current President of the United States in the campaign of 1992 said, "We must end welfare as it now exists." This conservative-dominated Congress has endeavored to do that, to provide some new approaches, to consolidate some programs, and to refine some programs. I believe that a good product has been produced here and that it would behoove all Members to support the Personal Responsibility Act, and I urge their positive vote on this conference report.

Mr. Speaker, for the past decade this topic of reforming welfare has been an abiding interest of mine. I am guided by the words of Abraham Lincoln "The Dogmas of the past are inadequate to the present. We must think anew and act anew."

The present welfare system cannot be defended. It is a disgrace. The people who receive the assistance do not like it; the people who run the system do not like it; and, the taxpayers will not stand for continuation of this present welfare maintenance system.

There are more programs now for providing public assistance to poor families than any time in the past, serving more people and costing more money. There must be a better way to help low-income people become taxpayers.

We currently have a welfare maintenance system, not one designed to provide temporary assistance and help people reclaim or gain a life.

Most needy families coming in to seek public assistance need help in at least three categories: Cash and the accompanying medical assistance, food, and, housing. The rules and regulations for these programs are different and in many cases conflicting. It does not make sense for the Federal Government to set up programs for poor families and then establish different rules for eligibility.

We need one program that provides a basic level of assistance for poor families; sets conditions for receipt of that assistance, including work; and then limits the amount of time families can receive public assistance.

Over the past 12 years, I have served on the Nutrition Subcommittee of the Agriculture Committee or the Select Committee on Hunger. I have looked at these welfare programs in depth; I have visited scores of welfare offices, soup kitchens, food banks; I have spoken to those administering the welfare programs and the people receiving the assistance.

I learned during my years serving on the Select Committee on Hunger that any one program does not comprehensively provide welfare for poor families; it takes two or more of the current programs to provide a basic level of help. When there are two or more programs with different rules and regulations people fall through the cracks in the system and also take advantage of the system.

This must stop. How anyone could defend the present structure and system is a puzzle to me; unless it is persons who benefit illicitly from the fractured welfare mess we find ourselves in today, be they welfare recipients who take advantage of the system or advocates who thrive on the power derived from establishing new programs. Advocates of a humane system, a cost-effective system, an efficient system, a system that helps people up, off and out could find little solace in the current system.

It is amazing to me that so many states have sought to change the welfare system through the waiver process, thereby recognizing the failure of the present system, without any action on the part of Congress to change the system as well. How many more States might try to institute reforms but for the maze of bureaucracy they must go to achieve waivers? What we have now is not a welfare system aimed at moving families off of welfare and onto the taxpayers rolls, but a maintenance system that thwarts State initiative and diversity and poorly helps poor families, exasperates the front line administrators running the programs, and is a frustration and burden to the people paying for this disastrous system.

I want to help reform the system; I want to change the way we delivery this help to poor families; and, I want to do it in an efficient, compassionate, and cost-effective manner.

The subcommittee that I chair held four hearings last February on the issue of reforming the present welfare system. We heard from the General Accounting Office on the multitude of programs that are now operating. we heard from a Governor who operates a welfare system that is dependent upon Federal Bureaucrats for waivers; a former Governor who had to devise a system to provide one-stop-shopping for participants; and State administrators who must deal with the day-to-day obstacles that are placed in their way by Federal rules and regulations. Witnesses traveled from all over the United Sates to tell the subcommittee of their experiences operating programs to help poor families. Two of the members of the Welfare Simplification and Coordination Advisory Committee told us of the experiences deliberating the complexities of the present system. Others provided the subcommittee with their ideas on how to improve the system.

The conference agreement on H.R. 4 improves the USDA commodity distribution programs and reforms the Food Stamp Program.

We consolidate food distribution programs and provide for an increase in authorizations for the new program. Remember, food is fundamental. The food distribution programs, such as the emergency food assistance program or TEFAP, are the front line of defense against hunger for needy individuals and families. Food banks, soup kitchens, churches and community organizations are always there with food when it is needed.

The Federal Government provides a portion of the food that is distributed through these programs. But it is an essential part and acts as seed money for food contributions from the private sector. If we did not have food distribution programs we would have to invent them. We consolidate programs and increase the money to buy food so that these worthwhile organizations, most of which are made up of volunteers, can continue the fine work they now do.

Under the conference agreement we reform the Food Stamp Program and it is in need of a lot of reform. The States are provided with an option to reconcile the differences between their new AFDC programs with the Food Stamp Program for those people receiving help from both programs. This has been one of my goals and I believe that we are on the road to a one-stop-shopping welfare system. Complete welfare reform will come. This is the first step in the long road to reform.

States are encouraged to go forward with an electronic benefit transfer system. EBT is the preferred way to issue food stamp benefits. This bill provides States with the ability to implement the EBT system they deem appropriate and the problems with the notorious regulation E are eliminated. EBT is a means to effectively issue food stamp benefits and a means to control and detect fraudulent activities in the program. I am especially gratified that EBT can become an integral part of the Food Stamp Program and other welfare programs.

The conference agreement includes provisions that take steps to restore integrity to the Food Stamp Program. The agreement provides criminal forfeiture authority so that criminals will pay a price for their illegal activities in food stamp trafficking. We double the penalties for recipient fraudulent activities and we give USDA the authority to better manage the food stores that are authorized to accept and redeem food stamps.

We include a strong work program. We say that if you are able-bodied and between 18 years and 50 years with no dependents, you can receive food stamps for four months. Following that you must be working in a regular job at least 20 hours a week—half-time work—or you will not receive food stamps. The American people cannot understand why people who can work do not do so. We say you will not receive food stamps forever if you do not work.

Unconstrained growth in the Food Stamp Program, due to the automatic increases built into the program and the changes made to the program over the past years, cannot continue. We restrain the growth in the program by limiting the indexing of food stamp income deductions. We provide increases in food stamp benefits based on annual changes in the cost of food. We place a ceiling on the spending in the program. It will be up to Congress to determine whether increases above the limits placed on the program will take place. This is the appropriate way in which to manage this program. If a supplemental appropriation is needed, it will be Congress that decides whether to provide the additional money or institute reforms in the program to restrain the growth.

Mr. Speaker, this is a good bill, with sound policy decisions incorporated. Remember, we have not ended the process of reforming welfare with the action we took last March and continue today. We are beginning the process of real reform. I urge my colleagues to support the principles of this bill and take this first step along with me. We cannot continue as we are today with a welfare system that is despised by all involved. The status quo is unacceptable.

Let us think anew and act anew.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from the State of Connecticut [Mrs. JOHNSON], a member of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in support of H.R. 4, the Personal Responsibility and Work Opportunity Act. It is a significant improvement on the House-passed bill, and not only will it not suffer the children, but will provide women and children in need a window of opportunity to regain their independence from welfare.

I am particularly pleased with two titles of the bill that I have worked on for years: child protective services and child support enforcement.

We have 22 States currently under court order because their child welfare departments are failing in their mission to protect children in grossly abusive or neglectful families. Under the bill's child protective services title, foster care and adoption assistance payments remain entitlements, current law protection standards are retained, States must maintain their spending and may not transfer funds to other programs as they can do between other block grants, and spending on this title will increase by 92 percent—from $3.3 billion to $6.3 billion in the year 2002.

In addition, the data collection section will allow us, for the very first time, to know how many children were in foster care last year, how long they stayed, what help they and their families received, and basic information we need to truly protect children. For the first time States will have to have citizen review boards, which, in States where they are well developed, have prevented kids from getting lost in the system, and prompted permanent placements and early intervention. And because it is new law, we will be monitoring States' performance very closely in upcoming years and learning from their experience to improve this legislation.

The child support title of this bill, based on the bipartisan Child Support Responsibility Act I was privileged to introduce earlier this year, takes giant steps toward enabling us to effectively collect child support. This is one area where national uniform law is important, since at least one-third of nonsupport cases involves more than one State. Immediate reporting of new employees to centralized State databanks will allow cross-checking with outstanding child support orders on an interstate basis for the first time. This, coupled with new power to cross-reference support orders with bank information and license information, will help literally millions of children enjoy a level of financial security not possible without the support from both parents.

And, finally, this is a families-first bill. For the first time, parents and children formerly on welfare will get paid the child support they are owed without having to wait for the States to get paid first. This families-first provision will help families to regain their independence and their hope. This is what welfare reform is all about—giving families the tools they need to help themselves. I urge my colleagues to join me in support of the H.R. 4 conference report before us today.

Mr. FORD. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Speaker, I rise in opposition to the conference report.

I rise in opposition to the conference report on welfare reform.

The district that I represent is one of the 10 poorest in America, and so the implications of this bill are very real to a lot of my people. I oppose this bill because it begins and ends with the intent to punish the people on welfare. What we should be doing is working with people to help them get a job, and keep a job, help them get off welfare, and stay off welfare. Many of us have embraced the idea of "welfare to work."

But for many people, this bill will mean welfare to homelessness—and thus more Federal money will be spent. We're going backwards.

Because this issue is so important to my constituents, I started the year by laying eight principles as a framework for real welfare reform. The common idea behind these principles is simple—let's think about how people live their lives and help them live that life without welfare.

How can we get parents trained for real jobs, and get them a job? How can we keep mass transit viable, safe, and cheap so that people can get to their jobs? How can we get parents child care so they can feel secure, knowing their children are safe, as they work through the day?

These are just some of the principles I laid down—and based on those principles, I cannot support this conference report.

Punishment and arbitrariness is not the way to real welfare reform. This is especially unfortunate, because the ingredients are here for bipartisan agreement on this issue. The President should veto this bill and give us the opportunity to get to genuine reform.

I urge my colleagues to oppose this conference report.

□ 1400

Mr. FORD. Mr. Speaker, I yield 30 seconds to our colleague, the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the ranking member for his generosity.

Mr. Speaker, the current welfare system is at odds with the core values Americans share: work, opportunity, family, and responsibility.

Too many people who hate being on welfare are trying to escape it with unfortunately too little success. It is time for a fundamental change. In 30 second obviously I cannot analyze the changes that I would be for other than to say I was a strong supporter, and continue to support the Deal bill. The Deal bill was sponsored by a Democrat; the gentleman from Georgia [Mr. DEAL] is now a Republican. What more bipartisan bill could Members support than the Deal bill?

Mr. FORD. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Speaker, I rise today in strong opposition to the welfare conference agreement. I implore my colleagues on both sides of the isle to reject the mean-spirited provisions in this bill that will allow States to deny SSI and food stamps to immigrants living in the United States legally.

This conference agreement is an insult to millions of hard-working immigrants. It is not only unfair, unjust, discriminatory, and prejudicial—it is unconstitutional. Furthermore, It is a shameful and vicious attempt to single out and penalize immigrants for the wrongs of society.

In the past when the majority of immigrants looked like most of my Republican colleagues—immigration was good. Now that the majority of immigrants look like me—the radicals are pushing for laws that serve to punish those whose only crime is that they came to this country for a better life.

I ask my colleagues have we forgotten that this is a Nation of immigrants? Let's not create laws that will discriminate against people who work hard, pay taxes, and serve in the military. Vote against this shameful welfare conference agreement.

Mr. SHAW. Mr. Speaker, I yield 2 minutes to the most distinguished gentleman from Louisiana [Mr. MCCRERY], a valuable member of the Committee on Ways and Means.

Mr. MCCRERY. First of all, Mr. Speaker, let me point out that this conference report represents a compromise on the issue of SSI for children. Those of us who wanted to replace cash benefits with services to disabled children agreed to continue cash. Although I think that decision is a mistake, I believe this bill makes other badly needed changes to a badly flawed program, so I support the compromise.

But some defenders of the status quo, having lost the issue of cash to cry about, now complain that fewer children will qualify for SSI as a result of this bill. That is true. Here's why. As recently as 1989, the number of children on SSI was 300,000; today, that number is 900,000. Clearly, something is wrong with a program that triples in 6 years.

Under this bill, caseloads would decline because, after months of hearings and expert testimony, Republicans and some Democrats are acting to bring some common sense back to this program. Our bill ends the IFA and maladaptive behavior standards that allow parents to receive more than $5,000 per child in annual benefits—sometime called crazy checks—because their children exhibited age-inappropriate behavior.

My Democrat colleagues should be familiar with this policy, because they all supported it as part of the House Democratic welfare substitute just last spring. Every Democrat voted for a bill that would cut the same number of children from the SSI rolls as this conference report. According to CBO, the Democrat bill would "trim approximately 20 to 25 percent of children from the SSI rolls."

Yes, just a few months ago, every Democrat in this House voted, rightly, to restrict eligibility for a welfare program gone wild. Yet today, in an effort to make cheap political points, some of them conveniently change their minds. Well, it won't work—what was sound policy then is sound policy now. The SSI provisions of this bill should be a good reason to vote for the conference report.

Mr. FORD. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, I rise in opposition.

Mr. FORD. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. LEVIN] who serves on the Subcommittee on Human Resources of the Committee on Ways and Means and who has really been in the forefront of welfare reform for many years and one who has articulated the issue very well for the children of this Nation.

Mr. LEVIN. Mr. Speaker, I thank the gentleman for his kind words. Unfortunately, this is not a historic day. It is a wasted opportunity. Instead of a bipartisan bill that the President can sign, this is an extreme bill that my colleagues have given the President no choice but to vote.

The House Democratic bill that we presented a number of months ago aimed at putting people on welfare into work. It had time limits. It had flexibility for the Governors. It had resources to make that program work. The gentleman from Georgia [Mr. DEAL] comes here and that key part is out of the bill and he defends his action.

The CBO has said very clearly that in the year 2002 the bill is $7 billion-plus short on getting people to work within the participation rates, child care, and the work requirements.

I want to say something, though. My colleagues are not only weak on work, but they punish kids. I want to say this to my colleagues very directly, because what was said a few minutes ago is simply wrong. The Republican Senators who signed that letter saying that they had deep concern pointed out their 58 billion in cuts have nothing to do with AFDC and getting parents into work as they should. It cuts food stamps mostly for kids. It cuts protective services like foster care for children. It cuts Medicaid, the link between welfare and health care.

For people to get off of welfare, they need a year's transition with Medicaid and you eliminate it. You also tamper with SSI. These are kids with cerebral palsy, Downs syndrome, muscular dystrophy, cystic fibrosis.

We did eliminate in our bill, it was not this many, 330,000, a smaller number who do not deserve to be on the rolls. We need reform, but you cut by 25 percent payment, yes, and you do, for kids with cystic fibrosis, cerebral palsy, Downs syndrome.

Mr. MCCRERY. Mr. Speaker, will the gentleman yield?

Mr. LEVIN. I yield to the gentleman from Louisiana.

Mr. MCCRERY. Mr. Speaker, the gentleman is simply wrong. In fact, the CBO, I have the statement right here in front of me that the Deal bill that was voted for cuts from the roles the same number of children.

Mr. LEVIN. Mr. Speaker, there was no 25-percent cut for these severely handicapped children, period. And what Members have done is grab $4 billion from severely handicapped kids, from low income, in order to pay for a tax cut. That is a crying shame and that is why we are going to vote "no" on this welfare bill.

Mr. SHAW. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Connecticut [Mr. FRANKS].

Mr. FRANKS of Connecticut. Mr. Speaker, I rise in strong support of H.R. 4. Since my election to Congress in 1990, I have fought hard to address a system that to me is akin to one of the most oppressive systems and periods in our country's history, slavery. There are strong similarities between our current welfare system and slavery. Like slavery, welfare recipients feel trapped, have low hope, depend on the system as well. The welfare recipients receive food, shelter and health care, and so did slaves.

There are of course some differences. Slaves were black; most welfare recipients are white, though a disproportionate number of blacks are on welfare. Slaves worked but were not paid. Welfare recipients do not work but they are paid. Both practices are wrong. One system would kill you with pain via the whip, while the other system would kill you with kindness. Both have the same end result, they control people's lives.

Both systems divide the family, a key element of perpetuating the system. Slave owners sold off slaves with little regard to the family while in today's welfare system we encourage the flight of the male. We encourage the divided family. We ended slavery, Mr. Speaker. The least we can do is reform welfare. There is a better way.

I am also pleased that the electronic benefits transfer, the debit card system, has been included in this bill for the disbursement of AFDC and food stamps. I introduced this bill, the debit card, in 1993.

Mr. FORD. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. FIELDS].

Mr. FIELDS of Louisiana. Mr. Speaker, I rise in strong opposition to this bill.

Mr. FORD. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, I rise in strong support of real welfare reform as contained in the Deal substitute and the coalition budget and in opposition to this conference report.

Mr. Speaker, I rise in support of real welfare reform as provided in the Deal substitute and contained in the coalition's balanced budget and in opposition to the conference report for H.R. 4, the Personal Responsibility Act. This bill is the wrong answer to the critical challenge of reforming our welfare system to encourage more personal responsibility and to require welfare recipients to work. This bill is weak on work and tough on children, and it fails to keep up with the needs of fast-growing States such as Texas.

Let there be no mistake about it. I strongly support reforming welfare to emphasize work. Earlier this year, I voted for the Deal-Stenholm welfare reform bill, which includes a tough work requirement and provides resources to help people on welfare find and keep jobs. I voted for it again with the coalition's balanced budget reconciliation bill. The Deal-Stenholm plan requires each person on welfare to immediately develop a self-sufficiency plan that includes job searching, job training, or education. It would cut off benefits to individuals who refuse to work or accept a job. But it also provides a necessary resources, including child care, job training, health care, and nutrition, that make it possible for parents to work without hurting their children and that make sure that work pays more than welfare.

H.R. 4 neither requires nor rewards work. Rather, it punishes children.

This bill includes no work requirement whatsoever. It rewards states that reduce their welfare rolls, but the reward is the same regardless of whether recipients end up homeless on the streets or in good jobs and on the road to a better life. In fact, the former is much more likely than the latter under this bill because it falls woefully short in meeting child care, health care, and other needs. In fact, this bill falls $14 billion short of meeting these needs compared to the Senate bill approved earlier this year, which itself was barely adequate at best.

The problems in this bill are exacerbated by the Republican proposal to cut the earned income tax credit by $32 billion over the next 7 years. This cut in the EITC amounts to a tax increase for 12.6 million working families with 14.5 million children. What kind of a message do we send to these families when we tell them that if they work hard, they will be penalized with a tax increase and reduced health care, child care, and nutritional assistance? It certainly isn't a message that we value work.

It is the children that will suffer, through no fault of their own. For example, this conference report severs the link between welfare and Medicaid eligibility. In Texas alone, 321,419 parents and children would lose their health coverage. These children and families will lose guaranteed health coverage regardless of any other reforms made in Medicaid. Without Medicaid coverage, sick children will go without even the most basic health care.

This bill is especially bad for fast-growing States such as Texas. The proposal to block grant will welfare benefits would cost Texas $1 billion over 7-years. Texas is a State with higher than average population growth. Block grants are fixed amounts of money that are not adjusted for either population growth or recessions. Thus block grants will not keep up with Texas' needs. And Texas certainly would not have sufficient resources to help our most vulnerable families, therefore creating an unfunded mandate which this HOUSE is on record opposing.

In the final analysis, H.R. 4 is the wrong answer to a critical problem. The President has vowed to veto this bill in its current form. I hope that once the President vetoes this bill, we can work together on a bipartisan basis to reform our welfare system. The Deal-Stenholm plan is a constructive compromise that encourages and rewards work while protecting our children. This is the common-sense approach we need to truly reform welfare.

Mr. FORD Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. FARR].

Mr. FARR. Mr. Speaker, I rise in strong opposition to this bill.

Mr. Speaker, in Dr. Seuss' beloved story, the Grinch stole Christmas from the children in Whooville because he was mean-spirited. While the Grinch is a fairy tale and has a happy ending, it is tragic that the welfare reform conference report before us today is not.

While every Member of this institution agrees with me that the welfare system is broken and must be fixed, it is unconscionable to me that the Republicans can demonstrate such mean-spiritedness by proposing a welfare reform bill that will plunge innocent children into poverty.

Every President since FDR has preserved the minimum national guarantee of income assistance for poor children. What the Republican conference report does is steal the basic guarantees of help for poor, hungry, ill, abused, and neglected children much like the Ginch who stole Christmas from Whoolville.

At the same time the Republicans can eliminate the safety net for children, they continue to insist on a $245 billion tax cut for the wealthy.

Let me tell you what would happen by the year 2002 if the $245 billion were allotted to low-income children instead: enroll another 1.5 million children in Head Start, cost: $42.68 billion; expand child care for working parents, cost: $42.20 billion; provide health insurance to 10 million children who currently have no health insurance, cost: $90.80 billion; provide after-school programs, cost: $4.95 billion; and raise 3.65 million children out of poverty, cost: $70.67 billion.

This is true welfare reform—if we allocate $70 billion to give jobless parents part-time jobs and provide families with child care, wage supplements, and direct cash assistance, we would truly fulfill the spirit of Christmas for millions and millions of needy children.

This is a Grinchie conference report and I urge its defeat.

Mr. FORD. Mr. Speaker, I yield 1 minute to be gentlewoman from the district of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, there is no greater disappointment this session than this bill. It fails to meet the two mandates the American people gave us when we began this exercise across all race and class lines: put people on welfare to work; do no harm to children.

Instead of providing the means to work, we provide an artificial percentage who must work which we know will not be met, 50 percent by the year 2002. The bill betrays the mandate of no harm to children because it removes the entitlement without replacing it with any form of safety net. Ending the entitlement and the safety net will not reduce the number of desperately needy children who need some means of support. Instead of saving children, we put their needy parents in competition with one another. The working poor and the welfare poor will compete with one another for child care because we eliminate much of what we said we would give in child care. If we believe in keeping with the priorities our own constituents set for us across race and class lines at the beginning of this exercise, we must vote down this conference report.

Mr. SHAW Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas [Mr. SMITH], a member of the Committee on the Judiciary.

Mr. SMITH of Texas. Mr. Speaker, one of the most important sections in the Personal Responsibility Act stops giving welfare benefits to illegal aliens and encourages legal immigrants to become self-reliant. Our Nation simply cannot continue to allow noncitizens to take limited welfare resources while ignoring our own citizens.

Many immigrants come to America for economic opportunity. Others, though, come to exploit our Government assistance programs. For example, the number of immigrants applying for supplemental security income has increased 580 percent over the last 12 years. Those who agree to financially sponsor immigrants repeatedly fail to honor their obligations.

The provisions in the Personal Responsibility Act that apply to noncitizens are estimated to save American taxpayers $16 billion, but welfare reform is as much a behavioral issue as a budgetary one. The real debate in welfare reform is not over 16 billion, it is over the fact that welfare destroys work incentives, encourages the breakdown of the family and results in years of dependency.

Mr. Speaker, all the President needs to do to keep his word to the American people to reform welfare is to sign this bill.

□ 1415

Mr. FORD. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. RUSH].

Mr. RUSH. Mr. Speaker, I rise in strong opposition to this bill.

We have sent troops to Bosnia to protect people who cannot protect themselves. They were killed and slaughtered because another group felt that the region in which they lived needed to be cleansed. I mention this because, the provisions in this bill bring to mind the tragedy in Bosnia. The motivation behind these provisions which deny Medicaid, social services, and welfare for assistance to legal immigrants, children, and the disabled reeks of all sorts of machinations.

I am concerned that the Republican majority feels that this Nation needs to be cleansed of those who do not speak English as their native language, those who are poor, those who are disabled, those who are sick, and those who dare to ask for a helping hand, whatever the reason might be.

Mr. Speaker, this bill sounds like, smells like and is an elitist manifesto. Some may characterize this bill as immoral, but I feel that would not be accurate. This bill goes further—it is amoral—totally devoid and lacking of consideration of laws of human civility.

We must change the welfare system, however, it must not be done without compassion and sensibility. This bill will only harm those who are already in need.

Mr. FORD. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Speaker, I rise in strong opposition to this terrible bill.

Mr. Speaker, I rise in strong opposition to the Republican welfare reform conference report being considered today on the House floor.

This bill is a clear assault on America's children, and on America's future. It would cut $48.4 billion from vital family survival programs, denying benefits to millions of children who are in desperate need.

The welfare reform bill rips apart the safety net that so many children and families have relied on to help them stay afloat during desperate times. The Draconian cuts to essential services for low-income children, for families, and for elderly and disabled people is a clear example of the mean and uncaring spirit which has engulfed this Congress.

Mr. Speaker, the magnitude of the cuts to these programs are unprecedented in U.S. history. This bill takes away the guaranty of emergency assistance for the very poor. It reduces drastically the funding for child protection programs needed to remove children from unsafe homes, and to place them in appropriate settings, such as foster care and adoption. Under this legislation, families on AFDC, as well as children receiving foster care and adoption assistance, would no longer be assured of receiving Medicaid as they currently are. Food assistance is reduced to ridiculous levels. The food stamp program is cut nearly $35 billion over 7 years—cutting benefits about 20 percent. Further, this bill reduces Federal supplemental security income benefits for large groups of disabled low-income children and also to older Americans. This bill also reduces funding for work programs which are key to making people personally responsible for themselves and their families.

As a result of these reductions, the legislation would increase poverty dramatically among children. An Office of Management and Budget analysis found that this conference agreement would add 1.5 million children to the ranks of the poor. This study also found that the conference agreement would increase the depth of child poverty by one-third—making large numbers of children who already are poor poorer. This too is unprecedented in our Nation's history.

Mr. Speaker, this bill is immoral and counter to the so-called family values which the Republicans constantly tout as necessary to a productive society. How this legislation will help to foster family values and personal responsibility baffles me. This legislation will put more families and children out on the streets; make more families and children go hungry; and will take away all of the basic survival needs and opportunities which those less fortunate need to be productive and contributing citizens. Don't let the Republicans fool you into believing that this bill is about reforming the welfare system, because if it were they would focus more on job and education opportunities for families with children while maintaining an adequate living standard for those in need, allowing them to be distinct contributors.

This bill callously steals the little bit of hope that those in need have left to rise up against the odds. Clearly, it is a vehicle to keep the poor and disadvantaged down at the benefit of the wealthy status quo.

In this bill, the Republicans destroy hope for personal advancement among this Nation's disadvantaged and poor—those who have not been so fortunate to have been born into economically stable families.

Mr. Speaker, I urge my colleagues to vote against this very damaging bill.

Mr. FORD. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. LEWIS], the distinguished Democratic leader.

Mr. LEWIS of Georgia. Mr. Speaker, in the spirit of the Gingrich Christmas, Republicans are giving American children an early Christmas surprise.

During this season, the season of giving, the Republicans have instead taken—taken from our Nation's poor children. They are stealing the hopes and dreams of millions of children who have little else.

The Republican plan puts a million and a half children into poverty. It takes from school lunches and child care. Poor children are no longer guaranteed basic health care.

The Republican proposal destroys the safety net that protects our Nation's children. It is an extreme, mean-spirited and radical proposal—devoid of compassion and feeling.

As your children open their presents Monday morning—as we join our families in love and fellowship—take a moment to remember the children who will do without, the children that this plan will make do with even less.

Merry Christmas—Mr. Speaker.

Mr. SHAW. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, my friends, in the midst of this budget crisis, the crisis of a generation, we are afforded an historic opportunity to transform a flawed welfare system that has been destroying families, eroding hope, and shredding the social fabric of this country for a generation.

If you are for welfare reform today, you have an opportunity, a chance to prove it. No more excuses, no more demagoguery, no more rhetoric about how it is tough on children, no more rhetoric about pulling the safety net and all of the rhetoric about it being cruel and mean.

I do not know, I have lost track of how many times the word cut has been used from the other side. So let us set the record straight. This chart demonstrates it conclusively: Spending in this bill increases, increases, increases, at 4 percent a year. Perhaps more importantly, spending per person in poverty, the individuals whom we are most concerned about, increases to the point that it will be the highest ever in the history of this republic.

I challenge anybody on the other side of the aisle to dispute these facts. Spending goes up in this bill. The safety net is secure. This bill, in fact, has been so tempered in conference that only the most wild-eyed liberal could possibly oppose it. It gives States new, broad authority to design their welfare programs.

You say, well, they might not do it right. And I say they could not possibly do it worse. It has real work requirements. It has a real time cutoff on welfare benefits.

I am from Arkansas. I know President Clinton is an advocate for welfare reform and, I believe in the end he will do right and he will sign this bill. We will have real welfare reform.

Mr. FORD. Mr. Speaker, I am inserting at this point in the RECORD material expressing opposition to this bill.

ASFSA POSITION ON WELFARE REFORM CONFERENCE REPORT

ASFSA urges the Congress to vote against the welfare reform conference report because in addition to other problems it includes a block grant of school lunch and child nutrition. While the school lunch block grant is limited to seven states, it is a step in the wrong direction. The block grant breaks a fifty year tradition of federal responsibility and commitment to feeding children. (The National School Lunch Act was signed by President Harry Truman on June 4, 1946.)

The National School Lunch Program works, and works very well. There is no reason to experiment, even in seven states, with how to break the federal commitment to feeding children.

THE SCHOOL DISTRICT OF PHILADELPHIA,
Philadelphia, PA, December 14, 1995.

Hon. RICHARD LUGAR,
U.S. Senate,
Washington, DC.

DEAR SENATOR LUGAR: On behalf of the students of Philadelphia's public schools and their parents, I extend heartfelt thanks for your staunch opposition to block grants for school nutrition programs.

The School District of Philadelphia feeds its students over 115,000 lunch and 32,000 breakfast meals each day. Eighty-five percent of these student's household size and family income make them eligible for free meals. To many of our students these meals are the only source of good nutrition that they may receive. Over the past five years we have increased student participation in the lunch program by 57% and by 128% at breakfast. The block grant concept for nutrition programs would have severely impeded our progress in increasing student participation and maintaining current service levels.

It is a recognized fact that nutritious meals improve a student's ability to achieve and contribute to long term wellness. Your principled, non-partisan stand on this issue is a true service to the youth of this country.

Again, thank you.

Sincerely,
THOMAS E. MCGLINCHY,
Director.

Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me this time.

When you ask any American what is reform in welfare, they will tell you, go after the fraud, be tough on the cheats, require work. But if you ask them should we knock 330,000 children who are severely disabled off from any assistance whatsoever and you tell them that for the 650,000 other very severely disabled children who have things like cerebral palsy or Down's syndrome, that should we cut their assistance by 25 percent, will they tell you that is reform? Will they tell your cutting $35 billion out of food stamps that will affect the 14 million children in this country who receive some assistance through food stamps, that that is reform? They will not tell you yes, but they will say you are heading in the wrong direction.

When you tell them that if you abide by the laws and you pay your taxes and you are doing everything this country asks you to, except you are not quite yet a citizen, should you be denied assistance if you should need it? I do not think they will tell you yes. This bill takes $20 billion out of the hide of legal residents to this country, and I think that is wrong.

Let us get some reform. Let us not ravage our children. Let us get something on the table we can vote for. This conference report is not it.

Mr. FORD. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, I rise in opposition to this welfare conference report.

Mr. Speaker, I rise in opposition to the welfare conference report. This report is nothing short of a nightmare. What the Republicans call reform, I call outright abuse.

Welfare reform is about helping families help themselves. It's about presenting opportunity through job training and child care. It's about giving these families a realistic chance at making it on their own.

More importantly, welfare reform begins with the next generation. This conference report ignores this simple fact.

If we want to end welfare as we know it, let's start with our welfare children—all of our welfare children, be they legal residents or not. They did not ask for poverty or hunger, so let's recognize their innocence with reforms that give them a future.

Instead, this Congress is leading our poorest, neediest children to the edge of a cliff and pushing them off.

With cuts in nutritional programs, child care and health care, we are taking away their future. We aren't encouraging the end of welfare, we're cultivating the next generation of recipients.

I ask my colleagues to vote against this report; these children did not create the welfare crises. Don't make them pay for it.

Mr. FORD. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, I rise today, just a few short days before Christmas and during the observance of Hanukkah, to denounce the welfare reform conference report as antifamily, antichildren, and the most dramatic illustration of the cruel agenda of the House Republicans.

In this time of giving and caring, of family togetherness, it is simply unconscionable that we are considering legislation that will ultimately deprive children, the elderly, and low income families in this country of the most basic human needs—food, healthcare, and protection from abuse. What has happened to this country's priorities? Last month, Congress approved a $245 billion tax cut that primarily benefits wealthy Americans and profitable corporations. Just last week Congress passed legislation authorizing $260 billion in defense spending, including funds for more B–2 bombers, at $2 billion each, which the Pentagon does not want. Today the House authorized $28 billion for intelligence operations.

I am unalterably opposed to this irresponsible welfare reform proposal. The plan punishes our country's poor families and children while doing nothing to move them off welfare and into family-wage jobs. The conference report pretends that if we punish the poor, the problem of welfare dependency will somehow go away. The conference report reduces funding for education and job training and provides insufficient funding for child care—the very tools that enable people to leave welfare and become self-sufficient.

In a nation facing unemployment rates of 5.6 percent, this legislation will not prepare welfare recipients for family-wage jobs and self-sufficiency. Instead, it sets an arbitrary time limit of anywhere from 2 to 5 years in which people who have been given no opportunity to succeed are permanently barred from assistance. Welfare needs reform, but we must give individuals real opportunities for success.

The Republican leadership argues that welfare eats up our entire Federal budget. In fact, we spend 1 percent of our total budget on Aid to Families With Dependent Children—$16 billion. That's about the same amount the Republican leadership proposes to spend on foreign aid. By conservative estimates, we will spend about $570 billion over the next 5 years on corporate welfare for large profitable corporations, many of which are foreign owned. In contrast, the welfare reform conference report will cut anywhere between $60 and $80 billion over the next 7 years in a variety of public welfare programs—we don't know exactly how much, because we haven't been able to see the final report.

We do know who will feel the burden of these cuts. It is our Nation's children, Mr. Speaker. In the United States in 1992 children made up 67 percent of all welfare recipients. That year, slightly more than 9 million children received cash assistance from Aid to Families with Dependent Children [AFDC]. It is these children who will face the terrible consequences if this bill is enacted. What will happen to these children if their parents are denied assistance? Will America look more like Calcutta in 7 years? Is that what Americans want.

We have heard that if families are forced off welfare, they will still have access to healthcare and food stamps. However, the conference report eliminates the current guarantee of Medicaid coverage for AFDC recipients, as well as children receiving foster care and adoption assistance. In addition, nearly half of the cuts in this bill come from the Food Stamp Program. Republicans have been assuring us all along that they're maintaining the basic noncash safety net for children of food stamps and Medicaid. Now we see the reality behind the rhetoric. This is a mean-spirited attack on the poor which will increase child hunger and deny children access to health care.

I would like to close with some passages from that cherished Christmas story, "A Christmas Carol," as spoken by the character, Ebenezer Scrooge:

> Are there no prisons, no workhouses? . . . I can't afford to make idle people merry. I help to support these establishments and they cost enough and those who are badly off must go there . . . It is

enough for a man to understand his own business and not interfere with other people's.

Sound familiar, Mr. Speaker? You have heard almost identical statements from the Republicans throughout the past year. All ends well in this story of Christmas past and Scrooge mends his ways. I call on my colleagues to follow this example and reject this mean-spirited legislation for the sake of our Nation's children.

Mr. FORD. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. ROYBAL-ALLARD].

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in strong opposition to this bill.

Mr. FORD. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, welfare reform is supposed to move people off welfare and reward work, but this bill does neither. It not only shreds the safety net for the truly poor but it hurts working families as well. This bill slashes child care, nutrition, and food stamps for working families. It slashes support for disabled children. It slashes child abuse protections, the very support that keeps working families whole and off of welfare.

Add to this the Gingrich earned income tax credit cuts, and you truly close the door of opportunity for poor working families and their children. That is not reform, Mr. Speaker, it is cruelty.

Mr. Speaker, welfare reform, real welfare reform, is supposed to move people off welfare and reward them for their working.

Last spring, I and every other House Democrats voted for a welfare reform bill which would have done just that. It included tougher work requirements than the Republican plan and State flexibility in improvising welfare policies, while at the same time preserving the safety net for this Nation's poor. It also provided adequate funding for the tools needed to successfully move people to work: education, training, and child care.

The extremist bill we vote on today, H.R. 4, does neither of these things.

It shreds the safety net for the truly poor in this country, ending the 60-year commitment Government has made to the less fortunate.

It ends the guarantee of financial assistance, health care, and child care for poor children. It provides no additional funds for education, literacy, and job training to move and keep people off welfare.

Furthermore, this bill also directly harms the economic well-being of working families.

This bill cuts funding for child nutrition, such as WIC, which provides vital prenatal nutrition for women, and food at day care centers for low-income families. It cuts both child care and food stamps, both of which are essential to struggling, working families.

This legislation also slashes at nonwelfare programs like financial assistance for disabled children and protection for neglected and abused children.

These are the very supports that keep working families whole and off of welfare.

Add to these measures the proposed $30 billion in cuts to the earned income tax credit, which benefits 12 million families with incomes below $30,000, and you truly close the door on opportunity for the working poor.

That's not reform, that's cruelty.

Mr. FORD. Mr. Speaker, I yield 50 seconds to our colleague, the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Speaker, I appreciate the time, and I would like to tell my colleagues that at the appropriate time I will offer a motion to recommit. This motion to recommit goes in the direction of what our distinguished colleagues in another body have urged that be done.

I urge my colleagues to take a page out of Santa Claus' book and realize that this is not a time to be cruel to the youngest and the most vulnerable people in our society.

I urge that the motion to recommit, which I will offer at the appropriate time, be adopted by my colleagues.

Mr. FORD. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Mr. Speaker, I stand to say to the world to, please, revoke this stand by the Republican party against needy immigrants and vote against it.

Mr. Speaker, there are many reasons to oppose this conference report. I'll just talk about one that is very important in the part of the country I represent: discriminating against legal immigrants.

The conference report denies Supplementary Security Income and food stamps to legal immigrants.

The Republican majority is destroying the safety net for thousands of people who are legal residents in the Miami area. These people are hardworking and productive members of society. They pay their taxes. But for reasons beyond their control, some of them may need temporary financial assistance.

Why does the Republican majority discriminate against people who are legal residents? We all know the answer. This discrimination cuts Federal spending by $20 billion. They want to use these funds to give a $245 billion tax cut that is targeted to those earning more than $100,000 a year.

This conference report should be defeated.

Mr. FORD. Mr. Speaker, I yield myself the remainder of my time.

I would like to make note of the statement by the President today, share it with my colleagues on the Republican side as well as the Democrats on this side. In a portion of it, he said, "I am disappointed the Republicans are trying to use the word welfare reform as cover to advance the budget plan that is at odds with America's values. Americans know that welfare reform is not about playing budget politics. It is about moving people from welfare to work," and he said, "I am determined to work with Congress to achieve real bipartisan welfare reform, but if Congress sends me this conference report, I will veto it and insist that they try again."

I urge the President to veto this bill if it is passed today, this conference report, in this House of Representatives.

Mr. SHAW. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I rise in support of this conference report.

Thomas Jefferson said it best in 3 words, "Despondency begets servitude."

Through misguided compassion our welfare system has fostered chaos. We have enslaved two generations. The Federal welfare system has destroyed family structure, work ethic, and any sense of values and smothered opportunity. The Federal welfare system has destroyed hope, discouraged personal responsibility, and cast a dark gloom over the lives of millions of Americans.

Today we offer with this welfare reform bill a glimmer of hope. Today we offer hope for people to help themselves. Today we offer hope to end the cycle of dependency.

Mr. SHAW. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, we have come down a very, very long road. Before I get into my closing remarks, I want to recognize a staff person who has done an unbelievable job in bringing this along, Dr. Ron Haskins, of the Committee on Ways and Means, Subcommittee on Human Resources. Without him, all of us know that without good hard-working staff people, such as Dr. Haskins, we would not be able to formulate legislation such as is before us today.

Mr. Speaker, I think we also, while we are handing out credit today, we have to give credit to the President of the United States for raising the consciousness of the American people about the corruption of the existing welfare system. For it is he that coined the phrase that we shall change welfare as we know it today. It took, however, this Congress to finally move forward with a bill that all of us today should be able to support.

I wish the podium were right in the middle of this floor because this is where it ought to be when we are talking about the future of so many millions of American people who have become welfare dependent. President Roosevelt referred to welfare as a narcotic. It is an addictive narcotic.

Approaching welfare reform, as many of us did some 5½, 6 years ago, never once did we view it as a vindication of the taxpayer. We viewed it as a corrupt system that had sucked people into a way of life from which there was no escape, and we have moved substantially forward.

I want to compliment all of the Members on the Democrat side of the aisle for their vote the last time this came forward, because each and every one of you set aside and said, "I will not support the existing welfare system."

Each and every one of you today have not, not one person in this Chamber has gotten up to support this system that is now 60 years old and has enslaved so many of our American people.

Is there one of us that would want to depend upon a 60-year-old car for transportation? But we are asking the poorest among us to live with a system that is 60 years old. Think back 60 years, think of where the place of the woman was 60 years ago and where she is now. Think how the American psyche has changed, think about where minorities have gone in the protection of the law when the law used to work against them, and now it is working with them.

So what has held so many American people back? A welfare system, a welfare system that pays people to stay where they are, not to get married, and not to work. We cannot choose that system.

My colleagues, today we have a choice. On the one side, you can vote for the status quo. On the other side, you can come forward with us and reach out your hand, and I will commit to you as long as I am chairman of the Subcommittee on Human Resources we are going to continue to look at welfare reform. We are going to continue to help the poor. We are going to move this country forward, and we are not going to leave anybody behind this time.

Vote "yes" on this most important bill.

Mr. DINGELL. Mr. Speaker, I rise today, somewhat reluctantly, in opposition to the welfare reform conference report. I do so because my colleagues from the other side of the aisle have left no real choice for those Members who want to make smart and reasonable reforms. Earlier this year, I supported an alternative bill with work requirements, time limits for receiving assistance, and more flexibility for States to make their welfare programs work better.

The bill before us fails any reasonable sense of balance. It singles out the harshest cuts for children, such as denying AFDC cash assistance to 4 million children. This is not right. Neither is it right to out 6 million children from the health care benefits of Medicaid.

As we work to reform welfare, it is important to remember that we do not provide welfare assistance purely for altruistic reasons. We provide financial assistance to those in need because it is in the best interest of our society to do so.

Helping Americans who are experiencing severe financial difficulties get back on their feet, at its most practical level, lowers our crime rate and increases our Nation's ability to compete by strengthening the quality of our work force. At its loftiest level, it increases the quality of many people's lives.

Our goal is to return people to work—enabling them to support their families, and provide for those children, elderly, and disabled who are unable to provide for themselves. For the most part, this requires funding of the basic necessities—health care, child care, and job training. The bill fails to provide to States adequate funding for any of these three.

The bill repeals the current guarantee of Medicaid coverage for AFDC families, thus leaving over 4 million mothers without health care. It also mandates that 50 percent of welfare recipients participate in work programs, yet offers no funding for these programs. This places a $26 billion unfunded mandate on States to operate job training programs, and to care for the children of those enrolled.

In our rush to try to get home for the holidays, I find it sad that our friends on the majority side of the aisle have chosen to mark the spirit of the season by pushing through an excessive level of cuts disproportionately aimed at the most helpless among us. I am told the President will veto this legislation. That is the right choice. Perhaps then we can mark the new year by working in a bipartisan manner to enact smart and reasonable welfare reform.

Mr. VENTO. Mr. Speaker, I rise in opposition to this measure, H.R. 4. This is not welfare reform, rather, it is a measure which short changes many essential programs that affect our fellow Americans in need.

In addition to rewriting policy and cutting funding for the Aid to Families with Dependent Children [AFDC] Program, the measure substantially cuts nutrition programs, child care assistance, Supplemental Security Income [SSI], and other emergency assistance programs. Consequently, it undercuts much of the economic safety net for people in need in our Nation.

Major flaws that were inherent in this measure when it left the House persist, and, in some instances, have been compounded. This measure ends the entitlement status of most essential programs for families in need and folds them together. This means that the numbers of families and individuals that actually qualify for assistance with today's policy will no longer be a factor, they will be irrelevant, in determining who gets aid. The policy advanced in H.R. 4 sets reduced allocations of funds that are fixed, regardless of the demographics or need.

Furthermore, this measure relieves the States of a full maintenance of effort, allowing them to provide substantially less resources to meet the needs of their own citizens. While I understand that States and local public officials care about the well-being of their citizens, the shortfall in funding under H.R. 4 will force them to do more with less, and that willingness to match and maintain the same effort that exists under current policy will be strained. The State and local officials may benefit from flexibility, but it would take a miracle to offset the cuts and exclusions in this bill and also achieve the work requirements set forth in it. This measure contains inadequate support for training and education and does not provide the necessary transitional health care that should be present to support the expected participation in the world of work.

Individuals in our society should be expected to do what they can for themselves. But policies should be careful to differentiate between those who cannot and those who will not. Many of the benefits of a public assistance nature accrue to the welfare of children. Two-thirds of the individuals within the welfare system are children. The harsh policies advanced in this measure affect kids with disabilities under SSI. Funding to aid children with Down syndrome, cerebral palsy, AIDS, muscular dystrophy and cystic fibrosis under SSI would be cut by 25 percent—an estimated 650,000 kids would be affected. An additional 320,000 kids would lose SSI benefits under different changes in the law. Nearly 1 million children would lose under the SSI policy changes of H.R. 4 alone.

Mr. Speaker, one provision on this measure claims big cuts and savings by denying benefits to legal immigrants, noncitizens who pay taxes and contribute to our economy. Such is the case with the Hmong, the natives of Laos who have a concentrated population in Minnesota and in other parts of the Nation. Because they have failed their citizenship test largely based on language difficulties, they would be denied essential and basic public assistance benefits.

Mr. Speaker, this could affect tens of thousands of individuals nationwide and many in my community. Other immigrant groups will also be negatively affected by this provision such as the influx of Soviet jews who are so prominent in our area. I know of no justification or explanation for this policy. Certainly, a more rigorous pursuit of deeming, that is sponsor support, for immigrants is appropriate, but often this is not applicable or practical.

Mr. Speaker, this will translate into unacceptable responsibilities and burdens on families, communities, and States. H.R. 4 is not well-thought-out policy. Its claim to reform masks extreme notions of a welfare mindset that has little relationship to the real world. Spousal support provisions and some of the sensible provisions of this measure are completely eclipsed by the negative, punitive, regressive, and unworkable policy that is palmed off as reform—deformed policy would be a more accurate description. I urge my colleagues to oppose this measure and renew our efforts for real reform so that those dependent can truly achieve an end goal of independence and positive contribution of their talents, for our Nation and our society.

Mr. STOKES. Mr. Speaker, I rise in strong opposition to H.R. 4, the Personal Responsibility Act, a bill designed to overhaul our Nation's welfare system. Nine months ago, on March 24, many of my colleagues and I stood before this body and showed our staunch disagreement with the House-passed welfare reform bill by voting against the bill. I wish I could say that, since then, some compassion and reason had overcome our colleagues on the other side, who were conferees on this measure, to reverse some of the mean and devastating cuts made in this legislation. Unfortunately, that was not the case.

Just 1 month ago, on November 14, I joined with 116 of my colleagues in writing to President Clinton to urge him to veto any welfare reform legislation which eliminates a safety net for our Nation's needy children and their families. I appeal to him again to do so with this ill-advised measure which abandons the Federal commitment and safety net that protects America's children.

In fulfilling their Contract With America, our Republican colleagues assured us that we would have a family friendly Congress. They promised us that our children would be protected. It is abundantly clear that our colleagues have reneged on that commitment when we examine the provisions of this bill. H.R. 4 slashes nearly $80 billion over 7 years in welfare programs. This bill guts the AFDC and Medicaid entitlement, cuts into the SSI protections for disabled children, and drastically cuts food stamps and child nutrition programs.

Mr. Speaker, I find these reductions in quality of life programs appalling. Although they claim to be so concerned about what the future holds for our Nation's children, how can my Republican colleagues support a bill that cuts $3.3 billion from funding for child care for low-income families? How can they stand by a bill that slashes more than $3 billion in funding for meals to children in child care centers and homes? How can they support a bill that would end Medicaid coverage for AFDC recipients, leaving many low-income families with no health care coverage? As if that were not devastating enough, this bill would cut nearly $35 billion over 7 years from the Food Stamp Program and $5.7 billion in the Child Nutrition Program.

H.R. 4 sends a signal to the rest of the world that the United States of America, a world leader, places a very low priority on those individuals who have very little. This bill unfairly punishes children and their families simply because they are poor. In Cuyahoga County, we have a 20-percent poverty rate in a county of 1.4 million people. In the city of Cleveland, it is an alarming 42 percent. Throughout the county, more than 228,000 people receive food stamps. Further, more than 137,000 individuals must rely on Aid to Families With Dependent Children. Many of these individuals constitute America's working poor. This punitive measure will undoubtedly endanger their health and well-being.

Mr. Speaker, I can understand and support a balanced and rational approach to addressing the reform of our Nation's welfare system. But I cannot and will not support this legislation which would shatter the lives of millions of our Nation's poor. The pledge to end welfare as we now know it is not a mandate to act irresponsibly and without compassion and destroy the lives of people, who, through no fault of their own, are in need of assistance. On behalf of America's children and the poor, I urge my colleagues to vote against H.R. 4.

Mr. OWENS. Mr. Speaker, I rise in strong opposition to the conference report on welfare reform. The destruction of entitlements. That is the goal of the Republican majority. But only the means-tested Aid to Families with Dependent Children [AFDC] entitlement is being wiped out by these high technology barbarians. Rich farmers and agricultural businesses will still retain their entitlement to farm subsidies. Entitlements to homeowners and business owners for flood relief, hurricane relief, and earthquake relief will remain in place. But families and children who experience economic disaster, the neediest among us will be denied Government assistance.

There are many reasons to vote against this phony reform package. But the single most important reason is that it sets a precedent by ending a means-tested entitlement. A beachhead is established by the barbarians. The next target is the means-tested Medicaid entitlement. In this bill the automatic right to Medicaid presently available to all AFDC recipients is eliminated. In the reconciliation bill of the majority, the means-tested Medicaid entitlement is eliminated totally.

This Christmas 1995 is not a Merry Christmas. Millions of Tiny Tims will suffer and die in the years to come as a result of the overwhelming meaness of the House Republican majority.

Mr. MALONEY. Mr. Speaker, this has been an extremely partisan Congress—but this is one area where Democrats and Republicans agree. Welfare needs reform.

But the conference report we're considering today would make a bad system much worse.

The bill would worsen poverty and hunger for innocent children by making deep cuts in benefits especially during economic downturns.

It would do far too little to empower welfare recipients to rejoin the work force with education and training.

It would scale back the very child care funding that would liberate welfare recipients to go to work.

This plan is punitive, irresponsible, and cruel to children.

For example, the 25 percent reduction in SSI benefits will effect aid to children with cerebral palsy, Down syndrome, muscular dystrophy, cystic fibrosis, and other health concerns.

The $32 billion in food stamp cuts will force many working poor, elderly, and disabled to go hungry.

The block granting of child protection services and oversight will force more children to stay in abusive and unsafe homes.

This is not welfare reform.

Already millions of children lack health care insurance. Under this agreement, up to 2 million more children could be added to the roles because they would lose Medicaid coverage.

Clearly, welfare needs reform.

Welfare reform should focus on providing real jobs and moving recipients into those jobs. Yet, all the best work incentives have been stripped from the bill.

This conference agreement is harsh, mean-spirited, and cruel.

Although, we live in the richest society in human history, this House cannot find within its heart or its wallet, the will to make sure that no American child goes hungry.

For this Christmas season, lets not be Scrooge to the poor and disabled, Vote "no" on the agreement.

Mr. SERRANO. Mr. Speaker, I rise in opposition to the conference agreement on H.R. 4, the so-called Personal Responsibility Act.

It has long been clear that our welfare system is failing the people it is meant to help. But the Personal Responsibility Act will make the situation of the poor much worse, not better.

The main reason Congress has been slow to face welfare reform in the past is that everyone knows it takes more spending, not less, to help poor mothers get and keep jobs and escape poverty—they need education, training, job search assistance, day care for their children, and jobs.

But this conference agreement saves money, cutting programs that sustain our neediest families at the same time it cuts the programs that might give them a hand up. And why? To give tax breaks to big corporations and the wealthy.

And what would this conference agreement do to our children? First off, it slashes the safety net for poor children and their families. It removes the entitlement—the guarantee that some modest assistance will be there for those families whose desperate circumstances make them eligible. If Federal funds run out in a recession, what recourse will these wretched families have?

Then, although neither House nor Senate voted for this, the agreement repeals the current eligibility link between AFDC and Medicaid. It throws health care onto the list of necessities families must choose among when they cannot pay for all.

The agreement risks increasing the number of babies born too small to thrive. It punishes the neediest children, whose parents' conduct we don't approve of. It leaves neglected and abused children in grave danger for lack of child protection resources. It cuts benefits to hundreds of thousands of poor children disabled by Down syndrome, cystic fibrosis, AIDS, and the like. It puts even healthy children's nutrition at risk, threatening their ability to learn and grow into healthy adults and productive participants in our economy.

The conference agreement attempts to force more mothers into the work force but short-changes funding for both work programs and child care. States will be forced to choose between funding child care for welfare recipients in work programs and child care for the working poor. Imagine. One welfare family moves into a work program with child care, and a working poor family loses its child care and falls onto welfare. Talk about a vicious cycle.

Mr. Speaker, the conference agreement's immigrant provisions are unfair and mean-spirited. We know immigrants do not come here for public assistance; they come to join family members and to make a better life for their children. The work, they pay taxes, they participate in community life, and they play by the rules. Why should they be denied assistance by this bill? It is certainly not fair to the immigrants or to their families and sponsors. The only possible reason is to save money.

If this applied only to future immigrants, who would know the rules before they sought to immigrate, I would disagree with the policy but it would be fairer. But this conference agreement cuts off people who are already here and who face long backlogs when they try to naturalize. Again, this makes sense only as a means of saving money to offset tax breaks for the rich.

Mr. Speaker, the Republicans elected in November 1994 never told voters that they intended to bring pain to the poor children of our country. Yet, these mean-spirited Republicans continue to come up with new ways to hurt helpless little children, who are least able to fight back. Are children a special interest group Republicans want to muzzle, defund, do away with?

This time, in the middle of this season of family holidays, they have gone too far and the American people are aware of the all-out assault on children. The Republicans are not going to be able to hide their attacks on our children. The voices of the American people are being heard. Do not hurt the children.

Mr. Speaker, this bill is only one part of a Republican assault on ordinary Americans that also includes the reconciliation bill and the appropriations bills. Poor families, low- and moderate-income working families, middle-income families are all being made to pay and pay again, so the richest and most powerful corporations and individuals can receive large and unnecessary tax breaks.

Mr. Speaker, this is just wrong. I urge every Member to oppose this conference agreement.

Mr. CONYERS. Mr. Speaker, I rise in opposition to the conference report on welfare reform which disregards the health and welfare of children, the elderly and victims of domestic violence. Amazingly, at a time when Republicans claim to be pro-family this conference report denies innocent poor children health care and food. And while Republicans purport to be pro-work they offer us legislation which provides no funding whatsoever for job creation.

As ranking member of the Judiciary Committee, I also strongly oppose the conference report provisions dealing with immigration matters. These issues clearly fall within the purview of the Judiciary Committee and should be dealt with in the context of the immigration bill, not welfare legislation.

The conference report imposes harsh restrictions on legal immigrants by barring them from the Food Stamp Programs and SSI programs until they become citizens. Those denied benefits would include legal immigrants who have no sponsors to help support them, those who have paid taxes for many years, and poor immigrant families with children.

The conference report also changes the definition of illegal immigrants. Under this definition individuals who have temporary protective status and are in the United States legally, would be barred from receiving any public assistance. This means that individuals who have been given permission to stay in this country by the INS would be denied assistance. This is mean-spirited immigration bashing and has no place in a bill being considered by this body.

The Members know full well the administration will veto this bill. What we have is more partisan grandstanding by the majority, rather than a good-faith effort to genuinely reform and improve the Nation's welfare system.

I urge my colleagues to vote against this conference report and to send this bill back to conference.

Mr. POSHARD. Mr. Speaker, I rise in strong opposition to the conference report on welfare reform.

In our debate today, we will universally agree on the need to reform the system. However, the question is not whether to reform but how to reform the system, to be more efficient with tax dollars and more effective in caring for children and moving adults into the work force.

I supported what was known as the Deal bill earlier this year because of its more acceptable approach to a very difficult problem. The bill before us today is unacceptable in a number of key instances:

The bill lacks categorical Medicaid coverage for low-income families with children on cash assistance as well as the aged, blind, and disabled. This could result in millions of Americans losing their guarantee of Medicaid coverage.

The optional block grant approach for nutrition and feeding programs puts millions of children at risk of losing access to healthy meals.

This bill does not fund the work activities and child care provisions mandated in the legislation.

The bill Democrats supported earlier this year was much better in terms of moving people from welfare to work, eliminating abuses in the SSI program, making sure that abused and neglected children will receive foster care and adoption services, and fundamentally changing the welfare system.

This bill is tough on children and families in ways it need not be. I oppose the bill and urge a Presidential veto so that we may reach a more bipartisan solution to this very critical challenge.

Mr. HASTINGS of Washington. Mr. Speaker, I rise today to strongly support H.R. 4, the welfare reform conference report. I believe this legislation is a critical first step in overhauling our bloated and destructive welfare system. The current welfare system has failed the people it was created to help and worse—it has created an unfortunate cycle of dependency. The American taxpayer can no longer afford to foot the bill for people unwilling to accept responsibility for themselves.

Congress has no intention of turning its back on the most needy in society. Instead, we want to offer a new approach to welfare that gives recipients a hand up—not a hand out. By implementing strict work requirements, emphasizing personal responsibility, and returning power to the States, we will not only provide great benefits to society and taxpayers, but most importantly, to welfare recipients themselves.

The most important change Congress can make in reforming our welfare system is to return power to the States and local communities. This legislation does just that by reducing the amount of control over welfare programs here in Washington, DC, and restoring authority and responsibility to where it belongs—to the people.

H.R. 4 was designed after working with Governors to address their concerns of unnecessary Federal regulation and micromanaged bureaucratic programs. States have proven to be more successful and innovative than the Federal Government in fixing our failed welfare system. I want to give States and local communities the opportunity to experiment, not shackle them with excessive regulations and costly paperwork. It is at the State and local level where welfare program managers deal with welfare recipients—and that is where decisions should be made. And in order for this to happen, States need flexibility.

This legislation will let the people know we have heard their cry for welfare reform. We have listened to welfare recipients and provided them opportunities to get off welfare and into work. We have listened to the taxpayers and are watching out for their hard-earned tax dollars. And, we have listened to the Governors and given them the flexibility they need to truly end welfare as we know it.

Mr. POMEROY. Mr. Speaker, I strongly support welfare reform—but we must not implement policies that hurt children. I am deeply disappointed that the final conference report did not incorporate more of the provisions that were included in the House substitute bill sponsored by Representative DEAL.

Kids do not have the life choices that parents and other adults do. Kids are not responsibile for our flawed welfare system and kids should not bear the brunt of the impact of this welfare reform package.

The welfare reform bill on the floor today fails in two areas I believe are critical in welfare reform: work and protecting children.

Welfare must become focused on work. Everyone needs to understand that public assistance is a temporary arrangement while steps are taken to obtain employment and independence.

I favor a work requirement which places upon welfare recipients the expectation that they find work or begin the training necessary to allow them to work. Those who are not willing to make this commitment should not be eligible for benefits.

While H.R. 4 does require recipients to work, the bill does not provide adequate funding for job training and child care. Job training is crucial in placing parents into jobs that will lift them out of poverty and keep them out of poverty. The bill lacks adequate child care that must be available to parents and the bill does not meet the needs of those who must work. It simple does not provide the necessary resources to move from welfare to work.

The second clear principle of welfare reform is a cautionary one: Changes must not hurt the young children. Not even the most irate constituent has suggested that the kids of welfare recipients deserve to be punished or can simply be forgotten. It's not the kids' fault. Unfortunately, the proposals in this bill will hurt millions of children.

To begin, H.R. 4 significantly reduces funding for food stamps and other child nutrition programs. These reductions will have a profound consequences for the nutrition, health, and well-being of children. The optional food stamp block grant in the bill would weaken the national nutrition safety net and eliminate the program's ability to expand in times of recessions and guarantee displaced workers and their families a minimum level of nutrition. These changes will jeopardize the long-term health of America's children.

Second, the child protections programs are lumped into block grants, and abused and neglected children lose their entitlement to protection. Instead, basic emergency services would be forced to compete for limited dollars with other less critical programs. When we all can recite story after story of how the system has failed abused and neglected children, now is not the time to weaken these programs.

Protecting children from abuse has nothing to do with welfare reform and the minuscule savings as a result of block granting these programs does not warrant the inherent risk that thousands of kids will be facing.

While these block grants significantly limit funding for child protections, they would also limit funding for adoptions services. The result would be a significant reduction in adoptions throughout this country, denying thousands of children safe, permanent and loving families. In particular, special needs and medically fragile children will disproportionately suffer.

As an adoptive parent, I believe I can speak to the importance of encouraging our communities to find permanent loving homes for all children in need—especially those who might languish in the foster care system.

While the bill would maintain the adoption subsidy as an open ended entitlement, this is not enough. The subsidy which helps place special needs and medically fragile children will not be worth much if adoption staff is not available and well-trained to place children in appropriate homes.

As more children enter the child protection system and are in need of adoptive homes, a block grant will prevent many of them from getting what they need and deserve—a family of their own. Most children affected have special needs: they suffered abuse and neglect, they are older, they are prenatally drug exposed or suffer from severe medical needs like cerebral palsy or are in need of a respirator.

The churches throughout our Nation help find adoptive homes for these children through an innovative program called One Church-One Child and as Rev. Wayne Thompson, the national president explained to me yesterday, their work will be severely impeded if there are not sufficient adoption staff to assist in this crusade.

Let us not penalize our children. They deserve what we all hope for our own children—a safe and loving home, full of support to allow them to become independent and productive citizens. Because of the drastic cuts and changes made in these programs, I can not support the final version of H.R. 4.

Mr. SKAGGS. Mr. Speaker, I oppose this conference report. It has many serious shortcomings, most of which have been discussed by other Members. I won't repeat those criticisms.

Instead, I would like to highlight a little noticed section in the bill, section 112. Section 112 would require any organization described in section 501(c) of the Internal Revenue Code receiving any funds under the act or amendments made by the act to make a confession as part of any public communication intended to affect the debate on public issue. That confession would have to state:

> This was prepared and paid for by an organization that accepts taxpayer dollars.

If a nonprofit group violates this regulation, it will be rendered ineligible, apparently forever, to receive any funds under the act, or the amendments to it.

Mr. Speaker, this is just another in a long line of assaults by the new Republican majority on the first amendment rights of Americans who express views on public policy issues through the organizations they join or support. This year the new majority has attempted to restrict free speech in America by trying to attach various provisions to regulate or suppress political expression to two appropriations bills, a continuing resolution short-term funding measure, the lobbying reform bill, and now the welfare reform bill.

While this provision, section 112, is not as far-reaching as some of the previous Republican efforts, it is equally misguided. As I understand section 112, if the YMCA or some other group receiving funds to provide child care, or a veterans group receiving funds to provide job training, issues a press release or published an op-ed piece designed to influence the public debate on any Federal, State, or local government issue fails to include the required disclaimer, it will be ineligible to continue its work on programs funded under the act or amendments made by the Act.

Mr. Speaker, the communications, that would be regulated under section 112 need not have anything to with any program or policy associated with this act; they need not have anything to do with any program or policy of the Federal Government at all.

Mr. Speaker, one such regulated communication regarding any government policy that inadvertently goes not without the confession statement and a child care or job training provider would be cut off, presumably forever, from any participation in the national effort to reform this Nation's welfare assistance system.

This is sheer idiocy—both practically, and constitutionally. Section 112 unfairly discriminates against nonprofit groups and creates another unnecessary regulation that will, if anything, impede the effort to provide the services necessary to help Americans move from welfare to work.

Thank you, Mr. Speaker.

Mr. FIELDS of Louisiana. Mr. Speaker, today I rise to state my opposition to the GOP welfare reform conference report on which we are about to vote. I am appalled at the way we have addressed welfare reform without consideration for the health and well-being of our children.

Welfare reform should be about getting people off welfare and into jobs.

Welfare reform should not be about punishing our children for the mistakes and misfortunes of their parents.

Welfare reform is not about mothers.

It is about children and making sure they do not go hungry. It is about helping the less fortunate.

Mr. Chairman, I though you would want to know it is estimated in the March 5, 1995, Parade magazine cover story: "Who are Americans in Need?" that over 5 million children already go hungry each month. This story further reported that 24 percent of our children live in poverty and that almost 46 percent of American children who are hungry live in one-wage-earner households.

This welfare reform conference report should not be about allowing children to go hungry if their mother is under 18 years of age.

This welfare reform conference report should not be about telling a child that his mother cannot receive money to feed, cloth, or house him because he was born while his mother was already on welfare.

This welfare reform conference report should not be about denying benefits to children if their parents don't have a job after 2 years, especially if we are not going to provide desperately needed job training.

How can we reform welfare when we intend to deny 46,000 Louisiana children benefits because the were born to current welfare recipients?

How can we talk about reforming welfare when we are proposing to deny 100,000 Louisiana children benefits because their parents have been on welfare for more than 5 years?

How can we reform welfare when we expect our children to care for themselves while we mandate their parents must work? This bill decreases child care services for 400,000 Louisiana children, but simultaneously requires their parents to work in order to receive benefits.

We cannot afford to let our children go unsupervised. In today's society our children need all the care they can get. Yet, this plan denies them that care.

It is an absolute shame that today we seek to punish mothers and fathers by punishing their children.

Welfare reform must not be about taking food out of the mouths of our children. Capping funds for recipients and offering bonuses to States for reaching quotas will only lower the quality of life for our children.

With this welfare reform conference report our children are hit from every angle. The first hit comes at home and the second comes in their schools. Capping the amount of money our school lunch programs receive is going to jeopardize the health of our next generation.

How many children are we going to let go hungry and unsupervised before we realize welfare reform is not about forcing children to suffer? When is this body going to realize welfare reform is about assisting the less fortunate families in our communities in their quest to become productive members of our society?

I urge my fellow Members to vote "no" on the welfare reform conference report before us today.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to speak out against a great injustice—an injustice that is being committed against our Nation's children—defenseless, nonvoting, children. I am referring of course to the Republican welfare conference agreement to H.R. 4, the Personal Responsibility Act. I do this because I have already voted for welfare reform sponsored by the Democrats that was strong on work, strong on children, strong on providing a safety net, and strong on personal responsibility.

We speak so often in this House about family values and protecting children. At the same time, however, my colleagues on the other side of the aisle have presented a welfare reform bill that will effectively eliminate the Federal guarantee of assistance for poor children in this country for the first time in 60 years and will push at least 1.2 million more children into poverty, without the entitlement safety net that keeps a roof over their head and meager food on the table. In addition, at least one-third of children who are already poor would fall deeper into poverty under the Republican plan.

This agreement is antifamily and antichild. It calls for unprecedented cuts in programs serving children and would remove the basic protections for hungry, abused, disabled, and poor children while using the savings to offset tax breaks for wealthy individuals and corporations.

The Republican plan would leave millions of American children without health coverage and would eliminate transitional Medicaid benefits for parents and their children as they move from welfare to work.

The agreement cuts $35 billion from the Food Stamp Program and allows States to block grant the program. It also includes a cap that cuts food stamp benefits across the board if poverty deepens. In my States, Texas, the State leadership has said this Republican plan will not work in some very important areas—the incentive to work.

The Republican plan repeals the protections that guarantee an abused or neglected child a safe, clean foster care facility and services that can promptly resolve a family crisis. Furthermore, the Republican plan makes no adjustments in funding if the number of abused children increases—or decreases—in a State. This means abused children may be left in danger.

Under the Republican plan, 330,000 low-income, disabled children—who would qualify for benefits under current law—would be denied SSI benefits. For most children who remain eligible for SSI, benefits would be cut by 25 percent—more than 650,000 children. This includes children with disabilities such as cerebral palsy, Down syndrome, muscular dystrophy, cystic fibrosis, and AIDS. These children would lose, on average, $1,374 per year, with their benefits falling to 55 percent of the poverty line for one person.

The conference agreement fails to provide adequate resources for work programs and child care which are critical to effectuate a transition from welfare to work. The conference agreement significantly increases the need for child care while reducing the resources for child care services as well as the funds available to States to improve the quality of care.

This strategy of welfare-to-work is doomed to fail. Mandatory welfare-to-work programs can get parents off welfare and into jobs, but only if the program is well designed and is given the resources to be successful. The GOP plan is punitive and wrong-headed. It will not put people to work, it will put them on the street. Any restructuring of the welfare system must move people away from dependency toward self-sufficiency. Facilitating the transition off welfare requires job training, guaranteed child care, and health insurance at an affordable price.

We cannot expect to reduce our welfare rolls if we do not provide the women of this Nation the opportunity to better themselves and their families through job training and education, if we do not provide them with good quality child care and, most importantly, if we do not provide them with a job.

Together, welfare programs make up the safety net that poor children and their families rely on in times of need. We must not allow the safety net to be shredded. We must keep our promises to the children of this Nation. We must ensure that in times of need they receive the health care, food, and general services they need to survive. I urge my colleagues in this, the "Season of Giving," to oppose this dangerous and heartless legislation. Let us formulate a welfare plan that will last—job training, children, and real work incentives.

Mrs. COLLINS of Illinois. Mr. Speaker, the spirit of Christmas may be alive and well in the rest of America but it is clearly nonexistent here in the Nation's Capital. Today, 4 days before Christmas, the House is about to pass H.R. 4, the Personal Responsibility Act, which means a colder, bleaker, and meaner holiday season and new year for children across the country and poor Americans who are struggling to survive.

Proponents of this bill will stand up today, praise each other and congratulate themselves for reforming the welfare system. Well, if throwing children and low-income Americans onto the streets is successful reform, then I guess the meaning of good will toward men has really become just a trite expression that is uttered at this time of year. In reality, H.R. 4 provides funding for the tax cut for the wealthy that Republicans are so eager to give.

The fundamental flaw of H.R. 4 is that it ignores the basic reason that most adult Americans become welfare recipients in the first place and second, why some stay on welfare for longer periods than they'd like to, and that is because there aren't enough jobs available that pay a living wage. So instead of improving job training programs, increasing the minimum wage, providing affordable health or child care, or offering positive alternatives to poverty, H.R. 4 punishes poor folk for being poor. It punishes children who are unfortunate enough to be born into a needy family. This so-called Personal Responsibility Act fails to create a single job and instead creates a whole list of irrational reasons to cut financially strapped Americans and their kids off the welfare rolls.

H.R. 4 rips the bottom out of our current Federal safety net for the least fortunate among us. It abolishes the entitlement status of Aid to Families with Dependent Children [AFDC] and other programs which for the past 60 years have ensured that poor kids in America are provided with at least a basic source of survival. By block granting most of our current welfare programs, with no quality assurances attached, there is no guarantee that these youngsters will receive the basic protections of shelter, clothing, and nourishment.

Mr. Speaker, despite tired, old erroneous sterotypes about lazy welfare recipients who wouldn't take a job if you handed it to them, the truth is that the vast majority of Americans don't want to be on welfare and are struggling to support themselves and their families. H.R. 4 does nothing for these millions of Americans. It offers no jobs, no minimum wage increase, no affordable child care, no job training, no education opportunities, no guarantee of affordable health care, and worst of all, no hope.

I urge my colleagues to reject this bill and force the GINGRICH Republicans to come up with another target for their tax cut for the wealthy. Let's make sure that we care for America's children and protect them in 1996 and beyond.

Mr. COYNE. Mr. Speaker, I rise today in strong opposition to this legislation.

H.R. 4 would end the Federal guarantee of a safety net for poor children that has existed in this country for over 60 years. This legislation would end the entitlement status of Federal assistance to the poor—and replace it with fixed payments to the States to deal with their poor as best as they can.

Funding for these Federal antipoverty programs will be reduced from current program levels by more than $60 billion over the next 7 years. The Congressional Budget Office estimates that by the year 2002, Federal and State spending on these programs will drop to only 85 percent of what we spent last year, when the economy was relatively healthy. Assistance to the poor under this legislation could not possibly meet the level of need that can be reasonably anticipated.

The policies linked to these funding levels are distressing as well. States would be given greater freedom to set certain eligibility and benefit standards. This legislation would cut off AFDC assistance to adult beneficiaries after an arbitrary period of time without providing a level of child care funding that would be necessary for these single parents to go to work. It would, in most cases, deny benefits for children born to women on welfare. The bill would eliminate the guarantee of health care coverage for millions of low-income children, as well as aged, blind, and disabled individuals.

This legislation may be marketed by the Republicans as reform that is targeted at welfare queens and lazy good-for-nothings who don't want to work, but such characterizations are at best inaccurate. This legislation would cut foster care funding, child care assistance, and food stamps for the working poor, the elderly, abused children, and the disabled by more than $35 billion. These people deserve our help. It is both inhumane and irresponsible to support such cuts.

Some people see the changes contained in this bill as improvements over the current system. Others with longer memories remember both the inability and unwillingness of some State governments to provide even minimal support for their own citizens and neighbors. Supporters of this bill may be right in suggesting that this legislation will result in reduced dependence, reduced illegitimacy, and increased administrative efficiency in some States. But at what price? Clearly, some of the most vulnerable members of our society will bear the burden of these cuts. This legislation would punish innocent children for situations over which they have no control. How much suffering, uncertainty, homelessness, malnutrition, and abuse are we willing to risk?

The current system is clearly in need of serious reform. This legislation, however, does not provide the type of reform that is needed. Democrats unanimously supported a better alternative for welfare reform this spring. On March 23, I joined my Democratic House colleagues in voting for an alternative welfare reform bill that would have gotten families off the welfare rolls and into the workplace. It would have addressed fraud and abuse in the SSI Program without denying benefits to individuals with serious disabilities. It would have provided States with greater flexibility and more resources to undertake welfare reform initiatives. And it maintained a reliable safety net for all Americans.

It is still not too late to adopt such welfare reform. As a first step, I urge my colleagues to reject this conference report and to begin an earnest, nonpartisan dialog on welfare reform.

Mr. KLECZKA. Mr. Speaker, I would like to take this opportunity to express my support for the conference report on H.R. 4, welfare reform legislation. While this bill is not perfect, it represents a reasonable resolve toward addressing a complex problem.

Congress must act now to overhaul our troubled welfare system before another generation enters a culture of dependency. Though well-intentioned, our current welfare system encourages a cycle of poverty, hopelessness, and despair. At the same time, it discourages family cohesiveness and self-reliance.

I have found it unrealistic to hold out for a perfect welfare reform bill, especially in light of the partisan makeup of Congress today. More importantly, it is likely that changes will need to be made as States begin to implement their programs and fine-tuning becomes necessary.

This welfare reform package contains a number of provisions critical to transforming the welfare system. Welfare recipients must work in exchange for benefits. Education and job training will be required, with the emphasis on building a work record. This is a key requirement in helping people become self-sufficient.

A 5-year lifetime limit on assistance is put in place, unless States, due to their circumstances, decide to do otherwise.

The compromise agreement maintains the safety net for child nutrition. Last March, I voted against the House welfare reform bill because it would have block granted child nutrition programs, eliminating the assurance that every poor child has at least one nutritious meal per day. In my judgment, good nutrition is essential for all American children, and this investment is extremely important.

The proposed changes to the Supplemental Security Income [SSI] program are also necessary. Over 2 years ago, I began receiving reports from my constituents of abuse taking place in SSI. There were cases where children with mild behavioral problems qualified for SSI cash benefits. One family then used the money to take a vacation to Florida. Taxpayers have a right to expect an end to fraud and abuse in this program.

We must reform SSI to ensure the program serves the truly disabled. This welfare bill makes strides in the right direction. One of the most important changes is in the definition of disabled. No longer will Individualized Functional Assessments [IFA] be used. The IFA is a subjective gauge to determine whether or not children can engage in "age-appropriate" activities effectively. This left a lot of room for potential abuse. While tightening eligibility criteria, it is important to note that this compromise ensures that those children who most need assistance will receive it. For example, children with cystic fibrosis, cerebral palsy, or Down Syndrome requiring full-time care will get the same payment they do now. Those with conditions that are less severe and that do not demand round-the-clock attention will be eligible for 75 percent of benefits.

However, I am concerned that the resources for States to put welfare recipients to work may be inadequate. Many people will require services before they are able to enter the workplace. States will also have to make reasonable exceptions for cases where people are willing to work, but no jobs are available. By most estimates, several thousand entry-level jobs will have to be created in Wisconsin to accommodate welfare beneficiaries entering the job market. States must have the flexibility to support welfare recipients who are willing to work, but unable to do so.

Another of my major concerns is that the bill ends the obligation to provide health care benefits to families on welfare. Without this guarantee, thousands of children and adults could be denied medical care unless the States continue services using Medicaid block grant funds provided under separate legislation. In my estimation, H.R. 4 would be a much stronger bill if this linkage has been left intact. If States are unable or unwilling to provide adequate health care to needy families, this issue will have to be revisited.

I am voting for welfare reform today, trusting the word of State governors who sought control of welfare. The Republican Governors Association pledged its support for this agreement, saying, "We can do better, and for our children's sake, we must do better." They must live up to their promises and do the right thing. Members of Congress, including myself, will be watching them closely to ensure that this is indeed the case.

Mrs. MORELLA. Mr. Speaker, I rise in strong support of this motion to recommit the welfare reform bill to the conference committee to make five specific changes. These improvements would ensure an adequate safety net protects our most vulnerable populations while States design new programs to move welfare recipients into the workforce.

I voted against the House-passed bill because the cuts were too draconian. The bipartisan Senate-passed bill was a tremendous improvement, and I am pleased that this conference report adopted many of the Senate's provisions. The conference report, however, fails to fully fund improvement programs, and I urge my colleagues to join me in voting to recommit the bill to conference to make these changes.

I support bold welfare reform that moves recipients from welfare to work and encourages personal responsibility. This legislation does that, allowing States to try new approaches that meet the needs of their recipients. States are already experimenting with welfare reform. Nearly 40 waivers have been given to States by the Department of Health and Human Services, and the results are encouraging. In giving leeway and dollars to States, however, we must continue to protect children and the disabled. I strongly support the child support enforcement provisions contained in this legislation. We are finally cracking down on deadbeat parents by enacting penalties with real teeth and establishing Federal registries to help track deadbeats.

Mr. Speaker, I am pleased that this bill contains substantial improvements over the House-passed bill. Unlike the House bill, its maintenance-of-effort provision requires States to maintain 75 percent of their welfare expenditures, it retains the entitlement status of foster care and adoption assistance, it increases child care money from the House bill, and it offers States the opportunity to design welfare programs that move women into work and encourage responsibility. It does not impose a child nutrition block grant on States.

The conference report, however, contains cuts in critical programs that protect children and the disabled. This motion would add a total of $14 billion in funding to child care, Supplemental Security Income [SSI], child welfare and foster care programs, and programs for immigrants. The conference report also severs the link between Medicaid eligibility and welfare, a provision I strongly oppose. This motion restores Medicaid eligibility for welfare recipients.

Without adequate child care funding, many women will not be able to enter the workforce, and States will be unable to meet their workforce participation requirements. The motion to recommit adds child care funds to better meet the needs of the States and women entering the workforce. The Senate welfare reform bill included $3 billion in matching child care funds for States over 5 years. Unfortunately, the conference agreement stretched this money over 7 years, resulting in a $1.2 billion shortfall in the first 5 years. I urge my colleagues to include the entire $3 billion over the first 5 years to provide child care for women entering the workforce.

Current Medicaid law guarantees health coverage to children and families receiving welfare, and both the House and Senate-passed bills continued this linkage. Despite the House and Senate language, the conference agreement severs this linkage, jeopardizing the health of women and their children as they are trying to get off welfare and take responsibility for their lives. Without Medicaid, one illness could force them back into the cycle of dependency.

While the Senate bill included cuts in the Supplemental Security Income program, the conference agreement goes much further. It creates a new two-tiered system of eligibility which would reduce SSI benefits for 65 percent of the children on the SSI program. This motion to recommit contains the Senate's language that would preserve this important program. The motion to recommit also maintains the entitlement-status of foster care and adoption assistance, a critical safety net for our most vulnerable children. As States enter a recession and their caseloads increase, we cannot afford to cut these programs.

Please join me in voting for the motion to recommit the welfare reform bill to the conference committee. Let's take this opportunity to make changes that will protect our children and allow us to pass this important legislation to move families off welfare.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in opposition to the Republicans' welfare reform proposal. Welfare reform should promote self-sufficiency in a way that does not compromise human dignity and self-respect, the cornerstones of the American tradition.

Tragically, the Republican proposal does little to promote self-sufficiency. It fails to provide specific resources for job training and placement which are necessary to help recipients become productive members of the work force. Yet it punishes those who, although willing, are unable to find work.

The Republican plan violates the basic principles of human dignity and self respect. It punishes poor families, especially our children, by eliminating the guarantee of health services for poor families and denying critical health care to millions of women and children. In addition it allows States to deny benefits to innocent children who are born into families currently receiving assistance.

Equally as tragic, the Republican bill eliminates our country's long-standing commitment of a guaranteed safety net for people living in poverty. In Los Angeles County alone, thousands of children will join the nearly half a million children who already live below the poverty line.

And it eliminates the safety net for all Americans who experience economic hardship resulting from the loss of their jobs and who depend on this safety net to protect their family until they can find other employment.

The Republican plan does not do what it claims. It does not encourage responsibility and self-sufficiency. It will not help people to help themselves and worse, it severely punishes the most vulnerable among us, our children.

While we can all agree on the need for welfare reform, the American people do not want a plan which violates the basic American principles of fairness, human dignity, and self-respect; the Republican bill violates all of these.

Mr. ABERCROMBIE. Mr. Speaker, I rise in opposition to the welfare reform conference agreement. Instead of addressing the causes of poverty, this bill penalizes people for falling on hard times.

Yes, Mr. Speaker, we do need to change the welfare system; but it is cruel and mean-spirited to dismantle altogether the safety net and basic services for poor families and disadvantaged children.

The Republicans' answer to welfare reform is to deny basic assistance to lawful immigrants who pay Federal taxes, pit foster children against victims of domesitc violence for the same scarce funds, eliminate assistance to disabled kids, and cut programs to reduce child abuse.

The reductions in basic programs for low-income children, families, and elderly and disabled people contained in the conference agreement on welfare reform total nearly $80 billion over 7 years, compared to what the programs would cost under current law.

As a result of these reductions, the legislation would increase poverty among children. An Office of Management and Budget [OMB] analysis found that the welfare conference agreement would add 1.5 million children to the ranks of the poor.

Furthermore, these figures understate the bill's overall impact on child poverty. These figures reflect the legislation's impact just on children whose incomes would exceed the poverty line without the legislation but who would be pushed below the poverty line by the legislation. Yet, the conference report also would have a second major effect on child poverty—it would make large numbers of children who already are poor still poorer. According to the OMB study, the depth of child poverty would be increased by one-third.

The deep benefit reductions in the welfare reform conference report extend far beyond single-parent families on welfare. The large food stamp benefit cuts affect the working poor, the elderly and disabled poor, and welfare recipients alike. The changes in the SSI program adversely affect large numbers of low-income disabled children as well as elderly poor individuals. Changes and reductions in the child protection area will result in fewer services for abused and neglected children. These changes have little to do with reducing out-of-wedlock births or moving welfare families to work.

Unfortunately, certain members of the Republican Party have perpetuated the myth that welfare recipients do not want to go to work, leading to a feeling of resentment toward recipients by the American public. This is simply not true. Forty percent of single mothers combine work and welfare or cycle between these two income sources while on welfare. The majority of people who cycle on and off welfare have substantial work experience—on average about 6.5 years.

However, there are many barriers facing poor American families that prevent them from holding down a permanent job. The primary barriers are lack of medical coverage and lack of adequate child care services. Single-parent families, making up the vast majority of families on AFDC, cannot leave welfare because many jobs do not offer health insurance. AFDC recipients lose their Medicaid benefits when they accept a job and there is no safety net coverage to fill this important need if their new job does not include health insurance. In addition, in every State, including Hawaii, there are waiting lists of up to several years for guaranteed child care for the children of poor families who seek work after welfare. Welfare reform should ensure that these two major barriers are addressed.

Furthermore, many AFDC recipients do not have adequate education or job skills to find a job which would earn them a family wage. Most jobs available to unskilled and uneducated head of households pay the minimum wage, currently $5.25 an hour in Hawaii. With a minimum-wage job, an individual in Hawaii would earn approximately $10,000 each year. This is not adequate for a family to survive. It is also important to remember that our economy does not generate enough jobs for all the people who want them. Today approximately 8 million Americans are currently unemployed and looking for work. Criticizing families on welfare without keeping in mind the limits of the job market condemns them for the failings of the economy.

Many welfare reform advocates have suggested that by eliminating benefits or enacting punitive measures we can solve the problem of welfare dependence. Welfare reform including punitive measure such as cutting off recipients at 2 years or cutting off benefits for additional children would be devastating to poor families in America. According to recent studies, welfare programs are not the reason for rising births to unmarried mothers. Similar studies reveal that welfare recipients are not motivated to have additional children by the prospect of additional benefits. The fact is that, on average, families receive only up to $69 per month for an additional child. This is not even enough to cover the cost of diapers for a new baby. In Hawaii an additional child brings in only $147 in additional cash assistance.

Current AFDC payments are not windfall benefits. In Hawaii, an AFDC family of three receives $712 in cash assistance each month. This amount is reflective of the high cost of living in Hawaii when compared to other States. In Alabama, for example, three-person families receive $164 in cash assistance each month. I challenge any critic of welfare recipients to live comfortably on this income. Furthermore, AFDC benefit levels have declined by 42 percent in the last two decades. The average monthly benefit for a mother of two children with no earnings has shrunk in constant 1992 dollars from $690 in 1972 to $399 in 1992. In addition it is estimated that welfare recipients now lose up to a dollar in benefits for each dollar earned in a new job. Welfare recipients need the same incentives to work that other Americans have. We must end welfare as we know it by crafting a fair and just system to empower recipients to achieve permanent self-sufficiency without punishing them for being poor.

I believe that the people of Hawaii and all Americans recognize that government has a role to play in ensuring that our families maintain an adequate quality of life and have access to basic human needs. We understand that by simply eliminating benefits for poor families we do not eliminate their needs. Most importantly, we cannot forget who is receiving the AFDC benefits. Over 66 percent of all recipients of AFDC are children and 100 percent of the adults receiving AFDC are caring for children. Thirty-five percent of all AFDC families include a child under age 3. If we remove the minimum safety net completely we will be abandoning our children. We know that family poverty harms children significantly and places young children at risk. Ultimately society will suffer for the abandonment of families and States will have to shoulder the burden of homelessness, crime, family violence, substance abuse, and health problems. We should improve the lives of the American poor by changing the welfare system in a positive, not a punitive, effort.

Mr. TORKILDSEN. Mr. Speaker, I rise to strongly support this compromise legislation. I voted against the original House-passed welfare package, and received a fair amount of criticism for it. But that original package needed to be changed, especially in two key areas.

The original bill attempted to turn child nutrition programs, such as school lunch and WIC, into block grants. Additionally, it completely eliminated the social safety net for legal immigrants.

The Senate-House compromise bill addresses these concerns in this final bill. Specifically, the nutrition block-grant proposal has been eliminated: WIC will continue to be a separately funded program, one that works well in providing early childhood nutrition and education for both children and their parents.

The compromise bill will also continue to allow legal immigrants to receive benefits that their tax dollars pay for. While States will have to agree, the language in the compromise bill is a substantial improvement over the original language.

This welfare reform bill also includes the strongest child support enforcement provisions ever enacted by the Federal Government.

Child support checks often mean the difference between self-sufficiency and dependency on welfare. With this bill, we are sending a clear message that it is never acceptable to abandon your children, and if you do, the penalties will be severe.

I am proud to have sponsored a provision in this bill that will prevent parents from hiding assets in other States, while neglecting to pay the child support payments they are legally, and morally, required to make. My provision will allow a custodial parent to place a lien on a delinquent parent's asset, without having to travel from State to State. In this provision, property liens will be given "full faith and credit" in every State, forcing parents to meet their moral and financial responsibilities.

The Personal Responsibility Act gives States and localities the necessary flexibility to implement innovative approaches to serving those in need. States will have the option to choose from a number of policy suggestions set forth in this bill, including requiring mothers under 18 to attend school and live with an adult, and denying additional cash benefits to those mothers who have children while receiving benefits. The Governor of my home State, Bill Weld, has a bold welfare reform plan which cannot be fully implemented, until this bill becomes law.

This bill represents the end of welfare as we know it. People trapped in the current system will be given encouragement and assistance in obtaining jobs and education. It will prevent abuse of the welfare system, by placing a lifetime limit on benefits. Welfare was never meant to be a way of life. This bill returns welfare to the short-term assistance plan it was always meant to be.

I urge the President to fulfill his campaign pledge to "end welfare as we know it" by signing this bill. Without these reforms, the cycle of poverty that has afflicted so many for the past three decades will only continue. This compromise is a win for children, a win for those trapped in a failed system, and a win for taxpayers.

The SPEAKER pro tempore (Mr. LINDER). Without objection, the previous question is ordered.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. NEAL OF MASSACHUSETTS

Mr. NEAL of Massachusetts. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. NEAL of Massachusetts. Mr. Speaker, I am, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. NEAL of Massachusetts moves to recommit the conference report on the bill H.R. 4 to the committee of conference with instructions to the managers on the part of the House to insist that—
>
> (1) the text of H.R. 1267 be substituted for the conference substitute recommended by the committee of conference; and
>
> (2) the title of H.R. 1267 be substituted for the title of the conference substitute recommended by the committee of conference.

POINT OF ORDER

Mr. SHAW. Mr. Speaker, I raise a point of order that this motion to recommit is outside of the scope of the bill that is immediately before the House.

Mr. NEAL of Massachusetts. Mr. Speaker, on the point of order, this simply would give the Democratic caucus the chance to vote for the bill that they voted for last March.

The SPEAKER pro tempore. The gentleman from Florida [Mr. SHAW] makes a point of order against the motion to recommit offered by the gentleman from Massachusetts [Mr. NEAL]. As discussed in chapter 33, section 26.12 of the Deschler's Procedure, a motion to recommit a conference report may not instruct House conferees to include matter beyond the scope of the differences committed to conference by either House.

The motion offered by the gentleman from Massachusetts instructs the House conferees on H.R. 4 to bring back a conference agreement consisting of the text of the bill H.R. 1267. Since that bill was not committed to conference, the issue is whether the text of that bill includes matter not contained in either the House-passed version of H.R. 4 or the Senate amendment thereto. An examination of H.R. 1267 reveals that is indeed the case. There are a number of provisions in H.R. 1267 which provide for a refundable dependent care tax credit, an issue not committed to conference by either House in H.R. 4. Therefore, the motion to recommit instructs House conferees to include matter beyond the scope of the differences committed to conference by either House and is not in order. The point of order is sustained.

Mr. NEAL of Massachusetts. Mr. Speaker, I appeal the ruling of the Chair.

MOTION TO TABLE OFFERED BY MR. SHAW

Mr. SHAW. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. LINDER). The Clerk will report the motion.

The Clerk read as follows:

> Mr. SHAW moves to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. SHAW] to lay on the table the appeal of the ruling of the Chair.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SHAW. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 240, nays 182, not voting 11, as follows:

[Roll No. 875]

YEAS—240

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—182

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Flake
Foglietta
Ford
Frank (MA)
Frost

Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—11

Bryant (TX)
Chapman
Conyers
Edwards
Filner
Harman
Jefferson
Lantos
Myers
Nadler
Quillen

☐ 1450

Mr. BROWDER and Mr. MEEHAN changed their vote from "yea" to "nay".

So the motion to table the appeal of the ruling of the Chair was agreed to.

The result of the vote was announced as above recorded.

MOTION TO RECOMMIT OFFERED BY MR. ROSE

Mr. ROSE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. LINDER). Is the gentleman opposed to the conference report?

Mr. ROSE. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore (Mr. LINDER). The Clerk will report the motion to recommit.

The clerk read as follows:

Mr. ROSE moves to recommit the conference report on the bill H.R. 4 to the committee of conference with the following instructions to the managers on the part of the House:

(1) Recede from Title VII (relating to child protection and adoption) in the conference substitute recommended by the committee of conference and agree to Title XI of the Senate amendment relating to child abuse prevention and treatment.

(2) Recede from that portion of section 301 of the House bill that amends subparagraph (E) of section 658E(c)(2) of the Child Care and Development Block Grant Act of 1990 and agree to the portion of section 602 of the Senate amendment that amends such paragraph.

(3) Agree to that portion of section 602 of the Senate amendment (pertaining to the child care quality set aside) that amends subparagraphs (C) of section 658(c)(3) of the Child Care and Development Block Grant Act of 1990.

(4) Recede from that portion of section 301 of the House bill that amends subparagraphs (F) and (G) of section 658E(c)(2) of the Child Care and Development Block Grant Act of 1990.

(5) Recede from that portion of section 301 of the House bill that amends paragraphs (5) and (6) of section 658K(a) of the Child Care and Development Block Grant Act of 1990 and agree to that portion of section 602 of the Senate amendment that amends such paragraphs.

(6) Agree to that portion of section 101(b) of the Senate amendment which establishes a new section 403 of the Social Security Act and relates to State maintenance of effort in lieu of that section of title I of the conference substitute (relating to State maintenance of effort) recommended by the committee of conference.

(7) Recede from section 602(a) and (b) of the House bill (relating to SSI disabled children) and agree to section 211 of the Senate amendment.

(8) Recede from subtitle B of title III of the House bill (relating to family-based and school-based nutrition block grants) and agree to title IV of the Senate amendment (relating to child nutrition programs) insofar as such amendment does not contain such nutrition block grants.

(9) Insist on section 104 of the Senate amendment pertaining to continued application of current standards under the Medicaid program in lieu of that section of the conference substitute (relating to Medicaid) recommended by the committee of conference.

Mr. ROSE (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. ORTON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ORTON. Mr. Speaker, I have a parliamentary inquiry regarding what it is we are voting on. Am I correct in saying if we adopt this motion that we would be voting to send this back to conference committee with instructions to adopt the changes demanded by the Senate Republicans in the letter just yesterday?

The SPEAKER pro tempore. The Chair advises the gentleman that is not a proper parliamentary inquiry.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROSE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 231, not voting 10, as follows:

[Roll No 876]

AYES—192

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—231

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler

Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Bryant (TX)
Chapman
Conyers
Edwards
Filner
Harman
Lantos
Myers
Quillen
Quinn

☐ 1513

The Clerk announced the following pairs: On the vote:

Ms. Harman for, with Mr. Quinn against.

Mr. Filner for, with Mr. Quillen against.

Mr. YOUNG of Alaska changed his vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LINDER). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. ARCHER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 245, noes 178, not voting 11, as follows:

[Roll No. 877]

AYES—245

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—178

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bunn
Campbell
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Costello
Coyne
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Ros-Lehtinen
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—11

Bryant (TX)
Chapman
Conyers
Edwards
English
Filner
Harman
Lantos
Myers
Quillen
Quinn

☐ 1529

The Clerk announced the following pairs:

On this vote:

Mr. Quinn for, with Ms. Harman against.

Mr. Quillen for, with Mr. Filner against.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ENGLISH of Pennsylvania. Mr. Speaker, on rollcall No. 877, my vote was not recorded because of an apparent mechanical failure of my voting machine. Had I been recorded, I would have voted aye.

GENERAL LEAVE

Mr. SHAW. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on the conference report on the bill, H.R. 4.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Is there objection to the request of the gentleman from Florida?

There was no objection.

RESOLUTION AUTHORIZING THE SPEAKER TO DECLARE RECESSES SUBJECT TO THE CALL OF THE CHAIR FROM DECEMBER 23, 1995, THROUGH DECEMBER 27, 1995

Ms. PRYCE. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 320 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 320

Resolved, That the Speaker may declare recesses subject to the call of the Chair on the calendar days of Saturday, December 23, 1995, through Wednesday, December 27, 1995. A recess declared pursuant to this resolution may not extend beyond the calendar day of Wednesday, December 27, 1995.

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], the distinguished ranking member of the Committee on Rules, pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 320 is a simple, straightforward resolution that allows the Speaker of the House to declare recesses subject to the call of the Chair on the calendar days of Saturday, December 23, 1995, through Wednesday, December 27, 1995. The resolution further provides that any such recess may not extend beyond the calendar day of Wednesday, December 27, 1995.

Mr. Speaker, the Rules Committee brings this resolution to the floor today for several important reasons. First, the resolution specifically provides for the Speaker to declare recesses, and not to adjourn the House at the end of business this week. This is an important distinction which will permit the House to be on stand-by should further progress be made in budget and other negotiations between our leadership and the White House.

As our colleagues know, several functions of the Federal Government are not yet operating at this time, and adjourning the House may unnecessarily hamper our ability to consider legislation should a breakthrough be reached in our discussions with the President.

Despite recent news stories to the contrary, we are making progress toward resolving our differences, and Members on this side of the aisle remain just as committed today to a 7-year balanced budget plan as they have been all year. By recessing the House, key committees can swing into action, if necessary, to begin the process of crafting final balanced budget legislation and re-opening the Federal Government.

No less important is the fact that Members and staff would certainly benefit from a brief respite from the legislative program. You don't need to be a veteran Hill watcher to recognize that the intensity of our work here over the past several weeks is taking its toll.

In fact, the Congressional Research Service just recently issued a report on the breakdown of civility and decorum in the House. And that is unfortunate because no matter how controversial the issues are which we debate on this floor, rational, reasonable men and women can agree to disagree, and still remain friends.

I am concerned, Mr. Speaker, that if the House does not take a brief recess in the next few days, at least for the sake of goodwill, "Grumpy Old Men" will end up being more than just the title of a funny movie.

While some Members may prefer to work right through this holiday weekend, I believe the vast majority of our constituents would want us to legislate carefully, thoughtfully, and deliberately, with clear minds as we undertake the serious challenge of finalizing a fair, workable plan to balance the Federal budget in 7 years' time.

Finally, the resolution before us will give Members the opportunity to enjoy a short, but hopefully meaningful and fulfilling Christmas holiday with their friends and family.

And for some of us, it will mean being able to interact, however briefly, with our constituents back home as we continue to gauge the American people's support for fiscal restraint and responsibility.

Now I would just like to add, Mr. Speaker, that there are many Federal employees who reside in my congressional district and throughout each Member's district. Our message to them is that we have not abandoned you, despite the heated rhetoric you might hear.

While the situation facing many Federal workers clearly is uncomfortable in the near-term, especially as we approach the holidays, our goal for the long-term is to give all Americans the best Christmas gift possible, and that is a balanced Federal budget. It is the key to our Nation's future economic prosperity, and I am confident that all those affected by the current budget situation will understand that we have their best interests at heart.

In closing, Mr. Speaker, let me emphasize that with this resolution, we are not abdicating our responsibility to complete the people's business. In fact, the situation is just the opposite.

We on this side of the aisle are hopeful and optimistic that a budget agreement can be reached in the very near future. We encourage the President to continue to participate in the negotiations so that a serious budget agreement can be reached without any further delay.

If that should happen, the terms of this resolution would permit the House to come back into session to respond appropriately. And I know several key Members of the House, including the distinguished chairman of the Rules Committee, Mr. SOLOMON, will be here this weekend working to bridge the budget gap with the President.

Mr. Speaker, under normal circumstances, the House would more than likely have been adjourned by now and everyone would be comfortably at home enjoying friends and family, and the goodwill of the holidays. But as our colleagues know all too well, circumstances regrettably are far from normal. This resolution is appropriate in light of these circumstances. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentlewoman from Ohio [Ms. PRYCE] for yielding me the customary half-hour.

Mr. Speaker, let me make something very clear: We would not be here today if my Republican colleagues had done their job; the Government would not be closed today if my Republican colleagues had done their job; and we would not have to pass this rule giving the Speaker the authority to declare recess if my Republican colleagues had done their job.

Congress' primary responsibility is to pass 13 appropriations bills before October 1, but here it is, December 21 and my Republican colleagues are still bickering among themselves over the remaining bills.

For that reason and that reason alone the Federal Government is shut down for the eighth day this year.

Mr. Speaker, this shut down is unprecedented and so is this rule.

This rule allows Speaker GINGRICH to declare the House in recess so that he doesn't have to adjourn the House.

I want to remind my colleagues, Mr. Speaker, that the Constitution prohibits the House from recessing for more than 3 days—any recess or adjournment longer than 3 days requires the concurrence of the other body.

When the Democrats were in the majority, we never passed a rule making a recess an adjournment. If Congress needed to adjourn, we adjourned.

It appears that my Republican colleagues want to be able to say that they stood by their guns, that they insisted on cutting Medicare and Medicaid to pay for tax breaks for the rich, even if it meant closing down the Government, but they do not want to vote outright to go home.

Mr. Speaker, make no mistake about it. This is just an adjournment in recess clothing. An adjournment by any other name would still mean Congress is going home.

Anyone who votes for this rules change is voting to adjourn the House. Period.

Without this rule, my Republican colleagues would have to vote to adjourn the House. In other words they would admit that they want to go home for Christmas before they've finished their work. There are 260,000 Federal workers waiting to get back to work, but my Republican colleagues want to call it quits.

Mr. Speaker, Congress should not vote to go home until Federal workers can go back to work and my Democratic colleagues and I are willing to stay until we get the job done.

Finally, Mr. Speaker, let me just say that this is a horrendous way to do business. The resolution just reported out of the Rules Committee moments ago is a sham which will allow the Congress to try and fool the American people into thinking that we are still at work.

Make no mistake about it. The resolution we are considering right now is an adjournment resolution, plain and simple.

We will go home to our families for the holidays while the Government remains closed and thousands of Federal workers remain furloughed, wondering if they will get paid. This is an injustice and a tragedy.

Mr. Speaker, at the appropriate time I will move that the previous question be defeated. If I am successful, I will move that the rule be amended to include language which will not allow the Congress to recess in any way, shape, or form, until a clean continuing resolution is adopted keeping the Government running until January 26.

This is the right thing to do. I urge my colleagues, if you want to be honest with the American people, defeat the previous question and accept my amendment.

Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. I say to the gentleman from Massachusetts, my colleague, after that speech, which I would not say that the gentleman was not sincere because I have too much respect for him to do that, but, as my colleague knows, we are going to be back here next Wednesday, I am, and after the gentleman's speech I could almost guarantee him that I am going to have votes on this floor on Wednesday; I want my colleagues all to know that because, as my colleagues are aware, this rhetoric continues to go on. We hear words like, "These are cuts, cuts, cuts for the rich," almost like they could gag when they say "for the rich."

Mr. colleagues, capital gains tax cut. I have got people in my district; Sears Roebuck is one of the major employers, and have got people that have worked for them for very low wages because Sears does not pay high wages, but they have good retirement benefits, and they have things called stock options, and I have got people that have worked all their lives that even now, after 40 years with Sears Roebuck, they may be only making $30,000 a year, but they have accumulated stock over all those years, they have saved it, and now they want to sell it. Well, they are rich because they own some stock.

In addition then we have got people where their spouses have died, and they have the stock and they want to sell it and maintain a decent living even though their income has dropped so much over all those years after they lost their spouse, and now they are rich because they want to sell the stock and they do not want to give all the money to the Government.

Then there is a thing called a marriage tax penalty. As my colleagues know, they get penalized for being married around here. And then there is a question of giving a tax break to people with children so that they can keep a little bit of their take-home pay, and they could afford a mortgage, they could afford a downpayment on a car.

□ 1545

I really get broken-hearted when I hear this "tax cut for the rich" business. It actually turns your stomach.

Let us just talk about something else here. The gentleman from Massachusetts [Mr. MOAKLEY] was saying that the Republicans have not done their job. Let me tell you something; I have a list of all the appropriation bills which provide for the function of all the Government. This Congress has done its job. This Congress has sent this President all of these appropriation bills. We sent one to the President the other day, which is the Interior bill. That is a very, very important bill. It provides for keeping the Smithsonian Institution open, the Washington Monument, and all the national parks back in your district. And the President vetoed it.

Then we sent him another bill dealing with the Department of Veterans Affairs that funds all of the veterans hospitals across this Nation, and all the outpatient clinics, and he vetoed it because there was not enough money in the bill.

I am just going to tell you Members something. Some of us are going to stay around here, and I am going to personally check up on all of you with your rhetoric saying, "We wanted to stay here and work," because I am going to be here, and I am going to call your offices, your district offices back home, your homes, and I am going to find you, track you down, find out where you are, because we are going to stay here and we are going to provide for this recess authority, we are going to provide for this recess authority, so that in case we do reach an agreement and he wants to sign that Department of Veterans Affairs bill, and the gentleman from Virginia, Jim, your people can then go back to work. We are going to be here to give it to him, and we are going to be here to give him all those bills.

Let us be reasonable. If you do not want to be here, go on home, but the rest of us will. This simply provides for recess authority right now so you could get on a plane tomorrow afternoon or evening and go home for Saturday and Sunday and Monday, the holidays, and be back here Tuesday, and there could probably be votes on Wednesday if we reach any kind of an agreement. The same thing holds true on Thursday and Friday, and then if we have not reached an agreement, maybe you can take Saturday and Sunday off, but you are going to be back here on January 3, and I am going to see to it.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would like to respond to the chairman of the Committee on Rules that the Democrats will be here. We will be here as long as it takes to open up this Government, Mr. Speaker. I want to move over to the Republican microphone here, as my friend, the gentleman from New York, moved to the Democratic microphone, because it is the Republican side of the aisle I would like to address.

The gentlewoman from Ohio [Ms. PRYCE], who introduced this resolution, suggested that she was concerned about us becoming grumpy old men. That may be a concern, but we need to be more concerned about being responsible legislators. We cannot pass this resolution. Let me explain to you why, those Members who are in the body here, and those Members who are watching television.

In the first place, Mr. Speaker, if we do not pass this legislation, on December 26, 13 million welfare recipients cannot get their checks. Many of them can't survive without them. They do not have any assets to tide them over. They live on their monthly checks alone. They will not be able to buy food for their children. Families will not be able to pay their rent which is due on the first of the month. If we do not have a continuing resolution in effect by December 27, the States will not receive $11 billion of Medicaid money. They cannot function without that money. They have to get that money. We have to pass a continuing resolution now. This is too serious a threat to the well-being of this Nation if we don't get a continuing resolution passed now to reopen the Federal Government.

Mr. Speaker, let me also tell the Members if we go until January 3, Federal employees, and I appreciate the fact that the Speaker signed a letter saying they will get paid, but Federal employees will get paid at that point $1.6 billion for not having performed any work. How can we justify that to the American taxpayer? That is what the bill is running, every day we go on. It was $750 million during the first Government shutdown. I am counting that money. It will be $1.6 billion if we do not have a continuing resolution and those 260,000 nonemergency workers are still out of work by January 3. We cannot let this happen. We cannot pass this resolution. We have to stay here and do our work. We cannot leave when the Government is shut down.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. MORAN. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, it is very obvious to me that the majority does not care a bit about what you are saying. They just do not care if all those people suffer. That is fine.

Mr. MORAN. Mr. Speaker, I am not going to reach any conclusions. I am just trying to tell all my colleagues who I very much respect, I do not think we have a choice. I do not think we can pass this. In any good conscience, we cannot go home and leave the Government shut down, no matter how much we would like to be with our families at Christmas. We have to do our job. Please vote against this resolution.

Ms. PRYCE. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, that was useful exercise, I guess, in shouting in the House, but it does not bear much real resemblance to reality. I personally have had a chance to talk to some of the Governors who were just talked about, three of them this morning. It is certainly our understanding at this point that the States intend to go ahead and pay the welfare benefits. The States know that the money is going to be coming later on.

There are largely State-administered programs. The States will in fact get made up and are going to go ahead and pay the welfare checks. All three of the Governors that I met with this morning indicated that that would be the case, so the gentleman's hysterics I think enliven the debate, but the fact is that what he is talking about simply is not going to take place.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. OBEY], the ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, every day in every way, this place gets sillier and sillier and sillier. This is a shameful, adolescent abdication of responsibility. You are going to be going home to the comfort and warmth of your families for the next 11 days, and abdicating your responsibility to the public to see to it that they get the public services which they have already paid for. You are going to cost the taxpayers $1 billion for nothing. You are going to pay workers for work they have not performed.

Last night you would not even let workers volunteer to come in to work. Where is your sense of responsibility? Where is your sense of decency? Where is your sense of judgment? Where is your sense of balance?

I have just been informed that families caring for 273,000 foster care children will not receive maintenance payments, and 100,000 adoption assistance children will be affected by delayed grants. Less than half of the second quarter grants for Medicaid could be awarded. If you want to go home to your Christmas under those circumstances, without opening the Government, shame on you.

Ms. PRYCE. Mr. Speaker, I yield 1 minute to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Speaker, I rise to speak against this resolution. We have work to do. It would be one thing to take Christmas off, or maybe even start it on Christmas Eve, and then come back the next day. The Government is not working, at least part of it is not. There is a lot of work to do. I think this is the wrong thing to do. I would urge a "no" vote on this resolution.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, it would be very nice here, my grandchildren are in town. I do not have to leave town. All these folks, their grandkids have come in, their children have come in. If someone from this side, if someone can explain to me, people keep saying balance the budget in 7 years. A lot of things can happen between now and 7 years. There can be calamities, a lot of things that change. The assumptions can change.

To guarantee a budget in 7 years, and we have people out there, I will just give Members a personal experience. There is a young lady who saved up her money and she and her fiance want to go to Egypt. They cannot get their visa and passport. She is in tears. It may not be a big deal to folks here or other places, but it is a big deal to her. That is just one of the many that is going to be affected.

My grandkids are in town. Your grandkids are in town. You want to go. Why in the name of God are we keeping 270,000 people out of work when it has absolutely nothing to do with a balanced budget? The people can continue to negotiate and yell at each other on the budget, but this has absolutely nothing to do with balancing the budget.

What leverage does it give you with the President of the United States to keep 270,000 people away from their families, anxious? They have children. They are anxious about the future. If this had some bearing on the budget deliberations and a balanced budget, I could see that. But 7 years? You are keeping 270,000 people out of work for something that is supposedly going to take place in 7 years? I would say to the gentleman from New York, JERRY, for God's sakes, you are a compassionate man; this has nothing to do with a balanced budget. I want to support a 7-year balanced budget, and I am working with a group, but this is ridiculous.

Come on, folks. Let us not be the grinch that stole Christmas. Let us have a good Christmas and go home to our families, our grandchildren, and talk the balanced budget. We have 7 years to talk about it. For God's sakes, let us act in the spirit of Christmas.

Ms. PRYCE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, my colleagues on the other side of the aisle talk about not delaying dollars to Federal workers. A balanced budget, someone with a home mortgage of $90,000, at 8½ fixed over a 30-year period means $38,000 to that individual. You are stealing that money by not balancing the budget. A student loan of $11,000 over a 4-year period is $4,500 back in that person's pocket.

You want to talk about delaying money, you want to talk about being the grinch that stole Christmas, then balance the budget. Mr. Speaker, this is about a principle. It is about a principle whether you want the power here in Washington, DC, so people can disburse money down so they can get reelected, and to do that you need a big bureaucracy, which takes away the dollars. Welfare will only get 30 cents out of a buck down to the welfare recipient. In education we only get 23 cents because of the bureaucracy. We are saying we want to balance the budget, give the money back to the people instead of keeping it here in River City. That is what we are talking about. That is the real grinch that stole Christmas.

Mr. Speaker, if Members really want to help, go along and override the President's veto of a balanced budget in 7 years. You will get more money to those Federal workers, you will give them a brighter future. And guess what? their kids will have something in the future, and the seniors will have something in the future.

Mr. Speaker, if we take a look at those 270,000 workers, the President has appropriations bills on his desk that would put them back to work. I am not saying Republicans or Democrats are to blame. I am saying if you really want to sit about and talk about this thing with some legitimacy, let us do it, but let us do it now. Let us do it. I ask for support of the resolution.

□ 1600

Mr. MOAKLEY. Mr. Speaker, I yield 10 seconds to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, I would say to the gentleman, I cannot for the life of me, and I am not the smartest guy, but I did not just fall off of a potato truck, either.

Let me tell the gentleman something. We have to pay them. We have to pay these people to do the job that they ordinarily do. If we are going to pay them, for God's sales, let them do their job.

Mr. CUNNINGHAM. Mr. Speaker, we have done that for years with welfare.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I have served in this body for 13 years. This is the saddest, cruelest strategy that I have ever witnessed in this Chamber.

I cannot believe that my colleagues on the Republican side of the aisle will go home this Christmas season to be with their loved ones .and their children, will kneel down in church in the Christmas spirit, and be able to erase from their minds for one moment that 270,000 innocent Federal employees who showed up for work prepared to work are being denied that opportunity and left with uncertainty.

I cannot imagine the gentlewoman from Ohio [Ms. PRYCE], who is a good person, I have had the good fortune of meeting her family; they are wonderful people. The gentlewoman must be thinking in her mind over this Christmas season that people who receive AFDC checks who have nothing to live on will have those checks delayed because of the strategy behind this resolution—people who are destitute.

I visited a family in Chicago on Saturday on Madison Street on the west side, four people who, because there is no LIHEAP, have no heat in their apartment. Their pipes burst last month; they have no water, either. A husband and a wife and two small children huddled in a room with a space heater because of our political strategy. In the spirit of Christmas, how can we countenance imposing this suffering on innocent people?

Let me offer this. If you want to stand up for principle, if the Republicans want to show their commitment to principle, here is what I suggest: stay here and work, as the gentleman from Iowa [Mr. GANSKE] suggested; and second, give up your paycheck, say that you will sacrifice your own paycheck in commitment to a balanced budget.

Mr. Speaker, to impose this burden on innocent Federal employees, on innocent poor people across America does not show character, it shows cowardice. Show your character, put your own paycheck on the line, not the paychecks of innocent people. Five different times Speaker GINGRICH has stopped "No-budget, No-pay." If it would pass, this crisis would end.

Ms. PRYCE. Mr. Speaker, I yield myself such time as I may consume.

All of the money for the LIHEAP has been sent to the States already. We keep hearing rhetoric from the other side, and all of it is not completely correct. I believe that the seriousness of this is not going unnoticed by anybody, and we have to be attendant to the details of getting this budget balanced.

The responsibility rests with our leadership and with the President. Everyone in this House knows that these negotiations are going on at a level that many of us are not involved in at all, and the fact of the matter is that we should allow those negotiations to proceed, Mr. Speaker. When we are needed, this resolution gives us the maximum flexibility to be called back into action by the Speaker when we need to ratify action that has been taken. However, for us to linger around here for nothing better than to muddy the waters, it is irresponsible.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Speaker, Christmas is only a few days away. A balanced budget may be nearer than that, because as we speak, our budget chairmen from the House and the Senate are conducting negotiations with Mr. Panetta who now works in the White House, and President Clinton, to bring us to a balanced budget. This Congress, of course, not just the House of Representatives, but also the Senate, has passed long since a balanced budget scored by the Congressional Budget Office, as the Clinton administration agreed it should be. We have the document, it is there, it is ready.

The issues that are under discussion could be resolved in a day if the White House is only willing to do so, because the White House has yet to produce a balanced budget. The budget passed by the Congress is the only one balanced 7 years that we can work with.

As long as we are needed to vote on a final budget, I suggest that we not adjourn; I suggest that we be here. The resolution that is proposed is not an adjournment resolution, it just says, recess subject to the call of the Chair. We do that around here all the time. The moment the bells ring, we are back in here and we will vote. If they cut a deal at the White House and the White House says we have not produced a balanced budget yet, but we are willing to agree to the following changes in your balanced budget, then you know we are going to be right here on the floor, and that is as it should be. Balancing the budget is what this is all about.

Yes, it is hard. Yes, we are in session later this year than we had hoped, but we are going to stay here, and the reason we are going to stay here is that it is the first time in 30 years that we are going to have solved this crisis of a generation. It is the first time in 30 years that we will, not cooking the books, but using honest numbers prepared by the CBO as the President has agreed, that we are going to have taxes and revenues equal one another and, for the first time, not increase the national debt.

I would just point out before I yield back to the members of the Committee on Rules who are conducting this debate that interest on the national debt is the cruelest entitlement rip-off of all. It is an entitlement program, because it is completely out of control; there is nothing we can do about it. If we want to appropriate less for interest on the debt, we cannot. We are paying it as the national debt goes up and up and up and every single year of the Clinton unbalanced budget that has been proposed.

Right now, the status quo which everybody is trying to maintain: please, let us open the Government without changing anything; let us just open the Government right now and not do the hard stuff, the people who want to maintain the status quo have to recognize that interest on the national debt right now consumes over half of all of the individual income taxes paid by everybody in America.

Now it is the end of the year and people are starting to think about paying their taxes, just imagine this: everybody in my home State of California, 31 million people, can take all of their 1040's, all of their income tax forms and the checks that they send with them, and everybody west of the Mississippi, every single individual American and all of those income taxes will buy not a single social service. They will not fund a single welfare check, no national security, no education, no environment.

Mr. Speaker, all of that money will go for nothing but interest on the debt: about $300 billion wasted. It is a tragic and cruel thing. That is what we are here finally to stop after 30 years.

For the first time, we are going to produce a balanced budget. I guarantee you as we all sit here, we are not going home. Yes, we will be in recess subject to the call of the Chair because they are negotiating at the White House, not here on the floor of the House of Representatives, but as soon as that deal is ready for us to vote on, as soon as the President agrees: I am going to sign on to a 7-year balanced budget with honest numbers, it is going to be voted on here in the House, it will sail through the Senate, and the American people will have the best Christmas present of all, and they deserve it.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, I thank the gentleman. The supporters of this measure refer to it as standby authority. That is the whole problem. They have been standing by while we have a governmental crisis here that affects all of America. It should be better termed a take-our-marbles-and-go-home approach, because rather than staying here and doing the job, they propose to go home and, as the sponsor said, interact with their constituents.

Well, perhaps there needs to be a little more interaction right here on the floor of Congress rather than attempting to confuse an adjournment and a recess. This is an attempt to do the very same thing that our Republican colleagues did back in November when we as Democrats stayed here and worked and saved the people of America money by being here, ready to work, when something was finally resolved.

If there has been any recess here, it is a recess from reality, because surely, anyone who looks at what is happening every day in America has got to feel that something has occurred here that is a recess from reality.

Mr. Speaker, $40 million a day. That is what our Republican colleagues are paying Federal workers not to work. Anyone who needs a passport cannot get it. Anyone who wants to close an FHA loan cannot do it. Anyone in the State of Texas or anywhere else in this country come January 1 that gets foster care, that relies on child support enforcement, that relies on emergency family assistance, that needs child care because they have gotten off welfare and they are back into workfare, they are not going to have it as a result of this. All of this as a result of pursuing your approach or no approach.

I read in this morning's paper the self-described description of the Republican freshman class as the purest, most worthy in my lifetime. I thought they were talking about ivory soap. But no, indeed they describe themselves as being so pure and so much better than everyone else in America that they have to have it their way or no way. I think that the American people are calling on us to come together and solve this problem rather than simply to have Republican excellence in the pursuit of error.

Ms. PRYCE. Mr. Speaker, I yield myself such time as I may consume.

When the gentleman suggests we return to reality, I suggest that we are about to do just that. Reality does not necessarily exist here in the beltway. Reality is out in our districts with our constituents and with our families, and it is good for us as Members to return to that reality on occasion.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Arizona [Mr. SALMON].

Mr. SALMON. Mr. Speaker, I appreciate this opportunity to address the House.

Let us make no mistake. A lot has been said about this side and that side, the freshman this, the freshman that. Let me make one point perfectly clear. As a freshman, I am perfectly willing to be here and to work as long as there is work worth doing, but this President has made a mockery of this negotiation process. One day he makes an agreement; the next day before the ink is dry on the agreement the previous day, they change their story. It is like playing ping-pong with a person that hides the ball in their pocket or quick-serves while you are not looking.

Frankly, the American people are frustrated. We kept our part of the bargain. The President signed an agreement, a law, 30 days ago that he should abide by a 7-year budget as scored by CBO. Now, the Speaker and the gentleman from Ohio, Mr. KASICH, and the gentleman from New Mexico, Senator DOMENICI, have been in negotiations with the President day in and day out, and it changes every day. He agrees to one thing one day and the next day he says, no, I did not say that yesterday. What does it do to us? We are wasting away precious time when we could be with our families and we are wasting it for a deal that is not going to happen.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK], my dear friend.

Mr. FRANK of Massachusetts. Mr. Speaker, the Republicans have a problem. We are not simply talking about balancing the budget, but how to do it. They want to do it in a very extreme, radical way that does not appeal to most Americans. They want to cut Medicaid drastically, do away with a Federal guarantee for people who are sick and in need; they want to substantially reduce what Medicare would otherwise produce. They do that to increase military spending, to reduce taxes.

They are in this dilemma. Here is the problem: they send the President their bills; they cannot pass the regular legislation, so they load up the appropriations bills. They do that 2 or 3 months late. The President then, as he is constitutionally entitled to do, vetoes them. What do they do? They take the Government hostage. They started out being for a line-item veto for the President, but then they realized Bill Clinton was president.

Now they are not only not for a line-item veto, they are unconstitutionally trying to write the regular veto out of the Constitution. Because what they say is, if you do not accept our extreme procedures about Medicaid, about school lunches, about environmental protection, we will shut the government down.

The problem, of course, is that they know that that is unpopular, and there is one thing we should be very clear about. One reason they are taking this elongated recess, they are afraid to let their own members vote.

The chairman of the Committee on Rules, he announced last week he was very powerful. He said, people ought to be horse whipped if they disagreed with him on the ethics bill. Now what he is saying is that he will see that the Republicans cannot vote, because if we vote on a clean resolution to keep the Government open it might win. So they do not like the Constitution, they do not like democracy, they are not only taking the Government hostage, they are doing it somewhat incompetently.

I wish this was not a game, but watching them, it appears that to them it is my. I am reminded of what Jim Breslin said in the title of his book, "Chronicling the First Year of the Mets," and this is their first year of running the House: Can't anybody here play this game? Can't anybody here run this House? Can't anybody here keep this Government functioning?

Ms. PRYCE. Mr. Speaker, I yield myself such time as I may consume. In response to the gentleman from Massachusetts [Mr. FRANK] I love the Constitution, and I love democracy, and we are learning, we are learning how to play this game, and I think we are playing it pretty darn well.

Mr. Speaker, I yield 2½ minutes to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I wanted to offer this to the previous speaker, my friend from Massachusetts [Mr. FRANK] who said, well, Medicare is being cut. Here is your check. If Medicare is being cut, then you have already established what it takes to receive your $1 million, and all you have to do is go prove it.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Well, first, the gentleman was not listening, because that was addressed to me. I said cutting Medicaid and I said reducing Medicare from what it would otherwise produce. I agree it is more, but it would be a lot less than it would have been if you did not change the law.

☐ 1615

Mr. KINGSTON. Reclaiming my time, I am sorry, the gentleman said reducing.

Mr. FRANK of Massachusetts. I said of Medicaid.

Mr. KINGSTON. I understood the gentleman to say cut.

Mr. FRANK of Massachusetts. I said Medicaid. You will reduce it beyond what it would otherwise be.

Mr. KINGSTON. That is OK. Let me talk about some of the radical extreme problems we are seeming to have.

We want to get rid of SSI for people who are in jail. We want to quit giving American jobs and social benefits to illegal aliens. We want to quit the scare tactics and the demagoguery on American seniors.

I think more than anything else we are driven by the fact that this Congress will be leaving and I would say this administration will be leaving the children of America a $5 trillion debt. If a baby is born today, he or she owes over the next 75 years $187,000 as his or her share of interest on the national debt, above and beyond State, local, and Federal taxes. That is not what we want to do to America's children.

I think, Mr. Speaker, my friends on the Democrat and Republican side, that maybe it is time to take a step back. Maybe it is time to say that this budget dilemma is perhaps beyond Democrats and Republicans in Washington. Maybe it is something that the American people need to drive a little bit more, and we need to all cool off a little bit and think about putting America first and trying to do what is best, because Dwight Eisenhower said, and I will paraphrase, that once the American people have made their mind up about something, there is little that can be done to stop it.

I would say to my friends that the American people have made up their mind about balancing the budget. Let us work together as Democrats and Republicans, as elected leaders of this country, to do what the American people want, and that is to balance the budget.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, we are being asked once again to waive the rules. The highest lawmaking body in this country, probably in the world, is asking to excuse itself from its own rules once again.

This body has a law called Gramm-Rudman that says we have to balance the budget. Yet the budgets proposed by the Democrats and even the budget proposed by the Republicans this year is $270 billion in annual operating deficit for this coming year, because you waived the rules.

They passed tax increases, you are supposed to have a three-fifths vote, but they waived the rule on that, so a simple majority can do it.

I do not think we are in trouble because of the laws of this land. I think we are in trouble because we will not enforce the laws of this land. It has got to start with ourselves.

If the House has a rule saying that we can only recess for 24 hours at a time, let us obey it. If you want to change the rule, then propose a change to the rules. But we are the highest legislative body in the world, as far as I am concerned, and no one is going to respect us if we do not respect our own laws.

Person after person came to the floor and talked about a Republican balanced budget. JERRY, I voted for your 5-year budget because I thought it would truly get us there. The budget you all are proposing has $270 billion in deficit for next year.

And my Democratic colleagues, guys, they really are increasing the money for Medicare and Medicaid. You cannot call it a cut, and we are never going to get there if we are not honest.

We are 3 days from Christmas and there are 300,000 Federal employees out there who are counting on us to keep our word to them. If I was them, since we have had so much trouble keeping our word, I would really wonder if their paycheck was going to be there.

So I think we ought to stick around and make sure we pass something so those people get paid. If they are vital, let us pay them. If they are not so vital, then let us let them go but do not leave them out there in limbo, certainly not 3 days before Christmas.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I do not know how many Members are listening to WTOP. There is some dramatic music that comes on: "Capital Crisis, Shutdown 2, Day 6." This proposes day 7 through 18, shutting down the Government by recessing from 3 days to 3 days. What kind of Alice in Wonderland are we subjecting our Federal employees and the country to?

Does anybody believe that because we recess without a continuing resolution to have the Government workers on the job, that we have somehow put pressure on the President? Or put pressure on the Congress that is going to be, as the gentlewoman said, going to go home to reality?

Believe me, nobody believes that reality is here. That is for sure. And this resolution is as far from reality as it gets. A simple continuing resolution which adopts exactly this premise but puts people back to work. That is the only difference. No greater or lesser pressure. No more balanced budget or less.

I voted for the coalition budget. I voted for the balanced budget amendment. I believe that we need to balance the budget in 7 years with CBO numbers. Period. And I believe we are going to do that.

But why, my friends, do we in that process compound the deficit, destroy the morale of Federal workers, and disrupt the country? It makes no sense. It makes no common sense. As I have said so many times, it is irresponsible. Let us change our minds. Let us do the right thing. Pass a clean continuing resolution.

Ms. PRYCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is obviously very difficult to predict what will happen with the budget negotiations over the next few days. But if there is some sudden movement, make no mistake, we are not adjourning. We are recessing at the call of the Chair. We will all be back here to ratify the actions taken by our leadership and the President. When the President gets serious, we will be here to do what it takes.

You may call that optimistic, Mr. Speaker, but after all it is a season of miracles and perhaps we will see some movement, and I certainly hope that is the case.

Mr. HOYER. Mr. Speaker, will the gentlewoman, for whom I have a great deal of respect, yield?

Ms. PRYCE. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I appreciate what the gentlewoman has just said. Let me suggest if an agreement is reached tomorrow or the next day or the day after, I think everybody in the House, if an agreement is reached, will come here, most of us, and vote to ratify that agreement on January 2 or 3.

It will make no difference that we have recessed or adjourned and put the Government back to work. We will do that. Why? Because our President will have agreed, your Speaker will have agreed, and the majority leader will have agreed. Therefore, my point was, this gets you nothing other than a continuing disruption of the Government and the country.

I agree with the gentlewoman. If an agreement is reached, we will ratify it. I hope that happens, because I share your objective.

Mr. SOLOMON. Mr. Speaker, will the gentlewoman yield?

Ms. PRYCE. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I say to my good friend STENY HOYER, and he is a good friend and I have a lot of respect for him because he has a lot of common sense, but if you read the resolution, it was constructed this way for the very purpose that you have just stated. It says the Speaker may declare recesses subject to the call of the Chair now, subject to the call of the Chair on calendar days of Saturday—that is day after tomorrow, because we are going to be in here and voting on legislation all day tomorrow, that is Friday—but it will be subject to the call of the Chair on the days of Saturday, December 23 through Wednesday, December 27.

That means we could be back on Sunday. We can be back here on Monday, or Tuesday. And we are going to be here. The only day we probably will not really be here is Sunday itself. But many of us are going to be here and we are going to continue our negotiations.

There are a lot of things that we are going to be working on. We are going to be working on the Balanced Budget Act. There is a lot that has to be done to put that together. We are going to give it back to the President, in a effort to be sincere and to compromise and to work, and we are going to be here, STENY. So it is not as if we are adjourning.

The gentleman from Massachusetts [Mr. MOAKLEY], my good friend up in the Rules Committee, wanted to have a resolution to adjourn, and I said no, we are not going to adjourn. We are going to continue to work and try to get the job done. That is sincerity from this part of the aisle.

Mr. HOYER. If the gentlewoman will continue to yield, I think my friend is sincere, but I say to the gentleman, the construct you have discussed can be accomplished while at the same time putting the Government back to work until January 2 or 3, whichever date you choose, that Monday or Tuesday, without the disruption to the country, and with much less angst to Federal employees that both you and I have supported very strongly through the years.

I say to my friend that I am going to be here. As you know, I live close by, so it is easy for me. I have been here for the last 12 days in a row. I was here last Saturday and Sunday working on this budget, at the White House. You were as well. I do not know whether the gentlewoman from Ohio [Ms. PRYCE] was, but we are all dedicated to doing this.

What I am saying is, common sense, it seems to me, would dictate that we simply tell the Government, "You are going to operate until January 2 and we are going to continue to stay here and work." You do not need to recess from day to day to do that. You can adjourn, or recess, if we have a CR to accomplish that objective.

Mr. SOLOMON. STENY, if I could just reclaim my time, if the gentlewoman has a little extra time, if we had made some progress the last time and if we felt there was really sincerity at the other end of Pennsylvania Avenue, I would be up here fighting for you for that CR. But the trouble is, you know the President the other day met with the Republican leaders, President DOLE—he will be in in about a year—but Senator DOLE and Speaker GINGRICH, and when he came out of that meeting we were all excited because we really thought we had made some progress.

Then Vice President AL GORE comes out and refutes almost everything that was said there. Then the Speaker's press secretary about an hour later came out and even changed what Vice President GORE was saying. Then on top of that, our former colleague, Mr. Panetta, the Chief of Staff of the President, comes out and says something else.

STENY, it is so frustrating and confusing. It is hard to have faith that there is going to be anything there. That is why we cannot gamble. We have to hold their nose to the grindstone and see if we cannot make some progress. I am trying.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The Chair would make an observation to the body. The Chair would request that all Members address each other through the Chair and not use first names.

Mr. MOAKLEY. Mr. Speaker, I yield 30 seconds to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, all over the State of Vermont our Federal employees are extremely anxious. Those who are furloughed, those who are working. Our Federal employees should not be held hostage because the Republican Party has a 7-year disastrous budget that they want to push through the White House and this Congress. We have the moral obliation to reopen Government today, put our Federal employees back to work, and then we can debate the 7-year balanced budget.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Speaker, the resolution before the body today asks us to convey to the Speaker of this House extraordinary powers, beyond those which he normally possesses. It would be irresponsible for me to vote for such a resolution, and I think for any Member of this House to do so, simply because the Speaker has not exercised those powers which he possesses now in a responsible way.

We are in the process of trying to establish a budget to meet the needs, the health, safety, and welfare of the people of this country. In the absence of that budget, the Speaker has the responsibility and the authority to put before the House a continuing resolution which would allow the Government to continue to operate in the interim period, to keep Federal Government workers at their post and to ensure that the 14 million children of families who are dependent upon checks that come from this Government in one way or another do not have a black coal in their stocking this Christmas.

□ 1630

So do not ask me to give the Speaker of this House additional power when he is not doing the responsible thing with the power that he has.

Let us get a continuing resolution out here. Let us keep this Government running while we negotiate a budget. If we do that, then we are doing the right thing, and I am prepared to do that.

I am prepared to stay here every minute. I am prepared.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The gentleman did not yield.

Mr. VOLKMER. Regular order. We do not permit that.

Mr. HINCHEY. Mr. Speaker, excuse the interruption. I want to answer my dear colleague and friend from New York who asked that question. I am prepared to stay here every minute. If we get whatever it takes, I am prepared to stay here every minute of every day until we get this Government back working again, whatever it takes, right here. Whatever it takes, I am prepared to be here. And I think to do anything else is irresponsible. Let us get a continuing resolution out here.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. VOLKMER. The rules of the House, do they not require that the person who has the time be permitted to exercise that time without interruption by other Members?

The SPEAKER pro tempore. The gentleman is correct.

Mr. VOLKMER. Then why did the Speaker not attempt at least to make sure that the gentleman from New York did not interrupt the other gentleman from New York?

The SPEAKER pro tempore. The Chair did use the gavel.

Mr. VOLKMER. Pardon?

The SPEAKER pro tempore. The Chair did use the gavel in an attempt to prevent that interrogation.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, I do not really think there is a Member in this body who would not like to go home for Christmas. So this is really not about whether we want a recess or do not want a recess. It really is about whether it is responsible to recess without having a continuing resolution, and we believe it is not.

So let me talk about this continuing resolution thing for just a second so that people understand.

Without a continuing resolution, we are going to have 270,000 Federal employees out of work, but the Speaker has committed to pay those employees. That makes absolutely no sense. Without a continuing resolution passed either today or tomorrow, 4.7 million families will not get aid to families with dependent children. That is 14 million children.

Listen to what I am saying: 14 million children who do not have any say in this budget fight, who do not have a dog in this fight, the most vulnerable, the poorest people in this country these people would leave exposed without the benefit of their AFDC benefits.

Now, one of them got up and said, well, that is not a problem because the States are going to step into this void. There are 30 States that have legislation on their books that prevent them, prohibit them from stepping into this void if the Federal Government does not live up to its responsibility.

Since when did we start telling States you have got to fulfill the responsibilities that the Federal Government has undertaken already? An unfunded mandate if I have ever heard of one, and we have spent 3 weeks, 4 weeks, 5 weeks talking about how unfair unfunded mandates were.

This is ridiculous. It is irresponsible. And we ought to defeat this resolution.

Ms. PRYCE. Mr. Speaker, I yield 1 minute to my friend, the gentleman from Virginia [Mr. DAVIS].

Mr. DAVIS. Mr. Speaker, my colleague from North Carolina just made a statement that made me come out of my seat.

Do you believe then Federal employees should not be paid for the time? You just criticized the Speaker for saying the Federal employees, who, through no fault of their own——

Mr. WATT of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. If you are going to shut the Government down, then shut it down.

Mr. DAVIS. Should they be paid?

Mr. WATT of North Carolina. You are responsible for shutting the Government down while you stand here and go home and enjoy Christmas. You are irresponsible.

Mr. DAVIS. Should they be paid? Reclaiming my time, the gentleman did not answer my question. I think it was a cheap shot at Federal employees. They are the innocent victims in this. I applaud the Speaker and the leadership of both parties. I applaud the leadership of both parties for recognizing that this budget impasse continues if the President has refused to sign some of the bills.

Mr. KENNEDY of Rhode Island. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Rhode Island.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I think your question was should the Federal workers still be paid, and yet not be able to do the work that they are mandated to do under the laws of this country.

Mr. DAVIS. We are talking about retroactively. I would love to put them back to work today.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, from the other side earlier I heard a lot of talk about balanced budget. I heard talk about Medicare. I saw checks for a million dollars. I saw lots of things. What I did not hear was discussion about whether or not you ought to recess, and that is what is on the floor today: Should you recess for 3 days at a time when the Federal Government is in the crisis that it is in? This is about a recess authority.

But this really is not about recess. This is about having a recess to avoid a process, and the process is the honest debate that has to take place and the honest negotiations that have to take place. This is about a recess to avoid a process of debate, to avoid the Constitution, of avoiding a vote whether or not to adjourn.

Make no mistake, when you vote for this recess, which I will not be voting for, when you vote for this recess, you sign the warrant for continued Government shutdown. You sign a warrant for continued furlough of hundreds of thousands of Federal employees who cannot do the job they want to do. You sign the warrant, for instance, for State Department personnel who have to be called off of furlough to go identify bodies in Colombia or to get visas for people in the former Russian States. You sign a warrant for the 66,000 students who need to apply for Pell grants but are unable to do that paperwork, for the millions of AFDC children. At Christmastime? This is the kind of warrant you want to sign.

Taxpayers are not getting what they paid for. This is the 6th day now of cumulative 12th day of a Nation held hostage. With this recess, this hostage-taking process only continues. When you vote for this, you know you may be voting to go home, but make no mistake about it, Federal workers will not be working, and constituents will not be buying what you are trying to sell. That is what this is about. It is about a recess. It is the wrong time. And it is about a recess to avoid the process.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, Members of the House, and especially earlier, one of the gentlemen from North Carolina and the gentleman from Maryland [Mr. HOYER], the gentleman from Virginia [Mr. MORAN], talked about the Federal workers. We also heard about the AFDC recipients and the children out there.

Folks, remember, these guys do not care about those people. That is what it is all about. They do not care. To them, the whole idea is something up here in Utopia. We are going to have a balanced budget in 7 years, and anything can happen in that 7 years. In the meantime, children can starve, old folks can go hungry, Federal workers can have no Christmas, none whatsoever, with their kids.

They are still going to get their paychecks. They are going to put it in their pocket. They are going to be under this resolution, which I urge Members strongly to oppose. They are going to be able to be with their families. They already have their Christmas gifts I am sure, already bought because they have plenty of money.

They do not really care about the downtrodden. You can tell that. Just look at the welfare bill we just voted on. They would just as soon do away completely with AFDC. They do not want any AFDC. They would just as soon do away with the Federal Government except defense.

I had one of them once tell me, one of these people, these radicals, tell me all the Federal Government should do is defend our shores, deliver the mail, and get out of our pocketbook. That is what I am hearing over here. That is all they want to do. Anything else can go to pot.

You think they worry about employees at EPA? They want to do away with EPA. They do not want EPA. You name it, all Federal regulatory bodies. What did we see in the 100 days? Look at the legislation. And now they are saying their platitudes, "We are going to have an agreement in these next few days." Baloney.

I say to the President, no CR, no budget negotiations.

Mr. MOAKLEY. Mr. Speaker, I yield 30 seconds to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, just like the veteran that left the message last night, he did not want his interests being put ahead of the American public's interests, we cannot put our interests ahead of the American public's interests. We cannot go home and enjoy Christmas with our families if we have not done our job, if the Government is still shut down.

Consider these 13 million welfare families. They cannot get payments at the beginning of the month. We know they have no disposable income. They have spent all of their money on Christmas presents at the beginning of the month. They have to pay their monthly rent. They are not going to have money for food, never mind monthly rent.

How can we go and enjoy our families when they cannot even survive because we have not done our job?

Ms. PRYCE. Mr. Speaker, I yield 1½ minutes to the distinguished majority leader, the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I want to thank all of my colleagues for what has been a scintillating debate.

This is a very difficult time for all of us, and certainly we can acknowledge that. Let me just say very quickly what this is about. This is very likely to be the last vote we have today. We have a few items that are important that we will be able to act on tomorrow, and then, quite frankly, even though we have two or three other items that are of consequence to the country, important to us, they would not be ready to be brought to the floor for a while.

That being the case, while the negotiations proceed, beginning with a 9 o'clock meeting at the White House tomorrow on the budget, we feel that it is prudent for us to have a recess authority that would allow us to recess the Chair and, during that period of recess, allow those Members who are able to spend time with their families at Christmastime to do so and, in the process of their doing so, they can do so with a good deal of confidence that the negotiations will continue at the White House and that, in fact, that that work which can be continuing to prepare legislation to bring back to the floor as soon as possible can be in those final stages of preparation. And at that point, when we have important work that is available to the floor, the Members will get a call so that within the day they can get back and deal with any important work that must be dealt with.

That strikes me as an opportunity for us to, on one hand, continue the work on those few remaining items that need to have progress continue on them, while, on the other hand put us in the kind of recess that would enable Members to spend time with their families.

I must say that seems to me to be a reasonable move for us to take on behalf of all of the Members and all of the work that is before the Congress.

Ms. FURSE. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentlewoman from Oregon.

Ms. FURSE. You know, I think that this is just not very truthful, because I cannot get here from the west coast in anything less than 8 hours. So I have to tell you, Mr. Majority Leader, that it is not true that, if you recess, that I can be back at the call of your office.

Mr. ARMEY. If I may reclaim my time, no Member would have anything less than 12 hours' notice under the most rigorous of circumstances, and there is no doubt that we understand the very large number of our Members who would be traveling from the west coast.

Certainly, we would understand it would be impossible to reconvene the House without giving them ample time.

These things are not that difficult to figure out.

☐ 1645

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I would like to inquire of the majority leader, in the negotiations that hopefully will take place, do they not have to negotiate not just Medicare, not just Medicaid, but in that reconciliation package do you not also have such things as school lunches, do you not have food stamps, do you not have big tax cuts? All of these things are in there.

I have been here a little while. Is the gentleman trying to tell me there is a possibility that he is going to have this done by next Wednesday?

Mr. ARMEY. Mr. Speaker, reclaiming my time, we will work as hard as we can. As long as we can make good progress, we will continue working. I cannot promise the gentleman anything. As we know, these are troubled times. We will do our best.

In the meantime, I would say to my colleagues in the House on both sides of the aisle, if they will vote for an opportunity to give us the flexibility to respond to both the legislative needs of the country and the very real and heartfelt family needs of our Members, we will exercise that with judicious responsibility on behalf of both needs.

Mr. ABERCROMBIE. Mr. Speaker, would the majority leader kindly yield for one question?

Mr. WALKER. Mr. Speaker, time is controlled.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Does the gentleman from Massachusetts yield to the gentleman from Hawaii?

Mr. MOAKLEY. Mr. Speaker, I yield 10 seconds to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, in that context, can you inform me then if this resolution passes, does that mean that all codels will be canceled?

The SPEAKER pro tempore. The gentleman has not stated a parliamentary inquiry to which the Chair can respond.

Mr. ABERCROMBIE. Mr. Speaker, I did not ask a parliamentary inquiry. The Speaker admonished everybody to address questions through him. I asked, Mr. Speaker, whether the maker of the resolution could advise me whether or not that means that all codels will be canceled? I think that is a fair question.

Mr. THOMAS. Are you going somewhere?

Mr. ABERCROMBIE. Mr. Speaker, most respectfully, I thought I was obeying your admonition to speak through you.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to vote "no" on the previous question. If the previous question is defeated, I will offer an amendment so that this House does not recess until we adopt a clean continuing resolution keeping the Government running until January 26.

I include for the RECORD my proposed amendment.

PREVIOUS QUESTION AMENDMENT TO RECESS RESOLUTION

At the end of the resolution, add the following:

"SEC. . Immediately upon the adoption of this resolution the House shall without intervention of any point of order consider in the House the joint resolution (H.J. Res. 131) making further continuing appropriations for the fiscal year 1996, and for other purposes. The joint resolution shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. . The recess authority provided in the previous sections of this resolution shall be effective only on or after the date on which H.J. Res. 131 is presented to the President for approval."

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. PRYCE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, House Resolution 320 was reported by the Committee on Rules last night by voice vote authorizing the Speaker to declare recesses subject to the call of the Chair.

The amendment I will offer would authorize the Speaker to declare recesses subject to the call of the Chair on calendar day Thursday, December 28, through Saturday, December 30.

The amendment would further provide that after the House has been in session on calendar day Saturday, December 30, the Speaker may declare recesses subject to the call of the Chair on calendar day Saturday, December 30, through Wednesday, January 3.

Mr. Speaker, the Speaker needs this authority to keep the House in recess next week subject to the call of the Chair, pending the ongoing negotiations over the budget.

Members should be aware that the House will not be adjourned, but rather in recess on standby, should budget negotiations prove successful.

AMENDMENT OFFERED BY MS. PRYCE

Ms. PRYCE. Mr. Speaker, I offer an amendment authorized by the Committee on Rules.

The Clerk read as follows:

Amendment offered by Ms. PRYCE of Ohio: Strike all after the Resolved clause and insert:

That the Speaker may declare recesses subject to the call of the Chair on the calendar days of Saturday, December 23, 1995, through Wednesday, December 27, 1995.

SEC. 2. The Speaker may declare recesses subject to the call of the Chair on the calendar days of Thursday, December 28, 1995, through Saturday, December 30, 1995.

SEC. 3. After the House has been in session on the calendar day of Saturday, December 30, 1995, the Speaker may declare recesses subject to the call of the Chair on the calendar days of Saturday, December 30, 1995, through Wednesday, January 3, 1996.

SEC. 4.(a) A recess declared pursuant to the first section of this resolution may not extend beyond the calendar day of Wednesday, December 27, 1995.

(b) A recess declared pursuant to section 2 of this resolution may not extend beyond the calendar day of Saturday, December 30, 1995.

(c) A recess declared pursuant to section 3 of this resolution may not extend beyond 11:55 a.m. on the calendar day of Wednesday, January 3, 1996.

Ms. PRYCE. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. PRYCE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 228, nays 179, not voting 26, as follows:

[Roll No. 878]

YEAS—228

Allard
Archer
Armey
Bachus
Baker (CA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—179

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Costello
Coyne
Cramer
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gonzalez
Gordon
Green
Gutierrez
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—26

Ackerman
Baker (LA)
Barton
Bryant (TX)
Callahan
Calvert
Chapman
Conyers
Edwards
Filner
Ford
Gibbons
Hall (OH)
Harman
Jacobs
LaFalce
Lantos
Manton
Martinez
Meek
Myers
Owens
Quillen
Quinn
Serrano
Williams

□ 1711

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The question is on the amendment offered by the gentlewoman from Ohio [Ms. PRYCE].

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Ms. PRYCE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 224, noes 186, not voting 24, as follows:

[Roll No. 879]

AYES—224

Allard
Archer
Armey
Bachus
Baker (CA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Camp
Campbell
Canady
Castle
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cubin
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump

Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—186

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Bono
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chabot
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Costello
Coyne
Cramer
Cremeans
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Flake
Foglietta
Frank (MA)
Frost
Furse
Ganske
Gejdenson
Gephardt
Geren
Gonzalez
Gordon
Green
Gutierrez
Hall (TX)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—24

Ackerman
Baker (LA)
Bryant (TX)
Callahan
Calvert
Chapman
Conyers
Edwards
Filner
Ford
Gibbons
Hall (OH)
Harman
Jacobs
LaFalce
Lantos
Manton
Martinez
Myers
Owens
Quillen
Quinn
Serrano
Williams

☐ 1728

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REQUEST THAT COMMITTEE ON APPROPRIATIONS BE DISCHARGED FROM FURTHER CONSIDERATION OF HOUSE JOINT RESOLUTION 131, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. OBEY. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of House Joint Resolution 131, a clean continuing resolution extending the date of the existing CR to January 26, authorizing a 2.4 percent military pay raise effective January 1, and eliminating the 6-month disparity between COLA payment dates for military and civilian retirees in fiscal 1996, and ask for its immediate consideration in the House.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Under the guidelines issued consistently by successive Speakers, as recorded on page 534 of the House rules manual, the Chair is constrained not to entertain the gentleman's request until it has been cleared by the bipartisan floor and committee leadership.

NOTICE OF INTENTION TO OFFER PRIVILEGED RESOLUTION PROVIDING DEFICIT REDUCTION AND ACHIEVE A BALANCED BUDGET BY FISCAL YEAR 2002

Mr. TAYLOR of Mississippi. Mr. Speaker, pursuant to rule IX, I rise to give notice that I will seek recognition as a question of the privileges of the House to offer a resolution in the following form. The resolution is at the desk.

The SPEAKER pro tempore. The Clerk will read the resolution for the gentleman from Mississippi.

The Clerk read the resolution, as follows:

H. RES. —

Whereas clause 1 of rule IX of the Rules of the House of Representatives states that "Questions of privilege shall be, first, those affecting the rights of the House collectively";

Whereas article 1, section 9, clause 7 of the Constitution states that: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by law;

Whereas today, December 21, 1995, marks the 81st day that this Congress has been delinquent in fulfilling its statutory responsibility of enacting a budget into law; and

Whereas by failing to enact a budget into law this body has failed to fulfill one of its most basic constitutionally mandated duties, that of appropriating the necessary funds to allow the Government to operate: Now, therefore, be it

Resolved, That the Committee on Rules is authorized and directed to forthwith report a resolution providing for the consideration of H.R. 2530 (a bill to provide for deficit reduction and achieve a balanced budget by fiscal year 2002).

The SPEAKER pro tempore. The Chair advises the gentleman from Mississippi that under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or a place designated by the Speaker in the legislative schedule within 2 legislative days, its being properly noticed. That designation will be announced at a later time. In the meantime, the form of the resolution proffered by the gentleman from Mississippi will appear in the RECORD at this point.

The Chair is not at this point making a determination as to whether the resolution constitutes a question of privilege. The determination will be made at the time designated for consideration of the resolution.

Mr. TAYLOR of Mississippi. Mr. Speaker, would the Chair be kind enough to give me some indication of how much warning that I would receive as a Member as to when this would be brought before the House?

The SPEAKER pro tempore. The Chair will give adequate notice, as has always been the case.

Mr. TAYLOR of Mississippi. Could the Chair give a better definition of "adequate notice"?

The SPEAKER pro tempore. Not at this time.

Mr. TAYLOR of Mississippi. I thank the Chair.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 119

Mrs. KELLY. Mr. Speaker, I ask unanimous consent to have my name removed as cosponsor of House Concurrent Resolution 119.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute.)

Mr. FAZIO of California. Mr. Speaker, I rise to speak to the majority leader about the schedule.

I yield to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, first of all let me express my appreciation for the patience of the Members over these days leading up to the holidays. I know that it has been difficult for Members and their families, but today I am more hopeful that the end is in sight.

I am pleased to announced that today there were very productive discussions between senior White House officials and Members of the House and Senate leadership. I am also pleased to announce that starting tomorrow morning budget negotiations will begin between the congressional leadership and the President on balancing the budget.

It is our hope that these negotiations will be successful and expeditious. We believe that these negotiations, if conducted seriously, could be completed very quickly, perhaps in only a few days. It is our intention to bring to the floor as quickly as possible any agreement that balances the budget in 7 years using CBO numbers. At the same time, I do not want to keep Members in town unnecessarily. I will be announcing tomorrow a more definitive schedule for the next several days, but my expectation is to have the House in recess pending word of an agreement.

Depending on how the negotiations go tomorrow morning, the recess could be only for a day or two or it could last until Wednesday. I will recommend that the Members make plane reservations for sometime after 3 tomorrow afternoon, but understand that, if negotiations are moving quickly, we may stay to complete a balanced budget. I am sorry I cannot be more specific at this time.

Mr. Speaker, if the gentleman will continue to yield, I would like to advise our Members that we have had the last vote of the evening, but we will have important work in the morning. I will be, in a moment, asking unanimous consent for a 9 a.m. time to commence work in the morning. But if that is granted, we would be dealing with House Resolution 299, a proposal for House royalty changes, possibly the ICC conference report. If we can work out all the details related to it, it may be possible tomorrow that we may be able to take up legislation that would affect D.C. government funding and AFDC.

So we still have important work for us to do tomorrow. We hope to be able to conclude it expeditiously and get Members on their way. Again, let me remind Members, we would be in under those conditions, under recess. We would continue to work, and, as soon as something of import were available, we would give Members ample notice and then bring them back as quickly as possible to reconvene the House and complete that work.

Mr. FAZIO of California. Mr. Speaker, the other day the gentleman assured us that we would have a 24-hour notice on any return during the recess, the one we had prior. Is that still the standard that we could all be able to live with so that we could come from wherever we may be with family?

Mr. ARMEY. Mr. Speaker, I appreciate the gentleman's point. Mr. Speaker, I should say that I believe, in fact, I assured 12 hours.

Mr. FAZIO of California. Mr. Speaker, 12 hours did the gentleman say?

Mr. ARMEY. Mr. Speaker, that was the position I took before. I do understand the problems of travel. I can assure that there would be definitely a 12-hour notice before we would convene business. I will try to be as considerate as I possibly can to make sure Members from the most remote locations have an opportunity to get back.

I understand how difficult it is. I would like to be, I would like to guarantee a 24-hour. I am just not sure that I could make such a guarantee and make it stick. But I think I can say with total confidence Members would have a 12-hour notice.

Mr. FAZIO of California. The problem, of course, is going to be that Members are going to be perhaps at greater than normal distance. Their staff is unlikely to be at post here. It may be more difficult for Members to get reservations during the holiday season. All of these things complicate the ability to do a short-time turnaround, and therefore I think, more than last week, we probably will need at least 24 hours for Members to be able to be here for what could be among the most important votes of this session.

Mr. ARMEY. Mr. Speaker, I think the gentleman's point is well taken. Let me just say that I will address the issue with all the generosity and advance notice that I am able to give.

Mr. FAZIO of California. Mr. Speaker, if I could ask the gentleman about the schedule that he has outlined for tomorrow. I have been told that the State of California, that I represent, has a billion and a quarter dollars in Medicaid payments that are needed for us to be able to make our commitments to all the providers and to the people who are beneficiaries of the MediCal Program in our State.

I noticed and I think there is tremendous relief on this side of the aisle that we will be dealing with the AFDC issue that just yesterday we were told was not an issue. Is there any possibility that we could deal with the Medicaid problem in terms of meeting the requirements? At least several of our States, I think, are up against a cash flow crisis.

Mr. ARMEY. Mr. Speaker, if the gentleman will continue to yield, let me say I share the gentleman's optimism with respect to D.C. funding and AFDC funding. It is only fair for me to say that it is not clear that we will be able to deal with those two issues. We are working with a good many people and, assuming we get the appropriate agreements, we are hopeful to deal with those two issues. As far as the other issue the gentleman raised, I can only say I will take it under consideration at this time.

Mr. FAZIO of California. Could the gentleman tell me, is there any possibility that the telecommunications conference report would be completed? I know that many were hoping that that issue could be dealt with before the first of the new year?

Mr. ARMEY. Mr. Speaker, I could just say to the gentleman that it is unlikely that the issue will be available to be brought to the floor prior to the 27th or 28th of this month.

Mr. FAZIO of California. Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, if I could inquire of the majority leader, when does he intend to be going to the Committee on Rules to obtain a rule for whatever action would be contemplated taken with D.C., AFDC, Medicaid, or, I understand now that the gentleman has several other significant problems which he was not aware of last night.

Mr. ARMEY. Mr. Speaker, if the gentleman will continue to yield, I can only say to the gentleman from Wisconsin it is my hope that it will be unnecessary to go to the Committee on Rules with respect to these issues. We are hoping to do them by unanimous consent. I must say in all seriousness it is very difficult for me to see how we could do them unless we do them that way.

Mr. OBEY. Mr. Speaker, if the gentleman will continue to yield, I do not think that it is appropriate for this House to deal with considerations such as that under unanimous consent because it would preclude our opportunity to discuss in any meaningful way whatsoever the issues that are before us. It would also preclude us from trying to amend it in any way to deal with other legitimate concerns and needs. I would urge the gentleman, if he wants this considered on the square, to do it the way it ought to be done, which is to go to the Committee on Rules.

Mr. ARMEY. Mr. Speaker, let me remind the gentleman, I understand the gentleman from Wisconsin makes a point, and that is to be taken seriously. Obviously we understand the need for Members to speak. We would hope in the interest of being expeditious in these matters that the debate time would not be lengthy. But certainly there would be an opportunity for Members to express their points of view.

Mr. OBEY. Mr. Speaker, if the gentleman would continue to yield, will the gentleman assure us that there will be an opportunity for us—let me put it this way. If there are certain specific programs which are to receive the favored attention of the House, I would like to know how we might also get into play several other crucial programs that also ought to be brought to the attention of the House. We cannot do that under unanimous consent unless we have an initial request which makes it possible to do so. That is why I think it would be preferable to go to the Committee on Rules if the gentleman is looking for cooperation from those who have other legitimate concerns.

Mr. ARMEY. Mr. Speaker, if I may respond at this point, I would say that we have had serious discussions that have lasted most of the day on the two issues I have mentioned. We feel confident we have an opportunity to act.

We think it is a very narrow and a very necessary effort to be made. The opportunity to do so is very limited. We want to exercise that, and we will pursue it the best we can. But I must say to the gentleman that I would be constrained to believe that, if we could in fact achieve what we have hoped to achieve in the two areas before mentioned, we would have achieved all that is possible at this time.

□ 1745

Mr. OBEY. If the gentleman would continue to yield, I want to make it clear to the gentleman that, if he expects to put us in a box tomorrow in which we are asked to provide for the opening of the Government only for a few narrow categories, we expect to have the right to try to expand that opportunity to open the Government, and if he expects us to cooperate on any unanimous-consent agreement, I think then he needs to understands right now that we need some cooperation in that respect.

Mr. ARMEY. If the gentleman from California would continue to yield, I would only say to the gentleman from Wisconsin we are responding to concerns that were raised to us by Members from the gentleman's side of the aisle, we are trying to do so behalf of their genuine concern, and if the gentleman from Wisconsin objects to our efforts, I regret that. I will continue to work with those people with whom I have been working, making every effort I can to respond to the needs we have been discussing, and I hope that it is possible for us to conclude these efforts we have been making satisfactorily.

Mr. OBEY. If the gentleman would continue to yield, I think a number of Members would be very disturbed if they are asked to provider an opportunity to only open the District of Columbia Government without also having an opportunity to try to open up the Government for all taxpayers.

Mr. ARMEY. If the gentleman would continue to yield, I would just say that the body is always, of course, prepared to deal with disturbed Members.

Mr. FAZIO of California. If I could ask the gentleman to give us a little more finite response about tomorrow's schedule, my understanding is the only issue that is absolutely certain to be before us is the royalty rule change; is that correct? The others are all hopeful, but not necessarily definite, items; is that correct?

Mr. ARMEY. Mr. Speaker, if the gentleman would yield?

Mr. FAZIO of California. I am happy to.

Mr. ARMEY. Mr. Speaker, I have grown to be accustomed to attaching probabilities. Absolute certainty, I think, is a good characterization of probability for House Resolution 299, extremely high probability for ICC conference report. I am very optimistic, and until a few minutes ago I was optimistic about the other two matters as well.

Mr. FAZIO of California. May I ask how long the gentleman expects us to be here? I have heard from 9 to 3. Is it possible that the bulk of that time would be taken up with the debate on the rule change? That is, I understood, a 3-hour debate potential.

Mr. ARMEY. If the gentleman would yield, I do not think it will be that long. The Committee on Rules, I am just told, has not in fact met yet, but I do not believe it will be that much time. We are sensitive to having had a year's experience, if the gentleman would continue to yield, and we are sensitive to the nature of schedules of our airlines, and it is our hope and we believe that we can be maximumly responsible for the needs of the maximum number of Members if we can have a target for 3 o'clock because of just the rigors of the airline schedules.

Mr. FAZIO of California. Finally, let me wrap up with this one, Mr. Leader.

Is it the gentleman's position that the only thing that would call us back would be an issue related to a continuing resolution or a balanced-budget proposal? There would be no other legislation that would be considered during this proposed recess period; is that correct?

Mr. ARMEY. If the gentleman would yield, the recess period authority I think takes us until Wednesday evening, Wednesday. Certainly within that framework the only thing that would interrupt the recess would be the balanced budget, and, if I might, obviously we would have to come to terms with the end of that recess authority on Wednesday, but it would be a useful thing, I think in the interests of all our Members on Monday or Tuesday, Tuesday at least, to check their whip phone. We will try, if there is any information to share, we will try to get it over the whip phones for our colleagues.

Mr. FAZIO of California. Mr. Speaker, I thank the majority leader.

HOUR OF MEETING ON TOMORROW

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 9 a.m. tomorrow.

The SPEAKER pro tempore (Mr. BARRETT of Wisconsin). Is there objection to the request of the gentleman from Texas?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment a joint resolution of the House of the following title:

H.J. Res. 132. Joint resolution affirming that budget negotiations shall be based on the most recent technical and economic assumptions of the Congressional Budget Office and shall achieve a balanced budget by fiscal year 2002 based on those assumptions.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2539) "An Act to abolish the Interstate Commerce Commission, to amend subtitle VI of title 49, United States Code, to reform economic regulation of transportation, and for other purposes."

The message also announced that the Senate had passed a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. Con. Res. 37. Concurrent resolution directing the Clerk of the House of Representatives to make technical changes in the enrollment of the bill (H.R. 2539) entitled "An Act to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes".

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. CAMP). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

BALANCE THE BUDGET BEFORE IT IS TOO LATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, this past Friday night, "Nightline" had a special program entitled "Mr. Longley Goes to Washington."

This program was about our colleague, the gentleman from Maine [Mr. LONGLEY], and the very strong commitment by him and the other House Republican freshmen to balance our budget.

Mr. LONGLEY said at one point that if we do not get our fiscal house in order, "we are going to have a crash that will make the Great Depression look like a party at the beach."

I thought his was a very strong but very appropriate and accurate way of describing the situation we are in now.

There is hardly anyone today, on either side who disagrees with the goal of balancing our budget.

We simply cannot go on like we have without causing very serious economic problems.

Yet some people just pay lip service to this goal. They say, yes, we need to balance the budget, but—

And it is this "but" that has gotten us $5 trillion into debt—so deeply into debt that many people think we will never get out without greatly inflating our money.

I take the floor at this time, Mr. Speaker, because I am sure there are many people who think—well it would be good to balance the budget, but it really does not make that much difference to them.

Let me try to explain why this does make a difference, and a very big difference to everyone, even those making minimum wage, and those receiving food stamps or other Federal benefits, and students, and everyone else.

First, as Mr. LONGLEY said, we could very easily have a major economic crash in a few years if we do not straighten this mess out.

That may be hard to believe when the stock market is at record highs, but the stock market was at record highs just before the Great Depression of the 1930's.

Second, times are good now for some, but they could and should be good for everyone.

People making $5 or $6 an hour could and should be making two or three times what they are if we did not have a national debt of $5 trillion holding us back economically.

Third, anyone who is receiving any type of Federal check should be insisting that we balance this budget.

If we don't, it won't be long at all before we will no longer be able to meet our obligations to veterans, Social Security recipients, Federal retirees, and others.

Fourth, buried in the fine print of our last budget, and something that was picked up and written about by former Senator Paul Tsongas, is the fact that young people of today will have to pay average lifetime tax rates of an incredible 82 percent if we don't get things under control.

If we keep going like we have been, we will absolutely destroy the standard of living of our children and grandchildren. They won't be able to buy a tenth of what we do now.

Fifth, no one—young or old, should be misled into believing that balancing the budget in 7 years requires anything radical or extreme.

All we seem to hear about are cuts—cuts—cuts. But the Washington Post columnist James K. Glasman called the Republican budget the "No Cut Budget."

All we are trying to do is to slow spending increases down to about 3 percent each year, about where inflation has been for the last 10 to 12 years.

Federal spending right now is almost three times what the first Reagan budget was—an almost 300 percent increase in 15 years.

Almost no private businesses are spending three times what they were 15 years ago. Very few employees in the private sector are receiving salaries three times higher than they were 15 years ago.

And that brings us one more very important point, Mr. Speaker. The middle class is being wiped out, and the gap between the rich and the poor is growing rapidly.

Why? Because of big government, that's why. Our Federal Government has become too big, and very few have received the benefits from this, at the expense of the very many.

Federal bureaucrats have benefited, because they pay and retirement benefits have gone way up.

Federal contractors have benefited, because they have been allowed to reap exorbitant profits, because even with exorbitant profits, they can still do things more cheaply and efficiently than our Federal bureaucracy can.

Extremely big business has benefited because they get most of the big Federal contracts, most of the favorable regulatory rulings, and favorable tax breaks.

Federal rules and regulations have a much greater impact and a much more harmful effect on small business than on large ones. In fact, big government has forced many small business out of existence or into merging with other larger companies.

Thus, the big get bigger, and the small go by the wayside. This is not a conspiracy, but simply an inevitable consequence of big government.

The only really fair system, Mr. Speaker, the only system where an average person without great capital or great political influence really has a chance, is a true free enterprise, free market system.

What we have today is a free enterprise system that has been greatly and unfairly distorted by a big government that favors big, well-connected companies.

If we are going to save this Nation from fiscal disaster—if we are going to give someone without great wealth or political connections, a real chance, once again, we have got to get our Federal Government under control.

And we do not have much time left—we must do it now, before it is simply too late.

CORPORATE INTEREST IN THE REPUBLICAN BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I rise to call attention to the sanctimonious advertisements in favor of the Gingrich budget that have been taken out in major newspapers across our country signed by some of the richest, most powerful chief executive officers in this Nation representing large multinational corporations like Boeing, IBM, Eastman Kodak, Zenith, Sarah Lee, and General Motors.

Did you ever stop to wonder why these corporations are spending a small fortune lobbying for the Gingrich budget? In fact it costs $60,000—double the salary of an average worker in my district—just to buy one page, much less two, in major dailies like the Washington Post, USA Today, the Wall Street Journal, and many of the other ones in which they have been advertising. In fact, they spent over a half a million dollars just in four of these papers over the last couple days.

Now do you believe what they say in the ads, that they really have a common concern for America's future? You know, I was trying to put this together as I was reading various articles, and I came upon the Time magazine special, the Christmas issue.

☐ 1800

It talks a lot about Speaker GINGRICH in this issue. I turned to page 65 of the Christmas issue of Time. I read down here where it says, "The Speaker invited a small group of chief executive officers" from these very same companies to meetings here in the Capitol on the first floor, and it names names: Jack Welch of General Electric, Jack Smith of General Motors, Business Round Table, Chairman John Snow of CSX, who by the way has a very large signature in this ad, and they talked about how they could work together on this problem. I thought to myself, "Why would the Speaker invite them, but he does not invite people from my district?" In fact, the senior citizens of this country did not even get 1 day of hearings on the Medicare changes that are proposed.

Mr. Speaker, how did they get that much access? Bingo: money. For example, CSX Corp.—one of the organizers, chief organizers of this advertising effort, and part of the group calling itself the Business Round Table—contributed nearly $100,000—to the Republican Party in the first 6 months of this year alone. Another signatory, Prudential, contributed over $90,000; AT&T over $150,000; Chevron contributed over $125,000. Listen to these numbers. This is not a new few pennies, this is not a hundred dollars, these are not a thousand dollars, these are hundreds of thousands of dollars by these very same interests.

You might ask yourself, what did these corporations get in this access with the Speaker for all of their money? How about this: The Gingrich budget includes a $64 billion set of tax breaks for wealthy individuals like these very same CEO's, many of whom make up to $12 million a year. They include a $36 billion capital gains tax cut which they will all benefit from, a $16 billion cut in the corporate alternative minimum tax, $12 billion in other tax cuts, such as estate tax exemptions, which of course they personally are all interested in.

It used to be in 1945, not so many years ago, that corporations paid about a third of the taxes that flowed into the Government of the United States. Today they pay about 10 percent. So we hear them crying these crocodile tears when their profits and Wall Street, the profits are going through the roof, and Wall Street has never been happier. At the same time as we see this, we see the Gingrich budget allowing these very same companies to withdraw over $20 billion of our workers' money from their pension funds to use it any way they well please.

Mr. Speaker, we see pharmaceutical companies like Abbott Laboratories, American Home Products, by the way, they are listed in this very same ad, Baxter International, Johnson & Johnson enjoy multimillion dollar tax breaks through the 936 program, a subsidy that is included in the Gingrich budget; energy corporations like Amoco, Exxon, Chevron, benefit from provisions in the Gingrich budget that allow them to extract oil and gas from the Gulf of Mexico without paying any royalty to the public coffers for that privilege, making their profits at the expense of the United States of America and its people; companies like AT&T, Exxon, Ford Motor, and GTE have enjoyed millions of dollars of foreign sales assistance through the Overseas Private Investment Corporation [OPIC], and those benefits are retained in the Gingrich budget.

What is interesting is these very same companies that want all these benefits and are paying all this money for access here in Washington have not created a single job in this country for the last decade and a half. For the RECORD, Mr. Speaker, I submit some of these names, like IBM, that has laid off over 23,000 workers in this country just over the last few years.

I would like to say to Mr. Fisher, their CEO, what a merry Christmas you have given to the American people.

Mr. Speaker, I include for the RECORD the following:

WITHOUT A BALANCED BUDGET, THE PARTY'S OVER—NO MATTER WHICH PARTY YOU'RE IN

A bipartisan appeal from business leaders to the President of the United States Bill Clinton, House Speaker Newt Gingrich, Senate Majority Leader Bob Dole, Senate Minority Leader Tom Daschle, House Majority Leader Dick Armey, House Minority Leader Dick Gephardt, and all Members of Congress:

There are moments in history when a single choice can mean the difference between vastly differing futures—one bright, the other dark. We believe that you, the political leaders of this country, are now confronting such a choice in your deliberations over a plan to balance the federal budget.

We are convinced that the health of our economy rests on your ability to avoid political gridlock and give the American people what leaders of both parties say they favor and, indeed, have agreed to—a credible plan to balance the budget. By "credible" we mean that such a plan should:

Use realistic projections that assume the fiscal and economic scenario developed by the Congressional Budget Office and reviewed by objective third parties;

Take no longer than seven years as the maximum time period by which a balanced budget would be achieved;

Ensure that the process of deficit reduction is achieved in roughly equal steps throughout these seven years, rather than "backloading" the politically difficult decisions into the next century; and

Have everything on the table, including long-term entitlement programs as well as the size and shape of any tax cuts.

Included among us are Democrats and Republicans, Liberals and Conservatives. What unites us in this appeal is our common concern for America's future.

All of us are leaders of institutions keenly sensitive to interest rates and the short- and long-term outlook for the U.S. economy. We believe that the recent decline in long-term interest rates and much of the boom in the stock market is directly predicated on the financial markets' expectation that a successful bipartisan budget-balancing compromise will be reached quickly, and that a credible long-term plan will be put in place in short order.

Federal Reserve Board Chairman Alan Greenspan recently observed: "If there is a shattering of expectations that leads to the conclusion that there is indeed an inability to ultimately redress the corrosive forces of deficit, I think the reaction would be quite negative—that is, a sharp increase in long-term interest rates . . . I think we would find that with mortgage rates higher and other related rates moving up, interest-sensitive areas of the economy would begin to run into trouble."

As you continue your negotiations, we ask you to reflect on the full consequences of success or failure. However Americans ultimately resolve our honest and principled disagreements over the size and scope of government, America must begin to live within it means.

The time for good economics as well as good politics is NOW.

America is waiting.

Respectfully yours,

Paul Allaire, Chairman and CEO, Xerox Corp.; Richard H. Jenrette, Chairman and CEO, The Equitable Companies, Inc.; Jon Corzine, Chairman and Senior Partner, Goldman, Sachs & Co.; Peter G. Peterson, Chairman, the Blackstone Group, President, The Concord Coalition; M.R. Greenberg, Chairman and CEO, American International Group, Inc.; John Snow, Chairman and CEO, CSX Corp., Chairman, The Business Roundtable.

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John Whitehead, Chairman, AEA Investors Inc., Former Deputy Secretary of State; E. Linn Draper, Jr., Chairman, President & CEO, American Electric Power; Robert E. Donovan, President & CEO, ABB Inc.; Veron R. Loucks, Jr., Chairman and CEO, Baxter International Inc., Michael R. Bloomberg, President and Founder, Bloomberg Financial Markerts; Lawrence Perlman, Chairman and CEO, Ceridian Corp.; Joseph L. Rice III, Chairman and CEO, Clayton, Dubilier & Rice, Inc., James R. Houghton, Chairman and CEO, Corning. Inc.; George M.C. Fisher, Chairman, President & CEO, Eastman Kodak Co., Richard L. Thomas, Chairman, First Chicago NBD Corp.; Melvyn J. Estrin, Co-Chairman and Co-Chief Executive Officer, FoxMeyer Health Corp.; Charles R. Lee, Chairman & CEO, GTE Corp.; David A. Jones, Chairman and Chief Executive Officer, Humana Inc.; Paul S. Levy, General Partner, Joseph Littlejohn & Levy; Joseph L. Dionne, Chairman and Chief Executive Officer, The McGraw-Hill

Companies; J. Roderick Heller III, Chairman and CEO, NHP Inc.; Tony L. White, Chairman, President & CEO, The Perkin-Elmer Corp.; James P. Schadt, Chairman & Ceo, The Reader's Digest, Association, Inc.; John H. Bryan, Chairman and Chief Executive Officer, Sara Lee Corp.; Joseph T. Gorman, Chief Executive Officer, TRW Inc.; David R. Whitwam, Chairman of the Board & CEO, Whirlpool Corp.; Al Moschner, President & CEO, Zenith Electronics Corp.

H.A. Wagner, Chairman President & CEO, Air Products & Chemicals, Inc.; John R. Stafford, Chairman, President and Chief Executive Officer, American Home Products Corp.; Robert E. Allen, Chairman and CEO, AT&T Corp.; Curtis H. Barnett, Chairman and CEO, Bethlehem Steel Corp.; Frank Shrontz, Chairman and CEO, The Boeing Co.; K.T. Derr, Chairman and CEO, Chevron Corp.; M. Thomas Moore, Chairman and Chief Executive Officer, Cleveland-Cliffs Inc.; Philip J. Purcell, Chairman and Chief Executive Officer, Dean Witter, Discover and Co.; William E. Butler, Chairman, Eaton Corp.; Paul M. Montrone, President and Chief Executive Officer, Fisher Scientific International Inc.; John B. Yasinsky, Chairman and CEO GenCorp; Warren Hellman, General Partner, Hellman & Friedman; Louis V. Gerstner, Jr., Chairman and CEO, IBM Corp.; Floyd Hall, Chairman, President & CEO, Kmart; Daniel P. Tully, Chairman and Chief Executive Officer, Merrill Lynch & Co.; Inc.; Stephen Berger, General Partner, Odyssey Partners, L.P.; H. William Lichtenberger, Chairman and Chief Executive Officer, Praxair, Inc.; Donald R. Beall, Chairman & CEO, Rockwell International Corp.; Dana G. Mead, Chairman of CEO, Tenneco, Chairman, National Assn of Manufacturers; L. Dennis Kozlowski, Chairman & CEO, Tyco International Ltd.

TRAGEDIES OCCURRING AMONG AMERICA'S CHILDREN

The SPEAKER pro tempore (Mr. CAMP). Under a previous order of the House, the gentleman from Florida [Mr. FOLEY] is recognized for 5 minutes.

Mr. FOLEY. Standing in this Chamber, I wonder if anybody appreciates business at all. The statements made by the last speaker would indicate that all of those national corporations are just terribly money-grubbing corporations, seeking only profit, with no concern for employees. A lot of those companies have made major contributions, not only to their employees, but to the communities in which they reside, to the arts and other things that they have paid for and benefited from.

There was a statement made that the gentleman from Georgia [Mr. GINGRICH] obviously only holds meetings with corporate executives. Nobody has gone by his office when he has had Habitat for Humanity in his office, and groups that do not give any campaign contributions but care about the inner cities and developing homes for families.

I guess some of the speakers today were not in the office when the gentleman from Georgia entertained several that were physically challenged, that were working on strengthening the Americans with Disabilities Act. These are people that were concerned about access to public buildings. They are handicapped. They were there, not contributors, but they were concerned about how government functions. Mr. GINGRICH met with them as well.

Schoolchildren from the District of Columbia certainly do not have any money for campaign contributions. The gentleman from Georgia [Mr. GINGRICH] did not have them in his office; he went out to their schools and into their community forums to talk about that.

So I think the record needs to reflect that. You hold up an article and suggest corporations in America are all bad. I commend corporations in America for employing people, for giving people jobs, for giving people hope. The stock market is moving forward. That is great for all America. Small investors from Main Street to Wall Street are benefiting from the rise in the stock market.

Let us talk about some other things today. One thing I want to focus on is the tragedies occurring among our children. I want to put in a special word for the National Center for Missing and Exploited Children. Jimmy Ryce died a tragic death at the hands of a molester who sexually assaulted Jimmy and then dismembered his body. That person has been caught. Of course, the first thing that happened was the defenders, the public defenders, rushed to the aid of the perpetrator of the crime and suggested that maybe the officials had interrogated him too long, and possibly they should try and seek to get the charges dismissed against a person who readily admitted he raped and brutally assaulted young Jimmy Ryce. Now they are thinking of ways to get him off those charges. The tragedy is that it is happening far too many times in America where children are taken advantage of, children are assaulted, children are molested, and it has to stop.

We are all familiar with the Susan Smith case in South Carolina, where a mother tragically put two of her own children in a car seat, strapped them down, and sunk the car in a lake, killed two children.

I stressed before on this floor that if people are not comfortable or happy with their children, put them up for adoption, seek other alternatives, seek psychiatric counseling. But the kind of tragedies that are occurring to our children are just that, they are tragedies.

I had a chance to talk to John Walsh. One of the things that was most frightening to me was the fact in 35 States you have to have a license to sell real estate, you have to have a license to sell mortgages, you have to have a license to be a hairdresser. Yet in over 35 States, you can be in child care without any background checks or verifications.

Tragedies are occurring to our children in the most private of settings, in child care and other things. This is not to malign the child care industry, believe me, it is not at all. But the fact remains that our children are in deep jeopardy. If this is truly a spirit of thanksgiving and holiday renewal and Christmas spirit, then we must turn to the children in our communities and figure out a way, not necessarily by government action only, but by community spirit, that we reach out and save those lost young souls who are at the mercy of some very, very sick individuals.

It is also important at this time that we all accept responsibility for our actions. It is about time that we stop trying to place the blame on other people. Oftentimes, in fact there was a killing of five young people in Gainesville, and the person who went before the judge said, "I was abused as a child so you should let me off of these charges. I know I killed five people, but it was due to the torment that my father provided me as a youngster that I committed this heinous crime." Far too often people are looking to blame others in society. "It is something else. It is something I watched on TV. It is a movie I saw." People have to accept responsibility for their actions. We in government have to.

I also want to suggest that none of us take any pride or pleasure in the closing of Government. Some suggest that the freshmen are gleefully celebrating the fact that the Government shut down and that is the way it should be. We grieve for those Federal employees that are wondering what is happening to their job.

The gentlewoman from Maryland, Mrs. MORELLA, the gentlemen from Virginia, Mr. DAVIS and Mr. WOLF, and others, are very critically concerned with the work force in this Capital, and so are the entirety of the Congress. We are not looking to make anybody's holidays miserable. We are not looking to keep people out of work, but some of us feel honor-bound to the commitment to balance the budget. We are anxious to work with the President. We are anxious to encourage the Speaker of the House to move forward with deliberation and discussion with the White House. There is not one person that sits in a back room and chuckles at the thought that Federal employees are not working and we are doing it in a malicious fashion.

EARLY RETIREMENT INCENTIVE ACT AND STRATEGIC AND REEMPLOYMENT TRAINING ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. MORELLA] is recognized for 5 minutes.

Mrs. MORELLA. Mr. Speaker, in light of the streamlining goals of the administration and the additional budget cuts proposed by this Congress, Federal workers are bracing themselves for difficult times. I recently read in the Washington Post that one out of every four Federal workers believes that budget cuts will affect him/her.

In the Washington area alone, studies have indicated that over 60,000 Federal jobs will be lost over the next 5 years. And the simple truth is that retirement and attrition will not help Congress and the administration reach the goal of 272,000 job cuts mandated by the Workforce Restructuring Act of 1994. RIF's will be needed. This fact further increases the anxiety of Federal workers, reduces agency productivity, and sends a chilling message to local economies with a strong Federal workforce base.

Today, I am introducing two bills that will help offset the negative effects of RIF's and restructuring. These bills will provide executives and managers with humane options for streamlining the workforce and assisting displaced employees, while controlling the disruption in agencies and assuring that they can continue to meet their missions.

I am a firm believer that loyalty must be repaid with loyalty. The Federal work force has provided outstanding service to the Nation. They have helped build, protect and preserve this land, and now this workforce needs Congress' help. It is time take on this responsibility and devise strategies that will help them through this tough period.

I believe the strategies must center around two fundamental concepts: First, creating incentives for retirement, and Second, retraining displaced workers for jobs in the private sector.

THE 2-PERCENT SOLUTION

As a member of the Civil Service Subcommittee, I have sat through a number of hearings where the 2-percent penalty associated with early retirement has been called a deterrent to early-out initiatives. Clearly, a waiver of the 2-percent penalty would cause a significant number of individuals to leave the workforce, but it would also have tremendous financial implications for the government.

The bill that I will introduce will bridge these two concerns by redefining the "2-percent" penalty. The bill would reduce the penalty for federal retirees by 2 percent for each birthday celebrated toward age 55. The end result would be that the individuals would be entitled to the annuity they would have received had they been age 55 when they retired.

For example, an employee who is 48 years old with 25 years of Federal service will suffer a 14-percent penalty under the current law. Under my bill, when this retiree reached age 49, the penalty would be reduced to 12 percent; when the retiree reached age 50, the penalty would be reduced to 10 percent. This would continue until the retiree reached age 55.

To assure that this is a cost-effective measure, agencies would establish a 90-day period to offer this incentive to employees. The agencies also would not be allowed to fill positions vacated by employees. This would reduce salary and other related expenses.

In addition, employees who receive buyouts under the "Federal Workforce Restructuring Act" or under the proposed, "Federal Employee Separation Incentive and Reemployment Act" could not participate in this program.

REEMPLOYMENT TRAINING

In a report entitled, "Improving Transition Assistance for Federal Employees Affected by Downsizing," OPM found "* * * that placement of RIF-ed workers within the Government will not be a realistic option for many employees affected by downsizing." It goes on to say that "* * * any new program to help displaced workers find jobs must logically focus on private sector as well as public sector opportunities."

I, too, believe that the partnerships must be forged with the private sector to assure that displaced workers are successfully placed. Part of this partnership will hinge on our ability to retrain Federal employees for private sector jobs.

In a study prepared by the Greater Washington Research Center for the Greater Washington Board of Trade, it concluded that the private sector—Washington area—is projected to add 322,500 jobs during the 1995–99 period.

However, many of these jobs will require strong technical and computer skills. The potential exists for skill mismatches between the Federal workers who lose their jobs and the skill requirements of jobs created in the private sector.

My bill, which I call the Strategic and Reemployment Act of 1995 will amend the current law governing employee training to allow the head of an agency to pay for retraining for placement outside of Government. This simple, but very important change to the law will help Federal agencies be more proactive in the retraining of their employees and assure their retraining and downsizing objectives are in concert with their strategic plan and mission. In most cases, the Federal agency is in the best position to assess the skills of their workers and arrange reemployment training and outplacement assistance.

Mr. Speaker, I feel these bills make an important statement to the Federal workforce—this Congress appreciates their hard work and dedication in serving this country, and during this time of downsizing, we are committed to assuring that there is stability in their lives too.

WHAT HAVE THE GINGRICH REPUBLICANS DONE FOR AMERICA?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. VOLKMER] is recognized for 5 minutes.

Mr. VOLKMER. Mr. Speaker, as this year comes to a close the American people should be aware of some facts about the new GINGRICH-controlled mean-spirited radical Republican Congress. The list of achievements of this Congress will go down in history as the worst since the beginning of this country. What have the Gingrich Republicans done for America? Well for one they have closed down the Government twice. No other Congress ever achieved that. They have threatened senior citizens with reductions in their health care. No other Congress has ever done that. They have offered the most wealthy in this country a huge tax break while raising taxes of poor working Americans. No other Congress has ever done that. They have removed the word compromise from Government. No other Congress has ever done that. They have threatened to turn back environmental gains over the last 20 years. No other Congress has ever done that. They have cut school lunches and food for the poor. No other Congress has ever done that. And finally, they have called themselves the family-friendly Congress while putting hundreds of thousands of Federal workers on furlough at Christmas time. No other Congress has ever done that. What a sad record of achievement, but certainly one no other Congress has ever had.

Mr. Speaker, people who knowingly break rules are cheaters. People who write the rules and then blatantly break them for their own benefit are even worse. The new Gingrich House passed new rules for this House last January which limited committee membership to two committees, and four subcommittees. Every Democrat in this House is abiding by those rules. How about the majority. Twenty-nine members of the majority are serving on more than four subcommittees. Nineteen Republicans are serving on more than two full committees. You wrote the rules and all year you have blatantly broken the rules. Perhaps this Christmas Eve you can go home to your families and instead of reading the "Night Before Christmas" you can instead tell your children how breaking rules for their own benefit is good. Be sure and tell them that rules are for everyone else not them. Nearly 30 percent of the new Republican Members that came here in January are violating the rules, they pushed for. So much for honesty and fairness in the House of Representatives as controlled by the Gingrich radical Republicans.

□ 1815

PROPOSED RULE CHANGE ON BOOK ROYALTIES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, last week the bipartisan House Committee on Standards of Official Conduct unanimously passed a resolution in response to a complaint involving Speaker GINGRICH'S $4.5 million book deal with Harper Collins. Together, five Republicans and five Democrats agreed that the Speaker's book deal gave the appearance of capitalizing on public office. The committee has proposed changing the rules of this House to avoid any future allegations of Members cashing in on public office in this manner.

The rule change would limit outside royalty income to $20,400 a year, and the Committee on Standards of Official Conduct promised that that proposal would come up on to the floor before Christmas. I might add that the $20,400 is the amount of outside earned income that Members cannot earn from a variety of different kinds of professions that they might be in.

The only exception has been the book royalty exemption, and what this resolution is about is to try to close that loophole which was heightened by the fact that the Speaker was in the process of a $4.5 million book deal with Harper Collins last year.

The Committee on Standards of Official Conduct is charged with establishing the bounds of acceptable behavior for Members of this institution. That bipartisan committee has made a unanimous decision that accepting millions of dollars of outside income in the form of book royalties is beyond the bounds of acceptable behavior. I might add that after weeks and weeks of delay in this effort of bringing this resolution to the floor, that I understand from the colloquy that was held on the floor tonight with the majority leader, that in fact the resolution will come up tomorrow, and I applaud that decision. There had been a fair amount of stonewalling on this issue, despite the work of the Committee on Standards of Official Conduct and the work of the chairperson of the Committee on Standards of Official Conduct.

It is time to allow this Committee on Standards of Official Conduct to do its job. Bring this rule change to the floor of the House for a vote, and I know that I will follow the recommendations of the Committee on Standards of Official Conduct members, and I suspect that most Members of this House, of the people's House, will follow the lead of Committee on Standards of Official Conduct members.

My hope is that that resolution will be on the floor tomorrow morning before we depart here for the holidays. We must deal with this issue; we must remove any cloud or anything that puts into question whether or not a Member is using his or her office for personal gain. That is not why people in our districts give us the faith and trust that they do to come here and vote on their behalf. Our time, our effort, has to be focused on their interests, what their concerns are in their lives. That is why we hold these offices.

So I am pleased that this will come up tomorrow. We do not need any more delays. Finally, I do believe that the majority of this house will vote and follow the lead of the Committee on Standards of Official Conduct members.

ONE TRAGEDY AFTER ANOTHER

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I awakened this morning, as many Americans did, absolutely riveted and saddened by hearing about the great airline tragedy that had happened in Colombia. I think every one of us identifies with that and thinks of what a horror this is during the holiday period, and we all send great condolences to the families. There is just nothing anyone can say.

And the news got worse. Here we are in this body where all of our pay is being taken care of, where we have just voted a recess until January 3, and the next bit of news made me feel terrible, because to deal with this awful crash they called on Americans, Americans representing this great flag of ours in Colombia who had been furloughed, who had been furloughed in our Embassy during the shutdown. They called them out of being furloughed to send them to the crash scene, which is in an area that is not secure, there are all sorts of guerrillas around there. They risked their lives, even though they are furloughed, coming back on, to go search for these crash victims, hoping to find someone alive, and to start doing all of the grisly work that we just shudder as we even imagine it. Then, of course, when they are done, because of the inaction of this body, they can go back to being furloughed.

Now, is that the vision this Congress has for how we treat people who deal with taxpayers and our problems all over this world? Do we just call them when we need them and then furlough them all of the rest of the time? I do not think so.

I must say, I am terribly saddened to see us in this mode right now where we are going to go have Christmas and we are going to get our pay. We now hear that Medicaid checks probably are not going to go out to most states to people who really need them for their children; that Aid to Families With Dependent Children is not going to get out in time, because that has all been shut down, and we can go on and on and on. I have students calling from Colorado saying that they are trying to make plans for their next term in college, but they cannot get in to get their loans. Small businesses needing money to get through the season, they cannot get in. I mean we could go on and on.

How can we take off and leave this Government shut down? It has never been shut down for more than 48 hours before. How can anybody think this is a great idea? Only Scrooge could go along with this. This is Scrooge. Yes, let Tiny Tim suffer. Who cares if he does not get his medical checks? Let people go without food. Let Federal employees who have given their life, who are always willing to come out, whether it is in the Colombian mountains or whatever, too bad.

Mr. Speaker, I think this is a horrendous way to treat people, and I am ashamed. If there was ever a week where I must say I felt good about my retirement, this has been one. It is like I do not want to be a part of this body.

But then I got to thinking, how did we get here? First we have had this hassle that the gentlewoman from Connecticut was talking about, that we might not even bring the Committee on Standards of Official Conduct thing. Hopefully we are going to do that tomorrow. It is on the schedule now; I hope we see it. Because I think the taint in this place about people selling their offices and all of that is really awful. So hopefully we get that behind us before we go home.

Then I came across a profile in the New Yorker of the Speaker in which I suddenly began to understand what has happened in this body to split us apart like this. In this profile of the Speaker, they are talking about how GOPAC, the Speaker's PAC, sent all of this information to Republican candidates, many of whom are now Members of this body, and here are some of the things that they said you should do if you wanted to speak like NEWT. That is the quote: "So if you want to speak like NEWT about Democrats, you are to call Democrats sick, traders, corrupt, bizarre, cheaters, stealers; that they are devouring the taxpayers; that they are self-serving; that they are criminal."

Well, no wonder we have some extremists here. No wonder. I mean, how could you call people those names and then sit down and deal with them decently?

Now, I must say, until I read this article I had no ideal this went on. GOPAC did not send me any tapes. But if that is how the Speaker is speaking about us as Democrats, what a great tragedy this is, and it certainly is not in the Christmas or the holiday or the human spirit or the great spirit of this country.

CONGRESS GOES HOME WHILE FEDERAL WORKERS SUFFER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I never cease to be amazed at what the Republican majority does, and what they have been doing, in the last few days with regard to the Government shutdown and not moving forward in a positive way on the budget.

This I guess is the sixth day now for the second shutdown that we have had of the Government, and amazingly, rather than coming forward with a continuing resolution today in some form that would allow the Government to continue to operate, but what we received instead was a motion or a resolution that was recently voted on, which I voted against, and which most Democrats voted against, that would allow the Speaker to recess the House of Representatives throughout all of next week.

Let us not kid ourselves. Regardless of what rhetoric was on the floor before by the Republican leadership, the authority has been given now to the Speaker, to Speaker GINGRICH, to basically go into recess, beginning tomorrow, into January 3.

If that happens, and I fully expect it to happen, we will not only to through the sixth day, today, of the Government shutdown and the seventh day tomorrow, but by my calculations probably another dozen days with the Government being shut down.

Basically, we, the Congress, goes home for Christmas and the Federal employees who do not know whether or not they are going to get a check; although they have been promised it, how can they presume that there is any guarantee of that, and they have to worry over the Christmas holiday about whether or not they are going to be able to make ends meet, whether their children are going to be provided for while we in Congress go home.

□ 1830

I find it totally objectionable. I was particularly amazed today with the continued onslaught, if you will, against children that is taking place in this Congress by the Republican majority.

There was a brief dialog with the Republican leadership an hour ago about whether or not AFDC payments or SSI payments or Medicaid payments, much of which goes to children, were going to be made within the next couple of weeks without a continuing resolution. I do not know if the Republican leadership is even aware of it.

The suggestion was, "Well, maybe tomorrow we'll take up AFDC. We don't know if we'll take up Medicaid, we don't know if we'll take up SSI" or some of these other things. They do not even seem to know whether or not with the Government shut down these benefits are going to be paid. And if we do shut down and then we find out next week that some of these benefits are not going to be paid to children or to other people who are disadvantaged in some way, how are we going to be in a position to make those benefits payable? What are we going to do when we are not even here?

Additionally, today a welfare reform bill came up and amazingly, even though the House of Representatives and the Senate a few weeks ago voted for welfare reform that still guaranteed Medicaid or health care coverage for all children who are now receiving Medicaid payments, all of a sudden the conference report comes back and eliminates that guarantee.

So when we talk about the Nation's children at Christmastime, whether it is the Government employees, whether it is the unfortunate children who may not receive cash benefits during the holiday season, or whether it is the ongoing concern over whether or not children in this country will receive health care, I do not see any real concern on the part of the Republican leadership or the Republican Representatives that make up this majority. They just do not seem to care.

I have said over and over again that my biggest concern in this whole budget debate is what is going to happen with Medicare and Medicaid. There were two things that happened today on those two fronts, so to speak, that were particularly disturbing.

It was indicated in several newspaper reports today that we should expect large increases in MediGap premiums, as much as 30 percent on the average, over the next year. The reason for that is because of what is happening here with Medicare.

Right now many senior citizens who do not feel that Medicare covers them sufficiently, because they have to make copayments or pay a lot of money out of pocket for things that are not covered by Medicare, purchase supplemental insurance called MediGap insurance. MediGap premiums are going up as much as 30 percent. Why? Because increasingly the Medicare program does not cover what is necessary for health care for seniors.

So if we cut back, as the Republican majority is proposing, on the amount of money that is available for Medicare for seniors, it is inevitable that that supplemental MediGap insurance will go up and continue to rise.

The other thing that happened today, and this is the last thing I wanted to say in the time that was allotted to me, is that we had an event with a number of people who are taking care of elderly parents who are covered by Medicaid. They are terribly concerned, and I listened to their stories today, over the Republican budget and what it is going to mean for Medicaid.

Under the Republican budget, Medicaid is no longer guaranteed for anybody, and many people who are children or care givers, whatever, are concerned that without the guaranteed eligibility for Medicaid there will not be nursing homes available for their loved ones or there will not be payments under Medicaid for their loved ones.

Again, the process continues, the Government shutdown, the Republicans do not do anything to move toward these budget priorities on Medicare and Medicaid, and it is truly tragic that we are not going to be here next week to try to address these concerns.

REPUBLICANS TO HANG FIRM TO BALANCE BUDGET

The SPEAKER pro tempore (Mr. TIAHRT). Under a previous order of the House, the gentleman from Indiana [Mr. BUYER] is recognized for 5 minutes.

Mr. BUYER. Mr. Speaker, it is with a strong heart I come here. I am really surprised that Members would even take the well and somehow try to claim ownership to issues of children and demagoguery. It is completely unfortunate, and to say that somehow because I am a Republican in this body that I do not care about children is incredibly insulting.

Let me also say that even to say words about assault upon children shows poor judgment. We get that kind of language here on the floor. I do enjoy and I am one who advocates the opening up, and I love the dialog that happens in this body, but perhaps because we are moving into the Christmas season and many of us are upset that we still have to be in this town, we get some of those words come about.

I have no regrets being here in this town at this moment. I have no regrets, because the Reserve unit which I went to the gulf war with has been called up and is on their way to Bosnia. So when I think of them, I remember what that deployment was like, and I think of them now being in the snow of the mountains of Bosnia away from their families.

But I also view that, yes, what they face, the cowardly acts of terror and the threats to the force, we also have the same cowardly acts of terror that face those of us who seek to balance the budget. The acts of terror come in the form of words. You see, I am one who believes that words have meaning. So when you say, "Oh, I want to balance the budget," then you ought to really mean you want to balance the budget. Do not say, "I want to balance the budget, oh, sometime in the future but I am unwilling to make tough choices."

Let me share that when I returned from the gulf, I was one that was extraordinarily upset with regard to the direction of our country. When you are touched by the experience of war, you begin to understand that there are many people throughout our society who have sacrificed, sacrificed for future generations and recognized the obligations that we have to take care of our parents and our grandparents, at the same time our obligation to see that our children have it better than what we had.

My fear when I look at our children is, are they going to have it better than what we have had? When I look at economic stagnation and the effects upon the wages, there are a lot of issues out there. But when I look at the national debt, I look at that and say that is the greatest threat to our security.

Serving on the Committee on National Security, we have briefings all the time about threats abroad to national security. But what about the threat from within? The threat from within when we have Members of Congress who are unwilling to act responsibly, and only want to reach into their wallets and pull out the credit card and keep stealing from future generations so they can continue to come back here. Then they wrap themselves in the cloak as if they are compassionate and they have ownership of sincerity, and that if you want to act responsibly, then you are cold, callous and uncaring.

That is wrong. That is wrong. But that is kind of the words that are used in this body and it is extraordinarily unfortunate. What it does is, it seeks to divide this body instead of unite the body.

So you have the far left and you have the far right and they seek to pull, and those in the middle when we seek to bridge an agreement, we scratch our heads and say, "What is going on?" When I go back home to Indiana, they scratch their heads and say, "Jeez, put NEWT and BOB DOLE and Bill Clinton in the same room so they can solve it." Come on.

Coming to this body and saying that the national debt is the greatest threat to this country, and then finally to be able to do something about it. You see, for the longest time conservatives, we advocated freezing the budget. Then when we got control of the Congress, we no longer advocated freezing the budget, because now we have an opportunity to change systems. So when over the years we work hard to change systems, streamline and make government more effective, we get attacked.

Well, we are going to hang firm and balance the Nation's budget because this is about the future of the country.

REPUBLICANS VOTE TO GO HOME IN FACE OF SHUTDOWN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. WATERS] is recognized for 5 minutes.

Ms. WATERS. Mr. Speaker, this has been a strange day, and these are strange times. We have my colleagues on the other side of the aisle, the Republicans, who claim they have kept us here because they want to negotiate. They have literally caused people to change their plans, change their lives, caused so much uncertainty with the families they claim to care about.

Do not forget, these are the family values people. These are the folks who say they know more about family values than most of us. But yet when they had an opportunity to be sensible, to be credible, to make sure that we operate in a way that respects our families, they have done some strange things.

After all of this, when they had an opportunity to negotiate, the President called them up, met with them, and their leader, NEWT GINGRICH, went back to them and said, "We have an agreement. We can get a continuing resolution to keep Government open."

Mind you, Government is not really operating. We do not have the authority. We have a lot of Federal employees that have been told to go home. This is Christmastime. They do not know what is happening. They do not know when they are going to be returned. We have parks that are closed down. We have people who cannot get passports.

Then my friends on the other side of the aisle got cute and they decided, "Oh, let's strike a blow for veterans. That's a great constituency. They vote. When we say we're doing something for veterans, we really look good. These are the person who have defended our country, so if we go on the floor and we make sure we said they should get paid, it's going to make us look good with the American public."

And so we did that. In all of this, we failed to negotiate, we don't have a continuing resolution for everybody, but we struck this little blow for veterans.

And after NEWT GINGRICH went to them and said they could have a deal with the President to have a continuing resolution, they said, "No, we don't want to do it. We don't care what you say, NEWT GINGRICH." The new Members, the freshmen, said, "No, we don't want a deal."

After not having a deal, they said the reason they did not want to do it is because the President had not committed to a 7-year balanced budget, nor did he want to accept the Congressional Budget Office projections and their understanding of how the economy would be working over the next 7 years. That is what they said.

Well, that has been cleared up, so you would think they would have negotiated today. But no, they have not done that. They took a vote, led by the Republicans on the other side of the aisle, to just go home. Just go home. Go home to their families, to our families.

And, yes, most of us would like to do that. But what about the Federal employees and the others that do not know what is going to happen to them? We could have passed a continuing resolution. They did something strange called a recess, an adjournment that is called a recess, and they kind of said, "and we have the opportunity to call you back at some given point in time."

And so this adjournment fashioned as a recess has taken place. But before they left, a lot of damage was done. A lot of damage was done because we passed out a conference report on welfare.

This conference report on welfare basically cuts about $60 billion out of welfare and, oh, that is easy to do, because welfare has become kind of the political football of politics. If you get up and rant and rave against worthless people who are getting the taxpayers' dollars, oh, you can get some votes. You can get some votes, and you can have people believe that somehow you are protecting the taxpayers.

It is easy to beat up on children. It is easy to beat up on poor people.

"They don't have any power. They can't do anything. And I can get get some votes."

Well, they struck a blow against the children, $60 billion in cuts. Oh, they took the safety net from under the children. You should see the havoc that was wreaked upon these children and their families, because protective services will be hurt.

☐ 1845

A lot of things will be done to children that I do not think any of us can be proud of. So I stand here this evening to say, it is shameful what has taken place over the last few days. None of us should be proud of it. None of us should want to go home and face our constituents or our families because it is not honorable what we have done here.

BALANCING THE BUDGET IS FOR THE CHILDREN

The SPEAKER pro tempore. Under the previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, as I listened to the debate today and this week, and I think many of the Members in the House and across the country have listened to it, there is a lot of blame going on. Some people are blaming Mr. DOLE; others are blaming Speaker GINGRICH. Some are blaming the freshman class. Others are blaming the President. Others are blaming—and I understand the President actually got mad at the moderates tonight—and then there is a Democrat coalition that is getting some of the blame. And so there seems to be plenty of blame and plenty of theories as to who is the problem here. But whatever the excuse is, whatever group you blame it on, the fact is we still have not resolved this budget impasse.

There is an old World War II saying of the veterans that said that the difficult we do immediately; the impossible takes a little bit longer. And it would appear that it is impossible right now in 1995 America for us to settle this budget quickly or easily. But I am confident, Mr. Speaker, that we will be able to resolve it. I say that because of a great confidence and belief in the American people, in the American system. Sure, we are having a very difficult debate. It is extremely hard. Democrats are coming, every day they are saying the Republicans hate children, the Republicans hate the elderly, it is the book deal, it is one thing or the other.

I know on their side that the Republicans are accusing Democrats of wanting to spend all the money in the world and yet, when you look at it, Democrats have something to say in this argument. When you look at it, the Republicans have something to say.

I think what the American people really want is a balanced budget and we are the folks who have been elected to do the job. I believe that we can get together and resolve this. Dwight D. Eisenhower said, I am paraphrasing, that once the American people have made up their mind to do something, there is little that can be done to stop it from happening. I think the American people have made up their mind about the balanced budget and I believe in that context this debate is, I say, fortunately beyond Washington. We will get a balanced budget.

What is it that we are fighting about? The Republican plan, for all the cries about the deep cuts, the Republican plan does not even freeze spending. It increases it $3 trillion over the next 7 years. The President wants to increase it $4 trillion over the next 7 years.

As I talk one to one to my Democrat friends and Republican friends, we are all confident that we could resolve it. People from urban areas, people from rural areas, people from the West Coast, East Coast, it does not matter, we believe on an individual basis we can resolve it.

I am seeing a little bit more movement this last week in that direction, informal talks, nothing big, nothing that has picked up in the media, nothing that some of the leadership has even recognized. Yet there is a lot more talking going on than the media would have the American people believe.

So I say with a great optimism, yes, it is too bad we are going to be going home and folks are still out of work and so forth. I think it is important for us to all realize, these are real people, real paychecks, real jobs. They want to be working. They want to know that the security of that paycheck coming in twice a month is going to be there. At the same time, though, I am confident that we are going to get this thing resolved because, and to quote another great leader, Ronald Reagan, we are Americans. We will do the right thing. We will get this thing done, Democrats and Republicans alike.

People are using the children as their shield a lot around here. We are doing this for the kids. What if kids could vote? What if the American children, what if that average 10-year old out there could suddenly vote and, realizing the issues as the rest of us do, and that 10-year old, like my son John, would look up and say, wait a minute, Dad, you mean to tell me that all that spending that you are doing today, all that money that you act like it is yours when it is not, you mean to tell me that you are borrowing money that I am going to have to be paying back and my friends are going to be paying back. Dad, I think you all better so some serious cutting or do some serious spending reductions or do whatever it takes so that my generation is not strapped hopelessly with this $5 trillion debt that you are bumping against right now.

I would say, we bring kids in the argument, what would happen, Mr. Speaker, if children were allowed to vote? I think this whole formula would change and I can promise you, we could balance that budget in a hurry because it is not fair what we are leaving our children in the way of debt.

A TEST FOR DEMOCRATS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, I come to the floor this evening to appeal to good sense and good government and accommodation consistent with principle on my side and on the other side. Today there have been requests to the GOP leadership to consider that AFDC checks are due to go out with no one to send them out, to consider that the District of Columbia Government is up and running without the necessary authority. One of the leaders offered that in the State of California it was not clear that Medicaid bills could be paid.

On the Democratic side, occasionally I have heard what the other side has become more closely identified with. That is a kind of all or nothing response. I must tell you, Mr. Speaker, my heart is with the all or nothing response, because my largest employer is the Federal Government and its Federal employees in my own district who are being penalized as they sit home waiting to be called back to work on an involuntary furlough. But at least my Federal employees have been promised by the majority that they will be paid.

What promise has been made to children on AFDC that they will be paid before Christmas or that those on Medicaid will be paid before Christmas and, God help us, that the Nation's Capital will be standing before Christmas?

It is time for cool and mature heads to consider what is at stake. This is a real test for my side of the aisle, I must say, for we have gotten up consistently this year to speak for the poor, to speak for those who cannot speak for themselves. I do, not see how it would be possible for us to go home for Christmas and tell people that we had said that, if it all does not come through, then no way AFDC will come through, no D.C. will come through, no Medicaid will come through. In that case we have adopted the tactics of the other side.

Both sides need to step back. I appreciate, frankly, that the majority is willing to consider relieving those most in need of relief by some kind of special CR and have only said that this should not be the subject of great contention. This is a test for my side. Do you mean it or not, or is it only the Members of Congressional Black Caucus who mean it or the Hispanic Caucus who mean it, or the women who mean it, or do all the Democrats mean it? Do the Republicans mean it? Can we put aside as Christmas dawns our rancor to say we do not want to go home, and say to poor children on welfare, I am sorry, your check will come sometime in the future?

For us, a missed check may get us over. For people on welfare, a missed check means no food and no shelter for far too many. For the District of Columbia, it is a shameful day when we have abandoned our constitutional responsibility and said to the District, well, we will reach out and get you when we can. Meanwhile, you are on your own.

Eighty-five percent of the money up here that we cannot get out because no appropriation has been passed is money raised in the District of Columbia from District taxpayers. There is a moral obligation, especially on these three issues, not to say all or nothing, not to get up and make some kind of vain motion knowing it will lose and, therefore, toss us all out.

There is a moral obligation on this side and this side to say, at the very least, we will call a truce when it comes to poor children on welfare who will not be fed and might be put out on the street before Christmas. We will call a truce when it comes to whether or not 600,000 people in the District of Columbia will have a government that is open and collecting trash and doing what government must do for people to keep going. We will call a truce when it comes to Medicaid. Is that what we want? It is not what we want. But if we have gotten the majority to understand that they must consider that, how can we pull back now?

It is a test and we must look at each and every one of us to see whether any of us causes this test to be failed. We must take it into account. If, after all, we have had to say about children and about the poor, we are willing, we are willing to stand here and allow checks to be missed for them, it is a test. Either we mean it or we do not. Whose principles are these? Who do we speak for? Can we pass the test?

BUDGET NEGOTIATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GEKAS] is recognized for 5 minutes.

Mr. GEKAS. Mr. Speaker, there is not a dime's difference between the two major political parties, was the observation of a political writer some years ago. I think that that description can be in a broader sense applied to the negotiations that are now taking place even as we speak and which have so much to do with the eventual outcome of the cherished balanced budget.

Why do I say there is very little difference in applying it to the current negotiations? If we would recall only in a brief recent history, the President of the United States, when he was candidate Clinton, offered a tax cut and said that, when he became President, he would make certain that the middle class would at his hands receive a middle class tax cut, much needed tax cut.

When the current negotiations began, one of the big issues was whether or not we should have a tax cut. So it seems that both parties, the Republicans, who want this tax cut and who have promised it in the Contract with America, have matched the President, who offered it when he was candidate Clinton in the 1992 elections. So has not the issue of tax cuts been resolved once and for all? Should not the American people expect a tax cut?

If they have agreed on that, what are they arguing about with respect to whether or not there should be a tax cut? President Clinton, after he became the Chief Executive, criticized the Republican tax cut as being unworthy of consideration for one reason or another. Yet he has proposed a tax cut. Now let us skip over to the other big element in the negotiations: Medicare reform.

The Republicans are being excoriated on an hourly basis by the opposition on their daring to try to slow the growth of Medicare. Will we not recall, Mr. Speaker, that it was the President and the President's people who first brought that consideration before the public by offering, in the 1993 session, 1993, the first year of that session, a plan to slow the growth of Medicare? So now the second largest issue which is on the table in these present negotiations is also one on which the major parties show that there is not a dime's worth of difference between them.

The President's people want the Medicare growth to slow. The Republicans offer as part of the balanced budget the slowing of the growth of Medicare. What is left to negotiate? It seems to me that all that is left is proportions of those two elements. We ought to be able to settle it.

My gosh, I would be willing to do anything to have the President actually agree to the balanced budget. Maybe we could offer the President, look, Mr. President, perhaps we, the Republicans, would offer you, you take your choice. Take the Medicare proposals that are offered by the Republicans, and we will give you your tax cut. That way both parties, both sides of the table will have earned something on which they both agree.

□ 1900

They both want a tax cut, they both want Medicare reform. The President now takes the Republican version of Medicare, and we give him his version of a tax cut.

I know that that will not work, but the point should be made clear to the American people that both sides are saying the same thing in different ways and that neither side should be accorded more credibility than the older.

I hope that the President begins to reduce his rhetoric against the Republicans who want the same thing he does, and I hope that the Republicans will understand that a tax cut that is offered by the President is not out of consideration altogether. Someplace we should have both a tax cut and Medicare reform.

One final point, Mr. Speaker, I acknowledge here and now that we Republicans have failed the public-relations war to make clear to the American people why we seek a balanced budget, because every time we say we want this cold steel unattractive item called the balanced budget, we are met by the opposition who say, "What are you doing to the children, the orphans, to the disabled," and all of that. They win that battle, but the balanced budget that we seek will bring an era of prosperity in which all the needs of the American people will be met, and the balanced budget that the Republicans seek here and to which the President has agreed over 7 years will reduce the chaos that we have in this country and all the segments of the society.

BASING THE BUDGET ON ITS MERITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. VENTO] is recognized for 5 minutes.

Mr. VENTO. Mr. Speaker, I take this time to comment on the events concerning the budget and the controversy that has engulfed the Congress and the Nation concerning it.

First and foremost I must say that I think that the contributions, the focus this year and the focus in the past campaign, which was largely due to efforts in 1994 on the part of the Clinton, the Bush, and the Perot factors to focus on a balanced budget, was a good focus for our Nation. I think that that is a desirable goal. In fact I think that in 2 years in the programs that were passed have actually moved us in that direction, probably not as dramatically as some would want, but they have moved us in that direction. But I think that it is very important, as we move toward trying to resolve the budget deficits on an annual basis, and in the long range we hopefully can get there, and I hope and I think that that is possible, I think we have to look also at the fact of what happens in terms of the balance of the programs that we have. Achieving a balance in terms of no annual deficits is important, but we also have to recognize that there is a human deficit that could develop and that is developing in our Nation today as we look at the disparities in incomes and wages that people earn and the unwillingness today in this Congress, largely by the majority party, the Republican majority, my friends, that they are not willing to move on the minimum wage. I think that we ought to do that, try to address that. More importantly, I think we ought to be working to empower workers and to give them the skills, and the education and the ability in training and skills they need, as I said, so that they can be more productive workers, so that they can earn better wages.

But, Mr. Speaker, as we look at the events that have happened here, the controversy that is going on with regards to plans and schemes to try and achieve a balanced budget, I would just want to remind my colleagues that, having served here through the 1980's, this is not the first plan that we have had with good intentions to balance the budget, no, not at all. In fact I think, as has been mentioned on the floor by both Republicans and Democrats, both President Bush and President Reagan had sought and, of course, pledged their fidelity to a balanced budget, that they were going to attain it sometime in the future. In spite of the fact that that was the goal, and I think many in Congress, some in Congress, with regards to the Gramm-Rudman I, Gramm-Rudman II, they all had plans to achieve a balanced budget. So I think that they had 4-year plans, 5-year plans, but the fact is that what happened is that events in the economy overtook those plans. I think sometimes they were premised on unrealistic tax and unrealistic policy and program changes that did not achieve that, but, too, notwithstanding that, the other major factors, I think, are some of the unforeseen things that happened in the economy.

I note that one of the—throughout this week one of the accomplishments, or goals, or the basis for the balanced budget and the achievement of it is the suggestion that somehow interest rates are going to go down, that that is going to be a big accomplishment. Well, I would suggest modestly to my friends that the Congress of this country does not completely control the economy. We do have a free economy and a global basis. We do not control that economy, nor should we. I do not think that we should. I think we can have an impact on it. Whether it is going to be as dramatic and positive as what my colleagues believe I would very much question. So I think that most of us that have served in this body understand that we are going to have to address this issue of trying to achieve a balance each year. Each year we are going to have to take incremental steps.

Having a plan; well, that is very good. Trying to do this within a certain period of time, 4 years, 5 years, 7 years I think is probably more realistic than trying to do it all at once where we would cause a catastrophic impact on our economy in terms of its performance. But I must say that while we strongly disagree, I strongly disagree with many of the elements that have been put into the reconciliation bill, which is this year's, this 7-year program to in fact try to achieve a balance, because I think while it might indeed balance the budget at the end of that given the—if the economic predictions were to hold out, which I think would not hold out, not because of any bad faith, but simply because of the nature of our economy; but I think the programs inherent in that, that make the cuts, that make the changes, are inherently, are inherently unfair.

I think the premise of a balanced budget that is going to work, the programs that are going to work, is going to have to be shared sacrifice. When you start out with half of the reductions taking place in Medicare and Medicaid, and start out with putting in a large tax cut, distributed in an unusual way to those that have higher incomes, I think you start out with a bad premise.

Now the fact is that—the fact is with regard to that type of budget—it simply is not going to do it, it is not fair, it is not going to get the support of the President, and it should not receive the support of the President.

So I would hope that this week we—if you cannot solve it on the merits, I think it is wrong to try to push this down the thoats of the American people based in terms of the annual appropriations bills. You have to sell it on the merits. It has failed on the merits, so now we are trying something different, and that is trying to cut off the appropriations in November, and again now in December and through the new year.

So I would hope my colleagues would consider that and consider my words in terms of the decisions they make in the weeks ahead.

COMMENTARY ON BOOKS AND MOVIES IS IMPORTANT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, before I get into my subject, let me just comment briefly on what my colleague just stated in respect to the balanced-budget negotiations. He mentioned, the last thing he mentioned, were the tax cuts, and you know I have looked at the tax cuts, the $500-per-child tax credits, and I do not think that is a strange tax cut, and that is, by far, the biggest amount of money that is manifest in the Republican package. That says that you get $500 credit per child.

Now that means, if you are a person who is a working person who only pays today $1,500 in tax liability, you have three children, at $500 apiece your tax liability is erased. A person who has a $50,000 tax liability, an upper-income person, and you have three children, your children count just as much as anybody else's, and you get $1,500 off your $50,000 liability, and you still pay $48,500 in taxes, and I just do not understand why that—I would be happy to yield.

Mr. VENTO. I appreciate it.

I would suggest that there are two factors here that are inherent in this bill that weigh in against workers, low-income workers specifically. First are the changes prospectively in the earned income tax credit, which is reduced in the plans that have come from the House and Senate out of conference, and second of all is that, if you do not pay a Federal income tax, then you are not entitled to any type of credit, and of course I am talking about income tax because those same individuals of course pay Social Security taxes on a regular basis, so those children that are about a third of the children in this country come from families that are affected, where they would not get the benefit because—the fact that their wages—of the parent are so low that the child is denied the benefit.

I thank the gentleman for yielding.

Mr. HUNTER. Mr. Speaker, let me just answer my friend.

That is a long—what the gentleman has just described is a far cry from saying this is a tax cut for the rich. I do not consider a person who makes, who has only a $1,500-per-year tax liability, as being a wealthy individual, and yet that person, if that person has three children, he get to multiply that by $500 per child, and that totally eliminates his tax liability. That takes it from $1,500 to zero. Now that is hardly a tax break for the Rockefellers.

So the gentleman was arguing in favor of having a balanced discussion, using not pejorative terms in trying to find a middle ground somewhere, and I would suggest that there is a lot of merit to a child-based credit—you know the tax credit we started with that we had in 1948, if you adjust it for inflation, is much lower in real dollars than it was back in the 1940's.

I think the gentleman——

Mr. VENTO. If the gentleman would yield, I would acknowledge that, but I think that, if you look at the broad array of taxes here over a 7-year or even a 10-year period, you find that the majority of these taxes do go to those that have investment income and to corporations. You know, the way we get to some of these adjustments is first looking at the individuals and not treating the corporations——

Mr. HUNTER. Reclaiming my time, I just take my time back for a second. The difference that I have seen in the amount of money of income that is derived or the amount of money that is attributed to the child-based tax cut is roughly, if the last figures I looked at were correct, was about five times as much the amount of income that is considered to be given up, if you will, by the capital gains tax cut.

Mr. VENTO. If the gentleman would yield back——

Mr. HUNTER. Child-based tax cut is by far the big——

Mr. VENTO. I think the issue here gets to be how long you run that, so first of all the Senate—the example you use, usually use a 5-year time frame. This is a 7-year program, but, if you run it to 10 years. You find that about three-quarters of the tax benefits in this go to investors, some, of course, small capital-gains beneficiaries, but a lot of it to corporations. You know in this measure that you have, Some of it will take the corporate tax down to zero.

Mr. HUNTER. I appreciate the gentleman's commentary. I would be happy to discuss this with him further but, Mr. Speaker, I would like——

Mr. VENTO. I thank the gentleman for yielding.

Mr. HUNTER. I thank my friend.

Let me say, Mr. Speaker, that sometimes it is important to comment on books and movies because those books and movies reflect history, presume to reflect history, and that history is drawn upon by leaders in government when we make further decisions, and one movie that is currently playing in this country is called "Nixon." It is a movie by Oliver Stone, and I think that commentary is always an important thing, and it is important to have a commentary that is delivered by an honest broker.

There is no more honest broker in this area and no person more qualified to comment on the movie "Nixon" than Herbert Klein, who first met Nixon in 1946 when he was first running for Congress, and ultimately became the Communications Director of the White House in 1969, and was the director until 1973, and I would offer for the RECORD this article in the San Diego Union entitled "Truth Subjected to Oliver's Twist" in which Mr. Klein tries hard to find a grain in truth in the movie "Nixon," but finds it very difficult to achieve.

So I would ask, Mr. Speaker, that this article by Herbert Klein be put in the RECORD.

The article referred to is as follows:

[From the San Diego Union-Tribune, Dec. 19, 1995]

TRUTH SUBJECTED TO OLIVER'S TWIST

(By Herbert G. Klein)

The Richard Nixon portrayed by Oliver Stone in the new movie "Nixon" comes nowhere close to the realities in the complex life of the late former president.

In its article on the highly publicized new film (which opens tomorrow), Newsweek saw Stone as having discovered "complexity, ambiguity and even a measure of restraint."

For those who knew Nixon well, that description of this picture is difficult to comprehend. Stone has created few movies that were not controversial, and "Nixon"—like "JFK"—is sure to create controversy.

For "Nixon," Stone recruited outstanding actors, including Sir Anthony Hopkins (who plays the president) and Joan Allen (the first lady). But given the script, which jumps without warning from fact to fiction, acting alone falls far short of reality.

I watched the movie at a private screening last week at Mann's Hazard Center, where I was alone to analyze my feelings as I recalled the highs and lows, the wins and losses, that I had experienced with Richard Nixon.

The film appropriately showed the warts of the president and then went beyond. The happier, high points were largely ignored.

It gave me a bewildered feeling to watch actors who never have known the sill-living people nor the issues they portray, and who miss true characterization.

This is a movie mainly tuned to Watergate and parts of Vietnam, but it is interspersed with scenes of Nixon's childhood and, finally, his disgraced departure from power.

Even the early family moments are inaccurate, particularly when they portray Nixon's brother as a renegade who died after suffering from tuberculosis for 10 years.

Scenes featuring Nixon's mother, Hannah (played by Mary Steenburgen), depict her as an "angel" who had tremendous impact on her son Richard. That was true. The scenes brought back memories to me of her Quaker funeral. Such memories included the Rev. Billy Graham, who later presided over the funerals of both Pat and Dick Nixon.

The early family depictions surprised me. I didn't expect to see shots of the happy days with kings, presidents and prime ministers in the state dining room, or other shots of congressmen crowding around the president for pictures of bill signings on major issues, such as school desegregation.

I did expect less Watergate and more of the international events that shaped Nixon's policies and that are a part of history.

Fortunately, I never met the Watergate burglars or its masterminds, G. Gordon Liddy and E. Howard Hunt, but most of the reallife persons portrayed in the film were men and women with whom I worked closely sometime during the time I knew Dick and Pat Nixon, from 1946 until he died in April of 1994.

Even with that background, I had difficulty determining which actor was which Nixon deputy or which parts of the movie were based on fact and which were part of a screenwriter's imagination.

RUBINEK AS KLEIN

The greatest surprise for me came when I discovered Saul Rubinek playing Herb Klein in scenes from the 1960 and 1962 elections. I didn't recognize myself or my role until someone on the screen called out, "Herb." Among other things, Rubinek appears to be short, dumpy, wears suspenders, swears frequently and smokes cigarettes. I'm not Beau Brummel, but none of those things applies to me.

In a more important way, the actor playing me on the screen was arguing a point that was directly opposite my point of view.

The debate was over whether Nixon should take legal action to protest the results of the close 1960 election against John Kennedy. In the movie, I am arguing with Nixon's early campaign manager, Murray Chotiner, on the night of the election.

In fact, the historic question was not seriously considered by Nixon until days after the election, when we were in Key Biscayne, Fla., and my position—along with that of Chotiner and (the late longtime Nixon confidant) of Bob Finch—was that Nixon should not contest the election because such action could endanger national stability.

Nixon listened to both sides and decided not to challenge the results, and in a historic scene not portrayed in the movie, he and John Kennedy met in a Key Biscayne villa a week after the election. Nixon rejected an offer to serve in the Kennedy Cabinet, declaring himself to be the leader of the "loyal opposition." The two men agreed to try to unite a divided country, while recognizing their differences.

No one ever asked me or any other persons portrayed in the movie what the facts were.

COFFEE HIS BEVERAGE

The Nixon on Stone's screen drinks almost constantly and comes off as an evil, angry buffoon who believes that his problems center on not being understood by anyone including his wife.

Nixon was not a teetotaler, but coffee was his beverage during the day, and I can recall only a half-dozen times in almost 50 years when I saw him bordering on too much to drink during the evening.

Stone touches on Nixon's feelings toward the Kennedys, and at one point Nixon is seen staring at a picture of President Kennedy and asking: "When they look at you they see what they want to be. When they look at me, they see what they are."

That probably portrays Nixon's true feelings. He disparged "Eastern intellectuals" and yet he knew that, in truth, he was an "intellectual" who liked to feel he was outside the Eastern elite community. Some of those he admired most were eliteist. He resented the fact that the Kennedys "got away with everything" and that the news media and Congress looked for faults where he could be criticized. At one time, (chief domestic-policy adviser) John Ehrlichman Persuaded Nixon to set up a Camelot-like "royal guard" for the White House. That lasted only a few days.

The most dramatic parts of the film come in conversations between Dick and Pat Nixon. Those obviously are fabrications since no one witnessed them. Allen plays Pat Nixon's role well and shows her to be family-oriented, warm and intelligent. The Pat Nixon I knew also was a strong and caring "first lady." The film wrongly portrays her as a chain smoker. She smoked occasionally in private.

Nixon used to say everyone loves Pat. He was right.

During the scenes between the president and his wife, Nixon refers to her with the nickname "Buddy." I had never heard that. Nixon's daughter, Tricia Cox, whose White House wedding is portrayed tastefully, told me she never heard her father use the name Buddy, but she does recall that Buddy was a childhood nickname for her mother.

Julie Nixon Eisenhower also is shown pleading with her father not to quit. That was a plea Julie made, but the passion of the real Julie was far greater than that of the actress (Annabeth Gish) who portrays her.

STONE OBSESSION

As I watched the film unfold, the most surprising innuendoes concerned Castro, the Bay of Pigs and a mysterious attempt by Stone to insinuate that there was some type of plot involving Nixon, Howard Hunt, the CIA, J. Edgar Hoover, the Mafia and the Kennedy assassination.

Over the years, I have heard discredited theories involving the CIA or the FBI, Kennedy and the Mafia and attempts to assassinate Castro. Stone seems to attach these long repudiated stories to Nixon as if the former president had some part in the death of John Kennedy. That, of course, is pure Stone obsession on Kennedy assassination plots.

The vagaries of the Cuban-plot theories did stir within me memories of some of the most tense moments of the Nixon campaign against Kennedy in 1960.

Just prior to the fourth and final debate between the two candidates, both men addressed an American Legion convention in Miami, Kennedy got major applause with comments about organizing a force to attack Castro. Nixon knew that such Cuban refugee troops were being trained secretly by the CIA under President Eisenhower's direction. Nixon felt that for him to take this hard line, as had Kennedy would break the code of secrecy he held as vice president. He, therefore, was made to look weak with a suggestion urging a blockade.

The encounter made Nixon so angry that it was difficult to prepare him for the all-important final debate. He had me call CIA Director Allen Dulles to see if Dulles had told Kennedy about the secret training exercise. Dulles denied this, but Nixon did not believe him. This exercise later became the Bay of Pigs.

In the final days of the 1960 campaign, Nixon was forced during the debate to take a weaker position than he believed in, and Kennedy scored points.

None of this was in the movie, but I recall taking reporters to Club 21 for a drink, hoping that would distract them from what was going on.

I became angry during the movie when Nixon was portrayed in sinister fashion as ready to bomb civilians in Hanoi, North Vietnam. Stone goes to the trouble of showing Nixon turning back a steak that was so raw that blood covered his plate. This bloody scene was supposed to be symbolic, but it almost made me sick.

The fact is that Hanoi was bombed, and nearby Haiphong was mined, a bold move that forced the North Vietnamese to agree to a cease-fire. I recalled that Henery Kissinger and I were in Hanoi immediately afterward, and I saw with my own eyes that Hanoi civilians were spared, but military targets such as bridges and airfields were hit with precision. This was not in the movie.

Among those who will resent this film most will be Henry Kissinger. Only recently, he was unfairly depicted as being evil in Turner Broadcasting's TV movie, "Kissinger and Nixon." In the Stone movie, Kissinger appears to be a devious fat, sycophant who was almost ousted from the White House staff by (White House chief of staff) Bob Haldeman and aide Chuck Colson.

One of Kissinger's happiest moments was when he won the Nobel Peace Prize in 1973. The disparaging movies may provide Kissinger with some new low points in life.

When, in "Nixon," I saw the Kissinger character having lunch or dinner with reporters at Washington's Sans Souci restaurant, I recalled dining in the same cafe and often wondering what Kissinger was leaking. This did become a White House controversy, and he may have wondered the same thing about me.

But the movie's implication that Kissinger was about to lose his job was the opposite of truth. The film reminded me of times when I was in Haldeman's office or on an airplane and heard Kissinger—then the frustrated national security adviser—seek to displace Secretary of State Bill Rogers. No one effectively threatened Kissinger.

For me, the saddest moments of the movie came near the end, when Nixon finally begins to comprehend that he has lost the battle, that he is about to be forced from office. I had left the staff a year earlier.

Stone is more sympathetic in these scenes and allows Nixon to ask why no one remembers what he did in ending the war, in opening relations with China and what he did in the SALT treaty agreements with the Soviet Union.

I left the theater wondering why the movie was made and seeking quiet where I could again sort out fact and fiction.

I also pondered the coincidence that within less than two years after Nixon's death, we suddenly see a flurry of shows reviving the Vietnam War and Watergate—TNT's "Kissinger and Nixon," Stone's "Nixon" and a forthcoming History Channel program titled "'The Real Richard Nixon' 3½ documentary hours of Tricky Dick."

The A&E Channel also has scheduled a two-hour presentation of Nixon on "Biography," to air in january. Its producers say it is a true documentary.

FEDERAL EMPLOYEES, VETERANS, AND CHILDREN BEING HURT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Georgia [Ms. MCKINNEY] is recognized for 5 minutes.

Ms. MCKINNEY. Mr. Speaker, I have come to the floor this evening to voice my utter dismay at how our Federal employees, our veterans, and children are being treated by this GINGRICH-led farce called leadership. Republicans are hurting those who do not deserve it. We have dedicated employees in the State, Justice, and Commerce Departments who are being manipulated by those who claim that they care about the American people. We have Medicare recipients and children who will not receive benefits because the Republicans simply do not care. We have devoted State Department employees who were called in from furlough to cope with an airplane disaster in the dangerous hills of Bogota, Colombia. There are individuals who were deemed nonessential and are not being paid but are risking their lives to travel into the guerrilla-controlled hills of Colombia to insure that Americans' lives are protected.

☐ 1915

This is the Christmas season. This is the season where good will toward men should be the order of the day. However, we appear to have many Members of this body who have a personal agenda that not only casts a scrooge-like haze over this season and the lives of Americans, but demonstrates a cold-hearted callousness for the well-being of our elderly, our children, our most vulnerable citizens.

I am here this evening because it is a sad day for America and this Congress. We have a few Members of this body holding the entire country hostage, and behaving as if they are, in fact, involved in a guerrilla war themselves, high up in the hills of the Sierra Madre. It is unfortunate that my colleagues on the other side of the aisle have truly made this a season not to be jolly.

I also have a lot of constituents who are undergoing quite a bit of concern right now as it relates to the 11th Congressional District and the recent ruling from the judges that really turns the entire congressional map upside down, topsy-turvy, and places incumbent Members of Congress in the same district, and generally creates havoc on the congressional election plain, just a few short months away.

While we are here trying to protect the rights of average, ordinary Americans who are going to be hurt by this shutdown of government services, we also need to note that, particularly to my constituents who are concerned, that also the Department of Justice is shut down. That means that if there are some who are interested in the timely filing of an appeal to the Supreme Court for the drastic measures that were taken by the lower court in Georgia, we are just out of luck, because the Department of Justice is among those whose Federal employees have been called off of the job.

We have definitely got to do something to put our Federal employees back to work. The work of our government employees is necessary, it is essential, it is valuable, and it is critical. To deny our Federal employees paychecks just a few days before Christmas is about the most cold-hearted kind of treatment that I have ever, ever thought that anybody could visit upon other people.

FRESHMAN REPUBLICANS DEDICATE THEMSELVES TO GETTING AMERICA'S FINANCIAL HOUSE IN ORDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. SHAYS] is recognized for 5 minutes.

Mr. SHAYS. Mr. Speaker, it is one of the greatest privileges in the world to serve in Congress and represent constituents who have sent you to Washington. I have had the pleasure as well to represent a smaller constituency in the State House in Hartford, and it never ceased to amaze me, as a State legislator, how I as a State legislator had to make sure that our State had its financial house in order, and yet the Federal Government could deficit spend. I often wondered how those men and women in Congress could do such a terrible thing to our country, to burden future generations with horrific debt, on which we have to pay annual interest payments which are in excess of over $235 billion annually.

Mr. Speaker, when I got down to Washington I vowed that getting our financial house in order would be my first and highest priority, making sure that we balanced our Federal budget. I have seen during the past 8 years that there has been here a greater awareness that we needed to do this and more and more Members willing to put their, candidly, political lives on the line to do that.

I pay special salute to the freshman class that have joined us this year, because this number of 73 Members has given us the opportunity to lead. We have not had an opportunity as a Republican conference to lead in 40 years. What we have done in that short period of time, Mr. Speaker, I think is extraordinary. We passed major reforms in the first day of the session by reducing the size of Congress, reducing the number of committees, reducing the staff on committees, requiring or no longer allowing proxy votes, requiring all committee meetings to be open to the public, requiring that Congress live under all the laws we impose on everyone else. I want to say that again; to require Congress to live by all the laws that we impose on everyone else.

Mr. Speaker, we not only voted during the beginning of the year for a balanced budget amendment, but we did something obviously more important, we voted to balance the budget. That is what I want to address at this point.

Mr. Speaker, we are going to get our financial house in order and balance our Federal budget. At the same time we are going to save our trust funds, particularly Medicare, from insolvency and then ultimately bankruptcy. Our Medicare fund will go bankrupt if we do not take corrective action to restore funds in the Medicare Part A fund, which will go bankrupt in 7 years. We are looking to transform our caretaking social and corporate welfare state into a caring opportunity society. We are set to do all three of these objectives, and we are working hard to accomplish that task.

Mr. Speaker, Prime Minister Rabin, who was the former prime minister in Israel, made it very clear that he viewed his responsibility this way. He said he was elected by adults to represent the children. That is what I think Members in Congress have to do. We are talking about not having a horrific debt that mortgages our country's future.

We have a plan. The plan is very simple: We balance the budget in 7 years. Admittedly, we have a tax cut. What do we do? We balance it in 7 years. I could forego a tax cut if we balance the budget in 6 years, but I will be darned if I am going to reduce the tax cuts and then take what we had saved to allow for tax cuts and just spend more money. We are allowing this Government to grow. In the past 7 years we spent $9 billion. We are going to spend $12 billion. The issue is should we spend $13 billion in the next 7 years. We say no. The other issue is we say it should be balanced by the seventh year.

Mr. Speaker, I constantly hear about Republican cuts to the budget. They are just not true. At least they are not true when they refer to the earned income tax credit, a very important program to provide proactive financial assistance to individuals who do not pay taxes, but work. The earned income tax credit grows from $19.9 to $25.4 billion. The school lunch program under our plan grows from $5.1 to $6.8 billion. The student loan program grows from $24.5 to $36 billion. That is a 50-percent increase.

Only in this place when you spend 50 percent more do people call it a cut; Medicaid, growing from $9 billion to $127 billion, Medicare from $178 billion in the seventh year to $289 billion. That clearly is an increase in spending.

Mr. Speaker, we are cutting some programs, and maybe some we should not, but we had to make choices. Now it is up to the President. We have spent a whole year working on our budget. We have closed it and advertised it, and have proclaimed it to our constituency and the entire United States. Now it is time for the President to say where his priorities are.

A member of our conference pointed out that we have been authors and the President has been a critic. It is important now that the President be an author of what he favors and show us what he wants, and then compare the two options. I think we can have an agreement on 24 hours, as soon as the President and the leaders in the Democratic side of the aisle, the gentleman from Missouri [Mr. GEPHARDT] and the gentleman from South Dakota [Mr. DASCHLE], determine that the American people want to balance the budget in 7 years and get our financial House in order. We are not asking that they agree to what we are doing with Medicare and Medicaid or the tax program or our discretionary spending. We are asking them to present their plan, see where we agree and, where we agree, case closed. Where we disagree, then iron out our differences.

Ultimately, the President is the President of the United States. He is going to have to pass judgment on what we do. There will have to be an agreement. But rather than compromise, we are looking to find common ground and save this country from bankruptcy. We are determined to get our financial House in order and balance the Federal budget. We are determined to save our trust funds, particularly Medicare, from bankruptcy. We are determined to transform this social and corporate welfare state into an opportunity society and end this cycle of 12-year-olds having babies, 14-year-olds selling drugs, 15-year-olds killing each other, 18-year-olds who cannot read their diplomas, 24-year-olds who have never had a job, and 30-year-old grandparents. That has to end.

We need to transform this society into truly what is an opportunity society. I look forward to doing that, and working with colleagues on both sides of the aisle to accomplish that task. Mr. Speaker, I would just conclude by saying I am proud to serve in this incredible opportunity as a Member of Congress, and to represent the people of the United States.

REEMPHASIZING THE DETERMINATION OF REPUBLICANS TO BALANCE THE FEDERAL BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. McINNIS] is recognized for 5 minutes.

Mr. McINNIS. Mr. Speaker, the issue that we have got to address is this deficit. This Government is accumulating a debt of $30 billion an hour more than it brings in. In other words, it is spending $30 million an hour more than it brings in. How, you would ask, is that done? It is done by using a credit card. The most misused credit card in the history of this country is right here in my hands.

What is this misused credit card? It is the congressional voting card. For 40 years this card has been inserted in that slot and additional debt has been put onto the next generation. It is like any other credit card. You can go ahead and charge things without having the cash to pay for it. That is exactly what this country has done. The status quo in this country is not a pay as you go. The status quo is not to act like every other American family has to act; that is, they cannot spend any more than they bring in. The status quo in Washington, DC is to get more taxes and more taxes and spend more money and more money. If the money coming in does not match the money going out, that is okay, just spend more money, and periodically go back and get more taxes.

We cannot continue to allow this society to run on a deficit. It does not work. No country in the history of this world has been able to run their country with deficit spending like some in this body would like this country to run.

Mr. Speaker, we are up against the status quo. Anytime you take on the status quo—and frankly, there are a lot of us who have had enough guts, and there is the momentum this year to take it on—whenever you take on the status quo you are going to be criticized. They are going to blame everything they can on you. Tonight, earlier, I heard one of my colleagues even somehow associating the tragic plane crash last night in Colombia to the Republicans and the balanced budget idea. That is the kind of thing we are being blamed for. We are going to throw seniors out on the street. No more student loans. What a bunch of baloney. No more school lunches for the kids. What a bunch of garbage. That is not going to happen. A year from now the people of this country will be enjoying the fruits of a balanced budget. And you know what? None of these scare tactics being used by the protectors of the status quo will come true.

We can all remember in our own history when Christopher Columbus sailed for the new world. Where was that criticism? "What is the guy, crazy? The world is flat." He had to sail through some rough waters. He had to go through severe criticism, but he did it. Look what happened. He sailed into a new world. In this country, we can do the same thing.

Sure, we get a lot of naysayers around here that say to us, "You cannot balance this budget," or "Let us pretend we have balanced it," and continue to spend more and more and more. We are being criticized for everything you can imagine, but we are determined to sail through those rough waters. We are determined to deliver to the next generation a balanced budget. We are determined to force the Government in Washington, DC to behave just like every other family in America has to behave. That is that they cannot spend any more money than they bring in.

Mr. SHAYS. Mr. Speaker, will the gentleman yield?

Mr. McINNIS. I yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Speaker, the gentleman's analogy of leaving the old world for the new world, I just want to make this point. We have left the old world for the new world, and we are not going back to the old world. We have burned our ships. We are in this new world, and we are determined to save this country from bankruptcy. I thank my colleague for yielding to me.

□ 1930

Mr. McINNIS. That is what we are going to do. That is the beauty. I know that right now the storm is out. A lot of people like to bring their ships into the harbor when the storm is out there. We are right in the center of it. We are willing and ready to do that, and I think that is the optimistic news for this country.

Mr. Speaker, I will end on an optimistic note. No. 1, the spending and the spending and the spending of this government has to be brought under control. We are going to do it. For those young people in our country, let me tell you, there are so many more things that are going right with this country than are going wrong, and you have a great future. My colleague, the gentleman from Connecticut [Mr. SHAYS], myself, and most of the people, a majority in this body, will deliver to this next generation economic sensibility in the Nation's Capitol. We will deliver to that generation a credit card like the one I have that is not loaded with debt. We are going to do something about it. We are in the new world. We are ready to take the pot shots that people are making at us. We do it for the next generation.

A CHRISTMAS RECITAL

The SPEAKER pro tempore (Mr. TIAHRT). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, a Christmas recital. Man does not live by legislative tension alone, and my apologies to Mr. Moore.

The night before Christmas.

T'was the night before Christmas and all through this House, the liberals were playing the cat and the mouse. The budget was hung by threads of despair, while we hoped and we prayed Bill Clinton would care.

The night before nestled all snug in his bed, visions of veto pens danced in his head. He dreamed of Web Hubble all through the night and vowed he would hold out if only for spite.

While out in the land there arose such a clatter, taxpayers demanding, just what is the matter? Balance that budget, shut some Feds down. Our poor Army's in Bosnia, they said with a frown.

The moon on the breast of the new fallen ice gave delusions of grandeur to Hillary; how nice. When what to our wondering eyes should appear, but Willie as Santa, his gang as reindeer, passing out pork in Fed buckets and pales, while frightening the old folks with Medicare tails.

More swooping than vultures his coursers they came, they whistled and shouted and called them by name: Now Al Gore, Panetta, McCurry and Stephie; on Flowers, on Troopers, McDougal and Betsy. From the top of the heap to the top of the Hill, now bash away, bash away, go for the kill.

While back in the House the hurricane rages. The freshmen are busy inspiring the pages. What sad words from ladies, and gentlemen too, who would rather be home with an eggnog or two. Where children and grandchildren snuggle in bed, waiting for Santa, the real one, in red.

But struggle we will until our promise is met, a budget that is balanced; down national debt. A tax break for families with children to raise, a gift to the Nation in conservative days.

And then in a twinkle we heard on this roof the stomping and pawing of each liberal hoof. As the Speaker called order, we all turned around. Bill came through the cloakroom looking smug and quite round. He was dressed all in glitter, because fur is not allowed. He threw Big Macs and french fries all over our crowd. You have won now; it is over, I fear. The budget is signed, my election draws near. But if I should lose, I will still be around. I am heading to Hollywood. It is my kind of town.

He plopped in his sleigh, to his libs gave a yell, and then they were gone like bats out of hell. But we heard him exclaim as they galloped toward heaven. BOB DORNAN impeaching me? Film at eleven.

Mr. Speaker, may I place in the RECORD the update of:

REAL SLEAZE IN THE NOT-SO-GAY NINETIES

I. WITH WHOM DOES ANY THINKING PERSON ASSOCIATE THESE NAMES AND EVENTS?

A. First the good guys & gals

Jean Lewis and other law respecting workers at the Resolution Trust Corporation.

Paula Corbin Jones—victim of criminal flashing—the ultimate sexual harassment, right up there with criminal groping—worse if you are the employer, i.e. the Governor.

Billy Ray Dale and 6 other innocent Travelgate victims.

B. Once "in sin" but now seeking redemption

Sally Perdue, Gennifer Flowers, Mailyn Jenkins, and Arkansas Troopers #1, #2, #3, #4, #5 ("J.D.").

C. Bad guys:

Bimbos IV through XX, maybe higher.

James McDougal, cheating owner of Madison Guaranty.

Susan McDougal, embezzler of Zubin Mehta and wife and partner of James.

Bernard Nussbaum, former White House Counsel.

Current convict Webster Hubbell, former Associate Attorney General (No. 1 fix-it man at Justice).

William Kennedy III, former White House Associate Counsel.

Dan "Cocaine" Lasater, ex-con who laundered drug money through S&L's and paid Roger's $10,000 cocaine debt, was pardoned by Governor.

James Blair of Tysons Chicken, controlling investments for whom?

Margaret Williams, Chief of Staff and Enemy of Truth.

Patsy Thomasson, F.O.B., Enemy of Truth #2.

Morton Halperin, National Security Counsel, he was rejected for Asst. Sec. of Defense by U.S. Senate.

Hazel O'Leary, Energy Secretary, world traveler.

Bruce Babbitt, Interior Secretary, master of babble.

Strobe Talbott, #2 at State Department (Dayton Conference "Greize eminence"—brother-in-law of Derek Shear) Time Magazine lying editor and senior F.O.B. in 1992.

Ira Magaziner, former Health Care Reform Guru, can't add simple financial figures.

Roger Clinton, ex-con and former cocaine addict.

Robert Altman, BCCI.

Clark Clifford, BCCI, avoided justice trial.

Catherine Cornelius, president's 24 year old cousin, the failed nepotistic appointment to run White House travel office.

Robert "Red" Bone, stock broker who dealt cattle futures punished by Chicago Merchantile Exchange.

Convicted Ex Judge David Hale, John Dean of 1995.

Ron Brown, Commerce Secretary, Rich F. of fired F.O.

Kristine Gebbie, former AIDS Czar.

Henry Cisneros, Housing Secretary.

Bruce Lindsey, Former Deputy Counsel (falsely claimed attorney/client privilege in Whitewater hearing on taxpayer payroll).

David Mixner, senior homosexual fundraiser.

Susan Thomases, F.O.H.

Betsey Wright, Bimbo Patrol ultra fixer-upper.

Jack Paladino, personal detective, "fixer" with heavy cash.

Jean Bertrand Aristide, defrocked priest, "I love the smell of burning flesh," anti-Christian, anti-American accessory to multiple murders.

Paula Casey, belated self-recused U.S. attorney in Little Rock—bad memory.

Zoe Baird, botched Attorney General nominee (badly vetted Liberal Victim #1.

Kimba Wood, botched Attorney General nominee (badly vetted Liberal Victim #2).

Lani Guanier (badly vetted Liberal Victim #3).

Henry Foster, sometime Abortionist (badly vetted Liberal Victim #4). Double dipping prior female Surgeon General who wanted to teach self-gratification to grade schoolers. Still does. Ugh.

Charles Ruff, liberal Democrat prosecutor, potential political appointee.

Vincent Foster, Marley's ghost for third Christmas in a row, former inside super fix-it lawyer, either a victim or guilt ridden over WACO children deaths and Travelgate assassination of reputations of 7 innocent working folks.

Christophe and the infamous $200 haircut at LAX.

Ex-Trooper Captain Buddy Young, coverup artist and chief of procurers. Double income payoff at F.E.M.A.

II. EVENTS ASSOCIATED WITH WHOM?

$100,000.00 Cattle Futures "lucky" trading— or was it criminal "donation."

Five "culture of death" executive orders pushing abortion-on-demand for any reason or no reason at all of first working day in office.

Bimbo turf, otherwise known as Astroturf, in pickup truck. Investing in cattle futures for whom?

Normalizing Relations with Vietnam in spite of live sightings and missing heroes (on advice of 'ol Raw Evil MacNamara).

Herb and Lois Shugart, parents of Medal of Honor recipient, refusing to shake President's hand, 25 May '93.

"Loathsome" letter to Bataan Death March survivor, Colonel Gene Holmes, stating we've come to "loathe" the military.

The magnificent but suppressed response from Col. Holmes. Mena Airport.

The return of anti-American, psychotic, defrocked priest to power in Haiti. White House Travel Office worker reputation assassinations. Waco deaths of pregnant women and 20 or more children who were hostages of a cult guru.

Bootlicking by political appointees of Communist Poliburo in Hanoi. Secretive Health Care Task Force of 511 socialists or pointy headed bureaucrats.

Bisexuals and homosexuals in the military.

On MTV: "Is it boxers or briefs?" "Briefs."Ugh. Worn above or below copiuos love handles??

19 heroes cut down in the allies of Mogadishu, then heroes' bodies dragged by crowds, desecrated and burned.

Offensive photo ops: 4 May '93 30 U.S. on White House South Lawn; 19 July '93 Joint chiefs of Staff, four star rank, everyone used as puppets for pro-homosexual charade. Now that is loathing the military.

50th anniversary of D-Day, 4 June '94, Omaha beach loathsome posing. 1 December 1995 Baumholder, Germany, 1st Armored Division, 10 yard "Follow me" march to nowhere with Division staff.

Pornographic, pro-bisexual, pro-homosexual "AIDS in the Workplace Training" for all federal employees—temporarily reduced until January 20, 1997.

Whitewater financing of 1986 Arkansas Governors race, 1990 Arkansas Governors race.

August '93, largest tax increase in the history of our nation—the history of any democracy ever!

Military officers ordered to serve hors d' oeuvres at White House picnic.

Socialized medicine for Americans, doctors and nurses be damned.

Encouraging condom ads in family hour, prime time television programming.

Organizing pro-Hanoi demonstrations in a foreign country in 1969 and 1970.

Triple draft dodging, July 1968, April 1969, and political reversal of induction show-up date of 28 July 1969.

Attempting to disarm the law abiding citizens by unconstitutionally circumventing the 2nd Amendment.

Forcible return of Haitian refugees, breaking promises made during '92 campaign.

"I didn't inhale" vs. "Sure I would, I tried once didn't I?" (MTV television appearance. June 1992).

Middle class tax cut—NOT!

Failed BTU tax.

Nannygate, over and over.

White House senior staff abusing U.S. Marine helicopters to zip over to golf courses.

Sacrilege of appropriating our Messiah's Self-description of "New Covenant," (Jesus Christ is the New and Everlasting Covenant. Amen.)

Daughter to elite Sidwell Friends School.

Desire for U.N. control of U.S. troops, everywhere.

Heber Springs Hideaway, "liaisons dangereuse."

Vadis Bosnia? Whither goest our emperor's whims?

AMERICA DESERVES BALANCED BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CHRYSLER] is recognized for 5 minutes.

Mr. CHRYSLER. Mr. Speaker, let's be serious about this debate. Despite the rhetoric we're hearing from the White House and my colleagues on the other side of the aisle, there is only one man standing between the American people and the benefits of a balanced Federal budget.

The President signed a contract with us that said he agreed that a balanced budget over the next 7 years, as determined by honest Congressional Budget Office numbers, would be enacted before the end of this year.

Yet the President has dodged and diverted attention for the last month since he signed that agreement and refused to negotiate in good faith toward a balanced budget.

By standing in the way of a balanced budget, the President is denying every American family the benefits of a balanced budget.

Mr. Speaker, a balanced budget will mean a tremendous bonus for every American. According to Americans for Tax Reform, if we balance our budget today:

Over 4.25 million more jobs will be created over the next 10 years.

Per capita incomes will increase by over 16 percent.

Families would save as much as $37,000 off the cost of an average 30-year mortgage of $75,000.

Students would save $2,160 on the cost of an $11,000 student loan.

An average family would save $900 on the cost of a $15,000 car loan.

The Chairman of the Federal Reserve Board, in testimony before this Congress, stated that interest rates would come down at least 2 full percentage points.

Mr. Speaker, our balanced budget plan will also save Medicare from bankruptcy, preserving and strengthening this program for our Nation's seniors. In fact, our plan would increase per beneficiary spending on Medicare from $4,800 this year to $7,100 in the year 2002—that's an increase of $2,300. Only in Washington would anyone try to call that a cut.

A balanced budget is good for America. The country deserves a balanced budget. The President should stop standing in the way of a balanced budget and let Americans see the benefits that will result from putting our country back on sound financial footing.

If we do nothing to balance our budget today, we put every Federal program at risk for tomorrow. In just a matter of years, if we do not balance our budget, every dollar paid by every American in taxes will be used just to pay for entitlement programs and interest on the national debt.

That means no money for education, the environment, roads, bridges, the national defense, and countless other programs.

Already, the debt that we have run up will cost every baby born today over $187,000 over the course of her lifetime just to pay for interest. And that number is only getting higher the longer we wait to balance the budget. This year, the interest we pay on the debt is more than we will spend on the Army, the Navy, the Air Force, the Marines, the FBI, the CIA, and the Pentagon combined.

It is not fair to leave our children this crushing burden of debt. I do not want to leave my children Rick, Phil, and Christie, and my grandchildren Chloe and Heather, with this debt on their shoulders. They don't deserve it. They at least deserve the same opportunities many of us have had when its their turn.

We have got to turn this situation around. We have got to stop spending more than we take in and start living within our means. It is only fair for our children and grandchildren.

If we balance our budget today, we will begin reversing the trend of piling up debt that our children will have to pay and begin to create a brighter future for them.

Mr. Speaker, the American people should know that they are being denied these benefits because the President of the United States refuses to negotiate in good faith toward a balanced budget, and created and bought TV ads nationwide the day before he came to the table to allegedly negotiate.

And last, it is an insult to the intelligence of the American people for the President or the Minority Whip to blame 73 freshmen Members of Congress for the budget impasse.

Just this Monday, this House voted for a 7 year, CBO-scored balanced budget. That's not just the freshmen position. That's the position that 351 Members voted for, Republicans and Democrats.

The only way the freshmen are extreme, is that we are extremely in touch with the American people, who want us to keep our word and balance the budget.

HAS UNCLE SAM PROMISED AWAY THE AMERICAN DREAM

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California

[Mr. HORN] is recognized for 60 minutes as the designee of the majority leader.

Mr. HORN. Mr. Speaker, the question is, has Uncle Sam promised away the American dream? The message today is that by any business standard the United States of America is probably bankrupt. We probably have promised away the American dream.

The first step in ending America's possible bankruptcy is to balance the budget. Why is not America's bankruptcy frontpage news? It is not frontpage news because America's bankruptcy can be explained only by pouring through a massive amount of numbers.

I asked a professional staff member on my subcommittee, the Subcommittee on Government Management, Information and Technology, Dr. Harrison Fox to dig into those numbers and let us see how close we are to bankruptcy, if we are not already in it and simply do not realize it.

Usually, when you talk numbers, most people either say, "I do not want to be bothered with those numbers." Perhaps they are afraid of what story the numbers will tell.

So how do we get the message out that America is going bankrupt? As part of this hour, I will put America's bankruptcy in people terms. How much is your share of the debt? What will your children's tax rate be if we keep funding Federal programs at current levels? What are the top 11 Federal promises? By using the David Letterman-style list, tying the numbers to your family and your children, your grandchildren, your grand nieces, your cousins, and all of us as Americans. By doing that, I think we can begin to appreciate the terrible financial shape in which the Federal Government finds itself. We must begin a discussion of how we are going to work our way our of the bankruptcy mess.

I am going to show a series of tables. Table 1 will have a number of components as we look at various aspects of this problem. The year 2045 might seem to be a long way away. But it is not. Some high school and college graduates will be celebrating their 50th wedding anniversary. If current Federal spending we left on automatic pilot, by the year 2045 then, federal tax rates will have to be raised to an average of over 80 percent of annual income. That would be the average for the people making $35,000 a year or $3.5 million a year.

Currently, the highest income tax rate is 36 percent. We will have a very confiscatory tax rate in the year 2045 unless we do something to redirect this Government over the next few years, the next few decades. The result of such a tax rate to pay the obligations of the Federal Government would mean that families would end up having quite a bit less to spend on life's necessities and life's pleasures.

□ 1945

Paying this tax rate, the average family, which today makes approximately $36,000 a year, would have only $346 per month available to spend on housing compared to the $648 currently available. With $648 monthly, you can pay the mortgage on a house. Now you can get at least one bedroom—maybe two, a living room, and a kitchen for that amount of money in most places but California, New York, and Washington, DC. Compared to the $648 the average American currently spends for housing or an apartment. By 2045 that would be barely enough. With the $346 equivalent left available for housing that would just be enough for a one-room efficiency.

The weekly spending on food would be reduced from $108 to $54. There will be no more family meals at McDonald's, at Wendy's, at Mimi's, at Nino's, even L'Opera.

Available yearly personal spending for medical care would fall from the almost $5,200 it is now down to perhaps $2,600.

When it comes to clothing in 2045, available funds for clothing would drop from the current $2,075, almost $2,100, to a little over $1,000.

And then let us think of transportation. If you are a Californian, you drive your car to the 7-Eleven a block away. By 2045, the average family would only have $130 a month for the car, or mass transportation. In 2045, most would not be able to get much more than a used car with a minimal engine.

And then there is recreation. Families would be spending much less for vacations, visits to relatives, and even going to the movies. They would have available much less discretionary funds than they have now. Why? Because the average Federal tax rate would exceed 80 percent in order to pay the bills of this Government. The yearly amount available in 2045 would decrease from the average of $2,600 today to about $1,038 in 2045.

Federal taxes paid by the average family will have to be more than doubled from the current $14,527 that is the average family's tax in this country to an average family tax of over $30,000 yearly by 2045. And we have not even mentioned the State and local taxes.

If we look at table 2, which is the share one has of the Federal debt, liabilities and assets between 1955 and 1995, the year we are just ending, you can look back over the last four decades, from 1955 to 1995, Congress and a succession of Presidents of both parties have taken on debt and made promises, which are liabilities financially on the Federal Government—you, me, we, the taxpayers—that far exceed the ability of you, your children and your grandchildren and other citizens and residents to pay.

Since 1955, dramatic increases in the Federal debt and other liabilities have occurred. The rapid escalation in Federal promises has not been matched by asset accumulation. That is, the Federal Government has not been saving or purchasing land or other assets that have long-term value.

In current dollars, the debt has increased more than 12 times over the last 40 years. Federal promises, as worthy as some are, as I suggested earlier, are financial liabilities. They increased more than 1,000 percent, while hard assets, such as land, property, plant and equipment, have increased less than 400 percent.

The average citizen's share of the national debt has increased from $1,652 in 1955 to over $19,000 today.

If the assets of the United States were sold, a citizen's share would have been $1,361 in 1955, and $5,283 this year.

This sounds like a lot of money, until Federal promises are tallied.

If your grandchild—let us say Jonathan Aaron Yavitz or Jefferson Thomas or Michael Gordon or Raul Gomez or Eddie Komomoto—if your grandchild was born this year or next year, they come with a share of these promise—financial liabilities, if you will—bearing with them a bill to pay nearly $193,000 during their lifetime. That is an increase of $175,000 over what their share would have been if they had been born in 1955 when a number of us were just getting out of college.

We are not talking here about the liquidation of all the assets of the Nation to pay the bills. If we were, each one of us would be left with over $185,000 in promises to pay.

By the way, no one is going to sell Yellowstone or Yosemite or Dwight Eisenhower's home in Abilene, KS or Franklin Delano Roosevelt's home in Hyde Park, NY. But there is something terribly wrong with the financial condition of the United States and it is sure to have consequences for each of us, for our children and our grandchildren.

It will take at least 30 years for the United States to work its way out of the overextended promises that have been made by the big government welfare state.

Think of what we are going through now as we simply try to eliminate the annual deficit. On a $1.6 trillion annual budget, we are spending our time arguing between parties, between this institution—Congress—the House and the Senate—and the President of the United States, about how we deal with eliminating that annual deficit, which is generally $250 million, $200 billion, sometimes less, a year, depending upon the interest rates. And we have not even started the discussion as to how we eliminate the annual public debt that goes up and up and up. We are now nudging that authorized ceiling and about to pass the $5 trillion mark. That discussion has not even started.

We are having great difficulty getting the administration to face up to what every American knows: You cannot go on forever spending money. The $100 billion budget of Lyndon Johnson would only pay for half of the interest on the national debt. The interest does not retire that $5 trillion debt. We have to face up to retiring it. And even if we retire the current national debt, we have not faced up to what I am discussing tonight, which is the extended liabilities that go beyond the national debt well into the next century.

As we look at table 3, Federal Spending by Category, of course, we look at the Federal budget outlays—spending, if you will—and the priorities have clearly changed over the last four decades.

The big gainers have been interest payments. As I mentioned, Lyndon Johnson ran the whole domestic government, the war in Vietnam, with over a half a million men and women there into the late 1960's and his budget at that time is what it takes us just to pay half of the annual interest charge on the national debt. That interest payment does not enrich our society. It does not help people and meet our domestic commitments and our national security commitments.

The big gainers besides interest payments are, of course, Social Security—which we have a basic commitment to keep that was brought about by both parties in the 1930's—and Medicare.

As I have said before on this floor, in my role as the legislative assistant to the then Republican whip Senator Thomas H. Kuchel of California, I happened to be a member of the drafting team of Medicare, working with the late Wilbur Cohen, who became Secretary of Health, Education, and Welfare under President Johnson. It was a wise group of Republicans and Democrats which framed that legislation in the Senate on a bipartisan basis and enacted it into law.

Every young person, every parent knows that their grandmother, grandfather needed that help. Look at the escalating costs that have confronted us in this country in hospital care and health care generally. So we need to protect Medicare. That is what we are doing in the current budget battle. You would not know it by some of the scurrilous, stupid comments that we hear on the airwaves, but that is what we are doing.

Then of course we have other mandatory spending since the 1960's:

For Medicaid, called MediCal in California where there is a State match as there is in most States; to assistance to Cuban and Haitian immigrants and refugees. The big losers in funding over the last four decades are primarily domestic and some national security defense programs.

Our Federal Government is now a benefits distribution machine. That is the only category I can think into which fit most of the activities I have mentioned.

By 2002, nearly 75 percent of all spending will be directed toward individuals and, of course, interest payments for the $5 trillion national debt. And if we do not balance the budget by January 1, 1996, and we have a con job that takes us through the November 1996 elections, we will have a $6 trillion budget. And if we keep going as we have been going until this Congress came and this majority came, then that budget will add $1 trillion every 3 or 4 years based on the level of the current annual deficit.

Over the last 40 years, Congress and a succession of Presidents have redefined the Federal mission. In 1955 the Federal mission in spending terms was heavily weighted toward national security, international and domestic programs. Today the predominant Federal mission is to provide citizens with benefits.

In 1955 benefit entitlement spending and interest payments were 12 percent of total Federal expenditures. By 1962—a few years before Lyndon Johnson's Great Society programs began in 1965—etitlements rose to 30 percent. Today they exceed 64 percent of the annual Federal budget.

By 2002, even with the 7-year balanced budget program of our majority in Congress, entitlements and interest are projected to reach 75 percent of the Federal budget.

Since 1955, Federal promises—financial liabilities—have increased from $2.8 trillion to over $50 trillion. When you look at the liabilities as a business would look at liabilities and under laws passed just a few years ago and the standards of the various accountancy boards that regulate that profession, a business must put on its balance sheets the liabilities that it will have to face from either retirement plans for its employees or other obligations and loans that that business has taken to continue its activity.

These estimates that I have made of going from $2.8 trillion to over $50 trillion are not just something we dreamed up one evening. These estimates are based on the Social Security intermediate actuarial scenario projects.

The Social Security Administration has had for decades highly respected actuaries, highly respected outside experts. They have a good record. Medicare also has responsible actuaries. That is why the outside advisers as well as three Clinton Cabinet officers concluded that the system was headed for bankruptcy.

That is why we have provided a Medicare plan that will preserve, protect, and save Medicare and provide options for the first time for the senior citizen. No longer will it be Big Government telling senior citizens what to do. It will be the individual making a choice that is in that individual's self-interest.

So the Social Security Administration has made these projections. Some are high. Some are low. This projection is intermediate. Perhaps it is splitting the difference. These costly promises resulted mainly from rapidly growing new entitlement programs.

Entitlements, very frankly, become political currency.

□ 2000

What do we mean by political currency? We mean votes. Frankly, that is why three decades ago a lot of us were early drumbeaters for Medicare. Every time an election was around the corner, Congress added benefits to the Kerr-Mills Program that was an ancestor of Medicaid. What we saw was Congress constantly voting benefits but never voting the taxes to bring in the revenue to pay for those expanded benefits.

Medicare is a very conservative program, although Congress has muddied that up a lot in the last 40 years. And that is why I was an enthusiast of Medicare from the beginning and helped on the drafting team. If Congress provided more benefits, then Congress was to raise the Medicare tax to pay for those new benefits. That idea seems to have been lost somewhere in the last decade or so in this Chamber. But that is why it is a conservative approach. You try to measure the outputs and make sure the inputs in the trust fund will cover those particular outputs.

Now, that political currency of modern America, the votes, obviously affects what we do. And only citizens, by being aroused and angered by the continuation of a budget deficit of billions of dollars, a national debt rising to $5 trillion and going to go to 6 trillion before the end of this century, if we do not do something about it. I am talking about eventually seeking to retire the national debt, or at least lower that debt into a more manageable shape than it now is. We must begin to deal with the unfunded liabilities, which few, if any, are talking about.

Today's conflicts over Medicare, Medicaid, and 80 means-tested welfare programs reflect a reassessment of the Federal mission, and a national referendum on the continued use of entitlement benefits as political currency. The current Federal mission providing citizens with benefits is unsustainable at current levels. Major changes must be made in a number of benefit programs, and we are not talking about Social Security. Every to-be political demagogue is sitting out there waiting for somebody to trip over Social Security. So as the Speaker said, do not even consider touching Social Security. The fact that citizens might have secured greater benefits if Social Security had been properly organized, that is a debate for another time. Citizens should have better benefits under Social Security, but to do that, you are going to have to do what a few other countries are doing.

Priorities have to be set. The performance of current programs must be evaluated and that is the role of every authorizing committee here, every appropriations subcommittee, the Committee on Government Reform and Oversight, and our subcommittee and the others in particular that are the oversight subcommittees. Congress must decide which programs are effective and then how some of them must be administered. That is another battle we are having right now.

Do we continue to administer most programs out of Washington? Is all wisdom here? I was not aware of it. Or do we establish block grants to the States? That would let the governors—who also meet the test of the people every two or four years—administer many programs and adapt them to the needs of the people. There are very able civil servants that exist at the State, county, and city level. They are just as capable as the very able civil servants in Washington, D.C. They can run these programs and they can run them closer to the people and they can adjust them to the particular needs of their State.

When we look at table 4, the Federal spending from 1955 compared to 1995, and recall that the fiscal year 1955 budget was President Dwight D. Eisenhower's first budget to be prepared entirely by his administration for review by the then-Republican Congress. After that, it would be 40 years before a Federal budget would be approved by a Congress controlled by the Republicans.

And look what happened over those 40 years? First remember that not one dime can be spent by the executive branch of this government unless this House with the Senate passes a law which provides for a permanent appropriation. In brief, pass a law that make a program an entitlement. It is the Congresses before 1995 that have spent, spent and spent. And now we are trying to change that, not by cuts. The attempt is to slow the growth and have better programs.

Can we save a trillion out of revenue increases of several trillion? We can and we will.

During the last 40 years, Social Security spending has increased from 3 percent of the Federal budget to 22 percent. Medicare was not funded until 1967. Today it receives an allocation of 11 percent of the Federal budget. Other mandatory spending programs have increased from zero to 16 percent of the Federal budget. Other mandatory spending programs have increased from zero to 16 percent of the Federal budget. Today discretionary spending has a much lower proportion of the annual budget than it did in 1955. The national security budget allocation has been reduced from 63 percent of the total budget in 1955 to 18 percent in 1995.

Other domestic spending has decreased from 24 percent to 18 percent. Interest costs, however, have increased from 9 percent, when Eisenhower was President, to 15 percent. That is because our national debt has risen from less than a trillion dollars to almost 5 trillion today.

The bottom line is that the Federal Government's spending priorities have changed significantly over the last 40 years. The Federal Government's major role has been redirected from program initiator to benefits provider.

Today nearly 50 percent of Americans receive some form of government payment. Is this the essence of the American dream? A resounding "no," I think most of us would say. And increasingly the voters are going to shout it so all elected officials can hear.

Members of Congress, parents, government workers, the media, every citizen must have the courage to seek the truth about what is happening fiscally in our Federal Government today.

If we look at table 5, the growth of assets and liabilities, 1955 compared to 1995, we see that since 1955 Federal assets have increased six times while liabilities have skyrocketed by a factor of 18. Why does the Federal Government have a significant asset liability mismatch? Because little attention has been paid to tie in revenues, taxes, fees, duties, to each specific promise and spending decision as we do in our family and business. The Federal Government operates using a cash budget that is ill-suited for looking out into the future. Thus our future spending commitments overwhelm our capacity to raise revenues.

Our option is to cut some programs dramatically. A second option is to increase taxes. A third option is to create more debt. The latter two options have been rejected by those of us in the Congressional majority.

What does this asset liability mismatch really mean for future spending and citizen taxes? Matching assets and liabilities is prudent fiscal policy. Spending and taxes are linked to Federal liabilities through the debt. Just as a family must not spend more than it earns, over the long run governments must make sure that revenues match expenditures. Federal debt reduction will be a key factor in determining each family's standard of living in the 21st century.

Many nations—including New Zealand, Singapore, Taiwan—and the European Economic Community have recognized the importance of matching revenues to equal expenditures. Many nations as well as State and local governments in this country have recognized the importance of matching specific assets, such as dedicated trust funds—as in the case of Social Security and Medicare—with the promises that are made.

Federal regulatory agencies, such as the Comptroller of the Currency, have required banks to match assets with their liabilities—their promises—in order to protect the government from losses. We should expect at least as much from the Federal Government when it makes long-term promises, and these promises should be matched to anticipated assets or income streams so that all who are entitled to the benefits will know that they are there.

Table 6 looks at the top six Federal assets, again, comparison from the Eisenhower administration to today. The bottom line for the Federal Government is the need to manage its assets in a prudent manner. By far the most important Federal asset is the power of the Government to tax. The power to tax results in the cash flow that sustains the yearly obligations of government.

I think it was Mr. Justice Holmes who said taxes are the price we pay for civilization, although I am also aware that taxes are rather heavy in a few dictatorships.

For the last quarter century, in the United States, tax revenues have been less than Government expenditures, thus the deficit. And the deficit which consumes our attention does not even consider the long-term unfunded liabilities which we are now discussing. The power to tax is what the Federal Government is expected to collect in fees, duties, and individual corporate taxes.

Expressed in today's dollars, over the next 75 years, the power to tax makes up over 95 percent of all Federal assets. This was true for both 1955 and 1995.

The willingness of citizens to pay taxes is what keeps our government operating. Between 1955 and 1995, using the value of the dollar for each period, the power to tax has increased from 3.5 trillion to 20.6 trillion, or a little over six times. Federal asset values have generally increased proportionally over the last 40 years, according to the estimates made by the citizens for budget reform.

One exception is gold. The U.S. gold stocks have been reduced by half since 1955, from 622 million ounces to 262 million ounces. As the price of gold increased from the Government mandated price of $36 per ounce, to nearly $400 per ounce today, the Federal gold stock was being reduced over this period by one half.

Other significant Federal assets include property, plant and equipment, inventories, cash, monetary assets, loans receivable and other assets. Property plant and equipment includes Federal buildings, military equipment, other equipment, construction in progress and land. With nearly 650 million acres of land in its inventory, the Federal Government controls almost 29 percent of the land within the United States. The vast majority of this land inventory is in Alaska, 248 million acres. Over 50 percent of Oregon, Idaho, Nevada, Alaska, Utah are owned by the Federal Government.

Federal land is valued at $20.6 billion. Obviously we must strive to protect our national parks, our national monuments, historic sites, wilderness and other natural wonders. High on this list are the Grand Canyon, Yellowstone, wild and scenic rivers, ancient forests and the home of our Presidents, among other historic homes and monuments. The Federal Government has over $130 billion in loans receivable, not counting the over 60 billion that has been written off by the Internal Revenue Service.

I am planning to hold a hearing on that probably around April 15 to see why that has happened and to try to get us through a debt collection act that will collect the 50 billion they are still owned and another 50 billion the rest of the government is still owed.

There is roughly about $146 billion in inventories. Other Federal assets include the national defense stockpile. My colleagues will remember that years ago with the strategic metals that were placed in it during the cold war. That is valued at $20 billion and 42 billion held in presidential funds directly under the control of the President.

When we look at table 7, we look at the top 11 Federal financial liabilities. Some are very good programs. We all need. We want to preserve them. We want to straighten them out so they will be here for the younger generation who very much doubts that they will ever be around by the time they become eligible due to age or means testing.

□ 2030

The liabilities of the Federal Government include the total of all promises, loans, guarantees, claims, contingencies, contracts, and undelivered goods. In 1955 Medicare and Medicaid did not exist. In 1955 welfare, cash aid, food benefits was funded at very low levels. The major Federal promises of the Government in 1955 were meeting the payments needed to write the benefit checks for Social Security, to pay the interest on the national debt, to pay the claims on deposit insurance if a bank went broke, and to pay for the weapons systems to meet the needs of our Armed Forces at that time.

By 1995 the Federal Government had taken on substantial promises. For example, the retirement-related fiscal liabilities add up to 38 percent of the total 1995 Federal Government liabilities. Future welfare benefits are now responsible for over 24 percent of the total 1995 Federal liabilities. Health-related fiscal liabilities account for 20 percent of our promises and our liabilities.

These three classes of liabilities, retirement, welfare, and health, amount to 82 percent of the Federal Government's long-term promises. Additional liabilities are Federal guarantees of deposits in our banks, our savings and loans, and our credit unions. The deposit insurance fund liabilities equal nearly 6 percent of future promises as of September 30, 1995.

When we look at table 8, the entitlements in the mandatory spending, and what are the top five during the fiscal year 1995, which end on November 1, midnight October 30, the key to a balanced Federal budget depends on how our ability to better manage entitlement benefit programs is carried out. Programs providing entitlement benefits; that is, mandatory spending, includes the vast majority of all Government expenditures.

Entitlements can be grouped into five major categories. There are eight groups of means-tested programs; that is the first category, and we have got in there medical benefits such as Medicaid and eight health programs related in a similar manner; cash aid, there are about 11 programs; food benefits, 11 programs. We have heard a lot about school lunches. The fact is we are substantially increasing school lunches, but you would never know it if you listen to the campaign rhetoric. Housing benefits, 15 programs; education, 17 programs, various services, another 8; jobs and training, 7; and these are the means-tested ones, and energy aid, 2 programs.

Then you have the Social Security payments in the second category. They make up over one-sixth of all Federal liabilities. Benefits currently being paid total over $300 billion a year. Social Security payments are not assured to all current contributors, and this statement is in quotes.

Young Americans find it easier to believe in UFO's, unidentified flying objects, than the likelihood Social Security will be around when they retire, unquote. That is based on a survey commissioned by Third Millennium, a forward-looking group, and it is a survey of those between 18 and 34 years of age, and they found in that survey that fully three-quarters of the 18- to 34-year-olds had doubts, grave doubts, about their capacity and opportunity to receive Social Security payment when they retire somewhere in their mid-sixties while nearly half of this same group think there are UFO's. So right now it is UFO's one, and Social Security, perhaps half of one.

Pensions and compensation in terms of the other main category. The Federal Government administers over 40 pension and compensation plans. The largest two, for civilian and military employees, account for 98 percent of the Federal Government's pension liability. The unfunded liability of these plans include roughly $905 billion, and the civilian plan is $630 billion—rather for the civilian plan it is $905 billion; for the military plan it is $630 billion. Federal spending for retirement income is thus substantial, but it would be even more so if the Federal Government were required to fund their retirement plans as private companies must fund them. Federal spending would be increased by at least $53 billion per year.

The other fourth category is other retirement plans and health actuarial liabilities which include veterans' compensation, the tragic black lung disease, Federal employees' retirement compensation, as well as other benefits.

Then the fifth category, the unemployment benefits paid in 1995, totaled over $½ trillion. As you know, we pay into that fund, another trust fund.

Mr. Speaker, we need to develop win-win solutions as we redefine Federal retirement, medical health, and unemployment programs. Those with the greatest need should be protected. Those in the middle- and upper-income economic levels should be willing to give up their benefits for reduced taxes and newly designed retirement security programs that are actuarially sound.

When we get to table 9, we are talking about the net worth of the United States, again 1955 compared to 1995. In 1955, which was the third year of the Eisenhower administration, the net worth of the United States was positive. It was slightly under $1 trillion. By 1995 it was a negative of slightly over, minus, $28 trillion.

Remember now that the national debt is at $5 trillion, and, if nothing is done with the suggestions the majority has made in the House and the Senate to deal with eliminating the annual deficit, it will be $6 trillion, and add another trillion every 3 or 4 years into infinity.

So right now in 1955 you had a plus $1 trillion positive net worth. By 1995 it was a negative of slightly over $28 trillion. Now that is a "t," not a "b"; that is a "t" for trillion dollars. On the average for each year since 1955 over $1 trillion was added to the gross liabilities of the United States. Each year the Federal Government takes into its Social Security trust funds over $340 billion, it pays out to current claimants nearly $300 billion, and it has generally run surplus of about $1 billion a week for the last few years. That is not going to be there forever. As the baby-boomers begin to retire, you will see rapid use of that trust fund, and there will not be a billion dollars a week surplus. Thus each year approximately $40 billion is added to the so-called trust fund. The bad news, as reported by the Treasury Department, is that each year since 1989 the Federal Government has added nearly $400 billion to its Social Security unfunded liability.

Additional liabilities beyond Social Security, such as the increases in entitlements and infrastructure, are estimated to increase each year by at least another $400 billion. If the Federal Government had to follow business balance-sheet practices, dramatic steps would need to be taken since the Federal net worth is less than zero. The Federal Government has much more than a little problem with its net worth. It is faced with a catastrophic situation.

The recent experience in Orange County, CA, is instructive. Citizens and elected officials were not kept up to date about investment policies and related management decisions. Financial disaster struck. Undue interest risks were taken that eventually led to the insolvency of Orange County, one of the richest counties in America.

Our Federal Government is exposed to similar risks. Assuming undue credit risks have cost the Federal Government billions of farm loans, student loans, and small business losses. Mismanagement of Social Security interest rate risks are projected to cost the trust fund a trillion dollars over the next 30 years. Widespread mismanagement of Federal programs, including defense weapons systems, acquisition, job programs, welfare initiatives, have increased management risks resulting in greatly reduced program performance, and I am calling for the Federal Government to use basic financial management accounting and budget tools that are used every day in business and by many of us.

As we get to table 10, the new Federal programs created since 1955, we see that hundreds of new programs have been created over the last 40 years. This Congress has tried to consolidate some of those programs and delegate them to the States with Federal funding, but put them into groupings where they can be manageable. You now have dozens and dozens, hundreds, of competing Federal bureaucracies, dozens in the same area that are not talking to each other, and all they are asking for is additional budget funds, and we do not measure them properly.

The States are way ahead of us. Oregon has a benchmarking program. They worked with the citizens to talk about what is it you expect from government, how can we measure it to know we are satisfying the customer, our taxpayer?

We are not the most reform-oriented government in the world. This majority is, but the Government that is being reformed, has been reformed and I say to my friends on the other side of the aisle they were started by two Socialist prime ministers, and that is New Zealand and Australia. They have dealt with problems that we have ignored. We will now start dealing with those problems.

Programs were created from the 1950's up for almost every imaginable purpose: health care, education, welfare, national security, international assistance, commerce, transportation. The Federal Government has been a program-generating machine during the last 40 years. For instance, the Appalachian Regional Commission, formed in the mid-sixties, has created dozens of highway, economic development, health, and education programs which duplicate many Federal programs. Within the Department of Education new programs were established for Alaska Native culture and arts development, cooperative education, innovative community service projects, upward-bound talent search, student support services, educational opportunity centers, State student incentive grants, national science scholars, teacher corps, Javits fellows, legal training for the disadvantaged, to name but a few, many of them very worthy programs helping a lot of people become constructive citizens in our society. The top six new Federal programs created since 1955 in terms of current spending, however, include Medicare. Benefits reached an estimated $174 billion in 1995. Under the 7-year Balanced Budget Act of the majority which we passed in its proposal to reform Medicare before it went bankrupt, the increase in benefits would total over $100 billion by 2002. Medicare benefits are paid in addition to Social Security to persons over 65. Medicare spending is approaching one-half, 50 percent, of total Social Security benefit costs. In 1995 Medicare spending was $174 billion compared to Social Security payments of $334 billion.

Now medical benefits, which covers a number of programs, includes Medicaid accounts, MediCal, as we call it in California, and since the 1960's there are nine major programs besides Medicare that have been added, and together they account for roughly 89 percent of the medical benefit health category.

Medicaid serves six groups, and many people do not know about these: Current and some former cash recipients, low-income pregnant women, and children, the medically needy, persons requiring institutional care, which is a growing area, low-income Medicare beneficiaries, because it is based on the amount of income one receives, and low-income persons losing current employee coverage, which is a serious problem in society since some corporations, because they had to meet the unfunded-liabilities test, cut off their health benefits for their retirees.

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Some are trying to restore that, once they got past the problem of having to deal with accounting standards in the business community.

Other medical groups include veterans without service-connected disability, general assistance, Indian health services, started under President Eisenhower, maternal and child health, community health, family planning, migrant health centers, and medical aid for refugees.

Then we have another one. Nuclear weapons cleanup costs have been escalating almost geometrically over the last few years. The actual nuclear weapons costs cannot be estimated with confidence until Congress and the regulators determine the level of health and safety risks to be assumed. The Department of Energy currently stores 100 million gallons of highly radioactive waste, 66 million gallons of plutonium waste, and even greater quantities of lower-level nuclear waste. At the current level of funding, which is under $10 billion per year, the nuclear cleanup could take 100 years or more to be completed. In 1988 the Department of Energy estimated that the nuclear cleanup costs would be between $66 and $110 billion. Knowing government estimates, I would suggest we just double it to start with.

In 1993, Department of Energy officials raised the cost of the nuclear waste cleanup. They did more than double it, to between $400 billion and $1 trillion. Perhaps we ought to triple that.

Then you have the category of Pension Benefit Guaranty Corporation, and that ensures private pension plans. The total potential liability of the Pension Benefit Guaranty Corporation is nearly $1 trillion. Senator Dirksen, the Republican leader of the Senate when I served on the Senate staff used to say, "A million here, a million there, pretty soon you are talking about real money." Then it got to be "$1 billion here and $1 billion there, pretty soon we are talking about real money." Well, we are now talking about trillions. That is real money.

Then we come to the transportation insurance that is provided for both aircraft and ships that are dedicated to national service during a national emergency. Aircraft under this program were first used in the Gulf War. And we get to the Government National Mortgage Association packages, and the Veterans Administration mortgage loans and Federal Housing Administration mortgage loans for sale into the secondary mortgage loan market. A Federal loan guaranty is issued. At the end of fiscal year 1995, more than $550 billion in loans had been guaranteed.

With the Federal Home Loan Mortgage Corporation, like its slightly older twin, the Federal National Mortgage Corporation, it provides a secondary market for mortgage loans, and the risk to the Federal Government is less than it seems. The Federal Home Loan Mortgage Corporation has nearly $500 billion in gross mortgage loan liability. Even in the worst possible economic scenario, its losses would not exceed 20 percent of the liability.

We look at the conclusion here, and what do all these numbers, charts, tables, figures, tell us? There are five major conclusions we can make out of that. Certainly the first is the Federal Government has changes its mission over the last 40 years from program administration to bestowing benefits on millions of citizens. The Federal Government certainly, in the case of the Veterans Administration and other areas, has a lot of analysis to do. We need in the months ahead to be looking at some of these areas and to do that analysis.

We need, once we get the balanced budget, to stimulate a discussion on retiring the national debt and to stimulate a discussion of the long-term liabilities of this country, so that young people, young adults, when they are interviewed, do not have to say, "It is more likely that I will see a UFO than I'll see the guarantees the Federal Government now makes to me about Social Security and Medicare."

While we have prevented Medicare from going bankrupt, if the President signs off on it, we still will have problems with many entitlements, and we need to have more efficiency, more effectiveness than we have had in the past.

Mr. SHAYS. Mr. Speaker, will the gentleman yield?

Mr. HORN. I yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Speaker, I would love to get the gentleman's chart 3 beside him, because to me it just raises a very interesting point as it relates to democracy. Mr. Speaker, as I read it, and I would love the gentleman to comment, as I look back in 1955, it is fairly clear that nearly 90 percent of all expenditures are what we call discretionary spending, spending that was voted out by the Committee on Appropriations, and that what we call mandatory spending, entitlements, interest on the national debt, was close to 20 percent. We vote on what we call the discretionary spending, then.

What my colleagues seems to point out is that sometime, I gather, in the 1970's or a little beyond, at that point mandatory spending overtook discretionary spending with, I think, tremendous significance, because I was elected 8 years ago. I do not vote on 50 percent of the budget. It is on automatic pilot. In fact, I do not vote on 60 percent of the budget, basically.

Mr. HORN. You vote on only a third of the budget.

Mr. SHAYS. I vote on a third of the budget. Gramm-Rudman, which was attempting to get our financial House in order, only focused in on discretionary spending, so while we tried to control the growth of discretionary spending, nondefense and defense spending, we had entitlements just continuing to grow, and what to me is most alarming, interest on our national debt is about 15.3 percent.

What it seems from looking at that chart, I am just wondering if the gentleman could project this out beyond the year 2002, and tell me if we do not deal with this challenge, what is likely to happen.

Mr. HORN. Mr. Speaker, my second conclusion would be today's spending by the Federal Government for mandatory programs is unsustainable. In other words, Congress needs to get control, one, through modern efficiency and effectiveness. My distinguished colleague [Mr. SHAYS] is chairman of one of the subcommittees, as I am, of oversight on a substantial portion of the Federal Government. You have some of the major spending programs within your jurisdiction, as does the relevant appropriations subcommittee, as do the various authorization committees.

One of our problems with the House and the Senate that we often have 11 authorization committees for one agency. It is hard to get a focus on it. We are going to have to do a lot better in management of ourselves and the executive branch simply we must think about results, not haggle over how many employees they have here or there. Let us find out where these employees are going. Are they meeting the taxpayers' goals and needs? If we do as they already have done in Oregon, as they have done in Minnesota, as they have done in North Carolina, and South Carolina, then we will finally get a better fix on these programs.

As I suggested earlier, and I think you were in the room for that, with job training we have had a very good approach this year in consolidating many programs, so that the Governors can adjust them to meet local community needs.

Mr. SHAYS. I am struck by the fact that the gentleman points out that we cannot continue to allow mandatory spending to continue to grow and grow. They cannot be sustained. As they grow, it crowds out discretionary spending, though discretionary spending is where you and I and other Members on both sides of the aisle actually have to make choices.

Mr. HORN. Mr. Speaker, another point, I think, that the gentleman from Connecticut is so correct in, Congress, which has only a third of the control over the total budget in terms of discretionary spending, unless the authorizing committees recommend and we pass a law that tightens up some of the criteria on mandatory spending. And of course, one thing we have done is try to bring together some of the related programs so they make some sense.

The average citizen is confused. Where can they get help? That is why your district office and mine and those of the other 433 Representatives in the House, 100 Senators and 5 delegates, have congressional staffs in the field to try to help the average citizen work their way through this vast bureaucracy. A lot of very good programs exist, but they also need to be pulled together so they can be serving real needs, and if they are serving out-of-date needs, we need to face up to it and deal with it.

Mr. SHAYS. I serve on the Committee on Government Reform and Oversight. We have oversight of HHS, and it was described to me by one of the planners, an undersecretary, that when HHS also included Social Security, its total budget was larger than the gross domestic product of Canada, an astounding thought, that here we had this Government agency that spent more money than all the gross domestic product of Canada.

Mr. Speaker, I would just thank the gentleman for his presentation, both in terms of liabilities, which ultimately are continuing to grow, and something we have not even begun to address. But what we are trying to do in this 104th Congress' first session is to slow the growth of mandatory spending, to start to make choices about what parts of our society should get resources. I thank the gentleman.

Mr. HORN. And we want to make them work better. One of the things I said before, besides efficiency and effectiveness, there has been almost no thought given to linking Federal income sources, the assets, with long-term promises, the liabilities. The net worth of the Federal Government, as I suggested, has gone from positive to very severely negative.

The Federal Government's long-term promises, the problem is concentrated among the top 11 financial drains and financial opportunities and financially specified programs. We just have to face up to how we improve those programs, meet the needs of people, make sure that people do not fall through a net that is not a safety net. I think we can do it.

What can be done to straighten out the Federal Government? We are going to discuss some of those possibilities over the next few weeks.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 299, AMENDING RULES OF THE HOUSE OF REPRESENTATIVES REGARDING OUTSIDE EARNED INCOME

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–441) on the resolution (H. Res. 322) providing for consideration of the resolution (H. Res. 322), to amend the Rules of the House of Representatives regarding outside earned income, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2677, NATIONAL PARKS AND NATIONAL WILDLIFE REFUGE SYSTEMS FREEDOM ACT OF 1995

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report

(Rept. No. 104–442) on the resolution (H. Res. 323) providing for consideration of the bill (H.R. 2677) to require the Secretary of the Interior to accept from a State donations of services of State employees to perform, in a period of Government budgetary shutdown, otherwise authorized functions in any unit of the National Wildlife Refuge System or the National Park System, which was referred to the House Calendar and ordered to be printed.

UNAVOIDABLE QUESTIONS REGARDING IMPORTANT NATIONAL ISSUES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Vermont [Mr. SANDERS] is recognized for 60 minutes as the designee of the minority leader.

Mr. SANDERS. Mr. Speaker, as the only Independent in the Congress, someone who is not a Democrat or a Republican, I want to take this opportunity to raise some questions that my Democratic and Republican colleagues often choose not to deal with, questions which I think get to the root of some of the most important issues facing our Nation. But before I do that, let me say a few words about what is going on in Congress right now in terms of the partial closing down of the Government and the furloughing of some 280,000 American Federal employees.

The Government is shut down, partially shut down tonight for a reason that I think most people do not dispute. That is that the Republican leadership has not been able to pass and get signed the requisite appropriation bills. That is about it, pure and simple. If the appropriation bills were passed, the departments and the agencies would be funded, Government would be running as it always does, and 280,000 Federal employees would not be today furloughed, living in great anxiety, wondering what is going to be happening to them as Christmas approaches.

Mr. Speaker, the reason that the shutdown is taking place is that instead of passing a continuing resolution which would continue the Government's functioning, the Republican leadership is holding hostage the Federal employees, and saying to the President and saying to those of us in the House and in the Senate that "If you do not pass our 7-year balanced budget proposal, we are going to shut the Government down." That is what is going on.

Some of us very strongly object to the Republican 7-year balanced budget proposal. We think that it is right that the country moves forward toward a balanced budget, we think that the budget can be balanced in 7 years, but we very strongly disagree with the priorities that the Republican leadership has established. For example, many of us are terribly concerned about a $270 billion cutback in Medicare, and a $163 billion cutback in Medicaid.

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Today the United States remains the only major industrialized Nation on Earth that does not have a national health care system guaranteeing health care to all people. So we already start off in much worse condition than many of the other industrialized nations.

My friend from Connecticut a moment ago mentioned Canada. We border on Canada, and in Canada, every man, woman, and child has health care and goes to the doctor of their choice without out-of-pocket expense. In Europe, different types of programs exist, but in all of the industrialized world, health care is guaranteed to their people. So many of us, therefore, regard it as abhorrent and very frightening that the Republican leadership wants to cut back significantly on Medicare and Medicaid.

Now, I know that many of my Republican friends say well, these are not cuts. Let me talk about that for a moment. If a worker goes to his employer and the employer says, Harry, the good news is that I am going to work out a 7-year contract with you, and today, hypothetically, you make $25,000 a year, but Harry, at the end of the 7 years, guess what? You are going to be making $26,000 a year. We are going to be spending $1,000 more for you at the end of 7 years than we are today. Is that a cut, or is that not a cut?

Well, from the worker's point of view, my guess is that he or she would say, well, you know, thank you, but in 7 years there is a lot of inflation. My food prices are going up, my rent or mortgage is going up; it costs a lot of money to send my kid to college. $1,000 is more than I am making today, but $1,000 over 7 years does not keep pace with inflation.

So you can argue that the employer is spending more money, that is true. But you can also argue that from the worker's point of view at the end of 7 years, in this case, he is going to be significantly worse off because his income has not kept pace with inflation.

Another example: An employer can say to 100 workers that we are going to be spending thus-and-such more for our work force at the end of 7 years, but guess what? We are going to be having more workers. We are going up from 100 workers to 150 workers. Is the employer spending more money? Yes, that employer is. But what happens to the individual worker? It could well be that the wages and benefits that worker receives has gone down.

Within that context, let me say a few words about Medicare. Now, in my State of Vermont, and I do not know that the figures and the statistics in Vermont are much different than the rest of the country, but 12 percent of the people in Vermont who are 65 years of age or older have incomes below the poverty level of $7,360. Forty percent of senior citizens who are single have incomes below $14,270. Nationally what we know is that 75 percent of seniors have incomes less than $25,000. Within that context, let us talk about Medicare.

Under the Republican proposal, Medicare premiums would increase from the current rate of $46.10 per month now to $89 per month by 2002. Between now and 2002, seniors would be forced to pay, therefore, about $1,700 more over that period of time. After 2002, they would pay over $500 a year more for their premiums.

Now, we hear a whole lot of talk from our Republican friends that this is not a cut, we are spending thus-and-such more; but let us look at it from the other perspective. Let us look at it from the point of view of a senior citizen in the State of Vermont right now who has an income mostly from Social Security of about $10,000 a year, $10,000 a year. Now, for some people with a whole lot of money, a $500 a year increase in premiums may not be a lot of money, and I can understand that. But if you are living on $10,000 a year, $500 increase in premiums is 5 percent of your total income. It makes your Medicare premium payment 10 percent of your total income. That does not include MediGap that many senior citizens take out to cover areas of health care that Medicare does not cover; it does not include prescription drugs. So for elderly people in the State of Vermont and throughout this country who are low income, these cuts in fact are devastating.

Now, in terms of the Medicaid cuts, these are really quite incredible and heartless. At a time when many of us are trying to move this country in the direction of the rest of the industrialized world and are trying to make sure that every man, woman and child in this country has health insurance as a right of citizenship, what Medicaid does is make significant cuts in terms of the number of people who have health insurance.

Under the current Medicaid proposal that our Republican colleagues are bringing forth, 8 million Americans run the danger of losing the health insurance, the Medicaid that they presently have, and these include some of the most vulnerable and weakest people in this country. We are talking about the danger because Medicaid ceases to become an entitlement program and becomes a block grant left to the discretion of the States. What we are looking at is the possibility of 3.8 million children, children who could lose their coverage, 1.3 million people with disabilities who could lose their Medicaid coverage, and 850,000 senior citizens who could lose their Medicaid coverage.

Further, Medicaid now provides coverage for the premiums and the copayments and the deductibles for many senior citizens. If Medicaid does not cover those premiums and does not cover those copayments and deductibles, you are going to have large numbers of low-income senior citizens who are going to have a very difficult time getting their Medicare coverage.

When we look at the Republican 7-year budget that they want to see passed and by which they are shutting down the Federal Government in order to see passed, we should also understand the gross unfairness of many aspects of that budget. For the life of me, I do not understand how serious people talking about moving toward a balanced budget could be talking about providing $245 billion in tax breaks, in tax cuts, over the next 7 years.

The sad truth is that many of these tax cuts go to upper income people, and one of the areas that is most outrageous is that the Republican leadership wants to move back to the early 1980s by eliminating or cutting back significantly on the minimum corporate tax, the alternative tax that corporations now have to pay. We will go back to the early 1980s and see a situation where some of the largest, most profitable corporations in America will pay nothing in taxes. They will pay less than the average American worker.

Now, how do we talk about that when people are talking about moving toward a balanced budget? Why do we give huge tax breaks to the largest, the most profitable corporations, to the wealthiest people in America and say, we are serious about moving toward a balanced budget, but we give tax breaks to the rich and we are going to cut back on the weakest and most vulnerable people in the country in terms of health care, fuel assistance, and so forth and so on.

Now, when we talk about moving toward a balanced budget, a funny thing happened on the floor of the House today. Today the Intelligence budget came up, the Conference Report came up for a vote, and that is the CIA and the Defense Intelligence Agency and the other Intelligence agencies. Now, I am not allowed to tell you how much is in the Intelligence budget, but I can say that the Washington Post reports that it is somewhere around $29 billion.

Now, a funny thing happens in terms of the Intelligence budget. The Intelligence budget today is being funded at approximately the same level it was funded at the height of the cold war when the Soviet Union, a superpower, was our enemy. Now, why do we continue to fund the Intelligence budget and the CIA at roughly the same level as we did during the height of the cold war when during the cold war half of our Intelligence budget was used in opposition to the Soviet Union and the Warsaw Pact?

I found it amazing as I was on the floor of the House this afternoon talking about the Intelligence budget that all of the deficit hawks, all of those folks who were telling us how we really have to cut back on the children, the elderly and the poor in order to balance the budget, they were not here talking about the fact that the CIA and the Intelligence community is getting far, far more than it needs, given the fact that the cold war has ended.

Furthermore, it is an amazing thing that when we talk about deficit reduction, my, my, my, is it not funny that our Republican friends are asking for 20 new B–2 bombers at $1.5 billion each that the Pentagon does not want. But that is okay. It is a strange way to look at deficit reduction by putting $7 billion more this year into the defense budget that the Pentagon wants. More money for B–2 bombers, more money for star wars.

We now have troops in Bosnia, yet every year we continue to spend $100 billion defending Europe and Asia against who, against what? The last I heard, the Soviet Union does not exist, the Warsaw Pact does not exist; yet our taxpayers continue to spend $100 billion a year defending Europe and Asia against whom we do not know. So it is very funny that when we talk about the need for moving toward a balanced budget and deficit reduction, which I support, we also, from the Republican point of view, are talking about significant increases in military spending, increases in the Intelligence budget, huge tax breaks to the wealthiest people in the country.

Furthermore, there is another area that gets relatively little discussion, and that is corporate welfare. A number of months ago I attended a very unusual press conference, because there were people, really right-wing people from the Cato Institute, you had centrists from the Democratic Leadership Conference, the Progressive Policy Institute, and then you have progressives, Ralph Nader and other members from the progressive caucus were there, and we all agreed that every single year this country spends about $125 billion a year in corporate welfare. That is tax breaks and subsidies for large corporations and wealthy individuals.

Amazingly enough, while our Republican friends tell us we have to cut this and we have to cut that and we have to cut programs for homeless people and for the most vulnerable people in this country, they only made a tiny step forward in terms of corporate welfare.

So I would suggest, Mr. Speaker, that it is very wrong for the Republican leadership to hold 280,000 Federal employees hostage while they try to force the President and Members of Congress to accept their disastrous and unfair 7-year approach toward a balanced budget. Yes, we can move forward toward a balanced budget, but we can do it in a fair way and not in a way which hurts tens of thousand of middle-class Americans, working people, senior citizens, children, and low-income people.

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Mr. Speaker, let me move on to a few other issues which I think are of great importance to our country, and let me shock some of the Members of Congress and perhaps some of the viewers by asking this question which I think is not asked terribly often on the floor of this House. That is, to what degree is the United States of America today, in December 1995, actually a democracy?

Are we still a nation in which the ordinary people of this country have the power? Do they have the power to make the decisions through the Congress which impacts on their life? Are we a democracy, or are we more and more moving toward an oligarchy, and that is a nation that is owned and controlled by relatively few very wealthy individuals and large corporations.

Let us examine that issue for a moment. We hear from our Republican friends every day about the mandate that they have inherited, as a result of last year's election, to slash Medicare, Medicaid, student loans, environmental protection, Head Start, and many other important programs. they have a mandate.

Well, what percentage of the American people voted in the last election? Was it 70 percent? Eighty percent? Recently in Canada when Quebec was debating whether or not to secede from Canada as a whole, 93 percent of their people voted in that election. Sweden recently had an election, last year. Over 80 percent of the people voted in that election. More than 70 percent of the people usually vote in European elections.

What percentage of the people voted to give Mr. GINGRICH and the Republican leadership their mandate? Well, it turns out that 38 percent of the American people voted. Some 62 percent of the people did not vote.

And the very, very sad and scary truth is that the United States has today by far the lowest voter turnout of any major nation on Earth. That is the first point to make. The majority of the people did not vote in that election and very often the majority of the people do not vote.

Second of all in terms of elections, who does vote? What we know is that generally speaking the percentage of those people who vote fluctuates by their income. In America today, by and large low-income people, poor people, almost do not vote at all.

I suspect that in many States you will have 10, 15 percent of low-income people voting, and because they do not vote and do not participate in the political process, they are red meat for those people who want to go after them because they have no power. You can cut Medicaid, you can cut AFDC, you can cut any program for low-income people. They cannot fight back. They do not vote. Many working people do not vote. The higher income level that you are, the more likely it is that you might vote.

Third, what is important to ask and debate when we talk about our political process is a very important issue, and that is, what role does money play in the political process? Today in America, are we living in a country where just any old person can stand up and say, you know, I have got some good ideas, I want to be Governor of my State or I want to be U.S. Senator, I want to go to the House. Can any American do that?

Well, in one sense they can. But the reality that everybody understands is, is that if you want to run for a major office, for President, for Congress, for Governor, you need to have a whole lot of money. More and more when you pick up the papers and you hear about who is running for Congress, who is running for Governor, what do you hear? You hear millionaire, so forth and so on, is running for the U.S. Senate.

Interestingly enough, let us look at even what is happening recently with Presidential elections. I am not here to criticize Ross Perot. I respect his point of view, for example, on the trade issues and on NAFTA. But I think it is fair to say that nobody believes that Ross Perot would have been a major candidate, a serious candidate for President, as he was, getting 19 percent of the vote, if he was not worth $3 or $4 billion and could put tens of millions of dollars into his own election.

There are a lot of people out there smarter than Ross Perot and smarter than me, smarter than many Members in the House. They cannot run for office because they are not millionaires, they are not billionaires.

Right now there is a Republican candidate trying to get the Republican nomination for President. His name is Mr. Forbes. I am not here to criticize Mr. Forbes, but I think it is widely acknowledged that he would not be a serious candidate if he were not worth hundreds of millions of dollars and were not buying the airwaves in New Hampshire and Iowa wherever there is a primary. He is trying to buy the Presidency.

The same thing is going on all over America in races for the House, races for the Senate, races for the Governor's chair. Millionaires are taking out their checkbooks, writing themselves a check and are spending as much money as they want in order to buy elections. I do not think that is what democracy is about.

And I think it is important to point out that right now in the U.S. Senate, to the best of my knowledge, about 29 percent, 29 Members of the Senate, are millionaires. It is important to point out that in the last election of the Republican freshman class, the revolutionaries, about 25 percent of those people are also millionaires.

That is the trend. If that trend continues, we will have to rename the U.S. House of Representatives into the House of Lords because it will be dominated by people who come from the very upper-income strata of America and not from the ranks of the middle class or the working class of this country.

But it is not only millionaires. It is people running and then going out and having to raise enormous sums of money from big-money special interests. In, I believe, February of this year, the Republican Party held a fund raiser in Washington, DC, and at the end of one night they raise $12 million from some of the wealthiest people in this country and some of the largest corporations. Mr. GINGRICH's history is well known to be an extraordinarily good fund raiser from corporate America and from wealthy people.

So what you end up having is an institution which is composed of many, many wealthy people, and those people who are not wealthy are very often beholden to big money interests.

And then the third aspect of my concern about whether or not we are really a vibrant democracy has to do with the media. How do we get the information out so that people can learn about what is going on in the Congress and other aspects of our life?

Mr. Speaker, I am terribly, terribly concerned by the growing concentration of ownership of the media in America. It is a very serious problem which is not being discussed at anywhere near the length and the degree to which it should be discussed here in the Congress.

It is a scary proposition that NBC is owned by General Electric. General Electric will benefit from the Republican tax proposal. Their taxes will go down. General Electric will benefit from the labor legislation and the antiunion legislation that is being proposed by the Republicans. General Electric gains by increased military spending. General Electric has enormous conflicts of interest in terms of their ownership of NBC.

ABC is owned by Disney right now, the Walt Disney Co. Several years ago the owner of Disney, Mr. Eisner, made $200 million in one year. CBS will shortly be owned by Westinghouse Corp. The Fox Television Network is owned by the right-wing billionaire Rupert Murdoch.

The end result of that is that the corporate ownership of television prevents serious discussions about whole lots of issues that I think the American people should be hearing about. That is an issue of real concern which also I think impacts our ability as a nation to become a vibrant democracy.

Points of view which are different from corporate America's, points of view which are different from the big money establishment are in fact very, very rarely heard in the media. Very often you hear these talk shows and the range of points of view goes from the extreme right to the center.

There is not a progressive point of view which is heard very often on television or for that matter on the radio. It is not an accident that Rush Limbaugh is all over the airwaves, that G. Gordon Liddy is all over the airwaves.

Recently, as you may know, Mr. Speaker, Jim Hightower, former Commissioner of Agriculture in Texas, had a very good, in my view, radio program, from a progressive point of view. It reached out to about 150 different radio stations throughout the country. ABC pulled the plug. He criticized the Disney Corp. and they basically said, "We don't want that point of view. You're not allowed to criticize the Disney Corp." who happens to own ABC.

Mr. Speaker, in one sense when we talk about politics, it can be very confusing to people. Because as you know, politics deals with literally hundreds and hundreds of issues. Every single day there are committee meetings here going on in the Congress which deal with every conceivable problem that anybody could think of.

But in another sense, government and politics really is not all that complicated. That is to a large degree what politics is about, is who gets what. Follow the money.

When the New York Giants play the Dallas Cowboys, at the end of the game, you know who has won the game. Somebody has won, somebody has lost. And to a large degree, Mr. Speaker, politics is very much like that. Somebody or some class or some group is winning. Other groups are losing.

Mr. Speaker, let me talk for a moment about who is winning in our society and who is losing. What is going on in America today in many ways reminds me of Dickens' book the "Tale of Two Cities" where he begins it, roughly speaking, "It was the best of times, it was the worst of times." He was talking about the period of the French Revolution.

That is what is going on in America today. It is the best of times for some people. It is the worst of times for many, many other people.

Right now in America the richest people in our country have never had it so good. It is the best of times. The stock market is at an all-time high. Corporate profits are soaring. Our chief executive officers of major corporations now earn about $3 million a year, and it is Christmastime and their corporations are giving them very generous bonuses. In fact, life for the rich in America has never been better.

In the last 20 years, the wealthiest 1 percent of American families saw their after-tax incomes more than double. When we have debates and discussions here, the assumption is that all Americans are in this together, we are all in the happy middle class. Nothing could be further from the truth.

While the wealthiest people have seen their after-tax incomes more than doubled, these very same people, the wealthiest 1 percent, now own a greater percentage of our Nation's wealth than at any time since the 1920's. So for the rich, things are going great. The number of millionaires and billionaires is skyrocketing. They have as many houses as they want, they go on vacations all over the world, they drive around in their big fancy limousines.

Things are really great for those people who attend the fund-raising dinners that contribute to pay $1,000 a plate to the political parties. In Vermont, I often ask people when I have town meetings, "Anyone go to dinner lately for $1,000 a plate?" and people laugh because they cannot believe that there are individuals who can pay so much money to a political party.

So for the rich, the people on top, things have never been better. But what about the rest of the population? Mr. Speaker, since 1973, 80 percent of all American families have seen their income either decline or remain stagnant. The average American today is working for longer hours, for less income, and is terribly, terribly frightened about the future for his or her child.

Mr. Speaker, 20 years ago, American workers were the best compensated workers in the entire world. We were No. 1. Today tragically American workers rank 13th among industrialized nations in terms of compensation and benefits.

Mr. Speaker, I am sure that you have read in the newspapers about how many European companies are coming to the United States to invest.

□ 2115

Do you know why they are coming to the United States to invest? This is hard to understand or appreciate for older Americans, even people my age. They are coming to America now because we provide cheap labor. In other words, they can come to America, get hard-working, intelligent workers in this country who will work for $7 an hour, who will work for $9 an hour with limited benefits. On the other hand, in Europe, they would have to pay those same workers $20 an hour or $25 an hour.

Mr. Speaker, adjusted for inflation, the average pay for four-fifths of American workers plummeted by 16 percent in the 20 years between 1973 and 1993. In other words, Mr. Speaker, there is a depression going on now for the vast majority of the working people. That may not be reflected in this institution because many of the people here were elected to represent the people on top. But those of us who see it as our job to represent the workers and the middle class and the low income people, when we go home every weekend, we know that there is a depression out there. In my State of Vermont people are not working two jobs to make ends meet, they are sometimes working three jobs.

Mr. Speaker, as bad as the current situation is for our workers, it is worse for young workers. In the last 15 years, the wages for entry-level jobs for young men who have graduated high school has declined by 30 percent. Twenty years ago there were factory jobs out there that people could get with a high school degree. They did not get rich, but they worked hard and they made it into the middle class. For young women entry-level wages have dropped by 18 percent. Families headed by persons younger than 30 saw their inflation-adjusted median income collapse by 32 percent from 1973 to 1990. In other words, as bad as the situation is for the average American worker, it is worse for our young workers.

Mr. Speaker, Americans, if you can believe this, at the lower end of the wage scale are now the lowest-paid workers in the entire industrialized world. Eighteen percent of American workers with full-time jobs are paid so little that their wages do not enable them to live above the poverty level. And this decline is not just for high school graduates. It is for college graduates as well.

Between 1987 and 1991, the real wages of college educated workers declined by over 3 percent. Over one-third of recent college graduates have been forced to take jobs not requiring a college degree, twice as many as 5 years ago.

Mr. Speaker, one of the great crises in our country today is that the majority of new jobs being created today pay only $6 or $7 an hour, jobs that offer no health care benefits, no retirement benefits and no time off for vacations or sick leave. In fact, more and more of the new jobs that are being created are part-time or temporary jobs. In 1993, one-third of the United States work force was comprised of contingent labor. That number, that is temporary workers. That number is rapidly escalating.

Mr. Speaker, I see my friend from Hawaii is here. I will get to him and share the mike, if I can, in a few moments, if we can do that.

Mr. Speaker, in the past 10 years the United States has lost 3 million white collar jobs; 1.8 million jobs in manufacturing were lost in the past 5 years alone. Mr. Speaker, I find it interesting that our Republican friends are so anxious to provide huge tax breaks for large corporations. Boy, are they ever deserving.

Why should we not give Ford and AT&T and General Electric and ITT and Union Carbide major tax breaks? After all, these five companies alone have themselves laid off over 800,000 American workers in the last 15 years. In other words, sure, let us give them huge tax breaks where the CEOs are making huge salaries, where they are taking our jobs to Mexico and to China, where they are downsizing all over the place, why not reward them? Sure. Let us lower their taxes so we can raise taxes on the working poor by cutting back on the earned income tax credit or by cutting back on a whole host of other benefits.

Mr. Speaker, today the richest 1 percent of our population owns close to 40 percent of the nation's wealth. I do not hear my Republican or many of my Democratic friends talking about this too much. The richest 1 percent now own more wealth than the bottom 90 percent; 1 percent here, 90 percent there.

In fact, the wealthiest 1 percent are worth, were worth $3.6 trillion in 1992 or the bottom 90 percent, the vast majority of the people, were worth $3.4 trillion. Today we have in this country the most unfair distribution of wealth in the industrialized world, and that gap is growing wider.

I know some people think, well, in England they have the kings and the queens and the dukes, all that royalty, boy, that is real class society. Well, guess again. We have a more rigid and more unfair class situation in America today than England does by far. Prof. Edward Wolf of New York University recently said we are the most unequal industrialized country in terms of income and wealth, and we are growing more unequal faster than any other industrialized country.

What is going on basically is that the rich are getting richer. The middle class is shrinking, and poverty is increasing. Mr. Speaker, in 1980, the average CEO earned 42 times what the average factory worker earned. Today that CEO now earns 149 times what that factory worker is earning. Rich get richer; everybody else gets poorer.

Mr. Speaker, I want to say a word about the deficit, a very important issue. I find it interesting that many of our friends who want to cut Medicare and Medicaid, environmental protection, workers rights, student loans, because they are very concerned about the deficit, they do not talk about the causation of the deficit. How did we get to where we are right now? One of the things that is not talked about here very much is the tax structure of America.

In 1977, President Carter, a Democrat, and in 1981 and 1986, President Reagan, a Republican, instituted so-called tax reform with the support and approval of the mostly Democratic Congress. The result of this so-called tax reform was to significantly lower taxes on the wealthy and the large corporations and raise taxes on almost everyone else. Taxes on the very wealthy were cut by over 12 percent, while taxes on working and middle class Americans increased.

One of the, quote unquote, reforms was a major increase in the regressive Social Security tax. According to a study conducted by the House Committee on Ways and Means, the top 1 percent of taxpayers saved an average, saved an average $41,886 in 1992 over what their taxes would have been at 1977 rates. In fact, and, gee whiz, I do not know why we do not talk about this too much, but if, in fact in 1977, individual Federal tax rates had been in effect in 1992, the nation's wealthiest 1 percent, the very richest people in America, would have paid $83.7 billion more in taxes, which is about half of what the deficit is right now.

So in other words, from 1977 to 1981 and 1986, we gave huge tax breaks to the rich and the large corporations, helped create the deficit. And now to solve the deficit crisis we cut back on Medicare, Medicaid, fuel assistance, affordable housing, student loans and many, many other programs. You give to the rich and you take from the poor and the working people.

Mr. Speaker, I am delighted that the gentleman from Hawaii [Mr. ABERCROMBIE] has joined us.

Mr. ABERCROMBIE. Mr. Speaker, I thank the gentleman from Vermont. My remarks at this stage have to do precisely with this question of the deficit and very frankly, Mr. SANDERS, why we are here this evening. It may be that some of our colleagues and perhaps others who will be paying attention to our remarks here are wondering why four days before Christmas are we here doing this?

For those who are not aware, perhaps even among our colleagues, we passed a, not we, I think the gentleman and myself voted against it today, a resolution to go on recess. Perhaps you could comment, has this deficit gone on a recess? Has this lust to so-called balance the budget gone on a recess?

Mr. SANDERS. As I said earlier, it seems to me to be extremely cruel for Congress to go into recess, and I know that you and I voted against that, for Congress to go into recess while 280,000 Federal employees are living in a great deal of anxiety, not knowing what is happening to their financial situation, while millions of Americans who are dependent upon government services are unable to get those services, that has not gone into recess.

Mr. ABERCROMBIE. If I am not mistaken, is not the gentleman from Vermont a member of the veterans' committee?

Mr. SANDERS. No, I am not.

Mr. ABERCROMBIE. I beg your pardon. I had heard you speaking previously at one point, if I am not mistaken, about veterans' programs.

Mr. SANDERS. Absolutely right. One of the outrages of what is going on in terms of the overall budget that the Republicans are bringing forth is, you know, I always get a kick out of, on Veterans Day, all the politicians going out, thank you, veterans, for all of your sacrifices. God only knows the terrible sacrifices in World War II and Korea and Vietnam and elsewhere that your veterans made, many of them wounded in body and in spirit. Yet the Republican budget over a 7-year period would make slashing cuts in the VA and in veterans' programs.

Right now, thank God, last night we were able to late at night, as you know, we were able to make sure that our veterans' pensions and their compensation checks were able to go out, but in fact the VA still remains largely closed down. And those people who want to apply for new VA veterans' benefits are unable to do so while this Congress goes into recess.

Mr. ABERCROMBIE. Is it not a fact, though, that those veterans, whom we are all very happy about in terms of at least being able to receive some benefits, they in fact are voters? Is there not a large group of people, is it not a fact that there is a large group of people, the children of this country, who are going to be aversely affected or left out of the equation?

Mr. SANDERS. Obviously, one of the frightening aspects of what is going on right now, and we hope that it will be rectified, but we do not know that it will, is you have millions and millions of children on AFDC, whose families have basically no money, who will suffer incalculable pain if those checks do not go out.

Seventy percent of the people on welfare in this country are children. We are concerned that Medicaid appropriations go out to the States so the people who utilize the Medicaid program receive the funding that they need. But the point that you are making is well taken. The children will be hurt very, very seriously unless this government reopens and unless the programs that we have pledged to provide for them are in fact provided.

Mr. ABERCROMBIE. In that context, if the budget as proposed by the Republican majority, all of whom have disappeared tonight, comes into effect, is there not another class of vulnerable people who will be adversely affected, the elderly in need of Medicare assistance, particularly those in nursing homes?

The gentleman may be aware of a Consumers Union and National Citizens Coalition for Nursing Home Reform report which just came out, and I am quoting from it, saying that the budget reconciliation bill that we have yet to consider from the Republican majority, and I am quoting now, "would endanger the lives of America's most vulnerable elderly citizens" by providing no standards of care.

☐ 2130

I know the gentleman has spoken in the past in this area, that, minus the rules that are in effect now enforced by the Federal Government, the much maligned Federal Government, it is easy to talk about it when it is taxation, but when it comes to assisting the helpless, assisting the elderly, assisting those most in need, which is, after all, the fundamental basis of governmental assistance in the first place, are we taking care of those in the community that need the assistance? Is it not the case, would the gentleman agree, that it is precisely those people on Medicaid, in the nursing homes, who need the protection of Government, who would be most adversely affected should this budget move forward?

Mr. SANDERS. I would simply say, as I said earlier, and it is painful to have to say this at the holiday season especially, that it is a very sad state of affairs when this Government is cutting back on the weakest and most vulnerable people, elderly people in nursing homes, senior citizens who try to exist on $7,000 a year or $10,000 a year, low-income children, and we already have—one of the things that is really upsetting is that in addition today, before any of the Republican cuts would go into effect, this Nation today has by far the highest rate of childhood poverty in the industrialized world, and, as I think my friend from Hawaii knows, the estimate is, if the so-called welfare reform bill goes through, another million-and-a-half children will be added to the poverty rolls.

What sense—what is this Congress about when we increase childhood poverty, when we cut back on disabled people, on vulnerable senior citizens in order to give tax breaks to the richest people in this country, whose incomes are already soaring, to the largest corporations who are already enjoying record-breaking profits as they take our jobs to Mexico and China?

Mr. ABERCROMBIE. Is it not the case then in the very areas where we are cutting children and elderly, in those very cases where there are clear changes adversely affecting those groups, that the gentleman had made a detailed presentation this evening on, the exact opposite situation coming into effect when it comes to what I call tax giveaways? These are not cuts, although it is portrayed in the press over and over again, I guess in shorthand version, $245 billion in tax cuts as if something was being taken away. Is it not the case, is it not the fact, that it is the exact opposite, that these are giveaways, that the speculative stock market that is operating right now is waiting with the proverbial bated breath for these tax giveaways to come into effect so they can take advantage of the speculative market that has been created?

Mr. SANDERS. My friend has been in politics for long enough to know that when people invest hundreds of thousands of dollars into a political party, when they give candidates large sums of money, what they are doing is making an investment for the future that is not bad. So, if a large company contributes a large amount of money to a party, and occasionally to the Democratic Party, and what they end up getting is major tax decreases, if the rich pay less in taxes, it is a pretty good investment.

Why not contribute a thousand dollars and pay $5,000 less in taxes? Sounds like a pretty good deal to me, and that is, of course, what is going on.

What I would like to do with the gentleman's indulgence for a moment is to provide an alternative point of view as to where we should be going as a country, and let me just touch on a number of issues that I think this Congress should be dealing with tomorrow. Instead of cutting Medicare, and Medicaid, and student loans, let us look, in fact, what a Congress that was responsive to the needs of middle-class Americans and working people might be doing:

No. 1, raise the minimum wage. We cannot continue to have a minimum wage of 4-and-a-quarter an hour and have people working 40 hours a week and still living in poverty. The new jobs that are being created are low-wage jobs. Raise the minimum wage to at least $5.50 an hour.

Second, when we talk about welfare reform, and welfare does need to be reformed, we need jobs, we need jobs rebuilding America. There are so many needs, I am sure in Hawaii, and in Vermont, and all over this country. Our infrastructure is falling apart. We need help in improving our environment. Instead of laying off teachers, we need more teachers, we need more people going out to prevent disease. We can put large numbers of people to work at meaningful, important jobs at decent-paying wages instead of spending a hundred billion dollars a year defending Europe and Asia against a nonexistent enemy.

Let us rebuild America and put our people to work doing so.

Mr. ABERCROMBIE. Would the gentleman agree then perhaps his $240 to $245 billion that is now scheduled to go in tax giveaways might better be invested then in the people's structure and infrastructure of our country?

Mr. SANDERS. Of course we could cut back on the cost of welfare and unemployment insurance by rebuilding this country and putting our people to work.

Another issue that we do not talk about virtually at all here is you know we hear every day about the serious problem, and it is a serious problem, of the national deficit, which this year is about $160 billion, and I should remind my colleagues that the deficit has almost gone down by half in the last 4 years, but it is a serious problem. But there is another deficit out there that we hardly ever talk about. That is the trade deficit.

Mr. Speaker, this year our trade deficit will be at a record-breaking level, about $160 billion. The economists tell us that, for every billion dollars in trade, an export creates about 20,000 American jobs. That means—and often good-paying jobs. That means that $160 billion trade deficit equates to about 3 million jobs that we are losing as opposed to having a budget-neutral trade deficit.

In my view the NAFTA proposal was a disaster when it was proposed, and now, after it has been in place, it has turned out to be an absolute disaster. We have to repeal NAFTA, we have to repeal GATT, we have to repeal most-favored-nation status with China.

One of the untold secrets about what is going on in this country is that corporate America is, in fact, creating millions of decent-paying—millions of jobs, millions of jobs every year. The only problem is those jobs are not being created in America. They are being created in Mexico where you could get a good, hard workers for 50 cents an hour, they are being created in China, where you can get workers there for 20 cents an hour, they are being created in Malaysia, all over the Far East.

We need to radically change our trade policy, reward those American companies that are investing in this country and providing jobs for our workers, and figure out a way to demand that corporate America reinvest in this country and not run to China and to Mexico.

Further, it seems to me that, if we talk about justice, which is a word not often used on the floor of the House, we must reform the tax system to make it fair. We cannot continue to have the most unfair distribution of wealth and income in the industrialized world. Between 1977 and 1989 Carter and Reagan and the Congress gave the highest earning 10 percent of Americans a tax cut of $93 billion a year. Clearly what we need to do is move forward toward a simple, but progressive, tax system which says to the wealthiest people in this country they have got to start paying their fair share of taxes so that we can deal with the deficit, so that we can lower taxes on the middle class and the working people.

Also I think when we talk about, and I know my colleague from Hawaii shares my concern on this issue; it is very sad, it seems to me, that we have now got to spend all or our energy fighting against the disastrous cuts in Medicare and Medicaid rather than moving forward toward a national health care system guaranteeing health care to all people. What absurdity that right now, as a result of Republican proposals, more people are going to lack insurance. Clearly we should be moving forward, in my view, toward a single-payer State-administered system which guarantees health care to all Americans, and that is an issue we cannot forget.

Yes, we have got to fight against the Medicare and Medicaid cuts, but, on the other hand, we have got to retain that vision for fighting for a national health care system which guarantees health care to all.

Mr. ABERCROMBIE. I believe the gentleman would agree that the proposal before us now, far from creating a national health care system, would do the exact opposite.

An article from the New York Times from the 31st of October indicates, and I am quoting:

> The House version of the legislation would allow doctors to start physician-run health groups without the financial and regulatory requirements that States impose on similar organizations. Instead the House bill would authorize development of a new Federal regulation to police the doctors. The bill could make it easier for doctors to set prices in a way that now violates antitrust laws.

This would be the ultimate result.

I know the gentleman's time is coming fairly close to an end. I just want to indicate at this juncture that I stand with him on this, and I think it is very important during these special orders for us to come down here and try and cut through the ritualized rhetoric that is on the floor about a balanced budget and start talking about balancing our communities in terms of opportunity and justice.

Mr. SANDERS. I thank the gentleman from Hawaii [Mr. ABERCROMBIE] for joining me, and let me just concluded by saying two other things.

No. 1, it goes without saying that we need campaign finance reform so that big money cannot continue to buy the U.S. Congress, and we also need to reform labor law. There are millions of American workers who would like to join unions so that they could better fight for their rights on the job, so they can get a fair shake, and yet labor law today makes it almost impossible to do that. Almost all of the power rests with the employer. It is very hard for workers to organize. We need labor law reform.

Let me simply conclude by thanking my friend from Hawaii for joining me, but for also saying to the American people do not give up on the political process. Some want you to do that. If you are a low-income person or working person, what they want to say to you is hey, it is all very complicated, do not get involved, everybody in Congress is a crook, the whole thing is corrupt, you do not want to get involved.

Do not believe a minute of it. The wealth and the big money interests, they know how the political system works. They are the ones who contribute huge amounts of money to the candidates of their choice and the political parties of their choice. They are the ones who have lobbyists knocking on our doors every day so we can give more tax breaks to the rich, so we can make it easier for them to take our jobs to Mexico or China.

Mr. Speaker, if this country is going to be turned around, tens of millions of working American middle-class people, low-income people, are going to have to stand up and say this country belongs to all of us and not just the very rich. It is not utopian to say that we can create a decent standard of living for every man, woman, and child. We can do it. We do not have to have the most unequal distribution of wealth in the industrialized world.

So, let us get involved, let us vote, let us participate, let us follow what is going on here in Congress. We can turn this country around.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to.

Mr. EDWARDS (at the request of Mr. GEPHARDT), for today, on account of the birth of his son.

Ms. HARMAN (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. BRYANT of Texas (at the request of Mr. GEPHARDT), for today, on account of attendance at the funeral of a close friend (Max Goldblatt of Dallas).

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. POSHARD, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. RUSH, for 5 minutes, today.

Mr. VOLKMER, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mr. FOLEY) to revise and extend their remarks and include extraneous material:)

Mrs. MORELLA, for 5 minutes, today.

Mr. ENGLISH of Pennsylvania, for 5 minutes, today.

Mr. KIM, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

Mr. GOSS, for 5 minutes, today.

Mr. BUYER, for 5 minutes, today.

Mr. CHRYSLER, for 5 minutes, today.

Mr. NORWOOD, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mr. COLLINS of Georgia, for 5 minutes, today.

Mr. MARTINI, for 5 minutes, today.

Mr. GEKAS, for 5 minutes, today.

Mr. METCALF, for 5 minutes, today

Mr. HUNTER, for 5 minutes, today.

Mr. SAXTON, for 5 minutes each day, today, and on December 22.

Mr. SHAYS, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. WATERS, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. NORTON, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. MCINNIS, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. VENTO, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DORNAN for 5 minutes, today.

SENATE BILLS AND A CONCURRENT RESOLUTION REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1228. An Act to deter investment in the development of Iran's petroleum resources to the Committee on International Relations and the Committee on Banking and Financial Services.

S. 1429. An Act to provide clarification in the reimbursement to States for federally funded employees carrying out Federal programs during the lapse in appropriations between November 14, 1995, through November 19, 1995; to the Committee on Government Reform and Oversight.

S. Con. Res. 34. Concurrent resolution to authorize the printing of "Vice Presidents of the United States, 1789–1993"; to the Committee on House Oversight.

ENROLLER BILLS AND JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills and joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1530. An act to authorize appropriations for the fiscal year 1996 for military activities of the Department of Defense, for military construction, and for defense activities for the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes;

H.R. 965. An act to designate the Federal building located at 600 Martin Luther King, Jr. Place in Louisville, Kentucky, as the "Ramano L. Mazzoli Federal Building";

H.R. 1253. An act to rename the San Francisco Bay National Wildlife Refuge as the Don Edwards San Francisco Bay National Wildlife Refuge;

H.R. 2481. An act to designate the Federal Triangle Project under construction at 14th Street and Pennsylvania Avenue, Northwest, in the District of Columbia, as the "Ronald Reagan Building and International Trade Center";

H.R. 2527. An act to amend the Federal Election Campaign Act of 1971 to improve the electoral process by permitting electronic filing and preservation of Federal Election Commission reports, and for other purposes;

H.R. 2547. An act to designate the United States courthouse located at 800 Market Street in Knoxville, Tennessee, as the "Howard H. Baker, Jr. United States Courthouse";

H.J. Res. 69. Joint resolution providing for the reappointment of Homer Alfred Neal as a citizen regent of the Board of Regents of the Smithsonian Institution;

H.J. Res. 110. Join resolution providing for the appointment of Howard H. Baker, Jr. as a citizen regent of the Board of Regents of the Smithsonian;

H.J. Res. 111. Joint resolution providing for the appointment of Anne D'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution; and

H.J. Res. 112. Join resolution providing for the appointment of Louis Gerstner as a citizen regent of the Board of Regents of the Smithsonian Institution.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following day present to the President, for his approval, bills of the House of the following title:

On Dec. 20, 1995:

H.R. 395. An act to designate the United States courthouse and Federal Building to be constructed at the southeastern corner of Liberty and South Virginia Streets in Reno, Nevada, as the "Bruce R. Thompson United States Courthouse and Federal Building".

ADJOURNMENT

Mr. ABERCROMBIE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 43 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, December 22, 1995, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1867. A letter from the Director, Defense Security Assistance Agency, transmitting the fiscal year 1995 annual report on the operation of the special defense acquisition fund, pursuant to 22 U.S.C. 2795b(a); to the Committee on International Relations.

1868. A communication from the President of the United States, transmitting an updated report concerning United States support for the United Nations and North Atlantic Treaty Organization [NATO] efforts to bring peace to the former Yugoslavia (H. Doc. No. 104-151); to the Committee on International Relations and ordered to be printed.

1869. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-158, "Child Support Enforcement and Compliance Amendment Act of 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1870. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-163, "Uniform Foreign Money Judgments Recognition Act 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1871. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-164, "Uniform Foreign Money Claims Act 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1872. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-165, "Real Property Tax Rates for Tax Year 1996 Temporary Amendment Act of 1995", pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1873. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-166, "Council Contract Approval Modification Temporary Amendment Act of 1995", pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1874. A letter from the Commissioner, Social Security Administration, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2567. A bill to amend the Federal Water Pollution Control Act relating to standards for constructed water conveyances; with an amendment (Rept. 104-433). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLINGER: Committee on government Reform and Oversight. Creating a 21st Century Government (Rept. 104-434). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLINGER: Committee on Government Reform and Oversight. Making Government Work: Fulfilling the Mandate for Change (Rept. 104-435). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLINGER: Committee on Government Reform and Oversight. The FDA Food Additive Review Process: Backlog and Failure to Observe Statutory Deadline Rept. 104-436). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLINGER: Committee on Government Reform and Oversight. The Federal Takeover of the Chicago Housing Authority—HUD Needs To Determine Long-Term Implications (Rept. 104-437). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLINGER: Committee on Government Reform and Oversight. Voices for Change (Rept. 104-438). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. S. 1341. An act to provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, AR, and for other purposes (Rept. 104-439 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. SOLOMON: Committee on Rules. House Resolution 322. Resolution providing for consideration of the resolution (H. Res. 299) to amend the Rules of the House of Representatives regarding outside earned income (Rept. 104-441). Referred to the House Calendar.

Mr. McINNIS: Committee on Rules. House Resolution 323. Resolution providing for consideration of the bill (H.R. 2677) to require the Secretary of the Interior to accept from a State donations of services of State employees to perform, in a period of Government budgetary shutdown, otherwise authorized functions in any unit of the National Wildlife Refuge System or the National Park System (Rep. 104-442). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Committee on Resources. H.R. 497. A bill to create the National Gambling Impact and Policy Commission, with an amendment; referred to the Committee on Resources for a period ending not later than February 9, 1996, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of the committee pursuant to clause 1(l), rule X.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

S. 1341. The Committee on Banking and Financial Services discharged from further consideration. Referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

S. 1341. Referral to the Committee on Banking and Financial Services extended for a period ending not later than December 21, 1995.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CRANE:

H.R. 2822. A bill to amend title VII of the Tariff Act of 1930 to provide authority for the temporary suspension of antidumping and countervailing duties under limited market conditions; to the Committee on Ways and Means.

By Mr. GILCHREST (for himself, Mr. Cunningham, Mr. Richardson, Mr. Boehlert, Mr. Bilbray, Mr. Goss, Mr. Young of Alaska, Mr. Packard, Mr. Castle, Mr. Lazio of New York, Mr. Gillmor, Mr. Kolbe, Mr. Shays, Mr. Hunter, Mr. Klug, Mr. Hansen, Mr. Pombo, Mr. Cardin, Mr. DeFazio, Mr. Coble, Mr. Ehlers, Mr. Upton, Mr. Davis, Mrs. Morella, Mr. Torkildsen, Mr. Foley, and Mr. Blute):

H.R. 2823. A bill to amend the Marine Mammal Protection Act of 1972 to support the International Dolphin Conservation Program in the eastern tropical Pacific Ocean, and for other purposes; to the Committee on Resources.

By Mr. HANSEN:

H.R. 2824. A bill to authorize an exchange of lands in the State of Utah at Snowbasin Ski Area; to the Committee on Resources.

By Mrs. MORELLA (for herself, Mr. Davis, Ms. Norton, Mr. Wolf, Mr. Wynn, and Mr. Hoyer):

H.R. 2825. A bill to amend title 5, United States Code, to allow Government agencies to provide reemployment training to employees in anticipation of any organizational restructuring, and for other purposes; to the Committee on Government Reform and Oversight.

By Mrs. MORELLA (for herself, Mr. Davis, Ms. Norton, Mr. Wolf, Mr. Moran, Mr. Wynn, and Mr. Hoyer):

H.R. 2826. A bill to allow agencies to offer certain Federal employees an opportunity to take early retirement without having to remain subject to the otherwise applicable reduction, based on age, after attaining age 55; to the Committee on Government Reform and Oversight.

By Mr. SAXTON (for himself, Mr. Boehlert, Mr. Weldon of Pennsylvania, Mr. Barton of Texas, Mr. Goss, Mr. Smith of New Jersey, Mr. Klug, Mr. Ehlers, Mr. Blute, Mr. Dellums, Mr. Kennedy of Rhode Island, Mr. Sabo, Mr. Olver, Mr. Yates, Mr. Ward, Mr. Torkildsen, Mr. Davis, Mr. Gilchrest, Mr. Shays, Mrs. Morella, and Mrs. Roukema):

H.R. 2827. A bill to consolidate and improve governmental environmental research by organizing a National Institute for the Environment, and for other purposes; to the Committee on Science.

By Mr. STEARNS:

H.R. 2828. A bill to provide for the comparable treatment of Federal employees and Members of Congress and the President during a period in which there is a Federal Government shutdown; to the Committee on Government Reform and Oversight, and in addition to the Committee on House Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TORRICELLI (for himself, Mr. Bilirakis, and Mr. Pallone):

H. Con. Res. 124. Concurrent resolution expressing the sense of the Congress that the President should suspend the proposed sale of the Army Tactical Missile System to the Government of Turkey until that government improves its human rights record and terminates its embargo of Armenia and progress is made to resolve the conflict on Cyprus; to the Committee on International Relations.

By Mr. TAYLOR of Mississippi:

H. Res. 321. Resolution directing that the Committee on Rules report a resolution providing for the consideration of H.R. 2530, a bill to provide for deficit reduction and achieve a balanced budget by fiscal year 2002; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 118: Mr. JOHNSON of South Dakota.

H.R. 127: Mr. PAYNE of New Jersey and Mr. SALMON.

H.R. 359: Mr. FOGLIETTA.

H.R. 438: Mr. MINGE and Mr. JOHNSON of South Dakota.

H.R. 497: Mr. MYERS of Indiana.

H.R. 519: Mr. ROHRABACHER.

H.R. 981: Mr. JOHNSON of South Dakota.

H.R. 1023: Mr. WATT of North Carolina.

H.R. 1527: Mr. MOORHEAD.

H.R. 1684: Mr. WELDON of Pennsylvania, Mr. FRELINGHUYSEN, Ms. WOOLSEY, and Mr. SCARBOROUGH.

H.R. 1711: Mr. COLLINS of Georgia.

H.R. 1733: Ms. ESHOO and Mr. WELLER.

H.R. 1794: Mr. STOCKMAN and Mr. GENE GREEN of Texas.

H.R. 1981: Mr. JOHNSON of South Dakota, Mr. MARTINI, and Ms. LOFGREN.

H.R. 2024: Mr. SANDERS and Mr. COX.

H.R. 2190: Ms. PRYCE, Mr. TIAHRT, and Ms. MOLINARI.

H.R. 2472: Mr. BROWN of California, Mr. DOYLE, Ms. LOFGREN, Mr. LIPINSKI, Ms. DELAURO, Mr. FATTAH, Mr. BECERRA, Mr. COSTELLO, and Mr. DINGELL.

H.R. 2497: Mr. CUNNINGHAM, Mr. GRAHAM, Mr. KNOLLENBERG, Mr. CASTLE, Mr. GREENWOOD, Mr. UPTON, Mr. FUNDERBURK, Mr. SOUDER, Mr. SAM JOHNSON, Mr. CANADY, and Mr. MCKEON.

H.R. 2543: Mr. TAYLOR of North Carolina.

H.R. 2579: Mr. CUNNINGHAM and Mrs. KELLY.

H.R. 2582: Mr. ABERCROMBIE.

H.R. 2634: Mr. EMERSON.

H.R. 2648: Mr. HEFNER.

H.R. 2676: Mr. HALL of Texas and Ms. DANNER.

H.R. 2683: Mr. BAKER of Louisiana.

H.R. 2700: Mr. COLEMAN, Mr. GENE GREEN of Texas, Mr. FROST, Mr. GONZALEZ, Mr. HALL of Texas, Mr. WILSON, Mr. SMITH of Texas, Mr. BENTSEN, Mr. DE LA GARZA, Mr. PETE GEREN of Texas, Mr. BARTON of Texas, Mr. BRYANT of Texas, Mr. STOCKMAN, Mr. ORTIZ, Mr. THORNBERRY, Mr. EDWARDS, Mr. STENHOLM, and Mr. SAM JOHNSON.

H.R. 2723: Mr. BURTON of Indiana.

H.R. 2731: Mr. SOUDER, Mr. DORNAN, and Mr. TAYLOR of North Carolina.

H.R. 2740: Mr. KINGSTON, Mr. YOUNG of Florida, and Mr. STUMP.

H.R. 2749: Mr. INGLIS of South Carolina.

H.R. 2751: Ms. NORTON.

H.R. 2754: Mr. LEVIN, Mr. CARDIN, Mr. GENE GREEN of Texas, and Mr. QUILLEN.

H.R. 2785: Mrs. MORELLA, Ms. SLAUGHTER, Mr. COYNE, and Mr. THORNTON.

H.R. 2796: Mr. MENENDEZ.

H.J. Res. 93: Mr. GOSS, Mr. BARRETT of Nebraska, and Mr. NEY.

H. Con. Res. 47: Mr. SCHIFF.

H. Con. Res. 63: Mr. SHAYS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 359: Mr. HEFLEY.

H. Con. Res. 119. Mrs. KELLY.

PETITIONS, ETC.

Under clause 1 of rule XXI,

50. The SPEAKER presented a petition of the Plumas County Board of Supervisors, Plumas County, CA, relative to the 1995 holiday tree of America; which was referred jointly, to the Committees on Resources and Agriculture.

SENATE—*Thursday December 21, 1995*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear Lord and Father of mankind
Forgive our feverish ways
Reclothe us in our rightful mind,
In purer lives thy service find,
In deeper reverence, praise.
Take from our souls the strain and stress,
And let our ordered lives confess
The beauty of Your peace.—Whittier.

O God, You have promised to keep us in perfect peace if we allow You to stay our minds on You. This is the peace we need today. The conflict and tension of these days threaten to rob us of the holiday spirit. It is easy to catch the emotional virus of frustration and exasperation. Then we remember that Your peace is the healing antidote that can survive in any circumstance. Give us a peace of a cleansed and committed heart, a free and forgiving heart, a caring and compassionate heart. May Your deep peace flow into us calming our impatience and flow from us to others claiming Your inspiration. In the name of the Prince of Peace who whispers in our souls, "Peace I leave with you, My peace I give to you. Not as the world gives, give I to you. Let not your heart be troubled, neither let it be afraid." In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator DOLE, is recognized.

SCHEDULE

Mr. DOLE. Mr. President, we will immediately go to House Joint Resolution 132 regarding the use of the CBO economic assumptions. There will be 60 minutes of debate equally divided with an amendment ordered to the resolution. There should be a rollcall vote around 10:30, 10:35.

Also, this morning we will take up the veto message to accompany H.R. 1058, the securities litigation. It may also be that we will take up the welfare reform conference report today. It just arrived.

There is objection to taking up the resolution concerning application for veterans' benefits unless we can add to it a CR to open up the Government. So that may or may not come up today.

There are other time lines that we need to address concerning AFDC recipients, and other groups, that unless we have a CR, we will take specific action on. I will try to determine what that is during the day.

I have not had a report on the meeting this morning between Chief of Staff Leon Panetta, Senator DOMENICI, chairman of our Budget Committee, and Chairman JOHN KASICH of the House Budget Committee. I understand there was some progress made.

It is my hope that sometime today we can meet again with the President of the United States and see if we can resolve some of the major differences still outstanding. There really are not that many big ones, but there is Medicare and Medicaid and tax cuts. I mean there are some very, very important provisions that need to be addressed.

Whether or not that meeting will occur, I think it is too early to tell. I know the Speaker and I are prepared to meet with the President at any time during the day.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. INHOFE). Under the previous order, leader time is reserved.

BASING BUDGET NEGOTIATIONS ON MOST RECENT TECHNICAL AND ECONOMIC ASSUMPTIONS OF CONGRESSIONAL BUDGET OFFICE

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consider House Joint Resolution 132, which the clerk will report.

The assistant legislative clerk read as follows:

> A joint resolution (H.J. Res. 132) affirming that budget negotiations shall be based on the most recent technical and economic assumptions of the Congressional Budget Office and shall achieve a balanced budget by fiscal year 2002 based on those assumptions.

The Senate proceeded to consider the joint resolution.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Mr. President, the night before last there was an effort to bring this resolution to the floor of the Senate for debate and vote under a unanimous-consent request. There was objection to that request. My understanding is that those who objected did so because the full text of the previous language from the continuing resolution that was passed 30 days ago was not included. The resolution only contained language dealing with the the requirement that the President submit to the concept of a 7-year balanced budget using real numbers as generated by the Congressional Budget Office. That was the resolution.

As I understand it, there will be an effort this morning to add additional language to the resolution. Frankly, I have no objection to this proposal. The additional language provides for the protection of various programs, including: ensuring Medicare solvency, something that we have all been working toward; reforming welfare, which clearly I think we are on the verge of accomplishing; and the adoption of tax policies that help working families and stimulate economic growth.

So I suspect there will be strong support for this resolution. But it is unfortunate that the Senate has to spend its time this morning on this issue. It is unfortunate that the Congress has to take this time to remind the President of the commitment which he made over 30 days ago.

There is a real question as to why the President of the United States has not submitted a 7-year balanced budget plan. The President has submitted a number of budget proposals this year. I think it is three. I could be wrong about that. Some indicate that the President has submitted four. However, not a single one of those four budget proposals has eliminated the deficit in the seventh year. The President's budget plans still accumulates a tremendous amount of debt. They maintain many wasteful liberal programs that have failed—that people throughout the country recognize as having failed, but not one single budget proposal that the President has submitted reaches a balance by the year 2002.

There are many people who would expect me, a Republican Senator, to say these kinds of things. But I think there is evidence to indicate that Senators on both sides of this aisle—and clearly the Members in the other body—have rejected the President's proposals because, frankly, they do not meet the test of a balanced budget as scored by the Congressional Budget Office.

I do not remember the date or the exact vote in the Senate, but I remember bringing the President's first budget proposal to the Senate for a vote. As I recall, not a single—well, maybe there was one Senator who voted for the President's proposal. But it was soundly rejected by both sides of the aisle. And the reason that it was rejected was because it did not reach a balanced budget by the year 2002.

Just a few days ago the other body brought the most recent of the President's proposals to the floor of the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

House and it was also soundly defeated. In fact, I believe there was absolutely no support, again, on either side of the aisle for the President's budget proposal.

Let me give a little explanation as to what that budget proposal was.

The fourth submission by the President which the administration claimed to be in balance was finally scored by the Congressional Budget Office and was, in fact, $116 billion short in the seventh year. Again, the administration wants to create the impression that it is for a balanced budget but continues to fail to come forward with a plan that balances the budget in 7 years with CBO numbers.

Now, I am under the impression, or I have been given information which indicates that the minority leader has a proposal now that would, according to their numbers which we have been told are based on CBO assumptions reach a balance in the budget by the year 2002. I think this is a helpful first step.

But again, the President just absolutely refuses to come forward with a plan that balances the budget. Let me give you my perspective as to why he will not do it. He simply does not want to tell the people in the country those things that he supports. He does not want to choose those Federal programs which he thinks are so important that they need to be protected. Oh, clearly he has made his statement with respect to Medicare and Medicaid, but he has not talked about any other programs in the Federal Government that he wants to continue in force. Because in order for the President to keep those programs in force, to keep them growing, to keep them as part of the Federal budget, he has to indicate what other programs he is willing to cut. And he does not want anybody to know what programs he is willing to cut or eliminate.

It is time. The country is waiting. The country is committed to a balanced budget in 7 years. Eventually, the polling data is going to indicate that. Eventually, the President is going to get the message.

There is one other indicator that I think will get the President's attention as well. I do not know whether this is a record, and my colleague, Senator EXON, may be aware of whether it is a record or not. But I understand that yesterday while the President was announcing that there would not be a meeting between himself and the leaders of the House and the Senate, the market fell 50 points in somewhere between 10 and 15 minutes. I have been told that that is a record.

I have a feeling that what is happening in the markets, a decline of 100 points 2 days ago, or 3 days ago and a decline yesterday of an additional 50 points, probably has the President's attention. I say this because the point which we have been making on this side is that one of the benefits derived from a balanced budget is lower interest rates. This means lower mortgage payments. This means more affordable student loans. This means lower taxes for American families. Everybody benefits from a balanced budget. But when the market heard that the President was not going to meet with the leaders of the House and the Senate, the market dropped 50 points in about 15 minutes. I would suggest to the President it is time now to get serious about balancing the budget, doing it with real numbers, using CBO, and getting it done over a 7-year period.

I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, the matter before us is one that I think does not require a great deal of debate and consideration. I think probably it is going to be overwhelmingly approved if we have a voice vote on the matter. I simply say that I am not sure at this particular juncture, when the Government is shut down, when there is great anxiety in America that we get on with this matter of balancing the budget, it is particularly helpful to go on another diatribe and sharp debate in the Senate on scolding the President or scolding other people.

I noticed with interest the manager of this measure on the other side indicated that we never have come forth. We have a program, of which this Senator was a chief author, that does, indeed, balance the budget in 7 years, does, indeed, balance the budget based on CBO numbers, period, without any caveats whatsoever.

So in total keeping with the cooperation that has come forth from the Democratic side, we are in basic agreement with what we are attempting to do here, and therefore it is simply a statement of what once again is the obvious.

What I am attempting to do at this time is to restrain our rhetoric, to restrain our differences of opinion as to how we reach that goal of a balanced budget in 7 years using the conservative scoring techniques of the Congressional Budget Office, which, I might add, has been proven wrong. The figures by CBO have been wrong the last 2 years by a very large proportion and all other scoring outside of CBO has been right with regard to what the economy has been doing. There cannot be any question about that.

Regardless of that, I simply say that I think this is the time of coming together rather than to try to blame everybody else for what has or has not happened up to date. The facts are that it is a national disgrace that here we are in a situation 2 or 3 or 4 days before Christmas Eve, people are being sent home and laid off, the Government is being shut down, while at the same time I see certain leaders rushing to the floor or rushing to the microphones to say, "Well, all you employees that have been sent home because of the impasse that we have created, regardless of whose fault it is, do not worry; you are going to be paid. We are going to have the taxpayers pay you even though you are not at work."

That is one of the reasons, Mr. President, that as far as this Senator was concerned and many others, I kept each and every one of my employees at their post during the last Government shutdown when others were rushing to send them home in the spirit of shutting down Government. I knew that was a ridiculous proposal because I knew that if I had sent my good associates and coworkers, over which I have control, home, they would be sitting at home twiddling their thumbs, doing nothing, wishing that they were at work with the full realization that they were going to be paid even though we sent them home. That is part of the phoniness, I suggest, of this whole process that we are going through. If we cannot come to an understanding of a continuing resolution to keep Government fully operating between now and Friday, which is 2 days from now, then it shows how ridiculous all this impasse has been, meant to create something, I guess, from the standpoint of a revolution, a revolution that is taking place without due consideration for all others.

With regard to the President of the United States, I have not agreed with the original budget presented by the President of the United States as the Democratic leader on the Budget Committee, but I think the President of the United States is not all right or all wrong. I do not know whether I am all right or all wrong in our proposal. I believe the Democratic leader, Senator DASCHLE, does not claim that the plan that we have put together and offered that does, indeed, do exactly what has been demanded by some, balancing the budget in 7 years, with CBO scoring—we have met all those commitments in the plan we offered yesterday—is all right or all wrong.

Our plan has not been universally blessed by the President of the United States, but I believe the President of the United States realizes and recognizes there is going to have to be some give and take, there is going to have to be some compromise, there is going to have to be some understanding, there is going to have to be something more than political rhetoric back and forth on both sides. If we are to come together, as I think we must, as reasoned adult people, to recognize with 535 Members of the Congress of the United States, there is no way we are going to write a budget that each and every one of those 535 Members says, "Boy, that's fine. That's just what I want."

So I would simply say, Mr. President, that we are working very hard in a bipartisan fashion to try and come together, and I am not sure that a great deal of rhetoric on this measure that probably is not going to be seriously contested from either its intent or its language, because we generally agree.

I yield whatever time is necessary to the Democratic leader.

Mr. DASCHLE. I thank the distinguished Senator from Nebraska.

AMENDMENT NO. 3108

Mr. DASCHLE. Mr. President, I have an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 3108 as follows:
>
> On page 2, line 2, strike office"; and insert the following: "Office, and the President and the Congress agree that the balanced budget must protect future generations, ensure Medicare solvency, reform welfare, and provide adequate funding for Medicaid, education, agriculture, national defense, veternas, and the environment. Further, the balanced budget shall adopt tax policies to help working families and to stimulate future economic growth."

Mr. DASCHLE. Mr. President, the purpose of this amendment is simply to restate the principles that we outlined on November 19, when we passed the last complete continuing resolution. In that continuing resolution, we did two things. We asserted again our belief in the need to find a way to balance the budget within 7 years, ultimately scored by CBO, but to also protect the priorities that we as Democrats have been talking about for a long period of time; Medicare, Medicaid, reforming welfare, education, agriculture, defense, veterans, the environment. These are fundamental investments that this country has made in our people, strengthening the nation and enhancing our security.

So as we debate the importance of a balanced budget in 7 years, we also must debate the consequences of that we make toward that end. And so this amendment—in my view, improves upon the resolution that is pending. And I hope that it will enjoy unanimous support given the fact that the continuing resolution received such support on November 19.

The distinguished Senator from Nebraska said a number of things with which I wish to associate myself. Most importantly, while this is a fine resolution in which we again assert our support for a balanced budget, the more pressing resolution ought to be the one that funds the Government. We should take care of the immediate and unnecessary crisis before us, as we proceed with negotiations for a 7-year balanced budget.

The taxpayers are getting cheated, Mr. President, when tens of thousands of Government employees are not at work. They are not getting the services they deserve and expect when people are sent home. And the sad tragedy of it all is that it is not necessary. There is no direct connection between funding the Government through these appropriations bills and passing a budget resolution. It has been the design of some to make that connection, but there is none. And people should not be confused by it.

So I hope that sometime today we could pass a continuing resolution putting people back to work, making sure that the taxpayers get not only what they expect in a 7-year budget resolution, but also the services that they pay for with their tax dollars every day.

I might just say one other thing with regard to this particular resolution. I am sure that many of our colleagues will continue to insist that whatever we agree upon be scored by the Congressional Budget Office. CBO has been a very important institution within the Congress now for over 20 years. We have turned to the CBO time and again for objective analysis in the hope that we could project with as much clarity as possible the economic repercussions that will result from the decisions we make.

In the past, every single CBO director has had strong bipartisan support—bipartisan support—prior to the time he or she has taken office. Unfortunately, that was not the case this year. In the past, on a bipartisan basis, Members have acknowledged the authenticity, the clarity, and the integrity of CBO numbers, even when they worked against us.

I can recall so vividly the health care debate 2 years ago where CBO argued with us vociferously about our projections with regard to the impact of the health care reform bill. We didn't like what they had to say, but we had to deal with that. We had to accept that because the director at the time was the appointed official in charge of making those projections. And while we disagreed, we accepted his authority.

I must say, Mr. President, I am disturbed this year about the credibility of this particular director and CBO's activities in the last 7 months. I hope in the future that they will be especially careful to not in any way reflect a partisan bent in the work that they do. Because I am troubled by the very difficult time we have had in getting responses and getting information. And I am troubled by the manner in which much of the information has been presented to the Congress.

I am also troubled, frankly, by the projections themselves. While I would like to believe that these projections are not driven by a partisan motivation, I am concerned when I see the very esteemed blue-chip forecasters agreeing virtually down the line with the Office of Management and Budget about what happens when we actually achieve what we say we want in this resolution.

We have all made our speeches about the importance of a balanced budget in terms of bringing down the rates of interest, about the effect it will have on unemployment, about the effect it will have on corporate profits, about the effect it will have on the economy itself. And it has been that expectation that has driven my support for a balanced budget.

So it is troubling to see CBO projections predicting just the opposite, predicting a decline in real wages, a decline in corporate profits, a decline in economic growth, a decline in overall economic activity and vitality within the economy. These issues ought to be a very central feature as we debate this overall resolution.

Do we expect to see better economic performance than CBO now projects? I think we will. If we do not, what does it say about the impact of a balanced budget? Democrats all expect good things to develop. I believe that under a balanced budget they will develop. And it is one of the reasons we have fought so hard on this point, because we think that the economy will do a lot better than CBO now projects. So this issue should remain on the table, and the very positive effects of our actions ought to be something that remains a part of these negotiations.

So, today, once again we will express our support for a CBO-scored resolution at the end of all of this, not at the beginning, not during the debate, not during the negotiations, but at the end. We expect that CBO and the blue-chip forecasters and OMB can give us the best information available about what this means in terms of the policy ramifications, and we look forward to receiving that information when we have an agreement.

So it is with a caveat that we say, yes, we will score our numbers with CBO, as we have done for more than 20 years. But let us be realistic about projections and be a little more optimistic about what all this may mean, for I fear that we are going to send exactly the wrong message if we do not.

But perhaps of all of the considerations to be made, as we vote on this resolution later on this morning, is the insistence that these priorities be identified and be assured as we consider how we balance the budget in 7 years.

I yield the floor.

The PRESIDING OFFICER (Mr. SANTORUM). Who yields time?

Mr. MACK. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. There are 21 minutes 55 seconds remaining.

Mr. DASCHLE. Mr. President, because the amendment amends the preamble, I ask unanimous consent that the amendment be in order at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MACK. How much time is remaining on the Democratic side?

The PRESIDING OFFICER. There are 15 minutes 31 seconds remaining.

Mr. MACK. I yield 5 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. NICKLES. Mr. President, I was interested to hear my friend and colleague, Senator DASCHLE, express concern about the integrity and the accuracy of the Congressional Budget Office. I could not help but be amused because earlier this year Senator DASCHLE offered a balanced budget constitutional amendment on behalf of the other side of the aisle that wrote the Congressional Budget Office's authority in these matters into the Constitution. I just find kind of interesting that now he is questioning their methods or partisanship.

I am very supportive of the resolution before the Senate. I am optimistic it will pass. A similar resolution has already passed overwhelmingly in the House, and I hope this one will pass overwhelmingly in the Senate today. Maybe the President will pay attention to it. It has been very, very bothersome to me, after the Government shutdown of a month ago when the President signed on to a resolution that agreed to a balanced budget in 7 years using CBO numbers, that he still has not done so. One would think if he signed that law, he would comply with it. He has yet to do so.

President Clinton has now submitted four budgets, none of which are in balance as scored by CBO, none of which are even close to being in balance.

His first budget had deficits increasing from $200 billion up toward $300 billion. His second budget, which came out in June, had deficits of $200 billion forever, as scored by CBO. His third budget, which came within the last month, had a deficit of $115 billion in the seventh year. It may be better than $200 billion, but it is still $115 billion. That is not even close to being balanced.

His fourth budget submitted last week still has deficits very close to $100 billion. It also has a back-door tax increase. The President says, "Well, if we don't meet our deficit targets, we'll have automatic tax increases." What Congress has done in the past if we did not meet our deficit targets is have automatic spending reductions. But no, the President does not want to reduce the amount of money Washington spends; he wants to take more money from individuals. That was his approach under his fourth budget.

Even given the President's automatic tax increases in the last couple years, he still does not come up with a balanced budget. So now Congress feels it is necessary to remind the President, "The current negotiations between Congress and the President shall be based on the most recent technical and economic assumptions of CBO and that we are going to reach agreement this year."

You would think the President's common sense would say, "Let's submit a balanced budget using CBO numbers." He still refuses to do that.

A lot of people are asking, "Why did we have the breakdown in talks yesterday?" Speaker GINGRICH and Leader DOLE come out of a meeting with the President the day before and they said, "Everyone agrees to use CBO numbers. We're going to work hard. We're going to be the principals, with the President of the United States, and we're going to negotiate the agreement. We're going to try to get it done this year." That was the statement made by the leaders.

Shortly after that, the Vice President came out and said the President did not agree to that. They said the final agreement may be scored by CBO, but they never said the President would be willing to submit a balanced budget. The House of Representatives, understandably, became quite upset. Many House Members said, "Wait a minute, this sounds like the same reaction we got when we thought we had an agreement with the administration a month ago," and they have yet to comply.

Then last night, the President went on TV and said, "I thought the Speaker and the Republican leader gave their word that we would continue funding Government. And who can I deal with if they can't keep their word?"

That bothered me, because I remember the President of the United States standing in the well of the House before a joint session of Congress and the entire American public and saying, "We're not going to hassle over which numbers and which economic assumptions to use, we're not going to use smoke and mirrors, we're going to use Congressional Budget Office numbers and we're going to work together to get the deficit down."

He has not done that. He has not kept his word, and that bothers me. For the last month, he has yet to submit a balanced budget. We are trying to negotiate, we are trying to enact a balanced budget, and yet the President is on a different playing field. We are trying to work out our differences. We want to compare apples to apples, and yet he will not agree to the same assumptions, and it is impossible to do.

I compliment my colleagues on the other side of the aisle who evidently today are going to submit a balanced budget using CBO numbers. I compliment them for that. They are on the same playing field. We can work out the differences, even though that is not easily done. I know it is not easily done. So, again, I compliment my colleagues who are willing to do that. Let us work together. There are a lot of us who want to make this happen. We are not just interested in Republicans scoring points or the Democrats scoring points or who is going to win.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NICKLES. Mr. President, I ask unanimous consent for an additional 1 minute.

Mr. MACK. I yield the Senator 1 additional minute.

Mr. NICKLES. Mr. President, for us to have success, it cannot be a Republican victory or a Democratic victory or a Presidential victory, it is going to have to be an American victory. It is going to have to be a victory where we unite, where we curtail the growth of entitlement programs, where we make responsible decisions and both sides can declare victory. A victory on behalf of Congress, a victory on behalf of the administration and, most importantly, a victory on behalf of the American people. It needs to happen, and it needs to happen this year.

Mr. President, I yield the floor and thank my colleague from Florida.

The PRESIDING OFFICER. Who yields time?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, once again, I say that I am tempted to answer word for word, charge for charge what is being made on the other side. I will be restrained. When I get up in the morning, I go through a few exercises, maybe take a little walk and then have breakfast. My main desire when I get out of bed in the morning is not to come to the floor of the U.S. Senate to bash the President of the United States.

I will simply say, while the President of the United States has not always come up with the numbers with regard to a balanced budget that this Senator would like to see, as I said a few moments ago, I simply say that the record is pretty clear that this President has done a better job than most Presidents of the United States in modern times with regard to trying to restrain the deficit.

The fact of the matter is that in 3 straight years under President Clinton, we have had a significant reduction of nearly 50 percent in the annual deficits. That is the first time that has happened since the administration of another Democratic President by the name of Harry S. Truman.

So I do not know that Clinton bashing—although it is vogue in some quarters today—is particularly helpful at this juncture when we are trying to come together rather than split ourselves further apart. I yield 7 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 7 minutes.

Mr. WELLSTONE. Thank you, Mr. President. Mr. President, let me, first of all, thank the Senator from Nebraska. I do not think there is probably one Senator here, Democrat or Republican alike, who does not have tremendous respect for the work that he has done. I am really sorry to see him leave the Senate. I think it is a great loss for the country.

When I came here, I only knew about the Senator from Nebraska. Boy, as I had a chance to watch him, if you want to talk about a marriage of personal integrity with commitment to people and commitment to country, there is not anybody who does any better than the Senator from Nebraska.

Mr. EXON. May I interrupt for just a moment and thank my friend from Minnesota. I only yielded him 7 minutes, but with the tone he is following, he can have about 5 hours. [Laughter.]

Mr. WELLSTONE. Mr. President, first of all, just to try to cut through all the rhetoric—and we are trying to get past all of that—the fact of the matter is, and we all know it, this is not just a debate about numbers. We are talking about policies that will dramatically affect people's lives, the quality or lack of quality of people's lives, depending on what we do. We do not just disagree about numbers. There are major policy differences in the health care area, in children's issues, environment issues, in terms of what constitutes fair taxes—you name it.

The fact of the matter is—and people in the country know it—there should not be some rush to recklessness. These differences are not going to be worked out in 4 days. Nobody can force that or make a threat to make that happen. We all ought to be serious about the negotiations, and I think we all are. We should have difficult and substantive negotiations and debate, not hate. But you cannot shut the Government down and say, "If we do not get exactly what we want when we want it, the Government will stay shut down." This does not serve the country well or serve any of us well. That is my first point.

My second point is that I would like to thank the Senator from Nebraska, and others. I have been involved in many of these meetings, and many of us have worked very hard. I think there is much in the Democratic alternative that makes sense. That is to say, it is clear to me that there is no question when laid alongside what the Republicans have proposed, what the Democrats have proposed, I think, at least comes much closer to meeting the Minnesota standard of fairness. It does not make any sense when my colleague from Oklahoma says, "We want to do something that benefits the American people." The question becomes: Which people?

If you are going to have huge numbers of tax cuts, several hundred billion dollars of tax cuts, which, in the main, flow to the people who are most affluent, to the largest corporations, multinational corporations, and at the same time you have reductions in health care programs that are so important to seniors or children or working families, I am not sure that it does benefit most of the American people. To have zero in tax giveaways makes a great deal of sense. To make a strong commitment to medical assistance and children—everybody has heard our priorities—I think makes a great deal of sense. To do a little bit better in terms of asking some of the larger corporations to pay their fair share to eliminate some of the tax loopholes and outright tax giveaways, I think, meets a standard of fairness in this country.

So, Mr. President, I think that this budget, compared to the Republican budget, comes much closer to meeting a basic standard of fairness. I congratulate colleagues for their work on this.

Mr. President, there is, however, one question that I still have about all of this. That has to do with why it is that there is not more on the table in terms of where we can make cuts. There was a book written by Donald Barlett and James Steele, called "America: What Went Wrong." It won a Pulitzer Prize. Then this book came out, which is called "America: Who Really Pays the Taxes."

On the first page, the sentence that caught my attention says: "That when members of Congress talk about cutting entitlements, they mean yours—not theirs."

Then they go on and they talk about tax law and they say there is "one for the rich and powerful—call the Privileged Person's Tax Law; another for you and everyone else—call it the Common Person's Tax Law."

Now I jump to a letter that the Senator from Massachusetts sent in response to some ads that have come out by some of the leading corporate executives calling for resolution of this budget crisis where the Senator from Massachusetts calls on them to agree that tax subsidies for wealthy individuals and corporations should bear their fair share of the reductions needed to reach a balanced budget.

I now read from one paragraph I think is extremely interesting:

> I make the following proposal, the Republican plan would provide a reduction of 17 percent in the Federal budget in the next 7 years, exclusive of defense spending and Social Security. Reducing the $4 trillion in tax subsidies by 17 percent would achieve savings of $680 billion. If we applied the 17 percent reduction to only one-quarter of the tax expenditures, we would save $170 billion, a huge step toward providing the additional savings needed in the current impasse to balance the budget fairly in 7 years.

This is the disconnect between Washington and the rest of the country that I do not understand, because 70 to 80 percent of the country will say, "Look, if you are going to ask everybody to tighten their belts, look at some of these tax giveaways to some of these huge multinational corporations and ask them to be a part of the sacrifice. Why focus on nutrition for children, or Medicare for seniors, but not these subsidies for oil companies, or tobacco companies, or pharmaceutical companies, you name it?"

Mr. President, I do not understand why it is we cannot do more. As Senator KENNEDY said in this letter, we are talking about a tiny percentage, which can net $170 billion. It seems to me that what explains the difference is sort of power in America. I really think if this deficit reduction is going to be based upon a standard of fairness, this corporate welfare has to be on the table, and we have to do a better job in terms of plugging some of these loopholes and doing away with some of these tax giveaways.

The second point is the Pentagon budget. Mr. President, let me simply say that by a conservative estimate, over 10 years, you could have $114 billion of reduction in Pentagon expenditures. I have a chart of a variety of different ways. Many people have said, my God, can we not also look at the military contractors and have some reductions here? Mr. President, I remind my colleagues that the real national security is not more B–2 bombers that the Pentagon says it does not need, to the tune of $1.5 billion each. The real national security is when we invest in people in our own communities. I would argue that the corporate welfare and some of the military contracts ought to be on the table and that we can do better in terms of meeting the standard of fairness, since we all agree that we have to balance the budget.

I yield the floor.

Mr. MACK. Mr. President, I yield 4 minutes to the distinguished Senator from Michigan.

Mr. ABRAHAM. Mr. President, I want to make a couple of comments today in response to some issues that have been raised and then focus on what I think we are about here.

Earlier, concerns were raised with respect to the manner in which the nonpartisan Congressional Budget Office scores the various polices and economic projections that make up the budget. In response to these remarks, I would like to say this: In my State of Michigan, people are concerned with the way Washington does its bookkeeping. For them, the principal criticism of the Congressional Budget Office, leaving aside the issue of whether it is partisan or not, is that it is too optimistic.

In Michigan, and other States as well, average working men and women think Washington has been way too liberal in our bookkeeping for way too long. Too often in the past, we relied on rosy economic projections to make it appear as if we were taking action, whether it was in deficit reduction or in any other area of Federal Government activity, only to see those rosy scenarios unrealized.

For that reason, it is in our interest to have a budget office that scores our legislation on a conservative basis. Mr. President, I have very little fear that Congress will have difficulty figuring how to spend the surplus, should the Congressional Budget Office's numbers prove to be too conservative. On the other hand, I am confident, based upon the last 25 years of behavior, that Congress will have a very difficult time making additional spending cuts, if we use too optimistic projections that result in future deficits.

I should point out that the Congressional Budget Office is taking the same kind of conservative approach that the average American family takes when it projects how it is going to handle its finances. I know in my family, and in families across the country, nobody sits down and says, "I think there is a good chance I am going to get a big raise in 2 years or 4 years," and base all of their spending decisions on that assumption. Instead, they try to be, if anything, conservative in their expectations so that they do not end up in debt. So I applaud the Congressional Budget Office for its efforts to finally bring a conservative, practical approach to the way it does its business.

Second, Mr. President, I think it is important that this resolution brings us back to what we are about. What we are about is balancing the budget and reducing the growth of Government. We are about trying to make sure that Government does not consume so much of our wealth so that the people in America, the families in this country, find themselves spending too much of their time working for us in Washington instead of the other way around.

In addition, Mr. President, what we are about is allowing those families to keep more of what they earn. This resolution—and I think we should not lose sight of it—includes provisions for reducing the tax burden on families and stimulating economic growth. That is important.

We learned in previous budget deals that increasing taxes on this country's job creators hurts families. I believe there was a significant luxury tax on boats that was imposed 5 years ago. What happened? To no one's surprise, at least to people who look at these things in the economic sense, the number of boats being produced in this country quickly and dramatically dropped. Numerous boat builders went out of business, and thousands of jobs were destroyed. So that luxury tax was repealed. A whole industry of working people with families found themselves suffering because we thought you can tax and tax and not have repercussions that affect average people. Instead, as this resolution makes clear, we should reduce the tax burden on families and businesses alike.

In conclusion, Mr. President, what we are about is balancing the budget, letting people keep more of what they earn, and putting our priorities in the right order. That is why this resolution should pass. I urge its adoption.

Mr. MACK. I yield 4 minutes to the distinguished Senator from Georgia.

Mr. COVERDELL. Mr. President, I rise in support of the resolution as well. I want to reinforce the remarks that have just been made by the distinguished Senator from Michigan.

I point out that since the Congressional Budget Office began forecasting in 1976, it has been more accurate than OMB private forecasters on the four economic indicators most important to the budget: inflation, economic growth, 3-month Treasury bills, and 10-year interest rates. In long-run forecasts, CBO has outpurchased OMB for 12 of the last 15 years. In fact, both CBO and the past five administrations have been more likely to be too optimistic instead of too pessimistic. As June O'Neill says, it is CBO's view that erring on the side of caution increases—increases—the likelihood that a balanced budget will actually be achieved in the time desired.

Mr. President, I want to respond to my colleague from Nebraska, Senator EXON's remarks, about acrimony. Certainly we have seen that, but the President does not escape the admonition of the Senator from Nebraska. If you watch any of the newscasts or any of pronouncements that have been made by the President with regard to the balanced budget, you would see immediately that he is engaged in the very practice that you suggested that we should not.

Today, because of paid advertising and the President's remarks about our proposals for Medicare, a majority of Americans believe that our budget either freezes the investment per beneficiary, or a third of the Americans believe that our budget cuts the payments—cuts them. That is not true. But the President continues to say that over and over and over. Now, in time, I am not concerned about it because the truth will come out. The fact that we are increasing our spending on Medicare by 71 percent—actually a bit more than suggested by the First Lady in the health care debate last year—that is not true, but it is repeated despite the fact that even Washington Post editorials have called his comments shameless. If you talk about the demeanor of the Senate, I hope that you would address some of those remarks to the White House itself.

With regard to the balanced budget, I think it useful from time to time to review the lineage of the debate, Mr. President. It began with the effort to pass a balanced budget amendment which failed in this Senate by one vote. Had the President supported the balanced budget amendment, I believe it would have passed with 75 votes in the Senate, because clearly a number of Members on the other side of the aisle changed their vote over the President's admonition or suggestion that we not have a balanced budget amendment.

At the time, the argument made was that the Congress simply had to have the will. We did not need an amendment to the Constitution, we needed the will. For the first time, this Congress in almost three decades has developed a will and passed a balanced budget.

I rise in support of this. I hope all my colleagues will come to the table for a Balanced Budget Act this session.

Mr. EXON. I yield 2 minutes to the Senator from Kentucky.

Mr. FORD. I thank my friend.

Mr. President, I am a little bit older than some in this Chamber and going back to the years when I was growing up, my grandfather would not make any kind of a contract on Sunday. He never had to worry about signing a paper during the week; we always shook hands. A handshake was our bond, and our word was our bond.

I hear a lot about all the blame on the President. I listened to the majority leader say now we are finally going to get some adults to negotiate the balanced budget—some adults. Well, the President calls to get the adults together, I guess. That was the majority leader, the Speaker of the House of Representatives, and the President of the United States. They shook hands after 2½ hours, or better than 2 hours, I understand, on what they would do.

The Democratic Caucus in the Senate voted unanimously under those circumstances to give to our minority leader, our Democratic leader, the ability to go and represent us. I assumed from the remarks of the majority leader that he had the same respect and admonition from those on his side. But, lo and behold, the Speaker of the House could not get his caucus to agree to sit down and work out a CR, to develop the framework, to arrive at a balanced budget in 7 years.

We hear the CBO is conservative and OMB is optimistic. Let me just say, something happened to CBO. They got optimistic and increased their projection by $135 billion and got them closer to OMB. I yield the floor.

The PRESIDING OFFICER. The Senator from Florida has 7 minutes and 25 seconds, and the Senator from Nebraska has 1 minute.

Mr. MACK. I yield 4 minutes to the Senator from Wyoming.

Mr. THOMAS. Mr. President, I rise in support of the resolution. It seems to me it is a very important restatement of where we have been.

I appreciated the enumeration of the Senator from Kentucky of what has happened here. One of the difficulties is that the Vice President came on TV and said there is no agreement, and that caused people to have some concern.

I take my 3 minutes to get away a little bit from the numbers and put myself back in Cody, WY, where I grew up, and say, what is the responsibility here to do something about balancing the budget as a citizen? It seems to me there are several that are very meaningful.

No. 1, it is personal, it is parochial, it is selfish, I suppose.

I think if we can balance the budget, it means that every family that has loans on their home, every family that has loans on their car, every family that has educational loans will find, because of lower interest, there is a benefit of $2,500 or $3,000 to many families.

I think, second, it has something to do with responsibility. If we are going to enjoy some benefits, those of us who are enjoying them, we should pay for them. This idea of enjoying the benefits and putting it on the credit card for someone else does not fly. This is a democracy. This is freedom that we protect. With that goes some responsibility to do some things.

Concern about our kids—we have to be concerned about the future, when interest becomes the largest single line item in the budget, interest on the debt, and we simply pass that along, along with $5 trillion in debt.

I think we have to have some consideration for change in the direction of Government. I really believe most people say the Federal Government is too big and it costs too much and we need to change that. That is a fundamental change we are seeking to do here. Balancing the budget and doing something about containing the growth of entitlements is a fundamental issue. It is not arithmetic. That is what is going on here. I think it is terribly important.

Credibility—I think there is a certain function of credibility in this body. We have said we are going to balance the budget. We have said, in a resolution some 30 days ago, we are going to balance the budget in 7 years, using CBO numbers. We ought to do that. Many of us came here—we have not been here as long as some others—and we said one of the things we want to do is we want to be responsible in spending and balancing the budget. There is a credibility question here for all of us.

So, Mr. President, I certainly think we have a great opportunity to move forward, not only this morning but in this total matter of balancing the budget. We can do it. We have an opportunity, the first opportunity in nearly 30 years. It would be a shame not to take advantage of it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MACK. I inquire how much time remains.

The PRESIDING OFFICER. There remains 4 minutes and 30 seconds.

Mr. MACK. I yield 1 minute to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 1 minute.

Mr. CRAIG. Mr. President, let me reminisce, if I could, with the Senator from Wyoming. When we talk numbers, we talk people. If we do not believe our actions here and if the President does not believe his actions have consequences on people, then we are not thinking very straight.

We watched the stock market bounce around this week as the Congress and the President tried to come to a budget agreement. While the stock market is a reaction of people, it is also a barometer of the economy and how people think the economy will work. The economy in our country clearly translates to jobs and incomes, spendable incomes, and the security of a home and a family and food on the table—and it always has.

What we are talking about in a balanced budget and a tax cut is 32 billion dollars' worth of real, disposable income. That is family income. That is food on the table. That is a college education. Mr. President, $66.2 billion of consumer expenditure, that is what the stock market was reacting to yesterday.

My time is up. Let me close.

Mr. President, our actions have consequences and a balanced budget and a tax cut going with it create the kind of economic vitality in this country that is good for people, working people, families, income, security.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

The Senator from Nebraska.

Mr. EXON. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 1 minute and 12 seconds.

Mr. EXON. I understand there is some talk about a unanimous consent agreement to extend the time. Does the manager on the other side know about this?

Mr. MACK. I was under the impression what we were going to do was to have the vote at 11 o'clock; we were not extending the time on the debate.

Mr. EXON. I think that would be the best of all worlds. Let me conclude, then, on the remainder of the time that I have.

Despite the temptation that has been offered me by those on the other side, trying to bait this Senator into rancorous political discussions, I said at the outset that was not my goal. I just received a call from Leon Panetta, the Chief of Staff. Some progress has been made. We are going to have a meeting at 1 o'clock today and another meeting at 5 o'clock. Then the chief negotiators on the Senate side, Democrat and Republican, will make presentations of how well we are going forward to the White House in the morning, as I understand it, in front of the big five.

We are trying to move things along. So, despite the baiting, I am not going to become involved in a partisan debate at this time to pick each other apart. This is a time to come together, and I hope, if we extend the time for the vote, we do not extend the debate.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Florida.

Mr. MACK. Mr. President, again I state it is my intention to conclude the debate. I believe we are extending the time for the vote to accommodate Members of the Senate, but I do not see any need to continue the debate.

Mr. President, let me close then with my remarks in asking the Senate to support the resolution that is before us. As I said a moment ago, it is unfortunate the Senate would have to spend this time to remind the President of a commitment that he made over 30 days ago.

I can remember the excitement that occurred when there was an agreement on the part of the President to a 7-year balanced budget scored by the Congressional Budget Office, thinking that that really set us on the road toward an agreement. We have now seen, again, over 30 days go by and the administration has failed to put forward a budget that balances in 7 years.

Several speakers on the other side spoke about the failure to have a continuing resolution. Frankly, I believe the House has failed to provide a continuing resolution because they have looked at the actions on the part of the administration and, based on what they perceived their promises to be over 30 days ago, they in fact feel that they were fooled. One of the things that people have learned over the years is, if you get fooled one time, you do not fall for the same trick a second time. So the House has said they want to see a balanced budget before they extend Government activities.

There is, in fact, a fundamental difference between our approach and that of our colleagues on the other side of the aisle. Our first objective is getting a balanced budget. Then Government will proceed. Their first concern is getting Government to move forward and then we will discuss a balanced budget. To us, the No. 1 concern is balancing the budget.

The reason we are concerned is because we think that as a result of that balanced budget, everyone in America will have greater opportunities—greater opportunities for jobs, there will be more businesses created, we will see interest rates come down, we will see lower payments on mortgages, on automobile loans, on student loans and so forth. America's opportunity will be tremendous if we can just get to the point where we agree that we should not spend more than we are taking in, that we ought to let hard working men and women keep more of their earned income.

There were some remarks made with respect to corporate welfare. It is interesting, my colleagues on the other side of the aisle talk about the moneys earned by individuals and corporations as if it were the Government's and we were going to decide how much they get to keep of their money, as opposed to the other way around.

I yield whatever time I have.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Idaho.

Mr. CRAIG. May I inquire where the Senate is at this moment, with the time having expired?

The PRESIDING OFFICER. Under the previous order, the Senate is supposed to adopt the amendment of the Senator from South Dakota and then proceed to an immediate vote on the resolution.

The Senator from Florida.

Mr. MACK. Mr. President, I ask unanimous consent the vote occur on adoption of House Joint Resolution 132 at 11 a.m.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Mr. President, reserving the right to object, I would like to agree with my colleague on this. I would like to offer a substitute by asking unanimous consent that the vote occur on the adoption of House Joint Resolution 132 at 11 a.m., with the time between now and 11 a.m. equally divided as in morning business, with the time remaining on this side under the control of the Senator from North Dakota.

The PRESIDING OFFICER. Is there objection?

Mr. MACK. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. I suggest to my colleague that we just, since there seems to be some interest in this issue, since we are going to have the vote at 11, that we now just continue the debate with time equally divided.

Mr. EXON. No objection. Whatever you want.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time? The Senator from Nebraska.

Mr. EXON. Mr. President, how much time do I have remaining under my control, under the new arrangement?

The PRESIDING OFFICER. The Senator from Nebraska has 9 minutes and 40 seconds.

Mr. EXON. How much?

The PRESIDING OFFICER. Nine minutes and 40 seconds.

Mr. EXON. I yield 9 minutes and forty seconds to the Senator from North Dakota, with his allotment to any other Senators on our side wishing to speak out of that time.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 9 minutes and 33 seconds.

Mr. DORGAN. Mr. President, I appreciate the Senator from Nebraska providing me the time. If it is the intent of some on the other side who want to speak in the middle of this, I would be happy to accommodate that as well. I know the Senator from Idaho is waiting to speak. I will speak for a couple of minutes, and then I would be happy to let the Senator from Idaho speak, after which I would like to reclaim the balance of the time.

Mr. President, as I was listening to the debate this morning, it occurred to me that it is time, on December 21, to turn down the volume just a bit on the discussion that has been held on these budget issues, especially on the floor of the Senate and here in Washington. It is appropriate for us to be struggling to find a way to put this puzzle together. The pieces do not always seem to fit just right. It has been difficult to find a way to put it together to make it work.

On the other side, we hear that they say the top priority is a balanced budget. It is a priority. I have said two or three times—let me say again this morning—that I give the majority party credit for pushing for the balanced budget. They deserve credit for that. But it is only one of the goals. Let us balance the budget and at the same time protect other important priorities. In other words, let us balance the budget and do it the right way. If one says the only goal we have is to balance the budget, you fall short, it seems to me. Balance the budget, and do it the right way.

As we struggle to do this the right way by cutting spending, protecting Medicare and Medicaid, and trying to make sure those who are vulnerable in this country are not going to be hurt, I ask that as we sort through the menu of how we get to a balanced budget that we do it thoughtfully. And at the end of the day when people turn the page on the plan, if there is a plan that is agreed to—and I hope there is—that you do not come to a page that says, "Wait a second. What is this? What is this deal? Who put this in? Why on Earth would this be part of the plan?"

The plan was passed here that balanced the budget. It includes a little thing called repeal of 956(A). I will bet there are not four people here in Congress who know what this meant or what it did or why it was done. I do not know whether the other Members on the Senate floor know about the repeal of section 956(A). It is only $244 million.

So when I say only in the scheme of the billions of dollars that are put into these agreements, $244 million probably does not seem like much to somebody who wrote this. What is repeal of Section 956(A)? It says to U.S. companies which have moved their jobs overseas—manufacturing plants that might have been closed in America and moved the jobs overseas—that we will give you a tax break to do that and we will make the tax break even a little more generous by about $244 million by repealing section 956(A). If anybody thinks there is a reason to make it more attractive to move American jobs overseas at taxpayer expense, about $244 million, I would like to hear the reason for that.

I only use this as an example of the things that are in a plan that, in my judgment, does not make sense. Let us decide that we will put a plan together that balances the budget, score it with the Congressional Budget Office and do it in 7 years, but do it in a way that all of us can go home and talk to people and say, "We protected Medicare. We protected Medicaid. We are not going to hurt the vulnerable people in this program. We will protect programs that make this a better place."

If we can do all of that, then we will have succeeded in doing something important for the future of this country. The difference, it seems to me, is that for the moment someone on the other side says we have only one goal and that is balance the budget. You need to expand that to a goal of balancing the budget while protecting the things that are important and are priorities to our country.

I understand the Senator from Idaho has a time constraint. If you do not mind, I will relinquish the floor with the intention of reclaiming the floor when the Senator from Idaho is completed.

Mr. President, I yield the floor.

Mr. MACK. Mr. President, I yield 3 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank my colleague for yielding.

Let me respond in part to the Senator that has just spoken because so many have been arguing for so long. Balancing the budget is fine. I happen to be one of those who for well over a decade has argued that this country must come to grips with its spending habits, that we are indebting a future generation in such a dramatic way that the consequences will be incalculable.

Now, there is an interesting drumbeat down at the White House amongst some who, while they will argue they support a balanced budget by concept, say let us do so without any consideration of tax cuts. The Senator happened to suggest one that is offered. I think he is right. Few would know all the details of that particular tax cut, but there is one thing that becomes very clear in the whole of what we try to do with a balanced budget.

To reduce Federal spending alone—because Federal spending has become such a very large part of the U.S. economy—does, in fact, have economic consequences that in part can become negative unless there is an appropriate stimulus on the other side that balances it out so that you get accelerated growth in the private sector, the job-creating kind of stimulus that offsets some of that expenditure. And I happen to think that it is a more positive kind of expenditure if it is going on out in the private sector and not necessarily money being taken from the private sector funneled through the public sector and allowing us to decide how it gets spent.

There is no doubt that a pure pattern of spending reductions by Government with no consideration for economic stimulus on the outside—by recognizing some capital gains, by assuredly recognizing the ability of the individual wealth-creating, job-holding family to properly invest and to have more money to spend—might not have the right kind of economic consequences in the macro sense of the economy.

That is why we have tried to couple some tax cuts along with it to middle and lower income Americans and to some of the economic job-generating sectors of our country to create positive stimulus all the way around. There are few economists that will disagree with what I have just said; that as you offset one side of the overall large economy of Government, you have to stimulate the other. That is exactly what we are trying to do at this moment.

I have spoken enough on this. I think it is important that we talk about linking the two together. Balancing the budget is something I have strongly supported, and will, but let us also talk about the value of leaving money in the private sector and stimulating it for economic growth purposes and job creation.

Mr. DORGAN. Mr. President, I want to continue this discussion because I think it is a good discussion. I have enormous respect for the Senator from Idaho. He has been faithful to the issue of wanting to balance the budget. He and I would disagree as to whether it makes sense to propose a very significant tax cut at the same time you are trying to balance the budget. I happen to think first things first: cut spending and balance the budget. When you are done with that job, then turn to the Tax Code and talk about cuts for those who need it.

Every time I hear someone, especially on the other side, talk about a stimulating tax cut, I always look at who they are stimulating. The wrong people get stimulated. It is interesting to me that the changes that the majority party would propose in their plan on the earned income tax credit—I do not think there is any great dispute about this—would result in a higher tax burden than is now experienced by many Americans, millions of Americans who earn less than $30,000 a year.

So if one is stimulating some of the folks in this country who have the largest incomes but saying to those who have $20,000 or $15,000 in income, "By the way, the stimulus does not work for you, you are going to have to pay a little more in taxes," I say, "Gee, I think those folks might want to be stimulated a while by the majority party as well."

I would like to yield for just a moment for a point that the Senator from New Mexico wants to make, Senator BINGAMAN.

Mr. BINGAMAN. Mr. President, I did want to ask the Senator from North Dakota a question. He referred to the old phrase "first things first," and I have tried to read Peter Drucker and Steven Coffey and some of these people who advise us on proper management procedures, and they all make that same point—first things first. It seems to me the first thing we ought to be doing in this Congress is to be passing a continuing resolution to fund the Government.

My question relates to an article that is in the morning paper where it says, "GOP Pledges to Pay Furloughed Workers." It says, "Congressional Republican leaders promised yesterday that the 260,000 Federal workers idled by the budget battle would eventually actually be paid for their days they are furloughed."

Then it goes on to say, "At a GOP meeting yesterday, House Speaker NEWT GINGRICH persuaded party members to agree to pay employees for days missed. The employees are losing about $40 million a day in wages, according to the administration."

The question I get most from people in my State is, if you promise to pay these people, why not send them to work? It is one thing to charge the taxpayers $40 million a day for their services—and you can argue whether that ought to be done or not if you do not like the Government—but why are we paying people and not letting them work? It just does not make any sense to the people I represent.

It seems to me that this place is becoming more Alice in Wonderland every day, and that is a classic example. If the Senator has a comment on that, I would be interested in hearing it.

Mr. DORGAN. Mr. President, I heard Ted Koppel ask one of the Members of the House last evening twice the same question: What kind of leverage are you getting if you say to Federal workers you cannot come to work but we will pay you anyway? Are you not just penalizing taxpayers? What kind of leverage do you think you are getting with that?

He asked the question twice, and, of course, there is not an answer for it. It is a case of someone having an argument with their relative and deciding, well, I am angry at my uncle here who I just had an argument with. I think I will walk across the street and punch my neighbor.

What sense does it make to suggest the Government ought to be shut down so the American taxpayer can pay Federal workers who are not allowed to come to work? That just makes no sense to me at all. And that is first things first. The Senator from New Mexico is correct. We ought to pass a clean funding resolution, a funding bill right now, within 20 minutes have those people come back to work, and at least solve that issue first.

But, second, then we ought to go to the balanced budget amendment. I am hopeful that these talks at the White House will bear some fruit. I do not believe I have the time to continue to talk about how you get to a balanced budget.

How much time is remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 29 seconds.

Mr. DORGAN. But I was going to make the point about those who say, here is the menu, including all kinds of special little deals. Let us give a $7 million tax cut each to 2,000 corporations by changing the alternative minimum tax—a $7 million check to 2,000 corporations. And I am asking myself—I happen to think we ought to balance the budget—is this the way we ought to balance it?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. The time remaining, please.

The PRESIDING OFFICER. The Senator has 6 minutes 30 seconds.

Mr. MACK. I yield 6 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 6 minutes.

Mr. GREGG. I thank the Senator from Florida.

I rise in support of the resolution. I guess the real question here is why we have reached the point where we need this resolution, which once again states that we want to have a balanced budget in 7 years and that we want to use CBO figures.

The reason we have arrived at this point is because there has been an inconsistency from the administration, specifically from the President, as to what his position is on a balanced budget, as to what his position is on a timeframe for a balanced budget, as to what his position is on how we will account for getting to a balanced budget.

We have had four different budgets sent up here by this administration. Not one of them has been in balance. Every one of them has been rejected by their own party within this Senate, if not on a formal vote, at least informally, a couple at least with formal votes, and we have an administration which has one day been in favor of a welfare reform bill which was passed by this Senate and then a few days later been opposed to the welfare reform bill passed by the Senate. We have an administration, the chief spokesman of which on health care, the wife of the President, has said that she wants to see a rate of growth in Medicare at 6 to 7 percent and the President in the same basic timeframe excoriating Republicans because we have proposed a rate of growth in health care, in Medicare, which is 6 or 7 percent.

The inconsistency that comes forth from this administration is consistent. That is about the only consistent thing about this administration—its inconsistency.

So we are once again calling on the administration to commit to what we thought they committed to 3 or 4 weeks ago but which they have backed off of, which is to balance the budget in 7 years and use CBO figures.

We have heard a lot of discussion about why this is important, but I just want to reiterate that unless you look at the issue of how you are balancing the budget off the same baseline, unless everybody is looking at the same numbers, you can never get to any agreement assuming an agreement is possible. But there is a big issue here also, and that is that the few times we have been able to get any definitive direction out of the White House, it has become very clear that there are some deep philosophical differences between the two parties.

We believe that borrowing from our children to pay for the costs of operating the Government today is wrong, that it is fundamentally wrong. I heard the Senator from North Dakota talk about the vulnerable people in our society. Who is more vulnerable than our children, people who are being asked, even though they do not have any ability to confirm this decision, to take on the debt which our generation is running up? We have, as Republicans, said this is not right, and therefore we put together a real budget that reaches balance in 7 years.

Second, we have said you cannot run a system to assist our senior citizens if we know the system is going to go bankrupt in 7 years. We have been told by the trustees of the Medicare trust fund that it goes bankrupt in 7 years unless something is done, and so we have stood up and made a proposal which puts that system into solvency.

We have done it in a way which gives seniors more choices than they have today, which gives seniors the same options essentially as Members of Congress in choosing their health care. We have done it by using the marketplace.

We have further said that if you have a welfare system which says to people, you can stay on welfare all your life and then you can have your children on welfare, whether they are legitimate or illegitimate, and they can have their children on welfare, that is wrong; that people should not be on welfare for the remainder of their existence in this country but they should be asked to participate in the system of productivity which creates the ability to benefit those who are in need, and it is called work.

So we have proposed under our welfare proposal that people be required to go to work after a reasonable amount of time, 2 years, and after 5 years of being on welfare they not be any longer a charge to the State but be required to be out in society being a productive citizen.

These goals which we have—balancing the budget so that our children do not get the bills for this time but have an opportunity in their time to be successful; creating a Medicare system which is, first of all, solvent and, second of all, gives our seniors the same choices in the marketplace as citizens who are in the private sector; which allows a welfare system which is really directed at caring for the people who need support, not for the people who are abusing and using the system—these basic goals which we have put forward have been essentially rejected by this administration. They have either been rejected out of hand or they have been rejected in indirect ways through the manipulation of the numbers or the proposals that they have brought forward.

Underlying this administration's basic philosophy there appears to be a goal, or maybe it is their philosophy that is the goal, and it is called reelection. That is what is driving the basic decisions which we hear from the White House. There is no desire for substantive change for the purposes of improving the Medicare system or improving the Medicare system and getting our Government into balance. There does appear, however, to be a substantive drive for reelection. And that drive for reelection has caused this administration to time and again put forward proposals which are superficial, inconsistent.

The PRESIDING OFFICER. Time has expired.

Mr. GREGG. I thank the Chair for noting that. I will just simply wrap up by saying if we are going to accomplish a balanced budget, we have to get this administration to agree to a balanced budget, to do it in 7 years, to do it with CBO figures, and to do it by addressing the spending that the Government is presently involved in.

The PRESIDING OFFICER. All time has expired.

Mr. MACK. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been.

Mr. MACK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the Senate adopts the amendment of the Senator from South Dakota, Senator DASCHLE.

So the amendment (No. 3108) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the joint resolution.

The amendment was ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass?

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM], the Senator from Indiana [Mr. COATS], and the Senator from Delaware [Mr. ROTH] are necessarily absent.

I also announce that the Senator from Missouri [Mr. ASHCROFT] is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Missouri [Mr. ASHCROFT] would vote "yea."

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is necessarily absent.

The PRESIDING OFFICER (Mr. GREGG). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 611 Leg.]

YEAS—94

Abraham
Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Santorum

Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NOT VOTING—5

Ashcroft
Bradley
Coats
Gramm
Roth

So the joint resolution (H.J. Res. 132) was passed.

The preamble, as amended, was agreed to.

Mr. BENNETT. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

SECURITIES LITIGATION REFORM ACT—VETO

Mr. BENNETT. Mr. President, I understand the veto message with respect to the securities litigation bill has arrived from the House.

The PRESIDING OFFICER. The Senator is correct.

Mr. BENNETT. I ask unanimous consent that the veto message be considered as having been read and it be printed in the RECORD and spread in full upon the Journal.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER laid before the Senate a message from the President of the United States to the House of Representatives, as follows:

To the House of Representatives:

I am returning herewith without my approval H.R. 1058, the "Private Securities Litigation Reform Act of 1995." This legislation is designed to reform portions of the Federal securities laws to end frivolous lawsuits and to ensure that investors receive the best possible information by reducing the litigation risk to companies that make forward-looking statements.

I support those goals. Indeed, I made clear my willingness to support the bill passed by the Senate with appropriate "safe harbor" language, even though it did not include certain provisions that I favor—such as enhanced provisions with respect to joint and several liability, aider and abettor liability, and statute of limitations.

I am not however, willing to sign legislation that will have the effect of closing the courthouse door on investors who have legitimate claims. Those who are the victims of fraud should have recourse in our courts. Unfortunately, changes made in this bill during conference could well prevent that.

This country is blessed by strong and vibrant markets and I believe that they function best when corporations can raise capital by providing investors with their best good-faith assessment of future prospects, without fear of costly, unwarranted litigation. But I also know that our markets are as strong and effective as they are because they operate—and are seen to operate—with integrity. I believe that this bill, as modified in conference, could erode this crucial basis of our markets' strength.

Specifically, I object to the following elements of this bill. First, I believe that the pleading requirements of the Conference Report with regard to a defendant's state of mind impose an unacceptable procedural hurdle to meritorious claims being heard in Federal courts. I am prepared to support the high pleading standard of the U.S. Court of Appeals for the Second Circuit—the highest pleading standard of any Federal circuit court. But the conferees make crystal clear in the Statement of Managers their intent to raise the standard even beyond that level. I am not prepared to accept that.

The conferees deleted an amendment offered by Senator Specter and adopted by the Senate that specifically incorporated Second Circuit case law with respect to pleading a claim of fraud. Then they specifically indicated that they were not adopting Second Circuit case law but instead intended to "strengthen" the existing pleading requirements of the Second Circuit. All this shows that the conferees meant to erect a higher barrier to bringing suit than any now existing—one so high that even the most aggrieved investors with the most painful losses may get tossed out of court before they have a chance to prove their case.

Second, while I support the language of the Conference Report providing a "safe harbor" for companies that include meaningful cautionary statements in their projections of earnings, the Statement of Managers—which will be used by courts as a guide to the intent of the Congress with regard to the meaning of the bill—attempts to weaken the cautionary language that the bill itself requires. Once again, the end result may be that investors find their legitimate claims unfairly dismissed.

Third, the Conference Report's Rule 11 provision lacks balance, treating plaintiffs more harshly than defendants in a manner that comes too close to the "loser pays" standard I oppose.

I want to sign a good bill and I am prepared to do exactly that if the Congress will make the following changes to this legislation: first, adopt the Second Circuit pleading standards and reinsert the Specter amendment into the bill. I will support a bill that submits all plaintiffs to the tough pleading standards of the Second Circuit, but I am not prepared to go beyond that. Second, remove the language in the Statement of Managers that waters down the nature of the cautionary language that must be included to make the safe harbor safe. Third, restore the Rule 11 language to that of the Senate bill.

While it is true that innocent companies are hurt by frivolous lawsuits and that valuable information may be withheld from investors when companies fear the risk of such suits, it is also true that there are innocent investors who are defrauded and who are able to recover their losses only because they can go to court. It is appropriate to change the law to ensure that companies can make reasonable statements and future projections without getting sued every time earnings turn out to be lower than expected or stock prices drop. But it is not appropriate to erect procedural barriers that will keep wrongly injured persons from having their day in court.

I ask the Congress to send me a bill promptly that will put an end to litigation abuses while still protecting the legitimate rights of ordinary investors. I will sign such a bill as soon as it reaches my desk.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *December 19, 1995.*

The Senate proceeded to reconsider the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes, returned to the House by the President on December 19, 1995, with his objections, and passed by the House of Representatives, on reconsideration, on December 20, 1995.

The question is, Shall the bill pass, the objection of the President of the United States to the contrary notwithstanding? Who yields time?

Mr. BENNETT. Mr. President, we had a long, I think, careful and reasoned debate on this issue. It passed the Senate by a very substantial margin, indeed by a margin, which, if it had been the final vote, would have been sufficient to override a Presidential veto.

I am not sure what purpose will be served by our spending a great deal of time repeating the arguments that were made, but I am sure we will. The procedure and tradition in the Senate being what it is, we will go over this one more time.

I believe the President has made a mistake in vetoing this bill. I believe the House of Representatives has made the right decision in overriding the veto. I know the bill has been characterized as an issue between investors and corporations. The President, in his veto message, indicated that he was going to strike a blow for the investors.

Mr. President, I need to point out once more, perhaps, that the owners of corporations are the investors, and anything which damages the economic health of the corporation damages the investors who place their money in that corporation. Anything that prohibits the corporations' ability to earn a return on investment damages the investors who are seeking that return on investment.

I find it difficult to understand, therefore, those who say that we are going to help investors by supporting activities which damage the profitability of the corporation in which the investors have placed their money.

The key provisions of this bill are proinvestor provisions. I think the most significant provision of this bill is the one that allows the investors to determine who will prosecute the lawsuit when a class action suit is brought. Let me illustrate the importance of that, Mr. President, with an example that is admittedly overdrawn, but we need to overdraw these issues because some people do not seem to understand them when they are not overdrawn.

Let us assume that the ABC Corp. has 100 shares outstanding; let us assume that one investor has purchased one of those shares, and another investor has purchased the other 99. When a class action suit is brought, it is brought on behalf of all members of the class. In the circumstance I have just described, there are two members of the class—the class being the investors: One who has one share, the other who has 99 shares. If a class action suit is brought by the investor who has one share and the effect of that class action suit is to damage the ability of that corporation to perform, who is most damaged by the suit? It is the shareholder who owns the other 99 shares.

Yet the way the thing is structured now, the shareholder who owns one share can bring a class action suit on behalf of the entire class, and if he gets to the courtroom first, he is determined to be the lead plaintiff in this suit. Now, the investor who owns the 99 shares sits down with him and says, "Sam, this is stupid. This is going to damage the corporation. This is going to damage all of us."

Sam smiles sweetly at Joe and says, "Joe, what is it worth to you to get me to drop my suit?"

Joe says, "Well, Sam, you know you will lose if we get in court."

And Sam says "Joe, that's not the point. What's it worth to you?"

Sam says, "It will cost the corporation a million dollars to defend against your suit."

Joe says, "Fine, offer me half a million and I go away."

It is blackmail, Mr. President, pure and simple.

So Joe finally says, "OK, Sam, here is your $500,000. Drop your suit."

Sam takes his $500,000 and he goes away until the next time.

I have told this story before. I have to repeat it again because I think it is an important part of the point I am trying to make. We are often told here, "No, the only reason lawsuits are settled out of court is when the management has something to hide." Well, the story I am about to tell you is a real story. It really happened. It happened to my father. He served here in the Senate for some 24 years. When he retired from the Senate he was not ready to retire from life so he got himself another life and another series of activities. One of them was serving on boards of directors. He was on a number of boards. Some were charitable, some were nonprofit, some were very much profit.

On one of the boards he served, he would go to the board meetings and take his duty seriously—as my father always did—and then one day he received a stack of papers in the mail notifying him that he was being sued. The suit was made out to Wallace F. Bennett, et al., and the suit was claiming all kinds of things. My father looked through this. He was quite disturbed. It became clear to him that the "et al." in this case were the other directors of the corporation. He called the legal division of the corporation whose board he was serving on and said, "What is this all about?"

The lawyer said to him "Oh, don't worry about that, Mr. Bennett. The reason you are named is because the directors are listed alphabetically and 'B' comes before the letters of any of the other directors so they are suing you and all of the directors, but it is just a coincidence that your name comes first, that you are named in the suit. The entire board is being sued."

Dad said, "That is a little bit of comfort, but what are we being sued for? What did we do wrong?"

Well, the lawyer says "You raised your salary."

Dad said, "Pardon me?"

And he said, "Well, remember, the way this thing is structured, the compensation of the directors are tied to the profitability of the organization. So when the organization makes more money the directors' compensation goes up."

Dad says, "That is logical. That is proper. What is the basis of the suit?"

"There is a lawyer in New York who watches this, and whenever the compensation of the directors goes up for whatever reason, he automatically files a lawsuit against us claiming that the directors are looting the proceeds and assets of the corporation for their own profit."

Dad said, "Well, that lawsuit is absolutely absurd. It is sound business practice to tie the directors' compensation to the profitability of the company. That means the directors will take the actions that will make the company more profitable."

"Don't worry about it, Senator, this lawyer knows he will never win his suit. He knows we will never spend the money to take him to court. It would cost us about $500,000 to prosecute this suit and take him to court and win and it is cheaper for us to send him a $100,000 check to settle this."

So every time this happens, that is, there is a change in the compensation of the directors, he files the suit, we send him a $100,000 check, he goes away and the problem is solved. That is exactly what happened. They sent the lawyer a $100,000 check, he dropped his suit, and everybody went forward.

My father was outraged. But they told him, "Senator, you can be as outraged as you want to be, but our alternative is to prosecute this lawsuit, take him to court, beat him in court, see a $500,000 legal bill run up in the process. The logical thing for us to do for the shareholders, the investors, if you will, is to pay him his $100,000, and hope he will go away."

Now, my father was pleased when another member joined the board whose last name began with an "A" because then the papers were always filed on the new director rather than my father, but again and again they sent the $100,000 bribe money off to the lawyer in New York who had himself a really wonderful legal practice. All he had to do was file these papers and collect his check. There was no merit whatever in his claim and he knew it and everybody else knew it.

There is an end to this story that I kind of like. The lawyer decided to expand his practice and he started suing other companies besides the one of which my father served as a director. One of the companies he decided to sue was owned by Merrill Lynch, and the Merrill Lynch lawyers looked at this and decided the time has come to put an end to it and we have deep enough pockets that we can take this man to court and ruin him in his legal costs, trying to defend himself.

So the system that had worked for the lawyer in the one circumstance then turned against him. Merrill Lynch said, "Whatever it takes in legal costs, it takes, but we are going to put a stop to this, force this man to go to court and force him to defend his position." And they ultimately did put a stop to it because when he was faced with actually proving his position in a court of law and running up the costs connected with that kind of litigation, the lawyer was finally forced to back down.

I tell this story because I want to lay to rest, once and for all, the canard that is raised on the other side of this issue by those who say that by passing this legislation we are damaging investors for the benefit of big corporations. The investors in the company where my father served as a director were benefited by the actions of Merrill Lynch and their legal department when they finally stepped in. They would be benefited by the passage of this legislation, and Merrill Lynch investors would be benefited by the fact that Merrill Lynch would no longer have to spend that kind of money to clean up that sort of an outrage.

If you want to vote on behalf of the investors, you vote for the override of the President's veto of this bill.

I was sorry to hear that the President had vetoed. We were told informally on the floor when the bill was passed that the President would probably sign it. We were told that the President and the people advising him understood that this was proinvestor legislation and the President, obviously, wants to position himself as being proinvestor.

I was also told by those who watch these kinds of things that the President would probably sign it because this legislation is very, very important in Silicon Valley. The companies that have been the target of these frivolous lawsuits are primarily located in the high-technology industry, and Silicon Valley in California is considered the seed bed of high technology in this country.

I might, in a parochial way, Mr. President, note that there are more software companies in Utah Valley than there are in Silicon Valley, but that is a parochial comment made by the Senator from Utah.

Why would it be important for the President to sign a bill that would benefit Silicon Valley? One need only look at the political map and the number of electoral votes that are contained in California to realize that anything that improves the California economy would be of political benefit to a politician who could take credit for improving the California economy. The California delegation as a whole has been most vigorous in their support of this bill. The senior Senator from California [Mrs. FEINSTEIN] has been a supporter of this bill. But the President decided, apparently, that whatever political benefit would accrue to him by doing something that would be good for Silicon Valley might be offset by his ability to pose as the defender of the small investor.

There have been many editorials written by people who perhaps do not understand this bill, to say, no, this really does support the small investor, and the President decided to go with that rhetoric rather than with what I consider to be the true substantive benefit of this bill.

So we are back again. We have gone through this argument in committee. The bill was reported out of committee by a strong bipartisan margin. We are back into it here on the floor. As indicated, the bill was passed by the Senate by a strong bipartisan margin. It has gone through the House. The override vote was 319 to 100, more than 3 to 1. It needed only be 2 to 1, but it was more than 3 to 1. So that makes it very clear there is a strong bipartisan message here.

I am interested that the authorship of this bill began on the Democratic side of the aisle with Senator DODD, joined on the Republican side of the aisle by Senator DOMENICI. It was known as the Dodd-Domenici bill in the previous Congress. Now, given the results of the election, it is called the Domenici-Dodd bill. But it demonstrates the bipartisan nature, rising above partisan bickering, that has marked this entire effort. The effort has taken years, and in the years since Senator DODD began his crusade to get this problem fixed, there have been millions, if not hundreds of millions of dollars wasted, investor dollars wasted in dealing with these frivolous lawsuits. If this veto is upheld, there will be millions, if not hundreds of millions of dollars wasted in the future.

This legislation will ultimately pass. It will ultimately pass because it is the right thing to do and more and more people recognize that it is the right thing to do. The only question is whether it should pass in this Congress and become law in this year. I believe the time has gone long enough for us to debate this and repeat the arguments back and forth. The time has come for us to pass this bill.

So I hope the Senate will respond, as the House has done, with a strong bipartisan majority to override the President's veto. I expressed my concern that I think the President was misguided by his advisers on this one, both those who advised him on the substance and those who may have advised him on the politics. I hope we will help correct this Presidential mistake by what we do here on the floor.

Mr. President, I could go on and repeat all of the arguments that have been made in committee and on the floor on this issue, but I see the senior Senator from Maryland, who was the ranking member of the Banking Committee and who is opposed to this bill, and undoubtedly in support of the President's veto. He is on the floor, and I will be happy to yield to him for whatever opening statement he might have. Then we can go forward from there.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, as I understand it, the distinguished Senator from Tennessee would like to address the Senate for a short period of time. I ask unanimous consent the Senator from Tennessee be recognized, and at the conclusion of his remarks I then be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee.

THE HOWARD H. BAKER, JR. COURTHOUSE

Mr. THOMPSON. I thank the Senator from Maryland, and I thank the Chair.

Mr. President, one of the highest honors that I have in serving in the U.S. Senate is the fact that I hold a seat once occupied by Howard H. Baker, Jr. I have no doubt that this seat will always be known as the Baker seat, and that is how it should be.

This morning I rise and it is my honor to rise in support of the action of the Senate taken last night, just prior to adjournment. The Senate passed H.R. 2547 to name the new U.S. courthouse in Knoxville, TN, in the Senator's beloved east Tennessee, after Senator Baker.

I know that the Howard H. Baker, Jr. Courthouse will always serve as a reminder of the love and respect that all Tennesseans, as well as all Members of this body, have for him.

Mr. SARBANES. Mr. President, let me simply say I am delighted to hear the courthouse has been named for our very able colleague, Howard Baker. I did wonder whether Howard Baker would be able to practice law in the Howard Baker Courthouse, but I guess that issue can be settled when the time arises. But it is certainly a recognition that his very distinguished career here in the Senate makes well deserved.

SECURITIES LITIGATION REFORM ACT—VETO

The Senate continued with the reconsideration of the bill.

Mr. SARBANES. Mr. President, first I want to say that the logic of my colleague from Utah is absolutely right. I think he said right at the end of his remarks that I was against the bill and, therefore, he assumed that I would be in support of the veto. And he is obviously correct. I will not now—I may later—talk a bit about the broader defects which I see in the legislation. But I want to address now the items that were touched upon in the President's veto message as the basis for his vetoing the legislation.

My own view is that there are other reasons as well that go well beyond what the President indicated. But I want to focus on that for the moment since it is the veto message, the veto, that is before us. And the issue, of course, would be whether to override the veto.

I listened to my distinguished colleague from Utah as he talked, and to the various examples that he gave as a reason for why we should pass this legislation in terms of the kinds of suits that had been brought and the frivolousness of the actions. And I want to simply say to him that, if that is all the bill did, if the bill were crafted in a way to get at the kind of examples he was citing, I think the bill would have passed 99–0. So I do not really differ with him in the examples that he cited as being problems and saying that those are problems and measures ought to be taken in order to correct them. The problem is that this bill goes way beyond that. That is the problem.

The President, since the conference report was passed 2 weeks ago, has now vetoed it. That actually reflects, I think, the overwhelming position taken by newspaper and magazine editors around the country who have analyzed this legislation and who have no vested interest in it. There are a number of interest groups who have an interest on either side of this legislation. But these are common indicators outside of that framework. They have by and large strongly come down against it.

The President said in his message, "Those who are victims of fraud should have recourse in our courts. Unfortunately, changes made in this bill during conference could well prevent that."

I hope that the Senate will sustain the President's veto so that we could get about the business of crafting legislation better targeted at the goal that I think we all share—deterring frivolous lawsuits. I want to emphasize that again. I know of no one who argues against reasoned measures to deter frivolous lawsuits.

The President's veto message recognizes that this bill is not a balanced response to the problem of frivolous lawsuits. This legislation will affect far more than frivolous lawsuits. As I said at the outset, if the bill dealt only with the problem of frivolous lawsuits, I would be for it, and presumably the President would have signed it.

Unfortunately, this bill that is before us will make it more difficult for investors to bring and recover damages in legitimate fraud actions. Investors will find it far more difficult to bring and to recover damages in legitimate fraud actions.

The editors of Money magazine concluded that this legislation hurts investors, stating in their December editorial as follows: "Now only Clinton can stop Congress from hurting small investors like you." That is Money magazine. The President has tried to do that through the veto. We should do our part now by supporting this veto.

The President's message identified three areas of concern with the bill: The pleading standard, the safe harbor, and the rule 11 provision. On the first point, the President said, and I quote him: "The pleading requirements of the conference report with regard to a defendant's state of mind impose an unacceptable procedural hurdle to meritorious claims being heard in Federal courts."—"an unacceptable procedural hurdle to meritorious claims being heard in Federal court."

What are pleading standards? Some of this, of course, gets very lawyerly, but it has to get lawyerly because you are really talking about the basis on which people have access to the courts. That may appear to be a highly technical legal matter, and in some respects it is. But the practical result is very real for people who may have been defrauded or abused in terms of making their investment decisions.

Pleading standards refer to what an investor must show in order to initiate a securities fraud lawsuit. In other words, what must you establish in order to get the lawsuit started? The bill that was reported by the Senate Banking Committee adopted the pleading standard used by the U.S. Court of Appeals for the Second Circuit. That standard says that investors seeking to file securities fraud cases must, and I quote: "specifically allege facts giving rise to a strong inference that the defendant acted with the required state of mind."

In other words, the plaintiff in setting out his pleading has to specifically allege facts that give rise to a strong inference that the defendant acted with the required state of mind. This is a standard more stringent than the Federal Rules of Civil Procedure. It, in fact, is a minority view amongst the circuit courts in terms of the threshold that the plaintiff has to cross in order to initiate a securities fraud lawsuit.

But that was a standard adopted in the committee, in the committee-reported bill. When the bill came to the Senate floor, the Senate adopted an amendment to this provision that was offered by the distinguished Senator from Pennsylvania, Senator SPECTER. Senator SPECTER's amendment codified, brought into the statute, additional second circuit holdings clarifying this standard. These additional second circuit holdings state that a plaintiff may meet the pleading standard by alleging facts showing the defendant had motive and opportunity to commit fraud or constituting strong circumstantial evidence of state of mind. What the second circuit has done is they have enunciated this holding with respect to pleadings, and then in subsequent opinions they had clarified this standard to make it clear that motive and opportunity to commit fraud, or facts constituting strong circumstantial evidence of a state of mind, would also meet the pleading standard.

The argument made was that, if you are going to take the second circuit standard, then you ought to take the second circuit's elaboration of its standard, which seems to me an eminently logical and reasonable position.

I think it is probably safe to say that the only pro-investor amendment adopted on the Senate floor was the Specter amendment.

I thought it was a constructive contribution to the legislation, and a majority of this body, I think on a vote of 57 to 42, agreed with that.

Unfortunately, this amendment was dropped in conference, the SPECTER amendment. The conference report deleted the SPECTER amendment, leaving investors without the protection of the additional second circuit holdings. And the President in his veto message said the following:

> The conferees deleted an amendment offered by Senator SPECTER and adopted by the Senate that specifically incorporated Second Circuit case law with respect to pleading a claim of fraud. Then they specifically indicated that they were not adopting Second Circuit case law but instead intended to strengthen the existing pleading requirements of the Second Circuit. All this shows that the conferees meant to erect a higher barrier to bringing suit than any now existing—one so high that even the most aggrieved investors with the most painful losses may get tossed out of court before they have a chance to prove their case.

Mr. President, I think that President Clinton was well advised to object to that provision of the conference report. A number of eminent law professors, experts without any axe to grind, wrote to the President warning of the consequences of that provision.

Professor Arthur Miller of the Harvard Law School, a nationally recognized expert on civil procedure, warned that the pleading standard adopted in conference, and I quote him, "effectively will destroy the private enforcement capacities that have been given to investors to police our Nation's marketplace."

John Sexton, the very able and distinguished dean of the New York University School of Law, one of our Nation's preeminent law schools, and also an expert on civil procedure, wrote, "It simply will be impossible for the plaintiff, without discovery, to meet the standard inserted by the conference committee at the last minute." Let me repeat that from Dean Sexton. "It simply will be impossible for the plaintiff, without discovery, to meet the standard inserted by the conference committee at the last minute."

Joel Seligman, dean of the University of Arizona School of Law and an expert in securities law, also expressed concern that the pleading standard would "prevent a significant number of meritorious lawsuits from going forward."

These are all very distinguished legal experts, very knowledgeable on this particular area of the law, and all expressing these very strong judgments about the impact of what was done in the conference with respect to this issue.

I ask unanimous consent that those letters be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER (Mr. COVERDELL). Without objection, it is so ordered.

(See exhibit 1.)

Mr. SARBANES. Mr. President, sustaining the President's veto would give the Congress a chance to craft a more reasonable pleading standard. This is a very important issue. It may not appear to be so, but the end result of not having a reasonable pleading standard is that you will prevent people with meritorious claims from being able to initiate and carry through their suit. I wish to underscore, I am talking about people with meritorious claims.

A reasonable pleading standard, as was in the original proposed bill and enhanced by the SPECTER amendment, would not provide any opening for frivolous lawsuits but it would ensure that meritorious lawsuits were not barred from the courtroom.

Let me turn to safe harbor, which, of course, was an issue on which there was extended discussion in this Chamber in the course of the consideration of this legislation and then again on the conference report. The President stated with respect to the safe harbor provision—this is the President in the veto message:

> While I support the language of the conference report providing a "safe harbor" for companies that include meaningful cautionary statements in their projections of earnings, the Statement of Managers—which will be used by courts as a guide to the intent of the Congress with regard to the meaning of the bill—attempts to weaken the cautionary language that the bill itself requires. Once again, the end result may be that investors find their legitimate claims unfairly dismissed.

The safe harbor provision creates a statutory exemption from liability for so-called forward-looking statements. Forward-looking statements are broadly defined in the bill to include both oral and written statements—both oral and written statements. Examples include projections of financial items such as revenues and income for the quarter or for the year, estimates of dividends to be paid to shareholders, and statements of future economic performance such as sales trends and developments of new products. In short, forward-looking statements include the type of information that is important to investors deciding whether to purchase a particular stock.

I differ somewhat with the President on his analysis because I think the safe harbor language in the bill as well as the language in the statement of managers is troublesome. It is my very deep concern that the safe harbor provision in this legislation will, for the first time, protect fraudulent statements under the Federal securities law. The American Bar Association wrote the President that the safe harbor "has been transformed not simply into a shelter for the reckless but for the intentional wrongdoer as well."

Think of that, not simply into a shelter for the reckless but for the intentional wrongdoer as well.

Projections by corporate insiders will be protected, even though they may be unreasonable, misleading, and fraudulent, if accompanied by boilerplate cautionary language.

The claim is made that the bill codifies a legal doctrine applied by the courts known as "bespeaks caution." As I understand it, all courts that have applied this doctrine have required that projections be accompanied by disclaimers specifically tailored to the projections. If companies want to immunize their projections, they must alert investors to the specific risks affecting those projections.

In other words, general boilerplate language will not do that. The bill before us today does not include—does not include—this requirement of specific cautionary language to investors.

The Association of the Bar of the city of New York warned of this provision stating:

> . . . the proposed statutory language, while superficially appearing to track the concepts and standards of the leading cases in this field, in fact radically departs from them and could immunize artfully packaged and intentional misstatements and omissions of known facts.

Let me just repeat that because the Association of the Bar of the city of New York is a very distinguished organization and they do in-depth studies of important legal issues. Their studies are widely respected and widely referred to in the legal profession.

What they warned about in this safe harbor provision was that:

> . . . the proposed statutory language, while superficially appearing to track the concepts and standards of the leading cases in this field, in fact radically departs from them and could immunize artfully packaged and intentional misstatements and omissions of known facts.

This letter was signed for the bar association by Stephen Friedman, a former SEC Commissioner.

Prof. John Coffee, a distinguished professor at the Columbia Law School, wrote to the President:

> . . . rather than simply codify the emerging "bespeaks caution" doctrine, it is much closer to the truth to say that the Act overrules that doctrine.

Mr. President, I ask unanimous consent that the Coffee letter discussing this issue and another by him be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SARBANES. While I believe the safe harbor language in this bill is a problem, the President in his veto message has raised an additional valid point with respect to the safe harbor language in the statement of managers.

The President points out that the language in the statement of managers attempts to weaken the cautionary language that the bill itself requires. The President received advice on this point from Professor Coffee, who wrote:

> . . . under the proposed legislative history there now appears to be no obligation to disclose the most important reasons why the forward-looking statement may prove false.

And Professor Coffee went on to state:

> . . . no public policy justification can support such selective disclosure of the less important facts while withholding the most important.

So I have difficulty with the provision in the legislation itself, as I have indicated, but on top of that you have this Statement of Managers seeking to create legislative interpretation which, as the President pointed out, attempts to weaken the cautionary language that the bill itself requires.

So that a weak provision has been rendered, well, Professor Coffee, I guess, would say, nonexistent. He stated earlier:

> . . . rather than simply codify the emerging "bespeaks caution" doctrine, it is much closer to the truth to say that the Act overrules that doctrine.

Sustaining the veto would give the Congress the chance to craft a more reasonable legislative approach on the safe harbor issue.

Let me turn to the rule 11 provision. The President's veto message on this matter states:

> . . . The Conference Report's Rule 11 provision lacks balance, treating plaintiffs more harshly than defendants in a manner that comes too close to the "loser pays" standard I oppose.

We had a discussion about this when we dealt with the conference report, I say to my colleagues. When we sent the bill to conference, the way we drafted the bill in the Senate, under Rule 11, we treated plaintiffs and defendants evenhandedly with respect to either bringing of frivolous suits or asserting a frivolous defense.

It is clear to me that that is the way it ought to be done. Rule 11 of the Federal Rules of Civil Procedure is the principal sanction against the filing of frivolous lawsuits in the Federal courts. It requires all cases filed in the Federal courts to be based on reasonable legal arguments and supported by the facts. As passed by the Senate, the bill required that courts include specific findings in securities class actions regarding compliance by all parties and attorneys with rule 11(b) of the Federal Rules of Civil Procedure.

This is as passed by the Senate. If a court found a violation of rule 11 by the plaintiff or the defendant, the court was required to impose sanctions. The provision was balanced. The sanctions would have applied equally to plaintiffs and defendants. This was intended as a deterrent to frivolous cases. I believe it would have worked well. In conference, this balance was removed so the legislation now applies more harshly to investors than to corporate insiders.

The Senate bill as we passed it contained a presumption that the appropriate sanction for failure of the complaint or the responsive pleading or motion to comply with rule 11 was an award of reasonable attorneys fees and other expenses incurred as a direct result of the violation.

The conference changed this presumption so it no longer applies equally to plaintiffs and defendants. I defy any of my colleagues to justify this either in logic or reason. This was a change made by the conference so that it no longer applies equally to plaintiffs and defendants. If the defendant substantially violates rule 11, he pays only reasonable attorneys fees and other expenses incurred as a direct result of the violation; this is the standard that was in the Senate-passed bill. If the plaintiff is found to have substantially violated rule 11, he pays all attorneys fees incurred in the action, not just those resulting from the violation.

This is a major and significant disparity. There is no justification for such disparate treatment. Of course, its result will be to scare investors from bringing meritorious fraud suits. The legal experts agree that that will be the result of this provision.

Professor Miller, of Harvard Law School, wrote of this provision—and I quote him—and listen carefully to this quote:

> . . . It is inconceivable that any citizen, even one with considerable wealth and a strong case on the merits, could undertake securities fraud litigation in the face of the risks created by these provisions.

Dean Sexton, of New York University Law School, wrote:

> . . . the obvious effect of these provisions: who but a fool would risk the remainder of his or her life savings, having already been defrauded out of much of them? Even wealthy interest will not expose their assets to the possible onslaught of unlimited defense costs, or judicial fee-shifting excesses.

Sustaining the President's veto would give Congress the chance to craft a more reasonable rule 11 provision, actually to go back to the provision that the Senate passed before it was mutilated in the conference committee.

Sustaining the President's veto, of course, obviously would not be the end of this legislative effort. There is, obviously, very strong support in the Congress for dealing with the issue of frivolous lawsuits. The difference is not to go so far that you have an unbalanced product. The debate tends to be a citation of abusive instances, and I want to make it very clear that those of us who support the veto do not defend the abusive instances and would support legislation designed to deal with it.

But this legislation goes too far, as I have indicated, in the three provisions the President focused on in his veto message: the pleading standard, the safe harbor and the now unbalanced rule 11 provision. In each instance, that would make it more difficult for innocent investors to bring lawsuits and to recover damages when they have been defrauded.

This is a piece of legislation people are going to have to live with on their history, and I am prepared to predict here today that the consequence of this legislation will be that innocent people with meritorious claims will not be able to assert them in court; the people who have been defrauded will not be able to obtain a remedy; the Charles Keatings of the world will walk free; and senior citizens, pension plans, ordinary investors will have no recourse. The stories then that are going to be told are going to be the stories of predatory actions against innocent people, with them not having any way to obtain justice.

The President said in the veto message:

> It is not appropriate to erect procedural barriers that will keep wrongly injured persons from having their day in court.

The Congress ought to take the opportunity to rework this legislation to eliminate these defects, to get a piece of legislation that we could all agree on as being worthwhile and meritorious, that was not subjected to the sort of scathing criticism that is reflected in these letters from some very distinguished legal scholars with respect to this matter.

These people do not argue against doing something about frivolous lawsuits, but they are saying in the course of trying to do that, do not go so far that you are ruling out meritorious lawsuits. There is plenty of time remaining in this Congress. It is not as though we are at the end of a Congress, so that if you do not act, you have to start all over again. There is plenty of time remaining in this Congress to deal with this matter.

Other provisions in this legislation, which no one has raised an issue about, provide protection against the professional plaintiff, against class action lawyers who abuse investors who have been defrauded. Those provisions no one is questioning.

Most of the debate focuses on extreme cases. The provisions in the legislation that address the extreme cases no one is arguing against. So I want it clearly understood, when we hear these various horror stories, the provisions that would get at those instances, no one is questioning. We are prepared to see those go into law.

But I think we have to really narrow the focus down to what is at issue here.

There is a great tendency to cite the extreme examples, but no one is contesting the extreme examples. We need to craft a piece of legislation, of which we can be proud, that stands legal scrutiny and that will not result in individual investors, pension funds, local governments suffering when they are defrauded in the securities markets and are denied their day in court.

Sustaining the veto would enable us to do that, and I think the end result would be that we would have a better piece of legislation, and the end result then would be that we would not come back on another day citing the horror stories of investors who have been defrauded who, by any standard, ought to be able to obtain justice and are denied their day in court.

Mr. President, I yield the floor.

EXHIBIT 1

HARVARD LAW SCHOOL,
Cambridge, MA, December 19, 1995.

Hon. WILLIAM J. CLINTON,
President of the United States,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: On December 12 I wrote to you concerning the so called "securities reform" legislation, then embodied in Senate Bill 240. I urged you to oppose that legislation because (1) it was based on a totally erroneous assumption that there had been a sharp increase in securities litigation in the recent past, which is completely belied by every statistical measure available; (2) the federal courts, exploiting a variety of procedural tools such as pretrial management, summary judgment motions, sanctions, and enhanced pleading requirements, were achieving many of the goals of the so called reformists, most particularly the deterrence of "frivolous" litigation; (3) recent history suggests that the same vigilance is needed today to guard against market fraud as was needed during the superheated activity in the securities business in the mid-1980's; and (4) the SEC simply is unable to perform the necessary prophylaxis to safeguard the nation's investors, and private enforcement is an absolutely integral part of policing the nation's marketplaces.

I am writing again because the latest version of the legislation, H.R. 1058, contains provisions regarding pleading in securities cases and sanction procedures that, if anything, make the legislation even more draconian and access-barring than Senate Bill 240. It simply is perverse to consider it a "reform" measure.

I have always taken great pride in the fact that the words "equal justice under law" are engraved on the portico of the United States Supreme Court. I fear, however, that if the proposed legislation is signed into law, access to the federal courts for those who have been victimized by illicit practices in our securities markets will be foreclosed, effectively discriminating against millions of Americans who entrust their earnings to the securities markets. As difficult as the existing Federals Rules of Civil Procedure already make it to plead a claim for securities fraud sufficient to survive a motion to dismiss, especially given existing judicial attitudes toward these cases, the passage in House Bill 1058 requiring that the plaintiff "state with particularity facts giving rise to a strong inference" that the defendant acted with scienter, in conjunction with the automatic stay of discovery pending adjudication of dismissal motions, effectively will destroy the private enforcement capacities that have been given to investors to police our nation's marketplace. Despite misleading statements in the Statement of Managers that this provision is designed to make the legislation consistent with existing Federal Rule 9, the truth is diametrically the opposite, since the existing Rule clearly provides that matters relating to state of mind need not be pleaded with particularly. Indeed, it would be more accurate to describe the proposal as a reversion to Nineteenth Century notions of procedure. The proposed legislation also does considerable damage to notions of privilege and confidence by demanding that allegations on information and belief must be accompanied by a particularization of "all facts on which that belief is formed."

The situation is compounded by the proposed fee shifting and bond provisions that relate to the enhanced sanction language in the legislation. It is inconceivable that any citizen, even one with considerable wealth and a strong case on the merits, could undertake securities fraud litigation in the face of the risks created by these provisions. As the person who was the Reporter to the Federal Rules Advisory Committee during the formulation and promulgation of the 1983 revision of Federal Rule 11, the primary sanction provision in those Rules, I can assure you that no one on that distinguished committee would have possibly supported what is now so cavalierly inserted into the legislation.

I use the word "cavalierly" intentionally, because, as I indicated to you in my earlier letter, there is not one whit of empiric research that justifies any of the procedural aspects of this so called "reform" legislation. Not only does every piece of statistical evidence available belie the notion that there is any upsurge in securities fraud cases, but these proposals, with their devastating impact on our nation's investors, have completely bypassed the carefully crafted structure established in the 1930's for procedural revision that has enabled the Federal Rules to maintain their stature as the model for procedural fairness and currency. Thus, the proposed legislation represents a mortal blow both to the policies that support the private enforcement of major federal regulatory legislation and to the orderly consideration and evaluation of all proposals for the modification of the Federal Rules. From my perspective, which is that of a practitioner in the federal courts, a teacher of civil procedure for almost thirty-five years, and a co-author of the standard work on federal practice and procedure, I fear that all of this is extremely regrettable.

I hope you will give serious consideration to vetoing the legislation. If I can be of any further assistance to you or your staff in considering these and related matters, please do not hesitate to inquire. My telephone number is 617/495–4111.

My very best to you and your family during this wonderful holiday season.

Sincerely yours,
ARTHUR R. MILLER,
Bruce Bromley Professor of Law.

THE UNIVERSITY OF ARIZONA,
Tucson, AZ, December 13, 1995.
Hon. WILLIAM J. CLINTON,
The President,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I am writing to urge you to veto pending legislation, The Private Securities Litigation Reform Act H.R. 1058.

For the past 18 years, my principal work has been in the field of federal Securities Regulation. I am the co-author with Harvard Law School Professor Louis Loss of an 11 volume treatise on Securities Regulation, published by Little, Brown & Co., which is generally considered to be the leading treatise in the field. I have written four other securities regulation related books and over 25 Law Review articles in this area. Earlier I had a discussion with respect to a different version of H.R. 1050 with your General Counsel, Abner Mikva.

The current bill, while an improvement over legislation that was introduced last January, is unduly heavy handed and clumsily drafted and would prevent a significant number of meritorious law suits from going forward. I am particularly concerned no only about the safe harbor provisions, but also about provisions concerning Rule 11, the pleading requirements; and the extraordinarily one-side language that appears in the legislative history. Legislative history may not be a point many people have emphasized, but it is my understanding that it was written without earlier review by the Securities and Exchange Commission or its staff, and reflects policy preferences more typical of what appeared in the January 1995 version of this legislation. I take legislative history very seriously, for having studied every reported federal securities Law decision over the past 12 or so years as a result of my work with Professor Loss, I am well aware that it is frequently dispositive in questions such as those addressed in this particular legislation.

If this bill is vetoed, I am confident it will not be the end of the road for this process. It is possible for Congress if the veto is sustained to draft a more balanced and appropriate bill within a matter of weeks. On the other hand, if this bill is not vetoed, this will provide opportunity for that small number of corporations that do engage in federal securities fraud to feel a greater sense of immunity from private litigation, and in many instances, given the limitations of the SEC and Justice Departments budgets, from any litigation deterrent at all.

Sincerely,
JOEL SELIGMAN,
Dean and Samuel M. Fegtly Professor of Law.

NEW YORK UNIVERSITY
SCHOOL OF LAW,
New York, NY, December 13, 1995.
President WILLIAM J. CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I am a student and teacher of Civil Procedure and the principal active author of the most widely used textbook on the subject. I approach matters of Civil Procedure not as an advocate for particular parties, but as a scholar interested in coherence, fairness and efficiency in the system. I am imposing upon your time with this letter because I feel compelled to convey my view that the Conference Committee Securities Litigation Reform bill (which in critical respects is dramatically different from the Senate bill) is a procedural nightmare that will chill meritorious litigation by victims of securities fraud—and equally importantly, will provide a precedent for substantive procedural rules which most certainly will be copied with disastrous consequences in other areas (for example, in the area of civil rights).

The Conference Committee bill effects far-reaching procedural changes that will govern both class and individual litigation in one type of federal case—litigation under the federal securities laws. These will affect not only shareholder claims, but also insurance policyholders and limited partnership claims, among others, which seek relief under federal securities laws. The bill advances these procedural changes, which undermine fifty years of procedural reform, without consulting even a single judicial witness in its hearings. Cumulatively, the reforms will impose obstacles that will make it impossible for the average citizen to pursue, let alone to prevail upon, virtually any securities claims, no matter how valid.

I will not examine every section of the bill; rather, I will confine my comments to the provisions which, viewed from the perspective of a proceduralist, seem most perverse.

HEIGHTENED PLEADING REQUIREMENTS

Although the Senate bill purported to adopt the Second Circuit's already elevated (beyond Rule 9) pleading requirements for fraud, the Conference Report goes beyond that, requiring that the complaint shall "state with particularity facts giving rise to a strong inference" that the defendant acted with scienter (emphasis supplied). In addition, the Conference Report contains an automatic stay of discovery pending adjudication of a motion to dismiss.

In essence, the Conference Report establishes almost insurmountable hurdles in the form of pleading requirements as a barrier to federal court. Absent the most extraordinary circumstances (such as a prior federal indictment), it simply will be impossible for the plaintiff, without discovery, to meet the standard inserted by the Conference Committee at the last minute, which is to state "with particularity" facts that give rise to a strong inference that a defendant acted with the required state of mind at the outset of the case. While the Statement of Managers recites that the words "with particularity" were added to make this requirement consistent with Federal Rule of Civil Procedure 9, that Rule explicitly states that facts on state of mind need not be specifically set forth. No other type of case requires such precise pleading—because it was long ago recognized as impossible to achieve except for those intimately involved in an action, a status not enjoyed by people buying stock on the open market.

In addition, the pleading requirement states that "if an allegation regarding a fraudulent statement or omission is made on information and belief, the complaint shall state with particularity all facts on which that belief is formed." That requirement would appear to provide that the plaintiff would have to set forth all confidential sources in the complaint, including the names of whistleblowers and members of the media. This disclosure requirement deters pre-complaint investigation and completely reverses the attorney-work product protection afforded other types of litigants.

ENHANCED SANCTIONS AND BOND REQUIREMENT

I am opposed to fee-shifting, and I always have understood that was your policy as well. Any significant chance of fee-shifting will deter all meritorious cases in which a plaintiff has little to gain in potential recovery in relation to the magnitude of the fees to be shifted, as is frequently the case in securities class action litigation. In these circumstances, any significant chance of fee-shifting is going to be a major deterrent. The simple mathematics of the situation suggests the obvious effect of these provisions: who but a fool would risk the remainder of his or her life savings, having already been defrauded out of much of them? Even wealthy interests will not expose their assets to the possible onslaught of unlimited defense costs, or judicial fee-shifting excesses.

Similarly the bond provision, which has no standard to guide its administration, is completely inequitable and will operate only against plaintiffs. The notion that such a bond provision could run against defendants is preposterous, as it is clearly unconstitutional to require an individual to post a bond in order to defend himself or herself in court.

PERVERSE CUMULATIVE SYNERGY OF PROCEDURAL CHANGES

The disastrous effects of all these changes on meritorious litigation can be seen easily if one hypothetically shifts the context to Title VII litigation—the likely next target for the "reformers" if this bill becomes law. Given the extraordinarily high economic exposure (resulting from the possibility of sanctions), the necessity of a bond, and the difficulty in meeting the pleading requirement without discovery, is it possible to imagine many plaintiffs (even those with what appear to be winning cases) taking the risk even of initiating litigation? And, of course, this will be the case in securities litigation as well. Essentially, through "procedural reform" and a selective return to Nineteenth Century pleading rules, real victims will be prevented from seeking redress.

Because much litigation will never come to be, it would be wrong to assert that the courts will be able to ameliorate these rules. Moreover, in the case of the highly problematic pleading requirements, even in those suits which materialize the courts would not have the power to overrule a directive from a statute. Thus, though the Second Circuit could promulgate its interpretation of the pleading requirement of Rule 9 on matters other than intent, it could not have applied its test in the area of intent, because the Rule (by its terms) exempted intent; so also, if the Committee Bill becomes law, the Second Circuit would not be free to exempt intent, because the statute includes it.

In my opinion, you should veto this bill. I would appreciate any consideration you can give to my views. If any member of your staff has questions, please do not hesitate to call me at 212-998-6000.

Best of luck in this and all things. Love to all.

Sincerely,

JOHN SEXTON.

EXHIBIT 2

COLUMBIA UNIVERSITY IN
THE CITY OF NEW YORK,
New York, NY, December 6, 1995.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I am writing with regard to the proposed "Private Securities Litigation Reform Act of 1995" (the "Act") in light of the November 28, 1995 Proposed Conference Report and the accompanying "Statement of Managers", which constitutes its primary legislative history.

The special focus of my letter is on the proposed "safe harbor for forward-looking statements" that the Act would codify. Although there are other serious problems with the Act, it is this area where its deficiencies are the most glaring and where the recently drafted legislative history most clearly distorts the original intent of the proponents of such a safe harbor. Over the last two years, I have repeatedly testified before Congressional committees on the subject of securities legislation, have drafted a proposed administrative "safe harbor" rule at the request of the SEC, and have served as an informal consultant to attorneys on the staff of the White House counsel on the subject to such a safe harbor. Throughout this process, I have strongly supported the desirability of such a safe harbor, believing that it will encourage fuller disclosure from issuers who would otherwise be chilled from making projections by the threat of private civil liability. Unfortunately, I believe the formulation of the proposed "safe harbor" in Section 102 of the Act, when read in light of its legislative history, does the reverse. That is, its adoption would seriously erode the quality of disclosure in our national securities markets and, in some cases, would give issuers a virtual "license to lie".

Simply put the core problem is that the Act's safe harbor, as finally drafted, does not require the issuer to identify the substantive factors known to it that are most likely to cause actual results to differ materially from projected results. Rather, the issuer could simply provide a representative list of "important factors" that could cause actual results to differ materially from projected results. Thus, for example, an issuer might be aware of ten factors that could cause its projection to go awry and could deliberately list only the third, fifth, seventh and tenth most important factors, intentionally omitting the first, second, fourth factors (or three out of the first four). This outcome is very different from what would be tolerated today by the federal courts, because these courts have crafted a protective doctrine (known) as the "bespeaks caution" doctrine) to shelter issuers from liability when their projections prove materially inaccurate. However, this judicial doctrine applies only when the projection is accompanied by cautionary language that is "specifically tailored" to the actual projection made and the special risks faced by the issuer. Not only does the Act lack any requirement that the cautionary statements be in any respect "tailored" to the projections made, but its legislative history now makes clear for the first time (and at the last minute) that the issuer need only disclose some of the reasons known to it why the projection may prove false (and apparently not the most important such reasons). In this light, rather than simply codify the emerging "bespeak caution" doctrine, it is much closer to the trust to say that the Act overrules that doctrine.

To understand this assessment, it is necessary to focus briefly on the legislative language and its accompanying legislative history. Under proposed §27A (and also under a companion provision that amends the Securities Exchange Act of 1934), a defendant cannot be held liable in a private action with respect to a forward-looking statement if and to the extent that either of the following occurs:

(A) The forward-looking statement is identified as such and "is accompanied by meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the forward-looking statement;" or

(B) the plaintiff fails to prove that the defendant (or certain officers thereof) had "actual knowledge . . . [of] an untrue statement of a material fact or omisssion of a material fact. . ."

Thus, even if knowingly false statement is made, the defendant escapes liability if "meaningful cautionary statement" are added to the forward-looking statement. This is bad enough, but under the proposed legislative history there now appears to be no obligation to disclose the most important reasons why the forward-looking statement may prove false (so long as some "important factors" are indicated). Specifically, the Statement of the Managers directs:

"Failure to include the particular factor that ultimately causes the forward-looking statement not to come true will not mean that the statement is not protected by the safe harbor. The Conference Committee specifies that the cautionary statements identify "important' factors to provide guidance to issuers and not to provide the opportunity for plaintiff counsel to conduct discovery on what factors were known to the issuer at the time the forward-looking statement was made. . . .The first prong of the safe harbor requires courts to examine only the cautionary statement accompanying the forward-looking statement. Courts should not examine the state of mind of the person making the statement." (at pp. 17–18).

On this basin, a court would not be able to ascertain what "important factors" the issuer was aware of but failed to disclose. It is at least arguable than if the issuer disclosed factors that were "important" but not among the top four or five reasons why actual results might deviate materially from predicted results, such disclosure would still satisfy this standard. Simply put, no public policy justification can support such selective disclosure of the less important factors while withholding the most important.

Throughout the legislative drafting process, the managers of the Act have argued that their safe harbor provision largely codified the "bespeaks caution" doctrine, but just avoided overly exacting (and litigation-promoting) terms, such as "specifically tailored." Perhaps, it was understandable those fearful of an excessive incentive to litigate would wish to avoid such a formulation. Thus a weak compromise was reached under which the disclosures would only have to include "meaningful cautionary statements." Now, however, with the appearance of the legislative history, even that compromise has been undercut by language suggesting that only a few representative factors need be disclosed.

The impact of this change is shown by the following entirely realistic examples:

1. A biotech company, whose future depends on the development of a new drug, projects that it will be in the market within 18 months, but acknowledges that this projection is subject to the uncertainties of FDA approval. However, it fails to disclose that the FDA has just questioned the adequacy of its tests and suggested that a new round of testing may be necessary.

2. A company projects a 50% increase in its earnings for the next year and specifies that this projection is conditioned on (i) the current level of interest rates, (2) continued high demand for its products, (3) the availability of certain scarce supplies, and (4) its ability to obtain adequate financing from its lenders to exploit business opportunities. Omitted from this list of important factors is the critical factor that 50% of its sales come from a single contract with a major customer, who has experienced major business and financial difficulties and has sought to renegotiate its future payments, claiming that it might be unable to pay for future deliveries.

In both these cases, some "important factors" are disclosed, but the critical facts are omitted. Under current law, the forward-looking statements would not be protected, because the cautionary statements were not "specifically tailored." However, under the Act, they may be insulated from private liability—with the result that the securities market will become somewhat more "noisy" and less transparent and investors will have to discount projections for the risk that material information was not disclosed.

So what should be done? Ultimately, the options at this point are limited. Nonetheless, I suggest that there are two options that do not require the sacrifice of the federal securities laws' traditional objective of full and fair disclosure:

(1) Veto Plus An Administrative Rule. The President could veto the Act, but simultaneously announce the promulgation by the SEC of an administrative safe harbor rule that protects forward-looking statements so long as the principal risk factors known to management at the time the forward-looking statement is made are disclosed (along with any material facts bearing on these risk factors); or

(2) Signature Plus An Administrative Rule. The President could sign the Act, but instruct the SEC to adopt an interpretative

rule defining what constitutes adequate "meaningful cautionary statements" for purposes of the Act's safe harbor. This administrative definition would, of course, require an issuer to identify the principal factors known to it that are in its judgment most likely to cause actual results to deviate from projected results.

This second option deserves a brief word of explanation. Although the legislative history in the Statement of Managers is adverse, it is not decisive. Nothing in it clearly prohibits an SEC interpretative rule along the lines indicated above. In any event, the Supreme Court is divided on the weight to be given to legislative history. Particularly because the term "meaningful cautionary statements" is not self-evident, but has soft edges, courts are likely to give substantial discretion to an administrative agency to define the critical terms in the statute under which it operates. See Chevron, U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984) (agency has substantial powers to resolve legal ambiguities in its statute and federal court should give deference to its greater expertise).

The advantage of this latter approach is that allows the other provisions of the Act to take effect. Although I and many others also have problems with these provisions, they are of a lesser order of magnitude.

to sum up, the latest changes and associated legislative history has made a bad provision worse. I, therefore, urge you to either veto the Private securities Litigation Reform Act of 1995, or sign it only after receiving the assurance of the SEC that it can and will correct the excesses of the safe harbor provision through administrative rule-making.

Respectfully submitted,
JOHN C. COFFEE, Jr.

COLUMBIA UNIVERSITY IN
THE CITY OF NEW YORK,
New York, NY, December 13, 1995.

Re private Securities Litigation Reform Act of 1995 (the "Act") Safe Harbor Provisions.

BRUCE LINDSEY, *Esq.*
Associate White House Counsel, The White House,
Washington, DC.

DEAR MR. LINDSEY: This is a follow-up to my letter to the President of December 6, 1995, in which I voiced my criticisms of the "safe harbor for forward-looking statements." While I stated (and continue to believe) that the safe harbor provisions represent the most glaring deficiency in the Act, I also suggested that these problems could be substantially corrected by SEC rule-making. Subsequently, I have been asked to clarify my views on the SEC's authority to adopt a definitional rule in light of the legislative history that will accompany the Act (which I had reviewed but did not specifically discuss in my earlier letter).

Initially, it should be noted that both the Securities Act of 1933 (in Section 19) and the Securities Exchange Act of 1934 (in Section 3(b)) delegate broad authority to the SEC "by rules and regulations to define technical, trade, accounting, and other terms used in this title, consistently with the provisions and purposes of this title."[1] Indeed, the Commission used this authority over a decade ago to adopt a "safe harbor for forward-looking information." See SEC Rules 175 and 3b-6 ("Liability for Certain Statements by Issuers").

My suggestion was that the SEC could adopt a new rule under both the 1933 Act and the 1934 Act to define what constituted "meaningful cautionary statements." I asserted that the Supreme Court's decision in *Chevron, U.S.A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. §837 (1984) indicated that courts would be required to deter to such an agency rule. As I understand it, some concern has been raised as to whether the legislative history to the Act so clearly indicates a contrary Congressional intent on this question as to preclude such a rule. this letter is intended to address this concern.

Under the *Chevron* decision, judicial review of an agency's construction of the statute that it administers has two stages. First, the court considers "whether Congress has directly spoken to the precise question at issue." Id. at 842. Second, "[i]f * * * the court determines Congress has not directly addressed the precise question at issue," the court determines "whether the agency's answer is based on a permissible construction of the statute." Id. at 843. In this latter inquiry, substantial deference must be given to the agency's greater institutional expertise.

Let us suppose then that the SEC were to adopt a definitional rule defining "meaningful cautionary statements" so as to require the corporation seeking to rely on the statutory safe harbor to "identify those substantive factors then known to the corporation's executive officers that were in their judgment most likely to cause actual results to differ materially from the results projected in the forward-looking statement."[2]

Obviously, the first issue is whether the legislative history indicates that Congress has directly spoken to "the precise question at issue." Whether "the precise question" be broadly defined as the meaning of "meaningful cautionary statements" or more narrowly defined as whether such statements should indicate the most important reasons why actual results may deviate from predicted results, my answer is the same: Congress has not spoken to either question. Reviewing the Statement of Managers, one finds only two statements that address these issues, even indirectly. First, at p. 17, it states:

"The Conference Committee expects that the cautionary statements identify important factors that could cause results to differ materially—but not all factors. Failure to include the particular factor that ultimately causes the forward-looking statement not to come true will not mean that the statement is not protected by the safe harbor."

This understandable position does not, however, conflict with an SEC definition that required the issuer to identify the most important factors then known to it. Logically, the failure to identify the particular factor may have been because that factor was remote and unlikely to occur (i.e. number thirteen on a list of fifteen recognized factors). Hence, there is no necessary conflict. Moreover, the proposed rule could accommodate this point by expressly providing that the failure to identify the particular factor would not be decisive if the issuer had not perceived it to be among the most important factors (ranked either in order of probability of occurrence or magnitude of the consequences if it occurred) or had identified several other factors that it considered to be of greater importance. Put simply, a Congressional intent to permit omission of the actual factor does not preclude a rule requiring disclosure of the most important factors.

A second and more oblique statement of Congressional intent may arguably be inferred from the Statement of Managers' attempt to limit discovery. At pp. 17–18, that statement directs:

"The Conference Committee specifies that the cautionary statements identify 'important' factors to provide guidance to issuers and not to provide an opportunity for plaintiff counsel to conduct discovery on what factors were known to the issuer at the time the forward-looking statement was made. * * * The first prong of the safe harbor requires courts to examine only the cautionary statement accompanying the forward-looking statement. Courts should not examine the mind of the person making the statement."

Initially, it should be observed that the above language addresses only discovery and not the substantive content of the "meaningful cautionary statements." Moreover, this language may be in direct conflict with the statutory language (in which case the statute should trump the legislative history). Both Sections 27A(f) and 21E(f) expressly authorize discovery "specifically directed to the applicability of the exemption provided for in this Section." Nonetheless, someone may potentially argue that this hostility to discovery as to issuer's state of mind precludes a rule requiring the "meaningful cautionary statements" to identify the most important risk factors then known to the issuer. This seems a weak and very inferential claim. Even without discovery addressed to the issuer's state of mind, a court can assess whether the factors most likely to cause a projection not to be realized have been disclosed. Indeed, one possible answer to this objection is to frame the definition in terms of disclosure of the factors that a reasonable person in the corporation's position would have foreseen as being most likely to cause actual and predicted results to deviate materially. Then, the focus becomes objective and not subjective, and there is no conflict with the Congressional prohibition on discovery as to the corporation's state of mind. Discovery could then focus on whether the risk factors were generally recognized in the relevant industry (without focusing on the issuer's state of mind). In short, both objections to the proposed rule can be easily outflanked.

This then takes us to the second level of analysis: is the SEC's interpretation "based on a permissible construction of the statute?" See *Chevron, U.S.A.* v. *Natural Resources Defense Council*, 467 U.S. at 843. If it is, "a court may not substitute its own construction of a statutory provision for a reasonable interpretation made by the administrator of an agency," Id. at 844. There seems no need to belabor the reasonableness of requiring disclosure of the factors most likely to cause the projection to go awry. Disclosure of remote factors would indeed not be "meaningful" because it would not convey an accurate sense of the relevant risk level.

Independently, I should note that respected legal commentators have recently stressed the role of presidential interpretations in the proper judicial construction of a statute's meaning. See Thomas W. Merrill, Judicial Deference to Executive Precedent, 101 Yale L.J. 969 (1992). While it is not necessary to rely on this "executive precedent model," its availability could be strengthened by a contemporaneous statement by the President as to how he believes the term "meaningful cautionary statements" should be read. Such a declaration is not necessary, but cannot hurt.

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[1] This is the language of § 3(b); § 19(a) of the 1933 Act has some immaterial differences, which, if anything, give broader authority to the SEC "to make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of this title.

[2] Of course, this is intended only as a first approximation, but I do not believe that such a rule would be hard to draft.

I hope these comments are useful. If I can be helpful in any way, please do not hestitate to contact me.

Yours truly,

JOHN C. COFFEE, Jr.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. There are no time limits on this yet, are there?

The PRESIDING OFFICER. There are no time limits.

Mr. DOMENICI. Have we agreed on the time to vote yet?

The PRESIDING OFFICER. We have not.

Mr. DOMENICI. Mr. President, I am pleased to have an opportunity to speak before 1 o'clock, because I will not be back on the Senate floor for a few hours after that. I thank the floor manager for accommodating me, and I thank the Senate for giving me this chance to talk for just a few minutes.

I think the issue is pretty simple, although my good friend from Maryland can, indeed, make it very complex with reference to rules of procedure, cites of precedent and Federal rule requirements. This issue is very simple, we have a situation in the country where many who want to sustain the President's veto talk about saving, protecting the investors so that lawsuits can be filed on their behalf against those who would perpetrate fraud against them as the management or executive part of a corporation. The scenario is "people need protection because somebody is going to do them in."

Let me tell you, the basic problem is that the system we have right now does in the investor and it does in the company. It does the stockholder in, whether it is a small stockholder or somebody who is in one of the giant investment groups in the country as a stockholder. Remember, there are always shareholders on both sides of a case. The nonsuing shareholders receive lower dividends and lower stock prices when their companies are sued in these class actions. And the members of the plaintiff class don't do too well either. The ones who do well are the class action lawyers. The attorneys run these cases, decide who to sue and when to settle. According to the Millberg Weiss data that were submitted to the U.S. Senate, and it was not a submission that we easily obtained, the problem is that if you collect total damages in one of these suits and let us just say it is a dollar—it is never a dollar, it is more like $30 million—if it is a dollar, 14 cents of that goes to the investors. I am not saying that the entire 86 cents goes to the lawyers, but it does not go to the investor.

Essentially, there is a lot going on behind that simple fact. There are many factors that affect what is going on in the litigation cosmos against corporations on the so-called behalf of the so-called stockholders. But, in essence, the system we have is not working. In fact, it is detrimental to the people we allege we are trying to protect by a Federal court-made rule, the private right of action under Section 10b.

There is no statutory law in America that created class action lawsuits under section 10b of the Securities and Exchange Act of 1934.

The courts created the implied private right of action as a method of getting justice and expediting matters so that each stockholder, in the case of these kinds of suits, did not have to file their own lawsuits. In the process, let me suggest that it is very simple to come to the floor and say we ought to fix that. It is very simple for my friend from Maryland to come to the floor and say, "We agree on some things."

Mr. President, we have been trying to reform the system, in an active way, for at least 5 years. We probably have been trying to fix it for 10 years. But, that I am aware of, we have been actively trying to fix it for 5 years—fix this problem, the problem that lawyers are no longer lawyers in the sense that people understand them to be. They are entrepreneurial lawyers. That means they are in the business of manufacturing lawsuits and making money, if they can find the situation where a stock price drops and the lawyers can allege fraud. Believe you me, they look for them, they find them, they recruit them, and they use the same plaintiff many times in many suits. They have their favorites. They are called professional plaintiffs or pet plaintiffs.

In one set of facts before the committee last year, we found that a very elderly man—I think he was over 90—owned small amounts of stock in a whole in a large number of corporations because, if he had enough, he would be the favored plaintiff of this new breed of lawyers. In exchange for letting the lawyer use your name, the professional plaintiff gets a bonus payment of thousands of dollars. Entrepreneurial lawyers agree with statements that say, "Once we get one of these suits, it is wonderful. We do not work for the stockholders, we work for ourselves because our interest becomes how much money can we finally get if a president of a company, an auditor who did part of the work, a CPA that did work, a board of directors that voted it—how many of these can we bring into a lawsuit?" At some point, they all add up a little money and they have a nice pot, and it is looking good. "Gee, we might make $10 million, $20 million out of this." And now we settle it. And this results, right here on this chart.

My friend from Maryland would say, well, you have come a long way, and many of the provisions in this bill we agree with. But my question is: How long do we have to debate? How many hearings do we have to have? How many Senators do we have to have voting for this? How many House Members do we have to have voting on it—only to find that those that support the President's veto come to the floor and say there is something really bad with what is going on out there. And this is a good bill.

Mr. SARBANES. Will the Senator yield?

Mr. DOMENICI. But the opponents say we did not quite fix it right. Let me suggest to the Senators that are going to vote here tonight, we fixed it about as right as Democrat and Republican Senators—Democrat and Republican House Members, in large numbers—can do with a piece of legislation over a sustained period of time, with a lot of effort. And they did it. As a matter of fact, there has been more bipartisan participation on this bill, and from different spectrums of the ideological makeup of this Congress, than any bill I have seen since I have been here.

It has Senators HELMS, LOTT, and GRAMM voting for it, and it has Senators MIKULSKI, KENNEDY, and HARKIN on the bill and voting for the bill. And then when the bill came back from conference, a wide spectrum of Senators voted for it again.

So, Mr. President, the truth of the matter is—I do not say this to my friend from Maryland, I make it as a broad statement—there are about 90 lawyers out there in the United States—maybe 110, or something like that—that you will never satisfy. They are powerful, they are strong, they have a lot of money, and they are listened to by a lot of people; they make huge political contributions, and everybody knows that. And you will never satisfy them because they like the system as it is.

There is an old gypsy curse that goes like this: "May you be the innocent defendant in a frivolous lawsuit." It is a curse stopping companies from creating good jobs, high-paying jobs. It is a curse for our economy. If it was not the most powerful around, we would probably easily find the enormous damage being done. It is so big and so strong that all we can do is add up all the horror stories and find out that "something is wrong in Denmark." It is a curse of the Silicon Valley, which breeds entrepreneurial companies that have scattered across America and made growth in jobs and competition a reality. All of the high-tech companies are concerned almost every day that the President makes any statements about their company—biotech and high-growth companies.

This issue is the electronics industry's No. 1 issue.

Frankly, you will find them listed by the hundreds—not a few, but by the hundreds—through their chief executive officers, begging the President to sign this legislation. I am sorry he did not. I think he made a very bad mistake.

It has been a difficult job. This bill was first introduced—and it was not as good as it is now—by Senator DODD and Senator DOMENICI 3½ years ago. It was introduced by Senator DOMENICI and Senator DODD, and there was a counterpart in the House sponsored by Congressman TAUZIN. It has been dramatically improved and we are here with it today.

Mr. SPECTER. Will the Senator yield for a question on the President's action?

Mr. DOMENICI. Yes.

Mr. SPECTER. The President, in his veto message, focused on one narrow question. Actually, he focused on three, but they boil down to one. That is, on the somewhat arcane question of pleading. The question goes to the distinguished Senator from New Mexico, whom I compliment for his laborious work here. He is an attorney himself, and he is the proud father of an attorney, as am I.

Mr. DOMENICI. Three attorneys.

Mr. SPECTER. He is the proud father of three attorneys. He only talked to me about one, so I will have to find out about the other two. I want to ask the Senator from New Mexico a question which relates to the core problem here about the requirements on proving state of mind, where the President's veto message takes up this question, with the conference report adopting the toughest standard in existence, the standard of the second circuit. But the conference report dropped an amendment which this Senator had offered, which was approved by a substantial majority, 57 to 42, codifying the second circuit's method of proving state of mind. And then the conference report also added the requirement that state of mind be pleaded with particularity, which is a direct contradiction to the general rule of civil procedure that state of mind be averred generally as opposed to fraud, which has to be pleaded with particularity.

Now, this is classified as an arcane subject, which means very few people know anything about it. The President called me the night before last because I had written to the President—and I will go into this a little more when I seek the floor on my own behalf—but in the context where you have a short statute of limitations, where you have the unique—not unusual, but unique—provision in the law for a mandatory stay of discovery when a defendant files a motion to dismiss, so that you have a requirement that the plaintiff plead with particularity facts on the defendant's state of mind. Does that not go too far in closing the courthouse door to plaintiffs? I say that without an ax to grind, and with some substantial experience as a practicing lawyer, although not in class action fields for the plaintiff. I represented some defendants in securities act litigation.

As I take a look at the current state of the bill, different from the bill passed by the Senate, the President raises three points which would change in the conference report, but they boil down to this extraordinarily high standard of pleading. Is it fair to require investors in a field where we have stock security transactions, approximating $4 trillion in this country each year, bearing in mind the gross national product in this country is——

Mr. DOMENICI. I have great respect for the Senator, but I would like him to ask the question.

Mr. SPECTER. Is it fair to have that kind of particularity required in that bill?

Mr. DOMENICI. I think it is fair. My answer is briefer than your question but let me insert in the RECORD a letter dated October 31, from the U.S. Court of Appeals for the Third Circuit, Judge Scirica, circuit judge. He writes on behalf of the Judicial Conference.

One portion of the concern you have, as expressed by the Senator from Pennsylvania, is that the Senate Banking Committee provision provided that the complaint must "specifically allege facts giving rise to a strong inference." The conference report states that the complaint must "state with particularity the facts giving rise to a strong inference."

The reason we put in "state with particularity the facts giving rise to a strong inference" is because that is what Judge Scirica, speaking on behalf of the Judicial Conference, asked Congress to do. He indicated in this letter that he thought—and he was speaking for many others that are concerned about pleadings—that it was more appropriate to say "state with particularity facts giving rise to a strong inference" as compared with "specifically allege facts giving rise to a strong inference." That is the change made, and it was made at the suggestion of an eminent jurist.

Now, let me complete my remarks. The point I want to make is that there have been many Senators on both sides of the aisle working on this legislation. I want to thank Senator DODD, in particular, for the tremendous effort he made in behalf of this legislation. I am not sure, Mr. President, and I say this to all of those who are out there in America—and they are by the hundreds of the thousands—who were overjoyed when this bill passed the Senate and passed the House and who will be overjoyed tonight if we override the President. Without Senator DODD, we would not have made it.

Second, there is no doubt that without the tremendous efforts put forth by the chairman of that committee, the Senator from New York, Senator D'AMATO, who started out skeptical and ended up powerfully on the side of common sense and protecting our investors while we protect our corporations from the abuses of a burgeoning entrepreneurial litigation complex out there where lawyers decide who get sued, when cases are settled, when they have gotten enough out of the system, to take it and run, and when the end product is that they and the process take most of the money.

I am delighted that those two Senators—there are many others—decided to take this thing to heart. I had an early role, and I can tell you my role came because I read about this litigation. I had no interest. I just have a lot of time traveling from here to New Mexico and occasionally I read—not often—and I read one story and it enticed me to read two, and finally I read three or four major stories, exposés, stories, about this burgeoning type of American litigation. I could not believe that nothing could be done about it.

Frankly, I set about to draft a bill. Senator DODD actually was not the first cosponsor. Actually, Senator Sanford was my first cosponsor. That only lasted 3 or 4 months, and then Senator DODD came on board. We have had nothing since then but a difficult battle. We have had advertisements, we have had millions spent talking about what evil people we are, how we are taking things away from the small investors of America. Who are we trying to protect? Obviously, not average folks.

I am very, very pleased that for once there was a countervailing message out there from people who know we have fixed some abuses that should not go on in this country under the name of using the courts to protect small investors. We do not have to have that kind of system. Today, if the vote goes right, we will strike—without question, we will restore integrity to our securities litigation reform system—a giant strike will be made for commonsense, reasonable litigation in America, instead of litigation that goes to the extreme as far as the minds of bright lawyers can carry. There are many who think that is the way the system ought to evolve. I do not believe so. I do not think we ought to put to work the genius of our minds in figuring out how to litigate to get something out of the system. That is what I think has happened. I think we will fix that.

There are 182 Members of the House from both sides of the aisle as original cosponsors. There were 52 in the U.S. Senate as original cosponsors. I must say, in all honesty, the bill is much better now than when they cosponsored it. In fact, I must say it is even better for that portion of the plaintiff's bar that chooses to participate in this kind of litigation. It is better for them, too because they will be forced to be better lawyers and to make the merits matter.

I came to the floor just to express a few remarks. We will be here for perhaps a few hours. I also want to say the President's veto message leads me to conclude that we ought to pass this legislation. I do not see in this message from the President a scathing attack on the legislation. I see some very technical points. Frankly, a statement that the managers report might go too far. I do not know—I say this with a degree of caution, but I am not sure that I have seen a President veto a bill on the basis of what is in the statement of managers, but maybe I am wrong. I would not think Presidents would do that. I do not think this President intended that. A statement of managers is not law, everyone knows that. Interpretation will evolve over time, without any question. There are more than 12,000 words in this bill and the President quibbled with 11 of them. I know this because Senator DODD did the analysis.

I ask unanimous consent that the October 31 letter from the third circuit be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. COURT OF APPEALS,
THIRD CIRCUIT,
October 31, 1995.

MS. LAURA UNGER,
MR. ROBERT GIUFFRA,
Senate Committee on Banking, Housing, and Urban Affairs, Washington, DC.

DEAR LAURA AND BOB: I have a few suggestions for your consideration on the Rule 11 issue.

Page 24, line 11: Insert "complaint" before "responsive pleading."

Page 24, line 19: Insert "substantial" before "failure."

"Complaint" would be added to item (i), so there is a clear provision that reaches any failure of the complaint to comply with Rule 11. A small offense would be met by mandatory attorney fees and expenses caused by the offense; if item (ii) is modified without this change, a gap is left in the statutory scheme. The result still is a big change from present Rule 11, which restricts an award of attorney fees to a sanction "imposed on motion and warranted for effective deterrence." A serious offense—filing an unfounded action—would be reached under item (ii).

I also wish to confirm our prior conversation on scienter and the pleading requirement.

Page 31, line 5: Delete "set forth all information" and insert in its place "state with particularity."

Page 31, line 12: Delete "specifically allege" and insert in its place "state with particularity."

As I indicated, this would conform with the existing language in Rule 9(b) which provides that "the circumstances constituting fraud or mistake shall be stated with particularity."

Also, page 24, line 1: Delete "entering" and substitute "making."

Page 24, line 4: Delete "of its finding."

Many thanks.

Sincerely,

ANTHONY J. SCIRICA.

Mr. SPECTER. Mr. President, I have sought recognition to amplify some of the comments and some of the issues which I had raised in the question I posed to the distinguished Senator from New Mexico.

The narrow issue which has been raised in the President's veto message is one of enormous importance but is generally not understood unless someone has delved into the intricacies of the legal pleadings, which are, candidly, not well known, not of very great interest, but are very, very important. The issue arises in a historical context where at common law lawsuits which had great merit on the substance were thrown out of court because lawyers did not put in an adequate written pleading—a pleading is a document that is filed to start a lawsuit—because lawyers, acting on behalf of clients, did not put enough in the pleading to satisfy the requirements of law.

Most people do not really understand what the litigation process, the civil litigation process is all about. There is enormous publicity on the O.J. Simpson case, and television and radio and books talk a lot about criminal trials, but very few really go into detail on what happens in a civil lawsuit. But that is a process where one person sues another, or corporations may be involved as parties, in order to assert a cause of action or a claim for relief based on a civil wrong, where a remedy is sought. It may be money damages or an injunction to stop someone from doing something.

In the old common law, many people who had been severely injured were not given a day in court because their lawyers did not put down the proper words. There is a famous textbook, Chitty on Pleading, to tell you how to write the pleadings. These problems have been carried over to the present day. As a younger lawyer, I went to the prothonotary's office in Philadelphia. On many occasions I had my complaints returned for failure to go into the kind of specificity needed.

The leading architect, the draftsman of the Federal Rules of Civil Procedure, was a Yale Law School professor named Charles E. Clark. Charles E. Clark later became the dean of the Yale Law School and he later became a distinguished judge on the Court of Appeals for the Second Circuit and ultimately was the Chief Judge there. Judge Clark felt so strongly about civil procedure that he took time from his busy schedule to continue to teach a class at the Yale Law School long after he left as dean and was a distinguished Federal judge. I had the good fortune to have Judge Clark as a professor on civil procedure.

Judge Clark, in a very eloquent way—and I wish he were on the floor today to talk about his deep feelings about procedure and the work that he had done—spoke about the unfairness of having highly technical rules of pleadings which stop people who have valid claims from getting into court. He developed, in the Federal Rules of Civil Procedure, what is called "notice pleading." It was a very famous case, DiGuardia versus Gurney, that involved a man who was injured, wrote something on a slip of paper and filed it in Federal court, and that was sufficient to start a lawsuit, start the process. The defendant obviously objected. He wanted a lot more specification. What he really wanted to do was to win the lawsuit. He wanted to get the plaintiff, DiGuardia, out of court. But that is why we have judges who make decisions.

The distinguished Senator from New Mexico made a statement that "the lawyers decide when cases are settled." It is not true. These class action cases are not settled until judges decide when the cases are going to be settled and when the cases are going to be concluded. These actions all require court approval. If one person sues another, he can discontinue the lawsuit by simply filing a praecipe, or paper saying the lawsuit is over. But in class actions the lawyers do not decide these matters, they are decided by judges. The Federal Rules of Civil Procedure were set up in an elaborate way to provide fairness, to give both parties a fair chance.

There is an interesting editorial in today's USA Today, commenting about this arcane, esoteric subject. The caption of it is, "Sorry Securities Law." The key sentence is, "President Clinton did something smart this week. He sided with investors and taxpayers in a battle for fair securities litigation reform."

I ask unanimous consent this editorial be printed in the CONGRESSIONAL RECORD, following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. The essence of my concern, albeit narrow, is very, very important, and that is what this conference report coming back from the conferees provides on how pleadings are articulated, bearing in mind that this has an enormous impact, a controlling impact on the litigation.

When this bill was before the Senate, I offered an amendment which would give some direction to how plaintiffs met a very strong pleading requirement, which was taken from the Federal Court of Appeals for the Second Circuit. It has jurisdiction over New York, Vermont, and Connecticut, and many of the big security cases are brought there. Everybody agrees that the Second Circuit has articulated the toughest standard around. That has been accepted.

When I read the decisions of the court of appeals, I noted that the court of appeals had pointed out how this tough standard could be satisfied, and I offered an amendment, which was opposed by the managers. I had a little discussion with the distinguished Senator from Utah, Senator BENNETT, who was managing the bill that day. And my amendment was adopted by the Senate by a pretty convincing vote, 57 to 42—which is a big vote around here, when the managers are opposed to it and you have about 60 cosponsors.

That amendment provided as follows:

> The required state of mind may be established either by alleging facts to show the defendant had both motive and opportunity to commit fraud, or by alleging facts that constitute strong circumstantial evidence of conscious misbehavior or recklessness by the defendant.

That was adopted by a strong vote in this body. Why was it adopted? Because, while the Senate agreed that we ought to have a tough standard on pleading, the Senate said we ought to look to the same court which established that pleading standard which explained how the proof would be made. But this important provision was dropped in the conference. That means the conferees did not like it. There was a little feeding frenzy as to how this legislation is finally crafted, in my opinion. There is a little feeding frenzy going on in a lot of subjects in the Congress today.

Not only was this important provision dropped, but the conference report came back and made it even tougher, saying that plaintiff had to plead "with particularity" the facts giving rise to a strong inference that the defendant acted with a certain state of mind.

This is a little tough, but I hope my colleagues, who will be voting on this matter, will follow this, will listen to it—or the staffs will.

In the context of what the Federal Rules of Civil Procedure provide, and these are worked out by the judges and by the rules committee of the Judicial Conference after years of experience as to what is fair, rule 9(b) of the Federal Rules of Civil Procedure requires that fraud be pleaded with particularity. That is where you have fraud.

But the same rule, when dealing with state of mind, says that the particularity pleading is not required because it is unrealistic. That rule says that state of mind can be "averred generally." Here we come back with legislation on this subject which virtually closes the courthouse door to plaintiffs in legitimate cases, where there are very important issues and very important damages.

When the distinguished Senator from New Mexico, Senator DOMENICI, was saying that hundreds of thousands of people will be pleased with overriding the President's veto, I would respond that millions of Americans will be displeased when they understand that what the Senate has done here is to make it virtually impossible for them to get a case into Federal court.

These are not trivial matters. It is hard to comprehend the enormous billions and trillions of dollars which we talk about in the Senate. The gross national product of the United States of America—that is what everybody produces, all the cars, washing machines, and the services—what everybody produces in this country amounts to $7 trillion, everything that goes on in this country. The transactions on the stock exchanges, the sale of stock, approximate $4 trillion.

We are not talking about a small group of lawyers, or a hundred thousand people who Senator DOMENICI says will be pleased if we override the President's veto. We are talking about millions of people in America who invest in stocks and bonds and who need to be treated fairly. We are talking about the greatest country in the world with an economic development which has developed a corporate mechanism, the corporate machine for acquiring capital by stock offerings on the basis of fairness where we have laws which say what the offerors must do in terms of honest representations. These are matters involving enormous sums of money.

Just a few of the cases are:

Wedtech, which involved a matter where investors recovered $77 million of their losses which had exceeded more than $100 million in a class action suit;

Platinum Software, where investors lost over $100 million, recovered $22 million in a class action suit against the company for overstating revenues;

The famous Charles Keating, American Continental, Lincoln Savings case where a jury awarded $4.4 billion against Mr. Keating and others for fraud;

The Drexel Burnham Lambert case where a New York securities law firm settled the claims of 40,000 class members who had invested in municipal bonds underwritten by Drexel for $26.5 million. Drexel subsequently went bankrupt in the aftermath of the Michael Milken insider trading scandal;

A matter pending today involving investors in Orange County municipal bonds who lost more than $1.5 billion due to the high-risk trading and investment strategy pursued by Orange County, and suit is currently pending;

Hedged Investments Associates, a $40 million settlement against Kidder, Peabody and Morgan Stanley to resolve a class action brought on behalf of 1,000 investors, mostly elderly retirees who had sustained losses of $72 million where there was a Ponzi-like scheme;

The case of LA Gear, an athletic equipment maker, a class action settled for over $35 million to resolve a suit over allegations of a false public statement about stock value;

Chambers Development suit settled for $75 million on allegations of false statements by management over corporate earnings and accounting methods;

The Washington Public Power Supply System, 26,000 investors were defrauded of over $2 billion for fraud in selling bonds using false information, and over $800 million was recovered in a class action suit.

This is a very brief statement illustrating the kind of problems for which these cases are brought.

Let me point out, Mr. President, that President Clinton has committed to signing the bill with three changes which would leave the reform program provisions essentially intact.

There would be reform of joint liability, which has been urged by many. That stays in. Safe harbor for forward-looking nonfraudulent statements which turn out to be incorrect—that change stays in. The elimination of liability under RICO, something which should have been changed a long time ago, stays in. Procedural changes to make certain that the plaintiffs, rather than their attorneys, control the litigation stays in.

The Wall Street Journal has an interesting comment in today's edition saying that only one of the three major—let me read a paragraph. It is relatively brief. "While supporters [that is, supporters for the bill] weren't admitting it publicly yesterday, only one of the three major interest groups pushing the bill, the high technology companies often targeted for fraud suits, regard the bill's strict pleadings standards as essential. The other two groups, accounting and securities firms, are more interested in other aspects of the lawsuit-limiting bill such as limits on their financial liability." And those would all be retained.

President Clinton went into this pleading issue in some detail. He filed a short three-page veto message. But I can personally attest to the thoroughness of the President's analysis of this issue because he called me on Tuesday night, night before last, rather late, 10:15 at night, and told me that he was issuing a veto message and made a comment that a letter which I had written him on December 8 this year had brought to his attention matters that he had not previously understood.

The letter which I wrote to him said, in part, that I urged the veto because of the restrictive method of pleading scienter; that is, knowledge on the behalf of the defendants, and talking about the sanctions which could be applied and the strong limitations on plaintiffs' suits where you have this extraordinary standard of pleading, the short statute of limitations, and the mandatory review for sanctions under rule 11, which would so discourage any litigation from being brought. And, at the bottom of the letter, I printed in longhand this note: "Going back to my roots on studying this issue at the Yale

Law School, I think that my Federal procedure professor—Judge Charles Clark—would roll over in his grave to see the specific pleading standard in this bill, prohibition on discovery until a motion to dismiss is denied, and the chilling sanctions. Your veto would send it back for important revisions."

When the President called—and we had a conversation lasting about half an hour—he went in into these pleading provisions in detail, and talked about his own procedure professor at the Yale Law School, fully understood precisely what he was doing, and said in his veto message that he was prepared to sign the bill and supported the goals of the bill but thought it unfair to virtually close the courthouse door with these requirements.

Mr. President, I ask unanimous consent that the following documents be printed in the RECORD following my statement:

No. 1. My letter to the President dated December 8, 1995;

No. 2. The President's veto message dated December 19;

No. 3. My "Dear Colleague" letter dated December 20;

No. 4. The article in the Wall Street Journal of today, December 21; and

No. 5. The editorial in USA Today dated December 21, today.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1, 2, 3, 4, and 5.)

Mr. SPECTER. Mr. President, in conclusion, the two most popular words of any speech, I ask my colleagues and the staffs just to take a look at what we are doing here. The President is prepared to sign a bill and to sign into law very substantial changes in the securities fields which have been urged and would become law—limitations on joint liability, reforms, so-called, in the safe harbor provisions, the elimination of liability under RICO—and I have had many people, especially the accountants, urge that change be made—procedural changes to ensure plaintiffs, not their attorneys, control the litigation; really very major and enormous changes.

But this one provision as to how you state your case is just unfairly, unduly restrictive in this bill because it turns the Federal Rules of Civil Procedure on their head. It turns in a revolutionary way—more than revolutionary, really destructively revolutionary—the established rules of notice pleading. It strikes the amendment which this body had adopted on my introduction telling people how to meet the tough standard of specific pleading and then adds to it a particularity requirement which makes it a virtual impossibility that sufficient facts can be alleged and in a unique way cuts off discovery. The only situation like it that I know about. It mandates the cut off of discovery when a motion to dismiss is pending, because characteristically and especially when you want to get inside somebody's head you cannot do it unless you ask them a question or two.

So this is something of really enormous importance. What we would be doing in effect is returning to a common law pleading standard, the common law of ancient England, probably even tougher than common law in ancient England, which would be closing the courthouse doors on millions of Americans who invest their money. And the long-range effect of what it does to the lawyers is minuscule but not what it will do to investors and what it will do to capital formation in the United States. So I think that if we make these changes, simple but critical, as the President has said he will sign this law and we can move forward in a fair way.

I thank the Chair. I yield the floor.

EXHIBIT 1

[From USA Today, Dec. 21, 1995]

SORRY SECURITIES LAW

Caught between two big Democratic Party contributors—trial attorneys and new high-tech companies, President Clinton did something smart this week. He sided with investors and taxpayers in a battle for fair securities-litigation reform.

Clinton vetoed a bill aimed at limiting frivolous lawsuits against corporations that simply went too far.

As passed last week, the legislation gave a deserving slap to a group of trial attorneys who've literally paid people to start class-action suits against companies whose stocks decline dramatically.

To defend against such suits, companies on average pay $700,000 in attorney fees and lose nearly a half-year's worth of top managers' time. Such high costs especially threaten new high-tech firms. All of Silicon Valley's young electronics companies report being hit by so-called strike suits.

Legitimate investors aren't helped either when lawsuits harass a company in which they've put money.

The bill would benefit investors and business by allowing executives to speak more freely about their plans with less fear of suits if the plans go sour.

That's what securities reform was supposed to be about. But the legislation Clinton vetoed leapt beyond that with provisions that would open the door to fraud.

For example, the bill would allow executives to knowingly deceive investors as long as they included general cautions while hyping products. Thus, a drug company executive talking up a new drug could keep from investors the fact that the government had denied approval of it without risking suit as long as he noted the uncertainty of the drug approval process.

Worse, the legislation also would require investors to provide proof of intent to commit fraud when a complaint is filed. That standard would have kept the government from recovering money from Charles Keating and other savings and loan crooks for their billions of dollars in fraud against depositors and taxpayers.

Those problems are easily remedied. As Sen. Arlen Specter, R-Pa., argues, plaintiffs aren't mind readers. They should only have to show motive and opportunity to commit fraud to lodge a complaint. And honest executives and businesses don't need a safe harbor for lies.

Wednesday, the House foolishly rejected those quick Clinton fixes to the bill and voted to override the veto. The Senate should take Clinton up on them.

Securities laws need to be fair to all, starting with investors and taxpayers.

EXHIBIT 2

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, December 8, 1995.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: This week, both the Senate and the House of Representatives passed the conference report to H.R. 1058, the Private Securities Litigation Reform Act of 1995.

I urge you to veto this conference report. While the bill contains some reasonable provisions to eliminate frivolous securities suits, it goes too far. The bill fails to extend the statute of limitations shortened by the Supreme Court several years ago. It imposes a highly restrictive method for pleading scienter. It provides a mandatory stay of discovery when a motion to dismiss is filed, thereby preventing plaintiffs from discovering salient facts that would allow them to amend their complaints to satisfy the new pleading standard. It requires mandatory review at the completion of each case for sanctions under Rule 11 of the Federal Rules of Civil Procedure and, in what amounts to fee-shifting, provides a presumption that the remedy for any Rule 11 violation in the complaint is reimbursement of the defendants' attorneys' fees.

As a practical matter, this combination of factors will choke off many important law suits to protect innocent investors. In very few cases will either potential plaintiffs or their lawyers have a sufficient interest to justify risking sanctions because, after the fact, a judge decides that they may have violated a stringent and arbitrary pleading standard. I fear that enactment of this bill would represent the end of the private enforcement of the nation's securities laws, which have provided the most stable markets in the world.

I assure you that in the event that you veto this bill, I will support your veto and work to defeat any override effort.

Thank you for your consideration.

Sincerely,

ARLEN SPECTER.

EXHIBIT 3

To the House of Representatives:

I am returning herewith without my approval H.R. 1058, the "Private Securities Litigation Reform Act of 1995." This legislation is designed to reform portions of the Federal securities laws to end frivolous lawsuits and to ensure that investors receive the best possible information by reducing the litigation risk to companies that make forward-looking statements.

I support those goals. Indeed, I made clear my willingness to support the bill passed by the Senate with appropriate "safe harbor" language, even though it did not include certain provisions that I favor—such as enhanced provisions with respect to joint and several liability, aider and abettor liability, and statute of limitations.

I am not, however, willing up to sign legislation that will have the effect of closing the courthouse door on investors who have legitimate claims. Those who are the victims of fraud should have resource in our courts. Unfortunately, changes made in this bill during conference could well prevent that.

This country is blessed by strong and vibrant markets and I believe that they function best when corporations can raise capital by providing investors with their best good-faith assessment of future prospects, without fear of costly, unwarranted litigation. But I also know that our markets are as strong and effective as they are because they operate—and are seen to operate—with integrity. I believe that this bill, as modified in conference, could erode this crucial basis of our markets' strength.

Specifically, I object to the following elements of this bill. First, I believe that the pleading requirements of the Conference Report with regard to defendant's state of mind impose an unacceptable procedural hurdle to meritorious claims being heard in Federal courts. I am prepared to support the standards of the Second Circuit, but I am not prepared to go beyond that. Second, remove the language in the Statement of Managers that waters down the nature of the cautionary language that must be included to make the safe harbor safe. Third, restore the Rule 11 language to that of the Senate bill.

While it is true that innocent companies are hurt by frivolous lawsuits and that valuable information may be withheld from investors when companies fear the risk of such suits, it is also true that there are innocent investors who are defrauded and who are able to recover their losses only because they can go to court. It is appropriate to change the law to ensure that companies can make reasonable statements and future projections without getting sued every time earnings turn out to be lower than expected or stock prices drop. But it is not appropriate to erect procedural barriers that will keep wrongly injured persons from having their day in court.

I ask the Congress to send me a bill promptly that will put an end to litigation abuses while still protecting the legitimate rights of ordinary investors. I will sign such a bill as soon as it reaches my desk.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *December 19, 1995.*

EXHIBIT 4

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, December 20, 1995.

DEAR COLLEAGUE: I urge you to sustain the President's veto on the Securities Bill.

The President vetoed the Conference Report because it significantly changed the Senate's version of the Bill. If the Senate changes three provisions, the President has committed to signing a revised Bill which would contain most of the legislative reforms such as: reform of joint liability; safe harbor for forward-looking nonfraudulent statements which turn out to be incorrect; elimination of liability under RICO; procedural changes to insure that plaintiffs, not their attorneys, control cases.

The President vetoed the Conference Report because it established virtually impossible pleading requirements. The President accepted the toughest pleading standard of the Second Circuit on the defendant's state of mind, but the President wanted the Bill to include my amendment (adopted by the Senate 57 to 42) which codified the Second Circuit's standard on how that state of mind could be proved.

That tough pleading standard becomes even more important in the context that the Bill prohibits discovery while the defendant's motion to dismiss is pending. That means that the plaintiff must specify his entire case without the benefit of discovery. That is a virtually impossible pleading standard which turns the Federal Rules of Civil Procedure on their head.

The Conference Report's safe harbor provision excludes liability for knowingly false forward-looking statements. The President would sign a bill which retained the Senate's version.

Sustaining the President's veto would retain most of the reform measures in the Conference Report but will not close the courthouse door to legitimate claims by these draconian pleading standards.

Transactions on the stock exchanges now approximate $4 trillion annually which is more than half the U.S. gross national product.

Fairness to investors requires these revisions in the final bill which would follow the Senate's sustaining the President's veto.

Sincerely,

ARLEN SPECTER.

EXHIBIT 5

[From the Wall Street Journal, Dec. 21, 1995]

HOUSE VOTES TO OVERRIDE VETO OF SECURITIES-SUIT BILL

(By Jeffrey Taylor)

WASHINGTON.—The House voted 319–100 to override President Clinton's unexpected veto of a bill restricting investors' securities-fraud lawsuits, but the bill's supporters may find an override harder to come by in the Senate

Late Tuesday night, Mr. Clinton stunned a coalition of publicly owned companies, accountants and securities firms advocating the bill by vetoing the legislation—after indicating earlier that he planned to sign it. The bill would make it harder for investors to file lawsuits seeking damages when companies' stock prices drop and would limit the liability of accountants and underwriters for fraud by their corporate clients.

An override vote in the Senate may come as early as today. White House aides expressed confidence that Mr. Clinton's legislative staff could muster enough votes to defeat it. The Senate approved the final version of the bill two weeks ago by a 65–30 vote, barely enough for the two-thirds margin needed for an override. Both sides in the debate spent much of yesterday lobbying five senators who voted for the bill but are seen as swing votes.

In addition to his usual Republican adversaries, the president faces some unaccustomed opponents in the override fight including Sen. Christopher Dodd (D., Conn.), the Democratic National Committee chairman who aggressively supports the bill. In a speech to House Democrats yesterday morning, Sen. Dodd urged them to vote for their body's override. And in a terse public statement, Mr. Dodd vowed to "work hard . . . to enact this legislation into law," which would amount to a defeat for his own party's president.

If the Senate override effort fails, the bill's supporters may be forced to reshape the bill to conform with some of Mr. Clinton's concerns about it. The first of these, the president said in his veto message, was that the bill's so-called pleading standards—or the facts investors must establish so courts will let their lawsuits proceed—impose "an unacceptable procedural hurdle" to many worthy lawsuits in the federal-court system. Thus, he concluded, the standards would damage the legal rights of defrauded investors.

While supporters weren't admitting it publicly yesterday, only one of the three major interest groups pushing the bill—the high-technology companies often targeted for fraud lawsuits—regards the bill's strict pleading standards as essential. The other two groups—accounting and securities firms—are more interested in other aspects of the lawsuit-limiting bill, such as its limits on their financial liability.

Mr. Clinton appears to have counted on that fact in crafting his veto message. In it, he calls for restoration of an amendment introduced by Sen. Arlen Specter (R., Pa.), who opposes the bill, which would have softened the pleading standards. The amendment was approved by the Senate in June but was dropped in subsequent negotiations to merge the Senate bill with its House counterpart.

In a letter to Mr. Clinton this month, Sen. Specter urged Mr. Clinton to veto the bill and, if he did, promised to help defeat any override effort in the Senate. Sen. Specter, who like Mr. Clinton is an alumnus of Yale Law School, said in his letter that his former federal-procedure professor at Yale would "roll over in his grave to see the specific pleading standard in the bill."

In a statement issued before yesterday's House vote, Rep. Christopher Cox (R., Calif.), one of the bill's architects and most ardent supporters, dismissed the concerns raised in Mr. Clinton's message and painted the veto as a concession to class-action trial lawyers who oppose the bill. Mr. Clinton vetoed the bill, Rep. Cox asserted, "at the bidding of securities lawyers who are some of his and the Democratic Party's biggest donors."

The President's message also criticized the managers' statement that accompanied the bill, in which its congressional supporters explained what their intentions were in drafting it. Mr. Clinton complained about how the managers' statement described a key provision of the bill protecting companies from legal liability for their forecasts about earnings and other matters. The statement, he said, "attempts to weaken the cautionary language" the bill requires for companies to describe factors that might skew their forecasts.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I thank my colleague from Pennsylvania.

If we were not in the veto circumstance we are in, we might well be able to work out some of the issues that he raises. My only comment with respect to some of the comments he made is to remind Senators that this bill deals with forward-looking statements, not with fraud that is committed in terms of reporting inaccurate stock prices, earnings, asset value, et cetera. I hope Members of the Senate and any who are listening will understand the point we have made over and over again, that had this bill been in place at the time of Charles Keating's defalcations this bill would not have prevented a class action suit against Charles Keating. Had this bill been in place at the time of the class action suit brought in Orange County, this bill would not have prevented those class action suits.

There is a clear difference between fraud when one is making a false statement about the performance in the past and forward-looking statements where one is making predictions about the future. That is one of the cruxes here of this argument that has been lost. People have stood in the Chamber again and again and said to those of us who are in support of this legislation, how can you support fraud on the part of corporate executives? The answer is, we do not support fraud on the part of corporate executives. We have never supported fraud on the part of corporate executives.

If I may be somewhat predictive in my forward statements, Mr. President, I see charts that are being set up in the Chamber that we have seen before which make this point, that investors are being defrauded and therefore how can you support legislation that would support this kind of defrauding.

The fact is, stating it once again for the record, we are not talking about the Charles Keatings of this world. We are not talking about that for which Michael Milken was sent to jail, acts where information is hidden from investors or information is distorted to defraud and mislead investors. We are talking about the circumstance where an executive is asked a question about the future and gives his best answer, and then after the fact, if the future does not come to pass the way that executive had speculated, he gets sued.

If I may, Mr. President, I would like to put that in the context of the present budget debate because that is so much on everybody's mind. We are seeing estimates of the future that are coming out of the Office of Management and Budget. We are seeing estimates of the future that are coming out from the Congressional Budget Office. We are seeing estimates of the future that are coming out of the Mainstream Bipartisan Coalition, with whom I met yesterday, about what the economy is going to do and what the budget is going to do. Without the protection contained in this bill, if the Members of the Senate and the House, if, indeed, the President himself, were corporate executives making these estimates about the future, we would all be subject to class action lawsuits if it turned out we were wrong.

I guarantee you, Mr. President, we are all wrong. The only thing I know about the Congressional Budget Office projections for the future and the Office of Management and Budget projections for the future and the President's projections for the future and my projections for the future is that we will all be wrong. The future is not knowable with any degree of certainty. If it were, we would all be rich because we would all bet on the right side of every football game. We would all make the right choices for every stock that was purchased. We would all be rich because we could all predict the future with certainty.

None of us can, and yet that is the standard to which too many executives have been held in this arena: You said you were going to have product x ready for us by September and you missed it by 30 days. We are going to sue you for misleading us.

What protection does the executive have in that circumstance when they say, Mr. Executive, when do you expect to have product x ready for market? He says, I will not tell you because if I say September and it turns out to be October, you are going to sue me. And if I say September and it turns out to be August, you are going to sue me. So I will not tell you. Well, how can I make an intelligent guess as to whether or not I should invest in your company if you will not even tell me what you expect to happen? Tough luck.

That is what we have now, Mr. President. In the name of protecting the investor, we are depriving the investor of the very best guesses so labeled, estimates so labeled, conjectures so labeled, of the people who know the most about the company. We are asking the investor to fly even more blind than they would be if they had those guesses.

So let us understand as we debate this that we are talking about protecting people from lawsuits based on their inability to guess the future, not about protecting people from liars, cheats, and thieves. The liars, cheats, and thieves will still be subjected to class action lawsuits and the class action lawsuits will still end up recovering millions of dollars for investors. But if this legislation passes, honest executives who want to share their best guesses of the future with investors will be able to do so with the knowledge that if they happen to be wrong and product x comes out in October rather than September, they will not have to spend millions of the investors' money to pay off some professional plaintiff that has brought a suit against them on the technicality that exists in the present circumstance.

Mr. President, I see that my colleagues are now prepared. I am happy to yield the floor to those who have a differing point of view.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you very much, Mr. President.

I think we have an opportunity here to make a bill better, to fix some flaws in a bill that had the best of intentions when it started out, to make sure that we let people know if they are even thinking of filing fraudulent, frivolous lawsuits that they should not even think about it because they are not going to succeed in the end.

That is something I care a lot about. I represent a State that has a lot of businesses which have been hit by lawsuits that in many cases should not have been filed. On the other hand, many of them should have been filed.

My concern here is for small investors. I do not worry about the giant, wealthy investors who, frankly, can take a hit or two and not have any problem. I am worried about those people who save for their retirement, who are basically in the middle class of this country, who count on—the truth in deciding where to put their money so it is there for their retirement.

If they do get hit with one of these problems, it means big trouble. We saw it coming home to roost in the case of those who were defrauded by Charles Keating. We certainly do not want to pass a bill here—I do not think any of us would—that would make it easier for the Charles Keatings of the world to succeed in defrauding unsuspecting investors. Nobody wants that—nobody.

Yet, we know that as this bill has been analyzed by the experts, by the people in academia, by the people who know the law, by people who are really charged with protecting small investors, they are suggesting to us in very strong language that this is not a good bill.

The President heard those people, and I think it took some courage for him to veto this legislation. I think this override vote is going to be very, very close. I do not know where it is going to come out. But I hope, if Senators are making up their minds on this matter, that they would read the President's veto statement. I think it is very clear as to what problems he sees. I hope, also, they will read some of the many, many newspaper editorials that have appeared all across the country warning this Congress not to move forward with this bill.

Here is Money magazine. This is not a magazine of lawyers. As the Senator from New Mexico, Senator DOMENICI, said, "Well, it is only the lawyers." This is Money magazine. It is very interested in this editorial in warning investors about this bill. "Congress Aims at Lawyers and Ends Up Shooting Small Investors in the Back." I just think that sums it up.

We want to stop frivolous lawsuits. We want to stop anyone who would put a company through a lawsuit where there was no foundation for it. But we do not want to in the end shoot small investors in the back. They say:

> At a time when massive securities fraud has become one of this country's growth industries, this law would cheat victims out of whatever chance they may have of getting their money back * * *. In the final analysis, this legislation * * * would actually be a grand slam for the sleaziest elements of the financial industry at the expense of ordinary investors.

Mr. President, that is strong language. What they are saying here is what I said when I began: we had a reason to take a look at all this. Our reason was frivolous lawsuits. And what we wound up doing is hurting small investors and creating a climate where the lowest of the low, the people who prey on others, who count on information to make investment decisions, are going to be rewarded by this bill. We do not want to do that, I believe.

I think what the President has done is to call our attention to the failings of this bill. I was a stockbroker many, many years ago. I was quite young at the time. But the one thing I understood was that people relied on me. It was a big responsibility. I often thought, you know, if you really did not have the best interests of the people in mind, you could get these people in an awful lot of trouble. You could churn their investments so that you would get a commission. You could hurt people.

It seems to me that type of person certainly is not the majority, but they do exist. As a matter of fact, if you look at current trends, unfortunately, there are more and more of these people than we would like to believe.

Here are some other newspapers. These are editors who have absolutely no stake in this from a financial point of view. As a matter of fact, most newspapers tend to be more conservative, more conservative, more probusiness than others. But look what they say.

"Protecting Investors From Securities Fraud." This is the Oakland Tribune.

> Say you have a spare $1,000 or so, and don't want to salt it away in a simple savings account. You hear about a company's stock that is touted to go up because executives are forecasting greatly increased earnings. You decide to use your $1,000 to buy that company's stock based on the rosy predictions of future earnings, but the earnings forecasts turn out to be bogus. You learn the executives knew their earnings forecast was unattainable, yet they hyped their stock anyway. The stock price does not rise as the company's executives hinted it would, and your $1,000 is not worth $1,000 anymore, but less. And if you want to sue to recover your losses—

They point out—

> you can now. But if a House-Senate conference bill passes—

And that is what is before us, Mr. President—he basically says:

> it will be much more difficult to do so—

Meaning to sue. And they call on President Clinton to veto the measure—

> because it leaves individual investors and an array of institutional investors, like pension funds, municipalities and other Government units without enough protection from manipulators like Charles Keating, Ivan Boesky and Michael Milken.

They go on to explain the bill. And they talk about how in fact these charlatans would really be popping their champagne in their boardrooms, in their homes tonight if we in fact do not sustain this veto.

Another editorial, the San Francisco Chronicle. The reason I think it is important, Mr. President, to read these is because, again, the way this bill is presented to us by the people who want to pass it is as if there were 90 lawyers in the entire country who really care about this, that they control this debate. Clearly, I am going to prove by the type and number of examples that I raise here that is not the case.

"Opening The Door To Fraud." And this says:

> Legislation would wipe out important consumer protections. Securities fraud lawsuits—

This is in the San Francisco Chronicle—

> Securities fraud lawsuits are the primary means for individuals, local governments and other investors to recover losses from investment fraud, whether that fraud is related to money, invested in stocks, bonds, mutual funds, individual retirement accounts, pensions or employee benefit plans. As the draft report stands—

That is essentially what is before us—

> investors would be the losers, and their hopes of receiving convictions in suits similar to those against such well-known con men as Michael Milken and Ivan Boesky would be severely hampered. In the name of the little guy, Clinton should not let that happen.

Our President did not let that happen. Now there is a chance for us to stand up and be counted on behalf of the little guy, the little guy, the small investor, those of us in America—and that is most of us—who are really in the middle class, who would be greatly hurt if in fact we did not have the ability to go to court and to, if we were defrauded, have a chance at recovering even some of our investment.

This is a Michigan headline, and I think it is pretty strong. "How Come GOP's 'Contract' Allows Ripoffs Of Investors?" The reason they talk about it as the "GOP contract"—and it is in many ways certainly supported on both sides of the aisle—is that the contract contains language that is in many ways the father of this bill. The Michigan paper says:

> . . . let the bill's backers explain to the rest of us why stock swindlers need to be "protected" from lawsuits.

This is in the Muskegon Chronicle in Michigan.

The fact is we can stop this bill now. We can start all over again with a better bill. We can follow the advice of President Clinton. He has given us for the record, many, many letters from experts in this field who really convinced him that, in the end, this bill, as written, would hurt middle-class investors.

We have a road map from the President of some of the things that we can fix.

I would like to read a letter from the Fraternal Order of Police that I have to read before on this floor. It is a letter to the President:

> On behalf of the National Fraternal Order of Police, I urge you to veto the "Securities Litigation Reform Act." The single most significant result of this legislation would be to create a privileged class of criminals . . . our 270,000 members stand with you in your commitment to war on crime. I urge you to reject a bill which would make it less risky for white collar criminals to steal from police pension funds while the police are risking their lives against violent criminals.

I think this really says it all. Here is a letter written by police who are protecting our lives, they are on the line, and they are worried that their pensions will not be protected because this bill would make it possible for their pension plan to be raided and for them to lose their retirement funds.

Those who present this as an issue about special interests have a perfect right to do that, but I say to you, what we are doing goes quite beyond that. It termed called reform, but it overturns legal protections that have been there for investors since the thirties. How quickly we seem to forget history, that people, small investors deserve and need this protection.

We do not need to do this so much for those who are wealthy. They are not too worried about their being defrauded. But it is our small investors, it is our people, particularly the elderly, who count on getting their retirement from these investments, that we should be protecting. The wealthiest do not need us to worry about them and, frankly, the very poor simply do not have the funds to make these investments. So I think this is a vote on whether you are going to stand behind the middle class, the small investor, or are you going to abandon them in the name of frivolous lawsuits, which is a wonderful and noble objective which, frankly, has just gone awry.

The President vetoed this bill because I think he wants to stand with the middle class. He is certainly standing with them in this budget fight, and there is a connection. When you fight for the elderly to protect their Medicare, you are saying you care about these people. But at the same time, if you leave their pension plans open to raiding by people like Keating and Boesky, and we know the cast of characters we have seen come out of the eighties, then you are harming them. If you protect their Medicare on the one hand, but you leave their pension plans and retirement savings prey to those that, frankly, would take advantage of them only too quickly if they knew that the legal protections have been changed, you abandon them.

So I say the bill, as it is currently, is against the middle class. The bill targets small investors, the elderly and those saving for old age through their retirement.

Again, I do not think we can really bifurcate this argument from the rest of what we are trying to do. We stand here and we say we fight for the middle class. We are fighting against those Medicare cuts, those Medicaid cuts to our elderly in nursing homes and to make sure that kids have access to college loans so their middle-class families can afford to send them to college. Protecting them from securities fraud is part of standing up and fighting for people who count on us and who rely on us.

Many of us stand up here and say we are not going to see a budget go into effect that gives large tax cuts to the wealthiest among us while we hurt our middle class by cutting all these other programs. There is a nexus here. We should stand proudly for the small investor and those who need us.

The President's three objections, I think, are very clearly stated in his veto message. First of all, he talks about the bill's pleading standards which he believes would make it virtually impossible for those who have been defrauded to even bring a lawsuit in the first place. I think this is very important, because the bill, as it currently stands, requires defrauded investors to know the state of mind of the people who defrauded them before they even file a lawsuit.

How can you possibly know what is in the heads of people you have never even met? How can you prove what was in their minds before you have had a chance to find out what, in fact, they did have on their minds when defrauding you? You cannot. That is an impossible standard.

The President was willing to accept a bill which adopted the most difficult pleading standards adopted by any Federal Circuit Court of Appeals, and that is the second circuit. But what the President was not willing to do, was to make those standards even more difficult.

That is very important. The President is not saying in his veto message this is a terrible thing, we should not even be looking at this bill. He is saying there are things wrong with it. One of them is its pleading standards. In the President's own words,

> the bill would erect a barrier so high that even the most aggrieved investors with the most painful losses may get tossed out of court before they have a chance to prove their case.

The President was particularly concerned that the conference dropped an amendment overwhelmingly adopted by the U.S. Senate, an amendment offered by Senator SPECTER. I know Senator SPECTER was on the floor talking about his amendment. It would have remedied the problem that too draconian a pleading standard would have created. The SPECTER amendment would have allowed lawsuits to be filed if the defrauded investors could show that the defendant had the "motive and opportunity" to defraud them.

After that standard was met, the plaintiffs would be allowed to go forward and test whether the defendants actually defrauded them. But the operative language here, "motive and opportunity," would be the standard, instead of the impossible standard where you have to describe the mind of people you do not even know who have defrauded you, proving what was their state of mind before you can even get into the courthouse.

That is not what American justice is all about. We are proud of our legal system because its doors are open. They are open to the wealthiest. They are open to the poorest. This really would slam that door on the small investor. That is wrong.

The President also opposes the bill's draconian safe harbor which permits outright frauds as long as they are couched as predictions and estimates of future profits and income. The President is saying, if you allow companies who do not tell the truth to cover over outright lies using "predictions" and "estimates," then you are not giving these companies a safe harbor, but rather, what has been described on this floor, as a "pirate's cove" filled with sharks and barracudas. You are going to have sharks and barracudas hiding in the safe harbor, calling something a prediction and the investor, who is not sophisticated making an investment based on this very misleading language.

Fraudulent future predictions and estimates would be permitted under this bill if those defrauding attach "some" possible reasons why the prediction might not come true. Those defrauding can hide the real reason that their fraudulent prediction will not come true and they cannot be sued.

In other words, they know that what they are saying to unsuspecting investors is not true, but they couch it in terms such as "this is a prediction," "this is an estimate." Then they are home free protected by the "safe harbor" from successful suit.

The President has been reasonable. He is willing to allow greater protections for predictions and estimates of a company's prospects, but he is not willing to permit outright fraud.

I think the President is being extremely reasonable when he says bill needs to be changed. The safe harbor is the one change and the pleading requirements are the other.

The President is also opposed to the bill's unfairly treating plaintiffs more harshly than defendants. That moves us toward a loser-pay standard which we all say we do not think is a good thing but, frankly, it is in this bill.

The bill creates a presumption that small investors must pay all of the other side's legal fees if their initial fraud complaint violates rule 11 of the Federal Rules of Civil Procedure, but it does not require defendants who violate that same rule in similar situations to pay all of the plaintiff's legal fees. So what kind of justice is that? That is so blatantly unfair, I do not even know how to express my outrage at that particular provision.

I do not happen to believe in loser-pays for either side. I just think that is a way to basically send a message to people that they could get stuck—mightily stuck—with large bills. They could be small investors or, frankly, small companies. I think that is totally wrong. The fact is, we have a legal system that has worked pretty well, and I am very fearful that if we start introducing a modified version of loser-pays in this bill, there is no stopping it. I think that would be a very dangerous thing to do.

If you are a very small investor and you think you have a really good case, but you know if you have an unfriendly judge, for example, you could get stuck paying the other side's legal fees, you might walk away and allow a real swindler to get off the hook. So this troubles the President, as well it should, and it troubles me, as well.

We believe, really, that small investors would be terrorized into not filing lawsuits for fear of having to pay these legal fees of large well-heeled corporate defendants who could run up very large legal bills. So for at least 100 years, the American court system has rejected loser-pays because it prevents aggrieved parties from asserting their rights.

I have already put into the RECORD today a number of newspaper articles. But I have to say, Mr. President, again, to those who try to dismiss the opposition of this bill, they are really not being fair. It is true that everybody wants to stop frivolous lawsuits. So it was hard for many of us to stand up and oppose this bill. But I have to tell you, if you listen to some of the groups in the country who oppose this bill, I think it would be an impressive list:

The Government Finance Officers Association [GFOA], a professional association of State and local government officials, both elected and appointed, whose duties include the investment of cash balances and pension funds and issuance of municipal debt. These are the people who know what is at stake here. The Government Finance Officers Association opposes this bill.

The U.S. Conference of Mayors opposes this bill. Why? Because they have large security investments, including pension funds. For example, the city of San Jose in California was completely ripped off by an unscrupulous broker many years ago. They were able to recover because we had good laws on the books—laws that are going to be changed, and their city attorney came before our committee to testify and said it would be very dangerous to change these laws.

Then there is the North American Securities Administrators Association, who represents the 50 States' securities regulators, responsible for investor protection, and the efficient functioning of the capital market at the grassroots level. The North American Securities Administrators Association opposes this.

I have a letter from the California County Officials. They oppose this.

The American Bar Association.

I just, Mr. President, fear very much that we will be back on this floor if we cannot work this into a better bill, when the first scandal hits, with Senators saying, "My God, I never knew, we did not mean it, and we have to take another look at this." You know that is going to happen.

I think we should listen to the people in the local counties across our country. I think it is pretty effective. We have a letter signed by 99 California government officials, including the mayors of San Francisco, San Jose, and officials in 43 of our State's 58 counties. Mr. President, I want to say that many of these counties who signed this letter are extremely conservative local government officials. It is rare that they call me and are so united on such an issue.

I have, also, a letter signed by 34 county treasurers in Arkansas, 51 public officials in Georgia, 58 public officials in Massachusetts, including the Massachusetts Association of County Commissioners. I have a letter signed by 39 officials in New Jersey, including the New Jersey Conference of Mayors and the New Jersey State League of Municipalities.

So it is very important. In this letter signed by California county officials that I talked about, they say:

> In recent years, local California governments, most notably Orange County, have lost more than $2 billion in the securities markets, partly due to derivative investments. Some of these governments have pending securities fraud cases; others are still deciding whether to use the courts to pursue recovery of losses.
>
> Now is not the time to weaken defrauded investors' rights to pursue civil action, as would occur—

Under the bill that is pending before us—

> unless institutional investors that are defrauded have the ability to recover their losses in court, they will have to make the unenviable choice [as Orange County did] between cutting essential services, such as education programs, or raising taxes.
>
> We urge you to do the right thing and protect taxpayers' investments from securities fraud and oppose this unbalanced, unnecessary and dangerous legislation.

Again, this is from Fresno to Los Angeles to Riverside and Stanislaus County, Kings County, Tulare County, Yuba, Shasta, Monterey, Siskiyou, Sierra. I am talking about counties from the city to the rural areas—everywhere. Inyo, Mariposa, Santa Ana, Fremont, Stockton, Riverside, Oceanside, Elmonte, Thousand Oaks, Westminster, Newport Beach, Arcadia, Barstow, Contra Costa Water District, South Pasadena, South Tahoe Public Utility District, city of Hemet, San Benito County, and others. My State has 31 million people in it—31 million people in it, Mr. President. Every time we do something here, it affects my State more than any other State just by virtue of that fact. To have these Republican and Democratic elected officials be so united in their opposition is very, very unusual. Retirement associations all throughout the State, including my home county of Marin, where I served on the county board of supervisors—they are very conservative—they do not want to see us weaken these laws.

The American Bar Association, their new president, Roberta Ramo, has written an excellent letter to the President outlining their problems with this bill.

I want to conclude my remarks, Mr. President, by saying this: Again, my State represents a lot of the companies that have legitimate problems with frivolous lawsuits. I promised those companies I would do everything I can to work on legislation that really addressed their problems. I do not want to see anything hurt decent business people. On the other hand, I want a balanced bill and one that does not go so far that the charlatans that may be stockbrokers, investment advisers, corporations—we have seen them so much in the 1980's, and we see more now—we do not want to open the door to that kind of investor fraud.

I think the President took a strong stand to protect the middle-class investors. I applaud him. I hope we can in fact sustain that veto. I know if we do, it will be very close one way or the other, if we fail or if we succeed. But I have to say this: What is at stake here is really, I think, in the long run, the health of the securities markets. The worst thing we can do is have a situation where the laws on our books have been weakened to a point where they do not provide investor confidence. People will not invest their money, and we will have a situation where decent companies are going to have to pay a premium—it is really a premium—in order to convince people to invest with them. That will cost these good companies more money. They will have to pay more interest to these investors because many investors, as soon as we have that first scandal, are going to say, "You know what? Maybe I am better off with Government bonds. Maybe I am just better off getting a certificate of deposit that is insured by the Federal Government."

So that would be the worst thing that could happen, in the long run—if we try to address one problem, frivolous lawsuits, and weaken our laws to such a point that people do not have confidence to invest their money in the market.

So I hope we will stand with the President. He has really laid out a clear path on how to fix this bill. I want to thank Senator BRYAN and Senator SARBANES.

I have been proud to be on their time as we have tried to bring these issues to the President's attention, to our colleague's attention and frankly to the attention of the American people. I hope we will sustain this veto. I yield the floor.

(Mr. CAMPBELL assumed the chair.)

Mr. GRAMS. As a conferee for this bill, I am here on the floor today to also join those others in urging my colleagues to vote to override the President's—what I consider—ill-advised veto of the conference report on securities litigation reform.

Back on December 5, 65 of us voted in favor of the conference report that the President has now vetoed. Mr. President, 69 of us voted for S. 240, which was substantially similar to the conference report.

Now, the principal authors of this legislation are Senators D'AMATO, Senator DODD, and Senator DOMENICI. These Senators put aside their political and partisan differences to do something right for small investors, for workers and for the consumer. All of us did. When you have legislation that is authored and supported by the general chairman of the Democratic National Committee and the chairman of the Republican Senatorial Committee, I believe that is what you would call compromise. When you have almost 70 Senators from both sides of the aisle voting for this legislation, that is also called compromise. So, why did the President veto this measure?

Well, in his letter accompanying the veto, the President said that he wants to protect innocent investors from being defrauded. Well, this legislation protects those investors. It preserves the right of these investors who are truly victimized by securities fraud, but it does much more than that, as well. It also will protect the worker who is out there and worried about being laid off because his employer had to pay attorney's fees instead of being able to pay his salary.

It will help the consumer who has to pay higher prices for products today because of the hidden costs of frivolous legislation and litigation.

It will pay off for the legitimate investors and for the pensioners whose life savings are being jeopardized by strike-suit attorneys.

Finally, it will also benefit the thousands of honest, hard-working attorneys who have watched the public image of their profession being tarnished by a few greedy quick change artists.

It is also for the sake of those Americans that we have put in long hours of hard work to craft what I believe is a very balanced and reasonable bill.

The only people who will lose under this legislation are the small class of attorneys who have used professional plaintiffs to file frivolous and meritless suits, again just to make a quick dollar. They use joint and several liability to bring secondary defendants into their cases simply to try and extort a higher settlement out of them as well.

Now, the social costs of these suits are very, very high. Again, they would result in fewer jobs because employers would be paying high costs for frivolous litigation, rather than being able to put that money where it would make a difference, and that is in the higher salaries or more jobs. Higher prices for the consumers who end up having to pay these costs because they are passed along in the cost of doing business. They go into the products and the services that these people provide, so consumers end up paying more because, again, of the costs—the hidden costs—of frivolous litigation, and it has diminished returns for the innocent investors. The very investors that the President says he wants to help protect are the ones who would benefit from this bill, as well.

What do investors get in return for those abusive lawsuits? In the past they have received about 6 cents on the dollar that has gone back to the victims. The rest has gone into litigation, legal expenses and lawyer's fees. Who is the President really trying to protect? Investors, the consumers, or the workers, or a small group of unethical lawyers? I think that answer was obvious.

Legislation is not meant to protect political constituencies. When we do the work of the people we should think of what the voters called for in the last election—not the commercials that consultants will be running in the next election. That is not what the President did when he vetoed this bill. We should not stand for it as well.

For those reasons and for the sake of the small investors and the consumers, the job creators and the workers, we should override this veto, because if the White House will not stand up for these individuals, who will? We must. I believe that we will.

Again, I urge my colleagues to override the veto and to enact the commonsense legal reform that is contained in this bill. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah [Mr. HATCH] is recognized.

Mr. HATCH. I thank the Chair.

Mr. President, on December 19, 1995, President Clinton vetoed the conference report to H.R. 1058, the Securities Litigation Reform Act of 1995. This act represents a very modest step forward in addressing some of the egregious abuses present in our litigation system today. In doing so, I believe President Clinton has sided with a handful of very wealthy lawyers and against the interests of the American people at large. President Clinton is a tenacious defender of the status quo. I do not think the status quo is serving us well.

The securities bill was developed over the past several Congresses by a dedicated, bipartisan, moderate group of reformers who have long seen the need to change our securities litigation system. Senators CHRISTOPHER DODD and PETE DOMENICI have led this effort for a number of years and finally saw the opportunity for meaningful reform in this Congress.

The securities litigation conference report passed the Senate by a bipartisan vote of 65 to 30. A total of 19 of our colleagues on the other side of the aisle voted in support of this moderate and meaningful bill.

The legislation sought to make securities litigation fairer by curbing the abusive litigation practices that have been employed by a small number of plaintiffs lawyers in securities litigation class action lawsuits. That very small group of trial lawyers who specialize in securities litigation lawsuits represents the only ones who are truly hurt by the securities litigation reform bill. Likewise, they are the only ones who are helped by the President's veto—just a few, very wealthy litigation lawyers in the field of securities law.

The plaintiffs lawyers who benefit from the President's veto are the ones who perfected the so-called strike suits. Strike suits are filed against companies after a drop in the stock price, frequently without regard to whether there has been any fraud or wrongdoing on the part of the company. And by the time the suit really gets in full swing, the litigation is so expensive for the companies that many of these companies just settle for defense costs to get rid of the problem and the embarrassment, and to not have to take a chance with some of the juries in some of the more, shall we say, jury-liberal States in our country.

For example, in 1990, when LA Gear, the sportswear and sneaker manufacturer, announced lower than expected earnings, one law firm filed 15 lawsuits just 3 days after the announcement.

The Banking Committee heard testimony concerning other cases in which securities lawsuits were filed within 90 minutes of the drop in share prices. These kinds of filings without regard to the merits are ridiculous. They are hurting American businesses and consumers.

I am particularly concerned because perhaps hardest hit have been high-technology companies. Those companies form a key part of the American economy and are vitally important to the economies of Utah and many other States. They are being disproportionately hurt by these lawsuits.

A Stanford University law professor, conducting a study of securities class action lawsuits filed in the 1980's, most involving high-technology firms, found that every single company, every single high-technology firm that experienced a market loss in stock price of at least $20 million was sued. Every single company. Those kinds of abuses are an outrage and an affront to the legal system. These are some of the most successful American companies, and they are being besieged with lawsuits. Some think it should be called legal extortion. It simply cannot be that every single high-technology firm that has suffered a $20 million or more loss is engaged in securities fraud. It just is not true. But by the time the lawsuits start and the litigation begins, and the depositions start and the discovery becomes burdensome and onerous, a lot of companies just throw up their hands in the air and pay whatever they have to to get out of it because they know that kind of litigation is never ending.

The current litigation system encourages wasteful and needless litigation even where there is absolutely no evidence of wrongdoing. The unavoidable fact is that because of current skewed incentives in the litigation system, the small group of lawyers who file most strike suits are not filing such suits to protect shareholders against corporate fraud and wrongdoing. They are doing so to line their own pockets.

I happen to be a lawyer. I happen to understand securities law. And I can tell you that is what is happening. The Banking Committee heard testimony that plaintiffs in these suits typically receive only 14 cents for every dollar while the trial lawyers collect a whopping 39 percent of these settlements. That is abominable and everybody knows it. Other studies have suggested even lower plaintiff recoveries. We are talking about the people who are supposedly wronged getting 14 cents out of every dollar while the attorneys get 39 cents out of every dollar.

These lawyers are filing these lawsuits so that they can terrorize American companies into paying exorbitant settlements because they know these companies cannot afford the high legal fees that would be required to defend themselves even against meritless lawsuits.

When companies must pay for needless litigation, settlement and insurance costs with dollars that could be going to create jobs or to further research and development, consumers and stockholders, virtually all Americans in fact are hurt. Due to wasted resources, profits and stock prices are lower than they would otherwise be and the shareholders in the end lose out. That should not be lost in this debate.

The truth is that shareholders are very well protected under the securities laws and under this securities bill. This legislation ensures that the class action device remains available for those shareholders who have been in fact victims of securities fraud. In fact, it improves that device so that injured investors, not a small group of greedy lawyers, can control the litigation.

Although the President pointed to what he claimed are a number of shortcomings in the bill that justify his veto, his excuses are just that—slender excuses for siding with some of these jackal lawyers.

First, the President nitpicked with the bill's pleading requirements. However, legislative history in the House and Senate makes clear why a heightened standard requiring pleading with particularity is necessary to eliminate securities lawsuit abuses. The conference report sensibly requires a heightened pleading standard to weed out frivolous litigation and to free parties against whom claims are made from being subject to abusive and expensive discovery.

Second, the President went after the safe harbor provision, which creates a safe harbor for forward-looking, predictive statements. Some companies have faced damaging lawsuits merely on the basis of vague but optimistic projections that the company would do well even though it was clear that the prediction was speculative and future oriented. The safe harbor provision sensibly addresses those problems.

In fact, President Clinton notes that he supports the conference report language but is concerned with some language in the statement of the managers of the bill on this provision. Now, the Constitution gives the President the authority to veto legislation, but nowhere does it give the President authority to veto legislative history. I think a veto on the grounds of legislative history in this case is extreme, especially in light of the clear language of the bill.

In short, President Clinton was stretching for excuses to veto this legislation. The only thing President Clinton has shown with his veto of the securities litigation reform bill is that he will side with a handful of trial lawyers against the interests of all Americans—especially American consumers and shareholders. He has proven that he is not an agent of meaningful and needed change but instead a tenacious defender of the status quo.

I encourage my colleagues to override his veto so we can provide meaningful change to Americans who are fed up with lawsuit abuse in this country. My good friend and colleague from Pennsylvania has joined the Clinton administration in questioning the pleadings standards contained in this bill. I should note, for the record, that in June of this year this very administration that has vetoed this bill called the bill's pleadings standards "sensible" or "workable." I would also note that these pleadings standards were based, in part, on the recommendations of Judge Anthony Scirica of the Third Circuit Court of Appeals.

Mr. President, I ask that the June administration policy statement and an October 31 letter from Judge Scirica be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADMINISTRATION POLICY

The Administration supports appropriate reforms of the federal securities laws. The goal should be to and litigation abuses and to clarify the law, without improperly limiting the rights of investors to pursue civil actions against financial fraud.

As reported by the Senate Banking Committee, S. 240 contains a number of provisions designed to end litigation abuses which the Administration endorses. A number of its original provisions that had been the focus of committee discussions have been modified appropriately or deleted. S. 240 is now a substantial improvement on H.R. 1058, which the Administration could not support. For instance, S. 240 rejects certain of H.R. 1058's egregious provisions, such as its "loser-pays" approach and its too-stringent definition of recklessness. At the same time, S. 240 adopts several sensible provisions, including a workable pleading standard taken from the Second Circuit, and appropriate class action reform provisions.

The Administration recommends the following modifications to two provisions in the bill:

Safe Harbor—The Administration supports the Committee's attempt to craft a statutory safe harbor that would encourage the dissemination of forward—looking statements without protecting statements made with an intent to mislead. The Administration does not believe a safe harbor should protect statements known to be materially false or misleading when made. The Senate should clarify whether the safe harbor's current language would protect such statements.

Proportionate Liability—The Administration opposes the bill's provision that would establish proportionate liability for reckless defendants because in cases involving insolvent defendants, the provision would leave investors unable to recover their full damages. Culpable solvent defendants, rather than defrauded investor, should at least bear a substantial portion of this noncollection risk. Accordingly, the Administration supports an amendment that would require culpable solvent defendants to pay up to twice their proportionate share of damages (rather than 150 percent as in the Committee bill), when other defendants have gone bankrupt or fled.

The Administration recommends that the Senate adopt the following measures, which are not included in S. 240:

Private Aiding and Abetting—The Committee bill explicitly retains the SEC's authority to take action against those who knowingly aid and abet securities fraud. Congress should also restore this action for the SEC against reckless aiders and abetters, as well as for private actions that follow a successful SEC action.

Status of Limitations—The Administration recommends extending the statute of limitations for private securities fraud actions to five years after a violation occurs. Although S. 240 as originally introduced addressed this issue, the Committee deleted it from the bill.

It should be noted that the Securities and Exchange Commission has expressed many of the same concerns with respect to this legislation. The Administration encourages the Senate to continue to work with the Securities and Exchange Commission to ensure that S. 240 redresses litigation abuses while preserving the ability of investors to bring class-action lawsuits against financial fraud, a legal device that is critical to the maintenance and integrity of our financial markets.

Pay-As-You-Go Scoring.

S. 240 could affect receipts; therefore, it is subject to the pay-as-you-go (PAYGO) requirement of the Omnibus Budget Reconciliation Act of 1990. The preliminary OMB PAYGO estimate is zero. Final scoring of this legislation may deviate from this estimate.

UNITED STATES COURT OF APPEALS,
Philadelphia, PA, October 31, 1995.

Ms. LAURA UNGER,
Mr. ROBERT GIUFFRA,
Senate Committee on Banking, Housing and Urban Affairs, Dirksen Senate Office Building, Washington, DC.

DEAR LAURA AND BOB: I have a few suggstions for your consideration on the Rule 11 issue.

Page 24, line 11: Insert "complaint" before "responsive pleading."

Page 24, line 19: Insert "substantial" before "failure."

"Complaint" would be added to item (i), so there is a clear provision that reaches any failure of the complaint to comply with Rule 11. A small offense would be met by mandatory attorney fees and expenses caused by the offense; if item (ii) is modified without this change, a gap is left in the statutory scheme. The result still is a big change from present Rule 11, which restricts an award of attorney fees to a sanction "imposed on motion and warranted for effective deterrence." A serious offense—filing an unfounded action—would be reached under item (ii).

I also wish to confirm our prior conversation on scienter and the pleading requirement.

Page 31, line 5: Delete "set forth all information and insert in its place "state with particularity."

Page 31, line 12: Delete "Specifically allege" and insert in its place "state with particularity."

As I indicated, this would conform with the existing language in Rule 9(b) which provides that "the circumstances constituting fraud or mistake shall be stated with particularity."

Also, page 24, line 1: Delete "entering" and substitute "making."

Page 24, line 4: Delete "of its finding."

Many thanks.

Sincerely,

ANTHONY J. SCIRICA.

Mr. HATCH. Mr. President, this is an important bill. It is true reform. Having read and studied securities litigation, under the securities law true fraud can be prosecuted, true fraud can be brought.

This bill is not going to interfere with those cases. What it does is stop the abuse and misuse of the class action litigation and even things out. This will stop the abuse of companies that have a downturn in their stocks, which happens to a lot of companies, and perhaps through no fault of their own or through some economic downturn that affects them, and will stop the litigation that is brought in many cases just to get defense costs. Too often, it costs more for companies to defend themselves, even though the case is meritless, than it would just to settle the case and get rid of the nasty hornet that has been buzzing around the company's head, for the use of these sometimes very greedy lawyers.

Not all lawyers are greedy; not all lawyers are bad. Most of them are very good people. But there are abuses in the law. In this area it is particularly pronounced. This bill is brought to try and correct some of those pronounced abuses.

Mr. BRYAN. Mr. President, I am looking around the gallery today, as citizens visit our Nation's Capitol, and those that are tuned in on television across the country are saying to themselves, "I do not understand what this debate is all about. Are there not bigger problems that the Nation faces?"

Clearly, we are in a state of paralysis here in Washington today. Part of the Federal Government is shut down. There is no clear path, as I speak at near 2 o'clock in the afternoon, eastern standard time, as to how we are going to break this gridlock or logjam that has gripped us in this confrontation as to how we balance the budget in 7 years, and the road we use to get it. That is a major issue. No question about that.

Let me try to put this debate into some context because I acknowledge that the country's attention is focused on the macroeconomic picture, the kind of thing that will affect the future of our country and of our Nation.

What is at stake here? Is this an argument between a handful of greedy lawyers, as the proponents of this legislation argue, in disagreement with a small group of people on Wall Street—brokers, accountants, entrepreneurs—who wish to access the capital markets of our country and issue stock? Is that what this thing is all about? I say to our visitors and Americans across the country, this is a far, far bigger issue.

I acknowledge that it is terribly esoteric, arcane, highly technical. Why should somebody listening in on this debate have an interest or concern in the outcome? Anyone who has a single share of stock in any publicly traded corporation has an interest in the outcome of this legislation because that individual, he or she, could become a victim of a fraudulent action. The ability of that individual to recover as a consequence of that fraud is, in my judgment and those of us who have fought this legislation, severely limited and compromised. That is tens of millions of people. In addition, there are probably tens of millions of people more who do not own a direct interest and say, "Look, I have never invested in the stock market. I have no money. My wife and I and my family are lucky if we have a few dollars in the local credit union or the bank. I don't deal with these Wall Street issues. What do I have at stake in this debate? You lawyer types and Senators have sure lost me in this debate. I do not understand what I have involved."

The answer, that there are tens of millions of people out there in this country, good people who have worked all of their lives, who have retirement funds—their security, their safety blanket—these people have tens and tens of millions of shares invested across America in retirement funds. Those retirement funds could be victimized by fraudulent actions, and as a consequence of that fraud, those retirement funds can be severely impaired financially, devastated, and depending upon the magnitude of the fraud could, conceivably, be wiped out.

What does the average American have that interests him in this piece of legislation? His or her retirement could be at risk if they are not able to adequately recover against those malefactors, those that have been involved in perpetrating a fraud. So those who have money in a retirement out there, whether a company-sponsored family or one of the many variations of a 401(k), you have an interest in this debate and your children have an interest in this debate, because some of you are hoping that you have a little money put away, and maybe their inheritance can be affected, as well.

Broadly stated, 260 million Americans have an interest in the outcome of this debate because we are all taxpayers, every single one of us, directly or indirectly. That is why such widely divergent groups such as State financial officials, State treasurers, State controllers, State financial officers—Democrat and Republican, East and West, big cities and small towns—have expressed their opposition and concern; because they know that their community, their village, their town, investing money on behalf of the taxpayers in a securities portfolio, that they can be victimized as well. They do not want to jeopardize their ability to recover on behalf of the taxpayers of their town or their community or village. That is why they have joined in opposition.

I do not doubt relatively few if any are lawyers or stockbrokers or involved as entrepreneurs. So it is their interest on behalf of each of us as American citizens that has dictated that they write us to inform us they are gravely concerned and strongly oppose this bill. I will go into some of the reasons in a moment.

University and college officials who are involved in the management of investment portfolios of American colleges and universities—whether they be private universities, private colleges, or the great State-supported institutions in our country—they, too, have called and written. They strongly oppose this legislation because they know that the investment portfolio upon which their college or university depends can be impaired and financially wiped out if investor fraud occurs and they are unable to recover on behalf of those funds the losses sustained as a result of that fraud.

So we are here today, not talking about 90 greedy lawyers or the entrepreneurs. I think all of us in this country, irrespective of our political leaning or philosophical inclination, are highly supportive of the entrepreneurs in America. They do provide the mainstream for our free enterprise system. But this issue is much broader than that debate. Every citizen in America has an interest in the outcome of what we do.

It has been said that only the dead have seen the last of war. Tragically, I suspect that is true, as much as we would hope that is not the case. Let me just say that only the dead have seen the last of investor fraud in America. The Wall Street Journal, in a fairly recent publication, has told us that investor fraud has increased. In another article we are told that, notwithstanding the efforts of the Securities and Exchange Commission—no partisan commentary is intended—that indeed they have fallen behind. Maybe to some extent we are losing that fight, in terms of pursuing with the kind of diligence that every American would want us to pursue those individuals who practice fraud in the securities markets and who rip us off. So why are we here talking about this thing less than a week before Christmas? It is because every American is affected.

Let me try to say a few words about our system, the system we have created, Democrats and Republicans alike, over a period of some six decades and a little more now, to protect investors, to protect them against fraud. To those people out there who are motivated by greed, who cut corners a little tightly and whose primary interest is to line their own pockets and who care not a whit about whom they hurt—there are still those people out there in America. Unfortunately, they are still involved in investor securities activities.

We set up, over the years, a system that depends upon three pillars to protect the consumer, the investor, the American taxpayer in this broad sense. One, we have empowered the Securities and Exchange Commission. It is a Federal agency. They are out there monitoring the market, responding to complaints. That has been true under Republican and Democratic administrations alike. The agency traces its origin back into the aftermath of the collapse in the Great Depression in the 1930's. And they are out there. By and large they do a good job. Sure, some of us may have some criticism of this or that. Criticism can be found with each of us. But they are out there doing a good job.

But the system does not depend, in terms of the enforcement and the policing of the markets, solely upon the Securities and Exchange Commission. Its premise and predicate contemplates that there are two additional pillars upon which investor protection is predicated.

Another one of those is what we have done at the State level. If I might say for a moment, as my colleagues know, I have had some experience in the State level serving as the chief executive of my State. They are banded together in a group called the North

American Association of Securities Administrators. Their job is to try to protect their citizens in each of the 50 States against the kinds of frauds that occur in our society with respect to the issuance of securities. By and large, I think they do a good job as well. They are not lawyers per se; accountants, per se. They are individuals appointed, by and large, by the respective Governors of their States to help to protect citizens of those States against the kind of securities fraud that occurs. So they, too, have written us in the strongest, most urgent, compelling language to say in our considered judgment this would limit the ability to protect the citizens of our State. We do not speak as lawyers. We do not speak as accountants. We speak as one who, like yourself, is impressed with the public trust to protect the citizens of our State. That is the way our system works.

Finally, the system, contemplated and acknowledged by all, that notwithstanding the fact that we have people at the Federal level and at the State level who are part of our system of Federal and State government who are charged with protecting the consumer, particularly as it relates to investor fraud in the securities market—it is contemplated that the private investor, through his or her ability to file class actions in the Federal court system of America, is a very important adjunct to this system. It is absolutely indispensable; absolutely indispensable. Those statements can be heard from Republicans who have Chaired the Securities and Exchange Commission, by Democrats, and by all commentators, that the private sector is critically important in terms of monitoring the market and in terms of recovering for investors who are defrauded as a result of security fraud.

In point of fact, that is going to be even more important. Whether one characterizes himself or herself as liberal or conservative or middle of the road, everyone in this Chamber, and I think most people in America, would acknowledge today that our budgets over the next few years are going to be tighter and tighter and tighter. And that means, no matter how much we would like to allocate to certain programs, there is going to be less money. So the notion that somehow we are going to be able to provide the Securities and Exchange Commission with more money to monitor and enforce in the marketplace so that there needs to be less reliance upon the private sector and its ability, through class actions, to bring lawsuits, is simply misplaced.

Nobody in this Chamber and nobody in the other body believes for one moment that we are going to have those kind of resources, wish as we may. The budgets are going to be tighter next year and the year thereafter and the year after that. I say that, Mr. President, as one who recognizes that, who supports the need for that, who is one Democrat who believes that a constitutional amendment to require a balanced budget is a necessary and desirable objective. And I recognize that there are going to be some constraints. So there is going to be less money available.

This legislation delivers a series of crippling blows to the small investor to recover through the process of a class action securities case. Having said that, is there no problem out there? Is nothing wrong? The answer to both of those questions is yes, there is a problem out there, yes, there are some things that need corrections. I acknowledge that. The focus ought to be the frivolous lawsuit.

I am a lawyer. I am proud to be a lawyer. I was never involved in this type of work at all, have never represented plaintiffs in class actions, mercifully have never been sued as part of a class action, and have never defended anybody. But there are lawyers out there who abuse the process, and who abuse the courts, and I have absolutely no sympathy at all for those kind of lawyers. As I have said previously on the floor, let Heaven and Earth and the wrath of God Almighty fall upon those lawyers who abuse the system, and there are some.

So the focus, it seems to me, ought to be to deal with the frivolous lawsuits and to deal with some of the problems that exist in our present regulatory structure. Let me tell you, there are some things that we can agree upon and that I think are good in this legislation, things that I have agreed to support, and indeed things that I have sponsored in other pieces of legislation and which my distinguished colleague from California, who spoke so eloquently a moment ago, would agree on. So there is some consensus. Let me talk about those for a moment because I am not opposed to legislation to correct the problems in the market. I support that enthusiastically.

There has been a practice that has grown up that ought to be eliminated. That is the payment of referral fees to brokers. We ought not to give incentives to brokers to refer potential security fraud to class action lawyers.

So this legislation, my friends, prohibits the payment of referral fees to brokers. That is a good and desirable reform. I am for that. There has been a practice that has grown up that sometimes in class actions certainly plaintiffs' lawyers are given bonus payments. That, too, is a practice which is wrong, and we ought to eliminate the so-called "bounty" payments or bonuses.

This legislation limits the class representative's recovery to his or to her pro rata share of the settlement for final judgment, no bonus payments, and I agree with that. That has been an abuse that we need to correct. And there are occasions in which lawyers are involved in a conflict of interest. This Senator has no sympathy for those lawyers, and we ought to eliminate that practice very wisely, and correctly. This legislation does so. I agree and wholeheartedly support that provision.

We need to make sure that, before any settlement is effected, that the person for whose benefit the lawsuit was commenced in the first instance—that is, the investors themselves in the class who have lost money—ought to be adequately informed as to the proposed settlement and what it means for them. That is reasonable, is proper, and we ought to make sure that is done.

This legislation improves the information requirements to make sure that meaningful information about the terms of the proposed settlement are included, that it would also include the average amount of damages per share that would be recoverable—and the settlement parties can agree on the proposed figure—and it also must explain the attorney fees and costs.

Let me emphasize that point again. The lawyers have to be up front, and their clients ought to know what they are getting out of any recovery. I agree and support that as well.

Finally, there is the provision which empowers the court to monitor and to limit attorney fees to make sure that no small investor is gouged as a consequence of lawyer fees. We agree with this. Let me go a little bit further.

I have sponsored a piece of legislation called the Frivolous Lawsuit Prevention Act in which I believe that the provisions of rule 11—that is one of the Rules of Civil Procedure—which, in effect, requires a lawyer who files a lawsuit to, in effect, show that it is a meritorious lawsuit, not that the lawsuit will in fact be won. There are few certainties in life, and certainly filing lawsuits and being certain that you are going to win is not one of them. I tried a number of lawsuits in my time, not in this field. I have won cases that I thought I had very little chance of winning, and I have lost cases that I thought were about as certain as could be possible.

So the standard is not whether you are going to win, but is it meritorious? There are some lawyers who file frivolous lawsuits. My friends who support this legislation and I would agree, as I have said previously, about strong sanctions. I favor enhanced sanctions through the rule 11 mechanism that would require a judge who finds that there has been frivolous conduct on the part of an attorney to impose sanctions, costs and fees. But let me say that not only plaintiffs' lawyers abuse the process in the system. Defense lawyers do as well. Those sanctions in the provisions that attach ought to apply equally to both sides.

It is some indication of the bias of this legislation that the sanctions that we provide for, the enhanced sanctions, essentially apply in a very disparate way only with respect to the lawyers who represent the plaintiffs. Those lawyers should in fact be subject to the sanctions. But their counterparts who are involved in defending actions, if there are frivolous actions undertaken by the defendants' lawyers, those lawyers ought to be subject to similar sanctions. There is an old expression, "What is sauce for the goose is sauce for the gander." I do not think you have to be a Harvard law graduate to understand the fairness and the soundness of that policy. Unfortunately, this legislation does not do that.

What has happened as this legislation has been developed is something that is characteristic of what has happened in this Congress. Most of the legislation that has been introduced—not all, but most of it—is designed to deal with the problem in which in a very broad and generic sense there is some legitimacy. Yes, there is a problem there that requires action. But if this Congress is noted for anything, it is noted for its propensity to overreach. Yes, there is a problem. But rather than just addressing the problem, what occurs is that the gates are opened up, and those folks who, again, are motivated by greed see an opportunity to make them immune from liability, fail to address the statute of limitations which has nothing to do with the merits of the lawsuit, but just when can an injured or defrauded party be able to file the lawsuit under the law. And this is a classic case of overreaching, and it is, in my view, an extravagance.

It is also, it seems to me, litigation that takes flight and lift only because of some of the myths that are repeatedly mentioned in this Chamber. Myth No. 1, securities class action suits are exploding in number.

Mr. President, as I indicated earlier in my comments, this legislation derives much of its support from anecdotal evidence, information, and from what I call a number of myths that have circulated through the Chamber and around the country that have taken on a life of their own and have assumed the stature of uncontradicted fact. I want to take some of these myths for a moment and discuss them.

We are told that we need this legislation with all of the overbreadth, in my view, that is contained in it because there is a securities class action lawsuit explosion crisis in America, that the courts are literally being overwhelmed by these actions that have been filed, and, therefore, the Congress must take action to address that situation.

I want my comments to be placed in the context in which I earlier commented. I recognize the need, and do in fact agree with reforms addressed to the frivolous lawsuit. But here are the facts with respect to the assertions that there is a security class action lawsuit explosion crisis that is overwhelming and inundating our court system and that we must urgently address.

The Administrative Office of the United States Courts—that is the organization that keeps the statistical records, what is happening in the court system. No one has suggested that it has any bias on behalf of plaintiffs' lawyers or investor fraud plaintiffs nor with respect to defense lawyers or securities folks. This is an outfit that collects the data. Here is what they have to say.

According to the Administrative Office of the United States Courts there were 305 securities class action lawsuits filed nationwide 2 decades ago in 1974. That would be 21 years ago. There were some 305 security class actions filed. And slightly less—let me emphasize that—slightly less than that, some 290, in 1994. So rather than the class action explosion argument, in point of fact there is approximately a 5 percent decrease.

This is at the same time in which the country has grown substantially. There are nearly 260 million people in this country. So our population has grown by millions and millions of people, and yet the number of lawsuits in this area have declined.

They go on to say,

"These numbers count multiple filings in the same case before the actions are consolidated. So the actual number of new cases is far less. Over the last several years on average suits have been filed against approximately 120 companies annually"—about 120 companies annually—"out of more than 14,000 public corporations reporting to the Securities and Exchange Commission. Out of the total of 235,000 new Federal court civil filings,"—a civil filing is as opposed to a criminal proceeding—under this total of 235,000 new civil court filings, in fact even using the preconsolidation figure of 290 cases, "security class actions represent 0.12 of a percent of the new Federal civil cases filed in 1994."

Those are the facts. I know that sometimes my colleagues who are so much more eloquent than I, sort of from these lofty heights make it appear that we have had a litigation avalanche. But the facts are that there are in fact fewer cases filed today in this area than there were in 1974, and that approximately 120 companies annually, out of more than 14,000, are subjected to these filings, which represents about .12 of the new Federal civil cases filed in 1994.

I do not, by making that observation, suggest that all 120 may be meritorious. There may be indeed some frivolous lawsuits that indeed the reforms that I and I think all of our colleagues can agree upon—there are some things we can do and we ought to do in that area.

Let me just share a little insight. The Rand Corp. indicates that business-to-business contract disputes, that is one business filing a lawsuit against another business, constitutes by far the largest single category of lawsuits filed in Federal court.

Although corporate executives claim that minuscule numbers by individual victims cause them to lose time, divert resources and lessen their ability to compete, I think it is fair to question why 120 suits nationwide are taking such a toll, while thousands upon thousands of suits brought by one business against another business presumably has no impact whatsoever.

As The Wall Street Journal has noted:

> Businesses may be their own worst enemies when it comes to the so-called litigation explosion.

I think the Rand Corp.'s observation is of some insight here because this legislation before us, this conference report, does absolutely nothing with respect to business suits filed against other businesses. Its scope is designed to limit private lawsuits brought as class actions to recover for investors who have lost money as a result of a securities fraud.

Here is another myth. We hear this, it is repeated, and the volume is overpowering: Securities class action suits are hurting capital formation, we are told, and that is a legitimate question. If it is hurting capital formation, we need to examine to see if it is true and, if it is true, what corrective action might be appropriate for us to consider.

But here are the facts, Mr. President. The volume of initial public stock offerings has risen exponentially over the past several years, and the number and size of public securities offerings has been at an all-time high. The number of initial public securities offerings over the past 20 years has risen by 9,000 percent.

That is the volume of the offerings, setting aside for a moment the amount of the capital that is sought to be raised through those offerings. So we have had an increase of 9,000 percent. Let me say, I think that is good for America, that is good for job creation, that is good for the economy, and I am pleased to see that.

The proceeds raised during that period of time from 1974 to 1993 increased by 58,000 percent from $98 million in 1974 to $57 billion in 1993. So in slightly less than 20 years, or approximately 20 years, the amount of capital raised through these offerings has increased from $98 million in 1974 to $57 billion in 1993, and during the same period of time, the number of securities class actions filed had actually declined by 2.3 percent.

So, Mr. President, I would say that the notion that somehow capital formation has been impeded or restricted or limited simply does not bear out, under a careful analysis, for the data that is available, and, as I say, I think this is extraordinarily good news for entrepreneurial companies and their investors, for jobs, for the economy.

I note the distinguished chairman of the Senate Banking Committee has risen to his feet. If he needs to interject, I certainly would be happy to accommodate him, because I may be a bit longer.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I want to thank my colleague for his graciousness, but as I only have several minutes of remarks, I can certainly wait. I would just as soon listen to my colleague, because I want him to know that even when we differ on subject matters, I find myself always learning when he speaks, particularly when he speaks on the subject of law. I have great respect for the cogent arguments that my colleague and friend presents.

I might also say, that yesterday we heard some remarks as it relates to how members in this body, in particular, should treat each other. I daresay, that while my colleague and I probably had some very diametrically opposed positions, I hope that in the context of our discourse today, Mr. President, we understand that might even be encouraged and learn from these differences at times. I cannot ever recall an occasion where I have felt better about coming away with a slightly different opinion. If you keep your mind open, sometimes—even if you arrive at a different position—you learn something. You learn that there is something out there that maybe you have not factored in fully and later on if we have kept an open mind and are willing to learn, as this is not a static body and the law is not static, whether it is securities reform litigation or some other legislation, we can correct positions if they have to be corrected.

I must say, Senator BRYAN has been one of those Senators whose views have been very instructive to this Senator personally, and I thank him for the manner in which he has always conducted himself. It is exemplary.

I do not ever envy or look forward to the opportunity of debating with the Senator. They are always good debates, but I have to tell you, he is one of the finest debaters, and he is a gentleman, in the truest sense, in terms of the great traditions of the Senate of the United States.

I just thought during this season as we approach a very special holiday season, sometimes it would pay for us to reflect, that even though we have differences of opinion and, indeed, as is the case of the legislation that is before this body today, I look back at our differences and I think we have been able to maintain our position without losing a sense of balance.

Mr. BRYAN. Mr. President, I am most grateful for the very generous and kind remarks. Let me just say by way of response before returning to the issue of the day, the Senator from New York, the very able chairman of this committee, takes a back seat to no Member in this institution or in the other body in terms of his tenacity, in terms of his persistence and effective advocacy on behalf of the causes in which he believes.

I can recall when the Senator occupied a different chair on this floor, more to the rear of the Chamber, where he was absolutely dedicated to a proposition which affected the citizens of his State and spoke, I do not recall whether it was 10, 11 or 12 hours. This is the kind of advocate that you get.

So I have learned from experience that he is always civil in disagreement, he has always been courteous and very fair to me, and we have worked together on a lot of issues. I acknowledge and appreciate that. I would rather have him on my side, because when he is with you, things not only happen on that committee but on the floor of the Senate. I appreciate his advocacy.

Again, I pledge to him we are going to continue the discussion we have on this measure and any other on which we might find ourselves honestly and sincerely having a difference of opinion in the same spirit in which our relationship has always been, and I thank him for the very generous comments.

We were talking about the underpinning of this legislation and what has been said as an arguable predicate for its enactment, and I shared a couple of myths. I think it would be helpful if I mentioned two or three more and then comment on a couple of things before yielding the floor to the distinguished chairman.

It has been asserted in defense of the legislation that is before us that security suits are filed without reason. Every time a stock price goes down 10 percent or more, there is a lawsuit. We have heard the strike lawyers are out there kind of prowling, and any time there is a dip in the stock price, bam, they are out there and they have these suits. That may occur on occasion.

I am not here to say there is no abuse. I reemphasize somewhat ad nauseam that when there is abuse, we need to change the law to make sure that kind of conduct is punished in a way which is most understood and that is a financial sanction.

But here is the data, here are the facts, not the anecdotal information, not the story that someone heard about someone who had been sued in a securities suit. Here are the facts.

The empirical data established that over 95 percent of the companies whose stock falls more than 15 percent in one day are not sued. These recent detailed studies document the falsity of the argument of the proponents of the legislation. A comparison of the number of stock price drops 10 percent or more in one day between 1986 and 1992, and a number of suits filed against those companies whose stock price dropped revealed that only 2.8 percent of those companies were sued.

A second study by the University of California at Berkeley, completed in August of last year, 1994, tested a sample of 589 cases of large stock price declines following a quarters earnings announcement. Extensive research revealed that only 20 lawsuits, amounting to about 3.4 percent of the sample, were filed. This finding is hardly consistent with the widespread belief that shareholder litigations are automatically triggered by large stock price declines.

The study was consistent with yet a third study conducted by academics at the University of Chicago in March of 1993. That study revealed that out of 51 companies that had sustained 20 percent or greater declines in earnings and sales, only one company of those 51 was the target of a shareholders' suit. Again, one of these myths that have assumed lifelike reality that is being asserted is that the suits are filed every time a stock price goes down. That simply is not borne out by the evidence.

Let me address just a couple more of these myths. Another one is that securities class action suits do not help investors, and private litigation is, in fact, the only way for individual citizens to collect damages from those who commit fraud. For most small investors, who do not have the resources to file their own lawsuit, class action representation is the only hope they have of collecting damages from wrongdoers. The Securities and Exchange Commission may prosecute some securities frauds, but it does not have, as I indicated earlier, the resources to help all victims of fraud recover their losses. That is the province and responsibility of private legal actions, which the Securities and Exchange Commission has repeatedly termed a "necessary supplement" to its activities.

Finally, let me just say the other myth that we hear a good bit is that plaintiff lawyers get all the money in these suits, and victims are left with pennies. The average attorney's fee and expense award is 15.2 percent of recovery, according to the authoritative Journal of Class Action Reports. The Journal based its findings on a most comprehensive independent study of attorney's fees in class action lawsuits involving 334 securities class actions, in which $4.2 billion was recovered for victims of fraud. The same journal reported in 1993 that, on average, for every dollar recovered in securities class actions, approximately 83 cents has been distributed to shareholders, and only 17 cents has gone to attorneys, including their expenses.

Let me just say that I have heard the argument here from a number of my distinguished and very able colleagues that we have to do something, that innocent investors get only a small pittance of the amount recovered in these class actions. Let us assume, for the sake of argument, that were true—assuming but not conceding. Mr. President, not one single thing in this legislation would alter that—nothing. There is nothing in this legislation that would provide any type of change in our present system that would increase the amount of money that would be allocated in a recovery between plaintiffs' attorneys' fees and the amount of money that the individual plaintiff recovers.

Now, it is argued that this legislation is being introduced on behalf of the small investor, that we are really doing this, the proponents assert, because the small investor needs protection out there; that we have all of these ravenous lawyers here taking advantage of the system and taking advantage of the small investors, and that we really strike a blow for truth, justice, and the American way, and small investors if we support this legislation.

Regardless of how little or how much you may know about this area of law—and I am frank to disclaim any expertise other than what I have gleaned from my review of this legislation as it has been processed—I think it is fair to say, who would best represent small investors in protecting their interests? Let us set aside the lawyers for a moment because, hey, look, clearly they make money as a result of these lawsuits. There is no question about that. Let us set aside the accountants, let us set aside the brokerage folks, let us set aside the companies that are issuing stock. I think it can be conceded that each of those groups across the philosophical divide have a vested interest. No question about it. So let us look to other groups that are not lawyer-based or involved in securities industry work, or its allied fields, and let us see what those folks say about this legislation as it has been processed.

I think it is fair to conclude that this legislation is proposed by every major consumer group—every one of them, including the Consumer Federation of America; all major senior citizens groups, including the AARP; all major State and local organizations responsible for investing taxpayer pension funds; the Conference of Mayors; the League of Cities; the Association of Counties; Government and Finance Officers; Law Enforcement Officials; the North American Securities Administrators Association; a good many State attorneys general; the Fraternal Order of Police; educational institutions, and others, all have opposed it.

Now, any one of those groups may not be your cup of tea. You may have some reason, philosophically to disagree with positions they have taken on other matters of public policy, or other legislation before this Congress. But I think it taxes credibility beyond the point of being sustained to conclude that each and every one of these groups oppose this legislation, even in the conference form, unless they were asserting that in their own judgment, representing the organizational interests that they do, that they honestly and sincerely believe that this is not in the best interest of the small investor. These are the folks, unless we assert that there is some monstrous conspiracy organized by these ravenous plaintiff lawyers that has corrupted these organizations, ranging from the Consumer Federation to the Conference of Mayors, to the League of Cities, to the Association of Counties, to the Fraternal Order of Police—let me say, even those that are enamored with the Oliver Stone approach to life and film, I suspect, have some difficulty believing that—unless one subscribes to the conspiracy theories in history—there is a conspiracy of this magnitude involved. I respectfully submit, Mr. President, that these organizations express their opposition because they believe it is not in the best interests of consumers.

The North American Securities Administrators Association is not a partisan group. There are 50 States—parenthetically, a majority of those States, I think, or a fair majority, are now States that have Republican Governors. So I offer this context so that it not be asserted that there is any partisan bias that may be reflected by this statement.

Here is a letter sent by way of fax yesterday, December 20. I think it is worth sharing because, you will recall, I mentioned that in terms of the enforcement mechanisms that are provided to police for monitoring the securities markets in America—public protection, investor protection, if you will, are predicated upon three pillars: The Securities and Exchange Commission at the Federal level, the private class action investor lawsuit which we have talked about in our discussion this afternoon, and finally, at the State level, the North American Securities Administrators Association, which I would daresay, without having reviewed the legislative structure of each of the States, is subject to appointment through the executive branch of Government, either the Governor's office or the Attorney's General Office.

Here is what that group has to say, representing the States. I think a State perspective, and rightly so, have taken on an enhanced appreciation in this Congress. I commend my colleagues on the other side of the aisle for focusing much attention in terms of what is occurring at the State level. I think we can gain considerable insight.

Here is what their correspondence of yesterday said with respect to this legislation:

> DEAR SENATOR: I am writing today on behalf of the North American Securities Administrator's Association to urge you to sustain President Clinton's veto of H.R. 1058, the Securities Litigation Reform Act. In the U.S., NASAA is the national organization of the 50 State securities agencies.
>
> While everyone agrees on the need for constructive improvement in the Federal securities litigation process, the reality is that the major provisions of H.R. 1058 go well beyond curbing frivolous lawsuits and will work to shield some of the most egregious wrongdoers from legitimate lawsuits brought by defrauded investors. NASAA supports reform measures that achieve a balance between protecting the rights of defrauded investors and providing relief to honest companies and professionals who may unfairly find themselves the target of frivolous lawsuits.
>
> Unfortunately, H.R. 1058 does not achieve this balance. NASAA is concerned with H.R. 1058 go beyond the concerns articulated by President Clinton in his veto message. In sum, NASAA has the following concerns with 1058.

Mr. President, I will give these abbreviated treatment. The bill fails to incorporate a meaningful statute of limitations. I will say more about that later during the course of our discussion this afternoon and this evening. I assure my patient colleague that I will wind these comments up so he may have a chance to express his views.

The bill's safe harbor lowers the standard for assuring truthfulness of predictive statements about future performance. My colleagues will recall it was not until 1974 that future or predictive statements were even permitted, because of the inherent risk and the temptation of those who were involved in selling and marketing, to overstate propositions to the decided disadvantage of prospective purchasers of securities.

No. 3, the bill fails to include aiding and abetting liability for those who participate in fraudulent activity, and a provision of the bill's proportionate liability section is unworkable and disfavors older Americans.

Mr. President, I am very interested, and I am sure that those who support the bill will be addressing themselves on this, but I do not know, how do we impeach the integrity of their comment? These are 50 securities administrators who tell us that in their judgment small investors are losing a great deal in terms of protection by this legislation, while acknowledging, as do I, that we need some balance. That, clearly, frivolous lawsuits ought not to be tolerated. Some of that is occurring. We ought to come down with a heavy hammer, in my view, to preclude that activity. I think it is instructive to listen to what that group had to say.

Let me be parochial for a moment and then I will leave the floor to my good friend. The State of Nevada, for whatever it is worth, a plurality of registered voters in my State are Republican. I offer that in the context of what I am about to say in terms of the kinds of letters that we are getting and the position taken.

Churchill County, a small rural county in our State, expresses their opposition to this legislation; the city of Boulder City; the city of Carlin, through the mayor; the city of Las Vegas, expressing its opposition to the Treasurer; the city of Lovelock, another small community; the city of Mesquite, our newest incorporated city, through the mayor; the city of Reno; The city of West Wendover; Clark County, the largest county in our State, the county treasurer expresses his strong opposition; the Clark County school district; the Douglas County Board of Commissioners; the Elko County Board of Commissioners; the Eureka County Board of County Commissioners; the Nevada League of Cities; Nevada Public Agency Insurance Board; the Pershing County Board of Commissioners; the Reno Sparks Convention Visitors Authority; the Nevada Attorney General; the State of Nevada Employees Association in Washoe County school district, White Plain County, to name just a few.

I find it incomprehensible to believe that all of these folks are simply tools of class action plaintiff lawyers. I just do not think that a fair analysis—just using our own intuitive judgments, why would all of those folks in our State, as many other States, have expressed those concerns? They have expressed those concerns, Mr. President, because cities and school boards rely upon the securities market. They have investor portfolios. They are potential victims of fraud.

The Orange County situation is one that each of us is familiar with. They want to be sure on behalf of the local county or city or school district, whatever the entity might be, that if indeed they are victimized by fraud, they can be covered on behalf of the constituents whose money ultimately is what is at risk. That is why I have asserted every American has an interest in the outcome of this legislation.

I yield the floor and I thank the chairman for his great courtesy in allowing me to proceed at some length when I know he has been waiting a while.

Mr. D'AMATO. Mr. President, I ask unanimous consent for the purposes of bringing the Senate up to date, that I may be permitted to proceed for no longer than 5 minutes in morning business.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

SUBPOENA ENFORCEMENT

Mr. D'AMATO. Mr. President, yesterday, after a full day of debate, the Senate voted to authorize Senate legal counsel to go to court to enforce the subpoena of the Whitewater Special Committee for the notes of William Kennedy. Mr. Kennedy took these notes at a Whitewater defense meeting at the offices of Williams and Connolly. This meeting was attended by private counsel for the Clintons and four Government employees.

I have today asked the Senate legal counsel to begin the process of enforcing the subpoena as quickly as possible. The Senate will ask the court to rule on a Senate enforcement action on an expedited basis so that we can get a determination in the courts as quickly as possible.

Now, the Senate legal counsel will file papers with the court on Wednesday, December 27. There are a number of things he must do prior to that. I have been informed he has attempted to contact counsel for Mr. Kennedy, personal counsel for the President and Mrs. Clinton, and the White House counsel to discuss a schedule in order to obtain a court ruling as fast as possible. That is so that we can have an expedited proceeding. I hope they will try to arrange for that.

As I have said repeatedly, and I want to reiterate, the Senate will stop any action to enforce the subpoena as soon as we have Mr. Kennedy's notes. Until that time, though, we will continue and take all action necessary to enforce the subpoena. So there will be no mistake, while I hope we can get these notes without having to go to court, we are not going to wait or delay and then have a situation where negotiations may break down. I understand they are negotiating—that is, "they" being White House counsel and the President's counsel—right now with Members of the House.

As I said before, I believe that the Senate and the American people have a right to all of the facts about Whitewater. If these notes help us obtain those, certainly, they should be provided. Again, we are going forward, but I say if we get the notes we will stop the proceedings. At this time, though, we are attempting to get an expedited proceeding. It is our intent to be in court on December 27.

Mr. President, I thank my colleague for permitting the opportunity for bringing that update.

Mr. SARBANES. Mr. President, will the Senator yield for a moment?

Mr. D'AMATO. Certainly.

Mr. SARBANES. Is the Senator now going to address the securities bill?

Mr. D'AMATO. Yes. I asked I might be permitted to proceed in morning business for no more than 5 minutes, just for the purposes of that update. That was the only thing I asked. But I was now going to address the securities reform litigation.

Mr. SARBANES. I would like to address the issue the Senator addressed. I can defer until he finishes the securities matter?

Mr. D'AMATO. No, I yield to my friend, certainly. I think it would be appropriate, if he wants to do that, to yield to him now for purposes of making his remarks at this time.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I appreciate the Senator from New York yielding.

I think the report that was just brought to the floor underscores what I thought was the wisdom and the reasonableness of the amendment that was offered yesterday and the suggestion that we ought to try to resolve this matter without moving to a confrontation. I listened carefully to my colleague. As I think he said, he intends to be in court on the 26th——

Mr. D'AMATO. The 27th.

Mr. SARBANES. That is, I think, where the majority has intended to be all along. We have consistently suggested if we would draw back here and try to resolve this matter, it could be worked out without a court test.

The assertion is made that by going to court, they will speed the process up. In fact, they will slow it down. That is very clear. Even under expedited procedures, it is going to take a fair amount of time to carry this matter through. So, if you want to get a quick resolution of it, obviously the way to do it would have been to follow the path that we outlined yesterday with respect to the furnishing of the notes and to try to have worked in obtaining from the House an agreement or understanding with the White House that would make it possible for them to do so.

They have offered to do it. They have obviously come forward in an effort to try to do it.

This push to the courtroom, I think, is simply to create, as it were, a public issue and a confrontation. As I indicated yesterday, I regret that. I continue to regret it. I think it is unnecessary. I think it is a provoked controversy, largely for political content. I think as these other negotiations seem to bear fruit, it only underscores that point.

I do think if the matter is carried to court and resolved there, that we may end up with it being clear that a very serious mistake was made by the Senate.

I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I am not going to speak for more than 30 seconds on this whole issue of the subpoena. I just wanted to serve notice and let the administration know that, again, if they successfully complete their negotiations with whoever they are negotiating with—the House and whatever Members—that is fine, as long as we get the notes. If we do not, if it gets protracted, we will continue. I have to do that so that the process does not break down. So I thought I would at least bring us up to date on that.

SECURITIES LITIGATION REFORM ACT—VETO

The Senate continued with the reconsideration of the bill.

Mr. D'AMATO. Mr. President, I urge my colleagues to remain firm in their support of this legislation, legislation that, just two weeks ago, was passed overwhelmingly in the Senate, legislation that was passed overwhelmingly in the House, legislation that was clearly, once again, approved by the House, when the President's veto was overturned by a huge majority, the vote was 319 to 100.

It is here now for us to consider. Let me say, Mr. President, no one can argue that the current system is not broken because it is broken. Some of my colleagues raise some objections related to pleadings, the pleading requirements and some things of a very technical nature—whether or not, for example, the second circuit opinion should be incorporated into this law—we are really getting into hair splitting.

But I will tell you an area where no one can split hairs, no one can divide. The system as it presently exists is shameful—shameful—horrendous. This system does not protect investors. This is the Full Employment Opportunity Act for a handful of lawyers. They are out there mining, prospecting for gold. They do not protect the average citizen. They do not protect the small fry investor.

Let me tell you what the leading advocate of this system says, as it relates to the practice of law. He says, and I quote, "I have the best practice in the world." Do you know why he says that? It is amazing. Does he say it because he is able to help people? Because he is able to bring comfort to them? Because he is able to help widows and orphans who are in need, who have been ripped off? That he has helped? That would be laudable. Does he say that because he is able to go after those who have robbed, who have pilfered, who have cheated? That would be laudable.

"I have the best practice in the world," he says. And why? "Because I have no clients."

That is a heck of an attitude. And that is what exists. And he is working, working. I wonder how many millions of dollars—millions, he, himself, has pumped into the system to buy ads to scare people, to tell them they are going to take their rights away.

What we are looking to do is see to it that investors are protected, not a handful of attorneys, and one in particular, an attorney who says, "I have the best practice in the world because I have no clients." His words. Why does he not come to the floor and explain that? Let him come out here and tell us how he can justify that kind of sentiment to the Senators who are going to be voting.

Does he care about widows? Orphans? Defrauded people? He cares about his pocketbook. He hires a bunch of people to file claims—hires them, professional plaintiffs we call them. Some of them get as much as $25,000, not based upon what the injury was to them.

How would you like to be this stockholder? You have 10 shares—that is what some of these guys own, 10 shares. They buy shares in every company. If the stock of the company goes down, they are recruited, the same handful of professional plaintiffs. You see, each one of them buys a share, a couple of shares in each company. If the share goes down, four or five of them sign up and this lawyer runs into court. He is now representing all the shareholders. In most of those cases, his shareholders do not own anything worth anything. You cannot even say one-tenth of 1 percent. So, when he says he represents no clients, he means that.

Now, he is in there representing, supposedly, all of the shareholders. Our bill says you cannot have professional plaintiffs anymore. You cannot have the same bunch of thieves, because that is what they are—thieves for hire. And we permit them, today, under the law. They should be banned, outlawed, they are robber barons.

Here is this lawyer who is pumping in hundreds and hundreds of thousands to protest this bill. I have not heard anybody talking about him. I have not seen anybody talking about how much money he has siphoned into various groups, money he has funneled to them so they can run their phony ads, how they fund these little groups who say, "Oh, I am for the little guy."

Little guy my foot. This millionaire lawyer is going around funding everybody. Why should he not? He makes tens of millions of dollars. Remember who his clients are—nobody. He is operating for himself. He is an entrepreneur—not my words, his words. "I have the best practice in the world. I have no clients."

It is a disgrace. We should change this system. And that is what this bill does. It protects, for the first time, people who own shares. It allows the pension fund managers who are managing hundreds of millions of dollars to have a say as to who will be selected to lead in the representation of investors when there is fraud and exploitation. Has there been exploitation? Absolutely. We have operators like Charles Keating, where people unjustly have enriched themselves at the expense of shareholders, stockholders, and pensioners. Of course, we must get them and put them in jail.

This legislation makes it easier for the Securities and Exchange Commission to do exactly that, to bring lawsuits. We created greater responsibility on the part of auditors and accountants for the first time in this bill. But, my gosh, let us not say that we have a system that is a good system when it is out of control, when we permit legal larceny because somebody may have some economic power, so, therefore, we permit someone else to hold them up and say, "If you have even the tiniest bit of negligence, we are going to hold you liable for whatever the loss is even if you were not part of a conspiracy because you could have done better." Our laws should not work on that basis. It should be worked on the basis of fairness, what is fair and what is right.

It is really long overdue, the need to reform this kind of litigation from a money-making enterprise for a handful of lawyers—and it is a handful of lawyers—into a better means of recovery for those who have lost out. Curtailing abusive securities litigation while allowing investors to bring meritorious lawsuits will permit investors to have a system of redress that serves them, not one that entraps them. This bill serves investors and not a handful of lawyers who are proud to claim that they have the best practice because they have no clients.

I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I want to address the securities reform veto override. It is my intention to support the override effort, and I would like to summarize for the RECORD my views on the legislation and my reasons for supporting the bill. Because the senior Senator from Connecticut is here, I would like to ask him a series of questions, if I might, and see if I am correct in my assumptions, and, if I am not, give him the opportunity to clarify my concerns. As you know, the senior Senator is one of the main cosponsors of this bill.

The first involves the so-called license to lie challenge to the safe harbor. I spent about 6 hours with various representatives of the high-technology companies and representatives of the SEC on the safe harbor. At the time the SEC would not sign off on language that they wanted and included in the bill. Subsequently, SEC Chairman Arthur Levitt did sign off on the safe harbor legislation, a decision confirmed by letter from Chairman Levitt, that has already been introduced into the RECORD.

I would like to state my understanding of the safe harbor and see if the senior Senator of Connecticut concurs.

To claim the protection of the safe harbor, an individual company officer must clearly identify the statement, either written or oral, as a forward-looking statement. By forward-looking statement, I mean a statement that applies it to economic projections, estimates, or other future events. The safe harbor cannot be claimed by certain groups of individuals—and I will go into that shortly. This statement must be accompanied by meaningful cautionary statements, identifying important factors that could cause actual results to differ materially from the forward-looking statement. That is to say, the statement must be accompanied by a clear warning that identifies the risk that the future may not turn out as forecast. This warning cannot be routine warning language, but must be specific to the forward-looking statement.

Is that a correct understanding of this bill?

Mr. DODD. Mr. President, I say to my colleague from California that she is absolutely correct. This is exactly what the meaning of that safe harbor language is.

Mrs. FEINSTEIN. I thank the Senator. If the statement is oral, it is my understanding that the individual must identify the statement as forward-looking; clarify that actual results may differ materially; and, state at the same time that additional information about the forward-looking statement is contained in a readily written available document with additional information which satisfies the same warning standard required of written standards.

Mr. DODD. Mr. President, I further say to my colleague from California that is absolutely correct.

Mrs. FEINSTEIN. Or, as a separate test, as I am led to believe, the safe harbor does not apply if the statement is made with "actual knowledge" that the statement was "an untrue statement of a material fact or omission of a material fact necessary to make the statement not misleading."

Mr. DODD. Mr. President, the Senator from California is correct as well on that.

Mrs. FEINSTEIN. I appreciate the Senator from Connecticut's comments, which, I believe helps clarify the scope of safe harbor.

Let me go on.

As I understand it, the protections of the safe harbor are not available to reduce the obligations of companies to disclose historical information or current information truthfully and accurately. For instance, if a company makes misleading statements about known facts, the safe harbor does not protect the company.

Mr. DODD. That is correct, I say to my colleague.

Mrs. FEINSTEIN. I further understand the safe harbor provisions do not apply to certain companies we may have reason to have some doubt about, such as penny stock companies, initial public offerings known as IPO's, blank check companies, roll-up transactions, or companies recently convicted of specific securities law violations. All of these types of companies are excluded, as I understand it, from the protection of the safe harbor provisions. The provisions are only available to companies with an established track record.

Mr. DODD. Mr. President, I say to my colleague from California that is absolutely correct.

Mrs. FEINSTEIN. I thank the Senator.

As we discuss companies or individuals ineligible for the safe harbor, I would also want to clarify the safe harbor does not apply to brokers or analysts who may have an incentive to oversell a stock to obtain a sale. On this point, the safe harbor would not have applied to the financial concerns we experienced in Orange County, California. If Merrill Lynch is a broker selling derivatives to a county government, in my state of California or any other state, they are not protected by the safe harbor because the safe harbor does not protect brokers and does not address derivatives.

Mr. DODD. The Senator from California is correct.

Mrs. FEINSTEIN. I understand the safe harbor does not apply to a new company, but only applies to seasoned issuers. For instance, NetScape, a new high-technology company, which saw its stock explode from zero to $120 a share or more, can claim no protection under the safe harbor because it is an initial public offering.

Mr. DODD. That is correct.

Mrs. FEINSTEIN. Finally, I wish to clarify for the record that the safe harbor does not affect the jurisdiction of the Securities and Exchange Commission or the SEC's authority to work with the Justice Department to bring enforcement actions against wrongdoers for fraud, insider trading or any other enforcement action. So, in other words, the safe harbor cannot be used as a defense against the jurisdiction of the Securities and Exchange Commission.

Mr. DODD. Mr. President, I say to my colleague from California that is absolutely correct.

Mrs. FEINSTEIN. I very much thank the Senator. I would like to go on and specifically address the concerns of cities because I have received exactly some letters from various cities, 26 or so to be precise, indicating their concern. We have taken a good look at it.

I think one of the core lessons about Orange County is that cities should not be investing in speculative investments. I know from my tenure as mayor of San Francisco for 9 years, and I served on the investment body which was then the retirement board, these kinds of speculative ventures were prohibited.

We have heard some discussion about the financial concerns involving Orange County, CA, but as was discussed earlier, these circumstances would not be altered by the safe harbor under the bill. In Orange County, the treasurer was buying derivatives from Merrill Lynch. Derivatives are not protected by the safe harbor. Further, Merrill Lynch, serving as a broker, is ineligible to claim safe harbor protection. So you have protections built in two different ways. Derivatives are not protected, and a broker is not protected.

I believe—and my vote is cast on this belief—that the cities' concern appears primarily to address the proportional liability section of the bill. Under the proportional liability rules adopted in the bill, an accountant from a big accounting company would not risk bearing the full cost of a plaintiffs' loss if it audits the books, certifies them and fraud causing loss to plaintiffs subsequently arises. However, even the proportional liability rule, as I understand it, has a significant protection built in.

While the bill adopts a proportional liability rule, proportional liability will not limit the responsibility of a business or an individual who commits "knowing securities violations." I think that is very important. Such an individual would remain responsible to pay, not the proportional loss, but the full loss, as I understand it.

I know the senior Senator from Connecticut will correct me if he believes that is inaccurate.

"Knowing securities fraud" includes any defendant who had actual knowledge, or operated under circumstances in which they should have had knowledge, the fraud occurred.

So the provision will not permit accountants who commit knowing securities fraud to eliminate full liability for accountants who deserve to be fully liable. Would the Senator agree with that?

Mr. DODD. The Senator from California is correct, I would say, Mr. President, with that observation.

Mrs. FEINSTEIN. I think that is very important to the cities that are watching this debate.

Further, special rules are provided to force proportionally liable defendants to pay more if a particular plaintiff suffers a high level of losses. A significant part of the debate revolves around our concern for poor and potentially vulnerable plaintiffs. Under this bill, if a plaintiff can claim damages exceeding 10 percent of their net worth, and their net worth is less than $200,000, then a defendant remains fully liable for that loss to the plaintiff and no proportional liability can be used to reduce that liability.

Additionally, many of us have concerns with the application if this law in instances involving insolvent defendants. If a defendant cannot pay due to bankruptcy, the defendants who would otherwise be only proportionally liable must pay up to 50 percent more to make up the plaintiff's shortfall due to the bankruptcy. What this means is that if the battle comes down to an innocent plaintiff who loses and a proportionally liable defendant who feels it would be unfair to force them to bear the full loss, the defendant loses and the proportionally liable defendants must pay more.

These are very important concepts to me, and I wanted to come to the floor to place my understanding with respect to legislative intent in the RECORD. I am very pleased that the senior Senator and author of this legislation is present and has corroborated these statements.

I thank the Chair. I thank the Senator. I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank you very much.

My senior Senator from California and I usually, when it comes to issues affecting our State, come down on the same side. We have clearly come down on opposing sides here. Before she leaves the floor, I just wanted—I do not ask her to stay because I know she has other pressing matters—to talk about the breadth and the depth of the opposition to this bill and the support for the President coming from local elected officials in our home State where she served, as we know, as an esteemed and extraordinary mayor of the city and county of San Francisco. I served on the board of supervisors in neighboring Marin County for 6 years and its president for a time.

I think what is important here is that authors of the bill feel very strongly in their work product, what they do and their intentions. I have never once doubted the intentions of those who have brought this to us, that their prime intent was to make sure that frivolous lawsuits were a way of the past. But it is the people who invest in securities who have looked at this from the standpoint of protecting investors, and I have never seen such a list of county officials that I placed in the RECORD from almost every single county in California, from the county administrators to the treasurers, to tax collectors. These are the people who know that they need to have protection from those who would seek to take advantage of investors. This list is extraordinary.

The League of California Cities wrote a letter to the President dated December 5, 1995:

> As representatives of municipal Government who oversee billions of dollars in investments, we strongly urge you to oppose the Securities Litigation Reform Act.

And they say:

> Any securities litigation reform must achieve a balance between protecting the rights of defrauded investors and protecting honest companies from unwarranted litigation. Abusive practices should be deterred and sternly sanctioned. However, we believe that investors would be penalized and become victims of security fraud and that wrongdoers would be rewarded.

And they call it "an anti-investor bill which would impose new and blatantly unfair requirements on the victims of fraud, making it very difficult for them to seek redress through the courts."

Now, the number of California governments opposed to this is staggering—not only governments but agencies: The Alameda County Employees' Retirement Association, Amador County Treasurer/tax collector, the treasurer of the AFSCME local in Pasadena, the Calaveras County Board of Supervisors, California Association of Treasurers and Tax Collectors, California Association of County Treasurers—we have more than 50 counties in our State—California Council of Senior Citizens Clubs of San Diego and Imperial Counties, California County Administrative Officers Association—that is the association of the administrators of counties, over 50; I am just listing a few here—the California Labor Federation, the California Government Finance Officers Association, the California Municipal Treasurers Association, the California Public Interest Research Group, the California State Association of Counties, the city of Albany, the city of Arcadia, the city of Barstow, the city of Beverly Hills, the cities of Burbank, Burlingame, El Monte, Fairfield, Fremont, Glendale, Hayward, Hemet, Huntington Beach, Irvine, Long Beach, Manhattan Beach, Moreno Valley, Newport Beach, Oceanside, Ontario, Riverside, the city of San Bernardino, San Fernando, San Francisco, Mayor Frank Jordan; city and county of San Francisco board of supervisors, city of San Jose, Mayor Susan Hammer; city of Santa Ana, city of Santa Rosa, city of Santee, city of South Pasadena, city of Stockton, city of Thousand Oaks, city of Ventura.

Why am I doing this? Because I am trying to make it clear that the opposition to this legislation is broad and it is deep. I will stop mentioning the cities, and I will shift to some of the counties: Del Norte County, El Dorado County, Fresno County, Glenn County, Humboldt County, Imperial County, Inyo County, Kern County, Kings County, Lake County, Lassen County treasurer/tax collector, Los Angeles County Employees Retirement, Los Angeles County Federation of Retired Union Members, Marin County—that is where I am from—Employees Retirement Corporation, Mariposa County, Mendocino County—I am at the M's. It goes on and on: San Diego County treasurer/tax collector, Sacramento County treasurer/tax collector, San Francisco Democratic County Central Committee, San Joaquin County, San Luis Obispo County, Santa Barbara County treasurer/tax collector, Senior Meals and Activities, Service Employees International.

Then it goes to the T's and the U's and the V's, and it ends with Yuba County Supervisors, county administrator and the treasurer/tax collector. And the number of editorials has been just extraordinary from my State.

One has to wonder why this has happened, and I think it is because this is a very complicated matter.

My friend from California had several problems that she wanted to clarify, and she feels comfortable that they have been clarified. But when you are rewriting securities law, Mr. President, which has protected investors since the 1930's, it is very complicated, and as a former stockbroker I can tell you when people used to call me they trusted me. They trusted me. And the fact of the matter is I would lose sleep rather than give someone terrible advice. And that is one of the reasons I did not stay in that business. It was very, very difficult, because I worried every time the stock market went down and an elderly retiree called me the next day. I just felt it was an enormous responsibility. student. Unfortunately, in our great country, the greatest on Earth, with the greatest free market system and the greatest, frankly, laws protecting investors, there are people who would take advantage of the elderly and of people who really are not sophisticated. And it is easy to do.

What this bill does, as you look at it and its transformation, unfortunately, is give people like the Charles Keating and people who really do not care about other people an opportunity to rip off people because the legal system will not go after them.

The way the bill is written, the pleading requirements are so difficult plaintiffs would have a hard time even getting into court. And even if they get into court, you have a specter over your head that an unfriendly judge could decide, if you are an elderly, small investor, for example, that your lawsuit did not have merit and you are going to have to pay the bills of those on the other side. And that has a very chilling effect.

Therefore, when the President vetoed this bill, he said very clearly that he would love to sign a securities reform bill. He wants to sign a securities reform bill. He wants to make sure that there are fewer frivolous lawsuits. He wants to make sure, in fact, that people in the Silicon Valley, my constituents, the senior Senator from California's constituents, are not hit with strike suits. None of us wants that.

Unfortunately those with another agenda have prevented that. Instead of having a bill that goes after those lawyers that are filing frivolous lawsuits, to quote one of the newspapers, "Instead, the bill stabs the small investor in the back."

That is why we have so many county treasurers and county administrators and boards of supervisors and mayors and the League of California Cities opposed to the bill as it is now written—these people know they want to protect their employees and retirees investments.

Mr. President, as we enter the battle of the budget, and we fight hard—in my view, this is what the President is doing—fighting hard to protect the middle class, trying hard so that our elderly will have Medicare, and the seniors in nursing homes will have Medicaid when they need it, and we have student loans for our children, and we have the police on the beat for our middle-class and all communities—we cannot divorce this bill from that battle. Who would be hurt the most if we do the wrong thing, which the President thinks we are about to do, here?

Many of the experts in this field warn us about this bill. Who will pay the price if we do the wrong thing? Not the very wealthy because, if the very, very wealthy get bilked in one investment, they are still on their feet. They are OK. They can survive. Not the very, very poor, because the very, very poor do not have money to invest.

This bill is going to be aimed at the solid middle class, those people who saved for their retirement and suddenly find out when they are bilked that they have no recourse because the securities laws were reformed.

Mr. President, there is a difference between reform and repeal. And I think the President has laid that out. He is opposed to the pleading requirements. He is opposed to the safe harbor. Many of us believe is not a safe harbor at all, but a pirate's cove because all you have to say to be immunized is, "This is an estimate. This is just an estimate of future activity." Then you can hide behind that language.

So I hope that we sustain the President's veto. It was a courageous thing for him to veto, in my opinion. It is going to be a very close vote one way or another, maybe one, two, or three votes. I just hope we will stand with the President because I think he is fighting for the middle class in this veto.

I yield the floor at this time.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California, Senator FEINSTEIN.

Mrs. FEINSTEIN. If I might briefly respond to my respected colleague.

It is interesting, I guess, in a State as big as California one can have some different constituencies. My mail is, oh, maybe over 100 to 1 for the legislation rather than opposed to it. When I read the letters from the counties, that is when I saw they were functioning under a misimpression of what the safe harbor actually did. That is why, in my colloquy with Senator DODD, I tried to clarify these concerns. As I stated earlier, first, the stockbroker who sold the derivatives to cities or counties would not gain the protection of the safe harbor because brokers are ineligible; and, second, derivatives would not be protected by the safe harbor. So I tried to straighten that part out.

I want to point out that in California we are going through an economic change. High technology and biotechnology is a big source of jobs now and in the future. It is estimated that 62 percent of the high-technology companies that went public from 1988 to 1993 have faced securities lawsuits. And 62 percent of the companies that have gone public in the last 5 years have faced securities lawsuits in the State of California. That alone indicates that there is a problem that needs to be addressed.

What has concerned me in the legislation is a desire to address the problem and not throw out the goose that laid the golden egg. I want to protect the small investor, protect the county, and yet do away with the kind of lawsuit that happens because a companies' stock drops, a suit is filed, they press discovery and they move and collect a large settlement from the company, when the suit may be baseless.

Those kinds of frivolous suits concern me. I think it is a legitimate function of government to attempt to reform that. I also think it is important that this legislation strikes a balance and protects the consumer. Based on what I have seen, I believe it does.

More fundamentally, if it is proven to have a flaw or a problem, that flaw or problem can in fact be corrected. As I understand, it this legislation has taken some 5 or 6 years now to develop. The bill has been refined and refined over time. The bill has finally passes both Houses, the veto override has been supported in the House of Representatives. It seems to me it is time to get on with it and give the kind of necessary reform that I believe this bill provides in an evenhanded manner. I thank the Chair.

Mrs. BOXER. Will my friend yield to me for just a comment? And that is, I respect her completely for coming down on the other side. Of course, there are two sides to every story. I was just pointing out that as a former stockbroker myself and having felt that responsibility on my shoulders, the people who I really do tend to listen to in these matters are people who do not have a stake in it, and that is the people who are the investors.

All they want is a safe securities market. I agree with my friend, we may be back here fixing this bill. I think that the President has given us a road map to do that. I do not want to go on except to close, and I know my friend from North Carolina has been so patient.

Money magazine has really taken this issue on. And I think they make a very good point here when they say,

> The President should not sign [the bill]. . . . Here's why: The bill helps executives get away with lying. Essentially, lying executives get two escape hatches. The bill protects them if, say, they simply call their phony earnings forecast a forward-looking statement and add some cautionary boilerplate language.

And they talk about the fact that legitimate lawsuits would not get filed. So reasonable people come down on different sides. I want reform, but I want to see it done in a way that we stop these frivolous lawsuits but we still protect the small investors. Thank you very much for your patience, I say to my friend from North Carolina. I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. I rise in strong support of the motion to override the President's veto of H.R. 1058.

Mr. President, securities litigation reform is extremely important to the future of our economy. Obviously, the President disagrees. It is unfortunate. The President pretends that he supports our high-technology industry, but his veto showed that he cares more about trial lawyers than the growth of business in this country.

The Wall Street Journal may have called it right. They said Bill Clinton could be the President of torts.

Mr. President, the irony of this is that it is not a partisan issue. The lead sponsor of this bill is my friend from Connecticut, who is chairman of the Democratic National Committee. Republicans and Democrats alike have recognized the strike suits are very serious problems.

Mr. President, America is the undisputed leader in technology. No other country comes close to our leadership in this area. But a small cadre of lawyers have found a way to make a living by launching these strike suits against companies.

This is wrong. It is hurting America, it is hurting our economic growth, it is slowing our job growth, and it has to stop. It is hurting our fastest growing high-technology business. This bill is a good start.

Mr. President, these lawsuits that have been filed against these companies have little to no merit, but they are filed for the purpose of blackmailing companies into settling rather than going to court. In other words, it is cheaper to buy them off than it is to fight it in court.

The cost of these suits to the American economy is no small matter. At the end of 1993, class action lawsuits were seeking $28 billion in damages—$28 billion—which is a staggering amount, and most of these lawsuits are totally worthless.

The committee has had example after example of how absurd the cases can be. For example, one individual has filed against 80 companies in which he held stock and, in most cases, an infinitesimal amount of stock. Another individual has filed 38 lawsuits, 14 of them with the same law firm.

Another man, a retiree since 1990, 5 years, has filed 92 lawsuits, one for every year of his age. He is 92.

One law firm files a securities suit every 5 working days, one a week. They are just churning them out, whether there is any validity or not. That is how much it takes to meet the payroll, so they churn out one a week. In many cases, these lawsuits are filed within hours of price stock drops. The National Law Journal reported that of 46 cases studied, 12 were filed within 1 day and another within a week of publication of unfavorable news about a company.

Anybody that has ever run a company knows that all the news is not always favorable, no matter how hard you work at it. Mr. President, a point to remember in this debate is that investors are not helped by these lawsuits. If the President vetoed this bill for the small investor, then he missed the point in what the bill was about, and he is wrong. He is not protecting the little investor, he is only protecting a cottage industry of trial lawyers who make a living out of these lawsuits, and they have made a very plush living.

Study after study shows that lawyers get the lion's share of the settlements. We had testimony that the average investor receives 6 or 7 cents for every dollar lost in the market because of these suits, and this is before the lawyers are paid and they get the lion's share of it.

A couple of weeks ago, Fortune magazine had a picture of two lawyers who said, "Beware of this type of lawyers, they will destroy your company." That was the cover story. So this is going on and the business investment community is aware of it.

One of the significant parts of the bill allows courts to determine who the lead plaintiff is, one that is most adequate to represent the class, not a person who ran to the courthouse and got there first, and, in many cases, the way these suits have been filed, it is simply who got to the courthouse first, not who had the real vested interest.

If the President wants to protect investors, this is the bill to do it. The lead plaintiff must file a sworn statement that he or she did not buy the securities at the direction of counsel. Too often, many of these plaintiffs are straw men acting on behalf of the lawyers who instructed them to buy the stock in order that they could file the suit, and they make a profession out of filing the suits.

This provision will encourage institutional investors to be the lead plaintiff, the people who have a real vested interest. After all, they have the most at stake in these lawsuits. Institutional investors have $9.5 billion in assets. They account for 51 percent of the equity market. Further, pension funds $4.5 trillion in assets.

These funds—mutual funds and pension funds—represent the holdings of millions of Americans, many of them small savers. They have every right to have fraudulent lawsuits brought fairly and correctly, not just because a certain lawyer jumped in front of him and got to the courthouse first.

Mr. President, the conference report will punish lawyers that file frivolous lawsuits. The bill requires a mandatory review by the court of whether a lawyer filed frivolous motions and pleadings, known as rule 11 under the Federal Rules of Civil Procedure. What could be the problem with this provision—enforcing the Rules of Civil Procedure?

The veto message was concerned with the pleadings standards, but a key part of this bill is stopping lawsuits that allege no specific wrongdoing but just generally allege fraud, just blanket fraud, because the stock price dropped. We have seen some pretty sharp stock price drops lately and not because anybody committed fraud. These kinds of suits get the plaintiff into court and then they can start demanding settlement.

The bill requires that an attorney in a private action must allege facts giving rise to a strong inference that the defendant had the required state of mind to make an untrue statement. At the very least, this provision requires that lawyers have more to go on than just generally alleging fraud.

The President's veto message also objected to the discovery process. To put it plainly, once a lawyer files a frivolous lawsuit, with little or no facts, he gets the ability to engage in discovery. This allows him or her to rifle through the records of a company looking for anything with any particular spin that smacks of fraud. He does not have to have anything when he starts. He gets it after he files his suit.

Mr. President, 80 percent of the cost of litigation is in the discovery process. This bill would stop the discovery process while a motion to dismiss is being deliberated. In other words, the court has to find that the complaint has merit before the company has to spend time and money responding to voluminous document requests.

This goes to the heart of this bill: File a lawsuit and then ask for the world in discovery and hope that the company settles the suit to avoid the cost of litigation. The lawyers take home a tidy sum of money for very little work. This is what we are trying to stop, and that is the blackmailing of corporate America.

Let me just say a word about the safe harbor provision. This is critically important to the flow of information for investors. Right now, companies are literally frightened to project their earnings, or anything else for that matter, because if they do and it happens to turn out wrong, then they are going to be sued for fraud. They cannot even give an honest projection of what they might make, because if it happens to be wrong, if a change in circumstances, events, business down, up, they are subject to fraud.

Big investors and small ones alike, mutual funds, pension funds, anybody that is investing needs this kind of information projection to make wise and prudent investment decisions. It is a shame that due to the actions of a small group of parasitic lawyers that the free flow of information has been muzzled, that you simply cannot find out what a company plans to do or can do.

Mr. President, another important reform that is being made by H.R. 1058 is reform of proportionate liability rules. This bill requires that those who are responsible for causing a loss pay their fair share of the loss but no more. If they cause 1 percent of the loss, they pay 1 percent. This is the way it should be.

Too many lawyers have gone after companies looking for the deep pockets, and this can be anybody that had anything to do with the operation of the company. It can be lawyers, accounting firms—anyone that was touched. So they are simply looking for the deep pockets. In many cases, a lawyer would not even bother to file the suit but for the deep pockets of the attorney firm or accountants, whoever might be involved.

Despite this provision, there are some circumstances when individuals will pay more than they really owe. For example, we have a so-called widows and orphans provision that imposes joint and several liability on everyone to cover the losses for persons with net worth below $200,000. In other words, it is protecting those people of less than $200,000, and everyone has to pony up to pay their claim.

Further, if a defendant is insolvent, other parties have to contribute another 50 percent of their liability to make up for the insolvent defendant.

On this particular point, the conference report goes a long way toward protecting small investors financially. They will not be left out in the cold if the principal target is insolvent. Small investors will be fully protected. Those who have a net worth over $200,000 will be fairly compensated.

Finally, anyone who knowingly commits fraud will be fully liable. There is no retreat from this. If they knowingly commit fraud, they are fully liable.

Mr. President, I am a strong supporter of securities litigation reform, and I am a supporter of overall legal reform. I hope this is just the beginning. Some have suggested that the indirect cost of all this litigation is $300 billion a year.

This is a heavy price for American business and industry to pay. It is a heavy tax on the American public for the rights of a few lawyers who engage in these frivolous strike suits.

Mr. President, the SEC has sent a letter to the committee in which they state that the conference report addresses their "principal concern."

Mr. President, the Washington Post called it a truly useful piece of legislation.

As I said earlier, this bill is too important to our economy not to override the President's veto. I urge the Senate to vote to override this veto. I simply feel that American industry and American business—particularly the high-technology businesses—have simply fallen victim to the piranha-type lawyer who goes after them whether there is any justification to his claim or not. But because of the cost of the lawsuit, he gleans a lot of money.

With that, I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Connecticut [Mr. DODD] is recognized.

Mr. DODD. Mr. President, this is a moment of some unease, obviously, for this particular Senator from Connecticut to be in a disagreement with my President on this issue. But I am going to be urging my colleagues to override the President's veto. I do so because I believe this bill, passed previously in this body and adopted again in a conference report, is a good bill and one that deserves support.

I appreciate the arguments raised by the President. I have had the privilege of discussing them with him and his staff over a number of months. And the President arrived at a different conclusion. I respect that.

Much has been made of the fact that I have a second hat that I wear from time to time, that is called the general chairmanship of the Democratic Party. I am very proud of that hat. As I said at the outset when I accepted that position, there would be times, I suspected, where my President, the leader of my party, and I would disagree on issues. This happens to be one of those moments. I hope there are not many, but it is one of those moments. So I regret that. Nevertheless, I feel that this is an important bill, one that I have spent a great deal of time on going back to 1991, when my colleagues—principally Senator DOMENICI of New Mexico—and others, began to work on this legislation in this body, and through a process of numerous hearings and the like, we arrived at the point we are at today.

I would like to take a few minutes, if I can, and discuss the matters of particular controversy at this moment and why I think that an override is appropriate.

First of all, I point out to my colleagues—and I think I heard my colleague from New Mexico make this point when he was addressing the Chamber earlier this morning—this is truly a bipartisan bill, Mr. President. I realize that may not sound like much. It is certainly not a justification for supporting it. Unfortunately, there are fewer and fewer occasions when we have truly bipartisan bills like this. It is worthy of note because an awful lot of people on both sides of the aisle here have worked very hard to put this bill together. Is it a perfect bill? I suspect not. I have never seen one of those in my tenure here in Congress. Have we done everything exactly right? Probably not. Only time will tell where we have to make some corrections. But we have addressed some fundamental underlying problems that, by most people's comments, admittedly needed to be corrected. Those are the principal concerns.

I am grateful, in fact, that the President in his veto statement acknowledges that. We are no longer debating safe harbor, which was a matter of great controversy, or proportionate liability. We are no longer debating an issue my colleague from North Carolina pointed out a few moments ago, the right of the most injured plaintiffs to have at least the opportunity—it does not require it—but at least the opportunity to be the lead plaintiffs in the case, to require that in settlements or in judicial conclusions that the plaintiffs have an opportunity to get the award, and that the attorneys will take a second seat to the plaintiffs when it comes to divvying up the money that may come to them as a result of settlements, or a judicial award.

These are the principal matters in this piece of legislation. And the President, in his veto message, agrees with us on virtually all of them. In fact, in his comments—and I commend him for them—he has said this is a good bill. He has problems with two areas: pleadings and rule 11. I do not say they are unimportant, but certainly when you weigh them in the context of the overall bill, it amounts to just a handful of words—a fraction, if you will, of the overall achievement in the legislation.

So the bipartisan nature of this legislation, I think, is very, very important, and shortly I will discuss the specific concerns that I have mentioned, the pleadings area and the rule 11 area.

As I mentioned earlier, we have been debating this bill for going on more than 4 years now, into our third Congress on this legislation. Some 1,600 days have passed since the legislation was first introduced in 1991. There have been 12 public congressional hearings on this bill. That is an inordinately high number of congressional hearings on any single piece of legislation. Yet, that is how many have been held on this bill.

We have had 95 witnesses appear before congressional committees, representing all the different points of view, on securities litigation reform. We have had more than 4,000 pages of testimony, been a part of the legislative history that has led us to this bill that is now before us under these procedural circumstances.

There have been a half dozen staff and committee reports issued on the substance of the legislation, and, in fact, we have debated this piece of legislation for 7 full days over this past year here on the floor of the U.S. Senate.

Given this lengthy history, it is particularly disappointing that a veto of the bill has occurred, based on the issues that, frankly, have never previously been the subject of most of the contention and most of the debate. In fact, the President has stated his support, as I said earlier, for many of the most discussed and central issues, like the safe harbor provisions, proportionate liability provisions, the new lead plaintiff provisions, prohibitions on professional plaintiffs, and the discretionary bonding provisions. None of those issues should be the topic of our discussion today because, candidly, the President said he agrees with these issues.

What we are talking about are the issues he says he is in disagreement with. It is not an overstatement to say that his veto message indicates his support for about 95 percent of this legislation, and his veto is based on somewhere between 5 percent and 1 percent of the issues that are included in this bill.

In fact, when you boil it down, Mr. President, we are having a fight over 11 words—11 words out of over 11,000 words in the bill itself. Eleven words are the subject of the veto.

So the President vetoed this bill because of a relatively small percentage of the matters included in the legislation and apparently some wording in the statement of managers. It is somewhat rare that a veto would involve a statement of managers, but nonetheless, that was included in the veto message as well. So, Mr. President, I intend, obviously, no disrespect at all to the President, but this is the first veto I can recall where part of a veto message was based on a statement of managers.

As we discuss the issues upon which the President vetoed the conference report, it is important to remember some of the official statements that the administration has previously made, some of which directly contradict the veto message itself. Let me begin with the pleading standards, if I may.

Back in May of this year the Senate Banking Committee codified the essence of the pleading standards of the

U.S. Second Circuit Court of Appeals. Then on June 23 of this year, S. 240, the bill before us moved to the floor. The administration, as administrations do, issued its statement of policy in which it praised the pleading standards "as sensible and workable." That was the administration's statement of policy regarding the pleading standards in June of this year. The only difference between those pleading standards that were applauded in June and those endorsed by the administration, the ones before us today, are three words—the only difference between what was in the bill in June when the statement of policy came out and what is before you today are three words that have changed, and the words represent a technical change requested, by the way, by the Judicial Conference of the United States Federal Judiciary. These are not words we came up with. They were not words of the opponents or proponents, but they were altered at the recommendation of the Judicial Conference, in a letter from Judge Anthony Scirica to the committee staff when asked to give their comments on the pleading standards.

I know it has been included in the RECORD, but I ask unanimous consent that the letter dated October 31, 1995, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. COURT OF APPEALS,
THIRD CIRCUIT,
Philadelphia, PA, October 31, 1995.

Ms. LAURA UNGER,
Mr. ROBERT GIUFFRA,
Senate Committee on Banking, Housing and Urban Affairs, Dirksen Senate Office Building, Washington, DC.

DEAR LAURA AND BOB: I have a few suggestions for your consideration on the Rule 11 issue.

Page 24, line 11: Insert "complaint" before "responsive pleading."

Page 24, line 19: Insert "substantial" before "failure."

"Complaint" would be added to item (i), so there is a clear provision that reaches any failure of the complaint to comply with Rule 11. A small offense would be met by mandatory attorney fees and expenses caused by the offense; if item (ii) is modified without this change, a gap is left in the statutory scheme. The result still is a big change from present Rule 11, which restricts an award of attorney fees to a sanction "imposed on motion and warranted for effective deterrence." A serious offense—filing an unfounded action—would be reached under item (ii).

I also wish to confirm our prior conversation on scienter and the pleading requirement.

Page 31, line 5: Delete "set forth all information" and insert in its place "state with particularity."

Page 31, line 12: Delete "specifically allege" and insert in its place "state with particularity."

As I indicated, this would conform with the existing language in Rule 9(b) which provides that "the circumstances constituting fraud or mistake shall be stated with particularity."

Also, page 24, line 1: Delete "entering" and substitute "making."

Page 24, line 4: Delete "of its finding."

Many thanks.

Sincerely,

ANTHONY J. SCIRICA.

Mr. DODD. Mr. President, let me describe what the three words are so my colleagues know what we are talking about. The words that we had in the bill were "specifically allege facts giving rise to a strong inference of fraud." That was the language we had—"specifically allege facts giving rise to a strong inference of fraud." What the Judicial Conference recommended was that we change that language to "state with particularity facts giving rise to a strong inference of fraud." So the change went from "specifically allege" to "state with particularity."

That is the change that occurred from the language that was applauded in June by the administration and in its statement of policy as to where it stood on the bill and what was adopted in the conference report. The change occurred without a great debate or a thunder and lightning storm or a conference in which the sides were in contentious argument. This recommendation of the Judicial Conference was accepted as something the conferees felt made sense.

So we did what the judges asked us to do, which is, I thought, how you normally proceed. You ask people who will be sitting on these matters to give us their recommendations—they are not Democrats, Republicans, named in a partisan debate—but merely their recommendations to the conference report.

Mr. SARBANES. Will the Senator yield?

Mr. DODD. If I could complete my whole comment because I want to get to the Specter amendment.

Mr. SARBANES. I was not clear what conference the Senator was referring to about thunder and lightning.

Mr. DODD. In the conference between the House and the Senate.

Mr. SARBANES. There was no legitimate conference. There were meetings of all the same-thinking types, and then a meeting of the conference committee was called to which everyone came, including people who had a different point of view, and the thing was simply railroaded through.

Obviously, there was not thunder and lightning and this so-called conference—there was no such conference.

Mr. DODD. If I may regain the floor, maybe my colleague was not at the same conference meeting I was, but I certainly recall a lot of thunder and lightning in the meeting about statements being made about what was in the bill.

Mr. SARBANES. But no discussion of substance. The true thinkers had worked all the substance out at other secret meetings before they ever came to the conference. The Senator knows that as well as I do.

Mr. DODD. If this were the decision of my colleague from Maryland to have vetoed this bill, he would have vetoed the bill, but he would not have vetoed the bill on the basis of pleadings. He would have vetoed the bill because he fundamentally disagrees with the legislation. I respect that.

But I was talking about the administration's position when it comes to the veto. The administration's position in June, when it came to the pleadings, was "to support the pleading standards that were included in the bill" that came out of the Banking Committee. When we went to conference there were no comments made by the administration that they disagreed at all with the change of language of "specifically allege" to "state with particularity."

That is the point in the veto message. I expect my colleagues have much more fundamental disagreements with the bill than the President, but we are talking about the Presidential veto.

The judges, I might point out, did not request out of thin air that the language be changed. The requested change in the language of the statute, we were told, was to conform with the language of rule 9(b) of the Federal Rules of Civil Procedure, which governs how attorneys should draft fraud complaints.

Mr. President, there is absolutely no substantive difference between the phrase "specifically allege" and the phrase "state with particularity." The only difference, and the reason that the Federal judges wanted the change, is that "particularity" already has a meaning under law and "specifically allege" does not. Therefore, this change would produce a clearer, more consistent standard in the pleadings section of the legislation.

I also note, Mr. President, in April of this year the Chairman of the Securities and Exchange Commission, Arthur Levitt, urged the Banking Committee to adopt—and I quote from the testimony before the committee—"the second circuit pleading requirement that plaintiffs plead with particularity"—he said—"facts that give rise to strong inference of fraudulent intent by the defendant."

I think it is particularly distressing, Mr. President, that the administration has reversed course on the pleading standards based on this technical change requested by the impartial Judicial Conference of the United States.

A final note, if I can, regarding this particular section, on the legislative history to which the White House has objected. The White House has endorsed the pleading standards for the same language in the Banking Committee report on S. 240. Neither bill codifies the entire case law of the second circuit, as the administration says it wishes it did, and that is one of the reasons it has expressed its objection.

The White House has also raised the issue of the Specter amendment, which was added to S. 240 several days after the administration endorsed the pleading standards in the bill that came to the floor of the U.S. Senate.

Now, our good friend from Pennsylvania, I gather, has already addressed this issue on the floor of the Senate earlier today and, of course, at the time he offered the amendment and at the time we adopted the conference report. As he claimed, his amendment would codify guidance on how plaintiffs who establish the strong inference of fraud. The difference was not over the issues of "state with particularity" or "specifically allege" wording, but rather, how do you establish the strong inference of fraud?

Unfortunately, because the Specter amendment failed to include key guidance from the second circuit, it would have had the effect of totally undermining the pleading standards that we were seeking to establish and that have been supported by both the Securities and Exchange Commission and the White House in its earlier statements.

Let me go into this, if I may. First, I want to read to my colleagues, if I can, a memorandum sent to the President of the United States from Prof. Joseph Grundfest of the Stanford Law School and previously a Commissioner with the Securities and Exchange Commission, on the subject of pleadings standards and pending securities reform legislation. He is one of the most knowledgeable people in this particular area:

> The pleading standard articulated by the Second Circuit Court of Appeals is intended simply to require the plaintiff to allege facts sufficient to give rise to a strong inference of *motive* to defraud. Plaintiffs must do more than make bald assertions as to motive, but are not required to develop the entire case in the pleadings. While this standard differs from the standard applied in some more lenient circuits, particularly the Ninth Circuit, it has not resulted in over-deterrence in the Second Circuit or in excessive dismissals. Indeed, the Second Circuit remains one of the most active in the country for 10b–5 claims.
>
> As I read the securities litigation conference report, the pleading standard is faithful to the Second Circuit's test. Indeed, I concur with the decision to eliminate the Specter amendment language, which was an incomplete and inaccurate codification of case law in the circuit.
>
> As is stated in a recent Harvard Law Review article, codification of a uniform pleading standard in 10b–5 cases would eliminate the current confusion among circuits. The Second Circuit standard is among the most thoroughly tested, and it also balances deterrence of unjustified claims with the need to retain a strong private right of action. Indeed, the Second Circuit is widely respected for its legal sophistication and acumen in matters relating to securities and business litigation. The fact that the Second Circuit evolved the strong inference standard is therefore worthy of particular deference and respect.
>
> In short, I support the pleading provision of the conference report.

Mr. President, I ask unanimous consent the memorandum from Professor Grundfest at Stanford Law School be printed in the RECORD at this point.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM

To: President Clinton, Through Elena Kagan, Office of the White House Counsel.

From: Professor Joseph A Grundfest, Stanford Law School, Commissioner, Securities and Exchange Commission, 1985–1990.

Subject: Pleading Standard in Pending Securities Reform Legislation.

Date: December 19, 1995.

The pleading standard articulated by the Second Circuit Court of Appeals is intended simply to require the plaintiff to allege facts sufficient to give rise to a strong inference of *motive* to defraud. Plaintiffs must do more than make bald assertions as to motive, but are not required to develop the entire case in the pleadings. While this standard differs from the standard applied in some more lenient circuits, particularly the Ninth Circuit, it has not resulted in over-deterrence in the Second Circuit or in excessive dismissals. Indeed, the Second Circuit remains one of the most active in the country for 10b–5 claims.

As I read the securities litigation conference report, the pleading standard is faithful to the Second Circuit's test. Indeed, I concur with the decision to eliminate the Specter amendment language, which was an incomplete and inaccurate codification of case law in the circuit.

As is stated in a recent Harvard Law Review article, codification of a uniform pleading standard in 10b–5 cases would eliminate the current confusion among circuits. The Second Circuit standard is among the most thoroughly tested, and it also balances deterrence of unjustified claims with the need to retain a strong private right of action. Indeed, the Second Circuit is widely respected for its legal sophistication and acumen in matters relating to securities and business litigation. The fact that the Second Circuit evolved the strong inference standard is therefore worthy of particular deference and respect.

In short, I support the pleading provision of the conference report.

Mr. DODD. Mr. President, our colleague from Pennsylvania, when he offered his amendment on the floor of the Senate, said that what he wanted to do was to take the guidance from the second circuit and codify that as well.

With all due respect to my colleague from Pennsylvania, the language of his amendment did not really cover all of the guidance. His amendment stated that "strong inference of fraudulent intent for purposes of paragraph 1, a strong inference that the defendant acted with the required state of mind, may be required, either, A, by alleging facts to show that the defendant had both motive and opportunity to commit fraud or, B, by alleging facts that constitute strong circumstantial evidence of conscious misbehavior or recklessness by the defendant."

What is my problem with that? The problem with it is that is not the guidance. He omits what Judge Newman has included as his guidance, and the guidance that was not included in the amendment says, for part B, "where motive is not apparent." Where motive is apparent, you do not have to make any allegations of a lot of circumstances. If you have a clear motive, you do not have to worry about the circumstances or the alleged strong facts. Where you do not have motive, apparently, and that can be a case where it is hard to get at that motive, then you are going to allege circumstances. There Judge Newman says, "Where motive is not apparent, it is still possible to plead scienter by identifying circumstances indicating conscious behavior by the defendant, though the strength of the circumstantial allegations must be correspondingly greater." Greater. The Specter amendment did not distinguish at all between the circumstances in part A or part B of his amendment, and therefore did not really follow the guidance of the second circuit. So that is the reason that amendment was taken out.

You could have gone in, I suppose, and said why did you not include the other language here? The problem was, in a sense, by codifying guidance you get into an area where you can get some differences of opinion on this. And arguably it could have, I suppose, gone back and included all of it, but the decision was to take it out on the assumption that courts will look to the guidance.

We have established the standard clearly. We have clearly established the standard of alleging facts with particularity, showing a strong inference of motive. Then the guidance of the court would be followed.

But the suggestion that the standard and—the guidance, rather, was included in the Specter amendment, omits—omits that where a motive is not apparent, the strength of circumstantial allegations must be correspondingly greater. That was omitted. And that is the reason that, with all due respect to the administration, they are, I think, hanging their hat on the wrong issue here.

We have met the second circuit standard here, as indicated by the memorandum from Judge Grundfest, Professor Grundfest at Stanford. We have met that standard. We have left out the guidance. That does not mean you disregard it. But if you are going to follow the guidance, as Senator SPECTER suggested, then the guidance must include, in part B, that you have circumstantial allegations that are correspondingly greater than they would be if the motive was apparent.

So that is the first issue and frankly it is a marginal issue, I would say. It has some importance. I do not disregard it. But to suggest somehow this bill ought to be vetoed over that, I think is not correct.

I am not going to dwell at length on the rule 11 issues, except to make the following applications. The intent and application of the rule 11 provisions of the conference report are identical to the rule 11 provisions from S. 240 that the administration states in the veto message that it now has difficulty with. In fact, the only difference in the configuration of this provision in S. 240 is the Senate adopted a sanction for rule 11 that allowed a victim of a violation to collect the legal fees and costs incurred as a direct result of the violation. The conference report simply makes clear that it was our intent, that a substantial violation, a substantial violation in the initial complaint could trigger sanctions that included all attorney's fees and costs for the entire action.

That was our intent anyway. If you file a complaint that does not meet—that would fall under rule 11, and I will not read all four areas where a motion or a complaint would be deficient in terms of rule 11—but, if you have initiated a complaint and at the end of the action the judge goes back and says that complaint that you brought—and these have to be substantial violations—did not meet that standard, it is logical that it would have to apply to the entire proceeding.

If you brought a frivolous lawsuit, initiated a frivolous lawsuit, then all of the costs come thereafter.

You do not apply that same standard with motions, obviously, assuming the complaint does not violate rule 11. But if a defense lawyer brings a motion that is frivolous, then the costs associated with that, obviously would have to be borne by the defense lawyers as well, regarding that motion. So, logic would indicate that there is a difference here.

Mr. SARBANES. Will the Senator yield?

Mr. DODD. I will be glad to yield.

Mr. SARBANES. The defense would not be held liable for all the costs? Plaintiff would but not the defense?

Mr. DODD. Yes, they would be. My point was this: if—Let us assume for a second that the initial complaint is a frivolous complaint. The initiation of the action, what begins it, violates rule 11, is a substantial violation of rule 11, and then at the end of that case the judge finds that there was a substantial violation of that, then the costs associated with that entire case, because the initiation of the action was wrong.

Whereas, if a defense lawyer, in the process of handling the case, files a motion that violates rule 11, then the costs associated with that motion, as I understand it, would then be borne by the defense counsel incurring plaintiff's attorney's fees.

Mr. SARBANES. If the Senator will yield, I find that an absolutely staggering assertion, saying that you should have this disparity in treatment between plaintiff and the defense.

The Senate-passed bill contained a presumption that the appropriate sanction was an award of reasonable attorney's fees and other expenses incurred as a direct result of the violation, and it applied that to both plaintiff and the defendant, as the bill went out of the Senate.

The conference changed that. So they imposed a much more onerous burden upon plaintiff as compared with the defendant. There is no basis in logic or reason to do that.

Mr. DODD. Oh, absolutely there is. Absolutely there is.

The costs associated are a direct result of the complaint. If you have initiated the complaint here, and all the costs then come after, that is the action that initiated the activity, it seems to me. That is the reason. That was certainly—for those of us who were working on it, that was the intent. At any rate, that is why. And then of course thereafter there is a balance.

But there is a distinction, obviously. If you start an action and you violate rule 11 here—and for the sake of discussion you have brought an action which, to pick out in the first instance here, let us say No. 1, under rule 11, "under circumstance that is not being presented for any improper purpose such as to harass or cause unnecessary delay or needless increased costs"—let us say "to harass." You violated paragraph 1 of rule 11. The sole purpose of your lawsuit was to harass. That is what you would have to be found guilty of. So you filed a complaint for sole purpose to harass a defendant. That is the reason you brought the action. If the court finds in fact that was the reason, I think the attorney who brought the action not for good cause but solely to harass a defendant, and incurred costs thereafter that the defendant had to pay to defend an action brought solely to harass the defendant—yes, I do think that attorney should have to pay the cost of that entire case, if the sole purpose was to harass the defendant.

Mr. SARBANES. That would be the direct result of a violation under the language of the Senate-passed bill. In the conference, they changed this language.

Mr. DODD. No. I do not know.

Mr. SARBANES. They changed it in such a way that you get a disparate treatment of the plaintiff and the defendant. There is no basis to do that.

Mr. DODD. Let me finish my thought, if I can. Let me tell you what the change is.

Mr. SARBANES. I apologize to the Senator.

Mr. DODD. Nevertheless, Mr. President, we also provided some protections for plaintiffs, a presumptive sanction for initiating illegal litigation. It is not triggered unless the complaint substantially violates rule 11. So we added that part to it. There are plaintiffs who violate rule 11. Only plaintiffs file complaints, obviously, and so plaintiffs get the benefit of this heightened rule 11 threshold. Plaintiffs face sanctions only if they committed, as I said, a substantial violation.

So my point here again is that that was certainly our intent to begin with. Again, I have stated earlier, I do not like the idea—my colleagues may recall, and I see my friend from New Mexico is on the floor here—that initially you had proposals that would have said, "Well, if you lose the case, you pay." That is the British rule.

I stated on this floor that I would vehemently oppose this legislation if we had a "loser pays" provision. A person could have a good case and lose the case. I would vehemently oppose any legislation that would have such a chilling effect. A plaintiff who thinks they have a good case—who thinks they have been harmed and injured because of a defendant's actions—and loses the case, we should make that defendant pay the cost to the plaintiff.

That is a very different situation from a violation of rule 11, where the action or the complaint is frivolous, or instances in which the plaintiff is out to harass defendants. In that case, frankly, I think the attorney should pay. I think that is the best weapon we have here to discourage these frivolous lawsuits. You had better think twice. If you are just going to file these things, make wild accusations not based on fact, and in some cases just designed to harass people, by God you ought to be asked to pay. And that is what people are angry about in this country because that is what has happened too often. Unfortunately, it is not usually the named defendants who pay. It is the people that insure—the insurance companies—the people who work in these places who end up paying. It usually is not the big guys at the top. It is other people who work in these facilities, people who invest in them, or others who end up paying the bill. When that happens, there ought to be a cost associated with it. Remember, it has to be a substantial violation in those particular matters.

Mr. President, let me also make abundantly clear that in making this change, as I said earlier, we imposed a higher burden of proof in violation of the complaint by a requirement of substantial. The entire intent of the legislation is to deter frivolous litigation from the beginning.

As I said a moment ago, why should there not be some significant sanction for initiating an action that violates the standards of the Federal Rules of Civil Procedure? Why have rule 11? Maybe we should have struck rule 11 entirely. If you are going to have rule 11 that says if you harass people or bring frivolous lawsuits, rule 11 has existed for decades. The problem is, it has only been a piece of paper. It has hardly ever been invoked at all. It has never been a threat to anybody. Maybe we should have gotten rid of it altogether. Maybe we should have done that to satisfy some people. If you are going to have it, make sure it means something. If you harass or bring a suit without any basis in fact, think twice about it. If there is no economic penalty to it, I do not know how to clean up the mess these frivolous suits have created. That is why it is included.

Those are more protections, by the way. As I said earlier, we should not forget that the conference report also gives the judge in these cases broad discretion to waive the sanction against the violating party if the judge finds that the violation was de minimis or it would be an unjust burden for the violator to pay the sanctions. Some might argue that we should not have included that. But, nevertheless, it is in there to have the judge find it is an unjust burden. We are not going to ask you to pay. You have to violate rule 11. There has to be finding that you have violated this rule of bringing frivolous lawsuits—not that you lost or won the case, but that you violated rule 11.

As I said, those are more protections for plaintiffs than currently exist in rule 11, which give no discretionary power to a judge to waive the sanctions when he or she finds a violation of rule 11. Under present law, if a judge found a violation of rule 11, then he or she has to impose the sanctions. We provide some protection here for these plaintiffs' attorneys if in fact the judge does find that they have violated—a substantial violation.

Mr. President, I am sure there will be ample opportunity to debate some of these highly technical matters. I hope we would get to a vote on this. I do not enjoy belaboring this issue. We spent days on this bill.

Let me say again that there are a number of my colleagues who fundamentally disagree with this bill. I respect that. I disagree with them, but I understand their objections. But I have to repeat: I do not understand having been through this process now.

I was asked months ago—my colleagues ought to know this—to address some concerns that the administration had with the bill, particularly with safe harbor. There were a couple of other areas the administration had problems with—aiding and abetting and the statute of limitations. I offered the amendment on the statute of limitations to give a longer period of time. I lost that in committee, and I lost it here on the floor.

In the aiding abetting provisions, we provided half a loaf here by allowing the SEC to deal with the class actions. We did not go as far as some would like, even I would like. But it was a major point of contention for the administration. In conversation after conversation after conversation, it was safe harbor—fix safe harbor, Senator. Get that safe harbor straightened out.

I cannot tell you the hours spent on the safe harbor issue because I wanted the President to sign this bill. I kept on telling them that if we did fix safe harbor, I felt confident that the bill would be signed. We worked for days on this, and ended up with language that was supported by the Securities and Exchange Commission. It met their concerns. In fact, the President in his veto message applauded us for having done it. He supports the safe harbor provision. And then I find out after the conference report is voted on that all of a sudden there are a couple of issues—not issues that are not of concern to my colleagues on the floor who object to the bill. I understand that. But I must say to my colleagues, the issue of pleadings and rule 11 was never a major issue, not to the administration. I was never asked by the administration to address the pleadings or the rule 11 issue. The only thing I was asked to address was safe harbor, aiding, abetting, and the statute of limitations. And on those two, there was an appreciation that we had done the best we could. But you do not veto a bill for what is not in the legislation.

I do not disagree that my colleagues here have difficulty with the pleadings in rule 11, but we are talking about a veto here today and the veto message. The veto message was on pleadings and rule 11 and some language in the statement of managers. That is a very small percentage of this bill. It is 11 words out of 11,800 words in this bill—11 words. After 4 years, 12 congressional hearings, 100 witnesses, 5,000 pages of testimony, we are down here about to lose that kind of an effort over 11 words.

Mr. President, we did not write the Ten Commandants here. This is not etched in marble. I said this to my colleagues elsewhere. I have been mystified. Nobody would stand up with a bill and say that we have offered you the perfect piece of legislation. I cannot say that. I think we have done a good job here in both Chambers of the Congress, the House and the Senate, with Democrats and Republicans, and with 4 years of effort. We have put together a good bill, and in my view we have done it the way a bill ought to be adopted. Do we know it is perfect? No, we do not. If something comes up a year or two from now where there is a problem, you fix it.

We have had this problem of frivolous law suits for years, and we are trying to fix it. We may lose the opportunity to do that because of some people's concerns about things that I think, frankly, should not be matters of concern, but if they turn out to be, we can correct them. But you do not squander the opportunity to change a situation so fundamentally awry it screams out for solution.

Today, with great regret, with great regret, I urge my colleagues to override this veto and to adopt this legislation by that action, and let us get on with the business of other matters that are before this body.

With that, Mr. President, I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I observe for my colleague from Connecticut that the two words "I do"—it is only two words—but they have tremendous, far-reaching significance. So the fact that there are only 11 words, you know, if they are critical 11 words they can make a tremendous difference, and in the lives of people there are the two words "I do." They can make an enormous difference in our lives.

Mr. DODD. If my colleague will yield, I will not disagree on that, having said "I do" on occasion. Some of our colleagues have said "I do" on many occasions. But I appreciate the significance of what he is saying. I am merely trying to put it into balance.

Mr. SARBANES. If there are only 11 words, why do you not take this bill and rewrite it and meet the objections?

It is interesting. I find it very interesting that this is being treated as though Congress were about to end. The fact of the matter is that there is an opportunity to address these problems, eliminate them. Actually, I am not going to go at great length here because I understand the distinguished Senator from Minnesota wishes to speak.

I can address this problem later, but I am going to quote from some of these leading law professors in the country about the problems they see in this legislation. Now, I just want to make a couple of points here though because we were trying to have an exchange and I wish to register them at this point in the RECORD.

It is interesting; there is a lot in this legislation that those of us who have opposed its support. We do not disagree with trying to fashion legislation to deal with the problem of frivolous lawsuits, and there is much in this legislation that we would support. There are other things that are not in it that we think ought to be in it, which we have debated, and there are things in it which we think ought not to be in it, which is the focus obviously of the current attention.

Mr. DOMENICI. Could I ask the Senator one question?

Mr. SARBANES. I yield to the Senator for a question.

Mr. DOMENICI. I listened to the Senator's remarks to my friend, Senator DODD, when we talked about 11 words.

Why does the Senator not draft a bill with those 11 words. It ought to be easy to pass an 11-word bill.

Mr. SARBANES. I am not sure it will be because—first of all, I do not know that it is only 11 words that are at issue, and I do not think that is correct. But, in any event, those provisions were not included in this legislation and were resisted very strongly by those, whoever brought the measure to the floor, and yet they have a significant impact on what the effect of this legislation will be.

Mr. DOMENICI. I mean, would it not be a pretty good debate on 11 words? The Senator could get that to our committee, and we could debate the 11 words instead of killing the bill.

Mr. SARBANES. Well, the President sent the veto here, and the issue is whether to sustain the veto. I think we should sustain the veto.

Mr. DOMENICI. I thank the Senator.

Mr. SARBANES. Yes, indeed.

Now, let me address a couple of other things. The Senator from Connecticut spoke about the thunder and lightning at the conference on this legislation. And I say to the Senator, I was a member of the conference committee. I only remember it meeting once. Am I erroneous in that remembrance?

Mr. DODD. Far be it for the Senator from Connecticut to challenge the Senator's remembrances. I do not know if the Senator is erroneous or not in his remembrance. I do not know how many actual meetings occurred. There were a lot of conferences.

Mr. SARBANES. Of the conference committee.

Mr. DODD. I would suggest this is not a unique event. It is common to have back and forth, and so forth, at meetings. Rather than having Members sit, staff does this. I know the Senator from Maryland, having chaired committees and conferences, knows it is not uncommon in these meetings to have staffs work back and forth to try to resolve matters without Members sitting there. It is not unique. Is that a unique occurrence?

Mr. SARBANES. I say to my colleague from Connecticut, the procedure here that was unusual and somewhat unique, although it is becoming more frequent—I regret to say in the workings of this Congress, it is becoming more frequent—was that all the true believers gathered together to try to work out the House and Senate differences but did not include in those discussions the people who were on the other side.

Now, that is not a good way to legislate, in my opinion, because sometimes by having the people on the other side, you have a dialog and a discussion, and you are able to work out measures and improve them.

Now, what happened here, that never took place. What finally took place that encompassed everybody including those who were critical of this legislation was the final meeting where they simply railroaded through what the conference agreement was, and it is the conference agreement that has provoked the President's veto in this instance. The President, in fact, has indicated that if he had been given a bill as it had passed the Senate, he would have signed it, as I understand it. So it is conference action that did it, and the conference action was taken by all, any meaningful action on the substance was taken simply by those on one side of issue.

Mr. DODD. If my colleague will yield further——

Mr. SARBANES. Certainly.

Mr. DODD. The bill that is before us, except for a couple of provisions, some of which we would argue improve the bill, is virtually what the Senate adopted. This is not a bill that even remotely looks like the House-passed bill. In fact, it is the Senate-passed bill. I know my colleague from Maryland was opposed to even the Senate-passed bill. But in terms of from the administration's standpoint, again I point out that in June on the pleading standards and the statement of policy from the administration, they endorsed what came out of the Senate bill. And regarding the rule 11——

Mr. SARBANES. If the Senator will yield on that very point, it was changed then in the conference. The fact that the administration——

Mr. DODD. The only thing that was changed, the only thing that was changed was at the recommendation of the Judicial Conference, and it was regarding the words "effectively allege" or "state with particularity." Those words were recommended by the Judicial Conference.

Mr. SARBANES. No, two other things were done. In the conference, they removed the Specter amendment that had been adopted in the Senate that carried with it further elaborations, carried with it further elaborations by the second circuit with respect to the pleading standard, and second—and this is something the President focused on in his veto message—the statement of managers about the pleading standard in effect sought to put a legislative interpretation spin on it which raised the standard even higher, and some of the law school deans who have written in about this matter have focused on that very fact.

In other words, what you did is you changed the standard as it passed the Senate to make it more difficult and then the statement of managers put a further spin on it.

Mr. DODD. If my colleague will yield, let me go back. I tried to do this earlier. The Specter amendment said he was codifying the guidance in the second circuit, and that is not the case. That is where the problem occurred here.

Mr. SARBANES. I listened to the Senator's comments on that subject, and the distinguished Senator from Pennsylvania will have to speak for himself, but even assuming the accuracy of what the Senator stated—and I am not in a position to do that. The Senator from Pennsylvania, I am sure, will be able to do so. Assuming the accuracy, then the way to have corrected it would have embraced all the guidance, not to eliminate that guidance, which was designed to provide some additional protection for the investors as the second circuit elaborated their standard.

Mr. DODD. If my colleague will yield further—I appreciate him yielding—you can make that case.

Mr. SARBANES. Yes, you can.

Mr. DODD. I understand that. But the suggestion that somehow the courts are going to disregard the guidance because it is no longer in the bill itself, it has not been codified, I think overstates the case, when you come down to vetoing this whole bill on that particular question. My point simply has been that I do not think the Specter amendment was—I think it was an effort to get recklessness in, which would have changed the standard from the second circuit. Nonetheless, putting that aside, the guidance is still going to be there. The guidance would still be there. And you do not veto the whole bill over the issue of guidance.

Mr. SARBANES. If the Senator will yield, you not only took the guidance out of the statute from the second circuit but you sought to give the courts a different guidance contained in the statement of managers in the conference report. So you committed, as it were, a double violation. You took out the guidance of the second circuit. Then you say, well, if it is not there, the courts will look to the guidance in any event. Ah, but what you did is you then interjected in as guidance with respect to this provision a statement of managers.

Mr. DODD. First of all, Mr. President, I say to my colleague, it was the guidance of the second circuit, No. 1. And by taking it out, the statement of managers is—again, one I have never heard. Maybe my colleague can cite examples where there is some confusion over what was intended there, but you do not veto a whole bill over the statement of managers.

Mr. SARBANES. Well, this bill with respect to the statement of managers is obviously an effort to in part rewrite the bill at that level of consideration.

Now, Mr. President, let me make one other point while my colleague is still here. My colleague made a lot about the number of hearings that were held, but I have to submit to you that those hearings were in a sense ignored.

My distinguished friend from Connecticut earlier stated that with respect to one provision—I think it was on safe harbor. He quoted Arthur Levitt, the Chairman of the Securities and Exchange Commission. But let me just show you how these hearings are ignored. And so the fact that you have a lot of hearings may make no difference at all.

On May 12, 1994, the Securities Subcommittee held a hearing, which the distinguished Senator from Connecticut chaired.

The Senator himself stated at that hearing:

> Aiding and abetting liability has been critically important in deterring individuals from assisting possible fraudulent acts by others.

That is my colleague from Connecticut speaking at this hearing. Testifying at that hearing, Chairman Levitt, whom he cited earlier for another provision in terms of supporting it, stressed the importance of restoring aiding and abetting liability for private investors.

> Persons who knowingly or recklessly assist in the perpetration of a fraud may be insulated from liability to private parties if they act behind the scenes and do not themselves make statements directly or indirectly that are relied upon by investors. Because this is conduct that should be deterred, Congress should enact legislation to restore aiding and abetting liability in private actions.

And the North American Securities Administrators Association, the Association of the Bar of the City of New York, also endorse restoration of aiding and abetting liability in private actions.

So what good does the hearing do us? We have the hearing. This is what the testimony is. The distinguished Senator himself, in a sense, led off that hearing by underscoring the importance of aiding and abetting liability. And it ends up not being in the legislation.

So you can have all the hearings you want. It does not necessarily demonstrate that an appropriate and reasonable piece of legislation has been crafted.

Mr. DODD. If my colleague would yield on that, as I said earlier, he may have missed my statement. He may want to bring up the statute of limitations issues as well. It is not in the bill. I offered the amendment on that particular instance to include the legislation, as my colleague well knows.

Mr. SARBANES. That is accurate. And I commend the Senator for doing that.

Mr. DODD. As the saying goes, you make the perfect the enemy of the good. We are a body of 100 Members here. There is not the political will to do what the Senator from Maryland and I would like to do on aiding and abetting. But let us consider what happens if the President prevails today and the veto is sustained.

What happens to the statute of limitations and aiding and abetting? Obviously the statute of limitation does not change. The Supreme Court has ruled on it, so there is no difference. It is not affected by this. But on aiding and abetting we have made a substantial gain in aiding and abetting by restoring to the Securities and Exchange Commission the right to bring class actions. Without this legislation you even lose that aiding and abetting.

So I regret deeply we do not have aiding and abetting here. The majority of our colleagues have rejected that. But the suggestion that I ought to lose everything else I have achieved because I was not able to get a statute like the statute of limitations or aiding and abetting is not a reason to be against the bill.

I hope we can convince a number of people in the next couple months, in a separate bill, to expand the aiding and abetting and the statute of limitations. But I cannot see why I should be opposed to the whole bill here, when on portion of liability, on safe harbor, on lead plaintiffs and on aiding and abetting, where we do get half a loaf at least, that the SEC wanted, and I am confident my colleague from Maryland wanted, and I wanted, that we would not have been able to get that without this piece of legislation. I thank my colleague for yielding.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland has the floor.

Mr. SARBANES. Mr. President, let me just close out by including in the RECORD a letter from the ABA, from the President of the American Bar Association, to President Clinton opposing key provisions of the legislation, H.R. 1058, and urging the President to veto the legislation.

Let me just quote it very briefly:

> The ABA continues to believe that this proposed legislation can and should be corrected by the Congress to correct the significant difficulties that it would cause in its current state. We agree that underlying problems in the area of securities litigation must be addressed, but that must happen without unduly barring access to the courts to parties who are defrauded.

And then they enumerate the most objectionable parts of H.R. 1058, including the rule 11 changes about which my colleague from Connecticut has discussed, and particularly underscoring the fact that the provision now lacks balance in that it treats plaintiffs more harshly than defendants.

They also discuss the pleadings rules about which he has spoken, and in effect point out the difficulty it would present to people in having their cases heard, in other words, the danger that meritorious cases will be dismissed at the pleadings stage. It goes on to make other criticisms as well.

Mr. President, later I intend to address these comments that we have received from some of our Nation's leading legal scholars——

The PRESIDING OFFICER. Is the Senator from Maryland going to make a unanimous-consent request?

Mr. SARBANES. Mr. President, I ask unanimous consent that the letter be printed in the RECORD at the end of my remarks that have been made with respect to the provisions that are before us, letters to the President urging the veto of the bill, which the President made.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

EXHIBIT 1

AMERICAN BAR ASSOCIATION,
Albuquerque, NM, December 17, 1995.

President WILLIAM JEFFERSON CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I write on behalf of the American Bar Association. The ABA opposes key provisions of legislation presently before you entitled Reform of Private Securities Litigation, H.R. 1058. I strongly urge you to veto the legislation.

The ABA continues to believe that this proposed legislation can and should be corrected by the Congress to correct the significant difficulties that it would cause in its current state. We agree that underlying problems in the area of securities litigation must be addressed, but that must happen without unduly barring access to the courts to parties who are defrauded. The most objectionable parts of H.R. 1058 include the following:

1. "Loser Pays" or Rule 11 Changes.—The ABA opposes any requirement that would impose responsibility on a non-prevailing party for the legal fees of the prevailing party in securities actions. H.R. 1058 contains such a "loser pays" provision and would materially change Federal Rule 11, it is called a mandatory sanctions rule. That provision's call for mandatory sanctions in the form of attorneys fees and its lack of balance, treating plaintiffs more harshly than defendants, are unacceptable.

2. Other Mandated Changes in Federal Rules for Securities Cases.—H.R. 1058 significantly amends Rule 9(b) on pleadings and Rule 23 on class actions. These because for the first time under the Federal Rules, they would establish special requirements for a particular class of cases.

Moreover, the proposals contradict the present Rule 9(b) of the Federal Rules of Civil Procedure. In light of the evidence that courts today already enforce heightened pleading requirements. Federal laws should not endorse the dismissal of meritorious cases at the pleading stage. The pleading standards in H.R. 1058 require a plaintiff to plead the "state of mind" of each defendant, something utterly impossible to do prior to discovery.

The ABA further opposes the proposed limitations on the ability of plaintiffs to amend their pleadings and to pursue discovery. Such limitations while undoubtedly preventing frivolous claims from going forward, would also bar claims with substantial merit. Only through significant discovery and repleading do these important claims get adjudicated; H.R. 1058 would subvert that process.

The ABA supports the process called for in the Rules Enabling Act. No amendments to the federal rules should ever occur except after the deliberative process of the Rules Enabling Act has been followed. H.R. 1058 wreaks havoc with that principle and violates the important principle that the Federal Rules of Civil Procedure apply uniformly to all causes of action.

3. Immunization of Intentional and Reckless Conduct.—The ABA House of Delegates adopted policy at its last meeting in February that opposed any legislation that eliminates the concept of recklessness from that which is required to be pled or proved in private actions under Rule 10 b-5. H.R. 1058 will compromise the principle that those who engage in reckless conduct, to say nothing of intentional conduct, should be held responsible under the federal securities acts.

The ABA opposes this legislation's grant of a safe harbor to both intentional and recklessly issued misleading and false statements.

4. Choice of Class Plaintiff and Joint and Several Liability.—H.R. 1058 specifies that a wealth qualification directs both the choice of class plaintiff provision and the operation of the joint and several liability section. In one case, you have to be rich enough to be named the class representative and, in the other case, you have to be poor enough to receive the benefits of joint and several liability for reckless conduct. The ABA believes this provision of H.R. 1058 would bar access to the courts to shareholders with small holdings.

On behalf of the American Bar Association, I urge you to veto H.R. 1058. A veto would motivate Congress to make changes needed so that the many laudable provisions of the legislation may quickly become law.

Respectfully,

ROBERTA COOPER RAMO.

Mr. SARBANES. Mr. President, I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I know the Senator from Minnesota is next. And my question to the Chair is, whether—I ask unanimous consent that I might follow the Senator from Minnesota when he has completed, and speak as in morning business for 10 minutes.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I reserve the right to object. If I can enter a colloquy through the Chair to my friend from Rhode Island, there are a number of us that have been wandering around here for several hours this afternoon. I am wondering if we might find out how long people want to speak before we go into this situation where we give the floor——

Mr. CHAFEE. I did not know the Senator was——

Mr. REID. Senator PELL is here.

Mr. PELL. I would like 2 minutes.

Mr. CHAFEE. How long might people be?

Mr. REID. It would be 2 minutes for the senior Senator from Rhode Island. And the junior Senator from Nevada——

Mr. CHAFEE. I will follow the Senator from Nevada.

Mr. REID. How long is the Senator going to be?

Mr. CHAFEE. Senator BREAUX and I were going to have a little colloquy for 10, 15 minutes, so we would just as soon follow the Senator from Nevada.

Mr. REID. Then if we could—so people know that are watching—if the Senator from Minnesota would speak, the senior Senator from Rhode Island, and then the Senator from Nevada.

Mr. President, I ask that the unanimous-consent request be amended, that following that there be the time allotted to the Senator from Rhode Island and the Senator from Louisiana.

The PRESIDING OFFICER. Is that request in the form of a unanimous-consent?

Mr. REID. It is.

Mr. SARBANES. Reserving the right to object, how long does the Senator from Minnesota intend to speak?

Mr. GRAMS. About 10 minutes. I would defer to the Senator from Rhode Island making a statement dealing with this pending business ahead of my statement.

Mr. PELL. I thank my colleague.

Mr. CHAFEE. Which Senator from Rhode Island?

Mr. GRAMS. The senior Senator.

Mr. REID. I ask unanimous consent the request be amended as reflected by the Senator from Minnesota.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Could I ask a question? The Senator from Nevada, how long does he think he might be?

Mr. REID. About 20 minutes.

Mr. CHAFEE. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered. Under the unanimous-consent agreement, the senior Senator from Rhode Island is recognized.

Mr. PELL. I thank the Chair.

Mr. President, today the Senate is considering overriding President Clinton's veto of the securities litigation reform bill. After careful reflection, I have decided to continue my long history of support for this legislation.

In doing so, I wish to point out that I do not do so lightly. I admire and honor our President immensely and have always respected the prerogative of our President in his use of the veto power and especially so when this power is responsibly and sparingly used, as has been the case with President Clinton. I do believe the President has acted upon personal principle with regard to this bill and that his decision was arrived at in a thoughtful and deliberate manner. Nevertheless, I respectfully disagree and believe that this particular bill should become law.

I have been a longtime supporter of legal reform, especially measures which seek to reduce the excess and frivolous litigation so prevalent in our society. On this measure, I was one of the first Democrats to join as a cosponsor some 4 years ago and have been active in promoting it ever since. As with any piece of legislation, the final product is one of compromise and, indeed, does not contain every provision that I would like. Nevertheless, it is a good, carefully considered, bipartisan effort at addressing the very real and growing problems associated with excessive and frivolous lawsuits besieging publicly held companies. As such, this bill deserves to be implemented into law.

I do regret being in the opposition in this matter but as a longtime advocate for this legislation, I believe that this bill is both responsible and necessary to address the need for litigation reform with regard to our securities industry.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Chair now recognizes the Senator from Minnesota.

Mr. GRAMS. Mr. President, I want to thank the Chair very much, and I ask unanimous consent that I be allowed to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER (Mr. ABRAHAM). Without objection, it is so ordered.

A WONDERFUL LIFE . . . OR JUST ANOTHER NIGHTMARE?

Mr. GRAMS. Mr. President, I know this is a very important debate that is going on dealing with securities litigation, but there is also an important debate going on today and has been going on for months, and that is dealing with the budget.

The string of budgets that have been coming out of the White House lately reminds me of those movies called "Nightmare on Elm Street." They have a few good scares, mixed with a lot of unintentional comedy. The emphasis clearly is on quantity, not quality, and they offer few, if any, redeeming values. There have been so many of them that after a while, you just start losing count.

Just to recap: We are talking budgets. We have had Clinton I. That failed in the Senate 99 to 0;

Clinton II that did not get a single vote in the Senate as well, Republican or Democrat;

Clinton III, that one was pulled before we could even vote on it;

And just last Friday, Clinton IV. The Senate did not waste our time on it after the House late Wednesday dealt a resounding blow by defeating it on a bipartisan vote of 412 to 0.

Four budgets submitted by President Clinton, four major disappointments, and not one vote from a single Member of this Congress to support any of them.

What is it about the President's vision of a balanced budget that is so different from everyone else's? By refusing to use honest budget numbers certified by the Congressional Budget Office, the President's budgets have failed the first true test of a balanced budget: They never come close to being balanced.

Yet, there are encouraging signs that the White House is shifting its ever-shifting budget policy and now wants to cooperate with Congress to produce the kind of budget plan that the American people are demanding: A balanced budget attainable by the year 2002 that reaches balance by cutting the growth of Federal spending and does not raise taxes, that, in fact, cuts taxes.

Following his meeting Tuesday afternoon with Senator DOLE and Speaker

GINGRICH, I welcome the news that President Clinton has finally agreed to work with us, using the economic projections of the CBO, to craft a plan that will bring the Federal budget into balance within 7 years.

It was his refusal to commit to such a basic promise 6 days ago that, once again, led to a Government shutdown, this time idling a quarter of a million Federal employees. They, and the American people who are forced to pay the salaries of workers who are not allowed to work when the Government shuts down, ought to be furious that the President would let this happen, especially so close to the holidays.

I hope that by opening the door to now legitimate budget negotiations, the President will sign an agreement reopening the Government and sending these people back to work immediately. As for the balanced budget plan itself, President Clinton was quoted this week as saying, "I hope we can resolve this situation and give the American people their Government back by Christmas. We also should give them a balanced budget that reflects our values of opportunity, respecting our duty to our parents and our children, building strong communities and a strong America."

I could not agree more with the President, but it seems he is doing his Christmas shopping just a little late this year. By so far denying the American people the benefits of a balanced budget, he is making the goals that we share, those expanded opportunities, strong communities and a strong America, a lot more difficult to reach. Both the businesses lining Main Street and the Americans who spend their dollars in them are nervous, wondering if Washington is, once again, going to let them down.

Monday's drop of more than 100 points in the stock market—and that is the worst drop in the market in 4 years—and yesterday's 50-point dive is a clear sign that a skittish business community is having real doubts that Washington is serious about ever balancing the Federal budget.

That lack of a balanced budget is causing real economic hardship for American families, and individuals as well, because for the residents of my home State of Minnesota, the benefits that they would reap from our balanced budget legislation would be deep and it would be lasting.

The statistics tell it all. In fact, if President Clinton had signed the Balanced Budget Act that we originally sent him last month, the average Minnesotan would be saving right now $2,600 a year from lower mortgage payments; over $1,000 over the life of a 4-year loan of a car worth $15,000; nearly $1,900 on the life of a 10-year student loan of about $11,000; and over $300 every year from lower State taxes due to lower State and local interest payments; and also, Mr. President, nearly $600 a year from lower interest payments on a student loan.

If President Clinton had signed the Balanced Budget Act, Minnesota families would have received a tax credit as well, a tax credit that would have helped over 529,000 Minnesota taxpayers with over 1 million dependents. That is more than $477 million of their own money every year these working families would have been allowed to keep.

The tax credit would have completely eliminated the Federal income tax bill for over 45,000 Minnesotans, and that is another $38 million every year that would stay with these working families.

The tax credit would have paid for nearly 4 years of tuition at the University of Minnesota Twin Cities campus if the parents were able to bank the $500 per child tax credit for 18 years. Or the tax credit could have saved average Minnesota families enough to buy 3 months of groceries or make 1½ mortgage payments, or pay electric bills for 11 months.

Mr. President, the people are calling on this Congress, this President, to balance the budget because they have heard those same old statistics and it sounds pretty good to them. Of course, the other component of our budget plan is our $245 billion package of tax relief, and there are real concerns outside Washington that it, the centerpiece of our budget, may be negotiated away.

I would like to show on the chart where we stand on tax relief compared to spending and how much has already been negotiated away over these last couple of months.

We started out spending $11.2 trillion. That has grown to the latest Clinton budget of over $12.4 trillion. So spending has continued to increase under these budget plans.

But at the same time, they continue to whittle away at the tax relief for Americans. It started out at $354 billion of tax relief over 7 years in the House plan to $245 billion under the Senate plan and now the Clinton budget wants to cut this back to $78 billion, or even less.

So we can see over months of negotiations which way they are headed. It is the same old scenario: More spending, but take it away from taxpayers, and less tax relief.

I urge the budget negotiators to stand firm in their commitment to the taxpayers of this Nation to let them keep more of the dollars that we are routinely snatching out of their pockets. We need to stop Washington's nasty habit of taking money out of the checkbooks of taxpayers and putting them into the checkbooks of politicians.

I remind my colleagues that $245 billion is a lot of money to the taxpayers who finance this Government, who pick up the tab for wasteful and often extravagant schemes that Congress is too often eager to throw dollars at. Mr. President, $245 billion means a tax credit of $500 per child for 55 million American families.

It means cutting the capital gains tax so that farmers and other family businesses are not so badly penalized when it comes time to pass along their assets to another generation. It means eliminating the marriage penalty and ending the discrimination against those who take on the awesome responsibility of coming together as a family.

It means creating an adoption credit that will, hopefully, bring more children into loving and nurturing homes.

It means promoting savings by expanding individual retirement accounts.

While $245 billion is a huge sum of money, it is just a small, 1.5 percent, speck of the more than $12 trillion that Congress will spend over the next 7 years. Congress is not happy with 98.5 percent. They want 100 percent. They do not want the taxpayers to have even that small amount.

Mr. President, if the Government is so addicted to spending that it will not survive without that 1.5 percent, well, that is a pretty strong commentary on the sorry state of things in Washington.

Despite the protests of the President and some of my colleagues who will not give up a penny of the people's dollars without a fight, the Government will survive under our balanced budget plan. It will survive and the taxpayers will thrive. To be successful, this Congress, however, cannot give in.

Mr. President, there is a movie that has become very popular during the holiday season. I believe it is so beloved because it shares a simple, moving message about the power that each of us has to profoundly influence our world.

"It's a Wonderful Life" is the name of this film. It was played on television just last weekend, in fact, and I am certain that most all of my colleagues have watched it and take its message to heart.

It is about a good man, George Bailey, who reaches a difficult point in his life and begins to question his very existence.

With the help of his guardian angel, Clarence, George Bailey is given the opportunity to see the difference he would have been able to make in the lives of family, friends, and his neighbors in Bedford Falls, and it was a revelation, because he did not realize how much he had changed their lives forever.

Mr. President, we have an opportunity in 1995 to forever change the lives of each and every American by passing a balanced budget.

And we will not need a guardian angel to show us what we have accomplished, because 10 years from now, we will be able to see for ourselves, everywhere we look, the result of our dedication to this dream: more jobs, higher salaries, cheaper loans that make homes, schooling, and transportation more affordable. A better, stronger America for the future.

The next 2 weeks will tell the story. Is 1995 going to mark the beginning of "A Wonderful Life" for America's children and grandchildren? Or just another "Nightmare on Elm Street" sequel?

Congress and the President have the power to decide, and I urge them to put that power to work on behalf of all Americans and enact a balanced budget.

I yield the floor.

ORDER OF PROCEDURE

The PRESIDING OFFICER. Under the previous order, the Senator from Nevada is recognized.

Mr. REID. Mr. President, I have spoken to my friend, the Senator from Rhode Island, and my friend from Louisiana. We would like to reverse the order. They will go now, and I will follow them.

I ask unanimous consent that that be the case.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island is recognized.

ICC TERMINATION ACT OF 1995—CONFERENCE REPORT

Mr. CHAFEE. Mr. President, I submit a report of the committee of conference on H.R. 2539 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The bill clerk read as follows:

> The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2539) to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 18, 1995.)

Mr. HOLLINGS. Mr. President, I urge my colleagues to pass, S. 1396, the Interstate Commerce Commission Sunset Act of 1995. This bill, reported out of the Commerce Committee by a unanimous vote, eliminates the Interstate Commerce Commission [ICC], terminates numerous existing ICC functions, and establishes an Intermodal Surface Transportation Board to carry out the remaining rail and motor carrier regulatory functions.

With this bipartisan bill, the Congress will have completed the work begun with the Motor Carrier Act of 1980, to free the surface transportation industry from unnecessary and outmoded regulation, while continuing to protect shippers of all commodities and household goods from possible abuse by carriers. In addition, this bill sunsets the Federal Maritime Commission by January 1, 1997, and will move that agency's necessary functions to the new Board. Thus, the bill will eliminate two Federal agencies, combining their remaining functions into one Intermodal Board that is smaller than either of the former agencies.

The passage of this bill is of some urgency. The ICC will run out of money within a few weeks, and its elimination without an orderly transition of its key functions is likely to disrupt affected industries. The rail industry and household goods carriers, in particular, want to ensure the continuity of the current regulatory scheme.

For the most part S. 1396 accomplishes the goal of orderly transition. I note that a very similar bill, H.R. 2539, passed the House of Representatives by a vote of 417 to 8 late last week. I expect that the differences between the two bills can be resolved quickly. S. 1396 is a good bill. It is, as reflected in the committee vote, a bipartisan effort to develop a transportation oversight program that is appropriate to the 21st century. I urge, and hope my colleagues will support, its consideration and passage.

Mr. EXON. Mr. President, I rise to support this landmark conference report to eliminate the Interstate Commerce Commission [ICC], and to reduce regulation on the transportation sector, and to transfer the responsibilities of the Commission to a new independent Intermodal Surface Transportation Board [ITSB], and the U.S. Department of Transportation.

I am pleased to lend my enthusiastic support to this legislative package of two bills to reform the Nation's transportation laws and to embrace the labor protection reforms endorsed by the House in the Whitfield amendment. If both are enacted, I expect this legislation to win Presidential approval.

I support this conference report with only two reservations. To reach agreement, difficult, painful and significant compromises had to be made. Two areas which continue to concern me are Carmack amendment review and the transfer of the Federal Maritime Commission responsibilities to the new board. While the conference report embraces solutions to perceived problems in these issue areas. which are different from both S. 1140 which I introduced earlier this year and the Senate-passed bill; given the need to bargain, I believe that fair, defensible compromises have been made.

Regarding the Carmack amendment, while I would have preferred the Senate provision to study the Carmack cargo liability system prior to enacting changes to current law, our House counterparts were firmly fixed in their position for dramatic and immediate reform. The compromise reached is one which very closely follows the Carmack procedures in force when tariffs were filed with the ICC.

My second reservation concerns the decision of the conference to delay consideration of transferring the responsibilities of the Federal Maritime Commission to the new board. The Senate bill embraced my vision of an intermodal agency which provided one-stop shopping for all surface transportation. This action is, however, a vision delayed, not denied. When the Senate debates reforms in the Ocean Shipping Act next year, I will continue my push to transfer the responsibilities of the FMC to the new board. Notwithstanding these reservations and necessary compromises, I do endorse and urge my colleagues to support this conference report.

This legislation builds on a bill I introduced earlier this year known as the Transportation Streamlining Act. Following the introduction of that act, Senator PRESSLER and I and our staff worked long and hard to find broad areas of agreement and compromise. The work product of that negotiation is S. 1396. This conference report represents the latest chapter in a thoughtful and deliberate effort to reform and deregulate America's great transportation sector.

As one of the few Members of Congress with regular contact with America's oldest independent regulatory agency, I again acknowledge the commitment and hard work of the Commission and all of its employees. A grateful Nation owes a debt of gratitude to these dedicated public servants for over a century of hard work. Their vigilance has made the current transition to a more market-oriented transportation system possible.

One might ask, why there is a need for a successor agency to the ICC? Simply put, if there were no forum to resolve disputes, oversee standard contract terms, establish national standards and assure fair treatment for shippers and communities; the great, efficient and productive transportation sector will spin into chaos. The failure to enact this legislation will produce just such chaos. Efficiency would be replaced with litigation. Certainty would be replaced with buyer beware. The result would be great harm to the notion of interstate commerce.

The new ISTB within the Department of Transportation will continue to be the fair referee between shippers, carriers, and communities. It will provide interested parties with one-stop shopping and administer a significantly streamlined body of law which assures that the public interest is protected in transportation policy.

This transfer of responsibility and streamlining of authority will reduce costs both to taxpayers and the private sector and assure that key transportation safety responsibilities do not fall between the cracks.

Mr. President, our Nation takes for granted the blessings of America's great transportation system. Every part of the Nation has accessible transportation service. As the Congress continues its efforts to keep regulation to the minimum necessary to protect the public interest, let us not forget what a valuable asset we have and how critically important it is that the Congress carefully choose the correct course.

I urge my colleagues to vote today to modernize America's transportation policy and enact the pending conference report.

Mr. President, I yield the floor.

Mr. PRESSLER. Mr. President, the Senate will now consider the conference report to H.R. 2539, the ICC Termination Act. The Senate-passed version of this legislation is S. 1396, the Interstate Commerce Commission Sunset Act of 1995, which I introduced on November 3, 1995. My bill was adopted by unanimous consent in the Senate on November 28th. Swift passage of this conference report is necessary to provide for an orderly closure of our Nation's oldest regulatory agency.

As my colleagues know, this legislation was crafted in response to the fiscal year 1996 budget resolution which assumes the elimination of the Interstate Commerce Commission [ICC] and the fiscal year 1996 DOT appropriations bill, H.R. 2002, which provides no funding for the ICC after December 31, 1995. This means that just over 1 week from now, the ICC will close its doors forever. This conference agreement ensures the agency's sunset will be accomplished in a reasoned fashion and that certain core and vital functions will continue.

The conference report authorizes the sunset of the ICC effective January 1, 1996. It also eliminates scores of obsolete ICC regulatory functions. Finally, it transfers residual functions partly to a newly established independent Surface Transportation Board within the Department of Transportation and partly to the Secretary of Transportation.

Mr. President, this is historic legislation. The ICC is America's oldest independent regulatory agency. It was established in 1887—108 years ago. The ICC originally was created to protect shippers from the monopoly power of the railroad industry. Throughout subsequent years, the ICC's regulatory responsibilities were broadened and strengthened, and expanded to other modes. Today, the ICC has jurisdiction over the rail industry, certain pipelines, barge operators, bus lines, freight forwarders, household goods movers and some 60,000 "for-hire" motor carriers.

During the past decade, a series of regulatory reform bills significantly deregulated the surface transportation industries, reducing the ICC's authority. Even with this considerable deregulation, however, the ICC continues to maintain a formidable regulatory presence. It determines policy through its rulemaking and adjudicative proceedings to ensure the effective administration of the Interstate Commerce Act, related statutes, and regulations. Clearly, the positive and necessary adjudicatory role of the ICC should not simply cease at the end of the year. This legislation will ensure such limited core functions continue.

Mr. President, this conference report identifies which ICC functions can and should continue to be performed by a successor. While that premise is the report's central theme, the agreement also takes into account the fact that the new successor—a 3-member Surface Transportation Board—will have a very limited budget. Overall, it provides a reasoned approach designed to ensure continued protections for shippers against industry abuse—protections vitally important to shippers in places like my home State of South Dakota—while at the same time, assure continued economic efficiencies in our Nation's surface transportation system.

As with any conference report, this is the result of compromise on the part of both the House and Senate. Throughout this process, however, I have been guided by the need to retain sufficient protections for shippers while reducing unnecessary regulatory burdens on our Nation's rail and trucking industries. This legislation meets that objective.

Mr. President, Senator DOLE received a communication yesterday afternoon from Secretary of Transportation Federico Pena and Secretary of Labor Robert Reich stating the President would veto this legislation if we did not adopt a provision supported by rail labor imposing mandatory labor protection on small railroad mergers. In my view, the Clinton administration acted in an irresponsible fashion by threatening significant regulatory reform and protections for our shippers, farmers and ranchers.

A veto would create a regulatory black hole on January 1. Statutory and regulatory requirements would remain on the books, but no Government agency or official would be in place to administer them. This legislation would maintain critical functions affecting the rail and trucking industries that protect small shippers and others from market abuse. A veto would be in complete disregard of the needs of farmers and small agricultural shippers who rely on adequate transportation service provided by these surface transportation industries.

Therefore, with extreme reluctance we agreed to the administration's demand to modify the legislation to meet the completely unfounded concerns of rail labor. Thus, the conference report to H.R. 2539 is accompanied by a concurrent resolution which strips the class II/class III railroad merger provision agreed to in conference that created an option to merge such railroads under current law. The administration insisted we use language from the House-passed bill requiring that class II/III mergers proceed only under a special new rule which lowers labor protection from 6 years to 1 year, but which states collective bargaining agreements may not be avoided by allowing a shifting of work from a union carrier to a nonunion carrier.

In my view, the language in the House-passed bill is drafted in such a way as to potentially create serious questions. Therefore, I can assure my colleagues we will be revisiting this issue in the next session of Congress. The language is designed to prevent a carrier from shifting work from unionized workers to nonunionized workers to avoid contracts as a part of a merger implementation.

My point is the Board established in this legislation must use the preemption provisions of the legislation to review how laws should be accommodated to enable these mergers to occur in a timely fashion and in a way that best serves the public interest in continued and effective rail transportation. This revised section is not intended to create a special rule of law that allows labor unions to delay or veto mergers between class II and class III railroads. After all, they do not have such power in any other segment of American industry.

The provisions of this bill must be read in totality. Again, Mr. President, I want my colleagues and the new Board to understand this change to the conference report is not intended to give rail labor a veto over the transportation needs of communities and shippers who would benefit by a merger between class II and class III railroads.

Mr. President, on balance this conference report is the result of nearly a year's worth of bipartisan study, discussion and work. It represents a reasonable compromise. I want to thank the conferees, their staffs and the staff of the Commerce Committee for all their dedicated work and long hours in producing this final legislative package. The legislation before us will eliminate a host of outdated and unnecessary laws while ensuring continued protection for America's shippers. I urge its adoption.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the conference report be agreed to and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the conference report was agreed to.

DIRECTING THE CLERK OF THE HOUSE TO MAKE TECHNICAL CHANGES IN ENROLLMENT OF H.R. 2539

Mr. CHAFEE. I ask unanimous consent that the Senate proceed to the consideration of Senate Concurrent Resolution 37, submitted earlier today by Senator EXON.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the concurrent resolution by title.

The bill clerk read a follows:

A concurrent resolution (S. Con. Res. 37) directing the Clerk of the House of Representatives to make technical changes in the enrollment of the bill (H.R. 2539) entitled "An Act to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. WELLSTONE. Mr. President, I have been involved in intense negotiations over the course of the last few days to try to resolve a major problem with the conference report on H.R. 2539, the Interstate Commerce Termination Act of 1995. We have now resolved that problem, through an agreement to make a key change in the conference report which is designed to protect the collective bargaining agreements of railroad employees. With that change, I have agreed to allow the conference report to go through without extended debate that could slow it down and put at risk its final enactment. Since we are in the final days of this session, and I know it is urgent that ICC legislation be enacted to ensure continued consumer protections for all Americans, I am delighted that this change has now been agreed to, and I am grateful for the help and support of Senators EXON, KENNEDY, HARKIN, KERRY, SIMON and others in this effort.

The change will be made through adoption of Senate Concurrent Resolution 37, submitted earlier today by Senator EXON and myself, which is to be taken up and agreed to concurrently with the conference report by unanimous consent. I am hopeful that both will also be taken up and agreed to by the House later tonight or tomorrow. I understand there are preliminary indications from the House Republican leadership, after fierce and sustained resistance that has lasted for months, that they are finally willing to make this change in order to help avoid a Presidential veto.

The concurrent resolution would restore labor protections provided for in the Senate bill that were dropped in the House-Senate conference. Without this change, the conference report would be strongly opposed by representatives of railroad employees nationwide because it would significantly reduce existing rights of workers employed by small- and medium-sized railroads. In fact, that is also one key reason why the administration has indicated its intent to veto this measure. I hope that if this change is made by the House, the administration would take another look at this legislation, and its decision to veto the bill announced yesterday.

Let me briefly describe how we came to this point. At various points in this legislative process, employees were forced to give up labor protections on line sales to noncarriers, give up mandatory labor protections on line sales to class III carriers, agree to reduced labor protections on line sales to class II carriers, give up mandatory labor protections on mergers between class III carriers, and agree to reduced labor protections on mergers between class II and class III carriers.

All these concessions were made by employees in return for the right that every other American worker has—to bargain collectively with their employers and have those collectively bargained agreements enforced in court. Employees asked for just one exception to the current "cram-down" practice of the ICC, which allows abrogation of collective bargaining agreements under certain circumstances.

This may seem somewhat technical, but it is profoundly important to the lives and livelihoods of thousands of rail workers in my State and throughout the Nation. For mergers between class II and class III railroads, likely to become increasingly common over the next decade, railroad employees requested a provision contained in the so-called "Whitfield Amendment" adopted on the House floor by a vote of 241–184, to require that a merger could not be used to avoid a collective bargaining agreement, or to shift work from a union to a nonunion carrier.

But unlike the House and Senate-passed bills, the conference agreement does not provide such protection. Instead, it gives the carrier applying for the merger a choice of whether to preserve collective bargaining agreements or to abrogate them unilaterally through the successor to the ICC. The concurrent resolution will fix this problem by effectively restoring the language of the Whitfield Amendment, which prohibits abrogation of such agreements. I am pleased we reached agreement on this key change.

At the same time, I understand why the administration has reservations about the conference report. Although I support much of it, which streamlines the Federal Government while maintaining a fair and responsible Federal regulatory structure, this final version is not perfect, and there are parts which I oppose. For example, I am concerned about a provision that changes the regulation of household goods shipping. I supported the Senate version which would have ensured no Federal preemption of State laws relating to the shipment of household goods. Unfortunately, conferees chose to include the House language that would allow Federal preemption of State laws relating to shipping these goods.

I am concerned about this Federal preemption of State laws, because consumers deserve continued State protections when shipping their belongings to a new home. I intend to monitor the implementation of this provision carefully, and if it poses serious problems, as I expect it will, to try again to address these problems next year.

But my overriding concern has been the fate of thousands of railroad employees across the Nation who could have been harmed under its provisions, and that is why we wanted to try to address this problem before it passed the Senate. I am delighted that this has now been done, and I am hopeful that the House will act on it immediately to ensure abroad, comprehensive labor protections for railroad workers. I want to go again thank Senator EXON for his help with this problem.

Mr. CHAFEE. I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, that any statements relating to the conference report or the concurrent resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (S. Con. Res. 37) was agreed to, as follows:

S. CON. RES. 37

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 2539) to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes, shall make the following corrections:

In section 11326(b) proposed to be inserted in title 49, United States Code, by section 102, strike "unless the applicant elects to provide the alternative arrangement specified in this subsection. Such alternative" and insert "except that such";

In section 13902(b)(5) proposed to be inserted in title 49, United States Code, by section 103, strike "Any" and insert "Subject to section 14501(a), any".

A BIPARTISAN GROUP UNVEILS A PLAN TO BALANCE THE BUDGET

Mr. CHAFEE. First of all, I thank the Senator from Nevada for permitting us to go ahead of him. That was very gracious.

This morning, a bipartisan group of Senators—19 in all—unveiled a plan to balance the budget by the year 2002, using CBO, Congressional Budget Office, numbers. The group, which Senator BREAUX and I had convened several weeks ago—actually, we had our first meeting in October—includes, as I say, so far, 19 Senators. That is without going out and seeking new Members. It is just those who have come to us and want to join in this effort.

We are all united in this belief, Mr. President: It is absolutely essential that this Nation have a balanced budget by the year 2002, and that it will be impossible to achieve that budget unless those on both sides of the aisle are prepared to compromise. This is the essence of the effort of this group of Republicans and Democrats who are getting together for a common objective.

The Senate bipartisan balanced budget plan is a huge step forward on the path to this budget agreement. It represents, I might say, Mr. President, the first truly bipartisan proposal to balance the budget. There are other groups in the House that are working, but they do not include Members of both sides. It was made possible, this agreement, only because both sides were willing to compromise on some very strongly held beliefs. We did this for the good of this country of ours. This is especially true with the compromising aspects with respect to the issues of Medicare and tax cuts. I am grateful to the Democrats in our group for their willingness to go with the CBO numbers. They agreed to that before it became accepted by the White House. This was a big step for the Democratic Members of our group.

Now, undoubtedly, this plan will cause consternation on the Democratic side with number, and on the Republican side with some. But we are committed to reaching this balanced budget, free of gimmickry, and we are doing it for the welfare of future generations, for our children and our grandchildren.

To those who disagree with our numbers, let me say this, Mr. President, and to those who think they can do a better job: Go to it. We welcome their efforts. All I ask is they do it with a bipartisan group, not just one group from one side and one group from the other. Sure, we can come out on the Republican side with a massive tax cut and tremendous slashes in Medicare, for example. But try that on the Democratic side and see how it goes. So the essence of this was that we had Members from both sides.

Mr. President, this plan is intended to demonstrate to the negotiators on both sides that, one, it is essential to compromise and, two, that it can be done. It is a doable task. No one should throw up their hands in despair and say the sides are too far apart.

What did we do? There were significant steps taken to control the growth of Medicare and other entitlements. Our plan calls for Medicare savings of $154 billion, with a strong commitment from everybody in the group that the part B premiums stay at 31.5 percent, with affluent testing for those above the regular brackets, and also means testing for those who are in the lower-income areas—and they might well qualify for paying less than 31.5 percent.

We have agreed to conform the retirement age for Medicare with that of Social Security—namely, age 67. This is something that is going to take place in the future and will not contribute any dollars to the 7-year plan. But we feel it is critical to include this needed long-term entitlement reform.

On Medicaid, we have savings of $67 billion. Underlying this number is a view that we should preserve the Federal entitlement for our most vulnerable citizens, while, at the same time, we provided the States with broad flexibility to administer the program. This is, again, not going to make everybody happy, but it was something that we all agreed to.

We have agreed to $130 billion in tax cuts. We did not delineate how the tax cuts would be. We left that to the negotiators. We did not say X amount for capital gains cuts or Y amount for a child tax credit. We have chosen to reduce the CPI, Consumer Price Index, by .5 percent, which gives us $110 billion in additional savings.

Frankly, we did this because we have had all kinds of testimony before the Finance Committee, which stated that the present CPI is a flawed measurement and should be adjusted actually beyond the .5 percent. It should be as high as .7 percent, or indeed some economists say as high as 2 percent. We also included $58 billion in savings under welfare, which assumes the Senate-passed welfare reform bill. On discretionary reductions, we came in slightly below the so-called hard freeze—namely, no increase for inflation over the 7-year period.

Finally, Mr. President, we support the immediate adoption of a clean continuing resolution, on a short-term basis, until sometime next week, to get people back to work and get these budget negotiations back on track.

Mr. President, this is not a perfect plan, and it is not offered in the sense that we are budget negotiators. It is an illustration that a responsible balanced budget agreement using CBO numbers is doable. I hope it will help our negotiators as they go about the difficult task of securing a final budget accord.

Mr. President, I am delighted to be joined here on the floor with the distinguished Senator from Louisiana, who was absolutely crucial in all these negotiations that we had.

I yield the floor to him.

Mr. BREAUX. Mr. President, at a time when most Americans believe that many Members of Congress ruined this Christmas season, and are probably on the verge of killing each other because we have not been able to agree on the principles and even how to keep the Government open, I want to say what a great privilege and pleasure it is to be able to work with the senior Senator from the State of Rhode Island. His wisdom, his experience, his knowledge, his compassion for people, and yet his dedication to making Government work really is a pleasure to me, as a Democratic Member on this side of the aisle, to be able to work with a person of great common sense and great compassion and just common sense that understands that in order to make Government work there is such a thing as the art of compromise. That makes sense.

I think we have gotten to a point in this Congress where the word compromise is almost a dirty word that you should never utter for fear of moving away from the party principles. All of us who have been here longer than 12 months have to understand the way to get things done is to put forth the best ideas from both sides of the aisle and recognize that on difficult issues that those principles that we stand for need not be compromised, but how to get to those goals in fact does necessitate compromise if we are ever going to make Government work.

Unfortunately, there are some who do not want to make Government work who have been elected to the Congress who are more concerned with shutting it down in order to make a point than in being willing to negotiate and talk with the other side and compromise with the other side in an effort to reach a legitimate compromise.

I think there is enough blame to go around. This is not a partisan statement at all. In fact, it is the opposite. I think both sides have had various Members at various times stake out lines in the sand and say we will not go any further than this, but there is a consequence to those type of speeches. The consequence is that the American people are shouting. They are not whispering any longer. They are shouting, "Enough is enough. We have sent all of you here, Democrats and Republicans, to make Government work, not to shut it down, not to close the doors on the services that people need, not to make political points."

That is what elections are about. After you are here, it is about service, and after you are here it is about making Government work for the people that elected us. We are at a point now where we are, both sides, losing the faith of the American people to do exactly what we are supposed to be doing.

That is why the press conference that we had this morning, Senator CHAFEE and myself, accompanied by about 19 Members, 18, 19, 20—half and half; half Democrats and half Republicans—who stood up and said, we have heard the pleas of the American people to get the job done. We have heard the pleas of our constituents who have said "Stop the madness. Make Government work again. Trust us to accept your judgment when you reach a compromise," and we presented that plan. It is a blueprint. It is an outline. It has specific numbers on how to reach a balanced budget in 7 years, scored by the CBO in a way that is not everything that both sides would want, but I think reflects a fair middle ground.

We have called for a continuing resolution. This is a bipartisan group that says we should continue the Government so we can have the negotiators work without the pressure of having the Government shut down. This is Republicans and Democrats saying, at the same time, and in the same forum, we need a simple continuing resolution, uncluttered, give us until January 15th so the negotiators can work in peace and do the job that they are supposed to do. A very important point, the first time that a bipartisan group has said that.

Second, this group has called for tax cuts. These tax cuts are smaller than many Republicans would like but at the same time these tax cuts are larger than many Democrats would like. But it is a tax cut, a significant tax cut, which is designed to increase growth and productivity and savings in this country.

The second thing we do is we say there will have to be more cuts in entitlement programs—propose less cuts than Republicans would like and certainly more cuts than Democrats would like. But we are recommending that there be entitlement cuts to these programs to restore their solvency, to assure they will be around for the next generation, recognizing that to do that we have to have some significant reforms.

Mr. President, what we have offered is a blueprint. Part of that blueprint is something that some people think is so horribly controversial that we cannot even utter the word except in closeted surroundings, and that is an adjustment in the Consumer Price Index. Every economic expert, the people that read numbers every day and wear the green eyeshades and look at how much it costs to buy a typical basket of groceries, have told the Congress that we overestimate the Consumer Price Index, and taxes are indexed to that. Entitlement increases are indexed to that. But the index needs to be adjusted.

You would think that that is not too difficult a thing to do. But our side does not want to go first because people will say it is a tax increase or a cut in entitlement programs. Republicans do not want to go first because of the same reason. So as a result, nothing gets done. Our side stood up today in a public forum and said yes, we think it ought to be fixed. It is broken. The suggestion is that there be a .5 percent adjustment in the Consumer Price Index, which will generate about $110 billion over the next 7 years that we can use for programs that need greater funding, that will meet the needs of the people of this country.

I will conclude by saying this: Mr. CHAFEE has offered some real leadership here, and the other Republicans who have joined him have said, yes, it is time to recognize that compromise is all the way out. So we call for a truce today. We called for a "stop the shouting and stop the blame game" today. It was a significant statement. The product that we have put on the table, I think, is one that makes sense. It may not be the final answer, but it certainly offers a blueprint for us to get out of the mess that we are in.

We would hope that our colleagues will take a look at the product. I hope the negotiators will consider it as we present it to them this afternoon. I think the negotiations are going well. And hopefully, with a continuing resolution, they will have adequate time to get the job done. I yield the floor.

Mr. CHAFEE. Mr. President, I want to thank the distinguished Senator from Louisiana for the kind comments. It was a joint leadership. He was kind enough to say it was my leadership. No, no, it was the joint leadership in which we shared the responsibilities and the effort together, Senator BREAUX and I, and we certainly had wonderful support from everybody involved.

Mr. President, the agreement that we submitted today in the press conference and have outlined here on the floor was remarkable for this fact: Everybody agreed on every point. Now, that does not mean we started that way, but when we finished people did not say, "Well, I am for points 1 through 4 but include me out on points 5, 6 and 7. But I am there for points 8, 9, and 10." Everybody signed on for all of the points. That was tough. It was tough for the Democrats to go to the $140,000 tax cut; it was tough for the Republicans to agree on the Medicare cut. We think we could have done better on the Medicare cut. We do not use the word "cut"; "reduction in the rate of increase."

In order to reach an agreement we all compromised. I think it was a wonderful effort, and along with the Senator from Louisiana, I commend it to our colleagues and hope they take a good look at it.

The PRESIDING OFFICER. Under the previous order the Senator from Nevada is now recognized.

Mr. CONRAD. Will the Senator from Nevada yield to me for just 2 minutes?

Mr. REID. As soon as I yield to the Senator from West Virginia for whatever time he may consume, as long as I do not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from West Virginia.

RECOGNIZING SENATOR DOLE'S SERVICE AS REPUBLICAN FLOOR LEADER

Mr. BYRD. Mr. President, I thank the Senator for his characteristic courtesy. I will be brief.

Mr. President, today Senator ROBERT DOLE equals the record set by Charles McNary, of Oregon, as the longest serving Republican floor leader. Senator McNary served as floor leader for 10 years, 11 months, and 18 days, until his death on February 25, 1944.

Senator DOLE, who began his service as leader on January 3, 1985, will have served 10 years, 11 months, and 18 days, as of the close of business today. That is quite a record. Tomorrow, the Lord willing, Senator DOLE will break the all-time record for the longest serving Republican floor leader.

I have been majority leader, minority leader, and majority leader again. I know something about the burdens that a leader carries. It is a thankless task. All of his colleagues think that they can do a better job than he can do as leader, or at least I kind of had that feeling when I was leader. And it is a heavy responsibility.

Senator DOLE has served his country on the far-flung battlefields, he has sacrificed for his country on foreign battlefields, and he has served his country on the legislative battlefield. I salute him and commend him.

He broke Everett Dirksen's record as second longest serving Republican floor leader on September 4 of this year. I served here when the late Everett Dirksen graced this Chamber, serving at that desk where Senator DOLE now serves as majority leader. And I also served with Howard Baker, who was Everett Dirksen's son-in-law. Dirksen served 10 years and 8 months, extending from January 7, 1959, to September 7, 1969.

So, I salute BOB DOLE and I wish him many, many happy returns on this day. It is not his birthday, but he equals the record of the longest serving Republican leader. I look forward to tomorrow, when he will break that record.

Mr. President, I ask unanimous consent that a list of all the Republican floor leaders with their dates and length of service be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

REPUBLICAN FLOOR LEADERS

Length of service	Name	Service as leader
10 years, 11 mos., 18 days.	Charles L. McNary (OR)	Mar. 7, 1933–Feb. 25, 1944
10 years, 8 mos.	Everett M. Dirksen (IL)	Jan. 7, 1959–Sept. 7, 1969
10 years, 5 mos. [to June 1995].	Bob Dole (KS)	Jan. 3, 1985–present
8 years	Howard H. Baker, Jr. (TN).	Jan. 4, 1977–Jan. 3, 1985

REPUBLICAN FLOOR LEADERS—Continued

Length of service	Name	Service as leader
7 years, 4 mos.	Hugh D. Scott, Jr. (PA)	Sept. 24, 1969–Jan. 3, 1977
5 years, 5 mos.	William F. Knowland (CA).	Aug. 4, 1953–Jan. 3, 1959
4 years, 4 mos.	Charles Curtis (KS)	Nov. 28, 1924–Mar. 3, 1929
4 years	James E. Watson (IN)	Mar. 5, 1929–Mar. 3, 1933
4 years	Wallace H. White, Jr. (ME).	Jan. 4, 1945–Jan. 3, 1949
2 years, 11 mos.	Kenneth S. Wherry (NE)	Jan. 3, 1947–Nov. 29, 1951
1 year	Styles Bridges (NH)	Jan. 8, 1952–Jan. 2, 1953
7 mos.	Robert A. Taft (OH)	Jan. 2, 1953–July 31, 1953

Mr. BYRD. I thank my friend from Nevada, Senator REID, for his kindness and courtesy in yielding.

Mr. REID. Mr. President, before my friend, the distinguished senior Senator from West Virginia leaves the floor, I join in commending the majority leader for his service.

But I was thinking, as the distinguished Senator was speaking, that ROBERT DOLE has been Republican floor leader longer than I have been in the Senate, a year longer than I have been in the Senate. If there were ever an illustration of why the term limit argument is so worthless, we need only look at the distinguished services rendered by Senator ROBERT DOLE.

Those people who are still beating the drums—the unconstitutional drums, I might add—of term limits are people who do not recognize that being a great leader does not come overnight. Even though I do not always agree with the majority leader I have always found him to be fair, deliberate, and really statesmanlike in the things that he does in the Senate. That did not come by accident. He, as has been outlined by the Senator from West Virginia, has served not only in the military but in this body for many years. And the only thing term limits would do is increase the power of bureaucrats, those nameless, faceless people that do not answer phones, who we continually hear complaints about. It would also greatly increase the power of the lobbyists who fill these hallways of the U.S. Senate, and, of course, it would also increase the power of congressional staff and weaken the ability of the American public to be served well.

So, I commend and applaud the Senator from West Virginia for recognizing the great services of the Senator from Kansas, service that will go down in the history books. And also my editorial comment, that term limits are a bad idea today, tomorrow, and any other time.

Mr. DORGAN. Will the Senator yield for just a moment?

Mr. REID. I am happy to yield.

Mr. DORGAN. Mr. President, if I might just make an observation, I was struck by the comments offered by the Senator from West Virginia and by the Senator from Nevada. I have had exactly the same thoughts, especially in recent days when we have seen, sometimes, behavior that seems intemperate and behavior that does not always do this institution proud, to recall there are people who have served many, many years in this institution, whose knowledge, whose understanding, and whose wisdom serves this country well.

With respect to Senator DOLE, I have said before on the Senate floor and I will say again today, while I do not always agree with him—in fact, sometimes we have very vigorous debate about policy—I have enormous respect for his capabilities, and I have enormous respect for his service to this country as a U.S. Senator.

It seems to me that this country has been well served for many, many decades by service from people with names like Webster and Calhoun and Clay, and so many others, and in this century, Goldwater and Humphrey, and so many others, including Senator ROBERT C. BYRD. And it especially includes Senator ROBERT DOLE.

I think almost all of us in this Chamber, no matter where we come from or what our political philosophy is, respect the leadership and the service offered this country by the distinguished majority leader.

I appreciate very much hearing the comments, the generous and appropriate comments offered today about Senator DOLE, by the Senator from West Virginia. And I appreciate the Senator from Nevada yielding to me.

Mr. DASCHLE. Will the Senator from Nevada yield as well?

Mr. REID. I am happy to yield to the Democratic leader.

Mr. DASCHLE. Mr. President, I appreciate, again, the Senator yielding the time. I know the Senator from Nevada did not come to the floor to talk specifically about this issue, but I want to commend the distinguished Senator from West Virginia for calling to the attention of the Senate this important day. I think it is obvious, from many of the comments made by Members on this side of the aisle, the respect and the extraordinary degree of real friendship that we have for the majority leader. As many have also indicated, there are many, many occasions when we find ourselves in disagreement, but never, hopefully, to be disagreeable.

Our view is that we have been led well by this majority leader and, obviously, in the tradition of the majority leadership of the Senator from West Virginia, Senator DOLE has served us very ably. He is a person who wants to get things done. He is a person who recognizes the philosophical differences, the partisan differences that we hold. But he is also a person I have found to be immensely helpful and supportive in my new role as the Democratic leader.

I have had the good fortune to work with many people on both sides of the aisle since coming to the Senate, but I know of no one on the Republican side of the aisle with whom I have enjoyed working more and for whom I have greater respect. So it is important that on this special day we call attention to his service and to the great affection in which he is held by so many Members on this side of the aisle.

I share my congratulations with the Senator from West Virginia, the Senator from North Dakota, and the Senator from Nevada, in expressing our best wishes to him as we mark this special occasion.

I yield the floor, and I thank the Senator for yielding.

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota is recognized.

Mr. REID. Mr. President, I believe that order should be that the Senator from Nevada had the floor.

The PRESIDING OFFICER. The Senator yielded 2 minutes under a previous order.

So I recognize the Senator from Nevada.

Mr. REID. My understanding is that the Senator from North Dakota wished the floor. I would be happy to yield the floor for whatever time the Senator may take and I still maintain my right to the floor.

Mr. CONRAD. Mr. President, I thank my colleague from Nevada for his very generous willingness to give me some time.

First, on the matter of the majority leader, I want to join my colleagues in recognizing his service as a leader in the U.S. Senate. His period of time as leader, I understand, has extended over 10 years. That is longer than I have served in the U.S. Senate. I, too, admire the Senator from Kansas. I have found that he is somebody who commands respect. He does his homework. He leads his side of the aisle in a very vigorous and determined way. While there are many times that we disagree on a policy issue, I have never thought that he is someone who commands anything other than full respect. And I want to add my voice to the voices of others.

Frankly, I think we could use a good bit more of that around here, recognizing the worth of people on both sides, because I have found that colleagues on both sides of the aisle in this Chamber are some of the finest people I have ever known. Just because we have differences and we debate vigorously does not diminish the value nor the humanity of anyone on either side. Maybe that is a word that needs to go out from this Chamber more; that people who serve here are worthy, and they are good people.

In fact, I think my constituents sometimes are surprised when I tell them that I find, on both sides of the aisle, the people that I serve with are some of the finest people I have ever known, the people who are in the U.S. Senate.

THE LEADERSHIP OF SENATOR CHAFEE AND SENATOR BREAUX

Mr. CONRAD. Mr. President, I would like for just a moment to single out two of my colleagues who, I think, are showing real leadership at a time of gridlock in Washington. I want to single out Senator CHAFEE, the Senator from Rhode Island, and Senator BREAUX, the Senator from Louisiana, who have led our bipartisan effort to put together a budget plan that would merge the differences, that would find common ground, that would break the gridlock, and that demonstrates that the two sides can work together here to achieve a result that is important for the country.

Mr. President, earlier today we were able to hold a news conference and indicate that last night we reached agreement between 19 Senators—10 Republicans and 9 Democrats—on the outlines of a plan to balance the budget on a unified basis over 7 years using CBO scoring, and that we were able to do it in a way that is fair and balanced.

Mr. President, I must say I have been very proud to participate in this effort because we did it without raised voices, we did it without hurling brick bats across the barricades, we did it by sitting together, by reasoning together, and by working together to achieve a result that is important to the country.

I think the leadership of Senator CHAFEE and Senator BREAUX should serve as an example to others who are negotiating on this budget matter because I think our group has blazed the trail showing others how we could achieve a result that will get the Government back to working and break the gridlock.

Mr. President, every day in this town there is a news conference that puts a spotlight on the differences between the two parties. This was the first news conference in many days in this city in which we were not talking about differences but we were talking about the ability of people of good will on both sides to get together, to reason together, and to achieve a breakthrough.

Mr. President, we just had an opportunity to make a presentation on that plan to the negotiators from both sides. I was pleased by the reaction.

I am just hopeful now that in the hours ahead cooler heads will prevail and that both sides will understand that to achieve an agreement neither side can get precisely what it wants but that we can have a principled compromise and one that advances the interests of this Nation.

Mr. President, I want to end as I began by saluting the leadership of Senator CHAFEE and Senator BREAUX. It takes courage to compromise.

Mr. President, as in the words of the "Liberty Song" by John Dickenson, "By uniting we stand, by dividing we fall."

This is an example of Senators working together to unite, of Senators reasoning together to unite, and I hope our colleagues will begin to focus on the need for uniting. That is what has made America strong—pulling together, working together, and uniting in order to achieve a result.

I thank the Chair. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada has the floor.

Mr. MOYNIHAN. Mr. President, will the Senator allow me 30 seconds on the subject of BOB DOLE?

Mr. REID. I am happy to yield without losing my right to the floor.

SENATOR BOB DOLE

Mr. MOYNIHAN. With great precision and with equal interest, Mr. President, it has been a quarter of a century since I first knew BOB DOLE and worked with him. He would find it interesting that we began working in an effort with a Republican President to establish a guaranteed income as a way of getting us out of our welfare problems. We are still in them. We will be in them much of the evening.

But in 25 years I have not known a man I have respected more. I have not worked with anyone with greater consequence. He is an ornament to this institution and to this Nation. We are proud of him.

I thank the Senator from Nevada.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

THE BALANCED BUDGET

Mr. REID. Mr. President, we have heard some talk on the floor today about we should have a balanced budget within 7 years. I would certainly acknowledge that. But I think the thing we should be concerned about today is getting Government back to work.

There have been statements made by the Republican leadership that those 250,000 Federal employees who are on furlough will be paid. Well, if they are going to be paid, it seems logical to me that the taxpayers would be getting a much better deal if they were doing something for their pay, like maybe doing their job.

I would suggest that just sheer logic tells me that, if the Republican leadership said that the furloughed employees are going to be paid their wages for not working, that we should go the next step and allow them to work so that the taxpayers are getting their money's worth. This way they are getting a real bad deal. The taxpayers are told that the parks are going to be closed. There are various Federal agencies where 250,000 people work and are not going to be operable but the people are going to be paid anyway. If I were a taxpayer, I would say that does not sound like a real good deal for me.

So I say for the third time here in the last few minutes, if the Republican leadership has said they will pay the furloughed workers, it seems to me logical that we should get them all back to work.

Mr. DORGAN. Will the Senator yield on that point?

Mr. REID. I am happy to yield for a question.

Mr. DORGAN. Mr. President, I would like to ask the Senator a question about that because I feel much as he does—that somehow, sometime today, or immediately, if possible, we ought to have the Federal workers come back to work and end the shutdown and still continue to negotiate on a balanced budget agreement.

It does not make any sense to see a circumstance where Federal workers—some 300,000—will not be allowed to come to work but will still be paid for work they did not do. And the bill is going to be paid by the American taxpayer.

I ask the Senator from Nevada, is not this a period several days before Christmas where it is for most a magic time, a time of family, reflection, lights, music, worship, and now we have a circumstance where we have 1 million checks that have been written sitting in a warehouse here in Washington, DC, that are supposed to go out to the veterans and are supposed to be in their mailboxes on January 1 for veterans and survivors? Unless a continuing resolution is passed immediately, that is not going to happen. We have 4 million children whose AFDC payments for their daily needs relates to the question of whether the continuing resolution will be passed so the money and the resources will be available for them.

You can imagine what will happen if on January 2 or 3 a veteran's survivor expecting a check needing to pay the rent or to buy food or to provide for their children's needs discovers the check is not there because of this shutdown. That is why I hope somehow this evening all of this gets unlocked and we can pass a CR. Does the Senator from Nevada see any reason that it provides any leverage for anyone to continue to have a Government shutdown in which people are sent home, some 300,000, but yet we pay them for work they did not do? Is there anybody that gets penalized other than the American taxpayer with this kind of strategy?

Mr. REID. I would say to my friend from North Dakota, they are being penalized, the taxpayers that is, to the tune of $40 million a day. That is my understanding of the wages that are going to be paid for not doing the work. So you multiply just a little bit the time they have already been out of work—this is counted on Saturdays and Sundays. They get paid no matter what day it is—2 days, 80, 120, 160. It gets up pretty quickly.

That is where we are now. And the American taxpayer gets nothing in the way of services. We have here in Washington now one of the finest art exhibits to have been here in decades, the greatest still lifes probably ever painted, but it is only going to be here a short time and people have come from all over the United States to see that. They cannot see it. But yet those people who should be working are not working but are being paid, and the taxpayer gets a real bad deal on that.

Mr. BUMPERS. Will the Senator yield for an observation?

Mr. REID. I would be happy to yield to my friend without losing my right to the floor.

Mr. BUMPERS. It has been mentioned once or twice, but I do not think the full impact of the shutdown of the Government has really been accurately described. If you were one of the 260,000 people sitting home and being paid for nothing, first of all, that is demeaning, to ordinary people. They would much rather be working, despite the fact they are sitting home and being paid to sit home. But the dimension that I am going to mention is here is the most joyous season of the year, Christmas, that everybody looks forward to and among the 260,000 workers at home, I promise you, a lot of them live from paycheck to paycheck, and a lot of them were depending on spending money for gifts for their children for Christmas. And you know, sometimes I think the Congress ought to be charged with child abuse because a lot of children are not going to have the Christmas they otherwise would have.

I am not saying this is going to be massive, but obviously a lot of people are affected by the fact that they do not have a paycheck and therefore cannot spend any money unless they have a credit card that has a little bit left on the limit. But it is one of the most unfathomable things—I have been here 21 years. This is the most irresponsible, unfathomable, irrational things I have ever seen in my 21 years here. What on Earth are we doing?

Mr. REID. I would say to my friend from Arkansas, I repeat, especially when the Republican leadership has said these 250,000 or 260,000 people are going to be paid anyway. So would not the next step be to say, OK, you are going to get paid; go to work?

Mr. BUMPERS. It is an interesting thing about how we are cutting everybody under the shining Sun in the interest of a balanced budget but willing in the interest of some kind of unfathomable, absolutely incomprehensible to me ideology that says you cannot keep the Government going and talk about balancing the budget at the same time. It is a nondebate about whether we are going to balance the budget or not. That is a no-brainer. Everybody agrees on that point.

What we are arguing about mostly is the tax cut. If the Republicans would forgo all or just a significant portion of the tax cut, this is a done deal. Everybody knows that we have to cut Medicare. Everybody knows that we are going to have to slow the escalation of Medicaid costs. But I am not for slowing the environment and I am not for slowing education, an observation that has been made on this floor time and time again and just seems so patently clear and obvious, and yet I pick up the paper and it never points it out except "Congress Bogged Again," "Congress Can't Gets Its Act Together," blah, blah, blah. And all you have to do is sit down and say let us crank the Government up, pass a continuing resolution. After all, a continuing resolution funds these agencies at a dramatic discount from what they have been getting.

Mr. REID. Twenty-five percent.

Mr. BUMPERS. I thank the Senator for yielding. We can sit here I guess and engage in this colloquy all evening. I thank the Senator very much for allowing me to interject this.

Mr. REID. As always, I appreciate the statement of my friend from Arkansas.

Mr. President, I see the majority leader in the Chamber. I have yielded to everybody else and certainly I am happy to yield to him.

I am told, Mr. President, that the leaders want to have a unanimous-consent request entered. I am happy to yield to them without my losing the right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

Mr. DOLE. Mr. President, I thank the Senator from Nevada, Senator REID.

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ON H.R. 4 AND VETO MESSAGE ON H.R. 1058

Mr. DOLE. Mr. President, I ask unanimous consent that following Senator REID's remarks, the veto message be laid aside, and the Senate turn to the conference report to accompany H.R. 4, the welfare bill, that it be considered under the following time restraints: 3 hours to be equally divided in the usual form.

Mr. President, I further ask unanimous consent that at 10:15 a.m., on Friday, there be 30 minutes for closing remarks on securities, to be equally divided in the usual form, and that at 10:45 a.m., there be 30 minutes for closing remarks on welfare, to be equally divided in the usual form.

Finally, Mr. President, I ask unanimous consent that at 11:15 a.m., the Senate proceed to vote on the question shall H.R. 1058 pass, the objections of the President to the contrary notwithstanding, to be followed immediately by a vote on adoption of the welfare conference report.

The PRESIDING OFFICER. Is there any objection?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Reserving the right to object. If the result of this unanimous-consent request is made, we will vote on the two matters that are referred to, but we will not have an opportunity, given what the House of Representatives has just done—and that is, effectively they are recessing tomorrow without a continuing resolution, which will mean that millions of children will be unattended to, millions of the disabled will be unattended to. Effectively, do I understand the majority leader is making a request for those votes tomorrow on those two without giving any indication as to what the majority's intention is going to be, particularly without a continuing resolution, the impact that it is going to have on children and the disabled in this country?

Mr. DOLE. Mr. President, I say to the Senator from Massachusetts, there is a meeting with the President tomorrow morning with the leadership in the Senate and the House. It is my hope that after the meeting is concluded we may be in a position to do something under the CR. I can only speak for myself. I am prepared to do that now, but the House has not sent us one.

I think there will be an effort by the Democratic leader to call up and amend the bill that is now pending, which I would be constrained to object to. But there are others that will be affected in addition to veterans. I think there are four or five groups. It seems to me, if nothing else is successful, we ought to amend the one that the House sent over dealing with veterans and put all the other groups on so they will not be deprived of any benefits or delay in their checks, if everything else fails, as far as the CR is concerned.

Mr. KENNEDY. I will just take another moment.

Mr. President, I appreciate the willingness and the commitment of the majority leader to do that. As the Senator knows, the House has passed now their resolution just a few moments ago which effectively puts them in recess for 3 days, with the possibility of extending 3 more days, the possibility of extending 3 more days, with a 12-hour call-back, and without any continuing resolution, which will be in effect as of 2:30 tomorrow afternoon.

We are being asked to consent to this agreement, where the final votes of which will be some time in the midday; and the House of Representatives, according to the House rules and the Senate rules, then will be permitted to effectively recess without corresponding necessary action by the Senate. And the particular groups that the majority leader has addressed, their needs will be left unattended.

I just want to know what the intention of the majority is going to be with regard to those individuals, particularly since the majority leader has indicated to the minority leader that he has every indication that he is going to object to a clean continuing resolution.

This appears to be the only avenue that is left open to us. I just learned a few moments ago that this was the action that was taken in the House. And this is the inevitable action that will result if the House takes off and we pass this. Those individuals which the majority leader has identified, they will be left unattended while the House of Representatives recesses and while evidently we will be unable to take any action. We will be foreclosed from taking any action too. And I find that that is a troublesome response.

I want to say at this point, I know that the majority leader has been very positive and constructive in trying to move the larger issue about the reconciliation on the budget forward. I think all of us understand that he has tried to be and is a positive force toward moving in that direction. So I am not at this time trying to interrupt that continued kind of effort.

But that really is independent from the groups that the majority leader has mentioned, from their needs being served. I fail to see how we are going to be able to reach any conclusion with regard to those individuals because it will require both bodies taking action.

Is that the understanding of the majority leader?

Mr. DOLE. It is my understanding—I would have to check—but what happened in the House was simply to give the Speaker authority to recess for 3-day periods in accordance with their rules. I do not believe the recess takes effect at 2:30 tomorrow. It is my understanding our meeting at the White House should end about 11:15, 11:30.

If we can accomplish something tomorrow morning, which I believe we can, then it would be my hope that the House would then—either we amend the bill that is over here with a CR or they send us a CR. I am not an advocate of shutting down the Government. I never have been.

We have indicated in a letter to Senator WARNER and others that we would support on this side and the House side paying all those who were furloughed. But I think we have a larger problem, as pointed out by the Senator from Massachusetts. If everything else fails, I think the least we should do is take up the bill that is now here concerning veterans and add to it the other categories that might be affected.

Mr. KENNEDY. I appreciate that. So that would be the intention of the majority leader.

I will not object to the request. I want to commend the majority leader for that responsible action. I hope that during the time between now and tomorrow that he would use his persuasive powers, which he uses so frequently around here, to encourage that action be taken in a similar way by the House of Representatives.

Mr. DOLE. I thank my colleague from Massachusetts. I certainly will make every effort. I am not certain I will be successful, but I share many of the views he has expressed.

The PRESIDING OFFICER. Is there objection?

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, reserving the right to object, and I shall not object, it would be the right of any Senator to ask at this time that the conference report to accompany H.R. 4, the Personal Responsibility Act, be read in its entirety by the clerk. Such a reading would provide the first indication to most Senators of what is in this conference report. It has been 3 full months since the bill passed the Senate, but the conference committee met only once, 2 months ago, October 24, and conducted no business at the meeting other than opening statements. The entire conference process was conducted behind closed doors and without participation by the minority, which is one reason why there is not a single Democratic signature on this conference report.

I was able to obtain a copy of the conference report only a few hours ago, as the House completed its consideration. We are woefully uninformed as to the details, but may I say that all any Senator needs to know about this legislation is that it would repeal title IV–A of the Social Security Act, Aid to Families with Dependent Children, and that it will be vetoed by President Clinton. Mr. President, I do not object.

I simply want to make the point that this partisan mode is not the way great social-political issues are addressed successfully in our country, and I hope this will pass with the coming of Christmas.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—START II TREATY

Mr. DOLE. Mr. President, I further ask unanimous consent that immediately following the two votes, the Senate proceed to executive session to begin consideration of the START II Treaty.

Let me indicate with reference to that, there has been ongoing work that I have been indirectly involved in, in the past several days, to reach some agreement on START II. As I understand, there were seven or eight different issues that have been resolved. They are very close to getting agreement. If that happens, it should not take too long to dispose of the START II Treaty.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

UNANIMOUS-CONSENT REQUEST—HOUSE JOINT RESOLUTION 134

Mr. DASCHLE. Mr. President, I associate myself with the remarks made by the distinguished Senator from Massachusetts. Many of us have watched with some dismay as the House continues to refuse to offer a resolution which funds the Government. They have now provided for a resolution which only funds that part of the continuing resolution dealing with veterans. We have no objection at all to the veterans resolution coming to the floor and passing it.

We would like to offer an amendment which does that for everything else, including the children and many others who are adversely affected by this Government shutdown.

It is our hope that at some point, certainly before the end of the week, that can be done and would like to see if it could be done tonight.

So, Mr. President, I ask unanimous consent that the Senate now proceed to House Joint Resolution 134, the veterans' continuing appropriations resolution; that the bill be read a third time and passed, as amended, with an amendment that will reopen the Government and keep it open until January 5, 1995; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I do reserve the right to object and I shall object, because it does not seem to me this will serve any constructive purpose at this time.

We are going back tomorrow. The principals are going to meet on a balanced budget in 7 years. I am not certain what action the House will take on this this evening, in any event.

As I indicated to the Senator from Massachusetts, and I will again state to the Democratic leader, it is my hope we can make enough progress tomorrow that we can do precisely what he recommends. Maybe the date will not be January 5. I do not know about that date. It does seem to me we have made progress today. If we make some in the morning, perhaps we cannot only do some other legislative business, but also pass a continuing resolution. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DASCHLE. Mr. President, let me just say, I hope as a result of the meeting tomorrow at the White House we can move forward with some form of a continuing resolution tomorrow. I would like it to be a complete continuing resolution, obviously, dealing with veterans and children and the whole range of those who are adversely affected by this shutdown.

It must not go on. We simply cannot leave with this matter left unresolved. And so it is important that regardless of what happens at the meeting tomorrow, the Senate be on record in support of a continuing resolution which completely funds the Government for a period of time. I am hopeful the majority leader and I can work together to make that happen at some point tomorrow under any set of circumstances.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada has the floor and yielded to the two leaders for the purpose of the unanimous-consent request. Does the Senator from Nevada yield or reclaim the floor?

Mr. DOLE. What is the pending business now?

The PRESIDING OFFICER. Completing the statement of the Senator from Nevada, the pending business will be the conference report.

Mr. DORGAN. Mr. President, I simply want to make an inquiry of the majority leader. I wonder if the Senator from Nevada will allow me to do that.

Mr. REID. I will, without losing my right to the floor. We talked about records. Senator DOLE talked about his record. I think I have broken a record. I have been here and yielded 12 times. I will be happy to make it for the 13th. [Laughter.]

Mr. DORGAN. Make mine the 14th.

Mr. REID. This is the 13th.

THE FARM BILL

Mr. DORGAN. Mr. President, I appreciate the Senator yielding to me. I would like to inquire of the majority leader on the subject of the farm bill. Senator DOLE comes from farm country, as many of us do in the Chamber, and we face an unusual circumstance toward the end of this year. This is the year we normally would have written a 5-year farm plan. A plan has not been written. One was in the original legislation that was passed by the Senate that was vetoed by the President, the reconciliation bill.

Many of us are concerned, as are farmers from across the country, about what will be the decision of Congress, what kind of circumstance might exist for them and their lenders to anticipate with respect to planting next year, what kind of support prices and so on.

I just rise to inquire of the majority leader what his thinking is about the movement of a farm bill or the extension of the current farm program for a year. What is the current thinking of the majority leader on that subject?

Mr. DOLE. Obviously, I share the concern expressed by the Senator from North Dakota.

Let me first indicate, there will be no more votes today, because I have had inquiries.

It is my understanding that at 3:30 or 4 o'clock this afternoon, there was a discussion of the so-called farm bill with different representatives from the White House and others who were there. I would like to see it part of this package that I hope we can agree on that will give us a balanced budget but still include the agriculture legislation. It is important not only to the Midwest where we are from, but very important to consumers in America and other farmers across this country.

A 1-year extension, if everything else fails, might be an option. As the Senator knows, if that does not happen, we go back to, what is it, 1948, 1949, which would not be very productive, in my view. It would be very high price supports. So I am hopeful that we can work—we are working in a bipartisan way. I say to the Democratic leader, talking about when we get to agriculture, it must be one of the areas we must agree on if we are going to come together and pass a package.

Mr. DORGAN. I appreciate the answer. I point out, as the Senator knows, the urgency with which many farmers view this process, whether it is in or out of a reconciliation bill. I think farmers and their lenders need some understanding of what will be the circumstances for their planting next year, what might or might not be the price support system.

I am not suggesting there is blame here. I am suggesting somehow we need to get to a decision and it might be the extension of the current farm bill or it might be a different plan put in the reconciliation bill. If a reconciliation bill does not occur, then would there be a contingency and does the Senator share the urgency many of us feel on this floor about the need to resolve this issue?

Mr. DOLE. I have been on the Ag Committee—I think I have the record of more service on the Ag Committee than any other member on that committee. We have gone through this a number of times. Certainly, it is very important, very significant for America's farmers. I feel, I hope, as deeply as the Senator from North Dakota and others in the Chamber, when we have large numbers of farmers and ranchers in our States. I hope we can reach some conclusion. If not, we may have to look at an extension for a year.

Mr. DORGAN. Thank you.

Mr. DOLE. Mr. President, if I can ask the Senator from Nevada to yield just one more time.

SENATOR BYRD'S COMMENTS

Mr. DOLE. Mr. President, I learned in my absence my colleague from West Virginia, Senator BYRD, revealed that I had tied the record for service as the Republican leader. I had no idea that was a fact. If Senator BYRD says it, I know it is a fact because I know he checked it very carefully. I want to thank him for his gracious comments and thank all of my colleagues who have tolerated me during that—what is it—10 years.

SECURITIES LITIGATION REFORM ACT—VETO

The Senate continued with the reconsideration of the bill.

Mr. REID. Mr. President, I am here to speak on the securities litigation veto override. I want everyone in Nevada to know that this is the same issue that a few weeks ago Senator BRYAN and I disagreed on. It is not a new issue. You see, in Nevada, Mr. President, it is news when Senator BRYAN and Senator REID disagree on an issue, so I repeat for the people of Nevada this is the same issue; it is not a new issue, because we vary so little in our outlook on what is good Government.

Mr. President, there are a lot of issues today that perhaps I would rather be debating, but the parliamentary measure now before us is the securities litigation. A balanced budget or welfare reform would certainly be more timely. There are a number of other issues we should perhaps be dealing with. But the matter that is now before this body is a bipartisan piece of legislation designed to curtail the filing of frivolous security strike suits.

Yesterday, in the House of Representatives, 83 Democrats voted to override, joining the Republicans to obtain, of course, over 300 House votes, significantly more than enough to override the President's veto.

I am distressed that the President has decided to veto this moderate, centrist approach to litigation reform. I am concerned that he has vetoed this legislation for the wrong reasons.

I have reviewed closely his veto message. It does not take very long to read. It would appear he has found very few substantive reasons for vetoing the measure. I believe that the President of the United States received very bad staff advice. One need only look at a number of editorials written this morning in the papers around the country. One in the Washington Times today says, among other things "According to administration aides, the crucial moment came when New York University Law School Professor John Sexton visited the White House to personally argue that the legislation should be vetoed."

I do not know who John Sexton met with, whether it was staff in the White House or whether it was the President, but if it were staff and the message was carried to the President, it was pretty bad information because had the staff properly advised the President, they would have found that this man is not really a law professor in the true sense of the word but, rather, he is the dean of a law school. In fact, if this advice was delivered from a professor, as has been stated, without clear vested interests on either side of the hotly contested issue, then the staff gave the President some pretty bad advice, because according to The Wall Street Journal that is what decided things for Mr. Clinton, because he received advice without clear vested interests on either side of the hotly contested issue.

I believe the staff gave the President some very bad advice. Why? Because Mr. Sexton is not just a professor at New York University school of law, but rather he is the dean of the school of law.

One of the prime functions of the dean of a law school is to raise money for the law school. It is interesting to note—and I think the President should have known this—and it is too bad that the staff did not tell him, that one of the first major donations to New York University School of Law during Mr. Sexton's tenure as dean of the law school was in 1990 when Mr. and Mrs. Melvin Weiss donated $1 million to the school, and then led a campaign to raise another $5 million.

It is interesting to note, Mr. President, that this Mr. Weiss is the Weiss in Milberg, Weiss, Bershad, Haynes & Lerach.

So it seems to me that the staff and the advisors that gave this information to the President failed to tell him that this man and his law school received $1 million from Mr. Lerach's law firm. Then the same partner in the law firm went ahead and helped raise $5 million. So, I think it goes without saying that he received some biased advice.

None of the objections were raised by the White House prior to the vote on the conference report. I understand it is a large bill and that there may be parts the White House disagrees with, but the veto message was pretty skimpy, Mr. President. It makes little sense to reject this measure and all the bipartisan efforts that went into drafting it.

The current system encourages plaintiffs to file strike suits at will.

Mr. President, I think the President got some bad advice. I think what he should have done and what his staff should have shown to him is a memorandum that is dated December 19, directed to the President of the United States, to the Office of White House Counsel. In this, there would have been a clear statement as to answering the main problem the President said in his very brief veto statement.

This memorandum was written by Prof. Joseph A. Grundfest, of Stanford School of Law. Professor Grundfest is a man who can speak with some authority. He is not only a professor at Stanford, one of the foremost law schools in the entire world, but he joined Stanford's faculty 5 years ago after having served as Commissioner of the United States Securities and Exchange Commission. I will not go through his entire resume, but he knows something about securities.

What he said to the President is that the pleading standard is faithful to the second circuit's test.

> Indeed, I concur with the decision to eliminate the Specter amendment language, which was an incomplete and inaccurate codification of case law in the circuit.
>
> As is stated in a recent Harvard Law Review article, codification of a uniform pleading standard in 10b-5 cases would eliminate the current confusion among circuits. The Second circuit standard is among the most thoroughly tested, and it also balances deterrence of unjustified claims with need to retain a strong private right of action. Indeed, the second circuit is widely respected for its legal sophistication . . . .

This is the type of scholarly counsel the President should have been provided by the staff. In fact, they were directed to one of the law partners' donatees, someone who had given the law school large sums of money.

Mr. President, the current system encourages plaintiffs to file strike suits at will. The system almost operates like a pyramid scheme where investors are encouraged to get in early but ultimately lose out to the operators of the scam—in this case, these attorneys. How quick are these suits filed? We heard statements this morning that they have been filed within minutes of the stock dropping. I heard a statement today of 90 minutes.

In dismissing the Philip Morris securities litigation, the court in the Southern District of New York, noted that 10 lawsuits were filed within 2 business days of a drop in earnings being announced. In one case, a suit was filed within 5 hours of the announcement. They were slow. They have beaten that by at least 3½ hours. In that case, the court states:

> . . . in the few hours counsel devoted to getting the initial complaints to the courthouse, overlooked was the fact that two of them contained identical allegations, apparently lodged in counsel's computer memory of "fraud" form complaints, that the defendants here engaged in conduct to prolong the illusion of success . . . .

The judge, in that case, found it hard to believe that the shareholders could have contacted their lawyers to file suit so quickly. The speed with which they file these suits suggests that these attorneys are constantly on a hunt for any drop in a stock price. This is really a form of Wall Street ambulance chasing. The Philip Morris case is, unfortunately, not the unusual. It is a competitive business among a very small group of lawyers. Each attempts to get in on the bottom floor of each action. They follow the old Chicago corollary on elections: file early and file often. Why? Because the lawyer that is designated the lead counsel by the court is in the best position to collect attorney's fees.

Mr. President, in a single 44-month period, one plaintiff's law firm alone filed 229 separate 10b-5 suits around the country, the equivalent of filing one 10b-5 every 4.2 business days. Almost 70 percent of the 10b-5 class actions filed by Milberg Weis, the leading securities litigation plaintiffs firm, over a 3-year period were filed within 10 days of when the stock price dropped.

Now, if you look at the editorial today from the Wall Street Journal, you find it quite interesting. They ask rhetorically, why did President Clinton veto this? They say, among other things:

> So what is the big show-stopper? Mr. Clinton singles out several minor clauses, especially the language on "pleading requirements."

I already addressed that:

> This is the part of the bill designed to ensure that lawyers state a specific cause of action . . . before being allowed to paw through a company's files. Mr. Clinton says he is prepared to accept a higher pleading standard, just not as high as the one called for here.

They go on to say:

> This is why he vetoed the entire bill? Give us a break. Even Sen. Dodd doesn't buy it. In a statement, he said, [Senator Dodd] "While I respect the President's decision, frankly I'm surprised at the reasons, raised at the 11th hour, which are relatively minor given the real scope and degree of the strike-suit problem. In fact, they have been resolved over the course of the more than four years it took to carefully craft this compromise, bipartisan legislation."

That is a statement from Senator CHRIS DODD.

The Wall Street article goes on to say:

> If the Democrats are to put together a forward-looking, next-century agenda that can attract widespread support, they've got to get off their bended knee before groups like the trial lawyers.

Defrauded investors are not adequately compensated because attorneys, not investors, control these class actions. The average class action settlement gives investors only 14 cents for every dollar lost, while one-third of each settlement and more goes to the attorneys.

The legitimacy of the plaintiffs must be examined. Some are clearly professional plaintiffs who lend their names to any class action suit. One study of 229 cases showed 81 people were plaintiffs more than once. These are not aggrieved, injured parties, but professional plaintiffs, and the lawyers know it.

If you do not believe me, Mr. President, listen to the words of one of the plaintiff's attorneys who benefit from the status quo. An attorney by the name of William Barrett told Forbes Magazine, "I have the best practice in the world because I have no clients."

This might be funny if it were not so true and so costly.

Just how expensive is maintaining the status quo? One report stated that it cost companies an average of $8.6 million in settlement fees, $700,000 in attorney's fees, and about 1,000 hours of management time to settle the typical frivolous securities suit.

Status quo means companies will have to pay these costs rather than create new products and, I submit, new jobs.

Mr. President, who pays for these costs? These costs are passed on to investors in the form of stock price devaluation and lower dividends. This undermines the confidence of all investors in our capital markets.

Let us look at specific costs one company faced because of the current protrial lawyer's laws. After one company, called Adapt Technology, went public, it was advised to carry $5 million in director and officer liability insurance. This cost them $450,000 each year for premiums. Prior to going public they paid a few thousand dollars per year. To be exact, less than $29,000. The additional insurance is needed because of the virtual certainty that the company will be sued for securities fraud within a short time after going public, and then they have to be concerned about the different margins where the stock falls. If Adapt did not have to pay this additional liability insurance they say they could hire at least five new engineers.

I know there have been mayors and other officials around the country who have been given information, mostly from these lawyers, that this is bad for them. They write to me and others, still talking about the original House version of the bill which certainly is not anything we have before us now, saying this is not what they want.

I would like to refer to some people who support this legislation because there is lots of support of our people at home who want this legislation approved. They want this veto overridden.

Bill Owens, State treasurer of the State of Colorado, in a letter states, "The plaintiffs typically recover only a small percentage of their claims and the lawyers extract large fees for bringing the suit. A system that was intended to protect investors now seems to benefit the lawyers."

We also have a letter, part of a letter from the State treasurer of Delaware. Certainly Delaware—that is where most corporations are formed—I think we should give some credence to the treasurer of the State of Delaware, where she says, "Investors are also being harmed by the current system as it shortchanges people who are being victimized by real fraud. The plaintiff's lawyers who specialize in these cases profit from bringing as many cases as possible and quickly settling them, regardless of the merits. Valid claims are being undercompensated in the current system because lawyers have less incentive to vigorously pursue them."

Another State treasurer, Judy Topinka, from the State of Illinois, in a letter to Senator MOSELEY-BRAUN writes, "Because shareholders are on both sides of this litigation it merely transfers wealth from one group of shareholders to another. However it wastes millions of dollars in company resources for legal expenses and other transaction costs that otherwise could be invested to yield higher returns for company investors."

"The concern about and reaction to meritless lawsuits has caused accountants, lawyers and insurance companies to insure their directors with price tags ultimately paid by the consumer and investing public including a large part of our retirees and pension holders." So says Joe Malone, Treasurer of the Commonwealth of Massachusetts.

The treasurer of North Carolina: "I agree," he says, "that the current securities fraud litigation system is not protecting investors and needs reform."

The treasurer of the State of Ohio and the treasurer of the State of Oregon say similar things. The treasurer of the State of South Carolina, the treasurer of the State of Wisconsin, the treasurer of the State of California state similar things.

So, if we look to our States for guidance we should follow what our treasurers say.

But there are others who support this securities litigation reform and there would be many more that would support the securities litigation reform had they not been given such bad information early on that scared them to death. The information was given to them by these lawyers who make a fortune with these security litigation lawsuits. Supporters of the securities litigation reform, I will read off a few of the names: American Business Conference, American Electronics Association, American Financial Services Association, American Institute of Certified Public Accountants, Association for Investment Management and Research, Association of Private Pension and Welfare Plans, Association of Publicly-traded Companies, BIOCOM—formerly Biomedical Industry Council—Biotechnology Industry Association, Business Round Table, Commissioner of Corporations of the State of California, Champion International Pension Plan—one of the largest in the United States—Director of Revenues of the city of Chicago, Coalition to Eliminate Abusive Security Suits, Connecticut Retirement and Trust Fund, Eastman Kodak Retirement Plan, Electronics Industries Association, chief administrative officer of the State of Florida, Information Technology Association of America, Massachusetts Bay Transportation Association, National Association of Investors Corp., National Association of Manufacturers, National Investor Relations Institute, National Venture Capital Association, Governor of the State of New Mexico, Comptroller of the City of New York, New York City Pension Funds, Oregon Public Employees Retirement System, Public Securities Association, Securities Industries Association, Semiconductor Industry Association, Silicon Valley Chief Executives Association, Software Publishers Association, Teachers Retirement System of Texas, Washington State Investment Board—just to name a few of those that want something to happen, namely that this veto be overridden.

There are a lot of good reasons to support this measure. Frivolous strike suits are not simply windfalls to unscrupulous attorneys, but they are costing our Nation jobs. They are inhibiting the development of high technology in every State in the Union. It is almost a certainty that start-up companies will get, with the formation of the company—a strong chance that soon thereafter there will be a securities class action lawsuit after they have gone public. The information provided to the Senate Banking Committee indicates that 19 of the largest 30 companies in Silicon Valley have been sued since 1988.

According to another study, 62 percent of all entrepreneurial companies that went public since 1986 have been sued. This was by 1993, when the records were made available to us. In the last year and a half, I will bet we are nearing 80 or 90 percent. They file them almost as fast as they can. This is just in Silicon Valley.

So, as one of the Senators from Nevada, I find this disappointing. There are other reasons for supporting this legislation. By discouraging frivolous security suits, companies can use their capital to increase shareholder returns. They could expand research and development. They could create new jobs. The conference report also ensures that victims of securities fraud and not their lawyers are winners.

I think that one reason we are hearing the screaming from these lawyers is that under this conference report, under this legislation, the people who will benefit if they have been cheated will be the people who have been cheated, not the lawyers and the professional plaintiffs. Too often these attorneys collect millions of dollars while their clients collect only pennies.

What about investors? Investors are harmed by the status quo because companies are reluctant to provide estimates about future performance for fear they will be sued. The conference report remedied this by providing for the safe harbor, while the Chairman of the SEC said he approved this.

Let us also talk about the work done on this legislation by the senior Senator from the State of Connecticut. I remind my colleagues, my Democratic colleagues who voted for this measure originally, that this issue is not about supporting the President. This issue is about supporting the chairman of the Democratic National Committee, who has spent countless hours working on this legislation, drafting this legislation, debating this legislation, and who worked with the White House up to the very end to get their approval on what was done. So this is not a question about supporting the President. It is a question of those who originally supported this bill yanking the rug out from somebody who has worked very hard on this legislation. He has done so in consultation with the White House. The White House has been included from the very beginning. That is a tribute to the senior Senator from Connecticut.

He was instrumental in including the White House in developing this legislation. There have been good-faith efforts to consult with the administration every step of the way. And when this legislation left the Senate, the senior Senator from Connecticut said, "I will support this legislation when it comes back from conference only if it matches what we have done here in the Senate." That is, that it follows what we have done here in the Senate.

Certainly that is what it did. The Senate position was what was adopted. The President's weak ideas for vetoing this, we have gone over.

There are people who do not like this legislation, and I respect them for that. I respect them for that. But those people who supported this legislation initially should understand that one of our leaders, Senator DODD, has spent a great deal of time and effort on this legislation and he does not deserve any of the 18 Democratic Senators who voted for this to have jerked the rug out from under him. He deserves more than that. He works on a daily basis for all Democratic Senators. But certainly let us not do this to him. As chairman of the DNC, he is probably more in sync with the desires of the body politic than the rest of us. He knows what direction our party should be headed, and he realizes that the centrist commonsense proposals, such as we are now asking of the majority of this Senate should be given our support.

I ask my Democratic colleagues to consider this when voting on the override. Consider the work that has gone into this by the senior Senator from Connecticut.

This is needed legislation that will do much good. This will put some lawyers out of the kind of work they have been doing making fortunes. They may have to get another practice, or another type of law, or maybe start doing work in which they get paid on an hourly basis. But in the long run, it will also create many new jobs and benefit small investors. It represents the moderate centrist approach to legislating that we ought to be engaged in here.

I respect the opposition to this legislation. There are some people who simply did not like it to begin with. It is a very small minority. But I respect them for that. But those that supported this legislation on this side of the aisle should stick with our leader on this issue, that is, Senator DODD who has spent so much time on this legislation.

This legislation does not represent the ideology of the liberal left or the radical right. It represents a commonsense, bipartisan consensus, and I believe that is what the voters sent us here to do.

There is speculation as to why it was vetoed. I am not going to engage in that other than to say that the President got some real bad advice. The absence of persuasion in the veto message does little to quell any speculation.

I must say, however, that the death of this legislation only benefits a very small group of lawyers who have ruthlessly exploited current laws. They do so to the detriment of small investors and those who have legitimate claims. Their access to money has endowed them with tremendous influence in this debate, and I believe that is regrettable.

I believe, Mr. President, that this legislation is fair. I think it is directly going to help clear up an area of law that needs clearing up.

To those people who are talking about investors not being protected, I repeat that Senator DODD went to great lengths to work with the vast majority of people on the other side of the aisle, with the White House, and a number of Senators on this side, making sure that investors would still be protected. Investors will be protected, but the lawyers who have been getting these exorbitant fees will not be protected if this veto is overridden, which I hope it is.

PERSONAL RESPONSIBILITY AND WORK ACT OF 1995—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the clerk will report the conference report.

The legislative clerk read as follows:

> The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4) to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 20, 1995.)

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, sometime ago the American people reached a turning point concerning welfare reform. They understand that despite having spent over $5 trillion over the past 30 years, the welfare system is a catastrophic failure.

In 1965, 15.6 percent of all families with children under the age of 18 had incomes below the poverty level. And in 1993, 18.5 percent of families with children under the age of 18 were under the Federal poverty level. The system created to end poverty has helped to bring more poverty. By destroying the work ethic and undermining the formation of family, the welfare system has lured more Americans into a cruel cycle of dependency. The size and cost of the welfare programs are at historically high levels and are out of control. Federal, State, and local governments now spend over $350 billion on means-tested programs.

Between 1965 and 1992, the number of children receiving AFDC has grown by nearly 200 percent. Yet, the entire population of children under the age of 18 has declined—declined by 5.5 percent over this same period. More than 1.5 million children have been added to the AFDC caseload since 1990. And if we do nothing, if we do nothing to reform it, the number of children receiving AFDC is expected to grow from 9.6 million today to 12 million within 10 years.

That is what the future holds if the current system is allowed to continue. A welfare system run by Washington simply costs too much and produces too little in terms of results.

Twenty years ago, 4.3 million people received food stamp benefits. In 1994, that number had grown to 27.5 million people, an increase of more than 500 percent. And between 1990 and 1994 alone, the number of people receiving food stamps grew by nearly 7.5 million people.

In 1974, the Supplemental Security Income Program was established to replace former programs serving low-income elderly and disabled persons. SSI was considered to be a type of retirement program for people who had not been able to contribute enough for Social Security benefits. Of the 3.9 million recipients in 1974, 2.3 million were elderly adults. The number of elderly adults has actually declined by 36 percent.

But consider this: In 1982, noncitizens constituted 3 percent of all SSI recipients. By 1993, noncitizens constituted nearly 12 percent of the entire SSI caseload. Today, almost 1 out of every four elderly SSI recipients is a noncitizen.

Before 1990, the growth in the number of disabled children receiving SSI was moderate, averaging 3 percent annually since 1984. Then, in the beginning of 1990, and through 1994, the growth averaged 25 percent annually and the number trimmed to nearly 900,000 children. The number of disabled children receiving cash assistance under the Supplemental Security Income Program has increased by 166 percent since 1990 alone. The maximum SSI benefit is greater than the maximum AFDC benefit for a family of three in 40 States.

Welfare reform is necessary today because while the rest of the Nation has gone through a series of social transformations, the Federal bureaucracy has been left behind, still searching in vain for the solution to the problems of poverty. It simply will not be found in Washington.

Our colleague, Senator MOYNIHAN, has reminded us on a number of occasions that the AFDC Program began 60 years ago as a sort of widow's pension. Consider that the AFDC Program cost $697 million in 1947 measured in constant 1995 dollars. In 1995, the Federal Government spent $18 billion on the AFDC population, an increase of 2,500 percent measured in constant dollars.

Now, the AFDC Program was originally intended to be a modest means to keep a family together in dignity. But much has changed since then and the system has become a cruel hoax on our young people. It has torn families apart and left them without the dignity of work.

Washington does not know how to build strong families because it has forgotten what makes families strong. It has failed to understand the consequences of idleness and illegitimacy.

Last March, the House of Representatives charted an ambitious course for welfare reform in the 104th Congress. H.R. 4, the Personal Responsibility Act of 1995, was a bold challenge to all of us. It was a creative and comprehensive response to the many problems we currently face in the complex welfare system.

Since then, the Senate has continued the national debate and built on the blueprint provided by the House. Just 3 months ago, the Senate demonstrated that it recognized dramatic and sweeping reforms are necessary. The Work Opportunity Act passed the Senate with an overwhelming and bipartisan vote of 87 to 12.

Today, I am here to present to the Senate and to the American people H.R. 4, the Personal Responsibility and Work Opportunity Act of 1995. H.R. 4 ends the individual entitlement to Federal cash assistance under the current AFDC Program. It also caps the total amount of Federal funding over the next 7 years. These are the critical pieces of welfare reform which will institute dramatic changes the American people want.

These two provisions are the key to everything else which will transpire in the States. They make all other reforms possible. They guarantee the national debate about work and family will be repeated in every statehouse. Fiscal discipline will force the State to set priorities. Block grants will provide them with the flexibility needed to design their own system to break the cycle of dependency. And most importantly, this legislation restores the work ethic and reinforces the value of the family as the fundamental cell of our society.

Mr. President, after decades of research and rhetoric, it is indeed time to end welfare as we know it. This welfare reform initiative is built on three basic platforms and contains all the necessary requirements of authentic welfare reform.

First, individuals must take responsibility for their lives and actions. The present welfare system has sapped the spirit of so many Americans because it rewards dependency. It has also allowed absent parents to flee their moral and legal obligations to their children. This legislation ends the individual entitlement to public assistance and provides for a stronger child support enforcement mechanism.

Second, it restores the expectation that people who can help themselves must help themselves. For far too long, welfare has been more attractive than work. This legislation corrects the mistakes of the past which allowed people to avoid work. We provide additional funding for child care and incorporate educational and training activities to help individuals make the transition from welfare to work. Under this legislation, welfare recipients will know that welfare will truly be only a temporary means of support and must prepare themselves accordingly.

Finally, this legislation transfers power from Washington back to the States where it belongs. This will yield great dividends to recipients and taxpayers alike. As the power is drained from Washington, Americans should eagerly anticipate the reciprocal actions that take place in the States. States will find more innovative ways to use this money to help families than Washington ever imagined.

Freed from the current adversarial system, the States will be able to design their own unique methods to help families overcome adversity. The current system insults the dignity of individuals by demanding a person prove and maintain destitution. States will reverse this disordered thinking and raise expectations by shifting the emphasis from what a person cannot do to what a person can do.

On balance, you will find that the conference reflects the work of the Senate on the major issues within the Finance Committee jurisdiction. And as you examine the individual parts and the bill as a whole, I believe you will find we have been responsive to the concerns of the Senate.

The conference report provides the right mixture of flexibility to the States but still retains appropriate accountability. And I think the States will find this transfer of power to be a reasonable challenge.

Here are the major specific items included in title I which creates the new block grants to States for temporary assistance for needy families with minor children.

Each State is entitled to receive its allocation of a national cash welfare block grant which is set at $16.3 billion each year, and in return the States are required to spend at least 75 percent of the amount they spent on cash welfare programs in 1994 over the next 5 years.

In terms of funding, the States will be allowed to choose the greater of their average for the years 1992 to 1994 or their 1994 level of funding or their 1995 level of funding. By allowing the States to use their 1995 funding level, we have increased Federal spending for the block grant by $3.5 billion over the Senate-passed bill. We have maintained the $1 billion contingency fund.

The States will be required to meet tough but reasonable work requirements. In 1997, the work participation rate will be 20 percent. This percentage will increase by 5 percentage points each year. By the year 2002, half of the State total welfare caseload must be engaged in work activities. As provided by the Senate bill, States will be required to enforce "pay for performance." If a recipient refuses to work, a pro rata reduction in benefits will be made.

We provide the resources to make this possible with $11 billion in mandatory child care funds for welfare families. Let me repeat. The conference report includes $1 billion more for child care than the Senate welfare bill.

Another $7 billion in discretionary funds are provided to assist low-income working families. There will be a single block grant administered through the child care and development block grant, but guaranteed funding for the welfare population.

The House has agreed to accept the Senate definition of work activities to include vocational training.

The House has agreed to drop its mandatory prohibition on cash assistance to teenage mothers. As under the Senate bill, this will be an option for the States to determine. The House has accepted the Senate authorization for the creation of second chance homes for unmarried young mothers.

The family cap provision has been modified from both positions. Under the new proposal, States will not be permitted to increase Federal benefits for additional children born while a family is on welfare. However, each State will be allowed to opt out of this Federal prohibition by passing State legislation.

The sweeping reforms in child support enforcement has unfortunately been overlooked in the public debate. This has been an important area of bipartisan action and an important method of assisting families to avoid and escape from poverty.

We are strengthening the enforcement mechanism in several ways. In general, the conference report more closely reflects the Senate bill. We reconciled several of the differences between the House and Senate on items such as the Director of New Hires and the expansion of the Federal Parent Locator Service simply by choosing a midpoint. We have increased funding over the Senate bill for the continued development costs of automation from $260 to $400 million.

One particular child support enforcement issue which may be of interest to you is the distribution of child support arrears. Beginning October 1, 1997, all post-assistance arrears will be distributed to the family before the State. As of October 1, 2000, all preassistance arrears will go to the family before the State will be allowed to recoup its costs.

We believe that improving child support collection will greatly assist families in avoiding and escaping poverty.

The American Bar Association strongly supports our child support enforcement changes. The ABA recently wrote that, "if these child support reforms are enacted, it will be an historic stride forward for children in our nation." Mr. President, we cannot afford to miss this historic opportunity.

SSI is now the largest cash assistance program for the poor and one of the fastest growing entitlement programs. Program costs have grown 20 percent annually in the past 4 years. Last year, over 6 million SSI recipients received nearly $22 billion in Federal benefits and over $3 billion in State benefits. The maximum SSI benefit is greater than the maximum AFDC benefit for a family of 3 in 40 States.

The conference agreement contains the bipartisan changes in the definition of childhood disability contained in the Senate-passed welfare reform bill. I am pleased we have addressed this problem on common ground.

The conference rejected the House block grant approach. All eligible children will continue to receive cash assistance. We retain our commitment to serving the disabled while linking assistance to need.

For children who become eligible in the future, there will be a two-tier system of benefits. All children will receive cash benefits. Those disabled children requiring special personal assistance to remain at home will receive a full cash benefit. For families where the need is not as great, such children will receive 75 percent of the full benefit.

No changes in children's benefits for SSI will take place before January 1, 1997. This will allow for an orderly implementation and protect the interests of current recipients.

These changes will restore the public's confidence in this program and maintain our national commitment to children with disabilities.

Current resident noncitizens receiving benefits on the date of enactment may continue to receive SSI, food stamps, AFDC, Medicaid, or title XX services until January 1, 1997. After January 1, 1997, current resident noncitizens may not receive food stamps or SSI unless they have worked long enough to qualify for Social Security. States will have the option of restricting AFDC, Medicaid, and title XX benefits.

Legal noncitizens arriving after the date of enactment are barred from receiving most Federal means-tested benefits during their first 5 years in the United States. SSI and food stamps will remain restricted until citizenship or until the person has worked long enough to qualify for Social Security. The States have the option to restrict AFDC, Medicaid, and title XX benefits after 5 years.

Mr. President, it is time to correct the fundamental mistakes made by the welfare system over the past three decades. All too often, the system simply assumes that if a person lacks money, he or she also lacks any means of earning it. The present welfare system locks families into permanent dependency when they only needed a temporary hand up. It creates poverty and dependence by destroying families and initiative. To end welfare as we know it, we must put an end to the system which has done so much to trap families into dependence. The Personal Responsibility and Work Opportunity Act of 1995 will accomplish precisely these goals.

From the early days of his administration, President Clinton promised welfare reform to the American people. H.R. 4 meets all principles he has outlined for welfare reform. If the President vetoes H.R. 4, he will be preserving a system which costs and wastes billions of taxpayers' dollars. More importantly, however, if the President vetoes H.R. 4, he will be accepting the status quo in which another 2½ million children will fall into the welfare system.

On January 24, 1995, President Clinton declared at a joint session of Congress, "Nothing has done more to undermine our sense of common responsibility than our failed welfare system."

Mr. President, vetoing welfare reform will seriously undermine the American people's confidence in our political system. The American people know the present welfare system is a failure. They are also tired of empty rhetoric from politicians. Words without deeds are meaningless. The time to enact welfare reform is now.

Mr. President, I yield back the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, just as a point of inquiry, we have 3 hours this evening, and I assume it will be equally divided? Is that agreeable to my friend, the distinguished chairman?

Mr. ROTH. That is correct. That is my understanding.

The PRESIDING OFFICER. That is correct.

Mr. MOYNIHAN. Mr. President, first, may I express my appreciation for the thoughtfulness and sincerity with which the Senator from Delaware has addressed this troubled issue. It is not necessarily the mode of address in these times with regard to this subject. And if I do not agree with him, it is not for lack of respect for his views. He knows that.

He mentioned the subject of a presidential veto, sir. And I must say that there will be such. The President this morning issued a statement saying that, "If Congress sends me this conference report, I will veto it and insist that they try again." And I hope we will try again.

He spoke to the idea that, as he says as he concludes, "My administration remains ready at any moment to sit down in good faith with Democrats and Republicans in Congress to work out a real welfare reform plan."

May I say in that regard, first of all, that it is disappointing considering the degree of bipartisan efforts we have made with respect to the Social Security Act. As the Senator from Delaware stated, this bill would repeal the individual entitlement under title IV-A of the Social Security Act, the Aid to Families with Dependent Children program.

The conference report before us states:

> The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4), to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence, having met, after full and free conference, have agreed to recommend—

Full and free conference? No, Mr. President. There was one meeting of the conferees on October 24, 2 months ago. We took the occasion to make opening statements, and the conference, as such, has never met since. We received a copy of this report late this afternoon. This is no way to address a matter of this consequence. Let me, if I may, state to you what consequence I refer to.

It is possible to think of the problem of welfare dependency, an enormous problem, as somehow confined to parts of our society and geography, the inner-city, most quintessentially. It is certainly concentrated there but by no means confined there.

The supplemental security income provision, established in 1974, is what is left of President Nixon's proposal for the Family Assistance Plan that would have created a guaranteed level of income. I remarked earlier, a quarter century ago I found myself working with our masterful majority leader in this purpose—the children were left out. But we established a guaranteed income for the aged, the blind and disabled and later expanded it greatly for children. But, basically, the provision to replace AFDC with a negative income tax was dropped.

In the course of the 1960's we developed a new set of initiatives, in particular the Economic Opportunity Act of 1965. We had learned, as a matter of social inquiry, that there is just so much you can do with a one-time survey of the population to understand the condition of that population. You can extrapolate, you can use your mathematical skills as much as possible, sampling and surveying periodically. But we said, if you are going to learn more, you are going to have to follow events over time. Longitudinal studies, as against vertical. The distinguished Presiding Officer knows those words from his experience as an applied economist in the world of business. In 1968, we established the panel study of income dynamics at the University of Michigan at the Survey Research Center, and they have been following a panel of actual persons, with names and addresses, for almost 30 years. We now know something about how people's incomes go up and down, and such.

A distinguished social scientist, Greg J. Duncan, at Northwestern University and Wei-Jun Jean Yeung of the University of Michigan have calculated the incidence of welfare dependency in our population for the cohort, by which we mean people born, between 1973 and 1975. These people will be just going into their twenties and out of age of eligibility.

Mr. President, of the American children born from 1973 to 1975, now just turning 20, 24 percent had received AFDC benefits at some point before turning 18. That includes 19 percent of the white population and 66 percent of the black population. Do not ever forget the racial component in what we are dealing with.

If you include AFDC, supplemental security income, and food stamps, you find that 39 percent of your children, 81 percent of African-Americans and 33 percent of whites—received benefits at some point in their youth.

Problems of this magnitude deserve careful analysis and careful response. That is why persons whose voices have been most persuasive in this debate, those asking, "What are you doing?" have been conservative social analysts, social scientists. James Q. Wilson at the University of California, Los Angeles, for example; Lawrence Mead on leave at Princeton. His chair is at New York University. And George Will, a thoughtful conservative, who had a column when we began this discussion last September called "Women and Children First?" He said:

> As the welfare reform debate begins to boil, the place to begin is with an elemental fact: No child in America asked to be here.

No child in America asked to be here.

> Each was summoned into existence by the acts of adults. And no child is going to be spiritually improved by being collateral damage in a bombardment of severities targeted at adults who may or may not deserve more severe treatment from the welfare system.

We are talking about these children.

I ask unanimous consent that this column be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 14, 1995]

WOMEN AND CHILDREN FIRST?

(By George F. Will)

As the welfare reform debate begins to boil, the place to begin is with an elemental fact: No child in America asked to be here.

Each was summoned into existence by the acts of adults. And no child is going to be spiritually improved by being collateral damage in a bombardment of severities targeted at adults who may or may not deserve more severe treatment from the welfare system.

Phil Gramm says welfare recipients are people "in the wagon" who ought to get out and "help the rest of us pull." Well. Of the 14 million people receiving Aid to Families with Dependent Children, 9 million are children. Even if we get all these free riders into wee harnesses, the wagon will not move much faster.

Furthermore, there is hardly an individual or industry in America that is not in some sense "in the wagon," receiving some federal subvention. If everyone gets out, the wagon may rocket along. But no one is proposing that. Instead, welfare reform may give a whole new meaning to the phrase "women and children first."

Marx said that history's great events appear twice, first as tragedy, then as farce. Pat Moynihan worries that a tragedy visited upon a vulnerable population three decades ago may now recur, not as farce but again as tragedy.

Moynihan was there on Oct. 31, 1963, when President Kennedy, in his last signing ceremony, signed legislation to further the "deinstitutionalization" of the mentally ill. Advances in psychotropic drugs, combined with "community-based programs," supposedly would make possible substantial reductions of the populations of mental institutions.

But the drugs were not as effective as had been hoped, and community-based programs never materialized in sufficient numbers and sophistication. What materialized instead were mentally ill homeless people. Moynihan warns that welfare reform could produce a similar unanticipated increase in children sleeping on, and freezing to death on, grates.

Actually, cities will have to build more grates. Here are the percentages of children on AFDC at some point during 1993 in five cities: Detroit (67), Philadelphia (57), Chicago (46), New York (39), Los Angeles (38). "There are," says Moynihan, "not enough social workers, not enough nuns, not enough Salvation Army workers" to care for children who would be purged from the welfare rolls were Congress to decree (as candidate Bill Clinton proposed) a two-year limit for welfare eligibility.

Don't worry, say the designers of a brave new world, welfare recipients will soon be working. However, 60 percent of welfare families—usually families without fathers—have children under 6 years old. Who will care for those children in the year 2000 if Congress decrees that 50 percent of welfare recipients must by then be in work programs? And whence springs this conservative Congress's faith in work programs?

Much of the welfare population has no family memory of regular work, and little of the social capital of habits and disciplines that come with work. Life in, say, Chicago's Robert Taylor housing project produces what sociologist Emil Durkheim called "a dust of individuals," not an employable population. A 1994 Columbia University study concluded that most welfare mothers are negligibly educated and emotionally disturbed, and 40 percent are serious drug abusers. Small wonder a Congressional budget Office study estimated an annual cost of $3,000 just for monitoring each worldfare enrollee—in addition to the bill for training to give such people elemental skills.

Moynihan says that a two-year limit for welfare eligibility, and work requirements, might have worked 30 years ago, when the nation's illegitimacy rate was 5 percent, but today it is 33 percent. Don't worry, say reformers, we'll take care of that by tinkering with the incentives: there will be no payments for additional children born while the mother is on welfare.

But Nicholas Eberstadt of Harvard and the American enterprise Institute says: Suppose today's welfare policy incentives to illegitimacy were transported back in time to Salem, Mass., in 1660. How many additional illegitimate births would have occurred in Puritan Salem? Few, because the people of Salem in 1660 believed in hell and believed that what today are called "disorganized lifestyles" led to hell. Congress cannot legislate useful attitudes.

Moynihan, who spent August writing his annual book at his farm in Delaware County, N.Y., notes that in 1963 that county's illegitimacy rate was 3.8 percent and today is 32 percent—almost exactly the national average. And no one knows why the county (which is rural and 98.8 percent white) or the nation has so changed.

Hence no one really knows what to do about it. Conservatives say, well, nothing could be worse than the current system. They are underestimating their ingenuity.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, in our family, we have had the great privilege and joy since the years of the Kennedy administration to have a home, an old farmhouse on a dairy farm in up-State New York, Delaware County, where the Delaware River rises. Mormonism had some of its origins on the banks of the Susquehanna in our county.

The population of Delaware County is largely Scots, the one main group that you can identify. This was sheep raising country in the 19th century. Presbyterian churches are everywhere. It is not so very prosperous, but more so now than when we moved there. In 1963, 3.5 percent of live births in Delaware County were out of wedlock; in 1973, 5.1; 1983, 16.6; 1993, 32.6. We are, in fact, above the national average in this rural traditional society.

We talk so much about how the welfare system has failed. Mr. President, the welfare system reflects a much larger failure in American society, not pervasive, but widespread, which we had evidence of, paid too little attention to, but still do not truly understand. It will be the defining issue of this coming generation in American social policy and politics.

There is nothing more dangerous to writer Daniel Boorstin, that most eminent historian, former Librarian of Congress, who said that it is not ignorance that is the great danger in society, it is "the illusion of knowledge." The illusion exists where none exists. I have spent much of my lifetime on this subject and have only grown more perplexed.

In the Department of Labor under Presidents Kennedy and Johnson, we began the policy planning staff and picked up the earthquake that shuttered through the American family. We picked up the first trembles. If you told me the damage would be as extensive as it is today, 30 years ago if I was told what would be the case, I would have said no, no, it would never get that way. It has.

Now, we did make an effort. We did, indeed, do something very considerable, and in 1988, by a vote of 96 to 1, we passed out of this Chamber the Family Support Act, which President Reagan signed in a wonderful ceremony. Governor Clinton was there, Governor Castle for the Governors' Association, in a Rose Garden ceremony, October 13. He said:

> I am pleased to sign into law today a major reform of our Nation's welfare system, the Family Support Act. This bill represents the culmination of more than 2 years of effort and responds to the call in my 1986 State of the Union message for real welfare reform—reform that will lead to lasting emancipation from welfare dependency.

The act says of parents:

> We expect of you what we expect of ourselves and our own loved ones: that you will do your share in taking responsibility for your life and the lives of the children you bring into the world.
>
> First, the legislation improves our system of securing support from absent parents. Secondly, it creates a new emphasis on the importance of work for individuals in the welfare system.

All we are saying all this year has been what President Reagan said. We put that legislation into place.

I offered on the floor a bill to bring it up to date, the Family Support Act of 1995. It got 41 votes, all, I am afraid, on this side, because both the present and previous administration, to be candid, have somehow not been willing to assert what has been going on under the existing statute.

I stood on the floor when we were debating the welfare bill and Senator after Senator on our side talked about the extraordinary things going on in his or her State by way of welfare changes, and none acknowledging that they are going on under the existing law.

On Wednesday, Senator James T. Fleming, a Republican, the majority leader of the Connecticut Senate, had an op-ed article, as we say, in the New York Times, called "Welfare in the Real World." He talked about Connecticut's new welfare legislation, which is tough. "It imposes the Nation's shortest time limit on benefits, 21 months, and reduces payments under the Aid to Families with Dependent Children program by an average of 7 percent."

Then he goes on to complain that to do this, the State had to get a waiver from Washington, which it did, particularly objecting to the fact that the administration has also refused to permit a two-tier payment system which discourages welfare migration by paying newcomers a lower cash benefit. He says the administration desperately clings to the discredited theory that Washington knows best.

Mr. President, I have spoken to our extraordinarily able, concerned, Secretary of Health and Human Services about this proposition. Why did you refuse the two-tier system? And she said, because it was unconstitutional, that is why. We have a Constitution which provides that an American citizen has equal rights with any other citizen of any State he or she happens to live in. That is what it means to be an American citizen—and that Connecticut cannot say you came from New York and therefore you get half of what somebody who was born here gets. We do not do that. That is all they did.

In point of fact, under the Clinton administration, 50 welfare demonstration projects have been approved in 35 States; 22 States have time-limited assistance in their demonstrations. This kind of experimentation is going on around the country. Governors have finally come to terms with the reality here. A new generation of public welfare officials is learning that they are no longer dealing with the old system. Frances Perkins, who I had the privilege to know years ago, was Secretary of Labor when the Social Security Act was passed, which created the Aid to Families with Dependent Children program. It was simply a bridge program until old age assistance matured, as there was old age assistance. She described a typical recipient as a West Virginia coal mine widow. The widow was not going to go into the coal mines and was not going to get into the work force.

A wholly new population has come on to the rolls. We know it is extraordinary. We have had intense efforts. Douglas Besharov describes them in an article in the current issue of Public Interest, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Public Interest, Winter, 1995]

PATERNALISM AND WELFARE REFORM

(By Douglas J. Besharov and Karen N. Gardiner)

After years of collective denial, most politicians (and welfare policy makers) have finally acknowledged the link between unwed parenthood and long-term welfare dependency, as well as a host of other social problems. But it is one thing to recognize the nature of the problem and quite another to develop a realistic response to it. For, truth be told, there has been a fair amount of wishful thinking about what it takes to help these most disadvantaged parents become self-sufficient.

Young, unwed parents are extremely difficult to help. Besides living in deeply impoverished neighborhoods with few social (or familial) supports, many suffer severe educational deficits and are beset by multiple personal problems, from high levels of clinical depression to alcohol and drug abuse. As a result, even richly funded programs have had little success with these mothers; and they rarely, if ever, try to reach the fathers.

The best remedy, of course, would be to prevent unwed parenthood in the first place. But, even if the number of out-of-wedlock births were somehow reduced by half, there would still be over 600,000 such births each year. Thus social programs must do a much better job of improving the life prospects of unwed mothers and their children (without, of course, creating more incentives for them to become unwed mothers). This will require de-emphasizing the voluntary approaches of the past that have proven unsuccessful, and, in their place, pursuing promising new policies that are more paternalistic.

UNWED MOTHERS ON WELFARE

In the last four decades, the proportion of American children born out of wedlock has increased more than sevenfold, from 4 percent in 1950 to 31 percent in 1993. In that year, 1.2 million children were born outside of marriage. These children, and their mothers, comprise the bulk of long-term welfare dependents.

Images of Murphy Brown notwithstanding, the vast majority of out-of-wedlock births are to lower-income women: nearly half are to women with annual family incomes below $10,000; more than 70 percent are to women in families earning less than $20,000. In Addition, most unmarried mothers are young (66 percent of all out-of-wedlock births were to 15- to 24-year-olds in 1988), poorly educated (only 57 percent have a high-school diploma), and unlikely to have work experience (only 28 percent worked full time and an additional 8 percent part time in 1990).

Consequently, most unwed mothers go on welfare. In Illinois, for example, over 70 percent of all unwed mothers go on welfare within five years of giving birth to a child. Nation-wide, an unmarried woman who has a baby in her early twenties is more than twice as likely to go on welfare within five years than is a married teen mother (63 percent versus 26 percent). And, once on welfare, unwed mothers tend to stay there. According to Harvard's David Ellwood, who served as one of President Clinton's chief welfare advisors, the average never-married mother spends almost a decade on welfare, twice as long as divorced mothers, the other major group on welfare.

Unwed parenthood among teenagers is a particularly serious problem. Between 1960 and 1993, the proportion of out-of-wedlock births among teenagers rose from 15 percent to 71 percent, with the absolute number of out-of-wedlock births rising from 89,000 to 369,000.

Teen mothers are now responsible for about 30 percent of all out-of-wedlock births, but even this understates the impact of unwed teen parenthood on the nation's illegitimacy problem. Sixty percent of all out-of-wedlock births involve mothers who had their first babies as teenagers.

Because so many unwed teen mothers have dropped out of school and have poor earnings prospects in general, they are even more likely to become long-term welfare recipients. Families begun by teenagers (married or unmarried) account for the majority of welfare expenditures in this country. According to Kristin Moore, executive director of Child Trends, Inc., 59 percent of women currently receiving Aid to Families with Dependent Children (AFDC) were 19 years old or younger when they had their first child.

These realities have changed the face of welfare. In 1940, shortly after AFDC was established as part of the Social Security Act of 1935, about one-third of the children entering the program were eligible because of a deceased parent, about one-third because of an incapacitated parent, and about one-third because of another reason for absence (including divorce, separation, or no marriage tie). By 1961, the children of widows accounted for only 7 percent of the caseload, while those of divorced or separated and never-married mothers had climbed to 39 percent and 20 percent, respectively. In 1993, the children of never-married mothers made up the largest proportion of the caseload, 55 percent, compared to children of widows (1 percent) and divorced or separated parents (29 percent).

The face of welfare dependency has changed for many and infinitely complex reasons. But there should be no denying that the inability of most unwed mothers to earn as much as their welfare package is a major reason why they go on welfare—and stay there for so long. (A common route off welfare is marriage, but that is a subject for another article.) Hence, since the 1960s, most attempts to reduce welfare dependency have focused on raising the earnings capacity of young mothers through a combination of educational and job-training efforts. Given the faith Americans have in education as the great social equalizer, this emphasis has been entirely understandable. However, the evaluations of three major demonstration projects serve as an unambiguous warning that a new approach is needed.

THREE DEMONSTRATIONS

Beginning in the late 1980s, three large-scale demonstration projects designed to reduce welfare dependency were launched. Although the projects had somewhat different approaches, they all sought to foster self-sufficiency through a roughly similar combination of education, training, various health-related services, counseling, and, in two of the three, family planning.

New Chance tried to avert long-term welfare recipiency by enhancing the "human capital" of young, welfare-dependent mothers. Designed and evaluated by Manpower Demonstration Research Corporation (MDRC), the program targeted those at especially high risk of long-term dependency: young welfare recipients (ages 16 to 22) who had their first child as a teenager and were also high-school dropouts. Its two-stage program attempted to remedy the mothers' severe educational deficits—primarily through the provision of a Graduate Equivalency Degree (GED) and building specific job-related skills.

The Teen Parent Demonstration attempted to use education and training services to increase the earnings potential of teen mothers before patterns of dependency took root. Evaluated by Mathematical Policy Research, the program required all first-time teen mothers in Camden and Newark, New Jersey, and the south side of Chicago, Illinois, to enroll when they first applied for welfare. The program enforced its mandate by punishing a mother's truancy through a reduction in her welfare grant.

The Comprehensive Child Development Program (CCDP), which is still operating, seeks to break patterns of intergenerational poverty by providing an enriched developmental experience for children and educational services to their parents. A planned five-year intervention is designed to enhance the intellectual, social, and physical development of children from age one until they enter school. Although not a requirement for participation, the majority of families are headed by single parents. The program, evaluated by Abt Associates, also provides classes on parenting, reading, and basic skills (including GED preparation), as well as other activities to promote self-sufficiency.

These three projects represent a major effort to break the cycle of poverty and to reduce welfare dependency. New Chance involved 1,500 families at 16 sites and cost about $5,100 per participant for the first stage, $1,300 for the second, and $2,500 for child care (for an 18-month total of about $9,000 per participant). The Teen Parent Demonstration, involving 2,700 families at three sites, was the least expensive at $1,400 per participant per year. The most expensive is the CCDP, which serves 2,200 families at 24 sites for $10,000 per family per year. Since it is intended to follow families for five years, the total cost is planned to be about $50,000 per family. These costs are in addition to the standard welfare package, which averages about $8,300 per year for AFDC, food stamps, and so forth.

All three projects served populations predominantly comprised of teen mothers and those who had been teens when they first gave birth. The average age at first birth was 17 for New Chance and Teen Parent Demonstration clients, while half of the CCDP clients were in their teens when they first gave birth. As the project evaluators soon found, this is an extremely disadvantaged—and difficult to reach—population. Over 60 percent of Teen Parent Demonstration and New Chance clients grew up in families that had received AFDC at some point in the past. If anything, early parenthood worsened their financial situations. All Teen Parent Demonstration clients, of course, were on welfare, as were 95 percent of those in New Chance. The average annual income for CCDP families was $5,000.

The mothers also suffered from substantial educational deficiencies. Although most were in their late teens or early twenties, few had high-school diplomas or GEDs. Many of those still in school (in the Teen Parent Demonstration) were behind by a grade. In New Chance and the Teen Parent Demonstration, the average mother was reading at the eighth-grade level. Their connections to the labor market were tenuous at best. Almost two-thirds of the New Chance participants had not worked in the year prior to enrollment, and 60 percent had never held a job for more than six months. Only half of Teen Parent Demonstration mothers had ever had a job. These young mothers also had a variety of emotional or personal problems. About half of New Chance clients and about 40 percent of those in CCDP were diagnosed as suffering clinical depression. The mothers also reported problems with drinking and drug abuse. Many were physically abused by boyfriends.

DISAPPOINTING RESULTS

Besides the intensity of the intervention, what set these three demonstrations apart from past efforts is that they were rigorously evaluated using random assignment to treatment and control groups. Random-assignment evaluations are especially important in this area because, at first glance, projects like these often look successful. For example, one demonstration site announced that it was successful because half of its clients had left welfare, and their earnings and rate of employment had both doubled. These results sound impressive, but the relevant policy question is: What would have happened in the absence of the project? This is called the "counterfactual," and it is the essence of judging the worth of a particular intervention.

Unfortunately, despite the effort expended, none of these demonstrations came anywhere near achieving its goals. After the intervention, the families in the control groups (which received no special services, but often did receive services outside of the demonstrations) were doing about as well, and sometimes better, than those in the demonstrations. In other words, the evaluations were unable to document any substantial differences in the lives of the families served. Here is a sample of their disappointing findings:

WELFARE RECIPIENCY

All three evaluations were unanimous: Participants were as likely to remain on welfare as those in the control groups. Robert Granger, senior vice president of MDRC, summed up the interim evaluation of New Chance: "This program at this particular point has not made people better off economically." At the end of 18 months, 82 percent of New Chance clients were on welfare compared to 81 percent of the control group. The Teen Parent Demonstration mothers did not fare any better. After two years, 71 percent were receiving AFDC, only slightly fewer than the control group (72.5 percent). CCDP participants were actually 5 percent more likely to have received welfare in the past year than were those in the control group (66 percent versus 63 percent).

EARNINGS AND WORK

Only the Teen Parent Demonstration program saw any gains in employment. Its mothers were 12 percent more likely to be employed sometime during the two years after the program began (48 percent of the treatment group versus 43 percent of the control group) and, as a result, averaged $23 per month more in income. In most cases, however, employment did not permanently end their welfare dependency. Nearly one in three of those who left AFDC for work returned within six months, 44 percent within a year, and 65 percent within three years.

The other programs did not show even this small gain. Fewer New Chance clients were employed during the evaluation period than controls (43 percent versus 45 percent), in part because they were in classes during some of the period. Those who did work tended to work for a short time, usually less than three months. Given the lower level of work, New Chance clients had earned 25 percent less than the control group at the time of the evaluation ($1,366 versus $1,708 a year). Only 29 percent of the CCDP mothers were working at the time of the two-year evaluation, the same proportion as the control group; there was no difference in the number of hours worked per week, the wages earned per week, or the number of months spent working.

EDUCATION AND TRAINING

All three demonstrations were relatively successful in enrolling mothers in education programs. Teen Parent Demonstration mothers were over 40 percent more likely to be in school (41 percent versus 29 percent), and about one-third of the CCDP clients were working towards a degree, 78 percent more than the control group.

About three-quarters more New Chance participants received their GED than their control-group counterparts (37 percent versus 21 percent). But the mothers' receiving a GED did not seem to raise their employability—or functional literacy. The average reading level of the New Chance Mothers remained unchanged (eighth grade) and was identical to that of the control group. This finding echoes those from evaluations of other programs with similar goals, including the Department of Education's Even Start program. Jean Layzer, senior associate at Abt Associates, concluded that, rather than honing reading, writing, and math skills, GED classes tended to focus on test-taking: "What people did was memorize what they needed to know for the GED. They think that their goal is the GED because they think it will get them a job. But it won't—it won't give them the skills to read an ad in the newspaper."

In this light, it is especially troubling that, while increasing the number of GED recipients, New Chance seems to have reduced the number of young mothers who actually finished high school (6 percent versus 9 percent). According to one evaluator, the projects may have legitimated a young mother's opting for a GED rather than returning to high school.

SUBSEQUENT BIRTHS

Although the young mothers in New Chance and the Teen Parent Demonstration said they wanted to delay or forego future childbearing, the majority experienced a repeat pregnancy within the evaluation period, and most opted to give birth. Mothers in one project spent only 1.5 hours on family planning, while they spent 54 hours in another, with no discernible difference in impact.

All New Chance sites offered family-planning classes and life skills courses that sought to empower women to take control of their fertility. Many also dispensed contraceptives. In the Teen Parent Demonstration, the family planning workshop was mandatory. Despite these efforts, over 7 percent more New Chance mothers experienced a pregnancy (57 percent versus 53 percent). One-fourth of both Teen Parent Demonstration clients and the control group experienced a pregnancy within one year; half of each group did so by the two-year follow-up. Two-thirds of all pregnancies resulted in births. Although it was hoped that the CCDP intervention would reduced subsequent births, this was not an explicit goal of the demonstration; nor was family planning a core service provided by the sites. But, again, there was no real difference between experimental and control groups: 30 percent of mothers in both had had another birth by the two-year follow-up.

MATERNAL DEPRESSION

Two of the projects, New Chance and CCDP, attempted to lessen the high rates of clinical depression among the mothers. All New Chance sites provided mental-health services, most often through referrals to other agencies (although the quality of such services differed by site). Yet program participants were as likely as those in the control group to be clinically depressed (44 percent). CCDP clients likewise received mental-health services as needed. But, again, there was no discernible impact. Two years into the program, 42 percent of the mothers in both the program and control groups were determined to be at risk of clinical depression. Measures of self-esteem and the use of social supports also showed no differences.

CHILD DEVELOPMENT AND CHILD REARING

The CCDP sought to prevent later educational failure by providing five years of developmental, psychological, medical, and social services to a group of children who entered the program as infants. Developmental screening and assessments were compulsory for all the children; those at risk of being developmentally delayed were referred to intervention programs.

A major CCDP goal was to improve the ability of the parents to nurture and educate their children. But, at the end of the first two years, the evaluation found only scattered short-term effects on measures of good parenting, such as time spent with the child, the parent's teaching skills, expectations for the child's success, attitudes about child rearing, and nurturing parent-child interactions. More disheartening, especially given the success of other early intervention programs, CCDP had small or no effect on the development of the children in the program. Participating children scored slightly higher on a test of cognitive development but about the same in terms of social withdrawal, depression, aggression, or destructiveness. They were only slightly more likely to have their immunizations up to date (88 percent versus 83 percent). CCDP's lack of success may be explained by its approach to child development (delivering about one hour per week of early childhood education through in-home visits by case managers or, sometimes, early-childhood-development specialists), which did not focus large amounts of resources squarely on children.

All in all, it's a sad story. But what is most discouraging about these results is that the projects, particularly New Chance and CCDP, enjoyed high levels of funding, yet still seemed unable to improve the lives of disadvantaged families. There are several explanations for their poor performance: Many of the project sites had no prior experience providing such a complex set of services; some were poorly managed; and almost all were plagued with the problems that typically characterize demonstration projects, such as slow start-ups, inexperienced personnel, and high staff turnover. In addition, the projects often chose the wrong objectives and tactics. For example, most focused on helping the mothers obtain GEDs, even in the face of accumulating evidence that the GED does not increase employability. As for the two programs that attempted to reduce subsequent births, program staff tried to walk a fine line between promoting the postponement of births and not devaluing the women's role as mothers. Their sessions on family planning seemed to have emphasized that the mothers should decide whether or not to have additional children—rather than that they should avoid having another child until they are self-sufficient.

But even such major weaknesses do not explain the dearth of positive impacts across so many goals—and so many sites. One would expect some signs of improvement in the treatment group if the projects had at least been on the right track. Hence, one is impelled to another explanation: The underlying strategy may be wrong. Voluntary education and job-training programs may simply be unable to help enough unwed mothers escape long-term dependency.

FROM CARROT TO STICK

Young mothers volunteered for both New Chance and the CCDP; no one required that they participate. That level of motivation should have given both projects an advantage in helping them break patterns of dependency. As social workers joke, you only need one social worker to change a light bulb, but it helps to have a bulb that really wants to be changed.

In both New Chance and the CCDP, however, initial motivation was not enough to overcome decades of personal, family, and neighborhood dysfunction. In relatively short order, there was serious attrition. New Chance, for example, was designed as a five-days-a-week, six-hours-a-day program. Yet, over the first 18 months, the young mothers averaged only 298 hours of participation, a mere 13 percent of the time available to them. CCDP experienced similar attrition. Although clients were asked to make a five-year commitment to the program, 35 percent quit after the end of the second year and 45 percent after the end of the fourth.

These dropout rates make all the more significant the Teen Parent Demonstration's success at enrolling non-volunteers. Participation was mandatory for all first-time mothers and was enforced through the threat of a reduction in welfare benefits equal to the mother's portion of the grant, about $160 per month. When teen mothers first applied for welfare, they received a notice telling them that they had to register for the program and that nonparticipation would result in a financial sanction. Registration involved a meeting with program staff and a basic-skills test. Over 30 percent came to the program after receiving this initial notice. Another 52 percent came in after receiving a letter warning of a possible reduction of their welfare grant.

The 18 percent who failed to respond to the second notice saw their welfare checks cut. Of these, about one-third (6 percent of the total sample) eventually participated. As one mother recounted, "The first time they sent me a letter, I looked at it and threw it away. The second time, I looked at it and threw it away again. And then they cut my check, and I said 'Uh, oh, I'd better go.'" Thus sanctions brought in an entire cohort of teen mothers—from the most motivated to the least motivated and most troubled. For example, no exceptions were made for alcoholic and drug-addicted mothers.

Moreover, the Teen Parent Demonstration was able to keep this population of non-volunteers participating at levels similar to the volunteers in New Chance and the CCDP. After registration, the mothers were required to attend workshops, high-school classes, and other education and training programs. In any given month, participation averaged about 50 percent, reaching a high of about 65 percent during the period when the projects were fully operational. Sanctioning was not uncommon: Almost two-thirds of the participants received formal warnings, and 36 percent had their grants reduced for at least one month.

MORE TOUGH LOVE

Voluntary educational and training programs can play an important role in helping those welfare mothers (often older and divorced) who want to improve their situations. But, by themselves, they seem unable to motivate the majority of young, unwed mothers to overcome their distressingly dysfunctional situations. Mandatory approaches are attractive to the public and to policy makers because they seem to do just that. In the "learnfare" component of Ohio's Learning, Earning, and Parenting Program (LEAP), AFDC recipients who were under the age of 20 and did not have a high-school diploma or GED were required to attend school. Those who failed to attend school or did not attend an initial assessment interview had their welfare grant reduced by $62 per month. This penalty continued until the mother complied with the program's rules. Conversely, those who attended school regularly got a $62 per month bonus. Thus the monthly benefit for a teen with one child was almost 60 percent higher for those who complied with the program ($336 versus $212). The program also provided limited counseling and child care. Based on a random assignment methodology, MDRC's evaluation found that, one year after LEAP began, almost 20 percent more LEAP participants than controls remained in school continuously or graduated (61 percent versus 51 percent). Over 40 percent more returned to school after dropping out (47 percent versus 33 percent).

Despite early concerns, such behavior-related rules have not been burdensome to administer. Most have been implemented without creating new bureaucracies or new problems. According to MDRCC's Robert Granger, these "large-scale programs have not been expensive." The cost of the LEAP program in Cleveland, for example, was about $540 per client per year, of which about $350 was for case management and $190 for child care.

Nor do such rules seem unduly harsh on clients. The sanctioning in the Teen Parent Demonstration caused little discernible dislocation among the young mothers. In fact, very few of them were continuously sanctioned (and, besides, the sanction was applied against only the mothers' portion of the grant). Rebecca Maynard, the director of the Mathematica evaluation, found that the "clear message from both the young mothers and the case managers is that the financial penalties are fair and effective in changing the culture of welfare from both sides." Clients viewed the demonstration program as supportive, although also serious and demanding. Case managers believe it motivated both clients and service providers. Similarly, the LEAP sanctions caused "no hardship whatsoever to the vase majority of participants and their children," according to David Long of MDRC, a co-author of the evaluation report. Mothers who had been sanctioned reported that they were able to "get by" either by trimming their budgets or by receiving assistance from others.

The early success of such experiments linking reductions (and increases) in welfare to particular behaviors led (as of May 1995) more than two-thirds of the state to adopt, and another nine to propose, one or more behavior-related welfare rules. (State reforms are authorized by a federal law that allows the Secretary of Health and Human Services to "waive" certain federal rules.) Between 1992 and 1995, 21 states adopted learnfare-type programs, which tie welfare payments to school attendance for AFDC children or teen parents (with federal waivers pending in three more); eight states adopted "family caps" that deny additional benefits to women who have more children while on welfare (with waivers pending in six more); 15 states adopted time limits for receiving benefits (with waivers pending in nine more); and 10 states adopted immunization requirements (with waivers pending in three more). In the coming years, expect more states to adopt such rules—and expect more behaviors to become the subject of such rules.

This attempt to regulate the behavior of welfare recipients is a sharp break from the hands-off policy of the past 30 years—and an implicit rejection of past voluntary education and training efforts. It was not so long ago that people such as Princeton's Lawrence Mead were widely derided for suggesting that welfare is not simply a right but an obligation that should be contingent upon certain constructive behaviors. But, because of both political and practical experience, they are now in the mainstream of current developments.

THE LIMITS OF REFORM

No one, however, should expect such paternalistic welfare policies to eradicate dependency. Our political system is unlikely to adopt rules and sanctions tough enough to motivate the hardest-to-reach mothers—nor should it. No politician really wants tough welfare rules that result in large numbers of homeless families living on the streets. Although those who remain on welfare should feel the pinch of benefit reductions, they nevertheless need to be protected from hunger, homelessness, and other harmful deprivations. Thus there is a political limit to the amount of behavioral change that financial sanctions might potentially achieve.

Hence, in the coming years, states will have to grapple with issues such as: How many behaviors can be subject to regulation? How much can the sanctions be stiffened before becoming punitive (and counterproductive)? How should agencies handle clients who, because of emotional problems or substance abuse, seem unable to respond to financial incentives?

Even the experts can only guess about the impact of future rules. The jury is still out, for example, about the impact of New Jersey's family cap; and time-limited programs have yet to be tested in the "real world." Just as important, no sanctioning scheme can compensate for the inadequacy of existing programs for low-skilled and poorly motivated mothers. Programs need to hold out a palpable promise of higher earnings, otherwise participants will drop out—even in the face of financial sanctions. New Chance, the Teen Parent Demonstration, and CCDP all had high dropout rates, suggesting that they failed the consumer test. Describing the services available to the Teen Parent Demonstration, Maynard says: "We did not have much to offer. We had lousy public schools, boring and irrelevant GED programs, and very caring case managers."

Current approaches need to be fundamentally rethought. For example, many welfare experts now believe that education in basic skills is less effective than simply pushing recipients toward work. A recently released evaluation of welfare-reform programs in three sites (Atlanta, Georgia, Grand Rapids, Michigan, and Riverside, California) by MDRC found that intensive education and training activities were only about one-third as effective in moving recipients off welfare as what it called "rapid job entry" strategies (6 percent versus 16 percent).

"The mothers were taught how to look for work and how to sell themselves to employers," according to Judith Gueron of MDRC. "The focus was on how to prepare a resume, pursue job leads, handle interviews, and hold a job once you got one." The programs also maintained telephone banks from which recipients could call prospective employers. And, she stresses, "The program was very mandatory, backed up with heavy grants reductions for mothers who did not comply with job search requirements." Institutionalizing such programs and developing others in all parts of the country will require creativity, clarity of purpose, and patience, and much trial and error. Still, success will be elusive.

Even if behavior-related rules do not sharply reduce welfare rolls, they could still serve an important and constructive purpose. The social problems associated with long-term welfare dependence cannot be addressed without first putting the brakes on the downward spirals of dysfunctional behavior common among so many recipients. Thus it would be achievement enough if such rules could stabilize home situations. Given the failure of voluntary approaches, the accomplishment of that alone would at least provide a base for other, more targeted approaches.

Aristotle is credited with the aphorism: "Virtue is habit." To him, the moral virtues (including wisdom, justice, temperance, and courage), what people now tend to call "character," were not inbred. Aristotle believed that they develop in much the same way people learn to play a musical instrument, through endless practice. In other words, character is built by the constant repetition of divers good acts. These new behavior-related welfare rules are an attempt, long overdue in the minds of many, to build habits of responsible behavior among long-term recipients; that is, to legislate virtue.

Mr. MOYNIHAN. I am coming to a close. The three demonstration projects of intense efforts for young, unmarried mothers, training them, stimulating them, encouraging them, reassuring them—it is so hard. If we knew how hard it was, we would know what we are putting at risk here. We are abandoning the national commitment to solve a national problem. We are doing it with very little understanding, very little understanding.

I have here, Mr. President, and I will close with these remarks—we are getting used to everyone who comes to the Senate floor having a poster—I have an artifact. Give this a little thought, just a little thought. What I am holding is a pen with which John F. Kennedy, in his last public bill signing ceremony at the White House, October 31, 1963, signed the Mental Retardation Facilities and Community Health Centers Construction Act of 1963. I was there. I had worked on the legislation. He gave me a pen.

In that act we undertook what was known as the deinstitutionalization of our great mental institutions. We developed tranquilizers, first in New

York State, at Rockland State Hospital. We again used them systemwide. We thought we had a medication for schizophrenia. We thought it could be treated in the community, perhaps more effectively in the community than in a large mental institution. So we were going to build 2,000 community mental health centers by the year 1980. And then, thereafter 1 per 100,000.

President Kennedy was very deeply interested in this. I have always thought, if some person with wonderful fast-forward vision was in the Oval Office at that moment and said, "Mr. President, before you sign that bill could I tell you we are going to empty out our mental institutions. In 30 years time they will have about 7 percent of the population in this time. We are only going to build about 600 of these community mental health centers. Then we are going to forget we started that and go on to other things and leave it be." I think the President would have put that pen down. I think he would have put that pen down and said, "What, do you want people sleeping on grates on Constitution Avenue? Sleeping in doorways? In cities around the country, schizophrenic persons with no medication, no location, simply cast onto the streets?" He would have said, "They will be called homeless or something?"

I think he would not have signed the bill. I wish he had not. And that is why I am so pleased to say that President Clinton will veto this bill. And then we can get back together, work together for the next stage in what has to be a national effort for an extraordinarily severe national problem.

Mr. President, I see my friend from North Carolina is on the floor but I yield the floor. I thank the Chair for his courtesy.

Mr. ROTH. Mr. President, I yield 10 minutes to my distinguished colleague from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I have, many times over the course of this session's welfare reform debate stated that it is my strong belief that unless we address the root cause of welfare dependency—illegitimacy—we will not truly reform our welfare system. And my belief in this principle has become stronger and strengthened by the twists and turns of almost a year of debate.

It is with mixed feelings that I rise to discuss this conference report on welfare reform. I am pleased that many of the weak points of our first Senate bills have been strengthened. This conference report contains important provisions to require real work from welfare recipients, a concept known as "pay-for-performance." This means that welfare recipients will only receive benefits as compensation for work done. While this commonsense principle is the undisputed standard in the private sector, can you believe it is a revolutionary thing for the Government to expect work for pay? "Pay-for-performance" requirements are the key to replacing welfare with workfare.

I am also glad to see that the welfare conference report contains what has come to be called the family cap. Middle-class American families who want to have children have to plan for, prepare, and save money, because they understand the serious responsibility involved in bringing children into the world. It is grossly unfair to ask these same people to send their hard-earned tax dollars to support the reckless and irresponsible behavior of a woman who has a child out of wedlock and continues to have them, expecting support from the American taxpayer. In fact, their sole support would be the American taxpayer.

The family cap sends an important message that higher standards of personal responsibility will be expected of welfare recipients. If this conference report becomes law, welfare recipients will no longer receive automatic increases in their benefits when they have additional children.

I am very disappointed that the conference was unable to follow through on the courage and fortitude shown by our colleagues in the House of Representatives, who passed a welfare reform bill which would have prohibited the use of block grant funds for cash payments to unwed mothers under 18. In place of this crucial provision we merely have a statement that options exist for the States. We need much more.

This is little more than a statement of current policy. And current policy has resulted in an out-of-wedlock birth rate which has quadrupled over the last 30 years. Today, more than one in every three American children is born out of wedlock. And in some communities, the illegitimacy rate approaches 80 percent.

Children born out of wedlock are three times more likely to be on welfare when they become adults—three times more likely. Furthermore, children raised in single-parent homes are six times more likely to be poor, and twice as likely to commit crime and end up in jail.

In fact, a young girl who is born out of wedlock, when she reaches early maturity is 164 percent more likely to herself have a child out of wedlock.

To truly reform welfare we must reverse current welfare policies which subsidize, and thus promote, self-destructive behavior and illegitimacy—policies which are destroying the American family. This legislation fails to take this crucial step.

It is also unfortunate that this conference report fails to make major changes in the way welfare is administered at the Federal level. Even though this legislation will block grant the AFDC program, and several other smaller programs, it still leaves in place a structure of too many bureaucrats running too many programs through too many different agencies. This bureaucratic structure will continue to stop and stifle substantial reform.

Mr. President, in spite of these deficiencies, the welfare reform conference report before us does mark a turning point in the attitude which prevails here in Washington, and is reflective of the attitude that prevails around the country and that is that it is past time that we do something.

Finally, we have legislation that recognizes what many of us on this side have known for so long. All of our problems cannot be solved by more Government programs and more spending. Government spending is no substitute for personal responsibility.

This legislation is also significant as a step in the right direction after 30 years of failed welfare policies—30 years of them. But, Mr. President, it is only a very small step in comparison to the enormity of the problem our current welfare system has produced. And our current welfare system has produced, with $5 trillion of our dollars, the situation we find ourselves in today.

Mr. President, if this legislation does pass, it should not be taken as an excuse to rest, or to rest on any laurels from it. This legislation should serve as a start, to push ahead on the vast remainder of unfinished welfare reform business. The real work of welfare reform is still to be done, but this is a start.

Mr. President, I yield the floor.

Mr. FORD. Mr. President, on behalf of the floor manager for the minority, I yield 15 minutes to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you very much, Mr. President.

Mr. President, it is with sadness that I rise today to discuss the conference report on H.R. 4.

It is 4 days before Christmas, the season usually characterized by giving and good will. But here we are in this Congress in the middle of a partial Government shutdown considering legislation that will dismantle the Federal safety net for poor families and, in the process, push over 1 million additional children into grinding poverty.

Mr. President, it seems to me that too many of our colleagues have forgotten the lesson that Dr. Seuss tried to teach us in "The Grinch Who Stole Christmas." Not only are their hearts too small, but their vision is too narrow as well.

We are, Mr. President, a national community—as Americans—the conditions in which the poor live, especially the poor children, affect us all no matter our wealth or where we happen to live in this great country.

I have in my years in public life advocated making welfare work better. In fact, earlier this year I introduced a welfare bill that I believe addressed the critical problems entrenched in our current system; lack of incentives to move from welfare to work and lack of jobs in low-income communities to absorb those people who want to work.

Mr. President, that bill acknowledged that changes are needed, and it also incorporated lessons that the States have learned—particularly those States that have already instituted successful reform. Those States have shown us that you cannot reform welfare on the cheap.

This bill ignores that experience altogether. Welfare reform should center on eliminating the incentives for dependency on building strong, two-parent families and moving recipients into the economic mainstream.

The Senate bill, though better than the House effort, did not accomplish those objectives, and this conference report is even worse. Reform may be needed, but not shortsighted reform.

I support increased State flexibility, experimentation, and positive and constructive change. But this bill will lead to a complete abandonment of any national commitment to poor families. There is room for a shared Federal-State partnership, but this bill gives us no partnership at all but simply envisions the Federal Government as the check writer of last resort. There is no accountability for the money. There is no accountability for the rules nor for the money, and the bill encourages a race to the bottom among the States with the States doing the least, potentially hurting the poor the most. There is no recognition in this legislation that as a national community we must have a national safety net if poverty is not to become an accident of geography.

In addition to dismantling the Federal safety net, this bill is flawed in a number of other ways.

The plan makes a mockery of the goal to move welfare recipients into private sector jobs.

The Congressional Budget Office, which has gotten a lot of support around these quarters in recent times, in discussions on the budget, has reported time and time again that the funding levels in this bill are inadequate to meet the work requirements. In fact, the Congressional Budget Office assumes that most States will fail to meet those work requirements and, therefore, will incur substantial penalties under the terms of the legislation.

If only 10 to 15 States—which is the estimate of the number of States that might meet the work requirements—if only 10 meet those work requirements, what of the other 40? What will be the ramifications for them?

Several studies, including one by Northern Illinois University, have shown that, even if the States could meet the work requirements in this legislation, the private sector job market cannot, at the present time, absorb all of the new workers entering the system. Half of the adults receiving AFDC in Chicago right now have never graduated from high school. And one-third of them have never held a job.

This conference report will seal the doom of many of these people for whom it will be difficult, if not impossible, to employ without appropriate support services, education, job training, and assistance—that is nowhere provided for in this legislation.

The plan also cuts funding and block grants critical child welfare programs. Mr. President, this is the last place where we should be making cuts. Our child protection system is already overburdened and underfunded. I can think of no more vulnerable population than abused children, and there have been, frankly, far too many heartwrenching, alarming stories this year about children who have been abused by their parents who should have been protecting them. This conference report would increase the chances that these children would languish in unsafe environments of abuse, neglect, disease, and death. This Congress should not blithely go down the road that will visit that kind of harm on the most vulnerable population of Americans.

Finally, Mr. President, most frightening, the conference report will push 1.5 million children into poverty. This country already has a higher child poverty rate than any other industrialized nation. Why would this legislative body knowingly exacerbate that already shameful figure?

It is clear to me that this plan fails those who need a national safety net the most. Welfare should have, I think, two goals at least—protecting children and helping adult recipients to become self-sufficient.

During the floor deliberations, I noted repeatedly that the majority of people receiving assistance under welfare, as we know it, are children. Currently, these are the facts. These are hard facts. This is not somebody's idea or speculation.

Currently, there are 14 million individuals receiving cash assistance, and two-thirds of them, or 9 million of them, are children. While the welfare rolls overall have declined recently, the number of children receiving welfare assistance has remained constant. And that trend is likely to continue because, while 50 percent of the recipients who go on welfare leave it within a year, many of them have a tendency to cycle on and off the rolls due to low-paying, entry-level jobs that barely provide a livable wage for a family. So we are looking at, again, 9 million children being involved in this debate.

Mr. President, I am not arguing that anybody should get a free ride. I do not believe anybody in this body or in this legislature believes that adults should get a free ride. People who can work should work. The role of government is not to subsidize indefinitely those who are capable of working. But it is our role, and indeed our responsibility, to provide a national safety net for children. It is not their fault that they are poor. But it is our fault if this bill dooms them to stay that way.

This Congress, Mr. President, should not pave the way to so-called welfare reform at the expense of poor children. What amazes me about this whole debate is that many of my colleagues know this and yet continue to support this legislation. Some of my colleagues believe that poor children are expendable and that it is, therefore, OK to experiment with their lives. If they can scratch and survive, that is fine. If they do not, well, that is life, and it is just too bad. It is a cruel game of survival of the fittest. We actually heard testimony to that effect in the Senate Finance Committee, and it was stunning to me.

But, Mr. President, policy based on political rhetoric is wrong. This debate has focused on the stereotypes and it gets in the way of our understanding the facts. Senator MOYNIHAN was brilliant earlier in talking about the notion that the facts here are—facts that we really have not gotten yet to the point of fully being able to appreciate, much less to know how, if you push one button, you will get one kind of consequence.

So we are experimenting here based on stereotypes. We talked about the stereotype of the underdeserving, freeloading poor for so long that many of my colleagues, I think, are frankly determined not to let those misperceptions stand in the way of their policymaking.

Mr. President, the fact is that most of the people who will be affected by this legislation are children.

So my colleagues who support this legislation continue to talk about the parents so they will not have to face the consequences of the children.

It is very difficult, Mr. President, to survive and to compete, or to be self-sufficient if you are a child. So I want to go over again some additional facts that we must not let escape this debate.

Fact one, 22 percent of the children in this, the richest nation in the world, live in poverty. In fact, I have a chart here on child poverty rates. I just hope that this, again, does not get lost in this debate.

Child poverty rates among industrialized countries—here is the United States, 21.5. Here is Australia, Canada, Ireland, Israel, the U.K. can you imagine is here? Italy, Germany, France, the Netherlands, Austria, Norway, Luxembourg, Belgium, Switzerland, Denmark, Sweden, Finland—from 2.5 to 21.5 percent of the children in this country live in poverty.

Children living in poverty are more likely to have poor nutrition, to experience a greater incidence of illness, and to perform more poorly in school, to obtain low-paying jobs and then to live in poverty as adults themselves. And even more shocking, Mr. President, even more shocking, every day, every day in this country, 27 children die due to causes associated with their poverty.

I think these facts are or should be common knowledge for anyone who would presume to legislate in an area such as this. And yet, Mr. President, this body has so far rejected attempts to provide some subsistence to just the children. Assuming for a moment their parents are off the deep end and do not want to be self-sufficient or cannot find a job through no fault of their own, at least let us provide for some subsistence for the children. And this body has rejected those attempts. Quite frankly, if that is not mean-spirited, I do not know what is.

I am going to refer to this picture, which I am sure the Presiding Officer has seen. This is a picture that was taken at the turn of the century, and it was an article in the Chicago History magazine called "Friendless Foundlings and Homeless Half Orphans." It talked about the social service and social welfare system for children before we had the national safety net that this legislation seeks to dismantle. In that article on friendless foundlings and homeless half orphans, it talked about the phenomenon of what happened to children, the friendless foundlings, the children that the mothers would take and put on the church steps or put on the doorway of someone who had money because they knew they could not feed them, or the homeless half orphans, the children whose mothers, when the winter came and there was no way to support them, would take them to the orphanage and drop them off to be cared for during the wintertime.

It talked about the fact that the various States had various ways of dealing with this issue. And, in fact, in some States there were trains that would take the babies that they found lying in the gutters and lying in the alleys and the streets and ship them out West so they could be raised by farm families who could possibly provide them subsistence.

Are we to go back to this? That is what this conference report would have us do, Mr. President, and it is absolutely sobering and it is absolutely unconscionable, in my mind. Need I remind you of this experiment and would it not make sense for us to be reminded of what happened then when we did not have a national safety net? Do we want to go back to a time of friendless foundlings, homeless half orphans and orphan trains? And do we want to go back to the whole idea of State flexibility? We have been there. As they say in the community, "been there; done that; hated it." We did that in this country. We had 50 separate welfare systems in this United States and this is what it produced. This conference report will send us back to that.

Mr. President, every child in this country is precious, too precious to risk on a poorly designed, shortsighted experiment, and that is what this legislation is. It is an experiment. I say to my colleagues, if the system is broke, this bill does not fix it but, rather, breaks it up even more and then shatters the parts and ships them out to the States. I urge my colleagues to think long and hard before they support this conference report for that reason.

In closing, Mr. President, I would like to end with a quote in a December 14 editorial from the Journal Star, a Peoria newspaper, remember how we used to talk about "how is it playing in Peoria?" I think the Journal Star has it exactly right. After describing the gory details—and I told my colleague on the other side of the aisle I would not read this out loud but, rather, would just put it in the RECORD—and the numerous negative consequences of this conference report, the article concluded by saying, "We're not opposed to welfare reform. We're just opposed to welfare reform that makes no sense."

Mr. President, this bill makes no sense. This bill makes no sense. It will do more harm than good. And I am just delighted that the President has sent a letter saying that he will veto this bill and that he will do so quickly so that we can come together and, based on the facts as we know them, we can address welfare as we know it and begin to come up with responses to this problem that will make us proud as Americans for having addressed the condition of those who have the least in our community.

With that, Mr. President, I yield the floor.

Mr. ROTH. Mr. President, I yield 5 minutes to the distinguished Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I thank you very much, Mr. President.

Tonight I wish to talk about this bill from what I can see as a very different perspective. It is a perspective shared by a lot of people in my State and I think by people more broadly across America.

It may be that there are some in this Chamber who bought into the stereotype of people who are in the needy category in our country and view them only as freeloaders. I do not come from that perspective. We have people in my State—I know them well—who would like very much to not be dependent on the Government, people who would like to be earning their own income and people who would like to be on the first rung of the economic ladder. I know it from my own family's experience. My own father was at one time in a CCC camp, so I know a little bit about the experiences of people in hard times and the desire that I think exists within all of us to not be dependent on Government but, rather, dependent on ourselves.

What I think most people are saying in this country today is very simply this, that we have, over 20-plus years at a national level, attempted to fight a war on poverty with very little tangible success. Those who are below the poverty line today are approximately the same percentage of our country as the case when this program began. But in the meantime, and contrary I think to some of the things suggested here during the earlier debates and these, I think our States have changed their philosophy.

I know certainly that in Michigan the desire is not to have flexibility and liberation from Washington to put more people in poverty but, rather, to help the people who are below the poverty line to be able to take better care of themselves. Indeed, that is why I support this legislation, because I wish to really win the war on poverty, not just fight a battle that 20 years from now is at the same pace and point that we are today.

We have a broken system, and it should be fixed. I think the legislation before us moves us in the direction of fixing it. It establishes goals that are long overdue—foremost among them, the notion that intact families are a critical ingredient in addressing the poverty problem in America today; that the problem of illegitimacy, which many of our colleagues have spoken of and spoken more eloquently than I and understand in more detail than I can understand, the problem of illegitimacy I think has been lost over the years during this poverty debate where a check became a substitute often for a parent, a check from Washington.

So I think it is time, as this bill does, to change the goals and to put intact families and reducing the illegitimacy at the top of our national agenda, and also to put the goal of putting people to work rather than being part of a permanent welfare condition at the top of the agenda. And most importantly, to put hope and the inspiration needed to put people on the economic ladder at the top of the agenda. The current system has I think failed us in achieving those objectives.

What the bill does strategically is this. It gives States, the people on the front lines, the kind of flexibility they need to help people who are on welfare. It says, let us have less bureaucracy in Washington and let us give the people on the front line, the front-line caseworkers the chance to really work with people in our country who need help to get them on the economic ladder. That is what we need. In my State of Michigan, approximately two-thirds of the time of our front-line welfare caseworkers is spent basically filling out paperwork, most of it for the Federal Government, instead of helping the people these programs are intended to help.

A second objective is to give the States the flexibility to give better solutions to the problems, rather than the Washington-knows-best solutions that they have labored under for far too long. The States in fact, Mr. President, care a lot more about the people who live in them than anybody here inside the beltway. And Governors and legislators are just as concerned and compassionate as we are, and I happen to think are a lot more likely to be creative and inventive in dealing with the problems in their own States than we possibly can be trying to administer a 50-State program with one set of solutions. So State flexibility is a cornerstone of the program. So, too, is the consolidation of the programs.

Instead of having the massive numbers of programs that have grown up during the last 25 years, this program, this welfare bill, reduces, consolidates programs. It saves us money in terms of bureaucracy but it makes the programs comprehensible and workable, instead of far too complicated, and oftentimes in conflict with one another.

Third, it addresses, as I suggested earlier, the illegitimacy problem facing our Nation today in a variety of, I think, very effective ways. During the original debate on this bill I was on the floor promoting part of this legislation which I helped draft, the so-called bonus to States who reduce the rate of illegitimacy without simultaneously increasing the number of abortions.

The PRESIDING OFFICER. The Senator has used his 5 minutes.

Mr. ABRAHAM. Mr. President, I ask the manager if I might have an additional 2 minutes?

Mr. ROTH. I yield 2 additional minutes.

The PRESIDING OFFICER. The Senator may continue.

Mr. ABRAHAM. I thank the Chair and I thank the manager.

This approach addressing the illegitimacy problems will start finally to focus priorities at the State level where they ought to be, on keeping families intact, on reducing the number of out-of-wedlock births, and as a consequence addressing the problem at its core, the child poverty statistics we hear so often about.

The concern I think we all have for children born in poverty is in no small sense a result of the fact that too many children are born out of wedlock into families that are not economically strong enough to protect them.

Finally, the strategy in this legislation is to put strong, tough work requirements into place and to give States the incentives they need to try to get people to work rather than simply administering the massive transfer of payment program that does very little to give people the kind of dignity, incentive, and encouragement and help they need to get onto the economic ladder.

For those reasons, Mr. President, I think this bill is on target. I will support the conference report when we vote tomorrow. I hope that the President will reconsider his comments with respect to vetoing the legislation because I believe this truly will accomplish something that he and many of us have spoken about in the context of our campaigns, the notion that we truly would reform welfare and change welfare as we know it.

This legislation ends business as usual. This legislation will address the welfare problems effectively. Mr. President, I hope our colleagues will support it. I thank the Chair and I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER (Mr. BROWN). Who yields time?

Mr. ROTH. Mr. President, I yield 10 minutes to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I appreciate the willingness of the manager to yield me some time. I had the privilege of being in the chair and thereby being able to give my full attention to the statement of the Senator from New York, and following that the Senator from Illinois, two Senators for whom I have enormous respect and personal affection.

I am moved by the clear and unalloyed concern they have for the children in poverty in our country and for the failure of our present system to solve that problem. I can think of no two Senators who have better motives and more genuine urges to solve this problem than these two.

I am a supporter of the conference report. And I want to respond to the comments that were made so that my support for the conference report will not be misunderstood. I think the Senator from New York put it in the best context when he described the signing ceremony that took place in the Kennedy administration against a backdrop of great optimism and unfortunately complete ignorance as to what the future would actually be like.

I think the Senator's point is well taken. We are embarking once again on a leap of faith with considerable ignorance as to what the future would be like. I would be reluctant to take that leap of faith if I thought the present was working. But the present is not working. And I am willing to take a leap into the future in the hope that it will be better than the present and frankly a fear that things could not be much worse than we have in the present, that we are not risking that much by dismantling some of the present circumstance.

Let me share with you an experience from my home State of Utah that gives me more hope for the future than perhaps my friends have. In the State of Utah we set up—I say we, I had nothing to do with it—the Governor and the office of social services set up a program which required a whole series of waivers from Federal regulations in order to implement.

These waivers took a great deal of time and effort to put in place. Finally the Feds said, "Well, we will grant you the waivers"—my memory tells me that it took 44 such waivers—"We will grant you the waivers from the Federal regulations because we think the program you will put in place will in fact improve the lot of the poor, who come under your program. However, we tell you that based on our analysis, the program will cost 20 percent more than is being expended right now. And we do not think you can afford it, but we will give you the opportunity to spend that extra money."

We wanted to have—in response to the kinds of concerns the Senator from New York raised about "understanding"—a proper kind of control of this circumstance, so even though some centers were set up for the pilot program, in the one center where the most people would come for the pilot program, they established a truly random control group; that is, one would come in and be put in the present Federal programs, the next person through the door would be put in the State pilot program, the next person through the door in the Federal program, the next person in the State pilot program, and so on, so that you had exactly the same kind of people, from exactly the same neighborhood, serviced by exactly the same social workers to see what happened.

Under the program devised by the State, which was completely flexible, the question asked was, "What do you need? Tell us your circumstance. And what do you need?"

"Oh, all right, if this is what you need, I have control over all of the Federal programs, all of the money, and I can give you so much for food stamps, I can give you so much for this, I can give you so much for that. By the way, before you receive this, we have to have an understanding that this is temporary and you are looking for work."

Under those that came in under the Federal program, the question was not

"What do you need?" the question was, "For what are you eligible?" The whole focus was on eligibility. "You may need this program, but you don't happen to be eligible, and, therefore, I'm not empowered to give it to you. So I will give you only what you're eligible for."

And by the way, no one really brings up the issue of work. Very interesting results. First the financial results. The program managed by the State was not 20 percent more expensive, it was 5 percent cheaper. We saved money. That was not the purpose of the program. The purpose of the program was to do something better for the people who were poor, but the byproduct of doing it the way we did it is that we saved money. People who came in who had never had an experience with the welfare system before, when asked "Are you willing to go to work?" responded instantly, "Of course. That's what I want. I am only here because I can't get work."

"We'll help you find a job. That is part of the reason we're here for. We'll help you find employment."

People who came in who had experience with the Federal welfare program before said, "Wait a minute. Nobody ever asked me about work before. And I don't want to talk to you about that. I'm here to get that to which I am entitled. And I'm going to fight you if you say I have to do anything other than show up." Admittedly, those are people who had previous experience with the Federal welfare program.

The people who had not had the previous experience did not have that attitude. But among the new folk who were coming in for the first time—automatic—"We want to do something to get a job."

These are the statistics, as I remember them. The folks under the State pilot program, 95 percent of them are ultimately employed. Admittedly, they may not be employed in the kinds of jobs you and I would like, Mr. President. There are many of them employed in what are sometimes derisively called leaf raking jobs, but there are things for them to do somewhere, someplace that the office involved with their lives helps them find. And 95 percent of them have some kind of income as a result of their work.

Mr. President, I cite this example as justification for my support of this conference report. The State devised this program, and it is better than the Federal program. The State devised this program, and it is cheaper than the Federal program. Then the final blow here, that says to me we must do what we can to get this out of the hands of the Federal control.

Donna Shalala came to Utah and saw this program, and she was entranced. She said, "This is what we should be doing nationwide." That was 3 years ago, Mr. President, and nothing has happened at the Federal level.

The Federal bureaucracy is so cumbersome and so difficult that even the Secretary, with all of her good will and desire to solve these problems—and I grant her all of that—has been unable to move the bureaucracy under her control in the direction that she herself said it ought to go. Governors move more rapidly than that. Federal bureaucrats, if I may use an old cliche, and I know that it is not entirely fair, but it makes the point. When I entered the Federal bureaucracy, I was told, we think in 40-year periods because that's how long it takes us to get our pension.

Governors get reelected in 4-year periods, so perhaps they think 10 times as rapidly. But the Governor who put in place the program I have just described already knew at the time he was doing that that he was going to face the electorate 4 years later and he had to have a success and he had to have it quickly. The bureaucrats who are in the Civil Service who think in 40-year periods think perhaps some day we might.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MOYNIHAN. I yield 5 minutes to my friend from Utah. He makes great sense.

Mr. BENNETT. I thank the Senator for his courtesy. I had not intended to go on this long. But it is this experience that has said to me: we ought to try this. We ought to turn this over to the States and see what happens.

When people say to me, "But you're playing with children's lives here"—and the Senator from Illinois was tremendously moving in her comments in that regard, and that is one of the reasons I take the floor, because I want to make it clear I am aware of the fact that we are playing with children's lives here, and I do not take that responsibility lightly—but I look at the results of the present system and I say, "What are we risking if we try something else?" I look at the disasters that have occurred under the present system and ultimately decide we are not risking that much.

Mr. President, I am not announcing for reelection at this point, but I expect to be in the Senate longer than my present term. I assure the Senator from New York and anyone else, if we find out, as a result of the passing of this kind of torch from the Federal level to the State level, that we do, indeed, get a race to the bottom, we do, indeed, see greater disasters than what we have right now, I will be one of the first Senators to come here and say, "Let us not let the future roll continue" for however many years it has been since President Kennedy signed that bill that I think had a major, significant impact on the rise of homelessness. I will be one of the first Senators to be here and say, "OK, we tried it, it is clearly not working, the race to the bottom is happening, let's stop it, let's stop it now."

But I am not content to let the present circumstances go on without this kind of experimentation, because the human tragedy that the present circumstances created is so significant that we must do what we can.

I thank the Senator for his courtesy. That is my response to listening to the comments that were made. I appreciate the Senators letting me get it out while it is still fresh in my mind. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I yield myself 5 minutes, briefly to respond to my distinguished friend from Utah to say that I believe every word he says is true for him. I do not think this will lead to a race to the bottom in Utah. It will in New York, I am sorry to say. The proportions are so much vaster.

In New York City, we have 1.1 million people on welfare at this moment. These are overwhelmed systems, and you do what is easiest: You send out checks. That is the cheapest, easiest, and most destructive thing to do. We are learning the kinds of things you describe in Utah. The Manpower Development Research Corp., which is the principal evaluator of studies like this, said of some study results in Atlanta, Riverside, CA, Grand Rapids, MI, that they had an effect on bringing down AFDC rolls to the point where they said this exceeds the savings achieved by experimentally evaluated programs in the last 15 years.

We are beginning to get a hold, maybe. I begin with the thought that things are so much worse than we know.

In the fine State of Utah in 1970, the illegitimacy ratio was 3.6 percent. It is now 15.5. That is half the national average, but the trend line is the same. This is something so deep in our society, we have not found an answer. I simply want to maintain a national commitment, but I am sure that Secretary Shalala said just what she did, and I am sure she tried to move the Department of Health and Human Services.

That is our dilemma. The easiest thing to do is what we now do and it is the most destructive, but it need not be that way. President Reagan thought it would change, and it is changing, because the Utah program proceeds under the Family Support Act.

I can say no more but thanks for the candor and the quality of the Senator's statement.

Mr. President, the Senator from New Jersey was to be next. I am sorry if I seem to be stammering here, but it is because I am stammering.

The Senator from New Jersey is here now, and I would like to yield him such time as he may desire for the purpose of speaking. The Senator was one of 11 Members on this side who voted against this bill when it first came forward.

Mr. LAUTENBERG. Thank you very much, Mr. President. I thank my friend and colleague from New York not only for allotting me some of the time to respond to this conference report, but also for his long-time work, scholarly review of the problems of families, welfare, and balance in our society. Few have paid as much attention to the issue as has the distinguished Senator from New York.

Oddly enough, however, whenever I am doing something with the Senator from New York, whether I sit on the Environment Committee or another committee, he always has more knowledge than anyone else. I am still trying to figure out how he does it, but he does it very well. This is just one example of many.

Mr. President, I rise in strong opposition to the conference report. I think it is a terrible Christmas present to give the children in our country. If this bill becomes law, many children in this Nation will wake up on Christmas day with no safety net and hardly any prospect of anything pleasant in the Christmas stocking.

This piece of legislation represents the worst, I think, of Speaker GINGRICH's agenda. It rips at the safety net, tears it to shreds. These poor children fend for themselves, and it violates the most basic values of our country.

Mr. President, all of us here constantly extoll the justified virtues of this Nation of ours, the greatest country on God's Earth. But what a paradox. Here we are, the wealthiest country in the world, no exceptions, and despite our prosperity, 9 million children are so poor that their families are on AFDC assistance.

Mr. President, there is no question that the current welfare system needs reform. I think there are many avenues of reform that are not fully explored. I think we want to encourage family structuring. I think we have to think in terms of letting someone who is on welfare—typically a woman with children—who perhaps meets someone that she would like to share her life with and provide her own family network, we immediately say to her, "Well, you are off the welfare assistance, you are out of the health care program."

What you do is you cut off your opportunities when you form this union, and you are in far worse shape than you otherwise would be. That does not encourage family togetherness. What it does do is it encourages a kind of deception and says, "OK, you maintain your address; I maintain my address; and we will cohabitate, but we will not violate the rules." I think we ought to be looking at that kind of program. We ought to help welfare recipients find productive work. I am all for that. I do not think we ought to punish the poor kids who are on AFDC.

Mr. President, this bill is not a serious policy document. It is a budget document. It is a downpayment on the Republican tax break that targets the benefits for the millionaires and other wealthy Americans. We found out what the thinking is when I proposed an amendment one night that said, tell you what we will do, friends in the U.S. Senate. We will limit any tax break to those who earn under $1 million. Well, the outcome of the vote is in the RECORD. We did not get any Republican votes on that one. They said that even if you earn over $1 million, if a tax break comes along, you have to get your share. We know what we face.

I had the opportunity yesterday morning to be on one of the early-morning local shows with a freshman Republican Congressman from the other body, and we start our discussion and the first thing he says is, "We are committed to providing that tax break." That overrides almost every other consideration. That is why we are here, wringing our hands, pleading the plight of those who face Christmas without an income, with a great deal of uncertainty, 280,000, roughly, Federal employees who give their all whenever they are asked, but now suddenly we have decided that they are good pawns to play in this chess game. Why? So they can force this reconciliation bill down the throat of the administration. It is a terrible game to play, I think.

The focus is on the tax break. Included in that will be those who are dependent on welfare who will suffer significantly if the program, as prescribed now, through the conference committee, goes through.

If you make $350,000 a year, the GOP reconciliation bill includes an $8,500 tax break. It is nice but certainly not necessary. I think it is painful because it comes from other people who do not have the means to get by on a day-to-day basis.

I want to talk for a moment about some of the facts with this legislation. The proponents talk about philosophy, giving States flexibility. It sounds good, but I found out there is kind of a catch-all situation here that says it is the bureaucracy—they do not say it is the bureaucracy, stupid; sometimes they say that—but it is the bureaucracy. That is the evil force that commands everything here. It may be a bureaucracy, but I do not know how you conduct a business or a structure of any kind without having people who work there—in this case, we are talking about people who are told to carry on policy in a particular fashion—and perhaps they need more training, perhaps we have to alter the policy.

To conceal the fact that we are going to be shortchanging the recipients, the dependents on the welfare assistance, by calling it a block grant is, I believe, hypocrisy. The fact is that an HHS study shows this legislation—I was reminded about it in a letter I have included among my precious papers, a letter from the Senator from New York, just a short paragraph, talking about the children that will pay a price for the legislation that passed this body the first time with 11 Democrats and one Republican voting the other way.

Mr. President, 1.2 million to 2 million children will be facing hunger in roughly 7 years. That is hardly a way to design a program—punish the children, move 1 million to 2 million of them into poverty, into hunger. This is based on conservative assumptions. In all likelihood, the figure will be somewhat higher. I wish all Senators would fully appreciate what we are doing. Living below the poverty line is not a particularly pleasant experience. Having tried it myself as a child, I did not like it. My parents did not like it. The poverty level for a family of three, a woman and two children in this country, is $11,800 a year. How many people here believe that they could properly raise two children on $11,800 a year? It is not possible.

This bill also cuts food stamp funding by over $32 billion. These cuts, literally, as I said earlier, will take the food out of the mouths of our children.

Unfortunately, this bill is not the end of the pain for our Nation's children. The budget reconciliation is yet another assault on our children. The Republican budget bill ends the guarantee of health care for poor children. The bill's Medicaid cuts will mean that about 4 million kids—to use the expression—will be denied health care coverage. The cuts in the earned-income tax credit will mean that the parents of 14.5 million children, parents making under $30,000 a year, will get a tax increase on average of $332 a year.

Mr. President, $332 does not seem like a lot of money. But to a poor family it is an enormous sum. Working parents could use this money to buy the basic food, books, clothing, and pay for rent. I think it is unconscionable that our friends in the Republican majority are asking this of our children while providing a $8,500 tax break for people who make over $350,000 a year.

Republicans say they are making these deep cuts to help the children, the next generation. If I were the children I would say to them, "Thanks; no thanks. Do not do us any favors. Just kind of keep us in balance now. Make sure we get the appropriate nutrition so we can learn and be productive citizens."

The one thing I think that is really fallacious in what I hear going around here is that, somehow or other, those who are poor, those who are, perhaps, different, are another group. They do not belong to us.

One does not have to be a genius to know that we all have a stake in their well-being. It is our responsibility to protect them and help lift them out of poverty as if they were our own children, because we will pay the price—in many cases personally—for the lack of development that these children suffer.

I do not know how many have been to Brazil, to Rio de Janiero, one of the most beautiful cities in the world, where poverty fills every sight that you see, whether it is the mountains or the sea or what have you. Little kids, abandoned by their families, who will steal from open tables in the restaurant. I saw it happen. Because they are so hungry, they do not know any bounds, by virtue of appropriate conduct. Hunger, cunning takes over at all levels.

There was a shocking program the other night on "Nightline" about children who beg in the streets of Rio, who, when they get to be just a little more than 8 or 9 or 10 years old, they realize that their appeal for this baby face no longer has a salutary effect on the cups that they hold out for coins. Do you know what they do? They turn to prostitution at 9, 10, 11 years old. And they turn HIV positive in a hurry. And there is an epidemic of AIDS among little kids in Brazil, because they sell themselves. They do not know any other way to stay alive.

That is hardly a picture that we ought to aspire to and I am sure we do not. Those who are against this, I am not suggesting in any way, are for that kind of condition. But that is the reality when you cut off food and shelter and some caring concern. These little people find ways to exist, ways that we do not like, ways that we do not approve of, especially when they get a weapon in their hands, and especially when they gang up on someone who they think has the means to help them out.

That is why they are our responsibility, as well as some compassion in the hearts and souls of Americans. We have that as a people.

So, Mr. President, I hope we will reconsider. I hope my colleagues will reject this legislation. Once again, I commend our colleague from New York for his distinguished leadership in so many things, but particularly with this piece of legislation on welfare. I commend the President, also, for his veto statement, and I hope we will be able to sustain it.

Mr. President, this piece of legislation represents the worst of Speaker GINGRICH's radical agenda. It tears the safety net to threads. It leaves poor children to fend for themselves. It violates the most basic values of our Nation.

Mr. President, we live in the greatest nation on Earth. We are the wealthiest country in the world. But it is clear that some in our society do not share in this wealth. They are poor. They are jobless and in some cases homeless. And they must rely on public assistance to survive. In America, this is unacceptable. And we should be committed to improving their lives.

Mr. President, there in no question that the current welfare system needs reform. But the central goal for any welfare reform bill should be to move welfare recipients into productive work.

This will only happen if we provide welfare recipients with education and job training to prepare them for employment. It will only happen if we provide families with affordable child care. It will only happen if we can place them into jobs, preferably in the private sector or—as a last resort—in community service.

But this welfare bill is not designed to help welfare recipients get on their feet and go to work. It is only designed to cut programs—pure and simple.

It is designed to take money from the poor so that Republicans can provide huge tax cuts for the rich. That is what is really going on here.

Unfortunately, Mr. President, the radical experiment proposed in this legislation will inflict additional problems on our society while producing defenseless victims.

Those victims are not represented in the Senate offices. They are not here lobbying against this bill. They do not even know they are at risk.

The victims will be America's children. And there will be millions of them.

Mr. President, the AFDC Program provides a safety net for 9 million children. These young people are innocent. They did not ask to be born into poverty. And they don't deserve to be punished.

These children are African-American, Hispanic, Asian, and white. They live in urban areas and rural areas. But, most importantly, they are American children. And we as a nation have a responsibility to provide them with a safety net.

The children we are talking about are desperately poor, Mr. President. They are not living high off the hog. These kids live in very poor conditions.

Mr. President, it is hard for many of us to appreciate what life is like for the 9 million children who are poor and who benefit from AFDC.

I grew up to a working class family in Paterson, NJ, in the heart of the Depression. Times were tough. And I learned all too well what it meant to struggle economically.

But as bad as things were for my own family, they still were not as bad as for millions of today's children.

These are children who are not always sure whether they will get their next meal. Not always sure that they will have a roof over their heads. Not always sure they will get the health care they need.

Mr. President, these children are vulnerable. They are living on the edge of homelessness and hunger. And they did not do anything to deserve this fate.

Mr. President, if we are serious about reforming a program that keeps these children afloat, we will not adopt a radical proposal like this bill. We will not put millions of American children at risk. And we will not simply give a blank check to States and throw up our hands.

Mr. President, this Republican bill isn't a serious policy document. It is a budget document. It is a downpayment on a Republican tax break that targets huge benefits for millionaires and other wealthy Americans. For those who make $350,000 per year, the GOP reconciliation bill includes an $8,500 tax break.

Mr. President, if the Republicans were serious about improving opportunities for those on welfare, they would be talking about increasing our commitment to education and job training. In fact, only last year, the House Republican welfare reform bill, authored in part by Senator SANTORUM, would have increased spending on education and training by $10 billion.

This year, by contrast, this welfare bill actually cuts $82 billion, including huge reductions in education and training.

So what has changed? The answer is simple. This year, the Republicans need the money for their tax breaks for the rich.

Mr. President, shifting our welfare system to 50 State bureaucracies may give Congress more money to provide tax breaks. But it is not going to solve the serious problems facing our welfare system, or the people it serves.

To really reform welfare, Mr. President, we first must emphasize a very basic American value: the value of work.

We should expect recipients to work. In fact, we should demand that they work, if they can.

Of course, Mr. President, that kind of emphasis on work is important. But it is not enough. We also have to help people get the skills they need to get a job in the private sector. I am not talking about handouts.

I am talking about teaching people to read. Teaching people how to run a cash register or a computer. Teaching people what it takes to be self-sufficient in today's economy.

We also have to provide child care.

Mr. President, How is a woman with several young children supposed to find a job if she cannot find someone to take care of her kids? It is simply impossible. There is just no point in pretending otherwise.

Unfortunately, this bill does not address these kind of needs. It does not even try to promote work. It does not even try to give people job training. It does little to provide child care.

All it does is throw up its hands and ship the program to the States. That is it.

Mr. President, that is not real welfare reform. It is simply passing the buck to save a buck. And who is going to get the buck that is saved? The people the Republicans really care about: those who are well off.

Mr. President, I would like to take a moment now to talk about some of the facts about this legislation. The proponents of this legislation talk about philosophy and giving States flexibility, but I would like to talk about the facts.

The fact is that an HHS study showed that this legislation will force 1.2 to 2.1 million children into poverty.

And this is based on conservative assumptions. In all likelihood, the figure will be much higher.

Mr. President, I wish that all Senators would fully appreciate this. Living below the poverty rate is no fun. As I said, the poverty level for a family of three, a woman with two children, is $11,821 per year.

Mr. President, How many people here think that they could raise two children well on $11,821 per year?

Mr. President, not only does this analysis contain conservative assumptions, it also does not document what will happen to those children who already live in poverty. It is clear that they will also be harmed by this legislation because AFDC spending will be frozen at 1994 levels under this bill even though the cost of living for the poor will rise during the next 7 years.

This bill also includes a mandatory 5-year cap for the receipt of benefits. Once this time period is completed, there is nothing left for a poor family. No job, no education, no income support—nothing.

Mr. President, this seems like a benign provision but it will have harsh consequences for our children.

The cap will mean that 3.3 to 4.3 million children will get no help after 5 years. They will have no income support. They could be homeless.

Mr. President, I would like to point out that the 5-year cap is a maximum. It is an outer barrier. States can enact 1-, 2-, or 3-year caps and that will mean that even more children will have to go without assistance.

Mr. President, this bill also cuts Supplemental Security Income [SSI] benefits for disabled children. Under this conference report, 300,000 disabled children will be denied benefits in the year 2002.

Furthermore, approximately 500,000 children with disabilities, such as cerebral palsy, Down's syndrome, muscular dystrophy and cystic fibrosis, would have their benefits cut in the year 2002.

Mr. President, this bill also cuts food stamp funding by $36 billion. These cuts will literally take food right out of the mouths of our children.

Mr. President, the children of this country belong to all of us. We all have a stake in their well being. It is our responsibility to protect them, as if they were our own children.

And, Mr. President, I would point out that we don't take risks with our own children's well being. We do not say to them—you better shape up or we will put you out on the street without food.

We protect our own children. And we want to do more to help them. Parents across this country work hard to make sure that their children will have a better life. This is the same philosophy we should take towards reforming our welfare system. We must protect our children and we must help them become better off.

We can not do this by cutting millions of children off and forcing them into poverty. This will make them worse off—not better off.

Mr. President, I urge my colleagues to reject this legislation and I urge the President to issue an emphatic veto.

I yield the floor.

Mr. MOYNIHAN. Mr. President, I yield myself such time as I may require to thank my colleague and neighbor and friend from New Jersey for his statement, and particularly for raising a point, absolutely central to the legislation before us, which has not been raised until this moment in the debate, which is that this measure would repeal the eligibility of families who are now on Aid to Families with Dependent Children for Medicaid. This was not in the bill that passed the House. It was not in H.R. 4. It was not in the Senate bill. It is in the conference bill, which we have never seen. We never saw it. The conference never met.

I am sorry, we met once, October 24, for opening statements. And it never met again and the bill has come out. It was handed to us, the conference report was handed to us this afternoon. We found out what the Senator from New Jersey has said. That is the degree of the destructiveness of this measure.

I find it hard to comprehend, but I am not in the least surprised that every major religious group in the country, save one alone, pleads with us "Don't do this." Catholic bishops, the Lutheran Conference, on and on, UJA: "Don't do this to children."

I am increasingly confident, Mr. President, that we will not.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Delaware.

Mr. ROTH. Mr. President, I yield 10 minutes to the distinguished Senator from Iowa.

Mr. GRASSLEY. Thank you, Senator ROTH, and thank you for being a good chairman of this committee and shepherding through a very important piece of legislation.

I have to acknowledge that it is with mixed emotions that I speak tonight on this conference report before us. I am very pleased to join my colleagues in support of a sweeping welfare reform proposal, probably the most sweeping in recent history. But I am angry at the President for saying that he will veto this.

I suppose you would say I should not be surprised that the President would veto this. I suppose you would look at his complaining about the Government being shut down and understand that he vetoed four bills this week, that if he had not vetoed them, Government would be functioning. Yet he wants to point the finger at us.

This is the President who, in 1992, said we are going to change, reform welfare as we know it. He said that as a candidate. He said that as President of the United States. And considering the fact that he is always for a balanced budget on television but never negotiating for a balanced budget when he sits down to do it, or his people sit down to do it, and you cannot even get numbers on a sheet of paper, we maybe should not be surprised that the President said he is for reforming welfare as we know it and all of a sudden does not want to reform welfare as we know it, because he has a record of changing his mind on the very most critical issues before our country. He kind of has a real problem with making up his mind.

Mr. President, I have made up my mind. I am supporting this conference agreement. The House passed this conference by a vote of 245 to 178. That is a bipartisan vote. We should pass this bill more overwhelmingly than the House did. Remember, this passed the Senate 88 to 11. As I have said many times on this floor, States have been very successful in their efforts to reform welfare under waivers that are begrudgingly given to them by some faceless bureaucrat from time to time down at HHS. My own State of Iowa has a very successful effort at moving people from welfare to work, saving the taxpayers money, moving people off of welfare completely and trying to change the atmosphere in welfare of dependence to one of independence, where there is a sense of pride and esteem once again. The way my State of Iowa is doing this is by having the highest percentage of any State in the Nation of welfare recipients who are on private-sector jobs.

We have raised that percentage in 3 years of our reform from 18 percent to 34 percent. This is the kind of success that we at the Federal level have failed to achieve. Even in our best attempts in the 1988 Family Support Act we failed. That bill passed 96 to 1. That vote means that it was the best of intent to reform welfare. But we have three and a quarter million more people on welfare now than we did then. And it is costing billions of dollars more, which means we have failed to reform welfare.

We have seen States in the meantime succeed at welfare reform. That is the premise of this legislation. Moving out of the Washington bureaucracy the responsibility for welfare, moving it to our State and local governments to accomplish what we could not accomplish—moving people from welfare to work, moving people from dependence to independence, and saving the taxpayers' money.

I am pleased that we are making this move. We are acknowledging that we in Congress do not have a lock on wisdom or compassion. We are saying that we trust Governors and State legislatures to take care of citizens in need, and to do it with a community-based approach and to reform welfare thus doing.

When we started this process 10 months ago now, I set four goals that I wanted to accomplish in welfare reform.

First, to provide a system that will meet the short-term needs of low-income Americans as they prepare for independence.

Second, to provide States a great deal of flexibility.

Third, to reduce the incidence of out-of-wedlock births.

And, finally to save the taxpayers some of their hard-earned money.

I am pleased that Senator ROTH has led a conference that has given us a report that substantially addresses each of these goals.

The conference report provides for a block grant of the AFDC program to the States so that the States can meet the needs of low-income Americans in the most community-oriented, cost-efficient manner. It accepts a fact of life—that you cannot pour one mold here in Washington, DC, and expect to spend the taxpayers' money wisely solving the problems the same in New York City as you do in Waterloo, IA. This will let New York do the best with the taxpayers' money they can to accomplish the goals that they know should be accomplished, and the people in Iowa will do it according to their best way.

In doing so, this gives the States the great flexibility they need to design their programs to meet the needs of their individual citizens. Iowa has demonstrated a great benefit of the program designed with its citizens in mind, its very own program. Over 2 years ago, the Iowa State Legislature passed a bill that totally overhauls our welfare system. State leaders came to us at the Congress at the Federal level for that waiver necessary to implement their ideas. The waiver was finally approved, and the State plan was implemented in October 1993.

As I mentioned before, in the last 2 years, we have moved from 18 percent to 34 percent the number of our welfare recipients in jobs. This dramatic increase shows the ingenuity of the Iowa State plan to move people from welfare to work. It also shows the importance of giving much greater flexibility to State leaders.

Another positive portion of the final report is that it protects States which are under waiver agreements like my State of Iowa.

When Iowa came to the Federal Government for their waiver, they were required to have a cost neutrality clause in their contract agreement with the Federal Government. If my State wanted to try new ideas, then they were told by the Federal Government that they would have to bear the burden of any additional cost incurred. Being sensitive to the Federal deficit, I understood the need for that agreement.

But since we are now changing the rules of the game midstream, it was critical that we not hold the States liable under those waiver agreements. Since we are going to change our end of the deal—we at the Federal level by this legislation—States should not be required to live up to their end of the deal. This issue was addressed in the conference agreement by allowing States to cancel their waiver agreements while addressing the up-front costs that States have invested in their welfare programs.

My next goal was to take steps to address the seemingly intractable problem of out-of-wedlock births. The conference report requires that teenage mothers live at home, or in a supervised setting. If there is anything that we should all be able to agree upon, it is that young teenage mothers should not be left alone in raising children. They need support.

Witness after witness who came before Senator ROTH's committee agreed that teenage moms should not be left to fend for themselves and their children.

The conference also keeps the family cap but allows States to opt out if they desire. This compromise between the original House and Senate language is reasonable because it keeps the States from ignoring the issue but leaves the final determination to each State legislature.

My last goal—to save the taxpayers some of their hard-earned money—is really more of a result of reform than a goal itself. If we take steps to move people from welfare to work, give greater flexibility to the States, and reduce illegitimacy, we will—in the long run—save some taxpayer money. This would be a positive result.

I urge my colleagues to recognize this conference agreement as a good compromise between the House and Senate bills. It accomplishes the President's goal to end welfare as we know it.

We should send the President this conference report in the hopes that he will reconsider his recent comments and sign this bill into law. I urge adoption of the conference agreement.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as I understand it, we have been rotating back and forth. I know that Senator GRAMS has been here. I do not intend to take very long. But I would like to address the Senate on this issue.

I yield myself 12 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, there is a right way and a wrong way to reform welfare. Punishing children is the wrong way. Denying realistic job training and work opportunities is the wrong way. Leaving States holding the bag is the wrong way. While we all want to reform welfare, this conference report is simply the wrong way. It takes a bad Senate bill and makes it worse.

Mr. President, I know all of our Members are familiar with the excellent work that has been done by our friend, the Senator from New York, Senator MOYNIHAN, both in his presentations earlier this evening and his very considerable contribution to this debate over the years. I hope all of our Members will read carefully, prior to the time that we vote, the presentation of our good friend and colleague, Senator MOYNIHAN.

The Senate bill eliminated a 60-year old good faith national commitment to protect all needy children, and for that reason, in my opinion, it was fatally flawed. The Office of Management and Budget documented that the Senate bill would have pushed an additional 1.2 million children into poverty—hardly the goal of real reform. This conference report simply adds insult to injury. It will undoubtedly result in increased suffering for millions of American children and families. It continues to be legislative child abuse—and it should be defeated.

The Senate bill cut food stamps for 14 million children, SSI benefits for 225,000 disabled children, essential protections for 100,000 abused children, and minimal assistance for 4 million children left with no safety net after the time limit. This conference report slashes each of these survival programs even further—with nutrition services, disability benefits, and child protection efforts footing most of the bill.

If the conference report becomes law, children born to parents on welfare will be punished in every State. Victims of domestic violence will lose their special protections. Food stamps for the working poor and the unemployed will be further restricted. Women and children on AFDC will lose their Medicaid guarantee. Family preservation programs, child abuse programs, and child nutrition programs will be block granted. Family hardship exemptions and State investment requirements will be further reduced. All this pain is inflicted above and beyond the Senate bill.

And even the modest child care provisions added to the Republican Home

Alone bill on the Senate floor have been rolled back. The Republican welfare agreement not only falls far short of providing essential child care funding but guts essential protections for children in child care.

During consideration of the Senate bill, the Congressional Budget Office said most States were likely to simply throw up their hands and ignore the new work requirements. Unfortunately, nothing on that front has changed for the better. CBO continues to believe that under this conference agreement, States will accept the sanctions for failing to comply, rather than try to reach the goals without the resources needed to make it possible.

This conference report more than doubles the child care short fall found in the final Senate bill. According to the Congressional Budget Office, the conference report is more than $6 billion short of providing States with enough child care funding to make the work requirements work. Once again, this is not welfare reform; it is welfare fraud.

What we know is that there are certain ingredients which are necessary to make any real welfare reform effort work. First of all, you have to provide some degree of job training and education for the individual. There has to be a job market out there so that the individual is able to gain employment and hopefully earn a decent wage. And there has to be health insurance coverage, particularly for small children, and there has to be child care.

Those are the effective ingredients and without these effective ingredients we are not going to have the kind of welfare reform which is so important and necessary. We will not be able to move people out of dependency into some degree of hope and opportunity for themselves and for their children.

What we have seen here is, even after the debate held on the floor of the Senate, even after the amendment of Senator DODD, myself and others was accepted, it goes to the conference and is rolled back from that position. Not only is the total amount of funds inadequate, but the protections for children in child care are gone.

Mr. SANTORUM. Will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. If any Member of this Senate wants to see the best child care in this country, go to a military base. Go to any military camp across this country and you see child care programs at their very best. That is what has happened, Mr. President. Military child care represents the kind of high quality care that was fought for by our friend and colleague, Senator DODD, and also that was eventually worked out in a bipartisan way with Senator HATCH and Senator DODD and signed into law by President Bush—bipartisan support.

Now we read that these important child care protections have been stripped away in this conference report. It is absolutely untenable. And you and I know what is going to happen. With inadequate funding and protections for child care, we are going to hear in another 2 or 3 years about how child care is being bungled in the various States, and this is going to be used as an excuse to further reduce it. That is what is going to happen. And that I think is unfair, unjustified, and unwarranted.

Mr. SANTORUM. Will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. I would like to just finish. I do not intend to speak for long. And then I will be glad to yield.

Mr. President, further, the conference agreement will undoubtedly ensure that those struggling to stay off welfare will lose their support to those seeking to get off welfare. But low-income working families need help, too. The average cost of a child in child care is almost $5,000 a year, yet the take-home pay from a minimum wage job is stuck at $8,500 a year. This is not manageable. It is not acceptable.

The conference agreement pulls the rug out from under these families just as they are getting on their feet. Such an approach is callous and counterproductive. In Massachusetts, of mothers who left welfare for work and then returned to welfare, 35 percent cited child care problems as the reason that they do not get enough of it. And the principal reason is we have three different child care programs that existed under the Finance Committee, all repealed. We also had a block grant program that was out there dealing with children of working parents. You had about 760,000 in one, about 650,000 in the other programs. And those programs have been combined and the entitlement status eliminated. At the same time, the need has been dramatically increased. In the Republican welfare conference, the total amount that is now being provided is even more inadequate than before. And even though we made some adjustment in this Chamber, that child care program has been very much emasculated.

The Republicans have cut by more than 50 percent the funds set aside to improve the quality of child care. This is true despite the fact that report after report documents the shockingly poor quality of child care in far too many child care centers and home-based child care settings. These Federal quality funds are making a measurable difference in the growth and development of low-income children.

The changes in this bill reduce child safety, parental choice, and parental opportunity. They do not promote work or protect children. This bill is not about moving American families from welfare to work. It is about taking assistance away from millions of poor, homeless and disabled children—and passing it out in tax breaks to the rich. It is about starving small children and feeding corporate fat cats. It is Robin Hood in reverse.

My Republican colleagues are correct when they say that this is a historic moment. If this bill passes, it will go down in history as the day the Congress turned its back on needy children, on poor mothers struggling to make ends meet, on millions of fellow citizens who need our help the most.

Some may wonder why the Republicans want to jam through a welfare conference report that they just managed to twist enough arms to get signed last night? The Republicans put a premium on speed. They hope that no one will find out exactly what their plan means until it is too late. They want to hide the harsh reality. When you strip away their rhetoric, their overall budget plan is to punish children and to protect corporate loopholes.

Republican priorities are clear. For millionaires, they will move mountains.

We passed in the Senate under the leadership of Senator MOYNIHAN and others by over 90 votes a repeal of the billionaire's tax cut. This is the provision that allows you to make $4, $5, $6 billion, trade in your citizenship, and get a tax break to take up residency in another country while the rest of Americans are working hard and paying their fair share. We voted overwhelmingly to eliminate it. Only four Members actually voted against it. But as soon as they went to conference and closed the door, they put it right back in here. While they are cutting child protection and child nutrition programs, they are protecting the billionaire's tax cut. And that is untenable, Mr. President.

Poor children, there is not a finger lifted for them.

Some of the Nation's corporate executives purchased full page ads in the Washington Post and the New York Times calling on Congress to produce a budget deal stating that every form of spending should be on the table. I couldn't agree more. It is high time that we had shared sacrifice.

We all want to balance the budget. But it cannot and should not be done on the backs of America's children. Enough is enough. Enough of backroom deal with high paid corporate lobbyists. Enough of dismantling commitments made to our children and families who need our help.

In the end, it is a battle for the heart and soul of this Nation. It is a simple question of priorities. Are we going to leave millions of American low-income children behind in order to give huge tax breaks to the rich? Are we going to put disabled children back in institutions in order to allow corporations to ship their profits overseas.

A "survival of the richest" plan is not what makes America America.

President Kennedy said in his Inaugural Address: "If a free society cannot help the many who are poor, it cannot save the few who are rich."

And in defense of the national safety net—President Reagan said in 1984: "We can promote economic viability, while showing the disadvantaged genuine compassion."

We have learned from experience that some cuts never heal—and I caution my colleagues that this conference report is full of them.

I am proud to join President Clinton and my Democratic colleagues in the House and the Senate vigorously opposing this conference report. Clearly, we can do better, and now is the time to start trying.

For the children who are too young to vote and who cannot speak for themselves—we must be their voice. I urge my colleagues to vote "no" on this conference report.

I will be glad to yield.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I yield myself 6 minutes to be able to respond, if the Senator from Pennsylvania had a question.

Mr. SANTORUM. I thank the Senator from Massachusetts. I just want to clear——

The PRESIDING OFFICER. The Senator from New York yields time?

Mr. MOYNIHAN. To the Senator from Massachusetts.

Mr. KENNEDY. The Senator from Pennsylvania had inquired earlier, and I indicated I wanted to complete my statement, and I have. And the Senator from New York has granted I think 2 more minutes—

Mr. MOYNIHAN. As much time as the Senator likes.

Mr. KENNEDY. To respond to the Senator who wanted to ask questions. Otherwise, I yield the floor.

Mr. SANTORUM. I would like to ask a question of the Senator from Massachusetts. The Senator from Massachusetts made the statement that child care funding under this bill is rolled back, has declined. I would just refer him to—he said we had a premium on speed, and I think in this case the premium on speed has been to our detriment because I am not sure the Senator has the most current figures on child care. Let me review for the Senator what is in the bill.

Like the Senate bill that passed, there is a $1 billion per year block grant to the States, identical to what we passed here. There is a difference in the mandatory child care category. We in the Senate-passed bill spent $10 billion over 7 years for child care. In the conference report it is $11 billion, $1 billion more than the Senate bill overall. And in addition, it is over $1.8 billion more than the current CBO baseline. So it is more than the Senate bill, and it is substantially more than what would be under current law.

Mr. KENNEDY. Well, Mr. President, just to respond, I understand that it provides $11 billion over 7 years for child care as opposed to $8 billion over 5 years in the Senate bill. I think I am correct on that. I see my friend from New York nodding his head. And CBO says that this amount is $6 billion short of the funding needed to make the work requirements work. In addition, the conference report caps the child care block grant for working poor families at $1 billion—is that correct? —rather than such sums as in the Senate bill. So I think I stand by the earlier statement. I see the Senator from New York——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MOYNIHAN. The Senator can have as much time as remains to us, if he wishes.

Mr. SANTORUM. If I can say to the Senator from Massachusetts that the 5-year number is correct, $8 billion over 5 years in the Senate-passed bill, but $10 billion over 7 years in the conference report. The Senator is correct it is not $8 billion in 5 years; it is $7.8 billion. So you trade off in a sense $200 million in the first 5 years for an additional $1 billion in the final 2 years, which many would see as a pretty good trade-off and an increase in the overall allocation of $1 billion.

So I do not think it is fair to say that it is a decrease in chapter funding when you are spending $1 billion over a year covered by the bill.

Mr. KENNEDY. Well, I say to the Senator, I will put in the RECORD my understanding on the child care provisions, as I indicated earlier, the $11 billion over 7 years, still far short of what CBO says is needed, and also that the cap of the child care block grant. This bill also rejects the Senate provisions preserving the funding entitlement for all protective services, including essential foster care and adoption programs.

As the Senator from Pennsylvania knows, the conference agreement maintains the entitlement for room and board costs associated with foster care and adoption, but block grant the funds used to keep children safe by removing them from dangerous situations and finding and monitoring alternative placements.

That is one of the most important aspects of the program. I am extremely familiar with the excellent program that is taking place in Los Angeles, one of the most effective family preservation programs around. With outreach and support efforts, children are being kept safe and experiencing good care and attention.

The Senate bill emphasized prevention and family preservation. But by block granting these special efforts with crisis intervention programs, these particular provisions have been effectively eliminated. Independent living programs are also repealed. And at a time when the needs will increase in terms of the children protection, the report cuts essential services by $1.3 billion more than the Senate bill.

We have not even talked about the disabled children, what has happened to them. We have not talked about the food stamp programs that are going to affect children. We have not talked about child nutrition. You nearly double the size of the cuts in the Senate bill from $3.4 to $5 billion. There are 32 million needy children currently in this program. And the list goes on.

I know the Senator will want to address this. This is a listing of my understanding of it. I know the Senator from Pennsylvania will do likewise. But I welcome the opportunity to identify the impact of this legislation on children. And what exists at the present time, what was in the Senate bill, and what has come out of this conference. I think it should be listed, and attention should be drawn to it, hopefully prior to the time we vote. I know the Senator will put in his interpretation, as I do mine.

I thank the Senator from New York. I yield myself 30 more seconds to say how much all of us appreciate his leadership, not only this evening and the work on the conference report, but the brilliance of his leadership during the consideration earlier in the debate and for all the good work that he has done over the years. In 1988, his true reform program provided the child care, provided jobs training and education, and provided for transitional support in terms of the health care.

That still is, when the final chapter is written, the way to go. All of us, all Americans are in his debt for the leadership that he has provided. I thank the Chair.

Mr. MOYNIHAN. Mr. President, may I yield myself 30 seconds to thank my friend from Massachusetts, who is, as ever, at the fore in these matters.

The President in his statement that he will veto this bill says that he looks forward to bipartisan efforts to pursue the directions we took in 1988 and on which we should continue. But it is not cheaper. Mr. President, the cheapest thing to do is what we do now, what we are going to do in this bill. And it is ruinous to children. We would look back at this as a day without precedent in the history of this body, an idea that a year ago would have been, I think, unthinkable.

I think now we will at long last, when we have come to our senses, as I said earlier, in a bipartisan effort accomplish what we need to as soon as this particular one is behind us. I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. ROTH. I yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. I ask the manager of the bill if I could have up to 10 minutes?

Mr. ROTH. I am sorry, just 5.

Mr. GRAMS. Mr. President, I rise today in support of the conference report to H.R. 4, the Work Opportunity Act of 1995, and I commend the majority leader and my colleagues for the months of concentrated effort it took to bring us to this point. And I appreciate the opportunity to speak on this bill tonight.

Mr. President, since the beginning of the 104th Congress, we have been debating the state of this Nation's welfare system. Both sides of the aisle recognize that the system is broken.

It encourages illegitimacy.

It does not recognize the importance of marriage and family. It offers no hope or opportunity for those Americans who are trapped within its layers of bureaucracy.

And it was not supposed to be this way.

After signing the 1964 Welfare Act, President Lyndon Johnson proclaimed, "We are not content to accept the endless growth of relief rolls or welfare rolls," and he promised the American people that "the days of the dole in our country are numbered."

The New York Times predicted the legislation would lead to "the restoration of individual dignity and the long-run reduction of the need for government help."

In 1964, America's taxpayers invested $947 million to support welfare recipients—an investment which President Johnson declared would eventually "result in savings to the country and especially to the local taxpayers" through reductions in welfare caseloads, health care costs, and the crime rate.

But yet, 30 years later, none of those predictions have materialized, and the failure of the welfare system continues to devastate millions of Americans every day—both the families who receive welfare benefits and the taxpayers who subsidize them.

Despite a $5.4 trillion investment in welfare programs since 1964, at an average annual cost that had risen to $3,357 per taxpaying household by 1993:

One in three children in the U.S. today is born out-of-wedlock;

One child in seven is being raised on welfare through the Aid to Families with Dependent Children program; and

Our crime rate has increased 280 percent.

Mr. President, those are the kinds of devastating statistics which until recently have been ignored by the bureaucratic establishment in Washington, but those are the statistics H.R. 4 will finally address.

By rewriting Federal policies and working in close partnership with the States, we can create a welfare system which will effectively respond to the needs of those who depend on it—at the same time to protect the taxpayers.

This bipartisan welfare conference report sets in place the framework for meeting those needs by offering individuals who are down on their luck some opportunity, self-respect and most importantly, the ability to take control of their own lives.

And yes, we will ask something of them in return.

The most significant change in our welfare system will be the requirement that able-bodied individuals put in 20 hours of work every week before they receive assistance from America's taxpayers.

Mr. President, my colleagues and I have come to the floor repeatedly this session to suggest that our present welfare system promotes dependency by discouraging recipients from working, but nothing sums up the problem more perfectly than a story which appeared just last month in the Baltimore Sun.

It seems that the Baltimore regional office of the Salvation Army is having trouble this year recruiting volunteer bell ringers to staff the red kettles that have become a symbol of the holiday season.

So they decided to pay for the help—$5 an hour, thinking it would give people on public assistance the opportunity to earn some money. Here is where the Baltimore Sun picks up the story:

> The Frederick chapter ran a help-wanted ad for bell ringers in the local paper for a week but received only four applications. It then approached an agency that provides temporary workers.
>
> The agency interviewed 25 people for the bell ringing job, but no one wanted to do it. One person accepted the job at a second temporary help agency.
>
> "I'm beating my head against the wall," Captain Mallard said.

That is Butch Mallard, commander of the Salvation Army in Frederick, MD:

> I don't know if people don't want to work outside, or that they just don't want to work for $5 an hour when they can stay home and get that much from the government.

Mr. President, the Salvation Army has found out what we have been saying all along: the government makes it so easy for a welfare recipient to skip the work and continue collecting a federal check that there is absolutely no incentive to ever get out of the house and find a job.

And if someone actually takes the initiative to take a job—perhaps as a bell ringer—they risk forfeiting their welfare benefits entirely.

During Senate consideration of the Work Opportunity Act, Senator SHELBY and I joined forces with the majority leader to ensure that welfare recipients receive benefits only after they work.

We believe welfare recipients should be held to the same standards, the same work ethic, to which America's taxpayers are held.

American taxpayers are putting in at least 40 hours on the job each week—and are sometimes forced to take on an additional job or work overtime hours just to make ends meet.

And all the while, they have been generously providing welfare recipients with cash and benefit assistance, while the only thing we ask of welfare recipients is to provide an address where we can mail their checks.

Under the Grams-Shelby pay-for-performance amendment which was adopted earlier this year, this practice will end. Welfare recipients will be required to work before they receive any cash assistance.

Simply put, our amendment stipulates that welfare recipients will receive financial assistance from the taxpayers only for the number of hours they are actually engaged in a work activity.

A work activity includes: a private sector job, on-the-job-training, a subsidized job, workfare, community service, job search limited to 4 weeks, and vocational education limited to 1 year.

A welfare recipient is required to required to work 20 hours a week—if they only put in 15 hours in a particular week, they will only receive cash assistance for those 15 hours of work.

Many of my colleagues have expressed their support for these tough work requirements and the need for the pay-for-performance amendment.

But some Members believe our original bill did not include adequate funding to provide child care while parents were working.

These concerns were raised despite the fact that the Senate bill dedicated $8 billion toward child care services.

But in order to address the concerns that $8 billion is still not enough, the conference report increases child care funding to $18 billion.

As it has in the past, safeguarding the well-being of children will continue to remain a primary concern of the refocused welfare system our bill will create.

I am proud that we have taken additional steps through this conference report to ensure our children's readiness, and ability, to learn.

Throughout the last year, I have been meeting with parents, educators, nutrition experts and pediatricians who are concerned about the future of Federal nutrition standards.

Many of them have pointed out that unless children receive and maintain a proper level of nutrition, they will perform significantly lower than their learning potential.

And so I have worked to ensure that medically devised Federal nutrition standards, established by the National Advisory Council on Maternal, Infant and Fetal Nutrition, are maintained under this legislation.

I am pleased that my colleagues have joined me in recognizing the need for these uniform standards by including them in this bill.

Mr. President, our bill also recognizes that officials elected locally—our state legislators and governors—are more capable than their representatives in far-away Washington to administer effective programs on the State and local level.

And so this welfare reform legislation will give States like Minnesota the flexibility they need to develop innovative programs to assist those who need help most.

States will no longer have to ask Washington for permission to establish successful programs like the Minnesota family investment plan. States will finally be able to save money and use it wisely, rather than being forced to spend it on the wasteful paperwork Washington requires them to fill out.

Mr. President, the bipartisan legislation before us today to overhaul our failed welfare system is the first positive step away from a system which has held nearly three generations hostage with little hope of escape.

Only be enacting this legislation can we offer these Americans a way out and a way up.

I challenge my colleagues on both sides of the aisle, and the President, and the American people themselves, to take this message to heart: Government cannot solve all our problems.

As Americans, we need to look within ourselves rather than continuing to look to Washington for solutions.

Does anybody really believe the Federal Government embodies compassion, that it has a heart?

Of course not—those are qualities found only outside Washington, in America's communities.

Mr. President, there is no one I can think of who better exemplifies heart and compassion than Corla Wilson-Hawkins, and I was so fortunate to have had the opportunity to meet her recently.

She was one of 21 recipients of the 1995 National Caring Awards for her outstanding volunteer service to her community.

Corla is known as "Mama Hawk" because, more than anything else, she has become a second mother to hundreds of schoolchildren in her west-side Chicago community, children who, without her guidance, might go without meals, or homes, or a loving hug.

Mama Hawk gives them all that and more, and she and the many, many other caring Americans just like her represent the good we can accomplish when ordinary folks look inward, not to the government—and follow their hearts, not the trail of tax dollars to Washington.

Mama Hawk tells a story that illustrates better than I ever could how the present welfare system has permeated our culture and become as ingrained as the very problems it was originally created to solve.

These are her words.

> When I first started teaching, I asked my kids, what did they want to be when they grew up? What kind of job they wanted. Most of them said they wanted to be on public aid. I was a little stunned.
>
> I said, "Public aid—I didn't realize that was a form of employment." They said, "Well, our mom's on public aid. They make a lot of money and, if you have a baby, they get a raise."

Mr. President, that is the perception, maybe even the reality, we're fighting to change with our vote today on this historic conference report. While there is more work to accomplish, this bill is a good first step toward truly ending welfare as we know it.

I look forward to working with my colleagues in the future to finish the good work we have started today.

Ms. MIKULSKI. Mr. President, I oppose this conference report. We should reject this bill. We should return to the bargaining table to negotiate real welfare reform which moves people from welfare to work and provides a safety net for kids.

Nearly 3 months ago, I joined 34 of my Democratic colleagues in reaching across the aisle to pass a bipartisan welfare reform bill by a vote of 87–12.

We did so because our deliberations had produced a bill that began to move the welfare reform debate away from the harsh rhetoric of the House bill.

I had hoped that our initial success at compromise in the Senate could lead to true compromise with the House. Regrettably, it did not.

During Senate action last September, Senate Republicans and Democrats worked together to find common ground and the sensible center. In contrast, the House-Senate welfare conference was shaped by Republican back room deals. Democrats were shut out.

This Conference Report is punitive. It's tough on kids, and it does not give people the tools they need to get and keep a job.

This bill moves us in the wrong direction.

First, this bill is part of the Republican assault on needy families. This bill cuts $82 billion from child care, food stamps, child nutrition, child protection, welfare and other programs over 7 years—drastically more than the Senate welfare reform bill. These cuts are draconian.

They are coupled with other budget cuts critical to working families, such as the earned income tax credit. The EITC helps keep working families out of poverty. The Republicans welfare plan says go to work. The Republican budget says, once you get to work, we're going to make you pay more in taxes.

Second, the conference report snatches away the safety net for kids. It weakens the Senate effort to provide child care to working families by cutting $1.2 billion. These drastic cuts mean that parents will have to choose between taking care of their kids and going to work. Today, 34 percent of women on welfare say they are not working because they cannot find or afford child care.

Children will go hungry under this conference report. It jeopardizes the nutrition and health of millions of children, working families, and the elderly. It cuts food stamps and school lunches. And, if there is a recession, there is no guarantee those in need can get either. At least 14 million kids will suffer from this cut.

Third, neglected and abandoned children, and children in foster and adoptive care, will suffer further under this conference report. It slashes protective services to these kids by 23 percent or $4.6 billion over the next 7 years. The bill also cuts funding to investigate reports of abuse and neglect, to train potential foster and adoptive parents, to help place children in foster and adoptive homes and to monitor State child protection programs. These cuts come at a time when resources can't meet current needs to protect children from abuse and neglect.

Fourth, the conference agreement is punitive to disabled children. We all agree Supplemental Security Income needs to be reformed. But, this goes too far. It too narrowly defines who qualifies. So, only the most severely disabled children will get SSI, stranding many disabled kids and their families.

Fifth, the conference report allows States to cut back on their financial commitment to poor families. It weakens the State maintenance of effort provisions the Senate fought so hard for. Under this bill States could cut their contributions to poor families by 25 percent each year. The net effect—less child care, fewer tools to help get people to work, and more children falling into poverty.

And sixth, the bill fails to recognize that when there is an economic downturn, people lose their jobs and need a helping hand. There is not an adequate contingency fund for use during times of natural disasters, changes in child poverty, and population shifts.

This bill fails to move people from welfare to work. And it is a bill that will force more than a million additional children into poverty.

The welfare package of the President's 7-year balanced budget plan is a good place to start. It takes a significant page from the Work First proposal that Senators DASCHLE, BREAUX, and I wrote earlier this year. It requires welfare recipients to go to work by providing them with the tools to get a job and keep it. It cuts $49 billion in welfare programs, but does so responsibly—not in the reckless and punitive fashion of this conference report.

The best social program in America is a job. Unfortunately, the Republicans welfare bill now before the Senate is a con job when it comes to Americans' desire to get welfare recipients back to work. Vote no on this conference report.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, we are truly at the end of our debate this evening, toward the end. I ask unanimous consent that statement by the presidents of the National League of Cities, the National Association of Counties, and the United States Conference of Mayors urging the defeat of this measure be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL LEAGUE OF CITIES, NATIONAL ASSOCIATION OF COUNTIES,
THE UNITED STATES CONFERENCE
OF MAYORS, DECEMBER 20, 1995.

DEAR SENATOR: On behalf of the nation's local elected officials, we are writing to urge you to oppose H.R. 4, the conference agreement on the Personal Responsibility Act. Although the conferees agreed to some changes in the areas of foster care consultation with local governments, we cannot support the Final conference agreement which fails to address many of the other significant concerns of local governments. In particular, we object to the following provisions:

The bill ends the entitlement of Aid to Families with Dependent Children, thereby dismantling the critical safety net for children and their families.

The bill places foster care administration and training into a block grant. These funds provide basic services to our most vulnerable children. If administration and training do not remain an individual entitlement, our agencies will not have sufficient funds to provide the necessary child protective services, thereby placing more children at risk.

The eligibility restrictions for legal immigrants go too far and will shift substantial cost into local governments. The most objectionable provisions include denying Supplemental Security Income and Food Stamps, particularly to older immigrants. Local governments cannot and should not be the safety net for federal policy decisions regarding immigration.

The work participation requirements are unrealistic, and funding for child care and job training is not sufficient to meet these requirements, One example of the impracticality of these provisions is the removal of Senate language that would have allowed states to require lower hours of partition for parents with children under age six.

We remain very concerned with the possibility of any block granting of child nutrition programs. A strong federal role in child nutrition would continue to ensure an adequate level of nutrition assistance to children and their families. School lunch programs are necessary to ensure that children receive the nutrition they need to succeed in school. Children's educational success is essential to the economic well being of our nation's local communities.

The implementation dates and transition periods are inadequate to make the changes necessary to comply with the legislation. We suggest delaying them until the next fiscal year.

As the level of government closets to the people, local elected officials understand the importance of reforming the welfare system. However, the welfare reform conference agreement would shift costs and liabilities and create new unfunded mandates for local governments, as well as penalize low income families. Such a bill, in combination with federal cuts and increased demands for services, will leave local governments with two options: cut other essential services, such as law enforcement, or raise revenues. We, therefore, urge you to vote against the conference agreement on H.R. 4.

Sincerely,

GREGORY S. LASHUTKA,
President, National League of Cities, Mayor, Columbus, Ohio.
DOUGLAS R. BOVIN,
President, National Association of Counties, Commissioner, Delta County, Michigan.
NORMAN B. RICE,
President, The United States Conference on Mayors, Mayor, Seattle, Washington.

Mr. MOYNIHAN. Mr. President, they make a number of points, but the first one being:

The bill ends the entitlement of Aid to Families with Dependent Children, thereby dismantling the critical safety net for children and their families.

This is the central point. We do not have welfare reform before us, we have welfare repeal, a repeal of a commitment made in the 1930's in the middle of the Depression. To be abandoned now would be unthinkable, and I am increasingly confident it will not occur.

Also, I ask unanimous consent to print in the RECORD a joint statement by Catholic Charities USA, the Lutheran Social Ministry Organizations of the Evangelical Lutheran Church in America, the Salvation Army, and the Young Women's Christian Association on these and other matters.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT STATEMENT OF LARGE NONPROFIT
SOCIAL SERVICE PROVIDERS, OCTOBER 19, 1995

Catholic Charities USA, the Lutheran Social Ministry Organizations of the Evangelical Lutheran Church in America (ELCA), The Salvation Army, and the Young Women's Christian Association (YWCA) are the nonprofit organizations who together do more for low-income families and poor people in the United States than anyone else. We are greatly concerned about the consequences that deep cuts in programs that serve poor and low-income people will likely create. The very fabric of our society is at risk. We believe that such cuts will exacerbate the despair already felt among many and turn it into hopelessness. As we go about our business of serving both the physical and spiritual needs of people, we see the desperation in many of their eyes.

The chasm between the rich and poor in our country appears to be growing. While children born to families in the upper twenty percent of the income scale in the United States experience the highest standard of living in the industrialized world, the children born to families in the lowest twenty percent receive one of the lowest. We should be developing policy that narrows that gap rather than policy that widens it. The reduction in the support for programs serving low-income people such as Aid to Families with Dependent Children, food and nutrition, Medicaid, housing, the Legal Services Corporation, Supplemental Security Income, and the Earned Income Tax Credit, when combined, will have a devastating effect on families that have few options. Even if these families are able to work, that work is often at or near minimum wage with no benefits leaving families still living in terrible deprivation. Elderly people as well will experience increased poverty and all that it brings.

In addition to the hopelessness of spirit, we believe the proposed policy changes will increase hunger, homelessness, and abuse and neglect within families.

Historically, we have worked quite successfully in partnership with government to provide services to persons with special needs. On every front we have received commendation for the great work we have done. However, we do not have either the financial or physical capacity to serve the increased need we expect to occur because of these policy changes. In fact some of the changes may force us to terminate some programs and even close our doors in some ares. We are deeply concerned that the partnership between government and religious institutions, which has worked so well in the past, is now being broken.

We will do our part to alleviate as much suffering as possible by our acts of mercy. However, we believe that all have a responsibility for the needs of the people, the general welfare, the common good—church members and non-church members alike. Because not all seek what is just and good, dependence on charity for the basic needs of life is inadequate. Charity can supplement, but it will never be able to replace "justice." It is not just the responsibility of faith group members who choose to give generously of both their time and resources to ensure that people's needs are met. Society as a whole must be committed to the well being of all. We believe that government, as a means by which Americans act corporately, has a major role in establishing justice, protecting and advancing human rights, and providing for the general welfare of all. This is not a time for government to deny their role and reduce their portion of the partnership.

We believe that Congress and the President should be cautious when making sweeping changes in policy and not reverse the present working relationship with nonprofit providers which has worked so well in the past.

Rev. CHARLES MILLER,
Executive Director, Lutheran Social Ministry Organizations of the Evangelical Lutheran Church in America.
Rev. FRED KAMMER, S.J.,
President, Catholic Charities USA.
Commissioner KENNETH L. HODDER,
National Commander, The Salvation Army.
PREME MATHAI-DAVIS,
Executive Director, YWCA of the U.S.A.

Mr. MOYNIHAN. I reserve the remainder of my time as I believe we are going to try to go to a concluding measure here.

Mr. ROTH. Mr. President, first, I yield 5 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President. I thank the distinguished chairman of the committee for the wonderful job that he has done. It is never easy to make such changes as we are making in this bill. But it is one of the most important decisions that we will make, because it is one of the key elements to change the direction of this country as it relates to welfare and to allow us to balance the budget.

We have heard a lot of talk this afternoon and this evening about helping children. Mr. President, if we are going to help the children of this country, the most important thing we can do is balance the budget. We cannot balance the budget unless we put welfare on a budget. If we do not put welfare on a budget, we will not be able to do what is right for this country.

I am voting yes on this conference report for two reasons: We must take welfare off entitlement status and, Mr. President, we have talked all day and all night about the President saying he is going to veto this bill. There is one reason he is going to veto this bill. It is because we are taking welfare off entitlement status and putting it on a budget. That is the fundamental difference between the President and those of us who are going to support this bill.

This bill does not cut welfare spending. This bill slows the rate of growth of welfare spending from 5.8 percent to 4.02 percent, less than 2 percentage points of difference in the rate of growth. We are going to spend more on welfare. But the difference is we are going to put some parameters around it. We are going to give the States the right to have a welfare program that fits the needs of their States.

Mr. President, my Governor, George Bush, says, "What are they talking about, hurting the children? Do they think I am going to have starving children in my home State?"

My Governor is a graduate of Yale. I mean, it is not the University of Texas, but it is OK. I think he is enlightened. I think he can handle the job, and I think every other Governor in the United States of America knows best what will fit their State's needs.

This is going to make some monumental changes in the priorities we have. We have heard tonight Senators saying, "What are the priorities of this country?" We are going to decide.

The priorities of this country are that we want to help people who need a transition for a temporary period, and that is what this bill does. Can people stay on welfare if they are able-bodied and do not have young children under 6? They cannot do it forever. No, they cannot. They cannot stay on it generation to generation. They have to work after 2 years and they have a lifetime limitation of 5 years.

What does that tell working people of this country, especially the working poor? It says there is an incentive for you to do what is right. No longer are you going to have to support people who can work but will not. If you can work and do, if you consider it a privilege to work and contribute to the economy of this country, you will not be subsidizing people who can work and do not.

We have talked about what is a block grant and what is not a block grant. We are going to put AFDC on a block grant with growth. There is a formula that allows for the growth States to have a fair allocation. But there still is a safety net, Mr. President. There is a safety net in food stamps, in child nutrition. Those will not be block granted. Those are going to be based on need. So food and nutrition programs are a safety net, and they are kept in the bill as a safety net.

Mr. President, we are going to set the priorities of our country with this bill. We are going to say to the working people of this country that it is worth something to work, it is a privilege in this country to have a job and to contribute to the economy and you are not going to be competing with someone who refuses to work even if they can. The working people of this country are going to know that we have a budget and that this is not going to be unlimited spending.

Mr. President, I know that my time is up, and I will just say that we are making decisions that will determine the priorities of our country and we are going to get this country back on track and we are going to bring back what made this country great.

It was the strong families, it was the spirit of entrepreneurship and the working relationships that have built this country. We are going to bring it back and make this country strong again.

Thank you, Mr. President. I yield the floor and thank the chairman.

Mr. ROTH. Mr. President, I yield the remainder of my time to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 18 minutes, 52 seconds.

Mr. SANTORUM. Mr. President, I want to thank the distinguished chairman of the committee who has done an absolutely superb job with this piece of legislation in shepherding it through the conference. It has been a pleasure to work with him in the time we have worked on the welfare bill since he has become chairman.

For the benefit of the staff here, I am going to do the wrap-up and then proceed with my remarks after the wrap-up.

MORNING BUSINESS

Mr. SANTORUM. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, as of the close of business yesterday, December 20, the Federal debt stood at $4,988,966,775,602.69, a little more than $11 billion shy of the $5 trillion mark, which the Federal debt will exceed in a few weeks.

On a per capita basis, every man, woman, and child in America owes $18,938.20 as his or her share of that debt.

HONORING JOHN C. STENNIS

Mr. WARNER. Mr. President, I rise today to pay tribute to Senator John C. Stennis, for whom our Nation's newest aircraft carrier is named. Further, I include in today's RECORD the excellent remarks given by the Secretary of Defense, William Perry, and Senator THAD COCHRAN, the two principal speakers at the commissioning of this great ship on December 9, 1995.

Built with the minds, hands, and sweat of thousands of workers at Newport News Shipbuilding, and manned by the men and women of the most powerful Navy in today's world, this ship serves as an symbol of peace, that will stand guard night and day on the seven seas deterring aggression. As a former sailor in World War II, Secretary of the Navy, and now a senior member of the Senate Armed Services Committee, I know well the awesome capabilities of these magnificent ships.

In my brief remarks to an impressive audience of over ten thousand people who braved a wintery day, I recalled how, as I worked by his side for over a decade, Senator Stennis would relate stories of how a succession of Presidents would say "Whenever I was awakened in the middle of the night by a report of a crisis somewhere in the world, my first thoughts were always 'Where is the nearest U.S. aircraft carrier?'"

Mr. President, it is fitting that this great ship bears the name of Senator Stennis. Senator Stennis was my friend and mentor, whose humble beginnings in a small working-class home and equally humble and proud manner in which he lived his entire life, stand in stark contrast to this magnificent ship that now bears his name. He was a true visionary and champion of our Nation's Armed Forces. When Senator Stennis left the Senate, he gave me a plaque which was always on his desk. While the plaque itself may be simple and plain, the message "Look ahead" has deep meaning. Indeed, even today, our Nation is reaping the benefits of the forward thinking Senator who lived by these words.

Mr. President, during the commissioning ceremony of the USS *John C. Stennis*, attended by many Members of Congress including Senators STROM THURMOND, THAD COCHRAN, TRENT LOTT, CHUCK ROBB, SAM NUNN, and DIRK KEMPTHORNE, and Congressmen SONNY MONTGOMERY, OWEN PICKETT, HERB BATEMAN, BOBBY SCOTT, and GENE TAYLOR. I was honored to be able to present the ship with that plaque, as I am sure Senator Stennis would have wanted, in hopes that it would inspire the generations of men and women that will serve on her.

I ask unanimous consent that Senator COCHRAN's and Secretary Perry's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD as follows:

REMARKS OF SENATOR THAD COCHRAN AT THE COMMISSIONING OF THE U.S.S. JOHN C. STENNIS (CVN-74)

Those of us from the State of Mississippi could not be more proud today. We are all honored by the career and life of John C. Stennis.

When he was elected to the United States Senate in 1947, an editor of one of our newspapers said our State would "earn the plaudits of the Nation" by choosing such "a thoughtful, purposeful, and high-minded man."

That turned out to be very true indeed. Integrity was not just a virtue with John Stennis, it was a way of life. For that he was greatly admired.

With all his good personal qualities, he had an enormous capacity for hard work and endurance. His personal toughness as well as his courage and determination was greatly tested when he was shot by robbers in 1973, and then later when serious health problems threatened his life.

He not only survived, he prevailed, as William Faulkner might say, and he did so without complaint or any noticeable ill humor.

John Stennis was always in good spirits, friendly with all his colleagues, the epitome of decorum and courtesy. In the ten years I was privileged to be his State colleague in the Senate, I never heard him say a critical or unkind word about anybody.

But he was tough minded, resolute, and firm, like he had been as a trial judge, insisting on order and respect for the Court, and later the Senate. The judicial temperament he exhibited included a strong respect for justice and fairness.

It is no wonder then that as a young Senator he was chosen to serve as the first chairman of the Committee on Standards and Conduct.

His effective work as chairman of the Subcommittee on Military Preparedness gave him his first opportunity to develop expertise in national defense matters. When he later chaired the Armed Services and Appropriations Committees, he helped authorize and fund what all now recognize as the mightiest military force in the world, distinguished from all others by our nuclear powered aircraft carriers.

As the officers and crew of this fine ship carry out their duties, I know that they will be challenged and strengthened by the example of this ship's namesake, John C. Stennis. It is the kind of ship that appropriately bears his name. It is robust, well made in all respects, and ready and able to meet every challenge. May it be God's will that it will do so safely.

REMARKS OF SECRETARY WILLIAM PERRY AT THE COMMISSIONING OF THE USS JOHN C. STENNIS (CVN-74)

Admiral Boorda and Secretary Dalton have both rightly said that the United States Navy is the most powerful in the world. I want to tell you that that is not simply rhetoric, it is a statement of fact. And the ship we're commissioning today, U.S.S. *JOHN C. STENNIS*, will be the most powerful warship in the world.

Two hundred and twenty years ago, this very day, America learned its first lesson on why our Nation needs a powerful Navy. For on that day, only a few miles from here, the battle of Great Bridge began. It was the first military engagement of the Revolutionary War in the Virginia colony. American forces won this battle. But, afterwards, the defeated British forces proceeded to bombard the city of Norfolk, with their cannons, from the sea. The American forces were helpless to stop them because we had no Navy.

Throughout that year, 1775, some members of the Continental Congress had been opposed to trying to build a Navy. In fact, one member, Samuel Chase, remarked, "Building an American navy is the maddest idea in the world." His views were countered by John Paul Jones, who said, "Without a respectable navy, alas America."

Incidents like the bombardment of Norfolk showed that not having an American navy was the maddest idea in the world. So, the views of John Paul Jones prevailed over the views of Samuel Chase and America did build a respectable Navy.

By the time of the Second World War, our respectable Navy had become a global naval power. And this naval power helped defeat the forces of totalitarianism on two sides of the globe. And all during the Cold War, our global naval power contained the forces of Soviet expansionism. Today, we are adding another great ship to our global naval power—a ship that will help project and defend America's interests for the next fifty years. The *John C. Stennis* is America's seventh Nimitz class carrier. Both of these names, Nimitz and Stennis, capture the glorious history of our Navy in this century.

Fifty years ago, Admiral Chester Nimitz commanded our Pacific force. It was that war that witnessed the emergence of the aircraft carrier as a powerful tool for the most powerful nation. Then, through 50 years of the Cold War, Senator John Stennis saw to it that America's Navy remained the most powerful in the world. He has been called the father of America's modern Navy, because, when John Stennis said, "America needs this ship," Congress listened. Senator Warner has told you that one of Senator Stennis's favorite sayings was, "Look ahead," and it is fitting that this saying has become the unofficial motto of U.S.S. *John C. Stennis*. Because at the end of the Cold War, there are some who ask why America still needs ships like *John C. Stennis*, and the answer to their question is, "Look ahead."

When you look ahead, you see that America will remain a global power with global interests, that America will continue to face threats to its interests, and that protecting these interests requires a powerful presence in many places around the world. A critical way of getting that presence is by having a strong Navy. And no Navy ship has more presence than a Nimitz class aircraft carrier.

Let me give you an example of what forward presence does for our security. The U.S.S. *Theodore Roosevelt*, affectionately called "TR"—another Nimitz class carrier—recently led a battle group through a six month deployment. When it started out, last March, it first went to the Arabian Gulf to enforce the no-fly-zone over southern Iraq. Then, it sailed to the Mediterranean to conduct routine exercises with our allies and friends in the area—exercises that improve the ability of our forces and other nations to work together. At the same time, "TR" supported NATO's Deny Flight operations—enforcing the no-fly-zone over the former Yugoslavia. Then, in August, several members of Saddam Hussein's family defected to Jordan and the world worried that Saddam might lash out at his neighbors. To deter this potential aggressor, we moved "TR" to the eastern Med and repositioned an amphibious force in the Red Sea. These forward deployed forces with credible combat power sent Saddam a message, loud and clear. Soon after this crisis died down, "TR" rushed back to the Adriatic Sea to conduct NATO air strikes over Bosnia. And, as we all know, these air strikes played a critical role in bringing the parties to the bargaining table in Dayton.

So, on one deployment, for six months, "TR" improved our ability to operate with our allies; helped a friend in need; deterred Saddam Hussein; and helped create an opportunity for ending the deadliest fighting in Europe since World War II.

As we look ahead, it is clear that deployments like these will not be uncommon for our carriers. And, as we realize this, we must also recognize that this craft is not just a fast, powerful vessel with fast, powerful aircraft. Instead, it is four and a half acres of American turf, off the coast of any trouble spot in the world we send it to. In other words, it's not just a floating runway for airplanes, it is a mobile island of American power. An island we can rush to anywhere our interests are threatened and use to do anything needed to support our operations.

In addition to using it for large, powerful air strikes, we can use it to launch a team of Navy SEALs. We can use it as a joint command and control center to shape the battlefield in almost any theater. And, as Admiral Paul David Miller showed us last year, when we went into Haiti, we can even use it as a launching pad for the 10th Mountain Division troops and Army helicopters.

But, even with these tremendous capabilities, this carrier is still only as good as the men and women who will operate it. Admiral Nimitz himself said, "There is simply no substitute for good seamanship." A ship like this carrier requires intelligent, dedicated, well trained people. People like Captain Robert Klosterman, who will very soon command this ship, and the officers and the crew who are handpicked to join him.

I have great confidence that the *John C. Stennis* is one of the most capable ships in the world. I have equally great confidence that this crew is one of the best groups of sailors in the world. Captain Klosterman and his crew will present some of the world's most sophisticated and deadly equipment. They not only have to operate this equipment, they also have to maintain it. There are no Maytag repairmen on the open seas. And that is why it is essential for our sailors to have the best training available. And once we train them, we need to keep them in the Navy. To do that, we need to treat them right and we must take care of their families as they weather the strain of having a parent or spouse away from home. And that is why the title that we invest in our sailors quality of life. Caring about our people—giving them decent pay, housing, and medical care—is not just the right thing to do, it is also the smart thing to do, because it is vital to maintaining the quality and readiness of our forces.

Finally, let us remember, on this holiday season, that many of our servicemen and women are deployed in the Mediterranean, the Adriatic, and in Yugoslavia. Still more are on their way. They are all preparing to support the peace Implementation Force in Bosnia. It is a tough assignment for them. It is even tougher on their families. So as we celebrate this year, let us all pray for the safety of our soldiers, sailors, airmen, and Marines performing these difficult missions. And let us also pray for their comrades—some 150,000 of them—who will also spend their holidays away from their loved ones as they perform other missions for peace and freedom around the globe.

Next to my office in the Pentagon is a painting depicting a soldier, he's in a church praying with his family just before a deployment. Underneath this painting are the lines from the Bible, in which God says, "Whom shall I send and who will go for us?" And, Isaiah answers, "Here am I. Send me." This Christmas, our Nation asks, "Whom shall I send?" And, 150,000 of our military personnel answered, "Here am I. Send me." These military personnel are America's finest and they deserve the prayers and support of all Americans.

PATRICK T. ALLEN: DEDICATED TO SOUTH CAROLINA

Mr. HOLLINGS. Mr. President, I rise today to remember and to thank Patrick R. Allen for his 25-year career as head of the Central Electric Power Cooperative in my home State. Pat is retiring in January and he'll be sorely missed.

Central Electric plays a critical role in the lives of thousands of South Carolinians. It is a wholesale supplier for 15 rural electric cooperatives in South Carolina, which in turn supply electricity to more than 345,000 residential, commercial and industrial customers in two-thirds of the State. Pat Allen's role in steering Central Electric has been critical.

Pat moved to South Carolina from his native Texas in 1970 to take a job as manager of engineering and construction with Central Electric. He became president and chief executive officer in 1975. The company has grown tremendously under his leadership and moved from a one-floor office in the Farm Bureau Building in Cayce to its present home in Columbia.

Pat introduced the first computers to Central and wrote the original programs. He installed an economic development department, which later became the nucleus of a successful new venture, Palmetto Economic Development Corp. Now, the spin-off company represents Central Electric and another public service company, Santee Cooper, in its economic development mission.

Pat introduced many marketing concepts to Central's member cooperative that have earned national recognition for their proactive and aggressive approaches.

Mr. President, I appreciate the opportunity to recognize the years of devotion and strong leadership that Pat has brought to Central Electric and its customers. I wish him and his wife JoAnne all the best during Pat's retirement and hope they have many more happy years to come.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:33 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate.

H.R. 2704. An act to provide that the United States Post Office building that is to be located at 7436 South Exchange Avenue, Chicago, Illinois, shall be known and designated as the "Charles A. Hayes Post Office Building".

H.J Res 134. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 106. Concurrent Resolution permitting the use of the rotunda of the Capitol for ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

At 11:15 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House of Representatives having proceeded to reconsider the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was passed, two-thirds of the House of Representatives agreeing to pass the same.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 1:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

H.R. 965. An act to designate the Federal building located at 600 Martin Luther King, Jr. Place in Louisville, Kentucky, as the "Romano L. Mazzoli Federal Building."

H.R. 1253. An act to rename the San Francisco Bay National Wildlife Refuge as the Don Edwards San Francisco Bay National Wildlife Refuge.

H.R. 2481. An act to designate the Federal Triangle Project under construction at 14th Street and Pennsylvania Avenue, Northwest, in the District of Columbia, as the "Ronald Reagan Building and International Trade Center."

H.R. 2527. An act to amend the Federal Election Campaign Act of 1971 to improve the electoral process by permitting electronic filing and preservation of Federal Election Commission reports, and for other purposes.

H.R. 2547. An act to designate the United States courthouse located at 800 Market Street in Knoxville, Tennessee, as the "Howard H. Baker, Jr. United States Courthouse."

H.J. Res. 69. Joint resolution providing for the reappointment of Homer Alfred Neal as a citizen regent of the Board of Regents of the Smithsonian Institution.

H.J. Res. 110. Joint resolution providing for the appointment of Howard H. Baker, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution.

H.J. Res. 111. Joint resolution providing for the appointment of Anne D'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution.

H.J. Res. 112. Joint resolution providing for the appointment of Louis Gerstner as a citizen regent of the Board of Regents of the Smithsonian Institution.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1655) to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The enrolled bills and joint resolutions were signed subsequently by the President pro tempore (Mr. THURMOND).

The message further announced that pursuant to the provisions of Public Law 84-372, the Speaker appoints the following Members on the part of the House to the Franklin Delano Roosevelt Memorial Commission: Mr. ENGLISH of Pennsylvania and Mr. HINCHEY of New York.

At 4:24 p.m., a message from the House of Representatives, delivered by

Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4) to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence.

ENROLLED BILL SIGNED

At 6:06 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1530. An act to authorize appropriations for the fiscal year 1996 for military activities of the Department of Defense, for military construction, and for defense activities for the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

MEASURES REFERRED

The following bill, received previously from the House of Representatives for concurrence, was read twice, referred as indicated:

H.R. 632. An act to enhance fairness in compensating owners of patents used by the United States; to the Committee on the Judiciary.

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 2704. An act to provide that the United States Post Office building that is to be located at 7436 South Exchange Avenue, Chicago, Illinois, shall be known and designated as the "Charles A. Hayes Post Office Building"; to the Committee on Governmental Affairs.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 106. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust; to the Committee on Rules and Administration.

MEASURE READ THE FIRST TIME

The following joint resolution was read the first time:

H.J. Res. 134. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2437. A bill to provide for the exchange of certain lands in Gilpin County, Colorado (Rept. No. 104–196).

By Mr. HATCH, from the Committee on the Judiciary:

Report to accompany the bill (S. 956) to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes (Rept. No. 104–197).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

C. Lynwood Smith, of Alabama, to be United States District Judge for the Northern District of Alabama.

Barbara S. Jones, of New York, to be United States District Judge for the Southern District of New York.

Jed S. Rakoff, of New York, to be United States District Judge for the Southern District of New York.

Joan A. Lenard, of Florida, to be United States District Judge for the Southern District of Florida.

Bernice B. Donald, of Tennessee, to be United States District Judge for the Western District of Tennessee.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. AKAKA [for himself, Mr. GLENN, and Mr. INOUYE]:

S. 1492. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to combat fraud and price-gouging committed in connection with the provision of consumer goods and services for the cleanup, repair, and recovery from the effects of a major disaster declared by the President, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG:

S. 1493. A bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals; to the Committee on the Judiciary.

By Mr. D'AMATO [for himself, Mr. MACK, Mr. BOND, Mr. DOMENICI, Mr. BENNETT, and Mr. SHELBY]:

S. 1494. A bill to provide an extension for fiscal year 1996 for certain programs administered by the Secretary of Housing and Urban Development and the Secretary of Agriculture, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KYL [for himself, Mr. HATCH, and Mr. DEWINE]:

S. 1495. A bill to control crime, and for other purposes; to the Committee on the Judiciary.

By Mr. SIMON [for himself, Mr. HATCH, Mr. BOND, and Mr. ASHCROFT]:

S. 1496. A bill to grant certain patent rights for certain non-steroidal anti-inflammatory drugs for a two year period; to the Committee on the Judiciary.

By Mr. NICKLES [for himself, Mr. SMITH, Mr. PRYOR, Mr. BOND, Mr. BUMPERS, Mr. INHOFE, Mr. LOTT, Mr. BREAUX, Mr. JOHNSTON, Mr. ABRAHAM, Mr. KEMPTHORNE, Mr. LIEBERMAN, Mr. FAIRCLOTH, Mr. GLENN, and Mr. WARNER]:

S. 1497. A bill to amend the Solid Waste Disposal Act to make certain adjustments in the land disposal program to provide needed flexibility, and for other purposes; to the Committee on Environment and Public Works.

By Ms. SNOWE [for herself, Mr. KERRY, Mr. COHEN, and Mr. KENNEDY]:

S. 1498. A bill to authorize appropriations to carry out the Interjurisdictional Fisheries Act of 1986, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATFIELD:

S. 1499. A bill to amend the Interjurisdictional Fisheries Act of 1986 to provide for direct and indirect assistance for certain persons engaged in commercial fisheries, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BROWN:

S. 1500. A bill to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado, and for other purposes; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER [for himself, Mr. KERREY, Mr. GLENN, Mr. BRYAN, Mr. ROBB, Mr. JOHNSTON, Mr. CHAFEE, Mr. BAUCUS, Mr. WARNER, Mr. KERRY, Mr. SHELBY, Mr. GRAHAM, Mr. KYL, Mr. LUGAR, Mr. INHOFE, Mr. BYRD, and Mr. DEWINE]:

S. Res. 201. A resolution commending the CIA's statutory Inspector General on his 5-year anniversary in office; considered and agreed to.

By Mr. EXON [for himself and Mr. WELLSTONE]:

S. Con. Res. 37. A concurrent resolution directing the Clerk of the House of Representatives to make technical changes in the enrollment of the bill (H.R. 2539) entitled "An Act to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG:

S. 1493. A bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals; to the Committee on the Judiciary.

THE CAPTIVE EXOTIC ANIMAL PROTECTION ACT OF 1995

Mr. LAUTENBERG. Mr. President, today I am introducing the Capitive Exotic Animal Protection Act of 1995, a bill to stop what are known as canned hunts—the cruel and inhumane business in which a customer pays to shoot a tame, captive exotic animal in a fenced-in enclosure for entertainment, or to collect a trophy.

Mr. President, canned hunts do not involve hunting, tracking, or shooting skills. In such an operation, the client merely hands over a check, walks to within yards of his prize, aims carefully to avoid the head, and shoots, killing the unsuspecting exotic animal. This is not sport—it is easy slaughter for a price. Sportsmen do not support this, and neither should we.

Mr. President, imagine this: A black leopard, raised in captivity, is released from a crate in the presence of a paying hunter and is immediately surrounded by a pack of hounds. The cat, virtually defenseless because it has been declared and is greatly outnumbered by the hounds, tries to escape by running under a truck. The hounds follow the leopard who then darts from under the truck slightly ahead of the pack. The customer gets his shot—and his trophy.

Mr. President, in the United States today, there are estimated to be more than 1,000 private hunting ranches where exotic mammals are shot for a fee. Many of these hunting ranches have a land area of 1,000 acres or less—some are less than 100 acres. The animals are tame targets for hunters and the proprietors of these operations offer a guaranteed kill opportunity for their clients. It is called no kill, no pay. The animals are shot at point blank range—with bow or firearm—and have no chance of eluding a hunter.

These hunting operations provide a laundry list of potential trophies for hunters. For a fee, a hunter can kill whatever animal he or she wishes. Gazelles typically sell for $800 to $3,500; Cape buffaloes, $5,000; angora goats, $325; Corsican sheep, $500; red deer, $1,500 to $6,000. The rarer the animal—lions and tigers, for instance, the higher the price.

I want to emphasize, Mr. President, that most sportsmen decry these despicable practices as unsporting. They say that canned hunts make a mockery of hunting. The Boone and Crockett Club, a hunting organization founded by former President Teddy Roosevelt that maintains records of North America's big game, takes the position that "hunting game confined in artificial barriers, including escape-proof fenced enclosures or hunting game transplanted solely for the purpose of commercial shooting" is "unfair chase and unsportsmanlike." In 1994, in the publication Outdoor America, the magazine of the pro-hunting Izaak Walton League, Maitland Sharpe, the organization's executive director at the time, stated that this practice "tarnishes all hunting, all hunting. . . ."

The American Zoo and Aquarium Association [AZA] forbids its membership organizations from selling, trading, or transfering zoo animals to hunting ranches, though the prohibition too often is ignored. The AZA opposes canned hunts, and has written to Members of Congress that it "(a) deplores and is opposed to canned hunts of exotic animals and (b) supports the prohibition of interstate practices which allow exotic animals to be killed in such hunts."

Mr. President, exotic hunting ranches threaten native wildlife populations with the spread of disease. If these ranch animals escape, they can transmit diseases to native wildlife. John Talbott, acting director of the Wyoming Department of Fish and Game, stated in January of this year, "Tuberculosis and other diseases documented among game ranch animals in surrounding states" pose "an extremely serious threat to Wyoming's native big game." This is one reason why Wyoming bans canned hunts. Other States also ban these hunts, including California, Connecticut, New Jersey, North Carolina, and Wisconsin. However, States that permit these operations import exotic mammals from other States—including those that prohibit canned hunts—and victimize these animals in unsporting canned hunts. Federal legislation is needed to ban the interstate trade in exotic mammals for the purpose of shooting them for a fee to collect a trophy.

Federal legislation is also needed because exotic mammals are not carefully regulated by the States. Exotic mammals often fall outside the traditional range of responsibility for State fish and game agencies. They fall outside the purview of State agriculture departments. Exotic mammals—not being native wildlife or livestock—are in a sense, caught in regulatory limbo. This lack of oversight by State agencies allows canned hunt operators to exploit these animals for profit.

My legislation is identical to a similar bill that has been introduced in the House, H.R. 1202. The bill would ban only those operations of 1,000 acres or less in which tame animals are shot for a fee for the purposes of collecting a trophy. Larger hunting ranches, where the animals are provided with some room to maneuver, are exempt. The hunting of native wildlife would not be affected in any way. The House bill has attracted strong bipartisan support, with over 100 cosponsors to date.

Mr. President, this legislation is needed to put a stop to this amoral, cruel business. I urge my colleagues to support me in this effort, and ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1493

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Captive Exotic Animal Protection Act of 1995".

SEC. 2. TRANSPORTATION OR POSSESSION OF EXOTIC ANIMALS FOR PURPOSES OF KILLING OR INJURING THEM.

(A) IN GENERAL.—Chapter 3 of title 18, United States Code, is amended by adding at the end the following:

"§ 48. Exotic animals

"(a) Whoever, in or affecting interstate or foreign commerce, knowingly transfers, transports, or possesses a confined exotic animal, for the purposes of allowing the killing or injuring of that animal for entertainment or the collection of a trophy, shall be fined under this title or imprisoned not more than one year, or both.

"(b) As used in this section—

"(1) the term 'confined exotic animal' means a mammal of a species not historically indigenous to the United States that in fact has been held in captivity for the shorter of—

"(A) the greater part of the animal's life; or

"(B) a period of one year; whether or not the defendant knew the length of the captivity; and

"(2) the term 'captivity' does not include any period during which the animal—

"(A) lives as it would in the wild, surviving primarily by foraging for naturally occurring food, roaming at will over an open area of at least 1,000 acres; and

"(B) has the opportunity to avoid hunters.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 3 of title 18, United States Code, is amended by adding at the beginning the following new item:

"48. Exotic animals.".

By Mr. D'AMATO (for himself, Mr. MACK, Mr. BOND, Mr. DOMENICI, Mr. BENNETT, and Mr. SHELBY):

S. 1494. A bill to provide an extension for fiscal year 1996 for certain programs administered by the Secretary of Housing and Urban Development and the Secretary of Agriculture, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE HOUSING OPPORTUNITY PROGRAM EXTENSION ACT OF 1995

Mr. D'AMATO. Mr. President, I rise to introduce the Housing Opportunity Program Extension Act of 1995. I wish to thank Senators MACK, BOND, SHELBY, BENNETT, and DOMENICI for their cosponsorship of this much needed legislation.

This important measure would provide short-term extensions of housing programs which have expired. This bill does not create new housing policy, but is a stopgap measure which would allow existing programs to continue until October 1, 1996. Next year, the Banking Committee and its Housing Subcommittees will continue its evaluation of proposals for reorganization and elimination of the Department of Housing and Urban Development. Omnibus housing legislation will be introduced in the Spring of 1996 which will reorganize, transfer or eliminate housing and community development programs. Some of the programs extended in this legislation will be reformed at that time. Modifications of these programs will be reserved until the Banking Committee has the opportunity for hearings and debate next year.

The majority of the housing program extensions contained in this bill were passed by the Senate and House in the fiscal year 1996 Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies appropriations bill (H.R. 2099). If it were not for the recent veto of H.R.

2099, this legislation would not be necessary. However, the President's veto has placed our Nation's housing delivery system in serious jeopardy. It is imperative that we act to extend housing programs which would otherwise be suspended for an indefinite time period.

This legislation would extend the following: Section 8 contract renewals; the Community Development Block Grant homeownership program; the Section 515 rural multifamily loan program; the Home Equity Conversion Mortgage program; and the Multifamily Housing Risk-Sharing programs.

I look forward to working with all Members of the Senate on a bipartisan basis to ensure the swift passage of this much needed legislation. I urge my colleagues to protect the needy recipients of these effective housing programs by supporting the Housing Opportunity Program Extension Act of 1995. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1494

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; DEFINITION.

(a) SHORT TITLE.—This Act may be cited as the "Housing Opportunity Program Extension Act of 1995".

(b) DEFINITION.—For purposes of this Act, the term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 2. SECTION 8 CONTRACT RENEWALS.

(a) IN GENERAL.—During fiscal year 1996, with respect to any project that is determined by the Secretary to meet housing quality standards under the United States Housing Act of 1937 and to be otherwise in compliance with that Act, at the request of the owner of the project, the Secretary shall renew, for a period of 1 year, any contract for assistance under section 8 of the United States Housing Act of 1937 that expires or terminates during fiscal year 1996, at current rent levels under the expiring of terminating contract.

(b) AMENDMENTS TO THE NATIONAL HOUSING ACT.—Section 236(f) of the National Housing Act (12 U.S.C. 1715z–1(f)) is amended—

(1) in paragraph (1), by striking the second sentence and inserting the following: "The rental charge for each dwelling unit shall be at the basic rental charge, or such greater amount, not to exceed the lesser of (i) the fair market rental charge determined pursuant to this paragraph, or (ii) the fair market rental established under section 8(c) of the United States Housing Act of 1937 for existing housing in the market area in which the housing is located, as represents 30 percent of the tenant's adjusted income."; and

(2) by striking paragraph (6).

SEC. 3. COMMUNITY DEVELOPMENT BLOCK GRANT ELIGIBLE ACTIVITIES.

Notwithstanding the amendments made by section 907(b)(2) of the Cranston-Gonzalez National Affordable Housing Act, section 105(a)(25) of the Housing and Community Development Act of 1974, as in existence on September 30, 1995, shall apply to the use of assistance made available under title I of the Housing and Community Development Act of 1974 during fiscal year 1996.

SEC. 4. EXTENSION OF RURAL HOUSING PROGRAMS.

(a) UNDERSERVED AREAS SET-ASIDE.—Section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended—

(1) in the first sentence, by striking "fiscal years 1993 and 1994" and inserting "fiscal year 1996"; and

(2) in the second sentence, by striking "each".

(b) RURAL MULTIFAMILY RENTAL HOUSING.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1994" and inserting "September 30, 1996".

(c) RURAL RENTAL HOUSING FUND FOR NONPROFIT ENTITIES.—The first of section 515(w)(1) of the Housing Act of 1949 (42 U.S.C. 1485(w)(1)) is amended by striking "fiscal years 1993 and 1994" and inserting "fiscal year 1996".

SEC. 5. EXTENSION OF FHA MORTGAGE INSURANCE PROGRAM FOR HOME EQUITY CONVERSION MORTGAGES.

(a) EXTENSION OF PROGRAM.—The first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) is amended by striking "September 30, 1995" and inserting "September 30, 1996".

(b) LIMITATION ON NUMBER OF MORTGAGES.—The second sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z–20(g)) is amended by striking "25,000" and inserting "30,000".

SEC. 6. EXTENSION OF MULTIFAMILY HOUSING FINANCE PROGRAMS.

(a) RISK-SHARING PILOT PROGRAM.—The first sentence of section 542(b)(5) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended by striking "on not more than 15,000 units over fiscal years 1993 and 1994" and inserting "on not more than 7,500 units during fiscal year 1996".

(b) HOUSING FINANCE AGENCY PILOT PROGRAM.—The first sentence of section 542(c)(4) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended by striking "on not to exceed 30,000 units over fiscal years 1993, 1994, and 1995" and inserting "on not more than 10,000 units during fiscal year 1996".

SEC. 7. APPLICABILITY.

This Act and the amendments made by this Act shall be construed to have become effective on October 1, 1995.

Mr. BOND. Mr. President, I am introducing with Senators D'AMATO and MACK the Housing Opportunity Program Extenders Act of 1995. This legislation is designed to provide HUD and the Rural Housing and Community Development Service—commonly known as FmHA—with authority to continue certain housing programs which are strongly supported by the American public and which will generally be suspended if the administration continues to ignore responsible dialogue on housing issues and vetoes S. 2099, the VA/HUD fiscal year 1996 appropriations bill.

I emphasize the importance of this bill and urge my colleagues to support this legislation. Most importantly, similar to the VA/HUD fiscal year 1996 appropriations bill, this bill would require HUD to renew expiring section 8 project-based contracts for fiscal year 1996 for 1 year at current rents. There are some 900,000 FHA-insured units with section 8 project-based assistance contracts that are expiring over the next 10 years. Many of these section 8 contracts are currently subsidized at above market rents and fiscal responsibility requires that Congress contain the spiraling costs associated with this inventory. Moreover, under a recent HUD legal opinion, HUD may renew these expiring section 8 project-based contracts at no more than 120 percent of fair market rents; this means that these section 8 projects could begin to default and face foreclosure by HUD during fiscal year 1996.

I believe it is critical that Congress reform and adjust the costs, including section 8 costs, of these assisted housing programs. However, in doing so, we must balance the cost of the expiring section 8 contracts with the cost of foreclosure of these projects to the HUD insurance fund, as well as the significant social policy of the possible displacement of low-income housing residents and the disinvestment by project owners in these projects which could result in significant deterioration of this housing stock. Like the VA/HUD fiscal year 1996 appropriations bill, renewing these section 8 contracts for 1 year will provide the Banking Committee with an opportunity to address these concerns through comprehensive legislation that will preserve this valuable housing resource as low-income housing at a reasonable cost to the Federal Government.

Second, the legislation would extend the Home Equity Conversion Mortgage Program through fiscal year 1996, increasing the maximum number of units eligible for insurance from 25,000 to 30,000. This program is designed to allow the elderly to tap the accumulated equity in their homes for needed expenses without the risk of losing the housing as a principal residence. This is a successful program that is growing in popularity among the elderly population as an option to assist in providing continuing independence, both financially and through the continuing use of their homes as a principal resident.

Third, the legislation would extend the homeownership program under the CDBG program as a continuing eligible activity through fiscal year 1996. This program is widely supported by a number of communities throughout the Nation which use the program as an additional resource to expand homeownership opportunities.

Fourth, the bill would extend the FHA multifamily risk-sharing programs for fiscal year 1996. These programs authorize HUD to enter into mortgage insurance agreements and partnerships with Fannie Mae and Freddie Mac and with State housing finance agencies for the creation of affordable multifamily housing. These are important programs which help to guarantee the availability of affordable rental housing in the Nation.

Finally, the bill would extend the Rural Housing and Community Development Service's section 515 rural multifamily housing program for fiscal year 1996. Currently, fiscal year 1996 appropriations generally have limited the available funding for fiscal year 1996 to rehabilitation. However, there is a significant need for additional rural housing which is affordable. Moreover, section 515 projects are, in many cases, the only available and affordable low-income housing in rural areas. While there has been substantial criticism leveled at abuses in the section 515 program, the Rural Housing and Community Development Service has addressed a number of the failings in the program and the Banking Committee has pledged to review closely the section 515 program and address any concerns as part of a major housing and community development overhaul and reform bill.

Mr. President, this legislation is bipartisan, simple, straightforward and necessary. I strongly urge my colleagues to support this legislation.

Mr. MACK. Mr. President, I am pleased to join with Senator D'AMATO as a cosponsor of this bill to extend for 1 year a number of housing activities under the jurisdiction of the Banking Committee. The fiscal year 1996 VA-HUD-Independent agencies appropriation bill extended the authority for a number of expired HUD programs and activities for 1 year to give the authorizing committee time to consider needed reforms in those programs and deal with them more permanently.

Unfortunately, the President vetoed the appropriation bill, and these programs are in immediate jeopardy. This legislation is necessary to continue authorizations for activities that have broad support. I stress to my colleagues that this is emergency legislation that contains no programmatic reforms.

First, and foremost, this bill would allow HUD to renew expiring section 8 rental assistance contracts at current rents for 1 year. HUD has taken the position that it currently has no authority for fiscal year 1996 to renew expiring section 8 contracts at above fair market rent [FMR]. Without language to allow contract renewals at above FMR, a large number of FHA-insured multifamily housing projects could face default this year. This extension will give the authorizing committee time to develop an orderly "mark-to-market" strategy to restructure the debt on these projects, end payments of excessive rental subsidies, and help bring HUD's budget under control.

This bill also extends the Federal Housing Administration's mortgage insurance program Home Equity Conversion Mortgages. This popular demonstration program has allowed more than 14,000 elderly homeowners to tap into the equity in their homes, but mortgage authority for the program expired at the end of fiscal 1995. This extension will give us the time needed to pass legislation extending the program for another 5 years and to enact reforms that will make the program more effective.

The legislation extends the FHA section 515 rural rental housing loan program. This is the only program extension included that is not under the jurisdiction of the VA-HUD-Independent Agencies appropriations subcommittee. However, this is an important housing development program under the Banking Committee's jurisdiction, and there is currently a significant backlog of preapproved applications for section 515 loans.

I am, however, concerned by reports issued by the General Accounting Office and others indicating that structural and financial management problems exist in the section 515 program. As chairman of the Housing Opportunity and Community Development Subcommittee, I intend to hold hearings on this and other rural housing programs early next year and to propose program reforms where needed. No further extensions of the section 515 program should be approved until the program has been thoroughly reviewed by the Banking Committee.

By Mr. KYL (for himself, Mr. HATCH, and Mr. DEWINE):

S. 1495. A bill to control crime, and for other purposes; to the Committee on the Judiciary.

THE CRIME PREVENTION ACT OF 1995

Mr. KYL. Mr. President, I rise to introduce the Crime Prevention Act. One of the most important responsibilities for the 104th Congress is to pass a tough comprehensive crime measure that will restore law and order to America's streets.

Reported crime may have decreased slightly over the past few years, but the streets are still too dangerous. Too many Americans are afraid to go out for fear of being robbed, assaulted, or murdered.

In fact, according to the Bureau of Justice Statistics report "Highlights from 20 Years of Surveying Crime Victims," approximately 2 million people are injured a year as a result of violent crime. Of those who are injured, more than half require some level of medical treatment and nearly a quarter receive treatment in a hospital emergency room or require hospitalization.

THE CRIME CLOCK IS TICKING

The picture painted by crime statistics is frightening. According to the Uniform Crime Reports released by the Department of Justice, in 1994 there was: a violent crime every 17 seconds; a murder every 23 minutes; a forcible rape every 5 minutes; a robbery every 51 seconds; an aggravated assault every 28 seconds; a property crime every 3 seconds; a burglary every 12 seconds; and a motor vehicle theft every 20 seconds.

In short, a crime index offense occurred every 2 seconds. And this is just reported crime.

STATISTICS

Again, according to the Uniform Crime Reports in 1994, there were 1,864,168 violent crimes reported to law enforcement, a rate of 716 violent crimes per 100,000 inhabitants. The 1994 total was 2 percent above the 1990 level and 40 percent above that of 1985.

Further, juvenile crime is skyrocketing. According to statistics compiled by the FBI, from 1985 to 1993 the number of homicides committed by males aged 18 to 24 increased 65 percent, and by males aged 14 to 17 increased 165 percent. In addition, according to statistics recently released by the Department of Justice, during 1993, the youngest age group surveyed—those 12 to 15 years old—had the greatest risk of being the victims of violent crimes.

Crime in my State, Arizona, is very much on the rise. In 1994, Phoenix suffered a record 244 homicides. An article in the December 12th Arizona Republic, stated that 235 people have been slain this year, 9 short of last year's record. Statewide crime was up in Mesa, Chandler, Glendale, Scottsdale, and Tempe. By August, the number of murders in Tucson this year eclipsed last year's total.

THE HEAVY COST OF CRIME

Aside from the vicious personal toll exacted, crime also has a devastating effect on the economy of our country. Business Week estimated in 1993 that crime costs Americans $425 million annually. To fight crime, the United States spends about $90 billion a year on the entire criminal justice system. Crime is especially devastating to our cities, which often have crime rates several times higher than suburbs.

The Washington Post ran an October 8 article detailing the work of professors Mark Levitt and Mark Cohen in estimating the real cost of crime to society. According to the article, "[i]nstead of merely toting up the haul in armed robberies or burglaries, Cohen tallied all of the costs associated with various kinds of crime, from loss of income sustained by a murder victim's family to the cost of counseling a rape victim to the diminished value of houses in high-burglary neighborhoods." These quality of life costs raise the cost of crime considerably. Cohen and Levitt calculated that one murder costs society on average $2.7 million. A robbery nets the robber an average of $2,900 in actual cash, but it produces $14,900 in quality of life expenses. And while the actual monetary loss caused by an assault is $1,800, it produces $10,200 in quality of life expenses.

LEGISLATION

Fighting crime must be one of our top priorities. Few would dispute this. In fact, according to an article in the July 19th *Tucson Citizen*, about 500 business, education, and government leaders in Tucson ranked crime as the No. 1 issue in a survey commissioned by the Greater Tucson Economic Council.

The House has done its part. It has delivered on the Contract With America by passing a series of strong crime bills in February.

The Senate has not acted with comparable vigor. Given the magnitude of the problem of crime in our society, I believe that it is important to consider a comprehensive crime package. My bill has solid reforms that should blunt the forecasted explosion in crime.

I would like to take this opportunity to given an outline of the major provisions included in the Crime Prevention Act of 1995.

PRISON LITIGATION REFORM

Although numbers are not available for all of the States, 33 states have estimated that inmate civil rights suits cost them at least $54.5 million annually. Thus, extrapolating this figure to all 50 states, the estimate cost for inmate civil rights suits is $81.3 million per year. Not all of these cases are frivolous, but according to the National Association of Attorneys General, more than 95 percent of inmate civil rights suits are dismissed without the inmate receiving anything.

Title I of this bill will deter frivolous inmate lawsuits by:

Removing the ability of prisoners to file free lawsuits, instead making them pay full filing fees and court costs.

Requiring judges to dismiss frivolous cases before they bog down the court system.

Prohibiting inmate lawsuits for mental and emotional distress.

Retracting good-time credit earned by inmates if they file lawsuits deemed frivolous.

These provisions are based on similar provisions that were enacted in Arizona. Arizona's recent reforms have already reduced state prisoner cases by 50 percent. Now is the time to reproduce these common sense reforms in Federal law. If we achieve a 50-percent reduction in bogus Federal prisoner claims, we will free up judicial resources for claims with merit by both prisoners and nonprisoners.

SPECIAL MASTERS

This bill requires the Federal judiciary to pay for special masters in prison litigation cases. Currently, Federal court judges can, and do, force States to pay the costs for special masters. This is an unfunded judicial mandate. The special masters appointed in prison litigation cases have cost Arizona taxpayers more than $370,000 since 1992. Arizona taxpayers have paid special masters up to $175 an hour. In one case, taxpayers funds were used to hire a chauffeur for a special master.

VICTIM RIGHTS AND DOMESTIC VIOLENCE

Women are the victims of more than 4.5 million violent crimes a year, including half a million rapes or other sexual assaults, according to the Department of Justice. The National Victims Center calculates that a woman is battered every 15 seconds.

Last year's crime bill, which is now law, did much to help victims of domestic violence—making it easier for evidence of intrafamilial sexual abuse to be introduced, for example. It will now be much easier for prosecutors in Federal cases to introduce evidence that the accused committed a similar crime in the past. The crime act also provides Federal funding for battered women's shelters and training for law-enforcement officers and prosecutors.

But more needs to be done. A message must be sent to abusers that their behavior is not a family matter. Society should treat domestic violence as seriously as it does violence between strangers. My bill will strengthen the rights of domestic violence victims in Federal court and, hopefully, set a standard for the individual States to emulate.

First, my bill authorizes the death penalty for cases in which a woman is murdered by her husband or boyfriend.

My bill also provides that if a defendant presents negative character evidence concerning the victim, the Government's rebuttal can include negative character evidence concerning the defendant.

We must establish a higher standard of professional conduct for lawyers. My legislation prohibits harassing or dilatory tactics, knowingly presenting false evidence or discrediting truthful evidence, willful ignorance of matters that could be learned from the client, and concealment of information necessary to prevent sexual abuse or other violent crimes.

Violence in our society leaves law-abiding citizens feeling defenseless. It is time to level the playing field. Federal law currently gives the defense more chances than the prosecution to reject a potential juror. My bill protects the right of victims to an impartial jury by giving both sides the same number of peremptory challenges.

FIREARMS

Almost 30 percent of all violent crimes are committed through the use of a firearm, either to intimidate the victim into submission or to injure the victim, according to the Bureau of Justice Statistics. And 70 percent of all murders committed were accomplished through the use of a firearm. To help stop this violence the bill increases the mandatory minimum sentences for criminals who use firearms in the commission of crimes. It imposes the following minimum penalties: 10 years for using or carrying a firearm during the commission of a Federal crime of violence or drug trafficking crime; 20 years if the firearm is discharged; incarceration for life or punishment by death if death of a person results.

THE EXCLUSIONARY RULE

To ensure that relevant evidence is not kept from juries, the bill extends the good faith exception to the exclusionary rule to nonwarrant cases, where the court determines that the circumstances justified an objectively reasonable belief by officers that their conduct was lawful.

THE DEATH PENALTY

The vast majority of the American public supports the option of the death penalty. An ABC News/Washington Post poll conducted in January 1995 found that 74 percent of Americans favor the death penalty for persons convicted of murder. Similarly, a Market Opinion Research poll conducted in December 1994 found that nearly three-quarters of Americans support capital punishment.

To deter crime and to make a clear statement that the most vicious, evil behavior will not be tolerated in our society, the bill strengthens the death penalty standards.

Additionally, the bill adds murder of a witness as an aggravating factor that permits a jury to consider the death penalty; provides effective safeguards against delay in the execution of Federal capital sentences resulting from protracted collateral litigation, including time limits on filing and strict limitations on successive motions; and provides for capital punishment for murders committed in the District of Columbia.

HABEAS CORPUS

To eliminate the abuse, delay, and repetitive litigation in the lower Federal courts, title VIII of this bill provides that the decision of State courts will not be subject to review in the lower Federal courts, so long as they are adequate and effective remedies in the State courts for testing the legality of a person's detention. This provision limits the needless duplicative review in the lower Federal courts, and helps put a stop to the endless appeals of convicted criminals. Judge Robert Bork has written a letter in support of this provision.

COMPUTER CRIME

I am pleased to include, in this bill, my National Information Infrastructure Protection Act which will strengthen current public law on computer crime and protect the national information infrastructure. My fear is that our national infrastructure—the information that bonds all Americans—is not adequately protected. I offer this legislation as a protection to one of America's greatest commodities—information.

Although there has never been an accurate nationwide reporting system for computer crime, specific reports suggest that computer crime is rising. For example, the Computer Emergency and Response Team [CERT] at Carnegie-Mellon University reports that computer intrusions have increased from 132 in 1989 to 2,341 last year. A June 14 Wall Street Journal article stated that a Rand Corp. study reported 1,172 hacking incidents occurred during the first 6 months of last year. A report commissioned last year by the Department of Defense and the CIA stated that "[a]ttacks against information systems are becoming more aggressive, not only seeking access to confidential information, but also stealing and degrading service and destroying data." Clearly there is a need to reform the current criminal statutes covering computers.

ADMINISTRATIVE SUBPOENA

This bill allows high-ranking Secret Service agents to issue an administrative subpoena for information in cases in which a person's life is in danger. The Department of Agriculture, the Resolution Trust Corporation, and the Food and Drug Administration already have administrative subpoena power. The Secret Service should have it to protect the lives of American citizens.

INTERNET GAMBLING

There is a new underworld of gambling evolving. Gambling on the Internet is on the rise. Many "virtual" casinos have emerged on this vast network that accept real money at the click of a mouse or the punch of a key. It is estimated that Internet gambling could, before too long, become a $50 billion business. That is why I have included a section which will make it illegal, if it is illegal to gamble in your State, to gamble on the Internet. Current statutes make it illegal only if you are in the business of gambling on the Internet. I have also included a provision that would require the Department of Justice to analyze all problems associated with enforcing the current gambling statute.

CONCLUSION

The Kyl crime bill is an important effort in the fight against crime. We can win this fight, if we have the conviction, and keep the pressure on Congress to pass tough crime-control measures. It is time to stop kowtowing to prisoners, apologists for criminals, and the defense lawyers, and pass a strong crime bill.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE CRIME PREVENTION ACT OF 1995

TITLE I—PRISON LITIGATION REFORM

Section 101: Amendments to Civil Rights of Institutionalized Persons Act

Amends the Civil Rights of Institutionalized Persons Act to require that administrative remedies be exhausted prior to any prison conditions action being brought under any federal law by an inmate in federal court.

Section 102: Proceedings in forma pauperis

Provides that whenever a federal, state, or local prisoner seeks to commence an action or proceeding in federal court as an indigent, the prisoner will be liable for the full amount of a filing fee, and will initially be assessed a partial filing fee of 20 percent of the larger of the average monthly balance in, or the average monthly deposits to, his inmate account. The fee may not exceed the full statutory fee, and an inmate will not be barred from suing if he is actually unable to pay. This section also imposes the same payment system for court costs as it does for filing fees. This provision, like the filing fee provision, will ensure that inmates evaluate the merits of their claims.

Section 103: Judicial screening

Requires judicial screening of a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity. The court must dismiss a complaint if the complaint fails to state a claim on which relief may be granted. Also, the court must dismiss claims for monetary relief from a defendant who is immune from such relief.

Section 104: Federal tort claims and civil rights claims

Prohibits lawsuits by inmates for mental or emotional injury suffered while in custody unless the inmates can show physical injury.

Section 105: Payment of damage award in satisfaction of pending restitution orders

Provides that restitution payments must be taken from any award won by a prisoner.

Section 106: Notice to crime victims of pending damage award

Mandates that restitution payments must be taken from any award won by the prisoner and requires victims to be notified whenever a prisoner receives a monetary award from the state.

Section 107: Earned release credit or good time credit

Deters frivolous inmate lawsuits by revoking good-time credits when a frivolous suit is filed. Specifically, in a civil action brought by an adult convicted of a crime and confined in a federal correctional facility, the court may order the revocation of earned good-time credit if the court finds that (1) the claim was filed for a malicious purpose, (2) the claim was filed solely to harass the party against which it was filed, or (3) the claimant testifies falsely or otherwise knowingly presents false evidence or information to the court.

TITLE II—PRISONS

Section 201: Special masters

Requires the federal judiciary to pay for special masters in prison litigation cases. Each party shall submit a list of five recommended special masters and can strike three names from the opposing party's list. The court shall select the master from the remaining names. Each party shall have the right to an interlocutory appeal, on the grounds that the master is not impartial or will not give due deference to the public safety. The court shall review the appointment of the special master every six months to determine whether the services of the special master are still required. Imposes new requirements on special masters. The special master must make findings on the record as a whole, is prohibited from making findings or communications ex parte, and shall be terminated upon the termination of relief.

TITLE III—EQUAL PROTECTION FOR VICTIMS

Section 301: Right of the victim to impartial jury

Protects the right of victims to an impartial jury by equalizing the number of peremptory challenges afforded to the defense and the prosecution in jury selection.

Section 302: Rebuttal of attacks on the victim's character

Provides that if a defendant presents negative character evidence concerning the victim, the government's rebuttal can include negative character evidence concerning the defendant.

Section 303: Victim's right of allocution in sentencing

Extends the right of victims to address the court concerning the sentence to all criminal cases. Current law provides such a right for victims only in violent crime and sexual abuse cases, though the offender has the right to make an allocutive statement in all cases.

Section 304: Right of the Victim to Fair Treatment in Legal Proceedings

Establishes higher standards of professional conduct for lawyers in federal cases to protect victims and other witnesses from abuse, and to promote the effective search for truth. Specific measures include prohibition of harassing or dilatory tactics, knowingly presenting false evidence or discrediting truthful evidence, willful ignorance of matters that could be learned from the client, and concealment of information necessary to prevent violent or sexual abuse crimes.

Section 305: Use of Notice Concerning Release of the Offender

Repeals the provision that notices to state and local law enforcement concerning the release of federal violent and drug trafficking offenders can only be used for law enforcement purposes. This removes an impediment to other legitimate uses of such information, such as advising victims or potential victims that the offender has returned to the area.

Section 306: BALANCE IN THE COMPOSITION OF RULES COMMITTEES

Provides for equal representation of prosecutors with defense lawyers on committees in the judiciary that make recommendations concerning the rules affecting criminal cases.

TITLE IV—DOMESTIC VIOLENCE

Section 401: Death Penalty for Fatal Domestic Violence Offenses

Authorizes capital punishment, under the federal interstate domestic violence offenses, for cases in which the offender murders the victim.

Section 402: Evidence of Defendant's Disposition Toward Victim in Domestic Violence

Clarifies that evidence of a defendant's disposition toward a particular individual—such as the violent disposition of a domestic violence defendant toward the victim—is not subject to exclusion as impermissible evidence of character.

Section 403: Battered Women's Syndrome Evidence

Clarifies that battered women's syndrome evidence is admissible, under the federal expert testimony rule, to help courts and juries understand the behavior of victims in domestic violence cases and other cases.

Section 404: Hiv Testing of Defendants in Sexual Assault Cases

Provides effective procedures for HIV testing of defendants in sexual assault cases, with disclosure of test results to the victim.

TITLE V—FIREARMS

Section 501: Mandatory Minimum Sentences for Criminals Using Firearms

Imposes the following minimum penalties: 10 years for using or carrying a firearm during the commission of a federal crime of violence or drug trafficking crime; 20 years if the firearm is discharged; incarceration for life or punishment by death if death of a person results.

Section 502: Firearms Possession by Violent Felons and Serious Drug Offenders

Provides mandatory penalties (5 years and 10 years respectively) for firearms possession by persons with one or two convictions for violent felonies or serious drug crimes.

Section 503: Use of Firearms in Connection With Counterfeiting or Forgery

Adds counterfeiting and forgery to offenses making applicable mandatory penalties under 18 U.S.C. 924(c) when firearms are used to facilitate their commission.

Section 504: Possession of an Explosive During the Commission of a Felony

Strengthens mandatory penalty provision for cases of felonies involving explosives.

Section 505: Second Offense of Using an Explosive to Commit a Felony

Increases to 20 years the mandatory penalty for a second conviction for using or possessing an explosive during the commission of a felony.

TITLE VI—EXCLUSIONARY RULE

Section 601: Admissibility of certain evidence

Extends the "good faith" exception to the exclusionary rule to non-warrant cases, where the court determines that the circumstances justified an objectively reasonable belief by officers that their conduct was lawful.

TITLE VII—FEDERAL DEALTH PENALTY

Section 701: Strengthening of Federal death penalty standards and procedures

Strengthens federal death penalty standards and procedures. Requires defendant to give notice of mitigating factors that will be relied on in capital sentencing hearing (just as the government is now required to give notice of aggravating factors), adds use of a firearm in committing a killing as an aggravating factor that permits a jury to consider the death penalty, directs the jury to impose a capital sentence if aggravating factors outweight mitigating factors, and authorizes uniform federal procedures for carrying out federal capital sentences.

Section 702: Murder of witness as aggravating factor

Adds murder of a witness as an aggravating factor that permits a jury to consider the death penalty.

Section 703: Safeguards against delay in the execution of capital sentences in Federal cases

Provides effective safeguards against delay in the execution of federal capital sentences resulting from protracted collateral litigation, including time limits on filing and strict limitations on successive motions

Section 704: Death penalty for murders committed with firearms

Creates federal jurisdiction and authorizes capital punishment for murders committed with a firearm where the firearm has crossed state lines.

Section 705: Death penalty for murders committed in the District of Columbia

Provides for capital punishment for murders committed in the District of Columbia.

TITLE VIII—HABEAS CORPUS

Section 801: Stopping abuse of Federal collateral remedies

Provides that an application for a writ of habeas corpus in behalf of a person in custody pursuant to a judgment or order of a state court shall not be entertained by a judge or a court of the United States unless the remedies in the courts of the state are inadequate or ineffective to test the legality of the person's detention.

TITLE IX—IMMIGRATION

Section 901: Additional expansion of definition of aggravated felony

Aliens who commit aggravated felonies can be deported from the country. The section adds to that definition crimes involving the transportation of persons for the purposes of prostitution; serious bribery, counterfeiting, or forgery offenses; serious offenses involving trafficking in stolen vehicles; offenses involving trafficking in counterfeit immigration documents; obstruction of justice, perjury, and bribery of a witness; and an offense relating to the failure to appear to answer for a criminal offense for which a sentence of two or more years my be imposed.

Section 902: Deportation procedures for certain criminal aliens who are not permanent residents

Modifies the INA to make it clear that the existing expedited deportation procedures which apply to non-resident criminal aliens apply also to aliens admitted for permanent residence on a conditional basis. The section also prohibits the Attorney General from using discretionary power under the INA to grant relief from deportation to any non-resident alien who has been convicted of committing an aggravated felony.

Section 903: Restricting the defense to exclusion based on seven years permanent residence for certain criminal aliens

Modifies that portion of the INA which determines who may be denied entrance to the United States and who may be deported from the country. Under present law, legal permanent residents who have lived in the country for seven years may leave temporarily and return but not be subject to many of the INA provisions that determine who may legally enter the United States. However, if these persons have been convicted of an aggravated felony and served five years in prison, the government may exclude them from the country notwithstanding their seven years of residence. The change made by this section strengthens this exception to allow the government to exclude these persons if they were sentenced to five or more years in prison for one or more aggravated felonies. The change is being made so that the government may begin deportation proceedings when the criminal alien is incarcerated rather than having to wait for five years to pass.

Section 904: Limitation on collateral attacks on underlying deportation order

This section applies to cases where an alien is charged with attempting to re-enter the United States after having been deported. The penalties for illegally re-entering the United States after having been deported were enhanced by the 1994 Crime Act. This section makes it clear that an alien charged with illegally re-entering may only challenge the validity of the original deportation order when the alien can show that he or she has exhausted all administrative remedies, that the deportation order improperly deprived the alien of the opportunity for judicial review, and that the deportation order was fundamentally unfair.

Section 905: Criminal alien identification system

Modifies that part of the 1994 Crime Act which created a "Criminal Alien Tracking Center." The 1994 act failed to state the purpose of the center. This section specifies that the center is to be used to assist federal, state, and local law enforcement agencies in identifying and locating aliens who may be deportable because they have committed aggravated felonies. The bill also changes the name of the center to "Criminal Alien Identification System" in order to more accurately reflect its function.

Section 906: Wiretap authority for alien smuggling investigations

Adds certain immigration-related offenses to the list of crimes to which the Racketeer Influenced Corrupt Organizations ("RICO") law applies. The RICO statute is among the principal tools that federal law enforcement officials use to combat organized crime. The amendment made by this section expands the definition of "predicate acts" to enable them to use that statute to combat alien smuggling organizations. The bill also gives federal law enforcement officials the authority to utilize wiretaps to investigate certain immigration-related crimes.

Section 907: Expansion of criteria for deportation for crimes of moral turpitude

This section amends the INA to deport aliens who have been in the country for less than five years (and legal permanent resident aliens who have resided in the country for less than ten years) and who are convicted of a felony crime involving moral turpitude. Under current law, persons convicted of crimes of moral turpitude can only be deported if they have been sentenced to, or serve, at least one year in prison.

Section 908: Study of prisoner transfer treaty with Mexico

Requires the Secretary of State and the Attorney General to submit a study to the Congress concerning the uses and effectiveness of the prisoner transfer treaty with Mexico. That treaty provides for the deportation of aliens who have been convicted of a crime while they are in the United States.

Section 909: Justice Department assistance in bringing to justice aliens who flee prosecution for crimes in the United States

Requires the Attorney General, in cooperation with the INS Commissioner and the Secretary of State, to establish an office within the Justice Department to provide technical and prosecutorial assistance to states and political subdivisions in connection with their efforts to obtain extradition of aliens who commit crimes in the United States and then flee the country. This section also requires a report within one year assessing the nature and extent of the problem of bringing to justice aliens who flee prosecution in the United States.

Section 910: Prison transfer treaties

Advises the President that Congress desires him to negotiate prison transfer treaties with other countries within 90 days of the bill's enactment

Section 911: Interior repatriation program

Requires the Attorney General and the INS Commissioner to develop programs under which aliens who illegally enter the United States from Mexico or Canada on three or more occasions would be deported at least 500 kilometers within the country. The intent of this section is to make it more difficult for aliens who have a history of illegal entry to re-enter the country after they have been deported. The program is to be implemented within 180 days of enactment of the bill.

Section 912: Deportation of nonviolent offenders prior to completion of sentence of imprisonment

Gives the Attorney General the discretion to deport certain aliens held in federal prison before they complete their sentences. Only those criminal aliens who have committed a non-violent aggravated felony may be deported, and the Attorney General must first determine that early deportation is in the best interest of the United States. The Attorney General may also deport non-violent criminal aliens held in state prisons if the governor of the state submits a written request to the Attorney General that aliens be deported before they have served their sentence. In both cases, should an alien illegally re-enter the United States, the Attorney General is required to incarcerate the alien for the remainder of the prison term.

TITLE X—GANGS, JUVENILES, AND DRUGS

Section 1001: Criminal street gang offenses

Contains provisions, passed by the Senate in the 103rd Congress Senate crime bill, which create new offenses and authorize severe penalties for criminal street gangs activities.

Section 1002: Serious juvenile drug offenses as Armed Career Criminal Act predicates

Contains a provision, passed by the Senate in the 103rd Congress Senate crime bill, which adds serious juvenile drug offenses as predicate offenses for purposes of the Armed Career Criminal Act.

Section 1003: Adult prosecution of serious juvenile offenders

Permits adult prosecution down to the age of 13 of junvenile offenders who commit serious violent felonies, and creates a presumption in favor of adult prosecution for such juvenile offenders who are 15 or older.

Section 1004: Increased penalties for recidivists committing drug crimes involving minors

Increases to three years the mandatory minimum penalties for a second offense of distributing drugs to a minor or using a minor in trafficking.

Section 1005: Amendments concerning records of crimes committed by juveniles

Incorporates the amendments of section 618 of the 103rd Congress Senate-passed crime bill which broaden the retention and availability of records for federally prosecuted juvenile offenders.

Section 1006: Drive-by shootings

Incorporates the broad drive-by shooting offense that was passed by the House of Representatives in section 2335 of H.R. 3371 of the 102nd Congress.

Section 1007: Steroids offense

Incorporates the offense, passed by the Senate in section 1504 of the 103rd Congress Senate crime bill, which prohibits coaches and trainers from attempting to get others to use steroids.

Section 1008: Drug testing of Federal offenders

Adds hair analysis to the permissible forms of drug testing.

TITLE XI—PUBLIC CORRUPTION

Section 1101: Strengthening of Federal anti-corruption statutes generally

Strengthens federal public corruption laws. Specific improvements include more adequate coverage of election fraud, more uniform jurisdiction over corruption offenses, increased penalties for such offenses, and protection for whistle blowers.

Section 1102: Interstate commerce

Extends wire fraud statute, which is often used to prosecute public corruption offenses, including strengthening of jurisdictional provision.

Section 1103: Narcotics-related public corruption

Adopts special provisions for drug-related public corruption, including severe penalties.

TITLE XII—ADMINISTRATIVE SUBPONEA

Section 1201: Administrative summons authority of United States Secret Service

Allows high-ranking Secret Service agents to issue an administrative subponea for information in cases in which the President or other federal protectees are in danger. The Department of Agriculture, the Resolution Trust Corporation, and the Food and Drug Administration already have administrative subponea power.

TITLE XIII—COMPUTER CRIMES

Section 1301: Protection of classified government information

Penalizes individuals who deliberately break into a computer, or attempt to do so, without authority and, thereby, obtain and disseminate classified information.

Section 1302: Protection of financial, government, and other computer information

Makes interstate or foreign theft of information by computer a crime. This provision is necessary in light of *United States* v. *Brown*, 925 F.2d 1301, 1308 (10th Cir. 1991), where the court held that purely intangible intellectual property, such as computer programs, cannot constitute goods, wares, merchandise, securities, or monies which have been stolen, converted, or taken within the meaning of 18 U.S.C. §2314.

Section 1303: Protection of government computer systems

Makes two changes to §1030(a)(3), which currently prohibits intentionally accessing, without authorization, computers used by, or for, any department or agency of the United States and thereby "adversely" affecting "the use of the Government's operation of such computer." First, it deletes the word "adversely" since this term suggest, inappropriately, that trespassing in a government computer may be benign. Second, the bill replaces the phrase "the use of the Government's operation of such computer" with the term "that use." When a computer is used for the government, the government is not necessarily the operator, and the old phrase may lead to confusion. The bill makes a similar change to the definition of "protected computer" in §1030(e)(2)(A).

Section 1304: Increased penalties for significant unauthorized use of a computer system

Amends 18 U.S.C. §1030(a)(4) to insure that felony level sanctions apply when unauthorized use or use in excess of authorization is significant.

Section 1305: Protection from damage to computer systems

Amends 18 U.S.C. §1030(a)(5) to further protect computer systems covered by the statute from damage by anyone who intentionally damages a computer, regardless of whether they were authorized to access the computer.

Section 1306: Protection from threats directed against computer systems

Adds a new section to 18 U.S.C. §1030(a) to provide penalties for the interstate transmission of threats directed against computers and computer networks. The new section covers any interstate or international transmission of threats against computers, computer networks, and their data and programs, whether the threat is received by mail, telephone, electronic mail, or through a computerized messaging service.

Section 1307: Increased penalties for recidivist and other sentencing changes

Amends 18 U.S.C. 1030(c) to increase penalties for those who have previously violated any subsection of §1030. This section provides that anyone who is convicted twice of committing a computer offense under §1030 would be subject to enhanced penalties.

Section 1308: Civil actions

Limits damage to economic damages, where the violation caused a loss of $1,000 or more during any one-year period. No limit on damages would be imposed for violations that modified or impaired the medical examination, diagnosis or treatment of a person; caused physical injury to any person; or threatened the public health or safety.

Section 1309: Mandatory reporting

The current reporting requirement under §1030(a)(5) is eliminated. By ensuring that most high technology crimes can be prosecuted, there is less need for reporting requirements. Convictions will provide more information on computer crime. To create a mandatory reporting requirement is unnecessary because private sector groups, such as the Forum of Incident Response and Security Teams (FIRST), are leading the effort to monitor computer crimes statistically.

Section 1310: Sentencing for fraud and related activity in connection with computers.

Requires the United States Sentencing Commission to review existing sentencing guidelines as they apply to sections 1030 (a)(2), (a)(3), (a)(4), (a)(5), and (a)(6) of Title 18 of the United States Code (The Computer Fraud and Abuse Act). The Commission must also establish guidelines to ensure that criminals convicted under these sections receive mandatory minimum sentences for not less than 1 year. Currently, judges are given great discretion in sentencing under the Computer Fraud and Abuse Act. In many cases, the sentences don't match the crimes; and criminals receive light sentences for serious crimes. Mandatory minimum sentences will deter computer "hacking" crimes, and protect the infrastructure of computer systems.

Section 1311: Asset forfeiture for fraud and related activity in connection with computers

Amends 18 U.S.C. §1030 (a)(2), (a)(3), and (a)(4) to insure that individuals who commit crimes under the aforementioned sections will forfeit the property used in connection with those crimes. For example, computers and "hacking" software used in crimes would be subject to forfeiture.

TITLE XIV—COMPUTER SOFTWARE PIRACY

Section 1401: Amendment of title 17

Amends 17 U.S.C. §506(a) to extend criminal infringement of copyright to include any person—not just those who acted for purposes of commercial advantage or private financial gain—who willfully infringes a copyright. Corrects the problem highlighted by the *United States* v. *LaMacchia*, 871 F. Supp. 535 (D. Mass. 1994), that a person could pirate software maliciously, so long as they received no financial gain.

Section 1402: Amendment of title 18

Amends 18 U.S.C. 2319 to allow the court, in imposing a sentence on a person convicted of software piracy, to order that the person forfeit any property used or intended to be used to commit or promote the commission of such offense.

TITLE XV—INTERNET GAMBLING

Section 1501: Amendment of title 18

Amends 18 U.S.C. §1084 to insure that individuals who gamble or wager via wire or electronic communication are penalized—not just those who are in the business of gambling. Current statutes make it illegal only if you are in the business of sports gambling on the INTERNET. This section would make it illegal to gamble on "virtual casinos" as well as electronic sports books.

Section 1502: Sentencing guidelines

Requires the United States Sentencing Commission to review the deterrent effect of existing sentencing guidelines as they apply to sections 1084 of Title 18 and promulgate guidelines to ensure that criminals convicted under section 1084 receive mandatory minimum sentences for not less than one year.

Section 1503: Reporting requirements

Requires the Attorney General to report to Congress on (1) the problems associated with enforcing INTERNET gambling, (2) recommendations for the best use of resources of the Department of Justice to enforce section 1084 of Title 18, (3) recommendations for the best use of the resources of FCC to enforce section 1084 of title 18, and (4) an estimate on the amount of gambling activity on the INTERNET. It is not clear how effective law enforcement can police the INTERNET. A report may answer that question.

By Mr. SIMON (for himself, Mr. HATCH, MR. BOND, and Mr. ASHCROFT):

S. 1496. A bill to grant certain patent right for certain non-steroidal anti-inflammatory drugs for a 2-year period; to the Committee on the Judiciary.

PROPERTY RIGHT PROTECTION LEGISLATION

Mr. SIMON. Mr. President, today, I introduce legislation to grant for a 2-year period additional property right protection for oxaprozin, an important drug in treating arthritis. Oxaprozin is a non-steroidal, anti-inflammatory drug [NSAID]. It is produced and marketed as Daypro by the G.D. Searle & Co., headquartered in Skokie, IL. I am introducing this legislation as a matter of simple fairness and equity because of a protracted review by the Food and Drug Administration [FDA] that consumed the entire patent life of Daypro.

The Drug Price Competition and Patent Term Restoration Act of 1984, commonly referred to as the Hatch-Waxman Act, was designed in part to address the unfairness caused by unduly long FDA reviews. Unfortunately, the two major protections created by Hatch-Waxman did not remedy Daypro's situation. First, Hatch-Waxman provides patent extensions in cases of regulatory delay. Ironically, since the FDA review consumed Daypro's entire patent life, the delay rendered Daypro ineligible for a patent extension; Hatch-Waxman simply did not contemplate that an FDA review would consume the entire patent life of a drug prior to its approval. Second, Hatch-Waxman allows up to 10 years of market exclusivity to brand name drug manufacturers following protracted FDA review. If the FDA had promptly approved Daypro, Daypro would have been protected for 10 years; however, as a result of the delay, Daypro only received 5 years of marketing exclusivity protection.

The legislation I am introducing today would provide Daypro 2 years of property right protection beyond the 5 years provided in the Hatch-Waxman Act. This additional property right protection is being sought because the delay in obtaining FDA approval of Daypro was so excessive that the provisions of the Hatch-Waxman Act are inadequate to compensate for the complete loss of patent protection for Daypro due to the FDA review.

I seek this remedy for a drug that was a victim of even more extreme regulatory delays than those that were instrumental in causing Congress to recognize that the Hatch-Waxman Act was necessary in the first place. The Investigational New Drug Application [IND] for Daypro was filed in 1972, and the New Drug Application [NDA] for Daypro was filed 10 years later in August 1982. FDA approval of Daypro was not finally granted until October 29, 1992. During the 20 years it took FDA to approve Daypro, its patent expired. Thus, the practical patent life for Daypro was zero.

A number of reports have been published by the U.S. General Accounting Office and congressional committees in both Houses on the regulatory problems that the class of NSAIDs faced in the 1980's. These reports and studies make it clear that at least some of the problems encountered at FDA were generic—the unprecedented delay in NSAID approvals was due to FDA inaction on all NDAIDs after serious problems were encountered with previously approved NSAIDs. During this time, the FDA effectively imposed a moratorium on the approval of all NSAIDs. It is important to note that the purpose of this moratorium was not to allow the FDA to collect further data on Daypro or because there were concerns about health and safety findings related to Daypro. The FDA ultimately approved Daypro in 1992 as safe and efficacious based upon the same studies originally submitted to the FDA in the NDA. it took the FDA longer to approve Daypro than any other NSAID.

This legislation does not grant full recovery of the time lost while Daypro was under review; it does not grant even half of that time. The additional property right protection that would be granted by this bill represents only some of the time lost after the drug applications had been under FDA review. This legislation provides 2 years of added protection as partial compensation for the value lost when Daypro's patents expired while the drug application was pending at the FDA. I believe the figure of 2 years is a fair and equitable resolution of this matter.

Daypro confronted an inordinate and inequitable delay in obtaining FDA approval. No other pharmaceutical that I am aware of has had its entire patent life consumed by an FDA review. I urge that the relief embodied in this legislation be anacted.

Mr. HATCH. Mr. President, today, I rise to cosponsor with Senators SIMON, MOSELEY-BRAUN, BOND, and ASHCROFT, S. 1496, a bill to extend for 2 additional years the exclusive marketing period for the drug oxaprozin.

I am supportive of Senator SIMON'S effort, because unusual, and perhaps unprecedented, administrative delays in review of this pharmaceutical have denied the manufacturer any patent protection. The Food and Drug Administration [FDA] review of oxaprozin consumed the entire 17-year patent term plus another 4 years.

Some history on this issue may be useful at this point.

Oxaprozin is a nonsteroidal, anti-inflammatory drug, or NSAID. It is used to treat arthritis and other ailments. Oxaprozin was first patented by G.D. Searle in 1971. Shortly thereafter, an investigational new drug [IND] application was submitted to FDA.

In August 1982, a new drug application [NDA] was filed, but FDA did not approve the drug until October 29, 1992. In total, over 21 years expired after submission of the IND application and over 10 years elapsed from the filing of the NDA.

As a result of this unusually long, and perhaps unprecedented, FDA regulatory review period, the patent for oxaprozin expired before oxaprozin could be brought to market.

In the 1980s, Congress became concerned that the lengthy FDA pre-marketing regulatory approval system was depriving many companies of a substantial amount of the potential economic value of new drug patents, and thereby decreasing the incentives that lead to new breakthrough medications.

In 1984, Representative Henry Waxman and I worked to secure enactment of the Drug Price Competition and Patent Term Restoration Act, a law that, in part, attempted to add patent term or an exclusive marketing period to partially restore time lost through FDA regulatory review.

Under this 1984 law—sometimes referred to as the "Hatch-Waxman Act" or "Waxman-Hatch" an administrative procedure was provided to extend certain drug patents or prevent generic copies from entering the marketplace in order to provide compensation for at least some of the time lost as a result of FDA regulatory review.

This legislation, however, did not contemplate extreme outliers such as oxaprozin.

In some respects, oxaprozin presents a classic Catch-22 situation: Administrative patent extensions under Hatch-Waxman were not available until FDA approval was granted, but these administrative extensions could only be granted if the term of the patent had not expired. If a drug was not approved until after the expiration of the patent, no Hatch-Waxman patent extension could be granted, even though such cases represent the most egregious example of the problem Congress was trying to redress in the first place.

In addition to patent extensions, the Hatch-Waxman Act contained marketing exclusivity provisions to address cases such as oxaprozin in which no patent protection remains. The Hatch-Waxman law provided 10 years of marketing exclusivity for pioneer drugs that were approved for marketing between January 1, 1982 and September 23, 1984.

One result of oxaprozin's unduly long FDA review was that it could not qualify for extended patent life under the Hatch-Waxman transition rule. Instead, oxaprozin received only the more limited 5-year period of marketing exclusivity even though its review period at the FDA exceeded all of those drugs that received a 10-year extension.

From 1974 until 1982, the FDA took, on average, only about 2 years to review and approve NSAID product applications. From about 1982, however, there existed a de facto moratorium on the approval of new NSAIDs.

The Congress has examined the reasons behind this moratorium. In 1992, both the Senate and House Judiciary Committees, and House Energy and Commerce Committee, conducted hearings into the FDA delays in the approval of NSAIDs. In addition, the Judiciary Committees requested the GAO to investigate this delay.

These examinations revealed that FDA faced an unusual set of circumstances from 1982 through 1987. As a result of the controversy surrounding four previously approved NSAIDs that raised serious post-marketing safety concerns, the average time taken to approve NSAID NDAs nearly doubled. By concentrating its resources to investigate the causes behind the reported NSAID adverse effects, the FDA directed its manpower away from approval of the pending NSAID NDAs.

Mr. President, 2-weeks ago, the Senate was engaged in a debate that involved the sufficiency of the patent laws to help attract private sector investment into biomedical research. This issue has important ramifications for the public health.

Over the next few months the Senate Judiciary Committee, on which I serve as Chairman, will be examining pharmaceutical patent issues. It will be important for the committee to examine fully the complex interrelationship between the patent laws and the FDA product review system for drugs.

Oxaprozin serves as an important case study of a flawed system in which FDA regulatory delay materially undermines the value of intellectual property. A regulatory review period of 21 years is simply too long. I hope we can all agree that the FDA review period should not exhaust the entire patent term of a drug product.

In light of the general disruption that occurred within the FDA NSAID review division and the particular facts relating to the 21 year FDA review of oxaprozin, the partial relief granted by S. 1496 is justified. I urge my colleagues to support this bill.

By Mr. NICKLES (for himself, Mr. SMITH, Mr. PRYOR, Mr. BOND, Mr. BUMPERS, Mr. INHOFE, Mr. LOTT, Mr. BREAUX, Mr. JOHNSTON, Mr. ABRAHAM, Mr. KEMPTHORNE, Mr. LIEBERMAN, Mr. FAIRCLOTH, Mr. GLENN, and Mr. WARNER):

S. 1497. A bill to amend the Solid Waste Disposal Act to make certain adjustments in the land disposal program to provide needed flexibility, and for other purposes; to the Committee on Environment and Public Works.

THE LAND DISPOSAL PROGRAM FLEXIBILITY ACT OF 1995

Mr. NICKLES. Mr. President, today I am joined by my colleagues Senators SMITH, PRYOR, BOND, BUMPERS, INHOFE, BREAUX, LOTT, JOHNSTON, ABRAHAM, KEMPTHORNE, LIEBERMAN, FAIRCLOTH, GLENN, and WARNER to introduce, the Land Disposal Program Flexibility Act of 1995. This bill represents the culmination of a bipartisan process involving the cooperation of The White House, EPA, and the regulated community. It is proof that the desire for regulatory reform is real, and needed in this country. It is also proof that we can work together to make greater sense out of the regulatory morass when we set our minds to it.

For too long neither Congress which makes the laws, nor EPA which implements them, have really been in charge of environmental protection in this country. The most significant driver in the field of environmental policy has been the courts. In a recent address before the Environmental Law Institute, former EPA Administrator William Ruckleshaus lamented that most of the important environmental decisions of the last quarter century have devolved to the courts.

The situation that has led to the introduction of this bill is a classic case of how the courts, have dominated the making of environmental policy. In 1990, EPA implemented RCRA regulations relating to the treatment of hazardous waste before it can be disposed of on the land. These land disposal restrictions were intended to prevent the placement of untreated waste on the ground—an appropriate concern given the legacy of such practices prior to the enactment of RCRA. EPA also made every effort to implement this regulation taking care to coordinate RCRA with the Clean Water Act and the Safe Drinking Water Act. That, too was as Congress intended.

Along came the courts and they chose to interpret the RCRA statute in such a way as to extend the reach of costly hazardous waste requirements to nonhazardous wastes. This interpretation also ignored the benefits of treatment and disposal systems such as surface impoundments and underground injection wells permitted under the Clean Water and Safe Drinking Water Acts respectively.

As a result, EPA has been forced to propose expensive new regulations that even the Agency believes will provide minimal environmental benefit. Let me quote from EPA's very own preamble to the new proposed rule:

> The risks addressed by this rule, particularly UIC wells, are very small relative to the risks presented by other environmental conditions or situations. In a time of limited resources, common sense dictates that we deal with higher risk activities first, a principle on which EPA, members of the regulated community, and the public can all agree.
>
> Nevertheless, the agency is required to set treatment standards for these relatively low risk wastes and disposal practices during the next two years, although there are other actions and projects with which the Agency could provide greater protection of human health and the environment.

Mr. President, this Senate has been wrestling with the larger question of comprehensive regulatory reform for some months now. The debate on both sides of the aisle has been contentious over the means by which such reforms are achieved. But a common theme throughout that debate has been the nearly universal recognition that the current command and control regulatory system is obsolete, and in need of reform. This bill allows us to turn that theme into reality. Not by amending the underlying RCRA statute in any way, although we agree with the President that further statutory reform is needed, but by merely restoring EPA's original regulatory determination: that a waste that is no longer hazardous need not be regulated as if it was hazardous.

Mr. President, that is why I have joined with Senators SMITH, PRYOR, BOND, BUMPERS, INHOFE, BREAUX, LOTT, JOHNSTON, ABRAHAM, KEMPTHORNE, LIEBERMAN, FAIRCLOTH, GLENN, and WARNER to introduce this bill. I also submit for inclusion in the record a letter from the administration supporting this legislation. The price of not acting soon will mean that industry will incur, by EPA's own estimate, $800 million dollars per year in compliance costs—again for minimal environmental benefit. Mr. President, we have an opportunity here, to provide true regulatory relief, while assuring that effective standards of environmental protection are maintained. We have worked in a bipartisan way to bring this reform forward. I hope that the spirit of cooperation demonstrated on all sides will carry through as we tackle this and other much needed regulatory reforms.

Mr. SMITH. Mr. President, I join my colleague, Senator NICKLES, in introducing the Land Disposal Program Flexibility Act of 1995, and I would like to thank the senior Senator from Oklahoma for the time and effort that he and his staff have been spending on this issue. In addition to a bipartisan coalition of Senators who are cosponsoring this legislation, this bill is also supported by the White House and the Environmental Protection Agency [EPA].

This legislation represents a very simple, yet important modification to the Solid Waste Disposal Act that has the potential to save our society as much as $800 million in annual compliance costs—an expense that the EPA agrees will provide no environmental benefit. As the chairman of the Superfund, Waste Control and Risk Assessment Subcommittee, which has jurisdiction over this legislation, I believe that this bill is a good example of a cooperative, bipartisan effort to correct expensive and needless environmental overregulation.

Under the current land disposal restrictions [LDR's], individuals are generally prohibited from the land disposal of hazardous wastes unless these wastes have first been treated to meet EPA standards. As a result of a 1993 decision by the D.C. Circuit Court, these LDR's would also be extended to nonhazardous wastes managed in wastewater systems that are already regulated under the Clean Water Act or the underground injection control [UIC] program of the Safe Drinking Water Act. The court adopted this position despite the fact that the EPA had previously adopted a rule authorizing the appropriate treatment and disposal of these materials, and despite the fact that the Agency believed that such strict standards are inappropriate.

Simply stated, this legislation would counteract the court decision, and would restore the EPA's original regulatory determination allowing these materials to be safely treated and disposed of in permitted treatment units and injection wells.

One of the issues confronting those who support this legislation is timing. Due to the court decision, the EPA will be forced to impose these needless and expensive requirements if Congress does not act very soon. As the chairman of the subcommittee of jurisdiction, I will work closely with the other interested parties to ensure that this legislation will be addressed in a prompt fashion.

Again, I thank Senator NICKLES for working with me on this issue, and I commend him for his involvement.

Mr. PRYOR. Mr. President, I rise today to join my colleagues, Senators BOND, BUMPERS, INHOFE, and NICKLES, to introduce the Land Disposal Program Flexibility Act of 1995. This bill represents months of work by the EPA, the White House, both Houses of Congress, as well as the regulated community, to come together in a bipartisan manner to implement real regulatory reform.

This legislation makes small adjustments in the current Land Disposal Regulations [LDR] Program under the Resource Conservation Recovery Act [RCRA], to provide more flexibility for the treatment of nonhazardous waste. More importantly, it helps alleviate the type of over-regulation that has been the source of so much controversy among the general public. Our legislation achieves this goal by denying the implementation of a court ordered rule that requires the EPA to treat nonhazardous waste as though it were hazardous waste.

Mr. President, when Congress passed the Resource Conservation and Recovery Act [RCRA] in 1976, it was intended to work as a campanion to other existing environmental laws. However, the court decision previously mentioned, would create just the opposite of what was intended. It would require the EPA to write a rule that would overlay RCRA requirements on top of existing Clean Water Act treatment standards. The cost of this additional treatment, according to EPA estimates, would be approximately $800 million per year—all to achieve what EPA says is almost no environmental improvement.

What we are doing today with the introduction of the Land Disposal Program Flexibility Act, is correcting this court decision by amending a very narrow portion of the RCRA law. Simply put, we are asking Congress to clarify that the LDR Program does not apply to wastes that are no longer hazardous when managed in Clean Water and Safe Drinking Water Act systems.

I am proud to be an original cosponsor of this bill and I hope my colleagues will support this legislation as it moves through committee to the Senate floor for a vote.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. COHEN, and Mr. KENNEDY):

S. 1498. A bill to authorize appropriations to carry out the Interjurisdictional Fisheries Act of 1986, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE INTERJURISDICTIONAL FISHERIES AMENDMENTS ACT OF 1995

Ms. SNOWE. Mr. President, today I, along with my colleague on the Commerce Committee, Senator KERRY, am introducing the Interjurisdictional Fisheries Amendments Act of 1995. I am pleased to also have Senators COHEN and KENNEDY joining us as cosponsors in this effort.

Congress passed the Interjurisdictional Fisheries Act in 1986 to promote the management of interjurisdictional fisheries resources throughout their range, and to encourage and promote active State participation in the management of these important resources. The act provides modest funding to the States and interstate marine fishery commissions to assist with research and management activities, with the underlying objective being the development and maintenance of healthy, robust fish stocks. The act also authorizes aid to commercial fishermen who have suffered losses as a result of fishery resource disasters.

The bill that we are introducing today extends the act's authorization through 1998. It reduces the authorized appropriations level for apportionment to the States, maintains the current overall authorization level for the Commerce Department, and provides a small increase in the authorization level for assistance to the interstate fishery management commissions.

This bill also amends section 308(d) of the act, which deals with disaster assistance to commercial fishermen. Earlier this year, the Secretary of Commerce declared fishery resource disasters impacting commercial fishermen in the Northeast, Pacific Northwest, and the Gulf of Mexico, and he committed $53 million in already-appropriated funds to help mitigate the impacts of these disasters. In order to effectively operate these disaster relief programs, however, certain changes must be made in the act's grant-making authority.

The current provision, for example, limits the kind of assistance available under section 308(d) to direct grants to individual fishermen or fishing corporations. But recent analysis of disaster relief strategies has revealed that, in some cases, aid to fishermen could be more efficiently and effectively provided if it is provided indirectly, through States, local governments, or nonprofit organizations, who in turn would operate programs to help fishermen. This bill amends the statute to allow for the provision of both direct and indirect forms of assistance.

The bill also lifts the current $100,000 cap on aid to individual fishermen. This cap makes the operation of a fishing vessel buy-back program, like the one currently planned for the New England groundfish fishery, impossible. The purchase price for many vessels bought out under the program will exceed $100,000, and without a lifting of the cap, few fishermen will participate. Given the ongoing crisis in the New England groundfish industry, we need to move forward with an effective, comprehensive buy-back quickly, and passage of this amendment to section 308(d) is essential for us to do so.

Mr. President, this bill will contribute to the improvement of conditions in interjurisdictional fisheries around the country, and it will assist fishing communities that are suffering the effects of fishery resource disasters. This is a bipartisan bill, and it will not require significant new federal expenditures. I hope that my colleagues will support the bill when the Senate considers it in the next session.

Mr. KERRY. Mr. President, today I join Senators SNOWE, KENNEDY, and COHEN in introducing the Interjurisdictional Fisheries Amendments Act of 1995. This legislation authorizes appropriations for State grants and Department of Commerce programs designed to manage interjurisdictional fisheries, and amends the Interjurisdictional Fisheries Act of 1986 to facilitate the use of available fisheries disaster relief funds.

In 1986, we passed the Interjurisdictional Fisheries Act to support State activities related to the management of fisheries occurring in waters under the jurisdiction of one or more States and the exclusive economic zone [EEZ], and to promote management of these fisheries throughout their range. This model establishes a mechanism for all who have a major interest in managing a fishery extending over several jurisdictions to work together to make key management decisions. It clearly works successfully. We must continue to support such cooperative partnerships.

The bill introduced today also contains important provisions which will clear the way for dispersing previously appropriated economic assistance for fishing disaster relief in New England, the Gulf, and in the Pacific Northwest.

In New England, this assistance will be used to alleviate the economic hardships caused by the collapse of the traditional groundfish fishery. The New England Fishery Management Council has closed significant areas of prime fishing grounds on Georges Bank and is now considering the adoption of stricter fishing restrictions to rebuild the groundfish stocks. Many New England fishermen can no longer draw a living from the sea as they have for years before. They, their families, and their communities face a severe economic crisis. I have supported, and will continue to support, a comprehensive approach to addressing this fishery disaster. The New England Fishery Management Council has a tough job ahead in designing a rebuilding program. While the Council continues to struggle with this issue, I have focused my efforts on providing economic assistance to the fishermen and the fishing communities during this crisis and rebuilding period.

In March 1995, NOAA announced a $2.0 million pilot program to buy groundfish vessels and begin to address the problem of too many fishermen chasing too few fish. The program began in June of 1995, and on October 11, 1995, NOAA announced that it would be able to buy back 13 vessels. Although the $2 million falls far short of the total amount needed for a full-scale buyout in New England, the pilot program answered many questions about the design, implementation, and potential success of an expanded vessel buyout program.

The pilot program has demonstrated that fishing vessel owners are willing to participate in such a program—114 vessel owners applied to participate in the pilot program. If funding was available to accept all 114 offers received—totalling $52 million—groundfish fishing capacity could be decreased by more than 31 percent. This illustrates that such a program could be a successful way to reduce the overcapitalization in the groundfish fleet and may help ease the economic impact of the collapsed groundfish fishery and the strict conservation measures anticipated.

The legislation we are introducing today amends the existing Interjurisdictional Fisheries Act of 1986 to facilitate the development of an expanded buyout program in New England. This would allow some fishermen to voluntarily leave the fishery, thereby reducing excess fishing capacity. As a condition of the program, the bill would require that adequate conservation and management measures be in place to restore the stocks and ensure no new boats enter the New England groundfish fishery. It would also expedite fishery disaster relief programs designed for the Gulf and the Pacific Northwest.

I urge my colleagues to move quickly to pass the Interjurisdictional Fisheries Amendment Act of 1995.

By Mr. HATFIELD:

S. 1499. A bill to amend the Interjurisdictional Fisheries Act of 1986 to provide for direct and indirect assistance for certain persons engaged in commercial fisheries, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE FISHING FAMILIES RELIEF ACT OF 1995

Mr. HATFIELD. Mr. President, the Pacific Northwest has been presented with a number of significant challenges in the last decade. Most recently, heavy rains and winds in excess of 100 miles per hour ravaged the Oregon coast and the Willamette Valley. Additionally, the timber and fishing industries, which once constituted a substantial portion of Oregon's economy, have been severely restricted in recent years. Many individuals involved in those industries have been forced to find alternative sources of employment.

In 1994, the National Oceanic and Atmospheric Administration [NOAA] and the Pacific Northwest States initiated three programs to mitigate the financial hardship caused by the total closure of the coastal salmon fishing season. These programs were designed to assist the fishers impacted by the closing and include: a permit buyback program—Washington State only; a habitat restoration jobs program; and a data collection and at sea research jobs program. Both jobs programs employed over 100 dislocated fishers while contributing to the improvement of fishery habitat. NOAA has approved the request of the Governors of Oregon and Washington for an additional $13 million to continue these programs for a second year.

The changes in the Interjurisdictional Fisheries Act made by the legislation I am introducing today would allow these three programs to continue working for dislocated fishers who are severely limited in their ability to earn a living through commercial fishing. The current language restricts the number of dislocated fishers who have been eligible to participate in these programs. Additionally, fishers may lose the eligibility to participate in the programs due to the uninsured loss determination and the cap on assistance.

Mr. President, this legislation does not seek additional Federal funds for these important assistance programs. However, it does attempt to find ways to spend Federal dollars in a more effective and flexible manner, with broader participation from those the funds are intended to serve. This legislation will also be beneficial for the fishing industries in the Northeast and the Gulf Coast areas. I urge my colleagues to give their full consideration to this attempt to restore economic stability to the fisherman of Oregon and the Pacific Northwest.

ADDITIONAL COSPONSORS

S. 281

At the request of Mr. D'AMATO, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 281, a bill to amend title 38, United States Code, to change the date for the beginning of the Vietnam era for the purpose of veterans benefits from August 5, 1964, to December 22, 1961.

S. 1228

At the request of Mr. FEINGOLD, his name was added as a cosponsor of S. 1228, a bill to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran.

S. 1266

At the request of Mr. MACK, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1266, a bill to require the Board of Governors of the Federal Reserve System to focus on price stability in establishing monetary policy to ensure the stable, long-term purchasing power of the currency, to repeal the Full Employment and Balanced Growth Act of 1978, and for other purposes.

S. 1354

At the request of Mr. BREAUX, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1354, a bill to approve and implement the OECD Shipbuilding Trade Agreement.

S. 1426

At the request of Mr. SIMPSON, his name was added as a cosponsor of S. 1426, a bill to eliminate the requirement for unanimous verdicts in Federal court.

S. 1470

At the request of Mr. MCCAIN, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1470, a bill to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the Social Security earnings limit for individuals who have attained retirement age, and for other purposes.

SENATE CONCURRENT RESOLUTION 37—TO MAKE TECHNICAL CHANGES IN THE ENROLLMENT OF H.R. 2539

Mr. EXON submitted the following resolution; which was considered and agreed to:

S. CON. RES. 37

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 2539) to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes, shall make the following corrections:

In section 11326(b) proposed to be inserted in title 49, United States Code, by section 102, strike "unless the applicant elects to provide the alternative arrangement specified in this subsection. Such alternative" and insert "except that such";

In section 13902(b)(5) proposed to be inserted in title 49, United States Code, by section 103, strike "Any" and insert "Subject to section 14501(a), any".

SENATE RESOLUTION 201—COMMENDING THE CIA'S STATUTORY INSPECTOR GENERAL

Mr. SPECTER (for himself, Mr. KERREY, Mr. GLENN, Mr. BRYAN, Mr. ROBB, Mr. JOHNSTON, Mr. CHAFEE, Mr. BAUCUS, Mr. WARNER, Mr. KERRY, Mr. SHELBY, Mr. GRAHAM, Mr. KYL, Mr. LUGAR, Mr. INHOFE, Mr. BYRD, and Mr. DEWINE) submitted the following resolution; which was considered and agreed to:

S. RES. 201

Whereas, because of its concern with the need for objectivity, authority and independence on the part of the Central Intelligence Agency's Office of Inspector General, the Senate in 1989 included in the Intelligence Authorization Act of Fiscal Year 1990—subsequently enacted into law—a provision establishing an independent, Presidentially-appointed statutory Inspector General at the CIA;

Whereas in November, 1990, The Honorable Frederick P. Hitz was formally sworn in as the CIA's first statutory Inspector General;

Whereas the CIA's statutory Office of Inspector General, under the capable leadership of Frederick P. Hitz, has demonstrated its independence, tenacity, effectiveness and integrity; and

Whereas the work of the CIA Office of Inspector General under Mr. Hitz's leadership has contributed notably to the greater efficiency, effectiveness, integrity and accountability of the Central Intelligence Agency: Now, therefore, be it

Resolved, That the Senate expresses its congratulations to Frederick P. Hitz on his 5-year anniversary as the first statutory CIA Inspector General and expresses its support for the Office of the CIA Inspector General.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Frederick P. Hitz.

AMENDMENTS SUBMITTED

BUDGET NEGOTIATIONS JOINT RESOLUTION

DASCHLE AMENDMENT NO. 3108

Mr. DASCHLE proposed an amendment to the joint resolution (H.J. Res. 132) affirming that budget negotiations shall be based on the most recent technical and economic assumptions of the Congressional Budget Office and shall achieve a balanced budget by fiscal year 2002 based on those assumptions; as follows:

On page 2, line 2, strike office"; and insert the following: "Office, and the President and the Congress agree that the balance budget must protect future generations, ensure medicare solvency, reform welfare, and provide adequate funding for Medicaid, Education, Agriculture, National Defense, Veterans, and the Environment. Further, the balanced budget shall adopt tax policies to help working families and to stimulate future economic growth."

THE FARM CREDIT SYSTEM REGULATORY RELIEF ACT OF 1995

LUGAR (AND LEAHY) AMENDMENT No. 3109

Mr. SANTORUM (for Mr. LUGAR, for himself and Mr. LEAHY) proposed and amendment to the bill (H.R. 2029) to amend the Farm Credit Act of 1971 to provide regulatory relief; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Farm Credit System Reform Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AGRICULTURAL MORTGAGE SECONDARY MARKET

Sec. 101. Definition of real estate.
Sec. 102. Definition of certified facility.
Sec. 103. Duties of Federal Agricultural Mortgage Corporation.
Sec. 104. Powers of the Corporation.
Sec. 105. Federal reserve banks as depositaries and fiscal agents.
Sec. 106. Certification of agricultural mortgage marketing facilities.
Sec. 107. Guarantee of qualified loans.
Sec. 108. Mandatory reserves and subordinated participation interests eliminated.
Sec. 109. Standards requiring diversified pools.
Sec. 110. Small farms.
Sec. 111. Definition of an affiliate.
Sec. 112. State usury laws superseded.
Sec. 113. Extension of capital transition period.
Sec. 114. Minimum capital level.
Sec. 115. Critical capital level.
Sec. 116. Enforcement levels.
Sec. 117. Recapitalization of the Corporation.
Sec. 118. Liquidation of the Federal Agricultural Mortgage Corporation.

TITLE II—REGULATORY RELIEF

Sec. 201. Compensation of association personnel.
Sec. 202. Use of private mortgage insurance.
Sec. 203. Removal of certain borrower reporting requirement.
Sec. 204. Reform of regulatory limitations on dividend, member business, and voting practices of eligible farmer-owned cooperatives.
Sec. 205. Removal of Federal government certification requirement for certain private sector financings.
Sec. 206. Borrower stock.
Sec. 207. Disclosure relating to adjustable rate loans.
Sec. 208. Borrowers' rights.
Sec. 209. Formation of administrative service entities.
Sec. 210. Joint management agreements.
Sec. 211. Dissemination of quarterly reports.
Sec. 212. Regulatory review.
Sec. 213. Examination of farm credit system institutions.
Sec. 214. Conservatorships and receiverships.
Sec. 215. Farm Credit Insurance Fund operations.
Sec. 216. Examinations by the Farm Credit System Insurance Corporation.
Sec. 217. Powers with respect to troubled insured system banks.
Sec. 218. Oversight and regulatory actions by the Farm Credit System Insurance Corporation.
Sec. 219. Farm Credit System Insurance Corporation Board of Directors.
Sec. 220. Interest rate reduction program.
Sec. 221. Liability for making criminal referrals.

TITLE III—NATIONAL NATURAL RESOURCES CONSERVATION FOUNDATION

Sec. 301. Short title.
Sec. 302. Definitions.
Sec. 303. National Natural Resources Conservation Foundation.
Sec. 304. Composition and operation.
Sec. 305. Officers and employees
Sec. 306. Corporate powers and obligations of the Foundation.
Sec. 307. Administrative services and support.
Sec. 308. Audits and petition of Attorney General for equitable relief.
Sec. 309. Release from liability.
Sec. 310. Authorization of appropriations.

TITLE IV—IMPLEMENTATION AND EFFECTIVE DATE

Sec. 401. Implementation.
Sec. 302. Effective Date.

TITLE I—AGRICULTURAL MORTGAGE SECONDARY MARKET

SEC. 101. DEFINITION OF REAL ESTATE.

Section 8.0(1)(B)(ii) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa(1)(B)(ii)) is amended by striking "with a purchase price" and inserting ", excluding the land to which the dwelling is affixed, with a value".

SEC. 102. DEFINITION OF CERTIFIED FACILITY.

Section 8.0(3) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa(3)) is amended—

(1) in subparagraph (A), by striking "a secondary marketing agricultural loan" and inserting "an agricultural mortgage marketing"; and

(2) in subparagraph (B), by striking ", but only" and all that follows through "(9)(B)".

SEC. 103. DUTIES OF FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

Section 8.1(b) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-1(b)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) purchase qualified loans and issue securities representing interests in, or obligations backed by, the qualified loans, guaranteed for the timely repayment of principal and interest.".

SEC. 104. POWERS OF THE CORPORATION.

Section 8.3(c) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-3(c)) is amended—

(1) by redesignating paragraphs (13) and (14) as paragraphs (14) and (15), respectively; and

(2) by inserting after paragraph (12) the following:

"(13) To purchase, hold, sell, or assign a qualified loan, to issue a guaranteed security, representing an interest in, or an obligation backed by, the qualified loan, and to perform all the functions and responsibilities of an agricultural mortgage marketing facility operating as a certified facility under this title.".

SEC. 105. FEDERAL RESERVE BANKS AS DEPOSITARIES AND FISCAL AGENTS.

Section 8.3 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-3) is amended—

(1) in subsection (d), by striking "may act as depositories for, or" and inserting "shall act as depositories for, and"; and

(2) in subsection (e), by striking "Secretary of the Treasury may authorize the Corporation to use" and inserting "Corporation shall have access to".

SEC. 106. CERTIFICATION OF AGRICULTURAL MORTGAGE MARKETING FACILITIES.

Section 8.5 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-5) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting "(other than the Corporation)" after "agricultural mortgage marketing facilities"; and

(B) in paragraph (2), by inserting "(other than the Corporation)" after "agricultural mortgage marketing facility"; and

(2) in subsection (e)(1), by striking "(other than the Corporation)".

SEC. 107. GUARANTEE OF QUALIFIED LOANS.

Section 8.6 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-6) is amended—

(1) in subsection (a)(1)—

(A) by striking "Corporation shall guarantee" and inserting the following: "Corporation

"(A) shall guarantee";

(B) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(B) may issue a security, guaranteed as to the timely payment of principal and interest, that represents an interest solely in, or an obligation fully backed by, a pool consisting of qualified loans that—

"(i) meet the standards established under section 8.8; and

"(ii) have been purchased and held by the Corporation.";

(2) in subsection (d)—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively; and

(3) in subsection (g)(2), by striking "section 8.0(9)(B))" and inserting "section 8.0(9))".

SEC. 108. MANDATORY RESERVES AND SUBORDINATED PARTICIPATION INTERESTS ELIMINATED.

(a) Guarantee of Qualified Loans.—Section 8.6 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-6) is amended by striking subsection (b).

(b) Reserves and Subordinated Participation Interests.—Section 8.7 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-7) is repealed.

(c) Conforming Amendments.—

(1) Section 8.0(9)(B)(i) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa(9)(B)(i)) is amended by striking "8.7, 8.8," and inserting "8.8".

(2) Section 8.6(a)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-6(a)(2)) is amended by striking "subject to the provisions of subsection (b)".

SEC. 109. STANDARDS REQUIRING DIVERSIFIED POOLS.

(a) In General.—Section 8.6 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-6) (as amended by section 108) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) through (g) as subsections (b) through (e), respectively.

(b) Conforming Amendments.—

(1) Section 8.0(9)(B)(i) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa(9)(B)(i)) is amended by striking "(f)" and inserting "(d)".

(2) Section 8.13(a) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-13(a)) is amended by striking "sections 8.6(b) and" in each place it appears and inserting "section".

(3) Section 8.32(b)(1)(C) of the Farm Credit Act of 1971 (12 U.S.C. 2279bb-1(b)(1)(C)) is amended by striking "under section 8.6(b)(2)".

(4) Section 8.6(b) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-6(b)) (as redesignated by subsection (a)(2)) is amended—

(A) by striking paragraph (4) (as redesignated by section 107(2)(B)); and

(B) by redesignating paragraphs (5) and (6) (as redesignated by section 107(2)(B)) as paragraphs (4) and (5), respectively.

SEC. 110. SMALL FARMS.

Section 8.8(e) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-8(e)) is amended by adding at the end the following: "The Board shall promote and encourage the inclusion of qualified loans for small farms and family farmers in the agricultural mortgage secondary market.".

SEC. 111. DEFINITION OF AN AFFILIATE.

Section 8.11(e) of the Farm Credit Act of 1971 (21 U.S.C. 2279aa-11(e)) is amended—

(1) by striking "a certified facility or"; and

(2) by striking "paragraphs (3) and (7), respectively, of section 8.0" and inserting "section 8.0(7)".

SEC. 112. STATE USURY LAWS SUPERSEDED.

Section 8.12 of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-12) is amended by striking subsection (d) and inserting the following:

"(d) State Usury Laws Superseded.—A provision of the Constitution or law of any State shall not apply to an agricultural loan made by an originator or a certified facility in accordance with this title for sale to the Corporation or to a certified facility for inclusion in a pool for which the Corporation has provided, or has committed to provide, a guarantee, if the loan, not later than 180 days after the date the loan was made, is sold to the Corporation or included in a pool for which the Corporation has provided a guarantee, if the provision—

"(1) limits the rate or amount of interest, discount points, finance charges, or other charges that may be charged, taken, received, or reserved by an agricultural lender or a certified facility; or

"(2) limits or prohibits a prepayment penalty (either fixed or declining), yield maintenance, or make-whole payment that may be charged, taken, or received by an agricultural lender or a certified facility in connection with the full or partial payment of the principal amount due on a loan by a borrower in advance of the scheduled date for the payment under the terms of the loan, otherwise known as a prepayment of the loan principal.".

SEC. 113. EXTENSION OF CAPITAL TRANSITION PERIOD.

Section 8.32 of the Farm Credit Act of 1971 (12 U.S.C. 2279bb-1) is amended—

(1) in the first sentence of subsection (a), by striking "Not later than the expiration of the 2-year period beginning on December 13, 1991," and inserting "Not sooner than the expiration of the 3-year period beginning on the date of enactment of the Farm Credit System Reform Act of 1996,";

(2) in the first sentence of subsection (b)(2), by striking "5-year" and inserting "8-year"; and

(3) in subsection (d)—

(A) in the first sentence—

(i) by striking "The regulations establishing" and inserting the following:

"(1) In general.—The regulations establishing"; and

(ii) by striking "shall contain" and inserting the following: "shall—

"(A) be issued by the Director for public comment in the form of a notice of proposed rulemaking, to be first published after the expiration of the period referred to in subsection (a); and

"(B) contain"; and

(B) in the second sentence, by striking "The regulations shall" and inserting the following:

"(2) Specificity.—The regulations referred to in paragraph (1) shall".

SEC. 114. MINIMUM CAPITAL LEVEL.

Section 8.33 of the Farm Credit Act of 1971 (12 U.S.C. 2279bb-2) is amended to read as follows:

"SEC. 8.33. MINIMUM CAPITAL LEVEL.

"(a) In General.—Except as provided in subsection (b), for purposes of this subtitle, the minimum capital level for the Corporation shall be an amount of core capital equal to the sum of—

"(1) 2.75 percent of the aggregate on-balance sheet assets of the Corporation, as determined in accordance with generally accepted accounting principles; and

"(2) 0.75 percent of the aggregate off-balance sheet obligations of the Corporation, which, for the purposes of this subtitle, shall include—

"(A) the unpaid principal balance of outstanding securities that are guaranteed by the Corporation and backed by pools of qualified loans;

"(B) instruments that are issued or guaranteed by the Corporation and are substantially equivalent to instruments described in subparagraph (A); and

"(C) other off-balance sheet obligations of the Corporation.

"(b) TRANSITION PERIOD.—

"(1) IN GENERAL.—For purposes of this subtitle, the minimum capital level for the Corporation—

"(A) prior to January 1, 1997, shall be the amount of core capital equal to the sum of—

"(i) 0.45 percent of aggregate off-balance sheet obligations of the Corporation;

"(ii) 0.45 percent of designated on-balance sheet assets of the Corporation, as determined under paragraph (2); and

"(iii) 2.50 percent of on-balance sheet assets of the Corporation other than assets designated under paragraph (2);

"(B) during the 1-year period ending December 31, 1997, shall be the amount of core capital equal to the sum of—

"(i) 0.55 percent of aggregate off-balance sheet obligations of the Corporation;

"(ii) 1.20 percent of designated on-balance sheet assets of the Corporation, as determined under paragraph (2); and

"(iii) 2.55 percent of on-balance sheet assets of the Corporation other than assets designated under paragraph (2);

"(C) during the 1-year period ending December 31, 1998, shall be the amount of core capital equal to—

"(i) if the Corporation's core capital is not less than $25,000,000 on January 1, 1998, the sum of—

"(I) 0.65 percent of aggregate off-balance sheet obligations of the Corporation;

"(II) 1.95 percent of designated on-balance sheet assets of the Corporation, as determined under paragraph (2); and

"(III) 2.65 percent of on-balance sheet assets of the Corporation other than assets designated under paragraph (2); or

"(ii) if the Corporation's core capital is less than $25,000,000 on January 1, 1998, the amount determined under subsection (a); and

"(D) on and after January 1, 1999, shall be the amount determined under subsection (a).

"(2) DESIGNATED ON-BALANCE SHEET ASSETS.—For purposes of this subsection, the designated on-balance sheet assets of the Corporation shall be—

"(A) the aggregate on-balance sheet assets of the Corporation acquired under section 8.6(e); and

"(B) the aggregate amount of qualified loans purchased and held by the Corporation under section 8.3(c)(13).".

SEC. 115. CRITICAL CAPITAL LEVEL.

Section 8.34 of the Farm Credit Act of 1971 (12 U.S.C. 2279bb–3) is amended to read as follows:

"SEC. 8.34. CRITICAL CAPITAL LEVEL.

"For purposes of this subtitle, the critical capital level for the Corporation shall be an amount of core capital equal to 50 percent of the total minimum capital amount determined under section 8.33.".

SEC. 116. ENFORCEMENT LEVELS.

Section 8.35(e) of the Farm Credit Act of 1971 (12 U.S.C. 2279bb–4(e)) is amended by striking "during the 30-month period beginning on the date of enactment of this section," and inserting "during the period beginning on December 13, 1991, and ending on the effective date of the risk based capital regulation issued by the Director under section 8.32,".

SEC. 117. RECAPITALIZATION OF THE CORPORATION.

Title VIII of the Farm Credit Act of 1971 (12 U.S.C. 2279aa et seq.) is amended by adding at the end the following:

"SEC. 8.38. RECAPITALIZATION OF THE CORPORATION.

"(a) MANDATORY RECAPITALIZATION.—The Corporation shall increase the core capital of the Corporation to an amount equal to or greater than $25,000,000, not later than the earlier of—

"(1) the date that is 2 years after the date of enactment of this section; or

"(2) the date that is 180 days after the end of the first calendar quarter that the aggregate on-balance sheet assets of the Corporation, plus the outstanding principal of the off-balance sheet obligations of the Corporation, equal or exceed $2,000,000,000.

"(b) RAISING CORE CAPITAL.—In carrying out this section, the Corporation may issue stock under section 8.4 and otherwise employ any recognized and legitimate means of raising core capital in the power of the Corporation under section 8.3.

"(c) LIMITATION ON GROWTH OF TOTAL ASSETS.—During the 2-year period beginning on the date of enactment of this section, the aggregate on-balance sheet assets of the Corporation plus the outstanding principal of the off-balance sheet obligations of the Corporation may not exceed $3,000,000,000 if the core capital of the Corporation is less than $25,000,000.

"(d) ENFORCEMENT.—If the Corporation fails to carry out subsection (a) by the date required under paragraph (1) or (2) of subsection (a), the Corporation may not purchase a new qualified loan or issue or guarantee a new loan-backed security until the core capital of the Corporation is increased to an amount equal to or greater than $25,000,000.".

SEC. 118. LIQUIDATION OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

Title VIII of the Farm Credit Act of 1971 (12 U.S.C. 2279aa et seq.) (as amended by section 117) is amended by adding at the end the following:

"Subtitle C—Receivership, Conservatorship, and Liquidation of the Federal Agricultural Mortgage Corporation

"SEC. 8.41. CONSERVATORSHIP; LIQUIDATION; RECEIVERSHIP.

"(a) VOLUNTARY LIQUIDATION.—The Corporation may voluntarily liquidate only with the consent of, and in accordance with a plan of liquidation approved by, the Farm Credit Administration Board.

"(b) INVOLUNTARY LIQUIDATION.—

"(1) IN GENERAL.—The Farm Credit Administration Board may appoint a conservator or receiver for the Corporation under the circumstances specified in section 4.12(b).

"(2) APPLICATION.—In applying section 4.12(b) to the Corporation under paragraph (1)—

"(A) the Corporation shall also be considered insolvent if the Corporation is unable to pay its debts as they fall due in the ordinary course of business;

"(B) a conservator may also be appointed for the Corporation if the authority of the Corporation to purchase qualified loans or issue or guarantee loan-backed securities is suspended; and

"(C) a receiver may also be appointed for the Corporation if—

"(i)(I) the authority of the Corporation to purchase qualified loans or issue or guarantee loan-backed securities is suspended; or

"(II) the Corporation is classified under section 8.35 as within level III or IV and the alternative actions available under subtitle B are not satisfactory; and

"(ii) the Farm Credit Administration determines that the appointment of a conservator would not be appropriate.

"(3) NO EFFECT ON SUPERVISORY ACTIONS.—The grounds for appointment of a conservator for the Corporation under this subsection shall be in addition to those in section 8.37.

"(c) APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(1) QUALIFICATIONS.—Notwithstanding section 4.12(b), if a conservator or receiver is appointed for the Corporation, the conservator or receiver shall be—

"(A) the Farm Credit Administration or any other governmental entity or employee, including the Farm Credit System Insurance Corporation; or

"(B) any person that—

"(i) has no claim against, or financial interest in, the Corporation or other basis for a conflict of interest as the conservator or receiver; and

"(ii) has the financial and management expertise necessary to direct the operations and affairs of the Corporation and, if necessary, to liquidate the Corporation.

"(2) COMPENSATION.—

"(A) IN GENERAL.—A conservator or receiver for the Corporation and professional personnel (other than a Federal employee) employed to represent or assist the conservator or receiver may be compensated for activities conducted as, or for, a conservator or receiver.

"(B) LIMIT ON COMPENSATION.—Compensation may not be provided in amounts greater than the compensation paid to employees of the Federal Government for similar services, except that the Farm Credit Administration may provide for compensation at higher rates that are not in excess of rates prevailing in the private sector if the Farm Credit Administration determines that compensation at higher rates is necessary in order to recruit and retain competent personnel.

"(C) CONTRACTUAL ARRANGEMENTS.—The conservator or receiver may contract with any governmental entity, including the Farm Credit System Insurance Corporation, to make personnel, services, and facilities of the entity available to the conservator or receiver on such terms and compensation arrangements as shall be mutually agreed, and each entity may provide the same to the conservator or receiver.

"(3) EXPENSES.—A valid claim for expenses of the conservatorship or receivership (including compensation under paragraph (2)) and a valid claim with respect to a loan made under subsection (f) shall—

"(A) be paid by the conservator or receiver from funds of the Corporation before any other valid claim against the Corporation; and

"(B) may be secured by a lien, on such property of the Corporation as the conservator or receiver may determine, that shall have priority over any other lien.

"(4) LIABILITY.—If the conservator or receiver for the Corporation is not a Federal entity, or an officer or employee of the Federal Government, the conservator or receiver shall not be personally liable for damages in tort or otherwise for an act or omission performed pursuant to and in the course of the conservatorship or receivership, unless the act or omission constitutes gross negligence or any form of intentional tortious conduct or criminal conduct.

"(5) INDEMNIFICATION.—The Farm Credit Administration may allow indemnification of the conservator or receiver from the assets of the conservatorship or receivership on such terms as the Farm Credit Administration considers appropriate.

"(d) JUDICIAL REVIEW OF APPOINTMENT.—

"(1) IN GENERAL.—Notwithstanding subsection (i)(1), not later than 30 days after a conservator or receiver is appointed under subsection (b), the Corporation may bring an action in the United States District Court for the District of Columbia for an order requiring the Farm Credit Administration Board to remove the conservator or receiver. The court shall, on the merits, dismiss the action or direct the Farm Credit Administration Board to remove the conservator or receiver.

"(2) Stay of other actions.—On the commencement of an action under paragraph (1), any court having jurisdiction of any other action or enforcement proceeding authorized under this subtitle to which the Corporation is a party shall stay the action or proceeding during the pendency of the action for removal of the conservator or receiver.

"(e) General Powers of Conservator or Receiver.—The conservator or receiver for the Corporation shall have powers comparable to the powers available to a conservator or receiver appointed pursuant to section 4.12(b).

"(f) Borrowings for Working Capital.—

"(1) In general.—If the conservator or receiver of the Corporation determines that it is likely that there will be insufficient funds to pay the ongoing administrative expenses of the conservatorship or receivership or that there will be insufficient liquidity to fund maturing obligations of the conservatorship or receivership, the conservator or receiver may borrow funds in such amounts, from such sources, and at such rates of interest as the conservator or receiver considers necessary or appropriate to meet the administrative expenses or liquidity needs of the conservatorship or receivership.

"(2) Working capital from farm credit banks.—A Farm Credit bank may loan funds to the conservator or receiver for a loan authorized under paragraph (1) or, in the event of receivership, a Farm Credit bank may purchase assets of the Corporation.

"(g) Agreements Against Interests of Conservator or Receiver.—No agreement that tends to diminish or defeat the right, title, or interest of the conservator or receiver for the Corporation in any asset acquired by the conservator or receiver as conservator or receiver for the Corporation shall be valid against the conservator or receiver unless the agreement—

"(1) is in writing;

"(2) is executed by the Corporation and any person claiming an adverse interest under the agreement, including the obligor, contemporaneously with the acquisition of the asset by the Corporation;

"(3) is approved by the Board or an appropriate committee of the Board, which approval shall be reflected in the minutes of the Board or committee; and

"(4) has been, continuously, from the time of the agreement's execution, an official record of the Corporation.

"(h) Report to the Congress.—On a determination by the receiver for the Corporation that there are insufficient assets of the receivership to pay all valid claims against the receivership, the receiver shall submit to the Secretary of the Treasury, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the financial condition of the receivership.

"(i) Termination of Authorities.—

"(1) Corporation.—The charter of the Corporation shall be canceled, and the authority provided to the Corporation by this title shall terminate, on such date as the Farm Credit Administration Board determines is appropriate following the placement of the Corporation in receivership, but not later than the conclusion of the receivership and discharge of the receiver.

"(2) Oversight.—The Office of Secondary Market Oversight established under section 8.11 shall be abolished, and section 8.11(a) and subtitle B shall have no force or effect, on such date as the Farm Credit Administration Board determines is appropriate following the placement of the Corporation in receivership, but not later than the conclusion of the receivership and discharge of the receiver.".

TITLE II—REGULATORY RELIEF

SEC. 201. COMPENSATION OF ASSOCIATION PERSONNEL.

Section 1.5(13) of the Farm Credit Act of 1971 (12 U.S.C. 2013(13)) is amended by striking ", and the appointment and compensation of the chief executive officer thereof,".

SEC. 202. USE OF PRIVATE MORTGAGE INSURANCE.

(a) In General.—Section 1.10(a)(1) of the Farm Credit Act of 1971 (12 U.S.C. 2018(a)(1)) is amended by adding at the end the following:

"(D) Private mortgage insurance.—A loan on which private mortgage insurance is obtained may exceed 85 percent of the appraised value of the real estate security to the extent that the loan amount in excess of 85 percent is covered by the insurance.".

(b) Conforming Amendment.—Section 1.10(a)(1)(A) of the Farm Credit Act of 1971 (12 U.S.C. 2018(a)(1)(A)) is amended by striking "paragraphs (2) and (3)" and inserting "subparagraphs (B), (C), and (D)".

SEC. 203. REMOVAL OF CERTAIN BORROWER REPORTING REQUIREMENT.

Section 1.10(a) of the Farm Credit Act of 1971 (12 U.S.C. 2018(a)) is amended by striking paragraph (5).

SEC. 204. REFORM OF REGULATORY LIMITATIONS ON DIVIDEND, MEMBER BUSINESS, AND VOTING PRACTICES OF ELIGIBLE FARMER-OWNED COOPERATIVES.

(a) In General.—Section 3.8(a) of the Farm Credit Act of 1971 (12 U.S.C. 2129(a)) is amended by adding at the end the following: "Any such association that has received a loan from a bank for cooperatives shall, without regard to the requirements of paragraphs (1) through (4), continue to be eligible for so long as more than 50 percent (or such higher percentage as is established by the bank board) of the voting control of the association is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations.".

(b) Conforming Amendment.—Section 3.8(b)(1)(D) of the Farm Credit Act of 1971 (12 U.S.C. 2129(b)(1)(D)) is amended by striking "and (4) of subsection (a)" and inserting "and (4), or under the last sentence, of subsection (a)".

SEC. 205. REMOVAL OF FEDERAL GOVERNMENT CERTIFICATION REQUIREMENT FOR CERTAIN PRIVATE SECTOR FINANCINGS.

Section 3.8(b)(1)(A) of the Farm Credit Act of 1971 (12 U.S.C. 2129(b)(1)(A)) is amended—

(1) by striking "have been certified by the Administrator of the Rural Electrification Administration to be eligible for such" and inserting "are eligible under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) for"; and

(2) by striking "loan guarantee, and" and inserting "loan guarantee from the Administration or the Bank (or a successor of the Administration or the Bank), and".

SEC. 206. BORROWER STOCK.

Section 4.3A of the Farm Credit Act of 1971 (12 U.S.C. 2154a) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

"(f) Loans Designated for Sale or Sold Into the Secondary Market.—

"(1) In general.—Subject to paragraph (2) and notwithstanding any other provision of this section, the bylaws adopted by a bank or association under subsection (b) may provide—

"(A) in the case of a loan made on or after the date of enactment of this paragraph that is designated, at the time the loan is made, for sale into a secondary market, that no voting stock or participation certificate purchase requirement shall apply to the borrower for the loan; and

"(B) in the case of a loan made before the date of enactment of this paragraph that is sold into a secondary market, that all outstanding voting stock or participation certificates held by the borrower with respect to the loan shall, subject to subsection (d)(1), be retired.

"(2) Applicability.—Notwithstanding any other provision of this section, in the case of a loan sold to a secondary market under title VIII, paragraph (1) shall apply regardless of whether the bank or association retains a subordinated participation interest in a loan or pool of loans or contributes to a cash reserve.

"(3) Exception.—

"(A) In general.—Subject to subparagraph (B) and notwithstanding any other provision of this section, if a loan designated for sale under paragraph (1)(A) is not sold into a secondary market during the 180-day period that begins on the date of the designation, the voting stock or participation certificate purchase requirement that would otherwise apply to the loan in the absence of a bylaw provision described in paragraph (1)(A) shall be effective.

"(B) Retirement.—The bylaws adopted by a bank or association under subsection (b) may provide that if a loan described in subparagraph (A) is sold into a secondary market after the end of the 180-day period described in the subparagraph, all outstanding voting stock or participation certificates held by the borrower with respect to the loan shall, subject to subsection (d)(1), be retired.".

SEC. 207. DISCLOSURE RELATING TO ADJUSTABLE RATE LOANS.

Section 4.13(a)(4) of the Farm Credit Act of 1971 (12 U.S.C. 2199(a)(4)) is amended by inserting before the semicolon at the end the following: ", and notice to the borrower of a change in the interest rate applicable to the loan of the borrower may be made within a reasonable time after the effective date of an increase or decrease in the interest rate".

SEC. 208. BORROWERS' RIGHTS.

(a) Definition of Loan.—Section 4.14A(a)(5) of the Farm Credit Act of 1971 (12 U.S.C. 2202a(a)(5)) is amended—

(1) by striking "(5) Loan.—The" and inserting the following:

"(5) Loan.—

"(A) In general.—Subject to subparagraph (B), the"; and

(2) by adding at the end the following:

"(B) Exclusion for loans designated for sale into secondary market.—

"(i) In general.—Except as provided in clause (ii), the term 'loan' does not include a loan made on or after the date of enactment of this subparagraph that is designated, at the time the loan is made, for sale into a secondary market.

"(ii) Unsold loans.—

"(I) In general.—Except as provided in subclause (II), if a loan designated for sale under clause (i) is not sold into a secondary market during the 180-day period that begins on the date of the designation, the provisions of this section and sections 4.14, 4.14B, 4.14C, 4.14D, and 4.36 that would otherwise apply to the loan in the absence of the exclusion described in clause (i) shall become effective with respect to the loan.

"(II) LATER SALE.—If a loan described in subclause (I) is sold into a secondary market after the end of the 180-day period described in subclause (I), subclause (I) shall not apply with respect to the loan beginning on the date of the sale.".

(b) BORROWERS' RIGHTS FOR POOLED LOANS.—The first sentence of section 8.9(b) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-9(b)) is amended by inserting "(as defined in section 4.14A(a)(5))" after "application for a loan".

SEC. 209. FORMATION OF ADMINISTRATIVE SERVICE ENTITIES.

Part E of title IV of the Farm Credit Act of 1971 is amended by inserting after section 4.28 (12 U.S.C. 2214) the following:

"SEC. 4.28A. DEFINITION OF BANK.

"In this part, the term 'bank' includes each association operating under title II.".

SEC. 210. JOINT MANAGEMENT AGREEMENTS.

The first sentence of section 5.17(a)(2)(A) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)(2)(A)) is amended by striking "or management agreements".

SEC. 211. DISSEMINATION OF QUARTERLY REPORTS.

Section 5.17(a)(8) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)(8)) is amended by inserting after "except that" the following: "the requirements of the Farm Credit Administration governing the dissemination to stockholders of quarterly reports of System institutions may not be more burdensome or costly than the requirements applicable to national banks, and".

SEC. 212. REGULATORY REVIEW.

(a) FINDINGS.—Congress finds that—

(1) the Farm Credit Administration, in the role of the Administration as an arms-length safety and soundness regulator, has made considerable progress in reducing the regulatory burden on Farm Credit System institutions;

(2) the efforts of the Farm Credit Administration described in paragraph (1) have resulted in cost savings for Farm Credit System institutions; and

(3) the cost savings described in paragraph (2) ultimately benefit the farmers, ranchers, agricultural cooperatives, and rural residents of the United States.

(b) CONTINUATION OF REGULATORY REVIEW.—The Farm Credit Administration shall continue the comprehensive review of regulations governing the Farm Credit System to identify and eliminate, consistent with law, safety, and soundness, all regulations that are unnecessary, unduly burdensome or costly, or not based on law.

SEC. 213. EXAMINATION OF FARM CREDIT SYSTEM INSTITUTIONS.

The first sentence of section 5.19(a) of the Farm Credit Act of 1971 (12 U.S.C. 2254(a)) is amended by striking "each year" and inserting "during each 18-month period".

SEC. 214. CONSERVATORSHIPS AND RECEIVERSHIPS.

(a) DEFINITIONS.—Section 5.51 of the Farm Credit Act of 1971 (12 U.S.C. 2277a) is amended—

(1) by striking paragraph (5); and

(2) by redesignating paragraph (6) as paragraph (5).

(b) GENERAL CORPORATE POWERS.—Section 5.58 of the Farm Credit Act of 1971 (12 U.S.C. 2277a-7) is amended by striking paragraph (9) and inserting the following:

"(9) CONSERVATOR OR RECEIVER.—The Corporation may act as a conservator or receiver.".

SEC. 215. FARM CREDIT INSURANCE FUND OPERATIONS.

(a) ADJUSTMENT OF PREMIUMS.—

(1) IN GENERAL.—Section 5.55(a) of the Farm Credit Act of 1971 (12 U.S.C. 2277a-4(a)) is amended—

(A) in paragraph (1), by striking "Until the aggregate of amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the annual premium due from any insured System bank for any calendar year" and inserting the following: "If at the end of any calendar year the aggregate of amounts in the Farm Credit Insurance Fund does not exceed the secure base amount, subject to paragraph (2), the annual premium due from any insured System bank for the calendar year";

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following:

"(2) REDUCED PREMIUMS.—The Corporation, in the sole discretion of the Corporation, may reduce by a percentage uniformly applied to all insured System banks the annual premium due from each insured System bank during any calendar year, as determined under paragraph (1).".

(2) CONFORMING AMENDMENTS.—

(A) Section 5.55(b) of the Farm Credit Act of 1971 (12 U.S.C. 2277a-4(b)) is amended—

(i) by striking "Insurance Fund" each place it appears and inserting "Farm Credit Insurance Fund";

(ii) by striking "for the following calendar year"; and

(iii) by striking "subsection (a)" and inserting "subsection (a)(1)".

(B) Section 5.56(a) of the Farm Credit Act of 1971 (12 U.S.C. 2277a-5(a)) is amended by striking "section 5.55(a)(2)" each place it appears in paragraphs (2) and (3) and inserting "section 5.55(a)(3)".

(b) ALLOCATION TO INSURED SYSTEM BANKS AND OTHER SYSTEM INSTITUTIONS OF EXCESS AMOUNTS IN THE FARM CREDIT INSURANCE FUND.—Section 5.55 of the Farm Credit Act of 1971 (12 U.S.C. 2277a-4) is amended by adding at the end the following:

"(e) ALLOCATION TO SYSTEM INSTITUTIONS OF EXCESS RESERVES.—

"(1) ESTABLISHMENT OF ALLOCATED INSURANCE RESERVES ACCOUNTS.—The Corporation shall establish an Allocated Insurance Reserves Account in the Farm Credit Insurance Fund—

"(A) for each insured System bank; and

"(B) subject to paragraph (6)(C), for all holders, in the aggregate, of Financial Assistance Corporation stock.

"(2) TREATMENT.—Amounts in any Allocated Insurance Reserves Account shall be considered to be part of the Farm Credit Insurance Fund.

"(3) ANNUAL ALLOCATIONS.—If, at the end of any calendar year, the aggregate of the amounts in the Farm Credit Insurance Fund exceeds the average secure base amount for the calendar year (as calculated on an average daily balance basis), the Corporation shall allocate to the Allocated Insurance Reserves Accounts the excess amount less the amount that the Corporation, in its sole discretion, determines to be the sum of the estimated operating expenses and estimated insurance obligations of the Corporation for the immediately succeeding calendar year.

"(4) ALLOCATION FORMULA.—From the total amount required to be allocated at the end of a calendar year under paragraph (3)—

"(A) 10 percent of the total amount shall be credited to the Allocated Insurance Reserves Account established under paragraph (1)(B), subject to paragraph (6)(C); and

"(B) there shall be credited to the Allocated Insurance Reserves Account of each insured System bank an amount that bears the same ratio to the total amount (less any amount credited under subparagraph (A)) as the average principal outstanding for the 3-year period ending on the end of the calendar year on loans made by the bank that are in accrual status bears to the average principal outstanding for the 3-year period ending on the end of the calendar year on loans made by all insured System banks that are in accrual status (excluding, in each case, the guaranteed portions of government-guaranteed loans described in subsection (a)(1)(C)).

"(5) USE OF FUNDS IN ALLOCATED INSURANCE RESERVES ACCOUNTS.—To the extent that the sum of the operating expenses of the Corporation and the insurance obligations of the Corporation for a calendar year exceeds the sum of operating expenses and insurance obligations determined under paragraph (3) for the calendar year, the Corporation shall cover the expenses and obligations by—

"(A) reducing each Allocated Insurance Reserves Account by the same proportion; and

"(B) expending the amounts obtained under subparagraph (A) before expending other amounts in the Fund.

"(6) OTHER DISPOSITION OF ACCOUNT FUNDS.—

"(A) IN GENERAL.—As soon as practicable during each calendar year beginning more than 8 years after the date on which the aggregate of the amounts in the Farm Credit Insurance Fund exceeds the secure base amount, but not earlier than January 1, 2005, the Corporation may—

"(i) subject to subparagraphs (D) and (F), pay to each insured System bank, in a manner determined by the Corporation, an amount equal to the lesser of—

"(I) 20 percent of the balance in the insured System bank's Allocated Insurance Reserves Account as of the preceding December 31; or

"(II) 20 percent of the balance in the bank's Allocated Insurance Reserves Account on the date of the payment; and

"(ii) subject to subparagraphs (C), (E), and (F), pay to each System bank and association holding Financial Assistance Corporation stock a proportionate share, determined by dividing the number of shares of Financial Assistance Corporation stock held by the institution by the total number of shares of Financial Assistance Corporation stock outstanding, of the lesser of—

"(I) 20 percent of the balance in the Allocated Insurance Reserves Account established under paragraph (1)(B) as of the preceding December 31; or

"(II) 20 percent of the balance in the Allocated Insurance Reserves Account established under paragraph (1)(B) on the date of the payment.

"(B) AUTHORITY TO ELIMINATE OR REDUCE PAYMENTS.—The Corporation may eliminate or reduce payments during a calendar year under subparagraph (A) if the Corporation determines, in its sole discretion, that the payments, or other circumstances that might require use of the Farm Credit Insurance Fund, could cause the amount in the Farm Credit Insurance Fund during the calendar year to be less than the secure base amount.

"(C) REIMBURSEMENT FOR FINANCIAL ASSISTANCE CORPORATION STOCK.—

"(i) Sufficient funding.—Notwithstanding paragraph (4)(A), on provision by the Corporation for the accumulation in the Account established under paragraph (1) of funds in an amount equal to $56,000,000 (in addition to the amounts described in subparagraph (F)(ii)), the Corporation shall not allocate any further funds to the Account except to replenish the Account if funds are diminished below $56,000,000 by the Corporation under paragraph (5).

"(ii) Wind down and termination.—

"(I) Final disbursements.—On disbursement of $53,000,000 (in addition to the amounts described in subparagraph (F)(ii)) from the Allocated Insurance Reserves Account, the Corporation shall disburse the remaining amounts in the Account, as determined under subparagraph (A)(ii), without regard to the percentage limitations in subclauses (I) and (II) of subparagraph (A)(ii).

"(II) Termination of account.—On disbursement of $56,000,000 (in addition to the amounts described in subparagraph (F)(ii)) from the Allocated Insurance Reserves Account, the Corporation shall close the Account established under paragraph (1)(B) and transfer any remaining funds in the Account to the remaining Allocated Insurance Reserves Accounts in accordance with paragraph (4)(B) for the calendar year in which the transfer occurs.

"(D) Distribution of payments received.—Not later than 60 days after receipt of a payment made under subparagraph (A)(i), each insured System bank, in consultation with affiliated associations of the insured System bank, and taking into account the direct or indirect payment of insurance premiums by the associations, shall develop and implement an equitable plan to distribute payments received under subparagraph (A)(i) among the bank and associations of the bank.

"(E) Exception for previously reimbursed associations.—For purposes of subparagraph (A)(ii), in any Farm Credit district in which the funding bank has reimbursed 1 or more affiliated associations of the bank for the previously unreimbursed portion of the Financial Assistance Corporation stock held by the associations, the funding bank shall be deemed to be the holder of the shares of Financial Assistance Corporation stock for which the funding bank has provided the reimbursement.

"(F) Initial payment.—Notwithstanding subparagraph (A), the initial payment made to each payee under subparagraph (A) shall be in such amount determined by the Corporation to be equal to the sum of—

"(i) the total of the amounts that would have been paid if payments under subparagraph (A) had been authorized to begin, under the same terms and conditions, in the first calendar year beginning more than 5 years after the date on which the aggregate of the amounts in the Farm Credit Insurance Fund exceeds the secure base amount and to continue through the 2 immediately subsequent years;

"(ii) interest earned on any amounts that would have been paid as described in clause (i) from the date on which the payments would have been paid as described in clause (i); and

"(iii) the payment to be made in the initial year described in subparagraph (A), based on the amount in each account after subtracting the amounts to be paid under clauses (i) and (ii)."

(c) Technical Amendments.—Section 5.55(d) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–4(d)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "subsections (a) and (c)" and inserting "subsections (a), (c), and (e)"; and

(B) by striking "a Farm Credit Bank" and inserting "an insured System bank"; and

(2) in paragraphs (1), (2), and (3), by striking "Farm Credit Bank" each place it appears and inserting "insured System bank".

SEC. 216. EXAMINATIONS BY THE FARM CREDIT SYSTEM INSURANCE CORPORATION.

Section 5.59(b)(1)(A) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–8(b)(1)(A)) is amended by adding at the end the following: "Notwithstanding any other provision of this Act, on cancellation of the charter of a System institution, the Corporation shall have authority to examine the system institution in receivership. An examination shall be performed at such intervals as the Corporation shall determine.".

SEC. 217. POWERS WITH RESPECT TO TROUBLED INSURED SYSTEM BANKS.

(a) Least-Cost Resolution.—Section 5.61(a)(3) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–10(a)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (F); and

(2) by striking subparagraph (A) and inserting the following:

"(A) Least-cost resolution.—Assistance may not be provided to an insured System bank under this subsection unless the means of providing the assistance is the least costly means of providing the assistance by the Farm Credit Insurance Fund of all possible alternatives available to the Corporation, including liquidation of the bank (including paying the insured obligations issued on behalf of the bank). Before making a least-cost determination under this subparagraph, the Corporation shall accord such other insured System banks as the Corporation determines to be appropriate the opportunity to submit information relating to the determination.

"(B) Determining least costly approach.—In determining the least costly alternative under subparagraph (A), the Corporation shall—

"(i) evaluate alternatives on a present-value basis, using a realistic discount rate;

"(ii) document the evaluation and the assumptions on which the evaluation is based, including any assumptions with regard to interest rates, asset recovery rates, asset holding costs, and payment of contingent liabilities; and

"(iii) retain the documentation for not less than 5 years.

"(C) Time of determination.—

"(i) General rule.—For purposes of this subsection, the determination of the costs of providing any assistance under any provision of this section with respect to any insured System bank shall be made as of the date on which the Corporation makes the determination to provide the assistance to the institution under this section.

"(ii) Rule for liquidations.—For purposes of this subsection, the determination of the costs of liquidation of any insured System bank shall be made as of the earliest of—

"(I) the date on which a conservator is appointed for the insured System bank;

"(II) the date on which a receiver is appointed for the insured System bank; or

"(III) the date on which the Corporation makes any determination to provide any assistance under this section with respect to the insured System bank.

"(D) Rule for stand-alone assistance.—Before providing any assistance under paragraph (1), the Corporation shall evaluate the adequacy of managerial resources of the insured System bank. The continued service of any director or senior ranking officer who serves in a policymaking role for the assisted insured System bank, as determined by the Corporation, shall be subject to approval by the Corporation as a condition of assistance.

"(E) Discretionary determinations.—Any determination that the Corporation makes under this paragraph shall be in the sole discretion of the Corporation.".

(b) Conforming Amendments.—Section 5.61(a) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–10(a)) is amended—

(1) in paragraph (1) by striking "In general.—" and inserting "Stand-alone assistance.—"; and

(2) in paragraph (2)—

(A) by striking "Enumerated powers.—" and inserting "Facilitation of mergers or consolidation.—"; and

(B) in subparagraph (A) by striking "Facilitation of mergers or consolidation.—" and inserting "In general.—".

SEC. 218. OVERSIGHT AND REGULATORY ACTIONS BY THE FARM CREDIT SYSTEM INSURANCE CORPORATION.

The Farm Credit Act of 1971 is amended by inserting after section 5.61 (12 U.S.C. 2279a–10) the following:

"SEC. 5.61A. OVERSIGHT ACTIONS BY THE CORPORATION.

"(a) Definitions.—In this section, the term 'institution' means—

"(1) an insured System bank; and

"(2) a production credit association or other association making loans under section 7.6 with a direct loan payable to the funding bank of the association that comprises 20 percent or more of the funding bank's total loan volume net of nonaccrual loans.

"(b) Consultation Regarding Participation of Undercapitalized Banks in Issuance of Insured Obligations.—The Farm Credit Administration shall consult with the Corporation prior to approving an insured obligation that is to be issued by or on behalf of, or participated in by, any insured System bank that fails to meet the minimum level for any capital requirement established by the Farm Credit Administration for the bank.

"(c) Consultation Regarding Applications for Mergers and Restructurings.—

"(1) Corporation to receive copy of transaction applications.—On receiving an application for a merger or restructuring of an institution, the Farm Credit Administration shall forward a copy of the application to the Corporation.

"(2) Consultation required.—If the proposed merger or restructuring involves an institution that fails to meet the minimum level for any capital requirement established by the Farm Credit Administration applicable to the institution, the Farm Credit Administration shall allow 30 days within which the Corporation may submit the views and recommendations of the Corporation, including any conditions for approval. In determining whether to approve or disapprove any proposed merger or restructuring, the Farm Credit Administration shall give due consideration to the views and recommendations of the Corporation.

"SEC. 5.61B. AUTHORITY TO REGULATE GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS.

"(a) Definitions.—In this section:

"(1) Golden parachute payment.—The term 'golden parachute payment'—

"(A) means a payment (or any agreement to make a payment) in the nature of compensation by any Farm Credit System institution (including the Federal Agricultural

Mortgage Corporation and any conservator or receiver for the Federal Agricultural Mortgage Corporation) for the benefit of any institution-related party under an obligation of the institution that—

"(i) is contingent on the termination of the party's relationship with the institution; and

"(ii) is received on or after the date on which—

"(I) the institution is insolvent;

"(II) a conservator or receiver is appointed for the institution;

"(III) the institution has been assigned by the Farm Credit Administration a composite CAMEL rating of 4 or 5 under the Farm Credit Administration Rating System, or an equivalent rating; or

"(IV) the Corporation otherwise determines that the institution is in a troubled condition (as defined in regulations issued by the Corporation); and

"(B) includes a payment that would be a golden parachute payment but for the fact that the payment was made before the date referred to in subparagraph (A)(ii) if the payment was made in contemplation of the occurrence of an event described in any subclause of subparagraph (A); but

"(C) does not include—

"(i) a payment made under a retirement plan that is qualified (or is intended to be qualified) under section 401 of the Internal Revenue Code of 1986 or other nondiscriminatory benefit plan;

"(ii) a payment made under a bona fide supplemental executive retirement plan, deferred compensation plan, or other arrangement that the Corporation determines, by regulation or order, to be permissible; or

"(iii) a payment made by reason of the death or disability of an institution-related party.

"(2) Indemnification payment.—The term 'indemnification payment' means a payment (or any agreement to make a payment) by any Farm Credit System institution for the benefit of any person who is or was an institution-related party, to pay or reimburse the person for any liability or legal expense with regard to any administrative proceeding or civil action instituted by the Farm Credit Administration that results in a final order under which the person—

"(A) is assessed a civil money penalty; or

"(B) is removed or prohibited from participating in the conduct of the affairs of the institution.

"(3) Institution-related party.—The term 'institution-related party' means—

"(A) a director, officer, employee, or agent for a Farm Credit System institution;

"(B) a stockholder (other than another Farm Credit System institution), consultant, joint venture partner, or any other person determined by the Farm Credit Administration to be a participant in the conduct of the affairs of a Farm Credit System institution; and

"(C) an independent contractor (including any attorney, appraiser, or accountant) that knowingly or recklessly participates in any violation of any law or regulation, any breach of fiduciary duty, or any unsafe or unsound practice that caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the Farm Credit System institution.

"(4) Liability or legal expense.—The term 'liability or legal expense' means—

"(A) a legal or other professional expense incurred in connection with any claim, proceeding, or action;

"(B) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

"(C) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

"(5) Payment.—The term 'payment' means—

"(A) a direct or indirect transfer of any funds or any asset; and

"(B) any segregation of any funds or assets for the purpose of making, or under an agreement to make, any payment after the date on which the funds or assets are segregated, without regard to whether the obligation to make the payment is contingent on—

"(i) the determination, after that date, of the liability for the payment of the amount; or

"(ii) the liquidation, after that date, of the amount of the payment.

"(b) Prohibition.—The Corporation may prohibit or limit, by regulation or order, any golden parachute payment or indemnification payment by a Farm Credit System institution (including the Federal Agricultural Mortgage Corporation) in troubled condition (as defined in regulations issued by the Corporation).

"(c) Factors To Be Taken into Account.—The Corporation shall prescribe, by regulation, the factors to be considered by the Corporation in taking any action under subsection (b). The factors may include—

"(1) whether there is a reasonable basis to believe that an institution-related party has committed any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the Farm Credit System institution involved that has had a material effect on the financial condition of the institution;

"(2) whether there is a reasonable basis to believe that the institution-related party is substantially responsible for the insolvency of the Farm Credit System institution, the appointment of a conservator or receiver for the institution, or the institution's troubled condition (as defined in regulations prescribed by the Corporation);

"(3) whether there is a reasonable basis to believe that the institution-related party has materially violated any applicable law or regulation that has had a material effect on the financial condition of the institution;

"(4) whether there is a reasonable basis to believe that the institution-related party has violated or conspired to violate—

"(A) section 215, 657, 1006, 1014, or 1344 of title 18, United States Code; or

"(B) section 1341 or 1343 of title 18, United States Code, affecting a Farm Credit System institution;

"(5) whether the institution-related party was in a position of managerial or fiduciary responsibility; and

"(6) the length of time that the party was related to the Farm Credit System institution and the degree to which—

"(A) the payment reasonably reflects compensation earned over the period of employment; and

"(B) the compensation represents a reasonable payment for services rendered.

"(d) Certain Payments Prohibited.—No Farm Credit System institution may prepay the salary or any liability or legal expense of any institution-related party if the payment is made—

"(1) in contemplation of the insolvency of the institution or after the commission of an act of insolvency; and

"(2) with a view to, or with the result of—

"(A) preventing the proper application of the assets of the institution to creditors; or

"(B) preferring 1 creditor over another creditor.

"(e) Rule of Construction.—Nothing in this section—

"(1) prohibits any Farm Credit System institution from purchasing any commercial insurance policy or fidelity bond, so long as the insurance policy or bond does not cover any legal or liability expense of an institution described in subsection (a)(2); or

"(2) limits the powers, functions, or responsibilities of the Farm Credit Administration.".

SEC. 219. FARM CREDIT SYSTEM INSURANCE CORPORATION BOARD OF DIRECTORS.

Section 201 of the Farm Credit Banks and Associations Safety and Soundness Act of 1992 (106 Stat. 4104) is repealed.

SEC. 220. INTEREST RATE REDUCTION PROGRAM.

Section 351(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1999) is amended—

(A) by striking "Sec. 351. (a) The" and inserting the following:

"SEC. 351. INTEREST RATE REDUCTION PROGRAM.

"(a) Establishment of Program.—

"(1) In general.—The"; and

(B) by adding at the end the following:

"(2) Termination of authority.—The authority provided by this subsection shall terminate on September 30, 2002.".

SEC. 221. LIABILITY FOR MAKING CRIMINAL REFERRALS.

(a) In General.—Any institution of the Farm Credit System, or any director, officer, employee, or agent of a Farm Credit System institution, that discloses to a Government authority information proffered in good faith that may be relevant to a possible violation of any law or regulation shall not be liable to any person under any law of the United States or any State—

(1) for the disclosure; or

(2) for any failure to notify the person involved in the possible violation.

(b) No Prohibition on Disclosure.—Any institution of the Farm Credit System, or any director, officer, employee, or agent of a Farm Credit System institution, may disclose information to a Government authority that may be relevant to a possible violation of any law or regulation.

TITLE III—NATIONAL NATURAL RESOURCES CONSERVATION FOUNDATION

SEC. 301. SHORT TITLE.

This title may be cited as the "National Natural Resources Conservation Foundation Act".

SEC. 302. DEFINITIONS.

In this title (unless the context otherwise requires):

(1) Board.—The term "Board" means the Board of Trustees established under section 304.

(2) Department.—The term "Department" means the United States Department of Agriculture.

(3) Foundation.—The term "Foundation" means the National Natural Resources Conservation Foundation established by section 303(a).

(4) Secretary.—The term "Secretary" means the Secretary of Agriculture.

SEC. 303. NATIONAL NATURAL RESOURCES CONSERVATION FOUNDATION.

(a) Establishment.—A National Natural Resources Conservation Foundation is established as a charitable and nonprofit corporation for charitable, scientific, and educational purposes specified in subsection (b). The Foundation is not an agency or instrumentality of the United States.

(b) Purposes.—The purposes of the Foundation are to—

(1) promote innovative solutions to the problems associated with the conservation of natural resources on private lands, particularly with respect to agriculture and soil and water conservation;

(2) promote voluntary partnerships between government and private interests in the conservation of natural resources;

(3) conduct research and undertake educational activities, conduct and support demonstration projects, and make grants to State and local agencies and nonprofit organizations;

(4) provide such other leadership and support as may be necessary to address conservation challenges, such as the prevention of excessive soil erosion, enhancement of soil and water quality, and the protection of wetlands, wildlife habitat, and strategically important farmland subject to urban conversion and fragmentation;

(5) encourage, accept, and administer private gifts of money and real and personal property for the benefit of, or in connection with, the conservation and related activities and services of the Department, particularly the Natural Resources Conservation Service;

(6) undertake, conduct, and encourage educational, technical, and other assistance, and other activities, that support the conservation and related programs administered by the Department (other than activities carried out on National Forest System lands), particularly the Natural Resources Conservation Service, except that the Foundation may not enforce or administer a regulation of the Department; and

(7) raise private funds to promote the purposes of the Foundation.

(c) LIMITATIONS AND CONFLICTS OF INTERESTS.—

(1) POLITICAL ACTIVITIES.—The Foundation shall not participate or intervene in a political campaign on behalf of any candidate for public office.

(2) CONFLICTS OF INTEREST.—No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation affecting—

(A) the financial interests of the director, officer, or employee; or

(B) the interests of any corporation, partnership, entity, organization, or other person in which the director, officer, or employee—

(i) is an officer, director, or trustee; or

(ii) has any direct or indirect financial interest.

(3) LEGISLATION OR GOVERNMENT ACTION OR POLICY.—No funds of the Foundation may be used in any manner for the purpose of influencing legislation or government action or policy.

(4) LITIGATION.—No funds of the Foundation may be used to bring or join an action against the United States.

(d) TAX EXEMPT STATUS.—

(1) 1996 TAXABLE YEAR.—In the case of the 1996 taxable year, the Foundation shall be treated as organized and operated exclusively for charitable purposes for purposes of section 501(c)(3) of the Internal Revenue Code of 1986.

(2) 1997 AND SUBSEQUENT TAXABLE YEARS.—In the case of the 1997 and subsequent taxable years, the Foundation shall be required to maintain the tax exempt status of the Foundation in the manner prescribed by the Secretary of the Treasury for similar tax exempt organizations.

SEC. 304. COMPOSITION AND OPERATION.

(a) COMPOSITION.—The Foundation shall be administered by a Board of Trustees that shall consist of 9 voting members, each of whom shall be a United States citizen and not a Federal officer. The Board shall be composed of—

(1) individuals with expertise in agricultural conservation policy matters;

(2) a representative of private sector organizations with a demonstrable interest in natural resources conservation;

(3) a representative of statewide conservation organizations;

(4) a representative of soil and water conservation districts;

(5) a representative of organizations outside the Federal Government that are dedicated to natural resources conservation education; and

(6) a farmer or rancher.

(b) NONGOVERNMENTAL EMPLOYEES.—Service as a member of the Board shall not constitute employment by, or the holding of, an office of the United States for the purposes of any Federal law.

(c) MEMBERSHIP.—

(1) INITIAL MEMBERS.—The Secretary shall appoint 9 persons who meet the criteria established under subsection (a) as the initial members of the Board and designate 1 of the members as the initial chairperson for a 2-year term.

(2) TERMS OF OFFICE.—

(A) IN GENERAL.—A member of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) LIMITATION ON TERMS.—No individual may serve more than 2 consecutive 3-year terms as a member.

(3) SUBSEQUENT MEMBERS.—The initial members of the Board shall adopt procedures in the constitution of the Foundation for the nomination and selection of subsequent members of the Board. The procedures shall require that each member, at a minimum, meets the criteria established under subsection (a) and shall provide for the selection of an individual, who is not a Federal officer or a member of the Board, to be provided with the power to select subsequent members of the Board.

(d) CHAIRPERSON.—After the appointment of an initial chairperson under subsection (c)(1), each succeeding chairperson of the Board shall be elected by the members of the Board for a 2-year term.

(e) VACANCIES.—A vacancy on the Board shall be filled by the Board not later than 60 days after the occurrence of the vacancy.

(f) COMPENSATION.—A member of the Board shall receive no compensation from the Foundation for the service of the member on the Board.

(g) TRAVEL EXPENSES.—While away from the home or regular place of business of a member of the Board in the performance of services for the Board, the member shall be allowed travel expenses paid by the Foundation, including per diem in lieu of subsistence, at the same rate as a person employed intermittently in the Government service would be allowed under section 5703 of title 5, United States Code.

SEC. 305. OFFICERS AND EMPLOYEES

(a) IN GENERAL.—The Board may—

(1) appoint, hire, and discharge the officers and employees of the Foundation, other than the appointment of the initial Executive Director of the Foundation;

(2) adopt a constitution and bylaws for the Foundation that are consistent with the purposes of the Foundation and this title; and

(3) undertake any other activities that may be necessary to carry out this title.

(b) OFFICERS AND EMPLOYEES.—

(1) APPOINTMENT AND HIRING.—An officer or employee of the Foundation—

(A) shall not, by virtue of the appointment or employment of the officer or employee, be considered a Federal employee for any purpose, including the provisions of title 5, United States Code, governing appointments in the competitive service, except that such an individual may participate in the Federal employee retirement system as if the individual were a Federal employee; and

(B) may not be paid by the Foundation a salary in excess of $125,000 per year.

(2) EXECUTIVE DIRECTOR.—

(A) INITIAL DIRECTOR.—The Secretary shall appoint an individual to serve as the initial Executive Director of the Foundation who shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

(B) SUBSEQUENT DIRECTORS.—The Board shall appoint each subsequent Executive Director of the Foundation who shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

(C) QUALIFICATIONS.—The Executive Director shall be knowledgeable and experienced in matters relating to natural resources conservation.

SEC. 306. CORPORATE POWERS AND OBLIGATIONS OF THE FOUNDATION.

(a) IN GENERAL.—The Foundation—

(1) may conduct business throughout the United States and the territories and possessions of the United States; and

(2) shall at all times maintain a designated agent who is authorized to accept service of process for the Foundation, so that the serving of notice to, or service of process on, the agent, or mailed to the business address of the agent, shall be considered as service on or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board that shall be judicially noticed.

(c) POWERS.—To carry out the purposes of the Foundation under section 303(b), the Foundation shall have, in addition to the powers otherwise provided under this title, the usual powers of a corporation, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income from, or other interest in, the gift, devise, or bequest;

(2) to acquire by purchase or exchange any real or personal property or interest in property;

(3) unless otherwise required by instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income from property;

(4) to borrow money from private sources and issue bonds, debentures, or other debt instruments, subject to section 309, except that the aggregate amount of the borrowing and debt instruments outstanding at any time may not exceed $1,000,000;

(5) to sue and be sued, and complain and defend itself, in any court of competent jurisdiction, except that a member of the Board shall not be personally liable for an action in the performance of services for the Board, except for gross negligence;

(6) to enter into a contract or other agreement with an agency of State or local government, educational institution, or other private organization or person and to make such payments as may be necessary to carry out the functions of the Foundation; and

(7) to do any and all acts that are necessary to carry out the purposes of the Foundation.

(d) INTEREST IN PROPERTY.—

(1) IN GENERAL.—The Foundation may acquire, hold, and dispose of lands, waters, or other interests in real property by donation, gift, devise, purchase, or exchange.

(2) INTERESTS IN REAL PROPERTY.—For purposes of this title, an interest in real property shall be treated, among other things, as including an easement or other right for the preservation, conservation, protection, or enhancement of agricultural, natural, scenic, historic, scientific, educational, inspirational, or recreational resources.

(3) GIFTS.—A gift, devise, or bequest may be accepted by the Foundation even though the gift, devise, or bequest is encumbered, restricted, or subject to a beneficial interest of a private person if any current or future interest in the gift, devise, or bequest is for the benefit of the Foundation.

SEC. 307. ADMINISTRATIVE SERVICES AND SUPPORT.

The Secretary may provide, without reimbursement, personnel, facilities, and other administrative services of the Department to the Foundation.

SEC. 308. AUDITS AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—

(1) IN GENERAL.—The accounts of the Foundation shall be audited in accordance with Public Law 88-504 (36 U.S.C. 1101 et seq.), including an audit of lobbying and litigation activities carried out by the Foundation.

(2) CONFORMING AMENDMENT.—The first section of Public Law 88-504 (36 U.S.C. 1101) is amended by adding at the end the following:

"(77) The National Natural Resources Conservation Foundation.".

(b) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—The Attorney General may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate, if the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with this title; or

(2) refuses, fails, neglects, or threatens to refuse, fail, or neglect, to discharge the obligations of the Foundation under this title.

SEC. 309. RELEASE FROM LIABILITY.

(a) IN GENERAL.—The United States shall not be liable for any debt, default, act, or omission of the Foundation. The full faith and credit of the United States shall not extend to the Foundation.

(b) STATEMENT.—An obligation issued by the Foundation, and a document offering an obligation, shall include a prominent statement that the obligation is not directly or indirectly guaranteed, in whole or in part, by the United States (or an agency or instrumentality of the United States).

SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department to be made available to the Foundation such sums as are necessary for each of fiscal years 1997 through 1999 to initially establish and carry out activities of the Foundation.

TITLE IV—IMPLEMENTATION AND EFFECTIVE DATE

SEC. 401. IMPLEMENTATION.

The Secretary of Agriculture and the Farm Credit Administration shall promulgate regulations and take other required actions to implement the provisions of this Act not later than 90 days after the effective date of this Act.

SEC. 402. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on the date of enactment.

Amend the title so as to read: "An Act to amend the Farm Credit Act of 1971 to provide regulatory relief, and for other purposes.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, December 21, 1995, for purposes of conducting a full committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this meeting is to consider pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, December 21, 1995, immediately following the first rollcall vote occurring after 2 p.m.; if no vote has occurred between 2 p.m. and 4 p.m., the meeting will be held at 4 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, December 21, 1995 at 10 a.m. in SD-226.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GRAMS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, December 21, 1995, at 2 p.m., in room 226 Senate Dirksen Office Building to consider nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PENSION INCOME TAXATION LIMITATION

• Mr. D'AMATO. Mr. President, I am pleased to support this bill and would like to submit this statement for the RECORD and to clarify that the language contained in the proposed legislation adds to the types of retirement income eligible for exemption. This language clearly intends to exempt from tax nonqualified deferred compensation that constitutes legitimate retirement income. Because it affects retirement income, only income from qualified retirement plans and nonqualified retirement plans that are paid out over at least 10 years, or from a mirror-type nonqualified plan after termination of employment, is exempt from State taxation.

The language does not prohibit States from imposing an income tax on non-residents' regular wages or compensation. Cash bonuses or other compensation arrangements that defer the receipt of salary, bonuses, and other types of wage-related compensation that are not paid out over at least 10 years or from a mirror-type nonqualified retirement plan are not exempt from State taxation. One example would be if a salary is earned in a State by an individual, whether a resident or nonresident, but is voluntarily deferred for a few years until the individual exits the State, and then is paid over in a lump sum, even while the individual is still employed by the company, that kind of payment should not qualify for exemption from nonresident taxation of pensions. It is the intent of this bill to permit the States to continue to tax this income, while protecting from taxation those deferred payments that are for retirement income, paid from plans designed for that purpose.•

HENRY KNOTT, SR.

• Mr. SARBANES. Mr. President, I am proud to join with the Baltimore community and the friends of education throughout Maryland in honoring the memory of Henry Knott, Sr., an exemplary family man and a great philanthropist. Mr. Knott was an extraordinary citizen whose public generosity ranks him with the great names of Baltimore and Maryland philanthropy.

Henry Knott who died recently at the age of 84, began his working days in the 1920's as a bricklayer in his father's construction business. This first and humble job would lay the foundation to a celebrated career in real estate and development over the course of seven decades. The achievement of his distinguished building career is reflected in apartment buildings, residences, and commercial centers which are located in Baltimore and its surrounding communities.

What singles out Henry Knott is that he translated his success with bricks and mortar into extraordinary philanthropy by graciously donating huge amounts of his personal wealth to Maryland educational institutions, including his alma mater Loyola College, and also to many local hospitals. A modest philanthropist, Mr. Knott was one who deeply respected the value of a quality education.

Henry Knott was also a man who practiced what he preached. A devout communicant of the Roman Catholic Church, he and his wife of over 67 years, Marion Burr Knott, raised a wonderful family of 12 children, 51 grandchildren, and 55 great grandchildren.

I extend my most sincere sympathies to his wife Marion, their children, and to all of the family and friends of Henry Knott, Sr. Mr. President, I ask that an article from the Baltimore Sun that pays tribute to Mr. Knott be printed in the RECORD.

The article follows:

[From the Baltimore Sun, Nov. 27, 1995]

HENRY KNOTT, SR. DIES; PHILANTHROPIST WAS 89

CONSTRUCTION TYCOON GAVE FORTUNES TO HOSPITALS, SCHOOLS

(By Marcia Myers and David Folkenflik)

Henry J. Knott Sr., the hard-driving multimillionaire developer renowned for his prodigious philanthropy, died yesterday at Johns Hopkins Hospital after a brief illness. He was 89.

Mr. Knott, who had entered the hospital recently for surgery, later contracted pneumonia, which was listed as the cause of death.

He started work as a bricklayer with his father's construction company in the 1920s but rose through business as a brick contractor and made his fortune developing real estate. Much of that fortune he gave to Maryland colleges, schools and hospitals, with gifts that particularly linked his name to Loyola College, Hopkins Hospital and the state's Roman Catholic schools.

Those who knew Mr. Knott attributed his success to his lifelong industriousness.

"His interest was work. He was a workaholic," said Joseph M. Knott, Mr. Knott's youngest brother and godson. Hobbies held less attraction, Joseph Knott said, "He wasn't interested in golf. He never belonged to any of the country clubs. He said he couldn't afford it."

There were few things Henry Knott could not afford during his adult life. His personal wealth, estimated at $150 million in 1987, included major holdings in the Arundel Corp. (before its sale the following year to Florida Rock Industries for $88 million), Henry A. Knott Home Builders and Knott Enterprises.

Mr. Knott's companies built thousands of homes and businesses in Baltimore, including apartment buildings, rowhouses and shopping centers that dot the metropolitan area from Essex to Lansdowne and from Kingsville to Catonsville.

The reach of his family was almost as wide as that of his businesses. Mr. Knott and his wife of 67 years, Marion Burke Knott, raised 12 children. At his death, Mr. Knott left 51 grandchildren and 55 great-grandchildren.

"He had three very intense interests: his family, the Catholic Church and his work," said Rick O. Berndt, a lawyer for the Archdiocese of Baltimore who knew Mr. Knott for almost 30 years.

Cardinal William H. Keeler was visiting with the Knott family last night.

Through a spokesman, he said, "We mourn the passing of Henry Knott, whose deep faith and extraordinary charity will long be remembered. I pray that God may comfort his dear wife, Marion, and all his family. Catholic education in Maryland at every level has benefited from the vision and generosity of Henry Knott."

Mr. Knott gave millions to charity, primarily Catholic educational institutions such as Loyola College, his alma mater; the College of Notre Dame of Maryland; Mount St. Mary's College, Emmitsburg; and the University of Notre Dame, South Bend, Ind. By 1988, the Knotts' charitable contributions had exceeded $140 million.

"He was highly disciplined and unbelievably focused about whatever he was doing. You could not distract him," said Mr. Berndt, who was a 26-year-old fledgling attorney when he met Mr. Knott.

"I was very idealistic and had many thoughts about how the world should work," Mr. Berndt recalled. "Mr. Knott was one of the ones who regularly brought me down to earth. He was great at the art of what was possible."

In 1988, Mr. Knott and his wife created a $26 million fund to benefit 31 local educational, health and cultural institutions.

Among the recipients were the Johns Hopkins Oncology Center, which received $5 million, and the Baltimore Symphony Orchestra, which was given $1 million. Four Baltimore hospitals, St. Joseph, Mercy, St. Agnes and Bon Secours, each received $1 million to establish an income fund to provide medical care for the poor.

SCHAEFER'S SORROW

"I talked to Mr. Knott's son the other day. He told me that Mr. Knott would not get out of this one," former Gov. William Donald Schaefer said. "I had a real, great sorrow overcome me. Mr. Knott was truly one of the great men of our times, perhaps of all times. He was one of the great pillars of Baltimore."

Mr. Knott's largess seemed at odds with his public persona as a gruff, demanding businessman. Yet associates insisted that he was, in private, the antithesis of that image.

Peter G. Angelos, Orioles owner and former city councilman, knew Mr. Knott for more than 25 years and took issue with what he characterized as a public impression of Mr. Knott as "a hard-nosed businessman bent on accumulating most of the money in Maryland."

Rather, Mr. Angelos said, he came to know Mr. Knott as "the very gentle person he really is," and as an individual who, in private conversation, was fond of discussing broad intellectual subjects, often quoting Plato or Aristotle to make his point.

"He's made a lot of money because he drives a hard bargain, but an honest bargain," Mr. Angelos said.

Mr. Knott was among the first to sign on when Mr. Angelos pulled together local investors to buy the Baltimore Orioles in 1993.

"He expects a lot from most people, but he expects the most from himself," said Mr. Angelos.

The late Rev. Joseph A. Sellinger, S.J., president of Loyola College, once characterized Mr. Knott as a "pussy cat" inside a gruff exterior.

Mr. Knott's own summation of his talent for accumulating money and then giving it away was made in four short sentences quoted in a Baltimore magazine profile in 1987.

"It's like catching fish," he said. "You get up early. You fill the boat up with fish. And then you give them all away before they all start to rot."

The Rev. Harold E. Ridley Jr., president of Loyola, said that Mr. Knott maintained a becoming modesty in not seeking credit for his gifts. "I think that is what made him such an extraordinary individual: His legendary generosity was tempered by an even greater humility," Father Ridley said

The Knott family lived in a large house on Guilford's Greenway during the years in which the 12 children were growing up. Friends jokingly called the home "the Stork Club"—partly after the posh New York restaurant of the period, but mostly because of the children.

As word spread of the dynamic household, Mrs. Knott became the subject of newspaper feature articles in which she explained how she managed her day, getting the children through breakfast and off to school, darning socks and mediating squabbles among a very energetic brood.

"My family is my club life and outside interests," she said in a 1952 interview.

Meanwhile, Mr. Knott built houses, apartment buildings and shopping centers, acquiring a reputation as a can-do contractor.

In addition to his building ventures, he became active in a broad range of business and civic activities. He served on Maryland's Advisory Committee on Higher Education in 1964, he became chairman and CEO of the Arundel Corp. and its largest stockholder in 1967 and he headed former Gov. Marvin Mandel's re-election committee in 1974.

MR. KNOTT'S FAMILY

In addition to his wife, Mr. Knott is survived by his children: Patricia K. Smyth, Alice K. Voelkel, Margaret K. Riehl, Henry J. Knott Jr., Catherine K. Wies, Rose Marie K. Porter, Lindsay K. Harris, Francis X. Knott, James F. Knott, Martin G. Knott, and Mary Stuart K. Rodgers, all of Baltimore; and Marion K. McIntyre, of Del Ray Beach, Fla.; brothers, John L. Knott, the Rev. Francis X. Knott, S.J., and Joseph M. Knott, all of Baltimore; 51 grandchildren and 55 great-grandchildren.

Visiting hours will be 2 p.m. to 4 p.m. and 7 p.m. to 9 p.m. today and tomorrow at St. Mary's Seminary, 5400 Roland Ave, with a funeral Mass at 11 a.m. Wednesday at the Cathedral of Mary Our Queen, 5200 N. Charles St.

Burial will follow at the New Catholic Cemetery.

Memorial contributions may be made to Loyola College, Loyola High School, Johns Hopkins Hospital, or the College of Notre Dame of Maryland.●

FIFTH ANNIVERSARY OF THE MITSUBISHI ELECTRIC AMERICA FOUNDATION

● Mr. SIMON. Mr. President, I want to congratulate the Mitsubishi Electric America Foundation on the occasion of its fifth anniversary.

The Mitsubishi Electric America Foundation [MEAF] is endowed with $15 million by the Mitsubishi Electric Corp. of Japan and its American subsidiaries. Its mission is to contribute to society by assisting young Americans with disabilities to lead full and productive lives. The foundation fulfills this mission by supporting education and other programs aimed at enhancing the independence, productivity and community inclusion of young people with disabilities. During its first 5 years the foundation has received more than 1,000 funding requests and awarded nearly $2 million in grants to benefit American children and youth with disabilities.

The foundation is based in Washington, DC and works primarily at the national level but also collaborates with principal Mitsubishi Electric America [MEA] facilities to have an impact at the local level. Philanthropy committees at MEA companies have made many generous contributions of money, electronics products, and volunteer support to nonprofit organizations in communities across the country.

In my home State of Illinois, for example, Mitsubishi Electric Industrial Controls, Inc., and Mitsubishi Electronics America, Inc. maintain active volunteer committees through which dedicated employees serve their communities in the Chicago suburbs. Through its matching grant program, the foundation supplements the companies' donations to local organizations helping young people with disabilities.

The story behind the foundation's creation gives insight into the sponsoring corporation. At the 1990 meeting of the presidents of the North American Mitsubishi Electric America group companies, former MEA president Takeshi Sakurai presented his goal of encouraging the companies to reciprocate the good will and hospitality of the communities in which the more than 4,000 MEA employees live and work.

Focusing on the challenges and barriers that exist for people with disabilities, Mr. Sakurai urged the corporation to help ensure that young Americans with disabilities have full access to competitive employment, integrated education, independent living options, and recreational opportunities in their communities. With the establishment of a foundation, he declared, the companies and employees could contribute to this critical need through the donation of funds, products, and volunteer time. Following Mr. Sakurai's presentation, many of the senior executives around the table made personal donations, which eventually formed part of the initial endowment of the Mitsubishi Electric America Foundation.

Takeshi Sakurai became the first board president of the foundation, and with the board of directors worked to strengthen support for the foundation's work within the corporation, develop strategies for its outreach to the disability community, and institutionalize philanthropy within the corporate culture of MEA companies. Through the efforts of its board, the foundation has helped to educate its sponsoring corporations about the importance of good corporate citizenship and on the critical issues facing people with disabilities. The 12-member board includes Mitsubishi Electric America company presidents, the foundation's executive director, representatives from the parent corporation in Japan, and two MEA employees who are nominated by their peers to serve 18-month terms.

Mitsubishi Electric Corp.'s investments in the foundation have paid unexpected dividends by influencing the sponsoring corporation back in Japan. Responding to the success of the foundation, Mitsubishi Electric Corp. has expanded its philanthropic activities in Japan and around the world; many of these efforts are aimed at people with disabilities.

The Socio-Roots Fund, which was established by the corporation in 1992 to match employee donations, awarded the yen equivalent of $450,000 to organizations assisting youths with disabilities in Japan in 1994. The corporation's Nakatsugawa Works facility now offers sign language classes to its employees. The corporation also donated the yen equivalent of $180,000 to 75 schools, organizations, and projects serving people with disabilities throughout Japan. A second Mitsubishi Electric foundation was established in Thailand to provide promising students who are in need of financial assistance with the means to complete their education; in June, 1993, this foundation awarded its first full scholarships to 30 engineering students.

The foundation has received several awards for its achievements in grantmaking, some of which clearly demonstrate the foundation's impact on the MEA companies. For example, the foundation was honored with the prestigious Leadership Award from the Dole Foundation for Employment of People with Disabilities. My colleague from Kansas, Senator BOB DOLE, presented the award in recognition of the foundation's accomplishments and also cited Mitsubishi Electric America as a model for other corporations in integrating disability awareness into corporate policies.

The MEA foundation and Marriott foundation for people with disabilities jointly received the Council for Exceptional Children's 1992–93 Employer of the Year Award, in recognition of their successful replication of the "Bridges . . . From School to Work" transition program, which helps prepare youth with disabilities in Washington, DC for employment after high school.

In 1994, Mitsubishi Electric America was named one of the top 100 U.S. employers by Careers and the Disabled, a leading magazine in the disability field, based on a reader survey that asked readers to name the top three companies or government agencies for whom they would most like to work or that they believed would provide a positive working environment for people with disabilities.

These public acknowledgements are a fitting tribute to the Mitsubishi Electric Corp.'s investments in our Nation, but I would like to add my own personal thanks to the Mitsubishi Electric America foundation, Mitsubishi Electric Corp., and the Mitsubishi Electric America group companies for their generosity.

I congratulate the staff, officers, board of directors, and advisory committee members who have helped position this foundation as a leader in supporting innovative programs for young people with disabilities. I hope the foundation will continue its successful work for many years to come.•

IN MEMORIAM, PAN AM 103

• Mr. MOYNIHAN. Mr. President, I rise today to note with solemnity the anniversary of the bombing of Pan Am flight 103 over Lockerbie, Scotland. It is now 7 years since that infamous act which claimed the lives of 270 people. All the more vile because its perpetrators still have not been brought to trial.

Despite a regime of international sanctions, the Libyan government refuses to extradite the indicted terrorists. A state which harbors outlaws must, of necessity, remain an outlaw state. The United States and our allies ought never to waver in our commitment to the rule of law and the measures necessary to enforce it.

On November 3, I joined the families of the victims and President Clinton at Arlington National Cemetery for the dedication of a memorial cairn. On that occasion the President reminded us that "we must never, never relax our efforts until the criminals are brought to justice." I emphatically concur.

Mr. President, I yield the floor.•

ARNOLD SHAPIRO

• Mrs. FEINSTEIN. Mr. President, recent studies have indicated that the violent crime rates are decreasing in many cities, but that there is a disturbing rise of violent crimes being committed by teenagers.

I think there is no more important issue facing this Congress than violence. Congress must take steps to reduce violent acts—in the home, in the workplace, and on our streets—that occur with numbing frequency in America.

I have been particularly troubled by the content of many programs that air on television networks in this country. Ultra-violent acts appear almost around the clock. While I have spoken out frequently about the problem of television violence, I also wanted to take a moment to praise an upcoming television documentary that details the positive steps taken by many companies to help troubled and disadvantaged kids.

"Everybody's Business: America's Children," a network documentary produced by the Oscar- and Emmy-Award winning Arnold Shapiro, will air this Saturday, December 23 from 8 p.m. to 9 p.m.

This program showcases the volunteer and funding efforts made possible by many American companies and corporations to help troubled and disadvantaged kids. Katie Couric is the host of this special which praises many companies for providing mentoring programs and community support efforts to support our children.

During this holiday season, it is particularly refreshing to see a network television program which promotes the good deeds of American companies.

As we look ahead into the coming year, it is my hope that more television programs will give this type of positive reinforcement to America's companies that make an investment in our youth.

It also gives me pleasure to note the program is produced by one of Los Angeles's leading producers, Arnold Shapiro. He is well known for his quality programs and documentaries, including "Scared Straight" and "Scared Straight: Exposing and Ending Child Abuse." He recently won the Peabody Award for his CBS children's special, "Break the Silence: Kids Against Child Abuse."

Arnold Shapiro's brand of television—straight forward, informative and educational—is exactly the type of programming I hope to see more of on network television in the coming years.●

ISRAEL "IZZY" COHEN

● Mr. SARBANES. Mr. President, I rise today to pay tribute to a celebrated member of the Maryland business community, Mr. Israel "Izzy" Cohen, who recently passed away at the age of 83. As the chairman of Giant Food, Inc. Izzy Cohen managed one of Maryland's and the Capital area's most successful corporations—and he accomplished this task with deep respect for his employees and a commitment to his community.

Izzy Cohen's warm personality, devotion to customers and Giant employees is legendary. These were the talents that earned him the nomination of generations of employees and patrons. Under his leadership, Giant Foods pioneered in consumer information and involvement. His commitment to community was also reflected in his strong support of the educational television program, "It's Academic," and in his many other fundraising activities. One notable example is Computers for Kids where customers save their Giant receipts and schools collect them for money for classroom computers and equipment. Thousands of children across the State of Maryland have benefited from Izzy Cohen's patronage of these programs.

Izzy Cohen was truly an accomplished leader in commerce, and one of those outstanding citizens who by example and action evoked the very best in all of us. I extend my most sincere sympathies to all the family and friends of Izzy Cohen. Mr. President, I ask that the following articles from the Washington Post that pay tribute to Izzy Cohen be printed in the RECORD.

The articles follow:

[From the Washington Post, Nov. 24, 1995]

ISRAEL COHEN, CHAIRMAN OF GIANT FOOD, DIES AT 83, CANCER CLAIMS PIONEER IN SUPERMARKET INDUSTRY

(By Claudia Levy)

Israel Cohen, the Giant Food Inc. chairman who built his company into the largest regional grocery store chain in the nation, died late Wednesday at his home in Washington at the age of 83. He had non-Hodgkin's lymphoma, a form of cancer.

A pioneer in an industry where razor-thin profit margins quickly separate the winners from the losers, "Izzy" Cohen was the principal architect in the rise of Giant from a single store on Georgia Avenue to what many analysts say is the premier regional supermarket chain in the nation.

Washington area consumers today spend 44.8 cents of every grocery dollar at Giant, largely because of Cohen's business savvy.

Cohen was one of the wealthiest people in the Washington area and an important member of the local business community. Yet he remained a very private person, talking little about himself or his personal life, and worked in relative obscurity.

But "as a retailer he had no fear," said business consultant Sheldon "Bud" Fantle, former chairman of People's Drug Stores Inc. "All of his ideas were before the fact. He was a leader."

Cohen commended a tight-knit organization that now includes 164 stores, largely in suburban neighborhoods, from New Jersey to Northern Virginia. Its headquarters is in Landover in Prince George's County, and 107 of its stores are in the Washington area. Giant has more than 26,000 employees and annual sales of $3.7 billion.

The Giant real estate division, GFS Realty Inc., owns or manages 27 shopping centers in the Washington area. Giant also owns a bakery, a dairy, an ice cream plant, a soft-drink plant, a plastic milk container manufacturing plant and other food-processing businesses.

Under Cohen, Giant advertised heavily in newspapers and was quick to employ such marketing innovations as bulk sales, in-store pharmacies and products labeled with Giant's private brand names. It hired former White House counselor Esther Peterson as its first consumer adviser, promoted her heavily and listened seriously to the customers. Giant was the first chain in the country to install computer price scanners at checkouts, now standard in the industry.

"This is the best businessman in Washington in his time," said Donald E. Graham, chairman of The Washington Post Co. and publisher of The Post. "He built a great company in a completely personal way. Everyone in Giant down to the cashiers knew who they worked for and they knew it because every week of his life he visited some Giant store. He didn't just visit, he spent time," stopping to help customers if needed.

Cohen made it a point to promote from within, to the extent of training company employees for sophisticated technical jobs, Graham said. "Every year, Giant relentlessly worked to gain slivers of market shares," building it to the largest in the country, Graham said.

Fantle said Cohen "was always two or three steps ahead of his competition." Fantle's drug stores went head to head with Giant's in-house pharmacies.

For years Giant has had the highest profit margins among Washington area supermarkets—3 percent in an industry where the national average is 1 percent. Much of that margin came from the profit of his drugstore operations and the fact that Giant Food was a "vertically integrated" company that manufactured everything from milk cartons to ice cream and soda for its private brands.

Cohen would say this was a result of having "smart persons to make decisions around here," Graham said, "But everybody else would give him the credit."

Fantle said "He ran a bright, clean store with good values. And certainly he had the knack of advertising. . . ."

When Cohen's longtime partners in Giant, members of the Lehrman family, agreed to sell their share in the corporation to a British supermarket chain in 1994, control of Giant remained with Cohen, who owned half the voting stock and controlled four of the seven seats on the board of directors.

Giant announced yesterday that four senior officers and Cohen's sister, Lillian Cohen Solomon, will now vote his stock and manage Giant.

Cohen had controlled the company since 1964, when his father, company cofounder Nehemiah Meir "N.M." Cohen, retired. For a period, Washington attorney Joseph B. Danzansky was chairman, a compromise choice resulting from a dispute between Giant's founding families. But it was a titular post, and Cohen ran the operation.

Israel Cohen was born in Rishon-Le-Zion, Palestine, where his father was a rabbi and teacher in a one-room school. The Cohen family settled in Lancaster, Pa., when Israel Cohen was 9.

N.M. Cohen at first operated a kosher butcher shop. In the mid-1930s, he went into partnership in Washington with Samuel Lehrman, a Harrisburg, Pa., food distributor, to begin a self-service grocery store of the sort coming into vogue in California.

They selected Washington because they believed that federal employees would form a reliable customer base. The first store opened in the midst of a snowstorm on Feb. 6, 1936, on Georgia Avenue at Park Road NW. Issy Cohen worked at the store along with his brother, Manny, stocking shelves and driving the company's truck.

Izzy Cohen served in the Army during World War II and after the war began to rise through administrative positions in the Giant company, patterning his understated business style after his father, who retired in 1964.

Izzy Cohen took a year off in the 1950s to recover from tuberculosis, which he had contracted in the Army, and used the time to become a master bridge player. He was known to fellow tournament players for his "poker" face, a card player's best asset. He owned a condominium in Miami, where he often went to play cards, and a stable of horses at Laurel Race Course.

Cohen set about expanding the Giant empire despite increased competition, which in recent years has included warehouse grocery firms and others. One key to its success, Cohen told stockholders, was "having our people fully understand both the nature of what is a competitive war and what their role is in the fight."

On his visits to stores, Cohen would pitch in to bag groceries when the checkout lines were getting too long, Giant President Pete L. Manos recalled yesterday. Cohen would point out that the unshelled peanut bin needed a scoop or that a sign was wrong, Manos said. He'd stop to talk to customers and would inspect the produce rooms and meat lockers for cleanliness, Manos said.

When it was known that he was going to visit a store, some employees whose shifts were over "would wait around to shake his hand," Manos said.

"It goes back to the early days of the company," Manos said. "At Giant, we've always felt like we're a family, and Izzy was the patriarch of the family. People looked forward to seeing him."

In the stores, he greeted employees by their first names—all Giant workers wear name badges—and insisted on being called Izzy. "Mr. Cohen is my father's name," he used to say, refusing to answer to it.

Years ago, there was an executive dining room at Giant headquarters, which Cohen closed because he wanted executives to mingle with other employees, Manos said.

Cohen had been estranged for many years from his wife, Barbara, when she died in 1994. Their two children were not involved in the business.

Cohen avoided social functions, living a quiet life in his parents' old house in the Forest Hills section of Northwest Washington. He was close with his brother Manny, who died several years ago, and his sister Lillian, who lives next door. Together, they founded a charitable foundation and named it for their father. Giant Food also operates a charitable foundation.

Izzy Cohen was chauffeured to work nearly every day in his Cadillac. He would visit stores during the week and on weekends. "You have to have a place to go in the morning," he told Washington Post Staff Writer Kara Swisher in 1994.

Survivors include his children, Peter Cohen of Altamonte Springs, Fla., and Dana Cohen Ellis of McLean; his sister and two grandchildren.

[From the Washington Post, Nov. 24, 1995]

APPRECIATION IZZY COHEN: FIERCE COMPETITOR, INSTINCTIVE RETAILER, EAGER INNOVATOR

(By Frank Swoboda and Kara Swisher)

Izzy Cohen's closest friends and toughest business competitors say the same thing about him: He was a hell of a grocer.

Cohen, the chairman of Giant Food Inc. who died Wednesday at the age of 83, didn't disagree. "I might not be the best corporate executive," Cohen once told his shareholders, "but I consider myself one of the best grocers in the business." That's about as far as he went when it came to public talk about his business philosophy and the strategies he followed to build Giant from one store to 164, with 107 of them in the Washington area where Giant dominates.

Cohen never talked much about his personal life, either. Though a multimillionaire, with estimates of his wealth rising as high as $400 million, he led a relatively solitary existence, living in the house in which he grew up, next door to his sister, Lillian Cohen Solomon. He was a rare recluse in a society that has come to lionize wealth and business success.

In many ways Cohen was the embodiment of a generation of old-time Washington area entrepreneurs who treated their employees like family and kept their personal lives low-key and private.

Even some Giant executives who worked for him for decades knew little about his background. But those who knew him well describe him as a sometimes gruff but generally uncomplicated man, whose unwavering and single-minded devotion was the business he inherited from his father.

His ambition also came with a price, however, driving him apart from his wife and children. Although he never divorced, Cohen and his wife had been separated for nearly 40 years at the time of her death two years ago.

His sole passions outside of work were bridge and horse racing. He was a master bridge player whose partners included such luminaries of the game as good blood lines but none particularly successful. His stable at Laurel racetrack, with its gold chandeliers and air-conditioned stalls, was a model for the racing industry.

Longtime friend and racing companion David Finkelstein tells of going to the track every weekend with Cohen. On the way they would stop at the nearest Giant and buy sandwiches and then take their brown bag lunch to their adjoining boxes. Though Finkelstein also was in food distribution, Cohen never talked business with him on the weekends.

The two men also owned apartments at the Jockey Club in Miami, where they would go to watch horse races in the cold winter months. Cohen sometimes bought an entire row of seats at the track so he wouldn't be crowded.

On the few occasions when Cohen brought guests to the track, Finkelstein said, he would place a bet on every horse in every race for every guest. At the end of each race, he would then be able to present his guests with a winning ticket.

But the real focus of Cohen's life was the grocery business, where he was a fierce competitor and a constant innovator who seized on computer scanning, in-store pharmacies, private-label products, unit pricing, salad bars and other advances to push Giant to the top of the area's grocery business.

Before Giant put pharmacies in its supermarkets, the Washington market was dominated by three drugstore chains: Drug Fair, Dart Drug and Peoples. Today, all three are gone and Giant is the dominant player.

Before there were automated teller machines, Izzy Cohen tried putting bank branches in his stores. For a brief time he even took Giant into the carwash, dry cleaning, rug and pants cleaning businesses.

"Izzy was the most instinctive guy in terms of food retailing," said Jeff Metzger, publisher of Food World, a Columbia-based trade publication. "He had an uncanny ability to read the right signs, whether it meant putting a store in the right place or adding on another cash register or understanding that consumers came first."

Kenneth Herman, a longtime Cohen competitor whose family started the Lanham-based Shoppers Food Warehouse Corp. chain, agreed.

"He developed one of the finest grocery chains in the country, because of his keen insights about a retail business that is fast-changing," Herman said. "He was truly a merchant's merchant."

Izzy Cohen earned his MBA in the grocery business working behind the counter, starting as a stock clerk and driver for his father. In the years since, he worked in every department at Giant except data processing.

Tom McNutt, president of Local 400 of the United Food and Commercial Workers union, which represents Giant employees, tells of being called by Cohen and asked to come right over to the Giant store in Landover, near McNutt's office and Giant's headquarters. When McNutt got to the store, he found Izzy in the produce department—arguing with a store manager and a Giant executive over the proper placement of a display sign. Cohen wanted McNutt's opinion.

His decision to seek McNutt's opinion also underscored his close relationships with the unions representing his employees. Some critics have accused Giant of seeking labor peace at any price, and Giant employees are among the best paid in the industry.

Over the years, Cohen gained a reputation as a fierce competitor, once telling an interviewer that "We consider everyone a competitor, including 7 Eleven." Shoppers Food Warehouse's Herman remembered Cohen as a "very tough competitor, but fair."

"He was a tiger," Finkelstein said recalling how Giant drove both Shop Rite and Kroger Co. out of the Washington market in the early 1960s in a series of brutal price wars.

Although he was a loner, Cohen did not try to hide from either his employees or his customers. He ate regularly in the company's cafeteria, which featured the same salad bar and deli fare he offered his customers, and personally helped customers during visits to Giant's stores.

But Izzy Cohen's life was best summed up by his friend Finkelstein who described him as "a lonely, frustrated, caring person" and an "unbelievable friend."

[From the Washington Post, Nov. 25, 1995]

EDITORIAL—ISRAEL COHEN

Israel Cohen spent his life building a business that, more than most, directly touches the lives of the people who live in this region. He always spoke of himself as a grocer. As chief strategist and chairman of Giant Food Inc., he was a major force in the transformation of the grocery industry over the past generation.

Born in Palestine, Mr. Cohen came to this country as a child and learned the business working in his father's store on Georgia Avenue—one of the first self-service stores in the country. In the years in which he built the Giant chain, the retail market for food changed radically. Customers' demands for diversity of choices expanded enormously, requiring steadily larger stores. The standards of food purity and cleanliness rose rapidly, and the consumer movement became a major force in the country. Grocery retailing has always been highly competitive, and many other chains disappeared as expensive specialty shops cut into the top end of the market while, at the discount end, warehouse stores flourished by offering bulk sales.

Mr. Cohen survived and prospered through innovation. He brought drugstores into Giant's supermarkets, and they now dominate the retail drug business in this area. He experimented endlessly and successfully with vertical integration, producing some of the goods for his stores' shelves and selling them under private labels to cut costs. He installed salad bars, and his stores were the first in the country to use scanners to speed up the lines at the checkout counters.

In a city that loves glitz and notoriety, he chose to live inconspicuously. In a world that encourages highly publicized philanthropy, he usually kept his generosity out of sight. He developed a multibillion dollar company and tried to run it as a family business in which people called each other—including the chairman—by their first names. Long ago he closed the executive dining room at the company's headquarters in Landover because he thought that the people who used it could spend their time better lunching with the other employees.

Some kinds of success are useful, and others are not. Mr. Cohen's career was a strong example of the first kind and, more than useful, it was also constructive. Over the years, Izzy Cohen made countless friends. He also made contributions to the community he lived in, and these will survive and continue to do credit to the vital man who died at the age of 83 at his home here in Washington on Wednesday.●

THE REAL CHINESE THREAT

• Mr. SIMON. Mr. President, this past summer's military exercises by China near Taiwan were part of a worrisome trend in East Asia—Chinese military expansion. China has been rapidly modernizing its armed forces, allegedly transferring missiles to Pakistan, flexing its muscle in the South China Sea, and continuing to test nuclear weapons underground. Such actions raise concerns for regional stability, and for our interests in promoting economic prosperity and democracy in the region.

In the following article from the New York Times Magazine, Nicholas Kristof points out the growing Chinese power in East Asia and the increasing displays of nationalism. He concludes that United States policy should pay more attention to China's military expansion and the potential threats it brings. This seems to me like a good place to start.

I ask that the article be printed in the RECORD.

The article follows:

[From the New York Times Magazine, Aug. 27, 1995]

THE REAL CHINESE THREAT

(By Nicholas D. Kristof)

Almost no one noticed, but this summer the Pentagon drew a line in the sand. Washington committed itself to using American military force, it necessary, to keep international shipping lanes open in the South China Sea.

International, at least, in American eyes. But Beijing's maps put the entire area within China's territorial waters. If a stronger China eventually tries to enforce its national law, which governs shipping in the area, then American forces could be called upon to confront a China that has developed enormously since its troops battled ours to a stalemate in Korea.

The underlying problem is the oldest one in diplomacy: how the international community can manage the ambitions of a rising power—and there has never been a rising power quite like China. It has 1.2 billion people; it has a nuclear arsenal; it has an army of 3.2 million, the world's largest; and now it has what may be the world's fastest-growing military budget.

For now, China's conventional forces are no match for America's. One of my Chinese friends, the son of a general, attended a meeting in which a group of senior Chinese military officials reviewed films of the American air war against Iraq. "They sat around the room, moaning about China's lack of preparation, asking what we could possibly do to modernize," he reported. "I felt like piping us and saying there was one thing we could do: go capitalist."

Yet given the rate at which China is pouring money into its armed forces, the situation may eventually be different. The United States Naval War College conducted computer simulations last year and again this year of battles in Asia between China and the United States in the year 2010. To everyone's surprise, China defeated the United States in both. It is said that the Central Intelligence Agency recently conducted its own simulation of such a battle, set in the year 2005, and China won that, too.

Simulations don't prove anything. Still, China and Vietnam have both showed, in Korea and Vietnam, how much damage even a backward army can do, particularly when fighting on its own turf. And unlike Vietnam, China has nuclear warheads aimed at the United States. (The United States has stopped targeting China with nuclear missiles, but China has refused to stop targeting America.) China is also believed to be developing biological warfare agents.

In Asia, there is now a real fear about what the rise of China will mean. "The immense presence of China is itself a threat—whether the Chinese are conscious of it or not—that certainly Japan cannot deal with alone," Morihiro Hosokawa, the former Prime Minister, said recently.

In the United States, the expression "containment" is applied increasingly to China. The Administration's position is that it wants to engage China, rather than contain it, but that if necessary in the future it can switch to a containment policy. "We're not näive," Winston Lord, the Assistant Secretary of State for East Asian and Pacific Affairs, told a congressional committee in June. "We cannot predict what kind of power China will be in the 21st century. God forbid, we may have to turn with others to a policy of containment. I would hope not."

In the meantime, there is growing alarm in Washington and other capitals at China's military spending and policies. While most countries in the world have been cutting back, China has raised its published military budget by 75 percent since 1988, after adjusting for inflation. And the published budget vastly understates reality. It does not even include weapons procurement. The real figure is probably something like $20 billion, which, when adjusted for purchasing power, may buy as much as $100 billion defense budget in the West.

Most disturbing, China is pouring money into those activities that allow it to project power beyond its traditional borders. In particular, it is building a blue-water navy and developing an air-to-air refueling capability. China is also becoming more aggressive in the South China Sea and even in the Indian Ocean—far from its traditional sphere of influence.

All of this notwithstanding, it would be a mistake to think that China is somehow a ferocious aggressor. It is not. It shows no interest in seizing areas that it never controlled, like Nepal or Indonesia, and its claims to disputed areas like some islands in the South China Sea do have some merit to them. The risk of conflict arises in part because of stirrings of Chinese nationalism. Nobody believes in Communism anymore, so the Communist Party is trying to use nationalism as the new glue. To some extent, it is working. In five years of living and traveling in China, I met innumerable ordinary people who didn't give two yuan for Communism but who argued passionately that China needed to reclaim its territories.

Just a couple of weeks ago, I was chatting with an elderly woman from Shanghai—not a Communist by any means—and I asked her what she thought of Mao. "You know what his biggest mistake was?" she asked, and I thought of the Great Leap Forward, which led to the deaths of 30 million people. "It was giving up Mongolia. That's our land, that's part of China! And he allowed Stalin to take it. What we need to do is get Mongolia back."

I can't say that this woman is representative, although I have occasionally heard other Chinese say they want to recover Mongolia, which is now an independent country. But I have heard many Chinese say that they want their navy to control the entire South China Sea, to seize the Diaoyu Islands from Japan, even to recover Taiwan.

Moreover, the likely successor to the present regime in Beijing is not a democracy but a military government. President Jiang Zemin is terrified of a coup d'etat—he has appeared before military units behind a bulletproof shield. If the generals take over in the years following Deng Xiaoping's death, they may be more aggressive than any Communists.

The placid waters and palmlined islets of the South China Sea may be the site of Asia's next war. The Government in China refuses to clarify whether it claims the entire South China Sea or just the islands in the sea. But in any case, some of the islands are also claimed by five other countries.

China erected a permanent fortress on a reef near the Philippines earlier this year, leading to a tense confrontation at sea between naval vessels for the two sides. Now Americans are training Philippine naval commandos. And Vietnam and China are jostling each other over rival oil exploration programs, by American oil companies, in the disputed area.

The worst nightmare in Asia is a Chinese invasion of Taiwan. China regards Taiwan as a renegade province, while many Taiwanese now hope for a country of their own. The authorities in Beijing repeatedly warn that they reserve the right to use force to recover Taiwan. China underlined its threats in July when it conducted missile tests in the open sea 80 miles from Taiwan, forcing the closure of fisheries and the diversion of commercial flights. The Taiwan stock market promptly plunged 6.8 percent amid jitters about a Chinese attack.

In any case, the possibility of clashes in the Taiwan Strait may be increasing rather than decreasing. For now, it is not clear that China would win if it attacked Taiwan, but the odds will change as China upgrades its forces. It is impossible to imagine that an island of 20 million could indefinitely defend itself against a country of 1.2 billion.

There is, in short, a potential Chinese threat and that drives the question: How should America deal with it?

The first step is simply to acknowledge that threat and to pay far more attention to China. America also needs to expand conversations with Chinese leaders, even if that means boosting their legitimacy at times. President Clinton has been reluctant to meet with President Jiang because of Chinese human rights abuses and other problems. But it would be more effective to invite Jiang to Washington and have him listen to hundreds of demonstrators screaming outside his hotel all night. This would convey not only America's willingness to discuss problems but also the seriousness with which Americans take China's misconduct.

Washington's aim in such talks should be to promote American interests, and that is not necessarily the same as creating a good relationship with China. There is no reason to provoke a dispute just for the sake of being surly. But the White House has to be willing to risk a dispute when China tests its resolve. For example, China has repeatedly promised not to sell M-11 missiles, which are capable of carrying nuclear warheads, to Pakistan. Each time China makes such a formal pledge, Washington claims credit for a major breakthrough. And each time, China has apparently gone ahead and sold M-11's to Pakistan anyway.

These days, the Administration is reluctant to acknowledge what appears to be the latest sale—despite satellite evidence and the best judgments of intelligence analysts—because it is reluctant to worsen relations. The lesson Beijing draws from this is that it can continue violating its pledges as long as it acts greatly offended when someone complains. It would be better to risk a deeper chill in relations than to keep on backing down.

America also needs to work with Asian countries to apply joint restraints on China. The Asian group of Southeast Asian countries, for example, has become increasingly effective in pressuring China to go slow in the South China Sea. And whatever the risks of confrontation, I think the United States was right to declare its willingness to use military force to escort shipping in the South China Sea. If China were to interfere with those shipping lanes—blocking the flow of oil to Japan, for example—the global economy would be thrown into crisis.

Americans also need to use the right historical model. China is not bent on international conquest. Beijing may wish to dominate the region, but it does not wish to raise the Chinese flag over Jakarta or Tokyo. Rather, it is like Germany in the run-up to World War I, yearning for greater importance and testing to see what it can get away with. There could be a major war with China, but if so, it will be because of ignorance and miscalculation—in substantial part on the western rim of the Pacific.●

MEASURE READ FOR FIRST TIME—S. 1500

Mr. SANTORUM. Mr. President, I understand S. 1500, introduced today by Senator BROWN, is at the desk and I ask for its first reading.

The PRESIDING OFFICER. The Senator is correct. The clerk will read the bill for the first time.

The bill clerk read as follows:

A bill (S. 1500) to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado, and for other purposes.

Mr. SANTORUM. Mr. President, I now ask for its second reading, and I object to my own request on behalf of Senators on the Democratic side of the aisle.

The PRESIDING OFFICER. An objection is heard.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1996—CONFERENCE REPORT

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the conference report accompanying H.R. 1655, the intelligence authorization bill.

The PRESIDING OFFICER. The report will be stated.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1655) to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 20, 1995.)

Mr. SPECTER. Mr. President, I am pleased today to present to the Senate the conference report on the Intelligence Authorization Act for fiscal year 1996. This legislation addresses a number of critical issues identified through the oversight process and lays the groundwork for legislation the committee plans to introduce early next year to ensure the intelligence community is organized to effectively address the Nation's critical intelligence needs today and in to the future.

Getting this authorization bill to this point in the process has not been easy, but it would have been impossible were it not for the unflagging efforts and cooperation of the vice chairman, Senator ROBERT KERREY. It has been a pleasure working with the Senator from Nebraska over the past year and I look forward to a productive year ahead. In addition, I want to commend our colleagues on the House Permanent Select Committee on Intelligence, particularly Chairman LARRY COMBEST and the ranking minority member, NORMAN DICKS, for their cooperation and willingness to work with us to produce this bill. We had some tough issues to address and their good faith and determination to seek areas of agreement were critical to the success of our efforts. Finally, I want to recognize the other members of the Senate Select Committee on Intelligence, some of whom have served on this committee for quite some time over the years and whose expertise, interest, and insights have served the committee and its chairman well.

The conference report and statement of managers you have before you today contains a number of significant provisions. Several of the sections address counterintelligence issues highlighted by the Aldrich Ames case. For example, the bill closes a loophole that allowed an employee convicted of espionage to receive money the U.S. Government contributed to his or her thrift savings plan, even though the money contributed to the plan by the employee was forfeited. Similarly, the bill allows a spouse who fully cooperates in an espionage investigation to receive spousal pension benefits, thus removing a disincentive provided by current law. Perhaps most significant in this regard is the provision that will allow the Federal Bureau of Investigation to obtain certain limited information from credit bureaus as part of a duly authorized counterintelligence or international terrorism investigation. Following the money trail is a critical part of these kinds of investigations. The FBI has the authority under current law to look at bank account information of individuals who are part of such an investigation. In order to use this authority, however, the FBI must identify the banks at which the individual maintains accounts. This is often done today through the intrusive and laborious process of going through that individual's trash. This provision allows the FBI to get that information, along with basic identifying information, from a consumer credit report if it meets certain specified requirements. Access to the entire consumer credit report still will require a court order.

This conference report also contains a number of provisions that reflect the changes wrought by the end of the cold war and the reexamination of the role and mission of the intelligence community [IC]. One of the key issues in this context is personnel. The committee has been concerned for some time now that the IC has not done an adequate job of removing poor performers, creating headroom for those who excel, and ensuring that the community has the right mix of skills to accomplish its current and future missions. It is particularly critical that the IC carefully manage the significant downsizing it is currently experiencing. This report calls on the DCI to develop personnel procedures for the committee to consider that include elements for termination based on relative performance and on tie in class.

Another trend in the IC in the post-cold-war environment is the declassification of secrets about which there are no longer national security concerns. The conference report contains significantly greater flexibility for the DCI and we have been assured that the funds now authorized for this activity are adequate to ensure that declassification will proceed expeditiously without sacrificing the care needed to weed out the true secrets.

The conference report also contains the provision from the Senate bill requiring a report on the financial management of the National Reconnaissance Organization. Like so much of the IC budget—about 85 percent, in fact—the NRO budget is under the Department of Defense rather than the Director of Central Intelligence. From what we have learned to date about the problems with NRO accounting practices and management, this bifurcated chain of authority contributed to a situation in which no one adequately supervised the use, for example, of prior year, or carry forward, funds. This committee will continue to monitor NRO's financial management situation until it is satisfied that controls are in place and there is full accountability.

The budget for the IC remains classified, but I can tell you that the funding authorized in the conference report, which incorporates a classified annex, is slightly below last year's level and the administration's request. This is the sixth straight year the budget has been reduced, for a cumulative reduction of 17 percent. The conference did recommend a reallocation of funding to emphasize areas of critical importance. For example, notwithstanding the rhetorical priority placed on critical intelligence topics such as proliferation, terrorism, and counternarcotics, the committee identified areas where insufficient funds have been programmed for new capabilities, or where activities are funded in the name of high-priority targets which make little or no contribution to the issue. In the classified annex accompanying the report, the conferees recommend a number of initiatives to enhance U.S. capabilities in the areas of proliferation, terrorism, and counternarcotics. Similarly, the IC's capabilities for processing information have lagged behind the collection capabilities and the conference report attempts to address that by shifting funds.

In conclusion, I want to acknowledge the work of the staff of the committee in putting this legislation together and in assisting the committee in its day-to-day oversight of this Nation's intelligence activities. I urge my colleagues to support this bill.

Mr. KERREY. Mr. President, I join with the chairman in strongly recommending that the Senate adopt this conference report on the fiscal year 1996 Intelligence Authorization Act.

This bill continues the efforts of this committee to ensure that the intelligence community is making the changes necessary to adapt to today's world. As our troops enter Bosnia for their peacekeeping mission and policymakers work to ensure there continues to be a peace to keep, we are reminded once again of the importance of a flexible, efficient, and effective intelligence capability to support both national and military needs. It is a very different world from that which challenged the intelligence community during most of its post World War II existence. This conference report reflects the changing role and mission of intelligence. To ensure we can meet the growing demand for timely, actionable intelligence, for example, this bill shifts greater resources into the processing of intelligence, which has failed to keep pace with the collection of information. Similarly, as the threats from proliferation of weapons of mass destruction, international terrorism, organized crime, and international narcotics trafficking take on ever greater importance, the committee has included budgetary recommendations to increase funding in these areas.

The conference report includes all of the provisions contained in the Senate bill, although several of the provisions reflect some changes. In addition, the conference report includes a provision specifying that the Director of Central Intelligence can use up to $25 million for declassifying records over 25 years old, pursuant to a recent Executive order. The House bill had imposed a much tighter limit on the availability of funds for this purpose. The conferees agreed to a revised provision that will allow the DCI to begin this process in a manner that is more likely to produce timely results without compromising national security.

This year has seen great controversy concerning the intelligence community. Some of the problems we are all familiar with include the CIA's relationship with assets in Guatemala who may have participated in or covered up murders, the continuing damage caused by Aldrich Ames' treachery, CIA's withholding from its customers the full details of source information on Soviet and Russian reports, and the National Reconnaissance office's accumulation of funds in forward funding accounts vastly in excess of what they require. These failures and mistakes remind us all of the need for vigilant oversight of intelligence activities, a responsibility which Chairman SPECTER and I and our colleagues on the committee take very seriously.

These controversies also remind us that intelligence is becoming less of a secret business; there is a conscious process of declassification now ongoing, which is healthy; the actions of our Government should be as transparent as possible, consistent with protecting the lives of the Nation and our people. But there is also a tendency to attack necessary secrecy by means of leaks as if, with the demise of the Soviet Union, the need to protect sources and methods has evaporated and the leaking and publication of classified information is therefore harmless. Mr. President, terrorism, the spread of nuclear and chemical weapons in the world, the Russian and Chinese nuclear forces, international crime and drug trafficking, the intentions of factions in Bosnia to attack our troops—these are not harmless threats, and it is most harmful to reveal the American intelligence sources and techniques employed against those threats. In our oversight tasks we walk a fine line between correcting problems and deficiencies and telling the public as much as we can about the, on the one hand, and protecting necessary secrets, on the other.

This has been a challenging year for the intelligence community. In the midst of significant downsizing, questions about its mission, and what seemed at times to be daily revelations of scandals, the intelligence professionals continued to collect, analyze, and disseminate information to meet the needs of policymakers and the military. All of us can take pride in the quality and dedication of the Americans serving their country in the intelligence community, and I hope the headlines of the moment will not dissuade dedicated, talented young patriots from seeking careers in intelligence. In the coming months the committee will be making decisions about legislation to ensure that the intelligence community is structured to maximize the effectiveness of the efforts of these hard working men and women. The bill before you today is a significant step in that direction and I urge your support.

Mr. PRESSLER. Mr. President, I want to take a moment prior to Senate enactment of the conference report to H.R. 1655, the Intelligence Authorization bill to express my views regarding several provisions that I fear could weaken U.S. sanctions laws and weapons non-proliferation policy.

The proliferation of weapons of mass destruction is the leading security issue facing the United States and its allies. The President himself said so in a speech last year. There is a direct connection between the imposition of sanctions under U.S. and international laws and the volume of weapons trafficking. Strong enforcement of sanctions laws is a critical element of U.S. and international non-proliferation policy. The likelihood of punishment must be high. The commitment of our nation as the principle leader in international non-proliferation efforts must be taken seriously. Our resolve must be unquestioned. To do otherwise would send the worst signal, particularly to terrorist states and rogue groups. In that kind of environment, the very security of the United States may be in question.

It is for that reason that I must express my concerns with H.R. 1655, and more to the point, section 303 of the bill, which would create a new Title IX in the National Security Act. This new title would give the President unprecedented authority to stay the imposition of sanctions related to the proliferation of weapons of mass destruction, their delivery systems, as well as other advanced conventional, chemical or biological weapons. This waiver authority could be exercised if the President determines that the imposition of sanctions "would seriously risk the compromise of an ongoing criminal investigation directly related to the activities giving rise to the sanction or an intelligence source or method directly related to the activities giving rise to the sanction."

I am very concerned that with this provision, diplomatic and political pressure may make it impossible for the United States to do the right thing and sanction major offenders.

For the last several years, the proliferation of weapons of mass destruction and the delivery systems of such weapons appears to be intensifying. All this year, we have heard reports that the People's Republic of China has engaged in the proliferation of ballistic missile systems to Pakistan and possibly even Iran—activities that would be sanctionable under the Missile Technology Control Regime, MTCR. China also is reported to be actively involved in the expansion of Pakistan's nuclear program, as well as Iran's drive for nuclear technology.

The fact that all of this reported activity can occur without as much as a threat of sanctions from the United States has led me to believe that we may need to make our sanctions laws tougher. In fact, I am the author of a law that gives the President presumptive authority to impose sanctions against parties that export questionable materials to terrorist countries. This law, which went into effect last year, was designed to give the President the ability to impose sanctions in cases where he simply had reason to believe that weapons of mass destruction or their means of delivery had fallen in the hands of terrorist countries. He need not wait for actual proof. If he waited, it may be too late. Equally important, the law compels the sanctioned country to come forward to demonstrate that no violation actually took place.

This law, in short, broadens the President's authority to enforce nonproliferation policy. The conference report to H.R. 1655 goes in the opposite direction—it broadens the President's authority to weaken nonproliferation policy.

Mr. President, I recognize that the trafficking of weapons of mass destruction and their related delivery systems takes place out of sight. I also very much respect the fact that intelligence sources and methods designed to monitor a nation's weapons activities are almost always, if not entirely, at risk of discovery. The consequences of such discovery certainly are life-threatening to say the least. Virtually all prosecutions and sanctions are developed from intelligence sources and methods. Therefore, I am very concerned that the conference report would provide the President with a very tempting waiver option—an option that would give the President the opportunity to make a political decision to forego prosecution or to avoid imposition of sanctions, but base it on "sources and methods." In other words, the President would have the opportunity to place political expediency or other factors above our Nation's non-proliferation laws. I believe that kind of discretion is a serious mistake.

I raised these concerns to the distinguished Chairman of the Intelligence Committee, Senator SPECTER. I know a number of my colleagues in the House and the Senate expressed similar views. Both the final bill language and the joint explanatory statement of the conference committee attempt to address these concerns. First, the conferees required that Title IX would be in effect for just 1 year. This limitation was placed to afford the Congress the opportunity to monitor closely the use of this new authority. Second, the conferees make clear that this authority is to be used for its stated purpose—to preserve sources and methods, as well as ongoing criminal investigations when seriously at risk—and "not as a pretext for some other reason not to impose sanctions such as economic or foreign policy reasons."

I appreciate the effort made by the conferees to restrict the President's ability to exercise this waiver authority to the purposes stated in the legislation. I also appreciate the conferees' insistence that this provision only be in effect for 1 year. Despite these efforts, I still believe we are setting a dangerous precedent and opening a Pandora's box that could be difficult to close.

Consider two facts: First, intelligence sources and methods are virtually the only means that allow a President to proceed with sanctions; and second, only the President is in the best position to determine whether or not a source or method is at risk if sanctions are imposed.

These facts lead this Senator to conclude that the new Title IX is based on a flawed premise—that Congress has the ability to ensure that the President will not abuse this new discretionary authority to waive sanctions. I say it is flawed because only the President is in a position to determine whether or not a source or method is at risk. This risk determination is subjective—a judgment call. And, again, given that the basis for sanctions comes from sources and methods, the President is given the latitude to consider numerous economic, political or foreign policy implications, but on paper base his conclusion on sources and methods. What methods and resources do we in Congress have to second guess the President should he make a "sources and methods" risk determination? Would the Congress even want to second guess the President, given the fact that doing so could be even more dangerous to that intelligence source or method?

The fact is our sources and methods are almost always at risk, to say the least, but until today, our priority always has been the enforcement of our nonproliferation laws.

I am hopeful that in the next year, Congress will closely monitor the President's use of this waiver authority. I urge my colleagues not just to consider the President's ability to comply with the conditions set by the conferees, but also our own ability to ensure that these conditions are in fact followed by the President.

As the world's sole superpower, all nations concerned with the threat of nuclear proliferation look to the United States to lead by example. Vigorous U.S. enforcement of nuclear non-proliferation laws and agreements is crucial to the security of all people. I am very concerned that the conference report sets a bad precedent that could undermine vigorous enforcement in the year ahead, and even beyond if Congress allows the law to continue. I intend to follow this matter very closely in the year ahead. It is my hope that tough, consistent enforcement of our nonproliferation laws will not be sacrificed.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the conference report be deemed agreed to; that the motion to reconsider be laid on the table; and that a statement on behalf of Senator SPECTER be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the conference was deemed agreed to.

COMMENDING THE CIA'S STATUTORY INSPECTOR GENERAL

Mr. SANTORUM. I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 201 submitted earlier today by Senator SPECTER and Senator KERREY.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> A resolution (S. Res. 201) commending the CIA's statutory Inspector General on his 5-year anniversary in office.

The Senate proceeded to consider the resolution.

Mr. WARNER. Mr. President, it is with great pleasure that I join my former colleagues on the Senate Intelligence Committee in cosponsoring a resolution commending the fine work of the CIA's inspector general, Fred Hitz, and congratulating Fred on his 5-year anniversary as the first Senate-confirmed inspector general at the CIA. I had the honor of working with Fred's father many years ago, and I would like to say that Fred is admirably carrying on his family's very fine tradition of public service.

During the majority of my tenure on the Intelligence Committee and, in particular, during my service as vice chairman of the Committee from 1993 until January of this year, I enjoyed the benefit of Fred Hitz's wise counsel. Fred's integrity, objectivity, and fine investigative skills have served the CIA well as the Agency has confronted a number of serious problems in recent years.

Of special note, the inspector general's comprehensive investigation of the Aldrich Ames spy case provided the Intelligence Committee, and indeed, the Nation, with the details of Ames 9 years of treachery, and insight into the problems at the CIA which allowed Ames' activities to go undetected for so long. The Committee relied heavily on the fine work performed by Fred Hitz's office in making its recommendations for how to correct the problems which the Ames case brought to light. Hopefully, the combined efforts of the CIA's IG and the Senate Intelligence Committee will serve to severely lessen the likelihood that this Nation will be faced with another Ames case in the future.

Under Fred Hitz's leadership, the CIA's inspector general's office has become an effective, objective and independent institution upon which the Members of Congress have come to rely.

I congratulate Fred on reaching this milestone in his illustrious career, and I look forward to many more years of working together on intelligence issues which are so vital to the national security of the United States.

Mr. SPECTER. Mr. President, I rise to introduce a resolution on behalf of myself, Senator KERREY of Nebraska, Senator GLENN, Senator BRYAN, Senator ROBB, Senator JOHNSTON, Senator CHAFEE, Senator BAUCUS, Senator WARNER, Senator KERRY of Massachusetts, Senator SHELBY, Senator GRAHAM of Florida, Senator KYL, Senator LUGAR, Senator INHOFE, Senator BYRD, and Senator DEWINE commending the Central Intelligence Agency's statutory inspector general on his 5-year anniversary in office.

Mr. President, the CIA's statutory inspector general is an issue that is near and dear to me, particularly since it was at my initiative that this office was established. I, along with a good number of my Senate colleagues who served both on the Iran-Contra Committee and the Senate Select Committee on Intelligence, had voiced concern with the need for objectivity, authority, and independence on the part of the CIA's Office of Inspector General. And, working in close collaboration with my colleague, Senator GLENN, we crafted a provision that in 1989 was included in the Intelligence Authorization Act of fiscal year 1990—subsequently enacted into law—to establish an independent, Presidentially appointed statutory inspector general at the CIA. In November 1990, the Honorable Frederick P. Hitz was formally sworn in as the CIA's first statutory inspector general.

As chairman of the Senate Select Committee on Intelligence, I am pleased to report to my colleagues that in the 5 years since Fred Hitz was sworn in as the CIA IG, the committee has noted a vast improvement in the effectiveness and objectivity of that office. This has been due in no small measure to the capable leadership of Fred Hitz. While the committee has not always agreed with the judgments of the CIA inspector general's office, the CIA IG has been fearless in taking on difficult and controversial issues such as BCCI, BNL, the Aldrich Ames case, and CIA activities in Guatemala—just to name a few. And the work of Fred Hitz's shop has been an invaluable supplement to our committee's intelligence oversight role.

Mr. President, there was fierce resistance to the creation of a statutory inspector general at the Central Intelligence Agency, and there continues to be strong resentment of an independent IG in certain quarters of the CIA to this day.

This should come as no surprise. It is hard to think of another Federal agency in the U.S. Government more institutionally resistant to having an independent inspector general than the CIA. Accordingly, I believe that any CIA IG worth his or her salt would be about as popular as Fred Hitz currently is with some of his present and former CIA colleagues. It is a mark of his tenacity and integrity that Fred and his office continue to tackle the IG's mission of serving as an independent factfinder and, when necessary, a critic of CIA programs and operations.

Mr. President, the statutory CIA inspector general has made the Central Intelligence Agency more accountable to the American people. I and my Senate colleagues wish to acknowledge and commend the fine work of this office, and congratulate Fred Hitz on his 5-year anniversary as the first statutory CIA inspector general.

Mr. KERREY. Mr. President, I rise to join my distinguished chairman, Senator SPECTER, in introducing this resolution to acknowledge the important role of the Central Intelligence Agency's statutory inspector general's office and noting the excellent work of Fred Hitz—the first CIA statutory IG who has recently celebrated his 5-year anniversary in this challenging position.

There was, to say the least, some skepticism about the wisdom of creating the statutory IG office at the CIA. Indeed, no one should be surprised that there was little support in the Agency for the creation of a statutory inspector general office. But fortunately, Senator SPECTER and Senator GLENN and others convinced the Senate to support this idea, and the office was created. Yet even after enactment, there was still resistance to an independent fact-finder within the Agency, and some of it persists even today.

The CIA has a proud but insular culture which tends to resist the scrutiny of an independent examiner. Also, because CIA operates in secret and undertakes—at the request and direction of policymakers—activities which the United States must deny, the additional oversight of an independent IG is essential. To perform this oversight effectively and honestly means to occasionally render strong criticism. Those who are criticized are sometimes offended. Their response to criticism ranges from the stoic silence we associate with CIA, to both attributable and anonymous countercriticism of Mr. Hitz.

Mr. President, criticism of the IG by past and present CIA employees suggests to me that Mr. Hitz has been doing his job in the spirit Congress intended. I do not claim, nor would Mr. Hitz claim, that he has done his job perfectly. Few of us attain such a level of performance. I and some other members of the Intelligence Committee have not always agreed with his conclusions in particular investigations. But I would claim the CIA is a stronger, more effective organization today because he has been a strong, independent IG, as Congress envisioned.

Congress' own oversight of intelligence activities would be much more difficult without the insights provided by an independent IG. At the same time, an independent IG must not contribute to a climate in which CIA is afraid to take risks when vital U.S. interests are at stake. An independent IG must not create an internal empire of inspectors which has the same chilling effect on creative action in Government that excessive regulation has on business. Like the congressional oversight committees, a good IG must ensure that the Agency acts in accordance with U.S. law and U.S. values without inhibiting the Agency's ability to act boldly.

From what I see from the vantage point of the Intelligence Committee, Fred Hitz has been that kind of IG. I congratulate him on his completion of 5 years of service and I congratulate my colleagues who 5 years ago envisioned what we now agree is a very necessary job.

Mr. SANTORUM. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table and any statements be placed in the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 201) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 201

Whereas, because of its concern with the need for objectivity, authority and independence on the part of the Central Intelligence Agency's Office of Inspector General, the Senate in 1989 included in the Intelligence Authorization Act of Fiscal Year 1990—subsequently enacted into law—a provision establishing an independent, Presidentially-appointed statutory Inspector General at the CIA;

Whereas in November, 1990, The Honorable Frederick P. Hitz was formally sworn in as the CIA's first statutory Inspector General;

Whereas the CIA's statutory Office of Inspector General, under the capable leadership of Frederick P. Hitz, has demonstrated its independence, tenacity, effectiveness and integrity; and

Whereas the work of the CIA Office of Inspector General under Mr. Hitz's leadership has contributed notably to the greater efficiency, effectiveness, integrity and accountability of the Central Intelligence Agency: Now, therefore, be it

Resolved, That the Senate expresses its congratulations to Frederick P. Hitz on his 5-year anniversary as the first statutory CIA Inspector General and expresses its support for the Office of the CIA Inspector General.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Frederick P. Hitz.

MEASURES INDEFINITELY POSTPONED—S. 1315 AND S. 1388

Mr. SANTORUM. Mr. President, I ask unanimous consent that Calendar No. 287, S. 1315, and Calendar No. 288, S. 1388, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

FARM CREDIT SYSTEM REFORM ACT OF 1996

Mr. SANTORUM. I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of H.R. 2029 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2029) to amend the Farm Credit Act of 1971 to provide regulatory relief.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3109

(Purpose: To provide a complete substitute.)

Mr. SANTORUM. Mr. President, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM], for Mr. LUGAR for himself and Mr. LEAHY, proposes an amendment numbered 3109.

Mr. SANTORUM. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. LUGAR. Mr. President, I rise in support of H.R. 2029, the Farm Credit System Reform Act of 1996. The bill makes changes to the authorizing legislation for the Federal Agricultural Mortgage Corporation [Farmer Mac] to afford it a final opportunity to establish a successful secondary market for agricultural loans. Its future is seriously threatened and without this corrective legislation, the benefits it offers farmers, ranchers, and rural homeowners may be lost. Farmer Mac was established to encourage a stable and highly competitive lending environment for rural America, an environment that must be preserved.

The bill also provides changes to the underlying statute for the cooperative Farm Credit System [FCS] to provide relief from outdated and unnecessary regulations. These changes will give FCS more flexibility in its operations and allow it to provide competitive loan rates and improved service. The bill also extends the U.S. Department of Agriculture's interest rate reduction production on guaranteed farm loans. This program is an important tool used to transfer direct loan borrowers to guaranteed loans, eventually leading to borrower graduation from Federal support. Finally, the bill will authorize a new foundation to facilitate creative solutions to soil and water conservation problems. This foundation will be funded primarily through private donations.

Farmer Mac is responsible for providing farmers, ranchers, and rural homeowners with access to a stable and competitive supply of credit for mortgage loans. It is a privately owned and operated corporation created by Congress in 1988. Farmer Mac is known as a Government sponsored enterprise, similar to Sallie Mae and Fannie Mae, which employ private capital to establish business operations charged with specific responsibilities to carry out public policy. Farmer Mac, which began operations after the enactment of the Agricultural Credit Act of 1987, raised $21 million in private capital from banks, insurance companies, and farm credit institutions to fund the development and operation of a secondary market. No Federal funds were invested in the original capitalization of Farmer Mac and no Federal funds have ever been appropriated to support any facet of its operation. In fact, Farmer Mac pays the Farm Credit Administration annual assessments to cover the cost to the Government of regulating the secondary market.

Farmer Mac must make a profit to support its operations or its capital base will eventually be exhausted. Should the capital base erode—it is currently down to about $11 million—the original investors would lose their investments and the secondary market would terminate. Termination of Farmer Mac would deny rural Americans access to competitive long-term fixed rate mortgages at a time when budget reductions and changes in Government housing and agricultural policy will place increased pressure on farmers, ranchers, and rural homeowners to reduce expenses to remain competitive.

The successful Fannie Mae and Freddie Mac residential mortgage secondary markets were used as the structural design for Farmer Mac. However, certain distinctions were made that have become obstacles to Farmer Mac's success: First, the requirement that Farmer Mac operate its program through "poolers," and second, the requirement that every Farmer Mac loan be backed by a minimum 10-percent subordinated participation interest. The bill repeals both of these obstacles. Nine poolers have been certified since 1990. However, the poolers have only submitted six pools of qualified loans, totaling $790 million, for guarantee under the program. The limited participation has prevented the program from generating enough income to support its cost of operation. Under H.R. 2029, Farmer Mac will now be permitted to purchase and pool loans itself, and the 10-percent cash reserve requirement is eliminated. The removal of these impediments will make Farmer Mac's structure essentially identical to other successful GSE's.

In addition, the legislation: extends the time period before the Farm Credit Administration may promulgate risk-based capital regulations to 3 years after the date of enactment; provides a time triggered transition period to increased minimum and critical capital requirements; requires Farmer Mac to increase its core capital to at least $25 million within 2 years or curtail its operation; and provides procedures for the Farm Credit Administration to liquidate Farmer Mac's operation in the event it fails to establish a successful secondary market.

It has become apparent that after almost 6 years of operation, Farmer Mac's statutory structure will not work. This important piece of legislation gives Farmer Mac everything it needs to succeed for the sake of rural Americans.

The bill also removes undue regulatory burden placed on the Farm Credit System and provides the System greater flexibility in its operations to offer its borrowers competitive loan rates and improved service.

This portion of the legislation provides that FCS borrower stock and borrower rights requirements do not apply for 180 days to loans designated for sale to the secondary market; allows FCS associations to form administrative entities; provides for rebating to System banks excess amounts in the Farm Credit System Insurance Fund after 8 years of interest earnings accumulate on to the System's secure capital base; provides procedures for allocating to System banks and to other institutions holding Financial Assistance Corporation [FAC] stock excess amounts in the Farm Credit System Insurance Fund until $56 million is repaid; provides authority to prohibit or limit golden parachute payments to System executives; and repeals the requirement for establishing a new board of directors for the Farm Credit System Insurance Corporation and retains the current board structure.

The FAC stock provisions lay to rest a long standing controversy in the Farm Credit System. Beginning in 1984, the System came upon hard times due to the credit crisis in farming and System associations were required to purchase FAC stock for the amount of unallocated retained earnings exceeding 13 percent of their total assets to assist in rescuing the floundering system. The associations which had a high level of capital in relation to their loan volume were affected most. Many associations believe that they and their borrowers were required by the Agricultural Credit Act of 1987 to carry a disproportionate share of the System's self-help burden. The substantial depletion of capital resulting from the assessment caused associations to increase interest rates to their customers. The assessment was challenged by 21 production credit associations shortly after the enactment of the 1987 legislation. However, the U.S. Court of Appeals affirmed the authority of Congress to impose the assessment in June 1992. Legislation in 1988 and 1989 permitted the return of $121 million to the FAC stockholders of the more than $177 million collected from System institutions.

Many in Congress believe that the assessments and mandatory purchase of FAC stock represented a commitment to the future of the Farm Credit System. It was the inherent responsibility of System institutions to join the Federal Government to bail out the System in exchange for continued agency status for their debt securities. The compromise included in this bill permits the repayment of $56 million to the remaining FAC stockholders and terminates the Financial Assistance Corporation trust upon full repayment of that sum. I support this compromise and I am pleased that this controversy has been amicably resolved.

Preserving and making more efficient a system that provides rural America access to stable and competitive credit is of the utmost importance. Farmer Mac can make an important contribution to this goal. This legislation is a final congressional effort to make Farmer Mac viable. Legislative restrictions may have hobbled the institution until now. If the new authorities do not prove sufficient, it will be time to declare Farmer Mac a failed experiment. The bill before us provides for orderly procedures in this event.

I urge my colleagues to support this important piece of legislation.

Mr. LEAHY. I rise at this time to engage the gentleman from Indiana, the chairman of the committee, in a colloquy.

Mr. LUGAR. I would be pleased to engage the Senator in a colloquy.

Mr. LEAHY. It is my understanding that the legislation before us today includes provisions designed to provide relief to institutions of the Farm Credit System from the paperwork, costs, and other burdens associated with unnecessary and archaic regulatory requirements placed on such institutions under current law. It is also my understanding that similar legislation to provide regulatory relief to the commercial banking industry is also under consideration by the Congress.

Mr. LUGAR. The Senator is correct.

Mr. LEAHY. It is also my understanding that the legislation before the Senate includes amendments to title VIII of the Farm Credit Act of 1971 to modernize, expand, and make other improvements in the Federal charter and authorities of the Federal Agricultural Mortgage Corporation so that this entity, commonly known as Farmer Mac, can better provide credit to agricultural borrowers through commercial banks and other lenders.

Mr. LUGAR. The Senator is correct.

Mr. LEAHY. It is my further understanding that this legislation includes an agreed-upon compromise to address once and for all the issue of the return of the remaining 32 percent of the one-time self-help contributions paid by Farm Credit Systems banks and associations to help capitalize the Financial Assistance Corporation. The institutions that were assessed these contributions were designated as holders of stock in the Financial Assistance Corporation, commonly referred to as FAC stock. Is it not true that this stock, in and of itself, has no value, and that the holders of this stock have no legal claim, either now or in future, against any party in association with this stock, beyond any that may arise as a result of the specific provisions of the bill before us today?

Mr. LUGAR. The Senator's understanding is absolutely correct.

Mr. LEAHY. I am disappointed that the bill before us today does not include amendments to the remaining titles of the Farm Credit Act of 1971 to provide similar modernization, expansion, and improvements to the Federal charter and other authorities of the remaining institutions of the Farm Credit System. These banks and associations of the Farm Credit System provide a needed source of credit to the farmers, ranchers, their associations, and cooperatives across rural America. The System also provides financing for agricultural exports, rural water and waste, and other rural enterprises. Does the chairman have any plans to comprehensively review the authorities of these other institutions regulated under the Farm Credit Act of 1971 with an eye toward providing for the similar modernization, expansion and improvement of their Federal charter and other authorities?

Mr. LUGAR. Yes, it is my intention next year to work with the gentleman from Vermont and other interested Members to conduct a comprehensive review by the Committee on Agriculture, Nutrition, and Forestry of the authorities of the institutions regulated under the Farm Credit Act of 1971, other than Farmer Mac, consistent with the jurisdiction of the committee. The stated goal of this review will be to develop legislation to provide for the modernization, expansion, and improvement of their Federal charter and other authorities of the institutions of the Farm Credit System. Such legislation, if warranted by our review, could provide for enhanced agricultural, business, and rural development financing across the United States.

Mr. LEAHY. I thank the Senator for his cooperation on the bill before us today and look forward to working with him next year on the important Farm Credit System modernization legislation he has just described.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the amendment be agreed to and the bill be deemed read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 3109) was agreed to.

So the bill (H.R. 2029) was deemed read the third time and passed.

So the title was amended so as to read: An Act to amend the Farm Credit Act of 1971 to provide regulatory relief, and for other purposes.

MEASURE READ THE FIRST TIME—HOUSE JOINT RESOLUTION 134

Mr. SANTORUM. I inquire of the Chair if the Senate has received from the House, House Joint Resolution 134?

The PRESIDING OFFICER. It has been received.

Mr. SANTORUM. I ask the joint resolution be read for the first time.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> A joint resolution (H.J. Res. 134) making further continuing appropriations for the fiscal year 1996, and for other purposes.

Mr. SANTORUM. I now ask for its second reading and object to my own request on behalf of Senators on the Democratic side of the aisle.

The PRESIDING OFFICER. The bill will be read a second time on the next legislative day.

ORDERS FOR FRIDAY, DECEMBER 22, 1995

Mr. SANTORUM. I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10:15 a.m. on Friday, December 22, that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SANTORUM. At 10:15 a.m. the Senate will begin 30 minutes for closing debate on the veto message to be followed by 30 minutes for closing debate on the welfare conference report. Two back-to-back votes will occur beginning at 11:15 on both issues. Following the two back-to-back votes, the Senate will begin the START II treaty. The Senate could also be asked to consider available appropriations bills, other conference reports, and other items due for action. Rollcall votes are therefore expected throughout the session of the Senate on Friday.

POSTPONEMENT OF CLOTURE VOTE

Mr. SANTORUM. Mr. President, I further ask unanimous consent that the cloture vote scheduled for today be postponed to occur at a time to be determined by the two leaders on Friday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. SANTORUM. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order, following the remarks of the Senator from Pennsylvania.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERSONAL RESPONSIBILITY AND WORK ACT OF 1995—CONFERENCE REPORT

The Senate continued with consideration of the conference report.

Mr. SANTORUM. Mr. President, again I want to restate my admiration for the Senator from Delaware and for the members of the Finance Committee staff for their tremendous work in this legislation and for hastily preparing Members for this debate this evening that was not expected until tomorrow.

I want to also thank Senator CHAFEE, who really worked diligently during the conference between the House and the Senate on behalf of points that the Senate stood very strongly in support of—things like the maintenance of efforts provision, which there was a lot of concern on both sides of the aisle, and child care funding and the SSI provisions. Those three points could have, I think, caused significant problems had we not held very closely to what the Senate provisions were, and I think we have done that in all three cases. I think Senator CHAFEE should be commended for his work.

I also want to congratulate Senator DOMENICI for not just his work on the welfare reform bill, but in all the conferences that he had to deal with and his action on the welfare issue when Senator CHAFEE helped the resolution of the bill move toward the Senate bill. That is probably one of the most important things I wanted to stress about this bill.

It may sound like you are lauding yourself here, but in a sense the Senate did a very good job of arguing for its positions in the welfare conference. I think most folks who look at this from the outside will see that, of the two bills that went in, the one bill that came out looks a heck of a lot more like the Senate bill than it does the House bill. I think that is a wise course to take.

The Senate bill is a more moderate bill, but it is still a very dramatic reform and one that I think will set this country on a proper course of putting the ladder back down, all the way down, to allow even those at the lower social strata of our country today and income strata of our country today, to climb that ladder up to opportunity and success and change the entire dynamics of welfare from one that is looked upon by those now who are in the system and who pay for the system disparagingly.

Welfare is not a word, when it is uttered, that is given any kind of respect. Nobody says the word "welfare" and thinks, "Wow, what a great system." Or, "Gee, this is something that is really necessary, that works."

That is sad. It is sad for the people who have to pay the taxes to finance it. It is also sad for the people who find themselves caught in it, to be stigmatized by this system that has failed. It may not have failed them particularly. In fact, many people have gotten onto the welfare rolls and come off stronger and better. But those cases happen not as often as we would like to see. We would like to see the changing of the stigma of welfare to a program that, when you look at it, you can be proud of it. When you see your dollars invested in it, you see dollars invested in a system that truly does help people and that is marked with more successes than failures.

While there have been successes, they simply do not match up. I think we can look at the overall decline in our poor communities as evidence of that.

I want to debunk a couple of myths here to begin with, and then go into the specifics of the legislation, because as I said before, the point I wanted to make here, more than anything else, is if you were someone who voted for H.R. 4 when it passed the Senate, you have to do a pretty good stretch to vote against this conference report. You have to think up a lot of reasons that, frankly, do not exist to vote against this conference report. Because the bills are very similar and, in fact, there were things adopted in the conference report that even moved more toward the Democratic side of the aisle than were in the original Senate-passed bill.

That is why I am somewhat at a loss and I am hopeful—I should not say that. I am not hopeful. I would like to think that the President, when he takes a second look at this legislation in its entirety and matches it up with H.R. 4 that passed the Senate, which he said he would sign, that again he would have a big stretch to find some fatal flaw in the conference report that did not exist in the bill that he said he would sign.

Let me debunk a couple of myths. No. 1, that we are cutting welfare. We are not cutting welfare. This is the same idea that is being perpetrated on the American public with "We are cutting Medicare." We are not cutting Medicare, Medicare increases over 7 percent a year for 7 years. It is a mantra that comes out. I do not even think about it. It spews forward because we are constantly defending the "cuts in Medicare." We will be charged with cutting welfare, leaving people homeless and not providing support.

I refer my colleagues to this chart, which shows that welfare spending from 1996 to the year 2000 will go up under current law at 56 percent, that is 5.8 percent per year. That is almost three times the rate of inflation. Under the Republican bill, this bill that some will label draconian and mean-spirited and not caring about children and all the way—it goes up 34 percent over the next 7 years, or 4 percent a year, almost twice the rate of inflation.

So you do not think that the increase is based on an increase in the amount of people going on welfare programs, you will see that the per capita increase in welfare spending—what we are spending on what is estimated to be the welfare population —also goes up over the next several years and continues to go up. That is in spite of the fact that we have a very sharp disagreement between the Congressional Budget Office, whose numbers this is based upon, and the Department of Health and Human Services, as to what the welfare caseload will be over the next several years.

These numbers are based on the Congressional Budget Office, which suggests that the welfare caseload will, in fact, remain constant over the next 7 years. Even though with changes in SSI, with other changes in AFDC, with the block-granting, with the work requirements, we have seen a dramatic drop in States that have implemented these kinds of work requirements—Wisconsin and Michigan, for example—in welfare caseload. CBO does not account for that. They say it is going to be constant.

The Department of Health and Human Services, by the way, suggests that the welfare caseload over the next 7 years will drop by 50 percent. This is getting ridiculed for one thing but getting scored for the other. You get ridiculed by the White House for cutting welfare rolls by 50 percent over the next 7 years and therefore cutting off children and women and all these things, yet for the purposes of determining how much money you are spending per child the Congressional Budget Office says that welfare caseload is going to remain constant. So you lose on both ends in this situation, which is unfortunate for this debate.

But I think it points out that there is certainly room to believe that welfare caseload will go down, and with the programs that we have in place, the block-granted programs with finite dollars, that the spending per family will actually increase more than this, that there will be more money for States to do the things that those on the other side, who oppose this bill, want—because there are many who voted for the original Senate bill who say there is not enough money for child care or there is not enough money for work.

As I suggested to the Senator from Massachusetts, we are not cutting child care in this bill. We are increasing child care above what is in current law, as we should. We are requiring work, which we have not heretofore. So we are increasing child care almost $2 billion over the next 7 years to compensate for those who will have to work to receive welfare benefits.

I will remind Members here that, under the current provisions in this bill, no one will be required to work unless the State opts out of this formula for 2 years. So, most of the child care burden and the participation rate starts out at, I believe, 30 percent and phases up to only 50 percent of the entire caseload. So we are not saying "everybody this year." In fact, under the bill the block-grant scheme does not go into effect until October of 1996. That is a change from the Senate bill. As I said, there are certain things in the bill that will be attractive to the other side of the aisle. One of them is that the block grant does not go into effect immediately, as it would have under the Senate bill. It does not go into effect until October 1. So we keep the Federal entitlement for another three quarters of a fiscal year. And it does not go into effect until October 1. So that is a plus, I would think, for some Members on the other side.

The child care money that is there, and the work money that is there, we believe is more than sufficient to cover the anticipated caseload given the participation rates, the delay in people having to work, and the delay in the program itself, of 2 years, before anyone even in the program has to work. That is why, with respect to child care, we have backloaded the money. The reason we backload the money is because that is when more people will be required to work and that is when they, the States, will need the money for day care. We think that is a logical way to accomplish it. Some would suggest that we are skimping a little bit in the early years. The Senator from Massachusetts thinks that is wrong. I think that is a very wise allocation of resources on the part of the proponents of this legislation.

With respect to the work requirements, we have cut work requirements. One of the things that many Members on the other side of the aisle supported in this bill and were a bit dismayed about with the original Finance Committee bill was that it did not have tough work requirements. We have those same tough work requirements in this bill.

We believe with the evidence of other States, Michigan as I said, before, Wisconsin, and others, that caseload does decline when you require work. Many people who would otherwise get on the rolls who know that they have to go to work opt to go to work instead of getting on the rolls. We have seen that happen.

We believe there will be more than enough money. Again, we do something that we think is very important. We allow for fungibility. We allow for flexibility of States to move money from one area to another where the States determine where their greatest need is, with the exception of child care because we have seen that is a very crucial item. So we do not allow that money to be used for other purposes. We in a sense have a one-way battle. Money can come in for more child care but no more money than was originally dedicated for child care can go out. Again, it is a concession to the other side of the aisle for their paramount, and I think legitimate, concern for child care.

Another thing we did different than the Senate bill, I think many Members on the other side of the aisle would appreciate, is we separate child care out into a separate block grant. In the original Senate bill it was included with the other block grants. There was some concern about the long-term integrity of that fund if it was included. So we have now separated out child care as a separate block grant unto itself which again is something that many Members on the other side of the aisle wanted. As I said before, we put more money in child care.

The Senate bill that passed here had $15.8 billion in child care for 5 years. Our bill had $16.3 billion for 5 years—more money in 5 years, and more money for 7 years; $5 billion more; again, almost $2 billion more than current law.

Another big thing that the other side of the aisle took sort of a last stand on was the idea of maintenance of effort, maintaining the States' contribution to their welfare program—the fear that some would argue, its legitimacy. But I side with them. I think there is legitimate fear here that States would race to the bottom. They would take the Federal dollars, eliminate the State contribution, and really squeeze their welfare program down to just where the Federal dollar is contributing and no State contribution.

What we have said is in the Senate bill that passed that States would maintain 80 percent of their effort for 5 years. The Senator from Louisiana, Senator BREAUX, called for an amendment that increased it to 90 percent. The reason he said that is because he was afraid in going to conference with the House, which had a zero maintenance of effort provision—they did not have any maintenance of effort provision—that we had to get to 90 percent simply to go to conference so we can bargain because we probably only would end up with a 45 percent—halfway, or 50 percent—maintenance of effort. We came out of the conference not with 50 percent, 60 percent, or 70 percent, but a 75-percent maintenance of effort which was the original request of those who were working on the provision here in the Senate in the first place. They only went to 80 because they wanted a negotiated position. It succeeded. They ended up with 75 which is what they wanted in the first place. So maintenance of effort is as Members wanted it in the Senate bill.

So, again the two major provisions that caused acrimony in dealing with this bill—child care and maintenance of effort—one was solved in conference to the benefit and even more generous than came out of the benefit, again the Senate bill. The other is exactly where the Senate wanted it in the first place, 75 percent over the term of the bill.

So, again I wonder where the problem is or may be found for Members on the big issues because on the big issues, on the real hot buttons, we are in sync with where the Senate was when the bill passed. All the same requirements are there. The 50-percent participation standard by the year 2000, something the other side wanted and we wanted; no family can stay on more than 2 years.

Remember, ending welfare as we know it, requiring work after a period of time, and then cutting off benefits after a period of time, something candidate Clinton campaigned on when he ran in 1992 as the new Democrat, is in this bill as passed by the Senate.

We allow States to exempt families with children under 1 year of age from working, something that was advocated by the Democrats and kept in in the conference. States that are successful in moving families into work can reduce their own spending. We do allow for flexibility. But the more people you get into work the lower you can reduce your maintenance of effort because you have obviously accomplished the goal of the program, which was to get people working.

As far as money is concerned, a lot of concern about growth funds and contingency funds, loan funds—the loan fund is the same as it passed the Senate. The contingency fund is the same as it passed the Senate. And the population growth fund is roughly the same as passed the Senate. The transferability of funds is the same as passed the Senate. And, again with the exemption of the child care block grant which you cannot touch, the same as passed the Senate. The State option on unwed teen parents, the illegitimacy provision, the same as passed the Senate, a very contentious issue, one that was fought here on the Senate floor, one that was demanded by the House. They had to have the illegitimacy provision as the Senator from North Carolina stated, Senator FAIRCLOTH. They conceded to the Senate position to allow an option to the States to do that. The one concession that we gave—and it is a minor one—is on the family cap provision which is, once you have gotten onto the welfare role, any additional children you have while on welfare you do not get additional dollars for additional children. Several States have implemented that program. What we have said in this bill is that there is an opt out.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SANTORUM. I ask unanimous consent for an additional 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. I thank the Chair for his indulgence.

We allow the States to opt out of the requirement of a family cap. That may sound tough. We say that you have to have a family cap provision in your welfare. But you can pass legislation in your legislature signed by the Governor that would remove you from that requirement. In actuality, what this provision does, since, as a result of the Brown amendment legislatures and Governors have to pass bills to implement and spend this money, what we in a sense require is a vote on this provision in the legislature. Since the legislature is going to act anyway, all we say here is that the legislature has to make a decision whether to allow a family cap or not, and, if they say no family cap, the family cap goes out. If they want it, it goes in. All we do is force the decision. That is hardly a burdensome addition to this legislation.

We have all sorts of terrific reforms on child support enforcement and maternity establishment and absentee parents. All were in the Senate bill. All were heartily supported by both sides of the aisle. All are in the conference report.

Nutrition programs—in the Senate bill we had a block grant option for States for food stamps. That was not very popular on the Democratic side of the aisle. Many Members did not like the option for food stamps that passed the Senate and objected to it. We have reduced the opportunity for States to get into a block grant by putting up very stringent accountability requirements for fraud and error rates, tough error rates than frankly most States will be able to meet. So the open ended allowance for block granting food stamps has been really drawn back;

Again, it is something that moves to the Democrat side of the aisle on this bill.

In return for that, the House did not want to block grant the food stamps, but they wanted to block grant nutritional programs for schools, a hotly debated topic. So what we did there is allow a seven-State demonstration project for block granting school lunch programs, a very narrow block granted program with very tough requirement on the State.

We added back, I might add, in response to the Senator from Massachusetts, who said that we dramatically reduced nutrition funding—and, again, this is where maybe the haste in bringing this bill to the floor resulted in faulty information getting into the hands of Senators. We added back $1.5 billion to nutrition programs, the exact amount that many Senators who had been negotiating on this welfare bill on the Democratic side of the aisle asked for—$1.5 billion was asked for; $1.5 billion was put in the nutritional programs.

SSI. This was an interesting area of debate for me because I have worked on this issue now for close to 4 years and was a very contentious issue when Congressman MCCRERY from Louisiana and Congressman KLECZKA from Wisconsin and I broached this situation in the Ways and Means Committee, and we have come a long way since then. In fact, we came so far that the SSI provisions that are included in this bill were the same SSI provisions that were included in the Democratic alternative welfare bill. There was not an amendment in the Chamber discussing the reduction of the number of children, drug addicts, alcoholics who qualify for SSI.

I have heard in some of the reports, criticisms from some now saying that we cut children off SSI. I would just suggest that the same children that are removed from the SSI rolls under this bill were the same children that were removed from SSI under the bill that I believe every Member of the other side of the aisle voted for, their own substitute—same language.

So there is no argument there, I do not believe, unless there is a newfound argument. Very legitimate change in the SSI Program due to a court decision which we have discussed on the floor many times. We have, in fact, loosened the provisions in this bill from the provision that passed the Senate just a few months ago.

We said with respect to noncitizens in SSI that they would never be eligible for SSI until they had worked 40 quarters and would be eligible through the Social Security System. We now allow for people who are noncitizens, legal noncitizens to qualify for SSI benefits if they become a citizen.

So citizenship, something many Members on the Democratic side of the aisle voted for in an amendment that was here that was narrowly defeated in the Chamber, we have now conceded the point that they lost here on the Senate floor and loosened the eligibility requirements for SSI, another reason we have moved more toward them as opposed to away from them in this bill.

One thing that we did add is we added to the SSI requirement for legal noncitizens—I should not say requirement, the SSI ineligibility for legal noncitizens, the State has an option as it did in the original bill to eliminate cash welfare, Medicaid and title 20 services if they so desire.

If you look at probably the last argument that Members of the other side will have in searching for reasons not to vote for this legislation, it will be that we end the tie between welfare, people on AFDC and Medicaid. For the clarification of Members, if you qualify for AFDC, you automatically as a result of your eligibility for AFDC become eligible for an array of benefits—food stamps, Medicaid, potentially housing.

What we have done, since we are block granting Medicaid to the States, we are going to say to the States that they will be able to determine eligibility for their program. And that includes whether they want to make people who are on AFDC eligible for their program.

Obviously, most Governors will tell you that they will. But even if they do not, which I think is unlikely, but even if they do not, the Congressional Budget Office has scored this provision, this decoupling of AFDC and Medicaid, have scored this provision on the following assumption: that all the children who now are on AFDC and qualify for AFDC will qualify for Medicaid under some other provision in law other than AFDC.

So all of the children that are now qualified under AFDC will qualify anyway under some other avenue, and it is so scored. So when you hear the comments over here that all these children will be cut off of health care, not true, not according to the Congressional Budget Office and not according to at least many of the Governors' understanding of the current law.

And again according to the Congressional Budget Office, slightly over half of the women in this program will automatically qualify for Medicaid from some other avenue other than AFDC. The rest will have to qualify under the new State standards. And as I said before, and I think Senator HUTCHISON from Texas said it very well, even though the Governor from Texas went to Yale and not the University of Texas or Penn State, I am sure the Governor of Texas and Governor of Pennsylvania have concern for their citizens and mothers trying to raise children in very difficult circumstances and recognize the need for the State to provide adequate medical attention. And to suggest otherwise I think goes back to the days of thinking of Southern Governors standing in front of the courthouse not letting people in because of the color of their skin. Those days are gone, and I would think that hearkening back to those kinds of days in this kind of debate does not lift the content of the debate to a credible level.

That is it. Those are the differences between H.R. 4, as passed by the Senate, and H.R. 4 as before us now, hardly startling differences that would send people rushing to the exits to get away from this horribly transformed piece of legislation.

This piece of legislation was crafted to pass the Senate with a margin very similar to the margin that passed originally, with those who would examine the content of this legislation and vote for it on its merits not because of pressure from the White House due to an expected veto.

On the merits, this bill matches up very well with what passed just a very short time ago. On the merits, this is a bill that all of us can be proud of, that is going to change the dynamic for millions of citizens to put that ladder all the way down, to create opportunities for everyone in America to climb that ladder, as my grandfather and my father did, who lived in a company town, Tire Hill, PA, right at the mouth of a coal mine, got paid in stamps to use at the company store, and in one generation, in one generation in America lived to see their son in this Chamber. That is the greatness of America. That is what this whole welfare reform bill is all about. I can tell you because I was in those discussions. I have been in those discussions on the House floor 2 years ago. I was in those discussions here during the Senate debate, in the back rooms where we worked on all the details of this bill; we crafted the compromises, every step of the way from the original introduction of the House bill 2 years ago to the final compromise in the conference.

I can tell you with a straight face that when we made decisions on what to put in this legislation, not just the principal, but the sole reason for changing the welfare system from what it is to what I hope it will be was not the dollars that were saved but the people it would help and the lives that would change for the better.

This is not about balancing the budget. This is about creating opportunity and changing the face of America, changing the word "welfare" from that disparaged term to one that we can all be proud of, that we can all say, yes, America can work to help everybody reach up for more.

Mr. President, I yield the floor.

ADJOURNMENT UNTIL 10:15 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10:15 a.m., December 22.

Thereupon, the Senate, at 9:56 p.m., adjourned until Friday, December 22, 1995, at 10:15 a.m.

NOMINATIONS

Executive nominations received by the Senate December 21, 1995:

DEPARTMENT OF ENERGY

THOMAS PAUL GRUMBLY, OF VIRGINIA, TO BE UNDER SECRETARY OF ENERGY, VICE CHARLES B. CURTIS.

EXPORT-IMPORT BANK OF THE UNITED STATES

MARTIN A. KAMARCK, OF MASSACHUSETTS, TO BE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 20, 1997, VICE KENNETH D. BRODY, RESIGNED.

THE JUDICIARY

DONALD W. MOLLOY, OF MONTANA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MONTANA VICE PAUL G. HATFIELD, RETIRED.

SUSAN OKI MOLLWAY, OF HAWAII, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF HAWAII VICE HAROLD M. FONG, DECEASED.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 8373, 8374, 12201, AND 12212:

To be major general

BRIG. GEN. JAMES F. BROWN, 417-44-8924, AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. JAMES MCINTOSH, 136-30-6731, AIR NATIONAL GUARD OF THE UNITED STATES.

To be brigadier general

COL. GARY A. BREWINGTON, 519-44-4746, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. WILLIAM L. FLESHMAN, 236-62-8848, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. ALLEN H. HENDERSON, 502-36-9260, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JOHN E. IFFLAND, 279-44-1220, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DENNIS J. KERKMAN, 393-38-4163, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. STEPHEN M. KOPER, 289-34-0859, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. ANTHONY L. LIGUORI, 115-34-9869, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. KENNETH W. MAHON, 116-36-1696, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. WILLIAM H. PHILLIPS, 265-56-3520, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JERRY H. RISHER, 250-62-6920, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. WILLIAM J. SHONDEL, 283-38-0951, AIR NATIONAL GUARD OF THE UNITED STATES.

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be brigadier general

COL. BRIAN A. ARNOLD, 523-60-4452.
COL. JOHN R. BAKER 432-90-3934.
COL. RICHARD T. BANHOLZER, 394-50-2983.
COL. JOHN L. BARRY, 056-44-7396.
COL. JOHN D. BECKER, 292-40-8234.
COL. ROBERT F. BEHLER, 444-52-1612.
COL. SCOTT C. BERGREN, 268-48-1312.
COL. PAUL L. BIELOWICZ, 109-40-8502.
COL. FRANKLIN J. BLAISDELL, 322-42-5802.
COL. JOHN S. BOONE, 453-80-1474.
COL. CLAYTON G. BRIDGES, 414-68-5361.
COL. JOHN W. BROOKS, 047-38-8909.
COL. WALTER E. L. BUCHANAN III, 457-94-7387.
COL. CARROL H. CHANDLER, 487-58-9115.
COL. JOHN L. CLAY, 529-64-7432.
COL. RICHARD A. COLEMAN, JR., 246-58-5256.
COL. PAUL R. DORDAL, 577-66-1176.
COL. MICHAEL M. DUNN, 266-88-3491.
COL. THOMAS F. GIOCONDA, 159-38-8123.
COL. THOMAS B. GOSLIN, JR., 439-72-2970.
COL. JACK R. HOLBEIN, JR., 275-44-0552.
COL. JOHN G. JERNIGAN, 446-46-1322.
COL. CHARLES L. JOHNSON II, 416-70-5967.
COL. LAWRENCE D. JOHNSTON, 446-46-1244.
COL. DENNIS R. LARSEN, 387-54-3094.
COL. THEODORE W. LAY II, 356-38-9638.
COL. FRED P. LEWIS, 526-78-3712.
COL. STEPHEN R. LORENZ, 080-38-2664.
COL. MAURICE L. MCFANN, JR., 554-80-9309.
COL. TIMOTHY J. MCMAHON, 138-38-1034.
COL. JOHN W. MEINCKE, 052-38-2903.
COL. HOWARD J. MITCHELL, 372-56-0859.
COL. WILLIAM A. MOORMAN, 356-36-5251.
COL. TEED M. MOSELEY, 451-78-1516.
COL. ROBERT M. MURDOCK, 159-38-4098.
COL. MICHAEL C. MUSAHALA, 053-10-4529.
COL. DAVID A. NAGY, 407-66-5778.
COL. WILBERT D. PEARSON, JR., 436-72-4130.
COL. TIMOTHY A. PEPPE, 240-80-8336.
COL. GRAIG P. RASMUSSEN, 524-70-9204.
COL. JOHN F. REGNI, 003-40-3567.
COL. VICTOR E. RENUART, JR., 265-84-0278.
COL. RICHARD V. REYNOLDS, 535-48-1156.
COL. EARNEST O. ROBBINS II, 401-64-3677.
COL. STEVEN A. ROSER, 125-38-9610.
COL. MARY L. SAUNDERS, 454-84-9530.
COL. GLEN D. SHAFFER, 438-74-3490.
COL. JAMES N. SOLIGAN, 016-44-8751.
COL. BILLY K. STEWART, 585-07-6469.
COL. FRANCIS X. TAYLOR, 578-66-1721.
COL. GARRY R. TREXLER, 328-40-6465.
COL. RODNEY W. WOOD, 308-50-5034.

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 8373, 8374, 12201, AND 12212:

To be major general

BRIG. GEN. WILLIAM A. HENDERSON, 385-40-2276, AIR NATIONAL GUARD.
BRIG. GEN. TIMOTHY J. LOWENBERG, 483-50-7542, AIR NATIONAL GUARD.
BRIG. GEN. MELVYN S. MONTANO, 525-68-7736, AIR NATIONAL GUARD.
BRIG. GEN. GUY S. TALLENT, 409-58-5258, AIR NATIONAL GUARD.
BRIG. GEN. LARRY R. WARREN, 498-50-8470, AIR NATIONAL GUARD.

To be brigadier general

COL. JAMES H. BAKER, 263-58-2719, AIR NATIONAL GUARD.
COL. JAMES H. BASSHAM, 432-72-8202, AIR NATIONAL GUARD.
COL. PAUL D. KNOX, 502-36-8288, AIR NATIONAL GUARD.
COL. CARL A. LORENZEN, 507-58-9580, AIR NATIONAL GUARD.
COL. TERRY A. MAYNARD, 446-38-8629, AIR NATIONAL GUARD.
COL. FRED L. MORTON, 542-42-3770, AIR NATIONAL GUARD.
COL. LORAN C. SCHNAIDT, 521-56-1892, AIR NATIONAL GUARD.
COL. BRUCE F. TUXILL, 257-70-5226, AIR NATIONAL GUARD.

EXTENSIONS OF REMARKS

AUSA LUNCHEON SPEECH

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 21, 1995

Mr. SKELTON. Mr. Speaker, on October 17, 1995, the new Army Chief of Staff addressed the annual AUSA luncheon here in Washington. Gen. Dennis Reimer stressed the need to have quality and sufficient numbers in the U.S. Army. This speech is set forth herein:

AUSA LUNCHEON SPEECH

(By General Reimer)

Thank you very much, Mr. Paul, for that kind introduction. I must say that I have been on the dais for this luncheon for the last 5 years but not in this particular spot. I also want to say that it's a great view from up here.

This vantage point gives me the opportunity to recognize America's Army—Active, United States Army Reserve, Army National Guard, and DA Civilians—and what a great group they are—what a wonderful group and I'm honored to be part of such an organization.

It also gives me the opportunity to tell our Allies who are here today in great numbers that your presence is important to us. Most of all, we appreciate your support and willingness to carry your share of the load.

To our supporters from Capitol Hill, the Members of Congress, the Professional Staff Members, let me say how much we appreciate all you've done. I know that your choices are not easy but you need to know that all of us are inspired by your willingness to stand up and be counted and your example of dedicated service to our Nation.

To corporate America, thanks for being here. You've been here with us through the good times and the bad and I would just simply say that we need you more now than ever.

To AUSA, 45 years old this year, I must also say thanks for being such a great friend. And thanks most of all for your efforts to improve the quality of life for our soldiers. You have helped us recruit and retain the best soldiers in the world.

And, finally, to all our friends—friends of the United States Army, let me say that your friendship means everything to us.

This is my first opportunity as Chief to address such a large and important audience and I want to share with you some thoughts on Today's Army and where we are headed in the future. As this audience certainly knows, the primary mission of the Army is to be trained and ready to defend the Nation's security and freedom. Clearly, the fundamental responsibility of any Chief of Staff is to ensure that the Army is ready to execute this mission.

Recently I participated in two events which highlighted for me the importance of maintaining a Trained and Ready Army. I was in Hawaii in early September for ceremonies celebrating the 50th Anniversary of the end of the War in the Pacific. I was also fortunate to participate in a ceremony dedicating the Korean War Memorial in late July. The contrast between these two events, separated by less than 5 years in history, was striking. I could not help but reflect on the differences the 5 years between the end of World War II and the outbreak of the Korean War had made on our Army. In August 1945, the American Army was the largest and most powerful Army in the world. Its 89 divisions had been instrumental in destroying the military might of the Axis powers—a tribute to the millions of brave men and women who served and the tremendous capabilities of corporate America. However by June 1950, America's Army had been reduced to a shell of its former self. We had rapidly gone from 89 divisions and 12 million soldiers to 10 divisions and less than 600,000 soldiers.

As a consequence, at 0730 on 5 July 1950, a hastily assembled, ill-trained, and poorly equipped group of brave American soldiers waited in the cold rain—just north of Osan, Korea—as 33 North Korean tanks advanced toward their position. Behind these 33 tanks on the highway, in trucks and on foot, was a long snaking column stretching for over 6 miles. Due to poor weather the American soldiers had no air support. Due to the rapid drawdown they were poorly trained and under-manned. They were called Task Force Smith because we had to take soldiers from other battalions to make a battalion-sized organization. Their equipment reflected the lack of maintenance which is inevitable when readiness is not the top priority.

In the next few hours of fighting—these conditions were starkly played out on the battlefield. Our weapons could not stop their tanks—but they tried. One young lieutenant fired 22 rockets—from as close as 15 yards, scored direct hits on the tanks—but could not destroy them. Courage alone could not stop those tanks. Rifles and bayonets were no match for tanks and the wave of infantry behind them. In this short engagement, 185 courageous young Americans were killed, wounded, and captured; and the history of Task Force Smith was burned into the institutional memory of our Army forever.

In the summer of 1950 we were not prepared. We sent poorly equipped and untrained soldiers into battle to buy time for the Army to get ready. it certainly wasn't the fault of these soldiers or their leaders that they weren't ready—the system had let them down. Once again we were surprised and once again we paid a very steep price for our unpreparedness. As General Abrams said to this same gathering in 1973, "We paid dearly for our unpreparedness during those early days in Korea with our most precious currency—the lives of our young men. The monuments we raise to their heroism and sacrifice are really surrogates for the monuments we owe ourself for our blindness to reality, for our indifference to real threats to our security, and our determination to deal in intentions and perceptions, for our unsubstantiated wishful thinking about how war could not come."

In the harsh crucible of combat we relearned the lessons of tough training, good organization, and proper equipment. We must never again learn these lessons on the battlefield. As I shook hands with those veterans—at the dedication of the Korean War Memorial—I was reminded that the monument is not the only tribute to their courage, selfless service, and dedication. The real legacy can be seen in America's Army today. Our quality soldiers—Active, Reserve, and Guard—have the best equipment that the Nation can provide; and our tough, realistic training program has resulted in our status as the world's best Army—trained and ready for victory. No one with a lick of common sense really disputes this. As a footnote to this chapter, let me cite a personal experience. In 1987 when I was serving in Korea, General Brad Smith, that brave battalion commander whose courageous soldiers fought so well in 1950, came over and conducted a battlefield tour of where his task force fought. When he returned he sent me the handwritten training guidance that he had given to the battalion after the Korean War. That guidance talked about tough, realistic training and lots of live-fire. Today, the Gimlets—his old battalion—have that guidance—and more importantly they execute it. That's the real legacy of Task Force Smith.

However, there are similarities between 1950 and the situation we face today. in 1950: We lived in an uncertain world; the US was the world's greatest economic power; the US was the world's greatest super power; the US had a virtual nuclear monopoly; the US had the world's best Air Force and the most powerful Navy; the next war was expected to be a push button war with new weapons and machines taking over from men; and because of that we felt we could greatly reduce the size of our ground forces—and we did so very rapidly.

Today: We continue to live in an uncertain world; again, the US is the world's greatest economic power and the greatest super power; the US has the largest Navy in the world, capable of sweeping any conceivable adversary off the seas in a matter of days, assuring us access to all the world's oceans; the Nation also has the most powerful Air Force in the world, capable of sweeping any adversary from the sky in a matter of hours. It is right, and proper, and necessary for the US as a world super power and leader to have these naval and air capabilities. I wouldn't want it any other way.

However, today the active Army is the eighth largest in the world. Size by itself is not the most important thing, and America can still take pride in having the world's best Army because what we lack in quantity we more than make up in quality. Our world-class young men and women—who receive tough, realistic training and are equipped with the best equipment and weapons systems in the world—thanks in large part to what many of you here have done and continue to do—are the envy of every nation. But no amount of training or abundance of sophisticated equipment will suffice if we do not have enough quality soldiers to carry out the Nation's bidding. Numbers matter.

To accomplish our missions many of our soldiers have had back-to-back deployments and extended separations from their family. The average American soldier assigned to a troop unit now spends 138 days a year away from home—and many special units such as

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

MP's, air defense and transportation have been carrying a heavier load. To accomplish the requirements of our national security strategy, we must be a credible and effective ground fighting force. Peace is the harvest of preparedness. We must, however, temper our desire for peace with the realities of history. In 1950 we learned that deterrence is in the eye of the beholder. Stalin and Kim Il Soong looked at South Korea and were not deterred by the 10 under strength and ill equipped American divisions. We must always have an Army of sufficient quality and size to deter potential adversaries and meet our international obligations. While the quality of today's force is unquestioned, I must tell you in all candor that I am concerned that we have reached the limit on how small our Army can be and still credibly accomplish the tasks currently assigned to us.

Today we do not have the luxury of time—nor will we in the future. We must be ready to deal with the world as it is now, not as we wish it to be. We have paid the price—in blood—too often—to relearn that lesson. With your help—we will not have to pay that price again.

The best example that the lessons of history are sinking in is that during the past 6 years—under the leadership of Generals Vuono's and Sullivan—we have reshaped ourselves and still remain trained and ready. It's been over 5 years since Operation DESERT STORM and in many ways it is tempting to pat ourselves on the back and rest on our laurels. But we cannot afford to do that. We must build the Army of tomorrow, the Army that will be required to meet the needs of a vastly different world.

Let me share with you our vision of that Army. A vision that is a direct legacy of the bloody lessons learned on the battlefield. A vision that is rooted in the tradition of 221 years of selfless service and mission accomplishment—it is a vision which—will ensure our ability to meet the Nation's needs of the 21st century.

In our vision we see the world's best Army—trained and ready for victory—a total force of quality soldiers and civilians: A values based organization; an integral part of the joint team; equipped with the most modern weapons and equipment the country can provide; able to respond to our Nation's needs.

Changing to meet the challenges of today, tomorrow, and the 21st Century.

It's not just the words but the meaning behind these words. Let me explain. The world's best Army. A bumper sticker that has been earned by our soldiers. Trained and ready for victory. The most important job for any army, a job in which we must not fail. A total force of quality soldiers and civilians. We tend to take for granted, I think, the dedication, selfless service and sacrifice of our great citizens soldiers in the National Guard and Reserves. We are also fortunate to have a quality civilian force that embodies the best of this great Nation. This recognizes that as General Abrams said, the Army is not made up of people, the Army is people. A values based organization. Values are important to us; selfless service, dedication, sacrifice, duty, honor, country are not just words but a code by which we live.

An integral part of the joint team. We recognize the tremendous contributions of our sister Services and are happy to stand shoulder-to-shoulder with them as we keep this great Nation free. Equipped with the most modern weapons and equipment the country can provide reflects our realization that we must invest in a modernization program for the 21st Century. Able to respond to our Nation's needs. We must be relevant to the needs of our country. And changing to meet the challenges of today, tomorrow, and the 21st Century simply reflects that the only constant in the world today seems to be change. We are dealing with it, we are growing more comfortable with it every day, and we will continue to have to deal with it in the 21st Century.

Our vision is set against the world as we see it. It reflects an environment in which missions are expanding both in terms of quantity and diversity. It reflects decreased resources, a loss of 34 percent of our buying power since '89. It recognizes, as President Clinton said, a world in which the line between domestic and foreign policy has becoming increasingly blurred. We live in a Global Village. It recognizes a modernization program that is currently at the irreducible minimum and badly in need of more resources. Today the Army allocation of the DOD Modernization dollars is only 13 percent. We have the smallest piece of a small pie.

Our vision recognizes that we must not repeat the Task Force Smith scenario. We must realistically face the challenges of today. Sacrificing our youth is not the solution. We will build no new monuments to our blindness to reality. We are trained and ready today, but our ability to dominate land warfare is eroding. And our modernization plan does not forecast filling the gap fast enough.

We have a plan to make this vision a reality—Force XXI. Simply stated Force XXI projects our quality people into the 21st Century and provide them the right organization, the most realistic training, an adequate and predictable sustainment package during both peace and war, and the best equipment and weapons systems our Nation can provide given the resources available. We intend to leverage technology in order to arm our soldiers with the finest most lethal weapons systems in the world. The power of information will allow the ultimate weapon—the individual soldier—to successfully meet the challenges of the 21st century and achieve decisive victory. Force XXI provides the framework for the decisions we must make today so that tomorrow's force will remain as trained and ready as we are right now.

That vision is very clear in my mind—however, achieving our vision is not preordained. We face a number of resource challenges as I have alluded to already. The basic challenge is to balance near term readiness, quality of life, and future modernization. Internally we will do our share to ensure the most effective use of our limited resources. We will continue to improve our operational and institutional efficiency in order to ensure we devote a many dollars as possible to modernization. In this regard, we intend not to be bound by traditional approaches. We are willing to make profound changes in the way we do business as long as they increase our efficiency and do not degrade our core competencies. Efficiencies such as velocity management, total asset visibility, integrated sustainment maintenance, and improved force management are all keys to becoming more effective.

Most people talk about the four tenets of the revolution of military affairs. I believe the Army, in order to be successful in this revolution, must embrace a fifth tenet; efficiencies. We must get the most bang out of every buck. We owe that to the taxpayer—but, more importantly, we owe it to our soldiers.

The key to achieving this vision—as it has been since 1775—is high quality soldiers. We must never forget that quality soldiers are the essence of our Army—always have been and always will be. For the past two decades we have demonstrated that an All Volunteer Army can be the world's premier fighting force. Quality soldiers attracted by a profession that allows them to be all they can be deserve adequate pay and compensation. They deserve to have their entitlements and benefits safeguarded from erosion. They deserve a quality of life equal to that of the society they have pledged their lives to defend. We must never allow our commitment to quality soldiers to diminish.

As I travel around the world I am continually impressed by the sacrifice and dedication of our soldiers. The state of readiness of the Army is more than its weapons, equipment, and doctrine. A key but intangible part is the spirit of our soldiers. General Patton said "It is the cold glitter in the attacker's eye not the point of the questing bayonet that breaks the line. It is the fierce determination of the drive to close with the enemy not the mechanical perfection of the tank that conquers the trench." Today nothing has changed. When I met the survivors of the Bataan Death March in Hawaii they still had that glint in their eye and you could feel the indomitable spirit that allowed them to fight on against overwhelming odds. In Germany, Korea, Hawaii, at the NTC, JRTC, and CMTC I see the same thing in our soldiers today.

When I see those soldiers doing their job so magnificently I'm reminded of a story from the 8th Division in World War II. In September of 1944 on the Crozon Peninsula the German General Herman Ramcke asked to discuss surrender terms with the American Army. General Ramcke was in his bunker when his staff brought in the 8th Infantry Division's Assistant Division Commander, Brigadier General Charles Canham. Ramcke addressed Canham through an interpreter and said "I am to surrender to you. Let me see your credentials." Pointing to the American infantrymen crowding the dugout entrance, Canham replied "These are my credentials."

This is as true today as it was then. Soldiers are still our credentials. Yesterday we honored some of these magnificent soldiers and we are fortunate to have some of them with us today. I would like for you to have a good look at the heart and soul of America's Army.

Sergeant First Class Anita Jordan, the Active Duty Drill Sergeant of the Year from Fort Jackson, South Carolina. SFC Jordan said that the reason she entered the Army was "I knew I wanted to do something and be somebody." As a drill sergeant, she coaches, teaches, and develops soldiers—one at a time—24-hours-a-day. She is somebody.

Sergeant First Class Bruce Clark, the Reserve Drill Sergeant of the year from the 100th Division, at Fort Knox, Kentucky. He is a real estate developer and a law student. Successful in two careers, he is indeed twice the citizen.

Sergeant First Class Cory Olsen, the Active Duty Recruiter of the Year from the Denver, Colorado Recruiting Battalion. An infantryman, he was deployed to Panama, Honduras, Scotland, and the Sinai. He understands selfless service.

Sergeant First Class Alan Fritz, the Reserve Recruiter of the Year from the Syracuse, New York Recruiting Battalion. An MP, he served on active duty in both Germany and Korea before he joined the Reserves. He illustrates the seamless blend we seek for America's Army.

Specialist Hellema Webb, the Soldier of the Year from Eighth Army in Korea. A mortuary affairs specialist, she deployed in 1992 to Mogadishu and now serves with the distinction across the world. She received a max score of 200 on the promotion board and is presently on the Sergeants Promotion Standing list. A model NCO who will help lead soldiers into the 21st century.

Specialist Troy Duncan, the Soldier of the Year at USAREUR. An MP, he has already served his 6-month tour of duty in Macedonia, is married with a 3-month-old daughter, and voluntarily teaches bicycle safety classes and assists young children in learning the sport of bowling. He understands the true meaning of commitment to the nation and service to the community.

Specialist Anthony Costides the FORSCOM Soldier of the Year. Born in Greece, he is a graduate of the Combat Life Saving Course, PLDC, and has 2 years of college. He is a Tracked Vehicle Mechanic in the 1st Infantry Division at Fort Riley, Kansas. He found an environment where he could be all he could be.

Sergeant Christopher Uhrich, the Virginia National Guard Soldier of the Year. A Fuel Handler who served in the United States Air Force prior to transferring to the National Guard in Virginia. He has over 7 years of service to his Nation. He embodies the sacrifice, dedication and commitment to our citizen soldiers.

Ladies and Gentlemen, these soldiers represent the best of America's Army. They are indeed special. They ask for so little. We owe them a great deal and I couldn't be more proud to say to you—these are our credentials.

ST. PAUL, MN SAYS GOODBYE TO REV. WALTER BATTLE

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 21, 1995

Mr. VENTO. Mr. Speaker, I rise to celebrate a fellow Minnesotan, and a friend, who devoted his life to the children of the Twin Cities and the world, Rev. Walter L. Battle. Reverend Battle was the head of a proud family, most of whom I have come to know personally because of their positive activities in our St. Paul community, especially Bob Battle, who is a friend and civic activist. Reverend Battle's interest and commitment to family extended to the greater neighborhood and community of St. Paul.

Reverend Battle was an advocate for children and active in many efforts to assist disadvantaged youth. Recognizing that every child has the potential to succeed, Reverend Battle worked tirelessly to give children opportunities to achieve success. During his 46 years of service as pastor of St. Paul's Gospel Mission Church, he led several efforts to help children. Among these efforts was the establishment of the Institute of Learning. The institute helps guide teenagers away from involvement with crime and drugs and find positive alternatives and goals for their lives. He also enabled countless numbers of inner-city youth to participate in summer camps, an activity that the children's families could not have afforded otherwise. Reverend Battle pursued this interest with a real passion, establishing a site and staffing it with volunteers.

Efforts were not confined to the Twin Cities community; they extended to children around the world. In the 1950's, Reverend Battle traveled to Haiti to help build schools and teach Haitian students to read. Just last year, demonstrating his long-term commitment to the children he helps, he collected over 1,000 pounds of food and medicine to send to Haiti.

Reverend Battle passed away last week, and the Twin Cities community is mourning the loss of our most beloved and devoted citizens. By making investments in the lives of our children, Reverend Battle has given our community a legacy that will live on in the successes of future generations that were influenced by his efforts.

Investing in our children is a fundamental ingredient for America's continued success and prosperity. Unfortunately, here in Washington, Congress is embroiled in a budget debate that is set to shift the priorities of our Nation away from this type of investment. The new Republican majority's budget package drastically cuts funding for initiatives that aid children in need, including education programs, welfare assistance, health care coverage and low-income tax credits. Dedicated advocates like Reverend Battle deserve better. As we lose soldiers like Walter Battle, who devoted their lives to children and the material and spiritual well-being of our communities, we honor them and must support their mission by providing reasonable programs and realistic funding at the federal level to support their efforts.

The funding reductions being advanced today will hit our Nation's most vulnerable citizens on all sides, reducing Federal support for many aspects of their livelihoods. At the same time, the funds being cut from these programs are being funneled into tax breaks for our Nation's wealthier citizens and corporations. If these funding reductions are enacted into law, efforts such as those begun by Walter Battle will run into expanded challenges in trying to create a better future for our children, especially the increasing population of children in poverty.

Reverend Battle's advocacy for our Nation's most precious resource, our children, and the positive influence he had on so many lives should be remembered, and it will be missed. His activities should not only be praised, but should be supported by a strong commitment from Washington to maintain the safety net our Nation has built to safeguard our Nation's citizens.

[From the St. Paul Pioneer Press, Dec. 19, 1995]

ACTIVIST WALTER BATTLE WORKED FOR KIDS

My children are going to have some food," the Rev. Walter L. Battle once told a reporter.

That particular time, he wasn't talking about his own kids or those of his St. Paul congregation, but the children of Haiti for whom he collected over 1,000 pounds of food and medicine last year.

Still, that attitude, strength of purpose and sense of mission permeated everything Battle did to keep kids on the right track. During a remarkable 46-year run as pastor of St. Paul's Gospel Mission church, community activist and youth advocate, he performed near miracles—all to give young people better lives.

His death last week, at age 74, of cancer deprived the community of one of its best champions of youth.

Among his many efforts for children were building schools and teaching youngsters to read in Haiti in the 1950s; taking inner-city kids to summer camps for many years; founding the Institute of Learning to give teens an alternative to drugs and street life, and fasting for 40 days to raise money for the Institute's programs.

Battle believed all kids were "his children." And so must we.

The best tribute to him would be to keep his legacy of service to children alive. So as not to lose more children to poverty, crime, illness, ignorance and inattention, we must all—like the Rev. Walter L. Battle—become advocates for children.

ONCE AGAIN REPUBLICANS SHUTDOWN THE FEDERAL GOVERNMENT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 21, 1995

Mr. STOKES. Mr. Speaker, I rise in strong opposition to the Republicans "shutdown" of the Federal Government. It is absolutely essential for the American people to know "Why we are"—"where we are." Let's be perfectly clear in telling the American people what is going on.

It is not the Republicans' budget that caused the Government to close. The Republican budget is an issue that should be taken up, and negotiated on—separate from the continuing resolution. The problem with the Republican budget is that it is so devastating to the American people's quality of life that it cannot stand on its own merit.

The primary reason why the Federal Government was forced to shutdown is that more than 2½ months into the fiscal year, the Republicans have failed to complete action on the fiscal year 1996 appropriations bills. Measures which provide agency operating funds.

Mr. Speaker, the legislative schedule provides sufficient time to pass each of the 13 appropriations bills which are needed to keep the Government fully operational. However, the Republicans put action on the appropriations measures on the back burner, while they gave priority—prime legislative time to their "Contract With America."

Mr. Speaker, that is "Why we are"—"where we are" today. There is no excuse for the situation the Republicans have placed the country in today. Just as there is no excuse for the pain and suffering that the Republicans will inflict on children, the disabled, seniors, veterans, and families just to give a tax break to the wealthy. This escalating situation—of Republican displaced priorities—is "Why we are"—"where we are" today.

All that is needed right now to open the Government, and to return an estimated 260,000 Federal employees to work is a clean continuing resolution. The Republicans are afraid to put forth a clean "CR," or to allow the Democrats to pass a clean "CR," because the GOP would no longer have the American people to use as their pawn in the negotiations on the GOP life-threatening budget.

The GOP must not be allowed to continue to hold the American people, and the country hostage. It is time for the Republicans to stop playing games. No amount of smoke and mirrors can hide the pain and suffering that is in the Republicans' budget. Stop the game play—pass a clean "CR"—return Federal employees to work, return critical services to the American people, and let real budget negotiations begin.

CONGRESS' MULTIBILLION DOLLAR DRAFTING ERROR

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 21, 1995

Mr. FRANKS of New Jersey. Mr. Speaker, earlier this month the following editorial appeared in the Washington Post regarding the windfall a few branded drug companies are receiving because of a drafting error in the Uruguay Round Agreements Act of 1994, which is the bill that implemented the GATT trade treaty.

Conservative estimates indicate that correcting this oversight will save the health care system $2.5 billion, with $281 million of that amount saved by the Federal Government and State governments in Medicaid payments. Unfortunately, the Senate recently defeated by one vote an effort led by Senators CHAFEE, BROWN, and PRYOR that would have corrected this glaring mistake.

Opponents of the Senate amendment want to delay resolution of this issue by holding hearings. However, every day that passes is another day consumers are being denied access to lower-cost generic drugs because of Congress' multibillion dollar drafting error.

Mr. Speaker, my home State of New Jersey is known as the medicine chest of the country. I have long been a supporter of our domestic drug industry, whose products have alleviated so much pain and suffering. Unfortunately, some members of the press and some special interest groups continue to overlook the tremendous amount of good the drug industry does, and instead, are only interested in beating up the industry with tired cliches about greed and avarice. This controversy, which started due to the lack of a technical conforming amendment, plays right into the hands of the industry's critics. The House needs to fix this drafting error soon before long-term damage is done to the reputation of these fine companies, and more importantly, so that the millions of Americans who rely on generic drugs can continue to purchase them at affordable prices.

[From the Washington Post, Dec. 4, 1995]

THE ZANTAC WINDFALL

All for lack of a technical conforming clause in a trade bill, full patent protection for a drug called Zantac will run 19 months beyond its original expiration date. Zantac, used to treat ulcers, is the world's most widely prescribed drug, and its sales in this country run to more than $2 billion a year. The patent extension postpones the date at which generic products can begin to compete with it and pull the price down. That provides a great windfall to Zantac's maker, Glaxo Wellcome Inc.

It's a case study in legislation and high-powered lobbying. When Congress enacted the big Uruguay Round trade bill a year ago, it changed the terms of American patents to a new worldwide standard. The effect was to lengthen existing patents, usually by a year or two. But Congress had heard from companies that were counting on the expiration of competitors' patents. It responded by writing into the trade bill a transitional provision. Any company that had already invested in facilities to manufacture a knock-off, it said, could pay a royalty to the patent-holder and go into production on the patent's original expiration date.

But Congress neglected to add a clause amending a crucial paragraph in the drug laws. The result is that the transitional clause now applies to every industry but drugs. That set off a huge lobbying and public relations war with the generic manufacturers enlisting the support of consumers' organizations and Glaxo Wellcome invoking the sacred inviolability of an American patent.

Mickey Kantor, the president's trade representative, who managed the trade bill for the administration, says that the omission was an error, pure and simple. But it has created a rich benefit for one company in particular. A small band of senators led by David Pryor (D-Ark.) has been trying to right this by enacting the missing clause, but so far it hasn't got far. Glaxo Wellcome and the other defenders of drug patents are winning. Other drugs are also involved, incidentally, although Zantac is by far the most important in financial terms.

Drug prices are a particularly sensitive area of health economics because Medicare does not, in most cases, cover drugs. The money spent on Zantac is only a small fraction of the $80 billion a year that Americans spend on all prescription drugs. Especially for the elderly, the cost of drugs can be a terrifying burden. That makes it doubly difficult to understand why the Senate refuses to do anything about a windfall that, as far as the administration is concerned, is based on nothing more than an error of omission.

DR. MARIE FIELDER HONORED

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 21, 1995

Mr. DELLUMS. Mr. Speaker, it is with pleasure that I rise to honor Dr. Marie Fielder for the work done and the leadership given over more than 30 years. I have known her for more than three decades, and her distinguished accomplishments in the behavioral sciences, her constructive organizational change strategies in school systems and in communities, as well as her towering strength and problem-solving ingenuity have contributed enormously to the goals and objectives of the San Francisco Bay Area and Berkeley community where she resides.

While serving as associate professor of education at the University of California, Dr. Fielder helped the Berkeley Unified School District, its board of education, administrators, teachers, students, parents, and citizens plan very carefully for the desegregation of its public schools. Despite an unsuccessful attempt to recall those particular board members, the city went on to become the first school system in the Nation to desegregate its schools, not by placing the burden only on minority students, but by two-way bussing which shared the responsibility across the city. This effort required enormous planning, building of trust, encouragement of participation, and the sharing of all points of view, and the empowering of parents and community members who had not been as active in the public schools before.

Dr. Fielder's genius in working respectfully with all kinds of people to help empower and enable them to solve their own problems became an inspiration for students in education at the University of California at Berkeley, at San Francisco State College, and at Stanford. Dr. Fielder herself became a role model, who encouraged and nurtured university students to pursue and attain their graduate degrees; and many of them went on to become impressive leaders in their respective careers in the decades which followed. Other campuses which called upon her for her expertise and assistance in multicultural and intergroup relations theory and practice included Oregon State university, Michigan State, the University of Miami, and St. Mary's College.

Similarly, over the decades, school systems across the Nation in at least 10 States have sought her assistance; and she has helped them. Dr. Fielder has shared her wisdom and skill in numerous California school districts; she has helped educators, students, and others learn very important things about themselves and about other human beings. She has been an exemplary public servant, bringing quiet dignity and distinction to every project on which she has worked.

Our local community, as well as our national community, are indeed fortunate in having amongst us the person, the work, and the leadership of Dr. Marie Fielder, and it is with great respect and admiration that I commend her to your attention.

THE TEMPORARY DUTY SUSPENSION ACT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 21, 1995

Mr. CRANE. Mr. Speaker, today, I am introducing a bill that could prove vital to the health and competitive position of U.S. companies that rely on imported components and raw materials, as well as their workers and communities. Specifically, my bill gives authority to the Department of Commerce to suspend the imposition of antidumping or countervailing duties temporarily on a limited quantity of a particular product needed by the American industry when users are effectively unable to obtain that product from U.S. producers.

Under current laws, antidumping and countervailing duties are imposed on all covered products, even where there is no domestic production. However, imposing such duties on products that cannot be obtained in the United States hurts U.S. manufacturers who must compete globally, but does not reduce injury to any U.S. industry. Current U.S. trade laws simply do not provide adequate redress for American firms that need products subject to orders but cannot obtain them from U.S. producers. Present procedures are operative only in situations in which domestic producers have no intention of ever producing a particular product.

By contrast, my bill would address situations in which a product is only temporarily unavailable—i.e., situations in which the domestic industry is not currently producing a product but may wish to leave open the option of doing so in the future. The bill provides the Department of Commerce with the flexibility to suspend duties temporarily until the domestic industry is able to produce a particular product. The temporary relief will encourage the domestic industry to develop new products since it will enable U.S. downstream users to stay in business in the United States until the U.S. industry begins to manufacture the needed input product—thus assuring that there will be U.S. customers for new products produced by the domestic industry.

This proposal is a substantial departure from the short supply proposal considered by the Ways and Means Committee last year. Last year's proposal was modeled on the short supply provision in the U.S. voluntary steel restraint agreements and limited the discretion to be exercised by Commerce. My proposal is modeled on the temporary duty suspension provision that the European Union included in its antidumping regulation last year. It increases the degree of flexibility and discretion that Commerce will have in administering a temporary duty suspension provision, thereby responding to Commerce's concern about the burden of administering such a provision. With this increased flexibility and discretion, the proposal should not impose any significant burden on the Department.

My temporary duty suspension provision would not in any way undermine the effectiveness of the antidumping or countervailing duty laws or the protections that these laws afford to U.S. producers and workers. This provision would apply only in situations in which no U.S. producer benefits from the protection of antidumping laws and downstream U.S. producers and their suppliers would be harmed because the product cannot be obtained in the United States.

The current failure of U.S. antidumping and countervailing duty laws to consider domestic availability of products subject to these proceedings continues to hamper the competitiveness of numerous U.S. companies. A large and diverse group of trade associations and companies employing well over 1 million American workers supports including a temporary duty suspension provision such as this one in the trade laws because it gives Commerce the flexibility and control necessary to address changing market conditions.

I look forward to moving this provision forward at the earliest opportunity.

THE "REAL FRIEND" OF U.S. EDUCATION

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 21, 1995

Mr. BEREUTER. Mr. Speaker, this Member highly commends to his colleagues the following editorial from the December 13, 1995, edition of the Norfolk Daily News.

[From the Norfolk Daily News, Dec. 13, 1995]

THE "REAL FRIEND" OF U.S. EDUCATION

Who is helping education in the United States more?

President Clinton, is resisting Congress' balanced-budget plan, says that federal lawmakers are being too zealous in cutting government education programs. By resisting those cuts, the president said he's making a strong stand for education.

Members of Congress, on the other hand, say their budget plan does much more for education in the United States by providing all American families with a $500-per-child tax credit—even if some current government education programs are reduced in scope.

So, who's right?

We'll side with Congress on this one.

Consider this. If an average American family saved the entire $500-per-child tax credit for a period of 18 years and invested it, that same family would be able to accumulate an amount of money equal to what $14,000 buys today. That's a long way toward paying the cost of education at a public university.

Or, that same American family would be able to use the tax credit to pay a portion of tuition at a typical private elementary school.

What's more, Congress' balanced-budget plan—if passed—would cause interest rates to drop by at least one-half percentage point. That kind of reduction in rates would save a student more than $400 on the cost of an average student loan. That kind of money can pay for books, some tuition costs or a big portion of a personal computer.

The reality is that Congress' plan would cut less than 2 percent per year during the next seven years from a federal education budget that represents only a tiny fraction of the total amount of dollars spent on education in the United States, according to figures from the Heritage Foundation in Washington, D.C.

So, here's the real choice: Cut a tiny portion of a budget that itself is a small fraction of America's educational effort or deny 28 million American families a financial gain that would help provide for a better education for their children.

We shouldn't have to struggle long on this one. We hope President Clinton realizes the same, too.

BALANCING THE BUDGET

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 21, 1995

Mr. PACKARD. Mr. Speaker, the Clinton administration made a commitment a month ago to balance the budget in 7 years using the honest numbers of the non-partisan CBO. My Republican colleagues and I responded to that commitment by offering smaller reductions in the rate of growth in Government spending in certain areas favored by the President while still achieving balance in 7 years.

Through hard work and compromise, we obtained a promise from the President. Congress has held up its end of the bargain both to the President and the American people. The question now is whether Mr. Clinton's word and his signature mean anything—whether his administration has any intention of balancing the budget. Yesterday, the President finally agreed to take personal charge of the budget negotiations—instead of using various members of his staff—and once again committed to work toward crafting an agreement by New Year's eve.

Perhaps I do not have to reiterate this point, but a balanced budget is essential for the future of the country. A recent survey by the Joint Economic Committee shows that the financial cost of not balancing the budget would be about $2,300 per family. A failure to balance the budget would cause slower economic growth, higher interest rates, and taxes. This in turn would result in mortgages, student loans and car loans costing families more each year.

Mr. Speaker, this renewed interest in the budget negotiations by the President is a step in the right direction. We now have reason for optimism in the new year, but only if the President remains committed to his word.

TRIBUTE TO SANFORD M. LITVAK

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 21, 1995

Mr. WAXMAN. Mr. Speaker, I ask colleagues to join me in paying tribute to Sanford M. Litvak, a distinguished attorney who currently serves as the senior executive vice president and chief of corporate operations of the Walt Disney Co.

Mr. Litvak is greatly respected both in the legal community and among the advocates of legal reform and legal services for the poor. He has led the crusade to make the law a field of humane service, and not merely a remunerative profession.

On January 27, 1996 Bet Tzedek Legal Services will honor Sanford M. Litvak for his unstinting work in bringing high quality legal services to the poor the elderly, and others in need.

Under Mr. Litvak's vigorous leadership, the goals of Bet Tzedek have been realized even beyond the expectations of the organization's founders and staunchest supporters. He and his colleagues have assembled a well-organized, efficient, humanitarian organization that individuals can turn to for competent legal counsel when all other paths are closed.

Sanford Litvak sets a standard for us all to live up to. He has been able to balance his full family and professional life with energetic and creative contributions to the organization and leadership of Bet Tzedek and other humanitarian and philanthropic efforts.

I ask all of my colleagues to join me in recognizing Sanford Litvak for his important work with Bet Tzedek Legal Services. I wish him every success in all of his future endeavors.

TRIBUTE TO DAVID CHITTICK

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 21, 1995

Mr. ZIMMER. Mr. Speaker. I rise today to pay tribute to Mr. David Chittick, whose dedication and leadership helped AT&T become a model corporate citizen and a protector of the environment. Mr. Chittick passed away on November 19, 1995, after a battle with cancer.

David Chittick helped AT&T set goals that eventually led to its elimination of ozone-depleting chemicals and significant reductions in toxic air emissions. His career and work as an environmental leader earned Dave much well-deserved recognition. In 1991, he was awarded the Environmental Protection Agency's stratospheric ozone protection award for outstanding leadership in the industrial field. He was a member of the United States Mission to the People's Republic of China on stratospheric ozone depletion in the electronics industry and also served with the United States State Department and EPA delegations to the former U.S.S.R. and Hungary.

In addition, Dave was involved in a number of environmental organizations including the National Wildlife Federation's Corporate Conservation Council, the board of Resources for the Future, the Environmental Law Institute, the Management Institute for Environment and Business and the environmental advisory committee of the Vermont Law School.

Dave Chittick began his career at AT&T in 1955. He served the company well for 39 years until his retirement in 1994. We will all fondly remember him.

BROAD MEADOWS MIDDLE SCHOOL: CARRYING ON THE MESSAGE OF IQBAL MASIH

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 21, 1995

Mr. STUDDS. Mr. Speaker, I rise today to honor the Broad Meadows Middle School of Quincy, MA., which earlier this month received the 1995 Reebok Youth in Action Award for the work students have done to carry on the message and honor the memory of Iqbal Masih, a 12-year-old human rights activist from Pakistan who was murdered earlier this year.

Since their work is so inspirational to all of us who care about human rights, I would like to place in the RECORD a copy of a letter I wrote to the students and their teacher, Ron Adams. I would also like to include a copy of an article about the students, which appeared December 6, 1995, in the Patriot Ledger of Quincy.

The letter follows:

DECEMBER 21, 1995.

DEAR RON: I am delighted to take this opportunity to extend my congratulations to you and the students at the Broad Meadows Middle School for winning the 1995 Reebok Youth in Action Award. The work you and your students have done to carry on the message and honor the memory of Iqbal Masih is inspirational to all of us who care about human rights.

I am also encouraged by the success of your fund-raising effort to build a school in Iqbal's name in his home village in Pakistan. The perseverance you have shown, as well as the ingenuity in using the World Wide Web, will be a lesson for the students the rest of their lives.

American students are not often directly exposed to the horror of human rights abuses in the Third World, but Iqbal's eloquent message obviously touched your students. I was impressed by the comments of Amanda Loos at the awards ceremony in New York earlier this month: "His visit made us realize how lucky we are to live in a country like America, to be free, to have an education and to have laws to protect us. We have all Iqbal ever dreamed of."

To commemorate your achievement, I will place this letter and the front page story in the Patriot Ledger on December 6 into the Congressional Record.

Again, congratulations for an award well deserved. I applaud the splendid efforts and dedication that you and your students have exhibited.

With kind regards, and best wishes for a happy holiday season.

Sincerely

GERRY E. STUDDS.

[From the Quincy (MA) Patriot Ledger, Dec. 6, 1995]

WORLD STAGE: QUINCY PUPILS INSPIRE MANY AT CEREMONY

(By Carol Gerwin)

The crowd at Harlem's Apollo Theatre in New York heard from rock stars, actors and world-renowned activists by the time Amy Papile and Amanda Loos took the stage at yesterday's Reebok Human Rights Awards.

But it was the eighth-graders from Quincy's Broad Meadows Middle School who stirred them to tears and spurred them to action.

Invoking the memory of their hero, a slain 12-year-old human rights leader from Pakistan, the girls asked the audience to help them continue Iqbal Masih's crusade to end child slavery and build a school in his name. Hundreds of them later asked for information about the campaign and many gave money.

"We realize building one school will not end child bonded labor . . . but building this school builds hope," Amy told the 1,000 people at the ceremony. "Please pass on our word."

Ending with a special message to Iqbal, she added: "Dear friend, rest in peace. We haven't forgotten you."

Amy, 13, and Amanda, 14, accepted the 1995 Reebok Youth In Action Award on behalf of their school to wild cheers and a standing ovation. It's the same award Iqbal received in Boston a year ago, just after he visited Broad Meadows and told about his escape from forced labor in a carpet factory and his efforts to free other children.

Inspired, the students immediately took up his cause and wrote letters to Pakistani officials asking for the enactment of child labor laws. They were shocked and devastated a few months later to learn Iqbal had been shot to death while riding his bicycle.

Ever since, they have been campaigning to build the school in his native village and to raise awareness about the 7.5 million children still in forced labor in his homeland. With a site on the Internet, and support from Amnesty International, the students raised about $29,000 from across the country.

By April, they hope to have $50,000—enough for a five-room community school.

Yesterday, Amy and Amanda shared the spotlight with Peter Gabriel, Richard Gere, Ziggy Marley and other celebrities, plus the four adults to win Reebok awards—a Mexican human rights lawyer, an American environmental activist, a Rwandan investigator and a Tibetan Buddhist nun.

Many in the audience wept as the students described how tiny Iqbal, his growth stunted from years of malnourishment, inspired them to take up his cause.

"His visit made us realize how lucky we are to live in a country like America, to be free, to have an education and to have laws to protect us," Amanda said. "We have all Iqbal ever dreamed of."

Film Star Susan Sarandon, who presented the crystal award, hugged the girls and praised the Broad Meadows students for channeling their anger into positive activism.

"They're a marvel of energy and commitment," Sarandon said. "It can be truly said of them they walk in Iqbal's footsteps."

Reebok has recognized outstanding activists each year since 1988. To many present yesterday, it was the youngest winners who best symbolize what the awards are all about—individuals, especially children, making a difference.

"Thank God, that's our future," master of ceremonies Angel Martinez of the Rockport Co. said as Amy and Amanda returned to their seats.

He told the crowd that Reebok will give Iqbal's prize money of $10,000, which was earmarked for his education, plus another $2,000, to the Broad Meadows campaign. Wiping tears from his eyes, he asked everyone to stand for a moment of silence in Iqbal's memory.

After the ceremony, a crush of people responded to Amy's and Amanda's pleas and picked up fliers from tables 10 other Broad Meadows students set up in the Apollo lobby.

The Quincy crew collected an estimated $800 and sold several dozen "School for Iqbal" T-shirts, as dozens thanked them for their efforts and encouraged them to keep up the good work.

"Amy and Amanda were only up there for a few minutes and so many people now want to help," seventh-grader Mary Kane said in awe. "It shows you can do a lot in a few minutes."

Later, their language arts teacher, Ron Adams, who coordinates the school's human rights curriculum, learned that singers Peter Gabriel and Michael Stipe of R.E.M. will donate a high-speed modem to make their cyberspace communication faster and easier. Also, superstar Sting and his wife, Trudie Styler, plan to donate $112 worth of stamps Adams said.

Richard Gere, who posed for pictures with Amy and Amanda, told them that he, too, will send a check.

Although both got as many autographs as they could at yesterday's news conference, they said they weren't fazed by the presence of so many stars or the national media interest in their campaign. It's the work that's most important, they said.

"This is really going to boost us up in our project and make people realize everything's not hunky-dory," Amanda said. "There are problems that need to be fixed right away."

Donations can be sent to A School for Iqbal Massih Fund, c/o The Hibernia Savings Bank, Quincy Hi-School Branch, 731 Hancock St., Quincy 02170.

A TRIBUTE TO MAJ. GEN. NOLAN SKLUTE, RETIRING JUDGE ADVOCATE GENERAL, U.S. AIR FORCE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 21, 1995

Mr. SOLOMON. Mr. Speaker, I would like to bring to your attention today the exemplary work and splendid public service of one of our country's outstanding military leaders, Maj. Gen. Nolan Sklute, the Judge Advocate General of the U.S. Air Force. General Sklute will be retiring after an especially distinguished military career on February 1.

General Sklute completed the Air Force Reserve Officer Training Corps Program in 1962 and entered active duty after completing law school in 1966. His assignments include Luke AFB, AZ; Athenai Airport, Greece; chief, general litigation branch, litigation division, headquarters, U.S. Air Force; staff judge advocate March AFB, CA; staff judge advocate, Bitburg AB, West Germany; deputy chief, claims and tort litigation division, headquarters, U.S. Air Force; executive to the Judge Advocate General; director of civil law, headquarters, U.S. Air Force; staff judge advocate, Air Force Logistics Command, and commander, Air Force Contract Law Center, Wright-Patterson Air Force Base, OH; Deputy Judge Advocate General, Headquarters, U.S. Air Force; and finally, the Judge Advocate General of the U.S. Air Force.

He received a bachelor of arts degree from Union College, Schenectady, NY, in 1962, and a juris doctor in 1965 from Cornell University School of Law, New York. He is a graduate of the National War College, the Armed Forces Staff College, Squadron Officer School, and earned his master of laws degree in government contracts from the National Law Center, George Washington University, Washington, DC. General Sklute is admitted to practice before the Supreme Court of the United States; the U.S. Court of Appeals for the Armed Forces; U.S. District Court, Northern District of New York; and the New York State courts. General Sklute's military decorations include the Distinguished Service Medal with one oak leaf cluster, the Legion of Merit with one oak leaf cluster, the Meritorious Service Medal with three oak leaf clusters, and the Air Force Commendation Medal.

Since 1993, General Sklute has served as the Judge Advocate General of the Air Force. In that capacity, he has provided dynamic leadership and professional supervision for over 2,900 military and civilian lawyers, paralegals, and support personnel. During this time of unprecedented legal challenges, General Sklute's dynamic leadership, sound judgment, personal and professional integrity and unwavering dedication to duty were instrumental in the successful resolution of numerous difficult issues facing the U.S. Air Force. As a key and trusted advisor to two Chiefs of Staff, his sound, timely and cogent advice was a critical component in a host of complex issues with a multitude of dimensions.

General Sklute's early recognition of the legal implications of information warfare has placed the Air Force in the forefront of this new arena. As a prime mover in the coordination of international education and training efforts, he established a joint service committee to foster democratic principles in fledgling democracies. Under his leadership, the Air Force continues to access extremely talented lawyers and paralegals. He has been instrumental in expanding the role of Air Force paralegals, empowering them by shifting responsibility and authority to the lowest possible level. General Sklute has also spearheaded the enhanced integration of active duty and Air Reserve component judge advocates.

Perhaps General Sklute's greatest legacy will be his unrelenting focus on the need for greater emphasis on leadership and accountability. These efforts are already paying significant dividends to the Air Force worldwide. This continuing effort underscored and reinforced the vital importance of Air Force's core values at all levels of command.

Mr. Speaker, I ask that you joint me, our colleagues and General Sklute's many friends in saluting this distinguished officer's many years of selfless service to the United States of America. I know our Nation, his wife Linda, daughter Stephanie and son Larry, are extremely proud of his accomplishments. It is fitting that the House of Representatives honors him today.

A 50TH ANNIVERSARY TRIBUTE TO JOHN AND MARY GAIL

HON. JON D. FOX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 21, 1995

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today to pay tribute to John and Mary Gail on the occasion of their 50th wedding anniversary. John and Mary were married on December 29, 1945, at St. Rose of Lima in west Philadelphia. They have been residents of Montgomery County, PA for 40 years, first in Merion Park and then in Bala Cynwyd, where they still live today.

Both John and Mary were born and raised in west Philadelphia, but they have made a mark in their Montgomery County community. They participate in local charities like the local Meals on Wheels Program. John and Mary are lifelong members of the Archdiocese of Philadelphia and remain active in St. Margaret's Parish in Narbeth.

John and Mary are two people with diverse talents—she the studious valedictorian at West Catholic Girls High, he the accomplished community theater performer—who together make a perfect pair. And now after a half-century together, they can take pride and comfort in their greatest achievement; together they raised a wonderful family. The Gails have four children; Brian, Barry, Kevin, and Eileen. John and Mary are proud grandparents to nine granddaughters and eight grandsons.

On December 30, the entire Gail family will gather at Philadelphia County Club to celebrate John and Mary's "Golden Jubilee." Let me add my best wishes for a wonderful golden anniversary. As John and Mary look back on their wonderful years together, on the life they built and the family they raised, all of us should raise our glasses to them and say simply "well done." Congratulations to this terrific couple!

TRIBUTE TO SYLVIA AND JULIE WETTER

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 21, 1995

Mr. ENGEL. Mr. Speaker, I rise today to pay tribute to my aunt and uncle, Sylvia and Julie Wetter, who celebrated their 50th wedding anniversary on November 11, 1995.

Mr. Speaker, Sylvia and Julie Wetter were married on November 11, 1945 and were long-time residents of Bronx, NY. For the past 7 years, they have lived in Atlanta, GA.

Their marriage has been blessed by the birth of two children, Alice Wetter Paul of Marietta, GA and David Wetter of Bronx, NY. Alice is married to Danny Paul, and they have two lovely daughters, Michelle and Jillian.

Throughout their lives, Sylvia and Julie Wetter have committed themselves to serving the Nation and community.

Julie worked for years with the U.S. Postal Service before moving on to Empire Blue Cross/Blue Shield.

Sylvia, my father's sister, has been an animal rights activist and has been very involved as a volunteer assisting those who have been afflicted with multiple sclerosis. During World War II, Sylvia worked for the coordinator for international affairs at the Department of Commerce.

Julie Wetter served with great distinction with the 83d Division of the 9th Army during World War II. In fact, Julie was drafted when former Secretary of War Simpson selected the ball with his birthdate as the first group of young men to serve our Nation during the war. Julie served 5 years in the infantry, rising to the rank of staff sergeant.

Julie was the first in his division to reach the Rhine River, served in the Battle of The Bulge, and was awarded the Bronze Star, Silver Star, and Purple Heart for his service to his Nation and the cause of world freedom.

Mr. Speaker, Sylvia and Julie Wetter are two individuals who exemplify what is good and right about our Nation. They have served their Nation and community with pride, they have raised a wonderful family and they have shared a love that has lasted more than 50 years. I also want them to know that I love them very much.

I ask my colleagues to join me in honoring and congratulating Sylvia and Julie Wetter on the occasion of their 50th wedding anniversary, and I know that their Congressman and my colleague, JOHN LEWIS, shares my heartfelt sentiments in wishing them the best.

THE AMERICAN PEOPLE SAY NO TO THE REPUBLICANS' BUDGET

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 21, 1995

Mr. STOKES. Mr. Speaker, I rise in strong opposition to the Republicans' budget. According to the polls, the American people believe that the Republicans' budget cuts go too far.

Despite the fact that the American people continue to say no, to making seniors pay more for less health care; despite the fact that the American people continue to say no to taking health care services away from children and pregnant women; despite the fact the American people continue to say no to gutting Medicare, Medicaid, and education; despite the fact that the American people continue to say no to destroying the environment; despite the fact that the American people continue to say no to tax cuts for the wealthy; and most important, despite the fact that the people have spoken; the Republicans still want to force their life threatening budget down the throat of the American people.

Because the GOP budget cannot stand on its own merit, the Republicans are still trying to tie their budget mess to a continuing resolution. Because the President will not agree to the Republicans' devastating cuts and wants to protect Medicare, Medicaid, education, and the environment, once again, the Republicans have shutdown the Federal Government. This is the Republicans' second shutdown in 2 months. The GOP's blackmail approach to budgeting is not just shameful, it is irresponsible. The GOP must not be allowed to continue to hold the American people, and the country hostage to their life threatening budget.

TITLE I, AN EDUCATION TOOL MEETING THE NEEDS OF CHILDREN

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 21, 1995

Mr. VENTO. Mr. Speaker, I rise today in support of an education program that is relied upon as an integral component of the Federal Government's commitment to ensure quality education for every American, title I of the Elementary and Secondary Education Act. Funds from title I enable schools to provide additional academic assistance to at-risk students. These children are our most vulnerable students. They are children who are more likely to fail or slip behind academically, and they are moderate- and low-income families that often lack the network of support and enrichment that contributes to successful education and schooling.

A major element of the title I program is the involvement of families in the education of their children. Parents and educators share ideas and opinions through the title I Advisory Councils where innovative solutions are developed to help these at-risk students learn. Furthermore, the parent involvement continues into the classroom setting and the home through parent classroom visits and the heightened awareness the parent takes home with them regarding the child's educational needs. Seventy-five percent of the funds Minnesota spent to educate poor children in 1995 came from the $81 million title I fund, which Republican reconciliation and appropriation measures propose to cut. If these budget cuts are enacted, Minnesota is set to lose $14 million in title I assistance in 1996.

Title I is to education what preventative medicine is to health care. It assists students just slipping behind in their level of learning and achievement in school. By providing this extra assistance, especially early in their school years, students are less likely to be held back, and, therefore, benefit more fully from the schooling being provided to them. This type of key investment, made possible by title I resources, is a very important part of ensuring that students do not fall through the cracks and that all children receive the help they require and deserve to succeed. Unfortunately, prior year funding levels and demographic changes in our school settings across the Nation, including an increased number of children in need, have translated into a gap of needs that are going unmet.

Today, the shortfall will be compounded by the misguided attempt to shift our Nation's priorities away from making investments in our Nation's children. The new Republican majority's budget package targets title I for a 17-percent funding cut. Urban areas like the Twin Cities will be more severely impacted by these proposed cuts due to the higher number of low-income families housed by our Nation's cities. Schools that currently rely on these funds to give added attention to at-risk students will be forced to decrease the number of students receiving this aid, or reduce funding in other areas of their curriculum to maintain the same level of service.

Furthermore, when reductions in title I are considered together with the cuts being proposed to other programs that assist disadvantaged children, the impact becomes enormous on this vulnerable population. Funding cuts in programs such as welfare assistance, Supplemental Security Income for disabled children, health care coverage and even nutrition programs are included in the new Republican majority's budget plans that would hit low-income children on all sides at once, placing significant new hurdles in the already difficult path to educational success for these vulnerable students.

Investing in our Nation's children is an essential component for the future prosperity and competitiveness of our Nation, and education is an integral part of that investment. Scientific research has repeatedly demonstrated that sound educational investments early in the schooling years positively impacts not only a child's academic future, but it strengthens their post-school years as well. Every child has the potential to succeed, and title I gives at-risk students the opportunity to achieve that success. As a society, we should make these type of investments today. So-called savings by cutting education programs means less success for our Nation's children and, therefore, our Nation's future.

Mr. Speaker, I would like to enter two outstanding articles by Thomas J. Collins and Bill Salisbury into the RECORD. They appeared in the St. Paul Pioneer Press on December 10, 1995, and I think they are very accurate accounts of how much schools in the Twin Cities value the activities they are able to pursue through title I and how essential this program is to the students who receive extra help from it. We must provide these extraordinary teachers, Ray Simms, Mary Bakken, Paula Mitchell, Deirdre Vaughan, Audrey Bridgeford, Jean Jones, Myrtis Skarich, and Jeff Maday, adequate tools so that they are able to serve the needs of our children, our Nation's most important resource.

[From the St. Paul Pioneer Press, Dec. 10, 1995]

TITLE I'S TIGHTROPE: WILL POOR KIDS LOSE?

(By Thomas J. Collins)

For a fleeting moment Tuesday evening, the glass-enclosed vestibule of the Naomi Family Center in downtown St. Paul offers a silent, fishbowl view of lives in turmoil.

Teacher Ray Simms is about to step inside, as he does four evenings each week. Silly, isn't it, he says to himself. The better I do my job, the less need there may be for it in the future, he thinks.

In the lobby, he walks past the cacophony where young women and their children flood toward a counter to get evening meal tickets amid the heavy cafeteria odor of dishwater and cooking meat. Up a clanky elevator to the second floor, Simms on this night will test his sixth-grade student's ability to tally time.

Simms and Eugene Booker sit in overstuffed chairs for two hours, counting hours, minutes and seconds like those that have measures the sixth-grader's life since he and his family lost their home in April. Later, the two move on to complicated math problems.

This isn't a classroom. It's a homeless shelter. And to Simms a teacher at Benjamin E. Mays Magnet School, it's not the familiar clanging of lockers or chatter of students he hears outside this door.

The special instruction Simms provides, as well as one-on-one sessions he and other teachers offer to poor kids in schools throughout the city, is part of a program that makes up one of key education targets for those trying to keep the federal budget in line.

The bulk of education money in the United States comes from state and local sources. But when the budget cutting is finished in Congress, education, like many other services, will feel the pinch. And Simms' program, known as Title I, is likely to feel it more than most.

It won't be eliminated, but enough will be trimmed around the edges to allow some kids who cannot read or write to slip away.

Under a proposal in Congress, Minnesota's share of Title I money would decrease by $14 million next year from $81 million. The money pays for programs in every one of the state's 400 school districts, aimed at supplemental support to low-income or transient students at risk of failing in school.

As public schools increasingly come under attack for failing low-income and minority children, Title I has been a life raft for teachers trying to whittle classes that are too large, implement new teaching methods, extend school days if needed, shore up flimsy graduation standards and simply help kids keep up with their peers.

JUMP-START FOR LEARNING

Mary Bakken drapes her left arm around a tiny first-grader at Prosperity Heights Elementary School as he sounds out a simple sentence. She gets the magnetic letters that form the words and he pieces them together.

She mixes up the letters and he rearranges them, an act repeated several times. One of the words he is supposed to know is "how." Bakken asks him to write it and he does, finishing the "w" with panache.

Nearby another boy is struggling with the word "have." Paula Mitchell and her pupil go over and over the word, rearranging and writing the letters until he, too, moves on.

For an hour each morning, the two boys have the undivided attention of their teachers—a jump-start if you will—before they rejoin their regular classes.

"It has been wonderful," Mitchell said of the experience later. "These children are the most in need. They can be helped right away before they feel like they are failures."

Deirdre Vaughan, who coordinates Title I programming at Prosperity Heights, said about half of the school's 418 students need the extra help that the federal program finances. These are students who are scoring below the 30th percentile in national reading and mathematics tests, she said.

"Personally, I see great success with these children," she added. "I see children who like coming to school, whose attendance is improving, whose parents are involved in the program as well as the community."

Nationally, the programs have yet to be proved effective in raising test scores for low-achieving children. But experts claim they are a good start.

"A substantial portion of the enormous number of dollars spent annually on marginally, if at all, effective special education programs needs to be redirected toward preventing initial reading failure," said John Pikulski, who teaches courses in literacy education at the University of Delaware in Newark.

That makes sense to Trish Hill, whose 6-year-old daughter Alisha is a first-grader at Prosperity Heights. Alisha started school without knowing her alphabet.

"I tried working with her a bit at home but it didn't help," Hill said. After several weeks of the Title I regimen, in which Alisha reads simple sentences to her mother each night and reassembles a sentence from words that have been cut out in class, she is catching up.

"She's really excited about school now," Hill said. "The program makes kids like Alisha feel good about themselves."

ELIGIBILITY TEETERING

Propserity Heights on St. Paul's East Side is hanging on by its fingernails to the cusp of the Title I program. Seventy-five percent of its students receive free or reduced lunches; any fewer and it would be ineligible.

Prosperity Heights could be cut from the program next year as the district struggles with a reduced Title I budget. Teachers like Bakken and Mitchell could disappear as well.

"I would be very concerned about meeting the needs of our students if Title I was not here," Principal Audrey Bridgeford said.

Teachers Jean Jones and Myrtis Skarich say they couldn't meet those needs.

They now address them by pulling low-achieving students out of class for an individual tutoring or by breaking classes into small groups with the help of other instructors.

"I started teaching 25 years ago, and until we got this model I was never able to intervene when I needed to when a student was missing something," Jones said. "It's really less frustrating for me and for the children."

Richard Christian has a twin purpose when he visits Jones' class every Monday morning as part of the schools' Title I funded package. Sure, he wants to help his son Shawn and other first-graders improve their reading skills. But he's also on a mission to heighten the visibility of black men like himself in schools.

"It's very important for African-American males in particular to have a place in the classroom," he said after he finished helping another student with a difficult sentence. "The kids are too important for everyone not to be involved."

Jeff Maday barely has time to visit his own daughter between substitute teaching in St. Paul and working as a Title I tutor in homeless shelters six days a week. Tuesday he was trying to explain the symmetry between 24 inches and 2 feet. But his sixth-grade student, recently arrived from Chicago, is skeptical. How could 24 of anything equal 2?

They go over and over the concept until a broad grin breaks out on the student's face.

"The opportunity to work one-on-one doesn't happen in the regular classroom," Maday said. "You can't just write these kids off. It would be such a waste of potential."

[From the St. Paul Pioneer Press, Dec. 10, 1995]

THE BUDGET ISSUE

(By Bill Salisbury)

One in five public school students in Minnesota has a stake in the outcome of the budget battle between President Clinton and congressional Republicans.

Those 80,000 pupils get special help from a federally funded program, called Title I, that tries to provide children from poor families with the basic skills they need to keep up with their classmates.

House Republicans, in their drive to balance the budget and shrink the federal government, voted to slash Title I funding by 17 percent this fiscal year—a cut that could for example eliminate funding for intensive reading services for nearly 14,000 Minnesota children who are at risk of failing in school.

President Clinton, a strong proponent of the program since his early days as governor of Arkansas, is resisting the cuts. He has proposed a modest increase in funding for the program.

Education funding is one of the five budget areas where Clinton and congressional Republicans have fundamental disagreements. The others are Medicare, Medicaid, the environment and tax cuts.

Title I is the biggest and most critical federal education program at stake in the budget negotiations. "It is our flagship program in elementary and secondary education," Marshall Smith, U.S. undersecretary of education, said in an interview last week.

The federal government provides only a tiny fraction of the money U.S. schools spend on kindergarten through 12th-grade education. But it supplies $3 of every $4 spent on special services for poor children.

The House bill would reduce Title I funding by $1.1 billion, to $5.6 billion in the fiscal year that began Oct. 1. (The Senate has not passed an education appropriation measure, although a Senate committee approved a 10 percent cut in Title I.)

"With that $1.1 billion, we could provide intensive reading services to every kid in first grade who is in the bottom 25 percent of his class," Smith said.

Minnesota, which got $81 million from the program this school year, would get $14 million less next year.

"The bulk of our Title I dollars go for teacher aides that work with (kindergarten through fourth-grade) students who are struggling in reading and math," said Jessie Montano, director of the office of state and federal programs in the Minnesota Children, Families and Learning Department. "If those funds are cut, some of those aides would be laid off, and many more children who are eligible for special assistance would not get it."

While all Minnesota school districts get some Title I money, Minneapolis and St. Paul schools would be hardest hit by the cuts because they get the biggest shares of the federal money, based on their large concentrations of students from poor families. St. Paul stands to lose nearly $2 million in Title I funding, while Minneapolis could drop $2.1 million. St. Paul school officials say about 1,250 students would be dropped.

Minnesota schools also face cuts in a variety of smaller federal programs. For instance, the House bill would reduce federal support for programs to combat drug abuse and prevent violence by 60 percent, or $3.5 million for Minnesota schools, according to the U.S. Education Department.

The House would eliminate all funding for Goals 2000, a program intended to bring schools up to higher academic standards. Minnesota, which is using the money to develop and implement new high school graduation standards, would lose nearly $1 million.

The House and Senate both would consolidate more than 100 separate job training and placement programs into three block grants to the states. Under that plan, Minnesota would get $1.3 million less for vocational education next year, the Education Department estimated.

Schools in the state would also get less federal aid for bilingual and migrant education, dropout prevention, staff professional development, experimental schools and several other small programs. It's highly unlikely that states or local school districts would replace the federal dollars they lose, said Michael Casserly, executive director of the Council of the Great City Schools. He said schools in the nation's 45 largest cities, which stand to lose the most Title I funding, are least able to replace it because their budgets are already tightly squeezed.

Republicans say Title I, along with most other domestic programs must be cut to balance the budget.

"Our bill cut $9 billion from education, and we're proud of that," said Elizabeth Morra, spokeswoman for the House Appropriations Committee. "Just about every program took some kind of hit" to balance the budget.

Education could use some belt-tightening, Morra said. "Those programs have been growing out of control in recent years."

The federal government is funding 240 separate education programs this year, up from 120 programs in 1983, and that growth needs to be reined in, she said.

She predicted Congress would settle on $6 billion appropriation of Title I, which would be a $700 million cut from this year's level but almost as much as the program received in 1994. "It's hard to argue that $6 billion is not a lot of money," she said.

Title I is "generally thought of as a good program," she said, but it does not appear to be closing the learning gap between the rich and poor.

Smith, the undersecretary of education, agreed. He said the program was closing the gap in the 1970s and early 1980s, but has not made progress in recent years, for two reasons.

First, he said, the Reagan and Bush administrations weakened the program.

Second, he said, "poverty, crime and a whole lot of other things got markedly worse in the cities during that period."

To improve the program's effectiveness, Clinton and Congress last year changed the law to focus more money and effort on improving needy students' basic skills, especially in reading and math, Smith said. It's too early to measure the results of that change, he said, and too early to dismiss the program as ineffective.

Montano said the program has been effective in Minnesota. Minnesota student participants have always exceeded the national average in gains in reading and math skills, she said.

Morra also criticized Title I for wasting money on school districts that don't need it. Ninety percent of the nation's school districts receive money from the program, including those in the nation's 100 wealthiest counties. "Title I needs targeting," she said.

"She's right," Smith said. The administration proposed targeting the money, but House Republicans and Democrats "shot it down for political reasons," he said. The lawmakers didn't want to take money away from the wealthy school districts they represent.

Rep. David Obey of Wisconsin, the ranking Democrat on the House Appropriations Committee, said Title I cuts are unnecessary. He noted that while the Republicans slashed $1.1 billion from that program, they voted to pay for 20 more B-2 bombers than the Pentagon requested at a cost of $1.2 billion per plane.

SENATE—*Friday, December 22, 1995*

The Senate met at 10:15 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Glory to God in the Highest, on earth, peace, good will toward men.—Luke 2:14.

Almighty God, we praise You for Your faithfulness. Now in this sacred season, we join with Jews all over the world as they light their menorahs and remember Your faithfulness in keeping the eternal light burning in the temple. We gather with Christians around a manger scene and praise You for Your faithfulness to send the Light of the world to dispel the darkness. Your indefatigable love is incredible. You never give up on us. You persistently pursue us offering us the way of peace to replace our perversity. You offer Your good will to replace our grim wilfulness. In spite of everything we do to break Your heart, here You are, once again sending Your angel to tell us of Your good will to all humankind, Your pleasure in us just as we are, and for all we were intended to be. Change all our grim bah humbugs into humble adoration.

Make us Your Christmas miracles. Help us to be as kind to others as You have been to us, to express the same respect and tolerance for the struggles of others as You have been to help us turn our struggles into stepping stones, to understand us as we wish to be understood. Light up the candles of our heart, Lord, and help us shine with Your peace and good will. In the name of the Light of the world. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator DOLE, is recognized.

SCHEDULE

Mr. DOLE. Mr. President, we will immediately begin 30 minutes of debate on the veto message on H.R. 1058, the securities litigation bill. Following that debate, we will begin 30 minutes on the welfare reform conference report. At approximately 11:15 we will begin two consecutive rollcall votes, first on the veto message, to be followed by a vote on the welfare reform conference report.

Following those votes, the Senate will turn to consideration of the START II Treaty. Additional votes are therefore possible today on that treaty or any other matter that may become available, including a CR, if one is received from the House—I do not think that will happen—a Veterans' continuing resolution, which is at the desk, and any other available conference reports.

I will just indicate that the leaders will start their meeting with the President at 12 o'clock today in an effort to make progress on the balanced budget over the next 7 years. That meeting will last approximately 3 hours. I do not have any idea what may develop during that session, but at least it is another indication that some progress is being made. We are negotiating. I hope that we can come to some agreement soon. I yield the floor.

Mr. DASCHLE addressed the Chair.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The able minority leader is recognized.

SECURITIES LITIGATION REFORM

Mr. DASCHLE. I wish the President pro tempore a good morning.

Mr. President, I would like to make a couple remarks, if I can, about the securities litigation reform legislation.

The bill before us highlights the real problem that faces companies when frivolous lawsuits are filed against them by lawyers for a quick profit. Our goal should be to address this problem without undermining the ability of investors to protect themselves against real fraud. Regrettably, the bill reported from conference goes too far, effectively closing the courthouse door on investors with legitimate claims.

While fixing the problem presented by frivolous lawsuits requires remedy, this bill goes beyond that and, as a result, leaves investors unprotected against fraud in many instances.

The well-targeted veto of the President can force this bill back on the right track. Proponents and opponents of this legislation recognize that our first priority must be to protect investors. Families, senior citizens, and working people need to feel secure when they invest. They need to be encouraged to save and invest for their health care, their retirement, and their education.

But such investors will only have confidence in the market if they consider them to be fair. They must expect that they will be protected if they are defrauded. They need to know that the law will continue to protect small investors, pension funds, and taxpayers against another Charles Keating. Yet, under this bill, when the next Charles Keating appears, and one will, victims will recover almost none of their losses. The victims of the Keating fraud recovered over $260 million. Future victims will get a mere fraction of that. The lawyers who sued Keating say they would only have recovered $16 million under the new bill—$16 million—a fraction of the $260 million under the current law they have received.

The President indicated in his veto message that he would be willing to sign this bill if improvements were made. By sustaining his veto, we can address real problems raised by frivolous lawsuits, while avoiding the overly broad language that is now in the bill.

The President's veto message focuses on three problems with the conference report.

First, the bill allows corporate insiders to make false statements, so long

NOTICE

LOBBYING DISCLOSURE ACT OF 1995

A special joint notice from the Secretary of the Senate and the Clerk of the House concerning implementation of the Lobbying Disclosure Act of 1995 (P.L. 104–65) appears in this issue of the Record following both the proceedings of the Senate and the House. See pages 38469–38470 and 38529–38531.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

as they are accompanied by "cautionary language."

Second, it raises the bar so high on pleading standards that victims of fraud cannot get into court.

Finally, it forces victims to risk paying legal fees of wealthy defendants if they want their day in court.

Each of these problems should be addressed before this bill becomes law. Because the President's concerns are drawn very narrowly, a new bill with revisions to address these shortcomings can be written and approved. We can craft a better approach that protects investors while ending frivolous lawsuits. That should be the goal of this legislative exercise.

Mr. President, let me commend the distinguished Senator from Nevada, the Senator from Maryland, and others, who have laid out in a much more elaborate fashion over the last couple of days many of the same reservations that I just expressed this morning. We need to join them in sustaining the President's veto.

I yield the floor. I suggest the absence of a quorum.

Mr. President, I withhold that request.

SECURITIES LITIGATION REFORM ACT—VETO

The PRESIDING OFFICER (Mr. CAMPBELL). Under the previous order, the Senate will resume consideration of the veto message with respect to H.R. 1058, the securities litigation bill. The clerk will report.

The legislative clerk read as follows:

> A bill (H.R. 1058) to reform Federal securities litigation, and for other purposes.

The Senate resumed the reconsideration of the bill.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York [Mr. D'AMATO] is recognized.

Mr. D'AMATO. Mr. President, I urge my colleagues to see to it that the much-needed reform in the area of securities litigation is undertaken. By overriding the President's veto, that reform would be ensured.

I have notes here, comprehensive notes that detail the reasons why we have to change this system—one reform the bill makes is to bar professional plaintiffs, people who have little interest in a corporation who might own 10 shares of stock who are literally hired by the lawyers to bring these suits. That is wrong, but that is what is going on.

The legislation makes all kinds of improvements, but let me put my notes aside and refer to this morning's Washington Post. In its lead editorial, the Washington Post says quite clearly: "Override the Securities Bill Veto."

Let me refer to just one part of it:

> This bill would correct important flaws in the securities laws that are being systematically exploited by lawyers in ways that have nothing to do with fairness.

Mr. President, that is exactly what this legislation does. It corrects the law to protect investors. It gives to those people who are defrauded the opportunity, for the first time, to see to it that lawyers who will really represent their interests lead the case, as opposed to having a lawyer in charge who says, "I have the best practice in the world because I have no clients."

Imagine this attorney who, by the way, has contributed millions of dollars to a political party and who is exerting incredible pressure, who has paid millions of dollars for people to take out ads, phony groups, little startup groups, groups that then say, "Protect the investors, protect the investors". He has spent millions of dollars to oppose this bill—millions of dollars, and he brags about the fact that he makes his living—a very comfortable one of millions of dollars—because he has no clients. "I have no clients. That's the best kind of practice to have."

We have to put those lawyers out of business. Let me say, when it comes to protecting the interests of attorneys and litigants and seeing to it that claims can and should be sustained where there is merit, this Senator has been there with his support every time. I am not suggesting to you that this bill is perfect. I am not suggesting to you that there may not be some areas in which we will have to reform this legislation, but to suggest that we are now going to permit fraud is as wrong as it is to suggest that what is taking place now is preferable to reform. It is not and this legislation is not going to permit fraud.

This practice is wrong. This is bilking the system. This is bilking the small investor. This system as it stands is encouraging the kind of operation that hurts small investors and makes no sense; this legislation is long overdue.

I ask unanimous consent that the full text of the Washington Post editorial that appeared today be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 22, 1995]

OVERRIDE THE SECURITIES BILL VETO

> President Clinton was wrong to veto the securities bill. He caved to the trial lawyers' lobby, big contributors to the Democratic Party, in a dark-of-night action. Congress should override him. The House of Representatives voted the other day to do just that, with 89 Democrats joining the Republicans. Now it's up to the Senate.
>
> This bill would correct important flaws in the securities laws that are being systematically exploited by lawyers in ways that have nothing to do with fairness. When the price of a company's stock drops sharply, the present law invites suits on the questionable grounds that the company's past expressions of hope for its future misled innocent stockholders.
>
> This kind of suit has turned out to be a special danger to new companies, particularly high-technology ventures with volatile stock prices. The country has a strong interest in encouraging these companies and shielding them from a style of legal assault that is not far from extortion. The bill would protect companies' forecasts as long as they did not omit significant facts.
>
> Under present law, the first lawyer to file one of these strike suits controls the litigation regardless of who else might sue on the same grounds later. Frequently the lawyers who specialize in this work settle their suits on terms that bring trivial benefits to the shareholders but fat fees to the lawyers themselves. The bill that Mr. Clinton vetoed would instead give the judge the authority to pick the lead plaintiff—usually the plaintiff with the biggest stake in the outcome. Plaintiffs would then choose their own lawyers and make their own decisions on whether and how to settle. That is clearly a desirable reform and a major improvement in shareholders' rights.
>
> Mr. Clinton vetoed the bill because, he said, it would make too many difficulties for shareholders with legitimate grievances. There are two things to be said about that. This bill has been under intense debate and negotiation between the two parties for nearly a year, and if these defects are as significant as the president suggests, it's strange that the administration did not make an issue of them earlier.
>
> More broadly, Mr. Clinton speaks of future injustices that he believes this bill might create but has little to say about the real and substantial injustices that the present law is creating. Overriding his veto will end an egregious misuse of securities laws in ways that harm both companies and shareholders.

Mr. D'AMATO. I yield the floor.

Mr. SARBANES. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Maryland has 9 minutes 4 seconds. The Senator from New York has 8 minutes 20 seconds.

Mr. SARBANES. Mr. President, I yield myself 3 minutes and ask the Chair to let me know when the 3 minutes have been used.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. SARBANES. Mr. President, I rise to urge my colleagues to support the veto. We have a number of public interest groups that are in strong support of this veto. The North American Securities Administrators Association and the Association of the States Securities Regulators have written to Members of the Senate to urge us "to sustain President Clinton's veto."

They go on to say—and this is a very important point that we have continually emphasized during the debate:

> While everyone agrees on the need for constructive improvement in the Federal securities litigation process, the reality is that the major provisions of H.R. 1058 go well beyond curbing frivolous lawsuits and will work to shield some of the most egregious wrongdoers from legitimate lawsuits brought by defrauded investors.

That is the whole point. This legislation goes well beyond the purpose of curbing frivolous lawsuits. The examples that are always cited on the other side are examples with which we do not take issue. We would like to curb those kinds of examples, but we do not want to go beyond that, as the North American Securities Administrators say, "to shield some of the most egregious wrongdoers from legitimate lawsuits brought by defrauded investors."

I will ask unanimous consent that this letter be printed in the RECORD at the conclusion of my remarks, along with a letter from the National League of Cities, the National Association of Counties, the National Association of County Treasurers and Finance Officers, U.S. Conference of Mayors, Government Finance Officers Association, the Municipal Treasuries Association, which also states that those organizations support ending frivolous lawsuits, but pointing out that they are major investors of public pension funds and taxpayer moneys, who want to ensure that litigation reform is balanced and does not harm investors. They go on to say, unfortunately, H.R. 1058 is a bill that is special-interest excess masquerading as reform, and it makes a mockery of our world-renowned system of investor protection.

I ask unanimous consent that they be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SARBANES. This is not only State regulators and local government officials, whom I just cited, but consumer groups and legal experts.

Money magazine has editorialized on this issue, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Money magazine, December 1995]

NOW ONLY CLINTON CAN STOP CONGRESS FROM HURTING SMALL INVESTORS LIKE YOU

(By Frank Lalli)

The debate over Congress' reckless securities litigation reform has come down to this question: Will President Clinton decide to protect investors, or will he give companies a license to defraud shareholders?

Late in October, Republican congressional staffers agreed on a so-called compromise version of the misguided House and Senate bills. Unfortunately, the new bill jeopardizes small investors in several ways. Yet it will likely soon be sent to Clinton for his signature. The President should not sign it. He should veto it. Here's why:

The bill helps executives get away with lying. Essentially, lying executives get two escape hatches. The bill protects them if, say, they simply call their phony earnings forecast a forward-looking statement and add some cautionary boiler-plate language. In addition, if they fail to do that and an investor sues, the plaintiffs still have to prove the executives actually knew the statement was untrue when they issued it, an extremely difficult standard of proof. Furthermore, if executives later learn that their original forecast was false, the bill specifically says they have no obligation to retract or correct it.

High-tech executives, particularly those in California's Silicon Valley, have lobbied relentlessly for this broad protection. As one congressional source told Money's Washington, D.C. bureau chief Teresa Tritch: "High-tech execs want immunity from liability when they lie." Keep that point in mind the next time your broker calls pitching some high-tech stock based on the corporation's optimistic predictions.

Investors who sue and lose could be forced to pay the winner's court costs. The idea is to discourage frivolous lawsuits. But this bill is overkill. For example, if a judge ruled that just one of many counts in your complaint was baseless, you could have to pay the defendant firm's entire legal costs. In addition, the judge can require plaintiffs in a class action to put up a bond at any time covering the defendant's legal fees just in case they eventually lose. The result: Legitimize lawsuits will not get filed.

Even accountants who okay fraudulent books will get protection. Accountants who are reckless, as opposed to being co-conspirators, would face only limited liability. What's more, new language opens the way for the U.S Supreme Court to let such practitioners off the hook entirely. If such a lax standard became the law of the land, the accounting profession's fiduciary responsibility to investors and clients alike would be reduced to a sick joke.

Moreover, the bill fails to re-establish an investor's right to sue hired guns, such as accountants, lawyers and bankers, who assist dishonest companies. And it neglects to lengthen the tight three-year time limit investors now have to discover a fraud and sue.

Knowledgeable sources say the White House is weighing the bill's political consequences, and business interests are pressing him hard to sign it. "The President wants the good will of Silicon Valley," says one source. "Without California, Clinton is nowhere."

We think the President should focus on a higher concern. Our readers sent more than 1,500 letters in support of our past three editorials denouncing this legislation. As that mail attests, this bill will undermine the public's confidence in our financial markets. And without that confidence, this country is nowhere.

Mr. SARBANES. They conclude by saying: "This bill will undermine the public's confidence in our financial markets and, without that confidence, this country is nowhere."

I am fearful that that is the price we will pay for this legislation.

Finally, I ask unanimous consent to have printed in the RECORD a letter from Prof. Arthur Miller at the Harvard Law School.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HARVARD LAW SCHOOL,
Cambridge, MA, December 19, 1995.

Hon. WILLIAM J. CLINTON,
President of the United States, The White House, Washington, DC. 20500.

DEAR MR. PRESIDENT: On December 12 I wrote to you concerning the so called "securities reform" legislation, then embodied in Senate Bill 240. I urged you to oppose that legislation because (1) it was based on a totally erroneous assumption that there had been a sharp increase in securities litigation in the recent past, which is completely belied by every statistical measure available, (2) the federal courts, exploiting a variety of procedural tools such as pretrial management, summary judgment motions, sanctions, and enhanced pleading requirements, were achieving many of the goals of the so called reformists, most particularly the deterrence of "frivolous" litigation; (3) recent history suggests that the same vigilance is needed today to guard against market fraud as was needed during the superheated activity in the securities business in the mid-1900's; and (4) the SEC simply is unable to perform the necessary prophylaxis to safeguard the nation's investors, and private enforcement is an absolutely integral part of policing the nation's marketplaces.

I am writing again because the latest version of the legislation, H.R. 1058, contains provisions regarding pleading in securities cases and sanction procedures that, if anything, make the legislation even more draconian and access-barring than Senate Bill 240. It simply is perverse to consider it a "reform" measure.

I have always taken great pride in the fact that the words "equal justice under law" are engraved on the portico of the United States Supreme Court. I fear, however, that if the proposed legislation is signed into law, access to the federal courts for those who have been victimized by illicit practices in our securities markets will be foreclosed, effectively discriminating against millions of Americans who entrust their earnings to the securities markets. As difficult as the existing Federal Rules of Civil Procedure already make it to plead a claim for securities fraud sufficient to survive a motion to dismiss, especially given existing judicial attitudes toward these cases, the passage in House Bill 1058 requiring that the plaintiff "state with particularity facts giving rise to a strong inference" that the defendant acted with scienter, in conjunction with the automatic stay of discovery pending adjudication of dismissal motions, effectively will destroy the private enforcement capacities that have been given to investors to police our nation's marketplace. Despite misleading statements in the Statement of Managers that this provision is designed to make the legislation consistent with existing Federal Rule 9, the truth is diametrically the opposite, since the existing Rule clearly provides that matters relating to state of mind need not be pleaded with particularity. Indeed, it would be more accurate to describe the proposal as a reversion to Nineteenth Century notions of procedure. The proposed legislation also does considerable damage to notions of privilege and confidence by demanding that allegations on information and belief must be accompanied by a particularization of "all facts on which that belief is formed."

The situation is compounded by the proposed fee shifting and bond provisions that relate to the enhanced sanction language in the legislation. It is inconceivable that any citizen, even one with considerable wealth and a strong case on the merits, could undertake securities fraud litigation in the face of the risks created by these provisions. As the person who was the Reporter to the Federal Rules Advisory Committee during the formulation and promulgation of the 1983 revision of Federal Rule 11, the primary sanction provision in these Rules, I can assure you that no one on that distinguished committee would have possibly supported what is now so cavalierly inserted into the legislation.

I use the word "cavalierly" intentionally, because, as I indicated to you in my earlier letter, there is not one whit of empiric research that justifies any of the procedural aspects of this so called "reform" legislation. Not only does every piece of statistical evidence available belie the notion that there is any upsurge in securities fraud cases, but these proposals, with their devastating impact on our nation's investors, have completely bypassed the carefully crafted structure established in the 1930's for procedural revision that has enabled the Federal Rules to maintain their stature as the model for procedural fairness and currency. Thus, the proposed legislation represents a mortal blow both to the policies that support the private enforcement of major federal regulatory legislation and to the orderly consideration and evaluation of all proposals for the modification of the Federal Rules. From my perspective, which is that of a practitioner in the federal courts, a teacher of civil procedure for almost thirty-five years, and a co-author of the standard work on federal practice and procedure, I fear that all of that is extremely regrettable.

I hope you will give serious consideration to vetoing the legislation. If I can be of any further assistance to you or your staff in considering these and related matters, please do not hesitate to inquire. My telephone number is 617/495–4111.

My very best to you and your family during this wonderful holiday season.

Sincerely yours,

ARTHUR R. MILLER,
Bruce Bromley Professor of Law.

Mr. SARBANES. Professor Miller says in the course of this letter,

I have always taken great pride in the fact that the words 'equal justice under law' are engraved on the portico of the Supreme Court. I fear, however, that if the proposed legislation is signed into law, access to the Federal courts for those who have been victimized by illicit practices in our securities markets will be foreclosed, effectively discriminating against millions of Americans who entrust their earnings to the securities markets.

Do not make the mistake of exposing our investors to the pitfalls that the public officials, State security regulators, and these distinguished academics have pointed out. I urge sustaining the veto.

EXHIBIT 1

[Letter from National League of Cities (NLC), National Association of Counties (NACo), National Association of County Treasurers and Finance Officers (NACTFO), U.S. Conferences of Mayors (USCM), Government Finance Officers Association (GFOA), and Municipal Treasurers' Association (MTA), Dec. 21, 1995]

Hon. BOB DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: On behalf of the state and local government officials we represent, we urge you to vote to sustain President Clinton's veto of the Private Securities Litigation Reform Act of 1995 (H.R. 1058) and support legislation in Congress that truly accomplishes the goal of reducing frivolous litigation. Our organizations all support ending frivolous lawsuits because as issuers of municipal securities, we too may be sued, especially in light of the new Securities and Exchange Commission requirement for issuers to disclose annual financial information. On the other hand, we also are major investors of public pension funds and taxpayer monies who want to ensure that litigation reform is balanced and does not harm investors. Unfortunately, H.R. 1058 is a bill that is special interest excess masquerading as reform and it makes a mockery of our world-renowned system of investor protection. The over 1,000 letters from state and local government officials from all over the country that have been sent to Congress in the last few weeks attest to our deep conviction that this bill should not become law.

The following are the major concerns state and local governments have with the bill and the major reasons we supported a veto:

Safe Harbor for Forward-Looking Statements—The safe-harbor provision relating to forward-looking statements would allow false predictions to be made as long as they are accompanied by cautionary language. Municipal bond issuers take great care to provide full and accurate disclosure related to their finances and operations and cannot countenance a lesser standard for corporate issuers under any circumstances. No issuer, whether governmental or corporate, should be able to mislead potential investors. In addition, these provisions will be particularly harmful to state and local government pension funds, which rely on corporate information to assist in their investment decisions and would be denied recovery under this section.

Aiding and Abetting Liability—There is no language in the bill making aiders and abettors liable for fraud. If aiders and abettors of fraud are immune from civil liability, state and local governments, as issuers of securities, would become the "deep pockets" in a lawsuit and, as investors, we would be limited in our ability to recover losses. Our confidence in consultants who assist us in complex municipal bond transactions and in investing public funds is diminished by this bill because these consulting professionals have been granted immunity from responsibility. It is not reasonable to hold out the hope that this important issue can be dealt with in a subsequent bill. It must be dealt with as part of this reform effort or the opportunity will have been lost.

Statute of Limitations—It is equally important that the statute of limitations be extended. Otherwise, investors will be harmed by wrongdoers who are able to conceal fraud beyond the allowable period. Again, we do not believe this important change will be given serious consideration in the future if H.R. 1058 is passed in its present form.

Loser-Pays Provision—Finally, under the bill, fraud victims would face a potential "loser-pays" sanction and possible bond posting requirement at the beginning of a case. We are sure you are aware of the difficulty public officials would have in justifying proceeding with an investor lawsuit if there was also the risk that the injured government investor would have to pay the legal fees of a Wall Street investment banking firm, which is a defendant in a securities lawsuit. To us, this is an unacceptable and unfair approach to investor protection.

We urge you to support the President on this important issue. We are not asking you to support frivolous litigation. To the contrary, we want you to support legislation that stops the deplorable strike suits that are the target of securities litigation reform. However, a new law can be fashioned that deals with lawsuit abuses without jeopardizing our most basic and essential investor protections. Our groups pledge to work with the President and members of Congress so that a new law can be fashioned that deals with these concerns.

NORTH AMERICAN SECURITIES
ADMINISTRATORS ASSOCIATION, INC.,
Washington, DC, December 20, 1995.

Re securities litigation reform.

ALL MEMBERS,
U.S. Senate, Washington, DC.

DEAR SENATOR: I am writing today on behalf of the North American Securities Administrators Association (NASAA) to urge you to sustain President Clinton's veto of H.R. 1058, the "Securities Litigation Reform Act." In the U.S., NASAA is the national organization of the 50 state securities agencies.

While everyone agrees on the need for constructive improvement in the federal securities litigation process, the reality is that the major provisions of H.R. 1058 go well beyond curbing frivolous lawsuits and will work to shield some of the most egregious wrongdoers from legitimate lawsuits brought by defrauded investors.

NASAA supports reform measures that achieve a balance between protecting the rights of defrauded investors and providing relief to honest companies and professionals who may unfairly find themselves the target of frivolous lawsuits. Unfortunately, H.R. 1058 does not achieve this balance. NASAA's concerns with H.R. 1058 go beyond those articulated by President Clinton in his veto message. In sum, NASAA has the following concerns with H.R. 1058:

The bill fails to incorporate a meaningful statute of limitations. This single omission means that all but the most obvious frauds likely will be shielded from civil liability.

The bill's safe harbor lowers the standard for assuring the truthfulness of predictive statements about future performance. While we believe that information flow to the marketplace is a vital component of strong markets, we also believe that we should take prudent and reasonable steps to ensure that the information is reasonably reliable. However, rather than assuring the reliability of the forward-looking statement, the bill instead focuses on cautionary statements. Indeed, these cautionary statements likely will become the vaccine to immunize a host of intentional wrongdoing.

The bill fails to include aiding and abetting liability for those who participate in fraudulent activity. Failure to include such a provision makes recovery for investors doubtful in cases where the principal defendant is bankrupt, as was true in the notorious Keating/Lincoln Savings and Loan case. The result is that professionals who assisted, and perhaps could have prevented the fraud, would be virtually unreachable in civil actions. Since the bill proposes a proportionate liability system, rather than joint liability, it makes sense to require aiders and abettors of securities fraud to pay their fair share.

A provision of the bill's proportionate liability section is unworkable and disfavors older Americans. Under current law, a successful plaintiff may recover judgment from one or more of the defendants responsible. Under H.R. 1058, each defendant will be liable only for his or her proportionate share of the harm. Congress did make an exception in cases where a plaintiff can prove that his or her net worth is less than $200,000. This presents two problems. First, the provision is entirely unworkable in a class action involving hundreds of plaintiffs; because each plaintiff must meet the net worth test, proving individual net worth for hundreds of plaintiffs would not justify the effort for the meager rewards provided for in the bill. Second, the provision specifies that the value of a personal residence must be included in the net worth calculation. This provision will work against older Americans who usually have paid for their homes, although their annual income may be relatively modest. Consequently, if personal residence is not removed from the net worth calculation, these seniors likely will be unable to avail themselves of this provision, even though seniors as a group are more devastated by fraud because many live on fixed incomes and what little they get from investment of their savings.

NASAA's view from the outset has been that it is possible to curb frivolous lawsuits without making it equally difficult to pursue rightful claims against those who commit securities fraud. NASAA respectfully urges you to sustain the President's veto and to draft a balanced reform measure that does not harm our system of saving for retirement and preserves the rights of defrauded investors to bring suit under federal securities law.

Sincerely,

MARK J. GRIFFIN,
NASAA President-elect.

WHY SUPPORT THE SECURITIES LITIGATION REFORM CONFERENCE REPORT?

Mr. BRADLEY. Mr. President, when the Senate considered its version of securities litigation reform, I supported a number of amendments to it and eventually voted for the bill. I did so because it is my belief that that the bill stuck the best available balance between protecting investors from fraud perpetuated by unscrupulous issuers and shielding growing businesses seeking investment capital from frivolous and costly lawsuits.

Currently, frivolous lawsuits act as a damper on economic growth—imposing additional costs to growth and expansion that are both unwarranted and unnecessary. Lawyers can now tie up businesses in years of seemingly endless discovery and litigation—thus creating incentives for innocent issuers to settle rather than go through a protracted legal battle. There is little doubt that these suits impose a burden on the economy and should be stopped.

At the same time, individual investors need to be able to rely on the information that they receive about potential products and they need to know that the legal system is there to protect them in the case of an unscrupulous issuer.

As it has emerged from conference, the bill has been modified in a number of ways. Much attention has been directed to the pleading standard, the safe harbor, and the fee shifting provisions among other issues. The President identified these three area of concern in his veto message.

I have carefully reviewed the conference report and weighed the arguments on both sides. My conclusion is that the conference report would, on balance, achieve the goals I sought when I voted for the Senate-passed bill—stemming the tide of meritless litigation while at the same time putting in place certain pro-investor measures. How does the bill do this?

First, it ensures that lawsuit must have merit by setting forth pleading standards which require that plaintiffs must have a basis for their case before they are allowed to proceed. Many times, a case is brought with little evidence and legal fishing expedition ensues through the defendant's files. In some cases, firms will settle the suit in order to save themselves the long-run costs associated with discovery and litigation of the case.

Now much has been made of the exact specifications surrounding the pleading standard in the bill. A number of critics contend that it goes beyond the already stringent standards of the second circuit—and would have the effect of closing the courthouse door for many small plaintiffs. Ambiguities in the statement of managers have served only to heighten these criticisms. In fact, the language of the bill does codify the second circuit standard in part—and the statement of managers says so.

But even within the second circuit, there are varying interpretations of the standard. That is why the conference report deliberately rejects a complete codification of the second circuit and adopts language which is substantially similar to the language in the Senate-passed bill and its report language. The major change, the substitution of the words "state with particularity" for "specifically allege," was made at the request of the Judicial Conference and therefore does not substantially modify the language as passed by the Senate.

For investors, the bill would also ensure much greater accuracy in the statements made by issuers of debt and, at the same time, encourage them to disclose more fully, relevant information. The bill achieves this end by creating a workable safe harbor for so-called forward-looking statements—that is predictions about the future of a particular security. In essence, issuers are required to accompany their predictions by "meaningful cautionary" language—language that should serve as ample warning to potential investors about the risks that the particular security may entail. This safe harbor has been endorsed by the chairman of the SEC.

But the SEC has a further role to play to ensure the fairness of the safe harbor. Many critics contend that it will create a "license to lie" and lead to the duping of unwary investors by unscrupulous issuers. There is a strong need for the SEC to add content to the regulations written to interpret this bill. Specifically, it will need to set out in a clear, rigorous and responsible manner, the facts that should be included in forward-looking statements so that they are truly "meaningful and cautionary". In addition, the Commission needs to make clear which part of the second circuit pleading standard is to be enforced and how. The SEC has a role in making this bill work, and its involvement in the process will be critical to achieving the goals that underlie the conference report.

The bill also creates incentives against filing meritless litigation by bolstering the use of rule 11—which provides sanctions for filing frivolous lawsuits. Though it exists in current law, rule 11 is rarely used. The conference report requires a judge to make a finding as to whether rule 11 has been violated and then to impose sanctions subject to the discretion of the court. In addition, the report sets forth circumstances under which the sanctions under rule 11 could be mitigated.

The bill also contains a number of other provisions designed to first reduce the pressure to settle frivolous claims by reforming the liability system, second, produce meaningful information about the fairness of a settlement by requiring accurate disclosure of settlement terms, and third make it easier for participants in a class action to understand how lawyers are being compensated and to challenge attorney's fees by reforming the way in which attorney's fees may be calculated in these suits.

Finally, some critics have contended that the bill will truly mean that the small investor will not have access to the judicial system. I believe that this is not the case. I have already discussed may of the major issues of concern above. There is one additional area that gives me pause. The conference report includes a discretionary bonding requirement that was not in the Senate bill. Opponents claim that the possibility of requiring a bond is yet another impediment to small investor access to the judicial system. In fact, the bonding provision is at the discretion of the judge. Similar bonding options exist in other parts of the securities law and have not proven to be particularly burdensome. Of course, should the bonding provision prove unworkable or a true bar to the courthouse, it should be revisited, as should any other portion of this bill which becomes problematic. I certainly stand ready to reconsider this bill should it not achieve the goals which I have set out, but on balance I think its advantages outweigh its disadvantages.

Mr. DOMENICI. Mr. President, there is an old gypsy curse that goes like this: May you be the innocent defendant in a frivolous law suit.

It is a curse stopping companies from creating good, high paying jobs. It is the curse of our economy, of Silicon Valley, our high tech biotech and high-growth companies.

Frivolous law suits are the curse of our capital markets.

These companies have volitile stock prices. But stock volitility is not stock fraud, yet it is the basis for multimillion lawsuits that yield investors pennies on the dollars for their losses and millions for a handful of strike suit lawyers.

This legislation had 182 cosponsors in the House and 51 cosponsors in the Senate. It is legislation that was cosponsored by a bipartisan group of Senators spanning the ideological spectrum—Senator HELMS and Senator MIKULSKI.

We had 12 days of hearings, hundreds of submissions. Countless meetings and negotiating sessions.

The major reforms—the safe harbor and the proportionate liability provisions were not mentioned in the President's veto message. The SEC supports the current safe harbor and its principal concerns have been met regarding the rest of the bill.

The President objected to the pleading standard. Yet it is the Second Circuit's pleading standard. It is written to the specifications of SEC Chairman Arthur Levitt.

The only difference between the Senate Banking Committee pleading standard and the standard the administration endorsed in June is three words.

The Senate Banking Committee provision provided that the complaint must specifically allege facts giving rise to a strong inference.

The conference report states that the complaint must "state with particularity fact . . ."

There is no difference between these two statements of the law. The change was made at the request of the Judicial Conference.

The President objected to rule 11 attorney sanctions.

The sanctions provide greater protections to plaintiffs than defendants.

First, a complaint must have substantially violated rule 11 before the attorneys' fees sanctions would be imposed on plaintiffs. Defendants can be sanctioned for mere violations of rule 11.

Also, the bill gives courts discretion not to award fees in cases where an award would be unjust or would impose an unreasonable burden on a party. Providing extraordinary protection to plaintiffs litigating against corporate defendants.

It is one of the only bipartisan attempts at enacting legislation this Congress.

I ask unanimous consent that today's Washington Post editorial be printed in the RECORD as well as the letter from the National Association of Investors Corporation representing 360,000 investors calling for veto override. I also ask that a summary of the bill also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 22, 1995]

OVERRIDE THE SECURITIES BILL VETO

President Clinton was wrong to veto the securities bill. He caved to the trial lawyers lobby, big contributors to the Democratic Party, in a dark-of-night action. Congress should override him. The House of Representatives voted the other day to do just that, with 89 Democrats joining the Republicans. Now it's up to the Senate.

This bill would correct important flaws in the securities laws that are being systematically exploited by lawyers in ways that have nothing to do with fairness. When the price of a company's stock drops sharply, the present law invites suits on the questionable grounds that the company's past expressions of hope for its future misled innocent stockholders.

This kind of suit has turned out to be a special danger to new companies, particularly high-technology ventures with volatile stock prices. The country has a strong interest in encouraging these companies and shielding them from a style of legal assault that is not far from extortion. The bill would protect companies' forecasts as long as they did not omit significant facts.

Under present law, the first lawyer to file one of these strike suits controls the litigation regardless of who else might sue on the same grounds later. Frequently the lawyers who specialize in this work settle their suits on terms that bring trivial benefits to the shareholders but fat fees to the lawyers themselves. The bill that Mr. Clinton vetoed would instead give the judge the authority to pick the lead plaintiff—usually the plaintiff with the biggest stake in the outcome. Plaintiffs would then choose their own lawyers and make their own decisions on whether and how to settle. That is clearly a desirable reform and a major improvement in shareholders' rights.

Mr. Clinton vetoed the bill because, he said, it would make too many difficulties for shareholders with legitimate grievances. There bill has been under intense debate and negotiation between the two parties for nearly a year, and if these defects are as significant as the president suggests, it's strange that the administration did not make an issue of them earlier.

More broadly, Mr. Clinton speaks of future injustices that he believes this bill might create but has little to say about the real and substantial injustices that the present law is creating. Overriding his veto will end an egregious misuse of securities laws in ways that harm both companies and shareholders.

NATIONAL ASSOCIATION OF
INVESTORS CORP.,
Royal Oak, MI, December 21, 1995.

Hon. CHRISTOPHER DODD,
U.S. Senate, Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR DODD: On behalf of the more than 360,000 individual members and 18,000 investment clubs belonging to the National Association of Investors Corporation, I am writing to commend your efforts to override the misguided presidential veto of H.R. 1058, the Securities Litigation Reform Bill of 1995. Founded in 1951, NAIC is by far the largest membership organization of investors in the United States.

H.R. 1058 is an investor protection bill. It strengthens the government's tools for fighting corporate securities fraud, while it imposes long-awaited curbs on "strike suits"—fraudulent lawsuits that cheat investors while pretending to help them. We urge you to work your hardest to override the veto and give investors relief from meritless litigation.

Sincerely,

KENNETH S. JANKE,
President & CEO.

SELECTED BILL PROVISIONS OF THE CONFERENCE REPORT TO H.R. 1058/S. 240

The federal securities laws provide a comprehensive legal framework designed to protect investors in the securities markets, to provide ground rules for companies seeking to raise money in our capital markets and to encourage disclosure of more, and accurate information about publicly traded companies. This bill updates our securities laws to better achieve these objectives in a balanced way. It restores integrity to securities class action litigation by filtering out abusive, frivolous class action lawsuits that harm investors and only benefit class action attorneys.

Adequate plaintiff standard.—Same as Senate-passed bill, with minor technical changes.

The objective: To provide a mechanism for "plaintiff empowerment." To diminish the likelihood that these cases will be class action attorney-driven in the future. To allow real clients with real financial interests to be appropriately in charge of the lawsuit. To restore to real clients traditional control over their entrepreneurial counsel.

Under the private rights of action provisions of our securities laws, investors may sue to recover damages they incur as a result of the actions of corporations and other firms who violate the federal securities laws. These private lawsuits should serve a dual role. First, they should provide a means for investors to obtain recovery for damages caused by fraudulent activity. Second, they should serve as an important adjunct to the SEC's enforcement efforts.

Class actions should protect the public and compensate the injured. Increasingly, however, private securities class action litigation has become dominated by entrepreneurial attorneys who decide which companies to sue, when to sue and when and for how much to settle. Investors play an insignificant role in these multi-million dollar lawsuits. The situation is best illustrated by one prominent securities class action lawyer declaring: "I have the best practice of law in the world: I have no clients." This provision reasserts plaintiffs' role by: allowing any party who receives notice of the suit to come forward within 60 days of the filing of the suit to petition the court to act as lead plaintiff; creating a presumption that the "most adequate plaintiff" is the party with the greatest financial interest in the outcome of the litigation; allowing the "most adequate plaintiff" to exercise traditional plaintiff functions, including selecting lead counsel and negotiating counsel's fees; allowing "most adequate plaintiff" to make decisions regarding settlements; replacing the "plaintiff steering committee" and "guardian ad litem" provisions in the original S. 240.

Second circuit pleading standard becomes the uniform rule.—Same as Senate-passed bill; Senator Specter's amendment deleted from conference report.

The objective: To provide a filter at the earliest stage (the pleading stage) to screen out lawsuits that have no factual basis. To provide a clearer statement of plaintiffs' claims and scope of the case. To encourage attorneys to use greater care in drafting their complaints. To make it easier for innocent defendants to get cases against them dismissed early in the process. To eliminate the split among circuits dealing with pleading requirements for scienter. To codify the requirements in the 2nd Circuit.

A complaint should outline the facts supporting the lawsuit. Too often, complaints consist of boilerplate legalese and conclusions. An alleged Rule 10(b) or 10b–5 violation is a very serious charge. Asserting simply that "the defendant acted with intent to defraud" is a conclusion that should be insufficient to start a multi-million dollar lawsuit. Under the Conference Agreement, the complaint must set forth the facts supporting each of the alleged misstatements or omissions and must include facts that give rise to a "strong inference" of scienter or intent. If the complaint does not meet these requirements, the lawsuit will be terminated. This is a codification of the 2nd Circuit rule.

Too often, securities class action suits are characterized by the "sue them all and let the judge sort it out" mentality. But before the judge can sort it out, innocent defendants are required to spend a great deal of time and money to defend against specious claims. This bill corrects that problem by requiring plaintiffs to specify the statements alleged to have been misleading. This conforms securities actions with Rule 9(b) of the Federal Rules of Civil Procedure.

Safe harbor for predictive statements.—New provision; Changes address concerns raised by the SEC and during the floor debate.

The objective: To encourage disclosure of information by companies. To provide a procedural mechanism for responsibly-acting companies who make predictive statements to be protected from frivolous litigation if their prediction does not materialize. To provide judges with additional procedural tools to deal with frivolous cases involving predictive statements.

A central principle underlying our securities laws is that investors should receive accurate and timely information about publicly traded companies. By its definition, a forward-looking statement is a prediction about the future. Earnings projections, growth rate projections, dividend projections, and expected order rates are examples of forward-looking statements.

Forward-looking information is of significant value to investors in making informed investment decisions. It is this forward-looking information that allows efficient allocation of resources, ensuring that the market prices of publicly traded securities best reflect their intrinsic value. The SEC Rule 175 permits issuers to make forward looking statements about certain categories of information provided that the prediction is made in "good faith" with a "reasonable basis." Currently, this SEC "safe harbor" rule actually discourages issuers from voluntary disclosing this information. To quote the SEC:

"Some have suggested that companies that makes voluntary disclosure of forward-looking information subject themselves to a significantly increased risk of securities antifraud class actions." As such, "contrary to the Commission's original intent, the safe harbor is currently invoked on a very limited basis in the litigation context." Critics state that the safe harbor is ineffective in ensuring quick and inexpensive dismissal of frivolous private lawsuits." (SEC Securities Act of 1993 Release No. 7101, October 1994)

An American Stock Exchange survey supports that conclusion. It found that 75 percent of corporate CEOs limit the information disclosed to investors out of fear that greater disclosure would lead to an abusive lawsuit.

As the SEC has realized, forward-looking statements are predictions—not promises. This Conference Report creates a statutory "safe harbor" which:

Provides a clear definition of "forward looking statement" for both the '33 and '34 Acts.

Permits greater flexibility by creating a bifurcated safe harbor.

The safe harbor's first prong expands upon the judicially created "bespeaks caution" doctrine. This safe harbor:

1. Protects a written or oral statement that is identified as forward-looking.
2. Requires that the predictive statement contain a meaningful cautionary statement which identifies business factors describing why the prediction may not come true.
3. Focuses on the statement and how it was made.
4. Does not allow an inquiry into the state of mind of the speaker.

The safe harbor's second prong provides an alternative analysis if the statement is not made in a way consistent with the warning requirements of the bespeaks caution test. This prong:

1. Applies to written and oral statements.
2. Focuses on the speaker's state of mind.
3. Protects companies from liability unless the prediction was made with actual knowledge that it was false.
4. Protects companies from liability unless the prediction was made or ratified by an executive officer with actual knowledge that it was false.
5. Gives no safe harbor protection for "knowingly false or misleading" statements. This addresses Senator Sarbanes concern that the safe harbor would permit corporate executives to mislead investors. There is no so-called "license to lie".

The Conference Report also creates a new safe harbor for oral statements which requires that the oral statement warn listeners that the statement is a prediction, that the prediction may not come true, and tell investors where they can find additional information about the prediction in SEC filings or press releases.

Both safe harbors protect statements made by issuers, persons acting on their behalf such as officers, directors, employees, outside reviewers retained by the issuer and underwriters with respect to information they receive from issuers. Accounting and law firms are eligible for the safe harbor, brokers and dealers are not.

The safe harbor provides no protection for certain transactions and parties, like initial public offerings (IPOs), penny stocks, roll-up transactions, going private transactions, tender offers, partnerships, limited liability corporations or direct participation investments and issuers who have violated the securities laws. Also, the safe harbor does not protect forward-looking statements included in financial statements.

Conference report drops the provision authorizing the SEC to sue for damages on behalf of investors in predictive statement cases. (Senate-passed bill provision).

Encourages SEC to review the need for additional safe harbors.

Litigation cost containment provisions—Discovery Stay.—Same as Senate-passed bill.

The objective: To limit the in terrorem nature of defending a frivolous class action securities lawsuit. To require the judge to determine whether the case has any merit prior to subjecting the defendants to the time and expense of turning over the company's records. To provide for a "stay of discovery" pending a motion to dismiss. This "stay" provides the defendants with the opportunity to have a motion for a dismissal considered prior to the plaintiffs' lawyers beginning "discovery." This discovery usually consists of requests for voluminous documents and time consuming depositions of company CEOs and other key employees.

A typical tactic of plaintiff lawyers is to request an extensive list of documents and to schedule an ambitious agenda of depositions that often distract the company CEO and other key officers and directors. Discovery costs comprise eighty percent of the expense of defending a securities class action lawsuit. To minimize the in terrorem impact of the frivolous cases, the Conference Report:

Requires the court to suspend discovery during the pendency of any motion to dismiss unless discovery is needed to preserve evidence or prevent undue prejudice. A stay of discovery puts such requests for documents and deposition schedules on hold until the judge rules on whether the case should be kicked out of court.

Prohibits parties in securities fraud cases to destroy or alter documents.

Attorney sanctions for filing frivolous securities fraud suits—enhanced rule 11.—Same as Senate-passed bill, with technical changes.

The objective: To deter plaintiffs' attorneys from filing meritless securities class actions. To make attorneys, not investors, bear responsibility of filing frivolous cases. To require judges to review the conduct of attorneys and to discipline those who file frivolous law suits and abuse our judicial system. To encourage attorneys to use greater care in drafting complaints and create a speed bump to slow the "race to the courthouse."

Frivolous securities suits filed with little or no research into their merits can cost companies hundreds of thousands of dollars in legal fees and company time. According to a sample of cases provided by the National Association of Securities and Commercial Law Attorneys (NASCAT), 21 percent of the class action securities cases were filed within 48 hours of a triggering event such as a missed earnings projection announcement.

Innocent companies pay millions of dollars defending these frivolous cases. Even when firms are exonerated they have large defense attorney's bills to pay. Our current system is a "winner pays" system.

Attorneys should be required to exercise due diligence before they file these expensive lawsuits and they should be sanctioned if they fail to exercise proper care. Accordingly, this Conference Agreement:

Requires the judge, upon final disposition of the case, to make specific findings regarding whether the complaint, responsive pleadings and dispositive motions complied with the requirements of Rule 11(b) of the Federal Rules of Civil Procedures. Rule 11 provides sanctions for filing frivolous lawsuits. (This differs from the Senate-passed bill, which required judges to review the entire record; judges felt that this was too burdensome given the voluminous record in these class actions.)

Requires the judge to discipline lawyers if the judge finds that the lawyer violated the rule. Under the Conference Agreement, the judge would require an offending attorney to pay the reasonable attorneys' fees and costs of the innocent party as the punishment for filing a frivolous lawsuit. This is a rebuttable presumption.

A party may rebut the presumption with proof that the award of fees and costs will impose an undue burden on the violator, provided that the failure to impose fees and costs does not impose a greater burden on the victim of the violation. Also, may rebut the presumption with proof that the Rule 11 violation was de minimis.

Does not create a "loser pays" rule. It merely adds teeth to existing Rule 11.

Attorney fee reform: Limits the use of the lodestar method of calculating attorneys' fees, and replaces it with a more easily understood disclosure of attorneys' fees.—Same as Senate-passed bill.

The objective: To closer align the interests of the plaintiffs with their entrepreneurial lawyers. To make it easier for the class to understand how the lawyers are being compensated and to challenge attorneys' fees. To ensure that attorneys' fees do not unnecessarily conflict with the interests of the plaintiffs.

Plaintiffs' attorneys fees are often calculate by the "lodestar method." Under this calculation, a lodestar amount is determined by multiplying the attorney's hours worked by a reasonable hourly fee, adjusted by a multiplier to reflect the risk of litigation and other factors. It encourages abuses, (like performance of unjustified work), which protracts the litigation. From the judiciary's point of view, lodestar adds inefficiency to the process. From the investors' point of view, it is difficult to figure out what the lawyer did and how much they are getting paid for doing it.

This Conference Report limits attorney's fees in a class action to an easy to understand percentage of the amount actually recovered as a result of the attorney's efforts—rather than allowing attorneys to recover their fees without regard to how well the class does. This gives lawyers an incentive to get higher recoveries for investors, not just bill more hours. This is extremely important in ensuring that the attorneys' incentives coincide with those of the class. This bill also provides the class members with the information they need to make an informed judgment on attorneys' fees and settlement offers. The provision provides better disclosure to the injured parties so they can determine whether they may want to challenge their attorneys' claim to the settlement fund.

Disclosure of settlement terms.—Same as Senate-passed bill.

The objective: to replace meaningless legalese and boilerplate conclusions with meaningful information about the per share amount a proposed settlement would provide. To provide information about the fairness of the settlement and an evaluation of whether more could be obtained if the case went to trial.

The Conference Agreement would provide class members with information about the proposed settlement, including the total amount of the settlement, and the total amount of attorneys' fees sought from the settlement fund. If the parties cannot agree upon the amount of damages which would be recoverable, the disclosure of the settlement offer must state the reasons why the parties disagree.

Proportionate liability.—Same as Senate-passed bill, with technical changes.

The objective: To reduce the pressure to settle frivolous claims. To provide a two-tier liability system which retains joint and several liability for those participants who "knowingly" engage in a fraudulent scheme and proportionate liability for those participants who are only incidentally involved (those who are "less than knowing in their conduct.")

The Conference Agreement ensures that those primarily responsible for the plaintiffs' loss bear the primary burden in making the plaintiffs whole. Under current law, co-defendants each have "joint and several" liability for 100 percent of the damages—irrespective of their role in a fraudulent scheme. This has caused "deep pockets" such as law firms, accounting firms, and securities firms to be named as defendants merely to extract a settlement from them.

The Conference Report requires that each co-defendant pay for his share of the damages caused. Provisions protect investors in the event a co-defendant is insolvent. The National Association of Securities and Commercial Law Attorneys (NASCAT) submission suggested that of the 66 cases they provided us with information on, 25 percent had an insolvent co-defendant. The bill contains provisions to ensure that investors are compensated in cases where there is an insolvent co-defendant. Specifically, the Conference Report—

Requires the courts to determine who has committed a "knowing securities violation", and holds them jointly and severally liable for the plaintiff's damages. All others are held proportionately liable.

Protects plaintiffs from insolvent co-defendants. Provides that when plaintiffs are unable to collect a portion of their damages from an insolvent co-defendant, the proportionately liable defendants would chip in additional funds. Proportionally liable co-defendants could be required to pay up to 150% of their share of the damages.

Provides special protection for small investors by holdings all defendants jointly and severally liable for the uncollectible shares of insolvent co-defendants for certain plaintiffs whose damages are more than 10% of their net worth, and if their net worth is less than $200,000.

Contribution reform.—Same as Senate-passed bill, with minor change involving indemnification agreements.

The objective: To provide uniformity among the circuits. To ensure that defendants are not unfairly required to pay more than their fair share of damages.

If a plaintiff is unable to recover damages from a defendant, the Conference Report requires the remaining defendants to make up at least a portion of that difference. Those co-defendants may then recover contributions from any other person who would have been liable for the same damages. Contribution claims will be based upon the percentage of responsibility of the claimant and the parties against whom contribution is sought. Further, the Conference Report:

Encourages settlement by discharging from liability any defendant who enters into a good faith settlement with the plaintiff before a verdict or judgment.

Allows parties to take advantage of indemnification agreements with issuers and recover fees and costs associated with the action as long as the defendant prevails at trial.

Fraud detection and disclosure.—Same as Senate-passed bill.

The objective: To exposure fraud before investors lose money.

The Conference Agreement establishes a clear and immediate duty on the part of auditors to inform company management of any material illegal acts they uncover in their audit. If the auditors fail to take appropriate action promptly they are subject to a civil penalty.

This is a Kerry-Wyden bill and the conferees believe it belongs in the package or reforms. It is very important for the accounting profession to be vigilant in their public watchdog role.

Other provisions retained in the conference agreement.—Same as Senate-passed bill, except for minor change to RICO provision.

Makes sure all shareholders are treated equally by greatly restricting lawyers' ability to negotiate bonus payments for their "pet plaintiffs" or "professional plaintiffs" who let the lawyers use their names to file lawsuits.

Prohibits brokers and dealers from receiving referral fees for giving names of clients to class action attorneys.

Requires a court to determine whether an attorney who owns stock in the company he is suing constitutes a conflict of interest that should disqualify him from action as counsel.

Prohibits the payment of SEC disgorgement funds to plaintiffs' lawyers.

Prohibits keeping settlement terms a secret by greatly limiting the use of settlements under seal.

Eliminates private actions for securities fraud under the "civil RICO" (the Racketeer Influenced and Corrupt Organization Act), except against those previously criminally convicted of securities fraud. (this is the minor change).

Requires the court to submit to the jury a written interrogatory (question) on the issue of each defendant's state of mind at the time of the alleged violation to make it less likely that individuals only accidentally involved in the scheme are held liable.

Mr. DOLE. Mr. President, I was very surprised and disappointed yesterday when I heard that President Clinton had vetoed the Private Securities Litigation Reform Act of 1995. Two weeks ago the Senate passed this bill by a bipartisan vote of 65 to 30 and until 30 minutes before the deadline Tuesday night, President Clinton indicated that he would support this bill.

As I pointed out when the Senate was debating the conference report to this bill, President Clinton had a clear choice. If he supported this bill, he supported creating jobs for Americans by reducing frivolous, costly lawsuits on businesses. If he opposed it, he only supported enriching the pockets of wealthy trial lawyers at the expense of consumers and investors. It's too bad he chose the latter.

President Clinton talks a lot about being concerned about middle-class Americans. It is my understanding that he invited some wealthy trial lawyers over for dinner the other night to thank them for a million dollar contribution. It's unfortunate that he decided to come down on their side, instead of the side of ordinary working Americans and small investors.

These wealthy trial lawyers devote their professional lives to gaming the system by filing "strike" suits alleging violations of the Federal securities laws—all in the hope that the defendant will settle quickly in order to avoid the expense of drawn-out litigation.

Of course, these strike suits are often baseless. If a stock price falls, these lawyers will file a class-action suit claiming that the company was too optimistic in their projections. If the stock price soars, these same lawyers will file suit saying that the company withheld information that caused shareholders to sell too early. In effect, the lawsuits act as a litigation tax that raises the cost of capital and chills disclosure of important corporate information to shareholders.

The high-tech, high-growth companies of Silicon Valley, CA are particularly vulnerable to these fraudulent and abusive lawsuits because of the volatility of their stock prices. Over 50 percent of the top 100 businesses in Silicon Valley have been sued at least once. And the $500 million in so-called damages, the majority of which goes to the wealthy trial lawyers, is money that could have been used to create jobs and pay higher salaries to the working-class in the high-tech industry.

Mr. President, the Senate has been working for years in a bipartisan manner to pass legislation on this issue. Yesterday, the House, in an overwhelmingly bipartisan fashion, voted 319 to 100 to override President Clinton's veto. This is a good and fair bill, and I urge my colleagues on both sides of the aisle to do likewise and support it.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Mr. President, I yield 5 minutes to Senator DODD.

Mr. DODD. Mr. President, I thank my colleague from New York. Let me start where I did yesterday, Mr. President. It is no great pleasure that I stand here this morning urging my colleagues to override President Clinton's veto of this bill. This is not something that I sought or welcome at all. I regret that it has come to this, particularly since about 98 percent of this legislation the President endorsed. It is on about 2 percent, on technical points, over 11 words—there are 12,000 words, roughly, in this legislation, and 11 words out of the 12,000, we were informed after all the negotiations, would be a problem.

Therefore, I regret deeply that we are in this situation, after 4 years, 12 congressional hearings, over 100 witnesses, 5,000 pages of testimony, and committee reports, and truly a bipartisan effort, going back to 1991. It has come down to a pleading standards disappointment and a disagreement over rule 11. Consider all of the other things that have been accomplished with this legislation dealing with proportionate liability and safe harbor, the lead plaintiff issues—they were all major, major efforts that involved a tremendous amount of work.

I will point out, as my colleague from New York has, this morning's lead editorial in the Washington Post. I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

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>
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> President Clinton was wrong to veto the securities bill. He caved to the trial lawyers' lobby, big contributors to the Democratic Party, in a dark-of-night action. Congress should override him. The House of Representatives voted the other day to do just that, with 89 Democrats joining the Republicans. Now it's up to the Senate.
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> This kind of suit has turned out to be a special danger to new companies, particularly high-technology ventures with volatile stock prices. The country has a strong interest in encouraging these companies and shielding them from a style of legal assault that is not far from extortion. The bill would protect companies' forecasts as long as they did not omit significant facts.
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> Under present law, the first lawyer to file one of these strike suits controls the litigation regardless of who else might sue on the same grounds later. Frequently the lawyers who specialize in this work settle their suits on terms that bring trivial benefits to the shareholders but fat fees to the lawyers themselves. The bill that Mr. Clinton vetoed would instead give the judge the authority to pick the lead plaintiff—usually the plaintiff with the biggest stake in the outcome. Plaintiffs would then choose their own lawyers and make their own decisions on whether and how to settle. That is clearly a desirable reform and a major improvement in shareholders' rights.
>
> Mr. Clinton vetoed the bill because, he said, it would make too many difficulties for shareholders with legitimate grievances. There are two things to be said about that. This bill has been under intense debate and negotiation between the two parties for nearly a year, and if these defects are as significant as the president suggests, it's strange that the administration did not make an issue of them earlier.
>
> More broadly, Mr. Clinton speaks of future injustices that he believes this bill might create but has little to say about the real and substantial injustices that the present law is creating. Overriding his veto will end an egregious misuse of securities laws in ways that harm both companies and shareholders.

Mr. DODD. Mr. President, just reading the last paragraph:

> More broadly, Mr. Clinton speaks of future injustices that he believes the bill might create but has little to say about the real and substantial injustices that present law is creating. Overriding his veto will end an egregious misuse of securities laws in ways that harm both companies and shareholders.

That is the thrust of all of this. The present system is fatally flawed and broken. It is costing billions of dollars each year to maintain the present system. That we all know.

As I said yesterday, if in the pleading standards—which we adopted, by the way, and the administration last June endorsed the language in the bill, calling them sensible and workable—we adopted the language as recommended by the Judicial Conference, not proponents or opponents of the legislation, but the Judicial Conference, who represents the Federal judiciary, the judges in this country. They recommended the language we included in the bill.

Therefore, I am mystified why one would object to the language that the judges who sit and preside over these matters have recommended. Rule 11 is a very simple matter. Rule 11 exists in order to penalize the attorneys who bring frivolous lawsuits. We put some teeth in it. If you bring a frivolous lawsuit and you cause a defendant tremendous economic harm through attorney's fees, as we saw in one case where a $15,000 contract that one company entered into cost them $7 million in legal fees, that the case was thrown out of court. The people who pay that $7 million are usually not the chief executive officers of those companies, but the employees, shareholders, investors, and others who bear the financial burden. It is estimated that some $32 billion each year is put in play as a result of these strike suits. We hoped that we would be able to have a Presidential signature confirming the bipartisan effort in this area.

Mr. President, it is with a deep sense of regret that I am on the opposite side of my President on this issue. But I believe that the override is the proper course to follow here. For those reasons, I urge my colleagues to continue to support this legislation, as many have over the last 4 years, in committee votes, votes here on the floor of the U.S. Senate and, of course, in the conference report, as well, that has come back from the House and the Senate after the negotiations.

This is a very important issue, Mr. President. It sends a very important signal. We have these new startup, high-technology companies that represent, I think, the future of employment for this country for the 21st century. These companies where a stock fluctuates a few points and there is complaint filed against them, covering millions of dollars in settlement fees, is something that ought to be changed.

We have put together a good, strong bill that I think addresses the major concerns that people raised over the years about this issue. I am pleased so many of my colleagues—almost 70 of them here, as well as in excess of 300 in the House—have supported this effort. I regret, again, that the President decided to veto the legislation. We can correct that this morning by overriding this veto, adopting this legislation, and getting about the other business of this body.

Mr. President, I withhold the remainder of my time.

Mr. SARBANES. I yield the remainder of our time to the distinguished Senator from Nevada.

Mr. BRYAN. I thank the distinguished Senator from Maryland.

Mr. President, this vote is on an important piece of legislation, but it also sends a message about what this Congress is all about and what its Members stand for. First, I would like to compliment the proponents of this legislation. They have done an artful and a masterful job in framing the issue in the context of the lawyers, and this is lawyer bashing. No one loves lawyers, and no would fails to acknowledge that there is clearly some abuse on the part of some lawyers, but if we listen to the arguments the proponents have advanced this morning, you would think that a relatively small group of lawyers, who specialize in representing consumers and small investors in class actions, who have been swindled as a result of investor fraud, would be responsible for all of the ills that confront modern civilization, from the Federal deficit that we wrestle with today, to the spread of communism in the 1950's, 1960's, 1970's, and 1980's.

At the same time, the proponents of this legislation have obscured the fact that troubles me most, and that is that this legislation will affect a lot of innocent people who have lost money as a result of investor fraud.

Somehow, the voices of seniors and consumers, small investors, firefighters, policemen, attorneys general, mayors and securities regulators, State treasurers, local government treasurers, treasurers involved with universities and colleges, somehow their concerns which have been advanced and articulated have been ignored.

If I impart nothing else to my colleagues today, I would like everyone who is listening to this debate to know that this bill will, in fact, adversely affect meritorious lawsuits and small investors who find it much more difficult to recover their savings. There is no doubt that this bill will address frivolous lawsuits. But that could have been done, Mr. President—nobody disagrees with the need to correct those abuses. We could have crafted a narrow piece of legislation that would have addressed that issue and yet, at the same time, protected small investors.

What will the impact be of precluding countless meritorious suits being filed? Nobody knows, but it is safe to say crooks will be emboldened, investor confidence in our markets will go down, and defrauded investors will not be compensated. The integrity of America's security markets, the envy of the world, will suffer as a consequence.

As some indication as to how overreaching this piece of legislation is, how one-sided it is, can anyone tell me what the logic is to say if a plaintiff's lawyer files a frivolous motion the attorney pays the cost of the entire lawsuit, but if a defense lawyer files a frivolous motion, he or she pays only the cost of that motion? It seems to me what is sauce for the goose is sauce for the gander. There ought to be equal sanctions both as to plaintiff's lawyers and defendant's lawyers who act in an irresponsible, frivolous fashion.

I have yet to hear an argument advanced on the floor as to why we do not extend the statute of limitations as has been requested. Why should a crook who disguises his fraud for 3 years be able to avoid the class action penalty? I know of no reason why we should not correct a situation which currently exists that those who aid and abet fraud currently face no liability. What is the logic of that? What does that have to do with frivolous lawsuits?

That, Mr. President, is why I am so deeply troubled by the message that we send today. President Clinton has said he is prepared to sign a good bill. Senator SARBANES, Senator BOXER, and others who have taken the floor to express concerns, we are prepared to support legislation that deals with frivolous lawsuits. But what we have is a piece of legislation that moves to the floor and apparently will now move to be enacted that is not designed solely for frivolous lawsuits but goes much further.

What happens if the President's veto is sustained? The sponsors can come back with a bill that fixes the excesses. We are going to have securities litigation reform legislation this Congress. President Clinton has said he is prepared to sign a good bill, and there is unanimity that measures to curb abuses should be enacted.

What we are in disagreement over is will we enact balanced, reasonable reforms or will we go overboard in our zeal.

What message are we sending by overrriding the President's veto today? We are saying forget about balance, forget about reasonableness. If you got the votes to crush small investors and consumers, go for it.

I can honestly say this bill is the most one-sided, anticonsumer bill I have seen.

This will be a sad day if we fail to sustain the President's veto. I urge my colleagues to vote "no" on this override and let us come back and send the President a balanced bill.

Mr. D'AMATO. Mr. President, I think we have said everything that has to be said. I know we want to commence voting at 11:15, so I yield back. Unless any of my colleagues on the other side want to use the balance of the time, I yield back our time so we can take up the other matter.

PERSONAL RESPONSIBILITY AND WORK ACT OF 1995—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, there will now be 30 minutes for closing remarks on the conference report accompanying H.R. 4, to be divided in the usual form.

The clerk will report.

The legislative clerk read as follows:

A conference report to accompany H.R. 4 to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence.

The Senate resumed consideration of the conference report.

Mr. MOYNIHAN. Mr. President, to begin, I ask there be printed in the RECORD an editorial in this morning's Washington Post entitled "Hard Hearts, Soft Heads."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 22, 1995]

HARD HEARTS, SOFT HEADS

President Clinton earlier this year gave way too much ground in endorsing one bad welfare bill. Yesterday, he finally took the right stance in announcing that he would veto a successor bill that is even worse. Better late than never, and not a moment too soon.

His announcement came as the House passed this terrible piece of legislation and the Senate prepared to take it up. This time, Mr. Clinton should stick to his position, and the bill's opponent should have the political will to sustain any veto. That would provide the one chance of passing welfare reform that does what it claims—or, failing that, of at least avoiding a dangerous step toward something worse even than the current system.

Advocates of this bill's deep cuts in programs for the poor and its ending of welfare's "entitlement" status like to cast themselves as true friends of the poor and foes of "dependency." Their hardheadedness, they insist, grows from warm-heartedness and a desire to promote work.

But the House Ways and Means subcommittee on human resources heard a very different analysis from Lawrence M. Mead, a welfare expert much respected by Republicans and conservatives. Prof. Mead was not at all confident that Congress's welfare proposal would do much to promote work. On the contrary, he said, it imposes theoretical "work requirements" that states will have great trouble meeting. He suggested that the states might just dump work requirements entirely and take the modest 5 percent cut in federal aid that the bill proposes. This is "workfare"?

But hear out Mr. Mead's argument. "To promote serious reform, it is crucial that Congress manifest that work requirements are serious, and also that it is possible to meet them," he said. "I fear that the new stipulations are not credible as they stand. They call for participation rates never before realized except in a few localities, yet they provide no specific funding or program comparable to JOBS [the Job Opportunities and Basic Skills program] to realize them. The demands made look excessive, but it is also doubtful whether Congress really means to enforce them." Imagine that: a bill that claims to be historic whose work requirements are essentially rhetorical.

If Congress wants a welfare "reform" that will do little to encourage work while endangering the basic systems of support for poor children, this bill is just the ticket. But that's a strange place for a "revolutionary" Congress to end up.

Mr. MOYNIHAN. Mr. President, last evening, I had occasion to remark that persons most specifically critical of the welfare measure before the Senate have been conservative social scientists who understand the extent of the problem we face and the resources needed if we are going to achieve anything.

I mentioned Prof. Lawrence Mead. It turns out he prepared a report for the

Republican Caucus in the House saying "Your bill is a disaster, can't you see that?" and readers will do so.

Several of those of us who voted against this measure in September are on the floor. My friend from Minnesota, may I yield him 1½ minutes.

Mr. WELLSTONE. I thank the Senator from New York. Mr. President, I voted for this piece of legislation when it first came to the Senate. I asked the question, will this bill called "reform" lead to more children who are impoverished and more hunger among children? I said, if so, I would vote "no." I voted "no."

Two studies have come out since that time that said that is exactly what would happen. Now we have a conference report even more harsh, even more punitive, without basic medical assistance, guarantees of medical assistance coverage, with even more drastic cuts in nutrition programs for children.

Mr. President, this is too harsh. It is too extreme. It is beyond the goodness of America. It is punitive toward children. We should not vote for a piece of legislation that will mean there will be more impoverished children and more hungry children and more children without health care. That is not what we are about. That is not what America is about. I urge my colleagues to vote against this.

Mr. MOYNIHAN. I yield 5 minutes to the distinguished minority leader.

Mr. DASCHLE. I thank the Senator from New York. Mr. President, this bill represents a lost opportunity. Democrats and Republicans share the view that the current welfare system needs to be reformed. We recognize that the current system does not work. It does not enable people to become self-sufficient. It does not contain the resources to put people to work. It is not flexible enough for the States. It sends mixed messages to welfare recipients.

Welfare can become a trap, that work does not pay. In short, most recognize that welfare should not be a way of life. We also recognize the twin goals of creating incentives to work, to provide the opportunity for welfare offices to truly become employment offices. That is No. 1—giving people a chance to work, people who want to work, who have no skills to work, who need to work. They want that opportunity, Mr. President, and that ought to be the goal of welfare reform.

Our second goal ought to be to protect children, to provide them the nutrition, to provide them the housing, and most importantly, if we are going to ensure that parents have the confidence that they can leave their homes and go to work, that their children will be cared for while they are gone.

There is no perfect solution, no easy solution, but Democrats in a unanimous demonstration of support proposed what we called the Work First bill. The Senate-passed bill was passed with the support of many of us and we recognized it as really, just a first step—a minimal bill in many respects, minimally acceptable in the view of many of us, but certainly a bill that represented an improvement over the current system.

The pending conference report, Mr. President, has fallen way below that minimum standard of acceptability. It will move more children into poverty, not less. It provides virtually no protections for children. It particularly targets disabled children.

The pending bill falls far short of real welfare reform. It fails to achieve the goals. It punishes children and it does not move people to work. It does not provide the resources necessary to move people from welfare to work. It does not provide sufficient child care funds. It slashes assistance for disabled children and abused and neglected children.

So the conference bill in our view is a deep disappointment. It is not only a lost opportunity for millions of men and women and children, it may also do real harm to the very people that it is supposed to help. It reduces or terminates benefits for 1 million disabled children receiving supplemental security income. It endangers the lives of millions of abused and neglected children. Most importantly, it terminates Medicaid coverage for the poor, and begs the question, where do we expect them to go?

It is a lost opportunity as well for the working poor. While simultaneously threatening real harm for them, too, by slashing food stamp funding important to millions of low-income working families and the elderly, it slashes the earned income tax credit, the most effective effort to move low-income people into the work force and retain them in the work force that we have today.

It underfunds child care assistance, which we know is the linchpin between welfare and work. It dismantles the current health and safety standards contained in the child care development block grant. So the conference bill falls far short of the minimum standard of acceptability which many of us supported in the Senate-passed bill. It reneges on nearly every improvement Democrats made to the bill before it passed in the Senate.

Let there be no mistake. Democrats strongly support welfare reform, but this legislation threatens single women and children, the disabled, and the working poor. This is not primarily a debate about spending.

The PRESIDING OFFICER. The time of the leader has expired.

Mr. DASCHLE. I ask unanimous consent I be allowed to use 3 minutes of my leader time to complete my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Democrats proposed over $20 billion in welfare savings as part of a Democratic alternative, debated in September. Earlier this week we proposed over $40 billion in welfare savings as part of an overall budget being negotiated. So, this is a debate about policy, about changes in funding with a serious regard for reform. It is about a real effort to move people from welfare to work.

In the name of reform, this bill boxes up the current system and shifts it off to the States. It says, "You do it. We do not care if you have the resources or not, you, Governors, you fix it." It is ironic that in the same session we passed legislation to prohibit unfunded mandates, some now propose we pass the biggest one of all.

So it is with deep regret we cannot support this attempt at welfare reform. We had hoped to work with conferees to improve the Senate bill. We had hoped we could continue to work in a bipartisan manner. We regret the political process led to this political document that falls far short of real reform. We regret that this bill is not about work, that it does not protect children. At best, it is a recognition of a vexing national problem which must be addressed. At worst, it is an experiment set up for failure.

A defeat of this conference report is the first step to a bipartisan effort to create real welfare reform, just as we did with the Senate-passed bill. This bill is going nowhere. The President will veto it if we fail to defeat it now. So let us get down to business. Let us work in a bipartisan fashion to draft a real welfare reform bill.

It should not take a veto to achieve that objective. This opportunity, this lost opportunity, is not our last chance. Together, as Republicans and Democrats determined to solve a real problem, we can seize the opportunity to make welfare work.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, as I stated on repeated occasions in last evening's debate, this is not welfare reform; this is welfare repeal. It is repeal of title IV(A) of the Social Security Act, something never done, never contemplated in this Congress in 60 years.

I am happy to yield a minute and a half to my valiant comrade in this regard, the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON] is recognized for a minute and a half.

Mr. SIMON. Mr. President, I do not ordinarily mention religion on the floor of the U.S. Senate, but in 3 days we will celebrate the birth of Jesus, and the majority of Americans claim affiliation with his religion. And he said, in the Biblical account in Matthew 25, whatever you do for poor people you do to me. That is the judgment day scene that he describes. We, in the U.S. Congress, are going to celebrate Christmas by trashing poor people. What a record: Reducing food stamps, abused children, foster care children, cutting them by 23 percent when the numbers are going up, disabled children, 160,000—sorry, you are off of SSI. For 750,000 disabled children, cutting it by 25 percent.

Real welfare reform, not just public relations, will have to deal with jobs for people of limited ability. It will have to deal with problems of poverty. But we are going to celebrate Christmas by trashing poor people.

It is not a record we can be proud of. I am going to vote no, and be proud to vote no.

Mr. MOYNIHAN. The people of Illinois can be proud of you, sir.

Mr. SIMON. I thank my colleague.

The PRESIDING OFFICER. Who yields time? The Senator from Delaware [Mr. ROTH] is recognized.

Mr. ROTH. Mr. President, I yield myself such time as I may use.

Mr. President, 3 months ago the Senate passed H.R. 4 by an overwhelming bipartisan vote of 87 to 12. Republicans and Democrats worked together on the floor of the Senate to forge an agreement to deliver a comprehensive, bipartisan welfare reform package which has been promised for so long.

In a few minutes we will vote on a final conference report on H.R. 4, the Personal Responsibility and Work Opportunity Act of 1995. There has been a great deal of misinformation about this conference report, as President Clinton has issued his unfortunate veto threat against this legislation. Instead of ending welfare as we know it, it seems he prefers to continue business as usual.

Let me say to each of the 87 Members who voted for authentic welfare reform last September, you should not hesitate to vote for this conference agreement. Overall, you will find H.R. 4 remains true to the goals we share and to the most important agreements we made.

Members know that from the early days of his administration, the President has outlined principles for welfare reform. H.R. 4 meets these principles.

I invite Members to go back through the record of this past year. You will find there were substantial differences between the House and Senate versions of welfare reform. Those who examine the conference report in all its details will surely agree it more closely reflects the Senate positions on the major issues at stake.

We have, in fact, added more money for the block grants for temporary assistance for needy families. We have, in fact, increased funding for child care. We have retained the Senate position on requiring the States' maintenance of effort. We rejected House provisions which would have converted SSI assistance to children into a block grant. We have improved child support enforcement provisions. We have preserved the current law entitlements to foster care and adoption assistance maintenance payments. We are keeping our commitment to children in the foster care system. Contrary to some disinformation, they will continue to be eligible for Medicaid coverage.

So I hope all Members will objectively examine the conference report and compare it to the House and Senate version passed earlier this year. But more important, I invite Members to open their minds to what the States are doing when they get the opportunity to design modifications to the current welfare system. Look at what is being done in Massachusetts, Michigan, Wisconsin, Delaware, Virginia, and Iowa when the States are allowed at least some measure of control over the welfare system.

For a reassuring glimpse of the future, I recommend an article by Massachusetts Gov. William Weld entitled, "Release Us From Federal Nonsense," which appeared in the Wall Street Journal last week.

As for me, I have greater confidence in the Governor and State legislature in Delaware than I do in the careerists in the Hubert Humphrey building. We know why the number of people in poverty has continued to increase despite the best efforts and intentions. But after 30 years of failed experimentation, it is clear the Washington bureaucracy cannot tell us how to break the vicious cycle of dependency. Complex human behavior cannot be reduced to a mathematical diagram. We have not found the wisdom of Solomon in the Federal Register.

President Clinton has stated he will veto H.R. 4. Last night, a number of my colleagues on the other side of the aisle stated that we should wait for a bipartisan bill. Mr. President, we have a bipartisan bill. The Senate bill passed 87 to 12. President Clinton promised welfare reform 34 months ago. Today, we are delivering welfare reform to the American people. There is no need to wait any longer. Welfare reform is here.

I yield the floor, Mr. President.

Mr. FORD. Mr. President, according to the latest figures I have, there are 92,160 unemployed individuals in Kentucky. Eight counties in my State still have double-digit unemployment rates.

There is widespread support for putting welfare recipients to work. But one of the questions I frequently get when I talk to constituents about welfare reform is "Where will the jobs come from?" I still do not know the answer. I do not think we have thought through that simple question very well.

I also get asked two conflicting questions about welfare. One is "Why don't you cut spending on welfare?", and "What are you going to do to enable those on welfare to find jobs?"

These are legitimate questions. I hear about three common barriers to those on welfare who truly want to work:

First, fear of losing health care for their kids—and that is Medicaid;

Second, lack of affordable child care; and

Third, inadequate educational or job training opportunities.

I supported the earlier version of welfare reform because I thought it was a good-faith attempt to address these competing priorities. It did reduce overall spending on welfare programs, and it also attempted to address some of the obstacles to finding jobs—particularly child care.

Unfortunately, the conference report before us today, in my opinion, has shifted entirely toward cutting spending. It cuts spending far more than the Senate-passed bill, and it retreats from putting people to work.

When you combine this with the impact of the Republican budget proposal, you see even further that this conference report just simply will not work:

First, the proposed Republican budget cuts in Medicaid will be devastating for those trying to get off of welfare and go to work.

Second, the proposed Republican tax increases on low-income families will hurt many just as they try to get off welfare.

Third, the revised, pessimistic CBO numbers on the unemployment rate assume that unemployment will remain virtually unchanged at 6 percent over the next 7 years even if we pass a balanced budget plan. This means jobs will be at least as scarce as they are today for those trying to go from welfare to work.

Mr. President, I do believe this welfare conference report will succeed in reducing Federal spending on welfare programs. But I believe it will—

First, fail to put people to work;

Second, underfund child care; and

Third, increase poverty among our children.

For these and other reasons, I cannot support this conference report, because I simply do not believe it will work.

WELFARE SIDE BY SIDE

	Senate-passed bill	Conference report
Work	measures work work bonus	measures work. no bonus; lowers maintenance of effort for successful States instead.

WELFARE SIDE BY SIDE—Continued

	Senate-passed bill	Conference report
	$8 billion child care over 5 years	$7.0 billion child care over 5 years.
	80 percent maintenance of effort	75% State maintenance of effort.
	personal responsibility contract required	no Personal Responsibility Contract.
	work exemption for moms w/kids under 1	work exemption for moms w/kids under 1.
	work after 3 months	no work for 2 years.
Time limits	20 percent exemption	15% exemption.
Protect kids	$8 billion child care over 5 years	$7.0 billion child care over 5 years.
	100 percent maintenance of effort for child care	75% maintenance of effort for child care.
	no transfer for CCDBG	no transfer of CCDBG.
	retains health and safety standards for child care	eliminates health and safety standards for child care.
	no mom w/child under 6 can be sanctioned due to inability to find or afford child care	No mom w/child under 6 can be sanctioned due to inability to find or afford child care.
	State option to allow mom w/kids under 6 to work 20 hours per week	mom w/kids of any age required to work 35 hours per week by 2002.
	time limit exemption raised from 15 to 20 percent but no specific voucher option for kids	time limit exemption lowered to=15% and no specific voucher option for kids.
	all children remain eligible for Medicaid	eliminates the guarantee of Medicaid eligibility for welfare recipients.
Teens	required to stay at home or in adult-supervised group home	required to stay at home or in adult supervised group home.
	$150 million over 7 years for second-chance homes	no money for second chance homes.
	State option to deny teen moms money	State option to deny teen moms money.
	family cap at State option	mandatory family cap; States may opt out.
Funds	AFDC block grant	AFDC block grant.
	$1 billion contingency grant fund and $1.7 billion loan fund	contingency grant fund $1 billion and $1.7 billion loan fund.
	food stamp block grant at State option, but Wellstone amendment requiring sunset of block grant if HHS finds 2 successive findings of increased child hunger	food stamp block grant at State option.
	school lunch program left intact	cuts child nutrition programs and allows 7 State demo fro school lunch block grant.
	child protection programs left intact	block grants child protection programs.

Mr. BIDEN. Mr. President, last September I voted for a tough welfare reform bill. I supported—and I still strongly support—a comprehensive overhaul of the welfare system.

Too many welfare recipients spend far too long on welfare and do far too little in exchange for their benefits. Many of those who manage to get off the welfare rolls only end up back on them after a short period of time. And, for some, generations have made welfare their way of life.

This is unacceptable. And, the American people rightly are demanding reform.

Last September, I outlined how I think we should reform the welfare system. Welfare recipients would be required to work in exchange for their benefits. The time a person could spend on welfare would be limited. Child care would be provided so that children would not be left home alone. A safety net would be retained for the innocent children. And, we would be as tough on the deadbeat dads who did not pay child support as we would be on the welfare mothers who did not work.

That is what I supported last September. And, that is what I voted for last September.

But, Mr. President, I did not vote to dismantle the child protection system. I did not vote to cut foster care. I did not vote to gut the Child Abuse Prevention and Treatment Act. I did not vote to end the Federal Government's effort to help States prevent child abuse. I did not vote to cut the school lunch program. I did not vote to cut child nutrition programs. I did not vote to take away health care for pregnant women and children. And, I did not vote to eliminate the health and safety protections for kids in day care.

I voted for welfare reform. I did not vote for this bill.

I am reminded of the children's fable where the lesson was: beware of the wolf in sheep's clothing.

Mr. President, this bill is a wolf in sheep's clothing. This bill uses welfare reform as a mask for an all-out assault on the most vulnerable of America's children—many of whom are not on welfare. This bill uses welfare reform as a cover for the extreme, mean-spirited policies emanating from the House.

Look behind the so-called welfare reform. Strip away the wool of the sheep, Mr. President, and you are left with an awfully extreme wolf.

It did not have to be this way.

When I voted for the original welfare bill last September, I noted at the time that I had some reservations. But, the final product was a good-faith effort at a bipartisan compromise. And, despite the fact that I thought it could have been both tougher on work and more compassionate toward innocent children, I was not going to undermine the bipartisan compromise. Working out differences and coming to an agreement is what the American people sent us here to do.

But, what happened? The Senator from New York has pointed out that the House-Senate conference met once—for opening statements. Everything else was done behind closed doors without any participation by Democrats. The bipartisan compromise left the Senate and became the victim of House Speaker GINGRICH's extremism.

So, Mr. President, while I was willing to overlook a few reservations last September for the sake of a bipartisan compromise on welfare reform, I am not willing to sacrifice my principles for the sake of one party's extremists—just because they call it welfare reform.

I urge my colleagues to reject this conference report and demand that we take up and pass real welfare reform.

Mr. HEFLIN. Mr. President, I must oppose the conference report on welfare reform despite my support for the original version of this bill, which previously passed the Senate.

The conference report on welfare reform goes far beyond the bill passed by the Senate and consequently, Republican efforts to reduce the budget fall heavily on working poor families, unemployed workers, the elderly and the disabled.

Welfare reform, in my mind, is about moving people from welfare to work. This conference report undermines that goal. The bill's apparent emphasis on transforming the welfare system to a work system is undermined by the failure to provide States with adequate resources for work programs and child care while maintaining a basic safety net of poor children and the elderly.

The bill combines cash assistance and work programs into a single block grant. According to CBO estimates, block grant funding, combined with State spending, would fall $5.5 billion short of what will be needed to fund the work program in 2002 alone, assuming States maintain their safety net for poor children and the elderly. Over the 7-year period, funding for the work program would fall about $14 billion short of what the CBO projects will be needed. Furthermore, this bill also contains provisions which allow States to escape the work requirements the bill seeks to impose by cutting needy families off the rolls instead.

This bill also makes deep cuts in basic benefits for the elderly poor. The conference report would likely deepen poverty among the elderly due to a series of provisions that would reduce or eliminate SSI, food stamps, and Medicaid for various groups of elderly people living below the poverty line.

The conference agreement would raise from 65 to 67 the age at which impoverished elderly people can qualify for SSI, thus effectively eliminating SSI to eligible people 65 and 66 years old. Not by coincidence, the change in the age requirement for SSI eligibility would be raised in tandem with the scheduled increase to 67 at which retirees may receive full Social Security benefits. If the Social Security retirement age is raised in the future, the SSI eligibility would automatically raise as well. In addition, since receiving SSI is a qualification for Medicaid, persons denied SSI would most likely lose Medicaid coverage as well.

This conference agreement also falls seriously short in that the provision of current law which assures that AFDC families receive Medicaid coverage would be repealed. Roughly 1.5 million children and at least 4 million mothers could lose Medicaid coverage as a result and join the ranks of the uninsured. Also, changes made in eligibility rules would mean a reduction in benefits for most disabled children by 25 percent. This Medicaid provision was in neither the House nor the Senate bills.

The school lunch and other child nutrition programs are programs that I have long supported and strongly believe that they have made considerable contributions to the overall improving health of our school-aged children. These programs must be maintained as they provide an important safety net for young children and establish a solid foundation for future development.

However, the welfare conference report contains provisions that could undermine the school lunch program. The conference report would allow for seven States to block grant the school lunch program. In these States, sufficient funds would no longer be available in the event of an economic recession. States that have a history of budget reductions through proration, like Alabama, will be hard hit. In times of an economic downturn, the fixed amount going to these States would not be sufficient to provide adequate assistance to the rolls of the needy that would expand as a result of the recession. This could ultimately lead to the serving of lower quality meals in an effort to cut corners. This is absolutely not in the best interest of our young children for whom we are responsible.

The bill also includes more than $32 billion in food stamp benefit cuts affecting the working poor, the elderly and disabled poor, and all others receiving food stamp assistance. There has been much talk about reducing the waste, fraud and abuse associated with this program. Actually, less than three percent of the bill's food stamp savings come from cutting administrative costs, reducing fraud or imposing tougher sanctions on people who fail to follow program requirements. Instead, these cuts would hit families with low incomes.

Also, for no reason that I can see, food stamp benefits would be cut for those receiving low-income energy assistance.

For the many reasons stated, and for many more that have gone unmentioned, I must oppose the conference report. This bill does little to encourage people to move from welfare to work by removing the safety net for individuals as they make that transition. Basic assistance for the elderly and child nutrition programs are cut without must consideration of the impacts that they will have on those that are least able to support themselves. We should not punish people for being young, or old or poor. We should, instead, provide for the necessary safeguards for people who want to move from welfare to work. This does not preclude our efforts to identify and deal with those taking advantage of the system, it simply signals our willingness to help those that are trying to help themselves and not punishing those that need our help.

Mr. FEINGOLD. Mr. President, I am deeply disappointed that the conferees refused to follow the path of the bipartisan welfare reform bill that was passed by the Senate by a wide margin last September.

Instead of following the bipartisan framework set out in the Senate bill, the conferees produced a bill that is punitive in nature and is likely to hurt innocent children, rather than help their families move off welfare into the work force. I will vote against it.

Mr. President, when I voted for the Senate-passed welfare reform bill, I expressed my hope that the conferees would return a bill that tracked the Senate measure and avoided the kind of mean-spirited, destructive provisions proposed by the House.

Instead, we have a final product that slashes funding for the child care that is essential if we want to avoid leaving young children unsupervised and unattended while their parents are at work, that allows States to immediately reduce their contributions by 25 percent, thereby rewarding States which already spend low levels of their own funds for families while States like Wisconsin which make substantial investments will bear the burden of potential welfare migration, and imposes punitive provisions denying benefits for newborn infants. It also adds harsh new provisions slashing assistance for families with disabled children and an important safety net for impoverished elderly.

This is not meaningful welfare reform. It is an abandonment of the bipartisan agreement reached in the Senate-passed bill that has focused upon helping families escape the welfare cycle and gain self-sufficiency.

I think the current system is broken and is badly in need of reform, but this is not the way to reform.

Mr. BINGAMAN. Mr. President, I rise today to oppose the conference report on welfare reform, H.R. 4. I would like to briefly explain my reasons for doing so.

First of all, I regret that we are planning to vote on this legislation at this time. It is my understanding that the conference report we are considering was released on Wednesday. Two days later, we are voting on this important piece of legislation that would dismantle the social safety net we have known for decades, and replace it with block grants to the States loaded with numerous requirements limiting the amount of assistance to some of our society's most vulnerable members. Although I voted for the Senate-passed version of this legislation to send a message that our current system can certainly stand some improvement, I would be reluctant to support any conference report on such a complex issue without having an adequate opportunity to review it, and to get the best information on its likely impact on my State. I regret that we have not had adequate opportunity to do that sort of analysis on the legislation before us.

Nevertheless, I have had an opportunity to review the broad provisions of this agreement, and I do not believe that it is likely to result in a better system for welfare recipients, or the States and communities involved in the current system.

WELFARE RECIPIENTS

Mr. President, the current system is not serving its clients as well as it should. In too many cases, welfare and other public assistance has become a way of life, not a brief interlude of assistance. We have children growing up in a welfare culture, always living at the margin, and sometimes shuffled through the foster care systems of our various States. Their parents never seem to get the skills or opportunities that would enable them to support their families. Many of us have expressed the concern that too often, these parents are single parents trying to raise their families alone.

Our current system, which knits together Aid for Families With Dependent Children [AFDC], Medicaid, food stamps, school lunch programs, and child protection moneys, seeks to provide a basic safety net. It seeks to ensure that in America, even the poorest of poor have food, shelter, basic clothing, safe homes for children, and an opportunity for something better. The main problem welfare reformers have sought to address this year is making sure that the safety net is not the primary means of support for families, and that people use this safety net for a short time before finding a means to become self-sufficient. Again, I share these goals.

But what have the conferees returned to us to meet these goals? They have given us a system that will limit the time a person may receive benefits to 5 years in a lifetime, and imposed unrealistic requirements to work. They have limited the amount of time a recipient can spend training to get the skills that will enable them to find work that will make them self-sufficient.

Let me talk for just a minute about what this bill does not do for recipients. Every credible expert agrees that the work requirements will be very difficult to meet without additional child care dollars. We are asking States to ensure that the number of working single parents go from about 20 percent now to 50 percent by 2002. These parents are not going to leave young children alone, so they will need day care. Still, while we are expecting to increase the work force participation of single parents by 150 percent, we are only increasing the core child care money in this bill by a little more than 20 percent—$1.9 billion over a baseline of $9.3 billion. This juxtaposition will prove to be totally unworkable.

Another issue that has not been given adequate thought is why we assume merely taking an entry-level job will lead to economic independence for welfare recipients. I recently came across a University of Wisconsin-Madison Institute for research on poverty study on welfare recipients which reported that to replace the benefits received on welfare, the average mother will need a job providing at least $8 to $9 an hour. The average job available to a person with the skills of the average working mother is only about $5.15 per hour, with little hope of real advancement. Obviously, this leaves a huge gap in income if the family this mother heads is going to be able to keep its members fed, clothed, and sheltered. I want to emphasize that we are not talking about the wage needed to live the middle class dream of home ownership in a nice suburb and a vacation every year. We are talking here about maintaining a subsistence standard of living. If we adopt the provisions included in this conference report it is likely that many families that are somehow surviving now are going to find themselves making choices between shelter, food, and clothing. In all likelihood, as my colleague Senator Moynihan pointed out on this floor last week, we are going to see a surge in the number of homeless families within a few years.

The obvious solution here is to ensure that recipients have the skills they need to get better jobs, and that economy produces high wage jobs that they can fill. This bill unreasonably limits the amount of time recipients can take to upgrade their skills.

Another issue I would like to address is the cuts to the food stamp program included in this legislation. I have heard some of colleagues tout that food stamps will remain an entitlement in most States. What they fail to mention is that this legislation severely cuts that and other nutrition programs. Food stamps alone would be cut by $32 million under the legislation before us.

Although there are many other concerns raised in how people currently served by welfare will be affected by these provisions, the final point I want to raise concerns child protective services. The advocates of this conference agreement have stated that funds for foster care support are not being block granted. They fail to note, however, that funds for investigations, court procedures, quality assurance, professional training, and other services are block granted and capped by this conference report. Inevitably, these provisions will result in less protection for children suffering from neglect and abuse in this Nation. In States like my own, where protective services are under State supervision, the capped block grants will likely be unable to pay for the changes mandates in these services.

THE STATES AND COMMUNITIES

Clearly, the welfare proposal will not work from the perspective of welfare recipients. I doubt it will work from the perspective of the States and communities these recipients live in, either.

I have not yet seen the final amount New Mexico will receive under the conference agreement. I believe, however, that the number touted by proponents for New Mexico under the vetoed budget agreement was about $135 million for the TANF portion of this welfare reform package. According to Department of Health and Human Services figures, however, New Mexico received $141.5 million in fiscal year 1995. Clearly, my State will not be getting a large increase in funding. Yet the mandate for child care inherent in the work requirements imposed by this bill are huge. New Mexico, and other States, will face a shortfall at a time when many States, including my own, are under extreme budget constraints already.

The picture gets worse when one considers the other Republican proposals being tossed around the Capitol. The Republican budget contained significant reductions to the earned income tax credit. It also proposed substantial cuts in homeless assistance. At a minimum the Republican proposal cut homeless funding 32 percent. When eligibility for welfare runs out, and families are on the streets, they are going to have even fewer resources to draw on to help.

I know that many of my colleagues on the other side of the aisle believe that private giving and State resources will take up the slack. That is pure fantasy.

CONCLUSION

In short, Mr. President, I have yet to hear a coherent statement from the proponents of this conference report regarding how communities will meet the needs of poor children and their families that will be generated by this legislation. If it were to become law, we would be trading in an admittedly imperfect system for one that is certainly not better, and perhaps is much worse.

It seems particularly ironic to me that we are considering this ill-conceived legislation right before Christmas. Indeed, it is difficult not to think of Dickens' "A Christmas Carol." I am particularly reminded of the statement of the ghost of Scrooge's business partner, explaining why he is fated to be a miserable ghost: "Business! Mankind was my business. The common welfare was my business; charity, mercy, forbearance, and benevolence were, all, my business. The dealings of my trade were but a drop of water in the comprehensive ocean of my business!"

Meaningful welfare reform is our business, Mr. President. It is my understanding that the President intends to veto this legislation. I hope that after that veto, we can get down to that business.

Until then, God bless us, every one.

Mr. PELL. Mr. President, on September 19, 1995, after 2 weeks of floor debate and over 40 rollcall votes, the Senate passed welfare reform legislation by a vote of 87 to 12.

At that time, I voted for the welfare reforms measure. I did, however, make it clear in remarks here on the Senate floor, that I was doing so with some reluctance. I was concerned that the legislation did not go far enough in protecting our children and in providing adults with the important tools needed to help them move off welfare and into meaningful, long-term employment.

I voted for the measure because it included the Dole-Daschle compromise amendment, providing additional protections for children and families.

I said at that time that I would oppose the conference report if it were to return from the conference committee without the moderating provisions found in the Dole-Daschle amendment. This final bill erodes the important protective safety net and it is punitive and harmful.

In particular, I am concerned that the conference report is weaker on work requirements than the Senate-passed bill because of a $5 billion reduction of funds available to put people back to work. The report significantly reduces important child care protections, one of the major components of the Dole-Daschle compromise, and cuts food assistance guarantees to children by cutting almost $35 billion.

I will, therefore, oppose the conference report.

Mr. President, the current welfare system clearly needs to be reformed. I firmly believe that any system in place for 60 years needs updating and rethinking. It remains my strong desire to see a welfare system that celebrates, not mocks, compassion. I continue to support the provisions of the work first proposal put forth by Senator DASCHLE which emphasizes the significance of work for adults and the importance of protecting, not punishing, the children who have not chosen their parents or their circumstances.

Mr. SHELBY. Mr. President, I rise in strong support of the conference report on H.R. 4. This bill is the most significant piece of welfare reform legislation to come before Congress in more than three decades. The current welfare system is destroying the hopes and opportunities of thousands of Americans by trapping them in cycles of dependency. President Roosevelt, the hero of liberal welfare advocates, warned us what would happen if we structured our welfare system in a way that fostered reliance on the Government. Listen to what he said in his 1935 annual message to Congress:

> The lessons of history, confirmed by the evidence immediately before me, show conclusively that continued dependence upon relief induces a spiritual and moral disintegration fundamentally destructive to the national fiber. To dole out relief in this way is to administer a narcotic, a subtle destroyer of the human spirit.

Mr. President, that is exactly what the architects of the modern welfare state have done. They have created a welfare system that encourages people to view welfare as a way of life. The typical welfare family has already spent 6½ years on welfare, and will end up spending a total of 13 years on the rolls. Thirteen years, Mr. President. After 13 years on welfare, the average family has received at least $150,000 of taxpayers' money. No wonder President Roosevelt said this type of welfare was a narcotic that destroyed the human spirit.

The reason welfare has become so addictive is because it completely destroys any incentive to work or become self-sufficient. The current system essentially says to its potential victims, if you do not want to work, have a child you are not able to support. If you do this, the Government will send you a check every month, pay your food bills, give you some free child care, pay all of your health care bills, your heating bills, your college bills, give you some WIC money, pay for your children's breakfast and lunch at school, and possibly provide you with your own apartment.

In other words, Mr. President, the message is the Government will take care of you. You do not need to take care of yourself. You simply need to sit at home and do nothing. That is a very cruel form of assistance. It destroys the natural inclination in every human being to reach their full potential. No private charity operates in that manner. No private charity simply mails people checks for having children they are not able to support.

The bill before us today will begin to repair the broken welfare State; it will restore healthy incentives in our welfare system. It does not abandon poor Americans or their children. Rather, it requires adult welfare recipients to work in exchange for their benefits. If passed, these work requirements will be the first serious work requirements ever passed by Congress. This is not only healthy for the recipients, but it is good for their children to be raised in an environment where they see their parents getting up and going to work everyday. Work will become the norm among those receiving welfare, not the exception.

While I am very optimistic about the results of the strong work requirements in this bill, I want to express my concerns with the lack of provisions to address the most serious problem facing our country today: the breakdown of the traditional family. Eighty percent of children in many low-income communities are born in fatherless homes and welfare is the dominant feature of these homes.

For many poor people, the current welfare system makes bearing children out of wedlock a very practical alternative to the traditional method of raising a family—getting a job, a work skill, and finding a spouse committed to raising a family before having a child. If a young woman has a child before she has a work skill and a spouse, it will be almost impossible for her to ever escape the welfare trap. Mr. President, I regret that this legislation does not replace cash payments to teenagers with services to care for the child. But, I am glad we were able to at least give States the option to do that. It is my sincere hope that many States will pursue that option and will enact other policies to address the crisis of illegitimacy. I am glad that we were able to include the national prohibition against increasing cash payments to welfare recipients who have additional children while on welfare. Mr. President, if we do not contain the epidemic of illegitimacy, it will destroy the fabric of our society. America simply cannot survive without a strong family unit.

This legislation represents real reform. It is a carefully constructed balance between those who would advocate a complete end to public assistance and those who would seek to expand the current welfare State. It is the boldest reform we could have taken in the current political environment, and I hope for the sake of our Nation's future, that all of my colleagues will support this bill and the President will sign it into law.

Mr. HATCH. Mr. President, we stand here today to debate and vote on a very important piece of legislation, one that could change the lives of America's needy families.

Not since the Economic Opportunity Act was signed into law by President Lyndon Johnson on August 20, 1964, have we had such broad-sweeping and radical change in our welfare system.

Mr. President, we all know that the current war on poverty has not been successful. Since the war began, the number of children on the welfare rolls has grown from 3.3 million to 9.6 million in 1993. This was not the result of negligence, or a lack of trying. The combined Federal, State, and local spending on welfare in constant dollars increased from $38.4 billion in 1965 to $324.3 billion in 1993.

The current system is not working. What was designed with good intent, has become a trap pulling the needy families of America into a cycle of dependency that eats at their self-esteem and their ability to become self-sufficient.

The legislation before us today would change all that. This legislation moves the Federal Government out of the paper-pushing bureaucracy and moves it into a facilitator for families moving into self-sufficiency.

This legislation will help empower our families, not pull them into perpetual dependency. Gone will be the days of welfare checks for nothing. Beneficiaries will now have to engage in work activities in order to receive assistance.

This legislation retains the role of the Federal Government in overseeing the allocation of Federal money, but also gives the authority for designing the systems to the States. The States are in the best position to know the needs and environment of their unique constituencies. This legislation will allow them to design programs that coordinate resources and support families rather than just lead them through the blind maze of bureaucracy.

Mr. President, we all agree that the current system must be changed. This legislation turns the welfare programs of this country into a cohesive system flexible enough to meet the varying demands of individual States and areas while protecting our families and our children. I urge my colleagues and the President to take the chance we have today to make good on President Clinton's campaign promise to "change welfare as we know it." Let us pass this legislation and enable it to become public law.

Mr. McCAIN. Mr. President, I rise in strong support of the Indian provisions contained in the conference report to H.R. 4, the Personal Responsibility and Work Opportunity Act of 1995. I commend the distinguished majority leader, Senator DOLE, and the leaders of the Senate Committee on Finance and the House Committee on Ways and Means, for their efforts to overhaul our Nation's welfare system and for including provisions which responsibly address the unique needs and requirements of Indian country. They have taken great care to draft a welfare plan that effects real change in a system that is greatly in need of repair while ensuring that all citizens, including our Nation's American Indian and Alaska Native population, receive equitable access to necessary welfare assistance. The bill before us today honors in many practical ways the special relationship that the United States has with Native American tribal governments.

There is no doubt in my mind that the so-called Great Society programs of the past have failed American Indians as much or even more than they have failed the rest of America's citizens. These programs have failed Indians because they have largely ignored the existence of Indian tribal governments and the unique needs of the Indian population. Recent attempts to fix this problem have been like placing a bandaid on a gaping wound. Under existing programs, Indians remain the worst-off and yet benefit the least. If we are to truly reform welfare then we cannot ignore Indians, who year-after-year rank the highest in poverty and unemployment.

It is vital that we authorize Indian tribal governments to administer a welfare block grant for two reasons. First, in fiscal year 1994, only a fraction of the eligible American Indians and Alaska Natives received AFDC. But in States such as Alaska, Montana, North Dakota, and South Dakota, Arizona, and New Mexico, Indians and Alaska Natives are disproportionately represented as AFDC recipients. It is my belief, and that of many members of the Senate Indian Affairs and Senate Finance Committee, that Native American tribal governments are best able to address the needs of Indians and to provide accessible service to those who must travel great distances for service. They are, after all, the governmental units closest in proximity, culture, and values, to those they serve. Clearly, the impetus for the Congress to provide block grants to States also applies to Indian tribal governments—Indian tribal governments, not the States, know the most about the real impact of welfare on their communities and how best to design programs to meet their needs.

If this bill is signed into law, for the first time in our Nation's history, tribal governments will be able to receive block grant funds to design and administer Federally-funded welfare programs. Indian tribal governments have sought that authority throughout history. The block grant approach in this bill is a practical way to implement the Federal trust obligation that we owe Indian tribes, a doctrine stated in the earliest United States Supreme Court decisions and grounded in the United States Constitution.

The bill before us today promises greater hope for Indians because it allows their own tribal governments to serve Indians now living in poverty. It empowers tribes themselves to assist in ending the welfare dependency often created by existing programs by placing resources necessary to fight local welfare problems into the hands of local tribal governments. Mr. President, I believe this bill demonstrates a real commitment to ending welfare as Indians have known it. As I have said on many occasions, our successes as a nation should be measured by the impact that we have made in the lives of our most vulnerable citizens—American Indians.

Early in the 104th Congress, the Senate Committee on Indian Affairs held several hearings on the potential impact to Indians of various welfare reform proposals such as block grants. During these hearings, tribal leaders spoke out in strong favor of direct Federal funding which would allow tribal governments flexibility in administering local welfare assistance programs and stated their hopes of receiving no less authority than the Congress chooses to give to State governments in this regard. The committee also received testimony from the Inspector General of the U.S. Department of Health and Human Services who testified to how poorly Indians fare under block grants as currently administered by State governments. In response to the record adduced at these hearings, the Indian Affairs Committee developed provisions for direct, block grant funding to tribal governments which are now contained in H.R. 4. These provisions reflect the efforts of many Members on both the Indian Affairs and Finance Committees, and to them I express my gratitude.

Let me take several minutes to explain the Indian provisions related to temporary assistance for needy families contained in H.R. 4 and the goals and purposes of those provisions. In general terms, the bill authorizes Indian tribal governments, like State governments, to receive direct Federal funding to design and administer local tribal welfare programs. Let me be clear—an Indian tribe retains the complete freedom to choose whether or not it will exercise this authority. If it does not, the State retains the authority and the funds it otherwise has under H.R. 4. The following references are to new sections of law in part A of title IV, which are set forth in section 103 of the H.R. 4.

Section 412 is the main Indian provision setting forth the basic authority for tribal direct funding and the express requirements of tribal family assistance plans. It requires the Secretary to make direct funding available to Indian tribes exercising this option in order to strengthen and enhance the control and flexibility of local governments over local programs, consistent with well-settled principles of Indian self-determination. Section 412(b) provides that in order to be eligible to receive direct funding, an Indian tribe must submit a 3-year tribal family assistance plan. Each approved plan must outline the tribe's approach to providing welfare-related services consistent with the purposes of this section. Each plan must specify whether the services provided by the tribe will be provided through agreements, contracts, or compacts with intertribal consortia, States, or other entities. This allows small tribes to join with other tribes in order to economize on administrative costs and pool their talents to address their common problems. Each plan must identify with specificity the population and service area or areas which the tribe will serve. This requirement is designed to ensure that there is no overlap in service administration and to provide a clear outline to affected State administrations of the boundaries of their responsibilities under the act. Each plan must also provide guarantees that tribal administration of the plan will not result in families receiving duplicative assistance from other State or tribal programs funded under this part. Each plan must identify employment opportunities in or near the service area of the tribe and the manner in which the tribe will cooperate and participate in enhancing such opportunities for recipients of assistance under the plan consistent with any applicable State standards. And finally, each plan must apply fiscal accounting principles in accordance with chapter 75 of title 31, United States Code. This last requirement is consistent with other Federal authority governing the administration by tribes and tribal organizations of similar block grant programs under authority of the Indian Self-Determination and Education Assistance Act of 1975, as amended. Section 412(c) requires the establishment of minimum work participation requirements, time limits on receipt of welfare-related services, and individual penalties consistent with the purposes of this section and the economic conditions of a tribe's service area and the availability to a tribe of other employment-related resources. These restrictions must be developed with the full participation of the tribes and tribal organizations, and must be similar to comparable provisions in section 407(d). The remaining provisions of section 412 further ensure that funding accountability will be maintained by tribes and tribal organizations in administering funds under an approved tribal family assistance plan.

Section 412(a) establishes the methodology for funding an approved tribal family assistance plan, including the use of data submitted by State and tribal governments. This provision anticipates that the data involved is already collected or the added burden of data collection required will be de minimus. The funds provided to a tribe under section 412 are deducted from the State allocation. Tribal plans are funded at levels that are based on the amounts attributable to the Federal funds spent by a State in fiscal year 1994 on Indian families residing in the service area of an approved tribal plan. Under section 405(b), the State is notified of any reduction to its block grant that has been made in order to fund a tribal plan. Having lost the Federal support for temporary assistance to needy Indian families in a tribal plan's service area, the State no longer has any responsibility under the bill for those families.

The Indian Affairs Committee has been informed by various State representatives that it is administratively more difficult and costly for States to provide services to Indians who reside in remote locations of their States. While these States acknowledge a responsibility to provide services, circumstances such as geographic isolation make it more difficult to do so. States are, therefore, well-served by these provisions, because if Indian families in a geographical area are identified in an approved and funded tribal plan, a State government no longer has the responsibility to serve those families unless the tribe and the State agree otherwise.

Some tribal representatives have pointed out that some tribes may choose not to exercise the option to administer a tribal plan, because the bill does not require a State to provide State funding to supplement the Federal funding provided to a tribe. As originally drafted, the Indian provisions expressly permitted States to agree to provide State funding or services to an Indian tribe with an approved plan in order to maintain equitable services. It is my understanding that this language was deleted because other provisions in the bill provide sufficient guarantees that States will ensure the delivery of equitable services. But under the bill's current provisions, a State is not prohibited from entering into an agreement with a tribe for the transfer of State funds or the provision of specific State services to a tribe for the benefit of Indians within that State. Indeed, a State government may choose to enter into an agreement with a tribal government to induce the tribe to take over administration of these programs, and one of the inducements could be a transfer of State funds to the tribe that would otherwise have been used by the State to serve those who would now be served under the tribal plan. If State administrators are sincere about making real progress on welfare reform, and I think they are, I expect they will act responsibly and sensitively with tribes that wish to join the State in administering programs that end welfare dependency.

Mr. President, it is important to point out that these Indian provisions are consistent with the overall purposes of H.R. 4. The Indian provisions do not seek to circumvent these purposes nor give preferable treatment to Indian tribal governments. The tribal plans remain subject to minimum requirements and penalties similar to those applied to State governments. H.R. 4 also requires a tribe to comply with the fiscal accountability requirements of chapter 75 of title 31, United States Code, and the Indian Self-Determination and Education Assistance Act of 1975, as amended. I would also submit that giving tribal governments the authority to administer a tribal welfare program is consistent with our goal of empowering local government control over local programs. It only stands to reason that, like States, Indian tribal governments are most familiar with the problems that plague their local communities.

Section 402(a)(5) of the bill requires a State to certify, as it does with several other important Federal priorities, that it will provide equitable access to Indians not covered by a tribal plan. This provision expressly recognizes the Federal Government's trust responsibility to, and government-to-government relationship with, Indian tribes.

Section 412(a)(2) provides that the Secretary shall continue to provide direct funding, for fiscal years 1996 through 2000, to those 77 Indian tribes or tribal organizations who conducted a job opportunities and basic skills training program in fiscal year 1995, in an amount equal to the amount received by such tribal JOBS programs in fiscal year 1995. These sums are in addition to the sums provided to State and tribal block grants for family assistance.

Section 418 provides standard definitions of the terms "Indian", "Indian tribe", and "tribal organization" in order to clarify the respective limits of State and tribal government responsibilities under the bill.

Many of my colleagues in the Senate know that some Indian tribal governments may not have existing capacity or infrastructure to administer complex welfare programs. Consequently, H.R. 4 includes provisions authorizing tribes to enter into cooperative agreements with States or other tribal governments for the provision of welfare assistance. This will allow small tribes to join with other tribes in order to economize on administrative costs and pool their talents and resources to address their common problems. However, I believe it is very important to permit and encourage those Indian tribal governments that do possess such capacity to participate in these new welfare initiatives by addressing welfare issues at a local level.

It should go without saying that any State may enter into any agreement it chooses with a tribe for the transfer of State funds to that tribe for the purpose of administering a welfare program that benefits Indians within that State. In my view, it is in both a State and a tribe's best interest to work out supplemental agreements for funding and services where necessary because to do otherwise could undermine the goals of the bill.

I know that many Members in this body are aware that Indian country has historically been plagued by high unemployment and therefore its residents suffer from extremely high poverty rates. H.R. 4 enables Indian tribes that are currently administering tribal JOBS programs to continue to do so. Section 412(a)(2) requires the Secretary to provide direct funding in an amount equal to the amount received by the existing tribal JOBS programs in fiscal year 1995. By keeping the JOBS programs in Indian country intact, we will acknowledge the positive impact it has made in the lives of thousands of Indians. The Indian JOBS program has had measureable success. For instance, in fiscal year 1994, in just one quarter, over 2,000 American Indians and Alaska Natives participating in the JOBS program obtained job placements. Indians residing in communities where a tribal JOBS program is in operation have experienced a new sense of hope by developing basic job skills that have helped them to secure stable job opportunities both on and off the reservation. H.R. 4 also contains provisions in titles VI and VIII which provide continuing resources for programs that have proven successful in Indian country, such as the Child Care and Development Block Program as well as new programs that are critical to ending the high Indian unemployment rates such as the proposed workforce development and training activities. These provisions, along with the JOBS component will greatly assist in helping Indian country contribute to the goals of welfare reform and the purposes of the Act.

Mr. President, I believe it is important to point out that with passage of these provisions in H.R. 4 the Congress will discharge some of its continuing responsibilities under the United States Constitution—the very foundation of our treaty, trust, and legal relationship with the Nation's Indian tribes, and which vests the Congress with plenary power over Indian affairs. I was deeply troubled to learn that earlier this year, the House passed its version of H.R. 4 without addressing the unique status of Indian tribal governments or the trust responsibility of the Federal Government to the Indian tribes. There was no House debate on the status of the "welfare state" on many Indian reservations nor the impact that the proposed changes to welfare programs would have on access to services already in existence in Indian country. Nor was there any mention made in the House welfare debate of the significant legal and trust responsibility that the Federal Government has to the Indian tribes. I am pleased that the House conferees agreed to adopt much of the Senate approach on Indians.

As the Chairman of the Indian Affairs Committee, I feel it is my responsibility to take a moment to briefly expand my remarks to a discussion of the responsibilities of the Congress toward Indians under the United States Constitution. The Constitution provides that the Congress has plenary power to prescribe Federal Indian policy. These powers are provided for pursuant to the commerce and the treaty power clauses. Sadly, over the last two centuries, the Congress has poorly exercised its power and responsibility—subjecting Indian tribal governments to inconsistent or contradictory policies—policies of termination and assimilation. These policies have served to weaken well established Indian systems of government and, in my view, have greatly contributed to the welfare state that exists today on most Indian reservations.

I know that time and time again, I have stood on this floor to recite grim statistics revealing that Indians are, and consistently remain—even in 1995—the poorest of the poor and always the last to benefit. Today, I will withhold from reciting that data because I believe that this bill begins to turn the tide in this Nation's treatment of Indians and their tribal governments. Similar to the unfunded mandates bill we enacted into law earlier this year, H.R. 4 will treat tribal governments like State governments by allowing them the flexibility and authority to directly administer their own programs free of Federal bureaucratic intrusion and control. Due in large part to the leadership of the late President Nixon, the Congress for more than two decades has responsibly exercised its plenary authority by replacing the distorted and dismal policy of termination of Indian tribal governments with empowering policies of tribal self-determination and self-governance—policies that respect and honor the government-to-government relationship between the Federal Government and the Indian tribes—policies that are consistent with the Federal trust responsibility and that set a new course of fairness in the Federal Government's dealings with Indian tribal governments.

Given the renewed commitment by Congress to deal fairly with the Indian tribes, I fully understood why many tribal leaders became concerned when the Congress earlier this year began moving toward a system of block grants to States. The concerns were that if the Congress did not revise the block grant model to reflect its responsibility to Indian tribal governments, the government-to-government relationship between the tribes and the United States would be soon eroded and the Federal trust responsibility held sacred in our Constitution and the decisions of our Supreme Court would be relegated to the States.

These tribal concerns are likewise valid in a practical sense. A Federal Inspector General's report issued in August 1994 found that Federal block grants to States, in some instances have not resulted in equitable services being provided to Indians. That report found that in 15 of the 24 States with the largest Indian populations, eligible Indian tribes did not receive funds even though Indian population figures were used to justify the State's receipt of Federal funding. In addition, findings of the Senate Committee on Indian Affairs revealed that even when States were attempting to serve Indians, the programmatic and administrative costs of providing welfare services to Indians are often greater than providing local services to others. What these findings revealed to me is that when either the Federal or State governments have administered programs for Indians, Indians have not received an equitable share of services.

Mr. President, the whole purpose of welfare reform is to provide the tools to State governments to design and administer local welfare programs. After all, we have come to understand that local governments want and have the ability to create local solutions to address what are, in essence, local problems. I would suggest that this policy is no different that the Federal Indian policies of tribal self-determination and self-governance. I also know that elected tribal officials have a great love of country and an incredible desire to contribute to the Nation's goal of elevating members of their communities out of the depths of poverty. Given the tools to do so, I believe that Indian tribes will make a great contribution to the Nation's war on poverty.

Mr. President, I want to acknowledge a group of Senators that I believe have demonstrated a great level of understanding and commitment to the importance of addressing the needs of Indian tribes in the Nation's welfare reform movement. Senators HATCH, DOLE, ROTH, INOUYE, DOMENICI, SIMON, MURKOWSKI, PRESSLER, CAMPBELL, BAUCUS, and KASSEBAUM have contributed to the efforts to ensure that Indian tribes are not overlooked and abandoned in the current welfare reform efforts.

Two members of the Indian Affairs Committee deserve particular recognition: my good friend from Kansas, Senator NANCY LANDON KASSEBAUM and my good friend from Utah, Senator ORRIN HATCH. Senator KASSEBAUM, as chairwoman of the Labor and Human Resources Committee, worked closely with the Indian Affairs Committee and Senator SIMON to ensure that provisions for direct Federal funding would be available to Indian tribes in her Committee's employment consolidation bill and that tribes would continue to receive funding through the child care and development block grant program. Senator KASSEBAUM's leadership has greatly contributed to the fairness with which Indian tribes are treated under H.R. 4 and the progress that has been made by the Congress in its treatment of Indian tribes. While there is still some question about the impact of the bill's overall reductions on the current level of child-related funding made to Indian tribal governments, I am pleased by the conference committee's action, taken at the urging of Senator KASSEBAUM, to make all child care funds throughout the bill available to Indian tribal governments.

Although there are many Indian tribal provisions that I strongly support in the bill, I was extremely disappointed that it does not include a provision to address the concern of State Child Support Administrators and Indian tribal governments that tribes have been left out of efforts to provide uniform child support enforcement. The amendment offered by myself and several others, including the vice chairman of the Senate Indian Affairs Committee, Senator INOUYE, and the Senate minority leader, Senator DASCHLE, was unanimously agreed to by the Senate but it was not adopted by the conference committee. Nonetheless, I am pleased to know that the National Council of State Child Support Administrators has agreed to continue to work with me to address our mutual concern. Unless something is done to include tribes in these efforts, we will deprive Indian children of necessary child support services and funding, and we will perpetuate a uniform child support system that truly does not provide uniformity in Federal funding or services.

In addition, I am concerned that no provisions were made to provide direct funding to Indian tribes for Title IV-E Foster Care and Adoption Assistance funds. The Congress had abundant evidence of the great need in Indian country for these funds. One stark example is the 1994 Office of the Inspector General's report that documented that Indian children are disproportionately represented in substitute care. However, Indian tribes must rely on State governments to share Federal funding for title IV-E funds; yet the OIG report found that most Indian tribal governments have received little or no title IV-E funding. It is my hope that States with Indian tribes within their boundaries will make a good faith effort to share these funds equitably in order to improve the Nation's overall rate of children in substitute-care.

Finally, I want to give particular thanks to my good friend from Utah, Senator ORRIN HATCH. Senator HATCH has worked tirelessly with me over the last several months to shape and enhance tribal welfare provisions that could be acceptable in any welfare reform plan. Senator HATCH is a member of the Senate Finance Committee and he is a new member of the Senate Committee on Indian Affairs. He has demonstrated a great level of understanding and commitment to the betterment of the lives of Indian people, and I commend Senator HATCH for his steadfast leadership in ensuring that Indian tribal governments are fairly treated in the welfare reform debate.

Overall, I support the bill. It contains many important advances in the way our Nation treats tribal governments. Several months ago when the bill passed the Senate with these Indian provisions, many Democrats joined with Republicans in supporting this measure. While we may disagree on many things, I was glad to see that the Indian provisions gained broad, bipartisan support. That reflects a principle I believe should guide the Congress in all matters affecting Indian affairs: Indian issues are neither Republican nor Democratic. They are not even bipartisan issues—they are nonpartisan issues. They are day-to-day human issues which require understanding and support from both sides of the aisle. Whatever new form this Nation's welfare system takes, providing equal access to the Nation's Indian population through tribal block grants is not only the right thing to do, it honorably discharges some of our continuing responsibilities under the U.S. Constitution. I urge my colleagues, and the officials in the Clinton administration, to ensure that this approach is maintained as we reform welfare.

Mr. DORGAN. Mr. President, despite some concerns, I voted to support the welfare reform bill which passed the Senate with overwhelmingly bipartisan support on September 19. I did so because I believe our current welfare system needs to be reformed and because substantive improvements were made to the bill on the Senate floor. I also wanted to advance the bill to a conference with the House where I hoped additional improvements would be made. Before the vote, however, I stated that I could not support a final bill unless it guaranteed that innocent children were protected. Regrettably, the bill which has emerged from the Senate-House conference fails to meet that test.

I am disappointed that the conference committee did not build on the bipartisan legislation which passed the Senate. Instead, we have before us a bill which, in my view, abdicates our moral responsibility to ensure that children are not punished for the mistakes of their parents. There ought to be a safety net to protect children. This bill shreds the safety net and instead gambles with the lives of poor children by failing to guarantee their security.

On September 19, I stated that there were several improvements contained in the Senate bill which would have to be retained or improved upon in conference or I would oppose final passage. Unfortunately, many of these provisions were substantially weakened or removed altogether from the bill by the conference committee. I would like to point out just a few of the fatal flaws in the bill before us today.

CHILD CARE

Every expert will tell you that the biggest obstacle in moving people from welfare to work in this country is the lack of adequate child care. Child care is the linchpin for successful welfare reform.

While the bill proposed in the Senate added more money for child care, it fell significantly short of the amount that the Congressional Budget Office estimated would be needed in order for the States to meet the stringent requirements in the bill for moving welfare recipients into the work force quickly. To address this shortage of child care funding, the Senate added an additional $3 billion just prior to final passage. While that amount was still well below the amount needed for child care, it was a small step in the right direction. Yet the small amount of money added by the Senate for child care was reduced $1.2 billion in conference. The Congressional Budget Office tells us that the shortfall for child care over the next 7 years will be almost $12 billion. That just doesn't make sense. If we want to move welfare recipients into the work force, we must provide for their child care needs. The bill before us is woefully inadequate in meeting those needs.

To make matters worse, the conference agreement lets States off the hook. As adopted by the Senate, this extra pot of child care funding was made available only to States which agreed to spend in future years 100 percent of what they spent for child care in 1994. The conference committee slashed that State requirement to 75 percent, thereby further reducing the amount of money available for child care. Again, this just doesn't make sense.

MOTHERS OF SMALL CHILDREN

The Senate bill, wisely in my view, allowed States to reduce the work requirements for mothers with children under age six to 20 hour per week instead of the 35 hours per week required of other recipients. Unfortunately, the conference agreement deletes this crucial Senate provision. Giving mothers the ability to spend more time at home to nurture their children during their most formative years of development is the right thing to do. It also meets the test of common sense. The Senate-passed bill required these mothers to work, but allowed them to balance work responsibilities with family obligations. The bill before us does not, and families will suffer because of this.

FISCAL ACCOUNTABILITY

Welfare has always been a Federal-State partnership. Under current law, States contribute about 45 percent of total welfare expenditures. Without States continuing to contribute their share, the pot of money currently available for welfare could be reduced by almost half overnight. To make sure that this did not happen, the Senate bill required States to contribute at least 80 percent of the money they spent on welfare in 1994 in order to be eligible for their block grant money. That requirement was reduced to 75 percent by the conference committee. What this means is that States will be able to cut their funding by approximately $17 billion over the next 5 years. The end result is that cash assistance could be denied to as many as 1 million needy children. I am simply not willing to gamble with the life of one child. We can and should do better than what is being proposed here.

CHILD PROTECTION

The conference committee also rejected the Senate bill's protections for extremely vulnerable children. While the conference agreement maintains the entitlement status of room and board costs for foster care and adoption, it establishes block grants for all other funding critical to ensuring that children are safe, including removing abused and neglected children from unsafe homes and placing them in licensed facilities and permanent homes, and training for foster parents.

The conference bill also ends the Federal entitlement responsibility for all other child protection programs, which the Senate had maintained in its bill. Instead, they are combined into two block grants—which will undoubtedly pit preventative services against crisis and treatment programs in a battle for limited funding. I find these two provisions unconscionable. I have no doubt in my mind that they will result in more children living in abusive homes and in danger.

The current welfare system serves no one well—not recipients, not their children, not American taxpayers. The current system has trapped too many people in a cycle of lifetime dependency. Any meaningful welfare reform must be grounded on the basic premise that government assistance is a way "up and out"—not a "way of life." It must be viewed as a temporary assistance program for people who are down and out on their luck and need a helping hand to get them back on their feet and back to work.

In crafting meaningful welfare reform, however, protecting the children of poor mothers must be a priority. Let's not forget that 9 million children will be affected by this legislation. Let's not forget that more than 20 percent of America's children live in poverty. And let's not forget that the Office of Management and Budget estimates that an additional 1.5 million children will fall into poverty if this conference agreement is enacted. Protecting innocent children is and ought remain a Federal responsibility and a national priority. Unfortunately, the conference committee has failed to meet this responsibility. There is simply no safety net for poor, innocent children in this bill. For this reason, it is with great disappointment that I simply cannot support this conference agreement. Having said that, I remain optimistic that a responsible welfare bill which puts people to work but protects innocent children can be crafted during this session of Congress. I remain committed to that goal.

THE MILKING OF OUR CHILDREN'S FUTURE

Mr. LEAHY. Mr. President, America is waking up to what the Contract With America is really about. But that has not stopped the Republican Congress from forging ahead with their ideological war, that in the end will hurt not just low-income children and families, but our country as a whole.

The bill before us is rhetorically called welfare reform. Its supporters claim they want to get people off welfare and into a job, but this is undermined by the fact that the bill does not give States the resources to follow through on this claim.

What this bill does do is provide billions less than what is necessary for States to provide child care and meet work requirements. This bill cuts assistance for the poor, disabled children and the elderly, and cuts funds that are needed to rescue children from abusive homes. It cuts over $30 billion from the food stamp program and provides for optional block grants that will not allow States to respond to increased need during periods of higher unemployment—over 80 percent of food stamp benefits go to families with children.

Vermont initiated its own welfare reform plan a year ago, aimed at getting people off welfare and into the work force. Vermont's program is working—because the State lowered the rhetoric, left off the sound bites, and got the job done. The cuts included in this bill will be a step backward and could dismantle the programs that have been working in Vermont. It will also be a step backward for the work accomplished by Vermont Campaign to End Childhood Hunger and other Vermont children's advocacy groups.

To highlight what this bill is really all about I want to talk about just one—perhaps seemingly minor—aspect of the agreement reached on the school lunch program. A few years ago, the Reagan administration tried to block-grant the school lunch program. They also tried to say that ketchup was a vegetable. Americans resented people in Washington playing politics with school lunches.

Now the Republicans in the House of Representatives, and a few here in the Senate, are playing the same kinds of political games. Their block grants would end the 50-year-old requirement that schools provide a carton of milk with every school lunch.

Milk has been required in the National School Lunch Program ever since the program began in 1946. The law could not be clearer on this subject: "Lunches served by schools participating in the school lunch program under this act shall offer students fluid milk."

Milk is essential to a child's healthy development. It builds strong bones and healthy bodies. Serving every child a carton of milk every day teaches children a crucial lesson about eating healthy meals.

Schools now serve about 40 million half-pints of milk per day in the school lunch and school breakfast program. Children in the school lunch program drink 454 million gallons of milk per year. By comparison, all the dairy farmers in the State of Vermont produce 279 million gallons of milk per year. The milk provided through school lunches accounts for over 7 percent of all fluid milk consumed in the United States.

In my 8 years as chairman of the Agriculture Committee, during two full rewrites of the child nutrition law, I never once heard anyone complain that the school lunch program was serving too much milk.

Yet this bill sets up block grants, and then provides them with insufficient funds to provide a healthy meal, including milk, to every child who needs one.

When the financial crunch hits, States are likely to stop serving milk to children—they will replace it with cheaper and less healthy substitutes like soda.

By the way, under this Republican welfare bill, any State—not just a block-grant State—can obtain a waiver to serve junk food and soda in school cafeterias. I fought for 8 years to keep junk food out of the school lunch program.

I want to read from a letter that the Senator from Kentucky, Senator MCCONNELL, and myself sent to the chairman of the Agriculture Committee, Senator LUGAR, on December 6 supporting his stance against school lunch block grants. The letter was also signed by 9 other Republicans and 11 other Democrats.

> We oppose mandatory or optional block grants for the child nutrition programs. The school lunch program provides healthy meals every day for 25 million American children. Block grants could undermine the nutritional value of those meals, threaten the guarantee of free meals for needy children, and provide inadequate funding for the program during recessions and other times of need.

The National School Lunch Program is a program that works. Americans—both Democrats and Republicans—support it. It answers a vital need. So why do we need to end the Federal commitment to feeding children and replace it with a block grant? The American School Food Service Association believes that school block grants are a step in the wrong direction and has urged members to vote against this bill.

Underfunded block grants, whether for school lunch, food stamps, child protection, Medicaid, or aid to families with children do not give States the tools they need to respond to increased needs during periods of higher unemployment. State taxpayers will be the ones to pick up the tab.

This bill needs to be vetoed so we can start working on a real welfare reform bill in a bipartisan fashion. We must come together and we must agree on the basic principles that can guide our efforts. In my view, the only way to begin this discussion is for President Clinton to veto this bill.

I trust that the President will do so in the interest of American's children and America's future.

Mr. COHEN. Mr. President, 3 months ago, the Senate voted overwhelmingly to bring about fundamental change to welfare in this country.

The entitlement status of cash welfare is ended in this bill. This is the most important step we can take if we want to successfully end the cycle of dependency. As Marvin Olasky noted in his recent book, "The Tragedy of American Compassion," effective welfare requires the ability to distinguish those who have fallen on hard times and need a helping hand from those who simply refuse to act in a disciplined and responsible manner. When welfare is a Federal entitlement, it is very difficult to make these distinctions.

However, ending the entitlement must be accompanied by the support necessary to get welfare recipients into jobs. In considering our welfare system, I think it is useful to distinguish beneficiaries by three major groups.

First, there are those in need of temporary assistance. People who, while they are generally able to support themselves and their families, they have fallen on hard times. Food stamps and other assistance must be there to provide temporary help when unforeseen economic crises occur.

The second group includes those whom most of us would agree cannot work. These individuals—through no fault of their own, are simply not able to economically provide for themselves. They have disabilities that warrant our compassion not our scorn. The welfare system should be there for them.

The third group consists of people who fall somewhere in between the first and second groups. They have been on and off the welfare rolls for years, yet they don't seem to fit the profile of someone whom most would agree cannot work.

It is this third group that should be the focus of the current welfare debate. The debate has often been extremely polarized. Many on the left are reluctant to vest any sense of personal responsibility in welfare recipients. They view them as unwitting victims of societal injustices, refusing to acknowledge the role that personal behavior may play.

On the other hand, many on the right are reluctant to acknowledge that no person is an island—that each of us thrives or fails to thrive, to some extent, as a result of our environment. Some on the right naively believe that we all have the same opportunities and that a failure to succeed is simply evidence of laziness.

For many beneficiaries in this third group, one of the most essential ingredients for self-sufficiency is the availability of child care. I am of the opinion that we cannot mandate strict work requirements without providing States with a reasonable amount of child care funding.

During Senate debate on welfare, I worked on a bipartisan basis with other Members to increase funding for child care. Even under the current system of entitlement, there are more than 3,000 children of working parents already waiting to receive child care assistance in Maine. While the conference agreement decreases the Senate funding level by about $200 million, that decrease in funds is balanced by a reduction in the work requirements in the early years of implementation. Rather than the 25 percent level called for in the Senate bill, States will be required to place 15 percent of their caseload in work activities.

In addition, the conference agreement will add $1.6 billion in funding for the social services block grant. This block grant has been used in many States to fund additional child care services for low-income families and this funding will allow States to furnish additional services for child care and to promote economic self-sufficiency.

The provision for child care services in the agreement continues to provide protections for children who are not yet in school by prohibiting States from penalizing mothers who cannot work because there simply is no child care available.

We have been criticized on all sides for providing too much and providing too little in this legislation. We do not know how States will react to this new flexibility and independence in setting policy. This legislation reflects the philosophy that Washington does not have all the answers. We should no longer assume that one-size-fits-all Federal solutions offer better hope than granting more freedom to States to design approaches that address a State's unique set of circumstances.

Having said that, I believe we have a common and national interest in assuring an effective social safety net for all Americans, regardless of where citizens may reside. So I would not support any effort to completely remove the Federal Government from the welfare system.

Through Government, we have an obligation to try to counter the negative influences which impact some of the poorest members of our society. Many Americans are born into environments of drugs, crime and severe poverty. And regrettably, too many of our young people are growing up without two parents involved in their lives. The correlation between single parenthood and welfare dependency is overwhelming. Ninety-two percent of AFDC families have no father in the home.

Society must also acknowledge the correlation between crime and fatherlessness. Three-quarters of all long-term prisoners grew up without fathers in their homes or active in their lives. When 24 percent of children born today are born to unwed mothers, we cannot avoid this issue if we hope to break the cycle of poverty and crime that permeate some of our communities.

Unfortunately, no one really knows how to stop that cycle. For this reason, I do not support efforts to attach a lot of strings to the welfare block grants, including provisions ostensibly designed to curb illegitimacy. It is clear that welfare reform cannot disregard the growing incidence of out-of-wedlock births, teen pregnancy, and absent fathers, but it is also clear that we don't know what will counter this trend. Accordingly, we ought not prescribe a Federal solution that would hamstring the ability of States to try different approaches.

This legislation does bring a new national presence to the collection of child support and establishing paternity for children born out-of-wedlock. By taking a tougher stand to establish and then enforce child support orders, some of the families currently tied to the welfare system may be able to get loose. Financial support cannot replace the presence of a good father in a household but it will relieve some of the burdens placed on single mothers.

I support the general thrust of the pending welfare legislation to turn more decisionmaking authority over to the States. Consistency would suggest that we not at the same time put a lot of requirements on States on how and who to spend Federal welfare dollars. I do think that it is important to ensure that States share responsibility with the Federal Government by investing dollars at the State level in welfare programs. For this reason, I supported a strong maintenance of effort requirement which remains largely intact in the conference report.

Block-granting AFDC to the States is not a panacea. A welfare system that has clearer lines of responsibility and accountability will be more effective. But this is not the end of the welfare debate. Hopefully, we will enact legislation this year that will make meaningful improvements in the current system. But turning these programs over to the States will not itself fix the problems. Congress and the President must continue to work with States to improve the welfare system to make sure that a safety net is there for those who need it but is denied to those who abuse it.

I intend to support the conference agreement, but I do have reservations regarding some of the changes that were included in the final agreement. We have been put on notice that this legislation will be vetoed by President Clinton. If the President follows through on his promise, it is my hope that we can revisit those important issues when the legislation returns to Congress.

Mrs. FEINSTEIN. Mr. President, the welfare reform conference report before us today should be defeated. It should be defeated because it does not adequately address our Nation's needs and particularly the needs of my State; it endangers the Nation's children; it does not help people move from welfare to work.

INADEQUATE ATTENTION TO UNEMPLOYMENT, GROWTH

Compared to the bill we previously passed, this bill gives short shrift to my State's needs.

First, the Senate bill created a contingency fund of $1 billion to help States with high unemployment. This conference agreement reduces this fund to $800 million. California had an unemployment rate stood of 8.8 percent in November, while the national rate was 5.6 percent. In the last 5 years, my State's unemployment rate has never dropped below 7 percent, reaching 10 percent in 1994.

Second, the bill's underlying funding formula fails to recognize high growth rates in poverty. I offered an amendment to redistribute funds by the change in poverty population each year. The conference agreement does not rectify this problem. California's population is expected to grow from 30 million in 1990 to 42 million in 2010 and 49 million by 2020.

Third, under this bill, States will contribute less. The Senate bill required States to maintain 80 percent of their 1994 funding of cash assistance [AFDC]. Under this bill, States can drop their funding to 75 percent. Thus, they can reduce their funding by 25 percent. This would allow States to reduce State spending by $5 billion.

PROTECTING NEGLECTED AND ABUSED CHILDREN

Programs providing services to neglected and abused children are an important part of this bill. These are services that have removed children from unsafe homes, placed them in protective settings, provided periodic reviews of their status, and trained child protection staff.

Child protection services are included in a block grant and cut by $1.3 billion over 7 years. These are services like training for foster parents, child abuse emergency response, and other services that try to keep families together and protect children in foster homes.

There are at least half a million of these children in California.

From 1988 to 1993, nationally, the rate of reported child abuse and neglect rose 25 percent. The foster care caseload grew 50 percent. From 1983 to 1993, the number of children in child protection grew by two-thirds. Los Angeles last year responded to more than 165,000 reports of abused and neglected children.

This bill will weaken support for these, our most vulnerable children.

NOT HELPING MOTHERS BE MOTHERS

The Senate bill allowed States to limit the work requirement to 20 hours a week for mother with children under age 6. This bill requires mothers of small children to work at least 35 hours a week.

While work requirements are appropriate for many people, mothers are the most important influence in a young child's life. Work requirements should be compatible with raising a family and guiding young children. I believe a 20-hour work week requirement for mothers with young children, rejected by this bill, is reasonable.

NO HEALTH COVERAGE

The conference version, unlike the previous Senate bill, ends the guarantee of health insurance or Medicaid for women on AFDC and their children over age 13.

In California, 290,000 children and 750,000 parents would lose coverage, according to the Children's Defense Fund. This represents 18 percent of all children in the United States losing coverage.

By ending this health insurance, we will add to our State's uninsured population which is already the third highest in the Nation at 22 percent. Without health insurance or the ability to purchase it, sick people end up in hospital emergency rooms and we all pay through tax dollars or our private policies.

WORK REQUIREMENTS, RESOURCES WEAK

The bill's goal, a goal I endorse, is to move welfare recipients from dependency to work. The bill requires States to have 50 percent of recipients participating in work by 2002. But the bill falls short in several ways.

First, the conference agreement, unlike the Senate bill, does not require personal responsibility contracts, agreements that obligate the recipient and move him or her toward self-sufficiency.

Second, the conference agreement deletes the Senate provision giving bonuses to States for job placements.

And third, and most importantly, the bill does not provide adequate funds for child care programs to support the requirements that States put welfare recipients into work.

CHILD CARE

Child care is the linchpin to self-sufficiency for mothers on welfare. The fact is that mothers cannot go to work without child care programs for their children. There are two serious problems in this bill, the first is funding and the second is standards.

Currently in California, 80 percent of eligible AFDC children are unserved. The bill before us exacerbates this already dire situation. To support the work requirements of the bill, the bill falls short from $6 billion to $13 billion.

Child care experts in California tell me that this means our State would be $1.3 billion short of what is needed to meet the increased demand caused by the work requirements of the bill.

Under current law, to qualify for Federal child care funds, States must set quality standards that address things like caregiver to child ratios, sprinkler systems, plumbing standards, hygiene.

The Senate bill retained this requirement, but the conference agreement before us eliminates it. This means that there is no guarantee that young children will be in safe and healthy environments.

INNOVATIVE PROGRAMS

California has some of the most innovative welfare programs in the country.

We have the GAIN program—Greater Avenues for Independence—in Riverside, that has returned $2.84 to the taxpayers for every $1 spent.

In Los Angeles, the GAIN program has a job placement rate of 34 percent.

San Mateo and San Diego Counties have successful job-search programs.

San Mateo, last year, put 85 percent of the people in the program to work.

The Senate adopted my amendment to allow HHS to negotiate directly with large counties to establish innovative programs. Unfortunately, the conferees deleted this provision.

CONCLUSION

No one has a right to welfare. Welfare was never intended to be a permanent way of life. It was intended to be a lifeboat for people in temporary emergency situations. In my State, there are almost 2.6 million people receiving welfare or 18 percent of the U.S. caseload in a State that has 12 percent of the population. I want to reform welfare. I want families to be secure and self-sufficient. But this bill does not do it. I cannot support it.

Mrs. BOXER. Mr. President, I rise today in strong opposition to the conference report for the Personal Responsibility Act of 1995.

I gave my qualified support to the Senate welfare reform bill, the Work Opportunity Act of 1995, because I believed it contained important improvements from the draconian House welfare reform measure.

Without the Senate-passed protections, I can no longer support the welfare reform efforts of this Republican Congress. This bill simply goes too far toward what I believe will be a dark development for poor families as spending for needy families with children will be reduced by approximately 18 percent.

I would like to take this opportunity to further explain why this conference agreement is unacceptable to me and should not be passed by the Senate.

CHILD WELFARE

Mr. President, abused and neglected children have no place in efforts to reform welfare. To try to squeeze out savings from programs which protect the most vulnerable in our society is not only wrongheaded, but mean-spirited as well.

The House bill would create two child protection block grants to States—ending the total Federal guarantee of foster care and adoption assistance to the children who are the most desperately need of our help. The Senate-passed bill left current law on these programs unchanged.

It has been demonstrated that in times of economic downturns, the need for child protective services rises commensurately. When there was a 6 percent decrease in AFDC California in 1992, there was a 10-percent increase of children into the welfare system and a 20-percent increase in child abuse reports in Los Angeles County. However, this conference agreement takes a short-sighted approach by capping spending on child welfare programs at a time when the need for them could increase dramatically.

The conferees wisely retained the Federal guarantee for title IV-E foster care and adoption assistance maintenance payments for abused and neglected children who qualify. But the conference agreement caps the costs to administer the foster care and adoption assistance program, regardless of additional burdens which may be placed on the system. This will mean $1.3 billion over 7 years will be slashed from serving abused and neglected children. That is a disgrace.

Mr. President, I want to explain what constitutes "administrative costs" under the foster care and adoption assistance program. I think we can all agree that where needless paperwork and red tape can be eliminated, we should encourage it. But in the case of the title IV–E foster care and adoption assistance program, administrative costs are used for activities such as the training of foster care and adoptive parents, investigations, referrals, and appropriate child placements.

Title IV–E administrative costs would be folded into a Child Protection Block Grant, and capped, together with the Family Preservation and Independent Living Programs.

Mr. President, the Family Preservation Program is having a positive effect in the State of California. In Los Angeles County, the Family Preservation Program has served 10,000 children in 3 years. Through more extensive supervision by law enforcement and social workers and violence prevention, the Los Angeles County Preservation Program can claim an approximate 50 percent decrease in child abuse deaths in 3 years and serves more at-risk families with less money than the traditional foster care program.

This welfare bill will hurt innovative programs such as Los Angeles County Family Preservation Program by capping it arbitrarily.

The story of 6 year-old Elisa Izquierdo in New York is the kind most of us hope to never have to read. Young Elisa fell through the cracks of the New York City child welfare system—one of the largest in the country. Her story is a tragic example of what can happen in an overburdened child welfare program.

Mr. President, we have an obligation to ensure that every child is protected from an unsafe household. The conference agreement will seriously undermine the ability of child welfare agencies to meet this obligation. To endanger the lives of vulnerable children is not worth the few savings these provisions will bring.

WORK

This bill is weak on work. The conference agreement strips out provisions added to the Senate bill which would get serious about putting welfare recipients into the workforce. This legislation gives a person 2 years before they have to work—not 3 months, as in the Senate bill.

The conference agreement also does not contain the bonus to States for exceeding the targeted work participation rates as provided under the Senate bill.

The debate on welfare has centered around "personal responsibility." Yet the conference agreement fails to require welfare recipients to sign a personal responsibility contract in order to receive their benefits.

On the other hand, the conference agreement removes some of the most important protections for welfare families transitioning to work. I supported the provisions in the Senate bill which would have recipients to go to work after 3 months of receiving benefits. However, where a woman's safety could be threatened, the Senate bill would permit an exemption for battered women from the overall work requirement.

The Violence Against Women Act, which I introduced and passed last Congress, went a long way toward assisting battered women who were in unsafe households. Removal of this important exemption demonstrates the failure to understand the dangers many battered women face and the circumstances which keep them from leaving their abusers.

In addition, the final bill forces 35 hours of work per week for parents with young children without sufficiently funding child care.

And where a family is subjected to circumstances of extreme hardship, I support a more generous exemption for such families from the time limit on benefits. While the Senate bill would have permitted States to exempt up to 20 percent of their welfare caseload under a hardship exemption, the conference agreement only permits the exemption of 15 percent of the caseload. Based on HHS estimates, this could mean up to 500,000 more children than the Senate bill will be denied benefits due to the expiration of time limits under the lower 15 percent exemption.

CHILD CARE

Mr. President, the conference agreement is inadequate in meeting the child care needs of welfare families. CBO estimates that this bill contains $6 billion less than what is needed by families to meet the bill's own work requirements. HHS estimates that the funding level is $13.6 billion less than what will be needed to meet the work requirements.

The agreement does not contain the important provision in the Senate bill which would allow States to require mothers with children under the age of 6 to participate in work programs for 20 hours per week instead of 35 hours per week. Removal of this exception will mean significantly greater demands will be placed on the child care funds contained in the bill, hindering the efforts of parents trying to get off of welfare.

In addition, child care health and safety protections contained in current law and retained in the Senate bill would be eliminated.

The quality set-aside, used by States to promote and assure the availability of safe and affordable child care, is less than half the amount passed in the Senate bill. Without safe and affordable child care, parents are faced with terrible alternatives: leaving their young children with siblings too young for the responsibility, or worse yet, allowing their young children to stay at home unsupervised. No responsible parent wants to be faced with that decision. In some cases, such decisions could meet with dire consequences.

Mr. President, simply put, child care is the absolute linchpin to any successful welfare reform effort. Without adequate child care, there is little reason to believe that welfare families have any real hope of working their way off of welfare and staying off. Working families with children today understand this need better than anyone else.

California already has a serious shortage of safe and affordable child care. Today, 30,454 children in California are served under Federal child care programs. But thousands more sit on waiting lists. In fact, only about 14 percent of eligible children are currently being served by child care programs in California.

Combined with the title XX Social Services Block Grant funding cut of 10 percent in the budget reconciliation measure—which many states use to fund child care activities—the severe underfunding of child care in the conference bill will further exacerbate the problem of underserved families in California.

LEGAL IMMIGRANTS

California is home to the approximately 38 percent of the total number of all immigrants in the United States. Legal immigrants comprise more than 12 percent of the total population of California for an estimated 4 million total number of legal immigrants. Legal immigrants make up approximately one-sixth of the total Los Angeles County population.

The conference agreement will cut off a variety of benefits to legal immigrants. The California legislative analyst's office estimated that the legal immigrant provisions of the House and Senate-passed welfare bills would reduce Federal funds to the State of California by $6.6 to $8.3 billion over 5 years. The restrictions on benefits to legal immigrants would comprise more than half of the total loss of Federal welfare funds to the State ($3.6 to $5.3 billion).

The loss of these funds will result in a tremendous cost shift to the State of California and its local governments. Under California State law, counties are mandated to provide cash and medical assistance to low-income persons who are otherwise ineligible for Federal assistance.

In sum, the conference agreement goes too far in restricting benefit eligibility for legal immigrants, many of whom have been in the country for years and paid taxes. It will also transfer billions of dollars in costs to the already overburdened local governments of California.

MEDICAID ELIGIBILITY

The conference agreement quietly severs the link between AFDC and Medicaid eligibility. Under this bill, women and children over age 13 receiving cash assistance would no longer be guaranteed Medicaid coverage. Neither the Senate nor the House-passed welfare bills would have gone so far as to eliminate the longstanding guarantee of Medicaid coverage for needy citizens.

Elimination of this link, combined with ending the entitlement to cash assistance and shrinking spending for other services for our needy, will render the safety net for the most vulnerable in our country virtually nonexistent.

CHILD NUTRITION

House Republican efforts to end Federal School Lunch and School Breakfast Programs and replace them with capped funding to States are both ill-advised and unpopular. Again, the Senate approach wisely maintained the Federal child nutrition programs.

For nearly 50 years, the School Lunch Program has fed hungry children. School-based feeding programs are sound investments in childrens' health and their education. Studies show that children who go to school hungry tire easily. They have trouble concentrating, do worse on standardized tests and are more likely to miss class due to illness. Every day, 25 million school children in America get a well-balanced, nutritious meal through the Federal school lunch program—2 million of these children are in California.

Despite widespread public support for the National School Lunch and School Breakfast Programs, the conference agreement would permit 7 States to receive funding for their programs in the form of a block grant. Children in those 7 States would no longer receive a Federal guarantee to a nutritious meal which may be the only one they eat all day.

The Los Angeles Times published a series of articles on hunger in southern California late last year. One of the most moving pieces told the stories of the many hungry children at Edgewood Middle School in the city of West Covina. The piece recounted the problems of serious hunger and malnutrition among students in what is considered to be a middle-class bedroom community.

After the story was printed, there was a huge outpouring of public support for feeding the hungry students at Edgewood. Citizens donated boxes of food, and money, and the West Covina Unified School District voted for the first time to sign up for the School Breakfast Program. Shortly thereafter, 60 California school districts followed suit and applied for the Federal School Breakfast Program.

The conferees' decision to open the door to ending National School Lunch and School Breakfast Programs flies in the face of widespread public support for child nutrition programs, as evidenced by the Edgewood Middle School example.

SSI FOR CHILDREN

The conference agreement goes beyond the Senate-passed bill to reduce Supplemental Security Income (SSI) benefits by 25 percent for 65 percent of the children who are on SSI. The agreement would create a two-tier benefit structure, cutting the SSI program for disabled children by $3 billion over 7 years more than under the Senate bill. This cut will have a dramatic impact on low-income families who use SSI to help pay for their disabled childrens' needs.

MAINTENANCE OF EFFORT

The Senate passed a requirement that States must spend at least 80 percent of their previous fiscal year's spending in order to receive their full block grant allocation. The conference agreement lowers the requirement to 75 percent. In effect, this will permit States to reduce their welfare spending by $5 billion over the next 7 years more than under the Senate-passed bill.

FAMILY CAP

Real welfare reform makes work pay and provides incentives for families to transition out of the system. This bill takes the reverse tack of punishing welfare families for being poor. Take for instance, provisions to impose mandatory family caps. Family caps prohibit States from providing additional cash assistance to families who have more children while on welfare.

The Senate spoke on this issue by voting to remove a mandatory family cap provision. The conference agreement subverts the Senate vote by requiring States to impose family caps unless the State legislature explicitly votes otherwise—making it extremely difficult to provide additional assistance to affected children.

The family cap has not sufficiently proven itself to be a successful way to drive down the number of births to women already on welfare. A preliminary study done by Rutgers University of the New Jersey State family cap revealed that the policy did not reduce births to women on AFDC, but did drive children in such families even further below the poverty line.

CHILD SUPPORT

The conference agreement does not contain the amendment which passed unanimously in the Senate which would eliminate benefits to deadbeat parents. The amendment, which I offered, would make noncustodial parents who are more than 2 months behind in their child support ineligible for federally means-tested benefits unless they enter into a schedule of repayment for arrears owed. This provision would have sent a message to get tough with parents who do not take their child support obligations seriously.

CONCLUSION

Combined with proposals to severely cut back the Earned Income Tax Credit, Medicaid, and Head Start, this welfare reform bill will not reform the flawed welfare system, but create more serious barriers for families trying to work their way out of welfare.

This conference agreement extracts approximately $60 billion from programs serving the poorest among us at a time where the Republicans want to give tax breaks to the wealthiest among us. I do not agree with these priorities. Moreover, the bill's dramatic underfunding is unfair to both States and poor families.

And while I support welfare reform that gets tough on work, this one fails even that test.

In summary, I cannot support legislation which will throw countless children into poverty. No one expects us to solve the welfare problem by punishing children for being poor.

The President has pledged to veto this welfare bill. And for the reasons I have stated, I must vote against the final welfare reform bill as well. I urge my colleagues to do the same.

Mr. STEVENS. Mr. President, I am proud to be an original cosponsor of the Dole Work Opportunities Act and am proud to have worked with the current occupant of the chair, the Senator from Pennsylvania. I do believe that this welfare reform act will, as the President said months ago, "end welfare as we know it."

As early as 1935, President Roosevelt recognized that the welfare system was not working. At that time he said:

> The lessons of history, confirmed by the evidence immediately before me, show conclusively that continued dependence upon relief induces a spiritual and moral disintegration fundamentally destructive to the national fiber. To dole out relief in this way is to administer a narcotic, a subtle destroyer of the human spirit. It is inimical to the dictates of sound policy. It is a violation of the traditions of America.

Unfortunately we find ourselves, today, some 60 years later, with millions of Americans on welfare. In my State, 39,000 Alaskans are on welfare sometime during the year. That includes many foreign citizens, who are residents of our State.

What is worse, once people go on welfare they seem to stay on it. The average person is on welfare for a mind-boggling 13 years, once he or she gets on welfare.

Teenage girls get welfare checks, but only if they become pregnant. Instead of discouraging teen pregnancy, our Government actually rewards it with a cash bonus.

Today, the out-of-wedlock birth rate is a startling 33 percent. Half of the teenagers who have babies end up on welfare before their babies are a year old.

The current welfare system rewards idleness instead of work, rewards teenagers who have babies out of wedlock instead of those who practice abstinence, and rewards foreigners who illegally enter the country.

The war on poverty's chief casualty has been the American taxpayer. Over $5 trillion, in constant 1993 dollars, has been spent on welfare programs in the 30 years since its inception.

I supported some of those activities under that program, but I am convinced now that the American people are fed up with this Federal welfare system that contradicts values: It discourages marriages, penalizes work, and encourages illegitimacy. Its results speak for themselves.

In Detroit, in 1993, 50 percent of all children in that city received AFDC benefits at some time during the year. And an astounding 67 percent of all the people of that city received AFDC payments during the year. Mr. President, 50 percent of all children in the city were receiving benefits at a given point of time, and 67 percent received them at some point during that year. I am quoting from the statistics from the Department of Health and Human Services.

The current welfare system is not a temporary way station for many. Instead, it has become a multigenerational way of life. According to a 1986 study by David Ellwood, currently an Assistant Secretary at the Department of Health and Human Services, 82 percent of AFDC recipients on the rolls at a given time had been there for more than 5 years, and 65 percent for 8 years or more.

The breakdown of the family, the glue that has traditionally held our American society together, is another casualty of this welfare system. Teenagers, too young to have a driver's license, are having babies and moving into apartments of their own, financed by the taxpayers, and having more babies. And children born out of wedlock are three times more likely to be on welfare when they grow up.

The existing system breeds discontent and idleness. It is a fertile ground for abandoning personal responsibility for one's life, one's children, our society, or our way of life.

Mr. President, I grew up in the Depression when everyone had to work to survive. We had to work hard. From the time, literally, we were 6 or 7, my brothers and sister and I worked at odd jobs to keep our family going. Things were tough, but my grandmother taught us that the way for us to get ahead and stay ahead was through hard work.

I think it is time to put my Grandma Stevens' horse sense back into our public policy.

The bill BOB DOLE and I, and the occupant of the Chair, cosponsored charts a bold new course designed to reverse decades of perverse incentives and failed policies. Our bill will restore a sense of ethics to our social fabric, especially the ethics of work, responsibility, and family integrity.

This bill will end welfare as an entitlement. The bill will return to the concept of a helping hand to those truly in need, temporarily, until that person has a chance to get back on his or her own two feet.

It will impose a 5-year lifetime limit on receiving welfare benefits, require welfare recipients to work as soon as they are trained, provides $18 billion for child care to enable welfare mothers to work, terminates benefits to those who refuse to work, requires teenagers who have babies to stay in school and live under adult supervision to qualify for benefits, denies welfare payments to drug addicts and alcoholics, reduces the Federal bureaucracy by transferring the programs to the States to run.

This measure provides the flexibility to allow States to address the needs of those truly in need. We will all agree, I hope, that the disabled veteran, the elderly widow, or the learning-disabled child should continue to receive our help, and will under this bill.

Nothing in this bill prevents States from exempting recipients from the work requirement if they are physically or mentally unable to do the work. This bill also gives the States the option to cut off benefits to mothers who have more children while on welfare to discourage illegitimate births. As harsh as that sounds, it was the recommendation that came to me personally from school nurses in my State.

This is the family cap concept. Some folks in the media, I think, have misconstrued this section of our bill. Our bill does not say the States cannot institute a family cap—it says let the States decide whether to institute it or not. That is what this debate is all about.

For too long, Washington has dictated welfare policy to individual States. My State is a good example of the flexibility that is needed in administering laws such as this.

States have the right to experiment and decide the best way to discourage welfare abuse and yet meet the needs of their citizens. By mandating caps, we would go down the failed road of "Congress knows best."

This bill is not a Congress knows best bill. It is a "States know best" bill. And that is what the 10th amendment is all about. It is simple. It says:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The 10th amendment is fulfilled by this bill that we have before us, the Work Opportunities Act. It leaves to the States the powers reserved to them, and I am proud to support it.

I thank the Chair. I yield the floor.

Mr. ROCKEFELLER. Mr. President, this year, I have consistently argued for reform of the welfare system. Today, I voted against legislation that misuses the label "welfare reform" and deserves to be soundly rejected.

I am extremely disappointed that an extremist faction of Congress managed to turn a historic chance for enacting welfare reform into another way to pursue an agenda that will hurt children, weaken families, and cripple State budgets. To pursue this mean-spirited program so close to Christmas makes it all the sadder and more shameful.

I am determined to press on for real welfare reform that promotes work, reduces dependency, and protects innocent children. I have personally worked to promote welfare reform for many years as Governor of West Virginia and in the U.S. Senate, and I will not give up.

In 1982, as Governor, I helped establish one of the first workfare programs in the country, which continues in West Virginia today. In 1988, I was a conferee who helped forge a bipartisan agreement to promote work in the Family Support Act. This year, I have been eager to work in a bipartisan manner to promote even bolder initiatives for welfare reform that could build on the innovations started by the Family Support Act, and state-led experimentation.

My fundamental principles for reform are that parents should accept personal responsibility and work, but that children must be protected, not punished. We should never forget that two-thirds of the people on welfare are children, and 70,000 of them live in my State of West Virginia. They are the innocent ones, and they should not be punished because of their birth.

I was an original cosponsor of the Work First plan, sponsored by Senators DASCHLE, MIKULSKI, and BREAUX, because I strongly felt that this program was the best initiative to promote work and still protect the millions of children who depend on welfare for basic needs of food, clothing, and shelter. When our Democratic alternative was not adopted, I was willing to work in a bipartisan manner in the Senate to try and forge an agreement. I voted for the Dole-Daschle leadership amendment and the bipartisan Senate welfare bill. It was not perfect, and no comprehensive bill can be. It was a sincere effort to reform our welfare system and retain some fundamental safety net programs for children, especially child welfare and foster care.

Unfortunately, the bipartisan approach taken in the Senate was not adopted by the conference committee. As Senator MOYNIHAN, the ranking member of the Finance Committee said in his statement, the conferees were not consulted. In fact, one of the Senate Republican conferees did not even sign the conference report. Several Republican Senators have expressed serious concerns about disturbing policy changes tucked into the conference report that do not belong in a welfare reform bill.

Having served on the conference committee in 1988 for the Family Support Act, which passed the Senate with a strong bipartisan vote of 96 to 1, I am disappointed that this was not the model for negotiations on this legislation. The conference committee for the Family Support Act included hard work and tough decisions, but it was a sincere, bipartisan effort and it produced modest success, and the framework for innovation that led to this debate.

There are many issues involved in this debate and the conference report. Many of the cuts are in programs beyond our current general welfare program, called Aid to Families with Dependent Children [AFDC]. Personally, it is the cuts and drastic changes to the other programs that trouble me greatly.

For example, this conference report eliminates assured Medicaid eligibility for poor children over 13 years old, and poor mothers. As someone who has fought to expand health care coverage for families, this is too much of a step backwards. This report cuts child nutrition in general and allows for block grants of the successful school lunch program in seven States as a demonstration. What happens in those seven States when a recession hits and more children qualify and need school lunches, but Federal funding doesn't increase? The harsher cuts in Supplemental Security Income [SSI] for disabled children and the two-tier benefit structure that reduces benefits by 25 percent for the majority of disabled children are disappointing, given the bipartisan Senate position on SSI for disabled children.

Throughout this year and the general debate on welfare reform, I have focused much on my time and energy on the Federal programs for abused and neglected children—child welfare services, foster care, and adoption assistance for children with special needs. Children served by these programs are among the most vulnerable in our society. They are children at risk of abuse and neglect, often in their own homes by their parents, and I deeply believe that we have a moral obligation to protect these children.

But this conference report does not adequately protect such vulnerable children, and I do not believe that it reflects the bipartisan approach to child welfare programs strongly endorsed in the Finance Committee and on the Senate floor. In this Chamber, a strong, bipartisan coalition supported retaining current law for child welfare and foster care in recognition of the special needs of these children.

The conference report on child welfare and foster care falls woefully short of the needs of abused and neglected children. A broad range of child advocates and bipartisan groups oppose the block grants suggested in the conference report. Mr. President, I will ask unanimous consent that a list of these advocates be printed in the RECORD.

Having served as chairman of the National Commission on Children, my goal is to improve services to abused and neglected children as suggested our unanimous, bipartisan report, not work to dismantle, effective programs. For example, the conference report would eliminate the Independent Living program, a small but effective program offering an alternative to foster care of teens. The conference report would eliminate the promising Family Preservation and Family Support Program which I helped to create in 1993, and this program has received good initial reviews from the General Accounting Office [GAO]. Additionally, the conference report would block grant and cap vital Federal funding for foster care placement services, including recruiting foster care parents and other essential services. This is the wrong direction for child welfare, and it is the wrong time to undercut these program if we are to move ahead on bold reform of general welfare, known as AFDC.

For West Virginia, the stakes in this debate are high. My State is eager to promote work and has already been approved by the Clinton administration for a waiver to create the Joint Opportunities for Independence [JOIN] to encourage private employers to hire welfare recipients. Having personally met with the top officials in the Department of Human Resources, I know of their interest to reform welfare. West Virginia also has regions of high unemployment and difficult transportation issues. My State is struggling to cope for a Medicaid funding crunch and can ill afford to lose hundreds of millions of dollars in social service programs and at the same time be slapped with higher work requirements for welfare families. West Virginia wants to, and is already, moving families from welfare to work, but my State needs continuing Federal investments in child care and support services to run effective programs. Even the Congressional Budget Office [CBO], acknowledges that this conference report is $6 billion short on the funding needed to child care to move parents into work.

Let me reiterate. I want to enact meaningful welfare reform that moves parents from welfare to work. Since the President has already said he will veto this bill, it is time to make a New Year's resolution for 1996 that Congress will revive the bipartisan cooperation and effort needed to accomplish the kind of welfare reform that Americans have every right to expect.

Mr. President, I now ask that the aforementioned list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST OF ORGANIZATIONS WHO HAVE WRITTEN LETTERS IN OPPOSITION TO THE CONFERENCE REPORT PROVISIONS ON CHILD WELFARE SERVICES AND FOSTER CARE

American Bar Association.
National Conference of State Legislatures.
American Public Welfare Association.
Adoption Exchange Association.
Adoptive Families of America.
Alabama Council on Child Abuse (Montgomery, AL).
American Academy of Child and Adolescent Psychiatry.
American Academy of Pediatrics.
American Association of Psychiatric Services for Children.
American Civil Liberties Union.
American Ethical Union, Washington Ethical Action Office.
American Humane Association, Children's Division.
American Jewish Congress.
American Jewish Congress Commission for Women's Equality.
American Jewish Committee.
American Professional Society on the Abuse of Children.
American Psychiatric Association.
American Psychological Association.
American Red Cross.
The Arc.
Arkansas Advocates for Children (Little Rock, AR).
Asistencia para Latinos (Glenwood Springs, CO).
Association of Children's Services Agencies.
Bazelon Center for Mental Health Law.
Beech Brook (Cleveland, OH).
Behavior Sciences Institute Home Builders (Federal Way, WA).
Bienvenidos Children's Center, Inc. (Altadena, CA).
Boarder Baby Project (Washington, D.C.).
Bridgeport Child Advocacy Coalition (Bridgeport, CT).
California Association of Children's Homes (Sacramento, CA).
California Association of Services for Children (Sacramento, CA).
California Consortium to Prevent Child Abuse (Sacramento, CA).
Catholic Charities, USA.
Center for the Study of Social Policy.
Center on Juvenile and Criminal Justice.
Child Abuse Council (Moline, IL).
Child Care Association of Illinois (Springfield, IL).
Child Welfare League of America.
Children Awaiting Parents.
Children First, Florida Legal Services.
Children's Action Alliance.
Children's Defense Fund.
Children's Research Center/National Council on Crime and Delinquency.
Children's Rights, Inc.
Citizenship Education Fund.
Coalition for Family and Children's Services in Iowa (Des Moines, IA).
Coalition for Juvenile Justice.
Coalition on Human Needs.
Colorado Association of Family and Children's Agencies, Inc. (Denver, CO).
Colorado Coalition for the Protection of Children (Denver, CO).
Colorado Foundation for Families and Children (Denver, CO).
Communities for Children (Boston, MA).
Connecticut Center for Prevention of Child Abuse.
Council for Exceptional Children
Council of Family and Child Caring Agencies (New York City, NY)
Council on Child Abuse and Neglect
Council on Social Work Education
Damar Homes, Inc. (Camby, IN)
David and Margaret Home, Inc. (La Verne, CA)
DAWN for Children (Providence, RI)
DC Action for Children
Delawareans United to Prevent Child Abuse
Demicco Youth Services (Chicago, IL)
The Episcopal Church
Families' and Children's AIDS Network
Family Preservation Institute, Department of Social Work, New Mexico State University
Family Resource Coalition
Family Service America
Florida Committee for Prevention of Child Abuse (Gainesville, FL)
Florida Foster Care Review Project, Inc. (Miami, FL)
Foster Family Ministries (Kansas City, MO)
Four Oaks, Inc. (Cedar Rapids, IA)
Friends Committee on National Legislation

Gary Community Mental Health Center (Gary, IN)
General Board of Church and Society, United Methodist Church
General Federation of Women's Clubs
Generations United
Georgia Council on Child Abuse
Georgians for Children
Gibault School for Boys (Terre Haute, IN)
Girl Scouts USA
Hamilton Centers Youth Service Bureau, Inc. (Noblesville, IN)
The H.E.L.P. Group (Sherman Oaks, CA)
Hillsides Home for Children (Pasadena, CA)
Hollygrove Children's Home, Los Angeles Orphans Home Society
Home-SAFE Child Care, Inc. (Los Angeles, CA)
Hoosier Boys' Town (Schereville, IN)
Illinois Action for Children
Indiana Association of Residential Child Care Agencies (Indianapolis, IN)
Institute for Black Parenting
Intensive Family Preservation Services National Network
Julia Ann Singer Center (Los Angeles, CA)
Juvenile Law Center (Philadelphia, PA)
Kansas Children's Service League
Kentucky Council on Child Abuse
KidsPeace National Centers for Kids in Crisis (Indianapolis, IN).
The Law Center (TLC) for Children of Legal Services of North Virginia, Inc.
Legal Assistance Foundation of Chicago.
LeRoy Haynes Center (La Verne, CA).
Louisiana Council and Child Abuse.
Lutheran Child and Family Services, Indiana/Kentucky (Indianapolis, IN).
Lutheran Office for Governmental Affairs.
Luzerne County Children & Youth Services (Wilkes-Barre, PA).
McKinley Children's Center (San Dimas, CA).
Maryland Association of Resources for Families and Youth.
Maryland Foster Care Review Board.
Maryvale (Rosemead, CA).
Masada Homes (Torrance, CA).
Metropolitan Council on Jewish Poverty (New York City, NY).
Michigan Federation of Private Child & Family Agencies (Lansing, MI).
Minnesota Committee for Prevention of Child Abuse.
Minnesota Council of Child Caring Agencies (St. Paul, MN).
Missouri Chapter, National Committee to Prevent Child Abuse.
Missouri Child Care Association (Jefferson City, MI).
Moss Beach Homes, Inc. (San Carlos, CA).
National Adoption Center.
National Association of Child Advocates.
National Association for Family Based Services.
National Association for Foster Care Reviewers.
National Association for Homes and Services for Children.
National Association of School Psychologists.
National Association of Service and Conservation Corps.
National Association of Social Workers.
National Baptist Convention, USA.
National Black Child Development Institute.
National Center for Children in Poverty.
National Center for Youth Law.
National Collaboration for Youth.
National Committee to Prevent Child Abuse.
National Committee to Prevent Child Abuse, New York State.
National Committee for Rights of the Child.
National Council of Churches.
National Council of Jewish Women.
National Court Appointed Special Advocates Association.
National Crime Prevention Council.
National Education Association.
National Family Planning and Reproductive Health Association.
National Foster Parent Association.
National Independent Living Association.
National Jewish Community Relations Advisory Council.
National Network of Children's Advocacy Centers.
National Network for Youth.
National One Church One Child.
National Parents and Teachers Association.
National Resource Center on Special Needs Adoption.
National Respite Coalition.
NETWORK: A National Catholic Social Justice Lobby.
New Jersey Association of Children's Residential Facilities.
New Jersey Foster Parents Association.
New Mexico Advocates for Children and Families (Albuquerque, NM)
New York State Citizens' Coalition for Children, Inc.
North American Council on Adoptable Children.
North Dakota Committee to Prevent Child Abuse.
NOW Legal Defense and Education Fund
The Ohio Association of Child Caring Agencies, Inc. (Columbus, OH).
Oklahoma Committee to Prevent Child Abuse.
Oklahoma Institute for Child Advocacy.
Ounce of Prevention Fund (Chicago, IL)
Parents Anonymous, Inc.
Parents and Children Together (Honolulu, HI).
People Against Child Abuse, Inc.
Pleasent Run Children's Homes (Indianapolis, IN).
Polk County Decategorization Advisory Committee (Des Moines, IA).
Presbyterian Church.
Prevent Child Abuse, Hawaii.
Prevent Child Abuse, Illinois.
Prevent Child Abuse, Indiana.
Prevent Child Abuse, North Carolina.
Prevent Child Abuse, Vermont.
Prevent Child Abuse, Virginia.
Project Family of Kitcap County (Bremerton, WA).
Project Vote.
Puerto Rican Legal Defense and Education Fund (New York, NY).
Reiss-Davis Child Study Center (Los Angeles, CA).
Rosemary Children's Services (Pasadena, CA).
Society for Behavioral Pediatrics.
South Carolina Association of Children's Homes and Family Services (Lexington, SC).
Southwest Indiana Regional Youth Village (Vicennes, IN).
Spaulding for Children.
State Communities Aid Association (Albany, NY)
Texans Care for Children
Texas Association of Licensed Children's Services (Austin, TX)
Texas Committee to Prevent Child Abuse (Austin, TX)
Tompkins County Department of Social Services (Ithaca, NY)
Union of American Hebrew Congregations
Union Industrial Home for Children (Trenton, NJ)
Unitarian Universalist Association
Unitarian Universalist Service Committee
United Synagogue of Conservative Judaism
Villages of Indiana, Inc. (Indianapolis, IN)
Vista Del Mar Child and Family Services (Los Angeles, CA)
Voices for Illinois Children (Chicago, IL)
Wake County Department of Social Services (Raleigh, NC)
West Virginia Child Care Association
Wheeler Clinic (Plainville, CT)
Whitington Homes and Services for Children & Families (Fort Wayne, IN)
Women's Legal Defense Fund
Working to Eliminate Child Abuse and Neglect (WE CAN, Inc.), (Las Vegas, NV)
Youth Law Center
Youth Services, Center of Allen County (Fort Wayne, IN)
YWCA of the USA
Zero to Three, National Center for Clinical Infant Programs
Zero to Three Hawaii Project, Imua Rehab (Wailuku, HI)

Mr. GRAHAM. Mr. President, today, on the Friday before Christmas, the Senate will vote on dramatic, sweeping changes in our welfare system.

Unfortunately, in a pre-holiday perversion of the legislative process, the U. S. Senate will vote on this major conference report without the opportunity for thoughtful review. As of last evening, Members of the Senate did not even have printed copies of the legislation.

So, for starters, we yearn for more information about exactly what is contained in this major piece of legislation, touted as a centerpiece of the majority's legislative package for 1995.

But, as we prepare to vote under these challenging circumstances, I want to state clearly my objections, based on what I do know about this ill-advised so-called reform.

Some have made the curious claim that this welfare reform conference report is a marked improvement from that which came before the Senate before the Thanksgiving recess.

However, it is clear to me that the product that has come from the conference committee is a step backwards, and therefore, I will oppose the legislation as reported from conference.

Much of what I will say today, I relayed earlier in my statement on the reconciliation conference report. Further, I make this statement knowing that the President has made clear his opposition to this legislation, and has issued a statement announcing his intention to veto the measure in its present form.

I support welfare reform. I want to see Congress pass a welfare reform measure, and I want the President to sign welfare reform legislation into law.

My support for sweeping change in our Nation's welfare system is a matter of record. As recently as September 19, 1995, I joined 86 of my colleagues in supporting the Work Opportunity Act of 1995. I voted in support of this bill, even though I had reservations, to keep the welfare reform effort alive in this

Congress. Unfortunately, the conference agreement is worse than the Senate version of the bill we considered 3 months ago.

My consideration of the conference report focuses on three concerns. First, will it work? Welfare reform, when it is executed well, works. Florida is proud of two successful welfare pilot projects, the largest in America in instituting a "time limited benefit." Florida, in fact, has been one of the pioneers in the "two-years-and-you-are-out" approach.

I visited Pensacola to observe one of Florida's pilot programs. Earlier this year, President Clinton met with some of the participants, and he touted the program.

These pilots are succeeding because there is a front-end investment in the lives of those affected by the program change. Whether it is day care, job training, temporary transportation assistance, or health care, the welfare recipient is given a hand up instead of a hand out. One of the lessons learned from these pilot projects is that transitional support is needed to move people from welfare to work. My concern is that the legislation before us would jeopardize these successful experimental efforts, and would fail to provide adequate transitional support to meet the goals of the legislation.

Second, is this conference report fair to States? The formula to allocate funds to the States continues welfare as we knew it. It treats poor children differently, depending upon which State they reside in. The conference formula says that if your State spent a lot in the old days, and thus built incentives to keep people on welfare, you will be given a leg up on every other State under welfare block grants in the future.

The formula, titled against growth States, is flawed if not rigged. High-growth States like Florida would be set up to fail.

Third, how would the reform proposal treat legal immigrants and what effect would the immigrant provisions have on States with large immigrant populations? The city of Miami had more legal immigrants admitted last year than 20 States combined. Thus, the prohibitions and timetable on certain benefits would shift to Miami costs that once were shared by the Federal Government.

The State of Florida does not set America's foreign policy, nor its immigration policy. The State of Florida did not negotiate with Cuba to accept 20,000 legal immigrants per year. But the State is now being told the following: we are going to stick you with hundreds of millions of dollars in costs for legal and illegal immigration, even though you have no control over these foreign policy decisions that affect immigration.

Today, I join the President in his commitment to pass welfare legislation. We should be honest with the American people and not call something reform which is in reality is an abdication of our responsibility for providing a sensible framework for moving people from welfare to work.

It is my hope that when the President vetoes the welfare conference report and the question of welfare reform is reopened, that the concerns I have outlined today will be addressed.

Mr. HARKIN. Mr. President, our welfare system is broken. It is failing the taxpayers and those who are on welfare. It must be reformed. And I have been working hard to bring about bipartisan reforms that will work. I worked to enable innovative reforms in my State of Iowa. I introduced, along with Senator KIT BOND of Missouri, the first bipartisan welfare reform bill 2 years ago based on successes in our states. And I worked to support and improve the comprehensive reform bill that we passed in the Senate earlier this year by an overwhelming bipartisan vote of 87 to 12.

Unfortunately, all of the hard work done by the Senate to design bipartisan common sense reforms has been lost in the conference agreement before us. Not only will this bill fail to move people from welfare to work and self-sufficiency, it is filled with provisions that have nothing to do with welfare reform.

How does raising the retirement age for individuals to receive SSI from 65 to 67 get welfare recipients off the dole and into jobs? Or is it a foot in the door for NEWT GINGRICH and his followers to raise the Social Security retirement age?

How does cutting school lunch assistance to children reform the welfare system?

How does gutting protections for abused and neglected children and major revisions to programs to assist in the adoption of abandoned children fix welfare?

Well, the answer is clear. Those provisions do not do anything to reform welfare. Nor do many of the other provisions of the pending legislation.

And I said, this bill will not move people from welfare to self-sufficiency and it will not require responsibility from day one. Central to this is the failure to include the Senate bill provision added by an amendment I offered to condition the receipt of welfare benefits on the signing of a strong personal responsibility contract. As we require in Iowa, welfare recipients would have been required to accept responsibility from the first day on welfare by signing a binding contract stating what they must do to get off of welfare and a date by which welfare benefits will end. Responsibility would begin on day one, not year two. Failure to abide by the terms of the contract would mean termination from the welfare rolls—immediately.

Each individual starting a new job is given a job description which outlines precisely what is expected to receive a paycheck. At the present time, an individual on welfare is simply sent a check without requiring anything in return.

We need to fundamentally change welfare as we know it. Welfare is not about getting something for nothing. It is about responsibility and accountability.

But not this bill. There is no contract. There is no accountability. My amendment corrected that situation, but my provision requiring a personal responsibility contract is gone.

For the past several weeks we have been told by NEWT GINGRICH that we need to listen to the Congressional Budget Office [CBO] because they are the experts. There analysis is accurate and should be trusted.

Well, the CBO tells us that this new Republican welfare bill will not work. Their analysis indicates that most welfare recipients won't be put to work. They say that states would be forced to cough up a whole lot more of their money to meet the mandates in the legislation and that this won't happen.

CBO says that the bill falls $7 billion short of what would be required to put welfare recipients to work. Further, work programs will also cost more money than is provided by the legislation.

So in spite of a lot of nice sounding rhetoric by NEWT GINGRICH and his supporters, if we pass this bill, welfare will not be reformed in most states. Taxpayers and welfare recipients will not see the promised changes in the system and local communities will be left paying the bills.

Iowans pay taxes that go to support those on welfare in New York, Texas, California, and other states. This bill shirks our responsibility to insist that those tax dollars aren't just wasted away. That is not acceptable.

This conference report makes deep cuts in essential safety-net programs for children. It provides deeper cuts in food stamps and child nutrition programs than were proposed by the Senate bill. It also unfairly cuts assistance to fully 65 percent of children with disabilities. In addition, changes to the foster care and adoption programs will place abused and neglected children at greater risk of harm. Ronald Reagan advocated the maintenance of a safety net for children. This bill shreds that safety net.

I have always thought that things worked best when we all worked together. For months, in fact for several years, I urged my colleagues to work together in a bipartisan manner to reform welfare. That's the way we did it in Iowa, and it is working. We had bipartisan cooperation for a brief time in September. And working together outside of partisan politics we put together a good, commonsense plan.

But that sentiment quickly deteriorated and the pending legislation was negotiated behind closed doors without any significant bipartisan cooperation. We we are left with a phony, partisan bill.

The President has said he will veto this legislation and has called for bipartisan cooperation on welfare reform. Again, I implore my colleagues to heed his words.

Let us make a New Year's resolution to stop the partisan sniping and work together in a bipartisan manner on this issue as well as the many other items on our agenda in the second session of the 104th Congress.

Mr. HATFIELD. Mr. President, the House and Senate conferees have reported from conference a welfare reform proposal which ends the welfare program as we know it. I agree with the Republican agenda which takes on the difficult issues in welfare reform, but I differ on some of the finer points included in this agreement. Welfare has become a terrible cycle which engulfs impoverished parents who raise children in poverty. Those children who do not have adequate access to quality education, which would break the cycle of dependency, continue to be chained in poverty, languishing there, thus continuing this vicious cycle.

Mr. President, my generation grew up in era where there was no government safety net, instead there was family and community. We relied upon each other for help and we took any job we could find. We may have gone hungry for a short period of time until the next paycheck arrived, however, nobody starved. Today, that sense of community has changed, largely because of our Federal welfare efforts. All people have a smidgen of pride implanted in their being and it burns as a fire within. We are fueled by this fire to become better people. We educate ourselves, we move forward above and beyond what we are today and strive to become even better tomorrow. Unfortunately, through our welfare program, we have only succeeded in taking away incentive for people to work by dousing that fire-in-the-belly that drives us all.

We must first address the root problems of poverty before we can discuss the cure for poverty; lack of education, lack of affordable and adequate child care, and access to upward social and economic mobility and stability. A successful society allows its citizens the opportunity to educate themselves, to increase their opportunities and knowledge. It is of no benefit to society to remove welfare recipients and place them into jobs with no upward mobility. Without the prospects of advancement they can only maintain the status quo at best and as history has taught us the cycle possesses a powerful habituation to welfare.

This bill takes a step in the right direction by requiring those who can work to work. This is a policy goal I have long supported and advanced. I believe this will make a difference in our welfare system and that States should be rewarded for their efforts at matching individuals with jobs. My own State of Oregon has chosen to link public assistance functions with welfare-to-work services, providing a seamless link amongst the differing human resource agencies. The measurement of their success is declining welfare rolls and increasing placement of former welfare recipients into unsubsidized employment.

I also support limiting welfare as an entitlement program. As chairman of the Senate Appropriations Committee I know all too well the dire consequences of continuing our spending levels on entitlement programs that we do not and cannot control. We can no longer keep spending until all needs are met. Yet, in our effort to reform programs from entitlement spending to other forms of financing, we cannot cut indiscriminately. I am concerned that some aspects of this conference report are inconsistent with our policy goals.

The Congressional Budget Office has analyzed this report and found that, over the next 7 years, funding levels would fall far short of what would be needed to cover the child care costs associated with the work requirements of the bill. In my view, adequate funding for child care is a necessity, in order for parents to work.

In addition, I am concerned that the conference agreement does not reflect the Senate's position of requiring States to continue Medicaid coverage for families who would have received AFDC if it still existed on March of this year. The agreement before us repeals current law and does not require States to provide Medicaid coverage for those in AFDC families who do not otherwise qualify—those children over the age of 12 and women who are not pregnant. While I understand the conferees' attempt to delink Medicaid from welfare, to be dealt with later, I am not confident that this basic safety net will be preserved.

Finally, I have received a letter from the Oregon Department of Adult and Family Services raising several concerns with this conference agreement. I ask unanimous consent that this letter be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATFIELD. Mr. President, I am told the President intends to veto this bill, which will bring it back before us. I expect we will have an opportunity to work further on some of the finer points of this agreement. I am committed to do so. Our obligation to bettering the standard of living for those in poverty must not waiver. The Federal Government should encourage, not impede innovation and creativity in the States and private sector.

EXHIBIT 1

OREGON, DEPARTMENT OF HUMAN RESOURCES,
Salem, OR, December 21, 1995.

Hon. MARK O. HATFIELD,
U.S. Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR HATFIELD: I am writing to you out of concern over the most recent language in the Welfare Reform Bill, HR 4. As you may know, Oregon is a leader in Welfare Reform, and this State's Legislature, with my support, recently passed a sweeping Welfare Reform Bill that is very much in keeping with the thrust of HR 4. However, there are several technical areas of the Bill in which language should be clarified to allow States full latitude in implementation, including:

MAINTENANCE OF EFFORT

While I am supportive of a Maintenance of Effort provision, any State expenditure which directly supports the achievement of self-sufficiency or temporary assistance to low-income families should be counted in the calculation of that maintenance of effort. To do otherwise directly imposes a special Welfare Reform design on States that significantly impedes their flexibility.

FEDERAL RESTRICTIONS ON STATE SPENDING

States must be free to spend State dollars on their self-sufficiency programs as they deem appropriate. There are many provisions of HR 4 which appear to restrict not only the State expenditure of federal funds but the expenditure of State funds as well. Surely this is not the intent of Congress.

WORK PARTICIPATION CREDIT FOR UNSUBSIDIZED EMPLOYMENT

One of the hallmarks of the Oregon program is the number of placements into unsubsidized employment that not only move families off of welfare but also move them out of poverty. What was six months of participation credit for such families in earlier versions of HR 4 appear to be deleted in the Conference version. Since employment is the best way to accomplish Welfare Reform, States should be given proper credit for helping low-income families accomplish that goal.

CHILD CARE NECESSARY FOR PARTICIPATION IN WORK PROGRAMS

We work very hard with our low-income families to obtain safe child care. If such care is not available, we do not require their participation in our JOBS program. However, the current wording of HR 4 suggests that if *any* particular type of care is not available or convenient then no participation can be required. In fact, even if the type of care that is not available is not one that the participant ordinarily uses, it remains grounds to refuse to participate in employment and training programs. Wording should indicate the participation is required if any safe (under State law) child care can be arranged.

Again, while these are technical areas, they remain important to States that will be charged with implementing the most sweeping changes in welfare since the advent of the Social Security Act. With your continued help, we can produce Welfare Reform that works, allowing States to assist low-income families to escape poverty through self-sufficiency. If you or your staff members have any questions regarding our concerns in these areas, please feel free to contact Jean Thorne of the Governor's Office or Jim

Neely, Assistant Administrator of Adult and Family Services Division. Thank You.

Sincerely,

STEPHEN D. MINNICH,
Administrator, Adult and Family Services Division, Assistant Director, Department of Human Resources.

Mr. CHAFEE. Mr. President, we spent many months negotiating the contents of the Senate welfare bill, which was approved 87-12, with overwhelming bipartisan support. I believe that measure, which the President indicated he would sign, was a tremendous victory for all parties.

Regrettably, the final conference agreement strays in several respects from the Senate-passed welfare reform bill. As a consequence, President Clinton has indicated he will veto this legislation.

Today I voted to send the conference report to the President because, while far from perfect, this legislation is still better than current law, which only encourages and perpetuates dependency. For example, this bill provides for time-limited benefits, so that individuals know they must make every effort to become self-sufficient by a date certain. It also includes much stronger child support enforcement mechanisms to require parents to assume financial responsibility for the children they bring into this world. Importantly, it also gives the States needed flexibility to develop innovative programs to help their citizens break the cycle of dependency associated with the present welfare system.

However, I am still not satisfied with this legislation, and continue to believe it can be improved, and intend to work toward that end following the President's veto. The areas in which I will seek improvement are as follows:

AFDC ELIGIBILITY FOR MEDICAID

The conference agreement severs the link between AFDC eligibility and Medicaid. Under this provision, which was not included in either the House or Senate version of the legislation, States would no longer be required to provide Medicaid coverage to millions of AFDC eligible women and their children over the age of 13. Only those women who are pregnant and on AFDC, and children under the age of 13, would be guaranteed Medicaid coverage.

While I am pleased that the conference report retains Medicaid eligibility for foster care and adoption assistance children, eliminating mandatory Medicaid coverage for other AFDC beneficiaries is counterproductive. This provision is troubling and should be dropped.

CHILDREN'S SUPPLEMENTAL SECURITY INCOME (SSI)

This program took a big bite in the Senate bill. A more restrictive definition of disability was adopted to ensure that only those children who are truly disabled qualify for cash assistance. On top of this, the conference agreement adds a new two-tiered system of eligibility which will result in a 25-percent reduction in SSI benefits for 65 percent of the children on the program. The distinctions in this two-tiered program are arbitrary and make no practical difference to a family where one parent must give up his or her job to remain at home with a severely disabled child. This provision should be modified.

FOSTER CARE

While I am pleased that the conference agreement maintains the Federal entitlement for foster children and adoption assistance—a position which I strongly supported—this bill would block grant and cut funding for the administrative and preplacement costs associated with these programs. These costs, which represent nearly half the cost of the overall program, are far from purely administrative. They cover such critical services as licensing and recruitment of foster homes and foster parents, services needed to remove children from abusive and unsafe homes, monitoring children in out-of-home placements, and court expenses to qualify special-needs children for adoption. These provisions need to be improved.

CHILD CARE

The final conference agreement provides reduced funding for child care and drops Federal health and safety standards in the Child Care and Development Block Grant [CCDBG]—two significant and troubling changes from the Senate-passed bill. Given the enormous importance of child care to the success of welfare reform, these provisions should be re-examined.

LEGAL IMMIGRANTS

While I was able to secure some improvements on the treatment of legal immigrants in the conference report, the final bill still goes well beyond the Senate-passed bill. The tough new eligibility restrictions for Federal programs that this legislation would impose upon legal immigrants are excessive and should be further modified.

Mr. LEVIN. Mr. President, just a few months ago I stood with a bipartisan group of my colleagues in the Senate in passing, 87 to 12, a compromise welfare reform bill which I believed represented a constructive effort at achieving meaningful change in the current welfare system. I voted for the bill because I believe the current system is broken and needs to be fixed. It needs to be fixed in a way that does at least two things: requires able-bodied persons to work and protects children in the process.

Mr. President, the Senate compromise bill met this challenge. It would fundamentally change the current system by replacing a system of unconditional, unlimited aid with a system providing conditional benefits for a limited time. It would do so without abandoning the national goal of preserving the important safety net for poor children. It moves able-bodied people into work, tightens child support enforcement laws, and provides adequate child care resources for children of parents making the transition into work and to low-wage working families that seek to remain off of welfare.

I was particularly pleased that the compromise bill contained an important work provision I've been promoting, cosponsored by the majority leader, requiring that unless an able-bodied person is in a private sector job, school or job training, the State must offer, and the recipient must accept, community service employment within 3 months of receipt of benefits, not the 2 years contained in the original legislation proposed by majority leader.

Mr. President, I had great hopes that the bipartisan achievements in the Senate compromise proposal could be sustained through the conference with the House. Regrettably, this conference report is weak on work and it does not adequately protect children. I cannot support it.

The American taxpayers want people who are on welfare and are able-bodied to work. So it is quite perplexing to me that despite House Republicans continuing claims of being "tough on work," the conference dropped the Levin-Dole work requirement from the bill. If we are serious about work, Mr. President, we must have the kind of provision that requires it: not 2 years down the road, not 1 year down the road, but 3 months from receipt of benefits for those persons who are not in school or job training or in an exempt category.

And, Mr. President, the punitive proposal before us cuts $14 billion more out of programs for poor children and their families than the bipartisan compromise Senate bill, causing millions of children to lose their eligibility for important safety-net programs.

The changes in eligibility rules would reduce benefits for most disabled children by 25 percent, sets lower levels of funding for child-care programs than the Senate proposal, and eliminates important health and safety standards. Many of the more than 300,000 children covered by Medicaid, because they receive foster care or adoption assistance, also would be placed in jeopardy.

It also significantly reduces the benefits to children and families who receive support from the food stamp and child nutrition programs, which could have serious consequences for the health and well-being of millions of children, working families, and elderly.

The optional block grants undermine the basic framework of the lunch and breakfast programs by eliminating low-income children's guarantee of access to free meals, weakening nutrition standards, and removing the programs' ability to respond to changing economic circumstances.

For some reason, totally unrelated to welfare reform, House Republicans are jeopardizing programs that for decades have fed millions of children in schools and child care centers in America. Do we want to erode the safety net for the 5 million poor children who are served nutritious breakfasts at school? What about the 24 million children who receive nutritious school lunches? Nearly half of theses lunches are provided to poor children free of charge, and nearly 2 million lunches to low-income children at reduced prices.

Mr. President, the answer is "No."

Mr. CONRAD. Mr. President, I strongly believe that we must reform our welfare system. I have devoted a great deal of time and energy to examining the broken welfare system and developing meaningful solutions to address the deficiencies. I presented a welfare reform proposal, the Work and Gainful Employment Act, and worked with my Senate colleagues to improve and strengthen the Senate version of H.R. 4.

Central to each of the welfare reform proposals I've supported were the basic principles of work, responsibility, and family. The proposals were built in a framework of increased State flexibility while not placing the health and safety of our Nation's children at risk. They had tough work requirements, and promoted personal responsibility while protecting children and the disabled.

Because of my sincere interest in reforming the welfare system, I look upon the welfare reform conference agreement with great disappointment. The conference agreement on H.R. 4 falls far short of upholding these core principles and meeting these goals. It is weak on work and places abused and neglected children in danger. Additionally, the conference agreement on H.R. 4 cuts too deeply into the programs that provide the lifeline for the most vulnerable in our society. Yesterday, I joined a bipartisan group of colleagues to develop a plan to reach a balanced budget by the year 2002. The conference agreement, however, proposes far greater cuts than the bipartisan group of Senators deemed reasonable. It is for these reasons that I oppose this severely flawed approach to reforming the welfare system.

I firmly believe that among the most critical issues facing our Nation is the future of our children. It is of crucial importance that families and communities equip children with the skills necessary to face the increasing challenges of the 21st century. Children must be taught the value of work.

The conference agreement on welfare reform is weak on work. The supporters of this legislation claim it will move welfare recipients into work without providing resources sufficient to make it happen. In fact, instead of strengthening the work and child care provisions of the Senate-passed welfare bill, the conference agreement reduces funding in these areas.

Additionally, both my WAGE Act and the Senate-passed welfare reform proposal included a personal responsibility contract that welfare recipients had to sign as a condition of receiving welfare benefits. The personal responsibility contract was a binding agreement that the recipient would make meaningful steps to move off of welfare and take responsibility for his or her actions and well-being. I ask you, why would the conferees remove the contract between the welfare recipient and the Government to move the recipient off of welfare? The conference agreement is weak on work and does nothing to develop personal responsibility.

Perhaps the most disturbing and mean-spirited provisions of this proposal are the ones that place the most vulnerable and helpless children in our society at risk. On top of providing inadequate resources for child care services, this legislation eliminates Federal health and safety standards for child care facilities. It slashes funding by $1.3 billion for child protection services for abused, neglected, and abandoned children and children in foster and adoptive services. Additionally, it proposes draconian reductions in the SSI program for low-income children with disabilities. HHS has estimated that by the year 2002, 750,000 low-income disabled children who are eligible for SSI benefits will have their benefits cut by 25 percent. Finally, the conference agreement eliminates the requirement for States to provide Medicaid benefits to children whose families are eligible for cash assistance. This extreme provision was not in either the Senate- or House-passed bills and threatens the health and future productivity of our poorest children. These program changes are cruel and rip the safety net from under the most vulnerable children in our society.

Mr. President, I want to reemphasize my commitment to balanced and reasonable welfare reform. The welfare system should be tough on work and personal responsibility, should promote families and family values, and should maintain basic health and safety protections for our Nation's children. I say to my colleagues in the House and the Senate: Let us reform the welfare system; however, let us target the programs and not the children.

Mr. MOYNIHAN. Mr. President, I yield 1 minute to my colleague on the Finance Committee, and good friend, the Senator from Louisiana.

The PRESIDING OFFICER. (Mr. INHOFE). The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, I thank the chairman for yielding. In 1 minute I will try to say eloquent things about why this bill should not be adopted.

Mr. President, put me down as being conservative when it comes to welfare reform. The current system, in my opinion, has not worked very well for the people who are on it, nor has it worked well for the people who are paying for it. It has to be changed.

But the goal of welfare reform has to be to put able-bodied people to work and at the same time protect innocent children. This bill does not do that. It fails in a couple of fundamental manners.

No. 1, the bill cuts benefits for disabled children on SSI by 25 percent. That is not reform. It is a step backward.

Second, the bill, in changing the rules for abused and neglected children, is contrary to every bipartisan recommendation that this Congress received from the Governors and from the State legislative bodies. This is a step in the wrong direction.

Finally, this is the wrong bill at the wrong time. It should be in the context of the budget negotiations. There is more money going to be available in that context. We know what we are doing with the EITC, the tax cuts, and other changes that are being made to fundamental policy. This welfare bill today should be turned down and come back, and we should do it in the context of the budget negotiations.

Mr. MOYNIHAN. Mr. President, may I simply respectfully suggest that the budget negotiations are much too narrowly based with five or six persons in one room for the kind of bipartisan effort on welfare which President Clinton called for when he said he would veto this bill. We achieved consensus through such effort when we passed the Family Support Act of 1988 by a vote of 96 to 1.

I am happy to yield 1 minute to my good friend, the distinguished Senator from Washington.

Mrs. MURRAY. Mr. President, thank you.

First, let me commend the Senator from New York for his tremendous leadership on behalf of the children in the welfare reform bill.

WELFARE: REFORM; DON'T RENEGE

Mr. President, it is with sadness today I must tell the American people their Congress has failed them in its attempts to reform public assistance in this country. Welfare reform is important, but the bill before us today was written with so little compassion it must be stopped.

The American people know we must change welfare. They know welfare must give a hand-up, not a hand-out. But no one I have talked to, not the most conservative welfare-basher, would stand where I am standing and vote to hurt children like this bill will.

You have heard the estimates: this bill will throw an additional 1.5 million children into poverty in this country. It will eliminate the guarantee to basic services to children at a time when we should be improving the safety net. Children need the guarantee to assistance. Children need the safety net.

I supported a welfare bill out of this Senate, a bill I had fundamental disagreement with, because we were able to make some improvements before it left the floor. I fought hard for child care funding, for money for job training, for domestic violence language. When these improvements had been made, I held my nose and voted for the bill, knowing some people would think I had done something horrible, because I naively thought the majority might be listening.

I thought after all our fighting, the majority party might get a hint about what kinds of things we thought were important in a bill to actually reform welfare. I said at the time—if this bill got worse in negotiations with the House, if the majority did not improve this bill dramatically, then it would not have my support. And it will not. This bill is a slap in the face of every person in this country trying to get off public assistance, and I will vote "no."

The conference report is so lacking, if I pick out just one thing to focus on, there won't be time to tell you about any others. But let us look at what the conference report proposes to do about child care:

First, remember that child care faces major problems today, before this welfare bill sends many new people into the work force. Child care is not always easy to find, you cannot always depend on the quality, you cannot always afford quality when you find it, and sometimes you cannot afford to pay at all, so a relative or friend takes care of your kids. But that's all today. Here's what the conference report will do tomorrow:

Over the next 7 years, the work requirements in this conference report will create the need for an additional $14.9 billion worth of child care. But, the report only funds $1.9 billion of new money, leaving a $13 billion shortfall, according to HHS. The result is many people will have no place to leave their child when they go to work.

If you are lucky enough to get your child into child care, the conference report cuts funding for child care quality standards more than 50 percent from the Senate bill. This money pays for improvements in quality and access to child care: training providers, inspecting and monitoring facilities, helping parents to find child care, providing grants to buy cribs and other equipment to start child care businesses, and beginning school-age programs.

The result is, you as a parent will have to worry about whether your child care worker is well-trained, and whether your child is healthy and safe when you return from work.

This conference report also allows welfare recipients to count providing unpaid child care toward meeting the work requirements, essentially, to babysit other people's children without meeting any of the standards of a child care facility or home day care business. There is no money for training or certification for people setting up home child care under this provision.

What is worse, the conference report repeals a state's ability to regulate health and safety in child care, including these small in-home child care situations, which is where most of the abuse problems in my state occur.

If you are unlucky enough to be a child in a child care situation where there is a problem, this conference report cuts the abuse enforcement that might protect you. It block grants child protection and foster care, and cuts the very functions that allow States to help children who need foster care, to recruit and train parents, to place children, and to monitor quality. The $3.7 billion reduction over seven years will cut Child Protective Services, family preservation money for preventing problems, and money for older youth.

Finally, the conference report significantly cuts the child and adult care food program, by as much as $3 billion over seven years. Providers in my state tell me these cuts will effectively close the doors of many small day care businesses, and lead to cost cutting that will affect child nutrition. We will have more people competing for less child care, and nutrition declining in the centers which stay in business.

Who here on the floor of the Senate can honestly say they speak for children? We have lobbyists for every issue, but infants and children do not get to vote. If you cut child protection, what constituency will rise up in protest? Not the children themselves; I will guarantee it.

This conference report has many problems. One of them is the assault on child care. I will be voting against this report.

Mr. President, I speak against the welfare conference report, and I do so as someone who voted for the Senate welfare reform bill, but I did so because I thought the majority would understand that our yes vote meant that we strongly supported child care funding language for domestic violence and job training funds. Those are not in the final bill. It is $13 billion short in child care money. That is not just money; that is children who will be out there on the streets with no one to take care of them.

Mr. President, this Congress will not be remembered for passing welfare reform. They will be remembered for endangering the lives of thousands of American children.

I urge my colleagues to vote "no" on this conference report.

Mr. ROTH. Mr. President, I yield 5 minutes to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Thank you, Mr. President.

Mr. President, I do not know where to begin. Last night I spoke at length about the difference between the Senate bill that passed and the bill that is now before us. I think I laid out the points, but I will try to be consistent and lay them out today.

The bill that is before us actually moves more toward the Democratic side than the bill that we passed here. I am somewhat at a loss as to why we see all these objections raised here when if you go down the changes that were made in the conference, we actually move toward the Democratic side of the aisle than the bill that passed the Senate. I will go through them.

If you look at child care, so much is being talked about in child care. The child care funding in this bill is more than the child care funding that passed under the original Senate bill. In fact, over the first 5 years in the Senate bill that passed child care funding was $15.8 billion. Under this bill, it is $16.3 billion. Over 7 years we spend $1 billion more in child care under the conference report than we did in the Senate bill.

I do not understand the concerns that somehow we are now shortchanging child care when before we had adequate child care dollars. We have more money in child care.

Second, maintenance of effort. We heard so much concern and consternation about the maintenance-of-effort provision. There was a 75 percent maintenance-of-effort provision in here, which is exactly what both sides agreed was an adequate level for State support in the Senate bill. Again, I do not understand the concerns. We kept the Senate proposal.

Third, funding. We talked about this welfare program being slashed. I refer you to this chart. Here is welfare funding today. Under current law, it will go up by 58 percent. Under our bill, it goes up 34 percent. That is 4 percent a year. That is almost twice the rate of inflation.

Welfare spending will go up under this bill. If anyone is concerned, yes, welfare spending will go up, but we have more people in the system. No. In fact, the Congressional Budget Office has said that under our bill, the number of people in the system will be maintained at a constant level. There will not be an increase. Therefore, spending per person in welfare will go up over the next 7 years. We will have more child care. We will have a maintenance of effort. Spending will go up under this bill. You would think that I am describing the Democratic proposal. But, no, we are describing the conference report.

The work requirements that so many people on both sides of the aisle wanted are the same in the Senate bill. We kept the entitlement to school lunches. We kept the entitlement to family-based nutrition programs, something desperately wanted by the other side of the aisle that was not in the House bill. The House conceded to us on that.

We kept title requirements. In fact, we put in title requirements for food stamp block grant eligibility. In the Senate bill we passed a block grant option for food stamps given to all States. Under the conference report, we make it much tougher to get a block grant of food stamps, and we put very tough error rate standards in there, so many States will not, in fact, be able to qualify, something many Members on the Democratic side of the aisle wanted to see.

We kept the population growth fund intact, which many Members on the other side wanted.

Contingency funds for employment—the same as in the Senate bill.

We kept "no transferring out" of the child care block grant, something that was very important to Members on the other side of the aisle. Every dollar in child care must be spent in child care. And, in fact, there can be a transfer of money but only into child care, not out of child care.

I heard a concern about SSI and about throwing children off SSI. I would remind Senators on the Democratic side of the aisle that the same provisions that are in this bill were in the Democratic substitute on this floor and voted for by every Member on the other side of the aisle. Those same children not being cut off was something that every Member on the other side of the aisle voted for in their substitute and the 87 Members of this body voted for in the Senate bill—the same provision. The only difference in the children portion of the SSI bill is that for children who do not need round-the-clock care to be able to stay at home, we reduce the amount of benefit by 25 percent.

I would remind Members that the adult benefit for SSI, which is supposed to be an income supplement to maintain someone who is an adult so they can live independently, is the same amount that a child gets when living at home. So what we said is that, if you are a child living at home which does not need 24-hour care but is still considered disabled, we are going to reduce your benefit somewhat versus a child that needs 24-hour child care. We think that is a reasonable thing to do, and certainly it is not going to be hurting children.

A lot has been made about the child protection portion of this bill. We do some tremendous things. First of all, we spend more money on child protection in this bill than in the Senate bill. The Senate bill that passed that got 87 votes cut $1.3 billion out of this program. The conference report cuts $0.4 billion.

We spend more money on child protection services. We allow in this agreement so much that has been talked about.

I ask for an additional 2 minutes.

Mr. ROTH. I yield 2 more minutes.

Mr. SANTORUM. Mr. President, I thank the chairman.

As I said before, we spend more money on child protection services, No. 1. No. 2, we allow so much. So much has been made about the Elisa case in New York, a tragic case. But one of the reasons that case happened is because police agencies and social agencies cannot share information about abuse. In this bill you can. And it was not even in the Senate bill, an improvement over the Senate provisions.

We gave a concession from the conference report that appeared in the reconciliation bill to current law standards for child protection and citizen review panels, again another concession to the other side.

We gave again greater flexibility to use administrative funds on services, something that cannot be done today. Fifty percent of all the money spent in child protection is spent on administrative and overhead costs—50 percent. No wonder a lot of people do not want to change it because a lot of people make a lot of money off child protection services in this country. Fifty percent is spent on staffing. What we do is we give a block grant and allow that money to be used for services, allow that money to be used to help direct payments to people who need assistance, again a dramatic departure, something I know many people on the other side of the aisle want to see done.

We think this bill not only is a better bill than passed the House—much better—a better bill than passed the Senate but moves more in the direction of Members on the other side of the aisle. I am absolutely astounded to hear Members get up and talk about how this bill is worse than what passed the Senate. It is not. It moves much more toward the Democratic side of the aisle, and I urge their support.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. ROTH. Mr. President, I yield 2 minutes to the distinguished junior Senator from Kansas.

Mrs. KASSEBAUM. I thank the chairman of the Finance Committee.

Mr. President, the Personal Responsibility and Work Opportunity Act of 1995 represents a turning point in how this country will respond to the needs of poor children and their families. For far too long, welfare has failed—failed the families dependent upon Government assistance to give them a new start in life and failed the American taxpayers who have been asked to help those in need. Welfare reform does not need to be mean spirited, and the welfare reform provisions of this bill are not. Change is always difficult and this legislation will produce tremendous changes in how government helps those in need.

This legislation shifts primary responsibility for welfare to the States, a move I wholeheartedly endorse. The need for welfare assistance and the solutions to moving people off welfare and into work are closely tied to the economic conditions, opportunities, and resources in a community. That has been one of the biggest problems with the one-size-fits-all approach to welfare necessitated by a heavily mandated Federal program. I believe that States are in the best position to make decisions about how best to help families in poverty gain economic self sufficiency. We do not know what works—what types of programs are the most effective in moving people off of welfare. I believe over the next few years we will see many diverse solutions to the problems of welfare and poverty. Some of these solutions will work, some will not—but much will be gained through the experience. Since the current welfare system has failed so miserably, it is worth the risks involved.

The Personal Responsibility and Work Opportunity Act is a comprehensive bill which changes not only welfare cash assistance, but many other Federal programs as well. As is the case with any major bill, no member is completely satisfied with every single provision. Ultimately, a decision is based on one's judgment that the positives outweigh the negatives. Clearly, in my mind, the fundamental reform offered by this legislation makes it worthy of support.

It is my understanding that President Clinton has made a different calculation regarding the merits and demerits of this legislation and has indicated he will veto it. In that event, we will be back at the drawing board. Given a second opportunity to put together a bill, I would hope that several concerns could be addressed.

My first concern lies in the area of child protection. The legislation significantly reduces the funds available for recruiting and licensing foster homes, monitoring children in foster care and other alternative placements, completing the court processes needed to free children for adoption, training and recruiting child protection caseworkers, and other activities necessary to maintain an adequate program for abused and neglected children. The cap on child protection funds will put further strain on our already overburdened child protection system and could seriously inhibit states' ability to respond when a child is abused or neglected.

I am also concerned about whether the funds available for child care assistance are adequate to meet the needs of families as they move off welfare and into work. The availability of safe, affordable child care is essential to successful welfare reform. At the same time, we need to ensure that low income working families have access to child care assistance.

My third concern is about the extent of the changes in the Supplemental Security Income [SSI] program. The legislation will eliminate SSI eligibility for an estimated 21 percent of the children currently receiving benefits and reduce benefits for about 75 percent of the remaining children. While the creation of a two-tiered benefit system distinguishes between the most disabled children who require a higher level of services and those who are moderately and mildly disabled, the legislation places an overwhelming emphasis on physical disabilities. I believe the criteria used to differentiate between those receiving full benefits and those receiving reduced benefits should be reexamined.

I am relieved that the effective date for the cash assistance provisions in the bill has been changed to the 1996 fiscal year. This should give States adequate time to make the legislative and administrative changes needed to adjust to the block grant. Successful welfare reform will require careful consideration and planning, and States must be provided the opportunity for a thoughtful, deliberative process regarding how they want to proceed.

I believe that these concerns can be effectively addressed. The Personal Responsibility and Work Opportunity Act is a bold move to change the way in which government responds to people in need of assistance—a move that needs to be taken.

LONGEST TERM RECORD

Mrs. KASSEBAUM. Mr. President, I would just like to acknowledge that today breaks the record for the longest term ever held by a Republican leader of the Senate. Senator DOLE, as the majority leader, has broken the record that is more than just showing up every day. Perhaps Senator DOLE is the Cal Ripken of the Senate. But I would just like to express the appreciation of all of us for the dedicated leadership he has brought, the thoughtfulness and patience that it takes, and as a matter of fact his sheer grit.

I yield the floor.

Mr. MOYNIHAN. Mr. President, two records in 2 days. What do you say we give him a hand.

[Applause, Senators rising.]

PERSONAL RESPONSIBILITY AND WORK ACT OF 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I yield to my gallant friend from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I thank the Chair.

Mr. President, this is a profound and important debate about welfare reform that tests our resolve to change a system that is in need of change, but it is a debate which also tests our commitment to community to the sick and the hurting—to the elderly and the thousands of people who are looking for a helping hand from a government that will help them help themselves

Every Senator here today knows the importance of helping families get back to work—get on the job and off the dole; but they also know the devastation of poverty—the lack of hope and the despair and frustrations that all of use see in our States.

Unfortunately the bill which we passed to reform welfare has turned for the worse in conference and threatens to injure children and people with disabilities.

Mr. President, this conference bill will increase poverty—not decrease it. It will increase despair and destroy hope among some of the poorest, sickest, and weakest Americans.

I cannot in good conscience—and I will not—vote for such an ill advised retreat from real reform—no matter how well intended it may be—no matter how deeply some or the other side of the aisle might feel about it.

This bill eats away at the strength of America because the strength of America is not found in its willingness to separate the rich from the poor.

No, the strength of America, as Hubert Humphrey said:

> Lies with its people. Not people on the dole but on the job. Not people in despair but people filled with hope. Not people without education but people with skill and knowledge. Not people turned away but people welcomed by their neighbors as full and equal partners in our American adventure.

This is our strength, but this bill we are asked to vote on today does not play to that strength.

Mr. President, we all want to move people from welfare to work. But the conference report reduces the ability to put people back to work.

This conference bill is wrong because it's too harsh and it will injure children and families in significant ways.

It reduces SSI benefits for a large majority of disabled children by 25 percent. These are kids, Mr. President, with cerebral palsy, kids with Down's syndrome, muscular dystrophy, cystic fibrosis and AIDS.

I'm told that by the year 2002, some 650,000 low income children would be affected by this cut. In real numbers that means that the benefits to seriously disabled children would be cut from 74 percent of the poverty line to 55 percent of the poverty line; and with all due respect to my colleagues on the other side of the aisle that cut was not in the Senate bill.

The current law ensures that AFDC families receive Medicare coverage. Under this bill that provision of the law would be repealed, leaving 1.5 million children at risk—and at least 4 million mothers would lose health coverage.

This conference bill undermines the school lunch program. It denies school lunches to certain categories of immigrant school children, including legal immigrants, and it would create an entire bureaucracy to determine the status of the children.

It would deny SSI and food stamps to immigrants who are legal permanent residents of the United States.

The bill includes $32 billion in food stamp benefit cuts to the elderly and working poor—which means about a 20-percent cut to those families who are already working, who are struggling to make ends meet on a minimum wage job or with a Social Security check struggling to pay for basics to keep them from losing their apartments and ending up homeless and on the street.

When fully in effect the food stamp cuts will lower the average benefit level from 78 cents per person per meal to 62 cents—62 cents a meal.

Mr. President, what are we doing? Is this the kind of nation we have become?

The whole point of welfare reform was to identify the people who are on welfare but who are capable of working, and getting them off welfare and into jobs.

This conference bill does not accomplish that goal in the way we did in the Senate passed bill.

This bill hurts children, the sick and the elderly.

It hurts dependent children, more than half of whom live below the poverty line. It hurts disabled children, sick children, hungry children, children without a chance and often without a prayer for survival.

It hurts disabled elderly people, who deserve more in their old age, who seek only a little dignity and a little respect.

This bill raises the age at which impoverished elderly people could qualify for SSI, from 65 to 67 or even higher—and who does this affect? It is aimed primarily at poor elderly women—widows with limited work experience outside the home. These poor women, already on the edge, would have the principal component of their small safety net ripped away. They could lose their Medicaid. And many of them will be forced into severe poverty and bouts of homelessness.

Does this sound like welfare reform? Is this what the American people had in mind when they think of welfare reform?

In other words, Mr. President, this bill goes for the easy targets. It hurts the people who can't fight back. In the end it hurts America.

There is not enough in this bill about helping people find work, but there are plenty of sweeping cuts to impress constituents with hollow, vicious attacks on people that anyone can attack.

This bill raises the suffering level and lowers the promise of hope and of jobs.

The bill simply does not provide adequate resources for work programs.

According to CBO estimates, funding will fall $5.5 billion short of what is needed to fund the work program in 2002 alone, and that's assuming that the States maintain their safety net for poor children.

Over a 7-year period, funding for the work program will fall about $14 billion short of what is needed.

Is this a job program?

The original Contract With America recognized this problem and provided $10 billion for work programs—but that money is not in this bill.

Mr. President, I am voting against this legislation because it steps back from important safeguards that were contained in the Senate bill—safeguards for children, for elderly, for work—that are the true heart of welfare reform.

Mr. President, I voted for the bill that left the Senate. I will not vote for this conference report today. And I will not vote for it because there are some dramatic differences between this conference report and what we voted for. Most importantly, this conference report takes away a fundamental guarantee in this country that children will have health care.

It takes away a fundamental guarantee about standards in this country with respect to health and safety for child care.

In addition to that, it reduces the most important lifeline that we guaranteed in the Senate bill, that those who are required to go to work who have children will be able to find the proper care for their children. And that has been reduced in this bill. In addition to that, it takes away the personal responsibility contract and it reduces the child nutrition program.

This bill will hurt children, and for that reason, Mr. President, as a conference bill I cannot vote for it. I hope we will return to the Senate with a more appropriate conference at some point in the future.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. MOYNIHAN. I thank my friend from Massachusetts. It is truly hard to conceive that we might be for such business 3 days before Christmas.

Mr. President, if the majority leader does not wish to speak at this moment, the Senator from Connecticut will do. I yield 1 minute to my able friend from Connecticut.

The PRESIDING OFFICER. The Chair advises the Senator he has 45 seconds remaining.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senator from Connecticut may have 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I thank my colleague from New York.

Mr. President, let me just address the Senate on the children's issues and the child care issues and try to put this in perspective. As most of my colleagues know, I have spent a lot of time, along with many others, on the issue of child care, and I just want to put it straight. When we passed out the Senate version of this bill on child care, we had provided $8 billion for child care over 5 years. This conference report has $7 billion for child care over 5 years. It is a $1 billion reduction over that 5-year period. And so it is a cut in the child care funds.

But almost as egregious as the cut in the child care funds is the elimination of the health and safety standards, something that we fought very hard on over these years. Now, to eliminate health and safety standards where young children are being cared for, whatever other views you have, you do not do it. You do not take away the basic health and safety standards for child care in this country. So the money is one thing. That is a cut of $1 billion. But to put these children all day long in a situation where they are not safe and they are not healthy, getting the proper kind of care is just wrong-headed and for that reason alone this bill ought to be rejected.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MOYNIHAN. Mr. President, I yield back the remainder of my time, which does not exist, with a plea that this legislation not be approved.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I think this is a good bill and pretty much like the bill that passed the Senate by a vote of 87 to 12 with 1 absentee.

We have heard many times that the President is going to end welfare as we know it. This is an opportunity the President has. Everybody ought to ask the question—and I know it has been addressed on the other side—does this conference report have the core principles and needed reforms that were in the Senate-passed welfare bill? The answer in my view is yes. We supported that bill in September, the Work Opportunity Act, as I said, by a vote of 87 to 12. We stood behind it in a bipartisan way.

During this time before our vote, I also ask that we once again remember two overriding facts. First, our current welfare system has failed; and, second, it is our duty to fix it.

COMMON SENSE, CORE PRINCIPLES FOR DRAMATIC REFORM

The Senate bill and the conference report both take a commonsense approach. Both bills establish core principles: strong work requirements; strengthening families and requiring personal responsibility; providing protection for children; giving States the flexibility they need to design programs that best meet the needs of the people, and that can best reduce our alarming illegitimacy rate; and assuring States receive necessary Federal support.

Let me take a moment to review the similarities in the commonsense policies in the Senate bill and the conference report.

They both require able-bodied welfare recipients to work for their assistance as soon as the State determines they are "work ready" or within 2 years, whichever is earlier.

They both put a 5-year lifetime limit on welfare benefits, so that welfare does not become a way of life.

They both require single teenage parents who have children out of wedlock to stay in school and live under adult supervision in order to receive benefits.

They both provide $75 million to States for abstinence education programs.

They both grant our States the ability to try and reduce America's alarming illegitimacy rate.

They both give States the option of exempting families with a child under age 1 from the work-participation rates.

They both prevent States from sanctioning a single custodial parent for failure to work if the parent shows a demonstrated need for child care.

They both include important provisions on locating and tracking absent parents, establishing paternity and enforcing support orders.

They both give our States the flexibility to devise programs that meet the specific needs of their citizens.

They both provide a $1.7 billion supplemental loan fund. States may borrow from it up to 10 percent of their welfare block grant amount.

They both provide a $1 billion contingency grant fund for States over 7 years.

They both put a cap on spending, because no program with an unlimited budget will ever be made to work effectively and efficiently.

CHILD CARE AND STATE MAINTENANCE OF EFFORT

During the Senate debate and establishment of these policies, two major issues emerged as central to the bipartisan support that emerged: first, access to child care and second, requiring States to maintain some level of their spending effort.

The child care provisions in the conference report provide $1.8 billion more than current law and $1 billion more than the Senate-passed bill. Specifically, a child care block grant is established that includes $11 billion in mandatory spending for welfare recipients and $7 billion in discretionary spending for low income families. Spending on child care increases from $1.3 billion in fiscal year 1997 to over $2 billion in fiscal year 2002.

In the conference report, States are required to maintain their spending effort for the life of the new cash block grant at 75 percent of what they spent in fiscal year 1994 for the programs that are in this block grant. This seems to represent the objective of the majority of Members in the Senate.

CONFERENCE REPORT MODIFICATIONS

Now let me touch on some of the areas that have been modified since the Senate first passed welfare reform. No doubt about it, there has been much speculation over the savings that will come out of this reform. I can tell you this: The savings realized from the conference report are about the same as those realized from the Senate bill.

The conference report does require States to deny more cash to mothers who have more children while receiving welfare. However States have the flexibility to opt-out. As Senator SANTORUM said last night, this provision asks State legislatures to make a decision.

Let us make no mistake about it, the conference report does establish a child protection block grant that combines mandatory funding for existing child welfare programs while maintaining current law protections. However foster care and adoption maintenance payments remain open entitlement and the enactment of the block grant is delayed to fiscal year 1997. Funding for these programs are $1 billion more than the Senate passed Balanced Budget Act.

NEW PROVISIONS

Let me list a few additions to the Senate-passed bill now in the conference report before us.

The effective date of the new cash welfare block grant is delayed to fiscal year 1997 yet allows States to opt-in during fiscal year 1996.

We have also included a 10-percent reduction in the social services block grant which was proposed by President Clinton. This will provide $1.6 billion in savings over 7 years.

The eligibility for States to receive food stamp block grants is tightened up. States which have implemented electronic benefit transfer statewide will be eligible. States with an error rate of less than 6 percent are also eligible.

The controversy surrounding block grants for child nutrition programs is settled by allowing a pilot project for seven States to participate in an optional block grant program. Authority expires in 2000. Block grants could then be revisited.

GOP GOVERNORS BACK CONFERENCE AGREEMENT

Thirty Republican Governors sent a letter to President Clinton on December 20 urging him to support this conference agreement. They write:

> While each State will have its own reform strategy, this legislation helps to accomplish those goals by setting forth these guidelines:
>
> Families must work for benefits and States that get families working are rewarded.
>
> No family can stay on welfare after 2 years without working.
>
> The total time a family can collect cash benefits is limited to 5 years unless States, because of their own unique circumstances, opt out of this limit.
>
> And States will have the option to pay cash benefits to teen parents, but they must live at home and stay in school to receive those benefits.

I urge my colleagues to support the conference report to H.R. 4. The core principles and policies necessary for dramatic reform contained in it are consistent with the Senate-passed bill and consistent with the needs of Americans.

So. Mr. President, it seems to me we have been able to retain nearly every provision that was in the Senate-passed bill. I know for some of my colleagues, because the President says he is going to veto it, maybe for that reason they feel compelled to support the President. But my view is we have a good bill. We ought to vote for it. We ought to send it to the President, and then try to persuade the President that this is a bill he should sign.

I yield back the balance of my time.

SECURITIES LITIGATION REFORM ACT—VETO

The Senate continued with the reconsideration of the bill.

The PRESIDING OFFICER. The question is, Shall the bill (H.R. 1058) pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are required under the Constitution. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 68, nays 30, as follows:

[Rollcall Vote No. 612 Leg.]

YEAS—68

Abraham
Ashcroft
Baucus
Bennett
Bingaman
Bradley
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Domenici
Exon
Faircloth
Feinstein
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerry
Kohl
Kyl
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Pell
Pressler
Reid
Robb
Rockefeller
Roth
Santorum
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—30

Akaka
Biden
Boxer
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dorgan
Feingold
Glenn
Graham
Heflin
Hollings
Inouye
Kerrey
Lautenberg
Leahy
Levin
McCain
Moynihan
Nunn
Pryor
Sarbanes
Shelby
Simon
Specter
Wellstone

ANSWERED "PRESENT"—1

Bond

The PRESIDING OFFICER. On this vote, the yeas are 68, the nays are 30. One Senator responding present. Two-thirds of the Senators voting, a quorum being present, having voted in the affirmative, the bill on reconsideration is passed, the objections of the President of the United States to the contrary notwithstanding.

Mr. BYRD. Mr. President, I ask unanimous consent to address the Senate for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATIONS TO THE MAJORITY LEADER—A NEW RECORD

Mr. BYRD. Mr. President, if I may have the attention of the Senators, Dizzy Dean said, "It is all right to brag if you have done it."

BOB DOLE has done it! He began his service as leader of the Republican Party in the Senate on January 3, 1985, and the record, up until today, for having held the position of leadership on the Republican side of the aisle was held by the late Charles McNary of Oregon, who was leader 10 years, 11 months, 18 days. Now, BOB DOLE has not been leader as long as Robinson Crusoe was marooned on that island. Crusoe was marooned 28 years, 2 months, and 19 days. But BOB DOLE has been the leader of the Republican Party, as of today, 10 years, 11 months, and 19 days!

Mr. President, I served with BOB DOLE when he was minority leader and I was majority leader. I served with him when he was majority leader and I was minority leader. I always found him to be a man of his word. We had some exchanges from time to time, as leaders will have, but I found him to be an honorable man. I shall always look back upon my service with him, when we were leaders together, with a great deal of pleasure.

I have a fondness for BOB DOLE, and I am glad today to salute him as a great leader of his party. I commend him on his service not only to his party but also to his country, and for his service to the Senate.

May God's richest blessings follow him and his loved ones always.

[Applause, Senators rising.]

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. THURMOND] is recognized.

A SALUTE TO BOB DOLE

Mr. THURMOND. Mr. President, I rise to say that the Senate is well served with BOB DOLE as majority leader. He has broken the record now for the all-time service. He is a man of integrity, ability, and dedication, and we are fortunate to have had him serve here.

Back in his home State, he was a member of the legislature and a prosecuting attorney. He went into World War II, was seriously injured, almost killed, and one arm is still deficient.

I say to you, I hope he will serve continuously until he becomes the next President of the United States.

[Applause, Senators rising.]

PERSONAL RESPONSIBILITY AND WORK ACT OF 1995—CONFERENCE REPORT

The Senate continued with consideration of the conference report.

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. DEWINE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 613 Leg.]

YEAS—52

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Burns
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—47

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

So the conference report was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

BIPARTISAN WELFARE REFORM

Mr. MOYNIHAN. Mr. President, I simply want to make the announcement, now that we have had a near unanimous vote on the Democratic side against this measure which would affect 39 percent of the children in our country, we would like to turn to the President's proposal. In his statement yesterday he said he will veto this bill. But, he said, "I am determined to work with Congress to achieve real bipartisan welfare reform." I just this moment was speaking with my friend from New Mexico, who made very serious proposals in that regard. Let us do it.

But, sir, it has to be done here in the Congress—in cooperation with the Executive. An hour from now, the 11 Democratic Senators who voted against this measure in September—Mr. AKAKA, Mr. BRADLEY, Mr. KENNEDY, Mr. KERREY of Nebraska, Mr. LAUTENBERG, Mr. LEAHY, Ms. MOSELEY-BRAUN, Mr. SARBANES, Mr. SIMON, Mr. WELLSTONE, and I—will send a letter to the President encouraging the proposal for a bipartisan welfare reform, but saying it cannot be done in a 4-day or 3-day summit budget conference. This must not come back to us in a proposal put together in 3 days in a room with four people. This is a task for the Congress. We look forward to it. We welcome it. But we put the President respectfully on notice that we must be involved.

Mr. President, I thank the majority leader for allowing me to use this time in morning business, and I yield the floor.

MEASURE PLACED ON THE CALENDAR—HOUSE JOINT RESOLUTION 134

The PRESIDING OFFICER. The clerk will read a joint resolution for the second time.

The assistant legislative clerk read as follows:

A joint resolution, (H.J. Res. 134) making continuing appropriations for the fiscal year 1996, and for other purposes.

Mr. DOLE. I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. Objection is heard. The measure will be placed on the calendar.

THANKING SENATORS

Mr. DOLE. Mr. President, first, I thank my colleague, Senator BYRD, for his kind comments and my colleague, Senator THURMOND, from South Carolina. It has been an honor to serve as the Republican leader and an honor to serve with my colleagues on both sides of the aisle over the years.

I certainly enjoyed my service in the Senate, and I think most every day I have enjoyed being leader. Some days it is in doubt. But it is a great honor and a great responsibility that I am proud to try to carry.

I thank my colleagues on both sides for their continued cooperation.

MEASURE PLACED ON THE CALENDAR—S. 1500

The PRESIDING OFFICER (Mr. KYL). The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (S. 1500) to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado, and for other purposes.

Mr. DOLE. Mr. President, I object to further proceedings on this matter at this time.

The PRESIDING OFFICER. Objection is heard.

The bill will be placed on the calendar.

UNANIMOUS-CONSENT REQUEST—S. 1407

Mr. DOLE. Mr. President, on another matter, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 282, S. 1407, which would amend the Social Security Act to provide for increases in the amount of allowable earnings under the Social Security earnings limit for individuals who have reached retirement age.

I further ask unanimous consent that the bill be considered read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to this matter appear in the RECORD at the appropriate place.

Mr. DASCHLE. Mr. President, there are a large number of colleagues on our side of the aisle who would like the opportunity to have a good debate about the issue and perhaps offer amendments. So, on their behalf, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCAIN. Mr. President, I, of course, understand the objection on the part of the distinguished Democratic leader.

I point out that we have been on this issue now for many years. It has been through the Finance Committee.

It is an outrage and an insult to the seniors of this country when we know—and they know—that their Medicare premiums, among other expenses, are going up, and we will not give them this simple relief.

I say to my friends on the other side of the aisle that I have not quit on this issue in 9 years. I am not quitting on it. From now on, every single bill that is before this body is going to have it as an amendment, unless we take it up as freestanding.

This is a terrible disservice to the seniors of this Nation not to lift this earnings test. It is an anachronism left over from the Depression era.

Mr. President, I want to thank Senator ROTH, and I want to thank Senator MOYNIHAN for his efforts. I thank the distinguished majority leader for his efforts.

This issue is not going away. We owe it to the seniors of this country. It is a terrible disservice not to pass this legislation at this time, although I certainly understand why the other side might object.

We could have passed this long ago. I hope that we can do it as soon as possible beginning next year.

THE LINE-ITEM VETO

Mr. McCAIN. Mr. President, before I yield the floor, I want to mention one other issue.

Many of us, including the Senator from Indiana, who is here, have worked long and hard on the line-item veto. We worked on the line-item veto irrespective of who the President of the United States was.

I would like to express my deep disappointment that the conference has not acted since February when we passed the line-item veto and we have come to a great impasse on the line-item veto and have not given it to the President of the United States.

Again, I am going to sound obstructionist, but this issue will have to be brought up also as an amendment and for debate if we are not willing to have a conference meet and the conference decide to pass this. It was passed by over 70 votes when we passed it through the Senate, with a far higher majority in the House of Representatives.

When we ran on this side of the aisle in 1994, we made a commitment to pass a line-item veto and to give it to the President of the United States irrespective of the party affiliation of that President.

Mr. President, I yield the floor.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to begin consideration of the START II treaty.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I think the Democratic leader and I want to be in a position to announce that there probably will be no more votes today.

I think on the START II Treaty, which is now pending under an agreement, I promised the Senator from New Mexico a couple of weeks ago that we would try to do this before we left.

It is my understanding—in fact, the Presiding Officer is one of the principal players—the bill will be managed on this side by the distinguished Senator from Indiana, Senator LUGAR, and he advises me that it may not be necessary to have a rollcall. There may be one amendment in the process of being resolved.

Senator THURMOND has suggested that we go only as far as presentation of the resolution of ratification—that would be satisfactory with me if it is satisfactory with the Democratic leader—because he would like to have the President sign the Defense authorization bill and not finally dispose of the START II until the President has made a determination.

But I think, based on what I have been able to find out in the last few minutes, if it is satisfactory with the Democratic leader, I think we could announce that there will no more votes today.

Mr. DASCHLE. Mr. President, I appreciate the majority leader's cooperation on this issue.

It appears that there is one outstanding issue that may or may not be resolved with a rollcall vote. If we could make it in order that the amendment and presentation of the resolution of ratification be the only matters pending relating to START and the return, I think we can accommodate the schedule and it will please all of those involved in the negotiations.

Mr. DOLE. Mr. President, I believe we can also dispose of nearly all of the nominations on the Executive Calendar. Of course, anything that we can do by unanimous consent—I think the Senator from Delaware and the Senator from Utah have a bill that will take 1 hour, and it will not require a rollcall vote, on victims' restitution.

Mr. BIDEN. That is correct.

Mr. DOLE. Perhaps that can be disposed of today, and any other matters that we can dispose of on a consent basis—obviously, we will be here later today.

So, based on that comment from the Democratic leader, I think we will announce there will be no more votes today, no votes tomorrow, no votes on Sunday, no votes on Monday, and no votes on Tuesday.

Mr. BYRD. Mr. President, will the distinguished leader yield?

Mr. DOLE. I am happy to yield.

Mr. BYRD. I hope we will have a rollcall vote on the treaty. So, we can be assured of that at some point.

Mr. DOLE. Yes.

Mr. BYRD. I thank the leader.

Mr. DOLE. I think it is a very important treaty. We should have a rollcall vote.

Mr. THURMOND. May I make inquiry? As I understand, there will be no votes before Christmas, final vote on this treaty? Is that correct?

Mr. DOLE. That is correct, according by the wishes of the distinguished Senator from South Carolina.

Mr. THURMOND. Does that give the President a chance to sign the defense bill?

Mr. DOLE. I think once he recognizes the merit of it, certainly he will be disposed to sign it.

Mr. THURMOND. It is to his advantage and to the advantage of the troops and to the advantage of the defense for him to sign it.

Mr. DOLE. I thank the Senator.

Mrs. HUTCHISON. Will the majority leader yield?

Mr. DOLE. Yes.

Mrs. HUTCHISON. Mr. President, if the Senator will yield for a question, I just wanted to ask about the House resolution that will cover veterans.

Mr. DOLE. We are working on that. The two leaders have discussed not only that provision, but the District of Columbia, foster care, and AFDC. It is our hope that before we leave here today, we can reach some accommodation.

I have also discussed that with the distinguished Senator from New Hampshire, Senator SMITH, who is very interested particularly in the veterans part having had a phone call this morning from a veteran friend of his.

So, hopefully, we can resolve that. The Senator from Massachusetts has an interest in that, too.

TREATY WITH THE RUSSIAN FEDERATION ON FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS (THE START II TREATY)

The PRESIDING OFFICER. The Chair will announce that the clerk will report the treaty, which is the pending business, and then recognize Senators.

The legislative clerk read as follows:

> Treaty document No. 103-1, Treaty with the Russian Federation on further reductions and limitation of strategic offensive arms, the START II treaty.

The Senate proceeded to consider the treaty.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

VETERANS

Mr. WARNER. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from Texas. I am reassured that the leader will try to work out this matter with respect to the veterans. The Senator from Texas has taken a lead on this. Senator SIMPSON, the chairman of the Veterans Committee, and myself and the Senator from Texas will be monitoring this through the day.

Thank you very much.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I know we have before us an extremely important measure which Senator LUGAR and Senator PELL are going to lead and manage on the floor.

I had an opportunity to talk to both Senator PELL and Senator LUGAR. It is with their acquiescence that they are going to permit me to speak very, very briefly on another matter and that those comments would be at an appropriate place in the RECORD.

So I do not intend to be more than 5 or 6 minutes. But it is on a matter which I think needs addressing.

CAMPAIGN DISINFORMATION

Mr. KENNEDY. Mr. President, the Republican campaign of disinformation on their unfair Medicare cuts continues in full swing. Now it has reached a new low with a gross distortion of the views on Medicare of President Clinton and the First Lady, Hillary Rodham Clinton. A television advertisement, sponsored by the Republican National Committee, purports to show Mrs. Clinton endorsing the deep Medicare cuts in the Republican budget plan.

The advertisement is a good example of the depths to which the Republican Party is willing to sink in order to defend its unfair and destructive plan to slash Medicare. The ad transposes a statement from 1993 about the Clinton plan and tries to make it appear that it is an endorsement of the Republican program. It ignores three central facts. The Republican plan slashes Medicare to pay for tax breaks for the wealthy, but every dollar of Medicare savings in the Clinton plan was put back into expanded health benefits for the elderly. The Republican plan is rigged to force senior citizens to give up their family doctor and join private insurance plans, but the Clinton plan strengthened Medicare and preserved the right to choose one's own doctor. The Republican plan actually raises costs for working families and will increase the number of the uninsured, but the Clinton plan controlled costs throughout the health system and guaranteed coverage for all.

The first grave distortion is that the advertisement seems to show Mrs. Clinton endorsing the Republican plan. But, in fact, the clip came from 1993 and showed Mrs. Clinton discussing the administration's own health care program.

Equating the Medicare cuts in the Clinton 1993 health reform plan with the cuts in the current Republican budget plan ignores several fundamental facts.

Every dollar cut from Medicare under the Clinton plan was reinvested in expanded health services for the elderly. The Clinton plan provided long overdue new coverage in key areas of Medicare where the greatest gaps now exist—prescription drugs and long-term care.

Under the Clinton plan, senior citizens would have been vastly better off. Under the current Republican plan, they will be vastly worse off. Every senior citizen will pay an additional $1,200 in premiums over the next 7 years. Every elderly couple will pay $2,400 more. Senior citizens already pay 21 percent of their limited incomes for health care. Their median income is only $17,000 a year. They are already facing increases in their private Medigap insurance that will average 30 percent next year. The Medicare cuts and Medicare premium increase under the Republican plan will only make their plight worse.

The Republican plan slashes $117 billion out of Medicaid as well, even though two-thirds of all Medicaid spending is for senior citizens and the disabled, including essential nursing home care.

The Republican plan is also rigged to force senior citizens to give up their family doctor, leave Medicare, and join private insurance plans. The Clinton health reform plan preserved Medicare. It preserved senior citizens' right to keep their family doctors. It did not slash Medicare to pay for tax breaks for the wealthy.

Equally important, the Clinton health care reform was not limited to Medicare or Medicaid. It assured health care for every American. By contrast, the Republican budget plan ignores the need for overall reform. In fact, it endangers the quality of care for all those on Medicare and Medicaid, and many others as well.

It is estimated that one-quarter of all hospitals will have to substantially curtail services or will even have to close. The total number of the uninsured could soar to 60 million by 2002.

The respected consulting firm of Lewin-VHI has estimated that the Republican Medicare and Medicaid cuts could add $70 billion to the health care costs of businesses and workers. Every worker could pay $1,000 more over the next 7 years as a result of this Republican proposal. This is a program for higher costs and greater health insecurity for every working family—not lower costs and greater health care security.

A final important point is that the Clinton plan would have reduced health care costs throughout the entire health care system. The Republican plan would cut costs only in Medicare and Medicaid. It would therefore perpetuate the current trend toward two health care systems, separate and unequal—a first class system for the affluent who can afford it, and an unfair system for everyone else—especially senior citizens and the needy.

What the Republican plan has in mind for Medicare and Medicaid today is vastly different from what the President and Mrs. Clinton had in mind in their 1993 plan. Republican tactics of obstruction prevented Congress from acting on that plan. The current Republican plan would go further in the wrong direction.

No one has fought harder for health care for all Americans than President Clinton and the First Lady. The Republican TV ad is a cynical attempt to manipulate the public. It deserves to be repudiated for what it is—a devious and descriptive distortion. If this is a harbinger of things to come, the country is in for a long winter's night of Republican dirty tricks.

Mr. President, over the past few days, there have been television advertisements which have inaccurately portrayed Mrs. Clinton in her testimony, I believe it was before the Ways and Means Committee. From these advertisements, one could gather that the President of the United States and Mrs. Clinton were basically at odds in terms of amounts of cuts on Medicare spending.

What has been left out of the ad is that Mrs. Clinton's testimony, about 2 years ago, was given in support of the President's health care reform program. During the time of the President's program, there were going to be reductions in the escalation of overall spending, but all of the savings that were going to be achieved under the Medicare Program were going to be plowed back into the Medicare system with relief for our senior citizens on prescription drugs and also on long-term care.

So the characterization that Mrs. Clinton is for cutting back Medicare and therefore is in basic agreement with the Republican position is a complete distortion and serious misrepresentation. It is particularly harsh when you look at the totality of the spending cuts not only in the Medicare provision under the Republican plan but also in the Medicaid Program which affects so many of our seniors, particularly those in nursing homes.

Then if you look at the increase in Medicare premiums and also the policy implications of the Republican Medicare proposal, I think these would dampen the opportunities for our seniors to choose their own family physician or remain in the kind of Medicare system that we currently know in this country. No one who followed the health care reform debate and discussion over the last 2 years and listened to Mrs. Clinton could come to any other conclusion than that these Republican ads are a clear distortion and misrepresentation.

I find it particularly troublesome when the final representations are made on that ad that suggest there is a duplicitousness between the President's position and Mrs. Clinton. There is nothing further from the truth. And to portray that ad out there as being the real truth in conflict with the representations that Mrs. Clinton has stood for in terms of Medicare reform and our own health care reform initiatives, I think, is a real gross distortion.

I finally say, Mr. President, as anyone who followed that debate understood, Mrs. Clinton was talking about the totality of savings that were to be achieved under a comprehensive reform program which is really the only way we are going to be able to proceed if we are going to have effective kinds of cost containment and control.

So I just wanted to take a moment of the Senate's time to give, certainly, my impression of that ad and to make my colleagues keenly aware of exactly what Mrs. Clinton was testifying to and what her position was in 1993. It has been distorted. It has been misrepresented. I think it is a serious disservice.

I see in the Chamber my friend and colleague from West Virginia, Senator ROCKEFELLER, who is a real leader in the battle for comprehensive reform, and I inquire of him whether his view about that ad is similar to the one that I have just represented?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. In responding to the Senator from Massachusetts, it is really a matter, I think, of fundamental shock as well as distortion of truth that these ads are portraying. What we have been doing in the course of this particular year 1995 is looking at Medicare and Medicaid all by themselves without any sort of thought about comprehensive health care reform at all, which means it is like you are trying to take a gigantic system and just reorganize one part of it.

What Mrs. Clinton was talking about a year or more ago in this television ad, she was in the process of leading an effort, along with the President and the rest of us, which did not succeed, to try to reform health care as a whole and to really give a chance for Medicare and Medicaid to take their proper role within a reformed total health care system in the private sector.

So to the Senator from Massachusetts, I would say he is absolutely right. All of those cuts she was talking about were being plowed right back into Medicare, into senior citizens in the form of prescription drugs and long-term care. Because there were tremendous efforts being made to control costs in the private sector, there was not any of the cost-shifting involved that we are seeing in the debate this year because it was comprehensive health care, cost control within the private sector, plus the fact that you were not going to have, back then, the situation of doctors refusing to see patients, Medicare patients because perhaps the fee would not be adequate, or you certainly would not have seniors being forced into HMO's and other things. So the choosing of the doctor, the fact that the money was all being put back into Medicare really makes the perpetrators of this ad a rather shameful lot, and it is a tremendous disservice to Mrs. Clinton, who did everything that a human could possibly do to try to make health care better for all Americans.

Mr. KENNEDY. Mr. President, I thank the Senator, and I particularly wish to thank my friends and colleagues, the floor managers, Senator LUGAR and Senator PELL. This matter which is before the Senate now is extremely important, and I am grateful to them for their courtesy in letting us address the Senate briefly on this matter.

I thank the Chair.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. I ask unanimous consent that I be allowed to speak as if in morning business for up to 6 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

WORKABLE GOVERNMENT

Mr. BINGAMAN. Mr. President, we are now in the seventh day of the second Government shutdown of the year. This is the longest partial shutdown of our Government in the almost 207 years of our Nation's history.

The commonly held view is that the shutdown results from differences in policy between the Republican-controlled Congress and the President. The Republicans want their economic projections used to calculate the deficit reduction needed to get to a balanced budget. The President wants to ensure that reasonable funding levels are maintained for Medicare, Medicaid, education, environmental enforcement, and so on.

This commonly held view is wrong.

In fact, this crisis in government is not caused by differences between the President and Congress on policy matters. It is caused by the new and radical view that Republican congressional leaders have taken about Congress' constitutional duties and prerogatives.

For the first time in our Nation's history, the congressional the government and keep it closed in order to extort concessions from the President on policy issues. House Majority Leader RICHARD K. ARMEY, this week, announced that the House will not send President Clinton a bill reopening the full Government—even temporarily—until there is "a bill for him to sign" that balances the budget in 7 years.

This decision by Congress to shut down the Government until it gets its way is new. No previous Congress has interpreted the Constitution as granting it that right. In a recent interview with the Wall Street Journal, Mr. GINGRICH referred to this newfound right as "the key strategic decision made on election night a year ago." Mr. GINGRICH stated;

> If you are going to operate with his [the President's] veto being the ultimate trump, you have to operate within a very narrow range of change. * * * You had to find a trump to match his trump. And the right not to pass money bills is the only trump that is equally strong.

So, for the first time in our national life we have congressional leadership that believes it has the constitutional right to close the Government and keep it closed until Congress prevails. The immediate disagreement is about a whole tangle of budgetary issues, but if Congress has the right to close the Government in this disagreement, presumably it has that right whenever the President has the temerity to stand his ground on any issue. If the closing of Government is an inherent right of the Congress, then all powers of the President are necessarily subordinated.

Those who wrote our Constitution never intended that the Congress have any such right as is now claimed. They set out a system of checks and balances among the branches of government and provided a method of resolving differences including a right of the President to veto legislation and the right of Congress to override that veto.

But underlying all these checks and balances between the branches of government, those who wrote the Constitution assumed an obligation and desire on the part of all to maintain what Justice Jackson referred to as a "workable government." (343 U.S. 579, 635 (1952)).

When our Founders embarked upon the task of bringing to life the constitutional system devised in Philadelphia in 1787 and approved by the State ratifying conventions, it was the legislative branch of our new Government which they called on to commence proceedings under the Constitution.

Pursuant to that call, the Congress met in New York in 1789, organized itself, and provided for the counting of the Presidential electoral votes and the inauguration of the President. The Congress then passed legislation to establish the great departments of the executive branch, to provide for the organization of the judicial branch, and to furnish appropriations to enable all the branches of our new National Government to perform their constitutional functions.

It would be, Mr. President, frankly unimaginable to our Nation's Founders that our branch, the first branch of government, whose duty it was to bring to life the Framer's plan, would ever think that it was within its purview to disable that plan by refusing to perform the Congress' primary constitutional responsibilities.

But the Republican leaders of Congress today are doing just that—refusing to perform the Congress' primary constitutional responsibilities. They believe they have "the right not to pass money bills" and can use that so-called right as the "ultimate trump," as Mr. GINGRICH puts it, in their disagreements with the President.

Mere policy differences, no matter how important, are not at the core of the present Government crisis. There have been many times in our history when policy differences between Congress and the President were great and were strongly held. The real cause of this crisis is the inflated and radical view taken by Republican congressional leaders concerning the rights of the Congress under the Constitution. What they claim as a right is instead an unprecedented abuse of power. Until a majority of each House of Congress recognizes this, the "workable government" which the Founding Fathers contemplated will remain at risk.

Thank you Mr. President, and I yield the floor.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Thank you, Mr. President.

FUNDING FOR MEDICAID

Mrs. MURRAY. Mr. President, I hold in my hand today a letter to President Clinton that is signed by all 46 members of the Democratic Caucus. This letter urges him to hold firm to our commitment to basic health care for children, pregnant women, the elderly, and the disabled in this country. This letter supports a per capita cap approach to finding savings in the Medicaid Program.

Mr. President, I ask unanimous consent to have that letter printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(See exhibit 1)

Mrs. MURRAY. Mr. President, this letter shows unity and it demonstrates support for President Clinton in his negotiations on this vital matter. As you heard the eloquent Senator from West Virginia describe yesterday, sometimes we have to look beyond partisanship and do what needs doing as Americans. As you heard our respected colleague say, we need to look beyond partisanship, toward compromise if we want to succeed in creating a balanced budget.

This letter is partisan in that it is signed by all Democrats. But it is my feeling that as Americans every Member of the Senate should have an opportunity to endorse the position described in this document. As Americans we all must do our very best for our children in this Nation, and that is what this letter is about.

As the Senators from Nebraska and North Dakota discussed yesterday with the release of the Senate Democratic budget, we can balance the budget in 7 years using the most conservative CBO estimates without hurting our children.

This letter I hold in my hand reflects just one part of that commitment. I do not think my colleagues across the aisle are advocating the block grants so that we will intentionally hurt children in this country. I will simply tell you the reaction of people at the State and local level who actually provide Medicaid services to children is overwhelmingly negative.

They can see from the grassroots level what it will mean to design a Medicaid program, and they do not want drastic funding cuts, and they do not want a block grant, because it fundamentally will not work.

Groups representing almost every decisionmaker and provider in this country have come out against the Medicaid block grant proposal. The Conference of Mayors, the National Association of County Officials, the National Conference of State Legislatures, the Democratic Governors Association, the American Hospital Association, and most other medical provider organizations, and all child advocacy groups, all have rallied in opposition to this bad idea.

I heard yesterday from Mayor Norm Rice of Seattle and the Mayors Association, who are sending a letter of their own to the President. The block grant has been condemned by anyone who has thought about how it will affect this country's children and other vulnerable populations. Tonight there will be a child within a few blocks from this building who will need the help of a caring health care professional, and Medicaid will pay for the care.

Marion Wright Edelman uses a phrase that sums up what we are talking about when it comes to Medicaid and children, "protection of last resort." We have to guarantee that protection. It is a moral commitment, and it is within our grasp. We can balance the budget but we can do it without giving in to mindless partisanship and we can do it without sacrificing our basic commitments.

EXHIBIT 1

U.S. SENATE,
Washington DC, December 13, 1995.

President WILLIAM J. CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our strong support for the Medicaid per-capita cap structure in your seven-year budget. We have fought against Medicaid block grants and cuts in the Senate, and we are glad you acknowledge the importance of our position.

We support a balanced budget. We are glad you agree with us that we can balance the budget without undermining the health of children, pregnant women, the disabled, and the elderly.

The savings level of $54 billion over seven years included in your budget will require rigorous efficiencies and economies in the program. However, after consulting with many Medicaid Directors and service providers across the country, we believe a reduction of this level is possible to achieve without dramatic limits on eligibility or cuts to essential services. States will need flexibility to achieve these savings, and you have taken steps toward granting it in your bill.

We were encouraged that your Medicaid proposal does not pit Medicaid populations against one another in a fight over a limited pot of federal resources.

We were further encouraged to hear Chief of Staff Panetta relay your commitment to veto any budget not containing a fundamental guarantee to Medicaid for eligible Americans.

We commend you on the courage you have exercised in making these commitments to Americans eligible for Medicaid. There is a bottom line when it comes to people's health; do not allow the current Congressional leadership to further reduce our commitment to Medicaid beneficiaries.

Your current proposal is fair and reasonable, and is consistent with what we have advocated on the Senate floor. We urge you in the strongest possible terms to hold fast to these commitments in further negotiations. We are prepared to offer any assistance you may need in this regard.

Sincerely,

Bob Graham; John Breaux; Jay Rockefeller; Herb Kohl; Patrick Leahy; Frank R. Lautenberg; Ted Kennedy; Tom Daschle; Patty Murray; Barbara Boxer; David Pryor; Barbara A. Mikulski; Max Baucus; Paul Simon; Kent Conrad; Wendell Ford; Harry Reid; Paul Wellstone; Richard H. Bryan; Ernest Hollings; Dianne Feinstein; Tom Harkin; Byron L. Dorgan; Chris Dodd; J. Bennett Johnston; Joe Lieberman; Paul Sarbanes; Carol Mosely-Braun; John Glenn; Jeff Bingaman; Carl Levin; Bill Bradley; John F. Kerry; Bob Kerrey; Joe Biden; Daniel K. Akaka; Dale Bumpers; Daniel Inouye; Chuck Robb; J. James Exon; Howell Heflin; Claiborne Pell; Russ Feingold; Daniel P. Moynihan; Sam Nunn; Robert C. Byrd.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President.

HEALTH CARE

Mr. FEINGOLD. Let me first of all express my appreciation to the Senator from Massachusetts and the Senator from West Virginia who just spoke about the advertisement that I also saw this morning with regard to Mrs. Clinton and her health care financing proposals as opposed to those of the leadership in the Congress of this session.

To suggest that the President's proposal last year was in any way the same in terms of cuts to Medicare and Medicaid is truly absurd. In fact, I want to emphasize that one of the very significant things that the President's plan would have done is provide for the first time a national home- and community-based long-term care program, to help people stay in the community, and I think save the country a lot of money in both the Medicare and Medicaid budget.

To suggest that somehow Mrs. Clinton's proposal was in any way, shape or form like what we are seeing today with the slash-and-burn approach to Medicaid and Medicare is, to me, very unfortunate and very distorting and, again, suggests that there is no limit in reference to the actual facts in these situations.

I don't know how the American people are supposed to know who to believe. That is the comment I get most often now at home. "Who do you believe?" And when you are willing to put an ad on the television that suggests that a program that was proposed by the President last year is essentially the same as the Medicare and Medicaid cuts proposed today, I just get the feeling that people will not have any idea who is telling the truth in Washington. I think we all suffer because of that.

CONFEREES HAVE FAILED TO PROTECT FREE SPEECH RIGHTS OF INTERNET USERS

Mr. FEINGOLD. Mr. President, on another matter, 2 weeks ago I came to the Senate floor to urge my colleagues who are telecommunications conferees not to adopt potentially unconstitutional legislation in our efforts to protect children on the Internet. I was concerned about the substantial chilling effect this legislation would have on constitutionally protected speech. The media had just reported recently an online service provider's censorship of the word "breast" because it was vulgar, supposedly, despite the fact that that term merely refers to a part of the anatomy.

I was and remain concerned that this is the first word of many that will ultimately be censored if legislation criminalizing indecent speech is passed as part of the telecommunications legislation. It seems the conferees have agreed upon a variation of the Communications Decency Act for inclusion in the conference report for the telecommunications legislation.

Mr. President, the language very simply would criminalize indecent speech via the Internet that is already today protected in other forms of the media. Vagueness associated with the definition of indecency undoubtedly, Mr. President, will lead to far more censorship than simply the word "breast."

Mr. President, these measures, although perhaps well-intended, are poorly targeted to the stated problem. And they will do very little to protect children. If signed into law however, it is very clear that this legislation will be very effective at censoring constitutionally protected speech on the Internet.

As I pointed out before, I am extremely concerned about recent congressional focus on "indecent speech." The promoters of this legislation contend they are trying to protect children from obscenity—not indecency but obscenity. The transmission of obscenity is already a violation of criminal law. Use of the word or definition for "indecency" makes this legislation overly broad, capturing speech that I do not think many Senators intend or wish to prohibit.

Let me give my colleagues an example. The World Wide Web Page for HotWired, the online version of Wired magazine contains a strongly worded editorial about congressional action on the pending indecency legislation. The opinion piece contained at least three "indecent" words, based on FCC's current definition, and potentially more depending on the definition used by others.

I am not going to say these words on the floor of the U.S. Senate, Mr. President, but this editorial is a political speech, with Members of Congress and Senators as its target.

Are the words of this piece harsh? Yes, they are. Will some adults consider the words offensive? Yes, they will. Does the text contain words many of us would not want our children to read? Yes, it does.

But does the text contain words that most children have not heard before in the school yard? No, it does not. It does not contain anything unusual in that regard.

Is the language in this piece, this alleged profanity in this piece, protected by the first amendment? Yes, it is. You bet it is. But would the writers or transmitters of these words on the Internet be subject to criminal sanctions if the pending legislation passes?

I am afraid, Mr. President, the answer is probably yes.

Because even though the words do not fall under the definition of "obscenity," and even though you may express these words in any other media and probably be safe from criminal prosecution, under this proposal in the telecommunications bill, these words would probably be defined as indecent and the person who communicates them may be subject to severe criminal penalties.

I give this example to point out that the legislation considered by the telecommunications conference committee in its most recent incarnation is overly broad. It will result in censorship, either self-censorship driven out of the fear of criminal prosecution, or censorship by online providers themselves who must protect themselves from criminal liability.

America Online's censorship of the word "breast", an anatomical reference, was only the beginning. Mr. President, either type of censorship is completely unacceptable and totally unnecessary.

The Internet indecency legislation currently under consideration is overly broad, not just in the material covered by the proposed language, but also in the way that such materials are covered. The language would subject anyone who "displays in a manner available" to minors so-called indecent materials to criminal penalties.

While the proponents of the language are intending to target those who directly provide such materials to minors, it captures a much larger group of people, Mr. President. The term "available" has an entirely different meaning in cyberspace than it does in other forms of media. That is because online communications are entirely different than communications over other media.

The words "displays in a manner available" captures speech over public bulletin boards, USENET groups or World Wide Web Pages that are accessible to anyone with a modem, an Internet connection and the right software. There is no way to know, Mr. President, who will read the message you have posted on these forums or how old that person is, just like there is no way for HotWired to know who on my staff accessed the editorial on their Home Page or the age of that staff person.

Simply posting a message which contains profanity on free public access Internet forums expose Internet users to criminal liability if a minor accesses those forums—even if the sender had no intention at all of providing these materials to minors.

Let me provide my colleagues with some other examples of some of the socially valuable public forums that one can access on the Internet that may contain indecent speech under the definition in the telecommunications bill.

One news group called "news.newusers.questions" had the following message posted by an individual:

> I need urgent information on the prevention of teenage pregnancy. Could someone please help me?

There was no indication the sender of this message was a minor. The sender could be an educator, a parent or a social service provider. One reader responded electronically and suggested this individual access a news group called "alt.parenting.solutions" and "alt.parents.teens," both of which address the issue in responsible ways. Another reader responded simply with the advice that teens should abstain from sex.

Presumably, there will ultimately be a response from a reader that gives explicit rather than general advice. That advice could contain indecent language or explicit words describing preventive measures. Under this proposal in the telecommunications bill, that advice could land the giver of the advice in jail if a minor happens to read the message.

Another news group called "misc.kids.pregnancy" contained a discussion about breastfeeding, pregnancy, and other adult topics relating to childbirth. Again, some of the language in these discussions was explicit but in no way irresponsible.

There is a World Wide Web Page called "Go Ask Alice" which is a forum wherein participants ask questions about sexuality, including pregnancy, sexually transmitted diseases, AIDS, birth control, breast implants, rape, menopause and reproductive health. Many of these topics and questions are sexually explicit and contain graphic, but constitutionally protected, language.

Another Web page is called "Truth or Dare: Sex in the 90's." This Web page was a forum devoted almost entirely to the topic of "safe sex." One topic discussed was the relationship between some sexually transmitted diseases and cervical cancer in women. Some of the information on this Web page, while it may be distasteful and offensive to some, it is important to many users of this forum.

There is also a Web page devoted to prostate cancer—its symptoms, detection, and treatment. There is language on this page, Mr. President, that could be considered indecent. Recall that America Online censored the word "breast" because it was on a list of vulgar words, even though the word was used in the scientific context of breast cancer survivors forum.

There are Web pages devoted to the detection and prevention of child abuse, including sexual assault. For example, the Sexual Assault Information Page includes a variety of information about abuse as well as access to other Web pages and Internet services dealing with child abuse and assault recovery, such as the Survivors and Victims Empowered Web Page. The SAVE Page is an online support service for victims of abuse, or the Rape, Abuse, and Incest National Network. There is also a USENET group, accessible to anyone, called "alt.sexual.abuse" which is a recovery support forum for those who were abused as children or adults.

There may be so-called indecent speech in all of these forums which minors can access. Make no mistake about it, many of these forums contain adult topics of a mature nature. Some of the language is offensive. However, these forums do serve a valuable social function from the standpoint of public health and safety.

Mr. President, the material on these forums is not what the congressional proponents of the indecency legislation are targeting, or at least I assume they are not. Proponents are targeting obscenity and pornography. Unfortunately, the legislation will capture speech on all the forums I have mentioned and thousands more like them. If the pending legislation passes, these forums may cease to exist because the users will fear criminal prosecution.

LESS RESTRICTIVE MEANS ARE AVAILABLE TO PROTECT CHILDREN

There is a better way to protect children, Mr. President, that will not criminalize constitutionally protected speech. Currently there are many software programs available to parents, sometimes for no charge, which allow them to screen out or block their children's access to forums where explicit language is used, including profanity. "Net Nanny" prevents children from accessing areas on the Internet that the parents deem inappropriate, and also prevents kids from giving out their names, addresses, phone numbers, credit card numbers or other information that could put them in harms way.

Parents can screen out not only indecency but also Websites that include rap music, violent topics, hate speech, political topics, or other types of information that they don't want their children to see. Parents have the option of screening as much or as little as they want.

"Cybersitter" allows parents to monitor what their children are accessing on the Internet and prevents children from downloading pictures or other graphic images. Mr. President, there are many other types of software available to parents that allow them to decide what is appropriate for their children, based on the characteristics of their family and the maturity of their children. That is the role of the parent, not of the Federal Government.

Mr. President, I have spoken in opposition to unconstitutional restrictions on speech via the Internet. I have argued that the pending legislation is likely unconstitutional. I have argued that the legislation is impractical. I have argued that the legislation will not achieve its objective. And I have argued that the legislation will stifle the growth of online communications technology.

But, Mr. President, I have received a lot of electronic mail on the legislation being considered by the conference committee in recent weeks from Wisconsinites, who do use the Internet daily. Rather than restate my arguments, I want to let my constituents speak for themselves on this issue. Here is what some of them have said:

A photographer, historian and writer in Madison, WI, says:

> . . . I am deeply concerned that this legislation will overreach its intended purpose. Instead of simply protecting children, this legislation will be so restrictive of communication via e-mail, list service, the World Wide Web, etc, that it will prevent adults from conducting perfectly legitimate exchanges of information. . . . I conduct a great deal of business communication via the Internet and I am fearful about what this latest ill-conceived legislation will do.

A father from Madison, WI writes:

> It concerns me that certain politicians may take advantage of fears held by the public to enact laws that limit our freedom of speech. I myself am a parent and am concerned about some of the trashier content that can be found on the internet. However, I feel that each of us has the right and the responsibility to discern good from bad in our own minds. I raise my son to make good choices in his life . . . I desire to protect him for harm but I would not insulate him from the world and lock him in ignorance . . . the government should never limit his access to the truth.

An e-mail from a Milwaukee constituent stated:

> I strongly urge you to consider other less restrictive means for regulating access to objectionable material by minors such as placing the responsibility in the hands of the parents, where it belongs, not by forcing unconstitutional censorship on the medium.

From Shorewood, WI, a parent writes:

> I am a voting, tax-paying adult U.S. citizen. I am also a church going parent. I feel that it is unacceptable that I could be convicted of a felony for sending a love-letter to my wife. I feel it equally unacceptable that an unenforceable legal regulation of morality infringes upon my right to govern what my daughter may or may not see based on some narrow-minded and likely unconstitutional definition of indecency, especially when technological means of controlling her access are available to me now.

From Appleton, WI, an Internet-using constituent says:

> We all know that the best parental censor to TV is the on-off button. Well, I and many others have installed our own button on the computer. My choice is a program called KidSafe. This program identifies and shows how to lock out adult sites. Indeed a parent can lock out almost anything. . . . I want to tell you that this program is free. And there are all kinds of links to it all over the Web. The cost? A few minutes to download and install it. I count myself among the more conservative citizens. However, I believe some of my co-believers have gone too far.
>
> The attempt by any governmental or quasi-governmental body to come into the newsroom and rule on what shall and what shall not be printed in the paper would be shouted down by the populace as naked aggressive censorship. In this case, the computer replaces newsprint, ink and delivery system. Fundamentally though, it's no different.

From Reedsburg, WI, an employee of an Internet access provider writes:

> To enact a law such as the one that just passed the House is paramount to going after manufacturers of baseball bats because someone decided to beat his next door neighbor . . . with one.
>
> The farmers in our community use the Internet to access the University of Wisconsin Ag Department . . . Many of our small businesses use it to communicate with customers around the world. Grocery stores and vendors are using the Web to e-mail product orders to vendors. The uses are growing. Please don't stifle growth.

An Appleton resident suggested that:

> The pending legislation is akin to asking telephone companies to monitor all of their phone traffic in order to prevent obscene calls.

From Fox Point WI, a constituent writes that:

> We are all familiar with government intervention and unintended consequences. In this instance, the consequences are clear and devastating to a free and open exchange.

A university professor in Wausau, WI, e-mailed:

> Although the intent [of the computer indecency legislation] is a noble one, the consequences of the bill, if passed, could have a disastrous effect on the Internet as a viable medium for expression, education and commerce. Libraries will not be able to put their entire collections on line and people like me will risk massive fines and prison sentences for public discussions someone might consider indecent.

A Hudson, WI, parent shared this advice for Congress and other parents:

> I've always believed that people should take responsibility for what their children view. This is why my children cannot access the Internet without my consent. They don't have the password. It's that simple.

From Plymouth, WI, a pastor in a United Church of Christ Congregation writes:

> I am concerned about pornography and "cybersex" but this [legislation] isn't the direction we should be heading. Personal responsibility needs to be taken and how can that be legislated?

Mr. President, there is a lot of wisdom coming from our constituents on this matter. These are people who are using the technology to contact their Senators and Representatives instead of pencil and paper. Unlike many of us here, they rely on cybercommunications in their daily lives. I think my colleagues would do well to listen to their advice.

While, I recognize it is unlikely in these late stages of the telecommunications conference that conferees will change their direction on regulating cyberspace, I urge my colleagues to think carefully about this legislation.

Including this language in a bill that purports to deregulate telecommunications markets is exactly the wrong direction to take.

Mr. President, constituents in my State, parents and others are very concerned about the overbreadth of these provisions, the fact that it may inhibit their ability to communicate in their work or in their own private lives.

I yield the floor.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Indiana.

TREATY WITH THE RUSSIAN FEDERATION ON FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS (THE START II TREATY)

The Senate continued with the consideration of the treaty.

Mr. LUGAR. Mr. President, will the Chair please state the pending business?

The PRESIDING OFFICER. The pending business is the START II treaty.

PRIVILEGE OF THE FLOOR

Mr. LUGAR. Mr. President, I ask unanimous consent that the following staff members be accorded the privilege of the floor during consideration by the Senate of the START II treaty: Kenneth A. Myers III, Linton Brooks, a CNA fellow in my office and K. A. Myers, Jr., a professional staff member of the Select Committee on Intelligence, and Ronald Marks, legislative fellow on the majority leader's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I am pleased to join once again with my colleague, Senator CLAIBORNE PELL, in bringing before the Senate a strategic arms reduction agreement negotiated between the Russian Federation and the United States—the START II Treaty. Senator PELL and I collaborated on the ratification process attendant to the START I Treaty, and it is only fitting that Senator PELL will be handling the manager's task for the Democratic side on the START II Treaty.

The chairman of the Foreign Relations Committee, Senator HELMS, has asked me to manage these treaty deliberations on the Republican side, and I am pleased to do so.

For the benefit of our colleagues who may be curious as to the schedule on a Friday afternoon before Christmas, let me outline how we will proceed in these deliberations on the START II Treaty.

Following opening statements by the two managers, we will entertain similar statements by other Members.

We will then move to consideration of any amendments to the text of the treaty itself. Senator PELL and I are aware of no proposed amendments to alter the treaty text.

Then the Senate will move to consideration of the resolution of ratification that will reflect the terms by which the Senate is providing its advice and its decision to the President regarding ratification of the START II Treaty. In reporting the START II Treaty to the full Senate by a unanimous vote of 18–0, the Senate Foreign Relations Committee approved a resolution of ratification that contained a number of conditions and declarations.

Subsequent to the filing of the Committee's report on the START II Treaty, interested Senators from other committees came together in a bipartisan spirit to try to develop some consensus on other conditions and declarations that would either modify or be added to the resolution of ratification approved by the Foreign Relations Committee. That effort at consensus-building has been successful, and I want to thank Senator STEVENS, Senator KYL, Senator COCHRAN, Senator PELL, Senator LEVIN, and Senator NUNN for the constructive manner in which they approached the resolution of ratification. As a result of their efforts, we have arrived at a package of amendments that enjoys the support of Members participating in those negotiations. That package will be offered in the form of manager's amendments as modifications or additions to the original resolution reported by the Senate Foreign Relations Committee.

That resolution of ratification, as amended, will then be open to further debate and amendment.

Mr. President, I have elaborated somewhat on the process we will employ in considering this treaty so that Members might plan their schedules accordingly. Unfortunately, we have not been able to arrive at a time agreement for considering the treaty, but I hope these remarks will give Members some sense as to how the Senate will proceed in carrying out its duties in the treaty-making process.

Mr. President, the START II Treaty has been awaiting action by the Senate for over 2 years. The opportunity has now arrived for the Senate to play its role in the treaty-making process, and I am grateful to those of my colleagues who have worked so diligently to provide the conditions under which the Senate can consent to the ratification of this treaty.

The START I Treaty was the first arms control agreement that actually reduced the number of strategic offensive weapons. It mandated an overall strategic nuclear force reduction of about one-third, and a reduction of up to 50 percent in one of the most dangerous and destabilizing categories of nuclear weapons—heavy ICBM's. START I also broke new ground in establishing effective verification regimes by providing levels of visibility and confidence that exceeded any previous nuclear arms control effort. Thus, the START I Treaty was a vigorous step toward a more stable nuclear balance because it resulted in a reduction in the numbers of destabilizing first strike systems; it fostered greater reliance on more survivable nuclear systems; and it provided increased certainty about the other side's strategic posture. In December 1994, these gains were formalized with the entry into force of the START I Treaty.

The disintegration of the Soviet Union offered the opportunity to build on the gains of START I and to go even further in reducing the nuclear dangers to our Nation. The START II Treaty accomplishes just this purpose. When enacted, this treaty will dramatically reduce the numbers of weapons in the two most destabilizing and dangerous categories of nuclear arsenals—ICBM's with multiple independently targeted reentry vehicles [MIRV's] and the last of the heavy ICBM's, the SS–18's; and it will enable each party to reduce its strategic arsenal on the basis of an effective verification regime built upon both confidence building measures and intrusive inspections. Both parties will be left at rough equivalence in strategic forces, but the result will be smaller, more stable strategic nuclear forces for both the United States and Russia.

The START I Treaty was signed as a bilateral agreement between the United States and the Soviet Union on July 31, 1991, after 9 years of negotiation. The treaty was transmitted to the Senate for its advice and consent to ratification on November 25, 1991, but the Soviet Union dissolved formally on December 25, 1991, before the Senate could take action or the treaty could enter into force.

The breakup of the Soviet Union created a number of complex state succession issues with respect to the treaty. The most important of these issues was that strategic offensive nuclear weapons were left deployed in four former Soviet republics.

In order to resolve this key succession problem, the START I Treaty was converted into a multilateral treaty among the United States, Russia, Belarus, Ukraine, and Kazakhstan by means of the May 23, 1992, Lisbon Protocol (Treaty Doc. 102–32).

The Protocol constituted an amendment to, and integral part of, the START I Treaty. It provided that the four former Soviet republics would together assume the legal obligations of the U.S.S.R. for the START I Treaty. It further obligated the four states to make arrangements among themselves as necessary to implement the treaty's limitations, to permit verification of the treaty's provisions on their territory, and to allocate costs. The Lisbon Protocol also obligated Belarus, Ukraine, and Kazakhstan to accede to the 1968 Nuclear Non-Proliferation Treaty NPT as nonnuclear weapons states as soon as possible.

In letters submitted with the Protocol, Belarus, Ukraine, and Kazakhstan pledged to eliminate all nuclear weapons and strategic offensive arms on their respective territory within 7 years after entry into force of the START I Treaty. To date, all tactical nuclear weapons have been removed from the three states and transferred to Russia. While Belarus, Ukraine, and Kazakhstan were under no legal obligation to transfer any nuclear weapons to Russia, and could have, at least in theory, eliminated such weapons on their own territories, those remaining strategic nuclear weapons are, in fact, being transferred and eliminated in Russia.

Based on the clarifications and obligations associated with the Lisbon Protocol, the Senate provided its advice and consent to ratification of the START I Treaty in a 93 to 6 vote on October 1, 1992.

The treaty between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms, or the START II Treaty, was signed by the United States and the Russian Federation on January 3, 1993, and was transmitted by President Bush to the Senate on January 15, 1993.

The START II Treaty builds upon and goes even further than the START I Treaty. START II's central limits require the parties to reduce their strategic offensive arms so that specified limits are reached by the year 2003. The START II Treaty, together with the START I Treaty, will reduce both nations' deployed strategic offensive arms by more than two-thirds, and will completely eliminate land-based intercontinental ballistic missiles [ICBM's] deployed with multiple warheads. Strict, lower limits will be imposed on all deployed strategic offensive arms, including warheads carried on ICBM's, submarine-launched ballistic missiles [SLBM's], and heavy bombers. Stabilized sea-based forces will be retained but will carry significantly lower numbers of warheads. In contrast to the START I Treaty, all heavy bombers will be attributed with warheads based on the number of nuclear weapons for which they are actually equipped.

There are five parties to the START I Treaty; in contrast, the START II Treaty is bilateral: the United States and the Russian Federation are its only parties. According to the Lisbon Protocol, no nuclear warheads or deployed strategic offensive arms will be located on former Soviet territories other than Russia, at the time the first phase of the reductions in this treaty are required to be completed. Nevertheless, the START II Treaty draws upon the START I Treaty for definitions, counting rules, prohibitions, and verification provisions and only modifies those as necessary to meet unique requirements of the START II Treaty.

The terms of the START II Treaty are based on the joint understanding signed between the United States and Russia on June 17, 1992. Its impetus was the desire to strengthen stability by eliminating the most destabilizing systems remaining under the START I Treaty. The joint understanding established the START II Treaty guidelines.

The START II Treaty, unlike START I, is relatively brief and straightforward. The START II Treaty calls for reductions, in two phases, in ICBM's, ICBM launchers, ICBM warheads, SLBM's, SLBM launchers, SLBM warheads, heavy bombers, and heavy bomber nuclear armaments. Seven years after entry into force of the START I Treaty, the aggregate number for each party shall not exceed 4,250 deployed strategic warheads. By the same date the following sublimits are to be reached as well: between 3,800 and 4,250, for the aggregate number of warheads on deployed ICBM's, deployed SLBM's, and deployed heavy bombers; 2,160, for warheads on deployed SLBM's; 1,200, for warheads on deployed multiple-warhead ICBM's; and 650, for warheads on deployed Russian heavy ICBM's (SS–18s).

Upon the completion of the above reductions during the second and final phase, the parties shall further reduce their strategic offensive arms so that no later than January 1, 2003, and thereafter, the aggregate number for each party shall not exceed 3,500 deployed strategic warheads. By the same date the following sublimits would also apply: between 3,000 and 3,500, for the aggregate number of warheads on deployed ICBMs, deployed SLBM's, and deployed heavy bombers; between 1,700 and 1,750, for warheads on deployed SLBM's; Zero, for warheads on deployed multiple-warhead ICBM's; and Zero, for warheads on deployed heavy ICBM's.

The START II Treaty provides that after January 1, 2003, neither party may deploy land-based missiles with more than one warhead and all heavy ICBM's must be destroyed. Specifically, all launchers of ICBM's to which more than one warhead is attributed under article III of this Treaty, including test and training launchers, must either by destroyed or be converted to launchers of ICBM's to which no more than one warhead is attributed. This will require the United States to eliminate or convert Peacekeeper ICBM's and their launchers. The Russians will have to eliminate or convert SS–19 and SS–24 ICBM launchers, except those that contain the permitted number of SS–19's downloaded to a single-warhead configuration. Also exempt from this provision are launchers of non-heavy ICBM's located at space launch facilities that are permitted under the START I Treaty. For the United States, this means the Peacekeeper can be used as a vehicle for space launch. All SS–18 ICBM launchers, including all those at space launch facilities, must be physically destroyed. There is one exception—90 deployed launchers may be converted, under agreed provisions, to single-warhead SS–25 type ICBM launchers with canisters no more than 2.5 meters in diameter, such that rapid reconversion is effectively precluded.

All United States Minuteman III ICBM's, and 105 of the 170 Russian SS–19 ICBM's, may be retained and downloaded to one warhead pursuant to article III of this Treaty. Any number of SLBM's with multiple warheads may also be downloaded by up to four warheads per missile. Thus, the United States could theoretically meet the numerical constraints of the START II Treaty on SLBM warheads by downloading and retaining up to 18 Trident submarines with missile warhead loads reduced from eight warheads to four.

The START I Treaty requires that 154 of the 308 former Soviet heavy ICBM launchers must be destroyed by the end of the 7-year reduction period. The START II Treaty goes further and requires the elimination or physical conversion of all heavy ICBM launchers. The Russian Federation will be allowed to convert, under agreed constraints and subject to inspection, 90 of these deployed missile launchers within which only SS-25 single-warhead ICBM's may be deployed. The remaining 64 heavy ICBM launchers must be destroyed by the end of the second phase of reductions in accordance with START II Treaty procedures. The constraints on SS-18 silo conversion require that the Russians pour concrete to a height of five meters above the silo base and mount in the upper portion of the silo a restrictive ring that is smaller in diameter than the diameter of the SS-18. These modifications preclude an SS-18 from being launched from these silos, and would be extremely difficult and time-consuming to reverse. The constraints also require the destruction of all deployed and nondeployed SS-18 missiles and their launch canisters.

In the START II Treaty, all deployed heavy bomber nuclear armaments will be counted according to how the bombers are actually equipped. Each deployed heavy bomber—except for 100 bombers reoriented to a conventional role—will be attributed with the aggregate number of long-range nuclear air-launched cruise missiles, nuclear-armed air-to-surface missiles with ranges of less than 600 kilometers, and nuclear gravity bombs for which it is actually equipped. Under this agreement, heavy bombers will be attributed with a realistic number of warheads that reflects operational considerations; in many cases, this number may be lower than the maximum number of weapons that could be physically loaded on the aircraft using all available attachment points. In addition, each party may reorient 100 of its heavy bombers to a conventional role; these bombers were never accountable under the START I Treaty as heavy bombers equipped for long-range nuclear ALCM's. Such bombers would not count toward START II warhead ceilings, but would continue to count against the START I Treaty limits.

Each party may, on a one-time basis, return such bombers back to a nuclear role, if it wishes. If some, but not all, bombers within a specific type or variant, under the START I Treaty, are reoriented to a conventional role, they must be given a difference observable by national technical means from the bombers within that type or variant that remain in a nuclear role. Likewise, if a bomber that has been reoriented to a conventional role is subsequently returned to a nuclear role, it must receive an observable difference from other heavy bombers of the same type and variant.

The START I Treaty provisions will be used to verify the START II Treaty's limits, except as otherwise provided. The START II Treaty provides for additional inspections to confirm the elimination of heavy ICBM's and their launch canisters, as well as additional inspections to confirm the conversions of heavy ICBM silo launchers. In addition, the START II Treaty provides for exhibitions and inspections to observe the number of nuclear weapons for which heavy bombers are actually equipped and their relevant observable differences.

The START II Treaty requires the elimination or conversion of launchers of deployed ICBM's with multiple warheads. To reinforce this limitation, the acquisition of such weapons from another state is prohibited after the second phase of reductions. After that date, the START II Treaty also prohibits the production, flight-testing—except from space launch facilities—or deployment of ICBM's to which more than one warhead is attributed. The parties are obligated under the treaty not to produce, flight-test, or deploy an ICBM or SLBM with more warheads than it has been attributed under the START II Treaty. Also, the parties are obligated not to transfer heavy ICBM's to any other state, including any other party to the START I Treaty. The START II Treaty provides that this last prohibition is to be applied provisionally from the date of signature of the START II Treaty. This has no effect on the United States since there are no U.S. heavy ICBM's.

To provide a forum for discussion of implementation of the START II Treaty, the treaty establishes the bilateral implementation commission [BIC]. Through the BIC, the parties can resolve questions of compliance and agree upon additional measures to improve the viability and effectiveness of the treaty.

The START II Treaty will enter into force upon the exchange of instruments or ratification by the parties. However, since the START II Treaty is built upon the START I Treaty, it could not have entered into force prior to the START I Treaty's entry into force in December 1994. It will remain in force as long as the START I Treaty remains in force.

The START II Treaty consists of the main treaty text and three documents which are integral parts thereof:

The Protocol on Procedures Governing Elimination of Heavy ICBM's and on Procedures Governing Conversion of Silo Launchers of Heavy ICBM's Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms—the Elimination and Conversion Protocol;

The Protocol on Exhibitions and Inspections of Heavy Bombers Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms—the Exhibitions and Inspections Protocol; and

The Memorandum of Understanding on Warhead Attribution and Heavy Bomber Data Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms—the Memorandum on Attribution.

Also submitted to the Senate for its information are documents that are associated with, but not integral parts of, the START II Treaty. These include three exchanges of letters by the sides addressing SS-18 missiles on the territory of Kazakhstan, heavy bomber armaments, and heavy ICBM silo conversion. Although not submitted for the advice and consent of the Senate to ratification, these documents are relevant to the consideration of the START II Treaty.

The first exchange of letters relates to the negotiation of an agreement between Russia and Kazakhstan regarding SS-18 missiles and launchers on the territory of Kazakhstan. In his December 29, 1992, response to Russian Foreign Minister Kozyrev's commitment of December 29, 1992, to spare no effort to conclude such an agreement, Secretary of State Eagleburger confirmed that the START II Treaty would be submitted to the United States Senate for its advice and consent on the understanding that the agreement referred to by Minister Kozyrev—providing for the movement to Russia and elimination of heavy ICBM's from Kazakhstan—would be signed and implemented, and that, not later than 7 years after entry into force of the START I Treaty, all deployed and nondeployed heavy ICBM's now located on the territory of Kazakhstan will have been moved to Russia where they and their launch canisters will have been destroyed.

The second exchange of letters of December 29, 1992, and December 31, 1992, between Secretary of State Eagleburger and Russian Foreign Minister Kozyrev relates to heavy bombers, and constitutes the assurance of the United States, during the duration of the START II Treaty, never to have more nuclear weapons deployed on any heavy bomber than the number specified in the memorandum on attribution for that type or variant. This letter creates no new legal obligation for the United States but merely reiterates the obligation already assumed under paragraph 3 of article IV of the START II Treaty.

The third exchange of letters of December 29, 1992, and January 3, 1993, between Russian Minister of Defense Grachev and Secretary of Defense Cheney, sets forth a number of assurances on Russian intent regarding the conversion and retention of 90 silo launchers of RS-20—referred to by the U.S. as

SS-18—heavy ICBM's. In his letter, which is politically binding on Russia, Minister Grachev reaffirms the steps that Russia will take to convert these silos and assures the Secretary of Defense that missiles of the SS-25 type will be deployed in these converted silos.

In January 1992, President Bush proposed to ban land-based MIRVed ICBM's and to cap actual warheads at 4,700, while cutting U.S. Trident warheads by one-third. President Yeltsin agreed with the ban, but wanted deeper cuts to 2,000 to 2,500 warheads. President Yeltsin considered the Bush proposal too inequitable because it cut the Russians where they were the strongest, the land-based MIRVed systems, while letting the U.S. retain its supremacy in bombers and submarines. In addition, the Russians would lose considerable forces in Belarus, Kazakhstan, and Ukraine. The breakthrough came when the United States agreed to reductions in its submarine-based ballistic missile warheads. On June 17, 1992, Presidents Bush and Yeltsin signed a joint understanding in Washington that called for a treaty on deep cuts. The joint understanding paved the way for the conclusion of the START II Treaty.

ASSESSMENT OF THE JOINT CHIEFS OF STAFF

The U.S. START II negotiating position was based on a Joint Chiefs of Staff assessment of how many and what kind of nuclear forces were necessary to retain a credible deterrent force beyond the year 2003. The logic at the time, and during the negotiations, was to reduce the numbers of warheads but to preserve a balanced force—a mix of ICBM's, SLBM's, and bombers sufficient in size and capability to meet future U.S. deterrent requirements. It was the JCS view, that with the 3,500 warheads allowed under this treaty, the United States would remain capable of holding at risk a broad enough range of high value political and military targets to deter any rational adversary from launching a nuclear attack against the United States or against its allies.

In September 1994, the United States completed the nuclear posture review [NPR]—an effort chartered to determine what roles its nuclear forces must meet to protect against future challenges to U.S. national security interests. The NPR assumed the post-START II nuclear force levels and its analysis reconfirmed the calculations that were done before and during the negotiations for START II. The review reaffirmed both that the United States must maintain a viable nuclear deterrent in the post-cold war world and that 3,500 warheads will be sufficient to hold at risk those assets which any foreseeable enemy would most value—the core determinant of effective deterrence.

More specifically, the JCS concluded that the START II/NPR force is sufficient to prevent any foreseeable enemy from achieving his war aims against the United States or its allies, no matter how a nuclear attack against the United States is designed. In practice, this means that U.S. nuclear forces must be robust enough to sustain the ability to support an appropriate targeting strategy and a suitable range of response options, even in the event of a powerful first strike that attempts to disarm U.S. nuclear forces. The JCS analysis shows that, even under the worst conditions, the START II force levels provide enough survivable forces, and survivable, sustained command and control to accomplish U.S. targeting objectives.

This force will consist of 14 Trident submarines equipped with the D-5 missile system, 66 B-52 bombers, 20 B-2 bombers, and 450-500 Minuteman III missiles. When the START II reductions are completed, United States strategic forces will be roughly equivalent to those of Russia and will be sufficient to meet our deterrent requirements.

CRISIS STABILITY

The START II Treaty builds upon the accomplishments of START I by further reducing strategic arms in a way that increases crisis stability. START II does this by eliminating the most destabilizing nuclear weapons—land based MIRVed ICBM's and heavy ICBM's.

In the past, with MIRVed ICBM's a significant part of the forces of both sides, there was much greater incentive to shoot first during a crisis. The inherent vulnerability of land-based missiles to a first strike, compounded by the consideration of losing the multiple warheads on MIRVed missiles, argued for launching these weapons before they could be disabled by an enemy strike. Thus, according to the JCS analysis, eliminating this entire category of nuclear weapons relieves the incentive to launch first, adding greatly to crisis stability. START II also eliminates the last of the heavy ICBM's—the remaining Russian SS-18's—which are hostage to the same logic and are therefore equally destabilizing in a crisis.

In addition to eliminating these two kinds of systems, the JCS concluded that the restructuring of the U.S. triad made under the terms of this treaty will improve stability in its own right. The U.S. START II ICBM leg will be a less attractive target than has been the case in the past. All remaining ICBM's will have single warheads, making them less valuable targets than MIRVed missiles. But, in addition, the combined calculus of rough equivalency in overall warheads between the United States and Russia, and the fact that all remaining ICBM's will be equipped with single warheads, will make it highly unlikely that Russia will consider launching an effective first strike to disarm United States ICBM's. According to the JCS analysis, under the warhead calculus of this treaty, to achieve the levels of confidence needed to disarm this one leg of the United States triad would require such a high proportion of Russia's overall warheads that this course would leave the attacker at a serious disadvantage. By any rational calculation, the costs would greatly outweigh any potential gains. The second leg of the U.S. triad will consist of SLBM's, which have long been, and will remain the most secure and survivable part of the U.S. nuclear force. The third leg will be manned bombers, which have the inherent advantage that they can be recalled up to the last minute. The JCS concluded that in combination, these systems provide a redundant mix of mutually supporting capabilities—in short, a viable, effective triad that provides stability during a crisis. This improved crisis stability, even as the United States maintains an effective deterrent that is militarily sufficient, is the hallmark of the START II Treaty—it is, in fact, an even more noteworthy goal than the warhead reductions themselves.

VERIFICATION AND METHODS OF RESTRUCTURING

The third element of the treaty that the JCS analyzed is compliance verification. The JCS analyzed the verification procedures from two standpoints: do the verification procedures offer the United States confidence that it can effectively verify compliance and detect significant violations of the treaty; and do the verification procedures provide adequate safeguards for protecting U.S. national security against unnecessary or unwarranted intrusion.

START II builds upon the interlocking and mutually reinforcing verification provisions established in START I. Unless otherwise specified, the counting rules, notifications, verification, conversion, and elimination procedures from START I are used for START II. The breakup of the former Soviet Union has not undermined the confidence of the members of the Joint Chiefs of Staff in these procedures. In fact, the increased openness of Russian society, and the capabilities of America's own national technical means [NTM] are additional factors that add to JCS confidence in the United States ability to effectively verify. The JCS believe that the verification procedures are adequate to ensure that the United States will be able to detect any significant violations. Conversely, the JCS also believes that the verification provisions are sufficiently restrictive to protect the United States against unnecessary intrusion.

REDUCTIONS THROUGH RESTRUCTURING

One notable aspect of the treaty is that it breaks new ground by permitting both Russia and the United States to achieve the stipulated nuclear reductions by restructuring their current forces. This is an improvement over START I because it allows the parties to reduce their forces more cost effectively and quickly through a combination of hardware elimination, conversions, and downloading. The key to making this restructuring possible is the inclusion of some specially designed verification procedures that will allow the United States to monitor and check compliance.

DOWNLOADING

The START II Treaty differs from START I in its provisions for reducing nuclear warheads by downloading. In START I, either side could remove up to four warheads from a missile, but could only get credit for the reduced warhead number if the warhead mounting platform was destroyed and replaced—an expensive option. There was also a limit on the aggregate number of downloaded warheads permitted for each party. START II encourages each side to take greater advantage of downloading. For economic reasons, and at United States insistence the warhead mounting platforms do not have to be destroyed under START II. The advantage for the United States is that this permits Trident sea-based missiles to be downloaded cost effectively without the need to replace all of their mounting platforms. The treaty also goes beyond the START I limit of only crediting the downloading of up to 4 warheads per missile, as it permits the downloading of 5 warheads from each of 105 Russian SS–19 ICBM's as these missiles are converted to a single warhead configuration. When both parties are done downloading, all remaining missiles will have a single warhead. However, these downloading procedures will not be applied to Russia's SS–18 force because all SS–18's will be completely eliminated under START II.

United States confidence in the actual warhead numbers deployed on future ICBM's will be based on existing provisions for reentry vehicle onsite inspections [RVOSI], coupled with national technical means [NTM]. The JCS is confident that the combination of RVOSI and United States NTM will provide the means to detect any significant violations should the Russians at some time in the future attempt to return their missiles to a MIRVed configuration.

SILO CONVERSION

The treaty also permits the Russians to convert 90 of their SS–18 silo launchers into launchers for SS–25 single warhead ICBM's. The Russians agreed to convert the silos under procedures that preclude their later use for SS–18's. The procedures for conversion are specifically designed to be both time consuming and difficult to reverse. Once the conversions are completed, any attempt to reconvert the silos back to a configuration capable of housing heavy ICBM's would be readily detected by visual inspections and U.S. NTM. To verify these silo conversions, the Russians agreed to more extensive verification procedures that the START I Treaty allowed. Additionally, they agreed to destroy the SS–18's themselves, including those in Kazakhstan as they are returned to Russia. U.S. inspectors will get to observe both the silo conversion procedures and the missile eliminations.

HEAVY BOMBER

The third provision for restructuring is delineated in the details for heavy bomber counting and conversion. Under the terms of the treaty, the number of warheads attributed to heavy bombers with nuclear roles, including those equipped with long-range nuclear air-launched cruise missiles [ALCM's], will be determined by totaling the number of nuclear weapons with which each type of bomber can be equipped. To make this counting determination, each side will have to demonstrate to the other side the nuclear weapons configuration of each type of bomber that is designated to retain a nuclear mission. In addition, the United States obtained Russian agreement that up to 100 heavy bombers never attributed with long-range nuclear ALCM's may be reoriented to conventional missions without having to undergo the conversion procedures that applied under START I. These reoriented heavy bombers will not be counted under the warhead limits of the START II Treaty nor will they be deemed part of the United States nuclear force under START II and can be used for nonnuclear, conventional missions only. As defined by the treaty, the reoriented bombers will have to be based separately from heavy bombers with nuclear roles; they will be used only for nonnuclear missions; they will not be used in exercises for nuclear missions; and their aircrews will not train or exercise for nuclear missions. Currently, the United States plans to reorient its B–1's to a conventional role using these START II procedures.

FORCE STRUCTURE IMPLICATIONS

START II will require the United States to eliminate its Peacekeeper-MX MIRVed ICBM force. However, the treaty will not require the United States to eliminate any Minuteman MIRVed ICBM's, because they may be downloaded from three warheads to one warhead in accordance with article III. Similarly, the United States will not have to eliminate any Trident submarines or SLBM's that could have been deployed under START I. Once again, reduction of SLBM warheads may be accomplished by downloading. On the other hand, START II will cause substantial changes in the U.S. heavy bomber force. The executive branch concluded in its recent nuclear posture review that all B–1B's would be reoriented to a conventional role. In addition, B–52 bombers may be equipped with either 8 or 12 air-launched cruise missiles, rather than the current 20 cruise missiles.

Russian strategic forces will be dramatically affected under the START II Treaty. Russia will have to eliminate approximately 250 strategic ballistic missiles carrying 2,500 warheads. Much of these reductions will be achieved by the total elimination of the SS–18 MIRVed heavy ICBM force—the most potent hard-target kill-capable force in the Russian strategic arsenal. Furthermore, because of the MIRV ban and the limitations on downloading, Russia will also have to eliminate its capable and mobile SS–24 ICBM force—the Russian equivalent of the MX.

The JCS has testified that the START II Treaty offers a significant contribution to U.S. national security. Under its provisions, the United States achieves the longstanding goal of eliminating both heavy ICBM's and the practice of MIRVing ICBM's, thereby significantly reducing the incentive for a first strike.

The Joint Chiefs of Staff have carefully assessed the adequacy of U.S. strategic forces under START II, and have testified that, with the balanced triad of 3,500 warheads that will remain once this treaty is implemented, the size and mix of the remaining U.S. nuclear forces will support the deterrent and targeting requirements against any known adversary and under the worst assumptions. Both American and Russian strategic nuclear forces will be suspended at levels of rough equivalence; a balance with greatly reduced incentive for a first strike. The JCS stated that, by every military measure, START II is a sound agreement that will make our Nation more secure. Under its terms, U.S. forces will remain militarily sufficient, crisis stability will be greatly improved, and the United States can be confident in the ability to effectively verify its implementation. This treaty is clearly in the best interests of the United States.

VERIFICATION AND COMPLIANCE

The bottom line of the intelligence community's assessment about the prospects for monitoring the START II Treaty is that they will be able to monitor many—and the most significant—provisions of START II with high confidence. In some areas, though, they will have some uncertainty.

The intelligence community was deeply involved in the senior-level interagency process that led to the development of U.S. positions during the START II negotiations. The intelligence community helped design specific treaty provisions that were included in the treaty to complement U.S. monitoring capabilities and thereby inhibit cheating. Information resulting from these provisions interacts synergistically with data from U.S. national intelligence means to enhance monitoring capabilities. For instance, the procedures for converting SS–18 silos for use by smaller, single warhead missiles make undetected reconversion to SS–18 launchers virtually impossible. The process would be time consuming, difficult, expensive, and easily observed. Moreover, onsite inspections permit the United States to visit a sample of silos of its choosing.

RATIFICATION AND IMPLEMENTATION

The steps Russia has taken toward implementing the deep reductions of the START I Treaty are significant. Since the Senate last considered the START II Treaty in 1993, Russia and Ukraine have largely been able to bridge their differences over the control and ultimate disposition of the strategic nuclear weapons in Ukraine. Moreover, Belarus, Kazakhstan, and Ukraine have ratified START I and acceded to the nonproliferation treaty as nonnuclear states, setting the stage for START I entry into force on December 5, 1994. Russia is well on the way to meeting the reductions of START I and significant progress has been made in deactivating missiles in Ukraine and Kazakhstan and consolidating strategic nuclear weapons on Russian territory. Russia also has completed the destruction of substantial numbers of launchers for older missiles, well in advance of the reduction required by START I.

MONITORING TASKS: GENERAL CONCLUSIONS

Under START II the intelligence community will be expected to monitor the activities associated with the reduction of Russian strategic offensive nuclear forces through January 1, 2003, as well as Russia's subsequent adherence to the numerical limits in the treaty. These tasks will be in addition to the requirements to monitor activities relative to qualitative restrictions on the technical characteristics and capabilities of the weapon systems involved, and location restrictions contained in the START I Treaty. Finally, the intelligence community is charged to detect and correctly interpret any activities that are prohibited by either treaty.

Specific new monitoring tasks under START II include the requirements to:

Monitor warhead reductions to between 3,000 and 3,500, including a 1,700 and 1,750 sublimit on SLBM warheads.

Monitor the ban on production, flight-testing, acquisition, and deployment of MIRVed ICBM's after January 1, 2003.

Monitor the conversion of up to 90 SS–18 silos for smaller, SS–25-type single-warhead ICBM's.

Monitor the elimination of the remaining SS–18 heavy ICBM silos, and of all SS–18 missiles and canisters.

Monitor up to 105 SS–19 ICBM's that are downloaded to carry only a single warhead.

Monitor the number of nuclear weapons with which Russian heavy bombers are actually equipped.

Determine that heavy bombers reoriented for conventional roles do not carry nuclear weapons or train for nuclear missions.

MONITORING JUDGMENTS

The intelligence community's monitoring judgments are based on three decades of experience collecting against and analyzing Soviet strategic forces as well as in monitoring other arms control agreements. More specifically, the monitoring judgments are based on:

Analyses of testing, production, deployment, and operational practices as well as engineering assessments of strategic weapon systems characteristics.

The strengths and weaknesses of current and programmed collection systems.

The potential contribution of verification measures contained in the two START treaties.

With regard to monitoring specific limitations in the START II Treaty, the intelligence community's confidence will be highest when monitoring the mandated restrictions, including the elimination of SS–18 ICBM's, as well as accounting for the number of deployed strategic weapons systems—single-warhead ICBM's, submarine-launched ballistic missiles, and heavy bombers—that remain in the force.

As all MIRVed ICBM systems are eliminated, the intelligence community expects the single-warhead SS–25 road-mobile force to expand and a silo-based variant of this missile to be deployed. With the help of notification requirements, the intelligence community believes it will be able to track the growth of this force.

The intelligence community will be able to monitor the ban on MIRVed ICBM's after 2003 both by tracking the elimination of launchers for MIRVed ICBM's and by analyzing the data from flight tests of new missiles.

Since the START I Treaty was signed, Russia and the United States have demonstrated telemetry tapes, as called for by the treaty, and installed telemetry playback equipment on each other's territory. With START I entry into force, the intelligence community is now receiving telemetry tapes and associated interpretive data as required under treaty provisions.

Based on the information and equipment provided by Russia, intelligence community experts have high confidence that the agreed procedures will enable them to process, interpret, and analyze data contained in the Russian tapes.

For some START II monitoring tasks the intelligence community's uncertainties will be greater. As it stated in 1992, during the START I ratification hearings, monitoring missile production activity is more difficult than monitoring reductions and deployed forces.

At facilities where continuous portal perimeter monitoring is conducted, the uncertainties in monitoring future production will be low.

Estimates of missile production at facilities not subject to continuous monitoring or onsite inspection, however, will continue to be more uncertain.

An outgrowth of the historical difficulty in monitoring missile production is that estimates of the nondeployed missile inventory are less certain. Nevertheless, the intelligence community stands by the judgment it made in 1992: It does not believe the Russians have maintained a large-scale program to store several hundred or more undeclared, nondeployed strategic ballistic missiles. It acknowledges, however, that it is possible that some undeclared missiles have been stored at unidentified facilities.

THE POTENTIAL FOR CHEATING

With regard to detecting and correctly interpreting prohibited activity, the intelligence community examined nearly 40 cheating scenarios in 1991 when analyzing their ability to monitor START I. In light of START II limitations and bans, they examined additional scenarios. In both cases the intelligence community sought to devise scenarios that theoretically would be the most feasible and potentially interesting to the Russians as well as most challenging to United States intelligence capabilities. They consulted with the Office of the Joint Chiefs of Staff and other experts to make certain that they had included those scenarios that would have the most military significance to our strategic military planners.

The cheating scenarios that continue to be the most potentially troublesome are those that would involve the covert production and storage of mobile missiles and their launchers. START II has neither increased nor reduced these concerns.

The intelligence community continues to doubt that Russia will be able to initiate and successfully execute a significant cheating program. This confidence is due to United States national technical means, verification provisions in the treaty, and to some extent, the increased difficulty of keeping Russian Government activities secret.

Although an effort to hide a small number of weapon systems would be almost impossible to detect, the intelligence community judges that it would also be of little interest or value to Russia.

TREATY PROVISIONS TO ENHANCE MONITORING

Although open-source information is now more abundant and relevant than in the past and the intelligence community has an impressive array of technical collection systems, it was clear during the negotiations of both

START treaties that they would encounter significant uncertainties in monitoring some provisions if they had to rely only on national intelligence means. All START I provisions designed to enhance verification, including those that guarantee access to telemetry data from ballistic missile flight tests, will continue to apply under START II. In addition, START II provides for supplementary onsite inspections that will aid United States ability to monitor its unique provisions.

The value of these treaty provisions for monitoring varies, depending on the task. In some cases provisions—particularly those for onsite inspections—provide unique opportunities for directly monitoring treaty-required activities. In other cases the Russians provide detailed information on their forces so that the intelligence community need only find an individual discrepancy to identify an ambiguous, or perhaps illegal situation. In any case, onsite inspections, notifications, and regular data exchanges will facilitate our ability to optimize the employment of intelligence collection systems.

In addition to the START I Treaty's 13 types of inspections, START II's new onsite inspection provisions would assist in monitoring specific activities:

> The intelligence community would have the right to observe the elimination of all declared SS–18 missile airframes that are not eliminated through launches, as well as all associated launch canisters.
>
> The intelligence community would have the right to confirm by direct measurement that 5 meters of concrete have been poured into converted SS–18 silos, as well as to observe the entire process of concrete pouring, and to measure the inner diameter of the restrictive ring installed in the upper portion of each silo.
>
> The intelligence community would have the right to conduct four additional RV inspections per year at converted SS–18 silos to confirm the single-RV load of the SS–25-type missile, observe the upper portion of its canister for identification purposes, and confirm the continued presence of the restrictive ring.
>
> During special heavy bomber exhibitions and all short-notice inspections of heavy bombers after the START I baseline period, the intelligence community would have the right to inspect the interiors of weapons bays and external weapons attachment points.

As the intelligence community stated during the START I hearings, for some monitoring tasks it will continue to rely most heavily on information acquired from their independent technical sensors. For example, neither START treaty requires the exchange of telemetry tapes from the flight tests of bombers and cruise missiles, nor do they prohibit the encryption of such test data. Moreover, START provisions will provide little assistance in detecting prohibited activity at locations the Russians do not declare.

VERIFICATION CONCEPTS, CAPABILITIES, AND CONCERNS FOR MAJOR TREATY ELEMENTS

Verification of START II will be based largely upon the capabilities and provisions designed to verify START I, and generally reflect the same assumptions and considerations. The two central elements of START II are the elimination of MIRVed ICBM's—including all heavy ICBM's—by the year 2003, and deeper reductions in the same basic categories of strategic offensive arms as START I. Accordingly, the conceptual basis for verification of START II is the same as that for START I. The same capabilities and measures that provide for effective verification of START I limits on launchers, missiles, and attributable warheads will be effective in verifying the lower aggregate limits in START II.

THE STATUS OF IMPLEMENTATION PLANNING FOR START II

The START I Treaty entered into force on December 5, 1994. The Department of Defense was ready for entry into force and has been able to implement and comply with the extensive START I Treaty. The Military Services and Defense Agencies which must implement START II are getting invaluable experience right now in implementing the even more complex START I Treaty.

Planning for START II Treaty implementation within the Department of Defense began prior to the signature of the treaty in order to ensure that the United States will be in compliance at entry into force. In November 1992, the USD(A&T) issued DOD guidance which directed all Military Services and Defense Agencies to begin planning for START II and assigned specific START II implementation guidance with DOD's overall approach to implementation planning—centralized oversight and decentralized execution—which proved so successful and cost effective during implementation of the INF Treaty. The Department of Defense is in the process of updating this guidance to the Military Services and Defense Agencies.

Because of the inherent relationships between START I and START II, the DOD START I implementation working group [SIWG] will be used to address implementation issues for START II. The SIWG consists of representatives of the Military Services and Defense Agencies. The SIWG, which first met in August of 1991, meets monthly to review the status of preparations within each Military Service and Defense Agency to issue planning guidance, assign additional responsibilities, conduct reviews, and resolve questions which may arise during planning for, and actual implementation of, START I and START II. To date, no major issues for START II have been identified which would impact United States ability to successfully implement the treaty.

In addition, the mechanisms for ensuring long-term compliance within the Department of Defense will be similar to those used to ensure DOD compliance with other arms control treaties. Specifically, the START I DOD compliance review group [CRG] will also be the forum for resolving any START II DOD compliance issues. The CRG is composed of representatives of the USD(A&T), the Under Secretary for Policy [USD(P)], the Joint Chiefs of Staff [JCS] and the DOD General Counsel. The CRG meets as required to ensure DOD compliance with START I and, pending entry into force, START II Treaty compliance.

POTENTIAL START II IMPLEMENTATION COSTS

DOD has provided some preliminary estimates of the cost of START II implementation. The following assumptions were used in developing these estimated implementation costs: The United States will draw down to the aggregate limit of no more than 3,500 warheads by January 1, 2003. This reduction will include the elimination of all Peacekeeper launchers. The costs associated with reducing the number of SLBM warheads assumes that the United States will retain 14 Trident submarines but download each deployed SLBM to 5 reentry vehicles. The assumptions are based on the results of the nuclear posture review [NPR] and do not reflect NPR programmatic costs.

These estimates also assume that the United States will exercise all of the START II onsite inspection rights, including those for the elimination of all SS–18 missiles and their launch canisters, the conversion of 90 SS–18 silos and the four additional reentry vehicle onsite inspections [RVSOI] allowed annually at converted SS–18 silos. Heavy bomber inspection and protection are included in these figures.

A preliminary estimate for START II shows that the total costs could amount to approximately $201.9 million between 1995 and the end of the second treaty reduction phase in 2003. These costs break down as follows:

[In millions of dollars]

Elimination of MIRVed ICBMs	42.5
Reduction of deployed SLBM warheads	110.0
ICBM launcher elimination	14.5
Bomber exhibitions	1.3
Data reporting	2.0
Bomber conversion	10.5
Verification of SS–18 silo conversion	12.6
Verification of missile and launch canister elimination	2.8
Verification of rail-mobile ICBM launcher elimination	2.9
Additional reentry vehicle inspectors	2.8
Total	201.9

The figures show that the total estimated cost of United States compliance activities will be approximately $180.8 million with the majority of that—about 61 percent—to be dedicated to deployed SLBM warhead reductions. Total START II Treaty verification costs are approximately $21.1 million, with the verification of silo conversions representing about 60 percent of that total estimate.

It is important to contrast these relatively small, 8-year costs for START II with the START I implementation costs for just fiscal year 1994 and fiscal year 1995. For this period, the Department of Defense budgeted approximately $180 million for the implementation of the START I Treaty. This investment is paying off because START I preparations formed the basis for START II requirements and will allow the even deeper reductions at a relatively moderate cost.

Two additional inspection and security issues are worthy of mention. First, START II does not add any new inspectable facilities in the United States—although the portion of Whiteman AFB where B-2s are being deployed will be subject to inspection under START II only. This will help minimize costs and security concerns. Second, U.S. heavy bombers, particularly the B-2, will be subject to more intrusive exhibitions and inspections than under the START I Treaty. The START II Treaty requires inspections to verify that heavy bombers are not actually equipped for more nuclear weapons than declared but also allows portions of the heavy bomber not related to making this determination to be shrouded covered. The U.S. Air Force is developing an inspection implementation plan that will ensure protection of sensitive-classified information during the inspection-exhibition but which also will ensure that our treaty obligations are met. The Assistant Secretary of Defense for C3I is responsible for providing security policy guidance to the DOD components.

CONCLUSION

In conclusion, the START II Treaty is the result of a bipartisan effort. Negotiated by a Republican administration and submitted by a democratic one. Three Secretaries of State and Defense have supported it. START II represents a substantial step forward in attempting to codify strategic stability at greatly reduced levels of armaments. Final reductions must be completed by January 1, 2003—namely, to levels of 3,000 to 3,500 total warheads, 1,750 of those based on submarines. It was the Joint Chiefs of Staff view, that with the 3,500 warheads allowed under this treaty, the United States would remain capable of holding at risk a broad enough range of high value political and military targets to deter any rational adversary from launching a nuclear attack against the United States or against its allies. START II removes the most destabilizing segment of nuclear inventories, namely MIRV warheads and heavy ICBM's. Elimination also includes all deployed heavy ICBM silos and all test and training launchers. The Joint Chiefs of Staff believe that the verification procedures are adequate to ensure that the United States will be able to detect any significant violations. Conversely, the Joint Chiefs of Staff also believe that the verification provisions are sufficiently restrictive to protect the United States against unnecessary intrusion. It is my belief that on balance the START II Treaty is in the national security interests of the United States.

I urge my colleagues to consent to its ratification, subject to the conditions and declaration contained in the modified resolution of ratification.

Mr. HELMS. Mr. President, I support ratification of the START II Treaty because it will serve America's national security interests in at least three critical respects. First, when fully implemented, START II will ban the deployment of all intercontinental ballistic missiles with more than one warhead—traditionally these missiles have been the mainstay of Russia's nuclear forces. Second, this treaty rectifies a dangerous deficiency of the START I Treaty by completely eliminating all of Russia's heavy ICBM's. Third, START II creates a managed process for nuclear arms reductions. While no one will deny that much of Russia's motivation to engage in deeper cuts stems from its economic woes, I cannot in good conscience rely solely upon economic forces for reassurance that Russia's nuclear arms reductions will be undertaken in a sustained or stabilizing fashion.

START II ensures that Russia will eliminate those weapons of greatest concern to the United States, leaving nothing to chance.

Now of course, Mr. President, there is a quid pro quo for these benefits. The effect of the START II Treaty for the United States will be the elimination of our MX missile, significant reductions in our nuclear bomber fleet, and limits on the number of warheads we can deploy on submarine launched ballistic missiles. However, these changes do not fundamentally alter the deterrence value of our nuclear forces. In fact, reductions under START II will result in a more survivable U.S. force structure than what we would have with just the START I Treaty.

Furthermore, START II preserves the triad of U.S. strategic offensive forces. We will continue to rely upon this combination of ICBM's, SLBM's, and heavy bombers to complicate any would-be aggressor's attack and to offer flexibility in any U.S. nuclear response. In fact, START II will improve the viability of the triad by eliminating those elements of the Russian force which directly threatened its integrity throughout the cod war—namely all of its SS-18 heavy ICBM's and its newer, mobile SS-24 ICBM's.

We should recall that in 1983, the Scowcroft Commission declared: "The Soviets now probably possess the necessary combination of ICBM numbers, reliability, accuracy, and warhead yield to destroy almost all of the 1,047 U.S. ICBM silos, using only a portion of their own ICBM force." One of the problems with the START I Treaty was that it did little to alleviate this concern. Although it reduced the number of deployed SS-18's by one-half, it also reduced the number of U.S. silo-based ICBM's by roughly half. Thus the ratio of SS-18 warheads to U.S. silos remained virtually unchanged. START II fixes this problem.

Now I would be remiss not to mention several areas where I continue to have misgivings. For example, I am concerned that Russia—at some point—might upload warheads on its SS-19 missiles, and that they might deploy their bombers with more warheads than the treaty allows. I also am concerned over the inherent difficulty of tracking mobile missiles. Yet even in the most serious cheating scenarios, Russia would be hard-pressed to achieve a military significant advantage over the United States.

However, we should not enter into this arrangement starry eyed. To those who say Russian cheating is implausible, or that Russia lacks the motivation to engage in such activities, I only need ask: "What arms control agreement have they not cheated on?" If the Senate decides to ratify START II, we must demand that Russia break with its lackluster record of treaty compliance. We should not agree to a new arms control measure while at the same time tolerating Russia's ongoing biological weapons program, its refusal to implement the bilateral destruction agreement for its chemical weapons program, its failure to comply with the Treaty on Conventional Armed Forces in Europe, or its persistent violation of the ABM Treaty. The burden of proof is upon Russia to demonstrate that it is capable of breaking with the arms control legacies of the cold war.

We also must realize the limitations of this arms control treaty. START II is bilateral in nature, and does not address the growing strategic arsenals of other countries such as China. Neither have we heard hide nor hair from this administration regarding United States-Russia cooperation on ballistic missile defenses as a stabilizing complement to the well-structured reductions under START II. I therefore will resist any further efforts to reduce U.S. strategic nuclear arms to the point where the equilibrium between our strategic capability and our targeting requirements is disrupted, or to the point where the coherency of any leg of the U.S. nuclear triad is threatened.

Finally, I am concerned over the reckless abandon with which this administration raced to fully implement the START Treaty before it even had entered into force. That exuberance created a serious imbalance in the sizes of the United States and Russian nuclear arsenals. Given the deep levels of reductions contemplated under START II, we must proceed very cautiously with implementation.

That said, even with these concerns, START II will enhance significantly our national security. The resolution of ratification transmitted to the Senate from the Foreign Relations Committee contains six conditions and seven declarations that go to the heart of the issues I have mentioned here. And even in the event of serious Russian noncompliance, the United States will retain a mix of survivable nuclear forces more than sufficient to deter Russia. For all of these reasons, Mr. President, I reiterate my support for ratification of the START II Treaty.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wonder if I might ask the distinguished acting chairman of the Foreign Relations Committee a question or two.

As you know, the group working with Senator STEVENS—and I am part of that group—has proposed certain amendments. I want to ask first, procedurally, at what time during the course of our deliberations does the Senate take up those amendments?

Mr. LUGAR. Mr. President, I am pleased to answer the distinguished Senator from Virginia that after the opening statements by the managers and others, then the resolution of ratification that came from the Foreign Relations Committee will be the pending business, and amendments will be in order at that point.

Mr. WARNER. I see. I thank the distinguished Senator, Mr. President, because I have worked with Senator STEVENS and others, and the acting chairman recounted those Senators who have been a part of that.

I think it is very important that those amendments be included in this treaty, and, frankly, I think it is wise that we are trying to act today so that those amendments and the treaty itself may once again be the subject of public comment until such time as we have the opportunity to vote on final passage.

I wish to, Mr. President, commend Senator STEVENS for leading this group. I just inquired, I say to my colleague from Alaska, about the timing of his presentation which I anticipate.

Mr. LUGAR. Mr. President, I thank the distinguished Senator for his comments and his question. I simply indicate that I share his enthusiasm for the package of amendments.

Senator STEVENS has been our leader on the arms control observation group in which the distinguished Senator from Virginia and others have participated, and it will be my hope that in the event there is no controversy surrounding those amendments, they might all be adopted as a managers amendment. That would be the procedure that we hope to follow. But as soon as the resolution of ratification is before us, those amendments will be in order.

Mr. WARNER. Mr. President, I thank the Senator. I observe the presence on the floor of the distinguished Senator from Alaska.

Several Senators addressed the Chair.

Mr. LUGAR. Mr. President, I would be happy to yield in just a moment. I want to yield first to my distinguished colleague, Senator PELL, for his opening statement.

Mr. KYL. Mr. President, I simply wanted to add a comment to what the Senator was speaking of. I just came from the room in which the staff had put together the final language. Representatives of the administration had signed off on it as well as the representatives from Senator LEVIN's office, and I signed off on it as well.

I anticipate that at the point when it is agreeable with all of the Senators, that it represents the final piece in the agreement. As far as I know, there has been agreement reached, in other words, on all of those provisions.

I thank both Senator LUGAR and Senator STEVENS for their leadership in bringing this group together to allow the creation of these additional declarations and one addition to be added for the treaty.

Mr. LUGAR. Mr. President, I thank especially the Senator from Arizona who has had many concerns about the treaty and has expressed those in a very articulate, constructive way. And his views, I believe, are represented substantially in the amendments that will be offered.

MORNING BUSINESS

Mr. REID. Mr. President, I am wondering if I could ask the indulgence of the Members of the Senate. I know how important this legislation is, but Senator BROWN and I would ask unanimous consent that we be allowed to go to morning business for an extremely short period of time to introduce legislation. We will make our statements part of the RECORD.

So I ask unanimous consent that we be allowed to go to morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOARD OF TEA EXPERTS

Mr. BROWN. Mr. President, I will be extremely brief.

Earlier this year, on the agricultural appropriations bill, Senator REID and I offered legislation that would defund the Tea Tasting Board, and I offered an amendment that would eliminate the underlying legislation that passed in 1879.

Literally, we spend a quarter million dollars a year of taxpayers' money on tasting tea, a practice that is designed to restrict competition.

Tragically, when that measure got to conference, the conferees were advised that the Food and Drug Administration would lose their ability to stop poisonous substances coming into the country in the form of tea if we did not have a Tea Tasting Board. That information is incorrect. The advice they gave the conferees is incorrect.

So we intend to, at the appropriate point when the continuing resolution comes forward, to offer an amendment that does what the Senate did earlier, and that is eliminate the Tea Tasting Board.

Mr. President, it is important because this is a clear waste and a clear obstruction of competition in this country. It is a drag upon our efficiency, and it is the signpost of the kind of changes we need to make to get our country back on track.

That is the reason we think it is appropriate to offer it on the continuing resolution.

I yield to my distinguished colleague from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, 2 years ago I stood on this floor and offered an amendment to the 1993 Agriculture Appropriations bill.

My efforts were successful and the measure passed. The intent of my measure was to eliminate the Board of Tea Experts. To my chagrin, in recent months I discovered that the tea experts were still in business. In mid-September of this year I returned to the floor with Senator BROWN to once again eliminate the Tea Board and abolish the Tea Import Act. Well, here we are again. Why?, because it seems that the Agriculture appropriation conferees did not see their way clear and abolish the act.

That is why Senator BROWN and I have returned to the floor to offer this amendment calling for an end to the Tea Importation Act. Why, I have been told that the Department of Agriculture informed the conference committee that the act was needed to ensure safe, healthy tea. What this program has is somewhat akin to the fictional creature, Count Dracula. I have come here with Senator BROWN to once again attempt to rid this Government of this scourge. I ask unanimous consent to have printed in the RECORD this article from the December 15 business section of the Washington Post that clearly outlines this problem.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(From the Washington Post, Feb. 15, 1995)

THE FDA'S TEA PARTY LIVES ON. AND ON. AND ON.

(By Cindy Skrzycki)

The tempest in the teapot still brews. Despite the efforts of Sens. Harry M. Reid (D-Nev.) and Hank Brown (R-Colo.) to dump a government-sponsored tea-tasting program, last-minute lobbying and legislative maneuvering has kept the Food and Drug Administration in the business of fine tea and good china.

Just when it looked like the FDA could wash its hands of the 98-year-old Tea Importation Act and its Board of Tea Experts, Sen. Thad Cochran (R-Miss.), chairman of the Senate Agriculture Appropriations Committee, quietly decided to kill the part of the Reid-Brown amendment that would have cut FDA's involvement with the board.

The result is that the FDA, long-criticized for its tea-tasting sessions, actually may have a more complicated role to play as it figures out how to comply with the part of the amendment that did pass.

As things now stand, the Tea Importation Act—which charges the FDA with making sure imported tea meets a government-endorsed standard of quality and purity—remains in force. What changes is the FDA's involvement in setting the standard since an FDA employee will no longer be allowed to sit on the six-member Board of Tea Experts.

The problem is, the agency still has to figure out a way to come up with the annual tea standard—without being involved—so that its longtime employee (a man reknowned for distinguishing fine tea from foul brews) can carry out the day-to-day tasting of imported tea, making sure it meets the standard.

Complicated? Yes. But, hey, this is the government.

So much for victory proclamation that Reid and Brown happily offered in September when the Senate passed their amendment. The conference on the legislation—and the lobbying—wiped out Reid's wish "to end this tea party."

The tea leaves aren't clear on this, but the brew's lobby apparently did a good job of preserving FDA's tea-tasting role. The industry has maintained through numerous attempts to abolish the board that it was necessary to have the $200,000 government program to keep bad tea out of the country.

Congress not long ago eliminated the board's modest travel subsidies for its annual meeting at FDA offices in New York. It also raised the tax on imported tea to pay for the salaries of the FDA employees involved in setting the standard and tasting the tea to make sure imports adhered to the standard.

The current standard expires May 1, so the FDA has to come up with a way to set a new measure. Like any good government agency, it has convened a "small working group" to figure this out.

Among the options the group is considering: disallowing tea imports altogether, maintaining the current standard indefinitely, turning the standard-setting over to some other department within the Department of Health and Human Services. Or, the more likely scenario, proposing a standard in the Federal Register and asking for comments on it.

"You've now finding out what perpetual life is," said Brown. "It's such a disgrace."

Anyone for tea?

Mr. REID. Mr. President, we do not have a coffee tasting board, why a tea testing board?

According to an FDA spokesman this Congress is sending mixed signals regarding tea tasting.

According to an FDA spokesman "the law doesn't say we should not have a tea taster at FDA."

According to an article in the Review-Journal, the largest newspaper in Nevada, the Board of Tea Experts is funded by the tea industry. However, its members work closely with FDA chemist Robert H. Dick to set standards for imported tea.

Mr. Dick who has chaired the tea board for 56 years, is paid $68,000 per year. He also has two part-time assistants, all of whom are taxpayer supported.

Mr. President, the Food and Drug Administration, as well as the Agriculture Appropriations Committee, has done a disservice to the American people. It is no wonder the American people have lost faith in their government. I see no reason why those in this country who enjoy drinking tea need someone else to tell them it tastes good. Once again I am back on the floor to complete the task that I originally set out to do.

Mr. President, once again let me give the Senate some background on the Board of Tea Experts.

The Tea Expert Board was created as part of the Tea Import Act of 1897. You heard me correctly, 1897, not 1987.

There are six outside experts and one from the Food and Drug Administration [FDA] that comprise the Board. It is the Board of Tea Experts duty to set standards for imported tea. There is also others at the FDA that also as part of their official duties, taste tea.

The cost of this program is approximately $200,000 per year; even though there is an industry offset of approximately $70,000 per year.

Although, the fiscal year 1996 Agriculture appropriations bill withholds funds to operate the Board of Tea Experts, it does not repeal the act as the Senate unanimously agreed to do. Even so, the adventures of the Board of Tea Experts still cost the American taxpayer over $130,000 per year. That may not seem like much, but it is the kind of waste that taxpayers detest.

We do not have a board of coffee experts, why then, do we need a Board of Tea Experts. The Board of Tea Experts only serves industry. Let the industry serve itself, and pay for its own quality assurance out of its own pockets. It is not my intent to have the FDA to stop testing imported agricultural products. These activities can continue without the Board of Tea Experts and without Mr. Dicks or the FDA's involvement.

As I have stated on the floor before, What we need is a congressional tea party. We must dump the Board of Tea Experts as well as the Tea Importation Act overboard.

It seems inappropriate, and some might say morally reprehensible, to expend money from the Treasury for such a program.

How can this reform minded Congress allow the Tea Importation Act to continue?

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1996

Mr. LOTT. Mr. President, as in legislative session, I ask unanimous consent that the Senate now turn to the consideration of House Joint Resolution 134, the continuing resolution with respect to the veterans, and that it be in order for me to amend the joint resolution to also include funding for AFDC, District of Columbia Government, foster care, adoption assistance, and Medicaid quarterly payments, all of which would expire January 3, 1996, that the amendment be agreed to, the joint resolution be read a third time and passed, and the motion to reconsider be laid upon the table.

Mr. BROWN. Mr. President, reserving the right to object, I cannot go along with that without an opportunity to offer an amendment with regard to the Tea Tasting Board.

So I object to the unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, could I ask the Senator from Colorado to withhold his objection so we can at least discuss this a moment?

Mr. BROWN. I am glad to reserve my right to object. That would allow discussion.

Mr. WARNER. Mr. President, reserving the right to object.

Mr. LOTT. Mr. President, if I could respond to his objection, first I want to commend the Senator from Colorado for the work he has done in this area, and Senator REID from Nevada who has been working in this area. I am very sympathetic to what they are trying to do.

I know they are looking for an opportunity to do this on any vehicle that might be available, and I certainly understand that. But let me again emphasize that we are in a particularly difficult spot here.

The majority leader and the minority leader are now meeting with the President at the White House. They are working on the budget agreement. And it is very important that the UC be worked out with the House of Representatives, which is very anxiously waiting for this matter to come over to them.

The former chairman of Veterans' Affairs Committee and some of the veterans committee members just came over and are very anxious for us to get this work done and sent back over.

This agreement was worked out between the leaders, all of the interested staff, and Members on both sides of the aisle. It is very important that we get it done.

I urge my colleagues who are working on this particular tea issue to withhold their objection so that we can move this continuing resolution through that the leaders are expecting us to get done.

Mr. BROWN. Will the Senator yield?

Mr. LOTT. If I have time, I would be glad to yield.

Mr. BROWN. Mr. President, I appreciate what the distinguished Senator has said. All of his observations, which I agree with, are accurate.

Mr. President, this is a little unusual circumstance for two reasons. First, the amendment originally eliminating the Tea Tasting Board passed without a dissent in the Senate.

Second, it was dropped in conference because of misinformation provided by an administrative spokesman who simply was wrong. They had indicated that the Government did not have any way to stop poisonous tea from coming into the country, when in reality they did and do. So it was only dropped from the conference report on agriculture because of inaccurate information.

It would be a tragedy to reward the conveyance of inaccurate information.

Last, Mr. President, let me assure Senators that I do not seek to slow down this bill at all. All I want is an opportunity to offer this amendment. If the amendment loses, obviously Senator REID and I are not going to interfere in any way with the passage of this continuing resolution. But we do think it is of sufficient importance to the integrity of the process that this be included.

I have every reason to believe the House will go along with this, that there will not be any objection of any kind from the House.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Reserving the right to object, I hope that the Senator from Colorado would not interfere with, hopefully, the funding of AFDC, foster care, adoption assistance, and, maybe if we can get to it, keeping the Government open, for a tea tasting question that seems to be paramount here to kids out there getting their AFDC checks.

Now, if you want to stop the veterans from getting their checks, AFDC from getting their checks, our Government staying open, then you get your tea tasting amendment on this resolution or we just withdraw it, then we will let your tea tasting amendment bring it down.

Mr. BROWN. Will the Senator yield?

Mr. FORD. Yes, I will be glad to yield.

Mr. BROWN. Let me simply observe, first of all, Senator REID and I both wrote to Senator DASCHLE and to Senator DOLE advising them of this problem early on and indicating some time ago we intended to offer this on a continuing resolution as a way of get it through, so this is not a surprise. This is something we have advised the leadership of a long time ago.

Let me assure the Senator there is no intention on my part and I do not believe—I am sure there is no intention on Senator REID's part to interfere with the fine things that are in this measure at all. All we want is an opportunity to have it voted on. If it is voted down, we simply are not going to interfere in any way.

Mr. FORD. May I regain my time here?

If the Senator wants to vote it down now, I think it can be done. I do not think he wants that because it would be a voice vote, and I do not believe he wants to ask for a rollcall vote. Then we would have to postpone it because the majority leader has already said there will be no more votes today.

Mr. LOTT. Mr. President, will the Senator yield?

Mr. FORD. Be glad to.

Mr. LOTT. Will the Senator be willing to accept a voice vote on this issue at this time? If he would, we could have a vote and proceed.

Mr. REID. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask that everyone in the Chamber stop and think about this for a little bit. I think everyone understands, for lack of a better word, how resentful Senator BROWN and I feel. We agreed on the matter that came before the Senate this year not to have a vote on it. We had already won the thing on a previous occasion. But the bureaucrats, you see, always figure a way to resurrect things. And even though the funding has been stopped, there will still be two people paid for tea tasting.

I have expressed my dismay to the senior Senator from Mississippi and the senior Senator from Arkansas, the chairman and ranking member of the subcommittee. We have in the Chamber now the minority whip and the majority whip. We have the President pro tempore of the Senate and a number of very distinguished Senators. I am wondering if—for this Senator, I would be happy to withdraw my objection if I would have the word of the Senators that are now in the Chamber that the first thing moving through here after we come back, that you would help Senator BROWN and me affix this because in logic and good sense and good government, there is no reason that the Tea Tasting Board is still in existence.

So I personally would withdraw whatever reservations I have if I could have the support of the people on this floor to get rid of the Tea Tasting Board.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I appreciate the remarks of the distinguished Senator from Nevada, and I have a lot of sympathy, frankly, for what he is trying to do. He has already referred to the fact that the senior Senator from my State may have some knowledge that I am not aware of, and I certainly want to be sensitive to that. But I believe there is a lot of sympathy in the direction of the Senator from Nevada and the Senator from Colorado, and in order to move this very, very important agreement forward, I would certainly make a commitment on my behalf to work with these two very fine Senators to see if we cannot find an early opportunity to resolve this problem. I could not say much more than that this morning. I really do not know the details of what is involved. But from what I have heard, I think I am in agreement with you, and I would certainly work with you to see if we could not find a way to move this initiative forward.

Mr. FORD. Will the Senator yield?

Mr. LOTT. I would be glad to yield.

Mr. FORD. I personally do not want a voice vote because I have a strong indication it would not pass, and I think it would be a shame because this is, while not of great consequence as far as dollar sums, as a signal to the American public I think it would be a shame that the Senate voted to reject this amendment.

Mr. LOTT. I think the Senate would rather not do that.

Mr. REID. I am sure that is what would happen. My friend from Colorado and I worked very hard on this. I think he has the same disappointment, rejection, and all the statements that would go to tell how we feel we have been had, for lack of a better word, by the nameless, faceless bureaucrats that are someplace down there off the Hill. But that is how I feel about it.

If I could have the commitment of the people in this Chamber, and I know who is here now, I would withdraw my objection.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Let me also add my voice to this. I think my colleague on the other side of the aisle said he did not commit himself to a piece of legislation, but subject to consultation with his leadership, that at the best possible moment, first possible moment that would be an adequate or proper way to do it, that he would assist. I will do the same.

I do not want to speak for my leader under the circumstances that I have not asked him nor has he told me about a letter and advice here. I am sure it has been done. I do not try to impugn anyone's integrity here. I understand what they are trying to do. I hope that this would be held over until sometime soon.

I believe you could get a standing piece of legislation here that you could just go right through the order right quick and we could maybe get it done quicker than with an amendment to a continuing resolution. So you could offer a stand alone piece of legislation and we could go through the parliamentary procedures. I am sure the Parliamentarian would advise us how to do that. We may get it passed this afternoon or January 3 because we will back here doing something on the 3d because that is when this resolution expires.

So I look forward to working with them. If you want to go ahead with it, that is fine. If you want to take a voice vote on this, fine. Then we will voice vote some other things I am going to suggest here this afternoon. That might change your mind a little bit. But we will offer some voice votes on other amendments to this resolution.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I have enormous confidence in the integrity of the fine Senator from Kentucky and the fine Senator from Mississippi, and I appreciate their consideration of this matter, and in light of that I will withdraw my objection.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Reserving the right to object, Mr. President, if I understand it, the distinguished Senator from Kentucky, the whip of the minority, has raised a question about an amendment that would reopen the entire Government. Is that a question now pending before us?

Mr. FORD. No, it is not. I have not had a chance to reserve the right to object. Others quicker than I have on that side of the aisle.

Mr. WARNER. Mr. President, I shall await the colloquy between the distinguished Senator from Kentucky and the Senator from Mississippi and renew my objection.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Reserving the right to object to the motion that has been made by the distinguished majority whip, I ask him this. The cost of Government being shut down I understand is somewhere around $40 million a day, with the statements of the Speaker of the House and the majority leader of the Senate saying all those who have been furloughed would be paid. I do not think that includes the inconvenience to a lot of folks as it relates to the services of Government. Let me give you a couple of—well, just one. We have a band from Lexington, KY, that is going to participate in the Fiesta Bowl. They have worked their fingers to the bone and worked their little hearts out to raise enough money to go to the Fiesta Bowl. There will be about 400 of them, members of the band, parents, chaperones, et cetera, and they have reservations in national parks next week, and the parks have notified them they are closed.

They cannot get in. So you have a large group of high school students, bands, their parents, chaperones, a real coup, by being invited to where they will decide the national championship as it relates to football, collegiate football in this country, and we are saying to them, "You can't get in because the Government's closed because we didn't get a balanced budget, or are even close to an agreement."

So I ask my friend, would it be possible to have an amendment that would open the entire Government?

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, this side of the aisle would not be in a position to clear that amendment at this time. I would like to say and remind my colleagues that our leaders are, in fact, meeting with the President at this hour, and with the Vice President, I believe, and others. They are working very seriously to try to reach an agreement on a balanced budget over the next 7 years.

I think that they are acting in good faith. There have been preliminary meetings occurring with the chief of staff and our budget chairman, both yesterday and I believe earlier this morning, and the process is underway and we should allow that process to go forward.

What we are talking about is trying to get an agreement to control the rate of Government spending, to reduce the tax burden on the workers of America, and we perhaps are at the point where some progress will be made in that area. I have talked to the chairman of the Budget Committee, Senator DOMENICI, and he said, "We're not going to get an agreement until the end." The question is, how do you get to the end?

I think maybe we are approaching that. And so while our leaders are down there working to try to get an agreement to really come to a balanced budget agreement, I think we should not be undermining that by moving forward legislation at this point, particularly since, when the leaders discussed this issue, they understood what the unanimous-consent request would be.

I am sympathetic to what the distinguished Senator from Kentucky said about the band from Kentucky. I bet they are great. I wish their football team was going from the SEC to the Fiesta Bowl. If the President had in fact signed the Interior appropriations bill instead of vetoing it on the 18th, we would not have this problem.

So now it is a part of the overall budget negotiations. We need to hope for the best and wish them well, but we should not at this point change the agreement. We are not able to agree to that amendment at this point.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. I just hate to see all these crocodile tears—they are just dripping down everybody's cheeks and off their chin—that we cannot get a balanced budget. We have agreed to 7 years. We have agreed to CBO. You cannot put CBO to it until you have a final agreement.

What we are doing is costing taxpayers $40 million a day. Our employees get half a check. They cannot make the payment on their mortgage and cannot make their payment on their car. The contractors are laying people off in droves. They are laying them off in droves because you are saying, "We're going to shut the Government down until we get what we want."

You have the right to do that. You are in the majority. But I will say one thing: I believe you will rue the day that you shut the Government down. I believe that you will rue the day that that widow with two children could not make her mortgage payments. You cannot do these things. I think that is a mistake.

But if that is the position of the majority, then I will further reserve the right to object and ask the Senator, would it be possible to have an amendment reinstating the military COLA that is included in the DOD authorization bill which is going to go into effect in January?

Mr. LOTT. I would say to the Senator, this side of the aisle would not be able to clear that amendment either at this time. Let me comment on that, if I could.

First of all, I am concerned about $40 million a day, but I am more concerned about $600 billion of the taxpayers' money being spent over the next 7 years that is not necessary, that can be saved, that could be used to reduce the deficit, could be used to allow the people to keep a little bit of their money at home.

We did not shut down the State-Justice-Commerce, Interior, HUD, or VA. The President vetoed the legislation. He shut it down. And I am crying alligator tears about the shipyard worker in my hometown that gets up every morning at 5 o'clock to be in that shipyard at 7 o'clock, trying to make ends meet, while the Government is putting burdens on him with regulations and taxes. That is who I really care about. That is the human face on this. We are worried about that shipyard worker and the tobacco farmer in Kentucky and the future of their children. That is what our tears are about.

Mr. FORD. Mr. President.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. The Senator says it is all the President's fault.

Mr. LOTT. No.

Mr. FORD. Yes, the Senator did. And the Senator said the President would not sign it, would not sign it, would not sign it. That is fine. But when I give you something you do not want, you are not going to swallow it. So you have given him something he does not want, and he vetoed it. That is No. 1.

No. 2, the strategy has been, and if you go back and read all the statements that have been made, is to come to this point where the Congress would be equal to the President with shutting the Government down versus the veto power. Now, quote after quote after quote.

So this is a premeditated shutdown. This is a premeditated shutdown. So whatever you say, $40 million a day, people not being able to get their checks, not being able to pay their mortgages, and we could stop all this by a clean CR. And we cannot get a clean CR. You object to it. You object to it.

Mr. President, I believe the Senator from Virginia wants to reserve the right to object, and I will be glad to yield the floor at the moment.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. If I could respond, the way to resolve all these problems is to get a budget agreement. Our leaders are trying to do that right now, and we should give them that opportunity. When that budget agreement is reached, then there will be a continuing resolution and debt ceiling. It will all come together. But it is at the supreme level, the President and the Vice President, the leaders of the Congress are there meeting. I wish them the very best.

With regard to the particular point of the military, once again the Congress passed a good Department of Defense authorization bill with military retirees' pay, COLA's for our military personnel, the procurement we need for our military.

Our troops are going into Bosnia right now. How are they getting there? They are getting there by airlift, sealift, because we have good equipment across the board for all our military branches. We want to keep that. So we would urge the President to sign the authorization bill.

This military COLA is not needed now. All we need is for the President to sign the Department of Defense authorization bill that has already passed the Congress and the problem is taken care of, and for us to presuppose that he is going to veto this bill, making this action necessary, I do not think is the proper thing to do. The President is considering the arguments that are being made by our distinguished President pro tempore and others for this legislation. I know the Secretary of Defense supports many, many of the features we have in this Defense authorization bill.

Mr. FORD. Not all.

Mr. LOTT. So let us wait until we know what has happened, and then we will work together, I am sure, in a bipartisan way, to make sure that our military personnel are taken care of with their COLA's.

With that, I would be glad to yield.

Mr. WARNER. Mr. President, reserving the right to object, I shall not object because I prepared a draft of this very important measure on the matter pending in the unanimous consent.

I wish to first associate myself with the remarks from the distinguished acting majority leader, the Senator from Mississippi. I think he has very carefully and accurately stated the case. I certainly join with him in saying it is not the Congress that shut the Government down, it is simply the veto of these bills, Mr. President.

Further, it is my fervent hope that the authorization bill will be signed because it does cover the pay raises outlined in addition to many other very important and badly needed—badly needed—legislative additions to our armed forces.

Mr. President, at this point I ask unanimous consent that correspondence between myself and the distinguished majority leader, Mr. DOLE, relating to the guarantee of the Federal employees being paid be printed in the RECORD along with a correspondence between myself and the majority leader, Mr. DOLE, and the Speaker of the House, Mr. GINGRICH.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

U.S.SENATE,
December 19, 1995.

Hon. ROBERT DOLE,
Senate Majority Leader, U.S. Capitol, Washington, DC.

DEAR MR. LEADER: Thank you for the strong words of support for the federal employee community in your Sunday, December 17 appearance on NBC's Meet the Press.

On behalf of the 280 thousand federal employees affected by the shutdown in Virginia and across the nation, it was gratifying to hear your commitment that they indeed will get back pay.

As you said, Mr. Leader, ". . . it's not their fault." And you reiterated, "Federal employees shouldn't be punished because the Congress and the President are at odds." I couldn't agree more.

I would also like to commend you for leading by example in the donation of your own salary to the Department of the Treasury for reducing the federal debt. A significant portion of the government is in a state of budgetary emergency. The Congress should be the first to share in the sacrifices which have been required of our dedicated federal employees through no fault of their own. I am doing likewise.

With best wishes, I am
Sincerely,
JOHN W. WARNER.

Enclosures.

CONGRESS OF THE UNITED STATES,
Washington, DC, December 20, 1995.

Hon. JOHN WARNER,
U.S. Senate.
Hon. FRANK R. WOLF,
Hon. CONSTANCE A. MORELLA,
Hon. TOM DAVIS,
House of Representatives.

DEAR COLLEAGUES: Because of your interest in the ongoing budget negotiations and your strong support for federal employees, we wanted to take this opportunity to reaffirm our letter of November 10, 1995, in which we made clear that employees furloughed through no fault of their own should not be punished.

It is unfortunate that President Clinton has chosen to veto appropriations bills that would have funded the salaries of federal employees at the Departments of Justice, State, Commerce, Veterans Affairs, and Housing and Urban Development, as well as independent agencies such as the Environmental Protection Agency. Similarly, procedural objections by Democrats have prevented the funding of salaries at the Department of Labor, HHS and Education.

The direct result of those actions is that furloughed federal employees at those particular agencies cannot be paid. However, we would like to reaffirm our commitment to restoring any lost wages for federal employees in a subsequent funding bill.

Thank you for your continued and strong leadership on behalf of federal workers.

NEWT GINGRICH,
Speaker of the House.
BOB DOLE,
Senate Majority Leader.

Mr. WARNER. I too am very concerned about the $40 million a day, but it is not the fault of these innocent people. And every day I shall try and work, as I did during the last closure, to assure that they are justly compensated at the proper time.

Mr. President, I withdraw any objections I had.

Mr. President, I wish to associate myself with the remarks of the distinguished Senator from Texas because together we have worked into this particular CR at this time certain protections for the veterans. I again commend my colleague from Texas.

Mr. LOTT. Mr. President, if I could respond to the distinguished Senator from Virginia.

I appreciated his comments and all of his good work on the defense authorization bill and all of his efforts to make sure that our veterans are taken care of and that they do receive their checks, but also his continuing to urge that the leaders of Congress and the President come to an agreement on a balanced budget so, as a matter of fact, all of the Government can go back into operation.

We certainly are hoping for that. Our leader has stood in this very spot and said he wants that to be achieved. I believe that that is what he is trying to do right now, and that will solve our problem.

Mr. WARNER. I thank my distinguished colleague. Senator DOLE and I and the Senator did stand here not more than an hour and a half ago, and the majority leader reiterated his desire to put the Government back to work.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, just for my own information, is there a parliamentary situation here that a limited CR is about to be voted on by voice vote?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. Before doing that, Mr. President, I ask unanimous consent that a list of examples of reduced Government services that exist during this shutdown be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Examples of Reduced Government Services During a Shutdown

A. National Park Services facilities are closed.

1. On an average December day, 383,000 people visit National Park Services facilities.

2. Potential per day losses for businesses in communities adjacent to National Parks could reach $14 million, due to reduced recreational tourism.

B. The Smithsonian Museums, Kennedy Center, National Zoo, and National Gallery of Art are closed.

1. On an average day, 80,000 people visit the Smithsonian Museums on the Mall and the National Zoo.

2. On an average day, 12,400 people visit the National Gallery of Art.

3. On an average day, 6,900 people visit the JFK Center for Performing Arts. (This does not include individuals who pay to attend performances, for which the Kennedy Center will continue to be open.)

C. FHA mortgages are halted.

1. On an average day, the Federal Housing Administration processes 2500 home purchase loans and refinancings totaling $200 million worth of mortgage loans for moderate-and low-income working families nationwide.

D. Applications for passports are not being processed and foreign visitors are unable to obtain visas.

1. On an average day, the State Department receives 23,000 applications for passports.

2. On an average day, the State Department issues 20,000 visas to visitors who spend on average of $3,000 on their trips for a total of $60 million.

E. Veterans will suffer because while claims applications are being accepted and questions answered, processing of claims and payment of benefits has ceased. In addition:

1. 3.3 million veterans and survivors will not receive their January 1 benefit checks on time if an appropriation is not available by next Thursday, December 21.

F. The most vulnerable in our country will lose vital income support through AFDC. Specifically:

1. AFDC grants necessary for January 1 benefit checks will delayed to 4.7 million families representing over 13 million recipients if an appropriation is not available by December 22.

G. "Deadbeat Dads" are getting a holiday through the shutdown.

1. The Federal Parent Locator Service, to which 20,000 cases per day on average are referred, is closed.

H. Assistance to Small Businesses is interrupted.

1. On an average day, over 260 small businesses are not receiving SBA guaranteed financing totaling over $40 million of loans.

2. On an average day, over 90 small businesses are prevented from bidding on government contracts because they are unable to receive SBA guaranteed bid bonds which allow them to bid on those contracts.

3. On an average day, 1,200 small business owners are not receiving SBA-sponsored training and counseling normally available to them.

4. Banks issuing federally-guaranteed loans from SBS, VA, and HUD have stopped receiving default claim payments. In addition to potential cashflow shortages to participating banks, this will result in higher costs to the Government, because the claims will accrue additional interest during the furlough period.

5. No outyear payments for Advanced Technology Program awards made in prior years to over 100 innovative, high-tech companies are being made totalling $68 million.

I. Many protections for American workers are suspended due to the shutdown of much of Labor Department. For each day of the shutdown:

1. 1. 95 percent of workplace safety complaints are going unanswered.

2. 170 workplace safety and health inspections are not being performed.

3. 190 worker complaints of minimum wage and overtime violations remain unresolved.

4. 500 requests for information and assistance from pensioners participating in plans with $3 trillion in assets are going unanswered.

J. Important environmental protections are curtailed due to the shutdown. For each day of shutdown, on average:

1. All EPA non-Superfund civil environmental enforcement actions have stopped. On an average day, $3 million of fines or injunctive relief against polluters will be lost and 8 Federal environmental compliance inspections of polluters' facilities will not be conducted.

2. About 240 calls each day to EPA's "hotline" for drinking water contamination outbreaks are going unanswered. Five other "hotlines" receiving thousands of calls each month are shut down, depriving the public of potentially critical information on pesticides and toxic substances, asbestos in schools, and other public health information.

3. EPA-issued permits for air, land, and water pollution limits nationwide cannot be approved and necessary EPA technical assistance to States for State-issued permits cannot be provided. Approvals of some companies' activities will be put on hold while their competitors with approved permits are allowed to operate.

4. All emergency exemptions for farmers to use restricted pesticides to fight pest outbreaks have stopped, potentially resulting in severe crop damage and loss of income.

K. Vital Education programs are shutdown.

1. Middle and low income parents and students cannot get Federal college aid. On an average day at this time of year, 20,000 students and parents apply for Federal Pell grants or student loans. These applications cannot be processed because verifications of Social Security numbers (at SSA) and immigrant status (at INS) cannot be carried out. Without this application processing, these students and families are denied the aid without which they may not be able to pay for college.

2. Civil rights violations in schools cannot be investigated. In an average week, the Education Department's Office for Civil Rights receives about 100 new complaints of discrimination on the basis of race, color, national origin, sex, age or disability. These complaints cannot be investigated or remedies sought. Buildup of backlogs delays justice for individuals.

3. Criminal investigations in education programs have been suspended.

4. Help cannot be given to parents and teachers. During an average week, the Department of Education answers 8,000 inquiries from teachers, school administrators and concerned parents, seeking help with education problems that cannot be answered during the shutdown.

L. American exporting businesses are being disadvantaged during a shutdown.

1. On an average day, over 30 export licenses with a value of $30.5 million that would otherwise have been approved by the Bureau of Export Administration will not be acted upon.

2. On an average day, over 2500 telephone calls and faxes from U.S. businesses seeking export advice, information and counseling are not being responded to by the Bureau of Export Administration or the International Trade Administration due to the shutdown.

M. Vital legal and law enforcement functions are shutdown or will be delayed.

1. FBI training of state and local law enforcement officers has ceased.

2. Investigations of employment discrimination on the basis of race, sex, religion, or national origin are suspended.

3. Processing of prison grant applications has slowed down. Appropriated funds to assist states in constructing and bringing on line new prison facilities will be delayed.

4. Collection activities by Justice's Civil Division has ceased. The cessation of collection activities means that the Treasury receives less income and thus the deficit actually grows. In addition, individuals who owe the government money can withhold payment without any particular penalty.

N. Key statistical data are not being collected and disseminated.

1. Important statistical releases will be delayed-most importantly the Bureau of Economic Analysis' Gross Domestic Product and Corporate Profits for the 3rd Quarter of 1995, the October 1995 U.S. International Trade in Goods and Services, and Personal Income and Outlays for October and November.

2. On an average day, 2,000 people call the Census Bureau and 4,000 people call the Bureau of Labor Statistics request information on economic and demographic statistics. These calls are going unanswered.

O. After expending carryover balances in one day, the National Institute of Standards & Technology would shut down.

1. Companies, universities, hospitals, and defense and law enforcement agencies depend upon NIST's laboratory-based research and services. For example, NIST provides in excess of 20,000 measurement samples and performs thousands of calibration tests each year for more than 3,000 large and small companies.

2. U.S. firms will be denied critical support in their efforts to deal with international standards and testing requirement that limit the sale of U.S. goods overseas.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. FORD. Are you going to reserve the right to object?

Mrs. HUTCHISON. Mr. President, I reserve the right to object, but I will be happy to yield to the Senator from Kentucky.

Mr. FORD. I will be glad to yield to the Senator.

Mrs. HUTCHISON. Reserving the right to object, and I will not object, but I did want to clarify with the distinguished majority whip to ask if this does, in fact, pass in the next few minutes, can the veterans of this country and those receiving AFDC, people who work for the District of Columbia Government, people who are receiving foster care and adoption assistance and Medicaid be assured that they are going to, in fact, get their payments? Is that what this means?

Mr. LOTT. If the Senator will yield, that is absolutely what it means. I personally do not think it is absolutely necessary. I believe the authority exists for this to occur, but we do not want to leave any doubt. We want to make sure the authorization is there for our veterans and those dependent on funding of AFDC, D.C. Government, those dependent on the funds for foster care and adoption and Medicaid quarterly payments. Without question, they are authorized and will get those checks.

Let me also say to the Senator from Texas, I am satisfied that if it had not been for her persistence and efforts in support of the veterans, this legislation would not be here this minute. I commend her for that.

Mrs. HUTCHISON. Mr. President, I want to thank the majority whip for those comments and just say that Senator WARNER, Senator SIMPSON, and I, and many others, have been very concerned about many aspects of this. Those veterans who have served our country cannot be left at the gate. We could not go through Christmas without making sure that these people know they are covered, that they are not worried about it.

Let me just say that tonight, leaving from Fort Hood is a reserve unit on its way to Bosnia. For those people and the many others who are going to be veterans very quickly by serving in Bosnia, it is very important that they know that this body will always act responsibly when it comes to them.

Thank you, Mr. President. I thank the distinguished majority whip.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Mississippi?

Mr. FORD. Continuing reserving the right to object.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, it is hard for me to understand how we can tell the people out there how concerned we are about them when the Government is shut down and there is no reason for it except to force the President into signing a budget with which he does not agree.

I do not agree with it. We have 10 Republicans and 9 Democrats who have gotten together on a budget that does not agree with the budget that the Republican majority has sent to the President. So you have 10 of your membership that do not like it, and we are trying to get together.

As we worked through—I have the papers, I wish I had them with me—where we had the first budget and then the second budget and then there was a first agreement and a second agreement, we moved a little toward the Republicans and they moved a little toward us. I thought that is what negotiation is all about. But it is just like "If you don't play by my rules, Sam, I'm going to take the ball and go home," and that is exactly where we are left.

I can hear we want all these people to have their money, but you do not want anybody else to have it. You do not want that family to have it. There is not a soul on this side that I know of who has any objections to the veterans getting their money, AFDC, D.C. Government, foster care, adoption assistance, particularly the Medicaid quarterly payments. States probably would not have enough money to take care of it if we did not do this.

There is not a Senator on this side of the aisle that objects to anything that is in this continuing resolution. The only thing we say is that you ought to treat everybody else the same. That individual that is out there working every day, the honest worker, as you talked about, and he needs, or she needs, to have a full check.

Second, if they do not get the money, then they are laid off. All you have to do is read the paper every day, and I am sure most of you do before you come to work. Dad always told me, "Never go to work without drinking a cup of coffee and reading the newspaper." So I try to do that.

I am very disappointed we are costing taxpayers—we want to try to protect the taxpayers—we are costing them $40 million a day, giving them half checks, they cannot meet their mortgage payments, contractors are laying off their employees. All we have to do is pass a clean CR. People are working around here and want to get it done, and you know you will get it done but you are creating hurt, harming people rather than trying to help them. So the harm is now greater than the help that they will ever get.

So, Mr. President, I reluctantly remove my objections because I cannot get an agreement, and it has to be by unanimous consent. I reluctantly remove the objection from this side if we are not going to get help for the people in this country.

Mr. THURMOND. Will the majority whip yield?

Mr. LOTT. Yes, I yield.

Mr. THURMOND. Mr. President, I rise to support the majority whip and the position he has taken and the remarks he has made. We must not let these veterans and others down. Now is the time to act. I commend the majority whip for the position he has taken.

AMENDMENT NO. 3110

Mr. LOTT. Mr. President, I send an amendment to the desk.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. Will the Senator from Arkansas withhold for a moment?

Mr. BUMPERS. If the majority whip wants to offer an amendment, I withhold.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. HATFIELD, proposes an amendment numbered 3110.

Mr. LOTT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the resolving clause and insert in lieu thereof:

TITLE I

AID TO FAMILIES WITH DEPENDENT CHILDREN AND FOSTER CARE AND ADOPTION ASSISTANCE

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for continuing the following projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1995:

All projects and activities funded under the account heading "Family support payments to States" under the Administration For Children and Families in the Department of Health and Human Services;

All projects and activities funded under the account heading "Payments to States for foster care and adoption assistance" under the Administration For Children and Families in the Department of Health and Human Services; and

Such amounts as may be necessary for the Medicaid program under title XIX of the Social Security Act for the second quarter of fiscal year 1996;

All administrative activities necessary to carry out the projects and activities in the preceeding three paragraphs:

Provided, That whenever the amount which would be made available or the authority which would be granted under an Act which included funding for fiscal year 1996 for the projects and activities listed in this section is greater than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under the Act which included funding for fiscal year 1996 for the projects and activities listed in this section as passed by the House as of the date of enactment of this joint resolution, is different from that which would be available or granted under such Act as passed by the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lower, under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

(c) Whenever an Act which included funding for fiscal year 1996 for the projects and activities listed in this section has been passed by only the House or only the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 102. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 103. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 104. No provision which is included in the appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 105. Appropriations made and authority granted pursuant to this title of this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 106. Unless otherwise provided for in this title of this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this title of this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this title of this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) January 3, 1996, whichever first occurs.

SEC. 107. Expenditures made pursuant to this title of this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. No provision in the appropriations Act for the fiscal year 1996 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 106(c) of this joint resolution.

SEC. 109. Appropriations and funds made available by or authority granted pursuant to this title of this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

TITLE II

DISTRICT OF COLUMBIA

That the following sums are hereby appropriated, out of the general fund and enterprise funds of the District of Columbia for the District of Columbia for the fiscal year 1996, and for other purposes, namely:

SEC. 201. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1996 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this title of this joint resolution) which were conducted in the fiscal year 1995 and for which appropriations, funds, or other authority would be available in the following appropriations Act:

The District of Columbia Appropriations Act, 1996:

Provided, That whenever the amount which would be made available or the authority which would be granted in this Act is greater than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under the Act listed in this section as passed by the House as of the date of enactment of this joint resolution, is different from that which would be available or granted under such Act as passed by the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lower, under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: *Provided*, That where an item is not included in either version or where an item is included in only one version of the Act as passed by both Houses as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 211 or 212 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 202. Appropriations made by section 201 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 203. No appropriation or funds made available or authority granted pursuant to section 201 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 204. No provision which is included in the appropriations Act enumerated in section 201 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this title of this joint resolution.

SEC. 205. Appropriations made and authority granted pursuant to this title of this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this title of this joint resolution.

SEC. 206. Unless otherwise provided for in this title of this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this title of this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this title of this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both houses without any provision for such project or activity, or (c) January 3, 1996, whichever first occurs.

SEC. 207. Notwithstanding any other provision of this title of this joint resolution, except section 206, none of the funds appropriated under this title of this joint resolution shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 208. Expenditures made pursuant to this title of this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 209. No provision in the appropriations Act for the fiscal year 1996 referred to in section 201 of this title of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 206(c) of this joint resolution.

SEC. 210. Appropriations and funds made available by or authority granted pursuant to this title of this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 211. Notwithstanding any other provision of this title of this joint resolution, except section 206, whenever the Act listed in section 201 as passed by both the House and Senate as of the date of enactment of this joint resolution, does not include funding for an ongoing project or activity for which there is a budget request, or whenever the rate for operations for an ongoing project or activity provided by section 201 for which there is a budget request would result in the project or activity being significantly reduced, the pertinent project or activity may be continued under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 by increasing the rate for operations provided by section 201 to a rate for operations not to exceed one that provides the minimal level that would enable existing activities to continue. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366. For the purposes of this title of this joint resolution the minimal level means a rate for operations that is reduced from the current rate by 25 percent.

SEC. 212. Notwithstanding any other provision of this title of this joint resolution, except section 206, whenever the rate for operations for any continuing project or activity provided by section 201 or section 211 for which there is a budget request would result in a furlough of Government employees, that rate for operations may be increased to the minimum level that would enable the furlough to be avoided. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366.

SEC. 213. Notwithstanding any other provision of this title of this joint resolution, except sections 206, 211, and 212, for those programs that had high initial rates of operation or complete distribution of funding at the beginning of the fiscal year in fiscal year 1995 because of distributions of funding to States, foreign countries, grantees, or others, similar distributions of funds for fiscal year 1996 shall not be made and no grants shall be awarded for such programs funded by this title of this resolution that would impinge on final funding prerogatives.

SEC. 214. This title of this joint resolution shall be implemented so that only the most limited funding action of that permitted in this title of this resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 215. The provisions of section 132 of the District of Columbia Appropriations Act, 1988, Public Law 100–202, shall not apply for this title of this joint resolution.

SEC. 216. Notwithstanding any other provision of this title of this joint resolution, except section 206, none of the funds appropriated under this title of this joint resolution shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this title of this joint resolution otherwise be used to implement or enforce D.C. Act 9–188, signed by the Major of the District of Columbia on April 15, 1992.

TITLE III

VETERANS' BENEFITS

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

SEC. 301. ENSURED PAYMENT DURING FISCAL YEAR 1996 OF VETERANS' BENEFITS IN EVENT OF LACK OF APPROPRIATIONS.

(a) PAYMENTS REQUIRED.—In any case during fiscal year 1996 in which appropriations are not otherwise available for programs, projects, and activities of the Department of Veterans Affairs, the Secretary of Veterans Affairs shall nevertheless ensure that—

(1) payments of existing veterans benefits are made in accordance with regular procedures and schedules and in accordance with eligibility requirements for such benefits; and

(2) payments to contractors of the Veterans Health Administration of the Department of Veterans Affairs are made when due in the case of services provided that directly relate to patient health and safety.

(b) FUNDING.—There is hereby appropriated such sums as may be necessary for the payments pursuant to subsection (a), including such amounts as may be necessary for the costs of administration of such payments.

(c) CHARGING OF ACCOUNTS WHEN APPROPRIATIONS MADE.—In any case in which the Secretary uses the authority of subsection (a) to make payments, applicable accounts shall be charged for amounts so paid, and regular appropriations become available for those purposes.

(d) EXISTING BENEFITS SPECIFIED.—For purposes of this section, existing veterans benefits are benefits under laws administered by the Secretary of Veterans Affairs that have been adjudicated and authorized for payment as of—

(1) December 15, 1995; or

(2) if appropriations for such benefits are available (other than pursuant to subsection (b)) after December 15, 1995, the last day on which appropriations for payment of such benefits are available (other than pursuant to subsection (b)).

SEC. 302. Section 301 shall expire on January 3, 1996.

Mr. BUMPERS. Mr. President, can the majority whip tell us what this amendment is?

Mr. LOTT. This is the amendment that the unanimous-consent agreement related to, and we are, I believe, ready to go to the vote on that.

Mr. BUMPERS. I hate to keep beating to death a dead horse, but I just want to say to my friends and colleagues on the other side, this morning the Senate did exactly what it is supposed to do, exactly what the Constitution says we should do. It says that when the President disapproves a bill and returns it to the Congress, we will either attempt to override his veto with a two-thirds constitutional majority, or maybe it is two-thirds of those present and voting, or we will not.

In this particular case, we were talking about securities legislation, which I thought generally was a good idea, but I thought it was flawed in some ways. The point is the Congress has done exactly what the Founding Fathers intended us to do, and that is, if the President disagrees with us, we will either muster the votes, as the Republicans did this morning with the help of some Democrats to override the President's veto, or we will try to get with the President and work out our differences.

What we have seen here for too long, 3 or 4 weeks now, is we will override the veto when we have the votes and we will say to the President, "Any other time you veto a bill and we don't have the votes to override, we will shut the Government down until you sign."

Mr. LOTT. Will the distinguished Senator yield?

Mr. BUMPERS. Yes.

Mr. LOTT. What I would like to inquire about is, what is regular order? I believe the Senator is speaking on another issue, and he is entitled to do that, but we need to complete action on the unanimous-consent agreement and the amendment that has been worked out. So if we can get that done.

Mr. KERRY. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Am I not correct that this is an amendment and, therefore, it is subject to debate?

The PRESIDING OFFICER. This is the unanimous-consent agreement. It is not debatable.

Is there objection to the request of the Senator from Mississippi?

Mr. KERRY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I may not object, but I want to ask the Senator from Mississippi a question.

Is it true that it is the stated intention of the leadership that those people who are currently not working as a result of this shutdown are going to be paid?

Mr. LOTT. If I could get the Senator to yield.

Mr. KERRY. Yes.

Mr. LOTT. It is my understanding from all the parties in key positions, including the leader and the Speaker and, I presume, the President, have indicated that is the case.

Mr. KERRY. Reserving, again, the right to object, could the Senator tell me how one explains to Americans, at a time when we are supposedly trying to reduce the deficit and show common sense, that we are announcing to people that people are not going to work, but they are also going to be paid for not working? Now, what is the common sense in that?

Mr. LOTT. Mr. President, first, I would like to note that the House of Representatives is awaiting, very anxiously, this legislation, which has been agreed to by our leadership on both sides, and I do see that we have Veterans' Affairs Committee members who are anxious for this to be done. I would like to respond at length to the Senator from Massachusetts, and I will be glad to engage him in discussion later on this. I have to say, very briefly, that it is very hard to explain that. But we can talk about that and engage in a dialog.

I urge my colleagues here that we go ahead and complete this action and talk at a later point on the details of what he is asking about.

Mr. KERRY. Reserving the right to object, Mr. President. I ask my colleague, then, if I may just answer the question myself and say a couple of words, and then I will not object.

I know there are members of the Veterans' Affairs Committee and others waiting. I am a veteran and I am waiting. I am hearing from a lot of veterans, and they are not happy with the notion that some of their claims cannot be processed, but they are also not happy—some of these veterans I have talked to in the spinal cord injury division of the Brockton VA—that some of them are going to be thrown out after 18, 20 years of living there with injuries suffered that they received serving their country.

Speaking as a veteran, but much more just as a citizen, not even as a Senator, it is incomprehensible to me that we are going to claim common sense and rectitude with respect to the reduction of this deficit, while telling our workers of this country they are going to be paid for not working and not serving the country.

If this is the price we pay, this hostage-taking of an entire budget and Government for simply one group of people getting their way, this is a sad day in the democracy of this country.

Mr. LOTT. Mr. President, I am trying my very best to restrain myself. I will be glad to discuss this with the Senator and debate him later on.

Mr. KERRY. I would just like to finish. I know——

The PRESIDING OFFICER. The Senator from Mississippi now has the floor and has made a unanimous-consent request. Is there objection?

Mr. KERRY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I ask that I simply be permitted to say to the Senator from Mississippi that I share with the Senator what I know is his devotion to balancing this budget. We have offered, again and again, 7 years, CBO figures, a good-faith offering of several different budgets by our side—two of them, as a matter of fact—a moderate so-called budget and another by the entire Democratic caucus, both of which, by CBO figures, balance the budget.

This is unnecessary. Shutting down of the Government is unnecessary. This hostage taking is unnecessary.

I simply will close by saying it is very regrettable—regrettable for the country.

I will not object.

Mr. DORGAN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Reserving the right to object. I want to ask the Senator a question or two, largely because of some comments he made a couple of minutes ago. I am trying to understand whether there is a way, later today, of having by unanimous consent, or whether there will be an opportunity later today by which we might consider a broader CR. The reason I ask the question is this: My understanding, at least at the start of today, was that the Senate would probably be able to do two CR's, one narrower, which the Senator from Mississippi is now asking unanimous consent about, and the second, a broader one that would essentially restore people back to their jobs, and I do not know what period we were talking about.

My understanding was that it was a broader CR that would put people back to work. There are 270,000 Federal workers today who are not going to work but are going to be paid. That was true yesterday, the day before, and it is going to be true each day until we pass a broader CR. I would like to ask the Senator from Mississippi if he thinks or understands that there are conditions under which we might be able to entertain, later this afternoon, after the White House meeting, a broader CR so that we can put all these folks back to work.

Mr. LOTT. Mr. President, if I could respond. Again, I am trying to restrain myself so that we can get this agreed to, this very important resolution. I will just say that I can conceive how that might happen. I know the leader has said he would like for us to get that done. I do not know what will happen at the White House meeting this afternoon where the majority leader and Senator DASCHLE presently are.

I can envision maybe that they would meet and there would be some sort of immaculate conception, and out of these various bills that have been suggested, alternatives, they would come together and say, yes, here is an agreement in principle; we agree on the numbers and policy. We have an agreement in concept that is real, and we can rely on it. We would put it in law and, lo and behold, it would all come together tonight. I hope and I pray that that is what is going to happen.

So I can write a scenario. In fact, I could write the numbers that we could agree on. I hope that happens. But unless that happens, I do not see how we can get it resolved this afternoon. I would like to leave it to the leaders. They are doing their best. I would rather not have the infantry back here shooting the guys up there that are trying to fly to a higher zone to get this done.

Mr. DORGAN. Continuing my reservation. I am not saying anything that I think requires great restraint on the Senator's part. I am not alleging anything. I thought I heard him say that he expected there not to be a CR that would be clean or a broad CR until and unless there is an agreement. That suggests to some of us that we are talking about having these 270,000 Federal workers who are not working continue in that circumstance for a week or 2 weeks. That is a much different scenario than some of us thought might be possible this morning.

Mr. LOTT. I do not know when that agreement might come or how you would define the agreement. I still think they can achieve it. I put my faith in them. That is all we can do. If we will let them meet and work and if we can spare ourselves some of our comments in press conferences, I think they can come together. I am just going to have to assume that the President wants to get this done, and I know the leaders do. I hope they get it done.

Mr. DORGAN. Under my reservation, one final question. Is the objection to a clean CR at this moment an objection that persuades the Senator that that objection will continue to exist the rest of the day, or is it an objection that is based on a temporary situation because the leaders are at the White House? I am trying to understand the circumstances under which the Senator indicated there must be an agreement before we have a clean CR.

Mr. LOTT. Typically, in the Senate, I do not have any idea what is going to come out of that agreement or when the schedule will be provided to us. The leaders are there. We are working in their stead on an agreement that they worked out. Let us let them do their job and come back and see what happens.

Mr. DORGAN. I will not object. I hope that we will be able to propound a unanimous-consent request later this afternoon for a clean CR and that there would be no objection to it. I shall not object.

Mr. BOND. Mr. President, I rise in strong support of House Joint Resolution 134. This legislation will enable the Department of Veterans Affairs to make disability and pension payments to approximately 3.3 million veterans in the event a continuing resolution is not enacted soon. It ensures that any time this fiscal year in which there is no appropriation authority, VA will be able to make benefit payments to veterans, including compensation and pensions, education and training, and also pay vendors in the Veterans Health Administration. The House should be commended for their prompt action initially on this necessary legislation and I urge expeditious consideration and enactment of this measure in the House.

This legislation is based on S. 1414, a bill introduced by Senators SIMPSON and HUTCHISON in November. Their concern over this vital matter and initiative in seeking prompt action has facilitated this legislation.

In a recent letter to me, the Disabled American Veterans National Commander, Thomas McMasters III, said "Many veterans rely on their VA disability compensation payments for the necessities of life and any delay, no matter how short, can have a devastating effect upon them and their families." This is precisely why House Joint Resolution 134 is so important, and I thank the DAV and other veterans service organizations for their advocacy of this critical legislation.

I ask that the full text of this letter from the DAV be inserted into the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BOND. In addition to being able to make benefits payments, the legislation ensures that the VA's 173 hospitals will be able to pay their vendors and continue to provide high quality medical care. This will prevent costly violations of the Federal Prompt Payment Act, and avoid potential disruptions in the delivery of contracted services, pharmaceuticals, or other necessary medical supplies in veterans hospitals, nursing homes, and outpatient clinics.

Mr. President, none of us finds any merit or advantage in this second lapse of funding authority to continue the operations of the Government. I agree with the Republican Leader that this budget impasse does none of us any credit . . . indeed, it is time for some adult supervision to end this squabbling and finger-pointing. I can only hope we soon will hear clearly the American people express their growing disgust and contempt for all of this political posturing, and get on with the business of running the Government.

I have been very critical of the Secretary of Veterans Affairs, Jesse Brown. He and I have very different views of the responsibilities of the Secretary in charge of managing one of the largest Departments in the Federal Government. He clearly sees his role as an extension of his previous advocacy for more funding of veterans programs. By contrast, I believe he should be alarmed by the Federal deficit and aggressively looking within his Department to improve operations as a means of better serving our Nation's veterans, a task made all the more critical by the budgetary constraints necessary to bring the budget back into balance. But despite our differences, we do share a commitment to those served by this Department. Although he didn't even bother to pick up the phone to express his concern over the necessity of enacting this bill, there can be no doubt that he also supports this measure to prevent any disruption in the payment of veterans benefits.

Mr. President, as we look for means of resolving the budgetary gridlock which has caused this latest shutdown of the Government, I hope that we can draw upon these points of agreement. The growing frustration and polarization still can be reversed if we build upon these shared concerns. Agreement on a framework for a mutually binding process to achieve a balanced budget must be achieved without further delay.

The appropriations bill vetoed by the President earlier this week would have provided a $400 million increase for veterans medical care. Despite that veto, I am hopeful that this funding increase soon will be enacted into law. At that point, the full $37.7 billion proposed by the Congress for veteran services and benefits will be available to be administered by the Department. This is an enormous responsibility. I hope to be able to work with Secretary Brown to assure that this large commitment to our veterans will serve their needs in the most effective and beneficial manner possible. At some point he must turn his attention from politics to management. That massive task will provide ample opportunity for a moving beyond our current differences.

Mr. President, we now have the responsibility for taking an important first step toward restoring a necessary governmental function. Let us not hold America's veterans hostage to this budget impasse. For veterans January benefits checks to be on time, this legislation must be enacted today. I strongly urge the adoption of this joint resolution.

EXHIBIT 1

DISABLED AMERICAN VETERANS,
Washington, DC, December 19, 1995.

Hon. CHRISTOPHER (KIT) BOND,
Chairman, VA, HUD, and Independent Agencies Subcommittee, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN BOND: As National Commander of the more than one million members of the Disabled American Veterans (DAV), I request your support for S. 1414, introduced by Senator Kay Bailey Hutchison. This measure would allow the Department of Veterans Affairs (VA) to pay compensation or pension awards, notwithstanding the fact that an appropriations bill or continuing resolution has not been enacted.

As you know Mr. Chairman, VA benefits payments will be delayed if the impasse on the budget is not resolved by December 21, 1995. Expeditious handling of S. 1414, which has currently been referred to the Senate Veterans' Affairs Committee, is necessary if veterans' benefits are to be paid in a timely manner.

Many veterans rely on their VA disability compensation payments for the necessities of life and, any delay, no matter how short, can have a devastating effect upon them and their families. It is extremely important that the men and women who served their country with honor in its time of need are not forgotten in their time of need.

Accordingly, I call upon you, Mr. Chairman, in your position of leadership in the Senate, to take all action necessary to expedite S. 1414.

Thank you for your prompt attention to this matter, and I look forward to your reply at your earliest possible convenience.

Sincerely,

THOMAS A. MCMASTERS III,
National Commander.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 3110) was agreed to.

The joint resolution (H.J. Res. 134), as amended, was deemed read a third time, and passed.

Mr. LOTT. I yield the floor.

Mr. BOND. Mr. President, I think it is very important to note that there is a lot of credit due to the managers, the whips, Senator LOTT, Senator FORD for the passage of House Joint Resolution 134. This legislation enables the Department of Veterans Affairs to make disability and pension payments to approximately 3.3 million veterans in the event a continuing resolution is not enacted. It ensures that any time this fiscal year in which there is no appropriations authority VA will be able to make benefits payments to veterans including compensation, pensions, education and training, and also to pay vendors in the veterans health administration.

This measure was made necessary, let us be quite frank about it, because the President vetoed the VA-HUD bill. Last week, when we considered that bill, I pointed out that if the President vetoed it, we put all of these programs at risk.

The reason given was that there was not enough money in the bill. Mr. President, the money in the bill we passed was all of the money that was allocated to us in the appropriations process under the budget. I suggested at that time that they sign the bill so they could continue these vital programs and if and when an agreement is reached more money could be added. Unfortunately, they did not choose that path. I commend Members on both sides for enabling us to go forward. I urge the House to move promptly. It is vitally important. We need to get on with the process, and I hope that we can continue to make progress in other areas.

I thank the Chair.

Mr. BUMPERS. I ask unanimous consent that I be permitted to speak for 2 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TEA-TASTING BOARD

Mr. BUMPERS. Mr. President, I was in my office a moment ago preparing some notes to speak on the START II Treaty. I have since found we will have more debate when we return, possibly next week, so I will forego until next week.

I heard the Senator from Colorado and the senior Senator from Nevada discussing the so-called tea-tasting provision of the agricultural appropriations bill, and the Senator from Nevada, the senior Senator from Nevada, said he had taken this up with the senior Senator from Mississippi, chairman of the committee, and the senior Senator from Arkansas, namely me, as ranking member of the committee about how did the tea-tasting provision wind up in the bill.

The answer to that is, if it is in the bill, I certainly did not have anything to do with it. I thought we had killed that sucker once and for all. But I just want to say I really resent the situation that somehow or other I was in on it, some conspiracy to put the tea-tasting provision back in the agricultural appropriations bill. I detest that provision as much as the Senator from Nevada or anybody else does.

I came over here to say that people ought to be very careful about how they implicate other people and what happened to show up on a bill—as the Senator from Nevada knows, our side of the aisle is not in control of these things. I am not speaking for the Senator from Mississippi because he is capable of speaking for himself. When I get an opportunity, I will join the Senator from Nevada in trying to get rid of that provision once and for all.

I want to make it clear to my colleagues when the Senator from Nevada mentioned this to me the other day, I was as shocked as he was. I can tell you I certainly had nothing to do with it and will do everything I can to take it out. I yield the floor.

TREATY WITH THE RUSSIAN FEDERATION ON FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS (THE START II TREATY)

The Senate continued with consideration of the treaty.

Mr. PELL. Mr. President, I am very pleased—as all of my fellow Members should be—that the Senate will now be considering whether to give its consent to ratification of the START II Treaty.

We can anticipate that the floor debate will be relatively brief by contrast with the time devoted to previous strategic offensive arms accords—the 1972 Interim Agreement and the 1991 START Treaty.

This treaty deserves the Senate's careful consideration, and approval. In the nearly 3 years since it was negotiated, the treaty has been carefully weighed, and I believe it to be clear now to almost all Members that START II is a logical and significant successor to the first START Treaty, which is also assuredly in the national security interests of the United States.

The Russian legislature has started, but not finished, its work on this treaty. The Russian Federation has just had elections, and the consideration and approval process, if successful, will involve many new members heretofore unfamiliar with START. I deeply believe that Russian legislators will carefully consider the present political, economic and military situation of their nation, will weigh priorities, and will see that START is a significant achievement that is clearly in their national interests. I believe very strongly that our activities and action in committee and the consideration being taken in the Senate today will serve to reassure their legislature that we are a serious party to this endeavor and will be of value as they consider their approach to the treaty.

Mr. President, the START II Treaty, which builds upon START, was signed by the United States and the Russian Federation on January 3, 1993, and was transmitted by President Bush to the Senate on January 15, 1993. The treaty builds upon the reductions of offensive strategic nuclear arms required by START.

The START Treaty, Members will recall, requires about a one-third reduction in the strategic offensive nuclear arms of the United States and, collectively, of Russia, Ukraine, Belarus, and Kazakhstan. The treaty specifically cuts the former Soviet Union's heavy ICBM totals in half.

In addition the START Treaty and the subsequent Lisbon protocol obligates Ukraine, Belarus, and Kazakhstan to give up all of their nuclear weapons and to join the START II Treaty, which is a bilateral treaty between the United States and the Russian Federation.

The START II Treaty has several critically important aspects:

First, it will reduce by 2003, Russian and American deployed strategic warheads to a level at or below 3,500—a more than two-thirds reduction over pre-START levels.

Second, it bans deployment of multiple-warhead intercontinental ballistic missiles [MIRVed ICBM's]. These missiles are generally considered to be the most threatening component of each nation's strategic arsenal.

Third, it legally obligates Russia to destroy all 154 SS–18 heavy ICBM's and to destroy or convert all silo launchers for such missiles. The SS–18 missile is the largest and most destabilizing ICBM in the world. Half of them were eliminated by START. This treaty will finish the elimination process.

These are three very important accomplishments. All of them are important to strategic stability. The details make that evident.

The START II Treaty calls for reductions, in two phases, in ICBM's, ICBM launchers, ICBM warheads, SLBM's, SLBM launchers, SLBM warheads, heavy bombers and nuclear armaments on heavy bombers.

The first phase of reductions is to be completed no later than 7 years after entry into force of the START Treaty.

The second reduction phase, to be completed no later than January 1, 2003, requires each party to achieve the following final reduction limits:

Between 3,000 and 3,500, for the aggregate number of warheads on deployed ICBM's, deployed SLBM's, and deployed heavy bombers;

Between 1,700 and 1,750, for warheads on deployed SLBM's;

Zero, for warheads on deployed MIRVed ICBM's; and

Zero, for warheads on deployed Russian heavy ICBM's (SS–18's).

Mr. President, the START II Treaty was considered thoroughly in hearings that I chaired in May and June 1993, and that Senator LUGAR, my colleague from Indiana, chaired in January, February, and March 1995. Witnesses included Secretary of State Warren Christopher; former Secretary of State Lawrence Eagleburger; Secretary of Defense William Perry; General John Shalikashvili, Chairman, Joint Chiefs of Staff; John Holum, Director of the Arms Control and Disarmament Agency; Ambassador Linton Brooks, chief negotiator of the treaty; Thomas Graham, Jr., Acting Director of the Arms Control and Disarmament Agency; Director of Central Intelligence, Mr. James Woolsey and Douglas MacEachin, Deputy Director for Intelligence, Central Intelligence Agency. Non-governmental witnesses included Steven Hadley, an attorney with Shea and Gardner; Sven Kraemer, president, Global 2000; Michael Krepon, president, Henry L. Stimson Center, and Jack Mendelsohn, deputy director of the Arms Control Association.

Earlier this month, the committee considered and approved a resolution of ratification in an 18 to 0 vote. The resolution contains six conditions and seven declarations, none of which will require any renegotiation of the provisions or the further agreement of the Russian Federation. These are the key points of the conditions and declarations:

Condition 1, on noncompliance makes it clear that the Senate would view as a most serious matter actions by the parties to START or by the Russian Federation with regard to START II that are inconsistent with the object and purpose of the treaties or in violation of the treaties. In such an event, it specifies courses of action to be taken by the President with regard to the Senate and the noncompliant party.

Condition 2, makes it clear that the Senate, in approving START II, is not obligating the United States to accept any modification of the 1972 ABM Treaty.

Condition 3, makes clear that Russian ratification and implementation of START II is not contingent upon a United States-Russian agreement for financial aid.

Condition 4, makes clear that specified exchanges of letters are of the same force and effect as treaty obligations.

Condition 5, recognizes that the administration has reached an agreement with the Russians under which there will be strict accountability for all ballistic missiles associated with START. The Senate reaffirms its view that space-launch vehicles containing items limited by START are subject to the relevant treaty terms.

Condition 6, embraces the administration's view that the START and

START II provisions on national technical means do not preclude the United States from pursuing options to urge the Russian Federation to dismantle its electronic eavesdropping facility at Lourdes, Cuba.

Declaration 1, deals with cooperative threat reduction. Vigorous continuation of the Safe and Secure Dismantlement talks is urged. The resolution makes clear the importance of confirming the irreversibility of the process of nuclear weapons reduction.

Declaration 2, urges the President to regulate reductions so as to avoid any strategic imbalance endangering the national security.

Declaration 3, expressed the sense of the Senate that the President should consult with the Senate as to whether START II remains in the national interest should any nation other that Russia expand its strategic arsenal so as to jeopardize the United States'—security—interests.

Declaration 4, recalls earlier commitments to reduce armaments and calls upon the United States and Russia to seek further strategic offensive arms reductions and calls upon the other three nuclear-weapon states to give careful and early consideration to corresponding reductions.

Declaration 5, urges the President to insist that Belarus, Kazakhstan, and the Ukraine abide by the guidelines of the Missile Technology Control Regime.

Declaration 6, states that the Senate will consider agreements obligating the United States to reduce or limit the Armed Forces or armaments in a militarily significant manner only pursuant to treaty power as set forth in the Constitution.

Declaration 7, affirms the applicability to all treaties of the constitutionally based principles set forth in condition 1 of the resolution of ratification of the INF-Treaty.

The START and START II Treaties and the 1972 Anti-Ballistic Missile Treaty limiting strategic defensive arms, truly represent a continuum of arms control that has already had considerable benefits to the nations involved and promise still more over the next 7 years.

There is no question that all of this effort, more than two decades-long, characterized by new initiatives that build upon earlier achievements step-by-step, has been critically important in the effort to curb the costly and essentially pointless arms competition that characterized much of the postwar period prior to the collapse of the Soviet Union. While I, together with many others, am pleased that we finally have reached a point at which we can anticipate the elimination of the most destabilizing weapons—land-based missiles with multiple warheads, it also is saddening to realize that this Nation's leaders might have been wiser earlier. The pointless and wasteful MIRV competition that has been central to the arms race well might have been averted.

It is useful to recall that the Committee and the Senate endeavored in 1970 to forestall the development of MIRVed systems.

Senate Resolution 211 stated in part:

> Whereas development of multiple independently targetable reentry vehicles by both the United States and the Soviet Union represents a fundamental and radical challenge to such stability;
>
> Whereas the possibility of agreed controls over strategic forces appears likely to diminish greatly if testing and deployment of multiple independently targetable reentry vehicles proceed;
>
> Resolved further, That the President should propose to the Government of Union of Soviet Socialist Republics an immediate suspension . . . of the further development of all offensive and defensive nuclear strategic weapons systems, subject to national verification or such measures of observation and inspection as may be appropriate.

Senate Resolution 211 was introduced by Senator Edward Brooke and 39 cosponsors with three later additions on June 17, 1969. The Foreign Relations Committee reported favorably Senate Resolution 211 on March 24, 1970, and it passed the Senate on April 9, 1970, on a vote of 72 to 6.

I remember well making the case to several senior administration officials that we would do well to do our best to avoid a race in multiple-warhead missiles. Nonetheless, the administration did not agree with the Senate on the matter, believing instead that the United States enjoyed a technological lead over the Soviet Union, and would do better if MIRVs were allowed. Accordingly, the United States never proposed, in any serious way, that MIRV's be banned in SALT I. Two decades later, Soviet MIRVs have become a matter of considerable concern, and much effort in START and further effort in connection with the de-MIRVing Treaty have been required to deal with the problem. Now, 25 years later, it is clear how prescient the Senate was. Now that we are coming full circle, only five of Senate Resolution 211's cosponsors—Senators DOLE, HATFIELD, INOUYE, KENNEDY, and I—remain in the Senate.

The achievements of SALT, START, and the ABM Treaty demonstrate that the United States and the successors to the Soviet Union are fulfilling pledges made repeatedly since the 1963 Limited Test Ban Treaty to reduce their nuclear arsenals. These pledges were seen as justification by other nations for decisions to refrain from nuclear weapons testing, join the non-proliferation treaty as non-nuclear weapon states and, earlier this year, to agree upon the permanent extension of the Non-Proliferation Treaty.

I hope very much that we will have the wisdom to understand what has been achieved, the resolve to preserve our achievements, and the foresight to build upon them.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, yesterday I wrote to the majority leader to indicate that I intended to object to any time agreement or other agreement to conclude debate on the START II Treaty until the administration is willing to support the defense authorization conference report. In my letter to the leader I made it clear that I do not oppose the START II Treaty and will eventually support an agreement for expedited consideration of the treaty.

I also indicated, however, that the administration and Senate Democrats have linked START II to the fiscal year 1996 Defense Authorization Conference Report. While I strongly reject such linkage, given the administration's insistence that linkage exists, I now have no choice but to clarify what I believe is a misleading assertion.

In order to clarify what the defense authorization conference report actually requires, and the fact that it contains nothing that could cause Russia to reject START II, I will require a significant amount of time. I had not intended to offer any amendments or declarations to the START II resolution of ratification, but it now appears as if I will be forced to. I simply cannot stand by while the administration spreads misleading information regarding the defense authorization conference report.

Let us be clear about what does and does not threaten START II. START II will be ratified by the United States. The treaty enjoys overwhelming support in the Senate: there is no threat to it here. In Russia, however, there are many groups opposed to START II, including factions in the military and many hard-line nationalists. These Russians who oppose START II do so for reasons having nothing to do with anything in our conference report.

But these same Russian opponents of START II have found all kinds of convenient excuses to justify their real objections, including opposition to the expansion of NATO and United States policy in Bosnia. What the administration has done by arguing that the ballistic missile defense provisions in this conference report threaten START II is to create yet another excuse for Russian opponents of START II. Those who have already decided to oppose START II will simply repeat the administration's rhetoric.

If anything in the United States threatens START II in Russia it is the administration's own rhetoric. False assertions about how the defense authorization conference report violates the ABM Treaty are prepackaged Christmas presents for the Russian opponents of START II.

The day after the Senate passed the defense authorization conference report, the chairman of the House National Security Committee and I wrote to the President to clarify that nothing in the conference report required or advocated a violation of the ABM Treaty.

Mr. President, I ask unanimous consent a copy of that letter written to the President, dated December 20, 1995, be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, December 20, 1995.

The PRESIDENT OF THE UNITED STATES,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: As you know, the House and Senate have now passed the fiscal year 1996 Defense Authorization Conference Report. Given the importance of this legislation for our military men and women and their families, and for the national security of the United States, we are disturbed by the fact that your Statement of Administration Policy (SAP) indicates that you intend to veto this conference report, primarily because of provisions regarding ballistic missile defense.

We are writing to clarify misconceptions contained in your SAP that the ballistic missile defense provisions in this conference report either constitute a breach of, or establish an intent to breach, the Anti-Ballistic Missile (ABM) Treaty. In fact, there is nothing in the conference report that advocates or requires any action by the United States to breach its obligations under the ABM Treaty. Our conferees went to great length to ensure that Administration concerns in this regard were fully addressed.

Our conference report does require deployment of a national missile defense (NMD) system by 2003, and it urges you to enter into negotiations with the Russian Federation to amend the ABM Treaty to allow for a multiple-site NMD deployment. There is no requirement, explicit or implied, for the United States to deploy a multiple-site NMD system by 2003. In fact, the language in the conference report regarding ABM sites is taken verbatim from the Senate-passed bill, which the Administration has endorsed.

We urge you to join us in working with Russia to allow both sides to eventually deploy a multiple-site NMD system. We believe that it is in the interests of both countries to do so. However, nowhere does this legislation mandate such a deployment. Therefore, the concerns raised in your SAP concerning Russian responses are not supported by the legislation itself.

With the only operational ABM system in the world deployed around Moscow, and since it is fully within our treaty rights to deploy a single-site NMD system, we find it difficult to understand your Administration's linking this conference report to Russia's consideration of the START II Treaty. Such linkage is highly questionable and extremely risky, both for START II and for United States national security.

It is unclear to us whether or not your Administration supports deployment of even the most limited NMD system. However, to maintain that your objections concerning ballistic missile defense provisions in this conference report are based on a putative requirement to breach the ABM Treaty is simply not consistent with the actual legislation.

We respectfully urge you to more carefully examine the ballistic missile defense provisions in this conference report. We believe that you will conclude that there is nothing even approaching a commitment to violate the ABM Treaty contained therein.

This conference report adequately addresses the ballistic missile defense concerns raised by your Administration over the last several months. Therefore, we urge you to sign the conference report and thereby ensure that the men and women of our armed forces receive the benefits and material support that they so badly need and deserve.

Respectfully,

FLOYD SPENCE,
Chairman, Committee on National Security, House of Representatives.
STROM THURMOND,
Chairman, Committee on Armed Services, U.S. Senate.

Mr. THURMOND. Let me clarify some of the false assertions about the defense authorization conference report. It has been asserted that the conference report requires the United States to deploy a multiple-site national missile defense system and even a space-based system. Both of these assertions are flat wrong.

The conference report does require the Secretary of Defense to deploy a ground-based national missile defense system by the end of 2003. But nothing in the conference report requires the system to include multiple-sites.

I continue to believe that the United States should ultimately deploy a multiple-site system, but nothing in this conference report requires such a system. Nor does the conference report advocate, let alone require, a violation of the ABM Treaty.

The language in the conference report urges the President to undertake negotiations with Russia to amend the ABM Treaty to allow for deployment of a multiple-site national missile defense system. This and other provisions in this conference report envision a cooperative process, not unilateral abrogation.

It has been asserted that there is no way to defend the territory of the United States from a single site, and therefore this conference report indirectly requires a multiple-site system. While I believe that a multiple-site system should be our goal, I must point out that the Army has concluded that it can defend all 50 States, including Alaska and Hawaii, from a single, ABM treaty-compliant, site. I would also point out that the Army's report on this subject was prepared at the request of the ranking minority member of the Armed Services Committee.

Unfortunately, despite all our efforts in conference to resolve concerns related to the ABM Treaty, we continue to hear the artificial argument that this conference report constitutes an "anticipatory breach" of the ABM Treaty. Since there is no requirement to deploy a multiple-site national missile defense system in this conference report, there can be no "anticipatory-breach" contained in it.

But even if there were a multiple-site requirement, this would still not constitute an "anticipatory breach". Since there are treaty-compliant ways to get to a multiple-site system, just having a policy that points us in that direction cannot constitute an "anticipatory breach." To quote the senior Senator from Alabama, who was a distinguished judge prior to coming to the Senate, "While there are legal methods to deploy multiple sites within the framework of the ABM Treaty, there can be no anticipatory breach."

It has also been argued that this conference report requires a space-based defense. The conference report does call on the Department of Defense to preserve the option of deploying a layered defense in the future. But there is no requirement to deploy any specific space-based system or to structure an acquisition program that includes space-based weapons. The conference report does increase funding for the space-based laser program. But this increase is merely to keep a technology program alive. We have asked for a report to illustrate what a deployment program would look like, but this is hardly a mandate to deploy.

We can certainly debate the merits of what this conference report requires. But let's be clear about what it actually contains. If Senators want to debate the need for deployment of a national missile defense system by 2003, that is a legitimate debate. But to argue, as several Senators have, that this conference report requires deployment of space-based weapons and mandates a violation of the ABM Treaty is simply an act of disinformation. Senators are entitled to their views, but they owe the American people an honest statement of fact.

Mr. President, I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I think we have come to a very auspicious time in our United States history, the history of the Russian Federation, and probably the history of the world because we have the opportunity now to move forward and ratify START II and hopefully implement it.

As the Senate knows, this is the second such treaty, following on the precedent set by the first START Treaty. We are doing our best to further reduce the United States and Russian •strategic offensive nuclear weapons.

I believe it is the result of President Reagan's vision. He certainly led the United States and the former Soviet Union to begin negotiations on the first START Treaty back in 1982. President Reagan's initiatives were carried on by President Bush, who, through his leadership concluded this effort that resulted in the signing of the first START Treaty on July 31, 1991.

START mandates reductions in strategic offensive nuclear weapons, including intercontinental ballistic missiles, or ICBM's, and submarine-launched ballistic missiles, or SLBM's, and heavy bombers.

START also limits each country to 6,000 accountable warheads on 1,600 strategic offensive nuclear weapons. These limits reduce the number of warheads carried on ballistic missiles and nuclear weapons carried on heavy bombers by about 30 percent from the 1990 levels.

Just before the end of President Bush's term in office on January 3, 1993, the United States and Russia signed the second effort to further reduce these nuclear weapons, and this is treaty before us now—START II.

For the record the START II Treaty is formally titled "The Treaty Between the United States of America and the Russian Federation on Further Reductions and Limitation of Strategic Offensive Arms."

This second treaty limits each country to 3,500 accountable warheads on strategic offensive nuclear weapons and reduces the number of warheads on ballistic missiles and nuclear weapons on bombers in each country to about one-third of the 1990 levels.

I think that we have to really consider seriously where we are going with START II. It is I think the right direction for this country. It has come about not only because of the administration's commitment—both the prior administrations and this administration—to the reduction of these systems. But, also, I think because of the members of the committees on both sides of the aisle here in the Senate and the staffs of those committees involved, the Senate Committees on Foreign Relations, Armed Services, Intelligence, and Appropriations, as well as the staff of the Senate Arms Control Observer Group.

I want to have the RECORD show my deep appreciation for those who have been so much involved in this process.

On this side of the aisle, certainly the floor manager of this bill, Senator RICHARD LUGAR, deserves a great deal of credit; our distinguished President pro tempore, Senator THURMOND; and I want to note that Senator COCHRAN and our relatively new Senator, Senator KYL, brought a great deal of leadership and direction into this world-shaping issue. And I commend the counsel that has been given to us from the other side of the aisle, particularly from my good friend, whom I see returning to his seat right now, former chairman and now distinguished ranking member of the Foreign Relations Committee, Senator PELL. Senator NUNN, and Senator LEVIN have also been very much involved, and their counsel is likewise appreciated.

Let me also mention, Mr. President, the support and thoughtful insights provided by the administration's representative in these negotiations—he is well known to us—he served on the Senate committee and is now the Special Assistant to the President, Bob Bell.

One particular reason for my statement now is to make a record of what has happened with regard to the Arms Control Observer Group participation in these efforts. In 1985, this group was created by our leader, Senator DOLE, in an effort to have greater Senate participation in the negotiations and the processes that would lead to arms control agreements. Along with other Arms Control Observer Group Senators, I made trips in 1985, 1986, 1987, 1989, and on through the 1990's to Geneva, to Vienna, to Brussels, to the former Soviet Union, then to Russia, and to many of the countries of the former Soviet Union.

We did so in order to see to it that the Senate was involved in the discussions and the negotiations so that there would be no surprises in the START process.

We are now seeing the fruits of the Senate's wisdom in creating the Arms Control Observer Group, and I congratulate my good friend, Senator DOLE. He did this in 1985 in his first year as being the Senate leader.

It has given the Senate the ability to move through a very deliberative process, and it does so through this group of Arms Control Observer Group Senators who come from the Foreign Relations Committee, the Armed Services Committee, and the Intelligence Committee, as well as the Appropriations Committee.

We have had a very dedicated staff who have assisted us. And it is through staff behind the scenes efforts as well as the members consensus, which is the result of the continued participation of the members of this group, which I think brings us to START II today. It is a relatively noncontroversial subject, Mr. President, because we have been able to give the Senate knowledge of what is going on. We have been able to hold hearings and deliberate on various issues. We have had a series of hearings where representatives of the administration and the military and the intelligence community have come and answered our questions. Only recently now we have come through an additional new process, and that is the process of working up a series of amendments which will soon be presented here as part of the managers' package.

I congratulate all concerned in regard to this. Many of those initiatives came from the Senator from Arizona [Mr. KYL]. Others have added to them. And we now have a package which I think represents the viewpoints of all who have participated in the ongoing efforts of the Arms Control Observer Group.

I can think of no finer gift to give the American people or the people of the Russian Federation and literally all mankind this holiday season than to deliver them a package which says that the Senate is prepared to take a major step for the world's really great major nuclear power. We will make the historic move that I think could significantly reduce the threat of nuclear conflagration, and that is the step to ratify this START II treaty.

I wish to congratulate again the two managers of the bill. I think through their wisdom and knowledge and experience in handling this subject, that it is a subject which any Member of the Senate should be proud to participate in the deliberation of and hopefully the vote for the ratification of the START II Treaty. I hope that it will take place before end of the year, Mr. President. I look forward to the discussion with my friend from Arizona on some of the points that we have intensely reviewed now for the past week or so, and I wish to congratulate him and his staff for working with me and particularly John Roots who is on my staff now working on this matter. I am grateful to them for their assistance.

I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I wish to again thank Senator STEVENS for his leadership role in bringing together a group of Senators who wanted to put the finishing touches on the declarations here and to do that in a very short period of time. I appreciate his leadership in bringing the group together and getting this job done so that we could begin the discussion of the treaty now prior to the end of the year.

Mr. President, let me begin by asking unanimous consent to have printed in the RECORD several items which pertain to the matters which I will be discussing relative to the START II Treaty.

There being no objection, the material was ordered to be printed in the RECORD as follows:

Baseline START I Force

[For purpose of amendment No. 2]

ICBM:	
Minuteman III	500
Peacekeeper	50
Total	550
Submarines:	
Trident I	8
Trident II	10
Total	18
Bombers:	
B–52H	66
B–1B	96

Baseline START I Force—Continued

B-2	20
Total	182

From AMEMBASSY MOSCOW.

To SECSTATE WASHDC PRIORITY 1623, INFO MOSCOW POLITICAL COLLECTIVE, Sept. 1995.

Subject: Internal Duma report recommends major amendments to START-2 treaty

1. Decontrol upon receipt—sensitive but unclassified—protect accordingly.

2. Summary: The Embassy recently acquired an internal state Duma study of the START-2 treaty that recommends ratification certain important amendments (copy being faxed to EUR/RUS). The amendments are designed to correct what the authors see as imbalances in the treaty in favor of the United States. The report recommends that the Duma ratify the treaty while stressing the link between strategic weapons reduction and observance of the ABM treaty. It also recommends amending the treaty to:

Permit each side to keep Mirved ICBM's with four warheads or less, rather than banning Mirved ICBM's altogether;

Provide for the controlled liquidation of warheads removed from Mirved ICBM's and SLBM's as part of the process of meeting treaty-mandates levels of weaponry;

Require liquidation of old launch platforms and their replacement with platforms designed specifically to bear fewer warheads;

In order to reduce the cost of reconfiguring the land-based leg of Russia's deterrent, permit utilization of 154 launch silos built for heavy ICBM's to house single-warhead missiles;

Delete the requirement to fill with concrete such ICBM launch silos;

Permit redefinition of all 170 RS-18 missiles as single-warhead missiles;

Push back the implementation deadline for START-2 by 2-3 years.

START-2 AND THE ABM TREATY

3. The Duma study, written by the parliament's analytical center before the July START-2 hearings, strongly attacks U.S. plans to develop limited anti-missile defense systems. It states that, "In Reality, deployment of such a limited ABM system, coupled with radical cuts in strategic nuclear forces, is no less destabilizing a factor than constructing a full-scale ABM system. Since a limited ABM system requires establishing a full infrastructure (Information Systems, Communications, and Military Command), it can grow very quickly to a size at which a retaliatory strike by our strategic nuclear forces could be neutralized." Thus, the report concludes, it is essential for the duma to lay down an unbreakable link between strategic force reductions and observance of the 1972 ABM treaty.

ABM RECOMMENDATIONS

4. Thus, the study recommends that, "When ratifying the START-2 treaty, the state duma of the Russian Federation should declare that the 'exceptional circumstances' mentioned in paragraph 4, article VI of the treaty include as well circumstances arising in connection with one of the parties ceasing to observe the 1972 ABM treaty, or its substantial violation." The report goes yet further, and also recommends that, "Attainment of a coordination and officially confirmed agreement on demarcation of strategic and "nonstrategic" ABM systems should precede ratification of START-2." The report states that such an agreement on the demarcation issue must include "precise quantitative limitations on deployment of "nonstrategic"ABM systems.

MIRVED ICBM'S

5. The report notes that the current text of the START-2 treaty calls for total elimination of MIRVed ICBM's. It calls this provision unacceptable, because it is contrary to Russia's National Security interests and favorable to the interests of the U.S. The study's authors note that 50 percent of Russia's strategic forces consist of land-based MIRVed ICBM's They recommend that the treaty be amended to ban only MIRVed ICM's with more than 4 warheads

6. The authors admit that the effective life of Russia's SS-18 and SS-24 missiles will run out in 10-15 years, and that production of more such missiles will be next to impossible, since the facilities for doing so are in Ukraine. Russia cannot today afford to build a comparable defense industrial infrastructure for producing new SS-18's and SS-24's on its own soil, they note. However, they call for developing a new, Mirved sea-based missile that could also be deployed on land. In the future, they believe, Russia will need to maintain a proper balance between Mirved and single-warhead ICBM's in both its strategic rocket forces and fleet.

ELIMININATING LAUNCH PLATFORMS AND WARHEADS

7. The Dama study states that START-2 would permit the U.S. to maintain essentially intact a large number of launch platforms for nuclear weapons that, while formally speaking no longer used for nuclear purposes, could in a "Crisis Situation" be rapidly refitted with nuclear warheads. The report charges that, under the treaty, "the U.S. would assure itself of a favorable regime for reducing nuclear weapons that would not require liquidation of the carriers of nuclear weaponry, except for 50 MX ICBMs and part of its older B-52 heavy bombers." Russia, on the other hand, would have to undertake an expensive reconfiguration of much of its strategic forces. It adds: "The START-2 Treaty allows the possibility of rapidly deploying the nuclear potential of the U.S. in all components of the Strategic Nuclear triad."

8. The study asserts that the U.S. would quickly be able to redeploy previously removed nuclear warheads on still extant Minuteman-3 and Trident-2 missiles in a crisis. Similarly, nuclear weapons could be quickly reloaded onto B-LB bombers, since "START-2 does not require them to be refitted in order to be re-oriented toward non-nuclear tasks." "After realization of START-2 the U.S. will have the possibility in a crisis situation of operationally increasing its nuclear potential by more than 4000 nuclear warheads. Russia cannot compensate such an increase." Hence, the report's authors recommend amending the START-2 Treaty to require liquidation of warheads removed from Mirved ICBM's and SLBM's as part of the process of meeting treaty-mandates levels of weaponry. They also call for altering START-2 to require liquidation of old launch platforms and their replacement with platforms designed specifically to bear fewer warheads.

REDUCING THE FINANCIAL COST OF IMPLEMENTATION TO RUSSIA

9. The Study charges that START-2 essentially favors the U.S., permitting it to reduce its nuclear forces in the most economical way, while imposing an unacceptably high burden on Russia. It calls treaty provisions permitting Russia to re-fit 90 launch silos for heavy ICBM's and re-utilize them for single-warhead missiles insufficient. Its answer is to call for amending the treaty to permit Russia to re-use 154 launch silos built for heavy ICBM's to house single-warhead missiles, to delete the requirement to fill with concrete such ICBM launch silos, and to permit redefinition of all 170 RS-18 missiles as single-warhead missiles.

DELAYING TREATY IMPLEMENTATION

10. Finally, the study's authors also call for delaying implementation of the START-2 treaty by 2-3 years. The report argues that, since the seven-year implementation period for START-1 will end in 2001, only one year will remain for completing implementation of START-2. This is not enough time, and so, when ratifying START-2, the Duma should "extend" the implementation period by 2-3 years, in order to avoid "significant financial and production difficulty."

COMMENT

11. This study was prepared as a guide for Duma deputies by the Duma's Analytical Center, and thus reflects the views of the Duma's in-house defense and security analysts. While pro-ratification in principle, they are clearly eager to see changes in the treaty that would substantially alter its character in ways that appear to be unacceptable from the standpoint of U.S. policy. In the first round of START hearings in July, deputies did not raise the kind of fundamental amendments addressed in this paper, though they did stress the link between START-2 and the ABM Treaty. The upcoming second round of hearings will show whether many deputies agree with the views outlined in the START study, and, indeed, whether the Duma is willing to ratify START-2 in any form before the December parliamentary elections.

12. The START study also indicates that Russian Government analysts are thinking carefully about how to restructure the country's nuclear deterrent to adapt to the Government's current straitened economic circumstances while maintaining the force's effectiveness. If this study is any indication, at least some analysts are envisaging a Russian deterrent that would still contain significant numbers of Mirved ICBM, both land-based and at sea—in contradiction of what START-2 calls for.

Mr. KYL. Mr. President, in considering whether the United States should ratify the START II Treaty, I believe it is critical that the terms of the treaty be reviewed in the context of the national deterrent strategy of the United States.

Further, it is important to recall why this treaty came about and how it was intended to complement the strategic posture of the United States.

The treaty, in other words, Mr. President, is based on assumptions. If these assumptions change, we have to reassess our position with respect to the treaty. What are some of these assumptions? First, the Bush legacy, how the treaty came into being. As the Soviet communism and the Warsaw Pact were collapsing, President Bush moved to establish a new framework for U.S. strategic forces, and it had two key elements. First involved a restructuring and downsizing of U.S. offensive nuclear forces and operations. This was the precursor for START II.

Second, it involved refocusing the strategic defense initiative from the previous Reagan administration to provide protection against ballistic missile attacks on the United States, our troops deployed abroad, and United States allies, and an offer to work cooperatively with Russia and the allies in developing and fielding such defenses.

President Bush's commitment to a new strategic framework based on fewer but still potent nuclear forces and the development and deployment of effective ballistic missile defenses was perhaps best highlighted during June 1992 when he and President Yeltsin had their famous summit. At that meeting, the two Presidents reached an agreement on the outlines of the START II agreement which committed both sides to reduce their strategic nuclear arsenals to 3,000–3,500 warheads, significantly below the force levels permitted by START I. Importantly, they also agreed to explore creation of a global ballistic missile defense system and to cooperate in the development of missile defense technologies.

The administration's framework rightly retained a strong commitment to ensuring nuclear deterrence and supporting infrastructure over the long term. President Bush and his advisors correctly believed that nuclear weapons should retain a legitimate, albeit more limited, role in U.S. national security policy. They also recognized that efforts to delegitimize or to eliminate nuclear weapons could have the paradoxical effect of increasing national instability and the likelihood of conflict.

Finally, they prudently believed that given the possibility of reversal of reform in Russia, the United States should retain a healthy nuclear capability as a residual deterrent.

In sum, President Bush and his advisers understood that there was simply too much uncertainty in the international arena to justify eliminating what was a central element of U.S. national security policy.

Likewise, President Bush's support for a more prominent role for ballistic missile defenses in the United States and allied security policy was correctly seen as a means of bolstering, not replacing, nuclear deterrence at reduced strategic offensive force levels. Such defenses also could protect our allies and forward-deployed United States troops from threat posed by short and medium-ranged missiles and provide substantial population defense in the event of an accidental, unauthorized or limited attack on the American homeland from Russia or any other country.

From that foundation, we come to the Clinton administration. This administration has essentially rejected the Bush framework and instead has embraced what I believe is a dangerous and ill-conceived policy of proactive denuclearization. The administration has taken steps to lock in perhaps for decades to come America's vulnerability to missile attack and has used the arms control process to impede development and deployment of effective defenses against short and medium-ranged missiles.

The Clinton administration's antinuclear sentiments are perhaps best illustrated by reviewing the declining health of the U.S. nuclear weapons infrastructure. America's core nuclear competency is made up primarily of skilled and motivated people, modern facilities, adequate funding, and continued nuclear testing.

I would like to discuss each of these briefly. The concept, Mr. President, is this: When we draw our forces down from a very large component of nuclear warheads and missile delivery systems to a much more modest one under START I, and an even more modest level under START II, we have to be in a position to guarantee that what we are left with will work for the purpose for which it is intended, to deter anyone from a nuclear attack. That is why it is necessary to ensure that our infrastructure is not eroded or dismantled.

I mentioned that the first critical element of this group are the people themselves. The critical skill base, or the expertise of individuals at the weapons laboratories, is rapidly eroding and poses an immediate problem, Mr. President.

As noted in a recent Congressional Research Service report:

> The experience gained from testing is irreplaceable, and aspects of it may be lost unless it is passed on to the next generation. Yet demographic data . . . indicate that skill base is eroding rapidly. The weapons program is losing skills as many experienced scientists retire and few new ones are hired. As a result, gaps in the skill base are opening that have adverse consequences for stewardship.

This means the stewardship of our nuclear stockpile.

> The weapons programs face further strain from a budget that is shrinking no end in sight and from a growth in mandated nonprogrammed risks.

The CRS report further notes that a majority of weapons designers will be facing retirement within the next 10 to 15 years and that the labs have already lost certain experimental capabilities, and in other areas the labs are only one person deep.

The next critical element of our U.S. nuclear infrastructure are the facilities. Currently the United States has no capacity to produce tritium, a critical gaseous element not only for our new nuclear warheads but also for replenishment of the active inventory.

In sum, Mr. President, our weapons do not work without tritium, which decays at such a rapid rate that it must constantly be reinterjected into the weapons.

Energy Secretary O'Leary has twice delayed a decision to select a new production reactor technology as a replacement for the K reactor at Savannah River, SC. The Department of Defense now indicates that a decision on the selected technology for a future tritium production capability will be made soon. But given the numerous delays by the Department of Defense, I hope you will forgive my skepticism.

For all practical purposes, the United States has lost its capacity to produce critical plutonium components, including the vital pits of our nuclear warheads. And yet the Department of Defense has not decided on where such a production facility will be located.

Meanwhile, the Pantex facility in Texas is so overloaded with the task of dismantling warheads for disposal that it risks not being able to conduct a rigorous program of stockpile surveillance.

The next component for a robust stockpile, Mr. President, is nuclear testing. The Clinton administration continues to embrace a nuclear testing moratorium and a Comprehensive Test Ban Treaty as central to its arms control policy.

Contrary to President Clinton's beliefs, I believe that a moratorium, a continued moratorium on U.S. nuclear testing will do nothing to aid in the fight against proliferation. Extension of the NPT matters little to the pariah nations that are or at least should be the primary object of our nuclear proliferation efforts. And with these states, U.S. nuclear testing has no bearing on their nuclear ambitions and programs.

In fact, Mr. President, Charles Krauthammer captured the essence of this point in a Washington Post op-ed of July 16, 1993, of which he said:

> There is something lunatic about saying that if we devalue and degrade our arsenal, nukes will then have less value for the North Koreas of the world. On the contrary. . . . The future nuclear weapons reliably held by the great powers, the greater the premium—the power—conferred upon the have-not who acquires them.

At the same time, Mr. President, nuclear testing is needed to assure the long-term safety and reliability of our nuclear weapons, and with it our ability to deter Russian nuclear aggression and to convince our allies, such as Germany and Japan, that abstaining from the acquisition of nuclear weapons makes sense as well. Even though U.S. nuclear weapons are at present safe and reliable, it is only through the continued explosive testing that the United States will be able to monitor and improve the stockpile safety and reliability well into the future.

I talked before, Mr. President, about U.S. missile defense plans. And as I said, all of the premises of the START II Treaty are important to understanding why the START II Treaty is believed to be advantageous, but in the event these assumptions change, our position would obviously have to be reassessed.

To the issue of a combination of offense and defense, which was contemplated by the Bush administration at the time that the treaty was signed, I would note that following the Persian Gulf war, which certainly focused attention on the proliferation of missile defenses and weapons of mass destruction, the Congress passed the Missile Defense Act of 1991 to continue this movement toward the development of a robust missile defense system in the United States.

The act urged accelerated deployment of effective theater missile defense capability. Perhaps more importantly, it served as a sign of intent that the Congress was prepared to adequately fund and support a robust U.S. missile defense capability, both the theater missile system and a national missile defense.

But the consensus was short lived. One of the first casualties of President Clinton's quest to cut defense spending in order to pay for costly social programs was the budget for ballistic missile defenses. The DOD Bottom-Up Review of 1993 cut the fiscal year 1994 to 1999 5-year budget for the Strategic Defense Initiative by approximately 60 percent from $41 billion to $18 billion. Hit hardest by this cut was the National Missile Defense Account. DOD not only rejected the option to deploy a defense of the American homeland, but also rejected even a robust research and development effort.

The Clinton administration has also used arms control to further erode the U.S. ability to effectively deploy TMD and NMD systems. Since November 1993, the administration has been engaged in negotiations with Russia and other states of the former Soviet Union in an effort to demarcate the line between permitted TMD systems and those activities and systems that are banned under the 1972 Antiballistic Missile Treaty.

In those talks, the United States has taken the following positions: First, we are no longer seeking to amend the ABM Treaty to allow multiple ground-based ABM sites in the United States, nor is the United States continuing to propose that the treaty be amended to allow space-based interceptors; for example, the so-called Brilliant Eyes program, to perform direct battle management functions or otherwise substitute for ABM radars. This is despite the fact that the space-based system offers unique capabilities for sensing and intercepting missile threats that ground-based systems simply do not have.

As described above, the United States needs to begin fielding a national missile defense system now in order to be able to have it in place by the time the new threat is deployed.

Second, the administration has agreed to multilateralize the ABM Treaty and accept as treaty partners any of the former 10 Soviet states who want to be secessionites. And this means that all former Soviet Union states will be required to approve any changes to the treaty. So the administration approach will make it much more difficult for any future administration modifying the treaty, for example, to permit multiple ground-based ABM sites or space-based interceptors since, of course, these modifications must be blessed, not only by Russia, but also several other former republics of the Soviet Union.

Third, in November 1993, the administration proposed a standard for determining compliance of TMD systems with the ABM Treaty based on the demonstrated capability of such systems. More recently, however, the administration has accepted specific design/performance limitations on TMD systems and is considering numerical and deployment-area limitations on such systems as well.

The limitations now under discussion are more restrictive than the ABM system limitations already in the treaty. If accepted, such new limitations would effectively transform the ABM Treaty into a Theater Missile Defense/ABM Treaty and would preclude the United States from deploying one or more promising concepts for countering the growing threat posed by theater missiles.

I have reference to the Navy Upper Tier program. Despite five letters from Senate Republicans and clear language from the Senate Armed Services Committee and the House National Security Committee, the administration has kept up its assault on theater ballistic missile defenses.

A clearly stated objective of the Nuclear Posture Review, which was publicly released by the administration on September 22, 1994, was to provide planning stability for the U.S. strategic forces between now and the year 2003, the year that START II is to be fully implemented.

This raises the next important point with regard to the assumptions underlying the START II treaty, Mr. President, because, of course, the Nuclear Posture Review is the document which determines the number and nature of our nuclear warheads and the targets to which they would be assigned.

The administration in this review embraced a force structure of 66 nuclear-capable B–52H bombers, down from previously 94; 450 to 500 ICBM's—currently the number is 550—and 14 missile-carrying Trident submarines, down from 18, all to be backfitted with the D–5 missile.

This force structure was linked to the so-called "hedge strategy" designed to take into account the possibility of a reversal of reforms in Russia and the much slower paced nuclear drawdown there. But no sooner had the Defense Department released the results of the nuclear posture review, the President moved to overturn it. Just 5 days after the NPR was released, President Clinton stated his willingness to begin discussions with Russia on a possible START III agreement to reduce strategic forces below the 3,500 weapons permitted by START II and to deactivate all strategic nuclear delivery systems to be reduced under START II by removing their nuclear warheads or taking other steps to remove them from combat status.

The President's declarations served to undermine whatever hoped-for planning stability associated with U.S. strategic forces existed as a result of the NPR. Since 1988, U.S. strategic nuclear forces have been reduced by approximately 50 percent and U.S. nonstrategic nuclear forces by approximately 90 percent.

Furthermore, the annual budget for strategic forces has been reduced from roughly $50 billion per year at the height of the cold war to below $13 billion today, and the United States has no new strategic systems under development.

By contrast, Russia continues to modernize its strategic arsenal. The Russian program involves the development for deployment of two new ICBM's, one new SLBM, submarine-launched ballistic missile, and continuation of deep underground bunkers for control and command and leadership survivor. This seems to indicate, despite severe economic difficulties, Russia intends to modernize down to lower force levels.

In addition, Russia's new doctrine places much greater emphasis on retaliation against conventional attacks on targets in Russia. That brings us to where we are today in consideration of the START II treaty.

START II on January 3, 1993, President George Bush and Russian President Boris Yeltsin signed the treaty. START II builds on the START I treaty which reduces strategic offensive arsenals on both sides by about one-third and which focuses on the conversion and destruction of missile launchers—bombers, silos, submarine launchers—rather than the missiles and the warheads.

START II reduces both countries' nuclear arsenal to about 3,300 warheads for the United States and about 3,000 for Russia. The treaty requires Russia to eliminate all MIRV'd missiles. These are the missiles that have more than one warhead on top of them and present a special threat launched by either side. But it does allow the country to download 105 of the six-warhead SS–19's to a single warhead each, and to make 90 SS–18 silos inoperable by partly filling them with concrete, but it allows Russia to house the less powerful SS–25 missile in the converted silo.

In addition, the treaty allows Russia to inspect, for the first time, the bomb-bays of the B–2, the U.S. bomber, to ensure that the warhead limits are adhered to. It actually also counts the warheads on the B–1 bomber cruise missiles, and it ensures that 100 U.S. bombers have been reassigned to conventional use.

START II requires the United States to scrap or modify its 50 MX missiles, which have 10 warheads each, and to cut by about one-half the number of warheads on its submarine-launched missiles from 3,456 to 1,728.

START II is to be implemented in two phases: the first is to be completed within 7 years of ratification and the second by the year 2003. When reductions are complete, the U.S. level will return to those of the 1960's and the Russian levels to those of the 1970's.

Mr. President, I want to make it very clear that while I believe the START II treaty is fair and is advantageous to the United States, it is only in the interest of the United States if certain key provisions of the treaty are not changed or are not weakened in any way.

I do not think it is too much to expect those in the Senate who ratify this treaty, who support ratification, to expect that the treaty will be adhered to by both sides and will not be changed or weakened in any way. I know that some in the defense community have real concerns with provisions of the treaty. The Washington-based Center for Security Policy, for example, has listed the following provisions as particularly troublesome:

First, the right on the part of the Russians to retain the SS–18 silos. As I said, the START II treaty will not eliminate the infrastructure associated with this most dangerous of the former Soviet Union MIRV'd missile, SS–18 heavy ICBM's. Instead, it allows Moscow to retain 90 of the SS–18 silos and associated launch facilities and support complexes. As the United States has no idea how many SS–18 missiles the Russians actually have in their inventory, even the monitored destruction of "declared" heavy ICBM's could leave Moscow in a position to utilize these silos in the future to launch SS–18's. So this is a matter of some concern.

The right to retain the SS–19's: Under START II, Moscow may retain as many as 105 deployed SS–19's as long as these missiles are "downloaded," a process by which five of the six warheads are removed. Unfortunately, as long as the Russians retain replacement warheads, it can, with little fear of U.S. detection, rapidly reverse the downloading process. In this manner, the Russians can retain a militarily significant breakout capability. This is an obvious concern. Since there are no limits on either START I or START II on the number of "nondeployed" SS–19's, the Russians may be able to keep as many of these missiles, even in a fully loaded status, as they wish.

As I said before, the United States agreed to onsite inspections of the B–2. The effect of this provision, though considered necessary for the agreement of the treaty, will be to degrade the deterrent value of this air-breathing leg of the U.S. strategic triad.

This is by no means a comprehensive list of some of the problematic aspects of the treaty. I call my colleagues' attention to the testimony before the Foreign Relations Committee by one of the critics of the treaty, Sven Kraemer, former Director of Arms Control at the National Security Council, in which he lists a comprehensive listing of some of the more troublesome aspects of the treaty.

I note these simply to indicate, Mr. President, that while I believe this treaty, on balance, represents a fair and constructive way to approach the problem of reducing the number of these dangerous weapons as to the interests of the United States, that it is not without concern and that those of us who support the treaty, I think, should be respected in our delineation of these concerns, because, as I have said, much depends on the assumptions that underlie the treaty, and if those assumptions later change, obviously we would have to reassess our position under the treaty.

President Reagan said it well: "Trust but verify." The problem here is that it is not easy to verify. There are some things that are just very, very difficult to verify in this treaty, difficult if not impossible. So, to some extent, there is an element of trust required, and I suspect that all of us base some of our position here on an element of hope as well.

But the point is that as we bring the number of these weapons down to a relatively lower number, much smaller number, we better make sure that they work, we better make sure that the other side does not cheat, because cheating, when both sides only have a few, is much more dangerous than if we both have very large components in our nuclear arsenal.

I also note, Mr. President, that the Russians have certain concerns with START II. This would be, I think, obvious in any negotiation where both sides give and take. So we are not the only ones who have concerns. As a matter of fact, an internal Duma report prepared by the Duma's analytical center and reporting in an unclassified memo from the American Embassy, we note that there are seven specific amendments recommended to the treaty. I will not go into these, although I will be submitting my entire statement for the RECORD, which identifies these particular proposed changes from the standpoint of the Russian Duma. None of these amendments, suffice it to say, would be acceptable to the United States. In fact, if any one of these were to be accepted by the Russian Duma, it would gut the central provisions of START II. That is why, despite the fact that there are those who believe that some amendments might have made the treaty more acceptable from the United States' perspective and urged that we actually offer amendments to the treaty in that regard, I think others of us felt that it was better to keep the treaty as it was negotiated and signed by the two parties, because we did not want to begin the process of amendment which would then give those in the Russian Duma a greater capability to argue the appropriateness of making amendments from their perspective.

That is why it is important that there be no amendments from either side. We have declarations and one condition, which we think help to establish the basis of the treaty from our perspective. Clearly, no amendment to the treaty, along the previously suggested lines, by the Russian Duma would be appropriate. That would be a basis for our withdrawal from the treaty.

I want to make it very clear that there is one thing in particular I would very strongly oppose. I will very strongly oppose any attempt by the administration, or anyone else, to walk back the MIRV downloading provision of the treaty, to allow the Russians to either increase the numbers of SS–18's, or to modify the structural changes to the SS–18 silos, or to delay the implementation of START II. I believe that any changes to the treaty, especially in these two key areas, would obviously require Senate advice and consent.

Mr. President, if there is anyone who, during the course of this discussion, disagrees with that, I would like them to say that. I would like to have a dialog with that individual. I doubt that anyone could conceivably come to that conclusion. But, clearly, we have to have it established, as we vote to ratify this treaty, that in those two most important respects the U.S. Senate would have to provide advice and consent.

I know the administration has agreed with that proposition as of now. I cannot imagine any disagreement. I note, for the Record, that with regard to walking back the MIRV downloading, Mr. Bob Bell, Special Assistant to the President, and an individual well known here in the Senate, who has assisted Senator NUNN for many years, has written, "This report is totally unsubstantiated and pure fantasy." By the way, he was referring to a report that there may be some move toward some MIRV downloading in the treaty. "The administration is not planning and does not have under consideration any such proposal."

Mr. President, I accept that statement from Mr. Bob Bell, and I certainly would not oppose the treaty based on assurances from the administration that MIRV downloading will not occur. But, it is an illustration, Mr. President, of the kinds of things which at least have been talked about as possible changes and which I think we have to be very, very careful in considering prior to the ratification of the treaty, so that if those kinds of changes should ever be suggested to us, the record has been very clear that, A, it would require the advice and consent of the Senate, and, B, it would not be in the best interest of the United States.

One more note about Russian compliance with the arms control agreement, Mr. President. Questions about verifiability of the treaty are important because of concerns about whether the Russians will, in fact, abide by the terms of START II. Obviously, we all hope and require that the Russians fully comply with START II. But their record, and the record of the former Soviet Union, with respect to compliance with arms control agreements is somewhat dubious. I will note just a few of the areas of violation in the past:

The Biological Weapons Convention, the Chemical Weapons Agreements, the Missile Technology Control Regime, START I, and the Conventional Forces in Europe Treaties. All of these agreements have provisions that Russia has, in one way or another, failed to comply.

I mention this and the previous arms control agreements to underscore the importance of assuring that the Russians comply with the START II Treaty—not that they intend to comply, but that they are complying. An assumption of Russian compliance with the terms of START II is one significant consideration in my decision to support the treaty. I have confidence that they will comply, and that is the basis for my support of the treaty.

The final substantive point, Mr. President, I would make is this, and it has to do with linkage to the ABM Treaty.

There is no linkage between the ABM Treaty and the START II Treaty—although this is a favorite argument of some members of the administration and of opponents of ballistic missile defenses in the Russian Duma. There is no linkage between these two treaties. There never was and never will be.

There are those who believe that the ABM Treaty and START II are linked; further, that action relating to ballistic missile defenses in the United States will somehow affect ratification of START II in Russia. In fact, the preponderance of the evidence suggests that the Russians have concerns about ratifying START II irrespective of Senate action on the ABM Treaty.

It is incontroverted by a variety of Russian spokesmen themselves, who have made the point crystal clear that their concerns about START II have to do with the treaty itself, with their requirements under the treaty, and with the costs that their compliance will entail, and not with the United States position with respect to the ABM Treaty.

For example, chairman of the Duma's Foreign Relations Committee, Vladimir Lukin, said "We need big money to carry out these reductions [in START II], and we don't have it. We do not want to ratify this Treaty and then not be able to comply with its terms. We will have to wait until we see how to pay for our promises." As quoted by Jim Hoagland in the Washington Post, July 2, 1995.

Other Russians tie START II ratification to other international issues. Speaker of the Federation Council [upper chamber], Vladimir Shumeyko, stated, "We closely link [START II] ratification with the overall situation existing between Russia and NATO. We consider the perseverance of NATO as a stumbling block to our cooperation in the area of disarmament and advancement on the road to peace."—Interfax, 1255 GMT, April 3, 1995.

And, still others see START II as inimical to Russian interests. Viktor Ilyukhin, Chairman of the State Duma Security Committee, commented, "If this treaty [START II] is fully implemented, the United States will almost double its superiority, while the damage to Russia's national security will be unrecoverable."—ITAR-Tass, 1849 GMT, February 18, 1995.

There are also political problems with Russian ratification of START II. Aleksander Konovalov, Director of the Russian Academy of Sciences USA and Canada Institute, observed, "The outlook for the treaty's [START II] ratification by the Russian Federation's Federal Assembly is not at all promising. Some deputies support the treaty in its current version, but they are obviously the minority in parliament. A sizable group of opposition deputies will probably vote against the ratification of START II for purely political reasons."—Segodnya, November 15, 1994, p.10.

Sergei Karaganov, adviser to President Yeltsin, was quoted as saying, "There is widespread feeling now that the United States pushed too hard when Russia was weak and that the treaty is unfair." As quoted by Jack Mendelshon, from ACDA, week of July 3, 1995.

The U.S. ambassador to the START II talks, Linton Brooks, wrote in a memo dated November 5, 1995 about other factors affecting Duma consideration of START II. Brooks said, "The major reason START II is in trouble in the Yeltsin government is not pushing it. Indeed, the government has been unable to say what the Russian force structure will be under START II, how much it will cost, or how Russia will pay for it."

Brooks further stated, "The bluntest political analysis I heard came from Alexei Mitrofanov of the Liberal Democratic Party. He argued that running against START II was good politics. In the LDP analysis, the Russian public associates the "reforms" which have ruined their country with the United States. As a result, there is growing, deep-rooted, exploitable, anti-American sentiments in the Russian electorate. START II is associated with the United States and thus no politician will want to support it."

Finally, Brooks correctly concluded "without more action by the Russian government, nothing that the United States does will matter." I say "amen" to any further discussion about the negative impact of Senate action on the ballistic missile defenses and the negative impact on Duma passage of the START II Treaty.

Now, I want to move from those substantive points to the final point of my presentation, which has to do with the nine managers' amendments to the resolution of ratification—not treaty amendments, but rather declarations, and, in one case, a condition. Again, I express my appreciation to Senator STEVENS, who is chairman of the Arms Control Observer Group, who called the group together to consider these ideas, and Senator LUGAR, who was active in participating in the discussions, and to all of the Members on the other side of the aisle, who were active in negotiating and, in fact, also to Bob Bell, representing the administration's point of view.

As a result of these discussions, we were able to agree to these nine managers' amendments. They will be discussed shortly, and I hope they will be agreed to because they express, in important ways, the substance of what I have been saying here. For example, that there is no linkage between the START II Treaty and ballistic missile defenses; that the President must consult closely with the Senate if he changes the nuclear force structure; that the President must submit for advice and consent any material modification or amendment or reinterpretation of the START II Treaty; that the Senate is concerned about the impact of allowing Russia and Ukraine to use excess ballistic missiles for space launch vehicles; and that the Senate is concerned about the maintenance and preservation of the nuclear weapons stockpile and the attendant facilities.

These are important declarations, and I believe that in adopting them, the Senate is putting the administration and Russians, and everybody else, on notice that this drawdown must be accomplished carefully and with full cognizance of the impact on the future deterrent posture of the United States.

The declarations also place the administration on notice that the Senate must be closely consulted with while it continues to negotiate with the Russians about the precise implementation of START II.

Mr. President, in conclusion, I think President Bush got it right when he moved to reduce nuclear force levels and the role of nuclear weapons in the U.S. national security strategy. But he was also correct in maintaining a strong commitment to ensuring the long-term viability and efficacy of U.S. nuclear deterrent and supporting infrastructure. Likewise, his determination to refocus the SDI program on providing defenses against limited missile strikes reflect the widespread proliferation of ballistic missiles and weapons of mass destruction and the apparent willingness of regional aggressors to use those weapons.

Furthermore, once the United States' ability to manufacture and test new nuclear weapons and repair unsafe or unreliable old ones has disappeared, then neither we nor our allies will be able to count on our arsenal or deter aggression. At that point, we will have become effectively disarmed. Such a situation would result in a rethinking by our allies of their current commitment not to build their own nuclear arsenal—although they are technically capable of doing so—with dramatic consequences for U.S. national security.

Likewise, the administration's abandonment of President Bush's plan to effect the TMD and NMD systems as a means of protection from strikes, at least on the timetable and in the way we believe is important, based on its view of the world, I think, represents a strategic blunder of major proportions.

I will be working in the future to try to readdress that issue so that we can, at the same time we are drawing down our strategic offensive forces, provide a robust national and regional missile defense system.

Mr. President, I hope that in the discussion of the declarations and the condition that will transpire in just a moment, that it would be clear to all of our colleagues that we have tried to express our concerns about the context in which the treaty must be considered, and that our colleagues will agree with us that these are all important declarations and it is an important condition that we place upon the treaty. I, of course, strongly urge the acceptance of that document.

Finally, Mr. President, I, too, would like to make some comments when this matter is finally debated and voted on because I think it is important for all of our colleagues to hear something of the background of this treaty prior to the time—I say immediately prior to the time—that the treaty is voted upon.

Mr. NICKLES. Mr. President, I wish to commend Senators HELMS, LUGAR, and PELL for their fine work on the Strategic Arms Reductions Talks II [START II] Treaty. I rise to support this treaty, which builds on the reductions established under the START I Agreement.

Taken together, START I and START II will reduce the deployed strategic offensive arms of the United States and Russia by more than two-thirds. This treaty, signed by Presidents George Bush and Boris Yeltsin in 1993, limits both sides to between 3,500 and 3,000 deployed warheads. Moreover, START II obligates Russia and the United States to ban all land-based, multiple warhead ballistic missiles and limits the number of warheads deployed on submarine launched ballistic missiles [SLBMs]. In addition, START II achieves a long-standing U.S. goal of eliminating the threat of Russia's heavy ICBM missile, the 10-warhead SS–18 missiles and their launch canisters.

At the same time, however, the START II Treaty is not without loopholes. For instance, while the Russians are obligated to eliminate their heavy SS–18's ICBM by January 2003, the treaty allows Russia to retain 90 SS–18 silos to be converted to accommodate only single-warhead missiles of the SS–25 type. Of course, the United States is allowed to inspect such conversion to ensure Russia retains only single-warhead missiles, as outlined by the treaty. But one concern I have is that the new type SS–25 missile Russia is now testing is an advanced follow-on Topol-M missile, larger than the United States MX Peacekeeper missiles.

On the whole, however, I support this treaty, particularly in light of the conditions and declarations added to the Resolution of Ratification by the Foreign Relations Committee, and those proposed in the form of the manager's amendment. I believe these amendments provide a historical record of the Senate's view on a number of national security issues associated with the START II Treaty. It is with this understanding that I can conditionally support ratification of the START II Treaty.

I will address a few what I believe are the most important conditions and declarations proposed by the committee and the managers' amendments.

1. START II AND THE 1972 ANTI-BALLISTIC MISSILE TREATY

The Foreign Relations Committee Resolution of Ratification contains a condition stating that the United States Government does not accept the view implied by the Russian Federation that Russian ratification of START II is contingent upon continued adherence by the United States to Russian interpretations of United States obligations under the 1972 Anti-Ballistic Missile (ABM) Treaty. This condition makes clear that U.S. ratification of the START II Treaty does not obligate the United States to accept any modification, change in scope or extension of the ABM Treaty.

This condition is wholly warranted, given Russian attempts to expand the scope of the ABM Treaty to include systems never intended to be covered by that treaty—theater ballistic missile defenses. Further, by giving its advice and consent to the START II Treaty, the Senate is only agreeing to those limitations, eliminations and reductions of strategic offensive weapons contained in that treaty.

At the same time, I believe it is important to be on record stating the converse. Namely, that Senate ratification of START II must in no way be construed by Russia as changing our rights to renegotiate changes to the ABM Treaty or our right to withdraw from that treaty should supreme national interests warrant it. Which is why I believe the managers's amendment, in the form of a declaration, is an essential supplement to the language already contained in the committee's resolution of ratification.

This manager's amendment adds a new section to specify that ratification does not change any of the rights of either party with respect to article 13 (which allows continual United States/Russian consultation on changes in the strategic situation and their meaning for the ABM Treaty); article 14 (allowing either party to propose amendments to the treaty), and article 15 (allowing either party to withdraw if supreme national interests are jeopardized).

I believe articles 13, 14, and 15 are critical provisions of the ABM Treaty. The ABM Treaty is outdated. It may have been relevant to the strategic situation in 1972, when deterrence was based on mutual assured destruction [MAD]. But MAD is completely irrelevant to the strategic environment of the 1990's. The Soviet Union no longer exists. Ballistic missiles and weapons of mass destruction are proliferating throughout the Third World. In a 1994 speech, Secretary of Defense William Perry declared that, "We now have the opportunity to create a new relationship, based not on MAD, not on mutual assured destruction, but rather on another acronym, MAS, or mutual assured safety." [Speech before the Harry L. Stimson Center, 9/20/94]. The United States and Russia should, as the ABM Treaty envisioned, be discussing plans to deploy a mutual protection system against these growing threats, including the possibility of amending the ABM Treaty to allow more than one missile defense site.

2. IMPLEMENTATION ARRANGEMENTS

One particular concern of mine is whether and when the Russian Duma will ratify START II. Perhaps the worst of all possible worlds would be if the United States began drawing down its strategic nuclear arsenal to conform with the limits established under START II, and Russia had not yet ratified the treaty.

I believe, however, that this concern is addressed by a declaration on implementation arrangements proposed in the managers' amendment. Specifically, the language states that the START II Treaty shall not be binding on the United States until such time as the Duma has ratified the treaty and the treaty has entered into force. Equally important is the two-step process set up if the President plans to go below the number of forces currently planned and consistent with the START II Treaty. Under these circumstances, the President is called upon to: First, consult with the Senate on how these reductions would affect U.S. national security; and second, take no such action until a Presidential determination is sent to the Senate stating that such reductions are in the U.S. national security interest.

3. NONCOMPLIANCE

Recognizing that compliance is critical to the integrity of any arms control agreement, the Senate Foreign Relations Committee Resolution of Ratification contains a condition on noncompliance. This condition states that if the President determines that a Party to either START I or START II is acting inconsistently with the object and purpose of either treaty, the President shall submit a report to the Senate detailing the impact of such noncompliance on the treaty and seek to bring the noncompliant party into compliance through diplomatic means. Further, any modification or change in obligations shall be submitted for Senate advice and consent. If such noncompliance persists, the President is called upon a to seek a Senate resolution in support of continued U.S. adherence to the treaty or treaties in question.

I believe this condition is important for several reasons. First, it sets a standard for evaluating noncompliant behavior. Second, underlying the reporting requirement is the understanding that noncompliant behavior by Russia could actually affect the United States continuing as a party to that treaty. Third, and most important, is that this condition answers the decade-old question of what should be done after a violation is detected. In the case of persistent noncompliance, the Senate, at the President's request, is to vote on whether to remain a party to that treaty.

While this condition addresses a number of compliance concerns, the managers' amendment builds on this language by adding several declarations. Each of these declarations will help ensure the Senate is apprised of compliance concerns the United States Government may raise with the Russian Federation through various channels and the outcome of such discussions.

And finally, this language declares that the Senate expects the Russian Federation to be "in strict compliance with the terms of START II, as presented to the Senate for advice and consent."

4. NATURE OF DETERRENCE

In addition to the declarations offered by the Foreign Relations Committee in its Resolution of Ratification, is a declaration, proposed by the managers, on the nature of deterrence. This declaration recognizes that offensive forms of deterrence alone cannot address the emerging threats to U.S. national security and states that missile defenses are "a necessary part of new deterrence strategies."

I believe missile defenses make sense not only for addressing growing proliferation threats, but also within the strategic equation where the United States is reducing its nuclear arsenal to significantly lower levels.

The START II Treaty could actually create conditions conducive to deploying effective ballistic missile defenses. As the United States and the Russian Federation deploy only single-warhead missiles, the old argument that missile defenses could be saturated by multiple warheads becomes moot. Further, at the low levels of warheads required by START II, both sides should have an incentive to pursue mutual missile defense deployments. Finally, as with other arms control treaties, START II contains loopholes Russia could exploit to retain a larger, more lethal arsenal, ballistic missile defenses could provide a hedge, or insurance policy against possible Russian treaty violations.

My concerns about the impact of START II on U.S. national security have been adequately addressed by the Foreign Relations Committee's actions and the managers' amendments which add important conditions and declarations to the Resolution of Ratification. With this in mind, I will support the START II Treaty Resolution of Ratification, with the understanding that these conditions and declarations specify certain U.S. obligations to be fulfilled.

Mr. NUNN. Mr. President, I rise in support of the ratification of the START II Treaty by the Senate. The case for ratification is, I believe, overwhelming. Both the START I Treaty, negotiated under President Reagan, and the START II Treaty, negotiated under President Bush, are the end products of bipartisan arms control support by the Congress and the American people. Ratification of the START II Treaty is supported by the President as well as by the Secretary of Defense, Secretary Perry, as well as General Shalikashvili, the Chairman of the Joint Chiefs.

The START II Treaty is a continuation of the substantial reductions in strategic weaponry brought about by the signing of the START I Treaty. The signing of the START I Treaty occurred after the fall of the Berlin Wall at the end of the cold war, the dissolution of the Soviet Union, and the development of democratic movements and free elections in the countries of the former Warsaw Pact. These events have transformed the longstanding bipolar relationship between the United States and the now vanished Soviet Union.

Given these historic changes, ratification of the START II Treaty is a very logical step. Upon entry into full force, the START II Treaty will further reduce the number of strategic nuclear warheads held in the active inventories of the United States and Russia from about 8,000 weapons in START I levels, to between 3,000 and 3,500 weapons, a reduction of more than 50 percent.

By the time START II is fully implemented, the START I and START II Treaties will have led to more than a threefold reduction in the numbers of strategic nuclear warheads online in both sides. Moreover, the entry into force of this country will eliminate all of the land-based multiple warhead or MIRV intercontinental ballistic missiles from the arsenal of both sides.

It has long been a goal of U.S. arms control policy both under Republican and Democratic Presidents and Congresses to eliminate these poised for instant launch MIRV ICBM's from the inventories of both sides. There was too much incentive on both sides if there was warning of some attack to feel that these weapons had to be used or lost in large numbers, and the ratios gave the wrong incentives. Elimination of these land-based ICBM's, a required measure of the START II Treaty, will help avoid a return to hair-trigger strategic posture on both sides and put an end to any conceivable incentive for a bolt-from-the-blue attack.

Ratification of the START II Treaty is a highly cost-effective way to reduce the threat to the United States' national security interest posed by nuclear weapons. It will eliminate 5,000 warheads from the Russian force. Our modest verification costs will be dwarfed by U.S. defense budget savings that will flow both from the reduced threat and the retirements of our excess nuclear weapons and delivery systems.

Mr. President, I urge my colleagues to support the ratification of the START II Treaty today and to work to build support and understanding of the advantages of the START II Treaty among the members of the Russian Duma prior to the consideration of the treaty next year.

There is considerable work that has to be done, Mr. President, by I think Members of this legislative body if we are going to see the Russian Duma ratify this treaty. They are very dubious about the treaty. They are very concerned about the antiballistic missile developments and discussion and legislation in this country, and it is going to take a considerable amount of effort on the part of the United States and our other allies, as well as friends of Russia, to see that they ratify this treaty also. It is their decision. We cannot force it. But certainly we ought to have every dialog we can with them on this because this treaty is truly in the interests not only of both the United States and Russia but also of mankind.

Mr. GLENN. Mr. President, I rise to speak on behalf of ratification of the START II Treaty.

I would like to begin by summarizing what I see as the three major features of this treaty. First, given that Russia remains the only country that presents a serious nuclear strategic threat to the United States, the treaty effectively addresses three key aspects of this threat: It will eliminate all Russian heavy intercontinental ballistic missiles [ICBM's], it will ban all multiple-warhead ICBMs, and it will put a ceiling of 1,750 on the number of nuclear warheads deployed on submarine-launched ballistic missiles. Second, the treaty continues a process of arms reductions that is vital not just to U.S. national security but that is also good for the U.S. economy: It will require a two-thirds reduction of the number of deployed United States and Russian strategic nuclear stockpiles by the year 2003. Third, reductions in nuclear stockpiles will help to curtail the global proliferation of nuclear weapons both by helping to fulfill America's commitment under the NPT to seek an end to the nuclear arms race.

In these times of partisan bickering on all sorts of issues, I am gratified to see that this treaty had the support of all 18 members of the Senate Committee on Foreign Relations. In my remarks today, I will speak about the importance of the Senate providing its advice and consent to the START II Treaty—I will not address today any of the specific nonbinding policy declarations that appear in the resolution, some of which I find agreeable, and some I do not support. Instead, I believe it is better to focus on the overall attributes of the treaty and how it advances the U.S. national security interest.

A VERIFIABLE TREATY

As with all of our arms control and nonproliferation agreements, the United States will depend heavily—but not exclusively—on national technical means to verify the START II Treaty. Though I cannot discuss in any great detail the nature of these methods, I am gratified at the confidence that the Joint Chiefs and other members of our national security community have shown in the verification measures in this treaty.

On March 1, 1995, Gen. John Shalikashvili, as Chairman of the Joint Chiefs of Staff, testified before the Senate Foreign Relations Committee that:

> We believe that the verification procedures are adequate to ensure that we will be able to detect any significant violations. Conversely, we also believe that the verification provisions are sufficiently restrictive to protect ourselves against unnecessary intrusion.

Similarly, on May 17, 1995, Lt. Gen. Wesley Clark, the JCS Director for Strategic Plans and Policy, testified before the Senate Armed Services Committee that:

> We are confident that the majority of monitoring requirements for START II can be accomplished with high confidence and there is little chance that the Russians can engage in militarily significant cheating. Further, the Joint Staff judges that the military risk to U.S. security associated with any monitoring uncertainties is low. In short the START II Treaty is effectively verifiable.

Echoing General Shalikashvili, General Clark added that:

> I am confident that the Treaty verification procedures are sufficiently restrictive to protect ourselves from unnecessary intrusion.

The treaty follows closely the extensive verification regime established to monitor the START I Treaty. In addition, START II includes some new verification measures, such as: U.S. observation of SS-18 silo conversion and missile elimination procedures; exhibitions and inspections of all heavy bombers to confirm weapon loads; and exhibitions of heavy bombers reoriented to a conventional role to confirm their observable differences.

The START verification regime for conducting on-site inspections is not an anytime, anywhere type of regime. As a result, both parties to the treaty must always be on the watch for covert facilities or activities. Last February 28, CIA Deputy Director Douglas MacEachin testified before the Senate Foreign Relations Committee that:

> . . . when estimating our chances of detecting and correctly interpreting potential cheating, we judged that the increased openness of Russia and the former Soviet republics makes cheating increasingly difficult to conceal.

He added later that:

> The Intelligence Community continues to doubt that Russia will be able to initiate and successfully execute a significant cheating program.

The use of the term "increasingly difficult" rather than impossible, however, only underscores the vital importance of maintaining America's intelligence capabilities (both for collection and analysis) to monitor compliance with this treaty. I think this conclusion equally applies to all of America's arms control and nonproliferation agreements.

From my vantage points on the Armed Services Committee and the Select Committee on Intelligence, I will do my best to ensure that our country has the resources it needs to ensure a high standard of compliance with all of these agreements, most particularly START II.

LOOKING AHEAD

Ratification of this treaty will constitute an important arms control milestone—it does not, however, constitute the end of the road by any means. Ratification will set the stage for several additional arms control measures that are vitally needed to strengthen U.S. national security. The treaty should thus not be viewed in isolation, but should instead be seen as a key stepping stone toward a safer world. By any measure, the agenda ahead is a lengthy one.

We need to get on with ratification of the Chemical Weapons Convention. We need to strengthen the safeguards that are used to monitor compliance with the Nuclear Non-Proliferation Treaty. We need to ensure the conclusion in 1996 of a treaty banning all underground nuclear explosions. We need to ensure that our export controls and sanctions policies are enforced and implemented in a manner that is consistent with our treaty obligations—and we have a long way to go, I am afraid, before we achieve that particular goal. We need to bring the British, French, and Chinese nuclear stockpiles into the global arms reductions process, particularly in the context of START III Treaty negotiations. We need to recognize the continuing value of the Anti-Ballistic Missile [ABM] Treaty in stabilizing nuclear deterrence and in holding down defense expenditures in a post-cold war world.

We need to do more—much more—to strengthen controls over bomb-usable nuclear materials that are being produced particularly in Europe, Russia, and Japan for commercial uses. It is not enough merely to pursue a treaty banning the production of such materials for bombs or outside of safeguards—the security-related and environmental hazards of plutonium recognize no national borders or spurious distinctions between civilian and military uses. We should not seek to facilitate or to legitimize large-scale commercial uses of plutonium—whether safeguarded or not—but should instead explore new measures to discourage such uses before the nuclear terrorist threat catches up with us.

Above all, we need to recognize the relationships that exist between all of these important arms control regimes.

If the nuclear-weapons states fail to live up to their obligations to reduce their strategic stockpiles, this will inevitably have an effect on the rate of the proliferation of such weapons to additional countries.

If the United States abandons the ABM Treaty, this will inevitably affect in a most negative way the calculations of Russian leaders on both offensive and defensive nuclear strategies.

If we succeed in reducing the stockpiles of the nuclear weapons states, but fail to curb the burgeoning production of new bomb-usable nuclear materials (especially plutonium and highly-enriched uranium) for commercial purposes, we should not be surprised to find ourselves facing new nightmares of nuclear terrorism, blackmail, proliferation, and extortion down the road.

If we neglect the importance of traditional approaches to nonproliferation (in particular export controls and sanctions) and concentrate our energies and resources merely on developing offensive and defensive military countermeasures to proliferation, we will again face a more dangerous world—our priority must remain to prevent, rather than to manage, the global spread of weapons of mass destruction.

CONCLUSION

With these terms in mind, I urge all my colleagues to vote in favor of ratification of the START II Treaty. I would like to take this occasion to recognize the debt that this treaty owes to the persistent work of Senators PELL, LEVIN, and other long-time supporters of the START II Treaty in the Senate. I also credit the leadership of President Bill Clinton in encouraging timely action by the Senate in ratifying this important treaty.

I can only hope that the bipartisanship the Senate is showing today in voting, I hope overwhelmingly, to approve this treaty will echo into the next session, where I am sure it will be needed as much if not more than the treaty itself.

Mr. BIDEN. Mr. President, I rise in strong support of the START II Treaty which has finally been brought to the floor of the Senate after a long, unnecessary, and perhaps fatal delay. I will elaborate on that last point in a moment.

But first, let me say that START II represents an unprecedented opportunity to dismantle the Soviet nuclear arsenal. I say "Soviet," Mr. President, because START II would, if implemented, eliminate the most devastating nuclear missiles built by the Soviet Union in the 1970's and 1980's: Hundreds of multi-warhead missiles of cataclysmic destructive power—among them, the infamous SS-18, which became the very symbol of the Soviet threat.

Even as we speak today, these missiles remain deployed in launching silos scattered across a Russian nation undergoing enormous political turmoil. They could at a moment's notice be targeted on the United States of America.

For the American people, the future of those missiles is a fundamental, compelling national security question.

The salient feature of START II is its planned elimination of every land-based multi-warhead missile in the Soviet-now-Russian arsenal. These were the weapons that, for years, so worried our defense establishment that we expended hundreds of billions of dollars to counter their first-strike potential.

Mr. President, that apocalyptic potential remains today.

As matters now stand, this threat carries with it considerable irony. For months, the Senate has engaged in yet another round of controversy over whether to build an anti-missile system intended to protect the United States from missile attack.

Earlier this week, this body passed a defense authorization confernece report that would require deployment of such a system by 2003, putting us on a collision course with the ABM Treaty, which has been the basis for all strategic arms controls agreements over the past two decades.

Any such system, if built, would be monumentally expensive, of highly uncertain reliability, likely to provoke additional offensive deployments, and available, at best, only sometime in the next century. Yet, the START II Treaty during that same period would eliminate with verifiable certainty the one serious missile threat the United States has ever faced.

The effort over the past several months to eviscerate the ABM Treaty has been driven by those who do not favor the limits in START II, and, correspondingly, never much cared for the ABM Treaty. They believe that the ABM Treaty prevents us from constructing an impenetrable shield against all types of ballistic missiles.

I admit—a ballistic missile shield is a comforting image. But, as our experience with star wars in the 1980's demonstrated, it is not grounded in reality. Unfortunately, that ballistic missile shield, if it could ever overcome awesome technical and financial barriers—and I doubt it would, would provide a false sense of security.

That is because it would not alleviate a much greater threat—a terrorist transporting a nuclear device or its components into the United States through very conventional means, and detonating that device near an important landmark.

Our focus ought to be in preventing that possibility by improving our capabilities to tract terrorists and securing the many tons of fissile material spread across the territory of the former Soviet Union.

My colleagues know that last Sunday, the Russian people went to the polls and decided to elect a Duma apparently dominated by Communists and nationalists who are skeptical about START II and suspicious about American motives on the ABM treaty. They do not regard as a mere coincidence that 2003 is the year established for final compliance with the central limits in START II, as well as the target date for deployment of a national missile defense system in the Republican plan.

From their perspective, START II will take away their most effective means of countering a national missile defense—overwhelming it with offensive missiles.

While Russian concerns alone should not determine our policy decisions, it would be shortsighted, to say the least, to ignore them altogether when Russian behavior and Russian missiles can have a direct bearing on our national security.

If the Russians decide that we are intent on abrogating the ABM Treaty, then they will likely refuse to ratify START II, halt START I implementation, and begin a strategic build-up. We would have to follow suit and waste vast sums of money on deploying more offensive missiles and developing more missile defenses.

How ironic that would be—in the post-cold war era when we are on the verge of ratifying a historic reduction in strategic nuclear weapons—to set off an offense-defense spiral that the ABM Treaty was designed to prevent, and did prevent for over 20 years.

For the past several months many here saw the Communist and nationalist clouds building in Russia, and for that reason we repeatedly called for early United States ratification of START II in order to encourage similar action by the Duma. That could have locked in the gains promised by START II. Unfortunately, we did not act.

Now, some reports suggest that the new Duma may wait to see the results of our Presidential election before approving START II. I hope that is not the case, because between now and then Russia will hold its own Presidential election. That election has the potential to rearrange Russian politics in ways we cannot predict.

Our action today can send a clear signal that we are serious about implementing START II, and provide the incentive for quick action by the Duma.

It is my hope that the Senate's advice and consent to START II will encourage the Duma to act in kind prior to the G-7 Nuclear Safety Summit in Moscow next April. Due to the crowded political calendar in both countries later in the year, the summit would be the ideal, and maybe last, opportunity for Presidents Clinton and Yeltsin to exchange instruments of ratification. I would also hope that the two leaders can at that time agree to begin negotiations toward a new agreement on even further reductions.

I would just like to add here that I am concerned with some of the hortatory language that is contained both within the committee report and the proposed managers' amendment. In particular, I find the language on missile defenses and nuclear testing to be particularly problematic. However, I have decided not to object at this time because I believe it is absolutely critical that we act quickly and favorably on START II. I think it is also important to emphasize for all concerned that the language to which I and many of my colleagues object is nonbinding.

Mr. President, the ultimate entry into force of the START II Treaty may well depend on a choice we must make in the months ahead: Do we pursue a technically questionable and prohibitively expensive national missile defense which would doom START II, or do we pursue a path that promises with greater certainty and less cost to eliminate the very missiles such a system would defend against?

In my view, there is not much of a choice. Star Wars technology is uncertain, costly, and likely to undermine our national security. On the other hand, arms control agreements like START II are proven, cost-effective, and will reduce the nuclear threat to the United States.

The American people, having sent us here to protect the security of their homes and children, are entitled to the only rational choice: We should ratify START II and abandon the reckless plans for an ABM Treaty-busting national missile defense system.

Mr. KERRY. Mr. President, today is a very important day in the history of the modern world. It is a crucially important day in the history of humankind's efforts to achieve peace and avoid armed conflict.

For over 50 years following the end of the World War II, the United States was locked in what came to be known universally as the cold war. That war, while it only occasionally broke into open armed conflict, was a very destructive conflict. It consumed the wealth of much of the world as armaments were stacked upon armaments to prepare for the open conflict that we hoped would never come.

There have been countless periods in the history of the world during which there have been uneasy periods of standoff of one power against another. But there has been none even nearly approximating the cold war. The reason is terrifyingly simple. The cold war was the first time in the world's history when human beings possessed weapons of mass destruction in the form of thermonuclear weapons. First the United States and then the Union of Soviet Socialist Republics obtained the ability to manufacture and use nuclear weapons. Eventually that capability was acquired by other nations. The use of just one such weapon is sufficient to annihilate an entire city.

The use of many not only could obliterate an entire nation and all its people from the face of the earth, but arguably might set in motion natural reactions which could lead to the extinguishment of most if not all life on this planet.

All of us in this Chamber endured most if not all of the cold war. We know of many of its human costs, although they will never be fully calculated. We also know today that there were a number of occasions where the world teetered on the very brink of the use of such weapons, which very likely would have been followed by a general exchange between the United States and the Soviet Union, and which very likely would have involved use of their nuclear weapons by the other nations possessing them.

What we also know, Mr. President, is that there was and is no higher objective—while preserving the liberties for which this Nation was founded and for the preservation of which so many have sacrificed so greatly—than to reduce both the threat of and the ability to wage nuclear war.

This objective has been reflected in numerous efforts initiated by both Republican and Democratic administrations to negotiate limits on the manufacture and testing of nuclear weapons, to negotiate limits on the types, capabilities, and numbers of weapons systems armed with nuclear devices, and to negotiate various other measures designed to reduce the likelihood that a nuclear weapon will be used in anger.

The treaty between the United States of America and the Russian Federation on further reduction and limitation of strategic offensive arms—the so-called START II Treaty—which is before the Senate today is one of the most significant milestones among these efforts. It builds upon the foundation established by the original START Treaty signed by the United States and the Russian Federation in 1991.

That first START Treaty was the first treaty that provided for real reductions—rather than just limits on further growth—of strategic offensive arms of both nations. It provided for overall reductions of 30 to 40 percent, and reductions of up to 50 percent in the most threatening systems. That treaty now acts to emphasize and enhance stability in times of international crisis. It provides for rough equality of strategic forces between the two sides, and was painstakingly crafted to be effectively verifiable. That treaty will result in the elimination of nuclear weapons and their delivery systems from the territories of Belarus, Kazakhstan, and Ukraine and accession of these three states to the treaty on the non-proliferation of nuclear weapons [the NPT] as non-nuclear state parties. As a result, after 7 years, of the states formed upon the disintegration of the former Soviet Union, only Russia will possess deployed strategic offensive arms.

START II adds to these very significant accomplishments. It increases the stability of the nuclear balance. It bans deployment of the most destabilizing type of nuclear weapons system—land-based intercontinental ballistic missiles with multiple independently targetable nuclear warheads [or MIRV's]. Under its terms, Russia and the United States will reduce the number of nuclear weapons each possesses to 3,500.

Mr. President, some believe that with the passing of the former Soviet Union, and the economic weakness and chaos that have in many respects permeated its successor states, there no longer is a danger of nuclear conflict. Some would argue that these nations and their people, already struggling to make their way in a world that passed them by during the cold war period, would never risk losing literally everything they are and have by initiating a nuclear conflict. But that is an incomplete if not naive view of the world situation.

As long as nuclear weapons exist, there is a danger they will be used. Disagreements can escalate, and sometimes become dangerously personalized as national leaders struggle to maintain power and control. It is conceivable that rogue elements of a nation's military could gain control of one or more weapons—or even the entire nuclear apparatus of a nation—and launch one or more or many of those weapons. There are countless scenarios where those weapons could be employed. There is no better reason than this simple reality, Mr. President, for putting in place the reductions contained in the START II Treaty.

As we seek to bring to a conclusion the business of the Senate prior to this weekend of great significance to families and religions, I will not take the Senate's time to exhaustively detail all of the reason why this treaty will provide increased stability to the world, will reduce the danger of nuclear conflict and nuclear accidents, and will do this while preserving the defensive capability of the United States so that it unquestionably can effectively defend our democracy and liberties that are so precious to us. The legislative record of the treaty is available for all to see, and other Senators already have spoken eloquently to these issues.

There is simply no question, Mr. President, that the immediate ratification of this treaty is in the best interests of the United States and, indeed, the world. All of our most senior national security leadership concurs. The Chairman of the Joint Chiefs of Staff joined by all the Chiefs have so testified. Our intelligence leadership has so testified. Our diplomatic leadership has to testified. The agreement is neither partisan nor regional. While exceedingly little of vital importance occurs with absolutely unanimity, the START II Treaty comes as close as any major foreign policy or national security issue of which I am aware.

It is for this reason, Mr. President, that I was distressed, and remain distressed, that the Senate's action on this treaty was delayed for many months when the chairman of the Foreign Relations Committee held it hostage in an attempt to compel Members of this body to acquiesce to his plan to constrain the diplomatic capacity and media that are of critical importance to our Nation and its leaders—regardless of their party affiliation. For months many other Members of this body and I struggled to free this treaty for Senate action.

Finally, last month, the negotiation effort succeeded, and we were assured the Senate would at least take up the treaty before the end of this year. I am pleased to have helped accomplish this.

It is not just that it was and is regrettable that, because of this hostage-taking, the United States did not do everything in its power to speed this beneficial treaty into effect, and thereby the increased safety and security it offers have been unnecessarily delayed. That is regrettable enough—and I only hope that history does not show that this failure resulted in loss of life. The delay, in fact, has placed the entire treaty in jeopardy. While I think there is virtually no doubt that the Senate, when it is permitted to finally act on this treaty, will vote overwhelmingly on a bipartisan basis to approve it, the deteriorating situation in the Russian Federation makes approval by the Russian Duma increasingly uncertain. As nationalists and reconstructed Communists push successfully for greater influence in Russia, it is quite possible they will reject an treaty they see as resulting in too great a reduction in power-projecting weapons systems.

So, ironically, in the very kind of situation where the reduced threat of nuclear conflict would be most significant and valuable, the short-sighted actions here in the Senate could deny us and the world the heightened security this treaty offers. That would be a catastrophe of monumental proportions, Mr. President. If it comes to pass, history will properly and caustically criticize those who have delayed Senate action or acquiesced in that delay.

Before I complete my remarks, Mr. President, I want to address a related issue that is of great importance. There are some who would draw a connection between this treaty and the establishment of a ballistic missile defense. That, in turn, raises questions of continued adherence to the anti-ballistic missile or ABM Treaty. Such a linkage of this treaty to the question of ballistic missile defense is not necessary, is inappropriate, and could be tremendously counterproductive.

I have long and strongly supported development of effective defenses against theater and short-range ballistic missiles. Our troops and sailors deserve such protection whenever they are sent into harm's way. But I have equally fervently supported the ABM Treaty as a critical link in the chain of United States-Russian relations. So much about the cold war—and so much in our new and still unfamiliar post-Soviet relationship—is dependent on each nation feeling confident of its ability to protect its homeland and repel aggressors. The ABM Treaty has made and continues to make an absolutely vital contribution to that confidence. The treaty provides confidence that, in case of an attack launched by the other side, the attacked nation would be able to effectively counterattack with its ballistic missiles. This uneasy but effective balance acted to keep the cold war from ever going hot.

Now, in the form of the START Treaty and the START II Treaty, we are reducing the terror arrayed on both sides, and reducing the likelihood that what remains will be used in anger. But the confidence must remain. The START II Treaty increases confidence on both sides. Nothing in it prejudices the consideration of how to provide for defense against theater and short-range ballistic missiles while maintaining the critical balancing tool of the ABM Treaty. Ratification of the START II Treaty certainly does not increase the need for a national missile defense that would be in violation of the ABM Treaty—to the contrary, it reduces the danger of attack and removes the most threatening of the Russian nuclear delivery systems.

Mr. President, immediately is not too soon to provide the Senate's overwhelming approval of this treaty. All who labored in its negotiation are to be commended for their service to the security of this Nation, the security of the world, and the safety of our citizens and those around the globe. I compliment especially the distinguished Senator from Indiana, Senator LUGAR, and the distinguished ranking Democratic member of the Foreign Relations Committee, Senator PELL, and their staffs, for their roles in managing the treaty and moving it toward approval by the Senate. I urge the majority leader, and the Democratic leader, to ensure that the Senate acts finally and expeditiously on the treaty just as soon as the Senate returns to session after the holidays.

I thank the Chair, and I yield the floor.

Mr. HARKIN. Mr. President, today—at long last—we discuss START II. I urge this body to ratify it quickly.

START II is a truly historic treaty. It will cut the number of the world's nuclear weapons in half, getting rid of nearly 4,000 deployed H-bombs in Russia and about the same number here. An overwhelming number of our citizens favor implementing this treaty, and a large number of elected officials on both sides of the aisle have expressed their support for it.

Mr. President, START II should be ratified for many reasons. First, START II destroys weapons. This reduces the risk of an accidental launch. Second, every Russian weapon destroyed is a weapon we don't need to defend against. The following table, which I ask unanimous consent be printed in the RECORD, shows the numbers and kinds of ICBMs that can be eliminated under START II.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

INTERCONTINENTAL BALLISTIC MISSILES—ELIMINATED UNDER START II

Delivery system	Launchers	Warheads
SS–18	188	1,880
SS–19	[1] 170	1,020
SS–24	46	460
SLBM's		[2] 600
Total	404	3,960

[1] Some SS–19s may be converted to carry only a single warhead in order to offset the cost of developing a new launcher.

[2] Based on limit of 1,750 submarine launched ballistic missiles. The current Russian arsenal of SLBMs is estimated at 2,350.

Source: Bulletin of Atomic Scientists, Nuclear Notebook, September/October 1995.

Mr. HARKIN. Additionally, destroying weapons saves taxpayers' money. Just look at the current defense authorization bill. As my friend from New Mexico pointed out in the report to the Defense Authorization Act, the act "proposes a nuclear weapons manufacturing complex sized to meet a need of a hedge stockpile far above the active START II stockpile of 3,500 weapons." The total cost of producing our nuclear weapons to date is about $4 trillion. Compare that with our $5 trillion national debt. In 1995 alone, $12.4 billion was spent to build, operate, and maintain strategic nuclear weapons. If we ratify START II we can give taxpayers the double peace dividend of higher security at lower cost.

Even if START II were fully implemented, we would have more than 3,000 deployed strategic missiles—500 warheads on missiles in silos, 1,680 warheads on submarine-launched missiles, and 1,320 on airplanes. Furthermore, an additional 4,000 nuclear weapons would remain in our stockpile. Surely, this will be more than enough atomic firepower to counter any conceivable threat to the United States.

Mr. President, Russia and other former Soviet Republics are more open than ever before. We have all seen the unprecedented pictures on television of Russian missiles and airplanes being destroyed. This new openness will make START II even more verifiable then START I. With the recent Russian elections and the presidential election season just starting, we must act now to keep this olive branch from withering.

In conclusion, Mr. President, we need to ratify START II quickly. It is not in the national interest to play politics over the ratification of any treaty. Russian President Yeltsin needs quick American ratification of START II to help get the Russian Parliament to ratify it. We need the security of fewer Russian warheads now. We need to stop spending so much money making our nuclear weapons now. We can use the warheads we have now to defend America. We need to ratify START II now.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, we have checked with both sides of the aisle to make certain that all parties are in agreement, and after that, I ask unanimous consent that the START II Treaty be advanced through its various parliamentary procedure stages up to and including the presentation of the resolution of ratification, and the managers' amendments which I will offer after consultation with Senator PELL be deemed agreed to, and that no further amendments be in order to the resolution of ratification.

The PRESIDING OFFICER. Without objection, the treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The bill clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That (a) the Senate advise and consent to the ratification of the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms, signed at Moscow on January 3, 1993, including the following protocols and memorandum of understanding, all such documents being integral parts of and collectively referred to as the "START II Treaty" (contained in Treaty Document 103–1), subject to the conditions of subsection (b) and the declarations of subsection (c):

(1) The Protocol on Procedures Governing Elimination of Heavy ICBMs and on Procedures Governing Conversion of Silo Launchers of Heavy ICBMs Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Elimination and Conversion Protocol").

(2) The Protocol on Exhibitions and Inspections of Heavy Bombers Relating to the Treaty Between the United States and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Exhibitions and Inspections Protocol")

(3) The Memorandum of Understanding on Warhead Attribution and Heavy Bomber Data Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Memorandum on Attribution").

(b) CONDITIONS.—The advice and consent of the Senate to the ratification of the START II Treaty is subject to the following conditions, which shall be binding upon the President:

(1) NONCOMPLIANCE.—If the President determines that a party to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, signed at Moscow on July 3, 1991 (in this resolution referred to as the "START Treaty") or to the START II Treaty is acting in a manner that is inconsistent with the object and purpose of the respective Treaty or is in violation of either the START or START II Treaty so as to threaten the national security interests of the United States, then the President shall—

(A) consult with and promptly submit a report to the Senate detailing the effect of such actions on the START Treaties;

(B) seek on an urgent basis a meeting at the highest diplomatic level with the noncompliant party with the objective of bringing the noncompliant party into compliance;

(C) in the event that a party other than the Russian Federation is determined not to be in compliance—

(i) request consultations with the Russian Federation to assess the viability of both START Treaties and to determine if a change in obligations is required in either treaty to accommodate the changed circumstances, and

(ii) submit for the Senate's advice and consent to ratification any agreement changing the obligations of the United States; and

(D) in the event that noncompliance persists, seek a Senate resolution of support of continued adherence to one or both of the START Treaties, notwithstanding the changed circumstances affecting the object and purpose of one or both of the START Treaties.

(2) TREATY OBLIGATIONS.—Ratification by the United States of the START II Treaty obligates the United States to meet the conditions contained in this resolution of ratification and shall not be interpreted as an obligation by the United States to accept any modification, change in scope, or extension of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed at Moscow on May 26, 1972 (commonly referred to as the "ABM Treaty").

(3) FINANCING IMPLEMENTATION.—The United States understands that in order to be assured of the Russian commitment to a reduction in arms levels, Russia must maintain a substantial stake in financing the implementation of the START II Treaty. The costs of implementing the START II Treaty should be borne by both parties to the Treaty. The exchange of instruments of ratification of the START II Treaty shall not be contingent upon the United States providing financial guarantees to pay for implementation of commitments by Russia under the START II Treaty.

(4) EXCHANGE OF LETTERS.—The exchange of letters—

(A) between Secretary of State Lawrence Eagleburger and Minister of Foreign Affairs Andrey Kozyrev, dated December 29, 1992, regarding SS–18 missiles and launchers now on the territory of Kazakstan,

(B) between Secretary of State Eagleburger and Minister of Foreign Affairs Kozyrev, dated December 29, 1992, and December 31, 1992, regarding heavy bombers, and

(C) between Minister of Defense Pavel Grachev and Secretary of Defense Richard Cheney, dated December 29, 1992, and January 3, 1993, making assurances on Russian intent regarding the conversion and retention of 90 silo launchers of RS–20 heavy intercontinental ballistic missiles (ICBMs) (all having been submitted to the Senate associated with the START II Treaty),

are of the same force and effect as the provisions of the START II Treaty. The United States shall regard actions inconsistent with obligations under those exchanges of letters as equivalent under international law to actions inconsistent with the START II Treaty.

(5) SPACE-LAUNCH VEHICLES.—Space-launch vehicles composed of items that are limited by the START Treaty or the START II Treaty shall be subject to the obligations undertaken in the respective treaty.

NTM AND CUBA.—The obligation of the United States under the START Treaty not to interfere with the national technical means (NTM) of verification of the other party to the Treaty does not preclude the United States from pursuing the question of the removal of the electronic intercept facility operated by the Government of the Russian Federation at Lourdes, Cuba.

(c) DECLARATIONS.—The advice and consent of the Senate to ratification of the START II Treaty is subject to the following declarations, which express the intent of the Senate:

(1) COOPERATIVE THREAT REDUCTIONS.—Pursuant to the Joint Statement on the Transparency and Irreversibility of the Process of Reducing Nuclear Weapons, agreed to in Moscow, May 10, 1995, between the President of the United States and the President of the Russian Federation, it is the sense of the Senate that both parties to the START II Treaty should attach high priority to—

(A) the exchange of detailed information on aggregate stockpiles of nuclear warheads, on stocks of fissile materials, and on their safety and security;

(B) the maintenance at distinct and secure storage facilities, on a reciprocal basis, of fissile materials removed from nuclear warheads and declared to be excess to national security requirements for the purpose of confirming the irreversibility of the process of nuclear weapons reduction; and

(C) the adoption of other cooperative measures to enhance confidence in the reciprocal declarations on fissile material stockpiles.

(2) ASYMMETRY IN REDUCTIONS.—It is the sense of the Senate that, in conducting the reductions mandated by the START or START II Treaty, the President should, within the parameters of the elimination schedules provided for in the START Treaties, regulate reductions in the United States strategic nuclear forces so that the number of accountable warheads under the START and START II Treaties possessed by the Russian Federation in no case exceeds the comparable number of accountable warheads possessed by the United States to an extent that a strategic imbalance endangering the national security interests of the United States results.

(3) EXPANDING STRATEGIC ARSENALS IN COUNTRIES OTHER THAN RUSSIA.—It is the sense of the Senate that, if during the time the START II Treaty remains in force or in advance of any further strategic offensive arms reductions the President determines there has been an expansion of the strategic arsenal of any country not party to the START II Treaty so as to jeopardize the supreme interests of the United States, then the President should consult on an urgent basis with the Senate to determine whether adherence to the START II Treaty remains in the national interest of the United States.

(4) SUBSTANTIAL FURTHER REDUCTIONS.—Cognizant of the obligation of the United States under Article VI of the Treaty on the Non-Proliferation on Nuclear Weapons of July 1, 1968 "to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at any early date and to nuclear disarmament and on a treaty on general and complete disarmament under strict and effective international control", it is the sense of the Senate that in anticipation of the ratification and entry into

force of the START II Treaty, the Senate calls upon the parties to the START II Treaty to seek further strategic offensive arms reductions consistent with their national security interests and calls upon the other nuclear-weapon states to give careful and early consideration to corresponding reductions of their own nuclear arsenals.

(5) MISSILE TECHNOLOGY CONTROL REGIME.—The Senate urges the President to insist that the Republic of Belarus, the Republic of Kazakstan, Ukraine, and the Russian Federation abide by the guidelines of the Missile Technology Control Regime (MTCR). For purposes of this paragraph, the term "Missile Technology Control Regime" means the policy statement between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced April 16, 1987, to restrict sensitive missile relevant transfers based on the MTCR Annex, and any amendment thereto.

(6) FURTHER ARMS REDUCTION OBLIGATIONS.—The Senate declares its intention to consider for approval international agreements that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the treaty power as set forth in Article II, Section 2, Clause 2 of the Constitution.

(7) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in condition (1) of the resolution of ratification with respect to the INF Treaty. For purposes of this declaration, the term "INF Treaty" refers to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter Range Missiles, together with the related memorandum of understanding and protocols, approved by the Senate on May 27, 1988.

Mr. PELL. Mr. President, the amendments the Senator from Indiana [Mr. LUGAR] and I will accept today, represent a bipartisan effort to reach a reasonable consensus in the committee and with regard to the floor action. In particular, I would note the effective and valuable role played in this process by the bipartisan Senate Arms Control Observer Group at the initiative of its administrative cochairman, the Senator from Alaska [Mr. STEVENS], who worked very closely with a number of the group's members in the START II issue, including Senator LUGAR, Senator LEVIN, and myself.

The package also includes an amendment included on behalf of the Senate Select Committee on Intelligence requiring a Presidential certification that we have sufficient national technical means to verify Russian compliance. The amendment is a positive addition, and we accept it.

UNANIMOUS-CONSENT AGREEMENT

Mr. LUGAR. Mr. President, I further ask unanimous consent that when the Senate resumes executive session to consider the resolution of ratification, there be 6 hours for debate, to be equally divided in the usual form, with unlimited additional time under the control of Senator THURMOND; and following the conclusion or yielding back of time, the Senate proceed to vote on adoption of the resolution of ratification, without further action or debate.

The PRESIDING OFFICER (Mr. SANTORUM). Without objection, it is so ordered.

Mr. STEVENS. Will the Senator yield?

Mr. PELL. Certainly.

Mr. STEVENS. I think we should show that Mira Baratta, working with Senator DOLE, has been very helpful in working with this group.

Mr. PELL. I concur in your thought.

Mr. LUGAR. A point of parliamentary clarification. Am I correct to assume that the report of the Foreign Relations Committee resolution ratification is before the body?

The PRESIDING OFFICER. That is the Chair's understanding of the unanimous-consent propounded.

AMENDMENT NO. 3111

(Purpose: Regarding interpretation of the ABM Treaty)

Mr. LUGAR. The unanimous-consent request stated I would submit, as a manager, amendments. I have submitted those to the desk.

The PRESIDING OFFICER. For the information of the Senate, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for himself and Mr. PELL, proposes amendments en bloc numbered 3111.

Mr. LUGAR. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 1(b)(2) of the resolution of ratification, insert "(A)" after "START II Treaty".

In section 1(b)(2), before the period at the end, insert ", and (B) changes none of the rights of either Party with respect to the provisions of the ABM Treaty, in particular, Articles 13, 14, and 15".

At the end of section 1(b) of the resolution of ratification, add the following new condition:

(7) IMPLEMENTATION ARRANGEMENTS.—(A) The START II Treaty shall not be binding on the United States until such time as the Duma of the Russian Federation has acted pursuant to its constitutional responsibilities and the START II Treaty enters into force in accordance with Article VI of the Treaty.

(B) If the START II Treaty does not enter into force pursuant to subparagraph (A), and if the President plans to implement reductions of United States strategic nuclear forces below those currently planned and consistent with the START Treaty, then the President shall—

(i) consult with the Senate regarding the effect of such reductions on the national security of the United States; and

(ii) take no action to reduce United States strategic nuclear forces below that currently planned and consistent with the START Treaty until he submits to the Senate his determination that such reductions are in the national security interest of the United States.

In section 1(c)(2) of the resolution of ratification, insert "(A)" immediately after "REDUCTIONS.—".

At the end of section 1(c)(2), insert the following:

(B) Recognizing that instability could result from an imbalance in the levels of strategic offensive arms, the Senate calls upon the President to submit a report in unclassified form to the Committees on Foreign Relations and Armed Services of the Senate not later than January 31 of each year beginning with January 31, 1997, and continuing through such time as the reductions called for in the START II Treaty are completed by both parties, which report will provide—

(i) details on the progress of each party's reductions in strategic offensive arms during the previous year;

(ii) a certification that the Russian Federation is in compliance with the terms of the START II Treaty or specifies any act of noncompliance by the Russian Federation; and

(iii) an assessment of whether a strategic imbalance endangering the national security interests of the United States exists.

In section 1(c)(4) of the resolution of ratification—

(1) strike "the parties" and all that follows through "national security interests" and insert "the President to seek further strategic offensive arms reductions to the extent consistent with United States national security interests"; and

(2) strike "it is the sense of the Senate that" and insert in "and".

At the end of section 1(c) of the resolution of ratification, add the following new declarations:

(8) COMPLIANCE.—Concerned by the clear past pattern of Soviet noncompliance with arms control agreements and continued cases of noncompliance by the Russian Federation, the Senate declares that—

(A) the START II Treaty is in the interests of the United States only if both the United States and the Russian Federation are in strict compliance with the terms of the Treaty as presented to the Senate for its advice and consent to ratification, such compliance being measured by performance and not by efforts, intentions, or commitments to comply;

(B) the Senate expects the Russian Federation to be in strict compliance with its obligations under the terms of the START II Treaty as presented to the Senate for its advice and consent to ratification; and

(C) Given its concern about compliance issues, the Senate expects the Administration to offer regular briefings, but not less than four times per year, to the Committees on Foreign Relations and Armed Services on compliance issues related to the START II Treaty. Such briefings shall include a description of all U.S. efforts in U.S./Russian diplomatic channels and bilateral fora to resolve the compliance issues and shall include, but would not necessarily be limited to, the following:

i. Any compliance issues the United States plans to raise with the Russian Federation at the Bilateral Implementation Commission, in advance of such meetings;

ii. Any compliance issues raised at the Bilateral Implementation Commission, within thirty days of such meetings; and

iii. Any Presidential determination that the Russian Federation is in non-compliance with or is otherwise acting in a manner inconsistent with the object and purpose of the START II Treaty, within thirty days of such a determination, in which case the President shall also submit a written report, with an unclassified summary, explaining why it is in the national security interests of the

United States to continue as a party to the START II Treaty.

At the end of section 1(c) of the resolution of ratification, add the following new declaration:

(8) SUBMISSION OF FUTURE AGREEMENTS AS TREATIES.—The Senate declares that following Senate advice and consent to ratification of the START II Treaty, any agreement or understanding which in any material way modifies, amends, or reinterprets United States or Russian obligations under the START II Treaty, including the time frame for implementation of the Treaty, should be submitted to the Senate for its advice and consent to ratification.

At the end of section 1(c) of the resolution of ratification, add the following new declaration:

(8) NATURE OF DETERRENCE.—(A) On June 17, 1992, Presidents Bush and Yeltsin issued a Joint Understanding and a Joint Statement at the conclusion of their Washington Summit, the first of which became the foundation for the START II Treaty. The second, the Joint Statement on a Global Protection System, endorsed the cooperative development of a defensive system against ballistic missile attack and demonstrated the belief by the governments of the United States and the Russian Federation that strategic offensive reductions and certain defenses against ballistic missiles are stabilizing, compatible, and reinforcing.

(B) It is, therefore, the sense of the Senate that:

(i) The long-term perpetuation of deterrence based on mutual and severe offensive nuclear threats would be outdated in a strategic environment in which the United States and the Russian Federation are seeking to put aside their past adversarial relationship and instead build a relationship based upon trust rather than fear.

(ii) An offense-only form of deterrence cannot address by itself the emerging strategic environment in which, as Secretary of Defense Les Aspin said in January 1994, proliferators acquiring missiles and weapons of mass destruction "may have acquired such weapons for the express purpose of blackmail or terrorism and thus have a fundamentally different calculus not amenable to deterrence. . . . New deterrent approaches are needed as well as new strategies should deterrence fail.".

(iii) Defenses against ballistic missiles are essential for new deterrent strategies and for new strategies should deterrence fail. Because deterrence may be inadequate to protect United States forces and allies abroad, theater missile defense is necessary, particularly the most capable systems of the United States such as THAAD, Navy Upper Tier, and the Space and Missile Tracking System. Similarly, because deterrence may be inadequate to protect the United States against long-range missile threats, missile defenses are a necessary part of new deterrent strategies. Such defenses also are wholly in consonance with the summit statements from June 1992 of the Presidents of the United States and the Russian Federation and the September 1994 statement by Secretary of Defense William J. Perry, who said, "We now have the opportunity to create a new relationship, based not on MAD, not on Mutual Assured Destruction, but rather on another acronym, MAS, or Mutual Assured Safety.".

(iv) As the governments of the United States and Russia have built upon the June 17, 1992, Joint Understanding in agreeing to the START II Treaty, so too should these governments promptly undertake discussions based on the Joint Statement to move forward cooperatively in the development and deployment of defenses against ballistic missiles.

At the end of section 1(c) of the resolution of ratification, add the following new declaration:

(8) REPORT ON USE OF FOREIGN EXCESS BALLISTIC MISSILES FOR LAUNCH SERVICES.—It is the sense of the Senate that the President should not issue licenses for the use of a foreign excess ballistic missile for launch services without first submitting a report to Congress, on a one-time basis, on the implications of the licensing approval on nonproliferation efforts under the Treaty and on the United States space launch industry.

At the end of section 1(c) of the resolution of ratification, add the following new declaration:

(8) UNITED STATES COMMITMENTS ENSURING THE SAFETY, RELIABILITY, AND PERFORMANCE OF ITS NUCLEAR FORCES.—The Senate declares that the United States is committed to ensuring the safety, reliability, and performance of its nuclear forces. To this end, the United States undertakes the following additional commitments:

(A) The United States is committed to proceeding with a robust stockpile stewardship program, and to maintaining nuclear weapons production capabilities and capacities, that will ensure the safety, reliability, and performance of the United States nuclear arsenal at the START II levels and meet requirements for hedging against possible international developments or technical problems, in conformance with United States policies and to underpin deterrence.

(B) The United States is committed to reestablishing and maintaining sufficient levels of production to support requirements for the safety, reliability, and performance of United States nuclear weapons and demonstrate and sustain production capabilities and capacities.

(C) The United States is committed to maintaining United States nuclear weapons laboratories and protecting the core nuclear weapons competencies therein.

(D) As tritium is essential to the performance of modern nuclear weapons, but decays radioactively at a relatively rapid rate, and the United States now has no meaningful tritium production capacity, the United States is committed to ensuring rapid access to a new production source of tritium within the next decade.

(E) As warhead design flaws or aging problems may occur that a robust stockpile stewardship program cannot solve, the United States reserves the right, consistent with United States law, to resume underground nuclear testing if that is necessary to maintain confidence in the nuclear weapons stockpile. The United States is committed to maintaining the Nevada Test Site at a level in which the United States will be able to resume testing, within one year, following a national decision to do so.

(F) The United States reserves the right to invoke the supreme national interest of the United States to withdraw from any future arms control agreement to limit underground nuclear testing.

CONDITION

(a) CONDITIONS.—The Senate's advice and consent to the ratification of the START II Treaty is subject to the following condition, which shall be binding upon the President:

(1) PRESIDENTIAL CERTIFICATION AND REPORT ON NATIONAL TECHNICAL MEANS.—Within ninety days after the United States deposits instruments of ratification of the START II Treaty, the President shall certify that U.S. National Technical Means are sufficient to ensure effective monitoring of Russian compliance with the provisions of the Treaty governing the capabilities of strategic missile systems. This certification shall be accompanied by a report to the Senate of the United States indicating how U.S. National Technical Means, including collection, processing and analytic resources, will be marshalled to ensure effective monitoring. Such report may be supplemented by a classified annex, which shall be submitted to the Committee on Foreign Relations, the Committee on Appropriations, the Committee on Armed Services and the Select Committee on Intelligence of the Senate.

The PRESIDING OFFICER. The Chair would note that under the previous order those amendments are now agreed to.

So the amendment (No. 3111) was agreed to.

Mr. LUGAR. I thank the Chair.

Mr. STEVENS. Will the Senator yield?

Mr. LUGAR. I am happy to yield to the Senator.

Mr. STEVENS. Was there a summary of those amendments and a explanation along with the Senator's submission?

Mr. LUGAR. I respond to the distinguished Senator that a summary was not included with the text.

Mr. STEVENS. I ask unanimous consent that we be permitted to insert in the RECORD an explanation of each of the provisions within that amendment.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

AMENDMENT SUMMARIES

Amendment No. 1: Nothing in START II changes the rights of either party to the Anti-Ballistic Missile (ABM) Treaty.

Amendment No. 2: Adds the condition that the U.S. shall not implement START II reductions until the Treaty has entered into force.

Amendment No. 3: Requires the President to report yearly on symmetrical nuclear weapons reductions.

Amendment No. 4: Calls upon the President to consider whether to seek only those strategic future reductions consistent with U.S. National Security interests.

Amendment No. 5: States the compliance expectations of the Senate and asks for periodic updates from the administration on compliance issues.

Amendment No. 6: States the requirement for Senate advice and consent to any possible future amendments to START II.

Amendment No. 7: Discusses the compatibility of offensive deterrence and defenses against ballistic missiles, and calls upon the United States and Russia to implement the Bush/Yeltsin Joint Statement on a Global Protection System.

Amendment No. 8: Requests that the President suspend licenses for the use of foreign excess ballistic missiles until he submits a report to the Congress on the implications of the licensing approval on the American space launch industry and on non-proliferation efforts.

Amendment No. 9: Declares the United States commitment to ensure the safety, reliability, and performance of its nuclear forces. This includes declaring support for a new production source of tritium and maintaining the capability of resuming underground nuclear testing if there is a national decision to do so.

Amendment No. 10: Reviews Intelligence Committee issues.

Mr. LUGAR. Mr. President, one more point of parliamentary inquiry. Is the status now of the START II Treaty proceedings at a point at which no further amendments are in order and the next stage of activity will be when the Senate is next in executive session and this is called forward, that 6 hours of debate plus potential unlimited time allotted to Senator THURMOND would be in order at that time?

The PRESIDING OFFICER. The Senator is correct, to the Chair's understanding.

Mr. LUGAR. Followed by disposition of the treaty.

The PRESIDING OFFICER. That is the Chair's understanding.

Mr. LUGAR. I thank the Chair.

I ask my distinguished colleague if he has further comment?

Mr. PELL. No, no further suggestions. Just to congratulate you, Mr. Chairman, and Senator STEVENS, on guiding this legislation through. I thank my own staff, Bill Ashworth, very much indeed.

Mr. LUGAR. I join the distinguished Senator in thanking the minority staff. Of course I thank Kenny Myers and Lindon Brooks, who has been an able backup negotiator of this treaty.

In particular, my colleague from Alaska, Senator STEVENS, who, in his cochairmanship of the Arms Control Observer Group, did a remarkable job in pulling this together for four sessions, with many Senators from both sides of the aisle, to think through the implications of this treaty, to refine the language of the managers' amendment that has been submitted and adopted today.

Does Senator STEVENS have further comment?

Mr. STEVENS. No, Mr. President. I do not have. I am grateful for the comments of my two friends. I do have another statement if we are finished with this matter, though.

Mr. LUGAR. Is it relevant to START II?

Mr. STEVENS. No.

Mr. LUGAR. Mr. President, for the moment I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Let me ask the Chair, is it proper now to make statements on another matter?

The PRESIDING OFFICER. The Chair will inform the Senator the Senate is still in executive session.

LEGISLATIVE SESSION

Mr. STEVENS. I ask unanimous consent the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate returns to legislative session.

Mr. DORGAN addressed the chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FURLOUGH OF GOVERNMENT WORKERS

Mr. DORGAN. Mr. President, I have always been enormously proud of serving in the U.S. Senate, and am proud today of my ability to be here to represent my constituents and to make judgments on the part of this country in the public sector and on public policy issues. But there are days when one shakes their head and wonders, what on Earth is this institution, or the institution of Congress, doing or thinking? How can we look as foolish as we look sometimes when the mix of different viewpoints in the House and the Senate between conservatives and liberals produces a gridlock that then produces a bizarre Byzantine result.

I am speaking today of the circumstance when about an hour or two ago, I was on the floor asking a question of the Republican whip. I just watched the other body vote for a resolution of adjournment, and they apparently have now left town and are having no further votes. There will be no additional rollcall votes in the Senate.

We have a circumstance where there will be a continuing resolution, or a funding bill, coming over from the House that provides sufficient funding so that veterans checks that have been written and are now sitting in a warehouse somewhere in this metropolitan area, will be able to be delivered—late, however, but, nonetheless, delivered—and a number of other payments that are important will be made despite the fact that the continuing resolution has not been passed to provide funding for all of the Government's activities.

So some things will get taken care of this afternoon, I assume, by a unanimous consent in the Senate to accept the limited funding resolution provided for by the U.S. House. But some things will not be taken care of. Let me describe what is left undone.

Today, there are 270,000 Federal workers who stayed at home. They stayed at home yesterday and the day before. They are prevented from coming to work. The law prevents them from coming to work because there is no funding for them. And, in fact, those who want to come to work are told they cannot come to work. Two hundred and seventy thousand people are at home today who should be working.

The Speaker of the House said they will be paid anyway as they were during previous shutdowns.

In addition to the 270,000 who are not working, you have another 500,000—one-half million—Federal workers who are working. All of these folks, nearly 800,000 people, get only one-half of a paycheck during their pay period. And if a continuing resolution is not enacted by January 3, they will get no pay during the next pay period because there is not enough money to do that. It has not been authorized by the Congress to do that.

So what you have are nurses who work in veterans homes, prison guards, law enforcement officials, and others, some of whom make very little money, who during this pay period now before Christmas will receive half of a paycheck. And if something is not done within the next week and a half, on January 3 they will receive zero.

Some say, "Well, we will restore that. We will make sure they all get their money." Is that much solace to one who works on relatively low income, trying to make the payments for heat, food, rent, and to buy Christmas presents?

I hope those who sink their teeth into their turkey on Christmas day, and who serve in the Congress and who do not allow us to pass a clean continuing resolution in order to put people back to work to get the Government operating again, those folks who eat turkey on Christmas Day who prevented that from happening will think about the families that are disadvantaged by this.

Think about the nurse at the veterans home who only gets half of a paycheck. I hope they will think a little bit about the prison guards who get half of a paycheck and think about the 270,000 people who have had to explain to their neighbors why they are not at work, which the Speaker of the House says they will get paid for anyway.

Sometimes you just do not have the foggiest understanding why someone does something.

How on Earth can anybody believe that any leverage is provided for anyone to say, "Well, all right, if there is not a balanced budget resolution completed by this evening, Friday night, we will insist that the shutdown remain in effect"?

Ted Koppel asked five Members of the other body the other evening on his program twice, and they could not answer this question: What leverage does it give you to tell 270,000 Federal workers, "You cannot come to work, you stay home, and we will pay you"? What leverage is that? Is that not saying to the American taxpayers that we are going to penalize you in order to pay for work that is not done, we are going to do that so we have some leverage?

Ted Koppel says, "What leverage do you have?"

The other day I said that it is sort of like having an argument with your uncle. "All right, I am angry at my uncle. So I will walk across the street and punch my neighbor."

What on Earth are they talking about, penalizing the American taxpayer by telling 270,000 workers, "You cannot come to work, you stay home, we insist on it, and we are going to demand that you be paid"?

What is happening is that the House of Representatives has just adjourned, or passed an adjournment resolution. They are leaving. No more votes. This Senate is going to have no more record votes. We have 270,000 people not working, and the Congress is not coming back—probably not next week at all. Maybe the House comes back in the middle of the week.

So is the assumption here that these 270,000 people who are not working are going to continue not working next week, or maybe the start of the week after? Is the assumption that the American taxpayer is going to keep paying them? Is the assumption that those 270,000 people and the other half million people do not matter because they only get a half a paycheck, and they probably will get no paycheck on January 3rd?

Is not the assumption that the Federal workers, the half million people who are working today, do not matter very much and do not matter to anybody here if they only get a half a paycheck? Does it not matter if they have rent payments to make or food to buy or presents for their children? It does not matter, I guess.

The questions I asked an hour or two ago were, are there conditions under which by the end of today somebody might start thinking a little bit and saying, "Yes, OK, so we have this big fight going on. Let us at least let these people go back to work and make sure that they are working and that we pay them for working. Let us at least do that."

It does not make much sense to penalize the American taxpayer for our stubbornness or intransigence. I guess it is an easy thing to say that if we cannot reach an agreement, we will penalize the American taxpayer. It hardly makes any sense to me. I guess I do not understand exactly what is at work.

I watched the proceedings of the other body about an hour ago. I saw an enormous amount of anger, people standing on the floor of the House shouting at each other—I mean literally shouting on both sides. I understand. But, you know, this anger, in my judgment, is aimed in the wrong direction. So, Members of Congress are angry? So what do we do? We say to the American people, "We will get you. What we will do is we will tell 270,000 people not to come to work, and we will still pay them." That is quite a way to manifest your anger.

Can you imagine a city council in this country, they are sitting around the table in their small town in the city council chamber and they say, "Boy, we cannot agree. We are having a heck of a fight here. We just cannot agree. So do you know what we will do? What we are going to do is we are going to tell all of the city workers to stay home. 'Do not come to work.' We want to keep paying them, but say to all city workers, 'We cannot agree, so you sit at home and we will pay you for doing nothing.'" Can you imagine how long the residents of that city would take to tell the city council members to take a hike?

I just hope all of those in Congress who decided to prevent us from passing a clean appropriations bill to put these people back to work and to stop this goofy shutdown, I hope that they will find a disguise of some sort, because, frankly, if the people who decided we are not going to have Government up and operating but we will pay 270,000 people for doing nothing and we are going to tell these lower income Federal workers you get a half pay-check and will probably get no paycheck January 3, I hope nobody recognizes them because I think somebody is going to give them a piece of their mind when they get back home.

I suppose some of them will say, well, I hope the piece of their mind that we get would be stand firm for a balanced budget.

Well, so stand firm. Let us all stand firm for a balanced budget. Let us fight for a balanced budget in the right way. Let us balance the budget the right way, protecting priorities.

But should we, because we cannot agree yet on the specific recipe for balancing the budget, decide to continue a Government shutdown? I understand why people are angry with Congress. This is a decision that makes no good sense for anybody. It gives no advantage for Republicans or Democrats or conservatives or liberals. It provides only disadvantage for the American taxpayer and for the Federal workers who are the pawns—270,000 of whom will stay home and still get paid and a half a million of whom will get a half a paycheck despite the fact that they worked the full pay period.

Now, Mr. President, let me ask for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. The Senate is still in session today. And I do not know whether the House is yet out of session. They have said they will have no votes. I still hope and I would still ask everyone who serves in this Congress to think a little bit. Just think a little bit. Does this make any sense at all or is this not totally and completely irrational? Is this the way to end the year in 1995? Is this the spirit of charity? Is this the Christmas spirit? Is this the spirit of compromise to say we are going to use Federal workers as the pawns and say to the American taxpayer, you pay the bill?

I tell you, Mr. President, if the House and the Senate adjourn and quit and say here is the condition under which we quit—a Government shutdown—paying people for not working and for those who work deciding they are not going to get the pay for which they worked, the American people have every right to say, what on Earth are you people thinking of? Could you not begin thinking like the rest of the American people and think through this and do the logical, rational thing?

I just hope that by the end of today the leaders and other Members of Congress will step aside and agree to a clean CR to keep this Government up and operating. Let us start doing what the American people expect us to do.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DORGAN. Mr. President, I am tempted to offer unanimous consent for a clean CR, but I shall not do that. I hope that it will be done by someone and not objected to in the next couple of hours, and with that I yield the floor.

Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COCHRAN). Without objection, it is so ordered.

Mr. SANTORUM. I ask unanimous consent that I be able to speak for 15 minutes as in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SANTORUM. Thank you, Mr. President.

THE WELFARE REFORM BILL

Mr. SANTORUM. Mr. President, I would like to make a few comments about the vote today on the welfare reform bill. Several people have talked to me about it and have expressed concern that we did not receive the bipartisan support in this piece of legislation that we had in the original Senate bill. I want to reflect on that for a few moments and discuss how we might be able to bridge the gap and what kind of gap it is that now keeps us apart on the welfare issue.

First, I would like to thank the Members of the Senate on both sides of the aisle who supported the conference report. I think they will be very proud of the vote they cast as a real step forward for moving this country toward a kind of reform in the welfare system that the American public and the people who are now in the welfare system or may find themselves at some point in time in their life to be in need of the welfare system have been asking for for a long time.

My impression of what went on—just from listening to the debate and the comments of Members who eventually voted against the legislation—was that for the most part Members who voted against this legislation, on the other side of the aisle in particular, were people who felt that they had to vote against it and they were sort of looking for a reason why.

You say, what do you mean they had to vote against it? The President came out yesterday morning and said he was going to veto the legislation. I think I understand why the President did that. I am not too sure I think that the President is vetoing this legislation because he substantively disagrees with it on so many counts, but more that I think he sees welfare as being included in these negotiations that are going on right now in the budget package, and to sign a separate welfare bill sort of takes welfare off the table in the bargaining between all the other programs that are being considered in trying to balance the budget.

I think what the President wanted to do—and I think many Members on the other side agreed with it—is they wanted to keep welfare in play in the greater negotiations, and to sign off on one package without having the interaction of the other programs yet to be determined would, in their estimation, be an unwise move. So I will say to them, it is my firm belief that is what is going on here—I will explain that later—that this was more of a tactical move in opposition to this legislation than it really was a substantive move that this legislation somehow did not meet the test of welfare reform as defined by most Members on both sides of the aisle.

It was interesting for me to note that the people who debated the welfare reform bill here on the floor the last day, last night and today, by and large were the 12 people who voted against the legislation when it first came through.

So the principal opponents, at least the most vocal opponents, on the other side of the aisle were all people who voted against the Senate-passed bill, which got 87 votes; and in fact, the only two people that I can recollect who debated the bill this morning who had previously supported the bill did so on very narrow and limited grounds.

In fact, I have had discussions with those Members subsequently—at least one of them—and think some of the grounds on which they base their opposition actually did not square with the facts. I am not saying that the Senators misrepresented the facts. I am not saying that at all.

I think in this case, because this bill was moved over here so quickly, a lot of the factual information that was in the bill did not get out in proper fashion, and there were changes made to the bill in the last couple of days that were simply not disseminated to the other side. I think there was some misunderstanding, particularly in the area of child care funding, and a look at the facts, I think, would satisfy some of the concerns of Members on the other side of the aisle.

I want to go through the points that were made about the welfare bill as reasons for opposing it and try to explain why those concerns may not have been as legitimate as some would have originally suggested. Some, I believe, are legitimate.

I think there was one concern in particular that I know concerned Members on this side of the aisle and, I think, was the result of the two negative votes over here and, I think, concerned many Members and could be a legitimate reason to, in a sense, hang your hat on opposition to this proposal and actually speaks for including welfare in the larger budget package. What I am referring to is the Medicaid portion or the Medicaid reference in the welfare bill.

It was asked by the Governors and others who were negotiating the Medicaid portion of the Balanced Budget Act that we, for purposes of welfare, do not guarantee anyone who is on AFDC, guarantee them coverage under Medicaid automatically. That is current law, that if you qualify for AFDC, mothers and children automatically qualify for Medicaid.

Governors have said that now they are in the process during this budget debate of working out amongst themselves and Members of Congress to give some more flexibility in establishing who must qualify for Medicaid and allowing them the flexibility to make some of their own determinations.

So they asked, for purposes of this bill, do not lock them in quite yet on guaranteeing Medicaid coverage for AFDC recipients when, in fact, they are negotiating that very issue in their Medicaid discussions. So, as a result, because this bill moved ahead of the rest of the package, we left that provision out and said that is to be negotiated with Medicaid, not with welfare.

As a result, many Members seized upon this and said, "Oh, what we're doing here is unprecedented. It was not in the House bill, it was in the Senate bill. We are cutting off, in the welfare bill, all these people from Medicaid." Well, in a sense that is not completely true. But it certainly makes for a very good reason to vote against this bill even though you can make several arguments against that point.

One is the obvious one I think I have already made in detailing what the problem was: that that decision is going to be made later, and, in fact, it may very well say in the Medicaid bill that AFDC recipients are covered. That is a decision that is going to be made later. It is not that we are making the decision here affirmatively; it is a decision that will be made, but this was not the appropriate vehicle to make it. That does not soothe, I know, a lot of people, but it is in a sense an accurate description of what is going on.

The other point is—or several other points—according to the Congressional Budget Office, all of the children who are on AFDC today would otherwise qualify for Medicaid even if the current legislation which just passed here were signed by the President. That is, children, poor children, would qualify under the Medicaid statute, not under the AFDC statute, and therefore would be eligible for Medicaid even if they were not automatically eligible as a result of receiving AFDC. So children would have been covered anyway.

So to say, as some Members said, we are cutting off children by this is not an accurate description of at least what the Congressional Budget Office interpreted. In fact, the Congressional Budget Office scored this welfare bill as having all the existing children eligible for Medicaid.

For example, the Congressional Budget Office said that approximately half of the women—again, most AFDC recipient parents are women—half of the women on AFDC would automatically—or I should not say automatically—would otherwise qualify for Medicaid because of their status without the automatic qualification under AFDC.

So that leaves a block of about half of the women who currently receive AFDC, who qualify under AFDC, who would not otherwise qualify for Medicaid. That is a legitimate debate, and I think Members cited that. It is a legitimate debate as to whether this is the right approach to take.

My only point was—and I will go back to the first point I made—that is an issue to be decided in the Medicaid debate, not in the welfare debate, and it is in the process of being decided.

So we have that as, I think, the principal stumbling block and the reason that most Members will be able to go back and say this is why this bill was substantively different than the bill that passed the Senate because, if you look at everything else, if you look at all the other provisions of the welfare reform bill and match it up against the welfare reform bill that passed here with 87–87 votes, there is nary a reason for a dissenting vote of anyone who gave assent the first time. In fact, I would suggest that most of the concerns—or many; I should not say most—many of the concerns that were raised on the other side about the potential toughness of the welfare reform bill were solved by the addition, for example, of 1 billion extra dollars in child care.

Some comments were made by Members on the other side that child care funding was cut. The Senator from Massachusetts and I had a discussion about that last night, and I attempted to clarify that. I will do it one more time. The Senate bill that passed last—I guess a few months ago; I do not know exactly the month—had $8 billion for child care, mandatory child care spending for the first 5 years and $2 billion in the sixth and seventh years combined; so a total of 10 billion in mandatory entitlement child care dollars.

Under the conference bill, in the first 5 years, there was $7.8 billion, not $8 billion as in the original bill, but $7.8 billion, $200 million less, in the first 5 years. However, in the next 2 years, instead of having $2 billion for child care, there was $3.2 billion for child care. So in a sense, we took $200 million and shifted it forward to the sixth and seventh year and added an additional billion dollars for child care.

So there is, overall, more money over the 7 years, just $200 million less in the first 5, but we shifted it, we did not lose it; we shifted it to the sixth and seventh year.

Why did we do that? We did it because the Governors asked us to do it. You say, "Why would the Governors ask for the money further out?" The reason is because the participation standards—now what is that? That is the percentage of people who go on to welfare who are going to be required to go to work.

Not everyone who goes on welfare is going to be required to go to work. In fact, in the first year, I believe the number is 20 percent of the people who go on welfare, the States will collect only 20 percent of the caseload and say, "You will be in the time-limited program, the other 80 percent will be in the old welfare program." That will phase up 5 percent a year until we reach 50 percent.

When this program is fully phased in, 50 percent of the people who come on to the welfare rolls will be put in a time-limited welfare program. The other 50 percent will be in the existing program, no time limit.

But because it phases in over time and because anyone who is in a time-limited program when you go in—if you are one of the 20 percent next year that goes into the welfare program, under the law as drafted, you get 2 years of AFDC without having to work. So no one will be required to work under this law—since the block grant in this bill does not go into effect until October 1, 1996—so the first person who walks into the door on October 1, 1996 who is now subject to this law, 2 years later is October 1998, that is the first person who has to work under this law. And, again, 20 percent of the caseload will have to do that, and many of those 20 percent, obviously, will have found work or gotten off the program anyway, so it is only a small percentage of the 20 percent.

What am I saying? The reason they want to backload it is because as participation rates increase, the number of people who are going to need day care because of the work requirements will increase in the outyears. So they really do not need day care funding as much next year or the year after or the year after. It is not until the year 2000, 2001, 2002 that the day care funds really are needed in larger amounts. That is why we pushed the money back.

So I think it was somewhat—well, let us just say erroneous for some reason for Members to argue that there were cuts in day care funds when, in fact, we added more money and put it in the years where we believe the money was to be needed.

So the two major criticisms that I heard on the floor, one being the Medicaid issue and the other being the issue with child care, I think, were not necessarily made accurately.

If I can just make a couple more comments about the Medicaid issue. The one other thing I wanted to mention on Medicaid is that there are several States that have gotten Medicaid waivers already to be able to determine eligibility. They have gotten waivers from the Federal Government to enact their own Medicaid plan and to create their own eligibility standards for who qualifies for Medicaid.

All of the States that have done that have actually expanded eligibility. Let me repeat that. States who have actually gotten waivers and have been given the opportunity to redetermine who is eligible or not have actually not cut people from the Medicaid rolls but have actually expanded the Medicaid rolls.

So the concern that somehow or another if we do not require AFDC recipients to be included in Medicaid that States will immediately rush to cut them off is not borne out by the experiences of the States, like Tennessee and others that have gone forward with their own Medicaid waivers.

That is just an additional point that I think should have been noted.

There were a couple other things that were mentioned that I want to discuss. Those are the two major issues.

So you can see from the discussion that we are really not that far apart on the big issues. In fact, I suggest we, in fact, moved in their direction on one of those two issues, and the other one is going to be debated in the Medicaid debate.

The Democratic leader said that there were cuts in the EITC, the earned income tax credit. That is true. There was a cut in the earned income tax credit. When I say cut, we reduced the rate of growth. That program is expanding tremendously, and we cut back somewhat in the growth in that program, but it is not in this bill.

I do not know whether he suggested that it was or that it is coming later, but he did mention in his statement we cut the earned income tax credit. I just wanted to state for the record that the earned income tax credit is not in the welfare bill; it is not in the bill we voted on. I think that just needs to be clarified for the purposes of the record.

The other comment that I heard on the floor was that we changed the SSI provisions to reduce benefits to some children and knock off the SSI rolls other children. Two comments.

With respect to knocking off children who are on SSI right now, SSI being supplemental security income—children who have disabilities qualify for SSI and who are in poor families. They qualify for roughly $458 a month, plus Medicaid, plus food stamps and other services.

What we have done is something that was in the original Senate bill that passed with 87 votes, as far as redetermining who are truly disabled and should be eligible. That provision passed in the Senate with 87 votes. It was included in the Democratic substitute welfare proposal. That exact language was included in the Democratic substitute, both in the House and the Senate, I might add. The House had the same language. It got the support of every Democratic Senator at one point in time.

So I do not think there is a dispute that these children who came in and got on SSI as a result of what were individual functional assessments, that those children should no longer be covered under SSI. In fact, there was never even an amendment offered to change that standard. So we can put that issue aside.

The other issue is a legitimate one, and that is that we have reduced payments to some children who are still considered disabled under SSI. Let me explain to you how that occurred.

In the Senate bill, all children who qualified for SSI received the full $458 a month. That is an SSI benefit. That is an SSI benefit whether you are an adult or child. SSI was originally created to be a supplemental income program. That is what it is, supplemental security income. It was supposed to be a supplemental security income program for adults who are disabled and, obviously, not able to work. So we provided this money for them to be able to support themselves.

Children have been included in that but get the same amount of money as an adult who, with that money, must support themselves. Obviously, children do not have to support themselves. Many of the families of children who are on SSI are on AFDC and other government support programs. Some of them are working families, working poor, and qualify as poor and, therefore, their children are eligible for SSI. So that is not the sole source of income to support that child, yet they get the same amount of money as an adult who must use that as their sole means of support.

So what we said in looking at how we could compromise with the House—and what the House had done was take children who qualified for SSI and divided them into two categories: The first category being those who needed 24-hour care or care that if they did not get would have been institutionalized. They would continue to receive cash. Everyone else would get no cash. They would still be eligible for SSI, but they would get no cash. What they would get is they would be eligible for amounts of funds that were then going to be block granted to States, and the States could provide services to them to meet the needs of their disability.

Well, there are many Members on this side of the building who had problems with no cash for these less severely disabled children, and we did not like the idea of the block grant. A lot of disability advocates did not like the idea of a block grant. So what we did is—and Senator CHAFEE worked very hard on this, and I gave him credit for that last night when I talked—we fought very hard on this to keep the cash assistance for all disabled children. But we recognized—and this is the concession we gave to the House—that there were varying degrees of disability, and a child with disabilities that did not require additional attention from the parents to be able to stay at home and live at home, obviously, did not need the kind of cash resources like the more severely disabled children. So we created a differentiation between those who need more constant home care from the parent, which would, in a sense, take the parent from the job market and require them to stay at home, and the children who were disabled but do not require that kind of constant attention, and that is therefore not as much of a drain on the parents to provide for them. So we created that very small difference, which is a 25-percent reduction in benefits. They still receive cash assistance, but they only receive 75 percent of the full SSI payment. We think that was a very reasonable compromise. I can understand how some Members would like to see the full 100 percent. But we think that was a reasonable compromise between what the House and the Senate had come up with.

The final point I wanted to make is in the area of child protection. There were comments made about how we are taking foster care and adoption and family protection services and slashing them under this bill. I will state for the RECORD, again, that under the House bill, this area was block granted completely. All of the services provided under that title were block granted and cut by $2.3 billion over the next 7 years. In the Senate bill, we did not have any provision on this issue, except that we cut $1.3 billion from this area to help finance the rest of the bill. We did not deal with any reforms in the area. We simply took some money out of one section of the child protection area; $1.3 billion was the cut here.

In the conference report, we did not cut $2.3 billion, we did not cut $1.3 billion, we cut $400 million. So the bill that Members voted for here—87 Members voted for it—actually cut the area of adoption and foster care and child protection more than the bill that they now objected to as cutting too much. So, again, I question whether all of that information really was sufficiently discussed and debated and gotten to Members on both sides of the aisle before their votes were cast.

The other point I wanted to make is that the entitlements to maintenance payments for adoption and foster care remained entitlements in the conference report. They were not in the House bill, but we negotiated and maintained the direct payments to children for adoption and foster care as an entitlement under this bill, which we think was very important, and was a step in the direction of those who had concerns about the block grant. The area we block granted, I say to Members, is that in the child protection area, 50 percent of all the money spent in that area is spent on administrative overhead expenses. Fifty percent does not get to the children. It is all very overhead-intensive. What we have done is given the States the flexibility, through the block grant, to eliminate a lot of this overhead expense and get a lot more direct services to the children in need. We also allow for agencies like the police and the social service agency to communicate with each other, which is not allowed under current law.

We think we have taken dramatic steps forward in this area in which we have seen some miserable results in recent months, from the Chicago case to this horrible tragedy of this young girl, Alyssa, in New York, to other tragedies which we are all familiar with in our States. So we believe this is an area that is ripe for new developments and changes. We allow for that in this bill.

In conclusion, I want to say that I think the real differences between the Republicans and the Democrats on the welfare issue come down now to more tactical reasons for not supporting this bill than they do substantive reasons. Again, I am not questioning whether or not it is a legitimate reason to oppose the bill. In fact, I say it very may well be a legitimate reason to oppose this bill. All I am suggesting is that those who voted against this conference report examine it for the particulars that are in here, and look at it in terms of not saying that we have to scrap this and start all over again, when, in fact, I think we have substantial agreement here, and that if we can make some modifications in a couple of the areas that I suggested, and that, in fact, we can find a workable compromise that not only will many Members on the other side of the aisle and, hopefully, all our Members on this side, will be able to support enthusiastically, but one that the President could support and one that we can include in the Balanced Budget Act of, hopefully 1995—maybe 1996, the way things are going.

I thank the Senator from Georgia for his indulgence. I know he has been waiting.

I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

THE WELFARE REFORM BILL

Mr. NUNN. Mr. President, I thank the Senator for his remarks. I had voted for the welfare reform bill when it first came through, not because I thought it was perfect, but I thought the system was so badly broken and that we must move in a different direction, even if we have to patch it up as we go.

However, the conference report had excesses and some provisions in it that I felt were simply going beyond the point that I could support. I appreciate the Senator's remarks today, both in explaining the conference report and also laying out some hostile areas, and the need for putting this back together if indeed it is vetoed.

I think it is important for the country that we get a welfare reform bill signed into law, at least in the next session, and I appreciate very much his leadership in this area.

Mr. NUNN. I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOSNIA

I. MISTAKES OF THE PAST

Mr. NUNN. Mr. President, many mistakes have been made in Yugoslavia, the most tragic by the parties themselves. All of the mistakes made by the international community added together do not even register on the scale compared to what the parties have done to each other.

Nevertheless, we should learn from our mistakes. Such mistakes include premature international recognition of the separate states before any agreement on minority rights or before any basic test for state viability. Another mistake was the United States and European failure—primarily, at the first instance, European failure—to deal decisively with the first Serb aggression.

Commitment of a lightly armed U.N. peacekeeping force in the middle of a civil war was another mistake. Dual-key arrangements required for military action with the United Nations in control was certainly a fundamental violation of any kind of a real effective command structure. And the United Nations constantly posed threats and deadlines with no followthrough, thereby steadily losing credibility. I could go on and on.

This is not, however, meant to denigrate in any way the efforts, often heroic, of the U.N. forces and the numerous international organizations that provided humanitarian assistance to the Bosnian people. Tens of thousands of lives were saved.

There are many lessons for Europe, the United Nations, for NATO, and for our own country in this tragedy that has caused so much hardship and cost so many lost lives.

Mr. President, the job now is to learn from the past and also face the reality of the future. United States and NATO forces face many obstacles and risks in Bosnia, but there is also a bright side based on events that have already occurred and also an opportunity for the future.

II. POSITIVE SIDE

Let me start today with the positive side. On the positive side, the NATO allies finally seem to mean business. Just a few examples: French President Chirac led an effort to provide greater combat capability to the U.N. protection force, and he exercised leadership in firming up the allies' commitment. NATO, urged by the Clinton administration, sent a clear and unmistakable signal of its determination with its bombing campaign against Bosnian Serb command, control and communication facilities when they continued to flaunt their own obligations.

President Clinton seized the opportunity presented by the bombing campaign and the Federation ground campaign to launch an intensive diplomatic effort under the effective leadership of Ambassador Richard Holbrooke that resulted in a comprehensive peace agreement between the parties. The Croatian and the Federation ground campaign, together with the peace agreement, greatly improved the clarity of lines separating the parties making a peace enforcement mission more feasible and less dangerous.

Finally, strong leadership by President Clinton and the United States in this area is producing tangible and positive results in NATO. Just a few of those results in NATO, some of which are truly remarkable.

First of all, Germany is providing troops for this first time out-of-area NATO operation. Second, French troops will be operating under NATO command and control. France has announced its return to regular participation in the NATO military committee. This is a reversal, Mr. President, of 30 years of French policy. Russia has agreed to place its forces under the operational control of an American general. Russia will consult with NATO on a 16-nation to 1-nation basis, but will not have a veto over NATO decisions.

These events have the potential to lead to future developments with Russia that could have a decidedly positive impact on European security in the years ahead. There are also, of course, potential downsides to this arrangement. There will be no substitute for constant high-level vigilance to this Russian military participation, both in Washington and in Moscow, as well as in the field. This one bears very careful and close nurturing and attention.

All NATO nations except Iceland, as well as many other nations, have committed forces to Bosnia. The United States forces will be primarily in the Tuzla area where the roads and terrain are difficult but not as severe as some other areas of Bosnia. The Nordic brigade comprised of Norway, Denmark, Finland, Sweden, and recently joined by Poland, that will be colocated with American forces, have operated in the area for some time. They have heavy equipment. They have not tolerated interference. They have been friendly with the people of the area, and they have been firm. They are helping our advance team immensely with their advice and their knowledge of the area and of the people.

The Turkish brigade will be near American troops, which should help to temper the more extreme elements of the Moslem communities. Turkey is a key NATO ally with strong influence in the moderate Moslem world.

All of our commanders who have testified before our committee or who have spoken to me privately believe that the rules of engagement are clear, they are robust, and they are appropriate. They authorize the use of force, including deadly force, in response to both hostile acts as well as, in the judgment of the commander, hostile intent. These are the same rules of engagement as were utilized in Haiti. Most importantly, the mission and the military task are doable, according to all of our military witnesses.

III. MILITARY MISSION

A. MISSION DEFINITION

The military mission is a subject of considerable importance in how it is defined. General Shalikashvili has defined our military mission as follows: "In an evenhanded manner, monitor and enforce compliance with the military aspects of the Dayton peace agreement."

General Shalikashvili has further listed the military tasks of the Dayton agreement as follows: Supervise selective marking of cease-fire line, interentity boundary line and zones of separation.

Monitor and, if necessary enforce, withdrawal of forces to their respective territories within agreed periods as follows:

Ensure withdrawal of forces behind zones of separation within 30 days of transfer of authority from UNPROFOR to the Implementation Force;

Ensure redeployment of forces from areas to be transferred from one entity to the other within 45 days of transfer of authority;

Ensure no introduction of forces into transferred areas for an additional 45 days;

Establish and man a 4-kilometer zone of separation—2 kilometers on either side of cease-fire/interentity boundary line;

Establish liaison with local military and civilian authorities; and

Create a Joint Military Commission and subordinate military commissions to resolve disputes between the Parties.

In order to accomplish these military tasks, the Military Annex to the General Framework Agreement provides that "the IFOR Commander shall have the authority, without interference or permission of any party, to do all that the Commander judges necessary and proper, including the use of military force, to protect the IFOR and to carry out the responsibilities" under the agreement. The peace agreement, thus, gives the NATO Implementation Force well-defined responsibilities—basically to separate the parties and create a stable environment—and grants it broad authorities to carry out its mission and to protect itself. In many ways, NATO's clearly defined responsibility with very broad authority and robust capability is the opposite of what the U.N. forces evolved into: broad and ill-defined responsibility with narrow authority and limited capability. The worst kind of combination. General Shalikashvili has testified that the military mission and the military tasks are appropriate and executable.

B. DEFINITION OF SUCCESS AND EXIT STRATEGY

There is a strong correlation between the definition of success when you are using military forces and also the exit strategy. I would like to briefly discuss those.

In discussing the obstacles to the success of the military mission we first must avoid confusing the military mission with the much broader U.S. and international political goals in Bosnia. It is a part of the overall political goals, but it is only one part of the broader goal.

In my view, we should view the military mission as a success if the Implementation Force provides the time and space for the parties, assisted by the international community, to begin a peaceful building process. I use the term "building" in both the physical and political sense; that is, both building the democratic processes for a unified nation and reconstructing the economy and the physical infrastructure of the nation.

The military part of the mission is to create the climate and stability required to begin the building process. The civilian part of the mission is to build the political and civil institutions that can endure. In the long run, only the parties themselves can bring about this success.

The building process is separate and distinct from the military mission. It is entirely possible that the military mission will be carried out with great professionalism and accomplish the military goal and still have the civilian building process end in dismal failure. That is what I think we have to recognize.

The success of the military mission will require a great deal of coordination with the Parties' military and civilian representatives and with the High Representative and the participating civilian organizations. The Joint Military Commission and subordinate military commissions at the brigade and battalion level will bring all of these parties together under the chairmanship of the Implementation Force commander and his local commanders. One of the principal uses of these forums is for the IFOR commander—U.S. Admiral Smith—and his subordinate commanders to work with the military commanders of the Federation and the Bosnian Serbs at all levels to convince them that peace is in the best interests of their respective peoples and that the military goal of regaining and holding lost territory is not achievable.

Mr. President, they do not have perfect civilian control in this part of the world. If we are going to really get a peace there that endures, a key part of that will be having the military leaders of each one of the parties, the Bosnian Serbs, the Bosnian Moslems, Bosnian Croats, to recognize that peace is in the interests of the people that they represent. That is a key. Our military forces will play a key role in that kind of understanding. This is very, very important.

Bringing the military leadership of the opposing parties together under U.S. and NATO auspices to begin the slow and tortuous process of building trust and cooperation may be one of the most important NATO challenges and opportunities.

The exit strategy and the definition of a successful military mission flow together, in my view. Separating the parties—providing time and space for the civil building process—creating an environment of peace and stability—and through non-U.S. military means, leaving a reasonable military balance which gives the parties an opportunity to defend their own borders. These are all key components of "success" in the broad context and are required for a successful exit of U.S. and NATO forces within approximately 1 year.

IV. RISKS

A. RISKS TO THE MILITARY MISSION

Mr. President, I get a lot of letters, and I know all of my colleagues do, about the risks to the United States military forces. These risks are very much on the minds of all of us as we send our young men and women to this dangerous area of the world.

There are certainly risks involved in this military operation.

There are a number of risks to U.S. military personnel. First, I believe, is accidents, based on all the records of the U.N. Forces. Then landmines, snipers, attacks by extremists, hostage taking, and, finally, one that is overlooked many times; complacency of our military forces when things are going well. This complacency can lead to carelessness and can only be avoided by strong leadership from the unit level right on up.

General Shalikashvili testified that he does not believe that our forces will be subjected to attacks from organized combat units. He believes the greatest risk will come from accidents on the dangerous Bosnian roads. In this regard, it should be noted that the U.N. Protection Force sustained 213 deaths, of which 80 were due to combat and 133 due to other causes.

I am confident that the excellent equipment, training and discipline of our forces should minimize the risks, but there will undoubtedly be American casualties. Potential attackers should be on notice that the forces available to NATO and the robust rules of engagement mean that swift and overpowering responses will take place if NATO forces are attacked or provoked.

Our forces are supposed to be evenhanded, and I am sure they will be. But evenhanded does not mean, nor should it imply, being gentle when they are either attacked or when they detect hostile intent. NATO and the United States must insist that President Izetbegovic of Bosnia, fully meet his commitment to ensure that the mujahedin forces depart Bosnia within 30 days of the signing of the peace agreement. This has been a firm pledge by the Bosnian President.

This will be seen by the United States as well as a number of other parties, including the Bosnian Moslems, Bosnian Croats, as well as the Bosnian Serbs, as an indication of the extent of the Iranian and other outside Islamic fundamentalist influence on the Bosnian Moslems.

It is hard to imagine that the Bosnian Moslem and Croat Federation could hold together if there is a pervasive extreme Islamic fundamentalist influence within the Bosnian Muslim entity.

It is also hard to believe that the Bosnian Serbs, particularly those who are living in the suburbs of Sarajevo, and whose cooperation or at least acquiescence is necessary to the security of the forces of the French contingent in that area, will be reassured if the mujahedin do not depart as scheduled. Although I will not dwell on this today, while we are talking about risk, there is also a risk of renewed conflict in Eastern Slavonia or a flare-up in Kosovo.

B. RISKS RELATING TO ARMING AND TRAINING

There are also risks relating to arming and training, which is a mission that I would like to discuss just for a few minutes.

The Regional Stabilization Annex to the Framework Agreement gives the parties 180 days after the agreement was signed to negotiate limits on the levels of armaments. These negotiations are to be carried out under the auspices of the Organization for Security and Cooperation in Europe (OSCE). I want to emphasize that this is a civilian and not a military task and the NATO Implementation Force is not responsible for this effort. The fact that it is a civilian task does not mean that the United States will not play a leadership role in this effort. On the contrary, the United States should endeavor to play a strong leadership role since a general reduction in the number of arms in former Yugoslavia will reduce the risk to the United States and allied forces participating in the Implementation Force as well as improve the chance for lasting peace.

The U.S. commitment to lead an international effort to arm and train the Federation forces was essential to securing the peace agreement but we should make no mistake that it carries substantial risk. An assessment is already underway to identify the capabilities of the Bosnian Serbs and the Muslim-Croat Federation, to assess what the Federation needs to redress its deficiencies, to plan how those needs will be met, and to commence training, since training may be provided immediately under the Regional Stabilization Annex and the UN Security Council resolution that lifts the arms embargo.

If arming and training is not carried out with care, it could wind up increasing the risk to United States forces in Bosnia and alienating our allies. It will be important to ensure that United States forces in Bosnia are not involved and that the involvement of active duty United States military personnel is kept to administrative functions. In this regard, I was pleased to note that President Clinton, in his letter of December 12, 1995 to Senator DOLE on this issue, stated that "I will do nothing that I believe will endanger the safety of American troops on the ground in Bosnia." Mr. President, I believe all of us agree with that goal. It will also be important for the Administration to keep our allies informed on the steps we are taking and to take into consideration their comments.

The use of a third country, such as Turkey—a secular Muslim country, to carry out the training seems to be the best choice.

In the case of training, I believe the emphasis should be on small unit training and the maintenance, repair and use of defensive weapons and equipment.

In the case of arming, I believe that whatever arms are provided to the Federation, the emphasis must be on defensive capability. By defensive capability, I mean that the weapons, equipment, and training that are provided are suited to allow the force to defend itself rather than to enable it to conduct offensive operations to gain and hold territory. That is a very important distinction—in the kind of equipment we encourage to be furnished by other countries. In the case or weapons and equipment, it would mean emphasizing counter battery radar, night vision devices, communications equipment, anti-armor, ammunition, light vehicles, and the like rather than providing large numbers of tanks and artillery tubes. There also may be a need to perform some modest military construction to relocate the Federation forces out of the cities and towns in which they are presently located.

There are also risks to the military mission that relate to the accomplishment of the civilian political goals.

C. RISKS TO CIVILIAN/POLITICAL GOALS

It is obvious that the planning for the accomplishment of the military tasks is far ahead of that for the civilian tasks and that there is a serious and growing gap between the two.

NATO planning at the strategic and operational levels benefitted greatly from the planning accomplished over the last year relating to a possible NATO operation to extract the United Nations Protection Force from Bosnia.

Our military people have been going through contingency planning on this situation for some time.

Both planning efforts required a common set of data relating to the all-important logistics effort to insert forces rapidly, to stabilize the security situation, and to extract the force safely once the mission had been carried out. Additionally, NATO has an in-place staff that specializes in such planning and is trained to adapt its plans as more information on the specific military tasks become available, as was the case during the negotiation of the General Framework Agreement and its Annexes.

By comparison, the Organization for Security and Cooperation in Europe and the other organizations that will be involved in the civil political mission have no counterpart planning staffs and have no experience in carrying out many of the tasks they will carry out in Bosnia. For example, the High Representative was only named a little more than a week ago to the London Conference.

The broad international political goal is to preserve Bosnia and Herzegovina as a unified country in a region in which peace and stability endures. Accomplishing that broad goal would require overcoming a number of obstacles that could defy its attainment and the civilian side of this will really have to address many of these obstacles.

Mr. President, all we have to do is look at Haiti to find out that you can have a military mission go extremely well but not have the economic development, the infrastructure development, and even the political development keep up with that. And you can still have a country that is hanging on the bare edge. That is the case in Haiti today, and that will also be the case in Bosnia unless the civilian side begins to catch up with the military side and really understand the obstacle to having stability in this region.

Such obstacles include the history of the region, the ethnic consciousness of significant parts of the population, the residual hatred resulting from the cruel and inhuman behavior of the warring parties, such as ethnic cleansing carried out by but not limited to the Bosnian Serbs, and the tendency of the Bosnian Croats and the Bosnian Serbs to identify with Croatia and Serbia respectively rather than with a unified Bosnia and Herzegovina. Faced with such obstacles, reaching the broad political goals will be extremely difficult. The underlying causes of the conflict cannot be cured by the military mission. And it is important for all of us to understand that.

D. BOSNIA—ONE NATION OR PARTITION

Mr. President, the broad goal is to have one nation called Bosnia. There are other tugs in the direction of partition and those tugs have not ended.

The General Framework Agreement and its 11 Annexes contain a number of provisions that both reinforce and undermine the broad political goal of a united Bosnia.

On the positive side for unity, for example, the following provisions reinforce that goal: the commitment to free and fair elections and the protection of internationally recognized human rights and fundamental freedoms in the agreement; the vesting of responsibility in the Federal Government for foreign policy, foreign trade, customs, immigration, and monetary policy; the establishment of a Parliamentary Assembly, a Presidency, and a Constitutional Court; and the arrangements for international assistance for rehabilitation.

On the other hand the following provisions are contrary to that goal of one Bosnia. On that side of the ledger, the recognition of two semi-autonomous entities, the Croat-Muslim Federation and the Bosnian Serb Republic, within clearly demarcated geographic boundaries, each of whom will have their own army; a Parliamentary Assembly whose legislation can be blocked by two-thirds of the representatives from the Federation or the Serb Republic or, in the case of a proposed decision deemed to be "destructive of a vital interest of the Bosniac, Croat, or Serb people," by a majority of the Bosniac, Croat, or Serb Delegates.

We can understand in this parliamentary body how dicey that proposition is.

A three-member Presidency, consisting of one Bosnian, one Croat, and one Serb, in which a decision may be blocked by declaration of one Member that it is "destructive of the vital interest of the Entity" he represents.

E. FRAGILE ASSUMPTIONS

Another very tricky proposition, Mr. President, that I would like to mention before closing today are two fragile assumptions that are very important to the overall peace agreement. These are fragile assumptions, and they are interrelated assumptions.

The first assumption is that the Moslem-Croat Federation, which was formed as a result of a U.S. diplomatic initiative in the February 1994 Washington Agreement, will stay together. One only has to recall that the Muslims and Croats armies were actively fighting each other prior to the Washington Agreement and that, even afterwards, the functioning of the city of Mostar has essentially been stymied for more than a year as a result of the inability of the Moslem and Croat mayors to work together. So that is a very questionable assumption.

The second assumption, pertains to the Sub-Regional Arms Control Annex which contains a "default" formula for limits on armaments that kicks in if the Parties cannot agree otherwise within 180 days. They first have the opportunity to negotiate. If they do not negotiate, then this so-called default formula and ratios kick in. The assumption is that it is stabilizing to establish a ratio based on the population of the respective parties.

Under that formula, the Federal Republic of Yugoslavia, commonly referred to as Serbia, has a baseline or a limit of 5. The Republic of Croatia has a limit of 2 compared to 5. And Bosnia and Herzegovina have a limit of 2. So the ratio is 5 Serbia, 2 Croatia, and 2 for the Bosnia and Herzegovina entity. The limit for Bosnia is further divided on the basis of a ratio for the Federation 2 and 1 for the Serb Republic.

Assuming the ratios are met in the default formula—it requires a great leap of faith—but even if they are reached, unless there has been significant political and economic progress, stability is far from assured.

If the Moslem Croat Federation stays together, the Bosnian Serbs' 2 to 1 disadvantage in arms compared to the Federation could serve as an incentive for them to align more closely with Serbia, to the detriment of the goal of a unified Bosnia.

If, on the other hand, the Federation does not stay together, the Bosnian Moslems will be at a 2 to 1 disadvantage in a potential two-front conflict with the combined strength of the Bosnian Croats and the Bosnian Serbs.

Now, I would say that it is unlikely that the Bosnian Croats and the Bosnian Serbs will join in some kind of unified or coordinated attack against the Bosnian Muslims, but the Bosnian Muslims could in the future easily find themselves in a conflict with both parties. These fragile assumptions, which could go awry very easily, make it even more essential from my perspective that the goal of the arms control builddown, the first effort to build down the weapons, as well as any arm-and-train program, leave all the parties with primarily a defensive capability.

If we start basically building up offensive arms, these ratios and all the complexities are going to be vast.

In spite of these fragile and questionable assumptions, I believe that a builddown process is worth a try. I believe that we must undertake at least the effort.

Finally, it will be imperative for the United States to remain engaged at the highest diplomatic levels to assure that the Organization for Security and Cooperation in Europe and other civilian organizations utilize the time available to them to undertake an intensive and focused effort to accomplish their task.

F. RISKS TO MILITARY MISSION RELATING TO CIVILIAN TASKS

Mr. President, possibly the greatest risk to the military mission is that there will be confusion of the military mission and the much broader U.S. and international political goals—confusion in the Congress and confusion in the country.

This has two aspects. The first is that there will be mission creep on the ground with the U.S. military being expected to assume more and more responsibility for the political or civilian aspects of the framework agreement. These include the task of continuing humanitarian aid, rehabilitation of infrastructure and economic reconstruction, the return of displaced persons and refugees, the holding of free elections, police functions within borders, and the like.

One of the trickiest areas is not about separating the forces. That is a clear military mission. But what happens within an area if you start having murders take place within the borders? Whose job is it to take on the policing of that? Certainly, the civilian mission will be to do what they can to restore the function of the police forces, but in the meantime what does the United States military and what do other NATO militaries do when there is really chaos within the borders?

These are a few of the areas that could very easily lead to mission creep.

The second danger—and this is something I think all of us in the Congress have a keen responsibility to keep in mind in our remarks—relates to public perception of how we define the military mission's success or lack thereof. I noted earlier that the military mission is limited. Assuming the United States military leaves Bosnia in approximately 1 year and the conflict there resumes shortly thereafter, has the military mission been a failure under these circumstances? If the news media and the American public confuse our narrowly defined 1-year military mission with the long-term political goals for a united and stable and peaceful Bosnia, the perception of failure after 1 year is possible and perhaps even probable. So I think it is important for us to define these terms very carefully.

V. RESIDUAL FORCE

Since the plans for carrying out the civilian tasks are far behind the military side and since they are so important to the building process, the best case is that there will be a solid beginning toward accomplishing the civilian tasks during the first year of the military deployment. But it will be far from complete. Because of this, I believe that planning must start now for a residual military force to replace the NATO implementation force at the end of a year to give the parties and the organizations helping them the secure environment and confidence they need to continue the longer-term civilian task which without any doubt is going to take far longer than 1 year.

A residual force should not include United States ground forces, in my view, but could be supported by the United States in those military areas where we have unique capabilities. Such a residual force can be a United Nations peacekeeping force or a coalition of forces from European and other nations that are committed to seeing the building process continued. This will in most likelihood take a number of years. The point is that the planning for a residual force needs to commence as soon as possible.

Finally, as a necessary contingency, the United States should begin to work with our allies to ensure continuing cooperation to contain the conflict if the peace process breaks down, either while our troops are there or after we leave in about a year. NATO's vital interests in my view have never been involved in Bosnia itself—important interests, but not vital. But NATO's vital interests could certainly be involved if there is a spread of this conflict. Strategic planning within NATO must begin now for a long-term containment strategy if that breakdown occurs.

Mr. President, the United Nations deployment to Macedonia in which United States and Nordic forces are participating is a first step, only a first step but at least a first step, toward this broader containment strategy which may be essential in the long run.

Mr. President, I thank my colleagues for their attention, and I thank the Chair for the time. I would at this point yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO TOM PETTIT

Mr. DOLE. Mr. President, I want to take a moment to pay tribute to a friend and a former NBC correspondent, Tom Pettit, who passed away today in New York. For more than a generation, Tom gave millions of viewers a front-row seat to a world of news and politics. As NBC news vice president Bill Wheatley noted:

> His work was always distinctive: There was never any doubt that it was a Tom Pettit report. Truly, he was among the very best in the profession that he so loved.

Having interviewed every President since Harry Truman, Tom certainly earned his stripes in broadcast journalism. He preserved many moments of history, including the tragic assassination of President John F. Kennedy in Dallas. I know I speak for all of my colleagues in sending our thoughts and prayers to his wife, Patricia, and his children: Debra, Anne, James, and Robert.

JOINT STATEMENT

Mr. DOLE. Mr. President, just for the information of my colleagues, following the meeting today at the White House, we issued a joint statement. I will just read the joint statement.

We have agreed that we will issue statements from now on so we do not have any problem about somebody saying something that might be misinterpreted. And the joint statement reads:

> Today we had good meetings which built on the progress made in yesterday's discussions. Staff will prepare further analysis to clarify options for the budget advisory group, which will then advise the principals on outstanding issues. Following the meeting of the budget advisory group, the principals will meet again next Friday afternoon.

So there will be a meeting with the President and the Vice President, the chief of staff, Leon Panetta, and the leaders of the House and the Senate.

On Thursday of next week and Wednesday of next week, staff and the advisory committees will meet.

So without much elaboration, I will say, in my view, we had a good session, very positive. I felt people wanted to get something done.

We discussed some very difficult issues. The hard decisions have not been made yet, but I guess without being too specific, it is fair to say, at least right now, the attitude of everyone is very positive, and I hope that we can do what the American people want us to do, and that is come to some agreement which will balance the budget over the next 7 years, using Congressional Budget Office numbers.

If we can do that—it may be painstaking, it may interrupt holiday schedules for some, but it will be worth it in the long run. So I certainly want to thank all of my colleagues and members of our staff who have been working this past week and will be working next week in an effort to bring about a balanced budget over the next 7 years.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1996

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to House Joint Resolution 136, a continuing resolution just received from the House; that the joint resolution be read a third time and passed; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (H. J. Res. 136) was read the third time and passed.

PERMITTING FEDERAL EMPLOYEES TO RETURN TO WORK

Mr. DOLE. Mr. President, while we are waiting, I will just say we have been trying to find some way that would permit Federal employees around the country to come back to work without enacting another continuing resolution. It is costing $40 million a day because we are going to pay the Federal employees. It is no fault of their own they are not working. It seems to me—at least I am getting a lot of calls from taxpayers around the country saying, "Why are you paying people for not working?"

My view is they ought to be able to go back to work, but under the law, they cannot even volunteer to go back to work, because if they volunteer, their supervisor might be in violation of some criminal statute. There is a purpose for all this, because if you do not have any money in the agency, it is pretty hard to say we are going to pay salaries.

But in this case, in fact we agreed to say, it is safe to say, this afternoon—it should have been in that joint communique—the principals agreed those who are furloughed will be paid because it is no fault of their own.

As the Washington Post said in an editorial, they are the victims, they are the pawns in this struggle for a balanced budget, and if you are in the Agriculture Department, we passed that appropriations bill, as the Presiding Officer knows because he is chairman of that Appropriations subcommittee, and they are working and they are getting paid. But if you work for the Interior Department, you are not getting paid because we have not passed a CR—we passed the Interior bill. Unfortunately, the President could have put people back to work, but he vetoed it.

So we have been trying to find some way out of the impasse because there are Federal workers—in fact, I heard this morning on the radio representatives of the Federal employees union saying that it is giving the Federal employees a bad image; that many believe they are out there shopping in the shopping malls knowing they are all going to get paid, and they are just getting more time off.

So I discussed in general the concept with Senator DASCHLE while we were at the White House and have been working with Senator WARNER throughout the day. We believe we have found a way that would permit Federal employees to come back to work and they would be paid on the assurance given by not only the principals in today's meeting, but a letter signed by myself and the Speaker of the House last Thursday directed to Senator WARNER and to Congresswoman MORELLA, Congressman TOM DAVIS and Congressman FRANK WOLF.

Let me read it:

> Section 1342 of title 31, U.S. Code, is amended, (1) by inserting after the first sentence "for the period December 15, 1995, through February 1, 1996, all officers and employees of the United States Government or the District of Columbia Government shall be deemed to be performing services relating to emergencies involved in the safety of human life or the protection of property and, (2) by striking out the last sentence.

Hopefully by then we will have completed our balanced budget and everybody will be back to work in a normal fashion.

I am going to try to clear this on the Democratic side and send it to the House. I have had a brief discussion with the Speaker, and I am not certain if he has had a chance to analyze this. But this does two things, we are told.

First of all, it permits Federal employees to go back to work without getting somebody in trouble, and, second, it assures they are going to be paid.

So I hope we can clear this before the evening ends. I am not certain the House could take it up today, but they will be back on Wednesday.

I know there is a lot of stress and unrest among Federal employees who are not working, but they will be paid, which means there is a lot of stress and unrest with the general taxpayers who wonder why they are not working if they are going to be paid. So this would permit Federal employees to do what I guess nearly everyone wants to do in the first place.

I wish to thank my colleague from Virginia, Senator WARNER, who has just come to the floor, for his assistance. We are trying to clear this at this point with the Democratic leader. If we cannot do that, at least I will have the bill printed in the RECORD and perhaps we can bring it up again next Wednesday when we are back in session.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. DOLE. I will be happy to yield.

Mr. WARNER. Mr. President, I just wish to thank the distinguished majority leader. Throughout this current series of problems and, indeed, in the last series, I was able to work with him expressing at all opportunity the need for the Federal employees to be treated with fairness and equity and compassion, and that means going back to work.

I just want to thank the leader for what he has done, and I am delighted to be a cosponsor of this particular piece of legislation, which, Mr. President, will enable them to be treated just like all other civil service employees, and I think that is the bare minimum we owe to these fine people who are public servants in every true sense.

Mr. DOLE. I think there is another matter we need to deal with very quickly because there are, I understand, 470,000, almost 500,000 employees who are working who are going to have difficulty being paid. So we need to address that very quickly, and we are working on that.

So as I was saying, as the Senator from Virginia indicated this morning, it is costing $40 million a day. These employees want to work and they cannot work. They cannot volunteer. Somebody is going to be in trouble if they do that. So we have discussed this with the Parliamentarian and legislative counsel, and this brief language would permit them to go back to work and also assure them they would be paid. Those are the two purposes of the resolution.

Mr. WARNER. Mr. President, again, I thank the distinguished leader, and I hope it is accepted.

Mr. DOLE. Mr. President, there is a considerable amount of what we call wrap-up around here. While that is being prepared, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

E. BARRETT PRETTYMAN FEDERAL COURTHOUSE

Mr. WARNER. Mr. President, I am introducing a bill today to name the Federal courthouse—U.S. District Courts and Circuit Court of Appeals for the District of Columbia Circuit—in the Nation's Capital in honor of the late Chief Judge E. Barrett Prettyman.

Following my graduation from the University of Virginia Law School in 1953, I was privileged to serve as his law clerk. He was then a member of the circuit court, and later became Chief Judge of the Circuit Court of Appeals for the District of Columbia.

As one of the Nation's most distinguished jurists, I believe that this building complex should be named for Judge Prettyman in honor of his more than 35 years of service in judicial affairs.

Further, Mr. President, I wish to add that the Environment and Public Works Committee, on which I serve, has recently approved the authorization for design of a D.C. courthouse "annex" to be appended to the existing structure. The urgent need for an "annex" was brought to my attention by the Honorable Oliver Gasch, U.S. District Judge, speaking on behalf of the jurists, local bar, and others in this judicial district. This "annex" is critically needed because of the ever-increasing number of cases here in the Nation's Capital and the ever-growing importance of the Circuit Court of Appeals.

The existing buildings, together with the "annex," will be named for the distinguished former Chief Judge, E. Barrett Prettyman.

He was born in Lexington, VA, home of my alma mater, Washington & Lee University, and he was a resident of six Virginia cities over the course of his lifetime making him both a Virginian and a Washingtonian. He also had connections with the State of Maryland. So he is truly a greater metropolitan area citizen.

After graduating from Randolph-Macon College in Ashland, Virginia, he earned a law degree from Georgetown University.

Mr. President, the recognition of the many accomplishments and contributions of Judge Prettyman to his chosen profession—that is, the law and to his community—are known by many here in the Nation's capital, and all across America.

He served as the Chief Judge of the United States Circuit Court, from 1953 to 1960, and is perhaps best known as the first Chief Judge of the court to take his case for judicial reform to Congress and to the American people.

As the son of the Chaplain of the United States Senate during the Wilson administration, Judge Prettyman had a knowledge of the Congress of the United States. Testifying before Congress on numerous occasions, Judge Prettyman asked the Judiciary Committee to provide funds to authorize two additional judges to relieve the backlog of cases before the Juvenile Court which was then served by only one judge. By allowing for two additional judges to serve the court, Judge Prettyman believed justice would be better served. And, as we know, justice delayed is justice denied.

Called the swing man by observers of the nine-member circuit court of appeals, Judge Prettyman made his mark as much for his decisions as his leadership.

In the centrist role he wielded exceptional influence over the opinions of this court. In what perhaps was his best-known opinion, Judge Prettyman wrote that the State Department has a right to bar entry for U.S. citizens into certain areas, such as Red China. The 1959 ruling by the court in which William Worthy, Jr., a journalist attempted to obtain a passport to visit Red China, he wrote that "While travel was a right"—Judge Prettyman wrote—"it can be restrained like any other right in foreign affairs, especially in the international posture of today's world of jets, radio, and atomic power. A blustering inquisitor vowing his own freedom to go and do as he pleases can throw the whole international neighborhood into turmoil."

This decision was ultimately upheld by the Supreme Court of the United States.

His 26 years on the Federal bench demonstrated him to be fair, firm, and thorough. And I might add, Mr. President, he had a great sense of humor.

Always seeking insight from his colleagues, he was well suited to serve as the chairman of the judicial conference composed of all of the Federal judges in the area. In 1960, he noted to as the chairman of this conference that "more than to any other person or group, the people have a right to look for suggestion as to what needs improvement and how."

While seeking advice and counsel from his colleagues on new and better ways to serve the judiciary, Judge Prettyman was also highly visible in areas which he felt needed improvement.

He was a strong advocate for providing free legal aid to the indigent, as well as the desirability in appointing an African-American to serve as a juvenile court judge.

I might also add, Mr. President, that I worked with Judge Prettyman to set up a special institute at Georgetown University, which institute was to serve those lawyers who desired to be better trained and better qualified in the representation of indigent defendants. That was a landmark accomplishment by this distinguished jurist.

Judge Prettyman served as an appointee under both the Kennedy and Johnson administrations. Under President Kennedy, Judge Prettyman served as chairman of the panel appointed to inquire into the U-2 incident and aided President Johnson as chairman of a committee studying the feasibility of phasing out veterans administration hospitals.

He was indeed an exceptionally able and scholarly judge.

I can think of no better qualified or more lasting tribute to such a fine, honorable public servant than to name the U.S. courthouse in the Nation's Capital the "E. Barrett Prettyman Federal Courthouse."

Mr. President, I also wish to thank his son, a lifetime friend and former law partner of mine, E. Barrett Prettyman, Jr., now a senior partner of Hogan & Hartson. He is an extraordinary man in his own right with great accomplishments, having served three Supreme Court Justices in the course of his career as a law clerk, and known throughout the United States as one of the foremost advocates before the Supreme Court of the United States. I thank him, and members of Judge Prettyman's family for their acquiescence and assistance with this proposed legislative naming.

Mr. President, I thank the Chair. This is a particularly moving moment for me to pay tribute to this great American. And I am hopeful that eventually the Congress will accept this. The pending legislation for the augmentation of the Federal district court is before the House of Representatives, and I anticipate its approval in the very near future. And I also wish to acknowledge the support of Congresswoman ELEANOR HOLMES NORTON with whom I discussed this matter before preparing this speech.

I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL EMPLOYEES WORK AND PAYMENT

Mr. DOLE. I send a bill to the desk with respect to Federal employees on behalf of myself, Senator WARNER, and Senator STEVENS, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1508) to assure that all Federal employees work and are paid.

The bill (S. 1508) was considered, ordered to a third reading, read the third time, and passed, as follows:

S. 1508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. . ALL FEDERAL EMPLOYEES DEEMED TO BE ESSENTIAL EMPLOYEES.

(a) IN GENERAL.—Section 1342 of title 31, United States Code, is amended for the period December 15, 1995 through February 1, 1996—

(1) by inserting after the first sentence "All officers and employees of the United States Government or the District of Columbia Government shall be deemed to be performing services relating to emergencies involving the safety of human life or the protection of property"; and

(2) by striking out the last sentence.

Mr. DOLE. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, let me thank my colleagues, particularly Senator DASCHLE, the Democratic leader. We did discuss it today at the White House. It is not a perfect solution as people will find when they get into it, because if the employee returns to work and there is an expenditure involved, they may not be able to carry out their normal duties. But at least I think from the standpoint of self-esteem, whatever, the Federal employees can come back to work and if they are paid, that would be satisfactory to them and to others who object to Federal employees being furloughed and then being paid. When they come back, they will not have a problem because they will at least be reporting for work and they will be at work and they will be paid.

It seems to me that in fairness to the Federal employees, this is not—as I said earlier, they are sort of in the middle. They are sort of the pawns in this exercise. I hope the House will take this and consider it carefully. Maybe they can improve upon it. They will be back on Tuesday. And I thank my colleagues on both sides for clearing this legislation.

Mr. FORD addressed the Chair.

Mr. DOLE. I will be happy to yield.

I yield the floor.

Mr. FORD. One item we tried to add to the continuing resolution earlier today was a clean CR so that we would not have any question.

Mr. DOLE. Right.

Mr. FORD. And the distinguished majority leader said in the Chamber yesterday he did not approve of closing Government down. And I appreciate what he is trying to do here. I think this needs some work on it.

Mr. DOLE. Right.

Mr. FORD. I believe the majority leader agrees with that, because if the others are not being paid, how does that Federal employee perform the service that he is there voluntarily doing until such time as a continuing resolution is passed for them to be paid?

So I thank him for trying here, but a clean CR would have been much better than what we are trying to do. We are monkeying with the statutory provisions now, and I am not sure that we are doing everything that we ought to do. A clean CR would have accomplished the end result, and I think it is unfortunate that we are furloughing Federal employees by statute and then paying them for not working by continuing resolution at the rate of $40 million a day.

I yield the floor.

Mr. WARNER. Mr. President, I say to my distinguished colleague, "This is a clear effort by the distinguished majority leader and, indeed, with the consent of the distinguished minority leader to take this process a step further."

Mr. FORD. I understand that.

Mr. WARNER. Let us make it clear that this is a step forward, and it puts all Federal civil servants in one category and not two classes, so to speak.

Mr. FORD. I understand that, I say to my friend. And I say to him, a clean CR would have taken care of everything, and now we send what we think is compassionate in our clean CR to the House and they take out Medicaid and send it back to us and recess.

These sorts of things just do not ring well outside the beltway.

Mr. WARNER. Mr. President, the Senate included the Medicaid provision and the House seems to think that there are other sources of funding available. A signature pen on a lot of these bills would have obviated many of the problems. So I do not suggest at this time, this late at night we ought to reopen what has been thoroughly debated this week.

Mr. FORD. I understand.

Mr. WARNER. This is a substantive, concrete step forward by the distinguished majority leader, and I am privileged to have been the cosponsor of this legislation.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I do not argue with my friend from Virginia at all. I have had a call from my State as it relates to the Medicaid payment. They are very concerned about it. That is a quarterly payment. It ends this month. The January, February, and March quarter for Medicaid is vitally important to them. And then when we have the, I think, good judgment to include that in the continuing resolution and the House said there are other means of paying it, well, if there are other means of paying it, let us not fuss at the Secretary of the Treasury trying to keep the Government open and keep it afloat with money when he finds other ways to make ends meet around here.

So I just wanted to make the point, and I do not want to offend my friend from Virginia. I understand what the Senate is trying to do, and I applaud Senator DOLE for saying he does not want to shut the Government down. So the blame now is where it ought to be. The blame now is where it ought to be, not on the Senate.

BUDGET NEGOTIATIONS

Mr. HEFLIN. Mr. President, these budget proposals now being negotiated will directly affect virtually every segment of the Government and every citizen of this country.

I am strongly in support of deficit reduction and favor the elimination of the national debt over a period of time. I have long supported a balanced budget amendment to the Constitution. I supported the 1993 reconciliation bill which has already led to significant reductions in our annual deficits. But as with any omnibus legislation of this type, there is a right and wrong way to pursue the same goal.

In our endeavor to achieve reductions in deficit spending, our priorities should be to reach an agreement on a 7-year budget and eliminating the Federal deficit. I think this is the wrong time for tax cuts. Eliminating tax cuts from the equation at this time will enable us to reach an agreement on the budget, and overcome this political impasse. Consideration on the proposed tax cuts should be postponed for 2 years to determine if deficit targets are being met, and in order to allow intensive study and hearings to determine what taxes should be reduced and how much taxes can be cut without detouring off the road toward a balanced budget.

Furthermore, focusing our attention to balancing the budget and reducing the Federal deficit, while postponing consideration of tax cuts, will allow hundreds of thousands of Federal workers to return to work and return a sense of financial stability to our country.

I have several major concerns surrounding the proposals, but the most disturbing are the cuts in Medicare and Medicaid. The Republican plan would cut Medicare growth by $270 billion over 7 years. It mandated a major restructuring of the program to supposedly give Medicare enrollees a wide range of options to join private health plans. However, I am concerned that instead of options, senior citizens would be faced with fewer alternatives, and forced into certain plans because they have no choice.

This direction would ultimately cause senior citizens to be charged more for health care while receiving less in Medicare. A great portion of the savings in Medicare would result by raising the part B premium. The premiums that our senior citizens pay would rise from the $46.10 per month to nearly $90.00 by the year 2002.

I have reservations and misgivings with regard to any Medicare reform that threatens the access to, and quality of, health care for senior citizens. I am fearful that the Republican plan would cut inpatient hospital service, home health care services, extended care services, hospice care, physicians services, outpatient hospital services, diagnostic tests, and other important services to our senior citizens.

In addition to a reduction in services, the following immediate burdens would be placed on our senior citizens: For fiscal year 1996, the monthly premium would rise to $53.70. Participants in the part B program would be required to pay the first $150.00 of expenses out-of-pocket rather than the current $100 deductible. These combinations with the proposal to raise the eligibility age to 67 leads me to believe that seniors are being singled out to bear the brunt of budget cuts.

These extreme cuts to Medicare also threaten health care for millions of people of all ages living in rural America. Since rural hospitals rely on Medicare for a significant proportion of their revenue, they will be particularly hard hit. Some will be forced to close altogether. Hospitals in rural areas are few and far between. A hospital closing affects all rural residents in the vicinity, not just seniors on Medicare. Under the GOP plan, these Americans will be forced to drive further to the nearest hospital, putting lives at risk.

Not only do these proposals cut Medicare, but Medicaid is also being reduced over the next 7 years. For the past 30 years, the Medicaid Program has been America's health and long-term care safety net. The Republican proposal was to repeal Medicaid, slash its Federal funding over the next 7 years, and to turn remaining Federal funds over to the States in the form of a block grant. In a State like Alabama, which is habitually faced with budget proration, the effects of such additional burdens would be huge and devastating.

The bottom line is this—these Medicaid cuts are simply too much, too soon. Our State will not be able to cope without hurting people severely.

Mr. President, as I stated before, our primary objective must be to first focus on passing a budget that reduces the Federal deficit without putting Americans who rely on Medicare and Medicaid at risk, and then after 2 years, turn our attention to the issue of reducing taxes.

PASSAGE OF THE SOURCE TAX BILL

Mr. REID. Mr. President, today, I am extremely pleased to announce that the source tax bill has again passed both houses. As many of you know, this legislation was passed in the 102d and 103d Congresses, and again in the 104th Congress as an amendment to the budget bill, only to be struck because of the so called Byrd rule. I have been working on this issue virtually since I came to Congress.

There are many people who have been essential to the bill's passage, and I wish to acknowledge some of them now. This issue was brought to my attention by a Navadan named Bill Hoffman. He told me about the unjust cases of retirees being taxed by States they no longer were living in. Many of these stories were very tragic, because the retiree relied completely on their pension incomes to survive.

Bill and his wife Joanne heard so many of these tragic stories that eventually they started an organization known as Retirees to Eliminate State Income Source Tax [RESIST]. RESIST was founded in July 1988 in Carson City, NV. In less than 4 years, it had grown in membership to tens of thousands of members. It includes members of every State of the Union. RESIST is truly a nonprofit, grass roots organization, and I congratulate and thank Bill and Joanne today for their tireless efforts. Without their help the source tax bill would not have made it to this stage today.

I would also like to extend my sincere thanks to Chairman ROTH and Senator MOYNIHAN, their staff, and especially the Finance Committee staff, for all of their help getting the source tax bill out of committee and to the floor. With everything that has been going on in recent weeks, they made this bill a priority and I am very grateful for their hard work.

I also extend my thanks to Senator BRYAN and Congresswoman BARBARA VUCANOVICH and her staff. The Congresswoman has also been working on this bill for a very long time, and my colleague, Senator BRYAN, has been continually supportive and essential in the passage of this bill.

Currently, retirees may be forced to pay taxes to States where they do not reside, and from which they receive no benefits. This is truly an unfair practice, especially for those retirees with relatively low incomes. This bill prohibits States from taxing the retirement income of nonresidents. It ends taxation without representation. It will protect all income received from pension plans recognized as qualified under the Internal Revenue Code. It will also exempt income received under certain nonqualified deferred compensation plans.

Often times, the pension income retirees receive is the only income they have on which to live. I have heard many stories of the devastating effects of taxing these pensions. One story, which I have told on this floor before, is of an older woman from Fallon, NV, who had an annual income of between $12,000 and $13,000 a year. One day she receives a notice from California saying she owes taxes on her pension income from California, plus the penalties and interest on those taxes.

The California Franchise Board had gone back to 1978 and calculated her tax debt to be about $6,000. That is half of her annual income. This story, as unfair and unequitable as it sounds, is unfortunately not unique. That is why this legislation is such a big victory for all retirees in this country.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the skyrocketing Federal debt is now slightly in excess of $11 billion shy of $5 trillion.

As of the close of business Thursday, December 21, the Federal debt—down to the penny—stood at exactly $4,989,393,165,359.35 or $18,939.82 on a per capita basis for every man, woman, and child.

GOVERNMENT "SHUTDOWN"

Mr. SIMPSON. Mr. President, as this unprecedented Government "shutdown" continues, I trust we will not fail to consider its impact in terms of how it affects so many individuals.

In my home State of Wyoming—a "public lands" State—the closure of national treasures such as Yellowstone National Park inflicts pain and frustration on many fronts. This closure, and the shutdown of related facilities and activities in my State, is a "hammer blow" to the recreation industry. It is an extreme disappointment to those who have long planned outdoor recreational vacations in that pristine winter environment. It also has a devastating economic impact on businesses and individuals throughout the region.

All across America, people's lives are being harshly affected by this action and it is all too easy—in our effort to view this problem on a regional, national, or even philosophical scale—to forget the needs and desires of the many individuals who sent us here to Washington not to bicker things to death, but to try to resolve them.

Let me cite here another example of the many affects of the shutdown of key services and facilities. I am deeply honored to serve as a Regent of the Smithsonian Institution. It is shut down. People from around our Nation—and from all around the world—as a part of this holiday season, have gathered their families to visit the Anacostia Museum, the Arts and Industries Building, the Cooper-Hewitt National Design Museum in New York, the Freer Gallery of Art, the Hirshorn Museum and Sculpture Garden, the National Air and Space Museum, the National Museum of African Art, and National Museum of American Art, the National Museum of American History, the National Museum of the American Indian, the National Museum of Natural History, the National Portrait Gallery, the National Postal Museum, the National Zoological Park, the Renwick

Gallery, the Arthur Sackler Gallery, the Smithsonian "Castle," the National Zoo, and a host of research facilities. But they won't. They can't. These facilities are not open to the taxpaying public. Their treasures are not to be viewed. The people who so wish to visit them over the holidays must be wondering wide-eyed, "What on earth is going on!?"

The museums of the Smithsonian report more than 25 million visitors annually. This great treasure of an institution is about to celebrate its 150th anniversary. And yet it is closed.

Last December more than 1 million people visited the Smithsonian museums and galleries.

In past years, visitorship in the last week of December has been double the week before. This year, most likely, it will not be.

The Smithsonian's retail shops and restaurants netted $2.6 million for the Institution last December—$440,000 in the final week alone, not counting restaurant proceeds. This is traditionally one of the most productive months for these operations of the Smithsonian. Until this year.

Another beneficiary of the Smithsonian's "draw" is the District of Columbia—itself in the midst of a major financial crisis. The Smithsonian's closure will certainly result in a parallel reduction of income for the District, as people learn there is no reason—and no way— to visit.

In the case of Yellowstone Park, our three-member Wyoming delegation is working with our fine Governor, Jim Geringer, and with the Department of Interior in a sincere effort to craft an arrangement whereby Yellowstone can be reopened. It is not yet known whether that can yet happen, but if that is the case, the impact of this regrettable "shutdown" can be, at least to that certain degree, minimized—1997 will be Yellowstone's 125th anniversary.

The Smithsonian will be celebrating a birthday too. I trust that later today we will be able to call up and pass H.R. 2627, the House-passed legislation authorizing the minting of a commemorative coin celebrating the Smithsonian's 150 years of existence. This legislation is being presently held at the desk, has been "cleared" on our side of the aisle and, I believe, will soon be "cleared" on the other side.

Swift passage of this legislation will be a clear and bright signal of our concern for this wonderful institution. Sales of this commemorative coin will help to minimize the financial damage of this unfortunate shutdown to the Smithsonian.

And beyond all that, I trust that in this holiday season we might be especially mindful of our duties and responsibilities to our Nation, our States, and our dear friends, family and neighbors as we deal with the vexing issues that divide us. Perhaps those eternal concepts of integrity, common purpose, trust, fair compromise and statesmanship can again carry us through this difficulty, helping us to responsibly agree as to the path that should guide us and so many future generations of Americans.

Mr. SIMPSON. Mr. President, I rise to speak about this crucial yet potentially devastating issue of raising the debt ceiling. It's certainly obvious why raising the debt ceiling is so crucial—the Government must meet its obligations.

However, I do find this whole exercise a devastating testament to the continuing excesses of spending.

Last year, I served on the bipartisan Commission on Entitlement and Tax Reform, which was guided through the deep swamps of entitlement spending by two remarkable and courageous men—Senator BOB KERREY, who served as our able chairman, and our former colleague, Senator Jack Danforth, who served as vice chairman.

From June through December, the Commission held a series of public meetings in which we looked for any and all ways to slow down the incredible pace at which entitlement spending is growing. Along the way, the Commission approved—by a vote of 30 to 1—an interim report which spelled out some highly sobering truths about Federal spending.

Perhaps the single most important finding in the interim report was that entitlement spending and interest on the debt together accounted for almost 62 percent of all Federal expenditures in 1993. Furthermore, according to the Congressional Budget Office, this spending will consume fully 72 percent of the Federal budget by the year 2003 if the present trends continue. These are expenditures that occur automatically without Members of Congress casting so much as a single vote. This ought to serve as a "wake-up call" to all of us that we are headed on a course to disaster unless we act affirmatively to change course.

By the year 2012—less than 20 years away—entitlements and interest on the mounting debt will together consume all tax revenues collected by the Federal Government. We stand to have no money left over for national defense, education, national parks—pick your program.

Unfortunately, the Commission concluded its business in December without reaching an agreement on specific recommendations for bringing entitlement spending under control. That was most disappointing to me. I offered my own solution, as did the Co-Chairs, Senators KERREY and Danforth, but the majority of the Commission would not endorse the necessary measures.

However, 24 of the Commission's 32 members joined in writing a letter to President Clinton, emphasizing the need for "immediate action" and outlining various policy options—some of which Senator KERREY and I have introduced in a retirement reform package to shore up the Social Security Program.

Each of us has an obligation—not only to our constituents, but to ourselves and our children and grandchildren—to confront these issues head-on. Whatever outrage and hostility we may encounter from today's defenders of the "status quo"—and there will be plenty of it, a world of it—it will pale in comparison to the richly deserved scorn we will receive from future generations if we fail to have the courage to act on the impending entitlements crisis.

So as we act on the raising of the debt ceiling, let us remember what this means to our children and grandchildren who will be billed for this debt. That's why I supported the inclusion of a "generational accounting" chapter in the President's budget. We need to be reminded of what this debt means to future generations, and why defenders of the status quo who oppose our budget-balancing efforts should be called to account.

MARVIN STONE

Mr. LEAHY. Mr. President, Marvin L. Stone, the chairman and president of the International Media Fund, has issued a final report on a 5-year effort he headed to assist emerging journalists in the former Soviet Union in identifying their new role as skeptics, rather than employees, of the state.

Mr. Stone and volunteers from the U.S. newspapers and media have taught, trained, and conducted workshops to give a boost to men and women who were struggling to nurture new independent media in the post-Communist countries of Central and Eastern Europe.

It was not an easy task. Mr. Stone reports that IMF encountered a bloated, entrenched, corrupting bureaucracy in the wake of the Communist collapse. And this bureaucracy, Stone adds, continues to fight a rear guard attempt at redemption—and a return to power.

The guiding principle brought to Central and Eastern Europe by Mr. Stone is the first amendment, a beacon that has kept America on course for more than 200 years. We can only hope that at some future date, it will be in the preamble of every constitution adopted by the countries of the old Eastern bloc.

Mr. President, I ask unanimous consent that the message from Chairman Stone be printed in the CONGRESSIONAL RECORD so that other Americans may learn of the work of this native Vermonter and the important contribution of IMF to sustain democracy in the post-cold-war world.

I have relied on his advice and his dedication to public service for a generation. All Americans owe him thanks for all he does.

There being no objection, the material was the ordered to be printed in the RECORD, as follows:

MESSAGE FROM THE CHAIRMAN

(By Marvin L. Stone)

Five years ago a few of us started a three-year project whose goal was both simple and straightforward: to give a boost to men and women who were struggling to nurture new independent media in the post-Communist countries of Central and Eastern Europe.

It may cross the mind that we overstayed our leave by two years. The fact is that we, and others in the field, underestimated how difficult was the challenge. The Communists left behind a bloated, entrenched, corrupting bureaucracy. Even now it is obvious that these same apparatchicks are fighting a rear guard attempt at redemption—and a return to power.

So, while we are wrapping up our five years before the job is finished, we are eager to share our experiences with others who will continue what we have started. Perhaps the report on these pages will be of help.

Largely, ours is a story of going in cold to work with a skeptical bunch of journalists in countries as different as Estonia is from Albania, as Poland is from Hungary.

"Why are you here?" was always question Number One.

It soon became known that although the International Media Fund was financed largely by U.S. government dollars, it had a fiercely independent Board of Directors and an army of volunteer American editors, publishers, broadcasters and academics willing to join in our effort. From the start is was understood that the U.S. government would not interfere with policy decisions of the Board.

Surveys by our own staff soon indicated what we had already sensed: that it was not going to be possible to try to build the new media from the top down. The ideological roots of anyone over 40 were too deeply implanted. So we decided to build from the bottom up. Training was aimed at younger newcomers starting to work in the field. We invited local universities to let us help train their youngsters, the opinion-molders of tomorrow. And we also helped establish journalism resource centers to work with college-age students and professionals—and, yes, wannabees off the street. At the same time, we did not neglect business workshops, to help the new independent newspapers and broadcast stations survive in the competitive marketplaces of ideas and economics.

We've tried to put some numbers together (including our work over the last two years in Russia).

By our reckoning:

We conducted 29 workshops for about 1,300 broadcasters.

We arranged 14 special broadcast survey and consultation trips.

We conducted 13 business workshops for some 650 newspaper executives.

We held 22 journalism and business workshops, jointly held for about 1,000 broadcast and newspaper participants.

We established 14 university radio and television training facilities or stations.

We helped start 16 university student publications.

We worked with 19 Central and Eastern European universities.

And those figures do not include the participants at the great many workshops and training courses held at the six journalism resources centers supported by the Fund, or the training equipment supplied by the Fund to those centers, or the participation by Fund representatives as speakers or discussion leaders in numerous media conferences arranged by others in the U.S. and Europe.

Our donations of technical equipment is equally impressive. In fact, the Media Fund is leaving behind a substantial presence—giant printing presses, computer units, radio stations, television companies, journalism centers and university courses, none of which existed five years ago.

But beyond a check list is something more important. Our hundred or so American volunteer professionals made a lasting impression whenever they ventured—from Vladivostok in the east to Prague in the west, from Tallinn in the north to Tirana in the south, with Warsaw and Bratislva and Bucharest and other cities in between. And our own small staff, of course, made all this possible—a vigorous start to a job yet to be completed. We are leaving the scene early only because our primary source of funding no longer allows us the freedom and flexibility to carry out the mission for which we were created.

The labor of these five years is our legacy from those of us who have lived in a land with a free press to those journalists in other lands who wish to enshrine democracy in the future.

THE 30TH ANNIVERSARY OF JUDGE COFFIN'S APPOINTMENT TO THE FEDERAL COURT OF APPEALS

Mr. COHEN. Mr. President, 30 years ago, President Johnson wisely acceded to Senator Edmund Muskie, urging that Frank Coffin be nominated to fill a vacancy on the U.S. Court of Appeals for the First Circuit. Soon afterwards the President sent Senator Muskie a photograph of the two of them inscribed "Dear Ed, Come let us reason together—L.B.J." This is the very message that Judge Coffin has been delivering to colleagues on the bench, advocates at the bar, and scholars across the country—"come, let us reason together." And for three decades now, jurists, lawyers, and academics have responded to this invitation to engage in a dialog about the law with the learned barrister from Lewiston.

Judge Coffin came to the law in a more simple time, before the age of mega-firms, multimillion-dollar verdicts, and television cameras in the courtroom. He hung out his shingle in Lewiston and practiced law the way many lawyers probably wish they could today, in a one-man firm servicing the day-to-day legal needs of his individual clients. His relationship with a fellow Bates College graduate, Ed Muskie, brought him into politics, and then, after almost a decade of service in Congress and the executive branch, he joined the bench.

From his vantage point on the first circuit, he has witnessed a revolution in the law, from the activist period of the Warren and Burger courts, to the new formalism of today's majority. Yet he has remained a pragmatist, examining the nuances of each set of facts, identifying the competing interests at stake, and then drafting an option that candidly expresses the reasons for the court's ultimate judgment. Judge Coffin's concern has been with legal craftsmanship, not trendy theorizing. The careful balancing of competing interests "is not jurisprudential theory," he has written, "but, done well, it is a disciplined process, a process with demanding standards of specificity, sensitivity, and candor."

He is a product of the age of civility. Advocates who have appeared before the court, often in the harshest of disputes, aptly characterize him as "a real gentleman, kind and decent, smart as a whip, formal and polite, a great judge." "He has the kind of demeanor," one attorney wrote, "where everyone comes out of court feeling good, even the eventual losers."

He has dedicated the lion's share of his career to public life and believes strongly in the virtues of public service. "I do worry about young people today," he has said, "going into the most lucrative professions where they earn immense amounts of money rather than working in public service, which needs good people more than ever."

For 30 years, the people of Maine, litigants before the first circuit, and the legal profession in general have benefited from the service of a good person—Frank Coffin. Lawyer, politician, jurist, scholar, he continues to contribute to the quality of our national dialog.

U.S. INTERNATIONAL AVIATION POLICY

Mr. PRESSLER. Mr. President, I rise today to discuss a very important development in U.S. international aviation policy that occurred over the past year. I do not refer to any particular bilateral aviation agreement, although the number of new international air service opportunities created in 1995 was impressive and unprecedented. Instead, I wish to highlight the critical lesson we learned during the year and, hopefully, will continue to apply.

Simply put, the best way for the United States to secure the strongest possible international aviation agreements is for our negotiators to make decisions based on economic analysis with the goal of maximizing benefits for the U.S. economy. In other words, international aviation decisions should turn on what is best for our country, not which carriers can generate the most political support. In 1995, Transportation Secretary Peña did an excellent job in this regard and the results speak for themselves. U.S. passenger and cargo carriers are capitalizing on a plethora of new international opportunities, while the increased competition brings consumers lower air fares, reduced shipping costs, and greater choices.

This new focus on economic analysis, which I have advocated and enthusiastically support, is beneficial in several other regards. First, it has the practical effect of elevating U.S. international aviation policy to the status of a national trade issue. Second, it clearly defines the criteria the United States applies in assessing international aviation agreements and, by doing so, gives foreign nations a clearer understanding of what will and will not be acceptable to our negotiators. Finally, it prevents foreign nations from exploiting parochial disagreements between our carriers.

Looking ahead to 1996, it is imperative that sound economic analysis continues to be the guiding principle in our international aviation negotiations. We face a number of significant challenges, most notably aviation policy with Japan and the United Kingdom. Also, we have a golden opportunity to obtain an open skies agreement with Germany which would be a catalyst for further liberalization of air service opportunities throughout Europe. Next year is shaping up to be a very important year for U.S. international aviation policy.

Mr. President, let me emphasize that I believe the best bilateral aviation agreement for all parties involved is one which is open and permits market forces to determine what air service is provided in particular markets. Open skies agreements ensure consumers pay a competitive air fare, maximize consumer choice, and promote greater efficiencies for all carriers. Having made that important point, let me briefly turn to our relations with our three most important aviation trading partners overseas: Japan, the United Kingdom, and Germany.

As I have said in this body before, the major impediment to liberalizing aviation relations with the Government of Japan is the high operating costs of Japanese carriers. Due in large part to Japan's tightly regulated airline industry, Japanese carriers have operating costs significantly higher than United States competitors. Until the Government of Japan permits its carriers to become more competitive, there will be enormous pressure within Japan to continue to protect the Japanese air service market.

The Government of Japan, along with other Asia-Pacific Economic Cooperation [APEC] members including the United States, recently committed to work toward the goal of free and open trade between all member nations. The so-called Bogor Declaration has the potential to have a major impact on United States-Japan aviation relations. Time will tell.

One thing, however, is certain in United States-Japan aviation relations. The continued refusal of the Government of Japan to abide by the terms of United States-Japan bilateral aviation agreement concerning beyond rights guaranteed to several of our carriers will undoubtedly complicate aviation relations between our two countries.

Currently, the Government of Japan is refusing to honor United Airlines' right to provide service between Osaka and Seoul, Korea. Also, Federal Express Corporation is being wrongfully denied the right to provide service between Japan and China. In August, this body unanimously passed a resolution I sponsored calling on the Government of Japan to respect the beyond rights of our so-called 1952 carriers. Apparently that message has not yet been heard.

Why have beyond rights become such a point of contention between the United States and Japan? From a long-term perspective, I suspect it has something to do with the fact that passenger and cargo service opportunities in the Asia-Pacific market beyond Japan are booming. For example, the International Air Transport Association [IATA] estimates by the year 2010 there will be around 288 million international passengers traveling within the intra-Asian air service market alone. Beyond rights from Japan are absolutely essential if U.S. carriers are to fully participate in the booming Asia-Pacific market.

Turning to aviation relations with the United Kingdom, I continue to be very concerned about the extremely restrictive United States-United Kingdom bilateral aviation agreement. Of all our international aviation agreements, I believe the most restrictive agreement—and therefore our most anticonsumer bilateral—is the so-called Bermuda II agreement with the United Kingdom. Ironically, in areas other than aviation, our trade relations with the British are generally based on free market principles.

How lopsided is the United States-United Kingdom bilateral aviation agreement? For starters, recent statistics indicate approximately 58 percent of the passenger traffic between the United States and the United Kingdom is carried on British carriers. Due to capacity controls and other restrictions, our carriers are forced to settle for 42 percent of that traffic.

Moreover, according to a recent report prepared by the Commission of European Communities [EC], between 1984 and 1994 British carriers improved their market share vis-a-vis United States carriers by 21 percent. During the same period, a majority of carriers from other European Community countries lost market share. These statistics are particularly remarkable when one considers the fact that operating costs of European carriers generally are higher than those of U.S. carriers. Clearly, market factors are not controlling the distribution of air service opportunities between the United States and Britain.

Mr. President, the principal problem in United States-United Kingdom international aviation relations continues to be access for our passenger carriers to London's Heathrow Airport. Access to Heathrow is particularly important since it is arguably the most important gateway airport in the world. It offers connecting service opportunities worldwide. In fact, approximately one-third of all passengers traveling to Heathrow connect to flights elsewhere.

So why is access to Heathrow such a sticking point? The British argue the sole explanation is airport congestion. This may be part of the problem but, as I explained to this body several months ago, the British could create significant new take-off and landing opportunities at Heathrow simply by switching their runway operations to a more efficient operating mode. Perhaps another factor is yields on flights to Heathrow are generally 15 percent higher than those to London Gatwick Airport. Heathrow is the hub of British Airways, the most profitable airline in the world.

Since October, phase 2 negotiations with the British have been suspended. I believe, however, we owe it to consumers on both sides of the Atlantic to continue to press for further liberalization of the United States-United Kingdom bilateral aviation agreement. In that regard, I recently wrote Sir Colin Marshall, the chairman of British Airways, in response to his call for a "bigger, bolder and braver approach" to liberalizing air service opportunities between our two countries. I hope his enthusiasm is shared by the British Government.

I ask unanimous consent that a copy of my correspondence to Sir Colin Marshall to which I have referred be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PRESSLER. Mr. President, in contrast to the reluctance of the British to liberalize air service opportunities between our countries, a very important opportunity has presented itself in Germany. Based on a recent meeting with German Transport Minister Matthias Wissmann, I believe the German Government is enthusiastic about promptly securing an open skies agreement with the United States. For this reason, I recently wrote Secretary Peña and Secretary Christopher urging them to intensify our negotiating efforts with Germany. I ask unanimous consent that a copy of that correspondence be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PRESSLER. What would an open skies agreement with Germany mean for United States carriers? Such an agreement would produce significant direct and indirect benefits for our carriers. Let me explain.

In terms of direct benefits, an open skies agreement with Germany would immediately produce new air service opportunities for our carriers between the United States and Germany. Equally important, German airports would provide well-situated gateway opportunities for our carriers to serve points beyond Germany such as the Middle East and the booming Asia-Pacific market. In that regard, the Germans recently have expanded airport capacity in Frankfurt and Munich, and a new international airport is planned in Berlin-Brandenburg.

The potential of Germany as a gateway to the Asia-Pacific market is particularly intriguing. IATA estimates that by the year 2010, 10 percent of all international passengers traveling to the Asia-Pacific region annually will originate in Europe. Significantly, that is the same percentage of Asia-Pacific passengers IATA estimates will originate in North America.

With respect to indirect benefits, an open skies agreement with Germany would be an important catalyst for further liberalization of air service opportunities throughout Europe. To put this point in perspective, an open skies agreement with Germany—in combination with liberalized air service agreements we already secured with the Netherlands in 1992 and with nine other European countries earlier this year—would mean nearly half of all passengers traveling between the United States and Europe would be flying to or from European countries with open skies regimes.

Under such a scenario, tremendous competitive pressure would be brought to bear on European countries with whom we do not have liberalized aviation relations. The recent European Commission report on EC/U.S. aviation relations supports my assessment of the competitive impact of an open skies agreement with Germany. In its report, the EC astutely concluded that as a result of our successful initiatives to secure open skies agreements with some European countries, other European countries which resist liberalization "will either have to follow the open skies policy, or risk being left behind in the competition and in market share."

Mr. President, I believe the competitive impact of an open skies agreement with Germany would be particularly acute in the United Kingdom and France. As a result, such an agreement would have the significant collateral benefit of strengthening our hand in negotiations with both the British and the French. Let there be no mistake, both British and French airports are today competing with other European airports for international travelers and statistics clearly show the trend favors countries with an open skies policy.

For instance, between 1992 and 1994, total passenger traffic between the United States and the Netherlands grew an astounding 56 percent. During the same period, total passenger traffic between the United States and the United Kingdom grew just 7.5 percent. What does this illustrate? It demonstrates that Amsterdam's Schiphol Airport is drawing passenger traffic originating in the United States away from United Kingdom airports, particularly Heathrow. The significance of this point is not fully appreciated until it is understood that currently passengers connecting onto British carriers at Heathrow alone account for more than 1 billion pounds a year in export earnings for the United Kingdom.

Since this is such a critical point, let me share another example of market forces driving passengers to European countries that have an open skies agreement with the United States. Between 1992 and 1994, the number of passengers traveling from Germany to the United States was more or less stable. During that same period, the number of German passengers choosing to travel to the United States via Amsterdam's Schiphol Airport increased approximately 80 percent.

The potential direct and indirect benefits of an open skies agreement with Germany are tremendous. As I have said, I believe Secretary Peña and Secretary Christopher should aggressively pursue this opportunity.

Mr. President, let me conclude by saying that the international aviation challenges we face in 1996 make it imperative that our negotiators continue to make decisions based on economic analysis with the goal of maximizing benefits for the United States economy. This was a successful formula in our 1995 international aviation negotiations. In 1996, it is critical we build on the lesson we learned over the past year.

EXHIBIT 1

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC, November 21, 1995.

Sir COLIN MARSHALL,
Chairman, British Airways, Berkeley Square House, 6th Floor, London, England.

DEAR SIR COLIN: With great interest I read your speech on United States/United Kingdom aviation relations delivered to the Wings Club in New York last week. Your call for a "bigger, bolder and braver approach" to liberalizing air service opportunities between our countries peaked the interest of many on this side of the Atlantic.

I agree with you that no two nations are better suited to have a fully liberalized transatlantic air service market than the United States and the United Kingdom. To the extent nations worldwide have embraced the Bermuda I and Bermuda II agreements as a model for restricting air service opportunities in their markets, such an initiative would undoubtedly serve as a shining example for open aviation markets globally. As you correctly observed, consumers benefit most when markets are open and competition is robust.

I hope we can continue the dialogue we started in London in July on how this vision can come to pass. In the meantime, please contact me or Michael Korens of my staff if I can be of assistance.

Sincerely,

LARRY PRESSLER,
Chairman.

EXHIBIT 2

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC, December 1, 1995.

Hon. FEDERICO PEÑA,
Secretary, Department of Transportation, 400 Seventh Street, SW, Washington, DC.

DEAR SECRETARY PEÑA: As Chairman of the Senate Committee on Commerce, Science, and Transportation, I am writing to urge you to intensify your efforts to obtain an open skies aviation agreement with the Federal Republic of Germany. I am aware that some progress has been made in this regard. I believe, however, the importance of this initiative calls for renewed vigor on the part of both the Department of Transportation and the Department of State.

In addition to immediately creating additional new opportunities for our carriers in Germany, such an agreement would be enormously beneficial to our national interest in liberalizing air service markets throughout Europe. Simply put, an open skies agreement with Germany would bring considerable competitive pressure to bear on all European countries which currently restrict air service opportunities to our carriers.

For instance, I believe an open skies agreement with Germany would contribute significantly to our efforts to liberalize our air service relationship with the United Kingdom. Moreover, such an agreement would provide invaluable leverage in securing a bilateral aviation agreement with France.

Mr. Secretary, I am aware that you share my vision of an open skies agreement with Germany. As your efforts in that regard intensify, please contact me if I can be of assistance.

Sincerely,

LARRY PRESSLER,
Chairman.

NOTICE OF ADOPTION OF PROCEDURAL RULES

Mr. THURMOND. Mr. President, pursuant to Section 303 of the Congressional Accountability Act of 1995 (2 U.S.C. sec. 1384(b)), a Notice of Adoption of Procedural Rules, together with a copy of the adopted rules, was submitted by the Office of Compliance, U.S. Congress. These rules, first published in the RECORD of November 14, 1995, govern the procedures for consideration and resolution of alleged violation of the laws made applicable under Part A of Title II of the Congressional Accountability Act. (P.L. 104–1).

The Congressional Accountability Act specifies that the Notice and rules be printed in the Congressional

RECORD, therefore I ask unanimous consent that the notice and adopted rules be printed in the RECORD.

Furthermore, the Office of Compliance has available, for review, a "red-lined" copy of the proposed rules which were published in the Congressional RECORD on November 14, 1995. This "red-lined" copy, along with the final rules, will enable interested parties to note the changes that were made.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: PROCEDURAL RULES

NOTICE OF ADOPTION OF PROCEDURAL RULES

Summary: Section 303 of the Congressional Accountability Act directs the Executive Director of the Office of Compliance to adopt rules governing the procedures of the office. After considering comments to the Notice of Proposed Rulemaking published November 14, 1995 in the Congressional Record, the Executive Director has adopted and is publishing rules to govern the procedures for consideration and resolution of alleged violations of the laws made applicable under Part A of Title II of the Congressional Accountability Act (P.L. 104–1). Pursuant to Section 303(a) the rules have been approved by the Board of Directors, Office of Compliance.

For Further Information Contact: Executive Director, Office of Compliance, Room LA-200, 110 Second Street, S.E., Washington, DC 20540–1999. Telephone (202) 252–3100.

Background and summary

The Congressional Accountability Act of 1995 ("CAA"), PL 104–1, was enacted into law on January 23, 1995. 2 U.S.C. §1301 et. seq. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 301 of the CAA establishes the Office of Compliance as an independent office within that branch. Section 303 of the CAA directs that the Executive Director, the chief operating officer of the Office of Compliance, shall, subject to the approval of the Board, adopt rules governing the procedures for the Office of Compliance, including the procedures of Hearing Officers. The rules that follow establish the procedures by which the Office of Compliance will provide for the consideration and resolution of alleged violations of the laws made applicable under Part A of Title II of the CAA. The rules include procedures for counseling, mediation, and for electing between filing a complaint with the Office of Compliance and filing a civil action in a district court of the United States. The rules also address the procedures for the conduct of hearings held as a result of the filing of a complaint and for appeals to the Board of Directors of the Office of Compliance from Hearing Officer decisions, as well as other matters of general applicability to the dispute resolution process and to the operations of the Office of Compliance.

To obtain input from interested persons on the content of these rules the Executive Director published for comment a Notice of Proposed Rulemaking in the Congressional Record on November 14, 1995 (141 Cong. R. S17012 (daily ed., November 14, 1995) ("NPR")), inviting comments regarding the proposed rules. Seven comments were received in response to the proposed rules. Comments were received from Members of Congress, employing offices and a management employee of the Architect of the Capitol expressing his personal view. After full consideration of the comments received, the Executive Director has, with the approval of the Board, adopted these procedural rules.

Summary and board's consideration of comments

Confidentiality and Sanctions

Summary of comments: Several commenters questioned whether the CAA empowers the Board, Hearing Officers, or the Office to impose sanctions for breaches of confidentiality. They also stated that, assuming sanctions can be imposed, the rules should provide more details as to what conduct may be sanctioned, what the sanctions will be, and how those sanctions will be imposed. One commenter noted that identifying possible sanctions will help forestall any due process challenges in the context of breaches of confidentiality.

Response: Section 1.07 sets forth the standard for imposing sanctions against individuals or employing offices that violate the confidentiality provisions of section 416 of the CAA. The form and procedures governing the imposition of sanctions are modeled after Rule 37(b) of the Federal Rules of Civil Procedure.

Section 1.07 makes clear that the confidentiality provisions prohibit any disclosure of information discussed or exchanged in the course of counseling under Section 402, mediation under Section 403 and Board hearings and deliberations under Sections 405 and 406 of the CAA. Section 1.07 of the rules only prohibits the use of information (including documents) which was obtained by the individual during the counseling, mediation or other proceedings. However, employees, employing offices and individuals that participate in counseling, mediation or other confidential proceedings are not prohibited by these rules from discussing or disclosing information that was obtained by that person outside the confidential proceedings. The Board believes that a confidentiality rule of this breadth appropriately balances the statutory mandates for confidentiality and the statutory mandate to have open and effective counseling, mediation, hearings and Board proceedings. Finally, this section makes clear that communications necessary for the pursuit or defense of claims under the CAA (communications with lawyers or other representatives) are not prohibited, even if such communications involve disclosure of the contents of confidential proceedings. The Board believes that these provisions adequately address the concerns expressed by some commenters that the confidentiality provisions not unduly limit the ability of employees and employing offices to engage in communications which the law should encourage and not discourage parties from utilizing the procedures of the CAA.

It is the intent of the Board that Section 1.07 and the confidentiality provisions apply to non-party participants such as witnesses and representatives. Such persons have voluntarily submitted to the jurisdiction of the Office of Compliance by participating in the proceedings, or are subject to the Office's jurisdiction by virtue of the subpoena power. Section 1.07 is part of the general authority of the Office of Compliance to set the rules and procedures of the Office, including the procedures of hearing officers, under Section 303(a) of the CAA. Section 1.07 is reasonably necessary to preserve the confidentiality of counseling, mediation and Board proceedings mandated by section 416 of the CAA.

Section 1.07 does not authorize sanctions against personnel of the Office of Compliance, as suggested by a commenter. Although the Board agrees that the confidentiality provisions apply to personnel of the Office of Compliance, the Board believes that violations by Office personnel can be adequately addressed as a disciplinary matter within the Office, not under Section 1.07.

Filings by Facsimile Transmission (FAX)

Summary of Comments: On the filing of documents by FAX, two commenters suggested that Sections 1.03 and 2.03 of the proposed rules should clearly state that a request for counseling can be filed by FAX. One commenter stated that the rules should allow "all documents" to be filed by FAX. Another commenter suggested that the rules expressly provide that, in order to expedite the pre-hearing and hearing processes, documents may be filed with a Hearing Officer by FAX.

Response: The language of Section 1.03(a) has been clarified to expressly provide that a formal request for counseling may be filed by FAX and a provision has been added to allow the Board or a Hearing Officer, in their discretion, to order documents to be filed by FAX. Generally, allowing all documents to be filed by FAX might impose undue burdens on the receivers of FAX submissions and interfere with the Office of Compliance's orderly handling of documents. Accordingly, the proposed rule has not been modified to allow for such filing.

Withdrawals of Requests for Counseling

Summary of Comments: Several commenters suggested that Section 2.03(k) of the proposed rules should limit an employee's right to reinstate counseling to situations in which the request for reinstatement of counseling is made within the 180-day period established by Section 402 of the CAA. One commenter also expressed concern about the prospect of covered employees extending their claims indefinitely by repeatedly withdrawing from counseling and then reinstating the counseling request until the 30-day limit is reached. Another commenter indicated that the 30-day statutory limit on the counseling period requires the 30 days to be consecutive with no hiatus.

Response: The revised rule permits a covered employee, who has begun counseling, to withdraw from counseling with a single opportunity to reinstate counseling so long as that reinstatement request occurs within 180 days after the alleged violation and the counseling period does not exceed a total of 30 days. This addresses the commenter's concerns regarding the timeliness of counseling and the possibility of extended processing of claims. Because the Board is of the view that allowing an aggregate of 30 days of counseling conducted during two separate time frames is permissible under the CAA, the proposed rule has not been further modified.

Grievance Procedures of the Architect of the Capitol or the Capitol Police

Summary of Comments: Commenters asked for clarification in Section 2.03(m) of the term "grievance procedures of the Architect of the Capitol or the Capitol Police" under Section 401 of the CAA. One commenter suggested that Section 203(m) also provide for the Executive Director to recommend to any covered employees that they use grievance procedures which may be instituted in the future in any other employing offices.

Response: The adopted and approved rule defines the term "grievance procedures" to include any internal procedure of the Architect of the Capitol or the Capitol Police that is capable of resolving the issue about which the employee of the Architect of the Capitol or the Capitol Police has sought counseling.

Section 2.03(m) of the proposed rules exists by virtue of Section 401 of the CAA and reflects the statutory authorization to toll the statutory counseling and mediation periods if an employee of the Architect of the Capitol or the Capitol Police accepts the recommendation of the Executive Director. The CAA expressly authorizes such tolling of the statutory time periods only with regard to an employee of the Architect of the Capitol or the Capitol Police, and does not permit tolling in other circumstances.

Discoverable Information

Summary of Comments: One commenter stated that Section 6.01 should not limit discovery to "relevant" information. Instead, the commenter suggested that, consistent with Rule 26(b)(1) of the Federal Rules of Civil Procedure, a hearing officer should allow discovery of any information "reasonably calculated to lead to the discovery of admissible evidence." Another commenter requested that the rules specifically provide for discovery of requests for counseling and requests for mediation.

Response: The comments have been considered and the rule that has been adopted reflects the discovery standard of Rule 26(b)(1) of the Federal Rules of Civil Procedure. The rule does not, however, provide for the discovery of requests for counseling or mediation because that change in the rule is not necessary and could chill employees in their resort to counseling and mediation and hamper the effectiveness of those processes. To the extent that the commenter believes discovery is necessary to determine whether the applicable statutory requirements for filing a complaint have been met, the Office intends to include sufficient information in the notice of the end of the mediation period to allow such a determination by the employing office to be made.

Disqualification of Hearing Officers

Summary: Two commenters stated that Section 7.03 should provide that the denial of a motion to disqualify a Hearing Officer may be appealed directly to the Board, without review by the Executive Director.

Response: The Board has approved a rule that eliminates the requirement that the Executive Director review motions to disqualify a Hearing Officer and provides for Board review of the denial of a motion to disqualify during the appeal to the Board, if any, of the Hearing Officer's decision on the merits.

Admissibility of Evidence

Summary of Comments: Two commenters suggested that the procedural rules should not require a Hearing Officer to apply the Federal Rules of Evidence. One commenter was concerned that the reliance on the Federal Rules of Evidence would require a covered employee to retain an attorney. Another commenter stated that the rules should merely state that the Hearing Officer shall apply the provisions of the Administrative Procedure Act (Sec. 554 through 557 of the Title 5, U.S. Code) (APA), specifically Sec. 556(d) of Title 5, in hearing a case because Section 405(d)(3) of the CAA instructs that the hearing shall be conducted, "to the greatest extent practicable, in accordance with the principles and procedures" of those sections of the APA. This commenter asserts that the Federal Rules of Evidence set a "more restrictive" standard than that found in the APA and may limit the development of the hearing record.

Response: Section 7.09 of the rules has not been modified. The Federal Rules of Evidence clarify and more fully develop the APA provisions regarding evidentiary rulings. They are complementary, not contradictory, to the APA. In addition, the procedural rules require that the Federal Rules of Evidence be applied "to the greatest extent practicable." Accordingly, a Hearing Officer, in his or her discretion, may adapt, or depart from, these rules as warranted. Moreover, as the Federal Rules of Evidence are applicable in the federal courts, the adopted rule provides the collateral benefit of affording some uniformity between the administrative hearing process of the Office of Compliance and civil actions filed in the district courts under Section 408 of the CAA.

Informal Resolution of Disputes

Summary of Comments: Three comments were received with respect to Section 9.03(b) of the proposed rules. Two commenters questioned whether the informal resolution of disputes is permitted under the CAA in light of the requirements of Section 414. Another commenter stated that the proposed rule should be revised because resolution of disputes cannot exist without a mandatory waiver of a covered employees rights or the commitment by the employing office to an enforceable obligation.

Response: Section 9.03 of the rules has been reorganized to clarify its intent and meaning. Before a complaint is filed, an employee and an employing office may agree upon a mutually satisfactory arrangement, thereby resolving the dispute without a waiver by the employee or a commitment by the employing office to an enforceable obligation. The Board has considered the comments but is not persuaded that all early, mutually satisfactory resolutions of disputes between parties must be reduced to writing and approved by the Executive Director under Section 414 of the CAA. Section 9.03 of the rules recognizes that the policy underlying the CAA favors the early resolution of disputes and permits a covered employee for whom counseling and mediation has been successful to withdraw from the dispute resolution process without the requirement that such resolution be reduced to writing and submitted to the Executive Director for approval.

Attorney's fees and costs

Summary of Comments: One commenter suggested that Section 9.01(a) of the proposed rules be modified to prevent requests for attorney's fees during the pendency of an appeal of the Hearing Officer's decision. In this commenter's view, such requests would be "premature" because the Board could reverse a Hearing Officer's decision in the complainants favor, making an award of fees inappropriate.

Response: The Board has considered this comment in the context of the applicable provisions of the CAA. Under Section 225(a), if a covered employee is a "prevailing party," the Hearing Officer, Board, or court, as the case may be, may award attorney's fees, expert fees, and any other costs as would be appropriate if awarded under section 717(d) of the Civil Rights Act of 1964. Similarly, Section 405(g) provides that the Hearing Officer shall order, at the time of the final decision, "such remedies as are appropriate pursuant to title II" of the CAA, which includes attorney's fees, if appropriate. These statutory sections contemplate that the Hearing Officer would make an attorney's fee award, if appropriate, without awaiting a decision disposing of the case on appeal.

In actions involving private sector parties, an award of attorney's fees and costs is not delayed ordinarily by an appeal of the decision on the merits. See generally Fed. R. Civ. P., 58, Fed. R. App. Proc., 4(a)(4). The Board has considered the comment and does not find any compelling reason to delay the Hearing Officer's decision on fees and costs simply because the decision on the merits is pending on appeal. Therefore, Section 9.01 of the procedural rules has not been modified.

Class Actions

Summary of Comments: One commenter questioned whether the proposed rules were intended to prohibit class actions and requested that the rules specifically set forth procedures governing class actions.

Response: The procedural rules that have been adopted do not purport to address whether and in what circumstances, if any, employees may pursue class claims. The issue is one that involves substantive legal questions that are not appropriately addressed in these procedural rules.

Additional Comments

Commenters suggested various technical and ministerial changes in the proposed rules which improved their clarity and effectiveness and were consistent with the policy underlying the particular provisions. Those changes have been made and are included in the published rules, which are "red-lined" to indicate all changes made.

Several other suggestions, such as what information the Office will include in certain notifications and how it will handle telephonic requests for counseling, will be and are best handled as part of the Office's internal operational process rather than codified in the procedural rules. Similarly, requests that the Senate Chief Counsel for Employment or the House Office of General Counsel receive certain notifications during the dispute-resolution process are best handled by House and Senate internal procedures rather than in the Office's procedural rules, particularly because the confidentiality provisions of the CAA preclude the Office from disclosing the existence of a particular proceeding to individuals other than the parties or their designated representatives. However, to the extent that the commenters sought such notification in order to file an amicus curiae brief, it should be noted that the Board may, in certain cases, solicit such briefs. In those cases the Board will employ appropriate safeguards to ensure that the identity of the participants in any proceeding is not disclosed.

Finally, commenters suggested other additions or modifications to the procedural rules such as not allowing additional time for filings when documents are served by mail, permitting more time for the filing of responses, the imposition of more formal and detailed discovery procedures, the holding of pre-hearing conference at a later date than that proposed, a requirement that parties file pre-hearing memoranda and limitations on a party's ability to object to testimony or the calling of a witness. The Board is of the view that the Office's procedures should be neither cumbersome nor onerous for the parties who wish to participate in the CAA's administrative dispute resolution process and that the short time frames under the CAA, particularly the 60-day period between complaint and hearing, should be fully available for the preparation and processing of claims. It is the Board's considered judgment that to incorporate the foregoing or similar suggestions in the procedural rules would have the undesired effect of discouraging the use of the administrative process and, thereby, encouraging the use of the federal civil process.

PART I—OFFICE OF COMPLIANCE RULES OF PROCEDURE

Subpart A—General Provisions

§1.01 Scope and Policy
§1.02 Definitions
§1.03 Filing and Computation of Time
§1.04 Availability of Official Information
§1.05 Designation of Representative
§1.06 Maintenance of Confidentiality
§1.07 Breach of Confidentiality Provisions

§1.01 Scope and policy

These rules of the Office of Compliance govern the procedures for consideration and resolution of alleged violations of the laws made applicable under Part A of title II of the Congressional Accountability Act of 1995. The rules include procedures for counseling, mediation, and for electing between filing a complaint with the Office of Compliance and filing a civil action in a district court of the United States. The rules also address the procedures for the conduct of hearings held as a result of the filing of a complaint and for appeals to the Board of Directors of the Office of Compliance from Hearing Officer decisions, as well as other matters of general applicability to the dispute resolution process and to the operations of the Office of Compliance. It is the policy of the Office that these rules shall be applied with due regard to the rights of all parties and in a manner that expedites the resolution of disputes.

§1.02 Definitions

Except as otherwise specifically provided in these rules, for purposes of this Part;

(a) Act. The term "Act" means the Congressional Accountability Act of 1995;

(b) Covered Employee. The term "covered employee" means any employee of

(1) the House of Representatives;

(2) the Senate;

(3) The Capitol Guide Service;

(4) the Capitol Police;

(5) the Congressional Budget Office;

(6) the Office of the Architect of the Capitol;

(7) the Office of the Attending Physician;

(8) the Office of Compliance; or

(9) the Office of Technology Assessment.

(c) Employee. The term "employee" includes an applicant for employment and a former employee.

(d) Employee of the Office of the Architect of the Capitol. The term "employee of the Office of the Architect of the Capitol" includes any employee of the Office of the Architect of the Capitol, the Botanic Garden or the Senate Restaurants.

(e) Employee of the Capitol Police. The term "employee of the Capitol Police" includes civilian employees and any member or officer of the Capitol Police.

(f) Employee of the House of Representatives. The term "employee of the House of Representatives" includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (9) of paragraph (b) above.

(g) Employee of the Senate. The term "employee of the Senate" includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (9) of paragraph (b) above.

(h) Employing Office. The term "employing office" means:

(1) the personal office of a Member of the House of Representatives or a Senator;

(2) a committee of the House of Representatives or the Senate or a joint committee;

(3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

(i) Party. The term "party" means the employee or the employing office.

(j) Office. The term "Office" means the Office of Compliance.

(k) Board. The term "Board" means the Board of Directors of the Office of Compliance.

(l) Chair. The term "Chair" means the Chair of the Board of Directors of the Office of Compliance.

(m) Executive Director. The term "Executive Director" means the Executive Director of the Office of Compliance.

(n) General Counsel. The term "General Counsel" means the General Counsel of the Office of Compliance.

(o) Hearing Officer. The term "Hearing Officer" means any individual designated by the Executive Director to preside over a hearing conducted on matters within the Office's jurisdiction.

§1.03 Filing and computation of time

(a) Method of Filing. Documents may be filed in person or by mail, including express, overnight and other expedited delivery. Requests for counseling under Section 2.03, requests for mediation under Section 2.04 and complaints under Section 2.06 of these rules may also be filed by facsimile (FAX) transmission. In addition, the Board or a Hearing Officer may order other documents to be filed by FAX. The original copies of documents filed by FAX must also be mailed to the Office no later than the day following FAX transmission. The filing of all documents is subject to the limitations set forth below.

(1) In Person. A document shall be deemed timely filed if it is hand delivered to the Office in: Adams Building, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540-1999, before 5:00 p.m. Eastern Time on the last day of the applicable time period.

(2) Mailing. (i) If mailed, including express, overnight and other expedited delivery, a request for mediation or a complaint is deemed filed on the date of its receipt in the Office.

(ii) A document, other than a request for mediation or a complaint, is deemed filed on the date of its postmark or proof of mailing to the Office. Parties, including those using franked mail, are responsible for ensuring that any mailed document bears a postmark date or other proof of the actual date of mailing. In the absence of a legible postmark a document will be deemed timely if it is received by the Office at Adams Building, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540-1999, by mail within five (5) days of the expiration of the applicable filing period.

(3) Faxing documents. Documents transmitted by FAX machine will be deemed filed on the date received at the Office at 202-252-3115. A FAX filing will be timely only if the Office receives the document no later than 5:00 PM Eastern Time on the last day of the applicable filing period. Any party using a FAX machine to file a document bears the responsibility for ensuring both that the document is timely and accurately transmitted and confirming that the Office has received a facsimile of the document. The party or individual filing the document may rely on its FAX status report sheet to show that it filed the document in a timely manner, provided that the status report indicates the date of the FAX, the receiver's FAX number, the number of pages included in the FAX, and that transmission was completed.

(b) Computation of Time. All time periods in these rules that are stated in terms of days are calendar days unless otherwise noted. However, when the period of time prescribed is five (5) days or less, intermediate Saturdays, Sundays and Federal government holidays shall be excluded in the computation. To compute the number of days for taking any action required or permitted under these rules, the first day shall be the day after the event from which the time period begins to run and the last day for filing or service shall be included in the computation. When the last day falls on a Saturday, Sunday, or federal government holiday, the last day for taking the action shall be the next regular federal government workday.

(c) Time Allowances for Mailing of Official Notices. Whenever a person or party has the right or is required to do some act within a prescribed period after the service of a notice or other document upon him or her and the notice or document is served by regular, first-class mail, five (5) days shall be added to the prescribed period. Only two (2) days shall be added if a document is served by express mail or other form of expedited delivery. When documents are served by certified mail, return receipt requested, the prescribed period shall be calculated from the date of receipt as evidenced by the return receipt.

§1.04 Availability of official information

(a) Policy. It is the policy of the Board, the Office and the General Counsel, except as otherwise ordered by the Board, to make available for public inspection and copying final decisions and orders of the Board and the Office, as specified and described in paragraph (d) below.

(b) Availability. Any person may examine and copy items described in paragraph (a) above at the Office of Compliance, Adams Building, Room LA200, 110 Second Street, S.E., Washington, D.C. 20540-1999, under conditions prescribed by the Office, including requiring payment for copying costs, and at reasonable times during normal working hours so long as it does not interfere with the efficient operations of the Office. As ordered by the Board, the Office may withhold or place under seal identifying details or other necessary matters, and, in each case, the reason for the withholding or sealing shall be stated in writing.

(c) Copies of forms. Copies of blank forms prescribed by the Office for the filing of complaints and other actions or requests may be obtained from the Office.

(d) Final decisions. Pursuant to Section 416(f) of the Act, a final decision entered by a Hearing Officer or by the Board under Section 405(g) or 406(e) of the Act, which is in favor of the complaining covered employee or reverses a Hearing Officer's decision in favor of a complaining covered employee or reverses a Hearing Officer's decision in favor of a complaining covered employee shall be made public, except as otherwise ordered by the Board.

(e) Release of records for judicial action. The records of Hearing Officers and the Board may be made public if required for the purpose of judicial review under Section 407 of the Act.

(f) Access by committees of Congress. At the discretion of the Executive Director, the Executive Director may provide to the Committee on Standards of Official Conduct of the House of Representatives and the Select Committee on Ethics of the Senate access to the records of the hearings and decisions of the Hearing Officers and the Board, including all written and oral testimony in the possession of the Office. The identifying information in these records may be redacted at the discretion of the Executive Director. The Executive Director shall not provide such access until the Executive Director has consulted with the individual filing the complaint at issue, and until a final decision has been entered under Section 405(g) or 406(e) of the Act.

§1.05 Designation of representative

(a) An employee, a witness, or an employing office wishing to be represented by another individual must file with the Office a written notice of designation of representative. The representative may be, but is not required to be, an attorney.

(b) Service where there is a representative. All service of documents shall be directed to the representative, unless the represented individual or employing office specifies otherwise and until such time as that individual or employing office notifies the Executive Director of an amendment or revocation of the designation of representative. Where a designation of representative is in effect, all time limitations for receipt of materials by the represented individual shall be computed in the same manner as for unrepresented individuals with service of the documents, however, directed to the representative, as provided.

§1.06 Maintenance of confidentiality

(a) Policy. In accord with Section 416 of the Act, it is the policy of the Office to maintain, to the fullest extent possible, the confidentiality of the proceedings and of the participants in proceedings conducted under Sections 402, 403, 405 and 406 of the Act and these rules.

(b) At the time that any individual, employing office or party, including a designated representative, becomes a participant in counseling under Section 402, mediation under Section 403, the complaint and hearing process under Section 405, or an appeal to the Board under Section 406 of the Act, or any related proceeding, the Office will advise the participant of the confidentiality requirements of Section 416 of the Act and these rules and that sanctions may be imposed for a violation of those requirements.

§1.07 Breach of confidentiality provisions

(a) In general. Section 416(a) of the CAA provides that counseling under section 402 shall be strictly confidential, except that the Office and a covered employee may agree to notify the employing office of the allegations. Section 416(b) provides that all mediation shall be strictly confidential. Section 416(c) provides that all proceedings and deliberations of Hearing Officers and the Board, including any related records shall be confidential, except for release of records necessary for judicial actions, access by certain committees of Congress, and publication of certain final decisions. See also Sections 1.06 and 2.10 of these rules.

(b) Prohibition. Unless specifically authorized by the provisions of the CAA or by order of the Board, the Hearing Officer or a court, or by the procedural rules of the Office, no participant in counseling, mediation or other proceedings made confidential under section 416 of the CAA (confidential proceedings) may disclose the contents or records of those proceedings to any person or entity.

(c) Participant. For the purposes of this rule, participant means any individual, employing office or party, including a designated representative, that becomes a participant in counseling under Section 402, mediation under Section 403, the complaint and hearing process under Section 405, or an appeal to the Board under Section 406 of the Act, or any related proceeding which is expressly or by necessity deemed confidential under the Act or these rules.

(d) Contents or records of confidential proceedings. For the purpose of this rule, the contents or records of counseling, mediation or other proceeding includes the information disclosed by participants to the proceedings, and records disclosed by either the opposing party, witnesses or the Office. Notwithstanding these rules, a participant is free to disclose facts and other information obtained from any source outside of the confidential proceedings. For example, information forming the basis for the allegation of a complaining employee may be disclosed by that employee, provided that the information contained in those allegations was not obtained in a confidential proceeding. However, the employing office or representatives other than the complaining party's representative (or, in some cases, the Office) may not disclose that information. Nothing in these rules prohibit a bona fide representative of a party under Section 1.05 from engaging in communications with that party for the purpose of participation in the proceedings, provided that such disclosure is not made in the presence of individuals not reasonably necessary to the representative's representation of that party.

(e) Violation of confidentiality. Any complaint regarding a violation of the confidentiality provisions must be made to the Executive Director no later than 30 days after the date of the alleged violation. Such complaints may be referred by the Executive Director to a Hearing Officer. The Hearing Officer is also authorized to initiate proceedings on his or her own initiative, or at the direction of the Board, if the alleged violation occurred in the context of Board proceedings. Upon a finding of a violation of the confidentiality provisions, the Hearing Officer, after notice and hearing, may impose an appropriate sanction, which may include any of the sanctions listed in section 7.02 of these rules, as well as any of the following:

(i) An order that the matters regarding which the violation occurred or any other designated facts shall be taken to be established against the violating party for the purposes of the action in accordance with the claim of the other party;

(ii) An order refusing to allow the violating party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence;

(iii) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing with or without prejudice the action or proceedings or any part thereof, or rending a judgment by default against the violating party;

(iv) In lieu of any of the foregoing orders or in addition thereto, the Hearing Officer shall require the party violating the confidentiality provisions or the representative advising him, or both, to pay, at such time as ordered by the Hearing Officer, the reasonable expenses, including attorney fees, caused by the violation, unless the Hearing Officer finds that the failure was substantially justified or that other circumstances make an award of expenses unjust. Such an order shall be subject to review on appeal of the final decision of the Hearing Officer under section 406 of the Act.

No sanctions may be imposed under this section except for good cause and the particulars of which must be stated in the sanction order.

Subpart B—Procedures Applicable to Consideration of Alleged Violations of Part A of Title II of the Congressional Accountability Act of 1995

§2.01 Matters Covered by Subpart B
§2.02 Requests for Advice and Information
§2.03 Counseling
§2.04 Mediation
§2.05 Election of Proceedings
§2.06 Complaints
§2.07 Appointment of the Hearing Officer
§2.08 Filing, Service and Size Limitations of Motions, Briefs, Responses and other Documents
§2.09 Dismissal of Complaint
§2.10 Confidentiality
§2.11 Filing of Civil Action

§2.01 Matters covered by subpart B

(a) These rules govern the processing of any allegation that Sections 201 through 206 of the Act have been violated and any allegation of intimidation or reprisal prohibited under Section 207 of the Act. Sections 201 through 206 apply to covered employees and employing offices certain rights and protections of the following laws:

(1) The Fair Labor Standards Act of 1938.

(2) Title VII of the Civil Rights Act of 1964.

(3) Title I of the Americans with Disabilities Act of 1990.

(4) The Age Discrimination in Employment Act of 1967.

(5) The Family and Medical Leave Act of 1993.

(6) The Employee Polygraph Protection Act of 1988.

(7) The Worker Adjustment and Retraining Notification Act.

(8) The Rehabilitation Act of 1973.

(9) Chapter 43 (relating to veterans' employment and reemployment) of title 38, United States Code.

(b) This subpart applies to the covered employees and employing offices as defined in Section 1.02(b) and (h) of these rules and any activities within the coverage of Section 201 through 206 and 207 of the Act and referenced above in Section 2.01(a) of these rules.

§2.02 Requests for advice and information

At any time, an employee or an employing office may seek from the Office informal advice and information on the procedures of the Office and under the Act and information on the protections, rights and responsibilities under the Act and these rules. The Office will maintain the confidentiality of requests for such advice or information.

§2.03 Counseling

(a) Initiating a proceeding; formal request for counseling. In order to initiate a proceeding under these rules, an employee shall formally request counseling from the Office regarding an alleged violation of the Act, as referred to in Section 2.01(a), above. All formal requests for counseling shall be confidential, unless the employee agrees to waive his or her right to confidentiality under Section 2.03(e)(2), below.

(b) Who may request counseling. A covered employee who believes that he or she has been or is the subject of a violation of the Act as referred to in Section 2.01(a) may formally request counseling.

(c) When, how and where to request counseling. A formal request for counseling:

(1) Shall be made not later than 180 days after the date of the alleged violation of the Act;

(2) May be made to the Office in person, by telephone, or by written request;

(3) Shall be directed to: Office of Compliance, Adams Building, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540-1999; telephone: (202) 252-3100; FAX (202) 252-3115; TDD (202) 426-1912.

(d) Purpose of counseling period. The purpose of the counseling period shall be: to discuss the employee's concerns and elicit information regarding the matter(s) which the employee believes constitute a violation(s) of the Act; to advise the employee of his or her rights and responsibilities under the Act and the procedures of the Office under these rules; to evaluate the matter; and to assist the employee in achieving an early resolution of the matter, if possible.

(e) Confidentiality and waiver. (1) Absent a waiver under paragraph 2, below, all counseling shall be strictly confidential. Nothing in these rules shall prevent a counselor from consulting with personnel within the Office concerning a matter in counseling, except that, when the person being counseled is an employee of the Office, the counselor shall not consult with any individual within the Office who might be a party or witness without the consent of the person requesting counseling. Nothing contained in these rules shall prevent the Executive Director from reporting statistical information to the Senate and House of Representatives, so long as that statistical information does not reveal the identity of the employees involved or of employing offices that are the subject of a request for counseling.

(2) The employee and the Office may agree to waive confidentiality of the counseling process for the limited purpose of contacting the employing office to obtain information to be used in counseling the employee or to attempt a resolution of any disputed matter(s). Such a limited waiver must be written on the form supplied by the Office and signed by both the counselor and the employee.

(f) Role of counselor in informing employee of his or her rights and responsibilities. The counselor will provide the employee with appropriate information concerning rights and responsibilities under the Act and these rules.

(g) Role of counselor in defining concerns. The counselor may:

(1) obtain the name, home and office mailing addresses, and home and office telephone numbers of the person being counseled;

(2) obtain the name and title of the person(s) whom the employee claims has engaged in a violation of the Act and the employing office in which this person(s) works;

(3) obtain a detailed description of the action(s) at issue, including all relevant dates, and the covered employees reason(s) for believing that a violation may have occurred;

(4) inquire as to the relief sought by the covered employee;

(5) obtain the name, address and telephone number of the employees representative, if any, and whether the representative is an attorney.

(h) Role of counselor in attempting informal resolution. In order to attempt to resolve the matter brought to the attention of the counselor, the counselor must obtain a waiver of confidentiality pursuant to Section 2.03(e)(2) of this chapter. If the employee executes such a waiver, the counselor may:

(1) conduct a limited inquiry for the purpose of obtaining any information necessary to attempt an informal resolution or formal settlement;

(2) reduce to writing any formal settlement achieved and secure the signatures of the employee, his or her representative, if any, and a member of the employing office who is authorized to enter into a settlement on the employing office's behalf; and, pursuant to Section 414 of the Act and Section 9.03 of these rules, seek the approval of the Executive Director. Nothing in this subsection, however, precludes the employee, the employing office or their representatives from reducing to writing any formal settlement.

(i) Counselor not a representative. The counselor shall inform the person being counseled that the counselor does not represent either the employing office or the employee. The counselor provides information and may act as a third-party intermediary with the goals of increasing the individual's understanding of his or her rights and responsibilities under the Act and of promoting the early resolution of the matter.

(j) Duration of counseling period. The period for counseling shall be 30 days, beginning on the date that the request for counseling is received by the Office unless the employee and the Office agree to reduce the period.

(k) Duty to proceed. An employee who initiates a proceeding under this part shall be responsible at all times for proceeding, regardless of whether he or she has designated a representative. An employee, however, may withdraw from counseling once without prejudice to the employee's right to reinstate counseling regarding the same matter, provided that the request to reinstate counseling is received in the Office not later than 180 days after the date of the alleged violation of the Act and that counseling on a single matter will not last longer than a total of 30 days.

(l) Conclusion of the counseling period and notice. The Executive Director shall notify the employee in writing of the end of the counseling period, by certified mail, return receipt requested. The Executive Director, as part of the notification of the end of the counseling period, shall inform the employee of the right and obligation, should the employee choose to pursue his or her claim, to file with the Office a request for mediation within 15 days after receipt by the employee of the notice of the end of the counseling period.

(m) Employees of the Office of the Architect of the Capitol and Capitol Police.

(1) Where an employee of the Office of the Architect of the Capitol or of the Capitol Police requests counseling under the Act and these rules, the Executive Director may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police. The term grievance procedures refers to internal procedures of the Architect of the Capitol and the Capitol Police that can provide a resolution of the matter(s) about which counseling was requested. Pursuant to Section 401 of the Act and by agreement with the Architect of the Capitol and the Capitol Police Board, when the Executive Director makes such a recommendation, the following procedures shall apply:

(i) The Executive Director shall recommend to the employee that the employee use the grievance procedures of the Architect or of the Capitol Police Board, as appropriate, for a period generally up to 90 days, unless the Executive Director determines a longer period is appropriate for resolution of the employee's complaint through the grievance procedures of the Architect or the Capitol Police Board;

(ii) After having contacted the Office and having utilized the grievance procedures of the Architect or to the Capitol Police Board, the employee may notify the Office that he or she wishes to return to the procedures under these rules:

(A) within 10 days after the expiration of the period recommended by the Executive Director, if the matter has not been resolved; or

(B) within 20 days after service of a final decision resulting from the grievance procedures of the Architect or of the Capitol Police Board.

(iii) The period during which the matter is pending in the internal grievance procedure shall not count against the time available for counseling or mediation under the Act. If the grievance is resolved to the employee's satisfaction, or if no request to return to the procedures under these rules is received within the applicable time period, the Office will consider the case to be closed in its official files.

(2) Notice to employees who have not initiated counseling with the Office. When an employee of the Architect of the Capitol or the Capitol Police raises in the internal procedures of the Architect or of the Capitol Police Board an allegation which may also be raised under the procedures set forth in this subpart, the Architect or the Capitol Police Board should advise the employee in writing that a request for counseling about the allegation must be initiated with the Office within 180 days after the alleged violation of law occurred if the employee intends to use the procedures of the Office.

(3) Notice in final decisions when employees have not initiated counseling with the Office. When an employee raises in the internal procedures of the Architect or of the Capitol Police Board an allegation which may also be raised under the procedures set forth in this subpart, any final decision pursuant to the procedures of the Architect of the Capitol or of the Capitol Police Board should include notice to the employee of his or her right to initiate the procedures under these rules within 180 days after the alleged violation occurred.

(4) Notice in final decisions when there has been a recommendation by the Executive Director. When the Executive Director has made a recommendation under paragraph 1 above, the Architect or the Capitol Police Board should include notice to the employee of his or her right to resume the procedures under these rules within 20 days after service on the employee of the final decision and shall transmit a copy of the final decision, settlement agreement, or other final disposition of the case to the Executive Director.

§2.04 Mediation.

(a) Explanation. Mediation is a process in which employees, employing offices and their representatives, if any, meet separately and/or jointly with a neutral trained to assist them in resolving disputes. As parties to the mediation, employees, employing offices and their representatives discuss alternatives to continuing their dispute, including any and all possibilities of reaching a voluntary, mutually satisfactory resolution. The neutral has no power to impose a specific resolution, and the mediation process, whether or not a resolution is reached, is strictly confidential, pursuant to Section 416 of the Act.

(b) Initiation. Not more than 15 days after receipt by the employee of the notice of the conclusion of the counseling period under Section 2.03(l), the employee may file with the Office a written request for mediation. The request for mediation shall contain the employee's name, address, and telephone number, and the name of the employing office that is the subject of the request. Failure to request mediation within the prescribed period will preclude the employee's further pursuit of his or her claim.

(c) Notice of commencement of the mediation period. The Office shall notify the employing office or its designated representative of the commencement of the mediation period.

(d) Selection of Neutrals; Disqualification. Upon receipt of the request for mediation, the Executive Director shall assign one or more neutrals to commence the mediation process. In the event that a neutral considers him or herself unable to perform in a neutral role in a given situation, he or she shall withdraw from the matter and immediately shall notify the Office of the withdrawal. Any party may ask the Office to disqualify a neutral by filing a written request, including the reasons for such request, with the Executive Director. This request shall be filed as soon as the party has reason to believe there is a basis for disqualification. The Executive Director's decision on this request shall be final and unreviewable.

(e) Duration and Extension. (1) The mediation period shall be 30 days beginning on the date the request for mediation is received, unless the Office grants an extension.

(2) The Office may extend the mediation period upon the joint request of the parties. The request shall be written and filed with the Office no later than the last day of the mediation period. The request shall set forth the joint nature of the request and the reasons therefor, and specify when the parties expect to conclude their discussions. Requests for additional extensions may be made in the same manner. Approval of any extensions shall be within the sole discretion of the Office.

(f) Procedures. (1) The Neutral's Role. After assignment of the case, the neutral will promptly contact the parties. The neutral has the responsibility to conduct the mediation, including deciding how many meetings are necessary and who may participate in each meeting. The neutral may accept and may ask the parties to provide written submissions.

(2) The Agreement to Mediate. At the commencement of the mediation, the neutral will ask the parties to sign an agreement ("the Agreement to Mediate") to adhere to the confidentiality of the process. The Agreement to Mediate will also provide that the parties to the mediation will not seek to have the counselor or the neutral participate, testify or otherwise present evidence in any subsequent civil action under Section 408 of the Act or any other proceeding.

(g) Who may participate. The covered employee, the employing office, their respective representatives, and the Office may meet, jointly or separately, with the neutral. A representative of the employee and a representative of the employing office who has actual authority to agree to a settlement agreement on behalf of the employee or the employing office, as the case may be, must be present at the mediation or must be immediately accessible by telephone during the mediation.

(h) Conclusion of the Mediation Period and Notice. If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the request for mediation, the Office shall provide the employee, and the employing office, and their representatives, with written notice that the mediation period has concluded. The written notice to the employee will be sent by certified mail, return receipt requested and it will also notify the employee of his or her right to elect to file a complaint with the Office in accordance with Section 405 of the Act and Section 2.06 of these rules or to file a civil action pursuant to Section 408 of the Act and Section 2.11 of these rules.

(i) Independence of the Mediation Process and the Neutral. The Office will maintain the independence of the mediation process and the neutral. No individual, who is appointed by the Executive Director to mediate, may conduct or aid in a hearing conducted under Section 405 of the Act with respect to the same matter or shall be subject to subpoena or any other compulsory process with respect to the same matter.

(j) Confidentiality. Except as necessary to consult with the parties, their counsel or other designated representatives, the parties to the mediation, the neutral, and the Office shall not disclose, in whole or in part, any information or records obtained through, or prepared specifically for, the mediation process. This rule shall not preclude a neutral from consulting with the Office, except that when the covered employee is an employee of the Office a neutral shall not consult with any individual within the Office who might be a party or witness. This rule shall also not preclude the Office from reporting statistical information to the Senate and House of Representatives that does not reveal the identity of the employees or employing offices involved in the mediation. All parties to the action and their representatives will be advised of the confidentiality requirements of this process and of the sanctions that might be imposed for violating these requirements.

(k) Employees of the office of the Architect of the Capitol and the Capitol Police. At any time during the mediation period, the Executive Director may recommend that the employee use the grievance procedures of the Architect of the Capitol and the Capitol Police in accordance with the procedures set forth in Section 203(m) of these rules.

§2.05 *Election of proceeding*

(a) Pursuant to Section 404 of the Act, not later than 90 days after a covered employee receives notice of the end of mediation under Section 2.04(h) of these rules, but no sooner than 30 days after that date, the covered employee may either:

File a complaint with the Office in accordance with Section 405 of the Act and the procedure set out in Section 2.06, below; or

File a civil action in accordance with Section 408 of the Act and Section 2.11 below in the United States District Court for the district in which the employee is employed or for the District of Columbia.

(b) A covered employee who files a civil action pursuant to Section 2.11, may not thereafter file a complaint under Section 2.06 on the same matter.

§2.06 *Complaints*

(a) Who may file. An employee who has completed mediation under Section 2.04 may timely file a complaint with the Office.

(b) When to file. A complaint may be filed no sooner than 30 days after the date of receipt of the notice under Section 2.04(h), but no later than 90 days after that notice.

(c) Form and contents. A complaint shall be written or typed on a complaint form available from the Office. All complaints shall be signed by the covered employee, or his or her representative, and shall contain the following information:

(1) the name, mailing address, and telephone number(s) of the complainant;

(2) the name, address and telephone number of the employing office against which the complaint is brought;

(3) the name(s) and title(s) of the individual(s) involved in the conduct that the employee claims is a violation of the Act;

(4) a description of the conduct being challenged, including the date(s) of the conduct;

(5) a brief description of why the complainant believes the challenged conduct is a violation of the Act and the Section(s) of the Act involved;

(6) a statement of the relief or remedy sought; and

(7) the name, address, and telephone number of the representative, if any, who will act on behalf of the complainant.

(d) Amendments. Amendments to the complaint may be permitted by the Office or, after assignment, by a Hearing Officer, on the following conditions: that all parties to the proceeding have adequate notice to prepare to meet the new allegations; that the amendments relate to the violations for which the employee has completed counseling and mediation; and that permitting such amendments will not unduly prejudice the rights of the employing office or other parties, unduly delay the completion of the hearing or otherwise interfere with or impede the proceedings.

(e) Service of complaint. Upon receipt of a complaint or an amended complaint, the Office shall serve the employing office named in the complaint, or its designated representative, with a copy of the complaint or amended complaint and a copy of these rules. The Office shall include a service list containing the names and addresses of the parties and their designated representatives.

(f) Answer. Within 15 days after service of a copy of a complaint or an amended complaint, the respondent employing office shall file an answer with the Office and serve one copy on the complainant. The answer shall contain a statement of the position of the respondent employing office on each of the issues raised in the complaint, including admissions, denials, or explanations of each allegation made in the complaint and any other defenses to the complaint. Failure to raise a claim or defense in the answer shall not bar its submission later unless to do so would unduly prejudice the rights of the other party or unduly delay or otherwise interfere with or impede the proceedings.

§2.07 *Appointment of the hearing officer*

Upon the filing of a complaint, the Executive Director will appoint an independent Hearing Officer, who shall have the authority specified in Sections 2.09 and 7.01(b) below. The Hearing Officer shall not be the counselor involved in or the neutral who mediated the matter under Sections 203 and 2.04 of these rules.

§2.08 *Filing, service, and size limitations of motions, briefs, responses and other documents*

(a) Filing with the office; number. One original and three copies of all motions, briefs, responses, and other documents, must be filed, whenever required, with the Office or Hearing Officer. However, when a party aggrieved by the decision of a Hearing Officer files an appeal with the Board, one original and seven copies of both any appeal brief and any responses must be filed with the Office.

(b) Service. The parties shall serve on each other one copy of all motions, briefs, responses and other documents filed with the Office, other than the request for counseling, the request for mediation and complaint. Service shall be made by mailing or by hand delivering a copy of the motion, brief, response or other document to each party, or if represented, the party's representative, on the service list previously provided by the Office. Each of these documents must be accompanied by a certificate of service specifying how, when and on whom service was made. It shall be the duty of each party to notify the Office and all other parties in writing of any changes in the names or addresses on the service list.

(c) Time limitations for response to motions or briefs and reply. Unless otherwise specified by the Hearing Officer or these rules, a party shall file a response to a motion or brief within 15 days of the service of the motion or brief upon the party. Any reply to such response shall be filed and served within 5 days of the service of the response. Only with the Hearing Officer's advance approval may either party file additional responses or replies.

(d) Size limitations. Except as otherwise specified by the Hearing Officer or these rules, no brief, motion, response, or supporting memorandum filed with the Office shall exceed 35 pages, or 8,750 words, exclusive of the table of contents, table of authorities and attachments. The Board, the Office or Hearing Officer may waive, raise or reduce this limitation for good cause shown or on its own initiative. Briefs, motions, responses, and supporting memoranda shall be on standard letter-size paper (8½" x 11").

§2.09 Dismissal of complaints

(a) A Hearing Officer may, after notice and an opportunity to respond, dismiss any claim that the Hearing Officer finds to be frivolous or that fails to state a claim upon which relief may be granted, including, but not limited to, claims that were not advanced in counseling or mediation.

(b) A Hearing Officer may, after notice and an opportunity to respond, dismiss a complaint because it fails to comply with the applicable time limits or other requirements under the Act or these rules.

(c) If any complainant fails to proceed with an action, the Hearing Officer may dismiss the complaint with prejudice.

(d) Appeal. A dismissal by the Hearing Officer made under Section 2.09(a)–(c) or 7.16 of these rules may be subject to appeal before the Board if the aggrieved party files a timely petition for review under Section 8.01.

(e) Withdrawal of Complaint by Complainant. At any time a complainant may withdraw his or her own complaint by filing a notice with the Office for transmittal to the Hearing Officer and by serving a copy on the employing office or representative. Any such withdrawal must be approved by the Executive Director.

§2.10 Confidentiality

Pursuant to Section 416(c) of the Act, all proceedings and deliberations of Hearing Officers and the Board, including any related records, shall be confidential. A violation of the confidentiality requirements of the Act and these rules could result in the imposition of sanctions. Nothing in these rules shall prevent the Executive Director from reporting statistical information to the Senate and House of Representatives, so long as that statistical information does not reveal the identity of the employees involved or of employing offices that are the subject of a matter.

§2.11 Filing of civil action

(a) Filing. Section 404 of the Act provides that as an alternative to filing a complaint under Section 408 of the Act and Section 2.06 of these rules, a covered employee who receives notice of the end of mediation pursuant to Section 403 of the Act and Section 2.04(h) of these rules may elect to file a civil action in accordance with Section 408 of the Act in the United States district court for the district in which the employee is employed or for the District of Columbia.

(b) Time for filing. A covered employee may file such a civil action no earlier than 30 days after receipt of the notice under the Section 2.04(h), but no later than 90 days after that receipt.

Subpart C—[Reserved (part B—Section 210—ADA Public Services)]

Subpart D—[Reserved (Part C—Section 215—OSHA)]

Subpart E—[Reserved (Part D—Section 220—LMR)]

Subpart F—Discovery and Subpoenas

§6.01 Discovery
§6.02 Requests for Subpoenas
§6.03 Service
§6.04 Proof of Service
§6.05 Motion to Quash
§6.06 Enforcement

§6.01 Discovery

(a) Explanation. Discovery is the process by which a party may obtain from another person, including a party, information, not privileged, reasonably calculated to lead to the discovery of admissible evidence, for the purpose of assisting that party in developing, preparing and presenting its case at the hearing. This provision shall not be construed to permit any discovery, oral or written, to be taken from employees of the Office or the counselor(s), or the neutral(s) involved in counseling and mediation.

(b) Office policy regarding discovery. It is the policy of the Office to encourage the early and voluntary exchange of relevant and material nonprivileged information between the parties, including the names and addresses of witnesses and copies of relevant and material documents, and to encourage Hearing Officers to develop procedures which allow for the greatest exchange of relevant and material information and which minimize the need for parties to formally request such information.

(c) Discovery availability. Pursuant to Section 405(e) of the Act, the Hearing Officer in his or her discretion may permit reasonable prehearing discovery. In exercising that discretion, the Hearing Officer may be guided by the Federal Rules of Civil Procedure.

(1) The Hearing Officer may authorize discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property for inspection or other purposes; physical and mental examinations; and requests for admission.

(2) The Hearing Officer may make any order setting forth the forms and extent of discovery, including orders limiting the number of depositions, interrogatories, and requests for production of documents, and may also limit the length of depositions.

(3) The Hearing Officer may issue any other order to prevent discovery or disclosure of confidential or privileged materials or information, as well as hearing or trial preparation materials and any other information deemed not discoverable, or to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.

(d) Claims of privilege. Whenever a party withholds information otherwise discoverable under these rules by claiming that it is privileged or confidential or subject to protection as hearing or trial preparation materials, the party shall make the claim expressly and shall describe the nature of the documents, communications or things not produced or disclosed in a manner that, without revealing the information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

§6.02 Request for subpoena

(a) Authority to issue subpoenas. At the request of a party, a Hearing Officer may issue subpoenas for the attendance and testimony of witnesses and for the production of correspondence, books, papers, documents, or other records. The attendance of witnesses and the production of records may be required from any place within the United States. However, no subpoena may be issued for the attendance or testimony of an employee of the Office of Compliance.

(b) Request. A request for the issuance of a subpoena requiring the attendance and testimony of witnesses or the production of documents or other evidence under paragraph (a) above shall be submitted to the Hearing Officer at least 15 days in advance of the date scheduled for the commencement of the hearing. If the subpoena is sought as part of the discovery process, the request shall be submitted to the Hearing Officer at least 10 days in advance of the date set for the attendance of the witness at a deposition or the production of documents. The Hearing Officer may waive the time limits stated above for good cause.

(c) Forms and showing. Requests for subpoenas shall be submitted in writing to the Hearing Officer and shall specify with particularity the witness, correspondence, books, papers, documents, or other records desired and shall be supported by a showing of general relevance and reasonable scope.

(d) Rulings. The Hearing Officer shall promptly rule on the request.

§6.03 Service

Subpoenas shall be served in the manner provided under rule 45(b) of the Federal Rules of Civil Procedure. Service of a subpoena may be made by any person who is over 18 years of age and not a party to the proceeding.

§6.04 Proof of service

When service of a subpoena is effected, the person serving the subpoena shall certify the date and the manner of service. The party on whose behalf the subpoena was issued shall file the server's certification with the Hearing Officer.

§6.05 Motion to quash

Any person against whom a subpoena is directed may file a motion to quash or limit the subpoena setting forth the reasons why the subpoena should not be complied with or why it should be limited in scope. This motion shall be filed with the Hearing Officer before the time specified in the subpoena for compliance and not later than 10 days after service of the subpoena.

§6.06 Enforcement

(a) Objections and Requests for enforcement. If a person has been served with a subpoena pursuant to Section 6.03 but fails or refuses to comply with its terms or otherwise objects to it, the party or person objecting or the party seeking compliance may seek a ruling from the Hearing Officer. The request for a ruling shall be submitted in writing to the Hearing Officer. However, it may be made orally on the record at the hearing at the Hearing Officer's discretion. The party seeking compliance shall present the proof of service and, except where the witness was required to appear before the Hearing Officer, shall submit evidence, by affidavit or declaration, of the failure or refusal to obey the subpoena.

(b) Ruling by hearing officer. (1) The Hearing Officer shall promptly rule on the request for enforcement and/or the objection(s).

(2) On request of the objecting witness or any party, the Hearing Officer shall, or on the Hearing Officer's own initiative the Hearing Officer may, refer the ruling to the Board for review.

(c) Review by the board. The Board may overrule, modify, remand or affirm the ruling of the Hearing Officer and in its discretion, may direct the General Counsel to apply in the name of the Office for an order from a United States district court to enforce the subpoena.

(d) Application to an appropriate court; civil contempt. If a person fails to comply with a subpoena, the Board may direct the General Counsel to apply, in the name of the Office, to an appropriate United States district court for an order requiring that person to appear before the Hearing Officer to give testimony or produce records. Any failure to obey a lawful order of the district court may be held by such court to be a civil contempt thereof.

Subpart G—Hearings

§7.01 The Hearing Officer
§7.02 Sanctions
§7.03 Disqualification of the Hearing Officer
§7.04 Motions and Prehearing Conference
§7.05 Scheduling the Hearing
§7.06 Consolidation and Joinder of Cases
§7.07 Conduct of Hearing; disqualification of representatives
§7.08 Transcript
§7.09 Admissibility of Evidence
§7.10 Stipulations
§7.11 Official Notice
§7.12 Confidentiality
§7.13 Immediate Board Review of a Ruling by a Hearing Officer
§7.14 Posthearing Briefs
§7.15 Closing the record
§7.16 Hearing Officer Decisions; Entry in Records of the Office

§7.01 The hearing officer

(a) Exercise of authority. The Hearing Officer may exercise authority as provided in paragraph (b) of this Section upon his or her own initiative or upon the motion of a party, as appropriate.

(b) Authority. Hearing Officers shall conduct fair and impartial hearings and take all necessary action to avoid undue delay in the disposition of all proceedings. They shall have all powers necessary to that end unless otherwise limited by law, including, but not limited to, the authority to:

(1) Administer oaths and affirmations;

(2) Rule on motions to disqualify designated representatives;

(3) Issue subpoenas in accordance with Section 6.02;

(4) Rule upon offers of proof and receive relevant evidence;

(5) Rule upon discovery issues as appropriate under Sections. 6.01 to 6.06;

(6) Hold prehearing conferences for the settlement and simplification of issues;

(7) Convene a hearing as appropriate, regulate the course of the hearing, and maintain decorum at and exclude from the hearing any person who disrupts, or threatens to disrupt, that decorum;

(8) Exclude from the hearing any person, except any complainant, any party, the attorney or representative of any complainant or party, or any witness while testifying;

(9) Rule on all motions, witness and exhibit lists and proposed findings, including motions for summary judgment;

(10) Require the filing of briefs, memoranda of law and the presentation of oral argument with respect to any question of fact or law;

(11) Order the production of evidence and the appearance of witnesses;

(12) Impose sanctions as provided under Section 7.02 of these rules;

(13) File decisions on the issues presented at the hearing;

(14) Maintain the confidentiality of proceedings; and

(15) Waive or modify any procedural requirements of Sections 6 and 7 of these rules so long as permitted by the Act.

§7.02 Sanctions

The Hearing Officer may impose sanctions upon the parties, under, but not limited to, the circumstances set forth in this Section.

(a) Failure to comply with an order. When a party fails to comply with an order (including an order for the taking of a deposition, for the production of evidence within the party's control, or for production of witnesses), the Hearing Officer may:

(1) Draw an inference in favor of the requesting party on the issue related to the information sought;

(2) Stay further proceedings until the order is obeyed;

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon, evidence relating to the information sought;

(4) Permit the requesting party to introduce secondary evidence concerning the information sought;

(5) Strike any part of the complaint, briefs, answer, or other submissions of the party failing to comply with the order;

(6) Direct judgment against the non-complying party in whole or in part; or

(7) Order that the non-complying party, or the representative advising that party, pay all or part of the attorney's fees and reasonable expenses of the other party or parties or of the Office, caused by such non-compliance, unless the Hearing Officer or the Board finds that the failure was substantially justified or that other circumstances make an award of attorney's fees and/or expenses unjust.

(b) Failure to prosecute or defend. If a party fails to prosecute or defend a position, the Hearing Officer may dismiss the action with prejudice or rule for the complainant.

(c) Failure to make timely filing. The Hearing Officer may refuse to consider any request, motion or other action that is not filed in a timely fashion in compliance with this Part.

§7.03 Disqualification of the hearing officer

(a) In the event that a Hearing Officer considers himself or herself disqualified, either because of personal bias or of an interest in the case or for some other disqualifying reason, he or she shall withdraw from the case, stating in writing or on the record the reasons for his or her withdrawal, and shall immediately notify the Office of the withdrawal.

(b) Any party may file a motion requesting that a Hearing Officer withdraw on the basis of personal bias or of an interest in the case or for some other disqualifying reason. This motion shall specifically set forth the reasons supporting the request and be filed as soon as the party has reason to believe that there is a basis for disqualification.

(c) The Hearing Officer shall promptly rule on the withdrawal motion. If the motion is granted, the Executive Director will appoint another Hearing Officer within 5 days. Any objection to the ruling of the Hearing Officer on the withdrawal motion shall not be deemed waived by further participation in the hearing and may be the basis for an appeal to the Board from the decision of the Hearing Officer under Section 8.01 of these rules. Such objection will not stay the conduct of the hearing.

§7.04 Motions and prehearing conference

(a) Motions. When a case is before a Hearing Officer, motions of the parties shall be filed with the Hearing Officer and shall be in writing except for oral motions made on the record during the hearing. All written motions and any responses to them shall include a proposed order, where applicable. Only with the Hearing Officer's advance approval may either party file additional responses to the motion or to the response to the motion. Motions for extension of time will be granted only for good cause shown.

(b) Scheduling of the prehearing conference. Within 7 days after assignment, the Hearing Officer shall serve on the employee and the employing office and their designated representatives written notice setting forth the time, date, and place of the prehearing conference.

(c) Prehearing conference memoranda. The Hearing Officer may order each party to prepare a prehearing conference memorandum. That memorandum may include:

(1) The major factual contentions and legal issues that the party intends to raise at the hearing in short, successive, and numbered paragraphs, along with any proposed stipulations of fact or law.

(2) An estimate of the time necessary for presentation of the party's case;

(3) The specific relief, including the amount of monetary relief, that is being or will be requested;

(4) The names of potential witnesses for the party's case, except for potential rebuttal witnesses, and the purpose for which they will be called and a list of documents that the party is seeking from the opposing party, and, if discovery was permitted, the status of any pending request for discovery. (It is not necessary to list each document requested. Instead, the party may refer to the request for discovery.)

(5) A brief description of any other unresolved issues.

(d) At the prehearing conference, the Hearing Officer may discuss the subjects specified in paragraph (c) above and the manner in which the hearing will be conducted and proceed. In addition the Hearing Officer may explore settlement possibilities and consider how the factual and legal issues might be simplified and any other issues that might expedite the resolution of the dispute. The Hearing Officer shall issue an order, which recites the action taken at the conference and the agreements made by the parties as to any of the matters considered and which limits the issues to those not disposed of by admissions or agreements of the parties. Such order, when entered, shall control the course of the proceeding, subject to later modification by the Hearing Officer by his or her own motion or upon proper request of a party for good cause shown.

§ 7.05 Scheduling the hearing

(a) Date, time, and place of hearing. The Office shall issue the notice of hearing, which shall fix the date, time, and place of hearing. In no event, absent a postponement granted by the Office, will a hearing commence later than 60 days after the filing of the complaint.

(b) Motions for postponement or a continuance. Motions for postponement or for a continuance by either party shall be made in writing to the Office, shall set forth the reasons for the request, and shall state whether the opposing party consents to such postponement. Such a motion may be granted upon a showing of good cause. In no event will a hearing commence later than 90 days after the filing of the complaint.

§ 7.06 Consolidation and joinder of cases

(a) Explanation. (1) Consolidation is when two or more parties have cases that might be treated as one because they contain identical or similar issues or in such other appropriate circumstances.

(2) Joinder is when one person has two or more claims pending and they are united for consideration. For example, where a single individual who has one appeal pending challenging a 30-day suspension and another appeal pending challenging a subsequent dismissal, joinder might be warranted.

(b) The Board, the Office, or a Hearing Officer may consolidate or join cases on their own initiative or on the motion of a party if to do so would expedite processing of the cases and not adversely affect the interests of the parties, taking into account the confidentiality requirements of Section 416 of the Act.

§ 7.07 Conduct of hearing; disqualification of representatives

(a) Pursuant to Section 405(d)(1) of the Act, the Hearing Officer shall conduct the hearing in closed session on the record. Only the Hearing Officer, the parties and their representatives, and witnesses during the time they are testifying, shall be permitted to attend, except that the Office may not be precluded from observing the hearings. The Hearing Officer, or a person designated by the Hearing Officer or the Executive Director, shall control the recording of the proceedings.

(b) The hearing shall be conducted as an administrative proceeding. Witnesses shall testify under oath or affirmation. Except as specified in the Act and in these rules, the Hearing Officer shall conduct the hearing, to the greatest extent practicable, in accordance with the principles and procedures in Sections 554 through 557 of title 5 of the United States Code.

(c) No later than the opening of the hearing, or as otherwise ordered by the Hearing Officer, each party shall submit to the Hearing Officer and to the opposing party typed lists of the hearing exhibits and the witnesses, excluding rebuttal witnesses, expected to be called to testify.

(d) At the commencement of the hearing, or as otherwise ordered by the Hearing Officer, the Hearing Officer may consider any stipulations of facts and law pursuant to Section 7.10, take official notice of certain facts pursuant to Section 7.11, rule on objections made by the parties and hear the examination and cross-examination of witnesses. Each party will be expected to present his or her cases in a concise manner, limiting the testimony of witnesses and submission of documents to relevant matters.

(e) If the Hearing Officer concludes that a representative of an employee, a witness, or an employing office has a conflict of interest, he or she may, after giving the representative an opportunity to respond, disqualify the representative. In that event, within the time limits for hearing and decision established by the Act, the affected party will have a reasonable time to retain other representation.

§ 7.08 Transcript

(a) Preparation. An accurate electronic or stenographic record of the hearing shall be kept and shall be the sole official record of the proceeding. The Office shall be responsible for the cost of transcription of the hearing. Upon request, a copy of a transcript of the hearing shall be provided to each party, provided, however, that such party has first agreed to maintain and respect the confidentiality of such transcript in accordance with the applicable rules prescribed by the Office or the Hearing Officer in order to effectuate Section 416(c) of the Act. Additional copies of the transcript shall be made available to a party at the party's expense. Exceptions to the payment requirement may be granted for good cause shown. A motion for an exception shall be made in writing and accompanied by an affidavit or declaration setting forth the reasons for the request. Requests for copies of transcripts shall be directed to the Office. The Office may, by agreement with the person making the request, make arrangements with the official hearing reporter for required services to be charged to the requester.

(b) Corrections. Corrections to the official transcript will be permitted. Motions for correction must be submitted within 10 days of service of the transcript upon the party. Corrections of the official transcript will be permitted only upon approval of the Hearing Officer. The Hearing Officer may make corrections at any time with notice to the parties.

§ 7.09 Admissibility of evidence

The Hearing Officer shall apply the Federal Rules of Evidence to the greatest extent practicable. These rules provide, among other things, that the Hearing Officer may exclude evidence if, among other things, it constitutes inadmissible hearsay or its probative value is substantially outweighed by the danger of unfair prejudice, by confusion of the issues, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

§ 7.10 Stipulations

The parties may stipulate as to any matter of fact. Such a stipulation will satisfy a party's burden of proving the fact alleged.

§ 7.11 Official notice

The Hearing Officer on his or her own motion or on motion of a party, may take official notice of a fact that is not subject to reasonable dispute because it is either: (a) A matter of common knowledge; or (b) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. Official notice taken of any fact satisfies a party's burden of proving the fact noticed.

Where a decision, or part thereof, rests on the official notice of a material fact not appearing in the evidence in the record, the fact of official notice shall be so stated in the decision, and any party, upon timely request, shall be afforded an opportunity to show the contrary.

§ 7.12 Confidentiality

Pursuant to Section 416 of the Act, all proceedings and deliberations of Hearing Officers and the Board, including the transcripts of hearings and any related records, shall be confidential, except as specified in Section 416(d), (e), and (f) of the Act. All parties to the proceeding and their representatives, and witnesses who appear at the hearing, will be advised of the importance of confidentiality in this process and of their obligations, subject to sanctions, to maintain it.

§ 7.13 Immediate board review of a ruling by a hearing officer

(a) Review strongly disfavored. Board review of a ruling by a hearing officer while a proceeding is ongoing (an "interlocutory appeal") is strongly disfavored. In general, a request for interlocutory review may go before the Board for consideration only if the Hearing Officer, on his or her own motion or by motion of the parties, determines that the issue presented is of such importance to the proceeding that it requires the Board's immediate attention.

(b) Standards for review. In determining whether to forward a request for interlocutory review to the Board, the Hearing Officer shall consider the following:

(1) Whether the ruling involves a significant question of law or policy about which there is substantial ground for difference of opinion;

(2) Whether an immediate review of the Hearing Officers ruling by the Board will materially advance the completion of the proceeding; and

(3) Whether denial of immediate review will cause undue harm to a party or the public.

(c) Time for Filing. A motion by a party for interlocutory review of a ruling of the Hearing Officer shall be filed with the Hearing Officer within 5 days after service of the ruling upon the parties. The motion shall include arguments in support of both interlocutory review and the determination requested to be made by the Board upon review. Responses, if any, shall be filed with the Hearing Officer within 3 days after service of the motion.

(d) Hearing Officer Action. If the conditions set forth in paragraph (b) above are met, the Hearing Officer shall forward a request for interlocutory review to the Board for its immediate consideration. Any such submission shall explain the basis on which the Hearing Officer concluded that the standards in paragraph (b) have been met.

(e) Grant of Interlocutory Review Within Board's Sole Discretion. The Board, in its sole discretion, may grant interlocutory review.

(f) Stay Pending Review. Unless otherwise directed by the Board, the stay of any proceedings during the pendency of either a request for interlocutory review or the review itself shall be within the discretion of the Hearing Officer, provided that no stay shall serve to toll the time limits set forth in Section 405(d) of the Act.

(g) Denial of Motion Not Appealable; Mandamus. The grant or denial of a motion for a request for interlocutory review shall not be appealable. The Hearing Officer shall promptly bring a denial of such a motion, and the reasons therefor, to the attention of the Board. If, upon consideration of the motion and the reason for denial, the Board believes that interlocutory review is warranted, it may grant the review sua sponte. In addition, the Board may, in its discretion, in extraordinary circumstances, entertain directly from a party a writ of mandamus to review a ruling of a Hearing Officer.

(h) Procedures Before Board. Upon its acceptance of a ruling of the Hearing Officer for interlocutory review, the Board shall issue an order setting forth the procedures that will be followed in the conduct of that review.

(i) Review of a Final Decision. Denial of interlocutory review will not affect a party's right to challenge rulings, which are otherwise appealable, as part of an appeal to the Board under Section 8.01 from the Hearing Officer's decision issued under Section 7.16 of these rules.

§7.14 Posthearing briefs

(a) May Be Filed. The Hearing Officer may permit the parties to file posthearing briefs on the factual and the legal issues presented in the case.

(b) Length. No principal brief shall exceed 50 pages, or 12,500 words, and no reply brief 25 pages, or 6,250 words, exclusive of tables and pages limited only to quotations of statutes, rules, and the like. Motions to file extended briefs shall be granted only for good cause shown; the Hearing Officer may in his or her discretion also reduce the page limits. Briefs in excess of 10 pages shall include an index and a table of authorities.

(c) Format. Every brief must be easily readable. Briefs must have double spacing between each line of text, except for quoted texts and footnotes, which may be single-spaced.

§7.15 Closing the record of the hearing

(a) Except as provided in Section 7.14, the record shall be closed at the conclusion of the hearing. However, when the Hearing Officer allows the parties to submit additional evidence previously identified for introduction, the Hearing Officer may allow an additional period before the conclusion of the hearing as is necessary for that purpose.

(b) Once the record is closed, no additional evidence or argument shall be accepted into the hearing record except upon a showing that new and material evidence has become available that was not available despite due diligence prior to the closing of the record. However, the Hearing Officer shall make part of the record any motions for attorney fees, supporting documentation, and determinations thereon, and any approved correction to the transcript.

§7.16 Hearing Officer decisions; entry in records of the Office

(a) Pursuant to Section 405(g) of the Act, no later than 90 days after the conclusion of the hearing, the Hearing Officer shall issue a written decision.

(b) Upon issuance, the decision and order of the Hearing Officer shall be entered into the records of the Office.

(c) The Office shall promptly provide a copy of the decision and order of the Hearing Officer to the parties.

(d) If there is no appeal of a decision and order of a Hearing Officer, that decision becomes a final decision of the Office, which is subject to enforcement under Section 8.021 of these rules.

Subpart H. Proceedings Before the Board

§8.01 Appeal to the Board
§8.02 Compliance with Final Decisions, Requests for Enforcement
§8.03 Judicial Review

§8.01 Appeal to the Board

(a) No later than 30 days after the entry of the decision and order of the Hearing Officer in the records of the Office, an aggrieved party may seek review of that decision and order by the Board by filing with the Office a petition for review by the Board. The appeal must be served on the opposing party or its representative.

(b) Unless otherwise ordered by the Board, within 21 days following the filing of a petition for review to the Board, the appellant shall file and serve a supporting brief in accordance with Section 2.08 of these rules. That brief shall identify with particularity those findings or conclusions in the decision and order that are challenged and shall refer specifically to the portions of the record and the provisions of statutes or rules that are alleged to support each assertion made on appeal.

Unless otherwise ordered by the Board, within 21 days following the service of the appellant's brief, the opposing party may file and serve a responsive brief. Unless otherwise ordered by the Board, within 10 days following the service of the appellee's responsive brief, the appellant may file and serve a reply brief.

(c) Upon the request of any party or upon its own order, the Board, in its discretion, may hold oral argument on an appeal.

(d) Upon appeal, the Board shall issue a written decision setting forth the reasons for its decision. The Board may affirm, reverse, modify or remand the decision and order of the Hearing Officer in whole or in part. Where there is no remand the decision of the Board shall be entered in the records of the Office as the final decision of the Board and shall be subject to judicial review.

(e) The Board may remand the matter to the Hearing Officer for further action or proceedings, including the reopening of the record for the taking of additional evidence. The Hearing Officer shall render a decision or report to the Board, as ordered, at the conclusion of proceedings on the remanded matters. Upon receipt of the decision or report, the Board shall determine whether the views of the parties on the content of the decision or report should be obtained in writing and, where necessary, shall fix by order the time for the submission of those views. A decision of the Board following completion of the remand shall be entered in the records of the Office as the final decision of the Board and shall be subject to judicial review.

(f) Pursuant to section 406(c) of the Act, in conducting its review of the decision of a Hearing Officer, the Board shall set aside a decision if it determines that the decision was:

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

(g) In making determinations under paragraph (f), above, the Board shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(h) Record. The complaint and any amendments, notice of hearing, answer and any amendments, motions, rulings, orders, stipulations, exhibits, documentary evidence, any portions of depositions admitted into evidence, and the transcript of the hearing (together with any electronic recording of the hearing if the original reporting was performed electronically) together with the Hearing Officer's decision and the petition for review, any response thereto, any reply to the response and any other pleadings shall constitute the record in the case.

§8.02 Compliance with final decisions, requests for enforcement

(a) Unless the Board has, in its discretion, stayed the final decision of the Office during the pendency of an appeal pursuant to Section 407 of the Act, A party required to take any action under the terms of a final decision of the Office shall carry out its terms promptly, and shall within 30 days after the decision or order becomes final and goes into effect by its terms, provide the Office and all parties to the proceedings with a compliance report specifying the manner in which compliance with the provisions of the decision or order has been accomplished. If complete compliance has not been accomplished within 30 days, the party required to take any such action shall submit a compliance report specifying why compliance with any provision of the decision order has not yet been fully accomplished, the steps being taken to assure full compliance, and the anticipated date by which full compliance will be achieved.

(b) The Office may require additional reports as necessary;

(c) If the Office does not receive notice of compliance in accordance with paragraph (a) of this Section, the Office shall make inquiries to determine the status of compliance. If the Office cannot determine that full compliance is forthcoming, the Office shall report the failure to comply to the Board and recommend whether court enforcement of the decision should be sought.

(d) Any party may petition the Board for enforcement of a final decision of the Office or the Board. The petition shall specifically set forth the reasons why the petitioner believes enforcement is necessary.

(e) Upon receipt of a report of non-compliance or a petition for enforcement of a final decision, or as it otherwise determines, the Board may issue a notice to any person or party to show cause why the Board should not seek judicial enforcement of its decision or order.

(f) Within the discretion of the Board, it may direct the General Counsel to petition the Court for enforcement under Section 407(a)2 of a decision under Section 406(e) of the Act whenever the Board finds that a party has failed to comply with its decision and order.

§8.03 Judicial review

Pursuant to Section 407 of the Act, a party aggrieved by a final decision of the Board under Section 406(e) in cases arising under Part A of Title II of the Act may file a petition for review with the United States Court of Appeals for the Federal Circuit. The party filing a petition for review shall serve a copy on the opposing party or its representative.

Subpart I—Other Matters of General Applicability

§9.01 Attorney's Fees and Costs
§9.02 Ex parte Communications
§9.03 Settlement Agreements
§9.04 Revocation, amendment or waiver of rules

§9.01 Attorney's fees and costs

(a) *Request.* No later than 20 days after the entry of a Hearing Officer's decision under Section 7.16 or after service of a Board decision by the Office, the complainant, if he or she is a prevailing party, may submit to the Hearing Officer who heard the case initially a motion for the award of reasonable attorney's fees and costs, following the form specified in paragraph (b) below. The Board or the Hearing Officer, after giving the respondent an opportunity to reply, shall rule on the motion.

(b) *Form of Motion.* In addition to setting forth the legal and factual bases upon which the attorney's fees and/or costs are sought, a motion for an award of attorney's fees and/or costs shall be accompanied by:

(1) accurate and contemporaneous time records;

(2) a copy of the terms of the fee agreement (if any);

(3) the attorney's customary billing rate for similar work; and

(4) an itemization of costs related to the matter in question.

§9.02 Reserved—Ex parte communications

§9.03 Informal resolutions and settlement agreements.

(a) Informal Resolution. At any time before a covered employee files a complaint under Section 405, a covered employee and the employing office, on their own, may agree voluntarily and informally to resolve a dispute, so long as the resolution does not require a waiver of a covered employee's rights or the commitment by the employing office to an enforceable obligation.

(b) Formal Settlement Agreement. The parties may agree formally to settle all or part of a disputed matter in accordance with Section 414 of the Act. In that event, the agreement shall be in writing and submitted to the Executive Director for review and approval.

§9.04 Revocation, amendment or waiver of rules

(a) The Executive Director, subject to the approval of the Board, may revoke or amend these rules by publishing proposed changes in the Congressional Record and providing for a comment period of not less than 30 days. Following the comment period, any changes to the rules are final once they are published in the Congressional Record.

(b) The Board or a Hearing Officer may waive a procedural rule contained in this Part in an individual case for good cause shown if application of the rule is not required by law.

Signed at Washington, D.C., on this ______ day of ______, 1995.

R. Gaull Silberman,
Executive Director, Office of Compliance.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:32 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 37. Concurrent resolution directing the Clerk of the House of Representatives to make technical changes in the enrollment of the bill (H.R. 2539) entitled "An Act to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 136. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 5:57 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 1655. An act to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

H.J. Res. 136. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

At 6:58 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2539. An act to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulations of transportation and for other purposes.

ENROLLED BILL SIGNED

The following enrolled bill, previously signed by the Speaker of the House, was signed on today, December 22, by the President pro tempore (Mr. THURMOND):

H.R. 1530. An act to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1996, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following measures were read the second time and placed on the calendar:

S. 1500. A bill to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado, and for other purposes.

H. J. Res. 134. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 509. A bill to authorize the Secretary of the Interior to enter into an appropriate form of agreement with, the town of Grand Lake, Colorado, authorizing the town to maintain permanently a cemetery in the Rocky Mountain National Park (Rept. No. 104–199).

H.R. 562. A bill to modify the boundaries of Walnut Canyon National Monument in the State of Arizona (Rept. No. 104–199).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 1296. A bill to provide for the Administration of certain Presidio properties at minimal cost to the Federal taxpayer.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 605. A bill to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations:

Anthony Cecil Eden Quainton, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Director General of the Foreign Service.

Eric James Boswell, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be an Assistant Secretary of State.

Joseph Lane Kirkland, of the District of Columbia, to be an Alternate Representative of the Unites States of America to the Fiftieth Session of the General Assembly of the United Nations.

Jeanne Moutoussamy-Ashe, of New York, to be an Alternate Representative of the United States of America to the Fiftieth Session of the General Assembly of the United Nations.

Tom Lantos, of California, to be a Representative of the United States of America to the Fiftieth Session of the General Assembly of the United Nations.

Toby Roth, of Wisconsin, to be a Representative of the United States of America to the Fiftieth Session of the General Assembly of the United Nations.

Rita Derrick Hayes, of Maryland, for the rank of Ambassador during her tenure of service as Chief Textile Negotiator.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COHEN (for himself and Mr. NUNN):

S. 1501. A bill to amend part V of title 28, United States Code, to require that the Department of Justice and State attorneys general are provided notice of a class action certification or settlement, and for other purposes; to the Committee on the Judiciary.

By Mrs. HUTCHISON (for herself and Mr. BREAUX):

S. 1502. A bill to amend the Tariff Act of 1930 to provide that the requirements relating to marking imported articles and containers not apply to spice products, coffee, or tea; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. BIDEN, Mr. DOLE, Mr. NICKLES, Mr. MCCAIN, Mr. GRASSLEY, Mr. THURMOND, Mr. KYL, Mr. D'AMATO, Mr. ABRAHAM, and Mrs. FEINSTEIN):

S. 1503. A bill to control crime by mandatory victim restitution, and for other purposes; to the Committee on the Judiciary.

By Mr. ABRAHAM:

S. 1504. A bill to control crime by mandatory victim restitution; to the Committee on the Judiciary.

By Mr. LOTT (for himself, Mr. BREAUX, and Mrs. HUTCHISON):

S. 1505. A bill to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ABRAHAM (for himself, Mr. LEVIN, Mr. ASHCROFT, Mr. COATS, Mr. NICKLES, and Mr. SANTORUM):

S. 1506. A bill to provide for a reduction in regulatory costs by maintaining Federal Average fuel economy standards applicable to automobiles in effect at current levels until changed by law, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH (for himself, Mr. BIDEN, Mr. THURMOND, and Mr. KENNEDY):

S. 1507. A bill to provide for the extension of the Parole Commission to oversee cases of prisoners sentenced under prior law, to reduce the size of the Parole Commission, and for other purposes; considered and passed.

By Mr. DOLE (for himself, Mr. WARNER, and Mr. STEVENS):

S. 1508. A bill to assure that all federal employees work and are paid; considered and passed.

By Mr. DASCHLE (for himself and Mr. PRESSLER):

S. 1509. A bill to amend the Impact Aid program to provide for hold-harmless with respect to amounts for payments relating to the Federal acquisition of real property, to permit certain local educational agencies to apply for increased payments for fiscal year 1994 under the Impact Aid program, and to amend the Impact Aid program to make a technical correction with respect to maximum payments for certain heavily impacted local educational agencies; considered and passed.

By Mr. WARNER:

S. 1510. A bill to designate the United States Courthouse in Washington, District of Columbia, as the "E. Barrett Prettyman United States Courthouse", and for other purposes; to the Committee on Environment and Public Works.

By Mr. HATCH:

S.J. Res. 45. A joint resolution proposing an amendment to the Constitution of the United States in order to ensure that private persons and groups are not denied benefits or otherwise discriminated against by the United States or any of the several States on account of religious expression, belief, or identity; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ABRAHAM (for himself, Mr. SIMON, Mr. GRAHAM, and Mr. KENNEDY):

S. Res. 202. A resolution concerning the ban on the use of United States passports for travel to Lebanon; to the Committee on Foreign Relations.

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 203. A resolution to authorize testimony by Senate employee and representation by Senate Legal Counsel; considered and agreed to.

S. Res. 204. A resolution to authorize representation by Senate Legal Counsel, considered and agreed to.

S. Res. 205. A resolution to authorize testimony by Senate employees and representation by Senate Legal Counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COHEN (for himself and Mr. NUNN):

S. 1501. A bill to amend part V of title 28, United States Code, to require that the Department of Justice and State attorneys general are provided notice of a class action certification or settlement, and for other purposes; to the Committee on the Judiciary.

THE PROTECTING CLASS ACTION PLAINTIFFS ACT OF 1995

Mr. COHEN. Mr. President, today I am introducing the Protecting Class Action Plaintiffs Act of 1995. This legislation is necessary to address a troubling number of instances where class action lawsuits have been filed on behalf of thousands, and in some cases, millions of Americans, but the suits have been settled in ways that do not promote the best interest of the plaintiffs.

A class action is a lawsuit in which an attorney not only represents an individual plaintiff, but in addition, the suit seeks relief for all those individuals who have suffered an injury similar to the plaintiff. For example, a suit brought against a pharmaceutical company by a person suffering from the side effects of a drug, can, if the court approves it as a class action, be expanded to cover all individuals who used that drug.

More often than not, these suits are settled. Settlement agreements provide monetary and other relief to class Members, protect defendants from future lawsuits, and stipulate how the plaintiffs' attorneys will be paid.

All class members are notified of the terms of the settlement and given the opportunity to exclude themselves from the class action if they do not want to be bound by the agreement. All class action settlements must be approved by a court.

Although the class action is an important part of our civil justice system, it is fraught with difficulties. The primary problem is that the client in a class action is a diffuse group of thousands of individuals scattered across the country, that is incapable of exercising meaningful control over the litigation. While in theory the class action lawyers must be responsive to their clients, in practice, the lawyers control all aspects of the litigation.

Moreover, when a class actions is settled, the amount of the attorneys' fee, is negotiated between the plaintiffs' lawyers and the defendants. Yet, in most cases, the fee is paid by the class members—the only party that does not have a seat at the bargaining table.

In addition, class actions are now being used by defendants as a tool to limit their future liabilities. Class actions are being settled that cover all individuals exposed to a particular substance but whose injuries have not yet manifest themselves. As Prof. John Coffee of the Columbia Law School has written, "the class action is providing a means by which unsuspecting future claimants suffer the extinguishment of their claims even before they learn of their injury."

In light of the incentives that are driving the parties, it is easy to understand how class action settlements can be abused. Plaintiffs' attorneys and corporate defendants can reach agreements that satisfy their respective interests—limiting the defendants' liability and maximizing the attorneys' fee. But, because the plaintiffs themselves do not participate in the settlement negotiations, they are sometimes left out in the cold. Again, as Professor Coffee has concluded, "if not actually collusive, settlements all too frequently have advanced the interests of plaintiffs' attorneys, not those of class members."

Presumably, judges would not approve settlements that were unfair to the plaintiffs. But, it is difficult for judges to adequately scrutinize such settlements. In most instances, the only parties appearing before them—the plaintiffs' lawyers and the defendants—support the settlement. Without anyone providing adversarial scrutiny to reveal the flaws in class action settlements, judges are apt to approve them, especially since they result in the removal of complex cases from crowded court dockets.

I am familiar with one particularly egregious case where this is exactly what transpired. A constituent of mine, Dexter Kamilewicz, of Yarmouth, ME was a member of a class action lawsuit filed in Alabama State Court against BancBoston Mortgage Corp. The suit alleged that the bank was availing itself of "free money" by requiring its mortgage holders to maintain an excessive balance in their mortgage escrow account. After the court ruled in favor of the plaintiffs on a preliminary motion, the parties settled the case.

Under the settlement, the defendants agreed to refund the excess money they were holding in escrow and provide a small amount of compensation to the plaintiffs for lost interest.

BancBoston offered to pay the entire fee for the lawyers representing the class based on a formula that had been used to settle a different case. But the plaintiffs' lawyers rejected this offer. Instead, they insisted that their fees be paid directly from their clients' escrow accounts based on a formula that would provide them a more lucrative return.

The bank assented to this process and the State court judge approved the settlement.

Pursuant to the settlement, Mr. Kamilewicz received a check for $2.19 in back interest, but did not receive any other refund because his escrow account did not have an excessive balance. Then, about a year later, Mr. Kamilewicz noticed on his annual bank statement that $91.33 had been withdrawn from his escrow account for miscellaneous disbursements. The bank told him that the money was used to pay the class action lawyers. In essence, Mr. Kamilewicz paid $91.33 to the lawyers for work on a lawsuit that provided him with only a $2.19 benefit.

The class action lawyers, however, did quite well. According to a recent New York Times article about the case, they received $8.5 million—over 20 percent of the $40 million refunded by the bank to class members. Not only is this a large fee, but one must consider that the $40 million refund was, and always would have been the plaintiffs' money. The only benefit of the lawsuit to the class was that they received the money in 1994 instead of when they closed their mortgages. The attorney fee in this case, therefore, bore no relationship to the actual benefit that the lawsuit provided to the class.

Since the New York Times article ran, I have learned a bit about the lawyers who were involved in this case. In an unrelated case from Chicago, a judge would not even permit these lawyers to maintain a class action based on his view that they would not adequately represent the class. The judge commented on the record that:

> For five and a half years . . . I have been witness to their unparalleled and shocking abuse of process; their blatant manipulation of the rules of Court; their disregard for orderly processes and Court orders; their discourtesy and hostility to opposing counsel; their subversion of their clients' best interests; their preoccupation with slanderous accusations; their disinclination to trial preparation; their unfamiliarity with and disregard for case law precedent in their path; and their unabashed utilization of class action techniques as a weapon to heighten litigation costs and bootstrap modest individual claims into handsome class fees.

The judge concluded that he "could think of no plague worse than to have a Court impose [these lawyers] on absent and unsuspecting members of a class."

There are other problematic cases from across the country. In Philadelphia, a group of lawyers settled a set of cases for clients of theirs against a consortium of asbestos companies. In exchange, these same lawyers agreed to a class action settlement covering all other individuals exposed to the companies' asbestos. The class action settlement, however, provided less money for the class members than had been provided for the lawyers' individual clients.

To make matters worse, this class action—Georgine versus Amchem Products—covers individuals that have been exposed to asbestos but have not yet become sick. How can these individuals make a rational decision about the merits of the settlement when they do not know whether they will become ill and, if they do, how serious their illnesses will be?

This month's American Bar Association Journal contains an article about two competing nationwide class actions currently pending in two different State courts. These cases both concern defective polybutelene pipe that is causing floods in people's homes across the country. The case in Tennessee has settled for $850 million. It may cover over 3 million homeowners. The case in Alabama is going to trial. Lawyers in the Alabama case are trying to convince homeowners to opt-out of the Tennessee settlement and join their case. Homeowners are receiving conflicting notices from both cases and are confused. As one of them said, "I don't know about all this legal stuff . . . all I want is my walls fixed."

So there are a wide range of legal and ethical issues concerning class actions that are deserving of some careful attention from Congress. My legislation is a first step in this direction. It attempts to address the problem of class action settlements in two ways:

First, it would require class action lawyers to notify the attorney general of States in which class members reside whenever a class action is settled. Providing notice to the attorneys general will enable them to scrutinize class action settlements and object to the court if the settlements fail to promote the consumers' interests. In my view, the participation of the attorneys general is critical to improve the class action settlement process.

Second, the legislation would require that notices mailed to class members contain summaries written in plain, easily understandable language. Such summaries are necessary because most class action notices are lengthy and filled with legal jargon that the average citizen cannot understand. Anyone covered by a class action settlement should know the benefits they will obtain, the rights that they are sacrificing, and the way their attorneys will be paid. Today, most people simply throw away action notices like junk mail because they are too complicated and difficult to comprehend.

In sum, the legislation will bring some sunlight into the class action process and, as we know, sunlight is the best disinfectant. It will enable State attorneys general to provide adversarial scrutiny to settlements and promote the interests of consumers when the plaintiffs' lawyers and corporate defendants are not. It will also give individual call members the information they need to make informed decisions about whether they wish to join a class action or be bound by a settlement agreement. This is a modest step, but one that I believe will be effective.

Before closing, I want to make clear that I do not oppose class action lawsuits. Over the past three decades, class actions have been used to oppose racially segregated schools, obtain redress for victims of employment discrimination, and provide compensation for individuals exposed to toxic chemicals or injured by defective products. Class actions increase access to our civil justice system because they enable people to pursue claims collectively that otherwise would be too expensive to litigate.

The difficulty of any litigation reform endeavor is finding ways to weed out the bad cases without closing the courthouse doors to those who have genuine grievances deserving of redress. Legislation that limits monetary recoveries or provides immunity for wrongdoers does not meet this litmus test. In an effort to deter frivolous lawsuits these measures have the perverse effect of limiting the remedies available to those with legitimate claims.

The legislation I am introducing today is an example of the type of litigation reform that I believe will help to protect against unethical attorney behavior and curb abusive lawsuits. It will not limit the availability of judicial remedies for meritorious cases.

I urge my colleagues to support the legislation and I ask unanimous consent that a copy of the bill and the New York Times article about the Kamilewicz case be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1501

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Protecting Class Action Plaintiffs Act of 1995".

SEC. 2. NOTIFICATION REQUIREMENT OF CLASS ACTION CERTIFICATION OR SETTLEMENT.

(a) IN GENERAL.—Part V of title 28, United States Code, is amended by inserting after chapter 113 the following new chapter:

"CHAPTER 114—CLASS ACTIONS

"Sec.
"1711. Notification of class action certifications and settlements.

"§ 1711. Notification of class action certifications and settlements

"(a) For purposes of this section, the term—

"(1) 'class' means a group of similarly situated individuals, defined by a class certification order, that comprise a party in a class action lawsuit;

"(2) 'class action' means a lawsuit filed pursuant to rule 23 of the Federal Rules of Civil Procedure or similar State rules of procedure authorizing a lawsuit to be brought by 1 or more representative individuals on behalf of a class;

"(3) 'class certification order' means an order issued by a court approving the treatment of a lawsuit as a class action;

"(4) 'class member' means a person that falls within the definition of the class;

"(5) 'class counsel' means the attorneys representing the class in a class action;

"(6) 'electronic legal databases' means computer services available to subscribers containing text of judicial opinions and other legal materials, such as LEXIS or WESTLAW;

"(7) 'official court reporter' means a publicly available compilation of published judicial opinions;

"(8) 'plaintiff class action' means a class action in which the plaintiff is a class; and

"(9) 'proposed settlement' means a settlement agreement between the parties in a class action that is subject to court approval before it becomes binding on the parties.

"(b) This section shall apply to—

"(1) all plaintiff class actions filed in Federal court; and

"(2) all plaintiff class actions filed in State court in which—

"(A) any class member resides outside the State in which the action is filed; and

"(B) the transaction or occurrence that gave rise to the lawsuit occurred in more than 1 State.

"(c) No later than 10 days after a proposed settlement in a class action is filed in court, class counsel shall serve the State attorney general of each State in which a class member resides and the Department of Justice as if they were parties in the class action with—

"(1) a copy of the complaint and any materials filed with the complaint;

"(2) notice of any scheduled judicial hearing in the class action;

"(3) any proposed or final notification to class members of—

"(A) their rights to request exclusion from the class action; and

"(B) a proposed settlement of a class action;

"(4) any proposed or final class action settlement;

"(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

"(6) any final judgment or notice of dismissal; and

"(7) any written judicial opinion relating to the materials described under paragraphs (3) through (6).

"(d) A hearing to consider final approval of a proposed settlement may not be held earlier than 120 days after the date on which the State attorney generals and the Department of Justice are served notice under subsection (c).

"(e) A class member may refuse to comply with and may choose not be bound by a settlement agreement or consent decree in a class action lawsuit if the class member resides in a State where the State attorney general has not been provided notice and materials under subsection (c). The rights created by this subsection shall apply only to class members or any person acting on their behalf.

"(f) Any court order certifying a class, approving a proposed settlement in a class action, or entering a consent decree in a class action, and any written opinions concerning such court orders and decrees, shall be made available for publication in official court reporters and electronic legal databases.

"(g) Any court with jurisdiction over a plaintiff class action shall require that—

"(1) any written notice provided to the class through the mail or publication in printed media contain a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the legal consequences of joining the class action;

"(C) if the notice is informing class members of a proposed settlement agreement—

"(i) the benefits that will accrue to the class due to the settlement;

"(ii) the rights that class members will lose or waive through the settlement;

"(iii) obligations that will be imposed on the defendants by the settlement;

"(iv) a good faith estimate of the dollar amount of any attorney's fee if possible; and

"(v) an explanation of how any attorney's fee will be calculated and funded; and

"(D) any other material matter; and

"(2) any notice provided through television or radio to inform the class of its rights to be excluded from a class action or a proposed settlement shall, in plain, easily understood language—

"(A) describe the individuals that may potentially become class members in the class action; and

"(B) explain that the failure of individuals falling within the definition of the class to exercise their right to be excluded from a class action will result in the individual's inclusion in the class action.

"(h) Compliance with this section shall not immunize any party from any legal action under Federal or State law, including actions for malpractice or fraud.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V of title 28, United States Code, is amended by inserting after the item relating to chapter 113 the following:

"114. Class Actions .... 1711".

SEC. 3. APPLICABILITY.

This Act and the amendments made by this Act shall apply to all class action lawsuits filed after or pending on the date of enactment of this Act.

[From the New York Times]

MATH OF A CLASS-ACTION SUIT: 'WINNING' $2.19 COSTS $91.33

Dexter J. Kamilewicz never wants to win a class-action lawsuit again—at least not when it costs him more than he wins.

Mr. Kamilewicz, a real estate broker in Portland, Me., found out this year that he was among the winners of a class-action suit against his mortgage bank, the Bank of Boston. He learned of his victory only when he spotted a $91.33 "miscellaneous deduction" from his escrow account that turned out be his payment for lawyers he never knew he had hired. His winnings were apparently just $2.19 in back interest.

Many class actions end with plaintiffs winning meager awards while their lawyers walk away with millions of dollars in fees. But the suit against the Bank of Boston has taken that difference to a new level.

"This is the only class action that I have heard about where the consumers won and ended up paying money out of their own pockets," said Will Lund, superintendent of the Maine Bureau of Consumer Credit Protection.

The suit, which accused the bank of keeping excessive amounts of its customers' money in escrow accounts, involved a nationwide class of 715,000 current and former mortage holders. The 300,000 current holders would up footing the lawyers' bill for $8.5 million. Only after the case was settled last year did some members of that group—just how many is unclear—say they realized they ended up with a loss.

Now the matter is back in court again and may soon be the catalyst for Congressional action.

Mr. Kamilewicz (pronounced CAM-eh-levitch); his wife, Gretchen, and a third disgruntled plaintiff recently filed a new lawsuit—which is itself seeking class-action status—that accuses the original plaintiffs' lawyers, as well as the bank, of fraud. Both the bank and the lawyers say the settlement was fair and deny doing anything wrong.

Senator William S. Cohen, Republican of Maine, says he has heard enough complaints about the settlement to propose a corrective measure. His legislation, expected to be introduced in the next month, would differ from other recent efforts in Congress at tort reform in that it would protect plaintiffs, rather than defendants, against the excesses of lawyers.

"There is evidence from around the country that in many instances class actions are benefiting lawyers to a much greater extent than their clients," Senator Cohen said.

Dozens of suits were filed in the early 1990's over escrow accounts before Federal regulations were adopted to more strictly limit the excess money that banks could hold in the accounts. Scores of class actions of all sorts are certified in Federal and state courts each year.

In the Bank of Boston case, critics of the settlement note, the lawyers' fees took the form of an assessment against the escrow accounts that sometimes dwarfed the modest awards. What is more, apart from a few dollars in back interest, the "awards" were simply refunds of the plaintiffs' own money, which would have been returned sooner or later even without the suit. Mr. Kamilewicz and others who apparently had no excessive amounts of money in their accounts were hit hardest because they got no refund but still had to pay legal fees.

Finally, the fees were larger than they should have been, the critics say, because they were based not on the current value of the refunds but on unrealistic projections of their future worth.

"Lawyers' fees are often a problem in these kinds of cases," said Jerome Hoffman, a former top official with the Florida Attorney General's office, which had tried to block the settlement. "But this is probably the most egregious case I have ever seen."

For their part, the plaintiffs' lawyers and a bank spokesman noted that the settlement had been approved by a state judge in Alabama, where the suit was filed.

In the settlement itself, the bank denied doing anything improper in handling the escrow. Money held in escrow is used to pay real estate taxes and property insurance. Banks are allowed to maintain a cushion of extra money to cover increases in those costs, but the Bank of Boston was accused of using a formula that often resulted in an excessively large cushion.

Ed Russell, the bank spokesman, declined to comment on the new suit, filed this month in federal court in Chicago. But several of the lawyers now being sued described it as groundless. The lawyers are with Ezell & Sharbrough of Mobile, Ala., and two Chicago firms, Edelman & Combs and Lawrence Walner & Associates.

One of the lawyers, Daniel A. Edelman, called the new suit "the most frivolous I have even seen."

But legal experts say that the dispute highlights the problems associated with class actions. Consumers and investors are often made parties without realizing it or understanding that they may receive trivial amounts while their lawyers make millions.

Information in legal notices is often shrouded in dense jargon. In some cases, lawyers for both sides may intentionally cloud that information to mislead plaintiffs about important issues, the experts said.

"It is not designed to be good communication," said John Coffee, a professor at the Columbia University School of Law. "It is designed to convince a judge who can wave his magic wand and approve a settlement." Stephen Gardner, a lawyer in Dallas who has handled many consumer cases, added, "A lot of settlement notices are engineered by the parties to keep class members in the dark about how much money the lawyers are making versus how many dollars they are going to get."

To address that problem, Senator Cohen said his legislation would, among other things, require the parties to disclose proposed settlements to the attorneys general in all states which plaintiffs reside.

In settling its case, the Bank of Boston agreed to pay a maximum of $8.76 in back interest to individual mortgage holders. The bank also agreed to change its future escrow accounting methods and refund about $30 million in excess escrow payments. Normally, any extra money is returned when a mortgage ends or is refinanced. All told, plaintiffs' lawyers say, the settlement conferred about $40 million in benefits, including estimated savings from the accounting change.

"Nothing fraudulent or improper took place," Mr. Edelman said. "There was an economic benefit in excess of $40 million and the lawyers received $8.5 million, and that is a low-end number."

Even critics acknowledged that the plaintiffs' lawyers helped their clients by getting the bank to change its escrow practices. Still, they said the plaintiffs ended up with a questionable deal on two fronts.

For one, fees were assessed even against people like Mr. Kamilewicz, who apparently did not have excessive amounts of money in escrow, or not enough extra to produce a refund to fully cover the fees.

The fees were levied as a percentage of the balance in each escrow account, court papers indicate. Mr. Russell, the bank's spokesman, declined to comment when asked if the bank knew how many accounts might not have had excessive amounts. He also declined to discuss Mr. Kamilewicz's case.

Speaking generally, Mr. Gardner, the Dallas lawyer, said that in an escrow case of this size, at least several thousand people would have no cushion at all in their accounts.

The other problem for the plaintiffs was the way the fee was set, critics of the settlement said.

After the plaintiffs won a partial summary judgment in 1993, negotiations to resolve the case began. Initially, the bank offered to change its escrow accounting procedures and to pay lawyers' fees of $500,000, court papers indicate. The bank said that to take such money out of the escrow accounts would result in a "net out-of-pocket loss' to many customers, the new lawsuit contends.

Mr. Russell, the bank spokesman, declined to make the bank's lawyers available. But one of the plaintiffs' lawyers, John W. Sharbrough 3d, said the $500,000 offer did not even cover the lawyers' expenses, and to negotiate fees with the bank would have been unethical.

In any event, the lawyers requested as their fee a third of the $42 million in excess escrow that was then held by the bank, a court transcript shows.

A one-third award to plaintiffs' lawyers would not be unusual in a typical contingency-fee case, like a personal injury suit, where the settlement comes out of a defendant's pocket. But since an escrow case involves the return of the plaintiffs' own money, banks have frequently paid the plaintiffs' legal bill using a fixed figure for each account.

To justify a far larger fee, the plaintiffs' firms offered expert testimony suggesting that consumers would realize a significant windfall by getting their money back now rather than later.

For example, E.W. McKean, an accountant in Mobile testified that if a consumer used a hypothetical $100 refund to reduce the principal on a 20-year, $10,000 loan at 8.6 percent interest, the benefit over time in lower interest payments would be nearly $400 in current dollars.

But consumer lawyers like Mr. Gardner said it was unrealistic to place too much future value on small sums that are recovered.

"This is like winning a scratch card," he said. "People are not going to invest this money."

Mr. Edelman, the plaintiffs' lawyer, disagreed, saying that the future benefit of a recovery is a common yardstick for determining fees.

The judge in the case eventually awarded the plaintiffs' lawyers 28 percent of the excess escrow, a pie that totaled about $30 million when the fees were actually set.

Mr. Sharbrough said that while some class members who got in touch with him were initially confused about the settlement, they were all pleased once it was explained to them. Mr. Edelman said banks were probably behind the new lawsuit because he had represented consumers in other class-action claims against financial institutions.

Such an assertion would no doubt surprise Mr. Kamilewicz, who said he started the ball rolling because he was so angry. "The issue isn't the $91," he said. "The issue is behavior standards."

Some lawyers are wishing him luck. "Somebody ought to give him a gold medal," said Peter Antonacci, the Deputy Attorney General of Florida. "This thing was begging to be done."

By Mrs. HUTCHISON (for herself and Mr. BREAUX):

S. 1502. A bill to amend the Tariff Act of 1930 to provide that the requirements relating to marking imported articles and containers not apply to spice products, coffee, or tea; to the Committee on Finance.

THE TARIFF ACT OF 1930 AMENDMENT ACT OF 1995

Mrs. HUTCHISON. Mr. President, today I am introducing legislation to correct several inadvertent results from recent rulings by the U.S. Treasury Department changing over 50 years of law and practice in the U.S. regarding spices. This legislation will exempt these products, as well as coffee and tea, from proposed new regulations that would needlessly and inadvertently require their containers to be individually marked with country of origin.

These labeling requirements are unnecessary because the coffee, tea and spices under consideration, with one exception, are not manufactured in the United States and therefore do not offer consumers the option to purchase domestically-grown alternatives. The one exception is not processed in such a way as to fall under the new regulations, so it will be unaffected by this legislation.

This bill, supported by the House Ways and Means Committee, was included in the House's version of the budget reconciliation bill, but was excluded under Senate rules. The legislation is also supported by the U.S. Treasury Department, which issued the regulations but requires legislative language to except these three areas.

Finally, my bill is supported by coffee, tea, and spice importers. Without this legislation, regulations calling for country of origin markings ultimately would require extremely costly record keeping and marking of individual jars and canisters of products which are often mixes of nearly identical products from different countries and different parts of the world. The countries of origin vary quite often due to market prices and availability. Marking requirements under the new regulations would ultimately cost consumers millions of dollars in higher coffee, tea and spice prices while providing no useful information.

Mr. President, I look forward to working with my colleagues to pass this important and bipartisan technical correction.

By Mr. ABRAHAM:

S. 1504. A bill to control crime by mandatory victim restitution; to the Committee on the Judiciary.

VICTIM RESTITUTION LEGISLATION

Mr. ABRAHAM. Mr. President, I rise today to introduce S. 1504, the Victims Restitution Enforcement Act of 1995. I do so because I am convinced that justice demands we devise an effective mechanism for enforcing orders of restitution owed by criminals to the victims of their crimes.

We take an important step today with the adoption of H.R. 665. This bill makes restitution mandatory and thereby sends a clear message to criminals that they will be made to pay for their crimes. I also believe it is critical that we let victims know that at last they will be entitled to some relief.

In order to help realize the promise of H.R. 665's mandatory victim restitution, however, I believe further steps are needed. To that end, the bill I am introducing today will bring important and needed changes to the enforcement mechanisms covering orders of restitution in Federal court. This bill will further ensure that restitution payments from criminals to their victims become a reality.

S. 1504 will provide four major advantages to victims named in criminal restitution orders.

First, restitution orders would be enforceable as a civil debt and payable immediately.

Right now, most restitution is collected entirely through the criminal justice system. It is frequently paid as directed by the probation officer, which means restitution payments can't begin until the prisoner is released. This bill makes restitution orders payable immediately, as a civil debt, speeding recovery and impeding attempts to avoid payment.

Without this provision, it will remain easier for the Government to go after students who have defaulted on their student loans than it is for the Government to enforce an order of restitution against convicted criminals. Of course, this provision will impose no criminal penalties on those unable to pay. It will simply allow civil collection against those who have assets.

Second, this bill will add a whole new arsenal of weapons for collecting victim restitution payments. If the debt is payable immediately all normal civil collection procedures—principally the Federal Debt Collection Act—can be used. This bill also explicitly gives victims access to other extensive civil procedures already in place for the collection of debts.

We want to make criminals pay, not burden our courts or our Federal criminal prosecutors. Thus we should not be unilaterally deciding to place enforcement of all victim restitution within the criminal process, but should permit the Attorney General to place responsibility for collecting restitution payments on Government attorneys charged with collecting other civil debts.

Third, this bill will make restitution judgments subject to criminal enforcement for 5 years.

Current law only allows enforcement of an order of restitution by the United States in the same manner as fines are enforced, permitting the limited use of some criminal sanctions. Presently, for example, the court will be permitted to resentence a criminal who wilfully refuses to make restitution payments—but nothing short of that.

This bill will add a variety of less draconian criminal sanctions to the court's arsenal, such as modification of the terms or conditions of parole, extension of the defendant's probation or supervised release, or revocation of probation or supervised release.

The bill will thus retain the fines mechanism, and improve on the criminal sanctions, as well as add a number of purely civil methods of debt collection.

Fourth, this legislation will give the courts power to impose presentence restraints on defendant's use of their assets in appropriate cases. This will prevent well-heeled defendants from dissipating assets prior to sentencing.

Without this provision the whole victim restitution law may well be useless in many cases. Even in those rare cases in which a defendant has the means to pay full restitution at once, if the court has no capacity to prevent the defendant from spending ill-gotten gains prior to the sentencing phase, frequently there will be nothing left for the victim by the time the restitution order is entered.

The provisions permitting pre-sentence restraints are similar to other such provisions that already exist in the law for private civil actions and asset forfeiture cases. For example, they require a court hearing and place a preponderance of the evidence burden on the Government.

Finally, this bill will prevent the defendant from denying the essential findings underlying a criminal restitution judgment in any future civil action brought by the victim.

All victims named in a restitution order will be able to bring a civil action to enforce the order in State court without having to relitigate the essential findings of the criminal judgment against the defendant.

This provision merely corrects an aberration in the law.

Currently the United States and some—but not all—victims are permitted to use the criminal judgment in subsequent civil proceedings.

Indeed, under current law, the only victims who absolutely cannot use the essential findings of a criminal judgment in a subsequent civil action are victims who happen to live in states with mutuality requirements for collateral estoppel, and who have been victims of crimes in which the defendant did not plead guilty.

This makes no sense. In such instances there has already been a full criminal trial in Federal court convicting the defendant under a higher burden of proof than is required in a civil action.

Ordinarily, the victim would be able to take advantage of the criminal conviction, just as the United States can. And in fact, victims are often able to use anything the criminal has agreed to in a plea bargain because those statements constitute judicial admissions.

But because of a clause in the law that limits the effect of criminal judgments in subsequent civil actions to the extent that would be permitted by state law, these Federal criminal judgments are, in some cases, not accorded the effect they are due. For the sake of judicial economy alone, this should be corrected.

If we are willing to take the step of making some crimes subject to mandatory restitution, as we do in the victim restitution bill today, I believe we should take the additional step of making those mandatorily-issued orders easily enforceable.

This is why I urge my colleagues to join me in supporting these further steps to make victim restitution work that are contained in my victim restitution bill.

By Mr. LOTT (for himself, Mr. BREAUX and Mrs. HUTCHISON):

S. 1505. A bill to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE ACCOUNTABLE PIPELINE SAFETY AND PARTNERSHIP ACT

Mr. LOTT. Mr. President, I rise today as chairman of the Surface Transportation Subcommittee to introduce the Accountable Pipeline Safety and Partnership Act. It is the necessary reauthorization legislation for the Office of Pipeline Safety [OPS] in the Department of Transportation.

This is important legislation because it will reauthorize the Federal program with regulatory authority for approximately 2 million miles of natural gas pipelines and nearly 200,000 miles of hazardous liquid pipelines. In the lower 48 States and Hawaii, there are 700 different operators who manage these pipelines. This bill does not affect the Federal statute that regulates the Alaskan pipeline.

The goal of my legislation is accurately reflected in three words from the title—accountable, safety, and partnership. The bill gives the Office of Pipeline Safety the necessary tools to shift the program away from a very prescriptive, command-and-control approach to a responsible risk-based management partnership which continues to ensure industry's accountability and the public's safety.

According to the National Transportation Safety Board [NTSB], transportation of natural gas and liquids by pipelines is by far the safest mode of conveyance. NTSB's 1994 transportation safety data highlight this fact. Out of 43,134 transportation facilities, only 22—just 0.05 percent—were related to pipelines.

Let me be absolutely clear: I want to send an unambiguous signal here today on the Senate floor and through the text of this bill that pipeline safety will not be jeopardized.

In fact, I would assert that the public's safety will be enhanced through a more effective Government and industry pipeline safety partnership that is proposed by this bill.

Through this legislation, Congress will recognize and appreciate this relationship. Pipeline operators, who are responsible for day-to-day safe operations, experience many adverse consequences from accidents on their systems. Therefore, pipeline operators have a direct and compelling reason to work hard to keep their system and the public safe.

There is another partnership role which must be acknowledged and that is the active and positive involvement of States which also direct resources at pipeline monitoring.

The governmental role is two-tiered: OPS for the Federal Government and State agencies. Together their mission is to inspect, audit, and enforce pipeline compliance and safety activities.

Historically, the regulations governing safety for transmission and utility pipelines have been modeled or based upon industry-developed standards and practices. The most effective procedures have formed the core of today's pipeline safety regulations.

However, recent legislative proposals would, in effect, add unnecessary layers of regulations in direct response to specific atypical incidents. This has diverted resources. This is what this legislation will address using the same three words from the bill's title as my philosophical underpinning—accountable, safety, partnership.

For the past 2½ years, OPS has worked with natural gas and hazardous liquid pipeline operators and other interested parties to find better ways to address the issues inherent to pipeline safety. Their goal is to promulgate new reasonable, effective and cost efficient regulations. OPS is currently analyzing the actual risks juxtaposed to existing regulations to determine what is useful and what is unnecessary.

This process develops a regulatory approach which provides companies with greater flexibility in protecting both their systems and the public's safety. I built upon this activity, and it served as the starting point for a legislative approach which is incorporated into this reauthorization.

It is worthwhile to note that the major provisions of this bill were drafted through a genuine bipartisan effort. This bill reflects real input and informal consultation with the regulated industry, national associations representing personnel who are actively involved in pipeline safety, and Administration officials. Technical assistance was also provided throughout the drafting process from the Congressional Research Service. I appreciate all of the invaluable suggestions during the development of this legislation.

There are four major provisions within the legislation.

First, it establishes a new risk assessment combined with a detailed cost-benefit analysis followed by an independently verified peer review for all future regulations. The process is streamlined and meets the American common sense test. President Clinton's Executive Order 12866 provided the framework for this bill's new regulatory approach. It also takes advantage of risk models being developed by OPS.

Second, it authorizes a 4-year demonstration project under which companies can voluntarily develop individually tailored risk management plans. These plans must be approved by the Department of Transportation. OPS will monitor the plans to ensure that operations will provide equal or greater safety protection than existing regulations.

Third, it authorizes funding for the OPS in such a manner that money will be double the projected inflation rate through the end of this century. Each year the funding will increase by 6-percent. Because OPS is funded entirely by user fees assessed on pipelines, these funds must be concentrated on OPS's primary mission of monitoring pipeline safety on the public's behalf.

Fourth, it clarifies the Pipeline Safety Act of 1992. This will remove confusions which have hampered finalizing several rules.

My intention is straightforward: to focus OPS regulatory resources on areas where there are significant nationwide pipeline safety risks, and to identify and develop cost-effective regulatory means for addressing these risks.

The bill will ensure that America's taxpayers get the maximum safety value from their OPS investment. It will lead to a responsible allocation of limited resources to increase public safety.

It will prevent a hidden tax on natural gas consumers resulting from an excessive increase in user fees to duplicate ongoing industry research.

It also means that rules will be clarified to accommodate changes affecting issues like smart pig retrofitting and explicit definitions for unusually sensitive environmental areas.

There will always be some who will argue that the Government must spend more and more money for safety concerns. My response is that safety is not just a function of how much the government spends. I believe the critical factor is how the money is spent—not how much. This bill deals with how. The NTSB Safety data makes the case that the excellent safety record for pipelines does not indicate that increased funding is needed.

This legislation is both responsible and balanced.

Amercian taxpayers win.

Government regulators win.

Regulatory reform wins.

I want to thank my colleagues who are my initial cosponsors, and I look forward to other Senators joining me as cosponsors of this important reauthorization bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1505

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Accountable Pipeline Safety and Partnership Act of 1995".

SEC. 2. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—Section 60101(a) is amended—

(1) in each of paragraphs (1) through (22), by striking the period at the end and inserting a semicolon;

(2) in paragraph (21), by striking subparagraph (B) and inserting the following:

"(B) does not include the gathering of gas, other than gathering through regulated gathering lines, in those rural locations that are located outside the limits of any incorporated or unincorporated city, town, or village, or any other designated residential or commercial area (including a subdivision, business, shopping center, or community development) or any similar populated area that the Secretary of Transportation determines to be a nonrural area, except that the term 'transporting gas' includes the movement of gas through regulated gathering lines;"; and

(3) by adding at the end the following:

"(23) 'benefits' means the reasonably identifiable or estimated safety, environmental, and economic benefits that are reasonably expected to result directly or indirectly from the implementation of a standard, regulatory requirement, or option;

"(24) 'costs' means, with respect to the implementation of, or compliance with, a standard, regulatory requirement, or option, the estimated or actual direct and indirect costs of that implementation or compliance;

"(25) 'incremental benefit' or 'incremental cost' means the additional estimated benefit or cost that—

"(A) would be caused by a particular action (whether regulatory or nonregulatory) in comparison with other options that may be taken in lieu of that action; and

"(B) is based on quantifiable or qualifiable assessments that use generally available and reasonably obtainable scientific or economic data;

"(26) 'risk management' means the systematic application, by the owner or operator of a pipeline facility, of management policies, procedures, finite resources, and practices to the tasks of analyzing, assessing, and minimizing risk in order to protect employees, the general public, the environment, and pipeline facilities;

"(27) 'risk management plan' means a management plan utilized by a gas or hazardous liquid pipeline facility owner or operator that encompasses risk management; and

"(28) 'Secretary' means—

"(A) the Secretary of Transportation; or

"(B) if applicable, any person to whom the Secretary of Transportation delegates authority with respect to a matter concerned.".

(b) GATHERING LINES.—Section 60101(b)(2) is amended by inserting ", if appropriate," after "Secretary" the first place it appears.

SEC. 4. GENERAL AUTHORITY.

(a) Minimum Safety Standards.—Section 60102(a) is amended—

(1) in paragraph (1), by striking subparagraph (C) and inserting the following:

"(C) shall include a requirement that all individuals who operate and maintain pipeline facilities shall be qualified to operate and maintain the pipeline facilities."; and

(2) by striking paragraph (2) and inserting the following:

"(2) The qualifications applicable to an individual who operates and maintains a pipeline facility shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits. The operator of a pipeline facility shall ensure that employees who operate and maintain the facility are qualified to operate and maintain the pipeline facilities.".

(b) Practicability and Safety Needs Standards.—Section 60102(b) is amended to read as follows:

"(b) Practicability and Safety Needs.—

"(1) In general.—A standard prescribed under subsection (a) shall be—

"(A) practicable; and

"(B) designed to meet the need for—

"(i) gas pipeline safety;

"(ii) safely transporting hazardous liquids; and

"(iii) protecting the environment.

"(2) Factors for consideration.—Except as provided in section 60112, when prescribing a standard under this section or section 60101(b), 60103, 60108, 60109, 60110, or 60113, the Secretary shall consider—

"(A) relevant available—

"(i) gas pipeline safety information; or

"(ii) hazardous liquid pipeline safety and environmental protection information;

"(B) the appropriateness of the standard for the particular type of pipeline transportation or facility;

"(C) the reasonableness of the standard;

"(D) based on a risk assessment, the extent to which the standard will benefit public safety and the protection of the environment;

"(E) the costs of compliance with the standard;

"(F) comments and information received from the public; and

"(G) the comments and recommendations of the Technical Pipeline Safety Standards Committee described in section 60115 and the Liquid Pipeline Safety Standards Committee described in section 60115.

"(3) Risk assessment document.—In prescribing a standard referred to in paragraph (2), the Secretary shall prepare a risk assessment document that—

"(A) identifies the regulatory and nonregulatory options that the Secretary considered in prescribing a proposed standard;

"(B) identifies the incremental costs and incremental benefits with respect to public safety and the protection of the environment that are associated with the proposed standard;

"(C) includes—

"(i) an explanation of the reasons for the selection of the proposed standard in lieu of the other options identified; and

"(ii) with respect to each of those other options, a brief explanation of the reasons that the Secretary found that option to be less cost-effective or flexible than the proposed standard; and

"(D) provides any technical data or other information upon which the risk assessment document and proposed standard is based.

"(4) Review.—

"(A) In general.—The Secretary shall—

"(i) submit each risk assessment document prepared under this section to the Technical Pipeline Safety Standards Committee described in section 60115 or the Hazardous Liquid Pipeline Safety Standards Committee described in section 60115, or both, as appropriate; and

"(ii) make that document available to the general public.

"(B) Peer review panels.—The committees referred to in subparagraph (A) shall serve as peer review panels to review risk assessment documents prepared under this section. Not later than 90 days after receiving a risk assessment document for review pursuant to subparagraph (A), each committee that receives that document shall prepare and submit to the Secretary a report that includes—

"(i) an evaluation of the merit of the data and methods used in that document; and

"(ii) any recommended options relating to that document and the associated standard or regulatory requirement that the committee determines to be appropriate.

"(C) Review by secretary.—Not later than 90 days after receiving a report submitted by a committee under subparagraph (B), the Secretary—

"(i) shall review the report;

"(ii) shall provide a written response to the committee that is the author of the report concerning all significant peer review comments and recommended alternatives contained in the report; and

"(iii) may revise the risk assessment and the proposed standard or regulatory requirement before promulgating the final standard or requirement.

"(5) Incremental benefits and costs.—Before issuing a final standard that is subject to the requirements contained in paragraphs (1) and (2), the Secretary shall certify that the incremental benefits of the final standard will likely justify, and be reasonably related to, the incremental costs incurred by the Federal Government and State, local, and tribal governments and any other public entity, and the private sector.

"(6) Emergencies.—In the case of an emergency that meets the criteria described in section 60112(e), the Secretary may suspend the application of this section for the duration of the emergency.

"(7) Report.—Not later than March 31, 1999, the Secretary shall transmit to the Congress a report that—

"(A) describes the implementation of the risk assessment requirements of this section, including the extent to which those requirements have improved regulatory decision making; and

"(B) includes any recommendations that the Secretary determines would make the risk assessments conducted pursuant to the requirements under this chapter a more effective means of assessing the benefits and costs associated with alternative regulatory and nonregulatory options in prescribing standards under the Federal pipeline safety regulatory program under this chapter.".

(c) Facility Operation Information Standards.—The first sentence of section 60102(d) is amended—

(1) by inserting "as required by the standards prescribed under this chapter" after "operating the facility";

(2) by striking "to provide the information" and inserting "to make the information available"; and

(3) by inserting "as determined by the Secretary" after "to the Secretary and an appropriate State official".

(d) Pipe Inventory Standards.—The first sentence of section 60102(e) is amended—

(1) by striking "and, to the extent the Secretary considers necessary, an operator of a gathering line that is not a regulated gathering line (as defined under section 60101(b)(2) of this title),"; and

(2) by striking "transmission" and inserting "transportation".

(e) Smart Pigs.—

(1) Minimum safety standards.—Section 60102(f) is amended by striking paragraph (1) and inserting the following:

"(1) Minimum safety standards.—The Secretary shall prescribe minimum safety standards requiring that the design and construction of a new gas or hazardous liquid pipeline transmission facility be carried out, to the extent practicable, in a way that accommodates the passage through the facility of an instrumented internal inspection device (commonly referred to as a 'smart pig'). The Secretary shall also prescribe minimum safety standards that require that when a segment of an existing gas or hazardous liquid pipeline transmission facility is replaced, to the extent practicable, the replacement segment can accommodate the passage of an instrumented internal inspection device. The Secretary may apply the standards to an existing gas or hazardous liquid facility and require that the facility be changed to allow the facility to be inspected with an instrumented internal inspection device if the basic construction of the facility will accommodate the device.".

(2) Periodic inspections.—Section 60102(f)(2) is amended—

(A) by striking "(2) Not later than" and inserting the following:

"(2) Periodic inspections.—Not later than"; and

(B) by inserting ", if necessary, additional" after "the Secretary shall prescribe".

(f) Updating Standards.—Section 60102 is amended by adding at the end the following new subsection:

"(l) Updating Standards.—The Secretary shall, to the extent appropriate and practicable, update incorporated industry standards that have been adopted as part of the Federal pipeline safety regulatory program under this chapter.".

SEC. 5. RISK MANAGEMENT.

(a) In General.—Chapter 601 is amended by adding at the end the following new section:

"§ 60126. Risk management

"(a) Risk Management Program Demonstration Projects.—

"(1) In general.—The Secretary shall establish risk management demonstration projects—

"(A) to demonstrate, through the voluntary participation by owners and operators of gas pipeline facilities and hazardous liquid pipeline facilities, the applications of risk management; and

"(B) to evaluate the safety and cost-effectiveness of the applications referred to in subparagraph (A).

"(2) Waivers.—In carrying out a demonstration project under this subsection, the Secretary—

"(A) may waive, with respect to the owner or operator of any pipeline facility covered under the project (referred to in this subsection as a 'covered pipeline facility'), the applicability of all or a portion of the requirements under this chapter that would otherwise apply to that owner or operator with respect to the pipeline facility; and

"(B) shall waive, for the period of the project, with respect to the owner or operator that participates in the project, the applicability of any new standard or regulatory requirement that the Secretary promulgates under this chapter during the period of that participation, if the Secretary determines that the risk management plan applicable to the demonstration project provides an overall level of safety that is equivalent to or greater than the level of safety provided by requiring the application of that standard or regulatory requirement.

"(b) REQUIREMENTS.—In carrying out a demonstration project under this section, the Secretary shall—

"(1) invite owners and operators of pipeline facilities to submit risk management plans for timely approval by the Secretary;

"(2) require, as a condition of approval, that a risk management plan submitted under this subsection contain measures that are designed to achieve an equivalent or greater overall level of safety than would otherwise be achieved through compliance with the standards and regulatory requirements contained in this chapter or promulgated by the Secretary under this chapter;

"(3) provide for—

"(A) collaborative government and industry training;

"(B) methods to measure the safety performance of risk management plans;

"(C) the development and application of new technologies;

"(D) the promotion of community awareness concerning how the overall level of safety will be enhanced by the demonstration project;

"(E) the development of a model that categorizes the risks inherent to each covered pipeline facility, taking into consideration the location, volume, pressure, and material transported or stored by that pipeline facility;

"(F) the application of risk assessment and risk management methodologies that are suitable to the inherent risks that are determined to exist through the use of the model developed under subparagraph (E);

"(G) the development of project elements that are necessary to ensure that—

"(i) the owners and operators that participate in the demonstration project demonstrate that they are effectively managing the risks referred to in subparagraph (E); and

"(ii) the risk management plans carried out under the demonstration project under this subsection can be audited;

"(H) a process whereby an owner or operator of a pipeline facility is able to amend, modify, or otherwise adjust a risk management plan referred to in paragraph (1) that has been approved by the Secretary pursuant to that paragraph to respond to—

"(i) changed circumstances; or

"(ii) a determination by the Secretary that the owner or operator is not achieving an overall level of safety that is at least equivalent to the level that would otherwise be achieved through compliance with the standards and regulatory requirements contained in this chapter or promulgated by the Secretary under this chapter; and

"(I) such other elements as the Secretary, with the agreement of the owners and operators that participate in the demonstration project under this section, determines to further the purposes of this section; and

"(4) in selecting participants for the demonstration project, take into consideration the past safety and regulatory performance of each applicant who submits a risk management plan pursuant to paragraph (1).

"(c) EMERGENCIES.—In the case of an emergency that meets the criteria described in section 60112(e), the Secretary may suspend or revoke the participation of an owner or operator in the demonstration project under this section.

"(d) PARTICIPATION BY STATE AUTHORITY.—Notwithstanding any other provision of this chapter, in carrying out the demonstration project under this section, the Secretary may provide for the participation in the demonstration project by a State that has in effect a certification that has been approved by the Secretary under section 60105.

"(e) REPORT.—Not later than March 31, 1999, the Secretary shall transmit to the Congress a report on the results of the demonstration projects carried out under this section that includes—

"(1) an evaluation of each such demonstration project, including an evaluation of the performance of each participant in that project with respect to safety and environmental protection; and

"(2) recommendations concerning whether the applications of risk management demonstrated under the demonstration project should be incorporated into the Federal pipeline safety program under this chapter on a permanent basis.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

"60126. Risk management.".

SEC. 6. INSPECTION AND MAINTENANCE.

Section 60108 is amended—

(1) in subsection (a)(1), by striking "transporting gas or hazardous liquid or" each place it appears;

(2) in subsection (b)(2), by striking the second sentence;

(3) in the heading to subsection (c), by striking "NAVIGABLE WATERS" and inserting "OTHER WATERS"; and

(4) by striking clause (ii) of subsection (c)(2)(A) and inserting the following:

"(ii) any other pipeline facility crossing under, over, or through waters where a substantial likelihood of commercial navigation exists, if the Secretary decides that the location of the facility in those waters could pose a hazard to navigation or public safety.".

SEC. 7. HIGH-DENSITY POPULATION AREAS AND ENVIRONMENTALLY SENSITIVE AREAS.

(a) IDENTIFICATION.—Section 60109(a)(1)(B)(i) is amended by striking "a navigable waterway (as the Secretary defines by regulation)" and inserting "waters where a substantial likelihood of commercial navigation exists".

(b) UNUSUALLY SENSITIVE AREAS.—Section 60109(b) is amended to read as follows:

"(b) AREAS TO BE INCLUDED AS UNUSUALLY SENSITIVE.—When describing areas that are unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident, the Secretary shall consider areas where a pipeline rupture would likely cause permanent or long-term environmental damage, including—

"(1) locations near pipeline rights-of-way that are critical to drinking water, including intake locations for community water systems and critical sole source aquifer protection areas; and

"(2) locations near pipeline rights-of-way that have been identified as critical wetlands, riverine or estuarine systems, national parks, wilderness areas, wildlife preservation areas or refuges, wild and scenic rivers, or critical habitat areas for threatened and endangered species.".

SEC. 8. EXCESS FLOW VALUES.

Section 60110 is amended—

(1) in subsection (b)—

(A) in the first sentence, by inserting ", if any," after "circumstances"; and

(B) in paragraph (4), by inserting ", operating, and maintaining" after "cost of installing";

(2) in subsection (c)(1)(C), by inserting ", maintenance, and replacement" after "installation"; and

(3) in subsection (e), by inserting after the first sentence the following: "The Secretary may adopt industry accepted performance standards in order to comply with the requirement under the preceding sentence.".

SEC. 9. CUSTOMER-OWNED NATURAL GAS SERVICE LINES.

Section 60113 is amended—

(1) by striking "(a) MAINTENANCE INFORMATION.—"; and

(2) by striking subsection (b).

SEC. 10. UNDERGROUND FACILITY DAMAGE PREVENTION PROGRAMS.

(a) APPLICATION.—Section 60114(a) is amended—

(1) in the matter preceding paragraph (1), by striking "one-call notification system" and inserting "underground facility damage prevention program (hereafter in this subsection referred to as a 'program')";

(2) in paragraph (1)—

(A) by striking "the system apply to"; and

(B) by inserting before the period the following: "be covered by the program";

(3) in each of paragraphs (2), (4), (5), (6), and (8), by striking "system" each place it appears and inserting "program";

(4) in paragraph (3), by striking "appropriate one-call notification system" and inserting "appropriate program";

(5) in paragraph (4), by striking "qualifications" and inserting "Qualifications";

(6) in paragraph (5), by striking "procedures" and inserting "Procedures"; and

(7) in each of paragraphs (1), (2), (3), (6), (7), (8), and (9), by striking "a" the first place it appears and inserting "A".

(b) SANCTIONS.—Section 60114(a)(9), as amended by subsection (a)(7), is further amended by striking "60120, 60122, and 60123" and inserting "60120 and 60122".

(c) GRANTS.—Section 60114(b) is amended by striking "one-call notification system" and inserting "underground facility damage prevention program".

(d) APPORTIONMENT.—Section 60114(d) is amended by striking "one-call notification system" each place it appears and inserting "underground facility damage prevention program".

(e) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading to section 60114 is amended to read as follows:

"§ 60114. Underground facility damage prevention programs".

(2) CHAPTER ANALYSIS.—The analysis for chapter 601 is amended by striking the item relating to section 60114 and inserting the following item:

"60114. Underground facility damage prevention programs.".

SEC. 11. TECHNICAL SAFETY STANDARDS COMMITTEES.

(a) PEER REVIEW.—Section 60115(a) is amended by adding at the end the following: "The committees referred to in the preceding sentence shall serve as peer review committees for carrying out this chapter. Peer reviews conducted by the committees shall be treated for purposes of all Federal laws relating to risk assessment and peer review (including laws that take effect after the date of the enactment of the Pipeline Safety Act of 1995) as meeting any peer review requirements of such laws.''.

(b) COMPOSITION AND APPOINTMENT.—Section 60115(b) is amended—

(1) in paragraph (1), by inserting "or risk management" before the period at the end of the last sentence;

(2) in paragraph (2), by inserting "or risk management" before the period at the end of the last sentence;

(3) in paragraph (3)—

(A) in subparagraph (B), by striking "4" and inserting "5"; and

(B) in subparagraph (C), by striking "6" and inserting "5"; and

(4) in paragraph (4)—

(A) in subparagraph (A), by adding at the end the following: "At least 1 of the individuals selected for each committee under paragraph (3)(A) shall have relevant scientific education, background, or experience.";

(B) in subparagraph (B), by adding at the end the following: "At least 1 of the individuals selected for each committee under paragraph (3)(B) shall have education, background, or experience in risk assessment and cost-benefit analysis. The Secretary shall consult with the national organizations representing the owners and operators of pipeline facilities before selecting individuals under paragraph (3)(B)."; and

(C) in subparagraph (C), by inserting after the first sentence the following: "At least 1 of the individuals selected for each committee under paragraph (3)(C) shall have education, background, or experience in risk assessment and cost-benefit analysis.".

(c) COMMITTEE REPORTS.—Section 60115(c) is amended—

(1) by inserting "or regulatory requirement" after "standard" each place it appears in paragraphs (1), (2), and (3);

(2) in paragraph (1)—

(A) in subparagraph (A), by inserting ", including the risk assessment document and other analyses supporting each proposed standard or regulatory requirement" before the semicolon; and

(B) in subparagraph (B), by inserting ", including the risk assessment document and other analyses supporting each proposed standard or regulatory requirement" before the period; and

(3) in paragraph (2)—

(A) in the first sentence—

(i) by inserting "and supporting analyses" before the first comma;

(ii) by inserting "and submit to the Secretary" after "prepare";

(iii) by inserting "cost-effectiveness," after "reasonableness,"; and

(iv) by inserting "and include in the report recommended actions" before the period at the end; and

(B) in the second sentence, by inserting "any recommended actions and" after "including".

(d) PROPOSED COMMITTEE STANDARDS AND REGULATORY REQUIREMENTS.—Section 60115(d)(1) is amended by inserting "or regulatory requirement" after "standard" each place it appears;

(e) MEETINGS.—Section 60115(e) is amended by striking "twice" and inserting "4 times".

(f) EXPENSES.—Section 60115(f) is amended—

(1) in the subsection heading by striking "PAY AND";

(2) by striking the first 2 sentences; and

(3) by inserting "of a committee under this section" after "A member".

SEC. 12. PUBLIC EDUCATION PROGRAMS.

Section 60116 is amended—

(1) by striking "person transporting gas" and inserting "owner or operator of a gas pipeline facility";

(2) by inserting "the use of an underground facility damage prevention program prior to excavation," after "educate the public on"; and

(3) by inserting a comma after "gas leaks".

SEC. 13. ADMINISTRATIVE.

Section 60117 is amended by adding at the end the following new subsection:

"(k) AUTHORITY FOR COOPERATIVE AGREEMENTS.—To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, or any other entity to further the objectives of this chapter. The objectives of this chapter include the development, improvement, and promotion of one-call damage prevention programs, research, risk assessment, and mapping.".

SEC. 14. COMPLIANCE AND WAIVERS.

Section 60118 is amended by adding at the end the following new subsection:

"(e) COMPLIANCE WITH RISK MANAGEMENT PLANS.—The owners and operators of pipeline facilities that participate in the demonstration project under section 60126 shall, during the applicable period of participation in the program, be considered to be in compliance with any prescribed safety standard or regulatory requirement that is covered by a plan that is approved by the Secretary under section 60126.".

SEC. 15. DAMAGE REPORTING.

Section 60123(d)(2) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

"(B) a pipeline facility and does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or".

SEC. 16. BIANNUAL REPORTS.

(a) BIANNUAL REPORTS.—

(1) SECTION HEADING.—The section heading of section 60124 is amended to read as follows:

"§ 60124. Biannual reports".

(2) REPORTS.—Section 60124(a) is amended by striking the first sentence and inserting the following:

"(a) SUBMISSION AND COMMENTS.—Not later than August 15, 1997, and every 2 years thereafter, the Secretary of Transportation shall submit to Congress a report on carrying out this chapter for the 2 immediately preceding calendar years for gas and a report on carrying out this chapter for such period for hazardous liquid.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by striking the item relating to section 60124 and inserting the following:

"60124. Biannual reports.".

SEC. 17. POPULATION ENCROACHMENT.

(a) IN GENERAL.—Chapter 601, as amended by section 5, is further amended by adding at the end the following new section:

"§ 60127. Population encroachment

"(a) LAND USE RECOMMENDATIONS.—The Secretary of Transportation shall make available to an appropriate official of each State, as determined by the Secretary, the land use recommendations of the special report numbered 219 of the Transportation Research Board, entitled 'Pipelines and Public Safety'.

"(b) EVALUATION.—The Secretary shall—

"(1) evaluate the recommendations in the report referred to in subsection (a);

"(2) determine to what extent the recommendations are being implemented;

"(3) consider ways to improve the implementation of the recommendations; and

"(4) consider other initiatives to further improve awareness of local planning and zoning entities regarding issues involved with population encroachment in proximity to the rights-of-way of any interstate gas pipeline facility or interstate hazardous liquid pipeline facility.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by inserting after the item relating to section 60126 the following:

"60127. Population encroachment.".

SEC. 18. USER FEES.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall transmit to the Congress a report analyzing the assessment of pipeline safety user fees solely on the basis of mileage to determine whether—

(1) that measure of the resources of the Department of Transportation is the most appropriate measure of the resources used by the Department of Transportation in the regulation of pipeline transportation; or

(2) another basis of assessment would be a more appropriate measure of those resources.

SEC. 19. DUMPING WITHIN PIPELINE RIGHTS-OF-WAY.

(a) AMENDMENT.—Chapter 601, as amended by section 17, is further amended by adding at the end the following new section:

"§ 60128. Dumping within pipeline rights-of-way

"(a) PROHIBITION.—No person shall excavate for the purpose of unauthorized disposal within the right-of-way of an interstate gas pipeline facility or interstate hazardous liquid pipeline facility, or any other limited area in the vicinity of any such interstate pipeline facility established by the Secretary of Transportation, and dispose solid waste therein.

"(b) DEFINITION.—For purposes of this section, the term 'solid waste' has the meaning given that term in section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).".

(b) CONFORMING AMENDMENTS.—

(1) CROSS-REFERENCE.—Sections 60122 and 60123 are each amended by striking "or 60118(a)" and inserting ", 60118(a), or 60128".

(2) CHAPTER ANALYSIS.—The analysis for chapter 601 is amended by adding at the end the following new item:

"60128. Dumping within pipeline rights-of-way.".

SEC. 20. PREVENTION OF DAMAGE TO PIPELINE FACILITIES.

Section 60117(a) is amended by inserting after "and training activities" the following: "and promotional activities relating to prevention of damage to pipeline facilities".

SEC. 21. TECHNICAL CORRECTIONS.

(a) SECTION 60105.—The heading to section 60105 is amended by inserting "**pipeline safety program**" after "**State**".

(b) SECTION 60106.—The heading to section 60106 is amended by inserting "**pipeline safety**" after "**State**".

(c) SECTION 60107.—The heading to section 60107 is amended by inserting "**pipeline safety**" after "**State**".

(d) CHAPTER ANALYSIS.—The analysis for chapter 601 is amended—

(1) in the item relating to section 60105, by inserting "pipeline safety program" after "State";

(2) in the item relating to section 60106, by inserting "pipeline safety" after "State"; and

(3) in the item relating to section 60107, by inserting "pipeline safety" after "State".

SEC. 22. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUID.—Section 60125 is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter (except for sections 60107 and 60114(b)) related to gas and hazardous liquid, there are authorized to be appropriated to the Department of Transportation—

"(1) $9,936,000 for fiscal year 1996;

"(2) $10,512,000 for fiscal year 1997;

"(3) $11,088,000 for fiscal year 1998; and

"(4) $11,664,000 for fiscal year 1999."; and

(2) by striking subsection (b).

(b) STATE GRANTS.—Section 60125(c)(1) is amended by adding at the end the following:

"(D) $10,764,000 for fiscal year 1996.

"(E) $11,388,000 for fiscal year 1997.

"(F) $12,012,000 for fiscal year 1998.

"(G) $12,636,000 for fiscal year 1999.".

By Mr. HATCH:

S.J. Res. 45. A joint resolution proposing an amendment to the Constitution of the United States in order to ensure that private persons and groups are not denied benefits or otherwise discriminated against by the United States or any of the several States on account of religious expression, belief, or identity; to the Committee on the Judiciary.

RELIGIOUS EQUALITY CONSTITUTIONAL AMENDMENT

Mr. HATCH. Mr. President, religious liberty is the first freedom mentioned in the Bill of Rights. Today, I am introducing a religious equality constitutional amendment to restore that freedom to its intended and proper place in American society. This amendment is intended to rescue the first amendment's requirement that Congress "shall make no law * * * prohibiting the free exercise [of religion] * * *" from a misguided Supreme Court jurisprudence and the hostility that jurisprudence has spawned among local, State, and Federal Governments toward the participation of religious institutions in the public square. This is the same amendment introduced by Congressman HENRY HYDE, chairman of the House Judiciary Committee. In my view, our Nation benefits greatly from the participation of religious institutions in the public square. Religious values and influences are important components in addressing the social problems facing our country. These problems include the breakdown of the family, loss of respect for the values of human life, honesty, and hard work, the growing problem of juvenile crime, and the worsening drug problem.

We can provide public support to private religious institutions in carrying out vital social welfare functions whenever public support is provided to private secular institutions without establishing a religion or group of religions.

The amendment embodies two key principles. First, if public benefits are dispensed to private secular entities, Government cannot deny such benefits to private religious entities. Second, in dispensing such benefits among private religious entities, the Government may not discriminate among them based on religious beliefs.

Mr. President, I introduce this amendment after careful personal consideration and considerable public debate. I revere the Constitution and do not take lightly the proposal of new amendments to it. But after long study and discussion, and a series of hearings in the Judiciary Committee which I chair, I believe that a constitutional amendment is necessary to protect the rights of believing Americans. These rights are now often denied as a result of a confused and often erroneous constitutional jurisprudence in the courts and discrimination against religious groups and individuals by administrative agencies.

In our Judiciary Committee hearings this past autumn, we heard stories of individuals who were denied access to government benefits simply because of their religious beliefs. Surely no one who has not been schooled in the intricate confusions of first amendment jurisprudence would think that the cases we heard were fairly resolved.

We heard from the station manager of the Fordham University public radio station, which was denied construction funds available to all other public radio stations by the Clinton administration's Commerce Department because it broadcasts the Catholic mass 1 hour a week.

Arguments that the religious broadcast was a very small part of a very diverse programming schedule or that it was a practice going back more than 50 years were unavailing. Even the fact that the station was responding to community needs, as public stations are supposed to, by providing this religious programming to the elderly and disabled shut-ins did not move the bureaucrats at the Commerce Department. Given that the station needed the funds to comply with government facility requirements, but were told that the station would receive no money as long as the offending program was broadcast, the Clinton administration was virtually saying, "Stop broadcasting Catholic mass or stop broadcasting at all."

This is appalling enough as an administrative abuse, but it has been abetted by a lower Federal court, and now awaits an appeals court decision. I should note that the statutory remedy provided by the landmark Religious Freedom Restoration Act, which I was proud to cosponsor and which President Clinton was proud to sign, was held unavailing in this case.

Two Supreme Court cases that were much discussed at our hearings by constitutional experts point up the human costs of discrimination by the government in dispensing public benefits. In Aguilar versus Felton, the Supreme Court held that remedial English and math could not be provided to economically deprived children on the premises of their school, if the school is religious. Similarly, in the case of Witters versus Dept. of Services for the Blind, Larry Witters, an otherwise eligible applicant for Government assistance to blind students, was ultimately denied that assistance because his chosen course of study was religious. The Supreme Court held that the first amendment did not require that he be denied funding, but it was not prepared to hold that the First Amendment prohibited antireligious discrimination. On remand, the State supreme court of Washington found that the State constitution required the denial of benefits and the U.S. Supreme Court denied further review of the case. Mr. President, does it make sense that people with disabilities who are otherwise entitled to Government assistance are denied that help because they also choose to exercise their rights of conscience?

Even when a religious person wins a case, it often takes so long that the help is no longer needed, or the case is decided on such narrow grounds or with such narrow vote margins that future parties have no comfort in ordering their conduct based on Supreme Court precedent. In the case of Zobrest versus Catalina Foothills School District, a deaf student's right to a deaf interpreter at school was not vindicated until well after he had graduated. And in the important case of Rosenberger versus University of Virginia, decided earlier this year, a Christian student group's right to funding of publishing activities on par with other student groups, including Jewish and Muslim groups, was upheld on a 5-to-4 vote, with Justice O'Connor, one of the five-vote majority, explicitly stating that the case was decided on its particular facts and that no broad principle upon which anyone can rely was announced in that case.

Mr. President, more must be done to safeguard the right of conscience of religious Americans. Many of us have tried to help with statutory safeguards like the Religious Freedom Restoration Act. But statutory solutions are not wholly adequate to correcting the erroneous interpretations of first amendment law by the courts. Only a constitutional amendment can do that. And that is why I am proposing one today.

The proposed amendment does not seek to bring back school-sponsored or State-sponsored prayer; it does not seek to create a nationally established theology. It merely seeks to require that the government act neutrally among beneficiaries of generally available resources. At a time when social values are eroding and family structures are collapsing, why should we actively discriminate against religious entities and drive them out of the public square? At a time when all types of groups and viewpoints can receive Federal funds, why do we shut out or seriously hamper religious groups? At a time when we wish to make our Federal dollars go farther, why should we not take advantage of religious charities, day care, educational, or other social services? We should not be cutting ourselves off from their help simply because they have a partly religious mission. Nor should we be turning away otherwise qualified Americans from Government assistance simply because they seek to enjoy their rights as religious believers.

On a more personal note, Mr. President, I come from a religious tradition which has known the heavy hand of government. People of my faith know what it is like to be a minority religion subject to persecution by other religions and by the State and Federal Governments. In the middle of the last century, the Mormons were driven from State to State, and ultimately out of the then-United States altogether, and even then they were still molested by the Federal Government. I am concerned that government not drive religion out of the public square and from our public dialog on issues confronting our people. And I am concerned that the Government not single out persons of faith for worse treatment than their fellow Americans when it comes to enjoying the benefits of public resources.

Rather than upset the fine balance between religious beliefs and other philosophies in our pluralistic society, the proposed amendment seeks to restore it. No group should be disenfranchised by government fiat—and we should be especially careful that no group be disenfranchised for exercise of religious faith. Their rights were to be protected by the First particular among our Bill of Rights. It is sad that we must revisit so basic an issue in this way at this late hour because of recent aberrations in our Government's understanding of those rights.

Mr. President, I realize that this is an important issue and that amending the Constitution is a serious step. I am confident that this amendment will generate useful discussion and debate about the issue, and I think that will be good for the country. I commend this amendment to my colleagues, scholars, and fair-minded people throughout our country, and hope it will find their support.

ADDITIONAL COSPONSORS

S. 90

At the request of Mr. ROBB, his name was added as a cosponsor of S. 90, a bill to amend the Job Training Partnership Act to improve the employment and training assistance programs for dislocated workers, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1166

At the request of Mr. LUGAR, the names of the Senator from Virginia [Mr. WARNER] and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 1166, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, to improve the registration of pesticides, to provide minor use crop protection, to improve pesticide tolerances to safeguard infants and children, and for other purposes.

S. 1317

At the request of Mr. AKAKA, his name was added as a cosponsor of S. 1317, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1995, and for other purposes.

At the request of Mr. D'AMATO, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1317, supra.

S. 1419

At the request of Mrs. KASSEBAUM, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1419, a bill to impose sanctions against Nigeria.

S. 1484

At the request of Mr. NICKLES, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 1484, a bill to enforce the public debt limit and to protect the social security trust funds and other Federal trust funds and accounts invested in public debt obligations.

S. 1494

At the request of Mr. CHAFEE, his name was added as a cosponsor of S. 1494, a bill to provide an extension for fiscal year 1996 for certain programs administered by the Secretary of Housing and Urban Development and the Secretary of Agriculture, and for other purposes.

SENATE RESOLUTION 202—CONCERNING THE BAN ON THE USE OF UNITED STATES PASSPORTS FOR TRAVEL TO LEBANON

Mr. ABRAHAM (for himself, Mr. SIMON, Mr. GRAHAM, and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 202

Whereas on January 26, 1987, the Department of State issued a prohibition on the use of U.S. passports for travel to Lebanon, creating a ban on travel to Lebanon by U.S. citizens;

Whereas the ban on travel to Lebanon was instituted during a time of civil war, anarchy, and general lawlessness in Lebanon, when the safety and well-being of U.S. citizens were at serious risk, American hostages were being taken, and hundreds of lives were being lost due to acts of terrorism;

Whereas the civil war in Lebanon ended in 1990 and the last U.S. hostage held in Lebanon was freed on December 4, 1991;

Whereas there has been no incident of violence against any U.S. citizen in Lebanon since December 4, 1991;

Whereas security in Lebanon has improved demonstrably since the end of the civil war due to, among other efforts, the exchange of security delegations between the United States and Lebanon to monitor ongoing progress on security;

Whereas the United States and Lebanon have made special joint efforts to agree upon and sign international conventions against terrorism which would address crimes committed against U.S. citizens in Lebanon during the civil war;

Whereas the United States maintains an economic and military assistance program in Lebanon;

Whereas it is estimated that more than 45,000 United States citizens, including Members of Congress, traveled safely to Lebanon in the past 4 years, either in defiance of the ban or under current U.S. regulations which permit the use of passports by dual Lebanese-United States nationals and in urgent humanitarian cases;

Whereas Americans of Lebanese descent who have families residing in Lebanon and who are not willing to defy the travel ban have been seriously harmed by this ban and are prevented from being reunited with their loved ones in Lebanon;

Whereas the United States has eased certain restrictions on the travel ban to permit airline tickets to be issued directly from the United States to Beirut for travel by non-United States nationals United States citizens who have obtained the appropriate waiver from the Department of State;

Whereas it is in the United States' national interest to assist actively the Government of Lebanon to attain the principles of democracy in the region;

Whereas the Lebanese government has initiated a 10-year, $18,000,000,000 reconstruction effort, and in 1993–1995 awarded more than 500 contracts worth more than $2,700,000,000 to business firms for development, reconstruction, and consulting projects;

Whereas the ban on the use of U.S. passports for travel to Lebanon creates a major impediment to United States firms that wish to bid for contracts in Lebanon;

Whereas it is in the United States national interest for United States businesses to participate in the reconstruction of Lebanon, since United States participation will bring economic benefit to the United States;

Whereas it is in the national interest of the United States for there to be an independent, politically and economically self-reliant Lebanon as a stabilizing state in the region;

Whereas in determining whether to restrict the use of U.S. passports in any country, the Secretary of State should apply consistent criteria; and

Whereas travel advisories, rather than travel bans, are in effect for countries such as Bosnia, Rwanda, Haiti, Colombia, and Peru, in which U.S. citizens have historically experienced as serious risk to their safety as they do in traveling to Lebanon: Now, therefore, be it *Resolved*, That it is the sense of the Senate that—

(1) in deciding whether to renew the ban on the use of U.S. passports for travel to Lebanon, the Secretary of State should—

(A) expand the present humanitarian waiver provisions to permit American citizens of Lebanese descent to travel to Lebanon for family reunification purposes;

(B) create a new waiver category to permit exceptions for United States business personnel who wish to travel to Lebanon for business purposes; and

(C) change the Lebanon travel ban to a travel advisory because American citizens have been safely traveling there since 1991, and it appears as if the risk posed to the safety of American citizens is no greater in Lebanon that it is in other countries that currently maintain travel advisories; and

(2) the Secretary of State should identify those conditions within Lebanon that are of risk to U.S. citizens and provide suggestions for Lebanon to ameliorate those risks.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Secretary of State.

Mr. ABRAHAM. Mr. President, I rise today to submit legislation regarding the ban on the use of United states passports for travel to Lebanon. I, along with my colleagues, Mr. SIMON, Mr. GRAHAM of Florida, and Mr. KENNEDY, cosponsored this resolution with the hope that the passport restriction will eventually be lifted.

The current policy—in effect, a travel ban to Lebanon—has had a negative impact on United States businesses and individuals. Since the restriction on the use of United States passports for travel to Lebanon inordinately affects Americans of Lebanese descent, we are proposing expanding the humanitarian considerations provision to permit those Americans of Lebanese descent to travel to Lebanon. This would ease the concerns of many Lebanese Americans who may want to travel to Lebanon for family reunification purposes, but who presently are unable to do so.

We also advocate creating a new waiver category which would permit travel by United States business personnel who wish to do business in Lebanon. While the reconstruction effort in Lebanon is progressing at a fast pace, United States businesses are hindered from participating in this rebuilding effort due to the travel restrictions. United States businesses cannot compete with foreign companies with representation in and free access to Lebanon.

While we understand and agree that the safety and security of United States citizens is of paramount concern when reviewing the travel policy, it is also our understanding that more than 45,000 Americans are estimated to have traveled without incident to Lebanon during the past 4 years. That being the case, the current restrictions appear to be inconsistent with the situation on the ground. In addition, we note that other countries equally and, in some cases, more unstable than Lebanon are not subject to similar travel constraints.

In view of these considerations, and taking into account the overall improvement in circumstances inside Lebanon, we urge the Secretary of State to lift the passport restriction for Lebanon and issue in its place a travel advisory. Such a step would make clear any risks and dangers associated with travel to Lebanon, and at the same time enable United States citizens to make their own informed decisions.

Mr. President, I hope that this resolution will be incorporated into the next review process of the travel restrictions to Lebanon, and that in February 1996, the Department of State will implement the suggestions encompassed in this resolution.

SENATE RESOLUTION 203—RELATIVE TO THE SENATE LEGAL COUNSEL

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 203

Whereas, in the case of *Sheila Cherry* v. *Richard Cherry*, Case No. FM-18145-91, pending in the New Jersey Superior Court, a subpoena *duces tecum* for testimony at a deposition and for the production of documents has been issued to William Ayala, an employee of Senator Frank Lautenberg;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2) (1994), the Senate may direct its counsel to represent committees, Members, officers, and employees of the Senate with respect to subpoenas or orders to them in their official capacity: Now, therefore, be it

Resolved, That William Ayala is authorized to testify in the case of *Cherry* v. *Cherry*, except concerning matters for which a privilege or an objection should be asserted.

SEC. 2. That the Senate Legal Counsel is directed to represent William Ayala and Senator Lautenberg's office in connection with the subpoena issued in this case.

SENATE RESOLUTION 204—RELATIVE TO THE SENATE LEGAL COUNSEL

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 204

Whereas, in the case of *Charles Okoren, et al.* v. *Fyfe Symington, et al.*, No. CV-95-2527-PHX-RCB, pending in the United States District Court for the District of Arizona, the plaintiffs have named the United States Senate as a defendant;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1)(1994), the Senate may direct its counsel to defend the Senate in civil actions relating to its official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the United States Senate in the case of *Charles Okoren, et al.* v. *Fyfe Symington, et al.*

SENATE RESOLUTION 205—RELATIVE TO THE SENATE LEGAL COUNSEL

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 205

Whereas, in the case of *United States of America* v. *Karl Zielinski*, Case No. F12187-94, a criminal action pending in the Superior Court of the District of Columbia, the United States Attorney has caused a trial subpoena to be served on Michael O'Leary, a Senate employee on the staff of the Committee on the Judiciary;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 740(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to requests for testimony made to them in their official capacities: Now, therefore, be it

Resolved, That Michael O'Leary is authorized to provide testimony in the case of *United States of America* v. *Karl Zielinski*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Michael O'Leary in connection with the testimony authorized by section 1 of this resolution.

AMENDMENTS SUBMITTED

CONTINUING APPROPRIATIONS JOINT RESOLUTION

HATFIELD AMENDMENT NO. 3110

Mr. LOTT (for Mr. HATFIELD) proposed an amendment to the joint resolution (H.J. Res. 134) making further continuing appropriations for the fiscal year 1996, and for other purposes; as follows:

Strike all after the resolving clause and insert in lieu thereof:

TITLE I—AID TO FAMILIES WITH DEPENDENT CHILDREN AND FOSTER CARE AND ADOPTION ASSISTANCE

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for continuing the following projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1995:

All projects and activities funded under the account heading "Family support payments to States" under the Administration For Children and Families in the Department of Health and Human Services;

All projects and activities funded under the account heading "Payments to States for foster care and adoption assistance" under the Administration For Children and Families in the Department of Health and Human Services; and

Such amounts as may be necessary for the Medicaid program under title XIX of the Social Security Act for the second quarter of fiscal year 1996;

All administrative activities necessary to carry out the projects and activities in the preceding three paragraphs:

Provided, That whenever the amount which would be made available or the authority which would be granted under an Act which included funding for fiscal year 1996 for the projects and activities listed in this section is greater than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under the Act which included funding for fiscal year 1996 for the projects and activities listed in this section as passed by the House as of the date of enactment of this joint resolution, is different from that which would be available or granted under such Act as passed by the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lower, under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

(c) Whenever an Act which included funding for fiscal year 1996 for the projects and activities listed in this section has been passed by only the House or only the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 102. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 103. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 104. No provision which is included in the appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 105. Appropriations made and authority granted pursuant to this title of this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 106. Unless otherwise provided for in this title of this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this title of this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) January 3, 1996, whichever first occurs.

SEC. 107. Expenditures made pursuant to this title of this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. No provision in the appropriations Act for the fiscal year 1996 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 106(c) of this joint resolution.

SEC. 109. Appropriations and funds made available by or authority granted pursuant to this title of this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

TITLE II—DISTRICT OF COLUMBIA

That the following sums are hereby appropriated, out of the general fund and enterprise funds of the District of Columbia for the District of Columbia for the fiscal year 1996, and for other purposes, namely:

SEC. 201. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act of the fiscal year 1995 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this title of this joint resolution) which were conducted in the fiscal year 1995 and for which appropriations, funds, or other authority would be available in the following appropriations Act:

The District of Columbia Appropriations Act, 1996:

Provided, That whenever the amount which would be made available or the authority which would be granted in this Act is greater than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under the Act listed in this section as passed by the House as of the date of enactment of this joint resolution, is different from that which would be available or granted under such Act as passed by the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lower, under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: *Provided*, That where an item is not included in either version or where an item is included in only one version of the Act as passed by both Houses as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 211 or 212 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 202. Appropriations made by section 201 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 203. No appropriation or funds made available or authority granted pursuant to section 201 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 204. No provision which is included in the appropriations Act enumerated in section 201 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this title of this joint resolution.

SEC. 205. Appropriations made and authority granted pursuant to this title of this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this title of this joint resolution.

SEC. 206. Unless otherwise provided for in this title of this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this title of this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this title of this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) January 3, 1996, whichever first occurs.

SEC. 207. Notwithstanding any other provision of this title of this joint resolution, except section 206, none of the funds appropriated under this title of this joint resolution shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 208. Expenditures made pursuant to this title of this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 209. No provision in the appropriations Act for the fiscal year 1996 referred to in section 201 of this title of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 206(c) of this joint resolution.

SEC. 210. Appropriations and funds made available by or authority granted pursuant to this title of this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 211. Notwithstanding any other provision of this title of this joint resolution, except section 206, whenever the Act listed in section 201 as passed by both the House and Senate as of the date of enactment of this joint resolution, does not include funding for an ongoing project or activity for which there is a budget request, or whenever the rate for operations for an ongoing project or activity provided by section 201 for which there is a budget request would result in the project or activity being significantly reduced, the pertinent project or activity may be continued under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 by increasing the rate for operations provided by section 201 to a rate for operations not to exceed one that provides the minimal level that would enable existing activities to continue. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366. For the purposes of this title of this joint resolution the minimal level means a rate for operations that is reduced from the current rate by 25 percent.

SEC. 212. Notwithstanding any other provision of this title of this joint resolution, except section 206, whenever the rate for operations for any continuing project or activity provided by section 201 or section 211 for which there is a budget request would result in a furlough of Government employees, that rate for operations may be increased to the minimum level that would enable the furlough to be avoided. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366.

SEC. 213. Notwithstanding any other provision of this title of this joint resolution, except sections 206, 211, and 212, for those programs that had high initial rates of operation or complete distribution of funding at the beginning of the fiscal year in fiscal year 1995 because of distributions of funding to States, foreign countries, grantees, or others, similar distributions of funds for fiscal year 1996 shall not be made and no grants shall be awarded for such programs funded by this title of this resolution that would impinge on final funding prerogatives.

SEC. 214. This title of this joint resolution shall be implemented so that only the most limited funding action of that permitted in this title of this resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 215. The provisions of section 132 of the District of Columbia Appropriations Act, 1988, Public Law 100–202, shall not apply for this title of this joint resolution.

SEC. 216. Notwithstanding any other provision of this title of this joint resolution, except section 206, none of the funds appropriated under this title of this joint resolution shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this title of this joint resolution otherwise be used to implement or enforce D.C. Act 9–188, signed by the Mayor of the District of Columbia on April 15, 1992.

TITLE III—VETERANS' BENEFITS

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

SEC. 301. ENSURED PAYMENT DURING FISCAL YEAR 1996 OF VETERANS' BENEFITS IN EVENT OF LACK OF APPROPRIATIONS.

(a) PAYMENTS REQUIRED.—In any case during fiscal year 1996 in which appropriations are not otherwise available for programs, projects, and activities of the Department of Veterans Affairs, the Secretary of Veterans Affairs shall nevertheless ensure that—

(1) payments of existing veterans benefits are made in accordance with regular procedures and schedules and in accordance with eligibility requirements for such benefits; and

(2) payments to contractors of the Veterans Health Administration of the Department of Veterans Affairs are made when due in the case of services provided that directly relate to patient health and safety.

(b) FUNDING.—There is hereby appropriated such sums as may be necessary for the payments pursuant to subsection (a), including such amounts as may be necessary for the costs of administration of such payments.

(c) CHARGING OF ACCOUNTS WHEN APPROPRIATIONS MADE.—In any case in which the Secretary uses the authority of subsection (a) to make payments, applicable accounts shall be charged for amounts so paid, and regular appropriations become available for those purposes.

(d) EXISTING BENEFITS SPECIFIED.—For purposes of this section, existing veterans benefits are benefits under laws administered by the Secretary of Veterans Affairs that have been adjudicated and authorized for payment as of—

(1) December 15, 1995; or

(2) if appropriations for such benefits are available (other than pursuant to subsection (b)) after December 15, 1995, the last day on which appropriations for payment of such benefits are available (other than pursuant to subsection (b)).

SEC. 302. Section 301 shall expire on January 3, 1996.

START II TREATY RESOLUTION OF RATIFICATION

LUGAR (AND PELL) AMENDMENT NO. 3111

Mr. LUGAR (for himself and Mr. PELL) proposed an amendment to the resolution of ratification to Treaty Document No. 103–1; as follows:

In section 1(b)(2) of the resolution of ratification, insert "(A)" after "START II Treaty".

In section 1(b)(2), before the period at the end, insert ", and (B) changes none of the rights of either Party with respect to the provisions of the ABM Treaty, in particular, Articles 13, 14, and 15".

At the end of section 1(b) of the resolution of ratification, add the following new condition:

(7) IMPLEMENTATION ARRANGEMENTS.—(A) The START II Treaty shall not be binding on the United States until such time as the Duma of the Russian Federation has acted pursuant to its constitutional responsibilities and the START II Treaty enters into force in accordance with Article VI of the Treaty.

(B) If the START II Treaty does not enter into force pursuant to subparagraph (A), and if the President plans to implement reductions of United States strategic nuclear forces below those currently planned and consistent with the START Treaty, then the President shall—

(i) consult with the Senate regarding the effect of such reductions on the national security of the United States; and

(ii) take no action to reduce United States strategic nuclear forces below that currently planned and consistent with the START Treaty until he submits to the Senate his determination that such reductions are in the national security interest of the United States.

In section 1(c)(2) of the resolution of ratification, insert "(A)" immediately after "REDUCTIONS.—".

At the end of section 1(c)(2), insert the following:

(B) Recognizing that instability could result from an imbalance in the levels of strategic offensive arms, the Senate calls upon the President to submit a report in unclassified form to the Committees on Foreign Relations and Armed Services of the Senate not later than January 31 of each year beginning with January 31, 1997, and continuing through such time as the reductions called for in the START II Treaty are completed by both parties, which report will provide—

(i) details on the progress of each party's reductions in strategic offensive arms during the previous year;

(ii) a certification that the Russian Federation is in compliance with the terms of the START II Treaty or specifies any act of noncompliance by the Russian Federation; and

(iii) an assessment of whether a strategic imbalance endangering the national security interests of the United States exists.

In section 1(c)(4) of the resolution of ratification—

(1) strike "the parties" and all that follows through "national security interests" and insert "the President to seek further strategic offensive arms reductions to the extent consistent with United States national security interests"; and

(2) strike "it is the sense of the Senate that" and insert in "and".

At the end of section 1(c) of the resolution of ratification, add the following new declarations:

(8) COMPLIANCE.—Concerned by the clear past pattern of Soviet noncompliance with arms control agreements and continued cases of noncompliance by the Russian Federation, the Senate declares that—

(A) the START II Treaty is in the interests of the United States only if both the United States and the Russian Federation are in strict compliance with the terms of the Treaty as presented to the Senate for its advice and consent to ratification, such compliance being measured by performance and not by efforts, intentions, or commitments to comply;

(B) the Senate expects the Russian Federation to be in strict compliance with its obligations under the terms of the START II Treaty as presented to the Senate for its advice and consent to ratification; and

(C) given its concern about compliance issues, the Senate expects the Administration to offer regular briefings, but not less than four times per year, to the Committees on Foreign Relations and Armed Services on compliance issues related to the START II Treaty. Such briefings shall include a description of all U.S. efforts in U.S./Russian diplomatic channels and bilateral fora to resolve the compliance issues and shall include, but would not necessarily be limited to, the following:

(i) Any compliance issues the United States plans to raise with the Russian Federation at the Bilateral Implementation Commission, in advance of such meetings;

(ii) Any compliance issues raised at the Bilateral Implementation Commission, within thirty days of such meetings; and

(iii) Any Presidential determination that the Russian Federation is in non-compliance with or is otherwise acting in a manner inconsistent with the object and purpose of the START II Treaty, within thirty days of such a determination, in which case the President shall also submit a written report, with an unclassified summary, explaining why it is in the national security interests of the United States to continue as a party to the START II Treaty.

At the end of section 1(c) of the resolution of ratification, add the following new declaration:

(8) SUBMISSION OF FUTURE AGREEMENTS AS TREATIES.—The Senate declares that following Senate advice and consent to ratification of the START II Treaty, any agreement or understanding which in any material way modifies, amends, or reinterprets United States or Russian obligations under the START II Treaty, including the time frame for implementation of the Treaty, should be submitted to the Senate for its advice and consent to ratification.

At the end of section 1(c) of the resolution of ratification, add the following new declaration:

(8) NATURE OF DETERRENCE.—(A) On June 17, 1992, Presidents Bush and Yeltsin issued a Joint Understanding and a Joint Statement at the conclusion of their Washington Summit, the first of which became the foundation for the START II Treaty. The second, the Joint Statement on a Global Protection System, endorsed the cooperative development of a defensive system against ballistic missile attack and demonstrated the belief by the governments of the United States and the Russian Federation that strategic offensive reductions and certain defenses against ballistic missiles are stabilizing, compatible, and reinforcing.

(B) It is, therefore, the sense of the Senate that:

(i) The long-term perpetuation of deterrence based on mutual and severe offensive nuclear threats would be outdated in a strategic environment in which the United States and the Russian Federation are seeking to put aside their past adversarial relationship and instead build a relationship based upon trust rather than fear.

(ii) An offense-only form of deterrence cannot address by itself the emerging strategic environment in which, as Secretary of Defense Les Aspin said in January 1994, proliferators acquiring missiles and weapons of mass destruction "may have acquired such weapons for the express purpose of blackmail or terrorism and thus have a fundamentally different calculus not amenable to deterrence. . . . New deterrent approaches are needed as well as new strategies should deterrence fail.".

(iii) Defenses against ballistic missiles are essential for new deterrent strategies and for new strategies should deterrence fail. Because deterrence may be inadequate to protect United States forces and allies abroad, theater missile defense is necessary, particularly the most capable systems of the United States such as THAAD, Navy Upper Tier, and the Space and Missile Tracking System. Similarly, because deterrence may be inadequate to protect the United States against long-range missile threats, missile defenses are a necessary part of new deterrent strategies. Such defenses also are wholly in consonance with the summit statements from June 1992 of the Presidents of the United States and the Russian Federation and the September 1994 statement by Secretary of Defense William J. Perry, who said, "We now have the opportunity to create a new relationship, based not on MAD, not on Mutual Assured Destruction, but rather on another acronym, MAS, or Mutual Assured Safety.".

(iv) As the governments of the United States and Russia have built upon the June 17, 1992, Joint Understanding in agreeing to the START II Treaty, so too should these governments promptly undertake discussions based on the Joint Statement to move forward cooperatively in the development and deployment of defenses against ballistic missiles.

At the end of section 1(c) of the resolution of ratification, add the following new declaration:

(8) REPORT ON USE OF FOREIGN EXCESS BALLISTIC MISSILES FOR LAUNCH SERVICES.—It is the sense of the Senate that the President should not issue licenses for the use of a foreign excess ballistic missile for launch services without first submitting a report to Congress, on a one-time basis, on the implications of the licensing approval on nonproliferation efforts under the Treaty and on the United States space launch industry.

At the end of section 1(c) of the resolution of ratification, add the following new declaration:

(8) UNITED STATES COMMITMENTS ENSURING THE SAFETY, RELIABILITY, AND PERFORMANCE OF ITS NUCLEAR FORCES.—The Senate declares that the United States is committed to ensuring the safety, reliability, and performance of its nuclear forces. To this end, the United States undertakes the following additional commitments:

(A) The United States is committed to proceeding with a robust stockpile stewardship program, and to maintaining nuclear weapons production capabilities and capacities, that will ensure the safety, reliability, and performance of the United States nuclear arsenal at the START II levels and meet requirements for hedging against possible international developments or technical problems, in conformance with United States policies and to underpin deterrence.

(B) The United States is committed to reestablishing and maintaining sufficient levels of production to support requirements for the safety, reliability, and performance of United States nuclear weapons and demonstrate and sustain production capabilities and capacities.

(C) The United States is committed to maintaining United States nuclear weapons laboratories and protecting the core nuclear weapons competencies therein.

(D) As tritium is essential to the performance of modern nuclear weapons, but decays radioactively at a relatively rapid rate, and the United States now has no meaningful tritium production capacity, the United States is committed to ensuring rapid access to a new production source of tritium within the next decade.

(E) As warhead design flaws or aging problems may occur that a robust stockpile stewardship program cannot solve, the United States reserves the right, consistent with United States law, to resume underground nuclear testing if that is necessary to maintain confidence in the nuclear weapons stockpile. The United States is committed to maintaining the Nevada Test Site at a level in which the United States will be able to resume testing, within one year, following a national decision to do so.

(F) The United States reserves the right to invoke the supreme national interest of the United States to withdraw from any future arms control agreement to limit underground nuclear testing.

CONDITION

(a) CONDITIONS.—The Senate's advice and consent to the ratification of the START II Treaty is subject to the following condition, which shall be binding upon the President:

(1) PRESIDENTIAL CERTIFICATION AND REPORT ON NATIONAL TECHNICAL MEANS.—Within ninety days after the United States deposits instruments of ratification of the START II Treaty, the President shall certify that U.S. National Technical Means are sufficient to ensure effective monitoring of Russian compliance with the provisions of the Treaty governing the capabilities of strategic missile systems. This certification shall be accompanied by a report to the Senate of the United States indicating how U.S. National Technical Means, including collection, processing and analytic resources, will be marshalled to ensure effective monitoring. Such report may be supplemented by a classified annex, which shall be submitted to the Committee on Foreign Relations, the Committee on Appropriations, the Committee on Armed Services and the Select Committee on Intelligence of the Senate.

THE VICTIM RESTITUTION ACT OF 1995

HATCH (AND BIDEN) AMENDMENT NO. 3112

Mr. WARNER (for Mr. HATCH, for himself and Mr. BIDEN) proposed an amendment to the bill (H.R. 665) to control crime by mandatory victim restitution; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Victims Justice Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—RESTITUTION

Sec. 101. Order of restitution.
Sec. 102. Conditions of probation.
Sec. 103. Mandatory restitution.
Sec. 104. Order of restitution to victims of other crimes.
Sec. 105. Procedure for issuance and enforcement of restitution order.
Sec. 106. Procedure.
Sec. 107. Instruction to Sentencing Commission.
Sec. 108. Justice Department regulations.
Sec. 109. Special assessments on convicted persons.
Sec. 110. Effective date.

TITLE II—MISCELLANEOUS PROVISIONS

Sec. 201. Crime victims fund.
Sec. 202. Victims of terrorism act.
Sec. 203. Severability.
Sec. 204. Study and report.

TITLE I—RESTITUTION

SEC. 101. ORDER OF RESTITUTION.

Section 3556 of title 18, United States Code, is amended—

(1) by striking "may" and inserting "shall"; and

(2) by striking "sections 3663 and 3664." and inserting "3663A, and may order restitution in accordance with section 3663. The procedures under section 3664 shall apply to all orders of restitution under this section.".

SEC. 102. CONDITIONS OF PROBATION.

Section 3563 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (3), by striking "and" at the end;

(B) in the first paragraph (4) (relating to conditions of probation for a domestic crime of violence), by striking the period and inserting a semicolon;

(C) by redesignating the second paragraph (4) (relating to conditions of probation concerning drug use and testing) as paragraph (5);

(D) in paragraph (5), as redesignated, by striking the period at the end and inserting a semicolon; and

(E) by inserting after paragraph (5), as redesignated, the following new paragraphs:

"(6) that the defendant—

"(A) make restitution in accordance with sections 2248, 2259, 2264, 2327, 3663, 3663A, and 3664; and

"(B) pay the assessment imposed in accordance with section 3013; and

"(7) that the defendant will notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments."; and

(2) in subsection (b)—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) through (22) as paragraphs (2) through (21), respectively; and

(C) by amending paragraph (2), as redesignated, to read as follows:

"(2) make restitution to a victim of the offense under section 3556 (but not subject to the limitation of section 3663(a) or 3663A(c)(1)(A));".

SEC. 103. MANDATORY RESTITUTION.

(a) IN GENERAL.—Chapter 232 of title 18, United States Code, is amended by inserting immediately after section 3663 the following new section:

"§ 3663A. Mandatory restitution to victims of certain crimes

"(a)(1) Notwithstanding any other provision of law, when sentencing a defendant convicted of an offense described in subsection (c), the court shall order, in addition to any other penalty authorized by law, that the defendant make restitution to the victim of the offense, or, if the victim is deceased, to the victim's estate.

"(2) For the purposes of this section, the term 'victim' means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.

"(3) The court shall also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.

"(b) The order of restitution shall require that such defendant—

"(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

"(A) return the property to the owner of the property or someone designated by the owner; or

"(B) if return of the property under subparagraph (A) is impossible, impracticable, or inadequate, pay an amount equal to—

"(i) the greater of—

"(I) the value of the property on the date of the damage, loss, or destruction; or

"(II) the value of the property on the date of sentencing, less

"(ii) the value (as of the date the property is returned) of any part of the property that is returned;

"(2) in the case of an offense resulting in bodily injury to a victim—

"(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

"(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

"(C) reimburse the victim for income lost by such victim as a result of such offense;

"(3) in the case of an offense resulting in bodily injury that results in the death of the victim, pay an amount equal to the cost of necessary funeral and related services; and

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.

"(c)(1) This section shall apply in all sentencing proceedings for convictions of, or plea agreements relating to charges for, any offense—

"(A) that is—

"(i) a crime of violence, as defined in section 16;

"(ii) an offense against property under this title, including any offense committed by fraud or deceit; or

"(iii) an offense described in section 1365 (relating to tampering with consumer products); and

"(B) in which an identifiable victim or victims has suffered a physical injury or pecuniary loss.

"(2) In the case of a plea agreement that does not result in a conviction for an offense described in paragraph (1), this section shall apply only if the plea specifically states that an offense listed under such paragraph gave rise to the plea agreement.

"(3) This section shall not apply if the court finds, from facts on the record, that—

"(A) the number of identifiable victims is so large as to make restitution impracticable; or

"(B) determining complex issues of fact related to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process.

"(d) An order of restitution under this section shall be issued and enforced in accordance with section 3664.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 232 of title 18, United States Code, is amended by inserting immediately after the matter relating to section 3663 the following:

"3663A. Mandatory restitution to victims of certain crimes.".

SEC. 104. ORDER OF RESTITUTION TO VICTIMS OF OTHER CRIMES.

(a) IN GENERAL.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking "(a)(1) The court" and inserting "(a)(1)(A) The court";

(B) by inserting ", section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863) (but in no case shall a participant in an offense under such sections be considered a victim of such offense under this section)," before "or section 46312,";

(C) by inserting "other than an offense described in section 3663A(c)," after "title 49,";

(D) by inserting before the period at the end the following: ", or if the victim is deceased, to the victim's estate";

(E) by adding at the end the following new subparagraph:

"(B)(i) The court, in determining whether to order restitution under this section, shall consider—

"(I) the amount of the loss sustained by each victim as a result of the offense; and

"(II) the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate.

"(ii) To the extent that the court determines that the complication and prolongation of the sentencing process resulting from the fashioning of an order of restitution under this section outweighs the need to provide restitution to any victims, the court may decline to make such an order."; and

(F) by amending paragraph (2) to read as follows:

"(2) For the purposes of this section, the term 'victim' means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.";

(2) by striking subsections (c) through (i); and

(3) by adding at the end the following new subsections:

"(c)(1) Notwithstanding any other provision of law (but subject to the provisions of subsections (a)(1)(B) (i)(II) and (ii), when sentencing a defendant convicted of an offense described in section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863), in which there is no identifiable victim, the court may order that the defendant make restitution in accordance with this subsection.

"(2)(A) An order of restitution under this subsection shall be based on the amount of public harm caused by the offense, as determined by the court in accordance with guidelines promulgated by the United States Sentencing Commission.

"(B) In no case shall the amount of restitution ordered under this subsection exceed the amount of the fine ordered for the offense charged in the case.

"(3) Restitution under this subsection shall be distributed as follows:

"(A) 65 percent of the total amount of restitution shall be paid to the Victim Assistance Administration of the State in which the crime occurred.

"(B) 35 percent of the total amount of restitution shall be paid to the State entity designated to receive Federal substance abuse block grant funds.

"(4) The court shall not make an award under this subsection if it appears likely that such award would interfere with a forfeiture under section 981 or 982.

"(5) Notwithstanding section 3612(c) or any other provision of law, a penalty assessment under section 3013 or a fine under subchapter C of chapter 227 shall take precedence over an order of restitution under this subsection.

"(6) Requests for community restitution under this subsection shall be considered in all plea agreements negotiated by the United States.

"(7)(A) The United States Sentencing Commission shall promulgate guidelines to assist courts in determining the amount of restitution that may be ordered under this subsection.

"(B) No restitution shall be ordered under this subsection until such time as the Sentencing Commission promulgates guidelines pursuant to this paragraph.

"(d) An order of restitution made pursuant to this section shall be issued and enforced in accordance with section 3664.".

(b) SEXUAL ABUSE.—Section 2248 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or 3663A" after "3663";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).";

(B) by amending paragraph (2) to read as follows:

"(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.";

(C) in paragraph (4), by striking subparagraphs (C) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (e); and

(4) by redesignating subsection (f) as subsection (c).

(c) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—Section 2259 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or 3663A" after "3663";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).";

(B) by amending paragraph (2) to read as follows:

"(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.";

(C) in paragraph (4), by striking subparagraphs (C) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (e); and

(4) by redesignating subsection (f) as subsection (e).

(d) DOMESTIC VIOLENCE.—Section 2264 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or 3663A" after "3663";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).";

(B) by amending paragraph (2) to read as follows:

"(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.";

(C) in paragraph (4), by striking subparagraphs (C) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (g); and

(4) by adding at the end the following new subsection (c):

"(c) VICTIM DEFINED.—For purposes of this section, the term 'victim' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

(e) TELEMARKETING FRAUD.—Section 2327 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or 3663A" after "3663";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).";

(B) by amending paragraph (2) to read as follows:

"(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.";

(C) in paragraph (4), by striking subparagraphs (C) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (e); and

(4) by redesignating subsection (f) as subsection (c).

SEC. 105. PROCEDURE FOR ISSUANCE AND ENFORCEMENT OF RESTITUTION ORDER.

(a) IN GENERAL.—Section 3664 of title 18, United States Code, is amended to read as follows:

"§ 3664. Procedure for issuance and enforcement of order of restitution

"(a) For orders of restitution under this title, the court shall order the probation service of the court to obtain and include in its presentence report, or in a separate report, as the court directs, information sufficient for the court to exercise its discretion in fashioning a restitution order. The report shall include, to the extent practicable, a complete accounting of the losses to each victim, any restitution owed pursuant to a plea agreement, and information relating to the economic circumstances of each defendant. If the number or identity of victims cannot be reasonably ascertained, or other circumstances exist that make this requirement clearly impracticable, the probation service shall so inform the court.

"(b) The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or other report pertaining to the matters described in subsection (a) of this section.

"(c) The provisions of this chapter, chapter 227, and Rule 32(c) of the Federal Rules of Criminal Procedure shall be the only rules applicable to proceedings under this section.

"(d)(1) Within 60 days after conviction and, in any event, not later than 10 days prior to sentencing—

"(A)(i) the attorney for the Government, after consulting with all identified victims, shall promptly provide the probation service of the court with a listing of the amounts subject to restitution;

"(ii) the attorney for the Government shall provide notice to all identified victims, informing the victims of the offenses of which the defendant was convicted, the listing of amounts subject to restitution submitted to the probation service, the victim's right to submit information to the probation service concerning the amount of the victim's losses, and the scheduled date, time, and place of the sentencing hearing; and

"(iii) if any victim objects to any of the information provided to the probation service relating to the amount of the victim's losses subject to restitution, the attorney for the Government shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so; and

"(B) each defendant shall prepare and file with the probation service of the court an affidavit fully describing the financial resources of the defendant, including a complete listing of all assets owned or controlled by the defendant as of the date on which the defendant was arrested, the financial needs and earning ability of the defendant and the defendant's dependents, and other information the court requires relating to such other factors as the court deems appropriate.

"(2) After reviewing the report of the probation service of the court, the court may require additional documentation or hear testimony. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(3) If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing as provided in paragraph (1), the attorney for the Government shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(4) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(e) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and such defendant's dependents shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

"(f)(1)(A) In each order of restitution, the court shall order restitution to each victim in the full amount of each victim's losses as determined by the court and without consideration of the economic circumstances of the defendant.

"(B) In no case shall the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source be considered in determining the amount of restitution.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall, pursuant to section 3572, specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the defendant, including whether any of these assets are jointly controlled;

"(B) projected earnings and other income of the defendant; and

"(C) any financial obligations of the defendant; including obligations to dependents.

"(3)(A) A restitution order may direct the defendant to make a single, lump-sum payment, partial payment at specified intervals, in-kind payments, or a combination of payments at specified intervals and in-kind payments.

"(B) A restitution order may direct the defendant to make nominal periodic payments if the court finds from facts on the record that the economic circumstances of the defendant do not allow the payment of any amount of a restitution order, and do not allow for the payment of the full amount of a restitution order in the foreseeable future under any reasonable schedule of payments.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) if the victim agrees, services rendered to the victim or a person or organization other than the victim.

"(g)(1) No victim shall be required to participate in any phase of a restitution order.

"(2) A victim may at any time assign the victim's interest in restitution payments to the Crime Victims Fund in the Treasury without in any way impairing the obligation of the defendant to make such payments.

"(h) If the court finds that more than 1 defendant has contributed to the loss of a victim, the court may make each defendant liable for payment of the full amount of restitution or may apportion liability among the defendants to reflect the level of contribution to the victim's loss and economic circumstances of each defendant.

"(i) If the court finds that more than 1 victim has sustained a loss requiring restitution by a defendant, the court may issue an order of priority based on the type and amount of each victim's loss, accounting for the economic circumstances of each victim. In any case in which the United States is a victim, the court shall ensure that all individual victims receive full restitution before the United States receives any restitution.

"(j)(1) If a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution shall be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) Any amount paid to a victim under an order of restitution shall be reduced by any amount later recovered as compensatory damages for the same loss by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(k) A restitution order shall provide that the defendant shall notify the court and the Attorney General of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution. The court may also accept notification of a material change in the defendant's economic circumstances from the United States or from the victim. The Attorney General shall certify to the court that the victim or victims owed restitution by the defendant have been notified of the change in circumstances. Upon receipt of the notification, the court may, on its own motion, or the motion of any party, including the victim, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.

"(l) A conviction of a defendant for an offense involving the act giving rise to an order of restitution shall estop the defendant from denying the essential allegations of that offense in any subsequent Federal civil proceeding or State civil proceeding, to the extent consistent with State law, brought by the victim.

"(m)(1)(A)(i) An order of restitution may be enforced by the United States in the manner provided for in subchapter C of chapter 227 and subchapter B of chapter 229 of this title; or

"(ii) by all other available and reasonable means.

"(B) An order of restitution may also be enforced by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(2) An order of in-kind restitution in the form of services shall be enforced by the probation service of the court.

"(n) If a person obligated to provide restitution or pay a fine receives substantial resources from any source, including inheritance, settlement, or other judgment, during a period of incarceration, such person shall be required to apply the value of such resources to any restitution or fine still owed.".

(b) TECHNICAL AMENDMENT.—The item relating to section 3664 in the analysis for chapter 232 of title 18, United States Code, is amended to read as follows:

"3664. Procedure for issuance and enforcement of order of restitution.".

SEC. 106. PROCEDURE.

(a) AMENDMENT OF FEDERAL RULES OF CRIMINAL PROCEDURE.—Rule 32(b) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (1), by adding at the end the following: "Notwithstanding the preceding sentence, a present investigation and report, or other report containing information sufficient for the court to enter an order of restitution, as the court directs, shall be required in any case in which restitution is required to be ordered."; and

(2) in paragraph (4)—

(A) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(B) by inserting after subparagraph (E), the following new subparagraph:

"(F) in appropriate cases, information sufficient for the court to enter an order of restitution;".

(b) FINES.—Section 3572 of title 18, United States Code, is amended—

(1) in subsection (b) by inserting "other than the United States," after "offense,";

(2) in subsection (d)—

(A) in the first sentence, by striking "A person sentenced to pay a fine or other monetary penalty" and inserting "(1) A person sentenced to pay a fine or other monetary penalty, including restitution,";

(B) by striking the third sentence; and

(C) by adding at the end the following:

"(2) If the judgment, or, in the case of a restitution order, the order, permits other than immediate payment, the length of time over which scheduled payments will be made shall be set by the court, but shall be the shortest time in which full payment can reasonably be made.

"(3) A judgment for a fine which permits payments in installments shall include a requirement that the defendant will notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay the fine. Upon receipt of such notice the court may, on its own motion or the motion of any party, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.";

(3) in subsection (f), by inserting "restitution" after "special assessment,";

(4) in subsection (h), by inserting "or payment of restitution" after "A fine"; and

(5) in subsection (i)—

(A) in the first sentence, by inserting "or payment of restitution" after "A fine"; and

(B) by amending the second sentence to read as follows: "Notwithstanding any installment schedule, when a fine or payment of restitution is in default, the entire amount of the fine or restitution is due within 30 days after notification of the default, subject to the provisions of section 3613A.".

(c) POSTSENTENCE ADMINISTRATION.—

(1) PAYMENT OF A FINE OR RESTITUTION.—Section 3611 of title 18, United States Code, is amended—

(A) by amending the heading to read as follows:

"§ 3611. Payment of a fine or restitution";

and

(B) by striking "or assessment shall pay the fine or assessment" and inserting ", assessment, or restitution, shall pay the fine, assessment, or restitution".

(2) COLLECTION.—Section 3612 of title 18, United States, is amended—

(A) by amending the heading to read as follows:

"§ 3612. Collection of unpaid fine or restitution";

(B) in subsection (b)(1)—

(i) in the matter preceding subparagraph (A), by inserting "or restitution order" after "fine";

(ii) in subparagraph (C), by inserting "or restitution order" after "fine";

(iii) in subparagraph (E), by striking "and";

(iv) in subparagraph (F)—

(I) by inserting "or restitution order" after "fine"; and

(II) by striking the period at the end and inserting "; and"; and

(v) by adding at the end the following new subparagraph:

"(G) in the case of a restitution order, information sufficient to identify each victim to whom restitution is owed. It shall be the responsibility of each victim to notify the Attorney General, or the appropriate entity of the court, by means of a form to be provided by the Attorney General or the court, of any change in the victim's mailing address while restitution is still owed the victim. The confidentiality of any information relating to a victim shall be maintained.";

(C) in subsection (c)—

(i) in the first sentence, by inserting "or restitution" after "fine"; and

(ii) by adding at the end the following: "Any money received from a defendant shall be disbursed so that each of the following obligations is paid in full in the following sequence:

"(1) A penalty assessment under section 3013 of title 18, United States Code.

"(2) Restitution of all victims.

"(3) All other fines, penalties, costs, and other payments required under the sentence.";

(D) in subsection (d)—

(i) by inserting "or restitution" after "fine"; and

(ii) by striking "is delinquent, to inform him that the fine is delinquent" and inserting "or restitution is delinquent, to inform the person of the delinquency";

(E) in subsection (e)—

(i) by inserting "or restitution" after "fine"; and

(ii) by striking "him that the fine is in default" and inserting "the person that the fine or restitution is in default";

(F) in subsection (f)—

(i) in the heading, by inserting "and restitution" after "on fines"; and

(ii) in paragraph (1), by inserting "or restitution" after "any fine";

(G) in subsection (g), by inserting "or restitution" after "fine" each place it appears; and

(H) in subsection (i), by inserting "and restitution" after "fines".

(3) CIVIL REMEDIES.—Section 3613 of title 18, United States Code, is amended—

(A) in subsection (b), by amending paragraph (1) to read as follows:

"(1) the later of 20 years after the entry of the judgment or 20 years after the release from imprisonment of the person fined or ordered to pay restitution; or"; and

(B) in subsection (e), by striking ", but in no event" and all that follows through the end of the subsection and inserting a period.

(4) DEFAULT.—Chapter 229 of title 18, United States Code, is amended by inserting after section 3613 the following new section:

"§ 3613A. Effect of default

"(a)(1) Upon a finding that the defendant is in default on a payment of a fine or restitution, the court may, pursuant to section 3565, revoke probation or a term of supervised release or modify the terms or conditions of probation on a term of supervised release, resentence a defendant pursuant to section 3614, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, enter or adjust a payment schedule, or take any other action necessary to obtain compliance with the order of a fine or restitution.

"(2) In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the order of a fine or restitution.

"(b)(1) Any hearing held pursuant to this section may be conducted by a magistrate judge, subject to de novo review by the court.

"(2) To the extent practicable, in a hearing held pursuant to this section involving a defendant who is confined in any jail, prison, or other correctional facility, proceedings in which the prisoner's participation is required or permitted shall be conducted by telephone, video conference, or other communications technology without removing the prisoner from the facility in which the prisoner is confined.

"(3) Subject to the agreement of the official of the Federal, State, or local unit of government with custody over the prisoner, hearings may be conducted at the facility in which the prisoner is confined. To the extent practicable, the court shall allow counsel to participate by telephone, video conference, or other communications technology in any hearing held at the facility.".

(5) RESENTENCING.—Section 3614 of title 18, United States Code, is amended—

(A) in the heading, by inserting "or restitution" after "fine";

(B) in subsection (a), by inserting "or restitution" after "fine"; and

(C) by adding at the end the following new subsection:

"(c) EFFECT OF INDIGENCY.—In no event shall a defendant be incarcerated under this section solely on the basis of inability to make payments because the defendant is indigent.".

(d) CONFORMING AMENDMENT.—The analysis for subchapter B of chapter 229 of title 18, United States Code, is amended to read as follows:

"Sec.
"3611. Payment of a fine or restitution.
"3612. Collection of an unpaid fine or restitution.
"3613. Civil remedies for collection of an unpaid fine or restitution.
"3613A. Effect of default.
"3614. Resentencing upon failure to pay a fine or restitution.
"3615. Criminal default.".

SEC. 107. INSTRUCTION TO SENTENCING COMMISSION.

Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to reflect this Act and the amendments made by this Act.

SEC. 108. JUSTICE DEPARTMENT REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Attorney General shall promulgate guidelines, or amend existing guidelines, to carry out this Act and to ensure that—

(1) in all plea agreements negotiated by the United States, consideration is given to requesting that the defendant provide full restitution to all victims of all charges contained in the indictment or information, without regard to the counts to which the defendant actually pleaded; and

(2) orders of restitution made pursuant to the amendments made by this Act are enforced to the fullest extent of the law.

SEC. 109. SPECIAL ASSESSMENTS ON CONVICTED PERSONS.

Section 3013(a)(2) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking "$50" and inserting "not less than $100"; and

(2) in subparagraph (B), by striking "$200" and inserting "not less than $400".

SEC. 110. EFFECTIVE DATE.

The amendments made by this title shall be effective for sentencing proceedings in cases in which the defendant is convicted on or after the date of enactment of this Act.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. CRIME VICTIMS FUND.

(a) PROHIBITION OF PAYMENTS TO DELINQUENT CRIMINAL DEBTORS BY STATE CRIME VICTIM COMPENSATION PROGRAMS.—

(1) IN GENERAL.—Section 1403(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)) is amended—

(A) by striking "and" at the end of paragraph (7);

(B) by redesignating paragraph (8) as paragraph (9); and

(C) by inserting after paragraph (7) the following new paragraph:

"(8) such program does not provide compensation to any person who has been convicted of an offense under Federal law with respect to any time period during which the person is delinquent in paying a fine or other monetary penalty imposed for the offense; and".

(2) APPLICATION OF AMENDMENT.—The amendment made by paragraph (1) shall not be applied to deny victims compensation to any person until the date on which the Attorney General, in consultation with the Director of the Administrative Office of the United States Courts, issues a written determination that a cost-effective, readily available criminal debt payment tracking system operated by the agency responsible for the collection of criminal debt has established cost-effective, readily available communications links with entities that administer Federal victims compensation programs that are sufficient to ensure that victims compensation is not denied to any person except as authorized by law.

(b) EXCLUSION FROM INCOME FOR PURPOSES OF MEANS TESTS.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by inserting after subsection (b) the following new subsection:

"(c) EXCLUSION FROM INCOME FOR PURPOSES OF MEANS TESTS.—Notwithstanding any other law, for the purpose of any maximum allowed income eligibility requirement in any Federal, State, or local government program using Federal funds that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) that becomes necessary to an applicant for such assistance in full or in part because of the commission of a crime against the applicant, as determined by the Director, any amount of crime victim compensation that the applicant receives through a crime victim compensation program under this section shall not be included in the income of the applicant until the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime.".

SEC. 202. VICTIMS OF TERRORISM ACT.

(a) AUTHORITY TO PROVIDE ASSISTANCE AND COMPENSATION TO VICTIMS OF TERRORISM.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404A the following new section:

"SEC. 1404B. COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM OR MASS VIOLENCE.

"(a) VICTIMS OF ACTS OF TERRORISM OUTSIDE THE UNITED STATES.—The Director may make supplemental grants to States to provide compensation and assistance to the residents of such States who, while outside the territorial boundaries of the United States, are victims of a terrorist act or mass violence and are not persons eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

"(b) VICTIMS OF DOMESTIC TERRORISM.—The Director may make supplemental grants to States for eligible crime victim compensation and assistance programs to provide emergency relief, including crisis response efforts, assistance, training, and technical assistance, for the benefit of victims of terrorist acts or mass violence occurring within the United States and may provide funding to United States Attorney's Offices for use in coordination with State victims compensation and assistance efforts in providing emergency relief.".

(b) FUNDING OF COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM, MASS VIOLENCE, AND CRIME.—Section 1402(d)(4) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(4)) is amended to read as follows:

"(4)(A) If the sums available in the Fund are sufficient to fully provide grants to the States pursuant to section 1403(a)(1), the Director may retain any portion of the Fund that was deposited during a fiscal year that was in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as an emergency reserve. Such reserve shall not exceed $50,000,000.

"(B) The emergency reserve may be used for supplemental grants under section 1404B and to supplement the funds available to provide grants to States for compensation and assistance in accordance with sections 1403 and 1404 in years in which supplemental grants are needed.".

(c) CRIME VICTIMS FUND AMENDMENTS.—

(1) UNOBLIGATED FUNDS.—Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(A) in subsection (c), by striking "subsection" and inserting "chapter"; and

(B) by amending subsection (e) to read as follows:

"(e) AMOUNTS AWARDED AND UNSPENT.—Any amount awarded as part of a grant under this chapter that remains unspent at the end of a fiscal year in which the grant is made may be expended for the purpose for which the grant is made at any time during the 2 succeeding fiscal years, at the end of which period, any remaining unobligated sums in excess of $500,000 shall be returned to the Treasury. Any remaining unobligated sums in an amount less than $500,000 shall be returned to the Fund.".

(2) BASE AMOUNT.—Section 1404(a)(5) of such Act (42 U.S.C. 10603(a)(5)) is amended to read as follows:

"(5) As used in this subsection, the term 'base amount' means—

"(A) except as provided in subparagraph (B), $500,000; and

"(B) for the territories of the Northern Mariana Islands, Guam, American Samoa, and the Republic of Palau, $200,000, with the Republic of Palau's share governed by the Compact of Free Association between the United States and the Republic of Palau.".

SEC. 203. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 204. STUDY AND REPORT.

(a) STUDY.—The Attorney General, in cooperation with the Director of the Administrative Office of the United States Courts, shall conduct a study of the funds paid out of the Crime Victims Fund and the impact that the amendments made by this Act have on funds available in the Crime Victims Fund, including an assessment of any reduction or increase in fines collected and deposited into the Fund directly attributable to the amendments made by this Act.

(b) REPORT.—The Attorney General and the Director of the Administrative Office of the United States Courts shall report interim findings to the Chairman and ranking Member of the Committees on the Judiciary of the Senate and House of Representatives 1 year after the date of enactment of this Act, an annually thereafter until issuing a final report, together with recommendations, not later than 4 years after the date of enactment of this Act.

THE NATIONAL MARINE FISHERIES SERVICE LABORATORY CONVEYANCE ACT

PRESSLER (AND OTHERS) AMENDMENT NO. 3113

Mr. WARNER (for Mr. PRESSLER, for himself, Mr. KERRY, and Mr. STEVENS) proposed an amendment to the bill (H.R. 1358) to require the Secretary of Commerce to convey to the Commonwealth of Massachusetts the National Marine Fisheries Service laboratory located on Emerson Avenue in Gloucester, MA; as follows:

SECTION 1. CONVEYANCES.

(a) NATIONAL MARINE FISHERIES SERVICE LABORATORY AT GLOUCESTER, MASSACHUSETTS.—

(1) IN GENERAL.—The Secretary of Commerce shall convey to the Commonwealth of Massachusetts, all right, title, and interest of the United States in and to the property comprising the National Marine Fisheries Service laboratory located on Emerson Avenue in Gloucester, Massachusetts.

(2) TERMS.—A conveyance of property under paragraph (1) shall be made—

(A) without payment of consideration; and

(B) subject to the terms and conditions specified under paragraphs (3) and (4).

(3) CONDITIONS FOR TRANSFER.—

(A) IN GENERAL.—As a condition of any conveyance of property under this subsection, the Commonwealth of Massachusetts shall assume full responsibility for maintenance of the property for as long as the Commonwealth retains the right and title to that property.

(B) CONTINUED USE OF PROPERTY BY NMFS.—The Secretary may enter into a memorandum of understanding with the Commonwealth of Massachusetts under which the National Marine Fisheries Service is authorized to occupy existing laboratory space on the property conveyed under this subsection, if—

(i) the term of the memorandum of understanding is for a period of not longer than 5 years beginning on the date of enactment of this Act; and

(ii) the square footage of the space to be occupied by the National Marine Fisheries Service does not conflict with the needs of, and is agreeable to, the Commonwealth of Massachusetts.

(4) REVERSIONARY INTEREST.—All right, title, and interest in and to all property conveyed under this subsection shall revert to the United States on the date on which the Commonwealth of Massachusetts uses any of the property for any purpose other than the Commonwealth of Massachusetts Division of Marine Fisheries resource management program.

(5) RESTRICTION.—Amounts provided by the South Essex Sewage District may not be used by the Commonwealth of Massachusetts to transfer existing activities to, or conduct activities at, property conveyed under this section.

(b) PIER IN CHARLESTON, SOUTH CAROLINA.—Section 22(a) of the Marine Mammal Protection Act Amendments of 1994 (Pub. Law 103–238; 108 Stat. 561) is amended—

(1) by inserting "(1)" before "Not"; and

(2) by adding at the end thereof the following:

"(2) Not later than December 31, 1996, the Secretary of the Navy may convey, without payment or other consideration, to the Secretary of Commerce, all right, title, and interest to the property comprising that portion of the Naval Base, Charleston, South

Carolina, bounded by Hobson Avenue, the Cooper River, the landward extension of the property line located 70 feet northwest of and parallel to the centerline of Pier Q, and the northwest property line of the parking area associated with Pier R. The property shall include Pier Q, all towers and outbuildings on that property, and walkways and parking areas associated with those buildings and Pier Q.''.

SEC. 2. FISHERIES RESEARCH FACILITIES.

(a) FORT JOHNSON.—The Secretary of Commerce, through the Under Secretary of Commerce for Oceans and Atmosphere, is authorized to construct on land to be leased from the State of South Carolina, a facility at Fort Johnson, South Carolina, provided that the annual cost of leasing the required lands does not exceed one dollar.

(b) AUKE CAPE.—The Secretary of Commerce, through the Under Secretary of Commerce for Oceans and Atmosphere, is authorized to construct a facility on Auke Cape near Juneau, Alaska, to provide consolidated office and laboratory space for National Oceanic and Atmospheric Administration personnel in Juneau, provided that the property for such facility is transferred to the National Oceanic and Atmospheric Administration from the United States Coast Guard or the City of Juneau.

(c) COMPLETION DATE FOR FUNDED WORK.—The Secretary of Commerce shall complete the architectural and engineering work for the facilities described in subsections (a) and (b) by not later than May 1, 1996, using funds that have been previously appropriated for that work.

(d) AVAILABILITY OF APPROPRIATIONS.—The authorizations contained in subsections (a) and (b) are subject to the availability of appropriations provided for the purpose stated in this section.

SEC. 3. PRIBILOF ISLANDS.

(a) IN GENERAL.—The Secretary of Commerce shall, subject to the availability of appropriations provided for the purposes of this section, clean up landfills, wastes, dumps, debris, storage tanks, property, hazardous or unsafe conditions, and contaminants, including petroleum products and their derivatives, left by the National Oceanic and Atmospheric Administration on lands which it and its predecessor agencies abandoned, quitclaimed, or otherwise transferred or are obligated to transfer, to local entities or residents on the Pribilof Islands, Alaska, pursuant to the Fur Seal Act of 1966 (16 U.S.C. 1151 et seq.), as amended, or other applicable law.

(b) OBLIGATIONS OF SECRETARY.—In carrying out cleanup activities under subsection (a), the Secretary of Commerce shall—

(1) to the maximum extent practicable, execute agreements with the State of Alaska, and affected local governments, entities, and residents eligible to receive conveyance of lands under Fur Seal Act of 1966 (16 U.S.C. 1161 et seq.) or other applicable law;

(2) manage such activities with the minimum possible overhead, delay, and duplication of State and local planning and design work;

(3) receive approval from the State of Alaska for agreements described in paragraph (1) where such activities are required by State law;

(4) receive approval from affected local entities or residents before conducting such activities on their property; and

(5) not seek or require financial contributions by or from local entities or landowners.

(c) RESOLUTION OF FEDERAL RESPONSIBILITIES.—(1) Within 9 months after the date of enactment of this section, and after consultation with the Secretary of the Interior, the State of Alaska, and local entities and residents of the Pribilof Islands, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Resources of the House of Representatives, a report proposing necessary actions by the Secretary of Commerce and Congress to resolve all claims with respect to, and permit the final implementation, fulfillment and completion of—

(A) title II of the Fur Seal Act Amendments of 1983 (16 U.S.C. 1161 et seq.);

(B) the land conveyance entitlements of local entities and residents of the Pribilof Islands under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(C) the provisions of this section; and

(D) any other matters which the Secretary deems appropriate.

(2) The report required under paragraph (1) shall include the estimated costs of all actions, and shall contain the statements of the Secretary of Commerce, the Secretary of the Interior, any statement submitted by the State of Alaska, and any statements of claims or recommendations submitted by local entities and residents of the Pribilof Islands.

(d) USE OF LOCAL ENTITIES.—Notwithstanding any other law to the contrary, the Secretary of Commerce shall, to the maximum extent practicable, carry out activities under subsection (a) and fulfill other obligations under federal and state law relating to the Pribilof Islands, through grants or other agreements with local entities and residents of the Pribilof Islands, unless specialized skills are needed for an activity, and the Secretary specifies in writing that such skills are not available through local entities and residents of the Pribilof Islands.

(e) DEFINITION.—For the purposes of this section, the term ''clean up'' means the planning and execution of remediation actions for lands described in subsection (a) and the redevelopment of landfills to meet statutory requirements.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated not to exceed $10,000,000 in each of fiscal years 1996, 1997, and 1998 for the purposes of carrying out this section.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, December 22, 1995, between the first and second rollcall votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PRESIDENT CLINTON'S GOVERNMENT SHUTDOWN

• Mr. FAIRCLOTH. Mr. President, we are in the 7th day of a partial Government shutdown. The President is playing politics with this issue and he should stop it. He is trying to blame Congress for his failure to sign the legislation which would have averted this crisis. In addition, he is trying to divide the House freshmen and the House Republican leadership. And, he is trying to divide House and Senate Republicans. Such desperate tactics on his part are doomed to fail.

Yesterday, in a demonstration of solidarity, House Republicans—conservatives and moderates alike—told the Nation that the President's politics of division wouldn't work, that they remained united in our struggle against President Clinton's efforts to undermine a balanced budget agreement. More importantly, they rightly pointed the finger of blame for the partial Government shutdown directly at the White House.

Congress has sent three spending bills to the President which would have kept open the Departments of Veterans Affairs, HUD, Commerce, Justice, State, and Interior. What did President Clinton do? He vetoed all of these bills, and in so doing delayed benefits checks to our Nation's veterans. He had the power to prevent the shutdown of these agencies and to keep Federal workers on the job. Instead, with the stroke of a pen he sent thousands of Federal workers home during this holiday season.

The Congress did its job and passed appropriations bills which responsibly reduced Government spending and which would have kept agencies open. But, President Clinton wasn't interested in that. He was looking for a photo opportunity. He vetoed funding bills and closed down parts of the Government. He should be and will be held accountable for this shutdown.

Furthermore, workers at the Departments of Labor, HHS, and Education could be at the desks today if the Democrats would end the filibuster which they began in September.

When you look at the Government shutdown, the facts simply don't support the President's extremist rhetoric. In reality, this crisis has been engineered by the President to bolster his reelection campaign. After being viewed as irrelevant for so long, the President has now identified himself with something he believes in passionately. He is passionate about spending—deficit spending. He is passionate about preserving the status quo which heaps trillions of dollars of debt on our children and grandchildren.

I hope that he will abandon his harsh scare tactics and get serious about balancing the budget. It was not until just a few days ago that he agreed to finally offer a balanced budget plan using honest numbers. He finally abandoned his preferred strategy of cooking the books as a way to balance the budget. Such policies won't lead to a balanced budget. They never have and they never will. President Clinton had chosen the path of certain failure. Congress rightly did not follow him down that dead-end road.

Although Congress has already passed legislation once to provide for veterans benefits, we have an opportunity today to overturn the President's action which cut off these funds. The men and women who have served our Nation in the armed services should not be used as a bargaining chip in this budget struggle between Congress and the President. I support the immediate restoration of funds for veteran benefits, and I hope that we will pass such legislation today.

Finally, I call upon the President to give America a Christmas present in the form of a balanced budget and a working Government. I call upon him to sign the funding bills which he has rejected, and I call upon him to help end the Democratic filibuster of the Labor, HHS appropriations bill. If the President wanted—all of this could be done before Christmas.●

MEDICARE REIMBURSEMENT TO THE DEPARTMENT OF DEFENSE

● Mr. INOUYE. Mr. President, I join with my esteemed colleague from Texas, Senator GRAMM, to introduce this bill for Medicare reimbursement to the Department of Defense [DOD] for care provided in our military medical treatment facilities to Medicare eligible beneficiaries. When these dedicated men and women made a commitment to a career of service in the Armed Forces, a promise was made to them that upon retirement they and their family members would continue to receive health care for life in our superb Military Health Services System [MHSS]—if they so chose. In fact, approximately 230,000 of the 1.2 million Medicare eligible retirees currently do choose to get their health care at military treatment facilities. Regrettably, as the military downsizes and Defense health budgets are cut, without Medicare reimbursement, the MHSS will no longer be able to provide health care for these retirees. Many of these retired servicemembers and their families made career-long sacrifices based in part on the expectation that they would have guaranteed health care. I believe it is important that our Nation continue its firm commitment and honor the promises made to those individuals and their families.

Mr. President, this bill provides an additional benefit to the Nation—more cost effective health care for this population. If the MHSS can no longer provide their health care, 230,000 more retirees who are already Medicare eligible will be forced into the Medicare system—at a substantially higher cost than that for DOD reimbursement. As a taxpayer, this just makes good business sense.

Mr. President, these dedicated service members kept their promise to our Nation and now I believe it is right that the Nation keep its promise to them. This bill will enable the MHSS to continue to provide health care services to Medicare eligible retirees and their families as promised for those who choose to receive their care in our military facilities.●

THE AU PAIR PROGRAM

● Mr. GRAMS. Mr. President, over the past several weeks, my office has received many telephone calls from concerned Minnesotans regarding the partial shutdown of the Federal Government and the lack of funding which has resulted for the program which brings nannies from foreign countries into America.

Nannies have been coming to the United States through the Au Pair Program, a cultural exchange program run by the U.S. Information Agency (USIA) which oversees the matching of young people from abroad with American families in need of live-in babysitters.

Approximately 13,000 young adults have participated in this program over the years and 10,000 American families have benefited from the helping hands these visiting babysitters provide. They are paid a weekly salary of $115 plus room and board for their services.

When its appropriations expired at the end of the last fiscal year on September 30, the entire Au Pair Program was put into limbo until it could be funded again. It had been included in three separate appropriations bills, but each has failed to become law due to objections over issues unrelated to the Au Pair Program. On December 11, Senator HELMS recognized the pressing nature of the situation and introduced S. 1465, legislation funding and extending the Au Pair Program for 2 years. The bill passed the Senate on December 13 and a related measure was introduced in the House that same day. It was passed by voice vote on December 18.

Late Wednesday night, this legislation was delivered to 1600 Pennsylvania Avenue. But now, 3 days later, it continues to sit on the President's desk awaiting his signature. Furthermore, while many families wait, there has been no indication yet as to whether the President will sign or veto this bill.

Therefore, I call on the President to swiftly review this matter, to continue the care and attention given to this issue by Congress, and to sign S. 1465 without delay.

This is a bill that swiftly passed both Chambers; on behalf of the families that await its enactment, it deserves equally swift consideration by the White House.●

CRIME IS DOWN BUT DRUGS ARE UP: SOLUTIONS ARE NO MYSTERY

● Mr. SIMON. Mr. President, the crime news is good and bad.

The good news is that murders in the United States were down 12 percent for the first 6 months of 1995, and the FBI reports an astounding and welcome drop.

The bad news is that drug and alcohol use among our Nation's eighth graders is on the rise, and because of that, as they grow older the crime rate probably will rise again.

Adding to this likelihood are the numbers. There are more eighth graders than their counterparts 4 years older, and as the numbers grow, we will probably have more, not less, bad news. Ten years from now there will be 25 percent more young males between the ages of 14 and 17.

What can be done?

There are no magic bullets, but there are some things that will help. They include:

Get treatment and counseling for adult drug and alcohol addicts.

Children of addicts are much more likely to be addicts. Illinois is like most States: people who want help often cannot get it. Considering the extent of our problem, we are woefully short on treatment facilities. Rev. George Clements, a quietly dynamic Roman Catholic priest, has suggested that all churches and synagogues and mosques should adopt one addict. That's not as easy as fixing the church roof or serving as usher or singing in the choir. But it is a greater test of the meaningfulness of faith. The most effective way to reach children is through a parent.

Discourage youthful cigarette smoking.

Young people who smoke cigarettes are much more likely to take up drugs and alcohol.

Enrich education programs so that they reach all young people.

Those who have great difficulty in school are more likely to give up, to see little future for themselves and reach out for the escape mechanism of drugs or alcohol. That is why budget cuts that reduce access to Head Start and other education programs are short-sighted. By the second grade—at the latest—teachers know which students need special help. They should receive it then, not wait until they make it through high school—if they make it through high school.

Start jobs programs that put people of limited skills to work. Show me an area of high unemployment, and I will show you an area of high crime, whether it is African-American, Hispanic, or white. Show me an area of high unemployment, and I will show you an area with a high drug use rate and high alcoholism, whether it is African-American, Hispanic, or white.

Real welfare reform must include jobs. Without a jobs factor, anything called welfare reform is political public relations. We need something like the WPA of a half-century ago. It would be the most effective anti-crime and anti-addition program we could have.

Keep parents from giving up.

That's not a Government program, but it is vital. A parent living in a tough neighborhood with drug sales visible in the area has a difficult time, but must strive to give her—or his—child hope. And do simple things like encouraging homework, use of the library, and careful use of television.

And attending religious services.

Harvard University's Richard Freeman found that "among black urban youth, church attendance was a better predictor of who would escape drugs, crime and poverty than any other variable, income, family structure, and the church-going youth were more likely to behave in socially constructive ways."

Yes, there are some discouraging signals for the future, but if we are really concerned, and then act, the future will be brighter.

None of these items I have listed is dramatic, yet if we were to act on all of them, there would be a significant change for the better in our future.●

AWARD PRESENTED TO ARTHUR S. FLEMMING

● Mr. HATFIELD. Mr. President. I want to share with my colleagues the remarks made by William L. Taylor in presenting to Dr. Arthur S. Flemming the American Civil Liberties Union's Human Rights Award. These thoughtful remarks outline the career of a man who truly represents the highest ideal of public service.

Antoinette and I have enjoyed a warm personal friendship with Dr. Flemming and his wife Bernice for many years. In addition to the number of significant Federal posts held by Dr. Flemming, he served for a time as the president of the University of Oregon. As someone who has followed Dr. Flemming's professional and personal life with interest and respect, I can say that no one is more deserving of the ACLU's Human Rights Award than Dr. Flemming, as Mr. Taylor's fine remarks make amply clear.

Mr. President, I ask that Mr. Taylor's remarks be printed in the RECORD.

The remarks follow:

REMARKS OF WILLIAM L. TAYLOR IN PRESENTING THE ACLU'S HUMAN RIGHTS AWARD TO ARTHUR S. FLEMMING AT THE ANNUAL DINNER OF THE VIRGINIA ACLU, DECEMBER 9, 1995

The American Civil Liberties Union does itself honor by honoring Arthur Flemming and it does me a great honor by asking me to introduce Arthur.

Arthur is, in my view, the greatest exemplar of public service in this nation in the 20th Century. He served in the federal government over a period of more than 40 years beginning in 1939 as an appointee to the Civil Service Commission of President Roosevelt and ending in the early 1980s when he was Deputy Chair of the White House Conference on Aging, a member of the Commission on Wartime Relocation and Internment of Civilians and Chairman of the U.S. Commission on Civil Rights, a post from which he was fired by President Reagan because Arthur believed in civil rights. But after these 40 plus years—and at the age of 77, Arthur began a new career serving the public in the private sector by heading coalitions and groups that work for the goals Arthur is most deeply committed to—preserving Social Security, extending health care to all and advancing the civil rights of all persons.

But it is not simply his longevity in public service that makes Arthur Flemming's career remarkable. (although I cannot refrain from noting that Arthur was born in 1905, 15 years before the ACLU was founded—so they have been advocates for justice for about the same period of time). It is also the quality of his service that makes him a long distance runner. Everybody who knows Arthur has his own story about Arthur's readiness to travel whenever he hears the call (I can remember in 1988 getting a call from an editor of the Yale Law Journal who said he wanted to extend an invitation to Arthur to speak at a symposium on the 20th Anniversary of the Fair Housing Act. He called me because he wondered whether Dr. Flemming would be able to make the trip to New Haven. At the time I got this call, Arthur was preparing to travel, I think to 28 cities in 30 days to speak on behalf of the Republicans for Dukakis). But what is more impressive than Arthur's seeming inability to stay away from airports is the reason he travels. Other people of renown travel to participate or be seen at international conferences, to go to dinners with other famous people. Arthur travels to attend meetings and rallys where he will have the opportunity to communicate with everyday people on the issues he most cares about—health care, civil rights and civil liberties and other issues that affect the dignity and well being of the American people.

And he is ready and willing to do the work in the trenches that other people may spurn once they reach a certain position. I remember in the 1980s going with him to a meeting of State civil rights officers where he had been asked to listen to the whole day's proceedings and then give a summation. By mid-afternoon, as the sessions went on (and on) most of us were flagging, but Arthur was still paying rapt attention. At 5:30, Arthur gave not only a fine analytical summary of what people had said—but he delivered an inspirational speech, rallying the troops to keep the faith during the hard times of the 80s.

And that talk was characteristic of so many I have heard Arthur give during the years we have worked together at the CCR. As Elliot Richardson has observed, Arthur speaks with "simplicity, force and deep conviction." He has, I might add, the gift that all of the great advocates I have known have—an ability to understand complex matters and then reduce them to their essentials so that people will understand what is at stake. And despite many years in Washington, he has never become so jaded as to lose the capacity to be angered at injustice. So, for example, when the Reagan Administration pursued its policy of denying people welfare benefits without affording them due process and then ignored court orders to rectify the situation except in the jurisdiction where they were issued—Arthur led the charge to expose and change this heartless policy.

My time is growing short and I have barely scratched the surface. But I could not close without mentioning Arthur's contribution to other institutions that are fundamental to the values and aspirations of the nation. In between his periods of government service, Arthur was President of three universities—Ohio Wesleyan (his alma mater), The University of Oregon and Macalester College. In these posts among many other things he promoted public service and helped extend opportunity for minority students. Arthur's service is also rooted in his religious convictions which he has made manifest through work in the United Methodist Church and the National Conference of Christians and Jews.

As for the institution of the family, Arthur and Bernice, his wife of 60+ years, have raised a family of 5 children, who have made contributions of their own—although you may not be surprised to hear (after what I've said) that in this area there are those who believe that the lion's share of the credit belongs to Bernice.

So, for all these reasons and many more, Arthur has earned the title bestowed on him by Bernice in her affectionate and occasionally irreverent memoir—"Crusader At Large". His indominatable spirit and his unflagging optimism should serve as an inspiration to all of us who think we may be suffering burnout in these meanspirited times. Arthur has richly earned this honor by the ACLU and the admiration of all who care about social justice.●

COMPLIMENTING THE POSTAL SERVICE ON A JOB WELL DONE

● Mr. PRYOR. Mr. President, in these days of budget crisis and heated rhetoric, it is very easy to become cynical or disillusioned about government. In fact, some people around here would have you believe that the Government is simply incapable of playing a positive role of any kind.

So, Mr. President, I wanted to rise today and recognize one Government entity, the U.S. Postal Service, for the good work it is doing for Americans.

Earlier this month, the State of Oregon completed the primary phase of the Nation's first mail-in congressional election. That's right, over a 3-week period, Oregon voters mailed in their ballots for the State's open Senate seat.

While vote-by-mail has its skeptics, the results in Oregon were impressive. Some 52 percent of Oregon voters cast their ballots, as compared to the 43 percent who took part in last year's primaries. On January 30, the general election will also be conducted through the mail system.

Mr. President, whether or not vote-by-mail is the wave of the future, we should certainly commend the Postal Service for its critical role in this effort. The hard-working men and women of the Postal Service in Oregon saw to it that the ballots were delivered and returned on time. Without a postal system that could be counted on, neither Oregon nor any other State could even experiment with a mail-in election.

Oregon is not the only place where the Postal Service is getting the job done for Americans. Right now, millions of Christmas cards and packages are moving through the Nation's mail system. Believe it or not, Postal Service officials are estimating that today, as many as 725 million pieces of mail will be delivered. This is the delivery volume for just 1 day.

While these numbers may sound overwhelming, the men and women of the Postal Service are up to the challenge. As the latest on-time statistics confirm, the vast majority of Americans can drop that card or letter in the box and be confident that their mailing will be delivered on time. In fact, just yesterday, the Postal Service announced that its on-time delivery scores had reached a record high of 88 percent.

Mr. President, the Postal Service, like any organization, has its problems. In the past, I have been critical of both its performance and management decisions. But, I have never had cause to question the dedication of its people. From the Postmaster General on down, the men and women of the Postal Service are getting the job done during this Christmas season. They are a welcome reminder that government can work for America.•

• Mr. MACK. Mr. President, I urge my colleagues to support S. 1260, the Public Housing Reform and Empowerment Act of 1995. S. 1260 represents a major revision of the United States Housing Act of 1937 to reform and consolidate the public and assisted housing programs of the United States and redirect primary responsibility for those programs away from Federal bureaucracy toward the States and localities. This bill represents an important first step towards a complete overhaul of Federal housing programs to address the needs of low-income families more efficiently and effectively.

This legislation addresses a growing crisis in the Nation's public housing system. Over the years, micromanagement by both Congress and the Department of Housing and Urban Development [HUD] have saddled housing authorities with rules and regulations that make it difficult for even the best of them to operate efficiently and effectively. Even more important has been the destructive impact these rules have had on the ability of families to move up and out of public housing and become economically self-sufficient. In far too many places, public housing, which was intended to provide a housing platform from which lower income families could achieve their own aspirations of economic independence, have become warehouses of poverty that rob poor families of their hope and dignity.

Compounding the structural problems of public housing are the dual concerns of budget and HUD capacity. Public housing agencies are facing a significant decline in Federal resources. Given these limited resources, housing authorities need the increased flexibility to use their funds in a manner that helps to maintain decent, safe and affordable housing for their residents. In addition, HUD itself potentially faces a significant reduction in overall staffing over the next 5 years. The prospect of diminishing staff resources means that HUD will lack the capacity to maintain the same degree of oversight and control that it has exercised over the public housing system in recent decades.

S. 1260 addresses the crisis in public housing by consolidating public housing funding into two flexible block grants and transferring greater responsibility over the operation and management of public housing from HUD to local housing agencies. In addition, it creates a new streamlined voucher program that is more market-friendly and provides greater housing choices for low-income families.

The bill also ends Federal requirements that have prevented housing authorities from demolishing their obsolete housing stock, concentrated, and isolated the poorest of poor, and created disincentives for public housing residents to work and improve their lives.

While allowing well-run housing authorities much more discretion, S. 1260 also cracks down on those housing authorities that are troubled. Although small in number, these authorities with severe management problems control almost 15 percent of the Nation's public housing stock. HUD would be required to take over or appoint a receiver for housing authorities that are unable to make significant improvements in their operations. The legislation would also give HUD expanded powers to break up or reconfigure troubled authorities, dispose of their assets, or abrogate contracts that impede correction of the housing authority's problems.

I would like to express my deep appreciation to Senators D'AMATO and BOND, who cosponsored this bill, for their keen interest and active support of this legislation. I also wish to express my appreciation for the cooperation and support from Senators SARBANES and KERRY. This bill truly reflects bipartisan cooperation, and it specifically addresses many of the concerns that have been raised by minority. Finally, I also want to thank Secretary Cisneros for HUD's participation in the development of this bill. We have endeavored to accommodate the Department's concerns to the greatest extent possible.•

RETIREMENT OF BILL NORWOOD FROM UNITED AIRLINES

• Mr. SIMON. Mr. President, Bill Norwood is set to retire as a pilot from United Airlines. During his career, he participated in numerous educational, professional, and civic organizations in the State of Illinois. He also served with distinction on the Southern Illinois University Board of Trustees and the Board of the Illinois State Universities Retirement System.

Illinoisans can take great pride in Mr. Norwood's dedication to Southern Illinois University and the State of Illinois. A former U.S. Air Force pilot who flew B-52's, Mr. Norwood used that experience to go to work for United Airlines in 1965. While a United Airlines pilot, Mr. Norwood received several awards, including a community relations award. Mr. Norwood has served his community and State well.

I wish my friend and his family the best in his retirement. I am sure he will continue to be active in Illinois serving the community and the State.•

ORDER OF BUSINESS

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I would like to, on behalf of the distinguished majority leader, proceed with other matters now pending before the Senate.

EXTEND ENROLLMENT MIX REQUIREMENT TO CERTAIN HEALTH MAINTENANCE ORGANIZATIONS PROVIDING SERVICES UNDER DAYTON AREA HEALTH PLAN

Mr. WARNER. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 1878, extending for 2 years certain requirements relating to Dayton Area Health Plan, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1878) to extend for 4 years the period of applicability of enrollment mix requirement to certain health maintenance organizations providing services under Dayton Area Health Plan.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid upon the table, and that any statements appear at an appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1878) was deemed to have been read the third time and passed.

PENSION INCOME TAXATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar number 296, H.R. 394, a bill to amend title 4 of the United States Code to limit State taxation of certain pension income.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 394) to amend title 4 of the United States Code to limit State taxation of certain pension income.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, and the motion to reconsider be laid upon the table. Further, that any statements relating thereto be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 394) was deemed to have been read the third time and passed.

Mr. WARNER. I noted a similar bill has passed the Senate on four occasions.

THE VICTIMS JUSTICE ACT OF 1995

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 257, H.R. 665, the victims restitution bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 665) to control crime by mandatory victim restitution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Victims Justice Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—RESTITUTION

Sec. 101. Order of restitution.
Sec. 102. Conditions of probation.
Sec. 103. Mandatory restitution.
Sec. 104. Order of restitution to victims of other crimes.
Sec. 105. Procedure for issuance and enforcement of restitution order.
Sec. 106. Procedure.
Sec. 107. Juvenile delinquency; dispositional hearing.
Sec. 108. Instruction to Sentencing Commission.
Sec. 109. Justice Department regulations.
Sec. 110. Special assessments on convicted persons.
Sec. 111. Crime Victims Fund.
Sec. 112. Victims of terrorism act.
Sec. 113. Effective date.

TITLE II—MISCELLANEOUS PROVISIONS

Sec. 201. Severability.
Sec. 202. Study and report.

TITLE I—RESTITUTION

SEC. 101. ORDER OF RESTITUTION.

Section 3556 of title 18, United States Code, is amended—

(1) by striking "may" and inserting "shall"; and

(2) by striking "sections 3663 and 3664." and inserting "3663A, and may order restitution in accordance with section 3663. The procedures under section 3664 shall apply to all orders of restitution under this section.".

SEC. 102. CONDITIONS OF PROBATION.

Section 3563 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (3), by striking "and" at the end;

(B) in the first paragraph (4) (relating to conditions of probation for a domestic crime of violence), by striking the period and inserting a semicolon;

(C) by redesignating the second paragraph (4) (relating to conditions of probation concerning drug use and testing) as paragraph (5);

(D) in paragraph (5), as redesignated, by striking the period at the end and inserting a semicolon; and

(E) by inserting after paragraph (5), as redesignated, the following new paragraphs:

"(6) that the defendant—

"(A) make restitution in accordance with sections 2248, 2259, 2264, 3663, 3663A, and 3664;

"(B) pay the assessment imposed in accordance with section 3013; and

"(7) that the defendant will notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments."; and

(2) in subsection (b)—

(A) by striking paragraphs (2) and (3); and

(B) by redesignating paragraphs (4) through (22) as paragraphs (2) through (20), respectively.

SEC. 103. MANDATORY RESTITUTION.

(a) IN GENERAL.—Chapter 232 of title 18, United States Code, is amended by inserting immediately after section 3663 the following new section:

"§3663A. Mandatory restitution to victims of certain crimes

"(a)(1) Notwithstanding any other provision of law, when sentencing a defendant convicted of an offense described in subsection (c), the court shall order, in addition to any other penalty authorized by law, that the defendant make restitution to the victim of the offense, or, if the victim is deceased, to the victim's estate.

"(2) For purposes of restitution, a victim of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity means any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court. In no event shall the defendant be named as such representative or guardian.

"(3) The court shall also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.

"(b) The order of restitution shall require that such defendant—

"(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

"(A) return the property to the owner of the property or someone designated by the owner; or

"(B) if return of the property under subparagraph (A) is impossible, impracticable, or inadequate, pay an amount equal to—

"(i) the greater of—

"(I) the value of the property on the date of the damage, loss, or destruction; or

"(II) the value of the property on the date of sentencing, less

"(ii) the value (as of the date the property is returned) of any part of the property that is returned;

"(2) in the case of an offense resulting in bodily injury to a victim—

"(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

"(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

"(C) reimburse the victim for income lost by such victim as a result of such offense;

"(3) in the case of an offense resulting in bodily injury that results in the death of the victim, pay an amount equal to the cost of necessary funeral and related services; and

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.

"(c)(1) This section shall apply in all sentencing proceedings for convictions of, or plea agreements relating to charges for, any offense—

"(A) that is—

"(i) a crime of violence, as defined in section 16;

"(ii) a felony against property under this title, including any felony committed by fraud or deceit;

"(iii) an offense described in section 1365 (relating to tampering with consumer products); or

"(iv) an offense described in part D of the Controlled Substances Act (21 U.S.C. 841 et seq.); and

"(B) in which an identifiable victim or victims has suffered a physical injury or pecuniary loss.

"(2) In the case of a plea agreement that does not result in a conviction for an offense described in paragraph (1), this section shall apply only if the plea specifically states that an offense listed under such paragraph gave rise to the plea agreement.

"(3) This section shall not apply if the court finds, from facts on the record, that—

"(A) the number of identifiable victims is so large as to make restitution impracticable; or

"(B) determining complex issues of fact related to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process.

"(d) An order of restitution under this section shall be issued and enforced in accordance with section 3664.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 232 of title 18, United States Code, is amended by inserting immediately after the matter relating to section 3663 the following:

"3663A. Mandatory restitution to victims of certain crimes.".

SEC. 104. ORDER OF RESTITUTION TO VICTIMS OF OTHER CRIMES.

(a) IN GENERAL.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking "(a)(1) The court" and inserting "(a)(1)(A) The court";

(B) by inserting "other than an offense described in section 3663A(c)," after "under this title or section 46312, 46502, or 46504 of title 49,";

(C) by inserting before the period at the end the following: ", or if the victim is deceased, to the victim's estate"; and

(D) by adding at the end the following new subparagraph:

"(B) The court, in determining whether to order restitution under this section, shall consider the amount of the loss sustained by each victim as a result of the offense, and may consider the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. To the extent that the court determines that the complication and prolongation of the sentencing process resulting from the fashioning of an order of restitution under this section outweighs the need to provide restitution to any victims, the court may decline to make such an order.";

(2) by striking subsections (c) through (i); and

(3) by adding at the end the following new subsection:

"(c) An order of restitution made pursuant to this section shall be issued and enforced in accordance with section 3664.".

(b) SEXUAL ABUSE.—Section 2248 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or 3663A" after "3663";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).";

(B) by amending paragraph (2) to read as follows:

"(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.";

(C) in paragraph (4), by striking subparagraphs (C) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (e); and

(4) by redesignating subsection (f) as subsection (c).

(c) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—Section 2259 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or 3663A" after "3663";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).";

(B) by amending paragraph (2) to read as follows:

"(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.";

(C) in paragraph (4), by striking subparagraphs (C) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (e); and

(4) by redesignating subsection (f) as subsection (e).

(d) DOMESTIC VIOLENCE.—Section 2264 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "or 3663A" after "3663";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court pursuant to paragraph (2).";

(B) by amending paragraph (2) to read as follows:

"(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.";

(C) in paragraph (4), by striking subparagraphs (C) and (D); and

(D) by striking paragraphs (5) through (10);

(3) by striking subsections (c) through (g); and

(4) by adding at the end the following new subsection (c):

"(c) VICTIM DEFINED.—For purposes of this section, the term 'victim' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

SEC. 105. PROCEDURE FOR ISSUANCE AND ENFORCEMENT OF RESTITUTION ORDER.

(a) IN GENERAL.—Section 3664 of title 18, United States Code, is amended to read as follows:

"§3664. Procedure for issuance and enforcement of order of restitution

"(a) For orders of restitution under this title, the court shall order the probation service of the court to obtain and include in its presentence report, or in a separate report, as the court directs, information sufficient for the court to exercise its discretion in fashioning a restitution order. The report shall include, to the extent practicable, a complete accounting of the losses to each victim, any restitution owed pursuant to a plea agreement, and information relating to the economic circumstances of each defendant.

"(b) The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or other report pertaining to the matters described in subsection (a) of this section.

"(c) The provisions of this chapter, chapter 227, and Rule 32(c) of the Federal Rules of Criminal Procedure shall be the only rules applicable to proceedings under this section.

"(d)(1) Within 60 days after conviction and, in any event, not later than 10 days prior to sentencing—

"(A)(i) the United States Attorney (or the United States Attorney's delegee), after consulting with all victims, shall prepare and file a statement with the probation service of the court listing the amounts subject to restitution;

"(ii) the statement shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victims; and

"(iii) if any victim objects to any of the information included in the statement, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so; and

"(B) each defendant shall prepare and file with the probation service of the court an affidavit fully describing the financial resources of the defendant, including a complete listing of all assets owned or controlled by the defendant as of the date on which the defendant was arrested, the financial needs and earning ability of the defendant and the defendant's dependents, and other information the court requires relating to such other factors as the court deems appropriate.

"(2) If the court concludes, after reviewing the report of the probation service of the court and the supporting documentation, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(3) If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing as provided in paragraph (1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(4) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(e) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and such defendant's dependents shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

"(f)(1)(A) In each order of restitution, the court shall order restitution to each victim in the full amount of each victim's losses as determined by the court and without consideration of the economic circumstances of the defendant.

"(B) Subject to subsection (k), subparagraph (A) shall not apply if—

"(i) the court finds from facts on the record that the economic circumstances of the defendant do not allow the payment of any amount of a restitution order, and do not allow for the payment of the full amount of a restitution order in the foreseeable future under any reasonable schedule of payments; and

"(ii) the court enters in its order the full amount of each victim's losses and provides a full restitution award with nominal periodic payments.

"(C) In no case shall the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source be considered in determining the amount of restitution.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall, pursuant to section 3572, specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the defendant, including whether any of these assets are jointly controlled;

"(B) projected earnings and other income of the defendant; and

"(C) any financial obligations of the defendant; including obligations to dependents.

"(3) A restitution order may direct the defendant to make a single, lump-sum payment, partial payment at specified intervals, in-kind payments, or a combination of payments at specified intervals and in-kind payments.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) if the victim agrees, services rendered to the victim or a person or organization other than the victim.

"(g)(1) No victim shall be required to participate in any phase of a restitution order. If a victim declines to receive restitution made mandatory by this title, the court shall order that the victim's share of any restitution owed be deposited in the Crime Victims Fund in the Treasury. In the case of in-kind restitution ordered pursuant to subsection (f)(1)(B) or (f)(3), the court shall order that restitution be made to the State crime victim compensation program in the State in which the victim resides.

"(2) A victim may at any time assign the victim's interest in restitution payments to the Crime Victims Fund in the Treasury without in any way impairing the obligation of the defendant to make such payments.

"(h) If the court finds that more than 1 defendant has contributed to the loss of a victim, the court may make each defendant liable for payment of the full amount of restitution or may apportion liability among the defendants to reflect the level of contribution to the victim's loss and economic circumstances of each defendant.

"(i) If the court finds that more than 1 victim has sustained a loss requiring restitution by a defendant, the court may provide for different payment schedules to reflect the economic circumstances of each victim. In any case in which the United States is a victim, the court shall ensure that all individual victims receive full restitution before the United States receives any restitution.

"(j)(1) If a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution shall be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) Any amount paid to a victim under an order of restitution shall be reduced by any amount later recovered as compensatory damages for the same loss by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(k) A restitution order shall provide the following:

"(1) That the entry, collection, and enforcement of an order of restitution shall be governed by the provisions of this section, subchapter C of chapter 227, and subchapter B of chapter 229.

"(2) That the defendant shall notify the court and the Attorney General of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution. The Attorney General shall certify to the court that the victim or victims owed restitution by the defendant have been notified of the change in circumstances. Upon receipt of the notification, the court may, on its own motion, or the motion of any party, including the victim, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.

"(l)(1) An order of restitution shall be enforced by the United States in the manner provided for in subchapter C of chapter 227 and subchapter B of chapter 229 of this title, and may be enforced by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(2) An order of in-kind restitution in the form of services shall be enforced by the probation service of the court.

"(m) If a person obligated to provide restitution receives substantial resources from any source, including inheritance, settlement, or other judgment, during a period of incarceration, such person shall be required to apply the value of such resources to any restitution still owed.".

(b) TECHNICAL AMENDMENT.—The item relating to section 3664 in the analysis for chapter 232 of title 18, United States Code, is amended to read as follows:

"3664. Procedure for issuance and enforcement of order of restitution.".

SEC. 106. PROCEDURE.

(a) AMENDMENT OF FEDERAL RULES OF CRIMINAL PROCEDURE.—Rule 32(b) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (1), by adding at the end the following: "Notwithstanding the preceding sentence, a presentence investigation and report, or other report containing information sufficient for the court to enter an order of restitution, as the court directs, shall be required in any case in which restitution is required to be ordered."; and

(2) in paragraph (4)—

(A) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(B) by inserting after subparagraph (E), the following new subparagraph:

"(F) in appropriate cases, information sufficient for the court to enter an order of restitution;".

(b) FINES.—Section 3572 of title 18, United States Code, is amended—

(1) in subsection (b) by inserting "other than the United States," after "offense,";

(2) in subsection (d)—

(A) in the first sentence, by striking "A person sentenced to pay a fine or other monetary penalty" and inserting "(1) A person sentenced to pay a fine or other monetary penalty, including restitution,";

(B) by striking the third sentence; and

(C) by adding at the end the following:

"(2) If the judgment, or, in the case of a restitution order, the order, permits other than immediate payment, the length of time over which scheduled payments will be made shall be set by the court, but shall be the shortest time in which full payment can reasonably be made.

"(3) A judgment for a fine which permits payments in installments shall include a requirement that the defendant will notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay the fine. Upon receipt of such notice the court may, on its own motion or the motion of any party, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.";

(3) in subsection (f), by inserting "restitution" after "special assessment,";

(4) in subsection (h), by inserting "or payment of restitution" after "A fine"; and

(5) in subsection (i)—

(A) in the first sentence, by inserting "or payment of restitution" after "A fine"; and

(B) by amending the second sentence to read as follows: "Notwithstanding any installment schedule, when a fine or payment of restitution is in default, the entire amount of the fine or restitution is due within 30 days after notification of the default, subject to the provisions of section 3616A.".

(c) POSTSENTENCE ADMINISTRATION.—

(1) PAYMENT OF A FINE OR RESTITUTION.—Section 3611 of title 18, United States Code, is amended—

(A) by amending the heading to read as follows:

"§3611. Payment of a fine or restitution";

(B) by striking "or assessment shall pay the fine or assessment" and inserting ", assessment, or restitution, shall pay the fine, assessment, or restitution"; and

(C) by adding at the end the following: "In the case of restitution, the victim may request that payment be made directly to the victim or the victim's designee.".

(2) COLLECTION.—Section 3612 of title 18, United States, is amended—

(A) by amending the heading to read as follows:

"§3612. Collection of unpaid fine or restitution";

(B) in subsection (b)(1)—

(i) in the matter preceding subparagraph (A), by inserting "or restitution order" after "fine";

(ii) in subparagraph (C), by inserting "or restitution order" after "fine";

(iii) in subparagraph (E), by striking "and";

(iv) in subparagraph (F)—

(I) by inserting "or restitution order" after "fine"; and

(II) by inserting "and" at the end; and

(v) by adding at the end the following new subparagraph:

"(G) in the case of a restitution order, information sufficient to identify each victim to whom restitution is owed. It shall be the responsibility of each victim to notify the Attorney General, by means of a form to be provided by the Attorney General, of any change in the victim's mailing address while restitution is still owed the victim.";

(C) in subsection (c)—

(i) in the first sentence, by inserting "or restitution" after "fine";

(ii) by inserting between the first and second sentences the following: "In the case of restitution, the Attorney General shall ensure that payments are transferred to the victim."; and

(iii) by adding at the end the following: "Any money received from a defendant shall be disbursed so that each of the following obligations is paid in full in the following sequence:

"(1) A penalty assessment under section 3013 of title 18, United States Code.

"(2) Restitution of all victims.

"(3) All other fines, penalties, costs, and other payments required under the sentence.";

(D) in subsection (d)—

(i) by inserting "or restitution" after "fine"; and

(ii) by striking "is delinquent, to inform him that the fine is delinquent" and inserting "or restitution is delinquent, to inform the person of the delinquency";

(E) in subsection (e)—

(i) by inserting "or restitution" after "fine"; and

(ii) by striking "him that the fine is in default" and inserting "the person that the fine or restitution is in default";

(F) in subsection (f)—

(i) in the heading, by inserting "and restitution" after "on fines"; and

(ii) in paragraph (1), by inserting "or restitution" after "any fine";

(G) in subsection (g), by inserting "or restitution" after "fine" each place it appears; and

(H) in subsection (i), by inserting "and restitution" after "fines".

(3) CIVIL REMEDIES.—Section 3613 of title 18, United States Code, is amended—

(A) in the heading, by inserting "or restitution" after "fine";

(B) in subsection (a)—

(i) by striking "A fine" and inserting the following:

"(1) FINES.—A fine";

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting accordingly; and

(iii) by adding at the end the following new paragraph:

"(2) RESTITUTION.—(A) An order of restitution shall operate as a lien in favor of the United States and crime victims against all property belonging to the defendant or defendants. The lien shall arise at the time of the entry of judgment or order and shall continue until the liability is satisfied, remitted, or set aside, or until it becomes otherwise unenforceable. Such lien shall apply against all property and property interests owned by the defendants at the time of arrest as well as all property subsequently acquired by the defendant or defendants.

"(B)(i) In a case in which some or all of the victims are not ascertainable at the time the restitution order is issued, the lien shall be entered in the name of all ascertained victims, if any, and the United States in behalf of the unascertained victims.

"(ii) If the court determines that all victims have been ascertained, no lien interest shall arise in favor of the United States, unless a person entitled to restitution chooses not to participate in the restitution program.

"(iii) In a case in which persons entitled to restitution cannot assert their interests in the lien for any reason, a lien shall arise in favor of the United States acting in behalf of such persons.

"(iv) In any action to enforce a restitution lien in which there is more than one lienholder for the subject property—

"(I) the lienholder seeking to enforce the lien must notify all other lienholders; and

"(II) the court shall make a determination, in the interest of justice, of the equitable distribution of the property subject to the lien.

"(3) JOINTLY HELD PROPERTY.—If property subject to a lien pursuant to this subsection is held jointly by the defendant and a third party or parties, the court shall make a determination, in the interest of justice, as to—

"(A) the enforceability of the lien; and

"(B) the proper distribution of the property.";

(C) in subsection (b)—

(i) by amending paragraph (1) to read as follows:

"(1) the later of 20 years after the entry of the judgment or 20 years after the release from imprisonment of the person fined or ordered to pay restitution; or";

(ii) in paragraph (2), by inserting "or ordered to pay restitution" before the period at the end; and

(iii) in the second sentence, by inserting "or ordered to pay restitution" after "person fined";

(D) in subsection (c)—

(i) by inserting "or restitution" after "to a fine";

(ii) by inserting "or ordered to pay restitution" after "fined"; and

(iii) by striking " 'fine' " and inserting " 'fine or restitution' ";

(E) in subsection (d), by inserting "or restitution" after "fine"; and

(F) in subsection (e)—

(i) by inserting "or restitution" after "fine";

(ii) by inserting "or ordered to pay restitution" after "fined"; and

(iii) by striking "but in no event" and all that follows through the end of the subsection and inserting a period.

(4) HEARING.—Chapter 229 of title 18, United States Code, is amended by inserting after section 3613 the following new section:

"§3613A. Hearing for delinquency

"(a)(1) When a fine or payment of restitution is 60 or more days delinquent, or in default, the court shall, upon the motion of the United States or of any victim named in the order to receive restitution, schedule a hearing to consider the delinquency or default. Upon a finding that the defendant is 60 or more days delinquent in payment, or in default, of a fine or restitution, the court may, pursuant to section 3565, revoke probation or a term of supervised release or modify the terms or conditions of probation on a term of supervised release, resentence a defendant pursuant to section 3614, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, enter or adjust a payment schedule, or take any other action necessary to obtain compliance with the order of a fine or restitution.

"(2) In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the order of a fine or restitution.

"(b)(1) A hearing under this subsection may be conducted by a magistrate judge, subject to de novo review by the court.

"(2) To the extent practicable, in a hearing under this section involving a defendant who is confined in any jail, prison, or other correctional facility, proceedings in which the prisoner's participation is required or permitted shall be conducted by telephone, video conference, or other communications technology without removing the prisoner from the facility in which the prisoner is confined.

"(3) Subject to the agreement of the official of the Federal, State, or local unit of government with custody over the prisoner, hearings may be conducted at the facility in which the prisoner is confined. To the extent practicable, the court shall allow counsel to participate by telephone, video conference, or other communications technology in any hearing held at the facility.".

(5) RESENTENCING.—Section 3614 of title 18, United States Code, is amended—

(A) in the heading, by inserting "or restitution" after "fine";

(B) in subsection (a), by inserting "or restitution" after "fine";

(C) by adding at the end the following new subsection:

"(c) EFFECT OF INDIGENCY.—In no event shall a defendant be incarcerated under this section solely on the basis of inability to make payments because the defendant is indigent.".

(d) CONFORMING AMENDMENT.—The analysis for subchapter B of chapter 229 of title 18, United States Code, is amended to read as follows:

"Sec.
"3611. Payment of a fine or restitution.
"3612. Collection of an unpaid fine or restitution.
"3613. Civil remedies for collection of an unpaid fine or restitution.
"3613A. Hearing for delinquency.
"3614. Resentencing upon failure to pay a fine or restitution.
"3615. Criminal default.".

SEC. 107. JUVENILE DELINQUENCY; DISPOSITIONAL HEARING.

Section 5037 of title 18, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting immediately after subsection (c), the following new subsection:

"(d) If a juvenile has been adjudicated delinquent for an offense that would have been an offense described in section 3663A, 2248, 2259, or 2264 if the juvenile had been tried and convicted as an adult, the restitution provisions of such sections shall apply.".

SEC. 108. INSTRUCTION TO SENTENCING COMMISSION.

Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to reflect this Act and the amendments made by this Act.

SEC. 109. JUSTICE DEPARTMENT REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Attorney General shall promulgate guidelines, or amend existing guidelines, to carry out this Act and to ensure that—

(1) in all plea agreements negotiated by the United States, consideration is given to requesting that the defendant provide full restitution to all victims of all charges contained in the indictment or information, without regard to the counts to which the defendant actually pleaded; and

(2) orders of restitution made pursuant to the amendments made by this Act are enforced to the fullest extent of the law.

SEC. 110. SPECIAL ASSESSMENTS ON CONVICTED PERSONS.

Section 3013(a)(2) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking "$50" and inserting "not less than $100"; and

(2) in subparagraph (B), by striking "$200" and inserting "not less than $400".

SEC. 111. CRIME VICTIMS FUND.

(a) PROHIBITION OF PAYMENTS TO DELINQUENT CRIMINAL DEBTORS BY STATE CRIME VICTIM COMPENSATION PROGRAMS.—

(1) IN GENERAL.—Section 1403(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)) is amended—

(A) by striking "and" at the end of paragraph (7);

(B) by redesignating paragraph (8) as paragraph (9); and

(C) by inserting after paragraph (7) the following new paragraph:

"(8) such program does not provide compensation to any person who has been convicted of an offense under Federal law with respect to any time period during which the person is delinquent in paying a fine or other monetary penalty imposed for the offense; and".

(2) APPLICATION OF AMENDMENT.—The amendment made by paragraph (1) shall not be applied to deny victims compensation to any person until the date on which the Attorney General, in consultation with the Director of the Administrative Office of the United States Courts, issues a written determination that a cost-effective, readily available criminal debt payment tracking system operated by the agency responsible for the collection of criminal debt has established cost-effective, readily available communications links with entities that administer Federal victims compensation programs that are sufficient to ensure that victims compensation is not denied to any person except as authorized by law.

(b) EXCLUSION FROM INCOME FOR PURPOSES OF MEANS TESTS.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by inserting after subsection (b) the following new subsection:

"(c) EXCLUSION FROM INCOME FOR PURPOSES OF MEANS TESTS.—Notwithstanding any other law, for the purpose of any maximum allowed income eligibility requirement in any Federal, State, or local government program using Federal funds that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) that becomes necessary to an applicant for such assistance in full or in part because of the commission of a crime against the applicant, as determined by the Director, any amount of crime victim compensation that the applicant receives through a crime victim compensation program under this section shall not *be included in the income of the applicant until the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime.''.*

SEC. 112. VICTIMS OF TERRORISM ACT.

(a) Authority To Provide Assistance and Compensation to Victims of Terrorism.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404A the following new section:

"SEC. 1404B. COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM OR MASS VIOLENCE.

''(a) Victims of Acts of Terrorism Outside the United States.—The Director may make supplemental grants to States to provide compensation and assistance to the residents of such States who, while outside the territorial boundaries of the United States, are victims of a terrorist act or mass violence and are not persons eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

''(b) Victims of Domestic Terrorism.—The Director may make supplemental grants to States for eligible crime victim compensation and assistance programs to provide emergency relief, including crisis response efforts, assistance, training, and technical assistance, for the benefit of victims of terrorist acts or mass violence occurring within the United States and may provide funding to United States Attorney's Offices for use in coordination with State victims compensation and assistance efforts in providing emergency relief.''.

(b) Funding of Compensation and Assistance to Victims of Terrorism, Mass Violence, and Crime.—Section 1402(d)(4) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(4)) is amended to read as follows:

''(4)(A) If the sums available in the Fund are sufficient to fully provide grants to the States pursuant to section 1403(a)(1), the Director may retain any portion of the Fund that was deposited during a fiscal year that was in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as an emergency reserve. Such reserve shall not exceed $50,000,000.

''(B) The emergency reserve may be used for supplemental grants under section 1404B and to supplement the funds available to provide grants to States for compensation and assistance in accordance with sections 1403 and 1404 in years in which supplemental grants are needed.''.

(c) Crime Victims Fund Amendments.—

(1) Unobligated funds.—Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(A) in subsection (c), by striking ''subsection'' and inserting ''chapter''; and

(B) by amending subsection (e) to read as follows:

''(e) Amounts Awarded and Unspent.—Any amount awarded as part of a grant under this chapter that remains unspent at the end of a fiscal year in which the grant is made may be expended for the purpose for which the grant is made at any time during the 2 succeeding fiscal years, at the end of which period, any remaining unobligated sums shall be returned to the Fund.''.

(2) Base amount.—Section 1404(a)(5) of such Act (42 U.S.C. 10603(a)(5)) is amended to read as follows:

''(5) As used in this subsection, the term 'base amount' means—

''(A) except as provided in subparagraph (B), $500,000; and

''(B) for the territories of the Northern Mariana Islands, Guam, American Samoa, and Palau, $200,000.''.

SEC. 113. EFFECTIVE DATE.

The amendments made by this title shall be effective for sentencing proceedings in cases in which the defendant is convicted on or after the date of enactment of this Act.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 202. STUDY AND REPORT.

(a) Study.—The Attorney General, in cooperation with the Director of the Administrative Office of the United States Courts, shall conduct a study of the funds paid out of the Crime Victims Fund and the impact that the amendments made by this Act have on funds available in the Crime Victims Fund, including an assessment of any reduction or increase in fines collected and deposited into the Fund directly attributable to the amendments made by this Act.

(b) Report.—The Attorney General and the Director of the Administrative Office of the United States Courts shall report the findings of the study to the Chairman and ranking Member of the Committees on the Judiciary of the Senate and House of Representatives not later than 4 years after the date of enactment of this Act, together with their recommendations.

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate agree to a substitute amendment offered by Senators HATCH and BIDEN which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3112) was agreed to.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. HATCH. Mr. President, I rise in strong support of Victims Justice Act. As reported by the Judiciary Committee and amended by the managers' substitute offered by myself and Senator BIDEN, this bill will fill a tremendous gap in our criminal justice system. This legislation represents an important step toward a criminal justice system in which the rights and needs of the victim are respected.

This legislation has a long history. Congress first enacted a general Federal victim restitution statute in 1982 as a part of the Victim and Witness Protection Act (Public Law 97-291). The 1982 act sought to remedy the unfortunate situation noted even then by the Judiciary Committee that:

> . . . restitution . . . lost its priority status in the sentencing procedures of our federal courts long ago. As a matter of practice, [restitution] is infrequently used and indifferently enforced.

The 1982 act provided, for the first time, Federal courts with the authority to order payments of restitution independently of a sentence of probation, and required the court to state its reasons for the record in instances in which restitution was not ordered.

The legislation enacted in 1982 has been the subject of modest amendments in the years since, but remains substantially intact as enacted 13 years ago. Unfortunately, however, while strides have been made since 1982 towards a greater respect for victims in the criminal justice system, much progress remains to be made in the area of victim restitution. According to the 1994 Annual Report of the U.S. Sentencing Commission, during Fiscal Year 1994, Federal courts ordered restitution in only 20.2 percent of criminal cases. Data from the same report show that restitution was ordered in only 27.9 percent of all murders, 28.2 percent of all kidnappings, 55.2 percent of all robberies, and 12.5 percent of all sexual abuses cases. That is simply not enough. It is just as important for a victim of violent crime to receive recompense for her injuries as it is for a victim of property crime to have the property returned, or otherwise paid for. Restitution, as a concept of justice, extends far beyond the mere return of property.

Language substantially similar to H.R. 665 has passed the Senate on three previous occasions. However, this language was never approved in legislation presented to the President.

In 1994, Congress enacted the Violence Against Women Act. That act included provisions requiring mandatory restitution in Federal cases to victims of sexual abuse, sexual exploitation and other abuse of children, and domestic violence.

The 1994 Crime Act also made restitution mandatory for victims of telemarketing fraud, a provision I strongly supported as the chief author of the Senior Citizens Against Marketing Scams [SCAMS] Act. It is time now, however, to extend this important protection to victims of other crimes as well.

Far too often our criminal justice system appears to ignore the victims of crime. It frequently seems that only criminals have rights in the system. Victims often seem to be marginalized once the criminal justice system shifts into gear. As a result, crime victims often feel victimized twice—once by the criminal and then again by the system that seems to ignore their plight. Restitution to the victims of crime is a critical component of the justice system. The order of restitution represents the justice system's recognition that a real person, not only society, has suffered a wrong. Too often lost in the mix is the fact that, when the United States brings a criminal prosecution, while it does so on behalf of all the people, there is frequently a single person who has been victimized. While it is true that society as a whole is aggrieved by any criminal act, it is not society that must cope with the most immediate costs—the burden of fear, the loss of a loved one, or the anguish of personal loss. These burdens are reserved to the victims and survivors of crime.

Restitution, moreover, can provide important closure to victims of crime, even if it cannot turn back the clock and undo the loss itself. Many crime victims have told me that until the criminal is directed to pay restitution, the wound of the crime is not completely healed.

Restitution has an important penalogical function as well, providing a necessary reminder to the offender of the human consequences of his or her criminl act. Critics charge that most criminal defendants are too poor to pay restitution. But even if only a few dollars a month are collectd, it forces the criminal to contemplate his criminal act and truly pay for the crime.

As I have noted, the U.S. Sentencing Commission has reported that judges ordered restitution in only a small percent of Federal criminal cases during fiscal year 1994. This legislation addresses this problem with solid victim restitution reform. For the first time, it will be mandatory that identifiable victims of violent crimes, property and fraud crimes under title 18, and product tampering receive full restitution for their losses.

We nevertheless recognize and wish to avoid the danger that in complex cases the sentencing process could turn into a mini-civil trial. For this reason, the legislation permits the court to decline to order restitution if the number of identifiable victims is so large as to make restitution impracticable, or if the determination of complex factual issues would place burdens on the sentencing process that far outweigh the need for restitution.

This bill also recognizes the need of victims to have full restitution ordered despite the sad fact that the defendant will often be unable to make more than nominal payments. Our legislation gives the courts the flexibility to order nominal installment payments in these instances.

At the same time, we cannot ignore the costs that making orders of restitution mandatory in all Federal criminal cases could impose on the judicial cases could impose on the judicial system. We have attempted to strike a balance in this legislation, and I believe we have largely succeeded.

Our bill also provides one set of procedures for the issuance and enforcement of a restitution order under title 18. A single section of title 18, section 3664, will govern the issuance of all criminal victim restitution orders, including those we enacted last year in the Violence Against Women Act and the SCAMS Act. I want to emphasize that the scope of restitution orders authorized under those laws remains unchanged. We simply seek to reduce the burden caused by incompatible restitution systems.

The bill will also utilize existing provisions for the collection of fines to enforce restitution orders. Moreover, it will improve our ability to actually collect both restitution and fines by strengthening tools such as the revocation of probation, resentencing and other sanctions.

Finally, the bill strengthens victims assistance programs by including provisions that have already passed the Senate as a part of the terrorism bill. A provision originally authored by Senator LEAHY authorizes victim's assistance to victims of terrorism and makes other improvements to the Crime Victims Fund. Our bill seeks to enhance the resources available for victims assistance by including a McCain amendment to the terrorism bill that doubles the special assessments on persons convicted in Federal cases.

Mr. President, I want to express my particular appreciation to Senator BIDEN, Senator NICKLES, Senator MCCAIN, and Senator GRASSLEY for their able assistance in crafting this important bill.

This bill is not perfect. All of us recognize that there is much we need to do to streamline the collection of criminal debts, including restitution. Nor is this the last step we need to take to restore the victim to their rightful place in the criminal justice system. However, it is an important step. When enacted, our legislation will do much to restore respect for the victims of crime and to recognize their loss. I urge all of my colleagues to support this bill.

Mr. BIDEN. Mr. President, one of the measures in last year's crime law that I am most proud of is the provision mandating restitution for victims of sexual abuse and child abuse. This was part of the larger piece of legislation closest to my heart: The Violence Against Women Act.

The mandatory restitution provisions in that act sent out a strong and unequivocal message: we stand with the victims of family violence and sexual assault, and we will not stand for them being ignored by our criminal justice system any longer.

Today, we are considering similar provisions to provide mandatory restitution for all crime victims.

As we fight to make our neighborhoods safe and our communities secure, we must not forget the often faceless and voiceless statistics of crime—its victims.

Millions of Americans each year must bear the unbearable—in 1993 alone, over 35 million people were victimized by crime in this country.

For many victims, the crime only marks the beginning of the ordeal—there is the investigation, maybe a plea bargain, a trial that often puts the victim's truth and character on the stand, busy prosecutors, aggressive defense lawyers, harried court officers.

And in the end, even if the defendant is convicted, the victim's losses—emotional, physical, and financial losses—often go completely uncompensated.

It hasn't always been this way. During the colonial period, victims played a central role in our criminal justice system.

They apprehended their own wrongdoers—either by making the arrests themselves or by hiring the local sheriff—and they hired their own lawyers to prosecute their cases.

In those days, victims were allowed to collect damages from criminals, bind them into servitude, or pay the State to incarcerate those who had wronged them.

In the 19th century, our concept of criminal offenses began to change. Primarily to ensure that all citizens were protected—not just the rich who could afford to hire the marshal—the State became the surrogate for the victim, and undertook the prosecution of the crime.

What was once seen as a private dispute—the violation of one person by another—came to be seen as a crime against the State. Restitution gave way to incarceration as the chief form of punishment—and fines were exacted by the State and paid to the State.

But this evolution in our thinking about crime gradually led to a de-evolution in our concern for victims. Compassion and humanity dictate that we now try to restore to victims the rights, the respect, and the protection that they deserve.

In this spirit, Congress enacted the Victim and Witness Protection Act, which, among other provisions, gave courts the discretion to provide restitution to victims. I was also proud to coauthor the Victims of Crime Act in 1984, which established a crime victims fund financed by fines levied against convicted Federal criminals.

The Crime Victims Fund pays compensation to specific victims when the criminal can't pay—and it also underwrites general victims assistance programs, like courtroom victim advocates, and victims' counselors.

Still, however, there is much to be done. And this bill—which makes restitution mandatory in Federal criminal cases—does something very important.

It says to victims: You are not alone. We will demand accountability from your wrongdoers, and we understand that criminals owe a debt not only to society but to you.

This bill also sends an important message to criminals—you must take responsibility for our actions, and you will pay for the pain you have caused.

Our Constitution is not a zero sum game. We do not diminish the rights of defendants by recognizing and defending the rights of victims.

I defend the rights of criminal defendants because I am deeply concerned about the rights of all Americans. And for that same reason, I defend the rights of victims—there is no contradiction, in my mind, between the two.

In our efforts to crack down on crime, we must never forget its victims. And we must do all in our power to help, in what little way we can, to ease their suffering.

I am proud to cosponsor this bill with Senator HATCH and I urge all my colleagues to support it.

Mr. LEAHY. Mr. President, when the bomb exploded outside the Murrah Federal Building in Oklahoma City earlier this year, my thoughts and prayers, and I suspect that those of all Americans, turned immediately to the victims of this horrendous act. It is my hope that through this legislation we will proceed to enact a series of improvements in our growing body of law recognizing the rights and needs of victims of crime. We can do more to see that victims of crime, including terrorism, are treated with dignity and assisted and compensated with Government help.

Section 202 of the manager's substitute incorporates the Victims of Terrorism Act, which will accomplish a number of worthwhile objectives. I introduced these measures last June as an amendment to antiterrorism legislation, they were previously adopted by the Senate as part of that legislation, and most recently were adopted by the Judiciary Committee as section 112 of the committee-passed bill.

They include a proposal to increase the availability of assistance to victims of terrorism and mass violence here at home. We in this country have been shielded from much of the terrorism perpetrated abroad. That sense of security has been shaken by the bombing in Oklahoma City, the destruction at the World Trade Center in New York, and recent assaults upon the White House. I, therefore, proposed that we allow additional flexibility in targeting resources to victims of terrorism and mass violence and the trauma and devastation that they cause.

Thus, the manager's substitute includes provisions to make funds available through supplemental grants to the States to assist and compensate our neighbors who are victims of terrorism and mass violence, which incidents might otherwise overwhelm the resources of a State's crime victims compensation program or its victims assistance services. I understand, for example, that assistance efforts to aid those who were the victims of the Oklahoma City bombing are now $1 million in debt. These provisions should help.

The substitute will also fill a gap in our law for residents of the United States who are victims of terrorism and mass violence that occur outside the borders of the United States. Those who are not in the military, civil service or civilians in the service of the United States are not eligible for benefits in accordance with the Omnibus Diplomatic Security and Antiterrorism Act of 1986. One of the continuing tragedies of the downing of Pan Am flight 103 over Lockerbie, Scotland, is that the United States Government had no authority to provide assistance or compensation to the victims of that heinous crime. Likewise, the U.S. victims of the Achille Lauro incident could not be given aid. This was wrong and should be remedied.

In its report to Congress in 1994, the Office for Victims of Crime at the U.S. Department of Justice identified the problem. Both the ABA and the State Department have commented on their concern and their desire that crime victims compensation benefits be provided to U.S. citizens victimized in other countries. This substitute is an important step in that direction. Certainly U.S. victims of terrorism overseas are deserving of our support and assistance.

In addition, I believe that we must allow a greater measure of flexibility to our State and local victims' assistance programs and some greater certainty so that they can know that our commitment to victims programming will not wax and wane with events. Accordingly, the substitute includes an important provision to increase the base amounts for States' victims assistance grants to $500,000 and allows victims assistance grants to be made for a 3-year cycle of programming, rather than the year of award plus one, which is the limit contained in current law. This programming change reflects the recommendation of the Office for Victims of Crime contained in its June 1994 report to Congress.

I am disappointed that some have objected to an important improvement that would have allowed any unspent grant funds to be returned to the Crime Victims Fund from which they came and reallocated to crime victims assistance programs. I believe that we ought to treat the Crime Victims Fund and the Violent Crime Reduction Trust Fund and Violence Against Women Act funds with respect and use them for the important purposes for which they were created.

The Crime Victims Fund, for example, is not a matter of appropriation and is not funded through tax dollars. Rather, it is funded exclusively through the assessments against those convicted of Federal crimes. The Crime Victims Fund is a mechanism to direct use of those funds to compensate and assist crime victims. That is the express purpose and justification for the assessments.

Accordingly, I believe it is appropriate for those funds to be used for crime victims and, when not expended for purposes of a crime victims program, they ought to be returned to the Crime Victims Fund for reobligation. Instead, because of a technicality in the application of the Budget Act, the manager's amendment includes a change from the language that I proposed and that was approved by the Judiciary Committee and previously by the Senate. My language would have returned all unspent crime victims grant funds to the Crime Victims Fund. The manager's amendment will require that some of the money that came from the Crime Victims Fund go, instead, to the General Treasury if it remains unobligated more than 2 years after the year of grant award. I am pleased that we have been able to obtain some concession in this regard and note that the unobligated funds must exceed $500,000 in order to revert to the General Treasury.

Fortunately, the Office for Victims of Crime has improved its administration of crime victims funds and that of the States over the past 2 years to a great extent. While more than $1 million a year has in past years remained unobligated from grants made through the States across the country, last year that number was reduced below $125,000. The Director of the Office for Victims of Crime, Aileen Adams, should be commended for this improvement. It is my hope that the administration of Crime Victims Fund grants will continue to improve through the Department of Justice and the States and that the Department of Health and Human Services will, likewise, improve its oversight and grant administration and encourage the States to be more vigilant so that the change in the language of the bill from that previously adopted by the Senate and by the Judiciary Committee will not result in a significant diversion of Crime Victims Fund money to other uses.

Our State and local communities and community-based nonprofits cannot be kept on a string like a yo-yo if they are to plan and implement victims assistance and compensation programs. They need to be able to plan and have a sense of stability if these measures are to achieve their fullest potential.

I know, for instance, that in Vermont Lori Hayes at the Vermont Center for Crime Victims Services, Judy Rex at the Vermont Network Against Domestic Violence and Sexual Abuse, and many others provide tremendous service under difficult conditions. They will be able to put increased annual assistance grants to good use. Such dedicated individuals and organizations will also be aided by increasing their programming cycle by even 1 year. Three years has been a standard that has worked well in other programming settings. Crime victims' programming deserves no less security.

In 1984 when we established the Crime Victims Fund to provide Federal assistance to State and local victims compensation and assistance efforts, we funded it with fines and penalties from those convicted of Federal crime.

The level of required contribution was set low. Ten years have passed and it is time to raise that level of assessment in order to fund the needs of crime victims. Accordingly, the manager's substitute includes as section 109 and the committee-passed bill included as section 110 a provision that I worked on with Senator MCCAIN and that the Senate previously passed as an amendment to the antiterrorism bill this past summer. It doubles the special assessments levied under the Victims of Crime Act against those convicted of Federal felonies in order to assist all victims of crime.

I do not think that $100 to assist crime victims is too much for those individuals convicted of a Federal felony to contribute to help crime victims. I do not think that $400 is too much to insist that corporations convicted of a Federal felony contribute. Accordingly, the Committee substitute would raise these to be the minimum level of assessment against those convicted of crime.

While we have made progress over the last 15 years in recognizing crime victims' rights and providing much-needed assistance, we still have more to do. I am proud to have played a role in passage of the Victims and Witness Protection Act of 1982, the Victims of Crime Act of 1984, the Victims' Rights and Restitution Act of 1990 and the victims provisions included in such measures as the Violent Crime Control and Law Enforcement Act of 1994. I look forward to prompt consideration by the House of these provisions for aiding crime victims and to enactment of the Victims of Terrorism Act.

I continue to have some concern that the mandatory restitution provisions of the bill, while improved in our Committee deliberation, may not lead to the benefits to crime victims that we intended. I note, as well, that changes from the Committee-passed bill made by the manager's substitute have not been fully explained.

We run a significant risk, in my view, that resources will be diverted from programs that have been proven effective in providing compensation and assistance to crime victims. I believe that the study and report required of the Attorney General and Administrative Office of the United States Courts by section 204 of the Manager's substitute is extremely important and urge them to report as soon as possible.

I also urge the Attorney General to approach the responsibilities imposed by section 201(a)(2) of the manager's substitute carefully so as not unnecessarily to burden State agencies and those entrusted with the important responsibility for administering crime victims compensation programs.

I thank the outstanding crime victims advocates from Vermont for their help, advice and support in connection with the Victims of Terrorism Act and the improvements it includes to the Victims of Crime Act. I also thank them for the work they are doing by developing and implementing programs for crime victims in Vermont. In addition, I thank the National Organization for Victim Assistance, the National Association of Crime Victim Compensation Boards and the National Victim Center for their assistance and support in the development of the Victims of Terrorism Act. Without their help, we could not make the importance progress that its provisions contain.

Mr. SIMON. Mr. President, victim restitution is an important part of our criminal justice system. It can help make the victim of a crime "whole," while holding the offender accountable for the damage caused by his or her crime. While I certainly applaud the good intentions of its sponsors, I do not support this "mandatory victim restitution" proposal. This bill would replace the current system, which allows judges to order victim restitution in certain types of cases, with an inflexible mandate which requires restitution be ordered in such cases.

In general, I do not support placing mandates on judges. I oppose mandatory minimum sentences because they substitute inflexible formulas, which cannot account for individual circumstances, for judicial discretion. Similarly, the "mandatory victim restitution" proposal will require judges to order restitution in cases where they know it can never be paid. The Judicial Conference of the United States reports that 85 percent of criminal defendants are indigent at the time of their conviction. And yet, according to the U.S. Sentencing Commission's 1994 Annual Report, judges order a fine or restitution in 37.7 percent of cases sentenced under the guidelines. These statistics lead me to believe that Federal judges are already doing a good job of ordering restitution when practicable.

I respect the motives of this proposal's sponsors, and agree that we must do all that is practicable to help victims of crime. However, rather than placing another mandate on judges, which seems unlikely to increase the amount of restitution actually paid to victims, we should instead consider alternative permissive forms of restitution which would enhance the current system. Included in this bill was an amendment proposed by my colleagues, Senators KYL and FEINSTEIN, which would allow judges to order those convicted of drug trafficking offenses where there is no identifiable victim to pay restitution to the affected community or to drug treatment organizations. I would support such a proposal, and other similar measures, within a permissive system.

Mrs. FEINSTEIN. Mr. President, I rise in support of the Victims Justice Act of 1995. Too often, our criminal justice system has overlooked the victim of crime in its zeal to protect the rights of the accused. This bill makes significant progress toward ensuring that the victim is not forgotten.

I want to thank the chairman and ranking member of the Judiciary Committee for the work they have put into this bill, in moving it through the committee and ensuring that it creates a workable system for awarding compensation to victims.

It is a sad fact that so many people in our society are affected by crime. In my State of California, 318,946 violent crimes were reported last year.

And yet, restitution to the victim is infrequently awarded. In fiscal year 1994, restitution was only awarded in 20.2 percent of Federal criminal cases.

The Victims Justice Act may well help this, by making restitution to the victim mandatory in Federal criminal cases where restitution can reasonably be anticipated by a judge.

Victim restitution is a matter of simple justice. If somebody has been hurt by a criminal, they should be made whole.

Restitution does more than simply compensate the victim for a loss, however. It says to the victim, "You matter. You have been hurt, and this is wrong. We have not forgotten about you."

It also speaks to the criminal. It reinforces to them that their crime hurt another person, that they are responsible for the consequences of their actions, and that they have a responsibility to the person they harmed.

Mr. President, I recognize that most criminal defendants are indigent, and cannot make complete restitution. But it is important to send this message of responsibility to all criminals. That is why I strongly support mandatory restitution, even if it is only nominal restitution, such as a few dollars a month. Even though this won't make the victim whole, it still sends the message to them that they matter, and still reminds the criminal, every month, about the consequences of his actions and his responsibility for them.

And should the criminal come into better financial circumstances later, this will ensure that he is not allowed to sit comfortably while his victim is left uncompensated.

I also want to highlight one aspect of the bill which I worked on with Senator KYL: community restitution in drug cases. Drug dealing is not a victimless crime. As a former mayor, I have seen drugs ravage whole neighborhoods, spurring other crimes, destroying property, and tearing apart communities. That is why I think it is important to permit restitution in drug cases, even where there is no identifiable individual victim.

This section of the bill will allow judges to order restitution in these drug trafficking cases. This restitution will go to the States in which the crime occurred, to their Victim Assistance Administration and to their entities which receive substance abuse block grant funds. By making restitution to these funds, drug dealers will be forced to help crime victims and to fight the drug abuse which they have fostered and from which they profited, targeted to the States which they have harmed.

I call on Federal judges to implement this section, and not to disregard it. I am hopeful that they will do so, and that future legislation to mandate this restitution will not be necessary.

Mr. President, the Victims Justice Act will help victims, will help communities, and may well help to rehabilitate criminals. I urge my colleagues to pass it.

Mr. ABRAHAM. Mr. President, I strongly support this bill because it will require the perpetrators of many Federal crimes to make restitution to their victims in all cases, without exception. I also believe its enforcement mechanisms make significant improvements over those in existing law. I believe, however, that these procedures can be improved upon still further.

In discussions with restitution experts about what we can do to improve the procedures in current law, the one suggestion I have heard uniformly is that restitution orders should be made civil debts, payable immediately.

Instead of having the sentencing judge essentially attempt to rewrite civil debt collection procedures and require the Government to enforce them principally through its criminal attorneys, it would make more sense to make available the civil debt collection procedures, which are established collection methods fully consistent with due process, and make it easy for the Government to have its civil attorneys, who are well versed in collection actions and procedures, take on a significant portion of the enforcement responsibilities. These are, after all, the same procedures that we already apply to students who default on student loan payments and others who owe debts to the Government.

Accordingly, I am today introducing a bill that will pick up where I believe this bill leaves off.

My bill will improve on collection of victim restitution in four main areas. First, it would make restitution orders civil debts. Second, to enforce these orders it would make available to the U.S. Government the Federal Debt Collection Act and all other civil and administrative tools ordinarily used to collect debts owed the United States. The United States could use these tools to enforce restitution orders on its own behalf or on behalf of other victims. The bill also would allow victims to use State civil enforcement mechanisms on their own behalf. Third, the bill would allow victims to obtain the full benefit of collateral estoppel from judgments in Federal criminal cases giving rise to restitution orders in subsequent civil proceedings, regardless of state law limitations. And finally, it would allow the courts in appropriate cases to prevent defendants from dissipating the assets that would otherwise be able to be used to pay victim restitution orders.

Mr. President, I appreciate the leadership of the distinguished chairman and ranking member in formulating the current bill. I have worked with both of them in developing these additional proposals. Because of the timetable on which my friend from Utah is operating, it did not seem practical to include them in the legislation we are debating here today. But both he and my friend from Delaware have assured me that they are planning on making additional improvements in our enforcement procedures in an upcoming bill dealing with criminal fines, and it is the hope of all of us that we will be able to include some or all of these proposals, either in their current form or with modifications, in the fines legislation next year.

Mr. HATCH. I very much appreciate my colleague from Michigan's efforts, and I also appreciate his willingness to forbear from offering his proposals at this time. I know that he agrees with me on the need to act this session to make restitution mandatory in the Federal courts. We all agree that more remains to be done to enforce these debts. My colleague's proposals are both interesting and innovative, and I want to work with him and other Members to see that they are adopted by this body in some fashion when we take up our fines bill next year.

Mr. BIDEN. I too appreciate my colleague's efforts and forbearance. I believe many of his proposals are interesting and innovative, although I have reservations about some of them. I look forward to working with him and others to see to it that we make our enforcement mechanisms as simple and effective as possible, while maintaining a commitment to ensure due process.

Mr. McCAIN. Mr. President, I want to thank the chairman and ranking member of the Judiciary Committee, as well as Senator DOLE and Senator NICKLES, for their hard work and leadership in bringing this bill to the floor.

The bill would amend the Federal criminal code to require that criminals compensate their victims—an initiative that is long overdue. According to the Bureau of Justice statistics 2 million people in the United States are injured each year as a result of violent crime. The cost of personal and household crime is estimated to exceed $20 billion per year—a sum that does not include the incalculable cost in human terms. In relatively few cases are victims made whole for their losses by those who preyed upon them.

Mr. President, one needs only to read the morning paper or watch the evening news to know that violence and crime plague our Nation. We have become inured to the ghastly statistics. But, Mr. President, victims are not statistics. They are real people. They are our brothers and sisters, mothers and fathers, sons, daughters and neighbors. They deserve our compassion and assistance. It's time that our criminal justice system no longer treat crime victims as second class citizens.

Passage of this bill will help achieve that goal by ensuring that victims are compensated as part of the criminal sentencing process rather than forcing the aggrieved to seek remedy through time consuming, costly and at times degrading and agonizing civil action.

I want to express my gratitude to Senator HATCH and Senator BIDEN for including a number of provisions I requested to improve the bill. I would like to review those provisions.

First, the committee included a provision to double the fine assessed to Federal felons from $50 to $100 and for criminal organizations from $200 to $400. This provision achieves the primary goal of a bill, S. 841, which I introduced earlier this year. The revenues from the increased assessment will be placed into the Crime Victim Fund to increase support for State and local victim assistance programs.

Second, the committee included language to require offenders to pay their criminal fines, assessments, and restitution orders in full and immediately if they have the resources to do so. If they cannot pay immediately, then the court will be required to impose a reasonable and enforceable payment plan that ensures full payment within the shortest time possible.

Third, language was inserted to ensure that when a criminal debtor becomes delinquent, a hearing can be held to determine the reason. If the offender has no resources with which to pay, then the payment schedule can be amended. If the delinquency is willful, however, penalties can be imposed, including an outright prohibition on criminal debtors receiving moneys from the Crime Victim Fund.

Fourth, the committee added a provision I requested to require offenders to notify the court of any change in their economic circumstances which might affect the offender's ability to pay their debt so that the applicable payment schedule can be appropriately modified. A Federal criminal whose financial circumstances improve should not be able to duck his or her responsibility to the victim because they are subject to an insufficient or outdated payment plan.

Fifth, the bill will make procedures for assessing and enforcing criminal debt uniform among the three major categories: mandatory assessments, discretionary fines and restitution which after passage of this bill will be mandatory.

Finally, the bill includes a provision to see that crime victim assistance will no longer be counted against a recipient as revenue in determining eligibility for Federal assistance programs.

Again, I want to thank the committee for their hard work. This is an important bill which I believe will not only assist victims but will prove to be a formidable deterrent to crime.

Mr. President, having said that, I must mention that the bill does not include all the provisions I would like to see. I had intended to offer several amendments, but the committee has requested that Senators withhold to ensure speedy consideration and passage of this vital bill this year. I certainly want to cooperate in that effort and given assurances from the committee that the initiatives I was going to offer will be considered next year, I have decided to withhold.

The first amendment I had intended to offer would have privatized the collection of delinquent criminal debt. Mr. President, outstanding Federal criminal debt totals over $4 billion. A portion of that amount may be uncollectible because in many cases court assessments exceed the ability of the offenders to pay, but, I know of no one who disagrees that hundreds of millions of dollars in outstanding debt are quite collectible.

It's a simple reality that U.S. attorneys who are responsible for investigating and prosecuting Federal crimes assign a lower priority to the collection of delinquent debt. Privatizing such debt will ensure that more assessments and restitution orders are enforced, collected and deposited into the Crime Victim Fund or provided to the victim.

The second amendment I planned to offer was to declare offenders who willfully avoid their financial obligations, ineligible for Federal grants, contracts, licenses, or other nonmandatory Government assistance. Willful delinquency should be dealt with firmly. We should not provide Federal benefits to those who purposely evade their responsibilities.

Third, I had intended to offer an amendment to the Employee Retirement Income Security Act [ERISA] which would allow pension income to be garnished to pay outstanding restitution or criminal debt orders. Under current law, retirement benefits can only be attached to pay delinquent child support. The collection of victim compensation and criminal debt should be priorities as well.

The final amendment I had intended to offer would have increased the amount that the Federal Government is legally able to contribute to State victim compensation programs from the Crime Victim Fund. Currently, Federal payments are restricted to 40 percent of the amount that the State provides to its victim compensation fund. The pending bill will increase the Crime Victim Fund by doubling the special assessment against felons. We should increase the 40-percent ceiling so that the direct compensation programs can benefit from these increased resources.

Senator HATCH has informed me that the committee intends to take up a criminal debt enforcement bill next year, and that these four proposals will receive consideration at that time. I would like to ask the Senator if that is the committee's plan.

Mr. HATCH. The Senator from Arizona is correct. The committee intends to take up an enforcement bill next year. The initiatives you have outlined deserve serious consideration and I look forward to working with you on them.

Mr. MCCAIN. I thank the distinguished chairman of the Judiciary Committee and I look forward to working with him on enforcement legislation. Again, I congratulate Senator HATCH and the Judiciary Committee for their efforts to develop and pass the pending measure.

Mr. WARNER. Mr. President, I ask unanimous consent that all the debate time previously ordered be yielded back, the bill then be deemed read a third time and passed as amended, the motion to reconsider be laid upon the table, and that any statements on the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The substitute amendment was agreed to.

The bill (H.R. 665) was deemed read the third time and passed.

The title was amended so as to read: "An Act entitled the Victims Justice Act of 1995."

REQUIRING CONVEYANCE OF CERTAIN PROPERTY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Commerce be immediately discharged from further consideration of H.R. 1358 and that the Senate proceed to its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1358) to require the Secretary of Commerce to convey to the Commonwealth of Massachusetts the National Marine Fisheries Service laboratory, located on Emerson Avenue in Gloucester, Massachusetts.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3113

(Purpose: To provide for certain additional transfers of property, and for other purposes)

Mr. WARNER. Mr. President, I send a substitute amendment to the desk on behalf of Senators PRESSLER, KERRY, and STEVENS.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for Mr. PRESSLER, for himself, Mr. KERRY, and Mr. STEVENS, proposes an amendment numbered 3113.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. CONVEYANCES.

(a) NATIONAL MARINE FISHERIES SERVICE LABORATORY AT GLOUCESTER, MASSACHUSETTS.—

(1) IN GENERAL.—The Secretary of Commerce shall convey to the Commonwealth of Massachusetts, all right, title, and interest of the United States in and to the property comprising the National Marine Fisheries Service laboratory located on Emerson Avenue in Gloucester, Massachusetts.

(2) TERMS.—A conveyance of property under paragraph (1) shall be made—

(A) without payment of consideration; and

(B) subject to the terms and conditions specified under paragraphs (3) and (4).

(3) CONDITIONS FOR TRANSFER.—

(A) IN GENERAL.—As a condition of any conveyance of property under this subsection, the Commonwealth of Massachusetts shall assume full responsibility for maintenance of the property for as long as the Commonwealth retains the right and title to that property.

(B) CONTINUED USE OF PROPERTY BY NMFS.—The Secretary may enter into a memorandum of understanding with the Commonwealth of Masachusetts under which the National Marine Fisheries Service is authorized to occupy existing laboratory space on the property conveyed under this subsection, if—

(i) the term of the memorandum of understanding is for a period of not longer than 5 years beginning on the date of enactment of this Act; and

(ii) the square footage of the space to be occupied by the National Marine Fisheries Service does not conflict with the needs of, and is agreeable to, the Commonwealth of Massachusetts.

(4) REVERSIONARY INTEREST.—All right, title, and interest in and to all property conveyed under this subsection shall revert to the United States on the date on which the Commonwealth of Massachusetts uses any of the property for any purpose other than the Commonwealth of Massachusetts Division of Marine Fisheries resource management program.

(5) RESTRICTION.—Amounts provided by the South Essex Sewage District may not be used by the Commonwealth of Massachusetts to transfer existing activities to, or conduct activities at, property conveyed under this section.

(b) PIER IN CHARLESTON, SOUTH CAROLINA.—Section 22(a) of the Marine Mammal Protection Act Amendments of 1994 (Pub. Law 103–238; 108 Stat. 561) is amended—

(1) by inserting "(1)" before "Not"; and

(2) by adding at the end thereof the following:

"(2) Not later than December 31, 1996, the Secretary of the Navy may convey, without payment or other consideration, to the Secretary of Commerce, all right, title, and interest to the property comprising that portion of the Naval Base, Charleston, South Carolina, bounded by Hobson Avenue, the Cooper River, the landward extension of the property line located 70 feet northwest of and parallel to the centerline of Pier Q, and the northwest property line of the parking area associated with Pier R. The property shall include Pier Q, all towers and outbuildings on that property, and walkways and parking areas associated with those buildings and Pier Q.".

SEC. 2. FISHERIES RESEARCH FACILITIES.

(a) FORT JOHNSON.—The Secretary of Commerce, through the Under Secretary of Commerce for Oceans and Atmosphere, is authorized to construct on land to be leased from the State of South Carolina, a facility at Fort Johnson, South Carolina, provided that the annual cost of leasing the required lands does not exceed one dollar.

(b) AUKE CAPE.—The Secretary of Commerce, through the Under Secretary of Commerce for Oceans and Atmosphere, is authorized to construct a facility on Auke Cape near Juneau, Alaska, to provide consolidated office and laboratory space for National Oceanic and Atmospheric Administration personnel in Juneau, provided that the property for such facility is transferred to the National Oceanic and Atmospheric Administration from the United States Coast Guard or the City of Juneau.

(c) COMPLETION DATE FOR FUNDED WORK.—The Secretary of Commerce shall complete the architectural and engineering work for the facilities described in subsections (a) and (b) by not later than May 1, 1996, using funds that have been previously appropriated for that work.

(d) AVAILABILITY OF APPROPRIATIONS.—The authorizations contained in subsections (a) and (b) are subject to the availability of appropriations provided for the purpose stated in this section.

SEC. 3. PRIBILOF ISLANDS.

(a) IN GENERAL.—The Secretary of Commerce shall, subject to the availability of appropriations provided for the purposes of this section, clean up landfills, wastes, dumps, debris, storage tanks, property, hazardous or unsafe conditions, and contaminants, including petroleum products and their derivatives, left by the National Oceanic and Atmospheric Administration on lands which it and its predecessor agencies abandoned, quitclaimed, or otherwise transferred or are obligated to transfer, to local entities or residents on the Pribilof Islands, Alaska, pursuant to the Fur Seal Act of 1966 (16 U.S.C. 1151 et seq.), as amended, or other applicable law.

(b) OBLIGATIONS OF SECRETARY.—In carrying out cleanup activities under subsection (a), the Secretary of Commerce shall—

(1) to the maximum extent practicable, execute agreements with the State of Alaska, and affected local governments, entities, and residents eligible to receive conveyance of lands under the Fur Seal Act of 1966 (16 U.S.C. 1161 et seq.) or other applicable law;

(2) manage such activities with the minimum possible overhead, delay, and duplication of State and local planning and design work;

(3) receive approval from the State of Alaska for agreements described in paragraph (1) where such activities are required by State law;

(4) receive approval from affected local entities or residents before conducting such activities on their property; and

(5) not seek or require financial contributions by or from local entities or landowners.

(c) RESOLUTION OF FEDERAL RESPONSIBILITIES.—(1) Within 9 months after the date of enactment of this section, and after consultation with the Secretary of the Interior, the State of Alaska, and local entities and residents of the Pribilof Islands, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Resources of the House of Representatives, a report proposing necessary actions by the Secretary of Commerce and Congress to resolve all claims with respect to, and permit the final implementation, fulfillment and completion of—

(A) title II of the Fur Seal Act Amendments of 1983 (16 U.S.C. 1161 et seq.);

(B) the land conveyance entitlements of local entities and residents of the Pribilof Islands under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(C) the provisions of this section; and

(D) any other matters which the Secretary deems appropriate.

(2) The report required under paragraph (1) shall include the estimated costs of all actions, and shall contain the statements of the Secretary of Commerce, the Secretary of the Interior, any statement submitted by the State of Alaska, and any statements of claims or recommendations submitted by local entities and residents of the Pribilof Islands.

(d) USE OF LOCAL ENTITIES.—Notwithstanding any other law to the contrary, the Secretary of Commerce shall, to the maximum extent practicable, carry out activities under subsection (a) and fulfill other obligations under federal and state law relating to the Pribilof Islands, through grants or other agreements with local entities and residents of the Pribilof Islands, unless specialized skills are needed for an activity, and the Secretary specifies in writing that such skills are not available through local entities and residents of the Pribilof Islands.

(e) DEFINITION.—For the purposes of this section, the term "clean up" means the planning and execution of remediation actions for lands described in subsection (a) and the redevelopment of landfills to meet statutory requirements.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated not to exceed $10,000,000 in each of fiscal years 1996, 1997, and 1998 for the purposes of carrying out this section.

Mr. PRESSLER. Mr. President, today I am pleased that we are considering H.R. 1358, legislation to authorize the conveyance of the National Marine Fisheries Service laboratory located in Gloucester, MA, to the Commonwealth of Massachusetts. This provision embodied in S. 1142, the National Oceanic and Atmospheric Administration (NOAA) Authorization Act of 1995, was reported by the Commerce Committee on August 10, 1995.

The amendment that I have offered, cosponsored by Senator STEVENS and Senator KERRY, adds several other noncontroversial sections of the reported NOAA bill to H.R. 1358. They include: the conveyance to NOAA of a pier located on the Charleston Navy Base in South Carolina; an authorization concerning the cleanup of NOAA property located on the Pribolof Islands of Alaska; and an authorization to construct and consolidate fisheries research facilities at Fort Johnson, South Carolina, and in Juneau, Alaska.

Mr. President, the provisions in this bill address a number of noncontroversial issues that have been reviewed and adopted by the Commerce Committee with bipartisan support. I have brought them to the floor in this fashion simply to expedite their passage.

I urge my colleagues to join me in the adoption of the amended bill.

Mr. KERRY. Mr. President, I speak today in support of the passage of H.R. 1358, legislation which conveys the Gloucester laboratory of the National Marine Fisheries Service [NMFS] to the Commonwealth of Massachusetts. Under H.R. 1358, the Gloucester lab, which was built in the 1960s and is now federal surplus, will receive a new mission, direction and purpose. Under budget-mandated federal consolidations, the NMFS activities formally carried out at the Gloucester lab have been transferred to newer facilities in other locations.

Loss of the NMFS programs will be mitigated by a plan to make productive use of the now unused laboratory site as home to a state marine fisheries laboratory and a new consortium of marine science programs from Massachusetts's colleges, universities, and high schools. Under the plan, the facility will be used primarily for education and research in the marine sciences. It will enable undertaking various marine science projects and initiatives, and continue ongoing efforts to address the problems that face the traditional fishing industry of Massachusetts and all New England. With its fishing heritage and close ties to the rhythms of the sea, the city of Gloucester is a natural location for such a facility.

The schools participating in the project include Salem State College, the University of Massachusetts, Essex Agriculture College, Boston University's City Lab program and Gloucester High School. Projects planned for the facility include shellfish safety research and testing, the development of aquaculture techniques, and introduction of high school students to sophisticated science such as DNA sequencing.

I would like to thank the chairman of the subcommittee, Senator STEVENS, the chairman of the Commerce Committee, Senator PRESSLER, and the Committee's ranking Democrat, Senator HOLLINGS, for preparing this bipartisan bill and bringing it to the floor.

I also would like to acknowledge the work by staff on both sides, including Penny Dalton and Lila Helms on the Commerce Committee minority staff and on the majority side, Tom Melius and Trevor McCabe. I would like to acknowledge the work of Kate English of my staff and Steve Metruck, a congressional fellow in my office.

This bill represents a win-win solution for Massachusetts and the taxpayers—it gives renewed life to a site the Federal Government no longer needs, and it makes available to State and local organizations laboratory facilities that are needed for research into important health, economic, and marine science issues. Consequently, I hope that we can complete action and send this legislation to the President for his signature as soon as possible.

Mr. WARNER. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 3113) was agreed to.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the measure be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 1358), as amended, was deemed read the third time and passed.

PAROLE COMMISSION PHASEOUT ACT OF 1995

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1507, introduced earlier today by Senator HATCH.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1507) to provide for the extension of the Parole Commission to oversee cases of prisoners sentenced under prior law, to reduce the size of the Parole Commission, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HATCH. Mr. President, I rise today to introduce the Parole Commission Phaseout Act of 1995. I am pleased to be joined in this effort by the ranking member of the Judiciary Committee, Senator BIDEN, as well as by Senator THURMOND and Senator KENNEDY. This legislation, which is supported by both the administration and the Federal judiciary, provides for a reduction in size of the Parole Commission. At the same time, it will ensure that the Commission's duties, which are required by the due process and ex post facto clauses of the Constitution, will continue to be carried out.

Under the Sentencing Reform Act of 1984, Congress eliminated parole for persons convicted of offenses committed after November 1, 1987. Pursuant to amendments to the Sentencing Reform Act, the Parole Commission is currently scheduled go out of existence on November 1, 1997.

At that time, however, the Federal Government will retain custody over a significant number of prisoners sentenced for crimes committed before 1987, and thus entitled to parole hearings. The Parole Commission estimates that as of November, 1997, there will be approximately 6,000 such so-called old law convicts remaining in prison. In addition, it is anticipated that another 6,000 such convicts will have been released on parole, subject to reincarceration for parole violations.

Presently, no other agency of the Federal Government can adequately assume the duties of the Parole Commission with regard to these old law prisoners. Yet, these prisoners are constitutionally entitled to parole consideration. Without the Parole Commission, these prisoners could claim that their sentences were being unconstitutionally lengthened by the application of a law enacted after their offense, and apply for immediate release. Thus, were the Commission allowed to terminate as scheduled, public safety could be endangered by the immediate release of dangerous criminals who have not served their sentences.

The parole Commission is also commendably seeking to reduce its size to better accommodate its smaller workload. As the number of "old law" prisoners continues to shrink, the need for the Commission, as presently constituted, will disappear, and remaining functions will be able to be transferred to another agency of the government.

This legislation accomplishes the prudent phaseout of the Commission by extending its mandate for an additional 5 years, until November 1, 2002. Simultaneously, the bill reduces the size of the Commission. The Commission's size would be reduced by one member immediately upon enactment, and by another member in October 1996. Thus, the size of the Commission would be reduced by one-third by October 1996, with significant savings to the American taxpayers.

I urge my colleagues to support this commonsense proposal, and look forward to the swift passage of this bill.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1507) was deemed read the third time and passed, as follows:

S. 1507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Parole Commission Phaseout Act of 1995".

SEC. 2. EXTENSION OF PAROLE COMMISSION.

(a) IN GENERAL.—For purposes of section 235(b)(1) of the Sentencing Reform Act of 1984 (98 Stat. 2032) as it related to chapter 311 of title 18, United States Code, and the Parole Commission, each reference in such section to "ten years" or "ten-year period" shall be deemed to be a reference to "fifteen years" or "fifteen-year period", respectively.

(b) POWERS AND DUTIES OF PAROLE COMMISSION.—Notwithstanding section 4203 of title 18, United States Code, the United States Parole Commission may perform its functions with any quorum of Commissioners, or Commissioner, as the Commission may prescribe by regulation.

SEC. 3. REPEAL.

Section 235(b)(2) of the Sentencing Reform Act of 1984 (98 Stat. 2032) is repealed.

AUTHORIZING TESTIMONY AND REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 203, S. Res. 204 and S. Res. 205 submitted earlier today by Senators DOLE and DASCHLE; further, that the resolutions be considered, en bloc; that the resolutions be agreed to, en bloc; that the preambles be agreed to; that the motions to reconsider be laid upon the table; and that statements relating to the measures appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolutions (S. Res. 203, S. Res. 204, and S. Res. 205) were agreed to, en bloc.

The preambles were agreed to, en bloc.

The resolutions, with their preambles, are as follows:

S. RES. 203

Whereas, in the case of *Sheila Cherry* v. *Richard Cherry*, Case No. FM-18145-91, pending in the New Jersey Superior Court, a subpoena *duces tecum* for testimony at a deposition and for the production of documents has been issued to William Ayala, an employee of Senator Frank Lautenberg;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2) (1994), the Senate may direct its counsel to represent committees, Members, officers, and employees of the Senate with respect to subpoenas or orders issued to them in their official capacity: Now, therefore, be it

Resolved, That William Ayala is authorized to testify in the case of *Cherry* v. *Cherry*, except concerning matters for which a privilege or an objection should be asserted.

SEC. 2. That the Senate Legal Counsel is directed to represent William Ayala and Senator Lautenberg's office in connection with the subpoena issued in ths case.

Mr. DOLE. Mr. President, in the case of Cherry versus Cherry, a divorce proceeding pending in New Jersey Superior Court, the plaintiff has caused a subpoena to be served on an employee of Senator LAUTENBERG, seeking documents and testimony concerning the employee's performance of constituent services by contacting the IRS on behalf of the plaintiff. The plaintiff's attorney has not been able to demonstrate to Senator LAUTENBERG's office or to the Senate legal counsel how the office's casework assistance is relevant to the issues in controversy in the divorce suit. Accordingly, this resolution would authorize the Senate legal counsel to represent Senator LAUTENBERG's employee in this matter, and to seek to quash the subpoena in order to protect Senator LAUTENBERG's office from the burdens of complying with a discovery request of no relevance to the underlying dispute. This resolution also would authorize the employee to testify and produce documents in the event that the court determines that the employee does have any evidence somehow relevant to the divorce proceeding.

S. RES. 204

Whereas, in the case of *Charles Okoren, et al.* v. *Fyfe Symington, et al.*, No. CV–95–2527–PHX–RCB, pending in the United States District Court for the District of Arizona, the plaintiffs have named the United States Senate as a defendant;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1)(1994), the Senate may direct its counsel to defend the Senate in civil actions relating to its official responsibilities: Now therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the United States Senate in the case of *Charles Okoren, et al.* v. *Fyfe Symington, et al.*

Mr. DOLE. Mr. President, the plaintiffs in *Okoren* v. *Symington*, No. CV–95–2527–PHX–RCB (D. Ariz.), have brought a civil action in Federal district court in Arizona seeking two declarations from the court: first, a declaration that Arizona's indictment procedures violate the United States Constitution; and second, a declaration that the Civil Justice Reform Act of 1990 overrules the decision of the United States Supreme Court in *Younger* v. *Harris*, 401 U.S. 37 (1971), that federal courts will not enjoin pending state criminal prosecutions except under extraordinary circumstances.

In their suit, these plaintiffs have named, among others, the United States Senate as a party. The Senate is not, however, a proper party to this lawsuit. In fact, the plaintiffs assert no claim against the Senate. This resolution authorizes the Senate legal counsel to represent the Senate in this action.

S. RES. 205

Whereas, in the case of *United States of America* v. *Karl Zielinski*, Case No. F12187-94, a criminal action pending in the Superior Court of the District of Columbia, the United States Attorney has caused a trial subpoena to be served on Michael O'Leary, a Senate employee on the staff of the Committee on the Judiciary;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to requests for testimony made to them in their official capacities; Now, therefore, be it

Resolved, That Michael O'Leary is authorized to provide testimony in the case of *United States of America* v. *Karl Zielinski*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Michael O'Leary in connection with the testimony authorized by section 1 of this resolution.

Mr. DOLE. Mr. President, in the case of United States of America versus Karl Zielinski, the United States Attorney for the District of Columbia has charged the defendant with threatening to do bodily harm to occupants of the Hart Senate Office Building in violation of section 22–507 of the District of Columbia Code, during a visit in December 1994 to the offices of the Senate Judiciary Committee's Subcommittee on Patents, Copyrights, and Trademarks.

Michael O'Leary, an employee on the Judiciary Committee's staff, witnessed the incident and has been subpoenaed by the U.S. Attorney to testify at the trial.

This resolution would authorize Mr. O'Leary to testify at the trial, with representation by the Senate legal counsel.

SMITHSONIAN INSTITUTION SESQUICENTENNIAL COMMEMORATIVE COIN ACT OF 1995

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2627, which has just been received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2627) to require the Secretary of the Treasury to mint coins in commemoration of the sesquicentennial of the founding of the Smithsonian Institution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, I ask unanimous consent that the bill be deemed read the third time, passed, that the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2627) was deemed read the third time, and passed.

PERMITTING USE OF THE CAPITOL ROTUNDA FOR A CEREMONY COMMEMORATING THE HOLOCAUST VICTIMS

Mr. WARNER. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of House Concurrent Resolution 106, and further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 106) permitting the use of the Rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. WARNER. I ask unanimous consent that the concurrent resolution be considered and agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (H. Con. Res. 106) was agreed to.

AMENDING THE IMPACT AID PROGRAM

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1509, a bill introduced earlier today by Senators DASCHLE and PRESSLER to permit local educational agencies to apply for increased impact aid payments, that the bill be deemed read the third time, passed, the motion to reconsider be laid upon the table; further, that any statements on this measure appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1509) was deemed read the third time, and passed, as follows:

S. 1509

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HOLD-HARMLESS AMOUNTS FOR PAYMENTS RELATING TO FEDERAL ACQUISITION OF REAL PROPERTY.

Section 8002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702) is amended by adding at the end the following new subsections:

"(g) FORMER DISTRICTS.—

"(1) IN GENERAL.—Where the school district of any local educational agency described in paragraph (2) is formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at any time such agency files an application under section 8005) for any fiscal year to have (A) the eligibility of such local educational agency, and (B) the amount which such agency shall be eligible to receive, determined under this section only with respect to such of the former school districts comprising such consolidated school districts as such agency shall designate in such election.

"(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency referred to in paragraph (1) is any local educational agency that, for fiscal year 1994 or any preceding fiscal year, applied for and was determined eligible under section 2(c) of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect on September 30, 1994.

"(h) HOLD-HARMLESS AMOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2)(A), the total amount that the Secretary shall pay a local educational agency under subsection (b)—

"(A) for fiscal year 1995 shall not be less than 85 percent of the amount such agency received for fiscal year 1994 under section 2 of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect on September 30, 1994; or

"(B) for fiscal year 1996 shall not be less than 85 percent of the amount such agency received for fiscal year 1995 under subsection (b).

"(2) RATABLE REDUCTIONS.—(A)(i) If necessary in order to make payments to local educational agencies in accordance with paragraph (1) for any fiscal year, the Secretary first shall ratably reduce payments under subsection (b) for such year to local educational agencies that do not receive a payment under this subsection for such year.

"(ii) If additional funds become available for making payments under subsection (b) for such year, then payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

"(B)(i) If the sums made available under this title for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under paragraph (1) after the application of subparagraph (A) for such year, then the Secretary shall ratably reduce payments under paragraph (1) to all such agencies for such year.

"(ii) If additional funds become available for making payments under paragraph (1) for such fiscal year, then payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.".

SEC. 2. APPLICATIONS FOR INCREASED PAYMENTS.

(a) PAYMENTS.—Notwithstanding any other provision of law—

(1) the Bonesteel-Fairfax School District Number 26–5, South Dakota, and the Wagner Community School District Number 11–4, South Dakota, shall be eligible to apply for payment for fiscal year 1994 under section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such action was in effect on September 30, 1994); and

(2) the Secretary of Education shall use a subgroup of 10 or more generally comparable local educational agencies for the purpose of calculating a payment described in paragraph (1), and the local contribution rate applicable to such payment, for a local educational agency described in such paragraph.

(b) APPLICATION.—In order to be eligible to receive a payment described in subsection (a), a school district described in such subsection shall apply for such payment within 30 days after the date of enactment of this Act.

(c) CONSTRUCTION.—Nothing in this section shall be construed to require a local educational agency that received a payment under section 3(d)(2)(B) of the Act of September 3, 1950 (Public Law 874, 81st Congress) (as such section was in effect on September 30, 1994) for fiscal year 1994 to return such payment or a portion of such payment to the Federal Government.

SEC. 3. MAXIMUM PAYMENTS.

Subparagraph (B) of section 8003(f)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(f)(3)) is amended to read as follows:

"(B) SPECIAL RULE.—The Secretary shall determine the maximum amount that a local educational agency described in clause (ii) or (iii) of paragraph (2)(A) may receive under this subsection in accordance with the following computations:

"(i) The Secretary shall multiply the average per-pupil expenditure for all States by 0.7, except that such amount may not exceed 125 percent of the average per-pupil expenditure for all local educational agencies in the State.

"(ii) The Secretary shall next multiply the product determined under clause (i) by the number of students who are served by the local educational agency and described in subparagraph (A) or (B) of subsection (a)(1).

"(iii) The Secretary shall next subtract the total amount of payments received by the local educational agency under subsections (b) and (d) for a fiscal year from the amount determined under clause (ii).".

NOMINATIONS TO REMAIN IN STATUS QUO, WITH EXCEPTIONS

Mr. WARNER. Mr. President, as in executive session, I ask unanimous consent that all nominations received by the Senate remain in status quo, notwithstanding the provisions of Rule 31, paragraph 6, except the following:

Henry Foster; PN234–2, Thomas J. Flanagan; PN343–2, five Navy promotions to Captain and below (list begins with Christopher J. Remshak); PN632–2, Navy Promotion of Margaret V. Abrashoff; PN628–2, Navy appointment to Lieutenant—Richard Drake.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. WARNER. Mr. President, I ask unanimous consent that all items done by the Senator from Virginia, acting on behalf of the distinguished majority leader with the exception of those done in executive session, be deemed as having been done in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR SATURDAY, DECEMBER 23, 1995, AND WEDNESDAY, DECEMBER 27, 1995

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11 a.m., Saturday, December 23, for a pro forma session only, and, immediately upon convening, the Senate stand in adjournment until 1 p.m. Wednesday, December 27 and following the prayer on Wednesday, the Journal of Proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and that there then will be a period for morning business not to extend beyond the hour of 2 p.m., with statements limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. WARNER. Mr. President, the Senate could also be asked to consider any available appropriations bill, conference reports and other items cleared for action. However, rollcall votes are not anticipated during Wednesday's session and, at this point, do not look likely for Thursday's or Friday's session of the Senate.

I further ask unanimous consent that the cloture vote scheduled for today be postponed to occur at a time to be determined by the two leaders, but not before January 3, 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. WARNER. I ask unanimous consent the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 103–227, appoints the following individual to the National Skill Standards Board:

Upon the recommendation of the majority leader: Raymond J. Robertson, of Virginia, representing organized labor.

The Chair, on behalf of the President pro tempore and upon the recommendation of the majority leader, pursuant to Public Law 98–183, as amended by Public Law 101–180, reappoints Russell G. Redenbaugh, of Pennsylvania, to the U.S. Commission on Civil Rights.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. WARNER. Mr. President, I ask unanimous consent that, in executive session, the Senate immediately proceed to consideration of the following Executive Calendar nominations, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Numbers 312, 323, 325, 329, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 349, 350, 351, 352, 353, 354, 355, 367, 368, 370, 371, 372, 373, 374, 375, 376, 377, 379, 380, 381, 382, 383, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 398, 399, 400, 401, 407, 408, 409, 429, 431, 432, 433, 435, 436, 437, 438, 440, 441, 442, and all nominations placed at the Secretary's desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WARNER. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be placed upon the table en bloc, the President be immediately notified of the Senate's action, that any statements relating to any of the nominations appear at the appropriate place in the RECORD, and that the Senate then immediately return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

Nuclear Regulatory Commission

Greta Joy Dicus, of Arkansas, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 1998.

National Council on Disability

Hughey Walker, of South Carolina, to be a Member of the National Council on Disability for a term expiring September 17, 1996.

National Mediation Board

Ernest W. DuBester, of New Jersey, to be a Member of the National Mediation Board for a term expiring July 1, 1998.

Department of the Interior

Patricia J. Beneke, of Iowa, to be an Assistant Secretary of the Interior.

United States Enrichment Corporation

Charles William Burton, of Texas, to be a Member of the Board of Directors of the United States Enrichment Corporation for the remainder of the term expiring February 24, 1996.

Department of the Interior

Eluid Levi Martinez, of New Mexico, to be Commissioner of Reclamation.

Corporation for National and Community Service

Eli J. Segal, of Massachusetts, to be a Member of the Board of Directors of the Corporation for National and Community Service for the remainder of the term expiring February 8, 1999.

James Madison Memorial Fellowship Foundation

Marc R. Pacheco, of Massachusetts, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term expiring October 3, 2000.

Harry S Truman Scholarship Foundation

Mel Carnahan, of Missouri, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1999.

United States Institute of Peace

Chester A. Crocker, of the District of Columbia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 1999.

Max M. Kampelman, of the District of Columbia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 1999.

Seymour Martin Lipset, of Virginia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 1999.

Department of Education

Thomas R. Bloom, of Virginia, to be Inspector General, Department of Education, vice James Bert Thomas, Jr.

Executive Office of the President

Kathleen A. McGinty, of Pennsylvania, to be a Member of the Council on Environmental Quality, vice Michael R. Deland.

Department of Housing and Urban Development

Dwight P. Robinson, of Michigan, to be Deputy Secretary of Housing and Urban Development, vice Terrence, R. Duvernay, Sr.

Hal C. DeCell III, of Mississippi, to be an Assistant Secretary of Housing and Urban Development.

John A. Knubel, of Maryland, to be Chief Financial Officer, Department of Housing and Urban Development.

Securities Investor Protection Corporation

Albert James Dwoskin, of Virginia, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1995, vice Frank G. Zarb, term expired.

Federal Deposit Insurance Corporation

Joseph H. Neely, of Mississippi, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for a term of six years.

Department of Housing and Urban Development

Kevin G. Chavers, of Pennsylvania, to be President, Government National Mortgage Association.

The Judiciary

R. Guy Cole, Jr., of Ohio, to be United States Circuit Judge for the Sixth Circuit.

Barry Ted Moskowitz, of California, to be United States District Judge for the Southern District of California.

Stephen M. Orlofsky, of New Jersey, to be United States District Judge of the District of New Jersey.

John R. Tunheim, of Minnesota, to be United States District Judge for the District of Minnesota.

Susan J. Dlott, of Ohio, to be United States District Judge for the Southern District of Ohio.

Department of Justice

Juan Abran DeHerrera, of Wyoming, to be United States Marshall for the District of Wyoming for the term of four years.

Department of Labor

Susan Robinson King, of the District of Columbia, to be an Assistant Secretary of Labor.

Anne H. Lewis, of Maryland, to be an Assistant Secretary of Labor.

James Madison Memorial Fellowship Foundation

Elisabeth Griffith, of Virginia, to be a Member of the Board of Trustees of the James Madison Memorial Foundation for the remainder of the term expiring September 27, 1996.

United States Institute of Peace

Theodore M. Hesburgh, of Indiana, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 1999.

Federal Mine Safety and Health Review Commission

James Charles Riley, of Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 2000.

National Commission on Libraries and Information Science

Walter Anderson, of New York, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2000.

Department of Agriculture

John David Carlin, of Kansas, to be an Assistant Secretary of Agriculture.

Michael V. Dunn, of Iowa, to be an Assistant Secretary of Agriculture.

Commodity Credit Corporation

Michael V. Dunn, of Iowa, to be a Member of the Board of Directors of the Commodity Credit Corporation.

James Madison Memorial Fellowship Foundation

Louis L. Stevenson, of Pennsylvania, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term expiring November 17, 1999.

The Judiciary

Todd J. Campbell, of Tennessee, to be United States District Judge for the Middle District of Tennessee.

Kim McLane Wardlaw, of California, to be United States District Judge for the Central District of California.

E. Richard Webber, of Missouri, to be United States District Judge for the Eastern District of Missouri vice Edward L. Filippine, retired.

P. Michael Duffy, of South Carolina, to be United States District Judge for the District of South Carolina.

Department of Commerce

Jane Bobbitt, of West Virginia, to be an Assistant Secretary of Commerce.

Department of Transportation

Nancy E. McFadden, of California, to be General Counsel of the Department of Transportation.

Executive Office of the President

Ernest J. Moniz, of Massachusetts, to be an Associate Director of the Office of Science and Technology Policy.

Department of Transportation

George D. Milidrag, of Michigan, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation.

Gail Clements McDonald, of Maryland, to be Administrator of the Saint Lawrence Seaway Development Corporation for the remainder of the term expiring March 20, 1998.

Mississippi River Commission

Rear Admiral John Carter Albright, National Oceanic and Atmospheric Administration, to be a Member of the Mississippi River Commission.

Department of Commerce

Phillip A. Singerman, of Pennsylvania, to be an Assistant Secretary of Commerce.

Department of Justice

D.W. Bransom, Jr., of Texas, to be United States Marshal for the Northern District of Texas for the term of four years.

Frank Policaro, Jr., of Pennsylvania, to be United States Marshal for the Western District of Pennsylvania for the term of four years.

State Justice Institute

Joseph Francis Baca, of New Mexico, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1998.

Robert Nelson Baldwin, of Virginia, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1998.

David Allen Brock, of New Hampshire, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1997.

Florence K. Murray, of Rhode Island, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1998.

Department of Health and Human Services

Melissa T. Skolfield, of Louisiana, to be an Assistant Secretary of Health and Human Services.

Department of the Treasury

Darcy E. Bradbury, of New York, to be an Assistant Secretary of the Treasury, vice Hollis S. McLoughlin.

David A. Lipton, of Massachusetts, to be a Deputy Under Secretary of the Treasury.

The Judiciary

Joseph H. Gale, of Virginia, to be a Judge of the United States Tax Court for a term expiring fifteen years after he takes office.

Bruce D. Black, of New Mexico, to be United States District Judge for the District of New Mexico, vice Juan Guerrero Burciaga.

Hugh Lawson, of Georgia, to be United States District Judge for the Middle District of Georgia, vice Wilbur D. Owens, Jr.

Patricia A. Gaughan, of Ohio, to be United States District Judge for the Northern District of Ohio, vice Ann Aldrich.

Department of State

Ralph R. Johnson, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Slovak Republic.

Federal Labor Relations Authority

Donald S. Wasserman, of the District of Columbia, to be a Member of the Federal Labor Relations Authority for a term of five years expiring July 1, 2000.

Department of the Treasury

Jeffrey R. Shafer, of New Jersey, to be an Under Secretary of the Treasury.

Joshua Gotbaum, of New York, to be an Assistant Secretary of the Treasury.

State Justice Institute

Tommy Edward Jewell III, of New Mexico, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1995.

Tommy Edward Jewell III, of New Mexico, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1998.

Social Security Administration

David C. Williams, of Illinois, to be Inspector General, Social Security Administration. (New Position)

The Judiciary

Joan A. Lenard, of Florida, to be United States District Judge for the Southern District of Florida.

Barbara S. Jones, of New York, to be United States District Judge for the Southern District of New York.

Bernice B. Donald, of Tennessee, to be United States District Judge for the Western District of Tennessee.

C. Lynwood Smith, of Alabama, to be United States District Judge for the Northern District of Alabama.

In the Coast Guard, National Oceanic and Atmospheric Administration, Public Health Service

Coast Guard nominations beginning John D. Cook, and ending Charles T. Lancaster, which nominations were received by the Senate and appeared in the Congressional Record of September 5, 1995.

Coast Guard nominations beginning James E. Bussey III, and ending Scott L. Krammes, which nominations were received by the Senate and appeared in the Congressional Record of September 19, 1995.

Coast Guard nomination of Jordan D. Isaac, which was received by the Senate and appeared in the Congressional Record of October 11, 1995.

Coast Guard nomination beginning Kurt J. Colella, and ending George J. Rezendes, which nominations were received by the Senate and appeared in the Congressional Record of October 11, 1995.

National Oceanic and Atmospheric Administration Nominations beginning Andrew M. Snella, and ending Jennifer D. Garte, which nominations were received by the Senate and appeared in the Congressional Record of October 13, 1995.

Public Health Service nominations beginning Patricia A. Berry, and ending Catherine L. Woodhouse, which nominations were received by the Senate and appeared in the Congressional Record of June 26, 1995

NOMINATION OF JOSEPH H. GALE TO BE A JUDGE ON THE U.S. TAX COURT

Mr. MOYNIHAN. Mr. President, it is with great pride that I rise to congratulate Joseph H. Gale of Virginia, who has just been confirmed by the Senate to be a judge on the United States Tax Court for a term of 15 years. Mr. Gale, who is well known to Members of the Senate, has been a good friend and trusted counsel to the Senator from New York for 11 years now. He joined my personal staff in 1985 as tax counsel, just in time for the fundamental restructuring of the Tax Code in the Tax Reform Act of 1986, with which he was intimately involved. Since then he has been a major force in the development and passage of literally every piece of tax legislation considered by the Congress.

In 1993, Mr. Gale became chief tax counsel for the Senate Committee on Finance, and in that capacity took a leading role in the drafting, and ultimately in the enactment, of the Omnibus Budget Reconciliation Act of 1993. In 1995, he became our minority staff director.

Three weeks ago, when Mr. Gale appeared before the Finance Committee for his confirmation hearing, Senators from both sides of the aisle praised him highly for his professionalism, his unmatched knowledge of tax law and the legislative process, and his dedication to public service. At least one Senator attended the hearing solely for the purpose of making a statement in support of Joe Gale's nomination, and Chairman ROTH took the opportunity to declare that only our former Chairman Lloyd Bentsen got through the committee more easily.

Mr. President, I am pleased and gratified that the Senate has confirmed Mr. Gale to be a United States Tax Court Judge. He is superbly qualified for this position, and I know he will be an outstanding jurist. Finally, I thank Joe Gale for his 11 years of distinguished service to the Senate, and I wish him well in his new career as a member of the Federal judiciary.

NOMINATION OF JOSEPH H. NEELY

Mr. LOTT. Mr. President, I am very proud that my fellow Mississippian, Joseph H. Neely, commissioner of the Mississippi Department of Banking and Consumer Finance, has been nominated to serve on the FDIC Board. I would urge his prompt confirmation by the full Senate.

Joe will bring a unique perspective to the Board. Having been both a community banker and a State bank supervisor, I believe he is imminently qualified for this position. He is a man of character and integrity. He has earned a reputation as an excellent regulator who is able to balance safety and soundness issues with an understanding of the banking industry. His wealth of on-point community banking experience and familiarity with the broad range of supervisory issues affecting the FDIC Board will make him a valuable addition to the Board.

Joe is the first Mississippian to ever be nominated to serve on the FDIC Board. He was born in my hometown of Grenada, MS. He attended the University of Southern Mississippi where he obtained his undergraduate and graduate degrees. He was a college professor before beginning his banking career in 1977.

He was appointed the commissioner of the Mississippi Department of Banking and Consumer Finance by Gov. Kirk Fordice in 1992. As such, he is the primary regulator and supervisor of all State-chartered banking and thrift institutions. He also supervises State-chartered credit unions as well as all consumer finance activities within the State. Joe is held in high esteem by people in Mississippi and in other States. His experience as a board member of the Conference of State Bank Supervisors has already drawn national attention to his talents.

He has done a super job as the commissioner. In that capacity: He has been very active in initiating and supporting improvements in the State banking system; he pressed for legislative authorization for realignment of the department which allowed the department to attract and keep qualified, experienced examination staff; he also worked in support of legislation to standardize and modernize a number of State statutes to improve supervision of State banks and savings institutions; and, under his leadership, the department entered into cooperative agreements with the FDIC and the Federal Reserve whereby the banking department and the Federal regulators cooperate in the examination process.

I know that Joe will bring much academic, practical, and supervisory expertise to the FDIC Board. They are fortunate to have someone of his caliber join them. I am thankful that Joe is willing to go into public service and look forward to welcoming him, his wife Linda, and their two children, Joel and Jessica, to Washington.

NOMINATON OF JOSEPH H. NEELY

Mr. BENNETT. Mr. President, I ask that with regard to the nomination of Joseph H. Neely, the following letter be inserted in the RECORD at the appropriate place.

The letter follows:

STATE OF UTAH, DEPARTMENT OF FINANCIAL INSTITUTIONS,
Salt Lake City, UT, October 15, 1995.

Re Joe Neely's nomination to FDIC board.

Hon. ROBERT BENNETT,
U.S. Senate,
Washington, DC.

DEAR SENATOR BENNETT: This letter is to inform you of my strong support of President Clinton's nominee, Joseph H. Neely, to the vacant fifth seat on the FDIC board. I have personally known Joe many years in his current role as Mississippi Bank Commissioner. I have always found him to be very articulate and informed on all issues concerning financial institutions. I have appreciated his ability to listen and then respond to the issue or question. I believe he would add considerably to the breadth and depth of FDIC board deliberations.

Joe would bring a state banking commissioner's view to the FDIC board. I believe this state perspective on banking issues is needed to counter the inordinate number of U.S. Treasury Department personnel having a seat on the FDIC board.

I urge your continued support of his nomination as it goes to full Senate hearing.

Thank you for your favorable consideration of this matter.

Sincerely,

G. EDWARD LEARY,
Commissioner.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

RECESS UNTIL 11 A.M. TOMORROW

Mr. WARNER. Mr. President, if there is no further business to come before the Senate, I first wish my colleague from Kentucky a merry Christmas.

Mr. FORD. Mr. President, may I also wish my distinguished friend and colleague from Virginia a merry Christmas, a happy new year, and a successful 1996.

Let me say, Mr. President, also, that we thank you for being here. It is late. Everybody else basically has gone home. We are here trying to do the Government's and the institution's business.

Let me thank the staff because if they were not here and dedicated we would have a difficult time getting through.

So I want the record to show that we appreciate the staff and all their work.

I thank my friend.

Mr. WARNER. Mr. President, I further join with my friend in expressing appreciation to the staff present in the Chamber, and throughout the Senate, the considerable infrastructure that is required, as we well know.

I now ask that the Senate stand in recess, under the previous order.

There being no objection, the Senate, at 6:54 p.m., recessed until Saturday, December 23, 1995, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate December 22, 1995:

DEPARTMENT OF ENERGY

ALVIN L. ALM, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENTAL MANAGEMENT), VICE THOMAS P. GRUMBLY.

THE JUDICIARY

EDMUND A. SARGUS, JR., OF OHIO, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF OHIO, VICE CARL B. RUBIN, DECEASED.

JAMES A. BEATY, JR., OF NORTH CAROLINA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT.

J. RICH LEONARD, OF NORTH CAROLINA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

PETER BENJAMIN EDELMAN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 22, 1995:

NUCLEAR REGULATORY COMMISSION

Greta Joy Dicus, of Arkansas, to be a Member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 1998.

NATIONAL COUNCIL ON DISABILITY

Hughey Walker, of South Carolina, to be a Member of the National Council on Disability for a term expiring September 17, 1996.

NATIONAL MEDIATION BOARD

Ernest W. DuBester, of New Jersey, to be a Member of the national Mediation Board for a term expiring July 1, 1998.

DEPARTMENT OF THE INTERIOR

Patricia J. Beneke, of Iowa, to be an Assistant Secretary of the Interior.

UNITED STATES ENRICHMENT CORPORATION

Charles William Burton, of Texas, to be a Member of the Board of Directors of the United States Enrichment Corporation for the remainder of the term expiring February 24, 1996.

DEPARTMENT OF THE INTERIOR

Eluid Levi Martinez, of New Mexico, to be Commissioner of Reclamation.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Eli J. Segal, of Massachusetts, to be a Member of the Board of Directors of the Corporation for National and Community Service for the remainder of the term expiring February 8, 1999.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

Marc R. Pacheco, of Massachusetts, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term expiring October 3, 2000.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

Mel Carnahan, of Missouri, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1999.

UNITED STATES INSTITUTE OF PEACE

CHESTER A. CROCKER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 1999.

MAX M. KAMPELMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE

UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 1999.

SEYMOUR MARTIN LIPSET, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 1999.

DEPARTMENT OF EDUCATION

THOMAS R. BLOOM, OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF EDUCATION.

EXECUTIVE OFFICE OF THE PRESIDENT

KATHLEEN A. MCGINTY, OF PENNSYLVANIA, TO BE A MEMBER OF THE COUNCIL ON ENVIRONMENTAL QUALITY.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

DWIGHT P. ROBINSON, OF MICHIGAN, TO BE DEPUTY SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

HAL C. DECELL III, OF MISSISSIPPI, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

JOHN A. KNUBEL, OF MARYLAND, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

SECURITIES INVESTOR PROTECTION CORPORATION

ALBERT JAMES DWOSKIN, OF VIRGINIA, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 1995.

FEDERAL DEPOSIT INSURANCE CORPORATION

JOSEPH H. NEELY, OF MISSISSIPPI, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM OF SIX YEARS.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

KEVIN G. CHAVERS, OF PENNSYLVANIA, TO BE PRESIDENT, GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.

DEPARTMENT OF LABOR

SUSAN ROBINSON KING, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF LABOR.

ANNE H. LEWIS, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF LABOR.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

ELISABETH GRIFFITH, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FOUNDATION FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 27, 1996.

UNITED STATES INSTITUTE OF PEACE

THEODORE M. HESBURGH, OF INDIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 1999.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

JAMES CHARLES RILEY, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF SIX YEARS EXPIRING AUGUST 30, 2000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

WALTER ANDERSON, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2000.

DEPARTMENT OF AGRICULTURE

JOHN DAVID CARLIN, OF KANSAS, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

MICHAEL V. DUNN, OF IOWA, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

COMMODITY CREDIT CORPORATION

MICHAEL V. DUNN, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

LOUISE L. STEVENSON, OF PENNSYLVANIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM EXPIRING NOVEMBER 17, 1999.

DEPARTMENT OF COMMERCE

JANE BOBBITT, OF WEST VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

DEPARTMENT OF TRANSPORTATION

NANCY E. MCFADDEN, OF CALIFORNIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF TRANSPORTATION.

EXECUTIVE OFFICE OF THE PRESIDENT

ERNEST J. MONIZ, OF MASSACHUSETTS, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

DEPARTMENT OF TRANSPORTATION

GEORGE D. MILIDRAG, OF MICHIGAN, TO BE A MEMBER OF THE ADVISORY BOARD OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION.

GAIL CLEMENTS MCDONALD, OF MARYLAND, TO BE ADMINISTRATOR OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION FOR THE REMAINDER OF THE TERM EXPIRING MARCH 20, 1998.

MISSISSIPPI RIVER COMMISSION

REAR ADMIRAL JOHN CARTER ALBRIGHT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION.

DEPARTMENT OF COMMERCE

PHILLIP A. SINGERMAN, OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MELISSA T. SKOLFIELD, OF LOUISIANA, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF THE TREASURY

DARCY E. BRADBURY, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

DAVID A. LIPTON, OF MASSACHUSETTS, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY.

THE JUDICIARY

JOSEPH H. GALE, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES TAX COURT FOR A TERM EXPIRING FIFTEEN YEARS AFTER HE TAKES OFFICE.

DEPARTMENT OF STATE

RALPH R. JOHNSON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SLOVAK REPUBLIC.

FEDERAL LABOR RELATIONS AUTHORITY

DONALD S. WASSERMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM OF FIVE YEARS EXPIRING JULY 1, 2000.

DEPARTMENT OF THE TREASURY

JEFFREY R. SHAFER, OF NEW JERSEY, TO BE AN UNDER SECRETARY OF THE TREASURY.

JOSHUA GOTBAUM, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

SOCIAL SECURITY ADMINISTRATION

DAVID C. WILLIAMS, OF ILLINOIS, TO BE INSPECTOR GENERAL, SOCIAL SECURITY ADMINISTRATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

R. GUY COLE, JR., OF OHIO, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT.

BARRY TED MOSKOWITZ, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

STEPHEN M. ORLOFSKY, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

JOHN R. TUNHEIM, OF MINNESOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA.

SUSAN J. DLOTT, OF OHIO, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF OHIO.

DEPARTMENT OF JUSTICE

JUAN ABRAN DEHERRERA, OF WYOMING, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF WYOMING FOR THE TERM OF FOUR YEARS.

THE JUDICIARY

TODD J. CAMPBELL, OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF TENNESSEE.

KIM MCLANE WARDLAW, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

E. RICHARD WEBBER, OF MISSOURI, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI.

P. MICHAEL DUFFY, OF SOUTHERN CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA.

DEPARTMENT OF JUSTICE

D.W. BRANSOM, JR., OF TEXAS, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS.

FRANK POLICARO, JR., OF PENNSYLVANIA, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF PENNSYLVANIA FOR THE TERM OF FOUR YEARS.

STATE JUSTICE INSTITUTE

JOSEPH FRANCIS BACA, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1998.

ROBERT NELSON BALDWIN, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1998.

DAVID ALLEN BROCK, OF NEW HAMPSHIRE, TO BE MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1997.

FLORENCE K. MURRAY, OF RHODE ISLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1998.

THE JUDICIARY

BRUCE D. BLACK, OF NEW MEXICO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO.

HUGH LAWSON, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF GEORGIA.

PATRICIA A. GAUGHAN, OF OHIO, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO.

STATE JUSTICE INSTITUTE

TOMMY EDWARD JEWELL, III, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1995.

TOMMY EDWARD JEWELL, III, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1998.

THE JUDICIARY

JOAN A. LENARD, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA.

BARBARA S. JONES, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

BERNICE B. DONALD, OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TENNESSEE.

C. LYNWOOD SMITH, OF ALABAMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ALABAMA.

PUBLIC HEALTH SERVICE

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING PATRICIA A. BERRY AND ENDING CATHERINE L. WOODHOUSE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 26, 1995.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING JOHN D. COOK, AND ENDING CHARLES T. LANCASTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 5, 1995.

COAST GUARD NOMINATIONS BEGINNING JAMES E. BUSSEY, III, AND ENDING SCOTT L. KRAMMES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 19, 1995.

COAST GUARD NOMINATION OF JORDAN D. ISAAC, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF OCTOBER 11, 1995.

COAST GUARD NOMINATIONS BEGINNING KURT J. COLELLA, AND ENDING GEORGE J. REZENDES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 11, 1995.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING ANDREW M. SNELLA, AND ENDING JENNIFER D. GARTE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 13, 1995.

THE LOBBYING DISCLOSURE ACT OF 1995

NOTICE FROM THE SECRETARY OF THE SENATE AND THE CLERK OF THE HOUSE OF REPRESENTATIVES

The Lobbying Disclosure Act of 1995, Public Law 104-65, was signed by the President on December 19, 1995, and takes effect on January 1, 1996. The Federal Regulation of Lobbying Act of 1946 (2 USC 261 et seq.) is repealed on January 1, and certain other laws that regulate lobbying activities are amended, including the Foreign Agents Registration Act of 1938 (22 USC 611 et seq) and the 1989 Byrd Amendment (31 USC 1352).

FOR FURTHER INFORMATION: For further information, forms, and instructions concerning the Lobbying Disclosure Act, contact the House Legislative Resource Center, 1036 Longworth House Office Building, Washington, DC 20515, (202) 225-1300, or the Senate Office of Public Records, 232 Hart Senate Office Building, Washington, DC 20510, (202) 224-0758.

DESCRIPTION OF LAW

In general, the Lobbying Disclosure Act ("Act") establishes broad requirements that individuals and entities who seek to influence the Federal government register with the Secretary of the Senate and the Clerk of the House of Representatives, and disclose their clients, issues, fees, and interests of foreign entities. All registrations and reports filed under the Act are public records. The key provisions of the Act are summarized below; however, lobbyists, their employers, clients, and other interested persons should always consult the full text of the new law.

REGISTRATION

The Act requires registration of: 1) **lobbying firms** that employ **lobbyists** for **clients**; and 2) **organizations** that employ **in-house lobbyists**. Registration with both the Secretary and the Clerk is required no later than 45 days after a lobbyist first makes a **lobbying contact** or is employed or retained to do so, **whichever is earlier** (e.g., a lobbyist who has a retainer agreement with a client in effect on January 1, 1996, must register on or before February 14, 1996). **Lobbying firms must file separate registrations for each client**, subject to limited exceptions.

> *NOTE:* **Individuals and organizations currently registered under the Federal Regulation of Lobbying Act should file their final quarterly reports under the former law with the Clerk and the Secretary by January 10, 1996, to prevent a gap in the records. However, registrations under the former law will no longer be effective, and all lobbyists active after January 1, 1996, must register under the new Lobbying Disclosure Act.**
>
> **Registration forms and instructions will be available from the House Legislative Resource Center and the Senate Office of Public Records in early January 1996.**

REPORTS

Lobbying firms are required to file semiannual reports of income, and **organizations** employing **in-house lobbyists** are required to file semiannual reports of expenditures, by **August 14** (covering the period January 1 thru June 30) and **February 14** (covering the period July 1 thru December 31). **The first reports under the new Act will be due by August 14, 1996. Lobbying firms must file separate reports for each client.** Forms and instructions will be available from the House Legislative Resource Center and the Senate Office of Public Records.

MAIN DEFINITIONS

A **LOBBYIST** is an individual who is employed or retained for compensation to make more than one **lobbying contact**, and whose **lobbying activities** constitute at least 20 percent of his or her services performed for that **client** during a six month period.

A **LOBBYING FIRM** means a person or entity that has one or more employees who are **lobbyists** on behalf of a **client**, other than that person or entity, and also includes a self-employed individual.

A **CLIENT** is any person or entity that employs another person for financial or other compensation to conduct **lobbying activities** on behalf of that person or entity. A person or entity whose employees act as **lobbyists** on its own behalf is both the **client** and employer of such individuals. In the case of a coalition or association that employs or retains other persons to conduct **lobbying activities**, the client is the coalition or association, not its individual members. Under the Act, there is no requirement that coalitions or associations disclose contributions or dues from the individual membership of such groups.

A **LOBBYING CONTACT** means any oral or written communication (including an electronic communication) to a **covered executive branch official or a covered legislative branch official** that is made on behalf of a **client** with regard to:

(i) the formulation, modification, or adoption of Federal legislation (including legislative proposals);

(ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government;

(iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); or

(iv) the nomination or confirmation of a person for a position subject to confirmation by the Senate.

The law provides for 19 specific exceptions from the definition of **lobbying contacts** (e.g. for contacts that are not considered lobbying, are routine in nature, are inherently confidential, are subject to formal procedural safeguards, or are the subject of a separate public record).

LOBBYING ACTIVITIES are **lobbying contacts** and efforts in support of **lobbying contacts,** including preparation and planning activities, research and other background work that is intended at the time it is performed for use in contacts and coordination with the **lobbying activities** of others.

COVERED EXECUTIVE BRANCH OFFICIALS include the President, Vice President, employees of the Executive Office of the President, Level I-V of the Executive Schedule, Members of the Uniformed Services at a pay grade above 0-7, or any officer or employee in a position of a confidential, policy-determining, policy-making, or policy-advocating character.

COVERED LEGISLATIVE BRANCH OFFICIALS include Members of the House of Representatives and Senate, their staffs, elected officers of either House of Congress, committee and leadership staff, joint committee staff, a working group or caucus organized to provide legislative services or other assistance to Members of Congress, and all legislative employees required to file Financial Disclosure Reports under the Ethics in Government Act.

IDENTIFICATION OF CLIENTS

Any lobbyist making an *oral* **lobbying contact** with a **covered legislative branch official** or **covered executive branch official** is required, on request of the official, to state whether his or her **lobbying firm** or organization is registered, to identify the client, and to disclose any foreign interest regulated by the Act. A lobbyist making a *written* **lobbying contact** to a covered official for foreign interests regulated by the Act must disclose that fact in the writing.

EXEMPTIONS

A **LOBBYING FIRM** is exempt from registration with respect to a particular **client** if total income from that **client** for **lobbying activities** does not exceed or is not expected to exceed $5,000 in a six month period.

An **ORGANIZATION** whose employees engage in **lobbying activities** on its own behalf is exempt from registration if total expenses in connection with **lobbying activities** do not exceed or are not expected to exceed $20,000 in a six month period.

PENALTIES

Whoever knowingly fails to—

(1) correct a defective filing within 60 days after notice of such a defect by the Secretary of the Senate or the Clerk of the House, or

(2) fails to comply with any other provision of the Act,

is subject to a civil fine of not more than $50,000.

KELLY D. JOHNSTON
Secretary of the Senate

ROBIN H. CARLE
Clerk of the House of Representatives

HOUSE OF REPRESENTATIVES—*Friday, December 22, 1995*

The House met at 9 a.m. and was called to order by the Speaker pro tempore [Mr. EWING].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
December 22, 1995.

I hereby designate the Honorable THOMAS W. EWING to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

With all the tasks that need to be done and with the noise and clamor of the world about us, we bow our heads in this, our prayer, giving thanks for all the blessings we have received. O gracious God, from whom comes every good gift, we lift our voices in gratitude for those whose lives have made clearer to us the meaning of faith and hope and love. The gift of faith has empowered us to hear Your good word and to trust in Your grace; the gift of hope allows us to see beyond any present trouble and catch the vision of lives made whole and a world at peace; Your gift of love brings us to a fuller understanding of our humanity and makes each day come alive. For all these gifts, O God, we offer this prayer of thanksgiving and praise. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. GUTKNECHT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GUTKNECHT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 5 of rule I, further proceedings on this question are postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from Florida [Mr. DEUTSCH] will lead the membership in the Pledge of Allegiance.

Mr. DEUTSCH led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The Chair will entertain 10 1-minutes on each side.

TAKE A STAND FOR SMALL BUSINESS

(Mrs. MEYERS of Kansas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEYERS of Kansas. Mr. Speaker, in 1992 we heard time and again that candidate Clinton was committed to supporting small businessmen and women in this country. Now, he has the chance to make good on his campaign promise. And his response? He vetoed the small-business tax incentives in the Balanced Budget Act.

President Clinton says he supports jobs creation and economic expansion. But he continues to oppose small-business incentives in the current budget negotiations and continues to call them tax breaks for millionaires.

The goal behind these small-business tax incentives is twofold: enable small business men and women to keep more of their income and give them an incentive to reinvest the extra funds in small business. In turn, small firms will create new jobs, contribute to the economy, and provide additional tax revenues. And the cycle continues.

If the President wants to take a stand for the country, take a stand for small business.

NOTICE

LOBBYING DISCLOSURE ACT OF 1995

A special joint notice from the Secretary of the Senate and the Clerk of the House concerning implementation of the Lobbying Disclosure Act of 1995 (P.L. 104–65) appears in this issue of the Record following both the proceedings of the Senate and the House. See pages 38469–38470 and 38529–38531.

LET US ACT LIKE ADULTS

(Mr. DEUTSCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEUTSCH. Mr. Speaker, when the Republican freshmen came to Congress, they promised us that they would run Congress like a business.

Well, let us talk about what is going on right now. We have a disagreement, let us say, between the CEO and the board of directors of a publicly traded corporation, and then, as that disagreement is going on, the board of directors says, "Let us fire all of the employees and pay them, yes, fire all the employees and pay them." Think what would happen to the value of that company the next day.

You know something, that is exactly what my Republican colleagues are doing. They have decided to furlough the employees and pay them.

I hope in the next nine 1-minutes someone tries to explain that inexplicable thing. It does not make sense to anyone out there in America. It just absolutely does not. That is what you are doing.

What is going on reminds me of when my 5-year-old acts like my 2-year-old. I mean, adults really can have disagreements, but they really should act like adults, and what I would recommend to everyone out there, the children of America, is to call their parents in Congress and tell them to act like adults over the next couple of days.

BALANCED BUDGET

(Mr. BALLENGER asked and was given permission to address the House

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, this is an e-mail I received: I am a Federal Government worker who will probably be furloughed Monday. I think this is a small price to pay if your really do balance the budget. As far as I am concerned the budget should be balanced this year rather than in 7 years. Do not cave in to Clinton and the Democrats. Just remember, the last time we were furloughed in November nobody noticed except Federal employees, the press and Democratic politicians. Most Federal workers are Democrats. The longer the Government is closed, the more pressure will be brought by furloughed workers and their unions on the Democrats in Congress, their representatives, to end the stalemate and override Clinton's veto. If you show backbone and refuse to cave, Clinton and the Democrats will give you everything you want. If you show fear—of polls and otherwise—and cave in to their demands, you will lose the respect of the people who elected you. Hold firm for the good of the country.

NO TAX BREAKS UNTIL BUDGET IS BALANCED

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, to my last friend who just spoke, e-mail reply, e-mail reply: Here is what the balanced budget does, here is what the majority party is not telling you as they try to balance the budget in 7 years. They do not tell you that for the first 3 years the deficit actually goes up by $53 billion; it goes up by $53 billion for the first 3 years because they are giving a $253 billion tax break to the wealthiest 1 percent of this country, and corporations would no longer have to pay tax with the repeal of the alternative minimum corporate tax.

Tax breaks up front, higher deficits for the first 3 years; that should be the e-mail reply to that Government worker who is facing a shutdown because there is no balanced budget. There is not even a budget for 1996.

So, to achieve their balanced budget, what do the Republican Party propose besides higher deficits and tax breaks? $270 billion in cuts in Medicare, $182 billion cuts in Medicaid, huge cuts in student loans, and that is what they call a balanced budget.

Democrats say no tax breaks until the budget is balanced.

MERRY CHRISTMAS TO ALL AND TO ALL A BALANCED BUDGET

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, I can not think of a better Christmas gift that we could give our country this year than a balanced budget. You see, a balanced budget means that our children and grandchildren will have a future filled with the American dream instead of the American debt. What better present could we give to the American people than a stronger economy, more jobs, lower interest rates on home mortgages, car loans, and student loans.

Mr. Speaker, all this could happen if the President will cut out the gimmicks and excuses and get serious about signing a balanced budget. It is time for the administration to stop the politics as usual.

Our country depends on it. The people deserve it. Merry Christmas to all and to all a balanced budget.

THERE IS A DOUBLE STANDARD IN AMERICA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, to smooth over the Randy Weaver case, the FBI will now take courses on behavioral sciences.

The record now is clear, the FBI shot and killed Randy Weaver's son; the FBI then shot and killed Randy Weaver's pregnant wife. And after all that, they have now been cited for illegal acts, but they will not be prosecuted.

Unbelievable, Mr. Speaker, illegal acts. On the streets of America those kinds of illegal acts are known as murder.

Mr. Speaker, the FBI does not need teachers and the FBI does not need to go to school. The FBI should be hauling and trucking their assets to a grand jury, and they should be meeting some prosecutors. There is a double standard here in America, and I think the Randy Weaver case is one that Congress should not let slip by.

PUT GOD AND COUNTRY FIRST

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, in the face of this impasse and in the spirit of the season, I believe we should forget this Democrat versus Republican stuff, legislators versus Executive Branch, liberals versus conservatives, and unite under the common bond of being Americans.

We are reminded of a similar impasse in our history at the constitutional convention when the sage elder statesman, Ben Franklin, stood with these words: "In the beginning of our war with Britain, we prayed daily for guidance. Our prayers were heard and answered. Have we now forgotten this powerful ally? The longer I live, this I know to be true, God governs the affairs of men, for if a sparrow cannot fall without His notice, is it probable that a nation can rise without His aid?"

The psalmist tells us in chapter 118, verse 8, "Put your trust in God, not confidence in men." We have these same words above the Speaker's chair and right over the American flag. I believe that we, as a Congress, should come together as Democrats and Republicans and leaders to do what is best for the American country, put God and country first, not partisan politics.

THE REPUBLICAN BUDGET SHUTDOWN

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, there are 10 reasons why the Republican shutdown is a bad tactic.

First, a bad Republican reconciliation bill does not get better with the shutdown of government and intimidation.

Second, Republicans cannot say budget numbers count but people numbers do not count.

Third, 250,000 Federal workers that are not working and 500,000 that are working want to be paid, and they want to work and they are going to tell the world about it.

Fourth, a bad Republican reconciliation bill which fails on its merits does not benefit from yet more attention.

Fifth, the Congress speaks with 535 mixed voices, hardly a Christmas hymn, the administration but one.

Sixth, repeating the balanced budget mantra does not cause the public to go into a trance. They are awake and aware—

Seventh, Republicans trying to undo the shutdown they caused on a piecemeal basis to get out the checks on a reasonable basis is seen as and is political posturing.

Eighth, paying government workers for not working when they want to work is a syllogism that has a faulty premise. You fail the logic test.

Ninth, when the Republicans are 3 months late doing their job, it is best not to call attention to it.

Finally, with a Speaker with a name like GINGRICH, it sounds too much like "Grinch," not a warm, fuzzy image of Boys' Town but rather the Medicare withering on the vine image persists.

I think we have to understand the congressional responsibility and realize we ought to get on with our work and pass a CR and a reasonable budget on their merits—not on shutting down the Federal Government.

LET US GET PAST THE BLAME GAME

(Mr. SCHIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHIFF. Mr. Speaker, in response to the last speaker, I would like to say two things: First, the government is in a partial shutdown as much because the President of the United States vetoed three appropriations bills as because Congress has not passed three other legislative appropriations bills. If the President had signed the three appropriation bills he was given by the Congress the national monuments that I see on the news every night would, in fact, be open today.

I think it is time to get past the blame game. That brings me to my other point. The last speaker criticized the Republican Budget Reconciliation Act, the Republican 7-year balanced budget plan.

I do not agree with all provisions of that act. But where is the alternative? The President of the United States could make a good-faith effort by putting forth his proposed 7-year balanced budget, evaluated by the Congressional Budget Office, as we agreed in the past 1 month, to show where his priorities are. This way, we have two budgets to compare with each other.

In conclusion, I want to say if the President puts forth such a budget, I will support a continuing resolution for negotiating time.

□ 0915

SHUTTING GOVERNMENT DOWN IRRESPONSIBLE

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, if this afternoon our Republican colleagues were to pile up next to the Capitol dome 1 billion $1 bills and set them afire, they would have accomplished the same thing they have with two stunts closing down the Government: The "cry baby" stunt that closed it down in November and now another one that costs us $40 million of taxpayer money a day for absolutely nothing, nothing more than burning those 1 billion $1 bills.

But if you came to Washington hoping to see our national cemetery, hoping as a group from the Lockerbie victims yesterday to lay some flowers in Arlington Cemetery next to the victims, you would find it slammed shut, exactly like our veterans are going to find their checks slammed shut and not present when January comes around, like millions of children across this country will not find the money there to buy the food they need, because of the irresponsible act of shutting this Government down and making the taxpayers pay for this foolishness.

Mr. Speaker, it is outrageous for these people to sneak away this afternoon instead of standing here and doing their job for the American people.

SMALL BUSINESS NOT A SPECIAL INTEREST

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, how many times have we heard President Clinton claim that he is for small business? Yet he vetoed the Balanced Budget Act.

The fact is our balanced budget contained real incentives to help small businesses and to promote economic growth. It increased the health insurance deduction for the self-employed to promote private health-care coverage. It provided estate tax relief to ensure that family-owned businesses will not be forced out of business simply because they cannot pay their estate taxes. It allowed small businesses to expense a greater amount of equipment purchases, thus making additional capital available for business expansion. It cut the capital gains tax rate to allow small businesses to keep more of what they earn to expand and create new jobs.

Mr. Speaker, small businesses employ over half of the entire work force and create the vast majority of new jobs. Relieving the tax burden on America's small businesses and encouraging economic growth is not a giveaway for the wealthy and the special interests. If President Clinton truly supports small business, he would have signed our balanced budget. Small business is not a special interest in America. Small business is America.

MEDIGAP PREMIUMS TO RISE

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, as one of my colleagues on the Democratic side mentioned a few moments ago, it is odd that all this discussion about a balanced budget is occurring when in fact the deficit will begin to go up for the first time in 3 years.

With no Republican votes, we voted back in 1993 to lower the deficit 3 consecutive years. Democrats have taken proactive action, but the Republicans want to play the game. Those of you who ever watched the Popeye cartoons, there was a character called Wimpy who said, "I will gladly pay you Tuesday for a hamburger today." The Republicans say we will gladly balance the budget in 2002 if you give us credit in 1995. They say they are not cutting Medicare. We say they are.

Who is right? the marketplace says we are right, because the insurance companies have set big increases on Medigap premiums, 30 percent, because they will not be covering it. More elderly people will be going into the program, less money will be there, and Medigap insurance rates across this Nation for senior citizens are going up 30 percent. The marketplace knows who is right, and it is not the Republican majority.

OPERATION EAGLE

(Mr. SANFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANFORD. Mr. Speaker, this holiday season, I want to pay special tribute to those in the military who will be far from their family and friends. I also want to pass on a way that we can all thank them.

For the last 12 years, Bill Herrmann of Ladson, SC, has directed Operation: Eagle, which encourages people to send cards and letters to overseas service men and women. Through his efforts, thousands of cards and letters have been delivered to those who might otherwise feel alone and far from home this holiday season. This season, Operation: Eagle is concentrating on serving military personnel in and around Bosnia.

I encourage everyone to send cards and letters to this address: ATTN: Any Soldier, Task Force Eagle, APO AE 09135.

This is the least that we can do to thank service men and women for their sacrifices.

NEVER BEFORE SUCH A CRISIS IN THE NATION'S CAPITAL

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, I come before the House this morning with a special plea. In 200 years of the Nation's Capital, there has never been a crisis like this. There has never been a crisis where this capital city has been left without a budget and forced to contemplate closing down.

We have seen countless violations of home rule, all on the basis that it was your constitutional responsibility. Where is your constitutional responsibility to keep the city alive now? We have seen the abandonment of that responsibility for 3 months with no budget.

It is pointless to continue to fight this fight on a voucher principle. You have the votes for vouchers. Bring it to the floor on your own motion. A standoff with the Senate, a body you do not control, on the backs of the District is wrong.

At the very least, Congress must not leave town without granting a CR for the District of Columbia to spend its own money. It has a responsibility to treat the 500,000 human beings I represent as a city, and not as if they were a Federal agency. It is your constitutional responsibility.

DEDICATED TO BALANCING THE FEDERAL BUDGET

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, the American people have probably heard a lot about how awful things are in Washington. They probably hear about the Government being shutdown, and about extremist freshmen holding President Clinton hostage, and on and on.

Mr. Speaker, what we have here is, in fact, a celebration of freedom, of democracy, and of the constitutional framework our Founding Fathers crafted.

Yes, there is a conflict over the budget. Yes, parts of the Government are closed. Yes, there are strong feelings.

All of us here in Congress were freely elected. Some of us feel that the direction Government has taken over the last generation needs to be changed. And we are absolutely dedicated to balancing the Federal budget, not just for accounting purposes, but for moral purposes. Our children should not bear the consequences for our irresponsibility. And that is why I believe that, in the end, Congress and the President will do the right thing and balance the budget.

Merry Christmas America.

SCROOGE STALKS THE HALLS OF CONGRESS

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, in this holiday season, Scrooge stalks the Halls of this Congress. Yesterday we saw images on television of 80 tough freshmen Republicans saying we are going to do everything we can to balance the budget, even if it means shutting the Government down.

Here is what they do not tell you. They are going away. They will be home with their families while the families of the victims of flight 103 were shut out of Arlington Cemetery, while veterans will not get their checks—it was reported in the L.A. Times that one veteran was told he would be kicked out of his house if he did not have his check January 1—and while the poorest children in America do not get their checks at all.

Courage? Courage to tell the poorest children they do not get their checks, while these Members of Congress go off on their vacations, their warm fireplaces with their families?

Bah, humbug.

STRENGTH TO DO WHAT IS RIGHT

(Mrs. SMITH of Washington asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SMITH of Washington. Mr. Speaker, we know today that it is morally wrong to spend more than we have available, and we know it is wrong to tax small business out of their small business; and what they have left, if they survive, is taken away at retirement. It used to be called losing the farm for the taxes.

We know that we have been doing this for many years, and policy makers in both parties have been indulging and shifting the cost to steal the future of America's children, and we know that that is wrong.

Negotiating the final budget is not going to be easy. The priorities are difficult. But the one thing America can do, one citizen at a time, is that they can pray that Congress and the negotiators will have God's wisdom to know what is right, and then have the strength that has not been in other Congresses to do that right.

EXPRESSION OF OUTRAGE

Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, it is day 7 of the Government shutdown, and, once again, the Republicans come to the floor without a continuing resolution to keep the Government going. But yesterday they passed a resolution that allows them to go home next week for a holiday.

We all know that is what is going to happen today. The House is going to recess sometime this afternoon, the Republican majority is going to send everyone home for at least a week, and over the Christmas holiday and through New Year's the Government will continue to be shut down. Veterans will not get their benefits, AFDC children will not get their benefits, we do not know what is going to happen to Medicaid and all the other benefit programs that many people rely on during the holidays and all seasons in order to keep their lives going.

It is not fair what this Republican majority is doing. They are not governing. The Constitution says that the majority party has the responsibility to govern. They should not simply go home for a nice Christmas vacation while the Government is shut down and so many other Americans do not receive the benefits they should be getting from this Government.

I am outraged at what is occurring.

PLACING BLAME

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, do not you love it? It is the Christmas season, and they are sitting here lying today. Oh, it is terrible what the Republicans have done. In just 11 months we ended western democracy as we know it. "Yes, in just 11 months, these terrible Republican majorities have shut down Government. And here they are, calling for a balanced budget, and they are going to go home on Christmas."

For 40 years this pack ran this place, blaming President after President. "Oh, it was Carter's fault. He knew who was on the tennis court but he didn't know anything about finances. But we do, so we kept spending."

"Oh, it was Reagan's fault. He slept through the Cabinet meetings. But we know how to spend, so we kept spending."

So, it was Bush's fault, it was Clinton's fault, it was everybody else's fault.

But it was the fault of this Congress, who had their foot on the accelerator. Here they have the gall to stand up and say the marketplace tells us that Medigap is going up. Yes, that is AARP, the people that oppose our reforming Medicare, and the Medigap insurance is going up 33 percent; not because of anything that is going to be done, but because of what has been done, overutilization.

Yes, we are going to reform this place; yes, we are going to balance the budget. Merry Christmas, America.

PARLIAMENTARY INQUIRY

Mr. WISE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. EWING). The gentleman will state it.

Mr. WISE. Mr. Speaker, in this Christmas spirit, is it appropriate to refer to Members as "lying" on the House floor?

The SPEAKER pro tempore. There should be no reference of that sort in debate to specific Members.

SLOWING GROWTH IS A CUT

(Ms. RIVERS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. RIVERS. Mr. Speaker, throughout the course of this week we have seen a $1 million check come to the floor several times, along with a challenge that if anyone can prove that the

Republicans are actually proposing to cut Medicare, they can win this check. Well, I learned in law school that if you want to define something, you go back to the precedent.

The precedent in 1994 set by that side of the aisle when exactly the same kind of adjustment was proposed for $120 billion less was that slowing growth is a cut. All of the minority Members, all of the Republican members on the Committee on Ways and Means called it a cut, massive cut. Subcommittee chair CLAY SHAW called it "destructive Medicare cuts."

Now, look, folks, you set the standard. You decided that slowing growth was a cut. So one of two things is true: Either the Republicans did not fairly characterize the 1994 debate about slowing growth, or the RNC has to pay up its $1 million. But do not give it to me. Put it on the deficit, OK?

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question of agreeing to the Speaker's approval of the journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LaHOOD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 280, nays 78, not voting 75, as follows:

[Roll No. 880]

YEAS—280

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Camp
Campbell
Canady
Cardin
Castle
Chabot
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Cooley
Cox
Coyne
Crapo
Cremeans
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Eshoo
Ewing
Farr
Fawell
Fields (LA)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (SD)
Johnston
Jones
Kanjorski
Kelly
Kennedy (MA)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Lowey
Lucas
Luther
Martini
Mascara
Matsui
McCarthy
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (MN)
Petri
Portman
Pryce
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Studds
Stump
Stupak
Talent
Tate
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Yates
Young (FL)
Zeliff

NAYS—78

Abercrombie
Barcia
Becerra
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Clay
Clyburn
Coburn
Coleman
Collins (IL)
Costello
Dellums
Durbin
Engel
Ensign
Evans
Everett
Flake
Foglietta
Frank (MA)
Frost
Furse
Gephardt
Gillmor
Gutierrez
Gutknecht
Hastings (FL)
Hefley
Hefner
Heineman
Hilleary
Hilliard
Hinchey
Johnson, E. B.
Kennedy (RI)
Latham
Levin
Lewis (GA)
Longley
Maloney
Markey
Martinez
McNulty
Menendez
Miller (CA)
Obey
Olver
Orton
Pallone
Payne (NJ)
Peterson (FL)
Pickett
Pomeroy
Poshard
Roybal-Allard
Rush
Sabo
Scott
Skaggs
Stockman
Stokes
Tanner
Taylor (MS)
Thompson
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt (NC)
Wise
Wolf
Woolsey
Wynn
Zimmer

NOT VOTING—75

Ackerman
Baker (LA)
Bentsen
Brewster
Bryant (TX)
Callahan
Calvert
Chambliss
Chapman
Chenoweth
Collins (MI)
Conyers
Cramer
Crane
Cubin
DeFazio
Doolittle
Dornan
Edwards
Fattah
Fazio
Fields (TX)
Filner
Ford
Gibbons
Graham
Green
Hall (OH)
Harman
Hayes
Herger
Houghton
Jacobs
Jefferson
Johnson, Sam
Kaptur
Kasich
LaFalce
Lantos
LaTourette
Laughlin
Lincoln
Lipinski
Lofgren
Manton
Manzullo
McCollum
McCrery
Meek
Mfume
Myers
Oberstar
Owens
Parker
Pombo
Porter
Quillen
Quinn
Riggs
Ros-Lehtinen
Rose
Schaefer
Schroeder
Serrano
Smith (TX)
Stark
Tauzin
Torricelli
Towns
Waxman
Weller
Williams
Wilson
Wyden
Young (AK)

☐ 0952

Mr. OLVER changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 299, AMENDING HOUSE RULES TO PLACE LIMITATIONS ON COPYRIGHT ROYALTY INCOME FOR HOUSE MEMBERS, OFFICERS AND EMPLOYEES

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 322, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 322

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the resolution (H. Res. 299) to amend the Rules of the House of Representatives regarding outside earned income. It shall be in order without intervention of any point of order to consider the motion to amend printed in the report of the Committee on Rules accompanying this resolution only if offered by the chairman of the Committee on Rules. The resolution and the motion to amend shall be debatable for thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Rules. The previous question shall be considered as ordered on the motion to amend and on the resolution to its adoption without further intervening motion.

The SPEAKER pro tempore (Mr. BEREUTER). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], my very good friend, pending which I yield myself such time as I may consume. Mr. Speaker, during consideration of the resolution, all time yielded is for debate purposes only.

Mr. Speaker, I would advise Members that they really ought to listen up. This is a question of whether Members are going to be treated as American citizens or as second-class citizens. This rule makes in order House Resolution 299, amending House rules to place limits on royalty income that House Members, officers, and high-level staff may receive in any given year.

Mr. Speaker, the rule provides for consideration in the House, and makes in order without intervening points of order, a motion to amend printed in the report on this rule only if offered by myself. The resolution and substitute will be debated for 30 minutes, to be equally divided between the chairman and ranking minority member of the Committee on Rules.

The previous question will be considered as ordered on the motion to amend and on the resolution to final adoption.

Mr. Speaker, I do not want to take substantial time explaining the history of the resolution this rule makes in order, as brief as that history may be. The resolution was introduced on December 12 by the gentlwoman from Connecticut [Mrs. JOHNSON], chairwoman of the Committee on Standards of Official Conduct, by the direction of her committee as part of her report on the Speaker.

In a letter to me on December 13, the gentlewoman from Connecticut required that the Committee on Rules consider House Resolution 299, her resolution, as soon as possible, and to report it to the floor quickly so that it may be approved by the House before the end of the year, the end of the year being about 1 week from now.

Mr. Speaker, while the Committee on Rules did not have time to conduct proper hearings and proper deliberations on the resolution, and formerly report it as we normally would do with resolutions reported by committees of jurisdiction, it was decided by our committee, as a matter of courtesy to the gentlewoman from Connecticut and to the entire Committee on Standards of Official Conduct, to honor the commitment gentleman made to have a vote this year.

Mr. Speaker, I have made clear my own opposition to this resolution's central thrust, which is to bring royalty income for the first time under the outside earned income cap, which is to bring royalty income for the first time under the outside earned income cap, which is now $20,040. In my opinion, a book is an author's intellectual property and any royalties are returned on that property. If Members think about that for a minute, that is now the Committee on Standards of Official Conduct has treated royalties up to this point.

Mr. Speaker, let me just quote from page 94 of the most recent edition of the "House Ethics Manual."

□ 1000

This is our manual:

House rule XLVII has long exempted book royalties from outside earned income restrictions, royalties being deemed a return on the author's intellectual property, akin to other investment income. That is like your home, that is like your stocks and your bonds, that is your personal property. Intellectual property is no different.

The Johnson resolution before us today would change that definition of royalties by calling them earned income rather than unearned income and thereby force Members to refuse any returns on their intellectual property investment that exceeds $20,000. In my opinion, that is absolutely wrong because royalty income does not present an ethical problem either in terms of posing a conflict of interest or of interfering with the time a Member devotes to his or her official office, and that is really what this is all about. Think about that.

The House ethics manual favorably cites a Senate Ethics Committee report on this point as follows, and I quote, and again you ought to listen carefully to this: "If an individual writes a book and it becomes a best seller, any royalties received are beyond his or her direct control. It is income which is, in effect, a return on a prior investment of time and energy."

Mr. Speaker and Members, the substitute that I intend to offer would retain the current exemptions of royalty income from outside earned income limitations. However, exactly like the Johnson resolution, my substitute would prohibit any advances on any royalty income for contracts entered into on or after January 1, 1996, and that is 1 week from now.

Mr. Speaker and Members of this House, now a strong case can be made that advances on royalties might be perceived as inappropriate or as posing a potential conflict since there is no way to know how much royalty income might be generated by the sale of a book. If a Member, for instance, received a $100,000 advance and the book did not sell, that means the book, the intellectual property, really was not worth anything. So he or she would receive a windfall on something that was worthless, called worthless property. To prevent that from happening, the Solomon substitute bans all advances. I think that is fair because it gets rid of that possible perception.

This is consistent with the rules that exist in the executive branch in all of the departments of Government. At present, the President of the United States, the Vice President, Cabinet members, and Presidential appointees may not receive any advances on royalty at the income, and that is exactly what we are doing. We are conforming to that regulation. Other noncareer executive branch employees may receive advances within the 15-percent cap unearned income.

My substitute would put Members of this House under the identical rule that now applies to the President, the Vice President, the Cabinet members, to Presidential employees; that is, they may receive no advances but they may receive royalties based on the sale of a book at whatever that market price might be.

Moreover, like the Johnson resolution, my substitute would require that any contracts entered into on or after January, 1996, 1 week from today, must receive the prior approval of the Ethics Committee as complying with the current House rule that the contracts be with established publishers; that is important, pursuant to usual and customary terms. That means that Members could not receive some kind of windfall because of the office they have or some kind of clout that they might have.

So, in conclusion, Mr. Speaker, and I think you ought to listen carefully to this because these are your choices on this floor today: Members have these three choices:

The Johnson resolution that restricts royalty income and bans advances. That is what her resolution does.

The Solomon substitute that bans advances but permits royalty income. That is what my resolution does.

Or, if both of these fail, if my substitute goes down and the Johnson resolution does not pass, we go back to the current House rule that permits advances and unlimited royalties.

Those are the three choices of this body, Members.

I am just going to tell you something. You know, we come under a great deal of criticism sometimes. People talk about the perks of this Congress and the large salaries that we have. But I am going to tell you something, you know, when I came to this Congress, I had a business, I had several businesses, and I had to sell them, and I had five teenage children I had to put through college at the time. Because of the situation where I was forced by the ethics rules at that time to sell my businesses, I had to sell them for about half of what they were worth. Today those businesses are worth several millions of dollars, and I received about $300,000, maybe a little less at that time.

That money is all gone because I used it to educate all my five children. But, you know, when we retire, when I retire, you know, they say we have great pensions. I will take that pension and maybe my wife and I, if we live another 5 or 6 or 10 years after that, in other words, we will enjoy whatever those pension benefits were.

But think about this, when I am gone and she is gone, where is the estate for your family? I have given up several million dollars by coming and serving in this body. You might say, "Well, you asked for it, Mr. SOLOMON." That is true. But the truth is, when you talk about intellectual property and I look at the gentlewoman from Texas [Ms. JACKSON-LEE] sitting there, I look at a lot of Members, you have a lot of wisdom, you have a lot of knowledge. That is yours. You have accumulated it over a lifetime. This is not something that we are taking advantage of or making exceptions to. These are reasonable intellectual properties that we have developed over time. It belongs to you, and you ought to be able to use that intellectual property as you see fit.

Mr. CARDIN. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Maryland, a very respected member of the Committee on Standards of Official Conduct, an outstanding Member of this body.

Mr. CARDIN. I appreciate how sincere the gentleman is on the points concerning intellectual property. Is the gentleman aware we are only dealing with book royalties? All other forms of intellectual property returns are currently subject to the outside earned income limits. The only exception today is dealing with book royalties, not with intellectual property generally.

Mr. SOLOMON. That is exactly right. My good friend, when this debate continues, you are going to find concerns. We have a lot of concerns, and I will talk about them a little bit later on.

But, you know, there are such thing as property, not intellectual property but property such as stocks and bonds, investment properties that bring in dividends to Members. You know, maybe if we are going to begin to go down this road, this brings up serious questions. You know, we vote on defense contracts around here, we vote on telecommunications; there are a lot of things that, if we are going down this road, you are going to be making this body second-class citizens. I would predict if this goes down this road today, that you are going to see nothing in this body 10 years from now but millionaires or political hacks, one or the other. And that is not what this country needs. You need all of the intellectual expertise from out of the private sector that you can get, whether it is lawyers or doctors, professors, businessmen. We need to let them know that we are not going to throw these stumbling blocks up to them. They are just like everybody in this body. I would say that 99 percent of every man and woman in this body have the greatest integrity. Sure, there is a bad apple. I come from apple growing areas. You will find one or two in a barrel. But let us not demean this body. Let us keep us as normal American citizens and treat us the same.

COMMITTEE ON RULES—REPUBLICAN BILL SUMMARY

H. RES. 299—HOUSE COPYRIGHT ROYALTY RULE

Purpose: The purpose of H. Res. 299 is to amend House rule XLVII ("Limitations on Outside Employment and Earned Income") to place limits on book royalty income for Members, officers and top-level employees of the House.

Background and Legislative History: On December 12, 1995, Representative Nancy Johnson of Connecticut, chairman of the House Committee on Standards of Official Conduct, introduced H. Res. 299, a resolution to amend House Rules regarding outside earned income. The measure was cosponsored by eight other members of the 10-member, bipartisan Standards Committee. The resolution was referred exclusively to the Rules Committee as a matter of original jurisdiction.

The resolution was introduced pursuant to a vote of the Committee in connection with the report it issued on December 12th on the "Inquiry into Various Complaints Filed Against Representative Newt Gingrich." In its report, the Committee found that Representative Gingrich "did not violate the House Rule governing book contracts or royalty income" and that "the book contract was in technical compliance with the 'usual and customary' standard of House rules regarding royalty income." However, the Committee went on to indicate that "the original advance greatly exceeded the financial bounds of any book contract contemplated at the time the current rules were drafted," and that it "strongly questions the appropriateness of what some could describe as an attempt by Representative Gingrich to capitalize on his office."

Consequently, the Committee recommended in its report that House Rule 47 ("Limitations on Outside Employment and Earned Income") be changed to subject royalty income derived from books written while one is a Member to the same limits as other sources of outside earned income. A copy of the proposed rule was appended to the report.

The current House Rule XLVII ("Limitations on Outside Employment and Earned Income"), as revised as part of the Ethics Reform Act of 1989 (Public Law 101-194) applies to all Members as well as House officers and employees whose pay is disbursed by the Clerk of the House and exceed the annual rate of basic pay in effect for grade GS-16 of the General Schedule under section 5332 of title 5 of the U.S. Code (currently $81,529), and is employed for more than 90 days in a calendar year. The exception to this definition is the total ban on honoraria which applies to all Members, officers and employees of the House.[1]

Clause 1 of rule XLVII prohibits Members, and officers and employees paid at least $81,529, from receiving outside earned income in excess of 15% of the Executive Level II salary (which is the same as a Member's base pay), or $20,040. Clause 2 prohibits such individuals from receiving any compensation: (1) from affiliation with or employment by any firm, partnership, association, corporation or other entity which provides professional services involving a fiduciary relationship; (2) from practicing a profession that involves a fiduciary relationship; (3) from serving an officer or member of a board of any association, corporation or other entity; or (4) from teaching except by the prior notification and approval of the ethics committee.

Clause 3(e) currently defines outside earned income as "wages, salaries, fees, and other amounts received or to be received as compensation for personal services actually rendered." The current definition goes on to specify certain matters not considered as outside earned income, including: (1) the salary of Members, officers or employees; (2) compensation derived by such individuals for personal services rendered prior to the effective date of the rule (calendar year 1991), or prior to becoming Member, officer, or employee, whichever comes later; (3) amounts paid to a tax-qualified pension, profit-sharing, or stock bonus plan received by such individuals; (4) amounts received by such individuals from services rendered by them in a trade or business in which they or their family holds a controlling interest and in which both personal services and capital are income-producing factors; and (5) "copyright royalties received from established publishers pursuant to usual and customary contractual terms."

Thus, under current House Rules, copyright royalties are considered to be unearned rather than earned income. As the most recently published version of the House Ethics Manual puts it:

> House Rule 47 has long exempted book royalties from outside earned income restrictions, royalties being deemed a return on the author's intellectual property, akin to other unrestricted returns on property.[2]

Provisions of H. Res. 299: H. Res. 299 would amend clause 3 of rule XLVII as follows:

Copyright royalties earned while a Member, officer or employee would be counted as earned income subject to the outside earned income cap of 15% of a Member's salary.

Copyright royalties for work published before becoming a Member, officer or employee of the House would be exempt from the cap.

Copyright royalties could not be received unless from an "established publisher pursuant to usual and customary contractual terms" and unless the contract receives the prior approval of the ethics committee.

Advance payments on royalties would be prohibited to Members, officers or employees but could be made to literary agents, research staff, and other persons working on behalf of the Member, officer or employee.

Contracts providing for a deferral of royalties could not be approved by the ethics committee, though exceptions could be made as deemed appropriate.

The provisions of the rule apply to royalties received after December 31, 1995.

SUMMARY OF SOLOMON SUBSTITUTE FOR H. RES. 299, PROPOSED HOUSE ROYALTIES RULE (RULE XLVII)

Section 1 of the substitute would amend House Rule XLVII ("Limitations on Outside Employment and Earned Income") by inserting a new clause 3 (treatment of royalty income), and by redesignating the existing clause 3 (definitions) as clause 4. The new clause 3 would contain the following provisions:

Unlimited royalties could still be received by Members, officers and employees under the existing "usual and customary contractual terms" standard (by virtue of retention of the existing clause 4(e) exemption of royalties from definition of earned income).

Advances on royalties would be prohibited except for payments to literary agents, researchers, or other individuals working on behalf of the Member, officer or employee on the publication (other than to persons employed by the House or relatives of the Member, officer or employee), and solely for the benefit of the literary agent, researcher or other individual. (underscored provisions are *not* contained in H. Res. 299)

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[1] The Committee on Standards of Official Conduct has determined that certain matters are excluded from the honorarium ban such as compensation for activities where speaking, appearing or writing is only an incidental part of the work for which payment is made: witness or juror fees: fees to qualified individuals for conducting worship services or religious ceremonies: payments for works of fiction, poetry, lyrics, or script: or payments for performers who appear on stage. House Ethics Manual, 102d Congress, 2d Session, April 1992, pp. 93-94.

[2] Id., p. 94.

Royalties from contracts entered into on or after Jan. 1, 1996, could not be received without the prior approval of the contract by the ethics committee as being in compliance with the requirement of clause 4(e)(5) that royalties are received "from and established publisher pursuant to usual and customary contractual terms."

Provisions would be effective on January 1, 1996 (sec. 2 of substitute).

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague, the gentleman from New York, for yielding me the customary one-half hour.

Mr. Speaker, like a lot of other Members, I am very glad to see this rule come to the floor today. I will, however, seek to defeat the previous question in order to make sure this resolution stays as it is and is not turned into milque-toast mush by a substitute.

On December 12, the Ethics Committee unanimously voted to issue a report saying, and I quote:

> Existing House rule must be changed to clearly restrict the income a Member may derive from writing books.

The Ethics Committee made a very strong statement in their report. I want to take this time to read a section of the Ethics Committee report, and I quote:

> Existing rules permit a member to reap significant and immediate financial benefits appearing to be based primarily on his or her position. At a minimum, this creates the impression of exploiting one's office for personal gain. Such a perception is especially troubling when it pertains to the office of the Speaker of the House, a constitutional office requiring the highest standards of ethical behavior.

There you have it Mr. Speaker, the Speaker's book loophole creates the impression of exploiting one's office for personal gain. I say—the sooner we make this change, the better.

Now I do not believe that serious damage hasn't already been done. According to the Washington Post, Speaker GINGRICH has already made 10 times his House salary on this book deal. I'm told that's a total of about $1.7 million. The Ethics Committee obviously thinks we should do something about that and I believe we should accept their recommendation.

Passing this resolution, without weakening it, will change House Rules to include royalty income within the category of outside earned income which is limited to $20,040 a year.

It's a good idea. It's way overdue. And it'll go a long way toward restoring the integrity of this House.

I would remind my colleagues who have been working to put this decision off that the Ethcs Committee unanimously voted to have this begin January 1, every day we wait is another day a Member can earn money that they shouldn't be earning.

I urge my colleagues to defeat the previous question. This House should vote on the Ethics Committee's resolution, plain and simple. We shouldn't be making changes designed to enable Members to earn more money than they should be earning. It is wrong now. It was wrong when it started. And it will be wrong in March when the next check is due.

Mr. Speaker, I yield 10 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], the chairperson of the Committee on Standards of Official Conduct, a Member who has been under a lot of pressure and managed to get all 10 Members of the Committee on Standards of Official Conduct together to agree to the legislation that we are now dealing with.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, as Chair of the Committee on Standards of Official Conduct I rise in strong support of the committee's proposal to bring book royalties within the restrictions that now apply to outside earned income.

Rule 47 of the Rules of the House of Representatives currently restricts the outside income of Members and senior staffers to $20,040 per year. However, the rule's definition of "outside earned income" excludes "copyright royalties received from established publishers pursuant to usual and customary contract terms." The Committee on Standards—as has the Senate Ethics Committee—interpreted this exclusion to also cover advances on royalties.

Therefore, current rules permit a Member or senior staffer to earn an unlimited amount of money from book royalties and advances, while subjecting income earned from other outside work to a $20,040 cap. Nor is there any current requirement that book contracts be submitted to the Committee on Standards for approval.

The proposal you will vote on today will end this anomaly. Advances on royalties would be prohibited; copyright royalties would be included in the definition of "outside earned income," thus subjecting them to the $20,040 cap; the new cap would apply only to books sold after December 31, 1995, and then only if the book was published after the author began House service; all book contracts providing for payment to the author must be submitted to the Committee on Standards for approval before any payment may be accepted; and no contract will be approved which provides for deferral of royalty income beyond the year in which earned.

Let me make clear that there will be no restriction on income from any book published before a Member entered the House; there will be no restriction on any advance paid or royalty earned prior to December 31; and any books sold in 1996 or thereafter cannot generate royalty payments to a Member or senior staffer that exceed $20,040, the outside earned income cap.

As you all know, this proposal did not arise in a vacuum; nor is it directed at a particular book or at the finances of a particular Member. Rather, this proposal stems from our review of a number of contracts and is the result of many hours of hearings and deliberations.

We heard from many major publishing houses and through the course of these discussions we became much more familiar with the industry, their practices, their usual royalties, and their negotiation process. Our proposal evolved as we received input from these experts and it is the Ethics Committee's considered judgment as to what is necessary and appropriate to ensure public confidence in our work.

□ 1015

This proposal to limit income royalty is not novel. Since the Ethics Reform Act of 1989, there has been a cap on all outside earned income except book royalties, and there has been a complete prohibition on receiving compensation for practicing law or other professions involving a fiduciary relationship, as well as on being paid for serving on a board or as an officer of any organization.

Thus, our colleagues who, while Members, work as teachers, dentists, doctors, painters, pilots, taxidermists, clergy, actors, artists, salespersons, or morticians, are all now subject to the same earned income cap that we now propose to place on those of us who write books, while Members of Congress.

What we propose today simply subjects writing for pay to the same restrictions that have governed other activities for years, restrictions that this body imposed in the past so that it would be clear that Members are receiving outside compensation not because of their position, but because of their talents.

I know that some will argue, not unreasonably, that it is unfair to change the rules in mid-stream. In reply, I would note that the Ethics Committee debated this issue fully and concluded that the ethical interests of the House must prevail over the financial interests of a few Members.

I would also point out that, however unfortunate, Members have always had to incur financial setbacks when rules were changed. When the current restrictions were imposed in 1989, the financial interests of many Members were directly affected. Many Members who were lawyers had to forfeit payments altogether; those who served on boards or were officers in organizations could no longer be compensated; and all income—except that of authors—became subject to the cap.

It also will be argued—that the new book rule will unnecessarily restrict the free flow of ideas from Members that wish to contribute to the public debate. But for this very reason—to insure that useful books are still written and published by Members—the proposed rule expressly permits the publisher to compensate those to whom the proceeds of advances are usually directed: the lawyers, agents, fact-checkers, and writers without whom a book could not be published.

If a Member wants to communicate ideas through a book, and can convince a publisher that someone will buy the book, the publisher can pay those upfront expenses usually paid from the author's advance, the book will be published, and the Member/author can earn $20,040 per year in royalties. Thus, this new rule should not interfere with the free flow of ideas.

Finally, I would like to state as clearly as I can why I have worked hard to bring this proposal directly to the floor of the House, although it is technically within the legislative jurisdiction of the Committee on Rules. I respect my good friend, the distinguished Chairman of the Committee on Rules, and his legitimate substantive and jurisdictional concerns. I also appreciate that the Ethics Committee recommendations usually go to the floor as privileged resolutions pertaining to specific matters of a Member's conduct.

For the Ethics Committee to recommend a change that must go through another legislative committee is unusual; yet our right of direct access to the floor is no less important when we recommend a rule change than when we recommend an action with regard to a Member. We are a bipartisan committee composed of five Republicans and five Democrats. Thus it is fundamental to our independence and the integrity of our process that our recommendations come to the House floor as we write them.

I urge the adoption of House Resolution 299.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE]. From time to time we have had differences of opinions on some issues, the gentleman is an outstanding Member of this body.

Mr. ABERCROMBIE. Mr. Speaker, I thank the gentleman for yielding time.

Mr. Speaker, friends, I am holding here the House rules and manual of the 104th Congress. Amendment No. 1 of the Constitution of the United States, which is incorporated into our rules, says,

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

You cannot come into the House of Representatives and decide you are bigger than the Constitution of the United States. Now, we all know the origin of this particular issue. I am not taking issue in turn with the motivations of the Committee on Standards of Official Conduct. As a matter of fact, we all know that serving on the Committee on Standards of Official Conduct is about as thankless a task as you can have in the House of Representatives.

I think the Committee on Standards of Official Conduct has taken a pounding over the last several months and tried to come up with a good faith interpretation of what needs to be done, but that does not lessen our obligation to do the right thing by our own rulings and by the Constitution of the United States.

Further, I will say that I think this is here today principally because of arguments that people have had with the Speaker of the House over the arrangements that were made with respect to a book contract that he signed or did not sign or wanted to sign, or whatever it was. That has been argued at length.

I do not think you should make law or rules based on those instances which you think are egregious when it infringes and impedes those elements and principles that you know to be fundamentally right. Why should everybody else be judged by the standard of that person or that instance or that action which you think or you have decided or you have even decreed by virtue of law as being illegal or immoral, or whatever kind ever connotation you want to put on it?

Mr. Speaker, I do not stand here tonight just speaking abstractly, as my good friend the ranking member on the Committee on Standards of Official Conduct knows. I do not want to stand here without saying I have discussed this with members of the Committee on Standards of Official Conduct, the ranking member, because I am the coauthor of a book. I put this book together with a coauthor who forswore his own advance because I did not want to do anything here that I had not already completed and then tried in the marketplace of ideas to see whether anybody wanted to pay any attention to it. So my coauthor went without. I was already making a living. I did not need it.

That is why I think the Solomon amendment makes sense. If we are not willing to do this, I will tell you what I think is actually happening: Put all unearned income in. Why are you picking on the intellectual property or the ability to move an idea forward? Somebody who is a filmmaker, they could not come in here and be able to get the benefit of that. You put your stocks, your bonds, your investment property, everything else that is considered unearned income in here, then I will be willing to pay some attention, at least to the arguments being made.

The bottom line is this, Mr. Speaker: You cannot go against the House rules and manual, which incorporate the Constitution of the United States which says you cannot abridge free speech.

Mr. MOAKLEY. Mr. Speaker, I yield 6½ minutes to the gentleman from Washington [Mr. MCDERMOTT], the ranking minority member on the Committee on Standards of Official Conduct.

Mr. MCDERMOTT. Mr. Speaker, I rise today to support the distinguished chairwoman of the Committee on Standards of Official Conduct, the resolution she has introduced, and the committee which she has very ably led.

That we are here today is a tribute to her leadership and to her steadfast commitment to the ethics process that this body has so carefully crafted to deal with the sensitive and troubling issues posed by allegations of Member conduct.

We meet today, however, not as the last Speaker suggested to deal with one Member, but to consider a rule that if enacted will reflect well on the conduct of all Members. The proposed rule change, to eliminate the copyright royalty exception to the earned income cap, was in fact developed in the context of the Committee on Standards of Official Conduct's review of allegations against a Member, and bringing it to the floor today was a central element in the committee's unanimous vote of December 6.

But, regardless of the outcome of the other matter, this is a good proposal. It should be considered on its own merits, free from partisan bickering.

The resolution of the Committee on Standards of Official Conduct that we bring here today is a well thought out effort to bring some sense to the earned income restrictions by eliminating a major loophole. Its basic thrust is to ensure that those who offer money to a Member to write a book do so because of the content of the book, not the position of the Member.

Similarly, in the past the House has placed restrictions on Members' professional activities so as to ensure that lawyers and teachers among us were not hired solely because they were Members. In the one case we eliminated altogether the possibility of income. That is lawyers. In the other, as we pose today, we placed a cap on it.

We did this not because of polls that said it is what we should do; we did it because we think it is right. And if it was right to prohibit compensation to our colleagues who are lawyers and to restrict the outside earnings of all others, it is right to place a cap on royalty income.

As the committee noted bluntly, but correctly, in its unanimous report of December 6, it is not appropriate to capitalize on one's office. This is not a body of 435 free enterprise zones. To prevent such conduct, the Committee on Standards of Official Conduct has produced a straightforward measure that prohibits advances to the author, requires all book contracts to be approved by the Committee on Standards of Official Conduct, and subjects royalty income to the same earned income cap that applies to all other activities.

This new cap would apply to royalties pertaining to books sold after December 31, 1995, and then only if the book was published when the Member was in the Congress. No advances paid on royalties prior to December 31 would be affected. These provisions, in my opinion, reflect the realistic accommodation of several competing interests. Members are permitted to earn a not insubstantial amount of money, the temptation of multimillion-dollar advances is eliminated, and the public will continue to have the opportunity to read what Members want to write.

Now, as to the process, traditionally recommendations of a nonpartisan Committee on Standards of Official Conduct are considered on the floor by way of a privileged resolution without going through the partisan Committee on Rules. Just as traditionally, the Committee on Standards of Official Conduct usually does not suggest substantive measures that are within the jurisdiction of other committees.

But after careful deliberation and in compelling circumstances, we did so in this case. And to protect the interests of the committee and the nonpartisan processes, it is vitally important that we be permitted to present our measure to you today as it was written.

This is not an attempt to usurp the powers of any other committee or to force the leadership to choose between chairmen. It is, and was, a sincere effort by the committee, made up of 10 Members, 5 Republicans and 5 Democrats, to bring to the floor a measure that we thought demanded immediate consideration.

Some may say this rule change has had no public hearings. We spent countless hours talking to publishing industry executives, book agents, and others in the field, and then we drew the rule. We have done it by a trial of fire, and we settled on this as the best way to do it.

In closing, I would like to commend the chairwoman for her leadership, and I commend my colleagues on the committee for their thoughtfulness and hard work, and particularly, the gentleman from Ohio [Mr. SAWYER] and the gentleman from Ohio [Mr. HOBSON] deserve praise for the time they spent on crafting this resolution.

You often hear in this House the lament that none of us asked to serve on this committee. It is true. While I do not suggest, however, that you support our recommendation because of the pain we have endured or will endure, I do believe it is relevant that those closest to the issue have produced a bipartisan solution to a problem of much importance to this House.

This is a vote in support of a bipartisan decision on the Committee on Standards of Official Conduct. In the past the House has only strengthened what has come out of the committee. It has never weakened it. With all due respect to the gentleman from New York, his amendment weakens the proposal proposed by the Committee on Standards of Official Conduct. Therefore, I ask Members to support the proposal of the committee and reject the Solomon amendment.

☐ 1030

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the gentleman from Albuquerque, NM [Mr. SCHIFF], a very outstanding Member of this body and member of the Committee on Standards of Official Conduct.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to begin with a very serious and sincere expression of gratitude to the gentleman from New York, Chairman SOLOMON, and the Committee on Rules for bringing this matter to the House floor in such a short period of time. As he indicated, it was only a few days ago that the Committee on Standards of Official Conduct, which I am a member of, proposed this rule change, and asked to get it to the House floor by January 1, that is, before January 1, 1996.

Chairman SOLOMON, although his plate was more than full with other legislative matters, although he had some specific individual concerns about the proposal, which he has certainly indicated, has such a high regard for the Committee on Standards of Official Conduct, and understands its importance to the House of Representatives, that he literally turned the Committee on Rules into a legislative pretzel to get us out here this morning and he has my deep appreciation.

Second, I want to express my same appreciation to our chairwoman, the gentlewoman from Connecticut, NANCY JOHNSON. Even though Members agree and disagree individually, it is still not easy to get a majority vote on a situation where the committee is divided equally between Republican and Democratic Members. The Committee on Standards of Official Conduct is the only committee in the House of Representatives where we are equal as Republicans and Democrats.

And Chairwoman JOHNSON has got a proposal, it is here on the floor, and it is here for Members to consider. And the gentlewoman from Connecticut [Mrs. JOHNSON] said that she guaranteed that she would get it to the House floor. Even though our chairwoman is not the chairman of the Committee on Rules, she guaranteed it would be on the House floor for Members to work their will on how to address this issue and that has been done. And I complement Chairwoman JOHNSON, too.

That brings me to the rule itself. This proposed rule change was a result of a compromise, a lot of discussion and a lot of different views being rolled into one proposal. As a member of the Committee on Standards of Official Conduct who participated in putting together this proposed rule change, I intend to vote for it when we get to that vote. However, I want to acknowledge that in my judgment, speaking now individually, other members of the committee may have different views, but, in my judgment, the Solomon substitute, which we will have a chance to also vote on the House floor today, and it was always the understanding that amendments might be offered once we got to the House floor, I believe the Solomon substitute is another way that addresses the problem that originally brought this whole matter to the attention of the Committee on Standards of Official Conduct.

I say that for this reason. The exception that we have allowed for book royalties allowed an exception for everything that was usual and customary in the publishing trade. And what we learned is that in the publishing trade prominent people are often offered large cash advances to write books. That has been true regardless of why the person is prominent. They could be a military veteran. They could be a former prosecutor in a well-known case in the State of California. It does not matter. The fact is that prominent people are offered by publishing houses large advances.

Now, it was the Committee on Standards of Official Conduct's feeling that when someone is prominent as a Member of Congress in particular, a Member of the House of Representatives, one cannot help wondering that no matter how prominent the individual is, no matter how strong his intellectual credentials might be or her intellectual credentials might be, Republican or Democrat, it inherently raises a question when a large advance is offered. Did they really like this book or are they trying to get in close with somebody who votes on issues? That was the basis of the Committee on Standards of Official Conduct moving forward.

Now, the Committee on Standards of Official Conduct offers a solution that I will vote for. It eliminates all advances and it subjects royalties. That is book-by-book sales to the $20,000 proximate limit on all earned income outside of the House of Representatives.

The gentleman from New York, Chairman SOLOMON, proposes a substitute that eliminates the advances, eliminates the major issue that brought this issue up in the first place and allows the continuation of book-by-book sales. I will support the Committee on Standards of Official Conduct, but I think both address the problem.

Mr. MOAKLEY. Mr. Speaker, I yield 3½ minutes to the gentleman from Wisconsin [Mr. OBEY], a person who has some legislative history on this entire matter.

Mr. OBEY. Mr. Speaker, I support the committee resolution and oppose the Solomon resolution, and I want to tell Members why.

The House has an exemption in the rules which limits outside income for Members. It has an exemption for book royalties, because I agreed to put it there back in 1977. At that time I chaired a commission that rewrote the House Code of Ethics under which 18 Members had been disciplined, a code which was upgraded 3 years ago.

At that time, we voted to impose limits on outside income after a Presidential commission, chaired by Pete Peterson, who today heads the Concord Coalition, recommended a congressional pay raise, but they said it should go into effect only after Members had passed limitations on outside income to assure that Members could not trade on their positions for undue personal gain.

I had one Member of the House come up to me and he said, "DAVE, I do not understand what you are doing with law practice." He said, "I do not spend any time at my law practice. It is just that as I rise in seniority, the lobbies toss more business our way and I get a piece of the action." I said, "I know. That is why we are doing what we are doing, because we do not think that is right."

I made an exception in the recommendation to the House on book royalties because at that time we had people like John Anderson, Mo Udall, Dick Bolling, who had written books. They were largely regarded as academic exercises. We never dreamed that any of them would be used to in any way significantly enrich a Member's lifestyle.

Today, I think we have a different situation. To me, any individual Member can today exploit that loophole to unduly enrich himself because there is a conflict of interest. The amount of money that you make is going to be determined by the aggressiveness with which the publisher promotes the book. And if that publisher, his firm, has an interest before the Congress of the United States, that is a very troubling potentiality which I think events have shown we have to eliminate.

I want to say one other thing. The gentleman from New York [Mr. SOLOMON] said that if we do not pass his amendment that Members of Congress will be "second-class citizens." No person who has ever been elected by his fellow citizens to represent them in the halls of the Congress of the United States can ever be regarded in any way as a second-class citizen. The honor that is extended to us by that act far exceeds any monetary value that can accrue to anyone by virtue of any financial gain.

Members of Congress ought to be willing to give up something for the greater good. In this instance, it is necessary for us, in my view, to stick with the committee. It is not a pleasant experience to serve on that Committee on Standards of Official Conduct. It is the toughest job in this House, whether you are a Republican or a Democrat you are asked to make excruciating judgments every day. That committee deserves to be backed up by the judgment of this House.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON], a very distinguished veteran Member of this body.

Mr. BURTON of Indiana. Mr. Speaker, let me just say that I think we should give up something to serve in this House, and I think most people do give up something, but we should not give up everything. We should not give up everything.

A lot of people have outside investments, and I guarantee my colleagues that this is going to lead to the point where if we have outside investments, property and so forth, and we sell it, we will not be able to get over $20,000 a year out of our investments. And a lot of people have made those investments counting on them for additional income because of the kids in college and other expenses they have to deal with. But we are going to lead to that. That is where we are going.

In the past years, I have served with thousands and thousands of legislators in the State House and in the Federal Government, and very few were corrupt. I would say much less than one-half of 1 percent. And yet we engage in self-flagellation around here on a routine basis. We might as well have a cat-o'-nine-tails with little pieces of metal in it and just beat each other to death in front of the public. Maybe that will satisfy this insatiable desire for perfection. We are not going to be perfect. We are human beings. But we have a much lower rate of crookedness than the average population, and if Members do not believe it, just look at the statistics. Mr. Speaker, the thing that bothers me is we just continue down that road.

My staff, who make very little salary, cannot even take an apple from somebody now. They cannot have a sandwich with somebody. They are making $20,000 a year, and they used to look forward to a lunch with somebody, and they cannot do it anymore because of the gift ban that we passed. We are just going way too far. Way too far.

Mr. Speaker, I think that what we ought to be doing is we ought to be thinking about watching ourselves. If we do something corrupt, it is going to be brought out. I do not understand the mentality that says that we have to continue to limit ourselves, to squeeze ourselves time and again.

And every single outside group, like Common Cause or Ralph Nader, they raise their eyebrows a little bit and we all start genuflecting. We all start getting more and more concerned. It makes no sense to me. Why are we doing this?

If a person writes a book, I think the Solomon amendment addresses it very well. No big bonus at the front end, but if it is a royalty they get, they earn, they should be able to get that. What is corrupt about that? Intellectual property rights ought to be protected by this body. We should not be taking away first amendment rights. The gentleman from Hawaii is absolutely correct, that is what we are doing. I just simply do not understand it.

If a person is going to be corrupt, they are going to be corrupt. They are going to take money like they did in ABSCAM. They will take it under the table, behind the back, over a transom, in a hotel room. So they are going to be corrupt, and they should be brought to justice. But we should not all be beating each other to death continually before the public like we do. It makes absolutely no sense.

And let me just say this, Mr. Speaker. I really and truly believe we are going to drive people out of this chamber who have a lot to contribute because we are squeezing everybody so tightly.

Mr. MOAKLEY. Mr. Speaker, would you kindly inform me how much time is left on each side.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] has 10½ minutes, the gentleman from New York [Mr. SOLOMON] has 8½ minutes remaining.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I, too, want to commend the gentleman from New York, Mr. SOLOMON, and the gentleman from Massachusetts, Mr. MOAKLEY, for making this debate possible this morning; and add my voice to those commending our chairperson of the Committee on Standards of Official Conduct, the gentlewoman from Connecticut, Congresswoman NANCY JOHNSON, and our ranking member, the gentleman from Washington State, Mr. MCDERMOTT, for their leadership. And, as I say, especially our chairperson, for forging a consensus on this very difficult issue, and reminding Members of our evenly divided bipartisan committee.

I want to remind my colleagues of a couple of things. Once again, the committee is bipartisan, evenly divided, five Democrats and five Republicans. And the report of which this rule was a part, the report and the better, came out of the committee unanimously, ten to nothing.

I also want to remind my colleagues that should this body reject the recommendation of the Committee on Standards of Official Conduct, it would be the first time that the House of Representatives would have done that.

Mr. Speaker, it seems ironic to me that we are gathered here this morning, while the Government is shut down, while we are having debates about how we are going to get checks out to poor people, that we are standing here talking about why Members of Congress should make more money on the outside, earned income, after they have been elected to come to Washington, DC, to do a job.

I think that the particular rule we are addressing, frankly, does not speak necessarily to the integrity of any individual Member, but to the picture of what the American people expect of us; and, also, how the publishing industry works, which I think was enlightening to us, those of us on the Committee on Standards of Official Conduct.

□ 1045

So, I would say to our colleagues, I could be wrong. I could be wrong. But I think the American people, and I think the people involved in grassroots politics and issues who fight so passionately for their point of view, and those who elect us to this Congress, expect us to come here and not, as the gentleman from Washington [Mr. McDERMOTT] said, be 435 free enterprise profit-making zones, but to do the work of the people.

Mr. Speaker, I urge our colleagues to support the Committee on Standards of Official Conduct and reject the Solomon resolution.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, I know we meant to spend a good deal of time on matters related to the integrity of this institution during this Congress. I simply want to say I think this vote today is as important as any we have cast on gift rules or on bringing this institution under laws that govern all Americans. This is a vote that I think goes to the question of the integrity of the process of enforcing the rules here in the House on our peers.

Mr. Speaker, having served on the Committee on Standards of Official Conduct for 8 years during some very difficult times, I have nothing but the greatest admiration for those who serve during this very difficult time. I can tell my colleagues that it is important to the integrity of this institution that this committee be perpetuated in its unique bipartisan status and that its recommendations be upheld when they are brought to the floor in the manner in which they have come here.

Mr. Speaker, we ought to pay all 12 of these individuals the respect that they are due and we ought to vote for their proposal today. No Member among us, unless they have served there, will ever understand what they do as a sacrifice for this institution. They are often said to be fools to take the job. I think they are among the most respected in the institution, because they get no credit at home, but they keep this body together when they do their job in a way that in the long run is what the American people most need.

Mr. Speaker, I have hopes that we will vote not at all to reject the proposal they have made. I ask people not to support the Solomon substitute.

Mr. Speaker, I also served with a number of my colleagues in 1989 on a committee that did a number of good things for this institution. We banned honoraria. We limited trips. We increased disclosure. We barred professional fees. We set gift limits that have been strengthened by earlier action this year. We ended the practice of taking campaign funds with us on retirement. We also limited outside earned income.

Today we complete what I have to say was an imperfect job. We ought to pass this rule proposed by the committee to bring us into closer conformity with the executive branch, and do what must be done to concentrate our efforts on the job here in Washington.

Mr. Speaker, I rise in support of the resolution brought forward by the chair and members of the Standards of Official Conduct Committee.

As a past member of the Standards Committee during some of the most difficult deliberations undertaken by the committee, I can empathize with the dilemmas presented to the committee this year.

They have done a good job under difficult circumstances, and the committee's resolution today reflects their hard work and courage in taking on many difficult questions.

In addition to my service on the so-called Ethics Committee, I was privileged to be chairman of the 1989 bipartisan Commission on Ethics Reform that made significant changes to the rules we live under today.

We banned honoraria.

We capped earned income.

We limited trips.

We ended the practice of taking campaign funds on retirement.

We increased disclosure.

We barred professional fees.

We banned revolving-door lobbying for the first time.

We set gifts limits—which were further strengthened by our action this year.

We did those things, and after hemming and hawing, the Senate came around later.

I think the institution is much better for the changes we made.

I think the American public is better served by ending some of those practices.

In discussing changes, then and now, we need to keep our paramount goal in mind.

It is the same goal we addressed in passing a gift ban this year.

It is the same goal we addressed in passing lobby reform legislation.

The goal: instilling confidence of Americans in their Government.

Over the years, we have done that by making incremental changes in our rules which minimize the inherent conflicts of interest that will always be part of this job.

But how many times during this debate and others will you hear our colleagues say—"we want to go further, we want to take the next step"—we want to eliminate even the appearance of conflict.

It is a worthy goal and one we will always be challenged to respond to as times change.

We talked about radio shows back in 1989.

We came back in 1990 to prohibit Members and Senators from earning money for participation in radio shows. One Senator had made $37,750 for participation in 1990 radio shows.

Mind you, we didn't prohibit participation in regular radio shows.

We merely said that our constituents might look at receiving large fees from radio shows as a method of avoiding the limitations on honoraria and earned income, and we need to do whatever is necessary to avoid that appearance.

We also dealt with books back in 1989.

Books were controversial then, as they are now.

As we all know, former Speaker Jim Wright ran afoul of ethics provisions regarding books, and we clarified the ethics rules at the time to specify that royalties are exempt only if they come from established publishers, under "usual and customary" contract terms.

But we were somewhat less concerned about a flurry of money-making tomes emanating from Members of Congress.

In fact, I was quoted at the time saying, "There aren't many members who write books."

Well, times have changed.

The popularity of C–SPAN has increased.

Talk shows and news programs have proliferated.

The media's penchant for training their sights on controversial figures within our membership has intensified.

The prospect of a Member benefiting personally from becoming a controversial leadership figure has opened new doors we could not fully have anticipated back in 1989.

But the need to avoid the appearance of conflict of interest has remained the same—and that is what we are addressing with this resolution today.

The grounding of this resolution is well known.

Late last year, Speaker GINGRICH made an agreement with a publishing company owned by media magnate Rupert Murdoch for a book advance of $4.5 million.

The Speaker acknowledged the controversial nature of such an advance on December 30 when he renounced the advance and agreed to accept only royalties.

On January 19, the Speaker spoke to several telecommunications company executives, including Murdoch, who were in Washington to lobby Republicans on the House Commerce Committee.

The companies were Tele-Communications Inc. [TCI], the Nation's largest cable television firm, and Jones Intercable Inc., the 11th-largest. At the time, TCI had announced plans to bring National Empowerment Television [NET], a conservative-oriented cable show that features a call-in program with GINGRICH, to its 10.6 million customers. NET already carried GINGRICH's college course, Renewing American Civilization. Jones Intercable had started carrying GINGRICH's course on its Mind Extension University channel, which reaches 26 million households.

Both TCI and Jones Intercable spent hundreds of thousands of dollars last year lobbying Congress and contributing to congressional candidates, as did Murdoch's News Corporation, which owns Harper Collins, GINGRICH's publishing house.

With major telecommunications legislation pending before the House and the Commerce Committee, the appearance of conflict of interest was created by the Speaker's actions.

In the past, we have treated royalties as exempt from outside earnings.

We said royalties amounted to a return on the author's intellectual property, clearly beyond his or her direct control.

But it is clear that advances on royalties pose a separate and more difficult question. It is clearly related to the opinion the committee has had for many years about written articles, where payment is negotiated in advance.

The committee has always treated such advance payments as earned income subject to the earned income limitations.

It is clear from this year's events that the committee has gone the extra step in believing book advances should now fall into this category as well, and that it is difficult if not impossible to separate the issue of advances from the issue of royalties.

A unanimous Ethics Committee has been troubled sufficiently by these events that they are bringing this proposal today.

The Speaker would be largely unaffected by this so it is inaccurate to say he is somehow a target.

His book was published before the December 31 deadline, and presumably most of his royalties have already been obtained.

But the circumstances surrounding the Speaker's book transaction show the difficulties involved with transactions of this kind, and the inherent conflicts of interest that may be created as Congress grapples from year to year with far-reaching legislation.

I would remind my colleagues about the restrictions for those in the executive branch: Cabinet-level officials, and all other officials appointed by the President to a full-time, noncareer position, are barred completely from receiving any outside earned income; other high-level officials in the executive branch in noncareer positions above a GS–15 level, are subject to the 15-percent limitation on outside earned income, but they may not receive compensation for speaking or writing if the subject matter deals primarily with programs and operations of his/her agency; advances on royalties are considered to be earned income subject to the earned income limitations.

So the proposal today is in keeping with the executive branch although House Members, unlike Cabinet officials, will continue to be able to earn outside income.

But perhaps the deeper question raised today is whether we are going to allow the Ethics Committee process to go forward.

As a former member of that committee, I know how hard those judgments are to make, I know how hard it is to work for and gain unanimity in that room.

This House has always respected that unanimity in the past.

That process—that bipartisan process by the only committee in this House with equal numbers of Republicans and Democrats—should be above politics and above passions of the moment.

That committee and that process is bigger than any one Member, and it is bigger than any clique, or any temporary coalition of Members with a different opinion.

Ultimately, Members and cliques and coalitions are fleeting.

But this process—this bipartisan process—must survive for the good of this institution.

If we allow that process to fall to the politics of the moment, this House will be the loser. And all of us should be wary from that moment on—wary that a politicized Ethics Committee process will destroy the ability of this House to respond to the many difficult issues raised each year and give our constituents the confidence that those issues will be decided without interference, and without regard to personality or politics.

That's why I support the action by the chairman today, and I urge all my colleagues to support this resolution without amendment so that the Ethics Committee process can flourish and go forward in this Congress and in Congresses to come.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ROHRABACHER] from the ever-expanding State of California; they keep bringing more and more Members here every year.

Mr. ROHRABACHER. Mr. Speaker, the proposed change in intellectual property rights of our Members is bad policy and wrong-headed. If any Member writes a book after this change goes into effect, all it means is that the publisher will get the money that is due to the writer. That is all this means. We are doing nothing but giving the publisher money that deserves to go to a writer.

Mr. Speaker, I know that. I am a writer by my profession, and I will say this. Those of my colleagues who claim that a book written by a Congressman is going to be a seller and we are just standing on our job as a Congressman to sell books, there are many books that have been written by Congressmen that have failed, utterly failed, and publishers know that. Some publishers are really hesitant to deal with Congressmen for that reason.

Mr. Speaker, I say the decision should be made by the public as to who receives the money and who benefits from writing a book, whether it deals with a Member of Congress or not. That is what the Solomon amendment is all about.

Mr. Speaker, it leaves it to the public, and it does not leave it to grandstanding politicians who now are trying to portray themselves to the public as reformers, when in reality all this is is an act of self-flagellation for the sake of presenting a public image. It has nothing to do with the development of policy in this body. This will have no impact whatsoever on policy decisions.

Those people who are pushing this reform, by the way, I would like to know the incomes of those people. I happen to be a very poor person. I have hardly any assets. I am a writer by profession. I spent several years in journalism while other people who are now in this body were out making money in real estate or making money in other investments or marrying into money.

The fact is, what we are seeing now, those of us who are poor, rather than the millionaires in this body, are seeing their right to write a book and to have some income from our talent, which is our only asset, limited, while other people who are wealthy are not putting any restrictions on their ability to earn money while they are in this body.

Mr. Speaker, I reject that totally, and if somebody comes up and says all unearned income will be restricted, I will support it. But if somebody comes up and says my right as a writer and a journalist and an average American is being restricted, I will not.

The bottom line is let us leave this up to the American people. Let us quit grandstanding. The American people will decide if a book is worth buying or not, and whether a politician's ideas are worth purchasing. Let us not make this a windfall for publishers.

Mr. Speaker, all it will mean is that we will not have the incentive and we will not spend the time to write on the airplane, which I have done. I have spent my own private time on the airplane writing this book. And when I come in this door, I check my privacy when I come in this door, and now I cannot write a book about it to explain myself to the American people. It is an insult.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume to say that I think the gentleman that left the microphone is in complete error if he calls the Committee on Standards of Official Conduct a grandstanding body of people. They are probably the hardest working and most abused people here in the Congress, and I want to disagree with the gentleman there.

Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. BONIOR], our minority whip.

Mr. BONIOR. Mr. Speaker, never before in the history of this House has a recommendation by the Committee on Standards of Official Conduct been weakened on the House floor. Never before in the history of this House has a unanimous, bipartisan decision by the Committee on Standards of Official Conduct been denied a simple up-and-down vote on this floor.

Mr. Speaker, I hope we do not see that dangerous precedent here today. Mr. Speaker, it was exactly 1 year ago this very day that we learned of the Speaker NEWT GINGRICH's $4.5 million book deal, and over the past 12 months the Speaker has made, as the gentleman from Massachusetts indicated, he has made approximately 10 times the amount of his congressional salary on his book deal.

After a year-long investigation, the Committee on Standards of Official Conduct found that the Speaker used a loophole in the rules in an attempt to capitalize on his office. They found that the Speaker's book deal, and I quote, "Created the appearance of exploiting one's office for personal gain."

In fact, members of the Committee on Standards of Official Conduct were so troubled by the Speaker's action that, in a unanimous bipartisan vote, five Republicans and five Democrats recommended changing the rules of this House so no Member would ever be able to cash in on his or her office to create a personal fortune.

Under the recommendation of the Committee on Standards of Official Conduct, money from book royalties would be treated just like other outside income, subject to the annual cap of $20,040. The Committee on Standards of Official Conduct believes firmly that this is a fair way to deal with this problem and to close the loophole.

But rather than allow a simple up-or-down vote on this recommendation, for the first time in the history of this House a recommendation from the Committee on Standards of Official Conduct is in danger of being weakened. The Solomon substitute before us today does not limit book royalties. It allows unlimited royalties, just like the current rule. It does not address the Speaker's book deal. It actually exempts it, because this substitute only applies to book contracts signed after January 1, 1996.

Mr. Speaker, the Solomon substitute is actually weaker than the current standard for Federal employees, because if we were following Federal standards, no Member could make money off of a book that had anything to do with his or her office.

The Committee on Standards of Official Conduct has recommended this rule change because it was concerned about Members capitalizing on their office. It recommended closing this loophole so a Member never again would be able to exploit his or her office for personal gain.

Mr. Speaker, I would suggest that we should follow the recommendations of the Committee on Standards of Official Conduct. It was 1 year ago today that we first learned about the Speaker's $4.5 million book deal. Let us observe the 1-year anniversary by closing the loophole so nobody can get away with it again. I urge my colleagues to vote against the Solomon substitute and support the recommendation of the Committee on Standards of Official Conduct.

Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I am just surprised to hear the gentleman from Michigan [Mr. BONIOR], the minority whip, come to the well and all of the sudden make this a personality issue. I am reading the last paragraph of the letter from the gentleman from Washington [Mr. MCDERMOTT] and the gentlewoman from Connecticut [Mrs. JOHNSON]. It says it is not directed at any Member or book. Rather, it is the result of full and careful consideration, and it goes on. It is a shame now this has dropped down like this.

Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. BUNNING], a member of the Committee on Standards of Official Conduct, to expand on that just for a moment.

Mr. BUNNING of Kentucky. Mr. Speaker, obviously the gentleman from Michigan [Mr. BONIOR], the minority whip, is incorrect. Recommendations of the Committee on Standards of Official Conduct have been changed on the floor of the House; in the recent past, in fact. Certain recommendations for censure were changed to a different level, to reprimand, and other things like that. So, in fact, they were changed on the floor of the House of Representatives.

Mr. Speaker, let me say something. I have served on the Committee on Standards of Official Conduct for 5 years. First of all, the misstatements that have been made here that it was a unanimous vote on the rule was incorrect. I have tried to correct that publicly, but I have not been able to because nobody will bring it to the public's face.

Mr. Speaker, I did not vote for the rule change and I am going to continue to tell my colleagues, I did vote for the resolution to bring the report to the floor. This started out as a rule change for all of Congress. It has turned into, by the office of the Democratic whip, a referendum on the Speaker of the House.

Mr. Speaker, I think it is insane. I think it is wrong. I think it was not in the best interest of the Committee on Standards of Official Conduct, and if anybody has any doubt about supporting the Solomon amendment, read the recommendations of the office of the Democratic whip and they will vote for the Solomon amendment and against the recommendations of the Committee on Standards of Official Conduct.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Palm Springs, CA [Mr. BONO]. Californians are all over the place. This gentleman is probably one of the most famous ever to come out of California.

Mr. BONO. Mr. Speaker, I am sorry I only have 2 minutes to speak. I am going to make a very broad statement. I know more about copyright than any Member, and I will be happy to debate any Member on all of these copyright axioms that I have heard while I was sitting here. They are not true.

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Any time anybody wants to debate that, I will.

Now, the notion that the industry is a corrupt industry is where you are going to have to begin with, because the process of copyright is one of advances. If you write a book, if you write a song, if you write a play, if you write a script, you are always advanced. Get that clear. You always get an advance, and it does not make any difference whether they guess wrong or whether they guess right. The industry decided to do it that way since the inception of the industry, and they usually guess right.

So the notion that someone giving you an advance is dastardly is ridiculous because the industry has operated that way since it began.

In my case, I can always, I have always, been able to take an advance from BMI or ASCAP whenever I wanted it. Well, you shut that down with the accusation that I am corrupt. Well, that is not true. I am not corrupt.

My songs have a value, and because they have that value, I have the right to that advance and have exercised that right before.

So we are here with the lesser of two evils. So you are knocking out an industry that you do not even know, and I will yield 15 seconds to any Member who can define ethics. Can some Member define ethics for me in 15 seconds? You cannot.

I support the Solomon proposal. It is the best of the worst.

Mr. MOAKLEY. Mr. Speaker, I yield the balance of my time to the gentleman from Maryland [Mr. CARDIN], who is a member of the Committee on Standards of Official Conduct.

Mr. CARDIN. Mr. Speaker, I thank the gentleman for yielding me this time and really thank our chairman, the gentlewoman from Connecticut [Mrs. JOHNSON] and the gentleman from Washington [Mr. MCDERMOTT] for what they have done to get a 10-to-0 vote in our committee on the recommendations and report.

This is about supporting ethics. This is about supporting the bipartisan work of the Committee on Standards of Official Conduct. I hope each Member will take into consideration the fact that the vote coming before you is the unanimous work of our committee in dealing with some very difficult issues.

I wish we could go into more detail, but the rules of our committee do not permit that. But this is a very important vote, and it reflects the confidence that you have in this bipartisan Committee on Standards of Official Conduct process.

The substance of the rule that we bring before you completes the commitment we made to the American people under the Ethics Reform Act of 1989. That act increased Members' salaries by a significant amount, 30 percent, in exchange for which we restricted our outside earned income, and eliminated honoraria. We did that, but we allowed one exception, and one exception only, and it dealt with book royalty contracts.

We thought at that time that book royalty contracts would be a minor matter and it was not a major issue. We were wrong, as multimillion-dollar contracts have become available.

We said in 1989, and we repeat today in our ethics manual, that we need to restrict outside earned income because it conflicts with our responsibilities as Members of Congress, private commitments that may infringe upon public obligations. The pressures upon publishers for us to do tours or to promote our book conflicts with our responsibilities here. The appearance that an individual is profiting from a position in Congress, that is in our ethics manual. Outside earned income raises those concerns. Multimillion-dollar book contracts can raise those concerns.

The Solomon substitute will allow Members still to earn multimillion dollars in book contracts. That is wrong. and that is what the Committee on Standards of Official Conduct is saying.

The choice is clear. Please, support the work of our committee. It is also a matter of fairness. A farmer or a bricklayer or a doctor or a jewelrymaker, a performer or a football player who wants to have weekend youth camps, a person who records music or a person who develops software for computers are currently restricted to 15 percent, or $20,000. The only exception is book royalties. That is not right.

We do not impede people from doing these activities. We say there is a limit as to how much they can earn.

Originally, the Solomon substitute was promoted to make it similar to executive workers. Nothing could be further from accurate. High-level Federal officials cannot earn one dime from royalties that are in any way related to their official work.

If we do not approve the Johnson resolution, we are allowing Congressmen to do much more than executive workers. The risk here is very real. We are telling you, in the Committee on Standards of Official Conduct, that we cannot protect against abuses. Book contracts, book sales will take place. It will enrich Members.

Support the work of the Committee on Standards of Official Conduct.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

Mr. HOBSON. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Ohio, a very valuable member of the Committee on Standards of Official Conduct.

Mr. HOBSON. Mr. Speaker, the Committee on Standards of Official Conduct is not an easy place to serve, and I appreciate the bipartisan support that we have worked with within that committee.

The rule that the Committee on Standards of Official Conduct presented to the House was arrived at after much spirited negotiations among its members but, I think, in good faith by all members of the committee.

The goal of the rule is to solve various problems that we identified with the House's current policies relative to the publishing of books by Members. There were various views expressed by members of the committee, and this rule is a compromise. Not everybody agreed with every point in it, but it was a compromise.

I support the committee's position and its rule.

But, more importantly than that, I think it is important for the House to have this debate in a comity, for the most part which we have had, and whatever rule that comes out of this, it is important that we resolve this problem in a consensus manner without bitter debate because we have to judge ourselves and be judged by others and work together.

So whatever rule comes out of this, it is important that we end it now and go back to our work together in the committee.

Mr. SOLOMON. Mr. Speaker, reclaiming my time, let me just close by saying the Johnson resolution restricts royalty income and bans advances. The Solomon substitute prohibits advances but does permit royalty income, and those are the two choices, or you can reject them both and leave the rules the way they are.

I hope that you will continue to treat us all the same and let us vote for the rule and then get on to the debate on the resolution itself.

SUMMARY, BACKGROUND AND ANALYSIS OF H. RES. 299, PROPOSED NEW RULE ON BOOK ROYALTIES AND RELATED ISSUES, PREPARED BY THE STAFF OF THE HOUSE RULES COMMITTEE

Introduction: On December 12, 1995, Representative Nancy Johnson of Connecticut, chairman of the House Committee on Standards of Official Conduct, introduced H. Res. 299, a resolution to amend House Rules regarding outside earned income. The measure was cosponsored by eight other members of the 10-member, bipartisan Standards Committee.

The resolution was introduced pursuant to a vote of the Committee in connection with the report it issued on December 12th on the "Inquiry into Various Complaints Filed Against Representative Newt Gingrich." In its report, the Committee found that Representative Gingrich "did not violate the House Rule governing book contracts or royalty income" and that "the book contract was in technical compliance with the 'usual and customary' standard of House rules regarding royalty income." However, the Committee it went on to indicate that "the original advance greatly exceeded the financial bounds of any book contract contemplated at the time the current rules were drafted," and that it "strongly questions the appropriateness of what some could describe as an attempt by Representative Gingrich to capitalize on his office."

Consequently, the Committee recommended in its report that House Rule 47 ("Limitations on Outside Employment and Earned Income") be changed to subject royalty income derived from books written while one is a Member to the same limits as other sources of outside earned income." A copy of the proposed rule was appended to the report.

SUMMARY OF PROVISIONS OF RULE CHANGE

(1) Inclusion of Copyright Royalties as Earned Income: House Rule XLVII ("Limitations on Outside Employment and Earned Income"), would amend in the first paragraph of clause 3(e), which defines "outside earned income," by adding the following new category: "copyright royalties earned while a Member, officer or employee of the House"; and subparagraph (5) of clause 3(e), which now exempts "copyright royalties received from established publishers pursuant to usual and customary contractual terms" from the definition of "earned income," would be amended to only exempt "copyright royalties for works published before becoming a Member, officer, or employee of the House."

(2) Limitations on Receipt of Copyright Royalties: Clause 3 of rule XLVII would be further amended by adding a new paragraph (g) that would prohibit a covered Member, officer or employee of the House from—

(1) receiving any copyright royalties pursuant to a contract entered into after becoming a Member, officer or employee: (a) unless they are from an established publisher pursuant to usual and customary contractual terms; and (b) the contract has received prior approval of the Committee on Standards of Official Conduct;

(2) recieving any advance payment for any such work; but this prohibition shall not apply to advance payments made directly to literary agents, research staff, and other persons working on behalf of the Member, officer or employee.

Clause 3 of rule XLVII would be further amended by adding a new paragraph (h) that would prohibit the Committee on Standards of Official Conduct, subject to such exceptions as it deems appropriate, from approving any contract that permits deferral of royalty payments beyond the year in which earned.

(3) Effective Date: The amendments made by the resolution "shall apply to copyright royalties earned by a Member, officer, or employee of the House of Representatives after December 31, 1995."

Possible Problem: The resolution only applies to "copyright royalties earned" after December 31, 1995 (p. 4, lines 3-5), but prohibits the receipt of such royalties unless the contract received prior approval by the Standards Committee (p. 3, lines 11-13). This could presumably prohibit individuals from receiving any royalties in 1996 from contracts entered into prior to that year since they would not have received prior approval by the ethics committee. Or is it simply intended that existing, pre-1996 contracts be approved prior to receiving any royalties in 1996?

Background and Analysis: The current House Rule XLVII ("Limitations on Outside

Employment and Earned Income)", was revised as part of the Ethics Reform Act of 1989 (Public Law 101-194) applies to all Members as well as House officers and employees whose pay is disbursed by the Clerk of the House and exceed the annual rate of basic pay in effect for grade GS-16 of the General Schedule under section 5332 of title 5 of the U.S. Code (currently $81,529), and is employed for more than 90 days in a calendar year. The exception to this definition is for the ban on total ban on honoraria which applies to all Members, officers and employees of the House.[1]

Clause 1 of rule XLVII prohibits Members, and officers and employees paid at least $81,529, from receiving outside earned income in excess of 15% of the Executive Level II salary (which is the same as a Member's base pay), or roughly $20,000. Clause 2 prohibits such individuals from receiving any compensation for: (1) affiliation with or employment by any firm, partnership, association, corporation or other entity which provides professional services involving a fiduciary relationship; (2) for practicing a profession that involves a fiduciary relationship; (3) from serving any officer or member of a board of any association, corporation or other entity; or (4) from teaching except by the prior notification and approval of the ethics committee.

Clause 3(e) currently defines outside earned income as "wages, salaries, fees, and other amounts received or to be received as compensation for personal services actually rendered." The current definition goes on to specify certain matters not considered as outside earned income, including: (1) the salary of Members, officers or employees; (2) compensation derived by such individuals for personal services rendered prior to the effective date of the rule (calendar year 1991), or prior to becoming Member, officer, or employee, whichever comes later; (3) amounts paid to a tax-qualified pension, profit-sharing, or stock bonus plan received by such individuals; (4) amounts received by such individuals from services rendered by them in a trade or business in which they or their family holds a controlling interest and in which both personal services and capital are income-producing factors; and (5) "copyright royalties received from established publishers pursuant to usual and customary contractual terms."

Thus, under current House Rules, copyright royalties are considered to be unearned rather than earned income. As the most recently published version of the House Ethics Manual puts it:

> House Rule 47 has long exempted book royalties for outside earned income restrictions, royalties being deemed a return on the authors's intellectual property, akin to other unrestricted returns on property.[2]

The Manual goes on to cite the Senate Special Committee on Official Conduct's 1977 report on its Code of Official Conduct as follows—

> If an individual writes a book, and it becomes a best-seller, any royalties received are beyond his direct control. It is income which is, in effect, a return on a prior investment of time and energy.[3]

And the Manual concludes on this point by distinguishing book royalties from articles:

> A book author's royalties generally reflect the book's sales, that is, the public's assessment of the book's worth. An article, on the other hand, typically garners a one-time fee, based only on what the publisher is willing to pay the particular author (and not necessarily limited by the marketability of the piece).[4]

Finally, the Manual offers the following Example to illustrate its point:

> Member A writes a book of memoirs about his years in public service. An established publisher offers the Members its usual and customary royalty terms for the right to publish the book. Member A may have the book published and collect royalties. The royalties will be deemed "unearned income" and will not count against A's outside earned income cap.[5]

Restrictions on Executive Branch Officials: The Ethics Reform Act placed the same restrictions on top level officials and employees of all three branches of government paid at a salary above the GS-15 level. However, several things should be noted in this regard. First, Executive Order No. 12674, section 102 (April 12, 1989), bars all cabinet level officials and all other officials appointed by the President to a full time, noncareer position from receiving any outside earned income. Other high level executive branch officials who are in noncareer positions and compensated above the GS-15 level are subject to the law's 15% outside earned income cap as well as the prohibitions on the outside practice of professions involving a fiduciary relationship, and compensation for service on boards of organizations.[6]

Second, to the extent that non-career employees of the Executive Branch (paid in excess of the GS-15 level salary) are permitted to accept compensation for writing or speaking on the outside, they are proscribed by regulations of the Office of Government Ethics from being compensated for speaking, lecturing or writing activity if the subject matter "deals in significant part with the general subject matter area, industry of economic sector primarily affected by the programs and operations of his agency."[7]

Third, the honoraria ban on all officials and employees was held unconstitutional by the Supreme Court with respect to career employees at the GS-15 level and below (United States v. National Treasury Employees Union, Feb. 22, 1995), affirming lower court decisions overturning the ban. The Supreme Court held that the broad ban imposed prior limitations and restrictions on nearly 1.7 million citizens for their "expressive activities in their capacity as citizens, not as Government employees." However, the application of the immediate ruling is to rank-and-file government employees in the executive branch who were represented by the plaintiffs.[8]

Fourth, royalties from the publication of a book are considered by the Executive Branch for its employees, as a return on one's intellectual property (copyright), that is, unearned income such as investment income, and are not considered outside earned income. However, advances on royalties and some other pre-publication payments and contracts have been held by the Office of Government Ethics, in advisory letters, to be earned income subject to the earned income limitations.[9]

Summary: It is clear from the foregoing that the proposed new House rule on royalties would constitute a major shift in the definitions of earned and unearned income regarding copyright royalties and advances on published works. It would also create a double standard for Executive and Legislative Branch officials and employees. The proposed limits may also raise First Amendment questions under the Constitution given the Supreme Court's decision in U.S. v. NTEU. All of these issues deserve thorough study before any action is taken.

FOOTNOTES

[1] The Committee on Standards of Official Conduct has determined that certain matters are excluded from the honorarium ban such as compensation for activities where speaking, appearing or writing is only an incidental part of the work for which payment is made; witness or juror fees; fees to qualified individuals for conducting worship services or religious ceremonies; payments for works of fiction, poetry, lyrics, or script; or payments for performers who appear on stage. *House Ethics Manual*, 102nd Congress, 2d Session, April 1992, pp. 93–94.

[2] Id., p. 94.

[3] Id., p. 95.

[4] Id.

[5] Id., pp. 94–95.

[6] "Summary Outline of Restrictions on Outside Earned Income for Executive Branch and Members of the House, Including Payments for Writing a Book," by Jack Maskell, Legislative Attorney, American Law Division, Congressional Research Service, January 19, 1995, p. 1.

[7] Id., pages 1-2.

[8] "Receipt off Honoraria or Other Outside Income by Officers and Employees of the Federal Government After the Supreme Court Decision in United States v. NTEU," by Jack Maskell, Legislative Attorney, American Law Division, Congressional Research Service, Library of Congress, p. 1.

[9] Maskell, "Summary Outline of Restrictions . . . .," op. cit., pp. 2–3, citing Office of Government Ethics Advisory Letters 86 X 4, April 10, 1986; 82 X 18, December 3, 1982; 89 X 17, September 26, 1989: "Income attributable to the former, such as an advance on royalties, is 'earned income' while retention of a royalty interest following publication is a mere property right in the residual income stream."

EXECUTIVE BRANCH RULES ON ROYALTIES

Mr. SOLOMON. Mr. Speaker, there has been some confusion sown about what rules currently apply to top level executive branch officials. As I have indicated, the President, Vice President, Cabinet officers, and Presidential appointees are barred from receiving any advances on book royalties, but may receive unlimited royalties.

I cite as my authority a report of the American Law Division of the Congressional Research Service dated January 19, 1995, by Legislative Attorney Jack Maskell, and I quote:

> Cabinet level officials—and all other officials appointed by the President to a full time, noncareer position—are barred completely from receiving any outside earned income [by] Executive Order No. 12674, section 102, April 12, 1989.

And, according to the American Law Division memorandum, citing several Office of Government Ethics Advisory letters, and I quote:

> Advances on royalties and some other publication payments and contracts have been . . . considered to be earned income subject to the earned income limitations.

Since top level executive officials can receive no earned income, they are barred from receiving any advances.

Other senior, noncareer executive branch employees earning over $81,000 are subject to the 15-percent cap when it comes to advances.

With respect to book royalties for executive branch officials, the American Law Division memorandum says the following, and I quote:

> Royalties after the publication of a book are considered as a return on one's intellectual property (copyright)—that is, unearned income such as investment income, and are not considered outside earned income.

The memo cites the regulation from volume 5 the Code of Federal Regulations at section 2636.303(b)(5).

Footnotes at end.

In summary, Mr. Speaker, the President, Vice President, Cabinet members, and other Presidential appointees are barred from receiving book advances but are not limited with respect to book royalty income.

RESPONSE TO ARGUMENT OF DIFFERENT ADMINISTRATION RULES

Mr. Speaker, the argument has been made that my substitute does not put us on the same plane as our executive branch counterparts because they would still have different rules and regulations on other forms of earned or unearned income.

That may well be, but it is irrelevant to this debate. I am simply arguing today that, when it comes to book royalties and advances, we should adopt the same rules that both President Bush and President Clinton and their Office of Government Ethics thought were advisable.

So to drag in extraneous arguments and rules relating to other differences between the House and the executive branch is a smokescreen, plain and simple.

All I am asking is that, when it comes to book royalties and advances, the Vice President and the Speaker be treated the same. To imply that it is OK for one to receive unlimited royalties, but not OK for the other to do so, flies in the face of common sense and logic.

Either royalties are bad and unethical once they reach a certain amount, or they are not. The Office of Government Ethics has found under Democratic and Republican administrations alike that they do not pose an ethical problem. To now say that unlimited royalties are ethical for a Democratic Vice President but not for JERRY SOLOMON is an insult to the integrity of this House and to the intelligence of the American people. Let's not obscure the central issues and facts of this debate with smoke.

RESPONSE TO ARGUMENT THAT SUBSTITUTE PERMITS UNLIMITED ROYALTIES ON MATTERS OTHER THAN BOOKS

Mr. Speaker, I am astounded at the new smokescreen being thrown up here that my substitute somehow creates a new loophole for copyright royalties from matters other than books.

The Ethics Committee argues that it currently permits unlimited royalties only from books, and that other copyright royalties on things like records or songs are subject to the 15-percent outside earned income cap.

The fact is that I have used the same terminology as the Ethics Committee's resolution, and therefore it should be subject to the same interpretations that now apply to different categories of copyright royalties.

Just as the Ethics Committee's resolution talks about publications, publishers, and literary agents, so too does my substitute. Nowhere in either the resolution or my substitute is the word "book" used—anymore than it is used in the current House rule regarding copyright royalties.

Therefore, if the current exemption for copyright royalties is interpreted by the Ethics Committee to mean that it only applies to book royalties, then the same interpretation would continue to apply if my substitute is adopted.

The ethics committee could have taken a broader interpretation of the term "publication" since, under the copyright law, found in title 17 of the United States Code, at section 101, the term is defined as, and I quote: "the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease or lending." End quote. Moreover, the term "literary works" are defined by section 101 of title 17 to include, and I quote, "books, periodicals, manuscripts, phonorecords, film, tapes," et cetera.

But, if the Ethics Committee currently interprets the term "publication" to mean the publication of a book, and the term "literary work" to mean only a book, then that will continue to be the case if my substitute is adopted since I have not, by the language of my substitute or by this legislative history, said anything to broaden that definition or interpretation.

RESPONSE TO ARGUMENT THAT ROYALTIES MAY BE PERCEIVED AS CAPITALIZING ON OFFICE

The central argument used by the Ethics Committee in recommending not only a ban on advances but a limit on royalties is that such income "creates the impression of exploiting one's office for personal gain."

This argument conveniently blurs the distinction between advances, which are payments made up front before knowing how well a book will sell, and royalties which are based solely on the popularity of a book with the buying public.

My substitute recognizes that there is an appearance problem with advances given to a government official.

That is currently banned in the executive branch for top officials and would be banned by my substitute. But, to go on to argue that receiving royalty income based on sales is somehow unethical because someone is a government office holder or appointee is a bogus argument.

A book does not become a best-seller just because the author is well-known. There are plenty of books that have not made substantial profits that have been written by authors who have had previous best-sellers, regardless of their names, positions, or previous works.

I do not recall any great public uproar over the fact that Vice President GORE'S book on the environment, "Earth in the Balance," became a best-seller. People did not charge that he was taking undue advantage of his position in government. It was widely accepted that the book sold well because he had something to say, and said it well, and that many people were therefore willing to spend money to buy the book.

Let's not set a double standard for books by liberal authors and books by conservative authors. It shouldn't make a difference what the ideological stripe of the author is except with those who think it is sinful for conservatives to make money but somehow simply fortunate that liberals can reap profits occasionally from peddling their ideas.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BEREUTER). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 380, nays 11, answered "present" 1, not voting 41, as follows:

[Roll No. 881]

YEAS—380

Abercrombie
Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Cooley
Cox
Coyne
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Flake
Flanagan
Foglietta
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha

Myrick
Nadler
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Traficant
Upton
Velázquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)
Zeliff
Zimmer

NAYS—11

Baesler
Brown (CA)
Clay
Costello
Hastings (FL)
Hinchey
Kanjorski
Klink
Miller (CA)
Waters
Watt (NC)

ANSWERED "PRESENT"—1

Gunderson

NOT VOTING—41

Ackerman
Baker (LA)
Becerra
Berman
Bevill
Callahan
Calvert
Collins (MI)
Conyers
Cramer
Edwards
Fattah
Fields (TX)
Filner
Ford
Gallegly
Gibbons
Gilman
Green
Gutierrez
Harman
Hayes
Jacobs
Jefferson
LaFalce
Lantos
Lincoln
Lipinski
Lofgren
Manzullo
Meek
Myers
Neal
Owens
Quillen
Quinn
Ros-Lehtinen
Towns
Waxman
Wyden
Young (AK)

□ 1127

Mr. MILLER of California changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, I regret that I was inadvertently delayed and was prevented from voting on rollcall No. 881, a rule for the consideration of House Resolution 299. Had I been present to vote I would have voted "aye."

□ 1130

GENERAL LEAVE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material in the RECORD on House Resolution 322, the resolution just adopted.

The SPEAKER pro tempore (Mr. BEREUTER). Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDING HOUSE RULES TO PLACE LIMITATIONS ON COPYRIGHT ROYALTY INCOME FOR HOUSE MEMBERS, OFFICERS, AND EMPLOYEES

Mr. SOLOMON. Mr. Speaker, pursuant to House Resolution 322, I call up House Resolution 299 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 299

Resolved,

SECTION 1. AMENDMENT TO HOUSE RULES.

(a) Clause 3(e) of rule XLVII of the Rules of the House of Representatives is amended to read as follows:

"(e) The term 'outside earned income' means, with respect to a Member, officer, or employee, wages, salaries, fees, and copyright royalties earned while a Member, officer or employee of the House, and other amounts received or to be received as compensation for personal services actually rendered but does not include—

"(1) the salary of such individual as a Member, officer, or employee;

"(2) any compensation derived by such individual for personal services actually rendered prior to the effective date of this rule or becoming such a Member, officer, or employee, whichever occurs later;

"(3) any amount paid by, or on behalf of, a Member, officer, or employee, to a tax-qualified pension, profit-sharing, or stock bonus plan and received by such individual from such a plan;

"(4) in the case of a Member, officer, or employee engaged in a trade or business in which the individual or his family holds a controlling interest and in which both personal services and capital are income-producing factors, any amount received by such individual so long as the personal services actually rendered by the individual in the trade or business do not generate a significant amount of income; and

"(5) copyright royalties for works published before becoming a Member, officer, or employee of the House.".

(b) Clause 3 of rule XLVII of the Rules of the House of Representatives is further amended by adding at the end the following new paragraphs:

"(g) A Member, officer, or employee of the House may not—

"(1) receive any copyright royalties pursuant to a contract entered into after becoming a Member, officer, or employee—

"(A) unless the royalty is received from an established publisher pursuant to usual and customary contractual terms; and

"(B) without the prior approval of the contract by the Committee on Standards of Official Conduct; or

"(2) receive any advance payment for any such work. However, the rule does not prohibit literary agents, research staff, and other persons working on behalf of the Member, officer, or employee, from receiving advance payments directly from the publisher.

"(h) The Committee on Standards of Official Conduct, subject to such exceptions as it deems appropriate, shall not approve any contract which permits the deferral of royalty payments beyond the year in which earned.".

SEC. 2. EFFECTIVE DATE.

The amendments made by this resolution shall apply to copyright royalties earned by a Member, officer, or employee of the House of Representatives after December 31, 1995.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the Nature of a Substitute offered by Mr. SOLOMON:

SECTION 1. AMENDMENT TO HOUSE RULE XLVII (LIMITATIONS ON OUTSIDE EMPLOYMENT AND EARNED INCOME).

Rule XLVII of the rules of the House of Representatives is amended by redesignating clause 3 as clause 4 and by inserting after clause 2 the following new clause:

"3. A Member, officer, or employee of the House may not—

"(1) receive any advance payment on copyright royalties, but this paragraph does not prohibit any literary agent, researcher, or other individual (other than an individual employed by the House or a relative of that Member, officer, or employee) working on behalf of that Member, officer, or employee with respect to a publication from receiving an advance payment of a copyright royalty directly from a publisher and solely for the benefit of that literary agent, researcher, or other individual; or

"(2) receive any copyright royalties pursuant to a contract entered into on or after January 1, 1996, unless that contract is first approved by the Committee on Standards of Official Conduct as complying with the requirement of clause 4(e)(5) (that royalties are received from an established publisher pursuant to usual and customary contractual terms).".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall take effect on January 1, 1996.

Mr. SOLOMON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 322, the gentleman from New York [Mr. SOLOMON] and the gentleman from Massachusetts [Mr. MOAKLEY] will each be recognized for 15 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLOMON].

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that my 15 minutes of general debate be controlled by the gentleman from Washington [Mr. MCDERMOTT].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Members, we have already had an extensive 1-hour debate on this issue, and I think most people know the alternatives there. The substitute I have offered presents the House with a clear-cut alternative to the Johnson resolution.

House Resolution 299 would bring royalty income, for the first time, under the outside earned income cap of 15 percent of a Member's salary of approximately $20,000. My substitute recognizes, as does the House Ethics Manual, and as does the Office of Government Ethics in the executive branch, that royalty income is a return on an author's intellectual property and, therefore, should be treated as any other investment income without being subject to arbitrary limits. It is what this debate is all about.

My resolution is identical to the Johnson resolution in that it prohibits any advances on royalty income beginning next year. And that next year is simply a week away.

And just like the Johnson resolution, my substitute requires prior approval of any future contracts after January 1, 1966, to ensure that they are in compliance with current House standards. We do not change those at all. And that the contract be with an established publisher. That is the rule today. That is the rule under the Johnson resolution, and it is the rule under my resolution. And that they be pursuant to usual and customary contract terms. All that stays the same.

Mr. Speaker, I think we have to ask ourselves in considering any kind of ethics rule what is the perceived ethical problem and how can we best deal with it? When it comes to royalty income, we must ask ourselves is there an ethical problem involved with receiving income over which we have no control? Think about that. Is there a problem or conflict involved with Members receiving income from books that are purchased by persons that the author does not even know? Who is going to buy those books out there? We are not going to know who they are. They will be in Philadelphia or Los Angeles or St. Louis. I do not even know anybody in St. Louis.

Does earning royalty income detract from the time a Member can devote to his or her official duties? We should ask ourselves that. The answer to all of these questions is, clearly, an emphatic, no.

The income is derived from the marketplace, from the popularity of the book, from the value of the book, as perceived by the public that is going to buy that book and not from persons who might pose a conflict of interest. We do not even know them, so how could there be a conflict of interest? And, certainly, not from the time a Member must devote to persuading people to buy that book. Those are facts.

Mr. Speaker, I know there are some who argue that the mere publication of a book by a Member of Congress is somehow capitalizing on that office, but let me tell Members something. The public does not rush out to buy a book simply because it is written by a Member of Congress. The public could care less, my friends. Let us get our egos back down to where they belong. And there are several Members here today, believe me, who could attest to that. I am the author of books and I can attest to it.

Mr. Speaker, Members have had books bomb and they did not make a dime. And given the current public approval rating of Congress, that is not too surprising, really; right? Right? We are not considered to be leading intellectual lights of our society, let us get our egos back down, let alone literary geniuses. I do not see a literary genius in the room.

Members, an argument can be made that advances, now think about this, that advanced royalties might be perceived as posing a conflict since they can come from a single source, the publisher, and are based on expectations of sales rather than what the actual value of the book might be. And that is really what the Committee on Standards of Official Conduct had in mind when they put this out here on the floor.

Therefore, it is legitimate for us to prohibit advances, because they may pose potential conflicts of interest or even the perception of a conflict of interest that a Member is being rewarded for the office he holds rather than for the actual value of the book.

Mr. Speaker, if we begin down this road of defining unearned income as earned income because someone thinks it poses an ethical problem, then maybe we should place limits, and Members better listen to this, because it is out there right now with some of these Members here, maybe we should place limits on how much in dividends a Member can receive from stock investments, from stocks and bonds that we have earned and paid taxes on and now that is a Member's personal property. Think about that.

Mr. Speaker, stock income can certainly be argued as posing potential conflicts of interest since we often vote on matters that affect stock prices. Members should think about that for a minute now. Whether we are talking about defense contracts, and I own GE stock. They get involved with defense contracts. Is there a conflict of interest there? We better start thinking because we are going down that road. Or how about the telecommunications bill, Mr. Speaker, that will be on this floor, hopefully, sometime soon. But book income is nowhere close to posing the potential conflicts that stock income does. We do not cast votes on this floor that affect how well our books might sell at the local book store, my friends.

Mr. Speaker, let us not go overboard here today and vote for an ethics rule that has no relationship to potential ethics problems, particularly if we deal with the advance problem. Let us not punish or discourage Members, and staff, too, from writing books and disseminating their opinions and their ideas, wisdom and knowledge developed over a lifetime. Please think about that.

If we do that, Mr. Speaker, we will be the first parliamentary body, the first democracy in history that penalizes literacy by stigmatizing the writing of books. Instead, Mr. Speaker, and I will say this with just all sincerity, let us put this House on the same plane as the President of the United States, and I am not being political, the Vice President of the United States, Cabinet members, and other Presidential appointees who are prohibited from receiving advances on books, but who may still receive royalty income under the Constitution of the United States, and that has been upheld by the courts.

To quote from an Office of Government Ethics advisory letter of September 26, 1989, on this subject, "We have drawn a distinction between those events creating intellectual property, such as the writing of a manuscript, and the subsequent retention of a royalty interest after the book is published."

The advisory letter goes on, and I quote:

> Income attributable to the former, such as an advance on royalties, is earned income; while the retention of a royalty interest following publication is a mere property right in the residual income stream.

That is what the debate is all about here today.

Let us agree to prohibit up-front advances on all books while retaining the right of receiving a return on our investment of intellectual property, subject not to some arbitrary limit but only to the limits that the people place on it by purchasing those books.

Let us not make Members of Congress second-class citizens, and we are about to do that, by adopting a rule that places less value on our ideas and our writings than the executive branch rule places on the President and his top people. If Members want to change this law, we have a law, an ethics law written into law signed by the President, the 1989 ethics law. If we want to change that, we want to have our hearings, let us do that and then treat us all exactly the same. That is a possibility. That is what I had in mind. But let us not demean ourselves or this institution any further by stigmatizing the value of what we are willing to be able to communicate to the public by simply writing books in our spare time.

Mr. Speaker, that is what this is all about. It is so terribly important. I do not want to go down that road of all of these other things, because this institution has to be maintained. The integrity has to be maintained and the future people that will serve here have to know that they are going to be treated just like every other citizen.

□ 1145

That is what this debate is all about. So, I would beg my colleagues to come over and vote for my resolution, and then if they want to talk about changing the law of the land later on, I would be more than glad to work with every Member and all of the respected members of the Committee on Standards of Official Conduct.

Mr. Speaker, I reserve the balance of my time.

Mr. McDERMOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, if the Members of this body vote for the Solomon amendment, they do two things: They deny the House of Representatives the opportunity to vote on the proposal of the gentlewoman from Connecticut [Mrs. JOHNSON], the chairman of the Committee on Standards of Official Conduct, and, second, they leave open the door to multimillion-dollar contracts that we cannot monitor.

Mr. Speaker, we removed a Speaker of the House over book sales, bulk book sales. That loophole is still open, and if we do not pass this resolution that we put out of the Committee on Standards of Official Conduct, we are voting to leave the bulk sale loophole open, with no ability of this committee to ever monitor that. That is why this amendment is before us.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong support of House Resolution 299 and in opposition to the Solomon substitute.

Mr. Speaker, this vote will be the vote that Members must take responsibility for their actions. The Committee on Standards of Official Conduct is bringing this rule to the floor because it is appropriate for the body to work its will on this subject. Normally, we bring other kinds of things to the floor. We are bringing a rule because the issue raised by it is an issue that Members should legitimately decide.

Mr. Speaker, this is not a contest between good and evil. This is a contest between two proposals, each of which will change the way we govern Members who write books.

Mr. Speaker, let me try to make as clear as I possibly can the difference between the two proposals. First of all, they both will require that the Committee on Standards of Official Conduct review contracts and approve contracts. This is a very important step forward, because we will assure through that mechanism that Members are not treated differently; that Members get no preferential deal in any book contract, but that every contract will have to meet usual and customary standards.

Second, both proposals will ban advances. Now, advances used to cover costs. They have come to cover both costs and expected royalties. That is why it is very important that we ban advances.

The third difference between the bills, the first two were similarities, they both involve Committee on Standard of Official Conduct approval of contracts and banning advances. Where they differ is in how they treat royalty income once the book is written and published.

Mr. Speaker, the Committee on Standards of Official Conduct is recommending that royalty income be governed in the same way all other outside earned income is governed; that is, subject to the $20,040 limit.

The alternative proposal does not limit royalty incomes on the theory that the book will sell only as many copies as its ideas merit and, since it is a matter of intellectual property, that we should not limit the income from ideas just like we do not limit the income from stocks.

Mr. Speaker, that is not an illegitimate proposal. There are two legitimate proposals before Members. The Committee on Standards of Official Conduct chose this direction, that is in the underlying resolution, because we believe it is easier and fairer for the House of Representatives for all Members of the House to be governed in regard to outside income by a uniform and consistent rule. Consequently, our proposal will bring royalty income under the same governance that all other outside income is governed by in the House.

Mr. Speaker, ideas are important. Ideas ought to be the currency of politics in America, now more than at any other point in our history. We do not believe our proposed rules will prevent ideas from materializing in book form, those books enriching the political dialogue of our Nation.

Mr. Speaker, I urge the Members to support the Committee on Standards of Official Conduct resolution.

Mr. McDERMOTT. Mr. Speaker, would the Chair inform as to the amount of time that is remaining?

The SPEAKER pro tempore. The gentleman from Washington [Mr. McDERMOTT] has 10½ minutes remaining, and the gentleman from New York [Mr. SOLOMON] has 5½ minutes remaining.

Mr. McDERMOTT. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Cleveland, OH [Mr. STOKES], former chairman of the Committee on Standards of Official Conduct for 6 years.

Mr. STOKES. Mr. Speaker, I rise in support of the rule change being proposed by the Committee on Standards of Official Conduct and in opposition to the Committee on Rules substitute.

Mr. Speaker, as has been stated, in past congresses I have served on the Committee on Standards of Official Conduct both as a member and I served as its chairman for 6 years. I also served on the Ethics Task Force chaired by the gentleman from California [Mr. FAZIO], which drafted many of the rules changes now existing under the rules.

Mr. Speaker, I want to commend the gentlewoman from Connecticut [Mrs. JOHNSON], chairwoman, and the gentleman from Washington [Mr. McDERMOTT], her ranking minority member, for bringing forth this thoughtful and carefully crafted rule change. In fact, I commend the entire committee for this unanimous bipartisan rule change which is needed to close the book deal loophole.

Mr. Speaker, any attempt to undercut, undermine, or defeat this recommendation of the Committee on Standards of Official Conduct merely once again subjects this institution to the continuous charge that we cannot conduct ourselves in an ethical manner, and once again brings the House into a position of public disrespect by rejecting the attempt of its own Committee on Standards of Official Conduct to keep Members ethical.

Mr. Speaker, I totally reject the argument that the Members here are being deprived of intellectual property under the Johnson resolution. Additionally, I see this as a dangerous precedent. Throughout its history, the House has never had a recommendation of the Committee on Standards of Official Conduct undercut by the Committee on Rules of the House.

Mr. Speaker, I urge the Members to support the Johnson resolution of the Committee on Standards of Official Conduct and reject the House Committee on Rules proposal.

Mr. McDERMOTT. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. PETERSON].

Mr. PETERSON of Florida. Mr. Speaker, I first want to commend the Committee on Standards of Official Conduct, all members, both sides. They worked very hard to bring this bill to us. It may not have been unanimous, but it must have been pretty close because that is all that was reported out.

Mr. Speaker, there is no one standing in line to serve on the Committee on Standards of Official Conduct. They work very hard. And I know I was pretty hard on them, along with one of my colleagues from Florida, because we felt they were taking too long to arrive at this decision, but they did good work and it is here. It is before us now.

Mr. Speaker, it is a good recommendation. It closes a huge loophole in the ethics rules that we have in this House, and it allows the Committee on Standards of Official Conduct to do its job better in its interpretation of those rules.

Mr. Speaker, the bottom line, no one in this House should be able to capitalize on their position as an elected public servant. Ultimately, the substitute here is bad. It is weaker than the current standard for other Federal offices and agencies. We need to make that point. It is a bad rule. We need to continue with the resolution that is before us that the gentlewoman from Connecticut has brought to us and vote for it.

Mr. MCDERMOTT. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, unfortunately and tragically, both for this institution and for the American public, every now and then we are presented with the task of confronting the activities of those who have sought to exploit the rules of the House of Representatives.

Mr. Speaker, this Committee on Standards of Official Conduct has struggled long and hard, as have previous Committees on Standards of Official Conduct, with these problems. The recommendation of this committee is that they believe, and I cite from the report that, "The existing House rule must be changed to clearly restrict the income Members may derive from writing books. As recent events demonstrate, existing rules permit a Member to reap significant and immediate financial benefits appearing to be based primarily on his or her position. At a minimum, this creates an impression of exploiting one's office for personal gain."

This institution and none of its Members can withstand that impression, nor should they accept it. If Members vote for the Solomon amendment, they cannot get to the recommendation of the Committee on Standards of Official Conduct to the membership of this House for its approval. We must vote against the Solomon amendment.

Mr. MCDERMOTT. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. FAZIO], a former member of the Committee on Standards of Official Conduct.

Mr. FAZIO of California. Mr. Speaker, as I have listened to my colleagues in the debate here on the floor, and in conversations that occur within the Chamber, I sense that most of the opposition to the proposal that was made by the committee, unanimously, seems to go to the basic law that was passed in 1989, which essentially said that if we are going to be increasing our compensation here, which we did, we ought to do it in the context of concentrating our time on the job that we have been elected to do during that period of our public service.

Mr. Speaker, we did not prevent anyone who had worked in a prior career from continuing to benefit from that. A person who had invested in an insurance business or a law firm or even, like the gentleman from California [Mr. BONO], as a creative artist. We did not prevent any Member from taking what they learned here and writing the great American novel about American politics and Congress when they left.

We simply said that while Members are here, they ought to concentrate their efforts on serving the public and we ought to guarantee that despite all the other things we might do as a prior career or continuing career, it ought to be limited so that the amount of income we could earn would be de minimis in the context of what our salary was.

Mr. Speaker, I do not see anything at all inconsistent with what the Committee has asked us to do. They are, in effect, closing a loophole which was made at the time, because we never envisioned that people who wrote books would exceed that limit. I think it is appropriate that we make this change, and I hope Members would reaffirm the law we passed in 1989.

Mr. MCDERMOTT. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I rise in opposition to the Solomon amendment, and remind our colleagues that if the Solomon resolution passes, we will not have an opportunity to vote for the report of the Committee on Standards of Official Conduct.

Mr. MCDERMOTT. Mr. Speaker, I yield 1½ minute to the gentleman from Ohio [Mr. SAWYER], a member of the Committee on Standards of Official Conduct.

Mr. SAWYER. Mr. Speaker, I express my thanks and gratitude to all of my colleagues on the Committee on Standards of Official Conduct. The last 11 months have presented a challenge before us to deal with a number of complex issues that revolve around a number of different charges that were brought before us. But the issue that brings us together today is what brought us together as a committee. It was the cement, the cornerstone, the baseline from which we drew a unanimous report that we all agreed to from the committee.

That baseline drew on exactly the kind of question that the chairman of the Committee on Rules asks. The gentleman's question was: What is the perceived problem and what is the solution? The perceived problem is real. It was the appearance of exploiting one's office for personal gain. The solution, the goal, was to limit outside income to avoid that appearance.

Mr. Speaker, this measure that we may or may not get to, depending on the outcome of the vote on the Solomon proposal, was precisely that attempt. It was a bipartisan effort to come to an agreed-upon date with an agreed-upon solution that would deal with the appearance of exploiting one's office for personal gain.

Mr. Speaker, it is a fair and honorable way to go about the business of saying, yes we want to share ideas with the rest of the Nation, but we should not be earning exorbitant income in the process of doing it.

□ 1200

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

When I was a boy, I used to worship this next speaker. He was one heck of a baseball player.

Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky [Mr. BUNNING], a distinguished Member now in another career, especially with his duties on the Committee on Standards of Official Conduct.

Mr. BUNNING of Kentucky. Mr. Speaker, first of all, I would like to show the Members of this body those people who have applied in the last 3 years and asked the Committee on Standards of Official Conduct for permission to do books, and that does not include those who wrote them without asking permission, because presently under the law you do not have to ask permission.

Mr. Speaker, I rise in opposition to House Resolution 299 and in support of the Solomon amendment.

No matter how hard we try we cannot insulate the Members of this body from every potential temptation and every potential conflict of interest that exists in this world today.

To try to do so is ridiculous. To try to do so demeans this body's integrity and the integrity of each and every Member of this House of Representatives.

If a Member of the U.S. House of Representatives has intelligence and imagination enough to develop ideas that can catch the interest of the book buying public—what is the harm of that?

If a Member of this body has enough writing ability to convince the book buying public to shell out $10, $20, $30 for a book, where is the harm in that?

Sure, we can prohibit advances, and I agree that we should do so, for the potential abuse does occur in advances and the Solomon substitute does just that.

But, for God's sake, do not gag the Members of this body with the intelligence and ability to put ideas down on paper. Do not tell the American public that the Members of this body cannot be trusted to test their ideas in the market place.

This year, 10 Members of this body have submitted book contracts to the Ethics Committee for consideration.

Changing the rules retroactively is totally unfair to these Members.

In the past 3 years another 15 Members or staff personnel have submitted book contracts to the Committee of Standards. And this does not even count the others who did not submit their contracts to the Ethics Committee.

We do not know how many books are being written or sold because, currently, the rules do not require anyone to submit contracts for review. We will not know until the income is reported on the financial disclosure statements.

The Solomon amendment requires that all books be submitted.

It is just not right to stifle the talents or the message, and it is a violation of the first amendment of the Constitution.

It is a matter also of common sense and dignity.

Do not demean this body or the integrity of your follow Members by slapping a gag rule on this institution.

Please, support the Solomon substitute.

Mr. McDERMOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, let me try to respond to some of the comments that were made by the gentleman from Kentucky [Mr. BUNNING] and the gentleman from New York [Mr. SOLOMON].

First, the problem is that the current rules allow a person to be able to earn millions of dollars solely because of their office. That is the problem that we are dealing with. These multimillion-dollar book contracts are awarded because of our office.

The second problem is enforceability. Nothing in our current rules gives the Committee on Standards of Official Conduct the ability to enforce bulk sales, as the gentleman from Washington, [Mr. McDERMOTT] mentioned. We can be with a group, and to show us appreciation they buy 500 copies of our book, distribute it to the conference, and we have personally benefited a couple thousand dollars. It is that type of problems that we have if we do not restrict the book royalty income, the same as we do all other earned income.

The gentleman from New York [Mr. SOLOMON], let me point out that the President and senior executive officers cannot earn money like we do for books. In most cases, they cannot earn any money, and they certainly cannot relate it to their office.

So we are allowing Congressmen much more flexibility than the President of the United States or senior Cabinet positions.

We are dealing with earned income, not unearned income or investment income. I think that is totally inappropriate to mention that in this debate.

Lastly, let me point out the issue is clear. If the Solomon substitute is adopted, we never get a chance to vote on the recommendation of the Committee on Standards of Official Conduct. Members will still be able to enter into multimillion-dollar contracts. It is that that we are trying to stop.

Make no mistake about it, we have a clear choice on the floor of the House today. If you vote for Solomon, you are opposing the bipartisan report of the Committee on Standards of Official Conduct. You are opposing what we are trying to do in telling you that we cannot enforce the current rule.

Please, support the Committee on Standards of Official Conduct.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I rise in supporting the Solomon amendment and opposing the base bill, which, had it been adopted by the British Parliament, would have prohibited Winston Churchill from writing and selling 11 major works while he was in office, including his 1953 Nobel Prize-winning history of World War II.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I rise in support of the Solomon amendment.

But I would also like to commend the gentlewoman from Connecticut [Mrs. JOHNSON] and the gentleman from Washington [Mr. McDERMOTT].

I think, under Democratic leadership, many of us thought the Committee on Standards of Official Conduct, had a wrangle of an oxymoron that it really was not able to achieve very much.

I disagree with you on this issue. Let me tell you why. The Senate just passed 68 to 30 to override the President's frivolous lawsuit-type thing. Democrats filed 65 charges against the Speaker, frivolous.

In a bipartisan way they threw out 64, and only 1 of them, in a very narrow, technical use, to look at a tax loophole.

If you want to look at something, ethics in this body, you ought to look at frivolous charges on a partisan matter.

The Speaker took $1. There has never been, to my knowledge, anyone that signed a million-dollar contract, ever. So what are we fighting against? The Speaker took $1, and we are legislating this against it.

I am writing three books. I have written one. I am writing two others. I am not going to make a million dollars on them, but I would like to be able to sell them.

Mr. McDERMOTT. Mr. Speaker, I yield 30 seconds to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, the gentleman from Kentucky just said that it is a violation of free speech to provide this limitation. It is not.

Senator SARBANES and I arranged for the publication of a book. We also arranged that neither one of us would make one dime off of it. So did the distinguished majority leader of this House, the gentleman from Texas [Mr. ARMEY].

This is not about free speech. This is about money and we believe, and I am happy that the Committee on Standards of Official Conduct believes, that Members of the House should not have to make money in order to freely express their ideas.

Mr. McDERMOTT. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, Members of the House, I think the gentleman from Wisconsin really put his finger on it. You have a clear choice here.

The Committee on Standards of Official Conduct looked at this issue and said we do not want to stifle people's ability to write books. We want them to be able to make a modest amount of income in addition to their salary, which we allow everybody else in this House except attorneys, and we said we cannot allow the continuation of the present situation because it leaves itself open to abuse.

The amendment offered by the gentleman from New York [Mr. SOLOMON] not only leaves it open to abuse but broadens it.

In my view, you have a very clear choice. It is not two good proposals; it is one bad proposal and one very good bipartisan proposal the gentlewoman from Connecticut [Mrs. JOHNSON] put together in the Committee on Standards of Official Conduct, and every Member here ought to support it.

As I said before, our problem, we looked at a lot. The gentleman from California [Mr. CUNNINGHAM] brought up all the other issues.

Well, there were some issues we could not figure out how to examine. For instance, book bulk sales; Speaker Wright was brought before this House on that issue, and the fact is that we have no capacity to know how books are sold or anything else. So the only way we could do it was to say you will have $20,040 whether you are writing a book or you are an undertaker or you are a whatever; you can make additional money here, but only $20,040, no matter what you do. You can write anything. You can use the books to be published and promoted by the companies, but you can only come away with $20,040.

This is about money, not about the expression of ideas.

Mr. SOLOMON. Mr. Speaker, I yield 30 seconds to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, I began my discussion during the rule by quoting the Constitution of the United States, and the reason you can say it is not about free speech, it is about money, thus implying that all of us who are trying to stand up for the Constitution are doing it for some nefarious reason because you have this Constitution that says you have free speech: "Congress shall make no law respecting abridging of the freedom of speech."

Now, if you are having difficulty finding out whether people are acting crookedly, that is something we have to overcome in a free country. You cannot come down here and make the argument that somehow we are favoring money over free speech when the Constitution says it is supposed to be tough to get rid of free speech.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time and just say that maybe I should not say anything after that speech by the gentleman from Hawaii.

I want to commend both sides for a very good debate. For the most part, it has been nonpartisan, and we hoped it would be that way because it is an issue that faces all of us.

The question before us is whether or not advances can be abused. We recognize that on both sides of the issue. Therefore, my resolution abolishes all possibilities of any abuses from a book being sold, Members getting an advance when the book was not really worth anything, the intellectual property was not worth anything, therefore he should not receive any income from it. That is what the debate is all about.

I would hope that you would now vote for the resolution. We look forward to continuing to work with the Committee on Standards of Official Conduct in the Committee on Rules' jurisdiction of accepting the rules that this House has to operate under.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BEREUTER). Pursuant to the House Resolution 322, the previous question is ordered on the amendment and on the resolution.

The question is on the amendment in the nature of a substitute offered by the gentleman from New York [Mr. SOLOMON].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were yeas 219, nays 174, answered "present" 2, not voting 38, as follows:

[Roll No. 882]

YEAS—219

Abercrombie
Archer
Armey
Bachus
Baesler
Baker (CA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clinger
Collins (GA)
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Flake
Flanagan
Foglietta
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Molinari
Mollohan
Moorhead
Morella
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Royce
Salmon
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Thornton
Tiahrt
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—174

Allard
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bilbray
Bishop
Blute
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clayton
Clement
Clyburn
Coble
Coburn
Coleman
Collins (IL)
Combest
Costello
Coyne
Danner
DeFazio
de la Garza
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Engel
Ensign
Eshoo
Evans
Farr
Fazio
Fields (LA)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gonzalez
Gordon
Goss
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hobson
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E.B.
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Leach
Levin
Lewis (GA)
LoBiondo
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Menendez
Miller (CA)
Minge
Mink
Moakley
Montgomery
Moran
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thurman
Torkildsen
Torres
Torricelli
Towns
Velázquez
Vento
Visclosky
Volkmer
Wamp
Ward
Waters
Williams
Wise
Woolsey
Wynn
Yates
Zimmer

PRESENT—2

Gunderson
Studds

NOT VOTING—38

Ackerman
Baker (LA)
Berman
Bevill
Buyer
Callahan
Calvert
Collins (MI)
Conyers
Cramer
Edwards
Fattah
Fields (TX)
Filner
Ford (TN)
Gallegly
Gibbons
Green
Gutierrez
Harman
Hayes
Jacobs
Jefferson
LaFalce
Lantos
Lincoln
Lipinski
Lofgren
Manzullo
Meek
Myers
Neal
Owens
Quillen
Quinn
Ros-Lehtinen
Waxman
Wyden

☐ 1232

The Clerk announced the following pairs:

On this vote:

Mr. Quinn for, with Miss Collins of Michigan against.

Mr. Quillen for, with Mr. Filner against.

Mr. YATES, Mr. LOBIONDO, and Mr. RUSH changed their vote from "yea" to "nay".

Mr. MFUME changed his vote from "nay" to "yea."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BEREUTER). The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it

RECORDED VOTE

Mr. MCDERMOTT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 259, noes 128, answered "present" 2, not voting 44, as follows:

[Roll No. 883]

AYES—259

Abercrombie
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Ballenger
Barr
Barrett (NE)
Bartlett

Barton
Bass
Bateman
Beilenson
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Boehlert
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Dixon
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Farr
Fawell
Flake
Flanagan
Foglietta
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman

Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
LoBiondo
Longley
Lucas
Manton
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McNulty
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker

Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Rose
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Torricelli
Towns
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—128

Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Blute
Bonior
Borski
Brown (CA)
Brown (FL)

Brown (OH)
Bryant (TX)
Cardin
Clayton
Clyburn
Coleman
Collins (IL)
Costello
Coyne
Danner

de la Garza
DeFazio
DeLauro
Dellums
Dicks
Doggett
Dooley
Doyle
Durbin
Engel

Eshoo
Evans
Fattah
Fazio
Fields (LA)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (SD)
Johnson, EB.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King

Kleczka
Klink
Levin
Lewis (GA)
Livingston
Lowey
Luther
Maloney
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Menendez
Miller (CA)
Mink
Moakley
Murtha
Nadler
Oberstar
Obey
Olver
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Poshard

Rangel
Reed
Richardson
Rivers
Roemer
Roukema
Roybal-Allard
Rush
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Stupak
Thompson
Thurman
Torkildsen
Torres
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Williams
Woolsey
Wynn
Yates

ANSWERED "PRESENT"—2

Gunderson
Studds

NOT VOTING—44

Ackerman
Baker (LA)
Berman
Bevill
Boehner
Buyer
Callahan
Calvert
Chapman
Collins (MI)
Conyers
Cramer
Deutsch
Edwards
Fields (TX)

Filner
Ford
Fowler
Gallegly
Gibbons
Green
Gutierrez
Harman
Hayes
Jacobs
Jefferson
LaFalce
Lantos
Lincoln
Lipinski

Lofgren
Manzullo
McIntosh
Meek
Myers
Neal
Owens
Quillen
Quinn
Ros-Lehtinen
Sabo
Shaw
Waxman
Wyden

□ 1251

The Clerk announced the following pair:

On this vote:

Mr. Quinn for, with Miss Collins of Michigan against.

Messers. TEJEDA, ORTIZ, and TAYLOR of Mississippi changed their votes from "no" to "aye."

So, the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate, having proceeded to reconsider the bill (H.R. 1058) "An Act to reform Federal securities litigation, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4) "An Act to restore the American family, reduce illegitimacy, control welfare spending, and reduce welfare dependence.".

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1655) "An Act to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.".

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2029. An Act to amend the Farm Credit Act of 1971 to provide regulatory relief, and for other purposes.

CONFERENCE REPORT ON H.R. 2539, ICC TERMINATION ACT OF 1995

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent to call up and adopt a conference report to accompany the bill (H.R. 2539), to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes, and that Senate concurrent resolution (S. Con. Res. 37) directing the Clerk of the House of Representatives to make technical changes in the enrollment of the bill (H.R. 2539) entitled "An Act to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes" shall be deemed to have been adopted upon adoption of such conference report.

The Clerk read the title of the bill.

The Clerk read the title of the Senate concurrent resolution.

(For conference report and statement see proceedings of the House of December 18 (legislative day of December 15), 1995, at page 37339.)

The text of Senate Concurrent Resolution 37 is as follows:

S. CON. RES. 37

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 2539) entitled "An Act to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes" shall make the following corrections:

(1) In section 11326(b) proposed to be inserted in title 49, United States Code, by section 102, strike "unless the applicant elects

to provide the alternative arrangement specified in this subsection. Such alternative" and insert "except that such".

(2) In section 13902(b)(5) proposed to be inserted in title 49, United States Code, by section 103, strike "Any" and insert "Subject to section 14501(a), any".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania [Mr. SHUSTER].

There was no objection.

Mr. SHUSTER. Mr. Speaker, I rise in strong support of the conference report on H.R. 2539, the ICC Termination Act of 1995.

This is a very important piece of legislation that will eliminate the oldest regulatory agency, the Interstate Commerce Commission.

This conference report represents a delicate balancing of the interests of shippers and carriers and a reasonable compromise between the House and Senate versions. The House bill passed with strong bipartisan support by a vote of 417 to 8 and the conference report retains all the key provisions of the House-passed bill.

The conference report represents the final chapter in the long history behind the termination of the ICC. The ICC has been downsizing for the past 15 years. In the 1970's the ICC had 11 commissioners and 2,000 employees and oversaw pervasive regulation of the transportation industry. The Staggers Act of 1980 and the Motor Carrier Act of 1980 began the substantial deregulation of the rail and motor carrier industries. The ICC now has 5 commissioners and fewer than 400 employees.

The conference report eliminates many of the remaining regulations and continues the downsizing of government. The bill preserves a core of functions that are retained only where necessary to preserve competition and ensure the smooth functioning of the $320 billion surface transportation industry. Any remaining functions are transferred to the Department of Transportation—avoiding overhead that having a separate agency requires.

The bill will produce personnel savings of over 200 employees at an annual budgetary savings of $21 million.

It is essential that this bill move quickly considering that the ICC will run out of appropriated funds at the end of this month.

The DOT appropriations bill funds the ICC only through December 31 of this year. The purpose of H.R. 2539 is to provide for the orderly shutdown of the ICC.

Without legislation to eliminate or transfer current ICC regulatory functions the transportation industry will be hurled into chaos.

For example, if the ICC is shut down without authorizing legislation to transfer remaining functions, it will be impossible for railroads to record liens on purchases of new rolling stock. This is like telling a car dealer that he can sell new cars, but there is nowhere to go to transfer the title to the car.

SUMMARY OF THE BILL

RAIL

The conference report repeals and reduces numerous regulatory requirements of law, including a variety of obsolete or unnecessary provisions. These include:

Replacement of tariff filing with a requirement that railroads notify shippers of changes of rates

Repeal of the separate rate regime for recyclable commodities.

These are in keeping with our goal to streamline Government and make any truly necessary regulation as efficient and cost-effective as possible.

The bill focuses remaining regulation of rail transportation on the minimum necessary backstop of agency remedies to address problems involving rates, access to facilities, and the restructuring of the industry.

The bill also includes provisions to facilitate the transfer of lines that would otherwise be abandoned so that another carrier can keep them in service.

In order to ensure fairness, any proceeding that has begun before the bill is enacted would be continued under the law in effect before enactment.

The bill recognizes the unique nature of the railroad industry and draws a balance among the interested parties: carriers, shippers, and the public.

The bill continues the basic structure of the Staggers Act, under which the railroad industry has seen a remarkable recovery primarily due to the benefits of deregulation.

The most controversial issue in the conference report has been labor reforms on small railroad transactions. The Senate has passed a concurrent resolution that we will bring forward to restore all of the language from the Whitfield amendment that was in the House bill. This bill passed with 417 votes on the House floor.

I also want to note one item that is discussed in the conference report at page 180. The new procedures for line purchases by class II and class III railroads in section 10902 do not remove the existing option of carriers of any size to seek approval of non-merger transactions under section 11323, which carries with it the existing labor protection requirements. Such transactions include trackage rights agreements under section 11323(a)(6), as well as purchases, leases and operating contracts under section 11323(A)(2).

Finally, I want to clarify changes that are made in the conference report regarding access to terminal facilities and switch connections and tracks. Some people are claiming that the conference report vastly expands the capability of freight railroads to obtain access to other railroads' facilities. This is incorrect. The statement of managers is intended to provide clarification specifically for certain railroads owned or operated by public authorities. The report clarifies that such railroads, for example those in the New York Metropolitan Region, owned and operated for the public interest, may invoke the remedies under sections 11102 and 11103.

MOTOR CARRIER

The conference report eliminates or streamlines numerous unnecessary motor carrier functions currently performed by the ICC. These include eliminating nearly all remaining tariff filings, significantly broadening exemption authority to permit administrative deregulation, easing the burdensome financial reporting requirement, deregulation of Federal and State price regulation of office and exhibit moves, elimination of ICC resolution of routine commercial disputes, and streamlining of regulation of chemical pipelines, among many others.

A core of motor carrier functions will be transferred to the Department of Transportation and carried out with no increase in personnel slots and with no increase in funding. The primary Department responsibility will be the registration of motor carriers and the establishment and enforcement of minimum financial responsibility requirements. The other function transferred is maintenance of background industry commercial rules (such as cargo loss and damage rules, leasing rules) which should not require any significant personnel or resources.

A limited number of functions will be carried out by the Board, including the final resolution of undercharge claims, oversight of the remaining limited rate reasonableness requirements, and approval and oversight of agreements for antitrust immunity under reformed procedures and oversight over noncontiguous domestic trade.

The conference report contains a compromise provision to correct an inadvertent change in 1994 to common carriers' ability to establish released rates for shipments. This change would permit carriers to limit liability in a schedule of rates kept on file at the carriers' place of business, which is made available to shippers upon request. I want to be clear that this change represents a compromise from the house-passed provision, and in no way affects the underlying Carmack amendment.

CONCLUSION

I urge all my colleagues and particularly the 417 Members who supported this legislation on the House floor to vote for the conference report with the assurance that it contains all the major provisions of the House-passed bill.

I rise in strong support of the concurrent resolution. This resolution conforms the conference version of the I.C.C. Termination Act exactly to the House-passed bill on the subject of labor protection. That bill, which included the Whitfield amendment, was approved by the House on a rollcall vote of 417 to 8. It also makes one other technical change to correct the accidental omission of a phrase in one of the conference provisions.

The changes contained in this concurrent resolution remove the principal feature of the conference report which the administration found objectionable. It is our good fortune that the Senate has agreed to recede to the House on this point, in order to remove the administration's ground for objection, and has already approved the same resolution we are now considering. I therefore urge approval of this resolution on the same bipartisan basis that Members exhibited when they overwhelmingly approved the House-passed bill with the same labor protection provisions.

Mr. NADLER. Mr. Speaker, this conference report, as amended by Senate Concurrent Resolution 37, follows the House bill by including a very important labor protection provision, known as the Whitfield amendment, which was adopted by the Members of this House by a 241–184 vote. That amendment provides some measure of protection to railway workers. Without it, the impact on those working Americans would be simply unconscionable. I am pleased to note that it is part of the bill going to the President.

I am also gratified that two provisions I proposed, and got included in the House version of this bill, have been retained in this conference agreement. These two sections will help to protect the rights of small businesses, consumers, and working people following the elimination of the ICC. These two amendments were included in the chairman's en-bloc amendment in the House.

I am pleased that the existing section 10707, the Feeder Line Development Program, is included in this bill. Under this provision, any rail carrier which owns a rail line but does not serve that line can be compelled to sell that unserved line to a carrier willing to provide service. This is vitally important to ensure that businesses, communities, and consumers are not needlessly isolated from the Nation's commerce by the stranglehold of a particular carrier over a particular service area. This will ensure that commerce will continue to move over rail rights of way and it will continue a very important power currently held by the ICC.

Second, my language ensuring the continued existence of common carriage has been retained in the conference report. This language seeks to protect shippers and the general public from monopolies and to enable commerce to flow freely. This provision accomplishes that important goal by mandating that a carrier provide service to a shipper that makes a reasonable request for service on a nondiscriminatory basis.

Under an earlier draft of this legislation, carriers would have been permitted to utilize all of their available capacity to contract carriage, leaving no remaining capacity available for small shippers willing and able to ship goods via common carriage. This iron-clad preference for contract carriage, to the exclusion of common carriage, would have sounded a death knell for common carriage and the small businesses and shippers dependent on the openness and fairness of the common carrier requirements. My amendment essentially prevents this dangerous exclusive preference for contract carriage and protects the integrity of our rail transportation system.

Mr. Speaker, as I just said, I am pleased that some of my concerns with the future of rail service have been addressed. I thank Chairman SHUSTER and ranking member OBERSTAR of the Transportation Committee for their cooperation on these concerns.

Mr. UNDERWOOD. Mr. Speaker, I rise today in opposition to the conference report on House Report 2539, the Interstate Commerce Commission Termination Act of 1995.

This legislation is flawed because it contains provisions that are harmful to consumers in the offshore domestic areas such as Guam. Under this act, carriers that engage in the domestic offshore trade are authorized to raise rates up to 7.5 percent a year. These increases are deemed by the legislation as a zone of reasonableness. I do not know in what planet a 7.5 percent rate increase per year is reasonable, but on Guam, this qualifies as a zone of greed.

The intent of the ICC Termination Act is to deregulate the motor carrier and rail industries. Residual regulatory authority for the water carriers will be transferred to the Department of Transportation. Congress has chosen not to deregulate the shipping industry. Guam would welcome such deregulation, because Guam has found over the years that being a captive market for the water carriers would without any stringent regulatory oversight is an open invitation to gouge the consumers on Guam with shipping rates that are four times higher than rates to Japan.

Unlike the domestic trucking and rail industries, there is virtually no competition in the domestic offshore trade. Guam is served by two carriers, and Guam has no choice but to use these services because of a variety of shipping laws regulating the trade between Guam and other U.S. ports.

I welcome the bill language that calls for a study of the effects of this regulated industry, and I would request that the Secretary of Transportation take special note of the effects on consumers in captive markets such as Guam. This study specifically calls upon the Secretary of Transportation to analyze "the problems of parallel pricing and its impact on competition in the domestic trades"; "whether additional protections are needed to protect shippers from the abuse of market power"; and the extent of "carrier competition". I am confident that the results of this study will conclusively demonstrate what those of us from Guam have required one of two things: First, effective regulation; or second, greater competition. This bill provides neither.

In making the case against the zone of reasonableness, the Governor of Guam, the Hon. Carl Gutierrez, and I have attempted to explain how this provision will harm our residents. We received a copy of a letter from the Department of the Navy to the conference committee noting the Navy's objections to this blank check for rate increases that the American taxpayer will have to pay when military goods are shipped to Guam. The Navy also stated that the high shipping rates may force them to ship military goods to Japan instead of Guam, putting American workers on Guam out of work. Meantime, the shipping companies continue to roll in the profits.

I call attention to an important element of the legislative history of this provision that offers some hope to Guam. In the conference report on House Report 2539, the Senate receded to the House language of section 13701 of chapter 137. The House language was accepted by the conferees and the House legislative history is therefore controlling, although the conferees agreed to the rate of 7.5 percent instead of 10.0 percent. The legislative history of this provision in the House Report 104–311 of the Committee on Transportation and Infrastructure reflects the legislative intent of the House and includes report language that explains that "this zone of reasonableness for rate increases does not mean that the base rate cannot be challenged as unreasonable." I expect the Department of Transportation to take note of this legislative intent should Guam decide to challenge the unreasonableness of base shipping rates.

Mr. Speaker, I hope that the President vetoes this bill for the reasons I have stated to protect the consumers in the offshore domestic areas.

Mr. RAHALL. Mr. Speaker, I rise in support of this conference report, as amended by the concurrent resolution.

This legislation provides for the orderly transfer of those essential authorities currently vested with the Interstate Commerce Commission to the Department of Transportation, and a new Surface Transportation Board.

The bottom line is that if this legislation is not adopted, come January 1, there will be chaos in the railroad and motor carrier industries.

There would be in place a body of law governing their daily operations, with nobody in place to administer or enforce that law since funding for the ICC expires on December 31.

I would submit that situation would harm not only the railroads and the trucking companies, but every American consumer and transportation labor as well.

In my capacity as the ranking Democratic member on the Subcommittee on Surface Transportation, there were several issues I championed during deliberations on this legislation.

Among them are maintaining antitrust immunity for classifications, mileage guides, the establishment of through routes and joint rates.

Under this legislation, antitrust immunity for these activities would continue subject to agreements approved by the new Surface Transportation Board.

In my view, the grant of antitrust immunity for these motor carrier activities has well served both the industry and the general public and this legislation's treatment of this matter is prudent and wise.

This legislation also makes a number of other appropriate changes to that body of Federal law governing motor carriers, building upon the amendments made by the last Congress in the Trucking Industry Regulatory Reform Act of 1994.

Reflecting the new world order in motor carrier regulation, this bill would streamline registration requirements and eliminate duplication.

Ultimately, all of the various registration systems will be consolidated into one, unified system, administered by the Secretary of Transportation.

I am also pleased to note that a compromise was reached on the issue of financial reporting which, while preserving this most important function for gauging safety fitness, will protect confidential business information, trade secrets, and other privileged information.

From the perspective of the consumer, the motor carrier and railroad industries, and those who they employ, this legislation establishes a prudent and wise regulatory framework for the post-ICC era. I commend it to the House.

With respect to other matters in this bill, I would be remiss if I did not make note of the tow truck provision contained in this conference agreement.

As I have noted in the past, last year Congress inadvertently preempted the ability of local governments to regulate the tow truck industry as part of section 601 of the Federal Aviation Administration Authorization Act of 1994.

The Congress did not intend to do this, and in fact, has no business intruding in this intrastate and local matter. In fact, during the waning hours of the last Congress I managed to gain House passage of remedial legislation. However, it has taken us until this point to finally resolve this issue.

The pending legislation would restore the local authority to engage in regulating the prices charged by tow trucks in nonconsensual towing situations. Regulation of routes and services, as well as regulation of consensual towing, would still be preempted.

Nonconsensual towing situations are those where the owner of the vehicle is unable to consent to it being towed, such as in cases of a severe accident, where the vehicle is towed from a commercial establishment for being illegally parked, or towed from city streets as a result of police order.

I would note that with the restoration of the authority of local units of government to regulate prices charged for nonconsensual towing, the Congress fully expects that any rates so established be compensatory and reasonable.

Another matter in this conference agreement of great interest to this gentleman from West Virginia relates to the issue of fiber drums. While not directly related to the termination of the Interstate Commerce Commission, this issue was raised by the Senate version of the bill and ultimately addressed by the conference committee.

Section 105(d)(2) of the Hazardous Materials Transportation Act gives the Secretary of Transportation discretionary authority to issue standards applicable to the domestic transportation of hazardous materials consistent with standards adopted by an international body. I would stress that this authority was discretionary, with the adoption of any international-based standards for the purposes of domestic commerce not required by law.

Subsequently, the Secretary promulgated regulations applicable to the domestic transportation of hazardous materials in a proceeding known as HM–181 based on the recommendations of a committee of the United Nations formed to develop requirements applicable to international commerce. These regulations have an effective date of October 1, 1996.

The problem is that pursuant to the HM–181 regulations, certain types of packaging, including open-headed fiber drum packaging used for liquid hazardous materials, will no longer be acceptable for domestic commerce in the United States. Incredible as it may seem, this is the result of the rulemaking despite the demonstrated almost 100 percent safety record of fiber drum packaging technology.

In light of the fact that fiber drum packaging for liquid hazardous materials is an exclusive American technology, and due to the lack of experience with it among the international community, it may not have been duly considered in the formulation of the HM–181 standards. Further, several nations other than the United States continue to provide for the regulation of hazardous materials transportation within their borders utilizing standards not based on the recommendations of the U.N. committee.

Yet, as it stands, if Congress does not seek to remedy this situation, as of October 1, 1996, fiber drum packaging, the economies and employment it offers, will be no longer.

I am further troubled by the manner by which this issue has been handled by the Department of Transportation's Research and Special Programs Administration. An appeal to HM–181 by the fiber drum industry was referred to the Federal employee who was the principal author of the regulation. The appeal was not considered by some type of impartial body, or by an adjudicatory panel. Rather, again, it was referred to a single Federal employee who, surprise, surprise, sustained his original position. In recognition that the fiber drum industry was being treated unfairly, last year the Congress by statute ordered the Transportation Department to revisit the issue and undertake a new rulemaking. Guess who was put in charge of this new rulemaking? The very same Federal employee who was the principal author of HM–181 and who ruled against the appeal. Once again, the treatment by HM–181 of fiber drum, packaging was sustained.

As part of its version of this legislation, the Senate included a provision that would have simply authorized the continued use of fiber drum packaging so long as that packaging is in compliance with pre-HM–181 regulations. The House had no similar provision. In conference, in an effort to reconcile the concerns advanced by the steel and plastic drum manufacturers, a compromise was devised that basically provides for a 1-year extension of the HM–181 deadline as it applies to fiber drum packaging while the National Academy of Sciences conducts a study on the issue. Since the Research and Special Programs Administration has been unable to consider this matter in an objective manner, the conferees unanimously agreed that the National Academy of Sciences was the most appropriate entity to conduct the study.

For its part, the Academy is to complete the study by March 1, 1997, with the Secretary directed to conduct yet another rulemaking giving full and substantial consideration to the results of the study. I would stress the use of the words 'full and substantial consideration.' This term does not mean that the Research and Special Programs Administration is to give lip service to the results of the Academy study. They do not mean that the Research and Special Programs Administration simply consider the results of the Academy study. This is not to be business as usual at the agency as it relates to fiber drum packaging. Rather, the phrase 'full and substantial consideration' was carefully selected by the conferees to reflect our concern that the results of a study on fiber drum packaging conducted by an impartial entity be the guiding force in the new rulemaking.

In the event the Research and Special Programs Administration does not comply with the letter and intent of this provision of the conference agreement, I pretty much can guarantee it that the Congress will revisit this issue once again.

Mr. BILIRAKIS. Mr. Speaker, I rise in support of the conference agreement to accompany H.R. 2539.

I note that the conference agreement contains an amendment to the Noise Control Act of 1972. This amendment was not contained in either of the bills sent to conference. It is my understanding that this amendment is a technical and conforming amendment that updates a definitional reference to title 49 of the United States Code in the Noise Control Act for the term "motor carrier." As I understand it, this change has no substantive effect on the operation of the Noise Control Act.

I bring this to the attention of my colleagues because the Commerce Committee has had a longstanding interest in the Noise Control Act. The committee reported the original version of the act in 1972 and has been responsible for overseeing the implementation and effectiveness of the act.

Mr. VENTO. Mr. Speaker, I rise in reluctant support of the conference agreement to H.R. 2539.

I am pleased that the conferees had the good judgment not to exclude the Whitfield amendment from this conference agreement, in which the majority of the Members of this body strongly supported. I support the Whitfield amendment, without which any transaction involving class II and class III railroads, including all railroads with up to $250 million of annual revenue, could disregard important employee rights. Without Whitfield, the successor to the ICC would be allowed to abrogate, through merger, longstanding employee protections which were collectively bargained.

Mergers and acquisitions should not use the workers as the grease for the gears of such combinations. Such business transactions should preserve the sanctity of labor contracts and stand on their business merit, not destroy railroad labor employee protections. I applaud the Whitfield language in this agreement.

However, I've serious concerns with this legislation arising from the publicity of the Republican majority in this Congress. For the past 12 months my colleagues on the other side of the aisle have purported to be State's rights advocates. Yet here we are with a bill before us that preempts States' authority to regulate routes, rates, services in the transportation of household goods within their own borders. It appears that the Republican authors of this bill have disregarded the rights of States in regard to the impact on their ability to regulate household goods. Whatever happened to returning power and policy discretion to States? Apparently, it was not convenient in this case and the effect is to further undermine the franchise, the expertise, and the safety that has been implemented by the States.

Mr. WISE. Mr. Speaker, I rise in support of the conference agreement on H.R. 2539, ICC Termination Act of 1995. It has been a long journey but finally all of the important issues involving the economic regulation of the railroad industry have been resolved on a bipartisan basis to everyone's satisfaction.

I commend Chairman SHUSTER, Chairwoman MOLINARI, and ranking Democratic member JIM OBERSTAR, and thank them and our former ranking Democratic member on the Subcommittee on Railroads, BILL LIPINSKI, for their leadership on this important issue.

Mr. Speaker, the conference agreement on H.R. 2539 provides for the elimination of the Interstate Commerce Commission. It also eliminates obsolete and unnecessary regulations and transfers the remaining functions to an independent board at the Department of Transportation. Additionally, as has been stated, it provides railroad workers with the fair labor protection voted for in the House-passed bill by a large margin.

Mr. Speaker, it would have been unfair to workers to continue the ICC's authority to set aside collective-bargaining agreements, particularly in the area of mergers between class

II and class III rail carriers. The Government does not have this power in any other industry. Collective-bargaining agreements are freely negotiated between management and labor and should be respected.

The conference agreement eliminates or reduces employee rights to severance pay. But it did it in a balanced manner, as the House bill did, by giving labor a guarantee of collective bargaining rights, as an offset for the elimination or reduction of severance pay.

In crafting the conference agreement, we also continue the deregulation of the Nation's transportation industry that started with the successful Staggers Rail Act of 1980. However, it is also evident in the conference agreement that the public interest is best served when the needs of the shippers and communities for reasonably priced railroad services are balanced against the needs of railroads for adequate revenue.

Although this approach has been a success, we still continue some regulation, because the railroad industry continues to consolidate, and the needs of employees and shippers must continue to be taken into consideration.

This piece of legislation is a step toward continuing the streamlining of regulation while balancing the needs of shippers, the public's interest in safe, efficient, low-cost transportation, and the industry's need for adequate predictable revenue and low regulatory compliance cost.

Additionally, I am pleased to see that some of the issues of great importance to me have been addressed in the bill and in the managers amendment. As in current law, the ICC successor may continue to deny or approve abandonments and discontinuances of railroad services, and labor protection requirements now applicable to abandonments are retained also. In my home State of West Virginia and in many other rural areas, abandonments can drastically affect the financial development of a community.

Moreover, we have made progress in the area of continuing to protect captive shippers from possible market abuse and in restoring the Long-Cannon criteria which the ICC uses to determine the current coal rate guidelines—the basis for determining maximum coal rates.

Therefore, Mr. Speaker, as I mentioned previously, I support the conference agreement on H.R. 2539 as it provides a fair and balanced approach to reforming the ICC.

Ms. MOLINARI. Mr. Speaker, I rise in support of the conference report on this important legislation. The ICC Termination Act eliminates many unnecessary and obsolete forms of regulation, as well as the oldest Federal regulatory agency itself. This legislation is a broad-based, bipartisan effort to modernize and streamline transportation regulation.

With respect to railroads, the bill retains all the key features of the House-passed legislation. And that legislation was passed by the House with overwhelming bipartisan support—417 to 8. The conference version of this bill keeps all of the key features of the successful deregulation begun with the Staggers Rail Act of 1980. Rate standards, the broad power to reduce regulation by administrative action, and the safety net of remedies for shippers are kept.

I especially want to commend our chairman, Mr. SHUSTER, our Surface Subcommittee chairman, Mr. PETRI, and our Surface Subcommittee ranking member, Mr. RAHALL, for their bipartisan efforts on this highly complex legislation. Let me also quickly express my thanks to the committee staff, particularly Jack Schenendorf, Bob Bergaman, Glenn Scammel, Alice Davis, and Jennifer Southwick for their long hours of hard work on this bill.

Under this legislation, we eliminate many cumbersome and unnecessary requirements that only resulted in extra regulatory burdens and paper-pushing.

At the same time, this legislation gives the retained responsibilities to a greatly reduced administrative board within the Department of Transportation. All of the bureaucratic overhead of the old independent ICC is eliminated by making the new board administratively part of DOT. This means that the almost 400-person ICC will be replaced by a Board served by only 120 people. It also means lowering the annual price tag from nearly $30 million to under $12 million.

Regarding the labor issue, some Members may have heard of the controversy surrounding this issue. On Wednesday, we received notification from the administration that the President would veto the conference report based primarily on the labor protection provisions. Last night, the Senate passed a concurrent resolution that restores all the language from the Whitfield amendment that was in the House bill, which passed with 417 votes.

As I said before, restoration of this language sets a dangerous precedent, which I have fought vigorously to avoid. A policy which enables organized labor to have the ability to stand in the way of a Government-approved merger is ludicrous. I might add that rail labor's position on this issue is somewhat ironic, since the effect of the concurrent resolution is to remove the option of 6 years of labor protection and to ensure that affected employees will receive only 1 year instead.

Nevertheless, I ask my colleagues to support the conference report only because it is imperative that authorizing legislation is passed before the ICC runs out of funding on December 31. Consider the consequences if a bill is not passed before the end of the month. Businesses in your districts who ship by motor or rail will have nowhere to go to seek relief under Interstate Commerce Act remedies. For companies who build rail cars, locomotives, and components—and their workers—sales to the railroad industry will be halted because the only means by which liens and other commercial transactions can be legally recorded will have been defunded.

In others words, a "no" vote on the conference report has significant real world implications and I urge my colleagues to support this legislation.

Mr. PETRI. Mr. Speaker, I want to express my support for this conference report to accompany H.R. 2539, the ICC Termination Act of 1995. Approval of the conference report will allow the Interstate Commerce Commission to close its doors within the next several days in an orderly fashion.

The conference report provides for the transfer of certain ICC functions to the Department of Transportation and to a new Surface Transportation Board to be established within DOT. All other remaining ICC functions will be eliminated.

I want to express my appreciation for the efforts of all the conferees, led on the House side by Chairman SHUSTER and on the Senate side by Chairman PRESSLER.

The conferees have worked diligently over the past several weeks to ensure that the Congress considers this important matter in a timely fashion.

Since the ICC is funded only through the end of this year, it is essential that we approve this legislation now and that it is signed into law by the President.

In order to avoid the chaos and uncertainty that would envelop the transportation industry if the ICC were to close on January first without having in place a process for the transfer of functions.

The motor carrier provisions in the ICC Termination Act of 1995 continue the economic deregulation of this industry which began in 1980, and was followed by various other deregulation initiatives, including three major bills just last Congress. H.R. 2539 will abolish the ICC and eliminate many of the Commission's remaining motor carrier functions that are no longer appropriate in today's current competitive motor carrier industry.

Functions and responsibilities which do remain are transferred to either the Department of Transportation—which primarily will oversee registration and licensing—or to the Surface Transportation Board—which will be responsible primarily for the limited remaining rate regulation and tariff filings, final resolution of undercharge claims, and approval and oversight of agreements for antitrust immunity. Much of the regulation that remains has been streamlined and reformed.

While we have provided for continued deregulation in this bill, many of us had hoped to have gone further. However, this legislation does contain many compromises, as is usually necessary to move forward such a complicated measure. Continued oversight of remaining motor carrier regulation is still required, and the Surface Transportation Subcommittee will closely monitor the industry and the need to retain these remaining regulatory requirements in the future.

Mr. Speaker, I urge my House colleagues to provide for an orderly shut-down of the Interstate Commerce Commission by approving this conference report today.

The SPEAKER pro tempore. The conference report on H.R. 2539 and Senate Concurrent Resolution 37 are adopted.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report and Senate concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE WORKS IN BIPARTISAN MANNER

(Mr. OBERSTAR asked and was given permission to address the House for 1 minute.)

Mr. OBERSTAR. Mr. Speaker, I take this moment to compliment our chairman, the gentleman from Pennsylvania [Mr. SHUSTER], of the Committee on Transportation and Infrastructure on the legislation just passed which is now on its way to the White House and to a certain signature into law.

Mr. Speaker, this completes a very long and very labored process of completing the economic deregulation of rail and of trucking transportation and of sunsetting the Nation's oldest regulatory body, the Interstate Commerce Commission.

We were able to come to this resolution today because the Committee on Transportation and Infrastructure is a committee that works because its members work together. When we work together, we accomplish good things for this country and for its economy.

Mr. Speaker, that is kind of a good note on almost which to conclude this part of the session. There was a time in the past when Bob Michel and Tip O'Neill would join in singing songs as we approach the Christmas season. This body is not in a mood to do that. But at least we can say that on the Committee on transportation and Infrastructure, we are singing from the same page today, and for that I compliment our chairman, the gentleman from Pennsylvania [Mr. SHUSTER], the gentlewoman from New York [Ms. MOLINARI], who is chair of the Subcommittee on Railroads, the gentleman from Wisconsin [Mr. PETRI], chairman of the Subcommittee on Surface Transportation, and the members on my side, the gentleman from Illinois [Mr. LIPINSKI] and the gentleman from West Virginia [Mr. WISE], on the splendid job of working together.

Mr. Speaker, I would like at this time to discuss in greater detail the legislation we have just passed by unanimous consent. To get to this point we have undertaken long and difficult negotiations, which finally resulted in a successful resolution of many complex and controversial issues. The process worked. We labored, discussed, negotiated, compromised, and in the end came together on a product that we all can support. For the Committee on Transportation and Infrastructure, this conference agreement is another testament to the fact we can do the best job for the Nation by working together on a bipartisan basis.

I am particularly appreciative of the efforts of Chairman SHUSTER. He spent many hours dealing with the complex and technical issues involved in this legislation. He listened with an open mind to all parties, and showed his dedication to the overall public interest by developing a creative compromise which protected the basic interests of all parties, but did not give any party all that it wanted.

Special recognition also goes to our Rail and Surface Subcommittees, including Rail Subcommittee Chairwoman MOLINARI and ranking Democratic member, BOB WISE; former ranking Democratic member, BILL LIPINSKI; Surface Subcommittee Chairman TOM PETRI; and ranking Democratic member, NICK RAHALL.

Mr. Speaker, as a result of the compromise we have reached, rail labor, rail management, shippers, motor and water carriers, and ICC reformers all support the conference report. In addition, with the compromise on rail labor protection, I expect that the President will sign the bill.

This conference agreement includes many important provisions ensuring continuation of critical safety and economic regulation of motor carriers and railroads, and, as a result of the concurrent resolution we just passed, the conference report will treat railroad employees fairly. As amended by the resolution, the conference agreement will reflect the House provisions which were a fair compromise between the competing needs of management and labor.

However, I wish to make it clear that I could not have supported the conference report without the amendment made by the concurrent resolution. The original conference agreement was highly unfair to rail employees.

The original conference agreement represented a picking and choosing of provisions from the House-passed bill. There was a serious imbalance between the provisions selected and those that were dropped. The original conference agreement kept all the concessions labor made in the bill, but dropped the one benefit labor received in return; protection of collective bargaining agreements.

Specifically in the House-passed bill, labor gave up a wide range of labor protection involving severance pay for employees who lose their jobs in mergers. The House bill reduced or eliminated severance pay in transactions involving line sales to noncarriers, line sales to class III carriers, line sales to class II carriers, mergers between class III carriers, and mergers between class II and class III mergers. The original conference agreement accepted these reductions in employee protection.

Let me provide a few examples:

Under current law if the Maryland Midland Railway Co.—a class III carrier, merges with Shenandoah Valley Railroad which is also a class III carrier, the railroad employees would receive 6 years of labor protection. Under the original conference agreement the employees would get no labor protection at all. That's a big concession on the part of labor, and one they agreed to only in return for protection of collective bargaining agreements.

Another example, under current law if the Wisconsin Central Railroad—a class II carrier, acquired a line from the Dakota, Minnesota, & Eastern Railroad, with 50 employees working on that line, those 50 displaced employees would receive 6 years of labor protection. Under the original conference agreement they would receive only 1 year of labor protection. Again, a significant concession on the part of labor.

A final example, under current law if RailTex, a holding company of class III railroads, sets up a new noncarrier subsidiary and acquires a branch line from Conrail, it could be required to pay up to 6 years of labor protection to any displaced employees. Under the original conference agreement, those same employees would get no labor protection. I reiterate—no labor protection at all. Labor agreed to this and much more.

In return, for these concessions what did railroad employees ask for and receive in the House bill? They received a right that every other American worker has—to bargain collectively with their employers and have those collective bargaining contracts upheld in court.

But the original conference agreement didn't give them these rights. Instead, it gave the carrier applying for the merger the choice of whether to accept rights of employees under collective bargaining agreements or ask ICC to throw the agreements out. That was unacceptable.

I simply could not support a bill which in essence took away the basic rights of employees to bargain collectively simply in an effort to make a merger move ahead a little faster or be a little more profitable at the expense of the employees.

Overriding freely negotiated collective bargaining agreements has been a practice the ICC has used many times in order to effectuate a merger. The result of those actions has been detrimental to rail employees.

For example:

Employees of the Chicago & Northwestern Railroad have negotiated a collective bargaining agreement which gives them priority to keep the jobs they now hold. To gain these job rights, the employees made substantial concessions to the company in other provisions of the agreement. Now following a merger between C&N and the Union Pacific, the ICC has been asked to set aside the collective bargaining agreement to enable UP to ignore the employees' collective bargaining rights and furlough 1,000 C&N employees or to move them to new lower paying jobs in other cities. Why should a Government agency be able to set aside job protection rights which were freely negotiated between management and labor?

Another example—in the mid-1980's, Springfield Terminal Co., a class III railroad, took over two class II railroads, the Maine Central and the Boston & Maine Railroad.

Both the Maine Central and the Boston & Maine Railroad employees were covered by national collective bargaining agreements which provided, in part, for seniority and safety training standards. Springfield Terminal's collective bargaining agreement had substandard seniority and no safety training standards.

When the ICC approved the transaction, it replaced the national collective bargaining agreements, at management's request, with the substandard Springfield Terminal agreement. As a result, the seniority system was turned upside down and junior employees became senior employees.

In addition, safety standards were compromised even to the point that a janitor became an untrained locomotive engineer. Some of the safety compromises even resulted in injuries and death.

Had the original conference report been adopted without change these abuses would have proliferated. Under the original conference agreement, ICC would have continued to hold broad authority to override collective bargaining agreements.

After the original conference agreement was filed we held extensive discussions with our Republican colleagues on the labor provisions. Yesterday we agreed to a modification of the conference agreement, which restored the entire House-passed provisions—both the concessions labor made and the benefits it received.

The revised conference agreement has now been passed by both bodies.

Under the revised conference agreement, railroad employees will receive the right that every other American worker has—to bargain collectively with their employers and have their collective bargaining contracts upheld in court. I am pleased that the revised conference agreement upholds fundamental rights of employees to bargain collectively. The revised conference agreement is fair to rail employees and I support it.

Mr. Speaker, apart from labor issues, I am supportive of the conference report because it strikes a good balance between continued deregulation of the rail and motor industries, and the preservation of the safety and economic regulatory powers needed to protect shippers against abuses which will not be remedied by competition.

The provisions in the conference report dealing with railroads, eliminate and modify many current railroad economic regulatory requirements. All remaining ICC rail oversight responsibilities are transferred to a new Surface Transportation Board at the Department of Transportation. The conference agreement repeals requirements that freight rail carriers file their rates with the Federal Government, repeals prohibitions against a rail carrier transporting commodities which it produces or owns, and repeals requirements that railroads obtain Federal regulatory approval to issue securities, or to assume certain financial liabilities with respect to other securities.

At the same time, the conference report maintains some critical regulatory authority that both the rail industry and shippers agree is necessary. These include maximum rate standards which protect captive shippers from unreasonably high rates; requirements that a rail carrier provide transportation upon reasonable request—better known as the common carrier obligation; and requirements that rail carriers maintain, and make available to shippers, schedules of their rates, with the Federal Government retaining authority to review and order changes in these schedules to protect captive shippers.

Additionally, to permit further deregulation in appropriate cases, the Board will have authority to exempt railroads or rail services from regulatory requirements.

With regard to motor carriers, the conference report continues the deregulation that has progressed over the last 15 years by eliminating virtually all remaining tariff filings, deregulating significant portions of the household goods traffic, eliminating the possibility of future undercharge claims, and eliminating the Federal role in resolving routine commercial disputes.

The bill retains key provisions of current law which establish uniform commercial rules such as billing practices and credit rules. The bill also enables small regional carriers to compete with national carriers by providing for limited grants of antitrust immunity for carriers who pool their traffic and develop standardized guides.

In addition, the bill provides household-goods shippers with access to arbitration for disputed claims. This option will encourage equitable resolution of damage claims, eliminate Federal Government involvement in individual disputes, and minimize reliance on the courts.

The bill also clarifies that carriers may limit their liability, provided that they give all terms and conditions to the shippers on request, and that carrier organizations may not discuss liability limits. I know that many shippers have serious concerns about this provision. That's why the conference report includes a 12-month study of loss and damage liability. We will monitor the effects and determine whether adjustments are necessary.

In conclusion, Mr. Speaker, the revised conference agreement is a balanced bill and a fair compromise. I urge the President to sign it promptly, sot that there will be no lapse in implementation of responsibilities now entrusted to the ICC.

Mr. PETRI. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Speaker, I think it is particularly noteworthy at a time when passions have tended to run particularly high on other issues before this Congress, that members of the Subcommittee on Surface Transportation on both sides of the aisle have been able to work together repeatedly on major issues involving significant policy changes. They could have been overwhelmed by this acrimony, but we have resisted that.

Mr. Speaker, it is due in no small part to the leadership of the gentleman from Minnesota [Mr. OBERSTAR] and to that of the other ranking members on the subcommittees of the conference. I would like to wish the gentleman the best for the season.

PROVIDING DEFICIT REDUCTION AND ACHIEVING A BALANCED BUDGET BY FISCAL YEAR 2002

Mr. TAYLOR of Mississippi. Mr. Speaker, it was my understanding that the Chair was going to rule on my privileged resolution today.

The SPEAKER pro tempore. Is there a resolution?

Mr. TAYLOR of Mississippi. Mr. Speaker, it was a resolution that called into question privileges of the House and this body as a whole.

The SPEAKER pro tempore. Is the gentleman calling up the resolution at this point?

Mr. TAYLOR of Mississippi. Mr. Speaker, it was my understanding that it was the Chair's desire to call up the resolution at this time.

The SPEAKER pro tempore. It is now the gentleman's privilege to call up the noticed resolution House Resolution 321 if the gentleman chooses to do so.

Mr. TAYLOR of Mississippi. Mr. Speaker, if the Chair is prepared to rule, I offer a resolution (H. Res. 321) directing that the Committee on Rules report a resolution providing for the consideration of H.R. 2530 provide for deficit reduction and achieve a balanced budget by fiscal year 2002, and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 321

Whereas clause 1 of rule IX of the Rules of the House of Representatives states that "Questions of privilege shall be, first, those affecting the rights of the House collectively";

Whereas article 1, section 9, clause 7 of the Constitution states that: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by law;

Whereas today, December 21, 1995, marks the 81st day that this Congress has been delinquent in fulfilling its statutory responsibility of enacting a budget into law; and

Whereas by failing to enact a budget into law this body has failed to fulfill one of its most basic constitutionally mandated duties, that of appropriating the necessary funds to allow the Government to operate: Now, therefore, be it

Resolved, That the Committee on Rules is authorized and directed to forthwith report a resolution providing for the consideration of H.R. 2530 (a bill to provide for deficit reduction and achieve a balanced budget by fiscal year 2002).

The SPEAKER pro tempore. Does the gentleman from Mississippi wish to be heard on whether the resolution constitutes a question of privilege?

Mr. TAYLOR of Mississippi. I do.

The SPEAKER pro tempore. The gentleman from Mississippi is recognized.

Mr. TAYLOR of Mississippi. Mr. Speaker, for how long am I recognized?

The SPEAKER pro tempore. The gentleman is recognized at the Chair's discretion for such time as he may consume at this point.

Mr. TAYLOR of Mississippi. Mr. Speaker, it is my understanding that under the rules of the House, that I have an hour to discuss this.

The SPEAKER pro tempore. This debate is on the question of privilege, and the Chair will rule as to whether or not the gentleman's resolution is a question of privilege after hearing the arguments from the gentleman.

Mr. TAYLOR of Mississippi. Mr. Speaker, under rule IX of the Rules of the House of Representatives, that one which refers to question of privilege.

Mr. Speaker, under the Rules of the House of Representatives, questions of privilege, clause 1 states, "Questions of privilege shall be, first, those affecting the rights of the Members collectively." In particular it says, "Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity and the integrity of its proceedings."

Article I, section 8, clause 7 of the Constitution reads, "No money shall be drawn from the Treasury but in consequence of appropriations made by law." For those who have not noticed, this House is now 82 days late in fulfilling our statutory responsibility of providing a budget for the United States of America. As a consequence of this, over 300,000 Federal employees are wondering whether or not they have a job, whether or not they will ever be paid again and whether or not they should do for their children what each of us has been able to do for ours; that is, just go out and get them some Christmas presents, wondering whether they are going to be paid. In case many of my colleagues have forgotten, most Americans do live paycheck to paycheck. And if they miss one paycheck, then their checks bounce or all sorts of terrible things happen.

Mr. Speaker, by failing to enact a budget into law this body has failed to fulfill our most basic constitutionally mandated duty. This Congress has failed to appropriate the necessary funds to fulfill the vital functions of this Nation and our failure to do so is inexcusable.

As Members know, the House is getting ready to recess for what could be 1 week, what could be 2 weeks. I think that is inexcusable. I, therefore, on behalf of my fellow Representatives seek to resolve the situation, a situation that affects the rights of all Members collectively.

Mr. Speaker, bringing a budget before the House under an open rule will allow the Members to amend it as they see fit. If they wish to include a tax break for families with children, it would allow them to do so. If they wish to work toward a budget that has a lower annual operating deficit than the one that the Republicans proposed, their budget has a $270 billion annual operating deficit for next year, then we could do so.

But this calls to mind whether or not one of the most important things, and obviously the two most important things this Congress does is decide when and where to send young persons off to die to defend our country and to decide on the appropriations for this Congress. We have not done the second thing.

Let me tell the Chair what has been judged to have been worthy to bring to the floor this week. This week, while the government is in shutdown, the House voted on the Stuttgart National Agriculture Research Center Act. We voted on the Snowbasin Land Exchange Act. We voted to waive a requirement for an HMO in Dayton, OH. We voted for a bill to extend au pair programs. We voted to designate a U.S. courthouse after the gentleman named Max Rosenn. We voted to designate the David J. Wheeler Federal Building, to designate the Frank Hagel Federal Building, the Timothy McCaghren Administrative Building. We have named four or five other buildings. We have taken up a lot of the citizens' time, but we have not provided a budget for our country.

That is inexcusable. It is wrong, and this is the highest priority and, therefore, it should be given the highest priority and should be brought before this House for a vote.

Mr. Speaker, I am not alone in this. I am a member of the coalition that has put together this budget. Several of the other members of the coalition wish to speak to the point.

Mr. Speaker, I yield to the gentleman from Alabama, [Mr. BROWDER].

The SPEAKER pro tempore (Mr. DREIER). The Chair wishes to observe that the gentleman from Mississippi does not control the time for yielding purposes. The Chair will recognize other Members, but would again like to advise the membership that what the Chair is attempting to determine here is whether or not this is a question of privilege. That is what is being discussed.

The Chair recognizes the gentleman from Alabama [Mr. BROWDER].

Mr. BROWDER. Mr. Speaker, I would like to engage the gentleman from Mississippi in a colloquy to determine whether this affects me as a Member of this body and the constituents that I represent and how it affects me.

The SPEAKER pro tempore. The Chair is trying to be as generous as possible, listening to the debate, as to whether or not this is a question of privilege. The Chair is trying to extend latitude. Having said that, the Chair would hope very much that we could get to the point where the Chair will be allowed to rule as to whether or not this is a question of privilege.

Mr. BROWDER. Mr. Speaker, whether this is a question of privilege, I think, is very important for us to establish about whether it reflects on this body that we are Members of. I would like to ask the gentleman from Mississippi, this budget that he has filed notice that he would like to have brought to the floor, has that budget been scored by CBO?

The SPEAKER pro tempore. the Chair is not going to allow a colloquy to proceed. Members are to address the Chair so that the Chair might rule as to whether or not this is a question of privilege.

Mr. BROWDER. Mr. Speaker, I will direct my question to the Speaker. Mr. Speaker, has the budget that has been proposed been scored by CBO?

The SPEAKER pro tempore. The question is whether or not the resolution which has been offered by the gentleman from Mississippi is a question of privilege. The resolution has been offered by the gentleman from Mississippi, and that is what is presently being considered.

Mr. BROWDER. Mr. Speaker, I will rephrase my question to address the issue of privilege.

The SPEAKER pro tempore. Are there other Members seeking recognition?

The Chair recognizes the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, going directly to the question that the Chair has posed, as I read questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings.

It seems to me that the situation that we have before us today, in which we collectively have shut down a portion of our Government without having due legislative process followed in preparing a CR under whatever stipulations that the Chair might wish to stipulate, having it sent to the President and the President vetoing that versus a unilateral decision that has been made by the Speaker to say, without any action thereof, unilaterally closing down the Government does reflect on the dignity and the integrity of this body.

Also, second, those affecting the rights, reputation and conduct of Members individually. I would submit, as a Member, that the reputation of this Member is being categorized by those on the majority side who seem to have decided it is in the best interest of the Congress to shut down a portion of our Government, to have, in fact, some individual employees of our Government denied their rights of employment.

I would submit to the Chair that a careful reading of rule IX, No. 1, questions of privilege, is, indeed, is, indeed, a proper decision for the Chair to say it is reflecting on the dignity of the House, because I cannot for a moment conceive of any way we are helping anybody, anything, any way by the actions of the House collectively as has been demonstrated by the Speaker in preparing this unilateral decision of a shutdown.

So I would say, read that carefully, Mr. Speaker. Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings and, second, those affecting the rights, reputation, and conduct of Members.

All we are saying with this resolution is that we believe that there is a way to cast a better reflection on the House and its dignity by allowing this to come forward. That is the argument the gentleman from Mississippi is making. That is the argument I am making to the Chair as the Speaker and why we believe that this is truly a question of privilege, because the reputation of the House and its dignity is being brought into disrepute, and I would hope that any Speaker would be worried about that.

The SPEAKER pro tempore. The Chair is prepared to rule as to whether or not this is a question of privilege.

The Chair would ask the indulgence of Members, because the Chair has several pages that he wishes to share as an explanation.

Questions of the privileges of the House must meet the standards of rule IX. Those standards address the privileges of the House as a House, not those of Congress as a legislative branch. As to whether a question of the privileges of the House may be raised simply by invoking one of the legislative powers enumerated in section 8 of article I of the Constitution or the general legislative power of the purse in the seventh original clause of section 9 of that article, the Chair will follow the rulings of Speaker Gillett on May 6, 1921, recorded at volume 6 of Cannon's Precedents, section 48, and by the Speaker on February 7, 1995. Speaker Gillett was required to decide whether a resolution purportedly submitted in compliance with a mandatory provision of the Constitution, section 2 of the 14th amendment relating to apportionment, constituted a question of the privileges of the House. Speaker Gillett held that the resolution did not involve a question of privilege. His rationale, in pertinent part, bears repeating:

> It seems to the Chair that where the Constitution orders the House to do a thing, the Constitution still gives the House the right to make its own rules and do it at such time and in such manner as it may choose. And it is a strained construction, it seems to the Chair, to say that because the Constitution gives a mandate that a thing shall be done, it therefore follows that any Member can insist that it shall be brought up at some particular time and in the particular way which he chooses. If there is a constitutional mandate, the House ought by its rules to provide for the proper enforcement of that, but it is still a question for the House how and when and under what procedure it shall be done. . . . But this rule IX was obviously adopted for the purpose of hindering the extension of constitutional or other privilege. . . . It seems to the Chair that no one Member ought to have the right to determine when it should come in[,] in preference to the regular rules of the House or the majority of the House should decide it.

It is true that under earlier practice certain measures responding to mandatory provisions of the Constitution were held privileged and allowed to supersede the rules establishing the order of business. Under later decisions, matters that have no basis in the Constitution or in the rules on which to qualify as questions of the privileges of the House have been held not to constitute the same. This means that all questions of privilege must qualify within the meaning of rule IX.

As cited on page 355 of the manual, and reiterated on February 7 of this year, the Speaker said:

> The Chair will continue today to adhere to the principles enunciated by Speaker Gillett. The Chair holds that neither the enumeration in the fifth clause of section 8 of article I of the Constitution of Congressional Powers to "coin money, regulate the value thereof and of foreign coins" nor the prohibition in seventh original clause of section 9 of that article of any withdrawal from the Treasury except by enactment of an appropriation renders a measure purporting to exercise or limit the exercise of those powers a question of the privileges of the House.

Therefore, the Chair holds that the resolution offered by the gentleman from Mississippi does not affect "the rights of the House collectively, its safety, dignity or the integrity of its proceedings" within the meaning of clause 1 of rule IX. Although it may address an aspect of legislative power under the Constitution, it does not involve a constitutional privilege of the House. In the words of Speaker Gillett, "no one Member ought to have the right to determine when it should come in[,] in preference to the regular rules of the House." Rather, the resolution constitutes an attempt to impose a special order of business on the House by directing the Committee on Rules to make in order a legislative proposal, and does not raise a question of the privileges of the House.

☐ 1315

Mr. TAYLOR of Mississippi. Mr. Speaker, I respectfully appeal the ruling of the Chair.

MOTION TO TABLE OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore (Mr. DREIER). The question is on the motion offered by the gentleman from Indiana [Mr. BURTON] to lay on the table the appeal of the ruling of the Chair.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 214, nays 161, not voting 58, as follows:

[Roll No. 884]

YEAS—214

Allard
Archer
Bachus
Baker (CA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bereuter
Bilbray
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Burr
Burton
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kelly
Kim
King
Kingston
Klug
Knollenberg
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
Metcalf
Meyers
Miller (FL)
Molinari
Moorhead
Morella
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shays
Shuster
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—161

Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Condit
Costello
Coyne
Danner
DeFazio
DeLauro
Dellums
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Geren
Gonzalez
Gordon
Hall (OH)
Hall (TX)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (SD)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Levin
Lewis (GA)
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Nadler
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers

Roemer
Rose
Roybal-Allard
Rush
Sanders
Schroeder
Schumer
Scott
Serrano
Sisisky
Skelton
Slaughter
Spratt

Stark
Stenholm
Stokes
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns

Traficant
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—58

Abercrombie
Ackerman
Armey
Baker (LA)
Berman
Bevill
Bilirakis
Bunning
Buyer
Callahan
Calvert
Collins (MI)
Conyers
Cramer
de la Garza
Deutsch
Dicks
Edwards
Fields (TX)
Filner

Ford
Fowler
Gallegly
Gephardt
Gibbons
Green
Gutierrez
Harman
Hastings (WA)
Hayes
Hoke
Jacobs
Jefferson
Johnston
Kasich
Kolbe
LaFalce
Lantos
Lincoln
Lipinski

Lofgren
Manzullo
McIntosh
Meek
Mica
Murtha
Myers
Neal
Quillen
Quinn
Ros-Lehtinen
Sabo
Shadegg
Shaw
Studds
Velázquez
Waxman
Wyden

□ 1343

Messrs. FARR, BECERRA, and BISHOP changed their vote from "yea" to "nay."

So the motion to lay on the table the appeal of the ruling of the Chair was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1834

Mr. FORBES. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1834.

The SPEAKER pro tempore (Mr. DREIER). Is there objection to the request of the gentleman from New York?

There was no objection.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 136, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from the further consideration of House Joint Resolution 136, making further continuing appropriations for the fiscal year ending September 30, 1996, and for other purposes; and that it shall be in order at any time to consider the joint resolution in the House; that the joint resolution be debatable for not to exceed 20 minutes, to be equally divided and controlled by myself and the gentleman from Wisconsin [Mr. OBEY]; that all points of order against the joint resolution and against its consideration be waived; and that the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion, except one motion to recommit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

□ 1345

Mr. OBEY. Mr. Speaker, reserving the right to object, I do not intend to object. I simply want to again reinforce what the gentleman from Louisiana just said; that this is a way to deal with the CR issues without taking the full hour of debate which would ordinarily be taken in the interest of accommodating Members.

I would ask, however, that we could have a modicum of attention so that we do not lose that time by having the Chair gavel people to silence while we are trying to wade through it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. DREIER). Is there objection to the request of the gentleman from Louisiana?

Mr. HOYER. Mr. Speaker, reserving the right to object, I do so only to ask if my understanding is correct that we may well have additional votes?

Mr. OBEY. Mr. Speaker, If the gentleman would yield, I would inform the gentleman there will be two additional votes.

Mr. HOYER. Two additional votes. So that Members who may have thought that that was the last vote, ought to be apprised of the fact that there are at least two additional votes that can be expected.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, I want to clear something up here. It was my understanding that there was an House Joint Resolution 134 that was going to come back over here that was going to include veterans benefits along with these. I do not see those in here. What is happening?

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. Continuing my reservation of objection, I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I would say to the gentleman from New York that the matter is pending in the Senate, and I would tell the gentleman that it is pending objections in the Senate because there was an attempt to put additional extraneous material on this motion. So this matter goes forward on the House's initiative.

Mr. SOLOMON. Mr. Speaker, continuing my reservation, is there any chance that this might pass the Senate and the veterans CR be held up?

Mr. LIVINGSTON. Mr. Speaker, if the gentleman would continue to yield, that is strictly up to the Senate. At this point the Senate has complete jurisdiction over that motion. We are hopeful that they will send it over here and we can take quick action. Or if they would accept what we did, we would not have to, we could just send it to the President.

Mr. SOLOMON. So there is the possibility they will accept both of these, then?

Mr. LIVINGSTON. That is correct.

Mr. SOLOMON. Mr. Speaker, I have some reservations about this, because I worry they may possibly accept this and then turn down the veterans CR over there, but I guess we have to take them at their good faith. And let us give them a warning they had better pass them both.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 136, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1996

Mr. LIVINGSTON. Mr. Speaker, pursuant to the previous order of the House, I call up the joint resolution (H.J. Res. 136), making further continuing appropriations for the fiscal year 1996, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of the joint resolution is as follows:

H.J. RES. 136

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

AID TO FAMILIES WITH DEPENDENT CHILDREN AND FOSTER CARE AND ADOPTION ASSISTANCE

That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporation or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for continuing the following projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1995:

All projects and activities funded under the account heading "Family support payments to States" under the Administration For Children and Families in the Department of Health and Human Services;

All projects and activities funded under the account heading "Payments to States for foster care and adoption assistance" under the Administration For Children and Families in the Department of Health and Human Services; and

All administrative activities necessary to carry out the projects and activities in the preceeding two paragraphs:

Provided, That whenever the amount which would be made available or the authority which would be granted under an Act which included funding for fiscal year 1996 for the projects and activities listed in this section is greater than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under the Act which included funding for fiscal year 1996 for the projects and activities listed in this section as passed by the House as of the date of enactment of this joint resolution, is different from that which would be available or granted under such Act as passed by the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lower, under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1996.

(c) Whenever an Act which included funding for fiscal year 1996 for the projects and activities listed in this section has been passed by only the House or only the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 102. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 103. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 104. No provision which is included in the appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 105. Appropriations made and authority granted pursuant to this title of this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 106. Unless otherwise provided for in this title of this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this title of this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this title of this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) January 3, 1996, whichever first occurs.

SEC. 107. Expenditures made pursuant to this title of this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. No provision in the appropriations Act for the fiscal year 1996 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 106(c) of this joint resolution.

SEC. 109. Appropriations and funds made available by or authority granted pursuant to this title of this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

TITLE II

DISTRICT OF COLUMBIA

That the following sums are hereby appropriated, out of the general fund that enterprise funds of the District of Columbia for the District of Columbia for the fiscal year 1996, and for other purposes, namely:

SEC. 201. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this title of this joint resolution) which were conducted in the fiscal year 1995 and for which appropriations, funds, or other authority would be available in the following appropriations Act:

The District of Columbia Appropriations Act, 1996;

Provided, That whenever the amount which would be made available or the authority which would be granted in this Act is greater than that which would be available or granted under current operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under the Act listed in this section as passed by the House as of the date of enactment of this joint resolution, is different from that which would be available or granted under such Act as passed by the Senate as of the date of enactment of this joint resolution, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate whichever is lower, under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995: *Provided*, That where an item is not included in either version or where an item is included in only one version of the Act as passed by both Houses as of the date of enactment of this joint resolution, the pertinent project or activity shall not be continued except as provided for in section 211 or 212 under the appropriation, fund, or authority granted by the applicable appropriations Act for the fiscal year 1995 and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995.

SEC. 202. Appropriations made by section 201 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 203. No appropriation or funds made available or authority granted pursuant to section 201 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1995.

SEC. 204. No provision which is included in the appropriations Act enumerated in section 201 but which was not included in the applicable appropriations Act for fiscal year 1995 and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this title of this joint resolution.

SEC. 205. Appropriations made and authority granted pursuant to this title of this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this title of this joint resolution.

SEC. 206. Unless otherwise provided for in this title of this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this title of this title of this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this title of this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) January 3, 1996, whichever first occurs.

SEC. 207. Notwithstanding any other provision of this title of this joint resolution, except section 206, none of the funds appropriated under this title of this joint resolution shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 208. Expenditures made pursuant to this title of this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 209. No provision in the appropriations Act for the fiscal year 1996 referred to in section 201 of this title of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 206(c) of this joint resolution.

SEC. 210. Appropriations and funds made available by or authority granted pursuant to this title of this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 211. Notwithstanding any other provision of this title of this joint resolution, except section 206, whenever the Act listed in section 201 as passed by both the House and Senate as of the date of enactment of this joint resolution, does not include funding for an ongoing project or activity for which there is a budget request, or whenever the rate for operations for an ongoing project or activity provided by section 201 for which there is a budget request would result in the project or activity being significantly reduced, the pertinent project or activity may be continued under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1995 by increasing the rate for operations provided by section 201 to a rate for operations not to exceed one that provides the minimal level that would enable existing activities to continue. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366. For the purposes of this title of this joint resolution the minimal level means a rate for operations that is reduced from the current rate by 25 percent.

SEC. 212. Notwithstanding any other provision of this title of this joint resolution, except section 206, whenever the rate for operations for any continuing project or activity provided by section 201 or section 211 for which there is a budget request would result in a furlough of Government employees, that rate for operations may be increased to the minimum level that would enable the furlough to be avoided. No new contracts or grants shall be awarded in excess of an amount that bears the same ratio to the rate for operations provided by this section as the number of days covered by this resolution bears to 366.

SEC. 213. Notwithstanding any other provision of this title of this joint resolution, except sections 206, 211, and 212, for those programs that had high initial rates of operation or complete distribution of funding at the beginning of the fiscal year in fiscal year 1995 because of distributions of funding to States, foreign countries, grantees, or others, similar distributions of funds for fiscal year 1996 shall not be made and no grants shall be awarded for such programs funded by this title of this resolution that would impinge on final funding prerogatives.

SEC. 214. This title of this joint resolution shall be implemented so that only the most limited funding action of that permitted in this title of this resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 215. The provisions of section 132 of the District of Columbia Appropriations Act, 1988, Public Law 100–202, shall not apply for this title of this joint resolution.

SEC. 216. Notwithstanding any other provision of this title of this joint resolution, except section 206, none of the funds appropriated under this title of this joint resolution shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this title of this joint resolution otherwise be used to implement or enforce D.C. Act 9–188, signed by the Mayor of the District of Columbia on April 15, 1995.

The SPEAKER pro tempore. Under the previous order of the House, the gentleman from Louisiana [Mr. LIVINGSTON] will be recognized for 10 minutes, and the gentleman from Wisconsin [Mr. OBEY] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume, and I assure Members that I do not intend to use all the time allotted to me, and I would hope that all Members would restrain themselves so that we might expedite this process and move forward.

Mr. Speaker, I bring to the floor House Joint Resolution 136, a joint resolution making further continuing appropriation for two activities in the Department of Health and Human Services and for the District of Columbia. This is a short-term CR, a continuing resolution. It lasts only until January 3, 1996, for the activities covered under this continuing resolution. The activities provided for in HHS include aid to families with dependent children and foster care and adoption assistance.

Mr. Speaker, House Joint Resolution 134, the continuing resolution for certain veterans activities, is, as we have stated earlier, pending in the Senate. Its passage, combined with the current continuing resolution that we are now considering, will provide important benefits for certain parts of the Government.

Mr. Speaker, the activities provided for in this continuing resolution are extremely important. I would urge all of our Members to consider heavily the impact of not passing this continuing resolution. We need to make provision for the continued funding now of these activities, and I urge all the Members to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, the majority party of this Congress has insisted that Government be selectively shut down, and in that process they are trying to leverage the President of the United States into swallowing their budget outline.

Yesterday, the majority voted to open only a part of the Veterans' Administration when that legislation was on the floor. At that time we asked that they open all of Government. We asked that they allow workers to voluntarily come in and work, since the Speaker had announced they will be paid anyway; and we asked that we allow all of Government to be open so that taxpayers can receive all of the services to which they are entitled because they have already paid for them. We were refused in all three of those efforts.

Now the legislation which was passed is bogged down in the other body and we have a new proposition before us, which, once again, tries to do everything that was done earlier plus open the Government for AFDC payments and for Medicaid and for the District of Columbia.

Mr. Speaker, I know that we have a lot of interests in all of those items, but on this side of the aisle we want all of Government to be reopened so that we can provide all of the services to taxpayers to which they are entitled. We want Government workers to be paid for working, not to be paid for not working.

I want to make clear, this debate is not about whether there is or should be a balanced budget. In my view, it is about political arrogance, it is about political bullying, and it is about political childishness.

Mr. Speaker, you will find a good many of us on this side of the aisle who will be prepared to vote for a balanced budget, but we will not be blackmailed into voting for a specific kind of budget outline that moves us inevitable into accepting the idea of cutting the amount that Medicare will pay for each beneficiary 7 years down the line by $1,700 per person. We will not be blackmailed into accepting a situation in which, when you combine what is happening with Medigap and what is being suggested by the majority party on Medicare premiums, that seniors will be asked to pay $1,000 more out of their own pocket for health insurance. We will not be blackmailed into dumping defenseless children out of health care insurance under Medicaid. And we will not be blackmailed into gutting the Government's long-term ability to provide a decent educational opportunity for every kid in this country or to provide protection for the environment.

Mr. Speaker, I think it is ironic that especially at the Christmas season we are seeing an act of consummate arrogance on the part of the majority of this House. We are being told that this is all necessary because of their vision that somehow if we just pass their version of a balanced budget over 7 years, that somehow they can guarantee to the taxpayer that there will, in fact, be a balanced budget. I think their own past record in producing on their promises would dictate rather more humility and rather less arrogance than I have seen so far.

I would point out that the first time we were told to sacrifice all of our judgment and swallow our promises was in 1981, when we were told that if we just passed the Reagan budget that the deficit would decline from $55 billion to zero over 4 years time. Instead, the deficit went up to $185 billion.

Then we were asked to swallow another multiyear promise in Gramm-Rudman I. Our Republican friends told us they would guarantee us the deficit would go down from $172 billion to zero if we would just swallow their budget prescription. The Congress did. They only missed the deficit reduction target by $220 billion.

Then the Republicans passed Gramm-Rudman II, and they said if we do that, we will take the deficit down to zero over a 5-year period of time—represented by these green lines on the cart. Instead, unfortunately, they only missed by $290 billion.

It would seem to me, given the past track record of the majority party in producing results that match their promises, that we have a right to take with some skepticism their promises that this time around they are going to hit better targets and actually get us to zero.

Having said that, Mr. Speaker, let me say that all of those arguments there are irrelevant. Their judgment may be correct; it may not be. Our positions may be right; they may not be. I do not know. But the one thing I do know is that we should not hold hostage 300,000 Government workers just for them to be able to prove a point.

There is something very, very wrong with the attitude of people in this House that says we should go home to Christmas with the comfort of our families, but, meanwhile, we should continue to disrupt the Christmases of 300,000 Government workers and their families. There is something wrong, Mr. Speaker, with saying we should go home to our families for Christmas, but, by the way, taxpayers who have already paid out the money for these services, taxpayers who have already bought their tickets to see the Washington Monument or see Yellowstone, or whatever, that they should have to have their vacations ruined just so that the Speaker and the majority party can prove a political point.

I think there is something wrong with that attitude. It makes a mockery of representative democracy. It makes a mockery of the sentiment that is supposed to pervade in this holiday season. I would urge my colleagues, therefore, when the motion to recommit comes—and I am not asking anyone to vote against the basic bill—but I am asking that when the motion to recommit comes, I am asking my colleagues to vote for it because that will be a motion to recommit which, if passed, would open the entire government until January 3.

I would urge support for the recommittal motion.

☐ 1400

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. WALSH] chairman of the Appropriations Subcommittee on the District of Columbia.

Mr. WALSH. Mr. Speaker, I would like to thank all of those who worked together to bring this to the floor on a unanimous consent. It gives us the opportunity to allow the operation of the District government to continue. But I would remind my colleagues all this, as far as title II of this resolution is concerned, is with the District's own money. There is no additional Federal appropriation going to the District under this CR.

Mr. Speaker, title II, again, regarding the District of Columbia, would allow them to spend their own money until January 3. On the few issues that are dealt with in this CR regarding abortion, there will be no funds for abortion. Domestic partners, there would be current law, meaning no funds to enforce that law. The funding level would be at the lower of the 2 houses.

Mr. Speaker, the bill is silent on the issue of education reform. I would assure my colleagues, however, that this issue is not dead by a longshot. The discussions are ongoing. This will buy us some time to work these issues out with the Senate. I do believe that the last meeting that I had with Senator JEFFORDS and the gentleman from Wisconsin, Mr. GUNDERSON, did lead me to be a little more optimistic about getting this issue resolved in a positive way, something that I think both Houses of Government could support. However, Mr. Speaker, it is yet to be worked out.

Mr. Speaker, this will give us some additional time, and at the same time it will give the District the opportunity to continue to operate and provide services to its constituents. I regret that we do not have funding for all of the rest of the Government, but I remind my colleagues that it was three vetoes by the President that brought the Government to a stop on the other appropriations bills.

Mr. Speaker, I thank my colleagues and urge their support.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Speaker, I rise to support H.R. 136 and to say to my colleagues that if we really want to put Government back to work, the motion to recommit will do it. It is unfortunate that the District of Columbia is in this situation, because in my opinion they are acting in violation of law at the existing moment, and it is for that reason that I would support this resolution.

Mr. Speaker, I would also point out that it extends past the existing law of the District in that it prohibits them from using their own money, which is the only money involved in this, for abortion. We are here because the Senate Republicans and the House Republicans disagree about vouchers. I hope that issue can be resolved by January 3, but I do think it is necessary that we pass this resolution.

Mr. LIVINGSTON. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, on a bipartisan basis, I urge support of this resolution. Members have heard me on the District of Columbia. I plead also for those on welfare. I do not believe we should go home and leave these two matters outstanding. I do not believe any Member of this body wants to do so.

Mr. Speaker, I am very disappointed at the length and breadth of the resolution; I would be far more disappointed if we were to say all or nothing. We are trying to get to a resolution that all can agree upon. I appreciate, frankly, that we have been able to pierce the iron wall to at least reach the most needy.

Mr. Speaker, this is to test our rhetoric, those of us who rise often to say we are doing what we are doing for those most in need. Those most in need at the moment happen to be an entire city, the District of Columbia, as well as those who, if they miss a welfare check, may be in very dire straits. It is a test of our rhetoric and a test of our bipartisanship.

Mr. Speaker, I ask this to be handled as if it were what it really is: An emergency.

Mr. OBEY. Mr. Speaker, it has been brought to my attention, there is a technical problem with this bill which the majority leader's office would like to correct. For the purpose of facilitating that, I ask unanimous consent that debate be extended by 3 minutes on each side, until it can be worked out.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when the gentleman from Wisconsin took the well, he said that we are blackmailing the other side into accepting what we all agree is a very important measure. This particular bill funds for the next 2 weeks all of the welfare payments under the AFDC or Aid for Dependent Children Program. It funds money for foster care and adoption services. It provides authority for the District of Columbia to use its own money.

Mr. Speaker, it does all of those things in an expedited fashion in an effort to try to resolve these immediate problems during the holiday season when, frankly, a lot of people who are not to blame for the impasse, might be adversely impacted.

This is not blackmail. This is an attempt simply to try to accommodate the needs of the most needy of our society; the people that really have no other alternatives.

Mr. Speaker, I would have to say that this is, indeed, a meaningful and critical debate, and I hope it could be expedited. Evidently, there is some concern about not including what we did a couple of days ago for the veterans in this joint resolution and how that has been treated in the Senate, and we will try to resolve that fairly soon. We hope, though, that a compromise can be confected that will accommodate not only the people listed in this bill, but the veterans as well.

Mr. Speaker, I have to say that the President has been less than forthcoming on the regular appropriations bills for some of these programs. The Labor-HHS bill has been hung up in the Senate because of a filibuster by the minority. Some of these programs come under that bill. The veterans benefits fall within the VA-HUD bill, which was vetoed by the President.

Likewise, the President has vetoed the Commerce, Justice, State, and Judiciary bill, and the President has vetoed the Interior bill. Now, the Interior bill covers all of the National Parks, the National Gallery of Art, where they have the Vermeer exhibit, which is the first time since, I think, that so many of the Vermeer paintings have been accumulated and assembled under one roof. They are on display at the National Gallery of Art, but it is closed.

Mr. Speaker, we have heard a lot of Members from the other side complain about that fact. The fact of the matter is, it is closed because for some reason the President saw fit to veto that bill.

I have been told recently that a lot of parks around this country are closed, with the exception of the State of Arizona. The State of Arizona is funding the national parks in its State even though the Federal Government is not functioning or not paying for the conduct or the opening of those parks.

Mr. Speaker, it just so happens, the State of Arizona is the home State of the current Secretary of Interior. My colleagues would think that if his own State is funding parks, that he would applaud the use of State funds to keep other parks open around the rest of the country, but that is not true.

Because the Interior Department bill has been vetoed, and for some reason the Secretary of Interior and the President of the United States agree that it should have been vetoed, still the Secretary of Interior, who is from Arizona and who has his own parks open, is saying to the rest of the Nation, "No, you cannot open your parks. You cannot use your own money." That seems to me extraordinary.

Mr. Speaker, we have had one objective in the larger negotiations and that is basically to balance the budget; balance it within 7 years as scored by the Congressional Budget Office, so that we are using real figures. No smoke, no mirrors, no false promises.

We said that is what we wanted 6 weeks ago, and we thought the President had come halfway and said that is what he wanted, even though he had been for a 5-year balanced budget, and a 10-year balanced budget, and a 9-year balanced budget, and a 7-year balanced budget. And even in his balanced budget proposal earlier in November, he had said that he did not want a balanced budget any time from now until the cows come home because that proposal was still out of balance. He had $200 billion in deficits every single year.

Finally, the President came to the table about 6 weeks ago and said, OK. Then just earlier this week, when Speaker GINGRICH and majority leader of the Senate, Mr. DOLE, went to the White House, they thought they had an agreement that we were going to get a balanced budget by the year 2002 as scored by the Congressional Budget Office, and they said, "Doggone it, we have gotten it again" and then the Vice President walks down to the press office and tells the American people by way of a press conference, "Oh, no, that is not what they agreed to at all."

So, Mr. Speaker, we find ourselves in an extraordinary situation here where one side thinks that they bargain in good faith and set certain goals and the other side says "Oh, no, that is not what we agreed to at all."

Now we find ourselves with the last few minutes of a particular bill that covers people that really need assistance under the AFDC program or the foster care program or the District of Columbia, and we have already passed a bill which covers the veterans, and we find that for some reason it is not working its way out because there are differences between the House and the Senate. Meanwhile, we are getting no particular help from the White House, and then we get blamed for being the cause of the entire impasse.

Mr. Speaker, we are not to blame for the impasse. If the President had not vetoed the VA-HUD bill, the Commerce, Justice, State, and judiciary bill, if he had not vetoed the Interior bill, funding for all of the functions of those particular bills would have been enacted into law, and the 620,900 people that are covered under the jurisdiction of those bills would be working and would have a happy Christmas without regard to what we do, because they would not need to be covered by these continuing resolutions. They would not have to worry about it.

Even though today we are considering limited continuing resolutions, there are still a lot of people who are not covered by them and they have reason to be concerned because evidently the President has not seen fit to come to the table and reach an agreement on a balanced budget.

Mr. Speaker, we are committed to a 7-year balanced budget as scored by the Congressional Budget Office, but evidently that is not the case with the President. We still have these remaining bills that we are negotiating: The foreign operations bill; the District of Columbia bill, which would be short-term funded by this bill; and, the Labor-HHS bill.

Mr. Speaker, we would hope that we would be able to get those out of the way pretty quickly, but in the meantime, this joint resolution, this continuing resolution is extraordinarily important. I would hope that we would be able to come together, reach an agreement, and go home for Christmas knowing that we took care of the most needy of the needy.

Mr. Speaker, I reserve the balance of my time.

Mr. DIXON. Mr. Speaker, may I inquire as to how much time is remaining?

The SPEAKER pro tempore (Mr. DREIER). The gentleman from Louisiana [Mr. LIVINGSTON] has 2 minutes remaining, and the gentleman from California [Mr. DIXON] has 4 minutes remaining.

Mr. DIXON. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. HEFNER].

Mr HEFNER. Mr. Speaker, I would like to make a point to the gentleman from Louisiana [Mr. LIVINGSTON], my good friend and the chairman of the Committee on Appropriations, and I sit on that committee. One of the problems is that we did not get our work done on time. It is all nice to sit and trash the President and accuse him of all the problems, but frankly the White House is not smart enough to cause all of these problems. It has to be shared by this body.

☐ 1415

All the speakers that have on this side of the aisle made the speech, what we are going to do is balance the budget in 7 years, we can put these people back to work until January 3. We are not going to balance the budget between now and January 3. The talks are going to continue.

In the meantime, I am a strong supporter of veterans ever since I have been in this body. I have voted for aid for dependent children when I have been here. I do not know how many Members on this side have. But let me make this point. There are other people out there that are being affected. It is just as important to them as these other programs are. So I am saying to my colleagues they are not going to stop the balanced budget by continuing this resolution until January 3. So why not let these people have a merry Christmas? Open up the Government and support the motion to recommit that will open up this Government.

Mr. DIXON. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, of course we need to get benefit checks out to veterans and of course we have got to get the benefit checks to 13 million welfare recipients. For most of them, they have nothing else to live on. They have got to pay their monthly rents. If we do not do this, they will not even have food to put on the table for their children.

Of course we have to get $11 billion out to the States in Medicaid payments. The States need that money. My problem is how many other problems exist out there that we are not aware of? One problem is that 500,000 Federal employees are only going to get half their paychecks currently. The next paycheck they get is zero.

I talked to a Federal employee last night. He has been working 14-hour days. His colleagues who want to come in and help him are told it is against the law to even volunteer to help him out. This is ridiculous. These Federal employees want to work. We are locking them out of their jobs. We are locking the American public out of their Government. That is why we need a full continuing resolution, at least through the Christmas holidays, if we are going to go back with our families and enjoy the holidays. We have got to open this Government. To do anything else is a shame on us and a real travesty for the American people.

Mr. DIXON. Mr. Speaker, I yield 30 seconds to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Speaker, we really do need to put the people back to work in this city. The Federal Government being out of work costs the taxpayers millions of dollars. The crowd across the aisle says they want to run this place like a business. You do not pay people not to work in a business.

Federal workers are ready, willing, and able to go to work. They ought to go to work. We ought to get the welfare checks out, the AFDC checks out, the veterans checks out, and we ought to make Government work like a business. We are losing something equally precious. We are losing productivity. There are going to be backlogs, even when the Government employees go back to work. We cannot recover that time. Let us put the Government employees back to work.

Mr. DIXON. Mr. Speaker, I yield 30 seconds to the gentleman from Arkansas [Mr. THORNTON].

Mr. THORNTON. Mr. Speaker, we have heard a lot about who is to blame, whether it was the failure to enact appropriations on time or whether it was vetoes, I am not here to assess blame but to determine whose responsibility, duty and power it is to correct the situation.

I refer to the Constitution of the United States, which says in enumerating the powers of Congress that "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by law." All appropriations are the responsibility of the Congress. The President has no power to appropriate funds. No one has power to correct the absence of appropriations but a majority of this House of Representatives. The majority party has shown that they have the power to correct the shutdown of Government by bringing forward and passing continuing resolutions. They have done so whenever they choose to do so. The failure to exercise power can be an abuse of power, and I submit that their failure to act is an abdication of the constitutional responsibility which they have the duty to perform.

AMENDMENT OFFERED BY MR. LIVINGSTON

Mr. LIVINGSTON. Mr. Speaker, I offer an amendment and I ask unanimous consent it be agreed to.

The Clerk read as follows:

Amendment Offered by Mr. LIVINGSTON: Insert at the end of the resolution the following:

TITLE III

VETERANS AFFAIRS

That the following sums are hereby appropriated, out of money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations and other organizational units of Government for the fiscal year 1996, and for other purposes, namely:

SEC. 301. ENSURED PAYMENT DURING FISCAL YEAR 1996 OF VETERANS' BENEFITS IN EVENT OF LACK OF APPROPRIATIONS.

(a) PAYMENTS REQUIRED.—In any case during fiscal year 1996 in which appropriations are not otherwise available for programs, projects, and activities of the Department of Veterans Affairs, the Secretary of Veterans Affairs shall nevertheless ensure that—

(1) payments of existing veterans benefits are made in accordance with regular procedures and schedules and in accordance with eligibility requirements for such benefits; and

(2) payments to contractors of the Veterans Health Administration of the Department of Veterans Affairs are made when due in the case of services provided that directly relate to patient health and safety.

(b) FUNDING.—There is hereby appropriated such sums as may be necessary for the payments pursuant to subsection (a), including such amounts as may be necessary for the costs of administration of such payments.

(c) CHARGING OF ACCOUNTS WHEN APPROPRIATIONS MADE.—In any case in which the Secretary uses the authority of subsection (a) to make payments, applicable accounts shall be charged for amounts so paid, and for the costs of administration of such payments, when regular appropriations become available for those purposes.

(d) EXISTING BENEFITS SPECIFIED.—For purposes of this section, existing veterans benefits are benefits under laws administered by the Secretary of Veterans Affairs that have been adjudicated and authorized for payments as of—

(1) December 15, 1995; or

(2) if appropriations for such benefits are available (other than pursuant to subsection (b)) after December 15, 1995, the last day on which appropriations for payment of such benefits are available (other than pursuant to subsection (b)).

SEC. 302 SECTION 301 SHALL CEASE TO BE EFFECTIVE ON JANUARY 3, 1996.

Mr. LIVINGSTON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. DREIER). Is there objection to the request of gentleman from Louisiana?

Mr. SOLOMON. Reserving the right to object, Mr. Speaker, I most likely will not object, but I would like to hear the explanation.

I yield to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, what I have done is offered an amendment by unanimous consent that includes the text of House Joint Resolution 134, which passed this House of Representatives 2 days ago and which covers the full veterans' benefits that passed the House. This would provide veterans' funding only to January 3, not the full year. That is a difference between what passed here the other day and is in this text. But it complies, it complies with what is in the Senate bill, which is working its way through right now.

We are on a shortage of time here. We are trying to accommodate the Senate. Trying to accommodate the majority and the minority and get everybody together, trying to accommodate those who wish to have the AFDC and the foster care money as well as the District of Columbia money and the veterans' benefit payment checks. So this complies with what is in the text of the Senate bill and would not necessitate the need of taking up additional action after we conclude this business.

Mr. SOLOMON. Mr. Speaker, continuing my reservation of objection, I would say to the gentleman that I was over in the Senate. Indirectly, I participated in the debate whereby what the gentleman is stating is absolutely true. This would mean that the veterans' checks would go out tomorrow, and that is really what we were looking for, along with all of the others that are included here.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. OBEY. Mr. Speaker, reserving the right to object, I want to get this straight. We were given one proposition by the majority a day ago which refused to keep most functions of the Government open except those that they delineated in that proposal. That went to the Senate. It has been screwed up in the Senate and so now we are asked to pass a second selective reopening of the Government.

In the middle of the discussion of what should be reopened, we are now being asked to reopen yet another series of functions. I think that indicates the absolutely chaotic way that decisions are being made in this House, but I would ask the gentleman a question, under my reservation of objection. I would ask the gentleman whether as long as his language is attempting to deal with some of the shutdown problems at the VA, I would ask if the gentleman would be willing to deal with all of the shutdown problems at the VA so that we can deal with pending claims for pension and benefits, the employees who work on that backlog are furloughed, so that we can deal with new applications for pension and benefits that are accelerating at the rate of 2,000 a day, so that we can deal with the backlog and new applications for certificates of eligibility for VA home ownership loans and loan guarantees. There are approximately 200,000 Veterans Health Administration employees who are working with the promise of pay once this crisis is resolved but without the assurance of their normal payday.

If we are going to selectively deal with the problems of veterans, I would urge that the gentleman allow us to add the following language:

> (3) all other authorized activities of the Department of Veterans Affairs, including processing of existing new applications for benefits and pensions, processing of certificates of eligibility for home ownership loans and loan guarantees, and payment of salaries of Federal Government personnel providing health care for our Nation's veterans are continued at a rate for operations not to exceed the rate in existence on December 15, 1995.

Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I totally sympathize with what the gentleman is trying to accomplish. All of the purposes the gentleman just described are noble and worthy. However, we acted as we did 2 days ago and that bill, without the gentleman's language, in fact by a vote of the House without the gentleman's language, went to the Senate.

They have since acted on AFDC. They have acted on foster care. They have acted on the District of Columbia, and they have acted on their own bill which does not include the language that the gentleman has within the single bill that they are sending back to us.

If we incorporate the amendment that I have offered by unanimous consent, then we have a bill to send to the President of the United States. If we acted on the gentleman's amendment, it means that we have another disconnect and that we are not likely to get any of this stuff out of here. I would respectfully object to the entrance of the gentleman's language.

Mr. OBEY. Mr. Speaker, continuing my reservation of objection, let me simply say that despite the unreasonable position of the majority, I will not object because I do not think that one act of childishness, I do not mean on the part of the gentleman from Louisiana but on the part of the majority in general, I do not think that that justifies an act of childishness on this side of the aisle.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. HOYER. Reserving the right to object, Mr. Speaker, I will not object. Because of the selective irresponsibility, there are some Members, apparently, who get their objectives accomplished and, therefore, want the rest of us to keep quiet about other objectives. I understand that. I am not going to object. But this is selective irresponsibility. It is selective favoritism for very important objectives. But there is no excuse, not one, for not having a CR between now and when everybody in this body expects to come back to this town, January 2. Nobody expects to come back before that, and the gentleman and I know it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER pro tempore. Is there objection to agreeing to the amendment offered by the gentleman from Louisiana [Mr. LIVINGSTON].

There was no objection.

The amendment was agreed to.

Mr. LIVINGSTON. Mr. Speaker, I yield to 1 minute to the gentleman from Virginia [Mr. DAVIS].

Mr. DAVIS. Mr. Speaker, let me associate myself with my colleagues from the metropolitan area who favor keeping Government open. This area has taken a huge hit during this time period, but let me talk today about what is possible, and that is the District of Columbia appropriations bill and the continuing resolution for that.

The city is unique in that 85 percent of its money does not come from the Federal Government. Right now, because of our inaction in Congress, they are barred from spending even their own money, even their own money to keep the city open, to keep the libraries open, to keep the rec centers open for the youth, collect the trash, keep foster care going. This will ensure that the city workers will have been paid for the time period they have been working over the last week which they have been doing in a sense with a wink and a nod. This will also help the city get its fiscal house in order and start the planning and start downsizing the city. This will fund the control board. The last shutdown cost the city $7 million. They did not have any productivity. This will keep the city up and running for a short period of time until we can work out the appropriation level. Let us stop the rhetoric. Let us pass this resolution.

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. LIVINGSTON], and the gentleman from Wisconsin [Mr. OBEY], each has 1 minute remaining.

Mr. OBEY. Mr. Speaker, I yield myself the balance of my time.

I again want to repeat that the motion to recommit will be a motion to open all of the Government so that workers who are being paid will be paid for working rather than not working.

Mr. LIVINGSTON. Mr. Speaker, I ask all the Members to vote for the concurrent resolution, and I yield back the balance of my time.

The SPEAKER pro tempore. Under the order of the House of today, the previous question is ordered.

The question is on engrossment and third reading of the concurrent resolution.

The concurrent resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the concurrent resolution in its present form?

Mr. OBEY. Mr. Speaker, I think it is pretty obvious by my comments.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. OBEY moves to recommit the joint resolution to the Committee on Appropriations with instructions to report the resolution back to the House forthwith with the following amendment: at the end of the resolution add the following new title:
>
> TITLE IV
>
> SEC. 401. Section 106 of Public Law 104-56 is amended by striking "December 15, 1995" and inserting "January 3, 1996".

Mr. OBEY. Mr. Speaker, I simply want to say that the effect of this motion would be to end this childish partial Government shutdown. It would open up not just the functions that are contained in the base resolution. It would open up all remaining functions of Government so that taxpayers are not forced to look at the silly situation in which their taxpayers' money is being used to pay Government workers who are not being allowed to actually work for the money they receive.

Mr. Speaker, I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I have said before that people sent us here to exercise common sense, fiscal responsibility.

□ 1430

I am one of those who has no problem standing because I have voted consistently for the objective that many of us in this body seek, and that is a balanced budget.

The objective that many seek, that is to balance the budget in 7 years and honestly score that balance so it is real or at least as real as we can make a 7-year projection.

This vote now, for the first time, is going to give us the opportunity of doing what it seems to me from a nonpartisan, bipartisan, nonpolitical perspective makes common sense, and that is to have Government work while we are in recess or adjourned, probably in recess until January 2.

There will be no greater pressure on the negotiators if Government is shut down. After 13 days of shutting down the Government, we ought to understand by now that the principles held by both parties are held strongly and are deemed to be in the best interests of America and our people. Those negotiators, who are the highest leaders of both our parties, I think are going to be working in good faith.

There are real differences, but I suggest to Members on both sides that it makes no common sense to hold hostage the operation of the people's Government. We are attempting to selectively reduce the adverse consequence of that irresponsible action for veterans, for those in need of AFDC health, for the District of Columbia government to run as every one of our governments expects to run, without us arbitrarily and capriciously telling them they cannot spend their own money.

But I would ask everybody on both sides of the aisle to vote for this motion to recommit, and I would tell my friends that I have thousands of non-Federal employees who have been laid off as a result of this action who are not going to be reimbursed. Look at the front page of the papers. There are contractors in every city in America, large and small, who have been told, "Sorry, you better tell your employees to go home," and they are not Federal employees. And they are in Oklahoma, and they are in Florida, and California and New York, and, yes, they are in the Washington metropolitan region where, by the way, we only have 15 percent of the Federal employees. Eighty-five percent are throughout America.

Contractors are saying to me, "What are you people doing? You have asked me to do a job. I have entered into a contract with you, and now you are telling me I cannot do the work that you have contracted me for."

My colleagues, the American public expects us to make common sense. I ask all of my colleagues, not just for Federal employees, not just for those who have contracts with the Federal Government, but for every American who would like to believe that it can send us here to Washington to make policy rationally, reasonably, and with equity and openness with one another, to vote for this motion to recommit. Put the Government back to work, continue our negotiations. And I will come back here with you, as I have this year and in years past, and support policies to affect what all of us believe are important for our children and for our grandchildren, getting our fiscal house in order. But putting it out of order by this unwise policy ought to be rejected.

Vote for the motion to recommit. It makes common sense.

The SPEAKER pro tempore (Mr. DREIER). The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, this is the VA, AFDC, FC, and D.C. CR that I hope my colleagues will vote for ASAP. We have amended it. In fact we have changed courses and gears as we have been debating this simply because the other side of the Capitol has changed gears as well.

I really hope that nobody will vote against this measure. We should all vote for it. However, I urge you to vote against the motion to recommit. If my colleagues voted for the motion to recommit, I tell my colleagues on this side they would be undoing virtually everything that we have fought for in the last several tough weeks.

As my colleagues know, 34 days ago the President of the United States agreed in principle to a 7-year balanced budget scored by the Congressional Budget Office without smoke or mirrors, without false promises. My colleagues know that as recently as 2 days ago the Speaker of the House and the majority leader were sitting in the White House and came to what they thought were at least some constructive parameters, and a few minutes later the Vice President of the United States stood up before the press and said that nothing they said was agreed to.

Now that has been the problem. Every time we think we have an agreement, it turns out we do not have an agreement. I would have to say in response to what the gentleman who preceded me in the well said, you want rational government, well, then, yes, rational government is the coming together, the compromising, the meeting of the minds, coming up with a single legislative agenda, passing it, and not vetoing it.

We passed the VA-HUD bill, the Interior bill, the Commerce, State, and Justice bill. These went through the regular routine legislative process and should have been signed. But the beginning of this week, in the middle of this holiday season that we have enjoyed so much, the President vetoed all three bills. In fact he vetoed another bill. He vetoed the thing called the securities litigation bill, and 2 days ago the House overrode his veto, and today the Senate overrode his veto, and that one is now law.

Now the American people are going to begin, if they have not already, to understand that this is a tough negotiation. This is tough bargaining, and we use what tools we have. We are sorry for the people that have been inconvenienced by this whole effort, but what we have is a fundamental philosophical difference. We differ with those who have a fundamental philosphy who believe, in intransigent, unyielding government, with a large bureaucracy, an unyielding and rapidly taxing and spending central government. We believe that Government should be smaller. We need to do the people's business by balancing our books. We need a balanced budget within 7 years, and we are going to get there.

We have told the President of the United States we want to get there, and he has promised us "oh, he does, too," but everything he does contravenes that thought. We have not gotten to the table yet to confect that balanced budget. Until we do that, until we get that binding agreement, we have no choice but to adopt this continuing resolution for the next 2 weeks. But to keep up the fight, to keep the faith, to make sure that we stay on track and we tell the American people we are not going to back down. We need the 7-year balanced budget.

My colleagues, as Winston Churchill said, "We will never, never, never give in." We will stay here until doomsday.

Defeat this motion to recommit, and pass this continuing resolution, and merry Christmas.

The Speaker pro tempore. Without objection, the previous question is ordered on the motion to recommit.

PARLIAMENTARY INQUIRY

Mr. OBEY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. OBEY. Is it possible, after the last speech, the American people finally understand what we are up against?

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 161, noes 200, not voting 72, as follows:

[Roll No. 885]

AYES—161

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Condit
Costello
Coyne
Danner
Davis
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (SD)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Levin
Lewis (GA)
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McKinney
Meehan
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Morella
Nadler
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates

NOES—200

Allard
Archer
Armey
Bachus
Baker (CA)
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Burr
Burton
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Martini
McCollum
McCrery
McDade
McInnis
McKeon
Metcalf
Meyers
Miller (FL)
Molinari
Montgomery
Moorhead
Myrick
Nethercutt
Neumann
Ney
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Sensenbrenner
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Thomas
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—72

Ackerman
Baker (LA)
Ballenger
Barton
Berman
Bevill
Bilirakis
Bunning
Buyer
Callahan
Calvert
Cardin
Clinger
Collins (MI)
Conyers
Cramer
de la Garza
Deutsch
Doyle
Edwards
Ensign
Fields (TX)
Filner
Ford
Fowler
Gallegly
Geren
Gibbons
Green
Gunderson
Gutierrez
Hancock
Harman
Hastings (WA)
Hayes
Jacobs
Jefferson
Johnston
Klink
Kolbe
LaFalce
Lantos
Lincoln
Lipinski
Lofgren
Manzullo
McCarthy
McHugh
McIntosh
McNulty
Meek
Mica
Murtha
Myers
Neal
Norwood
Quillen
Quinn
Ros-Lehtinen
Roth
Roukema
Seastrand
Shadegg
Shaw
Studds
Taylor (NC)
Thornberry
Velázquez
Vento
Wamp
Waxman
Wyden

□ 1459

The Clerk announced the following pairs:

On this vote:

Ms. Harman for, with Mr. Quinn against.
Mr. Jefferson for, with Mr. Quillen against.
Mr. Filner for, with Mr. Bilirakis against.

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DREIER). The question is on the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LIVINGSTON. Mr. Speaker, on that I demand the yeas and nays.

Mr. Speaker, I withdraw my request.

The SPEAKER pro tempore. The gentleman withdraws his request.

The joint resolution was passed.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. ROS-LEHTINEN. Mr. Speaker, I was unavoidably detained in my district and had I been present to vote I would have voted: "yes" on the journal vote—rollcall 880, "yes" on the rule to House Resolution 299—rollcall 881, "yes" on Solomon amendment—rollcall 882, "yes" on the adoption of House Resolution 299—rollcall 883, "yes" vote to table the appeal of the ruling on the chair—rollcall 884, "no" on the motion to recommit—rollcall 885.

PERSONAL EXPLANATION

Ms. MCCARTHY. Mr. Speaker, I was unable to participate in rollcall vote No. 885 on December 22, 1995. Had I been present, I would have voted "yea".

FURTHER MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment a joint resolution of the House of the following title:

H.J. Res. 134. Joint Resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

LEGISLATIVE PROGRAM

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute.)

Mr. FAZIO of California. Mr. Speaker, I take this time to determine from the distinguished majority leader the remainder of the schedule for today and perhaps for the rest of the year, and maybe into the next year. I would be happy to hear from the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, if the gentleman would yield, let me begin by saying to our colleagues, this is the last vote of the day, and perhaps the last of the year, but certainly for a while. So those of our colleagues that are anxious about their airplanes are released, may go, and have a merry Christmas.

Mr. FAZIO of California. Mr. Speaker, could the gentleman further elaborate on the schedule? I have some questions that perhaps he wants to take them up on his time.

Mr. ARMEY. Mr. Speaker, if the gentleman will yield.

Mr. FAZIO of California. I would be more than happy to yield to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I have just come back from the White House where I can say to my colleagues that things are going well. I think there is a very healthy rapport that is being established. The gentleman from Missouri [Mr. GEPHARDT] I see is back as well, and I think he would agree with me that we have a good beginning.

We have reason to be optimistic, but as everybody knows, there are a great many points to these negotiations, and we do not necessarily expect them to be completed soon.

We are able now, I think, to go into a recess that will take us until Wednesday evening. I do not expect that we would have business that would demand any votes on Wednesday evening. I would expect that we would be able to perhaps renew the recess period until Saturday.

I would ask Members to please be in touch on Tuesday morning with your whip phone. We will try to keep you updated, but I do believe at this point, unless you receive information to the contrary, that you should be able to expect that there will be no business that would be compelling enough to bring you back from your districts and your constituents prior to next Saturday.

If, in fact, things pick up with the budget negotiations, obviously we would give everybody ample notice and get everyone back. But we have no other business rather than the budget that I know of at this time that would make us feel constrained to call Members back.

Mr. FAZIO of California. Well, if I could further ask the leader to elaborate, so when we come in to session on December 27, on Wednesday; on Saturday, December 30, and perhaps again on January 3, we would not be having any business on those occasions; except perhaps if the majority chooses to extend the recess, there would be no procedural votes, nor would there be any substantive matters coming before the body. Is that the understanding that the gentleman can leave us with?

Mr. ARMEY. Well, if the gentleman would yield, I am very confident that there would be no procedural votes from our side of the aisle, and of course I would feel much more comfortable if I could have the same assurance from the gentleman from California. I would expect none from your side as well, since it would be, I think we would all agree, a terrible inconvenience to the Members who might try to get something done in their district.

Mr. FAZIO of California. Would the gentleman indicate once again how much notice he thought we could obtain as Members who might be at some distance from this town in order to get back if any votes are required?

Mr. ARMEY. The Members should be aware that they would get a minimum of 12 hours notice. We would certainly try to do better than that, and I will try, beginning on Tuesday, to see to it that there is an updated information on the whip notice for all of the Members.

Mr. FAZIO of California. In an earlier dialog, the gentleman indicated that he thought a 24-hour notice would be appropriate, and I realize that he is reluctant to make that commitment, but I can tell you there are many Members on both sides who think in this kind of an atmosphere with the difficulty of travel, a 24-hour notice would be far more appropriate, in light of the Members' needs to get reservations and get here in a timely way.

Mr. ARMEY. If the gentleman will yield, the gentleman's point is well taken. I am acutely aware that it is this gentleman's habit not to promise something unless he is certain he can deliver on it. So let me promise my assurance that I will do my very, very best to be sure that everyone gets as ample a notice as possible with my whole assurance that it would never be less than a 12-hour notice.

Mr. FAZIO of California. Well, I read the gentleman's comments in Roll Call today about the family friendly issue, and I think it was in the Wall Street Journal as well, and the gentleman has made the point he does not want to overpromise, so I do understand.

Speaking of family friendly, let me yield briefly to the cochairman of that caucus, which has had one of the more difficult years, perhaps.

Mr. ARMEY. If the gentleman would yield for a quick response, I would like also to refer the gentleman to the editorial page of the Wall Street Journal today as well.

Mr. FAZIO of California. I always skip over that page.

Mr. Speaker, I yield to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, if I could ask the distinguished leader a question or two.

First of all, Mr. Leader, I would like to extend a great deal of thanks to the staffs. If this is the last day that we are in session in 1995, certainly the staff on the Republican side and the staff on the Democratic side, working through the contract, working through December 22, today; sometimes working longer than we have, and the staff here in the Capitol deserve the taxpayers' thanks and the Members' thanks, and I would just like to extend a great deal of thanks to the staff.

Mr. FAZIO of California. Reclaiming my time, I just wanted to confirm that there will be no other legislation other than a CR or 7-year balanced budget brought before the institution at any time during the next 2 weeks; is that correct? There will be no other legislation?

Mr. ARMEY. If the gentleman would yield, I should say that there may be a few nominal unanimous-consent requests that are cleared by both sides. I would expect that anything of consequence of either a CR or the balanced budget itself would be a matter consequential enough to expect the Members to have an opportunity to vote on it.

Mr. FAZIO of California. Mr. Speaker, could the gentleman inform us as to when we will get a formal legislative schedule for January?

Mr. ARMEY. I would say that we will try to get you that as soon as we can and certainly within a week or two. I understand the concern of the gentleman and we will try to do the best we can.

Mr. FAZIO of California. Is there any possibility that you could at least give us weeks in January when you anticipate our presence or the fact that we would be free to work in our districts with our constituents?

Mr. ARMEY. Again, if the gentleman would yield, it is our intention, as we complete this very, very long and difficult year, to make January as much a time for district and family as we can.

Mr. FAZIO of California. Mr. Speaker, let me yield to my colleague from Maryland [Mr. HOYER].

Mr. HOYER. I thank the gentleman for yielding.

I would like to ask two questions. First of all, I would like to ask the leader, in terms of the recess and the reconvening of the House on the days that the leader has indicated that the House may be in session for the purposes of recessing to a future time, will we have notice of the time of that convening for the purposes of additional recess?

Mr. ARMEY. If the gentleman will yield.

Mr. FAZIO of California. I would be happy to yield to my friend from Texas.

Mr. ARMEY. The gentleman from Maryland makes a good point, and yes, Members will be notified of our intention to reconvene the House, even for the purpose of renewing the recess, if that is possible. We will try to provide our Members, through their whip phones, as complete information about anything that would happen, but certainly we would notify Members that we would be reconvening the House at such-and-such a time, and we will try to give ample notice on that as well.

Mr. FAZIO of California. I would be happy to yield further to my friend from Maryland.

Mr. HOYER. I thank the leader for his response on that, because there may be some of us, obviously, who do live close enough to participate in those sessions and would want to know, obviously, of any unanimous-consent request that will be offered at that time, and I am sure my own leadership will keep me informed of that, as well as your leadership.

The second question I would ask, Mr. Leader, as I hear what the gentleman is saying, am I correct that the probability is that the first time we could pass legislation to reopen those segments of Government that are closed would be January 3, after 5 o'clock?

Mr. ARMEY. If the gentleman would yield, I would suggest to the gentleman that no, that is not necessarily the first time. Again, I would remind the gentleman, and again, the minority leader is here, at the White House today we had a sense of a very cordial workmanship-like rapport that should give us some confidence that progress might be made in this process, and obviously, everybody, I think, is very much aware that this is a serious business and we are resolved to get right to it.

So I think we should be prepared, with the proper notice, nurturing all of the optimism we can and perhaps goodwill among the negotiators, to expect that at the very, very most early convenience.

Mr. FAZIO of California. I would yield again to my colleague from Maryland.

Mr. HOYER. Mr. Speaker, I am pleased to hear that.

Mr. Leader, I would hope that in the event that you, who are perceived by, I think, many of your Members as I read in the papers as being tough enough to make the hard decisions, if you conclude prior to a finalization of an agreement that in fact negotiations are being conducted in good faith; that there is a reasonable probability that they will be successful in accomplishing the objective of the balanced budget within 7 years by CBO scoring, or such scoring as the parties agree on, that you would contact my leadership to suggest that the next time we come back from recess, whether it is Saturday or next Tuesday, that we pass a unanimous-consent continuing resolution to put the Government back to work.

Mr. FAZIO of California. I would be happy to yield to my friend from Texas.

Mr. ARMEY. Of course I will be in contact with Members of your leadership and with the White House each day, and I think that the gentleman would agree with me that it would be quite inappropriate for anybody to do anything along the lines of a unanimous consent that would not honor each and every Member's right to vote on such an action.

So if we thought that it was appropriate to bring an action of that nature to the floor, we would properly notify Members and give them their opportunity to be here for debate and to vote.

Mr. ABERCROMBIE. Mr. Speaker, will the gentleman yield?

Mr. FAZIO of California. I would be happy to yield to my friend from Hawaii.

Mr. ABERCROMBIE. I thank the gentleman for yielding.

Mr. Majority Leader, you have indicated that you would give at least 12-hour notice on giving us the opportunity to get here. My question is, ordinarily under those circumstances the House is not called into session for possible votes or anything before 5 o'clock when we know that people have to travel. Could we count on the same? That is my only request. I am not trying to ask for special treatment.

Mr. ARMEY. If the gentleman will yield, the point of the gentleman is very well taken. Yes, on that day in which we would expect action, it would be our intention then to try to make it action that would require a vote at 5 o'clock or later. Is this what the gentleman is asking?

Mr. ABERCROMBIE. Yes. If the gentleman would yield just a moment longer, the first time, Mr. Majority Leader, as I understand our recess resolution, that we would be called to make a determination or that the majority would be called to make some determination as to whether we continue in recess, et cetera, would be next Wednesday; is that correct?

Mr. ARMEY. That is correct.

Mr. ABERCROMBIE. All I am asking is if you would be kind enough to extend what I think what could be called the usual courtesy of calling us into session before 5 o'clock.

□ 1515

Mr. ARMEY. I appreciate that. The gentleman's point is well taken, and we would not expect to have to make the determination by a vote before 5 o'clock.

Mr. ABERCROMBIE. I thank the gentleman very much, and I thank the gentleman for yielding.

Mr. FAZIO of California. Mr. Speaker, just to confirm what the majority leader told the gentleman from Maryland [Mr. HOYER], we would not move a CR by unanimous consent. It would take a vote of the Members. Therefore, Members would be called back on one of those days and we would vote any CR that would be proposed by your leadership?

Mr. ARMEY. If the gentleman would yield further, that is right. If I may say, our Members would be called back with proper notice.

Mr. FAZIO of California. Mr. Speaker, I yield to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Leader, I do not want to belabor this discussion, but I want to ask, I know that you are aware that 500,000 Federal employees only got half a paycheck for this current paycheck. But I wanted to emphasize that the January 5 paycheck for everyone, whether they worked or did not work, will be zero.

Of course for those who have been working all along, I think that is a serious situation, that they have worked every day, they have probably done twice as much work because of the number of people who have not been working, and their paycheck will be zero as of January 5. So the problem is, if we do not get a full continuing resolution, and I think the date is probably January 3, for that January 5, paycheck, then I think we have an extremely serious situation, that we could not possibly recess for the rest of the month of January without rectifying it. I want to bring that to the leader's attention. I assume that he has considered that.

Mr. ARMEY. If the gentleman would yield further, I say to the gentleman from Virginia, again I am reminding that the gentleman from Missouri [Mr. GEPHARDT] is here and was at the White House. We are acutely aware of this circumstance and we are acutely, I think, convinced that it would be in the best interest of all parties concerned for us to negotiate, complete these negotiations, come to an agreement that would have the blessing of both bodies, and resolve the dilemma as quickly as possible.

Mr. FAZIO of California. Mr. Speaker, I yield to the gentleman from California, who I am sure also shares the concern about a 24-hour notice requirement.

Mr. DREIER. Absolutely. I thank my friend from West Sacramento for yielding. I would simply like to, in behalf of the California congressional delegation represented here on the floor by the gentleman from California [Mr. RIGGS] and the gentleman from California [Mr. KIM] and others, and most especially my colleague, the gentlewoman from California [Mrs. SEASTRAND], would like to inquire of the majority leader what we could anticipate as far as comprehensive immigration reform legislation.

Many of us in California have been insistent that we move this as quickly as possible, and other States, we have people like the gentleman from Florida [Mr. FOLEY] here and others, and I suspect the gentleman from Florida [Mr. GOSS] over my shoulder and others who are hoping very much that we will move as quickly as possible—maybe even the gentleman from New York [Mr. SOLOMON], the chairman of the Rules Committee, and any other names shouted out to me I am happy to repeat—but I would like to inquire of the distinguished majority leader what we can anticipate as far as scheduling for the comprehensive immigration reform legislation.

Mr. ARMEY. If the gentleman would yield further, the gentleman from California does make a good point. The California delegation has been very enthusiastic in inquiring about this. I have had many inquiries and there has been a good deal of good work done, as you know, particularly by yourself and the gentlewoman from California [Mrs. SEASTRAND] and other Members.

I should say that, again as we talked earlier about the vagaries of putting together a calendar, that I can say with full confidence that we would have an immigration bill on the House floor no later than the week of March 18, 1996.

Mr. DREIER. I thank my friend for that understanding, and I thank my California colleague for yielding.

Mr. FAZIO of California. The gentleman is welcome.

Mr. Speaker, I would like to yield to the gentleman from Virginia [Mr. MORAN] once again for a question that is more international in scope. He is concerned, as he will make clear, about Israeli bond default.

Mr. MORAN. I think we are all aware of the situation that Israel is in, a unique situation where they get their $3 billion at the beginning of the fiscal year. We understand that their bond credit rating is now in jeopardy because of the fact that it is unclear if and when they will get that money in a timely manner.

I wonder if the leader would like to assure them as to what to expect, and perhaps the Members of the House, who surely will be asked what the status is of the $3 billion for Israel. Would you like to assure us, Mr. Leader, as to what they should expect? At this point unless we taken action, there is some likelihood that Israel's bond credit rating will drop through the floor.

Mr. ARMEY. If the gentleman would yield, again the gentleman from Virginia raises an important point, and again let me remind the gentleman this is another one of these very weighty matters that we are all concerned with as we are working so hard on this budget agreement. We will move on and try to accomplish this as well as the others.

Mr. MORAN. If the gentleman would continue to yield, I guess the real question is, would we anticipate being called back perhaps to vote on that? Is that some possibility? I know there has been a request. Does the leadership think that that is of an urgent enough matter that we might be called back to vote on that independently?

Mr. ARMEY. If the gentleman would further yield, this is certainly a matter of enormous concern and we would not rule that out.

Mr. FAZIO of California. Mr. Speaker, I yield to the gentleman from Michigan [Mr. EHLERS].

Mr. EHLERS. I thank the gentleman for yielding. I just would like to assure the majority leader of my full confidence in his good judgment. And in regard to the issue of delaying any action on a continuing resolution until we are present to vote on it, I would assure him that if he and the other Members of both parties and leadership should decide to adopt a continuing resolution for a day or two, if we have good progress, I would certainly encourage them to pass such a short-term continuing resolution by unanimous consent pending our return for a full-fledged vote on a further continuing resolution, so that we can get the Government operating as soon as possible.

Mr. FAZIO of California. I appreciate the gentleman's comments. I yield to the gentleman from Maryland [Mr. HOYER] because I believe he and the gentleman from Michigan [Mr. EHLERS] are together on this matter.

Mr. HOYER. I want to say—and I thank the gentleman from California for yielding, the distinguished chairman of the Democratic Caucus—the comments of the gentleman from Michigan [Mr. EHLERS], I think, are ones that reflect what I would refer to as a commonsense way of proceeding. Because, and that was the reason for my question, I believe that the Members of your conference have confidence in you, Mr. Leader, and I believe the Members of our caucus have confidence in the gentleman from Missouri [Mr. GEPHARDT]. I think if the two of you agree that this can be moved forward, with the Speaker's concurrence as well, the gentleman from Michigan [Mr. EHLERS] is echoing what I said, that we ought to be able to do that, it seems to me, by unanimous consent and put the Government back to work at least through January 2, which after all is a very short time.

But what it does is, it solves the problem that the gentleman from Virginia [Mr. MORAN] has referenced with reference to getting paychecks to people for the second half of this month. We are running into a time now where we are not going to be able to pay people, not going to be able to send out checks except for the exceptions we have made.

I thank the gentleman for his comments and would concur with him. I do not believe, very honestly, Mr. Leader, that that takes any pressure off because of the short-term nature of that action.

Mr. FAZIO of California. Mr. Leader, perhaps we could delegate this responsibility to the gentleman from Maryland [Mr. HOYER] and the gentleman from Michigan [Mr. EHLERS].

Mr. ARMEY. If the gentleman would yield further, I appreciate the observation of the gentleman from Maryland [Mr. HOYER] about the enormous confidence my colleagues have in me, and I am sure they would agree that they have every confidence that I would not deny them their right to vote on a matter of such consequence as a continuing resolution in any shape.

Mr. FAZIO of California. Mr. Leader, let me at this point yield to the gentleman from Florida [Mr. FOLEY], who I believe is seeking recognition. Is the gentleman still interested in commenting?

Mr. FOLEY. I thank the gentleman for yielding. I just wanted to see if the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules, will engage in just 1 minute of question.

I want to be certain, and I have received a number of phone calls to my office both in the district and in Washington, inquiring as to whether veterans of wars, disabled veterans, and others, would receive a check on January 1. There has been a lot of stress on the phone of some people who are deeply concerned. I just want to make certain we are taking care of those men and women who have spilled blood for this Nation for the freedoms that we enjoy.

Mr. FAZIO of California. Mr. Speaker, I am more than happy to yield to the gentleman from New York [Mr. SOLOMON] for a response.

Mr. SOLOMON. I thank the gentleman for yielding.

Let me just assure the gentleman that in the recently passed continuing resolution over in the Senate, that the veterans provisions that guaranteed that those checks would go out for medical compensation, medical disability compensation, for GI bill, all of those checks are provided for in the Senate bill. In the bill just passed by the House the same is true.

There is one little difference, that the Medicaid provision that passed over in the Senate is not in our bill, so there is still a difference. As I understand, we are protected because the veterans are in both bills. But what it does mean is that one of the Houses will have to act on the other's bill before we go home this evening. That will be done by unanimous consent. But whichever way it works out, it guarantees that those checks for veterans will go out in a timely manner.

Mr. FOLEY. If the gentleman would continue to yield, that means the Senate must act today on the appropriations matter before them in order for those checks to be delivered?

Mr. SOLOMON. That is correct.

Mr. FAZIO of California. Mr. Speaker, I will reclaim my time, unless the leader has any further comments he may wish to make. I appreciate the gentleman's comments.

I would just like to announce to my colleagues on the Democratic side of the aisle that the most updated schedule, that will be updated daily, will be available through our Cloakroom, and Members should call that number at any point to receive the latest information on a regularly updated recording.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore (Mr. COBLE). Is there objection to the request of the gentleman from Texas?

There was no objection.

DESIGNATING OF THE HONORABLE CONSTANCE A. MORELLA TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS FOR REMAINDER OF FIRST SESSION OF 104TH CONGRESS.

The Speaker pro tempore laid before the House the following communication from the Speaker.

WASHINGTON, DC,
December 22, 1995.

I hereby designate the Honorable CONSTANCE A. MORELLA to act as Speaker pro tempore to sign enrolled bills and joint resolutions for the remainder of the First Session of the One Hundred Fourth Congress.

NEWT GINGRICH,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the designation is approved.

There was no objection.

ANNOUNCEMENT OF SPECIAL ORDER ON TODAY

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, I am going to do a 60-minute special order in a few moments here after a few 5-minutes. I raced in this morning and missed the 1-minute.

I just wanted to say that since there is a 50–50 chance we will not have any votes next week, and I hope to head off to Europe to visit with our troops in the field, I wanted to do a tribute for a half hour to our men and women in uniform today as we close out 1945, the last year of World War II.

I also want to do a half hour on execution-style, a few inches from infanticide, partial-birth coupe de grace abortion. We may not think that is proper at this time of year, but on December 28, which we may miss, it is the Feast of the Holy Innocents to remind us of the Herod slaughter of innocent children, trying to kill the Messiah, whose birth many of us will celebrate next Monday.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER. pro tempore (Mr. COBLE). The Chair will recognize special orders but not beyond 6 p.m. today at this point.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SALE OF ATACMS MISSILES TO TURKEY.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, as soon as today, or at least by the middle of next week, our Department of Defense will sign a letter of offer and acceptance [LOA] with the Government of Turkey, to complete the sale of 120 Army Tactical Missile Systems [ATACMS]. The ATACMS—pronounced attacks 'ems—is a ground-launched surface-to-surface, conventional, semiguided ballistic missile which carries an antipersonnel/antimateriel cluster warhead capable of spraying shrapnel over a 150-square-meter area. Turkey already has the multiple launch rocket system from which to launch these very nasty, destructive weapons. What this weapon does is essentially deliver 950 small bombs, some of which do not immediately detonate and remain on the ground, posing a threat to noncombatants—including children.

Mr. Speaker, this is the wrong weapon sale to the wrong country at the wrong time.

Earlier this month, I circulated a letter with the gentleman from Florida [Mr. BILIRAKIS] which was signed by 35 Members from both sides of the aisle, calling on President Clinton to reconsider this sale, based on our very serious concerns over how these weapons would be used. The Turkish Government's domestic and international behavior—including the ongoing campaign against the Kurdish people, the occupation of Northern Cyprus, and the blockade of Armenia—makes us deeply concerned that providing such destructive power to that Government has the potential to cause terrible, and preventable, human suffering.

Today I am joining with my colleagues, Mr. TORRICELLI and Mr. BILIRAKIS in introducing House Concurrent Resolution 124 expressing the sense of Congress that the President should suspend the proposed sale of the Army Tactical Missile System to the Government of the Republic of Turkey until the Government takes significant and concrete steps to end the military occupation of Cyprus, lift its blockade of Armenia, cease its ongoing campaign against the Kurdish people, and demonstrate progress on the protection of human and civil rights within Turkey.

Mr. Speaker, the timing of this sale is peculiar to say the least. The Foreign Operations appropriations bill includes a cut in economic assistance to Turkey. This provision, which has strong bipartisan support, was enacted in response to the concerns cited above. We believe that the message we are trying to send with this provision would be undermined by approving a new sale of military hardware at this time. In Ankara, the conclusion would inevitably be that, beyond limited symbolic measures, Americans do not take seriously the shocking breaches of international law and decency committed in the name of the Turkish Government.

The proposed transaction represents the first sale of these weapons to any foreign nation. The Turkish military track record is not consistent with what we would expect of any recipient of United States arms, much less a NATO member. The Human Rights Arms Project has cited numerous examples of the indiscriminate use of weapons by Turkish forces in Kurdish civilian areas. We are also concerned about the evidence strongly linking Turkey to unauthorized transfers of United States and NATO weapons to the Republic of Azerbaijan.

While it is our contention that the weapons sale should be halted entirely, in our letter to the President we recommended that, are the very least, strong conditions governing the use and transfer of these weapons be attached to any sale, and that these conditions be strongly enforced.

Mr. Speaker, this sale has been strongly opposed by Greek-American, Armenian-American, and Kurdish-American organizations, as well as Human Rights Watch, the Council for a Liveable World, and the Federation of American Scientists. And for good reason.

Turkey claims it needs the ATACMS as a deep strike weapon against the threat of tanks in Syria, Iraq, and Iran. Yet, in Greece, Turkey's neighbor to the west, there is deep concern about the threat posed by these offensive weapons. In the regional arms race, Turkey already has a substantial edge, with F–16 fighter jets, attack helicopters, and antiarmore missiles. In addition Turkey has imported more than 1,000 tanks from the United States alone in the past 5 years.

The Government of Turkey is conducting a war against the Kurds within Turkey and has made incursions into Kurdish areas of Iraq, resulting in thousands of civilian casualties and millions of refugees. This cruel war is one part of an overall effort to essentially negate the Kurdish people as a distinct entity within Turkey. Many people are concerned that these missiles could be used as part of this military campaign, resulting in terrible civilian casualties.

Also, Turkey continues its occupation of one-third of the territory of Cyprus, having declared a "Northern Republic of Cyprus," an entity that has no international recognition, and resisting good-faith efforts of the United States, Greece, and other nations and international bodies to end the conflict. The occupation of Cyprus is well into its 21st year. There is no sign that it will end if we continue to send the message to Ankara that there are no significant consequences to this illegal occupation, and that our protests are largely symbolic and rhetorical.

Another illegal and immoral Turkish Government policy is the blockade of its border with the Republic of Armenia. This blockade has blocked the delivery of American humanitarian aid to Armenia and complicated its delivery. In the foreign ops bill, we have language, with strong bipartisan support, known as the Humanitarian Aid Corridor Act, which restricts aid to those countries that block the delivery of aid to other nations. Although the language does not mention Turkey by name, clearly that is the country that would be targeted.

Why are we taking these seemingly significant legislative steps—Humanitarian Aid Corridor Act, cutting aid to Turkey—and then turning around and giving them this terrible weapon system?

Mr. Speaker, we also have to worry about whether Turkey will see fit to transfer this technology—our technology—to other nations. Strong evidence has linked Turkey to the unauthorized transfer of Untied States and North Atlantic Treaty Organization weapons to the Republic of Azerbaijan. Azerbaijan and Armenia are engaged in a tense conflict over the region of Nagorno-Karabagh. A tenuous cease-fire is holding, and the administration has recognized the importance of resolving this crisis by appointing a special negotiator with the rank of Ambassador. Why, again, do we turn around and take steps that will potentially undermine our efforts to negotiate a just and lasting resolution to this conflict?

International human rights organizations continue to cite Turkey for egregious violations of the basic human rights and freedoms of its own citizens. Earlier this year, an American journalist was jailed in Turkey because of her reporting on the campaign against the Kurds. She was released, thank God. Unfortunately, there has not been such a happy ending for those few brave Turkish journalists and human rights activists who try to tell their countrymen and the world the truth about what's going on. These brave souls languish in prison, largely forgotten by all but a few friends and supporters.

Mr. Speaker, I am very discouraged and disappointed by the reaction of Western governments—not only our own—to Turkey's continued flouting of international law and standards of decency. Just last week, the European Union admitted Turkey into its Customs Union, a likely first step toward full membership in the EU—despite the strong objections from many legislators and activists on the other side of the Atlantic.

Why are we doing this? Sadly, we are witnessing the triumph of Realpolitik, in other words, putting economic or strategic interests ahead of our own values. The argument is that we need Turkey because of its strategic location and as a bulwark against Islamic fundamentalism. Well, in the first place, I believe that these goals could be achieved by more positive means than weapons sales. But I also wonder whether we're making a terrible strategic mistake over the long term, investing billions, sending our most advanced weapons and otherwise hurting America's good name by associating with a regime that isn't very stable and may collapse anyway.

While it may be too late to stop this ill-advised weapons sale, I urge all my colleagues to work with me and other Members of this House to stop coddling the regime in Ankara, to stand with Turkey's neighbors, and to stop basing our foreign policy on the bad bet represented by the Government of Turkey.

It may be too late to stop this ill-advised weapons sale to Turkey. I urge all of my colleagues to work with me and other Members of this House to stop coddling the regime in Ankara, to stand with Turkey's neighbors, and to stop basing our foreign policy on the bad debt represented by the Government of Turkey.

WHY I AM STANDING FIRM FOR A BALANCED BUDGET

The SPEAKER pro tempore. Under a previous order of this House, the gentleman from Kansas [Mr. TIAHRT] is recognized for 5 minutes.

Mr. TIAHRT. Mr. Speaker, as a freshman Member of Congress, I wanted to take some time this afternoon to explain why this Member is standing firm for a balanced budget.

We are attempting to carry out the will of the people. Eighty-six percent of Americans want to have a balanced budget, and we are intent on keeping our word.

On September 27, 1994, many of us stood on the steps of the Capitol here and promised, through the Contract With America, to balance the budget within 7 years. This is nothing new to us. I know it is new for some people in America to actually expect people in Washington, DC, to keep their word, but for the freshman class that is the norm. That is what we expect.

Recently we have been criticized by the President for shutting down negotiations. But if being criticized by the President means we will hold the President to his word, then, believe me, it is worth it. We have found that it is impossible to trust what the administration has told us or what the President has said.

On November 20, 1995, the President signed into Law Public Law 104-56, and I would like to read it briefly. It says, "The President and Congress shall enact in the first session of the 104th Congress to achieve a balance budget not later than fiscal year 2002, as estimated by the Congressional Budget Office." That has not happened yet.

As was pointed out in today's Wall Street Journal on page A8, the editorial page, under the heading "Freshmen Hazing," I am going to read a paragraph from that. It says,

> More than a month ago President Clinton signed an agreement to work with Congress to produce a 7-year balanced budget using updated Congressional Budget Office numbers. Since then the White House has done everything it could to slip out of that deal. The topper came Tuesday, when Mr. Clinton met with GOP leaders, and once again apparently agreed to use CBO numbers and reach a 7-year balance budget deal by the end of the year. Then Vice President Gore appeared before reporters and, when asked about the agreement, said, "Did the President agree to put down an Administration-CBO plan according to those assumptions? No, absolutely not."

Once again, this is a flipflop and shows why we cannot trust anything that comes out of the White House.

Mr. Speaker, I believe I know why the President is so opposed to a balanced budget. It is because he has to protect the abuse, the blatant abuse of taxpayer dollars by the administration. Secretary O'Leary and the Department of Energy are very inefficient and wasteful in the way they spend tax dollars. Secretary O'Leary, although all her responsibilities are domestic, has traveled 16 international trips, some at a cost of over $800,000, each taking along as many as 50 employees and 68 guests, and many of those guests have failed to pay their portion of the trip.

She has also hired professional photographers and video crews. But she is very concerned about her image, and that is why she is trying to catch herself at her best.

She hired a personal media consultant at a cost to taxpayers of $277 a day.

She employs over 500 public relations employees at a cost of approximately $25 million per year to the taxpayers.

She has even hired a private investigative firm to develop a list of unfavorables, unfavorable reporters and Members of Congress. This is just the tip of the iceberg.

According to the General Accounting Office, their reports and their audits say that the Department of Energy is ineffective as a Cabinet-level agency. Vice President GORE himself, in his National Performance Review, has said parts of the Department of Energy are 40 percent inefficient and are going to cost taxpayers $70 billion over the next 30 years if we do not do something.

Well, the President has condoned this action by keeping Secretary O'Leary in office. He condones the waste, the abuse, and you cannot balance the budget unless you cull this deadwood out.

We are not convinced the President or the administration means anything it says. That is why we are standing firm against waste and against abuse and for a balanced budget.

EXPRESSING APPRECIATION FOR CONTINUING RESOLUTION TO ASSIST THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 5 minutes.

Ms. NORTON. Mr. Speaker, I come to the floor to thank those members on both sides of the aisle who helped and cooperated with us as we got a continuing resolution that keeps the Capital of the United States open. I recognize, particularly because I am among the Members who has a very large number of Federal employees, how frustrating a piecemeal CR has been.

On the other hand, it does seem important to get to the real principle of the thing and to the real people who are behind all of our rhetoric.

The CR that has just passed still has to go through the Senate, and I am informed that there is a difference in language between what they have passed and what we have passed, so we are still on tenterhooks.

This will not be known as the most bipartisan Congress in more than 200 years. There will be very few matters which can be pointed to which received any bipartisanship.

I must say, I would have been ashamed to have been a part of this body, however, if that posturing and partisanship prevailed against the most needy people in our society, those on welfare and against the Capital of the United States.

So I am grateful to all involved that this matter passed. I appreciate the work of the Speaker, the majority leader, and the minority leader on our side. I appreciate the work of the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY].

If all had not, in fact worked together, I am not sure exactly where the District would have been left, but it certainly would have been twisting in the wind, and the hardship on people on AFDC would have been unspeakable.

There is still great unfinished business as far as the District of Columbia is concerned. We are one of, I think, only a couple of appropriations that have not even passed yet.

The continuing resolution lasts until January 3. Imagine what it feels like to have a continuing resolution until January 3 to spend your own money. That is the money that is locked up here in the continuing resolution, and it gives not 1 cent of Federal money to a city that is insolvent, at least technically so, and cash-strapped. It is a very small favor that the House has done, but it is a lifesaving favor.

I want to use this occasion at the end of the first year of the 104th Congress to ask the Members, come back with more bipartisanship than they left.

The balanced-budget-in-7-years matter, for example, is one that the parties have come very close together on, and yet the Government is being kept closed tight as if you needed a hammer to get the rest of the way. The rest of the way is very small.

In negotiations, you use hammers only when you are getting nowhere. We are getting somewhere, and yet the hammer of keeping Federal employees out of work, of keeping them without a paycheck even though they have been promised their pay is still there. Imagine, if you had to be without your paycheck over the Christmas holiday. There are few of us that could afford that.

So what we did here today was minimalism, but important minimalism. I hope it opens the way to a greater sense of what is really at stake here, the confidence of the country that the two parties that have essentially run this body for 200 years are capable of continuing to do it for 200 more.

When you have been tested on whether or not you will keep your own Capital City open, you have allowed your own prestige to be tested. I am afraid this will not play very well around the world, but at least the headlines will not read, "The Congress of the United States Closes Down Its Own Capital." I am grateful that it will not read that and hope that the last act of the year, and that is what we have probably seen today, the last act of the year, bipartisan act, keeping the District open, allowing those on welfare to get their checks, allowing veterans to get their checks, that that will be the first, the first indication that it is possible to get bipartisanship, and we start on small matters.

Then surely on large matters where we are very close, like the balanced budget in 7 years, we can do what needs to be done without drawing our swords on one another. We have drawn much blood, figuratively speaking, in this Chamber.

☐ 1545

I think in so doing, we may have paved the way for a third party to come down this aisle. We have got to restore confidence in this body. I hope the last vote of the year does that.

WHY THE GOVERNMENT SHUTDOWN?

The SPEAKER pro tempore (Mr. COBLE). Under a previous order of the House, the gentleman from California [Mr. KIM] is recognized for 5 minutes.

Mr. KIM. Mr. Speaker, I would like to send a message to the people in my district in California. Over the past few days, a lot of people in my district are calling me and asking me what is going on here, why the Government has to shut down? I represent the 41st District in California, about 40 miles east of Los Angeles, and about 3,000 miles from Washington, DC. My district is a typical suburban middle-class district in sunny, southern California.

These folks are hard working people who spend most of their time working and raising their families. As a result, they are not familiar with all the political games we are playing in Washington, DC. They told me to go ahead and shut down the Government so we can save money, so we can balance the budget. The fact is, there is no financial savings. All the Federal employees still get paychecks.

They also are wondering why we have so many nonessential employees in our Government anyway. I do not know how to answer that. But let me tell you, I feel sorry for the Federal employees furloughed. They have been treated like pawns in a chess game. They have been sent home, being called nonessential, not once, but twice. I bet you their emotional scars are really deep. They are really emotional victims.

But there are some other victims, too. The folks from California come all the way out to Washington, DC, spending their savings to see the Washington Monument, which is closed. It is not that easy planning a trip to Washington, DC. It is expensive. They are truly victims, financial and emotional.

How about the small businesses that depend on tourism, all the small shops, motels, coffee shops. They have to lay off their employees. They do not get paid. How about them?

How about some other private contractors who depend on Government contracts? They have got to stop. They have to let their employees go home, without pay.

How about those folks? They are really the true victims, emotionally and financially. Do they complain? No. They are afraid to complain because they may lose the contract from the Government. I know it, because I was one of those silent victims myself in the past. These are the ones that are the forgotten victims during this holiday season.

Let us take a look at whose fault is this. People are saying it is the Congress' fault, you are the ones that did it. Some are saying it is Mr. Clinton.

Let us take a look at it. I will ask the people in California to make their own judgment. Government does not have to be shut down. The Congress and Senate submit the budget to Mr. Clinton. He vetoed it, three times. Interior, he vetoed. VA–HUD, Commerce, Justice, State, et cetera. If he did not veto it, but went ahead and accepted the budget and worked out the details later, it would have been all right. He actually vetoed. That is why we have to have a Government shutdown. Or he could accept this budget proposal, which is nothing but a balancing of the budget within 7 years using Congressional Budget Office projections.

Back in February, he submitted, which is $276 billion off; resubmitted, June, $210 billion off, rejected; third time in December, only a few weeks ago, $115 billion off, rejected; last Friday he submitted, $87 billion off. Getting closer. By that time Congress took action and Congress rejected his proposal unanimously.

Mr. Clinton, try one more time. We are going to get there, $87 billion, that is all we are talking about. Just one more time and we will get there. Then we can bring all these people happiness in the holy season.

Let me tell you, Congress does not have any power to send the troops to Bosnia. We passed a resolution three times and sent it to Mr. Clinton not to send troops. He did it. Yes, he has the power. Congress does not. Of course, we have financial control. Somebody said it is Congress' fault. I will tell you. I would like to ask the people in my district in southern California who are listening to my presentation today, make your own judgment. Really, whose fault is this?

Mr. Speaker, thank you, God bless all, and God bless America.

ACCOMPLISHMENTS DURING THIS SESSION OF CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. MORAN] is recognized for 5 minutes.

Mr. MORAN. Mr. Speaker, this Congress has finally headed home, not just for the holidays, but for the rest of this session. We have already apparently taken our last vote. This may be one of the last, if not the last speech on this floor for this session of Congress, and when history records this session of Congress, they will record it as being the least productive and the most destructive session of Congress in U.S. history.

By the end of the fiscal year, we had passed the Paperwork Reduction Act and the Unfunded Mandates Act, and no appropriations bill. After wrangling for 9 full months, after being given the President's budget, only 1 of 13 appropriations bills had actually gotten to the President's desk, and that was the legislative branch. And thank God the President vetoed it.

The last thing we would have wanted as a Congress is to have our salaries and our organization funded and none of the rest of the Government. We were lucky that he vetoed the legislative branch. But that meant there were no appropriation bills and we were dependent upon a continuing resolution.

Now, what we have done is to go home for the holidays while Federal employees are locked out of their jobs and the American public is locked out of their Government.

Each of the most compelling cases that we have brought up have apparently been dealt with. We brought it to the floor that 3.3 million American veterans would not get their benefits, so there was a reaction and we got a bill to take care of them. I hope that it will go through. I have no confidence at this point. It has not been passed by the Senate, as far as I understand. Those checks will be delayed anyway.

We brought up the fact that 13 million welfare recipients have to have their checks processed by December 26. We are planning on being in recess, home with our families, but denying 13 million welfare recipients, most of whom have to have their check just to survive. The check has to pay for their rent. Without that check, they would not even have food to put on their table. These are the neediest of American citizens. Except for the last action we just took, they would have been denied the assistance they need to live on. There is no question they did not have any money saved up, particularly right before Christmas.

Then we added on the District of Columbia. Imagine, we have gone now for October, November, and December, holding up the District of Columbia's money. Not just Federal money, and this is what I do not think people fully understand, but we held up all their local property tax money.

Imagine if you were the mayor or on the county council or a citizen of a locality, you had paid in your own property tax money, and then the Federal Government told you you cannot even spend it? You cannot even spend it to educate your own children, to pick up your own trash, to place your police on your own streets? But that is what we did to the District of Columbia. So that is why we added that to the bill we just passed, and hopefully will be enacted.

We did not take care of Medicaid. It is going to be $11 billion that the States need that will not be sent out to the States for medical assistance for the most needy; 52 percent of it is for nursing home patients.

We did not deal with Israel. Israel gets $3 billion at the beginning of the year. They have not gotten it, and, because they have not, we are told by bond credit rating agencies that Israel is losing its credit rating. That has not only repercussions in Israel, but international repercussions. I do not think that is going to get through. That is a very serious situation. But we will be home for the holidays.

Meanwhile, 500,000 Federal employees will currently be getting half a paycheck. On January 5 they will get zero. Hundreds of thousands of these employees have been working at their jobs and doing the work of all the other colleagues, 260,000 of whom have been locked out of their jobs and told it is illegal to even volunteer to perform work for the American Government.

This is outrageous. We all ought to be ashamed. I cannot believe we are going home for the holidays, letting it stand.

GOVERNMENT SHUTDOWN UNFAIR

The Speaker pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. DAVIS] is recognized for 5 minutes.

Mr. DAVIS. Mr. Speaker, I come here today as a Member representing a district in Northern Virginia across the river with many Federal employees and Federal contractors. As my colleague in the neighboring Eighth District just noted, these are really the unintended victims of this shut down.

We literally are going to have hundreds of thousand of people not receiving their paychecks on time. Even those out there who have been working, who have been declared essential over the past week, will not receive their paychecks on time come the first of the year, unless some action is forthcoming from this body.

We are having literally thousands of employees of Federal contractors at this poing being furloughed, or in other cases the companies are having to eat their time because they are not getting paid in a timely manner from the Federal Government for doing work that they have won contractually. They are performing services for the Federal Government, but at this point their paychecks will not be forthcoming either.

The ripple effect that has had out in my district is in the retail stores, it is among the merchants, and it is hurting the economy locally. This can be spread across the country in other districts around the country. Not just with Federal employees, but people looking forward to getting their mortgages at the end of the year and cannot get Federal approval for it, veterans benefits which because of our dillydallying here over the last couple of weeks, some of those benefit checks for the first time I believe since the Second World War will not come out on time. And this is going to be multiplied and multiplied.

Then I was more dismayed to hear the next talks between our leadership, the congressional leadership and the White House, will not take place until next Friday, I believe at this point. With no prospect of anything happening next week, I have got to tell you, I am most discouraged at this point.

But let me just share some thoughts and observations. I was one of three Members on this side of the aisle today who voted for the motion to recommit which would have in fact offered a clean continuing resolution, that would have said during the Christmas holiday season, workers who have been doing their jobs will continue to get paid, other Federal workers who we have assured will eventually get paid will be paid in a timely manner, and contractors could continue to work and support their families.

There are other ways to bring pressure on the appropriate levels of government and branches of government to bring this about. A continuing resolution could be passed at a lower spending scale than even currently has been suggested, which would force the administration to make choices over who was the most essential, where the money was going to be spent, but it does not shut down government entirely and allows different parts and sections and functions of government to then be prioritized. That helps keep the pressure on the administration and congressional leadership to move forward and reach an agreement.

I have got to tell you, I am frustrated at this end of Pennsylvania Avenue, too, with the actions of the White House. The President said during the 1992 campaign that he favored a balanced budget. He appeared right up here in this House in 1993, in the State of the Union, and said he was for the Congressional Budget Office certifying the numbers. To date, he has sent four budgets up here. The last one voted on in this body did not receive 1 vote, defeated 412 to nothing, and none of them balanced as scored by the Congressional Budget Office. None of them comes actually close to balancing in the year 2002.

He signed an agreement last month saying he would work with us to try to balance the Federal budget by the year 2002, scored by CBO, and have that agreement by the end of the year. It is clear that is not going to happen now.

But, in the meantime, he has not even submitted his own plan, the document that would balance over a 7-year period, scored by the Congressional Budget Office. I think he has an obligation to the American people to say "I don't like the priorities that have come from Congress, that have been given to me. Here are my priorities. Here is how I would balance the budget."

□ 1600

Then, we can at least look and compare and trade back and forth, which is, I think, the essence of democracy. I do not think either side to this can say it is going to be my way or no way. We have 435 Members in this body. We are all going to have to compromise and come together to reach a majority vote and send something down to Pennsylvania Avenue. We have done that on a couple of occasions this year pertaining to the budget. We are going to now have to compromise once again with the White House.

It is important for our children's future and for this country's future that we balance the Federal budget; and, frankly, there is no end in sight at this point and it is very discouraging to me, as one Member of this body.

I will tell my colleagues that I like local government, where I served for 15 years prior to coming to this body, because we would have differences, we had strong philosophies, but we would come together; and at the end of the day recognized it was in the public interest to work out our differences, to work out our disagreements and come to some resolution of them. At this point, it is a dark day in this body and a dark day on both sides of Pennsylvania Avenue because we have not been able to come together.

So I took the opportunity today to join with only a couple other Members from this side of the aisle to vote for a motion to recommit that would have, in fact, allowed us to come up with a clean continuing resolution, put the workers back to work, pay the current workers not being paid for the work they are performing, and get a cooling off period for all of us.

How is it fair for Members of Congress to be paid to go home for a week and back in their districts with the Government shut down? It just makes it easier for us to do that in this body when we are not trying to go through the same anguish and anxiety of the many hundreds of thousands of Federal employees that are being adversely affected by our actions here.

So that is my discouragement with this process. I look forward to working with my colleagues on the other side of the aisle, with my fellow freshmen on this side of the aisle, and others to try to come together as the new year approaches, to try to work a new resolution where we can work with the administration and balance the budget together.

DUTY, HONOR, AND COUNTRY—GREATER LOVE THAN THIS NO MAN HAS THAN HE GIVE UP HIS LIFE FOR HIS FRIENDS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes as the designee of the majority leader.

Mr. DORNAN. Mr. Speaker, in that beautiful State of yours, North Carolina, may you have a wonderful holiday season. And as one fellow Christian to another, a very merry Christmas on this the birth of our Savior.

Mr. Speaker, I would like to title my special order, which I believe will be the last speech of this holy week, and probably the last speech of the first session of the 104th Congress. I would like the title to be "Duty, Honor, and Country," the motto of West Point, a school that my dad dearly desired my two brothers and I would attend, but he moved us to California and diverted that path.

"Duty, Honor, and Country," followed in my title, Mr. Speaker, by the beautiful words of St. John, chapter 15, verse 13, "Greater Love Than This No Man Has Than He Give Up His Life For His Friends."

Mr. Speaker, I am going to do 30 minutes in this Christmas season on what we owe to our young men and women in uniform, particularly past. They bought for us our freedom of speech in this great legislative Chamber, and some of them with wounds that they carry to the end of their life's course in this mortal existence.

Also, I am going to, as I mentioned earlier today, think about the feast day of the Holy Innocents, the children slaughtered from newborns up to 2 years of age by the cruel despotic Roman-appointed leader of the Holy Land when Christ was born, Herod. Herod the Great, Herod the Evil, Herod the Great Builder, Herod the Destroyer of Children.

That feast day is December 28. And although we will come back in on that day, there will probably, as the majority leader said, be no votes. So on December 28 I hope some Americans, at least those who respect their Judeo-Christian or Islamic heritage, will reflect on what we are doing to children in this world. So the second 30 minutes of my special order is going to be on whether or not our country will ever again attain greatness as long as we kill a million and a half babies in their mother's wombs and kill more than a quarter of all children conceived in this great country. More than a quarter of our pregnancies end in death.

Now, to duty, honor, country, and what one of the world's great political leaders calls us to. I watched Billy Graham on television for an hour last week and I know the great respect this great Protestant leader has for the current vicar of Christ in Rome, Pope John Paul II. Here, Mr. Speaker, from Vatican City, 2 days ago, is the Pope's message to the world.

It is in honor of all the children throughout the world who are forced to fight wars or forced to prostitute themselves, who must beg for money to eat or even beg for their parents' affections. Pope John Paul II dedicates the entire year of 1996, due to start in 9 days, to these sad and suffering children.

Here are the Pope's words and what he will formally release New Year's Day, which the Catholic Church marks as World Peace Day. The Pope says:

> Let us give children a future of peace. This is the competent appeal which I make to men and women of good will, and I will invite everyone to help children to grow up in an environment of authentic peace. This is their right and it is our duty.

French Cardinal Roger Etchegaray, head of the Vatican's Commission on Peace and Justice, said the Holy Father wants, "To gather in his arms all the children who suffer, and all the healthy and happy children also." The cardinal noted that all envoys, papal envoys, including the one in Washington, DC, around the world, would deliver this message to all world leaders. So it is on its way to the White House, I trust, this week.

Pope John Paul noted the increase in regional and ethnic conflicts and he lamented:

> Children have become even the targets of snipers. Their schools have been deliberately destroyed, and the hospitals where they are cared for, once wounded, have been bombed. In the face of such horrendous misdeeds, how

can we fail to speak out with one voice in condemnation?

The Pope also decried that young people are, "systematically hunted down, raped, or killed during so-called ethnic cleansing." He also condemned sex tourism, which is very prevalent throughout all of the successful free market economies of the Pacific rim. In this sex tourism, children are forced to become prostitutes. And then the use of children in the drug trade, he also condemned.

Children suffering, and again this is a direct papal quote, "even in wealthy and affluent homes," also came under the Pope's scrutiny. He decried the trauma children suffer seeing marriages break up and the loneliness and lack of moral guidance of others who find their main contact with reality in television programs which often present unreal and immoral situations.

Now, at Disneyland, in my district, I went earlier this month to the beautiful Christmas carol day that the people at Disney put on in both Disney World and Disneyland. I do not know if they do it in Japan or in Europe, but they sang beautiful hymns. All of the standard Christmas hymns, everyone rising and singing together "Silent Night." They sang in one of the hymns about rejecting the evil of Satan.

I sat there and thought, Disney, like all of America, is torn between decadence and triviality and inspiration and a family future for this country. Disney's beautiful gift to everybody who was at Disneyland on that Sunday, December 10, of this month, they gave America a very strange Christmas present. Tore up the survivors of the family of Richard Nixon, one of them a grandson of both Eisenhower and the son-in-law of Richard Nixon, Dwight David Eisenhower. Tore them up with this evil characterization of Richard Nixon as a foulmouthed alcoholic, who somehow or other was feeling some fantasy guilt over the assassination of a predecessor President, John F. Kennedy, with whom he had a warm friendship when they served in the Senate together.

This strange Christmas season film, "Nixon," follows a film earlier in 1995, that I have not heard a proper apology from Disney on, the film "Priest," where although the title is singular, "Priest," it was about five Roman Catholic priests; one an adulterer, another a homosexual, another an embezzler and a thief, another one a drunk, and I have forgotten what the fifth one was. I would not give it the decency of seeing it. It was made in England but released by the Miramac division of Disney.

The Catholic League for Human and Civil Rights said if this film had been called mullah, about the Islamic faith, five loathsome people betraying the Koran; or if it had been called Rabbi, about five Rabbis betraying the commandments of Moses, who is looking down at me here, the great leader from the 1100's, Maimonides, over in the northeast corner of the House; if it had been about five Rabbis betraying their covenant with God, wouldn't this have brought the wrath of every politician in this House and the other down on the head of Disney, calling them a foul anti-Semitic organization that was the very embryonic cause of the rise of Hitler in Europe? Of course, they would have.

Disney, with a CEO of Jewish, wonderful Hebrew heritage, would not have dared release a film made in Great Britain called Rabbi or one tearing apart any other group. Suppose the film had been called King, and it was about Martin Luther King, and treated him with disrespect. They would have had every park around the world properly picketed. But no proper apology this year from Disney.

Then we find all these little sexual innuendoes stuck in there by smart aleck animators, and my friend Michael Eisner's only comment is, what do I do, discipline the whole group? Well, you know what Walt Disney would have done? His daughter said this the other day. He would have fired everybody at Disney and started from scratch if the guilty party would not have stepped forward and accepted dismissal or suspension.

No, it is a sad day when you hear beautiful hymns at the wonderful family resorts owned by this great heretofore traditional family-respecting organization. So I would like to counter that with the words of Cardinal James Hickey of this archdiocese of Washington. He points out in his newsletter, "Reflections," that Christmas is a day when we celebrate the reality that Jesus, the eternal son of God, became one of us. He was born into our world. He was born to redeem us from our sins.

□ 1615

He was born to mend our broken hearts.

Cardinal Hickey has a beautiful letter that he gives to not just the faithful of his denomination, but to all people of God in this Capital City and Capital District of ours, and he talks about his boyhood home in Midland, MI, and how his mother would prepare this beautiful meal for his large family, and how in the afternoon he would return to the parish church with his mother to visit the crib of the infant Jesus.

He said, "It was there that my mother taught me this prayer." I had never heard this, but it captures certainly the whole spirit of the nativity of Jesus. The prayer says, "Sweet little Jesus, come and take birth in my heart."

In this beautiful city, there is a Franciscan church with a disarming name. It is called Commissariat of the Holy Land. To a military person like myself, that means commissary. Well, in a way it means the same thing. The Commissariat of the Holy Land is the headquarters in this country to raise money to take care of all of the Christian sites in Israel.

Now, yesterday, Bethlehem went from Israeli control, since 1967, back to the Arab people of Judea and Samaria. It is interesting that Bethlehem, as the birthplace of Jesus, as the Israelis have always respected, will still have Christians and Franciscans taking care of that site, this time under the care of a provisional government, Arafat's government, that will be mostly Islamic.

All of the holy sites, including where Jesus was born at Nazareth, are taken care of by the Franciscans. So, I will take my family on Christmas Eve, praying for the men and women in Bosnia, which I had hoped to give up my Christmas to be with them, instead we will go up to the Commissariat up in Northeast Washington and visit the most perfect replica of Jesus' birth site as it has been reconstructed in Nazareth, and the absolute perfect replica of the tomb of Jesus, as it is today inside the Holy Sepulchre Church.

Mr. Speaker, I would recommend to anybody of any faith, if they can find time over this next week, visit the Franciscan Commissariat. It is open to all faiths, every religion of the world. Come and see these beautiful, full-scale representations of some of the greatest spots, holy spots in that land that we all refer to as sacred, terra sacred, the Holy Land.

Now to, my theme about duty, honor, and country. I have before me a press release form the U.S. Army about an Army sergeant first class who gave his life for his country, for his friends and, actually, for the torn nation of Haiti.

He was killed less than a year ago, January 13, 1995. Army Sfc. Gregory Cardott, of Cupertino, CA. This will be the first Christmas his wife Darlene, and two beautiful daughters will spend without their hero, Green Beret father. He was assigned to the 3rd Special Forces Group for the last 3 years before his death, last January.

The Third Special Forces is that special forces group that has as its responsibility all of the Caribbean and all of the western part of the continent of Africa.

He was a proud soldier; a proud Green Beret. His brother said that he had talked to his beautiful wife, Darlene, on the phone 2 days before he was killed. They were planning to speak within the next day on his birthday. His birthday would have been January 14, the day after he was killed.

He said that he told her he felt pretty safe in Haiti and for her to not worry about him. "Greg was a heck of a guy," his brother-in-law Jack Brown said. "A real patriot. He loved to parachute, loved Special Forces, would do anything for them, any time, anywhere. He got along with just about everybody, but most of all, he loved his family."

He was born in San Mateo, grew up in Cupertino, hometown of a great minister and brother of a squadron commander of mine, a double ace in Korea and a 7-year POW, Robbie Robinson. I hope his brother, if any friends are listening, that the Reverend Reisner will please remember Gregory Cardott, whatever his faith, in their services in that beautiful California area.

Darlene is a nursing student. I hope she has completed her nursing training in the last year as a distraction for the pain in her heart. She said, "They come to your door in their beautiful uniforms and they tell you he's gone," she said with a break in her voice.

Mr. Speaker, it is interesting that Mr. Clinton and all of us were hoping no one would die in Haiti. I said on this House floor that this defrocked Catholic priest, who publicly would claim he loved the smell of burning flesh, was not worth the life of one decent American man or woman. I still believe, although he is leaving office, that Aristide, who I believe is an unstable person, that it was not worth putting him back in power for a year this last September; was worth the life of Gregory Cardott.

Listen to how Gregory died. He was guarding the post with other Green Berets. An Army major, a Haitian, Haiorel Frederick, and his driver rammed the checkpoint that Greg was guarding. Greg called to another soldier to jump in their humvee and they gave chase. They pulled over this victim in the village of Bigot, about 60 miles north of Port-au-Prince.

I visited with some of the special forces there this week last year. One eyewitness said that Major Frederick got out of the jeep and killed Greg Cardott on the spot and wounded the other soldier. Another soldier came driving up in a truck and jumped out and killed the gunman, so we do not have to worry about Major Frederick being released by some future Haitian Government, the way the assassins of our four Marines in June 1985, the assassins who sprayed them with automatic weapons fire and then went up and shot each one of them coup de grace in the back of their head or temple; one of them even surviving, then dying in the hospital a year later. I believe his name, well, I will not say his name, although I know it. The same name as a friend I have served with here in the House. I am afraid the parents might be listening.

They just released those assassins down in El Salvador. Before, we brought them freedom with 5,000 of our men serving there. And if Clinton decides to veto the Defense authorization bill, it will enrage me and take the breath out of me, because in that bill that he would be vetoing is the Armed Forces Expeditionary Medal for all 5,000 Americans, including the four ex-Marines and the helicopter crew that were executed in the back of their head, gangster style, for serving in El Salvador by the Communist Farabundo Marti in that country. We bought them their freedom. They have had now three democratically elected Presidents in a row, and yet time marches on and very few people think about these men who gave their lives.

Mr. Speaker, we have had an American killed in Tuzla. He was not in uniform. He worked for the United Nations, and his name jumps at you off this story. William Jefferson, as in William Jefferson Clinton. He was executed, gangster style in the back of his head, by Mujahedin terrorists a few kilometers from Tuzla during the debate in this House over sending our young men and women into that killing area. Yet, I could not get his name out of our intelligence services until after the debate was over. If I had, I assure my colleagues I would have made his funeral in New Jersey 2 weeks ago a nationally recognized event, because this man also working in the name of peace died for his country, as did our three diplomats, two of them uniformed military people on leave from a diplomatic mission that were burned and killed when their French armored vehicle rolled down a hill on that ugly, muddy road, the Igman Road that we had to cut through the hills to get into poor besieged Sarajevo.

But at this time of the year we should remember the four Americans who have died already in Bosnia. Mr. William Jefferson, Bob Frasure, Tru Nelson, and Joe Cruzell. As I said, two of them in uniform, although on leave to the State Department.

Mr. Speaker, I am going to submit, maybe the legislative day is still continuing until we adjourn here, I am going to submit a House concurrent resolution. I have already submitted it as a House joint resolution, but I should have made it a concurrent resolution, my staff got it wrong here.

It is a bill that I hope to have many Members on when we come back next year. It is patterned after an event that took place on December 20, 134 years ago on December 20, in the first year of the War Between the States, the Civil War. The House and the Senate established a committee called simply, it sounds very modern, a Joint Committee on the Conduct of the War, meaning the Civil War.

They did not trust Abraham Lincoln or his military experience to conduct the war without constitutional Senate and House oversight. Yet, he had been a captain in the Blackhawk Regiment; had engaged, although not in severe combat, in a home protection operation in the Indian Wars in Indiana and Illinois, his part of the country; and, it goes without saying that the current occupant of the Oval Office is no Abraham Lincoln, a man of towering character who when we quoting from Holy Scripture, we knew it was coming not only from his brain but his heart.

So, if this Congress in 1861 on December 20 would form a joint committee to oversee the war, I am putting in a House concurrent resolution to establish a joint committee to oversee the conduct of Operation Joint Endeavor/Task Force Eagle.

I have already spoken to the Speaker about it and to the chairmen of some of our ranking committees here that have oversight of foreign affairs: The Committee on International Relations and the Committee on National Security, and I think that we should do that to make sure that we have that exit strategy that has still not been pointed out to us at the House.

At this point in the RECORD, Mr. Speaker, I would like to ask unanimous consent to put in the letter of a colonel, an Army colonel, who won the Distinguished Service Cross. That is usually a medal of honor without enough eyewitnesses. He was a Bataan death march survivor and he wrote an open letter, simply titled "Memorandum for Record" on September 7, 1992.

Mr. Speaker, every major newspaper, all the networks, and PBS and the Wall Street Journal rejected this letter. Only the great Washington Times in this city printed it. It is by Col. Eugene Holmes, and I would like to ask permission that that letter be put in the RECORD.

It was a delayed response, delayed by many years, from 1969 to 1979, to 1989, to 1992, 23 years later. He was responding to a letter by Oxford student Bill Clinton, a letter that Mr. Clinton had written December 3, 1969. I would like to ask unanimous consent to put Colonel Holmes' 23-year-after-the-fact letter to the Nation in, and then follow with the text of Bill Clinton's letter to this colonel when he was on active duty.

Mr. Speaker, this picture hangs in the front of my office. It is the first thing visitors see as they come through the door that the citizens from the 46th District of California have graciously elected this Member of Congress to represent.

It says at the top Normandy. It has the flags of the major participants: Canada, the United States, the Union Jack of Great Britain, and the French Tricolor. Our Old Glory is in the middle, but we suffered as we know most of the casualties because Omaha Beach, one of the five beaches, was the toughest.

There is copy at the bottom of this and I would like to read it as I close out of duty, honor, country, and dedicate it not only to all the veterans of my dad's war, where he was wounded three times, World War I, and all the World War II veterans that this specifically represents, closing out the last year of World War II, and this the last speech of 1995, the 50th anniversary year, but to dedicate it to all the young men and women who served in Vietnam particularly, because they still are disrespected by the likes of Oliver Stone and by even the current Commander in Chief, who would not use the word Vietnam when he named every other hot spot in the world and every other past conflict of this country, as a rationale for putting young men and women in harm's way in the Balkans.

□ 1630

But Vietnam, Korea, Grenada, Panama, forgive me if I leave something out, Desert Shield and Storm, everybody who serves on active duty anywhere in the world, from our furthest-flung radar sites up in Greenland down to those Navy pilots that I flew with 2 years ago next month down in Antarctica.

The beautiful framer of this picture, Thomas O. Nichols wrote to me this Veterans Day, November 11, 1995. We close the 50th anniversary of World War II. I was not able to do this that day.

There is no other Member of the House or Senate I would make this request to other than you, sir. And he says some nice things about my passion. Then he says, As you know, this Normandy print is the official print for the World War II commission and is recognized in Europe, Canada, and the United States. I would greatly appreciate it if you would read the words under the Normandy print hanging in your front office, if you would read it on the floor. There would be no finer compliment offered to the men and women of the European theater than to have you read it for the record. My deep thanks are extended, if in fact the request is possible. In closing, this airborne ranger shares your love of country and no matter what the future brings to you and your family, he then says some nice things.

I am sorry I did not do it on the day that found my dad relieved, as he used to tell me, he had a prayer, Lord, take me to heaven, do not maim me or burn me. That was his World War I simple prayer of a young man that was ready to die for his country but like all young men was asking God if the chalice of terrible wounds would be passed from them. I should have brought the copy to read from, but I am going to have to read it right from the print itself.

It says, Utah Beach, Point du Hoc, Omaha Beach, Gold Beach, Juno Beach, Sword Beach. On the morning of June 6, the combined allies forces, under the command of General Dwight D. Eisenhower, began the most dramatic military operation in the history of warfare. The invasion to free Europe was on and at H-Hour 0630 Operation Overload hurled 5,000 ships, thousands of support craft, 1,100 aircraft and nearly 200,000 men against Hitler's vaunted Atlantic wall. Out of the night came the paratroopers, including our SAM GIBBONS, Democrat of this current Congress, came the paratroopers out of night to secure the fields. From the chilled gray mist of H-Hour came the landing craft, ushering thousands of brave young men into the frigid waters along the 31-mile stretch of the Normandy coastline. Rangers climbed the cliffs of Point du Hoc to secure a foothold for freedom. This commitment to victory was accomplished by Allied leadership, more than a year of deception, the brilliance of British cypherbrakers and the heart of every individual soldier illuminating the dawn of what will forever be known as D-Day.

Every man that scaled those cliffs or hit those hallowed sands, never would they have dreamed that we would be there guarding Europe for the rest of this entire century and that 41 years later, we would still be sending young men in harm's way to stop Europeans from slitting one another's throats and, as the Pope said, sniping to death one another's children in the name of some sort of ethnic purity.

On the other half of the gilded 50th anniversary emblem over a large Purple Heart, it talks about the 50th anniversary, which I was lucky enough to attend a year and a half ago.

And it says: On the morning of June 6, 1994, a soft breeze danced along the coast of Normandy carrying the spirit of the fallen, the missing and the veterans back home who could not be with us. Orders came from above to fall in, stand tall and share the grandeur of the 50th anniversary rollcall. By God's side, they assembled. The men walked at an honored pace and they wept with pride for their gum-chewing, got-a-smoke buddies who are gone but not forgotten. They hugged and shook the hands of strangers, never to be considered less than their fellow warriors. Wives, widows, children and grandchildren listened to the testimonies with humble respect. Noble words were spoken by officials, dignitaries, presidents, prime ministers and the Queen of England. Yet nothing of this day was to compare with the deeds of these men, for it belongs only to them. A footnote to history, in spirit the men of Operation Jubilee and the men of Exercise Tiger were there with us also.

Tiger was the event weeks before when German E-boats had killed almost 900 Americans who were practicing to offer their lives this day. It was kept secret for 20 years and so their memory is hard to conjure up in the historical recall of Americans who otherwise would have respected them so much. Operation Jubilee is another one of those failed operations earlier from which we learned so much to preserve as much life as we could in finally bringing the fight home to Adolf Hitler.

Mr. Speaker, I would like to go up to the leadership table for the second part of my special order on the protection of innocent human life. Before I do, I would like to point to the cloisonne pin that I wear for the First Armored Division out of Bombholder, Germany and tell all the families, including one of our young staffers who said his best friend who is a second lieutenant in Old Ironsides, the First Division, who fought its way up through Italy and then fought so effectively on the left flank of the four-day miraculous, only 4-day land war in Desert Storm, he has had to put off his marriage. I wonder how many marriages were delayed, how many leaves were canceled to come home at Christmas time that had been planned by young fiances and young husbands and young brides. How many people could have been saved a lot of anguish by just delaying this operation a week, particularly since God had delayed it with weather the first week.

If BOB DOLE, our great leader in the other Chamber, does go over there in the next few days right after Christmas, and he is still contemplating it, I hope he will take me with him. I am leaving the floor to go over there after this special order and beg him to take a fellow presidential candidate with him. It will be a good message to send to our men and women in the field that, yes, of course we support the troops.

BOB DOLE, who does not like the operation but voted begrudgingly to back up Clinton, this Member, who if I had not been undercut by some leadership here, would have easily won a House vote to cut off all money to support this operation when Europeans, Europeans should be handling the ground since we handled the airlift, the sealift, all the air power almost, the sea power, the food, the medicine, all the fuel and 99 to 100 percent of all the intelligence, why do we have to go into the fog and the mines and the 4 foot snow drifts now on what will be probably not a mild winter like last year but the usual severe Balkan winter that troops fought in in World War II.

Why do we have to go on the ground again ending this century near Sarajevo where it began with the slaughter of millions and millions of people which began with the assassination of Archduke Ferdinand by a Bosnian Serb teenager on June 28, 1914.

So I end this part of Duty, Honor, and Country, for those who served in the past, who still serve with the pain of their wounds that have not fully healed, and for those wonderful servicemen and women around the world, go up to the leadership desk and take up the slaughter of the innocents and tell a story about a doctor, not a doctor, an abortionist who is buried near my parents, and I hope it was a real burial and not a fast one upon the Catholic Church and the people at Holy Cross Cemetery in Culver City.

INCHES FROM INFANTICIDE ABORTION

Mr. DORNAN. Mr. Speaker, in California, while we were debating what I have decided to call inches from infanticide abortion, what my wife calls gangster execution style abortion, what my oldest son, Robert Kenneth Dornan, Jr. Calls coup de grace abortion, what the heroic Senator from New Hampshire calls partial birth abortion, as did our fine second-term Congressman from Florida, Mr. CANADY, here in the House call it second-term abortion. I will call it inches from infanticide murder abortion. Listen to this story about a specialist in this style of killing.

Specialist in late term abortions buried with Catholic rites, Los Angeles. Dr. James Timothy McMahon, one of two abortionists in the United States who specializes in partial birth, coup de grace abortions, died on October 28, right during the week of our debate on this issue. The Senate debated it on December 2. By the way, the House vote, Mr. Speaker, was 288 to 139. The Senate vote was 54 to 44. Think of that 44 and think of that 139. If you are a loyal stumbling, sinning, practicing Catholic, like myself, think that in the 15 Republicans who voted for this coup de grace execution style abortion, there were three people who have Catholic in their biography. On the Democratic side, there were 36 Democrats on the other side out of the 139 who have in their biography, Catholic.

Now, the House, on November 1, 3 days, All Saints Day, 3 days after the death of James Timothy McMahon voted to ban this. On November 8 the Senate voted to refer it, and then on December 2, thanks to BOD SMITH and a few other heroes in the other Chamber, brought it back and defeated it by 10 votes. It should have been defeated unanimously.

To the surprise of many Catholics, McMahon, who described performing abortions as his passion and admitted to performing 1,200 abortions annually since 1972, 23 years, tens of thousands of abortions, he was buried in Holy Cross Cemetery in Los Angeles on November 4.

Mr. Speaker, that is my parents' burial cemetery. My mother, my father, my grandmother, Katy McDonough McFadden, my uncle Jack Haley, my great aunt who was born on New Year's Day, who holds down that generation still very much alive, has her name already inscribed, Florence next to her beloved Jack's name, next to him is his mom Nellie Haley, right three graves away is Dixie Crosby. When I looked at it the other day, shocked me, she died at 41. First funeral I ever went to in my life with my friend Gary, the other three Crosby boys.

Gary Cooper up on the edge of the hill in front of the grotto of Our Lady of Lourdes. This last trip two Sundays ago I noticed for the first time Rita Hayworth, Jimmy Durante, Macdonald Carey, I still remember him as a child playing the 1F–4F hell cat, wildcat pilot in Wake Island, a classic World War II film, a great actor worked right up until cancer took him. I look at this famous cemetery, Bela Lugosi not 5, 5, maybe 4 graves from my parents' plot. And over this two streets in the section called Holy Martyrs, section cc, last month on November 4th is this abortionist buried.

I sincerely pray that the extreme unction, the last rites of his Christian faith were a take, but there is suspicion, maybe not, that it was all some sort of sham by a grieving sister. He died after receiving the last rites of his church, said Father Pat, well, I will not give Father Pat's last name. He is an American citizen of only 6 months, Mr. Speaker, born in Kilkenny, Ireland, where the great Saint Kenneth comes from, my middle name.

□ 1745

He said he was in no position to give details about McMahon's final repentance or reconciliation with his Catholic faith, but, before dying, he did establish the James McMahon Fund.

Now, a person who works at the abortion clinic told me he renounced his life of abortion killing, and yet the James McMahon Fund is not to advance the cause of protecting innocent human life at the beginning. It is a fund at the National Abortion Federation here in Washington to support access to legal abortion. Memorial donations can be made to the National Abortion Federation or to the Surgical Clinic in Los Angeles, one of two facilities that Dr. McMahon ran with his partner, also with an Italian-American name, presupposing, maybe, he was an altar boy at one time as McMahon bragged he was.

The National Abortion Federation, started in 1977, my first year in this House; it is a trade association—I love that, I do not love it, I hate it—for abortion providers. And the summer before he died, McMahon, 57, worked hard to mobilize the abortion establishment to fight this Congress and our attempts to outlaw the coup de grace, execution style, a few inches from infanticide murder abortion procedure which he specialized in and charged up to—grab onto you seat, Mr. Speaker—charged $8,000 to perform.

McMahon described himself as an altar boy and admitted baptizing babies he aborted, if the parents wished it to be done. Is this a messianic complex this man had?

In a 1990 interview by Karen Tumulty, of NEWT GINGRICH'S Man of the Year Time magazine cover, Karen Tumulty, and I have been trying to cross paths with her to discuss this 1990 article I remember reading at the time, wrote that McMahon had reconciled his gruesome practice with his conscience and his religious beliefs, noting that the abortionist is still attending mass occasionally. In my denomination "occasionally" does not cut it, but better once a year, twice, Christmas, Easter, than not at all.

"I've always been a classic liberal," he confessed. "I believe in freedom in the broadest sense." He had the freedom to hold the baby's head in the birth canal as you suck its brains out. "I frankly think the soul or personage comes in when the fetus is accepted by the mother."

How is that for a little personal philosophy, Mr. Speaker? The mother, to use a medieval term, ensoulment, the mother ensouls the baby with a thought. "I want you; you now have a soul."

So, tomorrow, if she changes her mind because the abortion industry is beating on her, and all the networks are saying how wonderful it is to finish your schooling or get a new washing machine or a new Mustang convertible, to abort that child, and you decide to cave in, is it too late? Should NARL ask people now, "Did you ensoul your baby by saying you wanted it at any time in the early stage of your pregnancy?" What a pompous, heretical philosophy.

He said—he spoke with pride about his abortion skills:

"Frankly, I don't think, I was any good at all until I had done 3,000 or 4,000," he told Karen Tumulty, then with the L.A. Times.

He would never hire abortionists to work in his facility unless they performed at least 600. That gives new meaning to the numerical game we all play with the White House, when a part-time, one-time abortionist who said it was wrong, nice man, Dr. Foster, lost the Surgeon General's job on one-twentieth of this figure, that you have to have 600 notches in your belt, he says, before you come to work for him.

"There is a great deal of craft in this procedure," the partial birth, execution-style, coup de grace abortion.

Mr. Speaker, he was in demand as a speaker at abortion conferences where he explained his field of expertise. He put his medical knowledge into layman's terms, however, when he told Tumulty how he performed the abortion which she described as follows. This is Karen writing about McMahon:

"McMahon has developed his own method which he calls intrauterine cranial decompression," translation Crushing the skull, cranial decompression.

> He arranges the fetus so that he can remove it feet first. Before the skull emerges, he "collapses" it by inserting a three-millimeter instrument known as a cannula and extract its fluid. By keeping the fetus intact, he says he runs less risk of internal injury to the woman. "I want to deal with the head

last, because that is the biggest problem," he adds levelly,"from my point of view, the fetus is a potential problem to the patient."

But then, if the parents want, he will baptize it.

Although McMahon did not allude to it, there was also a legal problem. According to legal experts, when the legs and body of a baby have emerged from the birth canal, they are legally protected.

What? Legally protected legs and arms? Yes, because if you cut an arm off, you go to jail like the guy that tore the arm off little Rosa, who appeared on Phil Donahue's strange show at age 4, beautiful child.

He said, "The legal border, however, is the neck." Therefore, if any killing is done, it must be done in utero.

So, you got protected arms and legs, Mr. Speaker, but get that head while it is still in utero.

During debates in the House of Representatives on November 1 and in the Senate on November 7 and 8, and then finally successfully since this article on December 1, supporters of this partial birth abortion defended the procedure as an emergency treatment for women in difficult pregnancies.

On Nightline Senator BOB SMITH, New Hampshire, was brilliant against another Senator who will remain anonymous because of House rules, when he said, "Wait a minute. If the mother is in distress, why does the doctor hold the head in there until he has taken out all the brain?

And then this Senator spoke in circles, and then SMITH came back again, and finally Ted Koppel interrupted and said, "Senator, you do your position no good," he said to the the woman, "unless you answer this question. You leave your supporters dangling."

They were left dangling.

As McMahon explained to West magazine, published by the San Jose Mercury News, the partial birth abortion procedure takes many days.

In simple terms, reporter David Early wrote,

> McMahon floods the cervix with laminaria, a seaweed fluid that gently enlarges the canal while sharing the fetus. This process takes several days until the fetus can be slipped out of the lower uterus intact.
>
> Usually the head of a late fetus is too large to fit through the cervix, so he uses the needle to extract just enough fluid from the head to slip it out.
>
> The total time for the operations is generally about 52 hours.

This Christian paper I am reading from, the Wanderer, made several attempts to obtain a statement from the Archdiocese of Los Angeles which would explain why Dr. McMahon was entitled to a Catholic burial in the Holy Martyr section of the Holy Cross Cemetery, but various official spokesmen were unable to provide an explanation. Finally my friend, Roger Cardinal Mahoney, said, "I can't check the background of everybody on something like this."

Well, here is an article from Cardinal Hickey's Catholic Standard last week, Pearl Harbor Day, December 7, a writer I am not familiar with, Gerard Perseghin. Gerard interesting. That is the patron saint of pregnant women, of mothers-to-be, of mothers.

Mr. Speaker, how much time do I have left? I want to pace this.

The SPEAKER pro tempore (Mr. COBLE). The gentleman has 10 minutes remaining.

Mr. DORNAN. Mr. Perseghin titles his Christmas season article "A Gruesome Reality."

"Over the years, I have been moved by mothers telling tearful stories of how their daughters died getting abortions, legal ones. And now the pro-life front has alerted us to the horrors of partial birth," execution-style, coup de grace, seconds from infanticide, inches from infanticide abortion.

"In the 22 years I have been writing stories about the pro-life movement since Roe v. Wade made abortions legal, nothing quite compares with this episode of legal abortion history." Herodean.

"The House of Representatives voted last month."

"Helen Alvare, spokeswoman for the U.S. Bishops on pro-life issues, pointed out that this procedure crosses the line between abortion and infanticide.

"The most eloquent description comes from a registered nurse, Brenda Pratt Shafer, a self-described prochoice person." Her testimony is chilling. We have heard it on this floor many times. I will not repeat it, in the interest of time, but I will ask that this whole article be put in the RECORD at this point.

The article referred to is as follows:

[From the Catholic Standard, Dec. 7, 1995]

A GRUESOME REALITY

(By Gerard Perseghin)

Over the years, I have been moved by mothers telling tearful stories of how their daughters died getting abortions, legal ones.

And now, the pro-life front has alerted us to the horrors of partial-birth abortions

In the 22 years I've been writing stories about the pro-life movement since Roe v. Wade made abortion legal, nothing quite compares with this episode of legal abortion history. The House of Representatives voted last month on a bill to outlaw partial-birth abortions. Now it is the Senate's turn this week, and I hope they do likewise. Numerous authorities like Helen Alvare, spokeswoman for the U.S. bishops on pro-life issues, have pointed out that this procedure "crosses the line between abortion and infanticide."

The most eloquent description comes from a registered nurse, Brenda Pratt Shafer, a self-described pro-choice person. The nurse who claims to have participated in three partial-birth abortions with doctors who pioneered the procedure described it this way as performed on a third trimester baby boy:

The abortionist "delivered the baby's body and the arms—everything but the head. The doctor kept the baby's head just inside the uterus. The baby's little fingers were clasping and unclasping, and his feet were kicking. Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinch, a startled reaction, like a baby does when he thinks that he might fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby was completely limp."

This is attacking human life, little human beings, when they are at their most vulnerable, grasping for life, for a hand to help them see the light of day and join the human race.

It is ludicrous that the child's head is left inside the mother for purely technical reasons. If the child were fully outside the mother, it would be murder. As it is, the procedure can still be classified technically as abortion. But we know better. The Alan Guttmacher Institute, the expert source for abortion data, claims 164,000 abortions a year are performed after the first three months of pregnancy. Pro-abortion groups say "only" 600 of these partial birth abortions are performed each year, but the national Right to Life Committee says "the practices of Dr. Martin Haskell and the late Dr. James McMahon alone would approximate that figure . . ."

Pro-choice types like to argue that many of these fetuses are dead before the procedure. Dr. Haskell who has performed them estimates that about two-thirds are alive, and they do feel pain. Anesthesia given to the mother doesn't affect the child as much. There is no basis in scientific fact to think the child doesn't fell the pain and is dead, said the American Society of Anesthesiologists testifying before the Senate judiciary Committee in mid-November.

In a breakdown submitted to a House subcommittee, Dr. McMahon said of 175 partial-birth abortions he performed, the largest single category, 39 cases, were for "depression" on the part of the mother. Another nine were for cleft palate. In 1993 Dr. Haskell said 80% of the "extraction" procedures are "purely elective."

Furthermore, a member of the Council on Legislation of the American Medical Association itself has said the partial-birth abortion is not a recognition medical technique and called it "repulsive."

Partial-birth abortions also send the cruelest of messages to people with disabilities struggling with demeaning attitudes. Alvare said, "Are we now going to tell persons with disabilities that a method of abortion considered gruesome even by its supporters is saved especially for them?"

Partial-birth abortion, as she said, "violates everything that is good, everything held dear in the human person . . ."

I will just finish her statement. The little baby's hands grasp. The doctor sticks the scissors into the back of the head, execution style. Baby's arms jerked out in a flinched style reaction like a baby does when he thinks he might fall. The doctor jams open the scissors and then sticks a high-powered suction tube into the opening and sucks the baby's brains out. Now the baby was completely limp.

This is attacking human life, little human beings, when they are at their most vulnerable, grasping for life, for a hand to help them see the light of day and become part of the human race, or already part of it. It is ludicrous that the child's head is left inside the mother for technical legal reasons. If the child were fully outside the mother, of course it is murder. It is a procedure that can still be classified technically as an abortion. We know better.

The Alan Guttmacher Institute, very liberal, Mr. Speaker, which is not the expert source for the liberal media for abortion data, says there are 164,000 abortions a year performed after the first 3 months of pregnancy, 164—let us see. We lost 33,629 in Korea, we lost 48,000 overall, with the accidents included. We lost in Vietnam, with accidents included, 47,700-some in combat, another 10 accidents. We still have not reached 164. Let us throw in the 53,000 combat deaths in World War I, not the pneumonias, and you are getting close to the this figure.

World War I, Korea, Vietnam, and you would still have to throw in some of the millions that died of pneumonia in World War I. This is incredible. You can easily throw in everybody killed in Desert Storm, Grenada, Panama, and it is amazing, and we do this every year. I am talking about wars like Vietnam that took 10 years. They are performed after the first 3 months.

Pro-abortion groups say only every time they give that figure, only, and they say there is only 600 of these partial birth abortions performed each year. If McMahon took credit for half, I guess that leaves Dr. Martin Haskell, who refused to testify at the Senate hearing after they voted to table it November 8, last month, but he is still a big mouth on this.

He says that he would approximate that figure, 600, and he said that two-thirds of them are alive, that this lie about the anesthesia is wrong, that most of them are elective. Now we have the American Society of Anesthesiologists in a George Will column saying this is baloney, that enough anesthesia knocks out the little baby.

McMahon said of the 175 partial-birth abortions he performed recently, the largest single category, 39 cases, were for the depression of the mother. I wonder how depressed they are when they see it being debated in the U.S. House and Senate, and big margins, although they should have been bigger like the ones I have given. He said 39 for depression. Nine were for cleft palate.

Do you know one of the more exciting Presidential candidates, Mr. Speaker, had a cleft palate, one associated with the beautiful Rainbow Coalition? God loves him.

Do you know that two of our best speakers on the House floor, one of them that is terrific in that well with special orders, from parts of middle America, that he had a cleft palate that has been perfectly repaired; that I know of at least two or three other people, including Johnny Cochran, who so shamefully twisted the truth to defend a double killer, he, you can tell from this mustache, survived and had repaired a cleft palate. But nine of these mothers said no, no cleft palate, kill the baby. Even in the 7th, the 8th, the 9th month.

Haskell, who is still alive, said 80 percent of the extraction procedures are purely elective. Partial-birth abortion, says one of the lady heads of the Council on Legislation of the American Medical Association, it violates everything that is good, everything held dear in a human person.

I saved this for last.

Do you know what took the life of abortion James Timothy McMahon, Mr. Speaker, buried in the Holy Martyr section near my parents? A malignant brain tumor, 3 days before we started debate, on the very day some of our misguided leaders were trying to stop those of us in this House who probably call ourselves pro-life, trying to stop us from bringing pictures to the well.

I ask you, Mr. Speaker, if I may put in the RECORD two articles: "Fanatics for Choice" by our friend, George Will, a beautiful article talking about how Americans are beginning to recoil against the fanaticism that has helped to produce this fact, more than a quarter of all American pregnancies are ended by abortions; and then the letter from the Life Issues Institute on six issues, and I will xerox this for the staff after I am through, on six things that are going to probably affect our August convention in San Diego next year:

[From Newsweek, Dec. 11, 1995]

Fanatics for 'Choice'—Partial Birth Abortions, Sonogram Photos and the Idea That 'the Fetus Means Nothing'

(By George F. Will)

Americans are beginning to recoil against the fanaticism that has helped to produce this fact: more than a quarter of all American pregnancies are ended by abortions. Abundant media attention has been given to the extremism that has tainted the right-to-life movement. Now events are exposing the extraordinary moral evasions and callousness characteristic of fanaticism, prevalent in the abortion-rights lobby.

Begin with "partial-birth abortions." Pro-abortion extremists object to that name, preferring "intact dilation and evacuation," for the same reason the pro-abortion movement prefers to be called "pro-choice." What is "intact" is a baby. During the debate that led to House passage of a ban on partial-birth abortions, the right-to-life movement was criticized for the sensationalism of its print advertisements featuring a Dayton nurse's description of such an abortion:

"The mother was six months pregnant. The baby's heartbeat was clearly visible on the ultrasound screen. The doctor went in with forceps and grabbed the baby's legs and pulled them down into the birth canal. Then he delivered the baby's body and the arms—everything but the head. The doctor kept the baby's head just inside the uterus. The baby's little fingers were clasping and unclasping and his feet were kicking. Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinch, a startle reaction, like a baby does when he thinks that he might fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out."

To object to this as sensationalism is to say that discomforting truths should be suppressed. But increasingly the language of pro-abortion people betrays a flinching from facts. In a woman's story about her chemical abortion, published last year in Mother Jones magazine, she quotes her doctor as saying, "By Sunday you won't see on the monitor what we call the heartbeat." "What we call"? In partial-birth abortions the birth is kept (just barely) partial to preserve the legal fiction that a baby (what some pro-abortion people call "fetal material") is not being killed. An abortionist has told The New York Times that some mothers find such abortions comforting because after the killing, the small body can be "dressed and held" so the (if pro-abortionists will pardon the expression) mother can "say goodbye." The New York Times reports, "Most of the doctors interviewed said they saw no moral difference between dismembering the fetus within the uterus and partially delivering it, intact, before killing it." Yes.

Opponents of a ban on partial-birth abortions say almost all such abortions are medically necessary. However, an abortionist at the Dayton clinic is quoted as saying 80 percent are elective. Opponents of a ban on such abortions assert that the baby is killed before the procedure, by the anesthesia given to the mother. (The baby "undergoes demise," in the mincing words of Kate Michelman of the National Abortion and Reproductive Rights Action League. Does Michelman say herbicides cause the crab grass in her lawn to "undergo demise"? Such Orwellian language is a sure sign of squeamishness.) However, the president of the American Society of Anesthesiologists says this "misinformation" has "absolutely no basis in scientific fact" and might endanger pregnant women's health by deterring them from receiving treatment that is safe.

Opponents of a ban say there are only about 600 such procedures a year. Let us suppose, as not everyone does, the number 600 is accurate concerning the more than 13,000 abortions performed after 21 weeks of gestation. Still, 600 is a lot. Think of two crashes of jumbo airliners. Opponents of the ban darkly warn that it would be the first step toward repeal of all abortion rights. Columnist John Leo of U.S. News & World Report says that is akin to the gun lobby's argument that a ban on assault weapons must lead to repeal of the Second Amendment.

In the prophecy born of hope, many pundits have been predicting that the right-to-life "extremists" would drastically divide the Republican Party. But 73 House Democrats voted to ban partial-birth abortions: only 15 Republicans opposed the ban. If the ban survives the Senate, President Clinton will probably veto it. The convention that nominated him refused to allow the Democratic governor of Pennsylvania, Bob Casey, who is pro-life, to speak. Pro-choice speakers addressed the 1992 Republican Convention. The two presidential candidates who hoped that a pro-choice stance would resonate among Republicans—Gov. Pete Wilson, Sen. Arlen Specter—have become the first two candidates to fold their tents.

In October in The New Republic, Naomi Wolf, a feminist and pro-choice writer, argued that by resorting to abortion rhetoric that recognizes neither life nor death, pro-choice people "risk becoming precisely what our critics charge us with being: callous, selfish and casually destructive men and women who share a cheapened view of human life." Other consequences of a "lexicon of dehumanization" about the unborn are "hardness of heart, lying and political failure." Wolf said that the "fetus means nothing" stance of the pro-choice movement is refuted by common current practices of parents-to-be who have framed sonogram photos and fetal heartbeat stethoscopes in their homes. Young upscale adults of childbearing age are a solidly pro-choice demographic group. But they enjoy watching their unborn babies on sonograms, responding to outside stimuli, and they read "The Well Baby Book," which says: "Increasing knowledge is increasing the awe and respect we have for the unborn baby and is causing us to regard the unborn baby as a real person long before birth . . ."

Wolf argued for keeping abortion legal but treating it as a matter of moral gravity because "grief and respect are the proper tones for all discussions about choosing to endanger or destroy a manifestation of life." This temperate judgment drew from Jane Johnson, interim president of Planned Parenthood, a denunciation of the "view that there are good and bad reasons for abortion." So, who now are the fanatics?

[From the Life Issues Connector, December 1995]

QUESTIONS NEEDING ANSWERS

General Powell has withdrawn from the race but he leaves behind several unanswered questions. These questions were publicly posed by Bill Bennett in a column in the Wall Street Journal (G. Seib 10/18/95) and in a letter to Paul Weyrich, 10/13.

They were made in support of a Powell candidacy but are now moot in that regard. However, the questions will be heard again and again in the coming year. The reason is that these arguments were given nation-wide play by a number of nationally syndicated columnists, and not well answered by them. Further and most importantly, we will see these arguments used by others right up to the election.

1. The first voiced criticism is of pro-life tactics as unsuccessful and, as yet, not stopping the devastatingly high number of abortions in America. But, let us not forget that, although there remain 1.5 million abortions annually, without the pro-life opposition, there would likely be half again as many babies being killed today.

Certainly the dramatic drop in numbers of facilities doing abortions and the number of abortionists doing them is a clear result of pro-life efforts. Perhaps the greatest accomplishment in the US as compared to many western nations, is that abortion is still looked upon by the general public as a bad thing. The label "abortionist" is still a term of condemnation. This climate is and will be of vast importance in some day turning this around.

The reason for the failure to limit abortions is not the pro-life movement, but the members of the US Supreme Court. Would Powell have appointed Supreme Court nominees who will reverse Roe v. Wade?—will Spector? Alexander? Forbes?

2. There was sharp criticism of maintaining the "chimera [fantastic scheme] of a constitutional amendment" and that "this has done nothing to reduce the number of abortions." Of course we don't have a constitutional amendment, because we don't yet have two-thirds support in both houses of congress nor the majorities in the state houses to ratify it. However, a federal constitutional amendment to protect from conception must remain our ultimate goal, even though it is not likely to happen in the near future. It is not a chimera.

An intermediate goal is the reversal of Roe vs. Wade, which, because of the Supreme Court, is also currently not obtainable. One only has to look to the states to see progress in what has been allowed by the Supreme Court—parental notification, informed consent, waiting periods, no funding, etc. Rather, the true chimera would be a president who was pro-abortion, who would (if he chose to) work around the edges, trying to reduce the number of abortions. Everything that was mentioned might reduce the number of abortions, if aggressively carried out, by only 5% or 10%.

3. Another argument asked why pro-lifers won't accept the logical conclusion of putting women in jail. This area has been thoroughly investigated and documented. Throughout the entire history of the United States, when abortion was illegal and abortionists were jailed, not a single woman was even indicted for being an accomplice to an abortion. The woman has always been considered the second victim, not the perpetrator. If anyone implies that he thinks this should happen, he stands quite alone. No responsible leader in the pro-life movement supports this. Certainly no one in the pro-abortion movement or any legislators would advocate such a harsh treatment of women. This argument is fallacious, uncharitable and not worthy of serious discussion.

4. Have pro-lifers supported pro-abortion candidates in the past? Two instances have been cited when the National Right to Life Committee worked for pro-abortion candidates, US Senators Paul Coverdell and Kay Bailey Hutchison. This analogy fails badly by ignoring some very key factors in NRLC's decision. Certainly NRLC's strategy was controversial in some pro-life circles. However, that was another issue in itself. In each of the above instances, pro-lifers were faced with a very aggressive, pro-abortion candidate on one side, and a pro-abortion candidate on the other who was willing to support peripheral pro-life issues. Their decision was to support the lesser of two evils. This, however, was done after the primaries, when the candidates were in place. To argue this prior to the primaries, is an entirely different story. At this point, we still have the option of electing pro-life candidates in the primaries and in the general election.

5. Perhaps the strongest argument posed to pro-lifers in one we will hear again and again from the liberal media and from "personally opposed, but" candidates. It is expressed in the following. "It seems to me that there is something wrong with some pro-life advocates who embrace candidates when they pay lip-service to pro-life principles which lead to no real world actions. Frankly, I prefer a political leader who would not change the legality of abortion, yet who is also genuinely and deeply troubled by 1½ million abortions a year, eager to limit them, discourage them, and eventually end them, than a person who mouths the words and does little else to reduce the number of abortions."

This is cutting the question and in a rather unfair way. It sets up, on one extreme, a pro-abortion candidate who is eager to reduce abortions. On the other extreme, it sets up a pro-life candidate who intends to do nothing to reduce abortions. This is totally unrealistic. Who are these two candidates? By what dimension can anyone be reasonably confident that such a candidate occupies the first position? And who are those titular, pro-life candidates who will do nothing to stop it? Certainly not Dole, Gramm, Lugar, Buchanan, Gingrich, Keyes or Dornan. If one is to argue for such a candidate, such argumentation should involve at least a realistic picture of the candidate himself and the prospective alternatives.

For most pro-lifers who rule out a pro-abortion candidate for the presidency and the vice presidency, the bottom line is the fact that there will almost certainly be appointments to the Supreme Court in the next presidential term. As previously mentioned, the ultimate goal of the pro-life movement is to protect babies in their mothers' wombs. An intermediate goal would be, at the least, to return that option to each state to decide. Neither of these will happen until the Supreme Court has a majority of justices who will allow this to happen. The president appoints these Supreme Court justices.

6. There are some who believe that none of the present Republican contenders can beat Clinton. Logic, therefore, drove them to support Powell who they thought could. But is the power of the presidency the only consideration?

In his letter of October 9, Dr. James Dobson gave one answer. He denounced Christian Coalition's Ralph Reed and also Bill Bennett for suggesting that they might back Colin Powell in the general election. "Is power the motivator of the Great Crusade? If so, it will sour and turn to bile in your mouth."

But more pragmatically, let's remember why cross-over Democrats, "Reagan Democrats," have voted for Republican presidential candidates in recent years. Keep in mind the deepseated mind-set that, "my father and grandfather always voted Democrat." Never forget, also, their same rejection of country club Republicans. It takes a paramount issue to get traditional Democrats to cross over and vote for a Republican candidate. The catalyst that has done this in recent years has been abortion and other family value issues. Nothing much less than a deepseated conviction on family value issues can get your average Reagan Democrat to again vote Republican. If they have a choice between a solid pro-abortion Democrat incumbent and a basically pro-abortion Republican challenger, who they suspect will betray them on family value issues, they're either going to stay in the Democrat column or they're going to go to the shopping center instead of the polls that day.

In the coming months the Republican party will have to decide whether to keep or change the pro-life plank in its platform. Again in the election campaign next fall, all these arguments will be repeated by the liberal media and by pro-abortion and "moderate" candidates.

Pro-lifers should be prepared. Our nation must decide if it wants to nominate someone who will build on the gains made in the 1994 November election, or someone who will temporize, split, and perhaps end up destroying it.

□ 1700

Mr. DORNAN. Mr. Speaker, I would repeat my Christmas recital from last night, to end on a happy note. This is done in the spirit of the season. After all, the Oval Office had children in it the other day when the occupant talked about "It's a time for peace, not threats." And both of my California daughters called me, and my daughter here later and my sons, and said what is this, using the word threat in front of little children in the Oval Office? They think that means Lincoln and John F. Kennedy. They do not know it is a battle of words between Capital Hill and the other.

Let me give my Christmas recital. There are a lot of mistakes, since I gave them a bad copy last night. It is entitled, paraphrasing Clement Clark Moore's "The Night Before Christmas," it is entitled "A Visit From a Santa Imposter":

T'was the night before Christmas and all through this House,
the liberals were playing the cat and the mouse.
The budget was hung by threads of despair,
while we hoped and we prayed Bill Clinton would care.
The night before last, while snug in his bed,
visions of veto pens danced in Bill's head.
He dreamed of Webb Hubble all through the night
and vowed he would veto if only for spite.
While out in the land there arose such a clatter,
taxpayers demanding, just what is the matter?
Balance that budget, shut some Feds down.
Our poor Army's in Bosnia, they yelled with a frown.
The moon on the breast of last night's fallen ice
gave delusions of grandeur to Hillary; how nice.
When what to our wondering eyes should appear,
but Willie as Santa, his gang as reindeer,
passing out pork in Fed buckets and pails,
while frightening the old folks with MediScare tales.
More swooping than vultures his coursers they came,
Bill whistled and shouted and called them by name:
"Now Al Gore, Panetta, Moscow and Stephie;
on Flowers, on Troopers, on Inhale and Betsy.
From the top of the heap to the top of the Hill,
now bash away, bash away, go for the kill"
While back in the House the hurricane rages.
The freshmen are busy inspiring the pages
With sad words from ladies, and gentlemen too,
who would rather be home with an eggnog or two. . .
where children and grandchildren snuggle in bed,
waiting for Santa, the real one, in red.
But struggle we will until our promise is met,
a budget that's balanced; falling national debt.
A tax break for families with children to raise,
a gift to our Nation more conservative days.
And then in a twinkle we heard on this roof,
the stomping and pawing of each liberal hoof.
As the Speaker called order, we all turned around,
as he came through the cloakroom looking smug and quite round.
He was dressed all in glitter, Al says fur's not allowed.
He threw Big Macs and french fries all over our crowd.
"You have won now; it is over, I fear.
The budget is signed, my election draws near.
But if I should lose, I will still be around.
I'm goin' to Hollywood. It's my kind of town."
He plopped in his sleigh, to his libs gave a yell,
and then they were gone like spenders from hell.
But we heard him exclaim as they galloped 'cross heaven.
"Bob Dornan impeaching me? Film at eleven."

Have a merry Christmas down there in North Carolina.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 5 o'clock and 4 minutes p.m.), the House stood in recess subject to the call of the chair.

□ 2400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. DAVIS] at 12 o'clock and 1 minute a.m.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, December 22, 1995.
Hon. NEWT GINGRICH,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER, pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Friday, December 22, 1995 at 6:15 p.m.: that the Senate passed without amendment H.J. Res. 136.

With warm regards,
ROBIN H. CARLE,
Clerk, U.S. House of Representatives.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The Speaker pro tempore laid before the House the following communication from the Clerk of the House of Representative:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, December 22, 1995.
Hon. NEWT GINGRICH,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER, pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Friday, December 22, 1995 at 7:10 p.m.:

that the Senate passed without amendment H.R. 394

that the Senate passed without amendment H.R. 1878

that the Senate passed without amendment H.R. 2627

that the Senate passed without amendment H. Con. Res. 106

With warm regards,
ROBIN H. CARLE,
Clerk, U.S. House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with amendments a bill of the House of the following title:

H.R. 665. An act to control crime by mandatory victim restitution.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1507. An act to provide for the extension of the Parole Commission to oversee cases of prisoners sentenced under prior law, to reduce the size of the Parole Commission, and for other purposes;

S. 1508. An act to assure that all Federal employees work and are paid; and

S. 1509. An act to amend the Impact Aid program to provide for a hold-harmless with respect to amounts for payments relating to the Federal acquisition of real property, to permit certain local educational agencies to apply for increased payments for fiscal year 1994 under the Impact Aid program, and to amend the Impact Aid program to make a technical correction with respect to maximum payments for certain heavily local educational agencies.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill and joint resolution on Friday, December 22, 1995:

H.R. 1655, to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; and

H.J. Res. 136, making further continuing appropriations for the fiscal year 1996, and for other purposes.

RECESS

The SPEAKER pro tempore. Pursuant to the first section of House Resolution 320, the Chair declares the House in recess in subject to the call of the chair.

The House is now in recess.

Accordingly (at 12 o'clock and 3 minutes a.m.), the House stood in recess subject to the call of the chair.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. HARMAN (at the request of Mr. GEPHARDT), for today, on account of official business.

Mrs. MEEK of Florida (at the request of Mr. GEPHARDT), for today, on account of illness.

Mr. GREEN of Texas (at the request of Mr. GEPHARDT), for today, on account of family business.

Mr. EDWARDS (at the request of Mr. GEPHARDT), for today, on account of birth of son.

Mr. FORD (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. MCNULTY (at the request of Mr. GEPHARDT), for today, after 1:45 p.m., on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. POSHARD, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

(The following Members (at the request of Mr. FOLEY) to revise and extend their remarks and include extraneous material:)

Mr. TIAHRT, for 5 minutes, today.

Mr. KIM, for 5 minutes, today.

Mr. GOSS, for 5 minutes, today.

Mr. SHAYS, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DAVIS, for 5 minutes, today.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following date present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On December 21, 1995:

H.R. 965. To designate the Federal building located at 600 Martin Luther King, Jr. Place in Louisville, Kentucky, as the "Romano L. Mazzali Federal Building";

H.R. 1253. To rename the San Francisco Bay National Wildlife Refuge as the Don Edwards San Francisco Bay National Wildlife Refuge;

H.R. 2481. To designate the Federal Triangle Project under construction at 14th Street and Pennsylvania Avenue, Northwest, in the District of Columbia, as the "Ronald Reagan Building and International Trade Center";

H.R. 2527. To amend the Federal Election Campaign Act of 1971 to improve the electoral process by permitting electronic filing and preservation of Federal Election Commission reports, and for other purposes;

H.R. 2547. To designate the United States courthouse located at 800 Market Street in Knoxville, Tennessee, as the "Howard H. Baker, Jr. United States Courthouse";

H.J. Res. 69. Providing for the reappointment of Homer Alfred Neal as a citizen regent of the Board of Regents of the Smithsonian Institution;

H.J. Res. 110. Providing for the appointment of Howard H. Baker, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution;

H.J. Res. 111. Providing for the appointment of Anne D'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution; and

H.J. Res. 112. Providing for the appointment of Louis Gerstner as a citizen regent of the Board of Regents of the Smithsonian Institution.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1875. A communication from the President of the United States, transmitting his request to make available emergency appropriations totaling $537,223 in budgetary authority for the Federal Emergency Management Agency, and to designate the amount made available as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, pursuant to 31 U.S.C. 1107 (H. Doc. No. 104–152); to the Committee on Appropriations and ordered to be printed.

1876. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning an amendment to the July 1981 agreement for United States/United Kingdom collaboration in the development, production, and support of the AV–8B/GR–5 aircraft, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

1877. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to the Netherlands (Transmittal No. 09–96), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

1878. A letter from the Public Printer, Government Printing Office, transmitting the semiannual report on activities of the inspector general for the period April 1, 1995, through September 30, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1879. A letter from the President, Inter-American Foundation, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

REPORTS OF COMMITTEE ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STUMP: Committee on Veterans' Affairs. H.R. 2814. A bill to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal year 1996, and for other purposes (Rept. 104–443). Referred to the Committee of the Whole House on the State of the Union.

BILLS PLACED ON THE CORRECTIONS CALENDAR

Under clause 4 of rule XIII, the Speaker filed with the Clerk a notice requesting that the following bills be placed upon the Corrections Calendar:

H.R. 2567 A bill to amend the Federal Water Pollution Control Act relating to standards for constructed water conveyances.

H.R. 2685 A bill to repeal the Medicare and Medicaid Coverage Data Bank.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 2685. The Committee on Commerce discharged from further consideration. Referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 2685. Referral to the Committee on Commerce extended for a period ending not later than December 22, 1995.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GILMAN (for himself, Mr. LANTOS, Mr. TORRICELLI, Mr. SOLOMON, Mr. SMITH of New Jersey, Mr. BURTON of Indiana, Mr. ROHRABACHER, Mr. ROYCE, Mr. PORTER, and Mr. WOLF):

H.R. 2829. A bill to prohibit funding by U.S. Government agencies of the participation of certain officials of the Chinese Government in international conferences, programs, and activities until the Chinese Government releases certain individuals imprisoned or detained on religious grounds; to the Committee on International Relations.

By Mr. ENGLISH of Pennsylvania (for himself and Mr. HORN):

H.R. 2830. A bill to amend the Federal Election Campaign Act of 1971 to provide for a House of Representatives election limitation on contributions from persons other than in-State individual residents, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on Ways and Means, Commerce, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FORBES:

H.R. 2831. A bill to authorize establishment of a Department of Veterans Affairs ambulatory care facility in Brookhaven, NY; to the Committee on Veterans' Affairs.

By Mr. FRANKS of New Jersey (for himself, Mr. ZIMMER, Mr. FRELINGHUYSEN, Mr. TORRICELLI, and Mr. MARTINI):

H.R. 2832. A bill to transfer the Federal Aviation Administration Eastern Regional Office to Union County, NJ; to the Committee on Transportation and Infrastructure.

By Ms. KAPTUR (for herself and Mrs. THURMAN):

H.R. 2833. A bill to amend the Perishable Agricultural Commodities Act, 1930, to require that perishable agricultural products be labeled or marked as to their country of origin; to the Committee on Agriculture.

By Mr. KLINK:

H.R. 2834. A bill to amend the Higher Education Act of 1965 to improve accountability and reform certain programs; to the Committee on Economic and Educational Opportunities.

By Mr. PALLONE:

H.R. 2835. A bill to reduce the risk of mercury pollution through use reduction, increased recycling, and reduction of emissions into the environment, and for other purposes; to the Committee on Commerce.

By Mrs. ROUKEMA:

H.R. 2836. A bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Economic and Educational Opportunities, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. SCHROEDER:

H.R. 2837. A bill to provide that members of the Armed Forces performing services for the peacekeeping effort in the Republic of Bosnia and Herzegovina shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone; to the Committee on Ways and Means.

By Mr. SMITH of New Jersey:

H.R. 2838. A bill to amend the Solid Waste Disposal Act to provide congressional authorization for State and local flow control authority over solid waste, and for other purposes; to the Committee on Commerce.

By Mr. STARK:

H.R. 2839. A bill to amend title XVIII of the Social Security Act to establish a medication evaluation and dispensing system for Medicare beneficiaries, to improve the quality of pharmaceutical services received by our Nation's elderly and disabled, and to reduce instances of adverse reactions to prescription drugs experienced by Medicare beneficiaries; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LIVINGSTON:

H.J. Res. 136. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; to the Committee on Appropriations.

By Mr. DEUTSCH:

H.J. Res. 137. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; to the Committee on Appropriations.

By Mr. PALLONE:

H. Con. Res. 125. Concurrent resolution expressing the Sense of Congress that the President should suspend the proposed sale of the Army Tactical Missile System to the Government of the Republic of Turkey until that government takes significant and concrete steps to end the military occupation of Cyprus, lift its blockade of Armenia, cease its ongoing campaign against the Kurdish people, and demonstrate progress on the protection of human and civil rights within Turkey; to the Committee on International Relations.

By Mr. DORNAN:

H. Con. Res. 126. Concurrent resolution to establish a joint committee to oversee the conduct of Operation Joint Endeavor/Task Force Eagle; to the Committee on Rules.

By Mr. ENGLISH of Pennsylvania:

H. Con. Res. 127. Concurrent resolution expressing the sense of the Congress that Canada should join the United States in promoting economic growth and job creation by eliminating tolls along the St. Lawrence Seaway, and in maximizing the free movement of goods and commerce through the St. Lawrence Seaway; to the Committee on Transportation and Infrastructure, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. KAPTUR:

H. Con. Res. 128. Concurrent resolution to establish a Commission on Women's Art in the U.S. Capitol; to the Committee on House Oversight.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 519: Mr. DORNAN.

H.R. 534: Mr. BONIOR, Mr. ROTH, Mr. COOLEY, Mr. BROWN of California, and Mr. BACHUS.

H.R. 773: Mr. MINGE.

H.R. 783: Mrs. SEASTRAND and Mr. SOUDER.

H.R. 1161: Mr. JOHNSON of South Dakota.

H.R. 1560: Mr. THORNTON and Mr. STARK.

H.R. 1757: Mr. HINCHEY, Mr. MOAKLEY, Ms. PELOSI, Ms. LOFGREN, and Mr. WATT of North Carolina.

H.R. 1950: Mr. MARKEY, Ms. LOFGREN, and Ms. SLAUGHTER.

H.R. 1951: Mrs. CLAYTON.

H.R. 2009: Mr. OLVER and Mr. FOLEY.

H.R. 2246: Mr. GEJDENSON and Mr. THOMPSON.

H.R. 2247: Mr. BONIOR, Mr. BROWN of Ohio, Mr. COYNE, and Mr. QUILLEN.

H.R. 2306: Mr. CRAMER.

H.R. 2372: Mr. YOUNG of Alaska, Mr. BREWSTER, Mr. LARGENT, and Mr. ENGLISH of Pennsylvania.

H.R. 2411: Mr. SOLOMON.

H.R. 2416: Mr. MCCOLLUM.

H.R. 2566: Mr. BILBRAY.

H.R. 2579: Mr. CASTLE, Mr. ENSIGN, and Mr. BONO.

H.R. 2655: Mr. FRELINGHUYSEN, Mr. GEJDENSON, Mrs. JOHNSON of Connecticut, and Mr. WALSH.

H.R. 2672: Mr. SCHUMER.

H.R. 2688: Mr. ACKERMAN, Mr. MARTINEZ, Mrs. CLAYTON, and Mr. WAXMAN.

H.R. 2690: Mr. KENNEDY of Massachusetts, Mr. FOLEY, Mr. COOLEY, Mr. STUMP, Mr. RICHARDSON, Mr. THOMPSON, Ms. MCKINNEY, Mr. GENE GREEN of Texas, Mr. DELLUMS, Mrs. MEEK of Florida, Mr. FARR, Mr. DEFAZIO, Mr. TAYLOR of North Carolina, and Mr. MCHUGH.

H.R. 2691: Mr. THOMPSON, Ms. FURSE, Ms. ROYBAL-ALLARD, Mrs. CLAYTON, Mr. HINCHEY, Mr. GUTIERREZ, and Mr. TOWNS.

H.R. 2701: Mr. MCDADE.

H.R. 2716: Mr. FRANK of Massachusetts, Ms. LOFGREN, Ms. Kaptur, Mr. TOWNS, Mrs. MEEK of Florida, and Mrs. SCHROEDER.

H.R. 2740: Mr. BACHUS, Mr. SHADEGG, and Mr. BENTSEN.

H.R. 2745: Mr. TORKILDSEN, Mr. SAWYER, Mr. MINGE, Ms. SLAUGHTER, Mr. WYNN, Mrs. CLAYTON, Mr. DEUTSCH, Mr. RICHARDSON, and Ms. DELAURO.

H.R. 2759: Mr. CALVERT and Mr. KLINK.

H.R. 2769: Ms. MOLINARI and Mr. GILLMOR.

H.R. 2778: Mr. JACOBS, Mr. PETERSON of Florida, Mr. NEY, Mr. TAYLOR of North Carolina, Mr. LAHOOD, Mr. LEWIS of California, Mr. JOHNSON of South Dakota, Mr. HYDE, Mr. MCHUGH, Mr. LIVINGSTON, Mr. COBURN, Mr. CANADY, and Mr. FROST.

H.R. 2785: Mr. VENTO and Mr. ENGLISH of Pennsylvania.

H.R. 2807: Mr. MCHUGH.

H. Con. Res. 47: Mr. LATOURETTE.

H. Con. Res. 102: Mr. JACOBS and Mr. ZIMMER.

H. Res. 315: Mr. LIVINGSTON and Mr. BATEMAN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1834: Mr. FORBES.

THE LOBBYING DISCLOSURE ACT OF 1995

NOTICE FROM THE SECRETARY OF THE SENATE AND THE CLERK OF THE HOUSE OF REPRESENTATIVES

The Lobbying Disclosure Act of 1995, Public Law 104-65, was signed by the President on December 19, 1995, and takes effect on January 1, 1996. The Federal Regulation of Lobbying Act of 1946 (2 USC 261 et seq.) is repealed on January 1, and certain other laws that regulate lobbying activities are amended, including the Foreign Agents Registration Act of 1938 (22 USC 611 et seq) and the 1989 Byrd Amendment (31 USC 1352).

FOR FURTHER INFORMATION: For further information, forms, and instructions concerning the Lobbying Disclosure Act, contact the House Legislative Resource Center, 1036 Longworth House Office Building, Washington, DC 20515, (202) 225-1300, or the Senate Office of Public Records, 232 Hart Senate Office Building, Washington, DC 20510, (202) 224-0758.

DESCRIPTION OF LAW

In general, the Lobbying Disclosure Act ("Act") establishes broad requirements that individuals and entities who seek to influence the Federal government register with the Secretary of the Senate and the Clerk of the House of Representatives, and disclose their clients, issues, fees, and interests of foreign entities. All registrations and reports filed under the

Act are public records. The key provisions of the Act are summarized below; however, lobbyists, their employers, clients, and other interested persons should always consult the full text of the new law.

REGISTRATION

The Act requires registration of: 1) **lobbying firms** that employ **lobbyists** for **clients**; and 2) **organizations** that employ **in-house lobbyists**. Registration with both the Secretary and the Clerk is required no later than 45 days after a lobbyist first makes a **lobbying contact** or is employed or retained to do so, **whichever is earlier** (e.g., a lobbyist who has a retainer agreement with a client in effect on January 1, 1996, must register on or before February 14, 1996). **Lobbying firms must file separate registrations for each client**, subject to limited exceptions.

> ***NOTE:*** **Individuals and organizations currently registered under the Federal Regulation of Lobbying Act should file their final quarterly reports under the former law with the Clerk and the Secretary by January 10, 1996, to prevent a gap in the records. However, registrations under the former law will no longer be effective, and all lobbyists active after January 1, 1996, must register under the new Lobbying Disclosure Act.**
>
> **Registration forms and instructions will be available from the House Legislative Resource Center and the Senate Office of Public Records in early January 1996.**

REPORTS

Lobbying firms are required to file semiannual reports of income, and **organizations** employing **in-house lobbyists** are required to file semiannual reports of expenditures, by **August 14** (covering the period January 1 thru June 30) and **February 14** (covering the period July 1 thru December 31). **The first reports under the new Act will be due by August 14, 1996. Lobbying firms must file separate reports for each client.** Forms and instructions will be available from the House Legislative Resource Center and the Senate Office of Public Records.

MAIN DEFINITIONS

A **LOBBYIST** is an individual who is employed or retained for compensation to make more than one **lobbying contact**, and whose **lobbying activities** constitute at least 20 percent of his or her services performed for that **client** during a six month period.

A **LOBBYING FIRM** means a person or entity that has one or more employees who are **lobbyists** on behalf of a **client**, other than that person or entity, and also includes a self-employed individual.

A **CLIENT** is any person or entity that employs another person for financial or other compensation to conduct **lobbying activities** on behalf of that person or entity. A person or entity whose employees act as **lobbyists** on its own behalf is both the **client** and employer of such individuals. In the case of a coalition or association that employs or retains other persons to conduct **lobbying activities**, the client is the coalition or association, not its individual members. Under the Act, there is no requirement that coalitions or associations disclose contributions or dues from the individual membership of such groups.

A **LOBBYING CONTACT** means any oral or written communication (including an electronic communication) to a **covered executive branch official or a covered legislative branch official** that is made on behalf of a **client** with regard to:

(i) the formulation, modification, or adoption of Federal legislation (including legislative proposals);

(ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government;

(iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); or

(iv) the nomination or confirmation of a person for a position subject to confirmation by the Senate.

The law provides for 19 specific exceptions from the definition of **lobbying contacts** (e.g. for contacts that are not considered lobbying, are routine in nature, are inherently confidential, are subject to formal procedural safeguards, or are the subject of a separate public record).

LOBBYING ACTIVITIES are **lobbying contacts** and efforts in support of **lobbying contacts,** including preparation and planning activities, research and other background work that is intended at the time it is performed for use in contacts and coordination with the **lobbying activities** of others.

COVERED EXECUTIVE BRANCH OFFICIALS include the President, Vice President, employees of the Executive Office of the President, Level I-V of the Executive Schedule, Members of the Uniformed Services at a pay grade above 0-7, or any officer or employee in a position of a confidential, policy-determining, policy-making, or policy-advocating character.

COVERED LEGISLATIVE BRANCH OFFICIALS include Members of the House of Representatives and Senate, their staffs, elected officers of either House of Congress, committee and leadership staff, joint committee staff, a working group or caucus organized to provide legislative services or other assistance to Members of Congress, and all legislative employees required to file Financial Disclosure Reports under the Ethics in Government Act.

IDENTIFICATION OF CLIENTS

Any lobbyist making an *oral* **lobbying contact** with a **covered legislative branch official** or **covered executive branch official** is required, on request of the official, to state whether his or her **lobbying firm** or organization is registered, to identify the client, and to disclose any foreign interest regulated by the Act. A lobbyist making a *written* **lobbying contact** to a covered official for foreign interests regulated by the Act must disclose that fact in the writing.

EXEMPTIONS

A **LOBBYING FIRM** is exempt from registration with respect to a particular **client** if total income from that **client** for **lobbying activities** does not exceed or is not expected to exceed $5,000 in a six month period.

An **ORGANIZATION** whose employees engage in **lobbying activities** on its own behalf is exempt from registration if total expenses in connection with **lobbying activities** do not exceed or are not expected to exceed $20,000 in a six month period.

PENALTIES

Whoever knowingly fails to—

(1) correct a defective filing within 60 days after notice of such a defect by the Secretary of the Senate or the Clerk of the House, or

(2) fails to comply with any other provision of the Act,

is subject to a civil fine of not more than $50,000.

KELLY D. JOHNSTON
Secretary of the Senate

ROBIN H. CARLE
Clerk of the House of Representatives

EXTENSIONS OF REMARKS

THE MEDICARE MEDICATION EVALUATION AND DISPENSING SYSTEM ACT OF 1995

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Mr. STARK. Mr. Speaker, today, I am introducing a bill that, if adopted, would dramatically improve the quality of medical care received by our Nation's elderly. This legislation instructs the Secretary to implement an online, prescription drug information management program for Medicare beneficiaries. This system, referred to as the Medicare Medication Evaluation and Dispensing System [MMEDS], would provide the tools and information to beneficiaries and their health care providers that are necessary in order to reduce instances of adverse drug interactions, over-medication, and other problems related to prescription drug use that plague our elderly.

BACKGROUND

The inappropriate use of prescription drugs is a health problem that is particularly acute for the elderly. The elderly not only use more prescription drugs than any other age group, they are also more likely to be taking several drugs at once, increasing the probability of adverse drug reactions.

The General Accounting Office reported in July 1995 that 17.5 percent of the almost 30 million noninstitutionalized Medicare recipients 65 or older used at least one drug identified as generally unsuitable for elderly patients. In a recent study published in the Journal of the American Medical Association [JAMA], researchers concluded that nearly one in four noninstitutionalized elderly patients take prescription drugs that experts regard as generally unsuitable for their age group. If other situations were taken into account, such as incorrect dosage levels, for example, the number of medicare patients affected by the inappropriate use of prescription drugs would far exceed 25 percent.

The inappropriate use of prescription drugs has not only proven to be dangerous to the health of the elderly, it has also proven to be expensive. The Food and Drug Administration estimates that the annual cost of hospitalizations due to inappropriate prescription drug use is $20 billion.

The concept of using computer-based systems to improve patient care is not a new one. Advanced on-line computer technology is currently available that permits prescriptions to be screened before they are filled in order to identify potential problems. Thirty States currently operate automated drug utilization review [DUR] information systems for their Medicaid populations. Much of the initial cost—up to 90 percent—incurred by States to implement these on-line drug utilization review systems has been covered by the Federal Government.

IS IT COST EFFECTIVE?

The General Accounting office has found that automated prospective drug utilization review, like that called for in MMEDS, is cost effective to implement and to operate. In the State of Tennessee, a reduction of over $4 million in Medicaid drug costs was seen in just a 6-month period, representing 3.9 percent of the total cost of claims processed. In Maryland, over 7,000 prescription doses considered excessive for elderly Medicaid patients were modified, resulting in $385,252 in savings in just 10 months, and a total of $6.7 million in claims were reversed as a result of their online MMEDS-like system, accounting for 7.1 percent of the cost of Medicaid claims processed overall. There is no doubt that if Congress acts to approve this bill, the taxpayer's investment will not be lost and Medicare beneficiaries will be healthier as a result.

GOALS

The goal of this legislation is to provide a comprehensive outpatient prescription drug information system available to all Medicare beneficiaries which educates physicians, patients, and pharmacists concerning: First, instances or patterns of unnecessary or inappropriate prescribing and dispensing practices; Second, instances or patterns of substandard care with respect to such drugs; Third, potential adverse reactions and interactions; and Fourth, appropriate use of generic products.

PROGRAM

The Medicare Medication Evaluation and Dispensing System will build on the existing Medicaid infrastructure. MMEDS will give all Medicare beneficiaries and their health care providers the medication management tools they need to identify the direct threats posed by inappropriate medication. In the process, hospital and other medical costs otherwise picked-up by Medicare as a result of these adverse reactions will be reduced.

The program would provide on-line, realtime prospective review of drug therapy before each prescription is filled or delivered to an individual receiving benefits under Medicare. The review by a pharmacist would include screening for potential drug therapy problems due to therapeutic duplication, drug-drug interactions, and incorrect drug dosage or duration of drug treatment.

ASSURING APPROPRIATE PRESCRIBING AND DISPENSING PRACTICES

While the MMEDS system will be operated under contract with private entities, the Secretary of DHHS would be responsible for overseeing the development of the program to assure appropriate prescribing and dispensing practices for Medicare beneficiaries. The program would provide for prospective review of prescriptions, retrospective review of prescriptions filled, and standards for counseling individuals receiving prescription drugs. The program would include any elements of the State drug use review programs required under Section 1927 of the Social Security Act that the Secretary determines to be appropriate.

As part of the prospective drug use review, any participating pharmacy that dispenses a prescription drug to a Medicare beneficiary would be required to offer to discuss with each individual receiving benefits, or the caregiver of such individual—in person, whenever practicable, or through access to a toll-free telephone service—information regarding the appropriate use of a drug, potential interactions between the drug and other drugs dispensed to the individual, and other matters established by the Secretary.

The Secretary would be required to study the feasibility and desirability of requiring patient diagnosis codes on prescriptions, and the feasibility of expanding prospective drug utilization review to include the identification of drug-disease contraindications, interactions with over-the-counter drugs, identification of drugs subject to misuse or inappropriate use, and drug-allergy interactions.

The Secretary, directly or through subcontract, would provide for an educational outreach program to educate physicians and pharmacists on common drug therapy problems. The Secretary would provide written, oral or face-to-face communication which furnishes information and suggested changes in prescribing and dispensing practices.

In addition, the Secretary is instructed to, directly or through contract, disseminate a consumer guide to assist beneficiaries in reducing their expenditures for outpatient drugs and to assist providers in determining the cost-effectiveness of such drugs.

PHARMACY PARTICIPATION

Participation by pharmacies would be on a voluntary basis. Participating would be required to meet standards of participation including, but not limited to maintenance of patient records, information submission at point-of-sale, patient counseling, and performance of required drug utilization review activities. Participating pharmacies would be required to obtain supplier numbers from the Secretary. Such supplier numbers would only be provided to pharmacies that meet requirements specified by the Secretary. Beneficiaries would be notified of which pharmacies are designated Medicare participating pharmacies.

PAYMENT OF SERVICES

Within a 2-year period after the initial operation of the MMEDS system, the Secretary would be required to submit to Congress an analysis of the effect of the MMEDS on expenditures under the Medicare Program and recommended, in consultation with actively practicing pharmacists, a payment methodology for professional services provided to Medicare beneficiaries. The payment methodology would be designed in a manner that generates no net additional costs to the Medicare Program, after accounting for the savings to Medicare as a result of demonstrable reductions in

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the inappropriate use of outpatient prescription services. The Secretary would submit a report to Congress regarding such recommendations as the Secretary determines appropriate.

PRIVACY OF PRESCRIPTION INFORMATION

Standards would be established to maintain the privacy of protected health information. Protected health information means any information collected in any form under this provision that identifies an individual and is related to the physical or mental health of the individual, or is related to payment for the provision of health care to the individual.

CONCLUSION

As the number of elderly in our society increases, the number and proportion of drugs used by these older Americans will also increases. It is true that drugs, when used appropriately, can reduce or eliminate the need for surgical and hospital care, prevent premature deaths, and improve quality of life. Unfortunately, a good deal of drug use among older persons is inappropriate, often resulting in hospitalization. While some drug-related hospital admissions are unavoidable, many can be attributed to errors in prescribing. By implementing the Medicare Medication Evaluation and Dispensing System Act, we could greatly improve the quality of care received by our Nation's elderly. I look forward to receiving any comments and feedback from interested parties.

TRIBUTE TO LOUISE WOLFF KAHN

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in remembrance of one of the great women of Dallas who reflected the true meaning of giving.

Her name is Louise Wolff Kahn and she was given with unswerving dedication in support of the arts, education and historic preservation in Dallas.

In Dallas, we enjoy a rich heritage of philanthropy. We live in a giving community, and if Louise Wolff Kahn believed in a program, institution, or building project, she would devote herself to making it successful. She dedicated herself to many important endeavors such as the Dallas Symphony, breathing life into the organization during some of its darkest financial days. Much of her work has gone without any publicity, but publicity is not what she wanted; she to create a wonderful learning environment for children of low income families. It is evidenced by her devotion to the East Dallas Community School and the Dallas Public Library systems.

With her passing, Dallas has lost one of its greatest philanthropists.

FREE THE CLERGY ACT, H.R. 2829

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Mr. GILMAN. Mr. Speaker, today I am introducing the Free the Clergy Act, a bill:

> To prohibit funding by United States Government agencies of the participation of certain officials of the Chinese Government in international conferences, programs, and activities until the Chinese Government releases certain individuals imprisoned or detained on religious grounds.

Mr. Speaker, there are hundreds of people serving long prison sentences in China for practicing their religious faith. Let me repeat that for my colleagues; hundreds of people, Catholics, Protestants, and Buddhists are spending many years of their lives in prison for observing religious practices. Unfortunately, the situation is getting worse.

According to a report released today by Human Rights Watch/Asia:

> The Chinese government is subjecting unauthorized Catholic and Protestant groups to intensifying harassment and persecution. . . .''
>
> During the last two years, the Chinese government broadened its drive to crush all forms of dissent. . . . all religious believers, and especially Christians, are seen as potential security risks . . .

How exactly does Beijing repress religious practitioners? The Communist government sentences a 76-year-old Protestant leader to 15 years in prison for distributing Bibles. It sentences a 65-year-old evangelical elder to an 11-year prison term for belonging to an evangelical group outside the Government-sanctioned religious organizations. A 60-year-old Roman Catholic priest was sentenced to 2 years of reeducation through labor for unknown charges. He had previously spent 13 years in prison because of his refusal to renounce ties with the Vatican. The 6-year-old Panchen Lama and his family have been detained since May and their whereabouts are unknown. Scores of Tibetan Buddhists who refused to participate in the Communist Chinese sham enthronement of Beijing's "Panchen Lama" have been sent to prison and one of their spiritual teachers committed suicide rather than take part in the Chinese charade.

Mr. Speaker, my good friends and colleagues, there are hundreds of such cases. Mind you these people are not spending time in prison and wasting their lives away for calling for political pluralism or democracy. They are being severely punished for following their religious beliefs.

The administration argues that economic liberalization will bring about political pluralism. Many policy makers articulate that position due to political pressure from business groups. It needs to be pointed out, however, that sweeping religious practitioners under the same rug as prodemocracy advocates for short-term economic interests could be a political mistake that will be a long-term liability. The American people are very concerned about jobs and the economy but not if it is at the expense of their core moral and religious beliefs.

The Free the Clergy Act would prohibit any United States funds to be spent on any official in China who is involved with the repression of religion in China and occupied Tibet. It sends a message that we find religious repression repugnant and at grave odds with important American values.

Accordingly, I urge my colleagues to support H.R. 2829 and ask that the full text of the bill be printed in the RECORD at this point.

H.R. 2829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) It has been reported that at an internal Central Communist Party meeting in 1994, Chinese President Jiang Zemin asserted that religion is one of the biggest threats to Communist Party rule in China.

(2) On January 31, 1994, Premier Li Ping signed decrees number 144 and 145 which restrict worship, religious education, distribution of bibles and other religious literature, and contact with foreign coreligionists.

(3) The Chinese Government has created organizations that have as their purpose controlling all religious worship, activity, and association in China and supplanting the Roman Catholic Church, independent Protestant churches and independent Buddhist, Taoist, and Islamic associations.

(4) In July 1995 Ye Xiaowen, a reputed atheist and rigid communist, was appointed to head the Bureau of Religious Affairs, an agency controlled by the United Front Work Department of the Chinese Government, that has administrative control over all religious worship and activity in China through an official system of registering or denying rights and privileges to religious congregations and leaders.

(5) In the past year, the Chinese Government has expressed great concern over the spread of Christianity and particularly over the rapid growth of Christian religious institutions other than those controlled by the government, including the Roman Catholic Church and the evangelical Christian "house churches".

(6) Soon after the establishment of the People's Republic of China in 1949, the Chinese Government imprisoned Christians who refused to relinquish their faith to become servants of Communism, charging them as "counter-revolutionaries" and sentencing them to 20 years or more in labor camps.

(7) Hundreds of Chinese Protestants and Catholics are among those now imprisoned at "reeducation through labor" camps because of their religious beliefs.

(8) The reeducation camps are run by the Ministry of Public Security and the Ministry of Justice of the Chinese Government.

(9) The Chinese Communist Government refuses to permit the appointment by the Vatican of Catholic Bishops and ordination of priests for China and insists on appointing its own "Catholic bishops".

(10) The Tenth Panchen Lama died in January 1989 at Tashi Lhunpo Monastery, his traditional spiritual seat in Shigatze, Tibet's second largest city.

(11) The Dalai Lama has the right to recognize the successor to the Panchen Lama, and has always done so.

(12) On May 14, 1995, His Holiness the Dalai Lama announced recognition of a 6-year old boy, Gedhun Choekyi Nyima, as the Eleventh Panchen Lama, according to Tibetan tradition.

(13) The young boy recognized by the Dalai Lama and his family have been brought to Beijing by Chinese authorities and have not been seen in several months.

(14) Chatrel Rimpoche, abbot of Tashi Lhunpo Monastery and head of the original search committee for the Eleventh Panchen Lama, and his assistant, Champa Chung, are believed to have been seized and detained by Chinese authorities in May of 1995.

(15) Chinese Government authorities subsequently detained other Tibetan Buddhists in connection with selection of the Eleventh Panchen Lama, including Gyatrol Rimpoche, Shepa Kelsang, Lhakpa Tsering, and Ringkar Ngawang.

(16) The Chinese Government convened a conference in Beijing of Tibetan Lamas who were forcibly brought to Beijing in order to select a rival candidate to the child selected by the Dalai Lama as the Eleventh Panchen Lama.

(17) On November 29, 1995, Luo Gan, Secretary General of the State Council, and Ye Xiaowen, Director of the Bureau of Religious Affairs, orchestrated an elaborate ceremony designating a 6-year old boy selected by the Chinese Government as the Eleventh Panchen Lama.

(18) On December 8, 1995, State Councilor Li Tieying presided over a ceremony in Shigatze, Tibet, in which the boy selected by the Chinese Government as the Eleventh Panchen Lama was enthroned.

(19) By seeking to impose its own candidate as the Eleventh Panchen Lama and detaining the 6-year old boy recognized for that position in accordance with Tibetan tradition, the Chinese Government is inserting itself into a purely Tibetan religious matter, in blatant violation of the fundamental human rights of the Tibetan people.

SEC. 2. STATEMENT OF POLICY.

The Department of State should make the release of individuals imprisoned or detained on religious grounds a major objective of United States foreign policy with respect to China, and should raise this issue in every relevant bilateral and multilateral forum.

SEC. 3. PROHIBITION ON FUNDING BY AGENCIES OF THE UNITED STATES FOR THE PARTICIPATION OF CERTAIN CHINESE OFFICIALS IN INTERNATIONAL PROGRAMS AND ACTIVITIES.

(a) RESTRICTION.—No funds available to the Department of State, the United States Information Agency, the Agency for International Development, or any other agency or entity of the United States Government may be obligated or expended for the participation of any of the following individuals in any conference, exchange program, or activity relating to education, culture, training, or any other purpose, until the President submits the certification described in subsection (b):

(1) The head of any of the following Chinese Government-created and approved organizations:

(A) The Chinese Buddhist Association.

(B) The Chinese Catholic Patriotic Association.

(C) The Chinese Catholic Religious Affairs Committee.

(D) The Chinese Catholic Bishops' Conference.

(E) The Chinese Protestant "Three-Self" Patriotic Movement.

(F) The China Christian Council.

(G) The Chinese Taoist Association.

(H) The Chinese Islamic Association.

(2) Any official or employee of the United Front Work Department of the Chinese Government.

(3) Luo Gan, the Secretary General of the State Council, Li Tieying, State Councilor, and any other official or employee of the State Council.

(4) Ye Xiaowen, Director of Bureau of Religious Affairs, and any other official or employee of the Bureau of Religious Affairs of the Chinese Government.

(5) Any military or civilian official or employee of the Ministry of Public Security or the Ministry of Justice of the Chinese Government.

(b) CERTIFICATION.—The certification referred to in subsection (a) is a certification by the President to the Congress that the following individuals have been released, unconditionally, by the Chinese Government:

(1) Pei Zhongxun (whose Korean name is Chun Chul).

(2) Dai Guillang.

(3) Dai Lanmei.

(4) Geng Minuan.

(5) Wang Xincai.

(6) Li Tianen.

(7) Guo Mengshan.

(8) Jiang Huaifeng.

(9) Xu Funian.

(10) Wang Yao Hua.

(11) Chen Zhuman.

(12) Bishop Zeng Jingmu.

(13) Father Li Jian Jin.

(14) Father Vincent Qin Guoliang.

(15) Pan Kunming.

(16) Rao Yangping.

(17) Yu Qixing.

(18) Yu Shuishen.

(19) Li Qingming.

(20) Zhang Zhiqiang.

(21) Gedhun Choekyi Nyima and his family.

(22) Chatrel Rimpoche.

(23) Champa Chung.

(24) Gyatrol Rimpoche.

(25) Shepa Kelsang.

(26) Lhakpa Tsering.

(27) Ringkar Ngawang.

INDIA'S NUCLEAR AMBITIONS

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Mr. BURTON of Indiana. Mr. Speaker, I want to call to the attention of my colleagues two articles from the December 15, 1995, New York Times and the December 16, 1995, Washington Post which report that India may be preparing for another nuclear weapon test near Pokhren, India.

My colleagues may recall that India exploded a nuclear device at this very site back in 1974. Since then, India's nuclear program has advanced rapidly making significant progress in the development of ballistic missiles.

All these activities on the part of India pose a direct threat to Pakistan's security. Despite these threatening moves, Pakistan has displayed considerable restraint. In fact, Pakistan has indicated on numerous occasions its willingness to accept nonproliferation measures, including accession to the Nuclear Non-Proliferation Treaty, if India were to accept the same. While Pakistan, who has been a longtime ally of the United States, has come under United States sanctions, India has been allowed to pursue its nuclear program without any consequence. Indian activities at the Pokhran site not only threaten security and stability in South Asia, but also adversely impact United States efforts to have a Comprehensive Nuclear Test Ban Treaty concluded during 1996.

Mr. Speaker, it is imperative that India should give up its nuclear ambitions and cooperate with Pakistan and its other neighbors in South Asia in banishing forever the chances of nuclear war in South Asia.

[From the New York Times, Dec. 15, 1995]

U.S. SUSPECTS INDIA PREPARES TO CONDUCT NUCLEAR TEST

(By Tim Weiner)

WASHINGTON, DEC. 14.—American intelligence experts suspect India is preparing for its first nuclear test since 1974, Government officials said today.

The United States is working to discourage it, fearing a political chain reaction among nuclear nations.

In recent weeks, spy satellites have recorded scientific and technical activity at the Pokaran test site in the Rajasthan desert in India. But intelligence experts said they could not tell whether the activity involved preparations for exploding a nuclear bomb or some other experiment to increase India's expertise in making nuclear weapons.

"We're not sure that they're up to," a Government official said. "The big question is what their motive is. If their motive is to get scientific knowledge, it might be months or years before they do the test. If it's for purely politician reasons, it could be this weekend. We don't know the answer to those questions."

Shive Mukherjee, Press Minister of the Indian Embassy here, said today that the activities at the nuclear test site were army exercises whose "movements have been absurdly misinterpreted."

The Congress Party of India, which has governed the country most of the years since independence in 1947, is facing a serious challenge from a right-wing Hindu nationalist party, United States Government officials say a nuclear weapons test could be used by the Congress Party as a symbol of its political potency.

Despite efforts to persuade the world's nuclear powers to sign a comprehensive test ban treaty, China and France have tested nuclear weapons in recent months. If India follows suit, its neighbor, Pakistan, with which it has tense relations, may also test a nuclear weapon, Government and civilian experts said. Neither country has signed the Nuclear Nonproliferation Treaty.

"It's going to have a nuclear snowball effect," said Gary Milhollin, director of the Wisconsin Project on Nuclear Arms Control in Washington and a leader civilian expert on the spread of nuclear weapons. "It also jeopardizes the possibility that the world will sign a comprehensive test ban treaty next year."

A State Department official who spoke on condition of anonymity said that if India exploded a nuclear bomb, it "would be a matter of great concern and a serious setback to nonproliferation efforts."

"The United States is committed to the early completion of a comprehensive test ban," the official said. "We are observing a moratorium on nuclear testing and we have called upon all nations to demonstrate similar restraint."

But not all nations have heard the call.

India says publicly that it wants the complete elimination of nuclear weapons. But its nuclear hawks argue that the United States and Russia will never live up to that ideal and that a comprehensive test ban that is not linked to drastic reductions in the world's nuclear arsenals could leave India a second-rate or third-rate nuclear power.

Mr. Milhollin said India did not have a great archive of test data for nuclear weapons that could be mounted on a warhead and placed on a missile. "Once the test ban treaty comes in, they will be data-poor," he said. "A test now would supply them data, it would be a tremendous plus for the Congress Party, it would give them a big boost in the elections."

Political pressure for a nuclear test is building among India's right wing. "They are saying: 'What are we sitting around for? Why should we sign a test ban treaty not linked to the reduction of nuclear weapons' " said Selig S. Harrison, an expert on South Asia at the Carnegie Endowment for International Peace.

In 1974 India exploded what was believed to be a Hiroshima-sized bomb equal to 12,000 tons of TNT, which is called a "peaceful nuclear explosion." It renewed its program some years later, and in 1989 the Director of Central Intelligence, William H. Webster, testified that India had resumed research on thermonuclear weapons.

While India has sought to limit the nuclear abilities of China, it is most concerned about the nuclear-weapons program of Pakistan, although Pakistan has not acknowledged it has one. The two countries have had three wars, unending political tensions and constant border disputes since they were formed by the partition of India in 1947 after its independence from Britain.

A subnuclear experiment, which would not involve a nuclear explosion, might not have the political effect of a full-fledged detonation. But Administration officials said they feared that any test would create pressure on Pakistan to follow suit.

"We look at this in a balance with Pakistan," a White House official said:

[From the Washington Post, Dec. 16, 1995]

POSSIBLE NUCLEAR ARMS TEST BY INDIA CONCERNS U.S.

(By R. Jeffrey Smith)

U.S. officials are concerned that India may be preparing to set off its first nuclear blast since 1974, an act they fear could ratchet up a nuclear arms race with neighboring Pakistan.

Both countries are said by Washington to be working busily on improvements to their small nuclear stockpiles, including developing new designs for more powerful weapons. Pakistan is relying on significant assistance from China to construct a reactor that will give it access to plutonium for use in such arms.

U.S. officials said these developments made the region the most likely nuclear flashpoint in the world, even though the risk of war between the two long-standing enemies is not considered imminent.

The U.S. concerns about India are based on recent spy satellite imagery that recorded what one official described as "activities going beyond what we've seen in the past" at India's Pokaran nuclear test site in the Rajistan desert.

The site has been routinely maintained by India for the past two decades, but U.S. intelligence officials recently noted efforts to clean out a deep underground shaft for lowering a nuclear weapon into the earth. They also noted "possible preparations for instrumentation" of a blast to determine whether it occurred as predicted, the official said.

"We take these preparations very seriously and are in the process of raising the issue with the Indians" at a senior diplomatic level, the official said without providing details. Washington is not aware of any decision by Indian authorities to go through with such a test, he added.

The world's major nuclear powers are attempting to reach accord on the terms of a global nuclear test ban that could take effect next year, and the alleged Indian preparations may reflect a conviction in New Delhi that steps should be taken before then to improve the country's small nuclear stockpile, the officials said. "We're concerned, obviously, at any signs that any power might be testing a nuclear weapon," State Department spokesman Glyn Davies said yesterday. "If there were to be an explosive test by India, it would be a dramatic departure from India's own long-standing position against testing [and] a setback to disarmament efforts internationally."

An Indian government spokesman in New Delhi termed a report yesterday about the test preparations by the New York Times "totally speculative" but stopped short of denying it, according to Reuter news agency. Another Indian official was quoted as saying the site where preparations allegedly are underway is "an area where there are routine exercises always."

U.S. intelligence officials have said Indian scientists are trying to develop more powerful "boosted" atomic arms as well as a hydrogen bomb.

In Pakistan, they said, construction of a nuclear reactor is continuing at the city of Khushab; China is providing technical advice to the Pakistani engineers and also may be providing vital equipment.

"This may be inconsistent with China's obligations" under the nuclear Non-Proliferation Treaty, which bars the transfer of nuclear components to projects that are not subject to international inspection and also bars any contribution to efforts by non-nuclear states to build nuclear arms, a U.S. official said.

"There is a danger of an eruption, where one state takes a step and the other matches it and goes beyond," said Carnegie Endowment Senior Associate Leonard S. Spector, a nuclear proliferation expert. "They could claim they have nuclear warheads for their missiles, and declare they are nuclear powers. . . . The whole complexion of this problem could change dramatically."

INDIA'S NUCLEAR WEAPONS CAPABILITY

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Mr. TORRICELLI. Mr. Speaker, I bring to the attention of my colleagues recent press reports about India's nuclear weapons capability.

A December 15 story in the New York Times indicates that based on satellite surveillance, United States experts suspect India is preparing for a nuclear test, its first since 1974. The Indian Government says the intelligence is being misinterpreted and that it has no plans to conduct another nuclear test.

Mr. Speaker, nuclear developments on the South Asian subcontinent should not be taken lightly. Any move by the Government of India to conduct a nuclear test will inevitably escalate the danger of proliferation in a region fraught with tensions and conflicts and threaten the negotiations in Geneva on the Comprehensive Test Ban Treaty.

Mr. Speaker, the United States continues to pursue efforts to bring both Pakistan and India back from the nuclear brink. it is a policy that should not and cannot be threatened by India. Three times since 1947 India and Pakistan have gone to war. Tensions still simmer over the disputed territory of Kashmir.

The United States has made its policy goals for South Asia clear. We oppose the deployment of missiles, nuclear weapons testing, and production of fissile materials. We can only attain these goals if India cooperates with these guidelines. If India proceeds with nuclear testing, it will be repudiating years of efforts to end nuclear proliferation and could increase tensions with Pakistan.

Mr. Speaker, I urge my colleagues to read the New York Times story and the December 20 editorial in the Washington Post on this very significant development.

TRIBUTE TO WANDA CARNEY

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Mr. QUINN. Mr. Speaker, I rise today to honor Mrs. Wanda Carney, an individual who has served the constituents of western New York for 21 years. Wanda first began working for the U.S. House of Representatives in the district office of former Congressman Henry Nowak and later as a member of my staff.

Over those 21 years, Wanda has served as a catalyst in helping literally thousands of constituents who have turned to their Congressman as their last hope. No matter the problem's size, whether it was with obtaining a passport, assisting a member of our armed forces, or interceding in adoption proceedings, Wanda addressed it with the same exemplary level of devotion.

I am sure every Member of the House of Representatives can appreciate the importance of having a Wanda Carney on their staff and the void that is left when they move on.

I join with Wanda's family, her colleagues, the Honorable Henry Nowak, her friends, and the entire western New York community in recognition of her outstanding dedication and years of distinguished service. With retirement comes many new opportunities. May she meet every opportunity with the same enthusiasm and vigor which she demonstrated throughout her brilliant career; and may those opportunities be as fruitful as those in her past.

Thank you, Wanda, for your tireless effort and personal commitment. As you enter retirement, I wish you nothing but the best.

PRO-LIFE MOVEMENT

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Mr. TALENT. Mr. Speaker, I rise today in a belated tribute to a great victory in the pro-life movement. While the pro-life movement always has proclaimed the sanctity of human life, pro-life supporters and others touched by abortions have been without a place where they can gather to mourn those lost to abortion or to reconcile the pain of that tragic decision. But that changed in 1993 when a pro-life group in Chattanooga, TN, peacefully brought about the closing of the city's only abortion clinic. This is an incredible story, which I want to bring to the attention of my colleagues in the House.

In April 1993, the Pro-life Majority Coalition of Chattanooga [ProMaCC] learned of the pending sale of a building that for 18 years housed the Chattanooga Women's Clinic. The abortionist who was leasing the building agreed to purchase the property from the bankrupt landlord for $254,000. Within 7 days, ProMaCC raised over $300,000 from local pro-life supporters who wanted the facility closed. When the building was auctioned in bankruptcy court, ProMaCC outbid the abortionist and purchased the building for $294,000. Faced with the loss of this facility, the owner of the abortion clinic sold all assets and dissolved the corporation.

But the story doesn't end here. After the building was acquired, the question arose of what to do with it. ProMaCC formed a new organization called the Imago Deli—Latin for Image of God—Foundation to decide the future of the 8,600 square foot building. The foundation sold part of the former clinic to AAA Women's Services, a pregnancy center which provides counseling, abstinence training, and infant care instruction and which distributes food, clothing, and other needs for babies.

The remainder of the building will be dedicated as a memorial to the victims of abortion—the National Memorial for the Unborn. Most of the existing building structure will be torn down. The abortion procedure room and waiting area, however, will remain standing to house the central feature of the memorial, the Wall of Names. The wall, which is modeled after the Vietnam War Memorial, will hold name plaques, each one dedicated to the memory of an aborted child by those who mourn the loss. A black wrought iron fence will be constructed over the building's footings to mark the perimeter of the former clinic. Connecting the fence to the Wall of Names is a stone path which winds past meditative gardens and a pool of tears. With both the AAA Women's Service and the National Memorial for the Unborn, an effigy of despair has been transformed, in a real way, into a monument of hope which encourages, supports, and nurtures life, both physically and spiritually.

Abortion is an emotional issue which has deeply divided our Republic since the Supreme Court handed down the Roe versus Wade decision. But I hope that everyone will join me in applauding the efforts of the Imago Dei Foundation to provide a memorial for the unborn where the healing of millions of Americans touched by the scar of abortion may begin.

Besides healing individuals, the National Memorial for the Unborn begins the process of healing a nation. The memorial brings us one step closer to the day when we have mercy for all and malice toward none. Brochures at the memorial read:

> On the site where over 35,000 babies were aborted, the National Memorial for the Unborn is a powerful witness to God's redemption and healing for all the victims of abortion and for our Nation.

Indeed it is, Mr. Speaker.

The National Memorial to the Unborn was dedicated on January 23, 1994, and will be open to the public in January 1996. I commend everyone involved in this project, and I look forward to the day when we as a nation will have a place to mourn individually and corporately the loss of children by abortion.

The following Members of Congress join me in these remarks: Representative ZACH WAMP, Representative CHARLES CANADY, Representative TODD TIAHRT, Representative BOB INGLIS, Representative RON LEWIS, Representative STEVE LARGENT, Representative WILLIAM LIPINSKI, Representative CHRISTOPHER SMITH, Representative BILL EMERSON, Representative DAVE WELDON, Representative TIM HUTCHISON, Representative JOE BARTON, Representative NICK RAHALL, Representative JAMES BARCIA, Representative MEL HANCOCK, Representative TOM COBURN, Representative WES COOLEY.

RETIREMENT OF HAROLD T. BUSHEY

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Mr. COYNE. Mr. Speaker, I rise today to pay tribute to one of my constituents, Mr. Harold T. Bushey, who will retire next month after 54 years of dedicated service to the Federal Government.

Most of Mr. Bushey's career in the Federal Government has consisted of serving our Nation's veterans. He has been with the Veterans' Administration [VA] since March 1946. A decorated veteran of World War II and a graduate of the University of Pittsburgh, Mr. Bushey has been the Director of the Pittsburgh Veterans Affairs Regional Office since July 1, 1971. In this capacity, Mr. Bushey has worked closely with my office to meet the needs of veterans in the 14th Congressional District of Pennsylvania. Under Mr. Bushey's capable leadership, the local VA personnel has promptly and efficiently responded to requests from my office for assistance with health care, pensions, and other veterans' benefits. Prior to his appointment as Director of the Pittsburgh regional office, Mr. Bushey served as Assistant Director and Personnel Director of this office.

His dedication, competence, and professionalism are unsurpassed, and they have been recognized by a number of awards over the past decades. He has served the public and the VA in a number of different capacities. He has served on a number of prestigious VA committees and task forces assigned the responsibility for such diverse missions as improving benefit management and training personnel. In addition, he has held positions of leadership on the Pittsburgh Federal Executive Board and its Minority Business Opportunity Committee. He has been recognized for his efforts to recruit veterans, minorities, and women for the Veterans' Administration in the 1960's, as well as for helping to recruit personnel for service overseas with the Agency for International Development. In 1988, he spearheaded the first VA pilot project to provide housing and other assistance for homeless veterans.

Mr. Bushey has been involved in community activity and in promoting local charitable efforts as well. He has served as the Chairman of the Government Services Division of the United Way of Allegheny County, he served on the Executive Board of the American Red Cross, and he currently serves on the boards of the local Salvation Army, the Health Education Center, and the Pittsburgh Resource Center.

I want to thank Harold Bushey for 54 years of distinguished service to our country and our community. I salute him for his commitment to our country's veterans and their families. I congratulate him for a job well done on the occasion of his retirement and wish him much success in his future endeavors.

TRIBUTE TO ERIK JONSSON

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in remembrance of a great man and a friend to everyone in Dallas, Mr. Erik Jonsson. Mr. Jonsson passed away on August 31, 1995, and I will miss him dearly.

Mr. Jonsson was a product of the American dream. He was the son of immigrant parents who found within himself the attributes necessary to make all of his dreams come true—and he did. He worked his way to the top of one of America's biggest corporations as president and cofounder of Texas Instruments, Inc. He was mayor of Dallas from 1964 to 1971 and was the driving force behind establishing the Dallas/Fort Worth Airport, he served as the first chairman of its board.

He was admired by his colleagues and friends for always thinking of the big picture and never taking his eyes off the prize—working to make Dallas the great city that it is.

RUSSIAN JEWISH CONGRESS TO CONVENE IN MOSCOW IN JANUARY 1996

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Mr. LANTOS. Mr. Speaker, next month in Russia, an event will take place that marks an important milestone in that country's long and difficult road toward democracy, freedom, and the development of an open and pluralistic society. Due in large part to the efforts of one of the leading entrepreneurs of Russia, Mr. Vladimir Goussinsky, the Uniting Convention of the Russian Jewish Congress will convene in Moscow in early January to bring together the religious and secular Jewish communities of Russia on the basis of their common ethnic and spiritual heritage. Mr. Speaker, this historic event marks the beginning of the Jewish community coming into its own in the new post-Communist Russia, and it reflects the establishment of the Jewish community as a full-fledged and coequal member of Russian religious life.

The Russian Jewish Congress, with the assistance and support of the World Jewish Congress, will give a unified voice to the important Jewish community of Russia, which has long been without such an organization to represent the broad concerns of its Jewish community. The aim of this organization is to unite the religious and secular Jewish communities of Russia in order to develop and finance programs to revive Jewish language and cultural traditions, establish national schools, restore synagogue buildings, and assist disadvantaged and needy members of the Jewish Community.

Mr. Speaker, under the outstanding leadership of Vladimir Goussinsky, there is no doubt in my mind that this organization will succeed in its worthy goals. Mr. Goussinsky is known internationally as a champion of free enterprise and freedom of the press in Russia, and now he has established himself as a leader of the resurgent Jewish community by convening this Uniting Convention of the Russian Jewish Congress. He has done a great service to his country by leading the way toward a pluralistic society that honors and respects the diverse cultures and religious communities that are contained within its borders.

Mr. Goussinsky is director general of the Most Group of Companies, one of Russia's largest and most productive private enterprises. He was a theater director who drove a gypsy cab on the side to supplement his income under the Communist regime. In 1986, just 5 days after Soviet President Michael Gorbachev legalized private commercial activities, Mr. Goussinsky established his first company. He later created one of the first Russian-American joint ventures, which became the foundation for the Most Group.

The Most Group now includes a diverse portfolio of some of the most visible and successful businesses in Russia, employing over 12,000 people and now with assets of nearly $500 million. These include Most Development, a real estate and construction division which has spearheaded the rebuilding and reconstruction of key areas of Moscow; Most Bank, one of the largest banks in Russia; Segodnya, one of Moscow's most popular daily newspapers; and NTV, Russia's only independent television network.

Mr. Goussinsky has led the fight for freedom of the press in Russia. Segodnya and NTV are regarded worldwide as being the most independent and honest media outlets in Russia. Mr. Goussinsky has repeatedly continued to report objectively—and in many cases critically—regarding government policies and Russian domestic and international politics. This commitment to freedom of the press has been pursued despite enormous political pressure from the government and other forces in Russia.

The Russian people and the Russian Jewish community are fortunate indeed to enjoy Mr. Goussinsky's heroic efforts to bring Russia out of this extremely difficult time and encourage the transition to a free market and to an open and pluralistic democracy. I invite my colleagues to join me in applauding Mr. Goussinsky for his efforts in convening the Uniting Convention of the Russian Jewish Congress and in fostering freedom and democratic progress in Russia.

TRIBUTE TO REV. CORA PALMER

HON. JON D. FOX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today to pay tribute to Rev. Cora Lee Palmer, pastor of St. John A.M.E. Church of Conshohocken who died on November 9 in Misericordia Hospital in Philadelphia.

Reverend Palmer was both a spiritual and community leader in my home district of Montgomery County, PA, where she was a member of the A.M.E. Preachers Association and the Conshohocken Ministerium.

Born in Clinton, SC, Reverend Palmer lived in the city of Philadelphia for more than 50 years. She attended Eastern College in St. David's, PA. Reverend Palmer's leadership and spiritual guidance extended beyond the boundaries of her church and were a beacon to many in the borough of Conshohocken. I was proud to have known her and was thrilled when she invited me to her church to meet those congregants who look up to her and counted on her for counsel.

Mr. Speaker, Reverend Palmer is survived by her husband, James; her two sons, Dennis McDuffy of Willingboro, NJ, and Rev. Eugene McDuffy of Thorndale, PA. She is also survived by a daughter, Carol McDuffy Kimble of Philadelphia; her father, Thomas Fant of Chicago, IL; a half brother, Thomas Fant, Jr., of Great Neck, NY, as well as 17 grandchildren and 20 great-grandchildren.

Her passing has left a void in the hearts of many in Conshohocken and throughout the Delaware Valley region. We will all miss her powerful leadership, her dedication to faith, and her belief in the goodness in people. Mr. Speaker, Montgomery County is a little poorer because of her loss but we are grateful to have had her among us for so many years.

STOP THE BUDGET IMPASSE: PROTECT MEDICARE AND MEDICAID—REOPEN GOVERNMENT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Mr. STOKES. Mr. Speaker, in the spirit of Christmas and the holiday season, I rise in strong opposition to the Republicans' drastic cuts in health care services for the most vulnerable in our society, and to their politically contrived forced shutdown of the Federal Government. Under the Republicans' budget, there would no longer be a holiday season for the vulnerable.

While the Republicans are busy repealing Medicaid, have they stopped to comprehend the fact that 90 percent of children with AIDS receive the critical health care services they need through Medicaid. In addition, health care coverage will be denied to nearly 4 million children, and over 300,000 seniors could be denied nursing home care.

Mr. Speaker, who would have thought that we would have ever reached the point where the Republicans would feel comfortable in holding the American people and the country hostage, because the President will not agree with their extremist budget. And then, on top of that, to vote themselves a Christmas recess when they should have passed a clean continuing resolution—this is the ultimate of irresponsibility.

Mr. Speaker, in the spirit of Christmas and the holiday season, I strongly urge my Republican colleagues to put an end to their budget impasse, protect Medicare and Medicaid, reopen the Federal Government, and begin sensible budget negotiations.

ALBERT SCHWEITZER INSTITUTE LEADS THE WAY IN HUMANITARIAN SERVICE

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Ms. DELAURO. Mr. Speaker, I rise today to honor the Albert Schweitzer Institute for the Humanities, a nonprofit organization in residence at Choate Rosemary Hall in Wallingford, CT. In this season of peace and goodwill, it is an especially appropriate time to honor this organization that is working for the ideals Dr. Albert Schweitzer dedicated his life to—promoting and improving human rights, health care, the environment, and peace throughout the world.

In 1984, the Schweitzer Institute has led the way in providing assistance to the areas where it is most needed. The Schweitzer Institute was the first organization to evacuate children from Bosnia, bringing over 20 Bosnian children to the United States and arranging for their medical treatment. While peace seems to be on the horizon, Bosnian civilians are still suffering from the ravages of war. Another trip to Bosnia is planned for January to bring desperately needed medicine, warm clothes, food, and toys.

The Schweitzer Institute is also working with the Inter-American Development Bank to run and monitor the Nickerie Hospital in Suriname. The hospital is in a remote area of Suriname's rain forest where no other health care is available. The institute will work to modernize health care facilities and improve the access and quality of care. In the past, the institute has evacuated children from the former Soviet

Union to the United States for medical treatment; and has sponsored international conferences on issues such as global health, military toxic waste and ethics.

The Schweitzer Institute has improved the quality of life for thousands of people around the world. I am proud of the work they have done, and I would like to congratulate Harold Robles, president and founder of the institute, and his staff on their important and successful work. The Albert Schweitzer Institute for the Humanities is truly making our world a better place.

TRIBUTE TO BUSINESS AND CIVIC LEADER, RUSSELL N. BARRINGER, JR.

HON. DAVID FUNDERBURK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Mr. FUNDERBURK. Mr. Speaker, it is with pleasure that I pay tribute to one of Durham's most prominent leaders. Russell N. Barringer, Jr. has stood out during the past few decades, as a successful businessman and community leader. His list of civic, social, government, and business activities are too numerous to mention here. But I will try to summarize his most outstanding accomplishments.

Mr. Barringer's education included Calvert Method School, Carr Junior High School, Durham High School, Davidson College and Duke University. He is married to Mary Ruth Teer and has three children, Russell III, Edward T., Stephen W., and six grandchildren. Mr. Barringer served in the U.S. Army Reserves from 1955 to 1967 when he received an honorable discharge as first lieutenant. Mr. Barringer belongs to Westminster Presbyterian Church. He is a private instrument-related pilot and aircraft owner; and he enjoys golf, tennis, and travel, and is a member of several prominent country clubs.

Russell N. Barringer, Jr. is both chairman and CEO of Dealers Supply Co. and the West Durham Lumber Co. Dealers Supply ranked 25th in sales volume of floor covering distribution in the United States. West Durham Lumber is in the retail lumber and building supply business in the Durham area. Also, Barringer is chairman of Barringer Enterprises.

Mr. Barringer has been in the forefront of business promotion and activity in Durham. His involvement includes past board memberships of NCNB City Board, Scottish Savings and Loan State Board, and Southeastern Savings and Loan City Board (chairman). Current memberships include Duke University Fuqua School of Business Advisory Board (chairman 1992), National Association of Wholesalers, Aircraft Owners and Pilots Association, National Association of Floor Covering Distributors, First Union National Bank City Board, Duke University Arthritic Advisory Board, and the Carpet Trade Golf Association.

In government and civic affairs, Russell N. Barringer, Jr. has also been a leader. He served on the Durham City Planning and Zoning Commission, and on the County Schools Advisory Board. He was appointed by Governor James Martin to the North Carolina Aeronautics Council (on which he served as secretary in 1992), and he was a candidate for Durham County commissioner in several elections. In civic affairs he has served on: the Durham Chamber of Commerce Board of Directors, Friends of Watts Hospital Board of Directors, the Salvation Army Advisory Board, the Multiple Sclerosis Society Board of Directors, Duke University Durham County Alumni Association, and the Civic Club Golf Tournament Committee.

I am very pleased to recognize the major contributions made in many fields by Durham's outstanding citizen, Russell N. Barringer, Jr.

BALANCED BUDGET

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Mr. MARTINI. Mr. Speaker, President Clinton is playing games with the American people. He claims to support a balanced budget, but he has failed to honor his commitment.

I believe that we have a moral obligation to balance the budget. A balanced budget is the right thing to do for our future, our children's future, and the future of generations to come.

Our message is simple, the Federal Government must learn to exercise the same fiscal restraint that families and businesses operate under each and everyday.

My Republican colleagues and to their credit, some on the other side of the aisle, have put forth an ambitious agenda that would balance the Federal budget by the year 2002.

Unfortunately the Clinton administration has decided to fight us every step of the way instead of joining in our effort.

The truth is my friends, we will balance the budget, we will save Medicare, and we will change the way the Federal Government operates. For the sake of our children we must not back away from the awesome task at hand

Mr. Speaker, Congress is finally shaping up and bringing long awaited fiscal fitness to the Federal Government.

I am proud to be part of this historic effort.

I urge the administration to stop playing games and honor its commitment to the American people.

TRIBUTE TO KARIN URQUHART

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Ms. WOOLSEY. Mr. Speaker, I rise today to honor one of my district's most dedicated and respected individuals, Karin Urquhart. The Marin Conservation League [MCL] and the community is conducting "A Toast to Karin Urquhart" to celebrate her visionary leadership.

Since 1976, Karin has served the Marin Conservation League. First as a member of the board of directors, then president from 1977 to 1979, and later as the executive director, and is one of the most recognized leaders of Marin's environmental community.

Karin Urquhart has improved the quality of life in Marin County through her enthusiasm and experience. Her professional and volunteer work is truly impressive. In addition to her MCL work, Karin has served the Marin County Board of Supervisors as an appointee to the Marin County Parks, Open Space, and Cultural Commission for a decade and, most recently, she was appointed trustee to the Marin Community Foundation.

As an example of her commitment to the county, Karin currently is president of the Marconi Conference Center Board, and board member of Marin Conservation Corps, Environmental Forum, Marin Agricultural Land Trust, and Digital Village to name a few. She has been recognized by induction into the Marin Women's Hall of Fame, received the national Conservation Award from Daughters of the American Revolution, and named the Executive Director of the Year for Excellence in Developing Community Partnerships.

It has been my please and privilege to work with Karin over the last several years on important issues such as protecting wetlands and preserving agriculture and open space. I particularly appreciated her coming to Washington, DC to testify in favor of my bill to expand the Pt. Reyes National Seashore. It's been a pleasure working with such a capable and compassionate person. I continue to be impressed by her dedication and vision. She is a role model for all.

On the occasion of her retirement from Marin Conservation League, and as we celebrate Karin's years of service to this community, I wish to recognize Karin for her commitment to the people of Marin County, and to thank her for her outstanding record of public service. Marin County owes a great deal of gratitude for the tireless efforts of Karin over the years. Time and again she has extended herself on behalf of many people and for many causes.

Mr. Speaker, it is my great pleasure to pay tribute to Karin Urquhart as her many friends and supporters celebrate and toast her at the Marin Rod & Gun Club in San Rafael. I extend my hearty congratulations and best wishes to Karin, and to her husband Don, for continued success now, and in the years to come, and I consider it an honor to be her friend.

MERRY CHRISTMAS, FAA

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Mr. FRANKS of New Jersey. Mr. Speaker, today I am introducing a bill to move the Federal Aviation Administration's [FAA] eastern regional office from Queens, NY, to Union County, NJ.

As my colleagues are aware, after spending $6 million and taking over 5 years, the FAA will implement next month its long-awaited Solberg mitigation plan. The FAA is proceeding to execute this plan even though it has virtually no support among the citizens of New Jersey or their elected officials.

Judging from the answers given at a recent House Aviation Subcommittee hearing on the expanded east coast plan, a hearing which I requested, the FAA has no plan to resolve New Jersey's aircraft noise problem. In effect, the FAA has decided to wash its hands of my State's legitimate aircraft noise concerns.

It is obvious that the FAA has lost touch with the citizens of New Jersey. This is why it is important that the FAA bureaucrats responsible for the New Jersey aircraft noise debacle work in a State where they can be constantly reminded of their failure. I am confident that after moving to the Garden State, the FAA will be able to clearly hear the aircraft noise problem it created. And after a few months of being in one of the most noise-impacted counties in the Nation, perhaps the FAA will become more amenable to finally solving New Jersey's aircraft noise problem.

Mr. Speaker, the people of New Jersey deserve better than the FAA's footdragging and duplicity on this issue. I plan to attach this legislation to the FAA reform bill, which is ready for consideration by the House. In the interim, I encourage my colleagues to cosponsor this legislation.

TRIBUTE TO SANFORD M. LITVACK

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Mr. WAXMAN. Mr. Speaker, I ask my colleagues to join me in paying tribute to Sanford M. Litvack, a distinguished attorney who currently serves as the senior executive vice president and chief of corporate operations of the Walt Disney Co.

Mr. Litvack is greatly respected both in the legal community and among the advocates of legal reform and legal services for the poor. He has led the crusade to make the law a field of humane service, and not merely a remunerative profession.

On January 27, 1996, Bet Tzedek Legal Services will honor Sanford M. Litvack for his unstinting work in bringing high-quality legal services to the poor, the elderly, and others in need.

Under Mr. Litvack's vigorous leadership, the goals of Bet Tzedek have been realized even beyond the expectations of the organization's founders and staunchest supporters. He and his colleagues have assembled a well-organized, efficient, humanitarian organization that individuals can turn to for competent legal counsel when all other paths are closed.

Sanford Litvack sets a standard for us all to live up to. He has been able to balance his full family and professional life with energetic and creative contributions to the organization and leadership of Bet Tzedek and other humanitarian and philanthropic efforts.

I ask all of my colleagues to join me in recognizing Sanford Litvack for his important work with Bet Tzedek Legal Services. I wish him every success in all of his future endeavors.

UNITED STATES NEEDS TOUGH ENVIRONMENTAL LEGISLATION TO COMPETE GLOBALLY IN NEXT CENTURY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Mr. STARK. Mr. Speaker, one of the many problems with the Republicans' most recent budget proposal is the drastic effect it will have on environmental research and technology. According to the White House, "it would cut environmental research and technology funding by nearly $1 billion or 20 percent from the President's request for fiscal year 1996." Additionally, the Republican cuts include a 92-percent reduction from the President's request for the Environmental Technology Initiative [ETI], which would thwart efforts to encourage the development of new technologies that reduce pollution and clean up the environment while creating new jobs and economic growth—a market that is expected to boom to $400 billion by 2000—if American industry does not make sufficient investments in this area today.

The need for environmental technology and services is rapidly growing on a global scale. The Organization for Economic Cooperation and Development estimates the market will be worth $300 billion and that the demand for waste-management products and air-pollution control equipment will grow by over 50 percent in the next 5 years, with water- and effluent-treatment growing by a third by the end of the decade. The U.S. Export-Import Bank already estimates the environmental technology and services market's worldwide value at $400 billion.

However, developers of environmental technology face a series of hurdles before they can truly tap into this market. First, the market is ill-defined and driven almost entirely by regulation and the level of enforcement in different national and regional markets. According to Financial Times (6/21/95), in the UK the greatest demands by companies in this expanding market are for ever more accurate data and analysis. Of the 116 companies questioned in the first survey of purchases of environmental technology earlier this year, 90 percent said the main driving-force behind the market was legislation.

The second problem facing developers, which is mainly due to weak environmental legislation, is convincing financiers that the technology can generate sufficient returns for investors.

According to the Financial Times (December 1, 1995), international competition is fierce, primarily between the three biggest exporters, the United States, Japan, and Germany. The U.S. Ex-Im Bank started a special program to help its industry find markets abroad. Julie Belaga, a director of the bank, says the main aim is to create United States jobs by financing exports where the private sector is unwilling to do so. Helmut Kohl, the German chancellor, commented in a recent edition of Environment Strategy Europe, a yearbook for legislators and business leaders, that Germany's very tough environmental legislation had enabled the country to take a leading position in the world market for environmental protection goods.

Now is not the time for the United States to cut back on funds for environmental research and technology, nor is it the time to backtrack on advances made in environmental legislation made over the past decade. Now is when the 104th Congress needs to seize this opportunity to create jobs, build new industries, and protect the environment by passing additional legislation, particularly in the area of tax reform, that will ensure that the United States will be a leader in the environmental technology and services industry into the next century.

According to the Organization for Economic Cooperation and Development in an environmental assessment report of the United States scheduled to be released in January 1996, the United States has been a leader in environmental programs, but needs to eliminate "environmentally unsound Federal subsidies", including those to coal-fired power plants, and examine national consumption patterns. Back in September, I introduced a bill that would repeal 11 incentives in the corporate Tax Code to produce various polluting energy supplies and consume various nonrenewable minerals. Currently, these polluting tax subsidies cost taxpayers close to $2.2 billion per year. This figure is expected to total a $14.5 billion Treasury loss over the next 5 years.

The cost is even greater when we consider that not only do these subsidies encourage waste and environment degradation, but they also discourage investment in new alternatives to existing technology. Some European countries, that is, Germany, Austria, and the Netherlands, are considering a fiscally-neutral Ecological Tax Reform (ETR) which would introduce a CO2/energy tax and at the same time reduce their income tax. The European Union Commission is considering a similar proposal. I am currently working on a bill along these same lines that would gradually reduce corporate and individual income taxes and gradually increase taxes on pollution, excessive depletion of valuable natural resources, and inefficient production and consumption of energy.

The time is right from both an environmental and an economical view point to press forward with tough environmental legislation which will protect our environment, create jobs, and position the United States as a leader in the environmental technology and services industry, an industry that will be constantly expanding through the next century.

Reprinted below is an article by Jessica Mathews which depicts the ease with which businesses developed substitutes for ozone-depleting chlorofluorocarbons [CFCs] once there was a modest incentive to do so.

CLEAN SWEEPS: TWO SUCCESS STORIES FOR THE ENVIRONMENT

Two extraordinary environmental successes are passing almost unnoticed. They illustrate the cost of ignoring good news—in particular good news about government—in favor of bad. When the success stories are missed so is the opportunity to reframe policy on the basis of what works instead of always focusing on what doesn't.

In less than two weeks the United States will produce its last ozone-destroying chlorofluorocorofluorocarbons (CFCs), completing a historic international phaseout of a class of chemicals that just a few years ago seemed irreplaceable. Since the original aim of cutting production by half by 2000 was set in 1987, the goal has been tightened to a phase out, the schedule repeatedly accelerated and the class of banned chemicals broadened. The developing countrw full partners and will cease production in 2015. Each new goal has been reached more quickly and at lower cost—frequently at a profit—than anyone dreamed possible even five years ago.

The ease with which businesses have developed CFC substitutes makes it easy to forget how hard the task looked at the outset. Industries predicted doomsday scenarios. The cuts would cripple the electronics industry, which would be unable to clean its chips, it was said, and would force offices, hospitals and shopping malls deprived of air conditioning to close.

With hindsight it's obvious why the experts were so wrong. CFCs seemed irreplaceable only because there had never been a reason to look for substitutes. CFCs were cheap, easy to handle, environmentally benign outside the stratosphere and useful in an enormous number of applications. Once there was a need to replace them, a modest economic incentive (in this case a tax) and enough time to develop alternatives, innovation bloomed.

The Clean Air Act amendments of 1990, which set the U.S. CFC rules, also established a plan to curb acid rain. In the 10 years it took to pass this law, no provisions were more bitterly fought. The need for controls at all, their appropriate level and their cost sparked trench warfare between environmentalists and industry and among pollution-emitting and pollution-receiving states. Utilities predicted a cost of $1,000 to $1,500 for every ton of sulfur dioxide removed. Some said it could not be done even at that exorbitant price.

The debates of the 1980s have been replaced by a benefit/cost ratio almost too lopsided to be believed. The newest estimate of the benefits of controlling acid rain, released by EPA this week, pegs the health benefits at an astonishing $12 billion to $40 billion annually. (The high estimate, based on more controversial science, is $78 billion.) The estimate does not include the considerable benefits to acidified lakes and streams, high-altitude forests, to buildings or to visibility—only health. On the other side, the costs to industry and government when the controls are fully implemented will be $2 billion to $3 billion per year.

Acid rain emission allowances are trading for one-tenth what industry predicted—at $130 per ton. Power plants and industries that do not have to begin cutting back until 2000 have begun to do so by choice. Those required to begin cutbacks this year are, in the new lingo "overcontrolling," cutting a staggering 40 percent more pollution than the law demands. To put it another way: Polluters are today emitting only 60 percent of what was allowed by a standard that, only a few years ago, many considered to be overly stringent and dangerously expensive.

What happened? First, of course, it is a law of human nature that the technical difficulty and economic cost of change—no matter how cloaked in seemingly objective science—will be exaggerated by those most deeply affected. In the case of environmental controls that generally means by the affected industries.

Something more important is at work. Both the CFC and the acid rain program set a goal, a performance standard, and left business free to figure out how best to meet it. Both avoided the traditional route of writing regulations specifying precisely what must be done.

Both programs let the marketplace work. The acid rain emissions trading scheme lets pollution sources buy and sell rights to emit sulfur dioxide or to bank them for later use. Instead of being forced to move by an arbitrary schedule, a company sets whatever schedule works best for it. Rather than requiring a cut of 10 percent or 50 percent from one year to the next, banked allowances allow a smooth transition. An incentive is created to control more pollution than the law requires. Instead of being told what to do by a bureaucrat, businessmen are given the flexibility to do what they're trained to do. Innovation is unleashed.

The sulfur emissions market is only a primitive first step toward an effective environmental marketplace. Newer schemes rely less heavily on government regulators. But EPA's best friends testify that while the agency's leadership has gotten the message, the command and control mentality still grips its troops—as well as too many environmentalists.

It's important these days to know that major societal goals can be achieved and even exceeded, as well as missed. The ozone and acid rain successes mean, too, that we know how to achieve more environmental cleanup at less cost and with more exportable innovation that we are currently using. That's news.

PROBLEMS FOR THE POOR

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Mr. MARTINI. Mr. Speaker, 30 years of ever-expanding and growing antipoverty programs have not erased poverty from our midst.

We have spent $5 trillion trying to address this problem, yet the percentage of children living in poverty is unchanged from what it was in 1965.

Worse, we have seen illegitimate births more than quadruple, and have subsidized the rise of the single parent family in our country.

Today, nearly 30 percent of all births in our Nation are illegitimate.

In 1992, the Federal Government alone spent $305 billion on 79 overlapping means-tested social welfare programs.

If we had spent just one-third of that in direct transfer payments to the poor, it would have been enough to lift each and every impoverished family over the poverty line.

But our problems still persist.

Some in Congress and the bureaucracy in Washington continue to insist that they know what the poor in our communities need.

For years they have been beholden to the ill-conceived notion that we can only consider ourselves a compassionate nation if Washington prescribes solutions to societal problems.

The resulting system has done worse than fail us.

It has betrayed us.

Something needs to change, but for years this body has been unwilling to address welfare reform.

And I understand why, Mr. Speaker.

Some Democrats in this Chamber have spent their careers constructing the American welfare state.

They have continually told us that more and more government will make it all better.

Now that it is obvious that their polices have failed, pride of authorship prohibits them from making the tough but necessary decisions to dismantle the system.

This is only natural, but it cannot be the excuse not to move this body forward.

Finally, Congress will send to the President that promised to "end welfare as we know it" a real, credible plan to do just that.

No longer will we entice illegal aliens across our borders with easily received welfare benefits.

No longer will the taxpayers pay to support addiction.

An no longer will Washington bureaucrats impose top-down solutions to problems they don't understand.

We will put an end to the big-government compassion that kills, and return a sense of responsibility, a sense of right and wrong, to the American social safety net.

I look forward to supporting the conference report on H.R. 4, and I urge every Member from both sides of the aisle to support it.

TRIBUTE TO OVETA CULP HOBBY

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in remembrance of one of the great ladies of Texas, Mrs. Oveta Culp Hobby.

Oveta Culp Hobby witnessed and shaped major events in modern U.S. history. Her accomplishments as a public servant and businesswoman have always been the reasons that I have looked up to her, but often these accomplishments have been overlooked. This Texan's achievements have spanned the decades, but are known to a relative few. Most people remember Oveta Culp Hobby as the head of a powerful newspaper family and the wife of a Governor and the mother of a Lieutenant Governor.

Mrs. Hobby, however, was important in her own right. In an era where being a "first" was an unfair and unfortunate litmus test by which a woman's ability to succeed would be measured, she rose to the occasion by doing what she thought she should do—make her mark on the world.

Despite her contributions and her considerable financial assets, Oveta Culp Hobby was reluctant to dub herself powerful. She made her mark on the world by doing what she thought was right. She will be remembered by those of us who have looked to her as a mentor and a role model.

GOP WELFARE BILL SENDS MILLIONS INTO POVERTY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 22, 1995

Mr. STARK. Mr. Speaker, Christmas is the season when charity and compassion go public. The time period between Thanksgiving and Christmas is when the true spirit of giving comes into the open. Outside the grocery store you see the bell ringers. Each way you turn there is an open mind and an open heart.

Why do people care?

For one reason, the Bible says we should care for the poor. The Bible says:

> If there is a poor man among your brothers in any of the towns of the land that the Lord your God is giving you, do not be hard hearted or tightfisted toward your poor brother. Rather be openhanded and freely lend him whatever he needs . . . Give generously to him and do so without a grudging heart. There will always be poor people in the land. Therefore I command you to be openhanded toward your brothers and toward the poor and needy in you land. (Deuteronomy, 15:7–11).

I believe that as a society, we should care for certain groups of people who can't care for themselves—the poor, the elderly, the disabled. It is simply the right thing to do.

What has happened since the Republican Party took control of this House? We have suddenly decided that these people can miraculously care for themselves. Even in Biblical times it was recognized that there will always be poor among us and that we should care from them generously. Why now have the Republicans decided to prioritize corporate and wealthy tax breaks above the poor?

The Republican welfare bill is frightening.

The bill denies guaranteed Medicaid coverage for children and parents receiving AFDC and for children receiving Federal foster care or adoption assistance under title IV–E of the Social Security Act. The welfare conference agreement could eliminate Medicaid eligibility for 1 to 2 million low-income children leaving millions more uninsured if Medicaid eligibility ends. Combined with other massive social service cuts, this is a tragedy waiting to happen.

The Republican budget cuts aid to severely disabled children by 25 percent, slashing $12 billion from disabled children's SSI benefits. Over 160,000 children currently in the program would lose eligibility 1 year after enactment.

The Republicans claim they want to move people from welfare to work but fail to provide much needed child care.

The Republican bill denies SSI benefits and food stamps to legal immigrants, and permits States to deny legal immigrants cash welfare, Medicaid, and title X social services.

This punitive bill prohibits States from paying additional welfare benefits to families that have an additional child while on welfare. Don't they realize that the child is an innocent victim in this arrangement? The child did not ask to be born into such a family.

This bill pays a bounty to States that reduce their illegitimacy ratio or the number of children born out of wedlock. This provision will serve only to increase the number of abortions or to further restrict a woman's legal right to make her own reproductive health choices.

The bill does not reform welfare. It destroys the only safety net some people have on which to depend. At this time of holiday giving, we should remember those most in need; we should count our own blessings; and we should vote against this hard-hearted bill that will send millions further into poverty.

SENATE—*Saturday, December 23, 1995*

(Legislative day of Friday, December 22, 1995)

The Senate met at 11:03 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN W. WARNER, a Senator from the State of Virginia.

The PRESIDING OFFICER. Father Paul Lavin, pastor of Saint Joseph's on Capitol Hill, Washington, DC, will give the prayer.

PRAYER

The guest Chaplain, Father Paul Lavin, pastor of Saint Joseph's on Capitol Hill, offered the following prayer:

Let us pray:

In Psalm 86 David sings:

Teach me, O Lord, your way that I may
walk in your truth, single-hearted and revering your name.
I will praise you with all my heart, glorify your name forever, Lord my God.
Your love for me is great; you have rescued me from the depths of hell.

As we join so many of our fellow citizens in celebrating Hanukkah or in celebrating the birth of Christ, please give us a renewed reverence for Your love in our lives. Help us to value the freedom that You have given us; help us to support one another in responding to the freedom You have given us and keep us mindful and thankful for those who put themselves in harm's way on our behalf, our firefighters, our police officers, and the members of our armed services.

We ask all this in Your divine name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 23, 1995.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN WARNER, a Senator from the State of Virginia, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. WARNER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. If there is no objection, the distinguished majority leader is recognized.

HAPPY HOLIDAYS

Mr. DOLE. Only to wish everybody a happy holiday season.

ADJOURNMENT UNTIL 1 P.M. WEDNESDAY, DECEMBER 27, 1995

The ACTING PRESIDENT pro tempore. I now announce that the Senate stands in adjournment, under the previous order, until Wednesday, December 27, 1995, at 1 p.m.

Thereupon, at 11:05 a.m., the Senate adjourned, under the order of Friday, December 22, 1995, until Wednesday, December 27, 1995, at 1 p.m.

SENATE—*Wednesday, December 27, 1995*

The Senate met at 1 p.m., and was called to order by the Honorable DAN COATS, a Senator from the State of Indiana.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Father Paul Lavin, pastor of St. Joseph's on Capitol Hill.

PRAYER

The guest Chaplain, Father Paul Lavin, offered the following prayer:

In the Book of Wisdom, Solomon prays: "God of my fathers, Lord of mercy, You who have made all things by Your word and in Your wisdom have established man to rule the creatures produced by You, to govern the world in holiness and justice, and to render judgment and integrity of heart, give me wisdom, the attendant at Your throne and reject me not from among Your children."

Let us pray:

Good and gracious God, give to the men and women of this Senate and to their staffs a share in Your wisdom. Let it be by the light of Your understanding that they see the real needs of our Nation and of the world. Let it be by the grace of Your courage that they each take the next best step in responding to those real needs. Share with us, O Lord, Your wisdom. We ask this in Your holy name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 27, 1995.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAN COATS, a Senator from the State of Indiana, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. COATS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

SCHEDULE

Mr. SMITH. Mr. President, Senator DOLE has asked me to announce today that the Senate will be in only for a brief period this afternoon and that there will be no rollcall votes during today's session of the Senate.

The Senate will complete action on any legislative or executive matter that can be agreed to by unanimous consent.

For the remainder of the week, Senator DOLE has stated that rollcall votes are not likely. However, if a rollcall vote becomes necessary, ample notification will be given to all Members.

It is expected that the Senate will be in session for a brief pro forma session on Thursday and will return on Friday.

Regarding Friday, just a brief update on what is scheduled to go on. The Senate budget negotiators are scheduled to meet on Friday morning. If that meeting is fruitful, there is hope there will be a meeting later in the afternoon or at some point later on in the day with the President. The leader will update the Senate and our colleagues on this when the Senate convenes on Friday morning.

At this point, those are all the announcements that I have.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. SMITH. These calendar items have been cleared by both sides, Mr. President, so I ask unanimous consent that the Senate immediately proceed to executive session to consider the following calendar numbers on today's Executive Calendar: Nos. 443, 444, 445, 446, 447, and 448.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SMITH. I further ask unanimous consent, Mr. President, that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NOMINATIONS

DEPARTMENT OF STATE

Eric James Boswell, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be an Assistant Secretary of State.

Anthony Cecil Eden Quainton, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Director General of the Foreign Service.

Joseph Lane Kirkland, of the District of Columbia, to be an Alternate Representative of the United States of America to the Fiftieth Session of the General Assembly of the United Nations.

Jeanne Moutoussamy-Ashe, of New York, to be an Alternate Representative of the United States of America to the Fiftieth Session of the General Assembly of the United Nations.

Tom Lantos, of California, to be a Representative of the United States of America to the Fiftieth Session of the General Assembly of the United Nations.

Toby Roth, of Wisconsin, to be a Representative of the United States of America to the Fiftieth Session of the General Assembly of the United Nations.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will return to legislative session.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

ADDITIONAL STATEMENTS

(At the request of Mr. BREAUX, the following statement was ordered to be printed in the RECORD.)

PASSAGE OF THE SOURCE TAX BILL

● Mr. REID. Mr. President, I am extremely pleased to announce that the source tax bill has again passed both houses of Congress. As many of you know, this legislation was passed in the 102d and 103d Congresses, and again in the 104th Congress as an amendment to the budget bill, only to be struck because of the so called Byrd rule. I have been working on this issue virtually since I came to Congress.

There are many people who have been essential to the bill's passage, and I wish to acknowledge some of them now. This issue was brought to my attention by a Nevadan named Bill Hoffman. He told me about the unjust cases of retirees being taxed by States they no longer were living in. Many of these stories were very tragic, because the retiree relied completely on their pension incomes to survive.

Bill and his wife Joanne heard so many of these tragic stories that eventually they started an organization known as Retirees to Eliminate State Income Source Tax [RESIST]. RESIST was founded in July of 1988 in Carson City, NV. In less than 4 years, it had grown in membership to tens of thousands of members. It includes members of every State of the Union. RESIST is truly a nonprofit, grass roots organization, and I congratulate and thank Bill and Joanne today for their tireless efforts. Without their help the source tax bill would not have made it to this stage today.

I would also like to extend my sincere thanks to Chairman ROTH and Senator MOYNIHAN, their staff, and especially the Finance Committee staff, for all of their help getting the source tax bill out of committee and to the floor. With everything that has been going on in recent weeks, they made this bill a priority and I am very grateful for their hard work.

I also extend my thanks to Senator BRYAN and Congresswoman BARBARA VUCANOVICH and her staff. The Congresswoman has also been working on this bill for a very long time, and my colleague, Senator BRYAN, has been continually supportive and essential in the passage of this bill.

Currently, retirees may be forced to pay taxes to States where they do not reside, and from which they receive no benefits. This is truly an unfair practice, especially for those retirees with relatively low incomes. This bill prohibits States from taxing the retirement income of nonresidents. It ends taxation without representation. It will protect all income received from pension plans recognized as qualified under the Internal Revenue Code. It will also exempt income received under certain nonqualified deferred compensation plans.

Often times, the pension income retirees receive is the only income they have on which to live. I have heard many stories of the devastating effects of taxing these pensions. One story, which I have told on this floor before, is of an older woman from Fallon, NV who had an annual income of between $12,000 and $13,000 a year. One day she receives a notice from California saying she owes taxes on her pension income from California, plus the penalties and interest on those taxes.

The California Franchise Board had gone back to 1978 and calculated her tax debt to be about $6,000. That is half of her annual income. This story, as unfair and unequitable as it sounds, is unfortunately not unique. That is why this legislation is such a big victory for all retirees in this country.•

ORDER OF BUSINESS

Mr. SMITH. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, DECEMBER 28, 1995 AND FRIDAY, DECEMBER 29, 1995

Mr. SMITH. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 a.m., Thursday, December 28, for a pro forma session only, and immediately upon convening, the Senate stand in adjournment until 12 noon, Friday, December 29, and following the prayer on Friday, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business not to extend beyond the hour of 12:30, with statements limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SMITH. Mr. President, the Senate will be in tomorrow for a pro forma session only. No business will be conducted during Thursday's session. After the pro forma session, the Senate will adjourn until Friday. Once again, for the information of all Senators, Senator DOLE has stated that rollcall votes are not expected for the remainder of the week.

RECESS UNTIL 11 A.M. TOMORROW

Mr. SMITH. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 1:12 p.m., recessed until Thursday, December 28, 1995, at 11 a.m.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate December 27, 1995:

DEPARTMENT OF STATE

ERIC JAMES BOSWELL, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AN ASSISTANT SECRETARY OF STATE.

ANTHONY CECIL EDEN QUAINTON, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE DIRECTOR GENERAL OF THE FOREIGN SERVICE.

JOSEPH LANE KIRKLAND, OF THE DISTRICT OF COLUMBIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTIETH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

JEANNE MOUTOUSSAMY-ASHE, OF NEW YORK, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTIETH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

TOM LANTOS, OF CALIFORNIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTIETH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

TOBY ROTH, OF WISCONSIN, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTIETH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Wednesday, December 27, 1995*

(Legislative day of Friday, December 22, 1995)

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. WALKER] at 5 o'clock and 3 minutes p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

In the stillness of this moment, in the quiet of our prayer, we place before You, O God, that which is in our hearts and souls, those thoughts and ideas and feelings that make us what we are and direct us along life's way. We pray, gracious God, that You would refresh us and encourage us, that You would heal our hearts and make us strong, that You would forgive us when we miss the mark and give peace to every soul. For the wonders of the world and the little miracles of every day, we offer these words of prayer and thanksgiving. In Your name, we pray. Amen.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Maryland [Mrs. MORELLA] come forward and lead the House in the Pledge of Allegiance.

Mrs. MORELLA led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
Washington, DC, December 27, 1995.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Wednesday, December 27, 1995 at 2:15 p.m.: That the Senate passed with amendment H.R. 1358 and made appointments to National Skill Standards Board and United States Commission on Civil Rights.

With warm regards,

ROBIN H. CARLE,
Clerk,
House of Representatives.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
Washington, DC, December 27, 1995.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Wednesday, December 27, 1995 at 3:50 p.m., and said to contain a message from the President whereby he transmits a determination certifying that suspending U.S. economic sanctions on Serbia and Montenegro and lifting the arms embargo are necessary to achieve a negotiated settlement of the conflict in Bosnia.

With warm regards,

ROBIN H. CARLE,
Clerk,
House of Representatives.

PRESIDENTIAL CERTIFICATION TO SUSPEND SANCTIONS IMPOSED ON THE FEDERAL REPUBLIC OF YUGOSLAVIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on National Security, the Committee on International Relations, the Committee on Banking and Financial Services, and the Committee on Transportation and Infrastructure and ordered to be printed:

To the Congress of the United States:

Section 1511 of the National Defense Authorization Act for Fiscal Year 1994 (hereinafter the "Act"), requires that the sanctions imposed on Serbia and Montenegro, as described in that section, shall remain in effect until changed by law. Section 1511(e) of the Act authorizes the President to waive or modify the application of such sanctions upon certification to the Congress that the President has determined that the waiver or modification is necessary to achieve a negotiated settlement of the conflict in Bosnia-Herzegovina that is acceptable to the parties.

In accordance with this provision, I have issued the attached Presidential Determination stating that the suspension of the sanctions described in section 1511(a)(1–5) and (7–8) and in conformity with the provisions of United Nations Security Council Resolutions 1021 and 1022 is necessary to achieve a negotiated settlement of the conflict. As described in the attached Memorandum of Justification, this sanctions relief was an essential factor motivating Serbia and Montenegro's acceptance of the General Framework Agreement for Peace in Bosnia and Herzegovina initialed in Dayton, Ohio, on November 21, 1995 (hereinafter the "Peace Agreement").

I have directed the Secretaries of the Treasury and Transportation to suspend immediately the application of these sanctions on Serbia and Montenegro and have authorized the Secretary of State to suspend the arms embargo at appropriate stages consistent with United Nations Security Council Resolution 1021. The first stage would be 91 days after the United Nations Secretary General reports to the United Nations Security Council that all parties have formally signed the Peace Agreement.

The measures taken to suspend these sanctions may be revoked if the Implementation Force (IFOR) commander or High Representative determines that Serbia and Montenegro or the Bosnian Serbs are not meeting their obligations under the Peace Agreement.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *December 27, 1995.*

PARLIAMENTARY INQUIRY

Mr. HOYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Maryland will state it.

Mr. HOYER. Mr. Speaker, would it be in order at this time to ask for a unanimous-consent request to bring up S. 1508, which will then declare all Federal employees to be essential and put the Government back to work tomorrow?

The SPEAKER pro tempore. Under the Speaker's guidelines, such an action would not be permitted until it is fully cleared.

ELECTION OF MEMBER TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. ARMEY. Mr. Speaker, by direction of the House Republican Conference, I offer a privileged resolution (H. Res. 324), the election of a Member to certain standing committees of the House, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 324

Resolved, That the following named Member be, and he is hereby, elected to the following standing committees of the House of Representatives:

Committee on Banking and Financial Services: Mr. Campbell of California, to rank following Mr. King of New York.

Committee on International Relations: Mr. Campbell of California.

Mr. HOYER. Parliamentary inquiry.

The SPEAKER pro tempore. Without objection, the resolution is agreed to.

There was no objection.

The SPEAKER pro tempore. Without objection, a motion to reconsider is laid on the table.

There was no objection.

PARLIAMENTARY INQUIRIES

Mr. HOYER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. HOYER. It is my understanding that that is subject to a vote; am I correct?

The SPEAKER pro tempore. The Chair has just declared the resolution adopted by unanimous consent and the motion to reconsider has been laid upon the table.

Mr. HOYER. That was during the time that I was asking for this parliamentary inquiry.

The SPEAKER pro tempore. The answer to the gentleman's question is that the resolution has now been dealt with.

Mr. HOYER. If I may continue my parliamentary inquiry, based upon that, that was a voice vote, I take it.

The SPEAKER pro tempore. No. It was adopted by unanimous consent. The motion to reconsider was laid upon the table.

Mr. HOYER. Mr. Speaker, let me say that I was asking for the parliamentary inquiry during the course of your talking, and you did not stop for me to make my parliamentary inquiry.

The SPEAKER pro tempore. The gentleman asked for a parliamentary inquiry during the time that the Clerk was reporting the resolution, and he is not eligible to be recognized during the time that the Clerk is reporting the resolution. The gentleman did not reserve the right to object when the Chair made that particular representation to the House.

Mr. MORAN. Mr. Speaker, parliamentary inquiry. Is not the Speaker required to enunciate the proper procedure to determine whether there, in fact, is unanimous consent? This Member did not hear unanimous consent requested, and thus was not able to respond.

The SPEAKER pro tempore. The Chair said that without objection, the resolution is agreed to and the motion to reconsider is laid upon the table. That was the point that the Chair made. It is the gentleman's duty to follow the proceedings of the House.

Mr. MORAN. This Member was waiting for a response from the Speaker, assuming that a parliamentary inquiry had to be responded to before any further determinative action by the body could take place.

The SPEAKER pro tempore. The Chair, in a timely manner when the gentleman asked for a parliamentary inquiry, did, in fact, take the gentleman's parliamentary inquiry. The gentleman could have reserved the right to object at the point that the Chair put the issue of adoption.

Mr. MORAN. In other words, just to understand the Speaker's interpretation, if a Member is asking for a parliamentary inquiry, they would first have to reserve the right to object in order to state their parliamentary inquiry.

The SPEAKER pro tempore. The Chair has explained. The gentleman had propounded his parliamentary inquiry during the time that the Clerk was reporting the resolution. That is not a timely parliamentary inquiry. The Chair, upon the reporting of the resolution, did, in fact, allow the House to respond to the Chair's presentation to the House that this was being adopted by unanimous consent. This is in line with the way that other resolutions regarding the election of Members to committees are handled in the House.

The Chair did not deviate at all from the way in which this matter is handled on all other cases where the caucus is bringing to the Chamber a resolution electing Members to committees, so that this was all handled in the normal process.

REQUEST TO ADDRESS THE HOUSE

Mr. HOYER. Mr. Speaker, I ask unanimous consent to speak out of order for 1 minute for the purposes of propounding a question to the majority leader.

Mr. ARMEY. Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman from Texas objects.

RECESS

The SPEAKER pro tempore. The Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 5 o'clock and 11 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. WALKER) at 12 o'clock and 1 minute a.m.

RECESS

The SPEAKER pro tempore. Pursuant to the second section of House Resolution 320, the Chair declares the House in recess subject to the call of the chair.

Accordingly (at 12 o'clock and 2 minutes a.m.), the House stood in recess subject to the call of the chair.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1507. An act to provide for the extension of the Parole Commission to oversee cases of prisoners sentenced under prior law, to reduce the size of the Parole Commission, and for other purposes; to the Committee on the Judiciary.

S. 1509. An act to amend the Impact Aid program to provide for a hold-harmless with respect to amounts for payments relating to the Federal acquisition of real property, to permit certain local educational agencies to apply for increased payments for fiscal year 1994 under the Impact Aid program, and to amend the Impact Aid program to make a technical correction with respect to maximum payments for certain heavily impacted local educational agencies; to the Committee on Economic and Educational Opportunities.

ENROLLED BILLS AND A JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 394. An act to amend title 4 of the United States Code to limit State taxation of certain pension income.

H.R. 1655. An act to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

H.R. 1878. An act to extend for 4 years the period of applicability of enrollment mix requirement to certain health maintenance organizations providing services under Dayton Area Health Plan.

H.R. 2627. An act to require the Secretary of the Treasury to mint coins in commemoration of the sesquicentennial of the founding of the Smithsonian Institution.

H.J. Res. 136. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. MORELLA (for herself, Mr. DAVIS, Mr. WOLF, and Mr. MORAN):

H.R. 2840. A bill to assure that all Federal employees work and are paid; to the Committee on Government Reform and Oversight.

By Mr. DORNAN:

H. Con. Res. 129. Concurrent resolution expressing the sense of the Congress that Thailand should release the six Hmong/Lao refugee camp leaders arrested for refusing to repatriate to Laos in 1994 and that Thailand should allow resettlement of eligible Hmong refugees in Thai refugee facilities at Ba Na Pho, Sikhiu and Phanat Nikhom; to the Committee on International Relations.

By Mr. ARMEY:

H. Res. 324. Resolution electing Representative Campbell to the Committees on Banking and Financial Services and International Relations; Considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 895: Mr. WELDON of Florida, Mr. SKEEN, Mr. GILMAN, Mr. MCKEON, Mr. FRANKS of New Jersey, and Mr. ROBERTS.

H.R. 1046: Ms. PELOSI.

H.R. 2214: Mr. PETERSON of Florida.

H.R. 2705: Ms. NORTON, Ms. KAPTUR, Mr. KLINK, and Mr. MARTINEZ.

H.R. 2748: Mr. GUTIERREZ, Mr. MATSUI, Mrs. CLAYTON, Mr. FRAZER, Mr. GENE GREEN of Texas, Mr. THOMPSON, and Mr. TORKILDSEN.

EXTENSIONS OF REMARKS

IN SUPPORT OF S. 1508—LEGISLATION AIMED AT ENDING THE PARTIAL FEDERAL GOVERNMENT SHUTDOWN BY ALLOWING FEDERAL EMPLOYEES TO RETURN TO WORK

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 27, 1995

Mr. DAVIS. Mr. Speaker, I rise today to introduce the House companion bill to S. 1508—a bill that was approved by the Senate on December 22, 1995, and that would allow all furloughed Federal employees to return to work. This bill enjoys widespread bipartisan support and would save millions of taxpayer dollars while giving Federal employees a legally binding claim to be paid.

S. 1508 is a short bill that simply declares that all Federal employees be deemed to be performing services relating to emergencies involving the safety of human life or protection of property. This "emergency" designation will last through February 1, 1996, and will temporarily circumvent the legal obstacles that require Federal agencies to classify employees as either "excepted from the furlough" or "furloughed" whenever there is a lapse in appropriations without temporary spending legislation enacted. This legislation will meet the demands of taxpayers who want Federal services to be available, as well as Federal employees and contractors who simply want to be able to perform the duties that Congress and the President have assigned them to perform.

S. 1508 will reopen those national parks and museums that remain closed due to the President's veto of the Interior appropriations bill and will make it possible for thousands of Americans to obtain much-needed passports and visas that are currently unavailable due to the President's veto of the State, Justice, and Commerce appropriations bill. Further, many contractors who have now endured a combined 18 days—during the two shutdowns of 1995—without pay will be able to resume work because this legislation allows their contracts to be properly supervised and managed by Federal employees who have been furloughed. Finally, by allowing the remaining 280,000 furloughed workers to return to work, taxpayers can expect to receive the quality services that they pay for each April 15. Each day that we fail to end this shutdown costs the taxpayers an estimated $40 million in lost productivity and uncollected user fees and fines.

Unfortunately, S. 1508 is only an incremental step toward achieving pay for the 760,000 Federal workers who currently work for agencies that do not have approved appropriations for fiscal year 1996. On December 20, the Speaker and majority leader pledged to retroactively pay all Federal employees once a balanced budget or continuing resolution is enacted. The measure I am introducing today will give Federal employees an enforceable legal claim to receive pay for services rendered. With the adoption of this measure, Federal workers should be in a stronger position to negotiate with creditors regarding any late payments that are necessitated by the Federal Government's failure to honor its payroll obligations in a timely manner. Further, S. 1508 will also move Congress and the President closer to a full agreement that would fund these agencies and pay for their employees and contractors.

I am committed to working continuously with Members from both parties and with the President to bring an end to this unnecessary, but extremely costly, partial shutdown. The framework for an agreement that would have avoided this impasse was established on November 21, 1995, when the President signed his name to a continuing resolution that endorsed a Federal budget that balances in 7 years according to the nonpartisan Congressional Budget Office economic forecasts. Today, more than 5 weeks later, the President has still not offered a budget plan that meets the criteria that he agreed to in November. His most recent budget plan was rejected by the House of Representatives by a unanimous and bipartisan 412-to-0 vote.

While concerned taxpayers continue to wait for a good faith effort by the President to offer a balanced budget plan, Congress should act to provide relief to the innocent victims in this dispute—the 760,000 Federal workers and thousands of additional contractors who remain unpaid. By returning furloughed civil servants to work, this bill takes an important step toward the eventual complete retroactive pay for affected Federal workers, and for the resumption of work for contractors and services for taxpayers. I urge my colleagues to support this bipartisan bill that has already been approved by the other body.

INTRODUCTION OF S. 1508 WHICH WOULD DEEM ALL FEDERAL WORKERS TO BE ESSENTIAL EMPLOYEES

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 27, 1995

Mrs. MORELLA. Mr. Speaker, I am pleased to join with my colleagues from Virginia, Congressmen TOM DAVIS, FRANK WOLF, and JIM MORAN, to introduce legislation that would deem all Federal workers to be essential employees.

This bill, the House companion to S. 1508, would allow Federal workers to go back to their jobs. If I don't know anything else about Federal workers, I know this: Federal workers across the country and in my district want to work. All week long, I have been getting calls from scientists at the National Institutes of Health [NIH] who are frustrated because they cannot get into their labs. These dedicated Federal workers should not be prevented from working on a cure for cystic fibrosis or for breast cancer. We need these people to be working. They should not be kept from their work for a week; not even for 1 day.

Most importantly, this legislation would eliminate the distinction between "essential" and "nonessential" employees. I cannot think of a term more misleading or misguided than "nonessential." The term must be eliminated from the Federal vocabulary.

We are experiencing the longest Government shutdown in American history. It is a demoralizing and divisive experience for our work force. It is costly and disruptive to the taxpayers. It has hurt businesses in the District of Columbia and elsewhere in the local area.

Clearly, I would have preferred to pass a continuing resolution that would keep the entire Government running.

This bill, which passed the Senate, is an incremental step toward getting Government totally operational again.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—*Thursday, December 28, 1995*

(Legislative day of Wednesday, December 27, 1995)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable BOB SMITH, a Senator from the State of New Hampshire.

APPOINTMENT OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 28, 1995.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BOB SMITH, a Senator from the State of New Hampshire, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. SMITH thereupon assumed the chair as Acting President pro tempore.

ADJOURNMENT UNTIL FRIDAY, DECEMBER 29, 1995

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands adjourned until 12 noon on Friday, December 29, 1995.

Thereupon, at 11 o'clock a.m. and 32 seconds, the Senate adjourned until Friday, December 29, 1995, at 12 noon.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

SENATE—*Friday, December 29, 1995*

The Senate met at 12 p.m. and was called to order by the Honorable DIRK KEMPTHORNE, a Senator from the State of Idaho.

The PRESIDING OFFICER. Our opening prayer will be offered by our guest Chaplain, Father Paul Lavin, pastor of St. Joseph's on Capitol Hill, Washington, DC.

PRAYER

The guest Chaplain, Father Paul Lavin, pastor of Saint Joseph's on Capitol Hill, Washington, DC, offered the following prayer:

Let us pray:

We stand before You, O Lord, conscious of our sinfulness, but aware of Your love for us.

Come to us, remain with us, and enlighten our hearts.

Give us light and strength to know Your will, to make it our own and to live it in our lives.

Guide us by Your wisdom, support us by Your power, keep us faithful to all that is true.

You desire justice for all; enable us to uphold the rights of others; do not allow us to be misled by ignorance or corrupted by fear or favor.

Glory and praise to You for ever and ever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 29, 1995.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DIRK KEMPTHORNE, a Senator from the State of Idaho, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. KEMPTHORNE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senate majority leader is recognized.

SCHEDULE

Mr. DOLE. I thank the Senator from Idaho.

Mr. President, the time for the two leaders has been reserved, and there will be a period for morning business until 12:30 p.m., with Senators permitted to speak for up to 5 minutes each. I do not anticipate any rollcall votes today.

I am going to make a request, but I know it is going to be objected to. I hope we can revisit it later this afternoon because most of us would like to see everybody back to work. A week ago today, we passed in the Senate by unanimous consent a proposal to deem all Government employees essential so they can go back to work and not be in violation of anything, and also provided for pay for those Federal employees.

So it is my hope that we do not have to wait until next week to resolve this. It is my understanding that we may be in session throughout the afternoon subject to the call of the Chair in the event the House should take some action on the measure we passed last week.

Yesterday, in an effort to at least get some people back to work, the Speaker and I wrote a letter to the President of the United States. It was not intended to be critical. There is nothing critical in it, because we are in the midst of budget negotiations, and we agreed not to discuss the budget negotiations. But it was our thought perhaps if we passed Interior, and State, Justice, Commerce, and HUD–VA, that would put a lot of people back to work. There are some things the President does not like in those bills. We can resolve those differences in the budget agreement. He can sign the bill and we would not need a CR to cover most of the employees not working now.

Then we have the Labor-HHS bill we have been unable to bring up because of objection on the other side of the aisle. We have had two cloture votes and lost on party-line votes.

That leaves the D.C. appropriations bill. There is a continuing resolution for the District government until January 3. And then that leaves the foreign ops bill, which we still hope to resolve. I know the Senator from Vermont has been directly involved in that, along with the Senator from Kentucky, Senator MCCONNELL, and others. It is still our hope maybe we can resolve that today if possible.

I guess the point I want to make is, there is a 3:15 p.m. meeting at the White House with budget negotiators. I will certainly update the Senate as to the progress following that meeting. What we have agreed to do after each meeting is issue a joint statement so it will not upset anybody and somehow get it off track.

It is my view that the American people want us to reach an agreement on a balanced budget regardless of party, and I am talking about people outside the Capitol, people out in the real world, like some would say. I have had an opportunity to meet with some of those people in North Carolina and Iowa in the past week. I think they want us to do this for the right reason, not that it is a game, or not that it is Republicans versus Democrats, but that it would, if we could get a balanced budget agreement, if the President was on board and it did pass the Congress, then we believe, based on experts, that interest rates would drop 2 percent, for example. That is 2 percent on a college loan, 2 percent on a car loan, 2 percent on a farm loan or home loan, and that would be in the interest of all Americans, certainly regardless of party or regardless of philosophy.

So that is why I think there is a good-faith effort on the part of the President and on the part of the leadership, Republican and Democratic leadership in the House and Senate, and we will proceed this afternoon at 3:15. We are prepared to stay through the weekend, if necessary. Sooner or later we have to reach out and make some of the tough decisions on Medicare and taxes, but, in my view, if we are serious about this, we can do it, or if we cannot reach an agreement, we ought to disagree and Congress can do what Congress feels must be done and the President can do what the President thinks must be done.

Having said that, I will also advise my colleagues hopefully in the next couple of hours what I anticipate the program to be for next week. We do start a new session of Congress on Wednesday of next week. I guess we have been in like this before a couple of times.

I am advised we would come in at 11:55 next Wednesday, adjourn sine die, and then at noon, 5 minutes later, start the new session. But I will give all the other details. I am not certain how many of my colleagues will be present at that time.

UNANIMOUS-CONSENT REQUEST—H.R. 1643

Mr. DOLE. Mr. President, based on what I said earlier, I now ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 1643 regarding MFN status for Bulgaria, and that the Senate now proceed to its immediate consideration; that all after the enacting clause be stricken and the text of H.R. 2099, HUD-VA, H.R. 1977, Interior, and H.R. 2076, State, Justice, Commerce, as vetoed by the President, be inserted, the bill be advanced to third reading and passed, and the motion to reconsider be laid upon the table, all without any further action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, I ask that the unanimous-consent request be modified to provide for a substitute amendment which would reopen the Government and keep it open until January 30. Absent such a modification, I object.

Mr. DOLE. Mr. President, I reserve the right to object. I will just state to my friend from Vermont that we both share the same feeling about returning employees to work. But if we can, as I indicated earlier, get these bills down to the President, agree with the President any problems he has with these bills will be resolved in the budget agreement, then these employees will be back to work until the end of the fiscal year. So it would be permanent, it would not be a 30-day continuing resolution. That would leave, as I said, the District of Columbia, which is now under a continuing resolution, and Labor-HHS, if I can convince my colleagues to let us bring that up, and then foreign ops where there is only one difference holding up that very important piece of legislation. I would be constrained to object on that basis.

The ACTING PRESIDENT pro tempore. Is there objection to the majority leader's original unanimous-consent request?

Mr. LEAHY. Reserving the right to object further. I will note that I share the distinguished majority leader's—one of the finest majority leaders this Senate has had—desire to go back, but I cannot agree to a unanimous-consent to, in effect, override vetoes of the President by unanimous consent. So I do object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. DOLE. Mr. President, I had not thought of that, but I think that probably would be something to think about. These are separate bills, not the ones vetoed by the President. It would be new bills. They would be identical to the ones he vetoed. But the one additional ingredient here is that we are on these budget negotiations, and we are serious about it—the President is, I am, the Speaker is, Senator DASCHLE and Congressman GEPHARDT are.

I know on the Interior bill, for example, there are only about three reasons the President said he vetoed that bill. Those are all the parts and all the things we are hearing about on the nightly news. We ought to be able to resolve that. Maybe we can come back later and try, instead of these three at once, maybe sending down one we might be able to work out. We would do this only with the agreement of the President. So we are not trying to do anything here that the President would not sign off on, and I intend to raise that at our 3:15 meeting and tell him in good faith that if he would let us send down these one or two bills, we are prepared to resolve differences as part of the budget agreement.

I thank my colleague from Vermont. Maybe we can revisit this in a different form later today.

Mr. LEAHY. If the distinguished majority leader would yield, Mr. President, I share his concern and desire to put the Government back to work. This is not a thing that is helping anybody. They should be back. I wish him well in his meetings with the President. I have felt, if I might state frankly, that if the issue to be resolved in this budget impasse was left to this Chamber, Republicans and Democrats could come together with the President. It would mean that we would not have a Clinton budget, a Dole budget, a Leahy budget, but we might have the best of all of them and we would have a balanced budget.

I have been in negotiations and conference committees with the distinguished majority leader on everything from agriculture to foreign policy to finance and tax matters. I know that while he is a strong and tough bargainer, I know he also wants the Government to operate. I believe there is the possibility to do this and I hope we might.

ORDER FOR RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. DOLE. Mr. President, I will make one more unanimous-consent request.

I ask unanimous consent that following the remarks of Senators LEAHY, DORGAN, and NICKLES—unless there are others wishing to speak—the Senate would stand in recess subject to the call of the chair.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DORGAN. Mr. President, I wonder if I might make a comment. I understand the purpose of both objections. The majority leader, I know, recognizes that the passage of a clean CR would mean that everyone would go back to work immediately. It is true that it would be only as long as the CR lasted, but it would end the shutdown.

I understand the circumstances which required the Senator from Kansas to object to that at this point. I wish them well in the discussions with the President this afternoon. In the event this were to go on for several more days, can the majority leader foresee circumstances under which a clean CR might be accomplished so that all Federal workers might go back to work immediately?

Mr. DOLE. Well, I am not certain there will be a CR, but something has to be done. That is my view. I cannot speak for all of my colleagues in the House and Senate. But I think there is some recognition—there are a couple of concerns that people have. First of all, as I have said before, the employees are sort of the pawns in this game. This is a struggle for whatever we hope will happen over the next 7 years. It is very important. But to somebody out there who is not working and only lives from paycheck to paycheck, it is not a very happy choice, and they should be paid, even though some are saying, "Well, you are paying people for not working." My view is that if it was voluntary on their part, you should not, but it is involuntary. They cannot go to work. Some tried, in Baltimore, to show up for work and they were told to go home. That is a long answer, I guess, to saying there has to be some way around this. That is why I thought, yesterday, that maybe the appropriations bills—if the President would consent to that—then we can probably figure out a way to get Labor-HHS out of here. We have one little provision—and the Senator from Vermont knows more about it than I do—on the foreign ops bill. I will work with the Senator from North Dakota.

Mr. LEAHY. Mr. President, if the majority leader is still on the floor, I hope that he realizes—I am sure he does—that there are many of us—I would say the majority of both Democrats and Republicans—who do want to come together on this issue and get it here in the Senate and get this finished. He mentioned the foreign ops bill, which is one where the distinguished Senator from Kentucky [Mr. MCCONNELL] and I had the bill on the floor. We had, I believe, 193 items in disagreement with the other body. We settled 192 of the 193, and I think it is unfortunate that it is held up.

It is beginning to create a problem in the Middle East peace process with the Camp David countries. I think that is of some significance. I know all of us on the floor support the help we give those countries, especially at this critical time. I hope we might work that out. I think we can go through dozens of other issues, where it seems that the solution is so close and so within our grasp. Frankly, Mr. President, I wish the majority leader, the Speaker, and the President all the best in their negotiations, and the distinguished Democratic leaders in both the House and the Senate, who will join with them.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m. with Senators permitted to speak therein for not to exceed 5 minutes.

The Senator from Oklahoma is recognized.

THE PRESIDENT'S VETO MESSAGES

Mr. NICKLES. Mr. President, I want to make a comment to the majority leader. He mentioned during his comments that he would encourage the President to sign the three bills he has vetoed and would be willing to work with him to work out some of the problems that he had. I have a copy of the President's veto message on the Interior bill. I have reviewed all of these. In most cases, the differences are very small. I cannot help but think that the majority leader and the President could work out the differences. There are a couple items dealing with dollars, but a very insignificant amount as far as the total. This is a $12 billion bill. The differences in dollars is very small.

A few issues maybe need to be clarified as far the administration and so on. There is no reason why this bill should not be signed. I know there was a front page article in the Washington Post today. I know there is a lot of concern about visitors not being able to visit parks and museums. There is no reason whatsoever that this bill should not be signed.

So I encourage the majority leader in his meeting with the President to see if we cannot make a couple small changes in the Interior bill, as well as the Commerce, State, Justice, and the VA-HUD bill, which would relieve a lot of the problems and anxiety for a lot of people all across the country, not just the employees, but also constituents that would like to have access to the parks and to the museums.

So I compliment the majority leader for taking that effort to the President. Hopefully, he will concur, and maybe we can at least resolve the conflict on three of these major items.

Mr. LEAHY addressed the Chair.

The ACTING PRESIDENT pro tempore. The acting Democratic leader is recognized.

HELPING VICTIMS OF CRIME

Mr. LEAHY. Mr. President, there are some things, however, that are getting through. The Senate, in one of its final votes before adjourning for Christmas, passed legislation aimed at more than doubling the assistance that my State and others will have in hand to help victims of domestic crime and terrorism.

I mention this, Mr. President, because I think of the years I spent as a prosecutor and I remember so many times we spent hundreds of thousands of dollars to prosecute a perpetrator, especially of a violent crime, both in the prosecution and in the incarceration, but the victim was usually the forgotten person. The victim got no assistance, the victim got no help, the victim was left to fend for himself or herself.

What we have done now is raise to half a million dollars in a special victims fund for Vermont, under the Victims of Crime Act and under an amendment that I propose, that will help these people. I think this makes a great deal of sense because the money comes not from the taxpayers, the money comes from the criminals. The assessments and the fines to the criminal will go into this fund.

Again, as a former prosecutor, I believe we should bring strong and effective prosecution as quickly as possible in these serious crimes. We have seen what happened in places like Oklahoma City. Let us not forget the victims. When we are setting out the punishment for the perpetrator of the crime, when we add fines and assessments, the money which can go to help victims all the better. In my experience, the victim is usually the person forgotten. All attention is on the criminal. This way, we will keep the attention on those convicted of violent crimes, but we will make them pay into a fund to help the victims.

I think it is much better. I think victims must be treated with dignity and assisted and compensated for their suffering. Who better to pay for the restitution than the perpetrators of those crimes themselves? I thank the Members of the Senate who have joined with that.

THE BUDGET

Mr. LEAHY. Mr. President, we have talked about the budget. I have listened to the distinguished majority leader. I am absolutely convinced that if the distinguished Republican leader and the distinguished Democrat leader in this body could sit down with the President that we could reach those areas of compromise.

We have to understand that no matter what the issue is here, when there are many, many differing views, that nobody wins totally. We do not pass a Gingrich budget or a Dole budget or a Daschle budget, a Clinton budget or a Leahy budget, but we can pass a budget for this country and one that will bring us to a balanced budget but will also allow at least bipartisan cooperation on issues like education, environment, medical care for the elderly, and so forth.

I was concerned in the other body when I hear some say, "Well, let's lock everybody in a room and throw the key away until this is settled." I say to those same people, why did you not stay here last weekend and do it? Why did you not stay and turn the key on your own doors and stay here?

They are claiming over there in the other body that this is for a more efficient Government. This is the least efficient way to run a government, let alone a business—send everybody home so no work is being done, but then people are being told they will be paid for their lost time. They should be paid because it was not through their fault, but the American taxpayer is not being paid for lost services.

These Federal workers want to go back to work, they want to help run this country, they want to process the passport claims and the veterans claims and everything else. They cannot understand why we will not make it possible.

Frankly, I think some Members of Congress ought to be asked—those who feel we should lock up the leadership and the President—ought to be asked, why did you leave last weekend? Did you go home for a Christmas vacation? Did the taxpayers pay for your airplane fares home? Of course they did. Did the taxpayers pay for your salary while you were home making political speeches? Of course they did.

Then they also ought to be asked: Do you not think it would have been better to stay and get the country back to work, get the Government back to work, and stop these shenanigans?

As I said before, I have been in negotiations, some very tough negotiations, with the distinguished majority leader and the distinguished Democratic leader. I know them both to be Senators of great honor and great ability. I am willing to rely on them to negotiate with the President of the United States and get us out of this. I hope it can be done.

DR. GEORGE McINTYRE

Mr. LEAHY. Mr. President, I was born in Montpelier, VT. A great friend I had in Montpelier, VT was Dr. George A. McIntyre. Dr. McIntyre left this world this month at the age of 85. I can truly say Dr. McIntyre knew me all of my life because he was the man who delivered me as a child. He was a good friend, as is his wife, Theresa. He was also the model of the smalltown country doctor. He was someone who knew everybody in the town, respected by everybody in the town, loved by everybody in the town, and was there to help.

My own memories, I recall as a child of about 12, becoming very ill with pneumonia, and Dr. McIntyre coming to our house, a doctor who always made house calls, bundling me up and bringing me to the hospital. Without his care, there is no question I would not have survived that bout of pneumonia.

So I have been privileged, as have members of my family, to know him for all these years. I send my condolences to his wife, his children, and the other members of his family. He was a truly remarkable person.

I ask unanimous consent that Dr. McIntyre's obituary which appeared in the Burlington Free Press be printed in the RECORD.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

[From the Burlington Free Press, Dec. 16, 1995]

GEORGE A. MCINTYRE, M.D.

MONTPELIER.—George A. McIntyre, M.D., 85, of Loomis Street, and a longtime area practitioner, died Dec. 14, 1995, in Berlin Health and Rehabilitation Center of complications due to Parkinson's disease.

Born on May 3, 1910, in Burlington, he was the son of James C. McIntyre and Emma J. (Wakefield) McIntyre.

He received a bachelor of science degree from the University of Vermont and an M.D. from UVM in 1935. Following internship he opened a family practice in Montpelier.

On July 10, 1941, he married Theresa Wilkinson in Montpelier and to that marriage four children were born.

From Sept. 2, 1942, until Feb. 3, 1946, he actively served as a U.S. Army physician, principally in New Guinea and in the southern Philippines. His military specialty was that of chief of gastroenterology. His final rank promotion was that of major. Postgraduate education was obtained at New York Postgraduate Hospital, University of Chicago, Billings General Hospital, and St. Luke's Hospital, also in Chicago.

Dr. McIntyre was an attending physician at Heaton Hospital and its successor, Central Vermont Hospital, for a total of 46 years and a member of Washington County Medical Society, Vermont State Medical Society, and American Medical Association.

In addition to his regular practice, Dr. McIntyre was medical consultant to Kinstead on upper Main Street in Montpelier, a state-run institution; to New England Telephone and Telegraph Co., IBM, Agway, and the Selective Service. For several years, he was health officer for the City of Montpelier and was attending physician at Vermont College for 31 years, serving under the administration of four presidents and medical director of the former Heaton House.

On May 15, 1981, Dr. McIntyre was awarded a citation from the Vermont Medical Alumni Association, "in recognition of his many years of exemplary medical practice and outstanding community service which reflects credit upon the medical profession and epitomizes the ideal physician." He retired in November of that year.

Following retirement, he was director of the library at Central Vermont Hospital for almost five years, president of Washington County Cancer Society, newsletter editor of the Lake Mansfield Trout Club, and a member of the club, a Montpelier-based literary club. He also authored the history of Christ Church (Episcopal) in Montpelier.

Norwich University of Vermont conveyed recognition on Dr. McIntyre by conferring on him an honorary doctor of humanities degree during commencement exercises at Vermont College on May 22, 1988.

In a reading presented for inclusion in the Congressional Record by Sen. Patrick Leahy in March 1989, Leahy stated, "Dr. McIntyre has been my family's doctor for as long as I can remember. All the Leahys have come to depend on him for his patience, caring, and advice. I have literally known him all my life, as he is the physician who delivered me on March 31, 1940."

Survivors include his wife of 54 years, Theresa (Wilkinson), whom he married June 10, 1941, in Montpelier; three sons, James C. McIntyre of Montpelier, William A. McIntyre of Nashua, N.H., and John S. McIntyre of Barre; one daughter, Anne M. McIntyre of Melrose, Mass.; and two grandchildren, Matthew and Julia Anne McIntyre.

Services will be held Sunday at 2 p.m. in Christ Church (Episcopal). Spring burial service will take place in Lake View Cemetery in Burlington. Calling hours are scheduled today from 2 to 4 and 7 to 9 p.m. in Guare and Sons Funeral Home, 80 School St., Montpelier. The family requests that flowers be omitted. Memorial contributions may be made to Central Vermont Hospital, P.O. Box 547, Barre, Vt. 05641.

THE BUDGET

Mr. DORGAN. Mr. President, I listened with interest at the discussion moments ago on the floor about the issue of the shutdown and the budget negotiations. I have been involved with Senator EXON on the Democratic side in those negotiations for a number of weeks. We have regrettably not solved the problem. We have not resolved a budget that represents a compromise on both sides. It is probably safe for everyone to say that we have, at the end of this year, a real mess here in Washington, DC, and in the Congress.

It is tempting to just blame, and it seems to me there are plenty of targets, but it seems to me what is causing this deadlock and this impasse is a circumstance where a large number of Members of Congress have come to town to say, "The way we negotiate is to say to you, 'It is our way or no way. You agree with us or we create deadlock. We won't accept compromise.'"

The Senator from Vermont talked about the press conference yesterday by some on the other side of the Capitol who said, "Let's lock the room. Let's have the President and the majority leader of the Senate and the Speaker of the House put in a room and lock the room and not have them come out until there is an agreement on a balanced budget."

The Senator from Vermont appropriately asked the question: Why would they not have asked themselves to remain here last week?

I stood on the floor of this Senate late last week when we were told that the other side had decided they were leaving at 2:30 in the afternoon, and late that afternoon I asked on the floor of the Senate, what about this shutdown? What about the 270,000 people who are prevented from going to work? What about the taxpayers who are told they are going to pay people who are prevented from doing their work?

What about the other half-million people who are working and not getting paid, working a full pay period and getting half a paycheck? That has not been discussed on the floor. I ask, what leverage does it give anyone to poke the eye of the taxpayer by saying to the taxpayers of this country, "You are going to pay 270,000 people who are prevented from coming to work and dangling Federal workers out as pawns in this budget debate"? What possible leverage could anyone receive from this chaos and this mess? This is not leverage, this is foolishness, and it ought to end.

They say this is about principle. It is about balancing the budget in principle. I ask this question: What principle is involved in a proposal to balance the budget that says, "By the way, let us change the alternative minimum tax so that 2,000 corporations, the biggest corporations in America, each get a $7 million tax cut from this little adjustment in something called the AMT? Two thousand companies, $7 million each in a new tax break, to balance the budget?

What principle is involved in changing something that no one understands called section 956(a) of the Tax Code, that says, "Let us make it easier, and let us provide a better incentive for people to close their manufacturing plants in America and move the jobs overseas"? What possible principle is involved in making that adjustment for those few recipients, the largest corporations in the country, to be rewarded in something that is called a balanced budget?

I also note the story today in the newspaper that says, "Furloughs Fail To Ground Overseas Trips by Congress." I think those who are responsible for shutting down the Government and who now plan to leave on a congressional foreign trip should think better of it. Some of their constituents might see their actions of shutting down the Government and then leaving the country as leaving the scene of an accident. We ought not be talking about foreign trips. We ought to be talking about getting this Government up and running and reaching a budget agreement.

The Republicans are right. I have said it before and I will say it this afternoon, the Republicans are right for pushing for a balanced budget. I compliment them for it. They have energy and strength to say we ought to balance the budget. They are right about that. We ought to do it in 7 years. They are right about that. The Democrats are right in saying let us do it the right way, by protecting the priorities in this country. Let us not pull the rug out from under Medicare. Let us make sure we invest in education. The Republicans are right and the Democrats are right. Let us take the best of what both have to offer, rather than get the worst of what each party has to offer this country.

My hope is that, by the end of today or tomorrow, working together, all of us, we will find a way to end this Government shutdown, put people back to work, develop a plan to balance the

Federal budget, do it in 7 years, and do it with the right priorities that still will make this a better country in the future and especially do it in a way that is sensitive to the needs of some of the most vulnerable people in our country.

The American people, it seems to me, at the end of 1995, deserve a government that offers some measure of confidence, not chaos. We find ourselves in this circumstance, at the end of this year, for a lot of reasons. This Congress did not pass its appropriations bills on time. It did not pass its reconciliation bill on time. It did not pass any appropriations bills on time. The fact is, we end the year in chaos.

We can, it seems to me, even by the end of this week—tomorrow, Saturday, Sunday, Monday—still make some measure of progress in doing the right thing. And the right thing would be to restore to those Federal workers the opportunity to come back to their jobs, to restore, for the taxpayers, some sense of confidence that we are doing the right thing, and to provide for this country a budget that is balanced—yes, in 7 years; and, yes, in the right way.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

AGREE ON A BUDGET

Mr. NICKLES. Mr. President, continuing with the remarks I made earlier to Senator DOLE, urging him to follow up on what he was talking about doing, going to the President and urging the President to sign at least three of these bills—I hope that happens. I have before me the Interior bill and the President's veto message, and there is no reason the President should veto this bill. He has vetoed it. It has caused a lot of dislocation. It has put a lot of people out of work, not only hurt the Federal employees, but it has also hurt a lot of constituents. They have not had the opportunity to visit parks and museums. I think that is really unfortunate, when I looked at the reason why he vetoed the bill.

So I urge the President to agree with Senator DOLE and Speaker GINGRICH and sign this bill—maybe making a couple of changes. We can make those changes. We can agree, if the two leaders, in meeting with the President, agree on a couple of changes, modifications. I know he wants a little more money for a couple of items in the bill. But by and large, I think it was vetoed for the wrong reason. This could be signed, thousands of people could go back to work, and our constituents would have access to parks and museums all across the country. So I hope that happens.

The other couple of bills that the President could sign and hopefully will sign soon, Commerce, State, Justice, and VA/HUD—again, let us agree to make whatever compromises are necessary, compromises in a couple of areas. The differences are not that great. But the bill should be signed. Those employees should go back to work and constituents, veterans and others, could receive the services they expect and are entitled to.

But the most important thing that needs to really happen is that we need to come to a resolution and agree on a budget. My friend and colleague from North Dakota said it has been months and we have been behind on reconciliation, it has taken too long —though Congress has tried to do a lot of things. It tried to reform welfare. Unfortunately, the President vetoed that package. It tried to balance the budget. We have never done that before. I have been here 15 years, we have never passed a balanced budget. We have never curtailed the growth of entitlement programs. We are trying to do that now.

Unfortunately, we have not had any real support or help from the White House, from the administration. Yes, it is a congressional initiative, and it is easier said than done, but most of the time, Congress and politicians make rhetoric, saying we want to balance the budget, but they do not follow through. Congress, now, is very intent, very sincere, very earnest in saying we want to balance the budget and we want to do it with real numbers.

We thought, 6 weeks ago, President Clinton had agreed and made that commitment that he would do so as well. In the last 6 weeks since the November 15 agreement to have the CBO budget in 7 years, the President has yet to submit one. I compliment my colleagues on both sides of the aisle who have signed on to a budget that is balanced using real, honest numbers. At least a dozen Democrats have signed on. So we, at least, have a package. You can work and negotiate because you are both dealing with the same numbers. They go to a goal of a balanced budget.

Unfortunately, President Clinton has not. Maybe today he will. But the press reports are that he still refuses to submit a balanced budget, so we will have a budget that we can compare. Maybe he is just going to throw rocks at the budget we have. Maybe he is going to throw rocks at the budget the Democrats have. I do not know. But I am hopeful. I want to be optimistic. I think it is awfully important for the future of this country, for the future generations, that we do start, begin to live within our means.

So I urge the President to work with Majority Leader DOLE and Speaker GINGRICH today, work to find an agreeable compromise to where no one individual or party is a winner but the American people will be winners; so the White House can claim victory, the Congress can claim victory, but the real victors, the real winners in this entire process will be the American people and future generations. That would be something worth fighting for. It would be something worth working for. That would be a victory, I think, that all people could claim some credit for.

I hope that will happen. I do think it is possible. It is possible if the President wants to make it happen. Hopefully he will.

Mr. President, I yield the floor.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess subject to the call of the Chair.

Thereupon, at 12:38 p.m., the Senate recessed subject to the call of the Chair.

The Senate reassembled at 7:51 p.m., when called to order by the Presiding Officer (Mr. NICKLES).

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON SERBIA AND MONTENEGRO—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT OF THE SENATE—PM 104

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate on December 27, 1995, received a message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 1511 of the National Defense Authorization Act for Fiscal Year 1994 (hereinafter the "Act"), requires that the sanctions imposed on Serbia and Montenegro, as described in that section, shall remain in effect until changed by law. Section 1511(e) of the Act authorizes the President to waive or modify the application of such sanctions upon certification to the Congress that the President has determined that the waiver or modification is necessary to achieve a negotiated settlement of the conflict in Bosnia-Herzegovina that is acceptable to the parties.

In accordance with this provision, I have issued the attached Presidential Determination stating that the suspension of the sanctions described in section 1511(a)(1–5) and (7–8) and in conformity with the provisions of United Nations Security Council Resolutions 1021 and 1022 is necessary to achieve a negotiated settlement of the conflict. As described in the attached Memorandum of Justification, this sanctions relief was an essential factor motivating Serbia and Montenegro's acceptance of the General Framework Agreement for Peace in Bosnia and Herzegovina initialed in Dayton, Ohio, on November 21, 1995 (hereinafter the "Peace Agreement").

I have directed the Secretaries of the Treasury and Transportation to suspend immediately the application of these sanctions on Serbia and Montenegro and have authorized the Secretary of State to suspend the arms embargo at appropriate stages consistent with United Nations Security Council Resolution 1021. The first stage would be 91 days after the United Nations Secretary General reports to the United Nations Security Council that all parties have formally signed the Peace Agreement.

The measures taken to suspend these sanctions may be revoked if the Implementation Force (IFOR) commander or High Representative determines that Serbia and Montenegro or the Bosnian Serbs are not meeting their obligations under the Peace Agreement.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *December 27, 1995.*

REPORT ON PROGRESS CONCERNING EMIGRATION LAWS AND POLICIES OF THE RUSSIAN FEDERATION—MESSAGE FROM THE PRESIDENT—PM 105

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

On September 21, 1994, I determined and reported to the Congress that the Russian Federation is in full compliance with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. This action allowed for the continuation of most-favored-nation (MFN) status for Russia and certain other activities without the requirement of an annual waiver.

As required by law, I am submitting an updated report to the Congress concerning the emigration laws and policies of the Russian Federation. You will find that the report indicates continued Russian compliance with the United States and international standards in the area of emigration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *December 29, 1995.*

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on December 27, 1995, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 4. An act to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence.

H.R. 394. An act to amend title 4 of the United States Code to limit State taxation of certain pension income.

H.R. 1878. An act to extend for 4 years the period of applicability of enrollment mix requirement to certain health maintenance organizations providing services under Dayton Area Health Plan.

H.R. 2627. An act to require the Secretary of the Treasury to mint coins in commemoration of the sesquicentennial of the founding of the Smithsonian Institution.

The enrolled bills were signed subsequently by the Acting President pro tempore (Mr. KEMPTHORNE).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1749. A communication from the Lieutenant General of the Defense Security Assistance Agency, transmitting, pursuant to law, the annual on the operation of the Special Defense Acquisition Fund for fiscal year 1995.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCONNELL (for himself, Mr. MOYNIHAN, Mr. D'AMATO, and Mr. LEAHY):

S. 1511. A bill to impose sanctions on Burma; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LUGAR (for himself and Mr. COATS):

S. 1512. A bill to amend title 23, United States Code, to improve safety at public railway-highway crossings, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HATCH:

S. 1513. A bill to amend the Trademark Act of 1946 to make certain revisions relating to the protection of famous marks; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LEAHY (for Mr. DASCHLE):

S. Res. 206. A resolution making minority party appointments for the Committee on Veterans' Affairs; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCONNELL (for himself, Mr. MOYNIHAN, Mr. D'AMATO, and Mr. LEAHY):

S. 1511. A bill to impose sanctions on Burma; to the Committee on Banking, Housing, and Urban Affairs.

THE BURMA FREEDOM AND DEMOCRACY ACT OF 1995

Mr. McCONNELL. Mr. President, I rise today with Senators MOYNIHAN, D'AMATO, and LEAHY to introduce the Burma Freedom And Democracy Act of 1995.

Early in December, prospects for democracy in Burma took a turn for the worse. In a remarkable act of courage, Aung San Suu Kyi and her colleagues in the National League for Democracy decided not to participate in the National Convention orchestrated by the State Law and Order Restoration Council. In announcing her decision she said, "A country which is drawing up a constitution that will decide the future of the state should have the confidence of the people." This is a standard that SLORC cannot meet.

Burma is not one step closer to democracy today than it was in the immediate aftermath of the crackdown in 1988. Indeed, in Aung San Suu Kyi's own words, "I have been released, that is all."

In fact, the situation continues to deteriorate. A recent report filed by the U.N. Special Rapporteur on Burma, Dr. Yokota, is a fresh, sharp reminder of the level of despair and the brutality suffered by the people of Burma at the hands of SLORC.

In lengthy remarks on December 8, I reviewed for my colleagues in detail the Yokota report. Let me take a moment to briefly review its most recent conclusions.

Virtually no improvements have occurred since the spring report of the Special Rapporteur. Dr. Yokota reported that the National Convention "is not heading towards restoration of democracy" and criticized SLORC for not affording him the opportunity to meet with convention participants free from SLORC supervision.

But, those criticisms were mild compared to his determinations with regard to human rights and the quality of life for the average Burmese citizen.

A complex array of security laws are used to harass, intimidate, and afford SLORC soldiers sweeping powers of arrest and detention. He charged the military with carrying out arbitrary killings, rape, torture, forced porterage, forced labor, forced relocations, and confiscation of private property. He substantiated many refugee claims that this pattern of abuse continues most frequently "in border areas where the Army is engaged military operations or where regional development projects are taking place." He added, "many of the victims of such atrocious acts belong to ethnic national populations, especially women, peasants, daily wage earners and other peaceful civilians who do not have enough money to avoid mistreatment by bribing."

If anyone had any doubts about the ruthless nature of the SLORC regime, I encourage them to take a few minutes to read this report.

SLORC has now turned its attention to the rising influence of Suu Kyi and her supporters. SLORC has cynically used the fact of her release to attempt to demonstrate they are relaxing their grip on power. Unfortunately, it is a sadistic charade.

Although Suu Kyi has repeatedly called for a dialog to reconcile the nation, SLORC has rejected every attempt to include her or the NLD in a credible political process. Last week Suu Kyi was personally attacked in the official newspapers as a "traitor" who should be "annihilated." When the NLD announced they would not participate in the National Convention, senior officials woke up to find their homes surrounded by soldiers and their movements shadowed by military thugs.

In response to this assault on democracy and democratic activities, members of the business community have made two arguments. First, the allegations are exaggerations of the conditions. And, second, trade, investment, and economic improvements will yield political progress just as it has in China and Vietnam.

Mr. President, I urge the business community to read Dr. Yokota's recent report and then consider an important difference in Burma. In 1990 elections were held and the nation spoke with a strong voice. Suu Kyi's National League for Democracy swept the elections only to find the results brutally rejected by SLORC. We cannot pretend those elections did not occur. We cannot turn our back on the legitimate Government of Burma. We should not trade democracy for dollars in the pockets of a few companies interested in investing in Burma.

Suu Kyi has been absolutely clear. She will welcome foreign investment in her country just as soon as it makes real progress toward democracy.

The United States must take the lead in supporting not only her courage but her objective which is nothing short of Burma's liberty. It is clear U.N. Ambassador Albright understands the importance of our role and the responsibilities of United States leadership in securing democracy for Burma. In responding to the U.N. Rapporteur's report and the subsequent General Assembly resolution she spelled out the alternatives for SLORC: They must—there must be prompt and meaningful progress in political reforms including a transition to an elected Government or Burma will face further international isolation.

Mr. President, I agree with the Ambassador's conclusions. However, it is a position that the administration has expressed for more than a year. My definition of prompt differs from the administration's timetable. SLORC has had ample time and opportunity to demonstrate their intent to in effect return to the barracks and leave the governing of the country to democratically elected civilians. Burma waited for decades to vote for the National League for Democracy. They have waited for the past five years to benefit from the results of that election. Burma has waited for its freedom long enough.

In past statements of Burma I have devoted a good deal of my remarks to why a country so far away should matter to anyone here in the United States. It is not just a matter of upholding the principles of democracy and free markets—principles that define our history and national conscience. But, for many, those are ideals that are difficult to transplant—it is difficult to see why we should apply sanctions to further that cause.

The reason it is in our direct interest to secure democracy in Burma relates to the surge in narcotics trafficking afflicting every community in this Nation. Burma is the source of more than 60 percent of the heroin coming into the United States. As the Assistant Secretary of State for Asian Affairs has testified, until there is a democratically elected government in Rangoon, committed to a similar set of values, we will not see the active cooperation necessary to bring a real halt to this problem. We may see episodic efforts designed—like Suu Kyi's release—to influence our perceptions of SLORC's intentions. But, we will not see a serious effort to eradicate opium production unless we can work with a government dedicated to our common agenda.

The credibility of a counternarcotics program directly relates to the credibility of the government.

Let me conclude by thanking Senators MOYNIHAN, LEAHY, and D'AMATO for joining me in this legislation. I appreciate my colleague on the Subcommittee on Foreign Operations joining me in this important effort. I understand the Parliamentarian has decided that this will be referred to the Banking Committee, so I am grateful for the cosponsorship of the chairman, Senator D'AMATO.

But, I want to take a moment to single out Senator MOYNIHAN and his long standing commitment to Suu Kyi's safe return to public life. When we were members of the Senate Foreign Relations Committee in 1992 Senator MOYNIHAN and I worked together to establish conditions which must be met prior to our dispatching a U.S. Ambassador to Burma. Then as now, he has been articulate champion for a noble cause.

● Mr. MOYNIHAN. Mr. President, the Senator from Kentucky and I join together to propose a modest measure in response to a continued pattern of egregious abuses of power by the Burmese military junta, the State Law and Order Restoration Council [SLORC]. The members of SLORC have worked to thwart democracy at every turn. They continue to be implicated in drug trafficking, and they continue to abuse the people of Burma in a manner that can only be characterized as inhuman.

This bill makes clear our intention that such a regime will no longer enjoy investments from the United States. Investments which so often supported—knowingly or unknowingly—its totalitarian and abusive rule. The bill also codifies our intention to withhold our support for loans to Burma from international financial institutions, to prevent direct assistance to the SLORC, and to exclude the members of SLORC from the United States.

In 1988 the Burmese people took to the streets of Rangoon, to demand democracy for their country. Sadly, government forces turned peaceful protests into violent tragedy. In September of that year, thousands of unarmed demonstrators were killed by government troops.

Since then, the SLORC has earned its reputation as one of the worst violators of human rights in the world. The Department of State and numerous human rights organizations document this. The SLORC maintains power through violence and intimidation. In effect, the military junta has waged war against its own people. But the will of the Burmese people cannot be squelched. As they continue their fight for democracy, support from the international community remains steadfast.

The SLORC came to power through violence, but it must have cynically imagined that a rigged election would be the answer to its untenable political situation, and one was scheduled for

May 1990. The National League for Democracy [NLD] party, led by Aung San Suu Kyi, won that election while she was under house arrest. Yet the SLORC has never allowed the elected leaders of Burma to take office. Instead it has forced these leaders to flee their country to escape arrest and death.

The U.S. Senate has spoken often in support of those brave Burmese democracy leaders. We have withheld aid and weapons to the military regime, and have provided some—albeit modest amounts—of assistance to the Burmese refugees who have fled the ruthless SLORC. Pro-democracy demonstrators were particularly vulnerable, yet having fled the country they found themselves denied political asylum by Western governments. In 1989, Senator KENNEDY and I rose in support of the demonstrators and won passage of an amendment to the Immigration Act of 1990 requiring the Secretary of State and the Attorney General to define clearly the immigration policy of the United States toward Burmese pro-democracy demonstrators. Congress acted again on the Customs and Trade Act of 1990 to adopt a provision I introduced requiring the President to impose appropriate economic sanctions on Burma. The Bush administration utilized this provision to sanction Burmese textiles. Unfortunately, these powers have never been exercised by the current administration.

The Senate continued to press for stronger actions. On March 12, 1992, the Foreign Relations Committee unanimously voted to adopt a report which Senator MCCONNELL and I submitted detailing specific actions that should be taken before the nomination of a United States Ambassador to Burma would be considered by the Senate.

Last year, the State Department authorization act for 1994–1995 contained a provision I introduced placing Burma on the list of international outlaw states such as Libya, North Korea, and Iraq. Let us be clear: The U.S. Congress considers the SLORC regime to be one of the very worst in the world. The Senate also unanimously adopted S. 234 on July 15, 1994, calling for the release of Aung San Suu Kyi and for increased international pressure on the SLORC to achieve the transfer of power to the winners of the 1990 Democratic election.

After 6 years of unjust detention by the Burmese military, Nobel Peace Prize Laureate Aung San Suu Kyi was released on July 10, 1995. While this was cause for celebration and great relief for those of us who have long called for her release, one cannot fail to stress that there is also great outrage that she was incarcerated in the first instance.

The struggle in Burma is not over. The SLORC continues to wage war against its own people. Illegal heroin continues to be produced with the junta's complicity. And the SLORC continues to thwart the transfer to democracy in Burma. The New York Times writes appropriately in an editorial:

> The end of Ms. Aung San Suu Kyi's detention must be followed by other steps toward democracy before Myanmar is deemed eligible for loans from multilateral institutions or closer ties with the United States. It is too soon to welcome Yangon back into the democratic community.

Too soon indeed.•

By Mr. LUGAR (for himself and Mr. COATS):

S. 1512. A bill to amend title 23, United States Code, to improve safety at public railway-highway crossings, and for other purposes; to the Committee on Environment and Public Works.

THE HIGHWAY RAIL GRADE CROSSING SAFETY FORMULA ENHANCEMENT ACT OF 1995

• Mr. LUGAR. Mr. President, today I am introducing the Highway Rail Grade Crossing Safety Formula Enhancement Act. This important legislation will provide a more effective method of targeting available Federal funds to enhance safety at our Nation's most dangerous highway rail grade crossings.

In America today, several hundred people are killed and thousands more injured every year as a result of vehicle-train collisions at highway rail grade crossings. A significant number of these accidents occur in rail-intensive States such as Indiana, Illinois, Ohio, California, and Texas. One quarter of the Nation's 168,000 public highway rail grade crossings are located in these five States. They accounted for 38 percent of deaths and 32 percent of injuries caused by vehicle-train collisions nationwide during 1991–93.

My home State of Indiana ranks sixth in the Nation for number of total grade crossings with 6,788, third in the Nation for grade crossing accidents with 263, and fifth for fatalities with 27. Last year, I traveled across northern Indiana aboard a QSX-500 locomotive and witnessed what engineers see every day—motorists darting across the railroad tracks before an oncoming train. From this experience, and from my work to improve safety at highway-rail grade crossings, I learned that engineering solutions, along with education and awareness about grade crossing safety are key strategies that can effectively prevent grade crossing accidents.

Responding to this disturbing national trend, I began working with Transportation Secretary Federico Peña and with the Indiana Department of Transportation to address this serious safety problem. We worked to find solutions that would help Indiana and other States make better use of available funds to target the Nation's most dangerous rail crossings.

The Federal Government has played an important role in helping States reduce accidents and fatalities at public rail-highway intersections since passage of the Highway Safety Act by Congress in 1973. This act created the Rail-Highway Crossing Program—also known as the section 130 program. Since the program's inception, more than 28,000 improvement projects have been undertaken—from installation of warning gates, lights, and bells, to pavement improvements and grade separation construction projects.

During the 103d Congress, I introduced grade crossing safety legislation to restore States' discretion over millions of Federal highway dollars lost as a result of noncompliance with the Federal motorcycle helmet law. Indiana and other States affected by this law were prohibited from using a portion of their highway construction dollars to improve safety at highway rail grade crossings. While the Senate did not approve this legislation during the 103d Congress, I am pleased the Congress repealed the helmet law penalty this year as part of the National Highway System Designation legislation. Repeal of this Federal sanction allows States greater flexibility to use their Federal highway dollars for improvements at rail crossings, and for other transportation priorities.

In March, 1994, Senator COATS and I asked the General Accounting Office to conduct a survey of rail safety programs in Indiana and other rail intensive States experiencing a high number of accidents at highway-rail grade crossings. Released this summer, the report—"Railroad Safety: Status of Efforts to Improve Railroad Crossing Safety"—evaluated the best uses of limited Federal funds for rail crossing safety, reviewed policy changes that help State and local governments address rail safety issues, and recommended strategies to encourage interagency and intergovernmental cooperation.

The report found that in addition to States' efforts to reduce accidents and fatalities through emphasis on education programs and engineering solutions, changes to the funding formulas to apportion highway funds among States would target Federal funds to areas of greatest risk.

Under the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA], the section 130 program was continued as part of the Surface Transportation Program [STP]. Under ISTEA, 10 percent of a State's apportioned STP funds are allocated to States for highway rail crossing improvement and hazard elimination projects.

The GAO reported that key indicators of risk factors used to assess rail grade crossing safety in a State are not considered during the apportionment process. The GAO outlined the Federal Highway Administration's ongoing efforts to review options for STP formula changes that will adjust the current flat percentage allocation from a State's apportioned amount to account for these risk factors. Applying these factors to the funding formula creates a more targeted and focused process that maximizes the effectiveness of Federal funds.

The risk factors criteria considered includes a State's share of the national total for number of public crossings, number of public crossings with passive warning devices, total number of accidents and total number of fatalities occurring as a result of vehicle-train collisions at highways rail grade crossings.

For example, while Indiana received 3.4 percent of section 130 funds in fiscal year 1995, the Hoosier State experienced 6.1 percent of the Nation's accidents and 5.9 percent of the fatalities as a result of vehicle-train collisions from 1991–93. In addition, Indiana has 4 percent of the Nation's public rail crossings: 6,788.

Preliminary estimates of STP apportionments under this legislation indicate Indiana's share of section 130 funds could increase by 33 percent, from the fiscal year 1995 level of $4.9 million to $6.6 million. Overall, about 24 States would receive an increase in section 130 funds for grade crossing improvements.

The GAO cited similar statistical comparisons for Illinois, Ohio, and Texas.

While the Indiana Department of transportation [INDOT] spent more than $10 million last year on improvements to highway rail grade crossings, a one-third increase in section 130 funds would allow INDOT and other State departments of transportation additional flexibility and resources to improve safety at dangerous rail crossings.

The Formula Enhancement Act addresses the allocation problem by adjusting the funding formula for the STP to include a 5-percent apportionment of funds to States for the section 130 program based on a 3-year average of these risk factors. The FHWA has been helpful in preparing this legislation, and I want to express my appreciation to them for their assistance.

This legislation will help improve the way the Federal Government targets existing resources to enhance safety on our Nation's highways and along our rail corridors. This legislation does not call for new Federal spending, but rather for a more equitable and effective distribution of existing highway funds to States to enhance safety at dangerous highway rail grade crossings.

I am introducing this measure today anticipating congressional consideration next year of a reauthorization bill to succeed the ISTEA which expires after fiscal year 1997. With the many changes occurring in the 104th Congress, it is unclear what direction the next highway authorization bill will take or what the Federal role will be in maintaining the national transportation infrastructure. I wanted to share with my colleagues my interest in ensuring that highway rail grade crossing safety will be a part of these deliberations. I am hopeful highway rail grade crossing safety improvement efforts will continue in rail intensive States and in other States where accidents and fatalities continue to occur a result of vehicle-train collisions.

I am hopeful this legislation will reinforce the importance of highway rail grade crossing safety issues as the Congress moves forward with the national discussion of U.S. transportation policy for the 21st century. I believe continued emphasis on finding new and better ways to maximize existing resources that enhance safety at highway rail grade crossings will contribute to the overall effort in Congress and in the States to prevent accidents, save lives and sustain a balanced and effective transportation network for the Nation.•

• Mr. COATS. Mr. President, the bill which Senator LUGAR and I are introducing today will help correct a critical deficiency and help prevent senseless, tragic accidents at rail grade crossings.

Indiana is one State which suffers from high numbers of accidents and deaths at railroad crossings. Rail transportation is important in Indiana, playing a key role in the State's agriculture and manufacturing economy. Much of the rail activity goes through northwest Indiana which accounts for 75 percent of the State's rail crossing accidents. In 1994, Indiana ranked third in the Nation with 263 rail crossing accidents, resulting in the deaths of 27 people; 6.1 percent of all rail crossing accidents in America took place in Indiana and 5.9 percent of the fatalities occurred there.

As Senator LUGAR and I became aware that Indiana had a critical problem with rail accidents, we asked the General Accounting Office [GAO] to examine the safety conditions in States with a high concentration of rail crossings. When the GAO report was completed in August 1995, it revealed that although Indiana had a large number of rail crossings—6,700, the sixth largest number of all States—the State received only 3.4 percent of the Federal funding available specifically targeted to prevent such tragedies.

The section 130 program was established in 1973 to help States reduce accidents, injuries, and fatalities at public railroad crossings. In the first 10 years of the program, accidents declined by 61 percent and deaths were reduced by 34 percent. Since 1985, however, there has been little progress made toward further reducing these numbers.

The problem becomes apparent when you realize that many of the States with the highest concentration of crossings, number of accidents, and fatalities receive less money than States which do not have as great a need. Thus, the GAO concluded that the Federal Government should examine funding formulas and consider using risk factors in determining how to distribute section 130 highway dollars to States for rail safety purposes.

The current formula funding—based on 10 percent of a State's surface transportation program [STP] funding—does not take into account such essential criteria as a State's total number of crossings, amount of train traffic, as well as the number of accidents and fatalities. I believe it is critical that these elements—risk factors—be considered in determining how much money a State should receive for rail safety.

The formula enhancement bill corrects this flaw in the current funding formula. Based on the GAO report and working with the Federal Highway Administration, we have crafted legislation which changes the formula in way to ensure that States with the greatest risk receive more funding. This bill does not increase Federal spending in any way. Rather it ensures that current spending on rail safety under section 130 is done more effectively. Specifically, it sets aside 5 percent of the total apportionment for surface transportation program funding and directs it to the States based on the total number of accidents, total number of fatalities, number of public railway highway crossings, and number of passive warning devices.

Under this new formula, Indiana—which received $4.9 million in 1995—could receive $6.6 million. Overall, 24 States would benefit from increased funding to help reduce rail crossing accidents.

It is our goal to work with the Committee on Environment and Public Works to help ensure that this formula change is considered as part of Intermodal Surface Transportation Efficiency Act reauthorization when it occurs either next year or in 1997.

Money alone will not solve all the problems related to rail crossing accidents. I support greater education programs such as Operation Lifesaver. Continued cooperation among all levels of government: local, State, and Federal is essential to stop these sort of tragedies. However, we should also ensure that a Federal program which was designed to help States with safety issues at rail crossings is targeted in a way which ensures the most effective use of these resources.

It is time for us to direct this program where it has the best hope of making an impact and thus reduce the senseless accidents and tragic deaths at rail crossings.•

By Mr. HATCH:

S. 1513. A bill to amend the Trademark Act of 1946 to make certain revisions relating to the protection of famous marks; to the Committee on the Judiciary.

THE FEDERAL TRADEMARK DILUTION ACT

Mr. HATCH. Mr. President, I am very pleased to introduce today the Federal Trademark Dilution Act of 1995.

Mr. President, this bill is designed to protect famous trademarks from subsequent uses that blur the distinctiveness of the mark or tarnish or disparage it, even in the absence of a likelihood of confusion. Thus, for example, the use of DuPont shoes, Buick aspirin, and Kodak pianos would be actionable under this bill.

The concept of dilution dates as far back as 1927, when the Harvard Law Review published an article by Frank I. Schecter in which it was argued that coined or unique trademarks should be protected from the "gradual whittling away of dispersion of the identity and hold upon the public mind" of the mark by its use on noncompeting goods. Today, 25 States have laws that prohibit trademark dilution.

A Federal dilution statute is necessary, Mr. President, because famous marks ordinarily are used on a nationwide basis and dilution protection is only available on a patchwork system of protection. Further, some courts are reluctant to grant nationwide injunctions for violation of State law where half of the States have no dilution law. Protection for famous marks should not depend on whether the forum where suit is filed has a dilution statute. This simply encourages forum-shopping and increases the amount of litigation.

Moreover, Mr. President, the GATT agreement includes a provision designed to provide dilution protection to famous marks. Thus, enactment of this bill will be consistent with the terms of the agreement, as well as the Paris Convention, of which the United States is also a member. Passage of a Federal dilution statute, Mr. President, would also assist the executive branch in its bilateral and multilateral negotiations with other countries to secure greater protection for the famous marks owned by U.S. companies. Foreign countries are reluctant to change their laws to protect famous U.S. marks if the United States does not afford special protection for such marks.

Mr. President, as many Members will recall, a Federal dilution statute was proposed as part of the comprehensive trademark reform package that was enacted into law in November 1988, and took effect 1 year later. The comprehensive bill initially passed by the Senate included the dilution provision. However, the dilution proposal was deleted from the bill prior to final congressional passage. The current proposal, I believe, eliminates any concerns previously voiced in congressional hearings regarding the former Federal dilution provision.

Mr. President, the bill I am introducing today is the product of years of consideration and the study by Congress and various experts in this field, including the International Trademark Association, formerly the United States Trademark Association. It would amend section 43 of the Trademark Act to add a new subsection (c) to provide protection against another's commercial use of a famous mark which results in the dilution of such mark. The bill defines the term "dilution" to mean "the lessening of the capacity of registrant's mark to identify and distinguish goods and services regardless of the presence or absence of (a) competition between the parties, or (b) likelihood of confusion, mistake, or deception."

The proposal adequately addresses legitimate first amendment concerns espoused by the broadcasting industry and the media. The bill will not prohibit or threaten noncommercial expression, such as parody, satire, editorial and other forms of expression that are not a part of a commercial transaction. The bill includes specific language exempting from liability the "fair use" of a mark in the context of comparative commercial advertising or promotion.

The legislation sets forth a number of specific criteria in determining whether a mark has acquired the level of distinctiveness to be considered famous. These criteria include: First, the degree of inherent or acquired distinctiveness of the mark; second, the duration and extent of the use of the mark; and third, the geographical extent of the trading area in which the mark is used.

With respect to remedies, the bill limits the relief a court could award to an injunction unless the wrongdoer willfully intended to trade on the registrant's reputation or to cause dilution, in which case other remedies under the Trademark Act become available. The ownership of a valid Federal registration would act as a complete bar to a dilution action brought under State law.

Mr. President, the Judiciary Committee, which I chair, looks forward to working with all interested parties to secure enactment of a Federal dilution statute that adequately meets the needs of trademark owners and is consistent with the public interest.

I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1513

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Trademark Dilution Act of 1995".

SEC. 2. REFERENCE TO THE TRADEMARK ACT OF 1946.

For purposes of this Act, the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 and following), shall be referred to as the "Trademark Act of 1946".

SEC. 3. REMEDIES FOR DILUTION OF FAMOUS MARKS.

(A) Remedies.—Section 43 of the Trademark Act of 1946 (15 U.S.C. 1125) is amended by adding at the end the following new subsection:

"(c)(1) The owner of a famous mark shall be entitled, subject to the principles of equity and upon such terms as the court deems reasonable, to an injunction against another person's commercial use in commerce of a mark or trade name, if such use begins after the mark becomes famous and causes dilution of the distinctive quality of the famous mark, and to obtain such other relief as is provided in this subsection. In determining whether a mark is distinctive and famous, a court may consider factors such as, but not limited to—

"(A) the degree of inherent or acquired distinctiveness of the mark;

"(B) the duration and extent of use of the mark in connection with the goods or services with which the mark is used;

"(C) the duration and extent of advertising and publicity of the mark;

"(D) the geographical extent of the trading area in which the mark is used;

"(E) the channels of trade for the goods or services with which the mark is used;

"(F) the degree of recognition of the mark in the trading areas and channels of trade of the mark's owner and the person against whom the injunction is sought;

"(G) the nature and extent of use of the same or similar marks by third parties; and

"(H) the existence of a registration under the Act of March 3, 1881, or the Act of February 20, 1905, or on the principal register.

"(2) In an action brought under this subsection, the owner of a famous mark shall be entitled only to injunctive relief unless the person against whom the injunction is sought willfully intended to trade on the owner's reputation or to cause dilution of the famous mark. If such willful intent is proven, the owner of a famous mark shall also be entitled to the remedies set forth in sections 35(a) and 36, subject to the discretion of the court and the principles of equity.

"(3) The ownership by a person of a valid registration under the Act of March 3, 1881, or the Act of February 20, 1905, or on the principal register shall be a complete bar to an action against that person, with respect to that mark, that is brought by another person under the common law or statute of a State and that seeks to prevent dilution of the distinctiveness of a mark, label, or form of advertisement.

"(4) The following shall not be actionable under this section:

"(A) Fair use of a famous mark by another person in comparative commercial advertising or promotion to identify the competing goods or services of the owner of the famous mark.

"(B) Noncommercial use of a mark.

"(C) All forms of news reporting and news commentary.".

(b) Conforming Amendment.—The heading for title VIII of the Trademark Act of 1946 is amended by striking "AND FALSE DESCRIPTIONS" and inserting "FALSE DESCRIPTIONS, AND DILUTION".

SEC. 4. DEFINITION.

Section 45 of the Trademark Act of 1946 (15 U.S.C. 1127) is amended by inserting after the paragraph defining when a mark shall be deemed to be "abandoned" the following:

"The term 'dilution' means the lessening of the capacity of a famous mark to identify and distinguish goods or services, regardless of the presence or absence of—

"(1) competition between the owner of the famous mark and other parties, or

"(2) likelihood of confusion, mistake, or deception.".

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

SECTION-BY-SECTION ANALYSIS OF THE FEDERAL TRADEMARK DILUTION ACT OF 1995

Section 1. Section one of the bill provides the short title of the bill, the "Federal Trademark Dilution Act of 1995."

Section 2. Section 2 of the bill clarifies the references in the bill to the "Trademark Act of 1946," giving the full title of the law and statutory citations.

Section 3. Section 3 of the bill would create a new Section 43(c) of the Lanham Act to provide a cause of action for dilution of "famous" marks. A new Section 43(c)(1) would provide protection to the owners of famous marks against another person's commercial use in commerce of the mark which dilutes the distinctive quality of the mark. The section would provide protection to famous marks, whether or not the mark is the subject of a federal trademark registration.

Section 3 identifies a list of nonexclusive factors that a court may consider in determining whether a mark qualifies for protection. These factors include: (1) the degree of distinctiveness of the mark; (2) the duration and extent of use of the mark; (3) the geographical extent of the trading area in which the mark is used; and (4) whether the mark is federally registered.

With respect to relief, a new Section 43(c)(2) of the Lanham Act would provide that, normally, the owner of a famous mark will only be entitled to an injunction upon a finding of liability. An award of damages, including the possibility of treble damages, may be awarded upon a finding that the defendant willfully intended to trade on the trademark owner's reputation or to cause dilution of the famous mark.

Under section 3 of the bill, a new Section 43(c)(3) of the Lanham Act would provide that ownership of a valid federal trademark registration is a complete bar to an action brought against the registrant under state dilution law. In this regard, it is important to note that the proposed federal dilution statute would not preempt state dilution laws.

A new Section 43(c)(4) sets forth various activities that would not be actionable. These activities include the use of a famous mark for purposes of comparative advertising, the noncommercial use of a famous mark, and the use of a famous mark in the context of news reporting and news commentary. This section is consistent with existing case law. The cases recognize that the use of marks in certain forms of artistic and expressive speech is protected by the First Amendment.

Section 4. Section 4 of the bill defines the term "dilution" to mean the lessening of the capacity of a famous mark to identify and distinguish goods or services, regardless of the presence or absence of (1) competition between the owner of the famous mark and other parties, or (2) likelihood of confusion, mistake, or deception. The definition is designed to encompass all forms of dilution recognized by the courts, including disparagement. In an effort to clarify the law on the subject, the definition also recognizes that a cause of action for dilution may exist whether or not the parties market the same or related goods and whether or not likelihood of confusion exists.

Section 5. Section 5 of the bill makes the legislation effective upon enactment.

SENATE RESOLUTION 206—MAKING MINORITY PARTY APPOINTMENTS

Mr. LEAHY (for Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 206

Resolved, That the following shall constitute the minority party's membership on the Committee on Veterans' Affairs for the second session of the 104th Congress, or until their successors are appointed: Mr. Rockefeller, Mr. Graham, Mr. Akaka, Mr. Wellstone, and Mrs. Murray.

ADDITIONAL STATEMENTS

TEXAS' STATEHOOD SESQUICENTENNIAL

• Mr. GRAMM. Mr. President, I am honored today to recognize a momentous occasion in the history of the great State which I have the privilege to represent, the proud Lone Star State of Texas. This month we recognize and celebrate Texas' statehood sesquicentennial, 150 years during which we have been blessed and have prospered.

The spirit of Texas has been evident since our earliest days, when we were conceived in the eternal struggle for freedom. The men and women of Texas have an innate and inherent commitment to God and country, and even our flag displays a single star—our people have always looked to the Heavens.

No utterance in our State's history better represents the spirit, virtue, and values of Texas, then or now, than the remarkable letter written on February 24, 1836, by William Barret Travis at the Alamo:

> To the People of Texas and all Americans in the world—
>
> Fellow citizens and compatriots—
>
> I am besieged, by a thousand or more of the Mexicans under Santa Anna—I have sustained a continual Bombardment and cannonade for 24 hours and have not lost a man—The enemy has demanded a surrender at discretion; otherwise, the garrison are to be put to the sword, if the fort is taken—I have answered the demands with a cannon shot, and our flag still waves proudly from the wall—I shall never surrender or retreat. Then, I call on you in the name of Liberty, or patriotism and of everything dear to the American character, to come to our aid, with all dispatch—The enemy is receiving reinforcements daily and will no doubt increase to three or four thousand in four or five days. If this call is neglected, I am determined to sustain myself as long as possible and die like a soldier who never forgets what is due to his own honor and that of his country—Victory or Death.
>
> WILLIAM BARRET TRAVIS,
> *Lieutenant Colonel Commandant.*

Colonel Travis' letter captures the heart and soul of the people of Texas, and I am honored to recognize the statehood sesquicentennial of my beloved Texas.•

SIGNING DULY ENROLLED BILLS

Mr. DOLE. Mr. President, today when the Senate convened, the President pro tempore, Senator THURMOND, appointed the Senator from Idaho, Senator KEMPTHORNE, to be Acting President pro tempore for the day. It is my understanding Senator THURMOND is necessarily absent attending business in South Carolina and attending the funeral of the president pro tempore of the South Carolina State Senate, the Honorable Marshall Williams.

While Senator KEMPTHORNE was Acting President pro tempore for today, one of his responsibilities was to sign duly enrolled bills. Signing enrolled bills is part of the process necessary prior to the documents being sent to the White House for the President's approval or disapproval.

Senator KEMPTHORNE had the distinct pleasure to sign the following enrolled bills, therefore facilitating their being sent to the White House: H.R. 4, welfare reform; H.R. 394, State pensions; H.R. 1878, enrollment of HMO's; and H.R. 2627, Smithsonian coin.

I want to commend Senator KEMPTHORNE and congratulate him on his work today. I hope the President signs all the bills. That may or may not be the case.

REAUTHORIZING THE TIED AID CREDIT PROGRAM

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2203, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2203) to reauthorize the Tied Aid Credit Program of the Export-Import Bank of the United States, and to allow the Export-Import Bank to conduct a demonstration project.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2203) was deemed read the third time and passed.

FEDERAL TRADEMARK DILUTION ACT OF 1995

Mr. DOLE. Mr. President, I ask unanimous consent to proceed to the immediate consideration of H.R. 1295, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1295) to amend the Trademark Act of 1946 to make certain revisions relating to the protection of famous marks.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, passage of this bill is part of our effort to improve intellectual property protection around the world. I hope that it will serve to improve trademark enforcement domestically and serve as a model for our trading partners overseas.

Along with the Anti-Counterfeiting and Consumer Protection Act of 1995, S. 1360, which recently passed the Senate and has already been the subject of a hearing and markup before the House Judiciary Committee's Subcommittee on Courts and Intellectual Property, this bill will help protect the good names, reputations for quality, and investments of American companies from IBM to Ben & Jerry's.

Although no one else has yet considered this application, it is my hope that this antidilution statute can help stem the use of deceptive Internet addresses taken by those who are choosing marks that are associated with the products and reputations of others.

I thank our House colleagues for their work on this bill. It is a pleasure to work with Chairman MOORHEAD and the House subcommittee on these matters. I commend, in particular, Representative SCHROEDER for her outstanding work on this measure. Our House colleagues have announced their intention not to seek reelection next fall. Their leadership and judgment will be greatly missed.

When we in the Senate last considered and passed a similar bill to provide an injunctive remedy against the dilution of the effectiveness of distinctive marks, we did so as part of more comprehensive trademark revision legislation in 1988. Since that time the dilution of well-known marks has become a greater problem both domestically and, especially, internationally.

We intend for this legislation to strengthen the hand of our international negotiators from the Office of the U.S. Trade Representative and the Department of Commerce as they press for bilateral and multilateral agreements to secure greater protection for the world famous marks of our U.S. companies. Foreign countries should no longer argue that we do not protect our marks from dilution, nor seek to excuse their own inaction against practices that are destructive of the distinctiveness of U.S. marks within their borders.

I am delighted that bill now includes express reference to fair use, news reporting, and news commentary. I continue to believe, as our House colleagues also affirm, that parody, satire, editorial, and other forms of expression will remain unaffected by this legislation.

Finally, I want to acknowledge the strong support of the U.S. Patent and Trademark Office, the Department of Commerce, and that of the International Trademark Association and its many members. Without their efforts, we would not be in position to approve this legislation and send it to the President for his signature.

Mr. President, this was an example of Senator HATCH, myself, and others working in a bipartisan effort to get a major piece of legislation through. I thank the leader for his efforts in getting it through.

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 1295) was deemed read the third time and passed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on today's Excutive Calendar: Calendar No. 439.

I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, that any statements relating to the nomination appear at the appropriate place in the RECORD, that the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the nomination was considered and confirmed, as follows:

Jed S. Rakoff, of New York, to be U.S. District Judge for the Southern District of New York.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, let me indicate that we have had a meeting all afternoon at the White House, and I will say, without violating our agreement on statements, afterward we had a good working session. We covered a lot of ground. We are going to meet tomorrow morning. We are going to be there all day, and probably through the evening. We will determine then whether or not we will be here Sunday or Monday. I think it is fair to say that we had a constructive session where everybody, in my view—regardless of party, regardless of being from the White House, Democrats or Republicans, the House or the Senate—had one thing in mind: trying to move the process along to get a balanced budget over the next 7 years.

I think there is a recognition that most Americans, regardless of party, want us to do that. We are not there yet. We have a lot of work to do. But I would say that today has been a day of progress.

I would also say that it had been my hope earlier that we could work out an agreement where Federal employees could go back to work. A week ago today we passed a measure in the Senate by unanimous consent that, in effect, deemed all Federal employees "essential" and also guaranteed that they would be paid. That bill went to the House, but it has not been considered.

I was advised today by the majority leader in the House, Congressman ARMEY, and the speaker, Congressman GINGRICH, that if we would send to the House the same measure we passed last week, and the so-called Mideast Peace Facilitation Act, and a third provision with reference to expedited procedures, so that once an agreement is reached there will be some expedited procedure in the Senate so that we will be certain we get a disposition of it, that they would be able to take that up today, Friday, by unanimous consent in the House. That was their best judgment. And so I was in hopes that we could work that out on the Senate side.

I was advised at the White House by the distinguished Democratic leader, Senator DASCHLE, that they would have to object because of the expedited procedure language, which seems to me something we ought to be able to work out. If we want people to go back to work and we want to make certain they will be paid and we also want to pass another very important piece of legislation, we ought to be able to reach some agreement on how we are going to handle the bill if we have an agreement, or if we do not have an agreement, how would we handle the balanced budget amendment.

I will ask that the text of this be printed in the RECORD after I ask unanimous consent, which will be objected to. But we have just taken the Budget Act, reduced the time to 10 hours, open to amendment during that 10 hours. Otherwise, we kept the Byrd amendment, for example. So we hope that the Democratic leader will have an opportunity between now and tomorrow to maybe come back with a counteroffer, because we are ready to act, put people back to work, and my view is that it is a very important matter that should be attended to.

UNANIMOUS CONSENT REQUEST—H.R. 2808

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2808, regarding Middle East peace facilitation, that there be one amendment in order, which contains identical text of H.R. 2808, identical text of S. 1508, the so-called back to work provision, and expedited procedure language with respect to Senate consideration of the Balanced Budget Act by 2002, that the amendment be deemed agreed to, the bill be read the third time, and passed, and the motion to reconsider be laid upon the table, all without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, Mr. President. There would be no objection to the passage of the Middle East Peace Facilitation Act, which I think the majority of Senators on both sides of the aisle would like to see passed and I think would be critical in the interest of the countries in the Middle East for peace, but also in our own national security interests.

The back to work provision was passed, as the distinguished majority leader knows, with the support of the Democratic leader and all Members on this side of the aisle and on his side by unanimous consent last Saturday. And the other body had decided to take off and, I guess, go home on the Christmas vacation and not take it up. So we would have no objection to that.

The last part is the part I object to, Mr. President, because what we are saying is we will change the Senate rules on the time of debate and all on a bill, which nobody—neither the distinguished majority leader nor myself—knows what is in it. We all know we have the same goal, and both he and I agree to have a balanced budget by 2002. But we do not know what is in it. I do not think I would be able to get consent of many Members to waive, basically, the Senate rules on a piece of legislation that we have not yet seen. But I certainly hope that some type of procedure can be put together, and I assume that at the time when the budget comes up, it will be under some form of expedited procedure.

So I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Mr. President, let me indicate that, of course, under one scenario, if an agreement is reached, it will be reached with the President of the United States and with the Democratic leaders of the House and the Senate. So it is not something that has not been discussed. I know they are doing—as we are doing—checking with every committee chairman on every issue that might affect anyone's jurisdiction. The Democrats are doing it and the Republicans are doing it. We want to make certain that as many people as possible can be consulted as we proceed to try to reach some agreement on a balanced budget over the next 7 years scored by the Congressional Budget Office which the American people by a large margin want.

For the last couple of weeks, there has been this problem of Federal workers and whether or not they could go to work. Some tried to go, and they were turned away. There is a lot of gnashing of teeth by Federal workers through no fault of their own because the appropriations bill were vetoed—for example, whether it was the HUD–VA, or Interior, or the State, Justice, Commerce veto by the President. Those people are not working.

The President signed the Agriculture bill. So the people in the Department of Agriculture are working.

Labor-HHS is being held up on a party-line vote. We cannot bring it up on the floor. There are a lot of employees there who are not working.

We did by unanimous consent cover the District of Columbia until January 3.

That leaves one bill, foreign operations, which is hung up over one amendment, and we believe that could and should be resolved at an early date.

But the point is now we are in the position where at least by deeming the Federal workers to be essential employees and by in effect guaranteeing pay, that they will get it right away, but once the budget agreement has been agreed to, it would happen. All that is holding us up now and everybody going back to work tomorrow, or Sunday, or Monday, or Tuesday after the holidays is whether or not my colleagues on the other side will help us expedite the passage of a balanced budget agreement.

Now, it seems to me that we ought to be able to work that out. I am prepared to do that. I think the Senator from South Dakota, the Democrat leader, indicated after we left the White House that he was certainly willing to discuss it further.

We will be in session tomorrow. The House is on call. They can be in session tomorrow. And it is my hope that we can figure out some way to pass this package, unless there is a modification that we have not thought of. We could put a time agreement on how long it would be in effect. So it would only be a temporary modification of the present rules maybe until February 15, whatever. But I hope that we will sit down and work it out.

I think the White House has an interest in trying to resolve this issue. And they have copies. I have given a copy of this to the President. I discussed it with the President myself before I left the White House. Mr. Panetta has a copy. Hopefully there will be enough ideas and thoughts on it overnight so that early in the morning we can reach some agreement, get it passed, and let people go back to work—the people who are caught in the middle, so to speak—and let them go back to work knowing that they will be paid.

So I ask unanimous consent that the text of the bill I proposed be printed in the RECORD so my colleagues may have an opportunity to study it tomorrow.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEC. 3. CONGRESSIONAL CONSIDERATION OF THE BALANCED BUDGET BILL.

(a) INTRODUCTION AND CONSIDERATION OF THE BALANCED BUDGET AGREEMENT.—

(1) INTRODUCTION.—The balanced budget bill, described in (a)(3), shall be introduced in the House of Representatives by the Chairman of the Budget Committee of that House and, in the Senate, by the Majority Leader, after consultation with the Minority Leader. In the Senate, the balanced budget bill shall not be referred to committee but shall be placed directly on the Calendar.

(2) CONSIDERATION.—In the Senate, the balanced budget bill shall be considered as if it were a reconciliation bill pursuant to section 310 of the Congressional Budget Act of 1974, with the following exceptions:

(A) Debate in the Senate on the balanced budget bill, and all amendments, thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours.

(B) Upon expiration of the 10 hours of debate, without intervening action, the Senate shall proceed to vote on the final disposition of the balanced budget bill.

(3) BALANCED BUDGET BILL.—As used in this section, the term "balanced budget bill" means the bill that achieves a balanced budget not later than fiscal year 2002 that is introduced pursuant to subsection (a).

(b) REVISED AGGREGATES AND ALLOCATIONS.—

(1) REVISION.—The chairman of the Committee on the Budget of the House of Representatives and the chairman of the Committee on the Budget of the Senate shall each submit to its House—

(A) revised levels of total new budget authority, budget outlays, and Federal revenues set forth in House Concurrent Resolutions 67 (One Hundred Fourth Congress) as required by section 301 of the Congressional Budget Act of 1974; and

(B) revised allocations of new budget authority and total outlays and in the House entitlement authority set forth in the joint explanatory statement accompanying the conference report on that concurrent resolution as required by section 602 of the Congressional Budget Act of 1974,

consistent with the balanced budget bill introduced pursuant to subsection (a).

(2) ADJUSTMENTS.—The adjustments required under (1) shall be made upon the introduction of the balanced budget bill pursuant to subsection (a).

(3) EFFECT OF REVISED ALLOCATIONS AND AGGREGATES.—In the House of Representatives and the Senate, revised levels and allocations submitted under paragraph (1) shall be deemed as the levels and allocations for purposes of sections 302 and 602, and 311 of the Congressional Budget Act of 1974.

(4) Upon the enactment of a bill referred to in subsection (b), the chairmen of the Committees on the Budget may make necessary technical revisions to the revised allocations made under subsection (b).

MAKING MINORITY PARTY APPOINTMENTS FOR THE COMMITTEE ON VETERANS' AFFAIRS

Mr. LEAHY. Mr. President, on behalf of the Democrat leader, I send to the desk a resolution making minority committee appointments, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 206) making minority party appointments for the Committee on Veterans' Affairs.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

So the resolution (S. Res. 206) was agreed to; as follows:

S. RES. 206

Resolved, That the following shall constitute the minority party's membership on the Committee on Veterans' Affairs for the second session of the 104th Congress, or until their successors are appointed: Mr. Rockefeller, Mr. Graham, Mr. Akaka, Mr. Wellstone, and Mrs. Murray.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL WORKERS

Mr. LEAHY. Mr. President, if the majority leader could withhold just another moment, I want it clearly understood from this side that we are in agreement to pass the Middle East Peace Facilitation Act. I believe it should be passed. I do not think it is right to be holding that up. We are also willing to pass the back-to-work provision. After all, we agreed to it and worked on drafting it last week.

I would express the same concern I expressed earlier today, that it is very difficult for Federal workers, who do want to go back to work, who are unable to pay their bills as time goes on, who are greatly needed just to have this country run the way it is supposed to, not going back to work, and yet they have seen, frankly, in the other body those who did not want to take this up have the taxpayers pay for their airfare to go back home for Christmas vacation and to pay their salaries of about $500 a day every day they are home for Christmas vacation, and have them say, "We can't go forth." I think that is wrong.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDERS FOR SATURDAY, DECEMBER 30, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 a.m., Saturday, December 30, that following the prayer, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business for not to extend beyond 10:30 a.m., with statements limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. The Senate will be in tomorrow. It says here "briefly." I am not certain of that. We may be in recess for a considerable time, but the Senate will be in tomorrow. Unless there is something developing fairly early tomorrow, we will try to come back and recess the Senate. We will not be in session—let us see. We will make that determination tomorrow. Tuesday, that may happen because right now there is the urgency to get the Federal employees back to work. So it could even be Monday that we would be in session. So I am not going to refer to some of these things.

But in the event we are not in session until Wednesday, we will be in at 11:55 a.m., Wednesday, and we will adjourn the first session of the 104th Congress; and then the second session of the 104th Congress will begin at noon on Wednesday. I do not anticipate any rollcall votes. I have told my colleagues on both sides of the aisle we at least will give them 24 hours notice. It is hoped if we reach some agreement on Federal employees we could do it by unanimous consent. If there is a rollcall vote, we will try to give ample notice because I know some people have to come from some distance.

Is there anything else?

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

BUDGET NEGOTIATIONS

Mr. LEAHY. Mr. President, first, I want to repeat what I said earlier today. I commend the distinguished majority leader and the distinguished Democratic leader for their efforts. And I commend the President of the United States. I have talked with the distinguished majority leader about this, and without going into that discussion, I have discussed it also with the distinguished Democratic leader, and I have discussed the budget discussions with the President. I am absolutely convinced that all three want to find our way out of this. I am also convinced that the Republican leader, the Democratic leader, and the President want to have a balanced budget by the year 2002.

Obviously, as I said earlier today, there will not be a budget that has everything President Clinton wants in it and there will not be a budget that has everything the distinguished majority leader wants in it or the distinguished Democratic leader wants in it or everything I might want in it. But we can reach agreement.

I am concerned that some in the other body seem to think of this as some kind of a holy crusade where they must have every single item they can think of, irrespective of the damage it does to the majority of House and Senate Members of both parties. That is not what was considered by the Founders of this country. It is not the reason we have different parties. It is not the reason why we have two bodies of the Congress and a President.

It is difficult for other countries around the world to look at this, the most powerful Nation on Earth, the largest economy on Earth, a democracy which is held up as a shining example around the world, to see us paralyzed in this way. It is not the way it was intended to be. It is not the way it should be.

So I suggest that perhaps it is time to stop the gimmicks of holding up tin foil keys or saying we will be here and work this out, and then immediately afterward hopping on an airplane at taxpayers' expense to go home for Christmas vacation, and to do what the distinguished majority leader and the distinguished Democratic leader and the President are doing, sit down and try to work this out.

But I hope, Mr. President, and I believe I am joined by most Members of this body in this hope, that we let those Americans who are out of work in the Federal Government, who have a vital role to play in making the greatest, most powerful Nation on Earth operate, let them go back to work.

Every one of us joined in sorrow when so many of those Federal workers in the home State of the distinguished Presiding Officer died. We did not ask whether they were Republicans or Democrats, liberals or conservatives, we just knew that brave Americans who support our country and help our country operate died in the terrible terrorist blast.

But we have a lot of other Americans too who come with pride to work for their country. And that pride has to be shaken. And their whole question of being has to be shaken. I hope we can put them back to work. And I hope that we can show the rest of the country and the rest of the world how a great nation operates in a democracy.

Certainly that does not mean that I will agree with everything that the distinguished majority leader might propose in this budget, nor he with me, nor perhaps either one of us with all the things that the President might propose. But I have been here for 21 years, the distinguished majority leader has been here for 27 years, and had served with distinction in the other body prior to that. He and I have been on many committees of conference. We have been in many leadership meetings where we have debated proposals. We know that nobody ever walks out a winner on every single point that they came in wanting.

But I think it is safe to say he and I many times have been in meetings, sometimes contentious, sometimes not, but ultimately everybody wanted to do what was best for the country. So I wish him well. I wish Senator DASCHLE well. I wish the President well. I wish everybody else who is involved in these negotiations well because this country needs it. This has gone beyond party or person. It is what the country needs. I yield the floor.

Mr. DOLE. Mr. President, I will not extend this but just to thank the Senator, my colleague, my friend from Vermont, and to indicate I think there is this sense, at least in our meeting today, that everybody is going to have to give. It is not all going to be one way or the other. So I think there is that recognition by parties on both sides.

Obviously, it has to continue. We would like to have everything. They would like to have everything. But the American people, what they really want is a 7-year balanced budget using CBO numbers or the same numbers. They may not understand congressional numbers, White House numbers, but they understand using the same numbers. So I hope we can accomplish that. I would not bet the farm on it yet.

In any event, many of us would like to be other places—like Iowa or New Hampshire—today, but we are working on a balanced budget. I hope people there will understand that.

RECESS UNTIL 10 A.M. TOMORROW

Mr. DOLE. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 8:15 p.m., recessed until Saturday, December 30, 1995, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate December 29, 1995:

U.S. ENRICHMENT CORPORATION

CHARLES WILLIAM BURTON, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. ENRICHMENT CORPORATION FOR A TERM EXPIRING FEBRUARY 24, 2001. (REAPPOINTMENT)

DEPARTMENT OF EDUCATION

GERALD N. TIROZZI, OF CONNECTICUT, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION, VICE THOMAS W. PAYZANT, RESIGNED.

CONFIRMATION

Executive nomination confirmed by the Senate December 29, 1995:

THE JUDICIARY

JED S. RAKOFF, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

SENATE—*Saturday, December 30, 1995*

(Legislative day of Friday, December 29, 1995)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable CRAIG THOMAS, a Senator from the State of Wyoming.

PRAYER

The guest Chaplain, Father Paul Lavin, pastor of St. Joseph's on Capitol Hill, Washington, DC, offered the following prayer:

Let us listen to the words of the prophet Isaiah.

Cry out full-throated and unsparingly, lift up your voice like a trumpet blast; Is this the manner of fasting I wish, of keeping a day of penance: That a man bow his head like a reed, and lie in sackcloth and ashes?

Do you call this a fast, a day acceptable to the Lord?

This, rather is the fasting I wish, releasing those bound unjustly, untying the thongs of the yoke; Setting free the oppressed, breaking every yoke; Sharing your bread with the hungry, sheltering the oppressed and the homeless; Clothing the naked when you see them, and not turning your back on your own.—Isaiah 58:5–8.

Let us pray:

Blessed are You, Lord God of mercy, You have given us the law, the prophets, the wisdom of scripture, the commandment of love for one another. Send down Your blessings on the men and women of the Senate and on their staffs who have sought and accepted these offices of service. When they are called on in times of need, let them be faithful to You, and to their neighbor. We give glory and praise to You for ever and ever.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 30, 1995.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CRAIG THOMAS, a Senator from the State of Wyoming, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. THOMAS thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the time for the two leaders has been reserved.

SCHEDULE

Mr. DOLE. There will be a period for morning business until 10:30 a.m. with Senators permitted to speak for up to 5 minutes each. We are continuing budget negotiations today. As I said yesterday, I think we have made some progress, and we will continue again, beginning at 11 a.m. There is hope that the Senate can pass legislation today that would deem all Government employees essential, thereby sending everybody back to work. If that legislation can be worked out, it would be the intention of the leadership to pass that bill by unanimous consent.

I am also advised the House may take action on that bill today and send it to the Senate, so that would require us to take some action. In addition to that, they may add to that the Middle East Peace Facilitation Act, plus the expedited procedure would also be in the House bill.

Also today, before we go over until tomorrow, we hope to pass the military COLA increase contained in the DOD authorization bill and vetoed by the President. We may include in that other provisions that need to be attended to in the next few days, so there will be a further announcement on that. Again, I hope we can do that by unanimous consent. I do not know of any objection to the military COLA increase contained in the DOD authorization bill.

I will not make any unanimous-consent requests at this time, but I will probably later in the day, and I will advise the distinguished Democratic leader, Senator DASCHLE, so there will not be any surprises.

Again, let me indicate I hope we can work out some expedited procedure. If we are going to get an agreement where all the party leaders are involved—Democrats, Republicans, and the President—it seems to me that we ought to be able to agree on some procedure in the Senate so we can pass the 7-year balanced budget once we agree to it. Otherwise, we could be in debate here for weeks and weeks and weeks because of Senate rules. That is all that is holding up all these Federal workers going back to work. We are prepared to pass that bill immediately. Federal employees can go back to work and be guaranteed their pay. To me, that would be a big step in the right direction.

I hope we can resolve this before the day is finished. We will be discussing it, I am certain, with Senator DASCHLE and others throughout the day.

I understand that the Senator from North Dakota, Senator DORGAN, wishes to speak, and following his remarks, unless there are any other requests, I move we stand in recess subject to call of the Chair.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. DOLE. As I understand, Senator DORGAN cannot be on the floor right at this moment, so I ask unanimous consent that the Senate stand in recess now subject to the call of the Chair and try to work it out with him later.

There being no objection, the Senate, at 10:06 a.m., recessed, subject to the call of the Chair.

The Senate reassembled at 11:06 a.m., when called to order by the Presiding Officer (Mr. DOMENICI).

The PRESIDING OFFICER. The majority leader is recognized.

STATUS OF LEGISLATION

Mr. DOLE. Mr. President, we have been in recess subject to the call of the Chair, and we will recess again in a moment, but I wanted to announce that the House did pass the bill that we tried to pass last night in the Senate. It extends the Mideast Peace Facilitation Act for I think 90 days. It deems all, Federal employees essential. In other words, they can all go back to work. It guarantees they are going to be paid. And it also has attached to it expedited procedure so when we get a balanced budget, we will not be engaged in weeks and weeks and months and months of debate in the Senate.

Now, some of my Senate colleagues may wonder why that is in the House bill. It is in the House bill because we could not pass it on the Senate side. So they agreed to put it in their bill. And we have been working together on the theory that if we get a balanced budget agreement with the President of the United States and with the Democratic leaders and the Republican leaders, we ought to pass it. The American people want us to pass it.

So I would only say that later this afternoon, after having an opportunity to visit with the Democratic leader, I

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

will make a unanimous-consent request that we turn to the message from the House on S. 1508, the so-called back-to-work bill, which also provided for expedited procedure and extension of the Middle East Peace Facilitation Act. That is what we will try to clear later today. If we cannot do it, we cannot do it. It just takes one objection.

I wish to commend the House for their leadership, Congressman WOLF and Congresswoman MORELLA and Congressman DAVIS, for their initiative this morning in getting this done and also the majority leader, Congressman ARMEY, and the Speaker, Congressman GINGRICH.

So hopefully we will get this done. If this happens, people can start making plans to go back to work after the New Year's holiday.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. DOLE. I now ask unanimous consent that the Senate stand in recess subject to the call of the Chair, and hopefully that will be within the next hour or so, so employees will not have to wait all day while we meet at the White House.

There being no objection, the Senate, at 11:09 a.m., recessed subject to the call of the Chair.

The Senate reassembled at 6:16 p.m., when called to order by the Presiding Officer (Mr. THOMAS).

The PRESIDING OFFICER. The majority leader is recognized.

AUTHORIZATION OF FUNDS FOR PAY AND ALLOWANCES AND QUARTERS ALLOWANCE FOR MEMBERS OF THE UNIFORMED SERVICES

Mr. DOLE. I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1514, introduced today by myself for Senators STEVENS, THURMOND, COATS, and others which would authorize a 2.4-percent increase in pay and allowances and a 5.2-percent increase for basic allowance for quarters for the members of the uniformed services.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill.

There being no objection, the Senate proceeded to consider the bill.

• Mr. STEVENS. Mr. President, the bill I have proposed will provide the increases adopted by Congress for military pay and allowances. This action is necessary today for one reason—the President vetoed the Defense authorization bill.

H.R. 1530, the fiscal year 1996 National Defense Authorization Act, passed both Houses of Congress with bipartisan support. I regret the President chose to veto this legislation. Beyond addressing these vital requirements to support the men and women who serve in the Armed Forces, and their families, this bill authorized important initiatives to accelerate modernization of the Armed Forces, and enhance our defenses against theater and intercontental ballistic missiles. These priorities are fully funded in the 1996 Defense Appropriations Act, which became law on December 1.

Mr. President, with 20,000 Americans on their way to Bosnia, and 15,000 more deploying in support of the 1st Armored Division, this is not the time for the President to play politics with the pay and economic well-being of military families. With thousands more Americans deployed to the Persian Gulf, standing watch in Korea, and keeping the peace in Haiti, they should not have to worry about whether we will do our part to make sure they receive the pay and benefits they have earned through their service.

Mr. President, this bill should not be controversial. The House and Senate each passed these pay and allowance increases in legislation earlier this year, and endorsed these funding levels in the appropriations bill. The pay raise for civilian Federal workers will take effect on January 1—that does not require further legislation. There is no rationale to deny this modest increase for the men and women of the Armed Forces, and I hope the Senate will pass this bill without objection.

It had been my intention to offer an amendment today which would have authorized for all of 1996 the full military pay and allowance increase. At this time it is not possible to get unanimous agreement for this approach, therefore I reluctantly accept a time limitation as the way to ensure that the men and women of our Armed Forces will receive their pay and allowance increases in a timely manner.

Just 2 weeks ago, the Senate voted with a large bipartisan majority to express its support for the military personnel ordered to Bosnia. Many of us disagree with the process that sent them there, but I believe all Members of the Senate strongly support those soldiers, sailors, marines, and Air Force personnel who are doing their duty. Even more than our expression of support for their mission, this bill gives us a chance today to take action, to enhance their economic well-being and the welfare of their families.

We must act on their legislation today, to ensure that they will receive the full increase in pay and allowances for the month of January. I appreciate the efforts of the majority leader, Senator DOLE, to move this legislation and protect the pay and benefits of all military personnel. I hope that the President will join with the Congress and sign this bill, and permit the pay and benefits increase already approved by Congress to become law.•

• Mr. THURMOND. Mr. President, this bill will correct a problem created when President Clinton vetoed the 1996 Defense authorization bill. By so doing, he denied the full pay raise and the increase in the basic allowance for quarters provided in that bill. Military pay is again slipping further behind comparable civilian pay. This is happening at a time when our military personnel are increasingly being called upon to deploy in support of U.S. commitments around the world. Our troops deserve this raise and they should receive it without delay. At this very moment, and throughout this holiday season, our troops have been leaving their families in Germany and throughout the United States to fulfill a commitment made by the President to try to bring peace to Bosnia and other parts of the former Yugoslavia. These young men and women, and their families, deserve the best we can provide for them in every way. They should have a standard of living at least as high as they could expect in the civilian sector and they should have the very best in supplies and equipment. That is what our authorization bill was designed to provide for them. However, the President chose to veto that bill for reasons that are apparently more political than substantive. This was done as our soldiers were trying desperately to stem the flood of the Sava River just to get into Bosnia. A commander should always have the welfare of the troops paramount in his mind. A Commander in Chief should act similarly. Although he did not, this bill will help to restore some of what was lost in his veto.

I appreciate the cooperation of Senators DOLE and STEVENS in the expedious consideration of this bill.•

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be considered read a third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1514) was considered to have been read the third time and passed, as follows:

S. 1514

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. . That notwithstanding the Executive order of the President, or any other provision of law, funds appropriated by Public Law 104–61 for purposes set forth in section 601 of H.R. 1530, the Conference Report accompanying the National Defense Authorization Act for Fiscal Year 1996, House Report No. 104–406, 104th Congress, 1st Session, as passed by the House of Representatives on December 15, 1995 and by the Senate on December 19, 1995, may be obligated and expended for such purposes in accordance with such section: *Provided*, That authorities provided under this section shall expire on April 2, 1996.

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on December 30, 1995, during the recess of the Senate, received a message from the House of Representatives announcing that the House has passed the following bill, with an amendment:

S. 1508. An act to assure that all Federal employees work and are paid.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOLE (for Mr. STEVENS (for himself, Mr. DOLE, Mr. THURMOND, Mr. COATS, Mr. KEMPTHORNE, Mr. BYRD, and Mr. NUNN)):

S. 1514. A bill to authorize the obligation and expenditure of appropriated funds for a 2.4 percent increase in pay and allowances and a 5.2 percent increase for basic allowance for quarters for the members of the uniformed services; considered and passed.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

BRINGING FEDERAL WORKERS BACK TO WORK

Mr. DASCHLE. The majority leader and I have been discussing the effort to bring people back to work. Unfortunately, we are not at a point where a resolution will be offered this evening. I must say I am very frustrated by the current set of circumstances. I know it is hard for the American people to understand what is going on. Frankly, it is hard for me to understand. All rationality seems to have been lost in this process, but let me try to explain the situation as I see it.

All year, the Speaker and his lieutenants have warned that they would shut the Government down as part of their revolution. They did not care what the price was; they wanted to force their radical agenda on the President and on the American people. And each day there has been a new demand, each day a new hostage—Federal employees, people who depend on Government services, now even the Middle East peace process.

The majority leader has worked in good faith in an effort to try to resolve this matter. And he has said he does not believe in shutting the Government down. I believe him, and I share that view very strongly. The Government remains shut because some Members in the House want it shut. It is government by gimmick, and it is wrong.

The majority leader offered a bill to declare all Federal employees essential, and that bill was pending in the House for a long period of time. They could have passed it at any moment and sent it directly to the President. It was pending for 8 days. Instead, the House has chosen to play political games with it.

Furthermore, while I support the Dole-Warner bill, I must say it falls short of what I think we need to do, frankly. It is an important step, but it is not a solution to the problems caused by the Republican Government shutdown.

Congress has to pass legislation to fund the Government. Not once, not twice, but on nine separate occasions now we have offered a continuing resolution to do that, but each time it was met with Republican objections. Under the measure that is now being contemplated, a measure which would make all Federal employees essential, Government workers still could not obligate new funds, make new purchases or do any traveling; they could not spend any money; they could not pay contractors; they could not make grants; they could not buy supplies; they could not be paid.

Let me emphasize, under the Dole-Warner legislation, Federal workers would be at work but they would not be paid until some later date, and then they would be paid retroactively. So we will be asking them to go to work, which is better than asking them to stay home, but we will be asking them to go to work and not be paid.

Mr. President, keeping the Government closed is an unacceptable situation. We should not allow that to occur. Small businesses would not be able to get SBA loans, and 2,500 FHA home mortgage closures would be blocked; health researchers awarded NIH grants would still not be funded. If a forest ranger's truck ran out of gas in a national park, there would be no money to fill it up. State and local entities would not be funded for programs like Meals on Wheels; students would not get their college loans.

I believe that the House wants confrontation, not solution. Time and again we have offered solutions. Time and again, working with the majority leader, who I believe wants solutions, we have not been able to get that job done.

So we will keep working toward a solution. And as I say, I commend the majority leader for his efforts in trying to accomplish what we know we must do. We are not there yet. I have very, very grave reservations about the fact that we still on this day have not been able to send a clear message to Federal employees or to the U.S. taxpayers that this issue can be resolved. Let us hope that prior to Tuesday it will be resolved.

I yield the floor.

GETTING FEDERAL EMPLOYEES BACK TO WORK

Mr. DOLE. Mr. President, I will just take a minute or two. I do share the view expressed by the Democratic leader that it is not fair to the Federal employees. And I must say that a lot of people call me and say it is not fair to the taxpayers; if you are paying people for not working, that is not a very good idea either. I do not suggest the Federal employees want it that way, but that is precisely what has happened.

It is my hope we can come to some resolution here very quickly. That is why we will come in again tomorrow at noon, in the hopes that tonight we can work out something so that people can go back to work on Tuesday, and that if they cannot be, as the Democratic leader indicated, paid immediately, at least they can be assured they will be paid.

I think we have made progress in our budget negotiations with the President, with the Democratic leadership, Senator DASCHLE, Congressman GEPHARDT, myself, Speaker GINGRICH, and Majority Leader ARMEY on the House side. We will go back tonight, we are going to be there tomorrow morning, and maybe even later tomorrow, but at least tomorrow morning. I hope during that time tonight and tomorrow morning the Democratic leader, Senator DASCHLE, and I can devise some way to come back up here tomorrow, pass a resolution, send it to the House, and that the House will accept it.

It seems to me that on Tuesday Federal employees should be back to work, parks should be open, and we ought to be about our business. I hope we can get that resolved.

I just say, so that the record is complete, a number of bills were passed that were vetoed by the President: VA-HUD, a lot of Federal employees involved; State, Justice, Commerce, vetoed by the President, a lot of Federal employees involved; the Interior bill, vetoed by the President, a lot of Federal employees involved; Labor-HHS, we cannot get it up because of a party split on the Senate floor, a lot of Federal employees involved. We do have a CR for the District of Columbia until the 3d of January. That leaves one bill that is still hung up because of one difference. We ought to be able to resolve that one difference. The foreign operations appropriations bill is very important, and I hope we can resolve it perhaps as early as Wednesday or Thursday of this next week. We are prepared to proceed. We had hoped we might have passed the bill with the Mideast Peace Facilitation Act, deeming all employees essential, and the expedited procedure. That is not going to happen. We need to find another way to address the problem.

As the Democratic leader indicated, the primary aim is to get people back to work as quickly as possible, either with pay or certainly with the assurance that they will be paid, so that they can make plans that are necessary. I know I speak for my colleague, Senator WARNER of Virginia, who has been in contact with me daily, and I know other Members of the House who were in contact with me today, Congresswoman MORELLA of Maryland, Congressman WOLF, and Congressman DAVIS of Virginia. We will be working with them and others who have an interest in this. I thank my colleague.

ORDERS FOR SUNDAY, DECEMBER 31, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that once we complete our business today, the Senate stand in recess until the hour of 12 noon on Sunday, December 31, 1995, that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. I think we have indicated to other Senators we will continue negotiations, we will attempt to clear the House message, maybe with a modification, the back-to-work bill, and if we cannot find some solution, it may be that we will just pass the Middle East Peace Facilitation Act. We will not be in session, I do not think, very long tomorrow. I hope we are not in session on New Year's Day.

RECESS UNTIL TOMORROW

Mr. DOLE. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 6:26 p.m., recessed until Sunday, December 31, 1995, at 12 noon.

HOUSE OF REPRESENTATIVES—*Friday, December 30, 1995*

(Legislative day of Friday, December 22, 1995)

☐ 1026

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. SCHIFF] at 10 o'clock and 26 minutes a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we seek to carry on our responsibilities, remind us, gracious God, of the need for righteousness and respect for every person; as we pursue the path of justice, remind us of Your gift of mercy; as we aspire to the gifts of liberty, remind us of the heavenly vision. O Creator of all the Earth, O Judge of nations and people, we pray that we will use the abilities that You have given us in ways that reflect Your word. Teach us, O God, to be humble in our service and steadfast in our commitment to the good heritage of our Nation. This is our earnest prayer. Amen.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Mississippi [Mr. MONTGOMERY] come forward and lead the House in the Pledge of Allegiance.

Mr. MONTGOMERY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1295. An act to amend the Trademark Act of 1946 to make certain revisions relating to the protection of famous marks.

H.R. 2203. An act to reauthorize the tied aid credit program of the Export-Import Bank of the United States, and to allow the Export-Import Bank to conduct a demonstration project.

ASSURING ALL FEDERAL EMPLOYEES WORK AND ARE PAID

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1508) to assure that all Federal employees work and are paid.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. EMERSON. Mr. Speaker, reserving the right to object, I yield to the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is my purpose today to try to bring up the bill that has already been passed in the Senate, S. 1508, which as I understand it would put the Federal employees back to work, promising that they would be paid retroactively immediately and would get the Government up and running right away without any other conditions which might interrupt the passage of this legislation.

Mr. EMERSON. Mr. Speaker, reclaiming my time, I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman from Missouri [Mr. EMERSON] for yielding to me.

Mr. Speaker, we have now been in a crisis mode for some weeks, the longest that Federal employees have been placed at risk in the history of our country. Families are disrupted and in fear. Fathers and mothers are wondering how they are going to pay January's mortgage payment, how they are going to keep their families together, how they are going to run their lives. They realize, as every American realizes, that there is a confrontation between the White House and the Congress, between Republicans and Democrats on how to resolve the reconciliation bill, the so-called budget bill.

What the majority leader of the Senate did, Senator DOLE, was to say to the Senate, "As we debate the differences between us, let us not shortchange either the Federal workers or the American taxpayer. Let us have our workers come to work. Let us have them be perceived as essential for doing America's business," and then, because the Speaker and the majority leader have said we are going to do it, we will pay them when we come out of this crisis.

That is appropriate to do. It is important to give them that confidence. But it is also important for the American taxpayer that they work, and they want to work. I have had literally thousands of calls to my office of people who want just simply to do their job, to go to work, to contribute, not to have a backlog, and to give their families confidence in the new year.

Mr. Speaker, this request of the minority leader, S. 1508, is a request by our side to unanimously pass what the majority leader, the Republican leader of the U.S. Senate, has put before the Senate and the Senate has passed overwhelmingly. I would hope that my friend, the gentleman from Missouri [Mr. EMERSON], would not object, because it is my understanding that the alternative to this is placing S. 1508 on the unanimous-consent calendar for the purposes of amending it and sending it back to the Senate with something that the Senate has said they will not take. I do not think our side is going to object to that, but it is a false hope, I fear, for our Federal employees, and for their families.

Mr. EMERSON. Reclaiming my time, Mr. Speaker, I yield to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I thank my good and very decent friend, the gentleman from Missouri [Mr. EMERSON], for yielding to me.

Mr. Speaker, 1995 should be the year of the Federal employee. From the bombing in Oklahoma City to the fact that we have now reduced 117,000 jobs from the Federal Government, and now to the longest furlough, shutdown, in the history of the Federal Government, Federal employees have been punished through no fault of their own. It is time we brought an end to the real suffering that these families are experiencing. And not only is it the anxiety, it is what we have done to the perception of public service.

A recent poll was taken of all the honor roll students in the country. Only 10 percent chose public service as a career they wanted to enter. This may be why, what we in the Congress have done to the Federal civil servant. So I would hope that we would seize this opportunity before us right now to accept legislation that passed by unanimous consent in the Senate.

If we agree to this, we can now put Federal employees back on the job. By January 3 we will have paid out or agreed to pay out $1.6 billion to Federal employees for not performing work on the job. This is just to the Federal employees who have been furloughed, who have been locked out of

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☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

their jobs. Some Federal employees have tried to get back into their offices, because they felt guilty about the fact that their colleagues were having to do their work. They were told it is illegal even to volunteer to perform their job.

They do not want to get paid for not working, they want to work. They should get paid for working. What this will do will ensure that they are put back on the job. All Federal employees will be considered essential employees, and then we will ensure that they get compensated for their work. This is the right thing to do, it is overdue.

I appreciate the fact that we have colleagues on the other side who would support this, and will recognize the value of civil servants. I appreciate the leader of my party offering this amendment. I would hope that we would now agree to it, by unanimous consent, just as was done by the Senate, and Federal employees can be back on the job by Tuesday, if we will do this.

Mr. EMERSON. Reclaiming my time, Mr. Speaker, I yield to the distinguished gentleman from Fairfax County, VA [Mr. DAVIS].

Mr. DAVIS. Mr. Speaker, I appreciate the gentleman yielding to me.

I just want to rise in support of the minority leader's request. We have introduced a companion bill to S. 1508 which the gentlewoman from Maryland [Mrs. MORELLA], the gentleman from Virginia [Mr. WOLF], the gentleman from Virginia [Mr. MORAN], the gentleman from Maryland [Mr. HOYER], and others have cosponsored here. This would simply call that up. This would put Federal employees back to work. We have said we are going to pay them. Let us let them earn their way the way they would like to do.

It just seems that if we want to recruit and maintain the best and brightest for Federal service, given the fact that they are undergoing downsizing and their benefits are being cut, these furloughs and unpaid Christmases are just not the way to go. This will put them back to work. I support the request.

Mr. EMERSON. Reclaiming my time, Mr. Speaker, I yield to the gentlewoman from Montgomery County, MD [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I think it is very important that we let our people go back to work. It has been much too long that we have had this partial shutdown No. 2. I know that Federal employees want to go back to work. I know many of them, despite the fact that they are furloughed, are showing up at laboratories and going in the back entrances in order to perform the critical work. I know of two-parent families where both of them are furloughed because one is with Commerce and one is with Labor, or one is with Education, or the other areas where we have not come up with appropriations for them.

It also has a critical adverse effect, consequences for the private sector, too. So many people are touched by this. It is important that we get our Federal employees back to work so they recognize that they are essential, they are excepted from furloughs, they are emergency, they are important to our country. What has happened with this shutdown has been demoralizing at the very least, so I support getting our Federal employees back to work, and this bill that we are looking at today mirrors exactly the bill that we put in on Wednesday.

Mr. EMERSON. Reclaiming my time, Mr. Speaker, I yield to the gentleman from Fairfax County, VA [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of this, too. I will have more to say a little later about the whole issue, but this would get Federal employees back, and when we think in terms of Federal employees, I think it is important to think in terms of the mission, perhaps; the FBI agent, that if everyone here had a husband or a wife or a son or a daughter kidnaped today, the first person you would call would not be your local police, it would be the FBI, or a Federal employee.

Members claim that they are concerned about drugs in the schools and drugs coming out of Mexico and places like that, but the people that we look to to keep drugs out of the country are the DEA agents, all Federal employees. My mom and dad both died of cancer. Cancer runs in my family. The cancer researcher at NIH is a Federal employee.

I think we have gotten so wrapped up, focusing on the words "Federal employee," and forgetting the individual mission. Who in the country wants to not have cancer researchers working at NIH? Who does not want the DEA to be active and involved to stop drugs coming in? Who does not want the FBI to be on the job and working? I heard the Chaplain talk about mercy and justice. I think this is an opportunity for mercy and justice. This resolution and the next resolution would get us on the way.

The last thing I want to say as a Republican and as a conservative Republican, and I am very proud to be called a conservative Republican, and I send my entire voting record out to every household in my district, there is nothing inconsistent, there is nothing inconsistent with being a strong supporter of a balanced budget in 7 years, scored by the CBO, and putting Federal employees back to work. There is nothing, nothing inconsistent. The day people believe there is an inconsistency there, then I think the thinking in this country has gone astray. To put an FBI agent back, a cancer researcher back, a DEA researcher back, a Social Security worker back is not inconsistent.

I am committed and have voted to see that we bring a balanced budget in, scored by the CBO, and that in the process, we do not do the other thing. As we hear, the end never justifies the means. The ends never, never justify the means.

Mr. EMERSON. Mr. Speaker, in consideration of certain procedural amenities that must be followed, I reluctantly object.

The SPEAKER pro tempore (Mr. SCHIFF). Objection is heard.

ASSURING THAT ALL FEDERAL EMPLOYEES WORK AND ARE PAID

Mr. DAVIS. Mr. Speaker, I ask unanimous consent that it be in order to consider in the House the Senate bill (S. 1508) to assure that all Federal employees work and are paid; that the amendment I have placed in the bill be considered as read and adopted, and that the bill, as amended, be considered as passed.

The Clerk read the title of the Senate bill.

The text of the Senate bill, as amended, is as follows:

S. 1508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALL FEDERAL EMPLOYEES DEEMED TO BE ESSENTIAL EMPLOYEES.

(a) IN GENERAL.—Section 1342 of title 31, United States Code, is amended for the period December 15, 1995 through February 1, 1996—

(1) by inserting after the first sentence "All officers and employees of the United States Government or the District of Columbia government shall be deemed to be performing services relating to emergencies involving the safety of human life or the protection of property."; and

(2) by striking out the last sentence.

AMENDMENT TO S. 1508 OFFERED BY MR. DAVIS OF VIRGINIA

At the end of the bill, add the following:

SEC. 2. EXTENSION OF AUTHORITIES.

(a) IN GENERAL.—Section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), as amended by Public Law 104–47, is amended by striking "December 31, 1995" and inserting "March 31, 1996".

(b) CONSULTATION.—For purposes of any exercise of the authority provided in section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) prior to January 10, 1996, the written policy justification dated December 1, 1995, and submitted to the Congress in accordance with section 583(b)(1) of such Act, shall be deemed to satisfy the requirements of section 583(b)(1) of such Act.

SEC. 3. CONGRESSIONAL CONSIDERATION OF THE BALANCED BUDGET BILL.

(a) INTRODUCTION OF THE BALANCED BUDGET BILL.—The balanced budget bill, which is described in subsection (e), shall be introduced in both the House of Representatives and the Senate on the same day. In the House, the bill shall be introduced by the Chairman of the Budget Committee of the House. In the Senate, the bill shall be introduced by the Majority Leader, after consultation with the Minority Leader.

(b) Consideration of the Balanced Budget Bill in the House.—Consideration of the balanced budget bill shall be made in order pursuant to a special order reported by the Committee on Rules.

(c) Consideration of the Balanced Budget Bill in the Senate.—

(1) Placed on the calendar.—The balanced budget bill introduced in the Senate shall not be referred to committee but shall be placed directly on the Calendar.

(2) Motion to proceed.—The motion to proceed to the balanced budget bill shall not be debatable and the bill may be proceeded to at any time after it is placed on the Calendar.

(3) Reconciliation procedures.—The Senate shall consider the balanced budget bill as if it were a reconciliation bill pursuant to section 310 of the Congressional Budget Act of 1974, with the following exceptions:

(A) A motion to recommit shall not be in order.

(B) All amendments proposed to the balanced budget bill shall be considered as having been read in full, once the amendment is identified by sponsor and number.

(C) Debate in the Senate on the balanced budget bill, and all amendments, thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. Upon expiration of the 10 hours of debate, without intervening action, the Senate shall proceed to vote on the final disposition of the balanced budget bill.

(D) If the Senate has received from the House the balanced budget bill introduced under subsection (a) prior to the vote on final disposition of the Senate bill, the following procedures shall apply:

(i) The balanced budget bill received from the House shall not be referred to committee and shall be placed on the Calendar.

(ii) The Senate shall proceed to and consider the balanced budget bill introduced in the Senate, however—

(I) the vote on final passage shall be on the balanced budget bill received from the House, if it is identical to the balanced budget bill then pending for the vote on final disposition in the Senate; or

(II) if the balanced budget bill received from the House is not identical to the balanced budget bill then pending for the vote on final disposition in the Senate, following third reading of the Senate bill, the Senate shall, without intervening action or debate, proceed to the House balanced budget bill, strike all after the Enacting Clause, substitute the text of the Senate bill as taken to third reading, adopt the Senate amendment, and vote on the final disposition of the House balanced budget bill, as amended.

(E) Consideration of House Message shall be limited to 5 hours. Debate on any motion necessary to dispose of a House Message on the balanced budget bill shall be limited to 1 hour and debate on any amendment to such motion shall be limited to 30 minutes.

(F) Upon proceeding to any conference report on the balanced budget bill, the bill shall be considered as read. Debate on any conference report on the balanced budget bill shall be limited to 5 hours.

(4) Waiver of section 306.—Section 306 of the Congressional Budget Act shall not apply to the consideration of the balanced budget bill.

(d) Revisions to Aggregates, Allocations, and Discretionary Spending Limits.—

(1) Authority to adjust aggregates and discretionary limits.—For purposes of enforcement under the Congressional Budget Act of 1974 and H. Con. Res. 67 (One Hundred Fourth Congress), upon the introduction of the balanced budget bill in the House and Senate, and again upon submission of a conference report thereon—

(A) the discretionary spending limits; and

(B) the appropriate budgetary aggregates, as set forth in H. Con. Res. 67, shall be adjusted in accordance with paragraph (3).

(2) Authority to adjust committee allocations.—For purposes of enforcement under the Congressional Budget Act of 1974 and under H. Con. Res. 67 (One Hundred Fourth Congress), at any time after the introduction of the balanced budget bill, but prior to consideration of that bill in the House or Senate, as the case may be, and again upon submission of a conference report thereon, the allocations to the Committees of the Senate and the House pursuant to sections 302 and 602 shall be adjusted in accordance with paragraph (3).

(3) Adjustments.—The adjustments required by paragraphs (1) and (2) shall be made by the Chairman of the Committee on the Budget of the Senate or the House of Representatives (as the case may be) and shall be consistent with the budgetary impact of the balanced budget bill. The adjusted discretionary spending limits, allocations, and aggregates shall be considered the appropriate limits, allocations, and aggregates for purposes of enforcement of the Congressional Budget Act and for enforcement of provision of H. Con. Res. 67 (One Hundred Fourth Congress).

(4) Reporting revised suballocations.—Following the adjustments made under paragraph (3), the Committees on Appropriations of the Senate and the House of Representatives may report appropriately revised suballocations pursuant to sections 302(b) and 602(b) of this Act to carry out this subsection.

(5) Technical adjustments to house allocations.—Upon the enactment of a balanced budget bill introduced under subsection (a), the chairmen of the Committee on the Budget of the House may make necessary technical revisions to the revised allocations made under paragraph (2).

(e) Balanced Budget Bill.—As used in this section, the term "balanced budget bill" means any bill that achieves a balanced budget not later than fiscal year 2002, which is introduced pursuant to subsection (a).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

Mr. EMERSON. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Fairfax County, VA [Mr. Davis].

Mr. DAVIS. Mr. Speaker, let me explain. This takes S. 1508 and ties to it an expedited procedure for consideration of a budget resolution when it is agreed to by the President and congressional leaders in the Senate that would not make it subject to filibuster, that would move that along so this country could get on with a 7-year CBO-scored balanced budget.

This would, though, allow Federal contractors to continue to work as Federal employees come back to supervise those contracts. The contractors, you talk about unintended victims, are people who have really been cut out of that process, and this would allow Federal employees to get back to do work and do all of these things mentioned.

The difficulty has been that so far there has been an objection in the Senate to this, and hopefully by passing this in this body and sending it over, perhaps the Senate can work out their differences and send it back. It is really in that spirit that we move to this.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. EMERSON. Mr. Speaker, under my reservation of objection, I am delighted to yield to the gentleman from Missouri, the distinguished minority leader.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to explain to the body that what is being asserted here is the bill that I a moment ago tried to get up, with a very important amendment. The amendment would put into place an expedited procedure for consideration of a balanced budget bill in the Senate, in the other body. It is my understanding from the Democratic leader of the other body that they will not accept this legislation. They would accept the legislation without the expedited procedure on the balanced budget, but they will not accept this. The Members on the other side are not in town to even be consulted to see if they could accept it, so this, in effect, is a poison pill in this piece of legislation that will not allow it to go forward.

I would simply say that if the majority in this House is interested in the Federal Government going back to work, they will allow us to bring up the bill we tried to bring up a moment ago without the poison pill amendment, which will keep it from going through the Senate. If we insist on putting the poison pill in the bill, we are going to be back here next Wednesday right where we are today, without anybody in the Federal Government who is not working today working. We are going to be paying people to stay at home, which is unconscionable and against the interests of Federal employees and the interests of taxpayers.

Mr. EMERSON. Reclaiming my time, Mr. Speaker, I yield to the gentleman from Virginia [Mr. Davis].

Mr. DAVIS. Mr. Speaker, I do not share the same pessimism my friend, the gentleman from Missouri, has at this point. I understand there was an objection that was interposed last evening by the Democratic side in the Senate. The poison pill the gentleman speaks about simply would allow the Senate to filibuster to death any kind of balanced budget resolution that the President and congressional leaders agree to. That seems almost indefensible to me, but at this point I think that is the best we are going to get.

I wish the gentleman's unanimous-consent request had been adopted by this body. I supported that, and will continue to support that every opportunity I get. But I think this is our next-best shot. We can send it there and hopefully the Senate will work something out that will allow a balanced budget agreement to be debated in a reasonable amount of time and not be filibustered to death, which is why I understand the objection was interposed last evening.

Mr. EMERSON. Reclaiming my time, Mr. Speaker, I yield to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I rise in support of this version. Again, Mr. Speaker, what our aim is, I think together, in a bipartisan way, we want to get our Federal Government operating again fully. We also wanted to balance the budget in 7 years. Basically, that is what we are saying, that we will not allow filibustering around the clock, ad infinitum, but set a period of time that is very reasonable to expedite the balanced budget.

I want to reiterate the fact that we have Federal employees in so many departments who are not working, who have so much to offer, who are demoralized. This shutdown is costly financially, in terms of productivity, and in terms of morale. In the EPA, the Environmental Protection Agency, by Tuesday I understand that there will not be the funding or the people power to clean the Superfund sites; NASA, Interior, the parks and museums, the State Department. So many people have been in emergency situations where they have not been able to obtain visas or passports.

□ 1045

I spoke to someone internationally, a consul general, who was actually furloughed, but who went back on the job because of emergency situations.

The Small Business Administration: 250 loans per day are not being offered because of the fact that people who work for the Small Business Administration are furloughed.

The Justice Department: 250,000 home mortgages are not being produced every day because of the fact that Housing and Urban Development is not operating.

So it is time for us to move on. This may not be ideal, but it is the best we can do. It guarantees payment for Federal employees. It puts them back to work, and it says that this Congress and the administration are in favor of a balanced budget scored by CBO in 7 years. I thought that was something we already accepted.

As a matter of fact, my understanding is that President Clinton has said that he is in favor of this plan, and so I hope that we will, by unanimous consent, approve of it as a step in the right direction.

Mr. EMERSON. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I thank my friend for yielding.

In the first place, we have a bill here at the desk that has been passed by unanimous consent in the Senate. We know if we passed that bill which we just considered, we just spoke on, S. 1508, Federal employees are put back on the job, and all of the things that the gentlewoman from Maryland [Mrs. MORELLA] said which are certainly so true, we respond in a positive, effective way to that situation.

The problem with this bill is that we have been told, and unequivocally, that the Senate will not accept this bill. There are 46 Senators, Democrats, over in the other body who will feel disenfranchised, who will feel that we are dictating to them something they will not accept, because they have to represent the interests of their constituency.

Now, the fact is that there already are specific provisions dealing with reconciliation bills that streamline the process, that limit debate on these reconciliation bills. There are already rules in place that are designed to expedite the legislation. This is not necessary. This is far more restrictive provisions than they can accept, and regardless of the merits of whether or not they should accept this, the fact remains that this will do nothing to get the job done, to get Federal employees back on the job.

Let me just suggest something to consider: If you are 20 feet from shore and you are drowning and somebody throws you a 15-foot rope, it is well-intentioned, it goes more than halfway, it is what needs to be done, you would assume, to throw a rope, but if the rope is not long enough, the rope does not get to the person who is drowning, it is no good.

That is the analogy that applies to this piece of legislation. This piece of legislation dooms Federal employees to be locked out of their job and the American public locked out of their Government until we begin all over again next week.

If the President agrees to something, then it is clear that the Democrats in the House and Senate are going to follow his lead. So it should not be a problem. There is no reason why we cannot approve the legislation we just talked about. We just got the support; every Member spoke positively who spoke about that legislation. If we do it today, Federal employees are back on the job today. We have done our work, and then we ought to be able to enjoy the holiday. Otherwise, we have no business even being on recess.

Mr. EMERSON. Mr. Speaker, further reserving the right to object, I yield to the distinguished gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, let me try to bring some clarity, to this so everyone understands what we are talking about. I would have supported the other one gladly. I also support this one and hopefully people on the other side, they supported Senator DOLE's gladly, so hopefully they will then support this, this gladly.

This process of the expedited procedure is not all unusual process. It is actually in the budget rules now, so, I mean, it really is not any different except for the hourly thing.

Third, I think it is important for this reason. I serve on the Committee on Appropriations, and the Labor-HEW bill has been tied up over in the Senate for well over, I think, 5 or 6 weeks. It has been debated and moved and changed and filibustered whereby it cannot even come up.

So this process brings it up, and it is an expedited process. It is a good procedure. It gives the Senate time, the same way they would under the normal budget things.

The other thing is it gets us to a balanced budget. Both sides say they want a balanced budget. It gets us there. It gets us to a balanced budget in 7 years. It gets us to a balanced budget scored by CBO, and another thing, in a bipartisan nature, the President supports this.

I watched the news last night, and I do not know if it was the 10 o'clock news or 11 o'clock news, that focused in on the President. The President said he supported this process, he supported the expedited procedure.

Senator DOLE has been supportive of theirs, hopefully they will be supportive of this. And TOM DASCHLE, who is a good Member of the Senate, served here in the House, has a lot of Federal employees in his district, last night on one of the shows they focused in on Mount Rushmore which I believe is in his area; I believe this would be good for the body. I think it would be good for the Congress. I think it would be good for Federal employees. But perhaps more importantly than anything, this expedited procedure process in moving this along would be good for the country. That is what we are here for, to do the best interests of the country.

Had the other one been OK, fine. I even voted for it on the rollcall we did a week ago. I was one of three Republicans that did this. That process is there. This process is here. Let us pass this today so the Senate will have the opportunity, and hopefully take the opportunity, to work it and pass it whereby Federal employees can come back early next week.

Mr. EMERSON. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Virginia [Mr. DAVIS].

Mr. DAVIS. Mr. Speaker, I appreciate the frustration of Members on both sides in trying to deal with this in a fair-handed way.

Once again I supported the minority leader's request to bring this up clean. That was the surest and safest way to get Federal employees and contractors back to work.

This can work, too. The only objection that could be interjected here are by Senators who feel a balanced budget agreement agreed to by the President and congressional leaders and brought back here would not be subject to the same expedited consideration that we usually undergo in budget reconciliation, that would allow a handful of Members to filibuster to death a balanced budget.

No one here, I think, favors that. I cannot believe when it goes back to the Senate they will not be able to work that out. This is not necessarily the preferred mode. This moves us closer to the balanced budget and moves us closer to getting Federal employees back to work.

In the absence of the minority leader's request today being objected to, this is the next best option. I hope it will be adopted.

Mr. EMERSON. Mr. Speaker, further reserving the right to object, I yield very briefly to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we have been relatively rational, reasonable sounding in the course of this day's proceedings. But I want to tell the Speaker and this House there is a great deal of anger in America, not just in my district or that of the gentleman from Virginia [Mr. DAVIS], or that of the gentleman from Virginia [Mr. WOLF], or that of the gentleman from Virginia [Mr. MORAN], or that of the gentlewoman from Maryland [Mrs. MORELLA], a great deal of anger, I suspect in yours as well, Mr. Speaker, anger that the politicians cannot get it done.

The difference between the last resolution, yes, it was offered by the minority leader, the majority leader of the U.S. Senate, a Republican running for President, and, yes, President Clinton agreed with it as the gentleman from Virginia [Mr. WOLF] has pointed out, and our side agreed with it in a bipartisan, nonpartisan, common sense, let us get the Government back to work and stop playing politics with one another.

There is a difference with this resolution. This resolution attempts to muzzle the minority in the Senate.

Now, Mr. Speaker, I am not going to object to this resolution. My friend, the gentleman from Virginia [Mr. DAVIS], points out that this is the next best thing. I suggest the best thing is to pass a simple continuing resolution which could have been done in 5 minutes before we left here to go on recess ourselves.

Mr. Speaker, I fear very much that the analogy made by the gentleman from Virginia [Mr. MORAN] that this is a 15-foot rope for a 20-foot victim may be apt. It may be correct. And that is a tragedy, and those in America who are angry are angry because they see this as politics as usual, not doing what everybody on this floor has said ought to be done, everybody today has said ought to be done, put the Government back to work while we make the difficult decisions.

But I think the inevitable decision is to get us to balance. I am for that. As everybody knows, I voted for that.

Mr. Speaker, I would hope that in the next few hours, the leadership, who, as the gentleman from Missouri, a decent, honest Member who serves his district and country well, said of the objection on the last amendment, that it was for certain procedural amenities. I appreciate that. That is important to us on the minority side that we cannot offer a unanimous-consent request if they do not agree, and they cannot offer if we do not agree. That is an important principle. I understand that.

But when Americans hear that the Government is shut down because of certain procedural amenities, very frankly, their anger is heightened.

I do not mean to mischaracterize what the gentleman said. The gentleman referred to what both sides feel is an important consideration that each gives to the other. I want to make that clear to the American public. The gentleman honestly and correctly stated that principle.

But, Mr. Speaker, we should in a very simple, straightforward way, with no political objections on either side, pass Majority Leader DOLE's resolution clean. Let that be the law, and then let us resolve the difference between us and adopt what I believe that more than two-thirds of this body and, frankly, more than two-thirds of the Senate agree ought to be done, that is, a balanced budget in 7 years honestly scored by CBO so that America and America's children could have a better future.

Mr. EMERSON. Mr. Speaker, further reserving the right to object, if no one else seeks recognition, let me say that the resolution that was objected to would have permitted a minority of a minority of a minority in the Senate to filibuster interminably. The issue now before the House, the resolution now before the House, would put the issue right on the dime and get on with business.

Mr. Speaker, in consideration of the superior nature of this resolution, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. SCHIFF). Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, bills and joint resolutions of the House of the following titles:

H.J. Res. 136. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

H.R. 1530. An act to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

H.R. 1655. To authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

RECESS

The SPEAKER pro tempore. Pursuant to section 3 of House Resolution 320, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 58 minutes a.m.), the House stood in recess subject to the call of the Chair.

NOTICE OF ADOPTED RULES

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, December 21, 1995.

Hon. NEWT GINGRICH,
Speaker of the House, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to Section 303 of the Congressional Accountability Act of 1995 (2 U.S.C. §1384(b)), I am transmitting the enclosed Notice of Adoption of Procedural Rules, together with a copy of the rules for publication in the Congressional Record.

In addition, I have enclosed for publication, along with the adopted rules, a "redlined" copy of the proposed rules, which were published in the Congressional Record on November 14, 1995. Publication of this "redlined" copy, along with the final rules, will enable readers of the Congressional Record to note precisely the changes that were made.

The Congressional Accountability Act specifies that the enclosed rules be published on the first day on which both Houses are in session following this transmittal.

Sincerely,

RICKY SILBERMAN,
Executive Director.

[Below are the adopted rules, with changes from the proposed rules indicated as follows: new or altered material appears in boldface; deleted material is bracketed in boldface.]

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: PROCEDURAL RULES

NOTICE OF ADOPTION OF PROCEDURAL RULES

Summary: Section 303 of the Congressional Accountability Act directs the Executive Director of the Office of Compliance to adopt rules governing the procedures of the office. After considering comments to the Notice of Proposed Rulemaking published November 14, 1995 in the Congressional Record, the Executive Director has adopted and is publishing rules to govern the procedures for consideration and resolution of alleged violations of the laws made applicable under Part A of Title II of the Congressional Accountability Act (P.L. 104–1). Pursuant to Section 303(a) the rules have been approved by the Board of Directors, Office of Compliance.

For Further Information Contact: Executive Director, Office of Compliance, Room LA–200, 110 Second Street, S.E., Washington, DC 20540–1999. Telephone (202) 252–3100.

Background and Summary: The Congressional Accountability Act of 1995 ("CAA"), PL 104–1, was enacted into law on January 23, 1995. 2 U.S.C. §1301 et. seq. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 301 of the CAA establishes the Office of Compliance as an independent office within that branch. Section 303 of the CAA directs that the Executive Director, the chief operating officer of the Office of Compliance, shall, subject to the approval of the Board, adopt rules governing the procedures for the Office of Compliance, including the procedures of Hearing Officers. The rules that follow establish the procedures by which the Office of Compliance will provide for the consideration and resolution of alleged violations of the laws made applicable under Part A of Title II of the CAA. The rules include procedures for counseling, mediation, and for electing between filing a complaint with the Office of Compliance and filing a civil action in a district court of the United States. The rules also address the procedures for the conduct of hearings held as a result of the filing of a complaint and for appeals to the Board of Directors of the Office of Compliance from Hearing Officer decisions, as well as other matters of general applicability to the dispute resolution process and to the operations of the Office of Compliance.

To obtain input from interested persons on the content of these rules the Executive Director published for comment a Notice of Proposed Rulemaking in the Congressional Record on November 14, 1995 (141 Cong. R. S17012 (daily ed., November 14, 1995) ("NPR")), inviting comments regarding the proposed rules. Seven comments were received in response to the proposed rules. Comments were received from Members of Congress, employing offices and a management employee of the Architect of the Capitol expressing his personal view. After full consideration of the comments received, the Executive Director has, with the approval of the Board, adopted these procedural rules.

Summary and Board's Consideration of Comments

Confidentiality and Sanctions

Summary of Comments

Several commenters questioned whether the CAA empowers the Board, Hearing Officers, or the Office to impose sanctions for breaches of confidentiality. They also stated that, assuming sanctions can be imposed, the rules should provide more details as to what conduct may be sanctioned, what the sanctions will be, and how those sanctions will be imposed. One commenter noted that identifying possible sanctions will help forestall any due process challenges in the context of breaches of confidentiality.

Response

Section 1.07 sets forth the standard for imposing sanctions against individuals or employing offices that violate the confidentiality provisions of section 416 of the CAA. The form and procedures governing the imposition of sanctions are modeled after Rule 37(b) of the Federal Rules of Civil Procedure.

Section 1.07 makes clear that the confidentiality provisions prohibit any disclosure of information discussed or exchanged in the course of counseling under Section 402, mediation under Section 403 and Board hearings and deliberations under Sections 405 and 406 of the CAA. Section 1.07 of the rules only prohibits the use of information (including documents) which was obtained by the individual during the counseling, mediation or other proceedings. However, employees, employing offices and individuals that participate in counseling, mediation or other confidential proceedings are not prohibited by these rules from discussing or disclosing information that was obtained by that person outside the confidential proceedings. The Board believes that a confidentiality rule of this breadth appropriately balances the statutory mandates for confidentiality and the statutory mandate to have open and effective counseling, mediation, hearings and Board proceedings. Finally, this section makes clear that communications necessary for the pursuit or defense of claims under the CAA (communications with lawyers or other representatives) are not prohibited, even if such communications involve disclosure of the contents of confidential proceedings. The Board believes that these provisions adequately address the concerns expressed by some commenters that the confidentiality provisions not unduly limit the ability of employees and employing offices to engage in communications which the law should encourage and not discourage parties from utilizing the procedures of the CAA.

It is the intent of the Board that Section 1.07 and the confidentiality provisions apply to non-party participants such as witnesses and representatives. Such persons have voluntarily submitted to the jurisdiction of the Office of Compliance by participating in the proceedings, or are subject to the Office's jurisdiction by virtue of the subpoena power. Section 1.07 is part of the general authority of the Office of Compliance to set the rules and procedures of the Office, including the procedures of hearing officers, under Section 303(a) of the CAA. Section 1.07 is reasonably necessary to preserve the confidentiality of counseling, mediation and Board proceedings mandated by section 416 of the CAA.

Section 1.07 does not authorize sanctions against personnel of the Office of Compliance, as suggested by a commenter. Although the Board agrees that the confidentiality provisions apply to personnel of the Office of Compliance, the Board believes that violations by Office personnel can be adequately addressed as a disciplinary matter within the Office, not under Section 1.07.

Filings by Facsimile Transmission (FAX)

Summary of Comments

On the filing of documents by FAX, two commenters suggested that Sections 1.03 and 2.03 of the proposed rules should clearly state that a request for counseling can be filed by FAX. One commenter stated that the rules should allow "all documents" to be filed by FAX. Another commenter suggested that the rules expressly provide that, in order to expedite the pre-hearing and hearing processes, documents may be filed with a Hearing Office by FAX.

Response

The language of Section 1.03(a) has been clarified to expressly provide that a formal request for counseling may be filed by FAX and a provision has been added to allow the Board or a Hearing Officer, in their discretion, to order documents to be filed by FAX. Generally, allowing all documents to be filed by FAX might impose undue burdens on the receivers of FAX submissions and interfere with the Office of Compliance's orderly handling of documents. Accordingly, the proposed rule has not been modified to allow for such filing.

Withdrawals of Requests for Counseling

Summary of Comments

Several commenters suggested that Section 2.03(k) of the proposed rules should limit an employee's right to reinstate counseling to situations in which the request for reinstatement of counseling is made within the 180-day period established by Section 402 of the CAA. One commenter also expressed concern about the prospect of covered employees extending their claims indefinitely by repeatedly withdrawing from counseling and then reinstating the counseling request until the 30-day limit is reached. Another commenter indicated that the 30-day statutory limit on the counseling period requires the 30 days to be consecutive with no hiatus.

Response

The revised rule permits a covered employees, who has begun counseling, to withdraw from counseling with a single opportunity to reinstate counseling so long as the reinstatement request occurs within 180 days after the alleged violation and the counseling period does not exceed a total of 30 days. This addresses the commenters' concerns regarding the timeliness of counseling and the possibility of extended processing of claims. Because the Board is of the view that allowing an aggregate of 30 days of counseling conducted during two separate time frames is permissible under the CAA, the proposed rule has not been further modified.

Grievance Procedures of the Architect of the Capitol or the Capitol Police

Summary of Comments

Commenters asked for clarification in Section 2.03(m) of the term "grievance procedures of the Architect of the Capitol or the Capitol Police" under Section 401 of the CAA. One commenter suggested that Section 2.03(m) also provide for the Executive Director to recommend to any covered employees that they use grievance procedures which may be instituted in the further in any other employing offices.

Response

The adopted and approved rule defines the term "grievance procedures" to include any internal procedure of the Architect of the Capitol or the Capitol Police that is capable of resolving the issue about which the employee of the Architect of the Capitol or the Capitol Police has sought counseling.

Section 2.03(m) of the proposed rules exists by virtue of Section 401 of the CAA and reflects the statutory authorization to toll the statutory counseling and mediation periods if an employee of the Architect of the Capitol or the Capitol Police accepts the recommendation of the Executive Director. The CAA expressly authorizes such tolling of the statutory time periods only with regard to an employee of the Architect of the Capitol or the Capitol Police, and does not permit tolling in other circumstances.

Discoverable Information

Summary of Comments

One commenter stated that Section 6.01 should not limit discovery to "relevant" information. Instead, the commenter suggested that, consistent with Rule 26(b)(1) of the Federal Rules of Civil Procedure, a hearing officer should allow discovery of any information "reasonably calculated to lead to the discovery of admissible evidence." Another commenter requested that the rules specifically provide for discovery of requests for counseling and requests for mediation.

Response

The comments have been considered and that rule that has been adopted reflects the discovery standard of Rule 26(b)(1) of the Federal Rules of Civil Procedure. The rule does not, however, provide for the discovery of requests for counseling or mediation because that change in the rule is not necessary and could chill employees in their resort to counseling and mediation and hamper the effectiveness of those processes. To the extent that the commenter believes discovery is necessary to determine whether the applicable statutory requirements for filing a complaint have been met, the Office intends to include sufficient information in the notice of the end of the mediation period to allow such a determination by the employing office to be made.

Disqualification of Hearing Officers

Summary

Two commenters stated that Section 7.03 should provide that the denial of a motion to disqualify a Hearing Officer may be appealed directly to the Board, without review by the Executive Director.

Response

The Board has approved a rule that eliminates the requirement that the Executive Director review motions to disqualify a Hearing Officer and provides for Board review of the denial of a motion to disqualify during the appeal to the Board, if any, of the Hearing Officer's decision on the merits.

Admissibility of Evidence

Summary of Comments

Two commenters suggested that the procedural rules should not require a Hearing Officer to apply the Federal Rules of Evidence. One commenter was concerned that the reliance on the Federal Rules of Evidence would require a covered employee to retain an attorney. Another commenter stated that the rules should merely state that the Hearing Officer shall apply the provisions of the Administrative Procedure Act (Sec. 554 through 557 of the Title 5, U.S. Code) (APA), specifically Sec. 556(d) of Title 5, in hearing a case because Section 405(d)(3) of the CAA instructs that the hearing shall be conducted, "to the greatest extent practicable, in accordance with the principles and procedures" of those sections of the APA. This commenter asserts that the Federal Rules of Evidence set a "more restrictive" standard than that found in the APA and may limit the development of the hearing record.

Response

Section 7.09 of the rules has not been modified. The Federal Rules of Evidence clarify and more fully develop the APA provisions regarding evidentiary rulings. They are complementary, not contradictory, to the APA. In addition, the procedural rules require that the Federal Rules of Evidence be applied "to the greatest extent practicable." Accordingly, a Hearing Officer, in his or her discretion, may adapt, or depart from, these rules as warranted. Moreover, as the Federal Rules of Evidence are applicable in the federal courts, the adopted rule provides the collateral benefits of affording some uniformity between the administrative hearing process of the Office of Compliance and civil actions filed in the district courts under Section 408 of the CAA.

Informal Resolution of Disputes

Summary of Comments

Three comments were received with respect to Section 9.03(b) of the proposed rules. Two commenters questioned whether the informal resolution of disputes is permitted under the CAA in light of the requirements of Section 414. Another commenter stated that the proposed rule should be revised because resolution of disputes cannot exist without a mandatory waiver of a covered employee's rights or the commitment by the employing office to an enforceable obligation.

Response

Section 9.03 of the rules has been reorganized to clarify its intent and meaning. Before a complaint is filed, an employee and an employing office may agree upon a mutually satisfactory arrangement, thereby resolving the dispute without a waiver by the employee or a commitment by the employing office to an enforceable obligation. The Board has considered the comments but is not persuaded that all early, mutually satisfactory resolutions of disputes between parties must be reduced to writing and approved by the Executive Director under Section 414 of the CAA. Section 9.03 of the rules recognizes that the policy underlying the CAA favors the early resolution of disputes and permits a covered employee for whom counseling and mediation has been successful to withdraw from the dispute resolution process without the requirement that such resolution be reduced to writing and submitted to the Executive Director for approval.

Attorney's Fees and Costs

Summary of Comments

One commenter suggested that Section 9.03(a) of the proposed rules be modified to prevent requests for attorney's fees during the pendency of an appeal of the Hearing Officer's decision. In this commenter's view, such requests would be "premature" because the Board could reverse a Hearing Officer's decision in the complainant's favor, making an award of fees inappropriate.

Response

The Board has considered this comment in the context of the applicable provisions of the CAA. Under Section 225(a), if a covered employee is a "prevailing party," the Hearing Officer, Board, or court, as the case may be, may award attorney's fees, expert fees, and any other costs as would be appropriate if awarded under section 717(d) of the Civil Rights Act of 1964. Similarly, Section 405(g) provides that the Hearing Officer shall order, at the time of the final decision, such remedies as are appropriate pursuant to title II" of the CAA, which includes attorney's fees, if appropriate. These statutory sections contemplate that the Hearing Officer would make an attorney's fee award, if appropriate, without awaiting a decision disposing of the case on appeal.

In actions involving private sector parties, an award of attorney's fees and costs is not delayed ordinarily by an appeal of the decision on the merits. See generally Fed. R. Civ. P., 58, Fed R. App. Proc., 4(a)(4). The Board has considered the comment and does not find any compelling reason to delay the Hearing Officer's decision on fees and costs simply because the decision on the merits is pending an appeal. Therefore, Section 9.01 of the procedural rules has not been modified.

Class Actions

Summary of Comments

One commenter questioned whether the proposed rules were intended to prohibit class actions and requested that the rules specifically set forth procedures governing class actions.

Response

The procedural rules that have been adopted do not purport to address whether and in what circumstances, if any, employees may pursue class claims. The issue is one that involves substantive legal questions that are not appropriately addressed in these procedural rules.

Additional Comments

Commenters suggested various technical and ministerial changes in the proposed rules which improved their clarity and effectiveness and were consistent with the policy underlying the particular provisions. Those changes have been made and are included in the published rules, which are "red-lined" to indicate all changes made.

Several other suggestions, such as what information the Office will include in certain notifications and how it will handle telephonic requests for counseling, will be and are best handled as part of the Office's internal operational process rather than codified in the procedural rules. Similarly, requests that the Senate Chief Counsel for Employment or the House Office of General Counsel receive certain notifications during the dispute-resolution process are best handled by House and Senate internal procedures rather than in the Office's procedural rules, particularly because the confidentiality provisions of the CAA preclude the Office from disclosing the existence of a particular proceeding to individuals other than the parties or their designated representatives. However, to the extent that the commenters sought such notification in order to file an amicus curiae brief, it should be noted that the Board may, in certain cases, solicit such briefs. In those cases the Board will employ appropriate safeguards to ensure that the identity of the participants in any proceeding is not disclosed.

Finally, commenters suggested other additions or modifications to the procedural rules such as not allowing additional time for filings when documents are served by mail, permitting more time for the filing of responses, the imposition of more formal and detailed discovery procedures, the holding of pre-hearing conference at a later date than that proposed, a requirement that parties file pre-hearing memoranda and limitations on a party's ability to object to testimony or the calling of a witness. The Board is of the view that the Office's procedures should be neither cumbersome nor onerous for the parties who wish to participate in the CAA's administrative dispute resolution process and that the short time frames under the CAA, particularly the 60-day period between complaint and hearing, should be fully available for the preparation and processing of claims. It is the Board's considered judgment that to incorporate the foregoing or similar suggestions in the procedural rules would have the undesired effect of discouraging the use of the administrative process and, thereby, encouraging the use of the federal civil process.

PART 1—OFFICE OF COMPLIANCE

OFFICE OF COMPLIANCE RULES OF PROCEDURE

Subpart A—General Provisions

§1.01 Scope and policy
§1.02 Definitions
§1.03 Filing and Computation of Time

§1.04 Availability of Official Information
§1.05 Designation of Representative
§1.06 Maintenance of Confidentiality
§1.07 Breach of Confidentiality Provisions

§1.01 Scope and policy

These rules of the Office of Compliance govern the procedures for consideration and resolution of alleged violations of the laws made applicable under Part A of title II of the Congressional Accountability Act of 1995. The rules include procedures for counseling, mediation, and for electing between filing a complaint with the Office of Compliance and filing a civil action in a district court of the United States. The rules also address the procedures for the conduct of hearings held as a result of the filing of a complaint and for appeals to the Board of Directors of the Office of Compliance from Hearing Officer decisions, as well as other matters of general applicability to the dispute resolution process and to the operations of the Office of Compliance. It is the policy of the Office that these rules shall be applied with due regard to the rights of all parties and in a manner that expedites the resolution of disputes.

§1.02 Definitions

Except as otherwise specifically provided in these rules, for purposes of this Part;

(a) Act. The term "Act" means the Congressional Accountability Act of 1995;

(b) Covered Employee. The term "covered employee" means any employee of

(1) the House of Representatives;
(2) the Senate;
(3) The Capitol Guide Service;
(4) the Capitol Police;
(5) the Congressional Budget Office;
(6) the Office of the Architect of the Capitol;
(7) the Office of the Attending Physician;
(8) the Office of Compliance; or
(9) the Office of Technology Assessment.

(c) Employee. The term "employee" includes an applicant for employment and a former employee.

(d) Employee of the Office of the Architect of the Capitol. The term "employee of the Office of the Architect of the Capitol" includes any employee of the Office of the Architect of the Capitol, the Botanic Garden or the Senate Restaurants.

(e) Employee of the Capitol Police. The term "employee of the Capitol Police" includes civilian employees and any member or officer of the Capitol Police.

(f) Employee of the House of Representatives. The term "employee of the House of Representatives" includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (9) of paragraph (b) above.

(g) Employee of the Senate. The term "employee of the Senate" includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (3) through (9) of paragraph (b) above.

(h) Employing Office. The term "employing office" means:

(1) the personal office of a Member of the House of Representatives or a Senator;

(2) a committee of the House of Representatives or the Senate or a joint committee;

(3) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(4) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

(i) Party. The term "party" means the employee or the employing office.

(j) Office. The term "Office" means the Office of Compliance.

(k) Board. The term "Board" means the Board of Directors of the Office of Compliance.

(l) Chair. The term "Chair" means the Chair of the Board of Directors of the Office of Compliance.

(m) Executive Director. The term "Executive Director" means the Executive Director of the Office of Compliance.

(n) General Counsel. The term "General Counsel" means the General Counsel of the Office of Compliance.

(o) Hearing Officer. The term "Hearing Officer" means any individual designated by the Executive Director to preside over a hearing conducted on matters within the Office's jurisdiction.

§1.03 Filing and Computation Time

(a) Method of Filing. Documents may be filed in person or by mail, including express, overnight and other expedited delivery. **Requests for counseling under Section 2.03,** requests for mediation under Section 2.04 and complaints under Section 2.06 of these rules may also be filed by facsimile (FAX) transmission. **In addition, the Board or a Hearing Officer may order other documents to be filed by FAX.** The original copies of documents filed by FAX must also be mailed to the Office no later than the day following FAX transmission. The filing of all documents is subject to the limitations set forth below.

(1) In Person. A document shall be deemed timely filed if it is hand delivered to the Office in: Adams Building, Room LA 200, 110 Second Street, SE., Washington, DC, 20540–1999, before **5:00 p.m. Eastern Time on the last day of** [the expiration of] the applicable time period.

(2) Mailing. (i) If mailed, **including express, overnight and other expedited delivery,** a request for mediation or a complaint is deemed filed on the date of its receipt in the Office [of Compliance]. (ii) A document, other than a request for mediation or a complaint, is deemed filed on the date of its postmark or proof of mailing **to the Office.** Parties, including those using franked mail, are responsible for ensuring that any mailed document bears a postmark date or other proof of the actual date of mailing. In the absence of a legible postmark a document will be deemed timely if it is received by the Office at Adams Building, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540–1999, by mail within five (5) days of the expiration of the applicable filing period.

(3) Faxing documents. Documents transmitted by FAX machine will be deemed filed on the date received at the Office at 202–252–3115. A FAX filing will be timely only if the Office receives the document no later than 5:00 PM Eastern Time on the last day of the applicable filing period. Any party using a FAX machine to file a document bears the responsibility for ensuring both that the document is timely and accurately transmitted and confirming that the Office has received a facsimile of the document. The party or individual filing the document may rely on its FAX status report sheet to show that it filed the document in a timely manner, provided that the status report indicates the date of the FAX, the receiver's FAX number, the number of pages included in the FAX, and that transmission was completed.

(b) Computation of Time. All time periods in these rules that are stated in terms of days are calendar days unless otherwise noted. However, when the period of time prescribed is five (5) days or less, intermediate Saturdays, Sundays and Federal government holidays shall be excluded in the computation. To compute the number of days for taking any action required or permitted under these rules, the first day shall be the day after the event from which the time period begins to run and the last day for filing or service shall be included in the computation. When the last day falls on a Saturday, Sunday, or federal government holiday, the last day for taking the action shall be the next regular federal government workday.

(c) Time Allowances for Mailing of Official Notices. Whenever a person or party has the right or is required to do some act within a prescribed period after the service of a notice or other document upon him or her and the notice or document is served by regular, **first-class** mail, five (5) days shall be added to the prescribed period. Only two (2) days shall be added if a document is served by express mail or other form of expedited delivery. When documents are served by certified mail, return receipt requested, the prescribed period shall be calculated from the date of receipt as evidenced by the return receipt.

§1.04 Availability of Official Information

(a) Policy. It is the policy of the Board, the Office and the General Counsel, except as otherwise ordered by the Board, to make available for public inspection and copying final decisions and orders of the Board and the Office, as specified and described in paragraph (d) below.

(b) Availability. Any person may examine and copy items described in paragraph (a) above at the Office of Compliance, Adams Building, Room LA200, 110 Second Street, S.E., Washington, D.C. 20540–1999, under conditions prescribed by the Office, including requiring payment for copying costs, and at reasonable times during normal working hours so long as it does not interfere with the efficient operations of the Office. As ordered by the Board, **the Office may withhold or place under seal** identifying details or other necessary matters [may be deleted and placed under seal] and, in each case, the reason for the **withholding or sealing** [deletion] shall be stated in writing.

(c) Copies of forms. Copies of blank forms prescribed by the Office for the filing of complaints and other actions or requests may be obtained from the Office.

(d) Final decisions. Pursuant to Section 416(f) of the Act, a final decision entered by a Hearing Officer or by the Board under Section 405(g) or 406(e) of the Act, which is in favor of the complaining covered employee or reverses a Hearing Officer's decision in favor of a complaining covered employee, shall be made public, except as otherwise ordered by the Board.

(e) Release of records for judicial action. The records of Hearing officers and the Board may be made public if required for the purpose of judicial review under Section 407 of the Act.

(f) Access by Committees of Congress. At the discretion of the Executive Director, the Executive Director may provide to the Committee on Standards of Official Conduct of the House of Representatives and the Select Committee on Ethics of the Senate access to the records of the hearings and decisions of the Hearing Officers and the Board, including all written and oral testimony in the possession of the Office. The identifying information in these records may be redacted at the discretion of the Executive Director. The Executive Director shall not provide such access until the Executive Director has consulted with the individual filing the complaint at issue, and until a final decision has been entered under Section 405(g) or 406(e) of the Act.

§ 1.05 Designation of Representative

(a) An employee, a witness, or an employing office wishing to be represented by another individual must file with the Office a written notice of designation of representative. The representative may be, but is not required to be, an attorney.

(b) Service where there is a representative. All service of documents shall be directed to the representative, unless the represented individual or employing office specifies otherwise and until such time as that individual or employing office notifies the Executive Director of an amendment or revocation of the designation of representative. Where a designation of representative is in effect, all time limitations for receipt of materials by the represented individual shall be computed in the same manner as for unrepresented individuals with service of the documents, however, directed to the representative, as provided.

§ 1.06 Maintenance of Confidentiality

(a) Policy. In accord with Section 416 of the Act, it is the policy of the Office to maintain, to the fullest extent possible, the confidentiality of the proceedings and of the participants in proceedings conducted under Sections 402, 403, 405 and 406 of the Act and these rules.

(b) At the time that any individual, employing office or party, including a designated representative, becomes a participant in counseling under Section 402, mediation under Section 403, the complaint and hearing process under Section 405, or an appeal to the Board under Section 406 of the Act, or any related proceeding, the Office will advise the participant of the confidentiality requirements of Section 416 of the Act and these rules and that sanctions **may** [might] be imposed for a violation of those requirements.

§ 1.07 Breach of confidentiality Provisions

(a) In General. Section 416(a) of the CAA provides that counseling under section 402 shall be strictly confidential, except that the Office and a covered employee may agree to notify the employing office of the allegations. Section 416(b) provides that all mediation shall be strictly confidential. Section 416(c) provides that all proceedings and deliberations of hearing officers and the Board, including any related records shall be confidential, except for release of records necessary for judicial actions, access by certain committees of Congress, and publication of final certain final decisions. See also Sections 1.06 and 2.10 of these rules.

(b) Prohibition. Unless specifically authorized by the provisions of the CAA or by order of the Board, the Hearing Officer or a court, or by the procedural rules of the Office, no participant in counseling, mediation or other proceedings made confidential under section 461 of the CAA ("confidential proceedings") may disclose the contents or records of those proceedings to any person or entity.

(c) Participant. For the purposes of this rule, participant means any individual, employing office or party, including a designated representative, that becomes a participant in counseling under Section 402, mediation under Section 403, the complaint and hearing process under Section 405, or an appeal to the Board under Section 406 of the Act, or any related proceeding which is expressly or by necessity deemed confidential under the Act or these rules.

(d) Contents or records of confidential proceedings. For the purpose of this rule, the contents or records of counseling, mediation or other proceeding includes the information disclosed by participants to the proceedings, and records disclosed by either the opposing party, witnesses or the Office. Notwithstanding these rules, a participant is free to disclose facts and other information obtained from any source outside of the confidential proceedings. For example, information forming the basis for the allegation of a complaining employee may be disclosed by that employee, provided that the information contained in those allegations was not obtained in a confidential proceeding. However, the employing office or representatives other than the complaining party's representative (or, in some cases, the Office) may not disclose that information. Nothing in these rules prohibit a bona fide representative of a party under Section 1.05 from engaging in communications with that party for the purpose of participation in the proceedings, provided that such disclosure is not made in the presence of individuals not reasonably necessary to the representative's representation of that party.

(e) Violation of confidentiality. Any complaint regarding a violation of the confidentiality provisions must be made to the Executive Director no later than 30 days after the date of the alleged violation. Such complaints may be referred by the Executive Director to a Hearing Officer. The Hearing Officer is also authorized to initiate proceedings on his or her own initiative, or at the direction of the Board, if the alleged violation occurred in the context of Board proceedings. Upon a finding of a violation of the confidentiality provisions, the Hearing Officer, after notice and hearing, may impose an appropriate sanction, which may include any of the sanctions listed in section 7.02 of these rules, as well as any of the following:

(i) An order that the matters regarding which the violation occurred or any other designated facts shall be taken to be established against the violating party for the purposes of the action in accordance with the claim of the other party;

(ii) An order refusing to allow the violating party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence;

(iii) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing with or without prejudice the action or proceedings or any part thereof, or rending a judgment by default against the violating party;

(iv) In lieu of any of the foregoing orders or in addition thereto, the Hearing Officer shall require the party violating the confidentiality provisions or the representative advising him, or both, to pay, at such time as ordered by the Hearing Officer, the reasonable expenses, including attorney fees, caused by the violation, unless the Hearing Officer finds that the failure was substantially justified or that other circumstances make an award of expenses unjust. Such an order shall be subject to review on appeal of the final decision of the Hearing Officer under section 406 of the Act. No sanctions may be imposed under this section except for good cause and the particulars of which must be stated in the sanction order.

Subpart B—Procedures Applicable to Consideration of Alleged Violations of Part A of Title II of the Congressional Accountability Act of 1955

§2.01 Matters Covered by Subpart B
§2.02 Requests for Advice and Information
§2.03 Counseling
§2.04 Mediation
§2.05 Election of Proceedings
§2.06 Complaints
§2.07 Appointment of the Hearing Officer
§2.08 Filing, Service and Size Limitations of Motions, Briefs, Responses and other Documents
§2.09 Dismissal of Complaint
§2.10 Confidentiality
§2.11 Filing of Civil Action

§2.01 Matters Covered by Subpart B

(a) These rules govern the processing of any allegation that Sections 201 through 206 of the Act have been violated and any allegation of intimidation or reprisal prohibited under Section 207 of the Act. Sections 201 through 206 apply to covered employees and employing offices certain rights and protections of the following laws:

(1) The Fair Labor Standards Act of 1938
(2) Title VII of the Civil Rights Act of 1964
(3) **Title I of** the Americans with Disabilities Act of 1990
(4) The Age Discrimination in Employment Act of 1967
(5) The Family and Medical Leave Act of 1993
(6) The Employee Polygraph Protection Act of 1988
(7) The Worker Adjustment and Retraining Notification Act
(8) The Rehabilitation Act of 1973
(9) Chapter 43 (relating to veterans' employment and reemployment) of title 38, United States Code.

(b) This subpart applies to the covered employees and employing offices as defined in Section 1.02 (b) and (h) of these rules and any activities within the coverage of **Sections 201 through 206 and 207 of the Act and referenced above** [The laws referred to] in Section 2.01(a) of these rules.

§2.02 Requests for advice and information

At any time, an employee or an employing office may seek from the Office of informal advice and information on the procedures of the Office and under the Act and information on the protections, rights and responsibilities under the Act and these rules. The Office will maintain the confidentiality of requests for such advice or information.

§2.03 Counseling

(a) Initiating a proceeding; formal request for counseling. In order to initiate a proceeding under these rules, an employee [who believes that he or she is covered by the Act] shall formally request counseling from the Office regarding an alleged violation of the Act, as referred to in Section 2.01(a), above. All formal requests for counseling shall be confidential, unless the employee agrees to waive his or her right to confidentiality under Section 2.03(e)(2), below.

(b) Who may request counseling. A covered employee who believes that he or she has been or is the subject of a violation of the Act as referred to in Section 2.01(a) may formally request counseling.

(c) When, how and where to request counseling. A formal request for counseling:

(1) Shall be made not later than 180 days after the date of the alleged violation of the Act;

(2) May be made to the Office in person, by telephone, or by written request;

(3) Shall be directed to: Office of Compliance, Adams Building, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540–1999; telephone: (202) 252–3100; FAX (202) 252–3115; TDD (202) 426–1912.

(d) Purpose of counseling period. The purpose of the counseling period shall be: to discuss the employee's concerns and elicit information regarding the matter(s) which the employee believes constitute a violation(s) of the Act; to advise the employee of his or her rights and responsibilities under the Act and the procedures of the Office under these rules; to evaluate the matter; and to assist the employee in achieving an early resolution of the matter, if possible.

(e) Confidentiality and waiver. (1) Absent a waiver under paragraph 2, below, all counseling shall be strictly confidential. Nothing in these rules shall prevent a counselor from consulting with personnel with the Office concerning a matter in counseling, except that, when the person being counseled is an employee of the Office, the counselor shall not consult with any individual within the Office who might be a party or witness without the consent of the person requesting counseling. Nothing contained in these rules shall prevent the Executive Director from reporting statistical information to the Senate and House of Representatives, so long as that statistical information does not reveal the identity of the employees involved or of employing offices that are the subject of a request for counseling.

(2) The employee and **the** Office may agree to waive confidentiality of the counseling process for the limited purpose of contacting the employing office to obtain information to be used in counseling the employee or to attempt a resolution of any disputed matter(s). Such a limited waiver must be written on the form supplied by the Office and signed by both the counselor and the employee.

(f) Role of Counselor in informing employee of his or her rights and responsibilities. The counselor will provide the employee with appropriate information concerning rights and responsibilities under the Act and these rules.

(g) Role of Counselor in defining concerns. The counselor may:

(1) obtain the name, home and office mailing addresses, and home and office telephone numbers of the person being counseled;

(2) obtain the name and title of the person(s) whom the employee claims has engaged in a violation of the Act and the employing office in which this person(s) works;

(3) obtain a detailed description of the action(s) at issue, including all relevant dates, and the covered employee's reason(s) for believing that a violation may have occurred;

(4) inquire as to the relief sought by the covered employee;

(5) obtain the name, address and telephone number of the employee's representative, if any, and whether the representative is an attorney.

(h) Role of Counselor in attempting informal resolution. In order to attempt to resolve the matter brought to the attention of the counselor, the counselor must obtain a wavier of confidentiality pursuant to Section 2.03(e)(2) of this chapter. If the employee executes such a waiver, the counselor may:

(1) conduct a limited inquiry for the purpose of obtaining any information necessary to attempt an informal resolution or formal settlement;

(2) reduce to writing any formal settlement achieved and secure the signatures of the employee, his or her representative, if any, and a member of the employing office who is authorized to enter into a settlement on the employing office's behalf; and, pursuant to Section 414 of the Act and Section 9.03 of these rules, seek the approval of the Executive Director. **Nothing in this subsection, however, precludes the employee, the employing office or their representatives from reducing to writing any formal settlement.**

(i) Counselor not a representative. The counselor shall inform the person being counseled that the counselor does not represent either the employing office or the employee. The counselor provides information and may act as a third-party intermediary with the goals of increasing the individual's understanding of his or her rights and responsibilities under the Act and of promoting the early resolution of the matter.

(j) Duration of counseling period. The period for counseling shall be 30 days, beginning on the date that the request for counseling is received by the Office unless the employee and the Office agree to reduce the period.

(k) Duty to proceed. An employee who initiates a proceeding under this part shall be responsible at all times for proceeding, regardless of whether he or she has designated a representative. An employee, however, may withdraw from counseling **once** [at any time] without prejudice to the employee's right to reinstate counseling regarding the same matter, provided that **the request to reinstate counseling is received in the Office not later than 180 days after the date of the alleged violation of the Act and that** counseling on a single matter will not last longer than a total of 30 days.

(l) Conclusion of the counseling period and notice. The Executive Director shall notify the employee in writing of the end of the counseling period, by certified mail, return receipt requested. The Executive Director, as part of the notification of the end of the counseling period, shall inform the employee of the right **and obligation, should the employee choose to pursue his or her claim,** to file with the Office a request for mediation within 15 days after receipt by the employee of the notice of the end of the counseling period.

(m) Employees of the Office of the Architect of the Capitol and Capitol Police.

(1) Where an employee of the Office of the Architect of the Capitol or of the Capitol Police requests counseling under the Act and these rules, the Executive Director may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police. **The term grievance procedures refers to internal procedures of the Architect of the Capitol and the Capitol Police that can provide a resolution of the matter(s) about which counseling was requested.** Pursuant to Section 401 of the Act and by agreement with the Architect of the Capitol and the Capitol Police Board, when the Executive Director makes such a recommendation, the following procedures shall apply:

(i) The Executive Director shall recommend to the employee that the employee use the **grievance** procedures of the Architect or of the Capitol Police Board, as appropriate, for a period generally up to 90 days, unless the Executive Director determines a longer period is appropriate for resolution of the employee's complaint through the **grievance** [internal] procedures of the Architect or the Capitol Police Board;

(ii) After having contacted the Office and having utilized the grievance procedures of the Architect or to the Capitol Police Board, the employee may **notify the Office that he or she wishes to** return to the procedures under these rules:

(A) **within 10 days** after the expiration of the period recommended by the Executive Director, if the matter has not been resolved; or

(B) within 20 days after **service of** [receiving] a final decision **resulting from** [as a result of] the **grievance** procedures of the Architect or of the Capitol Police Board.

(iii) The period during which the matter is pending in the internal **grievance** procedure shall not count against the time available for counseling or mediation under the Act. If the grievance is resolved to the employee's satisfaction, **or if no request to return to the procedures under these rules is received within the applicable time period,** the Office will consider the case to be closed in its official files.

(2) Notice to employees who have not initiated counseling with the Office. When an employee of the Architect of the Capitol or the Capitol Police raises in the internal procedures of the Architect or of the Capitol Police Board an allegation which may also be raised under the procedures set forth in this subpart, the Architect or the Capitol Police Board should advise the employee in writing that a request for counseling about the allegation must be initiated with the Office within 180 days after the alleged violation of law occurred if the employee intends to use the procedures of the Office.

(3) Notice in final decisions when employees have not initiated counseling with the Office. When an employee raises in the internal procedures of the Architect or of the Capitol Police Board an allegation which may also be raised under the procedures set forth in this subpart, any final decision pursuant to the procedures of the Architect of the Capitol or of the Capitol Police Board should include notice to the employee of his or her right to initiate the procedures under these rules within 180 days after the alleged violation occurred.

(4) Notice in final decisions when there has been a recommendation by the Executive Director. When the Executive Director has made a recommendation under paragraph 1 above, the Architect or the Capitol Police Board should include notice to the employee of his or her right to resume the procedures under these rules within 20 days after service on the employee of the final decision and shall transmit a copy of the final decision, settlement agreement, or other final [decision, settlement agreement, or other final] disposition of the case to the Executive Director.

§2.04 Mediation

(a) Explanation. Mediation is a process in which employees, employing offices and their representatives, **if any,** meet separately and/or jointly with a neutral trained to assist them in resolving disputes. As parties to the mediation, employees, employing offices and their representatives [openly] discuss alternatives to continuing their dispute, including any and all possibilities of reaching a voluntary, mutually satisfactory resolution. The neutral has no power to impose a specific resolution, and the mediation process, whether or not a resolution is reached, is strictly confidential, pursuant to Section 416 of the Act.

(b) Initiation. Not more than 15 days after receipt by the employee of the notice of the conclusion of the counseling period under Section 2.03(l), the employee may file with the Office a written request for mediation.

The request for mediation shall contain the employee's name, address, and telephone number, and the name of the employing office that is the subject of the request. Failure to request mediation within the prescribed period will preclude the employee's further pursuit of his or her claim.

(c) Notice of commencement of the mediation period. The Office shall notify the employing office or its designated representative of the commencement of the mediation period.

(d) Selection of Neutrals; Disqualification. Upon receipt of the request for mediation, the Executive Director shall assign one or more neutrals to commence the mediation process. In the event that a neutral considers him or herself unable to perform in a neutral role in a given situation, he or she shall withdraw from the matter and immediately shall notify the Office of the withdrawal. Any party may ask the Office to disqualify a neutral by filing a written request, including the reasons for such request, with the Executive Director. This request shall be filed as soon as the party has reason to believe there is a basis for disqualification. The Executive Director's decision on this request shall be final and unreviewable.

(e) Duration and Extension. (1) The mediation period shall be 30 days beginning on the date the request for mediation is received, unless the Office grants an extension.

(2) The Office may extend the mediation period upon the joint request of the parties. The request shall be written and filed with the Office no later than the last day of the mediation period. The request shall set forth the joint nature of the request and the reasons therefor, and specify when the parties expect to conclude their discussions. Requests for additional extensions may be made in the same manner. Approval of any extensions shall be within the sole discretion of the Office.

(f) Procedures. (1) The Neutral's Role. After assignment of the case, the neutral will promptly contact the parties. The neutral has the responsibility to conduct the mediation, including deciding how many meetings are necessary and who may participate in each meeting. The neutral may accept **and may ask the parties to provide** written submissions [from the parties].

(2) The Agreement to Mediate. At the commencement of the mediation, the neutral will ask the parties to sign an agreement ("the Agreement to Mediate") to adhere to the confidentiality of the process. The Agreement to Mediate will also provide that the parties to the mediation will not seek to have the counselor or the neural **participate**, testify or otherwise present evidence in any subsequent civil action under Section 408 of the Act or any other proceeding.

(g) Who may participate. The covered employee, the employing office, their respective representatives, and the Office may meet, jointly or separately, with the neutral. A representative of **the employee and a representative of the** [an] employing office who has actual authority to agree to a settlement agreement on behalf of the **employee or the** employing office, **as the case may be,** must be present at the mediation or must be immediately accessible by telephone during the mediation.

(h) Conclusion of the Mediation Period and Notice. If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the request for mediation, the Office shall provide the employee, and the employing office, and their representatives, with written notice that the mediation period has concluded. **The written notice to the employee will be sent by certified mail, return receipt requested and it** [at the same time, the office] will **also** notify the employee of his or her right to elect to file a complaint with the Office in accordance with Section 405 of the Act and Section 2.06 of these rules or to file a civil action pursuant to Section 408 of the Act and Section 2.11 of these rules.

(i) Independence of the Mediation Process and the Neutral. The Office will maintain the independence of the mediation process and the neutral. No individual, who is appointed by the Executive Director to mediate, may conduct or aid in a hearing conducted under Section 405 of the Act with respect to the same matter or shall be subject to subpoena or any other compulsory process with respect to the same matter.

(j) Confidentiality. Except as necessary to consult with the parties, their counsel or other designated representatives, the parties to the mediation, the neutral, and the Office shall not disclose, in whole or in part, any information or records obtained through, or prepared specifically for, the mediation process. This rule shall not preclude a neutral from consulting with the Office, except that **when the covered employee is an employee of the Office** a neutral shall not consult with **any individual within the Office who might be** a party or witness [within the Office]. This rule shall also not preclude the Office from reporting statistical information to the **Senate and House of Representatives** that does not reveal the identity of the employees or employing offices involved in the mediation. All parties to the action and their representatives will be advised of the confidentiality requirements of this process and of the sanctions that might be imposed for violating these requirements.

(k) Employees of the office of the Architect of the Capitol and the Capitol Police. At any time during the mediation period, the Executive Director may recommend that the employee use the grievance procedures of the Architect of the Capitol and the Capitol Police in accordance with the procedures set forth in Section 203(m) of these rules.

§2.05 Election of Proceeding

(a) Pursuant to Section 404 of the Act, not later than 90 days after a covered employee receives notice of the end of mediation under Section 2.04(h) of these rules, but no sooner than 30 days after that date, the covered employee may either: File a complaint with the Office in accordance with Section 405 of the Act and the procedure set out in Section 2.06, below; or file a civil action in accordance with Section 408 of the Act and Section 2.11 below in the United States District Court for the district in which the employee is employed or for the District of Columbia.

(b) A covered employee who files a civil action pursuant to Section 2.11, may not thereafter file a complaint under Section 2.06 on the same matter.

§2.06 Complaints

(a) Who may file. An employee who has completed mediation under Section 2.04 may timely file a complaint with the Office.

(b) When to file. A complaint may be filed no sooner than 30 days after the date of receipt of the notice under Section 2.04(h), but no later than 90 days after that notice.

(c) Form and Contents. A complaint shall be written or typed on a complaint form available from the Office. All complaints shall be signed by the covered employee, or his or her representative, and shall contain the following information:

(1) the name, mailing address, and telephone number(s) of the complainant;

(2) the name, address and telephone number of the employing office against which the complaint is brought;

(3) the name(s) and title(s) of the individual(s) involved in the conduct that the employee claims is a violation of the Act;

(4) a description of the conduct being challenged, including the date(s) of the conduct;

(5) a brief description of why the complainant believes the challenged conduct is a violation of the Act and the Section(s) of the Act involved;

(6) a statement of the relief or remedy sought; and

(7) the name, address, and telephone number of the representative, if any, who will act on behalf of the complainant.

(d) Amendments. Amendments to the complaint may be permitted by the Office or, after assignment, by a Hearing Officer, on the following conditions: that all parties to the proceeding have adequate notice to prepare to meet the new allegations; that the amendments relate to the violations for which the employee has completed counseling and mediation; and that permitting such amendments will not unduly prejudice the rights of the employing office or other parties, unduly delay the completion of the hearing or otherwise interfere with or impede the proceedings.

(e) Service of Complaint. Upon receipt of a complaint or an amended complaint, the Office shall serve the employing office named in the complaint, or its designated representative, with a copy of the complaint or amended complaint and a copy of these rules. The Office shall include a service list containing the names and addresses of the parties and their designated representatives.

(f) Answer. Within 15 days after service of a copy of a complaint or an amended complaint, the respondent employing office shall file an answer with the Office and serve one copy on the complainant. The answer shall contain a statement of the position of the respondent employing office on each of the issues raised in the complaint, including admissions, denials, or explanations of each allegation made in the complaint and any other defenses to the complaint. Failure to raise a claim or defense in the answer shall not bar its submission later unless to do so would unduly prejudice the rights of the other party or unduly delay or otherwise interfere with or impede the proceedings.

§2.07 Appointment of the Hearing Officer

Upon the filing of a complaint, the Executive Director will appoint an independent Hearing Officer, who shall have the authority specified in Section**s 2.09 and** 7.01(b) below. The Hearing Officer shall not be the **counselor involved in or the** neutral who mediated the matter under Section**s 203 and** 2.04 of these rules.

§2.08 Filing, Service, and Size Limitations of Motions, Briefs, Responses ***and*** *Other Documents*

(a) Filing with the Office; Number. One original and three copies of all motions, briefs, responses, and other documents, must be filed, whenever required, with the Office or Hearing Officer. However, when a party aggrieved by the decision of a Hearing Officer files an appeal with the Board, one original and seven copies of both any appeal brief and any responses must be filed with the Office.

(b) Service. The parties shall serve on each other one copy of all motions, briefs, **responses and other documents** filed with the

Office, other than the **request for counseling, the request for mediation and** complaint [which the Office will serve pursuant to Section 2.06(c) of these rules]. Service shall be made by mailing or by hand delivering a copy of the motion, brief, response or other document to each party, **or if represented, the party's representative,** on the service list previously provided by the Office. Each of these documents, [other than the Complaint] must be accompanied by a certificate of service specifying how, [and] when **and on whom** service was made. It shall be the duty of **each party** [all parties] to notify the Office and **all other parties** [one another] in writing of any changes in the names or addresses on the service list.

(c) Time limitations for response to motions or briefs and reply. Unless otherwise specified by the Hearing Officer or these rules, a party shall file a response to a motion or brief within 15 days of the service of the motion or brief upon the party. Any reply to such response shall be filed and served within 5 days of the service of the response. **Only with the Hearing Officer's advance approval may either party file additional responses or replies.**

(d) Size limitations. Except as otherwise specified by the Hearing Officer or these rules, no brief, motion, response, or supporting memorandum file with the Office shall exceed 35 pages, or 8,750 words, exclusive of **the table of contents, table of authorities and** attachments. The Board, the Office or Hearing Officer may waive, raise or reduce this limitation for good cause shown or on its own initiative. Briefs, motions, responses, and supporting memoranda shall be on standard letter-size paper (8½"11").

§2.09 Dismissal of Complaints

(a) A Hearing Officer may, after notice and an opportunity to respond, dismiss any claim that the Hearing Officer finds to be frivolous or that fails to state a claim upon which relief may be granted**, including, but not limited to, claims that were not advanced in counseling or mediation**.

(b) A Hearing Officer may, after notice and an opportunity to respond, dismiss a complaint because it fails to comply with the applicable time limits or other requirements under **the Act or** these rules.

(c) If any **complainant** [employee] fails to proceed with an action, the Hearing Officer may dismiss the complaint with prejudice.

(d) Appeal. A dismissal by the Hearing Officer made under Section **2.09(a)–(c) or** 7.16 of these rules may be subject to appeal before the Board if the aggrieved party files a timely petition for review under Section 8.01.

(e) Withdrawal of Complaint by Complainant. At any time **a complainant** [an employee] may withdraw his or her own complaint by filing a notice with the Office for transmittal to the Hearing Officer and by serving a copy on the employing office or representative. Any such withdrawal must be approved by the Executive Director.

§2.10 Confidentiality

Pursuant to section 416(c) of the Act, all proceedings and deliberations of Hearing Officers and the Board, including any related records, shall be confidential. A violation of the confidentiality requirements of the Act and these rules could result in the imposition of sanctions. Nothing in these rules shall prevent the Executive Director from reporting statistical information to the Senate and House of Representatives, so long as that statistical information does not reveal the identify of the employees involved or of employing offices that are the subject of a matter.

§2.11 Filing of Civil Action

(a) Filing. Section 404 of the Act provides that as an alternative to filing a complaint under Section **408 of the Act and Section** 2.06 **of these rules, a covered** employee who receives notice of the end of mediation pursuant to Section **403 of the Act and Section** 2.04(h) **of these rules** may elect to file a civil action in accordance with Section 408 of the Act in the United States district court for the district in which the employee is employed or for the District of Columbia.

(b) Time for filing. A covered employee may file such a civil action no earlier than 30 days after receipt of the notice under the Section 2.04(h), but no later than 90 days after that receipt.

Subpart C. [Reserved (part B—Section 210—ADA Public Services)]

Subpart D. [Reserved (Part C—Section 215—OSHA)]

Subpart E. [Reserved (Part D—Section 220—LMR)]

Subpart F. Discovery and Subpoenas

§6.01 Discovery
§6.02 Requests for Subpoenas
§6.03 Service
§6.04 *Proof* [Return] of Service
§6.05 Motion to Quash
§6.06 Enforcement

§6.01 Discovery

(a) Explanation. Discovery is the process by which a party may obtain **from another person, including a party,** [relevant] information, not privileged, **reasonably calculated to lead to the discovery of admissible evidence**, for the purpose of assisting that party in developing, preparing and presenting its case at the hearing. **This provision shall not be construed to permit any discovery, oral or written, to be taken from employees of the Office or the counselor(s), or the neutral(s) involved in counseling and mediation.**

(b) Office policy regarding discovery. It is the policy of the Office to encourage the early and voluntary exchange of relevant and material nonprivileged information between the parties, including the names and addresses of witnesses and copies of relevant and material documents, and to encourage Hearing Officers to develop procedures which allow for the greatest exchange of relevant and material information and which minimize the need for parties to formally request such information.

(c) Discovery availability. Pursuant to Section 405(e) of the Act, the Hearing Officer in his or her discretion may permit reasonable prehearing discovery. In exercising that discretion, the Hearing Officer may be guided by the Federal Rules of Civil Procedure.

(1) The Hearing Officer may authorize discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property for inspection or other purposes; physical and mental examinations; and requests for admission.

(2) The Hearing Office may make any order setting forth the forms and extend of discovery, including orders limiting the number of depositions, interrogatories, and requests for production of documents, and may also limit the length of depositions.

(3) The Hearing Officer may issue any other order to prevent discovery or disclosure of confidential or privileged materials or information, as well as hearing or trial preparation materials and any other information deemed not **discoverable** [disclosable] or to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.

(d) Claims of privilege. Whenever a party withholds information otherwise discoverable under these rules of claiming that it is privileged or confidential or subject to protection as hearing or trial preparation materials, the party shall make the claim expressly and shall describe the nature of the documents, communications or things not produced or disclosed in a manner that, without revealing the information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

§6.02 Request for subpoena

(a) Authority to issue subpoenas. At the request of a party, a Hearing Officer may issue subpoenas for the attendance and testimony of witnesses and for the production of correspondence, books, papers, documents, or other records. The attendance of witnesses and the production of records may be required from any place within the United States. However, no subpoena may be issued for the attendance or testimony of an employee of the Office of Compliance.

(b) Request. A request for the issuance of a subpoena requiring the attendance and testimony of witnesses or the production of documents or other evidence under paragraph (a) above shall be submitted to the Hearing Officer at least 15 days in advance of the date scheduled for the commencement of the hearing. If the subpoena is sought as part of the discovery process, the request shall be submitted to the Hearing Officer at least 10 days in advance of the date set for the attendance of the witness at a deposition or the production of documents. **The Hearing Officer may waive the time limits stated above for good cause.**

(c) Forms and showing. Requests for subpoenas shall be submitted in writing to the Hearing Officer and shall specify with particularity the witness, correspondence, books, papers, documents, or other records desired and shall be supported by a showing of general relevance and reasonable scope.

(d) Rulings. The Hearing Officer shall promptly rule on the request.

§6.03 Service

Subpoenas shall be served in the manner provided under rule 45(b) of the Federal Rules of Civil Procedure. Service of a subpoena may be made by any person who is over 18 years of age and not a party to the proceeding. [Service may be made either:

[(a) In person,

[(b) By registered or certified mail, or express mail with return receipt, or

[(c) By delivery to a responsible person (named) at the residence or place of business (as appropriate) of the person to be served.]

§6.04 ***Proof [Return]*** *of service*

When service of a subpoena is effected, the person serving the subpoena shall certify [on the return of service] the date and the manner of service. **The party on whose behalf the subpoena was issued shall file the server's certification with the Hearing Officer.**

§6.05 Motion to quash

Any person against whom a subpoena is directed may file a motion to quash or limit the subpoena setting forth the reasons why the subpoena should not be complied with or why it should be limited in scope. This motion shall be filed with the Hearing Officer **before the time specified in the subpoena for compliance and not later than** [within] 10 days after service of the subpoena.

§ 6.06 Enforcement

(a) Objections and Requests for enforcement. If a person has been served with a subpoena pursuant to Section 6.03 but fails or refuses to comply with its terms or otherwise objects to it, the party or person objecting or the party seeking compliance may seek a ruling from the Hearing Officer. The request for a ruling **shall** [should] be submitted in writing to the Hearing Officer. However, it may be made orally on the record at the hearing at the Hearing Officer's discretion. The party seeking compliance shall present the **proof** [return] of service and, except where the witness was required to appear before the Hearing Officer, shall submit evidence, by affidavit or declaration, of the failure or refusal to obey the subpoena.

(b) Ruling by Hearing Officer. (1) The Hearing Officer shall promptly rule on the request for enforcement and/or the objection(s).

(2) On request of the objecting witness or any party, the Hearing officer shall, or on the Hearing Officer's own initiative the Hearing officer may, refer the ruling to the Board for review.

(c) Review by the Board. The Board may overrule, modify, remand or affirm the ruling of the Hearing Officer and in its discretion, may direct the General Counsel to apply in the name of the Office for an order from a United States district court to enforce the subpoena.

(d) Application to an appropriate court; civil contempt. If a person fails to comply with a subpoena, the Board may direct the General Counsel to apply, in the name of the Office, to an appropriate United States district court for an order requiring that person to appear before the Hearing Officer to give testimony or produce records. Any failure to obey a lawful order of the district court may be held by such court to be a civil contempt thereof.

Subpart G—Hearings

§ 7.01 The Hearing Officer
§ 7.02 Sanctions
§ 7.03 Disqualification of the Hearing Officer
§ 7.04 Motions and Prehearing Conference
§ 7.05 Scheduling the Hearing
§ 7.06 Consolidation and Joinder of Cases
§ 7.07 Conduct of Hearing; disqualification of representatives
§ 7.08 Transcript
§ 7.09 Admissibility of Evidence
§ 7.10 Stipulations
§ 7.11 Official Notice
§ 7.12 Confidentiality
§ 7.13 Immediate Board Review of a Ruling by a Hearing Officer
§ 7.14 **Posthearing** Briefs
§ 7.15 Closing the record
[§ 7.16 Official Record]
§ 7.16 Hearing Officer Decisions; Entry in Records of the Office

§ 7.01 The Hearing Officer

(a) Exercise of authority. The Hearing Officer may exercise authority as provided in paragraph (b) of this Section upon his or her own initiative or upon the motion of a party, as appropriate.

(b) Authority. Hearing Officers shall conduct fair and impartial hearings and take all necessary action to avoid undue delay in the disposition of all proceedings. They shall have all powers necessary to that end unless otherwise limited by law, including, but not limited to, the authority to:

(1) Administer oaths and affirmations;

(2) Rule on motions to disqualify designated representatives;

(3) Issue subpoenas in accordance with Section 6.02;

(4) Rule upon offers of proof and receive relevant evidence;

(5) Rule upon discovery issues as appropriate under Sections 6.01 to 6.06;

(6) Hold prehearing conferences for the settlement and simplification of issues;

(7) Convene a hearing as appropriate, regulate the course of the hearing, and maintain decorum **at** and exclude from the hearing any person who disrupts, or threatens to disrupt, that decorum;

(8) Exclude from the hearing any person, except any complainant, any part, the attorney or representative of any complainant or party, or any witness while testifying;

(9) Rule on all motions, witness and exhibit lists and proposed findings, including motions for summary judgment;

(10) Require the filing of briefs, memoranda of law and the presentation of oral argument with respect to any question of **fact or** law;

(11) Order the production of evidence and the appearance of witnesses;

(12) Impose sanctions as provided under Section 7.02 of these rules;

(13) File decisions on the issues presented at the hearing;

(14) Maintain the confidentiality of proceedings; and

(15) Waive or modify any procedural requirements of Sections 6 and 7 of these rules so long as permitted by the Act.

§ 7.02 Sanctions

The Hearing Officer may impose sanctions upon the parties, under, but not limited to, the circumstances set forth in this Section.

(a) Failure to comply with an order. When a party fails to comply with an order (including an order for the taking of a deposition, for the production of evidence within the party's control, or for production of witnesses), the Hearing Officer may:

(1) Draw an inference in favor of the requesting party on the issue related to the information sought;

(2) Stay further proceedings until the order is obeyed;

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon, **evidence** [testimony] relating to the information sought;

(4) Permit the requesting party to introduce secondary evidence concerning the information sought;

(5) Strike any part of the complaint, briefs, answer, or other submissions of the party failing to comply with **the order** [such request];

(6) Direct judgment against the non-complying party in whole or in part; **or**

(7) Order that the non-complying party, or the representative advising that party, pay all or part of the attorney's fees and reasonable expenses of the other party or parties or of the Office, caused by **such non-compliance** [the failure], unless the Hearing Officer or the Board finds that the failure was substantially justified or that other circumstances make an award of attorney's fees and/or expenses unjust.

(b) Failure to prosecute or defend. If a party fails to prosecute or defend a position, the Hearing Officer may dismiss the action with prejudice or rule for the **complainant** [petitioner].

(c) Failure to make timely filing. The Hearing Officer may refuse to consider any request, motion or other action that is not filed in a timely fashion in compliance with this Part.

§ 7.03 Disqualification of the Hearing Officer

(a) In the event that a Hearing Officer considers himself or herself disqualified, either because of personal bias or of an interest in the case or for some other disqualifying reason. he or she shall withdraw from the case, stating in writing or on the record the reasons for his or her withdrawal, and shall immediately notify the Office of the withdrawal.

(b) Any party may file a motion requesting that a Hearing Officer withdraw on the basis of personal bias or of an interest in the case or for some other disqualifying reason. This motion shall specifically set forth the reasons supporting the request and be filed as soon as the party has reason to believe that there is a basis for disqualification.

(c) The Hearing Officer shall **promptly** rule on the withdrawal motion. **If the motion is granted, the Executive Director will appoint another Hearing Officer within 5 days.** [If the motion is denied, the party requesting withdrawal may take the motion to the Executive Director. The motion to the Executive Director, together with a supporting brief, shall be filed within 5 days of service of the denial of the motion by the Hearing Officer. Upon receipt of the motion, the Executive Director will determine whether a response from the other party or parties is required, and if so, will fix by order the time for the filing of the response.] Any objection to the ruling of the [Executive Director] **Hearing Officer** on the withdrawal motion shall not be deemed waived by further participation in the hearing and may be the basis for an appeal to the Board from the decision of the Hearing Officer under Section 8.01 of these rules. Such objection will not stay the conduct of the hearing.

§ 7.04 Motions and Prehearing Conference

(a) Motions. When a case is before a Hearing Officer, motions of the parties shall be filed with the Hearing Officer and shall be in writing except for oral motions made on the record during the hearing. All written motions and any responses to them shall include a proposed order, where applicable. Only with the Hearing Officer's advance approval may either party file additional responses to the motion or to the response to the motion. Motions for extension of time will be granted only for good cause shown.

(b) Scheduling of the Prehearing Conference. Within 7 days after assignment, the Hearing Officer shall serve on the employee and the employing office and their designated representatives written notice setting forth the time, date, and place of the prehearing conference.

(c) Prehearing conference memoranda. The Hearing Officer may order each party to prepare a prehearing conference memorandum. That memorandum may include:

(1) The major factual contentions and legal issues that the party intends to raise at the hearing in short, successive, and numbered paragraphs, along with any proposed stipulations of fact or law. [For example, in a case of alleged unlawful discrimination, a complainant's statement of legal issues should include that party's statement of the appropriate prima facie case; an employing office's statement should include the alleged legitimate, non-discriminatory reason(s) that the employing office will articulate; and affirmative defenses, if any, which may be raised.]

(2) An estimate of the time necessary for presentation of the party's case;

(3) The specific relief, including the amount of monetary relief, that is being or will be requested;

(4) The names of potential witnesses for the party's case, except for potential rebuttal witnesses, and the purpose for which they will be called and a list of documents that

the party is seeking from the opposing party, and, if discovery was permitted, the status of any pending request for discovery. (It is not necessary to list each document requested. Instead, the party may refer to the request for discovery.)

(5) A brief description of any other unresolved issues.

(d) At the prehearing conference, the Hearing Officer may discuss the subjects specified in paragraph (c) above and the manner in which the hearing will be conducted and proceed. In addition the Hearing Officer may explore settlement possibilities and consider how the factual and legal issues might be simplified and any other issues that might expedite the [early] resolution of the dispute. The Hearing Officer shall issue an order, which recites the action taken at the conference and the agreements made by the parties as to any of the matters considered and which limits the issues to those not disposed of by admissions or agreements of the parties. Such order, when entered, **shall** controls the course of the proceeding, subject to later modification by the Hearing Officer by his or her own **motion** [order] or upon proper request of a party for good cause shown.

§7.05 Scheduling the Hearing

(a) Date, time, and place of hearing. The Office shall issue the notice of hearing, which shall fix the date, time, and place of hearing. In no event, absent a postponement granted by the Office, will a hearing commence later than 60 days after the filing of the complaint.

(b) Motions for postponement or a continuance. Motions for postponement or for a continuance by either party shall be made in writing to the Office, shall set forth the reasons for the request, **and shall state whether** [and the position] the opposing party **consents to such** [on the] postponement. Such a motion may be granted upon a showing of good cause. In no event will a hearing commence later than 90 days after the filing of the complaint.

§7.06 Consolidation and Joinder of Cases

(a) Explanation. (1) Consolidation is when two or more parties have cases that might be treated as one because they contain identical or similar issues or in such other appropriate circumstances.

(2) Joinder is when one person has two or more claims pending and they are united for consideration. For example, where a single individual who has one appeal pending challenging a 30-day suspension and another appeal pending challenging a subsequent dismissal, joinder might be warranted.

(b) The Board, the Office, or a Hearing Officer may consolidate or join cases on their own initiative or on the motion of a party if to do so would expedite processing of the cases and not adversely affect the interests of the parties, taking into account the confidentiality requirements of Section 416 of the Act.

§7.07 Conduct of Hearing; disqualification of representatives

(a) Pursuant to Section 405(d)(1) of the Act, the Hearing Officer **shall** [will] conduct the hearing in closed session on the record. Only the Hearing Officer, the parties and their representatives, and witnesses during the time they are testifying, **shall** [will] be permitted to attend, except that the Office may not be precluded from observing the hearings. The Hearing Officer, or a person designated by the Hearing Officer or the Executive Director, shall control the recording of the proceedings.

(b) The hearing **shall** [will] be conducted as an administrative proceeding. Witnesses shall testify under oath or affirmation. Except as specified in the Act and in these rules, the Hearing Officer **shall** [will] conduct the hearing, to the greatest extent practicable, in accordance with the principles and procedures in Sections 554 through 557 of title 5 of the United States Code.

(c) No later than the opening of the hearing, or as otherwise ordered by the Hearing Officer, each party shall submit to the Hearing Officer and to the opposing party typed lists of **the hearing exhibits and** the witnesses, **excluding** [except] rebuttal witnesses, expected to be called to testify.

(d) At the commencement of the hearing, or as otherwise ordered by the Hearing Officer, the Hearing Officer may consider any stipulations of facts and law pursuant to Section 7.10, take official notice of certain facts pursuant to Section 7.11, rule on objections made by the parties and hear the examination and cross-examination of witnesses. Each party will be expected to present his or her cases in a concise manner, limiting the testimony of witnesses and submission of documents or relevant matters.

(e) If the Hearing Officer concludes that a representative of an employee, witness, or an employing office has a conflict or interest, he or **she** may, after giving the representative an opportunity to respond, disqualify the representative. In that event, within the time limits **for hearing and decision** established by the Act, the affected party will have a reasonable time to retain other representation.

§7.08 Transcript

(a) Preparation. An accurate electronic or stenographic record of the hearing shall be kept and shall be the sole official record of the proceeding. The Office shall be responsible for the cost of transcription of the hearing. Upon request, a copy of a transcript of the hearing shall be provided to each party, provided, however, that such party has first agreed to maintain and respect the confidentiality of such transcript in accordance with the applicable rules prescribed by the Office or the Hearing Officer in order to effectuate Section 416(c) of the Act. Additional copies of the transcript shall be made available to a party **at the party's expense** [upon payment of costs]. Exceptions to the payment requirement may be granted for good cause shown. A motion for an exception shall be made in writing and accompanied by an affidavit or declaration setting forth the reasons for the request [and shall be granted upon a showing of good cause]. Requests for copies of transcripts shall be directed to the Office. The Office may, by agreement with the person making the request, make arrangements with the official hearing reporter for required services to be charged to the requester.

(b) Corrections. Corrections to the official transcript will be permitted. Motions for correction must be submitted within 10 days of service of the transcript upon the party. Corrections of the official transcript will be permitted [only when errors of substance are involved and] only upon approval of the Hearing Officer. The Hearing Officer may make corrections at any time with notice to the parties.

§7.09 Admissibility of Evidence

The Hearing Officer shall apply the Federal Rules of Evidence to the greatest extent practicable. These rules provide, **among other things,** that the Hearing Officer may exclude evidence if, among other things, it constitutes inadmissible hearsay or its probative value is substantially outweighed by the danger of unfair prejudice, by confusion of the issues, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

§7.10 Stipulations

The parties may stipulate as to any matter of fact. Such a stipulation will satisfy a party's burden of proving the fact alleged.

§7.11 Official Notice

The Hearing Officer on his or her motion or on motion of a party, may take official notice of a fact that is not subject to reasonable dispute because it is either: (a) A matter of common knowledge; or (b) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. Official notice taken of any fact satisfies a party's burden of proving the fact noticed.

Where a decision, or part thereof, rests on the official notice of a material fact not appearing in the evidence in the record, the fact of official notice shall be so stated in the decision, and any party, upon timely request, shall be afforded an opportunity to show the contrary.

§7.12 Confidentiality

Pursuant to Section 416 of the Act, all proceedings and deliberations of Hearing Officers and the Board, including the transcripts of hearings and any related records, shall be confidential, except as specified in Section 416(d), (e), and (f) of the Act. All parties to the proceeding and their representatives, and witnesses who appear at the hearing, will be advised of the importance of confidentiality in this process and of their obligations, subject to sanctions, to maintain it.

§7.13 Immediate Board Review of a Ruling by a Hearing Officer

(a) Review strongly disfavored. Board review of a ruling by a hearing officer while a proceeding is ongoing (an "interlocutory appeal") is strongly disfavored. In general, a request for interlocutory review may go before the Board for consideration only if the Hearing Officer, on his or her own motion or by motion of the parties, determines that the issue presented is of such importance to the proceeding that it requires the Board's immediate attention.

(b) Standards for review. In determining whether to forward a request for interlocutory review to the Board, the Hearing Officer shall consider the following:

(1) Whether the ruling involves a significant question of law or policy about which there is substantial ground for difference of opinion; [and]

(2) Whether an immediate review of the Hearing Officer**'s** ruling by the Board will materially advance the completion of the proceeding; and

(3) whether denial of immediate review will cause undue harm to party or the public.

(c) Time for Filing. A motion by a party for interlocutory review of a ruling of the Hearing Officer shall be filed with the Hearing Officer within 5 days after service of the ruling upon the parties. The motion shall include arguments in support of both interlocutory review and the determination **requested** to be made by the Board upon review. Response, if any, shall be filed with the Hearing Officer within 3 days after service of the motion.

(d) Hearing Officer Action. If the conditions set forth in paragraph (b) above are met, the Hearing Officer **shall** [may] forward a request for interlocutory review to the Board for its immediate consideration. Any such submission shall explain the basis on which the Hearing Officer concluded that the standards **in paragraph (b)** [for introductory review] have been met.

(e) Grant of Interlocutory Review Within Board's Sole Discretion. The Board, in its sole discretion, may grant interlocutory review.

(f) Stay pending review. Unless otherwise directed by the Board, the stay of any proceedings during the pendency of either a request for interlocutory review or the review itself shall be within the discretion of the Hearing Officer, **provided that no stay shall serve to toll the time limits set forth in Section 405(d) of the Act.**

(g) Denial of Motion not Appealable; Mandamus. The grant or denial of a motion for a request for interlocutory review shall not be appealable. The Hearing Officer shall promptly bring a denial of such a motion, and the reasons therefor, to the attention of the Board. If, upon consideration of the motion and the reason for denial, the Board believes that interlocutory review is warranted, it may grant the review *sua sponte*. In addition, the Board may in its discretion, in extraordinary circumstances, entertain directly from a party a writ of mandamus to review a ruling of a Hearing Officer.

(h) Procedures before Board. Upon its acceptance of a ruling of the Hearing Officer for interlocutory review, the Board shall issue an order setting forth the procedures that will be followed in the conduct of that review.

(i) Review of a Final Decision. Denial of interlocutory review will not affect a party's right to challenge rulings, which are otherwise appealable, as part of an appeal to the Board **under Section 8.01** from the Hearing Officer's decision issued under Section 7.16 of these rules.

§ 7.14 ***Posthearing*** *Briefs*

(a) May be filed. The Hearing Officer may permit the parties to file posthearing briefs on the factual and the legal issues presented in the case.

(b) Length. No principal brief shall exceed 50 pages, or 12,500 words, and no reply brief 25 pages, or 6,250 words, exclusive of tables and pages limited only to quotations of statutes, rules, and the like. Motions to file extended briefs shall be granted only for good cause shown; the Hearing Officer may in his or her discretion also reduce the page limits. Briefs in excess of 10 pages shall include an index and a table of authorities.

(c) Format. Every brief must be easily readable. Briefs must have double spacing between each line of text, except for quoted texts and footnotes, which may be single-spaced.

§ 7.15 Closing the record ***of the hearing***

(a) **Except as provided in Section 7.14**, the record shall be closed at the conclusion of the hearing. However, when the Hearing Officer allows the parties to submit additional evidence previously identified for introduction, the Hearing Officer may allow an additional period before the conclusion of the hearing as is necessary for that purpose.

(b) Once the record is closed, no additional evidence or argument shall be accepted into the **hearing** record except upon a showing that new and material evidence has become available that was not available despite due diligence prior to the closing of the record. However, the Hearing Officer shall make part of the record any motions for attorney fees, supporting documentation, and determinations thereon, and any approved correction to the transcript.

§ 7.16 Official Record ***of the Hearing***

[The transcript of testimony and the exhibits, together with all papers and motions filed in the proceeding, shall constitute the exclusive and official record.]

§ 7.16 Hearing Officer Decisions; Entry in Records of the Office

(a) Pursuant to Section 405(g) of the Act, no later than 90 days after the conclusion of the hearing, the Hearing Officer shall issue a written decision.

(b) Upon issuance, the decision and order of the Hearing Officer shall be entered into the records of the Office.

(c) The Office shall promptly provide a copy of the decision and order of the Hearing Officer to the parties.

(d) If there is no appeal of a decision and order of a Hearing officer, that decision becomes a final decision of the Office, which is subject to enforcement under Section 8.02[1] of these rules.

Subpart H—Proceedings before the Board

§ 8.01 Appeal to the Board
§ 8.02 Compliance with Final Decisions, Requests for Enforcement
§ 8.03 Judicial Review

§ 8.01 Appeal to the Board

(a) No later than 30 days after the entry of the decision **and order** of the Hearing Officer in the records of the Office, an aggrieved party may seek review of that decision **and order** by the Board by filing with the Office a petition for review by the Board. The appeal must be served on the opposing party or its representative.

(b) Unless otherwise ordered by the Board, within 21 days following the filing of a petition for review to the Board, the appellant shall file and serve a supporting brief **in accordance with Section 2.08 of these rules**. That brief shall identify with particularity those findings or conclusions in the decision **and order** that are challenged and shall refer specifically to the portions of the record and the provisions of statutes or rules that are alleged to support each assertion made on appeal.

Unless otherwise ordered by the Board, within 21 days following the service of the appellant's brief, the opposing party may file and serve a responsive brief. Unless otherwise ordered by the Board, within 10 days following the service of the appellee's responsive brief, the appellant may file and serve a reply brief.

(c) Upon the request of any party or upon its own order, the Board, in its discretion, may hold oral argument on an appeal.

(d) Upon appeal, the Board shall issue a written decision setting forth the reasons for its decision. The Board may affirm, reverse, modify or remand the decision **and order** of the Hearing Officer in whole or in part. **Where there is no remand the decision of the Board shall be entered in the records of the Office as the final decision of the Board and shall be subject to judicial review.**

(e) The Board may remand the matter to the Hearing Officer for further action or proceedings, including the reopening of the record for the taking of additional evidence. The Hearing Officer shall render a **decision or** report to the Board**, as ordered, at the conclusion of proceedings** on the remanded matters. Upon receipt of the **decision or** report, the Board shall determine whether the views of the parties on the content of the **decision or** report should be obtained in writing and, where necessary, shall fix by order the time for the submission of those views. A decision of the Board following completion of the remand shall be **entered in the records of the Office as** the final decision of the Board and shall be subject to judicial review.

(f) Pursuant to Section 406(c) of the Act, in conducting its review of the decision of a Hearing officer, the Board shall set aside a decision if it determines that the decision was:

(1) arbitrary, capricious, an abuse of discretion, otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

(g) In making determinations under paragraph (f), above, the Board shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(h) Record[: what constitutes]. The complaint and any amendments, notice of hearing, answer and any amendments, motions, rulings, orders, stipulations, exhibits, documentary evidence, **any portions of** depositions **admitted into evidence**, and the transcript of the hearing (together with any electronic recording of the hearing if the original reporting was performed electronically) together with the Hearing Officer's decision and the petition for review, **any response thereto, any reply to the response and any other pleadings** [and any cross-petition], shall constitute the record in the case.

§ 8.02 Compliance with Final Decisions, Requests for Enforcement

(a) **Unless the Board has, in its discretion, stayed the final decision of the Office during the pendency of an appeal pursuant to Section 407 of the Act,** A party required to take any action under the terms of a final decision of the Office shall carry out its terms promptly, and shall within 30 days after the decision or order becomes final and goes into effect by its terms, provide the Office and all parties to the proceedings with a compliance report specifying the manner in which compliance with the provisions of the decision or order has been accomplished. If complete compliance has not been accomplished within 30 days, the party required to take any such action shall submit a compliance report specifying why compliance with any provision of the decision order has not yet been fully accomplished, the steps being taken to assure full compliance, and the anticipated date by which full compliance will be achieved.

(b) The Office may require additional reports as necessary.

(c) If the Office does not receive notice of compliance in accordance with paragraph (a) of this Section, the Office shall make inquiries to determine the status of compliance. If the Office cannot determine that full compliance is forthcoming, the Office shall report the failure to comply to the Board and recommend whether court enforcement of the decision should be sought.

(d) Any party may petition the Board for enforcement of a final decision of the Office or the Board. The petition shall specifically set forth the reasons why the petitioner believes enforcement is necessary.

(e) Upon receipt of a report of non-compliance or a petition for enforcement of a final decision, or as it otherwise determines, the Board may issue a notice to any person or party to show cause why the Board shall not seek judicial enforcement of its decision or order.

(f) Within the discretion of the Board, it may direct the General Counsel to petition the Court for enforcement **under Section 407(a)2** of a decision under Section 406(e) of the Act whenever the Board finds that a party has failed to comply with its decision and order.

§ 8.03 Judicial Review

Pursuant to Section 407 of the Act, a party aggrieved by a final decision of the Board under Section 406(e) in cases arising under Part A of Title II of the Act may file a petition for review with the United States Court of Appeals for the Federal Circuit. **The party filing a petition for review shall serve a copy on the opposing party or its representative.**

Subpart I—Other Matters of General Applicability

§9.01 Attorney's Fees and Costs
§9.02 Ex parte Communications
§9.03 Settlement Agreements
§9.04 Revocation, amendment or waiver of rules

§9.01 Attorney's Fees and Costs

(a) Request. No later than 20 days after the entry of a Hearing Officer's decision under Section 7.16 or after service of a Board decision by the Office, the complainant, if he or she is a prevailing party, may submit to the Hearing Officer who heard the case initially a **motion** [request] for the award of reasonable attorney's fees and costs, following the form specified in paragraph (b) below. The Board or the Hearing Officer, after giving the respondent an **opportunity** [appointment] to reply, shall rule on the **motion** [request].

(b) Form of **Motion** [Request]. In addition to setting forth the legal and factual bases upon which the attorney's fees and/or costs are sought, a **motion for an award of** [request for] attorney's fees and/or costs shall be accompanied by:

(1) accurate and contemporaneous time records;

(2) a copy of the terms of the fee agreement (if any);

(3) the attorney's customary billing rate for similar work; and

(4) an itemization of costs related to the matter in question.

§9.02 [Reserved—Ex parte Communications]

§9.03 ***Informal Resolutions and*** *Settlement Agreements*

[(a) Application. This Section applies to formal settlement agreements between parties under Section 414 of the Act.]

(a) Informal Resolution. At any time before a covered employee files a complaint under Section 405, a covered employee and the employing office, on their own, may agree voluntarily and informally to resolve a dispute, so long as the resolution does not require a waiver of a covered employee's rights or the commitment by the employing office to an enforceable obligation.

(b) Formal Settlement Agreement. The parties may agree formally to settle all or part of a disputed matter **in accordance with Section 414 of the Act**. In that event, the agreement shall be in writing and submitted to the Executive Director for review and approval.

§9.04 Revocation, amendment or waiver of rules

(a) The Executive Director, subject to the approval of the Board, may revoke or amend these rules by publishing proposed changes in the Congressional Record and providing for a comment period of not less than 30 days. Following the comment period, any changes to the rules are final once they are published in the Congressional Record.

(b) The Board or a Hearing Officer may waive a procedural rule contained in this Part in an individual case for good cause shown if application of the rule is not required by law.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1880. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

1881. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

1882. A letter from the Director, Office of Government Relations, Smithsonian Institution, transmitting a copy of the National Society of the Daughters of the American Revolution's "Annual Proceedings of the One Hundred Fourth Continental Congress", pursuant to 36 U.S.C. 18b; to the Committee on the Judiciary.

1883. A letter from the Executive Director, Office of Compliance, transmitting notice of adopted rules governing the procedures of the Office for printing in the CONGRESSIONAL RECORD, pursuant to Public Law 104-1, section 303(b) (109 Stat. 28); jointly, to the Committees on House Oversight and Economic and Educational Opportunities.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2726. A bill to make certain technical corrections in laws relating to native Americans, and for other purposes; with an amendment (Rept. 104-444). Referred to the Committee of the Whole House on the State of the Union.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2143: Mr. FILNER.
H.J. Res. 97: Mr. WYDEN.

SENATE—*Sunday, December 31, 1995*

(Legislative day of Friday, December 29, 1995)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the Honorable JOHN H. CHAFEE, a Senator from the State of Rhode Island.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, the Reverend George Anderson, pastor of Mount Oak United Methodist Church, Bowie, MD.

PRAYER

The guest Chaplain, Rev. George Anderson, pastor of Mount Oak United Methodist Church, Bowie, MD, offered the following prayer.

Let us pray:

O God our help in ages past,
Our hope for years to come,
Our shelter from the stormy blast,
And our eternal home!

Under the shadow of Thy throne
Thy saints have dwelt secure;
Sufficient is Thine arm alone,
And our defense is sure.

Before the hills in order stood,
Or earth received her frame,
From everlasting Thou art God,
To endless years the same.

Another year dies—a new year is born. New challenges, new opportunities, new responsibilities, new occasions arise, demanding our best, requiring wisdom, vision, foresight, and courage.

O Lord God—Beautiful Savior, Everlasting Father, the Prince of Peace—I pray for the men and women of the U.S. Senate, their families, and their staffs, that You would watch over them with Your holy angels each day through the year that lies ahead; that You would protect them, bless them, and guide them. Your word declares that "when a man's ways are pleasing to God, He makes even his enemies to live in peace with him."

O Ruler of Heaven—Lord of lords and King of kings, take charge in this Chamber. May Your will be done in this place through the guidance of Your holy spirit. Bind the powers of darkness that they might have no voice or place here.

And may the people of this land be blessed by the work that is done here. May the people—Your people—be encouraged, strengthened, liberated, and not ever weakened or oppressed by the laws enacted in these Chambers. Watch over our men and women in Bosnia and protect them, we pray.

As we commit to You the year that is ending, with all its successes and failures, so also we commit to you the year that lies ahead, with all its hopes and fears.

Thank You, O beautiful Savior that we don't have to face either the past, the present, or the future alone. But You promise to walk with us, as we put our trust in You.

O holy Child of Bethlehem!
Descend to us, we pray;
Cast out our sin, and enter in;
Be born in us today.
We hear the Christmas angels
The great tidings tell;
O come to us, abide with us,
Our Lord Emmanuel.

We pray this prayer in the name of the God of Abraham, Isaac, and Jacob—and Jesus. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 31, 1995.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN CHAFEE, a Senator from the State of Rhode Island, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. CHAFEE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, the Democratic leader and I will be on the floor momentarily. We are trying to figure out some way to work out a problem we have. Hopefully we can get it done. In the meantime, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE MIDDLE EAST PEACE FACILITATION ACT OF 1994

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 2808, the Middle East Peace Facilitation Act of 1994 just received from the House.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2808) to extend authorities under the Middle East Peace Facilitation Act of 1994 until March 31, 1996, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be deemed read the third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the matter be placed at the appropriate place in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

So the bill (H.R. 2808) was deemed read for the third time and passed.

UNANIMOUS-CONSENT REQUEST

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate receives the document entitled "A Bill to Provide for Deficit Reduction and Achieve a Balanced Budget by the Fiscal Year 2002," that is agreed to by the President and the congressional leaders, that the bill be considered under the following restraints:

That there be 12 hours for debate on all amendments, motions, and appeals in connection therewith, and all other provisions in the Congressional Budget Act of 1974 be in effect as if it were a reconciliation bill.

I further ask that once the Senate receives from the House the bill entitled "A Bill to Provide for Deficit Reduction and Achieve a Balanced Federal Budget by 2002," that it be in order for the majority leader to introduce and place directly on the Senate Calendar the concurrent resolution revising the first concurrent budget resolution, as provided for under the Budget Act of 1974, and that the consideration of that concurrent resolution be limited to 1 hour to be equally divided in the usual form, with all other provisions of the Budget Act in effect with respect to

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

the consideration of that concurrent resolution.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DASCHLE. Mr. President, our colleagues should know that the effect of this unanimous-consent agreement is to ask Federal workers to show up in their offices without being given authority to do virtually anything. Anything that would cost money would be prohibited. They would be required to sit on their hands and stare at each other day after day after day, until we pass something that gives them the right to do something.

So what this would allow them to do is to go to their offices, sit on their hands, and do nothing. They could not get in their trucks because they use gas. They could not make a long distance phone call because that would incur an expense. Anything that any office would do that incurs an expense would still be prohibited.

So, Mr. President, this is a facade. This does not work. This is not what we should be doing. Federal employees ought to come back to work. They ought to be paid. And the services they are paid to deliver ought to be funded. Federal employees ought to be allowed to come back to work, not just go to their offices, but to actually work, and Federal employees—who have been without pay since December 15—ought to be paid. This does not do it, and so I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

UNANIMOUS-CONSENT REQUEST—HOUSE MESSAGE ON S. 1508

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate proceed to the message from the House on S. 1508 and concur in the House amendment with a substitute continuing resolution, giving them full authority to do all that they need to do once they go back to work, which reopens the Government and provides for the payment of all Federal employees who have been without pay since December 15, that the motion to concur be agreed to and the motion to reconsider be laid on the table.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object. Let me indicate, first of all, I regret we were unable to reach some agreement today. We have not given up. We are going to come back here again Tuesday and, hopefully, by then we will have an agreement. I do not share the view of some of my colleagues that we ought to have a partial shutdown of the Government, or that the people should not be paid. But I do believe that we need to find some agreement. If we can get this done, we also would be willing to give some on what would happen if a balanced budget amendment were agreed to by the President, the Democratic leader, and the Republican leaders in the Senate and in the House, and we could move rather quickly if that were possible.

I am afraid that if this goes back to the House without some agreement even between me and my friend, Senator DASCHLE—we hoped to get a unanimous-consent agreement—not put it to legislation—and send back the deeming provision with a couple of provisions that the White House asked us to add today. One would permit Federal employees to apply for and receive unemployment compensation, which would be returned or refunded once they were paid. And the second thing, even though they have been furloughed, it would not interrupt their normal leave policy. We were prepared to add those at the request of White House counsel. By Tuesday, hopefully, we can work that out. I regret we were not able to do it now. Therefore, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

UNANIMOUS-CONSENT REQUEST—HOUSE MESSAGE ON S. 1508

Mr. DASCHLE. Mr. President, let me emphasize that the resolution that I attempted to get unanimous consent for would have allowed Government to go back to work. We would not have had this sham proposal sent over to us by the House that does not allow people to go to work, does not allow people to get paid, does not allow people any opportunity to do anything once they are in their offices. So people ought to understand this. I have seen in the media for the last couple of days that this resolution somehow would allow Federal employees to go back to work. There is a distinction between going back to work and going to their offices. They will be able to go to their offices, but they will not be allowed to go back to work. Nor will they be paid.

So I would just emphasize that that is our first choice, to allow them to go back to work and have a continuing resolution that allows all Federal agencies to operate as they should during this time. If that cannot be done, I would pose the second unanimous-consent request, and that is the one that Senator DOLE and I agreed to last Friday, the 22d of December. On that occasion, with some reservation, I agreed to at least allow them to go to their offices to do whatever they could under very significant constraints.

They are not going to get paid, but since we did go on record on December 22d, Friday, to at least do that, to allow them to go back to their offices, I now ask unanimous consent that the Senate proceed to the message from the House on S. 1508, that the Senate concur in the House amendment with a substitute amendment, which includes the text of the distinguished majority leader's back-to-work bill, that the motion to concur be agreed to, and the motion to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, and I shall object.

Again, repeating, it seems to me that there was a provision that we might have added to the deeming provision which would have defined the scope of employment once back to work. We are told that the Justice Department, or whoever would make that determination, would probably conclude that they could go back into almost normal duties. We were prepared to at least look at that provision. In fact, I ask unanimous consent that that provision be printed in the RECORD.

There being no objection, the provision was ordered to be printed in the RECORD, as follows:

SEC. . SCOPE OF EMPLOYMENT.

Employees excepted from furlough during any period in which there is a lapse in appropriations for the activity in which the employee is employed shall engage in the normal activities of their position, including the obligation of necessary operating expenses, but not including entering into new program obligations such as grants or contracts.

Mr. DOLE. Mr. President, it was not made part of the technical changes. The White House had some concern with it, too. In any event, we need to end the impasse. That is what I have been about and what the Senator from South Dakota has been about, and the Senator from North Dakota, along with a number of my colleagues. I met this morning with Congresswoman MORELLA from Maryland and Congressman DAVIS from Virginia, and I have been in contact with Congressman WOLF from Virginia and Senator WARNER from Virginia. They have a lot of Federal employees in their States and districts. We believe they ought to be paid. They should not be hostages or pawns. We ought to end this. It has gotten to the point where it is a little ridiculous, as far as this Senator is concerned.

We are going to keep trying. Hopefully, on Tuesday, if we cannot do anything else, we may pass whatever it takes on the Senate side, I say to my colleague from South Dakota.

In the meantime, I must object.

The ACTING PRESIDENT pro tempore. Objection is heard. The Democratic leader.

UNANIMOUS-CONSENT REQUEST—HOUSE MESSAGE ON S. 1508

Mr. DASCHLE. Mr. President, I said this on the floor yesterday afternoon, and I will repeat it this afternoon. I know that the distinguished majority leader wants an agreement as much as

I do, and I do not hold him personally responsible for the fact that we are not able to overcome this impasse. I commend him for his efforts at trying to do so again today.

Let me try one other option. We have already been unable to agree to a continuing resolution that would have put all Federal employees back to work with pay. We have been unable to agree to something that we agreed to last Friday, the 22d of December, which would have at least sent them back to their offices without pay. Perhaps we can try this.

I ask unanimous consent that the Senate proceed to the message from the House on S. 1508, that the Senate concur in the House amendment with a substitute amendment that includes the text of Senator DOLE's back-to-work bill, and the House-passed expedited procedures shall take effect only if the budget agreement does not cut Medicare more than necessary to ensure the solvency of the Medicare part A trust fund and, second, does not raise taxes on working Americans, does not cut funding for education or environmental enforcement, and maintains the individual health guarantee under Medicaid and, third, provides that any tax reductions in the budget agreement go only to Americans making under $100,000; that the motion to concur be agreed to, and the motion to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DOLE. Mr. President, I want to say a few words. But I will object.

We are working on a lot of these things in our meetings at the White House, where we have both been for a number of hours. I think we have made some progress. We are a long way from any solution yet.

I think all of the things listed by the Democratic leader are areas of concern in the meetings we have had. And the meetings will start again on Tuesday. But it seems to me that it would not be appropriate to proceed under those terms, and therefore I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

VETOED APPROPRIATIONS BILLS

Mr. DOLE. Mr. President, I know there is an effort here by both sides to make a record. Even though we both agree that something is going to be done, I think we have Members on both sides of the aisle who may have different views. I am not going to ask consent that we reconsider all the appropriations bills that the President has vetoed. I have here a consent form prepared.

But I think we must keep in perspective that the reason many Federal employees are not working is because the President has vetoed the Interior bill, the State, Justice, and Commerce bill, and the HUD-VA bill; and, also the fact that Labor-HHS has been tied up on the Senate floor—I say this in no disrespect—because my colleagues on the other side of the aisle refuse to allow us to bring it up. We need 60 votes to do that. We only have 53.

So I want to continue to make the record that many Federal employees would be working today had the President signed the bills.

In the meantime what we thought we might do—we tried to do this one other time and it was objected to—is in essence—we are in these very serious negotiations, good-faith, bipartisan negotiations—send the bills back to the President, which he vetoed, and then see if he will sign those bills, put people back to work, not temporarily but on a permanent basis, and then make the changes in this big agreement we hope to reach on each of those bills. But Senator LEAHY objected to that.

And then I was prepared to go through them one at a time and just say, Well, let us send the Interior bill, and let us send the next bill and the next bill, for a total of six bills. But I am certain those would be objected to.

But I just want the record to reflect that while we are not in agreement yet, I believe the White House, and I certainly believe the Democratic leader, Senator DASCHLE, and I know this Republican, and I know the Presiding Officer because he expressed his views earlier to me, would like to see this thing ended and Government employees go back to work and get paid. That is not going to happen, unfortunately, today. So it is not going to be a happy new year.

But we will meet the day after New Year's Day, on the 2d, and hopefully by then we will have some agreement that will pass the House, and they can start work by midweek.

Mr. DASCHLE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Democratic leader.

Mr. DASCHLE. Mr. President, I share the view of the distinguished majority leader that it is important to come back on Tuesday and make our best effort to resolve the impasse. I am confident that at least on this side that can be done.

I would only remark very briefly that the President has indicated the way in which those bills could be signed. There is no reason why we would have to have the impasse. We can negotiate our differences on those bills just as we are negotiating our differences on the budget resolution. I hope we can do that sooner rather than later. We do not need the impasse on these appropriations bills.

With that, I yield the floor.

Mr. DOLE. Mr. President, I thank my colleague.

ORDERS FOR TUESDAY, JANUARY 2, 1996

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 12 noon on Tuesday, January 2d; that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business not to extend beyond the hour of 12:30 p.m., with statements limited to 5 minutes each.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

ADJOURNMENT UNTIL TUESDAY, JANUARY 2, 1996

Mr. DOLE. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 1:40 p.m., adjourned until Tuesday, January 2, 1996, at 12 noon.

SENATE—*Tuesday, January 2, 1996*

The Senate met at 12 noon, and was called to order by the Honorable JOHN WARNER, a Senator from the State of Virginia.

PRAYER

The guest Chaplain, Father Paul Lavin, pastor of St. Joseph's on Capitol Hill, Washington, DC, offered the following prayer:

In Sirach we hear:

To the poor man extend your hand,
that your blessing may be complete;
Be generous to all the living,
and withhold not your kindness from the dead.
Avoid not those who weep,
but mourn with those who mourn;
Neglect not to visit the sick—
for those things you will be loved.—
Sirach 7:32–35.

Let us pray:

We praise You Lord for the light of creation; we praise You for the light You give us in Your law, in the prophets, and wisdom of the Scriptures.

Lord send Your blessing on these servants of Yours, Senate and their staff. Help them work together in this time of need, help them be faithful to the light You have given them, and let them faithfully serve You and their neighbor.

Glory and praise to You for ever and ever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 2, 1996.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint Hon. JOHN WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. WARNER thereupon assumed the chair as Acting President pro tempore.

SCHEDULE

Mr. DOLE. Today there will be a period for morning business until the hour of 12:30 p.m. and hopefully after that we can turn to the so-called back-to-work bill, S. 1508. There may be some modification to that. I will be in touch with the Democratic leader before we do that. It is also my hope we can reach some agreement on expedited procedures. In the event we should reach an agreement on all sides—the President and members of the Senate leadership, and members of the House leadership want a balanced budget.

Any other thing we can do by unanimous consent, we can do today, but otherwise I think we have indicated to Members they would be given plenty of time to return if there are any rollcall votes. We understand we have to delay those.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DOLE. I ask unanimous consent, and this has been cleared by the Democratic leader, the Senate proceed to executive session to consider the following nominations on the day's Executive Calendar: Calendar Nos. 267, 378, and 410.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid on the table en bloc, that any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I would indicate that those calendar numbers referred to Judges A. Wallace Tashima of California, Sidney R. Thomas of Montana, and John Thomas Marten of Kansas.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

A. Wallace Tashima, of California, to be United States Circuit Judge for the Ninth Circuit.

Sidney R. Thomas, of Montana, to be United States Circuit Judge for the Ninth Circuit.

John Thomas Marten, of Kansas, to be United States District Judge for the District of Kansas vice Patrick F. Kelly.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume legislative session.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30, with Senators permitted to speak therein for up to 5 minutes each.

THE GOVERNMENT SHUTDOWN

Mr. LEAHY. Mr. President, I have been here on the floor several times during the past few days over the New Year's weekend, as have the distinguished Republican leader and the distinguished Democratic leader, the distinguished Senator from North Dakota [Mr. DORGAN], and others who have been working the effort of trying to get this budget back together.

It is ironic that we are here and we hear statements coming from some, primarily in the other body from back in their home States and home districts, that show to me at least the disconnect with reality. I hope some of these Members when they return to Washington will have a fresh perspective on the human toll this foolish Government shutdown has taken. This foolish Government shutdown has taken a human toll. In fact, it is ironic that the House and Senate cannot seem to come together and get the work done necessary to get us out of this, but we are getting paid at the same time there are hundreds of thousands of Federal employees who want to work and they are not being paid. There are others deemed essential who go to work and will not be paid.

These people have mortgages. These people have rent, heat, food, child care, everything else, to pay. They are not getting their paychecks. They are real human beings, whether they are in Vermont or any other State.

My New Year's wish is that the House may replace its severe case of intransigence with some true leadership to get us out of this, because this kind of Government close-down foolishness is not necessary.

The balanced budget talks are going on right now with the President, with the distinguished leadership on both sides. That has nothing to do with whether Congress completes its work. We have 13 appropriations bills that are supposed to be passed by the end of the fiscal year. The reason much of Government is closed down is because a number of those bills have not been passed. I might suggest a bill that the House could accept, if they are unwilling to pay Federal employees, they ought to pass the bill that the Senate has already passed which says that Members of Congress will not be paid until this is done. They will not do

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

that. In fact, we had one Member of the House who said that he has to be paid because he is in the Constitution. I looked through the Constitution. I did not find his name, and I would love to see which copy he is referring to.

The fact is that we have people, Federal workers, who are being punished unnecessarily. I would like to have some of these members who do not want us to go back to work to talk to Angelia and Jeffrey Brace of Milton, VT. They cannot go to work at the Immigration and Naturalization Service office in South Burlington, VT, and they and their 3½-year-old daughter are not going to get a paycheck. There are headlines like this in the Vermont press, "Budget Squeeze Hits Home." It is happening in every one of our States.

I know the distinguished Republican leader and the distinguished Democratic leader, if it was left to them and with the President, we could get this done. We have passed legislation here to put us back to work. If it was left to the leadership here in the Senate on both sides of the aisle this could be done. Just because some—in this case, a small group of freshmen who I admit each have 12 months of experience with the Government—have made a decision that we will become a laughingstock to the rest of the world because our Government is shut down, because they are not getting every bit of their way.

Mr. President, I have a letter to the editor in my hometown newspaper from Mr. George D. Sack, president of the Vermont chapter of the National Treasury Employees Union, that says if the chief executive officer of IBM and the board of directors had a dispute over policy, it is doubtful they would close their plants until they reach a decision. Yet that is exactly what happened when Congress and the administration closed the Government.

This is not the way to do things. This is costing taxpayers hundreds of millions of dollars in wasted productivity, wasted time. Some will go on and say, "Do you miss the Government?" Ask that of somebody trying to get a visa, or ask that of somebody who has a mortgage application before the Veterans Administration. Ask any number of people, and it will go into the millions of people being inconvenienced. Ask the people who are in private business who are being hurt because the Government is closed down.

The fact of the matter, Mr. President, we could put the Government back to work in the next hour and we would still have negotiations on the budget, negotiations that would bring about a balanced budget in 7 years. We are not going to have a Clinton budget or Gingrich budget or Dole budget or Leahy budget, but we could have a budget where we all work together, protect the environment, protect education, protect people that need medical care, still balance the budget. That is what we ought to do.

This kind of posturing, when it hurts people who cannot pay the mortgage, the heat, their children's doctors' bills, that is cruel.

It is especially cruel when the taxpayers have paid for airplane tickets for those same House Members to go home for Christmas vacation; the taxpayers have paid them a couple of thousand dollars a week to sit at home doing nothing. They ought to be back here getting us back to work.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. SARBANES. Mr. President, what is the parliamentary situation?

The ACTING PRESIDENT pro tempore. There are 5 minutes allocated to each Senator for morning business.

A CLEAN CONTINUING RESOLUTION

Mr. SARBANES. Mr. President, I rise to make once again a very strong plea for a clean continuing resolution in order to allow the Federal employees to go back to work and for the Government to function while the negotiations continue over a 7-year budget plan.

The shutdown of the Government ought not to be used as a coercive tactic in order to reach a particular solution with respect to the 7-year budget plan. Unfortunately, that is what has happened.

The employees are being used as pawns in this game, in this tragic game. And what is happening now is that you have over 500,000 employees who have been going into their offices and working, but who are not being paid for the period since December 16. You have another 260,000 employees who have been furloughed. So you have a total of almost 800,000 employees not being paid for doing their jobs.

Of course, their inability to do their jobs affects citizens all across the country. There is an impact upon the private sector and upon millions of citizens. The NIH, which should be processing its grants to the private researchers, is not able to do so because people are on furlough. A number of States are slowing down the operation of their safety and health programs and their unemployment insurance programs because of the partial closedown in the Federal Government. You have a number of agencies that are not providing very needed services—the passport office, for example. A lot of people get passports for business reasons. Others have planned trips for long periods of time. All of a sudden, none of them can carry through on their plans often at great expense and inconvenience.

The impact of this partial closedown on the Federal Government is disrupting the lives of millions of people, not only the Federal employees, but ordinary citizens who depend upon the Federal employees to provide them with important services.

There are strong differences about the basic 7-year plan. Those differences ought to be fought out. But the employees in the Government ought not to be taken hostage as a coercive tactic in that debate, in that sharp difference over what the budget priorities ought to be. We have discussed those differences at length on the floor of the Senate, and I assume further discussions are going on, about the deep cuts in Medicare services, and in Medicaid services versus tax breaks for people at the top end of the economic scale. But we ought not to be holding hostage Federal employees to that debate.

This week, people will receive paychecks that pay them for only 1 week, up until the 16th of December, when the last continuing resolution expired. Instead of a 2-week paycheck, they are going to get a 1-week paycheck. They will not get the second week because that was beyond the time of the continuing resolution, although over 500,000 of these employees were brought in to work. Although these employees were brought in to work, over half a million of them—and another 260,000 who have been furloughed find themselves in the same situation—they will get the 1-week paycheck, not beyond that. Then, after this week, unless the Congress takes action, they are not going to get paid.

It is said that we are going to pass a provision which later, when we get a budget and an appropriation, will go back and pay these people. That is only decent and humane and just, it certainly should be done. But what are these workers to do in the meantime? There seems to be an assumption on the part of many Members of the Congress—maybe it reflects their own particular financial situation—an assumption that people somehow have money stashed away that they can simply draw down on. So when the paycheck does not come in, it does not make any difference in their standard of living.

That is not true for a great many people. Most people need a regular paycheck in order to make car payments, house payments, tuition payments—to meet their ordinary living expenses. This is particularly true of people at the lower and middle grades, but it applies throughout the Federal service.

What is being done to dedicated employees is an absolute outrage. It defies all reason and all common sense. There is no way, rationally, one can justify what is now happening and it clearly flouts common sense.

The Washington Post, in a very strong editorial—and I ask unanimous consent the editorial be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SARBANES. The Washington Post editorial said:

> Federal employees have every right to feel as if they are the real pawns in this sorry mess. One day they are proud and productive members of the Federal Government, protecting the health and safety of the Nation; the next, they are handed a slip of paper and sent home with no idea when they will be paid. That is no way to motivate a work force, let alone demonstrate respect for it.

Let us pass a clean continuing resolution. Let the people go back to work. Let the Government function. And then let the debate over the broader budget, the 7-year budget plan, continue without this coercive effort to use the Federal employees as a pawn in that debate.

EXHIBIT 1

[From the Washington Post, Dec. 17, 1995]

A SHUTDOWN'S OTHER COSTS

There is more to the stalemate of the government than the failure of the president and the GOP to agree on a seven-year balanced-budget plan. The furloughing of federal employees exacts a terrible cost from a valuable work force. Nothing can be more demoralizing to men and women who look out for the nation's veterans, hunt for the cures to deadly diseases, keep our air and water clean, send out the Social Security checks and otherwise serve the nation in ways most of us don't think about, than to be told that despite their fidelity and contribution, they are really "nonessential." That insult, being added to all the other guff federal workers catch in the halls of Congress, on talk shows and from television comics, comes as an undeserved kick in the teeth from their own government.

Federal employees have every right to feel as if they are the real pawns in this sorry mess. One day they are proud and productive members of the Federal government, protecting the health and safety of the nation; the next they are handed a slip of paper and sent home with no idea when they will be paid. That is no way to motivate a work force, let alone demonstrate respect for it.

The daily payroll cost for the furlough of employees is no small matter—even if employees are paid retroactively for their days out of work. But there are consequences of the cavalier treatment of the federal work force that will be felt long after the government is back in business.

A government that is in gridlock—worse yet, shuttered—does little to bolster a political system already losing the public's confidence. It downright debilitates its own work force. As a furloughed federal economist said during the last interruption, "Can you imagine a Fortune 500 company operating like this? If they had a dispute between their board of directors and their president, and they sent everybody home?" And in addition to the effect on morale, can such interruption be supposed to be a help to the work they do?

In an open letter to federal employees, President Clinton and Vice President Gore signaled their recognition of the shabby treatment afforded the federal work force: "you remain good people caught in what Churchill called the 'worst system of government devised by the wit of man, except for all the others,'" they wrote. Good people—and they are—should not be made to pay for the failures of their leaders. Getting federal employees out of the middle and back on the job is the way to respect them.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

TIME FOR AN AGREEMENT ON A BALANCED BUDGET

Mr. THOMAS. Mr. President, I rise also to talk about the dilemma that we are in. I agree with the Senator from Vermont and the Senator from Maryland that we ought not to be where we are. I believe it is time that we come to an agreement on the balanced budget. If you really want to come to a solution, you could have come to a solution by now—all of us. If you want to find a solution, you can find a solution. You cannot just continue to talk and say we have had useful conversations and walk away, having made no decisions. That is not a way.

I have a little different view, however, of some of the reasons that we are here than the Senator from Maryland. The President could have signed the appropriations bills. He could have had those people back to work. He chose not to do that.

We started on November 14, I believe, with an agreement to find a balanced budget in 7 years, using CBO numbers. And that was not done. On the part of the administration, nor indeed the other side of the aisle, a process to do that was not forthcoming.

So, I think we should not be where we are. I have been here since Thursday, hoping the leadership would come forward and say, "Here is a way to put people back to work." I have been here each of those days to do that. We have had objections from the other side of the aisle not to do that. "We do not want to do that."

So that is where we are, and we ought to change that.

Let me talk a little bit about what we are really doing here, that is, trying to balance the budget. In 45 days we have not done that. The administration promised to bring that forward. There were four budgets, none of them balanced. Instead of that, there has generally been posturing at the polls, saying what an exaggerated effect would happen if we reduced the rate of growth in the budget. That is what we talked about, when everyone in this place knows you have to reduce the rate of growth in the budget. Not a soul in here would deny that has to be done.

Still, we cannot do it. Everyone rises up and says, "I want to balance the budget. We have to balance the budget." But can we go forward? We hear all of the reasons why we cannot do that. We have not done it for 30 years. We have not balanced the budget one time. Then I guess we wonder why it is that when you say "then we will talk about balancing the budget," we say, "That is what you said when we tried to get an amendment to balance the budget." We are going to gut Social Security, so we cannot do that. It did not have anything to do with Social Security.

So here we are. I agree entirely we ought not to be here. Not only Federal employees in my State, as in your State, many people, Yellowstone Park concessionaires, for example, are out of work because the President did not sign the Interior bill, among other things. So Yellowstone Park is closed.

What are we talking about? We are talking about some fundamental changes. You know, not going around the edges and trying to do a little something. We are talking about a balanced budget, one that has to do with financial and fiscal responsibility, one that has to do with not continuing to put it on the debt so our kids have to pay it. Our credit card is maxed out. We know that. We cannot come to any kind of agreement. We are going to talk some more today, I guess, and talk some more tomorrow. We probably will not be able to come to an agreement.

There is lots of room to come to an agreement. The parameters are pretty large—a balanced budget in 7 years, CBO numbers. Aside from that, you can bargain in there. That is a pretty broad parameter. We could do that. We could do that.

Mr. President, we ought to do that. We ought to get folks back to work. This is a ridiculous arrangement. We have to make some decisions. The people who are doing the negotiating need to make some decisions. That is our job. We are trustees for the American people and our job is to do something. Our job is to make decisions. Our job is to move forward. Mr. President, we ought to do that.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

THE OBLIGATION TO KEEP GOVERNMENT FUNCTIONING

Mr. BINGAMAN. Mr. President, we are now in the 18th day of the longest Government shutdown in the history of the Nation. Serious negotiations continue on the budget, but still the Republican majority in Congress refuses to pass legislation to fund the normal function of Government; that is, a clean continuing resolution. This persistent refusal to provide funding for normal Government operations is irresponsible. It is irresponsible conduct by the Republican majority, particularly in the House, which must originate appropriations bills regardless of which side may be right or wrong on the policy issues in the budget negotiations.

Any time the negotiation occurs, each side begins by assessing its own as well as its opponent's strengths and weaknesses. Each side determines the actions that it can take to put pressure on the other to reach concessions.

In these negotiations over the budget, for the first time in our Nation's history the Republicans who are controlling Congress have determined that they have the right to shut down the Government and they can use that right as a bargaining chip in their negotiations with the President. They do not see the obligation to keep Government functioning as a shared obligation. They do not see it. They do not see it as an obligation of both the executive and the legislative branches as previous Congresses have. Instead, they are quite willing to assign that responsibility exclusively to the President while, for their own part, keeping the Government closed as a bargaining ploy. This is a profound change in the way Congress views its responsibilities. It is simply wrong to see this is as more business as usual, more of the traditional bickering that characterizes Washington politics.

In November, we had the longest shutdown in the 207-year history of the Republic, and it was 6 days long. Now we are at 18 days and counting in the second shutdown of this Congress.

When our Founders embarked on the task of bringing to life the constitutional system, they devised in Philadelphia in 1787, it was the legislative branch of the Government which they called on to commence proceedings under the Constitution.

The Congress met in New York in 1789, organized itself, provided for the counting of Presidential electoral votes and the inauguration of the President. The Congress then passed legislation to establish the great departments of the executive branch, to provide for the organization of the judicial branch, and to furnish appropriations to enable all the branches of our new national Government to perform their constitutional functions.

It would be, frankly, unimaginable to our Founders that our branch, the first branch of Government whose duty it was to bring to life the Framers' plan, would ever think that it was within its purview to disable that plan by refusing to perform the Congress' primary constitutional responsibilities.

It would be unimaginable for the new Congress to have decided not to complete the work of setting up the Government that the Constitutional Convention contemplated. In fact, it would have precipitated a major constitutional crisis for a radical majority in the first Congress to decide not to set up a particular department or not to fund a particular department just to get the bargaining leverage with a new President. Such a step then might have doomed the future of our new constitutional Republic.

My Republican colleagues argue that it is not they who are acting irresponsibly in causing Government to remain closed. After all, they passed appropriations bills and the President has chosen to veto those bills. They are right; the President has exercised his veto. He has done so as provided in the Constitution. He has returned those bills to the Congress, also as provided in the Constitution. But when the President uses the veto, the Framers of the Constitution contemplated that Congress would either muster the two-thirds majority in each House needed to override the veto or make the changes necessary in the bill to satisfy the President's objections. When time has been required to resolve differences between the President and Congress on spending bills, all previous Congresses, 103 of them, have enacted continuing resolutions to maintain the normal functioning of Government.

When this Congress and this Republican majority came, that all changed. For the first time in our Nation's history, the majority in Congress is refusing to perform its primary constitutional responsibility to maintain a functioning Government. It is abusing its power under the Constitution. This refusal, this abrogation of responsibility, this abuse of power is being explained away as a natural consequence of policy differences between the President and the Congress. But there have been many times in our history when policy differences between Congress and the President were great and were strongly held. Never before has Congress approached the negotiations of those differences with the view that responsibility for maintaining a workable Government rests exclusively with the President and the ability to keep the Government closed is a bargaining chip that Congress brings to the negotiations.

If this Republican view is accepted with respect to a partial Government shutdown, why should it not also apply with respect to increasing the debt limit and extending the full faith and credit of the United States? If it is OK to shut down the functioning of Government to force the President to accept the Congress' negotiating position, why would it not be just as acceptable for the Congress to refuse to increase the debt limit for the same purpose? Why would it not be just as acceptable for the Republicans in Congress to say it is the President's responsibility alone to ensure the full faith and credit of the United States and he has to do it by agreeing to whatever we in Congress demand?

This view by the Republican leadership of Congress is as radical as it is wrong. The Founders of our Nation provided for a government in which responsibility as well as power was to be shared. If the Congress will not hold itself responsible for maintaining a workable government, then the people who elect the Congress will surely do so.

Mr. President, I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. DORGAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. DORGAN. Mr. President, we are in morning business until 12:30, is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 5 minutes as if in morning business and have the time for morning business extended.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

END THE SHUTDOWN

Mr. DORGAN. Mr. President, I come from a town of 400 people in southwestern North Dakota, a very small community, a community probably like most other small communities in this country. Good people live there, thoughtful people, people who help others. Oh, the community has a few hotheads like most communities have, a few freeloaders like most communities have.

My home community is probably not unlike the Congress; 535 people serve here in the U.S. Congress, mostly good, thoughtful, hard-working people, Republicans and Democrats who love their country and care about doing the right thing for their country. And we have a few hotheads here and we have a few hot dogs here, I guess.

We find ourselves today in a most remarkable position, one that I think causes all Americans to scratch their heads and wonder, what on Earth can they be thinking about in the U.S. Congress?

We have a disagreement over a 7-year budget plan. The disagreement is not over small issues; it is over some very significant issues. And there is a good reason that there would be disagreement over large questions, such as a $245 billion tax cut, a $270 billion proposed cut in Medicare spending, and a range of other things. There is good reason that there would be very substantial disagreement about those issues. And yet we know from two centuries of history that in a democracy you find compromise; you reason together; you find a way to come together and reach common solutions.

This year, however, it has been different. There is a disagreement on the 7-year budget plan. There are talks now ongoing at the White House, and I have been involved in some of those talks over this weekend at the White House, and I shall not talk about the merits of the balanced budget issues because I have been a part of those discussions. But I did want to say that because we find ourselves at this junction, we now have a partial shutdown of the Federal Government by some who want to use that shutdown as leverage to try to get what they might think they can get in this 7-year balanced budget negotiation.

It does not make any sense to me that we use a partial shutdown of the Federal Government as leverage. There is no connection. It does not make any sense.

Can you imagine the city council of my hometown or your hometown, a city council that says we, as a city council, cannot agree on a budget, so you know what we are going to do? We are going to decide that city workers will not come to work, or we are going to have half of them not come to work and half of them come to work, and to those we prevent from coming to work we say, you stay home, we will not allow you to come to work and when this is over, we are going to pay you for work we will not allow you to do. To those who come to work we say, you come to work because that is your responsibility, and when you get here we are not going to pay you, but we will pay you later when we resolve this dispute.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. DORGAN. This would be nurses at a veterans hospital, security guards at the prisons, and so on.

Mr. SARBANES. Will the Senator yield?

Mr. DORGAN. Many of whom work from paycheck to paycheck and live paycheck to paycheck. And that is who we are telling in this circumstance that they should bear the brunt of this dispute.

I would be happy to yield for a moment.

Mr. SARBANES. Very quickly. The Washington Post in a recent editorial said, and I quote them, "Can you imagine a Fortune 500 company operating like this, if they had a dispute between their board of directors and their President and they sent everybody home."

It is a coercive bargaining tactic that ought to have no place in the picture. As the distinguished Senator from New Mexico said, the regular operations of Government ought to be able to continue while we try to thrash out the very tough questions involved in this 7-year budget projection.

Mr. DORGAN. I appreciate the Senator's comments. I might say Senator DOLE has been in the Chamber and he has made the point several times that it is not his desire to see this shutdown continue.

I think and I hope very much that we will be able to pass a clean continuing resolution to end the shutdown. I know the previous Senator who spoke this morning said, well, we—meaning people on his side—have proposed to bring the Government workers back to work but we have objected.

Well, that sort of paints a different picture than exists. We have over 2 weeks now proposed clean continuing resolutions that people come back to work and be paid for coming back to work, and they have been objected to.

Aside from what has happened in the past, we ought to today, on Tuesday, all of us, decide that this is the day to end this shutdown, end this bizarre impasse, and pass a clean continuing resolution to have the Federal workers come back to work, to be paid for coming back to work, and stop this nonsense.

It does not make any sense to dangle those Federal workers at the end of a chain here and say, you are the ones who will be used as a pawn in this budget issue. That is not fair to them. I wonder, if we were talking about CEO's or Wall Street investors, whether someone would be saying, well, we would like to dangle you; we would like to use you as bait here in budget negotiations. I do not expect you would see people using CEO's like that or Wall Street folks like that. It is just the Federal work force that people think they can use like that.

My hope is that at the end of the day we in the Senate, Republicans and Democrats, all of us who understand this makes no sense—the Presiding Officer in the chair has made that same point—my hope is all of us can decide at the end of the day, at least with respect to the Senate, we will pass a clean continuing resolution, send it to the House and urge that they do the same. Then we should move on to honestly and aggressively negotiating an end as well and a solution as well to the 7-year balanced budget plan.

It can and should be done and, I think, will be done, but this shutdown really makes no sense. It pokes the American taxpayer in the eye and dangles Federal workers as bait or as pawns in a circumstance that is terribly unfair to them.

In an hour—in a half hour, for that matter—we could, it seems to me, pass a clean appropriations bill to continue funding and end this shutdown, and I hope that will be the case this afternoon.

Mr. President, I yield back the remainder of my time.

Mr. SARBANES addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. SARBANES. Mr. President, I ask unanimous consent to be recognized for 5 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

POLICY DIFFERENCES AND CONSTITUTIONAL RESPONSIBILITIES

Mr. SARBANES. Mr. President, I want to thank the distinguished Senator from North Dakota for his very strong statement. I know how keenly he has followed this matter. I also want to thank the distinguished Senator from New Mexico for his very thoughtful analysis. He made some extremely important points about the workings of the American constitutional system.

We have a system of separation of powers and checks and balances. That means that one branch cannot simply abdicate itself from assuming a measure of responsibility when sharp policy differences confront decisionmakers.

There are sharp policy differences over the components of a 7-year balanced budget. One approach would make a cut of $270 billion in Medicare and give tax breaks of $250 billion. There are many of us who think that is a wrong set of priorities, that we ought not to be giving the tax breaks and, by not doing so we would not be making deep cuts in Medicare. That is an issue that needs to be argued out among the Members of the Congress and between the Congress and the President.

The President has stated he wants to move to a balanced budget, but he does not want to do it at the sacrifice of important priorities involving Medicare, Medicaid, health care for our citizens, involving educational programs, the opportunity for young people to go to college, involving environmental matters, in terms of safeguarding our air and water and protecting and enhancing our environment. So there are sharp differences over priorities.

Many of us regard the proposal to make sharp cutbacks in the level of services for those programs as a radical proposal. In any event, no matter how one resolves such issues, the closedown of the Government ought not to be a coercive tactic that is permitted. In other words, workers are being taken financial hostage in order for one side to get its way on a set of policies.

There are millions of citizens who are not getting services that they require. It is impeding the functioning of the private sector, of the private economy all across the country. The private sector is not able to carry forward as it otherwise would do because the Government is not providing certain important services which everyone agrees need to be provided.

In addition, the punishment that is being inflicted upon those who work for the Government is extremely unfair and unfortunate.

I do not know what people assume about the ordinary person's ability to meet their financial obligations week to week and month to month. I really ask people all across the country to stop and think for a moment: If you cease to be paid, if you were not getting your salary check, your paycheck, how would you meet your obligations? There are some people—I think a limited number—who could handle that situation without any difficulty. They have lots of savings, they have lots of accumulated wealth put away and they would simply draw down on it. But that is not true of the ordinary citizen, and it is not true of the ordinary Federal worker. They now are confronted with what amounts to family crises.

Over half a million of those workers have been coming in to work. They have been called in. They have been working, but they are not getting paid. Another 260,000 have been furloughed. They are not getting paid. The answer to this is, of course, for the Government to start up again under a clean continuing resolution while the budget discussions continue and allow the Government to function and provide its services to allow its employees to be paid; not to hold them hostage as part of a coercive strategy in order to achieve one's way with respect to the broader budget question. Very important budget questions, but we ought not to be using this tactic in order to coerce the opposite party into submission to a set of budget priorities about which there is sharp disagreement.

So I hope that in short order we will be able to pass a clean continuing resolution that allows the workers to come back to work, allows the Government to open up and allows the workers to be paid.

There is another proposal discussed last week to bring them in, but they would not be able to do anything because they would be precluded from incurring new obligations—in other words, the Government would not really perform its functions—and at the same time the workers would not be paid. Some of the employee groups have gone into court asserting bringing them in to work and failing to pay them violates their constitutional rights. I do not know what the outcome of that judicial proceeding will be, but it is very clear that you are inflicting tremendous personal and family harm on people who are in no position to meet their obligations if you cease to provide them with their regular pay.

So I hope very much that we will stop this practice, cease this use of the Federal employees as pawns which has put them in a state of turmoil and apprehension. Let these dedicated people go back to work, let them be paid, and let the citizens of the country receive the benefits of the services that they are dedicated to providing.

Mr. President, I yield the floor.

Mr. BREAUX addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, let me first commend the Senator from Maryland for his comments. I think they are right on target.

Mr. President, I ask unanimous consent to proceed as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator may proceed for 5 minutes as in morning business.

Mr. BREAUX. I thank the Presiding Officer for being here and keeping the Senate in session.

ENOUGH BLAME TO GO AROUND

Mr. BREAUX. Mr. President, this is a most unusual time that we are in. There are people in Washington who are now arguing about who are essential employees and who are nonessential employees. I think the people of my State of Louisiana have already made a conclusion. After seeing the Congress over the last 24 days not able to keep the Government in working order, they have decided that the Congress is nonessential; that we are incapable of governing, that we are incapable of keeping the Government working.

I have been in Congress over 23 years now, and I have never been in a situation like we are in today, and it is most unfortunate.

When people look to find who is to blame for this, I think there is, quite frankly, enough blame to go around for everybody. That is not going to get us out of this predicament. Deciding that it is the fault of the Republican Party or the Democratic Party is not going to solve the problem.

My colleague on the Republican side, Senator CHAFEE, and I offered a proposal about 2 weeks ago now which was a compromise. It was significant in that it was not just two U.S. Senators but that it was 14 who signed up in a bipartisan fashion to make a recommendation that would have brought this stalemate of trying to reach a balanced budget to a conclusion.

That proposal said that there would be tax cuts, but the tax cuts would be less than many Republicans would like to see. That proposal said, "Yes, there were going to be reductions in Medicaid and Medicare," and more than many Democrats would like to see. But the bottom line is, that was the essence of an agreement, it was an outline, a blueprint of how balancing the budget in 7 years could be achieved.

It used CBO numbers and made recommendations that were tough on both sides. But it was an agreement. It was actual, real numbers on the size of a tax cut. It was actual, real numbers on the size of reductions in various programs that are going to have to see less money being made available than in the past if we are going to balance the budget in 7 years.

That was really the first bipartisan agreement that I have seen that has been offered by Members of both parties as a way out of this mess. It is very clear that a way out is not just to blame the other side. We are past that. The people in my State of Louisiana and people in many States have come to the conclusion that something is basically wrong when people who are elected to govern can no longer govern, can no longer keep the Government operating the way it should.

While we have done some things, I imagine when people read some of the things we have done compared to what we have not been able to do, they are going to scratch their heads in further amazement at the inability of the system to work as it was designed to work.

One of the things we did do, which I think is sort of ironic, is that the Federal Government and the Senate did manage to pass one piece of business, as this article of yesterday, January 1, points out. They gave final approval to a bill ensuring that the Palestine Liberation Organization office in Washington would stay open. Without the legislation, the PLO office would have closed.

If we can keep the PLO office open, how come we cannot keep nine Departments of our own Government open?

If we can keep the Palestine Liberation Organization open and operating, why can we not keep the Department of Commerce working?

If we can keep the PLO office open, how come we cannot keep the Education Department working?

If we can keep the PLO office open, how come we cannot keep open the Health and Human Services Department?

Or if we can keep open the PLO office in Washington, how come we cannot find enough intelligent men and women to come together to find a way to keep the Departments of Housing and Justice and Labor and State working?

So it really is a question of priorities, and I think that so many of us on both sides of the aisle have tried to offer suggestions and ideas about what to do. As I mentioned, and I see the distinguished junior Senator from Virginia on the floor, and he joined with me and Senator CHAFEE and 14 other Senators to offer a package of suggestions that would have brought this stalemate to an end, would have opened up the nine departments, along with the PLO office that we were able to open, keep it open and functioning.

I was talking to people over the recess here in Washington that are actually prohibited from going into the Department of Education. The guards at the desk have a list of who is essential, and if you are not on the list you cannot even come to the building and work if you wanted to. You cannot volunteer to keep your job going to serve the people of this country because Congress has not been able to come together. We have come together to keep the PLO office open.

People are really wondering in amazement what has gone wrong in Washington. They are telling me "Enough is enough. We have heard the arguments, we have heard the blame game. Can't you folks get together and make it work? That is what we elected you for." There are some, particularly in the other body, who make the argument we will keep the pressure on the President by shutting down the Government and by shutting down the Government and making these people not be able to work and not get paid while we keep the PLO office open—somehow that will put pressure on the President to make compromises he might otherwise not make. That has proved fruitless—24, 25 days now the Government has been partially closed.

I hope this evening in the negotiations with our team of negotiators and the Republican team and the President, who are supposed to meet at 6 p.m, hopefully we can move toward an agreement. I hope somebody in that meeting would pick up the Chafee-Breaux proposal along with the Senator from Virginia, Senator ROBB, and say, is this not a pretty good starting point, and throw that down on the table see if there is a way to split some of the differences and get an agreement.

I want to point out just for a minute or two the illogic of trying to say that by shutting the Government down and hurting the Federal employees and telling the people that we cannot govern that somehow that will pressure the negotiators to come to an agreement. Mr. President, we are getting full salary. We are getting paid like it is a normal day. We get $133,600 a year; the leadership gets a little bit more than that, and they richly deserve it. As long as the Congress is continuing to get paid like nothing is happening, we are not going to have any real pressure.

Senator BARBARA BOXER from California offered a resolution to cut the pay of Members of Congress several weeks ago. I said that is, maybe, just a little too extreme. That type of rhetoric is not really essential and really necessary. But as each day has passed I have come to the conclusion that she is right, that as long as we are getting paid for performing our duties—which I suggest we are not performing as we should—there is not a lot of pressure for us to make the real compromises that are essential to get the job done.

I was amazed by an article which I ask unanimous consent to have printed in the RECORD from the Washington Post of Tuesday, January 2, 1996, entitled, "Don't Touch Our Pay, House Republicans Say." "Hill Checks Protected During Budget Fight."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 2, 1996]

DON'T TOUCH OUR PAY, HOUSE REPUBLICANS SAY

HILL CHECKS PROTECTED DURING BUDGET FIGHT

(By Larry Marasak)

House Republicans have offered an abundance of proposals in their drive for a balanced budget agreement, but giving up their paychecks apparently isn't one of them.

While the partial government closure will leave some 760,000 federal workers with pruned paychecks, House GOP leaders repeatedly have rebuffed attempts to halt congressional pay during a shutdown.

House Majority Whip Tom DeLay (Tex.), the third-ranking House Republican, offered these reasons for the opposition in a recent CNN appearance: Balancing the budget "has nothing to do with our pay"; Democrats were "demagoguing" the issue by trying to change the subject from a balanced budget; and, as a member of Congress, he was a "constitutional officer," not a federal employee.

Rank and file House lawmakers—Republican and Democrat alike—are paid $133,600; Speaker Newt Gingrich (R-Ga.) gets $171,500; Majority Leader Richard K. Armey (R-Tex.) gets $148,400, as does Minority Leader Richard A. Gephardt (D-Mo.).

Although some federal employees make more than $100,000 a year, the norm is the same as "most working Americans, the majority of whom live paycheck to paycheck," said John Koskinen, deputy director of the Office of Management and Budget.

President Clinton, who makes $200,000 a year, has not given up his pay, though his aides have said for days that his staff was researching whether forsaking his salary would be constitutional.

Three times, the Senate unanimously approved language that would decree—during a full or partial shutdown—that no paychecks go out to the 435 House members, the 100 senators or the president.

Five times, Rep. Richard J. Durbin (D-Ill.) said he tried to get the House to consider the proposal and was rebuffed by Republicans—especially in the leadership-controlled Rules Committee.

"I think the Republican leadership is very two-faced," said Sen. Barbara Boxer (D-Calif.), the chief Senate sponsor of the legislation. "They want federal employees and contractors [serving the government] to sacrifice themselves on the altar of their balanced budget plan, but are not willing to sacrifice themselves on that altar."

"It's cowardice on their part for them to put the paychecks of a lot of innocent people on the line and refuse to put their own paychecks on the line," Durbin said.

In addition to Durbin's rejection in the Rules Committee—the gatekeeper panel that decides which bills and amendments go to the floor—the Boxer proposal was deleted by a House-Senate conference from legislation to abolish the Interstate Commerce Commission.

When DeLay was asked on CNN's "Talk Back Live" on Dec. 19 whether he would support congressional pay cuts during a shutdown, he told the audience participation show: "No, I would not, I am not a federal employee. I am a constitutional officer. My job is in the Constitution of the United States.

"I am not a government employee. I am in the Constitution."

Boxer has introduced another version of the legislation to answer congressional critics who said stopping their pay could treat members of Congress more harshly than other federal workers. The latest bill would treat lawmakers the same as the most adversely affected federal employee.

"If they lost a week's pay we would lose a week's pay," Boxer said. "If their pay was delayed, our pay would be delayed."

Mr. BREAUX. Some of the quotes are absolutely amazing, from some of our Republican colleagues: "Balancing the budget has nothing to do with our pay."

A further comment was, "As a Member of Congress this Member was a constitutional officer, not a Federal employee."

Three times the Senate has passed unanimously language that would, during a full or partial shutdown of our Government, say that no paychecks would go out to the 435 Members of the House and the 100 Members of the Senate. Five times they tried to enact that same legislation in the House. Each time they were prevented from bringing it up. When this particular Member was asked about whether they would support this congressional pay provision, they said "No, I will not. I am not a Federal employee. I am a constitutional officer. My job is in the Constitution of the United States. I am not a Government employee. I am in the Constitution."

Mr. President, I think people back home have had enough. They have had enough of people who grandstand, of people who play the blame game, and people in the Congress who say they are better than anyone else. We are getting full salary and let the rest of the people suffer because we want to make a point.

I think it is time to come to insist on rather drastic action. I support the efforts of Senator BOXER. I think she was right on target. She was early and ahead in the game in offering something that I guarantee will make a difference.

If we had our pay cut today, can you imagine how many Members would be back in Washington, no matter where they might be in the world or in their respective States. No matter how many times flights would change and schedules would change, Members would be rushing back to Washington to say, do you know something, we are not getting paid, we better get back and fix the problem. There is not going to be any pressure that anybody can put on anybody in the Congress like saying we are not going to get paid when we cannot make the Government work. To some of us that is our only income. It will make one heck of a big difference.

I thought it was pretty much high rhetoric when initially offered. I cannot think of anything else to do. We got together with a bipartisan group. We offered a bipartisan suggestion. This is a blueprint or an outline. It has not worked. It still has not made the progress that I think is essential.

I suggest, Mr. President, that when, as I understand it, we have to have another continuing resolution that is going to be offered, I think maybe tomorrow sometime, because there is a continuing resolution to ensure that foster care payments and AFDC payments and veteran payments and Medicare payments would have to be made, that at that time if we have not reached some kind of a framework of an agreement, I will attempt to offer once again a suggestion, and part of that legislation, an amendment to that continuing resolution which will say Members of Congress shall be treated in the same manner as the basic pay of the most adversely affected Federal employees who are not going to be compensated during the shutdown period.

Mr. President, we cannot be treated better than the people that we are responsible for their jobs. I guarantee that if that amendment passes there will be a rush back to Washington by Members of both parties who will come to Washington, roll up our sleeves, and stay here and not leave until we get the job done. That may be the only way I think that we are going to push ourselves into making a proper compromise that is absolutely essential and necessary.

Mr. ROBB. Mr. President, I ask unanimous consent the period for morning business be extended by an additional 5 minutes and I be recognized to speak therein.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Without objection, it is so ordered.

THE GOVERNMENT SHUTDOWN

Mr. ROBB. Mr. President, I have been listening to our colleagues this morning and I was not initially planning to say anything but with my distinguished senior colleague in the chair at this particular moment I know that I reflect his views in what I say, and what I say is that the continuing shutdown of the Federal Government and the impact it is having on not only Federal employees—and in most cases it is the most vulnerable and the least able to withstand this kind of treatment—but the impact it is having on many, many others who are directly or indirectly affected by the Federal Government or by the activities of the Federal Government.

Mr. President, the continuation, indeed, the extent, indeed, the fact that we are having a shutdown at all, is unconscionable. I think that it makes no sense, no sense for either side, no sense for anyone who is involved in this particular debate, to see this protracted shutdown, the protracted demeaning, demoralizing impact on so many of our citizens continue.

I recognize that the feelings on both sides are very deeply felt. I recognize that there are important philosophical differences that are being debated, and indeed I have been very much supportive of the basic thrust of those who want to achieve more fiscal discipline. As the distinguished Presiding Officer knows, during the time I served as Governor of the Commonwealth of Virginia, one of the things I was most often identified with was fiscal responsibility and making certain that we acted within our means. I have voted for, on several occasions, a 7-year balanced budget using CBO numbers. I think there is general agreement on both sides that we are going to come up with such a budget, hopefully in the near term, although some of the philosophical differences are very, very deep and may not be resolved but we should not ask those who are most vulnerable to continue to bear the brunt of this shutdown.

Again, I am not speaking just of the 200,000-some Federal employees, many of whom reside in the State that the distinguished Presiding Officer and I represent, but all over the country, but so many others dependent on the effective operation of our Government. A huge number of citizens are uncertain whether they will be able to make their payments. For some, it will be a very basic decision as to whether or not they will be able to purchase food, medicine, what have you, the next time around, because they live from paycheck to paycheck. Others have mortgages, they have rent payments, they have car payments, they have all kinds of tuition payments, everything that you can imagine. Many things that we cannot imagine.

I have been in the last few days here at the Capitol, listening to stories of individuals who have been enormously inconvenienced by this continued shutdown. I appeal to the leadership on both sides. I believe in the Senate that there is virtual unanimous agreement that this shutdown should not continue. Indeed, the Senate has attempted on several occasions to pass some legislation that would keep the Government functioning.

But I appeal to those who are in a position to make decisions at this time to move forward, to not let this continue. Do not let this debilitating shutdown, which is so unconscionable, continue, and to put the people we are asking to provide Government services back to work, to stop the complete inefficiency and the waste of taxpayer dollars, and then to get on to the serious business of negotiating some very real differences that I acknowledge.

Mr. President, I thank the President and I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

A CONTINUING RESOLUTION

Mr. WARNER. Mr. President, before my distinguished colleague from Virginia leaves the floor, I wish to express my appreciation to him for the references he made about me while I was the Presiding Officer. I know that my fellow Senator from Virginia has worked very diligently on the question of trying to resolve this budget impasse.

But, Mr. President, I would also like to suggest in his very careful comments about the Federal employees, which I do share, we should also bring to the attention of the Senate the severe suffering that has been placed upon the Nation's Capital, the Greater Metropolitan Washington area, composed of the District of Columbia, Virginia, and Maryland, because this area not only houses the Federal Government in large measure, but it also houses so many of the private organizations and institutions that have, as a consequence of this shutdown, been closed. That is bringing about a severe financial crisis here in the Nation's Capital because, as my distinguished colleague knows, tourism is one of the major sources of income in this region. The Commonwealth of Virginia, together with Maryland, provides the facilities for so many of these tourists to stay for whatever period, overnight, or, hopefully several days. It provides the meals and quality of life. That industry is virtually at a standstill.

So the distinguished colleague of mine from Virginia, and I, together with those colleagues from Maryland, have a very special desire to see that the Government returns to work.

Mr. ROBB. Mr. President, I ask my distinguished senior colleague to yield for a comment?

Mr. WARNER. Yes, I yield.

Mr. ROBB. Let me join with my colleague and say I fully understand the point he was making. Indeed, perhaps less eloquently, I tried to make the same point. But it is not just in the Nation's Capital. It is not just in our Commonwealth of Virginia. I think people would expect it of us, representing a disproportionate number of those who are directly affected, but it is all over this country and indeed all over the world in terms of Federal employees and people who depend on the Federal Government. Many of those small businesses, people who depend on the national parks and other facilities for their living, when those parks are shut down, when those visitor attractions are shut down all over this country, small business men and women who make their living being accessible to those who come to those institutions are going through the same kind of a shutdown. They do not have any guarantee. Indeed, they are not going to be paid back whatever they lose after the shutdown is over. That is why this makes so little sense.

If everybody who has been laid off or furloughed in this process is going to be ultimately made whole, it is an enormous waste of taxpayer dollars. But those individuals after the inconvenience and the trauma, in many cases, of not being able to pay their bills on time, are going to be made whole. Many others, who are directly related to those, are not going to be made whole. The impact is a little bit like a cancer. It is corrosive and it continues. And I thank my senior colleague for yielding on that particular point. It is clearly important to those of us who represent the States contiguous to our Nation's Capital, but it affects everyone throughout this country and many, many small businesses and others who are simply not on anybody's radar screen are wondering right now whether or not they are going to make it.

With that I thank the Chair and I yield.

Mr. WARNER. Mr. President, I thank again my distinguished junior colleague. A day or so ago, as a matter of fact I think it was on Saturday, the distinguished majority leader, Mr. DOLE, together with others, passed legislation here in the Senate to enable the military to receive their pay raise, which was in the defense authorization bill. My distinguished colleague and I, since we both serve on the Armed Services Committee together with the Presiding Officer, the Senator from Idaho, recognize that there was at least some recognition of the urgency to move on with this.

I would like to add also, Mr. President, I thank the distinguished Senator from North Dakota, Mr. DORGAN, for his kind remarks about the majority leader today, Senator DOLE. Indeed, the leadership of the Senate, I think, has been working diligently to bring this impasse to resolve.

I am very pleased to hear this morning, by and large, constructive comments about this problem. I think it is not in the interests of the Senate, indeed the Congress as a whole, to have a blame game going on, sort of passing the football back and forth to each other as to who is at fault. It seems to me certainly America saw this weekend, over a period of 72 hours, enough football, some 12 magnificent games played across our Nation. I think it is time for the Congress to recognize maybe we better put the football of blame on the 50-yard-line and blow a timeout so the President, together with the distinguished majority leader, Mr. DOLE, and others can work with the leadership of this institution, the Congress of the United States, again, today, to try to resolve this problem.

I am going to be joining with the distinguished majority leader, Mr. DOLE, on a continuing resolution which I hope will be offered at the earliest opportunity, and that will provide the restoration of the pay and full benefits for a period of time here, into January, such that these negotiations can continue.

Mr. SARBANES. Will the Senator yield on that point?

Mr. WARNER. Yes, Mr. President, without yielding the floor.

Mr. SARBANES. I commend the Senator from Virginia for that statement. I know how hard he has been working at this issue. I think it is very important that we pass a clean continuing resolution.

People should be put back to work and they should be paid. If you bring them in but do not pay them, you still are creating a financial crisis in their lives. I know the Senator is most sensitive to what people are going through and I appreciate his efforts.

Mr. WARNER. I thank the Senator from Maryland. We have worked together these many years in this Chamber on behalf of the Greater Metropolitan Washington area. I listened very carefully, as I was privileged to preside this morning, to his comments, and particularly the reference to the hardship being thrust upon the innocent persons, some 500,000 who are basically working without pay, and another 260,000 remaining at home, in all close to 800,000 individuals. They are indeed hostages. I am hopeful with this CR we can stop that at the earliest possible time and restore them to work. And, in a sense, restore America's confidence in the ability of the Congress of the United States to work with the President to resolve such problems.

No Senator feels more strongly about the balanced budget and the 7-year stipulated timeframe within which to resolve this problem than the Senator from Virginia. Indeed, I would say both Senators from Virginia have stood steadfast on that principle.

As my colleague from Maryland stated this morning, and, indeed the Senator from Virginia, who has taken a very active role in negotiations with a group of Senators over here on, should we say, a third proposal—neither the President's nor that being pursued primarily by the leadership of the House and Senate—this third proposal, all of those have to be melded together to see what we can do.

With the majority of both the House and the Senate under the control of the Republican Party, America put that power into the hands of the Republicans, such that we have the responsibility to redirect, in a major way, the course on which this Nation has been embarked for so many years, and such a tragic deficit that is being rolled up each year together with a mounting national debt now at some $5 trillion.

I commend my colleagues who are working on this situation. I am very hopeful we can resolve it here in the near future and that, today, we can pass, or at the earliest tomorrow, given that the House of Representatives, as I understand it, although subject to call is not in session today—that we can put a stop to the question of the Federal employees.

Mr. President, I see on the floor the distinguished Senator from Alaska who, likewise, has been a tower of strength with respect to the Federal employees all through these many years that I have been privileged to serve with him in the Senate.

Therefore, I ask, at the request of the majority leader, unanimous consent that the Senate stand in recess subject to the call of the Chair, following a period for the remarks by the distinguished senior Senator from Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska is recognized.

THE SHUTDOWN OF THE FEDERAL GOVERNMENT

Mr. STEVENS. Mr. President, I had hoped to stay in Alaska. I have been in Alaska and had a very interesting visit. I intended to spend the rest of the week, but due to a call I received from my good friend from New Mexico, Senator DOMENICI, I have returned so I can confer with him about matters on the Balanced Budget Act of 1995.

I have come to the floor today to talk a little bit about this shutdown. I think there have been some statements in the press, unfortunately, made without knowledge of the past history of these lapses in appropriations.

For those Members who are interested, I have spoken on the floor before about the work of James P. McGrath, who is the analyst in American national government, in the Government division of the Congressional Research Service. He has issued a series of bulletins on this whole subject of lapses in appropriations and the shutdown of the Federal Government and the effects on the Federal work force.

I find it very interesting. It has been pointed out in his report that from fiscal year 1962 to fiscal year 1981, in the 2 decades preceding the opinion of Attorney General Civiletti, who was President Carter's Attorney General, that the General Accounting Office found interruptions in agency fundings took place 32 times. Mr. McGrath reports that,

> Such lapses appear to be the rule, rather than the exception, according to GAO, which noted that from 1961 to 1980, "85 percent of appropriations bills for Federal agencies have passed after the start of the fiscal year."

The reason we now have a different circumstance is that in a landmark opinion in 1980, just prior to leaving office, Attorney General Civiletti issued an opinion concerning the Anti-deficiency Act, and Mr. McGrath's report states that "Prior to that landmark 1980 decision, Federal agency managers, while cognizant of the anomaly of continuing to operate during a lapse of appropriations, and while concerned about the legal implications thereof, did precisely that." I am still quoting from this report:

> They did so under the belief that "Congress does not actually intend that the Federal Government shut down while the agencies wait for enactment of appropriations or the passage of a continuing resolution."

Now, what has changed? In 1981, as I said, the Attorney General issued this opinion. The problem that we have now is that notwithstanding the substantial interruptions of the past—and, Mr. President, let me clear that up, too, while I am at it, because we have a very good chart that has been made by the CRS, and I ask unanimous consent that it appear in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. In fiscal year 1978, which was really the calendar year 1977, Congress had a lapse from September 30 until October 13, the next lapse was from the October 31 until November 9, and the next one from November 30 through December 9.

In other words, Mr. President, in 1977, during the term of President Carter, there were three lapses, substantial lapses. In 1978, for fiscal year 1979, again there was a substantial lapse, from September 30 until October 18. As a matter of fact, lapses as we have indicated have been the rule rather than the exception. The difference is this year we have the great problem of the fact that the President has vetoed five bills, five appropriations bills, a continuing resolution, and the debt ceiling and has decided to put pressure on the Congress by sending people home. I find that very unfortunate, and I think it is harming a lot of people, people who do live from paycheck to paycheck, as Senator DOLE has said, people who really need their income.

They are people who work on an annual salary basis, Mr. President. They are people who are going to get paid anyway. They have been paid—no Congress has ever failed to pay an employee who is subject to a lapse in appropriations, and both leaders have said this is not going to happen this time. Why in the world should we send them home? Why does the President send them home?

I take the position that there is no nonessential Federal employee. If they are not essential, they should not be on the payroll to start with. And we are looking at the opinion of an Attorney General in interpreting the problem of the Antideficiency Act, and that is why we are all in this situation.

I believe that we should all, the President and the Congress, get together and agree that what Congress did before the Civiletti opinion was right. Congress presumed, the managers presumed that Government would go on, that employees would be paid, and in fact they were paid. This President has taken the unprecedented action of borrowing from the trust funds of the Federal retirement plans. As chairman of that committee, I am going to make a report one of these days as to what actually happened in terms of that. But we have not reached the point where we have a crisis in Government due to the failure to have funds to operate. Everybody knows that. We have not reached the point where the debt ceiling act is really putting the pressure on the President to do what he has done. As a matter of fact, in my judgment, it is not something the President alone should bear. The Congress bears some of the responsibility here, too. And we have to find a way to put these people back to work.

They are people who live as I used to live when I worked in the Department of the Interior years ago with a family of five small children. We could not have gone from one paycheck period to another paycheck period without having some help.

This is a most unfortunate situation for Government employees. I have been chairman of the subcommittee on Government employees in Federal service this year, and I was before for 7 years. I have served on it now for a very long time in the Senate. But I say to the Senate and to the Congress and to the President, these people are public servants. They have been employed to work for the Government. They have not done anything wrong. They are going to be paid when this is all over. There is no reason for them not to be called back to work.

I say that as strongly as I can. There is no reason for these people not to be called back to work. It is absolutely essential that we end this situation where the only pressure between the Congress and the President is being felt down at the level of the employee who cannot work or cannot exist without his or her paycheck every pay period. That is something we must face up to. It is, in my judgment, a sad, sad follow-on to the opinion of the Attorney General that I mentioned that was issued in 1980.

There has been one other thing brought to my attention this morning, Mr. President, and I thank Liz Connell of my office for bringing this to my attention, and Phil Baker-Shenk of the Senate Indian Affairs Committee. The two of them this morning have mentioned that the lack of the continuing resolution means the Interior appropriations bill has not been passed. By the way, we hope that bill will be sent back to the President again. It is one of the ones he vetoed. But the lack of funding for the Interior Department is now going to have a substantial impact on American Indians and Alaska Natives. Native American self-determination contracts and self-governance compacts operate, Mr. President, on a calendar-year basis. That is the reason that until now it has not been a matter of great concern. Until December 31, the funds on which the tribal organizations operated these programs were there. Beginning today, however, these organizations have no money to operate or to pay employees.

This is the situation where Congress, under what is known as Public Law 93-638, authorized the BIA and the IHS to contract with Indian and Native organizations to run the entities that assist our aboriginal people in this country. The organizations receive funds under contracts or compacts with the BIA and the IHS. As of December 31, those funds expired.

The great problem now is—and we need to get rulings from the BIA and the IHS on this, I believe—we do not believe they are Government contractors in the usual sense. As far as I am aware, no backpay promise has been extended to Federal contractors like building security guards or truck drivers. But tribal contracts and compacts have been understood by law to be different from Federal procurement contracts, because tribes stand in the shoes of the Federal agency, assuming responsibilities for activities and programs formerly carried out by the Federal Government for the tribes. Tribal contracts and compacts have also been considered to be different from Federal privatizing contracts because the tribal contracts and compacts maintain and enhance the ongoing government-to-government relationship between tribes and the United States.

These people are people who are carrying out the work of Government in connection with the organizations that assist American Indians and Natives. For instance, child care, job training, and provision of health care services—programs that do not flow through the normal process of the Health and Human Services appropriations—come through the Interior appropriations bills to the BIA and IHS, and then go out to these agencies that conduct programs for American Indians and Alaska Natives.

The BIA and the IHS apparently have no solution to how we are going to get money to these contract entities that actually hire the people who are doing this work, which is essential. If these people were still on the Federal payroll, they would have been deemed essential by the bills we passed before the end of the year. Now, I do want everyone to be aware of the fact that their phones are going to ring off the hook if they live in areas that have American Indians or Native populations, because they are going to wake up to the fact today that the moneys to run their contract entities and their contracting operations expired on December 31, 1995. To make matters worse, there is currently no provision for employee back pay or operating expenses for these 638 contractors.

That is another reason I am on the floor. It is another reason I have come back from Alaska, to try to find a solution. Many, many Alaska Natives are employed by or receive funds that they are entitled to through the 638 contractors who are in fact Alaska Native organizations.

Mr. President, I am quite hopeful that we can find a way to deal with this. I wish to assure my friends from Virginia, I heard what they said. I hope that we would work together in good faith to find some way around this. But it is not a one-sided thing to me.

I would say to the Senator from Virginia that when I was home I talked to many, many people who are being affected by this inaction of Congress.

Not one of them asked me to come back here and try to change the course that we are on. They asked me to come back here and find out why Congress and the administration—together—have allowed this hiatus to develop as far as Federal employees being on the job. They are going to be paid anyway.

I am sure the Senator from Virginia has heard the same concerns from his constituents that I have heard from mine. Not one of them has failed to ask me, "Why aren't you letting those people work if you are going to pay them?"

I believe this problem has come about because of our failure to recognize that Civiletti's opinion was wrong. The President and the Congress, prior to Civiletti's opinion, assumed that we did not intend this stupid result and, therefore, it did not take place.

We have to find some way to reverse the Civiletti opinion, and that is what the bill that the distinguished Senator from Virginia and I cosponsored and was offered by Senator DOLE does. I am hopeful the House will pass that bill. At least it will take care of a portion of the problem we face and certainly is something that must be done very soon.

It will not, unfortunately, take care of the problem I mentioned about Indians and Alaska Natives. That is something that comes because of a failure to have a continuing resolution for the Interior appropriations bill and is something that must be addressed rather quickly, because, there again, some of the most indigent people in this country are American Indians and Alaska Natives. They should not be hung out to dry because of this battle between the executive branch and the Congress, in which I support the congressional position, as I am sure the Senator from Virginia does, but it is our job to find a solution to eliminate this hiatus.

EXHIBIT 1

TABLE 2.—APPROPRIATIONS FUNDING GAPS: FISCAL YEARS 1977–1995

Fiscal year	Date gap commenced[1]	Full day(s) of gaps	Date gap terminated[2]
1977	Thursday 09–30–76.	10—Friday through second Sunday.	Monday 10–11–76
1978	Friday 09–30–77	12—Saturday through second Wednesday.	Thursday 10–13–77
	Monday 10–31–77.	8—Tuesday through second Tuesday.	Wednesday 11–09–77
	Wednesday 11–30–77.	8—Thursday through second Thursday.	Friday 12–09–77
1979	Saturday 09–30–78.	17—Sunday through third Tuesday.	Wednesday 10–18–78
1980	Sunday 09–30–79	11—Monday through second Thursday.	Friday 10–12–79
1981	[none]		
1982	Friday 11–20–81	2—Saturday, Sunday.	Monday 11–23–81
1983	Thursday 9–30–82.	1—Friday	Saturday 10–2–82
	Friday 12–17–82	3—Saturday, Sunday, Monday.	Tuesday 12–21–82
1984	Thursday 11–10–83.	3—Friday, Saturday, Sunday.	Monday 11–14–83
1985	Sunday 9–30–84	2—Monday, Tuesday.	Wednesday 10–3–84
	Wednesday 10–3–84.	1—Thursday	Friday 10–5–84
1986	[none]		
1987	Thursday 10–16–86.	1—Friday	Saturday 10–18–86
1988	Friday 12–18–87	1—Saturday	Sunday 12–20–87
1989	[none]		
1990	[none]		
1991	Friday 10–5–90 ..	3—Saturday, Sunday, Monday.	Tuesday 10–9–90
1992	[none]		
1993	[none]		
1994	[none]		
1995	[none]		

[1] Gap commenced at midnight of the date indicated.

[2] Gap terminated during the date indicated because of the enactment of a full-year continuing resolution or another short-term continuing resolution.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask unanimous consent that I may proceed in morning business 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I do not dispute what my distinguished colleague from Alaska said. When I made reference to the need to recognize that there is an entirely added class of individuals that is suffering as a consequence of this shutdown, they are not Federal employees. It is the infrastructure in the greater Metropolitan Washington area, primarily Virginia, of persons being affected by this shutdown and losing in the same manner as others, and there is no restitution in sight for them.

Mr. President, I am going to ask unanimous consent to print in the RECORD the assurances that the distinguished majority leader, Mr. DOLE, has given this Senator and others from time to time about restitution of pay to Federal employees. But there is no restitution that is going to the infrastructure of hotelkeepers and innkeepers and all others who are trying to work their way through this crisis at a time when Congress has not been able thus far to resolve the problem with the President.

Again, I strongly believe that we have to cool the rhetoric in Congress and, as I said earlier, do the best we can to give support to our leadership on this side of the aisle and that side of the aisle, to work with the President to resolve this thing.

Mr. President, I ask unanimous consent to print in the RECORD the assurances to which I referred earlier in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
December 18, 1995.

Hon. BOB DOLE,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: During the last furlough of government employees, you and Speaker Gingrich signed a letter indicating your commitment to retroactively restoring any lost wages, which was done after the last Continuing Resolution was passed.

As we are now in another shutdown, and even closer to Christmas, I would appreciate it if you would once again indicate your position in writing. Even though the number of furloughed employees has dropped since last time, it is at least as disruptive to those who are not now at work. Your letter was a morale booster during the last furlough, and my furloughed constituents need all the positive influences possible now.

As was the case before, I stand ready to assist you in any way to resolve this latest shutdown, and I appreciate your concern for our federal employees.

Sincerely,

JOHN WARNER.

CONGRESS OF THE UNITED STATES,
December 20, 1995.

Hon. JOHN WARNER,
U.S. Senate

Hon. FRANK R. WOLF,
Hon. CONSTANCE A. MORELLA,
Hon. TOM DAVIS,
U.S. House of Representatives.

DEAR COLLEAGUES: Because of your interest in the ongoing budget negotiations and your strong support for federal employees, we wanted to take this opportunity to reaffirm our letter of November 10, 1995, in which we made clear that employees furloughed through no fault of their own should not be punished.

It is unfortunate that President Clinton has chosen to veto appropriations bills that would have funded the salaries of federal employees at the Departments of Justice, State, Commerce, Veterans Affairs, and Housing and Urban Development, as well as independent agencies such as the Environmental Protection Agency. Similarly, procedural objections by Democrats have prevented the funding of salaries at the Department of Labor, HHS and Education.

The direct result of those actions is that furloughed federal employees at those particular agencies cannot be paid. However, we would like to reaffirm our commitment to restoring any lost wages for federal employees in a subsequent funding bill.

Thank you for your continued and strong leadership on behalf of federal workers.

NEWT GINGRICH,
Speaker of the House.
BOB DOLE,
Senate Majority Leader.

GOVERNOR GEORGE ALLEN CALLS ON PRESIDENT, CONGRESS TO STAY AT WORK UNTIL JOB IS DONE

BALANCED BUDGET CRITICAL TO ECONOMIC HEALTH

RICHMOND.—Governor George Allen today said that Congress and the President should work until they can reach a balanced budget agreement to balance the budget in seven years. The following is the Governor's statement:

"Today, for the second time in as many months, nearly a quarter of a million federal workers—many of whom live in Virginia—are on furlough. For the sake of these workers—and all Americans—it's time to put an end to the merry-go-round and complete the work on an honest bill that will balance the federal budget.

"It would be cruel for President Clinton and Congress to go off to enjoy their holidays with the budget still unresolved and folks left wondering when and if they are going to be furloughed again.

"But the worst cruelty is the price all Americans will pay if Washington fails to complete the long-awaited agreement to put us on the path to a seven-year balanced budget. A balanced budget means lower interest rates on home mortgages, automobiles, student loans, and even the interest paid by states and localities ($548 million debt service savings for Virginia alone; $75 million for Norfolk and $42 million for Virginia Beach). It means we stop piling more debt onto our children and grandchildren (a child born this year immediately inherits a lifetime tax bill of $187,150 to pay interest on the national debt).

"The Republican Congress made a good start with the Seven-Year Balanced Budget Act that the President vetoed. It was a tough bill that got the job done, and in the process overhauled the failed welfare system, provided critical tax relief to working Americans, and freed states from Washington's Medicaid mandates that have been threatening to bankrupt us.

"It is past time for the President to come to the table with an honest budget proposal. And it is essential that any agreement reached not just shift costs to the states, as would the per capita cap on Medicaid the President has proposed. The states can make the most of scarce federal dollars only if they have real freedom, and real flexibility as provided in the new MediGrant program in the Seven Year Balanced Budget Act.

"Virginia and virtually every other state passes and lives within a balanced budget year after year—I submitted another balanced budget just yesterday. It's been 27 years since we saw a balanced budget from Washington. Roll up your sleeves, stay at work, and get the job done!"

GOVERNMENT SHUTDOWN AFFECTING CONTRACTORS

Impact of Shutdown will be felt by Contractors. Federal employees are not the only group that will be effected by a shutdown. Thousands of companies which are federal contractors will be impacted the same, if not more, due to the uncertainty, inconsistency, and risk.

Shutdown/Startup is Costly to Government. Shuting down a contract for a few days and restarting the function adds cost to the government. Government laws require that contractors divide all their costs evenly among all government contracts. If there are changes in the indirect costs and overhead rates, which will occur if employees cannot be directly charged to a contract for a day's work, those costs will be spread across all government contracts. Even a 1 day shutdown can alter rates for the entire year.

Payments to Companies may be Delayed or Not Paid. For-profit companies depend on revenues for services rendered, in order to remain in business and continue employing individuals. A company who performs for the government during a shutdown runs the risk of not being paid or having to wait for payment beyond the time when accounts payable are due. For example, employees are paid on a set schedule and subcontractors require payment in a timely manner. Even if the government does not pay or delays payment, the accounts payable still must be made. This disruption cuts into operating funds and potentially profits, negatively affecting the financial health of the company.

Private Companies may have to Layoff Employees. Many companies working as contractors to the federal government operate on very small profit margins (2%–4%) and their overhead rates remain very low in order to stay competitive. These companies cannot afford to carry employees for an extended period of time who are not directly billable to a contract, because those expenses go into the overhead rate. Therefore, if a shutdown occurs private sector employees may be laid off, because a company cannot afford to keep idle employees on the payroll.

Delays in New Systems, New Solutions will Occur. The mission-critical systems that are a priority to move to completion will be halted and deadlines slip, if the government shuts down. Congress and agencies have priority projects such as new intelligence tools or peacekeeping systems or critical databases that are expected to be delivered in a short deadline. If the government stops working, federal employees are requiring contractors, in many cases, to stop working as well. This puts a hold on project completion.

Claims and Disputes Likely will Result from Inconsistencies. Federal contracts have a system whereby contract claims or disputes can be adjudicated. This system could be overloaded with cases of inconsistent or inappropriate handling of contracts, due to a shutdown. The result of increased case loads is greater operating costs to the government, unanticipated payments for settlements in future years, and loss of productivity for employees spending time on the case.

Mr. STEVENS. Mr. President, the Senator did not intend to end my comments, did he?

Mr. WARNER. Mr. President, I understood the Senator was finished.

ORDER FOR RECESS

Mr. WARNER. Mr. President, on behalf of the majority leader, I again make this request that the Senate stand in recess subject to the call of the Chair following the conclusion of the remarks of the distinguished Senator from Alaska and the remarks of the distinguished Senator from Iowa, which I understand will be 5 minutes, the Senator from Iowa having been on the floor earlier and was unable to obtain recognition.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object. I hope I am not held to absolutely 5 minutes. I would like to have a little leeway. I do not think I will go for 10 minutes, but it will be less than 10 minutes.

Mr. WARNER. The Chair has been instructed by the majority leader to try and contain the remarks of Senators on both sides of the aisle to 5 minutes. Should we say 7, in compromise, for the Senator from Iowa, which will follow the remarks of the distinguished Senator from Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alaska is recognized.

SUBSTANTIAL ECONOMIC IMPACT THROUGHOUT COUNTRY

Mr. STEVENS. Mr. President, I intended to close following the statement of my good friend from Virginia. I want the RECORD to show the District of Columbia is not the only place that relies substantially upon the income of Federal employees or the activities of the Federal Government. There is substantial impact throughout the country. Even my own city of Anchorage had an impact because of the shutdown.

The difficulty I have with coming here today is that I do not think most Members nor the executive branch have thought over the consequences of Attorney General Civiletti's opinion.

It is my judgment, and I say this advisedly as the chairman of the Governmental Affairs Committee now, that we should join together and find a way to legislate permanently so that this kind of a situation does not continue to occur. I think the taxpayers have every right to be very, very irate over the fact that we will pay a substantial number of people for not working, and those people who have been sent home as being nonessential Federal employees are chagrined over that decision of their superiors. They, too, take the position that their job is essential and that they should be paid.

I believe it is absolutely essential that we not send Federal employees home in the belief that somehow or another pressure will be created on one branch of government or the other as a result of these people not being allowed to do their work. The real pressure ultimately comes on the taxpayer who is paying for work that is not done, and I think it is our job to change that. I hope the Congress will do something this week about it.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 7 minutes.

THE 18TH DAY OF SHUTDOWN

Mr. HARKIN. Mr. President, here we are in the 18th day of a partial Government shutdown, the longest in our history. The Senator from Alaska just said the taxpayers ought to be irate. They should be irate—all taxpayers—because it is not just the more than 700,000 Federal employees who are either working and not getting paid, or are staying home and not getting paid, but who know they will be paid some time in the future who are being affected. The fact is, this shutdown is estimated to cost taxpayers $40 million a day.

Mr. President, 18 days, that is $720 million. We are approaching $1 billion that this unnecessary shutdown has cost the taxpayers of this country, and yet those who prolong it fancy themselves as fiscal conservatives. They are willing to throw the taxpayers' money away by shutting down the Federal Government.

Senator DASCHLE, the Democratic leader, has offered time and time again a clean continuing resolution that would continue the Government operations to a date certain. This would put these Federal workers back to work and end the waste, yet that has been turned down time and time and time again by the Republican side. All we've asked is to pass a clean continuing resolution, keep the Government operating to a date certain and we do not care what that date is. We can do it once a week or something similar, but at least get these people back to work and stop the $40 million a day waste of taxpayer money.

I forget how many times Senator DASCHLE has tried to offer that or has offered it here and has been turned down. More than 10 times, I believe.

So we have tried on this side of the aisle to save the taxpayers this $40 million a day and to try to have some compassion and understanding toward Federal Government workers who have to make their house payments and their car payments and pay their doctor bills and everything else. Yet they are not getting their paychecks. Oh, they will get it some time in the future, but how do they make those payments right now? And to have done it over the Christmas season to me is just being hardhearted at its worst.

However, Mr. President, one group stands above it all: Members of Congress. Unlike Federal workers, our pay is guaranteed no matter what happens. Senator BOXER from California and I have offered on a number of occasions a bill that says that Members of Congress should not be treated differently, they should be treated like other Federal workers. It has passed three times in the Senate. Yet, it always seems to die someplace in conference or in the House of Representatives.

Here is an article that appeared in the Washington Post just today. The headline is: "Don't Touch Our Pay, House Republicans Say."

The article goes on to say that the House majority whip, TOM DELAY of Texas, the third ranking House Republican, said that "I'm not a Government employee. I'm in the Constitution," when he was asked about this bill that says that we should be treated like other Federal employees.

On CNN's "Talk Back Live" on December 19, asked whether he would support congressional pay cuts during a shutdown, he told the audience participation show: "No, I would not. I'm not a Federal employee. I'm a constitutional officer. My job is in the Constitution of the United States. I am not a Government employee. I am in the Constitution." That statement was made by House majority whip Congressman DELAY. Talk about the arrogance of power. I ask the House majority whip, who signs his paycheck? Is it signed by the U.S. Constitution? No, it is the Secretary of the Treasury. It is the Federal Government. You may be in the Constitution but first of all, we are all Federal Government employees. We are paid by the taxpayers of this country.

Our bill is being held up by arrogance, an arrogance of power. Some Members obviously see themselves as above the average person. They are above Federal employees. Senator BOXER, I and others have offered, and we will do so again, an amendment that says that if the Government is shut down, Members of Congress should be treated like the most adversely affected Federal employee. If they are not getting their pay, we should not get ours either. If they are going to get paid back sometime in the future we would get paid back sometime in the future.

It is, again, an arrogance of power for us to say to a Federal employee, you have to go to work but you do not get paid. That is what we are saying. Or, you can stay home and not get paid, but you will get paid later on sometime. I think we should cover Members the same way and make sure that Members of the Senate and the House are treated just like the most adversely affected Federal employee.

Last, Mr. President, this Government shutdown is not about whether or not we have a 7-year budget agreement. The shutdown is related to whether or not our annual appropriations bills are passed and signed into law. They are not. And I again point out, at the end of the fiscal year, last September, only two appropriations bills had been passed. Only 2 of 13. We did not filibuster any of them, Mr. President. We did not filibuster one appropriations bill on this side. We wanted them to go through. The President, then, of course, has his constitutional prerogative to veto them and we try to work out something that he will sign.

I heard the Senator from Wyoming earlier say he mentioned November 14 when the negotiations started. I say that this summer, is when appropriations bills should have been passed and sent to the President—before September 30. Let the President, if he wants to veto them, he has that right, and we could have spent October and November working out appropriations bills that would pass. That was not done. Last year we passed every appropriations bill on time before September 30 last year.

Again, we should not get this confused. The reason the Government is shut down, the reason it is costing taxpayers $40 million a day has nothing to do with reaching a 7-year balanced budget agreement which we all support. It has to do with whether or not we are going to do the job we should have done last year before September 30 in getting the appropriations bills passed and down to the President. We should not confuse those two.

We have to be about getting a balanced budget agreement. We have to make sure in reaching that in balancing the budget which I strongly support—and I know the present occupant of the chair supports—we may have a difference in how we get there—but I believe there is room to negotiate as long as we do not hurt people, as long as we do not take it out of the elderly and our young students in order to give big new tax breaks for the wealthy in this country and we cut down on corporate welfare.

Yes, then we can reach a balanced budget in a way that is fair, decent, compassionate and caring to people of this country. If we can agree on that we will have a balanced budget in 7 years. However, if all we want to do is give new tax breaks to the highest income Americans and we want to make the elderly pay a lot more for their Medicare, I do not see how we can do that. We have to hold firm. We have to hold firm that we are not going to balance this budget in 7 years on the backs of the elderly or on the students or on hard working people in this country. I yield the floor.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, as of the close of business December 29, the Federal debt stood at $4,988,664,979,014.54, about $12 billion shy of the $5 trillion mark, which the Federal debt will exceed in a few months.

On a per capita basis, every man, woman, and child in America owes $18,937.06 as his or her share of that debt.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess subject to the call of the Chair.

Thereupon, at 1:40 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 4:43 p.m., when called to order by the Acting President pro tempore [Mr. WARNER].

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

ASSURING ALL FEDERAL EMPLOYEES WORK AND ARE PAID

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of the House message to accompany S. 1508, the back-to-work bill, and that it be in order for me to offer one amendment, the text of which is the following: Striking the expedited procedure language; two new sections regarding unemployment compensation and leave policy, as requested by the White House; legislative language to implement several administrative programs such as the Administration on Aging, unemployment insurance—in fact, their number probably is seven or eight: Protection and services for children, unemployment insurance, District of Columbia, programs for Native Americans, veterans that we need to act quickly on so that benefits will not be lost and, as I understand, we will have consent to offer the legislative language.

We will provide that to the clerks.

Mr. DORGAN. Reserving the right to object, and I shall not object, I will say to the majority leader, Minority Leader DASCHLE is on the way to the White House for a meeting. We have no objection to this request. My understanding is that this request will be followed by a second unanimous-consent request dealing with a broad continuing resolution, and I would like to comment on that as well. But we have no objection to this request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1508) entitled "An Act to assure that all Federal employees work and are paid", do pass with the following amendment:

At the end of the bill, add the following:

SEC. 2. EXTENSION OF AUTHORITIES.

(a) IN GENERAL.—Section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), as amended by Public Law 104–47, is amended by striking "December 31, 1995" and inserting "March 31, 1996".

(b) CONSULTATION.—For purposes of any exercise of the authority provided in section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) prior to January 10, 1996, the written policy justification dated December 1, 1995, and submitted to the Congress in accordance with section 583(b)(1) of such Act, shall be deemed to satisfy the requirements of section 583(b)(1) of such Act.

SEC. 3. CONGRESSIONAL CONSIDERATION OF THE BALANCED BUDGET BILL.

(a) INTRODUCTION OF THE BALANCED BUDGET BILL.—The balanced budget bill, which is described in subsection (e), shall be introduced in both the House of Representatives and the Senate on the same day. In the House, the bill shall be introduced by the Chairman of the Budget Committee of the House. In the Senate, the bill shall be introduced by the Majority Leader, after consultation with the Minority Leader.

(b) CONSIDERATION OF THE BALANCED BUDGET BILL IN THE HOUSE.—Consideration of the balanced budget bill shall be made in order pursuant to a special order reported by the Committee on Rules.

(c) CONSIDERATION OF THE BALANCED BUDGET BILL IN THE SENATE.—

(1) PLACED ON THE CALENDAR.—The balanced budget bill introduced in the Senate shall not be referred to committee but shall be placed directly on the Calendar.

(2) MOTION TO PROCEED.—The motion to proceed to the balanced budget bill shall not be debatable and the bill may be proceeded to at any time after it is placed on the Calendar.

(3) RECONCILIATION PROCEDURES.—The Senate shall consider the balanced budget bill as if it were a reconciliation bill pursuant to section 310 of the Congressional Budget Act of 1974, with the following exceptions:

(A) A motion to recommit shall not be in order.

(B) All amendments proposed to the balanced budget bill shall be considered as having been read in full, once the amendment is identified by sponsor and number.

(C) Debate in the Senate on the balanced budget bill, and all amendments, thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. Upon expiration of the 10 hours of debate, without intervening action, the Senate shall proceed to vote on the final disposition of the balanced budget bill.

(D) If the Senate has received from the House the balanced budget bill introduced under subsection (a) prior to the vote on final disposition of the Senate bill, the following procedures shall apply:

(i) The balanced budget bill received from the House shall not be referred to committee and shall be placed on the Calendar.

(ii) The Senate shall proceed to and consider the balanced budget bill introduced in the Senate, however—

(I) the vote on final passage shall be on the balanced budget bill received from the House, if it is identical to the balanced budget bill then pending for the vote on final disposition in the Senate; or

(II) if the balanced budget bill received from the House is not identical to the balanced budget bill then pending for the vote on final disposition in the Senate, following third reading of the Senate bill, the Senate shall, without intervening action or debate, proceed to the House balanced budget bill, strike all after the Enacting Clause, substitute the text of the Senate bill as taken to third reading, adopt the Senate amendment, and vote on the final disposition of the House balanced budget bill, as amended.

(E) Consideration of House Message shall be limited to 5 hours. Debate on any motion necessary to dispose of a House Message on the balanced budget bill shall be limited to 1 hour and debate on any amendment to such motion shall be limited to 30 minutes.

(F) Upon proceeding to any conference report on the balanced budget bill, the bill shall be considered as read. Debate on any conference report on the balanced budget bill shall be limited to 5 hours.

(4) WAIVER OF SECTION 306.—Section 306 of the Congressional Budget Act shall not apply to the consideration of the balanced budget bill.

(d) REVISIONS TO AGGREGATES, ALLOCATIONS, AND DISCRETIONARY SPENDING LIMITS.—

(1) AUTHORITY TO ADJUST AGGREGATES AND DISCRETIONARY LIMITS.—For purposes of enforcement under the Congressional Budget Act of 1974 and H. Con. Res. 67 (One Hundred Fourth Congress), upon the introduction of the balanced budget bill in the House and Senate, and again upon submission of a conference report thereon—

(A) the discretionary spending limits; and

(B) the appropriate budgetary aggregates, as set forth in H. Con. Res. 67, shall be adjusted in accordance with paragraph (3).

(2) AUTHORITY TO ADJUST COMMITTEE ALLOCATIONS.—For purposes of enforcement under the Congressional Budget Act of 1974 and under H. Con. Res. 67 (One Hundred Fourth Congress), at any time after the introduction of the balanced budget bill, but prior to consideration of that bill in the House or Senate, as the case may be, and again upon submission of a conference report thereon, the allocations to the Committees of the Senate and the House pursuant to sections 302 and 602 shall be adjusted in accordance with paragraph (3).

(3) ADJUSTMENTS.—The adjustments required by paragraphs (1) and (2) shall be made by the Chairman of the Committee on the Budget of the Senate or the House of Representatives (as the case may be) and shall be consistent with the budgetary impact of the balanced budget bill. The adjusted discretionary spending limits, allocations, and aggregates shall be considered the appropriate limits, allocations, and aggregates for purposes of enforcement of the Congressional Budget Act and for enforcement of provision of H. Con. Res. 67 (One Hundred Fourth Congress).

(4) REPORTING REVISED SUBALLOCATIONS.—Following the adjustments made under paragraph (3), the Committees on Appropriations of the Senate and the House of Representatives may report appropriately revised suballocations pursuant to sections 302(b) and 602(b) of this Act to carry out this subsection.

(5) TECHNICAL ADJUSTMENTS TO HOUSE ALLOCATIONS.—Upon the enactment of a balanced budget bill introduced under subsection (a), the chairmen of the Committee on the Budget of the House may make necessary technical revisions to the revised allocations made under paragraph (2).

(e) BALANCED BUDGET BILL.—As used in this section, the term "balanced budget bill" means any bill that achieves a balanced budget not later than fiscal year 2002, which is introduced pursuant to subsection (a).

AMENDMENT NO. 3114

Mr. DOLE. Mr. President, I move that the Senate concur in the amendment of the House with a further amendment, which I send to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 3114.

(The text of the amendment will appear in a future edition of the RECORD.)

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

So the motion was agreed to.

Mr. DOLE. I think the amendment was adopted in the agreement.

The ACTING PRESIDENT pro tempore. That is correct. The foregoing amendment is agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate receives from the House a bill entitled

"A bill to provide for deficit reduction and achieve a balanced budget by fiscal year 2002," and the majority and minority leaders are in agreement, that the bill should be considered under the reconciliation process, and then once the Senate begins consideration, the bill be deemed a reconciliation bill, and all provisions under the Congressional Budget Act of 1974 apply to the bill.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me just comment briefly here, because this is a matter of some contention. Even though it is a Senate matter, the reason we had expedited procedure in the other provision is we tried to get consent on the Senate side and it was objected to. So the House put in a bill and sent it over here. I think the concern was if we did reach some agreement with the President and the Democratic leaders in the House and Senate and Republican leaders in the House and Senate, that when it came to the Senate, it could be subject to filibuster and might take 2 weeks or 3 weeks.

So I have discussed this at length with the Democratic leader, Senator DASCHLE, and we have agreed that if we have an agreement with the President and leadership, we will, in effect, say it is considered in the reconciliation process and be a reconciliation bill.

Under those procedures, I can move to reduce the time to 15 hours, to 20 hours, whatever, and it would speed up the process considerably. I hope my colleagues in the House appreciate the fact that we think we have moved along the process here considerably if, in fact, there should be an agreement. That is why we have stricken the expedited process language out of the previous bill.

TEMPORARY EXTENSION OF THE CONTINUING RESOLUTION

Mr. DOLE. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 1643, MFN status for Bulgaria; that the Senate proceed to its immediate consideration; that there be one amendment in order, the text of which is a clean continuing resolution for all agencies of Government without funding at this time which shall expire January 12, 1996; that the amendment be deemed agreed to, the bill be read a third time and passed, and the motion to reconsider be laid upon the table, all without any intervening action or debate.

I send up the amendment.

Mr. DORGAN. Reserving the right to object, and I shall not object, Mr. President, it seems to me this is a significant advancement in this process. I know that the majority leader has not been an advocate for a shutdown. He has indicated that a number of times on the floor of the Senate. We have all wanted to get to this point where the Senate could pass a clean CR. We have offered on 10 occasions a clean CR. This is a clean continuing resolution that provides additional funding through a date certain. We would prefer that it be beyond January 12 but we certainly are in agreement that doing it this way would bring Federal workers back to work with pay, restore the Federal Government to the functions that it was able to perform previous to this shutdown. This is a major step forward.

I hope very much that the House of Representatives will see fit as early as possible to also accept this clean continuing resolution. Doing so would then end this partial shutdown that now exists. I do not object to this and fully support the continuing resolution.

As I have indicated, we were prepared today to offer on the 11th occasion a clean CR that is identical to the unanimous-consent request that has been made.

Mr. DOMENICI. Reserving the right to object, and I will not object, Mr. President, let me congratulate the distinguished majority leader on his last proposal. While I supported two previous ones, I think the important one to many, many Americans is the last one which would say through the 12th day of January the U.S. Government goes back to work. The people that work for the Government would go back to work and would be paid. I think it is time we do this.

Obviously, I understand the House has some different problems than we have. I think it is right for the U.S. Senate under your leadership to proceed this evening to send this measure to the U.S. House for their consideration.

I want to suggest to the Senate that in my home State where, obviously, we have a considerable number of Federal employees, even those who are not Federal employees are very perplexed and concerned about something they do not understand. I think they make a great point. That is, Federal employees are furloughed but there is a commitment that when they come back to work we will pay them for the time they did not spend working. More constituents are calling me asking, what kind of business is that? We have people who are being paid for not working, and then you have Federal employees who have been deemed necessary, they are on the job and they are being paid but they must work. Frankly, most Federal employees are saying they would like to work for their pay.

As I understand the distinguished majority leader's proposal, not only would it open Government through the 12th day of this month, but pay the back pay for all the workers who have been furloughed. We would be back to a position where they would all receive their money and their back pay and the other things that are bothering us around the country. I compliment him for that.

I hope the House gives serious consideration to this and soon we will get to part of our efforts to get a balanced budget, which is separate and distinct, but nonetheless we must have the White House negotiating. They must concede some issues. They cannot win everything. Hopefully, that will continue while we move ahead with the continuing resolution at this time. I yield the floor.

Mr. DOLE. It would also provide that there would be no double-dipping. You could not get unemployment compensation then be paid back pay. You would subtract any unemployment compensation pay for the pay that you should have been entitled to, which I think is fair.

Let me just say I read a wire story there is a split between the House and the Senate on what ought to happen. I do not get that feeling at all in talking with the Speaker. In fact, we just had a 30-minute meeting. The Senator from Virginia was there, I was there, the Senator from New Mexico was there, the Speaker, the majority leader of the House, Mr. ARMEY was there, and we had a good discussion. I think there is some difference on just how we should proceed, but in my view what we really want, of course, is to get people back to work.

I felt that way for some time. I have a hard time rationalizing paying people for not working when I know they want to work. If they did not want to work, I say they should not be paid. These people want to work. They are caught. They are in the middle. They are pawns. I do not believe at this point—I think if there was a point to make, that point has been made. I know the Speaker indicated you just have to do what you have to do.

We are going to send this to the House. The House will be back tomorrow. Hopefully tonight at 6 o'clock we will have serious discussions. I think we have had enough preliminary discussions at the White House. It is time that I think we will get serious about whether or not we will reach a balanced budget over the next 7 years.

I wanted to correct an impression that there might be some rift between the House and the Senate. I think there are some House Members who have a different view. They feel this is helpful in bringing about a balanced budget. That is not my view. I think it may have been helpful the first time around, but if you add up the time people have had off with the two shutdowns, it would be almost a month—about 30 days they have been out of work which they will be paid for. It is no fault of theirs. I am not critical. That is a huge cost when the work was not performed by willing workers.

It seems to me that if we extend this continuing resolution until the 12th of January we will know by then if we are serious about a balanced budget over the next 7 years. If we do not know by then, we ought—I do not know what we do. I think we would not have to be a rocket scientist to know by then. That way we will all be covered.

Mr. WARNER. Mr. President, I wish to commend our distinguished majority leader. I had the opportunity to be in that meeting. I suggest he look at his words again. He said half an hour; it was 2½ hours that we were there.

Indeed, I certainly perceive no split between the distinguished majority leader and the Speaker of the House. There are a wide range of issues which were discussed in a very objective manner. I think there was a clear perception that the American public now understands the complexity of this situation and there is a feeling of a sense of fairness emerging. That sense of fairness says to the Congress, we have to work with our President to come to some conclusion. It is not fair to the Government employees. They are being held hostage. More than that, there is a ripple effect. It is not just the Federal Government employees. It is many others who are dependent upon a functioning of the U.S. Government for their daily livelihood. Particularly that class of individual cannot look to compensation subsequently, like the Government employees, and I again thank the distinguished majority leader and indeed the speaker and others for confirming they will be paid. But this other group, this ripple effect, they are not likely to get any compensation. An empty hotel room tonight is an empty hotel room forever. A lost wage to a taxi driver, all of the people, for instance, in the greater metropolitan area who are here every day to make it possible that tourism—one of the largest industries in this area—can function are suffering irreparably. People are losing wages, and that is taking place all across the country, not only in the greater Washington metropolitan area.

I wish to be a cosponsor, Mr. Leader.

Mr. DOLE. The Senator is a cosponsor and the Senator from New Mexico will be a cosponsor.

Mr. WARNER. I commend you again.

The PRESIDING OFFICER (Mr. DOMENICI). Is there objection to the unanimous-consent request of the majority leader with reference to the continuing resolution?

Mr. SARBANES. Would it be possible to speak for a couple of minutes after its adoption? I am quite content to have it go ahead.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 3115) was deemed agreed to, as follows:

Strike all after the enacting clause and insert the following:

SEC. . TEMPORARY EXTENSION OF THE CONTINUING RESOLUTION.

(a) In General.—Section 106(c) of Public Law 104–56 is amended by striking "December 15, 1995" and inserting "January 12, 1996".

(b) Effective Period.—The amendment made by subsection (a) shall be considered to have taken effect on December 16, 1995.

SEC. . ELIGIBILITY FOR UNEMPLOYMENT COMPENSATION.

Begining on January 2, 1996, any federal employee who is excepted from furlough and is not being paid due to a lapse in appropriations shall be eligible for unemployment compensation benefits with no waiting period for such eligibility to accrue. With respect to any person who is eligible for such benefits by reason of the preceding sentence, any such benefits received shall be subject to repayment in the same manner and to the same extent when eligibility by reason of the preceding sentence ceases as if such cessation were an end to the period of unemployment.

So the bill (H.R. 1643), as amended, was read the third time and passed.

Mr. SARBANES. Mr. President, I want to commend the distinguished majority leader and all who have worked with him in bringing forth this clean extension of the CR with which my distinguished colleague from Virginia said it is not just the Federal employees affected, although they are clearly very much affected, but there is a large part of the private sector also impacted and impacted in a very negative way by what has occurred.

This, of course, will carry through until the 12th of January and give us an opportunity to correct the difficulties that have existed thus far and hopefully avoid any difficulties from arising in the future. I think it will bring, at least for now, significant relief in terms of anxiety and apprehension and tension and turmoil to a lot of families which have been very negatively impacted. I very much hope it will be adopted on the House side when they consider the matter.

Mr. WARNER. Mr. President, both Senator DOLE and myself have been in contact almost on a daily basis with Congressman WOLF, Congressman DAVIS, and Congresswoman MORELLA. They are very much included. We are going to start meeting daily on this problem to give to the leadership of both Houses our best judgment as to the severity of the problem in the greater metropolitan area of Washington. I welcome the participation by my distinguished colleague from Maryland.

Mr. DOLE. Mr. President, I hope the House would take a look at this tomorrow. They are all back tomorrow. It was an opportunity for them to have been in their districts.

I know some have said this is an indication that the Government is too big, that they are not essential or they have not been missed, what is the big deal?

If we want to make the Government smaller, then we ought to make the Government smaller. If we want to eliminate departments—some of us do—then we ought to do it. Bring it out here, have the debate, and say, OK, we will eliminate Energy and HUD and Commerce and Education, for example. But this is not the way to do it. If we do it through legislation, that is one thing, but if we just say we are not going to pay people, I, at least, think that is not, in my judgment, how it ought to be done.

People who work for the Federal Government are good people, and they understand that from time to time, as part of the Federal establishment, they have to make certain sacrifices when it comes to cost-of-living adjustments or even temporary Government shutdowns. So this is the second shutdown. This has been a lengthy shutdown. And, as I said earlier, if there is any point to be made I think that point should have been made by now.

Some of these Federal employees—in fact, I am certain the Senator from Maryland knows, what percentage make less than $25,000? Probably 20, as a percent of the total?

Mr. SARBANES. Probably even more than that, I would say.

Mr. DOLE. And they live from paycheck to paycheck.

Mr. SARBANES. Exactly.

Mr. DOLE. When they do not get the check, we say, "Oh, well, they can borrow the money." If they borrow the money, they have to pay for it—if they can borrow the money.

So I hope, based on fairness and getting people back to work and eliminating some of the stress that I am certain some have undergone, that the House will look upon this favorably. If not, I think the second option—I know it is not the preferred option by a lot of people—would be the first bill we passed, which deems all workers essential and promises they will be paid. That is not the same as being paid. Plus, we added a number of categories—the Senator from Maryland was not here at the time—to take care of Meals on Wheels, protective services for children, unemployment insurance—there are about 11 States, plus D.C., which will have exhausted Federal funds for administering the Federal Unemployment Insurance Program, including, I might add, the State of Kansas, where somebody said today they shot out the windows at the unemployment office. I have not verified that story. In other words, if the office is closed, people with unemployment benefit claims cannot have their claims addressed.

The District of Columbia would be included, and also assistance payments to 53,000 Indian families and foster family care for about 3,000 Indian children. Then we have the same problem with about 170,000 veterans. And we believe that, of course, if you have a CR, you do not have to worry about that. If you do not have a CR, then the backup would be adopting the deeming provision.

Let me just say, in fairness—I will not make all these requests, because I hope that we have a bipartisan, or nonpartisan solution here that can be dealt with in the same way on the House side—but I would say, everybody wants to assign blame. I am not here to assign blame. I am just here to suggest that we have three appropriations bills that were vetoed. Had they not been vetoed, a lot of people would be working, they would not be worrying about the 7- or 9-day CR. But the President vetoed those bills. I understand some of them just have two or three areas where we have disagreements. I urge my colleagues—on the Interior bill, for example, I understand there are only three areas of disagreement. If we can work out the areas of disagreement, we ought to pass the bill, meet the President's request, and send it back and that will take care of any future problems in case the Government was shut down a third time. I hope that would not happen.

The same is true with VA–HUD. I understand that is another bill that could be, with a little effort, worked out, just a give and take on both sides.

State, Justice, Commerce, I think there are probably a number of differences there. I am not certain that can be accommodated.

On the D.C. appropriations bill, there is one issue, vouchers. Only one issue keeps that bill from going to the President and being signed by the President.

Foreign operations, one issue, one issue on the Mexico City policy. That is the only issue that keeps that bill from going to the President. I do not think he has a problem with that bill.

Finally, Labor-HHS, and we have had two party-line votes on bringing it to the membership on the floor. It takes 60 votes. It has been a party-line vote so we have not been able to bring Labor-HHS to the floor. Maybe there is some way to work out our differences there.

But one way to avoid the CR's and the potential problems of a shutdown would be to get together on the appropriations bills. We are urging our colleagues on this side to do that starting immediately. We would be happy to accommodate anybody on the other side. I know there is a lot of interest in Interior and State, Justice, Commerce; foreign operations; HUD; District of Columbia. If those bills could be passed—and three of them have been vetoed—but passed again, to accommodate some of the concerns raised by the administration, then we would not be here worrying about 5 days, 9 days, and 10 days.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The acting minority leader.

Mr. DORGAN. Mr. President, let me just observe that we have seen previous vetoes of appropriations bills in the history of the U.S. Congress, but that did not result in a shutdown of the Federal Government. I would not want people listening to this to believe that because appropriations vetoes occurred this year, that resulted in a shutdown of the Government. That is not why we have a shutdown. The shutdown, it seems to me, was a matter of strategy by some.

I might say, not the majority leader. He has made it, I think, clear a number of times on the floor of the Senate that he is not an advocate of shutdowns. Nonetheless, I think it has been a matter of strategy to use the shutdown as leverage with respect to the balanced budget talks.

Another Senator mentioned that his constituents could not understand this shutdown. I would say, my constituents have told me the same thing—they could not understand it. I have said that is pretty reasonable, because it is not an understandable policy. It defies all common sense. It does not make any sense to decide to shut the Government down, pay $40 million a day for labor that you prevent being performed by Federal workers, but that you say you will reimburse later. I think, when all of the noise and all of the dust and all of the wind is over, at least today we will have been seen as taking a first sensible step. That is a CR that funds the Government, brings Federal employees back to work, and pays them.

I might say that the proposal that we have offered on previous occasions, a continuing resolution to fund these functions of Government and bring people back to work, would take us through the end of January. The CR that we are enacting today in the Senate takes us only through January 12. While we would prefer that this go to the end of January, and that during this period, between now and the end of January, we would have a set of budget negotiations that would result in an agreement and we would not again be faced with the circumstances of a threatened shutdown, we accept January 12 because it is a step forward. If the House will address this, it will resolve this impasse.

Again, my fervent hope is that early tomorrow the House of Representatives will take this up. I hope they would agree with it by a voice vote as the Senate has and restore people back to work, pay them for coming back to work. And, I say again as I said before, I commend the Senator from Kansas for this initiative.

We have offered this initiative previously. I know the Senator from Kansas has not been an advocate of a shutdown. But nonetheless we were faced with this set of circumstances. If the House acts on this in the morning, it seems to me we finally have this back on track and perhaps we will not again see a shutdown that penalizes the American taxpayer, penalizes Federal workers, and does nothing good for anyone that I can see. It is fundamentally a nonunderstandable policy.

Again, I thank the Senator from Kansas, the majority leader. We were happy to accommodate the unanimous-consent request.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Virginia.

Mr. WARNER. Mr. President, throughout the day the distinguished acting minority leader has been on the floor, active in the debate. But I think it was very important that the majority leader bring up the fact that the veto of the appropriations bills is a very strong factor in the problem that we are addressing here with the CR.

The distinguished minority leader has stated his case. But I also feel very strongly that the majority leader, in good conscience, had to bring that matter up.

Mr. DORGAN. Mr. President, if the Senator will yield on that point?

The PRESIDING OFFICER. The acting minority leader.

Mr. DORGAN. I accept his point. My only observation was we could debate all this. On Labor-HHS, Republicans deserted on the vote there as well. Some of the vetoes were fully expected, in terms of what was in the legislation when it went to the President.

My hope is that now, beginning at 6 o'clock, the negotiations on the balanced budget plan will bear fruit and we will have no further shutdowns. We will have appropriations bills resolved the way they should be resolved, not by the leverage of a Government shutdown but by the give and take as between the Congress and the President.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I said earlier today it is senseless that we pass the football to your side, you pass it back to us. The blame game exchange will not get us anywhere. Let us put the football on the 50-yard line and blow time out on the blame game and let us get behind the President and the distinguished leaders of this body, who will go down in just a matter of minutes and try and reconcile this problem.

We all wish them luck.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I just make the observation that I think all of the appropriations bills that were mentioned had legislation on an appropriations bill. Of course, if we did not do that to begin with, why, it would be an easier task dealing with the appropriations bills. The President took issue with some of that and vetoed the bills.

I listened carefully to the majority leader who suggested maybe if some of those objections could be accommodated, it might be possible to work out the differences between the President and the Congress on that legislation. Therefore, there is a chance some of them might be enacted. And it seems to me that is a worthwhile path to explore.

The other thing though is I do feel very strongly, as I indicated earlier today, that this closing down of the Government was without reason and without common sense. And I wish to underscore one point because I think it tends to get overlooked. There is a tendency to think of this in terms of the Federal employees who are not working. That is a very important aspect of it. But by not working, they are not providing services that are needed by the private sector. So it is having an impact, a far-reaching impact through our economy and through our country.

In other words, people who want passports are not able to get those passports. You have people who planned trips for years. You have had business reasons to take such trips. Grants by the NIH have been put on the shelf, and so forth and so on. So there is a strong impact. People who contract with the Federal Government have found themselves unable to carry through and, of course, that is going to start affecting unemployment offices; they are closing down. That is not unemployment offices for the Federal workers. That is unemployment offices for everyone. So someone who gets laid off from some private job in some States now is not going to be able to find an open unemployment office with which to file a claim in order to obtain unemployment benefits in order to carry his family through a very difficult period.

Now, obviously, the way to address it is the way it is being addressed here, and that is with a clean CR which brings the workers back in, pays them, they do the job, they perform the services, they meet the need, the private sector can then interact with the Government as it does, and we can move forward from there.

So I again wish to thank the majority leader for moving forward with this CR, and I am hopeful that the House will accept it when it takes it up on tomorrow.

Mr. ROBB addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Virginia is recognized.

Mr. ROBB. I would like to add my own word of thanks and appreciation to the distinguished majority leader and those who have worked with him to propose the continuing resolution at this point. I think it is very important. Understandably, because of the serious differences in some of the philosophical questions that have been presented in this debate, it is not easy for leaders on either side of the debate to make a move toward getting us beyond a step which many of us feel is simply unconscionable and indefensible to continue.

I hope that the leadership that the distinguished majority leader has provided in moving us to this point will indeed provide an impetus for our colleagues in the other body to act in accord so that we may move beyond this particular impasse.

The big issues can still be debated, but the question of whether or not it makes any sense to continue the furlough of Federal employees who will eventually get paid so this Government is saving no money but which represents an enormous waste of taxpayer resources and an inconvenience for many and serious economic concerns for others who interact with the Federal Government, for many small businesses that are dependent upon the successful actions of the Federal Government, all of this can be resolved at least in the near term with this particular action, and all of the essential arguments that have been made by both sides are preserved for full debate at the appropriate time.

I again thank the majority leader for exercising this leadership. I thank my distinguished colleague and senior Senator from Virginia, the distinguished senior Senator from Maryland, and others in the region who are most impacted by this particular situation but all who have shown the good will in an attempt to get beyond the difficulties that have held us up.

So to all, including my good friend from Rhode Island, who may be about to speak on this topic, I say thank you for bringing us to this point and hope that they will succeed in urging our colleagues in the other body to follow the leadership of our distinguished majority leader.

With that, Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. DOLE. I thank my friend from Virginia. I will be happy to yield the floor.

Mr. CHAFEE. Mr. President, I just want to join in congratulating the majority leader for what he has done today. This is really terribly important. And while many citizens in the country are not suffering at all—they are getting their Social Security check, the VA checks, the AFDC checks—there are literally hundreds, and, indeed, thousands who truly are suffering out of this, whether it be a passport they cannot obtain, having made payments on flights that are not redeemable, whether it is the AmeriCorps individuals who are working in the inner cities and live paycheck to paycheck and are not receiving their check, whether it is those who are under some Government contract and not being paid. There is a lot of suffering taking place across the country.

And so I just give high praise to our distinguished majority leader, the senior Senator from Kansas, for what he has done, and I just hope the House accepts it. It is, as I understand, until January 12. And in the meantime the negotiators on the biggest subject, namely the budget, can keep working. This is not something that is fostering—in other words, the shutdown is not fostering the talks. Nothing is being gained from that. The administration is not being bullied, and the Republicans are not being bullied. It is a nonwinner. It is one of those rare things where everybody loses.

So I congratulate the majority leader, and I just hope the House accepts this and we can get on with the Government reopening. If things are not worked out by January 12, well, then have another. But meanwhile I just know everybody who is involved is trying to reach a settlement on this budget.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. DOLE. Mr. President, I thank my colleagues. I certainly share their view. I do not see any sense in what we have been doing, frankly. Maybe I missed the point. I have been here a while. Maybe something went by me. But I think we have had shutdowns before lasting a day or 2 days, and you can handle that. But when it is—what is today, day 18? And we have already had a 7-day. As I said earlier, you are going to have 30 days here very quickly. I do not believe any side gains.

I do not believe we are sitting down because the Government is partially shut down. I do not believe the President is sitting down because the Government is partially shut down. We better be sitting down because we agreed we ought to balance the budget in 7 years. And the Federal employees are going to be part of that. I think they are going to be asked to make sacrifices like everybody else if that is done. But to say that they cannot work and they cannot be paid until we put together an agreement—I know there are some of my colleagues in the House who feel just as strongly the other way, but I do not quite understand the logic of it all. As I said earlier, I think the Speaker is inclined to be receptive. All the House Members are back, I understand, tomorrow, and they will have an opportunity to discuss this. I hope that we could have quick action. People have been gone from their jobs long enough. Enough is enough.

I ask unanimous consent that Senator STEVENS be added as a cosponsor to amendment 3115, the CR until January 12, 1996.

Mr. DORGAN. And anybody else who wants to——

Mr. CHAFEE. I want to join.

Mr. DOLE. Senator ROBB, and Senator DORGAN already have.

Mr. DORGAN. Senator DASCHLE.

Mr. DOLE. Senator DASCHLE, and Senator SARBANES, and anybody else.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DORGAN. I wonder if I might ask unanimous consent to have printed in the RECORD a description of the effects of the shutdown offered by OMB. I believe it was the description that Senator DOLE referred to, and I think it would be useful to have that in the CONGRESSIONAL RECORD.

Mr. DOLE. Let me indicate we did not cover all those in the other one because we thought some were not as urgent as others, but I think we ought to enable people to be able to get a passport, to open the parks, and other things that I think are important to all people.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EFFECTS OF THE CONTINUING SHUTDOWN, TUESDAY, JANUARY 2, 1996

Administration on Aging: 600,000 elderly Americans face the potential of losing their services of "Meals on Wheels," transportation and personal care provided by HHS if a CR is not passed this week.

Protection and services for children: As of today, states will lose $74 million in quarterly grants for discretionary child protection programs, which help states respond to more than 2.5 million reported cases of child maltreatment each year. In addition, the Federal Parent Locator Service, to which 20,000 child support cases per day on average are referred, is closed.

Unemployment insurance: By the end of this week, 11 states (plus DC and the VI) will have exhausted Federal funds for administering the unemployment insurance program (NJ, AL, RI, TN, KS, AK, MA, NH, VT, UT, NM). In order to keep unemployment offices open, states will have to fill the gap with their own funds. Otherwise, unemployment offices would have to close and benefit payments would cease. Kansas has already closed its unemployment office.

Securities markets: The SEC's funds are expected to be exhausted by the end of next week, causing review of an estimated three-fourths of pending and new SEC filings for the months of January to be delayed. A delay in review of filings for initial public offerings, mergers and acquisitions, and filings for new debt or stock offerings would eventually impact the flow of corporate financing and capital formation.

Home-buyers: Each day of the shutdown, the Federal Housing Administration cannot process 2,500 home purchase loans and refinancings ($200 million of mortgage loans) for moderate- and low-income working families.

Protection of workers: Since the start of the shutdown, over 1000 workplace safety complaints have gone unanswered and 3,500 investigations involving pension, health and other employee benefit plans have been suspended.

Environmental protection: All EPA non-Superfund civil environmental enforcement actions have stopped, costing $3 million a day in fines or injunctive relief against polluters; and as of today, up to 32 Superfund cleanups will be shut down.

District of Columbia: The December 22 CR expires tomorrow which will continue the uncertainty over how DC an continue to operate its services.

Passports: Each day, the State Department can't process 23,000 applications for passports that it would receive.

Programs for native Americans: The Bureau of Indian Affairs cannot make general assistance payments due to about 53,000 Indian families and individuals, or to guardians and foster families that care for about 3,000 Indian children.

Veterans: While the December 22 CR provided funding for certain benefits and payments, it expires tomorrow; consequently, contractors providing services and supplies to hospitals will not be paid and benefits for January will not be paid (on February 1). In addition, approximately 170,000 veterans did not receive their December Montgomery GI Bill education benefits and will not receive benefits in January. Funding has also lapsed for processing veterans' claims for educational & rehabilitation counseling, and enabling veterans to obtain VA guaranteed home loans.

Small businesses: Each day of the shutdown, over 260 small businesses are not receiving SBA-guaranteed financing; and 1,200 small business owners are not receiving SBA-Sponsored training and counseling normally available to them.

National parks/forests and related businesses: Each day, an average of 383,000 people cannot visit National Parks. Potential per day losses for businesses in communities adjacent to National Parks could reach $14 million, due to reduced recreational tourism.

Foreign visitors: Each day, the State Department cannot issue 20,000 visas to visitors, who normally spend an average of $3,000 on their trips.

Export promotion: On an average day—export licenses with a value of $30.5 million that would otherwise have been approved by the Bureau of Export Administration will not be acted upon; more than $92 million in sales of U.S. products are blocked due to inability to process license applications; and more than 2500 telephone calls and faxes from U.S. businesses seeking export information are not being answered.

EFFECTS ON FEDERAL WORKERS

Due to Congress' failure to approve short-term funds, beginning last Friday, December 29, about three-quarters-of-a-million Federal employees received only half their usual pay. They received pay for December 10 to 15, but not December 16 to 23. Unless the Congress approves funding by late this week, emergency and furloughed employees will not receive pay for the current pay period on time (i.e. next week).

480,000 emergency workers are working, and the government is obligated to pay them, but they can't be paid until Congress approves funds to end the shutdown (includes federal law enforcement officials, prison guards, and nurses at Veterans Hospitals).

280,000 non-emergency workers are currently furloughed and not being paid (and have no guarantee they will receive back pay unless Congress acts to approve back pay).

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DOLE. I ask unanimous consent that the Senate immediately proceed to executive session to consider the nomination of Norman Johnson, Executive Calendar No. 348; that the nomination be confirmed, the motion to reconsider be laid upon the table, and that any statements relating to the nomination appear at the appropriate place in the RECORD; the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The nomination was considered and confirmed as follows:

SECURITIES AND EXCHANGE COMMISSSION

Norman S. Johnson, of Utah, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 1999.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will return to legislative session.

REPORT ON LOAN GUARANTEES TO ISRAEL PROGRAM—MESSAGE FROM THE PRESIDENT—PM 106

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

Enclosed is an unclassified report on the Loan Guarantees to Israel Program and on economic conditions in Israel, as required by section 226(k) of the Foreign Assistance Act of 1961, as amended (Public Law 87–195), and section 1205 of the International Security and Development Cooperation Act of 1985 (Public Law 99–983).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *December 30, 1995.*

ADDITIONAL COSPONSORS

S. 956

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 956, a bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes.

S. 969

At the request of Mr. BRADLEY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 1462

At the request of Mr. GRAHAM, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S.

1462, a bill to amend the Agricultural Adjustment Act to provide that imported tomatoes are subject to packing standards contained in marketing orders issued by the Secretary of Agriculture, and for other purposes.

S. 1463

At the request of Mr. GRAHAM, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1463, a bill to amend the Trade Act of 1974 to clarify the definitions of domestic industry and like articles in certain investigations involving perishable agricultural products, and for other purposes.

AMENDMENTS SUBMITTED

FEDERAL EMPLOYEES LEGISLATION

DOLE AMENDMENT NO. 3114

Mr. DOLE proposed an amendment to the bill (S. 1508) to assure that all Federal employees work and are paid:

(The text of the amendment will be printed in a future issue of the RECORD.)

BULGARIA MOST-FAVORED-NATION TREATMENT LEGISLATION

DOLE (AND OTHERS) AMENDMENT NO. 3115

Mr. DOLE (for himself, Mr. WARNER, Mr. DOMENICI, Mr. STEVENS, Mr. ROBB, Mr. CHAFEE, Mr. SARBANES, Mr. DORGAN, Ms. MIKULSKI, and Mr. DASCHLE) proposed an amendment to the bill (H.R. 1643) to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Bulgaria; and follows:

Strike all after the enacting clause and insert the following:

SEC. . TEMPORARY EXTENSION OF THE CONTINUING RESOLUTION.

(a) IN GENERAL.—Section 106(c) of Public Law 104-56 is amended by striking "December 15, 1995" and inserting "January 12, 1996".

(b) EFFECTIVE PERIOD.—The amendment made by subsection (a) shall be considered to have taken effect on December 16, 1995.

SEC. . ELIGIBILITY FOR UNEMPLOYMENT COMPENSATION.

Beginning on January 2, 1996, any federal employee who is excepted from furlough and is not being paid due to a lapse in appropriations shall be eligible for unemployment compensation benefits with no waiting period for such eligibility to accrue. With respect to any person who is eligible for such benefits by reason of the preceding sentence, any such benefits received shall be subject to repayment in the same manner and to the same extent when eligibility by reason of the preceding sentence ceases as if such cessation were an end to the period of unemployment.

ORDERS FOR WEDNESDAY, JANUARY 3, 1996

Mr. DOLE. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11:55 a.m. on Wednesday, January 3, and immediately following the prayer the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use during the day, and the majority leader be immediately recognized to adjourn the Senate until the second session of the 104th Congress reconvenes at noon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. It will be a short 5 minutes there. So I just say for the information of all Senators we do begin the second session of the 104th Congress at noon tomorrow, January 3, 1996.

I ask unanimous consent that once the Senate reconvenes, the leaders' time be reserved for their use later in the day and there be a period for the transaction of morning business until the hour of 12:30 p.m., with statements limited to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. As I have said almost on a daily basis, there will be no rollcall votes tomorrow. If somebody should demand one on something—I do not know what it would be—we would certainly give our colleagues ample time to return to the Senate. I do not anticipate any votes this week. I think we can work out anything that needs to be done, including putting people back to work, by unanimous consent on the Senate side. So we will give everybody notice if there should be a vote, but I do not see any votes this week and hopefully none next week.

ADJOURNMENT UNTIL 11:55 A.M. TOMORROW

Mr. DOLE. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:22 p.m., adjourned until Wednesday, January 3, 1996, at 11:55 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 2, 1996:

SECURITIES AND EXCHANGE COMMISSION

NORMAN S. JOHNSON, OF UTAH, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE TERM EXPIRING JUNE 5, 1999.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

A. WALLACE TASHIMA, OF CALIFORNIA, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

SIDNEY R. THOMAS, OF MONTANA, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

JOHN THOMAS MARTEN, OF KANSAS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF KANSAS.

SENATE—*Wednesday, January 3, 1996*

The Senate met at 11:55 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we thank You for dividing our life into years. You have given us a New Year's inning to prepare us for a new beginning; You have opened Your forgiving heart, and You have offered us a fresh start. With freedom from the past, we have hope in You that will last. Lord, show us the way and grant us courage for each new day.

If ever we needed Your wisdom and guidance it is now. We stand on the threshold of a new year loaded down with the heavy burdens of unresolved issues of the balanced budget. Grant the President and the leaders of Congress a special anointing of Your healing, reconciling power. The Nation and the world stand on tiptoe waiting to see how great leaders can put their trust in You, and then trust each other as they work together to resolve differences.

Now, Lord, we commit to You this day and all of the challenges and opportunities of this new year. Continue to fill this Senate Chamber with Your presence. May the Senators be aware of Your spirit impinging on their minds. May they listen to Your voice before they speak and then speak with echoes of Your tone, tenor, and truth. We humbly ask for supernatural power for the awesome demands of leadership in this year ahead. In the name of our Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator DOLE, is recognized.

ADJOURNMENT

Mr. DOLE. Mr. President, the 2d session of the 104th Congress will automatically commence at 12 noon today. Therefore, in order to end the first session, I now ask unanimous consent that the Senate stand in adjournment.

There being no objection, the Senate, at 11:57 a.m., adjourned.

ADJOURNMENT SINE DIE

The hour provided under the Constitution for convening of the 2d session of the 104th Congress having arrived, the 1st session of the 104th Congress adjourned sine die.

HOUSE OF REPRESENTATIVES—*Wednesday, January 3, 1996*

(Legislative day of Friday, December 22, 1995)

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 11 o'clock and 55 minutes a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As our hearts are full of the blessings of this life and abounding in gratitude for opportunities for service in this new year, we pause in this our prayer, O God, to ask for that spiritual strength and compass that You alone can give. Point us to the way of justice, direct us with the vision of mercy, sustain us with Your abiding presence, and encourage us always to celebrate and sustain the rich heritage of our Nation's spirit. For all these tasks which can seem so daunting, we pray for Your blessing and Your peace. Amen.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York [Mr. SOLOMON] come forward and lead the House in the Pledge of Allegiance.

Mr. SOLOMON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment a bill of the House of the following title:

H.R. 1643. An act to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Bulgaria.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1508) "An act to assure that all Federal employees work and are paid," with an amendment to the House amendment.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
Washington, DC, January 3, 1996.
Hon. NEWT GINGRICH,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the House of Representatives, the Clerk received the following messages from the Secretary of the Senate on Monday, January 2, 1996, at 10:30 a.m.:

That the Senate passed S. 1514; and

That the Senate passed without amendments H.R. 2808.

With warm regards,

ROBIN H. CARLE,
Clerk.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Tuesday, January 2, 1996: H.R. 2808, to extend authorities under the Middle East Peace Facilitation Act of 1994, until March 31, 1996, and for other purposes.

COMMUNICATION FROM THE HONORABLE TOM DeLAY, MAJORITY WHIP

The SPEAKER laid before the House the following communication from the Honorable TOM DELAY, majority whip:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 28, 1995.
Hon. NEWT GINGRICH,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to rule L (50) of the Rules of the House of Representatives, that William Jarrell, Deputy Chief of Staff for Administration in this office, has been served with a subpoena issued by the U.S. District Court for the District of Columbia in the matter of *United States* v. *Fitzpatrick*.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

TOM DELAY,
Majority Whip.

COMMUNICATION FROM THE SERGEANT AT ARMS OF THE HOUSE

The SPEAKER laid before the House the following communication from the Sergeant at Arms of the House of Representatives:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE SERGEANT AT ARMS,
Washington, DC, December 29, 1995.
Hon. NEWT GINGRICH,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to rule L (50) of the Rules of the House of Representatives, that Patricia Schaap, an employee of this office, has been served with a subpoena issued by the U.S. District Court for the District of Columbia in the matter of *United States* v. *Fitzpatrick*.

After consultation with the Office of the General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

WILSON LIVINGOOD,
Sergeant at Arms.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following message from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
Washington, DC, December 29, 1995.
Hon. NEWT GINGRICH,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Friday, December 29, 1995, at 12:10 p.m. and said to contain a message from the President whereby he submits a semiannual report on the Russian Federation's continued compliance with emigration criteria as required by sections 402 and 409 of the Trade Act of 1974.

Sincerely yours,

ROBIN H. CARLE,
Clerk.

CONTINUED MOST-FAVORED-NATION STATUS FOR RUSSIAN FEDERATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104-154)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

On September 21, 1994, I determined and reported to the Congress that the Russian Federation is in full compliance with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. This action allowed

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

for the continuation of most-favored-nation (MFN) status for Russia and certain other activities without the requirement of an annual waiver.

As required by law, I am submitting an updated report to the Congress concerning the emigration laws and policies of the Russian Federation. You will find that the report indicates continued Russian compliance with U.S. and international standards in the area of emigration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *December 29, 1995.*

PARLIAMENTARY INQUIRY

Mr. HOYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HOYER. Mr. Speaker, would it be in order for me at this time to ask unanimous consent to take up H.R. 1643, the bill just reported to us by the other body?

The SPEAKER. The Chair asks the gentleman to suspend. The House will come right back in session.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2808. An act to extend authorities under the Middle East Peace Facilitation Act of 1994 until March 31, 1996, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following days present to the President, for his approval, bills of the House of the following titles:

On December 23, 1995:

H.R. 2539. An act to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes.

On December 29, 1995:

H.R. 4. An act to restore the American family, enhance support and work opportunities for families with children, reduce out-of-wedlock pregnancies, reduce welfare dependence, and control welfare spending.

H.R. 394. An act to amend title 4 of the United States Code to limit State taxation of certain pension income.

H.R. 1878. An act to extend for 4 years the period of applicability of enrollment mix requirement to certain health maintenance organizations providing services under Dayton Area Health Plan.

H.R. 2627. An act to require the Secretary of the Treasury to mint coins in commemoration of the sesquicentennial of the founding of the Smithsonian Institution.

SINE DIE ADJOURNMENT

The SPEAKER. Pursuant to the 20th amendment of the Constitution of the United States, the Chair declares the 1st session of the 104th Congress adjourned sine die.

Thereupon (at 12 noon) pursuant to the 20th amendment of the Constitution of the United States, the House adjourned.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PICKETT:

H. Con. Res. 130. Concurrent resolution to express the sense of the Congress that the Bureau of Labor Statistics should develop and publish monthly a cost of living index; to the Committee on Economic and Educational Opportunities.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

January 3 (legislative day, December 22, 1995), 1996

H.R. 1514: Mr. BASS and Mr. BROWN of Ohio.
H.R. 1889: Mr. DAVIS and Mr. BERMAN.
H.R. 1968: Mr. MCHUGH and Mr. WALSH.
H.R. 2450: Mr. BACHUS and Mr. EMERSON.
H.R. 2540: Mr. SOUDER.
H.R. 2619: Mr. DURBIN.